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PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Thursday, February 26, 2004*

The House met at 10 a.m.

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, You offer every generation an opportunity of repentance and by Your Spirit You stir within the hearts of Your people holy desires to reconcile differences, to forgive injuries and establish Your kingdom of peace and justice on this Earth.

Refresh all in this Nation whose spirits are parched from a lack of prayer. Nourish all those who hunger to hear Your Word and accomplish Your will.

Be with the Members of the House of Representatives this day. May everything they do begin with Your holy inspiration, continue with Your help and come to fulfillment under Your guidance. For You alone are Lord, forever and ever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Texas (Mr. GREEN) come forward and lead the House in the Pledge of Allegiance.

Mr. GREEN of Texas led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment a concurrent resolution of the House of the following title:

> H. Con. Res. 357. Concurrent Resolution permitting the use of the rotunda of the Capitol for a ceremony to award a Congressional Gold Medal to Dr. Dorothy Height.

The message also announced that the Senate has passed a concurrent resolution of the following title in which the concurrence of the House is requested:

> S. Con. Res. 92. Concurrent resolution congratulating and saluting Focus: HOPE on the occasion of its 35th anniversary and for its remarkable commitment and contributions to Detroit, the State of Michigan, and the United States.

The message also announced that pursuant to Public Law 106–398, as amended by Public Law 108–7, in accordance with the qualifications specified under section 1238(b)(3)(E) of Public Law 106–398, the Chair, on behalf of the President pro tempore, and upon the recommendation of the Majority Leader, in consultation with the chairmen of the Senate Committee on Armed Services and the Senate Committee on Finance, appoints the following individual to the United States-China Economic Security Review Commission:

Gary J. Schmitt of Washington, D.C., vice Michael A. Ledeen of Maryland.

The message also announced that pursuant to Public Law 108–173, the Chair, on behalf of the Democratic Leader, appoints the following individual to serve as a member of the Commission on Systemic Interoperability:

Herbert Pardes, M.D., of New York.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain 10 one-minutes per side.

TIME FOR MEDICAL MALPRACTICE REFORM

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, Americans pay a lot for health care, and there are a lot of reasons for the high costs. One of them is excessive awards in medical malpractice cases. In Pennsylvania alone there are \$1.2 billion in payouts for medical malpractice cases a year. That is \$1,000 for every man, woman and child in our Commonwealth.

People who are mistreated by medical professionals should receive the money they need to compensate for their injuries, but in my State, 40 percent of these awards go to trial attorneys. The result is out-of-control insurance premiums on doctors and higher costs for consumers.

A recent survey this year said that 70 percent of Pennsylvania's doctors have considered closing their practice because of the cost of medical malpractice insurance. Many have left, and many of the new doctors are going elsewhere. Of those that purchase coverage, the costs are going up exponentially every year, as much as 50 percent a year. The same survey reported that frivolous lawsuits are preventing them from getting specialized care for their patients. This is a big problem, and one that Congress should address.

The House has acted with commonsense reform. Now the other body should get past political games and pass reform of the medical liability lawsuit system in this country. Our doctors need it. More importantly, the American people need it. We need to pass lawsuit abuse reform.

PROTECTING SOCIAL SECURITY FOR WORKING AMERICANS

(Mr. GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN of Texas. Mr. Speaker, I rise today to express my deep disappointment in Federal Reserve Chairman Greenspan's remarks about Social Security. For any of you who missed his shocking pronouncement, Mr. Greenspan suggested Social Security benefits be cut for retirees, that the retirement age should be raised, and the cost of living adjustment, which was a whopping 2.2 percent this year, should be modified because it is too "generous."

In 2001, President Bush inherited a strong economy and a \$5.6 trillion 10-

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

year surplus. But that has been squandered and turned into a projected deficit of $2.9 trillion. We got into this mess not because of the war on terror, that I think all of us support, but because of the administration's fiscally irresponsible tax cuts.

But Mr. Greenspan, who advocates permanent extension of these deficit-creating tax cuts, suggested we fix this economic disaster by raiding Social Security, not just borrowing from it like we do now.

Surely this administration does not want to pay for tax cuts on the backs of the elderly. It is pretty easy for Mr. Greenspan to sit in his ivory tower and modify Social Security to meet his economic world view, but for those people living in the real world, for folks who are hanging sheet metal, who are working on our docks and ports, working on the assembly line all day, Social Security is a critical safety net that cannot be taken away or reduced. These are not folks who have the luxury of playing the stock market, as the administration would propose, or work a few more years, as Mr. Greenspan suggests.

I hope and pray we reject his proposals and do not privatize Social Security.

CONTINUING THE LEGACY OF SUSAN B. ANTHONY BY SUPPORTING THE UNBORN VICTIMS OF VIOLENCE ACT

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, today I rise to speak of a courageous woman in America's history, a woman who fought relentlessly for 69 years to establish equal rights for women, slaves, and the unborn. Her name, Susan B. Anthony.

She had a deep desire, dedication and passion that our country live up to its promise that everyone be treated equally. Her leadership helped lead to the adoption of the 19th amendment, giving women the right to vote.

On this 184th year following her birth, let us honor the woman who fought for equality for all by continuing her legacy today and voting for the Unborn Victims of Violence Act. This act recognizes the rights and values of women and unborn children, and Susan B. Anthony would be proud to see this extension of her life's work by protecting the defenseless and speaking for those who cannot speak for themselves.

THE DEFENSE OF IMPOSSIBILITY

(Mr. FRANK of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRANK of Massachusetts. Mr. Speaker, I think it was highly inappropriate for Justice Scalia to go on a hunting trip with Vice President CHENEY when he was a defendant in a case, but it is inaccurate to say that this calls into question Justice Scalia's impartiality. You cannot call into question that which does not exist.

Questioning Justice Scalia's impartiality is like questioning Janet Jackson and Justin Timberlake's sense of propriety, or Saddam Hussein's weapons of mass destruction, or the President's plan to cut the budget deficit in half in 5 years.

In fact, if you read Justice Scalia's opinions, they are singularly devoid of impartiality. Here is a man of very vigorous views and prejudices, and he does not see any reason why he should not write them into various opinions.

So, I guess in some ways this is a defense of Justice Scalia. I wish he had refrained from going on that hunting trip with the Vice President, but those who accuse him of having damaged his impartiality, he has a defense of that, well-known to lawyers, it is a defense of impossibility.

IN HONOR OF SISTER CATHERINE DOMINIC

(Mr. BOOZMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOOZMAN. Mr. Speaker, I rise today to honor Sister Catherine Dominic, whose life has been devoted to helping and caring for her neighbors.

Sister Catherine will be retiring from St. Mary's Hospital in Rogers, Arkansas, after more than 40 years of service. Her devotion and joyful spirit have given us all strength, and we are fortunate to have shared her friendship.

Throughout her career at St. Mary's, Sister Catherine served the hospital in a variety of roles, including administrator, anesthetist, surgery supervisor and nursing service director. As both a registered nurse and chaplain, Sister Catherine has split her time providing medical care and spiritual support to those in St. Mary's Hospital.

Mr. Speaker, our community will greatly miss Sister Catherine as she returns to the Dominican mother house in Springfield, Illinois. We are extremely grateful for her tireless efforts on our behalf.

I ask my colleagues today to join me in honoring this wonderful Dominican sister for her commitment and dedication to the Third District of Arkansas.

HELPING THOSE IN NEED IN HAITI

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, as many of us woke up this morning, we saw the pending violence in Port-au-Prince, Haiti; innocent people being subjected to murder and random and reckless violence.

Yesterday the Congressional Black Caucus met with the President and asked for humanitarian assistance. I am reminded of the aid that we gave to Bosnia, Albania and Kosovo when refugees fled for their lives. I think it would be a shame that with our neighbor, just 650 miles away, we turn refugees back who are fleeing because they are in fear of their lives or persecution.

It is time for this administration to share its humanitarian perspective, if you will, to those who are neighbors, who helped fight for our independence.

Let me conclude simply by saying we have another tragedy in this country as well. For anybody to suggest that Social Security should be cut for those who have worked long years and hard for that benefit, they should take another look. I hope that we will stand up as a Congress against the idea of taking away Social Security for those who worked so very hard and have invested in this Nation, who have built this Nation. Social Security cannot be cut for those who have worked and given to this Nation.

PRESERVING SOCIAL SECURITY FOR WORKING AMERICANS

(Mr. GEORGE MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Speaker, what a rather startling revelation by Mr. Greenspan, Chairman of the Fed, that the answer to the deficit that this administration has run up and the long-term debt of this Nation is to raise the basic retirement age of Social Security and to cut benefits.

Mr. Greenspan and the Republicans speaking for the investor class decided that average working people in this country, the ironworkers who are rebuilding the San Francisco Bay Bridge, the people who are building the skyscrapers in our major cities, who are building our transportation systems, who are working out there in snow and rain and cold weather all through the winter to provide for their families, that they should just work a few years longer so that they will not have to pay for Social Security.

This administration has run up the largest deficit in history, and now they are using that deficit as an excuse to attack Social Security, which is the backbone of retirement for millions and millions of Americans. Maybe not for Mr. Greenspan and his friends who have stock options, who have golden parachutes, who have buyouts when they leave their corporations, but for millions of hard-working Americans it is Social Security, and we should not cut it to take care of the Republican deficit.

EXPRESSING CONGRESSIONAL SUPPORT FOR ISRAELI SECURITY FENCE

(Ms. BERKLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. BERKLEY. Mr. Speaker, this past weekend a Palestinian terrorist invaded Israel and detonated a suicide bomb on a bus in downtown Jerusalem. Eight innocent civilians lost their lives, and 50 more were wounded in the latest act of senseless violence perpetrated by the Palestinian terrorists against Israel.

Since September 2000, there have been over 20,000 terrorist attacks against Israel. Because of the unwillingness of the Palestinian leadership to prevent the violence, Israel has become a nation under siege.

In order to protect itself and its innocent citizens, Israel is constructing a security fence. Rather than stopping the violence so that there would be no need for a security fence, the Palestinians have chosen to go to the United Nations and ask the International Court of Justice to intervene.

Mr. Speaker, I am introducing a resolution today with my colleague the gentleman from Indiana (Mr. PENCE) asking that this process be stopped and that the Palestinians start negotiating in good faith with the Israelis so that there would be no need for a security fence in that region.

□ 1015

AFFIRMING ISRAEL'S RIGHT TO SELF-DEFENSE

(Mr. PENCE asked and was given permission to address the House for 1 minute.)

Mr. PENCE. Mr. Speaker, the right of every nation to self-defense is an inalienable right. As my colleague, the gentlewoman from Nevada (Ms. BERKLEY), just so eloquently described, today we will introduce, along with nearly 60 Republican and Democrat original cosponsors in this House, a resolution affirming Israel's right to self-defense.

Just last month, my wife, Karen, and I traveled along the fence line in Israel, the security fence itself, constructed in the wake of over 20,000 attacks over the last 3 years that have claimed over 1,000 lives. Israel is engaged in the construction of a fence in an act of self-defense, and our resolution affirms this timeless principle.

Mr. Speaker, I pray for the peace of Jerusalem, for all of the people of the region. But affirming, as this Congress should, the wrongness of the action at the Hague and the rightness of Israel's choice to defend itself and innocent civilians is the proper course of action.

Mr. Speaker, I thank the gentlewoman from Nevada and all of our original cosponsors and urge expeditious action on our resolution supporting Israel's right to self-defense.

PLEADING FOR HELP FOR HAITI

(Ms. LEE asked and was given permission to address the House for 1 minute.)

Ms. LEE. Mr. Speaker, I rise this morning to once again plead with this administration to act before there is any more bloodshed and death in Haiti.

Now, for the past 3 months, we have been coming to this floor calling on this administration to act. Yesterday, the Congressional Black Caucus met with President Bush and he, too, said that he abhorred the violence and the loss of life in Haiti. Colin Powell, our Secretary of State, said, we cannot allow thugs and murderers to overthrow the democratically elected government of President Aristide.

So we must act now. We have an opportunity to do so. The United States must take a role, or at least at the very minimum not block any United Nations Security Council resolution which could provide international security forces in Haiti. But time is of the essence, Mr. Speaker. Lives are at stake. This is urgent.

So I plead with this administration to heed our call and save the lives of Haitians and save the real life of democracy in terms of our neighbor of 8 million people right next door in our own hemisphere.

Mr. Speaker, when it comes to democracy, this country supports democracy in Iraq. We should support democracy in Haiti and come to Haiti's aid right now.

U.S. SHOULD SUPPORT ISRAEL'S SECURITY FENCE

(Mr. NADLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NADLER. Mr. Speaker, this past Sunday morning I was in Jerusalem, and I was within 100 yards of a bus on the number 14 route when a bomb was set off by the Alexa Brigades which are affiliated with the Fattah movement chaired by Chairman Arafat. The bomb was timed to destroy a bus and the people on it during the rush hour when schoolchildren were going to school, when men and women were going to work. Eight people, including two high school students, were killed, over 50 wounded. Chairman Arafat's group later claimed credit for this "successful military operation." That was in Arabic. Later during the day, of course, he condemned it in English.

Mr. Speaker, the bomber came in through a gap in the security fence which has not yet been built. The Israelis must finish that fence as a pure defensive reaction. To criticize the Israelis for building a security fence when any other country that was under the kind of sustained terror attack that Israel is under would not be building a security fence, but would be attacking with bombs and missiles, is the height of hypocrisy. Frankly, it reminds me of the criticisms of the Czechs in 1938 for endangering the peace of Europe by getting in the way of the peaceful territorial demands of Chancellor Hitler of Europe.

The Israelis should be applauded for trying to stop this carnage and the murder of civilians, not by invasion and by bombs and missiles, but simply by a security fence; and we ought to support it, and we ought to hail the Israelis for their restrained reaction instead of allowing hypocrites to, in effect, support the campaign of terror by opposing completion of the fence.

UNBORN VICTIMS OF VIOLENCE ACT OF 2003

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 529, I call up the bill (H.R. 1997) to amend title 18, United States Code, and the Uniform Code of Military Justice to protect unborn children from assault and murder, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. LINDER). Pursuant to House Resolution 529, the bill is considered read for amendment.

The text of H.R. 1997 is as follows:

H.R. 1997

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Unborn Victims of Violence Act of 2003" or "Laci and Conner's Law".

SEC. 2. PROTECTION OF UNBORN CHILDREN.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 90 the following:

"CHAPTER 90A—PROTECTION OF UNBORN CHILDREN

"Sec.
"1841. Protection of unborn children.

"§ 1841. Protection of unborn children

"(a)(1) Whoever engages in conduct that violates any of the provisions of law listed in subsection (b) and thereby causes the death of, or bodily injury (as defined in section 1365) to, a child, who is in utero at the time the conduct takes place, is guilty of a separate offense under this section.

"(2)(A) Except as otherwise provided in this paragraph, the punishment for that separate offense is the same as the punishment provided under Federal law for that conduct had that injury or death occurred to the unborn child's mother.

"(B) An offense under this section does not require proof that—

"(i) the person engaging in the conduct had knowledge or should have had knowledge that the victim of the underlying offense was pregnant; or

"(ii) the defendant intended to cause the death of, or bodily injury to, the unborn child.

"(C) If the person engaging in the conduct thereby intentionally kills or attempts to kill the unborn child, that person shall instead of being punished under subparagraph (A), be punished as provided under sections 1111, 1112, and 1113 of this title for intentionally killing or attempting to kill a human being.

"(D) Notwithstanding any other provision of law, the death penalty shall not be imposed for an offense under this section.

"(b) The provisions referred to in subsection (a) are the following:

"(1) Sections 36, 37, 43, 111, 112, 113, 114, 115, 229, 242, 245, 247, 248, 351, 831, 844(d), (f), (h)(1), and (i), 924(j), 930, 1111, 1112, 1113, 1114, 1116, 1118, 1119, 1120, 1121, 1153(a), 1201(a), 1203, 1365(a), 1501, 1503, 1505, 1512, 1513, 1751, 1864, 1951, 1952 (a)(1)(B), (a)(2)(B), and (a)(3)(B), 1958, 1959, 1992, 2113, 2114, 2116, 2118, 2119, 2191, 2231, 2241(a), 2245, 2261, 2261A, 2280, 2281, 2332, 2332a, 2332b, 2340A, and 2441 of this title.

"(2) Section 408(e) of the Controlled Substances Act of 1970 (21 U.S.C. 848(e)).

"(3) Section 202 of the Atomic Energy Act of 1954 (42 U.S.C. 2283).

"(c) Nothing in this section shall be construed to permit the prosecution—

"(1) of any person for conduct relating to an abortion for which the consent of the pregnant woman, or a person authorized by law to act on her behalf, has been obtained or for which such consent is implied by law;

"(2) of any person for any medical treatment of the pregnant woman or her unborn child; or

"(3) of any woman with respect to her unborn child.

"(d) As used in this section, the term 'unborn child' means a child in utero, and the term 'child in utero' or 'child, who is in utero' means a member of the species homo sapiens, at any stage of development, who is carried in the womb.".

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 90 the following new item:

"90A. Protection of unborn children .. 1841".

SEC. 3. MILITARY JUSTICE SYSTEM.

(a) PROTECTION OF UNBORN CHILDREN.—Subchapter X of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by inserting after section 919 (article 119) the following new section:

"§919a. Art. 119a. Protection of unborn children

"(a)(1) Any person subject to this chapter who engages in conduct that violates any of the provisions of law listed in subsection (b) and thereby causes the death of, or bodily injury (as defined in section 1365 of title 18) to, a child, who is in utero at the time the conduct takes place, is guilty of a separate offense under this section.

"(2)(A) Except as otherwise provided in this paragraph, the punishment for that separate offense is the same as the punishment provided under this chapter for that conduct had that injury or death occurred to the unborn child's mother.

"(B) An offense under this section does not require proof that—

"(i) the person engaging in the conduct had knowledge or should have had knowledge that the victim of the underlying offense was pregnant; or

"(ii) the accused intended to cause the death of, or bodily injury to, the unborn child.

"(C) If the person engaging in the conduct thereby intentionally kills or attempts to kill the unborn child, that person shall, instead of being punished under subparagraph (A), be punished as provided under sections 880, 918, and 919(a) of this title (articles 80, 118, and 119(a)) for intentionally killing or attempting to kill a human being.

"(D) Notwithstanding any other provision of law, the death penalty shall not be imposed for an offense under this section.

"(b) The provisions referred to in subsection (a) are sections 918, 919(a), 919(b)(2), 920(a), 922, 924, 926, and 928 of this title (articles 118, 119(a), 119(b)(2), 120(a), 122, 124, 126, and 128).

"(c) Nothing in this section shall be construed to permit the prosecution—

"(1) of any person for conduct relating to an abortion for which the consent of the pregnant woman, or a person authorized by law to act on her behalf, has been obtained or for which such consent is implied by law;

"(2) of any person for any medical treatment of the pregnant woman or her unborn child; or

"(3) of any woman with respect to her unborn child.

"(d) In this section, the term 'unborn child' means a child in utero, and the term 'child in utero' or 'child, who is in utero' means a member of the species homo sapiens, at any stage of development, who is carried in the womb.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 919 the following new item:

"919a. 119a. Protection of unborn children.".

The SPEAKER pro tempore. The amendment printed in the bill, modified by the amendment printed in part A of House Report 108–427, is adopted.

The text of H.R. 1997, as amended, as modified, is as follows:

H.R. 1997

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Unborn Victims of Violence Act of 2004" or "Laci and Conner's Law".

SEC. 2. PROTECTION OF UNBORN CHILDREN.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 90 the following:

"CHAPTER 90A—PROTECTION OF UNBORN CHILDREN

"Sec.

"1841. Protection of unborn children.

"§1841. Protection of unborn children

"(a)(1) Whoever engages in conduct that violates any of the provisions of law listed in subsection (b) and thereby causes the death of, or bodily injury (as defined in section 1365) to, a child, who is in utero at the time the conduct takes place, is guilty of a separate offense under this section.

"(2)(A) Except as otherwise provided in this paragraph, the punishment for that separate offense is the same as the punishment provided under Federal law for that conduct had that injury or death occurred to the unborn child's mother.

"(B) An offense under this section does not require proof that—

"(i) the person engaging in the conduct had knowledge or should have had knowledge that the victim of the underlying offense was pregnant; or

"(ii) the defendant intended to cause the death of, or bodily injury to, the unborn child.

"(C) If the person engaging in the conduct thereby intentionally kills or attempts to kill the unborn child, that person shall instead of being punished under subparagraph (A), be punished as provided under sections 1111, 1112, and 1113 of this title for intentionally killing or attempting to kill a human being.

"(D) Notwithstanding any other provision of law, the death penalty shall not be imposed for an offense under this section.

"(b) The provisions referred to in subsection (a) are the following:

"(1) Sections 36, 37, 43, 111, 112, 113, 114, 115, 229, 242, 245, 247, 248, 351, 831, 844(d), (f), (h)(1), and (i), 924(j), 930, 1111, 1112, 1113, 1114, 1116, 1118, 1119, 1120, 1121, 1153(a), 1201(a), 1203, 1365(a), 1501, 1503, 1505, 1512, 1513, 1751, 1864, 1951, 1952 (a)(1)(B), (a)(2)(B), and (a)(3)(B), 1958, 1959, 1992, 2113, 2114, 2116, 2118, 2119, 2191, 2231, 2241(a), 2245, 2261, 2261A, 2280, 2281, 2332, 2332a, 2332b, 2340A, and 2441 of this title.

"(2) Section 408(e) of the Controlled Substances Act of 1970 (21 U.S.C. 848(e)).

"(3) Section 202 of the Atomic Energy Act of 1954 (42 U.S.C. 2283).

"(c) Nothing in this section shall be construed to permit the prosecution—

"(1) of any person for conduct relating to an abortion for which the consent of the pregnant woman, or a person authorized by law to act on her behalf, has been obtained or for which such consent is implied by law;

"(2) of any person for any medical treatment of the pregnant woman or her unborn child; or

"(3) of any woman with respect to her unborn child.

"(d) As used in this section, the term 'unborn child' means a child in utero, and the term 'child in utero' or 'child, who is in utero' means a member of the species homo sapiens, at any stage of development, who is carried in the womb.".

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 90 the following new item:

"90A. Protection of unborn children ... 1841".

SEC. 3. MILITARY JUSTICE SYSTEM.

(a) PROTECTION OF UNBORN CHILDREN.—Subchapter X of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by inserting after section 919 (article 119) the following new section:

"§919a. Art. 119a. Death or injury of an unborn child

"(a)(1) Any person subject to this chapter who engages in conduct that violates any of the provisions of law listed in subsection (b) and thereby causes the death of, or bodily injury (as defined in section 1365 of title 18) to, a child, who is in utero at the time the conduct takes place, is guilty of a separate offense under this section and shall, upon conviction, be punished by such punishment, other than death, as a court-martial may direct, which shall be consistent with the punishments prescribed by the President for that conduct had that injury or death occurred to the unborn child's mother.

"(2) An offense under this section does not require proof that—

"(i) the person engaging in the conduct had knowledge or should have had knowledge that the victim of the underlying offense was pregnant; or

"(ii) the accused intended to cause the death of, or bodily injury to, the unborn child.

"(3) If the person engaging in the conduct thereby intentionally kills or attempts to kill the unborn child, that person shall, instead of being

punished under paragraph (1), be punished as provided under sections 880, 918, and 919(a) of this title (articles 80, 118, and 119(a)) for intentionally killing or attempting to kill a human being.

"(4) Notwithstanding any other provision of law, the death penalty shall not be imposed for an offense under this section.

"(b) The provisions referred to in subsection (a) are sections 918, 919(a), 919(b)(2), 920(a), 922, 924, 926, and 928 of this title (articles 118, 119(a), 119(b)(2), 120(a), 122, 124, 126, and 128).

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"(2) of any person for any medical treatment of the pregnant woman or her unborn child; or

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"(d) In this section, the term 'unborn child' means a child in utero, and the term 'child in utero' or 'child, who is in utero' means a member of the species homo sapiens, at any stage of development, who is carried in the womb.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 919 the following new item:

"919a. 119a. Death or injury of an unborn child".

The SPEAKER pro tempore. After 2 hours of debate on the bill, as amended, it shall be in order to consider a further amendment printed in part B of the report, if offered by the gentlewoman from California (Ms. LOFGREN) or her designee, which shall be considered read, and shall be debatable for 1 hour, equally divided and controlled by the proponent and an opponent.

The gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from New York (Mr. NADLER) each will control 1 hour of debate on the bill.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous materials on H.R. 1997 currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on January 7, 18-year-old Ashley Lyons and her unborn son, Landon, were murdered in Scott County, Kentucky. Current Kentucky law regards this crime as having only a single victim. But Carol Lyons, Ashley's mother and Landon's grandmother, said, "Nobody can tell me that there were not two victims. I placed Landon in his mother's arms, wrapped in a baby blanket that I had sewn for him, just before I kissed my daughter goodbye for the last time and closed the casket." We are here today to tell Carol Lyons she is right. There were two victims that day.

The Kentucky legislature has recently acted to recognize Landon as a victim under Kentucky law, and Kentucky's Governor is going to sign that legislation. But today, Congress has yet to pass legislation recognizing unborn victims of violence under Federal law. The House has done so twice by large margins, but the Senate has failed to act.

The Unborn Victims of Violence Act provides that if an unborn child is injured or killed during the commission of crimes of violence already defined under Federal law, prosecutors can bring two charges, one on behalf of the mother and the second on behalf of the unborn victim. Indeed, the House of Representatives in the 106th Congress, by a unanimous 417 to nothing vote, passed the Innocent Child Protection Act, a bill only two sentences long, that banned the Federal execution of a woman while she carries a "child in utero." "Child in utero" is defined in that bill exactly, to the word, as it is in this bill, namely, as "a member of the species homo sapiens, at any stage of development, who is carried in the womb."

Now, opponents of H.R. 1997 will argue that harm to an unborn victim should simply be considered an additional harm to the mother, not an independent harm to another human being. Yet, a vote for the Innocent Child Protection Act two Congresses ago cannot be defended on the grounds that executing a pregnant woman would cause her to suffer additional harm because there can be no additional harm exceeding the ultimate and final punishment of death. Since the only logical rationale for the support of the Innocent Child Protection Act was to prevent the killing of an innocent unborn child, H.R. 1997, which also recognizes unborn victims, should have similarly overwhelming bipartisan support. We shall see.

The legislation before us now requires us to reflect on the goals and purposes of the criminal law. Ultimately, the criminal law is not a schedule of punishments. It is an expression of society's values. It is an expression of society's values. Anything less than the legislation before us today simply does not resonate with society's sense of justice. The tragic murders of Laci and Conner Peterson in California have drawn national attention to unborn victims and the American people have overwhelmingly responded with more than 80 percent support for bringing two separate charges against their murderer.

The Unborn Victims of Violence Act protects the right of a mother to choose to bring her wanted and loved child to term, safe from the violent hands of criminals who would brutally deny her that right. This bill, however, has nothing to do with abortion. Let me repeat that. The bill has nothing to do with abortion. That fact could not be expressed more clearly in the legislation which explicitly excludes abortion-related conduct. Further, the Supreme Court, in Webster v. Reproductive Health Services, has already refused to strike down Missouri's unborn victims of violence law, stating that it "does not by its terms regulate abortion." Mr. Speaker, H.R. 1997, just like the Missouri law that the Supreme Court refused to strike down, does not by its terms regulate abortion and, indeed, H.R. 1997 includes provisions that specifically exclude abortion-related conduct.

Both before and since the Webster decision, every single unborn victims law passed by State legislatures that has been challenged in court has been upheld. Anyone who claims this bill has anything to do with abortion and opposes it on those grounds is inviting this body to focus not on unborn child victims, but on red herrings.

Tracy Marciniak, whose unborn child was murdered by her husband, has told Congress, "Please don't tell me that my son was not a murder victim." The Unborn Victims of Violence Act, I hope, will pass this body overwhelmingly today if only each Member opens their eyes to the photo of the dead body of Tracy Marciniak's murdered child and opens their hearts to the mothers who have implored Congress to give their unborn babies the status they deserve under the criminal law. I urge my colleagues to do so by supporting this legislation before the House today.

Mr. Speaker, at this time I will include for the RECORD two letters that the gentleman from California (Mr. HUNTER), chairman of the Committee on Armed Services, and I have exchanged regarding the two committees' jurisdictional claims on this legislation.

COMMITTEE ON ARMED SERVICES,
HOUSE OF REPRESENTATIVES,
Washington, DC, February 9, 2004.

Hon. F. JAMES SENSENBRENNER, Jr.,
Chairman, House Judiciary Committee, Rayburn HOB, Washington, DC.

DEAR CHAIRMAN SENSENBRENNER: I am writing to you concerning the jurisdictional interest of the Committee on Armed Services in matters being considered in H.R. 1997, the Unborn Victims of Violence Act of 2003.

I recognize the importance of H.R. 1997 and the need for this legislation to move expeditiously. Therefore, at this time I will waive further consideration of this bill by the Committee on Armed Services. However, the Committee on Armed Services asks that you support our request to be conferees on the provisions over which we have jurisdiction during any House-Senate conference. Additionally, I request that you include this letter as part of your committee's report on H.R. 1997.

Thank you for your attention to this request.

With best wishes.

Sincerely,

DUNCAN HUNTER,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, February 9, 2004.

Hon. DUNCAN HUNTER,
Chairman, Committee on Armed Services, U.S. House of Representatives, Washington, DC.

DEAR CHAIRMAN HUNTER: Thank you for your letter regarding H.R. 1997, the "Unborn Victims of Violence Act of 2003." H.R. 1997 was secondarily referred to the Committee on Armed Services because section 3 of the bill relating to the Uniform Code of Military Justice falls within its Rule X jurisdiction. I appreciate your willingness to forgo consideration of the bill.

I acknowledge that by agreeing to waive its consideration of the bill, the Committee on Armed Services does not waive its jurisdiction over the bill or any of the matters under your jurisdiction in Section 3.

I will include a copy of your letter and this response in our Committee's report on H.R. 1997 and the Congressional Record during consideration of the legislation on the House floor.

Thank you for your assistance in this matter.

Sincerely,

F. JAMES SENSENBRENNER, Jr.,
Chairman.

Mr. Speaker, I reserve the balance of my time.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to the so-called Unborn Victims of Violence Act. Here we are again to consider a bill which has now, for three Congresses, unnecessarily mired what should be a laudable and uncontroversial effort to punish truly heinous crimes in the emotionally charged and legally suspect back allies of the abortion debate. This is regrettable, Mr. Speaker, because real people are suffering real harm, while this House has played abortion politics instead of acting to punish truly barbaric crimes.

The issue today is straightforward: Is it or is it not necessary to enact a bill making a statement endorsing the controversial and legally revolutionary notion that a fetus is a legal person from the moment of conception in order to punish these criminals with the severity that they justly deserve?

That is the heart of the issue. The proponents of this bill are taking what should be a straightforward issue and unnecessarily turning it into a controversial one.

Why does this matter? Quite simply, because if the law recognizes that a fetus is a legal person from the moment of conception, as this bill would do, when it is a zygote, a blastocyst, an embryo, a simple collection of undifferentiated cells, then the law must recognize and protect the rights of that person on a legal basis with the rights of the adult pregnant woman. If our laws recognize that, then there can be no right to choose, because, logically, terminating a pregnancy even in its earliest stages would be killing a fully legal person.

So when the proponents tell you that this is not about the right to choose, this is not about the right to have an abortion, remember that very simple and clear fact. And, remember that we have an alternative that is just as tough on these criminals: the Lofgren substitute. We do not have to choose between an assault on Roe v. Wade and permitting these heinous criminals to walk free.

□ 1030

That is a false choice, but I do not ask my colleagues to believe me. Take the proponents at their word.

Senator ORRIN HATCH, the chairman of the Senate Judiciary Committee, a sponsor of this bill in the other body, had this to say, "They say it undermines abortion rights. It does, but that's irrelevant." CNN, May 7 last year.

January 19 last year, Samuel B. Casey, executive director of the Christian Legal Society, told the Los Angeles Times, "In as many areas as we can, we want to put on the books that the embryo is a person. That sets the stage for a jurist," a judge, "to acknowledge that human beings at any stage of development deserve protection, even protection that would trump a woman's interest in terminating a pregnancy."

May 19 last year, Dr. Joe Cook, vice president of the American Association of Pro-Life Obstetricians and Gynecologists, was quoted by the Associated Press as saying, "We have to approach this in a way that's doable, a step at a time. This bill is aimed at establishing that a fetus in utero is a human being and has human rights."

So please do not insult our intelligence by saying this bill is not about abortion rights.

The proper question is not whether we will recognize a separate or a new crime, but how we will do so. The Lofgren substitute recognizes a special kind of evil embodied in these crimes, but would recognize the assault on the fetus as a second crime against the pregnant woman, a second, separate crime, but against the pregnant woman, not against the fetus. The distinguished chairman of the Subcommittee on the Constitution criticized that point of view as the "ideology of those who are unwilling to recognize the unborn child in the law." Precisely. That is the threat to Roe, and despite the disclaimers in the bill and the disclaimers of the distinguished chairman a few minutes ago, that is what we are talking about today.

If a fetus is recognized as a legal person, then this bill would open the door to barring abortions, to prosecuting women or to restraining them physically for the sake of the fetus. Some courts and State governments have already experimented with this approach. The last time we had occasion to consider this bill, the Supreme Court had just struck down a practice in the then-sponsor's home State of South Carolina in which a hospital would give the result of pregnant women's blood tests to local law enforcement for the purpose of initiating legal action against those women who might take action that might in some way endanger the fetus. Once we recognize even a zygote, two cells, as having the same legal status as the pregnant woman, it would logically follow that her liberty could be restricted to protect its interests. The whole purpose of Roe is to say that her liberty interests trump the interests of the fetus. This bill says exactly the opposite.

For those of us who are prochoice, the right to choose extends not just to a woman's right to have an abortion if she wants, but also to her right to carry a pregnancy to term if she wants and to deliver a healthy baby in safety. That is why we supported the Violence Against Women Act. That is why we support programs to provide proper prenatal care and nutrition to all women. That is why we support proper health and nutrition services after a birth. That is why we support other initiatives like the Family and Medical Leave Act. We do not believe that life begins at conception and ends at birth. We have an obligation to these children and to their parents both prenatally and postnatally.

Let there be no mistake, using physical violence against a woman to prevent her from having a child that she wants is just as much an assault on the right to choose as is the use of violence against women who wish to exercise their constitutional right to choose to end their pregnancy. A woman, and only a woman, has the right to decide when and whether to bring a child into the world; not an abusive partner, not a fanatic, not even Congress.

If we are serious about this problem, and the problem of domestic violence against pregnant women, we have effective remedies at our disposal. If we want to play abortion politics, we have an appropriate vehicle, this bill, before us for that purpose.

Violence against a pregnant woman deserves strong preventive measures and stiff punishment. According to the Journal of the American Medical Association, homicides during pregnancy, and in the year following birth, are the leading pregnancy-related death among women in the United States. Among nonpregnant women, it is the fifth leading cause of death.

Mr. Speaker, it is a disgrace that while these preventable crimes continue to occur, Congress fiddles with largely symbolic legislation designed to interfere with the right to choose rather than taking affirmative steps to deal with this real problem. Why does this Republican-controlled Congress and White House continually refuse to fund fully and adequately the Violence Against Women Act? It appears that many of the Members who have signed on to this bill are the same ones who voted to divert funds from protecting women from violence to protecting stock dividends from taxation.

We owe it to these victims to enact strong penalties, ones which are not constitutionally suspect, to end these heinous crimes. I urge that we adopt the Lofgren substitute to make an assault that harms a fetus a second crime with just as severe or more severe penalties as with this bill, but a second crime against the women so as to not to get into the question of rights of the person to full personhood, which is, of course, the purpose of this bill, but would undermine Roe v. Wade, despite the disingenuous disclaimer of some of the other people on the other side. Let us not crowd the issue of fighting domestic violence, of fighting violence against women and pregnant women, by plunging a legitimate law enforcement effort into the murky waters of the abortion debate.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 2 minutes to make 3 points.

Mr. Speaker, the gentleman from New York seems to imply that this bill has to do with tax cuts and appropriation levels. It does not. It has to do with the criminal law, and as an aside, the criminal law is an expression of the sense of values of the legislative body that puts the criminal law on the books.

Secondly, the gentleman from New York seems to think that we are plowing new ground in making a definition of what a child in utero is and giving the child in utero the protections that are contained in this bill. That is a settled issue, and on July 25, 2000, with the gentleman from New York's support, we passed the Protection of Innocent Children Act which defined a child in utero as meaning a member of the species Homo sapiens at any stage in development who is carried in the womb, and that means a two-cell zygote.

Thirdly, the gentleman from New York seems to want to interject the abortion debate in this bill. That is not the case at all, and I would refer him to page 7 of the bill as reported that says nothing in this section shall be construed to permit the prosecution of any person for conduct relating to an abortion for which the consent of the pregnant woman or a person authorized by law to act on her behalf has been obtained or for which such consent is implied by law.

So what we are dealing with here is wanted children, children that the mother has every intention of bringing to term to have, to give birth and to give that child a nurturing and loving household and a nurturing and loving upbringing. These are the children that we wish to provide protection for under this bill.

Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. CHABOT), who is the chairman of the Subcommittee on the Constitution.

Mr. CHABOT. Mr. Speaker, I thank the gentleman for yielding me the time, and I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for his leadership on this issue. I also want to commend and thank the gentlewoman from Pennsylvania (Ms. HART), the principal sponsor of this bill, for her leadership.

Sadly, recent studies in Maryland, North Carolina and New York City and Illinois indicate that homicide is the leading cause of death of pregnant women in those parts of the country. Those homicides are often inspired by the desire to kill a woman's unborn child. Yet due to gaps in the Federal criminal law, an unborn child can be killed or injured during the commission of a violent Federal crime without any legal consequences.

These gaps are appalling to the American people. Recent polls have shown that upwards of 80 percent of registered voters, including 69 percent of voters who consider themselves to be prochoice, believe that prosecutors should be able to separately charge the violent attacker of a pregnant woman that kills her unborn child. Yet today, for example, if a man stalks his pregnant wife across State lines and attacks her, injuring her but killing the unborn child, that man could not be prosecuted under Federal law for the loss of the baby's life.

The Unborn Victims of Violence Act fills this glaring gap in Federal law with a simple expression of basic understanding, namely, that the loss of an unborn child to an act of violence deserves separate recognition under Federal law. This bill provides that if an unborn child is injured or killed during the commission of crimes of violence already defined under Federal law, prosecutors can bring two charges, one on behalf of the mother, the other on behalf of the unborn victim.

H.R. 1997 recognizes that the loss of an unborn child at any stage of development is a unique and separate loss both to society and to the mother who carried and loved that child. This bill, for the first time under Federal law, treats an unborn victim of violence as something more than a torn spleen or a bruised appendix or other physical injuries incurred during the course of a violent attack that might warrant enhanced penalties but not separate charges under Federal law now. H.R. 1997 treats such unborn victims with the respect and dignity under the law that their loving mothers and the American people rightfully demand for them.

We must all ask ourselves, is an injury to an unborn child the same thing as a broken bone? If the answer is no, as I think we all know that it is, then the only appropriate response is to treat harm to an unborn victim as a distinct and separate offense under Federal law.

This legislation has been called merely symbolic by its opponents, but I wonder how many women in America would view the loss of their unborn child through violent means as merely symbolic. Certainly not Tracy Marciniak, whose unborn child was murdered by her husband. She told the Subcommittee on the Constitution, referring to the substitute amendment which we will be dealing with later, "Please don't tell me that my son was not a real murder victim," and, "Please remember Zachariah's name and face" when you vote on a substitute amendment that refuses to allow a separate charge for the killing of a wanted, unborn child.

Shiwona Pace, whose unborn child Heaven Sashay was brutally murdered by three hired hitmen, has also testified that, "It seems to me that any Congressman who votes for the 'one-victim' amendment," in other words, the substitute, "is really saying that nobody died that night. And that is a lie."

Indeed, because unborn victims are distinct victims, the Unborn Victims of Violence Act is also referred to as Laci and Conner's Law, for Laci and Conner Peterson, two recent victims of terrible violence.

Opponents of the legislation before us today claim it will open the door to all manner of terrible imagined future legislation, but the only door this legislation opens is the door to a distinct room in the edifice of the Federal Code in which unborn victims of violence can be granted the distinct respect they are owed. Just as expecting mothers reserve space in their home for wanted and loved unborn children, we in Congress should reserve for unborn victims of violence a distinct place under the protective shield of criminal law by providing for a separate offense when they are violently killed or injured. The American people consider the murder of an unborn child distinctly offensive, and they demand that the murder of an unborn child be a distinct offense under Federal law, and I urge its passage.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the distinguished chairman said a moment ago that in the Innocent Child Protection Act of 2000 we made settled law the personhood of the fetus. It is not correct. In the Innocent Child Protection Act of 2000, we simply said that a pregnant woman could not be executed, and we defined a pregnant woman as someone who had a child in utero, and then defined, as the chairman said, the words "child in utero."

It is not what we are talking about here. For the purpose of saying you cannot execute a pregnant woman, we have defined what a pregnant woman means. That is all that bill did.

This bill seeks to establish a fetus as a separate legal person by giving it separate legal rights in order transparently to make it a separate legal person within the meaning of the 14th amendment that says no person shall be deprived of life, liberty or property without due process of law. That is exactly the opposite of what the Supreme Court said when it said we have never held a fetus to be a person in the full meaning of the term. This bill is an attempt to whittle away at that term.

The distinguished chairman of the subcommittee says we have to acknowledge the particularly heinous nature of the crime, and indeed, we do. The Lofgren substitute acknowledges the assault on the fetus as a separate crime to be separately punished, to be additionally punished, but a separate crime against the woman because her interest in carrying that pregnancy to term and bearing a healthy baby is assaulted.

□ 1045

It does not recognize it as a separate crime against a separate person, which is the object of this bill and what we are debating, and which is why this bill, despite the disclaimers of the proponents, is a direct assault on Roe v. Wade, a direct assault on abortion, and if all they are interested in is to make a separate crime when you assault a fetus, when you harm a fetus, then the Lofgren substitute is perfectly adequate for that. But their aim is to damage the right to choose, and that is the real purpose of this bill.

Mr. Speaker, I yield 5 minutes to the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Speaker, I rise in opposition to this terribly misguided bill. The bill before us today would give a fetus the same recognition as you or I for the first time in Federal law. Let me make something perfectly clear. The loss of a pregnancy under any circumstances is absolutely devastating to a woman and her family. Those who injure or kill a pregnant woman should be severely punished, and families should have the legal tools to have their loss recognized.

Instead of addressing the real issue at hand, the horrible pain for a woman who loses a pregnancy to an act of violence, this bill sends a message that women do not deserve to be safeguarded or valued in their own right; that it is only through their fetuses that they are entitled to any Federal protections against violence. This, in my judgment, is the wrong approach. Of course the woman matters. She matters when the baby is conceived, she matters when the baby is developing in utero, and she matters when the child arrives in the world; yet this bill does not make it a Federal crime to attack a pregnant woman. In fact, its sponsors have explicitly rejected amendments to protect a woman herself under Federal law.

The Lofgren substitute would do just that. It would severely punish crimes against pregnant women without undermining Roe v. Wade. It gets us to the same ends without the overtly political means.

If my colleagues want to crack down on criminals who attack pregnant women, support the Lofgren substitute. If my colleagues want to protect women from violence, let us fully fund the Violence Against Women Act.

Finally, if my colleagues are serious about protecting the unborn, let us focus on giving babies the best start we can by promoting the health of women throughout the entire pregnancy.

The Unborn Victims of Violence Act is not about shielding pregnant women or fetuses from violent acts, it is and has always about been undermining freedom of choice. Instead of finding new ways to revisit the divisive abortion battle, I believe Americans want us to focus our efforts on ways of providing women with access to prenatal care, affordable contraception, health care and violence prevention.

If we truly want to protect women and their pregnancies from harm, let us work together to enact legislation that deters and punishes violence against women without unnecessarily engaging in the abortion debate.

I urge my colleagues to vote no on H.R. 1997 and to support the Lofgren substitute.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Pennsylvania (Ms. HART), the principal author of the bill.

Ms. HART. Mr. Speaker, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) and my subcommittee chairman, the gentleman from Ohio (Mr. CHABOT), for their hard work on this issue throughout the time I have spent in Congress over the last 3 years and throughout the time I have been the principal sponsor of this legislation. They do have women and families in mind, as I do and as the supporters of this bill do.

It is interesting rhetoric when it is claimed that prosecution of a crime against a woman or an allegation against a perpetrator of a crime against a woman is not happening. It is already against the law to attack a woman and cause her injury or death. That should not be a surprise to any of us. It is not, however, on the Federal level a crime to attack a woman and cause injury or death to the unborn child as a separate crime.

There are two victims in these kinds of crimes. That is so clear from the Laci and Conner Peterson case. The family came to visit us and asked that we name this bill after Laci and Conner Peterson in remembrance of them. That family showed us what the real loss is. They have lost a daughter, Laci Peterson, and their grandson Conner. That cannot be restored by enhancing the penalty for the attack against Laci Peterson. It cannot be restored at all; but the least we can do as lawmakers is recognize the loss to the family. It is shocking to me that anyone would support a substitute to the legislation that recognizes what families who have gone through this tragedy have asked us to do.

Studies have shown, unfortunately, that domestic violence against pregnant women is prevalent, that fully one-quarter of women who are pregnant who die are victims of homicide. These families are crushed when this happens. They lose the woman, and they lose the hope of the child for the future.

This bill is all about recognition of a family's loss. It is about prosecution of a terrible crime. This bill is about making sure that we recognize what is really happening in these kinds of crimes. Numerous reports show us that the motivation behind a crime against many of these pregnant women is the fact that she is pregnant, the fact that she has chosen to carry a child makes someone angry, and it makes someone angry enough to attack her and her unborn child.

Mr. Speaker, we recognize unborn children with inheritance rights. This Congress recognized unborn children enough to prevent the execution of a pregnant woman in prison. It is about time we recognize for that family who has suffered a grave loss a crime against that woman and her unborn child with a two-victim bill such as this. I encourage my colleagues to support H.R. 1997.

Mr. NADLER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, I thank the gentleman for yielding me this time.

It is actually insulting and certainly annoying that there is some sort of accusation that those of us who think that the substitute is preferable do not care about women and do not care about the babies that they are carrying. As a mother, as a grandmother of four children, we have to recognize this bill for what it is. If we want to go after protecting pregnant women, we ought to go after protecting pregnant women, not about threatening to take away their right to choose, which this is a thinly veiled effort to do because we are trying to create a special status of human being, of a fetus, of an unborn child. While I kind of admire the strategy, it does not get to the heart of this issue.

The proponents say we have to have this bill to protect pregnant women from violence, but the truth is this bill does not even address crimes committed against the woman at all, it only addresses the new crime created in this bill, which is a crime against a zygote, an embryo, a fetus. Furthermore, this bill would not even apply to the tragic Laci Peterson, as we understand the facts of the case, and as is true in the vast majority of domestic violence cases. Those crimes are covered by State law and not Federal law.

H.R. 1997 only touches on few and rare instances when pregnant women could be harmed by someone committing a Federal crime. The undisputed aim of this bill is to move forward a calculated antichoice agenda in which embryos and fetuses are codified into law as humans with all of the human rights afforded people in our society. This would bring us one step closer to overturning Roe v. Wade and taking away a woman's constitutional right to choose.

Instead, if we truly care about protecting pregnant women from violence and creating stiffer penalties for those who harm pregnant women, we should pass the substitute to this bill, known as the Motherhood Protection Act. The substitute recognizes that the pregnant woman is a victim when she is assaulted, instead of making the fetus distinct and separate from the woman, which anybody who is pregnant or has been pregnant knows is really not when you are carrying that child. The substitute classifies assault against her and assault on her pregnancy as two crimes, both crimes against the woman. Unlike H.R. 1997, the substitute gets to the heart of the matter: protecting pregnant women from violence.

I urge my colleagues to vote no on H.R. 1997 and yes on the substitute amendment.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. KING).

Mr. KING of Iowa. Mr. Speaker, I appreciate the gentleman from Wisconsin (Mr. SENSENBRENNER) yielding me this time, and I profoundly appreciate the work of the gentlewoman from Pennsylvania (Ms. HART) on this issue, as well as the work of the chairman and the subcommittee chairman, the gentleman from Ohio (Mr. CHABOT).

I urge Members to vote against the Lofgren substitute amendment. At issue today is whether there is one victim or two. When a pregnant woman is murdered, there are two victims. When a pregnant woman is injured and her baby dies, the law must recognize that and punish her violent attacker.

Pregnant women deserve the full protection of our laws. When Laci Peterson and Conner Peterson were killed, there were two victims. This substitute treats Laci's child as if he never existed. Conner did exist. Laci and her family were looking forward to his birth. If we allow Federal law to recognize only one victim, we are guilty of covering up for the criminal who robs an expectant mother and in other cases the father and the rest of the family of their baby. Grieving family members need to know that criminals will pay the full price for killing their son or daughter and that society recognizes their loss. No woman should ever be told she has lost nothing when she loses her unborn child to a brutal attacker. Women deserve better than this. We should recognize her injury, and we should pursue justice.

Roe v. Wade may, and I pray temporarily, provide for a woman to decide temporarily the fate of her unborn child, but this does not affect the Roe v. Wade decision. What we are proposing is someone else stepping into the shoes of the mother. I urge Members to vote for Laci and Conner's law, the Unborn Victims of Violence Act, and I thank the sponsors of this bill, the chairman of the committee, and the folks who have worked so hard.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Iowa just hit the nail on the head. He said the purpose of this bill is to recognize that there are two victims, two people involved in this. That is exactly the point of this bill, and that is exactly why we should not pass this bill without the Lofgren substitute. I am glad the previous speaker and some of the other speakers on the other side stripped away the false rhetoric on this bill. This bill is not about punishing an assault on a fetus separately; the substitute as well as the bill does that. This is not about giving it an additional punishment; the substitute as well as the bill does that.

This is about saying that there are two victims, not one victim; that the fetus or the embryo or the zygote, depending on the status of the pregnancy, is a separate legal person. That is the point of the bill. That is why we must have the substitute, why we cannot agree to the bill, because the whole point of the bill is to establish legally separate fetal personhood, which would undermine the entire rationale of Roe v. Wade and undermine a woman's right to choose, because if a fetus is a separate legal person, how can she choose to terminate the pregnancy?

This is revolutionary notion going way back to Biblical law. If we look at the original Five Books of Moses, it says very plainly if you assault a woman and she dies, you should be put to death. And if you assault a woman and she miscarries, you shall pay her monetary compensation. In other words, by killing the fetus, you have damaged an interest of the woman for which she is due compensation, but you have not committed murder as you have if you kill the born person, the woman.

So we have never in our history recognized a fetus as a separate legal person. The Supreme Court in Roe v. Wade specifically says we have never recognized a fetus as a separate person.

□ 1100

If we were to do so, then we would get into the 14th amendment question that you cannot deprive a person of life, or liberty or process, without due process of law; and that is the purpose of this bill. That is the purpose of similar bills in the State legislatures, I suspect, to give underpinning to a future Supreme Court majority to say that we recognize a fetus as a person within the meaning of the 14th amendment and, therefore, abortion is murder and, therefore, Roe v. Wade is overruled and, therefore, States have no right to legalize murder and you would need a constitutional amendment to permit abortions in this country.

That is the real point of this bill. And strip away all the disingenuous rhetoric about everything else, because everything else we agree on. We agree that there ought to be an additional penalty if you harm the fetus when you assault a woman. We agree that it should be a separate additional crime. The only question here between the bill and the substitute is should the separate additional crime for harming the fetus be a crime against the woman as we say, an additional separate crime against a woman deserving an additional separate penalty? Or should it be an additional crime against a second person, the fetus being recognized as a person?

That is the issue in this bill and this substitute. To say that it is not and to quarry the abortion debate is quite simply disingenuous. That is why the bill was introduced. That is why they are pushing it. It is why we are opposing it.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, let us get back to the Innocent Child Protection Act, which passed the House unanimously on July 25, 2000. The purpose of that bill, which is law today, was to prevent the killing of a child in utero because of the mother's crimes causing the death penalty to be imposed. There the legislation, again which was signed into law, defined the child in utero as a human being at any stage of development who is carried in the womb. So that we decided and we made law 3½ years ago when the Innocent Child Protection Act was passed.

I would note that the three Members on the other side of the aisle who have spoken against the current bill all voted in favor of the Innocent Child Protection Act and the definition that I have just repeated for, I believe, the third time.

Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. I thank the gentleman for yielding me this time.

Mr. Speaker, I commend the gentlewoman from Pennsylvania, and I rise in strong support of H.R. 1997, the Unborn Victims of Violence Act, and in strong opposition to the single-victim substitute.

Let me take my time to try to put a little face on this issue and a human perspective. I want to call my colleagues' attention to the poster to my left. This is a picture of my grandchildren. My granddaughters, Ali and Hannah, are now 6 years old. They were born at 26 weeks, each weighing 1 pound 12 ounces. Thank God their brother, little Hank, who is 3 years old, has two precious siblings. My daughter and son-in-law have three precious children. My wife, Billie, and I are very proud grandparents.

As a physician, I know that Laci Peterson at 8½ months pregnant, little Conner probably weighed three times as much as my granddaughters did at their birth, weighing 1 pound 12 ounces. A strategically directed blow to her abdomen, or any woman's abdomen, at 8 months pregnant could result in just a minor bruise, a contusion to the mother, yet the death of the child, a child that within weeks would have been born fully well.

Yet in this substitute amendment, what would happen? Instead of the perpetrator of this crime getting slapped on the wrist, they would get slapped on both wrists. Yet that child would be dead, and that family would be robbed of a life. I think it is utterly ridiculous.

They keep saying that we do not care about the mother. There are laws to protect the mother against violence that exist, but we have got another victim in these crimes and this puts a human face on it. I ask my colleagues to reject the substitute amendment and support the bill, H.R. 1997.

Mr. NADLER. Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Speaker, I rise in support of the Unborn Victims of Violence Act. I thank the gentlewoman from Pennsylvania for her leadership on this important issue.

Poll after poll show that the vast majority of Americans believe that if someone attacks or murders a pregnant woman and kills her unborn child, then the criminal should be charged with two separate crimes. Sixty-nine percent of registered voters who call themselves pro-choice also agree that violent thugs should be charged with two offenses if they kill a woman's unborn child during the commission of a brutal crime.

The widespread support by the American people is reflected here in the House of Representatives where we have passed this legislation twice before, each time by impressive margins, and each time with both parties working together. As of today, 29 State legislatures have overwhelmingly passed their own laws recognizing two victims in a violent crime against a pregnant woman. This number is growing with each passing day.

I would like to read to my colleague from the Old Testament. He mentioned that. Exodus 21:22–23. I could also go to the Talmud. It is also observed in the Talmud the same thing that is in the Old Testament, namely, "If men strive, and hurt a woman with child, so that her fruit depart from her, and yet no mischief follow: he shall be surely punished, according as the woman's husband will lay upon him; and he shall pay as the judges determine. But if any mischief follow, then thou shalt give life for life, eye for eye, tooth for tooth, hand for hand, foot for foot."

I think it is clear that if the mischief includes the death of the embryo, of the live human being in the womb, then it is eye for eye, tooth for tooth. I urge the passage of this bill.

I. INTRODUCTION

Mr. Speaker, I rise today in support of the "Unborn Victims of Violence Act."

II. BROAD PUBLIC SUPPORT OF H.R. 1997

It's always satisfying when we get to debate and vote on legislation that has such broad, bipartisan support across the country.

How broad is this support? Poll after poll show that the vast majority of Americans believe that if someone attacks or murders a pregnant woman, and kills her unborn child, then that criminal should be charged with two separate crimes.

How bipartisan is that support? 69% of registered voters who call themselves "pro-choice" also agree that violent thugs should be charged with two offenses if they kill a woman's unborn child during the commission of a brutal crime.

This widespread support by the American people has been reflected here in the House of Representatives, where we have passed this legislation twice before, each time by impressive margins, and each time with both parties working together.

And as of today, 29 state legislatures have overwhelmingly passed their own laws recognizing two victims in a violent crime against a pregnant woman.

This number is growing with each passing day.

III. LEGAL AND ACADEMIC SUPPORT FOR H.R. 1997

In the academic and legal world, there is a consensus that these efforts will strengthen our criminal justice system, and agreement that this legislation is perfectly constitutional.

In terms of our criminal justice system, it's clear that this law will serve as a deterrent to future attacks on women of childbearing age.

This is important because in Maryland, New York and Illinois, homicide is the leading cause of death among pregnant women.

According to a recent study, up to 324,000 pregnant women will experience physical violence in the United States this year.

If we join those 29 states in enacting this legislation, we are telling potential attackers that they will face two times the punishment for hurting a pregnant woman.

Would-be attackers need to know that they could be charged with the murder of an unborn child if they attack his mother.

By creating legal consequences for killing an unborn against her mother's will, the law will provide greater protection for women from crimes of violence.

Indeed, in 1990, the Supreme Court of Minnesota said, in upholding the conviction of a man with two counts of murder, that "The possibility that a female homicide victim of childbearing age may be pregnant is a possibility that an assaulter may not safely exclude."

From an academic point of view, scholars are in agreement that laws protecting unborn children from violence are constitutional.

The U.S. Supreme Court refused to strike down Missouri's unborn victims of violence law because it "does not by its terms regulate abortion."

Every single unborn victims law passed by state legislatures that has been challenged in court has been upheld.

A large number of pro-choice scholars concede that this bill will not infringe upon anyone's rights.

IV. MORAL REASONS TO SUPPORT H.R. 1997

Not only does this legislation make sense from a legal point of view, it's also compassionate.

It's compassionate because we are saying to these women and their families, "You have intrinsic worth, and your unborn baby's life had meaning, too."

No woman should ever be told she lost nothing when she loses her child to a brutal attacker. Women deserve better than this.

Even the Bible has something to say about violence against pregnant women. Exodus 21:21–23 tells how if a woman is harmed and her baby is uninjured, then the punishment is only for what happened to the woman. But if a woman is harmed and her unborn child subsequently dies, then the attacker "shalt give life for life."

CONCLUSION

As I've said, it's good when we get to take up an issue on which the vast majority of Americans agree.

But what's most important is that what we are doing today is the right thing to do.

It's time to make the law apply to federal jurisdiction, so that if a man stalks his pregnant wife across state lines and attacks her, or commits any other federal crime, injuring her and killing their unborn child, that man can be prosecuted under federal law for the loss of the baby's life.

Passage of "Laci and Conner's" law is a win-win situation on every level—for the American people, for our criminal justice and legal systems, and for the protection of pregnant women and their unborn children.

The only losers with this bill are the cowardly criminals who would dare attack a pregnant woman. They'll be getting what they deserve.

Mr. Speaker, it's time to do the right thing and pass the Unborn Victims of Violence Act.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Florida mentions various polling data that large majorities of people who are polled say that someone who attacks the woman and harms the fetus, that there are two separate crimes here. There is no dispute on that point. We agree with that. There are two separate crimes. The substitute as well as the bill in chief make it two separate crimes. That is not at issue. What is at issue is who is the victim. The substitute says it is a separate crime against the woman. Two crimes, two punishments for separate crimes against the same victim. The bill says two victims. That is the distinction here. Are there two crimes? Yes, we say. Yes, they say. Are there two victims? Yes, they say from a legal point of view. No, we say, she is the victim of a second crime because the law does not recognize the fetus as a full person.

That is what this bill seeks to do. So it is not a question of two separate slaps on the wrist. We ought to punish the crime severely. The substitute punishes the crime as severely, in some cases more severely than does the bill. The question is do you recognize one victim or two victims, because there are legal consequences, there are juridical consequences, there are consequences of undermining Roe v. Wade and the right to choose based on whether you say this fetus is a person for legal purposes or simply that you say the woman is a victim twice and we will punish it appropriately. That is the question, not whether there are two crimes.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky (Mr. LEWIS).

Mr. LEWIS of Kentucky. Mr. Speaker, I rise today to express my support for H.R. 1997 and to oppose any substitute that would nullify its intent.

H.R. 1997 protects unborn children whose mothers are physically assaulted or killed in the commission of a Federal crime. The majority of States currently recognize prenatal injury or death resulting from violence inflicted on the mother as a crime against two victims. H.R. 1997 allows the Federal Government to similarly recognize this dual crime when it occurs within their jurisdiction and prosecute accordingly.

On January 7 of this year, 18-year-old Ashley Lyons and her unborn son, Landon, were murdered in Scott County, Kentucky. Carol Lyons, Ashley's mother and Landon's grandmother said, "Nobody can tell me that there were not two victims. I placed Landon in his mother's arms, wrapped in a baby blanket that I had sewn for him, just before I kissed my daughter goodbye for the last time and closed the casket."

Mr. Speaker, 3 weeks ago, the Kentucky State House correctly approved legislation to redress single victim prosecution. I urge my colleagues in this Federal body in the name of unborn victims like Landon Lyons to protect unborn victims of violence by voting in favor of this bill.

Mr. NADLER. Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. Mr. Speaker, I rise today in full support of H.R. 1997, the Unborn Victims of Violence Act. I commend those who have come before me in previous years for their work, and I commend the gentlewoman from Pennsylvania for her work now in bringing this issue to the floor.

Violence against a woman who is pregnant with an unborn child is a hideous and tragic act that must be punished accordingly. To my left here is a photograph, this is the first time I have seen this photograph recently, of Tracy Marciniak and her little baby. I would challenge anyone who knows the story, that she was beaten, she survived the beating but her little baby did not. I would challenge anyone from the other side of the aisle who would look at this photograph and say that this is a fetus in her arms. No, I would say this is her baby in her arms. And when a baby, born or unborn, is taken away from her mother, the offender must be punished.

This is commonsense legislation. Once it is passed, it will work to deter violence against women and their unborn children as well. As has been stated by other people already, one of the leading causes of violence and death to women in many States is in fact homicide of pregnant women.

I would urge all Members of good faith on both sides of the aisle to do what is right for society, right for women, and right for the innocent victims in this Nation and vote in favor of this legislation.

Mr. NADLER. Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. PENCE), a member of the committee.

Mr. PENCE. Mr. Speaker, I thank the chairman for the opportunity to speak in strong support of the Unborn Victims of Violence Act. As a member of the Committee on the Judiciary, there are many times that we deal with issues that are along the fault lines of the cultural debate; and I am a pro-life Member of Congress, and I do not apologize for that. But I rise today in support of what has come to be known as Laci and Conner's Law to say from my heart that this is not about abortion. This is not about the thorny issues that surround the debate over a woman's right to choose or the right to life; but, rather, this is simply a law about justice.

The reality is that fetal homicide laws, which is a characterization of the Unborn Victims of Violence Act, are already the law in 29 States in the United States of America. And what Congress seeks to do today, with the strong leadership of the chairman of the committee and the authorship of the gentlewoman from Pennsylvania, is, in effect, to have Federal law catch up with those 29 State laws.

□ 1115

That this is not about abortion is specifically stated in the law itself that provides that it does not apply to any abortion to which a woman has consented to any act of a mother herself, legal or illegal, or to any form of medical treatment. It is not about abortion or a cultural debate. It is about justice.

And with regard to those who would argue for the view that when a woman is attacked and both she and her unborn child are injured that there is only one victim, I close citing the words of the mother of Laci Peterson and the grandmother of Conner Peterson, who speaks more eloquently and more powerfully than any of us can here today:

"I hope that every legislator will clearly understand that adoption of such a single-victim amendment would be a painful blow to those, like me, who are left alive after a two-victim crime, because Congress would be saying that Conner and other innocent unborn victims like him are not really victims, indeed, that they never really existed at all. But our grandson did live. He had a name, he was loved, and his life was violently taken from him before he ever saw the sun."

I thank the gentleman for yielding me this time, and I strongly support the Unborn Victims of Violence Act.

Mr. NADLER. Mr. Speaker, I yield such time as she may consume to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman from New York for yielding me this time, and I respect greatly my colleagues on a very tough and emotional debate.

Yesterday, I rose on the floor of the House to indicate that I do not think one will find any division, any schism in this House on the value and the need for the protection of all Americans, all of us within the boundaries of this Nation against violent and horrific acts. And certainly the murder and the violent assault and action that would injure anyone in this country deserves the full force of the law, and I stand here today supporting that concept. So I would argue vigorously that if one does the crime, they need to pay the time.

It is interesting that we come to the floor today just a few days shy of the tragedy of the Peterson family and the beginning of that trial in California. So it would seem that we urgently need to move forward because of that tragedy. It is interesting to note that as that trial is proceeding, those prosecutors feel fully confident of their case, as I am sure the defense of theirs, but they are moving forward to protect the victims of that tragic crime. So it begs the question as today as to why this body would choose to ignore and reject standing law that has allowed a woman to choose now for more than 2 decades under the Roe v. Wade case and why under H.R. 1997 it is now represented as a necessary legislative act to protect a pregnant woman. I cannot imagine why the substitute that we have now crafted, the gentlewoman from California (Ms. LOFGREN) so studiously designed, that in actuality creates a separate Federal criminal offense for assaulting a pregnant woman resulting in injury or termination of a pregnancy without entangling the issue in the question of choice.

We have come to this floor on many occasions in a side-winding way to undermine the law of this law. One may not agree with Roe v. Wade, but the determination is that a woman now in this Nation has the right to choose on the basis with her engagement with her family, engagement with her spiritual leader, and her personal needs. We are responsible for abiding by the law, and for my colleagues who continue to chip away at the rights of physicians to make a determination on a woman's health when it is necessary to abort a fetus so that that woman can be preserved to recreate again, here we go again with an attempt now to suggest that an unborn child or fetus is not protected when a tragedy occurs by the laws of this land.

We have an alternative. We have a substitute that creates a separate offense so that we do not criminalize the doctor or the mother when there is a need and a necessity to choose to terminate a pregnancy.

Why do we go over this over and over again? Where is the respect for women who have asked to make an independent choice? Those who choose not to abort, we respect that decision. Those who for personal reasons make the choice, the law stands on their side. And I will not come to this floor to participate in frivolity, and it does not make sense that we would come to the floor of the House and suggest not only to our colleagues but to the American people that there is no relief when there is an attack on a woman that is pregnant.

For in this bill, H.R. 1997, it is clearly focused at criminalizing the acts of women if they decide to choose to terminate a pregnancy. And why do I say that? Because what the bill does is it recognizes a member of the species homo sapiens at all stages of development as a victim of crime from conception to birth. This attempts to afford a fetus, embryo, and even a fertilized egg rights and interests separate from and equal to those of the woman. There is no recognition of the crime against the woman.

So, Mr. Speaker, this is what our angst is with this misrepresentation. This is not to ensure that a pregnant woman who would be violently attacked and may lose her life and that of the child that she may be carrying be protected, but it is to suggest that one may do anything that may be a violent act against that particular embryo that that woman is carrying, and that means that it is subjecting a woman to possible criminal acts for a choice that she may make, one to save her life or to provide for her health.

This substitute that we are promoting tells the real truth, and the real truth is that we can provide a separate offense to protect against that terrible and heinous act for assaulting a pregnant woman resulting in an injury or termination and we can create an offense that protects pregnant woman and punishes violence resulting in injury or terminations of a pregnancy without conflicting with the core principles of Roe v. Wade.

I only ask my colleagues that there are few occasions where we may seek reason and there are few occasions where we might understand that we are not here for ourselves, but for the people we represent. The law of the land is Roe v. Wade. I will join any Member to protect against violence of pregnant women; but I cannot stand here while legislation goes through this House, and, unfortunately, it may pass today, that in any way disregards the standing law of the land and represents to the American people that we have no other alternatives but to undermine Roe v. Wade. A woman has a right to choose or choose not. It is not my intention to promote any position other than to say that this body must follow the law.

I ask my colleagues to oppose this particular legislation, the underlying legislation of H.R. 1997, and support the Lofgren substitute; and I ask most of all that we abide by the Constitution and respect the laws of this land so that the American people can know the truth and that women in this Nation can truly be protected.

Mr. Speaker, I am saddened to be here today, to once again stand up for the pro-choice movement and deflect efforts made to undermine it. This is not the first time we have visited this issue, and I fear it will not be the last.

Violence against women, especially pregnant women, is unacceptable and should be punished. I, along with the pro-choice community, are dedicated to preserving a woman's right to have a family when she chooses—and any criminal act that robs her of a hoped-for future child is tragic and intolerable. Rather than supporting such common-sense measures, my colleagues are instead promoting the Unborn Victims of Violence Act (UVVA), described as "a sneak attack on a woman's right to choose." The loss of a wanted pregnancy is a tragedy, but solutions should be real, not political.

WHAT UVVA DOES

The Unborn Victims of Violence Act erodes the legal foundation of a woman's right to choose by elevating the legal status of all stages of prenatal development. If enacted, the legislation would be the first Federal law to recognize a fertilized egg, embryo, or a fetus as a person who can be an independent victim of a crime. Our Supreme Court has held in Roe versus Wade that fetuses are not persons within the meaning of the fourteenth amendment. Nowhere in this legislation is the harm to the woman resulting from an involuntary termination of her pregnancy mentioned. In fact, the pregnant woman is not mentioned at all.

We have States laws that already address crimes committed against pregnant women. The majority of States have statutes on the books that address criminal conduct that results in harm to a pregnancy. Many States punish murder or manslaughter of an "unborn child," as that term is defined by the State law. Some States punish assault, battery, or other harm resulting in injury or death to an "unborn child," as that term is defined in State law. For other States, if a crime committed against a pregnant woman results in termination of or harm to a pregnancy, the harm to the pregnancy is an adjunct to the crime or may be used as a sentence enhancement.

BETTER ALTERNATIVES

I am also here today to support Congresswoman ZOE LOFGREN's substitute, the "Motherhood Protection Act" (MPA). This is a crime bill that designed to protect pregnant women from violence. MPA embodies many of the same principles that I offered as amendments in the House Judiciary Committee, where this bill was originally introduced. I have always supported the intent of this bill, to protect the life of the pregnant mother who has suffered as a victim of a crime of violence and the viability of her pregnancy. However, I oppose the means by which the drafters of this bill have used to achieve its end. Like MPA, all my offered amendments referred to changing language in the bill, focusing on the pregnant mother instead of the fetus.

The MPA creates a second, separate offense with separate, strict, and consistent penalties for assault resulting in the termination of a pregnancy or assault resulting in prenatal injury.

MPA recognizes the pregnant woman as the primary victim of an assault that causes the termination of her pregnancy, and it creates a separate crime to punish this offense. In this way, the bill accomplishes the stated goals of the Unborn Victims of Violence Act—the deterrence and punishment of violent acts against pregnant women—while avoiding any undermining of the right to choose.

This bill fails to address the very real need for strong Federal legislation to prevent and punish violent crimes against women. Nearly one in every three adult women experiences at least one physical assault by a partner during adulthood.

Congress can protect pregnant women from violence without resorting to controversial bills like Unborn Victims of Violence that undermine Roe v. Wade. We must take strong steps to prevent such attacks and must recognize the unique tragedy suffered by a woman whose pregnancy is lost or harmed as a result of violence. I am calling on Congress to support tough criminal laws that focus on the harm suffered by women who are victimized while pregnant, as well as a range of programs that promote healthy childbearing and family planning.

While I am pleased to see the Bush administration taking an active interest in women and children, I hope they will see their goals can be met in other areas. I would like to see the Bush administration focus their efforts on caring for a pregnant woman by providing her decent medical care. I hope the Bush administration ensures more happy pregnancies and births, both with proper family planning and prenatal care. I call on the Bush administration to have to care for the millions of children already living and breathing in our country, but go to school in overcrowded classrooms and dilapidated buildings.

We have a wide range of programs in place to help woman and children. I would like my colleagues to spend more time encouraging and funding these, rather than once again undermining a woman's attempt to choose.

I fully support a woman's right to choose, including a woman's right to choose to carry a pregnancy to term. Because Unborn Victims of Violence does nothing to protect women and because its clear intent is to create fetal personhood, I, along with Planning Parenthood Federation of America, oppose this legislation. Congress should adopt a more reasoned approach that would protect all women from violence.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, the women who are the victims of the violence that has caused death or harm to their babies have already made their choice, and their choice was to carry their babies to term and to give birth and to raise those children in hopefully a nurturing and loving household. To say that this legislation takes away the choice of a woman is just flat-out wrong. Maybe some people disagree with the choice that that woman made, but that is a personal choice; and we ought to recognize that this legislation respects that personal choice.

And then to hear that this legislation is an assault on the Constitution is completely missing the point. The Supreme Court has consistently upheld fetal homicide laws, two-victim crime laws. The Webster case, I think, was the most emphatic upholding of that, and that is a Supreme Court that has also consistently refused to modify Roe v. Wade or to overrule it. So the Court has been able to make a distinction which apparently some of the Members on the other side of this argument have not been able to make, that fetal homicide laws are constitutional, two-victim crime laws are legal as well.

Now, I hope that more Members would have been able to hear the arguments that were advanced by the gentleman from Georgia (Mr. GINGREY), who was an obstetrician by profession before he was elected to Congress. He has said that in some instances a minor bruise on the abdomen of a pregnant woman can result in the death of the child. If all that someone can be prosecuted for is that minor bruise, then the full force of the law against someone who has caused the death of another would not be able to be imposed against that defendant without a two-victim bill. And that is why two victims is so important. It is important, it is constitutional; but, most of all, it respects the right of the women who have decided that they do not want an abortion, that they want to give birth, and they want to raise the child with all the love that a newborn child deserves.

Mr. Speaker, I yield 2 minutes to the gentleman from Alabama (Mr. ADERHOLT).

Mr. ADERHOLT. Mr. Speaker, I thank the chairman for yielding me this time.

Of course, as has been said on numerous occasions this morning, we are considering the Unborn Victims of Violence Act. I joined 136 Members of this body to cosponsor this legislation, and I want to commend the gentlewoman from Pennsylvania (Ms. HART) for her sponsoring this legislation this morning. I do believe the time has come for the House to pass this legislation again and help ensure that it is signed into law. And again, as has been stated this morning, this legislation takes an important step that recognizing that violence against an unborn child, against the will of a mother, can be prosecuted in the Federal courts.

This law is very simple. It would establish that if an unborn child is injured or killed during the commission of an already defined Federal crime of violence, then the assailant may be charged with a second offense on behalf of the second victim, the unborn child. This bill recognizes an unborn child as a separate victim in the eyes of the Federal law.

I have supported this law previously; but as I stand here today, the bill takes on a little bit different meaning. My wife, Caroline, is due to give birth on Monday in Alabama to our second child; and looking at her and feeling the baby move and seeing the sonograms, I do not think there is a shadow of a doubt that the child is a child. This child certainly deserves the full protection of the law.

Caroline reminded me just a few weeks ago that she and Laci were at about the same stage of their pregnancies during the Christmas holidays, and of course that is when she was killed during that time. So it, like I said, takes on a special meaning not only for me but also for my wife, Caroline. But if something should happen to any mother or to any child who is in the womb and they become a victim of a crime, I think the American people would want to see justice on behalf of both individuals, the mother and the child.

So I respectfully ask my colleagues this morning to send a strong message to the Senate and to the President that our goal is to protect the most vulnerable and the most innocent among us.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the distinguished chairman, first of all, I congratulate him for endorsing the right to choose. But second of all, he talked about the woman who has chosen to bear her pregnancy to term, to have a child, and an assault which destroys her fetus or damages her fetus is an assault on her right to choose, and indeed it is. He is entirely right. That is why the substitute makes the assault on her fetus a separate crime with a separate penalty against her because it is indeed an assault on her right to choose to carry that pregnancy to term, and she is the damaged party because she has lost her right to carry the pregnancy to term. She has lost her right to bear a child, and that is why in the substitute we make it an additional crime against her.

□ 1130

The bill, of course, makes it a separate crime against the fetus, and that is the question here.

Also, the distinguished gentleman from Florida (Mr. STEARNS) quoted Exodus 21:22. He said it was 22:22, but it is 21:22. He misquoted what it said. Before I read it, let me be very clear: I did not raise this reference to the Bible because I think we ought to enact Biblical or religious law in this Chamber, far from it, but simply to show it has always been regarded, our civilization generally has regarded back to Biblical times the fetus as not having the status of a separate person.

Exodus 21:22 reads as follows: "If men strive and hurt a woman with child so that her fruit depart from her," in other words, she has a miscarriage, they cause the destruction of the fetus, "and yet no mischief follow, he shall be surely punished and he shall pay as the judges determine," monetary compensation. "And if any mischief follow, then they shall give life for life."

Now, I am not sure what the Bible means by "mischief." I have an interpretation here from a rabbinical source that says it means if she dies.

But, in any event, if she does not die, if mischief does not follow, if she has a miscarriage, monetary compensation.

It is only when mischief follows, when she dies, that he is guilty of a capital crime. That is precisely because at least the Bible did not consider the fetus to be a person for whose killing it is a capital crime, as killing a born person is.

Again, I cite this not because we are bound in enacting civil law to enact Biblical law, we are not, obviously, but simply to show, as I mentioned earlier, this bill, by trying to establish the fetus as a separate person for legal purposes, is a radical departure not only from Anglo-American legal traditions, but from all of Western legal traditions going way back to the Bible.

Mr. Speaker, I am pleased to yield 5 minutes to the distinguished gentlewoman from New York (Mrs. Maloney).

Mrs. MALONEY. Mr. Speaker, I thank the gentleman for his leadership on this issue and so many others. I really rise in strong opposition to this bill and in support of the Lofgren amendment.

In a country in which up to two-thirds of battered women are turned away from shelters for lack of space, in no way does this bill combat domestic violence. But no one should be naive enough to think that this bill has anything to do with domestic violence. Instead, this is another step down the slippery slope toward granting personage to fetuses. This sets up an untenable situation in which a fetus' rights and interests are at odds with its mother.

To make the fetus a person would inject a layer of legal complexibility that would make every pregnant woman's ordinary decisions perilous, opening her medical and other choices to second-guessing liability or even criminal charges. This bill criminalizes actions that can occur at the very earliest phases of pregnancy, making every miscarriage subject to an investigation.

Roughly 20 to 25 percent of all pregnancies end in miscarriage. Usually there is a genetic reason, but sometimes there is another cause. Studies show that miscarriages can occur because of excessive coffee drinking, smoking, exposure to chemicals, illness, stress or trauma during an accident. Since culpability accrues whether the perpetrator knows the woman is pregnant or not, a wide variety of relatively innocent actions could lead to charges.

If someone comes to work, for example, with German measles, knowing that they could infect a fellow worker, could they be guilty of manslaughter? Will Starbucks have to post signs advising pregnant women that they cannot buy more than two cups of coffee per day? Will car manufacturers face imprisonment for miscarriages caused by steering wheels, seat belts or air bags? Will airlines face criminal charges if they permit pregnant women to fly? Will bodega owners be charged for selling pregnant women cigarettes?

If this bill is really about violence against pregnant women, then we should pass the Lofgren amendment and increase penalties against people who harm a pregnant woman. Let us step off the slippery slope and reserve personage to the born.

This bill is also another chipping away at a woman's right to choose. This body recently passed the so-called partial-birth abortion ban, which ignored the health and life of a woman. Now this bill before us today, once again, ignores the health and life of a woman.

I have kept a scorecard of antichoice actions since the Republican majority took over in 1995. If this bill passes today, it will mark the 202nd action against a woman's right to choose, which is exactly what this bill is intended to do. We heard it straight from Senator Hatch's mouth last July when he commented on this bill: "They say it undermines abortion rights. It does. But that is irrelevant."

It is insulting that the authors of this legislation would use violence against women as a vehicle to attack a woman's right to choose.

Let me say it again, this bill does nothing to address the violence against women, but the Lofgren substitute does. The Lofgren substitute would severely punish crimes against pregnant women without tangling juries and prosecutors in the abortion debate. It creates a separate Federal offense for crimes against pregnant women and carries penalties of 20 years in prison to a maximum life sentence for causing termination of a woman's pregnancy. The Lofgren amendment protects pregnant women without limiting their very basic rights and without defining the Constitution to establish fetal personage.

Please vote in favor of the Lofgren amendment, which will be up shortly, and no to this underlying bill.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. Kennedy).

Mr. KENNEDY of Minnesota. Mr. Speaker, I rise today in strong support of the Unborn Victims of Violence Act. Few people know that homicide is the leading cause of death of pregnant women in this country. Thousands more expectant mothers will experience physical violence during their pregnancy each year. When a pregnant woman is harmed, so is her child. Under these circumstances, it only makes sense that a criminal should be prosecuted for harming two innocent lives rather than one. In fact, 29 States, including my State of Minnesota, have laws that protect unborn children during some stage of development. If the mother is not killed in an attack, but the unborn child is, clearly that attacker is responsible for the unborn child's death. However, in the eyes of the law, nobody died, and the most an attacker can be charged with is assault.

This must be changed. Even in the highly publicized tragedy involving Laci and Conner Peterson, the national media rightly recognized that there were clearly two victims. But if this were a Federal case, only one victim would be recognized.

The opponents of this bill have wrongly characterized this bill and tried to give credence to their one-victim alternative. But I would like to bring to you what the mother of Laci Peterson had to say:

"Please understand how adoption of such a single-victim proposal would be a painful blow to those like me who are left to grieve after a two-victim crime because Congress would be saying that Conner and other innocent victims like him are not really victims; indeed, that they never really existed at all. But our grandson did live. He had a name, he was loved, and his life was violently taken from him before he ever saw the sun."

That comes from Laci's mother, from Conner's grandmother. This is something that 84 percent of Americans support. This is something that this House has passed twice. The President supports it. I urge my colleagues to join me in supporting it.

Mr. NADLER. Mr. Speaker, I yield 1½ minutes to the distinguished gentlewoman from California (Ms. Solis).

Ms. SOLIS. Mr. Speaker, I thank the gentleman from New York for yielding me time.

Mr. Speaker, today I rise also in strong opposition to the so-called Unborn Victims of Violence Act. I am extremely disappointed that the issue of violence against women is being manipulated into a political tug of war.

The bill recognizes for the first time a fetus as a person with rights separate and equal to that of a woman. Nearly one in every three adult women experience at least one physical assault by someone that she knows, a partner in many cases.

There is no doubt that acts of violence against women, especially pregnant women, are tragic and should be punished to the full extent of the law. However, we must institute legislation that does not erode the legal foundation of a woman's right to choose as a condition of protection against violence. We must support legislation that truly addresses harm to pregnant women and domestic violence.

The Democratic substitute being offered today by Lofgren, the Motherhood Protection Act, would create a separate Federal criminal offense for harm to a pregnant woman, instead of recognizing the fetus as a separate legal person. Recognizing the real issue at hand, harm to a pregnant woman, must not be exploited to further a long-standing political agenda.

I urge my colleagues to vote against H.R. 1997, and support the Lofgren substitute.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE of Florida).

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, this being February, many of us in our districts attended various fund-raisers for domestic violence shelters, and most of the titles of the funds-raisers that I attended this month were "Love Does Not Have to Hurt."

We need to have some Federal sentencing guidelines, because they currently fail to adequately cover the death or injury of an unborn child. For example, if a woman survives an attack but loses her unborn child, current law says that a murder has not taken place. Federal law does not recognize the death of Laci Peterson and her son Conner as a double murder.

Many times the intended target is the unborn baby itself. Failing to classify this as a murder defies reasonable notions of justice.

We hear a lot of debate about is this really related to the abortion issue? The debate over this legislation has been twisted by some into a debate over abortion. However, the abortion debate is really over a woman's right to choose.

This legislation affirms a woman's right to choose by punishing the criminal that has robbed her not only of her choice, but also of her child. Nothing in the Roe v. Wade decision prevents Congress from recognizing lives of the unborn children outside the parameters of the right to an abortion.

I strongly urge my colleagues to support the original provisions of the Unborn Victims of Violence Act because they recognize clearly what most Americans back in our districts feel, that violence against an unborn child is a crime just as heinous as the attack on its mother.

Mr. NADLER. Mr. Speaker, I yield 3½ minutes to the distinguished gentlewoman from Wisconsin (Ms. BALDWIN).

Ms. BALDWIN. Mr. Speaker, I rise today in opposition to H.R. 1997, the Unborn Victims of Violence Act.

Let us be clear: This bill is nothing more than an attack on a woman's right to choose. By defining the phrase "child in utero" to include any member of the species Homo sapiens at any stage of development who is carried in the woman, this bill provides protections for an embryo or fetus, regardless of the stage of development, from conception to birth. By establishing this fetal personhood in this manner, this bill establishes a legal framework to attack a woman's right to choose as guaranteed by the Supreme Court in the Roe v. Wade decision.

This bill forges new ground in attempting to recognize embryos and fetuses at all stages of development as persons with the same legal status as the mother. In fact, this bill makes no mention of the primary victim of violence, the pregnant woman, and instead creates a new cause of action on behalf of the unborn, and this marks a major departure from existing law and threatens the foundations of the right to choose.

We all agree that every time a criminal causes the injury or death of a pregnant woman through violence, it is a tragedy.

□ 1145

But we must also acknowledge that an attack against an unborn child is necessarily an attack against a pregnant woman. Unfortunately, rather, than supporting tougher laws against domestic violence, sexual assault and battery, we are instead debating a bill that does not even recognize the harm to a pregnant woman.

During the debate, I have heard some Members talk about stories they have heard from people they have met. I remember in Wisconsin hearing testimony of a personal story of a woman who was beaten by her spouse when pregnant and lost her child. She was also beaten right after she first got married and beaten before her pregnancy, and beaten in the early stages of her pregnancy. If we had taken a tough enough approach to violence against women, the violence would not have progressed so far.

I have long been a supporter of the Violence Against Women Act, which expands protections for women against these callous acts of violence. I believe we would be much better served by laws to protect women, pregnant or not, from violence, instead of establishing an entirely new framework to protect fetal rights.

By switching the focus of these crimes, we are diverting attention from the victimized women, and this is not a step forward in the fight against domestic violence.

I urge my colleagues to vote against these bills and then work together to do proactive legislation to better attack violence against women.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. BARTLETT).

Mr. BARTLETT of Maryland. Mr. Speaker, I rise to support the Unborn Victims of Violence Act and to oppose the Democratic amendment.

H.R. 1997 would state that when a violent criminal act is committed against a pregnant woman, and that act results in the death of the baby, the criminal will be guilty of a second offense.

What this debate comes down to is personhood, according to a well-known liberal activist group. People for the American Way, a group opposing this bill, stated, "Unlike the underlying bill, however, the pro-choice Lofgren substitute would not threaten Roe by recognizing the embryo or fetus as a separate, legal 'person.'" That is correct. Today in the House, we declare that criminal acts committed against pregnant mothers are crimes against two persons. What else could it be?

Human beings take different forms throughout life, but they never lose their humanness, their humanity. A baby in the womb will be born a person. A newborn, although it cannot fend for itself, is a person. An 87-year-old that shuffles slowly along is still a person.

Mr. Speaker, when there are two victims, there should be two crimes. I urge the House to pass H.R. 1997.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I rise to oppose this bill, and I question how this body could even consider a proposal as dishonest as this one. This bill is a wolf in sheep's clothing, a proposal to undermine reproductive rights dressed up as a bill to punish violent crimes against women.

We have really important issues that we should be considering, Mr. Speaker, rather than legislation that will undermine a woman's right to choose. We should be focusing this time today on policies that ensure every woman has a healthy pregnancy. We should promote solutions to the tragedy of domestic violence and the many other heinous offenses against women.

If antichoice forces would like to debate whether or not a woman has the right to make her own medical decisions, I am ready for that debate. Our constituents deserve a frank discussion about a woman's right to choose. It is unfair and it is misleading to characterize this bill as anything other than an assault on reproductive freedom in this country.

Mr. Speaker, I urge my colleagues to join me in the opposition of this misleading base legislation and in favor of the Lofgren substitute that protects the pregnant woman without reducing her own rights.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. FERGUSON).

Mr. FERGUSON. Mr. Speaker, passing this bill, the Unborn Victims of Violence Act, which is also known as Laci and Conner's Law, should be common sense to us all. I am mystified, frankly, by those who seem to be hysterical in their opposition to this commonsense legislation.

Let us see why this bill is so important. This is a picture of Ashley Lyons. Ashley learned last year that she was expecting; and the joy of the thought of her new child filled her heart. Tragically, earlier this year, Ashley was murdered and her unborn son, Landon, died as well. Was one life lost, or were two? Of course, two people died in that crime.

Here is a picture of Tracy Marciniak and her son, Zachariah. While in the 9th month of pregnancy, Tracy was brutally beaten, a crime which resulted in the death of her unborn son, Zachariah. According to some, even some in this very Chamber, according to some in this very chamber Today, there was no murder committed here. And according to some in this very Chamber, Tracy did not lose her child.

Did two people die when Ashley Lyons and her son, Landon, were murdered, or just one? Was a murder committed when Tracy Marciniak was beaten and her unborn son was killed? During the search for Laci Peterson and her unborn son, Conner, in San Francisco, did they find two bodies or did they find just one body?

Mr. Speaker, if my colleagues think nobody died here, that there were no crimes committed here, then vote "no" on this bill. But if my colleagues can get past the politics and the idealogy to see the truth, if they can see the common sense that there were two victims in this crime, that there was a murder committed here and that there were two victims in the Peterson murder case, then they must and they will vote "yes" on this bill.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will read into the RECORD some letters that we have here. This bill has been represented as a bill on family violence. We have here a letter in opposition to the bill and in support of the Lofgren substitute from the Family Violence Prevention Fund. It says: "If Congress is serious about stopping domestic violence against pregnant women and helping women and children who are victims, Members will quickly pass the Domestic Violence Screening, Treatment and Prevention Act, H.R. 1267."

The American Association of University Women is opposed to this bill. The National Women's Law Center is opposed to this bill.

The National Council of Jewish Women is opposed to this bill in which they say that "this bill defines an unborn child as a member of the species homo sapiens at any stage of development. For the first time, it gives separate legal protection to a fertilized egg, embryo, or fetus and mandates penalties for harm to an unborn child equal to those mandated for harm to the woman herself. This legal definition will set a precedent that the anti-choice movement can exploit in its ongoing efforts to equate abortion with murder. And it would establish a foundation on which to build a case that the rights of fertilized eggs, embryos, and fetuses are apart from and superior to the rights of the women in whose bodies they develop.

"The Unborn Victims of Violence Act is a sham designed to exploit the understandable public sympathy for a woman who loses her pregnancy or her life to violence in order to promote an agenda by which women will in fact lose control of their bodies to the State." That is from the National Council of Jewish Women.

The National Abortion Federation, the Religious Coalition of Reproductive Choice, the American Civil Liberties Union, NARAL, People for the American Way, the National Organization for Women, all of these groups are concerned either about abortion rights, about reproductive rights, about women's rights, about domestic violence; and they are all opposed to this bill.

Juley Fulcher of the National Coalition Against Domestic Violence, which is the group that for the last 25 years has led the fight for antidomestic violence legislation in the States and in the Congress, testified against this bill in our committee, and I commend her testimony to my colleagues.

Mr. Speaker, I will insert all of these letters into the RECORD at this time.

FAMILY VIOLENCE PREVENTION FUND,
Washington, DC, January, 27, 2004.

Hon. JERROLD NADLER,
Rayburn House Office Building,
Washington, DC.

DEAR REPRESENTATIVE NADLER: On behalf of the Family Violence Prevention Fund, I am writing to express concern about the Unborn Victims of Violence Act, H.R. 1997, passed by the House Judiciary Committee on January 21. We are deeply disappointed that some are promoting this bill as a way to end domestic violence, when better and more direct measures to stop family violence languish in Congress year after year. Members of Congress who want to stop abuse will put their energy into passing the prevention and intervention measures that offer great promise to stop violence before it starts.

The murder of Laci Peterson was an unspeakable tragedy, but many laws designed as quick fixes have caused great harm. For example, mandatory domestic violence health reporting laws deter women from seeking the medical help they need. We need to step back and consider what actually works. Our goal must be to stop violence against all women, regardless of whether they are pregnant.

If Congress is serious about stopping domestic violence against pregnant women and helping women and children who are victims, Members will quickly pass the Domestic Violence Screening, Treatment and Prevention Act, H.R. 1267. this essential bill would train health care providers to routinely screen female patients for a lifetime history of abuse and give women access to critical domestic violence services when abuse is identified. Introduced in the House in March of 2003 by Representative Lois Capps (D–CA) and Steven LaTourette (R–OH), this bill has the potential to prevent tragedies by helping victims before violence escalates.

We also urge Congress to fully fund all Violence Against Women Act programs and support legislation that would actually prevent domestic violence before it begins. Domestic violence prevention legislation should include services for children who are exposed to abuse, programs that support young families at risk of violence, and efforts to teach young men and boys how to develop healthy, non-violent relationships. Such legislation would do much more to stem the tide of domestic violence than the Unborn Victims of Violence Act.

Finally, we wish to thank you for your continued leadership and support on this issue. As an advocate in Congress and as one of our Founding Fathers, you truly make a difference in the movement to end violence against women and children. If we can be of assistance, please do not hesitate to contact Kiersten Stewart in our Washington, D.C. office at 202–682–1212.

Sincerely,

ESTA SOLER,
President,
Family Violence Prevention Fund.

AMERICAN ASSOCIATION OF
UNIVERSITY WOMEN,
Washington, DC, January 27, 2004.

OPPOSE THE H.R. 1997—THE UNBORN VICTIMS OF VIOLENCE ACT

DEAR REPRESENTATIVE: On behalf of over 100,000 members of the American Association of University Women (AAUW), we express our deep opposition to the Unborn Victims of Violence Act (H.R. 1997). AAUW opposes H.R. 1997 because it would create a separate criminal offense if an individual kills or injures an "unborn child" while committing a federal crime against a woman. AAUW believes that the bill fails to directly address the real problem—violence against women—and ignores the needs of the woman by dismissing the fact that any assault that harms a pregnancy is inherently an attack on the woman.

AAUW has spent the last century fighting for protections for women and children from all forms of violence. AAUW has also worked tirelessly to protect a woman's right to choose. These two priorities should never come into conflict, but H.R. 1997 pits one against the other in an unnecessary attack on the legitimacy of Roe v. Wade. H.R. 1997 attempts to thwart a woman's right to choose by undermining that landmark Supreme Court decision, which held that fetuses are not persons within the meaning of the Fourteenth Amendment. H.R. 1997 attempts to recognize a fetus as a person, with rights separate from and equal to those of a woman, and worthy of legal protection. Rather than creating separate legal rights for the fetus, Congress should bolster its efforts on behalf of pregnant women by enhancing the penalties for the underlying crime against the woman.

Once again, we urge you to oppose H.R. 1997. If you have any questions, please call Lisa Maatz, Director of Public Policy & Government Relations, at 202/785–7720, or Lynsey Morris, Government Relations Manager, 202/785–7730.

Sincerely,

NANCY RUSTAD,
President.
JACQUELINE E. WOODS,
Executive Director.

NATIONAL WOMEN'S LAW CENTER,
Washington, DC, January 20, 2004.

DEAR SENATOR: On behalf of the National Women's Law Center, we are writing to ask you to oppose H.R. 1997, "The Unborn Victims of Violence Act." This bill not only ignores the violent crime against the woman but also sets a dangerous federal precedent that will undermine a woman's right to choose.

Acts of violence against women, and most certainly against pregnant women, are abhorrent, and the criminal justice system should respond decisively and strongly to them. But H.R. 1997 is not the proper response. This bill would create a separate offense for harm or termination of a pregnancy at any stage of development during the commission of any of several federal criminal acts. H.R. 1997 fails to recognize the violence to the woman and ignores the reality that any attack that harms a pregnancy inherently is an attack on the pregnant woman herself. At a past House Judiciary Subcommittee on the Constitution Hearing on this bill, domestic violence expert Julie Fulcher testified against the bill, stating, "The 'Unborn Victims of Violence Act' is not designed to protect women. . . . The result is that the crime committed against a pregnant woman is no longer about the woman victimized by violence. Instead, the focus often will be switched to the impact of that crime on the unborn fetus, once again diverting the attention of the legal system away from domestic violence or other violence against women."

This legislation would also unnecessarily inject the abortion debate into the federal criminal system. It creates a separate offense for harm to the "unborn child," which it defines as "a member of the species homo sapiens, at any stage of development, who is carried in the womb," and punishes this violation as if the offense had occurred to a person. If enacted, it would be the first federal law where a zygote, blastocyst, embryo or fetus could be an independent victim of a crime, and thus a "legal person" with the same legal rights as live-born individuals. Thus, this legislation conflicts with the legal principles underlying the Supreme Court's decision in Roe v. Wade.

Moreover, the bill's construction and vague language ensures that prosecutions will get bogged down in arguments about when life begins—discussions better held by constitutional scholars, academics, clerics and philosophers, not by juries in criminal courts. Ultimately, the bill as crafted provides a vehicle for yet another challenge to Roe and its progeny before the United States Supreme Court. A much simpler bill could have been crafted to create new federal anti-crime legislation—rather than anti-abortion legislation.

We look forward to working with you on legislation that truly addresses the tragedy of a pregnancy lost due to a violent crime. Other proposals are being developed that focus on the attack on the woman and resulting harm to her fetus. These alternatives would allow for swift and efficient prosecution of criminal wrongdoers and would not undermine the legal principles underlying a woman's right to choose. We urge you to oppose H.R. 1997—although it purports to aid women, in reality this bill not only ignores women crime victims but undermines their constitutional rights.

Sincerely,

MARCIA D. GREENBERGER,
Co-President.
JUDY WAXMAN,
Vice President, Health and Reproductive Rights.

NATIONAL COUNCIL OF
JEWISH WOMEN,
Washington, DC, January 2004.

DEAR REPRESENTATIVE: On behalf of the 90,000 members of the National Council of Jewish Women, I urge you to oppose the "Unborn Victims of Violence Act," (S. 1019) which purports to protect pregnant women by enhancing penalties for criminal acts that harm an "unborn child." Recognizing harm to an "unborn child" that is injured in the commission of a crime does nothing to help pregnant women that are victims of violence. It merely aids the anti-choice movement in establishing separate legal status for the fetus.

The Unborn Victims of Violence Act defines an "unborn child" as "a member of the species homo sapiens, at any stage of development." For the first time, it gives separate legal protection to a fertilized egg, embryo, or fetus, and mandates penalties for harm to an "unborn child" equal to those mandated for harm to the woman herself. This legal definition will set a precedent that the anti-choice movement can exploit in its ongoing efforts to equate abortion with murder. And, it would establish a foundation on which to build a case that the rights of fertilized eggs, embryos, and fetuses are apart from and superior to the rights of the women in whose bodies they develop.

The "Unborn Victims of Violence Act" is a sham, designed to exploit the understandable public sympathy for a woman who loses her pregnancy or her life to violence in order to promote an agenda by which women will in fact lose control of their bodies to the state.

If you have any questions, please contact Carolyn Ratner, Senior Legislative Associate, at 202-296-2588.

NATIONAL ABORTION FEDERATION,
January 27, 2004.

Representative NADLER,
Rayburn House Office Building,
Washington, DC.

DEAR REPRESENTATIVE NADLER: On behalf of the National Abortion Federation (NAF), I am writing to thank you for your principled opposition to H.R. 1997, "The Unborn Victims of Violence Act." This legislation poses a direct threat to a woman's right to choose a safe and legal abortion by granting personhood to a zygote, blastocyst, embryo, and fetus separate and apart from the woman.

NAF opposes this legislation because it does nothing to protect pregnant women. Not a single provision of the bill addresses the underlying problem of violence against women. Instead, the bill emphasizes the fetus over the woman, diverts attention away from violence against women, and fails to recognize that the best way to protect a fetus is to better protect women from violence.

The supporters of the bill claim that they want to protect pregnant women. The true intent behind this bill—to dismantle Roe v. Wade and undermine a woman's right to choose has been exposed. Additionally, this bill would set a dangerous legal precedent by establishing in law that an "unborn child" is an individual separate from a woman, and by elevating its status above that of a woman. The legislation makes no distinction between a fetus that is nine months old, an embryo that is six weeks old; a blastocyst that is four days old and has yet to implant in the uterus, and a zygote that is two hours old and has yet to split into more than two cells. By granting full personhood to a fetus, embryo, blastocyst, and zygote, the bill threatens to set the stage for a complete prohibition of abortion.

Acts of violence against women, including pregnant women, are intolerable, and the criminal justice system should respond to them. H.R. 1997, however, is not the right response. Thank you again for your vote against this legislation, and for your continuing support of a woman's right to choose.

Sincerely,

VICKI SAPORTA,
President & CEO.

RELIGIOUS COALITION FOR
REPRODUCTIVE CHOICE,
Washington, DC, January 27, 2004.

Representative JERROLD NADLER,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN NADLER: I am writing to express my strong opposition to the so-called "Unborn Victims of Violence Act," H.R. 1997, which was recently reported out by the House Judiciary Committee.

The bill recognizes a fertilized egg, zygote or fetus as a person by explicitly stating that any human "in utero" is a "child," regardless of gestational length. Thus the bill seeks to impose one religious belief about the beginning of life—that the fetus at all stages of development is a person—and make it the law for all, regardless of individual beliefs. As an interfaith coalition, we believe that government must not impose one religious view about any issue on everyone.

The claims by UVVA supporters that this bill is about preventing violence against pregnant women are preposterous. Their unwillingness to consider the amendments offered in committee by Reps. Lofgren, Baldwin and Scott shows that their aim is to establish fetal personhood and fetal rights, rather than to address the serious problem of violence against pregnant women.

The main purpose of this bill is to identify the fertilized egg or fetus as a separate "person" with legal rights distinct from those of the pregnant woman, and thus lay the foundation for overturning Roe v. Wade. I strongly urge its defeat.

Sincerely,

Rev. CARLTON W. VEAZEY,
President and CEO.

AMERICAN CIVIL LIBERTIES UNION,
Washington, DC, January 20, 2004.

OPPOSE "THE UNBORN VICTIMS OF VIOLENCE ACT" (H.R. 1997) DURING TOMORROW'S JUDICIARY COMMITTEE MARKUP

DEAR REPRESENTATIVE: The ACLU strongly urges you to oppose H.R. 1997, deemed by its sponsors "The Unborn Victims of Violence Act," when it is marked up in the House Judiciary Committee tomorrow. This bill unnecessarily undermines reproductive freedom, when alternative approaches to punishing violent crimes against women exist.

H.R. 1997 would amend the Federal criminal code to create a new, separate offense if, during the commission of certain Federal crimes, an individual causes the death of, or bodily injury to, what the sponsors call a "child in utero." Because H.R. 1997 applies to all stages of prenatal development, it would be the first Federal law to recognize a zygote (fertilized egg), a blastocyst (pre-implantation embryo), an embryo (through week eight of a pregnancy), or a fetus as an independent "victim" of a crime with legal rights distinct from the woman who has been harmed by a violent criminal act.

The ACLU fully supports efforts to punish acts of violence against women that harm or terminate a wanted pregnancy. This bill is an inappropriate method of imposing such punishment, however, because it dangerously seeks to separate the woman from her fetus in the eyes of the law. It could dramatically alter the existing legal framework, elevate the fetus to an unprecedented status in Federal law, and undermine the foundations of the right to choose abortion.

In addition, H.R. 1997 explicitly disavows a mens rea (or criminal intent) requirement with respect to the harm to the fetus and thus is in tension with the Constitution's Due Process guarantees. The bill permits a person to be convicted of the offense of harm to a fetus even if he or she did not know, and had no reason to know, that the woman was pregnant, and he or she did not intend to cause harm to the fetus. Such a result undermines the Constitution's promise of due process.

Criminal interference with a woman's right to bear a child should be prevented and punished. Legislation that imposes enhanced penalties for violent acts that intentionally compromise a pregnancy appropriately punish the additional injury a woman suffers without recognizing the fetus as a legal entity separate and distinct from the woman who has been harmed.

For these reasons, we strongly urge you to vote against H.R. 1997 when it is considered in the Judiciary Committee.

Sincerely,

LAURA W. MURPHY,
Director.
GREGORY T. NOJEIM,
Associate Director and Chief Legislative Counsel.

NARAL PRO-CHOICE AMERICA,
January 23, 2004.

Hon. JERROLD NADLER,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE NADLER: I write to reiterate NARAL Pro-Choice America's opposition to H.R. 1997, the so-called Unborn Victims of Violence Act.

This legislation recognizes a second legal "person" when a pregnant woman is a victim of certain federal crimes. Sponsors claim the bill is aimed at violence against women, and at first blush, their proposal may seem reasonable or innocuous. Indeed, NARAL Pro-Choice America strongly believes that acts of violence against women, especially pregnant women, are tragic and should be punished to the full extent of the law. But sponsors of the Unborn Victims of Violence Act are not interested in addressing the real issues at hand.

Unfortunately, a close examination reveals that the bill is not designed to protect pregnant women from violence. Instead, it is carefully crafted to undermine a woman's right to choose. The bill creates a separate federal offense if, during commission of certain crimes, a person causes death or injury to what the sponsors call "a member of the species homo sapiens at all stages of development." For the first time in federal law, this bill recognizes a zygote (fertilized egg), blastocyst (preimplantation embryo), embryo (through week eight of a pregnancy), and fetus as a "person" that can be an independent victim of a crime.

For the first time in federal law, this legislation would grant an embryo rights separate from, and equal to, those of a woman. Any doubts about the sponsor's true motives have been erased. Indeed, one of the bill's lead sponsors admitted: "They say it undermines abortion rights. It does. But that's irrelevant." Similarly, a prominent anti-choice advocate has observed: "In as many areas as we can, we want to put on the books that the embryo is a person . . . That sets the stage for a jurist to acknowledge that human beings at any stage of development deserve protection—even protection that would trump a woman's interest in terminating a pregnancy."

While NARAL Pro-Choice America agrees that crimes against pregnant women should be punished, there are other ways to accomplish that goal that do not embroil the issue in the abortion debate. When the Judiciary Committee considered the bill, members offered a number of sensible amendments, each of which would have represented a more responsible and effective option. Unfortunately, anti-choice committee members defeated each attempt, for one reason only: it did not grant legal "personhood" status to an embryo or fetus.

Finally, it is important to note that domestic-violence organizations—which take no position on legal abortion—oppose the Unborn Victims of Violence Act. The National Coalition Against Domestic Violence testified that this legislation excludes the woman entirely from the equation and could end up exacerbating, not improving, vulnerable women's circumstances. If Congress were truly interested in protecting women, it could enact sensible policies that help prevent, intervene against, and provide services for women who are victims of domestic violence and other violent crimes.

NARAL Pro-Choice America shares their concern and urges Congress instead to pass common-sense measures that help women, and do not undermine their rights.

Thank you for your consideration.

Warm regards,

KATE MICHELMAN,
President.

PEOPLE FOR THE AMERICAN WAY,
Washington, DC, January 23, 2004.
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE: On behalf of the more than 600,000 members and activists of People For the American Way, we are writing to oppose H.R. 1997, the "Unborn Victims of Violence Act." While purporting to protect pregnant women from violence, this bill threatens the foundation of the landmark Roe v. Wade decision by establishing legal "personhood" for embryos and fetuses.

Violence against pregnant women is tragic and deserves to be punished. To this end, People For the American Way strongly supports efforts to protect women from violence and to address the fact that homicide is the leading cause of death among pregnant women. However, the "Unborn Victims of Violence Act" is not the answer, for it holds the noble goal of protecting pregnant women from violence hostage to language threatening women's right to choose.

By contrast, the substitute bill that Rep. Lofgren offered in the Judiciary Committee serves the goal of protecting pregnant women without at the same time threatening women's reproductive freedom. Like the underlying bill, Rep. Lofgren's "Motherhood Protection Act" would authorize additional penalties for violence against pregnant women—up to 20 years when an embryo or fetus is injured and up to life in prison if a pregnancy is terminated. Unlike the underlying bill, however, the Lofgren substitute would not threaten Roe by recognizing the embryo or fetus as a separate legal "person."

We strongly urge you to protect pregnant women and a woman's right to choose. Oppose the Unborn Victims of Violence Act and instead support the Motherhood Protection Act. Pregnant women deserve additional protection against violence, but they should not have to pay for it with their reproductive freedom.

Sincerely,

RALPH G. NEAS,
President.
MARGE BAKER,
Director of Public Policy.

NATIONAL ORGANIZATION FOR WOMEN,
Washington, DC, January 26, 2004.
Honorable Member,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE: The National Organization for Women opposes H.R. 1997, formerly titled the Unborn Victims of Violence Act of 2003 (UVVA) and now called Laci and Conner's Law. This bill would advance the legal status of an embryo or fetus, making it equal to that of a pregnant woman and, consequently, would seriously erode the rights guaranteed under Roe v. Wade.

Through this legislation, sponsors are attempting to establish in law the extreme view that the legal rights of an embryo are separate from, and different from, the pregnant woman's—and then to press for additional statutory provisions that would overturn a basic tenet of the Roe decision.

The Supreme Court has held that fetuses are not legal "persons" within the meaning of the Fourteenth Amendment of the U.S. Constitution; this is an important holding that should be safeguarded. Changing the criminal system to include independent prosecution for injuring a fetus is a dangerous legal precedent that would have broad implications in limiting women's rights. A further defect is that there is no requirement that the perpetrator knew of the pregnancy or intended to harm the fetus. Without a showing of intent—a key component of criminal law—prosecuting such cases would be extremely difficult.

In addition, H.R. 1997 does not provide additional protections for pregnant women, who are often the target of violent assault. If Congress truly wants to protect pregnant women, then a revision is needed of the bill's language to more appropriately focus on the woman. Over 20 states have enhanced penalties for a crime against a pregnant woman that results in a miscarriage or interruption of normal fetal development. Congress could follow suit by increasing or by directing judges to escalate the penalty according to the gestational stage of the pregnancy when the harm was inflicted.

We believe that if UVVA is adopted, opponents of women's reproductive rights fully intend to broaden the law to allow women to be sued for harm to their fetuses—a frightening scenario that is being tested in several states.

PLANNED PARENTHOOD,
Washington, DC, January 23, 2004.
Hon. JERROLD NADLER,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN NADLER: As you know, on Wednesday, January 21st, the House Judiciary Committee marked-up the so-called "Unborn Victims of Violence Act," (H.R. 1997) passing the bill out of committee. We greatly appreciate your help and support in defeating this dangerous legislation.

Planned Parenthood recognizes that the loss of a pregnancy through violence to a woman is a tragedy for the woman and her family. Violence against women, in particular pregnant women, continues to be a significant problem in this country, and begs for legislation that protects women against violence. However, H.R. 1997 does nothing to protect women. It purported aim, to protect "unborn children" from violence, is misguided at best. On its face, this bill creates a penalty for violation of a number of criminal statutes if, in the course of commission of these crimes, an "unborn child" is injured or killed. The dangerous reality of the bill, however, is that it would elevate the legal status of the fetus to that of an adult human being. This is merely the first step toward eroding a woman's right to choose. The loss of a wanted pregnancy is always a tragedy, but solutions should be real, not political.

Planned Parenthood fully supports a woman's right to choose, including a woman's right to choose to carry a pregnancy to term. Because H.R. 1997 does nothing to protect women and because its clear intent is to create fetal personhood, Planned Parenthood Federation of America opposes this legislation. We believe that Congress should adopt a more reasoned approach that would protect all women from violence.

Again, on behalf of the Planned Parenthood Federation of America and the millions of women who use our services, I want to thank you for strong opposition to this legislation. If we can be of any assistance, please feel free to contact our office.

Sincerely yours,

GLORIA FELDT,
President.

Mr. Speaker, let me simply reiterate again and summarize this debate. Do we oppose violence against women? Obviously. Do we think that when someone assaults a pregnant woman and harms the fetus, it is an additional crime, a separate crime deserving of additional and separate punishment? Yes. Does the substitute make it a separate crime? Yes. Does the substitute give it additional punishment equal to or even more severe than in some cases in this bill? Yes.

What is the difference here? The difference between the bill and the substitute is only that we believe it is a separate crime against the woman. The bill makes it a separate crime against a new victim, a separate victim, the fetus. It counts the fetus as a full person for the purpose of this crime, and every speaker who has risen on the opposite side has said that, and I agree that that is what it does. We disagree with that, because it goes against all of our legal tradition, and it goes against the rationale of the Supreme Court in upholding abortion rights; and its purpose is to lay the foundation for laws that would criminalize abortion because, after all, if the fetus is a person, then abortion is murder. It lays the foundation for laws that would restrict the liberty of pregnant women because, after all, if the fetus has rights equal to or superior to those of the pregnant woman, then we have to restrict her liberty and her actions to protect the fetus.

These things we are not prepared to do, and that is the debate on this bill; and that is why I urge defeat of this bill and support of the Lofgren substitute.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 10 minutes to the gentleman from Illinois (Mr. HYDE), who will close the general debate on this side.

Mr. HYDE. Mr. Speaker, first of all, let me say, I am very happy that the gentleman from New York (Mr. NADLER) was never aborted. I am glad he is here. He stimulates the discussion. He is even fun, on occasion; and I am very glad that the gentleman survived.

I also would like to say that yesterday, I heard two gentlewomen from the other side complain that they have kept a scorecard, and over 200 times in the immediate years we have had to vote on abortion. That was a considerable annoyance to them, and I regret that. But I do not think any single issue defines the difference between the two sides better than that remark about having to vote 200 times on abortion, because that indicates that abortion is not all that important to them. After all, it is a thing. It is a commodity. It is a throw-away, used Kleenex; but it is not a life, a human life.

Now, of course, we feel differently. We feel it is a human life. We feel it is entitled to respect and dignity, and it is entitled to due process of law. And, of course, they deny that.

□ 1200

So that concern that we have had to debate this issue too much, it seems to me, defines the positions of the two sides.

Now, some years ago, in fact it was 1841, John Quincy Adams represented 35 slaves from the ship Amistad in a court proceeding where he argued before the U.S. Supreme Court on their behalf, and he told the Court, he said, this is the most important case you will ever hear because it involves the very nature of man. Of course, he was talking about slaves, whom some people held to be commodities, chattels, things that could be bought and sold or thrown away if need be, but less than human, and so that case did involve the nature of man, and so do we.

I am sorry that we get another check in the scorecard because we are discussing this one more time, but I will suggest to my friends on the other side, you will never get rid of this issue as long as there are people who are sensitive to the notion that all human life is precious and deserving of protection, especially the vulnerable, the weak, the small, the defenseless that cannot rise up in the streets, cannot escape, but is disposable by your ethic.

I would like to see a little honesty in this debate. By that I mean stop with the euphemisms. Right to choose, my goodness, everybody's for the right to choose. It is what you are choosing that is important. There is only one choice, a dead baby or a live baby. But the right to choose is a process, it is not substantive.

They refer to the unborn as a fetus or as the product of conception. All these euphemisms, these marketing tools, let us call it what it is. Why do you shy away from the word abortion? Abortion, the only time you use it is when you point the finger at us and say we are against abortion, and in that you are quite right.

Well, Mr. Adams before the Supreme Court presented the question as to whether slaves were worthy of protection under the law, whether they had value, and that is the issue here. You deny personhood, which is a legal concept, to the unborn; when is a person a person when you do not really know. The Court took a pass on that, and of course you take it. It is a legal construct. A personhood belongs to the human aspect of life; not animal, not vegetable, not mineral, but a person, personhood.

I assign personhood to a tiny entity, a fertilized egg. I guess it is very small, even premicroscopic, but it is the beginning of the human life, and if you deny that, you are kidding yourself, and you are clinically primitive because that is not so. You want to deny any dignity, any value, any status, any standing to an unborn child. Never mind the sonograph, never mind what your senses tell you, never mind that the pregnant woman knows she is carrying her baby, her baby. Never mind that, because it is tough to argue for killing, which is what abortion does. It kills a baby. You will not admit that. You will say it is an exercise of reproductive rights, apt alliterations, artful aid.

Well, what we are talking about here in this bill is saying that little unborn child has value, that little unborn child is intrinsically precious and valuable and deserving of standing in the law and protection, and to deny that, of course, is no surprise for some of you. Some of you felt partial-birth abortion was okay. They are the babies fourth-fifths born and is almost out of the birth canal, and the means of killing that baby is grotesque, but if you can stomach that, well, a little thing like this ought to be no problem.

Well, I say it is a problem, and I say we do not need permission to discuss it. We do not have to ask if it is already all right if we go 201 times on this question. The dignity, the personhood, the substance of an unborn child is what we are speaking for, and you are denying it. You are saying it is subhuman, it is less than significant. I do not question anybody's motives, but I do question your judgment, your sensitivity and your imagination. You cannot imagine that little tiny speck of humanity as a member of the human family, and you get so locked into that non sequitur that as time goes on and it is almost born, you still cannot admit that it is a human life deserving of protection.

So this is a good bill. It does not impact on a woman's right to choose because specifically it eliminates any impact this bill has on abortion, whether the doctor or the mother or not, and so it is really a no-brainer in that we spend so much time trying to dispute that a woman who is pregnant has another little party in her womb. It could be another gender. Woman is a female, and the baby is a male. It could be a different blood type. We spend a lot of money on doctors performing miracles of surgery to save little children, and here you want to justify throwing it away because somebody does not want it.

Well, here is an opportunity to not restrict the liberty of a pregnant woman, but to enhance the sanctity of human life and defend what, under your rubric, would be defenseless.

So I hope this bill passes. I regret the gentlewoman from California's (Ms. LOFGREN) substitute because it dehumanizes, it desensitizes, it reduces in standing and status the unborn, who needs our protection more than anything in the world because they are alone and defenseless. So I hope that we support this bill, the underlying bill. I hope we defeat the substitute, which demeans the humanity of the little defenseless child who we should be standing with and holding up and defending.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I congratulate the distinguished gentleman from Illinois for the passion he brings to this discussion, but more than that, for the clarity and honesty he brings to this discussion, for he has swept away much of the rhetoric and much of the underbrush which impedes a clear view of this and defined the real issue.

This is a bill about abortion, as he quite clearly recognizes. Both the bill and the substitute have the same practical impact. They both define two crimes. They both define the same penalties. They both have the same deterrent effect. That is not the issue, as he recognizes.

The bill defines the fetus as a person from the moment of conception. The substitute does not recognize the fetus as a person, for legal purposes, from the moment of conception. That is the difference, and that is the core of the abortion debate, as the distinguished gentleman recognizes.

The people who believe abortion to be murder believe a fetus, a zygote, a blastocyst is a person, a full human person with full and equal and legal rights from the moment of conception. We do not. We do not use the euphemism "a right to choose" as a euphemism for abortion. We support a woman's right to choose to have an abortion if she wishes. We support a woman's right to bear a pregnancy to term if she wishes. That is why we say we support the right to choose.

Abortion is clearly troubling emotionally and intellectually to many people. I, for one, and I can only speak personally, would find an abortion of a 9-month pregnant fetus, that is to say, a 9-month-old fetus, a horror, and I believe it is, in fact, illegal, except to save the life of the mother. On the other hand, I do not believe that a two-cell zygote after conception is a human being. I do not believe that. I believe that it has the potential. It obviously has the potential to become a human being, but it is simply two cells, and I have no compunction about an abortion of a group of cells. I do not believe it to be a human being.

That question, whether a small clump of cells or an embryo is a human being or not, is not a question that we are ever going to agree on. The chairman said the abortion debate is going to be with us forever, and I think he may be right, certainly a long time. We are not going to disagree on that question.

The difference is I respect everyone's right to their opinion, whether informed by physiology, by religion, by morality, by their concept of morality, to make that decision for themselves as to how they regard a blastocyst or a zygote. Some religions declare it a human; some religions say no. I do not think it is the job of Congress to dictate to people how to make that very personal, moral decision. I believe that decision is one which must be left to a woman.

If a woman says that, to me, as the woman, the embryo at early stage of development is a human being, and I will not have an abortion even if it risks my life, I will respect that decision. She is entitled to it. I would not support Congress coming in and saying we will save her life despite her will if she is competent because we do not agree with her moral decision. On the other hand, if she says, my moral decision is that I do not believe an early embryo or fetus is a human being and I want to have an abortion, that is her decision. I will not want Congress or the State legislature or the President to say, you are wrong morally, my moral conviction is superior to yours, and therefore, I will use the power of the State, the power of compulsion to put my moral conviction over yours. That is the debate here.

This bill is mostly a sham. The distinguished gentleman from Illinois takes the sham away and says what is really at stake, what is really the issue, and the real issue is are we going to say, which we have never said before, we had that Biblical passage which I brought, as I said before, I do not think Congress ought to enact Biblical or religious law into civil law, but I brought it to show that in the Biblical times they did not regard a fetus as a person, because if you killed the fetus, you had monetary compensations. If the woman died, there was a capital punishment because the fetus is not regarded as a full person. That brought back, we have not regarded an Anglo-Saxon law, a Roman law up until now, a fetus as a full person.

Now, because of the abortion debate that erupted 30 years or so ago, the last 30 years, people have tried to change the law to say that we should give legal recognition to the assertion that a fetus or an embryo from the moment of conception is a person for legal purposes. We do not agree with that. This bill would do that. Therefore, we are opposed to this bill.

Some people have that opinion. Some people have that conviction. I respect the conviction. Some religions say so. I respect that. Others disagree. We should not use the power of law to impose that opinion, that theological opinion, that physiological opinion, that moral opinion on people who do not share it and wish to have abortions or other acts that may flow from that.

That is the distinction here, and this bill is an abortion bill despite not what the gentleman from Illinois said, but some other people said, because, as I said before, the consequences of the defining a second crime, the substitute would do, giving a severe penalty, giving additional penalties, are the same in the bill and the substitute. The difference is the legal underpinning, and the only reason we care about the legal underpinning is because of what it says about the key distinction underneath the legal right to an abortion and the underpinning for Roe v. Wade.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. NADLER. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, the gentleman, I am sure, understands, because he is a good lawyer, that the unborn has legal status in probate matters where a pregnant woman is an heir or beneficiary and is pregnant and the interests of the child may be different. So a guardian ad litem is appointed. You understand that a woman can be pregnant, and her pregnant child could be injured in the womb and have a cause of action.

□ 1215

Mr. NADLER. Mr. Speaker, reclaiming my time, I understand, and I am not an expert in probate or estate law, but I do understand that as the fetus gets older, our law gives it more recognition. In fact, the Supreme Court in Roe v. Wade said in the first trimester the interest of the woman and her choice completely prevails, you cannot regulate abortion. In the second trimester there is more of an interest, and, therefore, you can regulate; and in the third trimester after viability, you can prohibit abortion. That is in Roe v. Wade because it recognizes that there is more interest that attaches. I do not deny that, and exactly how much attaches and so forth we can debate in a lot of contexts.

What I am saying is that the definition of the fetus or the embryo as a human being, as a person, for purposes of law in all respects, which is what this bill would do, we have never done. We do not do now, we have never done, and in my opinion we should not because it is one conception. It is a defensible proposition, but it is not a proposition that many people and religions agree with, and it is not a proposition that we should impose by Congress pro or con. I urge adoption of the substitute, not the bill.

Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WATSON).

Ms. WATSON. Mr. Speaker, I rise today in strong opposition to H.R. 1997, the Unborn Victims of Violence Act. The bill seeks to recognize a fetus at any stage of development as a person. I think we are all aware scientifically that a fetus cannot survive on its own like a person can. This bill is yet another covert attack on a woman's right to choose waged by extreme thinking. It sacrifices real protections for women at the expense of a politically driven agenda to undercut Roe v. Wade, and I strongly urge my colleagues to reject this antichoice bill.

H.R. 1997 defines the phrase "child in utero" or "unborn child" as a fetus at any stage of development from conception to birth. In effect, the language undercuts Roe v. Wade, which held that a fetus even after viability is not a person for purposes of the 14th amendment. By creating a new Federal crime for bodily injury and/or death of an unborn child, the bill opens a new door of litigation over when life begins in the context of criminal prosecutions.

H.R. 1997 also contributes little to the actual protection of women. Rather than enhancing penalties under existing law for criminal acts against pregnant women, the bill diverts the attention to the fetus. As Juley Fulcher of the nonpartisan National Coalition Against Domestic Violence stated in her testimony to Congress, "The goal of the act is to further a specific political agenda. The result is that the crime committed against a pregnant woman is no longer about the woman victimized by violence."

Make no mistake about it, violence against women remains a serious issue in today's society, and Congress should address the issue. The statistics are shocking but true: The leading cause of death of pregnant women is murder. It is one of the reasons why I support the Lofgren substitute amendment that targets the crime of violence against pregnant women without falling into an antichoice trap. The substitute would create a separate and distinct crime for any violence or assaulting conduct against a pregnant woman that interrupts or terminates her pregnancy in addition to the assault on the pregnant woman. This is the appropriate approach to the issue. I strongly urge my colleagues to reject H.R. 1997 and support the Lofgren substitute.

Mr. COLLINS. Mr. Speaker, the Unborn Victims of Violence Act, H.R. 1997, is a needed and important bill that must be passed.

I believe that we must protect unborn children against acts of violence. It is for this reason that I have cosponsored H.R. 1997. Under current federal law, if a criminal assaults or kills a pregnant woman and causes death or injury to her unborn child, they face no consequences for taking or injuring that unborn life. The Unborn Victims of Violence Act would make any act that causes death of, or bodily injury to, a child who is in utero at the time the conduct takes place, guilty of a separate crime. If enacted, H.R. 1997 would afford protection to a completely defenseless life form, an unborn child, by creating a separate offense for acts of violence against the unborn child.

We passed this bill by a solid majority in the last Congress. I am hopeful that this year, our Colleagues in the other body will be able to move this legislation and we can send a final bill to the President for him to sign into law.

We have laws that protect men, women, and children from murder. We should have a law to protect the unborn, the most innocent and helpless of God's creations, from murder. This is a common-sense bill and a necessary bill. I'm proud to be a co-sponsor and proud to support this legislation.

During the vote on H.R. 1997, had I not been traveling on Congressional business, I would have voted, "yea" on rollcall vote 31, final passage for H.R. 1997. I would also have voted "nay" on rollcall vote 30, the Lofgren amendment.

Mr. ISAKSON. Mr. Speaker, I rise today in full support of the Unborn Victims of Violence Act.

Violence with the intent of injuring or killing a woman or any person is wrong and deserves the most severe penalty. Such an act of violence against a pregnant woman is an act against two lives and should be punishable as separate offenses.

We need only look to the Lacy Peterson case in California for clear and compelling evidence for the justification of two separate offenses. Any person intent in causing harm or death through violence and crime against any life must be held accountable for every life.

Mr. STARK. Mr. Speaker, I rise today to strongly oppose H.R. 1997, the so-called "Unborn Victims of Violence Act." I am deeply disappointed that Republicans are using this controversial bill as a vehicle for their blatant attacks on a woman's right to choose.

The Republican majority party could enact a number of serious and meaningful laws that prevent and punish violence against women. However, instead of bringing common-sense measures up for debate, anti-choice lawmakers bring the Unborn Victims of Violence Act to the floor. It's perfectly clear why they're raising it. The Bush Administration—along with Republicans in Congress—are trading the wishes of their conservative base for votes in the upcoming elections.

This bill creates a separate Federal offense if, during commission of certain crimes, a person causes death or injury to what the sponsors of this bill call "a member of the species homo sapiens at all stages of development." If this bill passes, it will for the first time in Federal law, recognize a zygote, blastocyst, embryo, and fetus as a "person" that can be an independent victim of a crime. This bill does this even though the Supreme Court ruled in Roe v. Wade that fetuses are not persons within the meaning of the Fourteenth Amendment.

Let's be clear, this bill will not help address the serious issue of violence against women, which affects nearly one in every three women during their adulthood. If its intent were truly this, I would fully support it. In fact, domestic violence organizations, like the National Coalition Against Domestic Violence—that do not take positions on abortion—oppose this legislation.

The Unborn Victims of Violence Act isn't the right solution. That's why I oppose it and will instead vote for the substitute being offered by my colleague Representative ZOE LOFGREN. Her amendment, the Motherhood Protection Act, will help to prevent crimes against pregnant women, rather than embroil the issue surrounding the abortion debate. It would create a second Federal offense for harming a pregnant woman and would impose the same penalties for harm to, or termination of, a pregnancy as the Unborn Victims of Violence Act. But, importantly, the Motherhood Protection Act recognizes the pregnant woman as the primary victims of a crime rather than the fetus. This guarantees appropriate penalties in the law without getting us into a volatile, unnecessary debate over abortion.

Further exploiting the issues of violence against women, anti-choice advocates have resorted to using the unfortunate case of Laci Peterson's murder to push the legislation—even though passage of the Unborn Victims of Violence Act has been one of their top legislative priorities since 1999, long before the Peterson tragedy. Any doubts about the sponsors' true motives were erased when Senator ORRIN HATCH told a reporter: "They say it undermines abortion rights. It does. But that's irrelevant."

The Unborn Victims of Violence Act clearly fails to address the very real need for strong Federal legislation to prevent and punish violent crimes against women. Congress should be protecting pregnant women from violent crime without having to resort to controversial bills like the one before us. I ask my colleagues to vote "no" on this deceptive bill, which does nothing to thwart acts of violence, and vote "yes" on the substitute being offered today, a real remedy for assaults made against pregnant women.

Mr. FARR. Mr. Speaker, as a strong supporter of ending violence against women, I look forward to the day that this House debates legislation that will actually make women safer. Unfortunately, the main goal of H.R. 1997 is undermining the freedom of choice, rather than protecting pregnant women.

I strongly oppose H.R. 1997, which provides that whoever causes the death of, or bodily injury to, a fetus, embryo, zygote, or otherwise fertilized cell would be guilty of a separate criminal offense, and the punishment would be the same as if the violent act had been committed against an adult. By elevating a fetus to the same legal status as an adult, this legislation seeks to recognize the existence of a separate legal "person" where none currently exists. This creates the legal ability to threaten the Supreme Court's decision in Roe v. Wade. Moreover, H.R. 1997 does not recognize two victims but focuses solely upon providing legal protections for the fetus. the crime perpetrated against the woman is absent from the bill altogether.

The issue of violence against women is a serious and concerning problem that deserves our attention and resources. I support the Democratic substitute to H.R. 1997, the Motherhood Protection amendment. Without unnecessarily engaging in the abortion debate, this substitute creates a new, separate federal offense for any violence or assault against a pregnant woman that interrupts or terminates her pregnancy. Crimes committed against pregnant women are heinous and should be punished to the fullest extent of the law, and the Democratic substitute accomplishes that without undermining the principles of Roe v. Wade.

Given the broad attention that many members have focused on this particular issue of protecting women from violence, I am looking forward to similar support for the full funding of the Violence Against Women Act, which is currently funded 200 million dollars below the authorization level.

I encourage my colleagues to support women both in their right to be protected from violence, and in their right to reproductive freedom: support the Motherhood Protection substitute, and oppose H.R. 1997.

Ms. LEE. Mr. Speaker, I rise today to defend a woman's right to choose and to oppose H.R. 1997.

Once again, the Republican leadership is challenging a woman's constitutional right to make decisions regarding her own body.

This is not new legislation; in fact, the anti-choice movement has forced the Unborn Victims of Violence Act through the House twice since 1999.

The bill's true purpose is not to address violent crime against pregnant women. It is, and always has been, a way of undermining freedom of choice.

H.R. 1997 does not recognize two victims. The mother is notably absent from the bill altogether. In fact, H.R. 1997 does not require a conviction for the underlying crime against the woman; the crime against the woman could go unpunished.

The Unborn Victims of Violence Act goes beyond its intent to protect pregnant women and negates all the good it could do by deliberately and unnecessarily conflicting the core principle of Roe v. Wade.

I challenge may colleagues, male and female, to look at our Constitution and review the freedoms and civil rights that Congress has worked strenuously over our nation's history to protect.

I support the Lofgren substitute because it recognizes the heinous crime of attacking a pregnant woman by creating a new offense to punish violence that results in injury to or termination of a pregnancy, in addition to the crime against the pregnant woman.

I urge you to vote against H.R. 1997, The Unborn Victims of Violence Act because it chips away at all women's civil rights and freedoms which we must protect.

Mr. UDALL of Colorado. Mr. Speaker, I rise today in opposition to H.R. 1997, the Unborn Victims of Violence Act and in support of Representative LOFGREN's substitute.

On the surface, this bill appears to be an effort to protect pregnant women from violence. However, it actually does little to prevent violence against women, instead it dangerously opens the door to undermine a women's right to choose. The vast majority of domestic violence cases do not occur under federal jurisdiction, thus this bill would not help any of these women.

I believe that if we are going to create a crime for causing harm during a woman's pregnancy, we should also include efforts to prevent violence against women without opening up the abortion debate. H.R. 1997 does not provide protections for the mother; in fact the mother is hardly mentioned in the text of the bill. Instead it focuses solely on the "child in utero."

The Lofgren substitute, on the other hand, achieves that which the Unborn Victims of Violence Act only attempts to do. That is to provide protection to pregnant women who are assaulted. And it does this without opening up the abortion debate. This substitute focuses on protecting women. Specifically, this substitute will make the assault of a pregnant woman which results in the interruption or termination of her pregnancy a federal offense. I believe the Lofgren substitute does a better job of achieving the intentions of H.R. 1997 supporters than the original bill. Not only does Representative LOFGREN's substitute remove the abortion debate from this bill, but it provides protection for the mother and her pregnancy, not just the fetus.

It is important to mention that this approach can only be used if the assailant has been convicted of the underlying offense, the assault to the mother. I believe that the best way to protect women from violence is not to attempt to provide legal rights to her fetus, but rather to protect the mother herself, and work to prevent domestic violence first.

The Unborn Victims of Violence Act does not address the issue of violence against women. This bill will undermine a woman's right to choose, and have little affect on domestic violence in this country. As a result, I cannot vote in favor of this bill as it stands. This chamber needs to stand up against violence against women, especially pregnant women, and I believe Representative LOFGREN's substitute does this. Thus, I will be voting in favor of this substitute and urge my colleagues to do the same.

Mr. SHUSTER. Mr. Speaker, I rise today in strong support of H.R. 1997, the Unborn Victims of Violence Act introduced by my colleague from Pennsylvania.

The legislation before us today establishes that if an unborn child is injured or killed during the commission of a crime an additional charge may be brought on behalf of the second victim, the unborn child. Additionally, the bill stipulates that the same punishment be issued as provided for under Federal law for the crime committed against the mother.

The principle behind this bill is justice. Justice for the unborn child and justice for those left behind to cope with the grief. Justice, Mr. Speaker, for both victims. Currently over half of the states, including my home state of Pennsylvania, have an unborn victims law on the books. These laws have received increased attention over the last year due to the Peterson case in California.

Fortunately, California has an unborn victims law and thus the crimes committed against both Laci and Connor Peterson may be prosecuted and justice will be brought for both victims.

Additionally, Mr. Speaker, it should be noted that Americans have shown that they support unborn victims laws. Three nationwide polls, conducted in 2003 showed that respondents support unborn victims legislation by margins of 8 to 1 and in some cases as high as 12 to 1.

The American people accept that an attack on a pregnant woman is not just an attack on her, but an attack on her unborn child as well. It is time for Congress to come to the same resolution.

In conclusion, I want to extend my sincere thanks to my colleague from Pennsylvania, Congresswoman HART. I appreciate her leadership on this issue.

Mr. Speaker, the unborn cannot defend themselves when they are attacked, yet they are no less a victim. I urge my colleagues to stand up today to offer justice for all victims of violent crime.

Mr. BARRETT of South Carolina. Mr. Speaker, I rise this afternoon in support of victims without a voice, victims like Carol Lyons' grandson Landon. On January 7, 18-year-old Ashley Lyons and her unborn son, Landon, were murdered. When Ashley's mother Carol testified before the Kentucky Legislature's Senate Judiciary Committee on January 15 of this year she said,

> Noboby can tell me that there were not two victims. I placed Landon in his mother's arms, wrapped in a baby blanket that I had sewn for him, just before I kissed my daughter goodbye for the last time and closed the casket.

H.R. 1997, the Unborn Victims of Violence Act would provide that an individual who injures or kills an unborn child, like Landon, during the commission of one of nearly seventy specified federal crimes against the mother would be guilty of a separate offense against the unborn child. This is the right thing to do.

There are too many families suffering like the Lyons' family, knowing that those responsible for the murder of their unborn child or grandchild will never be punished for the crime they committed. We must not allow Landon, and countless other unborn children's deaths to have occurred in vain. Today, we have the opportunity to protect the rights of the most innocent life, that of an unborn child.

Mr. Speaker, I rise this morning in strong support of the Unborn Victims of Violence Act and I urge my colleagues to vote "yes" on H.R. 1997.

Ms. CUBIN. Mr. Speaker, I rise today in support of H.R. 1997 and for America's voiceless unborn children. We are all familiar with the tragic stories like the plight of Laci and Conner Peterson, and Landon Lyons of Kentucky, as well as countless others. From these tragedies one thing should be clear: Unborn children can be brutally victimized through acts we already recognize as Federal crimes, and it is our duty to ensure justice is served on behalf of these innocent victims.

In the unthinkable instance where a pregnant woman is physically harmed, it is a simple fact that more than one life is potentially at stake. The injury or death of a child who is still in utero is a crime that must not continue to go unprosecuted.

We have a responsibility to do everything in our power to protect both women and the unborn children they might be carrying. When both a mother and her unborn child are the victims of crime, two people are harmed. The law needs to recognize this reality, and I hope my colleagues will do so by voting in favor of H.R. 1997.

Recently, our Nation celebrated the 184th birthday of one of our true American heroes, Susan B. Anthony. Committed to the idea that all people should be treated equally, she worked for years to champion both the rights of women and unborn children. I can think of no better way to honor the great memory of Susan B. Anthony than by upholding the ideal of respect for the dignity of human life by supporting the Unborn Victims of Violence Act of 2003.

Mr. TIAHRT. Mr. Speaker, I rise today in strong support for H.R. 1997, the Unborn Victims of Violence Act.

This important legislation would finally make it a separate Federal offense to cause death or bodily injury to a child in utero in the course of committing an already defined Federal offense. It is imperative that we hold criminals responsible for conduct that harms or kills an unborn child. I cannot understand the opposition to this bill. It will not affect abortion laws, it merely affirms that a violent act against a pregnant woman affects not only her but her unborn child as well. There are most certainly two victims in such crimes, as 24 States have already recognized.

This issue that we have debated for the past couple of years finally caught the Nation's attention with the murders of Laci Peterson and her unborn son Conner. Americans strongly believe that there were two murders committed last December and that the law should reflect that. Laci's family has suffered two losses. Thankfully under California law, the murderer will be tried for taking two lives. This is not the case at the Federal level. Laci and Conner's family has asked Congress to rectify this. Laci's mother Sharon Rocha's heartfelt statement expresses the need for this law better than I can:

> Please understand how adoption of such a single-victim proposal would be a painful blow to those, like me, who are left to grieve after a two-victim crime, because Congress would be saying that Conner and other innocent victims like him are not really victims—indeed, that they never really existed at all. But our grandson did live. He had a name, he was loved, and his life was violently taken from him before he ever saw the sun.

The Peterson case, unfortunately, is only one of several. I am horrified by stories such as that of Tracy Scheide Marciniak who was only 4 days from delivering her baby boy Zachariah. Four days. For 9 months she had been eagerly awaiting his arrival, planning for his birth and life, bonding with him in her womb. Unfortunately, her husband brutally attacked her, targeting a few blows specifically on her abdomen. Zachariah bled to death in her womb because of the blunt-force trauma. Tracy nearly died herself but did recover from her injuries and had to bury her baby boy without ever getting a chance to see him alive. At the time Wisconsin did not have an unborn victims law so Glendale Black was convicted on assault to her alone and is now eligible for parole. The law did not recognize the loss of Zachariah's life and Glendale Black did not pay for his crime.

Ohio is one of the States where it is a crime to kill an unborn child in a violent act. Unlike Zachariah, Jasmine Robbins' father was prosecuted for her manslaughter. Gregory Robbins assaulted his wife Karlene who was 8 months pregnant with their daughter Jasmine. He repeatedly struck her in the face and abdomen. Due to the assault, Karlene's uterus ruptured and Jasmine died. Gregory Robbins pled guilty to assault and battery to his pregnant wife and involuntary manslaughter for Jasmine's death.

Jasmine's murder is no less tragic than Zachariah's but at least her mother did not have to suffer the heartbreak of not having her murder recongized under our laws.

We live in a society that does not respect life and that troubles me. We have children killing children in our schools, husbands beating their wives, and other violent crimes signifying that we as a culture do not value and treasure life as we should. A good first step towards recognizing the miracle of life is to ensure that those who take a life are punished for their crime.

We cannot bring back Conner, Zachariah or Jasmine or the other hundreds of unborn children violently murdered. We can, and must, however, protect other unborn children from the same fate. We must respect life and make criminals pay for attacks against all Americans, born and in utero.

Mr. GRIJALVA. Mr. Speaker, violence against women is a serious problem in this country. One in three women will experience physical assault in her lifetime, with even greater risks for pregnant women. Women carrying unintended pregnancies are two to four times more likely to experience abuse. Murder is the leading cause of death for pregnant women. An average of three women are killed every day by their husband or boyfriend. Women who experience domestic violence are more likely to delay prenatal care; 4.5 million women in America are assaulted every year.

These figures are staggering and serious, but the bill under consideration today, the Unborn Victims of Violence Act, does not take the risks women face seriously. This bill completely disregards women as the primary victim of violence. You cannot harm a fetus without causing physical harm to a pregnant woman first. If this body wanted to consider violence against women, pregnant or not, seriously, I have a few alternate suggestions. We could provide adequate funds for the Violence Against Women Act so that no woman seeking help will ever be turned away from a shelter. We should insure that victims of domestic violence have equal access to programs funded under the Victims of Crime Act. Additionally we should provide women with access to contraceptive services, to thereby preventing unintended pregnancies that make them more susceptible to these dangerous situations.

All the title X funded clinics in my district, including Pima County Health Department Clinics, screen all women for domestic violence, provide appropriate counseling services, and refer women to local domestic violence agencies for additional services. They even provide small information cards in the private bathrooms that are designed for women to place in their shoes if they are at the clinic with an abusive partner. Title X clinics are one of our most valuable resources in reaching uninsured women who are victims of domestic violence. Unfortunately these programs are drastically under funded. If this Congress really would like to reach women in need, they would make funding for this program a priority.

This bill is not a real solution. This bill only applies to cases of assault that occur under Federal jurisdiction. Between 1994 and 2000, only 130 Federal cases involved Federal domestic violence statutes. The public's broad support for preventing and prosecuting assault on women is being exploited for political purposes. This is an antiwoman bill. It disregards the woman's role in the pregnancy, and allows the law to ignore any harm inflicted upon her.

I urge my colleagues to support the Lofgren substitute which offers real solutions and real penalties for tragic violence against women, and oppose final passage of this misguided bill.

Mr. GOODLATTE. Mr. Speaker, I rise today in strong support of the Unborn Victims of Violence Act, and I thank Representative HART for introducing this important legislation, as well as Chairman SENSENBRENNER for bringing this important legislation to the floor. This bill will convey to violent criminals the important message that when they inflict harm on a pregnant woman and her unborn child, those criminals will be accountable for the harm done—not only to the expecting mother, but also to the unborn child.

It is unthinkable that under current Federal law, an individual who commits a Federal crime of violence against a pregnant woman receives no additional punishment for killing or injuring the woman's unborn child during the commission of the crime. Where is the justice when a criminal can inflict harm upon a woman, even with the express purpose of harming her unborn child, and not be held accountable for those actions?

The American public knows that this bill is necessary—recent polls have shown that approximately 80% of registered voters believed that prosecutors should be able to separately charge the violent attacker of a pregnant woman for the death of her unborn child. In addition, most States have recognized this problem by passing laws to protect unborn children—29 States, including my home State of Virginia, have seen the wisdom in holding criminals accountable for their actions by making violent criminals liable for conduct that harms or kills an unborn baby.

Unfortunately, our Federal statutes do not sufficiently provide for the protection of unborn children and as a result the Federal punishment for these heinous crimes amounts to little more than a slap on the wrist. Criminals are held more liable for damage done to property than for intentional harm done to an unborn child. This discrepancy in the law is appalling. It's time for Congress to Act.

Regardless of whether you are pro-choice or pro-life, those of us who are parents can identify with the hope that accompanies the impending birth of a child. No law passed by Congress could ever heal the devastation created by the loss of a child, or ever replace a child lost to violence. However, we can ensure that justice is done by making sure that criminals who take the life of an unborn child pays for their actions.

I urge each of my colleagues to join me in voting for the Unborn Victims of Violence Act.

Mr. PAUL. Mr. Speaker, while it is the independent duty of each branch of the Federal Government to act constitutionally, Congress will likely continue to ignore not only its constitutional limits but earlier criticisms from Chief Justice William H. Rehnquist, as well.

The Unborn Victims of Violence Act of 2001, H.R. 1997, would amend title 18, United States Code, for the laudable goal of protecting unborn children from assault and murder. However, by expanding the class of victims to which unconstitutional, but already-existing, Federal murder and assault statutes apply, the Federal Government moves yet another step closer to a national police state.

Of course, it is much easier to ride the current wave of federalizing every human misdeed in the name of saving the world from some evil than to uphold a constitutional oath which prescribes a procedural structure by which the Nation is protected from what is perhaps the worst evil, totalitarianism. Who, after all, wants to be amongst those Members of Congress who are portrayed as soft on violent crimes initiated against the unborn?

Nevertheless, our Federal Government is constitutionally, a government of limited powers. Article one, section eight, enumerates the legislative areas for which the U.S. Congress is allowed to act or enact legislation. For every other issue, the Federal Government lacks any authority or consent of the governed and only the State governments, their designees, or the people in their private market actions enjoy such rights to governance. The 10th amendment is brutally clear in stating "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." Our Nation's history makes clear that the U.S. Constitution is a document intended to limit the power of central government. No serious reading of historical events surrounding the creation of the Constitution could reasonably portray it differently.

However, Congress does more damage than just expanding the class to whom Federal murder and assault statutes apply—it further entrenches and seemingly concurs with the Roe v. Wade decision—the Court's intrusion into rights of States and their previous attempts to protect by criminal statute the unborn's right not to be aggressed against. By specifically exempting from prosecution both abortionists and the mothers of the unborn—as is the case with this legislation—Congress appears to say that protection of the unborn child is not only a Federal matter but conditioned upon motive. In fact, the Judiciary Committee in marking up the bill, took an odd legal turn by making the assault on the unborn a strict liability offense insofar as the bill does not even require knowledge on the part of the aggressor that the unborn child exists. Murder statutes and common law murder require intent to kill—which implies knowledge—on the part of the aggressor. Here, however, we have the odd legal philosophy that an abortionist with full knowledge of his terminal act is not subject to prosecution while an aggressor acting without knowledge of the child's existence is subject to nearly the full penalty of the law. With respect to only the fetus, the bill exempts the murderer from the death sentence—yet another diminution of the unborn's personhood status and clearly a violation of the equal protection clause. It is becoming more and more difficult for Congress and the courts to pass the smell test as government simultaneously treats the unborn as a person in some instances and as a nonperson in others.

In his first formal complaint to Congress on behalf of the Federal Judiciary, Chief Justice William H. Rehnquist said "the trend to federalize crimes that have traditionally been handled in state courts . . . threatens to change entirely the nature of Federal system." Rehnquist further criticized Congress for yielding to the political pressure to "appear responsive to every highly publicized societal ill or sensational crime."

Perhaps, equally dangerous is the loss of another constitutional protection which comes with the passage of more and more Federal criminal legislation. Constitutionally, there are only three Federal crimes. These are treason against the United States, piracy on the high seas, and counterfeiting—and, because the constitution was amended to allow it, for a short period of history, the manufacture, sale, or transport of alcohol was concurrently a Federal and State crime. "Concurrent" jurisdiction crimes, such as alcohol prohibition in the past and federalization of murder today, erode the right of citizens to be free of double jeopardy. The fifth amendment to the U.S. Constitution specifies that no "person be subject for the same offense to be twice put in jeopardy of life or limb . . ." In other words, no person shall be tried twice for the same offense. However, in United States v. Lanza, the high court in 1922 sustained a ruling that being tried by both the Federal Government and a State government for the same offense did not offend the doctrine of double jeopardy. One danger of unconstitutionally expanding the Federal criminal justice code is that it seriously increases the danger that one will be subject to being tried twice for the same offense. Despite the various pleas for federal correction of societal wrongs, a national police force is neither prudent nor constitutional.

Occasionaly the argument is put forth that States may be less effective than a centralized Federal Government in dealing with those who leave one State jurisdiction for another. Fortunately, the Constitution provides for the procedural means for preserving the integrity of State sovereignty over those issues delegated to it via the tenth amendment. The privilege and immunities clause as well as full faith and credit clause allow States to exact judgments from those who violate their State laws. The Constitution even allows the Federal Government to legislatively preserve the procedural mechanisms which allow States to enforce their substantive laws without the Federal Government imposing its substantive edicts on the States. Article IV, Section 2, Clause 2 makes provision for the rendition of fugitives from one State to another. While not self-enacting, in 1783 Congress passed an act which did exactly this. There is, of course, a cost imposed upon States in working with one another rather than relying on a national, unified police force. At the same time, there is a greater cost to centralization of police power.

It is important to be reminded of the benefits of federalism as well as the cost. There are sound reasons to maintain a system of smaller, independent jurisdictions—it is called competition and, yes, governments must, for the sake of the citizenry, be allowed to compete. We have obsessed so much over the notion of "competition" in this country we harangue someone like Bill Gates when, by offering superior products to every other similarly-situated entity, he becomes the dominant provider of certain computer products. Rather than allow someone who serves to provide value as made obvious by their voluntary exchanges in the free market, we lambaste efficiency and economies of scale in the private marketplace. Curiously, at the same time, we further centralize government, the ultimate monopoly and one empowered by force rather than voluntary exchange.

When small governments becomes too oppressive with their criminal laws, citizens can vote with their feet to a "competing" jurisdiction. If, for example, one does not want to be forced to pay taxes to prevent a cancer patient from using medicinal marijuana to provide relief from pain and nausea, that person can move to Arizona. If one wants to bet on a football game without the threat of government intervention, that person can live in Nevada. As government becomes more and more centralized, it becomes much more difficult to vote with one's feet to escape the relatively more oppressive governments. Governmental units must remain small with ample opportunity for citizen mobility both to efficient governments and away from those which tend to be oppressive. Centralization of criminal law makes such mobility less and less practical.

Protection of life—born or unborn—against initiations of violence is of vital importance. So vitally important, in fact, it must be left to the States' criminal justice systems. We have seen what a legal, constitutional, and philosophical mess results from attempts to federalize such an issue. Numerous States have adequately protected the unborn against assault and murder and done so prior to the Federal Government's unconstitutional sanctioning of violence in the Roe v. Wade decision. Unfortunately, H.R. 1997 ignores the danger of further federalizing that which is properly reserved to State governments and, in so doing, throws legal philosophy, the Constitution, the Bill of Rights, and the insights of Chief Justice Rehnquist out with the baby and the bathwater.

Mr. BLUMENAUER. Mr. Speaker, I oppose H.R. 1997, the so-called "Unborn Victims of Violence Act". Since the landmark Roe v. Wade Supreme Court decision, Congress has slowly passed legislation to erode women's reproductive choices. This is a personal and private decision that should be made by a woman, her family, her physician, and her own beliefs.

This is the third time that people who oppose reproductive freedom for women and their families have attempted this back door maneuver to restrict abortion. Instead of focusing on purely political measures aimed at the erosion of a woman's reproductive freedom, we should be protecting women from violence and increasing assistance to women in life-threatening domestic situations.

Harsh penalties already exist in 38 states for crimes against pregnant women that result in the injury or death of her fetus. The overwhelming majority of crimes against pregnant women that cause injury to her fetus occur in cases of domestic abuse or drunk driving accidents, instances that are prosecutable under currently existing State laws. Nearly one in every three adult women experiences at least one physical assault by their partner during adulthood. Drunk driving accidents continue to result in substantial loss of life in every city across the Nation. H.R. 1997 would do nothing to add to the existing protections against these serious and prevalent crimes.

I support the Lofgren amendment, "the Motherhood Protection Act", a crime bill that would protect pregnant women from violence and impose stiffer penalties than the competing bill, "the Unborn Victims of Violence Act". If protecting pregnant women from violent crime were truly our priority, Congress would have passed the Lofgren amendment to H.R. 1997.

Mrs. JONES of Ohio. Mr. Speaker, I rise in opposition to H.R. 1997, the Unborn Victims of Violence Act.

A pregnant woman is one of the most vulnerable members of our society. Nearly one in three women report being physically assaulted during pregnancy and murder is the leading cause of death among pregnant women.

H.R. 1997 does nothing to protect pregnant women from violence; rather, it creates a new cause of action on behalf of the unborn. The result would be a step backward for victims of domestic violence by once again diverting the attention of the legal system away from efforts to punish violence against women.

The legislation would apply in a limited set of circumstances involving members of the Armed Forces and anyone who injures or kills a fetus during the commission of a crime under Federal jurisdiction. But it should be noted that similar bills have been introduced in various States that would cover anyone who harms or kills a fetus under any circumstances.

Injury inflicted upon a fetus is accomplished by an assault on a woman; therefore punishment for such crimes should be prosecuted as crimes against women. Changing the criminal system to include independent prosecution for harming a fetus is a dangerous legal precedent, which could have broad implications in limiting women's rights.

H.R. 1997 creates controversy around the issue of violence against women where none exists and therefore exposes the true intention of the bill's sponsors. Congress should take strong measures to protect all women from violence rather than using this backdoor approach to restrict a woman's right to choose. If we really want to punish violence against pregnant women, it should be done in a way that does not entangle this issue with the abortion debate.

H.R. 1997 is the first step toward outlawing abortion. The real purpose of this legislation is not to deter and punish criminal conduct but to erode the reproductive rights of women. This bill is a thinly veiled attempt to undermine Roe v. Wade by establishing a distinct legal status for a fetus in Federal law.

H.R. 1997 marks a major departure from current Federal Law by elevating the legal status of a fetus at all stages of development. It is an obvious attempt to add to Federal law the anti-choice definition of an "unborn child" as "a member of the species homo sapiens, at any stage of development, who is carried in the womb."

Recognizing the fetus as an entity with legal rights independent of the pregnant woman would create future fetal rights that could only be used a against a pregnant woman, possibly putting the woman and fetus in conflict and placing the health, worth and dignity of the woman on a lower level than a weeks-old embryo. For example, this legislation could make it possible for a pregnant woman to be prosecuted for failing to protect her fetus from domestic violence committed against her.

We all agree that criminals who attack pregnant women—including especially heinous attacks aimed at ending the pregnancy—should be punished for their actions. But H.R. 1997 is not needed to allow the vigorous prosecution of anyone doing harm to a pregnant woman. In fact, the measure does not even mention harm done to pregnant women.

Any bill intended to battle such wanton criminal acts of cruelty should, as the legislation offered by Representatives ZOE LOFGREN and JOHN CONYERS, Jr., does, speak of criminal acts "interrupting the normal course of pregnancy" or "ending a pregnancy," not by trying to define a fetus as an "unborn child."

If the supporters of H.R. 1997 were sincere about protecting a woman's pregnancy, they would not have stacked this bill full of language that serves no other purpose than to further their attempts to eliminate reproductive choice for U.S. women.

H.R. 1997 shifts the focus from violence against women and elevates the fetus—even a zygote, blastocyst or embryo, perhaps before its existence is known to the woman—to a status equal with that of the adult woman, a full member of society, who suffers both the physical assault and the possible loss of a wanted pregnancy.

Mr. Speaker, I rise to reiterate my opposition to H.R. 1997 and the blatant assault on a women's right to choose.

Mr. CARDOZA. Mr. Speaker, I rise today to speak in support of H.R. 1997.

Under current Federal law, a person who commits a crime of violence against a pregnant woman receives no additional punishment for killing or injuring the woman's unborn child. This is unacceptable.

In my district, the death of Laci Peterson and her unborn son, Conner, shook the community of Modesto and the Nation. As much as we all hoped to find Laci alive and well, we now hope for justice. It is disturbing to think that in cases like hers, real justice cannot be achieved under existing Federal law.

Fortunately, California already has a similar unborn victims of violence law, as do 28 other States. But the Peterson case underscores the need for congressional action. After meeting with Laci's mother, Sharon Rocha, I agree that we cannot allow the gap in Federal law to persist.

The simple fact is that pregnant women are vulnerable, and we must do everything we can to protect them—and everything we can to punish those who do the unthinkable. We must be tough on crime, and especially tough on heinous crimes. This is an issue of justice. To me, there is no other issue here.

I urge my colleagues to support the bill.

Mr. DINGELL. Mr. Speaker, it is with a heavy heart that I rise today in opposition to H.R. 1997, the Unborn Victims of Violence Act. Mr. Speaker, the bill before us today needlessly politicizes a serious issue. Frankly, I am outraged that members of this body are being put in a position to take an abortion vote instead of enacting serious and meaningful laws to prevent and punish violent acts against pregnant women.

Violent crimes against pregnant women are of a particularly heinous nature. This is something we can all agree on. However, to bog down this debate with abortion politics is disingenuous to say the least. The bill raises questions about the wisdom of my colleagues who support this bill. Is the goal to address the especially horrendous crime of harming a pregnant woman, or is the goal to generate an abortion-related campaign issue?

Supporters of this legislation will come to the floor today and tell us that their intentions are pure, they are not attempting to undermine Roe v. Wade. In fact, one prominent Senator stated, "They say it undermines abortion rights. It does . . . but that's irrelevant." Mr. Speaker, that is not irrelevant. This is a back door attempt to chip away at a woman's right to choose and I wish the supporters of this legislation would just admit it.

Now if the goal of this body is to pass meaningful legislation to prevent and punish those who assault pregnant women, I would urge my colleagues to vote "yes" on the Lofgren substitute. This substitute, based on H.R. 2247, addresses the real issue at hand. The substitute creates a separate Federal criminal offense for assaulting a pregnant woman resulting in injury or termination of a pregnancy. This bill could pass the House by a vote of 434–0, and fly through the Senate, landing on the President's desk within a week for signature.

We have tried, Mr. Speaker, for the past two Congresses to pass legislation to protect pregnant women from violence and I have been a willing partner in those efforts. The injection of abortion politics, however, is getting in the way of passing meaningful legislation. It is time to stop playing politics and get something done. We have now reached a point when we are acting irresponsibly. We all know that the underlying bill will go nowhere in the Senate.

It is time to do something. Let's save the abortion debate—and the politicking—for a later date.

I urge my colleagues to support the Lofgren substitute and oppose this cynical election year tactic.

Mr. CRANE. Mr. Speaker, as an original cosponsor of the legislation before us, I rise in strong support of H.R. 1997, the Unborn Victims of Violence Act, which is also known as Laci and Conner's Law.

Over the past year, Americans have followed the investigation into the deaths of Laci Peterson and her unborn son Conner. Under California law the killing of both mother and unborn child are crimes.

However, under Federal law this is not the case. For example, if a criminal attacks a woman on a military base, and kills her unborn child, he can be charged only with the battery against the woman, because Federal law does not recognize the unborn child's loss of life.

The mother cannot charge her attacker for the death of the baby she was carrying. Today, the House will seek to remedy this injustice. Laci and Conner's Law will establish that if an unborn child is injured or killed during the commission of an already-defined Federal crime of violence, then the assailant may be charged with a second offense on behalf of the second victim, the unborn child.

Twenty-nine states have laws that protect unborn children, but the Federal government does not. I consider that unacceptable. This legislation will protect both pregnant mothers and their unborn children, and I urge my colleagues to support it.

Mr. KUCINICH. Mr. Speaker, the Unborn Victims of Violence Act (UVVA) is a Trojan Horse. While its sponsors claim that the bill will deter violence against pregnant women, the legislation actually does violence to the rights that women have to make reproductive choices. In fact, this legislation is not about deterring violence against pregnant women.

Individuals who commit violent acts against pregnant women should be prosecuted to the fullest extent of the law and I strongly agree that Congress should increase penalties for these types of crimes. That is why I am a cosponsor of the Motherhood Protection Act. This establishes higher penalties when violent crimes against pregnant women interrupt the normal course of pregnancy. These stiffer penalties are the same as penalties in UVVA.

However, UVVA isn't designed to protect pregnant women from violent acts. It is crafted in order to undermine the right to reproductive choice by Federally recognizing a fetus with separate legal rights. That would be a big change that does nothing to deter violence. At this time, there is nothing in Federal law that gives separate legal rights to embryos or fetuses. There is no need to establish controversial, unprecedented Federal rights for embryos. Doing so, as UVVA does, radically changes the law without making any women safer.

UVVA would not help women when they and their pregnancies suffer as a result of domestic violence. This proposal would only confuse and complicate juries. UVVA would make it more difficult to prosecute criminals than the approach in the Motherhood Protection Act. Congress should draw a bright line that assaults against pregnant women are especially wrong and will be prosecuted and punished with increased penalties. For these reasons, I oppose the Unborn Victims of Violence Act and urge my colleagues to support the Motherhood Protection Act.

Mr. NORWOOD. Mr. Speaker, I rise today to encourage my colleagues in the House to do the right thing—to stand up in defense of expectant mothers and their unborn children against violent criminals—and support the Unborn Victims of Violence Act.

In the day leading up to this debate, ultimately to the vote on this very important bill, I have to admit—I've struggled.

However, it's not the troubling facts or my position that I've struggled with Mr. Speaker—instead, I've struggled to find one good reason (any good reason) why this Congress and this Federal Government would continue to tell expectant mothers (mothers who have chosen childbirth and have every intention of seeing it through) that we can protect you against violent crime—but when it comes to your child . . . all we can say is, "sorry, we can't help you."

Mr. Speaker, as folks back in my home state of Georgia say, "that's as wrong as the day is long" . . . It's high time we did something about this and passed this legislation.

Yet, despite the facts and the very strong support of the American people for this bill, we continue to hear from a band of critics on the other side of the aisle insisting that this debate is really somehow about abortion . . . that even though this bill says absolutely nothing about any abortion law anywhere in our nation—that's really what this bill is all about.

Well, the reaction of this country dentist from Georgia to that kind of nonsense is pretty simple: hogwash! This bill is about one thing and one thing only—letting America's expectant mothers know that the child they have chosen to give birth to is protected by this Federal Government against the dastardly acts of violent criminals.

Mr. Speaker, I'm not struggling anymore. The answer is clear: there is no good reason that our government should allow this tragic double-standard to continue.

Again, I urge my colleagues in this body to do the right thing and vote in favor of the Unborn Victims of Violence Act.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to join my colleagues in support of the Unborn Victims of Violence Act. It is imperative to ensure those "most vulnerable" in our society are, in fact, protected from criminal assailants, and that we impose a penalty when acts of violence against these unborn victims fall under Federal criminal law. Some claim this measure will infringe on a woman's right to choose. But currently, 29 States have statutes that criminalize the killing of a fetus or "unborn child", and none of these laws have affected States' practice of legal abortion. Criminal defendants have brought many legal challenges to the state unborn victims laws, based on Roe v. Wade and other constitutional arguments, but all such challenges have been rejected by State and Federal courts. We cannot turn our backs on mothers, fathers, and grandparents across our Nation who lose unborn babies due to heinous acts of violence every year. This will serve as an additional deterrent to crimes against pregnant women. I commend the sponsors and leadership for bringing this to the floor and I urge an "aye" vote.

Mr. BURTON of Indiana. Mr. Speaker, today we passed legislation to protect the unborn from acts of violence. The Unborn Victims of Violence Act, H.R. 1997, sends a clear and strong statement that anyone who injures or kills unborn children is committing a crime. I wish my fellow colleagues would join me in making as equally strong a statement when it comes to injuring our children by injecting them or their mothers or their fathers with vaccines containing the mercury-based preservative Thimerosal.

Over the last several years, I have conducted 19 hearings on vaccine safety and the detrimental health effects of other mercury-containing medical products. On May 21, 2003, my subcommittee's 80-page report entitled, "Mercury in Medicine—Taking Unnecessary Risks" was published in its entirety in the CONGRESSIONAL RECORD. This study was the result of a 3-year investigation initiated during my tenure as the chairman of the House Committee on Government Reform, and it outlines the undeniable connection between mercury in all its forms and possible permanent health risks, including brain and kidney damage.

According to the U.S. Centers for Disease Control, developing fetuses and young children are the most vulnerable and susceptible to the potential harms of mercury damage. Because of this, a joint statement was issued in July 1999 by the American Academy of Pediatrics and the U.S. Public Health Service, "recommending removal of Thimerosa from vaccines as soon as possible (CDC, 1999)." It is now 2004, and there are still at least 3 vaccines on the pediatric schedule that still contain Thimerosal (flu, Hib/HepB, and DtaP).

In 2001, the Institute of Medicine conducted an Immunization Safety Review meeting on safety concerns regarding Thimerosal. In their report, it was concluded in their "Recommendations Regarding the Public Health Response" section that ". . . a causal relationship between Thimerosal-containing vaccines and neurodevelopmental disorders . . . is biologically plausible."

I believe that it is good public policy and simple common sense for this House to strongly assert that all United States Health Agencies should take concrete steps to eliminate the usage of mercury in any capacity, particularly from all vaccines and dental amalgams. I believe that it is good public policy and simple common sense for this House to strongly assert that any vaccinations provided under or purchased for the Vaccines for Children Program be completely devoid of Thimerosal.

Numerous scientists have testified that there is a simple way to do this, and that is to only use single-shot vials—those little glass containers. Manufacturers would not have to put Thimerosal or any other preservative in their vaccines if they switched to the single-shot vials. Moving to single-shot vials could have an enormously positive impact in helping to minimize, perhaps even eliminate, some cases of Alzheimer's, autism, and other neurological disorders linked to mercury.

This is something that the pharmaceutical companies must address. Our Food and Drug Administration and health agencies are asleep at the switch. They are letting children and adults be damaged day after day after day by allowing mercury to continue to be put into vaccines for adults and children.

We have a growing number of people who are being diagnosed with Alzheimer's, a dramatically growing number. We have 1 in 10,000 children 10 years ago that were autistic, now it is 1 in 150. And scientists before my

Committee on Government Reform Subcommittee on Human Rights and Wellness say it is in large part because of the mercury in the vaccines. We have to get the FDA on the stick. They have to demand that pharmaceutical products containing mercury have the mercury taken out of them very, very quickly. If not, we are going to continue to have an epidemic on our hands that America does not need and should not tolerate.

Mr. BRADY of Texas. Mr. Speaker, I rise in support of H.R. 1997, the Unborn Victims of Violence Act and want to thank my colleague from Pennsylvania for introducing it.

Sadly, in America today an individual who commits a Federal crime of violence against a pregnant woman receives no additional punishment for killing or injuring the woman's unborn child while committing the crime. America's mothers and their unborn children deserve better. When the crime involves two victims, the law must protect and provide justice for both.

The legislation we are considering today, H.R. 1997 would make it a separate Federal crime to hurt or kill an unborn child during the commission of a Federal crime against a pregnant woman. Over half of the States in our country currently recognize both the mother and the unborn child as victims of violent crimes.

In fact, just last week the Commonwealth of Kentucky enacted a fetal homicide law in response to public attention to a recent tragedy in that State where 18-year-old Ashley Lyons and her unborn son, Landon, were killed.

As both a strong supporter of victim's rights and a pro-life advocator, I recognize that the voices of members of families who have lost loved ones—born and unborn—in crimes of violence, are an important part of the debate over this important bill.

Carol Lyons, Ashley's mother, says,

> Nobody can tell me that there were not two victims—I placed Landon in his mother's arms, wrapped in a baby blanket that I had sewn for him, just before I kissed my daughter goodbye for the last time and closed the casket.

The House of Representatives overwhelmingly passed this bill in 1999 and again in 2001. In both cases, it was never brought up for a vote in the Senate.

However, this year we finally have an opportunity to finally enact this legislation into law. Recent violent crimes involving the murder of young pregnant women and their unborn children have captured national attention and brought to light the judicial plight family members of victims face when they seek justice.

I also strongly oppose the substitute amendment being offered by Congresswoman ZOE LOFGREN. Her amendment fails to recognize the unborn child as a victim of a crime, even in circumstances when the perpetrator acts with specific intent to kill the unborn child. A vote in favor of the Lofgren substitute is a vote to codify the doctrine that an attack on a pregnant woman has only a single victim, even when the mother survives and the baby dies.

Mr. CANTOR. Mr. Speaker, as legislators, it is our responsibility to stand up and protect innocent members of society. Presently, an individual who commits a Federal crime against a pregnant woman receives no additional punishment for killing or injuring the woman's unborn child while committing the crime.

The Unborn Victims of Violence Act protects pregnant women and their unborn babies. The current Federal law is unjust, and Laci and Conner's Law will protect women from further abuse. This new law will send the right message that both a mother and a child should be protected.

Right now, the law says that the pregnant mother is the only victim in a crime, and nothing could be further from the truth. There are two victims harmed in this crime, the mother and her unborn baby. As a cosponsor of this legislation, I will work to ensure it is enacted into law this year.

Mr. NADLER. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GILLMOR). All time for general debate on this bill having expired, it is now in order to consider the amendment printed in part B of House Report 108–427 by the gentlewoman from California (Ms. LOFGREN).

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MS. LOFGREN

Ms. LOFGREN. Mr. Speaker, I offer an amendment in the nature of a substitute.

The SPEAKER pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the Nature of a Substitute offered by Ms. LOFGREN:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Motherhood Protection Act of 2004".

SEC. 2. CRIMES AGAINST A WOMAN THAT AFFECT THE NORMAL COURSE OF HER PREGNANCY.

(a) Whoever engages in any violent or assaultive conduct against a pregnant woman resulting in the conviction of the person so engaging for a violation of any of the provisions of law set forth in subsection (c), and thereby causes an interruption to the normal course of the pregnancy resulting in prenatal injury (including termination of the pregnancy), shall, in addition to any penalty imposed for the violation, be punished as provided in subsection (b).

(b) The punishment for a violation of subsection (a) is—

(1) if the relevant provision of law set forth in subsection (c) is set forth in paragraph (1), (2), or (3) of that subsection, a fine under title 18, United States Code, or imprisonment for not more than 20 years, or both, but if the interruption terminates the pregnancy, a fine under title 18, United States Code, or imprisonment for any term of years or for life, or both; and

(2) if the relevant provision of law is set forth in subsection (c)(4), the punishment shall be such punishment (other than the death penalty) as the court martial may direct.

(c) The provisions of law referred to in subsection (a) are the following:

(1) Sections 36, 37, 43, 111, 112, 113, 114, 115, 229, 242, 245, 247, 248, 351, 831, 844(d), (f), (h)(1), and (i), 924(j), 930, 1111, 1112, 1114, 1116, 1118, 1119, 1120, 1121, 1153(a), 1201(a), 1203(a), 1365(a), 1501, 1503, 1505, 1512, 1513, 1751, 1864, 1951, 1952(a)(1)(B), (a)(2)(B), and (a)(3)(B), 1958, 1959, 1992, 2113, 2114, 2116, 2118, 2119, 2191, 2231, 2241(a), 2245, 2261, 2261A, 2280, 2281, 2332, 2332a, 2332b, 2340A, and 2441 of title 18, United States Code.

(2) Section 408(e) of the Controlled Substances Act of 1970 (21 U.S.C. 848).

(3) Section 202 of the Atomic Energy Act of 1954 (42 U.S.C. 2283).

(4) Sections 918, 919(a), 919(b)(2), 920(a), 922, 924, 926, and 928 of title 10, United States Code (articles 118, 119(a), 119(b)(2), 120(a), 122, 124, 126, and 128).

The SPEAKER pro tempore. Pursuant to House Resolution 529, the gentlewoman from California (Ms. LOFGREN) and the gentleman from Wisconsin (Mr. SENSENBRENNER) each will control 30 minutes.

The Chair recognizes the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let us be clear, on its face, the Unborn Victims of Violence Act appears to be a tool to prevent assault against pregnant women and nonconsensual termination of pregnancy. Upon closer examination, it is obvious that the purpose of the bill is to conflict with the core principles of Roe v. Wade.

The Unborn Victims of Violence Act focuses on, legally recognizes a fetus, an embryo, a blastocyst, a fertilized egg as a person with rights and interests separate from and equal to those of the woman.

Today I offer a substitute that my colleagues and I hope can unify Members on both sides of the debate over choice to achieve a very important goal, the deterrence and punishment of violent acts against pregnant women.

According to the purported goals of H.R. 1997, that is our common ground, but it is clear that the purpose of H.R. 1997 is not actually to achieve the purported common goal of protecting pregnant women from assault. If that were the case, we would all vote today for the Lofgren substitute and begin to ensure that women across the country are safe from violence.

The Lofgren substitute does not threaten Roe v. Wade, but instead creates a new separate offense for any violent or assaultive conduct against a pregnant woman that interrupts or terminates her pregnancy. The substitute provides that any termination in the pregnancy is punishable by a fine and imprisonment of up to 20 years, and if the pregnancy is terminated, even if unintentionally, the assailant can be sentenced to life in prison. These penalties are even tougher than those provided for in the Unborn Victims of Violence Act.

Those of us who have experienced a miscarriage understand a very essential truth: The loss is something you never forget. Whether the woman is 6 weeks pregnant or 6 months pregnant, the loss is acutely felt by that woman, and it deserves the full penalty that the law can provide.

Penalties under H.R. 1997, however, vary depending upon the underlying crime resulting in inconsistent penalties for the same horrific crime. In fact, under H.R. 1997, if a postal worker was assaulted and there is a resulting injury to her pregnancy, there is only a maximum penalty of 3 years; but if the same assault happened to another Federal employee, her assailant could get up to 8 years in prison under H.R. 1997. Why should the penalty for injury to one pregnant woman over another depend upon where she works? It defies logic and reason.

Unlike the Unborn Victims of Violence Act, the Lofgren substitute has tough, consistent penalties for the same horrific crime, regardless of irrelevant circumstances like the place of employment. A loss or injury to a pregnancy is the same loss to a woman no matter where she works.

Mr. Speaker, advocates for H.R. 1997 say their bill is about protecting women from violence. In fact, the bill ignores women. H.R. 1997 does not address the woman nor the assault committed against her. Under H.R. 1997, there is a possibility that the crime against the woman could go unpunished because there is no conviction requirement for the underlying crime. How can the other side say they are preventing crime against pregnant women when you ignore her and the crime against her?

Mr. Speaker, the bottom line is the Lofgren substitute does not needlessly interject the abortion debate and exploit what is concededly a matter of a pregnant woman's right to a safe, healthy and free from horrific acts of violence pregnancy.

Although many have said that the underlying bill has nothing to do with abortion, I think it is important to look at what some of the proponents of the antichoice movement have said about the bill, and I would like to quote Samuel Casey, the executive director of the Christian Legal Society, who said last year, "In as many areas as we can, we want to put on the books that the embryo is a person. That sets the stage for a jurist to acknowledge that human beings at any stage of development deserve protection, even protection that would trump a woman's interest in terminating a pregnancy."

Joe Cook, vice president of the American Association of Pro Life Obstetricians & Gynecologists, said last year, "We have to approach this in a way that is doable, a step at a time. This bill is aimed at establishing that a fetus in utero is a human being and has human rights."

Finally, Senator ORRIN HATCH said last year, "They say it undermines abortion rights; it does, but that is irrelevant." Irrelevant perhaps in the other body, but not to me.

Mr. Speaker, I support legislation that has the goal of protecting a pregnant woman from violence. I cannot do so through legislation that would also undermine other extremely important rights of women, like the right to choose. That is antithetical to the protection and safety of women.

I hope we can come together on this substitute. Last Congress there were a number of antichoice Members of the House that voted for the substitute, understanding that the penalties are more severe and would provide more complete protection for women. I urge those individuals to do so again to show this country that Congress is serious about protecting pregnant women from violence.

We have in this country and in this House strong disagreement about who gets to decide whether a pregnancy will be brought to term or not, the Congress or the woman. That debate is going to go on for a long time, but it does not have to be part of this discussion. We can come together to protect women against violence without having the argument about abortion involved in that effort. I hope that we can come together to embrace common ground on what I think could be a moment of triumph for this Congress and for the American people in standing against violence against women.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the substitute amendment should be soundly defeated as it would throw salt into the wounds of those parents who have implored this Congress to recognize under Federal law the loss of their loved, unborn child.

These mothers are not seeking recognition of the violence they have suffered alone. They are seeking recognition of the violence their unborn children have suffered as well. They are seeking recognition of the loss of their unborn child.

H.R. 1997 recognizes that loss; the substitute does not. This House has defeated this substitute amendment each time it has been brought up, with increasing margins during the 106th and 107th Congresses. We should increase that margin today.

A recent Fox News poll asked, "If Scott Peterson is convicted of killing his pregnant wife, Laci, do you think he should be charged with one count of homicide for murdering his wife, or two counts of homicide for murdering both his wife and his unborn son?" An overwhelming 84 percent of the American people responded that two counts, not one, should be brought.

These results are confirmed by two other recent polls that show support for two separate charges for violent criminals who harm mothers and their unborn children. Support for a separate charge for an unborn victim is 84 percent, according to a Newsweek poll, and 79 percent, including 69 percent of those who describe themselves as prochoice, according to another Fox News poll conducted in July. Each poll found that less than 1 in 10 Americans disagree.

I would ask my colleagues to join with the overwhelming majority of Americans who have responded to these polls, including those who describe themselves as being prochoice, to reject this amendment and not join with the very small minority, less than 1 in 10 of those who are polled, who would support the one-victim approach.

☐ 1230

This substitute amendment embodies the extreme ideology of those who are unwilling to recognize an unborn child in the law in any context whatsoever. The term "unborn child" as used in H.R. 1997 has been widely used and accepted by judges, including the Supreme Court, and Justice Blackmun, the author of the Roe v. Wade decision itself. The term "unborn child" has been widely tested in court and has sustained all constitutional challenges in terms of a fetal homicide law. Removing that term and replacing it with the vague and untested language of the substitute would accomplish nothing, while risking grave confusion and jeopardizing the conviction of violent Federal criminals. The abstract language in the substitute, which points to injuries to a "pregnancy," ignores the fact that violent criminals can and do inflict injuries on a real human being in his or her mother's womb. If an assault is committed on a Member of Congress and her unborn child subsequently suffers from a disability because of the assault, that injury cannot accurately be described as an abstract injury to a pregnancy. It is an injury to an unborn child. The bill recognizes that. The substitute does not.

Also, unlike the language of H.R. 1997, the substitute contains no exceptions for abortion-related conduct, for conduct of the mother, or for medical treatment of the pregnant woman or her unborn child. This omission leaves the substitute amendment bare to the charge that it would permit the prosecution of mothers who have abortions who inflict harm upon themselves and their unborn children or doctors who incidentally kill or injure unborn children during the provision of medical treatment. For that reason, the substitute amendment will certainly be subject to a successful constitutional challenge. The underlying bill has been tested and proven constitutional.

Today's debate is not about penalties. It is about victims. H.R. 1997 recognizes unborn victims of violence. The substitute does not. In the name of unborn victims, including Conner Peterson, Heaven Lashay Pace, Zachariah Marciniak, Landon Lyons and the others who are not named today but are known and loved and missed by their surviving family, the substitute should be soundly defeated and the bill passed.

Mr. Speaker, I reserve the balance of my time.

Ms. LOFGREN. Mr. Speaker, I yield myself such time as I may consume. I would note that on line 6 on page 1 of the amendment, it notes that whoever engages in any violent or assaultive conduct against a pregnant woman resulting in the conviction of the person so engaging does not include an abortion that is legal because of Roe v. Wade.

Mr. Speaker, I yield 4 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I stand here today strongly supporting the Lofgren substitute. The gentleman from Illinois (Mr. HYDE) is right, my colleagues and I have considered an unbelievable number of antichoice proposals over the last few years, including 200 since the Republicans took over the House of Representatives.

These proposals have troubled me; but this bill, the bill that we are considering today, is perhaps the most disconcerting of them all. Instead of openly admitting what they are attempting to do to a woman's reproductive freedoms, proponents of this bill are exploiting a senseless and tragic crime to make their true intentions hidden. Let me be clear. We all oppose violence against women, and we all understand that a violent attack on a pregnant woman is an especially heinous act that deserves a uniquely harsh punishment. But that is not what the underlying legislation is about.

Our constituents deserve an honest debate about this proposal and some very honest information. I am sure that many people assume that this legislation if it were approved would have an impact on the tragic case in California after which this case is named. People also probably assume it would create an effective new tool to prosecute many domestic abusers who harm their pregnant wives or girlfriends. That is simply not true. Women are the victims of violence across the country every day, but rarely does this violence fall in the jurisdiction of Federal courts. Unless a fetus is harmed in the commission of a violent Federal crime, this bill will not apply.

Considering that this new law would rarely be applied, you may wonder, then, why are we here today talking about it? We are here to undermine the fundamental protections of Roe v. Wade with platitudes about violence against women thrown on as window dressing. If this bill passes, a 2-hour-old fertilized egg will have the same rights as the woman bearing it. Antichoice forces have been very open and honest about their strategy for turning back the clock on reproductive freedom in this country. In fact, we have heard many of the underlying bill's proponents tell you that the egg is a human. By declaring that even a fertilized egg is a person, proponents are laying the groundwork for undermining women's ability to make their own medical choices and decisions.

Thankfully, we have an opportunity to address horrific acts of violence against pregnant women without undermining the woman's ability to control her own body. This ability is through the Lofgren substitute, which establishes appropriately harsh penalties for those who violently harm pregnant women without reducing her rights to that of a fertilized egg. We should not be debating this today. We should be debating and approving policies that will help keep every woman safe in her own home and ensure that every pregnancy is a healthy one. I urge my colleagues to join me in supporting the Lofgren substitute and opposing the underlying bill. This bill is nothing but an exploitive attempt to end reproductive freedom.

Mr. SENSENBRENNER. Mr. Speaker, I yield 7 minutes to the gentleman from Ohio (Mr. CHABOT), the distinguished subcommittee chairman.

Mr. CHABOT. Mr. Speaker, I thank the gentleman for yielding me this time. This substitute amendment should be soundly defeated. The substitute amendment appears to operate as a mere sentence enhancement authorizing punishment in addition to any penalty imposed for the predicate offense. That is most unfortunate. No sentencing enhancement can adequately express society's disapproval for the distinct loss that occurs when a mother's unborn child is harmed or killed by a violent criminal. A loss that is both unique and uniquely offensive to both a loving expectant mother and to the vast majority of Americans warrants a unique and separate offense under the criminal law. H.R. 1997 provides for a separate offense. The substitute does not.

Indeed, the witnesses we heard from in committee supporting H.R. 1997, this bill, have told us that they are not Republicans or Democrats, they are not lawyers, they are people who have lost unborn children to violence, and they want those children treated appropriately under the law. That is precisely what H.R. 1997 does. The substitute does not.

Sharon Rocha, the mother of Laci Peterson and the grandmother of unborn victim, Conner Peterson, has written that "the Lofgren proposal would enshrine in law the offensive concept that such crimes have only a single victim, the pregnant woman."

Shiwona Pace, whose unborn child, Heaven, was brutally murdered by three hired hitmen, has said, "It seems to me that any Congressman who votes for the one victim amendment is really saying that nobody died that night. And that is a lie."

Those who focus this debate on penalties and abstract terms such as harm to a pregnancy rather than to an unborn child misunderstand the purposes of the criminal law. The criminal law does not exist only to punish criminals; it exists to lend dignity to victims, including unborn victims. It is an expression not only of society's disapproval of certain conduct, but of its recognition of the victims of such conduct and the manner in which such victims should be recognized. Creating a separate offense for harm to an unborn child forces all of us, including potential criminals, to consider the act of harming an unborn child as an independent evil.

A Newsweek poll found that only 9 percent of those surveyed, less than one in 10 Americans, oppose a separate offense for killing an unborn child. Those 9 percent of Americans should be heard, of course; and they have been heard through this substitute amendment. But they must not win, as the law exists in large part to reflect America's overwhelmingly shared values, and those shared values support separate charges for the killing and injuring of wanted, unborn children.

I ask, looking at this picture, this is Tracy Marciniak that we have talked about. This is her unborn child here, Zachariah. Tracy was attacked by her husband when she was 8 months pregnant with this child. Tracy survived her physical injuries. The child died that night. I ask you, this is the funeral of this child. There is Tracy holding her child. How many victims do we see in this photograph? I think it is clear, there are two victims in that photograph. This legislation that we are addressing here today recognizes two victims. The substitute amendment does not.

The terminology in the substitute amendment is hopelessly confusing; and if adopted, it will almost certainly jeopardize any prosecution involving the injuring or killing of an unborn child during the commission of a violent crime. The substitute amendment provides an enhanced penalty for "interruption to the normal course of the pregnancy resulting in prenatal injury, including termination of the pregnancy." The amendment then authorizes greater punishment for an interruption that terminates the pregnancy than it does for a mere interruption of a pregnancy. What exactly is the difference between an interruption of a pregnancy and an interruption that terminates the pregnancy? The substitute does not say. Does any interruption of a pregnancy not necessarily result in a termination of the pregnancy? Or have the supporters of this amendment somehow succeeded in mastering the science of suspended animation? By defining an interruption to the normal course of the pregnancy, the substitute is either science fiction or simply impossible for Federal prosecutors to decipher and apply.

The substitute amendment is a moral failure in that it refuses to recognize that unborn children can be victims of violence. It is a drafting failure in that its ambiguous terminology would leave prosecutors at a loss as to how to administer it. And it is a constitutional failure in that it contains no exceptions for abortion-related conduct. The substitute should be soundly defeated.

In my view, it all comes down and this entire debate is best summed up in a single photograph. Whether or not there are two victims in this photograph or only one is the issue that is at hand. The majority in this House, as we have had it here twice before and it has passed with pretty overwhelming numbers, the majority of us see the clear indication in this picture that there are two victims. The substitute amendment, and it is craftily worded, but ambiguous enough that prosecutors have indicated that successfully prosecuting an offense under the substitute is virtually impossible; but the people that support that particular substitute amendment are indicating in essence that there is only one victim here. I think common sense should prevail. There are two victims.

I would strongly urge my colleagues to defeat the substitute amendment and pass the underlying bill.

Ms. LOFGREN. Mr. Speaker, I would just note that just for corrective purposes, the Lofgren substitute does provide for a separate offense, not a sentence enhancement.

Mr. Speaker, I yield 4 minutes to the gentlewoman from Wisconsin (Ms. BALDWIN), a member of the Committee on the Judiciary.

Ms. BALDWIN. Mr. Speaker, I rise today in strong support of the Lofgren substitute to H.R. 1997. Violence against women remains epidemic in our society. According to a Commonwealth Fund survey, nearly one out of every three adult women experiences at least one physical assault by a partner during adulthood. Acts of violence committed against pregnant women are especially heartbreaking and abhorrent. Congress should and must focus sharply on efforts addressing this issue.

□ 1245

But we can address this issue without tangling it in the abortion debate. And the gentlewoman from California's (Ms. LOFGREN) substitute does exactly that. It focuses on the crime of violence against the pregnant woman without undermining a woman's right to choose. The substitute creates a separate and distinct crime for any violent assault against a pregnant woman that harms or ends her pregnancy, in addition to the assault of the pregnant woman.

Most importantly, this substitute avoids the issue of fetal rights and fetal personhood. It correctly recognizes that the pregnant woman is the primary victim of an assault that causes harm to, or termination of, her pregnancy. In this way, the substitute we consider today accomplishes the stated goals of the underlying bill, the deterrence and punishment of violent acts against pregnant women, without bogging us down in the abortion debate.

I urge my colleagues to ask themselves why H.R. 1997 treats an embryo or a fetus at any stage of development as an individual with extensive legal rights distinct from the mother. How would establishing this legal framework reduce the occurrence of crimes against pregnant women? The answer is that the underlying bill is not directed to the pregnant woman. Instead, it unnecessarily opens up an abortion debate.

I applaud the gentlewoman from California's (Ms. LOFGREN) efforts of addressing the serious issue of violence against pregnant women in a way that accomplishes the goal of reducing this violence in a nonaggressive manner, and I urge my colleagues to support this substitute.

Mr. SENSENBRENNER. Mr. Speaker, I yield 4 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Speaker, I thank the gentleman for yielding me this time as well as the opportunity to debate the substitute.

This bill, the underlying bill, does address the rights of women. We have heard many who oppose it and support the substitute state that it does not. And it clearly allows a woman to seek punishment from the perpetrator of a crime against her that she may survive and that may cause the death of her unborn child. A woman who has made a decision to carry a child has that taken away from her during a violent act. Somehow I do not see how this reduces her rights.

The Lofgren substitute, however, fails entirely to recognize unborn children as victims of violent crime; in fact, transforming the child's injuries to what amount to mere abstractions. The terminology in this substitute is virtually incomprehensible, and if adopted, it will almost certainly jeopardize any prosecution for injuring or killing an unborn child during the commission of a violent crime against the mother.

The substitute amendment provides an enhanced penalty for what is called interruption of the normal course of pregnancy, resulting in prenatal injury, including termination of pregnancy. The amendment then authorizes greater punishment for the interruption that terminates the pregnancy than it does for a mere interruption of the pregnancy. But what exactly is the difference between the termination and the interruption of a pregnancy? It implies that a pregnancy can stop and start again, but does not an interruption of a pregnancy necessarily result in the termination of the pregnancy? And what does the phrase "termination of the pregnancy" really mean here? Does it only mean that the unborn child died, or could it also mean that the child was born prematurely even without suffering any injury? These ambiguities make the substitute impossible to comprehend and certainly difficult to enforce.

Second, the substitute amendment appears to operate as a mere sentence enhancement, authorizing punishment in addition to any penalty imposed for the crime against the mother. Yet the language suggests there should be a separate offense for killing or injuring the unborn child, but then it does not allow the prosecutor to proceed with a crime against the unborn child. Is a separate charge necessary for the enhanced penalty to be imposed? The substitute amendment simply does not make this clear.

It also mischaracterizes the nature of the injury that is inflicted when an unborn child is killed or injured during the commission of such a violent crime. Under the current language of the bill, a separate offense is committed whenever an individual causes the death or injury of a child who is in utero at the time the conduct takes place. The substitute would transform the death of the unborn child again into an abstraction, "terminating a pregnancy." Bodily injury inflicted upon the child would become a mere prenatal injury. Both injuries are described as resulting from the interruption of the normal course of pregnancy. These abstractions ignore the fact that the death of the unborn child occurs when a pregnancy is violently terminated by a criminal.

The substitute also fails to recognize that a prenatal injury is an injury inflicted upon a human being in the womb of his or her mother. If an assault is committed on a pregnant woman, and her child subsequently suffers from a disability because of the assault, the injury cannot be accurately described as an abstract injury to a pregnancy. It is only an injury to a human being. Our bill recognizes that; the substitute does not.

The substitute is fatally flawed and should be rejected.

Sharon Rocha, the mother of Laci Peterson, the grandmother of unborn victim Conner Peterson, has written that "the Lofgren proposal would enshrine in law the offensive concept that such crimes have only a single victim, the pregnant woman." The substitute amendment embodies the extreme ideology of those who are unwilling to recognize the unborn child under law in any way.

Our approach works. Twenty-nine States have laws that recognize two victims. They have been challenged in court and have survived. Reject this substitute. Support the bill that will provide for two victims, and one that we know that works, and one that is not offensive to the families of these victims.

Ms. LOFGREN. Mr. Speaker, I yield 2 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I have left a hearing to come to the floor to congratulate the gentlewoman from California for coming forward with a bill that does what the great majority of the American people want to see us do today.

Is the point here to penalize crimes against pregnant women or to give personhood to the fetus? I think the majority would say it is time this Congress got around to recognizing that when, in fact, a violent crime is committed against a pregnant woman, that is a crime against the family, and we should have done something about it long ago.

But what we are doing here with the bill that is on the floor is forcing some Members to vote against the bill, a bill that would otherwise have nearly universal approval in this House. It reminds me of the years it took us to pass the Violence Against Women Act because we nitpicked at it, at this, that, and the other. And it must have been 6 or 7 years before the Violence Against Women Act passed in the face of rising violence against women.

We are doing the very same thing with crimes against pregnant women. It is a terrible act to commit a violent crime against a pregnant woman. We should not leave this place unless we come to an agreement on, in fact, dealing with that crime and that crime alone.

What the majority is trying to do here I want to say to them I do not think they can constitutionally do anyway. The majority cannot confer personhood on a fetus in the face of Roe v. Wade. They can keep coming to the floor all they want to, but I do not think that they can successfully do that by statute. But we can keep a substitute that is critically important from coming out of the Congress by insisting on conferring personhood against the will of the majority of people, of the majority of the United States, who support the common-sense approach to choice.

The number of pregnant women who have been murdered has been grossly underreported because they are reported as murders. It is time we did something about it. This is a separate offense. It is a separate criminal offense. It does what needs to be done. I congratulate the gentlewoman for getting us to where we need to be today, justice for women, finally, on violence against those who are pregnant.

Mr. SENSENBRENNER. Mr. Speaker, I have one more speaker to close on this side. Does the gentlewoman from California have any further speakers?

Ms. LOFGREN. Mr. Speaker, may I ask how much time remains?

The SPEAKER pro tempore (Mr. LAHOOD). The gentlewoman has 15 minutes.

Ms. LOFGREN. Do I have the right to close, Mr. Speaker?

The SPEAKER pro tempore. The majority manager has the right to close.

Ms. LOFGREN. Mr. Speaker, I yield 4 minutes to the gentlewoman from California (Ms. LINDA T. SÁNCHEZ), a member of the Committee on the Judiciary.

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I rise in opposition to the Unborn Victims of Violence Act and in support of the substitute bill offered by the gentlewoman from California (Ms. LOFGREN), the Motherhood Protection Act.

I believe very strongly that violence against pregnant women is one of the most morally reprehensible crimes. Any act of violence against pregnant women should be condemned, and I support legislation that protects women and their unborn fetuses from violence.

However, I have to rise and oppose the Unborn Victims of Violence Act that we are considering on the floor today because it jeopardizes a woman's right to choose and fails to protect women from violence. This bill is a blatant attempt to undermine a woman's right to choose, disguised, sadly, as an effort to protect women from violence. Under the Unborn Victims of Violence Act, for the first time anywhere in Federal law, an unborn fetus at any stage of development will be treated as a person that can be an independent victim of a crime. It is not that hard to figure out that it is a direct attack on a woman's right to choose as established in Roe v. Wade.

The Unborn Victims of Violence Act is also inadequate for protecting women from violence. If the proponents of this bill were, in fact, sincere in their desire to prevent harm to unborn fetuses, they would start by preventing harm to pregnant women. It is very telling that the Unborn Victims of Violence Act is silent on the issue of preventing and punishing violent crimes against women and that the proponents of this bill will not accept the substitute bill offered by Ms. LOFGREN, the Motherhood Protection Act.

The gentlewoman from California's (Ms. LOFGREN) substitute provides women and fetuses with the protections they need. It creates a separate Federal crime. It is not merely an enhancement. It is a separate Federal crime for harm to pregnant women and imposes a penalty of up to 20 years in prison for injury to embryos or fetuses. If a woman's pregnancy is terminated in an attack, the penalty can be up to life in prison.

The Lofgren substitute is a far better bill than the Unborn Victims of Violence Act because it protects women, it protects fetuses, and it still preserves a woman's right to choose. I urge my colleagues on both sides of the aisle to show women in this country that we will protect them from violence by voting no on the Unborn Victims of Violence Act and voting yes on the superior Lofgren substitute.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I thank my good friend for yielding me this time.

Mr. Speaker, this on my left is a picture of Tracy Marciniak holding her son at his funeral. She met with me. She met with other Members. The gentleman from Ohio (Mr. CHABOT) just spoke of this, to tell us what happened to her and to her son Zachariah. Minimum time was given to the attacker, her husband, and there was no penalty whatsoever imposed for the killing of this little baby. Tracy has written to Congress, and I hope you all stand up and take notice, and said "Congress should approve the Unborn Victims of Violence Act. Opponents of the bill have put forth a counterproposal, known as the Lofgren amendment. I have read it," she goes on to say, "and it is offensive to me because it says that there is only one victim in such a crime, the woman who is pregnant.

"Please hear me," she goes on to say. "On the night of February 8, 1992, there were two victims. I was nearly killed. Little Zachariah died.

"Any lawmaker who is thinking of voting for the Lofgren 'one-victim' amendment should first look at this picture of me holding my dead son at his funeral. Then I would say to that Representative, 'If you really think that nobody died that night, then vote for the 'one-victim' amendment.'"

Mr. Speaker, the Lofgren amendment stripped of its surface appeal trappings and enhanced penalty does have one proabortion strategic objective, and that is denial. Denial that an unborn child has inherent dignity, denial that an unborn child has worth, denial that an unborn child has innate value. The gentlewoman from California (Ms. WOOLSEY) said a few moments ago in this debate we all oppose violence against women. I thank her for that admission.

Back in the 106th Congress I was prime sponsor of legislation that included the Violence Against Women Act, the 5-year authorization. The gentleman from Illinois (Mr. HYDE), who was then chairman of the Committee on the Judiciary, worked to craft language that throws the book at those who commit violence against women, while providing shelters, and so many others worked on that. It was division B of that bill. I was the prime sponsor. So no one on that side of that divide takes a back seat to anyone that says that somehow we are not against violence against women.

The gentlewoman from Wisconsin (Ms. BALDWIN) said a moment ago that the woman is a victim and not the only victim. There is another victim, the baby. And I just want to say again, talking about the gentlewoman from California's (Ms. WOOLSEY) comments, while we are all against violence against women, we are not all against violence against unborn children. And this bill offered by the gentlewoman from Pennsylvania (Ms. HART) and the gentleman from Wisconsin (Mr. SENSENBRENNER) and the others who are leading the effort on this are saying a mugger or killer does not have an unfettered right or access to an unborn child to kill him or her.

□ 1300

The amniotic sac is a protective covering over an unborn child, but it is not made of Kevlar. Those sacs can be pierced so easily by a knife or by a bullet, and we are saying when a knife or a bullet or a fist pierces and kills a little baby like Zachariah, there ought to be a separate offense. Yes, throw the book at the mugger for any offense that he commits against a woman, we are all for that, but do not deny a penalty for a child who has been killed by that mugger.

Vote against the Lofgren amendment and for the Hart bill.

Ms. LOFGREN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the substitute that I have offered creates a separate Federal criminal offense for assaulting a pregnant woman resulting in injury or termination of her pregnancy, without entangling the issue in our disagreement about abortion and the woman's right to choose.

In addition to recognizing the horrendous underlying crime of assault on a pregnant woman, it recognizes the horrific crime of assault on a pregnant woman that results in the interruption or termination of a pregnancy. It creates an offense that protects pregnant women and punishes violence without conflicting with the core principles of Roe v. Wade.

The substitute provides consistent penalties for the same horrific crime. It provides for a consistent maximum 20-year sentence for injury and a consistent maximum life sentence for causing the termination of a woman's pregnancy. It requires a conviction for the underlying criminal offense, ensuring the crime against the woman is also punished, and it focuses on the assault of violence committed against the pregnant woman, providing a deterrent effect for violence against women.

I am sure that the Members of this body who oppose a woman's right to choose also oppose violence against women. There is no disagreement on that score. All I am saying with my substitute is that we have the ability to come together in this substitute against violence against women without engaging in our very serious disagreement about choice.

I think it has been made clear by the proponents of this bill that it is about choice. That is why this bill, the underlying bill, was referred and considered by the Subcommittee on the Constitution, not the Subcommittee on Crime, in the Committee on the Judiciary, because it is about the Constitution.

The point of the underlying bill is to undercut Roe v. Wade. I think Roe v. Wade provides important protections for the women of this country. I am 56 years old, and I remember as an undergraduate in college young women who had to seek abortions from illegal providers or go to another country. I know women who almost lost their lives. Thankfully, because the Supreme Court has now recognized that women have the right to make choices about their own reproduction, women now do not have to seek illegal or dangerous health care solutions when they have made a decision that they cannot have a child.

I think that Roe v. Wade, by allowing women to make decisions about their own lives, is an important principle and an important defense for the freedom of American women, and I do not think American women should give up their freedom in order to get protection from violence. That is what I think the underlying intent of H.R. 1997 is. I think that is why the National Coalition Against Domestic Violence, which represents organizations and domestic violence shelters in all 50 States, opposes H.R. 1997.

So I hope the Lofgren substitute will be approved, and I hope that we can come together to stand against violence and for freedom for American women.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Speaker, I rise in strong support of the Lofgren amendment and in opposition to the Unborn Victims of Violence Act.

Mr. Speaker, the majority of Americans are prochoice, and they depend on us to protect a woman's right to choose, while at the same time working to make abortion rare by making sure that all women have a full range of reproductive choices. They depend on us to pass legislation that will protect their reproductive freedom, and they depend on us to know the difference between legislation that truly protects women and legislation that is discussed as something that it is not, like, for example, the bill that is before us now.

Today, Members of Congress who truly care about the issue of violence against women can put their words into action by voting for the Lofgren substitute. The substitute provides for the deterrence and punishment of violent acts against pregnant women, and it does so while completely avoiding the controversial issues of abortion. It creates a new separate crime with tough penalties, up to 20 years to life, for an assault that causes the termination of a pregnancy.

So my colleagues can choose to vote for the substitute and actually accomplish a goal they care about, or they can go with the underlying bill, which is nothing but a poorly disguised vehicle to undermine Roe v. Wade.

We are not fooled by this legislation. Our constituents will not be fooled by this legislation. If Members of the House really care about taking steps to protect pregnant women and punish the people who commit horrible acts of violence against them, we will all join together and vote for the Lofgren substitute.

There is only one real difference between the substitute and the underlying bill, and it is this one thing that reveals the true goal of H.R. 1997. The underlying bill creates a Federal criminal offense that provides a pregnancy from conception to birth with the legal status separate from that of the woman. Regardless of what we are hearing today from proponents of the legislation, there is only one reason to vote for this bill, and that is to support defining a fetus or a fertilized egg, for that matter, as a person.

If the supporters of the legislation want to debate the merits of abortion, let us do it out in the open. But they should be embarrassed about cloaking their true intent in an issue that we all agree upon, protecting pregnant women from violence.

We keep hearing those who support the bill talk about two victims, but what they are omitting is the fact that this bill does not mention the main victim, the woman, another indication this bill is not really about two victims at all. The Lofgren substitute is the bill that truly focuses on women, because it creates a Federal criminal offense for harm to a pregnant woman.

I strongly urge my colleagues to vote yes on the Lofgren substitute and no on final passage.

Ms. LOFGREN. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield the balance of my time to the gentleman from Texas (Mr. DELAY), the majority leader.

Mr. DELAY. Mr. Speaker, I thank the chairman for bringing this bill to the floor. It is a very important bill, and it is a very timely bill.

This bill has passed the House twice in two different Congresses. It is a bill that desperately needs to become law, because, Mr. Speaker, Laci Peterson had a son. He was never born, he never spoke a word or took his first steps, but he was real. Whoever killed Laci Peterson also killed her son, and to deny that is to deny truth. That unborn victims of violence are separate victims of violence is not a matter of interpretation, it is a matter of plain fact. A child could tell you that a man who kills a pregnant woman and her unborn child takes two lives.

Unborn victims of violence feel their own pain, suffer their own wounds and die their own excruciating deaths, and with this legislation before us, we have the opportunity to say so. We have the opportunity to say that in this Nation unborn children targeted by violent men are guaranteed justice under the law, just as their murderers are guaranteed justice under the law.

The Unborn Victims of Violence Act is a matter of common sense and common decency. It should and will pass this body by an overwhelming, bipartisan majority, and make right in the law what is now blatantly and indefensibly wrong.

Mr. Speaker, I do not question the motives of those who plan to vote no. But to those who oppose this bill and support the substitute, support increased penalties for attacks against pregnant women without acknowledging the second victim of such attacks, I do ask this: Why? Why are the attacks against pregnant women like Laci Peterson so egregious? Why should they merit harsher penalties? Why do all people in all cultures, naturally, instinctively, recoil at such attacks? It is the vulnerability of the pregnant mother, to be sure, but it is also the innocence and the very being of the unborn child.

Civilized society has an obligation to punish injustice, no matter the size, strength or political inconvenience of its victim. Laci Peterson's son may have been robbed from this world before he ever touched it, but, Mr. Speaker, he was here. Today he may be looking down on us from the nurseries of Heaven, protected for eternity by the God who knit him together in the womb, nestled in the loving embrace of the mother who gave him his name, but before Conner Peterson was taken, Mr. Speaker, he was here.

Conner Peterson was here. Vote yes, and have the courage to say so.

Ms. McCARTHY of Missouri. Mr. Speaker, I rise today to support the Lofgren substitute to the Unborn Victims of Violence Act (H.R. 1997), legislation to create a second Federal offense for harm to a pregnant woman without creating the second legal "person." The Lofgren substitute accomplishes the stated goals of the Unborn Victims of Violence Act, the deterrence and punishment of violent acts against pregnant women. By allowing for a second Federal offense against a pregnant woman, perpetrators of violence will be punished to the full extent of the law and their crimes. H.R. 1997, without the Lofgren substitute, will do nothing to prevent violence against women and further undermines their reproductive freedom. Recognizing the fetus as a second legal "person" would be the equivalent of rolling back a well recognized right that was established over 30 years ago. The Lofgren substitute would preserve that right. Mr. Speaker, I urge my colleagues to support the Lofgren substitute.

Mr. LANTOS. Mr. Speaker, I rise in support of this amendment sponsored by my good friend and fellow Californian Congresswoman ZOE LOFGREN. This amendment clearly recognizes that crimes committee against pregnant women are especially egregious acts that should be subject to more stringent punishment. Specifically, this amendment would make it a separate Federal crime to cause, whether intentionally or not, a prenatal injury or the termination of the pregnancy of the victim during commission of a number of specified Federal offenses.

Mr. Speaker, I am certain all of my colleagues will agree that any violent crime against a person is deplorable in and of itself; however, crimes against expectant mothers are especially heinous and should be dealt with more severely. I applaud Congresswoman LOFGREN for introducing this amendment.

While I strongly support the amendment we are debating and am a cosponsor of similar legislation that was introduced by Congresswoman LOFGREN—the Motherhood Protection Act (H.R. 2247)—I feel an obligation to express my concerns and my strong opposition to the underlying legislation we are considering today, H.R. 1997, the Unborn Victims of Violence Act. Although these two bills appear similar at first blush, they are based on completely different premises.

The Lofgren amendment is based on the belief that when the normal course of pregnancy is disturbed by a violent crime, the mother is robbed of her chance to bring a child into this world. Such an act is intolerable and the offender should be subjected to additional punishment.

On the other hand, Mr. Speaker, the Unborn Victims of Violence Act extends victim status beyond the expectant mother and assigns legal status and protection to an unborn embryo or fetus. I believe this is nothing more than a thinly-veiled attempt to undermine the rights of women established in Roe v. Wade. Assigning legal rights to an unborn embryo or fetus is the fist step in granting "personhood" to an entity which does not yet meet the current threshold for the legal definition of a person. Passing this legislation would be the beginning of the slippery slope that will ultimately be used to limit a woman's right to choose.

Mr. Speaker, the legislation we are considering today is simply a politically-motivated effort by some of our colleagues to chip away at the underlying basis of Roe v. Wade. We, as legislators, have the responsibility to see through these extremist and extreme views, and to enact legislation that does not threaten our citizens with the loss of their Constitutional rights.

Mr. Speaker, a crime against a pregnant woman is an appalling and deplorable act that deserves the severe punishments specified in the Lofgren amendment. Without this amendment, the adoption of the Unborn Victims of Violence Act is simply a deplorable effort to take away from the women of this country the rights for which many have fought. I urge all of my colleagues to support the Lofgren substitute amendment to protect expectant mothers.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am here today because we have a better alternative to the Unborn Victims of Violence Act. I support Congresswoman ZOE LOFGREN's substitute, the "Motherhood Protection Act." This is a crime bill that is designed to protect pregnant women from violence. The Motherhood Protection Act embodies many of the same principles that I offered as amendments in the House Judiciary Committee, where the Unborn Victims of Violence Act was originally introduced. I have always supported the intent of this bill, to protect the life of the pregnant mother who has suffered as a victim of a crime of violence and the viability of her pregnancy. However, I oppose the means which the drafters of the Unborn Victims of Violence Act have used to achieve its end. Like The Motherhood Protection Act, all my offered amendments referred to changing language in the bill, focusing on the pregnant mother instead of the fetus.

As a legislator, and as a mother, I want to protect the rights of women and children. As Chair of the Congressional Children's Caucus, I know how valuable and precious the lives of children are, and I will do everything in my power to ensure that any injustices are met with severe punishment. Unborn Victims of Violence does not do this, rather, the Motherhood Protection Act does.

The Motherhood Protection Act creates a second, separate offense with separate, strict, and consistent penalties for assault resulting in the termination of a pregnancy or assault resulting in prenatal injury.

The Motherhood Protection Act recognizes the pregnant woman as the primary victim of an assault that causes the termination of her pregnancy, and it creates a separate crime to punish this offense. In this way, the bill accomplishes the stated goals of the Unborn Victims of Violence Act—the deterrence and punishment of violent acts against pregnant women—while avoiding any undermining of the right of choose.

Unborn Victims of Violence fails to address the very real need for strong Federal legislation to prevent and punish violent crimes against women. Nearly one in every three adult women experiences at least one physical assault by a partner during adulthood.

Congress can protect pregnant women from violence without resorting to controversial bills like Unborn Victims of Violence that undermine Roe v. Wade. We must take strong steps to prevent such attacks and must recognize the unique tragedy suffered by a woman whose pregnancy is lost or harmed as a result of violence. I am calling on Congress to support tough criminal laws that focus on the harm suffered by women who are victimized while pregnant, as well as a range of programs that promote healthy childbearing and family planning.

While I am pleased to see the Bush administration taking an active interest in women and children, I hope they will see that their goals can be met in other areas. I would like to see the Bush administration focus their efforts on caring for a pregnant woman by providing her decent medical care. I hope the Bush administration ensures more happy pregnancies and births, both with proper family planning and prenatal care. I call on the Bush administration to have care for the millions of children already living and breathing in our country, who go to school in overcrowded classrooms and dilapidated buildings.

We have a wide range of programs in place to help women and children. I would like my colleagues to spend more time encouraging and funding these, rather than once again undermining a woman's right to choose.

Ms. HARMAN. Mr. Speaker, I rise today in opposition to the so-called Unborn Victims of Violence Act, H.R. 1997. Proponents of this bill claim it addresses violence against pregnant women.

Let's be honest here. H.R. 1997 is not an anticrime bill, it is an antiabortion bill. This bill does not address the women who are victims of violence. In fact, this bill makes no mention of the woman and the harm to her that results from an involuntary termination of her pregnancy.

Legislation that truly addresses the devastation of a pregnancy lost due to a violent crime should focus on the attack on the woman and resulting harm to her fetus, as does the amendment offered by my friend and colleague, the gentlewoman from California (ZOE LOFGREN).

I rise in support of this amendment, as it ensures efficient prosecution of the criminal wrongdoer and would not undermine the legal principles underlying a woman's right to choose.

Mr. Speaker, if what we are trying to do is protect pregnant women, then let us protect them. Let us not insult the intelligence of women in this country by attacking their rights under the guise of protecting unborn fetuses.

The Venice Family Clinic and Westside Family Health Center, both located in my district, have programs in place that identify pregnant women at risk of domestic violence and work closely with the family throughout the pregnancy and for at least 1 year after the baby is born. These programs have had positive results at reducing domestic violence before it occurs.

Mr. Speaker, I urge support for this amendment and rise in opposition to the underlying bill.

The SPEAKER pro tempore (Mr. LAHOOD). All time has expired.

Pursuant to House Resolution 529, the previous question is ordered on the bill, as amended, and on the further amendment offered by the gentlewoman from California (Ms. LOFGREN).

The question is on the amendment in the nature of a substitute offered by the gentlewoman from California (Ms. LOFGREN).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Ms. LOFGREN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 186, nays 229, not voting 18, as follows:

[Roll No. 30]

YEAS—186

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Bass
Becerra
Berkley
Berman
Biggert
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Bono
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Carson (IN)
Case
Castle
Clay
Clyburn
Conyers
Cooper
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dooley (CA)
Dunn
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frelinghuysen
Frost
Gephardt
Gonzalez
Gordon
Granger
Green (TX)
Greenwood
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Holt
Hooley (OR)
Houghton
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kaptur
Kelly
Kennedy (RI)
Kilpatrick
Kind
Kolbe
Lampson
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
Meehan
Meek (FL)
Miller (NC)
Miller, George
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Obey
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Pryce (OH)
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Simmons
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Sweeney
Tanner
Tauscher
Thomas
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—229

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Bereuter
Berry
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Boozman
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carson (OK)
Carter
Chabot
Chandler
Chocola
Coble
Cole
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Doyle
Dreier
Duncan
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Fossella
Franks (AZ)
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kennedy (MN)
Kildee
King (IA)
King (NY)
Kingston
Kline
Knollenberg
LaHood
Langevin
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Marshall
McCotter
McCrery
McHugh
McIntyre
McKeon
McNulty
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Norwood
Nunes
Nussle
Oberstar
Ortiz
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (OH)
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Stupak
Sullivan
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—18

Bell
Brady (TX)
Buyer
Collins
Doggett
Forbes
Honda
Kirk
Kleczka
Kucinich
Lantos
McInnis
Meeks (NY)
Menendez
Millender-McDonald
Northup
Olver
Quinn

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD) (during the vote). Members are advised there are 2 minutes remaining to vote.

☐ 1336

Messrs. SHIMKUS, SMITH of Texas, GARRETT of New Jersey and BERRY changed their vote from "yea" to "nay."

Mr. TOWNS changed his vote from "nay" to "yea."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. KIRK. Mr. Speaker, on rollcall No. 30 I was unavoidably detained. Had I been present, I would have voted "yea."

Mr. OLVER. Mr. Speaker, for rollcall vote No. 30, had I been present, I would have voted in the affirmative.

The SPEAKER pro tempore (Mr. LaHood). The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CHABOT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 254, noes 163, not voting 16, as follows:

[Roll No. 31]

AYES—254

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Bereuter
Berry
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Boozman
Bradley (NH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carson (OK)
Carter
Castle
Chabot
Chandler
Chocola
Coble
Cole
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jefferson
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kennedy (MN)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kline
Knollenberg
LaHood
Langevin
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McIntyre
McKeon
McNulty
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Neal (MA)
Nethercutt
Neugebauer
Ney
Norwood
Nunes
Nussle
Oberstar
Obey
Ortiz
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (OH)
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spratt
Stearns
Stenholm
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—163

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Bass
Becerra
Berkley
Berman
Biggert
Bishop (NY)
Blumenauer
Boehlert
Bono
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Carson (IN)
Case
Clay
Clyburn
Conyers
Cooper
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dooley (CA)
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Green (TX)
Greenwood
Grijalva
Gutierrez
Harman
Hastings (FL)
Hinchey
Hinojosa
Hoeffel
Holt
Hooley (OR)
Houghton
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kelly
Kennedy (RI)
Kilpatrick
Kirk
Kolbe
Lampson
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
Meehan
Meek (FL)
Michaud
Miller (NC)
Miller, George
Moore
Moran (VA)
Nadler
Napolitano
Olver
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Price (NC)
Rangel
Reyes
Rodriguez
Rothman
Roybal-Allard
Ruppersberger
Rush
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (VA)
Serrano
Shays
Sherman
Simmons
Slaughter
Smith (WA)
Snyder
Solis
Stark
Strickland
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—16

Bell
Brady (TX)
Buyer
Collins
Doggett
Forbes
Honda
Kleczka
Kucinich
Lantos
McInnis
Meeks (NY)
Menendez
Millender-McDonald
Northup
Quinn

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LaHood) (during the vote). There are 2 minutes remaining in this vote.

☐ 1355

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. KLECZKA. Mr. Speaker, today I was not present for legislative session on the floor due to personal business. However, the issue before the House today was the same one that we had already considered in the 107th Congress. In fact H.R. 1997 is identical to the bill in the 107th, H.R. 503, which passed the House on April 26, 2001, by a vote of 252 to 172. Had I been present, my votes would have been cast the same way I did in 2001: "yes" on the Lofgren substitute amendment, and "no" on passage of the underlying bill, H.R. 1997.

SUNDRY MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the House by Ms. Wanda Evans, one of his secretaries.

LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Mr. Speaker, I rise for the purposes of inquiring of the distinguished majority leader the schedule for the coming week.

Mr. DeLAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DeLAY. Mr. Speaker, I thank the gentleman from Maryland for yielding to me.

Mr. Speaker, the House will convene on Tuesday at 12:30 p.m. for morning hour and 2 p.m. for legislative business. We will consider several measures under suspension of the rules. A final list of those bills will be sent to Members' offices by the end of the week, and any votes called on those measures will be rolled until 6:30 p.m.

On Wednesday, the House will convene at 10 a.m. We plan to consider H.R. 1561, the Patent & Trademark Fee Modernization Act. In addition, we plan to consider H.R. 3752, the Commercial Space Launch Amendments Act. And, finally, I would like to remind all Members that we do not plan to have any votes next Friday, March 5.

I thank the gentleman for yielding and will be happy to answer any questions he may have.

Mr. HOYER. Mr. Speaker, I thank the gentleman for that information;

and reclaiming my time, I wish to ask the gentleman just a few questions about other legislation.

It is my understanding the highway reauthorization bill has not been completed by the other body. It has not come back here. As the gentleman knows, it expires Sunday, I think. Does the gentleman have any idea of what action, if any, might be taken on this?

Mr. DELAY. If the gentleman will continue to yield, I would just remind the gentleman the House passed a 4-month extension. It has been over in the Senate for some time. The Senate is having trouble with their rules to keep extraneous matters off of that bill, and they want to change the time of the extension.

So, unfortunately, we informed the Senate that the House has finished its business; and in order to accommodate the Senate with the 2-month extension, we would have to work with the minority to come up with a unanimous consent request to do that, because holding Members around for votes would be impossible. The Senate has a dilemma on their hands, and they are trying to work through it.

Mr. HOYER. Mr. Speaker, I thank the gentleman for that information. We did pass the extension in a timely fashion. And although I have not had the opportunity to discuss this with the Democratic leader, my presumption would be that we would try to work with the majority in providing unanimous consent, so that if something can move in the next 48 hours, we accomplish that objective.

Mr. Leader, as you know, the 9-11 commission has requested an extension of time. My understanding is the President has indicated his support of that extension. I also think I have read that the majority leader in the Senate believes that they would support that. Can the gentleman inform us as to whether or not we might see legislation on the floor to accomplish an extension of time that Governor Kean and Mr. Hamilton have requested?

Mr. DELAY. Again, if the gentleman will continue to yield, we are working through that issue. There are people that have great concerns about extending the 9-11 commission on our side of the rotunda. That is one of the problems that we are having with the highway extension bill, is they want to stick the 9-11 commission extension on to it. We feel strongly that we cannot do a unanimous consent request to deal with that issue under present circumstances.

So we are working through this. The Senate thinks that they can pass such an extension, and the House will have to deal with it if and when that occurs.

Mr. HOYER. Reclaiming my time, Mr. Speaker, I thank the gentleman. On this issue, I have discussed briefly with the leader on our side, and I believe if such an extension, even if it were on the highway bill, that would not preclude us from entering into a unanimous consent. I have not polled everybody, so I cannot say unanimity; but there is broad support.

The families I know, as well as the commission, believe that they need more time to do the work we have asked them to do. So I thank the gentleman for that answer and for focusing on that.

The fiscal 2005 budget resolution, Mr. Leader. When might we expect the budget to be marked up in the Committee on the Budget and to be here on the floor?

□ 1400

Mr. DELAY. Mr. Speaker, the Committee on the Budget has held their hearings and hopes to hold a markup in the next couple of weeks. We hope to keep the House on a schedule that allows us to complete a conference report by April 15. A lot of work is being done on both sides of the aisle. This process is, as far as we are concerned, on time for an early consideration of the budget.

Mr. HOYER. Mr. Speaker, so the gentleman would expect consideration on the budget in the March 15 time frame?

Mr. DELAY. If the gentleman would yield, that is what we expect, and that is what we hope to do.

Mr. HOYER. Lastly, Mr. Leader, the Foreign Sales Corporation Act, as the gentleman knows, we have not modified that, and the European Union has said on March 1, a few days from now, Monday, they have the ability to start imposing sanctions on U.S. goods. When do you think or is there any information as to when we may consider on the floor a bill dealing with foreign sales corporations to respond to the problem that exists that will motivate the EU to impose such sanctions?

Mr. DELAY. Mr. Speaker, as the gentleman knows, the Committee on Ways and Means has reported a bill to address the repeal of the foreign sales credit last year. We understand the problem. While there have been a couple of deadlines for European retaliation which have come and gone, we understand the threat that now exists beginning March 1. Clearly we need to find a way to address this issue. We are coordinating with the Committee on Ways and Means, the Senate leadership and the White House to resolve the issue in a way that not only ensures our compliance with the World Trade Organization, but also increases the competitive position of all American companies in the global economy.

Mr. HOYER. Mr. Speaker, I thank the gentleman for that answer, and I would hope that we can respond to that issue as soon as possible. I know there is bipartisan support for what was referred to as the Crane-Rangel bill. I am not sure what it is referred to now, the Rangel-Manzullo bill. I think we could proceed in a bipartisan way if that bill could be moved forward. I understand that is not the bill that the committee has reported out, but it seems to me there is bipartisan consensus on that issue, and I thank the gentleman from Texas for that information.

ADJOURNMENT TO MONDAY, MARCH 1, 2004

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday, March 1, 2004.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Texas?

There was no objection.

HOUR OF MEETING ON TUESDAY, MARCH 2, 2004

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, March 1, 2004, it adjourn to meet at 12:30 p.m. on Tuesday, March 2, for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT BY COMMITTEE ON RULES REGARDING AMENDMENTS TO H.R. 3752, COMMERCIAL SPACE LAUNCH AMENDMENTS ACT OF 2004

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, the Committee on Rules may meet next week to grant a rule for consideration of H.R. 3752, Commercial Space Launch Amendments Act of 2004 which may require that amendments be printed in the CONGRESSIONAL RECORD prior to their consideration on the floor.

The Committee on Science ordered the bill reported on February 4, 2004, without amendment and is expected to file its report with the House on Monday, March 1, 2004. Members should draft their amendments to the text of the bill as introduced on February 3, 2004, by the Committee on Science.

Members should use the Office of Legislative Counsel to ensure that their amendments are drafted in the most appropriate format. Members are also advised to check with the Office of the Parliamentarian to be certain that their amendments comply with the rules of the House.

RESIGNATION AS CHAIRMAN AND ELECTION AS CHAIRMAN OF THE COMMITTEE ON ENERGY AND COMMERCE

The SPEAKER pro tempore laid before the House the following resignation as chairman of the Committee on Energy and Commerce:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, February 11, 2004.
Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Please accept this letter as my resignation as Chairman of the House Committee on Energy and Commerce, effective at midnight on February 16, 2004.

Thank you for your assistance in this matter.

Sincerely,
W.J. "BILLY" TAUZIN,
Chairman.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

Mr. DREIER. Mr. Speaker, I offer a resolution (H. Res. 539) and ask unanimous consent for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 539

Resolved, That the following named Member be, and that he hereby is, elected to the following standing committee of the House of Representatives:

Committee on Energy and Commerce: Mr. Barton of Texas, Chairman.

Resolved, That the following named Member be, and that he hereby is, ranked as follows on the following standing committee of the House of Representatives:

Committee on Energy and Commerce: Mr. Tauzin, after Mr. Barton of Texas.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

RESIGNATION AS MEMBER OF COMMITTEE ON SCIENCE

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Science:

HOUSE OF REPRESENTATIVES,
Washington, DC, February 25, 2004.
Hon. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I hereby resign as a Member of the Science Committee.

Sincerely,
JOE BARTON,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

CERTIFICATION OF ACCOUNTING OF CAPTURED OR MISSING U.S. PERSONNEL UNDER PROTOCOLS TO NORTH ATLANTIC TREATY OF 1949—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 108–164)

The SPEAKER pro tempore (Mr. BISHOP of Utah) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Consistent with Condition (3) of the resolution of advice and consent to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia, adopted by the United States Senate on May 8, 2003, and based on the recommendation of the Department of State, I hereby certify to the Congress that each of these governments is cooperating fully with United States efforts to obtain the fullest possible accounting of captured or missing United States personnel from past military conflicts or Cold War incidents, to include:

(A) facilitating full access to relevant archival material; and

(B) identifying individuals who may possess knowledge relative to captured or missing United States personnel, and encouraging such individuals to speak with United States Government officials.

GEORGE W. BUSH.
THE WHITE HOUSE, *February 25, 2004.*

CONTINUATION OF NATIONAL EMERGENCY RELATING TO CUBA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 108–165)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Pursuant to section 1 of title I of Public Law 65–24, ch. 30, 50 U.S.C. 191, and sections 201 and 301 of the National Emergencies Act, 50 U.S.C. 1601 *et seq.*, I hereby report that I have exercised my statutory authority to continue the national emergency declared in Proclamation 6867 of March 1, 1996, in response to the Cuban government's destruction of two unarmed U.S.-registered civilian aircraft in international airspace north of Cuba. Additionally, I have exercised my authority to expand the scope of the national emergency as, over the last year, the Cuban government, which is a designated state-sponsor of terrorism, has taken a series of steps to destabilize relations with the United States, including threatening to abrogate the Migration Accords with the United States and to close the U.S. Interests Section. This conduct has caused a sudden and worsening disturbance of U.S. international relations.

In my proclamation (copy attached), I have authorized and directed the Secretary of Homeland Security to make and issue such rules and regulations that the Secretary may find appropriate to prevent unauthorized U.S. vessels from entering Cuban territorial waters.

I have authorized these rules and regulations as a result of the Cuban government's demonstrated willingness to use reckless force, including deadly force, in the ostensible enforcement of its sovereignty. I have also authorized these rules and regulations in an effort to deny resources to the repressive Cuban government that may be used by that government to support terrorist activities and carry out excessive use of force against innocent victims, including U.S. citizens and other persons residing in the United States, and threaten a disturbance of international relations. Accordingly, I have continued and expanded the national emergency in response to these threats.

GEORGE W. BUSH.
THE WHITE HOUSE, *February 26, 2004.*

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will recognize Members for Special Order speeches without prejudice to the resumption of legislative business.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes.

FUTURE OBLIGATIONS OF SOCIAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, today and every day, wage-earning, salary-earning Americans and small business owners across the country will pay 6.2 percent of every dollar they earn up to $87,400 to Social Security, or twice that in the case of the self-employed. This is a heavy burden on the working, wage-earning, salary-earning people of America, particularly those of modest means. And again, it only falls on income below $87,400 so those who earn $3 million or $5 million a year pay a tax at a fraction of the rate of someone who earns $30,000 or $40,000 a year.

The theory is that Social Security in collecting these funds will collect $180 billion more than necessary to pay this year's benefits. That money is supposed to be set aside into a trust fund to meet the future obligations of Social Security. If all those moneys that have been set aside, and they are, unfortunately, just debt instruments, but if those debt instruments were honored, Social Security would have adequate funds to pay full benefits until the year 2042 under conservative assumptions, perhaps longer, and after that it would have a 23 percent shortfall. That is a problem, and we should deal with it.

But enter Mr. Greenspan, a gentleman who does not need Social Security, a gentleman who pays taxes at a fraction of the rate of average wage-earning Americans, a gentleman who does not know or socialize with anyone who needs Social Security. The fact is 20 percent of retired Americans are totally dependent on Social Security, and more than half would fall into poverty tomorrow if Social Security benefits were not there. Just 3 years ago the great Alan Greenspan said in supporting the President's reckless tax cuts which favor the wealthy, those who do not pay Social Security taxes in particular, those who invest for a living, he said that we could have it all; there was so much of a surplus, we could cut taxes on rich people, and we could still provide for Social Security benefits in the future.

Well, 3 years later, confronted with record deficits created by the Bush administration, Alan Greenspan, forever consistent, says the tax cuts should be made permanent, we should continue to borrow money, which we are doing, to finance tax cuts, but we can no longer afford Social Security, is what Mr. Greenspan says. So we are going to borrow money. In fact, this year we are going to borrow $180 billion that is being paid in by working, wage-earning Americans as a surplus into Social Security, which will be immediately borrowed and spent. Some will be spent on things that are good that the government does; some will be spent to give tax cuts to wealthy people.

Mr. Speaker, it is a new kind of transfer tax. We tax wage-earning, salary-earning Americans on every penny of their income. We then overtax them, supposedly to provide their future benefits, borrow that money, and then transfer it to wealthy investors who do not pay a penny in Social Security taxes.

□ 1415

This is Mr. Alan Greenspan's world. He hears the pain of those people at the top, those who need further tax cuts, those who have done so well over the last decade. He is willing to say that we should borrow money to finance their tax cuts. He is willing to say we should borrow money from the Social Security trust fund to finance those tax cuts for wealthy people. But now, astoundingly, he says there is not enough money in Social Security to pay benefits. So he just recommends a couple of little things. First, we cut cost-of-living adjustments for seniors. Well, Social Security is already underadjusted for the cost of living of seniors. They have huge increases, in pharmaceutical, medical costs and other things, and the 2.1 percent they get does not reflect their real cost of living and many saw their Medicare or their insurance go up more than their puny increase in Social Security. But Mr. Greenspan does not know any of those people. He has never talked to them. He is not aware of them. They do not belong to the same clubs that he does.

But he also said in his let-them-eat-cake mode that we should just increase the retirement age a little bit more. We are already phasing it up to 67. If Mr. Greenspan had to work for a living, work hard like a logger or a mill worker or many other professions in this country or was in a profession where he could not work forever, unfortunately he can as long as George Bush reappoints him, he would realize that it is a problem if you increase the retirement age further beyond 67. Many Americans cannot physically work that long to collect their benefits and many others will not have the opportunity to work that long. But Mr. Greenspan is not concerned about those people. It is more important to borrow the money from the Social Security trust fund, to bankrupt the system in the future to finance tax cuts for the wealthy, and that is George Bush's priority, too.

MOURNING THE LOSS OF MACEDONIAN PRESIDENT BORIS TRAJKOVSKI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. WOLF) is recognized for 5 minutes.

Mr. WOLF. Mr. Speaker, I rise today with sadness in my heart as we mourn the loss of Macedonian President Boris Trajkovski. He was a moderate leader who helped unite his ethnically divided country. He was killed on Thursday when his plane crashed in bad weather conditions in mountainous southern Bosnia.

President Trajkovski was a great friend of the United States. He led the efforts to establish relations with the United States and attended the National Prayer Breakfast here in Washington a number of times where he became friends with many Members of Congress and many individuals in the administration. He was a man of great faith. His great faith drove him to be a man who led reconciliation throughout his region of the world.

President Trajkovski was inaugurated as the second President of the Republic of Macedonia on December 15, 1999. Prior to that, Mr. Speaker, he served as deputy minister of foreign affairs of the Republic of Macedonia and as chief of the cabinet of the mayor of the Kisela Voda municipality in Skopje from 1997 to 1998.

Since taking office in 1999, President Trajkovski was active on the international level, giving numerous speeches at international forums, such as the World Economic Summit in Davos, the Council of Europe, the United Nations and the South East European Cooperation Process, and addressed the parliaments of several countries. He was dedicated to greater cooperation between states on behalf of the Republic of Macedonia.

President Trajkovski participated in numerous international conferences on conflict resolution, religious tolerance, religious freedom, and served as president of youth work in the United Methodist Church in the former Yugoslavia for over 12 years.

President Trajkovski was widely respected in Macedonia for his neutral stance in the former Yugoslav Republic, where tensions persist between Macedonians and the country's ethnic Albanian minorities after a 2001 war. He had called for greater inclusion of ethnic Albanians in state bodies and institutions.

He has many friends, Mr. Speaker, throughout Europe and the entire world. Macedonia is a good friend and partner to the United States and plays an important role in its support of U.S. and NATO operations in Kosovo.

This loss will certainly be felt throughout the international community. Our thoughts and prayers are with the Trajkovski family and the Macedonian people. The United States has lost a great friend.

GREENSPAN WEIGHS IN ON ECONOMIC POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, it is always a pleasure to succeed the gentleman from Virginia who has a strong commitment to human rights. His talk today underscored that commitment to human rights in our country and around the world.

Mr. Speaker, I would just like to start with a couple of facts. Under the

Bush tax plan, a millionaire in this country got a $93,000 tax cut, for someone on the average making $1 million in this country. Alan Greenspan, the President's guy on the Federal Reserve, yesterday said in order to pay for our budget deficits, we are going to have to cut Social Security and cut Medicare. Of course that is what he thinks, an investment banker, a Wall Street banker, someone who has enjoyed, and whose friends have enjoyed, these huge tax cuts and wants to continue enjoying these huge tax cuts, who does not much rely himself on Medicare or Social Security now or in the future.

But, again, the fact a millionaire gets a $93,000 tax cut and because so many millionaires have gotten such huge tax cuts under the Bush plan over the last 3 years, Alan Greenspan is right, I suppose, if that is the way you think of this, that in order to pay for those millionaires' tax cuts, we are going to have to cut Social Security and Medicare. This Congress and this President have made a series of choices. They have chosen to give tax cuts to people in our society who need them the least, people making $1 million, $10 million, $20 million, $50 million, $100 million, people who are billionaires. We have made a choice. They have given tax cuts to that group of people, the people who need it the least, the most privileged in our society, the 1 percent wealthiest people in our country; and because they have gotten tax cuts, according to Alan Greenspan, Congress will need to cut Social Security, cut Medicare, cut spending on education, cut spending on environmental enforcement, cut spending on assisting local and State governments, cut Medicaid, all the things that happen as a result of that.

This is all, Mr. Speaker, in the context of what this President and Alan Greenspan have done with our economy. We saw in the 1990s the creation of more than 20 million jobs, well, well, well over 100,000 jobs a month. In fact, close to 200,000 jobs a month were created during the 1990s. Since President Bush took office, we have seen the loss of 3 million jobs. In my State of Ohio, one out of six manufacturing jobs has simply disappeared, likely never to return. So the Bush answer to this, not much different from his father's answer to the kind of economy that caused him to be voted out of office, the President's answer to this is twofold. It is more tax cuts for the wealthiest people in our society and so-called trickle-down economics. Hoping that those tax cuts will encourage them to invest and maybe they will provide some jobs does not seem to be working.

And the other part of his plan is more trade agreements like the Central American Free Trade Agreement; we have got one with Australia coming down; the Singapore, Chile, the Central American Free Trade Agreement coming up; the Free Trade Area of the Americas, which will double the size of NAFTA, quadruple the number of low-income workers, those trade agreements that hemorrhage jobs and ship jobs overseas.

So when we see Alan Greenspan say we have got to keep giving tax cuts to millionaires but to pay for them we are going to have to cut Social Security and Medicare, that is the same thing that George Bush is saying when he continues this economic policy. Again, this economic policy is twofold. It is tax cuts for the most privileged people in our society, the people who need it the least; and trickle-down economics and trade agreements that hemorrhage jobs, that ship jobs overseas.

It is simply not working. We have lost 3 million jobs. In fact, George Bush will likely, we do not know in the next 10 months for sure, but likely will be the first President since Herbert Hoover to actually have lost jobs during his time in office. That has not happened. The jobs he is losing are some of America's best jobs. They are manufacturing jobs. They are jobs that have sent kids to college, allowed people to buy a home, allowed people to have a middle-class life-style. If we continue this trickle-down economics and we continue these trade agreements that ship jobs overseas, we will continue this loss of jobs, and we will never see our economy come back the way it should and bring us the kind of country that we are used to having.

That is why Alan Greenspan's comments really do hit home, that he wants to continue this tax policy, continue trickle-down economics. It just means the choice that he is making, the choice that President Bush is making, the choice that Republican leaders in Congress are making is that in order to pay for these tax cuts, this Congress is going to have to cut Social Security and Medicare. It is the wrong choice. It is the wrong idea for America. It is a violation of American values, our family values that help our families send our kids to college and build the kind of life-styles and the kind of lives for our children that we so desire.

IN HONOR OF THE CAREER OF DR. JOSE HINOJOSA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HINOJOSA) is recognized for 5 minutes.

Mr. HINOJOSA. Mr. Speaker, I rise today to honor a friend, a university professor, a renowned expert and the dean of the school of politics in south Texas, Dr. Jose Hinojosa. For a generation, Dr. Hinojosa has been the compass for anyone who hoped to navigate a political career in south Texas. Successful politicians, mayors, county judges, State senators and representatives and, yes, Members of this body, myself included, are all proud alumni of the Dr. Hinojosa school of public service.

Dr. Hinojosa, after 26 years of service, has decided to retire. As a political science professor at the University of Texas Pan American, he is nationally recognized for his knowledge and expertise in the regional politics of south Texas. For Dr. Hinojosa, political science is not merely an academic exercise. It is about empowering the community he so dearly loves, the Mexican American community. To that end, Dr. Hinojosa established the School of Public Administration at the University of Texas Pan American. He knew that electing Hispanic leaders was only step one of the empowerment process. He helped build the intellectual infrastructure and knowledge base to make newly minted public officials successful in the art of governing.

Dr. Hinojosa is a native of Jim Wells County and the son of the late Mr. and Mrs. Teodulo Hinojosa of Palito Blanco, a lovely community in central Texas, which is adorned with bluebonnets and many other wildflowers during the spring time. He earned his bachelor's and master's degrees from Texas A&I University, Kingsville, which is now Texas A&M University at Kingsville. He received his doctorate in government and international studies from the University of Notre Dame in Indiana.

Over the course of his career, Dr. Hinojosa has taught at many prestigious institutions, including the University of Texas Pan American, the University of Texas at Austin, Ohio State University, and Notre Dame. He has been called to the service of Governors and Presidents. He served on the National Advisory Council for Ethnic Heritage Studies during President Carter's administration and on the Job Injury and Interagency Council Advisory Committee under Texas Governor Mark White.

However, his greatest contributions have been felt in his home, south Texas. Dr. Hinojosa is an outstanding teacher, whether to students enrolled in a political science course or to candidates for public office. His enthusiasm for public service and for the democratic process is infectious and he has inspired thousands of people, young and not so young, to participate in our democracy. His voice, even after a bout with throat cancer costing him the use of his vocal cords, has always been a call to action. From the difficult days of segregation after World War II to today, Dr. Hinojosa has maintained an unshakeable faith in the people of south Texas. One only has to visit the Rio Grande Valley to see the progress that Dr. Hinojosa has fostered and cultivated since the first Hispanic county judge was elected in Hidalgo County in 1970. Today, the Lower Rio Grande Valley is one of the four fastest growing and most dynamic regions in the country.

Mr. Speaker, Dr. Hinojosa has decided to retire. He will be sorely missed in the halls of college campuses and the halls of government; but I know that his wife, his children, and grandchildren have great plans for him.

☐ 1430

Dr. Hinojosa has taught us well, and the number of Hispanics seeking to win Federal elected positions will continue to skyrocket thanks to him.

In conclusion, I ask all Members of Congress to join me in commending Dr. Jose Hinojosa for his exceptional career and contributions to the great State of Texas and our Nation.

MILITARY RETIREES ARE WAITING; LET US FINISH THE JOB

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under a previous order of the House, the gentleman from California (Mr. FILNER) is recognized for 5 minutes.

Mr. FILNER. Mr. Speaker, I rise today to let everyone know of a bill I have introduced that will eliminate what we call the Disabled Veterans Tax and to provide immediate concurrent receipt of military retired pay and VA disability compensation to all deserving disabled military retirees.

H.R. 3730 is called the Immediate and Full Repeal of the Disabled Veterans Tax Act of 2004 and does exactly what the title says. It eliminates the years of waiting before all disabled military retirees receive all the retired pay and compensation they have earned and deserve.

Last year, our Nation's veterans waged a long and determined campaign to eliminate this Disabled Veterans Tax. As my colleagues know, we did take a step that some say was a legitimate compromise but I call an insult to our veterans. That law makes veterans with a disability rating of 50 percent or more wait 10 years before their tax is completely eliminated. A great number of those veterans are elderly and unfortunately may not live to see the day that they get their full compensation.

Even worse, fully two thirds of America's disabled veterans have been left behind and will continue to be taxed as before, nearly 400,000 of our veterans. Despite the actions of Congress, the Disabled Veterans Tax is alive and well.

Some of the veterans left behind include a veteran of the Kuwait theatre who had below-the-knee amputation after being hit by a drunk driver while jogging near the Pentagon to maintain physical fitness. He does not qualify under the act we passed. Neither does a retiree who cannot work on a family farm because of pain, numbness, and osteoarthritis of both feet due to exposure of cold during noncombatant military service; a veteran who lost an eye when an air hose accidentally detached from an airplane being worked on and who cannot work as an airline pilot. He still pays the tax; as does a female retiree who has weekly panic attacks and chronic sleep disturbances as the result of a sexual assault which occurred while on active duty.

Mr. Speaker, we took the first step towards eliminating the Disabled Veterans Tax, but I would give us a grade of incomplete. We did not do the "A" work that our veterans deserve. During the time I have been in Congress, I cannot recall more than one or two other issues where I have received so many letters, e-mails, and phone calls. Our veterans have been telling us that this is an important issue to them. They deserve that we complete our work and do it at an "A" level.

I understand there are costs to concurrent receipt, but I also understand that the now disabled veterans did not hesitate when they were called to duty. They have returned home with disabilities they have had to live with ever since. How can we doubt the imperative that we keep our promise and give them what they deserve? They earned their military retired pay. They deserve their VA disability compensation. We should not make them wait any longer for justice to prevail.

IN SUPPORT OF ISRAEL'S CONSTRUCTION OF A SECURITY FENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. GARRETT) is recognized for 5 minutes.

Mr. GARRETT of New Jersey. Mr. Speaker, since 1948 the State of Israel has constantly been under attack from inside and outside her borders, from neighbors on all sides. Innocent Israeli citizens, including women and children and seniors, have become terrorist targets. Israeli shops, streets, and schools have become the battleground. There are always threats in the country and always a cause for alarm.

Today, the threat to Israel's security has never been greater. On the eve of the U.N.'s hearing this week on the West Bank barrier, a Palestinian suicide bomber blew apart a Jerusalem bus, killing himself and eight passengers. This strike, which injured 60 others, was in protest of the security barrier constructed by Israel to foil terrorist attacks such as this.

This terrible and painful bombing in Jerusalem has brought new urgency to the claim of Israeli leaders that a security fence is desperately needed in order to prevent terrorists from entering from the West Bank and proves that Israel is under a new wave of violence, one that the Palestinian leadership is unable and unwilling to stop.

For this reason, I support Israel's construction of a security fence and will support that additional miles be built should Israel so decide to continue this self-defense option. The security fence is a proven way to impede terror, which in turn will help advance the peace process. It is situated to protect the lives of Israelis. The separation barrier has proven itself by preventing 50 percent of the attempted terrorist attacks against Israel, and the fence around Gaza has prevented all Palestinian suicide bombers from entering the country.

There are Palestinians who are working now to disrupt this pursuit towards peace. Monday, the Palestinians presented their case to the United Nations International Court of Justice, the ICJ, standing against the Israeli separation barrier in the West Bank, while Israel appealed to world opinion and moral common sense to ignore the proceedings that are unfair.

Israel only began the construction of this fence after 3 years of near daily terrorist attacks that killed 919 Israelis and left thousands more wounded for life. Now more than 40 nations, including the United States, the European Union, and Australia, have joined Israel in protesting the court's consideration of this matter because it falls outside the court's traditional mandate to serve as a mediator between a willing state and, more importantly, because it undermines Israel's, and for that matter any nation's, right to self-defense.

The Palestinians and their supporters have now manipulated the U.N. General Assembly to request the ICJ to issue a legal advisory on the security of the fence. Though it is not legally binding, this advisory opinion could prompt anti-Israel resolutions at the U.N. later this year and will reinforce efforts to isolate Israel internationally.

Manipulation of the ICJ is only the latest attempt in many attempts by Israeli detractors to use every arm of the U.N. to delegitimize Israel. The U.N. has been a source of anti-Israeli activity, passing more resolutions against Israel than any other subject matter, over 400 since 1964. In contrast, that body has never investigated the Palestinian terror campaign against Israel, nor has it investigated the abuse, torture, and other human rights violations by nondemocratic states in the Arab world. The U.N. is the same body that voted against removing Saddam Hussein and ending his evil regime over his own people.

The international community and Arab states in the region must come together now and strongly discourage further Palestinian terrorism. Nations around the world must support Israel in their right to defend their land and their people. Israel has every right and must have every right and ability to protect their people and their country. Those who say otherwise, that Israel's self-defense is an impediment to progress, they miss the point entirely. The destruction of Palestinian terrorism is not an impediment to progress; rather, it is the definition of progress.

Where the violence stops, the peace process can move forward. And until it does, Israel's efforts to build a security fence on their own borders are a necessary and justified response to the perils that this nation faces. As Israel is a free and democratic, peace-loving nation and our only real ally in a region filled with unrest and American hatred, our Nation must do everything we can to support Israel and not stand in the way of the Israeli leaders doing what they feel is necessary to protect their citizens and their homeland.

AMERICA AT RISK: CLOSING THE SECURITY GAP

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Texas (Mr. TURNER) is recognized for 60 minutes as the designee of the minority leader.

Mr. TURNER of Texas. Mr. Speaker, I yield to the distinguished gentleman from South Carolina (Mr. CLYBURN), the vice chairman of the Democratic Caucus.

THE MATTHEW PERRY COURTHOUSE

Mr. CLYBURN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I failed last evening to make this statement, which I thought was very important to me during Black History Month, because of a little appointment I had with the dentist. So I am pleased that the gentleman yielded to me today.

Mr. Speaker, when I first came to Congress 11 years ago, the very first piece of legislation I introduced was to name the Federal courthouse proposed for Columbia, South Carolina, in honor of Judge Matthew J. Perry, Jr. Some of my friends and colleagues cautioned me that the time was not quite right for such a bold initiative, and others counseled me that the thought bordered on naivete. But I had read and taken to heart Martin Luther King, Jr.'s letter from the Birmingham city jail.

In that timeless document, Dr. King addressed the rightness of time. King wrote that "time is neutral. Time is never right and time is never wrong." He opined in that letter that "the people of ill will in our society seem to make much better use of time than the people of goodwill." And he went on to write that "we are going to be made to repent in this generation not just for the vitriolic words and deeds of bad people, but for the appalling silence of good people." I felt, therefore, that even if it were not time for such to be done, it was certainly time for silence on the subject to be broken. It has been a long time coming, but I am proud to say that the Matthew J. Perry, Jr. United States Courthouse will be officially dedicated on April 23, 2004.

Today, like every day for the past 25 years, Judge Matthew J. Perry walked into his office in the Federal courthouse in Columbia, South Carolina, to adjudicate cases according to Federal law. Today, he sits as a defender of the very Constitution that was once used to deny him and his forebears the right to attend his home State's law school or vote for those who made the laws. Today, Judge Perry is a stoic defender of "liberty and justice for all" that led him and all of South Carolina to this glorious time in our history.

Born in a segregated society just a few miles from the building that now bears his name, Judge Perry's youth prepared him for a lifetime commitment to challenging injustice. Judge Perry was raised by a grandfather after his father died when he was 12 years old, and his mother left home to find work in New York as a seamstress. Despite his challenging childhood, he was determined to make a better life for himself and worked odd jobs to put himself through South Carolina State College.

A defining moment in Matthew Perry's life came when he was drafted to serve in World War II. After finishing basic training in Alabama, he went to the train station to proudly return home as an American soldier. But he was turned away from the station's restaurant and forced to order food through a window as he watched foreign prisoners of war eating inside. Such injustice fueled the fire within this gentle man to return to South Carolina after the war and attend South Carolina State College's law school, which was established to avoid integrating the law school at the University of South Carolina.

Upon graduation, he passed the State's newly implemented bar exam, which was adopted, in part, to impede blacks' membership in the South Carolina Bar. As a young black attorney, he took cases based on principle, not on payment. He became well known for his commitment to fighting for justice regardless of the personal costs and soon became the chief counsel of the South Carolina Conference of Branches of the NAACP.

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Judge Perry argued many notable cases. He served as lead attorney in the successful litigation to integrate Clemson University in 1963. In 1972, he won a tough reapportionment case which resulted in the creation of single member districts in South Carolina. He had a hand in almost every case that integrated South Carolina's public schools, hospitals, golf courses, restaurants, parks, playgrounds and beaches. He individually tried over 6,000 cases, and his work led to the release of some 7,000 people arrested for protesting various forms of segregation.

I was one of those protestors that Matthew Perry so eloquently defended, after I was arrested with nearly 300 other students on a bitterly cold day in 1961. Matthew Perry chose me as his chief witness at the trial of Fields against South Carolina. He lost that case, as he did all of his cases at the magistrate level, and, with one exception, all were overturned on appeal. His perseverance was unmatched and his dedication undaunted.

Judge Perry went on to become the first black lawyer from the Deep South to be appointed to a Federal bench when in 1976 he became a judge on the United States Military Court of Appeals here in Washington, D.C. Three years later, he returned home to become a United States District Judge for South Carolina, where he continues to serve today in senior status.

Throughout the death threats and lean times that marked his early career, to today's achievements and accolades, Matthew's devoted wife Hallie has remained steadfastly by his side. The couple has one son Michael, a banker in Charlotte, North Carolina.

The dedication of a United States courthouse in his honor in the shadow of his birthplace that was once cloaked in the scourge of segregation signals a new era in South Carolina, brought about in large measure by the dogged determination of Matthew Perry and his unbending faith that justice will prevail. His vision and veracity led him to challenge the Jim Crow laws of his time and succeeded in providing faith and hope to an entire generation of South Carolinians.

Mr. Speaker, the motto of the State of South Carolina is, "While I Breathe, I Hope." Our State's motto and our Nation's promise of life, liberty and the pursuit of happiness are reflected in the life experiences and work of Judge Matthew J. Perry, Jr., and I am pleased to be here today to enter into the record just a little synopsis of the life of this great South Carolinian and outstanding American.

Mr. TURNER of Texas. Mr. Speaker, I rise today to speak on a very critical subject, the subject of homeland security. There is no responsibility of this Congress more important than the exercise of vigorous and thorough oversight in the area of homeland security. Just one year ago, the Congress created the Department of Homeland Security from 22 separate agencies of this Federal Government. Implementing the largest reorganization of the Federal Government in almost 50 years would be daunting enough, but given the urgency to prevent, to deter and to respond to terrorist attacks, and knowing that failure is never an option when dealing with terrorism, it is clear to me that the administration, that the new Department and its congressional overseers, face a challenge unlike any in our history before.

A lack of leadership or focus, errors in prioritization or judgment, any of these can place thousands of American lives at risk. Poor management can result in a waste of taxpayer dollars as the new Department enters into multibillion-dollar contracts under pressure to get this critical job done.

The Democrats on the Select Committee on Homeland Security, in exercising our responsibility for oversight, have produced a 135-page review of the Department of Homeland Security's activities during its first year. This document is entitled "America at Risk: Closing the Security Gap." We have relied upon in preparation of this document our own independent investigations, our own research, as well as a wide range of expert opinion from throughout this country. This report highlights the very significant security gaps that still remain, and offers recommendations on how we can best go about closing these security gaps.

From the very founding of our Nation, the very first charge of government is to provide security for the American people. The opening words of our Constitution call on us to provide for the common defense. We gather here today in the shadow of a grave and gathering threat to the safety and the security of the American people. Those who delivered the deadly blows against our Nation on September 11, 2001, are poised for further attacks against our homeland.

Just days ago, Ayman al-Zawahari, the mastermind behind al Qaeda's operations and Osama bin Laden's closest confidant, threatened America once again. In an audiotape released to the Al Jazeera network, Zawahari had this to say: "Bush, strengthen your defenses and your security measures, for the Muslim nation, which sent you the legion of New York and Washington, has determined to send you legion after legion seeking death and paradise."

Just last Tuesday the Director of the Central Intelligence Agency, George Tenet, confirmed the stark reality of the al Qaeda threat, saying before this Congress, "Al Qaeda is still capable of catastrophic attacks against the United States." Director Tenet made the nature of the conflict with al Qaeda clear when he said, "We are still at war against a movement that is not going away any time soon."

Mr. Speaker, we are at war, at war against a cruel and calculating foe who will not stop in its effort to deliver death and destruction to our shores, and we must do everything necessary to close those security gaps that make us vulnerable to terrorist attack, and we must move with the urgency of a Nation at war.

That is why the Democratic Members of the House Select Committee on Homeland Security have chosen the first anniversary of the Department of Homeland Security to issue this report to the American people. We present a review of our defenses, and we propose recommendations to close the security gaps that make us vulnerable to attack.

Mr. Speaker, we all understand that there is no responsibility of Congress more important than working to preserve the safety and security of every American. That requires this Select Committee on Homeland Security in this House to vigorously exercise our oversight responsibility. We know that we cannot afford to sleep while Rome burns.

There are some who say on this first anniversary of the new Department that we are safer than we were before September 11, 2001. That is true. But that sets the bar way too low. The real question that we must ask today is, are we as safe as we need to be in light of the threats that we face? Unfortunately, the answer to that question is no.

Our Nation remains vulnerable to potential catastrophic attacks involving nuclear, chemical, biological and radiological weapons. Pathways to the United States by land, sea and air are still insecure; our critical infrastructures have few defenses; and our communities are not as prepared as they need to be in the event of a terrorist attack. The results of our report, "America at Risk: Closing the Security Gap," should serve as a call to action for this Nation.

Mr. Speaker, I believe there are some key defenses that we must have in place to prevent a catastrophic attack on our country. To keep the terrorists away from our shores, we must develop a unified terrorist watch list, and we must focus on preventing the threat of nuclear, radiological, biological and chemical attacks against the American people.

I would like to review for you just a few examples from this 135-page congressional oversight document which exposes the serious security gaps that we still have when it comes to protecting America from catastrophic attack.

Two and one-half years after September 11, 2001, there is still not a unified terrorist watch list in this government, a list that must be available to help our agents stop all suspected targets at our borders. The promised completion date for a unified terrorist watch list has slipped four times. In the past 2 weeks alone the completion date that is projected by the Department for this project has slipped another 9 months. We have the technology to create a unified terrorist watch list, but we need the focus and the discipline and the will to get this critical job done.

Many other systems that we are putting in place to protect America will depend upon an accurate, effective, real-time unified terrorist watch list. It is hard to understand or explain how 2½ years after September 11 we still have not gotten this job done.

Another example from this report of a security gap, millions of cargo and containers enter America every day and travel through our communities without having been screened for radiological and nuclear devices. This Congress has appropriated the funds to make sure cargo containers that enter our ports are free of nuclear material that could be used in a dirty bomb or a crude nuclear weapon, but the job is not yet done.

There are at least 57 different countermeasures that are needed to defend against diseases that are the greatest threat of biological terror. Today only one of these countermeasures can be widely distributed, just one.

Mr. Speaker, there is still no plan to secure the 123 chemical plants that we are told will threaten the lives of over 1 million people in the event of a massive breach of chemical containment due to terrorist attack. It remains an unassailable and uncomfortable fact that America is not as safe as it needs to be in the face of the threat of al Qaeda.

Mr. Speaker, we must take stronger and faster action to close these security gaps. The men and women who patrol our borders, who inspect our cargo at our ports, who respond to emergencies are setting a high standard for excellence, but they must have the leadership and the support and the direction that they deserve. That is the responsibility of the leadership of this Congress and of the new Department of Homeland Security and of our President.

On this, the first anniversary of the Department of Homeland Security, we should strive to regain that sense of urgency that we all had after September 11, 2001. We must have a renewed sense of purpose to close the security gaps which threaten the safety of the American people.

I am confident that, working together, we can accomplish these goals. I am confident that America can look forward to a day when we have won the war on terror.

□ 1500

But it will not happen unless this Nation continues to press forward with a sense of urgency that we all know must exist when we are at war.

Some have said, can we afford to protect America against the threat of terrorist attack? And there is no question that the cost of security has run to the billions of dollars. But the real question that we should be asking and that we should be willing to address is, can we afford not to close these security gaps? For the truth of the matter is that if we fail to close these security gaps and our terrorist enemies are successful in another catastrophic attack against our country, it will cost us far more than the cost of securing America.

When I look at the level of spending for homeland defense, though it is large, it is important to put it in the context of the total Federal budget and the cost of our government. And when we examine the President's budget request for this upcoming fiscal year, which will be considered over the next few months by this Congress, we see that the President has asked for an increase in homeland security, new spending for the Department of Homeland Security that is equal to the amount of money that we spend every month in Iraq.

Now, we know we must be successful in Iraq. We know that having committed, we cannot afford to fail to achieve the stability of that country and to achieve democracy for the people of Iraq. But when we recognize that we, in our own defense, have seen the President recommend increased spending for our own security here at home an amount of money equal to what we spend every month in Iraq, it causes one to ask, are we placing our priorities in the right place. Both are important, but most important is protecting the security of the American people here at home.

I have the opportunity to receive briefings from time to time as the ranking member of the Select Committee on Homeland Security from our new Terrorist Threat Integration Center. I have the opportunity to look into the eyes of those CIA agents who daily have to listen to the threat reports from al Qaeda and other organizations against this country, and I can assure my colleagues that this country is at risk. And let there be no mistake about it: we must continue in our resolve to move faster and be stronger in protecting this country against the threat of al Qaeda and like-minded terrorist groups.

One of the members of our committee, a freshman member, the gentleman from Florida (Mr. MEEK), expressed it this way the other day. He said, spending on homeland security is like buying insurance. You can either pay the premium and get the insurance to protect you, or you can decline to pay the premium and face the risk of the consequences. This Nation remains at risk. We are engaged in a struggle unlike any in the history of this country, and we are facing an enemy that is driven by culture, by religion, by fanaticism, and that is intent upon doing harm to the people of our country. This threat is one that we must face head on. This threat is one that we must be sure that we prevail against. And this threat is one that we must be willing to pay the cost of.

Mr. Speaker, it is my hope that every Member of Congress and the American people will join with us in regaining the sense of urgency that we have in making sure that we have done everything necessary to ensure the protection of the American people. I would urge every Member of this Congress and every listener to take a look at this report and its contents on the Web site of the Select Committee on Homeland Security. The Web address is www.house.gov/hsc/democrats/. Let me repeat that, Mr. Speaker: www.house.gov/hsc/democrats/.

As my colleagues review this report, I think they will find that we as a Nation have a long way to go in being able to tell the American people that we are prepared enough to defend against, to prevent, to deter, and to respond to a catastrophic terrorist attack.

Mr. Speaker, I hope that every Member of this Congress will join together in that same spirit that this Congress exhibited on September 11 of 2001 when we gathered just outside of this Chamber on the steps of this Capitol and joined together in expressing our resolve to prevail against al Qaeda, expressing our commitment to do whatever is necessary to win, and joined together in singing "God bless America." For the truth is, we are the greatest Nation that has ever existed on the face of the Earth. We have tremendous responsibilities in our leadership in this world, and we must do whatever is necessary to prevail in the war on terror.

HOMELAND SECURITY: FIRST PRIORITY FOR AMERICA

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under a previous order of the House, the gentleman from Rhode Island (Mr. LANGEVIN) is recognized for 5 minutes.

Mr. LANGEVIN. Mr. Speaker, I want to thank the gentleman from Texas (Mr. TURNER) for hosting his important Special Order today. As we mark the 1-year anniversary of the creation of the Department of Homeland Security, it is a time to both recognize successes and acknowledge failures. There is no more important issue facing Congress today and the administration than protecting the freedom and security of the American people. In fact, the preamble to our Constitution makes providing for the common defense the first responsibility of Congress.

Improving the safety of our citizens at home must be undertaken just as aggressively as pursuing terrorists abroad. I want to express my deepest appreciation to all those who have taken on this task, from the nearly 200,000 employees of DHS working in every sector in every State, to the dedicated and courageous first responders in all of our communities. We owe you a great debt of thanks and gratitude for your hard work. While it is true there is much still to be done, I know that these great Americans are up to the challenge.

Every day we ask our firefighters, police, and other emergency personnel to put their lives on the line; and since September 11, the burdens on these men and women have only grown. They need our support to keep America safe. With dozens of States experiencing their worst fiscal crisis since World War II, combined with the activation of thousands of Guard and Reserve members, first responders are more desperate than ever for Federal assistance. They are short on the most basic needs, including personnel, overtime, and equipment.

The Department of Homeland Security needs significantly more resources in order to get state-of-the-art training and equipment to our front line of first responders, along with national standards of future purchases and practices, so that all of our personnel are operating capably and consistently. In addition, we must ensure our law enforcement agencies are properly equipped to share information and coordinate activities so threats that cross jurisdictional lines can be adequately addressed.

One critical component of this goal is providing the communications equipment and infrastructure necessary for first responders to take effective and coordinated action.

□ 1515

Interoperable telecommunications technology exists today at an affordable price, but we must provide the funding and leadership to ensure it is deployed without delay.

Information must also flow more smoothly between Federal agencies and the State and local personnel who are the first to respond to an emergency. Unfortunately, at present, resources are being allocated and priorities are being set in the absence of a reliable threat assessment that can be mapped against existing vulnerabilities. State and local responders are operating without the benefit of current, specific intelligence and most lack the clearance or physical means to receive classified information even when it is available. We need to clarify the information-sharing responsibilities within our Intelligence Community and ensure that those who need this information receive it in a timely and beneficial manner.

Furthermore, we continue to face serious vulnerabilities at our ports, borders, and nuclear and chemical facilities and other critical infrastructure. While our airports are significantly safer due to increased passenger and baggage screening, passengers and crew are still at risk from the cargo traveling on these planes.

DHS should also deploy technology like remote sensors and unmanned aerial vehicles to secure every mile of our land border. We need to station Customs inspectors at high-risk ports abroad, increase accountability for companies shipping goods to this country, and deploy systems to track every ship and container entering a U.S. port.

DHS must ensure the highest levels of security at nuclear and chemical facilities, which means requiring the private sector to act as an equal partner in critical infrastructure security.

Finally, as we endeavor to identify threats before they become real dangers, we must be ever vigilant of defending the civil liberties of our citizens. Protecting the homeland does not need to run counter to protecting privacy and freedom. We should make sure that intelligence tools are used judiciously, and we must work always toward a balance that ensures both security and liberty.

The gentleman from Texas (Mr. TURNER), the ranking member, this week led Democrats on the Select Committee on Homeland Security in unveiling a report entitled America at Risk: Closing the Security Gap, and I was proud to join him in that effort. This important and comprehensive report details many of the remaining shortfalls in our homeland security defense efforts and, more importantly, offers substantive proposals for addressing them. I want to commend the gentleman from Texas (Mr. TURNER), the ranking member, for his leadership on this report. I hope this report will serve as a catalyst for bipartisan action, and I look forward to working with my colleagues to address this most important issue.

Mr. Speaker, our Nation has come a great distance since September 11, but we stop now at our own peril. We must act quickly to address the problems that remain and provide safe and secure communities for all of our citizens.

AMERICA: A NATION STILL AT RISK

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. HOEKSTRA) is recognized for 60 minutes as the designee of the majority leader.

Mr. HOEKSTRA. Mr. Speaker, tonight I want to build off the comments of perhaps some of the previous speakers in talking about America is still a Nation at risk.

In his new book, Why America Slept, author Gerald Posner raises the possibility that better tactical performance by the United States could have averted the September 11 terrorist attacks. He suggests that the problem was that law enforcement and other agencies failed to effectively identify and act on numerous clues in the months preceding those tragic events. This could be true, but it is more likely that the attacks could have been averted had the U.S. recognized a new enemy emerging in the 1990s and developed a strategy to effectively respond to it, a lapse that the United States Intelligence Community will have to make up as it reinvents itself to respond to a fluid world that I think was redefined by September 11.

Terrorist attacks throughout the previous decade were treated as isolated criminal acts rather than a developing new emergent threat bent on destroying the United States, and I think this is a question that we have to ask ourselves, and we have to determine what we believe the threat will be in the future. We know what happened during the 1990s. We know about the examples of the first attack on the World Trade Center in 1993. There was a bombing. In 1996, there was a bombing of the U.S. military barracks in Saudi Arabia, and also in the 1990s there were the attacks on our embassies in Africa, and then in 2000 the USS *Cole* was attacked. But these are just a small sample of the increasing number of terrorist attacks against the U.S., our people, our interests and our allies that took place throughout the 1990s.

In 1995, two unidentified gunmen killed two U.S. diplomats and wounded a third in Karachi, Pakistan. In 1997, a Palestinian sniper opened fire on tourists atop the Empire State Building, killing a Danish national, wounding visitors from the United States and Argentina. In 2000, a bomb exploded across the street from the U.S. Embassy in Manila. We have had bombings in Turkey and other places.

The strategic error that we made through the 1990s is that we assumed that with the collapse of the Soviet Union, American policymakers assumed that the international political environment had become more stable and more predictable. How wrong we were.

During the 1990s, the international political environment became more volatile and more unpredictable, and this was not necessarily unrecognized by our leadership.

In a February 17, 1998, speech President Bill Clinton said, And they, then in parenthesis, the predators of the 21st century will be all the more lethal if we allow them to build arsenals of nuclear, chemical and biological weapons and the missiles to deliver them. We simply cannot allow that to happen. There should be no doubt Saddam's ability to produce and deliver weapons of mass destruction poses a grave threat to the peace of that region and the security of the world. There is no more clear example of this threat than Saddam Hussein's Iraq. His regime threatens the safety of his people, the stability of his region and the security of all the rest of us. In the next century, the community of nations may see more and more the very kind of threat Iraq poses now, a rogue state with weapons of mass destruction, ready to use them or provide them to terrorists who travel the world. If we fail to respond today, Saddam will be emboldened tomorrow by the knowledge that they can act with impunity.

Again, on February 17, 1998, President Bill Clinton highlighted the threat not only of Saddam Hussein, but of this emerging threat that we saw in the 1990s of various terrorist organizations and people who seek to do us and our allies harm. In that same speech, the President at that time, President Bill Clinton, said, And someday, some way, I guarantee you he will use the arsenal, and I think every one of you who has really worked on this for any length of time believes that, too.

Continuing, In this century we learned through harsh experience that the only answer to aggression and illegal behavior is firmness, determination and, when necessary, action. In the next century the community of nations may see more and more the very kind of threat Iraq poses now, again, a rogue state with weapons of mass destruction, ready to use them or provide them to terrorists, drug traffickers or organized criminals who travel the world among us, unnoticed, a different kind of emerging threat to the United States and our security.

December 17, 1998, President Bill Clinton, I am convinced the decision I made to order this military action, though difficult, was absolutely the right thing to do. It is in our interests and in the interest of people around the world. Saddam Hussein has used weapons of mass destruction and ballistic missiles before. I have no doubt he would use them again if permitted to develop them.

In another speech, this is by Richard Haas, he is a top Middle East expert on the National Security Council during the Bush administration. The stakes here are very real, and they are enormous. This is someone who has used weapons of mass destruction twice against his own people and against Iran. He does not have qualms.

As we are going through the 1990s, and even as we were going through the first couple of years of the new millennium, we have seen that America was becoming more aware and our leaders were becoming more aware of these various threats.

Madeleine Albright in a speech September 9, 1998, here is what she has to say. In this struggle, our adversaries are likely to avoid a traditional battlefield situation because there American dominance is well established. We must be concerned instead by weapons of mass destruction and by the cowardly instruments of sabotage and hidden bombs. These unconventional threats endanger not only our Armed Forces, but all Americans and America's friends everywhere. We must understand that this confrontation is long-term. It does not lend itself to quick victory. Force for peace, freedom and progress and law in the world, but no threat, no bomb, no terrorist can diminish America's determination to lead.

She goes on, A second major threat to America's security also has entered a new phase, and that is weapons of mass destruction and the systems that deliver them. For decades we viewed this threat primarily through a narrow Cold War lens, and now our concerns have broadened. We are deeply concerned by regional tensions in South Asia where both India and Pakistan have conducted nuclear tests.

Going on later on, she talks about chemical or biological warheads, and they are devilishly difficult to shoot down.

Again, already in 1998 or maybe saying as late as 1998, Secretary of State Madeleine Albright identifying the threat to America, our people, our infrastructure and our allies. We need to continue this discussion and this debate to see whether this threat continues to be real.

National Security Adviser Samuel Berger in an op-ed, Washington Times, October 16, 1998. And indeed, we have information that Iraq has assisted in the chemical weapons activity in Sudan with information linking Bin Laden to the Sudanese regime and the al-Shifa plant.

The threats are real. They have been identified in administration after administration. This week and over the last couple of weeks, we have had the opportunity to get an update, and I would encourage my friends to take a look at some of the statements that have recently been made so that they can reach their own judgment as to the kind of threat that faces America today, because as we understand the threat and reach agreement as to what the threat may be, that will also then provide the foundation for our actions and our response to that threat.

Steve Cambone, an Under Secretary of Defense for Intelligence, delivered his views on this back on January 22, 2004. Here is what he had to say. We are a Nation at war. We do not know how long it will last, but it is unlikely to be short. We cannot know where or against whom all of its battles will be fought. There are multiple fronts in this war. There is no single theater of operations. We do know that we are all at risk, at home and abroad, civilians and military alike. We do know that battles and campaigns will be both conventional and unconventional in their conduct. Some of those battles and campaigns will be fought in the open, and others will be fought in secret where our victories will be known to only a few.

Going on, In describing the situation that we find ourselves in today, we are facing a turbulent and volatile world populated by a number of highly adaptive state and nonstate actors. Some of these are weighing whether to or to what extent or how they might oppose the interests of the United States and its friends. Others, such as terrorist organizations, who are responsible for attacks in the United States, Turkey, Indonesia, Morocco, Saudi Arabia, Israel, Kenya, the Philippines, Afghanistan, Pakistan, Iraq and other places, have committed themselves to war.

□ 1530

"In such a world, where largely ungoverned areas can serve as sanctuary for terrorists, and where political and military affairs in Europe, Asia, Africa, and South America continue to evolve, it is impossible to predict with confidence what nation or entity will pose a threat in 5, 10, or 20 years to the United States or to our friends and allies. In such a world, where our vulnerabilities are all too well understood by our potential adversaries, we should expect to be surprised.

"Not everything that unfolds in the coming years should be a surprise. We can expect that an adversary will continually search for an effective means to attack our people, our economic military and political power, and the people and the power of our friends and allies.

"We can also expect that an adversary will have access to a range of modern technologies and will be prepared to use them to magnify the destructiveness of their attacks, using truck bombs and improvised explosives; cyberintrusions to attack the computer systems upon which we rely; radio transmitters to jam our space assets; small laboratories to develop new biological or genetically altered agents; and chemical and nuclear technology and materials delivered by missile, plane, boat, or backpack to poison our environment and destroy human lives."

Also this week, I believe it was on Tuesday, Tuesday or Wednesday, February 24, George Tenant, the Director of the CIA, Director of the CIA under both President Clinton and President Bush, gave his update to the Senate Permanent Select Committee on Intelligence and also the House Permanent Select Committee on Intelligence. And part of his testimony, unusual in that it is typically in closed session, but part of his testimony was given in open session, and that is available on various Web sites for people to read. And I encourage people to go back and read the full testimony that Director Tenant gave in front of the Senate's Select Committee on Intelligence.

Let me just give you some brief excerpts of it. Because, again, what it does is it follows and builds on the conclusions, the statements, and the threat perception that President Clinton outlined for us in the late 1990s; that Secretary of State Madeleine Albright, that Sandy Berger and other members of the Clinton administration laid out as potential threats, and that now continue to be seen in this administration but are being seen in a new light. They are being seen through the lens of September 11.

Here is what Director Tenant has to say: "Terrorism: I will begin today on terrorism with a stark bottom line. The al Qaeda leadership structure we chartered after September 11 is seriously damaged, but the group remains as committed as ever to attacking the U.S. homeland. But as we continue the battle against al Qaeda, we must overcome a movement, a global movement infected by al Qaeda's radical agenda.

"In this battle we are moving forward in our knowledge of the enemy, his plans, capabilities, and intentions. And what we have learned continues to validate my deepest concern. It is a concern that was expressed to the Clinton administration, it is a concern that we continue to have," the statement concluding, "that this enemy remains intent on obtaining and using catastrophic weapons."

During the 1990s, we saw what al Qaeda and other organizations were willing to do and what they were capable of doing. Director Tenant goes on and explains a little about the war against al Qaeda and its leadership:

"Military and intelligence operations by the United States and its allies overseas have degraded the group. Local al Qaeda cells are forced to make their own decisions because of disarray in the central leadership. We are creating large and growing gaps in the al Qaeda hierarchy. We are receiving a broad array of help from our coalition partners, who have been central to our effort against al Qaeda."

This is something that we found out in some of the travels and in the opportunities I have had to meet with individuals in the Middle East.

"We have a number of allies in the war against al Qaeda. Since the May 12 bombings, the Saudi government has shown an important commitment to fighting al Qaeda in the kingdom, and Saudi officers have paid with their lives. Elsewhere in the Arab world we have received valuable cooperation from Jordan, Morocco, Egypt, Algeria, the UAE, Oman, and many others. President Musharraf of Pakistan remains a courageous and indispensable ally, who has become a target of assassins because of the help he has given us.

"Partners in Southeast Asia have been instrumental in the roundup of key regional associates of al Qaeda.

Our European partners work closely together to unravel and disrupt the continent-wide network of terrorists planning chemical, biological, and conventional attacks in," not in America, not in the U.S., "in Europe."

Again continuing to quote: "So we have made notable strides. But do not misunderstand me. I am not suggesting al Qaeda is defeated. It is not. We are still at war. This is a learning organization that remains committed to attacking the United States, its friends and its allies."

Again, these are the words of our Director of Intelligence, Director Tenant.

Going on again: "Successive blows to al Qaeda's central leadership have transformed the organization into a loose collection of regional networks that operate more autonomously. These regional components have demonstrated their operational prowess in the past year. The sites of their attacks span the entire reach of al Qaeda: Morocco, Kenya, Turkey, Jordan, Saudi Arabia, Kuwait, Afghanistan, Pakistan, and Indonesia.

"Al Qaeda seeks to influence the regional networks with operational training consultations and money. Khalid Shaikh Mohammed sent Hambali $50,000 for operations in Southeast Asia. You should not take the fact that these attacks occurred abroad to mean that the threat to the United States homeland has waned. As al Qaeda and associated groups undertook these attacks overseas, detainees consistently talk about the importance the group still attaches to striking the main enemy: the United States.

"Across the operational spectrum, air, maritime, special weapons, we have time and again uncovered plots that are chilling. On aircraft plots alone we have uncovered new plans to recruit pilots and to evade new security measures in Southeast Asia, the Middle East, and Europe. Even catastrophic attacks of the scale of 11 September remain within al Qaeda's reach. Make no mistake, these plots are hatched abroad, but they target U.S. soil or that of our allies."

Again, this is Director Tenant speaking to the Senate Permanent Select Committee on Intelligence earlier this week. And I encourage my colleagues to go to the Web sites and read this testimony in complete detail to better understand the threats that we still face; and if they have questions, to peel back the layers so that they can make their own personal assessment of the threats that still face the United States.

Again Director Tenant goes on: "So far I have been talking only about al Qaeda, but al Qaeda is not the limit of terrorist threat worldwide. Al Qaeda has infected others with its ideology, which depicts the United States as Islam's greatest foe.

"Mr. Chairman, what I want to say to you now may be the most important thing I tell you today. The steady growth of Osama bin Laden's anti-U.S. sentiment throughout the wider Suni extremist movement, and the broad dissemination of al Qaeda's destructive expertise, ensures that a serious threat will remain for the foreseeable future with or without al Qaeda in the picture."

I believe that if you go back and take a look at the statements in the Clinton administration, what Director Tenant laid out earlier this week is very little different; is very, very consistent with what the Clinton administration outlined during the 1990s. There is a real threat out there. That threat continues to evolve, it continues to change, and it continues to mature and respond to the steps that we take against it.

Again going back to Director Tenant's testimony: "A decade ago, bin Laden had a vision of rousing Islamic terrorists worldwide to attack the United States. He created al Qaeda to indoctrinate a worldwide movement and global jihad with America as the enemy, an enemy that would be attacked with every means at hand. In the minds of bin Laden and his cohorts, September 11 was the shining moment, their shot heard round the world, and they want to capitalize on it.

"And so even as al Qaeda reels from our blows, other extremist groups within the movement it influences become the next wave of terrorist threat. Dozens of such groups exist. These far-flung groups increasingly setting the agenda are redefining the threat we face. They are not creatures of bin Laden, so their fate is not tied to his. They have autonomous leadership. They pick their own targets. They plan their own attacks.

"Beyond these groups with the so-called foreign jihadists, individuals ready to fight anywhere they believe Muslim lands are under attack by what they see as infidel invaders. They have drawn broad support networks, have wide appeal, and enjoy a growing sense of support from Muslims who are not necessarily supporters of terrorism. The foreign jihadists see Iraq as a golden opportunity."

He kind of closes this part of his presentation to the Senate Permanent Select Committee on Intelligence with these words:

"Let me repeat: For the growing number of jihadists interested in attacking the United States, a spectacular attack on the U.S. homeland is the brass ring that many strive for." Let me just repeat that: "For the growing number of jihadists interested in attacking the United States, a spectacular attack on the U.S. homeland is the brass ring that many strive for." He then goes on, "with or without encouragement by al Qaeda's central leadership."

Like I said, I would encourage my colleagues to go to various different sources and review this material from Director Tenant that was given in open session and is available to them. Go through it in detail. It is that important that they have that information as we move through this year.

I genuinely believe and agree with the assessments that came out of the Clinton administration, that are coming out of this administration, and that have come out of Director Tenant as he worked with the Clinton administration and as he works in this administration, that the threat is real. I believe that that is a bipartisan conclusion.

Working on the Permanent Select Committee on Intelligence, one of the things that you find is that on issues of national security there are not partisan differences. We strive to leave the partisan labels at the door when we move in. We recognize that the issues that we work on are so critical that we cannot politicize them. We cannot make them partisan. We need to have and focus on what is best for the security interest of the United States.

In light of that, on a number of occasions members of the Permanent Select Committee on Intelligence have had the opportunity to travel abroad together to meet with leaders from different countries to assess what is going on in Iraq or what is going on in Afghanistan. And in that light, six of us had the opportunity a week and a half ago to go to Libya, to go to Iraq, and to go to Afghanistan.

Let me just give a few highlights of that trip. I will have a diary available within the next week or so, if Members want to see a more detailed explanation of exactly my views of what happened on this trip; but it is a bipartisan delegation, four Republicans and two Democrats, who went on this trip.

□ 1545

Our first stop was in Libya. It is kind of amazing as the individuals who were leading this trip were planning it in late November and December, I do not think that any of us would have expected when we traveled overseas in February that we would be stopping in Libya. That is one place that congressional delegations and Americans basically did not go. But in December and early January, Colonel Qadhafi started signals out that he was willing to disengage in his weapons of mass destruction program, and he was willing to move forward and allow U.N., NATO or U.S. inspectors into the country to look at his programs and then destroy those programs, and then move into the area of having closer economic and cultural ties with the U.S. and Europe.

So our State Department requested that we stop in Libya and meet with Colonel Qadhafi and encourage him in the direction that he was moving. After much effort and seeing much of the Libyan countryside, that is exactly what we had an opportunity to do, to express our appreciation to Colonel Qadhafi about the direction he was going and encourage him to continue in that direction.

We still have a number of issues with Colonel Qadhafi in terms of how he treats the people in Libya, but we will continue to work with him on those outstanding issues, but recognize as he dismantles the weapon of mass destruction program in Libya, that provides us with a huge step forward. It is a significant step forward. Already we have learned much about how that whole network of chemical, biological, and nuclear weapons worked. It has helped us expose things in Pakistan and give some kind of a better understanding what currently may be available in North Korea, what may be available in Iran, and what these countries may have had access to on the international market, and how they would have accessed these goods and services and products, and how far they might have progressed.

There has been much benefit as to Colonel Qadhafi and the steps he has already taken. We encourage him to continue moving in that direction.

We also had some very interesting quotes as we sat down with an individual that we had read much about, but none of us ever had the opportunity or ever expected to have the opportunity to be in the same room with him or any of his parliamentary leaders. Some of their quotes included, "God created man on this Earth. Therefore, they have natural needs and natural rights. These are not bestowed by anyone else, and they cannot be taken away by men."

Another quote that came out of our discussions, and remember, this is the Libyans talking to Members of the U.S. House of Representatives, "Every person has the right to develop to their full potential to live in peace, security, and prosperity."

Another quote, "How can you enslave people who are born free?"

Something that they are very proud of, and it is captured in this quote, "The leader of the revolution has even received recognition with an international human rights award."

Let me go back to the first quote, and would it not be great if Libya and others lived by what they told us, "God created man on this Earth. Therefore, they," meaning men, "have natural needs and natural rights. These are not bestowed by anyone else, and they cannot be taken away by men."

We had an opportunity to spend about an hour and 45 minutes with Colonel Qadhafi. As I said, we were supposed to meet with him in the morning, and we finally ended up meeting with him late in the afternoon. It was a fascinating discussion. The message that he first delivered us, even though we were in a situation where we had been adversaries for such a long time, we never knew each other. It was felt that was not good, we ought to get together, and we ought to have a dialogue. And I think we agreed that we want to have that dialogue, and not just a dialogue on weapons of mass destruction, but also on human rights within his country.

He talked about his decision to dismantle the weapon of mass destruction program and denounce terrorism, which was based solely on the self-interest of Libya. Our concern was not why Colonel Qadhafi has moved in that direction, but we ought to be thankful that he has decided to move in that direction. Colonel Qadhafi expressed a desire for the normalization of relationships between our countries, a desire for political economic ties, as well as cultural and student exchanges between Libya and the United States. It was a fascinating opportunity to get an insight into this man and into this country and to be part of perhaps history, to be part of a history that will be part of rewriting the chapter of relationships between the United States and Libya.

We then went on to Iraq. I have been to Iraq a number of times before in measuring the progress of what has been going on. There are a number of reasons that we ought to be pleased about the success that we are having, but as we go through this, I think it is important to recognize that there is still so much to do. There is no doubt that we are making progress on the economic side. There is no doubt that we are making progress on the political side. There is no doubt that we are making progress on the national security side, but the bottom line is there was so far to go.

Both Iraq and Afghanistan, remember, they had either been under the control of someone like Saddam Hussein for the last 30 years, a total destruction of the fiber within the country, the fiber of a civil society.

In Afghanistan, we have the same thing, which has been under control of the Taliban or the Russians for the last 10, 12 years, and as President Karzai told us, what little we had in terms of infrastructure and a civil society, what little we had was destroyed during the 1990s.

But we are now in the process of helping these countries rebuild a civil society, and by a civil society we mean there is a rule of law, that they understand the rules by which they as a society have agreed to live by; that they have an enforcement mechanism, and that they have a police force to monitor and enforce the laws and the rules that have been put in place; that they have a judiciary that can adjudicate disputes between the people in a peaceful way; and they also have the opportunity for representative government, and that they have an opportunity for transparent government bureaucracies.

What does that mean? It means that the people have a high degree of confidence that the actions that are going on in the institutions of government are free from corruption and are achieving the results to benefit the people of the nation and not a few of the rulers.

So we are working to establish a civil society in both Iraq and Afghanistan; and we are making progress, but do not underestimate the amount of work that needs to take place. Recognize how far these countries have to go, and recognize where they started from.

When this Nation was founded, we started with the Articles of Confederation, found out that they did not work the way that we wanted them to, and then we developed the current Constitution. When our Founding Fathers got together that second time to develop the Constitution as we now know it, it took them 4½ months to write it.

Afghanistan has just completed writing its Constitution and ratifying it. Hopefully they will be moving, and we are expecting that they will be moving towards elections this summer. It is a significant step forward and guarantees equal rights to men and women. Twenty-five percent of their new Parliament are guaranteed to be women by the nature of their Constitution.

In Iraq, we are asking this government to come up with a process for selecting the people who will write their Constitution. And then developing the Constitution, we are basically giving them right around 4 months to do that. It is important that we have an accelerated process, but we are asking these folks to do a lot in a very short period of time, and we are asking them to do it in a dangerous and difficult environment.

There are still folks out there who want to ensure that we do not have a civil society in Iraq and that we do not have a civil society in Afghanistan because they recognize that as the roots of a civil society take place, they will no longer be able to benefit at the expense of the larger population, and they realize that they will lose the power to intimidate the people of Iraq and Afghanistan. These were brutal rulers in both of these regimes, killing thousands of their own people. In Iraq, it is estimated that Saddam Hussein and his henchmen killed over 300,000. We are asking to provide an opportunity to move these societies to the rule of law, transparent government, functioning judiciaries, a functioning free press and an openness in their society.

There are a lot of statistics that are out, and I believe these are also available on various Web sites from the Pentagon, talking about the progress that we are making in Iraq, talking about the progress that we are making in the area of electricity, talking about the progress that we are making in the area of oil production, and talking about the progress that we are making in the area of education, opening schools, inspecting new schools, training teachers, having 1,500 secondary students participate in student exchange programs, talking about what is going on in health care, providing training to 2,500 medical staff by April 4. These are folks who for 20 years have been in isolation. There are all kinds of positive things that are going on that are helping to bring back a civil society in Iraq. We are making sure that we provide folks with basic human needs, including food and those types of things, telecommunications.

There is a lot of information about the progress that we are making, but I just want to share a few things that I think are maybe as indicative, if not more indicative, of the change that may be taking place in Iraq. Let me state again, there is a tremendous amount of work that still needs to take place in Iraq. There is a tremendous amount of work that still needs to take place in a relatively short period of time in a difficult environment with people who are committed to seeing not that the coalition fails, but that the folks in Iraq, the Iraqis who want to build a new nation, that they will fail. These are folks that are thrilled that they have been liberated and that America is there. They are thrilled that Saddam Hussein is gone.

The interesting story in Afghanistan is the most popular person, as President Karzai talked to us in Afghanistan, and he is a very popular President because he represents the move toward civil society in Afghanistan, but the most popular person in Afghanistan today is the American Ambassador to Afghanistan. President Karzai said it is a good thing your ambassador is not on the ballot because he might win.

The Iraqis and the Afghans are optimistic about the opportunity they have to create a new Iraq and create a new Afghanistan.

□ 1600

Like I said, one of the most moving parts of our trip was when we went to one of the police academies in Baghdad. Part of creating a civil society is to make sure that not only do you have the rule of law which is going to be developed in their constitution but that the person on the street recognizes that there is a rule of law and there is a mechanism to enforce that. Part of that is the police force. We all know that that is essential by what the folks who are opposed to the coalition and to a new Iraq have been doing over the last couple of months. They are no longer targeting Americans and coalition forces. Sure, they will take a shot at us if they see a vulnerability or an opening, but what they are now doing is they are attacking those folks that are helping to put together the pieces of a new Iraq. A critical part of that is the police force.

The week before we went to Iraq, there were a couple of just dramatic bombings, deadly bombings. Over 100 policemen or recruits were killed in two bombings. Each time we go on this trip and when we come home, we are committed to honoring the lives and the sacrifices of American and coalition forces in Iraq. What we also wanted to do this time is we wanted to extend our appreciation to the young men, and the young women, in Iraq who are stepping up and taking their place eagerly in the new Iraqi police force, recognizing that when they leave that academy they become the targets, because they are that link of the new Iraqis who are going to be putting together and enforcing and creating a civil society.

They are the targets for those that are opposed to our success. They recognize that in the last couple of weeks 100 of them had been killed. Just this past Monday, I believe, or this past weekend, there was another bombing, another seven policemen were killed. We met with these young recruits. They are going to go through 4 to 6 weeks of training. Some of them may be selected to go on for more advanced training. They will be the ones that in many cases will be patrolling the streets of Baghdad with coalition and American forces, to get additional training. We went there. Eloquently, the leader of our delegation, the gentleman from New York (Mr. BOEHLERT), expressed our appreciation and expressed our sympathy to these recruits in recognizing that 100 of their colleagues had died recently.

We then had the opportunity to go around and to talk to many of these recruits as they were lined up in formation, and we shook hands with probably over 200 to 250 of the 500 troops or the policemen that were assembled there. Universally, the message was consistent. You could see the energy, the enthusiasm and the excitement on their faces and in their eyes. They were excited about what they were doing. You could hear it by what they said, because the message consistently as they shook our hands was, thank you. Thank you. Thank you for being here. Thank you for liberating us from Saddam Hussein and thank you for coming to us and expressing your support for what we are doing and the training and the jobs that we have committed ourselves to and recognizing the sacrifice that Iraqis are paying in building a new Iraq.

And then as we moved past, as we shook their hands, they took their hand, placed it on their heart and moved it away, meaning the true sincerity by which they were expressing their words and their actions and their emotions. As we left and as we finished meeting with and talking with these recruits, they broke out into a spontaneous applause and cheer, recognizing the partnership and the kinship, although very few of them spoke English, but the partnership and the kinship that they felt with a congressional delegation from the United States and a police academy headed by a Brit that we all were on the same page, working and moving in the same direction of building a new and a free Iraq with a civil society and that we were united in the effort to fight terrorism in Iraq and Afghanistan.

We saw the same kinds of things as we went and drove the streets in Iraq, the actions of the kids as we walked by or as we drove by through the streets of thumbs up. They knew what it was like before. They know what it is like now. They can only anticipate. But they anticipate with eagerness what they see happening in the future.

I just want to share a few more things. One of the great things now about Iraq, it was a closed society for 30 years. There was a story of someone who was imprisoned. They asked him, there was a question as to, or there was somebody who wanted to help us, they said, well, he was a Baathist and these types of things and people were suspicious. But then he said, well, you know, I spent a year in jail, at which point in time it kind of perked the interest of some folks. They said, maybe this guy is all right. They said, why did you get into jail? He said, I badmouthed Saddam Hussein. I badmouthed Saddam Hussein to my best friend and my best friend told the authorities, and I ended up in jail.

That was the kind of Iraq that they saw for 30 years. So they eagerly anticipate going in places they have never been. In this new society, they are experimenting, and they are seeing things they never had before. Freedom of dissent, freedom to express opinions, access to technology they never had before, cell phones, satellites; and as soon as they have that, they have access to information they never had before, and in a very short period of time, they are now finding that many Iraqis are putting up their own Web pages, communicating in e-mails, talking about what it is like to be in a new Iraq, what they hope for in the future. Here is one story off one of the Web pages. Thursday, February 12, 2004:

Hi, friends. I received this e-mail from a Kurdish Iraqi who now lives in exile. I post this without any editing on my part. This has moved me.

This is an e-mail that someone gave to me and thought I would be interested in reading it.

For the love of our nation. I am a big fan of Iraq. I love it inch by inch from Zakho to al-Fao. I love Iraq's mountains. I love Iraq's desert. I love Iraq's big cities and small villages. I love Iraq's old and new music. I love Iraq's poetry. I love Iraqis' sarcastic sense of humor. I love Iraq's tea shops. In short, without Iraq, there is no me.

Born a Kurd in the breathtakingly beautiful North, I was taught as a child to speak, read and write both of Iraq's main languages, Kurdish and Arabic. Oh what a feeling it would be when one day I learn how to speak Assyrian and Turkish so that I could communicate with my Assyrian, Chaldean and Turkman brothers and sisters in their native language. I love the sound of the speakers at dawn when Iraqis are called to prayer, not because of my religious passion but because it is the practice of my people. I love the bells of the Iraqi churches on Sundays, not because of my Christian views or lack thereof but simply because of my Iraqiness.

You see, comrades, I would like to ask of you a small favor. I want you to please look at the word Iraq. Look at it. Now picture it on Ahmad Radhi's jersey. Picture it on the atlas. Picture it in the index of every book where civilization is mentioned. Picture it at the United Nations. Picture it on your passport. The secret is very simple. To love Iraq and Iraqis without exception is to not think of Iraq as Saddam Hussein, as those in favor of the occupation and those opposed to it. It is not to think of it as to whom Kirkuk belongs. But what's really beautiful about Iraq is the fact that it predates all of these things, not as a piece of land through which two rivers flow but as a civilization where the setting of the stage for all that human beings have accomplished began. That is Iraq and we are blessed to be members of this land that has fascinated the world in its entirety.

Why am I writing this? I am writing this because I see among us a bigger sense of division than unity. I see among us more feelings of resentment than those of joy. I see among us more anger than soberness. I see among us people like fanatic Kurds and people who instead of trying to understand them or convince them otherwise, they attack their people as if they have a mandate from the Kurds of Iraq.

In Kirkuk, Kurdish flags virtually crisscross the city. In response to the Kurdish obsession with their flag, the Turkmans have done the same with their flag. The Arabs of Kirkuk are virtually trapped in the middle of too much ethnic tensions. They have every right to Kirkuk just as the people of Dohuk have every right to Najaf as long as their desire for residency is on the basis of their Iraqiness rather than their Kurdishness or Arabness or Shiaism or Turkmanism. Yes, I am inventing these terms because they should not exist.

Am I boring you? Well, read on. There are 1 million Kurds living in Baghdad. That number is larger than the Kurds of Kirkuk, Sulaimania, Arbil and Dohuk, not combined but individually. What does that mean? In a democratic Iraq; that means 1 million votes. We are often deceived of hearing the Sunni center without considering the number of Kurds and Shia, not to mention Christian and Yezidi Iraqis that live in Baghdad and around Baghdad. We hear the Kurdish North without looking at Mozul, the second largest Arab city in Iraq after Baghdad. We hear of the Shia South without considering the Sunni, Kurds and Arabs that live all around the south from Basra to Hilla to Najaf to Karbala.

The bottom line is, Iraq is the land of the Iraqis. The groups that constitute our beautiful mosaic should be Iraqis before they are Kurdish, Arabic, Assyrian. Once an Iraqi government is established and the various Iraqi groups are given something to lose, they will naturally feel more Iraqi. Once we are sober and awakened, things will be different. Have faith in Iraq because there is no land on Earth that is more beautiful than Iraq. Behold, one little beautiful flower of new Mesopotamian nationalism blossoms. More will follow. Salaam.

There are all kinds of these. Let me go to the last one. This is interesting because one of the key issues about what is going to be happening in Iraq and Afghanistan and other parts of the Muslim world is what is going to happen to the women, will they have equal rights. Like I said, in Afghanistan 25 percent of the new parliament will consist of women. The women are guaranteed equal rights in the constitution, equal rights between men and women. It is a very, very positive statement. Here is another: "Iraqi Women Groups Take to the Streets."

Iraqi women representing 55 women groups and organizations from all over Iraq gathered at Fardus Square this morning to sign a petition against resolution 137 to demand equal rights and fair, unbiased representation, at least 40 percent, in the future Iraqi transitional council, governorate and municipal councils. Forty percent. They are not satisfied with what they got in Afghanistan with 25. They want at least 40 percent.

The sit-in was organized by the Supreme Council of Iraqi Women, the Advisory Committee for Women Affairs, and the Iraqi Women Network. Other noted women groups were present such as the Iraqi Contemporary Women Movement, Organization for Women Freedom in Iraq, Iraqi Hope Association, Independent Women Organization, Women's Union of Kurdistan, Kurdistan Free Women Movement, Iraqi Women Revival Organization, and the Iraqi Students and Youth Union. Over 55 different groups. Think of it, in a very short period of time, the number of organizations that are forming and learning how to participate in representative government. They will make mistakes, but they are going through a very constructive process. They are learning how to express their voice in a meaningful way that they have not had the opportunity to do.

Several women activists gave speeches. Planning Minister Dr. Mahdi Al-Hafudh shyly gave a brief word of support and signed the petition. It got interesting when a woman in a burqa showed up at the gathering with her three kids. Remember, this is all on their Internet, the Web pages. Reporters all stormed forward trying to interview her. Her husband was imprisoned for years by the former regime for political reasons, only to be executed in the end and for her to pay for the bullets. A very heart-rending story. She held his death certificate, as you can see in the pictures. She said, we didn't wait all these years without the most basic rights to be denied them now. An Arab reporter asked her if she was Sunni or Shiite.

□ 1615

Her quote: "'I'm neither,' she snapped at him. 'I'm an Iraqi citizen first and foremost, and I refuse to be asked such a question.'

"AYS, and I, skulked around Fardus square and took pictures. Omar joined us later. We signed the petition against Resolution 137 and the woman offered us a rose. If you want to sign it, there is an on-line petition which you can find at this site. Equality in Iraq. The petitions are to be submitted to Paul Bremer, and Kofi Annan later this week. Bremer has made it known that he will veto any law that will not recognize basic civil freedoms, but Resolution 137 is yet to be vetoed.

"You can find pictures of the gathering" as well.

Communication and representative government and participation is alive and well, as the other e-mail indicated and closed, "Behold, one little beautiful flower of new Mesopotamian nationalism blossoms. More will follow." Let us hope and pray that that is exactly what will happen in Iraq. There is a tremendous amount of work that has been accomplished in Iraq. There is a tremendous amount of work that has been accomplished in Afghanistan. There is a tremendous amount of work that needs to still occur for those flowers, additional blossoms, to bloom. But that is what we are working for so that these folks can have a representative government, a new and free Iraq and a new and free Afghanistan.

THE DISPARITIES IN WEALTH AND INCOME

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under the Speaker's announced policy of January 7, 2003, the gentleman from Vermont (Mr. SANDERS) is recognized for 60 minutes.

Mr. SANDERS. Mr. Speaker, as the only Independent in the House of Representatives, my views are a little bit different than many of my Democratic and Republican colleagues. So I want to share some thoughts today, thoughts that are not necessarily often expressed here on the floor of the House or often expressed, unfortunately, in our corporately controlled media. Also I would like to mention to Members of the House that if they need any further information on any of the issues that we are going to be discussing they can get it from our Web site which is www.Bernie.house.gov.

Mr. Speaker, the corporate media does not talk about it terribly much, and we do not talk about it terribly often here on the floor of the House, but the United States of America is rapidly becoming three separate nations. We are becoming a Nation which has an increasingly wealthy elite composed of a small number of people with incredible wealth and power. That is one part of our Nation. The other part of our Nation is a middle class, the vast majority of our people, and that part of our society is shrinking. Middle class is shrinking. The average worker in America is working longer hours for lower wages. And the third part of our society, the low-income people, what we are seeing is a substantial increase in poverty, and we are seeing millions and millions of the poorest people in this country struggling hard just to keep their heads above water. One America incredibly rich, another America working longer hours for low wages, another America struggling hard to make ends meet.

Mr. Speaker, there has always been a wealthy elite in this country. That is not new. And there has always been a gap between the rich and the poor. But the disparities in wealth and income that currently exist in this country today have not been seen since the 1920s. In other words, instead of becoming a more egalitarian Nation with a growing middle class, we are becoming a Nation with by far the most unequal distribution of wealth and income in the entire industrialized world. It is not England with its royalty. It is the United States of America which has the most unequal distribution of wealth and income of major countries.

Today, the wealthiest 1 percent of Americans own more wealth than the bottom 95 percent. The wealthiest 1 percent, yes, that is right, the wealthiest 1 percent own more wealth than the bottom 95 percent. The CEOs of our largest corporations now earn 500 times what their workers are making, while their employees are being squeezed, being forced to pay more for their health insurance, while pensions are being cut back for workers, while retiree benefits are being cut.

The CEOs of large corporations are making out like bandits. And I am not just talking about the crooks who ran Enron or WorldCom or Arthur Andersen. I am talking about the highly respected CEOs like the retired former head of General Electric, Jack Welch, who, when he retired in 2000, he received $123 million in compensation and a $10-million-a-year pension benefit for his lifetime, and meanwhile he cut back on the jobs that GE had in America and shipped substantial amounts of those jobs over to China and Mexico. But he did take good care of his own needs.

And I am talking about Lou Gerstner of IBM. He is the former head of IBM, who, from 1997 to 2002, received $366 million in compensation while slashing the pension benefits of his employees.

I am talking about people like C.A. Heimbold, Jr. of Bristol-Myers Squibb, who received almost $75 million in 2001 while helping to make it almost impossible for many seniors in our country to afford the outrageously high cost of prescription drugs.

Mr. Speaker, we do not talk about this issue enough, but we should, and that is that today the Nation's 13,000 wealthiest families, who constitute 1/100 of 1 percent of the population, a tiny, tiny percentage of Americans, receive almost as much income as the bottom 20 million families in the United States of America; 1/100 of 1 percent receive as much income as the bottom 20 million families. And I defy anyone to tell me that that is in any way fair or that is in any way what the United States is supposed to be.

New data from the Congressional Budget Office, the CBO, shows that the gap between the rich and the poor in terms of income more than doubled from 1979 to the year 2000. In other words, we are moving in exactly the wrong direction. The gap is such that the wealthiest 1 percent had more money to spend after taxes than the bottom 40 percent.

Mr. Speaker, according to data from the CBO, between 1973 and 2000, the average real inflation-accounted-for income of the bottom 90 percent of American taxpayers actually declined by 7 percent, the average worker seeing a decline. Meanwhile, the income of the top 1 percent rose by 148 percent. The income of the top 1/10 of 1 percent rose by 343 percent, and the income of the top 1/100 of 1 percent rose by 599 percent.

I know I am throwing out a lot of figures, and I suspect that I am boring some people, but the important point to be made here is the middle class is shrinking, and the people at the very top are doing extraordinarily well.

Mr. Speaker, when I was growing up, the expectation was that for someone in the middle class, that person in that family would be working 40 hours a week and would earn enough money to take care of the needs of a family. One person, 40 hours a week, earning enough money to take care of the whole family. I think, Mr. Speaker, we can all agree that that is no longer the reality for very many families in this country. What has happened is, because of the shrinking of the middle class, the decline in real wages, it is very rare indeed in my State of Vermont or in any State in this country that we see a situation in which both people in a marriage are not now forced to work, leaving kids at home or in child care.

In terms of what is happening to the middle class, we have lost over 3 million private sector jobs in the last 3 years, and with over 8 million workers unemployed, the unemployment rate today is at 5.4 percent. But I think we all know that that unemployment, the official unemployment statistic, very much understates the reality facing workers in America. Today if one is living in a high unemployment area, and if they have given up looking for work, they are not a statistic. If they are working part time and want to work full time, but there are no full-time jobs available, they are not a statistic. So the reality is that real unemployment is substantially higher than official statistics indicate.

In addition, of course, there are millions of Americans today with a college degree or higher education degrees who are working at jobs that require far less education than their abilities would provide.

Mr. Speaker, here is a point that I want to spend a little bit of time on: Importantly, over the last 3 years, of the 3.3 million private sector jobs that have been lost, over 2.8 million of those jobs were in the manufacturing sector. And one of the reasons for that is that we have a disastrous trade policy which almost tells corporate America, leave the United States of America, go to China, go to Mexico, go to some disparate Third World country where people are paid pennies an hour. That is what we want them to do.

The reality is that NAFTA has failed, our membership in the World Trade Organization has failed, and perhaps, above all, permanent normal trade relations with China has failed.

Mr. Speaker, the time is now, and it is long overdue for the United States Congress to stand up to corporate America, to stand up to the President of the United States, to stand up to the editorial writers all over this country who year after year after year have told us how wonderful unfettered free trade is, how many new jobs would be created. The results are in. They are wrong. Unfettered free trade has been a disaster for working Americans. It has been a disaster for the middle class. And it is high time we understood that. It is high time we ended our disastrous trade policies and begin to negotiate trade policies that work not just for corporate America, not just for CEOs who make huge compensation packages, but trade policies that are fair for the working people of this country.

Mr. Speaker, one of the issues that is not talked about enough, is not talked about enough, is a very simple question, and the question is this: If in the last 20 or 30 years we have seen an explosion of technology, if we have seen the development of sophisticated computers, we have seen the development of e-mail, we have seen faxes, we have seen cell phones, we have seen satellite communications, we have seen robotics in factories, we are a Nation which has experienced a huge increase in productivity.

□ 1630

My question is, if the average worker today is far more productive than he or she was 20 years ago, why is that worker not working shorter hours and earning more money, rather than, in fact, working longer hours and earning less money? Why is it that in 1973 the average American worker in inflation-accounted-for wages made $14.09 an hour, while in 1998 he or she made only $12.77 an hour? There is something wrong when productivity is exploding and workers are earning less in real wages.

In terms of manufacturing, we have, unbelievably but true, we have in the last 3 years lost 16 percent, 16 percent, of the jobs in our manufacturing sector. At 14.3 million jobs, we are at the lowest number of factory jobs since 1950, since 1950. In my own State of Vermont, one of the smallest States in this country, we have lost some 9,300 manufacturing jobs since 2001. And here is the tragedy: We are not, when we lose manufacturing jobs, just losing jobs; we are losing good-paying jobs. In Vermont, for example, on average, someone working in manufacturing makes over $42,000 a year. That is a decent income. And when that employee loses his or her job, in almost every instance the new job that is acquired pays less than the job that has been lost and provides lower benefits.

So when we look at the economy, as important as it is to look at the rate of unemployment, it is equally important to look at the jobs that are being lost and what they paid and the new jobs that are being created and what they pay.

In that regard, a recent study by the Economic Policy Institute showed that in 48 out of our 50 States, more good-paying jobs were lost than were created. Nationally what they discovered is that new jobs created paid 21 percent less than the jobs that were being lost. We are losing decent-paying manufacturing jobs, good benefits; we are growing low-wage service industry jobs, poor benefits. In my State of Vermont, those numbers are higher. The new jobs being created are 29 percent less than the jobs we are losing.

Now, when we talk about the economy, the $64 question on everybody's mind should be, what is going on for the future? What is going on for the future? Will the new jobs that are being created for our kids and our grandchildren be challenging jobs, be important jobs, be jobs that provide them with a middle-class standard of living? Those are the questions that parents are asking all over America; what kind of jobs will be available for our kids or our grandchildren?

Every 2 years the Bureau of Labor Statistics does a study, and what their study is about is to project and to study what new jobs will be created in largest numbers over the next 10 years. They just completed a study covering the years 2002 to 2012. In other words, the question is, in what occupations are we going to see the most job growth, and what occupations will we see the least job growth?

Let me quote from Business Week as to what the results of that study showed: "According to a forecast released February 11 by the Federal Bureau of Labor Statistics, a large share of new jobs will be in occupations that do not require a lot of education and pay below average." Pay below average. That is what is being projected in terms of new jobs for our kids.

Think for a moment. All of this technology, all of this emphasis on education, and the new jobs that are going to be created pay below average. Of the 10 occupations that are expected to grow the most, only 2 would require a bachelor's degree; 1 of those 10 jobs requires an associate degree, 7 require a high school degree.

So the conclusion there, the reality there, is that many of the new jobs being created for the future are waiters jobs and waitresses jobs, food preparation jobs, customer service representatives, jobs that require on-the-job training, jobs that do not require a college education and jobs that are low wage.

In other words, Mr. Speaker, it tells us that a profound lie is being perpetrated on the American people. It tells us that unless we change our public policies very quickly, the middle class will continue to shrink, and the jobs being created for the coming generations will, by and large, be low-wage, unskilled work. That is not the America that I want to see for our kids or grandchildren, nor do I think that is the America that most Americans want to see.

Now, Mr. Speaker, when we talk about the decline of manufacturing, when we talk about the loss of decent-paying jobs to China and other countries, let us understand that this year alone the United States has had a $500 billion record-breaking trade deficit, $500 billion more in goods and services than we are sending out.

In 2003, the trade deficit with China alone, one country, was $120 billion, and that number is projected to increase in future years. In fact, the National Association of Manufacturers estimates that if present trends continue, our trade deficit with China will grow to $330 billion in 5 years. I hope those Members of Congress who told us how great most favored nation status with China would be, how great permanent normal trade relations would be, hear those numbers. $120 billion trade deficit today. The expectation is that in 5 years that number will be $330 billion.

Mr. Speaker, our disastrous trade policy is not only costing us millions of decent-paying jobs, it is squeezing wages. It is squeezing wages, because companies have now the opportunity to easily go to Mexico or to China. They are putting the squeeze on American workers, and they are saying if you do not take cuts in wages, if you do not put more into your own health care package out of your own pocket, we are going to be going.

This trend of wage squeezing is most apparent and most dramatic among people who only have a high school diploma who are now going out into the labor market. They are seeing a huge decline in wages today compared to what the case was 20 years ago, and the reason for that is obvious; 20 or 30 years ago there were factory jobs available that enabled high school graduates to earn a middle-class standard of living. Today those jobs are gone, and they are only available at McDonald's, at Wal-Mart, and people cannot make it on those wages.

I think, Mr. Speaker, if I were to summarize what is happening in our economy today, I think the easiest way to do it would be to point out that not so many years ago General Motors was the largest employer in America. General Motors, with a strong union, paid its workers and pays its workers today a living wage, good wages, good benefits.

But today, Mr. Speaker, the largest employer in the United States of America is Wal-Mart, not General Motors. That is the transition, from a GM economy of good wages, to a Wal-Mart economy of poverty wages. Today Wal-Mart employees earn $8.23 an hour, or $13,861 annually, wages which are below the poverty level. That is what is going on in the American economy. Our largest employer now pays workers wages that are below the poverty level.

Ironically, and pathetically, many of these workers qualify for Federal food stamp programs, which means that Wal-Mart is being directly subsidized by U.S. taxpayers. Wal-Mart, our largest employer, has been sued by 27 States for not paying the overtime pay their workers are entitled to, and some months ago Federal agents raided their headquarters and 60 of their stores across this country, arresting 300 illegal workers in 21 States. That is our largest employer.

A recent study, and this is really incredible and an issue that I intend to move vigorously on, a recent study indicated that for every Wal-Mart Super

Store that employed 200 workers, taxpayers were subsidizing these low-paid workers to the tune of $420,000 per year, which equates to about $2,100 per employee. Can you believe that? Wal-Mart salaries and benefits are so low that taxpayers throughout this country have got to provide health care benefits and food stamp benefits and housing benefits to supplement the pathetically low wages that Wal-Mart, our largest employer, is providing.

Now, here you add insult to injury, Mr. Speaker. It turns out that while the taxpayers of this country, the middle class of this country, is subsidizing Wal-Mart, 5 out of the 10 wealthiest people in America are in, yes, you got it right, the Walton family, and the widow of Sam Walton as well. So these five people who own Wal-Mart are some of the wealthiest people in America. Each of them is worth about $20 billion. Five people owning Wal-Mart, $20 billion apiece, $100 billion for one family, and, guess what? The middle class of America is subsidizing their employees because they are paying their workers poverty wages.

Now, if that makes sense to somebody, please give my Web site an e-mail. You tell me, www.Bernie.house.gov. If that makes sense to you, you e-mail that to me. That is what the transformation of the American economy is all about, the loss of good-paying jobs, the creation of poverty-wage jobs.

Mr. Speaker, not only has permanent normal trade relations with China been a disaster, but so has NAFTA. We have an increased trade deficit with Mexico. We have lost many, many jobs to Mexico. The irony there is that people might think, well, you know, NAFTA was bad for workers in the United States, but maybe it helped the poor people in Mexico.

Well, think again. Think again. NAFTA has been a disaster for the poor and working people of Mexico. Since 1994, when NAFTA went into existence, the number of people classified as poor or extremely poor has risen from 62 million to 69 million out of a population of 100 million. Since 1994, Mexico's agricultural sector, their rural area, has lost 1.3 million jobs, which is one of the reasons that we are seeing an increase in illegal immigration.

Frankly, Mr. Speaker, it did not take a genius to predict that unfettered free trade with China would be a disaster, which is why I and many other Members in the House have opposed it from the beginning. When you have disciplined, educated people in China available to work at 20 or 30 cents an hour, and with corporations having the capability of bringing their Chinese-made products back into this country tariff-free, why would American corporations not shut down their plants in this country and run to China?

□ 1645

It did not take a genius, frankly, to anticipate that that would occur.

Now, Mr. Speaker, General Electric is one of the largest corporations in America, and here is what their CEO Jeffrey Immelt had to say about China at a GE investor meeting on December 6, 2002, and I put it up here on this chart. I think it is so important that the American people really should take a strong look at this statement from the leader, from the CEO of one of the largest corporations in America, and here is what he said: "When I am talking to GE managers," GE is a conglomerate, they have many separate companies, "When I am talking to GE managers, I talk China, China, China, China, China. You need to be there." And then he continues: "I am a nut on China. Outsourcing from China is going to grow to $5 billion. We are building a tech center in China. Every discussion today has to center on China. The cost basis is extremely attractive."

In other words, what Mr. Immelt is saying very directly, and virtually every other corporate head is saying, maybe not quite as overtly, is we are packing up, folks, and we are leaving. Why should we pay American workers 15 or 20 bucks an hour? Why should we allow unions to be formed? Why should we obey environmental regulations when we can go to China and have a workforce in which if workers there try to form a union, they go to jail. If they speak up for democratic rights, they go to jail. If they want environmental protection or worker safety, they go to jail. What a fantastic place for Mr. Immelt and his other CEO friends to move to, and that is precisely what they are doing. They are selling out the working people of this country; they are selling out this country entirely.

Should anybody be surprised that Motorola eliminated almost 43,000 American jobs in 2001 while investing over $3 billion in China, or that it plans to invest $10 billion there by the year 2006? Think about your State. Think about your community. Is Motorola building a new factory there? No, they are not. They are off in China.

Who would be shocked that General Electric has thrown hundreds of thousands of American workers out on the street while investing $1.5 billion in China? From 1975 to 1995, GE eliminated 269,000 jobs; and on and on it goes.

IBM signed deals to train 100,000 software specialists in China over 3 years. Honeywell is moving rapidly to China. Should anyone be surprised that they have built 13 factories in China, or that Ethan Allen furniture has cut jobs at saw mills in America and 17 manufacturing plants, including the State of Vermont, as they move furniture manufacturing to China? And recently, Mr. Speaker, and this is very alarming, very alarming news, General Motors, one of the largest corporations in America, they have announced that they will be investing billions of dollars in China in order to build and manufacture automobile parts. Will this be the beginning of the end of the automobile industry? Will the automobile industry follow so many of the other industries as it shrinks and shrinks, and as our jobs go abroad, good-paying jobs?

Mr. Speaker, as I think many Americans know, just several weeks ago, the chairman of the President's Economic Council, President Bush's economic adviser made the outrageous statement that outsourcing in the long run is good for the United States. Outsourcing is good for the United States. And their report suggested that if products can be built cheaper in other countries, why, that is where they should be manufactured. What a disgrace. So workers who are making today 15 or 20 bucks an hour, well, yes, the products that they manufacture are going to be costing more to produce than when they are made in China by workers making 20 cents an hour. And the President's chief economic adviser says, well, that is where they should be manufactured. I think that is beyond comprehension.

Now, Mr. Speaker, as bad and as frightening and as disastrous as the decline of manufacturing is in the United States, there is another trend which is taking place which might even be more frightening. Now, over the years, from the first President Bush to President Clinton to this President Bush, from corporate America, from newspaper editorials, from defenders of our trade policy here on the floor of the House, what they told us is they said, well, yes, in free trade, unfettered free trade, there are winners and there are losers. Yes, we might lose some of those blue collar factory jobs; but do not worry, America, because while we lose those blue collar factory jobs, we are going to be creating new white collar information technology jobs that pay people much higher wages than those blue collar jobs that we are losing. That is what they told us.

Unfortunately, as the American people are beginning to learn big time, the advocates of unfettered free trade are wrong again. We now know that blue collar manufacturing jobs are not the only casualty of unfettered free trade. We now know that we are going to see and are seeing the loss of hundreds and hundreds of thousands of good-paying white-collar information technology jobs, many of them going to India and other countries.

According to Forrester Research, a major consultant on this issue, they said, "Over the next 15 years, 3.3 million U.S. service industry jobs, $136 billion in wages, will move offshore." The information technology industry will lead the initial overseas exodus. Among many other companies moving high-tech jobs abroad is Microsoft, which is spending $750 million over the next 3 years on research and development on outsourcing in China.

Recently, Intel Corporation chairman Andy Grove warned that the U.S. could lose the bulk of its information technology jobs to overseas competitors in the next decade, largely to India and China. In other words, Mr. Speaker, not only has our unfettered free trade cost us much of our textile industry, our footware industry, our apparel industry, our steel industry, our tool and die industry, our electronics industry, our furniture industry, and many other industries. It is now going to cost us millions of high-tech jobs as well.

Mr. Speaker, just last week, I sat down in my office with eight workers from the State of Vermont who work for National Life Insurance Company, and they told me that their jobs and the jobs of many of their colleagues will soon be going to India, and that in the near future, they will be sitting next to Indian workers and training them on how to do their jobs. And that is what is happening throughout America. Corporate America is selling out not only blue collar workers; they are selling out white collar workers.

According to the University of California at Berkeley Business School, let me quote from a study that came out on October 29, 2003. This is the University of California Berkeley Business School: "A ferocious new wave of outsourcing of white collar jobs is sweeping the United States," according to a study published by the University of California Berkeley researchers who say the trend could leave as many as 14 million service jobs in the United States vulnerable. The study also indicates that jobs remaining in the U.S. could be subject to pressure for lower wages.

And why would that be? Well, here are some comparisons between wages in the U.S. and India where a lot of these high-tech jobs are going. In the U.S., a telephone operator earns $12.50 an hour; in India, less than a dollar an hour. A payroll clerk in the U.S. averages $15 an hour, while in India that person makes less than $2 an hour. So what we are beginning to see, what we are beginning to see in occupations such as medical transcription services, stock market research for financial firms, customer service centers, legal online database research, payroll and other back-office activities, what we are now seeing is those jobs, often good-paying jobs, are also heading out of this country.

Now, Mr. Speaker, let me be very clear on several issues. I am not anti-Chinese. I am not anti-Indian. I am not a xenophobe. I am an internationalist. I am more than aware that 1 billion people on this planet live on less than a dollar a day, and I think that the United States and the other countries in the industrialized world have a moral obligation to do everything that we can so that children get the education they need in developing countries, people get the health care and the prescription drugs that they need, that the water that people drink around the world is drinkable. That is our moral obligation. But in order to help poor people around the world, we do not have to destroy the middle class of this country. There are other ways to do that. And ironically, many of these neo-liberal-type approaches are being rejected in Latin America and many other countries around the world because they are not working. The IMF approach, the World Bank approach are being rejected in country after country where governments are being forced to cut back on education, health care, and food subsidies. People do not want to see foreign companies coming in, driving out locally owned manufacturing and their locally owned business.

So the issue is not, do we help poor people around the world. We do. But do we do it in ways that do not destroy the middle class in this country, and I think we can.

The bottom line, Mr. Speaker, is we have got to end the race to the bottom. The goal of our economic policy should be to lift up poor people in the world, not lower the standard of living of American workers. And, Mr. Speaker, that is why, among other things, I have introduced legislation which would terminate, end completely, permanent normal trade relations with China. Trade in itself is a good thing, but it is only a good thing when it works for both sides. The New York Yankees do not trade their number one shortstop for a third-string, minor leaguer and say, well, that is just trade. You trade for equal value. And I believe that the United States has got to negotiate trade agreements with China, India, any country on Earth that work for them and work for us, but that are not one-sided, that work only for the CEOs of large corporations and work against the best interests of the middle class in this country.

Mr. Speaker, when we talk about what is happening to the middle class, when we talk about the loss of decent-paying jobs, when we talk about the growing gap between the rich and the poor, we should also mention something that rarely, rarely gets discussed on the floor of this House.

□ 1700

That is, that the American worker today is now working longer hours than the worker in any other industrialized country. Over the last 30 years, workers in middle-income, married-couple families with children have added an average of 20 weeks at work, the equivalent of 5 more months. Most of the increase comes from working wives, many more of whom entered the labor market over this period, adding more work, more weeks per year and more hours per year; in fact, middle-incomewise adding close to 500 hours of work per year between 1979 and 2000.

Mr. Speaker, in my State and I believe all over this country, the American people are physically exhausted. They are stressed out because they are working not one job in many instances, but two jobs, occasionally three jobs. According to statistics from the International Labor Organization, the average American last year worked 1,978 hours, up from 1,942 hours in 1990. That is an increase of almost 1 week of work per year. People are working today in order just to earn enough money to pay the bills, and they are becoming exhausted.

Mr. Speaker, I have talked a little bit about what is going on with the middle class and the conversion of our economy from a growing and strengthened middle class, where we did things like manufacture real goods, to a shrinking middle class, where Wal-Mart is now our major employer, but let me now talk about the people who are not even in the middle class, people who are low income. We have got to ask a question about what is happening to the 11 million Americans who are trying to survive on the pathetic minimum wage of $5.15 an hour which exists here in the Congress.

Now, can one imagine at that time, when the President of the United States and the Republican leadership have provided hundreds of billions of dollars in tax breaks to the wealthiest 1 percent, there has not been one word of discussion about raising the minimum wage to a living wage? Tax breaks for billionaires, but allow millions of low-income workers to try to make ends meet on $5.15 an hour? What an outrage.

Mr. Speaker, when we look at our national priorities, we have got to recognize the national shame that in America today poverty is increasing, and we have by far the highest rate of childhood poverty of any major country on Earth. We are a Nation that gives tax breaks to billionaires, but we have 3.5 million people who will experience homelessness in this year, 1.3 million of them children. What kind of priorities is that? What kind of priorities do we establish when millions of senior citizens in America today are unable to afford the outrageously high cost of prescription drugs?

What about veterans, men and women who have put their lives on the line defending this country? Those veterans today, if they walk into a VA hospital or clinic, will more likely than not be placed on a waiting list. Tax breaks for billionaires, but we cannot keep our promises to the veterans of this country, many of whom came back from war wounded in body and wounded in soul, and now this President is attempting to raise premiums for our veterans, attempting to raise the cost of prescription drugs for our veterans. What sense of decency is that? What kind of priorities are that when you say, yeah, if you are a millionaire or a billionaire, we give you a tax break, but if you are a veteran who put your life on the line defending this country, sorry, we just do not have enough money to take care of you?

Mr. Speaker, when we talk about the health care crisis in America, obviously it goes well beyond the problems facing our veterans. We have got to be honest and we have got to acknowledge that our health care system today is in a state of crisis, and we have a lot of information on that issue and on prescription drugs on our Web site, which is www.Bernie.house.gov. The reality in terms of health care is that today 43 million Americans have no health insurance at all, and more and more people are underinsured, higher and higher premiums, higher and higher copayments and higher and higher deductibles.

Mr. Speaker, to my mind, the only solution to the growing crisis in health care, the escalating costs, the fact that more and more people are uninsured or underinsured, is for the United States Government to do what every other industrialized country on Earth has done, and that is establish a national health care system which guarantees health care as a right of citizenship to every man, woman and child. It is morally unacceptable that when a worker loses his or her job, that worker can find himself without any health care, and if injury occurs or an accident occurs, that person can go bankrupt paying off the medical bills, see their credit destroyed and, in some cases, never, ever recover financially from those health care bills.

Either health care is a right of all people, or it is not. Either we provide the best health care in the world to the rich, or we say that everybody in America should have health care through a nonprofit, cost-effective, national health care system.

The irony here, Mr. Speaker, is that some people say, well, that is a great idea, good idea, everybody should have health care; we cannot afford it. Wrong. Our system or our nonsystem today is by far the most wasteful and bureaucratic in the entire world. Mr. Speaker, we spend twice as much per person on health care as do the people of any other country on Earth. It is not that we are not spending enough money, it is that this is a system geared toward profit-making for the insurance companies and for the pharmaceutical industry rather than in providing cost-effective quality care to all of our people.

Study after study have shown that if we move toward a single payer national health care program, we can provide good quality health care to every man, woman and child without spending a nickel more than we are currently spending because we are going to get rid of all of the bureaucracy, and all of the bill collectors, and all of the advertising and all of the CEOs making exorbitant salaries. We are going to put health care dollars into health care.

Some people may say, well, Bernie, you know, good idea, but you are way out of touch with the American people; they like the current system. Wrong. Absolutely wrong. A recent ABC poll indicated that 62 percent of our population said that they would favor a system of universal health care financed by the government, paid for by the taxpayers, as opposed to the employer-based system we now have.

The American people want change. They are tired of this irrational, wasteful, bureaucratic health care system which is causing so much pain in America where elderly people cannot even fill the prescriptions their doctors are making, and President Bush's Medicare proposal is not going to help them; where people today are getting sick, and they cannot walk into a doctor's office because they cannot afford the deductible, and some of those people are dying; where doctors now are telling us that the patients they are seeing are far sicker than used to be the case because people just do not have health insurance.

Mr. Speaker, given the very serious problems facing our country, and especially the middle class, it is appropriate, I think, to ask what President Bush and his administration have done to address some of those problems. What are their priorities? What are they doing to increase wages in America, to expand the middle class, to lower poverty, to make sure that all of our Americans get the health care that they need? I found it ironic that when the President gave his State of the Union Address, he had almost nothing to say about health care, almost nothing at all, and the reason is that he is not doing anything on health care, that he is tied to the insurance companies and the drug companies who make huge contributions for his campaign, for the Republican Party, and, in fact, they are not prepared to address the very serious problems facing the middle class of this country.

Not only has the President and the Republican leadership provided hundreds of billions of dollars in tax breaks for millionaires and billionaires, people who contribute heavily to their campaigns, they are making it now more difficult for workers to join unions and earn higher wages. They have incredibly pushed an agenda which would deny overtime pay to some 8 million Americans. Now at a time when workers are forced to work longer and longer hours, and many of their income depend on that overtime pay, the President wants to deny some 8 million Americans the overtime pay that they are getting today.

Interestingly enough, we are seeing some bipartisan concern about the rapidly escalating deficit, which this year will be over $500 billion, and our national debt, which is now at $7 trillion. Some of you may have heard the other day that Alan Greenspan, the Chairman of the Fed, he has a response to this growing deficit. Greenspan, who supported hundreds of billions of dollars in tax breaks for the wealthiest people, who supported the President's tax proposal, which in a decade will cost us $1 trillion, he has a solution to the problem. His solution is let us cut Social Security, let us cut Medicare. In other words, tax breaks for billionaires, run up a deficit, and then you deal with the deficit crisis by cutting back on the cost-of-living increases for our seniors in Social Security and in Medicare and making the retirement age when people receive Social Security later and later. I think that is an outrage.

That is why I have asked the President, who appointed Mr. Greenspan to his position, that is why I have asked the President to fire Mr. Greenspan. You do not support policies which give huge tax breaks to the rich, run up the deficit and then tell the elderly and the sick that they are the ones who will have to balance the budget.

We should be very, very clear that these tax breaks, not only are they, in my view, immoral in terms of providing scant resources to people who do not need them, while we have children sleeping out on the street, but, in fact, what they are doing is leaving a terrible legacy for our children and our grandchildren. Think for a moment about the morality of tax breaks for people who do not need it today and telling our kids and grandchildren that they are going to have to pay off that debt either in higher taxes or in cuts in such programs as education, veterans' needs, affordable housing and many other needs facing the middle class.

But, Mr. Speaker, let me tell you something else. I think that there is more behind this than one would initially think, and I think that there is really an ulterior motivation in driving up this deficit, in driving up the national debt, and I think we heard Mr. Greenspan tell us what it is. If this President drives up the national debt, what we will be hearing in years to come is we cannot afford to retain those government services which protect the middle class, protect the seniors, protect the sick, protect the children, protect low-income people.

□ 1715

In my view, Mr. Speaker, this President is the most extreme, reactionary President in the modern history of this country. And I think that he and his right wing friends want to bring us back to the 19th century, when ordinary people had almost no rights at all. I think behind their driving up the national debt is their desire to cut back and eliminate one program after another which the middle class and working families of this country depend upon.

Greenspan now says, well, let us lower COLA benefits for seniors. Let us raise the retirement age. Ultimately, in my view, and I speak only for myself, I think they want to destroy Social Security completely and privatize it. And then, if they are successful, the day will come where if you are a senior citizen and you do not have a lot of money and you did not invest well, or the stock market goes down, you know what, you do not have anything.

I think they want to privatize Medicare, not just cut back. And if they are successful in doing that, what happens if you are a low-income senior who is quite sick? Do you think there are private insurance companies who are going to provide benefits to you? Why? They cannot make any money out of you.

These people want to eliminate the minimum wage. There are dozens and dozens, if not a majority of Republicans on the floor of the House, and Alan Greenspan, I should add, who not only do not want to raise the minimum wage above $5.15 an hour; they want to abolish the minimum wage. Their belief is that if an employer can get somebody to work for them for $2 an hour, government should not be involved.

There are people who want to weaken environmental standards so that our children have to breathe more and more pollution.

Mr. Speaker, let me conclude my remarks by suggesting that if any of the Members here want more information on any of these issues they can find it on my Web site, bernie.house.gov.

TRIBUTE TO ELIZABETH BENSON FORER

The SPEAKER pro tempore (Mr. PEARCE). Under a previous order of the House, the gentlewoman from California (Ms. WATSON) is recognized for 5 minutes.

Ms. WATSON. Mr. Speaker, I stand to commend a great citizen and a contributing member to the betterment of family life in the greater Los Angeles area. Her name is Elizabeth Benson Forer. She is the chief executive officer and executive director of the Venice Family Clinic.

The Venice Family Clinic is the largest free clinic in the Nation, providing services to 18,500 people in 93 patient visits. Ms. Forer joined the clinic in 1994, and under her leadership, board, staff, and volunteers have doubled the clinic's capacity and capabilities. The budget has gone from $5 million to $14 million and additional sites have been added. Sites most recently in place include a teen clinic on the campus of Culver City High School, a primary care facility located at Mar Vista Gardens, and a public housing project, all sites that she founded.

Ms. Forer holds a Master's degree in Social Work and Public Health from Columbia University. Prior to coming to the Venice Family Clinic, she served for 5 years as executive director of Settlement Health and Medical Services, a nonprofit community health center in east Harlem, New York. She also directed a department at the Metropolitan Hospital in New York City, where her mission was to make the hospital more accessible to local residents.

As Venice Family Clinic's CEO and executive director, she reports to the board of directors, which guides the development of services and fund-raising. She also is responsible for the administration of the clinic's 220-member staff and 1,900 volunteers.

Ms. Forer is currently a board member of the Community Clinic Association of Los Angeles County and the secretary and founding board member of the National Association of Free Clinics. Through these organizations and her direct advocacy work, Ms. Forer is involved at the local, State, and national levels in developing health care legislation and policy initiatives that will help people with low incomes and no health insurance.

Mr. Speaker, I commend Elizabeth Benson Forer for her commendable works and her commitment to families in our greater Los Angeles area.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 5 o'clock and 20 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2005

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. PEARCE) at 8 o'clock and 5 minutes p.m.

SURFACE TRANSPORTATION EXTENSION ACT OF 2004

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that the Committee on Transportation and Infrastructure, the Committee on Ways and Means, the Committee on Science, and the Committee on Resources be discharged from further consideration of the bill (H.R. 3850) to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

Mr. OBERSTAR. Mr. Speaker, reserving the right to object, I simply observe that there is included in this legislation a 2-month extension of the existing 5-month extension of the surface transportation program that will carry us through April 30.

I would ask the chairman, is that right?

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Speaker, that is correct.

Mr. OBERSTAR. Further reserving the right to object, the importance of our action here is that without this extension, the current law expires on February 29 at midnight, and that would mean that without this extension of the 5-month extension, Federal Highway Administration employees would be furloughed, Federal Motor Carrier Safety Administration employees would be furloughed, some of the Federal Transit Administration employees would be furloughed, and actions by the States submitted to the Federal Government for funding of projects already under way or completed could not be approved, so State programs would come to a halt and the Federal Government would not be able to reimburse States after February 29. Is that correct?

Mr. YOUNG of Alaska. That is correct.

Mr. OBERSTAR. Mr. Speaker, I yield to the chairman for any further explanation he may have.

Mr. YOUNG of Alaska. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this House passed H.R. 3783, the Surface Transportation Extension Act of 2004, which provide for a 4-month extension of the highway construction, highway safety, transit, motor carrier and surface transportation research programs.

This bill provides for a 2-month extension, and includes the best provisions of the House bill and also some provisions sought by the other body. This bill is a bipartisan effort.

I hope this breaks the logjam that is currently in place. I can say to the gentleman from Minnesota, he and I know we should have had the 4 months, but the other body is insisting on 2 months. We made it as clean as possible, and they insisted on 2 months. So now we can possibly get this logjam finished so we can finish this legislation that is crucially important.

I do thank the gentleman for his cooperation on this issue. I am sorry we kept everybody here late tonight; but I cannot run the other body, as much as I would like to. Now we have to get this done so we do not stop our highway programs.

Mr. Speaker, I urge my colleague to help me out and pass this legislation that is badly needed.

Mr. OBERSTAR. Mr. Speaker, further reserving the right to object, I very much appreciate the words of the chairman. Of course, the House has spoken on this subject, but so has the Senate; and we are now doing the practical thing, what we can do, and that is to extend the program for another 2 months, which we know is likely to be revisited before the end of April.

However, this will give us time to proceed with the legislation pending in our committee and that we have been working on in a bipartisan fashion to do the right thing, to carry the surface transportation program forward and carry T-LU into the future.

So, again, I say to my colleagues on this side of the aisle, this is a bipartisan product. We are fully satisfied that the law is fully complied with, that there are no surprises in this legislation, that it is a straightforward extension of the extension, and we have no objection.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3850

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Surface Transportation Extension Act of 2004”.

SEC. 2. ADVANCES.

(a) IN GENERAL.—Section 2(a) of the Surface Transportation Extension Act of 2003 (23 U.S.C. 104 note; 117 Stat. 1110) is amended by inserting “and the Surface Transportation Extension Act of 2004” after “as amended by this Act”.

(b) PROGRAMMATIC DISTRIBUTIONS.—

(1) ADMINISTRATION OF FUNDS.—Section 2(b)(3) of such Act (117 Stat. 1110) is amended by striking “the amendment made under subsection (d)” and inserting “section 1101(c) of the Transportation Equity Act for the 21st Century”.

(2) SPECIAL RULES FOR MINIMUM GUARANTEE.—Section 2(b)(4) of such Act is amended by striking “$1,166,666,667” and inserting “$1,633,333,333”.

(3) EXTENSION OF OFF-SYSTEM BRIDGE SET-ASIDE.—Section 144(g)(3) of title 23, United States Code, is amended by striking “February 29” inserting “April 30”.

(c) AUTHORIZATION OF CONTRACT AUTHORITY.—Section 1101(c)(1) of the Transportation Equity Act for the 21st Century (117 Stat. 1111) is amended by striking “$13,483,458,333 for the period of October 1, 2003, through February 29, 2004” and inserting “$18,876,841,666 for the period of October 1, 2003, through April 30, 2004”.

(d) LIMITATION ON OBLIGATIONS.—Section 2(e) of the Surface Transportation Extension Act of 2003 (117 Stat. 1111) is amended to read as follows:

“(e) LIMITATION ON OBLIGATIONS.—

“(1) DISTRIBUTION OF OBLIGATION AUTHORITY.—Subject to paragraph (2), for the period of October 1, 2003, through April 30, 2004, the Secretary shall distribute the obligation limitation made available for Federal-aid highways and highway safety construction programs under the heading ‘FEDERAL-AID HIGHWAYS’ in the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004 (division F of Public Law 108–199) in accordance with section 110 of such Act; except that the amount of obligation limitation to be distributed for such period for each program, project, and activity specified in sections 110(a)(1), 110(a)(2), 110(a)(4), 110(a)(5), and 110(g) of such Act shall equal the greater of—

“(A) the funding authorized for such program, project, or activity in this Act and the Surface Transportation Extension Act of 2004 (including any amendments made by this Act and such Act); or

“(B) 7⁄12 of the funding provided for or limitation set on such program, project, or activity in the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004 (Public Law 108–199).

“(2) LIMITATION ON TOTAL AMOUNT OF AUTHORITY DISTRIBUTED.—The total amount of obligation limitation distributed under paragraph (1) for the period of October 1, 2003, through April 30, 2004, shall not exceed $19,741,750,000; except that this limitation shall not apply to $372,750,000 in obligations for minimum guarantee for such period.

“(3) TIME PERIOD FOR OBLIGATIONS OF FUNDS.—After April 30, 2004, no funds shall be obligated for any Federal-aid highway program project until the date of enactment of a law reauthorizing the Federal-aid highway program.

“(4) TREATMENT OF OBLIGATIONS.—Any obligation of obligation authority distributed under this subsection shall be considered to be an obligation for Federal-aid highways and highway safety construction programs for fiscal year 2004 for the purposes of the matter under the heading ‘FEDERAL-AID HIGHWAYS’ in the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004.”.

SEC. 3. TRANSFERS OF UNOBLIGATED APPORTIONMENTS.

Section 3 of the Surface Transportation Extension Act of 2003 (117 Stat. 1112–1113) is amended by adding at the end the following:

“(e) PROHIBITION OF TRANSFERS.—Notwithstanding any other provision of this section, no funds may be transferred after February 29, 2004, by a State under subsection (a)—

“(1) from amounts apportioned to the State for the congestion mitigation and air quality improvement program; and

“(2) from amounts apportioned to the State for the surface transportation program and that are subject to any of paragraphs (1), (2), and (3)(A)(i) of section 133(d) of title 23, United States Code.”.

SEC. 4. ADMINISTRATIVE EXPENSES.

Section 4(a) of the Surface Transportation Extension Act of 2003 (117 Stat. 1113) is amended by striking “$187,500,000” and inserting “$262,500,000”.

SEC. 5. OTHER FEDERAL-AID HIGHWAY PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS UNDER TITLE I OF TEA–21.—

(1) FEDERAL LANDS HIGHWAYS.—

(A) INDIAN RESERVATION ROADS.—Section 1101(a)(8)(A) of the Transportation Equity Act for the 21st Century (112 Stat. 112; 117 Stat. 1113) is amended—

(i) in the first sentence by striking “$114,583,333 for the period of October 1, 2003, through February 29, 2004” and inserting “$160,416,667 for the period of October 1, 2003, through April 30, 2004”; and

(ii) in the second sentence by striking “$5,416,667” and inserting “$7,583,333”.

(B) PUBLIC LANDS HIGHWAYS.—Section 1101(a)(8)(B) of such Act (112 Stat. 112; 117 Stat. 1113) is amended by striking “$102,500,000 for the period of October 1, 2003, through February 29, 2004” and inserting “$143,500,000 for the period of October 1, 2003, through April 30, 2004”.

(C) PARK ROADS AND PARKWAYS.—Section 1101(a)(8)(C) of such Act (112 Stat. 112; 117 Stat. 1113) is amended by striking “$68,750,000 for the period of October 1, 2003, through February 29, 2004” and inserting “$96,250,000 for the period of October 1, 2003, through April 30, 2004” .

(D) REFUGE ROADS.—Section 1101(a)(8)(D) of such Act (112 Stat. 112; 117 Stat. 1113) is amended by striking “$8,333,333 for the period of October 1, 2003, through February 29, 2004” and inserting “$11,666,667 for the period of October 1, 2003, through April 30, 2004”.

(2) NATIONAL CORRIDOR PLANNING AND DEVELOPMENT AND COORDINATED BORDER INFRASTRUCTURE PROGRAMS.—Section 1101(a)(9) of such Act (112 Stat. 112; 117 Stat. 1114) is amended by striking “$58,333,333 for the period of October 1, 2003, through February 29, 2004” and inserting “$81,666,667 for the period of October 1, 2003, through April 30, 2004”.

(3) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—

(A) IN GENERAL.—Section 1101(a)(10) of such Act (112 Stat. 113; 117 Stat. 1114) is amended by striking “$15,833,333 for the period of October 1, 2003, through February 29, 2004” and inserting “$22,166,667 for the period of October 1, 2003, through April 30, 2004”.

(B) SET ASIDE FOR ALASKA, NEW JERSEY, AND WASHINGTON.—Section 5(a)(3)(B) of the Surface Transportation Extension Act of 2003 (117 Stat. 1114) is amended—

(i) in clause (i) by striking “$4,166,667” and inserting “$5,833,333”;

(ii) in clause (ii) by striking “$2,083,333” and inserting “$2,916,667”; and

(iii) in clause (iii) by striking “$2,083,333” and inserting “$2,916,667”.

(4) NATIONAL SCENIC BYWAYS PROGRAM.—Section 1101(a)(11) of the Transportation Equity Act for the 21st Century (112 Stat. 113; 117 Stat. 1114) is amended by striking “$11,458,333 for the period of October 1, 2003, through February 29, 2004” and inserting “$16,041,666 for the period of October 1, 2003, through April 30, 2004” .

(5) VALUE PRICING PILOT PROGRAM.—Section 1101(a)(12) of such Act (112 Stat. 113; 117 Stat. 1114) is amended by striking “$4,583,333 for the period of October 1, 2003, through February 29, 2004” and inserting “$6,416,667 for the period of October 1, 2003, through April 30, 2004”.

(6) HIGHWAY USE TAX EVASION PROJECTS.—Section 1101(a)(14) of such Act (112 Stat. 113; 117 Stat. 1114) is amended by striking “$2,083,333 for the period of October 1, 2003, through February 29, 2004” and inserting

"$2,916,667 for the period of October 1, 2003, through April 30, 2004".

(7) COMMONWEALTH OF PUERTO RICO HIGHWAY PROGRAM.—Section 1101(a)(15) of such Act (112 Stat. 113; 117 Stat. 1114) is amended by striking "$45,833,333 for the period of October 1, 2003, through February 29, 2004" and inserting "$64,166,667 for the period of October 1, 2003, through April 30, 2004".

(8) SAFETY GRANTS.—Section 1212(i)(1)(D) of such Act (23 U.S.C. 402 note; 112 Stat. 196; 112 Stat. 840; 117 Stat. 1114) is amended by striking "$208,333 for the period of October 1, 2003, through February 29, 2004" and inserting "$291,667 for the period of October 1, 2003, through April 30, 2004".

(9) TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PILOT PROGRAM.—Section 1221(e)(1) of such Act (23 U.S.C. 101 note; 112 Stat. 223; 117 Stat. 1114) is amended by striking "$10,416,667 for the period of October 1, 2003, through February 29, 2004" and inserting "$14,583,333 for the period of October 1, 2003, through April 30, 2004".

(10) TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION.—Section 188 of title 23, United States Code, is amended—

(A) by striking subsection (a)(1)(F) and inserting the following:

"(F) $81,666,666 for the period of October 1, 2003, through April 30, 2004.";

(B) in subsection (a)(2) by striking "$833,333 for the period of October 1, 2003, through February 29, 2004" and inserting "$1,166,667 for the period of October 1, 2003, through April 30, 2004"; and

(C) in the item relating to fiscal year 2004 in table contained in subsection (c) by striking "$1,083,333,333" and inserting "$1,516,666,667".

(b) AUTHORIZATION OF APPROPRIATIONS UNDER TITLE V OF TEA-21.—

(1) SURFACE TRANSPORTATION RESEARCH.—Section 5001(a)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 419; 117 Stat. 1115) is amended by striking "$43,750,000 for the period of October 1, 2003, through February 29, 2004" and inserting "$61,250,000 for the period of October 1, 2003, through April 30, 2004".

(2) TECHNOLOGY DEPLOYMENT PROGRAM.—Section 5001(a)(2) of such Act (112 Stat. 419; 117 Stat. 1115) is amended by striking "$22,916,667 for the period of October 1, 2003, through February 29, 2004" and inserting "$32,083,334 for the period of October 1, 2003, through April 30, 2004".

(3) TRAINING AND EDUCATION.—Section 5001(a)(3) of such Act (112 Stat. 420; 117 Stat. 1115) is amended by striking "$8,750,000 for the period of October 1, 2003, through February 29, 2004" and inserting "$12,250,000 for the period of October 1, 2003, through April 30, 2004".

(4) BUREAU OF TRANSPORTATION STATISTICS.—Section 5001(a)(4) of such Act (112 Stat. 420; 117 Stat. 1115) is amended by striking "$12,916,667 for the period of October 1, 2003, through February 29, 2004" and inserting "$18,083,333 for the period of October 1, 2003, through April 30, 2004".

(5) ITS STANDARDS, RESEARCH, OPERATIONAL TESTS, AND DEVELOPMENT.—Section 5001(a)(5) of such Act (112 Stat. 420; 117 Stat. 1115) is amended by striking "$47,916,667 for the period of October 1, 2003, through February 29, 2004" and inserting "$67,083,334 for the period of October 1, 2003, through April 30, 2004".

(6) ITS DEPLOYMENT.—Section 5001(a)(6) of such Act (112 Stat. 420; 117 Stat. 1116) is amended by striking "$51,666,667 for the period of October 1, 2003, through February 29, 2004" and inserting "$72,333,334 for the period of October 1, 2003, through April 30, 2004".

(7) UNIVERSITY TRANSPORTATION RESEARCH.—Section 5001(a)(7) of such Act (112 Stat. 420; 117 Stat. 1116) is amended by striking "$11,250,000 for the period of October 1, 2003, through February 29, 2004" and inserting "$15,750,000 for the period of October 1, 2003, through April 30, 2004".

(c) METROPOLITAN PLANNING.—Section 5(c)(1) of the Surface Transportation Extension Act of 2003 (117 Stat. 1116) is amended by striking "$100,000,000 for the period of October 1, 2003, through February 29, 2004" and inserting "$140,000,000 for the period of October 1, 2003, through April 30, 2004".

(d) TERRITORIES.—Section 1101(d)(1) of the Transportation Equity Act for the 21st Century (117 Stat. 1116) is amended by striking "$15,166,667 for the period of October 1, 2003, through February 29, 2004" and inserting "$21,233,333 for the period of October 1, 2003, through April 30, 2004".

(e) ALASKA HIGHWAY.—Section 1101(e)(1) of such Act (117 Stat. 1116) is amended by striking "$7,833,333 for the period of October 1, 2003, through February 29, 2004" and inserting "$10,966,666 for the period of October 1, 2003, through April 30, 2004".

(f) OPERATION LIFESAVER.—Section 1101(f)(1) of such Act (117 Stat. 1117) is amended by striking "$208,333 for the period of October 1, 2003, through February 29, 2004" and inserting "$291,667 for the period of October 1, 2003, through April 30, 2004".

(g) BRIDGE DISCRETIONARY.—Section 1101(g)(1) of such Act (117 Stat. 1117) is amended—

(1) by striking "$41,666,667" and inserting "$58,333,333"; and

(2) by striking "February 29" and inserting "April 30".

(h) INTERSTATE MAINTENANCE.—Section 1101(h)(1) of such Act (117 Stat. 1117) is amended—

(1) by striking "$41,666,667" and inserting "$58,333,333"; and

(2) by striking "February 29" and inserting "April 30".

(i) RECREATIONAL TRAILS ADMINISTRATIVE COSTS.—Section 1101(i)(1) of such Act (117 Stat. 1117) is amended by striking "$312,500 for the period of October 1, 2003, through February 29, 2004" and inserting "$437,500 for the period of October 1, 2003, through April 30, 2004".

(j) RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.—Section 1101(j)(1) of such Act (117 Stat. 1118) is amended—

(1) by striking "$2,187,500" and inserting "$3,062,500";

(2) by striking "$104,167" and inserting "$145,833"; and

(3) by striking "February 29" each place it appears and inserting "April 30".

(k) NONDISCRIMINATION.—Section 1101(k) of such Act (117 Stat. 1118) is amended—

(1) in paragraph (1) by striking "$4,166,667 for the period of October 1, 2003, through February 29, 2004" and inserting "$5,833,333 for the period of October 1, 2003, through April 30, 2004"; and

(2) in paragraph (2) by striking "$4,166,667 for the period of October 1, 2003, through February 29, 2004" and inserting "$5,833,333 for the period of October 1, 2003, through April 30, 2004".

(l) ADMINISTRATION OF FUNDS.—Section 5(l) of the Surface Transportation Extension Act of 2003 (117 Stat. 1118) is amended—

(1) by inserting "and section 5 of the Surface Transportation Extension Act of 2004" after "this section" the first place it appears; and

(2) by inserting "or the amendment made by section 4(a)(1) of such Act" before the period at the end.

(m) REDUCTION OF ALLOCATED PROGRAMS.—Section 5(m) of such Act (117 Stat. 1119) is amended—

(1) by inserting "and section 5 of the Surface Transportation Extension Act of 2004" after "but for this section";

(2) by striking "both";

(3) by striking "and by this section" and inserting ", by this section, and by section 5 of such Act"; and

(4) by inserting "and by section 5 of such Act" before the period at the end.

(n) PROGRAM CATEGORY RECONCILIATION.—Section 5(n) of such Act (117 Stat. 1119) is amended by inserting "and section 5 of the Surface Transportation Extension Act of 2004" after "this section".

SEC. 6. EXTENSION OF HIGHWAY SAFETY PROGRAMS.

(a) SEAT BELT SAFETY INCENTIVE GRANTS.—Section 157(g)(1) of title 23, United States Code, is amended by striking "$46,666,667 for the period of October 1, 2003, through February 29, 2004" and inserting "$65,333,333 for the period of October 1, 2003, through April 30, 2004".

(b) PREVENTION OF INTOXICATED DRIVER INCENTIVE GRANTS.—Section 163(e)(1) of such title is amended by striking "$50,000,000 for the period of October 1, 2003, through February 29, 2004" and inserting "$70,000,000 for the period of October 1, 2003, through April 30, 2004".

SEC. 7. SPORT FISHING AND BOATING SAFETY.

(a) FUNDING FOR NATIONAL OUTREACH AND COMMUNICATIONS PROGRAM.—Section 4(c)(6)of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(c)(6)) is amended to read as follows:

"(6) $5,833,333 for the period of October 1, 2003, through April 30, 2004;".

(b) CLEAN VESSEL ACT FUNDING.—Section 4(b)(4) of such Act (16 U.S.C. 777c(b)(4)) is amended to read as follows:

"(4) FIRST 7 MONTHS OF FISCAL YEAR 2004.—For the period of October 1, 2003, through April 30, 2004, of the balance of each annual appropriation remaining after making the distribution under subsection (a), an amount equal to $47,833,333, reduced by 82 percent of the amount appropriated for that fiscal year from the Boat Safety Account of the Aquatic Resources Trust Fund established by section 9504 of the Internal Revenue Code of 1986 to carry out the purposes of section 13106(a) of title 46, United States Code, shall be used as follows:

"(A) $5,833,333 shall be available to the Secretary of the Interior for 3 fiscal years for obligation for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note).

"(B) $4,666,667 shall be available to the Secretary of the Interior for 3 fiscal years for obligation for qualified projects under section 7404(d) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g–1(d)).

"(C) The balance remaining after the application of subparagraphs (A) and (B) shall be transferred to the Secretary of Transportation and shall be expended for State recreational boating safety programs under section 13106 of title 46, United States Code.".

(c) BOAT SAFETY FUNDS.—Section 13106(c) of title 46, United States Code, is amended—

(1) by striking "$2,083,333" and inserting "$2,916,667"; and

(2) by striking "$833,333" and inserting "$1,166,667".

SEC. 8. TECHNICAL AMENDMENTS.

(a) HIGHWAY SAFETY GRANTS.—

(1) IN GENERAL.—Title I of the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004 (division F of Public

Law 108–199) is amended by inserting before the period at the end of the matter under the heading "NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, HIGHWAY TRAFFIC SAFETY GRANTS" the following: ": *Provided further*, That not to exceed $2,600,000 of the funds subject to allocation under section 157 of title 23, United States Code, and not to exceed $2,600,000 of the funds subject to apportionment under section 163 of that title, shall be available to the National Highway Traffic Safety Administration for administering highway safety grants under those sections".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on January 24, 2004.

(b) FEDERAL HIGHWAY ADMINISTRATION.—Section 110(g) of the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004 (division F of Public Law 108–199) is amended by adding at the end the following: "Obligation authority shall be available until used and in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.".

SEC. 9. EXTENSION OF FEDERAL TRANSIT PROGRAMS.

(a) ALLOCATING AMOUNTS.—Section 5309(m) of title 49, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "February 29, 2004" and inserting "April 30, 2004";

(B) in subparagraph (A), by inserting ", except for the period beginning on October 1, 2003, and ending on April 30, 2004, during which $699,642,775 will be available" after "modernization";

(C) in subparagraph (B), by inserting ", except for the period beginning on October 1, 2003, and ending on April 30, 2004, during which $767,657,109 will be available" before the semicolon; and

(D) in subparagraph (C), by inserting ", except for the period beginning on October 1, 2003 and ending on April 30, 2004, during which $352,110,220 will be available" after "facilities";

(2) by amending paragraph (2)(B)(iii) to read as follows:

"(iii) OCTOBER 1, 2003 THROUGH APRIL 30, 2004.—Of the amounts made available under paragraph (1)(B), $6,066,667 shall be available for the period beginning on October 1, 2003, and ending on April 30, 2004, for capital projects described in clause (i).";

(3) in paragraph (3)(B)—

(A) by striking "$1,250,000" and inserting "$1,750,000"; and

(B) by striking "February 29, 2004" and inserting "April 30, 2004"; and

(4) in paragraph (3)(C)—

(A) by striking "$20,833,334 shall be available" and inserting "$28,994,583 shall be transferred to and administered under section 5309 for buses and bus facilities"; and

(B) by striking "February 29, 2004" and inserting "April 30, 2004".

(b) APPORTIONMENT OF APPROPRIATIONS FOR FIXED GUIDEWAY MODERNIZATION.—Section 8(b)(1) of the Surface Transportation Extension Act of 2003 (49 U.S.C. 5337 note) is amended by striking "February 29, 2004" and inserting "April 30, 2004".

(c) FORMULA GRANTS AUTHORIZATIONS.—Section 5338(a) of title 49, United States Code, is amended—

(1) in the heading to paragraph (2) by striking "FEBRUARY 29, 2004" and inserting "APRIL 30, 2004";

(2) in paragraph (2)(A)(vi)—

(A) by striking "$1,292,948,344" and inserting "$1,780,963,287"; and

(B) by striking "February 29, 2004" and inserting "April 30, 2004";

(3) in paragraph (2)(B)(vi)—

(A) by striking "$323,459,169" and inserting "$445,240,822"; and

(B) by striking "February 29, 2004" and inserting "April 30, 2004"; and

(4) in paragraph (2)(C) by striking "February 29, 2004" and inserting "April 30, 2004".

(d) FORMULA GRANT FUNDS.—Section 8(d) of the Surface Transportation Extension Act of 2003 (117 Stat. 1122) is amended to read as follows:

"(d) ALLOCATION OF FORMULA GRANT FUNDS FOR OCTOBER 1, 2003, THROUGH APRIL 30, 2004.—Of the aggregate of amounts made available by or appropriated under section 5338(a)(2) of title 49, United States Code, for the period of October 1, 2003, through April 30, 2004—

"(1) $ 2,812,446 shall be available to the Alaska Railroad for improvements to its passenger operations under section 5307 of such title;

"(2) $28,994,583 shall be available for bus and bus facilities grants under section 5309 of such title;

"(3) $52,568,804 shall be available to provide transportation services to elderly individuals and individuals with disabilities under section 5310 of such title;

"(4) $139,526,367 shall be available to provide financial assistance for other than urbanized areas under section 5311 of such title;

"(5) $4,030,247 shall be available to provide financial assistance in accordance with section 3038(g) of the Transportation Equity Act for the 21st Century; and

"(6) $1,998,271,661 shall be available to provide financial assistance for urbanized areas under section 5307 of such title.".

(e) CAPITAL PROGRAM AUTHORIZATIONS.—Section 5338(b)(2) of title 49, United States Code, is amended—

(1) in the heading by striking "FEBRUARY 29, 2004" and inserting "APRIL 30, 2004";

(2) in subparagraph (A)(vi)—

(A) by striking "$1,022,503,342" and inserting "$1,819,410,104"; and

(B) by striking "February 29, 2004" and inserting "April 30, 2004"; and

(3) in subparagraph (B)(vi)—

(A) by striking "$255,801,669" and inserting "$363,882,021"; and

(B) by striking "February 29, 2004" and inserting "April 30, 2004".

(f) PLANNING AUTHORIZATIONS AND ALLOCATIONS.—Section 5338(c)(2) of title 49, United States Code, is amended—

(1) in the heading by striking "FEBRUARY 29, 2004" and inserting "APRIL 30, 2004";

(2) in subparagraph (A)(vi)—

(A) by striking "$24,636,667" and inserting "$33,981,652"; and

(B) by striking "February 29, 2004" and inserting "April 30, 2004"; and

(3) in subparagraph (B)(vi)—

(A) by striking "$6,100,000" and inserting "$8,350,440"; and

(B) by striking "February 29, 2004" and inserting "April 30, 2004".

(g) RESEARCH AUTHORIZATIONS.—Section 5338(d)(2) of title 49, United States Code, is amended—

(1) in the heading by striking "FEBRUARY 29, 2004" and inserting "APRIL 30, 2004";

(2) in subparagraph (A)(vi)—

(A) by striking "$16,536,667" and inserting "$24,471,428"; and

(B) by striking "February 29, 2004" and inserting "April 30, 2004";

(3) in subparagraph (B)(vi)—

(A) by striking "$4,095,000" and inserting "$6,262,830"; and

(B) by striking "February 29, 2004" and inserting "April 30, 2004"; and

(4) in subparagraph (C) by striking "February 29, 2004" and inserting "April 30, 2004".

(h) RESEARCH FUNDS.—Section 8(h) of the Surface Transportation Extension Act of 2003 is amended to read as follows:

"(h) ALLOCATION OF RESEARCH FUNDS FOR OCTOBER 1, 2003, THROUGH APRIL 30, 2004.—Of the funds made available by or appropriated under section 5338(d)(2) of title 49, United States Code, for the period of October 1, 2003, through April 30, 2004—

"(1) not less than $3,044,431 shall be available for providing rural transportation assistance under section 5311(b)(2) of such title;

"(2) not less than $4,784,106 shall be available for carrying out transit cooperative research programs under section 5313(a) of such title;

"(3) not less than $4,784,106 shall be available to carry out programs under the National Transit Institute under section 5315 of such title, including not more than $579,892 to carry out section 5315(a)(16) of such title; and

"(4) any amounts not made available under paragraphs (1) through (3) shall be available for carrying out national planning and research programs under sections 5311(b)(2), 5312, 5313(a), 5314, and 5322 of such title.".

(i) UNIVERSITY TRANSPORTATION RESEARCH AUTHORIZATIONS.—Section 5338(e)(2) of title 49, United States Code, is amended—

(1) in the heading by striking "FEBRUARY 29, 2004" and inserting "APRIL 30, 2004";

(2) in subparagraph (A)—

(A) by striking "$2,020,833" and inserting "$2,783,480"; and

(B) by striking "February 29, 2004" and inserting "April 30, 2004";

(3) in subparagraph (B)—

(A) by striking "$505,833" and inserting "$695,870"; and

(B) by striking "February 29, 2004" and inserting "April 30, 2004"; and

(4) in subparagraph (C) by striking "February 29, 2004" each place it appears and inserting "April 30, 2004".

(j) UNIVERSITY TRANSPORTATION RESEARCH FUNDS.—

(1) IN GENERAL.—Section 8(j) of the Surface Transportation Extension Act of 2003 is amended to read as follows:

"(j) ALLOCATION OF UNIVERSITY TRANSPORTATION RESEARCH FUNDS.—

"(1) IN GENERAL.—Of the amounts made available under section 5338(e)(2)(A) of title 49, United States Code, for the period October 1, 2003, through April 30, 2004—

"(A) $994,100 shall be available for the center identified in section 5505(j)(4)(A) of such title; and

"(B) $994,100 shall be available for the center identified in section 5505(j)(4)(F) of such title.

"(2) TRAINING AND CURRICULUM DEVELOPMENT.—Notwithstanding section 5338(e)(2) of title 49, United States Code, any amounts made available under such section for the period October 1, 2003, through April 30, 2004, that remain after distribution under paragraph (1), shall be available for the purposes specified in section 3015(d) of the Transportation Equity Act for the 21st Century (112 Stat. 857).".

(2) CONFORMING AMENDMENT.—Section 3015(d)(2) of the Transportation Equity Act for the 21st Century (112 Stat. 857) is amended by striking "February 29, 2004" and inserting "April 30, 2004".

(k) ADMINISTRATION AUTHORIZATIONS.—Section 5338(f)(2) of title 49, United States Code, is amended—

(1) in the heading by striking "FEBRUARY 29, 2004" and inserting "APRIL 30, 2004";

(2) in subparagraph (A)(vi)—

(A) by striking "$24,585,834" and inserting "$35,025,457"; and

(B) by striking "February 29, 2004" and inserting "April 30, 2004"; and

(3) in subparagraph (B)(vi)—

(A) by striking "$6,150,833" and inserting "$8,756,364"; and

(B) by striking "February 29, 2004" and inserting "April 30, 2004".

(l) JOB ACCESS AND REVERSE COMMUTE PROGRAM.—Section 3037(l) of the Federal Transit Act of 1998 (49 U.S.C. 5309 note) is amended—

(1) in paragraph (1)(A)(vi)—

(A) by striking "$50,519,167" and inserting "$57,989,167"; and

(B) by striking "February 29, 2004" and inserting "April 30, 2004";

(2) in paragraph (1)(B)(vi)—

(A) by striking "$12,638,833" and inserting "$14,497,292"; and

(B) by striking "February 29, 2004" and inserting "April 30, 2004";

(3) in paragraph (2) by striking "February 29, 2004, $4,166,667" and inserting "April 30, 2004, $5,798,917"; and

(4) by adding at the end the following:

"(4) TRANSFER IN FISCAL YEAR 2004.—Of the funds made available or appropriated under paragraph (1) for fiscal year 2004, prior to the allocation under paragraph (3), $11,597,833 shall be administered under the provisions of section 5309 of title 49, United States Code.".

(m) RURAL TRANSPORTATION ACCESSIBILITY INCENTIVE PROGRAM.—Section 3038(g) of the Federal Transit Act of 1998 (49 U.S.C. 5310 note) is amended—

(1) in paragraph (1)(F)—

(A) by striking "$2,187,500" and inserting "$3.044,431"; and

(B) by striking "February 29, 2004" and inserting "April 30, 2004"; and

(2) in paragraph (2)—

(A) by striking "$708,333" and inserting "$985,816"; and

(B) by striking "February 29, 2004" and inserting "April 30, 2004".

(n) URBANIZED AREA FORMULA GRANTS.—Section 5307(b)(2) of title 49, United States Code, is amended—

(1) in the heading by striking "FEBRUARY 29, 2004" and inserting "APRIL 30, 2004"; and

(2) in subparagraph (A) by striking "February 29, 2004" and inserting "April 30, 2004";

(o) OBLIGATION CEILING.—Section 3040(6) of the Federal Transit Act of 1998 (112 Stat. 394) is amended—

(1) by striking "$3,042,501,691" and inserting "$4,238,428,192"; and

(2) by striking "February 29, 2004" and inserting "April 30, 2004".

(p) FUEL CELL BUS AND BUS FACILITIES PROGRAM.—Section 3015(b) of the Federal Transit Act of 1998 (112 Stat. 361) is amended—

(1) by striking "February 29, 2004" and inserting "April 30, 2004"; and

(2) by striking "$2,020,833" and inserting "$2,812,475".

(q) ADVANCED TECHNOLOGY PILOT PROJECT.—Section 3015(c)(2) of the Federal Transit Act of 1998 (49 U.S.C. 322 note) is amended—

(1) by striking "February 29, 2004," and inserting "April 30, 2004"; and

(2) by striking "$2,083,333" and inserting "$2,812,475".

(r) PROJECTS FOR NEW FIXED GUIDEWAY SYSTEMS AND EXTENSIONS TO EXISTING SYSTEMS.—Section 3030 of the Transportation Equity Act for the 21st Century (112 Stat. 373) is amended by striking "February 29, 2004" each place it appears and inserting "April 30, 2004".

(s) NEW JERSEY URBAN CORE PROJECT.—Section 3031(a)(3) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2122; 112 Stat. 379) is amended by striking "February 29, 2004" each place it appears and inserting "April 30, 2004".

(t) TREATMENT OF FUNDS.—Section 8(t) of the Surface Transportation Extension Act of 2003 (23 U.S.C. 101 note) is amended—

(1) by striking "Amounts" and inserting the following:

"(1) IN GENERAL.—Amounts";

(2) by inserting "and by section 9 of the Surface Transportation Extension Act of 2004" after "this section"; and

(3) by adding at the end the following:

"(2) TRANSFERS.—Funds authorized by or made available under this section shall be transferred in accordance with the Consolidated Appropriations Act, 2004, except that only 7⁄12 of the total amount to be transferred shall be available.".

(u) LOCAL SHARE.—Section 3011(a) of the Federal Transit Act of 1998 (49 U.S.C. 5307 note) is amended by inserting "and for the period of October 1, 2003 through April 30, 2004," after "2003,".

SEC. 10. NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION PROGRAMS.

(a) CHAPTER 4 HIGHWAY SAFETY PROGRAMS.—Section 2009(a)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 337; 117 Stat. 1119) is amended by striking ", and $68,750,000 for the period of October 1, 2003, through February 29, 2004" and inserting ", and $96,250,000 for the period of October 1, 2003, through April 30, 2004".

(b) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—Section 2009(a)(2) of such Act (112 Stat. 337; 117 Stat. 1119) is amended by striking "$30,000,000 for the period of October 1, 2003, through February 29, 2004" and inserting "$42,000,000 for the period of October 1, 2003, through April 30, 2004".

(c) OCCUPANT PROTECTION INCENTIVE GRANTS-.—Section 2009(a)(3) of such Act (112 Stat. 337; 117 Stat. 1120) is amended by striking "$8,333,333 for the period of October 1, 2003, through February 29, 2004" and inserting "$11,666,700 for the period of October 1, 2003, through April 30, 2004".

(d) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES INCENTIVE GRANTS.—Section 2009(a)(4) of such Act (112 Stat. 337; 117 Stat. 1120) is amended by striking "$16,666,667 for the period of October 1, 2003, through February 29, 2004" and inserting "$23,333,300 for the period of October 1, 2003, through April 30, 2004".

(e) NATIONAL DRIVER REGISTER.—Section 2009(a)(6) of such Act (112 Stat. 338; 117 Stat. 1120) is amended by striking "$833,333 for the period of October 1, 2003, through February 29, 2004" and inserting "$2,100,000 for the period of October 1, 2003, through April 30, 2004".

SEC. 11. FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION PROGRAM.

(a) ADMINISTRATIVE EXPENSES.—Section 7(a)(1) of the Surface Transportation Extension Act of 2003 (117 Stat. 1120) is amended by striking "$71,487,500 for the period of October 1, 2003, through February 29, 2004" and inserting "$102,467,000 for the period October 1, 2003 through April 30, 2004".

(b) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.—Section 31104(a)(7) of title 49, United States Code, is amended to read as follows:

"(7) Not more than $98,352,000 for the period of October 1, 2003, through April 30, 2004.".

(c) INFORMATION SYSTEMS AND COMMERCIAL DRIVER'S LICENSE GRANTS.—

(1) AUTHORIZATION OF APPROPRIATION.—Section 31107(a)(5) of such title is amended to read as follows:

"(5) $11,639,000 for the period of October 1, 2003, through April 30, 2004.".

(2) EMERGENCY CDL GRANTS.—Section 7(c) of the Surface Transportation Extension Act of 2003 (117 Stat. 1121) is amended—

(A) by striking "February 29," and inserting "April 30,"; and

(B) by striking "$416,667" and inserting "$582,000".

(d) CRASH CAUSATION STUDY.—Section 7(d) of such Act is amended—

(1) by striking "$416,667" and inserting "$582,000"; and

(2) by striking "February 29" and inserting "April 30".

(e) TECHNICAL AMENDMENTS.—

(1) IN GENERAL.—Title I of the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004 (division F of Public Law 108–199) is amended—

(A) by striking "Fund and to" in the matter appearing under the heading "FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION, MOTOR CARRIER SAFETY, LIMITATION ON ADMINISTRATIVE EXPENSES" and inserting "Fund, together with advances and reimbursements received by the Federal Motor Carrier Safety Administration, the sum of which shall"; and

(B) by inserting before the period at the end of the matter appearing under the heading "FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION, NATIONAL MOTOR CARRIER SAFETY PROGRAM" the following: ": *Provided further*, That for grants made to States for implementation of section 210 of the Motor Carrier Safety Improvement Act of 1999 (113 Stat. 1764–1765), the Federal share payable under such grants shall be 100 percent".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 24, 2004.

SEC. 12. EXTENSION OF AUTHORIZATION FOR USE OF TRUST FUNDS FOR OBLIGATIONS UNDER TEA–21.

(a) HIGHWAY TRUST FUND.—

(1) IN GENERAL.—Paragraph (1) of section 9503(c) of the Internal Revenue Code of 1986 is amended—

(A) in the matter before subparagraph (A), by striking "March 1, 2004" and inserting "May 1, 2004",

(B) by striking "or" at the end of subparagraph (E),

(C) by striking the period at the end of subparagraph (F) and inserting ", or",

(D) by inserting after subparagraph (F), the following new subparagraph:

"(G) authorized to be paid out of the Highway Trust Fund under the Surface Transportation Extension Act of 2004.", and

(E) in the matter after subparagraph (G), as added by this paragraph, by striking "Surface Transportation Extension Act of 2003" and inserting "Surface Transportation Extension Act of 2004".

(2) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) of such Code is amended—

(A) in the matter before subparagraph (A), by striking "March 1, 2004" and inserting "May 1, 2004",

(B) in subparagraph (C), by striking "or" at the end of such subparagraph,

(C) in subparagraph (D), by inserting "or" at the end of such subparagraph,

(D) by inserting after subparagraph (D) the following new subparagraph:

"(E) the Surface Transportation Extension Act of 2004,", and

(E) in the matter after subparagraph (E), as added by this paragraph, by striking "Surface Transportation Extension Act of 2003" and inserting "Surface Transportation Extension Act of 2004".

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Subparagraph (B) of section 9503(b)(5) of such Code is amended by striking "March 1, 2004" and inserting "May 1, 2004".

(b) AQUATIC RESOURCES TRUST FUND.—

(1) SPORT FISH RESTORATION ACCOUNT.—Paragraph (2) of section 9504(b) of the Internal Revenue Code of 1986 is amended by striking "Surface Transportation Extension Act of 2003" each place it appears and inserting "Surface Transportation Extension Act of 2004".

(2) BOAT SAFETY ACCOUNT.—Subsection (c) of section 9504 of such Code is amended—

(A) by striking "March 1, 2004" and inserting "May 1, 2004", and

(B) by striking "Surface Transportation Extension Act of 2003" and inserting "Surface Transportation Extension Act of 2004".

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Paragraph (2) of section 9504(d) of such Code is amended by striking "March 1, 2004" and inserting "May 1, 2004".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(d) TEMPORARY RULE REGARDING ADJUSTMENTS.—During the period beginning on the date of the enactment of the Surface Transportation Extension Act of 2003 and ending on April 30, 2004, for purposes of making any estimate under section 9503(d) of the Internal Revenue Code of 1986 of receipts of the Highway Trust Fund, the Secretary of the Treasury shall treat—

(1) each expiring provision of paragraphs (1) through (4) of section 9503(b) of such Code which is related to appropriations or transfers to such Fund to have been extended through the end of the 24-month period referred to in section 9503(d)(1)(B) of such Code, and

(2) with respect to each tax imposed under the sections referred to in section 9503(b)(1) of such Code, the rate of such tax during the 24-month period referred to in section 9503(d)(1)(B) of such Code to be the same as the rate of such tax as in effect on the date of the enactment of the Surface Transportation Extension Act of 2003.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3850.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

APPOINTMENT OF HONORABLE FRANK R. WOLF TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH MARCH 1, 2004

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

THE SPEAKER'S ROOMS,
HOUSE OF REPRESENTATIVES,
Washington, DC, February 26, 2004.

I hereby appoint the Honorable Frank R. Wolf to act as Speaker pro tempore to sign enrolled bills and joint resolutions through March 1, 2004.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the appointment is approved.

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. KLECZKA (at the request of Ms. PELOSI) for today on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DEFAZIO) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. HINOJOSA, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Mr. GRIJALVA, for 5 minutes, today.

(The following Members (at the request of Mr. WOLF) to revise and extend their remarks and include extraneous material:)

Mr. SOUDER, for 5 minutes, today.

Mr. WOLF, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. GARRETT of New Jersey, for 5 minutes, today.

Mr. LANGEVIN, for 5 minutes, today.

Ms. WATSON, for 5 minutes, today.

SENATE BILL REFERRED

A concurrent resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 92. Concurrent resolution congratulating and saluting Focus: HOPE on the occasion of its 35th anniversary and for its remarkable commitment and contributions to Detroit, the State of Michigan, and the United States; to the Committee on Government Reform.

ADJOURNMENT

Mr. YOUNG of Alaska. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 10 minutes p.m.), under its previous order, the House adjourned until Monday, March 1, 2004, at noon.

OATH FOR ACCESS TO CLASSIFIED INFORMATION

Under clause 13 of rule XXIII, the following Members executed the oath for access to classified information:

Neil Abercrombie, Aníbal Acevedo-Vilá, Gary L. Ackerman, Robert B. Aderholt, W. Todd Akin, Rodney Alexander, Thomas H. Allen, Robert E. Andrews, Joe Baca, Spencer Bachus, Brian Baird, Richard H. Baker, Tammy Baldwin, Frank W. Ballance, Jr., Cass Ballenger, J. Gresham Barrett, Roscoe G. Bartlett, Joe Barton, Charles F. Bass, Bob Beauprez, Xavier Becerra, Chris Bell, Doug Bereuter, Shelley Berkley, Howard L. Berman, Marion Berry, Judy Biggert, Michael Bilirakis, Rob Bishop, Sanford D. Bishop, Jr., Timothy H. Bishop, Marsha Blackburn, Earl Blumenauer, Roy Blunt, Sherwood Boehlert, John A. Boehner, Henry Bonilla, Jo Bonner, Mary Bono, John Boozman, Madeleine Z. Bordallo, Leonard L. Boswell, Rick Boucher, Allen Boyd, Jeb Bradley, Kevin Brady, Robert A. Brady, Corrine Brown, Henry E. Brown, Jr., Sherrod Brown, Ginny Brown-Waite, Michael C. Burgess, Max Burns, Richard Burr, Dan Burton, Steve Buyer, Ken Calvert, Dave Camp, Chris Cannon, Eric Cantor, Shelley Moore Capito, Lois Capps, Michael E. Capuano, Benjamin L. Cardin, Dennis A. Cardoza, Brad Carson, Julia Carson, John R. Carter, Ed Case, Michael N. Castle, Steve Chabot, Ben Chandler, Chris Chocola, Donna M. Christensen, Wm. Lacy Clay, James E. Clyburn, Howard Coble, Tom Cole, Mac Collins, Larry Combest, John Conyers, Jr., Jim Cooper, Jerry F. Costello, Christopher Cox, Robert E. (Bud) Cramer, Jr., Philip M. Crane, Ander Crenshaw, Joseph Crowley, Barbara Cubin, John Abney Culberson, Elijah E. Cummings, Randy "Duke" Cunningham, Artur Davis, Danny K. Davis, Jim Davis, Jo Ann Davis, Lincoln Davis, Susan A. Davis, Tom Davis, Nathan Deal, Peter A. DeFazio, Diana DeGette, William D. Delahunt, Rosa L. DeLauro, Tom DeLay, Jim DeMint, Peter Deutsch, Lincoln Diaz-Balart, Mario Diaz-Balart, Norman D. Dicks, John D. Dingell, Lloyd Doggett, Calvin M. Dooley, John T. Doolittle, Michael F. Doyle, David Dreier, John J. Duncan, Jr., Jennifer Dunn, Chet Edwards, Vernon J. Ehlers, Rahm Emanuel, Jo Ann Emerson, Eliot L. Engel, Phil English, Anna G. Eshoo, Bob Etheridge, Lane Evans, Terry Everett, Sam Farr, Chaka Fattah, Tom Feeney, Mike Ferguson, Bob Filner, Jeff Flake, Ernie Fletcher, Mark Foley, J. Randy Forbes, Harold E. Ford, Jr., Vito Fossella, Barney Frank, Trent Franks, Rodney P. Frelinghuysen, Martin Frost, Elton Gallegly, Scott Garrett, Richard A. Gephardt, Jim Gerlach, Jim Gibbons, Wayne T. Gilchrest, Paul E. Gillmor, Phil Gingrey, Charles A. Gonzalez, Virgil H. Goode, Jr., Bob Goodlatte, Bart

Gordon, Porter J. Goss, Kay Granger, Sam Graves, Gene Green, Mark Green, James C. Greenwood, Raúl M. Grijalva, Luis V. Gutierrez, Gil Gutknecht, Ralph M. Hall, Jane Harman, Katherine Harris, Melissa A. Hart, J. Dennis Hastert, Alcee L. Hastings, Doc Hastings, Robin Hayes, J.D. Hayworth, Joel Hefley, Jeb Hensarling, Wally Herger, Baron P. Hill, Maurice D. Hinchey, Rubén Hinojosa, David L. Hobson, Joseph M. Hoeffel, Peter Hoekstra, Tim Holden, Rush D. Holt, Michael M. Honda, Darlene Hooley, John N. Hostettler, Amo Houghton, Steny H. Hoyer, Kenny C. Hulshof, Duncan Hunter, Henry J. Hyde, Jay Inslee, Johnny Isakson, Steve Israel, Darrell E. Issa, Ernest J. Istook, Jr., Jesse L. Jackson, Jr., Sheila Jackson-Lee, William J. Janklow, William J. Jefferson, William L. Jenkins, Christopher John, Eddie Bernice Johnson, Nancy L. Johnson, Sam Johnson, Timothy V. Johnson, Stephanie Tubbs Jones, Walter B. Jones, Paul E. Kanjorski, Marcy Kaptur, Ric Keller, Sue W. Kelly, Mark R. Kennedy, Patrick J. Kennedy, Dale E. Kildee, Carolyn C. Kilpatrick, Ron Kind, Peter T. King, Steve King, Jack Kingston, Mark Steven Kirk, Gerald D. Kleczka, John Kline, Joe Knollenberg, Jim Kolbe, Ray LaHood, Nick Lampson, James R. Langevin, Tom Lantos, Rick Larsen, John B. Larson, Tom Latham, Steven C. LaTourette, James A. Leach, Barbara Lee, Sander M. Levin, Jerry Lewis, John Lewis, Ron Lewis, John Linder, William O. Lipinski, Frank A. LoBiondo, Zoe Lofgren, Nita M. Lowey, Frank D. Lucas, Ken Lucas, Stephen F. Lynch, Denise L. Majette, Carolyn B. Maloney, Donald A. Manzullo, Edward J. Markey, Jim Marshall, Jim Matheson, Robert T. Matsui, Carolyn McCarthy, Karen McCarthy, Betty McCollum, Thaddeus G. McCotter, Jim McCrery, James P. McGovern, John M. McHugh, Scott McInnis, Mike McIntyre, Howard P. "Buck" McKeon, Michael R. McNulty, Martin T. Meehan, Kendrick B. Meek, Gregory W. Meeks, Robert Menendez, John L. Mica, Michael H. Michaud, Juanita Millender-McDonald, Brad Miller, Candice S. Miller, Gary G. Miller, Jeff Miller, Alan B. Mollohan, Dennis Moore, James P. Moran, Jerry Moran, Tim Murphy, John P. Murtha, Marilyn N. Musgrave, Sue Wilkins Myrick, Jerrold Nadler, Grace F. Napolitano, Richard E. Neal, George R. Nethercutt, Jr., Randy Neugebauer, Robert W. Ney, Anne M. Northup, Eleanor Holmes Norton, Charlie Norwood, Devin Nunes, Jim Nussle, James L. Oberstar, David R. Obey, John W. Olver, Solomon P. Ortiz, Tom Osborne, Doug Ose, C.L. "Butch" Otter, Major R. Owens, Michael G. Oxley, Frank Pallone, Jr., Bill Pascrell, Jr., Ed Pastor, Ron Paul, Donald M. Payne, Stevan Pearce, Nancy Pelosi, Mike Pence, Collin C. Peterson, John E. Peterson, Thomas E. Petri, Charles W. "Chip" Pickering, Joseph R. Pitts, Todd Russell Platts, Richard W. Pombo, Earl Pomeroy, Jon C. Porter, Rob Portman, David E. Price, Deborah Pryce, Adam H. Putnam, Jack Quinn, George Radanovich, Nick J. Rahall II, Jim Ramstad, Charles B. Rangel, Ralph Regula, Dennis R. Rehberg, Rick Renzi, Silvestre Reyes, Thomas M. Reynolds, Ciro D. Rodriguez, Harold Rogers, Mike Rogers (AL), Mike Rogers (MI), Dana Rohrabacher, Ileana Ros-Lehtinen, Mike Ross, Steven R. Rothman, Lucille Roybal-Allard, Edward R. Royce, C.A. Dutch Ruppersberger, Bobby L. Rush, Paul Ryan, Timothy J. Ryan, Jim Ryun, Martin Olav Sabo, Linda T. Sánchez, Loretta Sanchez, Bernard Sanders, Max Sandlin, Jim Saxton, Janice D. Schakowsky, Adam B. Schiff, Edward L. Schrock, David Scott, Robert C. Scott, F. James Sensenbrenner, Jr., José E. Serrano, Pete Sessions, John B. Shadegg, E. Clay Shaw, Jr., Christopher Shays, Brad Sherman, Don Sherwood, John Shimkus, Bill Shuster, Rob Simmons, Michael K. Simpson, Ike Skelton, Louise McIntosh Slaughter, Adam Smith, Christopher H. Smith, Lamar S. Smith, Nick Smith, Vic Snyder, Hilda L. Solis, Mark E. Souder, John M. Spratt, Jr., Cliff Stearns, Charles W. Stenholm, Ted Strickland, Bart Stupak, John Sullivan, John E. Sweeney, Thomas G. Tancredo, John S. Tanner, Ellen O. Tauscher, W.J. (Billy) Tauzin, Charles H. Taylor, Gene Taylor, Lee Terry, William M. Thomas, Bennie G. Thompson, Mike Thompson, Mac Thornberry, Todd Tiahrt, Patrick J. Tiberi, John F. Tierney, Patrick J. Toomey, Edolphus Towns, Jim Turner, Michael R. Turner, Mark Udall, Tom Udall, Fred Upton, Chris Van Hollen, Nydia M. Velázquez, Peter J. Visclosky, David Vitter, Greg Walden, James T. Walsh, Zach Wamp, Maxine Waters, Diane E. Watson, Melvin L. Watt, Henry A. Waxman, Anthony D. Weiner, Curt Weldon, Dave Weldon, Jerry Weller, Robert Wexler, Ed Whitfield, Roger F. Wicker, Heather Wilson, Joe Wilson, Frank R. Wolf, Lynn C. Woolsey, David Wu, Albert Russell Wynn, C.W. Bill Young, Don Young.

NOTICE OF PROPOSED RULEMAKING

U.S. CONGRESS,
OFFICE OF COMPLIANCE,
Washington, DC, February 26, 2004.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to Section 303(b) of the Congressional Accountability Act of 1995 (2 U.S.C. 1384(b)) ("Act"), I am transmitting on behalf of the Board of Directors of the Office of Compliance the enclosed Second Notice of Proposed Procedural Rule Making for publication in the Congressional Record.

We request that this notice be republished in the Congressional Record. It was first published in the Congressional Record of the House on February 24, 2004. However, the Act specifies that the enclosed Notice be published on the first day on which both Houses are in session following this transmittal. Because the Senate was unable to publish its Notice of these procedural rules on February 24th, we are re-transmitting this Notice to both the House and Senate so that this Notice may be published in the Record of the House and Senate on the same day.

Any inquiries regarding this notice should be addressed to the Office of Compliance, Room LA–200, 110 2nd Street, S.E., Washington, DC 20540; 202–724–9250, TDD 202–426–1912.

Sincerely,

SUSAN S. ROBFOGEL,
Chair.

Attachment.

OFFICE OF COMPLIANCE

The Congressional Accountability Act of 1995: Second Notice of Proposed Amendments to the Procedural Rules.

Introductory statement:

On September 4, 2003, a Notice of Proposed Amendments to the Procedural Rules of the Office of Compliance was published in the Congressional Record at S11110, and H7944. As specified by the Congressional Accountability Act of 1995 ("Act") at Section 303(b) (2 U.S.C.1384(b)), a 30 day period for comments from interested parties ensued. In response, the Office received a number of comments regarding the proposed amendments.

At the request of a commenter, for good reason shown, the Board of Directors extended the 30 day comment period until October 20, 2003. The extension of the comment period was published in the Congressional Record on October 2, 2003 at H9209 and S12361.

On October 15, 2003, an announcement that the Board of Directors intended to hold a hearing on December 2, 2003 regarding the proposed procedural rule amendments was published in the Congressional Record at H9475 and S12599. On November 21, 2003, a Notice of the cancellation of the December 2, 2003 hearing was published in the Congressional Record at S15394 and H12304.

The Board of Directors of the Office of Compliance has determined to issue this Second Notice of Proposed Amendment to the Procedural Rules, which includes changes to the initial proposed amendments, together with a brief discussion of each proposed amendment. As set forth in greater detail herein below, interested parties are being afforded another opportunity to comment on these proposed amendments.

The complete existing Procedural Rules of the Office of Compliance may be found on the Office's web site: www.compliance.gov.

How to submit comments:

Comments regarding the proposed amendments to the Rules of Procedure of the Office of Compliance set forth in this NOTICE are invited for a period of thirty (30) days following the date of the appearance of this NOTICE in the Congressional Record. In addition to being posted on the Office of Compliance's section 508 compliant web site (www.compliance.gov), this NOTICE is also available in the following alternative formats: Large Print, Braille. Requests for this NOTICE in an alternative format should be made to: Bill Thompson, Executive Director, or Alma Candelaria, Deputy Executive Director, Office of Compliance, at 202–724–9250 (voice) or 202–426–1912 (TDD).

Submission of comments must be made in writing to the Executive Director, Office of Compliance, 110 Second Street, S.E., Room LA–200, Washington, D.C. 20540–1999. It is requested, but not required, that an electronic version of any comments be provided on an accompanying computer disk. Comments may also be submitted by facsimile to the Executive Director at 202–426–1913 (a non-toll-free number.) Those wishing to receive confirmation of the receipt of their comments are requested to provide a self-addressed, stamped post card with their submission.

Copies of submitted comments will be available for review on the Office's web site at www.compliance.gov, and at the Office of Compliance, 110 Second Street, S.E., Washington, D.C. 20540–1999, on Monday through Friday (non-Federal holidays) between the hours of 9:30 a.m. and 4:30 p.m.

Supplementary Information: The Congressional Accountability Act of 1995 (CAA), PL 104–1, was enacted into law on January 23, 1995. The CAA applies the rights and protections of 11 federal labor and employment statutes to covered employees and employing offices within the Legislative Branch of Government. Section 301 of the CAA (2 U.S.C. 1381) establishes the Office of Compliance as an independent office within that Branch. Section 303 (2 U.S.C. 1383) directs that the Executive Director, as the Chief Operating Officer of the agency, adopt rules of procedure governing the Office of Compliance, subject to approval by the Board of Directors of the Office of Compliance. The rules of procedure generally establish the process by which alleged violations of the laws made applicable to the Legislative Branch under the CAA will be considered and resolved. The rules include procedures for counseling, mediation, and election between filing an administrative complaint with the Office of Compliance or filing a civil action in U.S. District Court. The rules also include the procedures for processing Occupational Safety and Health investigations and enforcement, as well as the process for the conduct of administrative hearings held as the result of the filing of an administrative complaint under all of the statutes applied by the Act, and for appeals of a decision by a hearing officer to the Board of Directors of the Office of Compliance, and for the filing of an appeal of a decision by the Board of Directors to the United States Court of Appeals for the Federal Circuit. The rules also contain other matters of general applicability to the dispute resolution process and to the operation of the Office of Compliance.

These proposed amendments to the Rules of Procedure are the result of the experience of the Office in processing disputes under the CAA during the period since the original adoption of these rules in 1995.

How to read the proposed amendments:

The text of the proposed amendments shows [deletions within brackets], *and added text in italic*. Textual additions which have been made for the first time in this second notice of the proposed amendments ***are shown as italicized bold.*** Textual deletions which have been made for the first time in this second notice of the proposed amendments [[are bracketed with double brackets.]] Only subsections of the rules which include proposed amendments are reproduced in this notice. The insertion of a series of small dots (. . . . .) indicates additional, unamended text within a section has not been reproduced in this document. The insertion of a series of stars (* * * * *) indicates that the unamended text of entire sections of the Rules have not been reproduced in this document. For the text of other portions of the Rules which are not proposed to be amended, please access the Office of Compliance web site at www.compliance.gov.

PROPOSED PROCEDURAL RULE AMENDMENTS

PART I—OFFICE OF COMPLIANCE

Office of Compliance Rules of Procedure

As Amended—February 12, 1998 (Subpart A, section 1.02, "Definitions"), and as proposed to be amended in 2004.

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* * * * *

§1.03 Filing and Computation of Time.

(a) Method of Filing. Documents may be filed in person or by mail, including express, overnight and other expedited delivery. *When specifically authorized by the Executive Director,* ***or by the Board of Directors in the case of an appeal to the Board,*** *any document may also be filed by electronic transmittal in a designated format.* Requests for counseling under section 2.03, requests for mediation under section 2.04 and complaints under section 5.01 of these rules may also be filed by facsimile (FAX) transmission. . . . .

Discussion: The electronic filing option is in addition to existing filing procedures, and represents the decision of this agency to begin to explore the process of migration toward electronic filing. In response to comments, the Board has added Board of Directors authorization authority to ensure that the Executive Director cannot unilaterally assume Board authority regarding a matter pending before the Board. Because of limits in available technology, it will remain necessary to designate a particular format for electronic transmittal. Requiring a designated format does not impose an undue burden, since electronic filing is not required. Stipulating a web address and system for confirmation of receipt of electronic transmittal is not appropriate for a formal rule, since all documents will not necessarily be filed at the same address, and not all filing requires proof of receipt. Not including such information also better safeguards the security of document filing.

(d) Service or filing of documents by certified mail, return receipt requested. Whenever these rules permit or require service or filing of documents by certified mail, return receipt requested, such documents may also be served or filed by express mail or other forms of expedited delivery in which proof of [[delivery to]] ***date of receipt by*** *the addressee is provided.*

Discussion: Section 1.03(a)(2)(i) permits "other expedited delivery" of documents being filed for which proof of delivery is not required. However, there is no similar provision with regard to certified mail, return receipt requested. Such a service method is specifically required in Sections 2.03(1), 2.04(i), and 5.01(e). Particularly in view of the lengthened time required to process mail through the U.S. Postal Service since 9-11, the Board has determined that additional flexibility in the use of other mail delivery services is also needed as an alternative to certified mail, return receipt requested.

* * * * *

1.05 Designation of Representative.

AMENDMENT DELETED (a) An employee, other charging individual or party, a witness, a labor organization, an employing office, an entity alleged to be responsible for correcting a violation wishing to be represented by another individual must file with the Office a written notice of designation of representative. The representative may be, but is not required to be, an attorney. [[*During the period of counseling and mediation, upon the request of a party, if the Executive Director concludes that a representative of an employee, of a charging party, of a labor organization, of an employing office, or of an entity alleged to be responsible for correcting a violation has a conflict of interest, the Executive Director may, after giving the representative an opportunity to respond, disqualify the representative. In that event, the period for counseling or mediation may be extended by the Executive Director for a reasonable time to afford the party an opportunity to obtain another representative.*]]

Discussion: Upon further consideration, the Board has deleted this proposed amendment. The Board does not agree with the assertion by a commenter that the current version of this rule is in excess of the authority of this Board under the Act.

* * * * *

2.03 Counseling.

(a) Initiating a Proceeding; Formal Request for Counseling. In order to initiate a proceeding under these rules, an employee shall [formally] *file a written* request *for* counseling [from] *with* the Office regarding an alleged violation of the Act, as referred to in section 2.01(a) above. All [formal] requests for counseling shall be confidential, unless the employee agrees to waive his or her right to confidentiality under section 2.03(e)(2), below.

Discussion: The purpose of this amendment is to delete the undefined term "formal", and require simply that the request be made in written form. Several commenters suggested that institution of a requirement that the counseling request be in writing would constitute a "waiver" of the statutory requirement of absolute confidentiality in counseling mandated by section 416(a) of the Act. Requiring a written counseling request does not constitute or suggest a "waiver" of confidentiality in any way. Such a waiver may only occur when "the Office and a covered employee . . . agree to notify the employing office of the allegations." 2 U.S.C. 1416(a). The process for such a waiver is set out in the existing Procedural Rules at section 2.03(e)(2), which requires a written waiver form. A written request for counseling is an entirely different document.

. . . . .

(c) When, How, and Where to Request Counseling. A [formal] request for counseling *must be in writing, and* [: (1)] shall be [made] *filed with the Office of Compliance at Room LA–200, 110 Second Street, S.E., Washington, D.C. 20540–1999; [[telephone 202–724–9250;]] FAX 202–426–1913; TDD 202–426–1912*, not later than 180 days after the alleged violation of the Act.[; (2) may be made to the Office in person, by telephone, or by written request; (3) shall be directed to: Office of Compliance, Adams Building, Room LA–200, 110 Second Street, S.E., Washington, D.C. 20540–1999; telephone 202–724–9250; FAX 202–426–1913; TDD 202–426–1912.]

Discussion: This amendment conforms to the requirement that a written request for counseling must be filed with the Office.

. . . . .

(l) Conclusion of the Counseling Period and Notice. The Executive Director shall notify the employee in writing of the end of the counseling period, by certified mail, return receipt requested, *or by personal delivery* ***evidenced by a written receipt.*** The Executive Director, as part of the notification of the end of the counseling period, shall inform the employee of the right and obligation, should the employee choose to pursue his or her claim, to file with the Office a request for mediation within 15 days after receipt by the employee of the notice of the end of the counseling period.

Discussion: This amendment reflects the provision of flexibility to the Office in providing notice. In response to comments, we have added the requirement for appropriate documentation in the case of personal delivery. A suggestion that a copy of the end of counseling notice be served on "opposing counsel" would cause a violation of the confidentiality requirement for counseling required by section 416(a) of the Act, and would contradict the non-adversarial nature of counseling.

. . . . .

(m) Employees of the Office of the Architect of the Capitol and the Capitol Police.

(1) Where an employee of the Office of the Architect of the Capitol or of the Capitol Police requests counseling under the Act and these rules, the Executive Director may recommend that the employee use the grievance procedures of the Architect of the Capitol or the Capitol Police. The term 'grievance procedures' refers to internal procedures of the Architect of the Capitol and the Capitol Police that can provide a resolution of the matter(s) about which counseling was requested. Pursuant to section 401 of the Act and by agreement with the Architect of the Capitol and the Capitol Police Board, when the Executive Director makes such a recommendation, the following procedures shall apply:

. . . . .

(ii) After having contacted the Office and having utilized the grievance procedures of the Architect of the Capitol or of the Capitol Police Board, the employee may notify the Office that he or she wishes to return to the procedures under these rules: (A) within [10] *60* days after the expiration of the period recommended by the Executive Director, if the matter has not [[been resolved]] ***resulted in a final decision***; or (B) within 20 days after service of a final decision resulting from the grievance procedures of the Architect of the Capitol or the Capitol Police Board.

(iii) The period during which the matter is pending in the internal grievance procedure shall not count against the time available for counseling or mediation under the Act. If the grievance is resolved to the employee's satisfaction, ***the employee shall so notify the Office within 20 days after the employee has received service of the final decision resulting from the grievance procedure.*** [[or i]] ***I***f no request to return to the procedures under these rules is received within [[the applicable time period]] ***60 days after the expiration of the period recommended by the Executive Director***, the Office will [[consider the case to be closed in its official files]] ***issue a Notice of End of Counseling, as specified in section 2.04(i) of these Rules.***

Discussion: The amendment reflects the Board's conclusion that controversies referred to agency grievance procedures may be close to disposition at or near the end of the stipulated referral period. In such circumstances, the requirement for a return by the employee to the Office's procedures within 10 days can actually have the effect of disrupting the completion of the grievance process. Therefore, the Board proposes an extension of that time frame to 60 days. The time during which a controversy has been referred to an agency grievance proceeding assumes that there will have been joinder of issues between the employee and the employing office. Certainly, there can be no doubt that the employing office has been placed on notice of the existence of the controversy. The amended proposal ensures that the employee will not be penalized by reason of an employing office's failure to process a grievance in a timely manner by stipulating that the Office will issue an end of counseling Notice to the parties 60 days after the end of the referral period. A commenter's suggestion that the referral time frame unlawfully extends counseling beyond the 30 day maximum period ignores section 401 of the Act, which specifically stipulates that all time during which a matter is referred to the grievance procedures of the Architect of the Capitol or the Capitol Police "shall not count against the time available for counseling or mediation." Issuing a Notice of End of Counseling is preferable to administrative closure of a case, since the closure may penalize an employee who is still waiting for the employing office to issue a final decision.

* * * * *

2.04 Mediation.

. . . . .

(e) Duration and Extension.

(1) The mediation period shall be 30 days beginning on the date the request for mediation is received, unless the Office grants an extension.

(2) The Office may extend the mediation period upon the joint *written* request of the parties ***or of the appointed mediator on behalf of the parties*** *to the attention of the Executive Director*. The request [may be oral or] *shall be* written and [shall be noted and] filed with the Office no later than the last day of the mediation period. The request shall set forth the joint nature of the request and the reasons therefor, and specify when the parties expect to conclude their discussions. Request for additional extensions may be made in the same manner. Approval of any extensions shall be within the sole discretion of the Office.

Discussion: The amendment assures that an adequate record of such a request be made. In response to comments, the Board has added language allowing the assigned mediator to submit the request on behalf of the parties.

. . . . .

(i) Conclusion of the Mediation Period and Notice. If, at the end of the mediation period, the parties have not resolved the matter that forms the basis of the request for mediation, the Office shall provide the employee, and the employing office, and their representatives, with written notice that the mediation period has concluded. The written notice to the employee will be sent by certified mail, return receipt requested, *or will be [hand]* ***personally*** *delivered*, ***evidenced by a written receipt***, and it will also notify the employee of his or her right to elect to file a complaint with the Office in accordance with section 5.01 of these rules or to file a civil action pursuant to section 408 of the Act and section 2.06 of these rules.

Discussion: The purpose of this amendment is to reflect the provision of the flexibility of personal delivery. In response to comments, the Board has also formalized the requirement that proof of delivery be evidenced by a written receipt.

* * * * *

2.06 Filing of Civil Action.

. . . . .

(c) Communication Regarding Civil Actions Filed with District Court. [(1)] The party filing any civil action with the United States District Court pursuant to sections 404(2) and 408 of the Act [should simultaneously provide a copy of the complaint] ***shall provide a written notice*** *to the Office* ***that the party has filed a civil action, specifying the district court in which the civil action was filed and the case number.***

Discussion: The Office has the responsibility to be aware of judicial applications and interpretations of the Act. In this regard, see also proposed rule 9.06. In response to comments, the Board has replaced the proposed requirement that a copy of the complaint be provided, with a notice of filing of a civil action. The Office also intends to include notice of this requirement in its Notice of End of Mediation.

AMENDMENT DELETED: [[(2) No party to any civil action referenced in paragraph (1) shall request information from the Office regarding the proceedings which took place pursuant to sections 402 or 403 related to said civil action, unless said party notifies the other party(ies) to the civil action of the request to the Office. The Office will determine whether the release of such information is appropriate under the Act and the Rules of Procedure.]]

Discussion: Upon further consideration, the Board has deleted this proposed amendment.

* * * * *

§4.16 Comments on Occupational Safety and Health Reports. [[The General Counsel will provide to responsible employing office(s) a copy of any report issued for general distribution not less than seven days prior to the date scheduled for its issuance. If a responsible employing office wishes to have its written comments appended to the report, it shall submit such comments to the General Counsel no later than 48 hours prior to the scheduled issuance date. The General Counsel shall either include the written comments without alteration as an appendix to the report, or immediately decline the request for their inclusion. If the General Counsel declines to include the submitted comments, the employing office(s) may submit said denial to the Board of Directors which, in its sole discretion, shall review the matter and issue a final and non-appealable decision solely regarding inclusion of the employing office(s) comments prior to the issuance of the report. Submissions to the Board of Directors in this regard shall be made expeditiously and without regard to the requirements of subpart H of these rules. In no event shall the General Counsel be required by the Board to postpone the issuance of a report for more than five days.]] ***With respect to any report authorized under section 215(c)(1) or 215(e)(2) of the Act that is intended by the General Counsel for general public distribution, the General Counsel shall, before making such general public distribution, first transmit a copy thereof to the responsible employing office(s), together with a notification that the employing office(s) has 10 days within which to submit any written comments that it wishes to be appended in their entirety as an appendix to the report. In the event the General Counsel declines to append to the report timely submitted comments of an employing office, the General Counsel shall not issue the report for general public distribution, and will promptly notify that office in writing of the basis for such declination. Upon written request to the Board of Directors submitted by the employing office within 10 days of the date of notification of declination by the General Counsel, with a copy thereof served on the General Counsel, the Board of Directors shall promptly review the matter, including any submission filed by the General Counsel within 10 days of the employing office's request, and issue a final and non-appealable decision determining the issue of inclusion of the employing office's comments prior to the general public distribution of the report. In no event shall the General Counsel be required by the Board to delay issuance of a report covered by this procedure for more than 15 days after the employing office's request for review is submitted to the Board of Directors.***

Discussion: The proposed amendment, as reworded, provides a mechanism for employing office comments to be appended to reports issued by the General Counsel regarding Occupational Safety and Health inspections. The Board has amended the proposal to clarify further the categories of OSH reports resulting from inspection requests. The Board has extended the time periods within which the dispute resolution procedure takes place. The Board has also added a requirement that any General Counsel declination must be provided in writing to the employing office.

* * * * *

§5.03 Dismissal, Summary Judgment, and Withdrawal of Complaints.

. . . . .

(d) Summary Judgment. A Hearing Officer may, after notice and an opportunity ***for the parties to address the question of summary judgment,*** *[[to respond,]] issue summary judgment on some or all of the complaint.*

([d]*e*) Appeal. A [dismissal] *final decision* by the Hearing Officer made under section 5.03(a)–(c) or 7.16 of these rules may be subject to appeal before the Board if the aggrieved party files a timely petition for review under section 8.01. ***A final decision under section 5.03(a)–(c) which does not resolve all of the claims or issues in the case(s) before the Hearing Officer may not be appealed to the Board in advance of a final decision entered under section 7.16 of these rules, except as authorized pursuant to section 7.13 of these rules.***

([e]*f*) . . . . .

([f]*g*) . . . . .

Discussion: Hearing Officers have plenary authority to conduct hearings and make final decisions, including summary judgment, pursuant to section 405 of the Act. The amendments more adequately reflect the existing authority of Hearing Officers. In response to a comment, the Board has included the requirement that the parties be given the opportunity to address the issue. The Board has also addressed the circumstance of a partial disposition of a case.

* * * * *

§7.02 Sanctions

(a) The Hearing Officer may impose sanctions on a party's representative [[for inappropriate or unprofessional conduct]] ***necessary to regulate the course of the hearing.***

(b) The Hearing Officer may impose sanctions upon the parties under, but not limited to, the circumstances set forth in this section.

([a]*1*) Failure to Comply with an Order. When a party fails to comply with an order (including an order for the taking of a deposition, for the production of evidence within the party's control, or for production of witnesses), the Hearing Officer may:

([1]*a*) . . . . .

([2]*b*) . . . . .

([3]*c*) . . . . .

([4]*d*) . . . . .

Discussion: In response to comments, and upon further consideration, the Board has amended this proposal to better reflect existing statutory authority. Section 556(c)(5) of the Administrative Procedure Act, referenced in section 405(d)(3) of the Act, specifically authorizes a presiding official to "regulate the course of the hearing". The amendment authorizes a Hearing Officer to carry out that responsibility when required by a representative's conduct.

* * * * *

§8.01 Appeal to the Board.

. . . . .

(b)(1) Unless otherwise ordered by the Board, within 21 days following the filing of a petition for review to the Board, the appellant shall file and serve a supporting brief in accordance with section 9.01 of these rules. That brief shall identify with particularity those findings or conclusions in the decision and order that are challenged and shall refer specifically to the portions of the record and the provisions of statutes or rules that are alleged to support each assertion made on appeal.

(2) Unless otherwise ordered by the Board, within 21 days following the service of the appellant's brief, the opposing party may file and serve a reply brief.

(3) Upon ***written*** *delegation by the Board, the Executive Director is authorized to determine any request for extensions of time to file any* ***post-petition for review*** *document or submission with the Board* ***in any case in which the Executive Director has not rendered a determination on the merits.*** *Such delegation shall continue until revoked by the Board.*

. . . . .

Discussion: The amendment authorizes the Executive Director to perform the ministerial act of granting extensions of time in which to file documents when specifically authorized to do so by the Board. In response to comments, the Board has required written delegation of authority, and has limited that delegation to submissions after a petition for review has been filed. The Board has also prohibited such a delegation in any case in which the Executive Director has issued a determination on the merits in the underlying proceeding.

* * * * *

§9.01 Filing, Service and Size Limitations of Motions, Briefs, Responses and other Documents.

(a) Filing with the Office; Number. One original and three copies of all motions, briefs, responses, and other documents must be filed, whenever required, with the Office or Hearing Officer. However, when a party aggrieved by the decision of a Hearing Officer *or other* ***matter or*** *determination reviewable by the Board* files an appeal with the Board, one original and seven copies of both any appeal brief and any responses must be filed with the Office. *The Officer, Hearing Officer, or Board may also [[require]]* ***request*** *a party to submit an electronic version of any submission on a disk in a designated format.*

. . . . .

Discussion: The addition of "other matter or determination reviewable by the Board" is intended to address: collective bargaining representation decisions made pursuant to Part 2422 of the Office of Compliance Rules regarding labor-management relations, negotiability determinations made pursuant to

Part 2424 of the same Rules, review of arbitration awards under Part 2425 of the same Rules, determination of bargaining consultation rights under Part 2426 of the same Rules, requests for general statements of policy or guidance under Part 2427 of the same Rules, enforcement of standards of conduct decisions and orders by the Assistant Secretary of Labor for Labor Management Relations pursuant to Part 2428 of the same Rules, and determinations regarding collective bargaining impasses pursuant to Part 2470 of the same Rules. The term "matter" was included by the Board on further consideration, because some of the procedures referenced in the labor-management relations Rules are addressed to the Board in the first instance. Submission by electronic version is in addition to the existing methods for filing submissions. This addition reflects the decision of this agency to begin exploring the process of migration toward electronic filing. Because of limits in available technology, it remains necessary to designate a particular format for electronic disk transmittal. In response to comments, the Board has amended the proposal to allow for a "request" rather than a requirement. The availability of submissions on disk, particularly of lengthy documents, can save the Office time and expense in handling such documents.

* * * * *

§9.03 Attorney's fees and costs.

(a) Request. No later than 20 days after the entry of a Hearing Officer's decision under section 7.16 or after service of a Board decision by the Office, the complainant, if he or she is a prevailing party, may submit to the Hearing Officer who heard the case initially a motion for the award of reasonable attorney's fees and costs, following the form specified in paragraph (b) below. *All motions for attorney's fees and costs shall be submitted to the Hearing Officer.* [The Board or t] *The* Hearing Officer, after giving the respondent an opportunity to reply, shall rule on the motion.

. . . . .

Discussion: This amendment clarifies the rules to exclude the filing of motions for attorney's fees with the Board of Directors.

* * * * *

§9.05 Informal Resolutions and Settlement Agreements.

. . . . .

(b) Formal Settlement Agreement. The parties may agree formally to settle all or part of a disputed matter in accordance with section 414 of the Act. In that event, the agreement shall be in writing and submitted to the Executive Director for review and approval. *If the Executive Director does not approve the settlement, such disapproval shall be in writing, shall set forth the grounds therefor, and shall render the settlement ineffective.*

(c) Requirements for a Formal Settlement Agreement. A formal settlement agreement requires the signature of all parties on the agreement document before the agreement can be submitted to the Executive Director. A formal settlement agreement cannot be rescinded after the signatures of all parties have been affixed to the agreement, unless by written revocation of the agreement voluntarily signed by all parties, or as otherwise [[required]] ***permitted*** *by law.*

(d) Violation of a Formal Settlement Agreement. If a party should allege that a formal settlement agreement has been violated, the issue shall be determined by reference to the formal dispute resolution procedures of the agreement. If the particular formal settlement agreement does not have a stipulated method for dispute resolution of an alleged violation of the agreement, the following dispute resolution procedure shall be deemed to be a part of each formal settlement agreement approved by the Executive Director pursuant to section 414 of the Act: Any complaint regarding a violation of a formal settlement agreement may be filed with the Executive Director no later than 60 days after the party to the agreement becomes aware of the alleged violation. Such complaints may be referred by the Executive Director to a Hearing Officer for a final and binding decision. The procedures for hearing and determining such complaints shall be governed by subparts F, G, and H of these rules.

Discussion: The Board disagrees with comments that assert the Office has no statutory authority to settle disputes regarding the alleged violation of settlement agreements. Under section 414 of the Act, the Executive Director is clearly given plenary authority to approve all settlement agreements under the Act entered into at any stage of the administrative or judicial process. No settlement agreement can "become effective" unless and until such approval has been given. The Office is concerned that many settlement agreements do not include provisions for disposition of controversies regarding alleged violations of the agreement. Rather than consider initiating a practice of withholding approval of settlement agreements which do not include provisions setting forth dispute resolution procedures, the Office is providing all parties, by notice and rule, the option to include their own dispute resolution provisions, or default to the dispute resolution procedure stipulated in this proposed Rule when they enter into a settlement agreement. The word "permitted" was inserted in place of "required" as a clarification, since in this context a rescission of an approved agreement would rarely, if ever, be required by operation of law.

[[§9.06 Destruction of Closed Files. Closed case files regarding counseling, mediation, hearing, and/or appeal ***to the Board of Directors*** *may be destroyed during the calendar year in which the fifth anniversary of the closure date occurs, or during the calendar year in which the fifth anniversary of the conclusion of all adversarial proceedings in relation thereto occurs, whichever period ends later.]]*

Discussion: The Executive Director and the Board of Directors have been made aware that the Office of Compliance appears to be an agency covered by the requirements of the Federal Records Act (found at Title 44 of the U.S. Code). The Records Act requires that an agency consult with the Archivist of the United States regarding any record destruction program. Therefore, the Executive Director and the Board are withdrawing this proposal at this time, and will issue a new Notice regarding this subject matter after the requirements of the Federal Records Act have been satisfied.

§9.0[7]6 *Payment**s** [[of]]* ***required pursuant to*** *Decisions, Awards, or Settlements under section 415(a) of the Act. Whenever a decision or award pursuant to sections 405(g), 406(e), 407, or 408 of the Act, or an approved settlement pursuant to section 414 of the Act, require the payment of funds pursuant to section 415(a) of the Act, the decision, award, or settlement shall be submitted to the Executive Director to be processed by the Office for requisition from the account of the Office of Compliance in the Department of the Treasury, and payment.*

Discussion: This proposed rule reflects the existing procedure for processing payments under section 415(a) of the Act. Since section 415 does not authorize automatic stays of judgments or awards pending appeal, parties are advised to seek such a stay from the appropriate forum. Adding an automatic stay of payment until all appeals have been exhausted would require an amendment of the Act.

*§9.0[6]***7 Revocation, Amendment or Waiver of Rules.**

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

6818. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Aminoethoxyvenylglycine hydrochloride (aviglycine HCl); Pesticide Tolerance [OPP-2003-0389; FRL-7341-6] received February 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6819. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Bifenazate; Pesticide Tolerances for Emergency Exemptions [OPP-2003-0370; FRL-7335-6] received February 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6820. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Aldicarb, Atrazine, Cacodylic Acid, Carbofuran, et al.; Tolerance Actions [OPP-2003-0344; FRL-7338-3] received February 11, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6821. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Thifensulfuron mehtyl; Tolerances Actions [OPP-2003-0363; FRL-7338-6] received February 11, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6822. A letter from the Assistant Director, Legislative and Regulatory Activities Division, Comptroller of the Currency, Department of the Treasury, transmitting the Department's final rule — Bank Activities and Operations [Docket No. 04-03] (RIN: 1557-AC78) received January 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

6823. A letter from the Assistant Director, Legislative and Regulatory Activities Division, Comptroller of the Currency, Department of the Treasury, transmitting the Department's final rule — Bank Activities and Operations; Real Estate Lending and Appraisals [Docket No. 04-04] (RIN: 1557-AC73) received January 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

6824. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval of Section 112(l) Authority for Hazardous Air Pollutants; Equivalency by Permit Provisions; National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry; State of South Carolina [SC-112L-2004-1-FRL-7623-8] received February 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6825. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Montana; Thompson

Falls PM Nonattainment Area Control Plan [SIP No. MT-001-0005, MT-001-0006; FRL-7609-1] received February 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6826. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revisions to Update the 1-Hour Ozone Maintenance Plan for the Reading Area (Berks County) [PA 210-4302; FRL-7616-6] received February 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6827. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; West Virginia; MOBILE6-Based Motor Vehicle Emission Budgets for Greenbrier County and the Charleston, Huntington, and Parkersburg 1-Hour Ozone Maintenance Areas [WV063-6032a; FRL-7612-9] received February 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6828. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans Tennessee: Knox County Maintenance Plan Update [TN-257-200402(a); FRL-7616-2] received February 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6829. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Connecticut; Motor Vehicle Emissions Budgets for 2005 and 2007 using MOBILE6.2 for the Connecticut portion of the New York-Northern New Jersey-Long Island nonattainment area and for 2007 for the Greater Connecticut nonattainment area. [CT-057-7216g; A-1-FRL-7617-8] received February 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6830. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Implementation Plans; Michigan [MI83-03; FRL-7617-7] received February 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6831. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Redesignation and Approval of Ohio Implementation Plan [OH158-1a; FRL-76167-4] received February 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6832. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Maryland; The 2005 ROP Plan for the Baltimore Sever 1-Hour Ozone Nonattainment Area; Revisions to the Plan's Emissions Inventories and Motor Vehicle Emissions Budgets to Reflect MOBILE6 [MD151-3107; FRL-7623-4] received February 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6833. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans Florida: Southeast Florida Area Maintenance Plan Update [FL-91-200323(a); FRL-7622-1] received February 11, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6834. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Delegation of Authority to the Washington State Department of Ecology, Benton Clean Air Authority, Northwest Air Pollution Authority, Olympic Regional Clean Air Agency, Puget Sound Clean Air Agency, Spokane County Air Pollution Control Authority, Southwest Clean Air Agency, and Yakima Regional Clean Air Authority for New Source Performance Standards. [FRL-7623-2] received February 11, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6835. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Delegation of Authority to the Oregon Department of Environmental Quality for New Source Performance Standards [FRL-7622-6] received February 11, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6836. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Interim Final Determination to Stay and/or Defer Sanctions, San Joaquin Valley Unified Air Pollution Control District [CA269-0438b; FRL-7621-2] received February 11, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6837. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Primary and Secondary Drinking Water Regulations; Approval of Additional Method for the Detection of Coliforms and E.Coli in Drinking Water [FRL-7622-8] (RIN: 2040-AD90) received February 11, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6838. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the Texas Underground Injection Control Program Approval Under Section 1422 of the Safe Drinking Water Act and Administered by the Railroad Commission of Texas [FRL-7622-9] received February 11, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6839. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the Texas Underground Injection Control Program Approved Under Section 1422 of the Safe Drinking Water Act and Administered by the Texas Commission on Environmental Quality [FRL-7623-1] received February 11, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6840. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District [CA 295-0434a; FRL-7614-9] received February 11, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6841. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Civil Monetary Penalty Inflation Adjustment Rule [FRL-7623-5] received February 11, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

6842. A letter from the Chair, Office of Compliance, transmitting Second Notice of Proposed Procedural Rule Making under Section 303(b) of the Congressional Accountability Act of 1995 for publication in the Congressional Record, pursuant to 2 U.S.C 1384(b); jointly to the Committees on House Administration and Education and the Workforce.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

S. 1233. Referral to the Committee on the Judiciary extended for a period ending not later than April 2, 2004.

H.R. 2120. Referral to the Committee on the Judiciary extended for a period ending not later than June 1, 2004.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. CALVERT (for himself, Mr. LAMPSON, Mr. ISSA, and Mr. MCINTYRE):

H.R. 3845. A bill to amend the Act of August 13, 1946, to raise the maximum amount that may be allotted by the Secretary of the Army for the construction of small shore and beach restoration and protection projects, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. POMBO (for himself, Mr. RENZI, Mr. BACA, Mr. PEARCE, Mr. UDALL of Colorado, Mr. NUNES, Mr. UDALL of New Mexico, and Mr. DOOLEY of California):

H.R. 3846. A bill to authorize the Secretary of Agriculture and the Secretary of the Interior to enter into an agreement or contract with Indian tribes meeting certain criteria to carry out projects to protect Indian forest land; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CONYERS (for himself, Mr. BERMAN, Mr. NADLER, Mr. SCOTT of Virginia, Mr. WATT, Ms. JACKSON-LEE of Texas, Ms. WATERS, Mr. DELAHUNT, Ms. BALDWIN, Mr. WEINER, Ms. LINDA T. SÁNCHEZ of California, Mr. ABERCROMBIE, Mr. ACEVEDO-VILÁ, Mr. ANDREWS, Mr. BALLANCE, Mr. BELL, Mr. BISHOP of Georgia, Mr. BISHOP of New York, Mr. BLUMENAUER, Ms. BORDALLO, Mr. BRADY of Pennsylvania, Ms. CORRINE BROWN of Florida, Mr. BROWN of Ohio, Mrs. CAPPS, Ms. CARSON of Indiana, Mrs. CHRISTENSEN, Mr. CLAY, Mr. CLYBURN, Mr. CUMMINGS, Mr. DAVIS of Alabama, Mr. DAVIS of Illinois, Mr. DAVIS of Florida, Mr. DEUTSCH, Mr. ENGEL, Mr. FALEOMAVAEGA, Mr. FARR, Mr. FATTAH, Mr. FILNER, Mr. FORD, Mr. FRANK of Massachusetts, Mr. FROST, Mr. GEPHARDT, Mr. GREEN of Texas, Mr. GUTIERREZ, Mr. GONZALEZ, Mr. GRIJALVA, Mr. HASTINGS of Florida, Mr. HINCHEY, Mr. HINOJOSA, Mr. HOEFFEL, Mr. HOLT, Mr. HONDA, Mr. JACKSON of Illinois, Mr. JEFFERSON, Ms. EDDIE BERNICE

Johnson of Texas, Mr. Kildee, Ms. Kilpatrick, Mr. Kleczka, Mr. Kucinich, Mr. Lampson, Mr. Lantos, Mr. Larsen of Washington, Ms. Lee, Mr. Lewis of Georgia, Ms. Majette, Mrs. Maloney, Mr. Matheson, Mr. Matsui, Ms. McCarthy of Missouri, Mrs. McCarthy of New York, Ms. McCollum, Mr. McDermott, Mr. McGovern, Mr. McNulty, Mr. Meeks of New York, Mr. Menendez, Ms. Millender-McDonald, Mr. George Miller of California, Ms. Norton, Mr. Olver, Mr. Owens, Mr. Pastor, Mr. Payne, Ms. Pelosi, Mr. Price of North Carolina, Mr. Rangel, Mr. Rodriguez, Ms. Roybal-Allard, Mr. Rush, Mr. Sanders, Ms. Loretta Sanchez of California, Mr. Sandlin, Ms. Schakowsky, Mr. Scott of Georgia, Mr. Serrano, Mr. Shays, Ms. Slaughter, Ms. Solis, Mr. Spratt, Mr. Stark, Mrs. Tauscher, Mr. Thompson of Mississippi, Mr. Tierney, Mr. Towns, Mrs. Jones of Ohio, Mr. Walsh, Ms. Watson, Ms. Woolsey, Mr. Wu, and Mr. Wynn):

H.R. 3847. A bill to prohibit racial profiling; to the Committee on the Judiciary.

By Mr. HERGER:

H.R. 3848. A bill to reauthorize the Temporary Assistance for Needy Families block grant program through June 30, 2004, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RODRIGUEZ (for himself, Mr. Evans, and Mr. Gutierrez):

H.R. 3849. A bill to amend title 38, United States Code, to provide permanent authority for the Secretary of Veterans Affairs to continue to operate a program to provide counseling and treatment for veterans who while in military service experienced sexual trauma or sexual harassment; to the Committee on Veterans' Affairs.

By Mr. YOUNG of Alaska (for himself and Mr. Oberstar):

H.R. 3850. A bill to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Ways and Means, Resources, and Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ABERCROMBIE (for himself and Mr. Case):

H.R. 3851. A bill to authorize an additional permanent judgeship for the district of Hawaii; to the Committee on the Judiciary.

By Mr. ACEVEDO-VILÁ (for himself and Mrs. Christensen):

H.R. 3852. A bill to extend the benefits of the weatherization assistance program under part A of title IV of the Energy Conservation and Production Act to Puerto Rico and the United States Virgin Islands; to the Committee on Energy and Commerce.

By Mr. BARRETT of South Carolina (for himself and Mr. Hensarling):

H.R. 3853. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to extend the discretionary spending limits through fiscal year 2009, to extend paygo for direct spending, and for other purposes; to the Committee on the Budget, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FLAKE (for himself, Mr. Pence, Mr. Smith of Michigan, Mr. King of Iowa, Mr. Akin, Mr. Tancredo, Mr. Norwood, Mr. Jones of North Carolina, Mr. Bartlett of Maryland, Mr. Miller of Florida, Mr. Franks of Arizona, Mr. Brady of Texas, Mr. Hensarling, Mrs. Musgrave, Mr. Barrett of South Carolina, Mr. DeMint, Mr. Gutknecht, and Mr. Feeney):

H.R. 3854. A bill to contain the costs of the Medicare prescription drug program under part D of title XVIII of the Social Security Act, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GRAVES (for himself, Mr. Hulshof, Mr. Blunt, Mr. Akin, Mrs. Emerson, Ms. McCarthy of Missouri, Mr. Skelton, Mr. Clay, and Mr. Gephardt):

H.R. 3855. A bill to designate the facility of the United States Postal Service located at 607 Pershing Drive in Laclede, Missouri, as the "General John J. Pershing Post Office"; to the Committee on Government Reform.

By Mr. GREEN of Texas (for himself, Mr. Lampson, Ms. Eddie Bernice Johnson of Texas, Mr. Reyes, Mr. Stenholm, Ms. Jackson-Lee of Texas, Mr. Frost, Mr. Ortiz, Mr. Sandlin, Mr. Rodriguez, Mr. Gonzalez, Mr. Turner of Texas, Mr. Edwards, Mr. Bell, Mr. Doggett, and Mr. Hinojosa):

H.R. 3856. A bill to limit the congressional redistricting that States may do after an apportionment; to the Committee on the Judiciary.

By Mr. SAM JOHNSON of Texas (for himself, Mr. Herger, Mr. Neal of Massachusetts, Mr. Ramstad, Mr. Brady of Texas, Mr. Hayworth, Mr. Sandlin, Mr. Burgess, Mrs. Myrick, Mr. Smith of Texas, Mr. Paul, Mr. Sessions, Mr. Culberson, Mr. Bonilla, and Mr. Hall):

H.R. 3857. A bill to amend the Internal Revenue Code of 1986 to allow issuance of tax-exempt private activity bonds to finance certain surface transportation facilities; to the Committee on Ways and Means.

By Mr. NETHERCUTT (for himself, Ms. DeGette, Mr. Bass, Mr. Schiff, Mr. Frost, Ms. Bordallo, Mr. Van Hollen, Mr. Kline, Mr. Green of Texas, Mr. Andrews, Mr. Wicker, Mr. Lantos, Mr. Becerra, Mr. Moore, Ms. DeLauro, Mr. McHugh, Mr. Weldon of Pennsylvania, and Mr. Fossella):

H.R. 3858. A bill to amend the Public Health Service Act to increase the supply of pancreatic islet cells for research, and to provide for better coordination of Federal efforts and information on islet cell transplantation; to the Committee on Energy and Commerce.

By Ms. PELOSI (for herself, Mr. Gephardt, Mr. Leach, Ms. Ros-Lehtinen, Mr. Hoyer, Mr. Abercrombie, Mr. Ackerman, Mr. Allen, Ms. Baldwin, Ms. Berkley, Mr. Boehlert, Mr. Bonner, Mrs. Bono, Mr. Brady of Pennsylvania, Mrs. Christensen, Mr. Cummings, Mr. Davis of Illinois, Mrs. Davis of California, Ms. DeLauro, Mr. Deutsch, Mr. Doggett, Mr. Emanuel, Mr. Ferguson, Mr. Filner, Mr. Foley, Mr. Frank of Massachusetts, Mr. Frelinghuysen, Mr. Frost, Mr. Garrett of New Jersey, Mr. Grijalva, Mr. Hastings of Florida, Mr. Hinchey, Mr. Hoeffel, Mr. Houghton, Ms. Jackson-Lee of Texas, Mr. Jefferson, Mrs. Kelly, Mr. Kirk, Mr. Kleczka, Mr. Lantos, Mr. Larsen of Washington, Ms. Lee, Ms. Lofgren, Mr. Lynch, Ms. McCollum, Mr. McDermott, Mr. McNulty, Mr. Michaud, Ms. Millender-McDonald, Mr. George Miller of California, Mr. Nethercutt, Mr. Payne, Mr. Price of North Carolina, Mr. Quinn, Mr. Rodriguez, Mr. Rothman, Ms. Schakowsky, Mr. Schiff, Mr. Serrano, Mr. Shays, Mr. Shimkus, Mr. Simmons, Ms. Slaughter, Mr. Smith of New Jersey, Ms. Solis, Mr. Stark, Mr. Sweeney, Mr. Udall of Colorado, Mr. Van Hollen, Mr. Walsh, Ms. Waters, Mr. Waxman, and Mr. Wexler):

H.R. 3859. A bill to amend title XIX of the Social Security Act to permit States the option to provide Medicaid coverage for low-income individuals infected with HIV;, to the Committee on Energy and Commerce.

By Mr. PETERSON of Pennsylvania (for himself, Mr. Kind, Mr. Ehlers, Mr. Kildee, Mr. Obey, Mr. Houghton, Mr. English, Mr. Hefley, Mr. Levin, Mr. Regula, Ms. Hart, Mr. Kleczka, Mr. Bereuter, Mr. Udall of Colorado, Ms. Baldwin, and Mr. Green of Wisconsin):

H.R. 3860. A bill to amend the National Trails System Act to clarify Federal authority relating to land acquisition from willing sellers for the majority of the trails in the System, and for other purposes; to the Committee on Resources.

By Mr. RODRIGUEZ (for himself, Mr. Sandlin, Mr. Hinojosa, Mr. Ortiz, Mr. Frost, Mr. Turner of Texas, Mr. Green of Texas, Mr. Bell, Mr. Doggett, Mr. Edwards, Mr. Reyes, Ms. Jackson-Lee of Texas, and Mr. Gonzalez):

H.R. 3861. A bill to amend part C of title XVIII of the Social Security Act to prohibit the operation of the Medicare comparative cost adjustment (CCA) program in Texas; to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SCOTT of Virginia (for himself, Ms. Norton, Mr. Bishop of Utah, Mr. Kennedy of Rhode Island, Mr. Crowley, Mr. Acevedo-Vilá, Mr. Scott of Georgia, Ms. DeLauro, Mr. Ryan of Ohio, Mr. Towns, Mr. Jefferson, Mr. Strickland, Mrs. Maloney, Mr. Frost, Mr. Rangel, Mr. McGovern, Mr. Stark, Mr. Walsh, and Ms. Woolsey):

H.R. 3862. A bill to provide an automatic pay increase to any member of the Armed Forces who is deployed away from the member's permanent station or, in the case of a member of a reserve component of the Armed Forces, the member's home of record, once the deployment period exceeds 180 days of continuous duty; to the Committee on Armed Services.

By Mr. SHADEGG:

H.R. 3863. A bill to improve the access of investors to regulatory records with respect to securities brokers, dealers, and investment advisers; to the Committee on Financial Services.

By Ms. SLAUGHTER (for herself, Mr. Quinn, Mr. Strickland, and Mr. Whitfield):

H.R. 3864. A bill to provide coverage under the Energy Employees Occupational Illness Compensation Program for individuals employed at atomic weapons employer facilities during periods of residual contamination; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STARK:

H.R. 3865. A bill to amend the Internal Revenue Code of 1986 to deny any deduction for certain gifts and benefits provided to physicians by prescription drug manufacturers; to the Committee on Ways and Means.

By Mr. PENCE (for himself, Ms. Berkley, Mr. Blunt, Mr. Lantos, Mr. Cantor, Mrs. Jo Ann Davis of Virginia, Mr. Sessions, Mr. Crane, Mr. Cardoza, Mr. Feeney, Mr. Davis of Alabama, Mr. Saxton, Mr. Tiahrt, Mr. King of Iowa, Mr. Norwood, Ms. Harris, Mrs. Kelly, Mr. Garrett of New Jersey, Mr. Wilson of South Carolina, Mr. Weldon of Florida, Mr. Smith of New Jersey, Mr. Akin, Mrs. Musgrave, Mr. Flake, Mr. Beauprez, Mr. Shimkus, Mr. Sandlin, Mr. Frost, Mr. Rehberg, Mr. Barrett of South Carolina, Mr. Souder, Mrs. Myrick, Mr. Weller, Mr. Emanuel, Mr. Doolittle, Mr. DeMint, Mr. Hensarling, Mr. Smith of Michigan, Mr. Herger, Mr. Sam Johnson of Texas, Mr. Chabot, Mr. Tancredo, Mr. Jones of North Carolina, Mr. Bartlett of Maryland, Mr. Ryun of Kansas, Mr. Miller of Florida, Mr. Goode, Mr. Kennedy of Minnesota, Mr. Franks of Arizona, Mr. Chandler, Mr. Shadegg, Mr. Hayworth, Mr. Crowley, Mr. Israel, Mr. Schrock, Mr. Crenshaw, Mr. Otter, Mrs. Blackburn, Mr. Sensenbrenner, Mr. Linder, Mr. Stearns, Mr. Mario Diaz-Balart of Florida, Mr. Schiff, Mr. Nadler, Mr. Ferguson, Mr. Brown of South Carolina, Mr. McNulty, Mr. Wynn, Mr. Nunes, Mr. Sherman, and Mr. Hastings of Florida):

H. Con. Res. 371. Concurrent resolution supporting the construction by Israel of a security fence to prevent Palestinian terrorist attacks and condemning the decision by the United Nations General Assembly to request the International Court of Justice to render an opinion on the legality of the security fence; to the Committee on International Relations.

By Mr. HASTINGS of Florida:

H. Con. Res. 372. Concurrent resolution expressing the sense of Congress with respect to the urgency of cessation of hostilities in the Republic of Haiti; to the Committee on International Relations.

By Mr. GEORGE MILLER of California (for himself, Ms. Woolsey, and Mr. Meeks of New York):

H. Con. Res. 373. Concurrent resolution expressing the sense of Congress that Kids Love a Mystery is a program that promotes literacy and should be encouraged; to the Committee on Education and the Workforce.

By Mr. RYUN of Kansas (for himself, Mr. Frost, Ms. Carson of Indiana, Mr. Baker, Mr. Tiahrt, Mrs. Wilson of New Mexico, Mr. Jones of North Carolina, Mr. Calvert, and Mr. Souder):

H. Con. Res. 374. Concurrent resolution expressing the sense of Congress that the Secretary of Defense, Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission should work to mitigate the financial hardships experienced by members of the reserve component as a result of being called to active duty; to the Committee on Financial Services, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHERMAN (for himself, Mr. Wilson of South Carolina, Mr. Sessions, Mr. Cooper, Mr. Green of Texas, Mr. Bilirakis, Mr. Petri, Mr. Gillmor, Mr. Frost, Ms. Bordallo, Mr. Hall, Mr. Lantos, Mr. Schiff, Mr. Berman, Mr. McNulty, Mr. Upton, Mr. Shaw, Mr. Grijalva, Mr. Ballenger, Mr. Kildee, Mr. Hastings of Florida, Ms. Carson of Indiana, Mr. McDermott, Mr. Crane, Mr. Michaud, Mr. Matheson, Mr. Ney, Mr. Larson of Connecticut, Mr. Case, Mr. Johnson of Illinois, Mr. Turner of Texas, and Mr. Frank of Massachusetts):

H. Con. Res. 375. Concurrent resolution expressing the sense of the Congress that a commemorative stamp should be issued in honor of the centennial anniversary of Rotary International and its work to eradicate polio; to the Committee on Government Reform.

By Mr. RANGEL:

H. Res. 538. A resolution honoring Dick Brown: New York's greatest ambassador to Washington; to the Committee on Government Reform.

By Mr. SOUDER (for himself and Mr. Wolf):

H. Res. 540. A resolution expressing the condolences and deepest sympathies of the House of Representatives for the untimely death of Macedonian President Boris Trajkovski; to the Committee on International Relations.

By Mr. ENGLISH (for himself, Mr. Engel, Mr. Burton of Indiana, Mr. Emanuel, and Mr. Smith of New Jersey):

H. Res. 541. A resolution expressing the sense of the House of Representatives that the Senate should give its advice and consent to ratification of the United Nations Convention Against Transnational Organized Crime and certain Protocols thereto; to the Committee on International Relations.

By Mr. MEEK of Florida (for himself, Ms. Jackson-Lee of Texas, Mr. Ballance, Mr. Owens, Ms. Corrine Brown of Florida, Mr. Watt, Mr. Payne, Ms. Kilpatrick, Ms. Lee, Ms. Schakowsky, Ms. Eddie Bernice Johnson of Texas, Mr. Cummings, Mr. Rush, Mr. Meeks of New York, Mrs. Christensen, Mr. Conyers, Ms. Norton, Ms. Majette, Mr. Wynn, Mr. Hastings of Florida, Mr. Towns, Mr. Fattah, Mr. Clyburn, Mrs. Jones of Ohio, Mr. Clay, Ms. Carson of Indiana, Mr. Jefferson, Mr. Scott of Virginia, Ms. Millender-McDonald, Mr. Ford, Mr. Davis of Alabama, Ms. Waters, Mr. Jackson of Illinois, Mr. Deutsch, Mr. Lewis of Georgia, Ms. Watson, Mr. Thompson of Mississippi, Mr. Davis of Illinois, Mr. Rangel, Mr. Bishop of Georgia, and Mr. Scott of Georgia):

H. Res. 542. A resolution expressing the sense of the House of Representatives that the Secretary of Homeland Security should designate Haiti under section 244 of the Immigration and Nationality Act in order to make nationals of Haiti eligible for temporary protected status under such section; to the Committee on the Judiciary.

By Mr. PRICE of North Carolina (for himself, Mr. Bereuter, Mr. Dreier, and Mr. Frost):

H. Res. 543. A resolution providing for the establishment of a commission in the House of Representatives to assist parliaments in emerging democracies; to the Committee on International Relations.

By Mr. RODRIGUEZ (for himself, Ms. Roybal-Allard, Ms. Loretta Sanchez of California, Mr. Baca, Mr. Hinojosa, Mr. Serrano, Mrs. Napolitano, Mr. Gutierrez, Mr. Becerra, Mr. Gonzalez, Mr. Pastor, Ms. Solis, Mr. Cardoza, Ms. Velázquez, and Mr. Menendez):

H. Res. 544. A resolution commemorating the 75th Anniversary of the Creation of the League of United Latin American Citizens; to the Committee on Government Reform.

By Mr. ROHRABACHER (for himself and Mrs. Maloney):

H. Res. 545. A resolution expressing the sense of the House of Representatives that a specific statement should be included in the Iraqi Transitional Administrative Law guaranteeing the people of Iraq the right to freedom of thought, conscience, and religion, and for other purposes; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolution as follows:

H.R. 119: Mr. Baird.

H.R. 176: Mr. Bishop of Utah.

H.R. 339: Mr. Cox.

H.R. 434: Mr. Sullivan and Mr. Saxton.

H.R. 463: Mr. Miller of Florida, Mr. Frank of Massachusetts, Mr. McGovern, and Mr. Green of Wisconsin.

H.R. 504: Ms. McCollum.

H.R. 742: Mr. Wu.

H.R. 768: Mr. Lincoln Diaz-Balart of Florida and Mr. Lantos.

H.R. 785: Mr. Istook, Mr. Boswell, and Ms. Solis.

H.R. 792: Mr. Schiff.

H.R. 814: Mr. Tierney and Mr. Weller.

H.R. 818: Ms. McCollum.

H.R. 854: Mr. Shimkus.

H.R. 857: Mr. Hostettler and Mr. Tiberi.

H.R. 871: Mr. Collins, Mr. Otter, and Mr. Simpson.

H.R. 936: Mr. Lantos.

H.R. 956: Ms. Woolsey and Ms. Carson of Indiana.

H.R. 973: Mr. Houghton.

H.R. 976: Mr. Rahall, Mr. Pastor, and Mr. Owens.

H.R. 1031: Mr. BELL.

H.R. 1057: Mr. DUNCAN.

H.R. 1084: Ms. HART.

H.R. 1127: Mr. LIPINSKI.

H.R. 1206: Mr. TERRY.

H.R. 1212: Ms. LEE.

H.R. 1345: Mr. CUMMINGS and Mr. HOEFFEL.

H.R. 1430: Ms. CARSON of Indiana, Mr. SANDERS, Ms. MAJETTE, Mr. PAYNE, Mr. PASCRELL, and Mrs. JONES of Ohio.

H.R. 1501: Mr. BERMAN and Mr. GEORGE MILLER of California.

H.R. 1532: Mr. PLATTS, Ms. LORETTA SANCHEZ of California, Mr. FRELINGHUYSEN, and Mr. LEVIN.

H.R. 1563: Mr. ENGLISH.

H.R. 1567: Mr. HERGER.

H.R. 1653: Mr. BROWN of Ohio.

H.R. 1684: Mr. MILLER of North Carolina and Mr. LARSEN of Washington.

H.R. 1767: Mr. PETERSON of Pennsylvania.

H.R. 1822: Mrs. BONO, Mr. COX, Mr. CUNNINGHAM, Mr. DREIER, Mr. HERGER, Mr. ISSA, Ms. PELOSI, Mr. THOMAS, and Mr. NUNES.

H.R. 1844: Ms. JACKSON-LEE of Texas.

H.R. 2071: Ms. MCCOLLUM, Ms. NORTON, and Mr. DAVIS of Illinois.

H.R. 2247: Mr. BERMAN and Mr. LANTOS.

H.R. 2265: Mrs. KELLY.

H.R. 2318: Mr. ORTIZ.

H.R. 2366: Mr. FROST, Mr. HINCHEY, Mr. PAYNE, Mr. SCHIFF, and Mr. DAVIS of Illinois.

H.R. 2372: Mr. MCDERMOTT.

H.R. 2435: Mr. FROST, Mr. HASTINGS of Florida, and Mr. OWENS.

H.R. 2509: Mrs. MUSGRAVE.

H.R. 2511: Mr. GORDON.

H.R. 2579: Mr. PENCE, Mr. NETHERCUTT, Mr. WALSH, and Mr. BERRY.

H.R. 2662: Mr. CANTOR.

H.R. 2699: Mrs. JONES of Ohio, Mr. SHIMKUS, Mr. DAVIS of Alabama, Mr. CUNNINGHAM, Mr. WALDEN of Oregon, and Mr. ADERHOLT.

H.R. 2735: Mr. JEFFERSON, Mr. FATTAH, Mrs. JONES of Ohio, and Mr. STARK.

H.R. 2802: Mr. BEREUTER.

H.R. 2824: Mr. LAHOOD.

H.R. 2837: Mr. BROWN of Ohio.

H.R. 3015: Mr. PICKERING and Mr. HALL.

H.R. 3066: Mr. TIBERI.

H.R. 3090: Mr. JEFFERSON.

H.R. 3113: Mr. AKIN, Mrs. MUSGRAVE, and Mr. JACKSON of Illinois.

H.R. 3142: Mr. ETHERIDGE and Mr. MCNULTY.

H.R. 3173: Ms. WOOLSEY.

H.R. 3178: Mr. FILNER, Mr. DEUTSCH, Mr. PALLONE, Mrs. TAUSCHER, Mr. EMANUEL, and Mr. PETERSON of Minnesota.

H.R. 3180: Ms. LEE.

H.R. 3193: Mr. SMITH of Michigan, Mr. COOPER, and Mr. LUCAS of Oklahoma.

H.R. 3194: Mr. NETHERCUTT.

H.R. 3204: Mr. WELLER.

H.R. 3215: Ms. HARRIS, Mr. MURPHY, Mr. GOODLATTE, Mr. BILIRAKIS, and Mr. TERRY.

H.R. 3299: Mr. LARSEN of Washington.

H.R. 3313: Mr. BISHOP of Utah.

H.R. 3344: Mr. LIPINSKI and Mr. KILDEE.

H.R. 3382: Mr. WEXLER.

H.R. 3403: Mr. BURNS and Mr. ROSS.

H.R. 3412: Mr. JONES of North Carolina, Mr. ANDREWS, Mr. LANTOS, Ms. ROS-LEHTINEN, Mr. LATOURETTE, Mr. PAYNE, Mr. AKIN, and Mr. BURTON of Indiana.

H.R. 3424: Ms. MCCARTHY of Missouri and Mr. MOORE.

H.R. 3425: Mr. MOORE.

H.R. 3446: Mr. MENENDEZ, Mrs. MALONEY, Ms. ESHOO, Mr. LANGEVIN, Ms. LEE, Mr. ENGEL, Mr. CLAY, and Mr. OLVER.

H.R. 3460: Mr. CRANE, Mr. OTTER, and Mr. SESSIONS.

H.R. 3473: Mr. RUPPERSBERGER, Mr. HEFLEY, Mr. BURTON of Indiana, and Mr. LIPINSKI.

H.R. 3474: Mr. ORTIZ, Mr. COSTELLO, and Mr. WAXMAN.

H.R. 3482: Mr. NEY and Mr. ENGLISH.

H.R. 3528: Mr. MICHAUD and Mr. THOMPSON of Mississippi.

H.R. 3579: Mr. SCHIFF, Mr. HOLDEN, Mr. BRADY of Texas, Mr. MCHUGH, Mr. MATSUI, Mr. LUCAS of Kentucky, Mr. NEAL of Massachusetts, and Ms. MILLENDER-MCDONALD.

H.R. 3598: Mr. UPTON, Ms. HART, Mr. VAN HOLLEN, and Mr. SOUDER.

H.R. 3599: Mr. DAVIS of Illinois.

H.R. 3656: Mr. FROST, Mr. CUMMINGS, Ms. MILLENDER-MCDONALD, Mr. HOEFFEL, Mrs. MCCARTHY of New York, and Mr. TOWNS.

H.R. 3658: Mr. SANDERS, Mr. PUTNAM, Mr. INSLEE, Mr. OWENS, Mr. JENKINS, Mr. ROSS, Mr. NADLER, Mr. DOGGETT, Mr. CLAY, Mr. ROGERS of Michigan, Mr. LOBIONDO, Ms. DELAURO, Mr. LEVIN, Ms. MCCARTHY of Missouri, Mr. GONZALEZ, Mr. LARSON of Connecticut, Mr. FOLEY, Mr. PAYNE, Mr. HINOJOSA, Mr. HONDA, Mrs. TAUSCHER, Mr. FILNER, Mr. SKELTON, Mr. CRAMER, Mr. VISCLOSKY, Ms. BERKLEY, Mr. RODRIGUEZ, Mr. SESSIONS, and Mr. PETERSON of Minnesota.

H.R. 3673: Mrs. CAPPS.

H.R. 3674: Mr. KING of Iowa.

H.R. 3696: Mr. SCHIFF.

H.R. 3699: Ms. KAPTUR, Mr. FROST, Mr. CUMMINGS, and Mr. LEWIS of Georgia.

H.R. 3715: Ms. SLAUGHTER and Mr. GRIJALVA.

H.R. 3716: Mr. FROST and Mr. SOUDER.

H.R. 3717: Ms. GRANGER.

H.R. 3719: Mr. FROST, Mr. MCGOVERN, Mr. BISHOP of New York, Mr. SERRANO, Ms. BERKLEY, and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 3731: Mr. UDALL of Colorado.

H.R. 3736: Mr. BURNS, Mr. COLLINS, Mr. VITTER, Mr. FLAKE, and Mr. WILSON of South Carolina.

H.R. 3743: Mr. PETERSON of Pennsylvania.

H.R. 3757: Mr. FLAKE.

H.R. 3771: Mr. SERRANO, Mr. BISHOP of New York, Mrs. TAUSCHER, and Mr. CROWLEY.

H.R. 3778: Ms. HART.

H.R. 3784: Mr. DUNCAN and Mr. MILLER of Florida.

H.R. 3793: Ms. JACKSON-LEE of Texas, Mr. MCGOVERN, Mr. MCNULTY, Mr. GARRETT of New Jersey, Mr. ANDREWS, Mr. ACKERMAN, and Mr. SESSIONS.

H.R. 3798: Mr. CASE, Mr. DICKS, Mr. CONYERS, Mrs. MCCARTHY of New York, Ms. SLAUGHTER, Mr. OWENS, and Mr. NADLER.

H.R. 3800: Mr. SENSENBRENNER.

H.R. 3801: Mr. NORWOOD and Mr. SENSENBRENNER.

H.R. 3802: Mr. RAMSTAD, Mr. MICHAUD, Mr. PAYNE, Mr. FILNER, Mr. MCINTYRE, Mrs. CAPITO, Mr. FRANK of Massachusetts, and Mr. VAN HOLLEN.

H.R. 3809: Mr. MCDERMOTT, Mr. MENENDEZ, Mr. CROWLEY, Mr. BELL, Mr. WAXMAN, and Mr. KENNEDY of Rhode Island.

H.R. 3815: Mr. MCNULTY and Mr. MCDERMOTT.

H.R. 3818: Mr. WAXMAN.

H.J. Res. 60: Mr. ENGLISH, Mr. GREEN of Wisconsin, and Mr. CALVERT.

H.J. Res. 72: Ms. WATSON, Mr. SERRANO, Mr. MCDERMOTT, Ms. WOOLSEY, Mr. ABERCOMBIE, Mr. DICKS, Mr. WAXMAN, Mr. CASE, Mr. BLUMENAUER, Mr. CONYERS, Mr. INSLEE, Mr. GEORGE MILLER of California, Ms. LEE, Mr. CLAY, Mr. BROWN of Ohio, Mr. BURTON of Indiana, Mr. BEREUTER, Mr. MICHAUD, Mr. SMITH of Washington, Mr. FILNER, Mr. LANTOS, Mr. MORAN of Virginia, Mr. FRANK of Massachusetts, Mr. BRADY of Pennsylvania, Ms. SLAUGHTER, Mr. BALLANCE, Mr. HILL, Mr. NADLER, Ms. MCCOLLUM, Mrs. JOHNSON of Connecticut, and Mr. OSBORNE.

H.J. Res. 88: Mr. DAVIS of Illinois.

H. Con. Res. 3: Ms. WATERS.

H. Con. Res. 196: Ms. BERKLEY, Mrs. CHRISTENSEN, Mr. EVANS, MR. HONDA, Mr. LANTOS, and Mr. HASTINGS of Florida.

H. Con. Res. 218: Mr. GRIJALVA.

H. Con. Res. 285: Mr. SENSENBRENNER.

H. Con. Res. 311: Mr. SMITH of New Jersey.

H. Con. Res. 332: Mr. PUTNAM, MRS. NORTHUP, Mr. WU, Mrs. JO ANN DAVIS of Virginia, Mr. PAYNE, and Mr. COSTELLO.

H. Con. Res. 363: Mr. KING of New York and Mr. BALLENGER.

H. Con. Res. 366: Mr. CARDIN.

H. Con. Res. 367: Mr. WOLF.

H. Res. 101: Mr. COX and Mr. ROTHMAN.

H. Res. 103: Mr. TANCREDO.

H. Res. 381: Mr. GORDON, Ms. CARSON of Indiana, Mr. CONYERS, Mr. TOWNS, Ms. LEE, and Mr. CROWLEY.

H. Res. 402: Mr. PUTNAM, Mr. SMITH of New Jersey, Mr. LINCOLN DIAZ-BALART of Florida, and Mr. TANCREDO.

H. Res. 466: Mr. MORAN of Virginia and Mr. DAVIS of Illinois.

H. Res. 506: Mr. UPTON, Mr. HOEFFEL, and Mr. WAXMAN.

H. Res. 516: Mr. SHIMKUS, Mr. STENHOLM, Mr. CRAMER, Mr. SMITH of Washington, Mr. ENGLISH, Mr. PETERSON of Pennsylvania, Mr. AKIN, Mr. RYAN of Ohio, Mr. COOPER, Mrs. JOHNSON of Connecticut, Mr. WALSH, Mr. LATOURETTE, Mr. MCNULTY, Mrs. MYRICK, Mr. UDALL of Colorado, Mr. KINGSTON, Mr. SENSENBRENNER, Mr. SOUDER, Mr. BOEHNER, Mr. PENCE, Mr. BONNER, Mr. SIMPSON, Mr. BAKER, Mr. WATT, Mr. SIMMONS, Mr. CHABOT, Mr. TURNER of Ohio, Mr. BISHOP of Georgia, Mr. SWEENEY, Ms. CARSON of Indiana, Mr. OXLEY, and Mr. WELLER.

H. Res. 522: Mrs. LOWEY.

H. Res. 524: Mr. MCDERMOTT and Mr. TIBERI.

H. Res. 526: Mr. TIBERI and Mr. WAXMAN.

H. Res. 530: Mr. LINCOLN DIAZ-BALART of Florida and Mrs. LOWEY.

H. Res. 531: Mr. PLATTS, Ms. SLAUGHTER, Mr. BEREUTER, and Mr. GREEN of Wisconsin.

SENATE—*Thursday, February 26, 2004*

The Senate met at 9:30 a.m. and was called to order by the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty God, You know all about us. You know when we sit down and when we rise up. Forgive our past blindness to the grandeur and glory of Your unfolding providence. Thank You for the gift of a freedom to choose and give us the courage to change our minds when it is needed.

Bring our hearts under Your control as You infuse within us a deeper love for You. We pray for our world—the lands we know but also those other lands that stand within our minds as nothing more than names. May we never forget that You have children in every land. Use our Senators today to bring life and not death—peace and not war. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN E. SUNUNU led the Pledge of Allegiance, as follows:

> I pledge allegiance to the flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The assistant Journal clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, February 26, 2004.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. SUNUNU thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning the Senate will resume consideration of S. 1805, the gun liability bill. A unanimous consent agreement worked out by the managers last night means we will definitely make significant progress on a number of issues throughout the day, and we will complete action on the bill on Tuesday. Senators should be aware the agreement covers amendments to be offered today and on Tuesday, but we do expect additional amendments to be offered and voted on tomorrow and during Monday's session of the Senate. Those Senators who are not covered by the agreement should work with Senators CRAIG and REED of Rhode Island to work through their amendments before Tuesday morning.

The first vote of the day should occur between 10:30 a.m. and 11:30 a.m. Members will be notified of rollcall votes throughout the day and possibly into the evening.

I wish to use a few moments of leadership time to comment on the bill. We will proceed right on the bill. It is going to be a fast-paced day. An agreement was worked out last night. I think we have a good game plan. We will finish the bill on Tuesday and we will start right in.

The bill, S. 1805, has broad bipartisan support. We will be considering a lot of amendments. We will debate those amendments, and we have the time agreements to see that they are considered fairly. This bill is bipartisan, with 10 Senators from the Democratic side of the aisle supporting it. The bill also has 45 Republican cosponsors. I know we can move quickly and process these amendments and move toward final passage of this important legislation.

There is a common misconception that the gun industry is a large and powerful industry, and it is simply not. In fact, the firearms trade is a relatively small industry. In 1999, the industry collectively made less than $200 million in total profits—just $200 million. To put that in perspective, Home Depot, a company with which we are all familiar, netted $4.3 billion in 2003. That one company made more than 20 times the profit of the entire firearms business.

In 2003, Wal-Mart, a highly competitive retail chain, profited a hefty $9 billion. And if we look at a chain such as Starbucks, even Starbucks sees bigger profits than the American firearms manufacturers.

I mention that because the issue is not of size or relative size. The real issue is that the gun manufacturing industry employs people with productive jobs, well-intentioned, well-meaning, good jobs. These are valuable jobs, and most of these jobs actually are in rural communities. Those are the communities that, in many ways, need jobs the most in this day and time.

Often, these gun manufacturers are the largest employer in these small communities and, as a consequence, these ruinous lawsuits do not just threaten the manufacturers; they end up threatening the whole town, the whole community itself.

Still, we have the antigun crusaders who insist that the firearms business, one of the most regulated industries in America today, must be brought to heel. Why? They believe the gun manufacturers themselves should be responsible for the criminal actions of other people. They believe it is OK to allow lawsuits to achieve some sort of political end.

Clearly, I do not agree and a majority of people in this body do not agree. Indeed, most Americans certainly do not agree. Most Americans think this is just blatantly unfair.

Our Constitution protects the right to keep and bear arms. Indeed, 33 States have passed laws to preempt frivolous gun lawsuits—33 States. Still today, we have the antigun crusaders who are, in effect, aided and abetted by the special interest trial lawyers charging ahead.

Since 1997, more than 30 cities and counties have sued firearm companies in an attempt to force them to change the way they make guns and the way they sell guns. In California, then-Gov. Gray Davis signed legislation explicitly authorizing lawsuits against gun manufacturers.

Because the firearms business is relatively small, one big verdict, one substantial verdict could bankrupt the entire industry. In California, that is a real possibility.

Never mind that every trial court that has heard these municipality lawsuits has thrown them out in whole or in part. Appellate courts in three States have overturned lower court verdicts and allowed the suits to go forward. Thus, it is critical we act now.

If the gun industry is forced into bankruptcy, the right to keep and bear arms will be a right in name only. Lawsuits have already pushed two companies into bankruptcy. Even if some gun manufacturers are able to hold on, the prices for firearms will be so high that owning a gun, such as a hunting rifle, will be a privilege only the wealthy can afford.

There is one other important and little known aspect of the issue. America relies on private gun manufacturers to equip our soldiers and law enforcement officers with sidearms. The guns our police officers use, the guns that our soldiers carry, are made in the United States by American workers.

We are all agreed, no one wants guns in the hands of criminals. There are thousands of laws and regulations to stop illegal gun sales, but we do not want these frivolous, unnecessary lawsuits to strip police officers and soldiers of their sidearms. Do we really want unfair litigation to cripple our national security? The answer clearly is no, and thus we will act and we will act over the course of today, tomorrow, Monday, and complete this action on Tuesday.

The bill before us is narrowly tailored. It is focused. It is fair. It is equitable. It ensures that private parties are held responsible for their actions and that is why this bill comes to this floor with broad bipartisan support. That is why passing this bill is the right thing to do.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

PROTECTION OF LAWFUL COMMERCE IN ARMS ACT—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to consideration of S. 1805, which the clerk will report.

The assistant journal clerk read as follows:

A bill (S. 1805) to prohibit civil liability actions from being brought or continuing against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their product by others.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

Mr. CRAIG. Mr. President, we are now on S. 1805. Last night, Senator REED and I worked into the evening with our colleagues and leadership on both sides to craft a unanimous consent that now governs us through late next Tuesday. It establishes a variety of amendments that will be voted on over the course of today. Some will be offered and set aside to be voted on on Tuesday. On Tuesday, other key amendments will be voted on and then final passage.

I am sure there are some Members on both sides who might have amendments that were not listed to be considered for votes today and/or Tuesday. What I would ask them to do is come to the Chamber and talk to Senator REED and myself to see if we might work those out certainly. We are happy to take a look at them. There may be an opportunity late Tuesday and possibly Friday to offer additional amendments. The unanimous consent request does not preclude any Member from doing that.

I said very early on yesterday that we wanted an open, robust debate on this issue. Clearly, 75 Members of this Senate, in a very bipartisan way, said let's get on with it, with the cloture vote yesterday. We spent the day then fashioning an agreement that brings us to where we are this morning. I believe it is possible Senator DASCHLE will be in the Chamber in a few moments to offer a perfecting amendment, then Senator BOXER will have an amendment on gunlocks.

I believe the agreement that is in front of us gives us something that oftentimes is very hard to achieve in the Senate, and that is a procedure and a final passage locked into an agreement. While Senator REED and I worked late into the evening, as I mentioned, to allow that to happen, and all sides gave a little in it, what I think we have in front of us is just that, an agreement that allows a variety of Senators, who have been prominent in this debate on both sides of the issue, to offer their amendments and to have a vote.

The timelines are very limited. We are not going to filibuster in any of this. It is clear that when there are 20-, 30- and 60-minute time limits to be shared equally, it does shape and limit the debate in a way that many of us would like to see.

Certainly on Tuesday, key votes are going to be the McCain-Reed gun show loophole and Senator FEINSTEIN's gun ban, or assault weapon ban as it is argued. Those clearly will be the dominant issues on one side. Senator BEN NIGHTHORSE CAMPBELL, conceal/carry will be another one voted on on that day, and possibly debate. I will debate that along with Senator CAMPBELL today. It is on the list to accomplish today. Possibly we will also have another amendment to be voted on on Tuesday which deals with Washington, DC, and some of the gun laws that free and law-abiding citizens have to cope with in this city.

That is the character of what we have been able to put together. Senator REED, the manager on the other side, is now in the Chamber. I yield the floor for any comments he would wish to make. Timewise, we hope Senator DASCHLE can make it to the Chamber to offer his amendment, but if he cannot, at this moment I see no reason Senator BOXER could not proceed with her amendment.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. REED. Mr. President, the Senator from Idaho has indicated we worked late last evening to craft a unanimous consent that will allow several important amendments to be debated today, and continuing on through Tuesday. It represents a recognition that there are serious issues to discuss. Now we are at the stage of not only discussing those issues but also taking amendments up and voting on them. I know Senator DASCHLE will be here in a moment.

Mr. REID. Will the Senator yield?

Mr. REED. I would be happy to yield to the Democratic whip.

Mr. REID. We have explained to the majority that we would, in fact, ask consent that Senator BOXER be allowed to offer her amendment. Senator DASCHLE is occupied at the present time. If necessary, I could offer it on his behalf, but I think it would be better if he offered it himself. So we ask unanimous consent that Senator BOXER be allowed to go forward with her amendment.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. REED. Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from California.

AMENDMENT NO. 2620

Mrs. BOXER. Mr. President, I send an amendment to the desk and I ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant journal clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 2620.

Mrs. BOXER. I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend chapter 44 of title 18, United States Code, to require the provision of a child safety device in connection with the transfer of a handgun and to provide safety standards for child safety devices)

On page 11, after line 19, add the following:

SEC. 5. REQUIREMENT OF CHILD HANDGUN SAFETY DEVICES.

(a) SHORT TITLE.—This section may be cited as the "Child Safety Device Act of 2004".

(b) DEFINITIONS.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(36) The term 'locking device' means a device or locking mechanism that is approved by a licensed firearms manufacturer for use on the handgun with which the device or locking mechanism is sold, delivered, or transferred and that—

"(A) if installed on a firearm and secured by means of a key or a mechanically, electronically, or electromechanically operated combination lock, is designed to prevent the firearm from being discharged without first deactivating or removing the device by means of a key or mechanically, electronically, or electromechanically operated combination lock;

"(B) if incorporated into the design of a firearm, is designed to prevent discharge of the firearm by any person who does not have access to the key or other device designed to unlock the mechanism and thereby allow discharge of the firearm; or

"(C) is a safe, gun safe, gun case, lock box, or other device that is designed to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.".

(c) Unlawful Acts.—

(1) In general.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(z) Locking Devices.—

"(1) In general.—Except as provided under paragraph (2), it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than a licensed importer, licensed manufacturer, or licensed dealer, unless the transferee is provided with a locking device for that handgun.

"(2) Exceptions.—Paragraph (1) shall not apply to—

"(A) the manufacture for, transfer to, or possession by, the United States, a department or agency of the United States, a State, or a department, agency, or political subdivision of a State, of a firearm;

"(B) transfer to, or possession by, a law enforcement officer employed by an entity referred to in subparagraph (A) of a firearm for law enforcement purposes (whether on or off duty); or

"(C) the transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under State law of a firearm for purposes of law enforcement (whether on or off duty).".

(2) Effective date.—Section 922(z) of title 18, United States Code, as added by this subsection, shall take effect on the date which is 180 days after the date of enactment of this Act.

(d) Civil Penalties.—Section 924 of title 18, United States Code, is amended—

(1) in subsection (a)(1), by striking "or (f)" and inserting "(f), or (p)"; and

(2) by adding at the end the following:

"(p) Penalties Relating to Locking Devices.—

"(1) In general.—

"(A) Suspension or revocation of license; civil penalties.—With respect to each violation of section 922(z)(1) by a licensee, the Attorney General shall, after notice and opportunity for hearing—

"(i) suspend or revoke any license issued to the licensee under this chapter;

"(ii) subject the licensee to a civil penalty of not more than $15,000; or

"(iii) impose the penalties described in clauses (i) and (ii).

"(B) Review.—An action by the Attorney General under this paragraph may be reviewed only as provided under section 923(f).

"(2) Administrative remedies.—The suspension or revocation of a license or the imposition of a civil penalty under paragraph (1) does not preclude any administrative remedy that is otherwise available to the Attorney General.".

(e) Amendment to Consumer Product Safety Act.—The Consumer Product Safety Act (15 U.S.C. 2051 et seq.), is amended by adding at the end the following:

"SEC. 39. CHILD HANDGUN SAFETY DEVICES.

"(a) Establishment of Standard.—

"(1) Rulemaking required.—

"(A) Initiation of rulemaking.—Notwithstanding section 3(a)(1)(E), the Commission shall initiate a rulemaking proceeding under section 553 of title 5, United States Code, not later than 90 days after the date of enactment of the Child Safety Device Act of 2004 to establish a consumer product safety standard for locking devices. The Commission may extend this 90-day period for good cause.

"(B) Final rule.—Notwithstanding any other provision of law, the Commission shall promulgate a final consumer product safety standard under this paragraph not later than 12 months after the date on which the Commission initiated the rulemaking proceeding under subparagraph (A). The Commission may extend this 12-month period for good cause.

"(C) Effective date.—The consumer product safety standard promulgated under this paragraph shall take effect on the date which is 6 months after the date on which the final standard is promulgated.

"(D) Standard requirements.—The standard promulgated under this paragraph shall require locking devices that—

"(i) are sufficiently difficult for children to de-activate or remove; and

"(ii) prevent the discharge of the handgun unless the locking device has been de-activated or removed.

"(2) Inapplicable provisions.—

"(A) Provisions of this act.—Sections 7, 9, and 30(d) shall not apply to the rulemaking proceeding described under paragraph (1). Section 11 shall not apply to any consumer product safety standard promulgated under paragraph (1).

"(B) Chapter 5 of title 5.—Chapter 5 of title 5, United States Code, except for section 553 of that title, shall not apply to this section.

"(C) Chapter 6 of title 5.—Chapter 6 of title 5, United States Code, shall not apply to this section.

"(b) Enforcement.—Notwithstanding subsection (a)(2)(A), the consumer product safety standard promulgated by the Commission pursuant to subsection (a) shall be enforced under this Act as if it were a consumer product safety standard described under section 7(a).

"(c) Definitions.—In this section, the following definitions shall apply:

"(1) Child.—The term 'child' means an individual who has not attained the age of 13 years.

"(2) Locking device.—The term 'locking device' has the meaning given that term in clauses (i) and (iii) of section 921(a)(36) of title 18, United States Code.".

(f) Conforming Amendment.—Section 1 of the Consumer Product Safety Act is amended by adding at the end of the table of contents the following:

"Sec. 39. Child handgun safety devices.".

(g) Authorization of Appropriations.—

(1) In general.—There are authorized to be appropriated to the Consumer Product Safety Commission $2,000,000 for each of the fiscal years 2005 through 2007 to carry out the provisions of section 39 of the Consumer Product Safety Act, as added by subsection (e).

(2) Availability of funds.—Any amounts appropriated pursuant to paragraph (1) shall remain available until expended.

Mrs. BOXER. Mr. President, I thank my colleagues on both sides of the aisle who worked late into the night to put forward a list of amendments this body would consider. I am very proud my amendment made the list. It is an amendment this Senate has supported before. It is an amendment that will protect our children from violence, and what could be more important to us as we gather here every day than to protect our children?

My measure would do two things. First, it would require that every handgun sold in this country come with a child safety device. The amendment is very broad on what that could be, so it really isn't a micromanaging type of amendment. This device could be a lock using a key or a combination, a device that locks electronically, it could be a lockbox, or technology that is built into the gun itself. Many of the folks working on this type of technology are very enthusiastic about it.

There is no question in my mind, there is no question in the minds of the police in my State who just had a press conference on this issue, if we were to agree to this and it were to become the law of the land, the number of children involved in accidental shootings would go way down. So that is the first thing we do. We require some type of a lock when you buy a handgun.

Second, my amendment would make sure child safety devices are effective and that they are not shoddy or of poor quality. One of the worst things we could do is pass a bill that requires these devices and then the device doesn't work. That would be a terrible thing for our families. So the bill requires the Consumer Product Safety Commission to establish standards for the design of these locks and these boxes and a standard for their performance. We want to make sure, when parents use a child safety device, that they are confident it will work as intended.

In 1999 the Senate passed an amendment by a vote of 78 to 20 to require that all handguns in this country be sold with a child safety device. The majority of our colleagues very strongly supported this in quite a bipartisan way. I believe we should again agree that we need to protect our children from accidental gun shootings.

My home State of California recently enacted an excellent child safety device bill. It requires that all licensed dealers and manufacturers equip the guns they sell with State-certified child safety devices. This is a very important bill for my State and I am proud of my State for doing it. But it is clear that the States along California's border do not have this requirement. Not one of those States has child safety device laws. That means even if California—and we do—has a good law, anyone can purchase a gun without a safety lock from a border State and return to California with it. Therefore, the progress we hope to make in California will be set back because we don't have a uniform and standard law.

The other important feature of our bill that impacts Californians is that while there is a State-certified standard for gunlocks in my State, those standards have not been set by the Consumer Product Safety Commission, and everyone agrees that the Consumer Product Safety Commission is the premier organization in the country that sets the gold standard. Again, I think it is very important that we have this type of standard because, as many colleagues point out, the manufacturers of these devices deserve some guidance. California may have one set of standards, we could have another set of standards in New York, or in the Midwest, and we are going to have a potpourri of standards floating around rather than what I call the gold standard of the Consumer Product Safety Commission.

The other important point for my people of California—again, they have the safety lock law—is that the amendment allows for a Federal cause of action for violations of this child safety requirement. So if in fact there is a serious problem with a child safety lock, and the State for some reason doesn't get its act together, doesn't put the case together, and so on, there will be a Federal cause of action. It is kind of a double protection for the children.

I would like to talk about the need for this amendment for a moment. I have a chart that shows the statistics. In the United States of America, in our great country, the greatest country in the world, a child or a youth is killed by an accidental shooting every 48 hours—every 48 hours. Where do these statistics come from? The FBI. For every child killed by a gun, four are wounded. Where does that come from? The Archives of Pediatric and Adolescent Medicine, December—I am assuming that is 2000—volume 55, No. 12.

What does this mean, when you multiply it out? Thousands of children are injured or killed by guns every year in this country. According to the CDC, the rate of firearm deaths of children under the age of 14 is nearly 12 times higher in the United States than in 25 other industrialized countries combined.

Let me repeat that. The rate of firearm deaths of children under the age of 14 is 12 times higher in the United States than in 25 other industrialized nations combined.

Colleagues stand up and say: Guns don't kill people; people kill people. If you want to, say: Guns don't kill children; children kill children. Yes, children kill children because they pick up a gun and they fire it at a friend. They fire it at a brother. They don't understand the consequences of this. More than 22 million children live in homes with guns. I want you to envision this—22 million children live in homes with guns. More than 3.3 million of those children live in homes where the guns are always or sometimes kept loaded and unlocked.

Too many children are playing with real guns found in their parents' bedroom or a friend's home, and too many children are killed in this country because they are doing what children do: They are exploring; they are being curious. I don't know how many times I have heard stories with tearful parents saying: I kept that gun away from my child. It was far away from my child. It was in the highest, darkest corner of the deepest, tallest closet in my house. I never thought my baby could climb up and find that gun.

Well, they do. They do. Children are smart. They are tenacious. They are energetic. One study found that when a gun was in the home, 75 to 80 percent of first and second graders knew where their parents kept that gun. Seventy-five to eighty percent of first and second graders knew where their parents kept that gun.

In this country, we do so much to protect our children. We worry about them, as we should; it is our responsibility. We make sure that in a car they are put in a child seat facing in the right direction so they don't have a tendency to get hurt in an accident. We have airbags to protect them. We protect them from shoddy toys, such as Play-Doh that they could eat and could hurt them. We set standards. We set standards for Teddy bears, for toys. We care about our children.

I wrote the afterschool law we have here with Senator ENSIGN. We love our children, every one of us—our own children, our children's children. We are here to protect the children. That is part of our job.

So let me reiterate, one study found that when a gun was in the home, 75 percent to 80 percent of first and second graders knew where the parents kept that gun. So even if that gun is in a closet, at the top of a closet, under towels or blankets, kids are tenacious and they find the guns. But if they found a lockbox and they couldn't open it, they would be protected. If they grab that gun and it had a child safety device on it and they tried to shoot, it wouldn't go off. If the gun had technology built in it so that only when the parents held it it would fire, they would be protected.

It seems to me in this day and age when we are losing a child or a youth to an accidental shooting every 48 hours, we ought to be absolutely united in doing something about it.

I want to show you the face of a beautiful young man, Kenzo, a Californian, 15 years old, with his mom. His friend, Michael, while playing with a gun, shot Kenzo Bix, and he is gone forever. If that gun had had a child safety device on it, it wouldn't have happened.

I will give you some other stories.

Just this January in Indio, CA, a 17-year-old boy named Jason Weed died after his 14-year-old brother accidentally shot him in the head. The other boy was showing him the gun in the home when it accidentally went off, lodging a bullet in the small boy's head. If that gun had had a safety device, and if the amendment we already passed here—the Kohl-Hatch-Boxer amendment that passed here the last time—had been adopted in the other body, if it had been signed into law, Kenzo would be alive; and this child I just talked about, Jason Weed, would be alive.

Then there is a story from Florida. There are so many stories, and we just picked a few.

A 3-year-old, Colton Hinke, and his 2-year old sister Kaile were playing in her parents' bedroom when Colton found an unlocked, loaded handgun in the drawer. A neighbor heard the shot and rushed to the scene and found Kaile on her back, her face pale, her lips blue, and a small hole in her chest. She was in shock, and she was rushed to the hospital, but it was too late.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mrs. BOXER. Mr. President, I was told I had 30 minutes.

The ACTING PRESIDENT pro tempore. I believe under the order 30 minutes were equally divided. The Senator's 15 minutes have expired.

Mrs. BOXER. May I ask for one additional minute from each side so I can conclude?

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mrs. BOXER. Thank you so very much.

There is another incident where a 1-year-old girl was critically injured by her 3-year-old brother. This little girl survived.

I could go on, but I don't have the time at this point.

Let's pass this measure. I know Senators DEWINE and KOHL have an amendment to change my bill in a very small way. I don't have a problem with that. I will be supporting that. I just know the overriding concern of mine, and I really do think most people in this body who voted for this the last time, is let us protect our kids. Let us do it in a smart way. It is the right thing to do for the families of America.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Mr. President, we have someone who will speak in opposition to the Boxer amendment. There is a second-degree amendment on its way. It is not yet ready. It is coming; sometimes I don't know from where. I ask unanimous consent that the amendment be temporarily set aside. In keeping with the unanimous consent agreement that was entered last night, at some subsequent time there will be the opportunity to offer the amendment Senators KOHL and DEWINE are going to offer as a second-degree amendment to Boxer.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The Senator from Idaho.

Mr. CRAIG. Mr. President, we expect a second-degree amendment to be here to modify and perfect the Boxer amendment.

I want to speak about the Boxer amendment because I in no way discredit—I guess the best way to say it—fail to recognize the same kind of concerns Senator BOXER has expressed. She is correct. The Senate has expressed its will on this issue in the past. But let me bring you up to date about what the gun industry is doing now. Clearly, the gun industry is responding very quickly to new technologies and what is available to make sure firearms are safe, if you will, from the curiosity of a child and a child who might misuse it. Tragically enough, when children find a firearm, there is great curiosity.

There are organizations out there that have worked awfully hard to educate firearms owners and parents about the reality of a gun placed in a home in an unsafe environment, or not locked behind a door, or in a situation where a child can't gain access to it. That is simply critical in the responsible ownership and handling of a gun.

Ninety percent of new guns in the United States are already sold with a safe storage device. The Senator from California is right, the devices vary, but so do guns and so do the conformation and structure of guns. It will be very difficult to suggest that one size fits all.

The industry, with its engineers and its technology and its computers, is devising trigger locks and safety devices that fit the particular firearm. This is done through a voluntary program with the firearms industry. Tremendous numbers of gunshops today—responsible, federally registered gunshops—are providing free of charge a trigger lock or a safety device as the weapon is sold. Many States and locales, such as Texas, have distributed safety devices free of charge, either in cooperation with the firearms industry or on their own initiative.

Trigger locks are mechanical devices. Like all mechanical devices they can fail if they are not well designed, and if their owners are not instructed on how to use them properly. The Consumer Product Safety Commission recently tested 32 types of gunlocks and found 30 could be opened without a key. That is why, clearly, uniformity is necessary. The Senator spoke to that uniformity. But quality gun manufacturers in this country are already providing safety devices which are critical and necessary.

What I am trying to suggest is these devices are not a panacea that reduces all accidents. Clearly, if we can get most handguns in America in safe and responsible hands and in homes with safety devices or locked in a safe or locked in a device where a child cannot gain access, that is going to reduce the kinds of tragic accidents that occur when a small child in a curious way finds the gun that may not have been placed in a safe place by a parent.

Gunlocks are designed to address what I believe is a narrow range of threats. At the same time, when a child's life is lost, how tragic it is, and all of us understand that. Of course, then it makes tremendous news and the world wonders why this is happening. The reason it happens is because in many instances there was a parent who was less than responsible, who really didn't lock that gun up.

At the same time, let's also recognize the phenomenal complication involved. Sometimes guns are placed in locations in homes for security and for safety, and easy access is critically important if that gun is to be used for the purpose of personal and property safety depending on the area in which a family lives or an individual lives.

At the same time, that does not deny the responsibility that is important. Gunlocks address that narrow range of threats. Clearly, they will deter the casual curiosity of a small child far more readily than it will deter what I say is the committed thief or the person bent on murder and mayhem. Some suggest a gunlock means a thief in the house will not steal the gun. Wrong. That simply is not the case. It simply means the thief will take the gun, take it out, knock the gunlock off, have it cut off, take it away so they can have access to a stolen firearm. That is the reality of thieves stealing guns.

This narrow range we are talking about and that we want to make sure stays is to deter that casual curiosity of the small child. The firearms industry is already trying to develop standards to improve these devices. The industry has sought the creation of an industry standard for gun safety locks through the American National Standards Institute. The ANSI review process is well underway. In other words, because the gun industry is a responsible industry, they are well out in front of us already on legislation. No, there aren't absolute mandatory requirements across the Nation. But recognizing the reality and the tragedy that occurs on occasion, we want to make sure, and the industry certainly wants to make sure, that they are well out in front of it.

In a few moments we will have a second-degree perfecting amendment to deal with this issue. I will reserve the remainder of my time until that amendment is here.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. MURKOWSKI). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Under the terms of the order, Senator KOHL has 15 minutes when he offers his second-degree amendment. We have been advised he will not use that entire amount of time, so at this time I ask consent that Senator BOXER be allowed to use 4 minutes of the time under the control of Senators KOHL and DEWINE.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from California.

Mrs. BOXER. I take this time to respond to the point made that the gun manufacturers are taking care of the child safety locks and that we do not need to have this law.

The experts in this whole field have turned out to be the National SAFE KIDS Campaign. This is a bipartisan organization that has one mission only and that is to protect our children. When they saw these statistics that are still occurring today, they said enough is enough. A child or youth is killed by a firearm every 3 hours. This has not changed.

In 1997, the gun manufacturers said they would work on this themselves, that they did not need a law. Research assessing the compliance with this agreement found most manufacturers were not providing locks and those that did offered low-quality devices where the locks just fell off and did not work.

The SAFE KIDS Campaign is urging us to include a provision to issue safe standards for gunlocks. This is very important.

My colleague says this is taken care of. It is not taken care of. We still have children dying. We still have our constituents calling with the tragic cases. I read some of the cases, but not all of them, case after case, kids finding out where there is a gun, grabbing it and trying to act out a fantasy, not understanding this is a lethal weapon that can kill or maim a brother, a neighbor, a friend.

We did not tell the makers of aspirin, we know you are good manufacturers. They are good manufacturers. We do not tell them, please make a childproof cap. They have to make a childproof cap. There are good manufacturers out there. I applaud them. But if you look at our bill and the way it works, we are not mandating a particular one-size-fits-all solution. We are very careful to say we know there are many different handguns—this only applies to handguns; in my State we have one that applies to rifles and long guns, but this is just a handgun—we say you can have in your array of products a box that locks. You can have the technology built in the gun. You can have a combination lock.

I appreciate my friend does not like to put regulations on gun manufacturers and dealers. I understand that. And

I understand he believes they are the best of the best of the best. But the problem is, our kids are dying in the home. They are smart. They find out where the guns are. I cannot understand why this is not something we would all support. The last time it came to the Senate, we had a huge vote. I am hoping we will have a similar vote.

Look to the people. We are in charge of a lot of issues. The National SAFE KIDS Campaign is about one issue, the safety of kids. They are bipartisan. They are begging us to make this the law of the land. The Senate did it once before. The Senate should do it again.

Children living in the South have an unintentional shooting death rate that is 7 times that of children living in the Northeast. That is a fact the National SAFE KIDS Campaign has shown. All we need to do is see the rate our kids are dying and compare it to 25 other countries to see our kids are at a great disadvantage. We can do something today. I hope we will.

I yield my time.

Mr. DASCHLE. Madam President, I ask unanimous consent the Boxer amendment be set aside temporarily.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2621

Mr. DASCHLE. And then I ask consent that I be recognized to offer an amendment, and I send my amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] proposes an amendment numbered 2621.

Mr. DASCHLE. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To clarify the definition of qualified civil liability action, and for other purposes)

On page 7, line 19, strike "including" and all that follows through page 8, line 19, and insert "including, but not limited to—

"(I) any case in which the manufacturer or seller knowingly made any false entry in, or failed to make appropriate entry in, any record which such person is required to keep pursuant to State or Federal law, or aided, abetted or conspired with any person in making any false or fictitious oral or written statement with respect to any fact material to the lawfulness of the sale or other disposition of a qualified product; or

"(II) any case in which the manufacturer or seller aided, abetted, or conspired with any other person to sell or otherwise dispose of a qualified product, knowing or having reasonable cause to believe that the actual buyer of the qualified product was prohibited from possessing or receiving a firearm or ammunition under subsection (g) or (n) of section 922 of title 18, United States Code;".

On page 9, lines 1 and 2, strike "or in a manner that is reasonably foreseeable" and insert ", or when used in a manner that is reasonably foreseeable, except that such reasonably foreseeable use shall not include any criminal or unlawful misuse of a qualified product, other than possessory offenses.".

On page 9, strike lines 12 through 21, and insert the following:

(C) RULE OF CONSTRUCTION.—The exceptions enumerated under clauses (i) through (v) of subparagraph (A) are intended to be construed to not be in conflict, and no provision of this Act shall be construed to create a Federal private cause of action or remedy.

On page 10, strike lines 13 through 18, and insert the following:

(C) a person engaged in the business of selling ammunition (as defined under section 921(a)(17)(A) of title 18, United States Code) in interstate or foreign commerce at the wholesale or retail level, who is in compliance with all applicable Federal, State, and local laws.

On page 11, line 7, strike the semicolon and insert "; and".

On page 11, strike lines 8 through 15, and insert the following:

(B) 2 or more members of which are manufacturers or sellers of a qualified product, and that is involved in promoting the business interests of its members, including organizing, advising, or representing its members with respect to their business, legislative, or legal activities in relation to the manufacture, importation, or sale of a qualified product.

On page 11, strike lines 16 through 19, and insert the following:

(9) UNLAWFUL MISUSE.—The term "unlawful misuse" means conduct that violates a statute, ordinance, or regulation as it relates to the use of a qualified product.

Mr. DASCHLE. I acknowledge, again, as I did yesterday, the partnership that I have had especially with Senator CRAIG, Senator BAUCUS, and others in the Senate. I express my gratitude to Senator CRAIG and my appreciation for his efforts at accommodating many of the concerns we have had as we address this bill.

I intend to support this bill, in part because of the acknowledgement of the need to address some of these concerns, as we do with this amendment.

The amendment we are offering right now strikes a balance between the need for the safety of Americans and the rights of gun manufacturers and dealers. That balance is critical. We recognize the vast majority of gun owners and manufacturers and sellers are honest and decent people who obey the law and ought to be recognized for their honesty and the contributions they make to our economy.

The firearm industry is an important source of jobs, not only in those States where those jobs actually are dedicated to the manufacture of firearms but to all other States where not only the manufacture but the sale and distribution of those products are so much a part of our economic base.

But we should not invalidate the legitimate claims from being heard in court when those claims have a basis in fact—cases involving kids, cases involving defective products, cases involving gun dealers or manufacturers who broke the law.

So our concern was, as originally drafted, the legislation adversely impacted many of these cases. That is why I went to Senator CRAIG and Senator BAUCUS and others and expressed the hope that we could address some of these issues and concerns in a way that would accommodate a solution. And that is what I believe this amendment does.

We have worked in a bipartisan manner. I would hope this legislation could certainly be supported in a bipartisan manner. It goes a long way to balancing what are the rights of victims as well as the needs of the gun industry.

Our amendment makes several key changes in the legislation that was originally offered. It ensures the cases in which Federal or State laws have been broken can move forward. There was some lack of clarity with regard to that particular need. It restores the basic product liability standards so, in particular, if a child is injured by a defective gun, the victim's loved ones can still hold accountable those responsible. It includes a provision to remove immunity from dealers who sell to straw purchasers; that is, purchasers who have no interest in buying the gun for themselves but passing on the gun, selling the gun to somebody who should not have it. Finally, it ensures that only trade associations connected to the business of manufacturing and selling firearms would be covered.

I think all of these changes—and many more; there are eight specific changes—do a great deal to enhance the bill, to make it a better, stronger bill and, at the same time, address the concerns that many of us have had. It strives to preserve the long-term vitality of an important American industry, one that is very important to people in the West and Midwest, in particular, but all over the country. It protects the rights and safety of the American public.

So I am very appreciative of the effort that has gone into this amendment. This took a lot of time, a lot of negotiation. Obviously, the subtleties in some of the language has more than a subtle impact ultimately on how legislation is interpreted and how laws are ultimately enforced. We think this amendment takes us a long way in addressing the needs of both our manufacturers as well as those who are concerned for safety on the streets and in our neighborhoods today.

Madam President, I might just take a moment, if I could, prior to relinquishing the floor, to talk about another matter. I appreciate the accommodation of my colleagues in so doing.

AMERICA'S UNFULFILLED TREATY OBLIGATIONS TO NATIVE AMERICANS

Madam President, all week long, tribal leaders from Indian nations throughout America have been in Washington for the winter conference of the National Congress of American Indians.

They include leaders from the Great Sioux Nation of South Dakota, and many others. Democratic Senators just met with many of these leaders; and some are in the gallery now, listening to these words. I am honored by their presence.

South Dakotans are very proud of our State's tribal heritage. Some of the greatest leaders South Dakota has ever produced were Native Americans. They include Crazy Horse, the legendary warrior-leader; a man of extraordinary nobility, the great Lakota spiritual leader, Sitting Bull.

Sitting Bull helped lead his people in defense of their lands. When it became clear that defeat was inevitable, he helped lead his people's efforts to secure a fair and just peace.

In negotiating the treaty under which the Lakota ceded their lands, Sitting Bull asked representatives of this Government: "Let us put our minds together and see what life we can make for our children."

More than a century later, the tribal leaders who have come to Washington this week are asking us to do the same thing: "Let us put our minds together and see what life we can make for our children."

Last July, the U.S. Commission on Civil Rights released a report that has already become a landmark. It is entitled "A Quiet Crisis." It documents the harsh realities of life in Indian country today. I ask unanimous consent that the executive summary of the report be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DASCHLE. We cannot undo the damage caused by more than a century of neglect and broken promises in 1 year or even one decade. But we must make honoring our trust obligations under those treaties we signed a real priority now. And we must take steps this year to address two of the most urgent obligations of Native Americans.

The first of these obligations is the need to find a just and fair settlement of the Indian trust dispute. Partly because so many American Indians live on remote reservations, not many Americans understand what the Indian trust fund dispute is about. It stretches back to the 1880s, when the U.S. Government broke up large tracts of Indian land into small parcels, which it then allotted to individual Indians and tribes.

The Government, acting as a "trustee," took control of the Indian lands and established individual accounts for the land owners. The Government was supposed to manage the lands for account holders. It would negotiate sales or leases of land, and any revenues generated from oil drilling, mining, grazing, timber harvesting—or any other use of the land—was to be distributed to the account holders and their heirs. But that is not what happened.

The Indian trust fund has been so badly mismanaged for so long by administrations of both political parties that today no one knows how much money the trust fund should contain. Estimates of how much is owed to individual account holders range from a low of $10 billion to more than $100 billion.

The people who are being hurt by this mismanagement are some of the poorest people in America. Many live in houses that are little more than shacks, with no heat, no electricity, and no phones. Many of them are elderly. They have been waiting their whole lives for money that belongs to them—money that our Government is holding and refuses to account for.

Ten years ago, Congress passed legislation requiring the Department of the Interior to make a full and accurate historical accounting of all trust assets and obligations. Seven years ago, a banker named Elouise Cobell, a member of the Blackfeet Indian Nation, sued the Department to force it to comply with our order.

Last fall, a Federal judge finally agreed. It seemed that was going to be the beginning of the end of the trust fund dispute, and it was now finally within reach.

Then, shockingly, the administration and leadership in Congress on the other side, behind closed doors, added language to the 2004 Interior appropriations conference report ordering the Interior Department actually to ignore and defy the judge's ruling. Clearly unconstitutional, it violates the separation of powers and due process protections.

It has become increasingly clear that this administration's interest is in limiting the Government's financial exposure rather than seeking a just settlement of the trust dispute. Despite its obligations to consult with the tribes, the Interior Department is now trying to push through its own plan to reorganize the Indian trust.

Tribal leaders have not been consulted. Deep skepticism and opposition in Indian country continues to exist.

Earlier this month, the administration sent Congress its budget for next year. It now makes deep cuts in every program affecting Indians, except one. There is a 50-percent increase for the Department's trust reorganization plan.

The BIA, the Bureau of Indian Affairs, divides America into 13 regions. Yesterday, congressional and tribal leaders held a "summit" on trust reform. At that summit, the tribal representatives to BIA in all 13 regions pleaded with Congress to slow the Department's unilateral reorganization of the trust.

No trust reorganization plan can succeed without the involvement, support, and leadership of the tribes. It is time for Congress to take a more active role in trust reform. Three things are essential.

First, we need a new round of comprehensive public hearings. This week, Senator BEN NIGTHORSE CAMPBELL announced that the Indian Affairs Committee would hold hearings. I thank him.

Second, congressional meddling in the Cobell litigation must end. The "midnight rider" putting court orders on hold must not be extended; courts must be allowed to do their job. Last year Senators MCCAIN, JOHNSON, INOUYE and I introduced a bill, the American Indian Trust Fund Management Reform Act Amendments, requiring the Interior Department to conduct an historical accounting for all trust assets.

Third and finally, the Federal Government should start budgeting for an eventual solution. Money in those accounts belongs to Indians, and the Government cannot continue to hold it. Last year, In introduced the Indian Payment Trust Equity Act. It would create a $10 billion fund to begin making payments to trust holders who have received an objective accounting of their trust assets.

Somehow, the Federal Government must put its money where its mouth is and begin making trust holders whole. The complexity of the challenge cannot be used as an excuse to continue denying account holders what is rightfully theirs.

Another injustice that must end is the chronic underfunding of the Indian Health Service. The report last summer by the Civil Rights Commission, and another by the Centers for Disease Control, show that Native Americans live sicker and die younger than other Americans as a result of inadequate health care. The Indian Health Service budget accounts for one-half of 1 percent of 1 percent of the Department of Health and Human Services budget. The health system with the sickest people and the greatest needs get the smallest increases.

Last week, I held health care "town hall meetings" on Pine Ridge and Rosebud reservations in South Dakota. We expected 200; we got 700. I heard horrific, heartbreaking stories. People talked about losing parents, children, and spouses because health care wasn't available. Some people had waited months to see an IHS doctor. Finally, they couldn't take the pain any longer. They went to a non-IHS hospital, and they ended up with hospital bill they couldn't pay, so they lost their good credit rating as well as their good name.

It is unacceptable that the Federal Government spends twice as much on health care for Federal prisoners as it does for Indian children and families.

It is immoral that sick people are turned away every day from IHS hospitals and clinics in this country unless they are in immediate danger of losing life or limb.

"Life or limb" is not a figure of speech. It is an actual standard for care, and it is a national disgrace.

Last March, I offered an amendment to the budget resolution to provide $2.9 billion in order to fully fund one part of the IHS budget. Unfortunately, every Republican Senator voted against it. They offered an amendment with $292 million, one-tenth of the amount we proposed. It was inadequate, but we accepted it, only to find when we went to conference, the Republicans killed their own amendment in conference. We tried repeatedly last year to increase funding by $2.9 billion, and we will do so again this year.

More than a century ago, our Government signed treaties with the Indian nations promising to provide them and their descendants three things forever: health care, education, and housing. The Federal Government must now keep its promise and provide these benefits which the Indian people have already paid for in full with their lands.

Tribal leaders are in Washington this week asking once again that we live up to our ideals.

Let us put our minds together and see what life we can make for our children.

I yield the floor.

EXHIBIT 1

EXECUTIVE SUMMARY

The federal government has a long-established special relationship with Native Americans characterized by their status as governmentally independent entities, dependent on the United States for support and protection. In exchange for land and in compensation for forced removal from their original homelands, the government promised through laws, treaties, and pledges to support and protect Native Americans. However, funding for programs associated with those promises has fallen short, and Native peoples continue to suffer the consequences of a discriminatory history. Federal efforts to raise Native American living conditions to the standards of others have long been in motion, but Native Americans still suffer higher rates of poverty, poor educational achievement, substandard housing, and higher rates of disease and illness. Native Americans continue to rank at or near the bottom of nearly every social, health, and economic indicator.

Small in numbers and relatively poor, Native Americans often have had a difficult time ensuring fair and equal treatment on their own. Unfortunately, relying on the goodwill of the nation to honor its obligation to Native Americans clearly has not resulted in desired outcomes. Its small size and geographic apartness from the rest of American society induces some to designate the Native American population the "invisible minority." To many, the government's promises to Native Americans go largely unfulfilled. Thus, the U.S. Commission on Civil Rights, through this report, gives voice to a quiet crisis.

Over the last 10 years, federal funding for Native American programs has increased significantly. However, this has not been nearly enough to compensate for a decline in spending power, which had been evident for decades before that, nor to overcome a long and sad history of neglect and discrimination. Thus, there persists a large deficit in funding Native American programs that needs to be paid to eliminate the backlog of unmet Native American needs, an essential predicate to raising their standards of living to that of other Americans. Native Americans living on tribal lands do not have access to the same services and programs available to other Americans, even though the government has a binding trust obligation to provide them.

In preparing this report, the Commission reviewed the budgets of the six federal agencies with the largest expenditures on Native American programs and conducted an extensive literature review.

DEPARTMENT OF THE INTERIOR

The Bureau of Indian Affairs (BIA), within DOI, bears the primary responsibility for providing the 562 federally recognized Native American tribes with federal services. The Congressional Research Service found that between 1975 and 2000, funding for BIA and the Office of the Special Trustee declined by $6 million yearly when adjusted for inflation.

BIA's mismanagement of Individual Indian Money trust accounts has denied Native Americans financial resources that could be applied toward basic needs that BIA programs fail to provide. Insufficient program funding resulted in $7.4 billion in unmet needs among Native Americans in 2000. Of this amount, a shortfall in tribal priority allocations (TPA), which provides such basic services as child welfare and adult vocational training, alone totaled $2.8 billion that year. Over the last few decades, Congress has minimally increased TPA funding. Unmet needs are also evident in school construction. In December 2002, the deferred maintenance backlog of BIA schools was estimated at $507 million and increasing at an annual rate of $56.5 million due to inflation and natural aging and deterioration of school buildings. BIA and its programs play a pivotal role in the lives of Native Americans, but mismanagement and lack of funding have undercut the agency's ability to improve living conditions in Native communities.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Native Americans have a lower life expectancy than any other racial/ethnic group and higher rates of many diseases, including diabetes, tuberculosis, and alcoholism. Yet, health facilities are frequently inaccessible and medically obsolete, and preventive care and specialty services are not readily available. Most Native Americans do not have private health insurance and thus rely exclusively on the Indian Health Service (IHS) for health care. The federal government spends less per capita on Native American health care than on any other group for which it has this responsibility, including Medicaid recipients, prisoners, veterans, and military personnel. Annually, IHS spends 60 percent less on its beneficiaries than the average per person health care expenditure nationwide.

The IHS, although the largest source of federal spending for Native Americans, constitutes only 0.5 percent of the entire HHS budget. Moreover, it makes up a smaller proportion of HHS' discretionary budget today than five years ago. By most accounts, IHS has done well to work within its resource limitations. However, the agency currently operates with an estimated 59 percent of the amount necessary to stem the crisis. If funded sufficiently, IHS could provide more money to needs such as contract care, urban health programs, health facility construction and renovation, and sanitation services.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The availability of safe, sanitary housing in Indian Country is significantly less than the need. Over-crowding and its effects are a persistent problem. Furthermore, existing housing structures are substandard: approximately 40 percent of on-reservation housing is considered inadequate, and one in five reservation homes lacks complete plumbing. Native Americans also have less access to home-ownership resources, due to limited access to credit, land ownership restrictions, geographic isolation, and harsh environmental conditions that make construction difficult and expensive.

While HUD has made efforts to improve housing, lack of funding has hindered progress. Funding for Native American programs at HUD increased only slightly over the years (8.8 percent), significantly less than the agency as a whole (62 percent). After controlling for inflation, HUD's Native American programs actually lost spending power. The tribal housing loan guarantee program lost nearly 70 percent of its purchasing power over the last four years, and the Native American Housing Block Grant has lost funding for three years in a row. Given the unique housing challenges Native Americans face, greater and immediate federal financial support is needed.

Housing needs on reservations and tribal lands cannot be met with the same interventions that HUD uses to meet rental housing or homeownership goals in the suburbs or inner cities. Innovation and a more comprehensive approach are needed, and the government's trust responsibility to provide housing to Native Americans must be fully factored into these efforts.

DEPARTMENT OF JUSTICE

All three components of law enforcement—policing, justice, and corrections—are substandard in Indian Country compared with the rest of the nation. Native Americans are twice as likely as any other racial/ethnic group to be the victims of crime. Yet, per capita spending on law enforcement in Native American communities is roughly 60 percent of the national average. Correctional facilities in Indian Country are also more overcrowded than even the most crowded state and federal prisons. In addition, Native Americans have long held that tribal court systems have not been funded sufficiently or consistently, and hence, are not equal to other court systems.

Law enforcement professionals concede that the dire situation in Indian Country is understated. While DOJ should be commended for its stated intention to meet its obligations to Native Americans, promising projects have suffered from inconsistent or discontinued funding. Native American law enforcement funding increased almost 85 percent between 1998 and 2003, but the amount allocated was so small to begin with that its proportion to the department's total budget hardly changed. Native American programs make up roughly 1 percent of the agency's total budget. A downward trend in funding has begun that, if continued, will severely compromise public safety in Native communities.

Additionally, many Native Americans have lost faith in the justice system, in part due to perceived bias. Many attribute disproportionately high incarceration rates to unfair treatment by the criminal justice system, including racial profiling, disparities in prosecution, and lack of access to legal representation. Solving these problems is vital to restoring public safety and justice in Indian Country.

DEPARTMENT OF EDUCATION

As a group, Native American students are not afforded educational opportunities equal to other American students. They routinely face deteriorating school facilities, underpaid teachers, weak curricula, discriminatory treatment, outdated learning tools, and cultural isolation. As a result, achievement gaps persist with Native American students scoring lower than any other racial/ethnic group in basic levels of reading, math, and history. Native American students are also more likely to drop out. The lack of educational opportunities in Native communities extends to postsecondary and vocational programs. Special Programs for Indian Adults has not been funded since 1995, and vocational rehabilitation programs are too poorly funded to meet the abundant need. Although 14 applications for such programs were submitted in 2001, only five tribal organizations received funding. Tribal colleges and universities receive 60 percent less federal funding per student than other public community colleges.

The federal government has sole responsibility for providing education to these students—an obligation it is failing to meet. Funding for DOEd's Office of Indian Education (OIE) has remained a relatively small portion of the department's total discretionary budget (ranging from 0.2 to 0.3 percent) between 1998 and 2003. OIE funding has undergone several reductions over the last few decades and, in may years, its budget has failed to account for inflation. At no time during the period under review in this report have all OIE subprograms been funded.

DEPARTMENT OF AGRICULTURE

The USDA is largely responsible for rural development and farm and business supplements in rural communities. Native Americans rely on such programs to foster conditions that encourage and sustain economic investments. However, insufficient funding has limited the success of development programs and perpetuated unstable economies. Poor economic conditions have resulted in food shortages and hunger. Native Americans are more than twice as likely as the general population to face hunger and food insecurity at any given time. The inaccessibility of food and economic development programs compromises their usefulness. By its failure to make programs accessible to Native Americans. the federal government has denied them the opportunity to receive benefits routinely available to other citizens.

USDA's set-aside for the Rural Community Advancement Program fluctuated between 2000 and 2003. The 2004 budget proposes to reduce funding by more than 18.2 percent from 2003. The Food Distribution Program on Indian Reservations (FDPIR) lost funding when accounting for inflation (2.8 percent) between 1999 and 2003, reducing available food resources. FDPIR alone is not meeting the food assistance needs of Native Americans since many participants are also enrolled in other food assistance programs. The continuously high rates of hunger and poverty in Native communities are the strongest evidence that existing funds are not enough.

CONCLUSION

In short, the Commission finds evidence of a crisis in the persistence and growth of unmet needs. The conditions in Indian Country could be greatly relieved if the federal government honored its commitment to funding, paid greater attention to building basic infrastructure in Indian Country, and promoted self-determination among tribes.

The Commission further finds that the federal government fails to keep accurate and comprehensive records of its expenditures on Native American programs. There is no uniform reporting requirement for Native American program fundings, and because agencies self-report their expenditures, available information varies across agencies, rendering monitoring of federal spending difficult.

While some agencies are more proficient at managing funds and addressing the needs of Native Americans than others, the government's failure is systemic. The Commission identified several areas of jurisdictional overlap, inadequate collaboration, and a lack of articulation among agencies. The result is inefficiency, service delay, and wasted resources. Fragmented funding and lack of coordination not only complicate the application and distribution processes, but also dilute the benefit potential of the funds.

In this study, the Commission has provided new information and analyses in the hope of stimulating resolve and action to address unmet needs in Indian Country. Converting data and analyses into effective government action plans requires commitment and determination to honor the promises of laws and treaties. Toward that end, the Commission offers 11 recommendations, which if fully implemented will yield (1) a thorough and precise calculation of unmet needs in Indian Country; (2) increased efficiency and effectiveness in the delivery of services through goal setting, strategic planning, implementation, coordination, and measurement of outcomes; (3) perennial adequate funding; and (4) advancement of Indian nations toward the goal of independence and self-goverance.

Failure to act will signify that this country's agreements with Native people, and other legal rights to which they are entitled, are little more than empty promises. Focused federal attention and resolve to remedy the quiet crises occurring in Indian Country, embodied in these recommendations and the results that flow from them, would signal a decisive moment in this nation's history. That moment would constitute America's rededication to live up to its trust responsibility for its Native people. Only through sustained systemic commitment and action will this federal responsibility be realized.

RECOMMENDATIONS

1. The Native American crisis should be addressed with the urgency it demands. The administration should establish a bipartisan, action-oriented initiative at the highest level of accountability in the government, with representatives including elected officials, members of Congress, officials from each Federal agency that funds programs in Indian Country, tribes, and Native American advocacy organizations. The action group should be charged with analyzing the current system, developing solutions, and implementing positive change.

2. All agencies that distribute funds for Native American programs should be required to regularly assess unmet needs, including gaps in service delivery, for both urban and rural Native individuals. Agencies should establish benchmarks for the elevation of Native American living conditions to those of other Americans. Agencies should document Native American participation in programs and catalog initiatives.

3. Agencies should replicate IHS' Federal Disparity Index assessment for tracking disparities in services and needs. Tribal organizations and Native American advocacy groups should be consulted when agencies develop measures. The results of such examinations should be used to prepare budget estimates, prioritize spending, and assess the status of programs. Congress should require and review unmet needs analyses annually as a component of each agency's budget justification.

4. All Federal agencies that administer Native American programs should be required to set aside money for infrastructure building that will benefit all. Such a fund should be jointly managed by the BIA, representatives from each contributing agency, and a coalition of tribal leaders. The contributing agencies should develop memoranda of understanding and other formal coordination mechanisms that outline precisely how the money will be spent.

5. Federal agencies should avoid implementing across-the-board budget cuts when the effect on already underfunded Native American programs is so severe. Agencies must prepare budgets that account for the proportionality of Native American funding.

6. Native American programs should be situated within the Federal agencies that have the requisite expertise, but agencies should continually improve processes for redistributing funds to other agencies or tribal governments. Funds for a common purpose should be consolidated within a single agency so there is less overlap and clearer accountability.

7. To the extent possible, programs for Native Americans should be managed and controlled by Native Americans. Distribution of funds to tribes should be closely monitored by the source agencies to ensure that funds are used as directed in a manner developed in consultation with Native Americans and tribal governments.

8. Federal appropriations must compensate for costs that are unique to tribes, such as those required to build necessary infrastructure, those associated with geographic remoteness, and those required for training and technical assistance. The unique needs of non-reservation and urban Native Americans must also be assessed, and adequate funding must be provided for programs to serve these individuals.

9. Congress should request an analysis of spending patterns of every Federal agency that supports Native American programs, either by the U.S. General Accounting Office or the Congressional Research Service. In addition, an independent external contractor should audit fund management of all Federal agencies distributing Native American appropriations.

10. Each agency should have one central office responsible for oversight and management of Indian funds, and which prepares budgets and analyses that can be compared and aggregated across agencies.

11. The Office of Management and Budget should develop governmentwide, uniform standards for tracking and reporting spending on Native American programs. Agencies should be required to include justifications for each Native American project in annual budget requests, as well as justifications for the discontinuation of such programs. They should also be required to maintain comprehensive spending logs for Indian programs, including actual grant disbursements, numbers of beneficiaries, and unfunded programs.

[Disturbance in the galleries.]

The PRESIDING OFFICER. Expressions of approval or disapproval are not in order.

The Senator from Idaho.

Mr. CRAIG. Madam President, we are on the Daschle amendment which I support. The minority leader has expressed the value of that amendment to the underlying bill, S. 1805. I will be very brief about it. We can have a vote on it and immediately move back to the Boxer amendment.

Mr. REID. Will the Senator yield for a question?

Mr. CRAIG. I am happy to.

Mr. REID. I am wondering if there is a need for a recorded vote.

Mr. CRAIG. I do not see that need.

Mr. REID. I think we can do this by voice because it is my understanding that the Kohl second degree is also going to be done by voice vote, so that would eliminate the need for two votes. We could go directly to the Boxer amendment, as amended.

Mr. CRAIG. Madam President, when Senator DASCHLE and I began to visit about the issue of liability to gun manufacturers and responsible licensed gun dealers, we wanted to make sure it was as narrow as I expressed yesterday that it would be. Senator DASCHLE came up with some ideas that would strike the "knowing and willing" in the preceding sentences, potentially increasing the likelihood that this exception in the general immunity afforded under the law would be applicable in any given case.

That is what we did. They are two very distinct provisions. I discussed them last night. I will not go into them today for the record. But we handed that work over to the Congressional Research Service. What they have said is this: Applying these changes to the scenarios at issue—and those relate both to manufacturers and gun sales—it appears the amendment could have the effect of making it more likely that this exception to immunity would be applicable in certain facts, as established.

In other words, we truly have clarified the immunity provision. It is every bit as narrow as we said it was, that all current Federal laws pertaining to the mismanagement, mishandling, the criminal actions that are in violation of a Federal firearm license or that are in violation of a manufacturers responsibility are adhered to.

I believe the amendment is a good one. It perfects and improves S. 1805. I encourage its passage.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to amendment No. 2621.

The amendment (No. 2621) was agreed to.

Mr. REID. I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, under the terms of the order that is now before the Senate, Senator DEWINE and Senator KOHL were to offer an amendment. Senator DEWINE is not offering the amendment. I ask unanimous consent that Senator KOHL be allowed to offer a second-degree amendment to the Boxer amendment.

Mr. CRAIG. I do not object to that request, Madam President.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wisconsin.

AMENDMENT NO. 2622 TO AMENDMENT NO. 2620

Mr. KOHL. Madam President, I rise as an original sponsor of the child safety lock amendment. I thank the Senator from California for offering this important measure today. The Child Safety Lock Act significantly reduces the incidence of gun-related tragedies in our country among the most vulnerable elements of our population; namely, our children.

I have a second-degree amendment I wish to offer now. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. KOHL] proposes an amendment numbered 2622 to amendment No. 2620.

Mr. KOHL. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend chapter 44 of title 18, United States Code, to require the provision of a child safety lock in connection with the transfer of a handgun)

In lieu of the matter proposed to be inserted, insert the following:

TITLE II—CHILD SAFETY LOCKS

SEC. 201. SHORT TITLE.

This title may be cited as the "Child Safety Lock Act of 2004".

SEC. 202. PURPOSES.

The purposes of this title are—

(1) to promote the safe storage and use of handguns by consumers;

(2) to prevent unauthorized persons from gaining access to or use of a handgun, including children who may not be in possession of a handgun; and

(3) to avoid hindering industry from supplying firearms to law abiding citizens for all lawful purposes, including hunting, self-defense, collecting, and competitive or recreational shooting.

SEC. 203. FIREARMS SAFETY.

(a) UNLAWFUL ACTS.—

(1) MANDATORY TRANSFER OF SECURE GUN STORAGE OR SAFETY DEVICE.—Section 922 of title 18, United States Code, is amended by inserting at the end the following:

"(z) SECURE GUN STORAGE OR SAFETY DEVICE.—

"(1) IN GENERAL.—Except as provided under paragraph (2), it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than any person licensed under this chapter, unless the transferee is provided with a secure gun storage or safety device (as defined in section 921(a)(34)) for that handgun.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A)(i) the manufacture for, transfer to, or possession by, the United States, a department or agency of the United States, a State, or a department, agency, or political subdivision of a State, of a handgun; or

"(ii) the transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a handgun for law enforcement purposes (whether on or off duty); or

"(B) the transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State of a handgun for purposes of law enforcement (whether on or off duty);

"(C) the transfer to any person of a handgun listed as a curio or relic by the Secretary pursuant to section 921(a)(13); or

"(D) the transfer to any person of a handgun for which a secure gun storage or safety device is temporarily unavailable for the reasons described in the exceptions stated in section 923(e), if the licensed manufacturer, licensed importer, or licensed dealer delivers to the transferee within 10 calendar days from the date of the delivery of the handgun to the transferee a secure gun storage or safety device for the handgun.

"(3) LIABILITY FOR USE.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, a person who has lawful possession and control of a handgun, and who uses a secure gun storage or safety device with the handgun, shall be entitled to immunity from a qualified civil liability action.

"(B) PROSPECTIVE ACTIONS.—A qualified civil liability action may not be brought in any Federal or State court.

"(C) DEFINED TERM.—As used in this paragraph, the term 'qualified civil liability action'—

"(i) means a civil action brought by any person against a person described in subparagraph (A) for damages resulting from the criminal or unlawful misuse of the handgun by a third party, if—

"(I) the handgun was accessed by another person who did not have the permission or authorization of the person having lawful possession and control of the handgun to have access to it; and

"(II) at the time access was gained by the person not so authorized, the handgun had been made inoperable by use of a secure gun storage or safety device; and

"(ii) shall not include an action brought against the person having lawful possession and control of the handgun for negligent entrustment or negligence per se.".

(b) CIVIL PENALTIES.—Section 924 of title 18, United States Code, is amended—

(1) in subsection (a)(1), by striking "or (f)" and inserting "(f), or (p)"; and

(2) by adding at the end the following:

"(p) PENALTIES RELATING TO SECURE GUN STORAGE OR SAFETY DEVICE.—

"(1) IN GENERAL.—

"(A) SUSPENSION OR REVOCATION OF LICENSE; CIVIL PENALTIES.—With respect to each violation of section 922(z)(1) by a licensed manufacturer, licensed importer, or licensed dealer, the Secretary may, after notice and opportunity for hearing—

"(i) suspend for not more than 6 months, or revoke, the license issued to the licensee under this chapter that was used to conduct the firearms transfer; or

"(ii) subject the licensee to a civil penalty in an amount equal to not more than $2,500.

"(B) REVIEW.—An action of the Secretary under this paragraph may be reviewed only as provided under section 923(f).

"(2) ADMINISTRATIVE REMEDIES.—The suspension or revocation of a license or the imposition of a civil penalty under paragraph (1) shall not preclude any administrative remedy that is otherwise available to the Secretary.".

(c) LIABILITY; EVIDENCE.—

(1) LIABILITY.—Nothing in this title shall be construed to—

(A) create a cause of action against any Federal firearms licensee or any other person for any civil liability; or

(B) establish any standard of care.

(2) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this title shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action relating to section 922(z) of title 18, United States Code, as added by this section.

(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to bar a governmental action to impose a penalty under section 924(p) of title 18, United States Code, for a failure to comply with section 922(z) of that title.

SEC. 204. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 180 days after the date of enactment of this Act.

Mr. KOHL. Madam President, as I understand it, there is no need for debate on this amendment. The Senator from California has told me she has no objection to our modifications. So if it is not objectionable to the managers of the bill, I will speak briefly, and then I will yield back our time. I will not call for a rollcall vote, and I hope the Senate will accept these modifications by voice vote.

This amendment will make the Boxer amendment virtually identical to the bipartisan child safety lock amendment that passed with 78 votes in 1999. Protecting our children from accidental shooting is a concern that crosses party lines, and I am proud that today we get a chance to express that concern again in an overwhelming and bipartisan way.

Every year, children and teenagers are involved in more than 10,000 accidental shootings. Close to 800 of those shootings result in a senseless death. And those 800 deadly accidents do not account for the thousands of additional gun-related deaths of America's youth each year that result from suicide or intentional shootings. Every 6 hours, a young person between the ages of 10 and 19 commits suicide with an available firearm. In all, nearly 3,000 children and young people die every year from gun-related injuries.

To many of us, this recitation of numbers and statistics is terribly grim. But for the families, the pain associated with those avoidable deaths is unbearable. What is equally tragic is that so many of these deaths could have been prevented. The use of a child safety lock would have, at the very least, stopped hundreds of accidents each and every year.

This legislation is simple, straightforward, and effective. It mandates that a child safety lock device or a trigger lock be sold with every handgun. Most locks resemble a padlock that locks around the gun trigger and immobilizes it, preventing it from being fired. These and other locks can be purchased in virtually every gun store for less than $10. They are already used by tens of thousands of responsible gun owners to protect their firearms from unauthorized use, and they surely have saved many lives.

Support for this commonsense approach to gun safety is widespread. In 1999, the same child safety lock provision passed the Senate by an overwhelming vote of 78 to 20. It was an amendment during the juvenile justice debate. This proposal is as popular with the rest of the country and the law enforcement community as it was with the 106th Senate. Polls have shown that 73 percent of the American public, including 6 of 10 gun owners, favors the mandatory sale of child safety locks with guns. In a survey of nearly 500 of Wisconsin's police chiefs and sheriffs, 90 percent agree that child safety locks should be sold with every gun.

This legislation has the support of the current administration as well. During his campaign in 2000, President Bush indicated that if Congress passes a bill making the sale of child safety locks mandatory with every gun sale, he would sign it into law. Attorney General Ashcroft affirmed the administration support of the mandatory sale of child safety locks during his confirmation hearings before the Senate Judiciary Committee.

The bill is not a panacea. It will not prevent every single avoidable firearm-related accident, but the fact is all parents want to protect their children. This legislation will ensure that people purchase child safety locks when they buy guns. Those who buy locks are more likely to use them. That much we know is certain. Those who use the locks will be protected from liability if those guns are misused.

The Child Safety Lock Act is a modest proposal. Though imposing a minimal cost on consumers, it will prevent the deaths of many innocent children every year. The Senate spoke overwhelmingly in favor of this proposal in 1999.

Madam President, I urge my colleagues to support and vote for the amendment before us today.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Madam President, I am glad the Senator from Wisconsin has stepped forward to offer a second-degree amendment. It clarifies the nature of damages in civil immunity language. It defines the inoperable in the immunity language. It reduces the penalty violation but sets a good one—a $2,500 civil fine. Revocation may be a bit harsh, but there is a small clarification in the Rules of Evidence. It takes effect 180 days after enactment.

Of course, as I mentioned earlier in the debate—and I will discuss this later after this amendment is accepted—nearly all manufacturers today comply with this very point as guns leave the factory. So the industry is moving rapidly toward compliance.

With that, I think we are prepared to vote on the second degree.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to amendment No. 2622 to amendment No. 2620.

The amendment (No. 2622) was agreed to.

Mr. REID. Madam President, I move to reconsider the vote.

Mr. REED. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, what is the business before the Senate? Is it the Boxer amendment, as amended by the Kohl amendment?

The PRESIDING OFFICER. The Boxer amendment, as amended.

Mr. REID. What time is remaining on that?

The PRESIDING OFFICER. The Senator from Idaho has 8 minutes remaining.

Mr. CRAIG. Madam President, I will take some of those minutes to speak to the Boxer amendment, as amended. I do oppose this amendment and here are some very simple facts why.

I have already talked about the industry itself moving rapidly in a voluntary way toward compliance. Clearly, the bill has been improved by the Senator from Wisconsin, but let me suggest this to all of us because I think we understand it in rather simple terms. The home is a private place and for the first time the long arm of Government will reach into the private place and suggest to the average American how they will store an object in that private place.

I am not arguing about the care, the emotion, the concern, and the reality, not that at all. I understand that. But

I do not believe that Government ought to be telling the average citizen how they store objects within their home.

We are hearing about the tragedies of children losing their life by the misuse of a firearm. I think the Senator from Wisconsin mentioned suicides. My guess is, trigger locks do nothing to suicides. The great tragedy of a suicide is that a teenager thinks it out, and if they think it out they are probably going to find the key to the trigger lock or they will know where it is as a teenager and that will not stop that tragedy. That is an emotional situation that none of us quite understand sometimes why teenagers resort to that kind of action and violence.

I will talk about the home environment and what is going on in the home environment. Since 1930, accidental deaths by firearms in the home have declined 62 percent. Firearms are now involved in only 1.5 percent of accidental fatalities nationwide within the home. Here is the tragedy: Deaths caused to children by motor vehicle accidents is 47 percent; a child falling down in the home, deaths 15 percent; poisoning, 10 percent; drowning, 4 percent; fire, 8 percent; suffocation on small objects going down the throat of a small child, 3 percent. More children suffocate by an object lodging in their throat than by finding an improperly stored handgun. Now, those are the facts, as we know them. Those facts come from the National Safety Council, the National Center for Health Statistics.

Again, I do not dispute the emotion or the concern or the care that the Senator from California has on this issue, but I do dispute the right of the Federal Government to enter the home and tell the average citizen they have to comply with mandatory storage laws that exist with penalties. I believe that is unnecessary in a free society.

I believe safety and responsibility is always necessary, and the industry is rapidly moving in that direction. Ninety percent are in compliance with the fundamental principles of the law itself.

This is the thing that concerns me most: Most States already provide penalties for reckless endangerment under which an adult found grossly negligent in the storage of a firearm under certain circumstances can be prosecuted for a felony offense. Universal mandatory storage requirements are counterproductive. That is going at the individual, instead of allowing the long arm of the law to come into the home. Clearly, that is the way it ought to be.

We know that no one-size-fits-all requirement can possibly meet the needs of all gun owners, and that is what is being suggested. We have already seen the industry involve science and technology to try to deal with this issue, and they are trying to develop those kinds of standards that work.

I have already mentioned that the National Safety Council tested 32 types of gunlocks and found that 30 of them could be opened without a key. While the industry is rushing to get there, what we are needing, and the industry is now doing it, is standardization.

In any emergency, and now we are talking about oftentimes why a gun is in a home, a trigger lock can handicap a person who needs a gun for protection. While the industry is trying to make them applicable so they can be accessed within seconds or minutes in case the burglar is breaking into the home, the reality is that if the gun is locked away in a safe it is ineffective as a use for personal protection in an unsafe environment. Those are the kinds of concerns I think all of us have as we talk about these kinds of issues and as we tick away at the right of the private gun owner to manage what I believe is a constitutional right in this country.

I will give a little bit of history and then I will close. In 1936, British police began adding the following requirements for firearms certificates: Firearms and ammunition to which this certificate relates must at all times, when not in actual use, be stored in safe and secure places. That was 1936. What has transpired in British law until today is that if one wants to own a gun and they get a certificate to own a gun, the British police come into their home and ask where they are going to store it. They look at where it is going to be stored and if the gun owner does not have a lockbox or if they do not have a safe, they do not own a gun.

Will that ever happen in this country? I would hope not. I hope Americans would rebel about the reality of the police entering their home to tell them what to do as it relates to storing an object in the home, especially an object that we believe is a constitutional right. That is the issue at hand.

Again, I am not going to argue with the reason or the logic that the Senator from California has expressed. States are moving now, and I think in some ways responsibly, to encourage, educate, and train. The industry is moving in that direction. To establish a Federal requirement that says this is the way one is going to do it in their home—I believe in a fundamental right of privacy—this is a breach of that right and an entry into the home with the long arm of Federal law. I do not think we ought to go there.

I hope Senators will join with me in opposing this amendment as amended by the KOHL amendment. I am prepared to yield back the remainder of my time in relation to a vote on this issue.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, on this amendment all time has been used. I ask the good offices of my friend from Idaho to allow the Senator from California 1 minute to respond to the statements of the Senator from Idaho.

Mr. CRAIG. I accept that if I have an additional 1 minute to close after the Senator from California.

Mr. REID. I ask unanimous consent that the request be so modified.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CRAIG. Following that, I would like a moment for a quorum call.

Mr. REID. Madam President, that is fine. I would indicate that following however long the quorum takes, we would vote on the Boxer amendment as amended by KOHL. Then I would alert everyone that we would then have a period of time for up to 1 hour, that Senator CAMPBELL—at least the way I understand the order now before the Senate—would have up to an hour on his amendment. Senator KENNEDY would follow with an hour on his amendment. Then two 2 hours would, of course, have gone by. Senator FRIST has the opportunity to offer an amendment. We do not know if he will at the time.

My point being on those two amendments, the Campbell and Kennedy amendments, there will be no votes until Tuesday. But that is a significant amount of time. Following that, CANTWELL has 60 minutes. So this afternoon we should have a lot of debate with no votes in the immediate future. I would simply ask that those Senators be ready to go as soon as the vote is completed on this matter.

Mr. CRAIG. I thank the Senator for that. I yield the floor to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I appreciate my friend yielding.

I think this argument has now been joined. The argument Senator CRAIG makes against this amendment, to me, is just off point. This bill is not a mandatory storage law. This has nothing to do with a mandatory storage law. The fact is we have passed this before, 78 to 20. We are not saying you have to have storage. We are saying that when you go to buy a handgun, it has some type of device on it. We don't mandate what that device is. We say it could be one of five or six different things. There will be standards set. It is not one-size-fits-all. It is not a mandatory storage law.

I agree with my friend, if the gun manufacturers do this on their own, that is great. But as we have learned from the SAFE KIDS Campaign, not all of them are doing it. Some of them are and some of our kids are exposed.

I have two quick further points to make.

The PRESIDING OFFICER (Mr. ENSIGN). The time of the Senator has expired.

Mrs. BOXER. I ask for an additional minute and give my friend 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Let me make this point. When my friend compares an accidental shooting with a gun resulting in a death to a suicide, I would say that is quite different, because in the tragedy of suicide, although my friend is quite right, we do try on some of our bridges to build barriers, but if there is an intent, although we do our best, we often fail. But a 3-year-old or 5-year-old child picking up a gun really doesn't know someone is going to die. So it is up to us to make sure we do our best. That is all; we do our best.

My last point. There are standards for aspirin caps, cribs, Play-Doh, Teddy bears, pajamas. There ought to be a standard for a safety lock on a gun. I don't think we do violence to freedom in any way.

I wish my friend were with me on this, but if not, I hope we can repeat the vote we had last time; 78 to 20 sounds really good. I hope we can do that again.

I yield the floor.

Mr. CRAIG. Mr. President, I will be brief. I don't question the sincerity of the Senator from California. I recognize what she is attempting to do.

The industry is rushing. It is at near 90 percent compliance today. We want firearms to be as safe as possible in this country.

Let me close with this. Firearms are involved in 1.5 percent of the accidents within a home that involve a child; motor vehicles and children: 47 percent of the deaths of young children are caused by motor vehicles; falling, 15 percent; poisoning, 10 percent; drowning, 4 percent; fire, 3 percent; objects ingested and lodged in the throat in which they suffocate, 3 percent.

As tragic as all of this is, it is a very small number. We are now working aggressively to resolve that. The industry has developed standards. I don't believe these penalties are necessary. I don't believe this approach of uniformity and Federal mandate is necessary. I ask my colleagues to oppose this amendment.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the majority leader has indicated it, and the minority is happy to go forward with a vote at this time.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 2620, as amended. The clerk will call the roll.

The senior journal clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL) is necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 70, nays 27, as follows:

[Rollcall Vote No. 17 Leg.]

YEAS—70

Akaka
Baucus
Bayh
Bennett
Biden
Bingaman
Boxer
Breaux
Brownback
Byrd
Cantwell
Carper
Chafee
Clinton
Cochran
Coleman
Collins
Conrad
Corzine
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Grassley
Gregg
Hagel
Harkin
Hollings
Hutchison
Inouye
Jeffords
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lugar
McCain
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Smith
Snowe
Stabenow
Stevens
Voinovich
Warner
Wyden

NAYS—27

Alexander
Allard
Allen
Bond
Bunning
Burns
Chambliss
Cornyn
Craig
Crapo
Dole
Ensign
Enzi
Graham (SC)
Hatch
Inhofe
Johnson
Kyl
Lott
Miller
Nickles
Sessions
Shelby
Specter
Sununu
Talent
Thomas

NOT VOTING—3

Campbell
Edwards
Kerry

The amendment (No. 2620), as amended, was agreed to.

Mr. CRAIG. I move to reconsider the vote.

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRAIG. Mr. President, we have the Campbell concealed-carry bill. We are minutes away from being ready to offer that so I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant Journal clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask my friend from Idaho, did he say the Campbell-Leahy concealed-carry bill is the next in line?

Mr. CRAIG. I believe that.

Mr. LEAHY. Then I will stay here.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. May I inquire of the managers of the bill, if there are a few minutes before you get to this, I would like to take a few minutes and speak on the underlying bill.

Mr. CRAIG. Yes. I see no reason why the Senator could not speak. How long does the Senator intend to speak?

Mr. DODD. I see my colleague from Massachusetts. Ten minutes.

Mr. KENNEDY. Mr. President, I am trying to find out how we are going to proceed. I have seen the agreement. I am just trying to understand the order. We have the concealed weapons amendment and then the cop killer bullets. I thought we had a time limit on those. I am trying to find out.

Mr. REID. Will the Senator yield?

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the order now before the Senate indicates the next amendment is the Campbell-Leahy amendment. That is 60 minutes. The time, of course, is in the usual form. Following that is the Kennedy cop killer bullets amendment. Following that is the Cantwell amendment and maybe somebody else in between. That is where we are. I do not see Senator CAMPBELL on the floor.

Mr. KENNEDY. I understand we will have an hour. It will be an hour equally divided. I will have 30 minutes. I would be glad to yield 10 minutes to the Senator from Connecticut so he can make his comments, and we can move the process along. If it is agreeable with the managers, that is certainly agreeable with me.

The PRESIDING OFFICER. The Senator from Connecticut has the floor.

Mr. REID. I would ask that Senator DODD be allowed 10 minutes from Senator KENNEDY's time on the amendment that will soon be offered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. I will yield for purposes of having the amendment proposed.

Mr. HATCH. Well, let me go first.

Mr. DODD. Are you going to take 30 minutes? I would like to be able to be heard.

Mr. HATCH. No.

The PRESIDING OFFICER. The Senator from Utah.

AMENDMENT NO. 2623

Mr. HATCH. Mr. President, I send an amendment to the desk on behalf of Senators CAMPBELL, LEAHY, HATCH, DEWINE, SESSIONS, and CRAIG, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant Journal clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself, Mr. CAMPBELL, Mr. LEAHY, Mr. DEWINE, Mr. SESSIONS, and Mr. CRAIG, proposes an amendment numbered 2623.

The amendment is as follows:

(Purpose: To amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns)

On page 11, after line 19, add the following:

SEC. 5. LAW ENFORCEMENT OFFICERS SAFETY ACT.

(a) SHORT TITLE.—This section may be cited as the "Steve Young Law Enforcement Officers Safety Act of 2004".

(b) EXEMPTION OF QUALIFIED LAW ENFORCEMENT OFFICERS FROM STATE LAWS PROHIBITING THE CARRYING OF CONCEALED FIREARMS.—

(1) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by inserting after section 926A the following:

"§926B. Carrying of concealed firearms by qualified law enforcement officers

"(a) Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

"(b) This section shall not be construed to supersede or limit the laws of any State that—

"(1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or

"(2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

"(c) As used in this section, the term 'qualified law enforcement officer' means an employee of a governmental agency who—

"(1) is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest;

"(2) is authorized by the agency to carry a firearm;

"(3) is not the subject of any disciplinary action by the agency;

"(4) meets standards, if any, established by the agency which require the employee to regularly qualify in the use of a firearm; and

"(5) is not prohibited by Federal law from receiving a firearm.

"(d) The identification required by this subsection is the photographic identification issued by the governmental agency for which the individual is, or was, employed as a law enforcement officer.

"(e) DEFINED TERM.—As used in this section, the term 'firearm' does not include—

"(1) any machinegun (as defined in section 5845 of title 26);

"(2) any firearm silencer (as defined in section 921); and

"(3) any destructive device (as defined in section 921).".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 44 of title 18, United States Code, is amended by inserting after the item relating to section 926A the following:

"926B. Carrying of concealed firearms by qualified law enforcement officers.".

(c) EXEMPTION OF QUALIFIED RETIRED LAW ENFORCEMENT OFFICERS FROM STATE LAWS PROHIBITING THE CARRYING OF CONCEALED FIREARMS.—

(1) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by inserting after section 926B, as added by subsection (b), the following:

"§926C. Carrying of concealed firearms by qualified retired law enforcement officers

"(a) Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified retired law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

"(b) This section shall not be construed to supersede or limit the laws of any State that—

"(1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or

"(2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

"(c) As used in this section, the term 'qualified retired law enforcement officer' means an individual who—

"(1) retired in good standing from service with a public agency as a law enforcement officer, other than for reasons of mental instability;

"(2) before such retirement, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;

"(3)(A) before such retirement, was regularly employed as a law enforcement officer for an aggregate of 15 years or more; or

"(B) retired from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;

"(4) has a nonforfeitable right to benefits under the retirement plan of the agency;

"(5) during the most recent 12-month period, has met, at the expense of the individual, the State's standards for training and qualification for active law enforcement officers to carry firearms; and

"(6) is not prohibited by Federal law from receiving a firearm.

"(d) The identification required by this subsection is photographic identification issued by the agency for which the individual was employed as a law enforcement officer.

"(e) DEFINED TERM.—As used in this section, the term 'firearm' does not include—

"(1) any machinegun (as defined in section 5845 of title 26);

"(2) any firearm silencer (as defined in section 921); and

"(3) a destructive device (as defined in section 921).".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 44 of title 18, United States Code, is amended by inserting after the item relating to section 926B the following:

"926C. Carrying of concealed firearms by qualified retired law enforcement officers.".

Mr. HATCH. Mr. President, let's see if my colleague from Connecticut can agree to this. I intend to take a few minutes to define the bill. I have promised Senator DEWINE, I think he only has about 3 or 4 minutes.

Mr. DODD. If I may proceed and then finish in a few minutes.

Mr. HATCH. I will say my statement in a very few minutes. Then I ask unanimous consent that we go to the distinguished Senator from Connecticut and then——

Mr. DODD. I think I still have the floor.

The PRESIDING OFFICER. The Senator from Nevada had the floor and relinquished the floor. Now the Senator from Utah has the floor. There was a unanimous consent request that was agreed to when the Senator from Connecticut was yielded 10 minutes from Senator KENNEDY's time, but then the Senator from Utah sent up an amendment and reclaimed the floor. The Senator from Utah has the floor.

Mr. HATCH. I will be short. I ask unanimous consent that the distinguished Senator from Connecticut be recognized pursuant to Senator KENNEDY's granting of time and immediately thereafter the Senator from Ohio be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Today I rise and join Senators CAMPBELL, LEAHY, REID, and others I have named on this bill to offer it as an amendment to S. 1805, the Law Enforcement Officers Safety Act of 2003, which was favorably reported out of the Judiciary Committee with strong bipartisan support last session.

This amendment, which permits qualified current and retired law enforcement officers to carry a concealed firearm in any jurisdiction, will help protect the American public, our Nation's officers, and their families. I would note this bill has the overwhelming support of the Fraternal Order of Police and other law enforcement associations which have vigorously worked in support of this measure.

This amendment allows qualified law enforcement officers and retired officers to carry, with appropriate identification, a concealed firearm that has been shipped or transported in interstate or foreign commerce regardless of State or local laws.

Importantly, this legislation does not supersede any State law that permits private persons to prohibit or restrict possession of firearms on any State or local government properties, installations, buildings, bases, or parks. Additionally, this amendment clearly defines what is meant by "qualified law enforcement officer" and "qualified retired or former law enforcement officer" to ensure those individuals permitted to carry concealed firearms are highly trained professionals.

This amendment will not only provide law enforcement officers with the legal means to protect themselves and their families when they travel interstate, it will also enhance the security of the American public, which is long overdue.

By enabling qualified active duty and retired law enforcement officers to carry firearms, even if off duty, more trained law enforcement officers will be on the street to enforce the law and to respond to any crises that may arise.

I urge my colleagues to vote in favor of this amendment because passage of this important legislation will provide that extra layer of protection to current and retired law enforcement officers, their families, and the public that we so desperately need.

Mr. President, I appreciate the cosponsors on this bill, which includes Senator REID. I ask unanimous consent that Senator REID be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. I thank the Chair. Mr. President, I thank my colleagues, Senator HATCH and Senator KENNEDY, for being very gracious in providing me a few minutes to address the underlying bill. I know we are going to debate the amendment on concealed weapons, but I wish to share with my colleagues my views on this legislation.

I cannot see any amendment that can be offered to this legislation that is going to convince this Senator that the underlying bill deserves support. I am stunned, in many ways, that we are even suggesting this legislation. I can only imagine what the reaction would be if I were to come to the Chamber and offer a similar amendment that would exclude any other industry in the country from the exposure of potential liability for wrongdoing.

In my State, I represent more gun manufacturers than any other Member of this body. I also represent probably more insurance companies and more pharmaceutical companies in the State of Connecticut than almost any other State in the country. As strongly as I support the people who work in these businesses and respect what they do, the idea that we would take an entire industry and remove it from the potential of liability is rather breathtaking to me in this day and age.

I am a great advocate of tort reform, as many of my colleagues know. I authored the securities litigation reform bill and wrote the uniform standards litigation bill. I am now working on class action reform. But the idea that we would take an entire industry and give it immunity from wrongdoing, I think, is rather stunning to this Member.

I wish to share with my colleagues some general thoughts. I know there are amendments going to be offered on assault weapons and a variety of other proposals, but I want to put my colleagues on notice. I do not think we can offer any amendment to this bill that will outweigh the harm done by the underlying proposal and the precedent we are setting in this body. We are taking an industry and saying: No matter what you may do, no matter how much harm you may cause, you never have to worry about being held liable and accountable for your actions. In this day and age, that this body would so overwhelmingly endorse an idea such as this is breathtaking.

I wish to take a few minutes to say why it is so outrageous. I want to add, with all the matters we should be addressing with the limited time in this session, with the thousands of people losing their jobs today, we have nothing to say about outsourcing. When we have 44 million Americans without health insurance, we have nothing to say about those issues. We are drowning in budget deficits and trade deficits. We have the worst job deficit since the Great Depression. Poverty is increasing, and this Chamber has nothing to say on those issues except we are now going to take one group of manufacturers and say: Don't worry about anything, you don't have to ever be held accountable for your wrongdoing.

This legislation, in my view, is bad policy for a number of reasons. First, it will have absolutely no impact whatsoever on reducing the rate of gun violence in our Nation. In fact, this bill ignores the devastating toll firearm violence continues to have on the country.

According to the Centers for Disease Control and Prevention, there were nearly 29,000 deaths in the United States from firearms in the year 2001 alone—29,000 deaths. That is, of course, 10 times the number of lives that were tragically lost on September 11 at the World Trade Center, here in Washington, and in Pennsylvania. In fact, one year of gun violence in America nearly equals the number of Americans who died in the Korean war and almost half the Americans lost in the entire Vietnam conflict.

The numbers are staggering. These numbers exceed by a huge margin the number of firearm-related deaths on a per-capita basis in countries such as Canada, the United Kingdom, Germany, Japan, and France.

Among those individuals most affected by gun violence are children. It is not just an incident such as the Columbine High School massacre in 1999 or inner-city neighborhood shootings that should make us realize that children are among the most vulnerable to gun violence. Children are also killed or injured by firearms because their parents did not store their guns properly, and the kids used them for horseplay.

It is no coincidence then that firearms are the second leading death among young Americans ages 19 and under. Approximately 2,700 children under the age of 19 are killed each year as a result of gun violence or improper use of guns.

The rate of firearm deaths of children under the age of 14 is already 12 times higher in the United States than in 25 other industrialized nations combined. Let me repeat that. The firearm death rates of children under the age of 14 is 12 times higher in the United States than in 25 other industrialized nations combined.

We are about to exclude an entire industry from even being brought to the bar to question whether or not they might be liable. One study noted the firearm injury epidemic among children is nearly 10 times larger than the polio epidemic in the first half of the 20th century.

The human cost of gun-related deaths and injuries is tragic in itself, but the economic loss is also significant. According to a study published in 2000, the average costs of treating gunshot wounds were $22,000 for each unintentional shooting and $18,400 for each gun assault injuries. These costs would undoubtedly be much higher today.

Total societal cost of firearms is estimated to be between $100 billion and $126 billion per year. Who pays these expenses? By and large the American taxpayers do.

My colleagues speak against unfunded mandates, and yet this bill, if enacted, burdens the Nation's cities and counties with billions and billions of dollars in medical care, emergency services, police protections, courts, prisons, and school security. It is shameful that while tens of thousands of people are dying each year due to firearms, and while the American taxpayers pay tens of billions of dollars to cope with the effect of gun violence, the United States Senate is doing absolutely nothing to make our streets and homes safer. In fact, we are doing quite the opposite by our actions today.

Second, the legislation will give this industry special legal protections that no other industry in the United States has. Neither cigarette companies nor asbestos companies nor polluters have such sweeping immunity as we are about to give this industry. In fact, gun manufacturers and sellers are already exempt from Federal Consumer Product Safety Commission regulation, despite the fact firearms are among the most dangerous and deadly products in society. We have more regulations on toy guns than we do on the ones that fire real bullets.

Imagine that, a toy gun that you buy from Mattel, the Consumer Product Safety Commission issues literally pages of regulations on what must be included in the production of that toy gun. There is not a single word in the Consumer Product Safety Commission about the production of a gun that may kill 29,000 people each year in this country. The National Rifle Association made sure of this exemption 30 years ago, just as highly addictive tobacco products are not subject to regulation by the Food and Drug Administration.

I have supported tort reform in specific areas where I believe it is appropriate. My colleagues know that. At the same time, I recognize that litigation has been a powerful tool in holding parties accountable for their negligence and providing them with incentive to improve the safety of their products.

It has been employed on behalf of other potentially dangerous products, such as cars, lawnmowers, household products, and medicines, to protect the health of the American people. The fact that guns are already specifically exempt from the oversight of the Consumer Product Safety Commission is reason enough, in my view, why we cannot afford to grant the firearm industry legal immunity.

If this legislation is enacted, and I know it will be given the number of cosponsors and how this bill is sweeping through the Congress, would it remove any incentive under current products liability law for gun manufacturers to make their firearms safer? Studies have shown that the technology is both readily available and very inexpensive to install in order to help avoid future gun-related tragedies.

For example, a load indicator could be included to tell the user that the gun is still loaded. That is never going to happen now, I promise. A magazine disconnect safety could be installed by the manufacturers to prevent guns from firing if the magazine is removed. Even child proofing the gun with safety locks can be done relatively easily. However this bill is enacted into law, gun manufacturers will lose a huge incentive to include such reasonable safety devices in their products.

I know I am going to hear shortly, well, we just adopted a gun safety lock amendment. We did that a few years ago as well. What happened to it? It got dumped. That is what happened. Do not have any illusion about these amendments being adopted. My colleagues have been around long enough to know what is going to happen. When this bill leaves the Senate and goes down the hall to the other Chamber all of these nice provisions that are included will be dropped, just as they have been in the past.

Third, this legislation would close the courthouse door on our Nation's mayors, gun victims, and law enforcement officers who are seeking to hold the gun industry accountable for their negligent conduct. Just last week, Los Angeles Police Chief William Bratton and over 80 other prominent law enforcement leaders from 26 States sent a letter to the Senate opposing the legislation.

The chiefs warned that passage of the immunity legislation would result in more illegal gun running and deter efforts to develop child-resistant guns. In the words of Chief Bratton:

> The passage of this bill would deliver a devastating blow to justice. The NRA and Congress need to understand that special interest groups cannot come before public safety. Gun stores and manufacturers must be held to the same standards of safety as any other industry. And if they fail to act responsibly, they must pay the price.

Evidence has been uncovered which reveals that the gun industry has been engaged in irresponsible behavior for many years. Senator REED and others have already mentioned one such industry actor: Bull's Eye Shooter Supply in Tacoma, WA. This gun store claims that it "lost" the gun used by the Washington, DC snipers John Muhammed and Lee Boyd Malvo as well as more than 200 other guns. Many of these firearms were later traced to other crimes.

In fact, Bull's Eye Shooter Supply had no record of the gun ever being sold and did not report it until after the Bureau of Alcohol, Tobacco, and Firearms recovered the weapon and traced it back to the store.

Even after the rifle was linked to the sniper shootings and the newspapers reported on the disappearance of the guns from Bull's Eye, the rifle's manufacturer, Bushmaster Firearms, declared that it still considered Bull's Eye a "good customer" and was happy to keep selling to the shop. The judge in this case has since ruled twice that the suit brought by the families of the DC-area sniper victims against both Bushmaster Firearms and Bull's Eye Shooter Supply should proceed to trial, and a preliminary appeal of these rulings has been rejected.

Nevertheless, this case as well as other important pending and future lawsuits against negligent gun dealers and manufacturers would be banned under the Senate bill, according to the opinion of two of the Nation's most prominent attorneys, David Boies and Lloyd Cutler.

There are many other instances of the gun industry not taking steps to prevent guns from reaching the illegal market. According to Federal data from 2000, 1.2 percent of dealers account for 57 percent of all guns recovered in criminal investigations.

Undercover sting operations in Illinois, Michigan, and Indiana have found that such dealers routinely permit gun sales to "straw purchasers," that is, individuals with clean records who buy guns for criminals, juveniles, or other individuals barred by law from purchasing them. Again, if the Senate bill is enacted, police officers shot by a gun bought by a straw purchaser would no longer get his day in court.

Gun shows are also an important source of guns for criminals. I am pleased to join my colleagues Senators MCCAIN and REED in co-sponsoring legislation to close the gun show loophole in the Brady Act. Studies have shown that unlicensed dealers often sell large quantities of guns at these shows without having to run criminal background checks or keeping records.

Many of my colleagues might recall that a gun show was the source of the firearm purchased Eric Harris and Dylan Klebold before they went on their murderous rampage at Columbine High School. But again, the Senate bill will not hold such negligent gun sellers responsible for the injuries and deaths their firearms cause.

Supporters of this legislation contend that there is a gun litigation crisis in America, and that many of the cases being brought against the gun industry are frivolous. Nothing could be further from the truth. In fact, there are no massive backlogs of claims against gun dealers and manufacturers burdening the court system, as with the asbestos litigation. Only 33 municipalities and one State, New York, have filed suits against gun makers. Not one of these cases has been dismissed as being frivolous.

In fact, 18 cities and counties have won favorable rulings on the legal merits of their cases. These courts have recognized that such cases are based upon well-established legal principles as negligence, product liability, and public nuisance. Important information on the gun industry's wrongful actions, which has long been cloaked in secrecy for many years, is being revealed during the discovery process. These cases, however, will be precluded, and the information gleaned from them will be lost, if the gun industry is granted the immunity it seeks.

This legislation is the wrong way for the Senate to proceed on gun violence. Rather than giving special immunity to those manufacturers and dealers who wrongfully make and sell guns to criminals, the Senate should be working to protect our police officers and the people they protect.

Rather than placing more guns on the streets, the Senate should be considering more responsible guns legislation, such as making the ban on assault weapons permanent and closing the gun show loophole. I am hopeful that the Senate will have a full and comprehensive debate on these important issues in the coming days.

Rather than encouraging reasonable and safe gun use, the Senate is destroying any incentive for gun manufacturers to improve the safety of their deadly wares.

The Senate wisely defeated a cloture motion on the motion to proceed to the medical malpractice bill. It should now tell the gun industry that they need to be held accountable for their deeds as is the case for every other industry in America so I urge my colleagues to oppose this legislation.

I have great respect for my colleagues, but there is no amendment that is going to be adopted in this Chamber that is going to make this ugly legislation any better. I do not care how much lipstick is put on this one, this is an unattractive bill by any measure, and I am going to vote against it no matter what. What we are doing is outrageous. As the Senator who represents more of these manufacturers than any other Member in this body, I can say this is flat out wrong and we ought to be ashamed of ourselves for taking an entire industry and not holding it potentially liable for the harm that it causes to people across this country. Thirty thousand people die every year, almost 3,000 kids, and we are about to say to the manufacturer of the products that kill them to take a walk and that you never have to show up again in court. That is incredible to me that we are about to do that.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Idaho.

Mr. CRAIG. Mr. President, before I turn the time over to the Senator from Ohio, let me only say to the Senator from Connecticut, go back and read section 4 of the bill.

He is a very eloquent Senator, but at the same time this is a very narrow provision. It says if that manufacturer in a State or if a licensed gun dealer violates the law, they are in trouble. You bet we make it to the courthouse. We make it in front of the judge and the judge hears the arguments.

Let me also refer to one of the Senator's concerned constituents, the president of Local 376 of the UAW, who has lost over 600 jobs in the Savage Arms Factory because they have had to spend millions of dollars defending themselves on frivolous lawsuits. So that is a problem.

Mr. DODD. If my colleague will yield.

Mr. CRAIG. I will not yield. To a question, I will respond.

Mr. DODD. The Senator raised my name. I did not talk about the Senator from Idaho. The Senator used my name. May I respond?

Mr. CRAIG. No.

The PRESIDING OFFICER. The Senator from Idaho has the floor.

Mr. CRAIG. I have the floor. I would be happy to provide the letter to the Senator. I referred to the Senator as an eloquent spokesman and I ask the Senator to read section 4 of the bill.

I now yield 10 minutes to the Senator from Ohio who is a cosponsor of this legislation.

Mr. KENNEDY. I would be happy to yield another minute to the Senator from Connecticut so he may respond.

Mr. CRAIG. I have the floor and I have already yielded.

The PRESIDING OFFICER. The manager of the bill cannot yield the floor to another Senator. The Senator has the right——

Mr. CRAIG. I allocated him time.

The PRESIDING OFFICER. The Senator can allocate time. Other Senators have the right to compete for recognition, but the Senator cannot automatically give him the right for recognition.

Several Senators addressed the Chair.

Mr. CRAIG. Mr. President, I yield 1 minute to the Senator from Connecticut from my time. I do not want him to feel I have impugned his good name in any sense.

The PRESIDING OFFICER. The Senator can yield and he can compete for recognition.

The Senator from Connecticut.

Mr. DODD. Mr. President, I will take less than a minute to say something about losing jobs. I have lost 45,000 manufacturing jobs in my State over the last few months. It has nothing to do with this. It has to do with the fact that this administration has decided that manufacturing jobs are producing hamburgers at McDonald's, and believe that outsourcing is a great thing for the country. That is where my jobs are going, not because of litigation.

There have been 33 lawsuits by counties or communities and one by a State brought against the gun manufacturers. None of them have ever gone anywhere. What are we doing? Tell me there is some great problem out here in litigation with my companies losing lawsuits all across the country.

We are a nation of 280 million people. Thirty-three lawsuits by counties, one by a State. The manufacturers never lost one. Why are we changing the law? Why, when 30,000 people die every year, 3,000 kids, why are we changing the law? There is no justification in fact or in law to be doing this.

The PRESIDING OFFICER. The Senator from Idaho has the floor.

Mr. CRAIG. Mr. President, it is my understanding that I can now yield a block of time.

The PRESIDING OFFICER. That is correct.

Mr. CRAIG. I yield 10 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, parliamentary inquiry: Is there a unanimous consent agreement on time?

The PRESIDING OFFICER. To the Senator's question, the time is allocated to both sides. Senator KENNEDY is controlling the time for the minority and Senator CRAIG is controlling the time for the majority. There are 18 minutes 59 seconds remaining under the control of Senator KENNEDY.

Mr. BIDEN. Mr. President, ask the indulgence of my colleague from Ohio, who I guess has the floor now, would he yield me 30 seconds?

Mr. DEWINE. Certainly.

Mr. BIDEN. Mr. President, I associate myself with the remarks of my friend from Connecticut. This is about the raw exercise of political power. I do not know how many times in my 31 years I have ever heard a Senator stand up on the floor when he represents the greatest number of constituents affected by a bill, who are major players in his State, and say he disagrees with their position. We are missing an awful lot of that.

I acknowledge that this man has some political courage. We all would do a lot better if there were a lot more of it to go around.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. DEWINE. Mr. President, I thank my colleague from Idaho and my colleague from Colorado for agreeing to change the name of this amendment from the Law Enforcement Officers Safety Act to the Steve Young Law Enforcement Officers Safety Act.

This name has particular meaning to me. I believe the renaming of this provision is a fitting tribute to a man who dedicated his life to keeping our community safe and free from crime.

Steve Young was a dear friend of mine from the State of Ohio. He was also a well-known and well-respected figure in the law enforcement community. Steve was elected by his peers to serve as the national president of the Fraternal Order of Police and held this post until his death from cancer on January 9, 2003. Steve was just 49 years of age at his death.

Steve grew up in Upper Sandusky, OH, and was a graduate of Upper Sandusky High School. He joined the Marion City Police Department in 1976 and spent his entire law enforcement career as an active-duty officer there. It was in Marion that Steve first became a member of the FOP, joining FOP lodge No. 24. He later went on to serve as president of this lodge in the year 2000. He received the prestigious lifetime honor of president emeritus.

Leadership in the law enforcement community came naturally to Steve, as his hard work and dedication earned him the respect and admiration of his peers. Steve went on to become active in the Ohio State lodge of the FOP and served first as vice president and then as president, representing Ohio's 24,000 law enforcement officers. Through the Ohio State lodge, Steve helped to create the Ohio Labor Council. This council created a model for improved labor-management negotiation in police forces, a model that has now been adopted in at least 14 other States.

Steve's leadership in the Ohio law enforcement community and really his expertise in labor issues earned him a national reputation.

In 2001, after serving for 4 years as national vice president, Steve was unanimously elected to serve as the national president of the FOP. In this capacity, Steve represented over 300,000 law enforcement officers and worked to protect their interests, the interests of our Nation's finest. This was a job I know Steve loved and one he did with great dignity and pride.

While Steve Young had an incredibly successful career with multiple accomplishments, I would also like to take a few moments to discuss my personal connection with Steve. I had the privilege of knowing not just Steve Young the police officer but also Steve Young the man. Steve was, as I said, a dear friend of mine for many years. He was someone in whom I had a great deal of trust, and was fortunate to be able to call on him as a trusted adviser. I can't tell Members of the Senate and you, Mr. President, how often I would call him for advice, whether it was when I was Lieutenant Governor of Ohio or later when I was a Senator.

I had the opportunity to work with Steve for many, many years. I relied heavily on his advice and his counsel. I consulted with him regularly on criminal justice matters, and his keen insights have helped shape nearly every piece of crime legislation with which I have been involved.

Steve made a lasting impression on law enforcement, both in Ohio and across our Nation. From pension plans to crime fighting technology, Steve's foresight and his vision have helped bring law enforcement into this century.

One of the last times I saw Steve he was in Washington for a Judiciary Committee hearing. I am fortunate that I had a chance to spend a few moments with him that day. It is that meeting that reminded me of Steve's humility. He was a humble man. He had no airs about him. He was quiet and self-effacing. He didn't put on a show or try to impress people with his position or his power within the national FOP.

But you know, at the same time, his affable nature did not hide the fact that Steve Young was also a very strong man: brave, courageous, fearless, and tough as nails. After all, he was a policeman, and exactly the kind of policeman I would have wanted by my side when I was a county prosecutor many years ago, the kind of policeman I would have wanted helping me if I were a victim of crime, the kind of policeman I would have wanted protecting my children or grandchildren or any member of my family. That was Steve Young—a model for all law enforcement.

He was a humble, dedicated man who devoted his career to working for the good of his fellow officers, for the good of Ohio, for the good of this Nation. Steve's commitment to our communities was evident in everything he did. Criminals were caught because of him and crimes were prevented. He was a protector. He was a leader. He was a good and decent, hard-working man for whom I have the greatest respect and admiration.

It is fitting that this amendment now is named after Steve Young.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Who yields time? The Senator from Idaho.

Mr. CRAIG. Mr. President, I yield 5 minutes to the Senator from Vermont.

The PRESIDING OFFICER. Senator LEAHY is recognized for 5 minutes.

Mr. LEAHY. Mr. President, I thank the managing Senator.

I listened to what the distinguished Senator from Ohio said about Steve Young. I thought it was eloquent, well put, and I wish to join in those comments. I consider myself very fortunate to have known Steve. I thought how important it was that we change the short title of this amendment to "The Steve Young Law Enforcement Officers Safety Act." I remember even talking with Steve a number of times after he was ill and could no longer travel. Through all of that time, he, in typical fashion, spoke about others and not about himself.

I began my public career in law enforcement. To this day, the only thing in my personal Senate office that has my name on it is the plaque the police gave me when I left that career in law enforcement to become a Senator. It is a plaque on the door to my office with my name and above it is the badge I carried as a law enforcement official.

One thing I knew during my time in law enforcement, the law enforcement officers are never off duty. They are dedicated public servants, trained to uphold the law and keep the peace. To enable law enforcement officers nationwide to be prepared to answer a call to duty no matter where, when, or in what form it comes, I am proud to join Senators CAMPBELL, HATCH, and HARRY REID to offer the Law Enforcement Officers Safety Act, S. 253, as it was reported out of the Senate Judiciary Committee, as an amendment to the Protection of Lawful Commerce in Arms Act. People understand our amendment would permit off-duty and retired law enforcement officers to carry a firearm provided they have demonstrated their ability, provided they follow some very strict requirements, and be prepared to assist in dangerous situations.

This passed the Judiciary Committee by a vote of 18 to 1. It had 68 cosponsors, both Republicans and Democrats, and was strongly supported by the Fraternal Order of Police, the National Association of Police Organizations, the Federal Law Enforcement Officers Association, the International Brotherhood of Police Officers, and the Law Enforcement Alliance of America.

I worked with LT Steve Young on this. It was one of the things he and I talked about before he died. He was dedicated to it. He knew the importance of having law enforcement officers across the Nation armed and prepared, whenever and wherever a risk to our public safety arose. The current national president, MAJ Chuck Canterbury, worked with me and others to make this legislation law.

We know where community policing and the outstanding work of so many law enforcement officers have helped a great deal in our crime control efforts. But during the last few years, the downward trend in violent crime ended and violent crime rates have turned upward.

We also know that more than 740,000 sworn law enforcement officers are currently serving in the United States. Since the first recorded police death in 1792, there have been more than 17,000 law enforcement officers killed in the line of duty—17,000. In the last decade, over 1,700 officers died in the line of duty—170 every year.

I think of a very sad funeral I went to in Vermont last summer. The trooper's family was left behind—young children, his widow. Roughly 5 percent of officers who die are killed when taking law enforcement action in an off-duty capacity, and more than 62,000 law enforcement officers are assaulted annually.

Convicted criminals often have long and exacting memories. I still have people come up to me and tell me they remember that I put them in prison. This happens to a lot of law enforcement officials. That law enforcement officer, the one who arrested the person who went to prison, is a target in uniform and out, active, retired, off-duty or on-duty.

So what we tried to do by bringing together Republicans and Democrats, Liberals, moderates, conservatives, is to put together an amendment designed to establish national measures of uniformity and consistency to permit trained and certified—and I underline that certified—on- and off-duty law enforcement officers to carry concealed firearms in situations so they may respond to crimes immediately across State and other jurisdictional lines as well as to protect themselves and their families from vindictive criminals.

Mr. President, I thank my friend from Idaho for yielding time. I think this is an important matter. I yield the floor.

Mr. CRAIG. Mr. President, may I ask how much time our side has remaining?

The PRESIDING OFFICER. Eleven minutes. Senator KENNEDY has 18 minutes 59 seconds.

Mr. CRAIG. Does the Senator from Massachusetts wish to speak at this time?

Mr. KENNEDY. I thank the Senator. I saw the Senator from Alabama. I had planned to be here as well, but I would be glad to follow the Senator from Alabama.

Mr. CRAIG. I thank the Senator for that consideration. If he doesn't mind, I would defer our allocation of 10 minutes of time to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank Senator CRAIG and Senator KENNEDY for the opportunity to speak. I am pleased to hear the ranking member of the Judiciary Committee, Senator LEAHY, speak in favor of this amendment. It does indeed have 67 cosponsors. It is designed to allow qualified law enforcement officers to carry a concealed weapon while they are off duty.

Back at my home in Alabama, when I drive into the neighborhood, I know that a police officer lives at the corner. It gives me some comfort and my wife comfort. We have discussed it. When we pass that police car parked there, I know if something happened in that neighborhood and somebody needed help, he would respond. I also hope when he is traveling around off duty that he would be allowed to carry his weapon. We pay him to do it when he is on active duty. We pay him to carry that weapon and to be ready to respond.

It is one of the greatest bargains Americans have for safety and security—that law officers would voluntarily, on their own time, be willing to carry a gun and oftentimes step forward at their own risk to help those in danger.

I think it is a very good piece of legislation.

If officers who have been trained for 30 years in carrying weapons retire, we ought to be glad they are willing to carry them as they travel. We should be glad that active-duty police officers who have weapons are able to carry them as long as they have proper identification and the proper training. It would certainly be a tremendous cost-free-effort project to improve safety throughout America.

Qualified law enforcement officers are the only ones who can carry a firearm. They are defined as an employee of a government agency who is authorized by law to engage in or supervise the prevention, detection, and investigation or prosecution of, or the incarceration of any person for any violation of law. They have statutory powers. The officer must be authorized to carry a firearm and meet the standards established by the agency which requires the employee to regularly qualify in the use of a firearm. A qualified law officer is defined as an individual who has retired in good standing. A qualified retired law enforcement officer is one who has retired in good standing from service in a government agency for an aggregate of 5 years or more. The officer must have fit the above definition while active, must have a nonforfeitable right to the benefits under a retirement plan during the most recent 12-month period, and have met at his or her own expense the State standard for training and qualification to carry a firearm. Both active and retired law officers will be required to carry photographic identification by the agency for which they were or are employed as a law officer before they can qualify under this effort.

Why do police officers need it? First of all, they are often at risk themselves.

People forget that there is a war on crime and that many of the criminals are seriously deadly individuals who hold grudges against those who have arrested them. As a former prosecutor for well over 15 years, I have many close friends who are police officers and prosecutors. I know everyone has in the back of their minds the possibility that some dangerous criminal they apprehended, arrested, or prosecuted could utilize force against them.

This, first and foremost, provides the officers with a sense of comfort and personal security. But more than that, it is a free, available asset to America to protect citizens.

We have terrorists out there. If we had a terrorist attack in a shopping mall, or on the streets, or in some building, or an attack going on in our community, wouldn't we be pleased that a law officer with a gun was there who would plug this guy if need be to save innocent lives? Wouldn't that be good for America? I think so.

It is a frustrating thing, however, for law officers as they move from jurisdiction to jurisdiction. This country has a host of different gun laws. Gun dealers, gun possessors, and gun manufacturers are subject to the most intense Federal, State, and local regulations. An officer who goes about his duties and goes from one town to the next could find himself going through Boston, MA, and end up in a slammer for doing nothing but being prepared to defend a Boston citizen from a mugging or assault or a terrorist attack; or coming to Washington, DC; they could end up in jail. They have some of the toughest laws here—maybe even tougher than Boston. They could end up in jail for doing nothing but being prepared to defend people in this community who may be under attack.

I think this makes good sense. I think it makes good sense for Federal legal action because you can't do it piecemeal. Every community has a different rule and a different law. Under the interstate commerce clause, I think we have a constitutional right and power to enact this legislation.

The question is: Is it good policy? Is it something we should do? I think it is good policy, especially in light of all the proliferating rules around this country, all the requirements in every county in Alabama, or Massachusetts, every city regulation in Philadelphia where they sue gun dealers—the mayor sues gun dealers, and they get the attorneys general in these States to gang up on them and sue them. They are doing nothing but manufacturing a firearm consistent with what the Federal and State laws are in America. But because somebody used it illegally, they want to sue them and put them out of business because they do not like guns. They are not able to do it completely; they are not able to pass legislation in their States or in the Federal Government to deal with this problem. So they want to use the power of lawsuits to do it.

That is why I support the underlying bill. I think it is good public policy because all it does is make clear what existing law is, has been, and should continue to be—that a manufacturer of a legal product who manufacturers it according to the laws and the distributors of that product who distribute it according to the complex laws all over this country should not be responsible if there is an intervening criminal act by a person who gets his hand on that weapon.

What are lawsuits for? Lawsuits historically have been when something fails to perform—if a weapon blows up, knocks out your eye, shoots off at an angle and hits something it is not supposed to, you should be able to sue the manufacturer. But if the gun is legal, if it is prepared according to the law and sold, and if some criminal gets it and commits a crime with it, why should the manufacturer be responsible for that? It goes against all of our understanding of what appropriate rule of liability in America is.

We are losing those distinctions. We want to politicize the law. We have Members who, because they cannot win a political vote, want to have some lawsuit—some favorable jurisdiction, whether it is in Philadelphia, or Boston, and they find a judge who is hostile to gun ownership end up getting the case. They say there are only 30 lawsuits of this kind, but if you keep filing these lawsuits, pretty soon you may find 12 people who agree with you, or a judge who agrees with you. The next thing you know, you have a big verdict.

The question is: Is it justified? Should a company have to defend itself from this kind of a political attack? If they are irresponsible, yes. If they violated the law, yes. They should be sued. If the gun is defective, yes. They should be sued.

But again, I think there is no more strongly felt issue among law enforcement officers in America than their willingness to carry a gun and the risk they undertake in doing it because they may even forget they are crossing the State line into another city and end up being prosecuted for being prepared to defend the citizens of that community. They do not like that. It is troubling to them. Many talk to me about it personally.

I am glad we have overwhelming support in this body to pass this amendment. I thank the Senator from Idaho for it. I support it and I believe we will pass it.

I yield the floor and reserve the remainder of the time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 18 minutes 50 seconds.

Mr. KENNEDY. I ask the Chair to notify me when 15 minutes are up.

I hope we are not going to hear in the Senate more about States rights and the importance of local communities making local judgments; they are in touch with the local people; they know best what is in the interests of the protection of a local community; or that a State knows more than a Federal Government about how to protect its citizens.

Those arguments are out the window with the proposed amendment to the underlying legislation. The amendment we are talking about gives active-duty and retired police officers the right to carry any firearm on duty or off duty, notwithstanding any State or local gun safety laws, even if the officers' own department rules prohibit the carrying of such concealed firearms.

I know this is hoping too much, that our friends on the other side of the aisle will restrain themselves from making the argument we always hear in the Senate from the other side, pointing over here that the Federal Government always knows best.

There is a lot of knowledge at the local and State level. Let's respect that. That is thrown right out the window with this amendment. This amendment is overriding gun safety laws that are decided by the people in local communities, overriding State laws, overriding them pointblank no matter what the State has said. We are talking about concealable weapons that will be able to be carried by police officers or retired officers, as well.

It is opposed by the International Association of Chiefs of Police, the Police Executive Research Forum, and the U.S. Conference of Mayors.

Let me explain why. This amendment is a serious step in the wrong direction. It will undermine the safety of our communities and the safety of police officers by broadly overriding the State and local gun safety laws. It will also nullify the ability of police departments to enforce rules and policies on when and how their own officers can carry firearms. Because of the substantial danger the amendment poses to police officers and communities, it is vigorously opposed by the International Association of Chiefs of Police.

There is no precedent for what the supporters of this amendment intend to accomplish. Congress has never passed a law giving current and former State and local employees the right to carry weapons in violation of controlling State and local laws. Congress has never passed a law interfering with the ability of State and local police chiefs to regulate their own officers carrying of firearms. Do we understand what this does? Congress has never passed a law interfering with the ability of the States or local police chiefs to regulate their own police officers carrying firearms. This amendment does. This overrides it.

Today, each State has the authority to decide what kind of concealed-carry law, if any, best fits the needs of the community. Each State makes its own judgment about whether private citizens should be allowed to carry concealed weapons or whether on-duty or off-duty or retired police officers should be included or exempted in any prohibition. There is no evidence that States or local governments have failed to consider the interests and needs of law enforcement officers. No case has been made.

Consider, for example, the New Jersey law. In 1995, retired police chief John Deventer was shot and killed while heroically trying to stop a robbery. This incident prompted New Jersey to enact a law allowing retired officers to carry handguns under a number of different conditions. In drafting this law, the New Jersey Legislature made a deliberate effort to balance the safety of police officers with the safety of the public at large by including a number of important safeguards that are not contained in this amendment.

For example, New Jersey law is limited to handguns. This amendment is not. As long as the police officer is qualified to carry one type of gun, he can carry any type of gun, any type of concealable weapon. New Jersey law is limited to handguns. This amendment is not. New Jersey law has a maximum age of 70. This amendment does not. Under New Jersey law, retired police officers must file renewal applications yearly. There is no application process here. Under New Jersey, retirees must list all their guns. No such record is required under this amendment. New Jersey gives police departments discretion to deny permits to retirees. No such discretion is provided under this amendment.

By enacting this amendment, Congress will be gutting all of the safeguards contained in the New Jersey statute as well as the judgment of other States that have considered this issue.

The sponsors of this amendment have presented no evidence that States and local governments are unable or unwilling to decide these important issues for themselves. They have offered no explanation why Congress is better suited than States, cities, and towns to decide how best to protect police officers, schoolchildren, churchgoers, and other members of their communities.

Congress should bolster, not undermine, the efforts of States and local communities to protect their citizens from gun violence. In many States, cities, and towns, special places—churches, schools, bars, government offices, hospitals—are singled out as deserving special protection from the threat of gun violence.

Michigan is a State that prohibits concealed firearms in schools, sports arenas, bars, churches, and hospitals. Georgia law allows active and retired police officers to carry firearms in publicly owned buildings but not in churches, sports arenas, or places where alcohol is sold. Kentucky prohibits carrying concealed weapons in bars and schools. South Carolina prohibits concealed firearms in churches and hospitals.

This amendment will override most such safe harbor laws at the State level. It will override laws that categorically prohibit guns in churches and in other houses of worship since only laws that permit private entities to post signs prohibiting concealed firearms on their property will remain in force. In most States, churches are not currently required to post signs in order to have a gun-free zone.

This amendment will also override laws that prohibit concealed weapons in places where alcohol is served. This amendment will override State laws and local laws that prohibit carrying concealed weapons in places where alcohol is served.

Surely it is responsible for a State to prohibit people from bringing guns into bars, to prevent the extreme danger that results when liquor and firearms are together. It is no wonder that in the House of Representatives, Chairman SENSENBRENNER has described this legislation as an affront to State sovereignty on the Constitution.

At the local level, this amendment overrides all gun safety laws without exception. In the 1990s, Boston, New York, and other cities made great strides in fighting against crime precisely because they were able to pass laws that address the factors that led to violence, including the prevalence of firearms in inner cities. As Congressman HENRY HYDE has said, the best decisions on fighting crime are made at the local level.

We saw extraordinary progress in my own State of Massachusetts. We went for 18 months without a homicide. We have strict gun laws in Massachusetts. We have very strict gun laws in the city of Boston. This legislation will override it. Not all of the progress was made just because of the laws, but it was a combination of a variety of different events a few years ago. Tragically, we have seen an increase in homicide with the deterioration of the economy in the recent months and years.

By overriding all local gun safety laws, this amendment will undermine the ability of cities to fight crime. It will indiscriminately abrogate safe harbor laws in Boston, New York City, Cincinnati, Columbus, Chicago, Kansas City, and many other towns.

Congress has no business overriding the judgment of States and local governments in deciding where concealed weapons should be prohibited. Supporters have argued this amendment is needed because of the complex patchwork of Federal, State, and local concealed-carry laws which prevents officers from protecting themselves and their families from vindictive criminals. They have distributed lists of officers or prison guards who were killed while off duty or in retirement. The stories of these slain men and women are tragic, and their killers deserve to be severely punished. But none—none—of these incidents involved officers who were killed outside their home State. They do not demonstrate a need for a Federal override of State and local gun safety laws.

To the contrary, as New Jersey's response to the tragic shooting of Chief Deventer shows, States and local governments are best equipped to implement policies, regulations, and laws that protect the safety of their own law enforcement officers, and also protect the public at large.

The supporters have also argued by authorizing officers to carry guns across State lines, in violation of whatever State and local gun safety laws would otherwise apply, they will be able to effectively respond to crimes and terrorist attacks. They apparently envisage a nationwide unregulated police force, consisting of retired officers and off-duty officers who are armed while on vacation or traveling outside their home jurisdictions.

Allowing off-duty or retired officers with concealed weapons to go into other jurisdictions will only make conditions more dangerous for police officers and civilians. As the executive director of the IACP has explained:

> One of the reasons that this legislation is especially troubling to our nation's law enforcement executives is that it could in fact threaten the safety of police officers by creating tragic situations where officers from other jurisdictions are wounded or killed by the local officers. Police departments throughout the nation train their officers to respond as a team to dangerous situations. This teamwork requires months of training to develop and provides the officers with an understanding of how their coworkers will respond when faced with different situations. Injecting an armed, unknown officer, who has received different training and is operating under different assumptions, can turn an already dangerous situation deadly.

This amendment neither promotes consistent training policies among different police jurisdictions nor limits the conditions under which officers may use their firearms. The idea that more crimes will be prevented when more concealed weapons are carried by untrained and unregulated out-of-State off-duty and retired officers is pure fiction.

It is important to note that in giving off-duty and retired police officers broad authority to nullify State and local gun safety laws, the amendment is not limited to the carrying of officers' authorized weapons. In most police departments, officers may seek authorization to carry a range of weapons. If an officer wants to carry a weapon other than his service weapon—typically, a 9 millimeter semiautomatic pistol—he must prove he is qualified before the department will authorize him to carry it. To become qualified, the officer must demonstrate he can handle that weapon safely.

Rather than limiting its provisions to authorized weapons, this amendment provides as long as an officer at some point received authorization to carry a particular kind of firearm, such as his service weapon, he can carry, concealed, any other kind of firearm while off duty or retired, even if he never received authorization from his own police department to carry that other weapon.

In the 107th Congress, I introduced an amendment in committee providing an off-duty or retired officer could carry a concealed firearm only if he had been authorized to carry that firearm by the agency he works for, or if he had been so authorized at the time of his retirement. That amendment was rejected by an evenly divided vote, 9 to 9. Thus, the legislation now before us will give off-duty and retired officers carte blanche to carry concealed shotguns, sniper rifles, or other weapons their own police departments have not authorized them to carry. Its failure to limit this privilege to authorized police weapons—or even to handguns, as New Jersey law provides—will further undermine the safety of American communities.

Serious safety problems are also raised by the amendment's override of gun-safety laws for retired officers, a category that is defined to include anyone who has served in a law enforcement capacity for 15 years "in the aggregate" before retiring or resigning and taking a different job. There is no requirement that a retiree demonstrate a special need for a firearm. While the amendment provides that an officer must have technically left law enforcement in "good standing," it is well known that sub-par government employees are routinely released from their positions without a formal finding of misconduct. The amendment does not draw a distinction between officers who served ably and those who did not. Officers who retire in "good standing" while under investigation for domestic violence, racial profiling, excessive force, or substance abuse could still qualify for broad concealed-carry authority for the remainder of their lives. As the International Association of Chiefs of Police has observed:

> This legislation fails to take into account those officers who have retired under threat of disciplinary action or dismissal for emotional problems that did not rise to the level of "mental instability." Officers who retire or quit just prior to a disciplinary or competency hearing may still be eligible for benefits and appear to have left the agency in good standing. Even a police officer who retires with exceptional skills today may be stricken with an illness or other problem that makes him or her unfit to carry a concealed weapon, but they will not be overseen by a police management structure that identifies such problems in current officers.

Perhaps the most troubling aspect of the amendment is its potential to undermine the effective and safe functioning of police departments throughout the country. It removes the ability of police departments to enforce rules and policies on when and how their own officers can carry firearms. Police chiefs will lose the authority to prohibit their own officers from carrying certain weapons on duty or off duty.

Section 2 of the amendment provides that regardless of "any other provision of the law of any State or any political subdivision thereof," any individual who qualifies as a law enforcement officer and who carries a photo ID will be authorized to carry any firearm. In a variety of contexts, including the Federal preemption of State law, courts have interpreted the term "law" to include agency rules and regulations. The Supreme Court has ruled this term specifically includes contractual obligations between employers and employees, such as work rules, policies, and practices promulgated by State and local police departments.

The PRESIDING OFFICER. The Senator has consumed 15 minutes.

Mr. KENNEDY. As I discussed, there is no requirement in the amendment that active-duty officers be authorized to carry each firearm that they wish to carry concealed. In other words, once an officer qualifies to carry a service weapon, he will have the right under this amendment to carry any gun, on duty or off duty—even if doing so violates his own police department's rules.

Thus, if Congress enacts this legislation, police chiefs will be stripped of their authority to tell their own officers, for example, that they cannot bring guns into bars while off duty; that they cannot carry their service weapons on vacation; or that they cannot carry certain shotguns, rifles, or handguns on the job.

As the International Association of Chiefs of Police stated in a letter to the Judiciary Committee, "under the provisions of [this legislation], police chiefs and local governments would lose the authority to regulate what type of firearms the officers they employ can carry even while they are on duty."

> As a result, the legislation would effectively eliminate the ability of a police department to establish rules restricting the ability of officers to carry only department-authorized firearms while on duty. The prospect of officers carrying unauthorized firearms while on duty is very troubling to the IACP for several reasons.
>
> First, an unauthorized weapon is unlikely to meet departmental standards. This in turn means that the officer will not have received approved departmental training in its use, and will not have qualified with the weapon under departmental regulations. Carrying an unauthorized weapon thus presents a risk of injury to the officer, fellow officers, and citizens, for the weapon itself may be unsafe or otherwise unsuitable for police use, and the officer may not be sufficiently proficient with its use to avoid adverse consequences.
>
> In addition to the risk of injury involved, the carrying of unauthorized weapons is a major source of police civil liability in the U.S. today. An officer who fires an unauthorized weapon in the line of duty risks civil liability for the officer and for the department, even though the shooting may have been otherwise legally justified. A number of civil-suit plaintiffs have contended that the mere fact that the weapon that caused the plaintiff's injury was unauthorized is, in itself, sufficient legal grounds for a finding of liability.

For these and other reasons, the IACP concluded that this amendment "has the potential to significantly and negatively impact the safety of our communities and our officers."

Law enforcement executives face extremely difficult challenges today. As crime rates have started to rise again and new concerns about domestic security have emerged, police chiefs are forced to do more with less. The weak economy has forced cities and states to cut back on funding for law enforcement. The administration has tried its best to eliminate federal funding for such critical programs as the COPS Universal-Hiring Program, the Byrne Grant program, and the Local Law Enforcement Block Grant program.

The last thing Congress should do now is enact legislation that expands the civil liability of police departments and nullifies the ability of police chiefs to regulate their own officers' use of firearms and to maintain discipline. By denying police chiefs the right to run their own departments, the amendment would deal a severe blow to common sense and public safety.

Each State and local government should be allowed to make its own judgment as to whether citizens and out-of-State visitors may carry concealed weapons, and whether active or retired law enforcement officers should be included in or exempted from any prohibition.

This amendment will unnecessarily damage the efforts of States and local governments to protect their citizens from gun violence. It will also expose States and local governments to unnecessary liability and nullify the ability of police chiefs to maintain discipline and control within their own departments.

The Nation will be better served if the Senate puts this misguided legislation aside and turns its attention to measures we know will reduce crime and enhance the safety of police officers and all Americans.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. A minute and a half.

Mr. KENNEDY. Mr. President, the bottom line on this—we are going to have a chance to vote on this next Tuesday—is this is an action by Congress to override State-considered legislation and local legislation on how to protect their local communities. Some States have made the judgment that they do not believe they ought to permit concealed weapons in bars and churches and other public places, such as in schools, because they do not want to have the proliferation of guns in schools, they do not want to have the proliferation of guns in bars, they do not believe concealed weapons ought to be in churches. The States and local communities have made that judgment in order to protect their local communities. But somehow we are deciding here in the Senate, on the basis of about an hour and 20 minutes of debate on this, that we are going to override the common good sense of States and local governments and say: We know best. If you are a police officer or retired officer, you can carry that concealed weapon, even though you are not trained to be able to use it or authorized to use it, into the bars, schools, and churches of this country. That makes no sense and is a contradiction of what the States and local communities do.

How much further do we have to go to kowtow to the National Rifle Association?

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Idaho.

Mr. CRAIG. Mr. President, I understand I have 1 minute.

The legislation exempts qualified active and retired law enforcement officers from State and local prohibitions on the carrying of concealed firearms. What this means is that active and retired police officers will be able to carry their firearms virtually anywhere in the U.S. without having to worry about violating any local or State gun laws.

The bill is noncontroversial and enjoys wide, bipartisan support in both the Senate and the House of Representatives. The Senate bill, S. 253, passed the Judiciary Committee in March 2003 on an 18 to 1 vote. The bill has 67 cosponsors, including Majority Leader BILL FRIST, Minority Leader TOM DASCHLE, and every other member of the Senate leadership from both sides of the aisle. Senator BEN NIGHTHORSE CAMPBELL, a former law enforcement officer, is offering the amendment along with Judiciary Committee Chairman ORRIN G. HATCH, Ranking Member PATRICK J. LEAHY, and Minority Whip HARRY REID.

The House bill, H.R. 218, has 286 cosponsors. In addition to a House majority, the bill has a majority of both the full Judiciary Committee and the subcommittee of jurisdiction. In 1999, the House passed a nearly identical measure as an amendment to another bill by an overwhelming 372 to 53 majority.

This isn't a "firearms issue"—it is an officer safety issue. And, on 11 September 2001, it became a critical public safety and homeland security issue.

Law enforcement officers need this bill—it is the number one issue among rank-and-file officers today. Policy officers are frequently finding that they, and their families, are the targets of vindictive criminals. A police officer may not remember all the faces of all the criminals he or she has put behind bars, but every one of those criminals will. This legislation gives all police officers the means to legally protect themselves and their loved ones—even if off-duty or retired.

Public safety and homeland security would benefit immensely from this bill becoming law. Law enforcement officers are a dedicated and trained body of men and women sworn to uphold the law and keep the peace. Unlike other professions, a police officer is rarely "off-duty." When there is a threat to the peace or public safety, the police officer is sworn to answer the call of duty. Officers who are traveling from one jurisdiction to another do not leave their instincts or training behind, but without their weapon, that knowledge and training is rendered virtually useless. These bills will provide the means for law enforcement officers to enforce the law and keep the peace—enabling them to put to use that training and answer the call to duty when the need arises. Without a weapon, the law enforcement officer is like a rescue diver without diving gear; all the right training and talent to lend to an emergency situation, but without the equipment needed to make that training of any use. Given the ongoing threat of terrorist activity against U.S. citizens, it just makes sense to give our first line of defense the tools they need in a first responder situation. Perhaps the strongest endorsement we can make is that thousands of violent criminals and terrorists will hate to see it pass.

This is not a States' rights issue and the bill has been carefully crafted to ensure that it conforms to the U.S. Constitution and the precepts of Federalism. Congress has the authority, under the "full faith and credit" clause of the Constitution, to extend full faith and credit to qualified active and retired law enforcement officers who have met the criteria to carry firearms set by one State, and make those credentials applicable and recognized in all States and territories in these United States. States and localities issue firearms to their police officers and set their own requirements for their officers in training and qualifying in the use of these weapons. This legislation maintains the States' power to set these requirements and determine whether or not an active or retired officer is qualified in the use of the firearm, and would allow only this narrow universe of persons to carry their firearms when traveling outside their jurisdiction. We believe this is similar to the States' issuance of drivers' licenses—the standards may differ slightly from State to State, but all States recognize that the drivers have been certified to operate a motor vehicle on public roadways.

All 50 States require their officers to receive many hours—the average is 48—of firearms training before they leave the academy. Before receiving their appointment, law enforcement officers must meet certain score requirements in order to qualify with their weapon, the average being about 76 percent. No officer with a score below the 70th percentile is considered qualified with his weapon.

Most States require their officers to requalify with their weapons on a regular basis. Individual agencies may require their officers to qualify more frequently, but they must meet the State's minimum, which ranges from annually to every 5 years.

How Do Retired Officers Qualify: In order to carry under this legislation, a retired law enforcement officer would have to qualify with his firearm at his own expense every 12 months and meet the qualifications as an active duty officer in his State of residence. For example, a New Jersey police officer that retires to North Carolina must qualify annually at his own expense and meet the same standards that an active duty officer in North Carolina must meet.

Many Federal law enforcement officers currently have the authority to carry their firearms. Training and qualification for Federal law enforcement officers is not so dissimilar to that of State and local law enforcement officers. There have been no issues of concern with Federal officers carrying in all jurisdiction, why would there be for State and local law enforcement officers?

There is Congressional precedent on this issue. Congress has previously acted to force States to recognize permits to carry issued by other States on the basis of employment in other instances. In June 1993, the Senate and House approved and passed a law, PL 103-55, mandating reciprocity for weapons licenses issued to armored car company crew members among States. Congress amended the act in 1998, PL 105-78, providing that the licenses must be renewed every 2 years. This precedent allows armored car guards—who do not have nearly the same level of training and qualifications as law enforcement officers—to receive a license to carry a firearm in one State and forces other States to recognize its validity.

Airline pilots can obtain the authority law enforcement officers are seeking. In addition to armored car guards, Congress passed a law exempts airline pilots who participate in the "Federal flight deck officer" from Federal and State law with respect to the carrying of concealed firearms. Note that this authority is not limited just to the cockpit—but also while the pilots are on the ground and off-duty.

Congress has the authority to preempt State and local prohibitions on the carrying of concealed weapons and has in the past granted a certain class of persons—based on the nature of their employment and their value in an emergency situation—the authority to carry firearms in all jurisdictions. To do the same for law enforcement just makes good sense.

On the last weekend in June, FOP members from Maryland Lodge No. 70 were packing up their campsite following a 3-day camping trip with their families in Harpers Ferry. That Sunday afternoon, after many of the officers and their families had left, a gunman opened fire on another camper, wounding him in the lower leg. Detective Timothy Utzig and Officer Andrew Albach reacted quickly, instructing their families to leave the scene, while they retrieved their firearms and confronted the man. The gunman, yelling incoherently, eventually obeyed the officers' orders to lie down on the ground. After searching him, they discovered that the man had several more live rounds for his shotgun in his possession. Detective Utzig and Officer Albach held the man until West Virginia authorities could arrive. It was discovered later that the gunman had an extensive criminal history—including a murder conviction.

Sergeant Sam Harmon of the Jefferson County Sheriff's Department said, "There's no telling how many lives those men saved Sunday afternoon. These guys are my heroes for life."

They were certainly heroes, but they were also in violation of West Virginia State law because they possessed firearms. These brave officers—who stopped a gunman's rampage on their day off, outside of their own jurisdiction—were not charged, but their action placed themselves in legal jeopardy, as well as physical. Had they complied with State law that Sunday, they or their families could have been victims. This is just one example of how public safety could be served if this bill were made law.

In 1991, off-duty Minneapolis Police Officer Jerry Johnson was vacationing in Phoenix, Arizona. He witnessed a man knock an elderly female to the ground, take her purse, and run. He immediately gave chase, without stopping to think that he was unarmed because he could not legally carry a firearm in Arizona. He caught the thief after a mile-long foot chase, and fought to subdue him. Had the criminal been armed, Officer Johnson would surely have been killed. Now retired, Officer Johnson had to go through a great deal of trouble in his own State of Minnesota to get a concealed carry weapon permit as it is up to each individual chief whether or not to issue. When he moved into a different jurisdiction, he had to get a judge to intercede because the chief of police in his new locality initially refused to issue him a permit.

Off-duty and retired officers are often targeted for attack by vengeful criminals. Off-duty police officer Tim Brauer was having dinner with his family in an Oklahoma City restaurant, outside his jurisdiction. While in the restroom, he was attacked by a man he had previously arrested. At the time, Oklahoma State law permitted off duty law enforcement officers to carry their firearms only within their home jurisdiction. In obeying the law and leaving his firearm at home while out with his family, he was left vulnerable to his attacker. Officer Brauer suffered severe injuries, but he lived and his family was not harmed. Oklahoma law now permits officers to carry throughout the State.

Officer Shynelle Marie Mason, a 2-year veteran with the Detroit, Michigan Police Department, was shot and killed on July 14, 2000, by a man she had previously arrested for carrying a concealed weapon. She encountered the man while off-duty; he confronted her and shot her several times in the chest. Though she was not on the clock, her death was considered a "line of duty" death and her name appears on the Wall of Remembrance at Judiciary Square in Washington, DC.

Retired New York State Supreme Court Police Officer William Kirchoff, a 17-year law enforcement veteran who was forced into retirement in 1989 as a direct result of an injury received when he was assaulted on the job, was the target of a contract assault/attempted murder. Tony Mattino, a career criminal with a long rap sheet for illegal possession of firearms and drugs was arrested and charged with assaulting Officer Kirchoff's 15-year-old daughter. Mattino was convicted for the assault and, prior to sentencing, threatened Officer Kirchoff. On February 21, 1998, he made good on his pledge. A pizza delivery man arrived at the officer's home. Officer Kirchoff had not placed any delivery order, and would not allow the man inside his home. He did offer the delivery man the use of his cordless phone—at which point he was attacked. the man, wielding a metal baseball bat, forced his way into the house, striking Officer Kirchoff more than 10 times. His 10 year-old-son was in the home at the time of the attack. The officer was unarmed and had no firearms on his person or property. Ultimately, Officer Kirchoff was able to drive off his attacker, who remains at large to this day. Mattino is also currently free on probation. Since the attack, Officer Kirchoff has a license to carry in New York and six other States.

Detective Donald Miller, a 10-year veteran with the New Bern Police Department in North Carolina was off-duty on December 23, 2001. He and his wife had just completed a visit to their newborn child in the hospital when the detective observed a man driving recklessly through the hospital parking lot. He confronted the man, who drew a handgun and fired—striking Miller in the head. Detective Miller, father of two, died 2 days later on Christmas Day. Though he was not on the clock, his death was considered a "line of duty" death and his name appears of the Wall of Remembrance at Judiciary Square in Washington, DC.

Officer Dominick J. Infantes, Jr., a 7-year veteran with the New Jersey City Police Department, was attacked by two men wielding a pipe on July 4, 2001. He died 2 days later from severe head injuries. Infantes was off-duty when he asked two men to stop setting off fireworks near playing children. He identified himself as a police officer, but the two killers did not believe him because Infantes did not have a gun. Though he was not on the clock, his death was considered a "line of duty" death and his name appears of the Wall of Remembrance at Judiciary Square in Washington, DC.

In 2000, off-duty Las Vegas Police Officer Dennis Devitte, a 20-year veteran was relaxing at a local sports bar when the establishment was attacked by three armed assailants. Two of the men opened fire on the crowd, hitting a man in a wheelchair. Officer Devitte did not hesitate—he pulled his tiny .25-caliber gun and, knowing he would have to get very close to make sure he hit his target, charged a man firing a .40-caliber semiautomatic. Officer Devitte got within one foot of the man, fired and killed the gunman—but not before he was shot eight times. The remaining two gunmen fled. All six civilians wounded in the assault recovered. One witness described Officer Devitte's action as "the most courageous thing I've ever seen." Officer Devitte lost six units of blood, his gun hand was badly damaged and his knee had to be entirely reconstructed with bones taken from a cadaver. And yet, he was back on the job 6 months later. For his incredibly heroic actions, Officer Devitte was selected as the "Police Officer of the Year" by the International Association of Chiefs of Police, IACP, and Parade magazine.

On the 4th of July, 1999, off-duty Police Officer Alfredo Rodriguez of the Nassau County, NY Police Department was driving to Norwich, CT with his wife and four children when he observed a Norwich Police Officer attempt to arrest a highly intoxicated man running in and out of traffic. A second man attacked the Norwich officer from behind and attempted to take his firearm. Officer Rodriguez, although unarmed, pulled over, left his family and rushed to the aid of the officer. He was able to free the Norwich officer from a chokehold and disarm the attacker, who had successfully gotten the Norwich officer's firearm. The two officers restrained the initial suspect and battled the second until additional uniformed Norwich officers arrived. Officer Rodriguez was awarded Nassau County's Medal of Distinguished Service for his actions, which undoubtedly saved the life of Norwich Police Officer Peter Camp.

In July 1995, recently Retired Police Chief John Diventer of the Hanover, NJ, Police Department was with his family visiting his family's grave plot in Newark, when he observed several robbers attack two elderly women and steal their purses. He attempted to intervene, and was shot and killed. At the time of the chief's murder, retired police officers were not authorized to carry firearms in New Jersey. This incident prompted a change in New Jersey law, which now permits retired officers to carry throughout the State.

In closing, let me say about the amendment that is before us, concealed-carry, 67 Members of this Senate, Democrats and Republicans, believe this is a necessary and appropriate amendment to S. 1805. We believe it is. We think it is important that it be adopted, and that we extend these law-abiding, well-trained and schooled law enforcement officers and retirees this opportunity and privilege.

With that, Mr. President, my time has expired. I understand we will now lay this amendment aside, to be voted on Tuesday next, and by the order of the unanimous consent agreement we arrived at last night, Senator KENNEDY is now to have the floor to offer one of his amendments to be debated.

The PRESIDING OFFICER. The Senator is correct.

Mr. CRAIG. I yield the floor.

Mr. REID. Mr. President, I rise to join Senators CAMPBELL, HATCH and LEAHY to offer the Law Enforcement Officers Safety Act amendment.

The purpose of the amendment is simple. It would exempt present and retired law enforcement officers from State and local laws that prohibit carrying concealed firearms, as long as the officers were bearing valid ID issued from their employing agency.

The Fraternal Order of Police, representing more than 1,000 Nevada law enforcement officers and more than 300,000 members nationwide, supports this amendment.

They support this bill because it would improve public safety. It would allow law enforcement officers to protect the public, as well as themselves.

This amendment mirrors a bill sponsored by more than two-thirds of America's Senators.

Again, our overwhelming support underscores the fact that this measure will protect our communities, as well as the brave police officers who serve us so well.

As I learned many years ago when I was on the Capitol police force, law enforcement officers are never truly "off-duty." They are dedicated public servants trained to uphold the law and keep the peace.

When there is a threat to the peace or to our public safety, law enforcement officers are sworn to answer that call—and answer it they do, whether they are on duty or not.

Law enforcement officers are always protecting the innocent just as they are always under threat from the guilty.

Although a police officer might not remember the name and face of every criminal he or she has put behind bars, criminals have long memories. A law enforcement officer is a target whether in or out of uniform, whether active or retired, and whether on duty or off.

In fact, roughly 5 percent of officers who are killed in action are actually "off duty" at the time of their death.

This amendment is designed to protect officers and their families from vindictive criminals, and to allow thousands of equipped, trained and certified law enforcement officers to carry concealed firearms that will help them protect innocent citizens.

I urge all my colleagues to support this measure, which will make our communities safer and protect our brave police officers.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 2619

Mr. KENNEDY. Mr. President, I understand we have a half an hour; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. I yield myself 15 minutes.

The PRESIDING OFFICER. Does the Senator wish to send the amendment to the desk?

Mr. KENNEDY. I believe the amendment is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 2619.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To expand the definition of armor piercing ammunition and to require the Attorney General to promulgate standards for the uniform testing of projectiles against body armor)

On page 11, after line 19, add the following:

SEC. 5. ARMOR PIERCING AMMUNITION.

(a) Expansion of Definition of Armor Piercing Ammunition.—Section 921(a)(17)(B) of title 18, United States Code, is amended—

(1) in clause (i), by striking "or" at the end;

(2) in clause (ii), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(iii) a projectile that may be used in a handgun and that the Attorney General determines, pursuant to section 926(d), to be capable of penetrating body armor; or

"(iv) a projectile for a centerfire rifle, designed or marketed as having armor piercing capability, that the Attorney General determines, pursuant to section 926(d), to be more likely to penetrate body armor than standard ammunition of the same caliber.".

(b) Determination of the Capability of Projectiles To Penetrate Body Armor.—Section 926 of title 18, United States Code, is amended by adding at the end the following:

"(d)(1) Not later than 1 year after the date of enactment of this subsection, the Attorney General shall promulgate standards for the uniform testing of projectiles against Body Armor Exemplar.

"(2) The standards promulgated pursuant to paragraph (1) shall take into account, among other factors, variations in performance that are related to the length of the barrel of the handgun or centerfire rifle from which the projectile is fired and the amount and kind of powder used to propel the projectile.

"(3) As used in paragraph (1), the term 'Body Armor Exemplar' means body armor that the Attorney General determines meets minimum standards for the protection of law enforcement officers.".

Mr. KENNEDY. Mr. President, I mentioned that there had been a homicide in Massachusetts recently, over 18 months. It was juvenile homicide. I ask that the Record be so corrected.

As we all know too well, the debate about gun violence has often been aggressive and polarizing with anti-gun violence advocates on one side of the debate, pro-gun advocates on the other. There are deep divisions in the country on the issue of gun safety, and the current debate on the gun immunity bill has thus far only served to highlight those divisions.

I believe, however, that there are still some principles on which we can all agree. One principle is that we should do everything we can to protect the lives and safety of police officers who are working to protect our streets, schools, and communities.

The amendment I am offering today is intended to close the existing loopholes in the Federal law that bans cop-killer bullets. Police officers depend on body armor for their lives. Body armor has saved thousands of police officers from death or serious injury by firearm assault. Most police officers who serve large jurisdictions wear armor at all times when on duty. Nevertheless, even with body armor, too many police officers remain vulnerable to gun violence.

According to the Federal Bureau of Investigation, every year between 50 and 80 police officers are feloniously killed in the line of duty. In 2002, firearms were used in 51 of the 56 murders of police officers. In those shootings, 34 of the officers were wearing body armor at the time of their deaths. From 1992 to 2002, at least 20 police officers were killed after bullets penetrated their armor vests and entered their upper torso.

Some gun organizations have argued that cop-killer bullets are a myth. The families of these slain police officers know better. In fact, we know that armor-piercing ammunition is not a myth because it is openly and notoriously marketed and sold by gun dealers.

I direct my colleagues' attention to the Web site of Hi-Vel, Incorporated, a self-described exotic products distributor and manufacturer in Delta, UT. You can access its online catalog on the Internet right now. Hi-Vel's catalog lists an entry for armor-piercing ammunition. On that page you will find a listing for armor-piercing bullets that can penetrate metal objects. The bullets are available in packages of 10 for $9.95 each. Hi-Vel carries armor-piercing bullets for both the .223 caliber rifles such as the Bushmaster sniper rifle used in the Washington area attacks in October 2002, and the 7.62 caliber assault weapons. Over the past 10 years, these two caliber weapons were responsible for the deaths of 14 of the 20 law enforcement officers killed by ammunition that penetrated body armor.

In a recent report, the ATF identified three, .223 and the 7.62 caliber rifles, as the ones most frequently encountered by police officers. These high-capacity rifles, the ATF wrote, pose an enhanced threat to law enforcement, in part because of their ability to expel particles at velocities that are capable of penetrating the type of soft body armor typically worn by law enforcement officers.

Another rifle caliber, the 30.30 caliber, was responsible for penetrating three officers' armor and killing them in 1993, 1996, and 2002. This ammunition is also capable of puncturing light-armored vehicles, ballistic or armored glass, armored limousines, even a 600-pound safe with 600 pounds of safe armor plating.

It is outrageous and unconscionable that such ammunition continues to be sold in the United States of America. Armor-piercing ammunition for rifles and assault weapons is virtually unregulated in the United States. A Federal license is not required to sell such ammunition unless firearms are sold as well. Anyone over the age of 18 may purchase this ammunition without a background check. There is no Federal minimum age of possession. Purchases may be made over the counter, by mail order, by fax, by Internet, and there is no Federal requirement that dealers retain sales records.

In 1999, investigators for the General Accounting Office went undercover to assess the availability of .50 caliber armor-piercing ammunition. Purchasing cop-killer bullets, it turned out, is only slightly more difficult than buying a lottery ticket or a gallon of milk. Dealers in Delaware, Pennsylvania, and West Virginia informed the investigators that the purchase of these kinds of ammunition is subject to no Federal, State, or local restrictions. Dealers in Alaska, Nebraska, and Oregon who advertised over the Internet told an undercover agent that he could buy the ammunition in a matter of minutes, even after he said he wanted the bullets shipped to Washington, DC, and needed them to pierce an armored limousine or theoretically take down a helicopter. Talk about homeland security.

In a single year, over 100,000 rounds of military surplus armor-piercing ammunition were sold to civilians in the United States. In addition, the gun manufacturer, Smith & Wesson, recently introduced a powerful new revolver, the .500 magnum, 4½ pounds, 15 inches long, that clearly has the capability of piercing body armor using ammunition allowed under the current law.

The publication, Gun Week, reviewed the new weapon with enthusiasm: "Behold the magic, feel the power," it wrote.

> Many of our leaders will buy the Smith & Wesson .500 Magnum for the same reason that Edmund Hillary climbed Mt. Everest: Because it is there.

Current Federal law bans certain armor-piercing ammunition for handguns. It establishes a content-based standard. It covers ammunition that is, first of all, constructed from tungsten alloys, steel, iron, brass, bronze, beryllium, copper, or depleted uranium or, secondly, larger than .22 caliber with a jacket that weighs no more than 25 percent of the total weight of the bullet.

However, there are no restrictions on ammunition that may be manufactured from other materials but can still penetrate body armor. Even more important, there are no restrictions on armor-piercing ammunition used in rifles and assault weapons. Armor-piercing ammunition has no purpose other than penetrating bulletproof vests. It is of no use for hunting or self-defense. Such armor-piercing ammunition has no place in our society—none.

Armor-piercing bullets that sidestep the Federal ban, such as that advertised on Hi-Vel's Web site, put the lives of American citizens and those sworn to defend American citizens in jeopardy every single day. We know the terrorists are now exploiting the weaknesses and loopholes in our gun laws. The terrorists training manual discovered by American soldiers in Afghanistan in 2001 advised al-Qaida operatives to buy assault weapons in the United States and use them against us.

Terrorists are bent on exploiting weaknesses in our gun laws. Just think of what a terrorist could do with a sniper rifle and only a moderate supply of armor-piercing ammunition.

My amendment amends the Federal ban on cop-killer bullets to include a performance standard and extends the ban on centerfire rifles, which include the sniper rifles and assault weapons responsible for the deaths of 17 police officers whose body armor was penetrated by this ammunition.

My amendment will not apply to ammunition that is now routinely used in hunting rifles or other centerfire rifles. To the contrary, it only covers ammunition that is designed or marketed as having armor-piercing capability. That is it—designed or marketed as having armor-piercing capability, such as armor-piercing ammunition that is now advertised on the Hi-Vel Web site.

Bullets that are designed or marketed to be armor piercing have no place in our society. Ducks, deer, and other wildlife do not wear body armor. Police officers do. We should not let another day pass without plugging the loopholes in the Federal law that bans cop-killer bullets.

This is an issue on which mainstream gun owners and gun safety advocates can agree. I urge my colleagues to vote in support of this amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. CRAPO). Who yields time? The Senator from Idaho.

Mr. CRAIG. Mr. President, we have heard over the last few minutes what might appear, at first listening, to be alarming facts, figures, and statistics, but we all know that in any good debate the devil is in the details, and in the details of the Kennedy amendment are some hidden secrets that must be brought out so we can understand them.

Let me, first and foremost, read into the RECORD a letter from the president of the Fraternal Order of Police. The Senator has talked about cop-killer bullets and protecting cops on the beat, those who wear soft body armor. This is what Chuck Canterbury, the national president of the Fraternal Order of Police, says in a letter to me that he has copied to Senator FRIST, Senator DASCHLE, and to Senator KENNEDY:

> I am writing to advise you of our strong opposition to an amendment Senator Kennedy intends to offer later today——

In relation to the underlying amendment.

> Senator Kennedy will certainly present his amendment as an "officer safety issue"——

And that is exactly what we have heard over the last good number of minutes——

> to get dangerous "cop-killer" bullets——

And he talks about how dangerous they are off the shelf.

> Regardless of its presentation, the amendment's actual aim and effect would be to expand the definition of "armor-piercing" to include ammunition based, not on any threat to law enforcement officers, but on a manufacturer's marketing strategy.

I do believe we saw that language on the Web site that he quoted—a strategy, a rhetorical expression as it relates to an encouragement to buy a given type of ammunition.

He goes on to say:

> The truth of the matter is that only one law enforcement officer has been killed by a round fired from a handgun which penetrated his soft-body armor—and in that single instance, it was the body armor that failed to provide the expected ballistic protection, not because the round was "armor piercing."
>
> It is our view that no expansion or revision of the current law is needed to protect law enforcement officers. To put it simply, this is not a genuine officer safety issue. If it were, Senator Kennedy would not be offering his amendment to a bill he strongly opposes and is working to defeat.

It sounds as if not only is the president of the Fraternal Order of Police talking about the facts, he is talking about some reasonable logic.

He goes on to say:

> The real officer safety issue is the adoption of——

The amendment we just set aside——

> the Law Enforcement Officers' Safety Act.

That amendment deals with carrying a concealed weapon, to which I believe the Senator spoke in opposition, which would exempt active and retired law enforcement officers from local prohibitions for the right to carry concealed firearms.

Mr. Canterbury goes on:

> The Kennedy amendment was considered and defeated by the Senate Judiciary Committee in March of 2003 on a 10–6 vote. We believe that it should be rejected again.
>
> On behalf of more than 311,000 members of the Fraternal Order of Police, I thank you for taking our views on this issue into consideration.

Here is the president of the National Grand Lodge of the Fraternal Order of Police saying that the Kennedy amendment is not what it is. What he is, in fact, saying is that the current armor-piercing, cop-killing bullet law in place is the kind of adequate protection they need.

I have made that letter available to all of our colleagues as we debate this issue.

What will the Kennedy amendment do? I think it is important for us to understand in reality the impact of expanding this kind of definition and understanding.

What it does—and I don't know that the Senator intends this purpose—is that it begins to eliminate ammunition that is used in a legitimate way for hunting. He is right, Bambi doesn't wear body armor. Bambi doesn't need to wear body armor. But in the legal sportsmen's industry and in hunting, here are some very common rifles: 30.30 Winchester, 30.06 Springfield, 308 Winchester, 300 Savage, 7 mm Remington, 270 Winchester, 257 Roberts, 253 Winchester, and 223 Remington, just to name a few. We believe based on our interpretation of the amendment that this kind of ammunition is eliminated.

What we also know is that there is ammunition out there used with a rifle that can pierce body armor. That is a fact. But the ammunition we are talking about that is traditionally known as the cop-killer bullet that is now outlawed in this country has nothing to do with the rifle. It had everything to do with the pistol, that weapon of choice by criminals in our country, and we know why.

Criminals do not walk down the street with a 30.06 over their shoulder. Somehow there is the visible factor that denies them the use of that rifle. They use handguns. They conceal them. They hide them on their person. They carry them in a package or in a carrying type of valise. They do not carry rifles. Yet the Senator's amendment goes directly at the hunting sports; it goes directly at hunting ammunition. This is why at the appropriate time when we have concluded the debate on the Senator's amendment, I will offer an alternative amendment under the unanimous consent agreement that we think reflects what ought to be done in relation to what the Senator is offering.

Let me also add that the most extensive study on this issue pursuant to a congressional mandate to the Antiterrorism and Effective Death Penalty Act of 1996 was a BATF draft report provided in 1997 to those individuals and organizations that had assisted in a BATF study of the issue of armor-piercing ammunition.

That study mandated, in response to President Clinton's repeated call, for a ban on bullets capable of penetrating soft body armor. Those Presidential statements rightfully concerned many in Congress who were aware that a performance-based ban, and that is what the Senator is offering, would outlaw the majority of rifle ammunition used for hunting and target shooting worldwide. That is just what I have spoken to. If that is the Senator's intent, then I wish he would address that. Clearly that is what we believe one begins to enter into when they deal with a performance-based standard. The 1997 study took an intelligent and honest approach to examining how best to protect the lives of law enforcement officers, recognizing the reality that between 1985 and 1994 no officer in the United States who was wearing a bullet-resistant vest died as a result of any round of ammunition having been fired from a handgun penetrating that officer's armor causing the primary lethal injuries.

The study instead focused on how to improve police training, both in teaching officers how to defeat snatches by criminals and to encourage officers to wear vests routinely. Legislatively, the 1997 study rightfully concluded that to prohibit any of these commonly used pistol, rifle, shotgun cartridges because they might defeat a level 1 bullet-resistant vest would create an unreasonable burden on the legitimate consumer of such cartridges.

Combined with the availability of sensible, defensive strategies, the existence of laws restricting the common availability of armor-piercing ammunition was clearly working to protect law enforcement officers, and no attempt to discard the existing law, in my opinion and many others, should be undertaken.

At the same time, because the existing laws are working, no additional legislation is necessary or required, certainly that that deals with performance-based standards, because one goes directly at ammunition used in target practice and in hunting. We do not believe, and I would hope the Senator from Massachusetts would agree, that is what we would intend to do.

In conclusion, what I am saying is the current law is adequate. This is not perfecting language. This is language to try to defeat the underlying bill, S. 1805. Obviously, the Senator has spoken openly against that. This is in no way a bill that improves the underlying bill itself and we think very questionably does it improve any existing Federal law. What it begins to do is what the sporting community and the legitimate owners of firearms have always been fearful of, that if the handgun or the rifle could not be controlled, the ammunition would be targeted and certain classes of ammunition would begin to be controlled and outlawed, and that is exactly what Senator KENNEDY is attempting to do with this amendment.

I think it is obvious by my statement I will strongly oppose this, but I will offer—or I should say the majority leader will offer—an amendment finalizing the debate on Senator KENNEDY's amendment that we think if there is reason to fine-tune the existing law, then we will offer that fine-tuning to make it extremely punitive for anyone who might use armor-piercing bullets that would strike a law enforcement officer in our country, or anyone else for that matter, that would result in injury or death.

I retain the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. How much time do I have remaining?

The PRESIDING OFFICER. Just under 19 minutes.

Mr. KENNEDY. I yield myself 7 minutes.

Mr. President, I read through the copy of the Fraternal Order of Police. As the Senator pointed out, the truth of the matter is only one law enforcement officer has been killed by a round fired from a handgun. We are not talking about ammunition in a handgun. We are talking about assault weapons and rifles, and I am talking about the FBI. Let's look at what the FBI says.

From 1992 to 2002, 20 law enforcement officers have been killed. Seventeen out of the 20 were killed with a rifle. That is what this amendment is about.

The Senator referred to the earlier bill we had on the law. I am the author of that. It took 5 years to get that passed. Five years it was opposed by the NRA. I do not doubt it probably is going to take 5 years to do something about armor-piercing bullets that can shoot through body armor, through a limousine, or bring down a helicopter. That is what we are talking about, 17 of the fatal shootings.

I ask unanimous consent that tables 10 and 36 of a document entitled "Law Enforcement Officers Feloniously Killed by Firearms" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE 10.—LAW ENFORCEMENT OFFICERS FELONIOUSLY KILLED BY FIREARMS

[Wounded in Upper Torso While Wearing Body Armor, 1992–2001]

Point of entry	Total	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001
Total	114	5	11	11	10	12	16	14	11	10	14
Entered between side panels of vest	19	1	3	4	2	4	2	1	0	1	1
Entered through armhole or shoulder area of vest	32	1	2	2	3	2	2	1	6	5	8
Entered above vest (front or back of neck, collarbone area)	36	1	2	4	2	4	9	6	2	3	3
Entered below vest (abdominal or lower back area)	8	0	1	0	1	1	0	3	0	1	1
Penetrated vest	19	2	3	1	2	1	3	3	3	0	1

TABLE 36.—LAW ENFORCEMENT OFFICERS FELONIOUSLY KILLED BY FIREARMS

[Point of Entry for Torso Wounds and Use of Body Armor, 1993–2002]

Point of entry	Total	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
Total	120	11	11	10	12	16	14	11	10	14	11
Entered between side panels of vest	19	3	4	2	4	2	1	0	1	1	1
Entered through armhole or shoulder area of vest	34	2	2	3	2	2	1	6	5	8	3
Entered above vest (front or back of neck, collarbone area)	38	2	4	2	4	9	6	2	3	3	3
Entered below vest (abdominal or lower back area)	11	1	0	1	1	0	3	0	1	1	3
Penetrated vest	18	3	1	2	1	3	3	3	0	1	1

Mr. KENNEDY. Seventeen of the fatal shootings were done by .223, .762, or 30.30 caliber rifles. Armor-piercing ammunition for these caliber rifles is widely advertised and available, and there are no restrictions at all on the deadly ammunition.

My amendment will not apply to the ammunition routinely used in the hunting rifles or other centerfire rifles. To the contrary, it covers only the ammunition that is designed to market bullets having armor-piercing capability. If that definition is not satisfactory to the Senator from Idaho, work with me over the weekend to get the right language that stops this, and he and I will offer a unanimous consent to be able to vote on that on the Senate floor. The Senator knows what we are driving at, the kind of armor-piercing bullets that can penetrate the vests our law enforcement officers are going to wear.

I know the Fraternal Order feels we are trying to slow this bill down. With all respect to them, I have been the author of the armor-piercing bullets for 20 years. I have put it on this. I will put it on something else. They will support us. The Senator from Idaho will support it. We will put it on the next bill that comes down here. They know that is not the issue.

As I have pointed out, we are talking about the kind that is being advertised on the Web site. Here it is for everyone to see. What in the world is the possible justification for armor-piercing ammunition being sold in the United States of America today when we have threats in terms of homeland security, and we are advertising armor-piercing bullets out of rifles and assault weapons that can penetrate armor and penetrate helicopters ought to be permitted in the United States of America? The Senator has not given an answer for it. I have not heard a good answer for it.

How does this infringe on the hunters in our country? What do we need an armor-piercing bullet for to go out and hunt deer? What is the reason for that? I still have not received any answer.

Oh, it is difficult to define. This is open to a lot of different interpretations. We do not quite know what this will cover.

We will work that out. We will work that out. That is not a good enough excuse. We are talking about the lives and deaths of these police officers, their families. We will be back again year after year. Make no mistake about it, this amendment is not going away. We are going to come back year after year, and those who are going to vote against it will have the opportunity to go back and explain it to the families of those brave law enforcement officers who are killed.

What is the justification for permitting that? What possible justification is there for permitting that? There is absolutely none.

This is the discussion the General Accounting Office had. It is a GAO study, which I will put in the RECORD. The whole section III of it is only 2½ pages. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

III. THE WIDESPREAD AVAILABILITY OF ARMOR PIERCING AMMUNITION IN THE CIVILIAN MARKET

As part of their investigation, GAO agents went undercover to assess the availability of armor piercing fifty caliber ammunition. This investigation showed that military surplus ammunition is widely available.

First, GAO agents contacted weapons dealers in Delaware, Maryland, Pennsylvania, Virginia, and West Virginia. GAO found that these dealers were willing to sell armor piercing fifty caliber ammunition. According to GAO, the dealers in Delaware, Pennsylvania, and West Virginia informed the agent that purchasing these kinds of ammunition was not subject to any federal, state, or local restrictions. The dealers in Virginia told the agent that this specialized ammunition was illegal to sell or possess in that state. The dealer in Maryland said he would sell such ammunition only to Maryland residents. Although the investigator told the dealers in Delaware, Pennsylvania, and West Virginia that the investigator was a Virginia resident, none of the other dealers warned the agent about Virginia's restrictions.

An undercover GAO agent also telephoned several ammunition dealers that advertised specialized ammunition over the Internet. The agent called ammunition dealers in Alaska, Nebraska, and Oregon and recorded conversations in which he purported to be a customer interested in buying ammunition for shipment to Washington, D.C., or Virginia. The agent found that he could secure the purchase of specialized ammunition from any of the three dealers within a matter of minutes.

The dealers in Nebraska and Oregon stated that they could make the transaction when the agent faxed a copy of his driver's license with a signed statement that he was over 21 and was violating no federal, state, or local restrictions on the purchase. Although the agent said he was from Virginia, which bans this type of ammunition, neither dealer expressed reservations about selling the ammunition to a Virginia resident. According to the GAO investigator, the dealer in Alaska said he had 10,000 rounds of armor piercing ammunition and would sell the ammunition to the investigator. However, the Alaska dealer said the investigator would have to pick up the ammunition in Alaska because UPS Ground did not ship goods from Alaska to the lower 48 states.

The GAO investigator taped the conversations with the three ammunition dealers. These conversations reveal that the ammunition dealers employ an "ask no questions" approach. They were willing to sell military surplus ammunition without restriction even after the investigator said he wanted the ammunition shipped to his work address in Washington, D.C., and needed it to pierce an armored limousine or, theoretically, to "take down" a helicopter.

One of the dealers that GAO contacted was Cascade Ammo, in Roseburg, Oregon. Cascade Ammo is one of Talon's three largest civilian customers of refurbished military ammunition. Although this dealer initially expressed reservations about shipping armor piercing ammunition to Washington, D.C., the dealer ultimately agreed to allow the sale. When asked about the power of the ammunition, the Oregon dealer said he believed armor piercing ammunition would penetrate an armored limousine, as the following interchanges indicate:

Agent: I'm very much interested to making sure that these rounds can go through like, the bullet-proof glass. Do you think they'll go through bullet-proof glass?

* * * * *

Dealer: Well, in the old days, in the old [inaudible], they used 700 grains, 720 or something. But nowadays they use 660, so they're getting a little more velocity out of it. And, I just can't see glass standing up to that.

Agent: How about an armored limousine?

Dealer: Yeah, you're using it to test it?

Agent: Well, I . . .

Dealer: Because we have some people who are testing armored cars. Like 30-06 AP-rounds.

Agent: Well, I . . . these would be a lot . . . theoretically the .50 cal should be a lot stronger than a 30-06 . . .

Dealer: Right, right.

Agent: AP.

Dealer: Right . . . So it should go through.

Agent: Well, yeah, I guess you say testing against armored limousines . . . Yeah, I'll be testing against armored limousines. But, but it's gotta work.

Dealer: Right.

The Oregon dealer also was confident the ammunition could "take down" a helicopter:

Agent: Right. And then, if I theoretically wanted to use these rounds to take down an aircraft, say either a helicopter or something like that, I should be able to take a helicopter down, shouldn't I?

Dealer: Yeah, they're not armored. They're not armored to a point that it would stop. If you look at, uh, a military helicopter that's been through, uh, like the ones that came back from Vietnam, they've got, uh, little plates of metal where they weld up the bullet holes. They just take a little piece of metal and they just weld over the bullet holes. It makes the guy, the next guy, feel more comfortable when he's in there.

Agent: I guess so.

Dealer: (laughing) You don't want to see a bullet hole in there.

Agent: Okay.

Dealer: So, yeah, it'll go through any light stuff like that.

The final interchange with the Oregon dealer included the following passages:

Agent: Good. You know, I'm very happy to see that we'll be able to do business here, because, I'm a little bit concerned, because here on the East Coast when you go to buy ammunition—these large, heavy-duty .50 cal—they ask a lot of questions.

Dealer: Oh.

Agent: And I don't like people asking me questions why I want this ammunition.

Dealer: Well, see, they use them out here for hunting.

Agent: Um huh. Well, you could say I'm going to be using this for hunting also, but just hunting of a different kind.

Dealer: (laughing) As long as it's nothnothing illegal.

Agent: Well, I wouldn't consider it illegal.

Dealer: Okay. Alright.

The conversations with the other ammunition dealers were similar. For example, the dealer in Nebraska assured the agent that this ammunition would go through metal, an armored limousine, and bullet-proof glass. Later in the conversation, the agent and the dealer discussed whether ordinary "sniper round" ammunition or specialized armor piercing incendiary ammunition would best meet the agent's need "to be using this against . . . an armored limousine and something with ballistic glass."

During the agent's other conversation, the dealer in Alaska claimed his armor piercing ammunition would "go through six inches of steel up to a 45 degree angle at a thousand yards." When the agent explained that it was very important for him to "defeat an armored-type vehicle," the dealer respond that "when them cattle carts come running down your drive, you'd better be able to stop it." The agent respond by saying, "Exactly, but you know, you can think who drives in armored limousines, that's why I'm going to need it someday, those people in armored limousines." Audio tapes of these conversations are available on Rep. Waxman's webpage.

Mr. KENNEDY. This is the part I want to read. They had discussions with different dealers, and we can go through some of those, but listen to what the Oregon dealer said. He was confident the ammunition could take a helicopter down. This is the agent from the GAO:

Right. And then, if I theoretically wanted to use these rounds—

Armor-piercing ammunition of this type—

to take down an aircraft, say either a helicopter or something like that, I should be able to take a helicopter down, shouldn't I?

Dealer: Yeah, they're not armored. They're not armored to a point that it would stop. . . .

Then it continues. These are the discussions with the dealers. They talk about how they can penetrate the armor plating on automobiles and how they can bring down helicopters, and we are talking about continuing to let them be sold unregulated in this country, over 100,000 rounds for it, and the result of which is we are seeing brave police officers wearing those armor-piercing vests killed.

What is the possible justification? Why are we so intimidated by the National Rifle Association that we are not willing to deal with armor-piercing bullets? That is it. That is it. We haven't heard the argument—and I would welcome it—how these kinds of bullets are necessary for hunting. I would love to hear that argument.

Oh, we need these. I remember when we first offered legislation on the cop-killer bullets in the Judiciary Committee we heard they are necessary because we want to be humane to the deer, and those bullets go on and kill the deer rather than wound it. That is what we heard. Cop-killer bullets. That was the answer we heard for 5 years before we finally got that passed.

I remember the time it passed. It was with the help and support of, actually, the Senator from South Carolina, Mr. Strom Thurmond. I remember it very clearly because I could not understand why we could not make progress. Now we know, with the new technology in this area, as we have seen in other areas, exactly what is happening. It is putting these police officers more and more at risk. That is why we are attempting to do this.

We hear from the Senator he is going to offer some kind of other substitute. Why not do the real thing? What are we going to have, armor-piercing bullets "lite"? So instead of 20 officers being killed there will only be 8? 12? Why not do the whole job? That is what this amendment will do. It will do something.

When this amendment is eventually accepted, and it eventually will be, they will be able to look on page 40, the list of the law enforcement officers killed from armor-piercing bullets, and it will be empty because we will have done something that will be meaningful. But I tell you, we are going to come back every single year. We are going to have the FBI, and those numbers are going to continue to go up and up, as they are going up, according to the FBI report, with no justification whatsoever for including these provisions.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CRAIG. Mr. President, how much time is left on both sides?

The PRESIDING OFFICER. The proponents of the amendment have 10 minutes 11 seconds, the opponents of the amendment have 18 minutes.

Mr. KENNEDY. If the Senator would like to agree, I would just as soon have each of us have a little time before we vote. I know the leadership has it tight, and I know it has been difficult to work, but I would rather take 3 or 4 minutes before we vote on Monday. But I don't know whether that is possible. I don't like to ask consent here. I welcome the opportunity to continue to discuss this, but I think we probably would have more involved in it later on.

I am instructed by the floor staff we will have a very brief time prior to the vote.

Mr. CRAIG. Let me respond to the Senator's inquiry. I don't disagree with him. I think it is important we do have some limited time to discuss the difference between his amendment and what will be known as the Frist-Craig amendment that will be offered in a few moments. That is important.

I think we have all heard the Senator from Massachusetts very clearly. He said he wants to ban assault weapons and rifle ammunition. What he didn't say, or what he will not say, is that the standards he establishes in his legislation, performance-based standards, ban what is currently on-the-shelf hunting ammunition. Does the hunting ammunition in a high-powered rifle have the ability to penetrate soft body armor? Yes, it does.

Does it have the ability to penetrate other soft armor? Yes, it does. Is it used for that purpose? No. It is rarely ever found used for that purpose.

We have a choice. Clearly it is against the law when it is used for that purpose and we all know that and we ought to go at those people who use legitimate firearms in illegal ways instead of trying to eliminate the firearm or, in this case, the ammunition. But, of course, we know, and all of America's hunters know, they could have a 30.06 in their gun safe, they could have a 30.30 in their gun safe, they could have a .308 in their gun safe, they could have a .270 in their gun safe, and if they didn't have the ammunition for it, it would be a marvelous historic relic of America's past. Is that what the Senator from Massachusetts wants?

He says not. But we all know what performance-based standards do. When you establish a band through that, that is what you accomplish. The fact is, virtually all hunting and target rifle ammunition is capable of penetrating soft body armor. That is a reality. So by his definition does that go off the market? I believe it does. That is why I think it is unnecessary. That is why the President of the Fraternal Order of Police said the Kennedy amendment is to kill the underlying amendment or to make it dramatically of less value, and that he and 311,000 members of the Fraternal Order of Police disagree.

Probably a good many of them are hunters, and they recognize more than anybody else because they are probably pretty talented people when it comes to understanding ballistics. When it comes to understanding ammunition, they probably know a great deal more about it than Senator KENNEDY or this Senator, Mr. CRAIG.

They say no, it isn't necessary. The current law that the Senator speaks to, that he is proud of—and he should be—is adequate. It does protect. It has removed armor-piercing bullets of the handgun type.

Now we step into a whole new arena. Historically, those who want to control firearms in this country have always said: Oh, no, it is only the handgun we are after because it is the handgun that is most often used in the commission of a crime. It is the handgun we want to take out of circulation and away from the citizens of this country. Leave the long gun alone. We are all for sportsmen. We are all for hunters. We like guns. They are good guns. Those are bad guns.

What the amendment of the Senator is suggesting is—he may not say they are bad guns, but he says their ammunition is bad. And if you take their ammunition away, then as I said earlier, these kinds of hunting rifles will become a marvelous museum piece and a relic of our historic past. I don't believe a majority of the Senate will go there. I hope the amendment I will soon offer will provide ample reason to say, yes, we are going to get tough on anybody who uses an armor-piercing bullet of any kind that is capable of penetrating a vest, soft body armor. That is what we ought to be about, instead of using the language and not the definition—and using the language and not the reality—and using performance-based bans to eliminate a very large category of hunting ammunition and other types of ammunition used for target practice and professionally in this country.

I strongly oppose and will encourage my colleagues to oppose this amendment.

Mr. President, we have possibly one other Senator wishing to come to speak. Let me check on that. If that is not true, I see no reason we couldn't reserve the remainder of our time or move on to another amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I just want to remind the Senate what we have just heard. It is a wonderful technique. I don't disparage my friend from Idaho, and he is my friend. But that is to misrepresent what the amendment does and then to differ with it.

I have been here several years and I know that technique. It is one that I have used once in a while.

People ought to understand, when we are talking about life and death, we ought to be willing to at least deal with the facts.

The facts are as described in the amendment about what the definition would be in terms of the armor-piercing bullets. That talks about a projectile for centerfire rifles designed or marketed as having an armor-piercing capability that the Attorney General determined pursuant to the section 926(d) to be more likely to penetrate body armor than standard ammunition of the same caliber, period.

Armor-piercing bullets—as my good friend says, wants to eliminate all ammunition for these weapons and, therefore, they will just be relics on the shelves of time.

This is what it is; it is written into the amendment: a projectile for centerfire rifles designed or marketed as having armor-piercing capability that the Attorney General determines—not the Senator from Massachusetts, not the Senator from Idaho—but the one that has the capability to more likely penetrate body armor.

That is what we are talking about—penetrating body armor that law enforcement officers wear and which stands between their life and their death.

That is what this amendment does. We have already seen and sadly reviewed the statistics that are out there now about the brave officers who have already been killed. We will have an opportunity to do something about that on Tuesday next. Let us not fail to do so.

Over the weekend, if there is language that is necessary to ensure that particular purpose can be achieved with more effective language, let me give the assurance to the Senator from Idaho and others interested who take that position that we are more than glad to work that out.

We will not compromise on dealing with the fundamental issue; and that is armor-piercing bullets penetrating those vests or put at risk the lives of brave officers today and in the future.

I withhold the remainder of my time. I saw the Senator from the State of Washington who I believe is ready to move ahead. I will either yield back my time or retain my time.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I ask at this moment that the Senator not yield time. I have a few moments remaining on my time. I am going to ask for a very short period of time to go into a quorum call at which time we will come out of it and offer the Frist-Craig amendment. I don't need to debate that for any length of time. That is in the order of the unanimous consent. As the Senator from Massachusetts knows, those two then will be set aside to be voted on Tuesday next.

With that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. How much time remains on the current amendment, the Kennedy amendment?

The PRESIDING OFFICER. The sponsor has 6½ minutes and the opponents have 1½ minutes.

Mr. CRAIG. I am prepared to yield back if the Senator is, and I will offer the first Craig amendment and speak for a few short minutes on that and then move on.

Mr. REID. We yield back the time of Senator KENNEDY.

The PRESIDING OFFICER. Without objection, the time of the proponent of the amendment is yielded back.

Mr. CRAIG. I yield back my time.

The PRESIDING OFFICER. All time is yielded back.

Mr. CRAIG. It is my understanding that the Kennedy amendment will now be set aside to be voted on Tuesday next.

The PRESIDING OFFICER. That is correct.

AMENDMENT NO. 2625

Mr. CRAIG. I send to the desk the Frist-Craig amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG], for Mr. FRIST, for himself and Mr. CRAIG, proposes an amendment numbered 2625.

Mr. CRAIG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To regulate the sale and possession of armor piercing ammunition, and for other purposes)

At the appropriate place, add the following:

SEC. 5. ARMOR PIERCING AMMUNITION.

(a) UNLAWFUL ACTS.—Section 922(a) of title 18, United States Code, is amended by striking paragraphs (7) and (8) and inserting the following:

"(7) for any person to manufacture or import armor piercing ammunition, unless—

"(A) the manufacture of such ammunition is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;

"(B) the manufacture of such ammunition is for the purpose of exportation; or

"(C) the manufacture or importation of such ammunition is for the purpose of testing or experimentation and has been authorized by the Attorney General.

"(8) for any manufacturer or importer to sell or deliver armor piercing ammunition, unless such sale or delivery—

"(A) is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;

"(B) is for the purpose of exportation; or

"(C) is for the purpose of testing or experimentation and has been authorized by the Attorney General.".

(b) PENALTIES.—Section 924(c) of title 18, United States Code, is amended by adding at the end the following:

"(5) Except to the extent that a greater minimum sentence is otherwise provided under this subsection, or by any other provision of law, any person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States, uses or carries armor piercing ammunition, or who, in furtherance of any such crime, possesses armor piercing ammunition, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime or conviction under this section—

"(A) be sentenced to a term of imprisonment of not less than 15 years;

"(B) if death results from the use of such ammunition—

"(i) if the killing is murder (as defined in section 1111), be punished by death or sentenced to a term of imprisonment for any term of years or for life; and

"(ii) if the killing is manslaughter (as defined in section 1112), be punished as provided in section 1112.".

(c) STUDY AND REPORT.—

(1) STUDY.—The Attorney General shall conduct a study to determine whether a uniform standard for the uniform testing of projectiles against Body Armor is feasible.

(2) ISSUES TO BE STUDIED.—The study conducted under paragraph (1) shall include—

(A) variations in performance that are related to the length of the barrel of the handgun or centerfire rifle from which the projectile is fired; and

(B) the amount of powder used to propel the projectile.

(3) REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit a report containing the results of the study conducted under this subsection to—

(A) the chairman and ranking member of the Judiciary Committee of the Senate; and

(B) the chairman and ranking member of the Judiciary Committee of the House of Representatives.

Mr. CRAIG. Mr. President, Senator KENNEDY has a copy of this straightforward amendment that strengthens the current armor-piercing bullet law. It does a couple of things.

It says the Attorney General shall commission a study to determine whether a uniform standard for the uniform testing of projectiles against body armor is feasible and what impact it would have on sporting and hunting endeavors. It includes within the issues to be studied variations in performance that are related to the length of the barrel of the handgun or the centerfired rifle from which the projectile is fired and the amount of powder used to propel the projectile. The Attorney General shall deliver such report to the chairman and the ranking member of the House and Senate Judiciary Committee within 2 years of the date of the enactment of this legislation.

This became the core of the debate between the Senator from Massachusetts and myself. What does "performance-based standards" mean, and how do they impact legitimate sporting and hunting ammunition?

Also, insert as new, 18 USC, 924:

(5) Except to the extent that a greater minimum sentence is otherwise provided under this subsection, or by any other provision of law, any person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by

the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States, uses or carries armor piercing ammunition, or who, in furtherance of any such crime, possesses armor piercing ammunition, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime or conviction [under title 18 USC 924]—

"(A) be sentenced to a term of imprisonment of not less than 15 years;

"(B) if death results from the use of such ammunition—

"(i) if the killing is murder (as defined in section 1111), be punished by death or sentenced to a term of imprisonment for any term of years or for life; and

"(ii) if the killing is manslaughter (as defined in section 1112), be punished as provided in section 1112."

What are we doing? We are adding real teeth to current law. We are saying to the criminal element and the drug trafficking element in our country, if you use armor-piercing ammunition in your firearm and it maims or kills a law enforcement officer, we will put you away for life.

That is what we are going to do. We do not tolerate it. We never have. The current law serves effectively, but if there is a sentence, then let's toughen it, let's strengthen it, let's give stronger positions to the law enforcement community of this country.

That is the crux of the bill. It is straightforward. It is simple. We think it offers what certainly all of us want to see and what the law enforcement community of this country needs.

I hope the Frist-Craig amendment will be accepted. It is a straightforward amendment. If the Senator would make himself available, we can conclude this debate, set this amendment aside, and move to the next amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, the Senator from Massachusetts is in the Chamber. In his absence, I offered the Frist-Craig amendment and spoke briefly to it as a true strengthening of current armor-piercing bullet legislation, to suggest very directly to the criminal element and the drug trafficking element in our country: If you use armor-piercing bullets and it wounds or takes the life of a law enforcement officer, we will put you away for life. I think that is about as clear and direct as we can become with the already strong prohibition that is in place for armor-piercing bullets that would be used in handguns.

With that, I retain the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I will oppose the amendment because it does nothing to protect our law enforcement officers from armor-piercing bullets. All it does say, as I understand it, is if law enforcement officers are killed, under the current law the penalties are going to be greater, including even in the death penalty.

My amendment says, let's stop the armor-piercing bullets now to save lives. Let's be proactive and prevent the loss of lives. The Senator from Idaho says, well, after they are killed we are going to penalize these people more. My amendment would effectively save lives because we would effectively prohibit the kind of armor-piercing bullets from being sold or available to those who want to do our law enforcement personnel harm.

So it just misses the point, the idea that we are going to do something after that police officer is killed. That will not do anything about these numbers I mention. We have just seen 20 officers killed over the last 10 years, and 17 of them by armor-piercing bullets. That is what they were killed by; and that is what my amendment is focused on. The Senator's amendment will do nothing about preventing that kind of activity. I appreciate his efforts in trying to do something, but this fails the mark.

I withhold my time.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, in response to the Senator from Massachusetts, his legislation goes at long guns, rifles, and their ammunition. What I did not say, with him coming back into the Chamber, is we do direct the Attorney General to look at, over a period of time, 2 years—no later than that—and report to the Senate Judiciary Committee, on which the Senator serves, a study to see whether what the Senator is proposing in his amendment wipes from the shelves of this country the kind of hunting ammunition we believe it will, and that certainly a good many others do.

I am not insensitive to what the Senator is saying, but I am saying, let's get the facts. We do not want to wipe out half the hunting or two-thirds of the hunting ammunition and the target ammunition in this country. That is legitimate. It is law abiding. Does it get misused? Yes. Does some of it have armor-piercing capability, to some extent? Yes.

Certainly this is what our intent is. In the meantime, let's toughen the law. Let's send the message to the criminal element in our country that armor-piercing ammunition is flat off limits or you pay a phenomenal price for it.

Is it a deterrent? The Senator from Massachusetts would suggest it is not. In most instances, we find good, tough law enforcement, and a reality known by those who would commit crimes with this kind of ammunition in this country, does serve as a deterrent. That is the intent of the amendment. We believe it is a good amendment.

I am prepared to yield back the remainder of my time if the Senator believes he has adequately covered this issue.

Mr. KENNEDY. No. I just want to respond.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. If I may, Mr. President, I yield myself time.

Let me remind my colleagues that armor-piercing ammunition for rifles and assault weapons is virtually unregulated in the United States of America. A Federal license is not required to sell such ammunition unless firearms are sold as well. Anyone over the age of 18 may purchase this ammunition without a background check, and there is no Federal minimum age for possession. Purchases may be made over the counter, by mail order, by fax, or by Internet, and there is no Federal requirement that dealers retain sale records.

It is this current lawlessness that jeopardizes the safety of police officers. It is this failure of the existing law that has led to 20 fatal shootings of police officers, and will lead to many more unless Congress acts, not studies—acts, not studies.

The facts are well established. The FBI statistics do not lie. We do not need another study. We do not need another report. All we need to do is adopt the underlying legislation that gives the Attorney General the authority and the power to ensure the kind of armor-piercing bullets that are being used, that pierce the armor and kill our law enforcement officials, will be prohibited from use today.

As I outlined in my amendment: "a projectile for a centerfire rifle, designed or marketed as having armor-piercing capability, that the Attorney General determines . . ."—not the Senator from Idaho or the Senator from Massachusetts—"to be more likely to penetrate body armor than standard ammunition of the same caliber."

We either have a problem or we do not. I believe we do. Certainly the families of those brave officers who died believe we do—their families and those police departments. We have an opportunity to do this on next Tuesday. I hope the Craig amendment will be defeated and that the amendment I offered will be accepted.

I am prepared to yield back the remainder of time if the Senator is.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I thank the Senator. I too am prepared to yield back the remainder of our time.

Let me conclude my comments by saying, it is not the role of the Attorney General of the United States to determine what can or cannot be used in this country as forms of ammunition. It is our job, if we are going to do it. And we should not do it. The marketplace has done it. The Senator has shaped legislation that has controlled types of it, and that has been supported.

I do not think we need to get as arbitrary as some Attorneys General can be and have been in the past as it relates to what their vision is versus what we believe ought to be illegal or legal in this country.

Our job is to make it the law. That is what we are about here at this moment. But it is important that we establish parameters and understandings clearly to determine the kinds of tests that are performance based in what they do to what is now currently legal ammunition in this country.

With that, I yield back the remainder of my time, and ask that the Frist-Craig amendment be set aside to be considered on Tuesday next.

I believe the next item under our unanimous consent is to move to Senator CANTWELL for her amendment for an unemployment insurance extension.

The PRESIDING OFFICER. Does the Senator from Massachusetts yield back his time?

Mr. KENNEDY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The amendment will be set aside.

The Senator from Washington.

AMENDMENT NO. 2617

Ms. CANTWELL. Mr. President, I call up my amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant Journal clerk read as follows:

The Senator from Washington [Ms. CANTWELL] proposes an amendment numbered 2617.

Ms. CANTWELL. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To extend and expand the Temporary Extended Unemployment Compensation Act of 2002, and for other purposes)

At the end, add the following:

TITLE —UNEMPLOYMENT COMPENSATION

SEC. ___01. EXTENSION OF THE TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 2002.

(a) IN GENERAL.—Section 208 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30), as amended by Public Law 108–1 (117 Stat. 3) and the Unemployment Compensation Amendments of 2003 (Public Law 108–26; 117 Stat. 751), is amended—

(1) in subsection (a)(2), by striking "December 31, 2003" and inserting "June 30, 2004";

(2) in subsection (b)(1), by striking "December 31, 2003" and inserting "June 30, 2004";

(3) in subsection (b)(2)—

(A) in the heading, by striking "DECEMBER 31, 2003" and inserting "JUNE 30, 2004"; and

(B) by striking "December 31, 2003" and inserting "June 30, 2004"; and

(4) in subsection (b)(3), by striking "March 31, 2004" and inserting "September 30, 2004".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 21).

SEC. ___02. ADDITIONAL REVISION TO CURRENT TEUC-X TRIGGER.

Section 203(c)(2)(B) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30) is amended to read as follows:

"(B) such a period would then be in effect for such State under such Act if—

"(i) section 203(d) of such Act were applied as if it had been amended by striking '5' each place it appears and inserting '4'; and

"(ii) with respect to weeks of unemployment beginning on or after the date of enactment of this clause—

"(I) paragraph (1)(A) of such section 203(d) did not apply; and

"(II) clause (ii) of section 203(f)(1)(A) of such Act did not apply.".

SEC. ___03. TEMPORARY STATE AUTHORITY TO WAIVE APPLICATION OF LOOKBACKS UNDER THE FEDERAL-STATE EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 1970.

For purposes of conforming with the provisions of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note), a State may, during the period beginning on the date of enactment of this Act and ending on June 30, 2004, waive the application of either subsection (d)(1)(A) of section 203 of such Act or subsection (f)(1)(A)(ii) of such section, or both.

Ms. CANTWELL. Mr. President, how much time is allowed for debate on the amendment?

The PRESIDING OFFICER. One hour, evenly divided.

Ms. CANTWELL. Thank you, Mr. President. If I can be notified when I have used 10 minutes.

The PRESIDING OFFICER. The Senator will be notified.

Ms. CANTWELL. I thank the Chair.

Mr. President, while we are talking about gun liability, I think a more important question for this body to be debating is the liability we are leaving the American workers with when, in fact, this body refuses to pass unemployment benefit extensions at a time when our economy is not recovering at the speed it takes to create new jobs.

As our own newspaper in Washington State, the Seattle Post Intelligencer, said this past week:

> Everything is not fine in the job market.

That is what many Americans are saying. That is what many people across the country are starting to debate when they talk about the issue of outsourcing. Everything is not fine in the job market.

The President and his economic advisers issued a report, the Economic Report from the President of the United States, as to the growth we were supposed to expect in our economy in 2004. If my colleagues have a copy of that report and turn to page 98, they will see that the President and his economic advisers, when talking about growth in real GDP over the long term, predict that jobs for this year are going to grow by 2.6 million. That was great economic news to a lot of Americans who have been sitting around since December without Federal unemployment benefits, sending out resume after resume, only to find that they are competing with hundreds of other more qualified Americans for a very few jobs.

What became more frustrating to those unemployed Americans who have lost their jobs through no fault of their own, many as a result of 9/11 and the impact of terrorist activities on our economy, such as in aviation, aerospace, and a general downturn, many of those Americans would rather have the paycheck than the unemployment check. But without jobs being created, they would like to have some assistance in making the mortgage payment, paying the rent, paying for health care, and taking care of their families.

They were stunned when they found out that the President doesn't really stick by the 2.6 million number. Last week, the President and two Cabinet Secretaries, the Secretaries of Treasury and Commerce, ventured to Washington State and refused to meet with unemployed workers there. We have had, for the better part of the last 2 years, an unemployment rate over 7 percent. We are a little bit below that right now, and we are concerned about stimulating the economy and from where job growth is going to come. When these two members of the President's Cabinet came to town and were asked about the President's economic forecast—asked whether they stick by the 2.6 million jobs that will be created, both of those Secretaries said: Those were assumptions based on economic models and the calculations have a margin of error.

The American worker is not a rounding error on a statistician's desk. They are real people who are not getting the economic assistance they deserve.

It is no surprise that other newspapers across the country have also noted this. The Atlanta Journal Constitution said:

> But the economic bounce has not yet been strong enough for cautious employers to get beyond squeezing more production from existing workers and taking the crucial step of hiring. This leaves millions of unemployed sinking further into debt and desperation.

That points to what is going on here. The President is backing away from his economic numbers. People realize that job growth is not happening. Yet we refuse to pass an extension of unemployment benefits.

Why is that so important? It is important to many Americans who would rather have that paycheck than an unemployment check, and it can provide a real stimulus because for every dollar in unemployment insurance, it generates $2 of economic stimulus into the local economy.

We continue to see these projections versus reality. The President's economic advisers said in 2002 that we were only going to lose a few jobs. We ended up actually losing 1.4 million jobs. In 2003, they said we were going to grow the economy, 1.7 million. We ended up losing another almost 500,000 jobs. Now in 2004, they say we are going to grow 2.6 million jobs in what is left of this year. So far we have only gained 112,000 jobs.

The economy is moving very slowly. We should not leave people out in the cold. That is exactly what we are doing by not passing Federal benefits on to those unemployed workers when they exhaust their State benefits. In fact, in December, we left out lots of workers: in Illinois, about 17,000 people; Texas, about 23,000; North Carolina, 10,000; Ohio, over 10,000; Pennsylvania, 17,000 people; Georgia, 14,000 people. At the end of December, when the benefit program expired at the State level, these people were no longer eligible for benefits at the Federal level because we curtailed the Federal program.

What that means is that every month more and more people exhaust their State benefits as no jobs are found and thereby are denied Federal benefits. For example, for the first 6 months of this year, over 50,000 additional people from Washington State would be eligible, but won't receive help. On a national level, 2 million people would be eligible to receive Federal benefits.

These numbers represent what happened to people in these States in December of 2003, when the other side of the aisle refused to grant the motion of seeking unanimous consent to pass unemployment benefits for American workers.

Our colleagues in the House of Representatives who heard the message, probably when they went home over the recess and did their town meetings, listened to people across America and found out that this was a pretty big issue. People wanted to know, where am I going to find a job? Where is my spouse going to find a job? People were relying on loans from families just to make mortgage payments.

So the House of Representatives came back from recess and actually passed unemployment benefit extensions because they got the message.

We are still down in our economy. The key question is, How have we as a nation responded to these economic recessions in the past? How have previous administrations, both Democrat and Republican, responded to recessions? We know that in the early 1990s we had a recession. The first Bush administration and the Clinton administration became aggressive about unemployment benefits and had a very expansive program that was in place for a total of 27 months.

During that time, we ended up creating 2.9 million new jobs, a very positive outcome. In this recession and recovery, which began in 2001, we have lost 2.4 million jobs. The difference between this recession and the last is that we have cut off the Federal benefit program. And yet, we haven't yet had a net creation of jobs.

We started to slowly shirk the jobs deficit, with 112,000 jobs in January, but we have curtailed the program before we have seen real results. Why would we do that when we have previous experience, from two different administrations, that shows that continuing the program really does help stimulate the economy?

That is what we want to do. That is why I am not surprised that other people around the country such as the Akron Beacon Journal said:

> The recovery has aptly been called jobless. Offer a bridge to a better time, and Congress won't simply aid those struggling to find work. The country as a whole will benefit.

This is not solely about helping individuals who are unemployed. It is a stimulus to the economy. What happens if the 2 million people who will lose Federal benefits over the next 6 months can't make mortgage payments and end up defaulting on their home mortgages. How is that good for the U.S. economy? Or say, for example, individuals can't make health insurance payments and end up costing more in uncompensated health care? How is that good for America?

I was not surprised when I saw in the San Jose Mercury News that the other side of the aisle had been accused of being of little interest or being silent on this issue.

Basically, the San Jose Mercury News said:

> Despite a recent uptick in hiring across the country in 2004, they could bring more hardship for million of Americans out of work. A callous Congress is sitting behind as their hope for receiving extended unemployment benefits fades.

The PRESIDING OFFICER (Mr. BURNS). The Chair advises the Senator she has used 10 minutes.

Ms. CANTWELL. Mr. President, I thank the Chair for that information. I would like to continue until other of my colleagues from different regions of the country, which have been hit with high unemployment, come to the Chamber.

I wish to focus on reality versus rhetoric. We have been promised 2.6 million jobs, but instead, we have seen a loss of 2.3 million. The rhetoric doesn't stand up. If the President is going to deny his own economic report and say we are not going to create 2.6 million jobs, then give American workers a hand—extend unemployment benefits as a lifeline to help stimulate their family incomes and help stimulate our national economy.

I ask the President and the other side of the aisle to take a little bit of time and go back in history. I know not everybody on the other side of the aisle agrees with the policies of a Democratic administration juxtaposed to this administration, but let's look at what the last Bush administration did when we had a downturn of our economy and how President George H. W. Bush handled the situation.

He had a similar problem when he came into office: the 1990s recession. In April of 1992, the President saw that we had tremendous job loss in the millions, but the economy had started to pick up again. The first President Bush saw that the economy had picked up 379,000 jobs. He could have stopped the unemployment benefit program right then and there. He could have said: My job is over; the economy is starting to grow again; I don't have to do anything else about this issue. But the President did not.

The first President Bush extended unemployment benefits for an additional 9 months. He did it for 9 months—and it was a program with more weeks of benefits than the current program. It was 20 weeks instead of the 13 weeks we have for basic unemployment States.

The first President Bush said: Yes, there was a little bit of job growth going on, but the negative impact of the recession means we should not stop Federal unemployment benefits.

What has the second President Bush done? He has been faced with a similar recession. As we saw from the previous chart, we have lost 2.4 million jobs in the last 2 years and this President sees a little uptick in the economic numbers. He sees about 112,000 jobs created in January. And what does he say? That's it; that's it; no more Federal unemployment benefit program. No unemployment benefits. No weeks, no program.

Basically, we have left the American workers out in the cold as it relates to this opportunity to sustain themselves and sustain our economy in great economically challenging times.

I ask my colleagues on the other side of the aisle to look at this history, to look at what the first Bush administration did under similar circumstances, to look at his results. They were very positive for the U.S. economy and for the U.S. worker. Analyze that juxtaposed to the positions we have taken in this body today, primarily because the other side of the aisle, a dozen times now, has refused us the right to have a vote on this issue. We are going to have that vote, and I hope my colleagues will stand up for the American worker and, most importantly, for the American economy that needs this stimulus.

I see some of my colleagues have joined me in the Chamber. I say to the Senator from Maryland, who has been eloquent on these issues, I don't know how much time the Senator is seeking, but I will be happy to yield to the Senator.

Mr. SARBANES. Is the Senator controlling time?

Ms. CANTWELL. Yes, I am. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 15 minutes 9 seconds remaining.

Ms. CANTWELL. I am happy to yield the Senator 3 minutes.

Mr. SARBANES. I thank the Senator.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, I rise in very strong support of the amendment offered by the able Senator from Washington, Ms. CANTWELL, of which I am pleased to be a cosponsor. This amendment will extend the unemployment benefits which lapsed at the end of December—they have lapsed and are not available—and continue the program for 6 months, through the end of June.

The program lapsed not because the fundamental economic problem which led to its creation—the very weak labor market—has been solved. That market's weakness remains a serious concern.

Long-term unemployment—the problem for which this program was created—is near record levels. There are nearly 1.9 million unemployed workers in America who are long-term unemployed. That is, they have been unemployed for more than 26 weeks. They constitute almost 23 percent of all unemployed workers. This level has been above 20 percent for the past 16 months, the longest stretch of long-term unemployment at this level in more than 20 years.

It has been 34 months since the recession began. The economy has almost 2 percent fewer jobs than it had 34 months ago. Jobs are not being created in sufficient number to close this gap. Job creation is far below what is needed to improve the situation for unemployed workers.

Some colleagues have argued that we do not need the program because we are no longer losing jobs. However, the job growth that the economy is producing is too slow to put back to work those who have lost their jobs. Of course, the administration predicted after they passed the 2003 tax cut, that by last month, the economy would have created over 2 million jobs. It created 300,000 jobs over that period.

This amendment's proposal is not excessive by historical standards. In fact, the administration's refusal to act is what constitutes a break with historical precedent. Again and again in the past, we have extended unemployment insurance to provide some assistance to the long-term unemployed.

Finally, let me simply make this point: We build up an unemployment trust fund in good times to fund the benefits when we have an economic downturn. There is over $15 billion in the unemployment insurance trust fund to pay unemployment insurance benefits. We have millions out there needing this help. This money was collected for that purpose. It should be used for that purpose.

I strongly urge support of this amendment.

Ms. CANTWELL. Mr. President, I yield 3 minutes to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I thank my colleague for her leadership. I wish to make a couple of points. First, there is a staggering amount of economic hurt in virtually every nook and cranny of my State. Our unemployment rate is over 7 percent.

The Economic Development Administration recently announced that for key projects to create jobs in rural areas, small communities are going to have to come up with $22 to get $1 of help for infrastructure, something that can create good-paying jobs.

We are trying to get the transportation bill passed, but with those kinds of measures, we desperately need to extend this lifeline legislation to the thousands and thousands of Oregonians and other Americans who are out of work.

These are folks who simply have nowhere to turn to pay the bills. They are walking an economic tightrope, balancing fuel costs against food costs and fuel costs against medical costs.

Without this extension and without the look-back rule that this legislation would provide, these are folks who are going to fall into the economic abyss. They deserve better.

The fact is, the stock market is doing well. We are glad to see it. We are glad to see profits up at so many of our companies. All of these are pluses for our country. But the fact is, middle-class folks, and particularly the middle class that is unemployed, are feeling pinched like never before. I am very hopeful my colleagues will support this legislation. It is essential to provide a measure of relief to these folks who are enduring so much economic hurt.

I have just gone through a series of community meetings at home, and it came up again and again. So I hope, in the name of compassion, but also in the name of helping these middle-class folks get back on their feet as they look for alternatives, as they look for other positions that pay them enough to support their families, that my colleagues would support this important Cantwell amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, I rise in opposition to the Cantwell amendment, and want to put this in a little perspective. We have an unemployment benefit insurance program and then we have the temporary extension of the benefit program which we have been doing for some time now. In fact, I think the temporary extension has been done two different times.

I also want to clear up some of the confusion because there is a payroll survey which measures the amount of jobs created, and there is a household survey. We know what statistics can do depending in whose hands they are, but let us at least know what the facts are.

Payroll survey measures—if someone goes to work for somebody, they get a job and go on their payroll, that is the payroll survey. So if a person is employed by somebody, it is counted in the payroll survey.

When I was practicing as a veterinarian, I opened my own practice. I was self-employed. That does not go on the payroll survey, but it does go on the household survey. Right now, on eBay—we have all heard of eBay—there is a fairly solid estimate that there are now over 200,000 people with full-time businesses operating on eBay. These are full-time jobs and the individuals are doing very well operating on eBay. They are buying and selling things on eBay.

However, those 200,000 jobs are not counted in the payroll survey. That is the survey the Democrats are commonly referring to all the time when they are saying there are job losses.

To show the difference between the payroll survey and the household survey with statistics, in January the payroll survey said we had created about 100,000 jobs. The household survey showed the creation of almost half a million jobs. Now if one believes the other side, they are saying to somebody who is self-employed that they do not have a job. Well, I am sorry, but when I was a self-employed veterinarian working 100 hours a week, I thought that was work. I thought that was a job. Listening to the other side, they are saying it is not a job.

Having said that, let's look at unemployment rates, which is a measure of the payroll survey. When the Democrats were in charge of the House, the Senate, and the White House, all three bodies, they had the ability to extend this program on their own because they had the votes to do that. Let's look at the historical unemployment rates versus today's unemployment rates to see whether they extended the program; in other words, to see when they had the ability to act whether they matched it against what they are saying today.

In the early 1990s when the Democrats were in control of the Senate, the House, and the White House, the unemployment rate at the start of the program was 7.0 percent. When we started the program this time, the unemployment rate was at 5.7 percent. At the peak of the program in the 90s, the highest unemployment rate under the Democrats went up to 7.8 percent. The peak unemployment rate this time went to 6.3 percent.

When the Democrats voted to end the program, to terminate the extension of unemployment benefits, the unemployment rate was at 6.4 percent.

What is that unemployment rate today? It is at 5.6 percent, almost a full percentage point less than when the Democrats controlled the Senate, the House, and the White House, and they voted to terminate the program. Why did they vote to terminate it? Because the extension of unemployment benefits is put in during times of high unemployment rates.

Well, they are saying times have changed. Statistics back then do not compare with statistics now. I do not know why, but that is what they are saying.

Let's point out what this Senate and the House did last year. We gave the States $8 billion to help fund their own unemployment programs—especially those States that have high unemployment like Oregon. The Senator from Oregon was just on the floor speaking. We gave that money to the States to handle serious problems with individuals facing long-term unemployment.

What have the States done with that money? We gave them that money 2 years ago. In March 2002, we gave $8 million to the States. What have they done with it? Well, there is $4.3 billion the States have not used. Are our States not compassionate? Do they not care about people, as the other side would have us believe?

They have not spent over half of the money we gave from the Federal Government to the States.

So I think we have to look at what is going on today with this amendment. I believe this is very well intentioned by the other side, but what has happened is our mindset has changed. What used to be considered full employment is now considered high unemployment. All of us back in the early 1990s thought a 5.5 percent unemployment rate would be considered full employment in this economy, because there are always people who are changing jobs so they are temporarily unemployed. There are always people who have difficulty because of training, they are getting some new training so it takes them longer to find a job. Then sometimes, frankly, in a changing economy, people do have to move to find a job. Sometimes it takes a long period of unemployment for people to make that decision. It is a very difficult decision to make.

I think we need to be sensitive to people, but we also have to look at the reality we are facing. We are facing huge budget deficits today. How many of the people running for President have been talking about the budget problem? On the other side of the aisle, I have heard it talked about time and time again.

Well, the extension of the unemployment benefits costs almost $1 billion dollars a month. So if we extend it out to the end of this year, we are going to be talking about another $10 billion, or somewhere thereabouts, added to the budget deficit. That money will be borrowed from the Social Security trust fund, because when there is deficit spending, that is where it is taken out of. We all know that. It is a paper trust fund anyway, but we all know that is where it will be taken out of.

So I think it is important for us to understand, first, what got us here, what the historical implications have been as I have laid them out, and then what do we do to get out of this dilemma. What we do to get out of it is to make sure we have a strong enough economy so new jobs will be created.

What are all of the economists—and I do not care which philosophy the economists subscribe to, the one thing everybody agrees with is these large budget deficits we are experiencing today and that are projected out into the future are the No. 1 single threat to our economy. So if we want to have a secure future going forward, we must watch and curtail additional Federal spending.

The reason we have the deficit today, over half of it, is because of the poor economy. So when businesses and individuals are not making as much money, they do not pay as much in taxes. Over half of the budget deficit is caused by that. About another 27 or 28 percent of the budget deficit was caused by increased Federal spending. And about 20 percent of it were the last two tax cuts that were enacted. But without those tax cuts—it is widely accepted now those tax cuts have helped the economy—we would be in even worse shape.

The number one thing we can do for the economy, as a Federal Government is to create the atmosphere where those jobs are created. So the number one thing we can do is make sure we keep our fiscal house in order by restraining Federal spending.

Looking back at the payroll survey, eight months prior to the tax cuts we lost 386,000 jobs. Eight months after the tax cuts we produced 300,000 jobs. That is just the payroll survey statistics. That does not count the household survey, or all of those self-employed people I was talking about earlier. There are literally a couple of million jobs that have been produced since the tax cut, when you count self-employed people.

The other side says that doesn't count. Just ask somebody who is self-employed whether they think their job counts and should count in the national statistics. I think everybody who is self-employed out there, if you have a mom-and-pop business, if you are a doctor who used to work for a hospital and have your own practice, or you are a nurse-midwife and you decided to take the risk and go out on your own, does your job count? A nurse practitioner or a physical therapist, whatever the job is, should that job count? I believe it should. I believe that is why there are two different surveys, the household survey and a payroll survey. It is important that we have both of them so we can look at the big picture. The economy is changing. We have to have policies that reflect those changes.

I yield the floor at this time so we can go back and forth and continue the debate. I see my friend from Oklahoma. Next time I get recognized, I will yield some time to him.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator has 8 minutes 57 seconds; they have 18 minutes 41 seconds.

Ms. CANTWELL. I yield to the Senator from Massachusetts 4 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Will the Chair let me know when 3½ minutes has passed?

The PRESIDING OFFICER. The Chair will do that.

Mr. KENNEDY. Mr. President, I thank the Senator from Washington for being our leader on this issue about concern for the unemployed. She has, along with our colleagues, on over 12 different occasions challenged the Senate to try to do the constructive and positive thing, in terms of the unemployed in this country.

I listened to my friend from Nevada. I wonder what world he is living in. It probably is the world of the President of the United States. First, he gave us the State of the Union and said the economy is wonderful and getting better. Then he made a speech on the State of the economy and said everything is just rosy-posy. Then he spoke to the National Governors Association just this last 2 days ago and said everything is just fine; everything is doing well.

Here I have three of this week's magazines talking about what is happening. "Jobs Going Abroad." What is happening? "New Jobs Migration." What is happening? "Will America still be able to be a strong economy?" This is what is happening in the world. And we have silence by this body.

Look at this chart. Thirteen million children are going hungry every day in America, 3 million more Americans are living in poverty than 3 years ago, and 90,000 workers are losing their unemployed compensation every single week. That is the real America.

What we know is what has happened to real people in America. These are the administration's own figures. This is the Department of Labor. In 2000, the average family earned $44,000; now it is down to $42,000—a near $1,500 reduction. That is what is happening.

We have a real need out there. Everyone who travels the country understands it, except the Republicans.

You have $15 billion in that fund. The Senator from Nevada says we have $4 billion that the States have. He knows as well as I they are restricted from using it because of Federal law. There is $15 billion out there. These are hard-working, decent Americans trying to pay a mortgage, trying to put food on the table, trying to take care of their children, and we are here saying, no, no, no; we are not going to give them the help and the assistance, the lifeline. They paid over a lifetime of working hard into this country. They paid into this fund. They are entitled to it. What is the reason for not providing this? What is the reason for not providing it? That is what the amendment of the Senator from the State of Washington will do. It will give them a lifeline for the next 13 weeks so they will be able to keep their families together, have a sense of dignity, have a sense of pride, have a sense of optimism in their future and their family's future. We ought to be about the business of passing that and I hope we do this afternoon.

I withhold the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I am going to reclaim 30 seconds, if I can.

I will just take the time to read from this letter. I have a score, but this one says it all. It is from Tim O'Neal of Lexington, MA.

I strongly urge your immediate action to support and to implement supplemental federal funding of unemployment benefits. I have been unemployed for approximately 18 months, though I'm a Vietnam veteran with a baccalaureate in chemistry, a recent JD, and more than 20 years of computer industry experience.

Here you have in the paper today, number of mass layoffs rose sharply in January. More than 2,400 employees across the country reported laying off 50 or more workers in January, the third highest number of so-called mass layoffs since the Government began tracking them a decade ago. That is in today's Washington Post. There is the need.

Senator CANTWELL has the answer.

The PRESIDING OFFICER. Who yields time? The Senator from Nevada.

Mr. ENSIGN. I would like to ask the Senator from Washington a question.

I mentioned before that we gave the States about $8 billion a couple of years ago and that there is still over half of that money unexpended.

I wanted to know if the Senator from Washington was aware that her State was given about $167 million and so far the unexpended available balance to the State of Washington is about $165 million out of $167 million that was given to your state.

I realize you have a higher unemployment rate than the rest of the country. I am kind of curious why your State has not spent the money we gave from the Federal Government?

Ms. CANTWELL. I am happy to answer the Senator's question. I would like to do so on your time, since you have a little more time left than I do.

Mr. ENSIGN. I will yield you 1 minute.

Ms. CANTWELL. I thank the Senator.

As the Senator from Massachusetts said, the States have that money obligated. They are committed to use it. The issue about the Federal program is that the Federal program is to lay on top of the State program.

The point about $15.4 billion being in the Federal trust fund is that $15.4 billion is continually added to by the American employer on behalf of them and the employee and that fund grows. So the amount at the Federal level can be dedicated to help with this Federal extension program.

The PRESIDING OFFICER. Who yields time?

Mr. ENSIGN. Mr. President, I will take a minute while the Senator from Oklahoma is getting ready to make a couple of other points.

At some point we have to have some fiscal discipline around the Senate. There are good arguments to make in support of extending unemployment benefits. There is always anecdotal evidence, stories of hardship cases. You can always find those. If we had a 1-percent unemployment rate, you could find people out there who were unemployed, and unemployed for a long period of time, no matter how low the unemployment rate.

The question is, by extending these benefits, do you create more of a problem than you are solving? In other words, we know that about 50 percent of the people who are on unemployment will get a job in the last 2 weeks before their benefits run out.

We have to have some discipline around here, put our fiscal house in order so that in the future we don't harm the economy, so that those jobs will be there for those people who want employment. For every person who wants to get a job and is willing to work, we need to have a job available.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant Journal clerk proceeded to call the roll.

Ms. CANTWELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. CANTWELL. Mr. President, how is the time being counted under the quorum call?

The PRESIDING OFFICER. The time has been charged to the Senator who put the quorum call in.

Ms. CANTWELL. Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

If neither yields time, the time will be shortened on both sides of the aisle equally.

Ms. CANTWELL. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator's time is 4 minutes 29 seconds; 14 minutes 34 on the opposite side.

Ms. CANTWELL. Mr. President, I will take a minute to report something to my colleagues. Hopefully this debate has stimulated some great thinking.

As I pointed out, we can look at the history of the two different Bush administrations. The first Bush administration decided after creating 379,000 new jobs that it was going to extend unemployment benefits for 9 months—20 weeks for individuals who had already received State benefits could get a Federal benefit. This administration, having a similar recession in challenging economic times, only created 112,000 jobs in January and decided there would be no benefit program and no weeks for employees.

I am not surprised to see the Washington Post headline "Number of Mass Layoffs Rose Sharply in January"—"2,400 employers let go 50 or more people." That is the economic news facing the country.

This administration and the other side of the aisle are not promising jobs or promising unemployment benefits. If someone wants to stand up and say we are going to have real job creation in 2004 and stand by the President's numbers, that is one thing. But if you are not promising either growth or economic assistance, then we have a serious problem.

I reserve the remainder of my time.

Mr. LEVIN. Mr. President, extending unemployment benefits would be one of the most important and significant action Congress takes this year. The economy and jobs are consistently the top areas of concern back home. The people that I speak to are far more interested in extending unemployment benefits than extending tax cuts to the wealthy. The House recently acted in strong bipartisan fashion and passed an amendment to extend unemployment insurance benefits to workers who have exhausted their state and federal benefits. Now it is time for the Senate to act as well.

According to the Center for Budget and Policy Priorities, the number of individuals exhausting their regular State unemployment benefits and not qualifying for further benefits is higher than at any other time on record—

about 90,000 workers a week. Painful history is being made. This Senate cannot stay silent. In January alone, about 375,000 unemployed workers exhausted their regular state benefits and are not eligible for any Federal unemployment aid. This is on top of the 395,000 unemployed workers who exhausted their state benefits last December 2003.

Action is needed now. President Bush predicted that in 2003, we would create 1.7 million new jobs. Instead, the Nation lost 53,000 jobs. On Monday, President Bush said he thought the current unemployment numbers are "good." Not where I'm from.

In earlier slow economic times, previous Congresses have acted. In the 1974–75 recession, Congress provided 29 weeks of Federal unemployment benefits. In the 1981–82 recession, Congress provided 26 weeks of Federal unemployment benefits. In the 1990–91 recession, Congress provided 26 weeks of Federal unemployment benefits. In the program that expired on December 31, 2003, Congress provided 13 weeks of Federal unemployment benefits. That was below previous levels of Federal weeks but it was something.

The Federal extended benefits program implemented during the last recession was not allowed to end until the economy had produced nearly three million jobs above its pre-recession levels. The current program has ended when there are 2.4 million fewer jobs than when the recession began.

The recently expired Federal unemployment program was closed to new enrollees last December 31, 2003. Workers currently receiving federal unemployment benefits will be phased out by the week of March 29, 2004. The recently expired federal unemployment program not only provided an added 13 weeks of Federally funded unemployment benefits for workers who have run out of State benefits—it provided an additional 7 weeks in States with the highest unemployment. Renewing this program—and hopefully expanding it to more traditional levels—is crucial.

The Federal unemployment trust fund has over approximately $15 billion in it—for this exact purpose—to allow unemployed workers who contributed to the fund while working to now use it in their time of need. The trust fund is the workers' money, made up from their contributions. Keeping money in consumers' hands will help sustain the economic recovery, too. Without it, more families will postpone medical care, watch their savings dry up, and lose their homes.

The Bush administration has told us that a .1 percent national unemployment rate drop is proof positive that his tax cuts and other economic initiatives are beginning to work. However, what President Bush did not tell the American people that factory employment declined for the 42th consecutive month by eliminating approximately 24,000 manufacturing jobs. Despite last month's growth, America's manufacturing core has shed an average of 53,000 jobs per month for the last 12 months. If a recovery is going on, it is essentially a jobless recovery. A jobless recovery is no recovery at all. The term is an oxymoron.

The Labor Department statistics also reveal that five million Americans work part time jobs because they cannot find full-time jobs. Since President Bush took office, about 3 million private sector jobs have been lost and a total of almost 9 million Americans are now unemployed. We have also reached record levels of long-term unemployment.

Manufacturing jobs, which helped to build and sustain America's middle class, are disappearing. A total of 2.6 million manufacturing jobs have been lost since January 2001, 11,000 last month alone. Manufacturing jobs are good jobs that pay high wages, provide good health benefits and retirement security. We cannot afford to let these good jobs leave our country or be lost.

Michigan has been particularly hard hit, losing approximately 225,000 jobs since January 2001 of which 185,000 were manufacturing jobs. Our states and our nation cannot sustain such losses. On Labor Day President Bush acknowledged that "thousands" of manufacturing jobs were lost in recent years. He was off by about 2.6 million.

Let us pass an extension of unemployment benefits now. It is simply the right thing to do. It is the traditional thing to do in times like this.

I ask unanimous consent that the following chart be printed in the RECORD, illustrating previous Congressional action.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Year	Cumulative Extension of UI Benefits
1974–1975	29 weeks.
1981–1982	26 weeks.
1990–1991	33 weeks (states with high unemployment); 26 weeks (all other states).
2002	26 weeks (states with high unemployment); 13 weeks (all other states).
Proposed legislation	20 weeks (states with high unemployment); 13 weeks (all other states).

Mr. DODD. Mr. President, I thank Senator CANTWELL for offering a very important amendment on unemployment insurance. This amendment is absolutely necessary because this administration has put this country on the wrong economic path.

The economy is not improving, jobs are not being created, and workers and their families are suffering. Since this administration took office, America has lost nearly 3 million jobs, including over two and a half million in manufacturing. More than 9 million Americans are out of work. Unless we see an unbelievable turnaround in the next 8½ months, this administration will be the first since that of Herbert Hoover to preside over an economy where more jobs are lost than created.

And what is the President's plan for economic recovery and job creation? More tax cuts for the wealthy; eviscerating overtime pay for hard-working Americans; shipping service and manufacturing jobs overseas; all while raising our deficits to record levels.

It is not just the President alone who supports these policies—his administration supports these and other irresponsible policies as well. They have been forthcoming about their priorities and the priorities are out of step with working Americans. Therefore, no one should be surprised when instead of receiving a paycheck they receive a pink slip. No one should be surprised when they lose their house because the administration refuses to extend unemployment insurance benefits. No one should be surprised when retirees see their social security benefits slashed. No one should be surprised when companies move overseas or rely on workers overseas.

Also troubling, just yesterday the Fed Chairman encouraged Congress and the Administration to make cuts into future Social Security payments in order to bring down the deficit. So now this administration is telling men and women who have worked hard their whole lives and are relying on Social Security to help them during their retirement years that they are better off cutting Social Security benefits rather than eliminate the tax cuts that go to the wealthy.

The chairman of the President's Council of Economic Advisors is quoted as saying, "Outsourcing is just a new way of doing international trade. More things are tradable than were tradable in the past. And that's a good thing." American workers are losing their jobs and the Administration says it's a "good thing". That is an extraordinary statement.

In fact, not once in the past month has the President mentioned extending Federal unemployment benefits. What more must happen for this administration to wake up and begin to take meaningful action?

The President talks about tremendous job growth this year. This prediction would only be met if job growth averaged more than 450,000 new jobs each month, about four times the level of job growth in January according to the Economic Policy Institute.

Americans are hurting and instead of taking steps to ensure job creation, this administration continues to call for more tax cuts—tax cuts that will favor the most wealthy, but do nothing for the families that are struggling today. These tax cuts will cost an additional $1 trillion dollars over the next 10 years. What is even more alarming about this is that this is coming at the worst possible time—right when the baby boomers begin to retire.

It is dumbfounding to me that just 3 years ago we were looking at the biggest surplus in our Nation's history—an annual surplus of $236 billion. We were actually having interesting discussions about the effects of paying down the debt too fast. If only we were debating that today. Instead, we are facing an unsustainable fiscal path with the largest deficit in history—a deficit of $521 billion this year, a deficit that if not tackled soon, will have dangerous consequences.

It has been projected that by 2009, if we continue on this irresponsible path, each person's share of the debt will total $35,283. This will lead to a reduction in consumer demand, an increase in interest rates, and it will make it enormously difficult for families across this country to achieve financial security.

Today, the Labor Department reported that 350,000 people filed new claims for State unemployment benefits last week. Just yesterday, the Center on Budget and Policy Priorities estimated that from late December, when the Federal unemployment benefits program expired, through the end of February, 760,000 jobless workers will have exhausted their regular unemployment benefits without receiving any additional Federal aid. More than 4,700 jobless workers in Connecticut will exhaust their benefits without qualifying for additional Federal aid.

So that is why I wholeheartedly support extending Federal unemployment benefits right now. At the very least, we need to reach out to American workers and offer them a lifeline. This ought not be a partisan issue. I urge my colleagues to support this important amendment.

Mrs. FEINSTEIN. Mr. President, I rise to support Senator CANTWELL's amendment to reinstate the temporary emergency unemployment compensation program.

The amendment will reinstate the 13-week Federal unemployment insurance program, extend it for 6 months and ensure that "high unemployment" States continue to be covered.

Given all of the pressures that workers face today—outsourcing, a political environment that is hostile to organized labor, and a lack of high-paying jobs—there is no more pressing issue facing our nation's workforce. And yet although Senate Democrats have asked more than a dozen times to unanimously pass the unemployment extension—each time Senate Republicans have said no. It is time that the Senate stop putting partisanship ahead of what nearly everyone agrees is smart policy.

On February 4, the House of Representatives voted to reinstate unemployment benefits by a vote of 227 to 179, with 39 Republicans defying their leadership and voting in favor of the benefits.

But until the Senate acts, hundreds of thousands of workers will be in the impossible position of trying to feed, clothe, and house their families with no work and no benefits.

These are people who are persistently trying to re-enter the workforce, and yet must contend with an economy that has less than one job opening for every three workers.

Today we can change this. This amendment provides crucial temporary assistance to those who have been hardest hit by the recent economic downturn, and provides them a chance to support themselves and their families while they look for work.

Although the amendment would not provide more than 13 weeks of additional benefits to California, since my State's unemployment rate is 6.4 percent, not high enough to meet the 6.5 percent unemployment rate trigger in the amendment, it provides a meaningful extension for Californians by allowing unemployed Californians who were previously unqualified for unemployment benefits to collect 13 weeks of benefits as they look for new work.

As of today, 2.3 million Americans have lost their jobs since President Bush took office in January 2001.

In total, nearly 15 million Americans are out of work, including discouraged and underemployed workers.

Historically, job loss during a recession is about 50 percent temporary and 50 percent permanent. Today, nearly 80 percent of the job loss is permanent. As a result, many of the unemployed will not return to work soon.

In his Annual Economic Report, President Bush said that the outsourcing of jobs was the inevitable byproduct of an improving economy.

The White House says the "benefits" of exporting American jobs "eventually will outweigh the costs as Americans are able to buy cheaper goods and services and new jobs are created in growing sectors of the economy."

How are people without jobs supposed to buy all these goods and services? How do you keep a consumer economy going when you export all the jobs?

The chairman of the President's Council of Economic Advisors, the office that wrote the report, says the "government should try to salve the short-term disruption by helping displaced workers obtain the training they need to enter new fields, such as health care."

As Senator DASCHLE pointed out, that sounds like a cruel joke. The President's proposed budget for next year cuts money for Federal job training programs. And how do they know that the jobs they are training for will not be the next jobs targeted to be shipped overseas? It certainly will not be because the President is fighting to keep them here.

It seems to me that the jury is in on the course we must take. I think it is wrong to move to a protectionist stance by raising tariffs or promoting a weak U.S. currency. Historically, such strategies have led to more problems than they have solved.

U.S. companies should not be rewarded through our tax code for moving jobs offshore and then be allowed to bring foreign earned profits back into the U.S. at a tax rate that is a fraction of what they pay on their U.S. earned profits—just 5 percent, as compared to 38 percent in some cases.

You and I pay more than five times that in personal income taxes.

We should be encouraging firms to keep jobs here by producing the best trained, best educated workforce in the world.

And, we must help those who are displaced by outsourcing by providing emergency unemployment insurance.

This amendment provides just such a safety net for those who are temporarily displaced by the economic changes that are engulfing us.

I ask President Bush to put his weight behind this effort to get unemployment benefits extended to those who have been looking for a job more than 13 weeks.

If you are the President, you should be cheerleader number one for the American worker. And you should be supporting workers when they find themselves overcome by economic circumstances beyond their control.

When the national economy was booming 4 years ago, California was particularly blessed. California's economy grew at double-digit rates, and California became the fifth-largest economy in the world.

Billions of dollars of investment flowed into our State, and thousands of talented workers moved to California to take advantage of opportunities in Silicon Valley and other growth engines of the New Economy. Now that picture is dramatically different.

After dropping to a decade-long low of 4.7 percent in December of 2000, the unemployment rate in California is back up to 6.4 percent as of the end of 2003.

During this period of economic hardship, we have a duty to give people the chance to get back onto their feet. This is an obligation that we have met in the past, most recently when faced with an economic downturn during the first Bush Administration. The Senate voted in 1991 to extend temporary unemployment insurance on five separate occasions. Each time such extensions were approved by overwhelming bipartisan majorities.

I urge my colleagues to support this amendment and those Americans who have fallen on hard times.

Mr. ENSIGN. Mr. President, how much time does the Senator from Oklahoma wish?

I yield to the Senator 10 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 10 minutes.

Mr. NICKLES. Mr. President, I compliment my colleague and friend from Nevada for his statement.

It is important that we create an environment to create jobs. We did that last year. We didn't have bipartisan support, with the exception of Senator MILLER. But we passed a jobs bill last year. We passed a bill to help grow the economy. Guess what. It is working.

We passed a bill last year that cut the tax on individuals about in half—15 percent. We passed a bill last year that cut the tax on capital gains from 20 to 15 percent. We passed a bill that reduced marginal rates; that took the rate from 27 percent, for example, and made it 25 percent.

As a result of that, the economy is growing. With a rather stagnant economy, the stock market a year ago was less than 8,000; that is, the Dow Jones. It is over 10,500 today. The Nasdaq is over 50 percent. For the last three quarters, we now have significant economic growth. During the last two quarters, one quarter was 8 percent and the other quarter was 4.4 percent.

We have had the most significant rapid expansion of job growth and economic growth in the last several months. In the last 6 months, according to the Wade survey, we have added about 300-some thousand jobs. If you look at the household survey, it is a couple of million jobs. The household survey includes self-employed, working at home on their computers, and so on.

Also, I know this amendment says let us continue this Federal program. We have a State program of 26 weeks. We had a temporary Federal program for an additional 13 weeks. Many tried to make that a permanent program and many tried to double it. They weren't successful in doubling it. Now they are trying to make it permanent.

They want to take a 13-week program that traditionally was temporary and usually phases out when the unemployment rate drops down. The unemployment rate has been dropping down. In 2003, it was 6.3 percent, and it has declined almost every month to 5.6 percent. We have had significant improvement in the number of jobs, and the unemployment rate is 5.6 percent.

But I notice that the proponents of the amendment said: What about the early 1990s? In the early 1990s, we discontinued unemployment temporary assistance when the rate was 6.4 percent. Today, it is 5.6 percent—a full percentage point less than it was several years ago when we had this temporary program.

Some people do not like the idea that it is a temporary program. They would like it to be a permanent program.

It is not.

A couple of other things:

The number of unemployed is falling. If you go back to last year, it dropped from 9.2 million to 8.3 million—again, a significant improvement by almost a million.

The number of Federal extended unemployment benefit claims has fallen dramatically as well. It is declining. That is because economic growth is going up. Yes. Sometimes there is a lag between economic growth and the number of new jobs created because you have a lot of inefficiency in the system.

You have a more productive system. People are producing more with less, people are more efficient, and people are very productive. The productivity index has been skyrocketing. We have had a very productive, efficient workforce. So that is contributing.

I want to make these points. We spent about $30 million in the last 36 months for this program. Again, some people would like it to continue forever. When you have a national unemployment rate of 5.6 percent—I don't know that we have had the Federal temporary unemployment assistance apply at a rate that low. I mention that.

I also might mention that almost half the States have less than 5 percent unemployment.

I used to be in manufacturing. When the unemployment rate was less than 5 percent, it was almost full employment.

You are always going to have an unemployment rate. You are always going to have some people moving from job to job. With a dynamic economy, people basically transfer from job to job. Their job may be phased out, but they are going to another job. That is part of high tech. That is part of modernizing industry. This is part of keeping up. That is part of the dynamics of the marketplace which maybe a lot of people would like to replace. People change jobs. That is not all that unhealthy. Sometimes that next job is a better job. Sometimes that next job might have great growth potential.

This program is a Federal temporary program, and it shouldn't be made permanent. To make it permanent will add $5.4 billion on to the deficit this year. The deficit this year is already over $500 billion, according to OMB. CBO is going to say it is less than that. I happen to agree with the Congressional Budget Office. If you have a deficit of 400-plus or 500-plus billion dollars, let us not add on another 5.4 billion on top of it for this year. Enough is enough.

How long are we going to continue the program? Do we continue this program if the unemployment rate gets below 5 percent? There has to be a time when we say enough is enough.

The current program is in the process of phasing out. When we passed the last bill, we avoided a cliff by December 30. If somebody was in the 13-week program by the end of December, they got the full Federal 13-week extension. We didn't have somebody automatically losing their benefit after 1 week on the Federal program.

We also have a program for high unemployment States. That is a permanent Federal Extended Benefits program. Right now, Alaska qualifies for extended benefits. Nationally, they already get a 13-week Federal on top of the State 26 weeks. So Alaska already has 39 weeks. That is three-fourths of the year.

We have to determine when is enough. I think we have crossed the line. There is a direct relationship—and the Senator from Nevada alluded to this—when we discontinue making extra payments, more people will find work. There is more incentive to get out and find that job, to make sure you get a job, to make sure you can take care of your family.

Tradition has shown—and we saw this in the 1990s—when this program stopped in the 1990s, the unemployment rate declined by another percentage point because a lot of people went out and found jobs. In other words, the more you pay people not to work, the less inclined they are to work. There is a direct relationship. So we should, at some point, draw this program to a conclusion.

We are saying keep the 26 week State program, keep the permanent Federal program for high unemployment States, those States that are really suffering through economic decline. But for the rest of the country, this is not called for. It is not affordable. It will be adding to the deficit. It is out of order as far as the budget is concerned.

I will make a point of order on this but I withhold the vote until all time has expired on both sides. The pending amendment No. 2617 offered by the Senator from Washington increases direct spending in excess of the allocation to the Judiciary Committee. Therefore, I raise a point of order against the amendment pursuant to section 302(f) of the Budget Act.

The PRESIDING OFFICER. The Chair advises the Senator the point of order is not timely. It can be made when all time has expired.

Mr. NICKLES. I will reserve the point and see if additional Senators wish to speak.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. How much time do I have remaining?

The PRESIDING OFFICER. Six minutes five seconds.

Mr. ENSIGN. I will take a couple of minutes.

I asked the Senator from Washington a question a little while ago. Of the $8 billion we gave to the States, each of the States was allocated a certain amount of money and the State of Washington was allocated around $167 million. Up to this point, the State of Washington—this is money on which the legislature in the State of Washington has to act; they take that money and spend it on unemployment benefits—so far has only used about $3.5 million of the $167 million.

Earlier, the Senator from Massachusetts was in the Senate discussing with the Senator from Washington, saying it is difficult to access. Massachusetts has used every dollar they were given at that time—every dollar. So the Senator from Washington, the sponsor of this amendment, her own State has not used the money the Federal Government made accessible to them. It seems to me they ought to at least use that money to help the people in their own State.

Also, we had the Workforce Reinvestment Act that passed unanimously in the Senate. This act would help about 900,000 people in the United States to be retrained for new jobs. The other side is filibustering the appointment of conferees. We need to complete that bill if we want to help those people out of work get retrained so we can get them into other jobs.

Mr. NICKLES. Will the Senator yield?

Mr. ENSIGN. I yield.

Mr. NICKLES. I want to make sure everyone is aware, when you talk about the State has money it has not utilized, are you referring to $8 billion Congress appropriated as part of the package in 2002?

Mr. ENSIGN. Yes.

Mr. NICKLES. There was $8 billion and there is still $4 billion on the table the States have not utilized for the unemployment compensation?

Mr. ENSIGN. There is $4.3 billion that has not been used that we gave the States.

Mr. NICKLES. My colleague mentioned the Workforce Investment Act that passed unanimously through the Senate and for whatever reasons our colleagues on the minority side have not agreed to the appointment of conferees. This is a bill that would help train people to get jobs.

Mr. ENSIGN. They are filibustering the appointment of conferees.

For those people who do not know what that is, we have to appoint people to be able to work out the differences between the House and the Senate so we can bring the final bills back to both before we take it to the White House. They are filibustering a bill that was passed unanimously.

Mr. NICKLES. A further clarification. I find it totally unacceptable and I cannot imagine not agreeing to appointing conferees on a bill that will help get people trained to find jobs.

Also, I make an editorial comment. There is way too much of that happening. Our colleagues should be advised, this not agreeing to appointment of conferees is a travesty on the Senate procedures. Maybe people think it is commonplace. It is not commonplace in the tradition of the Senate.

Mr. ENSIGN. The Senator from Oklahoma is correct, it is a rarely used tactic from the past that has been used increasingly more. It is obstructing the work of the Senate.

I reserve the remainder of my time.

Ms. CANTWELL. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Washington has 3 minutes 7 seconds and the other side has 2 minutes 3 seconds.

Ms. CANTWELL. Mr. President, I will take 2 minutes to try to explain for my colleagues that while I have a great deal of respect for both my colleagues on the other side of the aisle as they argue their points, obviously, we all hope for a better economy; we all hope things are going to get better.

I have some experience with these issues. I have been in the private sector myself and been part of an organization that was about job creation, been part of an industry that has great hope for the future.

The question is whether we want to take stimulus out of the economy by denying people unemployment benefits.

I will not debate the chairman of the Budget Committee about his budget point of order, but I will say most Americans know that they pay into a trust fund, through their employers, and those funds are available at the Federal level in a trust fund for this program. So you can call it what you want as it relates to the Budget Act; these dollars are in a trust fund, paid into by employers on behalf of employees, and those funds can only be used for this purpose.

We can decide we do not want to use them because we think the economy is getting better. That is what the other side seems to say. Unfortunately, that is not what the administration is willing to own up to. Basically, it will not promise job growth after issuing a report saying there will be 2.6 million jobs. And the other side will not own up to the need for job growth or own up to helping unemployed workers.

The last Republican administration took the same problem and had a different outcome. It stepped up its efforts. Even though unemployment was dropping, even though the rate of unemployment was, month by month by month, dropping, and even though employment or new job creation was happening, the first Bush administration said, we believe 9 more months of unemployment benefits is needed.

I am only asking for 6 months today. I ask my colleagues to take that into consideration when they are thinking about all the economic assistance we could be giving. You want to say the tax cut is working. Great. Then ask the President to stick by his economic plan of 2.6 million jobs.

Mr. NICKLES. I am finding out more about this amendment, and the more I find out, the less I like it. The sponsor of the amendment has written it in a way that her State receives extra benefits that most States do not. So this is not a simple extension. It is a simple extension, except a few States will get additional high unemployment assistance.

I am bewildered. I came to the floor and thought it was a simple extension. It is not. It rewrites the definition of high unemployment. It changes the criteria and benefits for the State of Washington, and a probably one or two other States. The State of Washington has money on the table that we have already appropriated that the State legislature has not used, as the Senator from Nevada alluded to.

One final note. We discontinued the Federal temporary assistance program in the early 1990s when the unemployment rate was at 6.4 percent. The unemployment rate today is 5.6 percent. It is much lower. It is time to say, let's go back to the program that has permanent extended benefits only for high-unemployment States, not for every State.

The PRESIDING OFFICER. Who yields time?

The Senator from Nevada.

Mr. ENSIGN. Mr. President, I will wrap up my remarks. I have a couple comments.

First of all, the economy is improving now, it is not just going to improve in the future. We are in the middle of a recovery. We just had the strongest quarter of GDP growth in 20 years. Jobs are being produced.

Payroll versus household—I do not know how many times we have to say it, but self-employed people count. They count in the household survey. Over 2 million jobs have been produced within the last year. When you count the households and all those self-employed people, those jobs should count in what we are talking about here.

If somebody lost their job and then started their own company, that should count as a job. And that is what a lot of people have done. We know incredible success stories of when people have lost their jobs and then started their own companies.

Mr. President, it is time to end this continued unemployment benefit extension, this billion-dollar-a-month program and encourage people to go to work.

The PRESIDING OFFICER. The Chair advises the Senator from Nevada that all his time has expired.

The Senator from Washington has 34 seconds.

The Senator from Washington.

Ms. CANTWELL. Mr. President, I think the point is clear; and that is, this side of the aisle believes the American workers, who have lost their jobs through no fault of their own, should be given assistance until job creation is on the upswing in America so we can move further along this path and so that stimulus is still in the economy.

That has been the result in the past two administrations. The last Bush administration believed in this, and now, somehow, we want to forget that economic success.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, the amendment No. 2617 offered by the Senator from Washington increases direct spending in excess of the allocation to the Judiciary Committee. Therefore, I raise a point of order against the amendment pursuant to section 302(f) of the Budget Act.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. TALENT). The Senator from Idaho.

Mr. CRAIG. Mr. President, pursuant to the unanimous consent agreement, I now ask unanimous consent that this amendment be set aside, and we will now move to the issue on voting rights.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

Mr. CRAIG. I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

AMENDMENT NO. 2626

Mr. McCONNELL. Mr. President, shortly the majority leader will send an amendment to the desk to provide for a permanent extension of the Voting Rights Act of 1965. This was one of the truly landmark pieces of legislation in American history.

Last Congress, Senator DODD and I spearheaded, along with Senator BOND, what became a 2-year quest to reform the way elections are conducted in this country. Senator DODD was correct in saying the election reform legislation we passed was the most important civil rights bill of this century, the 21st century.

With the support of 92 Members of this Chamber, we were successful in protecting the rights of all Americans—all Americans—to cast a vote and have it counted, but to do so only once. Gone will be the days of dogs and dead people registering and voting, and so, too, will be the days of faulty equipment and being turned away at the polls. Now the majority leader shortly will offer an amendment which makes permanent the most important civil rights bill of the previous century, the 20th century.

If I may, let me recall a personal experience I had during that period in the 1960s that is indelibly imprinted on my mind. The day was August 28, 1963. It was the day Martin Luther King Jr. made that "I Have A Dream" speech from the steps of the Lincoln Memorial. The Mall was crowded with folks from here at the Capitol all the way down to the Lincoln Memorial. And in that crowd I found myself. I was there the day of the March on Washington and the day of the "I Have A Dream" speech. Unfortunately, I could not hear it because I was so far down the Mall, and there were so many people I did not hear the speech. But you had the sense, if you were in the crowd that day, and sympathetic with the effort to get voting rights, public accommodations, and fair housing, that you were in the presence of one of those seminal moments in American history.

Of course, we now all reflect on that day, August 28, 1963, with great reverence, and Rev. Martin Luther King, Jr.'s speech is remembered as one of the great speeches in American history, delivered that day on the steps of the Lincoln Memorial, August 28, 1963. I will always remember that I had an opportunity to be a part of that most important day.

A couple years after that, we passed the Voting Rights Act of 1965. There were three things that march was about: public accommodation, passed in 1964; voting rights, which passed in 1965; and fair housing, 1968. But voting, of course, is the most important in a democracy.

Over the years, the Voting Rights Act has successfully addressed truly egregious problems which existed at that time. Unfortunately, though, the pattern of the Voting Rights Act is to not make it permanent and, once again, it is set to expire in 2007.

The protections in the Voting Rights Act are, frankly, too important to provide on only a temporary basis, and that is the reason the majority leader will be offering shortly his amendment to make the Voting Rights Act permanent.

The majority leader, in fact, just within the last couple of weeks organized a civil rights pilgrimage which was attended by a number of our colleagues on both sides of the aisle. My wife Elaine and I went to part of this 3-day pilgrimage that began in Alabama and ended in Nashville, with the dedication of the Civil Rights Room of the Nashville Public Library, which is replete with photographs of the lunch counter sit-ins in Nashville in the 1960s, which led to the peaceful integration of Nashville during that period.

This was a meaningful experience for all of us who participated, at the majority leader's request, in this pilgrimage. Congressman JOHN LEWIS was along, one of the great heroes of the civil rights movement. We talked about August 28, 1963. He got to speak. He was the youngest speaker on the podium that day. Young JOHN LEWIS was there and thrilled to have an opportunity to speak, at age 23 or 22, on the same day and from the same podium as Rev. Martin Luther King.

I can think of no better way to memorialize our commitment to a free and equal society than the adoption of the Frist amendment. This amendment makes the preclearance and bilingual requirements permanent, providing a clear message from the Senate that we stand committed to not only the protection of civil rights but also to the preservation of those rights as well.

Some may suggest this action is premature. But how can the law of the land for 39 years be premature? Further, the language of the amendment is abundantly clear: "the provisions of this section shall not expire." Let me repeat, in the amendment it says: "the provisions of this section shall not expire."

I cannot think of any reason why anyone on either side of the aisle would oppose the protection of the franchise of all Americans. If so, we potentially jeopardize the fundamental tenet of our representative democracy.

In conclusion, I commend the majority leader for this amendment. It is an excellent amendment. This is a step we should have taken years ago. I commend him for offering the amendment today. I hope it will be adopted by the Senate on an overwhelming bipartisan basis.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for himself and Mr. McCONNELL, proposes an amendment numbered 2626.

Mr. FRIST. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To make the provisions of the Voting Rights Act of 1965 permanent)

At the end, add the following:

SEC. ___. MAKING THE PROVISIONS OF THE VOTING RIGHTS ACT OF 1965 PERMANENT.

(a) PERMANENCY OF PRECLEARANCE REQUIREMENTS.—Section 4(a)(8) of the Voting Rights Act of 1965 (42 U.S.C. 1973b(a)(8)) is amended to read as follows:

"(8) The provisions of this section shall not expire.".

(b) PERMANENCY OF BILINGUAL ELECTION REQUIREMENTS.—Section 203(b)(1) of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a(b)(1)) is amended by striking "Before August 6, 2007, no covered State" and insert "No covered State".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

Mr. FRIST. Mr. President, the amendment I have offered is the amendment my distinguished colleague from Kentucky spoke to a few moments ago. I introduce this on behalf of the Senator from Kentucky and myself in response, in part, to the expiration of a portion of the Voting Rights Act. I will speak to the details of it shortly.

By way of introduction, 2 weeks ago, Congressman JOHN LEWIS and I participated in a trip to sites in Alabama and in Tennessee that reflected important times and places in those States as they pertained to civil rights and the movement of nonviolence and the struggle for voting rights. We had a wonderful, powerful trip crossing Selma's Edmund Pettus Bridge where almost 40 years ago Congressman LEWIS had led marchers in the name of voting rights for all.

The stories were powerful. They endured the beating without striking back, and they faced the hatred with the power of compassion and love.

Their courage captured a victory that has been to the benefit of millions today, not just for African Americans but for others all over this country. I was deeply moved by their courage and their sacrifice at the time, and I am grateful for their service.

This year, the 39th anniversary of the Voting Rights Act occurs. That act enshrined fair voting practices for all Americans. The act reaffirms the 15th amendment to the Constitution and prohibits individuals and governments from sabotaging the ability of African-American citizens to vote.

Dorothy Cotton, one of the participants with Congressman LEWIS and I, who ran the Citizenship Education Project of the Southern Christian Leadership Council with Andrew Young, remarked that she remembers when voting registration offices were open only when most African Americans were working during that time of day. Rev. Bernard Lafayette, who was also with us, another great civil rights leader, remembers routine harassment at the registration office, such as being required to interpret obscure sections of the U.S. Constitution or—and his words are so vivid in my mind—being required to give the number of bubbles in a bar of soap.

Clearly this was wrong. It was ugly, and it was unconstitutional. That is why the Congress moved to pass the Voting Rights Act of 1965, to once and for all protect the right of every American to vote.

The Voting Rights Act also includes section 4, and it will be up for reauthorization in 2007. President Reagan reauthorized it for 25 years in 1982. Section 4 is the section that contains the temporary preclearance provision that applies to certain States: Alabama, Georgia, Louisiana, Mississippi, South Carolina, Texas, Virginia, and parts of Alaska, Arizona, Hawaii, Idaho, and North Carolina. These States must submit any voting changes to the U.S. Department of Justice for preclearance and, if the Department of Justice concludes that the change weakens the voting strength of minority voters, it can refuse to approve the change.

Section 4 provides an important measure of assurance that the full force of the U.S. Government stands behind voting rights for all Americans. That is why Senator MCCONNELL and I today are offering an amendment to permanently reauthorize section 4 of the Voting Rights Act. With or without section 4, every American has the right to vote. That will never change. However, Senator MCCONNELL and I want to make clear that America will never renege on the hard-fought gains of the civil rights movement. We don't want anyone to fear that their right to vote will ever be taken away. Those shameful days are over.

Some of the heroes of the civil rights movement have endorsed this particular amendment. Congressman JOHN LEWIS supports it.

Rev. Bernard Lafayette, who joined Congressman LEWIS and I—actually Bernard Lafayette went with us on our pilgrimage last week, but also he and JOHN LEWIS were together at that fateful time in 1965 for the march in Selma. His words were this amendment would be an "important psychological and political victory for democracy."

It is my fervent hope that one day soon racism and discrimination will be totally a thing of the past. Until that time, it is critical that the Justice Department retain this preclearance authority to review changes to State voting requirements, not only to allay fears that might arise but also to enshrine our progress to date.

I do hope all of my colleagues will join me in ensuring the Federal Government will do all it can to protect the right to vote for all Americans. I ask my colleagues on both sides of the aisle for their support of this amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself such time as I may consume.

I commend our majority leader for his strong statement and commitment of ensuring that the Voting Rights Act, which is of fundamental and key importance in terms of what American democracy is all about, is something that he wants to see and will extend it and that he is fully committed to working in every possible way to make that commitment come true. I also commend my friend and colleague from Kentucky, Senator MCCONNELL, for expressing similar sentiments. But this is not the best way to achieve that goal.

What is important to come out of this debate is that the Senate, as an institution, is firmly committed, as we hear from the majority leader and from the leadership from that side, to making sure we continue the Voting Rights Act. The real question is, How is the best way to make sure that is possible?

I was here in 1964 when we addressed the public accommodations laws and offered the amendment to eliminate the poll tax, and it was defeated. I was here in 1965. I am very familiar with the weeks we spent on that bill to actually get the Voting Rights Act.

I was on the Judiciary Committee in 1982 and listened to the Republican Attorney General William French Smith—I can remember it almost as if it were yesterday—because the extension of the Voting Rights Act had been offered by myself and my wonderful friend and a great Senator, a Republican Senator, Senator Mathias. We had 32 votes. The Reagan administration was opposed to extending the Voting Rights Act. That is the history.

Until the House of Representatives passed the Voting Rights Act overwhelmingly, we were unable to get to 50 votes and get a majority of the Judiciary Committee to vote to pass that out. It was only in the final hours actually that we were able to accept what was the Dole amendment.

Those who are interested in looking at the history, we were able to get up to more than a veto-proof majority, and President Reagan signed the bill.

This is not an issue to be lightly dealt with. This right to vote is a core issue in our country. We enshrined slavery into the Constitution. We fought a civil war to free ourselves from the pains of discrimination. It was Dr. King, quite frankly, who awakened the conscience of the Nation and the Nation came together and we saw the great progress that was made in the early 1960s to move us ahead with voting rights and public accommodations. Then, in 1968, we passed the Housing Act which really did not do a great deal in housing until actually the 1988 act.

This has been a long march, as the Senators have pointed out. We have to ask ourselves whether now is the time to take this action.

Let me read into the RECORD the letter I have received from the Leadership Conference on Civil Rights. I read it at this time:

> On behalf of the Leadership Conference on Civil Rights, the Nation's oldest, largest, and most diverse civil and human rights coalition, we write to express our opposition to the amendment being offered by Majority Leader Frist to the protection of the Lawful Commerce in Arms Act, S. 1805, to make the preclearance of the minority language provisions of the Voting Rights Act permanent.

> The Voting Rights Act is one of the most important civil rights statutes ever enacted by Congress. This law, which enforces the 15th amendment, has been successful in removing direct and indirect barriers to voting for African Americans, Asian Americans, Latino Americans, and Native Americans. And since its passage, the act has survived narrow interpretations by the United States Supreme Court only to be amended by Congress to restore its original strength. Nevertheless, voting disenfranchisement still exists today.
>
> As you know, the VRA's preclearance and minority language provisions are scheduled for reauthorization in 2007. We in the civil rights community plan to actively engage in the process, including working to establish a strong legislative record in support of reauthorization.

I underline, Mr. President, the language that says "establish a strong legislative record in support of reauthorization." That is a key phrase in terms of this letter and for reasons to which I will refer in a moment.

> Nevertheless, we oppose the Frist amendment because it is premature. Critical analysis of issues surrounding preclearance of minority language provisions of the Voting Rights Act have not yet been fully examined and analyzed carefully to reflect the current status of our laws, court decisions, enforcement actions, and society.
>
> The Supreme Court has made it clear in recent years that it will require Congress to establish a detailed record through hearings and legislative findings in order to ensure that provisions such as these survive constitutional scrutiny.
>
> Therefore, while we plan to strongly support the reauthorization of these important provisions, we urge you to vote no on the Frist amendment.

The reasons for this urging are the relevant parts of this letter which have strong justification, given holdings by the Supreme Court on other actions that the Congress has taken in trying to expand rights and liberties for American citizens, and which have been struck down.

Time in and time out and time and again the courts have referred to the legislative record that has been made on the Voting Rights Act. I remember it. I was a member of the Judiciary Committee. I remember the days and months of hearings and testimony, an extraordinary record was made, unparalleled in recent history, justifying that act, respected by the Supreme Court. And we are going to say that last night at 11 o'clock the Senate agreed to take up an amendment with a 1-hour time limitation that is going to extend this, and the possibility of the Supreme Court looking back, when it is challenged—as we know it will be challenged—at the legislative history, the background, and they will find we had 1 hour of debate on the floor of the Senate and put at risk the Voting Rights Act.

There are some—not the Senator from Tennessee, the majority leader, or the Senator from Kentucky, but there are those who want to see this undermined. We know that. We have to be guarded against that possibility. Voting rights are too important to risk it.

Those families, those individuals, those Americans who are concerned about the issue of voting rights and in so many instances have been denied the right to vote and whose families have been denied the right to vote and have suffered, and in some instances have friends and family members who lost their lives in the struggle for civil rights, say to us, let us do what we believe is necessary to do. Let us not have an abbreviated legislative process.

Let us go to what the Supreme Court has recognized as being the way to ensure we will have the kind of protection for this most basic and fundamental right, and that is do it through the legislative process, through the hearings, through the testimony, through the evidence that will be collected and debated on the Senate floor. That is effectively what is being said by the leadership conference.

That is why I am instructed, under more careful consideration, that Congressman LEWIS, having read this and consulted with lawyers and constitutional authorities this afternoon, is opposed to this amendment.

As I say, I am sure the majority leader understands the Supreme Court decisions that say how important it is to require a substantive record is made, and we do not have that record on the basis of an hour's debate this afternoon.

The recent experience in the courts, in the Supreme Court decision of Nevada Department of Human Resources v. Gibbs, and City of Burns v. Florida, show the Court will require a substantial legislative record when reviewing any future challenge to the provisions made permanent by this record. That is the holding of the Supreme Court, that they will require a substantial legislative record.

We do not have a substantial legislative record. That is not a part of this debate. As a result, the Senate should take every necessary step to develop that substantial record that will ensure any amendment will withstand the constitutional scrutiny.

I want to give assurances to the majority leader and my friend from Kentucky that we on the Judiciary Committee will work eagerly with the leadership on the other side to make sure when we come to grips with this issue, when we deal with the issue on the Senate floor and we have the full kind of debate and discussion, it will have the kind of background, experience, record, testimony, and extensive, exhaustive historical context so it will meet any possible challenge before the Supreme Court.

We do not have that. According to constitutional authority, we are risking not only the provisions we are talking about but the underlying legislation. That is a risk this Senator is not prepared to support. So I respect and admire the motives that have inspired our colleagues and friends to offer this amendment, but I have to indicate virtually the unanimous recommendation of those who have benefited from the Voting Rights Act are in strong opposition to this amendment and have instructed me to make their positions clear to the membership of the Senate.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Idaho.

Mr. CRAIG. Might I inquire how much time is remaining on either side?

The PRESIDING OFFICER. The Senator from Idaho has 16 minutes and the Senator from Massachusetts has about 16 minutes 40 seconds.

Mr. CRAIG. Might I inquire of the Senator from Massachusetts if he has anyone further who wishes to speak in opposition to the Frist amendment?

Mr. KENNEDY. First, I will make a few comments. I have been notified I have one other colleague who will be on his way in the next 4 or 5 minutes. If not, we will be glad to go on.

Mr. CRAIG. Fine.

The PRESIDING OFFICER. The Senator from Idaho has the floor. Does the Senator yield the floor?

Mr. CRAIG. I do.

The PRESIDING OFFICER. The Senator from Idaho yields the floor.

The Senator from Massachusetts.

Mr. KENNEDY. I yield myself 5 minutes.

Mr. President, we have to understand, as I think all of us do, that obviously the underlying legislation is important. I have spoken on this issue. I take strong exception to what is special interest legislation and singling out a particular industry from liability. That is important. The provisions that have been debated earlier this afternoon on the concealable weapons are very important as well in terms of safety and security. We debated the armor-piercing bullet. That is important in terms of lives and family. When we are talking now about the right to vote and ensuring the right to vote, this reaches the core value of our society and what this Nation is all about.

We know the history of our Nation. I mentioned very briefly slavery was enshrined in the Constitution. We fought a civil war in order to free ourselves from it. But it was only in the early 1960s that we began to make the real progress. The most important of all of those kinds of civil rights was the right to vote and the extension of that right and the elimination of the poll tax, the literacy tests, all of the other kinds of tests that were put up there. This country has been reminded once again about the importance of the right to vote in the recent Presidential elections where we saw this enormous fiasco that took place in the State of

Florida, the future of this country ultimately being decided in the Supreme Court of the United States rather than the hands of the American people.

So the American people understand the importance. It is almost like a sacred right. If we were to talk about sacred rights in terms of what this society and country is about, it is about the right to vote. Nothing else is possible unless we have the right to vote, guaranteed to all of those citizens in our country who are eligible to have that right. It is fundamental to everything else this society is about.

We know it is being challenged and we know there are many who would set it aside. We have seen that in recent times. We have seen the threat to the right to vote. Even after we understand some of the difficulties we had in the last Presidential election, we have seen the difficulty we have had in this body and around the States to make sure we were not going to have that problem again and again. We have not solved the problems we had, but we have to preserve it and protect it and we cannot tamper with this very important and significant responsibility we have.

As I said before, I eagerly look forward to working with our two colleagues, who have spoken eloquently about their strong commitment, in ensuring that we are going to have an extension of the Voting Rights Act. I look forward to working with them in the Judiciary Committee. I know our two colleagues are not members of the Judiciary Committee, but we have enormous respect for them and their strong support will make an incredible difference in ensuring we will get the extension, we will build the record, and we will ensure the next time we pass this, we will have the kind of record that will be sustained in this Supreme Court and any future Supreme Court.

We do not want to put that at risk now. We do not want that. That is not a wise decision. The people who have suffered too long and been denied that right to vote believe very strongly that to be the case. I think we should observe their very serious concerns, follow those, and work to build the kind of record that will survive any constitutional scrutiny and ensure that rather with the existing protections we have, we are going to create even greater ones.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. If the Senator from Idaho wishes to yield back his time, we can do so.

Mr. CRAIG. I thank the Senator. I believe we have one of our colleagues still yet to come so we will wait for him for a short time. Time is running on this amendment.

How much time remains on this side?

The PRESIDING OFFICER. The Senator has 15 minutes 7 seconds. The Senator from Massachusetts has 11 minutes 40 seconds.

Mr. CRAIG. I appreciate that. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. DODD. Mr. President, I just received word on what we are now debating. I make a parliamentary inquiry. Am I correct that this is a Frist amendment to this bill?

The PRESIDING OFFICER. That is correct. The majority leader offered the amendment.

Mr. DODD. The Frist amendment is amending the Voting Rights Act; is that correct? It would make the preclearance and minority language provisions of the Voting Rights Act permanent; is that correct?

The PRESIDING OFFICER. That is the Chair's understanding.

Mr. DODD. I thank the Chair very much for that.

First let me express my gratitude to the majority leader for having a strong interest in this. As someone who for the last several years, since the election of 2000, has spent a great deal of time on the conduct of Federal elections, I worked closely with MITCH MCCONNELL and KIT BOND of Missouri and Congressman BOB NEY of Ohio, who chairs the House committee and has jurisdiction over Federal elections over in the other Chamber, along with a number of other people. There were a lot of people involved in this, but we were able to put together the HAVA Act, the Help America Vote Act. It is in the view of many the first civil rights legislation of the 21st century. Some have called it the most significant legislation affecting the right to vote since the Voting Rights Act of 1965.

Certainly, one of the issues we looked at and discussed rather briefly was the issue of the reauthorization of the Voting Rights Act when it comes to language minorities. But when we were dealing with that bill, we did not vote to make permanent those provisions. And for good reason.

This is a very important part of the Voting Rights Act, these language minority and preclearance provisions. It is hardly the place, I suggest, with all due respect to those who are interested in this, as a floor amendment to any bill here. We are on a bill addressing the issue of guns, and rather suddenly we are asked to permanently change one of the most profoundly important laws in our nation.

Just to cite one example to my colleagues, if we adopt this today—there is a group very much in the news at this very hour. And that is the people of Haiti. Now, there is a substantial population in the State of Florida of people who are formerly from Haiti, Haitian Americans. If this language is adopted, some have raised concerns that it could have the effect of making it more difficult for Americans of Haitian background, who do not speak English as a first language, to obtain the voting information and technologies to which they might otherwise be entitled and which they might require in order to cast a ballot. The same concern has been raised about Americans of other backgrounds, as well, for whom English is not a first language.

I don't think there is a single Member in this Chamber who wants to vote today on a provision that could make it more difficult, if not impossible, for thousands if not tens of thousands of citizens, in effect, to vote. But we are told by those who deal in this issue every day that this amendment could have that effect. If we adopt this amendment in an hour's debate here, rather than after the kind of thoughtful analysis that should go into this, it could actually result in discrimination against Americans who clearly are language minorities. I am confident that none of us wants to see that happen.

This is hardly the time, place, and manner to make such a profound change in law. Frankly, I don't have a prepared speech. I was just listening to this debate in my office, and having worked on this issue, I know how much time you take to get this right. To come over and have an amendment adopted that could permanently exclude a substantial part of our citizenry from the language minority provisions, I don't think we want to be on record on that today.

These provisions of the Voting Rights Act, by the way, doesn't expire until the year 2007. We have 3 years. I think it is always wise to get something done when you can get it done. But the normal way you proceed is to sit down, work these things out, listen to people, and examine whether or not certain groups qualify or should qualify. But I don't think anyone would exclude from the Voting Rights Act potentially countless people who have come to this country for reasons with which we are all unfortunately too familiar, and who clearly qualify as language minorities.

I, for one, cannot vote for this. I wouldn't want to be on record supporting this. I would like to work with the majority leader and others who would like to figure out how to get this done. I will do it this year.

The Leadership Conference on Civil Rights has stated as much themselves in a letter they sent to the majority leader. It was dated today, to give you some idea of how fast this is moving. They say in their concluding paragraph:

> While we plan to strongly support the reauthorization of these important provisions, we urge you to vote no on the Frist amendment. The reasons are that this is a complicated process that takes some time to make sure you are including those who deserve to be included and excluding those who may no longer or should not be included under the language minority provisions.

They believe it is premature. Their critical analysis of the issues surrounding the preclearance and minority language provisions has not been fully examined and analyzed. I hope no one would suggest otherwise. A floor amendment is hardly the place.

If you hold a vote and exclude multiple language minority groups because you've made this law permanent after a one-hour debate, I would think you would ask your leadership to pause a minute and analyze whether this is correct. If it is correct, should we amend this language? Should we include them? If not, why not? Shouldn't there be a more thoughtful way to proceed on a matter of this import?

There is no other right, in my view, that is as important as the right to vote. It is a right upon which all other rights depend. It is the central ingredient for our democracy—the right of people to vote.

We have understood over the years that there are those who come to our shores and become wonderful Americans who have language barriers. If those people are excluded from the process of engaging in electing Federal officials and electing the leadership of this country, then we are not fulfilling our obligation historically to see to it that this basic, fundamental right is being protected.

I am very much interested in seeing us make permanent, if we can, these language minority and preclearance provisions of the Voting Rights Act. I would like to do it in a way that is far more deliberative than a 1-hour debate on the floor of the Senate dealing with a gun manufacturer bill. This is not the way we ought to be doing business on something as fundamental as the right to vote.

I prefer not to vote no on this. I would prefer this amendment be withdrawn and then resubmit it under proper circumstances so we can have the opportunity to do the analysis necessary to arrive at right conclusions.

I am the only one speaking about this at this particular moment.

I don't know what the time frame is. Is there a limited time of debate? I make an inquiry of the Chair.

Are we going to vote on this matter in a few minutes?

The PRESIDING OFFICER. The Senator's side has 3 minutes 16 seconds remaining. The Senator from Idaho has 12 minutes 52 seconds remaining. The Senate is operating under a unanimous consent agreement according to which 1 hour was allowed for debate of this amendment.

Mr. DODD. Do I understand that at the conclusion of roughly 15 or 16 minutes we will then vote on amending major provisions of the Voting Rights Act?

The PRESIDING OFFICER. After voting on the Cantwell amendment, under the previous order, the Senate will vote on this amendment.

Mr. DODD. Mr. President, I urge colleagues to think twice about this. It is the Voting Rights Act of 1965 that we are talking about. We are talking about amending this act permanently and possibly excluding major ethnic groups in this country permanently. Please. This issue requires more thought than it can be given here. This is not the way to go about changing one of the most important laws ever enacted in our great country. We should not in effect tell our colleagues that they have 15 minutes to decide on whether or not potentially millions of Haitians, Africans, Asians, Hispanics, and Europeans would be permanently excluded from key protections of the Voting Rights Act when we have 3 more years to make that decision.

To do this on an amendment to a gun manufacturer bill is stunning to me. Why would we take something as critical and important as the Voting Rights Act and throw it on the table without further consideration and thought?

I urge my colleagues in the time they have to please talk to the majority leader and see if we can't pull this back by unanimous consent and let those of us who spend time on these issues sit and work on this. This is no way to be dealing with millions of people in our country who deserve the right to vote and to be protected properly under language minority and preclearance provisions.

I make that plea to my colleagues.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Idaho.

Mr. CRAIG. Mr. President, I think all of us prefer when we deal with certain subjects that all amendments to the underlying subject be germane. That isn't the way the Senate works. Certainly my colleague from Connecticut knows there are other amendments being discussed today that by no stretch of the imagination are germane.

But this is a critical issue. It is timely. It is necessary. We speak to it. That is why the majority leader brought it to the floor. It is critical to our country that we continue to show our openness as we reach out and become inclusive with all of those who as citizens have the right to participate in the electoral process. That is exactly what we are about.

We have one colleague who still wishes to speak. He will be here in moments.

How much time remains?

The PRESIDING OFFICER. The Senator has 11 minutes 57 seconds, and counting.

Mr. CRAIG. Mr. President, I will put us into a quorum call for a few moments anticipating his arrival.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant Journal clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I join in support of this important amendment for permanent extension of the Voting Rights Act. Voting is fundamental in our democracy. It has yielded enormous returns.

We know of the historical discrimination against minorities, against African Americans.

The essence of a democracy is a free electorate. Voting rights are very important. It ought to be on our books on a permanent basis.

I think it is so fundamental that it doesn't take long to express the underlying reasons for its importance and the fundamental reason why it should be in existence of the law on a permanent basis.

I support this amendment.

In the absence of any other Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant Journal clerk proceeded to call the roll.

Mr. CRAIG. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. The Senator has 6 minutes 51 seconds.

Mr. CRAIG. I yield the remainder of our time to the Senator from the State of Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. Mr. President, I come to the Chamber in a hurry because it has come to my attention that this amendment, which is perhaps in a technical sense not germane to the main bill in the Senate—but I understand there is an agreement that it could be considered and would not be out of order—but my concern is this: The Voting Rights Act of 1965 was an important landmark in the Nation's history. It was passed by the Congress in an attempt to make sure that no person, regardless of race, regardless of color, was denied their right, their fundamental right to vote. This was long overdue, very important, and certainly a result to which we all continue to aspire.

Perhaps Members of the Senate who have, like me, not had a chance to study this amendment in great detail, or perhaps what the ramifications of this amendment are, might be interested to know a few facts; that is, that the Voting Rights Act does not apply to all the States in the Nation. In other words, we are being asked to extend the Voting Rights Act only as it applies to a handful of primarily Southern States.

In 1965, perhaps it made sense to apply the Voting Rights Act to just a handful of States that historically and, yes, tragically, had a history of denying minorities their rights to be American citizens and enjoy the franchise unimpeded by those who would deny them that right. But this is not 1965. This is the year 2004.

If, indeed, this presumption, in essence, that says in order to change the way in which you conduct your elections, before you redistrict your State and electoral districts, you must seek permission from the Department of Justice, if indeed, that is still good policy for the States that are covered by the Voting Rights Act, I submit it is good policy for the Nation as a whole. I doubt in all seriousness that many Members of this body understand what they are being asked to do, which is to extend this act only to a handful of States.

As I say, if it is good policy, I believe it should be extended to the entire Nation. Obviously, we have come a long way in this country since 1965. Some may argue that some States should have a presumption of guilt while others should have a presumption of innocence. But, indeed, I believe there ought to be a uniform policy that applies to the entire Nation when we are talking about something as important as voting rights and when we are talking about something as important as protecting the voting rights of all Americans, including minorities who have, in fact, suffered discrimination in the past.

I raise the question for my colleagues, those who are listening, to ask whether we truly understand what the implications are of this amendment and how it would affect the entire country, and how in practice, if I understand the amendment correctly, it would only apply to a handful of States. There is an agreement under which second-degree amendments are out of order, or I would offer an amendment to apply to the entire Nation, if that were permitted. But under this arrangement, under this agreement, I can merely ask the question for my colleagues to ponder if this policy should apply nationwide and not just to a handful of States, including my State of Texas.

I yield back any remaining time to the Senator from Idaho.

Mr. CRAIG. I thank my colleague from Texas.

I inquire as to the time remaining on both sides.

The PRESIDING OFFICER. The Senator from Idaho has 1 minute 42 seconds, and the Senator from Massachusetts has 1 minute 10 seconds.

Mr. CRAIG. The Senator from Idaho is prepared to yield back. The Senator from Massachusetts is prepared to do so.

Mr. REID. He is not ready yet.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. CRAIG. I do not.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. CRAIG. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I yield back time on this side.

The PRESIDING OFFICER. The Senator from Nevada yields back remaining time on his side.

Mr. CRAIG. I yield back the remainder of my time. The unanimous consent we are operating under moves us to two votes, the Cantwell unemployment extension and the Frist voting rights.

Have the yeas and nays been called on both of these amendments?

The PRESIDING OFFICER. The yeas and nays have been ordered on the Cantwell amendment.

Mr. CRAIG. I ask for the yeas and nays on the voting rights amendment.

The PRESIDING OFFICER. The yeas and nays have been requested on the Frist second.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON AMENDMENT NO. 2617

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the motion to waive the Budget Act with respect to the Cantwell amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL) is necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

The PRESIDING OFFICER (Mr. SMITH). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 58, nays 39, as follows:

[Rollcall Vote No. 18 Leg.]

YEAS—58

Akaka
Baucus
Bayh
Biden
Bingaman
Bond
Boxer
Breaux
Byrd
Cantwell
Carper
Chafee
Clinton
Collins
Conrad
Corzine
Daschle
Dayton
DeWine
Dodd
Dole
Dorgan
Durbin
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
McCain
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Smith
Snowe
Specter
Stabenow
Talent
Voinovich
Wyden

NAYS—39

Alexander
Allard
Allen
Bennett
Brownback
Bunning
Burns
Chambliss
Cochran
Coleman
Cornyn
Craig
Crapo
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McConnell
Miller
Nickles
Roberts
Santorum
Sessions
Shelby
Stevens
Sununu
Thomas
Warner

NOT VOTING—3

Campbell
Edwards
Kerry

The PRESIDING OFFICER. On this vote, the ayes are 58, the nays are 39. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

Mr. CRAIG. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Ms. CANTWELL. Mr. President, while there were 58 votes—a majority voted for this amendment—we will come back to address this again and again because we are going to see job growth is not happening at the pace people believe. While we have postponed it today, thinking the UI trust fund is not being used as part of our deficit, the UI trust fund should go to these unemployed workers. We will be back to debate this issue again.

I yield the floor.

AMENDMENT NO. 2626 WITHDRAWN

Mr. FRIST. Mr. President, I ask unanimous consent that my amendment No. 2626, which was to be considered next, be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the majority leader for his superb statement, and I also thank the Senator from Kentucky for his comments in support of the extension of the Voting Rights Act. He made an eloquent statement and sent a message which I know is well received across this country. As a member of the Judiciary Committee, I want to work with him and the Senator from Kentucky to try to achieve what he wants, and that is the permanent extension of the Voting Rights Act. We will work closely with him to try to get it done in a timely way.

I thank him very much for focusing attention on this issue. I am grateful to him for his leadership.

Mr. President, on a final point, I draw the attention of the Senate to this vote on unemployment compensation. A wide majority, a broad majority of Republicans and Democrats in the Senate voted for extension of unemployment benefits. I commend the Senator from Washington for her leadership on this issue. I know she believes, as I do, that this is not the end of the fight but just one of the innings of fight. I thank her for her leadership.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, briefly, I also thank the majority leader and others for agreeing to vitiate the vote on the Voting Rights Act. I underscore the comments made by the senior Senator from Massachusetts to work with the majority leader and others interested in getting this done. It can be done rather simply. We do need to build a record on the issue. That is exactly the way to go.

I commend the majority leader for moving on this. We do not want to wait until the year 2007. I thank him.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. We will move on now, under our unanimous consent request, to a Mikulski amendment, a Frist amendment, a Corzine amendment, a Frist amendment, and a Bingaman amendment. At this moment, I do not think we are quite ready to move on, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I have spoken to the manager of the bill for the majority and spoken to the majority leader. It is their intention, and I think it is a good idea, to have Senator MIKULSKI finish her amendment. She has 40 minutes. Following that, there would be an amendment offered by the majority. When we complete the debate on those two matters, we would vote on those two matters. We would, in fact, have two votes, and they would be stacked. Following that, we would again look at the schedule and see where we are.

The PRESIDING OFFICER. The Senator from Maryland.

AMENDMENT NO. 2627

Ms. MIKULSKI. Mr. President, I have an amendment concerning the DC sniper victims, and I send it to the desk on behalf of myself, Senators SARBANES, LAUTENBERG, CORZINE, and CLINTON.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maryland [Ms. MIKULSKI], for herself, Mr. SARBANES, Mr. LAUTENBERG, Mr. CORZINE, and Mrs. CLINTON, proposes an amendment numbered 2627.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To exempt lawsuits involving a shooting victim of John Allen Muhammad or Lee Boyd Malvo from the definition of qualified civil liability action)

On page 8, line 22, strike "or".

On page 9, line 2, strike the period and insert "; or".

On page 9, between lines 2 and 3, insert the following:

"(vi) an action involving a shooting victim of John Allen Muhammad or Lee Boyd Malvo.".

Ms. MIKULSKI. Mr. President, I rise on behalf of my Maryland constituents and other neighbors across the Potomac to offer an amendment on behalf of the sniper victims. My colleagues might remember that over 1 year ago, the citizens of Maryland, Virginia, and the District of Columbia were terrorized by snipers. Soccer games were cancelled. People were afraid to buy gas and terrified to go into a Home Depot. What was happening was that 10 innocent people were killed while they were mowing their lawn or getting gas or while a new bride was going shopping at Home Depot to gussy up her home, or one was a bus driver getting ready to do his duty. These families have experienced tremendous loss, and the Nation mourned with them.

We so thank our law enforcement agencies for helping us catch the snipers and the judicial system that is working to try them, but now we also need to make sure that we protect the victims and the victims' families.

I bring to the attention of my colleagues that the legislation Congress is considering now could inflict further pain on the families. It could slam the courthouse door on the families of the sniper victims and on all Americans who believe they are harmed by negligent actions related to guns. It gives gun dealers and manufacturers a free pass, and it will prevent families and survivors from holding irresponsible stores accountable if they are negligent.

It actually would prohibit these families from going to court to seek redress, for it would actually prohibit them from letting a jury of their peers decide if a gun store or a manufacturer was negligent.

If this legislation passes, one could still go to court over a toy gun but not a real gun. I think that is wrong.

My amendment is to make sure the sniper victims and their families have a right to go to court. Before I tell my colleagues about those families, let me tell my colleagues what my amendment will do. My amendment protects the legal rights of the families. It allows current and future cases by sniper victims and their families to proceed.

Currently, one case is pending in Washington State court. It creates an exemption to the text of S. 1805 for all cases involving a victim of John Allen Muhammad or Lee Boyd Malvo. This is a very narrowly drawn bill. It does not exempt any other cases. It does not impact on any of the legal standards of the bill, and it does not prevent a court from dismissing a case if there is no negligence.

What it does is create an exemption only, and I emphasize "only," for cases involving a victim of John Allen Muhammad or Lee Boyd Malvo. This is the Maryland-DC-Virginia sniper case.

I in no way want to create any ambiguity in this bill or create a loophole in this bill. But this is a very serious matter. I am here in behalf of those families.

Conrad Johnson, who was the sniper's last victim, I remember hearing the news when he was shot at a bus stop in Montgomery County. He was killed by the sniper just as he was getting ready to get on his route. He was so beloved in that community that 2,000 people came to his funeral. He drove this route for so many years. They loved him. Thirty members of his family gathered at the hospital after he was shot. He was always finding ways to take care of his family and his community. Conrad Johnson was one of the many Marylanders whose families are still grieving because of this reign of terror that gripped their State. Five Maryland families lost their loved ones in the sniper's first 24 hours.

Today I stand here for the rights of those families, to have their day in court: the rights of Jim Martin's family; he was shot when he stopped to buy groceries for his church program; James "Sonny" Buchanan, a landscape architect who was soon to be married; or the husband and the 7-year-old son of Sarah Ramos, who was shot 25 minutes later as she sat on a bench waiting for a ride to go to her babysitting job; also for the little boy named Iran Brown, who was shot in the chest as he was dropped off to go into middle school. Thanks to a guardian angel, it was his aunt, a nurse, who was with him that day when he was dropped off so she could sweep him up and be with him as he lay hemorrhaging in the hospital. Thank God, for the genius of American medicine that little boy is alive.

Family after family has endured incredible pain. Also, there are other cases that are pending. These families have been through so much they can never recover their tremendous loss. We owe it to them to make sure they have their day in court. That is why my amendment is offered to protect them, and that is why it is in such plain and simple language. It is limited to victims of John Muhammad and Lee Boyd Malvo. I don't need any legal experts to interpret this amendment. No judge has to decide if the case fits one exemption or another. That is because, under my amendment, any case involving them must proceed.

This is very serious. When we look at the matter, there is evidence that indicates the snipers bought something called a Bushmaster from the Bull's Eye Shooter Supply in Tacoma, WA. The Bull's Eye Shooter Supply Company had lost the assault rifle used by the sniper victim. In 3 years, it managed to lose 237 other guns. Imagine a gunshop that not only couldn't find records on this gun, it had lost 237 guns.

I am not going to prejudge cases, but I am going to point fingers. Something was terribly, terribly wrong at this place.

When we look at this, Bull's Eye could not account for 238 guns. Bull's Eye's missing gun rate was greater than 99 percent of all Federal arms licenses. Eighty percent of all dealers that sell at least 50 firearms a year can provide records to account for every one of them. Why couldn't that happen there?

There is item after item about this case. When you look at Malvo and look at Muhammad, what you find is the snipers obtained a one-shot, one-kill assault weapon that was from the Bull's Eye Shooter.

When we look at their records, we find that Muhammad was under a domestic violence protective order and Malvo was both a juvenile and an illegal alien.

How did they get their hands on these guns? That is for law enforcement to decide. That is how our legal process should follow its regular order, to seek redress. But this points out a set of terrible situations that led to the death of these 10 people in our region. This is why I am offering this amendment. After the deaths of these wonderful people, their families should have redress in court. The boy who was shot in his chest and is still recovering, though at school, should have redress.

I am going to be very clear that in this bill we do not create ambiguity, confusion, or something that would derail this. I urge the Senate to adopt my amendment and to allow the cases affecting this particular group of people to be able to proceed without prejudice or without any unintended consequences of this legislation.

I yield the floor and reserve such time as I have.

The PRESIDING OFFICER. Who yields time?

Mr. CRAIG. Does the Senator have other speakers?

Ms. MIKULSKI. The Senator does have other speakers.

Mr. CRAIG. Do you wish to proceed with them?

Ms. MIKULSKI. I yield to the Senator from Illinois, an outspoken advocate on this issue.

Mr. DURBIN. I thank the Senator from Maryland.

Those of us working in Washington, DC, remember this sniper incident. Not only do I work here but my daughter lives here with my son-in-law and grandson, and they live in one of the suburbs represented by the Senator from Maryland.

I can tell you when these two snipers were moving around the area, ordinary families were living in fear. They had a sniper rifle and they were killing innocent people. Some 13 were killed and 6 were injured. Here are the photos of a few of the victims.

After this terrible sniper incident, we learned there was a gun dealer who could not even account for the gun that was used to kill these innocent people. So the survivors, as well as the victims' families, came forward and said they wanted to hold that gun dealer accountable in court for irresponsible and reckless conduct in selling firearms, in allowing them to get into the hands of these snipers. That is reasonable for the family to do. It is something I support.

But make no mistake, this bill, S. 1805, slams the courthouse door on these victims and their families. The Senator from Maryland, Ms. MIKULSKI, is standing here, pleading with those who bring the bill forward to keep in mind the sniper victims and their families and give them a chance to have their day in court. If the court decides they don't have a right to recovery, so be it. But should we pass a law to say these families do not even have a chance to go after the reckless misconduct of these gun dealers that resulted in the deaths of their loved ones? That is what this bill is all about. The Senator from Maryland has dramatized it in terms that everyone who works in this Capitol will understand.

There was a time when you couldn't go home from work, from this building, for fear of being shot in the street. It happened over and over and over again. Why in the world would the Senate pass a bill to insulate this reckless gun dealer from his civil liability for selling these guns?

I thank the Senator for her leadership.

Ms. MIKULSKI. I yield such time as he may consume to the Senator from Rhode Island.

Mr. REED. Mr. President, Senator MIKULSKI is here, doing something that is, unfortunately, necessary because the underlying legislation would cause currently pending suits on behalf of the families and the estates of these victims of the snipers to be thrown out of court. That is not only unfortunate but it is unconscionable.

There are arguments that this legislation is crafted so these suits go forward. But that is not the case at all. The two salient facts in the sniper shootings with respect to this legislation are, first, the sniper, Malvo, claims he shoplifted the gun. The storeowner claims that he was unaware of these weapons being missing until he was contacted after the shooting by the ATF.

As a result, none of the appropriate exemptions from the preemption to sue would be applicable in this particular situation.

There are two particular exemptions that are often pointed to. One talks about the negligent entrustment, which is a theory of law, and negligence per se. None would apply because it requires the defendant to have knowledge of a violation of the statute or knowledge that something untoward would happen. Under the facts as we know them, the defendant alleges he was unaware of the missing weapons.

In addition, the other exemption would be if there was a violation of Federal and State statute and that violation was the proximate cause, almost direct or substantial cause of the harm caused to the plaintiff.

That, too, can be substantiated. We have a situation where this statute not only does not cover this situation and would require these cases be thrown out of court, but it raises the extraordinary question about what other cases there might be in the future that would cry out for justice, to bring a suit and demand some type of compensation because of negligence caused by a gun dealer or manufacturer or trade association. They, too, would fall. That would be as compelling as these cases of the Washington area sniper victims.

I commend Senator MIKULSKI for standing up for these families. They are good people. This is a cutout of these cases from law and allowing them to go forward. But it just begs the question of how many other worthy cases will be frustrated by this legislation, if we pass it. I, of course, urge that we do not pass the legislation. But I certainly urge the amendment proposed by Senator MIKULSKI be agreed to.

I yield my time.

Mr. CRAIG. Mr. President, may I inquire as to the time?

The PRESIDING OFFICER. The Senator from Idaho has 20 minutes, and the Senator from Maryland has 5 minutes.

Mr. CRAIG. Mr. President, I will use some of my time at this moment.

At the outset, let me say Senator MIKULSKI and I are best of friends. We appreciate our friendship, and we work closely on a variety of pieces of legislation. There is nothing I would do nor is there anything S. 1805 will do to damage the argument and passion and concern Senator MIKULSKI has put before us today with her amendment. If you believe in the underlying bill, S. 1805, there is a problem, and the problem is Senator MIKULSKI carves out a very big exception and guts the bill in the underlying principle. Let me talk about that principle.

I ask the Senator to go with me to page 7 of the bill and to look at section 4 of the bill. Let us talk about that in relation to the phenomenal tragedy that hit this city and the families she is discussing.

Not only did her friends and neighbors hunker down in fear, but so did we as John Lee Malvo and John Allen Muhammad terrorized the neighborhoods in Maryland and Virginia.

Here is the problem. What are the facts? The Senator said I am not going to try the case on the floor, but I am going to point fingers. I am not going to try the case on the floor, but I am going to point fingers.

We probably have reasonable cause to point fingers at Bull's Eye in Tacoma, WA. Something went wrong up there. There are over 300 guns missing. Lee Malvo himself said, I stole the Bushmaster I used in the sniper incidents in Virginia and in Maryland. "I stole the gun." He said so. It is on the record. Already he sets up an interesting scenario.

As a result of that, the BATF pulled the license of the gun dealer and recommended felony charges be brought by the Justice Department. This case is maturing at this moment.

What does our bill do? It tries to very narrowly create an environment and an exception.

Let us go to that bill and to page 7. Let me read starting on page 6 of the bill because I think it is important. Many Senators have ignored this in the rhetoric of the day. They shouldn't ignore it.

> In general, the term "qualified civil liability action" means a civil action brought by any person against a manufacturer or seller of a qualified product or a trade association for damages resulting from the criminal or unlawful misuse of a qualified product by a person or a third party but shall not include—

In other words, the exceptions under which the Malvo and Muhammad case can be tried in which those parties the Senator is talking about contain compensation are the following.

> No. 1, an action brought against the transactor convicted under section 924 of title 18 United States Code or a comparable or identical State felony law by a party directly harmed by the conduct for which the transferee is convicted.

Parties harmed. In other words, did the transferee, the gun dealer, malfunction? Did he break the law? There is a strong appearance that he might have.

> No. 2, an action brought against a seller for negligent entrustment or negligent per se.
>
> No. 3, an action in which a manufacturer or a seller of a qualified product knowingly and willingly violated State and Federal statute applicable to the sale or marketing of a product and the violation was a proximate cause for the harm and for which the relief is sought.
>
> No. 4, an action for breach of contract or warranty in connection with—

And then we go on to deal with basically product liability.

My point is quite simple. I believe we are protecting those families. I would not write the kind of law that is being suggested would be written. What I am concerned about are lawsuits in which we are trying to hold accountable the innocent party—in this case potentially a manufacturer of a product—unless there is criminal intent, or unless they have broken the law.

Mr. DURBIN. Mr. President, will the Senator yield?

Mr. CRAIG. I can't yield. My time is limited. I am sorry. The Senator has had time. Let me continue.

That is the sense of the argument we are dealing with here. Negligent entrustment:

> In subparagraph (a)(2), the term "negligent entrustment" means the supplying of a qualified product by a supplier for use by another person when the supplier knows or should know—

That is very important.

> —the person to whom the product is supplied is likely to and does use the product in a manner involving unreasonable risk of physical injury to the person or to others.

What are we trying to do here?

Again, I have said time and time again over the last 24 hours it is a very narrow exception, but to entrust us to a century of tort law that says innocent parties are not guilty nor should they be swept into lawsuits if they have met certain standards of the law—in this case, licensed gun dealers and manufacturers.

Did the folks up at Bull's Eye in Tacoma meet those standards? We don't know. But I will tell you the BATF pulled their Federal firearms license. There is an investigation underway. If they lost that many firearms and they didn't notice it and they didn't report it, I am not an attorney, but I have to assume they have a big violation on their hands. If Malvo walks in and pulls a Bushmaster from off the rack and walks out with it and that is not detected, they have a problem on their hands. I believe they have a problem on their hands, and they are not exempt.

The argument is—and some have used it—they do not even make it to the courthouse. That is not a valid statement.

This is a basis from which you argue before the court and a knowledgeable, and I hope trusting, judge will take these evaluations in hand and make the determination that this is not a frivolous or a junk lawsuit; that there is basis, and the reason there is basis is because there has been a clear violation of Federal law.

If there has not been a violation of Federal law, even though many of us can certainly have great concern about the families involved, do we continue to suggest that we go out and harass through the courts legal, law-abiding citizens and producers of a legal product in this country simply because it fits the passion of the day or the politics of the moment? I think not. I don't think the Senator from Maryland wants to do that. It is clear if you carve out this exception, you gut the bill because you are saying no, no. We are saying we are giving you all of these exceptions very clearly in the law. I read them to you. They are in the law. It is section 4. That is what we are dealing with. It is a very important part of it.

We think it is the right thing to do at this time. I believe a majority of my colleagues in the Senate agree with that. The reason they agree is for the very reason we have been very specific and clear to adhere to Federal law but to make sure we are not just going to the court for the purpose of expanding the sweep that one might like to take because they do not like guns or they do not like the current law or they want to control them in different ways.

The Federal law is there. It is clear. It is present. The investigation is underway. We cannot try that case here. But I do agree with the Senator from Maryland, we cannot try to, but we can point fingers.

Our bill, S. 1805, sets up a very clear case in which these lawsuits can be effectively argued and a decision made whether there was a rupturing of Federal law or whether we do have law-abiding practitioners in the business of the manufacturing and sale of firearms in this country. That has to be and it must remain the basis of the argument and the basis of this law. The amendment the Senator offers goes directly in the opposite, to carve out special exceptions within the law now and into the future.

I retain the remainder of my time.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I have two legal opinions, one from Lloyd Cutler, a very distinguished American lawyer who has served as White House counsel to a President, who says that S. 1805 contains language that would require the dismissal of the Johnson case. I have another legal opinion from Boise, Schiller & Flexner who essentially say the exceptions would only preserve civil claims brought under other kinds of law. Other than that, what they are saying is this would preempt their ability to bring this case.

The opinions clearly state that section 4 on page 7 articulated by my esteemed colleague does not hold water. It does not protect the victims of Malvo and Muhammad because it is in such plain English limited to those cases by the name of the perpetrator and predator. This does not create a loophole.

Talk about loophole, talk about the gun shield loophole, talk about all the other loopholes in the gun bills. My amendment does not create a loophole.

The legal opinions show there is ambiguity in S. 1805 and that section 4 could preempt the ability of these families to bring this case.

The distinguished Senator from Idaho has his opinion. I have my two legal opinions that show that there is confusion and honest disagreement about the bill. That is why the Mikulski amendment is necessary, to clear up the ambiguity on the matter of these cases committed by Malvo and Muhammad.

His point and my legal opinions prove the necessity of the amendment, to clear up the confusion, end the ambiguity, protect these victims and the families and their right to pursue.

I yield to the Senator from Illinois, a distinguished lawyer himself, to further amplify this argument.

Mr. DURBIN. I thank the Senator from Maryland.

I say to the Senator from Idaho who stood up here and said he did not believe the survivors of the DC sniper shooting had a right to go to court and therefore he was going to oppose the Senator's amendment, I guess that is clearly his point of view, but he said just the opposite. He said he reads this law to allow the victims and their families of the DC sniper to go court against the dealer.

If that is his opinion, then he ought to accept the amendment from the Senator from Maryland because that is all she is asking for.

If you do not believe the victims of the DC sniper should have a day in court against the dealer to determine whether or not he is guilty of wrongdoing, then just say it. But if you believe that these sniper victims and their families should have a day in court, for goodness' sake, accept the amendment of the Senator from Maryland. If you do not, it really tells the story of your bill.

If your bill is going to stop the families and victims of the DC snipers from holding a gun dealer guilty for irresponsible, reckless misconduct, frankly, that is another good reason for us to defeat the bill. Let us stand behind the innocent victims of the DC snipers.

Talk about people who hate guns. I do not hate guns but I hate snipers who shoot children and innocent people on the street and I hate the people who sell them guns irresponsibly. I think they ought to be held accountable. That is all the Senator from Maryland is asking.

Ms. MIKULSKI. Continuing my argument, there is ambiguity and there is honest disagreement. I know the Senator from Idaho might bring us a CRS opinion saying the cases might survive. My colleague from Rhode Island has an earlier CRS opinion that says the opposite. The point is, there is ambiguity both in the law and in opinions about the law.

My amendment is a simple, straightforward way to clear up the ambiguity and let these cases move forward.

The PRESIDING OFFICER. The Senators are reminded to address each other in the third person.

The Senator from Idaho has 10 minutes 27 seconds remained.

Ms. MIKULSKI. Parliamentary inquiry: Did I do something wrong?

The PRESIDING OFFICER. The Senator from Illinois referred to the Senator from Idaho in the first person.

Mr. DURBIN. I beg your pardon.

Parliamentary inquiry: I referred to the Senator from Idaho on the floor; is that improper?

The PRESIDING OFFICER. The Senator several times during his talk used the pronoun "you."

Mr. DURBIN. I apologize for using the pronoun "you." I will never do it again.

Mr. CRAIG. Mr. President, may I inquire as to the time remaining on both sides of the Mikulski amendment?

The PRESIDING OFFICER. Ten minutes 20 seconds for the Senator from Idaho and 14 seconds for the Senator from Maryland.

Mr. CRAIG. With 14 seconds remaining for the Senator from Maryland to argue, this is her amendment, and under the unanimous consent I will then offer the Frist-Craig amendment. As we know, then they will be stood up to be voted on, Frist-Craig first, Mikulski second.

If the Senator would like to make any concluding remarks about her amendment, I would certainly welcome that. She then controls 20 minutes of the 40 that would be on my amendment and the debate could go on.

Ms. MIKULSKI. Excuse me, Senator. The Frist-Craig amendment is on what topic, sir?

Mr. CRAIG. On your topic.

Ms. MIKULSKI. What is the Frist-Craig amendment?

Mr. CRAIG. I have not offered it yet.

Ms. MIKULSKI. You want to conclude debate on this amendment.

Mr. CRAIG. Then we set yours aside for the Frist-Craig debate on the same subject matter and then stand these up for votes.

Ms. MIKULSKI. I have no objection to that.

Mr. CRAIG. With that, I assume all time is yielded back.

The PRESIDING OFFICER. All time is yielded back.

AMENDMENT NO. 2628

Mr. CRAIG. I ask that the Mikulski amendment be set aside for the purpose of introduction of an amendment on behalf of Majority Leader FRIST and myself.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG], for Mr. FRIST, for himself and Mr. CRAIG, proposes an amendment numbered 2628.

Mr. CRAIG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To exempt any lawsuit involving a shooting victim of John Allen Muhammad or John Lee Malvo from the definition of qualified civil liability action that meets certain requirements)

On page 8, line 22, strike "or".

On page 9, line 2, strike the period at the end and insert "; or ".

On page 9, between lines 2 and 3, insert the following:

(vi) an action involving a shooting victim of John Allen Muhammad or John Lee Malvo that meets 1 of the requirements under clauses (i) through (v).

Mr. DASCHLE. Reserving the right to object, I will not object, but I am told we have not had the opportunity to see the text of these amendments. If we are going to work in good faith, it is very important that on all of these alternative amendments the text be provided if they are available and certainly before they are offered.

Mr. CRAIG. If the minority leader will yield, it is my fault. I apologize. We will place ourselves in a quorum until they have copies. It is brief and to the point and easy to understand for everyone.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, I apologize once again to the Senator from Maryland that the stand-beside amendment I offer in conjunction with hers was not delivered to her. We have a stand-beside Frist-Craig amendment to the Corzine amendment, which may follow immediately. We are copying that now to make sure Senator CORZINE and the other side has a copy of it.

My amendment, as you can see, is really very simple, but it is also extremely important. It is simple in this respect: 55 cosponsors of S. 1805 have cosponsored S. 1805 because of its narrowness, of its cleanliness in the fact that we do not clutter up a lot of laws and we create one very limited but very important exemption, and that is junk lawsuits filed by a third party cannot reach through and suggest that someone who produces a legal product can be held liable for that product unless they have broken the law or a person selling that product is not held liable for that product unless they have broken the law.

My amendment says, in essence, if an action involving a shooting victim of John Allen Muhammad or John Lee Malvo meets any of the exceptions of S. 1805, the action will not be barred by this bill.

Again, what are those exceptions? Well, I have read them earlier. Let me repeat them. They are very clearly outlined in section 4 of the bill, and what we say is:

> The term "qualified civil liability action" means a civil action brought by any person against a manufacturer or seller of a qualified product, or a trade association, for damages resulting from the criminal or unlawful misuse of a qualified product by the person or a third party.

In other words, if that third party is a guy who breaks the law, but the seller and the manufacturer are not, then the judge looks at that and makes that determination and says no.

But here in the case in Maryland and in Virginia, if it is found that:

> an action brought against a transferor convicted under section 924(h) of title 18, United States Code, or a comparable or identical State felony law, by a party directly harmed by the conduct of which the transferee is so convicted—

"Transferee," in this case, in my opinion, at least, is Bull's Eye. They are the ones responsible for that firearm. They are the ones that would have sold it legally. In this case it was stolen from their shop. It appears to have gone unreported.

Secondly:

> an action brought against a seller for negligent entrustment or negligence per se. . . .

So we have not swept that away nor will we sweep that away. In fact, I believe we strengthen it, and so does the Congressional Research Service. While there may be a difference of opinion on that, I think what is significant is that Senator DASCHLE and I agree. We teamed up together to strengthen this and to clarify it. Quoting the Congressional Research Service, our amendment:

> would strike "knowingly and willfully" in the preceding sentence, potentially increasing the likelihood that this exception to the general immunity afforded under the bill would be applicable in any given case.

In this case, it probably strengthens the position we are dealing with here, as the Senator from Maryland and I visit about it.

The third exception that clearly could be applicable, and that my amendment says if found is applicable, in the Muhammad and Malvo case:

> an action in which a manufacturer or seller of a qualified product violated a State or Federal statute applicable to the sale or marketing of the product, and the violation was a proximate cause of the harm for which relief is sought.

In other words, relief for these families who were the victims of John Muhammad and John Lee Malvo.

I believe it is a clear, clean amendment. I don't think it is ambiguous at all. But it does argue one premise in the law that always must be argued, and that is, did Bull's Eye break the law? Well, we are investigating that now. Did the manufacturer of the Bushmaster in any way violate the law? That is probably getting investigated, too, although even the Brady Center doesn't impugn in any way that the manufacturer was involved in this. Those are the facts.

In other words, what I am suggesting by this amendment, what I believe is still clear in 1805, is that we are not exempting the victims of the sniper shootings of DC and the Virginia and Maryland area. It is not our intent to do so. It is our intent to allow them to go to court. It is our intent to allow them to argue this before a judge. It is our intent to allow a judge to make a decision based on these exceptions and now the clearly respelled out exceptions in the Frist-Craig amendment as to whether, based on this law, there can be compensation to these families from, in this instance, a dealer and a manufacturer. That is the essence of it.

I don't believe the courthouse door is locked. All attorneys are entitled to their own opinions. Everybody reads the law a bit differently. So is my opinion stronger than your opinion? I know what my intent is. I know what Senator DASCHLE's intent is. I know our intent is not to lock the courthouse door. We believe we don't. And it has been thoroughly checked by numerous lawyers. We think our amendment is sound.

I am going to ask the Senate not to gut the underlying 1805 but to vote for the Frist-Craig amendment which will not only strengthen the amendment, strengthen the position but, I believe, fulfill the concern and the arguments of the Senator from Maryland.

I retain the remainder of my time.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, the Senator from Idaho points to every exception because he can't point to one exception that will clearly establish the right of these plaintiffs to go forward to make their case. The way this legislation is structured, first, the qualified civil liability action may not be brought in any Federal or State court. You are thrown out of court unless you can get yourself back in by an exemption. In these cases, you are dismissed. You are already in court but you are out the door. The intent is very clear. It is to stop individuals from suing dealers, manufacturers, and trade associations.

What about these exemptions? The first exemption deals with the transferor or convicted. There have been no charges in Bull's Eye, no conviction. What happens? The case is already dismissed. Is there language the Senator from Idaho will apply reinstating the case automatically?

The second is a possibility that is negligent entrustment or negligence per se. All of these require knowledge on the part of the defendant. The facts of Bull's Eye clearly suggest there is no evidence or none so far proven that the owner knew the gun was shoplifted and, in fact, he alleges he was not aware of any missing weapons until he was confronted by the ATF after the crime. This does not apply.

Finally, there is the violation of a Federal or State statute. The Senator from Idaho often talks about, well, if there is a violation of Federal and State statute, that, of course, allows a person to go forward with this case.

But there are two parts of this test. State or Federal statute violated, and that violation causes proximately, substantially the injury. In effect, what would have to be shown for any type of liability to adhere to the Bull's Eye case under this arrangement is that he was aware of the missing weapons more than 48 hours before he was confronted by the ATF, and he consciously disregarded his obligation to report not just a missing weapon but the particular weapon that was taken by Malvo. None of these exceptions apply to Bull's Eye or, if they apply, it is a very tortured reach to make the application.

Then this amendment simply says: Well, if you fall under the statute, you get to use the statute. This is a circular, is a kind way to describe what this is. You could substitute anybody's name in the United States. It doesn't have to be John Allen Muhammad or John Lee Malvo. It could be the victim of any criminal today walking around the streets of America with a handgun. Because if you are injured by that individual with a handgun and you fall into these categories, you get to go to court.

But this is an easy amendment because very few people, if any, will qualify under these criteria. That is the whole point of this carefully worded, excruciatingly arcane approach to shutting people out of court. That is what this is about.

Essentially you can't have it both ways. You can't stand up here and claim you are protecting the industry from frivolous suits but every suit we bring up is a possible worthy and meritorious suit. Well, of course, that will get into court. Of course, it is one of the exceptions. You don't get it both ways.

You get it one way in this bill. Innocent people injured by the negligence of dealers, of manufacturers lose. And they win.

We are not just giving out Federal firearms licenses, if this legislation passes. We are giving a license to be negligent and reckless—grossly negligent and grossly reckless. That is what a Federal firearms license means, if this legislation passes.

I yield the floor and retain the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. REED. I yield 5 minutes to the Senator from New Jersey.

Mr. LAUTENBERG. I thank the Senator for yielding the time to me. I associate myself with the amendment that was initially introduced by my colleague from Maryland, Senator MIKULSKI. I rise to raise questions about that which is currently now being offered by the Senator from Idaho.

There is no doubt about the appropriateness of the amendment, as it was presented by the Senator from Maryland, because it was her constituents, seven of them, who were shot by the sniper, six of whom died.

For over a month in the fall of 2001, John Muhammad and John Lee Malvo terrorized the Washington metropolitan area through a series of vicious sniper attacks on innocent men, women, and children. In the area, Americans were afraid to walk outside, afraid to pump gas outside, school activities were moved to enclosed areas. Everyone was a target.

As it turned out, there was ample reason to be frightened. From the trunk of Muhammad's car, the snipers used a Bushmaster assault weapon to shoot 13 people in Washington, DC, Maryland, and Virginia. Ten of the 13 died. We have heard the names of those such as Linda Franklin, 47-year-old FBI analyst, standing with her husband in the Home Depot parking lot in Virginia. She was killed. Another was Pascal Charlot, a 72-year-old retired carpenter standing on a street corner, shot and killed. Another victim was Iran Brown, a 13-year-old boy who had just been dropped off at school.

My fellow Senators now prepare to tell mothers and victims throughout the United States that they don't have a right to file a civil lawsuit against individuals and businesses that helped cause this tragic event.

We had a debate on the floor yesterday. There was a question, a semantic question, about whether or not the Bull's Eye store was really closed. One of my staff people called the number and they said: Yes, we are open until 7 o'clock. Do you want anything—this is my edition: if you want anything shipped out, we will get you guns.

So we argued about whether or not they were really closed or who had the license or what. Those are extraneous things having no significance in the debate.

We see the same thing replicated here. If you meet certain conditions, you are still able to bring suit. But if one of the several conditions is present, then you can't bring suit.

Why don't we tell it like it is? And that is, by whatever stretch of the imagination you want to bring, these people, the victims of the sniper attacks, are unable to bring a suit. There is no doubt about it. We can discuss language all you want, but it is the intent.

Throw another obstacle in the way for these victims to get some justice, some sense of what it is that took place that was wrong and how we can help prevent it in the future.

To hear these discussions immersed in language changes—I suppose if you study it closely enough, you will find punctuation changes. Bull's Eye claimed they didn't have any record of sale. They cannot explain how the snipers obtained the assault weapon. I have not heard any condemnation of their poor practices; that 237 weapons were lost. What a shame. If any normal store lost items that cost this much, they would be in a state of panic. Apparently, these guys did not care that much, but we still want to prevent those who have been victimized by their poor behavior from getting compensation that is justly theirs under normal circumstances.

Why we have to take away people's rights is something, frankly, I do not understand. I hope the public at large begins to raise questions: What is this? Do you mean if I am injured in an automobile accident and the automobile manufacturer has been negligent, that they did not protect the gas tank properly, so it exploded when it was hit in the back, I shouldn't be able to get compensation for that small error? It may have burned you alive. Or if there was such a casual structure of behavior with a pharmaceutical company, and they put the wrong tablets in a bottle, or if someone there, in a moment of madness, put the wrong tablets in a bottle and a person becomes ill or dies, they shouldn't be able to bring an action? This strikes me as something that the citizenry, who is expecting us to take care of them, is unable to comprehend.

This debate goes on and there is always another trick, another maneuver to try and interrupt the flow of what we would consider normal justice. I hope we will defeat the amendment because it adds nothing to the compromise that we have to arrive at to get the kind of voting pattern—the record that says, yes, we made sure the people who suffer these terrible damages have a right to compensation or to a review by the court to decide that issue.

I hope we will defeat the Frist-Craig amendment and get on to the Mikulski amendment, which approaches the problem directly. These people have been severely injured by the actions of the snipers who got the gun illegally, inappropriately, improperly—call it what you will.

I yield back the remaining time.

Mr. REED. Mr. President, how much time remains on this side?

The PRESIDING OFFICER. The Senator has 8 minutes 22 seconds.

Who yields time?

Mr. CRAIG. Mr. President, may I inquire as to the amount of time I have remaining?

The PRESIDING OFFICER. The Senator has 13 minutes remaining.

Mr. CRAIG. Mr. President, I will use a limited amount of that time. If the Senator from Maryland wishes to close out the debate, I will make my closing statement, and we can move to a vote quickly.

Let me address what the Senator from New Jersey said a moment ago and direct his attention to subsection (v) of section 4. He talked about a car not functioning properly and somebody being injured. That is called product liability. It says:

> (v) an action for physical injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended. . . .

Please read the bill when you make those kinds of statements because if the Senator had, that would have been, in my opinion, improper. We are not talking product liability.

Mr. LAUTENBERG. Is the question being referred to me directly?

Mr. CRAIG. No, I am only responding.

The PRESIDING OFFICER. The Senator from Idaho has the floor.

Mr. CRAIG. The Senator knows I am only responding to a comment he made. I am simply suggesting that for the next few moments he might wish to read that subsection. Here we are not dealing with product liability. It appeared the Bushmaster tragically operated very well. What is at hand is, Are the people at Bull's Eye involved in wrongdoing? That is the question at hand. And should we go after them?

We are carving that out in a way so that the victims can go after them if they are found guilty of a Federal violation. Let me read what CRS suggests the Daschle-Craig amendment does:

> In the case at hand—

They are referring to the DC snipers—

> it has been asserted that the firearm—

And we can only say "asserted" at this moment because it is under investigation—

> it has been asserted that the firearm used in the D.C.-area sniper shootings "disappeared" from Bull's Eye's place of business "[o]n or about August or September of 2002," and was not reported as missing until November 5,

> 2002. Pursuant to 18 U.S.C. 923(g)(6) a licensee—

That is Bull's Eye—

> is required to report the theft or loss of a firearm within 48 hours after the theft or loss is discovered. Thus, in the event that it is established that Bull's Eye was aware that the firearm was missing from its inventory more than 48 hours prior to November 5, 2002, the amendment would appear to lend further support to the application of the exception to immunity under 4(5). . . .

My point is quite simple: If the evidence is there—and I believe the Senator from New Jersey yesterday referenced the presence of Lee Malvo on a video. I was unaware of that. If that is true, that is apparently more evidence. But once again, here we are with a jumble of facts that we really do not know because we were not the investigators; we were not on the scene. We are taking this from newspaper reports.

What I am saying is if the Bull's Eye shop is in violation of the law, then the Frist-Craig amendment or the underlying S. 1805 clearly does protect all of these victims so they have their day in court. The courthouse door is not shut, would not be shut, will not be shut by S. 1805 or the amendment at hand.

I retain the remainder of my time.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, before giving all the remaining time to Senator MIKULSKI, I would like to make one point. In the CRS report to which the Senator referred, essentially he failed to note a footnote that says essentially that it does not appear that any evidence has been produced of actual violations of these provisions by Bull's Eye in the case at hand.

If you assume they violated the law, then, of course, the exemption applies. The facts we know now suggest they knew nothing about the disappearance of the weapons, and this legislation will bar the individuals from court.

I add one simple point. Even if we are slightly in doubt debating this issue, we should support Senator MIKULSKI's amendment which puts them in court.

I yield the remaining time to Senator MIKULSKI.

Ms. MIKULSKI. Mr. President, this amendment does nothing. It keeps the status quo of the bill, S. 1805. It restates what the bill says. It says that the sniper cases have to fit in to one of the exceptions that are described in section 4, paragraph 5. That is what it already says.

The legal experts that I have consulted and have consulted with the Brady organization believe that the cases do not fit. I understand that, under the amendment of the Senator from Idaho, the sniper cases will likely be dismissed. I am going to talk about the legal experts, but again the mere fact that we are having such intense debate shows the ambiguity and confusion, which is why the Mikulski amendment is needed.

Now I will go to the opinion of Boies, Schiller & Flexner, a distinguished law firm. What they tell us is, according to the terms of S. 1805, it would foreclose and require the immediate dismissal of any State or Federal qualified civil liability action which the statute defines to include a civil action brought by any person against the manufacturer or seller for damages resulting from the criminal or unlawful use. They are saying it is going to be dismissed.

They then say when one goes to all of the prohibitions, they believe that because of the way it is drafted, particularly the items in the exception, that it expressly disclaims any intention to create causes of actions or remedies. The above-described exceptions would only preserve civil claims brought under otherwise applicable State or Federal law. Other than that, the proposed legislation would preempt as a matter of Federal law the State or Federal lawsuits against irresponsible sellers, manufacturers, or so on.

What they are saying is this would require an immediate dismissal of the sniper victims' claims. We cannot do this. According to the legal experts, close examination of the exceptions enumerated in section 4 of the proposed immunity, which they are trying to shoehorn in—they are trying to shoehorn Malvo in; they are trying to shoehorn Muhammad in to these exceptions. These exceptions reveal that none would appear to preserve the claims brought by the victims of the sniper attacks and their families against the parties responsible for permitting the snipers to obtain these murder weapons.

In fact, they go on to say:

> In fact, the passage of S. 1805 would likely compel the judge in the sniper case immediately to dismiss those claims.

They refer then to section (5)(A) and there are paragraphs. That proposed legislation would prove those provisions contain only the exceptions that even conceivably apply to the snipers' case.

I could go on. This is a 13-page legal opinion. It is not appropriate for me to read the whole opinion, but the statutory violation exception embodied in paragraph (5)(A) will not save the snipers victims' claims.

The plain language of section (5)(A)(iii) would appear to dictate the same result in the sniper case.

> Despite the above-discussed evidence of the Bull's Eye numerous failings as a gun dealer, there is no reason to believe that the plaintiffs in the sniper case will be allowed to show that Bull's Eye violated any State or Federal statute. . . .Indeed, after his arrest, Malvo admitted that he shoplifted the weapon from Bull's Eye in the summer of 2002. Although the plaintiffs claim that Bull's Eye's lax security practices permitted Malvo to acquire the weapon, . . .

Again, we are not trying the case here but, yes, he stole the gun. There are 237 guns missing from that same gunshop. Something was pretty sloppy there. Somebody was pretty negligent there. Something was terribly wrong that 238 people could steal guns, including a juvenile illegal alien who was obviously walking around a gunshop if he shoplifted it.

What we are talking about is the statutory violation exception embodied in (5)(A) would totally blow the snipers victims' claims.

Again, it is being tried in the courts, and I want it to be tried in the courts. Maybe the kid did not shoplift it, but somehow or another in that gunshop in Tacoma, WA, with 238 guns missing, something went terribly wrong. They should have their day in court to at least raise whether there was these issues of negligence.

I really do believe the Frist-Craig amendment would gut their ability to move ahead. It is trying to shoehorn into these exceptions and yet at the same time these very exceptions would prohibit them from bringing their claim. I really ask on behalf of these families to be able to do this.

Also, in another section, the negligent entrustment/negligence per se exceptions embodied in paragraph (5)(A)(iii) will not save them. As an initial matter, these exceptions are limited to a seller, and it goes on and on. What it says in a nutshell is that it would preclude them from moving forward.

For the information of my colleagues, this legal opinion letter was printed in yesterday's RECORD.

I also acknowledge that the Senator from Idaho has a different view than this legal opinion but that is the point of the amendment. I have a legal opinion. He has his expertise and the CRS opinion.

I think it is the opinion of the American people, that when someone brings a whole community to a paralyzing halt, when people have been ghoulishly and grimly shot down in a deliberate, predatory, and cruel manner that in this country one ought to at least be able to go to court to seek some redress. All I am doing is preserving their right to do so.

When we say we want to stand up for America, I am standing not only for these victims but I am standing up to keep the courthouse door open to them, and that is really what the rule of law should mean in the United States of America.

I yield the floor.

Mr. LAUTENBERG. I would like to ask the Senator from Maryland a question.

The PRESIDING OFFICER. The Senator from Maryland has 25 seconds remaining.

Mr. LAUTENBERG. I ask the Senator from Maryland, is there anything that is in the Craig amendment that changes the ability of these victims to sue?

There are conditions, are there not, that he places in there that make them jump through another hoop in order to be able to sue?

Ms. MIKULSKI. Yes, it gives a whole set of other obstacles.

Mr. LAUTENBERG. They may have not met these conditions but they still have had the damage and the tragedy that befell them?

Ms. MIKULSKI. Yes, and they have also filed suits. What we are concerned with is this bill will preempt those suits. They will be thrown out. They will be dismissed and the families will face yet another injustice at the hands of the Congress.

Mr. LAUTENBERG. I thank the Senator.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Idaho.

Mr. CRAIG. Mr. President, I have 8 minutes remaining. I will try not to use it and will yield it back so we can get to the votes on these two amendments.

The Senator from Maryland talked about an American principle, and I agree with her. There is an American principle that says everyone should have their day in court, and she is right. There is a second American principle that says that law-abiding citizens who do law-abiding things should not be dragged into court for frivolous purposes or junk lawsuits. That is the other American principle. It is as old as tort law itself. The responsibility is tied to the individual, unless the individual under law is found totally negligent.

She and I have agreed the case cannot be tried here because we simply do not know the facts. We know a little bit about it. We know bits and pieces about it but we have not seen the BATF's report. We have not seen the kind of investigation that has gone on. I agree with the Senator; everyone should have their day in court. I do not know how some are saying that S. 1805 does not even allow them to get to court.

It allows them to argue before a judge the basis of the law, and the judge will make the determination. I suggest that that is called "in court" and that is exactly what my amendment does. That is what S. 1805 does. It is very clear.

The Senator might be suggesting that this is just one small group. No, no, this is not one small group. This happens to be a tragically large group, by all of our estimation in Virginia and Maryland, but once this is decided how will this precedent be used by others?

She talks about gutting the opportunity. I suggest her amendment guts S. 1805. Proponents of the amendment claim that it provides an exception for a small group, but any carve-out that is made part of this legislation would have the Government turned on its own principles of equity and justice insofar as the amendment would designate a particular group of people, though sympathetic—and all of us agree to that—different in the eyes of the law than others and justice so far as it would be required to hold remote other responsibilities for the independent actions of two men.

That is the essence of the two amendments. They are very clear before us. It is time we vote on these issues. The Senator from New Jersey is now in the Chamber with his amendment.

Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 5 minutes 45 seconds remaining.

Mr. CRAIG. I yield the remainder of my time. I ask for the yeas and nays on the two amendments.

The PRESIDING OFFICER. Is there objection to asking for the yeas and nays on both amendments at once?

Without objection, it is so ordered.

Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. CRAIG. It is my understanding that, under the agreement, the Frist-Craig amendment would go first and the Mikulski amendment would follow.

VOTE ON AMENDMENT NO. 2628

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2628. The yeas and nays have been ordered. The clerk will call the roll.

The senior Journal clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL) and the Senator from Alaska (Ms. MURKOWSKI) are necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "nay".

The PRESIDING OFFICER (Mr. CHAMBLISS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 59, nays 37, as follows:

[Rollcall Vote No. 19 Leg.]

YEAS—59

Alexander
Allard
Allen
Baucus
Bayh
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
Daschle
Dole
Domenici
Dorgan
Ensign
Enzi
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Johnson
Kyl
Landrieu
Lincoln
Lott
Lugar
McCain
McConnell
Miller
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reid
Roberts
Rockefeller
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich

NAYS—37

Akaka
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Chafee
Clinton
Conrad
Corzine
Dayton
DeWine
Dodd
Durbin
Feingold
Feinstein
Fitzgerald
Graham (FL)
Harkin
Hollings
Inouye
Jeffords
Kennedy
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Murray
Reed
Sarbanes
Schumer
Stabenow
Warner
Wyden

NOT VOTING—4

Campbell
Edwards
Kerry
Murkowski

The amendment (No. 2628) was agreed to.

Mr. CRAIG. I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2627

The PRESIDING OFFICER. There are now 2 minutes of debate on the Mikulski amendment, evenly divided, to be followed by a vote. And the yeas and nays have already been ordered.

The Senator from Maryland.

Ms. MIKULSKI. Mr. President, my amendment, I believe, is far superior to the amendment the Senate just adopted. It is a simple, straightforward amendment. It exempts from the bill all cases related to those committed by the despicable predators John Malvo and John Muhammad. This is a very specific, very limited exemption. I urge the Senators to consider it.

If we really want to honor the victims of the sniper cases, please give them the opportunity to pursue their cases in court. We have a substantial legal opinion from an eminent scholar such as Lloyd Cutler, who says if this bill passes, and passes with Frist-Craig, the victims' cases will be thrown out of court absolutely or, at the very least, be left in great ambiguity.

Please, let us do justice to the victims and at least give them the opportunity to seek justice.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I say to my colleagues, you have just voted for the Frist-Craig amendment. If you now vote for the Mikulski amendment, you have totally reversed your vote. The Mikulski amendment guts the underlying bill, S. 1805, carves out a substantial exception. If you are supportive of S. 1805, then you vote no.

But do we protect the right of the victims for their day in court? We absolutely do. There are four major exceptions in which we say, if these parties are found guilty, if there was a negligent gun dealer, if there was a negligent manufacturer—and that is a fact and it is proven—then their day in court is there, as it should be.

But we do not allow frivolous third-party lawsuits. That is the underlying premise of the bill. Again, if you voted for Frist-Craig, I would ask you to vote against Mikulski.

I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the Mikulski amendment. The yeas and nays have previously been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL) and the Senator from Alaska (Mr. MURKOWSKI) are necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "aye".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 40, nays 56, as follows:

[Rollcall Vote No. 20 Leg.]

YEAS—40

Akaka
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Chafee
Clinton
Conrad
Corzine
Daschle
Dayton
DeWine
Dodd
Durbin
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Inouye
Jeffords
Kennedy
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Murray
Nelson (FL)
Reed
Rockefeller
Sarbanes
Schumer
Stabenow
Warner
Wyden

NAYS—56

Alexander
Allard
Allen
Baucus
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
Dole
Domenici
Dorgan
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Johnson
Kyl
Landrieu
Lincoln
Lott
Lugar
McCain
McConnell
Miller
Nelson (NE)
Nickles
Pryor
Reid
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich

NOT VOTING—4

Campbell
Edwards
Kerry
Murkowski

The amendment (No. 2627) was rejected.

Mr. REID. I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The next order of business is an amendment by the Senator from New Jersey with 30 minutes of debate equally divided.

AMENDMENT NO. 2629

Mr. CORZINE. Mr. President, on behalf of myself, Senator LAUTENBERG, Senator MIKULSKI, Senator KENNEDY, Senator CLINTON, and Senator BOXER, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. CORZINE], for himself, Mr. LAUTENBERG, Ms. MIKULSKI, Mr. KENNEDY, Mrs. CLINTON, and Mrs. BOXER proposes an amendment numbered 2629.

Mr. CORZINE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To protect the rights of law enforcement officers who are victimized by crime to secure compensation from those who participate in the arming of criminals)

On page 11, after line 19, insert the following:

SEC. 5. LAW ENFORCEMENT EXCEPTION.

Notwithstanding any other provision of this Act, nothing in this Act shall be construed as limiting the right of an officer or employee of any Federal, State, or local law enforcement agency to recover damages authorized under Federal or State law.

Mr. CORZINE. Mr. President, I strongly oppose the underlying legislation before the Senate which waives liability for gun dealers and manufacturers. In my view, this legislation strips away the legal rights of victims of gun violence and shields wrongdoers from accountability. It provides special exemptions for the narrowest of special interests, and it would make our country less safe.

The bill uses a variety of complicated legal concepts, narrowly drawn exemptions, to shield irresponsible gun dealers and manufacturers from accountability. When we get beyond the legalese and Washington speak, the bottom line is the bill will limit the legal rights of gun violence victims.

I think that is wrong. In my view, no victim of gun violence should be denied their day in court. Each should be allowed an opportunity—a chance—to make their case. That is why I believe this whole bill is a mistake.

That said, I am a realist. I recognize the majority of my colleagues, based on the cosponsorship, disagree. On Tuesday, this legislation will likely be approved. That is why my amendment is so important and needs to be dealt with.

My hope is we can at least reach an agreement that even if we are going to strip away the rights for most Americans, we will not take away the rights from the men and women who serve as our Nation's law enforcement officers, the protectors of the peace, the people who serve on our streets, in our neighborhoods, our first responders.

I know all my colleagues appreciate the tremendous service and risk our law enforcement on our streets provides to our communities, so I hope they will share my interest in protecting their rights.

The importance of protecting the rights of our police officers was brought home to me and, I am sure, Senator LAUTENBERG through a case of two police officers in the State of New Jersey: New Jersey Police Detective David Lemongello and Officer Ken McGuire.

In 2001, they were seriously injured when a career criminal shot them while they were working undercover. This criminal was prohibited from purchasing a firearm but he obtained his gun illegally from a trafficker. As it turns out, the trafficker also was prohibited from buying weapons and had used a so-called straw purchaser to make multiple gun purchases from a store in West Virginia.

The cash sale for thousands of dollars was so obviously suspicious that the dealer apparently felt guilty. On the very same day, but after he took the money and after the guns walked out the door, the dealer called into the ATF and identified him. But that was after the guns were gone. Unfortunately, at the time of the sale the dealer apparently thought it was more important to make a profit than to protect the lives of innocent victims.

Sure enough, Officers Lemongello and McGuire paid a severe price for that pawnshop's negligence. They suffered a serious injury and came very close to losing their lives. Their families suffered from their loss and both of them lost their careers and are no longer able to serve as policemen.

I will read a direct statement from one of these officers, Ken McGuire, because I think it expresses better than I can just how outrageous it would be for the Senate to strip them of their rights. This is some of what Officer McGuire said:

> During a stake-out, Detective Lemongello and I were shot by a felon. I ended up getting into a gunfight with the criminal in a snowy backyard. That has changed my life forever. I was shot through the right femur, and it blew apart my femur and also caused extensive damage to my leg. I was also shot through my stomach, and it hit the mesenteric artery. I lost 17 units of blood that night. . . . Because of the injuries I suffered from that shooting, I will never be a police officer again.

That is the same for Officer Lemongello.

He goes on to say:

> I've heard some people say, "Well, criminals can just get guns," as if there is nothing anybody can do to stop them from getting guns. Well, guns don't fall from the sky, or

> grow from trees, this one didn't either. The man who shot us got the gun because of an irresponsible gun dealer in West Virginia . . . who sold 12 handguns to a straw purchaser who gave them to a gun trafficker. What legitimate reason would two people have to buy 12 handguns? . . . Why wouldn't the gun dealer even ask the purchaser: Why would you need 12 guns? Why? Did I mention the purchasers paid for all of this in cash? If there is any doubt of the destination of these guns, which was northern New Jersey, months earlier I arrested a suspect with the same gun make and model from the same shipment in town.

Officer McGuire continues:

> We have filed a lawsuit in West Virginia to hold the irresponsible dealer accountable. The dealer argued in court that it had no responsibility to use reasonable care in its business, but a judge in West Virginia disagreed. She ruled that we have a legitimate case under West Virginia law, and that a jury should decide whether this dealer acted reasonably.
>
> That's all I want today: my day in court, to exercise my right as an American to present my case before a jury of my peers and let them decide, under the law, whether these gun sellers were reasonable or whether they contributed to my shooting.

Officer McGuire says:

> If this bill is passed, Congress will be changing the laws for gun sellers, overruling the West Virginia judge, and taking away our rights. That is shameful.

I think it is, too.

> I call on all Senators to do everything in their power to prevent this bill from becoming law.

That was the message from Officer McGuire, but it could have just as easily come from the countless other law enforcement officers who have been injured or killed by guns trafficked by irresponsible gun dealers and manufacturers.

I was talking to Senator DURBIN about a situation in Chicago. There is case after case. How can any of us look into the eyes of any of these officers, such as Officer McGuire, and tell them we are going to take away their rights? How can we tell David Lemongello he risked his life on behalf of our community, and he almost lost it because of an irresponsible gun dealer, he will be suffering from the attack for the rest of his life but if he wants to go to court, if he wants justice, our answer to him is no?

Remember, the question before the Senate is not whether these two police officers, or any police officer, has a good case. It is simply whether they have a right to make their case. It is whether they have a right to try to convince a jury that a gun dealer acted irresponsibly and whether they deserve compensation as a result.

I do not call this a frivolous lawsuit. I consider this a right for a law enforcement officer to have a right to make their case in court before a jury. This bill would deny them that day in court. Not only would it strip these two heroes of their legal rights, it would do so retroactively.

I know we are going to hear about narrowly defined exceptions that will not allow for it. I do not think law enforcement officers should be limited in their ability to make their case before a jury. As far as I am concerned, it is an affront to these officers and an insult to every police officer who puts his or her life on the line for the community, and it sends precisely the wrong message when we are supposed to be enhancing homeland security and reinforcing the risks that people are taking to protect our families and our communities across this country.

My amendment is very simple. In fact, I will read it word for word:

> Notwithstanding any other provision of this Act, nothing in this Act shall be construed as limiting the right of an officer or an employee of any Federal, State or local law enforcement agency to recover damages authorized under Federal or State law.

I suspect we will hear about amendments that draw these narrow lines of exception. Why is it that a law enforcement officer cannot go into a court and get redress if they have been wronged in the illegal sale or the negligent sale of firearms to criminals? I do not get it.

That is the entire amendment. That is what we are working on. In essence, this amendment stands for the proposition that we should not strip police officers of their rights. It says that members of law enforcement who are victims of gun violence should have their day in court—no new rights, nothing guaranteed, just their day in court.

The advocates of this legislation argue that it is necessary to prevent frivolous litigation. I think they are wrong. But does this Senate really believe that law enforcement officers are flooding the courts with frivolous lawsuits? Is that what our law enforcement officers are doing? Do we really believe that men and women who devote their lives to enforcing our laws are trivializing the judicial process, that Congress needs to take away their rights because they are? I do not believe that and I do not believe anybody in this body does.

There is no evidence of it, and even to suggest it seems out of place given the trust that we give to these men and women in our local communities.

Our men and women in uniform put their lives on the line for us every day. The least they should be able to expect from us is that we would not strip away their rights when they suffer from gun violence, and that is what I think we are doing. I hope my colleagues will stand with me and the men and women of law enforcement and support this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. CORZINE. How much time is remaining?

The PRESIDING OFFICER. The Senator from New Jersey has 5 minutes 25 seconds.

Mr. CORZINE. I yield to my colleague from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I thank my colleague and good friend from New Jersey with whom I have worked very closely on many issues. There is not anything that we have done that binds us more closely than this action because we are witnessing it firsthand. We talked to the two officers who were mentioned in Senator CORZINE's commentary.

To me, this whole situation is surreal. The fact is, when there is a photo opportunity with a cop who is in uniform, we can see him chased by six Senators to get a picture taken with him. When there are townhall meetings, Senators will talk about how brave those cops are and that what they do is they put their lives on the line each and every day, and many of their families may be thinking that just maybe they may not see daddy coming back from work.

And here, the hard cold hearts are saying, well, listen, put your back on the line, put yourself on the line, but do not expect that we are going to help you collect any damages. You can be the breadwinner in the family, the only working person in the family. When that person is shot and killed, the incomes rarely continue for a significant period of time with enough income to take care of a family.

What do you tell a family which has a couple of children and a spouse dependent on the wages of that police officer? You tell them, Well, look, just remember one thing. It is like being a pilot in the military. You could go out and lose your life. The difference is the military takes some care of you. There are insurance programs, other programs. Many of these small police departments don't have the kind of resources to provide on their own for the well-being of those families.

This is an outrage that is being perpetrated on these law enforcement people. It is an outrage. I hope the public understands what we are doing here. We want the people to work in those dangerous jobs, but we don't want to let them on their own go to the courts. That is the process in this country of ours. We will not let them go to court to see if there are any damages. They never repair the damage to the mind. They never repair the damage to the heart. You can't repair the damage to the soul. But we at least ought to be able to say: Listen, if you can bring a suit that shows either the manufacturer or the distributor or the retailer, like the shop in Oregon, was negligent in their handling of the weapon—no safeguards on these weapons—we ought to be able to say to them, if anything happens to you, you can go to court and you can seek damages.

But there is a group here who says no, we want to take away your right to sue. Do you know why? Because the NRA doesn't like it—putting it straight up. The NRA doesn't want that to happen. The NRA writes the legislation, for goodness sake. They don't want it to be available. They don't want these people to have the same rights everybody else has. If you are killed in an airplane crash or a car crash or otherwise, you have a right to go to court.

I have heard the story about product liability. We are not going through that again. We don't worry about product liability. We worry about negligence and recklessness and you are blocked from bringing suit. It is outrageous.

In the year 2003, 148 law enforcement officers across the nation were killed in the line of duty; 52 of those fallen officers were shot to death. I would like it if the managers of the bill who so desperately want this to pass would go to those families and say: You know what, we are sorry. Gosh, Joe was a good guy. We heard about him. He was a Boy Scout leader, all of those things. But that is the nature of the job. So you lost him. Go find another way, Madam Smith, to see if you can support your kids. See if you can get a job. You may have to leave the kids at home because you don't have enough money to take care of them and buy other things.

Every law enforcement officer fatality is a national tragedy. The only place it doesn't ring true is here. They don't want you to have the same rights ordinary citizens have when they are injured. It is incredible to me.

We go through semantic schemes here about: No, it doesn't really mean that. But it does block their right to collect damages if they are injured.

The PRESIDING OFFICER. The time controlled by the Senator from New Jersey has expired. Who seeks time?

Mr. LAUTENBERG. Mr. President, I ask unanimous consent to have printed in the RECORD a list of police officers who object to this bill and feel they are not protected, including an ad run by the Brady Campaign.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

POLICE ORGANIZATIONS THAT OPPOSE THE IMMUNITY BILL

Major Cities Chiefs Association (represents police executives from over 50 of the largest cities in the United States)

National Black Police Association (NBPA) (nationwide organization of African American Police Associations representing approximately 35,000 individual members)

Hispanic American Police Command Officers Association (HAPCOA) (represents over 1,500 command law enforcement officers from local, state and federal agencies)

Police Foundation (a private, nonprofit research institution supporting innovation in policing)

Michigan State Association of Chiefs of Police

Rhode Island State Association of Chiefs of Police

Chief Randall J. Ammerman, Two Rivers, WI Police Department

Chief Ron Atstupenas, Blackstone, MA Police Department

Chief William Bratton, Los Angeles, CA Police Department

Commander (Ret.) Lloyd Bratz, Cleveland, OH Police Department

Chief (Ret.) Neil K. Brodin, Minneapolis, MN Police Department

Ronald J. Brogan, D.A.R.E. America, Special Agent (Ret.) DEA

Chief Thomas V. Brownell, Amsterdam, NY Police Department

James L. Buchanan, Officer (Ret.) Montgomery County, MD Police Department

Detective Sean Burke, Lawrence, MA Police Department

Chief John H. Cease, Wilmington, NC Police Department

Chief Michael J. Chitwood, Portland, ME Police Department

Superintendent Philip J. Cline, Chicago, IL Police Department

Chief Kenneth V. Collins, Maplewood, MN Police Department

Agent Patrick Clowry, U.S. DOJ

Deputy Javier Custodio, Passaic County Sheriffs Department, NJ

Chief James Deloach, South Bethany, DE Police Department

Chief Gary P. Dias, Rhode Island Division of Sheriffs, East Providence, RI

Chief Jed Dolnick, Jackson, WI Police Department

Chief Martin Duffy, Newton Township, PA Police Department

Officer David Elliott, Scranton, PA Police Department

Captain Richard C. Fahltech, Baltimore City, MD Police Department

Chief David G. Farrington, Burnsville, MN Police Department

Officer Linden Franco, Chicago, IL Police Department

Enriqueta Gallegos, Department Of Homeland Security, U.S. Border Patrol

Officer Doris Garcia, New York City Police Department

Chief Charles Gruber, South Barrington, IL Police Department

Patrick Gulton, Asst. Special Agent in Charge, Treasury Dept., Seattle, WA

Chief (Ret.) Thomas K. Hayselden, Shawnee, KS Police Department

Former Superintendent Terry G. Hillard, Chicago, IL Police Department

Steven Higgins, Director (Ret.) ATF

Officer Otis Hosley, Chicago, IL Police Department

Deputy Chief Victor E. Hugo, Amsterdam, NY Police Department

Chief Ken James, Emeryville, CA Police Department

Chief Calvin Johnson, Dumfries, VA Police Department

Captain Michael Johnson, Philadelphia, PA Police Department

Officer Bernard Kelly, Chicago, IL Police Department

Agent Lavra A. Kelso, U.S. Marshals' Service

Chief R. Gil Kerlikowske, Seattle, WA Police Department

Sergeant Robert Kirchner, Chicago, IL Police Department

Chief Michael F. Knapp, Medina, WA Police Department

Officer Chad Knorr, Amity Township, PA Police Department

Officer Edward Krely, Philadelphia, PA Police Department

Deputy Chief Jeffery A. Kumorek, Gary, IN Police Department

Detective John Kutnour, Overland Park, KS Police Department

Lieutenant Curtis S. Lavarello, Sarasota County, FL, Sheriffs Department

Sheriff Ralph Lopez, Bexar County Sheriffs Office, San Antonio, TX

Chief Cory Lynn, Ketchum, Idaho Police Department

Chief Larry W. Mathieson, Ormond Beach, FL Police Department

Officer J.R. Malveiro, Philadelphia, PA Police Department

Officer Joseph Marker, Philadelphia, PA Police Department

Chief Mark A. Marshall, Smithfield, VA Police Department

Chief Burnham E. Matthews, Alameda, CA Police Department

Captain Michael McCarrick, Philadelphia, PA Police Department

Sergeant Michael McGuire, Essex County, NJ Police Department

Chief Jack McKeever, Lindenhurst, IL Police Department

Chief Roy Meisner, City of Berkeley, CA Police Department

Jill B. Musser, Legal Advisor, Boise, Idaho Police Department

Chief William Musser, Meridian, Idaho Police Department,

James Nestor, NJ Attorney General's Office

Detective Kevin Nolan, Salem, NH Police Department

Gerald Nunziato, Special Agent-In-Charge (Ret.), ATF

Chief Howard O'Neal, Neptune Township, NJ, Police Department

Chief Albert Ortiz, San Antonio, TX Police Department

Chief Richard J. Pennington, Atlanta, GA Police Department

Officer Thomas Pierce, Chicago, IL Police Department

Chief Charles C. Plummer, Alameda County, CA Sheriff's Office

Chief Irvin Portis, Jackson, MI Police Department

Chief Sonya T. Proctor, Bladensburg, MD Police Department

Agent Michael J. Prout, U.S. Marshals' Service

Lieutenant Raj Ramnarace, LaCrosse, WI Police Department

Chief Edward Reines, Yauapai-Pescrott Tribal Police, AZ

Jerry Robinson, Acting Deputy Superintendent, Bureau of Investigative Services, Chicago, IL Police Department

Chief Kenneth D. Ridinger, Woodstown, NJ Police Department

Agent Jeffrey Schneider, U.S. Customs and Border Protection

Gerald Schoenle, Director, Erie County Central Police Services, Buffalo, NY

Chief Michael Seibert, Bolivar, MO Police Department

Sergeant Mike Suplicki, K-9 Unit, Passaic County Sheriffs Department, NJ

Detective Captain Edward Swannack, Neptune Township, NJ

Chief Toussaint E. Summers, Jr., Herndon, VA Police Department

Chief William F. Taylor, Rice University Policy Department, Houston, TX

Chief Vincent Vespia, South Kingstown, RI Police Department

Chief (Ret.) Joseph J. Vince, Jr., Crime Gun Analysis Branch, ATF

Chief Garnett F. Watson, Jr., Gary, IN Police Department

Hubert Williams, President, Police Foundation, Washington, DC

POLICE CHIEFS URGE U.S. SENATE: DON'T PROTECT GUN DEALERS WHO ARM KILLERS

BIG-CITY POLICE CHIEFS JOIN L.A. CHIEF BILL BRATTON TO DEMAND ACCOUNTABILITY FOR RECKLESS GUN DEALERS

America's top cops have joined forces to oppose an outrageous bill now being pushed through the U.S. Senate. Incredibly, it would reward reckless gun dealers with immunity from legal challenges.

This legislation is the highest priority of the National Rifle Association.

Police are already battling a tidal wave of illegal guns. This legislation would make this problem worse—and make cops' lives even more dangerous. That's why the Major Cities Chiefs Association and other law enforcement groups have joined Chief Bratton to forcefully oppose this dangerous bill.

A cop's worst nightmare: Bull's Eye and the D.C. area snipers

Just 1% of gun dealers supply 57% of the guns used in crimes. Consider, for example, Bull's Eye Shooter Supply of Tacoma, Washington. Bull's Eye "lost" the assault rifle used by the D.C. area snipers to murder 12 people. In three years it managed to "lose 237 other guns, as well. In all it supplied guns traced to at least 52 crimes. If the Senate caves and this bill passes, dealers like Bull's Eye will get off scot-free and the NRA will win a victory for its extremist agenda.

Stand with America's Police: Go to our website: STOPtheNRA.com

Polls show that 2 out of 3 Americans want irresponsible gun merchants such as the dealer that armed the D.C. area snipers held accountable. But we must make our voices heard—or the NRA's money and lobbying will prevail. Go to www.STOPtheNRA.com and sign our petition so we can send your name to the senators who support this outrageous bill.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I will be brief and yield back the remainder of my time. Of course, our amendment will be set aside. I will offer a Frist-Craig amendment. I hope we can limit the time on that. All are encouraging we vote sooner rather than later.

I must say, one of the strengths of the underlying bill, S. 1805, is it adopted the same rules for all plaintiffs, no matter how sympathetic or how unsympathetic; no matter how notorious or how mundane the circumstances of their victimization. It creates the kind of legal standards in this country we believe all people should stand under.

The Senator from New Jersey is a man who creates law. The picture beside him is of a man who enforces law. We have obvious and open respect for both, and we should in this country, because we are a country of laws. That gentleman you talked about so eloquently who is pictured beside you is a man who puts on the uniform every day and goes in harm's way. There is no doubt about it. There is not a Senator on this floor who doesn't respect men and women in uniform, whether they be civil police in this country or are men and women in the armed services.

At the same time, that man enforces law. His life oftentimes is put in much more jeopardy by plea-bargaining the criminal back onto the street day after day in urban America, and they have to go out and rearrest them and rearrest them again. Tragically enough, those criminals go out and steal guns. Sometimes they buy them. And sometimes they lie when they buy them. But most of them are stopped by background checks today. That officer has to face them again.

We understand that principle. That is the history of America. That is the history of law enforcement. The great tragedy today in law is criminal law, in my opinion, that we keep kicking them back to the streets instead of doing the time for the crime and causing that gentleman to have to go out and face them once again because they are a repeat, repeat, repeat offender.

What S. 1805 attempts to establish is plaintiffs' rights should be dependent on settled principles of law, not emotion and not sympathy. If a lawsuit has enough merit under traditional tort standards to be allowed by the bill, we believe that cause of action should be available to all plaintiffs, regardless of their occupation or their employer or whether particularly an attacker had harmed them. In other words, we are not suggesting there be carve-outs and special exemptions.

But clearly, and I can argue and the Senator has already said, I would come back to those five very key exceptions we have placed in S. 1805. I am not going to repeat those. I have repeated them several times tonight. They are in the bill. They are in the bill a majority of the Senators here support, Democrat and Republican. Why do they? Because they bring stability to the law. They create clear standards. They don't say that a law-abiding citizen producing a lawful product is somehow liable if someone takes it and misuses it; that the person who misuses it is the person who ought to be liable. That person ought to be the criminal, if so found guilty. That is a premise of the law and it is an important premise of the law.

I hope my colleagues tonight will oppose the Corzine amendment. It guts the underlying bill. I doubt the Senator from New Jersey planned to vote for S. 1805. I can't view this as a friendly amendment. I don't think it is intended to be. I think it is intended to tear down the fundamental structure built under S. 1805, to establish solid principles, clear understandings, not to allow junk lawsuits to move through, but to allow that gentleman pictured beside you his day in court. Because the courthouse door is not locked. The opportunity to argue before the judge still remains so that suit can be filed, so that case can move on if the principles of the law are met and the standards meet the test.

With that, I yield back the remainder of my time and ask the Corzine amendment be laid aside.

AMENDMENT NO. 2630

Mr. CRAIG. I send to the desk the Frist amendment.

The assistant legislative clerk read as follows:

> The Senator from Idaho [Mr. CRAIG], for Mr. FRIST for himself and Mr. CRAIG, proposes an amendment numbered 2630.

Mr. CRAIG. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> (Purpose: To protect the rights of law enforcement officers who are victimized by crime to secure compensation from those who participate in the arming of criminals)
>
> On page 9, between lines 21 and 22, insert the following:
>
> (E) LAW ENFORCEMENT EXCEPTION.—Nothing in this Act shall be construed to limit the right of an officer or employee of any Federal, State, or local law enforcement agency to recover damages authorized under Federal or State law in a civil action that meets 1 of the requirements under clauses (i) through (v) of subparagraph (A).

Mr. CRAIG. I will be brief. I think our colleagues wish that of us tonight. This amendment is not unlike the amendment the Senate accepted a few moments ago in relation to the Mikulski amendment. Let me read it. It is every bit as simple and straightforward as the amendment of the Senator from New Jersey:

> Law enforcement exception—Nothing in this Act shall be construed to limit the right of an officer or employee of any Federal, State, or local law enforcement agency to recover damages authorized under Federal or State law in a civil action that meets 1 of the requirements under clause (i) through (v) of subparagraph (A).

Of course, I have read that subparagraph and all of those exceptions to you time and time again over the last several days.

We believe it is clear-cut. We believe that creates the stability within the law. It sets in motion something very important; that is, the old principle of tort law—that it is the individual who is guilty for their actions and they should not be trying to reach through layers upon layers of acts to find somebody who produced a quality product and say you are guilty because you produced it and, therefore, you ought to pay because somebody misused and damaged or took someone's life. We have never done that as a country, and we shouldn't. We have found negligence, and we should where it exists, where there has been willingness, where there has been a violation of law that is found. People ought to pay the price if they don't play by the rules.

In the gun community, I know how important this right is in America, and with this right goes phenomenal responsibility.

This Senate, time and time again, down through the decades has established very specifically those responsibilities because we view this as an extremely valuable right.

I say to the Senator from New Jersey that I am not going to keep that policeman out of the courthouse. I and Americans respect him and his profession too much to say you cannot go after redress, but you must find that the laws that you enforce are the same laws that you respect and must live by.

I retain the remainder of my time.

The PRESIDING OFFICER. Who seeks time? The Senator from Illinois.

Mr. DURBIN. Mr. President, who controls time in opposition to the Craig amendment?

The PRESIDING OFFICER. The minority manager controls the time. That would be the Senator from Rhode Island.

Mr. REED. Mr. President, I yield 5 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 5 minutes.

Mr. DURBIN. I thank my colleague from Rhode Island, and I thank the Presiding Officer.

The Senator from Idaho says when he wrote this bill, he did it without emotion and without sympathy. Clearly, if he is going to oppose this amendment offered by the Senator from New Jersey, then he is doing it without sympathy for the 54 law enforcement officers who are killed each year in the line of duty with guns. That is what the Senator said.

Mr. CRAIG. Mr. President, will the Senator yield?

Mr. DURBIN. Of course I will not because you would not yield when you had the floor.

Mr. CRAIG. Fine. I will take my time.

Mr. DURBIN. I will say this to the Senator from Idaho: It is hard for me to imagine, to believe that you believe that a lawsuit brought by that police officer or his family for being shot in the line of duty is a junk lawsuit as you have characterized these over and over again. The Senator from Idaho should join me in the city of Chicago where I have visited officers of that police force shot in the line of duty who are quadriplegic for the rest of their lives because a gang banger shot them in the line of duty. And you tell that officer and his family—the Senator from Idaho should tell that officer and his family—that if they are going to seek redress from a gun dealer who sold those guns to the gang bangers, that that lawsuit for that officer and his family is a junk lawsuit—a junk lawsuit. Please.

How in the world can we in the Senate stand here and pronounce our admiration and respect for the men and women in uniform who protect us every single day, and then when they are stricken in the line of duty, when they are shot defending us, tell them when they want to go against the gun dealers who put these junk guns on the street, these Saturday night specials through straw purchasers and gun traffickers, that that lawsuit brought by that officer and his family is a junk lawsuit that you want to stop with this legislation?

That troubles me. It troubles me because, frankly, I think we understand if we are going to ask anyone in our community to risk their lives every single day for us by wearing that badge and that uniform, we owe them something more than words. We should be standing by them when they, frankly, give their lives and risk their lives for us every single day.

The choice we have with the Corzine amendment is a clear choice: Stand by the police or stand by the gun dealers. The Senator from Idaho says we need to stand by the gun dealers; that this is a jobs bill. We need to stand by the gun manufacturers; this is a jobs bill. What about the men and women in uniform and our law enforcement agencies across America? What about their jobs? Are they worth standing by or standing by their families?

I say to those who are going to oppose the Corzine amendment that if you have a problem in your neighborhood and there is crime in the neighborhood, don't call 9-1-1. No, dial up your local gun dealer because if you dial 9-1-1, you are going to get one of these policemen who just might get hurt and file a junk lawsuit. You had better dial up that gun dealer. Call the gun dealer and ask him to please come out and protect your family.

I cannot imagine that we are going to allow this to occur. The Frist-Craig amendment is meaningless when it says whatever the bill said originally it applies to law enforcement officials. It doesn't do a thing for them.

The Corzine amendment does. It says we are going to stand behind the police. If he is shot in the line of duty, we will stand by him and his family to go after the wrongdoer and the gun dealer who is selling those guns to the gang bangers and street killers, the cop killers on the street.

If you want to vote for the Frist-Craig amendment in this underlying bill, frankly, we are turning our back on those men and women who are risking their lives every single day for us.

I thank the Senator from New Jersey for this amendment. We should be offering this amendment not only for law enforcement officials but for firefighters, medical responders, and every single person in America who puts their life on the line for us every single day and risk death by firearms because this underlying bill is saying to them, if you are hurt and you sue, you are filing a junk lawsuit.

Mr. CRAIG. Mr. President, may I ask how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Idaho has 12 minutes 28 seconds. The Senator from Rhode Island has 9 minutes 49 seconds.

Mr. CRAIG. Mr. President, I yield to Senator SESSIONS.

I am not going to respond to the Senator from Illinois only to say that he impugned my heart. He suggested I was a person without sympathy. I have never done that to him. I believe he is a person of goodwill who comes here to represent the citizens of the State of Illinois.

When I talk about sympathy, I talk about the impartiality of law. He is an attorney and I am not. He knows that the law is impartial and it is clear.

So I must tell you that I grit my teeth a little bit when he suggests that this Senator has no passion or concern for the loss of life. That is a step too far.

Let me yield 5 minutes to Senator SESSIONS.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 5 minutes.

Mr. SESSIONS. Mr. President, I was a prosecutor for a number of years. Some of my best friends are police officers. I try to meet with them when I am in my State. I met with 11 or 12 of them in Cherokee on the Georgia line last week. They are not telling me that if they are shot or one of their fellow officers are shot they want to sue the gun manufacturers. None of them have ever suggested that to me. They believe that criminals with guns ought to be prosecuted aggressively and go to jail for it when they catch them. They ought to be punished. And if they shoot and kill a police officer, they want to see them go to jail or be executed. A lot of people who are opposing this legislation oppose the death penalty for those who kill police officers.

The point of this is very simple. In American law, from our ancient traditions, wrongdoers are the people who ought to be sued. If a terrorist comes in here and shoots a policeman, a cold-blooded criminal shoots any American citizen, you should sue the person who shot you. That is what we are all about. That is what the law has been about.

Now we are in a situation in which the law has been politicized and used to carry out an agenda. To say that a gun dealer or a gun manufacturer that has complied with all the extensive regulations for the sale of firearms, has done everything right, that somehow they should be the ones to be sued if a criminal in an intervening action obtains a weapon from another person perhaps and commits a crime with it and shoots someone, that is not what American law is about. It is an abuse of the liability system in America. It is consistent with current law and our traditions. It is why, to date, none of these lawsuits against gun manufacturers has been successful and why few are successful against gun dealers.

However, if a gun manufacturer or if a gun dealer, in particular, sells a weapon contrary to the complex and detailed regulations the Federal Government, State, and cities required, that person can be not only sued for damages, that person can be prosecuted.

When I was a Federal prosecutor, I prosecuted criminals who used guns; I prosecuted gun dealers who sold guns illegally. They have to get an ID from the purchaser. They make him sign an affidavit that he is not a felon. They do a gun check. They have to be a resident of the State, as I recall. They cannot be a drug addict. If they know there is an impropriety and sell the gun anyway, they can be responsible and be sued for it and should be—and should be prosecuted, for that matter.

What we need to focus on in America today is that the Constitution of this country allows the American people to keep and bear arms. Those who do not agree, get over it. That is where the American people are. That is what the Constitution says. That is what the rules are. If you want to offer legislation to put further controls on the right of an individual in America to keep and bear arms, put it out here and let's debate it and see if it has enough votes to win.

This idea of mayors, attorneys general, district attorneys, and governmental officials filing lawsuits against gun manufacturers who complied with the law, to try to make them responsible in an end run effort to carry out an antigun agenda in some of our big, liberal cities in America—they do not understand where most Americans are about hunting and guns—is improper. It is not the way we ought to go about this business.

The Senator from Idaho is correct; this liability question is one we need to deal with. There is a concerted effort in America to utilize the legal system in some of our liberal courts to try to knock down the right to manufacture and sell guns. It is protected by Federal law. It is controlled by Federal law. It is mandated by Federal law. People who comply with the law should not be sued. If they do not comply, they should be sued and prosecuted.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, let me make two or three quick points and then yield to Senator LAUTENBERG and then to Senator CORZINE.

First, a neutral assessment of this legislation suggests strongly that it is not just frivolous lawsuits that are going to be barred by this legislation; there are going to be many meritorious lawsuits. We already know about these suits. We know about Officer McGuire; we know about the victims of the Washington snipers. Those individuals will be barred from courts. Those are not frivolous suits.

Again, there has been discussion about junk cases. I believe there will be a lot of junk guns on the streets because essentially what this legislation does is this. When a Federal firearms dealer gets his license, he also gets a license to be negligent. He can follow the rules but he can be negligent. There is no Federal legislation or State legislation, in many cases, that requires the storage at a facility of weapons, so you can leave them lying around. That is what they apparently did at Bull's Eye.

That is negligence, and that negligence harmed several individuals. And this particular law, if adopted, will prevent people from exercising their rights for compensation based upon that activity.

All this discussion leads to the inescapable belief on my part that the proponents want it both ways. They stand here and decry the attack on the industry, the gun industry besieged by lawsuits, and then turn and say: Of course, Officer Lemongello will get to court and Officer McGuire will get to court and the sniper victims will get to court. They cannot have it both ways.

The law is not impartial. The law is what we make it. We are making a law today that favors, in an unprecedented fashion, the gun industry, gun dealers, and the National Rifle Association. That is our making. It is not some cosmic event taking place and suddenly we have the law. We are telling them, be negligent, be irresponsible, be reckless, do not worry about it, we have taken care of you.

What do we say to the victims of the crimes? Tough luck. You were in the wrong place, officer. You were in the wrong place, Conrad Johnson, starting your bus up early in the morning. Your family will never get a nickel from the companies or individuals who were negligent.

I yield 3 minutes to the Senator from New Jersey.

Mr. REED. How much time do we have?

The PRESIDING OFFICER. The Senator has 7 minutes.

Mr. REED. I yield 3 minutes to the Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I ask to have the Presiding Officer call attention to the fact when I have 30 seconds remaining.

We listen to the same rhetoric, decry the risk that our law enforcement people take when they go out to work and how we really respect them—except that we do not want to give them the same environment that every ordinary citizen in this country has.

We hear about the fact that if you get the criminals off the streets and they do not come out again, and then they go back again, what does it have to do with whether or not we block the suit from law enforcement personnel who have been injured, who have families who want redress for them having been killed at work? It has nothing to do with it.

That is the whole thing. It is an obfuscation of what this bill is about. This bill does not change a bit with this amendment. It just reinforces what the bill says, and that is, take away people's rights to sue, people's rights for redress. Whether it is an errant gun manufacturer, a dealer, a distributor, an errant airline, or an errant car manufacturer, people should have the right to sue.

There have been opinions thrown around that, unfortunately, do not match that of a distinguished attorney such as David Boies who says this bill will cause a dismissal of the suit of Lemongello and McGuire immediately. The proposed immunity legislation would require the immediate dismissal of these claims.

I ask unanimous consent to have printed in the RECORD what the office of David Boies, one of the most prominent criminal attorneys in the country, has confirmed.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Lemongello v. Will Company, No. Civ.A. 02-C-2952, 2003 WL 21488208 (W. Va. Cir. Ct. Mar. 19, 2003). New Jersey Police Detective David Lemongello and Officer Kenneth McGuire were seriously injured in January 2001 when they were shot by a career criminal while performing undercover police work. Even though the shooter was a person prohibited by law from purchasing a firearm, he obtained his weapon, a nine millimeter semi-automatic Ruger handgun, illegally from a gun trafficker. The trafficker, in turn, was also prohibited from buying weapons due to a prior felony, so he used an accomplice (a so-called "straw purchaser") to make multiple gun purchases from defendant Will Jewelry & Loan, in West Virginia. In their lawsuit against Will Jewelry & Loan and others, the officers allege that the gun dealer acted negligently in selling the straw purchaser twelve guns (including the Ruger used in the shooting of the two officers) that had been selected in person by the gun trafficker and paid for in a single cash transaction. The circumstances of that sale were so suspect that the defendant dealer reported it to the AFT—but only after the purchase price had been collected and the guns had left the store. The officers' suit further charges gun manufacturer Sturm Ruger & Company with negligently failing to monitor and train its distributors and dealers and negligently failing to prevent them from engaging in straw and multiple firearm sales. Although a West Virginia trial court has held that the plaintiffs have stated valid negligence and public nuisance claims under state law, the proposed immunity legislation would require the immediate dismissal of those claims. Notwithstanding the plaintiffs' claims that the defendants failed to exercise reasonable care in their sales of firearms, neither the dealer nor the manufacturer violated any statutory prohibition in selling the guns. Nor could the plaintiffs contend that

> their case falls within the "negligent entrustment" exception to the proposed immunity legislation because the gun dealer supplied the firearm to a straw purchaser—not to someone whom the seller knew or should have known was likely to, and did, use the product in a manner involving unreasonable risk of physical injury to the person or others.

The PRESIDING OFFICER. The Senator has 30 seconds remaining.

Mr. LAUTENBERG. Many police officers and police chiefs wrote in their opposition to this bill, law enforcement personnel from various police departments around the country, including Chief William Musser of Meridian, OH, Police Department. He writes that he is opposed to this. We have officers from other States as well, including Chief Cory Lynn from Ketchum, ID, Police Department, in opposition to this legislation.

This letter was printed in the RECORD of yesterday.

The PRESIDING OFFICER. Who seeks time?

Mr. REED. Mr. President, I yield the remaining time to the Senator from New Jersey, Mr. CORZINE.

The PRESIDING OFFICER. The Senator is recognized for 3½ minutes.

Mr. CORZINE. Mr. President, the issue before the Senate is pretty clear. This is a simple principle: Will we protect law enforcement officers such as Officer Lemongello from losing their rights under this bill or won't we?

The fact is, the narrow drawing of these exemptions is going to take cases like I identified in my opening remarks—such as buying guns in West Virginia from a negligent dealer, who admitted, themselves, on the same day they had a problem; and it went into the courts—and we are going to take away their rights to sue. This will not fit under those legal constraints.

The amendment is clear and straightforward. It says that nothing in this legislation will limit the legal rights of law enforcement personnel. All my amendment does is open that up. There are no conditions. There are no caveats. It is clear. It is simple. My amendment does not add any new rights. It just guarantees that officers will not lose any.

I am emotional about these individuals who put their lives on the line all the time. I accept that others feel the same way. But we should not be taking away the rights of these individuals to get into a court and not only pursue the person who perpetrated the crime, but if someone has facilitated that crime, because they have been negligent, that ought to be also someone who is subject to the law.

I think we are doing just the opposite. The Frist-Craig amendment is completely meaningless in this context because it is exactly the same language that is already in the bill. It is transparent and does not change a thing.

This officer will not be able to get into a court of law. This officer will lose his right to sue. That is not right. It is not right for the other 52 American police officers who lost their lives in 2002 or 2003, and the many, many who have been injured.

I don't understand why we don't want to give them the rights they deserve under our Constitution. This is not about whether you have a right to bear arms. This is not about the second amendment. This is about having the right, when there is negligence and criminal behavior, to go into a court of law and protect yourself.

We are doing it for law enforcement—for law enforcement—not just generally. These are not frivolous suits. These are people who know the law. They are not bringing up frivolous suits, and I do not think I am hearing that. So if we are not going to have frivolous lawsuits, which is the argument we are trying to make, we need this legislation.

Why are we taking away the right to sue from law enforcement across this country? I ask my colleagues to stand with me. I think we are undermining the safety and the security and the principles and the rights of law enforcement. I think the Senate ought to be standing with law enforcement to make sure they are protected. If we vote no against my amendment, we are doing the opposite. I hope we will stand strong and stand firmly with law enforcement because that is what we need to do if we say we appreciate what they are doing for our families and our communities.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who seeks time?

The Senator from Idaho.

Mr. CRAIG. Mr. President, I understand the opposition has yielded back all their time.

The PRESIDING OFFICER. That is correct.

Mr. CRAIG. I will be as brief as possible. The hour is late.

I know the Senator from New Jersey speaks with a good heart, and I appreciate that. I think we all do. He mentioned two important words just in the last of his closing debate. He mentioned the word "criminal," criminal action, the right to sue, and he mentioned "negligence" and the right to sue. Then he said: We block that policeman from the courthouse door.

I must ask him to return to page 7 of the bill, exception one and exception two:

> an action brought against a transferor convicted under section 924(h) of title 18, United States Code, or a comparable or identical State felony law, by a party directly harmed by the conduct of which the transferee is so convicted. . . .

He is talking about criminal action. That action is deemed as a criminal act in the law.

How about negligence? Well, it is the next one down.

It is No. 2:

> an action brought against a seller for negligent entrustment or negligence per se. . . .

Let me tell you what the FOP says. I think we all know what the FOP is. That is the Fraternal Order of Police, some 311,000 strong. They oppose the Corzine amendment. We have just visited with them. They called us and they said: Why? Because they do not believe it accomplishes what they would like accomplished, and they like the underlying law.

I think it is fundamentally important that we try to build clean principles within the law. I would have to agree with the Senator from New Jersey that policeman is not going to file or have his attorneys file a junk lawsuit. The Senator is absolutely right. But 31 apparently have been filed, some are under appeals, and 21 of them have been thrown out of court by judges who said: Go away, because that is what this lawsuit is.

Now, oftentimes the municipality and/or the individuals and/or the county will file it in the name of a fallen officer. I can understand the emotion. I think we all feel it. But the judge said the law is the law and there was no basis, and he threw them out. Yet it cost the industry—the law-abiding industry—hundreds of millions of dollars. It is beginning to weaken many of our legitimate, legal gun manufacturers, that oftentimes build the firearm that officer carries on his side to protect himself and his fellow officers in the commission of their responsibilities.

We should not be doing that as a country. But clearly we must insist that the law be clear, unambiguous, and that the officer have his day in court if he is harmed by a criminal or by someone who has acted in a criminal way, someone who has violated the law, someone, through negligence, has somehow caused a firearm to get into the hands of a criminal.

Then the case is brought, and S. 1805 does not block that.

I yield back the remainder of my time, and I ask for the yeas and nays on the Frist-Craig amendment and the Corzine amendment.

The PRESIDING OFFICER. Is the Senator seeking the yeas and nays on both amendments with one show of hands?

Mr. CRAIG. If there is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered. The yeas and nays are requested.

Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 2630. The clerk will call the roll.

The assistant journal clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL), the Senator from New Mexico

(Mr. DOMENICI), and the Senator from Alaska (Ms. MURKOWSKI) are necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 60, nays 34, as follows:

[Rollcall Vote No. 21 Leg.]

YEAS—60

Alexander
Allard
Allen
Baucus
Bayh
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Chambliss
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
Daschle
Dayton
Dole
Dorgan
Ensign
Enzi
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Johnson
Kyl
Landrieu
Lincoln
Lott
Lugar
McCain
McConnell
Miller
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reid
Roberts
Rockefeller
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich

NAYS—34

Akaka
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Chafee
Clinton
Corzine
DeWine
Dodd
Durbin
Feingold
Feinstein
Fitzgerald
Graham (FL)
Harkin
Hollings
Inouye
Jeffords
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Murray
Reed
Sarbanes
Schumer
Stabenow
Warner
Wyden

NOT VOTING—6

Campbell
Domenici
Edwards
Kennedy
Kerry
Murkowski

The amendment (No. 2630) was agreed to.

Mr. CRAIG. Mr. President, I move to reconsider the vote.

Mr. WYDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2629

The PRESIDING OFFICER. The next order of business is consideration of the Corzine amendment. There are 2 minutes equally divided to be followed by a vote. The yeas and nays have already been ordered.

Who yields time?

The Senator from New Jersey.

Mr. CORZINE. Mr. President, my amendment is very simple. In fact, I will read it:

> Notwithstanding any other provision of this Act, nothing in this Act shall be construed as limiting the right of an officer or employee of any Federal, State or local law enforcement agency to recover damages authorized under Federal or State law.

This is a police officer who was shot, injured, and is no longer able to work in New Jersey. Fifty-two were killed in 2002 by guns in the hands of criminals, sold negligently—people should have the ability to go to court and get redress. These are not junk lawsuits, not frivolous lawsuits.

Law enforcement officers ought to have the ability to protect their rights in court. They should have their day in court. That is what this amendment does, and the narrow definitions that are allowed for in the underlying bill will keep Officers McGuire and Lemongello out of court.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Idaho.

Mr. CRAIG. Mr. President, I ask my colleagues to vote against the Corzine amendment. I ask it on behalf of the Fraternal Order of Police, some 311,000 strong, who oppose this amendment, who oppose a special carve-out in a law that is meant to treat all fairly and equitably. This amendment would gut the underlying bill, S. 1805, and I ask my colleagues to oppose it and vote against it.

I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2629. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Alaska (Ms. MURKOWSKI) are necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 38, nays 56, as follows:

[Rollcall Vote No. 22 Leg.]

YEAS—38

Akaka
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Chafee
Clinton
Conrad
Corzine
Daschle
Dayton
DeWine
Dodd
Durbin
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Inouye
Jeffords
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Murray
Nelson (FL)
Reed
Sarbanes
Schumer
Stabenow
Warner
Wyden

NAYS—56

Alexander
Allard
Allen
Baucus
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
Dole
Dorgan
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Johnson
Kyl
Landrieu
Lincoln
Lott
Lugar
McCain
McConnell
Miller
Nelson (NE)
Nickles
Pryor
Reid
Roberts
Rockefeller
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich

NOT VOTING—6

Campbell
Domenici
Edwards
Kennedy
Kerry
Murkowski

The amendment (No. 2629) was rejected.

Mr. CRAIG. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRAIG. Mr. President, we have worked a long day and through what this time last night was appearing to be a very complicated unanimous consent. But I think it flowed well today. All of our colleagues worked hard, and we have been able to meet all but one vote we had on that unanimous consent.

It is my understanding that it is possible Senator BINGAMAN will offer his amendment in the morning.

Mr. REID. Mr. President, if my friend will yield, on our side, Senator DAYTON will be here in the morning to offer his amendment. Following that, Senator LEVIN will offer an amendment. Senator BINGAMAN wishes to offer his amendment on Monday.

I also say to my friend that Senator REED has told me he will come tomorrow or Monday to start laying the groundwork for his amendment and the amendment with Senator FEINSTEIN. The votes on those amendments will occur Tuesday morning. When they get the floor, they can talk about their amendments either tomorrow or Monday.

Mr. CRAIG. Mr. President, I thank the Senator from Nevada for his cooperation in working with us to facilitate this bill today, to move it in a timely way and get the votes necessary throughout the day. He has worked hard, along with all of us, to get that accomplished. We have had several votes.

Let me also thank, midway through this, my staff and certainly the staff of the Judiciary Committee and others who worked to make sure we had the information in a timely way to move forward.

It is my understanding this is the last vote of the day.

Mr. REID. Mr. President, I rise in support of this most important legislation. In fact, I am a cosponsor of this bill, which is sponsored by Senators CRAIG and BAUCUS.

This legislation protects firearm and ammunition manufacturers from lawsuits related to deliberate and illegal misuse of their products. Even more important, it protects the rights of Americans who choose to legally purchase and use their products.

As a gun owner since I was a young boy, I strongly support the constitutional right of law-abiding citizens to keep and bear arms. This constitutional right of responsible individuals should not be compromised or jeopardized by a small handful who use firearms to commit crimes.

In my native State of Nevada, many people own firearms and the vast majority of them use their guns responsibly and safely. It is their right to do so, guaranteed in the United States Constitution. It is not some privilege granted at the whim of Congress or any other part of government. So I will work on a bipartisan basis to protect and safeguard that right.

I will work to pass this bill, and I think we have the votes to pass it.

Toward the end of last year, we tried to consider this bill in the United States Senate. Unfortunately, we didn't have enough time left in the first session of this Congress to consider this bill in a fair manner.

Now the time has come to pass this bill.

We will now debate and vote on the amendments that Senators want to offer to this bill, and then we will pass it. And when we do, we will be standing up for the Constitution and the rights of every American citizen.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant Journal clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

SECOND NOTICE OF PROPOSED PROCEDURAL RULEMAKING

Mr. STEVENS. Mr. President, I ask unanimous consent that the attached statement from the Office of Compliance be entered into the RECORD today pursuant to section 303(b) of the Congressional Accountability Act of 1995 (2 U.S.C. 1384(b)).

OFFICE OF COMPLIANCE

The Congressional Accountability Act of 1995: Second Notice of Proposed Amendments to the Procedural Rules.

Introductory statement:

On September 4, 2003, a Notice of Proposed Amendments to the Procedural Rules of the Office of Compliance was published in the Congressional Record at S11110, and H7944. As specified by the Congressional Accountability Act of 1995 ("Act") at Section 303(b) (2 U.S.C.1384(b)), a 30 day period for comments from interested parties ensued. In response, the Office received a number of comments regarding the proposed amendments.

At the request of a commenter, for good reason shown, the Board of Directors extended the 30 day comment period until October 20, 2003. The extension of the comment period was published in the Congressional Record on October 2, 2003 at H9209 and S12361.

On October 15, 2003, an announcement that the Board of Directors intended to hold a hearing on December 2, 2003 regarding the proposed procedural rule amendments was published in the Congressional Record at H9475 and S12599. On November 21, 2003, a Notice of the cancellation of the December 2, 2003 hearing was published in the Congressional Record at S15394 and H12304.

The Board of Directors of the Office of Compliance has determined to issue this Second Notice of Proposed Amendment to the Procedural Rules, which includes changes to the initial proposed amendments, together with a brief discussion of each proposed amendment. As set forth in greater detail herein below, interested parties are being afforded another opportunity to comment on these proposed amendments.

The complete existing Procedural Rules of the Office of Compliance may be found on the Office's web site: www.compliance.gov.

How to submit comments:

Comments regarding the proposed amendments to the Rules of Procedure of the Office of Compliance set forth in this NOTICE are invited for a period of thirty (30) days following the date of the appearance of this NOTICE in the Congressional Record. In addition to being posted on the Office of Compliance's section 508 compliant web site (www.compliance.gov), this NOTICE is also available in the following alternative formats: Large Print, Braille. Requests for this NOTICE in an alternative format should be made to: Bill Thompson, Executive Director, or Alma Candelaria, Deputy Executive Director, Office of Compliance, at 202–724–9250 (voice) or 202–426–1912 (TDD).

Submission of comments must be made in writing to the Executive Director, Office of Compliance, 110 Second Street, S.E., Room LA–200, Washington, D.C. 20540–1999. It is requested, but not required, that an electronic version of any comments be provided on an accompanying computer disk. Comments may also be submitted by facsimile to the Executive Director at 202–426–1913 (a non-toll-free number.) Those wishing to receive confirmation of the receipt of their comments are requested to provide a self-addressed, stamped post card with their submission.

Copies of submitted comments will be available for review on the Office's web site at www.compliance.gov, and at the Office of Compliance, 110 Second Street, S.E., Washington, D.C. 20540–1999, on Monday through Friday (non-Federal holidays) between the hours of 9:30 a.m. and 4:30 p.m.

Supplementary Information: The Congressional Accountability Act of 1995 (CAA), PL 104–1, was enacted into law on January 23, 1995. The CAA applies the rights and protections of 11 federal labor and employment statutes to covered employees and employing offices within the Legislative Branch of Government. Section 301 of the CAA (2 U.S.C. 1381) establishes the Office of Compliance as an independent office within that Branch. Section 303 (2 U.S.C. 1383) directs that the Executive Director, as the Chief Operating Officer of the agency, adopt rules of procedure governing the Office of Compliance, subject to approval by the Board of Directors of the Office of Compliance. The rules of procedure generally establish the process by which alleged violations of the laws made applicable to the Legislative Branch under the CAA will be considered and resolved. The rules include procedures for counseling, mediation, and election between filing an administrative complaint with the Office of Compliance or filing a civil action in U.S. District Court. The rules also include the procedures for processing Occupational Safety and Health investigations and enforcement, as well as the process for the conduct of administrative hearings held as the result of the filing of an administrative complaint under all of the statutes applied by the Act, and for appeals of a decision by a hearing officer to the Board of Directors of the Office of Compliance, and for the filing of an appeal of a decision by the Board of Directors to the United States Court of Appeals for the Federal Circuit. The rules also contain other matters of general applicability to the dispute resolution process and to the operation of the Office of Compliance.

These proposed amendments to the Rules of Procedure are the result of the experience of the Office in processing disputes under the CAA during the period since the original adoption of these rules in 1995.

How to read the proposed amendments:

The text of the proposed amendments shows [deletions within brackets], *and added text in italic.* Textual additions which have been made for the first time in this second notice of the proposed amendments ***are shown as italicized bold.*** Textual deletions which have been made for the first time in this second notice of the proposed amendments [[are bracketed with double brackets.]] Only subsections of the rules which include proposed amendments are reproduced in this notice. The insertion of a series of small dots (. . . . .) indicates additional, unamended text within a section has not been reproduced in this document. The insertion of a series of stars (* * * * *) indicates that the unamended text of entire sections of the Rules have not been reproduced in this document. For the text of other portions of the Rules which are not proposed to be amended, please access the Office of Compliance web site at www.compliance.gov.

PROPOSED PROCEDURAL RULE AMENDMENTS

PART I—OFFICE OF COMPLIANCE

Office of Compliance Rules of Procedure

As Amended—February 12, 1998 (Subpart A, section 1.02, "Definitions"), and as proposed to be amended in 2004.

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* * * * *

§1.03 Filing and Computation of Time.

(a) Method of Filing. Documents may be filed in person or by mail, including express, overnight and other expedited delivery. *When specifically authorized by the Executive Director,* ***or by the Board of Directors in the case of an appeal to the Board,*** *any document may also be filed by electronic transmittal in a designated format.* Requests for counseling under section 2.03, requests for mediation under section 2.04 and complaints under section 5.01 of these rules may also be filed by facsimile (FAX) transmission. . . . .

Discussion: The electronic filing option is in addition to existing filing procedures, and represents the decision of this agency to begin to explore the process of migration toward electronic filing. In response to comments, the Board has added Board of Directors authorization authority to ensure that the Executive Director cannot unilaterally assume Board authority regarding a matter pending before the Board. Because of limits in available technology, it will remain necessary to designate a particular format for electronic transmittal. Requiring a designated format does not impose an undue burden, since electronic filing is not required. Stipulating a web address and system for confirmation of receipt of electronic transmittal is not appropriate for a formal rule, since all documents will not necessarily be filed at the same address, and not all filing requires proof of receipt. Not including such information also better safeguards the security of document filing.

(d) Service or filing of documents by certified mail, return receipt requested. Whenever these rules permit or require service or filing of documents by certified mail, return receipt requested, such documents may also be served or filed by express mail or other forms of expedited delivery in which proof of [[delivery to]] ***date of receipt by*** *the addressee is provided.*

Discussion: Section 1.03(a)(2)(i) permits "other expedited delivery" of documents being filed for which proof of delivery is not required. However, there is no similar provision with regard to certified mail, return receipt requested. Such a service method is specifically required in Sections 2.03(l), 2.04(i), and 5.01(e). Particularly in view of the lengthened time required to process mail through the U.S. Postal Service since 9-11, the Board has determined that additional flexibility in the use of other mail delivery services is also needed as an alternative to certified mail, return receipt requested.

* * * * *

1.05 Designation of Representative.

AMENDMENT DELETED (a) An employee, other charging individual or party, a witness, a labor organization, an employing office, an entity alleged to be responsible for correcting a violation wishing to be represented by another individual must file with the Office a written notice of designation of representative. The representative may be, but is not required to be, an attorney. [[*During the period of counseling and mediation, upon the request of a party, if the Executive Director concludes that a representative of an employee, of a charging party, of a labor organization, of an employing office, or of an entity alleged to be responsible for correcting a violation has a conflict of interest, the Executive Director may, after giving the representative an opportunity to respond, disqualify the representative. In that event, the period for counseling or mediation may be extended by the Executive Director for a reasonable time to afford the party an opportunity to obtain another representative.*]]

Discussion: Upon further consideration, the Board has deleted this proposed amendment. The Board does not agree with the assertion by a commenter that the current version of this rule is in excess of the authority of this Board under the Act.

* * * * *

2.03 Counseling.

(a) Initiating a Proceeding; Formal Request for Counseling. In order to initiate a proceeding under these rules, an employee shall [formally] *file a written* request *for* counseling [from] *with* the Office regarding an alleged violation of the Act, as referred to in section 2.01(a) above. All [formal] requests for counseling shall be confidential, unless the employee agrees to waive his or her right to confidentiality under section 2.03(e)(2), below.

Discussion: The purpose of this amendment is to delete the undefined term "formal", and require simply that the request be made in written form. Several commenters suggested that institution of a requirement that the counseling request be in writing would constitute a "waiver" of the statutory requirement of absolute confidentiality in counseling mandated by section 416(a) of the Act. Requiring a written counseling request does not constitute or suggest a "waiver" of confidentiality in any way. Such a waiver may only occur when "the Office and a covered employee . . . agree to notify the employing office of the allegations." 2 U.S.C. 1416(a). The process for such a waiver is set out in the existing Procedural Rules at section 2.03(e)(2), which requires a written waiver form. A written request for counseling is an entirely different document.

. . . . .

(c) When, How, and Where to Request Counseling. A [formal] request for counseling *must be in writing, and* [: (1)] shall be [made] *filed with the Office of Compliance at Room LA-200, 110 Second Street, S.E., Washington, D.C. 20540-1999; [[telephone 202-724-9250;]] FAX 202-426-1913; TDD 202-426-1912,* not later than 180 days after the alleged violation of the Act.[; (2) may be made to the Office in person, by telephone, or by written request; (3) shall be directed to: Office of Compliance, Adams Building, Room LA-200, 110 Second Street, S.E., Washington, D.C. 20540-

1999; telephone 202-724-9250; FAX 202-426-1913; TDD 202-426-1912.]

Discussion: This amendment conforms to the requirement that a written request for counseling must be filed with the Office.

. . . . .

(l) Conclusion of the Counseling Period and Notice. The Executive Director shall notify the employee in writing of the end of the counseling period, by certified mail, return receipt requested, *or by personal delivery* ***evidenced by a written receipt.*** The Executive Director, as part of the notification of the end of the counseling period, shall inform the employee of the right and obligation, should the employee choose to pursue his or her claim, to file with the Office a request for mediation within 15 days after receipt by the employee of the notice of the end of the counseling period.

Discussion: This amendment reflects the provision of flexibility to the Office in providing notice. In response to comments, we have added the requirement for appropriate documentation in the case of personal delivery. A suggestion that a copy of the end of counseling notice be served on "opposing counsel" would cause a violation of the confidentiality requirement for counseling required by section 416(a) of the Act, and would contradict the non-adversarial nature of counseling.

. . . . .

(m) Employees of the Office of the Architect of the Capitol and the Capitol Police.

(1) Where an employee of the Office of the Architect of the Capitol or of the Capitol Police requests counseling under the Act and these rules, the Executive Director may recommend that the employee use the grievance procedures of the Architect of the Capitol or the Capitol Police. The term 'grievance procedures' refers to internal procedures of the Architect of the Capitol and the Capitol Police that can provide a resolution of the matter(s) about which counseling was requested. Pursuant to section 401 of the Act and by agreement with the Architect of the Capitol and the Capitol Police Board, when the Executive Director makes such a recommendation, the following procedures shall apply:

. . . . .

(ii) After having contacted the Office and having utilized the grievance procedures of the Architect of the Capitol or of the Capitol Police Board, the employee may notify the Office that he or she wishes to return to the procedures under these rules: (A) within [10] *60* days after the expiration of the period recommended by the Executive Director, if the matter has not [[been resolved]] ***resulted in a final decision***; or (B) within 20 days after service of a final decision resulting from the grievance procedures of the Architect of the Capitol or the Capitol Police Board.

(iii) The period during which the matter is pending in the internal grievance procedure shall not count against the time available for counseling or mediation under the Act. If the grievance is resolved to the employee's satisfaction, ***the employee shall so notify the Office within 20 days after the employee has received service of the final decision resulting from the grievance procedure.*** [[or i]] ***I***f no request to return to the procedures under these rules is received within [[the applicable time period]] ***60 days after the expiration of the period recommended by the Executive Director***, the Office will [[consider the case to be closed in its official files]] ***issue a Notice of End of Counseling, as specified in section 2.04(i) of these Rules.***

Discussion: The amendment reflects the Board's conclusion that controversies referred to agency grievance procedures may be close to disposition at or near the end of the stipulated referral period. In such circumstances, the requirement for a return by the employee to the Office's procedures within 10 days can actually have the effect of disrupting the completion of the grievance process. Therefore, the Board proposes an extension of that time frame to 60 days. The time during which a controversy has been referred to an agency grievance proceeding assumes that there will have been joinder of issues between the employee and the employing office. Certainly, there can be no doubt that the employing office has been placed on notice of the existence of the controversy. The amended proposal ensures that the employee will not be penalized by reason of an employing office's failure to process a grievance in a timely manner by stipulating that the Office will issue an end of counseling Notice to the parties 60 days after the end of the referral period. A commenter's suggestion that the referral time frame unlawfully extends counseling beyond the 30 day maximum period ignores section 401 of the Act, which specifically stipulates that all time during which a matter is referred to the grievance procedures of the Architect of the Capitol or the Capitol Police "shall not count against the time available for counseling or mediation." Issuing a Notice of End of Counseling is preferable to administrative closure of a case, since the closure may penalize an employee who is still waiting for the employing office to issue a final decision.

* * * * *

2.04 Mediation.

. . . . .

(e) Duration and Extension.

(1) The mediation period shall be 30 days beginning on the date the request for mediation is received, unless the Office grants an extension.

(2) The Office may extend the mediation period upon the joint *written* request of the parties ***or of the appointed mediator on behalf of the parties*** *to the attention of the Executive Director*. The request [may be oral or] *shall be* written and [shall be noted and] filed with the Office no later than the last day of the mediation period. The request shall set forth the joint nature of the request and the reasons therefor, and specify when the parties expect to conclude their discussions. Request for additional extensions may be made in the same manner. Approval of any extensions shall be within the sole discretion of the Office.

Discussion: The amendment assures that an adequate record of such a request be made. In response to comments, the Board has added language allowing the assigned mediator to submit the request on behalf of the parties.

. . . . .

(i) Conclusion of the Mediation Period and Notice. If, at the end of the mediation period, the parties have not resolved the matter that forms the basis of the request for mediation, the Office shall provide the employee, and the employing office, and their representatives, with written notice that the mediation period has concluded. The written notice to the employee will be sent by certified mail, return receipt requested, *or will be [hand]* ***personally*** *delivered*, ***evidenced by a written receipt***, and it will also notify the employee of his or her right to elect to file a complaint with the Office in accordance with section 5.01 of these rules or to file a civil action pursuant to section 408 of the Act and section 2.06 of these rules.

Discussion: The purpose of this amendment is to reflect the provision of the flexibility of personal delivery. In response to comments, the Board has also formalized the requirement that proof of delivery be evidenced by a written receipt.

* * * * *

2.06 Filing of Civil Action.

. . . . .

(c) Communication Regarding Civil Actions Filed with District Court. [(1)] The party filing any civil action with the United States District Court pursuant to sections 404(2) and 408 of the Act [should simultaneously provide a copy of the complaint] ***shall provide a written notice*** *to the Office* ***that the party has filed a civil action, specifying the district court in which the civil action was filed and the case number.***

Discussion: The Office has the responsibility to be aware of judicial applications and interpretations of the Act. In this regard, see also proposed rule 9.06. In response to comments, the Board has replaced the proposed requirement that a copy of the complaint be provided, with a notice of filing of a civil action. The Office also intends to include notice of this requirement in its Notice of End of Mediation.

AMENDMENT DELETED: [[(2) No party to any civil action referenced in paragraph (1) shall request information from the Office regarding the proceedings which took place pursuant to sections 402 or 403 related to said civil action, unless said party notifies the other party(ies) to the civil action of the request to the Office. The Office will determine whether the release of such information is appropriate under the Act and the Rules of Procedure.]]

Discussion: Upon further consideration, the Board has deleted this proposed amendment.

* * * * *

§4.16 Comments on Occupational Safety and Health Reports. [[The General Counsel will provide to responsible employing office(s) a copy of any report issued for general distribution not less than seven days prior to the date scheduled for its issuance. If a responsible employing office wishes to have its written comments appended to the report, it shall submit such comments to the General Counsel no later than 48 hours prior to the scheduled issuance date. The General Counsel shall either include the written comments without alteration as an appendix to the report, or immediately decline the request for their inclusion. If the General Counsel declines to include the submitted comments, the employing office(s) may submit said denial to the Board of Directors which, in its sole discretion, shall review the matter and issue a final and non-appealable decision solely regarding inclusion of the employing office(s) comments prior to the issuance of the report. Submissions to the Board of Directors in this regard shall be made expeditiously and without regard to the requirements of subpart H of these rules. In no event shall the General Counsel be required by the Board to postpone the issuance of a report for more than five days.]] ***With respect to any report authorized under section 215(c)(1) or 215(e)(2) of the Act that is intended by the General Counsel for general public distribution, the General Counsel shall, before making such general public distribution, first transmit a copy thereof to the responsible employing office(s), together with a notification that the employing office(s) has 10 days within which to submit any written comments that it wishes to be appended in their entirety as an appendix to the report. In the event the General Counsel declines to append to the report timely submitted comments of an employing office, the General Counsel shall not issue***

the report for general public distribution, and will promptly notify that office in writing of the basis for such declination. Upon written request to the Board of Directors submitted by the employing office within 10 days of the date of notification of declination by the General Counsel, with a copy thereof served on the General Counsel, the Board of Directors shall promptly review the matter, including any submission filed by the General Counsel within 10 days of the employing office's request, and issue a final and non-appealable decision determining the issue of inclusion of the employing office's comments prior to the general public distribution of the report. In no event shall the General Counsel be required by the Board to delay issuance of a report covered by this procedure for more than 15 days after the employing office's request for review is submitted to the Board of Directors.

Discussion: The proposed amendment, as reworded, provides a mechanism for employing office comments to be appended to reports issued by the General Counsel regarding Occupational Safety and Health inspections. The Board has amended the proposal to clarify further the categories of OSH reports resulting from inspection requests. The Board has extended the time periods within which the dispute resolution procedure takes place. The Board has also added a requirement that any General Counsel declination must be provided in writing to the employing office.

* * * * *

§5.03 Dismissal, Summary Judgment, and Withdrawal of Complaints.

. . . . .

(d) Summary Judgment. A Hearing Officer may, after notice and an opportunity ***for the parties to address the question of summary judgment,*** *[[to respond,]] issue summary judgment on some or all of the complaint.*

([d]*e*) Appeal. A [dismissal] *final decision* by the Hearing Officer made under section 5.03(a)–(c) or 7.16 of these rules may be subject to appeal before the Board if the aggrieved party files a timely petition for review under section 8.01. ***A final decision under section 5.03(a)–(c) which does not resolve all of the claims or issues in the case(s) before the Hearing Officer may not be appealed to the Board in advance of a final decision entered under section 7.16 of these rules, except as authorized pursuant to section 7.13 of these rules.***

([e]*f*) . . . . .

([f]*g*) . . . . .

Discussion: Hearing Officers have plenary authority to conduct hearings and make final decisions, including summary judgment, pursuant to section 405 of the Act. The amendments more adequately reflect the existing authority of Hearing Officers. In response to a comment, the Board has included the requirement that the parties be given the opportunity to address the issue. The Board has also addressed the circumstance of a partial disposition of a case.

* * * * *

§7.02 Sanctions

(a) The Hearing Officer may impose sanctions on a party's representative [[for inappropriate or unprofessional conduct]] ***necessary to regulate the course of the hearing.***

(b) The Hearing Officer may impose sanctions upon the parties under, but not limited to, the circumstances set forth in this section.

([a]*1*) Failure to Comply with an Order. When a party fails to comply with an order (including an order for the taking of a deposition, for the production of evidence within the party's control, or for production of witnesses), the Hearing Officer may:

([1]*a*) . . . . .

([2]*b*) . . . . .

([3]*c*) . . . . .

([4]*d*) . . . . .

Discussion: In response to comments, and upon further consideration, the Board has amended this proposal to better reflect existing statutory authority. Section 556(c)(5) of the Administrative Procedure Act, referenced in section 405(d)(3) of the Act, specifically authorizes a presiding official to "regulate the course of the hearing". The amendment authorizes a Hearing Officer to carry out that responsibility when required by a representative's conduct.

* * * * *

§8.01 Appeal to the Board.

. . . . .

(b)(1) Unless otherwise ordered by the Board, within 21 days following the filing of a petition for review to the Board, the appellant shall file and serve a supporting brief in accordance with section 9.01 of these rules. That brief shall identify with particularity those findings or conclusions in the decision and order that are challenged and shall refer specifically to the portions of the record and the provisions of statutes or rules that are alleged to support each assertion made on appeal.

(2) Unless otherwise ordered by the Board, within 21 days following the service of the appellant's brief, the opposing party may file and serve a reply brief.

(3) Upon ***written*** *delegation by the Board, the Executive Director is authorized to determine any request for extensions of time to file any* ***post-petition for review*** *document or submission with the Board* ***in any case in which the Executive Director has not rendered a determination on the merits.*** *Such delegation shall continue until revoked by the Board.*

. . . . .

Discussion: The amendment authorizes the Executive Director to perform the ministerial act of granting extensions of time in which to file documents when specifically authorized to do so by the Board. In response to comments, the Board has required written delegation of authority, and has limited that delegation to submissions after a petition for review has been filed. The Board has also prohibited such a delegation in any case in which the Executive Director has issued a determination on the merits in the underlying proceeding.

* * * * *

§9.01 Filing, Service and Size Limitations of Motions, Briefs, Responses and other Documents.

(a) Filing with the Office; Number. One original and three copies of all motions, briefs, responses, and other documents must be filed, whenever required, with the Office or Hearing Officer. However, when a party aggrieved by the decision of a Hearing Officer *or other* ***matter or*** *determination reviewable by the Board* files an appeal with the Board, one original and seven copies of both any appeal brief and any responses must be filed with the Office. *The Officer, Hearing Officer, or Board may also [[require]]* ***request*** *a party to submit an electronic version of any submission on a disk in a designated format.*

. . . . .

Discussion: The addition of "other matter or determination reviewable by the Board" is intended to address: collective bargaining representation decisions made pursuant to Part 2422 of the Office of Compliance Rules regarding labor-management relations, negotiability determinations made pursuant to Part 2424 of the same Rules, review of arbitration awards under Part 2425 of the same Rules, determination of bargaining consultation rights under Part 2426 of the same Rules, requests for general statements of policy or guidance under Part 2427 of the same Rules, enforcement of standards of conduct decisions and orders by the Assistant Secretary of Labor for Labor Management Relations pursuant to Part 2428 of the same Rules, and determinations regarding collective bargaining impasses pursuant to Part 2470 of the same Rules. The term "matter" was included by the Board on further consideration, because some of the procedures referenced in the labor-management relations Rules are addressed to the Board in the first instance. Submission by electronic version is in addition to the existing methods for filing submissions. This addition reflects the decision of this agency to begin exploring the process of migration toward electronic filing. Because of limits in available technology, it remains necessary to designate a particular format for electronic disk transmittal. In response to comments, the Board has amended the proposal to allow for a "request" rather than a requirement. The availability of submissions on disk, particularly of lengthy documents, can save the Office time and expense in handling such documents.

* * * * *

§9.03 Attorney's fees and costs.

(a) Request. No later than 20 days after the entry of a Hearing Officer's decision under section 7.16 or after service of a Board decision by the Office, the complainant, if he or she is a prevailing party, may submit to the Hearing Officer who heard the case initially a motion for the award of reasonable attorney's fees and costs, following the form specified in paragraph (b) below. *All motions for attorney's fees and costs shall be submitted to the Hearing Officer*. [The Board or t] *T*he Hearing Officer, after giving the respondent an opportunity to reply, shall rule on the motion.

. . . . .

Discussion: This amendment clarifies the rules to exclude the filing of motions for attorney's fees with the Board of Directors.

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§9.05 Informal Resolutions and Settlement Agreements.

. . . . .

(b) Formal Settlement Agreement. The parties may agree formally to settle all or part of a disputed matter in accordance with section 414 of the Act. In that event, the agreement shall be in writing and submitted to the Executive Director for review and approval. *If the Executive Director does not approve the settlement, such disapproval shall be in writing, shall set forth the grounds therefor, and shall render the settlement ineffective.*

(c) Requirements for a Formal Settlement Agreement. A formal settlement agreement requires the signature of all parties on the agreement document before the agreement can be submitted to the Executive Director. A formal settlement agreement cannot be rescinded after the signatures of all parties have been affixed to the agreement, unless by written revocation of the agreement voluntarily signed by all parties, or as otherwise [[required]] ***permitted*** *by law.*

(d) Violation of a Formal Settlement Agreement. If a party should allege that a formal settlement agreement has been violated, the issue

shall be determined by reference to the formal dispute resolution procedures of the agreement. If the particular formal settlement agreement does not have a stipulated method for dispute resolution of an alleged violation of the agreement, the following dispute resolution procedure shall be deemed to be a part of each formal settlement agreement approved by the Executive Director pursuant to section 414 of the Act: Any complaint regarding a violation of a formal settlement agreement may be filed with the Executive Director no later than 60 days after the party to the agreement becomes aware of the alleged violation. Such complaints may be referred by the Executive Director to a Hearing Officer for a final and binding decision. The procedures for hearing and determining such complaints shall be governed by subparts F, G, and H of these rules.

Discussion: The Board disagrees with comments that assert the Office has no statutory authority to settle disputes regarding the alleged violation of settlement agreements. Under section 414 of the Act, the Executive Director is clearly given plenary authority to approve all settlement agreements under the Act entered into at any stage of the administrative or judicial process. No settlement agreement can "become effective" unless and until such approval has been given. The Office is concerned that many settlement agreements do not include provisions for disposition of controversies regarding alleged violations of the agreement. Rather than consider initiating a practice of withholding approval of settlement agreements which do not include provisions setting forth dispute resolution procedures, the Office is providing all parties, by notice and rule, the option to include their own dispute resolution provisions, or default to the dispute resolution procedure stipulated in this proposed Rule when they enter into a settlement agreement. The word "permitted" was inserted in place of "required" as a clarification, since in this context a rescission of an approved agreement would rarely, if ever, be required by operation of law.

[[§ 9.06 Destruction of Closed Files. Closed case files regarding counseling, mediation, hearing, and/or appeal ***to the Board of Directors*** *may be destroyed during the calendar year in which the fifth anniversary of the closure date occurs, or during the calendar year in which the fifth anniversary of the conclusion of all adversarial proceedings in relation thereto occurs, whichever period ends later.]]*

Discussion: The Executive Director and the Board of Directors have been made aware that the Office of Compliance appears to be an agency covered by the requirements of the Federal Records Act (found at Title 44 of the U.S. Code). The Records Act requires that an agency consult with the Archivist of the United States regarding any record destruction program. Therefore, the Executive Director and the Board are withdrawing this proposal at this time, and will issue a new Notice regarding this subject matter after the requirements of the Federal Records Act have been satisfied.

§ 9.0[7]6 *Payment***s** *[[of]]* ***required pursuant to*** *Decisions, Awards, or Settlements under section 415(a) of the Act. Whenever a decision or award pursuant to sections 405(g), 406(e), 407, or 408 of the Act, or an approved settlement pursuant to section 414 of the Act, require the payment of funds pursuant to section 415(a) of the Act, the decision, award, or settlement shall be submitted to the Executive Director to be processed by the Office for requisition from the account of the Office of Compliance in the Department of the Treasury, and payment.*

Discussion: This proposed rule reflects the existing procedure for processing payments under section 415(a) of the Act. Since section 415 does not authorize automatic stays of judgments or awards pending appeal, parties are advised to seek such a stay from the appropriate forum. Adding an automatic stay of payment until all appeals have been exhausted would require an amendment of the Act.

§ 9.0[6] **7 Revocation, Amendment or Waiver of Rules.**

. . . . .

AGRICULTURE SECURITY: PROTECTING AMERICA'S FOOD FROM FARM TO FORK

Mr. AKAKA. Mr. President, I rise today to call attention to the urgent need to prepare America against an attack on our agriculture. The Nation's agriculture industry is crucial to our prosperity. Yet it does not receive the protection it needs. Our food supply system is vulnerable to accidental or intentional contamination that would damage our economy, and, most importantly, could cost lives.

There is no need to question whether animal-borne diseases can actually threaten the United States. Look to last December's mad cow disease outbreak: only one cow was found to be infected, and yet the U.S. beef industry was thrown into a tailspin from which it still has not recovered. As a result: American cattle prices fell by 20 percent; some predict beef exports will fall by 90 percent from 2003 to 2004; and more than 40 foreign countries have instituted bans on American beef, most of which will not be lifted in the near future. This fallout resulted from the infection of only two cows.

In the beginning of February, a version of the avian influenza, a disease sweeping through Southeast Asian poultry that has killed at least 22 people to date, was discovered on two Delaware chicken farms. It also surfaced in New Jersey and Pennsylvania, and a far more contagious strain was later reported in Texas. While the two strains found in these States carry no know risk to humans, this discovery illustrates how easily an animal-borne disease can break out in the United States. Only four farms and one live chicken market have tested positive for the disease. Yet this discovery resulted in the slaughter of over 92,000 chickens in the U.S. to date and a ban on American poultry exports in a number of Asian countries and the European Union.

We should learn two things from these recent outbreaks: No. 1, the cost to the agriculture community for even a small outbreak is high, and, No. 2, we must be prepared for the unexpected.

While the emergence of mad cow and the avian flu in American agriculture has been detrimental, it has not come close to causing the amount of damage a larger outbreak could create.

Imagine if either of these diseases spread across the Nation instead of being contained to just a few farms.

Or worse, imagine if the strain of the avian flu that is currently claiming human lives in Asia was found in the United States.

In these scenarios, the outbreak would have been far more difficult to contain and much more costly to our Nation.

A 1994 Department of Agriculture study said that if a foreign animal disease became entrenched in the United States, it would cost the agriculture industry at least $5.4 billion. A 2002 report by the National Defense University predicted that this figure would be three to fives times greater today. On a smaller scale, an outbreak that only penetrated 10 farms could have as much as a $2 billion economic impact.

Earlier this month, the President released Homeland Security Presidential Directive 9, HSPD–9, aimed at addressing many of these concerns. HSPD–9 is a great first step. It signals the administration is aware of the vulnerability in our agriculture sector and considers this to be a homeland security priority.

Under HSPD–9, the President directed the Department of Homeland Security to ensure the execution of a number of much needed security measures, including the following: Develop surveillance and monitoring systems for animal and plant disease and the food supply that provide early detection of poisonous agents; develop nationwide laboratory networks for food, veterinary, and plant health that ensures communication and coordination between related facilities; and develop a National Veterinary Stockpile that contains enough vaccine and antiviral products to respond to the most damaging animal diseases.

But the President's initiative does not go far enough because it fails to address a number of serious shortcomings with the current governmental response to agriculture security, such as: Lack of communication between Federal agencies; insufficient coordination with, and funding for, State and local officials; inadequate international collaboration; and the impeding nature of some State and local laws to effective response plans.

To address these many concerns, I introduced two bills, S. 427, the Agriculture Security Assistance Act, and S. 430, the Agriculture Security Preparedness Act, to increase the coordination in confronting the threat to America's agriculture industry and provide the needed resources. My legislation provides for more targeted State and local funding and a better-coordinated Federal system.

The Agriculture Security Assistance Act would assist States and communities in responding to threats to the agriculture industry by authorizing funds for: Animal health professionals to participate in community emergency planning activities to assist farmers in strengthening their defenses against a terrorist threat; a biosecurity grant program for farmers and ranchers to provide needed funding to better secure their properties; and the use of sophisticated remote sensing and computer modeling approaches to agricultural diseases.

The Agriculture Security Preparedness Act would enable better interagency coordination within the Federal Government by: Establishing senior level liaisons in the Departments of Homeland Security, DHS, and Health and Human Services to coordinate with the Department of Agriculture, USDA, and all other relevant agencies on agricultural disease emergency management and response; requiring DHS and USDA to work with the Department of Transportation to address the risks associated with transporting animals, plants, and people between and around farms; requiring the Attorney General to conduct a review of relevant Federal, State, and local laws to determine if they facilitate or impede agricultural security; and directing the State Department to enter into mutual assistance agreements with foreign governments to facilitate the share of resources and knowledge of foreign animal diseases.

Over 30 Federal agencies have jurisdiction over some part of the response process in the event of a breach of agricultural security. In a report on the United State's preparedness for responding to animal-borne diseases issued in August 2003, Trust for America's Health, a nonprofit, nonpartisan organization founded to raise the profile of public health issues, stated that, "The U.S. is left with a myriad of bureaucratic jurisdictions that respond to various aspects of the diseases, with little coordination and no clear plan for communicating with the public about the health threats posed by animal-borne diseases." Protecting America's agriculture and its citizens requires Federal agencies to know who is responsible for what portion of the prevention and response to an attack on our agriculture.

State and local officials, and the communities they serve, are the front lines of defense for American agriculture. Without adequate resources, both in terms of funding and advice, these defenses will fail. While the presidential directive mandates the creation of a coordinated response plan that would include Federal, State, and local partners, it falls short of supplying the State and local officials with the necessary funding and guidance to better protect their jurisdiction. Surprisingly, the administration proposes huge cuts in fiscal year 2005 to homeland security grants for the States.

We have witnessed the impact a small, unintentional outbreak of mad cow disease had on our country. We cannot wait for a far more damaging and widespread attack on our agriculture system. While I commend the President's initiative in this area, further action is needed. I urge my colleagues to support this overdue legislation to protect America's breadbasket.

GAO HUMAN CAPITAL REFORM ACT OF 2000

Mr. GRASSLEY. Mr. President, I come before this body to state that I would object to any unanimous consent or other requests to address H.R. 2751, S. 1522, entitled the GAO Human Capital Reform Act of 2003, as amended. The bill would, among other things, allow new authority to the General Accounting Office, GAO, to modify its personnel and workforce practices to allow greater flexibility in determining pay increases, pay retention rules, and other compensation matters. I am objecting to this bill because, at this time, I am evaluating a number of matters involving the operation and management of the General Accounting Office and one or more of its offices.

DEFENSE OF FREEDOM MEDAL WINNER GARY YORK

Mr. JOHNSON. Mr. President, I rise today to publicly recognize Mr. Gary York of Yankton, SD, for receiving the Defense of Freedom Medal.

There was little doubt that active-duty military members killed or injured in a hostile attack would receive the traditional Purple Heart, but the Defense of Freedom Medal marks the first time in United States history that civilians have been formally recognized for wounds received in combat. This medal exemplifies the principles of freedom and defense of the freedoms upon which our country was founded.

Gary is not just a good friend, he is also a dedicated worker. He currently serves as the power plant senior controller at Yankton's Gavin's Point Dam. Answering the President's call to volunteer his time in Iraq, he left for Iraq in September and was overseeing a crew of workers who were rebuilding 400,000 volt power lines running from power plants to switchyards in Baghdad.

While spending Christmas Eve in Iraq, away from his family and friends and the comforts of home, Gary sustained wounds to the head and shoulder while traveling in a convoy near Balad. The convoy was attacked by unknown assailants using small firearms. Two Iraqi security guards traveling with the convoy were killed in the attack.

It is with great honor that I share Mr. York's tremendous accomplishments with my colleagues. He is a true patriot, and America is deeply grateful for his service.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

In Council Bluffs, IA, a 15-year-old girl allegedly approached two other girls who were holding hands and assaulted them saying she was "tired of seeing them hold hands and kissing." The girl has been accused of assaulting the girls because of their sexual orientation.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

TRIBUTE TO ADMIRAL (RETIRED) THOMAS MOORER

Mr. SESSIONS. Mr. President, I rise today before the Senate to recognize a great American and one of the finest patriots this Nation, and my home State of Alabama, has ever produced. We are truly saddened by the loss of Retired U.S. Navy Admiral Thomas Moorer, former Chairman of the Joint Chiefs of Staff from July 1970 to June 1974 and former Chief of Naval Operations from 1967 to 1970.

Admiral Moorer's distinguished service in our great Navy spanned 41 remarkable years during which he dutifully stood the watch against our adversaries. He was our 7th Chairman of the Joint Chiefs of Staff and the 18th Chief of Naval Operations. These accomplishments were consistent with his outstanding service record that had placed Admiral Moorer on our front lines throughout his career. Admiral Moorer was serving in Pearl Harbor with Patrol Squadron Twenty-Two on December 7, 1941. He witnessed that "day of infamy" and answered with bravery as he was one of the first pilots to get his aircraft airborne after the Japanese attack.

Never shying from battle, he was wounded in aerial combat when his aircraft was shot down near the Australian coastline. Indeed, indicative of the ferocity of the combat, the rescue ship that recovered him was sunk by enemy action the same day as his rescue. Still, he would not quit and went on to receive the Distinguished Flying Cross for valor. He flew through hostile areas with full knowledge of overpowering enemy aircraft superiority flying badly needed supplies into the besieged island of Timor and flying evacuations of the wounded. He also stood watch during the Korean conflict, during the Cuban Missile crisis, during our engagement in Vietnam and during our outreach to China.

Admiral Moorer distinguished himself in many positions including command of our Seventh Fleet, arriving at full Admiral in June 1964 when appointed to Commander in Chief of the Pacific Fleet. He was the first naval officer to command both the Pacific and Atlantic Fleets. Admiral Moorer stood his watch as Chairman of the Joint Chiefs of Staff, the highest position any military officer can achieve, under President Nixon as the Nation extracted itself from our conflict in Vietnam. Writing in White House Years, Dr. Henry Kissinger remarked that Admiral Moorer " had spent the 1960s in command positions which, while not without their frustrations, did not produce the physical and psychological exhaustion of high-level Washington. A canny bureaucratic infighter, Moorer made no pretense of academic subtlety. If anything, he exaggerated the attitude of an innocent country boy caught up in a jungle of sharpies. What his views lacked in elegance they made up in explicitness. By the time he took office, Vietnam had become a rearguard action. He conducted its heartbreaking phaseout with dignity. No President could have had a more stalwart military advisor."

He did not waiver. Admiral Moorer strongly disagreed with the Panama Canal giveaway. In fact, he testified before the Senate Armed Services Committee several years ago on this subject. The public had again become concerned about this issue as a Chinese company had won the contract to operate both ends of the canal. Admiral Moorer noted the danger this posed to the movement of our fleet.

As a young Alabamian, I followed Admiral Moorer's career. He was from the small rural community of Mt. Willing. Mt. Willing was on the road to Montgomery from my home in the rural community of Hybart near Camden. I would frequently go through Camden up Highway 21 through Mt. Willing on my way to Huntingdon College in Montgomery where I was a student. I would pass Moorer's grocery operated by a relative, and have the chance to think of the extraordinary accomplishments of this remarkable Admiral from the heart of Alabama. He carried those values with him as can be seen from Dr. Kissinger's comments and those who knew him. Mt. Willing is an old community. Its post office was established not long after Alabama became a State in 1819.

Admiral Moorer actually attended a one-room schoolhouse. Later, his family moved to Montgomery which is where he graduated from high school. He was the Valedictorian of his class, graduating at the age of 15. Two years later he entered the Naval Academy. During this period his family moved to Eufaula, AL, which is where he met his wonderful life partner, Carrie Foy. Mrs. Moorer, a most delightful person in her own right, was tremendously supportive of Admiral Moorer's career and his beliefs, and remains proud of his exceptional service, as well she should.

It is appropriate that we reflect today on the sacrifices made by this veteran Sailor and great military leader. I am proud of him for serving our great country through challenging times. And I join all of the citizens of Alabama in prayer for one of our own, this country boy from Mt. Willing, Alabama who turned top Admiral. His story is one that all Americans can be proud of. We wish him and his family Godspeed and fair winds and following seas as he leaves us for his final watch.

He came from rural America. He was learned of the greatness of America. He was not bombarded by the "blame America first-crowd." Because of his recognized ability, he was selected for the Naval Academy. Because of his record of accomplishment he rose to the highest position a uniformed military officer can achieve—Chairman of the Joint Chiefs of Staff. He delivered for his beloved homeland there just as he did in all his previous positions. These values, taught best in our small towns, sustain us in difficult times. Admiral Moorer, like all the other wonderful Soldiers, Sailors, Airmen and Marines, fully understood that when he put on that uniform, he was prepared to give his life for his country.

ABSTENSION FROM VOTE

Mr. GRAHAM of South Carolina. Mr. President, today the Senate Armed Services Committee met to vote on several military and civilian nominations before the committee. Included on the list of military nominations was that of my own to be Colonel in the United States Air Force Reserve.

While I take my responsibility as a member of this committee which holds oversight authority over the United States military very seriously, I would like to note for the record that I abstained from the voice vote on this subject to avoid the impression of a conflict of interests.

TRIBUTE TO ALMA KRISTOFFERSEN

Mr. LAUTENBERG. Mr. President, today I rise to commend one of the many unsung heroes of our Senate family, Alma Kristoffersen, who will retire tomorrow after 20 years of service as a transcriber and reporting technician for the CONGRESSIONAL RECORD.

I worked in the private sector for more than 30 years before I first came to the Senate. One of the things that struck me about this institution as I came to know it is the dedication, skill, and professionalism shown by the people who work in all capacities here. Senators and committees have their own staff, and we rely on them, to be sure. But we also rely on the hundreds of staffers who make up what I call the "infrastructure" of the Senate. For the most part, they go about their business unnoticed and certainly underappreciated. We have to remind ourselves now and then that this place would screech to a halt without their tireless devotion to their jobs and to our Nation.

Alma is a fine example of that tradition. She has many talents, including a strong knowledge of grammar, spelling, and vocabulary; a quick wit; and dry sense of humor. But her most enduring asset is her absolute commitment to teamwork. She is always willing to volunteer for extra duties.

Alma was born in Liverpool, England, and moved to the United States in 1968. She became a citizen in the early 1990s, qualifying for a high security clearance to work on classified material. She and her husband Tom have a son, Alex, who lives in Brooklyn, NY. Alma plans to enjoy all her various hobbies in retirement, including gardening, tennis, travel, and actually being able to attend her book club on week nights.

I know that I speak on behalf of the entire Senate when I say how much I appreciate Alma's service to this institution and to the Nation. Alma's colleagues and friends here in the Senate, particularly in the Office of Official Reporters of Debates, will miss her, but we wish her a long and happy retirement, which she has certainly earned.

ADDITIONAL STATEMENTS

MARATHON COUNTY RESOLUTION RELATING TO BSE

● Mr. KOHL. Mr. President, this weekend members of the National Association of Counties will be meeting in Washington for their annual legislative conference. County officials across the Nation deal with a wide variety of issues that affect the day-to-day lives of our citizens and I want to acknowledge their commitment to public service.

I also want to take this opportunity to share with my fellow Senators a resolution recently adopted by the Marathon, WI County Board of Supervisors relating to Bovine Spongiform Encephalopathy (BSE). Marathon County is in the heart of Wisconsin dairy and beef country and I commend the Board of Supervisors' diligence in this area.

I ask that Marathon County resolution R–6–04 be printed in the RECORD.

RESOLUTION R–6–4

The resolution follows.

Whereas a case of Bovine Spongiform Encephalopathy (BSE) or Mad Cow Disease has been detected in the United States; and

Whereas agriculture is a $40 billion industry in the State of Wisconsin; and

Whereas Marathon County is a leader in Wisconsin agriculture, notably the dairy and beef industry; and

Whereas Marathon County is concerned about the health, safety and economic impacts related to BSE; and

Whereas in 1997 the United States Food and Drug Administration banned the use of protein derived from mammalian tissue in food for ruminant animals to prevent the establishment of BSE; and

Whereas many countries that export livestock and meat to the United States do not have the same standard of safety. Now, therefore be it

Resolved, That the Board of Supervisors of the County of Marathon does hereby resolve and ordain that Federal, State and local agencies continue to judiciously enforce the standards set forth by the Federal Food and Drug Administration; be it further

Resolved, That countries that export livestock or meat to the United States, meet or exceed U.S. standards of care regarding BSE; be it further

Resolved, That livestock or meat from countries which do not meet or exceed the U.S. standard of care be banned from importation to the U.S. to protect the health and safety of our citizens, livestock, and economy. Be it further

Resolved, That this resolution be forwarded to our local, state and federal legislators, as well as the appropriate state and federal agencies and interested consumer and business organizations.●

GULFSTREAM AEROSPACE CORPORATION

● Mr. CHAMBLISS. Mr. President, I rise today to commend a company based in Georgia which, with its partners, has won the prestigious Collier trophy, the aviation equivalent of the Super Bowl, for the second time in 8 years. Gulfstream Aerospace Corporation, a world-renowned maker of business jet aircraft, and the other members of the aircraft development team, which include Honeywell International, Kollsman, Rolls-Royce, and Vought Aircraft Industries, have won the 2003 Collier Trophy for their outstanding contribution to aviation. In 1998, the firm's Gulfstream V jet won the 1997 award for its combination of high technology avionics, speed, and range. This year, the Collier Trophy recognizes the G550 Development Team for the large-cabin, ultra-long range Gulfstream G550 business jet. The aircraft can fly as high as 51,000 feet, at speeds up to Mach .885, and 6.750 nautical miles nonstop. It also has an avionics system which enhances the pilot's ability to fly the aircraft safely.

The trophy, named for American publisher and sport pilot, Robert J. Collier, was established in 1911 to honor those who have made significant achievements in the advancement of aviation. Honorees include many of the great names in aviation, including Orville Wright for an automatic stabilizer, the U.S. Post Service for air mail, and MAJ E. L. Hoffman, United States Army Air Corps, for the development of a practical parachute.

While I am, of course, proud of the Gulfstream Development Team for winning this award, I am even more proud of the folks down in Savannah, GA, who build these world class aircraft. Without their skill and dedication to superior quality, Gulfstream's G550 aircraft could never have earned this recognition for excellence in aviation.●

COMMENDING WTOC–TV

● Mr. CHAMBLISS. Mr. President, I wish to congratulate an important news organization in the beautiful coastal city of Savannah. WTOC–TV Channel 11 is celebrating its 50th anniversary of television broadcasts. The station was founded as an AM radio station in 1929 by Savannah's Junior Board of Trade. Just as the Junior Board of Trade became Savannah's Jaycees, WTOC evolved into Savannah's first television station, beginning its first broadcasts on Valentine's Day, 1954.

In May 2002, WTOC scored yet another Savannah first by starting the area's first digital high definition broadcasts.

During its 50 years of service to Savannah and coastal Georgia, WTOC has provided news coverage for the community. During these years, its news team has won awards for their coverage of issues, including Emmies and Edward R. Murrow awards for news gathering efforts in 2003.

I commend the station's owners and staff for serving Savannah and its entire community for the past 50 years. I am confident they will continue covering issues and giving back to Savannah in the years to come.●

THE SESQUICENTENNIAL ANNIVERSARY OF THE CITY OF GREEN BAY, WI

● Mr. FEINGOLD. Mr. President, today I commemorate the sesquicentennial of Green Bay, WI, one of the most famous cities in America, and one of Wisconsin's most beloved places.

Green Bay is Wisconsin's oldest European settlement dating back to the explorations of Jean Nicolet in 1634. Early fur traders and explorers used Green Bay and the Fox River as an important access point from the Great Lakes to the Western lands of the New World. Early French settlers called the bay, "La Baie Verte," because of its green waters. In the second half of the 19th century, European immigrants flocked to Green Bay for the good farming soil and ample business opportunities. The paper industry became a vital part of the Green Bay economy and remains the leading employer in the city today. Green Bay became a city when it was incorporated by the Wisconsin Legislature on February 27, 1854. Today, Green Bay stands with a population of over 100,000 people as Wisconsin's third-largest city.

Today visitors can get a taste of Green Bay's long history at the Heritage Hill State Historic Park which offers a rare opportunity to visit one of Wisconsin's oldest wood homes, the Tank Cottage. Green Bay is also home to the National Railroad Museum, home of the world's largest steam locomotive and General Dwight D. Eisenhower's WWII command train.

Green Bay is known to many as Titletown USA as it is home to the world-famous Green Bay Packers, the real "America's Team." In 1919, Curly Lambeau, who worked for a packing plant, organized the original Packers football team. The team's popularity led to the packing plant backing Lambeau in obtaining a franchise in the new professional football league. Early financial problems were overcome by making the team publically owned, an honor that I am proud to say I am now a part of. The rest, as they say, is history. The Packers have gone on to win 12 championships, more than any other pro football team. Green Bay has been the stage for such great games as the 1967 Ice Bowl and such talents as Vince Lombardi, Don Hutson, Bart Starr and Brett Favre. Every year, people from all over the country make a pilgrimage to Green Bay to see the frozen tundra of the beautifully renovated Lambeau Field and visit the Green Bay Packer Hall of Fame.

Green Bay is a city with a distinguished history, a proud tradition of hardworking families and a bright future. Happy birthday, Green Bay. We are looking forward to the next 150 years.●

TRIBUTE TO BILL PARDUE

● Mr. INHOFE. Mr. President, I would like to pay tribute to Bill Pardue, who until recently was the CEO of Lexis Nexis of Dayton, OH, which now owns Dolon Information of Oklahoma City, OK.

I have had the privilege of working with Bill and Lexis Nexis on various initiatives to help secure the homeland, and wanted to say a sincere thank you, on behalf of all Americans to Bill, to Lexis-Nexis, and to the thousands of people who make up that fine company.●

IN REMEMBRANCE OF FREDERICK BOOKER NOE II

● Mr. BUNNING. Mr. President, today I would like to take the opportunity to remember Frederick Booker Noe II of Bardstown, Kentucky, the master distiller of Jim Beam Bourbon. He passed away on Tuesday at age 74 in his home in Bardstown, and will be greatly missed by his surviving family and the Jim Beam Brands Company.

In 1950, Mr. Noe entered the family business, the bourbon that is the namesake of his grandfather, Jim Beam. He directed the production and aging of bourbon at Jim Beam and was named master distiller in 1965. While he oversaw production of Jim Beam Bourbon, production increased and innovations were made that revitalized the bourbon industry forever.

His friends considered him "larger than life," and "one of the crown jewels of American distilling." Jim Beam Brands honored him upon his retirement in 1992 by placing his photo on the bottle labels alongside the family distillers who preceded him. Kentuckians are proud of our bourbon, and we are proud of Mr. Noe's contributions to the industry. He will be greatly missed, and our hearts go out to his family during this time.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and three withdrawals which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT RELATIVE TO EXPANDING THE SCOPE OF THE NATIONAL EMERGENCY AND INVOCATION OF EMERGENCY AUTHORITY RELATING TO THE REGULATION OF THE ANCHORAGE AND MOVEMENT OF VESSELS INTO CUBAN TERRITORIAL WATERS—PM 64

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Pursuant to section 1 of title I of Public Law 65–24, ch. 30, 50 U.S.C. 191, and sections 201 and 301 of the National Emergencies Act, 50 U.S.C. 1601 et seq., I hereby report that I have exercised my statutory authority to continue the national emergency declared in Proclamation 6867 of March 1, 1996, in response to the Cuban government's destruction of two unarmed U.S.-registered civilian aircraft in international airspace north of Cuba. Additionally, I have exercised my authority to expand the scope of the national emergency as, over the last year, the Cuban government, which is a designated state-sponsor of terrorism, has taken a series of steps to destabilize relations with the United States, including threatening to abrogate the Migration Accords with the United States and to close the U.S. Interests Section. This conduct has caused a sudden and worsening disturbance of U.S. international relations.

In my proclamation (copy attached), I have authorized and directed the Secretary of Homeland Security to make and issue such rules and regulations that the Secretary may find appropriate to prevent unauthorized U.S. vessels from entering Cuban territorial waters.

I have authorized these rules and regulations as a result of the Cuban government's demonstrated willingness to use reckless force, including deadly force, in the ostensible enforcement of its sovereignty. I have also authorized these rules and regulations in an effort to deny resources to the repressive Cuban government that may be used by that government to support terrorist activities and carry out excessive use of force against innocent victims, including U.S. citizens and other persons residing in the United States, and threaten a disturbance of international relations. Accordingly, I have continued and expanded the national emergency in response to these threats.

GEORGE W. BUSH.
THE WHITE HOUSE, *February 26, 2004.*

REPORT RELATIVE TO EFFORTS TO OBTAIN THE FULLEST POSSIBLE ACCOUNTING OF CAPTURED OR MISSING UNITED STATES PERSONNEL FROM PAST MILITARY CONFLICTS OR COLD WAR INCIDENTS—PM 65

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

Consistent with Condition (3) of the resolution of advice and consent to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia, adopted by the United States Senate on May 8, 2003, and based on the recommendation of the Department of State, I hereby certify to the Congress that each of these governments is cooperating fully with United States efforts to obtain the fullest possible accounting of captured or missing United States personnel from past military conflicts or Cold War incidents, to include:

(A) facilitating full access to relevant archival material; and

(B) identifying individuals who may possess knowledge relative to captured or missing United States personnel, and encouraging such individuals to speak with United States Government officials.

GEORGE W. BUSH.
THE WHITE HOUSE, *February 25, 2004.*

REPORT RELATIVE TO THE INCLUSION OF BULGARIA, ESTONIA, LATVIA, LITHUANIA, ROMANIA, SLOVAKIA, AND SLOVENIA IN NATO—PM 66

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

To the Senate of the United States:

Consistent with Condition (1)(A) of the resolution of advice and consent to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia, adopted by the United States Senate on May 8, 2003, and based on the recommendation of the Department of Senate, I hereby certify to the Senate that:

(i) the inclusion of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia in NATO will not have the effect of increasing the overall percentage share of the United States in the common budgets of NATO; and (ii) the inclusion of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia in NATO does not detract from the ability of the United States to meet or to fund its military requirements outside the North Atlantic area.

GEORGE W. BUSH.
THE WHITE HOUSE, *February 25, 2004.*

MESSAGES FROM THE HOUSE

At 12:15 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2751. An act to provide new human capital flexibilities with respect to the GAO, and for other purposes.

H.R. 3690. An act to designate the facility of the United States Postal Service located at 2 West Main Street in Batavia, New York, as the "Barber Conable Post Office Building."

At 4:30 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1997. An act to amend title 18, United States Code, and the Uniform Code of Military Justice to protect unborn children from assault and murder, and for other purposes.

At 5:42 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 287. Concurrent resolution recognizing and honoring the life of the late Raul Julia, his dedication to ending world hunger, and his great contributions to the Latino community and the performing arts.

At 8:16 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3850. An act to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2751. An act to provide new human capital flexibilities with respect to the GAO, and for other purposes; to the Committee on Governmental Affairs.

H.R. 3690. An act to designate the facility of the United States Postal Service located at 2 West Main Street in Batavia, New York, as the "Barber Conable Post Office Building"; to the Committee on Governmental Affairs.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 287. Concurrent resolution recognizing and honoring the life of the late Raul Julia, his dedication to ending world hunger, and his great contributions to the Latino community and the performing arts; to the Committee on the Judiciary.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 2137. A bill to authorize the Secretary of Health and Human Services to promulgate regulations for the reimportation of prescription drugs, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-6144. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, a report relative to the emigration laws and policies of Armenia, Azerbaijan, Kazakhstan, Moldova, The Russian Federation, Tajikistan, Ukraine, and Uzbekistan; to the Committee on Finance.

EC-6433. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Special Federal Aviation Regulation No. 36, Development of Major Repair Data; Direct Final Rule; Request for Comments" (RIN2120-AI09) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6434. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Limitation on Construction or Alteration in the Vicinity of the Private Residence of the President of the United States; Disposition of Comments on Interim Final Rule; Doc. No. FAA-2003-14972" (RIN2120-AH83) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6435. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regulation of Fractional Aircraft Ownership Programs and On Demand Operations; Doc. No. FAA-2001-10047" (RIN2120-AH06) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6436. A communication from the Program Analyst Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Transport Airplane Fleet Fuel Tank Ignition Source Review; Flammability Reduction, and Maintenance and Inspection Requirements; Doc. No. FAA1999-6411" (RIN2120-AG62) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6437. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Flightdeck Security on Large Cargo Airplanes; Request for Comments; Doc. No. FAA-2003-15653" (RIN2120-AH96) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6438. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E and E Airspace; Olive Brance, MS Doc. No. 03-ASO-19" (RIN2120-AA66) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6439. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Oskaloosa, IA Doc. No. 03-ACE-84" (RIN2120-AA66) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6440. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Waverly, IA Doc. No. 03-ACE-86" (RIN2120-AA66) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6441. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Cherokee, IA Doc. No. 03-ACE-89" (RIN2120-AA66) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6442. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class D Airspace; Hilton Head, SC Correction Amendment Doc. No. 03-ASO-18" (RIN2120-AA66) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6443. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Removal of Class E Airspace; New Port Richey, FL Doc. No. 03-ASO-22" (RIN2120-AA66) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6444. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Great Bend, KS Doc. No. 03-ACE-72" (RIN2120-AA66) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6445. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Philadelphia, PA Doc. No. 03-AEA-06" (RIN2120-AA66) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6446. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Springfield, MO Doc. No. 03-ACE-100" (RIN2120-AA66) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6447. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Winterset, IA Doc. No. 03-ACE-87" (RIN2120-AA66) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6448. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Polson, MT Doc. No. 03-ANM-10" (RIN2120-AA66) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6449. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Osceola, IA Doc. No. 03-ACE-83" (RIN2120-AA66) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6450. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Tipton, IA Doc. No. 03-ACE-85" (RIN2120-AA66) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6451. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Marysville, KS Doc. No. 03–ACE–99" (RIN2120–AA66) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6452. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Calverton, NY Doc. No. 03–AEA–16" (RIN2120–AA66) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6453. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Lawrenceville, VA Doc. No. 03–AEA–10" (RIN2120–AA66) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6454. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Kingman, KS Doc. No. 03–ACE–73" (RIN2120–AA66) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6455. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Beloit, KS Doc. No. 03–ACE–09" (RIN2120–AA66) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6456. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Greenfield, IA Doc. No. 03–ACE–88" (RIN2120–AA66) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6457. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Greenfield, IA. Doc. No. 03–ACE–88" (RIN2120–AA66) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6458. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Manokotak, AK Doc. No. 03–AAL–19" (RIN2120–AA66) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6459. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Restricted Area 2202C, and the Establishment of Restricted Area 2202D, Big Delta, AK, Doc. No. 03–AAL–07" (RIN2120–AA66) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6460. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Certification of Airports Doc. No. FAA–200–7479" (RIN2120–AG96) received on February 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6461. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification and Revocation of Federal Airways; AK Doc. No. 02–AAL–9" (RIN2120–AA66) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6462. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Enhanced Flight Vision System; Doc. No. FAA–2003–14449" (RIN2120–AH78) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6463. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Special Air Traffic Rules; Flight Restrictions in the Vicinity of Niagara Falls; Doc. No. FAA–2002–13235" (RIN2120–AH57) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6464. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "DOD Commercial Air Carrier Evaluators; Request for Comments; Doc.' No. FAA–2003–15571" (RIN2120–AI00) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6465. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Digital Flight Data Recorder Requirements Changes to Recording Specifications and Additional Exceptions; Correction; Doc. No. FAA–2003–15682" (RIN2120–AH89) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6466. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Collision Avoidance Systems; Doc. No. FAA–2001–10910" (RIN2120–AG90) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6467. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Aging Aircraft Safety Doc. No. FAA–1999–5401" (RIN2120–AE42) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6468. A communication from the Deputy Chief, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Jurisdictional Separations Reform and Referral to the Federal-State Joint Board" (FCC04–11) received on February 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6469. A communication from the Attorney Advisor, Federal Highway Administration, transmitting, pursuant to law, the report of a rule entitled "Contact Administration; Removal of Miscellaneous, Obsolete, or Redundant Regulations" (RIN2125–AF01) received on February 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6470. A communication from the General Counsel, Consumer Product Safety Commission, transmitting, pursuant to law, the report of a rule entitled "Exemption for Model Rocket Propellant Devices for Use with Rocket-Powered Model Cars" (RIN3041–AC00) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6471. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Final Rule to Implement Amendment 10 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico" (RIN0648–AM23) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6472. A communication from the Assistant Administrator for Regulatory Programs, National Marine Fishery Service, transmitting, pursuant to law, the report of a rule entitled "Taking of Threatened or Endangered Species Incidental to Commercial Fishing Operations" (RIN0648–AQ13) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6473. A communication from the Administrator, Federal Aviation Administration, transmitting, pursuant to law, a report relative to the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century; to the Committee on Commerce, Science, and Transportation.

EC–6474. A communication from the Attorney, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Automotive Fuel Economy Manufacturing Incentives for Alternative Fueled Vehicles" (RIN2127–AI41) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6475. A communication from the Senior Attorney, Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Hazardous Materials: Enhancing Hazardous Materials Transportation Security" (RIN2137–AD79) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6476. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Chemical Weapons Convention Regulations: Electronic Submission of Declarations and Reports through the Web-Data Entry System for Industry" (RIN0694–AC97) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6477. A communication from the Senior Legal Advisor, International Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Amendment of Parts 2 and 25 to Implement the Global Personal Communications by Satellite (GMPCS) Memorandum of Understanding and Arrangements; Petition of the National Telecommunications and Information Administration to Amend Part 25 of the Commission's Rules to Establish Emission Limits for Mobile and Portable Earth Stations Operating in the 1610–1660.5 MHz Band" (FCC03–283) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6478. A communication from the Deputy Chief, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Rural Health Care Support Mechanism in WC Docket No. 02–60; FCC04–15" (FCC04–15) received on February 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6479. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Park City, Montana)" (MB Doc. No. 02–79) received on February 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6480. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Saluda and Irmo, South Carolina)" (MB Doc. No. 03–8) received on February 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6481. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Portland, Maine)" (MM Doc. No. 00–133) received on February 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6482. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations (Hobbs, New Mexico)" (MB Doc. No. 03–193) received on February 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6483. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Muleshoe, Big Lake, and Turkey, Texas)" (MB Doc. No. 02–251, 254, and 370) received on February 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6484. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Crlotte Amalie, Frederiksted, and Christiansted, Virgin Islands)" (MM Doc. No. 00–102) received on February 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6485. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Hart, Pentwater, and Coopersville, Michigan)" (MB Doc. No. 02–335) received on February 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6486. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Dos Palos, Chualar, and Big Sur, California)" (MM Doc. No. 01–248) received on February 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6487. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Montgomery)" (MB Doc. No. 03–164) received on February 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6488. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Shawnee and Topeka, Kansas)" (MB Doc. No. 03–26) received on February 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6489. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Amherst and Lynchburg, Virginia)" (MM Doc. No. 96–100) received on February 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6490. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b) and 73.606, Table of Allotments, TV and DTV Broadcast Stations (Knoxville, Tennessee)" (MB Doc. No.) received on February 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6491. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Ketchum, Jerome, and Rupert, Idaho; Coalville, Naples, Huntsville, South Jordan, Tooele, Wellington, Castle Dale, Salina, Parowan, and Payson, Utah)" (MB Doc. No. 02–14) received on February 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6492. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Fargo, North Dakota)" (MB Doc. No. 03–234) received on February 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6493. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.606(b), Table of Allotments, DTV Broadcast Stations (Tupelo, MS)" (MB Doc. No. 03–221) received on February 26, 2004; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROBERTS, from the Select Committee on Intelligence, without amendment:

S. 2136. An original bill to extend the final report date and termination date of the National Commission on Terrorist Attacks Upon the United States, to provide additional funding for the Commission, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WARNER for the Committee on Armed Services.

*Kiron Kanian Skinner, of Pennsylvania, to be a Member of the National Security Education Board for a term of four years.

Marine Corps nomination of Brig. Gen. Douglas V. O'Dell, Jr.

Mr. WARNER. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Air Force nominations beginning Michel L. Bunning and ending Debra M. Niemeyer, which nominations were received by the Senate and appeared in the Congressional Record on October 16, 2003.

Air Force nominations beginning Raan R. Aalgaard and ending Steven R. Zwicker, which nominations were received by the Senate and appeared in the Congressional Record on October 16, 2003.

Air Force nomination of Lindsey O. Graham.

Air Force nominations beginning Donald L. Buege and ending Samuel R. Weinstein, which nominations were received by the Senate and appeared in the Congressional Record on January 28, 2004.

Air Force nominations beginning Alan C. Dickerson and ending Camille Phillips, which nominations were received by the Senate and appeared in the Congressional Record on January 28, 2004.

Air Force nominations beginning Walter F. Burghardt, Jr. and ending Phillip Y. Yoshimura, which nominations were received by the Senate and appeared in the Congressional Record on January 28, 2004.

Air Force nominations beginning Monica M. Allisonceruti and ending Mark J. Yost, which nominations were received by the Senate and appeared in the Congressional Record on January 28, 2004.

Air Force nominations beginning Patricia S. Angelilamb and ending Kathleen L. Zygowicz, which nominations were received by the Senate and appeared in the Congressional Record on January 28, 2004.

Air Force nominations beginning Michael A. Alday and ending David J. Snell, which nominations were received by the Senate and appeared in the Congressional Record on January 28, 2004.

Air Force nomination of Virginia A. Schneider.

Air Force nominations beginning Perry L. Amerine and ending James R. Patterson, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2004.

Air Force nominations beginning Stewart J. Hazel and ending William W. Pond, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2004.

Air Force nominations beginning William E. Enright, Jr. and ending Michael F. Vanhoomissen, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2004.

Air Force nomination of Collen B. Hough.

Air Force nominations beginning Norma L. Allgood and ending Matthew P. * Wicklund, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2004.

Air Force nominations beginning Richard C. Batzer and ending Richard I. Vance, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2004.

Air Force nominations beginning John A. Alexander and ending John A. Wisnewski, Jr., which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2004.

Air Force nominations beginning Todd B. * Abel and ending Gianna R. Zeh, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2004.

Air Force nominations beginning Douglas P. * Bethoney and ending Douglas E. * Thomas, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2004.

Air Force nominations beginning Adam M. Anderson and ending David J. Zollinger, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2004.

Air Force nominations beginning Marya J. Barnes and ending Karyn E. Youngcarignan, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2004.

Army nomination of Edward M. Willis.

Army nominations beginning James R. Agar II and ending Noel L. Woodward, which nominations were received by the Senate and appeared in the Congressional Record on February 2, 2004.

Army nominations beginning Jeremy A. Ball and ending Michael C. *Wong, which nominations were received by the Senate and appeared in the Congressional Record on February 5, 2004.

Army nominations beginning David H. Forden and ending Gerald E. Stone, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2004.

Marine Corps nominations beginning Randy M. Adair and ending Andrew N. Sullivan, which nominations were received by the Senate and appeared in the Congressional Record on February 2, 2004.

Marine Corps nominations beginning Jose Gonzalez and ending Jeffrey G. Young, which nominations were received by the Senate and appeared in the Congressional Record on February 2, 2004.

Marine Corps nominations beginning Edwin N. Llantos and ending Matthew E. Sutton, which nominations were received by the Senate and appeared in the Congressional Record on February 2, 2004.

Marine Corps nominations beginning Thomas E. Blake and ending James A. Griffiths, which nominations were received by the Senate and appeared in the Congressional Record on February 2, 2004.

Marine Corps nominations beginning Gerald A. Cummings and ending John M. McKeon, which nominations were received by the Senate and appeared in the Congressional Record on February 2, 2004.

Marine Corps nomination of Paul J. Smith.

Marine Corps nominations beginning Richard D. Bedford and ending James D. McCoy, which nominations were received by the Senate and appeared in the Congressional Record on February 2, 2004.

Marine Corps nominations beginning Samuel E. Davis and ending David H. Stephens, which nominations were received by the Senate and appeared in the Congressional Record on February 2, 2004.

Marine Corps nomination of Donald L. Bohannon.

Marine Corps nominations beginning Peter D. Charboneau and ending John A. Taninecz, which nominations were received by the Senate and appeared in the Congressional Record on February 2, 2004.

Marine Corps nominations beginning John M. Bishop and ending Jeffrey W. Smith, which nominations were received by the Senate and appeared in the Congressional Record on February 2, 2004.

Marine Corps nominations beginning Balwindar K. Rawalayvandevoort and ending Troy A. Tyre, which nominations were received by the Senate and appeared in the Congressional Record on February 5, 2004.

Marine Corps nomination of Steve E. Howell.

Marine Corps nomination of Richard K. Rohr.

Marine Corps nomination of William E. Hidle.

Marine Corps nominations beginning Ronald W. Cochran and ending Paul J. Miner, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2004.

Marine Corps nomination of Todd P. Ohman.

Marine Corps nominations beginning Michael E. Bean and ending Walton S. Pitchford, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2004.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. GRAHAM of South Carolina (for himself, Mr. Sessions, and Mr. McCain):

S. 2130. A bill to contain the costs of the medicare prescription drug program under part D of title XVIII of the Social Security Act, and for other purposes; to the Committee on Finance.

By Mr. BURNS (for himself, Mr. Wyden, and Mrs. Boxer):

S. 2131. A bill to regulate the unauthorized installation of computer software, to require clear disclosure to computer users of certain computer software features that may pose a threat to user privacy, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. FEINGOLD (for himself, Mr. Corzine, Mrs. Clinton, Mr. Lautenberg, Mr. Kennedy, Mr. Schumer, Mr. Durbin, Mr. Kerry, Mrs. Boxer, Mr. Reid, Mr. Dodd, Ms. Cantwell, Ms. Mikulski, and Mr. Edwards):

S. 2132. A bill to prohibit racial profiling; to the Committee on the Judiciary.

By Mrs. CLINTON:

S. 2133. A bill to name the Department of Veterans Affairs medical center in the Bronx, New York, as the James J. Peters Department of Veterans Affairs Medical Center; to the Committee on Veterans' Affairs.

By Mrs. FEINSTEIN (for herself, Mr. Campbell, Mr. Domenici, and Mr. Smith):

S. 2134. A bill to authorize the Secretary of Agriculture and the Secretary of the Interior to enter into an agreement or contract with Indian tribes meeting certain criteria to carry out projects to protect Indian forest land; to the Committee on Indian Affairs.

By Mrs. MURRAY (for herself and Ms. Cantwell):

S. 2135. A bill to amend title XVIII of the Social Security Act to improve the provision of items and services provided to Medicare beneficiaries residing in rural areas; to the Committee on Finance.

By Mr. ROBERTS:

S. 2136. An original bill to extend the final report date and termination date of the National Commission on Terrorist Attacks Upon the United States, to provide additional funding for the Commission, and for other purposes; from the Select Committee on Intelligence; placed on the calendar.

By Mr. DORGAN (for himself, Ms. Snowe, Ms. Stabenow, Mr. McCain, and Mr. Daschle):

S. 2137. A bill to authorize the Secretary of Health and Human Services to promulgate regulations for the reimportation of prescription drugs, and for other purposes; read the first time.

By Mr. GRAHAM of South Carolina:

S. 2138. A bill to protect the rights of American consumers to diagnose, service, and repair motor vehicles purchased in the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. CLINTON:

S. 2139. A bill to provide coverage under the Energy Employees Occupational Illness Compensation Program for individuals employed at atomic weapons employer facilities during periods of residual contamination; to the Committee on Health, Education, Labor, and Pensions.

By Ms. CANTWELL (for herself and Mrs. Murray):

S. 2140. A bill to expand the boundary of the Mount Rainier National Park; to the Committee on Energy and Natural Resources.

By Mr. LUGAR:

S. 2141. A bill to amend the Farm Security and Rural Investment Act of 2002 to enhance the ability to produce fruits and vegetables on soybean base acres; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for himself and Mr. Dodd):

S. Con. Res. 93. A concurrent resolution authorizing the use of the rotunda of the Capitol by the Joint Congressional Committee on Inaugural Ceremonies; considered and agreed to.

By Mr. LOTT (for himself and Mr. DODD):

S. Con. Res. 94. A concurrent resolution establishing the Joint Congressional Committee on Inaugural Ceremonies; considered and agreed to.

ADDITIONAL COSPONSORS

S. 983

At the request of Mr. CHAFEE, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 983, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 985

At the request of Mr. DODD, the names of the Senator from Mississippi (Mr. LOTT) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. 985, a bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas, and for other purposes.

S. 1120

At the request of Mr. BAUCUS, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 1120, a bill to establish an Office of Trade Adjustment Assistance, and for other purposes.

S. 1170

At the request of Mr. WYDEN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1170, a bill to designate certain conduct by sports agents relating to signing of contracts with student athletes as unfair and deceptive acts or practices to be regulated by the Federal Trade Commission.

S. 1180

At the request of Mr. SANTORUM, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1180, a bill to amend the Internal Revenue Code of 1986 to modify the work opportunity credit and the welfare-to-work credit.

S. 1189

At the request of Mr. DURBIN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1189, a bill to ensure an appropriate balance between resources and accountability under the No Child Left Behind Act of 2001.

S. 1298

At the request of Mr. AKAKA, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1298, a bill to amend the Farm Security and Rural Investment Act of 2002 to ensure the humane slaughter of non-ambulatory livestock, and for other purposes.

S. 1780

At the request of Mr. BIDEN, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 1780, a bill to amend the Controlled Substances Act to clarify the definition of anabolic steroids and to provide for research and education activities relating to steroids and steroid precursors.

S. 1873

At the request of Mr. AKAKA, his name was added as a cosponsor of S. 1873, a bill to require employees at a call center who either initiate or receive telephone calls to disclose the physical location of such employees, and for other purposes.

S. 1902

At the request of Mr. REED, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1902, a bill to establish a National Commission on Digestive Diseases.

S. 2032

At the request of Mrs. BOXER, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 2032, a bill to provide assistance and security for women and children in Afghanistan and for other purposes.

S. 2039

At the request of Mr. WYDEN, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 2039, a bill to waive time limitations specified by law in order to allow the Medal of Honor to be awarded posthumously to Rex T. Barber of Terrebonne, Oregon, for acts of valor during World War II in attacking and shooting down the enemy aircraft transporting Japanese Admiral Isoroku Yamamoto.

S. 2053

At the request of Mr. WYDEN, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 2053, a bill to reduce the costs of prescription drugs for medicare beneficiaries, and for other purposes.

S. 2057

At the request of Mr. DAYTON, the names of the Senator from New Jersey (Mr. CORZINE), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Michigan (Mr. LEVIN) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 2057, a bill to require the Secretary of Defense to reimburse members of the United States Armed Forces for certain transportation expenses incurred by the members in connection with leave under the Central Command Rest and Recuperation Leave Program before the program was expanded to include domestic travel.

S. 2076

At the request of Mr. BAUCUS, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 2076, a bill to amend title XI of the Social Security Act to provide direct congressional access to the office of the Chief Actuary in the Centers for Medicare & Medicaid Services.

S. 2084

At the request of Mr. ALEXANDER, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2084, a bill to revive and extend the Internet Tax Freedom Act for 2 years, and for other purposes.

S. 2090

At the request of Mr. DASCHLE, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2090, a bill to amend the Worker Adjustment and Retraining Notification Act to provide protections for employees relating to the offshoring of jobs.

S.J. RES. 26

At the request of Mr. ALLARD, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S.J. Res. 26, a joint resolution proposing an amendment to the Constitution of the United States relating to marriage.

S.J. RES. 28

At the request of Mr. CAMPBELL, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S.J. Res. 28, a joint resolution recognizing the 60th anniversary of the Allied landing at Normandy during World War II.

S. CON. RES. 81

At the request of Mrs. FEINSTEIN, the names of the Senator from Oklahoma (Mr. INHOFE) and the Senator from Oklahoma (Mr. NICKLES) were added as cosponsors of S. Con. Res. 81, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

S. CON. RES. 88

At the request of Mr. SARBANES, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. Con. Res. 88, a concurrent resolution expressing the sense of Congress that there should continue to be parity between the adjustments in the pay of members of the uniformed services and the adjustments in the pay of civilian employees of the United States.

S. CON. RES. 90

At the request of Mr. LEVIN, the names of the Senator from Michigan

(Ms. STABENOW) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. Con. Res. 90, a concurrent resolution expressing the Sense of the Congress regarding negotiating, in the United States-Thailand Free Trade Agreement, access to the United States automobile industry.

S. RES. 298

At the request of Mr. CAMPBELL, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. Res. 298, a resolution designating May 2004 as "National Cystic Fibrosis Awareness Month".

AMENDMENT NO. 2617

At the request of Ms. CANTWELL, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Michigan (Mr. LEVIN), the Senator from New York (Mr. SCHUMER), the Senator from Washington (Mrs. MURRAY), the Senator from New York (Mrs. CLINTON), the Senator from Rhode Island (Mr. REED), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Oregon (Mr. SMITH), the Senator from Delaware (Mr. BIDEN), the Senator from Indiana (Mr. BAYH), the Senator from Vermont (Mr. LEAHY) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of amendment No. 2617 proposed to S. 1805, a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others.

At the request of Mr. BYRD, his name was added as a cosponsor of amendment No. 2617 proposed to S. 1805, supra.

At the request of Mrs. FEINSTEIN, her name was added as a cosponsor of amendment No. 2617 proposed to S. 1805, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BURNS (for himself, Mr. WYDEN, and Mrs. BOXER):

S. 2131. A bill to regulate the unauthorized installation of computer software, to require clear disclosure to computer users of certain computer software features that may pose a threat to user privacy, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. WYDEN. Mr. President, my good friend Senator BURNS and I have pioneered a number of legislative efforts aimed at protecting ordinary computer users from the tricks and schemes of those who would abuse the open and interconnected nature of the Internet. From online privacy to spam, we have sought to establish some basic, commonsense rules to address sleazy, intrusive, and anti-consumer practices that have arisen in the new world of the Internet. In each case, our goal has not been to stifle or restrict legitimate and innovative modes of e-commerce, but rather to promote them by reining in unfair and annoying behavior that undermines consumer confidence and use of the Internet.

Today, we continue on that path by introducing the "SPY BLOCK" Act, together with our colleague Senator BOXER.

This legislation will put the brakes on the growing problem of software being installed secretly on people's computers, for purposes they might object to if given the chance. Sometimes, the problem is a "drive-by download," where the consumer's mere visit to a website or decision to click on an advertisement secretly triggers the downloading of software onto the consumer's machine. Or, it can be a "double whammy download," where the consumer's voluntary download of one software program also triggers the inadvertent download of a second software program which, although it may serve a very different purpose, has been bundled together with the first one.

Once installed, the unwanted software operates in the background, performing functions that ordinary computer users cannot detect. As a result, the computer user may never even know the software is there, let alone what it is doing. And to add insult to injury, software that spreads in this fashion often is designed to be nearly impossible to uninstall.

What might such software do, once it is installed? The legislation we are introducing today identifies several possible functions that pose concerns. First, some software, often referred to as "spyware," collects information about the computer user and transmits that information over the Internet to the spyware's author. Second, software sometimes referred to as "adware" causes pop-up ads to appear on the user's computer, perhaps based on the user's apparent interests or on the websites he or she visits. Third, some software essentially hijacks the computer's processing and communications capability to forward spam, viruses, or other messages, all without the user's knowledge. Finally, some software changes user settings—for example, overriding the user's intended choice of homepage.

If a computer user truly understands what the software is going to do and knowingly consents to it, that's fine. The issue really comes down to user knowledge and control. Too often, software like this allows a third party to wrest control of some of the computer's functions and commandeer them for the third party's own purposes. The software is essentially a parasite—it attaches itself without consent to the host computer and taps into the host's resources, making use of them for its own selfish purposes. Our bill would make such unauthorized practices clearly unlawful.

How common is all this? There is little hard data, but one report last year estimated that 20 million people have downloaded software that serves them targeted advertising. I have to suspect that many of these downloads did not involve informed consent. It has also been widely reported that many of the most popular peer-to-peer file sharing software programs come packaged with other software that is not clearly disclosed to the user. So the number of affected users is likely very high.

The bill we are introducing today would, for the first time, establish a clear legal principle that you cannot cause software to be installed on somebody else's computer without that person's knowledge and consent. This general notice and consent requirement could be satisfied by something as simple as an on-screen dialogue box telling the user that clicking "ok" will trigger the download of, say, a particular game program. In addition, the bill says that software must be capable of being uninstalled without resorting to extraordinary and highly technical procedures.

Beyond these general requirements, the legislation calls for certain types of software features—those performing the four functions I discussed a moment ago—to be specifically and separately brought to the user's attention prior to installation. For example, if a software program has a spyware feature designed to collect and transmit information about the user, the user would need to be provided with sufficient notice based on criteria set forth in the bill. That notice would need to explain the types of information that would be collected and the purposes for which the information would be used. Following this notice, the user would have the option of granting or withholding consent. In the absence of such notice and consent, it would be unlawful to download the software onto the user's computer, or subsequently to use the software to gather information about that user.

The bill contains some exceptions, for example, for pre-installed software and software features that are necessary to make basic features like e-mail or Internet browsing function properly. Enforcement under the bill would be by the Federal Trade Commission and state Attorneys General.

I recognize that the bill we introduce today may benefit from further attention and input on the particular wording of the definitions, on the types of software or software features that should be listed in the exceptions, and so forth. Senator BURNS, Senator BOXER, and I are open to further discussion about fine tuning the scope of the bill, so that we don't create a regime that ends up being impractical or imposing undue burdens on legitimate and useful software. This is the starting point, not the end point.

It is important, however, to get this process moving. I believe it's time to send a clear message that unauthorized and privacy-compromising spyware, adware, and other software are unlawful and punishable. I urge my colleagues to join Senators BURNS, BOXER, and myself in supporting this bill.

Mr. BURNS. Mr. President, I rise in support of a measure that I introduce today, with the support of my colleague, Senator WYDEN. We worked closely on the CAN SPAM bill together, and after four years of effort finally saw its successful passage last year. I am pleased to work with Senator WYDEN again on another critical issue which is potentially of even greater concern than junk email given its invasive nature—that of spyware. I also appreciate the support of another of my colleagues on the Senate Commerce Committee, Senator BOXER. Together, we have crafted legislation aimed at ending the insidious operation of spyware, the SPYBLOCK Act of 2004. By introducing this legislation today, we take the first step in giving consumers the control to stop this deceitful practice.

Spyware refers to software that is downloaded onto users' computers without their knowledge or consent. This sneaky software is then often used to track the movements of consumers online or even to steal passwords. The porous gaps spyware creates in a computer's security may be difficult to close. For example, one popular peer-to-peer file sharing network routinely installs spyware to track users' information and retrieves targeted banner ads and popups. As noted by a recent article in PC Magazine these file-sharing networks may be free, but at the cost of privacy, not money. Of the 60 million users, few know they are being watched. Of those who do discover spyware, uninstalling it may prove more difficult than other software programs. Some spyware includes tricklers, which reinstall the files as you delete them. Users may think they are getting rid of the problem, but the reality of the situation is far different.

The creators of spyware have engineered the technology so that once it is installed on a computer, it is difficult and sometimes impossible to remove and in some cases requires the entire hard drive to be erased to get rid of this poisonous product. Such drastic measures must be taken, because often spyware tells the installer what websites a user visits, steals passwords or other sensitive documents on a personal computer, and also redirects Internet traffic through certain web sites.

One of the most disturbing aspects about the spyware problem is that so few consumers are even aware of it. Bearing this factor in mind, the SPYBLOCK bill relies on a commonsense approach which prohibits the installation of software on consumers' computers without notice, consent and reasonable "uninstall" procedures.

The notice and consent approach which SPYBLOCK takes would end the practice of so-called "drive-by downloads" which some bad actors use to secretly download programs onto users' computers without their knowledge. Under SPYBLOCK, software providers must give consumers clear and conspicuous notice that a software program will be downloaded to their computers and requires user consent. This simple provision could be fulfilled by clicking "yes" on a dialog box, for example.

SPYBLOCK also requires notice and consent for other types of software. In the case of "Adware," providers are required to tell consumers what types of ads will pop up on users' screens and with what frequency. Consent is required for software that modifies user settings or uses "distributed computing" methods to utilize the processing power of individual computers to create larger networks. Finally, software providers must allow for their programs to be easily "uninstalled" by users after they are downloaded. As with the CAN-SPAM law, enforcement authority would be given to the Federal Trade Commission. States attorneys general could take action against the purveyors of spyware.

Clearly, it is time to call the bad actors to account. It is impossible to understand how any of the individuals or companies using spyware believe tracking Internet usage, stealing passwords, and hijacking the processors of someone else's computer, all without their knowledge, is justifiable.

Working closely with my colleagues Senator WYDEN and Senator BOXER, I am confident we can make major progress on this critical legislation, before spyware infects a critical mass of computers and renders them useless. Just trying to keep up with the latest anti-spyware software poses a tremendous cost to businesses, let alone individuals who have to spend their time online worried about the next spyware infestation. Again, I would like to thank Senators WYDEN and BOXER for their hard work on this vital issue, and I urge my colleagues to support this measure. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2131

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Controlling Invasive and Unauthorized Software Act".

SEC. 2. UNAUTHORIZED INSTALLATION OF COMPUTER SOFTWARE.

(a) NOTICE, CHOICE, AND UNINSTALL PROCEDURES.—It is unlawful for any person who is not the user of a protected computer to install computer software on that computer, or to authorize, permit, or cause the installation of computer software on that computer, unless—

(1) the user of the computer has received notice that satisfies the requirements of section 3;

(2) the user of the computer has granted consent that satisfies the requirements of section 3; and

(3) the computer software's uninstall procedures satisfy the requirements of section 3.

(b) RED HERRING PROHIBITION.—It is unlawful for any person who is not the user of a protected computer to install computer software on that computer, or to authorize, permit, or cause the installation of computer software on that computer, if the design or operation of the computer software is intended, or may reasonably be expected, to confuse or mislead the user of the computer concerning the identity of the person or service responsible for the functions performed or content displayed by such computer software.

SEC. 3. NOTICE, CONSENT, AND UNINSTALL REQUIREMENTS.

(a) NOTICE.—For purposes of section 2(a)(1), notice to the user of a computer shall—

(1) include a clear notification, displayed on the screen until the user either grants or denies consent to installation, of the name and general nature of the computer software that will be installed if the user grants consent; and

(2) include a separate disclosure, with respect to each information collection, advertising, distributed computing, and settings modification feature contained in the computer software, that—

(A) remains displayed on the screen until the user either grants or denies consent to that feature;

(B) in the case of an information collection feature, provides a clear description of—

(i) the type of personal or network information to be collected and transmitted by the computer software; and

(ii) the purpose for which the personal or network information is to be collected, transmitted, and used;

(C) in the case of an advertising feature, provides—

(i) a representative full-size example of each type of advertisement that may be delivered by the computer software;

(ii) a clear description of the estimated frequency with which each type of advertisement may be delivered; and

(iii) a clear description of how the user can distinguish each type of advertisement that the computer software delivers from advertisements generated by other software, Internet website operators, or services;

(D) in the case of a distributed computing feature, provides a clear description of—

(i) the types of information or messages the computer software will cause the computer to transmit;

(ii) the estimated frequency with which the computer software will cause the computer to transmit such messages or information;

(iii) the estimated volume of such information or messages, and the likely impact, if any, on the processing or communications capacity of the user's computer; and

(iv) the nature, volume, and likely impact on the computer's processing capacity of any computational or processing tasks the computer software will cause the computer to perform in order to generate the information or messages the computer software will cause the computer to transmit;

(E) in the case of a settings modification feature, provides a clear description of the nature of the modification, its function, and any collateral effects the modification may produce; and

(F) provides a clear description of procedures the user may follow to turn off such feature or uninstall the computer software.

(b) CONSENT.—For purposes of section 2(a)(2), consent requires—

(1) consent by the user of the computer to the installation of the computer software; and

(2) separate affirmative consent by the user of the computer to each information collection feature, advertising feature, distributed computing feature, and settings modification feature contained in the computer software.

(c) UNINSTALL PROCEDURES.—For purposes of section 2(a)(3), computer software shall—

(1) appear in the "Add/Remove Programs" menu or any similar feature, if any, provided by each operating system with which the computer software functions;

(2) be capable of being removed completely using the normal procedures provided by each operating system with which the computer software functions for removing computer software; and

(3) in the case of computer software with an advertising feature, include an easily identifiable link clearly associated with each advertisement that the software causes to be displayed, such that selection of the link by the user of the computer generates an on-screen window that informs the user about how to turn off the advertising feature or uninstall the computer software.

SEC. 4. UNAUTHORIZED USE OF CERTAIN COMPUTER SOFTWARE.

It is unlawful for any person who is not the user of a protected computer to use an information collection, advertising, distributed computing, or settings modification feature of computer software installed on that computer, if—

(1) the computer software was installed in violation of section 2;

(2) the use in question falls outside the scope of what was described to the user of the computer in the notice provided pursuant to section 3(a); or

(3) in the case of an information collection feature, the person using the feature fails to establish and maintain reasonable procedures to protect the security and integrity of personal information so collected.

SEC. 5. EXCEPTIONS.

(a) PREINSTALLED SOFTWARE.—A person who installs, or authorizes, permits, or causes the installation of, computer software on a protected computer before the first retail sale of the computer shall be deemed to be in compliance with this Act if the user of the computer receives notice that would satisfy section 3(a)(2) and grants consent that would satisfy section 3(b)(2) prior to—

(1) the initial collection of personal or network information, in the case of any information collection feature contained in the computer software;

(2) the initial generation of an advertisement on the computer, in the case of any advertising feature contained in the computer software;

(3) the initial transmission of information or messages, in the case of any distributed computing feature contained in the computer software; and

(4) the initial modification of user settings, in the case of any settings modification feature.

(b) OTHER EXCEPTIONS.—Sections 3(a)(2), 3(b)(2), and 4 do not apply to any feature of computer software that is reasonably needed to—

(1) provide capability for general purpose online browsing, electronic mail, or instant messaging, or for any optional function that is directly related to such capability and that the user knowingly chooses to use;

(2) determine whether or not the user of the computer is licensed or authorized to use the computer software; and

(3) provide technical support for the use of the computer software by the user of the computer.

(c) PASSIVE TRANSMISSION, HOSTING, OR LINK.—For purposes of this Act, a person shall not be deemed to have installed computer software, or authorized, permitted, or caused the installation of computer software, on a computer solely because that person provided—

(1) the Internet connection or other transmission capability through which the software was delivered to the computer for installation;

(2) the storage or hosting, at the direction of another person and without selecting the content to be stored or hosted, of the software or of an Internet website through which the software was made available for installation; or

(3) a link or reference to an Internet website the content of which was selected and controlled by another person, and through which the computer software was made available for installation.

(d) SOFTWARE RESIDENT IN TEMPORARY MEMORY.—In the case of an installation of computer software that falls within the meaning of section 7(10)(B) but not within the meaning of section 7(10)(A), the requirements set forth in subsections (a)(1), (b)(1), and (c) of section 3 shall not apply.

(e) FEATURES ACTIVATED BY USER OPTIONS.—In the case of an information collection, advertising, distributed computing, or settings modification feature that remains inactive or turned off unless the user of the computer subsequently selects certain optional settings or functions provided by the computer software, the requirements of subsections (a)(2) and (b)(2) of section 3 may be satisfied by providing the applicable disclosure and obtaining the applicable consent at the time the user selects the option that activates the feature, rather than at the time of initial installation.

SEC. 6. ADMINISTRATION AND ENFORCEMENT.

(a) IN GENERAL.—Except as provided in subsection (b), this Act shall be enforced by the Commission as if the violation of this Act were an unfair or deceptive act or practice proscribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(b) ENFORCEMENT BY CERTAIN OTHER AGENCIES.—Compliance with this Act shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601 and 611), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (b) of its powers under any Act referred to in that subsection, a violation of this Act is deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (b), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this Act, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act. Any entity that violates any provision of that section is subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of that section.

(e) PRESERVATION OF COMMISSION AUTHORITY.—Nothing contained in this section shall be construed to 8 limit the authority of the Commission under any other provision of law.

SEC. 7. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that this Act prohibits, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction—

(A) to enjoin that practice;

(B) to enforce compliance with the rule;

(C) to obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) to obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this subtitle shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of section 2 of this Act, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that section.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 8. DEFINITIONS.

In this Act:

(1) ADVERTISEMENT.—The term "advertisement" means a commercial promotion for a product or service, but does not include promotions for products or services that appear on computer software help or support pages that are displayed in response to a request by the user.

(2) ADVERTISING FEATURE.—The term "advertising feature" means a function of computer software that, when installed on a computer, delivers advertisements to the user of that computer.

(3) AFFIRMATIVE CONSENT.—The term "affirmative consent" means consent expressed through action by the user of a computer other than default action specified by the installation sequence and independent from any other consent solicited from the user during the installation process.

(4) CLEAR DESCRIPTION.—The term "clear description" means a description that is clear, conspicuous, concise, and in a font size that is at least as large as the largest default font displayed to the user by the software.

(5) COMPUTER SOFTWARE.—The term "computer software"—

(A) means any program designed to cause a computer to perform a desired function or functions; and

(B) does not include any cookie.

(6) COOKIE.—The term "cookie" means a text file—

(A) that is placed on a computer by an Internet service provider, interactive computer service, or Internet website; and

(B) the sole function of which is to record information that can be read or recognized by an Internet service provider, interactive computer service, or Internet website when the user of the computer uses or accesses such provider, service, or website.

(7) DISTRIBUTED COMPUTING FEATURE.—The term "distributed computing feature" means a function of computer software that, when installed on a computer, transmits information or messages, other than personal or network information about the user of the computer, to any other computer without the knowledge or direction of the user and for purposes unrelated to the tasks or functions the user intentionally performs using the computer.

(8) FIRST RETAIL SALE.—The term "first retail sale" means the first sale of a computer, for a purpose other than resale, after the manufacture, production, or importation of the computer. For purposes of this paragraph, the lease of a computer shall be considered a sale of the computer at retail.

(9) INFORMATION COLLECTION FEATURE.—The term "information collection feature" means a function of computer software that, when installed on a computer, collects personal or network information about the user of the computer and transmits such information to any other party on an automatic basis or at the direction of a party other than the user of the computer.

(10) INSTALL.—The term "install" means—

(A) to write computer software to a computer's persistent storage medium, such as the computer's hard disk, in such a way that the computer software is retained on the computer after the computer is turned off and subsequently restarted; or

(B) to write computer software to a computer's temporary memory, such as random access memory, in such a way that the software is retained and continues to operate after the user of the computer turns off or exits the Internet service, interactive computer service, or Internet website from which the computer software was obtained.

(11) NETWORK INFORMATION.—The term "network information" means—

(A) an Internet protocol address or domain name of a user's computer;

(B) a cookie or other unique identifier of a computer user or a computer user's computer; or

(C) a Uniform Resource Locator or other information that identifies Internet web sites or other online resources accessed by a user of a computer.

(12) PERSONAL INFORMATION.—The term "personal information" means—

(A) a first and last name, whether given at birth or adoption, assumed, or legally changed;

(B) a home or other physical address including street name, name of a city or town, and zip code;

(C) an electronic mail address or online username;

(D) a telephone number;

(E) a social security number;

(F) any personal identification number;

(G) a credit card number, any access code associated with the credit card, or both;

(H) a birth date, birth certificate number, or place of birth; or

(I) any password or access code.

(13) PERSON.—The term "person" has the meaning given that term in section 3(32) of the Communications Act of 1934 (47 U.S.C. 153(32)).

(14) PROTECTED COMPUTER.—The term "protected computer" has the meaning given that term in section 1030(e)(2)(B) of title 18, United States Code.

(15) SETTINGS MODIFICATION FEATURE.—The term "settings modification feature" means a function of computer software that, when installed on a computer—

(A) modifies an existing user setting, without direction from the user of the computer, with respect to another computer software application previously installed on that computer; or

(B) enables a user setting with respect to another computer software application previously installed on that computer to be modified in the future without advance notification to and consent from the user of the computer.

(16) USER OF A COMPUTER.—The term "user of a computer" means an individual who operates a computer with the authorization of the computer's lawful owner.

SEC. 9. EFFECTIVE DATE.

This Act shall take effect 180 days after the date of enactment of this Act.

By Mr. FEINGOLD (for himself, Mr. CORZINE, Mrs. CLINTON, Mr. LAUTENBERG, Mr. KENNEDY, Mr. SCHUMER, Mr. DURBIN, Mr. KERRY, Mrs. BOXER, Mr. REID, Mr. DODD, Ms. CANTWELL, Ms. MIKULSKI, and Mr. EDWARDS):

S. 2132. A bill to prohibit racial profiling; to the Committee on the Judiciary.

Mr. FEINGOLD. Mr. President, three years ago tomorrow, in his first address to a joint session of Congress, President Bush declared that racial profiling is wrong and pledged to end it in America. He then directed his Attorney General to implement this policy.

It is now three years later, and the American people are still waiting for the President to follow through on his pledge to end racial profiling.

So, today I join with Representative JOHN CONYERS, the distinguished ranking member of the House Judiciary Committee, in re-introducing the End Racial Profiling Act. We first introduced this bill in 2001, shortly after the President made his pledge and the Attorney General asserted that he would work with us on our legislation.

The End Racial Profiling Act would do exactly what the President promised to do: it would ban racial profiling once and for all and require Federal, State, and local law enforcement to take steps to end and prevent racial profiling.

I am very pleased that several of my distinguished colleagues have joined me on this bill Senators Corzine, Clinton, Lautenberg, Kennedy, Schumer, Durbin, Kerry, Boxer, Reid, Dodd, Cantwell, Mikulski, and Edwards.

Racial profiling is the practice by which some law enforcement agents routinely stop African Americans, Latinos, Asian Americans, Arab Americans and others simply because of their race, ethnicity, or national origin. Reports in States from New Jersey to Florida, and Maryland to Texas all show that African Americans, Hispanics, and members of other minority groups are being stopped by some police far in excess of their share of the population and the rate at which they engage in criminal conduct.

I might add that the urgency for legislation banning racial profiling is compounded by concerns post-September 11 that racial profiling—not good police work and following up on legitimate leads—is being used against Arab and Muslim Americans, or Americans perceived to be Arab or Muslim.

The September 11 attacks were horrific and I share the determination of many Americans that finding those responsible and preventing future attacks should be this Nation's top priority. This is a challenge that our country can and must meet. But we need improved intelligence and law enforcement, not racial, ethnic or religious stereotypes, to protect our Nation from crime and future terrorist attacks.

In fact, I believe that the End Racial Profiling Act is a pro-law enforcement bill. It will help to restore the trust and confidence of the communities our law enforcement have pledged to serve and protect. That confidence is crucial to our success in stopping crime, and in stopping terrorism. The End Racial Profiling Act is good for law enforcement and good for America.

I'm very pleased that many state and local law enforcement officials stand with the sponsors of this bill in condemning racial profiling. Many law enforcement officials across the country agree that racial profiling is wrong and should not take place in America. In fact, many State and local law enforcement officials have begun to take steps to address the problem, or even the perception of a problem. For example, in my own State of Wisconsin, law enforcement officials have taken steps to train police officers, improve academy training, establish model policies prohibiting racial profiling, and improve relations with our State's diverse communities. I applaud the efforts of Wisconsin law enforcement.

But the Federal Government has a vital role in protecting civil rights and acting as a model for State and local law enforcement. Last June, the Justice Department issued a policy guidance to Federal law enforcement agencies banning racial profiling. But while this guidance is a useful first step, it does not achieve the President's stated goal of ending racial profiling in America. It does not carry the force of law and does not apply to State and local law enforcement. Federal legislation is still very much needed.

Our bill, the End Racial Profiling Act, would ban racial profiling and allow the Justice Department or individuals the ability to enforce this prohibition by filing a suit for injunctive relief. The bill would also require Federal, state, and local law enforcement agencies to adopt policies prohibiting racial profiling; to implement effective complaint procedures; to implement disciplinary procedures for officers who engage in the practice; and to collect data on stops. In addition, it requires the Attorney General to report to Congress to allow Congress and the American people to monitor whether the steps outlined in the bill to prevent and end racial profiling have been effective.

Like the bill we introduced last Congress, the bill also authorizes the Attorney General to provide incentive grants to help law enforcement comply with the ban on racial profiling, including funds to conduct training of police officers or purchase in-car video cameras.

Finally, we have revised the bill to conform with the definition of racial profiling in the Justice Department's guidance and to reflect concerns about racial profiling based on religion in a post-September 11 America.

Let me emphasize that local, State, and Federal law enforcement agents play a vital role in protecting the public from crime and protecting the Nation from terrorism. The vast majority of law enforcement agents nationwide discharge their duties professionally and without bias and we are all indebted to them for their courage and dedication. This bill should not be misinterpreted as a criticism of those who put their lives on the line for the rest of us every day. Rather, it is a statement that the use of race, ethnicity, religion, or national origin in deciding which persons should be subject to traffic stops, stops and frisks, questioning, searches, and seizures is wrong and ineffective, except where there is specific information linking persons of a particular race, ethnicity, religion, or national origin to a crime.

Now, perhaps more than ever before, our Nation cannot afford to waste precious law enforcement resources or alienate Americans by tolerating discriminatory practices. It is past time for Congress and the President to enact comprehensive federal legislation that will end racial profiling once and for all.

I urge the President to make good on his pledge to end racial profiling, and I urge my colleagues to join me in supporting the End Racial Profiling Act.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2132

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "End Racial Profiling Act of 2004".

(b) Table of Contents.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.

TITLE I—PROHIBITION OF RACIAL PROFILING

Sec. 101. Prohibition.
Sec. 102. Enforcement.

TITLE II—PROGRAMS TO ELIMINATE RACIAL PROFILING BY FEDERAL LAW ENFORCEMENT AGENCIES

Sec. 201. Policies to eliminate racial profiling.

TITLE III—PROGRAMS TO ELIMINATE RACIAL PROFILING BY STATE AND LOCAL LAW ENFORCEMENT AGENCIES

Sec. 301. Policies required for grants.
Sec. 302. Best practices development grants.

TITLE IV—DEPARTMENT OF JUSTICE REPORTS ON RACIAL PROFILING IN THE UNITED STATES

Sec. 401. Attorney General to issue reports on racial profiling in the United States.
Sec. 402. Limitation on use of data.

TITLE V—DEFINITIONS AND MISCELLANEOUS PROVISIONS

Sec. 501. Definitions.
Sec. 502. Severability.
Sec. 503. Savings clause.

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds the following:

(1) Federal, State, and local law enforcement agents play a vital role in protecting the public from crime and protecting the Nation from terrorism. The vast majority of law enforcement agents nationwide discharge their duties professionally and without bias.

(2) The use by police officers of race, ethnicity, religion, or national origin in deciding which persons should be subject to traffic stops, stops and frisks, questioning, searches, and seizures is improper.

(3) In his address to a Joint Session of Congress on February 27, 2001, President George W. Bush declared that "racial profiling is wrong and we will end it in America." He directed the Attorney General to implement this policy.

(4) In June 2003, the Department of Justice issued a Policy Guidance regarding racial profiling by Federal law enforcement agencies which stated: "Racial profiling in law enforcement is not merely wrong, but also ineffective. Race-based assumptions in law enforcement perpetuate negative racial stereotypes that are harmful to our rich and diverse democracy, and materially impair our efforts to maintain a fair and just society."

(5) The Department of Justice Guidance is a useful first step, but does not achieve the President's stated goal of ending racial profiling in America: it does not apply to State and local law enforcement agencies,

does not contain a meaningful enforcement mechanism, does not require data collection, and contains an overbroad exception for immigration and national security matters.

(6) Current efforts by State and local governments to eradicate racial profiling and redress the harms it causes, while also laudable, have been limited in scope and insufficient to address this national problem. Therefore, Federal legislation is needed.

(7) Statistical evidence from across the country demonstrates that racial profiling is a real and measurable phenomenon.

(8) As of November 15, 2000, the Department of Justice had 14 publicly noticed, ongoing, pattern or practice investigations involving allegations of racial profiling, and had filed 5 pattern and practice lawsuits involving allegations of racial profiling, with 4 of those cases resolved through consent decrees.

(9) A large majority of individuals subjected to stops and other enforcement activities based on race, ethnicity, religion, or national origin are found to be law abiding and therefore racial profiling is not an effective means to uncover criminal activity.

(10) A 2001 Department of Justice report on citizen-police contacts in 1999 found that, although African-Americans and Hispanics were more likely to be stopped and searched, they were less likely to be in possession of contraband. On average, searches and seizures of African-American drivers yielded evidence only 8 percent of the time, searches and seizures of Hispanic drivers yielded evidence only 10 percent of the time, and searches and seizures of white drivers yielded evidence 17 percent of the time.

(11) A 2000 General Accounting Office report on the activities of the United States Customs Service during fiscal year 1998 found that—

(A) black women who were United States citizens were 9 times more likely than white women who were United States citizens to be x-rayed after being frisked or patted down;

(B) black women who were United States citizens were less than half as likely as white women who were United States citizens to be found carrying contraband; and

(C) in general, the patterns used to select passengers for more intrusive searches resulted in women and minorities being selected at rates that were not consistent with the rates of finding contraband.

(12) In some jurisdictions, local law enforcement practices such as ticket and arrest quotas, and similar management practices, may have the unintended effect of encouraging law enforcement agents to engage in racial profiling.

(13) Racial profiling harms individuals subjected to it because they experience fear, anxiety, humiliation, anger, resentment, and cynicism when they are unjustifiably treated as criminal suspects. By discouraging individuals from traveling freely, racial profiling impairs both interstate and intrastate commerce.

(14) Racial profiling damages law enforcement and the criminal justice system as a whole by undermining public confidence and trust in the police, the courts, and the criminal law.

(15) In the wake of the September 11, 2001, terrorist attacks, many Arabs, Muslims, Central and South Asians, and Sikhs, as well as other immigrants and Americans of foreign descent, were treated with generalized suspicion and subjected to searches and seizures based upon religion and national origin, without trustworthy information linking specific individuals to criminal conduct. Such profiling has failed to produce tangible benefits, yet has created a fear and mistrust of law enforcement agencies in these communities.

(16) Racial profiling violates the equal protection clause of the Constitution. Using race, ethnicity, religion, or national origin as a proxy for criminal suspicion violates the constitutional requirement that police and other government officials accord to all citizens the equal protection of the law. Arlington Heights v. Metropolitan Housing Development Corporation, 429 U.S. 252 (1977).

(17) Racial profiling is not adequately addressed through suppression motions in criminal cases for two reasons. First, the Supreme Court held, in Whren v. United States, 517 U.S. 806 (1996), that the racially discriminatory motive of a police officer in making an otherwise valid traffic stop does not warrant the suppression of evidence. Second, since most stops do not result in the discovery of contraband, there is no criminal prosecution and no evidence to suppress.

(18) A comprehensive national solution is needed to address racial profiling at the Federal, State, and local levels. Federal support is needed to combat racial profiling through specialized training of law enforcement agents, improved management systems, and the acquisition of technology such as in-car video cameras.

(b) Purposes.—The purposes of this Act are—

(1) to enforce the constitutional right to equal protection of the laws, pursuant to the Fifth Amendment and section 5 of the 14th Amendment to the Constitution of the United States;

(2) to enforce the constitutional right to protection against unreasonable searches and seizures, pursuant to the Fourth Amendment to the Constitution of the United States;

(3) to enforce the constitutional right to interstate travel, pursuant to section 2 of article IV of the Constitution of the United States; and

(4) to regulate interstate commerce, pursuant to clause 3 of section 8 of article I of the Constitution of the United States.

TITLE I—PROHIBITION OF RACIAL PROFILING

SEC. 101. PROHIBITION.

No law enforcement agent or law enforcement agency shall engage in racial profiling.

SEC. 102. ENFORCEMENT.

(a) Remedy.—The United States, or an individual injured by racial profiling, may enforce this title in a civil action for declaratory or injunctive relief, filed either in a State court of general jurisdiction or in a district court of the United States.

(b) Parties.—In any action brought pursuant to this title, relief may be obtained against—

(1) any governmental unit that employed any law enforcement agent who engaged in racial profiling;

(2) any agent of such unit who engaged in racial profiling; and

(3) any person with supervisory authority over such agent.

(c) Nature of Proof.—Proof that the routine or spontaneous investigatory activities of law enforcement agents in a jurisdiction have had a disparate impact on racial, ethnic, or religious minorities shall constitute prima facie evidence of a violation of this title.

(d) Attorney's Fees.—In any action or proceeding to enforce this title against any governmental unit, the court may allow a prevailing plaintiff, other than the United States, reasonable attorney's fees as part of the costs, and may include expert fees as part of the attorney's fee.

TITLE II—PROGRAMS TO ELIMINATE RACIAL PROFILING BY FEDERAL LAW ENFORCEMENT AGENCIES

SEC. 201. POLICIES TO ELIMINATE RACIAL PROFILING.

(a) In General.—Federal law enforcement agencies shall—

(1) maintain adequate policies and procedures designed to eliminate racial profiling; and

(2) cease existing practices that encourage racial profiling.

(b) Policies.—The policies and procedures described in subsection (a)(1) shall include—

(1) a prohibition on racial profiling;

(2) the collection of data on routine investigatory activities sufficient to determine if law enforcement agents are engaged in racial profiling and submission of that data to the Attorney General;

(3) independent procedures for receiving, investigating, and responding meaningfully to complaints alleging racial profiling by law enforcement agents of the agency;

(4) procedures to discipline law enforcement agents who engage in racial profiling; and

(5) such other policies or procedures that the Attorney General deems necessary to eliminate racial profiling.

TITLE III—PROGRAMS TO ELIMINATE RACIAL PROFILING BY STATE AND LOCAL LAW ENFORCEMENT AGENCIES

SEC. 301. POLICIES REQUIRED FOR GRANTS.

(a) In General.—An application by a State or governmental unit for funding under a covered program shall include a certification that such unit and any agency to which it is redistributing program funds—

(1) maintains adequate policies and procedures designed to eliminate racial profiling; and

(2) has ceased any existing practices that encourage racial profiling.

(b) Policies.—The policies and procedures described in subsection (a) shall include—

(1) a prohibition on racial profiling;

(2) the collection of data on routine investigatory activities sufficient to determine if law enforcement agents are engaged in racial profiling, and submission of that data to the Attorney General;

(3) independent procedures for receiving, investigating, and responding meaningfully to complaints alleging racial profiling by law enforcement agents;

(4) procedures to discipline law enforcement agents who engage in racial profiling; and

(5) such other policies or procedures that the Attorney General deems necessary to eliminate racial profiling.

(c) Noncompliance.—If the Attorney General determines that a grantee is not in compliance with conditions established under this title, the Attorney General shall withhold the grant, in whole or in part, until the grantee establishes compliance. The Attorney General shall provide notice regarding State grants and opportunities for private parties to present evidence to the Attorney General that a grantee is not in compliance with conditions established under this title.

SEC. 302. BEST PRACTICES DEVELOPMENT GRANTS.

(a) Grant Authorization.—The Attorney General may make grants to States, law enforcement agencies and other governmental units, Indian tribal governments, or other public and private entities, to develop and implement best practice devices and systems to ensure the racially neutral administration of justice.

(b) Uses.—The funds provided pursuant to subsection (a) may be used to support—

(1) development and implementation of training to prevent racial profiling and to encourage more respectful interaction with the public;

(2) acquisition and use of technology to facilitate the collection of data regarding routine investigatory activities in order to determine if law enforcement agents are engaged in racial profiling;

(3) acquisition and use of technology to verify the accuracy of data collection, including in-car video cameras and portable computer systems;

(4) development and acquisition of early warning systems and other feedback systems that help identify officers or units of officers engaged in or at risk of racial profiling or other misconduct, including the technology to support such systems;

(5) establishment or improvement of systems and procedures for receiving, investigating, and responding meaningfully to complaints alleging racial, ethnic, or religious bias by law enforcement agents; and

(6) establishment or improvement of management systems to ensure that supervisors are held accountable for the conduct of their subordinates.

(c) Equitable Distribution.—The Attorney General shall ensure that grants under this section are awarded in a manner that reserves an equitable share of funding for small and rural law enforcement agencies.

(d) Authorization of Appropriations.—The Attorney General shall make available such sums as are necessary to carry out this section from amounts appropriated for programs administered by the Attorney General.

TITLE IV—DEPARTMENT OF JUSTICE REPORTS ON RACIAL PROFILING IN THE UNITED STATES

SEC. 401. ATTORNEY GENERAL TO ISSUE REPORTS ON RACIAL PROFILING IN THE UNITED STATES.

(a) Reports.—

(1) In general.—Not later than 2 years after the enactment of this Act, and each year thereafter, the Attorney General shall submit to Congress a report on racial profiling by Federal, State, and local law enforcement agencies in the United States.

(2) Scope.—The reports issued pursuant to paragraph (1) shall include—

(A) a summary of data collected pursuant to sections 201(b)(2) and 301(b)(2) and any other reliable source of information regarding racial profiling in the United States;

(B) the status of the adoption and implementation of policies and procedures by Federal law enforcement agencies pursuant to section 201;

(C) the status of the adoption and implementation of policies and procedures by State and local law enforcement agencies pursuant to sections 301 and 302; and

(D) a description of any other policies and procedures that the Attorney General believes would facilitate the elimination of racial profiling.

(b) Data Collection.—Not later than 6 months after the enactment of this Act, the Attorney General shall by regulation establish standards for the collection of data under sections 201(b)(2) and 301(b)(2), including standards for setting benchmarks against which collected data shall be measured. Such standards shall result in the collection of data, including data with respect to stops, searches, seizures, and arrests, that is sufficiently detailed to determine whether law enforcement agencies are engaged in racial profiling and to monitor the effectiveness of policies and procedures designed to eliminate racial profiling.

(c) Public Access.—Data collected under sections 201(b)(2) and 301(b)(2) shall be available to the public.

SEC. 402. LIMITATION ON USE OF DATA.

Information released pursuant to section 401 shall not reveal the identity of any individual who is detained or any law enforcement officer involved in a detention.

TITLE V—DEFINITIONS AND MISCELLANEOUS PROVISIONS

SEC. 501. DEFINITIONS.

In this Act:

(1) Covered program.—The term "covered program" means any program or activity funded in whole or in part with funds made available under—

(A) the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs (part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.));

(B) the "Cops on the Beat" program under part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd et seq.), but not including any program, project, or other activity specified in section 1701(d)(8) of that Act (42 U.S.C. 3796dd(d)(8)); and

(C) the Local Law Enforcement Block Grant program of the Department of Justice, as described in appropriations Acts.

(2) Governmental unit.—The term "governmental unit" means any department, agency, special purpose district, or other instrumentality of Federal, State, local, or Indian tribal government.

(3) Law enforcement agency.—The term "law enforcement agency" means a Federal, State, local, or Indian tribal public agency engaged in the prevention, detection, or investigation of violations of criminal, immigration, or customs laws.

(4) Law enforcement agent.—The term "law enforcement agent" means any Federal, State, local, or Indian tribal official responsible for enforcing criminal, immigration, or customs laws, including police officers and other agents of Federal, State, and local law enforcement agencies.

(5) Racial profiling.—The term "racial profiling" means the practice of a law enforcement agent relying, to any degree, on race, ethnicity, religion, or national origin in selecting which individuals to subject to routine or spontaneous investigatory activities, or in deciding upon the scope and substance of law enforcement activity following the initial investigatory procedure, except when there is trustworthy information, relevant to the locality and timeframe, that links persons of a particular race, ethnicity, religion, or national origin to an identified criminal incident or scheme.

(6) Routine or spontaneous investigatory activities.—The term "routine or spontaneous investigatory activities" means the following activities by law enforcement agents: interviews; traffic stops; pedestrian stops; frisks and other types of body searches; consensual or nonconsensual searches of the persons or possessions (including vehicles) of motorists or pedestrians; inspections and interviews of entrants into the United States that are more extensive than those customarily carried out; immigration related workplace investigations; and such other types of law enforcement encounters compiled by the FBI and the Justice Department's Bureau of Justice Statistics.

SEC. 502. SEVERABILITY.

If any provision of this Act or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this Act and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SEC. 503. SAVINGS CLAUSE.

Nothing in this Act shall be construed to limit legal or administrative remedies under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983), section 210401 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14141), the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701 et seq.), and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

Mr. CORZINE. Mr. President, I am very pleased to be joining my colleague Senator Russell Feingold and 12 others in reintroducing the End Racial Profiling Act.

I first want to recognize Senator Russ Feingold who has been a tremendous leader on this issue—during the last two sessions he held the first Senate hearings on racial profiling and he and his staff have worked tirelessly to elevate the importance of this issue as a matter of civil rights. I also want to commend Representative John Conyers, who is introducing companion legislation in the House of Representatives today. This is just on example of his indefatigable work to address inequities in our society. I also want to thank Reverend Reginald Jackson, Executive Director of the New Jersey Black Ministers' Council. He and the entire council have worked tirelessly for years to address the issue of racial profiling in New Jersey and have provided immeasurable assistance in crafting this legislation.

The practice of racial profiling is the antithesis of America's belief in fairness and equal protection under the law.

Stopping people on our highways, our streets, and at our borders because of the color of their skin tears at the very fabric of American society.

We are a Nation of laws and everyone should receive equal protection under the law. Our Constitution tolerates nothing less. We should demand nothing less.

There is no equal protection—there is no equal justice—if law enforcement agencies engage in policies and practices that are premised on a theory that the way to stop crime is to go after black and brown people on the hunch that they are more likely to be criminals.

Let me add, that not only is racial profiling wrong, it is simply not an effective law enforcement tool. There is no evidence that stopping people of color adds up to catching bad guys.

In fact, there is statistical evidence which points out that singling out black motorist or Hispanic motorists for stops and searches doesn't lead to a higher percentage of arrests. Minority motorists are simply no more likely to be breaking the law than white motorists.

But unfortunately racial profiling persists.

In 2001, minority motorists accounted for 73 percent of those searched on the New Jersey turnpike. But even the State Attorney General admitted that State troopers were twice—I repeat twice—as likely to find drugs or other illegal items when searching vehicles driven by whites.

Or take the example of the March 2000 Government Accounting Office report on the U.S. Customs Service.

The report found that black, Asian, and Hispanic women were four to nine times more likely than white women to be subjected to X rays after being frisked or patted down.

But on the basis of the X ray results, black women were less than half as likely as white women to be found carrying contraband.

This is law enforcement by hunch. No warrants. No probable cause.

And what is the hunch based on?

Race—plain and simple.

No where was this more evident, than in my own home State six years ago.

Four young men on the New Jersey Turnpike in a minivan—on their way to North Carolina, hoping to go to school on basketball scholarships.

Two State troopers pulled them off the road, the frightened driver lost control of the van, two dozens shots rang out. Three of the four kids were shot.

I spoke to these kids a while ago. One of the them told me he was asleep when the van was pulled over.

He told me, "What woke me up was a bullet."

Stories like this should wake us all up.

The practice of racial profiling broadly undermines the confidence of the American people in the institutions that we depend on to protect and defend us. Different rules for different people do not work.

Now—We know that many law enforcement agencies, including some from my home State, have acknowledged the danger of the practice and have taken steps to combat it. Indeed, I am proud to report that New Jersey has banned racial profiling. I commend them for their efforts.

That said, it is clear that this is a national problem that requires a national response applicable to all.

That is why Senator FEINGOLD and I and many others introduced the End Racial Profiling Act in 2001 to end this practice. The legislation provided a clear, enforceable ban on racial profiling and established a "carrot and stick" approach to encourage law enforcement to take steps to end the practice.

The legislation helped bring much-needed attention to this critical issue and was positively received by the civil rights community and many in law enforcement. Soon after introduction, Senator FEINGOLD held very informative hearings on the bill, at which I testified. We heard from several law enforcement leaders, including Oakland Police Chief Ronald Davis and Raymond Kelly, former Commissioner of the U.S. Customs Service and the New York City Police Department, on the pernicious impact of racial profiling on the trust between law enforcement and communities that is essential for successful police work. They testified that racial profiling is contrary to effective law enforcement and indeed takes energy and focus away from finding real criminals.

Then, in June 2003, the U.S. Department of Justice issued guidelines to prohibit racial profiling by federal law enforcement agencies, following up on President Bush's statement in his February 27, 2001, address to a Joint Session of Congress, that racial profiling is "wrong and we will end it in America."

In this guidance, the Department stated:

> Racial profiling in law enforcement is not merely wrong, but also ineffective. Race-based assumptions in law enforcement perpetuate negative racial stereotypes that are harmful to our rich and diverse democracy, and materially impair our efforts to maintain a fair and just society.

These guidelines, as well as current efforts by State and local governments, to eradicate racial profiling and redress the harms it causes, while laudable, have been limited in scope and insufficient to address this national problem. Quite simply, federal legislation is still very much needed.

In most respects the legislation we are now introducing today is very similar to the bill that we introduced in 2001.

It clearly defines racial profiling and bans it.

No routine stops based solely on race, religion, national origin or ethnicity. Religion is a new addition to the category of protected classes, in acknowledgment of some of the new law enforcement tactics developed after the September 11, 2001, terrorist attacks. For example, in the wake of the attacks, Arab-American, Muslim-American, South Asian-American and Sikh-American communities were made the target of generalized suspicion and subjected to searches and seizures based upon their religion and national origin, which has created a fear and mistrust of law enforcement agencies and failed to produce tangible investigative benefit.

We will also require the collection of statistics to accurately measure whether progress is being made. By collecting this data, we will get a fair picture of law enforcement at work. And we will provide law enforcement with the information they need to detect problems early on.

It is not our intention to micromanage law enforcement. Our bill does not tell law enforcement agencies what data should be collected. Instead, we direct the Attorney General to develop the standards for data collection, and he presumably would work with law enforcement in developing those standards. Our legislation also specifically directs the Attorney General to also establish standards for setting benchmarks against which the collected data should be measured—so that no data is taken out of context, as some in law enforcement rightly fear.

If the numbers reveal a portrait of continued racial profiling, then the Justice Department or independent third parties can seek relief in Federal court ordering that remedies be put into effect to end racial profiling.

Our bill would also put in place procedures to receive and investigate complaints alleging racial profiling.

It will require procedures to discipline law enforcement officers engaging in racial profiling.

Finally, we will encourage a climate of cultural change in law enforcement with a carrot and a stick.

First, the carrot: We recognize that law enforcement shouldn't be expected to do this alone. So we are saying that if you do the job right—fairly and equitably—you can be eligible to receive a best practices development grant—to help pay for programs dealing with advanced training.

To help pay for the computer technology that is necessary to collect the data and statistics we have demanded.

We'll help pay for video cameras and recorders for your patrol cars.

We'll help pay for establishing or improving systems for handling complaints alleging ethnic or racial profiling.

We'll help to establish management systems to ensure that supervisors are held accountable for the conduct of subordinates.

But if you don't do the job right, there is the stick. If State and local law enforcement agencies refuse to implement procedures to end and prevent profiling, they will be subject to a loss of Federal law enforcement funds.

Let me be clear, this bill is not about blaming law enforcement, and it is not designed to prevent law enforcement from doing its job. In fact, we believe that it will help our officers maintain the public trust they need to do their jobs.

If race is a part of a description of a specific suspect involved in an investigation, this law does not prevent that information from being distributed. But stopping people on a random or race-based hunch will be outlawed. Race has been a never-ending battle in this country. It began with our constitution, when the founding fathers argued over the rights of slaves. And then we fought a war over race. We fought a war that ripped our country apart.

Our country emerged whole, but discrimination continued for decades—discrimination sanctioned in part, unfortunately, by our own Supreme Court.

But our country's history has always been about change, about growth, about recognizing those things that weaken us from within.

A generation ago, we began to fight another war—a war founded in peaceful principles, but a war that killed our heroes, burned our cities, and shook us once again to the very core.

But we advanced, with important civil rights initiatives like the Voting Rights Act. Like the public accommodations law. We demanded and gained laws to fight discrimination in employment, in housing, in education. Today, it is time for us to take another step. Racial profiling has bred humiliation, anger, resentment and cynicism throughout this country. It has weakened respect for the law—by everyone, not just those offended.

Simply put—it is wrong and we must end it. Today we pledge to do just that—to define it, to ban it, and to enforce that ban.

By Mrs. FEINSTEIN (for herself, Mr. CAMPBELL, Mr. DOMENICI, and Mr. SMITH):

S. 2134. A bill to authorize the Secretary of Agriculture and the Secretary of the Interior to enter into an agreement or contract with Indian tribes meeting certain criteria to carry out projects to protect Indian forest land; to the Committee on Indian Affairs.

Mrs. FEINSTEIN. Mr. President, I am pleased to introduce a bipartisan bill today that gives Native American tribes a chance to protect their reservation lands from catastrophic fire. I want to thank my cosponsors, Chairman PETE DOMENICI of the Energy and Natural Resources Committee, and Chairman BEN NIGHTHORSE CAMPBELL of the Committee on Indian Affairs.

Like other Americans, many Native American tribes are concerned about the risk of catastrophic forest fires spreading from nearby Federal lands onto their own lands. Last summer, at least 18 reservations were invaded by fire from adjacent Federal public forest lands.

This bill attempts to give the tribes a chance to defend themselves and their ancestral lands by involving them in brush-clearing projects on Federal lands near their reservations.

This is not just a theoretical problem, as tribes from my State know all too well.

Last fall's devastating wildfires in southern California caused disproportionate suffering for Native Americans: Over 30,000 acres burned on 11 tribal reservations. Most tragically, 10 lives were lost on or near reservations.

I am determined to give the tribes of my State and from around the country the opportunity to prevent this tragedy from recurring: The bill sets up a process for the Forest Service or the Bureau of Land Management to enter into contracts with the tribes for fuel reduction purposes. If a tribe requests a brush-clearing project on federal lands near its reservation, the agencies are encouraged to respond within specific timeframes and suggest remedies for any agency concerns with the tribe's proposal. There remains free and open competition for timber contracts on Federal land. However, in determining the recipients of the contracts, the agencies are encouraged to consider such factors as tribal treaty rights or cultural and historical affiliation to the land involved.

Nearly 100 Native American tribes support this legislation, including most, if not all, the tribes in the State of California.

So I am pleased to introduce this bill today, and I hope my colleagues will support it.

By Mrs. MURRAY (for herself and Ms. CANTWELL):

S. 2135. A bill to amend title XVIII of the Social Security Act to improve the provision of items and services provided to Medicare beneficiaries residing in rural areas; to the Committee on Finance.

Mrs. MURRAY. Mr. President, I rise today to again join my colleague, Senator CANTWELL, in introducing the MediFair Act of 2004. My bill will restore fairness to the Medicare program and provide equity for health care providers participating in Medicare. Most importantly, it will open doors of care to more seniors and the disabled in my State.

Today, unfair Medicare reimbursement rates are causing doctors to limit their care for Medicare beneficiaries. Throughout my State, seniors and the disabled are having a hard time finding a doctor who will accept new Medicare patients.

Unfortunately, the recently-passed Medicare Prescription Drug, Improvement and Modernization Act of 2003 further compromises health care in Washington State because it reduces Washington State's per beneficiary payments from 42nd to 45th nationwide. This reduction places health care providers in my State at an economic disadvantage and further limits access to health care in Washington State.

My bill will reduce the regional inequities that have resulted in vastly different levels of care and access to care by ensuring that every State receives at least the national average of per-patient spending. This measure will encourage more doctors to accept Medicare patients and will also guarantee that seniors are not penalized when they choose to retire in the State of Washington.

In addition to ensuring that no State receives less than the national average, my legislation will encourage healthy outcomes and efficient use of Medicare payments. The current Medicare system punishes health care providers who practice efficient healthcare and healthy outcomes. Physicians and hospitals in my State are proud of the pioneering role they have played in providing high quality, cost effective medicine. Unfortunately, they have been rewarded for their exceptional service by being paid a fraction of their actual costs.

On the other hand, States that are inefficient and that over-utilize the system are rewarded with higher states of reimbursement. As we grapple with an ever-increasing budget deficit. We need to make sure that every dollar spent on Medicare is used as effectively as possible. I ask each and every one of my colleagues to join me in restoring fairness to the Medicare program and increasing access to health care for Medicare beneficiaries by supporting the MediFair Act.

I want to acknowledge the lead sponsor of the MediFair bill in the House, Representative ADAM SMITH, as well as the other cosponsors, Representative BAIRD, Representative DICKS, Representative INSLEE, Representative LARSEN, and Representative MCDERMOTT.

I have been working on addressing the issue of inequitable Medicare reimbursement policies for a number of years, and I am pleased that we have made inroads in addressing this issue. I especially appreciate the efforts by the Department of Health and Human Services (HHS) to reward healthy outcomes, and I look forward to working with HHS in the future to meet these goals.

Medicare should reward States like Washington that have a proven tradition of efficient and effective health care. Passing the MediFair Act will go a long way to improving health care access for seniors in States like Washington and ensuring that Federal health care dollars produce the best results possible for our patients.

By Mr. ROBERTS:

S. 2136. An original bill to extend the final report date and termination date of the National Commission on Terrorist Attacks Upon the United States, to provide additional funding for the Commission, and for other purposes; from the Select Committee on Intelligence; placed on the calendar.

Mr. ROBERTS. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2136

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES.

(a) FINAL REPORT DATE.—Subsection (b) of section 610 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 6 U.S.C. 101 note; 116 Stat. 2413) is amended by striking "18 months" and inserting "20 months".

(b) TERMINATION DATE.—Subsection (c) of that section is amended—

(1) in paragraph (1), by striking "60 days" and inserting "30 days"; and

(2) in paragraph (2), by striking "60-day period" and inserting "30-day period".

(c) ADDITIONAL FUNDING.—Section 611 of that Act (6 U.S.C. 101 note; 116 Stat. 2413) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by inserting after subsection (a) the following new subsection (b):

"(b) ADDITIONAL FUNDING.—In addition to the amounts made available to the Commission under subsection (a) and under chapter 2 of title II of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 591), of the amounts appropriated for the programs and activities of the Federal Government for fiscal year 2004 that remain available for obligation, not more than $1,000,000 shall be available for transfer to the Commission for purposes of the activities of the Commission under this title."; and

(3) in subsection (c), as so redesignated, by striking "subsection (a)" and inserting "this section".

By Mrs. CLINTON:

S. 2139. A bill to provide coverage under the Energy Employees Occupational Illness Compensation Program for individuals employed at atomic weapons employer facilities during periods of residual contamination; to the Committee on Health, Education, Labor, and Pensions.

Mrs. CLINTON. Mr. President, I rise to introduce an important piece of legislation to assist our atomic weapons workers. The legislation addresses a major flaw in the Energy Employees Occupational Illness Compensation Program by expanding eligibility for benefits.

Under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA), workers are eligible for a payment of $150,000 and medical coverage for expenses associated with the treatment of diseases contracted due to exposure to radiation at atomic weapons plants. However, under EEOICPA, workers who became sick from working in contaminated atomic weapons plants after weapons production ceased are not eligible for benefits.

In 2003, the National Institute of Occupational Safety and Health released a Congressionally-mandated report, entitled " Report on Residual Radioactive and Beryllium Contamination in Atomic Weapons Employer and Beryllium Vendor Facilities." The report concluded that "significant" residual radioactive contamination existed in many of these plants for years and decades after weapons production ceased, posing a risk of radiation-related cancers or disease to unknowing workers.

In fact, the report found that: 97, 44 percent, of covered facilities have potential for significant residual radioactive contamination outside of the periods in which atomic weapons-related production occurred; 88, 40 percent, of such facilities have little potential for significant residual radioactive contamination outside of the periods in which atomic weapons-related production occurred; and 34, 16 percent, of such facilities have insufficient information to make a determination.

In my State of New York, 16 of 31 covered facilities were found to have the potential for significant contamination, 10 had little potential for significant contamination, and 5 of the 31 had insufficient information.

In other words, more than half of the New York Atomic Weapons Employer Facilities in New York were contaminated after weapons production ceased. As a result, workers were exposed to radiation, and deserve to be eligible for benefits under EEOICPA.

That is why I am introducing the Residual Radioactive Contamination Compensation Act (RRCCA) today. The bill would extend eligibility for benefits under EEOICPA to workers who were employed at facilities where NIOSH has found potential for significant radioactive contamination.

In addition to expanding eligibility to workers employed at facilities where NIOSH has found potential for significant radioactive contamination, the Residual Radioactive Contamination Compensation Act would require NIOSH to update the list of such facilities annually. This addresses the fact that there was insufficient information for NIOSH to characterize a number of sites in its 2003 report.

I would also like to take the opportunity to draw attention to another important issue—the special cohort rule. Under EEOICPA, the Department of Health and Human Services was to establish procedures so that workers can petition the government to be included in a "special cohort"—meaning that they would be eligible for the program—if their radiation doses are difficult to estimate but it is likely that they have radiation-caused illnesses. Despite this important mandate, the letter notes that ". . . nearly 39 months after EEOICPA was signed into law, the promise of "timely, uniform and adequate compensation" has not been met.

As a result, I sent a letter to Secretary Thompson, along with Senator VOINOVICH and 16 of my other Senate colleagues—Senators HARKIN, KENNEDY, SCHUMER, MURRAY, DEWINE, ALEXANDER, CRAIG, BOND, and TALENT, REID, GRASSLEY, HOLLINGS, CANTWELL, DOMENICI, CAMPBELL, and BINGAMAN. The letter requested that the Secretary immediately put out the special cohort rule. I ask unanimous consent that a copy of that letter be printed in the RECORD.

More than two weeks after the letter was sent, I have still not received a response. This is unacceptable. The Administration seems to have no sense of urgency in addressing this issue. But each day that passes only delays long overdue justice for the Cold War heroes who worked in our weapons facilities.

I ask unanimous consent that the text of the Residual Radioactive Contamination Compensation Act be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEBRUARY 11, 2004.

Hon. TOMMY G. THOMPSON,
Secretary, U.S. Department of Health and Human Services, 200 Independence Avenue, SW., Washington, DC.

DEAR MR. SECRETARY: On October 30, 2000, the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) was signed into law (PL 106–386) as part of the FY 01 Defense Authorization Act. Enactment of EEOICPA was recognition by Congress and the President that the federal government needed to act quickly to remedy long-standing injustices against atomic weapons program workers. The findings of the Act make the need for the Program abundantly clear, and include the acknowledgment that:

"Since the inspection of the nuclear weapons program and for several decades afterwards, a large number of nuclear weapons workers at sites of the Department of Energy and at sites of vendors who supplied the Cold War effort were put at risk without their knowledge and consent for reasons that, documents reveal, were driven by fears of adverse publicity, liability, and employee demands for hazardous duty pay."

The Act further states that:

"the purpose of the compensation program is to provide for timely, uniform, and adequate compensation of covered employees and, where applicable, survivors of such employees, suffering from illnesses incurred by such employees in the performance of duty for the Department of Energy and certain of its contractors and subcontractors."

Yet nearly 39 months after EEOICPA was signed into law, the promise of "timely, uniform and adequate compensation" has not been met. We are very concerned about the delay in finalizing the "special exposure cohort" petition procedures by the Department of Health and Human Services (HHS) pursuant to 42 USC 7384(q).

In this regard, EEOICPA specifically provides:

". . . members of a class of employees at a Department of Energy facility, or at an atomic weapons employer facility, may be treated as members of the Special Exposure Cohort for purposes of the compensation program if the President, upon recommendation of the Advisory Board on Radiation and Worker Health, determines that—

(1) it is not feasible to estimate with sufficient accuracy the radiation dose that the class received; and

(2) there is reasonable likelihood that such radiation dose may have endangered the health of members of the class."

The law further states that, "the President shall consider such petitions pursuant to procedures established by the President."

Procedures for Designating Classes of Employees as Members of the Special Exposure Cohort were first proposed through a rulemaking, and then subsequently withdrawn in 2002 after uniform criticism. Revised rules were proposed in March of 2003, but to date they have not been finalized. Workers have and continue to be blocked from filing petitions to become members of the Special Exposure Cohort because HHS has failed to meet its statutory responsibility to issue these regulations.

Further delay is denying long-overdue justice for those who were intended to be covered by the special exposure cohort provisions of the Act. After over three years, HHS has had ample time to study this matter, and further delay is simply inexcusable.

Therefore, we urge you to finalize the special exposure cohort rules and publish them in the Federal Register immediately. Our atomic weapons program workers, who are true Cold War heroes, helped protect our nation and deserve nothing less. We thank you for your prompt attention to this matter.

Sincerely,

MEMBERS OF CONGRESS.

S. 2139

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Residual Radioactive Contamination Compensation Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) Beginning in the early 1940s, the Department of Energy and its predecessors, the Atomic Energy Commission and the Manhattan Engineering District, relied upon hundreds of private-sector factories and laboratories to develop, test, and produce atomic weapons for use by the military, and these facilities became contaminated with radioactive materials during the process of producing material used for atomic weapons production.

(2) The Energy Employees Occupational Illness Compensation Program Act of 2000 (in this section referred to as EEOICPA) provides health care and lump-sum benefits for radiation-related cancers and other illnesses to certain covered workers made sick while they toiled in the nation's nuclear weapons factories, including vendor facilities. EEOICPA defines these private-sector vendor facilities as atomic weapons employer facilities, and employees working in such facilities while their employers were under contract to process nuclear weapons materials are defined as atomic weapons employees.

(3) Many of the atomic weapons employer facilities were not properly decontaminated after processing radioactive materials such as thorium, uranium, and radium and retained significant levels of contamination. Workers who were hired and employed in such atomic weapons employer facilities after the date that contracts were ended for production were potentially exposed to significant amounts of radiation. Congress was not aware of the presence of residual radioactive contamination in these facilities when it enacted EEOICPA, thus inadvertently denying coverage under the law to those who were unwittingly exposed to radiation left over from nuclear weapons activities.

(4) In December 2001, the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107) was enacted, which required in section 3151(b) that the National Institute for Occupational Safety and Health study and issue a final report to Congress by December 2002 describing which of the atomic weapons employer facilities had significant residual radioactive contamination remaining in them after processing materials for use in atomic weapons and during what time periods such radioactive contamination remained.

(5) In October 2003, the Institute issued a report, titled Report on Residual Radioactive and Beryllium Contamination in Atomic Weapons Employer and Beryllium Vendor Facilities. The report found that, out of 219 atomic weapons employer facilities—

(A) 97 (44 percent) of such facilities have potential for significant residual radioactive contamination outside of the periods in which atomic weapons-related production occurred;

(B) 88 (40 percent) of such facilities have little potential for significant residual radioactive contamination outside of the periods in which atomic weapons-related production occurred; and

(C) 34 (16 percent) of such facilities have insufficient information to make a determination.

(6) Congress is now aware that workers were employed in a substantial number of atomic weapons employer facilities years after the Manhattan Project ended. These workers were potentially harmed by legacy residual radioactive contamination that permeated the walls, the floors, and the air of their worksites well after the Atomic Energy Commission and the Department of Energy terminated contracts for production activities. This exposure to residual radioactive contamination took place without the knowledge or consent of these workers.

(7) Congress therefore declares that, based on the scientific assessment by the Institute, those workers hired and employed in such facilities during the period after Cold War production stopped but during which the Institute found there was significant residual radioactive contamination should be defined as atomic weapons employees under EEOICPA, should be eligible to apply for compensation under subtitle B of EEOICPA, and should have their claims evaluated on the same basis as those atomic weapons employees who were employed during the period when processing of radioactive materials was underway as part of the atomic weapons program.

SEC. 3. COVERAGE UNDER ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM OF INDIVIDUALS EMPLOYED AT ATOMIC WEAPONS EMPLOYER FACILITIES DURING PERIODS OF RESIDUAL CONTAMINATION

Paragraph (3) of section 3621 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 73841) is amended to read as follows:

(3) The term atomic weapons employee means any of the following:

(A) An individual employed at an atomic weapons employer facility during a period when the employer was processing or producing, for the use by the United States, material that emitted radiation and was used in the production of an atomic weapon, excluding uranium mining and milling.

(B) An individual employed—

(i) at an atomic weapons employer facility with respect to which the National Institute for Occupational Safety and Health, in its report dated October 2003 and titled Report on Residual Radioactive and Beryllium Contamination at Atomic Weapons Employer Facilities and Beryllium Vendor Facilities, or any update to that report, found that there is a potential (not including a case in which the Institute found that there is little potential) for significant residual contamination outside of the period in which weapons-related production occurred; and

(ii) during a period, as specified in such report or any update to such report, of significant residual contamination at that facility.

SEC. 4. UPDATE TO REPORT

In each of 2005, 2006, and 2007, the Director of the National Institute for Occupational Safety and Health shall submit to Congress, not later than December 31 of that year, an update to the report required by section 3151(b) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 42 U.S.C. 7384 note). Each such update shall—

(1) for each facility for which such report, or any update to such report, found that insufficient information was available to determine whether significant residual contamination was present, determine whether significant residual contamination was present;

(2) for each facility for which such report, or any update to such report, found that significant residual contamination remained present as of the date of the report, determine the date on which such contamination ceased to be present;

(3) for each facility for which such report, or any update to such report, found that significant residual contamination was present but for which the Director has been unable to determine the extent to which such contamination is attributable to beryllium or atomic weapons-related activities, identify the specific dates of coverage attributable to such activities and, in so identifying, presume that such contamination is attributable to such activities until there is evidence of decontamination of residual contamination identified with beryllium or atomic weapons-related activities; and

(4) if new information that pertains to the report has been made available to the Director since that report was submitted, identify and describe such information.

SEC. 5. PUBLICATION IN FEDERAL REGISTER

The Director shall ensure that the report referred to in section 4, and each update required by section 4, are published in the Federal Register not later than 15 days after being released.

By Ms. CANTWELL (for herself and Mrs. MURRAY):

S. 2140. A bill to expand the boundary of the Mount Rainier National Park; to the Committee on Energy and Natural Resources.

Ms. CANTWELL. Mr. President, I rise today to introduce—along with my colleague Senator MURRAY—the Expanding and Making Mount Rainier National Park More Accessible Act.

This bill authorizes a boundary expansion of Mount Rainier National Park to allow the National Park Service to acquire 800 acres of land from private landowners, on a willing seller basis. These lands are located near the Carbon River and, if acquired, they would be included in Mount Rainier National Park, one of America's greatest national parks.

If enacted, the proposed expansion will improve access for visitors, allow for a new campsite to be built, and save taxpayers money that will no longer be needed to repair a frequently washed out road.

While this legislation will make Mount Rainier National Park safer and more accessible for families and outdoor enthusiasts, it is important to note that this expansion will also promote the local economy. Outdoor recreation is more than an activity in the Northwest, it is also a key part of our economy. By improving access to the park, my bill will make it easier for visitors to enjoy the park and to purchase goods and services in nearby communities.

This expansion will ensure continued access to the park because the northwest entrance road is continually washed out by seasonal fluctuations of the glacier-fed Carbon River. The river, which now flows at a higher elevation than the roadbed, has blocked visitors from accessing the National Park Service's Ipsut Creek campground and nearby hiking trails inside the park. The repairs to this road have proven both costly and short-lived and have strained the National Park Service's already limited maintenance budget. In the long run, the expansion will save taxpayers money because the road will not have to be maintained to current standards. If this bill is enacted, the National Park Service plans to provide a shuttle service to take visitors to the Carbon Glacier trailhead. That way, visitors will still be able to hike to the Carbon Glacier during day trips.

If this bill is enacted, local conservation groups and the National Park Service will work to reach agreements with landowners in the proposed expansion area. I am pleased that the current landowners actively participated in the process and enthusiastically support this legislation. In fact, they are eager to sell their land to the National Park Service so that these lands will be permanently protected for the enjoyment of future generations.

I look forward to working with my colleagues in the Senate as well as other members of the Washington state congressional delegation to ensure swift passage of this important legislation.

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 93—AUTHORIZING THE USE OF THE ROTUNDA OF THE CAPITOL BY THE JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES

Mr. LOTT (for himself and Mr. Dodd) submitted the following concurrent resolution; which was considered and agreed to:

S. Con. Res. 93

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. USE OF THE ROTUNDA OF THE CAPITOL BY THE JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES.

The rotunda of the United States Capitol is authorized to be used on January 20, 2005, by the Joint Congressional Committee on Inaugural Ceremonies in connection with the proceedings and ceremonies conducted for the inauguration of the President-elect and the Vice President-elect of the United States.

SENATE CONCURRENT RESOLUTION 94—ESTABLISHING THE JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES

Mr. LOTT (for himself and Mr. Dodd) submitted the following concurrent resolution; which was considered and agreed to:

S. Con. Res. 94

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. ESTABLISHMENT OF JOINT COMMITTEE.

There is established a Joint Congressional Committee on Inaugural Ceremonies (in this resolution referred to as the "joint committee"), consisting of 3 Senators and 3 Members of the House of Representatives appointed by the President of the Senate and the Speaker of the House of Representatives, respectively. The joint committee is authorized to make the necessary arrangements for the inauguration of the President-elect and the Vice President-elect of the United States.

SEC. 2. SUPPORT OF THE JOINT COMMITTEE.

The joint committee—

(1) is authorized to utilize appropriate equipment and the services of appropriate personnel of departments and agencies of the Federal Government, under arrangements between the joint committee and the heads of the departments and agencies, in connection with the inaugural proceedings and ceremonies; and

(2) may accept gifts and donations of goods and services to carry out its responsibilities.

AMENDMENTS SUBMITTED & PROPOSED

SA 2619. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1805, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others.

SA 2620. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1805, supra.

SA 2621. Mr. DASCHLE (for himself, Mr. Craig, and Mr. Baucus) proposed an amendment to the bill S. 1805, supra.

SA 2622. Mr. KOHL proposed an amendment to amendment SA 2620 submitted by Mrs. Boxer to the bill S. 1805, supra.

SA 2623. Mr. HATCH (for Mr. Campbell (for himself, Mr. Leahy, Mr. Hatch, Mr. DeWine, Mr. Sessions, Mr. Craig, Mr. Reid, and Mrs. Boxer)) proposed an amendment to the bill S. 1805, supra.

SA 2624. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1805, supra; which was ordered to lie on the table.

SA 2625. Mr. CRAIG (for Mr. Frist (for himself and Mr. Craig)) proposed an amendment to the bill S. 1805, supra.

SA 2626. Mr. FRIST (for himself and Mr. McConnell) proposed an amendment to the bill S. 1805, supra.

SA 2627. Ms. MIKULSKI (for herself, Mr. Sarbanes, Mr. Lautenberg, Mr. Corzine, and Mrs. Clinton) proposed an amendment to the bill S. 1805, supra.

SA 2628. Mr. CRAIG (for Mr. Frist (for himself and Mr. Craig)) proposed an amendment to the bill S. 1805, supra.

SA 2629. Mr. CORZINE (for himself, Mr. Lautenberg, Ms. Mikulski, Mr. Kennedy, Mrs. Clinton, and Mrs. Boxer) submitted an amendment intended to be proposed by him to the bill S. 1805, supra.

SA 2630. Mr. CRAIG (for Mr. Frist (for himself and Mr. Craig)) proposed an amendment to the bill S. 1805, supra.

TEXT OF AMENDMENTS

SA 2619. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1805, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others; as follows:

On page 11, after line 19, add the following:

SEC. 5. ARMOR PIERCING AMMUNITION.

(a) Expansion of Definition of Armor Piercing Ammunition.—Section 921(a)(17)(B) of title 18, United States Code, is amended—

(1) in clause (i), by striking "or" at the end;

(2) in clause (ii), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(iii) a projectile that may be used in a handgun and that the Attorney General determines, pursuant to section 926(d), to be capable of penetrating body armor; or

"(iv) a projectile for a centerfire rifle, designed or marketed as having armor piercing capability, that the Attorney General determines, pursuant to section 926(d), to be more likely to penetrate body armor than standard ammunition of the same caliber.".

(b) Determination of the Capability of Projectiles To Penetrate Body Armor.—Section 926 of title 18, United States Code, is amended by adding at the end the following:

"(d)(1) Not later than 1 year after the date of enactment of this subsection, the Attorney General shall promulgate standards for the uniform testing of projectiles against Body Armor Exemplar.

"(2) The standards promulgated pursuant to paragraph (1) shall take into account, among other factors, variations in performance that are related to the length of the barrel of the handgun or centerfire rifle from which the projectile is fired and the amount and kind of powder used to propel the projectile.

"(3) As used in paragraph (1), the term 'Body Armor Exemplar' means body armor that the Attorney General determines meets minimum standards for the protection of law enforcement officers.".

SA 2620. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1805, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others; as follows:

On page 11, after line 19, add the following:

SEC. 5. REQUIREMENT OF CHILD HANDGUN SAFETY DEVICES.

(a) SHORT TITLE.—This section may be cited as the "Child Safety Device Act of 2004".

(b) DEFINITIONS.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(36) The term 'locking device' means a device or locking mechanism that is approved by a licensed firearms manufacturer for use on the handgun with which the device or locking mechanism is sold, delivered, or transferred and that—

"(A) if installed on a firearm and secured by means of a key or a mechanically, electronically, or electromechanically operated combination lock, is designed to prevent the firearm from being discharged without first deactivating or removing the device by means of a key or mechanically, electronically, or electromechanically operated combination lock;

"(B) if incorporated into the design of a firearm, is designed to prevent discharge of the firearm by any person who does not have access to the key or other device designed to unlock the mechanism and thereby allow discharge of the firearm; or

"(C) is a safe, gun safe, gun case, lock box, or other device that is designed to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.".

(c) UNLAWFUL ACTS.—

(1) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(z) LOCKING DEVICES.—

"(1) IN GENERAL.—Except as provided under paragraph (2), it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than a licensed importer, licensed manufacturer, or licensed dealer, unless the transferee is provided with a locking device for that handgun.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A) the manufacture for, transfer to, or possession by, the United States, a department or agency of the United States, a State, or a department, agency, or political subdivision of a State, of a firearm;

"(B) transfer to, or possession by, a law enforcement officer employed by an entity referred to in subparagraph (A) of a firearm for law enforcement purposes (whether on or off duty); or

"(C) the transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under State law of a firearm for purposes of law enforcement (whether on or off duty).".

(2) EFFECTIVE DATE.—Section 922(z) of title 18, United States Code, as added by this subsection, shall take effect on the date which is 180 days after the date of enactment of this Act.

(d) CIVIL PENALTIES.—Section 924 of title 18, United States Code, is amended—

(1) in subsection (a)(1), by striking "or (f)" and inserting "(f), or (p)"; and

(2) by adding at the end the following:

"(p) PENALTIES RELATING TO LOCKING DEVICES.—

"(1) IN GENERAL.—

"(A) SUSPENSION OR REVOCATION OF LICENSE; CIVIL PENALTIES.—With respect to each violation of section 922(z)(1) by a licensee, the Attorney General shall, after notice and opportunity for hearing— ,

"(i) suspend or revoke any license issued to the licensee under this chapter;

"(ii) subject the licensee to a civil penalty of not more than $15,000; or

"(iii) impose the penalties described in clauses (i) and (ii).

"(B) REVIEW.—An action by the Attorney General under this paragraph may be reviewed only as provided under section 923(f).

"(2) ADMINISTRATIVE REMEDIES.—The suspension or revocation of a license or the imposition of a civil penalty under paragraph (1) does not preclude any administrative remedy that is otherwise available to the Attorney General.".

(e) AMENDMENT TO CONSUMER PRODUCT SAFETY ACT.—The Consumer Product Safety Act (15 U.S.C. 2051 et seq.), is amended by adding at the end the following:

"SEC. 39. CHILD HANDGUN SAFETY DEVICES.

"(a) ESTABLISHMENT OF STANDARD.—

"(1) RULEMAKING REQUIRED.—

"(A) INITIATION OF RULEMAKING.—Notwithstanding section 3(a)(1)(E), the Commission shall initiate a rulemaking proceeding under section 553 of title 5, United States Code, not later than 90 days after the date of enactment of the Child Safety Device Act of 2004 to establish a consumer product safety standard for locking devices. The Commission may extend this 90-day period for good cause.

"(B) FINAL RULE.—Notwithstanding any other provision of law, the Commission shall promulgate a final consumer product safety standard under this paragraph not later than 12 months after the date on which the Commission initiated the rulemaking proceeding under subparagraph (A). The Commission may extend this 12-month period for good cause.

"(C) EFFECTIVE DATE.—The consumer product safety standard promulgated under this paragraph shall take effect on the date which is 6 months after the date on which the final standard is promulgated.

"(D) STANDARD REQUIREMENTS.—The standard promulgated under this paragraph shall require locking devices that—

"(i) are sufficiently difficult for children to de-activate or remove; and

"(ii) prevent the discharge of the handgun unless the locking device has been de-activated or removed.

"(2) INAPPLICABLE PROVISIONS.—

"(A) PROVISIONS OF THIS ACT.—Sections 7, 9, and 30(d) shall not apply to the rulemaking proceeding described under paragraph (1). Section 11 shall not apply to any consumer product safety standard promulgated under paragraph (1).

"(B) CHAPTER 5 OF TITLE 5.—Chapter 5 of title 5, United States Code, except for section 553 of that title, shall not apply to this section.

"(C) CHAPTER 6 OF TITLE 5.—Chapter 6 of title 5, United States Code, shall not apply to this section.

"(b) ENFORCEMENT.—Notwithstanding subsection (a)(2)(A), the consumer product safety standard promulgated by the Commission pursuant to subsection (a) shall be enforced under this Act as if it were a consumer product safety standard described under section 7(a).

"(c) DEFINITIONS.—In this section, the following definitions shall apply:

"(1) CHILD.—The term 'child' means an individual who has not attained the age of 13 years.

"(2) LOCKING DEVICE.—The term 'locking device' has the meaning given that term in clauses (i) and (iii) of section 921(a)(36) of title 18, United States Code.".

(f) CONFORMING AMENDMENT.—Section 1 of the Consumer Product Safety Act is amended by adding at the end of the table of contents the following:

"Sec. 39. Child handgun safety devices.".

(g) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Consumer Product Safety Commission $2,000,000 for each of the fiscal years 2005 through 2007 to carry out the provisions of section 39 of the Consumer Product Safety Act, as added by subsection (e).

(2) AVAILABILITY OF FUNDS.—Any amounts appropriated pursuant to paragraph (1) shall remain available until expended.

SA 2621. Mr. DASCHLE (for himself, Mr. CRAIG, and Mr. BAUCUS) proposed an amendment to the bill S. 1805, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others; as follows:

On page 7, line 19, strike "including" and all that follows through page 8, line 19, and insert "including, but not limited to—

"(I) any case in which the manufacturer or seller knowingly made any false entry in, or failed to make appropriate entry in, any record which such person is required to keep pursuant to State or Federal law, or aided, abetted or conspired with any person in making any false or fictitious oral or written statement with respect to any fact material to the lawfulness of the sale or other disposition of a qualified product; or

"(II) any case in which the manufacturer or seller aided, abetted, or conspired with any other person to sell or otherwise dispose of a qualified product, knowing or having reasonable cause to believe that the actual buyer of the qualified product was prohibited from possessing or receiving a firearm or ammunition under subsection (g) or (n) of section 922 of title 18, United States Code;".

On page 9, lines 1 and 2, strike "or in a manner that is reasonably foreseeable" and insert ", or when used in a manner that is reasonably foreseeable, except that such reasonably foreseeable use shall not include any criminal or unlawful misuse of a qualified product, other than possessory offenses.".

On page 9, strike lines 12 through 21, and insert the following:

(C) RULE OF CONSTRUCTION.—The exceptions enumerated under clauses (i) through (v) of subparagraph (A) are intended to be construed to not be in conflict, and no provision of this Act shall be construed to create a Federal private cause of action or remedy.

On page 10, strike lines 13 through 18, and insert the following:

(C) a person engaged in the business of selling ammunition (as defined under section 921(a)(17)(A) of title 18, United States Code) in interstate or foreign commerce at the wholesale or retail level, who is in compliance with all applicable Federal, State, and local laws.

On page 11, line 7, strike the semicolon and insert "; and".

On page 11, strike lines 8 through 15, and insert the following:

(B) 2 or more members of which are manufacturers or sellers of a qualified product, and that is involved in promoting the business interests of its members, including organizing, advising, or representing its members with respect to their business, legislative, or legal activities in relation to the manufacture, importation, or sale of a qualified product.

On page 11, strike lines 16 through 19, and insert the following:

(9) Unlawful misuse.—The term "unlawful misuse" means conduct that violates a statute, ordinance, or regulation as it relates to the use of a qualified product.

SA 2622. Mr. KOHL proposed an amendment to amendment SA 2620 submitted by Mrs. Boxer to the bill S. 1805, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others; as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE II—CHILD SAFETY LOCKS

SEC. 201. SHORT TITLE.

This title may be cited as the "Child Safety Lock Act of 2004".

SEC. 202. PURPOSES.

The purposes of this title are—

(1) to promote the safe storage and use of handguns by consumers;

(2) to prevent unauthorized persons from gaining access to or use of a handgun, including children who may not be in possession of a handgun; and

(3) to avoid hindering industry from supplying firearms to law abiding citizens for all lawful purposes, including hunting, self-defense, collecting, and competitive or recreational shooting.

SEC. 203. FIREARMS SAFETY.

(a) Unlawful Acts.—

(1) Mandatory transfer of secure gun storage or safety device.—Section 922 of title 18, United States Code, is amended by inserting at the end the following:

"(z) Secure Gun Storage or Safety Device.—

"(1) In general.—Except as provided under paragraph (2), it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than any person licensed under this chapter, unless the transferee is provided with a secure gun storage or safety device (as defined in section 921(a)(34)) for that handgun.

"(2) Exceptions.—Paragraph (1) shall not apply to—

"(A)(i) the manufacture for, transfer to, or possession by, the United States, a department or agency of the United States, a State, or a department, agency, or political subdivision of a State, of a handgun; or

"(ii) the transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a handgun for law enforcement purposes (whether on or off duty); or

"(B) the transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State of a handgun for purposes of law enforcement (whether on or off duty);

"(C) the transfer to any person of a handgun listed as a curio or relic by the Secretary pursuant to section 921(a)(13); or

"(D) the transfer to any person of a handgun for which a secure gun storage or safety device is temporarily unavailable for the reasons described in the exceptions stated in section 923(e), if the licensed manufacturer, licensed importer, or licensed dealer delivers to the transferee within 10 calendar days from the date of the delivery of the handgun to the transferee a secure gun storage or safety device for the handgun.

"(3) Liability for use.—

"(A) In general.—Notwithstanding any other provision of law, a person who has lawful possession and control of a handgun, and who uses a secure gun storage or safety device with the handgun, shall be entitled to immunity from a qualified civil liability action.

"(B) Prospective actions.—A qualified civil liability action may not be brought in any Federal or State court.

"(C) Defined term.—As used in this paragraph, the term 'qualified civil liability action'—

"(i) means a civil action brought by any person against a person described in subparagraph (A) for damages resulting from the criminal or unlawful misuse of the handgun by a third party, if—

"(I) the handgun was accessed by another person who did not have the permission or authorization of the person having lawful possession and control of the handgun to have access to it; and

"(II) at the time access was gained by the person not so authorized, the handgun had been made inoperable by use of a secure gun storage or safety device; and

"(ii) shall not include an action brought against the person having lawful possession and control of the handgun for negligent entrustment or negligence per se.".

(b) Civil Penalties.—Section 924 of title 18, United States Code, is amended—

(1) in subsection (a)(1), by striking "or (f)" and inserting "(f), or (p)"; and

(2) by adding at the end the following:

"(p) Penalties Relating To Secure Gun Storage or Safety Device.—

"(1) In general.—

"(A) Suspension or revocation of license; civil penalties.—With respect to each violation of section 922(z)(1) by a licensed manufacturer, licensed importer, or licensed dealer, the Secretary may, after notice and opportunity for hearing—

"(i) suspend for not more than 6 months, or revoke, the license issued to the licensee under this chapter that was used to conduct the firearms transfer; or

"(ii) subject the licensee to a civil penalty in an amount equal to not more than $2,500.

"(B) Review.—An action of the Secretary under this paragraph may be reviewed only as provided under section 923(f).

"(2) Administrative remedies.—The suspension or revocation of a license or the imposition of a civil penalty under paragraph (1) shall not preclude any administrative remedy that is otherwise available to the Secretary.".

(c) Liability; Evidence.—

(1) Liability.—Nothing in this title shall be construed to—

(A) create a cause of action against any Federal firearms licensee or any other person for any civil liability; or

(B) establish any standard of care.

(2) Evidence.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this title shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action relating to section 922(z) of title 18, United States Code, as added by this section.

(3) Rule of construction.—Nothing in this subsection shall be construed to bar a governmental action to impose a penalty under section 924(p) of title 18, United States Code, for a failure to comply with section 922(z) of that title.

SEC. 204. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 180 days after the date of enactment of this Act.

SA 2623. Mr. HATCH (for Mr. Campbell (for himself, Mr. Leahy, Mr. Hatch, Mr. DeWine, Mr. Sessions, Mr. Craig, Mr. Reid, and Mrs. Boxer)) proposed an amendment to the bill S. 1805, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others; as follows:

On page 11, after line 19, add the following:

SEC. 5. LAW ENFORCEMENT OFFICERS SAFETY ACT.

(a) Short Title.—This section may be cited as the "Steve Young Law Enforcement Officers Safety Act".

(b) Exemption of Qualified Law Enforcement Officers From State Laws Prohibiting the Carrying of Concealed Firearms.—

(1) In general.—Chapter 44 of title 18, United States Code, is amended by inserting after section 926A the following:

"§ 926B. Carrying of concealed firearms by qualified law enforcement officers

"(a) Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

"(b) This section shall not be construed to supersede or limit the laws of any State that—

"(1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or

"(2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

"(c) As used in this section, the term 'qualified law enforcement officer' means an employee of a governmental agency who—

"(1) is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest;

"(2) is authorized by the agency to carry a firearm;

"(3) is not the subject of any disciplinary action by the agency;

"(4) meets standards, if any, established by the agency which require the employee to regularly qualify in the use of a firearm; and

"(5) is not prohibited by Federal law from receiving a firearm.

"(d) The identification required by this subsection is the photographic identification issued by the governmental agency for which the individual is, or was, employed as a law enforcement officer.

"(e) Defined Term.—As used in this section, the term 'firearm' does not include—

"(1) any machinegun (as defined in section 5845 of title 26);

"(2) any firearm silencer (as defined in section 921); and

"(3) any destructive device (as defined in section 921).".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 44 of title 18, United States Code, is amended by inserting after the item relating to section 926A the following:

"926B. Carrying of concealed firearms by qualified law enforcement officers.".

(c) EXEMPTION OF QUALIFIED RETIRED LAW ENFORCEMENT OFFICERS FROM STATE LAWS PROHIBITING THE CARRYING OF CONCEALED FIREARMS.—

(1) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by inserting after section 926B, as added by subsection (b), the following:

"§926C. Carrying of concealed firearms by qualified retired law enforcement officers

"(a) Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified retired law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

"(b) This section shall not be construed to supersede or limit the laws of any State that—

"(1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or

"(2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

"(c) As used in this section, the term 'qualified retired law enforcement officer' means an individual who—

"(1) retired in good standing from service with a public agency as a law enforcement officer, other than for reasons of mental instability;

"(2) before such retirement, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;

"(3)(A) before such retirement, was regularly employed as a law enforcement officer for an aggregate of 15 years or more; or

"(B) retired from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;

"(4) has a nonforfeitable right to benefits under the retirement plan of the agency;

"(5) during the most recent 12-month period, has met, at the expense of the individual, the State's standards for training and qualification for active law enforcement officers to carry firearms; and

"(6) is not prohibited by Federal law from receiving a firearm.

"(d) The identification required by this subsection is photographic identification issued by the agency for which the individual was employed as a law enforcement officer.

"(e) DEFINED TERM.—As used in this section, the term 'firearm' does not include—

"(1) any machinegun (as defined in section 5845 of title 26);

"(2) any firearm silencer (as defined in section 921); and

"(3) a destructive device (as defined in section 921).".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 44 of title 18, United States Code, is amended by inserting after the item relating to section 926B the following:

"926C. Carrying of concealed firearms by qualified retired law enforcement officers.".

SA 2624. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1805, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others; which was ordered to lie on the table as follows:

At the end of the bill, add the following:

TITLE —MEDICAL LIABILITY REFORM

SEC. 01. SHORT TITLE.

This title may be cited as the "Protecting the Practice of Medicine Act".

SEC. 02. DEFINITIONS.

In this title:

(1) ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.—The term "alternative dispute resolution system" or "ADR" means a system that provides for the resolution of health care lawsuits in a manner other than through a civil action brought in a State or Federal court.

(2) CLAIMANT.—The term "claimant" means any person who brings a health care lawsuit, including a person who asserts or claims a right to legal or equitable contribution, indemnity or subrogation, arising out of a health care liability claim or action, and any person on whose behalf such a claim is asserted or such an action is brought, whether deceased, incompetent, or a minor.

(3) COLLATERAL SOURCE BENEFITS.—The term "collateral source benefits" means any amount paid or reasonably likely to be paid in the future to or on behalf of the claimant, or any service, product or other benefit provided or reasonably likely to be provided in the future to or on behalf of the claimant, as a result of the injury or wrongful death, pursuant to—

(A) any State or Federal health, sickness, income-disability, accident, or workers' compensation law;

(B) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; and

(D) any other publicly or privately funded program.

(4) COMPENSATORY DAMAGES.—The term "compensatory damages" means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities, damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature. Such term includes economic damages and noneconomic damages, as such terms are defined in this section.

(5) CONTINGENT FEE.—The term "contingent fee" includes all compensation to any person or persons which is payable only if a recovery is effected on behalf of one or more claimants.

(6) ECONOMIC DAMAGES.—The term "economic damages" means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities.

(7) HEALTH CARE LAWSUIT.—The term "health care lawsuit" means any health care liability claim concerning the provision of health care goods or services affecting interstate commerce, or any health care liability action concerning the provision of (or the failure to provide) health care goods or services affecting interstate commerce, brought in a State or Federal court or pursuant to an alternative dispute resolution system, against a health care provider, regardless of the theory of liability on which the claim is based, or the number of claimants, plaintiffs, defendants, or other parties, or the number of claims or causes of action, in which the claimant alleges a health care liability claim.

(8) HEALTH CARE LIABILITY ACTION.—The term "health care liability action" means a civil action brought in a State or Federal Court or pursuant to an alternative dispute resolution system, against a health care provider, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action, in which the claimant alleges a health care liability claim.

(9) HEALTH CARE LIABILITY CLAIM.—The term "health care liability claim" means a demand by any person, whether or not pursuant to ADR, against a health care provider, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action.

(10) HEALTH CARE PROVIDER.—The term "health care provider" means any person or entity required by State or Federal laws or regulations to be licensed, registered, or certified to provide health care services, and being either so licensed, registered, or certified, or exempted from such requirement by other statute or regulation.

(11) HEALTH CARE GOODS OR SERVICES.—The term "health care goods or services" means any goods or services provided by a health care provider or by any individual working under the supervision of a health care provider, that relates to the diagnosis, prevention, care, or treatment of any human disease or impairment, or the assessment of the health of human beings.

(12) MALICIOUS INTENT TO INJURE.—The term "malicious intent to injure" means intentionally causing or attempting to cause physical injury other than providing health care goods or services.

(13) NONECONOMIC DAMAGES.—The term "noneconomic damages" means damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

(14) PUNITIVE DAMAGES.—The term "punitive damages" means damages awarded, for

the purpose of punishment or deterrence, and not solely for compensatory purposes, against a health care provider. Punitive damages are neither economic nor noneconomic damages.

(15) RECOVERY.—The term "recovery" means the net sum recovered after deducting any disbursements or costs incurred in connection with prosecution or settlement of the claim, including all costs paid or advanced by any person. Costs of health care incurred by the plaintiff and the attorneys' office overhead costs or charges for legal services are not deductible disbursements or costs for such purpose.

(16) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 03. ENCOURAGING SPEEDY RESOLUTION OF CLAIMS.

(a) IN GENERAL.—Except as otherwise provided for in this section, the time for the commencement of a health care lawsuit shall be 3 years after the date of manifestation of injury or 1 year after the claimant discovers, or through the use of reasonable diligence should have discovered, the injury, whichever occurs first.

(b) GENERAL EXCEPTION.—The time for the commencement of a health care lawsuit shall not exceed 3 years after the date of manifestation of injury unless the tolling of time was delayed as a result of—

(1) fraud;

(2) intentional concealment; or

(3) the presence of a foreign body, which has no therapeutic or diagnostic purpose or effect, in the person of the injured person.

(c) MINORS.—An action by a minor shall be commenced within 3 years from the date of the alleged manifestation of injury except that if such minor is under the full age of 6 years, such action shall be commenced within 3 years of the manifestation of injury, or prior to the eighth birthday of the minor, whichever provides a longer period. Such time limitation shall be tolled for minors for any period during which a parent or guardian and a health care provider have committed fraud or collusion in the failure to bring an action on behalf of the injured minor.

SEC. 04. COMPENSATING PATIENT INJURY.

(a) UNLIMITED AMOUNT OF DAMAGES FOR ACTUAL ECONOMIC LOSSES IN HEALTH CARE LAWSUITS.—In any health care lawsuit, nothing in this title shall limit the recovery by a claimant of the full amount of the available economic damages, notwithstanding the limitation contained in subsection (b).

(b) ADDITIONAL NONECONOMIC DAMAGES.—In any health care lawsuit, the amount of noneconomic damages recovered, if otherwise available under applicable Federal or State law, may be as much as $250,000, regardless of the number of parties against whom the action is brought or the number of separate claims or actions brought with respect to the same occurrence.

(c) NO DISCOUNT OF AWARD FOR NONECONOMIC DAMAGES.—In any health care lawsuit—

(1) an award for future noneconomic damages shall not be discounted to present value;

(2) the jury shall not be informed about the maximum award for noneconomic damages under subsection (b);

(3) an award for noneconomic damages in excess of $250,000 shall be reduced either before the entry of judgment, or by amendment of the judgment after entry of judgment, and such reduction shall be made before accounting for any other reduction in damages required by law; and

(4) if separate awards are rendered for past and future noneconomic damages and the combined awards exceed $250,000, the future noneconomic damages shall be reduced first.

(d) FAIR SHARE RULE.—In any health care lawsuit, each party shall be liable for that party's several share of any damages only and not for the share of any other person. Each party shall be liable only for the amount of damages allocated to such party in direct proportion to such party's percentage of responsibility. A separate judgment shall be rendered against each such party for the amount allocated to such party. For purposes of this section, the trier of fact shall determine the proportion of responsibility of each party for the claimant's harm.

SEC. 05. MAXIMIZING PATIENT RECOVERY.

(a) COURT SUPERVISION OF SHARE OF DAMAGES ACTUALLY PAID TO CLAIMANTS.—

(1) IN GENERAL.—In any health care lawsuit, the court shall supervise the arrangements for payment of damages to protect against conflicts of interest that may have the effect of reducing the amount of damages awarded that are actually paid to claimants.

(2) CONTINGENCY FEES.—

(A) IN GENERAL.—In any health care lawsuit in which the attorney for a party claims a financial stake in the outcome by virtue of a contingent fee, the court shall have the power to restrict the payment of a claimant's damage recovery to such attorney, and to redirect such damages to the claimant based upon the interests of justice and principles of equity.

(B) LIMITATION.—The total of all contingent fees for representing all claimants in a health care lawsuit shall not exceed the following limits:

(i) 40 percent of the first $50,000 recovered by the claimant(s).

(ii) 33⅓ percent of the next $50,000 recovered by the claimant(s).

(iii) 25 percent of the next $500,000 recovered by the claimant(s).

(iv) 15 percent of any amount by which the recovery by the claimant(s) is in excess of $600,000.

(b) APPLICABILITY.—

(1) IN GENERAL.—The limitations in subsection (a) shall apply whether the recovery is by judgment, settlement, mediation, arbitration, or any other form of alternative dispute resolution.

(2) MINORS.—In a health care lawsuit involving a minor or incompetent person, a court retains the authority to authorize or approve a fee that is less than the maximum permitted under this section.

(c) EXPERT WITNESSES.—

(1) REQUIREMENT.—No individual shall be qualified to testify as an expert witness concerning issues of negligence in any health care lawsuit against a defendant unless such individual—

(A) except as required under paragraph (2), is a health care professional who—

(i) is appropriately credentialed or licensed in 1 or more States to deliver health care services; and

(ii) typically treats the diagnosis or condition or provides the type of treatment under review; and

(B) can demonstrate by competent evidence that, as a result of training, education, knowledge, and experience in the evaluation, diagnosis, and treatment of the disease or injury which is the subject matter of the lawsuit against the defendant, the individual was substantially familiar with applicable standards of care and practice as they relate to the act or omission which is the subject of the lawsuit on the date of the incident.

(2) PHYSICIAN REVIEW.—In a health care lawsuit, if the claim of the plaintiff involved treatment that is recommended or provided by a physician (allopathic or osteopathic), an individual shall not be qualified to be an expert witness under this subsection with respect to issues of negligence concerning such treatment unless such individual is a physician.

(3) SPECIALTIES AND SUBSPECIALTIES.—With respect to a lawsuit described in paragraph (1), a court shall not permit an expert in one medical specialty or subspecialty to testify against a defendant in another medical specialty or subspecialty unless, in addition to a showing of substantial familiarity in accordance with paragraph (1)(B), there is a showing that the standards of care and practice in the two specialty or subspecialty fields are similar.

(4) LIMITATION.—The limitations in this subsection shall not apply to expert witnesses testifying as to the degree or permanency of medical or physical impairment.

SEC. 06. ADDITIONAL HEALTH BENEFITS.

(a) IN GENERAL.—The amount of any damages received by a claimant in any health care lawsuit shall be reduced by the court by the amount of any collateral source benefits to which the claimant is entitled, less any insurance premiums or other payments made by the claimant (or by the spouse, parent, child, or legal guardian of the claimant) to obtain or secure such benefits.

(b) PRESERVATION OF CURRENT LAW.—Where a payor of collateral source benefits has a right of recovery by reimbursement or subrogation and such right is permitted under Federal or State law, subsection (a) shall not apply.

(c) APPLICATION OF PROVISION.—This section shall apply to any health care lawsuit that is settled or resolved by a fact finder.

SEC. 07. PUNITIVE DAMAGES.

(a) PUNITIVE DAMAGES PERMITTED.—

(1) IN GENERAL.—Punitive damages may, if otherwise available under applicable State or Federal law, be awarded against any person in a health care lawsuit only if it is proven by clear and convincing evidence that such person acted with malicious intent to injure the claimant, or that such person deliberately failed to avoid unnecessary injury that such person knew the claimant was substantially certain to suffer.

(2) FILING OF LAWSUIT.—No demand for punitive damages shall be included in a health care lawsuit as initially filed. A court may allow a claimant to file an amended pleading for punitive damages only upon a motion by the claimant and after a finding by the court, upon review of supporting and opposing affidavits or after a hearing, after weighing the evidence, that the claimant has established by a substantial probability that the claimant will prevail on the claim for punitive damages.

(3) SEPARATE PROCEEDING.—At the request of any party in a health care lawsuit, the trier of fact shall consider in a separate proceeding—

(A) whether punitive damages are to be awarded and the amount of such award; and

(B) the amount of punitive damages following a determination of punitive liability.

If a separate proceeding is requested, evidence relevant only to the claim for punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether compensatory damages are to be awarded.

(4) LIMITATION WHERE NO COMPENSATORY DAMAGES ARE AWARDED.—In any health care lawsuit where no judgment for compensatory damages is rendered against a person, no punitive damages may be awarded with respect to the claim in such lawsuit against such person.

(b) DETERMINING AMOUNT OF PUNITIVE DAMAGES.—

(1) FACTORS CONSIDERED.—In determining the amount of punitive damages under this section, the trier of fact shall consider only the following:

(A) the severity of the harm caused by the conduct of such party;

(B) the duration of the conduct or any concealment of it by such party;

(C) the profitability of the conduct to such party;

(D) the number of products sold or medical procedures rendered for compensation, as the case may be, by such party, of the kind causing the harm complained of by the claimant;

(E) any criminal penalties imposed on such party, as a result of the conduct complained of by the claimant; and

(F) the amount of any civil fines assessed against such party as a result of the conduct complained of by the claimant.

(2) MAXIMUM AWARD.—The amount of punitive damages awarded in a health care lawsuit may not exceed an amount equal to two times the amount of economic damages awarded in the lawsuit or $250,000, whichever is greater. The jury shall not be informed of the limitation under the preceding sentence.

SEC. 08. AUTHORIZATION OF PAYMENT OF FUTURE DAMAGES TO CLAIMANTS IN HEALTH CARE LAWSUITS.

(a) IN GENERAL.—In any health care lawsuit, if an award of future damages, without reduction to present value, equaling or exceeding $50,000 is made against a party with sufficient insurance or other assets to fund a periodic payment of such a judgment, the court shall, at the request of any party, enter a judgment ordering that the future damages be paid by periodic payments in accordance with the Uniform Periodic Payment of Judgments Act promulgated by the National Conference of Commissioners on Uniform State Laws.

(b) APPLICABILITY.—This section applies to all actions which have not been first set for trial or retrial before the effective date of this title.

SEC. 09. EFFECT ON OTHER LAWS.

(a) VACCINE INJURY.—

(1) IN GENERAL.—To the extent that title XXI of the Public Health Service Act establishes a Federal rule of law applicable to a civil action brought for a vaccine-related injury or death—

(A) this title shall not affect the application of the rule of law to such an action; and

(B) any rule of law prescribed by this title in conflict with a rule of law of such title XXI shall not apply to such action.

(2) EXCEPTION.—If there is an aspect of a civil action brought for a vaccine-related injury or death to which a Federal rule of law under title XXI of the Public Health Service Act does not apply, then this title or otherwise applicable law (as determined under this title) will apply to such aspect of such action.

(b) OTHER FEDERAL LAW.—Except as provided in this section, nothing in this title shall be deemed to affect any defense available to a defendant in a health care lawsuit or action under any other provision of Federal law.

SEC. 10. STATE FLEXIBILITY AND PROTECTION OF STATES' RIGHTS.

(a) HEALTH CARE LAWSUITS.—The provisions governing health care lawsuits set forth in this title shall preempt, subject to subsections (b) and (c), State law to the extent that State law prevents the application of any provisions of law established by or under this title. The provisions governing health care lawsuits set forth in this title supersede chapter 171 of title 28, United States Code, to the extent that such chapter—

(1) provides for a greater amount of damages or contingent fees, a longer period in which a health care lawsuit may be commenced, or a reduced applicability or scope of periodic payment of future damages, than provided in this title; or

(2) prohibits the introduction of evidence regarding collateral source benefits.

(b) PREEMPTION OF CERTAIN STATE LAWS.—The provisions of this title shall preempt any constitutional provision, statute, or rule of State law, whether enacted prior to, on, or after the date of enactment of this Act, that—

(1) prohibits the application of any limitation on the amount of compensatory, punitive, or total damages in a health care lawsuit; or

(2) provides for a greater amount of compensatory, punitive, or total damages in a health care lawsuit than those provided for under this title.

(c) PROTECTION OF STATE'S RIGHTS AND OTHER LAWS.—

(1) IN GENERAL.—Any issue that is not governed by a provision of law established by or under this title (including the State standards of negligence) shall be governed by otherwise applicable Federal or State law.

(2) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to—

(A) preempt or supersede any Federal or State law that imposes greater procedural or substantive protections for a health care provider from liability, loss, or damages than those provided by this title;

(B) notwithstanding any other provision of this section, preempt or supercede any State law that provides for a specific monetary limit on total damages (including compensatory damages) that may be awarded in a health care lawsuit regardless of whether such monetary limit is greater or lesser than is provided for under this title;

(C) create a cause of action that is not otherwise available under Federal or State law; or

(D) affect the scope of preemption of any other Federal law.

SEC. 11. APPLICABILITY; EFFECTIVE DATE.

This title shall apply to any health care lawsuit brought in a Federal or State court, or subject to an alternative dispute resolution system, that is initiated on or after the date of the enactment of this Act, except that any health care lawsuit arising from an injury occurring prior to the date of enactment of this Act shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

SA 2625. Mr. CRAIG (for Mr. FRIST (for himself and Mr. CRAIG)) proposed an amendment to the bill S. 1805, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others; as follows:

At the appropriate place, add the following:

SEC. 5. ARMOR PIERCING AMMUNITION.

(a) UNLAWFUL ACTS.—Section 922(a) of title 18, United States Code, is amended by striking paragraphs (7) and (8) and inserting the following:

"(7) for any person to manufacture or import armor piercing ammunition, unless—

"(A) the manufacture of such ammunition is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;

"(B) the manufacture of such ammunition is for the purpose of exportation; or

"(C) the manufacture or importation of such ammunition is for the purpose of testing or experimentation and has been authorized by the Attorney General.

"(8) for any manufacturer or importer to sell or deliver armor piercing ammunition, unless such sale or delivery—

"(A) is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;

"(B) is for the purpose of exportation; or

"(C) is for the purpose of testing or experimentation and has been authorized by the Attorney General.".

(b) PENALTIES.—Section 924(c) of title 18, United States Code, is amended by adding at the end the following:

"(5) Except to the extent that a greater minimum sentence is otherwise provided under this subsection, or by any other provision of law, any person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States, uses or carries armor piercing ammunition, or who, in furtherance of any such crime, possesses armor piercing ammunition, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime or conviction under this section—

"(A) be sentenced to a term of imprisonment of not less than 15 years;

"(B) if death results from the use of such ammunition—

"(i) if the killing is murder (as defined in section 1111), be punished by death or sentenced to a term of imprisonment for any term of years or for life; and

"(ii) if the killing is manslaughter (as defined in section 1112), be punished as provided in section 1112.".

(c) STUDY AND REPORT.—

(1) STUDY.—The Attorney General shall conduct a study to determine whether a uniform standard for the uniform testing of projectiles against Body Armor is feasible.

(2) ISSUES TO BE STUDIED.—The study conducted under paragraph (1) shall include—

(A) variations in performance that are related to the length of the barrel of the handgun or centerfire rifle from which the projectile is fired; and

(B) the amount of powder used to propel the projectile.

(3) REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit a report containing the results of the study conducted under this subsection to—

(A) the chairman and ranking member of the Judiciary Committee of the Senate; and

(B) the chairman and ranking member of the Judiciary Committee of the House of Representatives.

SA 2626. Mr. FRIST (for himself and Mr. McConnell) proposed an amendment to the bill S. 1805, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others; as follows:

At the end, add the following:

SEC. ___. MAKING THE PROVISIONS OF THE VOTING RIGHTS ACT OF 1965 PERMANENT.

(a) Permanency of Preclearance Requirements.—Section 4(a)(8) of the Voting Rights Act of 1965 (42 U.S.C. 1973b(a)(8)) is amended to read as follows:

"(8) The provisions of this section shall not expire.".

(b) Permanency of Bilingual Election Requirements.—Section 203(b)(1) of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a(b)(1)) is amended by striking "Before August 6, 2007, no covered State" and insert "No covered State".

(c) Effective Date.—The amendments made by this section shall take effect on the date of enactment of this Act.

SA 2627. Ms. MIKULSKI (for herself, Mr. Sarbanes, Mr. Lautenberg, Mr. Corzine, and Mrs. Clinton) proposed an amendment to the bill S. 1805, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others; as follows:

On page 8, line 22, strike "or".

On page 9, line 2, strike the period and insert "; or".

On page 9, between lines 2 and 3, insert the following:

"(vi) an action involving a shooting victim of John Allen Muhammad or Lee Boyd Malvo.".

SA 2628. Mr. CRAIG (for Mr. Frist (for himself and Mr. Craig)) proposed an amendment to the bill S. 1805, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others; as follows:

On page 8, line 22, strike "or".

On page 9, line 2, strike the period at the end and insert "; or".

On page 9, between lines 2 and 3, insert the following:

(vi) an action involving a shooting victim of John Allen Muhammad or John Lee Malvo that meets 1 of the requirements under clauses (i) through (v).

SA 2629. Mr. CORZINE (for himself, Mr. Lautenberg, Ms. Mikulski, Mr. Kennedy, Mrs. Clinton, and Mrs. Boxer) submitted an amendment intended to be proposed by him to the bill S. 1805, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others; as follows:

On page 11, after line 19, insert the following:

SEC. 5. LAW ENFORCEMENT EXCEPTION.

Notwithstanding any other provision of this Act, nothing in this Act shall be construed as limiting the right of an officer or employee of any Federal, State, or local law enforcement agency to recover damages authorized under Federal or State law.

SA 2630. Mr. CRAIG (for Mr. Frist (for himself and Mr. Craig)) proposed an amendment to the bill S. 1805, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others; as follows:

On page 9, between lines 21 and 22, insert the following:

(E) Law Enforcement Exception.—Nothing in this Act shall be construed to limit the right of an officer or employee of any Federal, State, or local law enforcement agency to recover damages authorized under Federal or State law in a civil action that meets 1 of the requirements under clauses (i) through (v) of subparagraph (A).

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Committee on Energy and Natural Resources:

The hearing will be held on Thursday, March 4th, at 10 a.m. in Room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to review the Energy Information Administration (EIA) Annual Energy Outlook 2004 report regarding the supply, demand and price projections for oil, natural gas, nuclear, coal and renewable resources, focusing on oil and natural gas. In addition, commercial and market perspectives on the state of oil and natural gas markets will be considered.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD-364, Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information, please contact Lisa Epifani at 202-224-5269 or Shane Perkins at 202-224-7555.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, February 26, 2004, at 10 a.m. to conduct a hearing on the nominations of the Hon. Alphonso R. Jackson, of Texas, to be Secretary of the Department of Housing and Urban Development; the Hon. Linda Mysliwy Conlin, of New Jersey, to be a member of the Board of Directors of the Export-Import Bank of the United States; and Ms. Rhonda Keenum, of Mississippi, to be Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Services.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, February 26, 2004, at 2 p.m. to conduct a hearing on "Review of Current Investigations and Regulatory Actions Regarding the Mutual Fund Industry."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday February 26 at 2:30 p.m. to receive testimony on the nomination of Susan Johnson Grant to be Chief Financial Officer, Department of Energy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTE ON FOREIGN RELATIONS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, February 26 at 9:30 a.m. to hold a hearing on Public Diplomacy and International Free Press.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, February 26 at 2:30 p.m. to hold a hearing on Libya—Next Steps in U.S. Relations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on "Higher Education Accreditation: How Can the System Better Ensure Quality and Accountability?" during the session of the Senate on Thursday, February 26, 2004 at 2 p.m. in SD-430.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, February 26, 2004, at 9:30 a.m. in Dirksen Senate Building 226.

Agenda:

I. Nominations:

Henry W. Saad to be U.S. Circuit Judge for the Sixth Circuit, William James Haynes II to be U.S. Circuit Judge for the Fourth Circuit, Raymond W. Gruender to be U.S. Circuit Judge for the Eighth Circuit, Franklin S. Van Antwerpen to be United States Circuit Judge for the Third Circuit, Judith C. Herrera to be United States District Judge for the District of New Mexico, F. Dennis Saylor to be United States District Judge for the District of Massachusetts, Sandra L. Townes to be United States District Judge for the Eastern District of New York, Louis Guirola, Jr. to be United States District Judge for the Southern District of Mississippi, Virginia E. Hopkins to be United States District Judge for the Northern District of Alabama, Kenneth M. Karas to be United States District Judge for the Southern District of New York, Richard S. Martinez to be United States District Judge for the Western District of Washington, Gene E.K. Pratter to be United States District Judge for the Eastern District of Pennsylvania, Neil Vincent Wake to be United States District Judge for the District of Arizona, Michele M. Leonhart to be Deputy Administrator of Drug Enforcement, Domingo S. Herraiz to be Director of the Bureau of Justice Assistance, United States Department of Justice.

SELECT COMMITTEE ON INTELLIGENCE

Mr. CRAIG. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on February 26, 2004 at 2:30 p.m. to hold a closed business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. CRAIG. Mr. President, I ask unanimous consent to extend the privilege of the floor for the remainder of this second session of the 108th Congress to Reed O'Connor, a detailee from the Department of Justice to the majority staff of the Judiciary Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE READ THE FIRST TIME—S. 2137

Mr. McCONNELL. I understand S. 2137, introduced earlier today by Senator DORGAN, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The assistant legislative clerk read as follows:

> A bill (S. 2137) to authorize the Secretary of Health and Human Services to promulgate regulations for the reimportation of prescription drugs, and for other purposes.

Mr. McCONNELL. I ask its second reading and I object to my own request.

The PRESIDING OFFICER. The objection is heard.

The bill will be read the second time on the next legislative day.

SAFE, ACCOUNTABLE, FLEXIBLE, AND EFFICIENT TRANSPORTATION EQUITY ACT OF 2003

ROAD REPAIR AND CONSTRUCTION

Mr. CONRAD. Mr. President, it is my understanding that the chairman and ranking member of the Environment and Public Works Committee will shortly ask unanimous consent to correct certain errors in the enrollment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act, S. 1072. As the managers know, this unanimous consent agreement does not address two issues that are very important to me, and I would like to engage the managers of the highway bill in a colloquy on these matters.

First, the consent agreement does not cover my amendment to address an emergency road situation in the Devils Lake Basin of ND. During consideration of the highway bill, the chairman and ranking member of the Environment and Public Works Committee agreed to include a modified version of my amendment in a managers' amendment. The modified amendment would allow the State of North Dakota to use certain funds within its annual highway allocation to repair and reconstruct roads currently serving as dams and to receive reimbursement from the Emergency Relief program for that work. Unfortunately, this language was inadvertently left out of the managers' amendment.

The amendment that was agreed to by the chairman and ranking member is not my preferred solution. I believe the sole responsibility for this emergency situation belongs to the Federal Highway Administration. Over the years, the Federal Highway Administration allowed these roads to be raised without first stabilizing them as dams. We now have a situation where 8 miles of roads are serving as dams and holding back water, yet the roads were not constructed as dams. It these roads were to fail, the Emergency Relief program would be activated to rebuild them. I believe the State of North Dakota should not have to divert its limited highway dollars to address this emergency situation created by the Federal Government and will continue to pursue a solution that does not require my state to take sole responsibility for this situation. But I want to stress that I greatly appreciate the help of both the chairman and ranking member in devising a compromise and agreeing to accept the modified amendment.

Mr. INHOFE. I understand the Senator's position. Unfortunately, we do not agree on his preferred solution which is why compromise language was developed and the amendment was modified. I will agree with the Senator that the modified amendment was indeed cleared by both the majority and minority sides of the committee. However, as the Senator notes, this modified amendment was inadvertently left out of the manager's package that was approved by the Senate. I commit to fixing this error at the earliest possible opportunity and will work in conference to protect the Senate position on this issue.

Mr. JEFFORDS. I fully agree with the chairman. The Senator's amendment should have been included in the managers' amendment, and I will work with you and the chairman to resolve this matter as the process moves forward.

Mr. CONRAD. I greatly appreciate the help and cooperation of the Senator from Oklahoma and the Senator from Vermont on this very important issue and their willingness to accept my amendment. Let me now turn to the second issue, that of making sure this legislation is fully paid for within the six year period for which programs are authorized in the highway bill.

During Finance Committee consideration of the tax title of the SAFETEA bill, I was joined by the chairman of the Budget Committee, Senator NICKLES, in insisting that the bill should be properly paid for over 6 years with no gimmicks. We filed an amendment to accomplish this, but I agreed to withhold from offering it in return for a commitment from the chairman and ranking member of the Finance Committee to work with me to find appropriate offsets before the SAFETEA bill was voted off the Senate floor.

During floor consideration of the SAFETEA bill, I filed an amendment that would have fulfilled the commitment made to committee members during the Finance markup. Chairman GRASSLEY and Senator BAUCUS worked with me to include my amendment in a managers' amendment. Unfortunately, because some items in my amendment were nongermane, only a portion of the amendment was ultimately accepted as part of the managers' amendment before the Senate voted on final passage of the SAFETEA bill.

It would be my preference to address that issue in the unanimous consent agreement that will be offered shortly, but I understand that is not possible at this time. However, it is my understanding that there will be another opportunity to fulfill the commitment to fully offset spending in the Senate's highway bill before it is sent to the House for consideration. As the bill now stands, approximately $7.6 billion of spending over the next 6 years in the SAFETEA bill is not offset. I believe it is critical that this commitment be honored and that the remaining $7.6 billion in outlays be offset within the next 6 years. I am eager to continue working with the chairmen and ranking members of both the Finance and Environment and Public Works Committees to address my concerns.

Mr. GRASSLEY. I support the amendments offered by my colleagues from North Dakota and Oklahoma. I was disappointed that, despite our best efforts, we were unable to clear the full text of the Conrad-Nickles amendment. But for an objection that was unrelated to the purpose of the Conrad-Nickles amendment, the highway bill would contain the full agreement between Senators BAUCUS, NICKLES, CONRAD, and me. I want to assure them that I fully intend to make good on the promise made in the committee markup. As the legislative process moves forward, I pledge that I will continue working to address their concerns.

Mr. BAUCUS. I concur with the statement of the chairman of the Finance Committee, and I, too, pledge to continue working to address the concerns of my colleagues from Oklahoma and North Dakota.

Mr. INHOFE. I agree with my colleagues that we ought to fully offset the spending that will occur over the next 6 years as a result of the authorizations in the SAFETEA bill. I am committed to working with my colleagues to see that this goal is achieved.

Mr. JEFFORDS. I thank Senator CONRAD and Senator NICKLES for their continued efforts on this issue. I, too, want to lend my commitment and support to fully paying for the SAFETEA bill before the Senate completes action on the legislation.

Mr. CONRAD. I thank the managers for those commitments. With those assurances, I will not object to the unanimous consent request to make technical corrections in the Senate-passed bill.

THE FERRY BOAT DISCRETIONARY PROGRAM

Mrs. MURRAY. Mr. President, it has come to my attention that there was an error in processing my amendment to increase funding for, and make other improvements to, the Federal Highway Administration Ferry Boat Discretionary Program.

My amendment was included in the SAFETEA authorization bill, and I want to confirm with my colleagues the correct funding level for the record so there is no confusion.

Prior to my amendment being sent to the desk, I had reached agreement with all the majority and minority managers of the bill to increase funding for the ferry program to the level of $120 million per year in the SAFETEA authorization bill.

Unfortunately, it appears that, in the processing of the final amendments to the bill, the amendment making this change was not the amendment that was sent to the desk and enrolled by the bill clerk.

To clarify the record, I would like to ask my colleague, Chairman INHOFE, what is his understanding of the level that is agreed upon for the ferry program in the SAFETEA authorization bill?

Mr. INHOFE. I say to Senator MURRAY, the agreed upon level for inclusion in the SAFETEA bill for the Ferry Boat Discretionary Program is $120 million per year of which $60 million is provided in contract authority and $60 million is authorized for appropriation.

Mrs. MURRAY. I also ask Senators BOND, JEFFORDS and REID, whether that is their understanding?

Mr. BOND. Yes, we agree that this is the amount we consider to be included in the SAFETEA authorization bill for the ferry boat discretionary program.

Mr. JEFFORDS. The Senior Senator from Washington State is correct. It was our understanding that the bill envisions $120 million per year for that program.

Mr. REID. I say to Senator MURRAY, I am in agreement that a commitment was made to include $120 million per year for the ferry boat discretionary program.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that in the engrossment of the bill S. 1072, the Secretary of the Senate be authorized to strike pages 43 through 83, and pages 105 and 106 of amendment No. 2616. I further ask that the bill be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of S. 1072 is as follows:

S. 1072

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. General definitions.
Sec. 3. Definitions for title 23.

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Funding

Sec. 1101. Authorization of appropriations.
Sec. 1102. Obligation ceiling.
Sec. 1103. Apportionments.
Sec. 1104. Equity bonus programs.
Sec. 1105. Revenue aligned budget authority.

Subtitle B—New Programs

Sec. 1201. Infrastructure performance and maintenance program.
Sec. 1202. Future of surface transportation system.
Sec. 1203. Freight transportation gateways; freight intermodal connections.
Sec. 1204. Construction of ferry boats and ferry terminal and maintenance facilities; coordination of ferry construction and maintenance.
Sec. 1205. Designation of Daniel Patrick Moynihan Interstate Highway.
Sec. 1206. State-by-State comparison of highway construction costs.

Subtitle C—Finance

Sec. 1301. Federal share.
Sec. 1302. Transfer of highway and transit funds.
Sec. 1303. Transportation Infrastructure Finance and Innovation Act Amendments.
Sec. 1304. Facilitation of international registration plans and international fuel tax agreements.
Sec. 1305. National Commission on Future Revenue Sources to Support the Highway Trust Fund and Finance the Needs of the Surface Transportation System.
Sec. 1306. State infrastructure banks.
Sec. 1307. Public-private partnerships pilot program.
Sec. 1308. Wagering.

Subtitle D—Safety

Sec. 1401. Highway safety improvement program.
Sec. 1402. Operation lifesaver.
Sec. 1403. License suspension.
Sec. 1404. Bus axle weight exemption.
Sec. 1405. Safe routes to schools program.
Sec. 1406. Purchases of equipment.
Sec. 1407. Workzone safety.
Sec. 1408. Worker injury prevention and free flow of vehicular traffic.
Sec. 1409. Identity authentication standards.
Sec. 1410. Open container requirements.

Subtitle E—Environmental Planning and Review

CHAPTER 1—TRANSPORTATION PLANNING

Sec. 1501. Integration of natural resource concerns into State and metropolitan transportation planning.
Sec. 1502. Consultation between transportation agencies and resource agencies in transportation planning.
Sec. 1503. Integration of natural resource concerns into transportation project planning.
Sec. 1504. Public involvement in transportation planning and projects.
Sec. 1505. Project mitigation.

CHAPTER 2—TRANSPORTATION PROJECT DEVELOPMENT PROCESS

Sec. 1511. Transportation project development process.
Sec. 1512. Assumption of responsibility for categorical exclusions.
Sec. 1513. Surface transportation project delivery pilot program.
Sec. 1514. Parks, recreation areas, wildlife and waterfowl refuges, and historic sites.
Sec. 1515. Regulations.

CHAPTER 3—MISCELLANEOUS

Sec. 1521. Critical real property acquisition.

Sec. 1522. Planning capacity building initiative.
Subtitle F—Environment
Sec. 1601. Environmental restoration and pollution abatement; control of invasive plant species and establishment of native species.
Sec. 1602. National scenic byways program.
Sec. 1603. Recreational trails program.
Sec. 1604. Exemption of Interstate System.
Sec. 1605. Standards.
Sec. 1606. Use of high occupancy vehicle lanes.
Sec. 1607. Bicycle transportation and pedestrian walkways.
Sec. 1608. Idling reduction facilities in Interstate rights-of-way.
Sec. 1609. Toll programs.
Sec. 1610. Federal reference method.
Sec. 1611. Addition of particulate matter areas to CMAQ.
Sec. 1612. Addition to CMAQ-eligible projects.
Sec. 1613. Improved interagency consultation.
Sec. 1614. Evaluation and assessment of CMAQ projects.
Sec. 1615. Synchronized planning and conformity timelines, requirements, and horizon.
Sec. 1616. Transition to new air quality standards.
Sec. 1617. Reduced barriers to air quality improvements.
Sec. 1618. Air quality monitoring data influenced by exceptional events.
Sec. 1619. Conforming amendments.
Sec. 1620. Highway stormwater discharge mitigation program.
Sec. 1621. Exemption from certain hazardous materials transportation requirements.
Sec. 1622. Funds for rebuilding fish stocks.
Subtitle G—Operations
Sec. 1701. Transportation systems management and operations.
Sec. 1702. Real-time system management information program.
Sec. 1703. Contracting for engineering and design services.
Sec. 1704. Off-duty time for drivers of commercial vehicles.
Sec. 1705. Designation of transportation management areas.
Subtitle H—Federal-Aid Stewardship
Sec. 1801. Future Interstate System routes.
Sec. 1802. Stewardship and oversight.
Sec. 1803. Design-build contracting.
Sec. 1804. Program efficiencies—finance.
Sec. 1805. Set-asides for interstate discretionary projects.
Sec. 1806. Federal lands highways program.
Sec. 1807. Highway bridge program.
Sec. 1808. Appalachian development highway system.
Sec. 1809. Multistate corridor program.
Sec. 1810. Border planning, operations, technology, and capacity program.
Sec. 1811. Puerto Rico highway program.
Sec. 1812. National historic covered bridge preservation.
Sec. 1813. Transportation and community and system preservation program.
Sec. 1814. Parking pilot programs.
Sec. 1815. Interstate oasis program.
Sec. 1816. Tribal-State road maintenance agreements.
Sec. 1817. National forest system roads.
Sec. 1818. Territorial highway program.
Sec. 1819. Magnetic levitation transportation technology deployment program.
Sec. 1820. Donations and credits.
Sec. 1821. Disadvantaged business enterprises.
Sec. 1822. Emergency relief.
Sec. 1823. Priority for pedestrian and bicycle facility enhancement projects.
Sec. 1824. The Delta Regional Authority.
Sec. 1825. Multistate international corridor development program.
Sec. 1826. Authorization of contract authority for States with Indian Reservations.
Subtitle I—Technical Corrections
Sec. 1901. Repeal or update of obsolete text.
Sec. 1902. Clarification of date.
Sec. 1903. Inclusion of requirements for signs identifying funding sources in title 23.
Sec. 1904. Inclusion of Buy America requirements in title 23.
Sec. 1905. Technical amendments to nondiscrimination section.
TITLE II—TRANSPORTATION RESEARCH
Subtitle A—Funding
Sec. 2001. Authorization of appropriations.
Sec. 2002. Obligation ceiling.
Sec. 2003. Notice.
Subtitle B—Research and Technology
Sec. 2101. Research and technology program.
Sec. 2102. Study of data collection and statistical analysis efforts.
Sec. 2103. Centers for surface transportation excellence.
Sec. 2104. Motorcycle crash causation study grants.
Sec. 2105. Transportation technology innovation and demonstration program
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Sec. 2201. Intelligent transportation system research and technical assistance program.
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Sec. 3002. Amendments to title 49, United States Code; updated terminology.
Sec. 3003. Policies, findings, and purposes.
Sec. 3004. Definitions.
Sec. 3005. Metropolitan transportation planning.
Sec. 3006. Statewide transportation planning.
Sec. 3007. Transportation management areas.
Sec. 3008. Private enterprise participation.
Sec. 3009. Urbanized area formula grants.
Sec. 3010. Planning programs.
Sec. 3011. Capital investment program.
Sec. 3012. New freedom for elderly persons and persons with disabilities.
Sec. 3013. Formula grants for other than urbanized areas.
Sec. 3014. Research, development, demonstration, and deployment projects.
Sec. 3015. Transit cooperative research program.
Sec. 3016. National research programs.
Sec. 3017. National transit institute.
Sec. 3018. Bus testing facility.
Sec. 3019. Bicycle facilities.
Sec. 3020. Suspended light rail technology pilot project.
Sec. 3021. Crime prevention and security.
Sec. 3022. General provisions on assistance.
Sec. 3023. Special provisions for capital projects.
Sec. 3024. Contract requirements.
Sec. 3025. Project management oversight and review.
Sec. 3026. Project review.
Sec. 3027. Investigations of safety and security risk.
Sec. 3028. State safety oversight.
Sec. 3029. Sensitive security information.
Sec. 3030. Terrorist attacks and other acts of violence against public transportation systems.
Sec. 3031. Controlled substances and alcohol misuse testing.
Sec. 3032. Employee protective arrangements.
Sec. 3033. Administrative procedures.
Sec. 3034. Reports and audits.
Sec. 3035. Apportionments of appropriations for formula grants.
Sec. 3036. Apportionments for fixed guideway modernization.
Sec. 3037. Authorizations.
Sec. 3038. Apportionments based on growing States formula factors.
Sec. 3039. Job access and reverse commute grants.
Sec. 3040. Over-the-road bus accessibility program.
Sec. 3041. Alternative transportation in parks and public lands.
Sec. 3042. Obligation ceiling.
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Sec. 3044. Disadvantaged business enterprise.
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Sec. 4102. Authorization of appropriations.
Sec. 4103. Highway safety programs.
Sec. 4104. Highway safety research and outreach programs.
Sec. 4105. National Highway Safety Advisory Committee technical correction.
Sec. 4106. Occupant protection grants.
Sec. 4107. School bus driver training.
Sec. 4108. Emergency medical services.
Sec. 4109. Repeal of authority for alcohol traffic safety programs.
Sec. 4110. Impaired driving program.
Sec. 4111. State traffic safety information system improvements.
Sec. 4112. NHTSA accountability.
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Sec. 4151. Amendment of title 49, United States Code.
Sec. 4152. Vehicle crash ejection prevention.
Sec. 4153. Vehicle backover avoidance technology study.
Sec. 4154. Vehicle backover data collection.
Sec. 4155. Aggressivity and incompatibility reduction standard.
Sec. 4156. Improved crashworthiness.
Sec. 4157. 15-passenger vans.
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Sec. 4232. Elimination of commodity and service exemptions.
Sec. 4233. Intrastate operations of interstate motor carriers.
Sec. 4234. Authority to stop commercial motor vehicles.
Sec. 4235. Revocation of operating authority.
Sec. 4236. Pattern of safety violations by motor carrier management.
Sec. 4237. Motor carrier research and technology program.
Sec. 4238. Review of commercial zone exemption provision.
Sec. 4239. International cooperation.
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Sec. 4243. Operation of restricted property-carrying units on national highway system.
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Sec. 4308. Enforcement of regulations related to transportation of household goods.
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Sec. 4313. Review of liability of carriers.
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Subtitle D—Hazardous Materials Transportation Safety and Security

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Sec. 4462. Mailability of hazardous materials.
Sec. 4463. Criminal matters.
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Sec. 4465. Information on hazmat registrations.
Sec. 4466. Report on applying hazardous materials regulations to persons who reject hazardous materials.

PART III—SANITARY FOOD TRANSPORTATION

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PART II—CLEAN VESSEL ACT AMENDMENTS

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Sec. 4632. Capital grants for railroad track.
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Sec. 5001. Extension of Highway Trust Fund and Aquatic Resources Trust Fund expenditure authority and related taxes.

Sec. 5002. Full accounting of funds received by the Highway Trust Fund.
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Subtitle B—Volumetric Ethanol Excise Tax Credit

Sec. 5101. Short title.
Sec. 5102. Alcohol and biodiesel excise tax credit and extension of alcohol fuels income tax credit.
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Sec. 5223. Penalty on untaxed chemically altered dyed fuel mixtures.
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Sec. 5242. Display of registration.
Sec. 5243. Registration of persons within foreign trade zones, etc.
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Sec. 5262. Modification of ultimate vendor refund claims with respect to farming.
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PART II—AQUATIC EXCISE TAXES

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Sec. 5412. Exemption of LED devices from sonar devices suitable for finding fish.
Sec. 5413. Repeal of harbor maintenance tax on exports.
Sec. 5414. Cap on excise tax on certain fishing equipment.
Sec. 5415. Reduction in rate of tax on portable aerated bait containers.

PART III—AERIAL EXCISE TAXES.

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Sec. 5422. Modification of rural airport definition.
Sec. 5423. Exemption from ticket taxes for transportation provided by seaplanes.
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PART IV—ALCOHOLIC BEVERAGE EXCISE TAXES

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PART V—SPORT EXCISE TAXES

Sec. 5441. Custom gunsmiths.
Sec. 5442. Modified taxation of imported archery products.
Sec. 5443. Treatment of tribal governments for purposes of Federal wagering excise and occupational taxes.

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Sec. 5451. Income tax credit for distilled spirits wholesalers and for distilled spirits in control State bailment warehouses for costs of carrying Federal excise taxes on bottled distilled spirits.
Sec. 5452. Credit for taxpayers owning commercial power takeoff vehicles.
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Subtitle F—Miscellaneous Provisions

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Sec. 8002. Use of granular mine tailings.

SEC. 2. GENERAL DEFINITIONS.

In this Act:

(1) Department.—The term "Department" means the Department of Transportation.

(2) Secretary.—The term "Secretary" means the Secretary of Transportation.

SEC. 3. DEFINITIONS FOR TITLE 23.

Section 101 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) Definitions.—In this title:

"(1) Apportionment.—The term 'apportionment' includes an unexpended apportionment made under a law enacted before the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004.

"(2) Carpool project.—

"(A) In general.—The term 'carpool project' means any project to encourage the use of carpools and vanpools.

"(B) Inclusions.—The term 'carpool project' includes a project—

"(i) to provide carpooling opportunities to the elderly and individuals with disabilities;

"(ii) to develop and implement a system for locating potential riders and informing the riders of carpool opportunities;

"(iii) to acquire vehicles for carpool use;

"(iv) to designate highway lanes as preferential carpool highway lanes;

"(v) to provide carpool-related traffic control devices; and

"(vi) to designate facilities for use for preferential parking for carpools.

"(3) Construction.—

"(A) In general.—The term 'construction' means the supervision, inspection, and actual building of, and incurring of all costs incidental to the construction or reconstruction of a highway, including bond costs and other costs relating to the issuance in accordance with section 122 of bonds or other debt financing instruments and costs incurred by the State in performing Federal-aid project related audits that directly benefit the Federal-aid highway program.

"(B) Inclusions.—The term 'construction' includes—

"(i) locating, surveying, and mapping (including the establishment of temporary and permanent geodetic markers in accordance with specifications of the National Oceanic and Atmospheric Administration);

"(ii) resurfacing, restoration, and rehabilitation;

"(iii) acquisition of rights-of-way;

"(iv) relocation assistance, acquisition of replacement housing sites, and acquisition and rehabilitation, relocation, and construction of replacement housing;

"(v) elimination of hazards of railway grade crossings;

"(vi) elimination of roadside obstacles;

"(vii) improvements that directly facilitate and control traffic flow, such as—

"(I) grade separation of intersections;

"(II) widening of lanes;

"(III) channelization of traffic;

"(IV) traffic control systems; and

"(V) passenger loading and unloading areas;

"(viii) capital improvements that directly facilitate an effective vehicle weight enforcement program, such as—

"(I) scales (fixed and portable);

"(II) scale pits;

"(III) scale installation; and

"(IV) scale houses;

"(ix) improvements directly relating to securing transportation infrastructures for detection, preparedness, response, and recovery;

"(x) operating costs relating to traffic monitoring, management, and control;

"(xi) operational improvements; and

"(xii) transportation system management and operations.

"(4) County.—The term 'county' includes—

"(A) a corresponding unit of government under any other name in a State that does not have county organizations; and

"(B) in those States in which the county government does not have jurisdiction over highways, any local government unit vested with jurisdiction over local highways.

"(5) Federal-aid highway.—

"(A) In general.—The term 'Federal-aid highway' means a highway eligible for assistance under this chapter.

"(B) Exclusions.—The term 'Federal-aid highway' does not include a highway classified as a local road or rural minor collector.

"(6) Federal-aid system.—The term 'Federal-aid system' means any of the Federal-aid highway systems described in section 103.

"(7) Federal lands highway.—The term 'Federal lands highway' means—

"(A) a forest highway;

"(B) a recreation road;

"(C) a public Forest Service road;

"(D) a park road;

"(E) a parkway;

"(F) a refuge road;

"(G) an Indian reservation road; and

"(H) a public lands highway.

"(8) Forest highway.—The term 'forest highway' means a forest road that is—

"(A) under the jurisdiction of, and maintained by, a public authority; and

"(B) is open to public travel.

"(9) Forest road or trail.—

"(A) In general.—The term 'forest road or trail' means a road or trail wholly or partly within, or adjacent to, and serving National Forest System land that is necessary for the protection, administration, use, and development of the resources of that land.

"(B) Inclusions.—The term 'forest road or trail' includes—

"(i) a classified forest road;

"(ii) an unclassified forest road;

"(iii) a temporary forest road; and

"(iv) a public forest service road.

"(10) Freight transportation gateway.—

"(A) In general.—The term 'freight transportation gateway' means a nationally or regionally significant transportation port of entry or hub for domestic and global trade or military mobilization.

"(B) Inclusions.—The term 'freight transportation gateway' includes freight intermodal and Strategic Highway Network connections that provide access to and from a port or hub described in subparagraph (A).

"(11) Highway.—The term 'highway' includes—

"(A) a road, street, and parkway;

"(B) a right-of-way, bridge, railroad-highway crossing, tunnel, drainage structure, sign, guardrail, and protective structure, in connection with a highway; and

"(C) a portion of any interstate or international bridge or tunnel (including the approaches to the interstate or international bridge or tunnel, and such transportation facilities as may be required by the United States Customs Service and the Bureau of Citizenship and Immigration Services in connection with the operation of an international bridge or tunnel), the cost of which is assumed by a State transportation department.

"(12) HIGHWAY SAFETY IMPROVEMENT PROJECT.—The term 'highway safety improvement project' means a project that meets the requirements of section 148.

"(13) INDIAN RESERVATION ROAD.—

"(A) IN GENERAL.—The term 'Indian reservation road' means a public road that is located within or provides access to an area described in subparagraph (B) on which or in which reside Indians or Alaskan Natives that, as determined by the Secretary of the Interior, are eligible for services generally available to Indians under Federal laws specifically applicable to Indians.

"(B) AREAS.—The areas referred to in subparagraph (A) are—

"(i) an Indian reservation;

"(ii) Indian trust land or restricted Indian land that is not subject to fee title alienation without the approval of the Federal Government; and

"(iii) an Indian or Alaska Native village, group, or community.

"(14) INTERSTATE SYSTEM.—The term 'Interstate System' means the Dwight D. Eisenhower National System of Interstate and Defense Highways described in section 103(c).

"(15) MAINTENANCE.—

"(A) IN GENERAL.—The term 'maintenance' means the preservation of a highway.

"(B) INCLUSIONS.—The term 'maintenance' includes the preservation of—

"(i) the surface, shoulders, roadsides, and structures of a highway; and

"(ii) such traffic-control devices as are necessary for safe, secure, and efficient use of a highway.

"(16) MAINTENANCE AREA.—The term 'maintenance area' means an area that was designated as a nonattainment area, but was later redesignated by the Administrator of the Environmental Protection Agency as an attainment area, under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

"(17) NATIONAL FOREST SYSTEM ROAD OR TRAIL.—The term 'National Forest System road or trail' means a forest road or trail that is under the jurisdiction of the Forest Service.

"(18) NATIONAL HIGHWAY SYSTEM.—The term 'National Highway System' means the Federal-aid highway system described in section 103(b).

"(19) OPERATING COSTS FOR TRAFFIC MONITORING, MANAGEMENT, AND CONTROL.—The term 'operating costs for traffic monitoring, management, and control' includes—

"(A) labor costs;

"(B) administrative costs;

"(C) costs of utilities and rent;

"(D) costs incurred by transportation agencies for technology to monitor critical transportation infrastructure for security purposes; and

"(E) other costs associated with transportation systems management and operations and the continuous operation of traffic control, such as—

"(i) an integrated traffic control system;

"(ii) an incident management program; and

"(iii) a traffic control center.

"(20) OPERATIONAL IMPROVEMENT.—

"(A) IN GENERAL.—The term 'operational improvement' means—

"(i) a capital improvement for installation or implementation of—

"(I) a transportation system management and operations program;

"(II) traffic and transportation security surveillance and control equipment;

"(III) a computerized signal system;

"(IV) a motorist information system;

"(V) an integrated traffic control system;

"(VI) an incident management program;

"(VII) equipment and programs for transportation response to manmade and natural disasters; or

"(VIII) a transportation demand management facility, strategy, or program; and

"(ii) such other capital improvements to a public road as the Secretary may designate by regulation.

"(B) EXCLUSIONS.—The term 'operational improvement' does not include—

"(i) a resurfacing, restorative, or rehabilitative improvement;

"(ii) construction of an additional lane, interchange, or grade separation; or

"(iii) construction of a new facility on a new location.

"(21) PARK ROAD.—The term 'park road' means a public road (including a bridge built primarily for pedestrian use, but with capacity for use by emergency vehicles) that is located within, or provides access to, an area in the National Park System with title and maintenance responsibilities vested in the United States.

"(22) PARKWAY.—The term 'parkway' means a parkway authorized by an Act of Congress on land to which title is vested in the United States.

"(23) PROJECT.—The term 'project' means—

"(A)(i) an undertaking to construct a particular portion of a highway; or

"(ii) if the context so implies, a particular portion of a highway so constructed; and

"(B) any other undertaking eligible for assistance under this title.

"(24) PROJECT AGREEMENT.—The term 'project agreement' means the formal instrument to be executed by the Secretary and recipient of funds under this title.

"(25) PUBLIC AUTHORITY.—The term 'public authority' means a Federal, State, county, town, or township, Indian tribe, municipal or other local government or instrumentality with authority to finance, build, operate, or maintain toll or toll-free facilities.

"(26) PUBLIC FOREST SERVICE ROAD.—The term 'public Forest Service road' means a classified forest road—

"(A) that is open to public travel;

"(B) for which title and maintenance responsibility is vested in the Federal Government; and

"(C) that has been designated a public road by the Forest Service.

"(27) PUBLIC LANDS DEVELOPMENT ROADS AND TRAILS.—The term 'public lands development roads and trails' means roads and trails that the Secretary of the Interior determines are of primary importance for the development, protection, administration, and use of public lands and resources under the control of the Secretary of the Interior.

"(28) PUBLIC LANDS HIGHWAY.—The term 'public lands highway' means—

"(A) a forest road that is—

"(i) under the jurisdiction of, and maintained by, a public authority; and

"(ii) open to public travel; and

"(B) any highway through unappropriated or unreserved public land, nontaxable Indian land, or any other Federal reservation (including a main highway through such land or reservation that is on the Federal-aid system) that is—

"(i) under the jurisdiction of, and maintained by, a public authority; and

"(ii) open to public travel.

"(29) PUBLIC ROAD.—The term 'public road' means any road or street that is—

"(A) under the jurisdiction of, and maintained by, a public authority; and

"(B) open to public travel.

"(30) RECREATIONAL ROAD.—The term 'recreational road' means a public road—

"(A) that provides access to a museum, lake, reservoir, visitors center, gateway to a major wilderness area, public use area, or recreational or historic site; and

"(B) for which title is vested in the Federal Government.

"(31) REFUGE ROAD.—The term 'refuge road' means a public road—

"(A) that provides access to or within a unit of the National Wildlife Refuge System or a national fish hatchery; and

"(B) for which title and maintenance responsibility is vested in the United States Government.

"(32) RURAL AREA.—The term 'rural area' means an area of a State that is not included in an urban area.

"(33) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(34) STATE.—The term 'State' means—

"(A) a State;

"(B) the District of Columbia; and

"(C) the Commonwealth of Puerto Rico.

"(35) STATE FUNDS.—The term 'State funds' includes funds that are—

"(A) raised under the authority of the State (or any political or other subdivision of a State); and

"(B) made available for expenditure under the direct control of the State transportation department.

"(36) STATE TRANSPORTATION DEPARTMENT.—The term 'State transportation department' means the department, agency, commission, board, or official of any State charged by the laws of the State with the responsibility for highway construction.

"(37) TERRITORIAL HIGHWAY SYSTEM.—The term 'territorial highway system' means the system of arterial highways, collector roads, and necessary interisland connectors in American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the United States Virgin Islands that have been designated by the appropriate Governor or chief executive officer of a territory, and approved by the Secretary, in accordance with section 215.

"(38) TRANSPORTATION ENHANCEMENT ACTIVITY.—The term 'transportation enhancement activity' means, with respect to any project or the area to be served by the project, any of the following activities as the activities relate to surface transportation:

"(A) Provision of facilities for pedestrians and bicycles.

"(B) Provision of safety and educational activities for pedestrians and bicyclists.

"(C) Acquisition of scenic easements and scenic or historic sites (including historic battlefields).

"(D) Scenic or historic highway programs (including the provision of tourist and welcome center facilities).

"(E) Landscaping and other scenic beautification.

"(F) Historic preservation.

“(G) Rehabilitation and operation of historic transportation buildings, structures, or facilities (including historic railroad facilities and canals).

“(H) Preservation of abandoned railway corridors (including the conversion and use of the corridors for pedestrian or bicycle trails).

“(I) Control and removal of outdoor advertising.

“(J) Archaeological planning and research.

“(K) Environmental mitigation—

“(i) to address water pollution due to highway runoff; or

“(ii) reduce vehicle-caused wildlife mortality while maintaining habitat connectivity.

“(L) Establishment of transportation museums.

“(39) Transportation systems management and operations.—

“(A) In general.—The term ‘transportation systems management and operations’ means an integrated program to optimize the performance of existing infrastructure through the implementation of multimodal and intermodal, cross-jurisdictional systems, services, and projects designed to preserve capacity and improve security, safety, and reliability of the transportation system.

“(B) Inclusions.—The term ‘transportation systems management and operations’ includes—

“(i) regional operations collaboration and coordination activities between transportation and public safety agencies; and

“(ii) improvements to the transportation system such as traffic detection and surveillance, arterial management, freeway management, demand management, work zone management, emergency management, electronic toll collection, automated enforcement, traffic incident management, roadway weather management, traveler information services, commercial vehicle operations, traffic control, freight management, and coordination of highway, rail, transit, bicycle, and pedestrian operations.

“(40) Urban area.—The term ‘urban area’ means—

“(A) an urbanized area (or, in the case of an urbanized area encompassing more than 1 State, the portion of the urbanized area in each State); and

“(B) an urban place designated by the Bureau of the Census that—

“(i) has a population of 5,000 or more;

“(ii) is not located within any urbanized area; and

“(iii) is located within boundaries that—

“(I) are fixed cooperatively by responsible State and local officials, subject to approval by the Secretary; and

“(II) encompass, at a minimum, the entire urban place designated by the Bureau of the Census (except in the case of cities in the State of Maine and in the State of New Hampshire).

“(41) Urbanized area.—The term ‘urbanized area’ means an area that—

“(A) has a population of 50,000 or more;

“(B) is designated by the Bureau of the Census; and

“(C) is located within boundaries that—

“(i) are fixed cooperatively by responsible State and local officials, subject to approval by the Secretary; and

“(ii) encompass, at a minimum, the entire urbanized area within a State as designated by the Bureau of the Census.”.

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Funding

SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.

The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) Interstate maintenance program.—For the Interstate maintenance program under section 119 of title 23, United States Code—

(A) $5,442,371,792 for fiscal year 2004;

(B) $6,425,168,342 for fiscal year 2005;

(C) $6,683,176,289 for fiscal year 2006;

(D) $6,702,365,186 for fiscal year 2007;

(E) $7,036,621,314 for fiscal year 2008; and

(F) $7,139,130,081 for fiscal year 2009.

(2) National highway system.—For the National Highway System under section 103 of that title—

(A) $6,593,922,257 for fiscal year 2004;

(B) $7,815,590,130 for fiscal year 2005;

(C) $8,125,241,450 for fiscal year 2006;

(D) $8,148,531,791 for fiscal year 2007;

(E) $8,554,231,977 for fiscal year 2008; and

(F) $8,678,591,297 for fiscal year 2009.

(3) Bridge program.—For the bridge program under section 144 of that title—

(A) $4,650,754,076 for fiscal year 2004;

(B) $5,507,287,150 for fiscal year 2005;

(C) $5,713,860,644 for fiscal year 2006;

(D) $5,730,266,418 for fiscal year 2007;

(E) $6,016,042,650 for fiscal year 2008; and

(F) $6,103,714,622 for fiscal year 2009.

(4) Surface transportation program.—For the surface transportation program under section 133 of that title—

(A) $6,877,178,900 for fiscal year 2004;

(B) $8,107,950,527 for fiscal year 2005;

(C) $8,417,741,127 for fiscal year 2006;

(D) $8,441,910,349 for fiscal year 2007;

(E) $8,862,919,976 for fiscal year 2008; and

(F) $8,992,134,975 for fiscal year 2009.

(5) Congestion mitigation and air quality improvement program.—For the congestion mitigation and air quality improvement program under section 149 of that title—

(A) $1,880,092,073 for fiscal year 2004;

(B) $2,192,716,180 for fiscal year 2005;

(C) $2,270,239,273 for fiscal year 2006;

(D) $2,276,757,639 for fiscal year 2007;

(E) $2,390,302,660 for fiscal year 2008; and

(F) $2,425,236,569 for fiscal year 2009.

(6) Highway safety improvement program.—For the highway safety improvement program under section 148 of that title—

(A) $1,187,426,572 for fiscal year 2004;

(B) $1,325,828,388 for fiscal year 2005;

(C) $1,377,448,548 for fiscal year 2006;

(D) $1,381,403,511 for fiscal year 2007;

(E) $1,450,295,996 for fiscal year 2008; and

(F) $1,471,607,029 for fiscal year 2009.

(7) Appalachian development highway system program.—For the Appalachian development highway system program under section 170 of that title, $590,000,000 for each of fiscal years 2004 through 2009.

(8) Recreational trails program.—For the recreational trails program under section 206 of that title, $60,000,000 for each of fiscal years 2004 through 2009.

(9) Federal lands highways program.—

(A) Indian reservation roads.—For Indian reservation roads under section 204 of that title—

(i) $300,000,000 for fiscal year 2004;

(ii) $325,000,000 for fiscal year 2005;

(iii) $350,000,000 for fiscal year 2006;

(iv) $375,000,000 for fiscal year 2007;

(v) $400,000,000 for fiscal year 2008; and

(vi) $425,000,000 for fiscal year 2009.

(B) Recreation roads.—For recreation roads under section 204 of that title, $50,000,000 for each of fiscal years 2004 through 2009.

(C) Park roads and parkways.—For park roads and parkways under section 204 of that title—

(i) $300,000,000 for fiscal year 2004;

(ii) $310,000,000 for fiscal year 2005; and

(iii) $320,000,000 for each of fiscal years 2006 through 2009.

(D) Refuge roads.—For refuge roads under section 204 of that title, $30,000,000 for each of fiscal years 2004 through 2009.

(E) Public lands highways.—For Federal lands highways under section 204 of that title, $300,000,000 for each of fiscal years 2004 through 2009.

(F) Safety.—For safety under section 204 of that title, $40,000,000 for each of fiscal years 2004 through 2009.

(10) Multistate corridor program.—For the multistate corridor program under section 171 of that title—

(A) $112,500,000 for fiscal year 2004;

(B) $135,000,000 for fiscal year 2005;

(C) $157,500,000 for fiscal year 2006;

(D) $180,000,000 for fiscal year 2007;

(E) $202,500,000 for fiscal year 2008; and

(F) $225,000,000 for fiscal year 2009.

(11) Border planning, operations, and technology program.—For the border planning, operations, and technology program under section 172 of that title—

(A) $112,500,000 for fiscal year 2004;

(B) $135,000,000 for fiscal year 2005;

(C) $157,500,000 for fiscal year 2006;

(D) $180,000,000 for fiscal year 2007;

(E) $202,500,000 for fiscal year 2008; and

(F) $225,000,000 for fiscal year 2009.

(12) National scenic byways program.—For the national scenic byways program under section 162 of that title—

(A) $34,000,000 for fiscal year 2004;

(B) $35,000,000 for fiscal year 2005;

(C) $36,000,000 for fiscal year 2006;

(D) $37,000,000 for fiscal year 2007; and

(E) $39,000,000 for each of fiscal years 2008 and 2009.

(13) Infrastructure performance and maintenance program.—For carrying out the infrastructure performance and maintenance program under section 139 of that title $2,000,000,000 for fiscal year 2004.

(14) Construction of ferry boats and ferry terminal facilities.—For construction of ferry boats and ferry terminal facilities under section 147 of that title, $50,000,000 for each of fiscal years 2004 through 2009.

(15) Commonwealth of Puerto Rico highway program.—For the Commonwealth of Puerto Rico highway program under section 173 of that title—

(A) $140,000,000 for fiscal year 2004;

(B) $145,000,000 for fiscal year 2005;

(C) $149,000,000 for fiscal year 2006;

(D) $154,000,000 for fiscal year 2007;

(E) $160,000,000 for fiscal year 2008; and

(F) $163,000,000 for fiscal year 2009.

(16) Public-private partnerships pilot program.—For the public-private partnerships pilot program under section 109(c)(3) of that title, $10,000,000 for each of fiscal years 2004 through 2009.

(17) Denali access system.—For the Denali Access System under section 309 of the Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105–277), $30,000,000 for each of fiscal years 2004 through 2009.

(18) Delta region tranportation development program.—For planning and construction activities authorized under the Delta Regional Authority, $80,000,000 for each of fiscal years 2004 through 2009.

SEC. 1102. OBLIGATION CEILING.

(a) General Limitation.—Subject to subsections (g) and (h), and notwithstanding any other provision of law, the obligations for

Federal-aid highway and highway safety construction programs shall not exceed—

(1) $33,643,326,300 for fiscal year 2004;

(2) $37,900,000,000 for fiscal year 2005;

(3) $39,100,000,000 for each of fiscal years 2006 and 2007;

(4) $39,400,000,000 for fiscal year 2008; and

(5) $44,400,000,000 for fiscal year 2009.

(b) EXCEPTIONS.—The limitations under subsection (a) shall not apply to obligations under or for—

(1) section 125 of title 23, United States Code;

(2) section 147 of the Surface Transportation Assistance Act of 1978 (23 U.S.C. 144 note; 92 Stat. 2714);

(3) section 9 of the Federal-Aid Highway Act of 1981 (Public Law 97–134; 95 Stat. 1701);

(4) subsections (b) and (j) of section 131 of the Surface Transportation Assistance Act of 1982 (Public Law 97–424; 96 Stat. 2119);

(5) subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100–17; 101 Stat. 198);

(6) sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2027);

(7) section 157 of title 23, United States Code (as in effect on June 8, 1998);

(8) section 105 of title 23, United States Code (as in effect for fiscal years 1998 through 2003, but only in an amount equal to $639,000,000 for each of those fiscal years);

(9) Federal-aid highway programs for which obligation authority was made available under the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 107) or subsequent public laws for multiple years or to remain available until used, but only to the extent that the obligation authority has not lapsed or been used; and

(10) section 105 of title 23, United States Code (but, for each of fiscal years 2004 through 2009, only in an amount equal to $439,000,000 per fiscal year).

(c) DISTRIBUTION OF OBLIGATION AUTHORITY.—For each of fiscal years 2004 through 2009, the Secretary—

(1) shall not distribute obligation authority provided by subsection (a) for the fiscal year for—

(A) amounts authorized for administrative expenses and programs by section 104(a) of title 23, United States Code;

(B) programs funded from the administrative takedown authorized by section 104(a)(1) of title 23, United States Code; and

(C) amounts authorized for the highway use tax evasion program and the Bureau of Transportation Statistics;

(2) shall not distribute an amount of obligation authority provided by subsection (a) that is equal to the unobligated balance of amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highway and highway safety programs for previous fiscal years the funds for which are allocated by the Secretary;

(3) shall determine the ratio that—

(A) the obligation authority provided by subsection (a) for the fiscal year, less the aggregate of amounts not distributed under paragraphs (1) and (2); bears to

(B) the total of the sums authorized to be appropriated for the Federal-aid highway and highway safety construction programs (other than sums authorized to be appropriated for provisions of law described in paragraphs (1) through (9) of subsection (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(10) for the fiscal year), less the aggregate of the amounts not distributed under paragraphs (1) and (2);

(4) shall distribute the obligation authority provided by subsection (a) less the aggregate amounts not distributed under paragraphs (1) and (2), for section 14501 of title 40, United States Code, so that the amount of obligation authority available for that section is equal to the amount determined by multiplying—

(A) the ratio determined under paragraph (3); by

(B) the sums authorized to be appropriated for that section for the fiscal year;

(5) shall distribute among the States the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2), for each of the programs that are allocated by the Secretary under this Act and title 23, United States Code (other than to programs to which paragraph (1) applies), by multiplying—

(A) the ratio determined under paragraph (3); by

(B) the amounts authorized to be appropriated for each such program for the fiscal year; and

(6) shall distribute the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2) and the amounts distributed under paragraphs (4) and (5), for Federal-aid highway and highway safety construction programs (other than the amounts apportioned for the equity bonus program, but only to the extent that the amounts apportioned for the equity bonus program for the fiscal year are greater than $439,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under this Act and title 23, United States Code, in the ratio that—

(A) amounts authorized to be appropriated for the programs that are apportioned to each State for the fiscal year; bear to

(B) the total of the amounts authorized to be appropriated for the programs that are apportioned to all States for the fiscal year.

(d) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (c), the Secretary shall, after August 1 of each of fiscal years 2004 through 2009—

(1) revise a distribution of the obligation authority made available under subsection (c) if an amount distributed cannot be obligated during that fiscal year; and

(2) redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year, giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code.

(e) APPLICABILITY OF OBLIGATION LIMITATIONS TO TRANSPORTATION RESEARCH PROGRAMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), obligation limitations imposed by subsection (a) shall apply to contract authority for transportation research programs carried out under—

(A) chapter 5 of title 23, United States Code; and

(B) title II of this Act.

(2) EXCEPTION.—Obligation authority made available under paragraph (1) shall—

(A) remain available for a period of 3 fiscal years; and

(B) be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

(f) REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.—

(1) IN GENERAL.—Not later than 30 days after the date of distribution of obligation authority under subsection (c) for each of fiscal years 2004 through 2009, the Secretary shall distribute to the States any funds that—

(A) are authorized to be appropriated for the fiscal year for Federal-aid highway programs; and

(B) the Secretary determines will not be allocated to the States, and will not be available for obligation, in the fiscal year due to the imposition of any obligation limitation for the fiscal year.

(2) RATIO.—Funds shall be distributed under paragraph (1) in the same ratio as the distribution of obligation authority under subsection (c)(6).

(3) AVAILABILITY.—Funds distributed under paragraph (1) shall be available for any purpose described in section 133(b) of title 23, United States Code.

(g) SPECIAL RULE.—Obligation authority distributed for a fiscal year under subsection (c)(4) for the provision specified in subsection (c)(4) shall—

(1) remain available until used for obligation of funds for that provision; and

(2) be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

(h) ADJUSTMENT IN OBLIGATION LIMIT.—

(1) IN GENERAL.—A limitation on obligations imposed by subsection (a) for a fiscal year shall be adjusted by an amount equal to the amount determined in accordance with section 251(b)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)(B)) for the fiscal year.

(2) DISTRIBUTION.—An adjustment under paragraph (1) shall be distributed in accordance with this section.

(i) LIMITATIONS ON OBLIGATIONS FOR ADMINISTRATIVE EXPENSES.—Notwithstanding any other provision of law, the total amount of all obligations under section 104(a) of title 23, United States Code, shall not exceed—

(1) $450,000,000 for fiscal year 2004;

(2) $465,000,000 for fiscal year 2005;

(3) $480,000,000 for fiscal year 2006;

(4) $495,000,000 for fiscal year 2007;

(5) $510,000,000 for fiscal year 2008; and

(6) $525,000,000 for fiscal year 2009.

(j) NATIONAL HIGHWAY SYSTEM COMPONENT.—Section 104(b)(1) of title 23, United States Code, is amended by striking "$36,400,000" and insert "$50,000,000".

SEC. 1103. APPORTIONMENTS.

(a) ADMINISTRATIVE EXPENSES.—

(1) IN GENERAL.—Section 104 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to be made available to the Secretary of Transportation for administrative expenses of the Federal Highway Administration—

"(A) $450,000,000 for fiscal year 2004;

"(B) $465,000,000 for fiscal year 2005;

"(C) $480,000,000 for fiscal year 2006;

"(D) $495,000,000 for fiscal year 2007;

"(E) $510,000,000 for fiscal year 2008; and

"(F) $525,000,000 for fiscal year 2009.

"(2) PURPOSES.—The funds authorized by this subsection shall be used—

"(A) to administer the provisions of law to be financed from appropriations for the Federal-aid highway program and programs authorized under chapter 2; and

"(B) to make transfers of such sums as the Secretary determines to be appropriate to the Appalachian Regional Commission for administrative activities associated with the Appalachian development highway system.

"(3) AVAILABILITY.—The funds made available under paragraph (1) shall remain available until expended.".

(2) CONFORMING AMENDMENTS.—Section 104 of title 23, United States Code, is amended—

(A) in the matter preceding paragraph (1) of subsection (b), by striking "the deduction authorized by subsection (a) and";

(B) in the first sentence of subsection (e)(1), by striking ", and also" and all that follows through "this section"; and

(C) in subsection (i), by striking "deducted" and inserting "made available".

(b) METROPOLITAN PLANNING.—Section 104(f) of title 23, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) SET-ASIDE.—On October 1 of each fiscal year, the Secretary shall set aside 1.5 percent of the funds authorized to be appropriated for the Interstate maintenance, national highway system, surface transportation, congestion mitigation and air quality improvement, highway safety improvement, and highway bridge programs authorized under this title to carry out the requirements of section 134.";

(2) in paragraph (2), by striking "per centum" and inserting "percent";

(3) in paragraph (3)—

(A) by striking "The funds" and inserting the following:

"(A) IN GENERAL.—The funds"; and

(B) by striking "These funds" and all that follows and inserting the following:

"(B) UNUSED FUNDS.—Any funds that are not used to carry out section 134 may be made available by a metropolitan planning organization to the State to fund activities under section 135."; and

(4) by adding at the end the following:

"(6) FEDERAL SHARE.—Funds apportioned to a State under this subsection shall be matched in accordance with section 120(b) unless the Secretary determines that the interests of the Federal-aid highway program would be best served without the match.".

(c) ALASKA HIGHWAY.—Section 104(b)(1)(A) of title 23, United States Code, is amended by striking "1998 through 2002" and inserting "2004 through 2009".

SEC. 1104. EQUITY BONUS PROGRAM.

(a) IN GENERAL.—Section 105 of title 23, United States Code, is amended to read as follows:

"§ 105. Equity bonus program

"(a) PROGRAM.—

"(1) IN GENERAL.—Subject to subsections (c) and (d), for each of fiscal years 2004 through 2009, the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a percentage of the total apportionments for the fiscal year for the programs specified in paragraph (2) that is less than the percentage calculated under subsection (b).

"(2) SPECIFIC PROGRAMS.—The programs referred to in subsection (a) are—

"(A) the Interstate maintenance program under section 119;

"(B) the national highway system program under section 103;

"(C) the bridge program under section 144;

"(D) the surface transportation program under section 133;

"(E) the highway safety improvement program under section 148;

"(F) the congestion mitigation and air quality improvement program under section 149;

"(G) metropolitan planning programs under section 104(f) (other than planning programs funded by amounts provided under the equity bonus program under this section);

"(H) the infrastructure performance and maintenance program under section 139;

"(I) the equity bonus program under this section;

"(J) the Appalachian development highway system program under subtitle IV of title 40;

"(K) the recreational trails program under section 206;

"(L) the safe routes to schools program under section 150; and

"(M) the rail-highway grade crossing program under section 130.

"(b) STATE PERCENTAGE.—

"(1) IN GENERAL.—The percentage referred to in subsection (a) for each State shall be—

"(A) 95 percent of the quotient obtained by dividing—

"(i) the estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available; by

"(ii) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) for the fiscal year; or

"(B) for a State with a total population density of less than 20 persons per square mile, as reported in the decennial census conducted by the Federal Government in 2000, a total population of less than 1,000,000, as reported in that decennial census, or a median household income of less than $35,000, as reported in that decennial census, the greater of—

"(i) the percentage under paragraph (1); or

"(ii) the average percentage of the State's share of total apportionments for the period of fiscal years 1998 through 2003 for the programs specified in paragraph (2).

"(2) SPECIFIC PROGRAMS.—The programs referred to in paragraph (1)(B)(ii) are (as in effect on the day before the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004)—

"(A) the Interstate maintenance program under section 119;

"(B) the national highway system program under section 103;

"(C) the bridge program under section 144;

"(D) the surface transportation program under section 133;

"(E) the recreational trails program under section 206;

"(F) the high priority projects program under section 117;

"(G) the minimum guarantee provided under this section;

"(H) revenue aligned budget authority amounts provided under section 110;

"(I) the congestion mitigation and air quality improvement program under section 149;

"(J) the Appalachian development highway system program under subtitle IV of title 40; and

"(K) metropolitan planning programs under section 104(f).

"(c) SPECIAL RULES.—

"(1) MINIMUM COMBINED ALLOCATION.—For each fiscal year, before making the allocations under subsection (a)(1), the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a combined total of amounts allocated under subsection (a)(1), apportionments for the programs specified in subsection (a)(2), and amounts allocated under this subsection, that is less than 110 percent of the average for fiscal years 1998 through 2003 of the annual apportionments for the State for all programs specified in subsection (b)(2).

"(2) NO NEGATIVE ADJUSTMENT.—Notwithstanding subsection (d), no negative adjustment shall be made under subsection (a)(1) to the apportionment of any State.

"(3) MINIMUM SHARE OF TAX PAYMENTS.—Notwithstanding subsection (d), for each fiscal year, the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a percentage of apportionments for the fiscal year for the programs specified in subsection (a)(2) that is less than 90.5 percent of the percentage share of the State of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available.

"(d) LIMITATION ON ADJUSTMENTS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) of subsection (c), no State shall receive, for any fiscal year, additional amounts under subsection (a)(1) if—

"(A) the total apportionments of the State for the fiscal year for the programs specified in subsection (a)(2); exceed

"(B) the percentage of the average, for the period of fiscal years 1998 through 2003, of the annual apportionments of the State for all programs specified in subsection (b)(2), as specified in paragraph (2).

"(2) PERCENTAGES.—The percentages referred to in paragraph (1)(B) are—

"(A) for fiscal year 2004, 120 percent;

"(B) for fiscal year 2005, 130 percent;

"(C) for fiscal year 2006, 134 percent;

"(D) for fiscal year 2007, 137 percent;

"(E) for fiscal year 2008, 145 percent; and

"(F) for fiscal year 2009, 250 percent.

"(e) PROGRAMMATIC DISTRIBUTION OF FUNDS.—The Secretary shall apportion the amounts made available under this section so that the amount apportioned to each State under this section for each program referred to in subparagraphs (A) through (G) of subsection (a)(2) is equal to the amount determined by multiplying the amount to be apportioned under this section by the proportion that—

"(1) the amount of funds apportioned to each State for each program referred to in subparagraphs (A) through (G) of subsection (a)(2) for a fiscal year; bears to

"(2) the total amount of funds apportioned to each State for all such programs for the fiscal year.

"(f) METRO PLANNING SET ASIDE.—Notwithstanding section 104(f), no set aside provided for under that section shall apply to funds allocated under this section.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to carry out this section for each of fiscal years 2004 through 2009.".

(b) CONFORMING AMENDMENTS.—

(1) The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 105 and inserting the following:

"105. Equity bonus program."

(2) Section 104(a)(1) of title 23, United States Code, is amended by striking "minimum guarantee" and inserting "equity bonus".

SEC. 1105. REVENUE ALIGNED BUDGET AUTHORITY.

Section 110 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraphs (1) and (2), by striking "2000" and inserting "2006";

(B) in paragraph (1), by inserting "(as in effect on September 30, 2002)" after "(2 U.S.C. 901(b)(2)(B)(ii)(I)(cc))"; and

(C) in paragraph (2)—

(i) by striking "If the amount" and inserting the following:

"(A) IN GENERAL.—Except as provided in subparagraph (B), if the amount";

(ii) by inserting "(as in effect on September 30, 2002)" after "(2 U.S.C. 901(b)(1)(B)(ii)(I)(cc)";

(iii) by striking "the succeeding" and inserting "that";

(iv) by striking "and the motor carrier safety grant program"; and

(v) by adding at the end the following:

"(B) LIMITATION.—No reduction under subparagraph (A) shall be made for a fiscal year if, as of October 1 of the fiscal year, the cash balance in the Highway Trust Fund (other than the Mass Transit Account) exceeds $6,000,000,000.";

(2) in subsection (b)(1), by striking subparagraph (A) and inserting the following:

"(A) the sums authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for each of the Federal-aid highway and highway safety construction programs (other than the equity bonus program) and for which funds are allocated from the Highway Trust Fund by the Secretary under this title and the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004; bears to";

(3) in subsection (c), by inserting "the highway safety improvement program," after "the surface transportation program,"; and

(4) by striking subsections (e), (f), and (g).

Subtitle B—New Programs

SEC. 1201. INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by inserting after section 138 the following:

"§ 139. Infrastructure performance and maintenance program

"(a) ESTABLISHMENT.—The Secretary shall establish and implement an infrastructure performance and maintenance program in accordance with this section.

"(b) ELIGIBLE PROJECTS.—A State may obligate funds allocated to the State under this section only for projects eligible under the Interstate maintenance program under section 119, the National Highway System program under section 103, the surface transportation program under section 133, the highway safety improvement program under section 148, the highway bridge program under section 144, and the congestion mitigation and air quality improvement program under section 149 that will—

"(1) preserve, maintain, or otherwise extend, in a cost-effective manner, the useful life of existing highway infrastructure elements; or

"(2) provide operational improvements (including traffic management and intelligent transportation system strategies and limited capacity enhancements) at points of recurring highway congestion.

"(c) PERIOD OF AVAILABILITY.—

"(1) OBLIGATION WITHIN 180 DAYS.—

"(A) IN GENERAL.—Funds allocated to a State under this section shall be obligated by the State not later than 180 days after the date of apportionment.

"(B) UNOBLIGATED FUNDS.—Any amounts that remain unobligated at the end of that period shall be allocated in accordance with subsection (d).

"(2) OBLIGATION BY END OF FISCAL YEAR.—

"(A) IN GENERAL.—All funds allocated or reallocated under this section shall remain available for obligation until the last day of the fiscal year for which the funds are apportioned.

"(B) UNOBLIGATED FUNDS.—Any amounts allocated that remain unobligated at the end of the fiscal year shall lapse.

"(d) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—

"(1) IN GENERAL.—On the date that is 180 days after the date of allocation, or as soon thereafter as practicable, for each fiscal year, the Secretary shall—

"(A) withdraw—

"(i) any funds allocated to a State under this section that remain unobligated; and

"(ii) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004; and

"(B) reallocate the funds and redistribute the obligation authority to those States that—

"(i) have fully obligated all amounts allocated under this section for the fiscal year; and

"(ii) demonstrate that the State is able to obligate additional amounts for projects eligible under this section before the end of the fiscal year.

"(2) EQUITY BONUS.—The calculation and distribution of funds under section 105 shall be adjusted as a result of the allocation of funds under this subsection.

"(e) FEDERAL SHARE PAYABLE.—The Federal share payable for a project funded under this section shall be determined in accordance with section 120.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by adding after the item relating to section 138 the following:

"139. Infrastructure performance and maintenance program.".

SEC. 1202. FUTURE OF SURFACE TRANSPORTATION SYSTEM.

(a) DECLARATION OF POLICY.—Section 101 of title 23, United States Code, is amended—

(1) by striking "(b) It is hereby declared to be" and inserting the following:

"(b) DECLARATION OF POLICY.—

"(1) ACCELERATION OF CONSTRUCTION OF FEDERAL-AID HIGHWAY SYSTEMS.—Congress declares that it is";

(2) in the second paragraph, by striking "It is hereby declared" and inserting the following:

"(2) COMPLETION OF INTERSTATE SYSTEM.—Congress declares"; and

(3) by striking the last paragraph and inserting the following:

"(3) TRANSPORTATION NEEDS OF 21ST CENTURY.—Congress declares that—

"(A) it is in the national interest to preserve and enhance the surface transportation system to meet the needs of the United States for the 21st Century;

"(B) the current urban and long distance personal travel and freight movement demands have surpassed the original forecasts and travel demand patterns are expected to change;

"(C) continued planning for and investment in surface transportation is critical to ensure the surface transportation system adequately meets the changing travel demands of the future;

"(D) among the foremost needs that the surface transportation system must meet to provide for a strong and vigorous national economy are safe, efficient, and reliable—

"(i) national and interregional personal mobility (including personal mobility in rural and urban areas) and reduced congestion;

"(ii) flow of interstate and international commerce and freight transportation; and

"(iii) travel movements essential for national security;

"(E) special emphasis should be devoted to providing safe and efficient access for the type and size of commercial and military vehicles that access designated National Highway System intermodal freight terminals;

"(F) it is in the national interest to seek ways to eliminate barriers to transportation investment created by the current modal structure of transportation financing;

"(G) the connection between land use and infrastructure is significant;

"(H) transportation should play a significant role in promoting economic growth, improving the environment, and sustaining the quality of life; and

"(I) the Secretary should take appropriate actions to preserve and enhance the Interstate System to meet the needs of the 21st Century.".

(b) NATIONAL SURFACE TRANSPORTATION SYSTEM STUDY.—

(1) IN GENERAL.—The Secretary shall—

(A) conduct a complete investigation and study of the current condition and future needs of the surface transportation system of the United States, including—

(i) the National Highway System;

(ii) the Interstate System;

(iii) the strategic highway network;

(iv) congressional high priority corridors;

(v) intermodal connectors;

(vi) freight facilities;

(vii) navigable waterways;

(viii) mass transportation;

(ix) freight and intercity passenger rail infrastructure and facilities; and

(x) surface access to airports; and

(B) develop a conceptual plan, with alternative approaches, for the future to ensure that the surface transportation system will continue to serve the needs of the United States, including specific recommendations regarding design and operational standards, Federal policies, and legislative changes.

(2) SPECIFIC ISSUES.—In conducting the investigation and study, the Secretary shall specifically address—

(A) the current condition and performance of the Interstate System (including the physical condition of bridges and pavements and operational characteristics and performance), relying primarily on existing data sources;

(B) the future of the Interstate System, based on a range of legislative and policy approaches for 15-, 30-, and 50-year time periods;

(C) the expected demographics and business uses that impact the surface transportation system;

(D) the expected use of the surface transportation system, including the effects of changing vehicle types, modes of transportation, fleet size and weights, and traffic volumes;

(E) desirable design policies and standards for future improvements of the surface transportation system, including additional access points;

(F) the identification of urban, rural, national, and interregional needs for the surface transportation system;

(G) the potential for expansion, upgrades, or other changes to the surface transportation system, including—

(i) deployment of advanced materials and intelligent technologies;

(ii) critical multistate, urban, and rural corridors needing capacity, safety, and operational enhancements;

(iii) improvements to intermodal linkages;

(iv) security and military deployment enhancements;

(v) strategies to enhance asset preservation; and

(vi) implementation strategies;

(H) the improvement of emergency preparedness and evacuation using the surface transportation system, including—

(i) examination of the potential use of all modes of the surface transportation system in the safe and efficient evacuation of citizens during times of emergency;

(ii) identification of the location of critical bottlenecks; and

(iii) development of strategies to improve system redundancy, especially in areas with a high potential for terrorist attacks;

(I) alternatives for addressing environmental concerns associated with the future development of the surface transportation system;

(J) the evaluation and assessment of the current and future capabilities for conducting system-wide real-time performance data collection and analysis, traffic monitoring, and transportation systems operations and management; and

(K) a range of policy and legislative alternatives for addressing future needs for the surface transportation system, including funding needs and potential approaches to provide funds.

(3) TECHNICAL ADVISORY COMMITTEE.—The Secretary shall establish a technical advisory committee, in a manner consistent with the Federal Advisory Committee Act (5 U.S.C. App.), to collect and evaluate technical input from—

(A) the Department of Defense;

(B) appropriate Federal, State, and local officials with responsibility for transportation;

(C) appropriate State and local elected officials;

(D) transportation and trade associations;

(E) emergency management officials;

(F) freight providers;

(G) the general public; and

(H) other entities and persons determined appropriate by the Secretary to ensure a diverse range of views.

(4) REPORT.—Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, and make readily available to the public, a report on the results of the investigation and study conducted under this subsection.

SEC. 1203. FREIGHT TRANSPORTATION GATEWAYS; FREIGHT INTERMODAL CONNECTIONS.

(a) FREIGHT TRANSPORTATION GATEWAYS.—Chapter 3 of title 23, United States Code, is amended by adding at the end the following:

"§ 325. Freight transportation gateways

"(a) IN GENERAL.—

"(1) ESTABLISHMENT.—The Secretary shall establish a freight transportation gateways program to improve productivity, security, and safety of freight transportation gateways, while mitigating congestion and community impacts in the area of the gateways.

"(2) PURPOSES.—The purposes of the freight transportation gateways program shall be—

"(A) to facilitate and support multimodal freight transportation initiatives at the State and local levels in order to improve freight transportation gateways and mitigate the impact of congestion on the environment in the area of the gateways;

"(B) to provide capital funding to address infrastructure and freight operational needs at freight transportation gateways;

"(C) to encourage adoption of new financing strategies to leverage State, local, and private investment in freight transportation gateways;

"(D) to facilitate access to intermodal freight transfer facilities; and

"(E) to increase economic efficiency by facilitating the movement of goods.

"(b) STATE RESPONSIBILITIES.—

"(1) PROJECT DEVELOPMENT PROCESS.—Each State, in coordination with metropolitan planning organizations, shall ensure that intermodal freight transportation, trade facilitation, and economic development needs are adequately considered and fully integrated into the project development process, including transportation planning through final design and construction of freight-related transportation projects.

"(2) FREIGHT TRANSPORTATION COORDINATOR.—

"(A) IN GENERAL.—Each State shall designate a freight transportation coordinator.

"(B) DUTIES.—The coordinator shall—

"(i) foster public and private sector collaboration needed to implement complex solutions to freight transportation and freight transportation gateway problems, including—

"(I) coordination of metropolitan and statewide transportation activities with trade and economic interests;

"(II) coordination with other States, agencies, and organizations to find regional solutions to freight transportation problems; and

"(III) coordination with local officials of the Department of Defense and the Department of Homeland Security, and with other organizations, to develop regional solutions to military and homeland security transportation needs; and

"(ii) promote programs that build professional capacity to better plan, coordinate, integrate, and understand freight transportation needs for the State.

"(c) INNOVATIVE FINANCE STRATEGIES.—

"(1) IN GENERAL.—States and localities are encouraged to adopt innovative financing strategies for freight transportation gateway improvements, including—

"(A) new user fees;

"(B) modifications to existing user fees, including trade facilitation charges;

"(C) revenue options that incorporate private sector investment; and

"(D) a blending of Federal-aid and innovative finance programs.

"(2) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States and localities with respect to the strategies.

"(d) INTERMODAL FREIGHT TRANSPORTATION PROJECTS.—

"(1) USE OF SURFACE TRANSPORTATION PROGRAM FUNDS.—A State may obligate funds apportioned to the State under section 104(b)(3) for publicly-owned intermodal freight transportation projects that provide community and highway benefits by addressing economic, congestion, system reliability, security, safety, or environmental issues associated with freight transportation gateways.

"(2) ELIGIBLE PROJECTS.—A project eligible for funding under this section—

"(A) may include publicly-owned intermodal freight transfer facilities, access to the facilities, and operational improvements for the facilities (including capital investment for intelligent transportation systems), except that projects located within the boundaries of port terminals shall only include the surface transportation infrastructure modifications necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port; and

"(B) may involve the combining of private and public funds.".

(b) ELIGIBILITY FOR SURFACE TRANSPORTATION PROGRAM FUNDS.—Section 133(b) of title 23, United States Code, is amended by inserting after paragraph (11) the following:

"(12) Intermodal freight transportation projects in accordance with section 325(d)(2).".

(c) FREIGHT INTERMODAL CONNECTIONS TO NHS.—Section 103(b) of title 23, United States Code, is amended by adding at the end the following:

"(7) FREIGHT INTERMODAL CONNECTIONS TO THE NHS.—

"(A) FUNDING SET-ASIDE.—Of the funds apportioned to a State for each fiscal year under section 104(b)(1), an amount determined in accordance with subparagraph (B) shall only be available to the State to be obligated for projects on—

"(i) National Highway System routes connecting to intermodal freight terminals identified according to criteria specified in the report to Congress entitled 'Pulling Together: The National Highway System and its Connections to Major Intermodal Terminals' dated May 24, 1996, referred to in paragraph (1), and any modifications to the connections that are consistent with paragraph (4);

"(ii) strategic highway network connectors to strategic military deployment ports; and

"(iii) projects to eliminate railroad crossings or make railroad crossing improvements.

"(B) DETERMINATION OF AMOUNT.—The amount of funds for each State for a fiscal year that shall be set aside under subparagraph (A) shall be equal to the greater of—

"(i) the product obtained by multiplying—

"(I) the total amount of funds apportioned to the State under section 104(b)(1); by

"(II) the percentage of miles that routes specified in subparagraph (A) constitute of the total miles on the National Highway System in the State; or

"(ii) 2 percent of the annual apportionment to the State of funds under 104(b)(1).

"(C) EXEMPTION FROM SET-ASIDE.—For any fiscal year, a State may obligate the funds otherwise set aside by this paragraph for any project that is eligible under paragraph (6) and is located in the State on a segment of the National Highway System specified in paragraph (2), if the State certifies and the Secretary concurs that—

"(i) the designated National Highway System intermodal connectors described in subparagraph (A) are in good condition and provide an adequate level of service for military vehicle and civilian commercial vehicle use; and

"(ii) significant needs on the designated National Highway System intermodal connectors are being met or do not exist.".

(d) FEDERAL SHARE PAYABLE.—Section 120 of title 23, United States Code, is amended by adding at the end the following:

"(m) INCREASED FEDERAL SHARE FOR CONNECTORS.—In the case of a project to support a National Highway System intermodal freight connection or strategic highway network connector to a strategic military deployment port described in section 103(b)(7), except as otherwise provided in section 120, the Federal share of the total cost of the project shall be 90 percent.".

(e) LENGTH LIMITATIONS.—Section 31111(e) of title 49, United States Code, is amended—

(1) by striking "The" and inserting the following:

"(1) IN GENERAL.—The"; and

(2) by adding at the end the following:

"(2) LENGTH LIMITATIONS.—In the interests of economic competitiveness, security, and intermodal connectivity, not later than 3 years after the date of enactment of this paragraph, States shall update the list of those qualifying highways to include—

"(A) strategic highway network connectors to strategic military deployment ports; and

"(B) National Highway System intermodal freight connections serving military and commercial truck traffic going to major intermodal terminals as described in section 103(b)(7)(A)(i).".

(f) CONFORMING AMENDMENT.—The analysis of chapter 3 of title 23, United States Code, is amended by adding at the end the following:

"325. Freight transportation gateways.".

SEC. 1204. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL AND MAINTENANCE FACILITIES; COORDINATION OF FERRY CONSTRUCTION AND MAINTENANCE.

(a) IN GENERAL.—Section 147 of title 23, United States Code, is amended to read as follows:

"§147. Construction of ferry boats and ferry terminal and maintenance facilities; coordination of ferry construction and maintenance

"(a) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—

"(1) IN GENERAL.—The Secretary shall carry out a program for construction of ferry boats and ferry terminal facilities in accordance with 129(c).

"(2) FEDERAL SHARE.—The Federal share of the cost of construction of ferry boats and ferry terminals and maintenance facilities under this subsection shall be 80 percent.

"(3) ALLOCATION OF FUNDS.—The Secretary shall give priority in the allocation of funds under this subsection to those ferry systems, and public entities responsible for developing ferries, that—

"(A) carry the greatest number of passengers and vehicles;

"(B) carry the greatest number of passengers in passenger-only service; or

"(C) provide critical access to areas that are not well-served by other modes of surface transportation.

"(b) NON-CONTRACT AUTHORITY AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $50,000,000 for each fiscal year to carry out this section.

"(2) AVAILABILITY.—Notwithstanding section 118(a), funds made available under paragraph (1) shall be available in advance of an annual appropriation.".

(b) CONFORMING AMENDMENTS.—

(1) The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 147 and inserting the following:

"147. Construction of ferry boats and ferry terminal and maintenance facilities.".

(2) Section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2005) is repealed.

SEC. 1205. DESIGNATION OF DANIEL PATRICK MOYNIHAN INTERSTATE HIGHWAY.

(a) DESIGNATION.—Interstate Highway 86 in the State of New York, extending from the Pennsylvania border near Lake Erie through Orange County, New York, shall be known and designated as the "Daniel Patrick Moynihan Interstate Highway".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the highway referred to in subsection (a) shall be deemed to be a reference to the Daniel Patrick Moynihan Interstate Highway.

SEC. 1206. STATE-BY-STATE COMPARISON OF HIGHWAY CONSTRUCTION COSTS.

(a) COLLECTION OF DATA.—

(1) IN GENERAL.—The Administrator of the Federal Highway Administration (referred to in this section as the "Administrator") shall collect from States any bid price data that is necessary to make State-by-State comparisons of highway construction costs.

(2) DATA REQUIRED.—In determining which data to collect and the procedures for collecting data, the Administrator shall take into account the data collection deficiencies identified in the report prepared by the General Accounting Office numbered GAO-04-113R.

(b) REPORT.—

(1) IN GENERAL.—The Administrator shall submit to Congress an annual report on the bid price data collected under subsection (a).

(2) INCLUSIONS.—The report shall include—

(A) State-by-State comparisons of highway construction costs for the previous fiscal year (including the cost to construct a 1-mile road segment of a standard design, as determined by the Administrator); and

(B) a description of the competitive bidding procedures used in each State; and

(C) a determination by Administrator as to whether the competitive bidding procedures described under subparagraph (B) are effective.

Subtitle C—Finance

SEC. 1301. FEDERAL SHARE.

Section 120 of title 23, United States Code, is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—Except as otherwise provided in this chapter, the Federal share payable on account of any project on the Interstate System (including a project to add high occupancy vehicle lanes and a project to add auxiliary lanes but excluding a project to add any other lanes) shall be 90 percent of the total cost of the project.";

(2) in subsection (b)—

(A) by striking "Except as otherwise" and inserting the following:

"(1) IN GENERAL.—Except as otherwise";

(B) by striking "shall be—" and all that follows and inserting "shall be 80 percent of the cost of the project."; and

(C) by adding at the end the following:

"(2) STATE-DETERMINED LOWER FEDERAL SHARE.—In the case of any project subject to this subsection, a State may determine a lower Federal share than the Federal share determined under paragraph (1).";

(3) by striking subsection (d) and inserting the following:

"(d) INCREASED FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share payable under subsection (a) or (b) may be increased for projects and activities in each State in which is located—

"(A) nontaxable Indian land;

"(B) public land (reserved or unreserved);

"(C) a national forest; or

"(D) a national park or monument.

"(2) AMOUNT.—

"(A) IN GENERAL.—The Federal share for States described in paragraph (1) shall be increased by a percentage of the remaining cost that—

"(i) is equal to the percentage that—

"(I) the area of all land described in paragraph (1) in a State; bears to

"(II) the total area of the State; but

"(ii) does not exceed 95 percent of the total cost of the project or activity for which the Federal share is provided.

"(B) ADJUSTMENT.—The Secretary shall adjust the Federal share for States under subparagraph (A) as the Secretary determines necessary, on the basis of data provided by the Federal agencies that are responsible for maintaining the data.".

SEC. 1302. TRANSFER OF HIGHWAY AND TRANSIT FUNDS.

Section 104 of title 23, United States Code, is amended by striking subsection (k) and inserting the following:

"(k) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—

"(1) TRANSFER OF HIGHWAY FUNDS FOR TRANSIT PROJECTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), funds made available for transit projects or transportation planning under this title may be transferred to and administered by the Secretary in accordance with chapter 53 of title 49.

"(B) NON-FEDERAL SHARE.—The provisions of this title relating to the non-Federal share shall apply to the transferred funds.

"(2) TRANSFER OF TRANSIT FUNDS FOR HIGHWAY PROJECTS.—Funds made available for highway projects or transportation planning under chapter 53 of title 49 may be transferred to and administered by the Secretary in accordance with this title.

"(3) TRANSFER OF HIGHWAY FUNDS TO OTHER FEDERAL AGENCIES.—

"(A) IN GENERAL.—Except as provided in clauses (i) and (ii) and subparagraph (B), funds made available under this title or any other Act that are derived from Highway Trust Fund (other than the Mass Transit account) may be transferred to another Federal agency if—

"(i)(I) an expenditure is specifically authorized in Federal-aid highway legislation or as a line item in an appropriation act; or

"(II) a State transportation department consents to the transfer of funds;

"(ii) the Secretary determines, after consultation with the State transportation department (as appropriate), that the Federal agency should carry out a project with the funds; and

"(iii) the other Federal agency agrees to accept the transfer of funds and to administer the project.

"(B) ADMINISTRATION.—

"(i) PROCEDURES.—A project carried out with funds transferred to a Federal agency under subparagraph (A) shall be administered by the Federal agency under the procedures of the Federal agency.

"(ii) APPROPRIATIONS.—Funds transferred to a Federal agency under subparagraph (A) shall not be considered an augmentation of the appropriations of the Federal agency.

"(iii) NON-FEDERAL SHARE.—The provisions of this title, or an Act described in subparagraph (A), relating to the non-Federal share shall apply to a project carried out with the transferred funds, unless the Secretary determines that it is in the best interest of the United States that the non-Federal share be waived.

"(4) TRANSFER OF FUNDS AMONG STATES OR TO FEDERAL HIGHWAY ADMINISTRATION.—

"(A) In general.—Subject to subparagraphs (B) through (D), the Secretary may, at the request of a State, transfer funds apportioned or allocated to the State to another State, or to the Federal Highway Administration, for the purpose of funding 1 or more specific projects.

"(B) Administration.—The transferred funds shall be used for the same purpose and in the same manner for which the transferred funds were authorized.

"(C) Apportionment.—The transfer shall have no effect on any apportionment formula used to distribute funds to States under this section or section 105 or 144.

"(D) Surface transportation program.—Funds that are apportioned or allocated to a State under subsection (b)(3) and attributed to an urbanized area of a State with a population of over 200,000 individuals under section 133(d)(2) may be transferred under this paragraph only if the metropolitan planning organization designated for the area concurs, in writing, with the transfer request.

"(5) Transfer of obligation authority.—Obligation authority for funds transferred under this subsection shall be transferred in the same manner and amount as the funds for the projects are transferred under this subsection.".

SEC. 1303. TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT AMENDMENTS.

(a) Definitions.—Section 181 of title 23, United States Code, is amended—

(1) in paragraph (3), by striking "category" and "offered into the capital markets";

(2) by striking paragraph (7) and redesignating paragraphs (8) through (15) as paragraphs (7) through (14) respectively;

(3) in paragraph (8) (as redesignated by paragraph (2))—

(A) in subparagraph (B), by striking the period at the end and inserting a semicolon; and

(B) by striking subparagraph (D) and inserting the following:

"(D) a project that—

"(i)(I) is a project for—

"(aa) a public freight rail facility or a private facility providing public benefit;

"(bb) an intermodal freight transfer facility;

"(cc) a means of access to a facility described in item (aa) or (bb);

"(dd) a service improvement for a facility described in item (aa) or (bb) (including a capital investment for an intelligent transportation system); or

"(II) comprises a series of projects described in subclause (I) with the common objective of improving the flow of goods;

"(ii) may involve the combining of private and public sector funds, including investment of public funds in private sector facility improvements; and

"(iii) if located within the boundaries of a port terminal, includes only such surface transportation infrastructure modifications as are necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port."; and

(4) in paragraph (10) (as redesignated by paragraph (2)) by striking "bond" and inserting "credit".

(b) Determination of Eligibility and Project Selection.—Section 182 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraphs (1) and (2) and inserting the following:

"(1) Inclusion in transportation plans and programs.—The project shall satisfy the applicable planning and programming requirements of sections 134 and 135 at such time as an agreement to make available a Federal credit instrument is entered into under this subchapter.

"(2) Application.—A State, local government, public authority, public-private partnership, or any other legal entity undertaking the project and authorized by the Secretary shall submit a project application to the Secretary.";

(B) in paragraph (3)(A)—

(i) in clause (i), by striking "$100,000,000" and inserting "$50,000,000"; and

(ii) in clause (ii), by striking "50" and inserting "20"; and

(C) in paragraph (4)—

(i) by striking "Project financing" and inserting "The Federal credit instrument"; and

(ii) by inserting before the period at the end the following: "that also secure the project obligations"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking "criteria" the second place it appears and inserting "requirements"; and

(B) in paragraph (2)(B), by inserting "(which may be the Federal credit instrument)" after "obligations".

(c) Secured Loans.—Section 183 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "of any project selected under section 182." at the end;

(ii) in subparagraphs (A) and (B), by inserting "of any project selected under section 182" after "costs" ; and

(iii) in subparagraph (B), by striking the semicolon at the end and inserting a period; and

(B) in paragraph (4)—

(i) by striking "funding" and inserting "execution"; and

(ii) by striking "rating," and all that follows and inserting a period;

(2) in subsection (b)—

(A) by striking paragraph (2) and inserting the following:

"(2) Maximum amount.—The amount of the secured loan shall not exceed the lesser of—

"(A) 33 percent of the reasonably anticipated eligible project costs; or

"(B) the amount of the senior project obligations.";

(B) in paragraph (3)(A)(i), by inserting "that also secure the senior project obligations" after "sources"; and

(C) in paragraph (4), by striking "marketable"; and

(3) in subsection (c)—

(A) by striking paragraph (3);

(B) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively; and

(C) in paragraph (3) (as redesignated by subparagraph (B))—

(i) in subparagraph (A), by striking "during the 10 years"; and

(ii) in subparagraph (B)(ii), by striking "loan" and all that follows and inserting "loan.".

(d) Lines of Credit.—Section 184 of title 23, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (3), by striking "interest, any debt service reserve fund, and any other available reserve" and inserting "interest (but not including reasonably required financing reserves)";

(B) in paragraph (4), by striking "marketable United States Treasury securities as of the date on which the line of credit is obligated" and inserting " United States Treasury securities as of the date of execution of the line of credit agreement"; and

(C) in paragraph (5)(A)(i), by inserting "that also secure the senior project obligations" after "sources"; and

(2) in subsection (c)—

(A) in paragraph (2)—

(i) by striking "scheduled";

(ii) by inserting "be scheduled to" after "shall"; and

(iii) by striking "be fully repaid, with interest," and inserting "to conclude, with full repayment of principal and interest,"; and

(B) by striking paragraph (3).

(e) Program Administration.—Section 185 of title 23, United States Code, is amended to read as follows:

"§ 185. Program administration

"(a) Requirement.—The Secretary shall establish a uniform system to service the Federal credit instruments made available under this subchapter.

"(b) Fees.—The Secretary may establish fees at a level to cover all or a portion of the costs to the Federal government of servicing the Federal credit instruments.

"(c) Servicer.—

"(1) In general.—The Secretary may appoint a financial entity to assist the Secretary in servicing the Federal credit instruments.

"(2) Duties.—The servicer shall act as the agent for the Secretary.

"(3) Fee.—The servicer shall receive a servicing fee, subject to approval by the Secretary.

"(d) Assistance From Expert Firms.—The Secretary may retain the services of expert firms, including counsel, in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments.".

(f) Funding.—Section 188 of title 23, United States Code, is amended to read as follows:

"§ 188. Funding

"(a) Funding.—

"(1) In general.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter $130,000,000 for each of fiscal years 2004 through 2009.

"(2) Administrative costs.—Of amounts made available under paragraph (1), the Secretary may use for the administration of this subchapter not more than $2,000,000 for each of fiscal years 2004 through 2009.

"(3) Collected fees and services.—In addition to funds provided under paragraph (2)—

"(A) all fees collected under this subchapter shall be made available without further appropriation to the Secretary until expended, for use in administering this subchapter; and

"(B) the Secretary may accept and use payment or services provided by transaction participants, or third parties that are paid by participants from transaction proceeds, for due diligence, legal, financial, or technical services.

"(4) Availability.—Amounts made available under paragraph (1) shall remain available until expended.

"(b) Contract Authority.—

"(1) In general.—Notwithstanding any other provision of law, approval by the Secretary of a Federal credit instrument that uses funds made available under this subchapter shall be deemed to be acceptance by the United States of a contractual obligation to fund the Federal credit investment.

"(2) Availability.—Amounts authorized under this section for a fiscal year shall be available for obligation on October 1 of the fiscal year.".

(g) Repeal.—Section 189 of title 23, United States code, is repealed.

(h) Conforming Amendments.—The analysis for chapter 1 of title 23, United States Code, is amended—

(1) by striking the item relating to section 185 and inserting the following:

"185. Program administration.";

and

(2) by striking the item relating to section 189.

SEC. 1304. FACILITATION OF INTERNATIONAL REGISTRATION PLANS AND INTERNATIONAL FUEL TAX AGREEMENTS.

(a) In General.—Chapter 317 of title 49, United States Code, is amended by adding at the end the following:

"§ 31708. Facilitation of international registration plans and international fuel tax agreements

"The Secretary may provide assistance to any State that is participating in the International Registration Plan and International Fuel Tax Agreement, as provided in sections 31704 and 31705, respectively, and that serves as a base jurisdiction for motor carriers that are domiciled in Mexico, to assist the State with administrative costs resulting from serving as a base jurisdiction for motor carriers from Mexico.".

(b) Conforming Amendment.—The analysis for chapter 317 of title 49, United States Code, is amended by adding at the end the following:

"31708. Facilitation of international registration plans and international fuel tax agreements.".

SEC. 1305. NATIONAL COMMISSION ON FUTURE REVENUE SOURCES TO SUPPORT THE HIGHWAY TRUST FUND AND FINANCE THE NEEDS OF THE SURFACE TRANSPORTATION SYSTEM.

(a) Establishment.—There is established a commission to be known as the "National Commission on Future Revenue Sources to Support the Highway Trust Fund and Finance the Needs of the Surface Transportation System" (referred to in this section as the "Commission").

(b) Membership.—

(1) Composition.—The Commission shall be composed of 11 members, of whom—

(A) 3 members shall be appointed by the President;

(B) 2 members shall be appointed by the Speaker of the House of Representatives;

(C) 2 members shall be appointed by the minority leader of the House of Representatives;

(D) 2 members shall be appointed by the majority leader of the Senate; and

(E) 2 members shall be appointed by the minority leader of the Senate.

(2) Qualifications.—Members appointed under paragraph (1) shall have experience in or represent the interests of—

(A) public finance, including experience in developing State and local revenue resources;

(B) surface transportation program administration;

(C) organizations that use surface transportation facilities;

(D) academic research into related issues; or

(E) other activities that provide unique perspectives on current and future requirements for revenue sources to support the Highway Trust Fund.

(3) Date of appointments.—The appointment of a member of the Commission shall be made not later than 120 days after the date of establishment of the Commission.

(4) Terms.—A member shall be appointed for the life of the Commission.

(5) Vacancies.—A vacancy on the Commission—

(A) shall not affect the powers of the Commission; and

(B) shall be filled in the same manner as the original appointment was made.

(6) Initial meeting.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold the initial meeting of the Commission.

(7) Meetings.—The Commission shall meet at the call of the Chairperson.

(8) Quorum.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(9) Chairperson and vice chairperson.—The Commission shall select a Chairperson and Vice Chairperson from among the members of the Commission.

(c) Duties.—

(1) In general.—The Commission shall—

(A) conduct a comprehensive study of alternatives to replace or to supplement the fuel tax as the principal revenue source to support the Highway Trust Fund and suggest new or alternative sources of revenue to fund the needs of the surface transportation system over at least the next 30 years;

(B) conduct the study in a manner that builds on—

(i) findings, conclusions, and recommendations of the recent study conducted by the Transportation Research Board on alternatives to the fuel tax to support highway program financing; and

(ii) other relevant prior research;

(C) consult with the Secretary and the Secretary of the Treasury in conducting the study to ensure that the views of the Secretaries concerning essential attributes of Highway Trust Fund revenue alternatives are considered;

(D) consult with representatives of State Departments of Transportation and metropolitan planning organizations and other key interested stakeholders in conducting the study to ensure that—

(i) the views of the stakeholders on alternative revenue sources to support State transportation improvement programs are considered; and

(ii) any recommended Federal financing strategy takes into account State financial requirements; and

(E) based on the study, make specific recommendations regarding—

(i) actions that should be taken to develop alternative revenue sources to support the Highway Trust Fund; and

(ii) the time frame for taking those actions.

(2) Specific matters.—The study shall address specifically—

(A) the advantages and disadvantages of alternative revenue sources to meet anticipated Federal surface transportation financial requirements;

(B) recommendations concerning the most promising revenue sources to support long-term Federal surface transportation financing requirements;

(C) development of a broad transition strategy to move from the current tax base to new funding mechanisms, including the time frame for various components of the transition strategy;

(D) recommendations for additional research that may be needed to implement recommended alternatives; and

(E) the extent to which revenues should reflect the relative use of the highway system.

(3) Related work.—To the maximum extent practicable, the study shall build on related work that has been done by—

(A) the Secretary of Transportation;

(B) the Secretary of Energy;

(C) the Transportation Research Board; and

(D) other entities and persons.

(4) Factors.—In developing recommendations under this subsection, the Commission shall consider—

(A) the ability to generate sufficient revenues from all modes to meet anticipated long-term surface transportation financing needs;

(B) the roles of the various levels of government and the private sector in meeting future surface transportation financing needs;

(C) administrative costs (including enforcement costs) to implement each option;

(D) the expected increase in non-taxed fuels and the impact of taxing those fuels;

(E) the likely technological advances that could ease implementation of each option;

(F) the equity and economic efficiency of each option;

(G) the flexibility of different options to allow various pricing alternatives to be implemented; and

(H) potential compatibility issues with State and local tax mechanisms under each alternative.

(5) Report and recommendations.—Not later than September 30, 2007, the Commission shall submit to Congress a final report that contains—

(A) a detailed statement of the findings and conclusions of the Commission; and

(B) the recommendations of the Commission for such legislation and administrative actions as the Commission considers appropriate.

(d) Powers.—

(1) Hearings.—The Commission may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this section.

(2) Information from federal agencies.—

(A) In general.—The Commission may secure directly from a Federal agency such information as the Commission considers necessary to carry out this section.

(B) Provision of information.—On request of the Chairperson of the Commission, the head of the agency shall provide the information to the Commission.

(3) Postal services.—The Commission may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.

(4) Donations.—The Commission may accept, use, and dispose of donations of services or property.

(e) Commission Personnel Matters.—

(1) Members.—A member of the Commission shall serve without pay but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(2) Contractor.—The Commission may contract with an appropriate organization, agency, or entity to conduct the study required under this section, under the strategic guidance of the Commission.

(3) Administrative support.—On the request of the Commission, the Administrator of the Federal Highway Administration shall provide to the Commission, on a reimbursable basis, the administrative support and

services necessary for the Commission to carry out the duties of the Commission under this section.

(4) DETAIL OF DEPARTMENT PERSONNEL.—

(A) IN GENERAL.—On the request of the Commission, the Secretary may detail, on a reimbursable basis, any of the personnel of the Department to the Commission to assist the Commission in carrying out the duties of the Commission under this section.

(B) CIVIL SERVICE STATUS.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

(5) COOPERATION.—The staff of the Secretary shall cooperate with the Commission in the study required under this section, including providing such nonconfidential data and information as are necessary to conduct the study.

(f) RELATIONSHIP TO OTHER LAWS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), funds made available to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(2) FEDERAL SHARE.—The Federal share of the cost of the study and the Commission under this section shall be 100 percent.

(3) AVAILABILITY.—Funds made available to carry out this section shall remain available until expended.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $3,000,000 for fiscal year 2004.

(h) TERMINATION.—

(1) IN GENERAL.—The Commission shall terminate on the date that is 180 days after the date on which the Commission submits the report of the Commission under subsection (c)(5).

(2) RECORDS.—Not later than the termination date for the Commission, all records and papers of the Commission shall be delivered to the Archivist of the United States for deposit in the National Archives.

SEC. 1306. STATE INFRASTRUCTURE BANKS.

Section 1511(b)(1)(A) of the Transportation Equity Act for the 21st Century (23 U.S.C. 181 note; 112 Stat. 251) is amended by striking "Missouri," and all that follows through "for the establishment" and inserting "Missouri, Rhode Island, Texas, and any other State that seeks such an agreement for the establishment".

SEC. 1307. PUBLIC-PRIVATE PARTNERSHIPS PILOT PROGRAM.

Section 109(c) of title 23, United States Code, is amended by adding at the end the following:

"(3) PUBLIC-PRIVATE PARTNERSHIPS PILOT PROGRAM.—

"(A) IN GENERAL.—The Secretary may undertake a pilot program to demonstrate the advantages of public-private partnerships for critical capital development projects, including highway, bridge, and freight intermodal connector projects authorized under this title.

"(B) PROJECTS.—In carrying out the program, the Secretary shall—

"(i) select not less than 10 qualified public-private partnership projects that are authorized under applicable State and local laws; and

"(ii) use funds made available to carry out the program to provide to sponsors of the projects assistance for development phase activities described in section 181(1)(A), to enhance project delivery and reduce overall costs.".

SEC. 1308. WAGERING.

(a) IN GENERAL.—Chapter 35 of the Internal Revenue Code of 1986 is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 4901 of the Internal Revenue Code is amended to read as follows:

"SEC. 4901. PAYMENT OF TAX.

"All special taxes shall be imposed as of on the first day of July in each year, or on commencing any trade or business on which such tax is imposed. In the former case the tax shall be reckoned for 1 year, and in the latter case it shall be reckoned proportionately, from the first day of the month in which the liability to a special tax commenced, to and including the 30th day of June following.".

(2) Section 4903 of such Code is amended by striking ", other than the tax imposed by section 4411,".

(3) Section 4905 of such Code is amended to read as follows:

"SEC. 4905. LIABILITY IN CASE OF DEATH OR CHANGE OF LOCATION.

"When any person who has paid the special tax for any trade or business dies, his spouse or child, or executors or administrators or other legal representatives, may occupy the house or premises, and in like manner carry on, for the residue of the term for which the tax is paid, the same trade or business as the deceased before carried on, in the same house and upon the same premises, without the payment of any additional tax. When any person removes from the house or premises for which any trade or business was taxed to any other place, he may carry on the trade or business specified in the register kept in the office of the official in charge of the internal revenue district at the place to which he removes, without the payment of any additional tax: *Provided*, That all cases of death, change, or removal, as aforesaid, with the name of the successor to any person deceased, or of the person making such change or removal, shall be registered with the Secretary, under regulations to be prescribed by the Secretary.".

(4) Section 4907 of such Code is amended by striking ", except the tax imposed by section 4411,".

(5) Section 6103(i)(8)(A) of such Code is amended—

(A) by striking ", except to the extent authorized by subsection (f) or (p)(6), disclose to any person, other than another officer or employee of such office whose official duties require such disclosure, any return or return information described in section 4424(a) in a form which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer, nor shall such officer or employee disclose any other" and inserting "disclose any", and

(B) by striking "such other officer" and inserting "such officer".

(6) Section 6103(o) of such Code is amended to read as follows:

"(o) DISCLOSURE OF RETURNS AND RETURN INFORMATION WITH RESPECT TO TAXES IMPOSED BY SUBTITLE E.—Returns and return information with respect to taxes imposed by subtitle E (relating to taxes on alcohol, tobacco, and firearms) shall be open to inspection by or disclosure to officers and employees of a Federal agency whose official duties require such inspection or disclosure.".

(7)(A) Subchapter B of chapter 65 of such Code is amended by striking section 6419 (relating to excise tax on wagering).

(B) The table of section of subchapter B of chapter 65 of such Code is amended by striking the item relating to section 6419.

(8) Section 6806 of such Code is amended by striking "under subchapter B of chapter 35, under subchapter B of chapter 36," and inserting "under subchapter B of chapter 36".

(9) Section 7012 of such Code is amended by striking paragraph (2) and by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

(10)(A) Subchapter B of chapter 75 of such Code is amended by striking section 7262 (relating to violation of occupational tax laws relating to wagering-failure to pay special tax).

(B) The table of sections of subchapter B of chapter 75 of such Code is amended by striking the item relating to section 7262.

(11) Section 7272 of such Code, as amended by section 5244 of this Act, is amended to read as follows:

"SEC. 7272. PENALTY FOR FAILURE TO REGISTER.

"Any person (other than persons required to register under subtitle E, or persons engaging in a trade or business on which a special tax is imposed by such subtitle) who fails to register with the Secretary as required by this title or by regulations issued thereunder shall be liable to a penalty of $50 ($10,000 in the case of a failure to register under section 4101).".

(12) Section 7613(a) is amended by striking "or other data in the case of" and all that follows and inserting "or other data in the case of alcohol, tobacco, and firearms taxes, see subtitle E.".

(13) The table of chapters of subtitle D of such Code is amended by striking the item relating to chapter 35.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to wagers placed after the date of the enactment of this Act.

(2) SPECIAL TAXES.—In the case of amendments made by this section relating to special taxes imposed by subchapter B of chapter 35, the amendments made by this section shall take effect on July 1, 2004.

Subtitle D—Safety

SEC. 1401. HIGHWAY SAFETY IMPROVEMENT PROGRAM.

(a) SAFETY IMPROVEMENT.—

(1) IN GENERAL.—Section 148 of title 23, United States Code, is amended to read as follows:

"§ 148. Highway safety improvement program

"(a) DEFINITIONS.—In this section:

"(1) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term 'highway safety improvement program' means the program carried out under this section.

"(2) HIGHWAY SAFETY IMPROVEMENT PROJECT.—

"(A) IN GENERAL.—The term 'highway safety improvement project' means a project described in the State strategic highway safety plan that—

"(i) corrects or improves a hazardous road location or feature; or

"(ii) addresses a highway safety problem.

"(B) INCLUSIONS.—The term 'highway safety improvement project' includes a project for—

"(i) an intersection safety improvement;

"(ii) pavement and shoulder widening (including addition of a passing lane to remedy an unsafe condition);

"(iii) installation of rumble strips or another warning device, if the rumble strips or other warning devices do not adversely affect the safety or mobility of bicyclists and pedestrians;

"(iv) installation of a skid-resistant surface at an intersection or other location with a high frequency of accidents;

"(v) an improvement for pedestrian or bicyclist safety;

"(vi)(I) construction of any project for the elimination of hazards at a railway-highway crossing that is eligible for funding under section 130, including the separation or protection of grades at railway-highway crossings;

"(II) construction of a railway-highway crossing safety feature; or

"(III) the conduct of a model traffic enforcement activity at a railway-highway crossing;

"(vii) construction of a traffic calming feature;

"(viii) elimination of a roadside obstacle;

"(ix) improvement of highway signage and pavement markings;

"(x) installation of a priority control system for emergency vehicles at signalized intersections;

"(xi) installation of a traffic control or other warning device at a location with high accident potential;

"(xii) safety-conscious planning;

"(xiii) improvement in the collection and analysis of crash data;

"(xiv) planning, integrated, interoperable emergency communications, equipment, operational activities, or traffic enforcement activities (including police assistance) relating to workzone safety;

"(xv) installation of guardrails, barriers (including barriers between construction work zones and traffic lanes for the safety of motorists and workers), and crash attenuators;

"(xvi) the addition or retrofitting of structures or other measures to eliminate or reduce accidents involving vehicles and wildlife; or

"(xvii) installation and maintenance of signs (including fluorescent, yellow-green signs) at pedestrian-bicycle crossings and in school zones.

"(3) SAFETY PROJECT UNDER ANY OTHER SECTION.—

"(A) IN GENERAL.—The term 'safety project under any other section' means a project carried out for the purpose of safety under any other section of this title.

"(B) INCLUSION.—The term 'safety project under any other section' includes a project to—

"(i) promote the awareness of the public and educate the public concerning highway safety matters; or

"(ii) enforce highway safety laws.

"(4) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term 'State highway safety improvement program' means projects or strategies included in the State strategic highway safety plan carried out as part of the State transportation improvement program under section 135(f).

"(5) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term 'State strategic highway safety plan' means a plan developed by the State transportation department that—

"(A) is developed after consultation with—

"(i) a highway safety representative of the Governor of the State;

"(ii) regional transportation planning organizations and metropolitan planning organizations, if any;

"(iii) representatives of major modes of transportation;

"(iv) State and local traffic enforcement officials;

"(v) persons responsible for administering section 130 at the State level;

"(vi) representatives conducting Operation Lifesaver;

"(vii) representatives conducting a motor carrier safety program under section 31104 or 31107 of title 49;

"(viii) motor vehicle administration agencies; and

"(ix) other major State and local safety stakeholders;

"(B) analyzes and makes effective use of State, regional, or local crash data;

"(C) addresses engineering, management, operation, education, enforcement, and emergency services elements (including integrated, interoperable emergency communications) of highway safety as key factors in evaluating highway projects;

"(D) considers safety needs of, and high-fatality segments of, public roads;

"(E) considers the results of State, regional, or local transportation and highway safety planning processes;

"(F) describes a program of projects or strategies to reduce or eliminate safety hazards;

"(G) is approved by the Governor of the State or a responsible State agency; and

"(H) is consistent with the requirements of section 135(f).

"(b) PROGRAM.—

"(1) IN GENERAL.—The Secretary shall carry out a highway safety improvement program.

"(2) PURPOSE.—The purpose of the highway safety improvement program shall be to achieve a significant reduction in traffic fatalities and serious injuries on public roads.

"(c) ELIGIBILITY.—

"(1) IN GENERAL.—To obligate funds apportioned under section 104(b)(5) to carry out this section, a State shall have in effect a State highway safety improvement program under which the State—

"(A) develops and implements a State strategic highway safety plan that identifies and analyzes highway safety problems and opportunities as provided in paragraph (2);

"(B) produces a program of projects or strategies to reduce identified safety problems;

"(C) evaluates the plan on a regular basis to ensure the accuracy of the data and priority of proposed improvements; and

"(D) submits to the Secretary an annual report that—

"(i) describes, in a clearly understandable fashion, not less than 5 percent of locations determined by the State, using criteria established in accordance with paragraph (2)(B)(ii), as exhibiting the most severe safety needs; and

"(ii) contains an assessment of—

"(I) potential remedies to hazardous locations identified;

"(II) estimated costs associated with those remedies; and

"(III) impediments to implementation other than cost associated with those remedies.

"(2) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As part of the State strategic highway safety plan, a State shall—

"(A) have in place a crash data system with the ability to perform safety problem identification and countermeasure analysis;

"(B) based on the analysis required by subparagraph (A)—

"(i) identify hazardous locations, sections, and elements (including roadside obstacles, railway-highway crossing needs, and unmarked or poorly marked roads) that constitute a danger to motorists, bicyclists, pedestrians, and other highway users; and

"(ii) using such criteria as the State determines to be appropriate, establish the relative severity of those locations, in terms of accidents, injuries, deaths, traffic volume levels, and other relevant data;

"(C) adopt strategic and performance-based goals that—

"(i) address traffic safety, including behavioral and infrastructure problems and opportunities on all public roads;

"(ii) focus resources on areas of greatest need; and

"(iii) are coordinated with other State highway safety programs;

"(D) advance the capabilities of the State for traffic records data collection, analysis, and integration with other sources of safety data (such as road inventories) in a manner that—

"(i) complements the State highway safety program under chapter 4 and the commercial vehicle safety plan under section 31102 of title 49;

"(ii) includes all public roads;

"(iii) identifies hazardous locations, sections, and elements on public roads that constitute a danger to motorists, bicyclists, pedestrians, and other highway users; and

"(iv) includes a means of identifying the relative severity of hazardous locations described in clause (iii) in terms of accidents, injuries, deaths, and traffic volume levels;

"(E)(i) determine priorities for the correction of hazardous road locations, sections, and elements (including railway-highway crossing improvements), as identified through crash data analysis;

"(ii) identify opportunities for preventing the development of such hazardous conditions; and

"(iii) establish and implement a schedule of highway safety improvement projects for hazard correction and hazard prevention; and

"(F)(i) establish an evaluation process to analyze and assess results achieved by highway safety improvement projects carried out in accordance with procedures and criteria established by this section; and

"(ii) use the information obtained under clause (i) in setting priorities for highway safety improvement projects.

"(d) ELIGIBLE PROJECTS.—

"(1) IN GENERAL.—A State may obligate funds apportioned to the State under section 104(b)(5) to carry out—

"(A) any highway safety improvement project on any public road or publicly owned bicycle or pedestrian pathway or trail; or

"(B) as provided in subsection (e), for other safety projects.

"(2) USE OF OTHER FUNDING FOR SAFETY.—

"(A) EFFECT OF SECTION.—Nothing in this section prohibits the use of funds made available under other provisions of this title for highway safety improvement projects.

"(B) USE OF OTHER FUNDS.—States are encouraged to address the full scope of their safety needs and opportunities by using funds made available under other provisions of this title (except a provision that specifically prohibits that use).

"(e) FLEXIBLE FUNDING FOR STATES WITH A STRATEGIC HIGHWAY SAFETY PLAN.—

"(1) IN GENERAL.—To further the implementation of a State strategic highway safety plan, a State may use up to 25 percent of the amount of funds made available under this section for a fiscal year to carry out safety projects under any other section as provided in the State strategic highway safety plan.

"(2) OTHER TRANSPORTATION AND HIGHWAY SAFETY PLANS.—Nothing in this subsection requires a State to revise any State process, plan, or program in effect on the date of enactment of this section.

"(f) REPORTS.—

"(1) IN GENERAL.—A State shall submit to the Secretary a report that—

"(A) describes progress being made to implement highway safety improvement projects under this section;

"(B) assesses the effectiveness of those improvements; and

"(C) describes the extent to which the improvements funded under this section contribute to the goals of—

"(i) reducing the number of fatalities on roadways;

"(ii) reducing the number of roadway-related injuries;

"(iii) reducing the occurrences of roadway-related crashes;

"(iv) mitigating the consequences of roadway-related crashes; and

"(v) reducing the occurrences of roadway-railroad grade crossing crashes.

"(2) Contents; schedule.—The Secretary shall establish the content and schedule for a report under paragraph (1).

"(3) Transparency.—The Secretary shall make reports under subsection (c)(1)(D) available to the public through—

"(A) the Internet site of the Department; and

"(B) such other means as the Secretary determines to be appropriate.

"(4) Discovery and admission into evidence of certain reports, surveys, and information.—Notwithstanding any other provision of law, reports, surveys, schedules, lists, or data compiled or collected for any purpose directly relating to paragraph (1) or subsection (c)(1)(D), or published by the Secretary in accordance with paragraph (3), shall not be subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location identified or addressed in such reports, surveys, schedules, lists, or other data.

"(g) Federal Share of Highway Safety Improvement Projects.—Except as provided in sections 120 and 130, the Federal share of the cost of a highway safety improvement project carried out with funds made available under this section shall be 90 percent.

"(h) Funds for Bicycle and Pedestrian Safety.—A State shall allocate for bicycle and pedestrian improvements in the State a percentage of the funds remaining after implementation of sections 130(e) and 150, in an amount that is equal to or greater than the percentage of all fatal crashes in the States involving bicyclists and pedestrians.

"(i) Roadway Safety Improvements for Older Drivers and Pedestrians.—For each of fiscal years 2004 through 2009, $25,000,000 is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for projects in all States to improve traffic signs and pavement markings in a manner consistent with the recommendations included in the publication of the Federal Highway Administration entitled 'Guidelines and Recommendations to Accommodate Older Drivers and Pedestrians (FHWA-RD-01-103)' and dated October 2001.".

(2) Allocations of apportioned funds.—Section 133(d) of title 23, United States Code, is amended—

(A) by striking paragraph (1);

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively;

(C) in paragraph (2) (as redesignated by subparagraph (B))—

(i) in the first sentence of subparagraph (A)—

(I) by striking "subparagraphs (C) and (D)" and inserting "subparagraph (C)"; and

(II) by striking "80 percent" and inserting "90 percent";

(ii) in subparagraph (B), by striking "tobe" and inserting "to be";

(iii) by striking subparagraph (C);

(iv) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and

(v) in subparagraph (C) (as redesignated by clause (iv)), by adding a period at the end; and

(D) in paragraph (4)(A) (as redesignated by subparagraph (B)), by striking "paragraph (2)" and inserting "paragraph (1)".

(3) Administration.—Section 133(e) of title 23, United States Code, is amended in each of paragraphs (3)(B)(i), (5)(A), and (5)(B) of subsection (e), by striking "(d)(2)" each place it appears and inserting "(d)(1)".

(4) Conforming amendments.—

(A) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 148 and inserting the following:

"148. Highway safety improvement program.".

(B) Section 104(g) of title 23, United States Code, is amended in the first sentence by striking "sections 130, 144, and 152 of this title" and inserting "sections 130 and 144".

(C) Section 126 of title 23, United States Code, is amended—

(i) in subsection (a), by inserting "under" after "State's apportionment"; and

(ii) in subsection (b)—

(I) in the first sentence, by striking "the last sentence of section 133(d)(1) or to section 104(f) or to section 133(d)(3)" and inserting "section 104(f) or 133(d)(2)"; and

(II) in the second sentence, by striking "or 133(d)(2)".

(D) Sections 154, 164, and 409 of title 23, United States Code, are amended by striking "152" each place it appears and inserting "148".

(b) Apportionment of Highway Safety Improvement Program Funds.—Section 104(b) of title 23, United States Code, is amended—

(1) in the matter preceding paragraph (1), by inserting after "Improvement program," the following: "the highway safety improvement program,"; and

(2) by adding at the end the following:

"(5) Highway safety improvement program.—

"(A) In general.—For the highway safety improvement program, in accordance with the following formula:

"(i) 25 percent of the apportionments in the ratio that—

"(I) the total lane miles of Federal-aid highways in each State; bears to

"(II) the total lane miles of Federal-aid highways in all States.

"(ii) 40 percent of the apportionments in the ratio that—

"(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

"(II) the total vehicle miles traveled on lanes on Federal-aid highways in all States.

"(iii) 35 percent of the apportionments in the ratio that—

"(I) the estimated tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available; bears to

"(II) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available.

"(B) Minimum apportionment.—Notwithstanding subparagraph (A), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.".

(c) Elimination of Hazards Relating to Railway-Highway Crossings.—

(1) Funds for railway-highway crossings.—Section 130(e) of title 23, United States Code, is amended by inserting before "At least" the following: "For each fiscal year, at least $200,000,000 of the funds authorized and expended under section 148 shall be available for the elimination of hazards and the installation of protective devices at railway-highway crossings.".

(2) Biennial reports to congress.—Section 130(g) of title 23, United States Code, is amended in the third sentence—

(A) by inserting "and the Committee on Commerce, Science, and Transportation," after "Public Works"; and

(B) by striking "not later than April 1 of each year" and inserting "every other year".

(3) Expenditure of funds.—Section 130 of title 23, United States Code, is amended by adding at the end the following:

"(k) Expenditure of Funds.—Funds made available to carry out this section shall be—

"(1) available for expenditure on compilation and analysis of data in support of activities carried out under subsection (g); and

"(2) apportioned in accordance with section 104(b)(5).".

(d) Transition.—

(1) Implementation.—Except as provided in paragraph (2), the Secretary shall approve obligations of funds apportioned under section 104(b)(5) of title 23, United States Code (as added by subsection (b)) to carry out section 148 of that title, only if, not later than October 1 of the second fiscal year after the date of enactment of this Act, a State has developed and implemented a State strategic highway safety plan as required under section 148(c) of that title.

(2) Interim period.—

(A) In general.—Before October 1 of the second fiscal year after the date of enactment of this Act and until the date on which a State develops and implements a State strategic highway safety plan, the Secretary shall apportion funds to a State for the highway safety improvement program and the State may obligate funds apportioned to the State for the highway safety improvement program under section 148 for projects that were eligible for funding under sections 130 and 152 of that title, as in effect on the day before the date of enactment of this Act.

(B) No strategic highway safety plan.—If a State has not developed a strategic highway safety plan by October 1 of the second fiscal year after the date of enactment of this Act, but demonstrates to the satisfaction of the Secretary that progress is being made toward developing and implementing such a plan, the Secretary shall continue to apportion funds for 1 additional fiscal year for the highway safety improvement program under section 148 of title 23, United States Code, to the State, and the State may continue to obligate funds apportioned to the State under this section for projects that were eligible for funding under sections 130 and 152 of that title, as in effect on the day before the date of enactment of this Act.

(C) Penalty.—If a State has not adopted a strategic highway safety plan by the date that is 2 years after the date of enactment of this Act, funds made available to the State under section 1101(6) shall be redistributed to other States in accordance with section 104(b)(3) of title 23, United States Code.

SEC. 1402. OPERATION LIFESAVER.

Section 104(d)(1) of title 23, United States Code, is amended—

(1) by striking "subsection (b)(3)" and inserting "subsection (b)(5)"; and

(2) by striking "$500,000" and inserting "$600,000".

SEC. 1403. LICENSE SUSPENSION.

Section 164(a) of title 23, United States Code, is amended by striking paragraph (3) and inserting the following:

"(3) LICENSE SUSPENSION.—The term 'license suspension' means—

"(A) the suspension of all driving privileges of an individual for the duration of the suspension period; or

"(B) a combination of suspension of all driving privileges of an individual for the first 90 days of the suspension period, followed by reinstatement of limited driving privileges requiring the individual to operate only motor vehicles equipped with an ignition interlock system or other device approved by the Secretary during the remainder of the suspension period.".

SEC. 1404. BUS AXLE WEIGHT EXEMPTION.

Section 1023 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 127 note; 105 Stat. 1951) is amended by striking subsection (h) and inserting the following:

"(h) OVER-THE-ROAD BUS AND PUBLIC TRANSIT VEHICLE EXEMPTION.—

"(1) IN GENERAL.—The second sentence of section 127 of title 23, United States Code (relating to axle weight limitations for vehicles using the Dwight D. Eisenhower System of Interstate and Defense Highways), shall not apply to—

"(A) any over-the-road bus (as defined in section 301 of the Americans With Disabilities Act of 1990 (42 U.S.C. 12181)); or

"(B) any vehicle that is regularly and exclusively used as an intrastate public agency transit passenger bus.

"(2) STATE ACTION.—No State or political subdivision of a State, or any political authority of 2 or more States, shall impose any axle weight limitation on any vehicle described in paragraph (1) in any case in which such a vehicle is using the Dwight D. Eisenhower System of Interstate and Defense Highways.".

SEC. 1405. SAFE ROUTES TO SCHOOLS PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter I of title 23, United States Code, is amended by inserting after section 149 the following:

"§ 150. Safe routes to schools program

"(a) DEFINITIONS.—In this section:

"(1) PRIMARY AND SECONDARY SCHOOL.—The term 'primary and secondary school' means a school that provides education to children in any of grades kindergarten through 12.

"(2) PROGRAM.—The term 'program' means the safe routes to schools program established under subsection (b).

"(3) VICINITY OF A SCHOOL.—The term 'vicinity of a school' means the area within 2 miles of a primary or secondary school.

"(b) ESTABLISHMENT.—The Secretary shall establish and carry out a safe routes to school program for the benefit of children in primary and secondary schools in accordance with this section.

"(c) PURPOSES.—The purposes of the program shall be—

"(1) to enable and to encourage children to walk and bicycle to school;

"(2) to encourage a healthy and active lifestyle by making walking and bicycling to school safer and more appealing transportation alternatives; and

"(3) to facilitate the planning, development, and implementation of projects and activities that will improve safety in the vicinity of schools.

"(d) ELIGIBLE RECIPIENTS.—A State shall use amounts apportioned under this section to provide financial assistance to State, regional, and local agencies that demonstrate an ability to meet the requirements of this section.

"(e) ELIGIBLE PROJECTS AND ACTIVITIES.—

"(1) INFRASTRUCTURE-RELATED PROJECTS.—

"(A) IN GENERAL.—Amounts apportioned to a State under this section may be used for the planning, design, and construction of infrastructure-related projects to encourage walking and bicycling to school, including—

"(i) sidewalk improvements;

"(ii) traffic calming and speed reduction improvements;

"(iii) pedestrian and bicycle crossing improvements;

"(iv) on-street bicycle facilities;

"(v) off-street bicycle and pedestrian facilities;

"(vi) secure bicycle parking facilities;

"(vii) traffic signal improvements; and

"(viii) pedestrian-railroad grade crossing improvements.

"(B) LOCATION OF PROJECTS.—Infrastructure-related projects under subparagraph (A) may be carried out on—

"(i) any public road in the vicinity of a school; or

"(ii) any bicycle or pedestrian pathway or trail in the vicinity of a school.

"(2) BEHAVIORAL ACTIVITIES.—

"(A) IN GENERAL.—In addition to projects, described in paragraph (1), amounts apportioned to a State under this section may be used for behavioral activities to encourage walking and bicycling to school, including—

"(i) public awareness campaigns and outreach to press and community leaders;

"(ii) traffic education and enforcement in the vicinity of schools; and

"(iii) student sessions on bicycle and pedestrian safety, health, and environment.

"(B) ALLOCATION.—Of the amounts apportioned to a State under this section for a fiscal year, not less than 10 percent shall be used for behavioral activities under this paragraph.

"(f) FUNDING.—

"(1) SET ASIDE.—Before apportioning amounts to carry out section 148 for a fiscal year, the Secretary shall set aside and use $70,000,000 to carry out this section.

"(2) APPORTIONMENT.—Amounts made available to carry out this section shall be apportioned to States in accordance with section 104(b)(5).

"(3) ADMINISTRATION OF AMOUNTS.—Amounts apportioned to a State under this section shall be administered by the State transportation department.

"(4) FEDERAL SHARE.—Except as provided in sections 120 and 130, the Federal share of the cost of a project or activity funded under this section shall be 90 percent.

"(5) PERIOD OF AVAILABILITY.—Notwithstanding section 118(b)(2), amounts apportioned under this section shall remain available until expended.".

(b) CONFORMING AMENDMENTS.—The analysis for subchapter I of chapter 1 of title 23, United States Code is amended by inserting after the item relating to section 149 the following:

"150. Safe routes to school program.".

SEC. 1406. PURCHASES OF EQUIPMENT.

(a) IN GENERAL.—Section 152 of title 23, United States Code is amended to read as follows:

"§ 152. Purchases of equipment

"(a) IN GENERAL.—Subject to subsection (b), a State carrying out a project under this chapter shall purchase device, tool or other equipment needed for the project only after completing and providing a written analysis demonstrating the cost savings associated with purchasing the equipment compared with renting the equipment from a qualified equipment rental provider before the project commences

"(b) APPLICABILITY.—This section shall apply to—

"(1) earth moving, road machinery, and material handling equipment, or any other item, with a purchase price in excess of $75,000; and

"(2) aerial work platforms with a purchase price in excess of $25,000.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 152 and inserting the following:

"152. Purchases of equipment.".

SEC. 1407. WORKZONE SAFETY.

Section 358(b) of the National Highway System Designation Act of 1995 (109 Stat. 625) is amended by adding at the end the following:

"(7) Recommending all federally-assisted projects in excess of $15,000,000 to enter into contracts only with work zone safety services contractors, traffic control contractors, and trench safety and shoring contractors that carry general liability insurance in an amount not less than $15,000,000.

"(8) Recommending federally-assisted projects the costs of which exceed $15,000,000 to include work zone intelligent transportation systems that are—

"(A) provided by a qualified vendor; and

"(B) monitored continuously.

'"(9) Recommending federally-assisted projects to fully fund not less than 5 percent of project costs for work zone safety and temporary traffic control measures, in addition to the cost of the project, which measures shall be provided by a qualified work zone safety or traffic control provider.

"(10) Ensuring that any recommendation made under any of paragraphs (7) through (9) provides for an exemption for applicability to a State, with respect to a project or class of projects, to the extent that a State notifies the Secretary in writing that safety is not expected to be adversely affected by nonapplication of the requirement to the project or class of projects.".

SEC. 1408. WORKER INJURY PREVENTION AND FREE FLOW OF VEHICULAR TRAFFIC.

Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations—

(1) to decrease the probability of worker injury;

(2) to maintain the free flow of vehicular traffic by requiring workers whose duties place the workers on, or in close proximity to, a Federal-aid highway (as defined in section 101 of title 23, United States Code) to wear high-visibility clothing; and

(3) to require such other worker-safety measures for workers described in paragraph (2) as the Secretary determines appropriate.

SEC. 1409. IDENTITY AUTHENTICATION STANDARDS.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

"§ 178. Identity authentication standards

"(a) DEFINITION OF INFORMATION-BASED IDENTITY AUTHENTICATION.—In this section, the term 'information-based identity authentication' means the determination of the identity of an individual, through the comparison of information provided by a person, with other information pertaining to that individual with a system using scoring models and algorithms.

"(b) STANDARDS.—Not later than 180 days after the date of enactment of this section, the Secretary, in consultation with the Secretary of Homeland Security and the Federal Motor Carrier Safety Administration, shall promulgate regulations establishing minimum standards for State departments of motor vehicles regarding the use of information-based identity authentication to determine the identity of an applicant for a commercial driver's license, or the renewal, transfer or upgrading, of a commercial driver's license.

"(c) MINIMUM STANDARDS.—The regulations shall, at a minimum, require State departments of motor vehicles to implement, and applicants for commercial driver's licenses, (or the renewal, transfer, or upgrading of commercial driver's licenses), to comply with, reasonable procedures for operating an information-based identity authentication program before issuing, renewing, transferring, or upgrading a commercial driver's license.

"(d) KEY FACTORS.—In promulgating regulations under this section, the Secretary shall require that an information-based identity authentication program carried out under this section establish processes that—

"(1) use multiple sources of matching information;

"(2) enable the measurement of the accuracy of the determination of an applicant's identity;

"(3) support continuous auditing of compliance with applicable laws, policies, and practices governing the collection, use, and distribution of information in the operation of the program; and

"(4) incorporate industry best practices to protect significant privacy interests in the information used in the program and the appropriate safeguarding of the storage of the information.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter I of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

"178. Identity authentication standards.".

SEC. 1410. OPEN CONTAINER REQUIREMENTS.

Section 154 of title 23, United States Code, is amended by striking subsection (c) and inserting the following:

"(c) TRANSFER OF FUNDS.—

"(1) IN GENERAL.—The Secretary shall withhold the applicable percentage for the fiscal year of the amount required to be apportioned for Federal-aid highways to any State under each of paragraphs (1), (3), and (4) of section 104(b), if a State has not enacted or is not enforcing a provision described in subsection (b), as follows:

"For:	The applicable percentage is:
Fiscal year 2008	2 percent.
Fiscal year 2009	2 percent.
Fiscal year 2010	2 percent.
Fiscal year 2011 and each subsequent fiscal year.	2 percent.

"(2) RESTORATION.—If (during the 4-year period beginning on the date the apportionment for any State is reduced in accordance with this subsection) the Secretary determines that the State has enacted and is enforcing a provision described in subsection (b), the apportionment of the State shall be increased by an amount equal to the amount of the reduction made during the 4-year period.".

Subtitle E—Environmental Planning and Review

CHAPTER 1—TRANSPORTATION PLANNING

SEC. 1501. INTEGRATION OF NATURAL RESOURCE CONCERNS INTO STATE AND METROPOLITAN TRANSPORTATION PLANNING.

(a) METROPOLITAN PLANNING.—Section 134(f) of title 23, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (D)—

(i) by inserting after "environment" the following: "(including the protection of habitat, water quality, and agricultural and forest land, while minimizing invasive species)"; and

(ii) by inserting before the semicolon the following: "(including minimizing adverse health effects from mobile source air pollution and promoting the linkage of the transportation and development goals of the metropolitan area)"; and

(B) in subparagraph (G), by inserting "and efficient use" after "preservation";

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

"(2) SELECTION OF FACTORS.—After soliciting and considering any relevant public comments, the metropolitan planning organization shall determine which of the factors described in paragraph (1) are most appropriate for the metropolitan area to consider.".

(b) STATEWIDE PLANNING.—Section 135(c) of title 23, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (D)—

(i) by inserting after "environment" the following: "(including the protection of habitat, water quality, and agricultural and forest land, while minimizing invasive species)"; and

(ii) by inserting before the semicolon the following: "(including minimizing adverse health effects from mobile source air pollution and promoting the linkage of the transportation and development goals of the State)"; and

(B) in subparagraph (G), by inserting "and efficient use" after "preservation";

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

"(2) SELECTION OF PROJECTS AND STRATEGIES.—After soliciting and considering any relevant public comments, the State shall determine which of the projects and strategies described in paragraph (1) are most appropriate for the State to consider.".

SEC. 1502. CONSULTATION BETWEEN TRANSPORTATION AGENCIES AND RESOURCE AGENCIES IN TRANSPORTATION PLANNING.

(a) IN GENERAL.—Section 134(g) of title 23, United States Code, is amended—

(1) in paragraph (2)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively; and

(B) by inserting after subparagraph (A) the following:

"(B) MITIGATION ACTIVITIES.—

"(i) IN GENERAL.—A long-range transportation plan shall include a discussion of—

"(I) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetland, and other environmental functions; and

"(II) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

"(ii) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.";

(2) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively; and

(3) by inserting after paragraph (3) the following:

"(4) CONSULTATION.—

"(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a long-range transportation plan.

"(B) ISSUES.—The consultation shall involve—

"(i) comparison of transportation plans with State conservation plans or with maps, if available;

"(ii) comparison of transportation plans to inventories of natural or historic resources, if available; or

"(iii) consideration of areas where wildlife crossing structures may be needed to ensure connectivity between wildlife habitat linkage areas.".

(b) IMPROVED CONSULTATION DURING STATE TRANSPORTATION PLANNING.—

(1) IN GENERAL.—Section 135(e)(2) of title 23, United States Code, is amended by adding at the end the following:

"(D) CONSULTATION, COMPARISON, AND CONSIDERATION.—

"(i) IN GENERAL.—The long-range transportation plan shall be developed, as appropriate, in consultation with State and local agencies responsible for—

"(I) land use management;

"(II) natural resources;

"(III) environmental protection;

"(IV) conservation; and

"(V) historic preservation.

"(ii) COMPARISON AND CONSIDERATION.—Consultation under clause (i) shall involve—

"(I) comparison of transportation plans to State conservation plans or maps, if available;

"(II) comparison of transportation plans to inventories of natural or historic resources, if available; or

"(III) consideration of areas where wildlife crossing structures may be needed to ensure connectivity between wildlife habitat linkage areas.".

(2) ADDITIONAL REQUIREMENTS.—Section 135(e) of title 23, United States Code, is amended—

(A) by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) MITIGATION ACTIVITIES.—

"(A) IN GENERAL.—A long-range transportation plan shall include a discussion of—

"(i) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetlands, and other environmental functions; and

"(ii) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

"(B) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

"(5) TRANSPORTATION STRATEGIES.—A long-range transportation plan shall identify transportation strategies necessary to efficiently serve the mobility needs of people.".

SEC. 1503. INTEGRATION OF NATURAL RESOURCE CONCERNS INTO TRANSPORTATION PROJECT PLANNING.

Section 109(c)(2) of title 23, United States Code, is amended—

(1) by striking "consider the results" and inserting "consider—

"(A) the results";

(2) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(B) the publication entitled 'Flexibility in Highway Design' of the Federal Highway Administration;

"(C) 'Eight Characteristics of Process to Yield Excellence and the Seven Qualities of Excellence in Transportation Design' developed by the conference held during 1998 entitled 'Thinking Beyond the Pavement National Workshop on Integrating Highway Development with Communities and the Environment while Maintaining Safety and Performance'; and

"(D) any other material that the Secretary determines to be appropriate.".

SEC. 1504. PUBLIC INVOLVEMENT IN TRANSPORTATION PLANNING AND PROJECTS.

(a) METROPOLITAN PLANNING.—

(1) PARTICIPATION BY INTERESTED PARTIES.—Section 134(g)(5) of title 23, United States Code (as redesignated by section 1502(a)(1)), is amended—

(A) by striking "Before approving" and inserting the following:

"(A) IN GENERAL.—Before approving"; and

(B) by adding at the end the following:

"(B) METHODS.—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—

"(i) hold any public meetings at convenient and accessible locations and times;

"(ii) employ visualization techniques to describe plans; and

"(iii) make public information available in electronically accessible format and means, such as the World Wide Web.".

(2) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Section 134(g)(6)(1) of title 23, United States Code (as redesignated by section 1502(a)(1)), is amended by inserting before the semicolon the following: ", including (to the maximum extent practicable) in electronically accessible formats and means such as the World Wide Web".

(b) STATEWIDE PLANNING.—

(1) PARTICIPATION BY INTERESTED PARTIES.—Section 135(e)(3) of title 23, United States Code, is amended by striking subparagraph (B) and inserting the following:

"(B) METHODS.—In carrying out subparagraph (A), the State shall, to the maximum extent practicable—

"(i) hold any public meetings at convenient and accessible locations and times;

"(ii) employ visualization techniques to describe plans; and

"(iii) make public information available in electronically accessible format and means, such as the World Wide Web.".

(2) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Section 135(e) of title 23, United States Code (as amended by section 1502(b)(2)), is amended by adding at the end the following:

"(8) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Each long-range transportation plan prepared by a State shall be published or otherwise made available, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web.".

SEC. 1505. PROJECT MITIGATION.

(a) MITIGATION FOR NATIONAL HIGHWAY SYSTEM PROJECTS.—Section 103(b)(6)(M) of title 23, United States Code, is amended—

(1) by inserting "(i)" after "(M); and

(2) by adding at the end the following:

"(ii) State habitat, streams, and wetlands mitigation efforts under section 155.".

(b) MITIGATION FOR SURFACE TRANSPORTATION PROGRAM PROJECTS.—Section 133(b)(11) of title 23, United States Code, is amended—

(1) by inserting "(A)" after "(11)"; and

(2) by adding at the end the following:

"(B) State habitat, streams, and wetlands mitigation efforts under section 155.".

(c) STATE HABITAT, STREAMS, AND WETLANDS MITIGATION FUNDS.—Section 155 of title 23, United States Code, is amended to read as follows:

"§ 155. State habitat, streams, and wetlands mitigation funds

"(a) ESTABLISHMENT.—A State should establish a habitat, streams, and wetlands mitigation fund (referred to in this section as a 'State fund').

"(b) PURPOSE.—The purpose of a State fund is to encourage efforts for habitat, streams, and wetlands mitigation in advance of or in conjunction with highway or transit projects to—

"(1) ensure that the best habitat, streams, and wetland mitigation sites now available are used; and

"(2) accelerate transportation project delivery by making high-quality habitat, streams, and wetland mitigation credits available when needed.

"(c) FUNDS.—A State may deposit into a State fund part of the funds apportioned to the State under—

"(1) section 104(b)(1) for the National Highway System; and

"(2) section 104(b)(3) for the surface transportation program.

"(d) USE.—

"(1) IN GENERAL.—Amounts deposited in a State fund shall be used (in a manner consistent with this section) for habitat, streams, or wetlands mitigation related to 1 or more projects funded under this title, including a project under the transportation improvement program of the State developed under section 135(f).

"(2) ENDANGERED SPECIES.—In carrying out this section, a State and cooperating agency shall give consideration to mitigation projects, on-site or off-site, that restore and preserve the best available sites to conserve biodiversity and habitat for—

"(A) Federal or State listed threatened or endangered species of plants and animals; and

"(B) plant or animal species warranting listing as threatened or endangered, as determined by the Secretary of the Interior in accordance with section 4(b)(3)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1533(b)(3)(B)).

"(e) CONSISTENCY WITH APPLICABLE REQUIREMENTS.—Contributions from the State fund to mitigation efforts may occur in advance of project construction only if the efforts are consistent with all applicable requirements of Federal law (including regulations).".

(d) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 155 and inserting the following:

"155. State habitat, streams, and wetlands mitigation funds.".

CHAPTER 2—TRANSPORTATION PROJECT DEVELOPMENT PROCESS

SEC. 1511. TRANSPORTATION PROJECT DEVELOPMENT PROCESS.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code (as amended by section 1203(a)), is amended by inserting after section 325 the following:

"§ 326. Transportation project development process

"(a) DEFINITIONS.—In this section:

"(1) AGENCY.—The term 'agency' means any agency, department, or other unit of Federal, State, local, or federally recognized tribal government.

"(2) ENVIRONMENTAL IMPACT STATEMENT.—The term 'environmental impact statement' means a detailed statement of the environmental impacts of a project required to be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(3) ENVIRONMENTAL REVIEW PROCESS.—

"(A) IN GENERAL.—The term 'environmental review process' means the process for preparing, for a project—

"(i) an environmental impact statement; or

"(ii) any other document or analysis required to be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)

"(B) INCLUSIONS.—The term 'environmental review process' includes the process for and completion of any environmental permit, approval, review, or study required for a project under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(4) PROJECT.—The term 'project' means any highway or transit project that requires the approval of the Secretary.

"(5) PROJECT SPONSOR.—The term 'project sponsor' means an agency or other entity (including any private or public-private entity), that seeks approval of the Secretary for a project.

"(6) STATE TRANSPORTATION DEPARTMENT.—The term 'State transportation department' means any statewide agency of a State with responsibility for transportation.

"(b) PROCESS.—

"(1) LEAD AGENCY.—

"(A) IN GENERAL.—The Department of Transportation shall be the lead Federal agency in the environmental review process for a project.

"(B) JOINT LEAD AGENCIES.—Nothing in this section precludes another agency from being a joint lead agency in accordance with regulations under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(C) CONCURRENCE OF PROJECT SPONSOR.—The lead agency may carry out the environmental review process in accordance with this section only with the concurrence of the project sponsor.

"(2) REQUEST FOR PROCESS.—

"(A) IN GENERAL.—A project sponsor may request that the lead agency carry out the environmental review process for a project or group of projects in accordance with this section.

"(B) GRANT OF REQUEST; PUBLIC NOTICE.—The lead agency shall—

"(i) grant a request under subparagraph (A); and

"(ii) provide public notice of the request.

"(3) EFFECTIVE DATE.—The environmental review process described in this section may be applied to a project only after the date on which public notice is provided under subparagraph (B)(ii).

"(c) Roles and Responsibility of Lead Agency.—With respect to the environmental review process for any project, the lead agency shall have authority and responsibility to—

"(A) identify and invite cooperating agencies in accordance with subsection (d);

"(B) develop an agency coordination plan with review, schedule, and timelines in accordance with subsection (e);

"(C) determine the purpose and need for the project in accordance with subsection (f);

"(D) determine the range of alternatives to be considered in accordance with subsection (g);

"(E) convene dispute-avoidance and decision resolution meetings and related efforts in accordance with subsection (h);

"(F) take such other actions as are necessary and proper, within the authority of the lead agency, to facilitate the expeditious resolution of the environmental review process for the project; and

"(G) prepare or ensure that any required environmental impact statement or other document required to be completed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) is completed in accordance with this section and applicable Federal law.

"(d) Roles and Responsibilities of Cooperating Agencies.—

"(1) In general.—With respect to a project, each Federal agency shall carry out any obligations of the Federal agency in the environmental review process in accordance with this section and applicable Federal law.

"(2) Invitation.—

"(A) In general.—The lead agency shall—

"(i) identify, as early as practicable in the environmental review process for a project, any other agencies that may have an interest in the project, including—

"(I) agencies with jurisdiction over environmentally-related matters that may affect the project or may be required by law to conduct an environmental-related independent review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project; and

"(II) agencies with special expertise relevant to the project;

"(ii) invite the agencies identified in clause (i) to become participating agencies in the environmental review process for that project; and

"(iii) grant requests to become cooperating agencies from agencies not originally invited.

"(B) Responses.—The deadline for receipt of a response from an agency that receives an invitation under subparagraph (A)(ii)—

"(i) shall be 30 days after the date of receipt by the agency of the invitation; but

"(ii) may be extended by the lead agency for good cause.

"(3) Declining of invitations.—A Federal agency that is invited by the lead agency to participate in the environmental review process for a project shall be designated as a cooperating agency by the lead agency, unless the invited agency informs the lead agency in writing, by the deadline specified in the invitation, that the invited agency—

"(A) has no jurisdiction or authority with respect to the project;

"(B) has no expertise or information relevant to the project; and

"(C) does not intend to submit comments on the project.

"(4) Effect of designation.—Designation as a cooperating agency under this subsection shall not imply that the cooperating agency—

"(A) supports a proposed project; or

"(B) has any jurisdiction over, or special expertise with respect to evaluation of, the project.

"(5) Designations for categories of projects.—

"(A) In general.—The Secretary may invite other agencies to become cooperating agencies for a category of projects.

"(B) Designation.—An agency may be designated as a cooperating agency for a category of projects only with the consent of the agency.

"(6) Concurrent reviews.—Each Federal agency shall, to the maximum extent practicable—

"(A) carry out obligations of the Federal agency under other applicable law concurrently, and in conjunction, with the review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), unless doing so would impair the ability of the Federal agency to carry out those obligations; and

"(B) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner.

"(e) Development of Flexible Process and Timeline.—

"(1) Coordination plan.—

"(A) In general.—The lead agency shall establish a coordination plan, which may be incorporated into a memorandum of understanding, to coordinate agency and public participation in and comment on the environmental review process for a project or category of projects.

"(B) Workplan.—

"(i) In general.—The lead agency shall develop, as part of the coordination plan, a workplan for completing the collection, analysis, and evaluation of baseline data and future impacts modeling necessary to complete the environmental review process, including any data, analyses, and modeling necessary for related permits, approvals, reviews, or studies required for the project under other laws.

"(ii) Consultation.—In developing the workplan under clause (i), the lead agency shall consult with—

"(I) each cooperating agency for the project;

"(II) the State in which the project is located; and

"(III) if the State is not the project sponsor, the project sponsor.

"(C) Schedule.—

"(i) In general.—The lead agency shall establish as part of the coordination plan, after consultation with each cooperating agency for the project and with the State in which the project is located (and, if the State is not the project sponsor, with the project sponsor), a schedule for completion of the environmental review process for the project.

"(ii) Factors for consideration.—In establishing the schedule, the lead agency shall consider factors such as—

"(I) the responsibilities of cooperating agencies under applicable laws;

"(II) resources available to the cooperating agencies;

"(III) overall size and complexity of a project;

"(IV) the overall schedule for and cost of a project; and

"(V) the sensitivity of the natural and historic resources that could be affected by the project.

"(D) Consistency with other time periods.—A schedule under subparagraph (C) shall be consistent with any other relevant time periods established under Federal law.

"(E) Modification.—The lead agency may—

"(i) lengthen a schedule established under subparagraph (C) for good cause; and

"(ii) shorten a schedule only with the concurrence of the affected cooperating agencies.

"(F) Dissemination.—A copy of a schedule under subparagraph (C), and of any modifications to the schedule, shall be—

"(i) provided to all cooperating agencies and to the State transportation department of the State in which the project is located (and, if the State is not the project sponsor, to the project sponsor); and

"(ii) made available to the public.

"(2) Comments and timelines.—

"(A) In general.—A schedule established under paragraph (1)(C) shall include—

"(i) opportunities for comment, deadline for receipt of any comments submitted, deadline for lead agency response to comments; and

"(ii) except as otherwise provided under paragraph (1)—

"(I) an opportunity to comment by agencies and the public on a draft or final environmental impact statement for a period of not more than 60 days longer than the minimum period required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

"(II) for all other comment periods established by the lead agency for agency or public comments in the environmental review process, a period of not more than the longer of—

"(aa) 30 days after the final day of the minimum period required under Federal law (including regulations), if available; or

"(bb) if a minimum period is not required under Federal law (including regulations), 30 days.

"(B) Extension of comment periods.—The lead agency may extend a period of comment established under this paragraph for good cause.

"(C) Late comments.—A comment concerning a project submitted under this paragraph after the date of termination of the applicable comment period or extension of a comment period shall not be eligible for consideration by the lead agency unless the lead agency or project sponsor determines there was good cause for the delay or the lead agency is required to consider significant new circumstances or information in accordance with sections 1501.7 and 1502.9 of title 40, Code of Federal Regulations.

"(D) Deadlines for decisions under other laws.—In any case in which a decision under any Federal law relating to a project (including the issuance or denial of a permit or license) is required to be made by the later of the date that is 180 days after the date on which the Secretary made all final decisions of the lead agency with respect to the project, or 180 days after the date on which an application was submitted for the permit or license, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

"(i) as soon as practicable after the 180-day period, an initial notice of the failure of the Federal agency to make the decision; and "(ii) every 60 day thereafter until such date as all decisions of the Federal agency relating to the project have been made by the Federal agency, an additional notice that describes the number of decisions of the Federal agency that remain outstanding as of the date of the additional notice.

"(3) INVOLVEMENT OF THE PUBLIC.—Nothing in this subsection shall reduce any time period provided for public comment in the environmental review process under existing Federal law (including a regulation).

"(f) DEVELOPMENT OF PROJECT PURPOSE AND NEED STATEMENT.—

"(1) IN GENERAL.—With respect to the environmental review process for a project, the purpose and need for the project shall be defined in accordance with this subsection.

"(2) AUTHORITY.—The lead agency shall define the purpose and need for a project, including the transportation objectives and any other objectives intended to be achieved by the project.

"(3) INVOLVEMENT OF COOPERATING AGENCIES AND THE PUBLIC.—Before determining the purpose and need for a project, the lead agency shall solicit for 30 days, and consider, any relevant comments on the draft statement of purpose and need for a proposed project received from the public and cooperating agencies.

"(4) EFFECT ON OTHER REVIEWS.—For the purpose of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any other law requiring an agency that is not the lead agency to determine or consider a project purpose or project need, such an agency acting, permitting, or approving under, or otherwise applying, Federal law with respect to a project shall adopt the determination of purpose and need for the project made by the lead agency.

"(5) SAVINGS.—Nothing in this subsection preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency under applicable law (including regulations) with respect to a project.

"(6) CONTENTS.—

"(A) IN GENERAL.—The statement of purpose and need shall include a clear statement of the objectives that the proposed project is intended to achieve.

"(B) EFFECT ON EXISTING STANDARDS.—Nothing in this subsection shall alter existing standards for defining the purpose and need of a project.

"(7) FACTORS TO CONSIDER.—The lead agency may determine that any of the following factors and documents are appropriate for consideration in determining the purpose of and need for a project:

"(A) Transportation plans and related planning documents developed through the statewide and metropolitan transportation planning process under sections 134 and 135.

"(B) Land use plans adopted by units of State, local, or tribal government (or, in the case of Federal land, by the applicable Federal land management agencies).

"(C) Economic development plans adopted by—

"(i) units of State, local, or tribal government; or

"(ii) established economic development planning organizations or authorities.

"(D) Environmental protection plans, including plans for the protection or treatment of—

"(i) air quality;

"(ii) water quality and runoff;

"(iii) habitat needs of plants and animals;

"(iv) threatened and endangered species;

"(v) invasive species;

"(vi) historic properties; and

"(vii) other environmental resources.

"(E) Any publicly available plans or policies relating to the national defense, national security, or foreign policy of the United States.

"(g) DEVELOPMENT OF PROJECT ALTERNATIVES.—

"(1) IN GENERAL.—With respect to the environmental review process for a project, the alternatives shall be determined in accordance with this subsection.

"(2) AUTHORITY.—The lead agency shall determine the alternatives to be considered for a project.

"(3) INVOLVEMENT OF COOPERATING AGENCIES AND THE PUBLIC.—

"(A) IN GENERAL.—Before determining the alternatives for a project, the lead agency shall solicit for 30 days and consider any relevant comments on the proposed alternatives received from the public and cooperating agencies.

"(B) ALTERNATIVES.—The lead agency shall consider—

"(i) alternatives that meet the purpose and need of the project; and

"(ii) the alternative of no action.

"(C) EFFECT ON EXISTING STANDARDS.—Nothing in this subsection shall alter the existing standards for determining the range of alternatives.

"(4) EFFECT ON OTHER REVIEWS.—Any other agency acting under or applying Federal law with respect to a project shall consider only the alternatives determined by the lead agency.

"(5) SAVINGS.—Nothing in this subsection preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency under applicable law (including regulations) with respect to a project.

"(6) FACTORS TO CONSIDER.—The lead agency may determine that any of the following factors and documents are appropriate for consideration in determining the alternatives for a project:

"(A) The overall size and complexity of the proposed action.

"(B) The sensitivity of the potentially affected resources.

"(C) The overall schedule and cost of the project.

"(D) Transportation plans and related planning documents developed through the statewide and metropolitan transportation planning process under sections 134 and 135 of title 23 of the United States Code.

"(E) Land use plans adopted by units of State, local, or tribal government (or, in the case of Federal land, by the applicable Federal land management agencies).

"(F) Economic development plans adopted by—

"(i) units of State, local, or tribal government; or

"(ii) established economic development planning organizations or authorities.

"(G) environmental protection plans, including plans for the protection or treatment of—

"(i) air quality;

"(ii) water quality and runoff;

"(iii) habitat needs of plants and animals;

"(iv) threatened and endangered species;

"(v) invasive species;

"(vi) historic properties; and

"(vii) other environmental resources.

"(H) Any publicly available plans or policies relating to the national defense, national security, or foreign policy of the United States.

"(h) PROMPT ISSUE IDENTIFICATION AND RESOLUTION PROCESS.—

"(1) IN GENERAL.—The lead agency, the project sponsor, and the cooperating agencies shall work cooperatively, in accordance with this section, to identify and resolve issues that could—

"(A) delay completion of the environmental review process; or

"(B) result in denial of any approvals required for the project under applicable laws.

"(2) LEAD AGENCY RESPONSIBILITIES.—

"(A) IN GENERAL.—The lead agency, with the assistance of the project sponsor, shall make information available to the cooperating agencies, as early as practicable in the environmental review process, regarding—

"(i) the environmental and socioeconomic resources located within the project area; and

"(ii) the general locations of the alternatives under consideration.

"(B) BASIS FOR INFORMATION.—Information about resources in the project area may be based on existing data sources, including geographic information systems mapping.

"(3) COOPERATING AGENCY RESPONSIBILITIES.—

"(A) IN GENERAL.—Based on information received from the lead agency, cooperating agencies shall promptly identify to the lead agency any major issues of concern regarding the potential environmental or socioeconomic impacts of a project.

"(B) MAJOR ISSUES OF CONCERN.—A major issue of concern referred to in subparagraph (A) may include any issue that could substantially delay or prevent an agency from granting a permit or other approval that is needed for a project, as determined by a cooperating agency.

"(4) ISSUE RESOLUTION.—On identification of a major issue of concern under paragraph (3), or at any time upon the request of a project sponsor or the Governor of a State, the lead agency shall promptly convene a meeting with representatives of each of the relevant cooperating agencies, the project sponsor, and the Governor to address and resolve the issue.

"(5) NOTIFICATION.—If a resolution of a major issue of concern under paragraph (4) cannot be achieved by the date that is 30 days after the date on which a meeting under that paragraph is convened, the lead agency shall provide notification of the failure to resolve the major issue of concern to—

"(A) the heads of all cooperating agencies;

"(B) the project sponsor;

"(C) the Governor involved;

"(D) the Committee on Environment and Public Works of the Senate; and

"(E) the Committee on Transportation and Infrastructure of the House of Representatives.

"(i) PERFORMANCE MEASUREMENT.—

"(1) PROGRESS REPORTS.—The Secretary shall establish a program to measure and report on progress toward improving and expediting the planning and environmental review process.

"(2) MINIMUM REQUIREMENTS.—The program shall include, at a minimum—

"(A) the establishment of criteria for measuring consideration of—

"(i) State and metropolitan planning, project planning, and design criteria; and

"(ii) environmental processing times and costs;

"(B) the collection of data to assess performance based on the established criteria; and

"(C) the annual reporting of the results of the performance measurement studies.

"(3) INVOLVEMENT OF THE PUBLIC AND COOPERATING AGENCIES.—

"(A) IN GENERAL.—The Secretary shall biennially conduct a survey of agencies participating in the environmental review process under this section to assess the expectations and experiences of each surveyed agency with regard to the planning and environmental review process for projects reviewed under this section.

"(B) PUBLIC PARTICIPATION.—In conducting the survey, the Secretary shall solicit comments from the public.

"(j) ASSISTANCE TO AFFECTED FEDERAL AND STATE AGENCIES.—

"(1) IN GENERAL.—The Secretary may approve a request by a State or recipient to provide funds made available under this title for a highway project, or made available under chapter 53 of title 49 for a mass transit project, to agencies participating in the coordinated environmental review process established under this section in order to provide the resources necessary to meet any time limits established under this section.

"(2) AMOUNTS.—Such requests under paragraph (1) shall be approved only—

"(A) for such additional amounts as the Secretary determines are necessary for the affected Federal and State agencies to meet the time limits for environmental review; and

"(B) if those time limits are less than the customary time necessary for that review.

"(k) JUDICIAL REVIEW AND SAVINGS CLAUSE.—

"(1) JUDICIAL REVIEW.—Nothing in this section shall affect the reviewability of any final Federal agency action in any United States district court or State court.

"(2) SAVINGS CLAUSE.—Nothing in this section shall affect—

"(A) the applicability of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other Federal environmental statute; or

"(B) the responsibility of any Federal officer to comply with or enforce such a statute.".

(b) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 325 (as added by section 1203(f)) the following:

"326. Transportation project development process.".

(2) Section 1309 of the Transportation Equity Act for the 21st Century (112 Stat. 232) is repealed.

SEC. 1512. ASSUMPTION OF RESPONSIBILITY FOR CATEGORICAL EXCLUSIONS.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code (as amended by section 1511(a)), is amended by inserting after section 326 the following:

"§ 327. Assumption of responsibility for categorical exclusions

"(a) CATEGORICAL EXCLUSION DETERMINATIONS.—

"(1) IN GENERAL.—The Secretary may assign, and a State may assume, responsibility for determining whether certain designated activities are included within classes of action identified in regulation by the Secretary that are categorically excluded from requirements for environmental assessments or environmental impact statements pursuant to regulations promulgated by the Council on Environmental Quality under part 1500 of title 40, Code of Federal Regulations (as in effect on October 1, 2003).

"(2) SCOPE OF AUTHORITY.—A determination described in paragraph (1) shall be made by a State in accordance with criteria established by the Secretary and only for types of activities specifically designated by the Secretary.

"(3) CRITERIA.—The criteria under paragraph (2) shall include provisions for public availability of information consistent with section 552 of title 5 and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(b) OTHER APPLICABLE FEDERAL LAWS.—

"(1) IN GENERAL.—If a State assumes responsibility under subsection (a), the Secretary may also assign and the State may assume all or part of the responsibilities of the Secretary for environmental review, consultation, or other related actions required under any Federal law applicable to activities that are classified by the Secretary as categorical exclusions, with the exception of government-to-government consultation with Indian tribes, subject to the same procedural and substantive requirements as would be required if that responsibility were carried out by the Secretary.

"(2) SOLE RESPONSIBILITY.—A State that assumes responsibility under paragraph (1) with respect to a Federal law shall be solely responsible and solely liable for complying with and carrying out that law, and the Secretary shall have no such responsibility or liability.

"(c) MEMORANDA OF UNDERSTANDING.—

"(1) IN GENERAL.—The Secretary and the State, after providing public notice and opportunity for comment, shall enter into a memorandum of understanding setting forth the responsibilities to be assigned under this section and the terms and conditions under which the assignments are made, including establishment of the circumstances under which the Secretary would reassume responsibility for categorical exclusion determinations.

"(2) TERM.—A memorandum of understanding—

"(A) shall have term of not more than 3 years; and

"(B) shall be renewable.

"(3) ACCEPTANCE OF JURISDICTION.—In a memorandum of understanding, the State shall consent to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary that the State assumes.

"(4) MONITORING.—The Secretary shall—

"(A) monitor compliance by the State with the memorandum of understanding and the provision by the State of financial resources to carry out the memorandum of understanding; and

"(B) take into account the performance by the State when considering renewal of the memorandum of understanding.

"(d) TERMINATION.—The Secretary may terminate any assumption of responsibility under a memorandum of understanding on a determination that the State is not adequately carrying out the responsibilities assigned to the State.

"(e) STATE AGENCY DEEMED TO BE FEDERAL AGENCY.—A State agency that is assigned a responsibility under a memorandum of understanding shall be deemed to be a Federal agency for the purposes of the Federal law under which the responsibility is exercised.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code (as amended by section 1511(b)), is amended by inserting after the item relating to section 326 the following:

"327. Assumption of responsibility for categorical exclusions.".

SEC. 1513. SURFACE TRANSPORTATION PROJECT DELIVERY PILOT PROGRAM.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code (as amended by section 1512(a)), is amended by inserting after section 327 the following:

"§ 328. Surface transportation project delivery pilot program

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall carry out a surface transportation project delivery pilot program (referred to in this section as the 'program').

"(2) ASSUMPTION OF RESPONSIBILITY.—

"(A) IN GENERAL.—Subject to the other provisions of this section, with the written agreement of the Secretary and a State, which may be in the form of a memorandum of understanding, the Secretary may assign, and the State may assume, the responsibilities of the Secretary with respect to 1 or more highway projects within the State under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(B) ADDITIONAL RESPONSIBILITY.—If a State assumes responsibility under subparagraph (A)—

"(i) the Secretary may assign to the State, and the State may assume, all or part of the responsibilities of the Secretary for environmental review, consultation, or other action required under any Federal environmental law pertaining to the review or approval of a specific project; but

"(ii) the Secretary may not assign—

"(I) responsibility for any conformity determination required under section 176 of the Clean Air Act (42 U.S.C. 7506); or

"(II) any responsibility imposed on the Secretary by section 134 or 135.

"(C) PROCEDURAL AND SUBSTANTIVE REQUIREMENTS.—A State shall assume responsibility under this section subject to the same procedural and substantive requirements as would apply if that responsibility were carried out by the Secretary.

"(D) FEDERAL RESPONSIBILITY.—Any responsibility of the Secretary not explicitly assumed by the State by written agreement under this section shall remain the responsibility of the Secretary.

"(E) NO EFFECT ON AUTHORITY.—Nothing in this section preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency, other than the Department of Transportation, under applicable law (including regulations) with respect to a project.

"(b) STATE PARTICIPATION.—

"(1) NUMBER OF PARTICIPATING STATES.—The Secretary may permit not more than 5 States (including the State of Oklahoma) to participate in the program.

"(2) APPLICATION.—Not later than 270 days after the date of enactment of this section, the Secretary shall promulgate regulations that establish requirements relating to information required to be contained in any application of a State to participate in the program, including, at a minimum—

"(A) the projects or classes of projects for which the State anticipates exercising the authority that may be granted under the program;

"(B) verification of the financial resources necessary to carry out the authority that may be granted under the program; and

"(C) evidence of the notice and solicitation of public comment by the State relating to participation of the State in the program, including copies of comments received from that solicitation.

"(3) PUBLIC NOTICE.—

"(A) IN GENERAL.—Each State that submits an application under this subsection shall give notice of the intent of the State to participate in the program not later than 30 days before the date of submission of the application.

"(B) METHOD OF NOTICE AND SOLICITATION.—The State shall provide notice and solicit public comment under this paragraph by publishing the complete application of the State in accordance with the appropriate public notice law of the State.

"(4) SELECTION CRITERIA.—The Secretary may approve the application of a State under this section only if—

"(A) the regulatory requirements under paragraph (2) have been met;

"(B) the Secretary determines that the State has the capability, including financial and personnel, to assume the responsibility; and

"(C) the head of the State agency having primary jurisdiction over highway matters enters into a written agreement with the Secretary described in subsection (c).

"(5) OTHER FEDERAL AGENCY VIEWS.—If a State applies to assume a responsibility of the Secretary that would have required the Secretary to consult with another Federal agency, the Secretary shall solicit the views of the Federal agency before approving the application.

"(c) WRITTEN AGREEMENT.—A written agreement under this section shall—

"(1) be executed by the Governor or the top-ranking transportation official in the State who is charged with responsibility for highway construction;

"(2) be in such form as the Secretary may prescribe;

"(3) provide that the State—

"(A) agrees to assume all or part of the responsibilities of the Secretary described in subsection (a);

"(B) expressly consents, on behalf of the State, to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary assumed by the State;

"(C) certifies that State laws (including regulations) are in effect that—

"(i) authorize the State to take the actions necessary to carry out the responsibilities being assumed; and

"(ii) are comparable to section 552 of title 5, including providing that any decision regarding the public availability of a document under those State laws is reviewable by a court of competent jurisdiction; and

"(D) agrees to maintain the financial resources necessary to carry out the responsibilities being assumed.

"(d) JURISDICTION.—

"(1) IN GENERAL.—The United States district courts shall have exclusive jurisdiction over any civil action against a State for failure to carry out any responsibility of the State under this section.

"(2) LEGAL STANDARDS AND REQUIREMENTS.—A civil action under paragraph (1) shall be governed by the legal standards and requirements that would apply in such a civil action against the Secretary had the Secretary taken the actions in question.

"(3) INTERVENTION.—The Secretary shall have the right to intervene in any action described in paragraph (1).

"(e) EFFECT OF ASSUMPTION OF RESPONSIBILITY.—A State that assumes responsibility under subsection (a)(2) shall be solely responsible and solely liable for carrying out, in lieu of the Secretary, the responsibilities assumed under subsection (a)(2), until the program is terminated as provided in subsection (i).

"(f) LIMITATIONS ON AGREEMENTS.—Nothing in this section permits a State to assume any rulemaking authority of the Secretary under any Federal law.

"(g) AUDITS.—

"(1) IN GENERAL.—To ensure compliance by a State with any agreement of the State under subsection (c)(1) (including compliance by the State with all Federal laws for which responsibility is assumed under subsection (a)(2)), for each State participating in the program under this section, the Secretary shall conduct—

"(A) semiannual audits during each of the first 2 years of State participation; and

"(B) annual audits during each subsequent year of State participation.

"(2) PUBLIC AVAILABILITY AND COMMENT.—

"(A) IN GENERAL.—An audit conducted under paragraph (1) shall be provided to the public for comment.

"(B) RESPONSE.—Not later than 60 days after the date on which the period for public comment ends, the Secretary shall respond to public comments received under subparagraph (A).

"(h) REPORT TO CONGRESS.—The Secretary shall submit to Congress an annual report that describes the administration of the program.

"(i) TERMINATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the program shall terminate on the date that is 6 years after the date of enactment of this section.

"(2) TERMINATION BY SECRETARY.—The Secretary may terminate the participation of any State in the program if—

"(A) the Secretary determines that the State is not adequately carrying out the responsibilities assigned to the State;

"(B) the Secretary provides to the State—

"(i) notification of the determination of noncompliance; and

"(ii) a period of at least 30 days during which to take such corrective action as the Secretary determines is necessary to comply with the applicable agreement; and

"(C) the State, after the notification and period provided under subparagraph (B), fails to take satisfactory corrective action, as determined by Secretary.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code (as amended by section 1512(b)), is amended by inserting after the item relating to section 327 the following:

"328. Surface transportation project delivery pilot program.".

SEC. 1514. PARKS, RECREATION AREAS, WILDLIFE AND WATERFOWL REFUGES, AND HISTORIC SITES.

(a) PROGRAMS AND PROJECTS WITH DE MINIMIS IMPACTS.—

(1) TITLE 23.—Section 138 of title 23, United States Code, is amended—

(A) in the first sentence, by striking "It is hereby" and inserting the following:

"(a) DECLARATION OF POLICY.—It is"; and

(B) by adding at the end the following:

"(b) DE MINIMIS IMPACTS.—

"(1) REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this section shall be considered to be satisfied with respect to an area described in paragraph (2) or (3) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area.

"(B) CRITERIA.—In making any determination under this subsection, the Secretary shall consider to be part of a transportation program or project any avoidance, minimization, mitigation, or enhancement measures that are required to be implemented as a condition of approval of the transportation program or project.

"(2) HISTORIC SITES.—With respect to historic sites, the Secretary may make a finding of de minimis impact only if—

"(A) the Secretary has determined, in accordance with the consultation process required under section 106 of the National Historic Preservation Act (16 U.S.C. 470f), that—

"(i) the transportation program or project will have no adverse effect on the historic site; or

"(ii) there will be no historic properties affected by the transportation program or project;

"(B) the finding of the Secretary has received written concurrence from the applicable State historic preservation officer or tribal historic preservation officer (and from the Advisory Council on Historic Preservation, if participating in the consultation); and

"(C) the finding of the Secretary has been developed in consultation with parties consulting as part of the process referred to in subparagraph (A).

"(3) PARKS, RECREATION AREAS, AND WILDLIFE AND WATERFOWL REFUGES.—With respect to parks, recreation areas, and wildlife or waterfowl refuges, the Secretary may make a finding of de minimis impact only if—

"(A) the Secretary has determined, in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) (including public notice and opportunity for public review and comment), that the transportation program or project will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection under this section; and

"(B) the finding of the Secretary has received concurrence from the officials with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge.".

(2) TITLE 49.—Section 303 of title 49, United States Code, is amended—

(A) by striking "(c) The Secretary" and inserting the following:

"(c) APPROVAL OF PROGRAMS AND PROJECTS.—Subject to subsection (d), the Secretary"; and

(B) by adding at the end the following:

"(d) DE MINIMIS IMPACTS.—

"(1) REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this section shall be considered to be satisfied with respect to an area described in paragraph (2) or (3) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area.

"(B) CRITERIA.—In making any determination under this subsection, the Secretary shall consider to be part of a transportation program or project any avoidance, minimization, mitigation, or enhancement measures that are required to be implemented as a condition of approval of the transportation program or project.

"(2) HISTORIC SITES.—With respect to historic sites, the Secretary may make a finding of de minimis impact only if—

"(A) the Secretary has determined, in accordance with the consultation process required under section 106 of the National Historic Preservation Act (16 U.S.C. 470f), that—

"(i) the transportation program or project will have no adverse effect on the historic site; or

"(ii) there will be no historic properties affected by the transportation program or project;

"(B) the finding of the Secretary has received written concurrence from the applicable State historic preservation officer or tribal historic preservation officer (and from the Advisory Council on Historic Preservation, if participating in the consultation); and

"(C) the finding of the Secretary has been developed in consultation with parties consulting as part of the process referred to in subparagraph (A).

"(3) PARKS, RECREATION AREAS, AND WILDLIFE AND WATERFOWL REFUGES.—With respect to parks, recreation areas, and wildlife or waterfowl refuges, the Secretary may make a finding of de minimis impact only if—

"(A) the Secretary has determined, in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) (including public notice and opportunity for public review and comment), that the transportation program or project will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection under this section; and

"(B) the finding of the Secretary has received concurrence from the officials with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge.".

(b) CLARIFICATION OF EXISTING STANDARDS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall (in consultation with affected agencies and interested parties) promulgate regulations that clarify the factors to be considered and the standards to be applied in determining the prudence and feasibility of alternatives under section 138 of title 23 and section 303 of title 49, United States Code.

(2) REQUIREMENTS.—The regulations—

(A) shall clarify the application of the legal standards to a variety of different types of transportation programs and projects depending on the circumstances of each case; and

(B) may include, as appropriate, examples to facilitate clear and consistent interpretation by agency decisionmakers.

(c) IMPLEMENTATION STUDY.—

(1) IN GENERAL.—The Secretary and the Transportation Research Board of the National Academy of Sciences shall jointly conduct a study on the implementation of this section and the amendments made by this section.

(2) COMPONENTS.—In conducting the study, the Secretary and the Transportation Research Board shall evaluate—

(A) the processes developed under this section and the amendments made by this section and the efficiencies that may result;

(B) the post-construction effectiveness of impact mitigation and avoidance commitments adopted as part of projects conducted under this section and the amendments made by this section; and

(C) the quantity of projects with impacts that are considered de minimis under this section and the amendments made by this section, including information on the location, size, and cost of the projects.

(3) REPORT REQUIREMENT.—The Secretary and the Transportation Research Board shall prepare—

(A) not earlier than the date that is 4 years after the date of enactment of this Act, a report on the results of the study conducted under this subsection; and

(B) not later than September 30, 2009, an update on the report required under subparagraph (A).

(4) REPORT RECIPIENTS.—The Secretary and the Transportation Research Board shall—

(A) submit the report and update required under paragraph (3) to—

(i) the appropriate committees of Congress;

(ii) the Secretary of the Interior; and

(iii) the Advisory Council on Historic Preservation; and

(B) make the report and update available to the public.

SEC. 1515. REGULATIONS.

Except as provided in section 1513, not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations necessary to implement the amendments made by chapter 1 and this chapter.

CHAPTER 3—MISCELLANEOUS

SEC. 1521. CRITICAL REAL PROPERTY ACQUISITION.

Section 108 of title 23, United States Code, is amended by adding at the end the following:

"(d) CRITICAL REAL PROPERTY ACQUISITION.—

"(1) IN GENERAL.—Subject to paragraph (2), funds apportioned to a State under this title may be used to pay the costs of acquiring any real property that is determined to be critical under paragraph (2) for a project proposed for funding under this title.

"(2) REIMBURSEMENT.—The Federal share of the costs referred to in paragraph (1) shall be eligible for reimbursement out of funds apportioned to a State under this title if, before the date of acquisition, the Secretary determines that—

"(A) the property is offered for sale on the open market;

"(B) in acquiring the property, the State will comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.); and

"(C) immediate acquisition of the property is critical because—

"(i) based on an appraisal of the property, the value of the property is increasing significantly;

"(ii) there is an imminent threat of development or redevelopment of the property; and

"(iii) the property is necessary for the implementation of the goals stated in the proposal for the project.

"(3) APPLICABLE LAW.—An acquisition of real property under this section shall be considered to be an exempt project under section 176 of the Clean Air Act (42 U.S.C. 7506).

"(4) ENVIRONMENTAL REVIEW.—

"(A) IN GENERAL.—A project proposed to be conducted under this title shall not be conducted on property acquired under paragraph (1) until all required environmental reviews for the project have been completed.

"(B) EFFECT ON CONSIDERATION OF PROJECT ALTERNATIVES.—The number of critical acquisitions of real property associated with a project shall not affect the consideration of project alternatives during the environmental review process.

"(5) PROCEEDS FROM THE SALE OR LEASE OF REAL PROPERTY.—Section 156(c) shall not apply to the sale, use, or lease of any real property acquired under paragraph (1).".

SEC. 1522. PLANNING CAPACITY BUILDING INITIATIVE.

Section 104 of title 23, United States Code, is amended by adding at the end the following:

"(m) PLANNING CAPACITY BUILDING INITIATIVE.—

"(1) IN GENERAL.—The Secretary shall carry out a planning capacity building initiative to support enhancements in transportation planning to—

"(A) strengthen the processes and products of metropolitan and statewide transportation planning under this title;

"(B) enhance tribal capacity to conduct joint transportation planning under chapter 2;

"(C) participate in the metropolitan and statewide transportation planning programs under this title; and

"(D) increase the knowledge and skill level of participants in metropolitan and statewide transportation.

"(2) PRIORITY.—The Secretary shall give priority to planning practices and processes that support—

"(A) the transportation elements of homeland security planning, including—

"(i) training and best practices relating to emergency evacuation;

"(ii) developing materials to assist areas in coordinating emergency management and transportation officials; and

"(iii) developing training on how planning organizations may examine security issues;

"(B) performance-based planning, including—

"(i) data and data analysis technologies to be shared with States, metropolitan planning organizations, local governments, and nongovernmental organizations that—

"(I) participate in transportation planning;

"(II) use the data and data analysis to engage in metropolitan, tribal, or statewide transportation planning;

"(III) involve the public in the development of transportation plans, projects, and alternative scenarios; and

"(IV) develop strategies to avoid, minimize, and mitigate the impacts of transportation facilities and projects; and

"(ii) improvement of the quality of congestion management systems, including the development of—

"(I) a measure of congestion;

"(II) a measure of transportation system reliability; and

"(III) a measure of induced demand;

"(C) safety planning, including—

"(i) development of State strategic safety plans consistent with section 148;

"(ii) incorporation of work zone safety into planning; and

"(iii) training in the development of data systems relating to highway safety;

"(D) operations planning, including—

"(i) developing training of the integration of transportation system operations and management into the transportation planning process; and

"(ii) training and best practices relating to regional concepts of operations;

"(E) freight planning, including—

"(i) modeling of freight at a regional and statewide level; and

"(ii) techniques for engaging the freight community with the planning process;

"(F) air quality planning, including—

"(i) assisting new and existing nonattainment and maintenance areas in developing the technical capacity to perform air quality conformity analysis;

"(ii) providing training on areas such as modeling and data collection to support air quality planning and analysis;

"(iii) developing concepts and techniques to assist areas in meeting air quality performance timeframes; and

"(iv) developing materials to explain air quality issues to decisionmakers and the public; and

"(G) integration of environment and planning.

"(3) USE OF FUNDS.—The Secretary shall use amounts made available under paragraph (4) to make grants to, or enter into contracts, cooperative agreements, and other transactions with, a Federal agency, State agency, local agency, federally recognized Indian tribal government or tribal consortium, authority, association, nonprofit or for-profit corporation, or institution of higher education for research, program development, information collection and dissemination, and technical assistance.

"(4) SET-ASIDE.—

"(A) IN GENERAL.—On October 1 of each fiscal year, of the funds made available under subsection (a), the Secretary shall set aside $4,000,000 to carry out this subsection.

"(B) FEDERAL SHARE.—The Federal share of the cost of an activity carried out using funds made available under subparagraph (A) shall be 100 percent.

"(C) AVAILABILITY.—Funds made available under subparagraph (A) shall remain available until expended.".

Subtitle F—Environment

SEC. 1601. ENVIRONMENTAL RESTORATION AND POLLUTION ABATEMENT; CONTROL OF INVASIVE PLANT SPECIES AND ESTABLISHMENT OF NATIVE SPECIES.

(a) MODIFICATION TO NHS/STP FOR ENVIRONMENTAL RESTORATION, POLLUTION ABATEMENT, AND INVASIVE SPECIES.—

(1) MODIFICATIONS TO NATIONAL HIGHWAY SYSTEM.—Section 103(b)(6) of title 23, United States Code, is amended by adding at the end the following:

"(Q) Environmental restoration and pollution abatement in accordance with section 165.

"(R) Control of invasive plant species and establishment of native species in accordance with section 166.".

(2) MODIFICATIONS TO SURFACE TRANSPORTATION PROGRAM.—Section 133(b) of title 23, is amended by striking paragraph (14) and inserting the following:

"(14) Environmental restoration and pollution abatement in accordance with section 165.

"(15) Control of invasive plant species and establishment of native species in accordance with section 166.".

(b) ELIGIBLE ACTIVITIES.—Subchapter I of chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"§ 165. Eligibility for environmental restoration and pollution abatement

"(a) IN GENERAL.—Subject to subsection (b), environmental restoration and pollution abatement to minimize or mitigate the impacts of any transportation project funded under this title (including retrofitting and construction of storm water treatment systems to meet Federal and State requirements under sections 401 and 402 of the Federal Water Pollution Control Act (33 U.S.C. 1341, 1342)) may be carried out to address water pollution or environmental degradation caused wholly or partially by a transportation facility.

"(b) MAXIMUM EXPENDITURE.—In a case in which a transportation facility is undergoing reconstruction, rehabilitation, resurfacing, or restoration, the expenditure of funds under this section for environmental restoration or pollution abatement described in subsection (a) shall not exceed 20 percent of the total cost of the reconstruction, rehabilitation, resurfacing, or restoration of the facility.

"§ 166. Control of invasive plant species and establishment of native species

"(a) DEFINITIONS.—In this section:

"(1) INVASIVE PLANT SPECIES—The term 'invasive plant species' means a nonindigenous species the introduction of which causes or is likely to cause economic or environmental harm or harm to human health.

"(2) NATIVE PLANT SPECIES.—The term 'native plant species' means, with respect to a particular ecosystem, a species that, other than as result of an introduction, historically occurred or currently occurs in that ecosystem.

"(b) CONTROL OF SPECIES.—

"(1) IN GENERAL.—In accordance with all applicable Federal law (including regulations), funds made available to carry out this section may be used for—

"(A) participation in the control of invasive plant species; and

"(B) the establishment of native species.

"(2) INCLUDED ACTIVITIES.—The participation and establishment under paragraph (1) may include—

"(A) participation in statewide inventories of invasive plant species and desirable plant species;

"(B) regional native plant habitat conservation and mitigation;

"(C) native revegetation;

"(D) elimination of invasive species to create fuel breaks for the prevention and control of wildfires; and

"(E) training.

"(3) CONTRIBUTIONS.—

"(A) IN GENERAL.—Subject to subparagraph (B), an activity described in paragraph (1) may be carried out concurrently with, in advance of, or following the construction of a project funded under this title.

"(B) CONDITION FOR ACTIVITIES CONDUCTED IN ADVANCE OF PROJECT CONSTRUCTION.—An activity described in paragraph (1) may be carried out in advance of construction of a project only if the activity is carried out in accordance with all applicable requirements of Federal law (including regulations) and State transportation planning processes.".

(c) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1406(b)), is amended by adding at the end the following:

"165. Eligibility for environmental restoration and pollution abatement.
"166. Control of invasive plant species and establishment of native species.".

SEC. 1602. NATIONAL SCENIC BYWAYS PROGRAM.

(a) IN GENERAL.—Section 162 of title 23, United States Code, is amended—

(1) in subsection (a)(1), by striking "the roads as" and all that follows and inserting "the roads as—

"(A) National Scenic Byways;

"(B) All-American Roads; or

"(C) America's Byways.";

(2) in subsection (b)—

(A) in paragraph (1)(A), by striking "designated as" and all that follows and inserting "designated as—

"(i) National Scenic Byways;

"(ii) All-American Roads; or

"(iii) America's Byways; and";

(B) in paragraph (2)—

(i) in subparagraph (A), by striking "Byway or All-American Road" and inserting "Byway, All-American Road, or 1 of America's Byways"; and

(ii) in subparagraph (B), by striking "designation as a" and all that follows and inserting "designation as—

"(i) a National Scenic Byway;

"(ii) an All-American Road; or

"(iii) 1 of America's Byways; and"; and

(3) in subsection (c)(4), by striking "passing lane,".

(b) RESEARCH, TECHNICAL ASSISTANCE, MARKETING, AND PROMOTION.—Section 162 of title 23, United States Code, is amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(2) by inserting after subsection (c) the following:

"(d) RESEARCH, TECHNICAL ASSISTANCE, MARKETING, AND PROMOTION.—

"(1) IN GENERAL.—The Secretary may carry out technical assistance, marketing, market research, and promotion with respect to State Scenic Byways, National Scenic Byways, All-American Roads, and America's Byways.

"(2) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may make grants to, or enter into contracts, cooperative agreements, and other transactions with, any Federal agency, State agency, authority, association, institution, for-profit or nonprofit corporation, organization, or person, to carry out projects and activities under this subsection.

"(3) FUNDS.—The Secretary may use not more than $2,000,000 for each fiscal year of funds made available for the National Scenic Byways Program to carry out projects and activities under this subsection.

"(4) PRIORITY.—The Secretary shall give priority under this subsection to partnerships that leverage Federal funds for research, technical assistance, marketing and promotion."; and

(3) in subsection (g) (as redesignated by paragraph (1)), by striking "80 percent" and inserting "the share applicable under section 120, as adjusted under subsection (d) of that section".

SEC. 1603. RECREATIONAL TRAILS PROGRAM.

(a) RECREATIONAL TRAILS PROGRAM FORMULA.—Section 104(h)(1) of title 23, United States Code, is amended—

(1) by striking "Whenever" and inserting the following:

"(A) IN GENERAL.—In any case in which";

(2) by striking "research and technical assistance under the recreational trails program and for the administration of the National Recreational Trails Advisory Committee" and inserting "research, technical assistance, and training under the recreational trails program"; and

(3) by striking "The Secretary" and inserting the following:

"(B) CONTRACTS AND AGREEMENTS.—The Secretary".

(b) RECREATIONAL TRAILS PROGRAM ADMINISTRATION.—Section 206 of title 23, United States Code, is amended—

(1) in subsection (d)—

(A) by striking paragraph (2) and inserting the following:

"(2) PERMISSIBLE USES.—Permissible uses of funds apportioned to a State for a fiscal year to carry out this section include—

"(A) maintenance and restoration of recreational trails;

"(B) development and rehabilitation of trailside and trailhead facilities and trail linkages for recreational trails;

"(C) purchase and lease of recreational trail construction and maintenance equipment;

"(D) construction of new recreational trails, except that, in the case of new recreational trails crossing Federal land, construction of the trails shall be—

"(i) permissible under other law;

"(ii) necessary and recommended by a statewide comprehensive outdoor recreation plan that is—

"(I) required under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-4 et seq.); and

"(II) in effect;

"(iii) approved by the administering agency of the State designated under subsection (c)(1)(A); and

"(iv) approved by each Federal agency having jurisdiction over the affected land, under such terms and conditions as the head of the Federal agency determines to be appropriate, except that the approval shall be contingent on compliance by the Federal agency with all applicable laws, including—

"(I) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

"(II) the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.); and

"(III) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

"(E) acquisition of easements and fee simple title to property for recreational trails or recreational trail corridors;

"(F) assessment of trail conditions for accessibility and maintenance;

"(G) use of trail crews, youth conservation or service corps, or other appropriate means to carry out activities under this section;

"(H) development and dissemination of publications and operation of educational programs to promote safety and environmental protection, as those objectives relate to the use of recreational trails, supporting non-law enforcement trail safety and trail use monitoring patrol programs, and providing trail-related training, but in an amount not to exceed 5 percent of the apportionment made to the State for the fiscal year; and

"(I) payment of costs to the State incurred in administering the program, but in an amount not to exceed 7 percent of the apportionment made to the State for the fiscal year to carry out this section."; and

(B) in paragraph (3)—

(i) in subparagraph (D), by striking "(2)(F)" and inserting "(2)(I)"; and

(ii) by adding at the end the following:

"(E) USE OF YOUTH CONSERVATION OR SERVICE CORPS.—A State shall make available not less than 10 percent of the apportionments of the State to provide grants to, or to enter into cooperative agreements or contracts with, qualified youth conservation or service corps to perform recreational trails program activities.";

(2) in subsection (f)—

(A) in paragraph (1)—

(i) by inserting "and the Federal share of the administrative costs of a State" after "project"; and

(ii) by striking "not exceed 80 percent" and inserting "be determined in accordance with section 120";

(B) in paragraph (2)—

(i) in subparagraph (A), by striking "80 percent of" and inserting "the amount determined in accordance with section 120 for"; and

(ii) in subparagraph (B), by inserting "sponsoring the project" after "Federal agency";

(C) by striking paragraph (5);

(D) by redesignating paragraph (4) as paragraph (5);

(E) by inserting after paragraph (3) the following:

"(4) USE OF RECREATIONAL TRAILS PROGRAM FUNDS TO MATCH OTHER FEDERAL PROGRAM FUNDS.—Notwithstanding any other provision of law, funds made available under this section may be used to pay the non-Federal matching share for other Federal program funds that are—

"(A) expended in accordance with the requirements of the Federal program relating to activities funded and populations served; and

"(B) expended on a project that is eligible for assistance under this section."; and

(F) in paragraph (5) (as redesignated by subparagraph (D)), by striking "80 percent" and inserting "the Federal share as determined in accordance with section 120"; and

(3) in subsection (h)—

(A) in paragraph (1), by inserting after subparagraph (B) the following:

"(C) PLANNING AND ENVIRONMENTAL ASSESSMENT COSTS INCURRED PRIOR TO PROJECT APPROVAL.—A project funded under any of subparagraphs (A) through (H) of subsection (d)(2) may permit preapproval planning and environmental compliance costs incurred not more than 18 months before project approval to be credited toward the non-Federal share in accordance with subsection (f)."; and

(B) by striking paragraph (2) and inserting the following:

"(2) WAIVER OF HIGHWAY PROGRAM REQUIREMENTS.—A project funded under this section—

"(A) is intended to enhance recreational opportunity;

"(B) is not considered to be a highway project; and

"(C) is not subject to—

"(i) section 112, 114, 116, 134, 135, 138, 217, or 301 of this title; or

"(ii) section 303 of title 49.".

SEC. 1604. EXEMPTION OF INTERSTATE SYSTEM.

Subsection 103(c) of title 23, United States Code, is amended by adding at the end the following:

"(5) EXEMPTION OF INTERSTATE SYSTEM.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Interstate System shall not be considered to be a historic site under section 303 of title 49 or section 138 of this title, regardless of whether the Interstate System or portions of the Interstate System are listed on, or eligible for listing on, the National Register of Historic Places.

"(B) INDIVIDUAL ELEMENTS.—A portion of the Interstate System that possesses an independent feature of historic significance, such as a historic bridge or a highly significant engineering feature, that would qualify independently for listing on the National Register of Historic Places, shall be considered to be a historic site under section 303 of title 49 or section 138 of this title, as applicable.".

SEC. 1605. STANDARDS.

(a) IN GENERAL.—Section 109(a) of title 23, United States Code, is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(3) consider the preservation, historic, scenic, natural environmental, and community values.".

(b) CONTEXT SENSITIVE DESIGN.—Section 109 of title 23, United States Code, is amended by striking subsection (p) and inserting the following:

"(p) CONTEXT SENSITIVE DESIGN.—

"(1) IN GENERAL.—The Secretary shall encourage States to design projects funded under this title that—

"(A) allow for the preservation of environmental, scenic, or historic values;

"(B) ensure the safe use of the facility;

"(C) provide for consideration of the context of the locality;

"(D) encourage access for other modes of transportation; and

"(E) comply with subsection (a).

"(2) APPROVAL BY SECRETARY.—Notwithstanding subsections (b) and (c), the Secretary may approve a project described in paragraph (1) for the National Highway System if the project is designed to achieve the criteria specified in that paragraph.".

SEC. 1606. USE OF HIGH OCCUPANCY VEHICLE LANES.

Section 102 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) HIGH OCCUPANCY VEHICLE LANE PASSENGER REQUIREMENTS.—

"(1) DEFINITIONS.—In this subsection:

"(A) RESPONSIBLE AGENCY.—The term 'responsible agency' means—

"(i) a State transportation department; and

"(ii) a local agency in a State that is responsible for transportation matters.

"(B) SERIOUSLY DEGRADED.—The term 'seriously degraded', with respect to a high occupancy vehicle lane, means, in the case of a high occupancy vehicle lane, the minimum average operating speed, performance threshold, and associated time period of the high occupancy vehicle lane, calculated and determined jointly by all applicable responsible agencies and based on conditions unique to the roadway, are unsatisfactory.

"(2) REQUIREMENTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), for each State, 1 or more responsible agencies shall establish the occupancy requirements of vehicles operating on high occupancy vehicle lanes.

"(B) MINIMUM NUMBER OF OCCUPANTS.—Except as provided in paragraph (3), an occupancy requirement established under' subparagraph (A) shall—

"(i) require at least 2 occupants per vehicle for a vehicle operating on a high occupancy vehicle lane; and

"(ii) in the case of a high occupancy vehicle lane that traverses an adjacent State, be established in consultation with the adjacent State.

"(3) EXCEPTIONS TO HOV OCCUPANCY REQUIREMENTS.—

"(A) MOTORCYCLES.—For the purpose of this subsection, a motorcycle—

"(i) shall not be considered to be a single occupant vehicle; and

"(ii) shall be allowed to use a high occupancy vehicle lane unless a responsible agency—

"(I) certifies to the Secretary the use of a high occupancy vehicle lane by a motorcycle would create a safety hazard; and

"(II) restricts that the use of the high occupancy vehicle lane by motorcycles.

"(B) LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—

"(i) DEFINITION OF LOW EMISSION AND ENERGY-EFFICIENT VEHICLE.—In this subparagraph, the term 'low emission and energy-efficient vehicle' means a vehicle that has been certified by the Administrator of the Environmental Protection Agency—

"(I)(aa) to have a 45-mile per gallon or greater fuel economy highway rating; or

"(bb) to qualify as an alternative fueled vehicle under section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211); and

"(II) as meeting Tier II emission level established in regulations promulgated by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)) for that make and model year vehicle.

"(ii) EXEMPTION FOR LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—A responsible agency may permit qualifying low emission and energy-efficient vehicles that do not meet applicable occupancy requirements (as determined by the responsible agency) to use high occupancy vehicle lanes if the responsible agency—

"(I) establishes a program that addresses how those qualifying low emission and energy-efficient vehicles are selected and certified;

"(II) establishes requirements for labeling qualifying low emission and energy-efficient vehicles (including procedures for enforcing those requirements);

"(III) continuously monitors, evaluates, and reports to the Secretary on performance; and

"(IV) imposes such restrictions on the use on high occupancy vehicle lanes by vehicles that do not satisfy established occupancy requirements as are necessary to ensure that the performance of individual high occupancy vehicle lanes, and the entire high occupancy vehicle lane system, will not become seriously degraded.

"(C) TOLLING OF VEHICLES.—

"(i) IN GENERAL.—A responsible agency may permit vehicles, in addition to the vehicles described in paragraphs (A), (B), and (D) that do not satisfy established occupancy requirements, to use a high occupancy vehicle lane only if the responsible agency charges those vehicles a toll.

"(ii) APPLICABLE AUTHORITY.—In imposing a toll under clause (i), a responsible agency shall—

"(I) be subject to section 129;

"(II) establish a toll program that addresses ways in which motorists may enroll and participate in the program;

"(III) develop, manage, and maintain a system that will automatically collect the tolls from covered vehicles;

"(IV) continuously monitor, evaluate, and report on performance of the system;

"(V) establish such policies and procedures as are necessary—

"(aa) to vary the toll charged in order to manage the demand for use of high occupancy vehicle lanes; and

"(bb) to enforce violations; and

"(VI) establish procedures to impose such restrictions on the use of high occupancy vehicle lanes by vehicles that do not satisfy established occupancy requirements as are necessary to ensure that the performance of individual high occupancy vehicle lanes, and the entire high occupancy vehicle lane system, will not become seriously degraded.

"(D) DESIGNATED PUBLIC TRANSPORTATION VEHICLES.—

"(i) DEFINITION OF DESIGNATED PUBLIC TRANSPORTATION VEHICLE.—In this subparagraph, the term 'designated public transportation vehicle' means a vehicle that—

"(I) provides designated public transportation (as defined in section 221 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12141)); and

"(II)(aa) is owned or operated by a public entity; or

"(bb) is operated under a contract with a public entity.

"(ii) USE OF HIGH OCCUPANCY VEHICLE LANES.—A responsible agency may permit designated public transportation vehicles that do not satisfy established occupancy requirements to use high occupancy vehicle lanes if the responsible agency—

"(I) requires the clear and identifiable labeling of each designated public transportation vehicle operating under a contract with a public entity with the name of the public entity on all sides of the vehicle;

"(II) continuously monitors, evaluates, and reports on performance of those designated public transportation vehicles; and

"(III) imposes such restrictions on the use of high occupancy vehicle lanes by designated public transportation vehicles as are necessary to ensure that the performance of individual high occupancy vehicle lanes, and the entire high occupancy vehicle lane system, will not become seriously degraded.

"(E) HOV LANE MANAGEMENT, OPERATION, AND MONITORING.—

"(i) IN GENERAL.—A responsible agency that permits any of the exceptions specified in this paragraph shall comply with clauses (ii) and (iii).

"(ii) PERFORMANCE MONITORING, EVALUATION, AND REPORTING.—A responsible agency described in clause (i) shall establish, manage, and support a performance monitoring, evaluation, and reporting program under which the responsible agency continuously monitors, assesses, and reports on the effects that any vehicle permitted to use a high occupancy vehicle lane under an exception under this paragraph may have on the operation of—

"(I) individual high occupancy vehicle lanes; and

"(II) the entire high occupancy vehicle lane system.

"(iii) OPERATION OF HOV LANE OR SYSTEM.—A responsible agency described in clause (i) shall limit use of, or cease to use, any of the exceptions specified in this paragraph if the presence of any vehicle permitted to use a high occupancy vehicle lane under an exception under this paragraph seriously degrades the operation of—

"(I) individual high occupancy vehicle lanes; and

"(II) the entire high occupancy vehicle lane system.".

SEC. 1607. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS.

(a) IN GENERAL.—Section 217 of title 23, United States Code, is amended—

(1) in subsection (a), by inserting "pedestrian and" after "safe";

(2) in subsection (e), by striking "bicycles" each place it appears and inserting "pedestrians or bicyclists";

(3) by striking subsection (f) and inserting the following:

"(f) FEDERAL SHARE.—The Federal share of the construction of bicycle transportation facilities and pedestrian walkways, and for carrying out nonconstruction projects relating to safe pedestrian and bicycle use, shall be determined in accordance with section 120(b).";

(4) by redesignating subsection (j) as subsection (k);

(5) by inserting after subsection (i) the following:

"(j) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—

"(1) IN GENERAL.—The Secretary shall select and make grants to a national, nonprofit organization engaged in promoting bicycle and pedestrian safety—

"(A) to operate a national bicycle and pedestrian clearinghouse;

"(B) to develop information and educational programs regarding walking and bicycling; and

"(C) to disseminate techniques and strategies for improving bicycle and pedestrian safety.

"(2) FUNDING.—The Secretary may use funds set aside under section 104(n) to carry out this subsection.

"(3) APPLICABILITY OF TITLE 23.—Funds authorized to be appropriated to carry out this subsection shall be available for obligation in the same manner as if the funds were apportioned under section 104, except that the funds shall remain available until expended."; and

(6) in subsection (k) (as redesignated by paragraph (4))—

(A) by redesignating paragraph (4) as paragraph (5); and

(B) by inserting after paragraph (3) the following:

"(4) SHARED USE PATH.—The term 'shared use path' means a multiuse trail or other path that is—

"(A) physically separated from motorized vehicular traffic by an open space or barrier, either within a highway right-of-way or within an independent right-of-way; and

"(B) usable for transportation purposes (including by pedestrians, bicyclists, skaters, equestrians, and other nonmotorized users).".

(b) RESERVATION OF FUNDS.—Section 104 of title 23, United States Code (as amended by section 1522), is amended by adding at the end the following:

"(n) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—On October 1 of each of fiscal years 2004 through 2009, the Secretary, after making the deductions authorized by subsections (a) and (f), shall set aside $500,000 of the remaining funds apportioned under subsection (b)(3) for use in carrying out the bicycle and pedestrian safety grant program under section 217.".

SEC. 1608. IDLING REDUCTION FACILITIES IN INTERSTATE RIGHTS-OF-WAY.

Section 111 of title 23, United States Code, is amended by adding at the end the following:

"(d) IDLING REDUCTION FACILITIES IN INTERSTATE RIGHTS-OF-WAY.—

"(1) IN GENERAL.—Notwithstanding subsection (a), a State may—

"(A) permit electrification or other idling reduction facilities and equipment, for use by motor vehicles used for commercial purposes, to be placed in rest and recreation areas, and in safety rest areas, constructed or located on rights-of-way of the Interstate System in the State, so long as those idling reduction measures do not—

"(i) reduce the existing number of designated truck parking spaces at any given rest or recreation area; or

"(ii) preclude the use of those spaces by trucks employing alternative idle reduction technologies; and

"(B) charge a fee, or permit the charging of a fee, for the use of those parking spaces actively providing power to a truck to reduce idling.

"(2) PURPOSE.—The exclusive purpose of the facilities described in paragraph (1) (or similar technologies) shall be to enable operators of motor vehicles used for commercial purposes—

"(A) to reduce idling of a truck while parked in the rest or recreation area; and

"(B) to use installed or other equipment specifically designed to reduce idling of a truck, or provide alternative power for supporting driver comfort, while parked.".

SEC. 1609. TOLL PROGRAMS.

(a) INTERSTATE SYSTEM RECONSTRUCTION AND REHABILITATION PILOT PROGRAM.—Section 1216(b) of the Transportation Equity Act for the 21st Century (23 U.S.C. 129 note; 112 Stat. 212)—

(1) is amended—

(A) in paragraph (1)—

(i) by striking "The Secretary" and inserting "Notwithstanding section 301, the Secretary"; and

(ii) by striking "that could not otherwise be adequately maintained or functionally improved without the collection of tolls";

(B) in paragraph (3), by striking subparagraph (C) and inserting the following:

"(C) An analysis demonstrating that financing the reconstruction or rehabilitation of the facility with the collection of tolls under this pilot program is the most efficient, economical, or expeditious way to advance the project.";

(C) in paragraph (4)—

(i) by striking subparagraph (A) and inserting the following:

"(A) the State's analysis showing that financing the reconstruction or rehabilitation of a facility with the collection of tolls under the pilot program is the most efficient, economical, or expeditious way to advance the project;";

(ii) by striking subparagraph (B) and inserting the following:

"(B) the facility needs reconstruction or rehabilitation, including major work that may require replacing sections of the existing facility on new alignment;";

(iii) by striking subparagraph (C); and

(iv) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively;

(2) is redesignated as subsection (d) of section 129 of title 23, United States Code, and moved to appear at the end of that section; and

(3) by striking "of title 23, United States Code" each place it appears.

(b) Fast and Sensible Toll (FAST) Lanes Program.—Section 129 of title 23, United States Code (as amended by subsection (a)(2)), is amended by adding at the end the following:

"(e) Fast and Sensible Toll (FAST) Lanes Program.—

"(1) Definitions.—In this subsection:

"(A) Eligible toll facility.—The term 'eligible toll facility' includes—

"(i) a facility in existence on the date of enactment of this subsection that collects tolls;

"(ii) a facility in existence on the date of enactment of this subsection, including a facility that serves high occupancy vehicles;

"(iii) a facility modified or constructed after the date of enactment of this subsection to create additional tolled capacity (including a facility constructed by a private entity or using private funds); and

"(iv) in the case of a new lane added to a previously non-tolled facility, only the new lane.

"(B) Nonattainment area.—The term 'nonattainment area' has the meaning given the term in section 171 of the Clean Air Act (42 U.S.C. 7501).

"(2) Establishment.—Notwithstanding sections 129 and 301, the Secretary shall permit a State, public authority, or a public or private entity designated by a State, to collect a toll from motor vehicles at an eligible toll facility for any highway, bridge, or tunnel, including facilities on the Interstate System—

"(A) to manage high levels of congestion;

"(B) to reduce emissions in a nonattainment area or maintenance area; or

"(C) to finance the expansion of a highway, for the purpose of reducing traffic congestion, by constructing 1 or more additional lanes (including bridge, tunnel, support, and other structures necessary for that construction) on the Interstate System.

"(3) Limitation on use of revenues.—

"(A) Use.—

"(i) In general.—Toll revenues received under paragraph (2) shall be used by a State, public authority, or private entity designated by a State, for—

"(I) debt service for debt incurred on 1 or more highway or transit projects carried out under this title or title 49;

"(II) a reasonable return on investment of any private financing;

"(III) the costs necessary for proper operation and maintenance of any facilities under paragraph (2) (including reconstruction, resurfacing, restoration, and rehabilitation); or

"(IV) if the State, public authority, or private entity annually certifies that the tolled facility is being adequately operated and maintained, any other purpose relating to a highway or transit project carried out under this title or title 49.

"(B) Requirements.—

"(i) Variable price requirement.—A facility that charges tolls under this subsection may establish a toll that varies in price according to time of day or level of traffic, as appropriate to manage congestion or improve air quality.

"(ii) HOV variable pricing requirement.—The Secretary shall require, for each high occupancy vehicle facility that charges tolls under this subsection, that the tolls vary in price according to time of day or level of traffic, as appropriate to manage congestion or improve air quality.

"(iii) HOV passenger requirements.—In addition to the exceptions to the high occupancy vehicle passenger requirements established under section 102(a)(2), a State may permit motor vehicles with fewer than 2 occupants to operate in high occupancy vehicle lanes as part of a variable toll pricing program established under this subsection.

"(C) Agreement.—

"(i) In general.—Before the Secretary may permit a facility to charge tolls under this subsection, the Secretary and the applicable State, public authority, or private entity designated by a State shall enter into an agreement for each facility incorporating the conditions described in subparagraphs (A) and (B).

"(ii) Termination.—An agreement under clause (i) shall terminate with respect to a facility upon the decision of the State, public authority, or private entity designated by a State to discontinue the variable tolling program under this subsection for the facility.

"(iii) Debt.—

"(I) In general.—If there is any debt outstanding on a facility at the time at which the decision is made to discontinue the program under this subsection with respect to the facility, the facility may continue to charge tolls in accordance with the terms of the agreement until such time as the debt is retired.

"(II) Notice.—On retirement of the debt of a tolled facility, the applicable State, public authority, or private entity designated by a State shall provide notice to the public of that retirement.

"(D) Limitation on federal share.—The Federal share of the cost of a project on a facility tolled under this subsection, including a project to install the toll collection facility shall be a percentage, not to exceed 80 percent, determined by the applicable State.

"(4) Eligibility.—To be eligible to participate in the program under this subsection, a State, public authority, or private entity designated by a State shall provide to the Secretary—

"(A) a description of the congestion or air quality problems sought to be addressed under the program;

"(B) a description of—

"(i) the goals sought to be achieved under the program; and

"(ii) the performance measures that would be used to gauge the success made toward reaching those goals; and

"(C) such other information as the Secretary may require.

"(5) Automation.—Fees collected from motorists using a FAST lane shall be collected only through the use of noncash electronic technology that optimizes the free flow of traffic on the tolled facility.

"(6) Interoperability.—

"(A) Rule.—

"(i) In general.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall promulgate a final rule specifying requirements, standards, or performance specifications for automated toll collection systems implemented under this section.

"(ii) Development.—In developing that rule, which shall be designed to maximize the interoperability of electronic collection systems, the Secretary shall, to the maximum extent practicable—

"(I) seek to accelerate progress toward the national goal of achieving a nationwide interoperable electronic toll collection system;

"(II) take into account the use of noncash electronic technology currently deployed within an appropriate geographical area of travel and the noncash electronic technology likely to be in use within the next 5 years; and

"(III) seek to minimize additional costs and maximize convenience to users of toll facility and to the toll facility owner or operator.

"(B) Future modifications.—As the state of technology progresses, the Secretary shall modify the rule promulgated under subparagraph (A), as appropriate.

"(7) Reporting.—

"(A) In general.—The Secretary, in cooperation with State and local agencies and other program participants and with opportunity for public comment, shall—

"(i) develop and publish performance goals for each FAST lane project;

"(ii) establish a program for regular monitoring and reporting on the achievement of performance goals, including—

"(I) effects on travel, traffic, and air quality;

"(II) distribution of benefits and burdens;

"(III) use of alternative transportation modes; and

"(IV) use of revenues to meet transportation or impact mitigation needs.

"(B) Reports to congress.—The Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

"(i) not later than 1 year after the date of enactment of this subsection, and annually thereafter, a report that describes in detail the uses of funds under this subsection in accordance with paragraph (8)(D); and

"(ii) not later than 3 years after the date of enactment of this subsection, and every 3 years thereafter, a report that describes any success of the program under this subsection in meeting congestion reduction and other performance goals established for FAST lane programs.

"(8) Funding.—

"(A) Authorization of appropriations.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out pre-implementation studies and post-implementation evaluations of projects planned or implemented under this subsection $11,000,000 for each of fiscal years 2004 through 2009.

"(B) Availability.—Funds allocated by the Secretary to a State under this subsection shall remain available for obligation by the State for a period of 3 years after the last day of the fiscal year for which the funds were authorized.

"(C) Contract authority.—Funds authorized to be appropriated under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under this chapter, except that the Federal share of the cost of any project carried out under this subsection and the availability of funds authorized by this paragraph shall be determined in accordance with this subsection.

"(D) Program promotion.—Notwithstanding any other provision of this section, the Secretary shall use an amount not to exceed 2 percent of the funds made available under subparagraph (A)—

"(i) to make grants to promote the purposes of the program under this subsection;

"(ii) to provide technical support to State and local governments or other public or private entities involved in implementing or considering FAST lane programs; and

"(iii) to conduct research on variable pricing that will support State or local efforts to initiate those pricing requirements.

"(E) Effect on other apportionments and allocations.—Revenues collected from tolls established under this subsection shall not be taken into account in determining the apportionments and allocations that any State or transportation district within a State shall be entitled to receive under or in accordance with this chapter.

"(9) Compliance.—The Secretary shall ensure that any project or activity carried out under this section complies with requirements under section 106 of this title and section 307 of title 49.

"(10) Voluntary use.—Nothing in this subsection requires any highway user to use a FAST lane.

"(11) Environmental requirements.—Nothing in this subsection affects any environmental requirement applicable to the construction or operation of an eligible toll facility under this title or any other provision of law.".

(c) Conforming Amendments.—

(1) In general.—Section 1012 of the Intermodal Surface Transportation Efficiency Act (23 U.S.C. 149 note; 105 Stat. 1938; 112 Stat. 211) is amended by striking subsection (b).

(2) Continuation of program.—Notwithstanding the amendment made by paragraph (1), the Secretary shall monitor and allow any value pricing program established under a cooperative agreement in effect on the day before the date of enactment of this Act to continue.

SEC. 1610. FEDERAL REFERENCE METHOD.

(a) In General.—Section 6102 of the Transportation Equity Act for the 21st Century (42 U.S.C. 7407 note; 112 Stat. 464) is amended by striking subsection (e) and inserting the following:

"(e) Field Study.—Not later than 2 years after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Administrator shall—

"(1) conduct a field study of the ability of the $PM_{2.5}$ Federal Reference Method to differentiate those particles that are larger than 2.5 micrometers in diameter;

"(2) develop a Federal reference method to measure directly particles that are larger than 2.5 micrometers in diameter without reliance on subtracting from coarse particle measurements those particles that are equal to or smaller than 2.5 micrometers in diameter;

"(3) develop a method of measuring the composition of coarse particles; and

"(4) submit a report on the study and responsibilities of the Administrator under paragraphs (1) through (3) to—

"(A) the Committee on Commerce of the House of Representatives; and

"(B) the Committee on Environment and Public Works of the Senate.".

SEC. 1611. ADDITION OF PARTICULATE MATTER AREAS TO CMAQ.

Section 104(b)(2) of title 23, United States Code, is amended—

(1) in subparagraph (B)—

(A) in the matter preceding clause (i), by striking "ozone or carbon monoxide" and inserting "ozone, carbon monoxide, or fine particulate matter ($PM_{2.5}$)";

(B) by striking clause (i) and inserting the following:

"(i) 1.0, if at the time of apportionment, the area is a maintenance area;";

(C) in clause (vi), by striking "or" after the semicolon; and

(D) in clause (vii)—

(i) by striking "area as described in section 149(b) for ozone," and inserting "area for ozone (as described in section 149(b) or for PM–2.5"; and

(ii) by striking the period at the end and inserting a semicolon;

(2) by adding at the end the following:

"(viii) 1.0 if, at the time of apportionment, any county that is not designated as a nonattainment or maintenance area under the 1-hour ozone standard is designated as nonattainment under the 8-hour ozone standard; or

"(ix) 1.2 if, at the time of apportionment, the area is not a nonattainment or maintenance area as described in section 149(b) for ozone or carbon monoxide, but is an area designated nonattainment under the PM–2.5 standard.";

(3) by striking subparagraph (C) and inserting the following:

"(C) Additional adjustment for carbon monoxide areas.—If, in addition to being designated as a nonattainment or maintenance area for ozone as described in section 149(b), any county within the area was also classified under subpart 3 of part D of title I of the Clean Air Act (42 U.S.C. 7512 et seq.) as a nonattainment or maintenance area described in section 149(b) for carbon monoxide, the weighted nonattainment or maintenance area population of the county, as determined under clauses (i) through (vi) or clause (viii) of subparagraph (B), shall be further multiplied by a factor of 1.2.";

(4) by redesignating subparagraph (D) and (E) as subparagraphs (E) and (F) respectively; and

(5) by inserting after subparagraph (C) the following:

"(D) Additional adjustment for PM 2.5 areas.—If, in addition to being designated as a nonattainment or maintenance area for ozone or carbon monoxide, or both as described in section 149(b), any county within the area was also designated under the PM–2.5 standard as a nonattainment or maintenance area, the weighted nonattainment or maintenance area population of those counties shall be further multiplied by a factor of 1.2.".

SEC. 1612. ADDITION TO CMAQ-ELIGIBLE PROJECTS.

(a) Eligible Projects.—Section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (4), by striking "or" at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(6) if the project or program is for the purchase of alternative fuel (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)) or biodiesel; or

"(7) if the project or program involves the purchase of integrated, interoperable emergency communications equipment.".

(b) States Receiving Minimum Apportionment.—Section 149(c) of title 23, United States Code, is amended—

(1) in paragraph (1), by striking "for any project eligible under the surface transportation program under section 133." and inserting the following: "for any project in the State that—

"(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

"(B) is eligible under the surface transportation program under section 133."; and

(2) in paragraph (2), by striking "for any project in the State eligible under section 133." and inserting the following: "for any project in the State that—

"(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

"(B) is eligible under the surface transportation program under section 133.".

(c) Responsibility of States.—

(1) In general.—Each State shall be responsible for ensuring that subrecipients of Federal funds within the State under section 149 of title 23, United States Code, have emission reduction strategies for fleets that are—

(A) used in construction projects located in nonattainment and maintenance areas; and

(B) funded under title 23, United States Code.

(2) Emission reduction strategies.—The Administrator of the Environmental Protection Agency, in consultation with the Secretary, shall develop a nonbinding list of emission reduction strategies and supporting technical information for each strategy, including—

(A) contract preferences;

(B) requirements for the use of anti-idling equipment;

(C) diesel retrofits; and

(D) such other matters as the Administrator of the Environmental Protection Agency, in consultation with the Secretary, determine to be appropriate.

(3) Use of CMAQ funds.—A State may use funds made available under this title and title 23, United States Code, for the congestion mitigation and air quality program under section 149 of title 23, United States Code, to ensure the deployment of the emission reduction strategies described in paragraph (1).

SEC. 1613. IMPROVED INTERAGENCY CONSULTATION.

Section 149 of title 23, United States Code, is amended by adding at the end the following:

"(g) Interagency Consultation.—The Secretary shall encourage States and metropolitan planning organizations to consult with State and local air quality agencies in nonattainment and maintenance areas on the estimated emission reductions from proposed congestion mitigation and air quality improvement programs and projects.".

SEC. 1614. EVALUATION AND ASSESSMENT OF CMAQ PROJECTS.

Section 149 of title 23, United States Code, is amended by adding at the end the following:

"(h) Evaluation and Assessment of Projects.—

"(1) In general.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall evaluate and assess a representative sample of projects funded under the congestion mitigation and air quality program to—

“(A) determine the direct and indirect impact of the projects on air quality and congestion levels; and

“(B) ensure the effective implementation of the program.

“(2) DATABASE.—Using appropriate assessments of projects funded under the congestion mitigation and air quality program and results from other research, the Secretary shall maintain and disseminate a cumulative database describing the impacts of the projects.

“(3) CONSIDERATION.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall consider the recommendations and findings of the report submitted to Congress under section 1110(e) of the Transportation Equity Act for the 21st Century (112 Stat. 144), including recommendations and findings that would improve the operation and evaluation of the congestion mitigation and air quality improvement program under section 149.”.

SEC. 1615. SYNCHRONIZED PLANNING AND CONFORMITY TIMELINES, REQUIREMENTS, AND HORIZON.

(a) METROPOLITAN PLANNING.—

(1) DEVELOPMENT OF LONG-RANGE TRANSPORTATION PLAN.—Section 134(g)(1) of title 23, United States Code, is amended by striking “periodically, according to a schedule that the Secretary determines to be appropriate,” and inserting “every 4 years (or more frequently, in a case in which the metropolitan planning organization elects to update a transportation plan more frequently) in areas designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)), and in areas that were nonattainment that have been redesignated to attainment in accordance with section 107(d)(3) of that Act (42 U.S.C. 7407(d)(3)), with a maintenance plan under section 175A of that Act (42 U.S.C. 7505a), or every 5 years (or more frequently, in a case in which the metropolitan planning organization elects to update a transportation plan more frequently) in areas designated as attainment (as defined in section 107(d) of that Act (42 U.S.C. 7407(d))).”.

(2) METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM.—Section 134(h) of title 23, United States Code, is amended—

(A) in paragraph (1)(D), by striking “2 years” and inserting “4 years”: and

(B) in paragraph (2)(A), by striking “3-year” and inserting “4-year”.

(3) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—Section 135(f)(1)(A) of title 23, United States Code, is amended by inserting after “program” the following: “(which program shall cover a period of 4 years and be updated every 4 years)”.

(4) FINAL REGULATIONS.—Not later than 18 months after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Secretary shall promulgate regulations that are consistent with the amendments made by this subsection.

(b) SYNCHRONIZED CONFORMITY DETERMINATION.—Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) is amended—

(1) in paragraph (2)—

(A) by striking “(2) Any transportation plan” and inserting the following:

“(2) TRANSPORTATION PLANS AND PROGRAMS.—Any transportation plan”;

(B) in subparagraph (C)(iii), by striking the period at the end and inserting a semicolon;

(C) in subparagraph (D)—

(i) by striking “Any project” and inserting “any transportation project”; and

(ii) by striking the period at the end and inserting “; and”; and

(D) by adding at the end the following:

“(E) the appropriate metropolitan planning organization shall redetermine conformity of existing transportation plans and programs not later than 2 years after the date on which the Administrator—

“(i) finds a motor vehicle emissions budget to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2003);

“(ii) approves an implementation plan that establishes a motor vehicle emissions budget, if that budget has not yet been used in a conformity determination prior to approval; or

“(iii) promulgates an implementation plan that establishes or revises a motor vehicle emissions budget.”;

(2) in paragraph (4)(B)(ii), by striking “but in no case shall such determinations for transportation plans and programs be less frequent than every 3 years; and” and inserting “but the frequency for making conformity determinations on updated transportation plans and programs shall be every 4 years, except in a case in which—

“(I) the metropolitan planning organization elects to update a transportation plan or program more frequently; or

“(II) the metropolitan planning organization is required to determine conformity in accordance with paragraph (2)(E); and”;

(3) in paragraph (4)(B)—

(A) in clause (ii), by striking “and” at the end;

(B) in clause (iii), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(iv) address the effects of the most recent population, economic, employment, travel, transit ridership, congestion, and induced travel demand information in the development and application of the latest travel and emissions models.”;

(4) by adding at the end the following:

“(7) CONFORMITY HORIZON FOR TRANSPORTATION PLANS.—

“(A) IN GENERAL.—For the purposes of this section, a transportation plan in a nonattainment or maintenance area shall be considered to be a transportation plan or a portion of a transportation plan that extends for the longest of the following periods:

“(i) The first 10-year period of any such transportation plan.

“(ii) The latest year in the implementation plan applicable to the area that contains a motor vehicle emission budget.

“(iii) The year after the completion date of a regionally significant project, if the project requires approval before the subsequent conformity determination.

“(B) EXCEPTION.—In a case in which an area has a revision to an implementation plan under section 175A(b) and the Administrator has found the motor vehicle emissions budgets from that revision to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2003), or has approved the revision, the transportation plan shall be considered to be a transportation plan or portion of a transportation plan that extends through the last year of the implementation plan required under section 175A(b).

“(8) DEFINITIONS.—In this subsection:

“(A) REGIONALLY SIGNIFICANT PROJECT.—

“(i) IN GENERAL.—The term ‘regionally significant project’ means a transportation project that is on a facility that serves a regional transportation need, including—

“(I) access to and from the area outside of the region;

“(II) access to and from major planned developments, including new retail malls, sports complexes, or transportation terminals; and

“(III) most transportation terminals.

“(ii) PRINCIPAL ARTERIALS AND FIXED GUIDEWAYS.—The term ‘regionally significant project’ includes, at a minimum—

“(I) all principal arterial highways; and

“(II) all fixed guideway transit facilities that offer an alternative to regional highway travel.

“(iii) ADDITIONAL PROJECTS.—The interagency consultation process and procedures described in section 93.105(c) of title 40, Code of Federal Regulations (as in effect on October 1, 2003), shall be used to make determinations as to whether minor arterial highways and other transportation projects should be considered ‘regionally significant projects’.

“(iv) EXCLUSIONS.—The term ‘regionally significant project’ does not include any project of a type listed in sections 93.126 or 127 of title 40, Code of Federal Regulations (as in effect on October 1, 2003).

“(B) SIGNIFICANT REVISION.—The term ‘significant revision’ means—

“(i) with respect to a regionally significant project, a significant change in design concept or scope to the project; and

“(ii) with respect to any other kind of project, a change that converts a project that is not a regionally significant project into a regionally significant project.

“(C) TRANSPORTATION PROJECT.—The term ‘transportation project’ includes only a project that is—

“(i) a regionally significant project; or

“(ii) a project that makes a significant revision to an existing project.”; and

(5) in the matter following paragraph (3)(B), by inserting “transportation” before “project” each place it appears.

SEC. 1616. TRANSITION TO NEW AIR QUALITY STANDARDS.

Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) is amended by striking paragraph (3) and inserting the following:

“(3) METHODS OF CONFORMITY DETERMINATION BEFORE BUDGET IS AVAILABLE.—

“(A) IN GENERAL.—Until such time as a motor vehicle emission budget from an implementation plan submitted for a national ambient air quality standard is determined to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2003), or the submitted implementation plan is approved, conformity of such a plan, program, or project shall be demonstrated, in accordance with clauses (i) and (ii) and as selected through the consultation process required under paragraph (4)(D)(i), with—

“(i) a motor vehicle emission budget that has been found adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2003), or that has been approved, from an implementation plan for the most recent prior applicable national ambient air quality standard addressing the same pollutant; or

“(ii) other such tests as the Administrator shall determine to ensure that—

“(I) the transportation plan or program—

“(aa) is consistent with the most recent estimates of mobile source emissions;

“(bb) provides for the expeditious implementation of transportation control measures in the applicable implementation plan; and

“(cc) with respect to an ozone or carbon monoxide nonattainment area, contributes to annual emissions reductions consistent with sections 182(b)(1) and 187(a)(7); and

"(II) the transportation project—

"(aa) comes from a conforming transportation plan and program described in this subparagraph; and

"(bb) in a carbon monoxide nonattainment area, eliminates or reduces the severity and number of violations of the carbon monoxide standards in the area substantially affected by the project.

"(B) DETERMINATION FOR A TRANSPORTATION PROJECT IN A CARBON MONOXIDE NONATTAINMENT AREA.—A determination under subparagraph (A)(ii)(II)(bb) may be made as part of either the conformity determination for the transportation program or for the individual project taken as a whole during the environmental review phase of project development.".

SEC. 1617. REDUCED BARRIERS TO AIR QUALITY IMPROVEMENTS.

Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) (as amended by section 1615(b)(4)) is amended—

(1) by redesignating paragraph (8) as paragraph (9); and

(2) by inserting after paragraph (7) the following:

"(8) SUBSTITUTION FOR TRANSPORTATION CONTROL MEASURES.—

"(A) IN GENERAL.—Transportation control measures that are specified in an implementation plan may be replaced or added to the implementation plan with alternate or additional transportation control measures if—

"(i) the substitute measures achieve equivalent or greater emissions reductions than the control measure to be replaced, as demonstrated with an analysis that is consistent with the current methodology used for evaluating the replaced control measure in the implementation plan;

"(ii) the substitute control measures are implemented—

"(I) in accordance with a schedule that is consistent with the schedule provided for control measures in the implementation plan; or

"(II) if the implementation plan date for implementation of the control measure to be replaced has passed, as soon as practicable after the implementation plan date but not later than the date on which emission reductions are necessary to achieve the purpose of the implementation plan;

"(iii) the substitute and additional control measures are accompanied with evidence of adequate personnel, funding, and authority under State or local law to implement, monitor, and enforce the control measures;

"(iv) the substitute and additional control measures were developed through a collaborative process that included—

"(I) participation by representatives of all affected jurisdictions (including local air pollution control agencies, the State air pollution control agency, and State and local transportation agencies);

"(II) consultation with the Administrator; and

"(III) reasonable public notice and opportunity for comment; and

"(v) the metropolitan planning organization, State air pollution control agency, and the Administrator concur with the equivalency of the substitute or additional control measures.

"(B) ADOPTION.—After carrying out subparagraph (A), a State shall adopt the substitute or additional transportation control measure in the applicable implementation plan.

"(C) NO REQUIREMENT FOR EXPRESS PERMISSION.—The substitution or addition of a transportation control measure in accordance with this paragraph shall not be contingent on there being any provision in the implementation plan that expressly permits such a substitution or addition.

"(D) NO REQUIREMENT FOR NEW CONFORMITY DETERMINATION.—The substitution or addition of a transportation control measure in accordance with this paragraph shall not require—

"(i) a new conformity determination for the transportation plan; or

"(ii) a revision of the implementation plan.

"(E) CONTINUATION OF CONTROL MEASURE BEING REPLACED.—A control measure that is being replaced by a substitute control measure under this paragraph shall remain in effect until the substitute control measure is adopted by the State pursuant to subparagraph (B).

"(F) EFFECT OF ADOPTION.—Adoption of a substitute control measure shall constitute rescission of the previously applicable control measure.".

SEC. 1618. AIR QUALITY MONITORING DATA INFLUENCED BY EXCEPTIONAL EVENTS.

(a) IN GENERAL.—Section 319 of the Clean Air Act (42 U.S.C. 7619) is amended—

(1) by striking the section heading and all that follows through "after notice and opportunity for public hearing" and inserting the following:

"SEC. 319. AIR QUALITY MONITORING.

"(a) IN GENERAL.—After notice and opportunity for public hearing"; and

(2) by adding at the end the following:

"(b) AIR QUALITY MONITORING DATA INFLUENCED BY EXCEPTIONAL EVENTS.—

"(1) DEFINITION OF EXCEPTIONAL EVENT.—In this section:

"(A) IN GENERAL.—The term 'exceptional event' means an event that—

"(i) affects air quality;

"(ii) is not reasonably controllable or preventable;

"(iii) is—

"(I) a natural event; or

"(II) an event caused by human activity that is unlikely to recur at a particular location; and

"(iv) is determined by the Administrator through the process established in the regulations promulgated under paragraph (2) to be an exceptional event.

"(B) EXCLUSIONS.—The term 'exceptional event' does not include—

"(i) stagnation of air masses or meteorological inversions;

"(ii) a meteorological event involving high temperatures or lack of precipitation; or

"(iii) air pollution relating to source noncompliance.

"(2) REGULATIONS.—

"(A) PROPOSED REGULATIONS.—Not later than March 1, 2005, after consultation with Federal land managers and State air pollution control agencies, the Administrator shall publish in the Federal Register proposed regulations governing the review and handling of air quality monitoring data influenced by exceptional events.

"(B) FINAL REGULATIONS.—Not later than 1 year after the date on which the Administrator publishes proposed regulations under subparagraph (A), and after providing an opportunity for interested persons to make oral presentations of views, data, and arguments regarding the proposed regulations, the Administrator shall promulgate final regulations governing the review and handling or air quality monitoring data influenced by an exceptional event that are consistent with paragraph (3).

"(3) PRINCIPLES AND REQUIREMENTS.—

"(A) PRINCIPLES.—In promulgating regulations under this section, the Administrator shall follow—

"(i) the principle that protection of public health is the highest priority;

"(ii) the principle that timely information should be provided to the public in any case in which the air quality is unhealthy;

"(iii) the principle that all ambient air quality data should be included in a timely manner, an appropriate Federal air quality database that is accessible to the public;

"(iv) the principle that each State must take necessary measures to safeguard public health regardless of the source of the air pollution; and

"(v) the principle that air quality data should be carefully screened to ensure that events not likely to recur are represented accurately in all monitoring data and analyses.

"(B) REQUIREMENTS.—Regulations promulgated under this section shall, at a minimum, provide that—

"(i) the occurrence of an exceptional event must be demonstrated by reliable, accurate data that is promptly produced and provided by Federal, State, or local government agencies;

"(ii) a clear causal relationship must exist between the measured exceedances of a national ambient air quality standard and the exceptional event to demonstrate that the exceptional event caused a specific air pollution concentration at a particular air quality monitoring location;

"(iii) there is a public process for determining whether an event is exceptional; and

"(iv) there are criteria and procedures for the Governor of a State to petition the Administrator to exclude air quality monitoring data that is directly due to exceptional events from use in determinations by the Environmental Protection Agency with respect to exceedances or violations of the national ambient air quality standards.

"(4) INTERIM PROVISION.—Until the effective date of a regulation promulgated under paragraph (2), the following guidance issued by the Administrator shall continue to apply:

"(A) Guidance on the identification and use of air quality data affected by exceptional events (July 1986).

"(B) Areas affected by PM–10 natural events, May 30, 1996.

"(C) Appendices I, K, and N to part 50 of title 40, Code of Federal Regulations.".

SEC. 1619. CONFORMING AMENDMENTS.

Section 176(c)(4) of the Clean Air Act (42 U.S.C. 7506(c)(4) is amended—

(1) by redesignating subparagraphs (B) through (D) as subparagraphs (D) through (F), respectively;

(2) by striking "(4)(A) No later than one year after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate" and inserting the following:

"(4) CRITERIA AND PROCEDURES FOR DETERMINING CONFORMITY.—

"(A) IN GENERAL.—The Administrator shall promulgate, and periodically update,";

(3) in subparagraph (A)—

(A) in the second sentence, by striking "No later than one year after such date of enactment, the Administrator, with the concurrence of the Secretary of Transportation, shall promulgate" and inserting the following:

"(B) TRANSPORTATION PLANS, PROGRAMS, AND PROJECTS.—The Administrator, with the concurrence of the Secretary of Transportation, shall promulgate, and periodically update,"; and

(B) in the third sentence, by striking "A suit" and inserting the following:

"(C) Civil action to compel promulgation.—A civil action"; and

(4) by striking subparagraph (E) (as redesignated by paragraph (1)) and inserting the following:

"(E) Inclusion of criteria and procedures in sip.—Not later than 2 years after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the procedures under subparagraph (A) shall include a requirement that each State include in the State implementation plan criteria and procedures for consultation in accordance with the Administrator's criteria and procedures for consultation required by subparagraph (D)(i).".

SEC. 1620. HIGHWAY STORMWATER DISCHARGE MITIGATION PROGRAM.

(a) Highway Stormwater Mitigation Projects.—Section 133(d) of title 23, United States Code (as amended by section 1401(a)(2)(B)), is amended by adding at the end the following:

"(5) Highway stormwater discharge mitigation projects.—Of the amount apportioned to a State under section 104(b)(3) for a fiscal year, 2 percent shall be available only for projects and activities carried out under section 167.".

(b) Highway Stormwater Discharge Mitigation Program.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1601(a)), is amended by adding at the end the following:

"§ 167. Highway stormwater discharge mitigation program

"(a) Definitions.—In this section:

"(1) Administrator.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(2) Eligible mitigation project.—The term 'eligible mitigation project' means a practice or technique that—

"(A) improves stormwater discharge water quality;

"(B) attains preconstruction hydrology;

"(C) promotes infiltration of stormwater into groundwater;

"(D) recharges groundwater;

"(E) minimizes stream bank erosion;

"(F) promotes natural filters;

"(G) otherwise mitigates water quality impacts of highway stormwater discharges, improves surface water quality, or enhances groundwater recharge; or

"(H) reduces flooding caused by highway stormwater discharge.

"(3) Federal-aid highway and associated facility.—The term 'Federal-aid highway and associated facility' means—

"(A) a Federal-aid highway; or

"(B) a facility or land owned by a State (or political subdivision of a State) that is directly associated with the Federal-aid highway.

"(4) Highway stormwater discharge.—The term 'highway stormwater discharge' means stormwater discharge from a Federal-aid highway, or a Federal-aid highway and associated facility, that was constructed before the date of enactment of this section.

"(5) Highway stormwater discharge mitigation.—The term 'highway stormwater discharge mitigation' means—

"(A) the reduction of water quality impacts of stormwater discharges from Federal-aid highways or Federal-aid highways and associated facilities; or

"(B) the enhancement of groundwater recharge from stormwater discharges from Federal-aid highways or Federal-aid highways and associated facilities.

"(6) Program.—The term 'program' means the highway stormwater discharge mitigation program established under subsection (b).

"(b) Establishment.—The Secretary shall establish a highway stormwater discharge mitigation program—

"(1) to improve the quality of stormwater discharge from Federal-aid highways or Federal-aid highways and associated facilities; and

"(2) to enhance groundwater recharge.

"(c) Priority of Projects.—For projects funded from the allocation under section 133(d)(6), a State shall give priority to projects sponsored by a State or local government that assist the State or local government in complying with the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

"(d) Guidance.—

"(1) In general.—Not later than 180 days after the date of enactment of this section, the Secretary, in consultation with the Administrator, shall issue guidance to assist States in carrying out this section.

"(2) Requirements for guidance.—The guidance issued under paragraph (1) shall include information concerning innovative technologies and nonstructural best management practices to mitigate highway stormwater discharges.".

(c) Conforming Amendment.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1601(b), is amended by inserting after the item relating to section 166 the following:

"167. Highway stormwater discharge mitigation program.".

SEC. 1621. EXEMPTION FROM CERTAIN HAZARDOUS MATERIALS TRANSPORTATION REQUIREMENTS.

(a) Definition of Eligible Person.—In this section, the term "eligible person" means an agricultural producer that has gross agricultural commodity sales that do not exceed $500,000.

(b) Exemption.—Subject to subsection (c), part 172 of title 49, Code of Federal Regulations, shall not apply to an eligible person that transports a fertilizer, pesticide, propane, gasoline, or diesel fuel for agricultural purposes, to the extent determined by the Secretary.

(c) Applicability.—Subsection (b) applies to security plan requirements under subpart I of part 172 of title 49, Code of Federal Regulations (or a successor regulation).

SEC. 1622. FUNDS FOR REBUILDING FISH STOCKS.

Section 105 of the Miscellaneous Appropriations and Offsets Act, 2004 (Division H of the Consolidated Appropriations Act, 2004 (Public Law 108–199)) is repealed.

Subtitle G—Operations

SEC. 1701. TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.

(a) Surface Transportation Program Eligibility.—Section 133(b) of title 23, United States Code (as amended by section 1601(a)(2)), is amended by adding at the end the following:

"(16) Regional transportation operations collaboration and coordination activities that are associated with regional improvements, such as traffic incident management, technology deployment, emergency management and response, traveler information, and regional congestion relief.

"(17) Rush hour congestion relief.—

"(A) In general.—Subject to subparagraph (B), a State may spend the funds apportioned under this section to reduce traffic delays caused by motor vehicle accidents and breakdowns on highways during peak driving times.

"(B) Use of funds.—A State, metropolitan planning organization, or local government may use the funds under subparagraph (A)—

"(i) to develop a region-wide coordinated plan to mitigate traffic delays caused by motor vehicle accidents and breakdowns;

"(ii) to purchase or lease telecommunications equipment for first responders;

"(iii) to purchase or lease towing and recovery services;

"(iv) to pay contractors for towing and recovery;

"(v) to rent vehicle storage areas adjacent to roadways;

"(vi) to fund service patrols, equipment, and operations;

"(vii) to purchase incident detection equipment;

"(viii) to carry out training.".

(b) Congestion Mitigation and Air Quality Improvement Program Eligibility.—Section 149(b)(5) of title 23, United States Code, is amended by inserting "improve transportation systems management and operations," after "intersections,".

(c) Transportation Systems Management and Operations.—

(1) In general.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1620(b)), is amended by adding at the end the following:

"§ 168. Transportation systems management and operations

"(a) In General.—The Secretary shall carry out a transportation systems management and operations program to—

"(1) ensure efficient and effective transportation systems management and operations on Federal-aid highways through collaboration, coordination, and real-time information sharing at a regional and Statewide level among—

"(A) managers and operators of major modes of transportation;

"(B) public safety officials; and

"(C) the general public; and

"(2) manage and operate Federal-aid highways in a coordinated manner to preserve the capacity and maximize the performance of highway and transit facilities for travelers and carriers.

"(b) Authorized Activities.—

"(1) In general.—In carrying out the program under subsection (a), the Secretary may carry out activities to—

"(A) encourage managers and operators of major modes of transportation, public safety officials, and transportation planners in urbanized areas that are responsible for conducting the day-to-day management, operations, public safety, and planning of transportation facilities and services to collaborate on and coordinate, on a regional level and in a continuous and sustained manner, improved transportation systems management and operations; and

"(B) encourage States to—

"(i) establish a system of basic real-time monitoring for the surface transportation system; and

"(ii) provide the means to share the data gathered under clause (i) among—

"(I) highway, transit, and public safety agencies;

"(II) jurisdictions (including States, cities, counties, and metropolitan planning organizations);

"(III) private-sector entities; and

"(IV) the general public.

"(2) Activities.—Activities to be carried out under paragraph (1) include—

"(A) developing a regional concept of operations that defines a regional strategy shared by all transportation and public safety participants with respect to the manner in which the transportation systems of the region should be managed, operated, and measured;

"(B) the sharing of information among operators, service providers, public safety officials, and the general public; and

"(C) guiding, in a regionally-coordinated manner and in a manner consistent with and integrated into the metropolitan and statewide transportation planning processes and regional intelligent transportation system architecture, the implementation of regional transportation system management and operations initiatives, including—

"(i) emergency evacuation and response;

"(ii) traffic incident management;

"(iii) technology deployment; and

"(iv) traveler information systems delivery.

"(c) COOPERATION.—In carrying out the program under subsection (a), the Secretary may assist and cooperate with other Federal agencies, State and local governments, metropolitan planning organizations, private industry, and other interested parties to improve regional collaboration and real-time information sharing between managers and operators of major modes of transportation, public safety officials, emergency managers, and the general public to increase the security, safety, and reliability of Federal-aid highways.

"(d) GUIDANCE; REGULATIONS.—

"(1) IN GENERAL.—In carrying out the program under subsection (a), the Secretary may issue guidance or promulgate regulations for the procurement of transportation system management and operations facilities, equipment, and services, including—

"(A) equipment procured in preparation for natural disasters, disasters caused by human activity, and emergencies;

"(B) system hardware;

"(C) software; and

"(D) software integration services.

"(2) CONSIDERATIONS.—In developing the guidance or regulations under paragraph (1), the Secretary may consider innovative procurement methods that support the timely and streamlined execution of transportation system management and operations programs and projects.

"(3) FINANCIAL ASSISTANCE.—The Secretary may authorize the use of funds made available under section 104(b)(3) to provide assistance for regional operations collaboration and coordination activities that are associated with regional improvements, such as—

"(A) traffic incident management;

"(B) technology deployment;

"(C) emergency management and response;

"(D) traveler information; and

"(E) congestion relief.".

(2) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1620(c)), is amended by adding at the end:

"168. Transportation systems management and operations.".

SEC. 1702. REAL-TIME SYSTEM MANAGEMENT INFORMATION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1701(c)(1)), is amended by adding at the end the following:

"§169. Real-time system management information program

"(a) IN GENERAL.—The Secretary shall carry out a real-time system management information program to—

"(1) provide a nationwide system of basic real-time information for managing and operating the surface transportation system;

"(2)(A) identify long-range real-time highway and transit monitoring needs; and

"(B) develop plans and strategies for meeting those needs;

"(3) provide the capability and means to share the basic real-time information with State and local governments and the traveling public; and

"(4) provide the nationwide capability to monitor, in real-time, the traffic and travel conditions of major highways in the United States, and to share that information with State and local governments and the traveling public, to—

"(A) improve the security of the surface transportation system;

"(B) address congestion problems;

"(C) support improved response to weather events; and

"(D) facilitate the distribution of national and regional traveler information.

"(b) DATA EXCHANGE FORMATS.—Not later than 1 year after the date of enactment of this section, the Secretary shall establish data exchange formats to ensure that the data provided by highway and transit monitoring systems (including statewide incident reporting systems) can readily be exchanged between jurisdictions to facilitate the nationwide availability of information on traffic and travel conditions.

"(c) STATEWIDE INCIDENT REPORTING SYSTEM.—Not later than 2 years after the date of enactment of this section, or not later than 5 years after the date of enactment of this section if the Secretary determines that adequate real-time communications capability will not be available within 2 years after the date of enactment of this section, each State shall establish a statewide incident reporting system to facilitate the real-time electronic reporting of highway and transit incidents to a central location for use in—

"(1) monitoring an incident;

"(2) providing accurate traveler information on the incident; and

"(3) responding to the incident as appropriate.

"(d) REGIONAL ITS ARCHITECTURE.—

"(1) IN GENERAL.—In developing or updating regional intelligent transportation system architectures under section 940.9 of title 23, Code of Federal Regulations (or any successor regulation), States and local governments shall address—

"(A) the real-time highway and transit information needs of the State or local government, including coverage, monitoring systems, data fusion and archiving, and methods of exchanging or sharing information; and

"(B) the systems needed to meet those needs.

"(2) DATA EXCHANGE FORMATS.—In developing or updating regional intelligent transportation system architectures, States and local governments are encouraged to incorporate the data exchange formats developed by the Secretary under subsection (b) to ensure that the data provided by highway and transit monitoring systems can readily be—

"(A) exchanged between jurisdictions; and

"(B) shared with the traveling public.

"(e) ELIGIBLE FUNDING.—Subject to project approval by the Secretary, a State may—

"(1) use funds available to the State under section 505(a) to carry out activities relating to the planning of real-time monitoring elements; and

"(2) use funds apportioned to the State under paragraphs (1) and (3) of section 104(b) to carry out activities relating to the planning and deployment of real-time monitoring elements.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1701(c)(2)), is amended adding at the end the following:

"169. Real-time system management information program.".

SEC. 1703. CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.

Section 112(b)(2) of title 23, United States Code, is amended—

(1) in subparagraph (A), by striking "title 40" and all that follows through the period and inserting "title 40.";

(2) by striking subparagraph (B);

(3) by redesignating subparagraphs (C) through (F) as subparagraphs (B) through (E), respectively; and

(4) by striking subparagraph (G).

SEC. 1704. OFF-DUTY TIME FOR DRIVERS OF COMMERCIAL VEHICLES.

Section 345(a)(2) of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note; 109 Stat. 613) is amended by adding at the end the following: "No additional off-duty time for a driver of such a vehicle shall be required in order for the driver to operate the vehicle.".

SEC. 1705. DESIGNATION OF TRANSPORTATION MANAGEMENT AREAS.

(a) FUNDING.—Section 134(d)(3)(C)(ii) of title 23, United States Code, is amended by striking subclause (II) and inserting the following:

"(II) FUNDING.—In addition to funds made available to the metropolitan planning organization for the Lake Tahoe Region under this title and chapter 53 of title 49, 1 percent of all funds distributed under section 202 shall be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.".

(b) SPECIAL DESIGNATION.—Section 134(i)(1) of title 23, United States Code, is amended by adding at the end the following:

"(C) SPECIAL DESIGNATION.—

"(i) IN GENERAL.—The urbanized areas of Oklahoma City, Oklahoma, and Norman, Oklahoma, shall be designated as a single transportation management area.

"(ii) ALLOCATION.—The allocation of funds to the Oklahoma City-Norman Transportation Management Area designated under clause (i) shall be based on the aggregate population of the 2 urbanized areas referred to in that clause, as determined by the Bureau of the Census.".

Subtitle H—Federal-Aid Stewardship

SEC. 1801. FUTURE INTERSTATE SYSTEM ROUTES.

Section 103(c)(4)(B) of title 23, United States Code, is amended—

(1) in clause (ii), by striking "12" and inserting "25"; and

(2) in clause (iii)—

(A) in subclause (I), by striking "in the agreement between the Secretary and the State or States"; and

(B) by adding at the end the following:

"(III) EXISTING AGREEMENTS.—An agreement described in clause (ii) that is entered into before the date of enactment of this subparagraph shall be deemed to include the 25-year time limitation described in that clause, regardless of any earlier construction completion date in the agreement.".

SEC. 1802. STEWARDSHIP AND OVERSIGHT.

(a) IN GENERAL.—Section 106 of title 23, United States Code, is amended—

(1) by striking subsection (e) and inserting the following:

"(e) VALUE ENGINEERING ANALYSIS.—

"(1) DEFINITION OF VALUE ENGINEERING ANALYSIS.—

"(A) IN GENERAL.—In this subsection, the term 'value engineering analysis' means a systematic process of review and analysis of a project, during the concept and design phases, by a multidisciplined team of persons not involved in the project, that is conducted to provide recommendations such as those described in subparagraph (B) for—

"(i) providing the needed functions safely, reliably, and at the lowest overall cost; and

"(ii) improving the value and quality of the project.

"(B) INCLUSIONS.—The recommendations referred to in subparagraph (A) include, with respect to a project—

"(i) combining or eliminating otherwise inefficient use of costly parts of the original proposed design for the project; and

"(ii) completely redesigning the project using different technologies, materials, or methods so as to accomplish the original purpose of the project.

"(2) ANALYSIS.—The State shall provide a value engineering analysis or other cost-reduction analysis for—

"(A) each project on the Federal-Aid System with an estimated total cost of $25,000,000 or more;

"(B) a bridge project with an estimated total cost of $20,000,000 or more; and

"(C) any other project the Secretary determines to be appropriate.

"(3) MAJOR PROJECTS.—The Secretary may require more than 1 analysis described in paragraph (2) for a major project described in subsection (h).

"(4) REQUIREMENTS.—Analyses described in paragraph (1) for a bridge project shall—

"(A) include bridge substructure requirements based on construction material; and

"(B) be evaluated—

"(i) on engineering and economic bases, taking into consideration acceptable designs for bridges; and

"(ii) using an analysis of life-cycle costs and duration of project construction."; and

(2) by striking subsections (g) and (h) and inserting the following:

"(g) OVERSIGHT PROGRAM.—

"(1) PROGRAM.—

"(A) IN GENERAL.—The Secretary shall establish an oversight program to monitor the effective and efficient use of funds made available under this title.

"(B) MINIMUM REQUIREMENTS.—At a minimum, the program shall monitor and respond to all areas relating to financial integrity and project delivery.

"(2) FINANCIAL INTEGRITY.—

"(A) FINANCIAL MANAGEMENT SYSTEMS.—

"(i) IN GENERAL.—The Secretary shall perform annual reviews of the financial management systems of State transportation departments that affect projects approved under subsection (a).

"(ii) REVIEW AREAS.—In carrying out clause (i), the Secretary shall use risk assessment procedures to identify areas to be reviewed.

"(B) PROJECT COSTS.—The Secretary shall—

"(i) develop minimum standards for estimating project costs; and

"(ii) periodically evaluate practices of the States for—

"(I) estimating project costs;

"(II) awarding contracts; and

"(III) reducing project costs.

"(C) RESPONSIBILITY OF THE STATES.—

"(i) IN GENERAL.—Each State shall be responsible for ensuring that subrecipients of Federal funds within the State under this section have—

"(I) sufficient accounting controls to properly manage the Federal funds; and

"(II) adequate project delivery systems for projects approved under this section.

"(ii) REVIEW BY SECRETARY.—The Secretary shall periodically review monitoring by the States of those subrecipients.

"(3) PROJECT DELIVERY.—The Secretary shall—

"(A) perform annual reviews of the project delivery system of each State, including analysis of 1 or more activities that are involved in the life cycle of a project; and

"(B) employ risk assessment procedures to identify areas to be reviewed.

"(4) SPECIFIC OVERSIGHT RESPONSIBILITIES.—Nothing in this section discharges or otherwise affects any oversight responsibility of the Secretary—

"(A) specifically provided for under this title or other Federal law; or

"(B) for the design and construction of all Appalachian development highways under section 14501 of title 40 or section 170 of this title.

"(h) MAJOR PROJECTS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, a recipient of Federal financial assistance for a project under this title with an estimated total cost of $1,000,000,000 or more, and recipients for such other projects as may be identified by the Secretary, shall submit to the Secretary for each project—

"(A) a project management plan; and

"(B) an annual financial plan.

"(2) PROJECT MANAGEMENT PLAN.—A project management plan shall document—

"(A) the procedures and processes that are in effect to provide timely information to the project decisionmakers to effectively manage the scope, costs, schedules, and quality of, and the Federal requirements applicable to, the project; and

"(B) the role of the agency leadership and management team in the delivery of the project.

"(3) FINANCIAL PLAN.—A financial plan shall—

"(A) be based on detailed estimates of the cost to complete the project; and

"(B) provide for the annual submission of updates to the Secretary that are based on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project.

"(i) OTHER PROJECTS.—A recipient of Federal financial assistance for a project under this title that receives $100,000,000 or more in Federal assistance for the project, and that is not covered by subsection (h), shall prepare, and make available to the Secretary at the request of the Secretary, an annual financial plan for the project.".

(b) CONFORMING AMENDMENTS.—

(1) Section 114(a) of title 23, United States Code, is amended—

(A) in the first sentence by striking "highways or portions of highways located on a Federal-aid system" and inserting "Federal-aid highway or a portion of a Federal-aid highway"; and

(B) by striking the second sentence and inserting "The Secretary shall have the right to conduct such inspections and take such corrective action as the Secretary determines to be appropriate.".

(2) Section 117 of title 23, United States Code, is amended—

(A) by striking subsection (d); and

(B) by redesignating subsections (e) through (h) as subsections (d) through (g), respectively.

(c) CONTRACTOR SUSPENSION AND DEBARMENT POLICY; SHARING FRAUD MONETARY RECOVERIES.—

(1) IN GENERAL.—Section 307 of title 49, United States Code, is amended to read as follows:

"§ 307. Contractor suspension and debarment policy; sharing fraud monetary recoveries

"(a) MANDATORY ENFORCEMENT POLICY.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary—

"(A) shall debar any contractor or subcontractor convicted of a criminal or civil offense involving fraud relating to a project receiving Federal highway or transit funds for such period as the Secretary determines to be appropriate; and

"(B) subject to approval by the Attorney General—

"(i) except as provided in paragraph (2), shall suspend any contractor or subcontractor upon indictment for criminal or civil offenses involving fraud; and

"(ii) may exclude nonaffiliated subsidiaries of a debarred business entity.

"(2) NATIONAL SECURITY EXCEPTION.—If the Secretary finds that mandatory debarment or suspension of a contractor or subcontractor under paragraph (1) would be contrary to the national security of the United States, the Secretary—

"(A) may waive the debarment or suspension; and

"(B) in the instance of each waiver, shall provide notification to Congress of the waiver with appropriate details.

"(b) SHARING OF MONETARY RECOVERIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of law—

"(A) monetary judgments accruing to the Federal Government from judgments in Federal criminal prosecutions and civil judgments pertaining to fraud in highway and transit programs shall be shared with the State or local transit agency involved; and

"(B) the State or local transit agency shall use the funds for transportation infrastructure and oversight activities relating to programs authorized under title 23 and this title.

"(2) AMOUNT.—The amount of recovered funds to be shared with an affected State or local transit agency shall be—

"(A) determined by the Attorney General, in consultation with the Secretary; and

"(B) considered to be Federal funds to be used in compliance with other relevant Federal transportation laws (including regulations).

"(3) FRAUDULENT ACTIVITY.—Paragraph (1) shall not apply in any case in which a State or local transit agency is found by the Attorney General, in consultation with the Secretary, to have been involved or negligent with respect to the fraudulent activities.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 49, United States Code, is amended by striking the item relating to section 307 and inserting the following:

"307. Contractor suspension and debarment policy; sharing fraud monetary recoveries.".

SEC. 1803. DESIGN-BUILD CONTRACTING.

Section 112(b)(3) of title 23, United States Code, is amended by striking subparagraph (C) and inserting the following:

"(C) QUALIFIED PROJECTS.—A qualified project referred to in subparagraph (A) is a project under this chapter (including intermodal projects) for which the Secretary has approved the use of design-build contracting under criteria specified in regulations promulgated by the Secretary.".

SEC. 1804. PROGRAM EFFICIENCIES—FINANCE.

(a) Advance Construction.—Section 115 of title 23, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by redesignating subsections (a)(2), (a)(2)(A), and (a)(2)(B) as subsections (c), (c)(1), and (c)(2), respectively, and indenting appropriately;

(3) by striking "(a) Congestion" and all that follows through subsection (a)(1)(B);

(4) by striking subsection (b); and

(5) by inserting after the section heading the following:

"(a) In General.—The Secretary may authorize a State to proceed with a project authorized under this title—

"(1) without the use of Federal funds; and

"(2) in accordance with all procedures and requirements applicable to the project other than those procedures and requirements that limit the State to implementation of a project—

"(A) with the aid of Federal funds previously apportioned or allocated to the State; or

"(B) with obligation authority previously allocated to the State.

"(b) Obligation of Federal Share.—The Secretary, on the request of a State and execution of a project agreement, may obligate all or a portion of the Federal share of the project authorized under this section from any category of funds for which the project is eligible.".

(b) Obligation and Release of Funds.—Section 118 of title 23, United States Code, is amended by striking subsection (d) and inserting the following:

"(d) Obligation and Release of Funds.—

"(1) In general.—Funds apportioned or allocated to a State for a particular purpose for any fiscal year shall be considered to be obligated if a sum equal to the total of the funds apportioned or allocated to the State for that purpose for that fiscal year and previous fiscal years is obligated.

"(2) Released funds.—Any funds released by the final payment for a project, or by modifying the project agreement for a project, shall be—

"(A) credited to the same class of funds previously apportioned or allocated to the State; and

"(B) immediately available for obligation.

"(3) Net obligations.—Notwithstanding any other provision of law (including a regulation), obligations recorded against funds made available under this section shall be recorded and reported as net obligations.".

SEC. 1805. SET-ASIDES FOR INTERSTATE DISCRETIONARY PROJECTS.

Section 118(c)(1) of title 23, United States Code, is amended—

(1) by striking "$50,000,000" and all that follows through "2003" and inserting "$100,000,000 for each of fiscal years 2004 through 2009"; and

(2) by striking "Transportation Equity Act for the 21st Century" and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

SEC. 1806. FEDERAL LANDS HIGHWAYS PROGRAM.

(a) Federal Share Payable.—

(1) In general.—Section 120(k) of title 23, United States Code, is amended—

(A) by striking "Federal-aid highway"; and

(B) by striking "section 104" and inserting "this title or chapter 53 of title 49".

(2) Technical references.—Section 120(l) of title 23, United States Code, is amended by striking "section 104" and inserting "this title or chapter 53 of title 49".

(b) Payments to Federal Agencies for Federal-Aid Projects.—Section 132 of title 23, United States Code, is amended—

(1) by striking the first 2 sentences and inserting the following:

"(a) In General.—In a case in which a proposed Federal-aid project is to be undertaken by a Federal agency in accordance with an agreement between a State and the Federal agency, the State may—

"(1) direct the Secretary to transfer the funds for the Federal share of the project directly to the Federal agency; or

"(2) make such deposit with, or payment to, the Federal agency as is required to meet the obligation of the State under the agreement for the work undertaken or to be undertaken by the Federal agency.

"(b) Reimbursement.—On execution of a project agreement with a State described in subsection (a), the Secretary may reimburse the State, using any available funds, for the estimated Federal share under this title of the obligation of the State deposited or paid under subsection (a)(2)."; and

(2) in the last sentence, by striking "Any sums" and inserting the following:

"(c) Recovery and Crediting of Funds.—Any sums".

(c) Allocations.—Section 202 of title 23, United States Code, is amended—

(1) in subsection (a), by striking "(a) On October 1" and all that follows through "Such allocation" and inserting the following:

"(a) Allocation Based on Need.—

"(1) In general.—On October 1 of each fiscal year, the Secretary shall allocate sums authorized to be appropriated for the fiscal year for forest development roads and trails according to the relative needs of the various national forests and grasslands.

"(2) Planning.—The allocation under paragraph (1)";

(2) by striking subsection (b) and inserting the following:

"(b) Allocation for Public Lands Highways.—

"(1) Public lands highways.—

"(A) In general.—On October 1 of each fiscal year, the Secretary shall allocate 33⅓ percent of the sums authorized to be appropriated for that fiscal year for public lands highways among those States having unappropriated or unreserved public lands, or nontaxable Indian lands or other Federal reservations, on the basis of need in the States, respectively, as determined by the Secretary, on application of the State transportation departments of the respective States.

"(B) Preference.—In making the allocation under subparagraph (A), the Secretary shall give preference to those projects that are significantly impacted by Federal land and resource management activities that are proposed by a State that contains at least 3 percent of the total public land in the United States.

"(2) Forest highways.—

"(A) In general.—On October 1 of each fiscal year, the Secretary shall allocate 66⅔ percent of the funds authorized to be appropriated for public lands highways for forest highways in accordance with section 134 of the Federal-Aid Highway Act of 1987 (23 U.S.C. 202 note; 101 Stat. 173).

"(B) Public access to and within national forest system.—In making the allocation under subparagraph (A), the Secretary shall give equal consideration to projects that provide access to and within the National Forest System, as identified by the Secretary of Agriculture through—

"(i) renewable resource and land use planning; and

"(ii) assessments of the impact of that planning on transportation facilities.";

(3) in subsection (c)—

(A) by striking "(c) On" and inserting the following:

"(c) Park Roads and Parkways.—

"(1) In general.—On"; and

(B) by adding at the end the following:

"(2) Priority.—

"(A) Definition of qualifying national park.—In this paragraph, the term "qualifying national park" means a National Park that is used more than 1,000,000 recreational visitor days per year, based on an average of the 3 most recent years of available data from the National Park Service.

"(B) Priority.—Notwithstanding any other provision of law, with respect to funds authorized for park roads and parkways, the Secretary shall give priority in the allocation of funds to projects for highways that—

"(i) are located in, or provide access to, a qualifying National Park; and

"(ii) were initially constructed before 1940.

"(C) Priority conflicts.—If there is a conflict between projects described in subparagraph (B), the Secretary shall give highest priority to projects that—

"(i) are in, or that provide access to, parks that are adjacent to a National Park of a foreign country; or

"(ii) are located in more than 1 State;";

(4) in subsection (d)—

(A) in paragraph (1)—

(i) in the paragraph heading, by striking "1999" and inserting "2005"; and

(ii) by striking "1999" and inserting "2005";

(B) in paragraph (2)—

(i) in the paragraph heading, by striking "2000" and inserting "2005";

(ii) in subparagraphs (A), (B), and (D), by striking "2000" each place it appears and inserting "2005";

(iii) in subparagraph (B), by striking "1999" each place it appears and inserting "2004"; and

(iv) by adding at the end the following:

"(E) Transferred funds.—

"(i) In general.—Not later than 30 days after the date on which funds are made available to the Secretary of the Interior under this paragraph, the funds shall be distributed to, and available for immediate use by, the eligible Indian tribes, in accordance with the formula applicable for each fiscal year.

"(ii) Formula.—If the Secretary of the Interior has not promulgated final regulations for the distribution of funds under clause (i) for a fiscal year by the date on which the funds for the fiscal year are required to be distributed under that clause, the Secretary of the Interior shall distribute the funds under clause (i) in accordance with the applicable funding formula for the preceding year.

"(iii) Use of funds.—Notwithstanding any other provision of this section, funds available to Indian tribes for Indian reservation roads shall be expended on projects identified in a transportation improvement program approved by the Secretary.";

(C) in paragraph (3)—

(i) in subparagraph (A), by striking "under this title" and inserting "under this chapter and section 125(e)"; and

(ii) by adding at the end the following:

"(C) Federal lands highway program demonstration project.—

"(i) In general.—The Secretary shall establish a demonstration project under which all funds made available under this chapter for Indian reservation roads and for highway bridges located on Indian reservation roads as provided for in subparagraph (A) shall be made available, on the request of an affected

Indian tribal government, to the Indian tribal government for use in carrying out, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), contracts and agreements for the planning, research, engineering, and construction described in that subparagraph.

"(ii) EXCLUSION OF AGENCY PARTICIPATION.—In accordance with subparagraph (B), all funds for Indian reservation roads and for highway bridges located on Indian reservation roads to which clause (i) applies shall be paid without regard to the organizational level at which the Federal lands highway program has previously carried out the programs, functions, services, or activities involved.

"(iii) SELECTION OF PARTICIPATING TRIBES.—

"(I) PARTICIPANTS.—

"(aa) IN GENERAL.—In addition to Indian tribes or tribal organizations that, as of the date of enactment of this subparagraph, are contracting or compacting for any Indian reservation road function or program, for each fiscal year, the Secretary may select up to 15 Indian tribes from the applicant pool described in subclause (II) to participate in the demonstration project carried out under clause (i).

"(bb) CONSORTIA.—Two or more Indian tribes that are otherwise eligible to participate in a program or activity to which this title applies may form a consortium to be considered as a single Indian tribe for the purpose of becoming part of the applicant pool under subclause (II).

"(cc) FUNDING.—An Indian tribe participating in the pilot program under this subparagraph shall receive funding in an amount equal to the sum of the funding that the Indian tribe would otherwise receive in accordance with the funding formula established under the other provisions of this subsection, and an additional percentage of that amount equal to the percentage of funds withheld during the applicable fiscal year for the road program management costs of the Bureau of Indian Affairs under subsection (f)(1).

"(II) APPLICANT POOL.—The applicant pool described in this subclause shall consist of each Indian tribe (or consortium) that—

"(aa) has successfully completed the planning phase described in subclause (IV);

"(bb) has requested participation in the demonstration project under this subparagraph through the adoption of a resolution or other official action by the tribal governing body; and

"(cc) has demonstrated financial stability and financial management capability in accordance with subclause (III) during the 3-fiscal-year period immediately preceding the fiscal year for which participation under this subparagraph is being requested.

"(III) CRITERIA FOR DETERMINING FINANCIAL STABILITY AND FINANCIAL MANAGEMENT CAPACITY.—For the purpose of subclause (II), evidence that, during the 3-year period referred to in subclause (II)(cc), an Indian tribe had no uncorrected significant and material audit exceptions in the required annual audit of the Indian tribe's self-determination contracts or self-governance funding agreements with any Federal agency shall be conclusive evidence of the required stability and capability.

"(IV) PLANNING PHASE.—

"(aa) IN GENERAL.—An Indian tribe (or consortium) requesting participation in the demonstration project under this subparagraph shall complete a planning phase that shall include legal and budgetary research and internal tribal government and organization preparation.

"(bb) ELIGIBILITY.—An Indian tribe (or consortium) described in item (aa) shall be eligible to receive a grant under this subclause to plan and negotiate participation in a project described in that item.

"(V) REPORT TO CONGRESS.—Not later than September 30, 2006, the Secretary shall submit to Congress a report describing the implementation of the demonstration project and any recommendations for improving the project."; and

(D) in paragraph (4)—

(i) in subparagraph (B)—

(I) by striking "(B) RESERVATION.—Of the amounts" and all that follows through "to replace," and inserting the following:

"(B) FUNDING.—

"(i) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other funds made available for Indian reservation roads for each fiscal year, there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $15,000,000 for each of fiscal years 2004 through 2009 to carry out planning, design, engineering, preconstruction, construction, and inspection of projects to replace,"; and

(II) by adding at the end the following:

"(ii) AVAILABILITY.—Funds made available to carry out this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1."; and

(ii) by striking subparagraph (D) and inserting the following:

"(D) APPROVAL REQUIREMENT.—

"(i) IN GENERAL.—Subject to clause (ii), on request by an Indian tribe or the Secretary of the Interior, the Secretary may make funds available under this subsection for preliminary engineering for Indian reservation road bridge projects.

"(ii) CONSTRUCTION AND CONSTRUCTION ENGINEERING.—The Secretary may make funds available under clause (i) for construction and construction engineering only after approval by the Secretary of applicable plans, specifications, and estimates."; and

(5) by adding at the end the following:

"(f) ADMINISTRATION OF INDIAN RESERVATION ROADS.—

"(1) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, for any fiscal year, not more than 6 percent of the contract authority amounts made available from the Highway Trust Fund to the Bureau of Indian Affairs under this title shall be used to pay the expenses incurred by the Bureau in administering the Indian reservation roads program (including the administrative expenses relating to individual projects associated with the Indian reservation roads program).

"(2) HEALTH AND SAFETY ASSURANCES.—Notwithstanding any other provision of law, an Indian tribe or tribal organization may commence road and bridge construction under the Transportation Equity Act for the 21st Century (Public Law 105-178) or the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 that is funded through a contract or agreement under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.) if the Indian tribe or tribal organization—

"(A) provides assurances in the contract or agreement that the construction will meet or exceed applicable health and safety standards;

"(B) obtains the advance review of the plans and specifications from a licensed professional that has certified that the plans and specifications meet or exceed the applicable health and safety standards; and

"(C) provides a copy of the certification under subparagraph (B) to the Assistant Secretary for Indian Affairs.".

(d) PLANNING AND AGENCY COORDINATION.—Section 204 of title 23, United States Code, is amended—

(1) in subsection (a)(1), by inserting "refuge roads, recreation roads," after "parkways,";

(2) by striking subsection (b) and inserting the following:

"(b) USE OF FUNDS.—

"(1) IN GENERAL.—Funds available for public lands highways, recreation roads, park roads and parkways, forest highways, and Indian reservation roads shall be used by the Secretary and the Secretary of the appropriate Federal land management agency to pay the cost of transportation planning, research, engineering, operation and maintenance of transit facilities, and construction of the highways, roads, parkways, forest highways, and transit facilities located on public land, national parks, and Indian reservations.

"(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into a construction contract or other appropriate agreement with—

"(A) a State (including a political subdivision of a State); or

"(B) an Indian tribe.

"(3) INDIAN RESERVATION ROADS.—In the case of an Indian reservation road—

"(A) Indian labor may be used, in accordance with such rules and regulations as may be promulgated by the Secretary of the Interior, to carry out any construction or other activity described in paragraph (1); and

"(B) funds made available to carry out this section may be used to pay bridge preconstruction costs (including planning, design, and engineering).

"(4) FEDERAL EMPLOYMENT.—No maximum on Federal employment shall be applicable to construction or improvement of Indian reservation roads.

"(5) AVAILABILITY OF FUNDS.—Funds available under this section for each class of Federal lands highway shall be available for any kind of transportation project eligible for assistance under this title that is within or adjacent to, or that provides access to, the areas served by the particular class of Federal lands highway.

"(6) RESERVATION OF FUNDS.—The Secretary of the Interior may reserve funds from administrative funds of the Bureau of Indian Affairs that are associated with the Indian reservation road program to finance the Indian technical centers authorized under section 504(b)."; and

(3) in subsection (k)(1)—

(A) in subparagraph (B)—

(i) by striking "(2), (5)," and inserting "(2), (3), (5),"; and

(ii) by striking "and" after the semicolon;

(B) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(D) maintenance of public roads in national fish hatcheries under the jurisdiction of the United States Fish and Wildlife Service;

"(E) the non-Federal share of the cost of any project funded under this title or chapter 53 of title 49 that provides access to or within a wildlife refuge; and

"(F) maintenance and improvement of recreational trails (except that expenditures on trails under this subparagraph shall not exceed 5 percent of available funds for each fiscal year).".

(e) MAINTENANCE OF INDIAN RESERVATION ROADS.—Section 204(c) of title 23, United States Code, is amended by striking the second and third sentences and inserting the following: "Notwithstanding any other provision of this title, of the amount of funds apportioned for Indian reservation roads from the Highway Trust Fund, an Indian tribe may expend for the purpose of maintenance not more than the greater of $250,000 or 25 percent of the apportioned amount. The Bureau of Indian Affairs shall continue to retain primary responsibility, including annual funding request responsibility, for road maintenance programs on Indian reservations. The Secretary shall ensure that funding made available under this subsection for maintenance of Indian reservation roads for each fiscal year is supplementary to and not in lieu of any obligation of funds by the Bureau of Indian Affairs for road maintenance programs on Indian reservations.".

(e) SAFETY.—

(1) ALLOCATIONS.—Section 202 of title 23, United States Code (as amended by subsection (c)(5)), is amended by adding at the end the following:

"(g) SAFETY.—Subject to paragraph (2), on October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for the fiscal year for safety as follows:

"(1) 12 percent to the Bureau of Reclamation.

"(2) 18 percent to the Bureau of Indian Affairs.

"(3) 17 percent to the Bureau of Land Management.

"(4) 17 percent to the Forest Service.

"(5) 7 percent to the United States Fish and Wildlife Service.

"(6) 17 percent to the National Park Service.

"(7) 12 percent to the Corps of Engineers.".

(2) AVAILABILITY OF FUNDS.—Section 203 of title 23, United States Code, is amended by inserting "safety projects or activities," after "refuge roads," each place it appears.

(3) USE OF FUNDING.—Section 204 of title 23, United States Code, is amended by adding at the end the following:

"(l) SAFETY ACTIVITIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, funds made available for safety under this title shall be used by the Secretary and the head of the appropriate Federal land management agency only to pay the costs of carrying out—

"(A) transportation safety improvement activities;

"(B) activities to eliminate high-accident locations;

"(C) projects to implement protective measures at, or eliminate, at-grade railway-highway crossings;

"(D) collection of safety information;

"(E) transportation planning projects or activities;

"(F) bridge inspection;

"(G) development and operation of safety management systems;

"(H) highway safety education programs; and

"(I) other eligible safety projects and activities authorized under chapter 4.

"(2) CONTRACTS.—In carrying out paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into contracts or agreements with—

"(A) a State;

"(B) a political subdivision of a State; or

"(C) an Indian tribe.

"(3) EXCEPTION.—The cost sharing requirements under the Federal Water Project Recreation Act (16 U.S.C. 460l–12 et seq.) shall not apply to funds made available to the Bureau of Reclamation under this subsection.".

(f) RECREATION ROADS.—

(1) AUTHORIZATIONS.—Section 201 of title 23, United States Code, is amended in the first sentence by inserting "recreation roads," after "public lands highways,".

(2) ALLOCATIONS.—Section 202 of title 23, United States Code (as amended by subsection (e)(1)), is amended by adding at the end the following:

"(h) RECREATION ROADS.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), on October 1 of each fiscal year, the Secretary, after completing the transfer under subsection 204(i), shall allocate the sums authorized to be appropriated for the fiscal year for recreation roads as follows:

"(A) 8 percent to the Bureau of Reclamation.

"(B) 9 percent to the Corps of Engineers.

"(C) 13 percent to the Bureau of Land Management.

"(D) 70 percent to the Forest Service.

"(2) ALLOCATION WITHIN AGENCIES.—Recreation road funds allocated to a Federal agency under paragraph (1) shall be allocated for projects and activities of the Federal agency according to the relative needs of each area served by recreation roads under the jurisdiction of the Federal agency, as indicated in the approved transportation improvement program for each Federal agency.".

(3) AVAILABILITY OF FUNDS.—Section 203 of title 23, United States Code, is amended—

(A) in the first sentence, by inserting "recreation roads," after "Indian reservation roads,"; and

(B) in the fourth sentence, by inserting ", recreation roads," after "Indian roads".

(4) USE OF FUNDING.—Section 204 of title 23, United States Code (as amended by subsection (e)(3)), is amended by adding at the end the following:

"(m) RECREATION ROADS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, funds made available for recreation roads under this title shall be used by the Secretary and the Secretary of the appropriate Federal land management agency only to pay the cost of—

"(A) maintenance or improvements of existing recreation roads;

"(B) maintenance and improvements of eligible projects described in paragraph (1), (2), (3), (5), or (6) of subsection (h) that are located in or adjacent to Federal land under the jurisdiction of—

"(i) the Department of Agriculture; or

"(ii) the Department of the Interior;

"(C) transportation planning and administrative activities associated with those maintenance and improvements; and

"(D) the non-Federal share of the cost of any project funded under this title or chapter 53 of title 49 that provides access to or within Federal land described in subparagraph (B).

"(2) CONTRACTS.—In carrying out paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into contracts or agreements with—

"(A) a State;

"(B) a political subdivision of a State; or

"(C) an Indian tribe.

"(3) NEW ROADS.—No funds made available under this section shall be used to pay the cost of the design or construction of new recreation roads.

"(4) COMPLIANCE WITH OTHER ENVIRONMENTAL LAWS.—A maintenance or improvement project that is funded under this subsection, and that is consistent with or has been identified in a land use plan for an area under the jurisdiction of a Federal agency, shall not require any additional environmental reviews or assessments under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if—

"(A) the Federal agency that promulgated the land use plan analyzed the specific proposal for the maintenance or improvement project under that Act; and

"(B) as of the date on which the funds are to be expended, there are—

"(i) no significant changes to the proposal bearing on environmental concerns; and

"(ii) no significant new information.

"(5) EXCEPTION.—The cost sharing requirements under the Federal Water Project Recreation Act (16 U.S.C. 460l–12 et seq.) shall not apply to funds made available to the Bureau of Reclamation under this subsection.".

(g) CONFORMING AMENDMENTS.—

(1) Sections 120(e) and 125(e) of title 23, United States Code, are amended by striking "public lands highways," each place it appears and inserting "public lands highways, recreation roads,".

(2) Sections 120(e), 125(e), 201, 202(a), and 203 of title 23, United States Code, are amended by striking "forest development roads" each place it appears and inserting "National Forest System roads".

(3) Section 202(e) of title 23, United States Code, is amended by striking "Refuge System," and inserting "Refuge System and the various national fish hatcheries,".

(4) Section 204 of title 23, United States Code, is amended—

(A) in subsection (a)(1), by striking "public lands highways," and inserting "public lands highways, recreation roads, forest highways,"; and

(B) in subsection (i), by striking "public lands highways" each place it appears and inserting "public lands highways, recreation roads, and forest highways".

(5) Section 205 of title 23, United States Code, is amended—

(A) by striking the section heading and inserting the following:

"§ 205. National Forest System roads and trails";

and

(B) in subsections (a) and (d), by striking "forest development roads" each place it appears and inserting "National Forest System roads".

(6) The analysis for chapter 2 of title 23, United States Code, is amended by striking the item relating to section 205 and inserting the following:

"205. National Forest System roads and trails.".

(7) Section 217(c) of title 23, United States Code, is amended by inserting "refuge roads," after "Indian reservation roads,".

SEC. 1807. HIGHWAY BRIDGE PROGRAM.

(a) IN GENERAL.—Section 144 of title 23, United States Code, is amended—

(1) by striking the section heading and all that follows through subsection (a) and inserting the following:

"§ 144. Highway bridge program

"(a) CONGRESSIONAL STATEMENT.—Congress finds and declares that it is in the vital interest of the United States that a highway bridge program be established to enable States to improve the condition of their bridges through replacement, rehabilitation, and systematic preventative maintenance on highway bridges over waterways, other topographical barriers, other highways, or railroads at any time at which the States and the Secretary determine that a bridge is unsafe because of structural deficiencies, physical deterioration, or functional obsolescence.'';

(2) by striking subsection (d) and inserting the following:

''(d) Participation in Program.—

''(1) In general.—On application by a State to the Secretary for assistance in replacing or rehabilitating a highway bridge that has been determined to be eligible for replacement or rehabilitation under subsection (b) or (c), the Secretary may approve Federal participation in—

''(A) replacing the bridge with a comparable bridge; or

''(B) rehabilitating the bridge.

''(2) Specific kinds of rehabilitation.—On application by a State to the Secretary for assistance in painting, seismic retrofit, or preventative maintenance of, or installation of scour countermeasures or applying calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and deicing compositions to, the structure of a highway bridge, the Secretary may approve Federal participation in the painting, seismic retrofit, or preventative maintenance of, or installation of scour countermeasures or application of acetate or sodium acetate/formate or such anti-icing or de-icing composition to, the structure.

''(3) Eligibility.—

''(A) In general.—Except as provided in subparagraph (B), the Secretary shall determine the eligibility of highway bridges for replacement or rehabilitation for each State based on the number of unsafe highway bridges in the State.

''(B) Preventative maintenance.—A State may carry out a project for preventative maintenance on a bridge, seismic retrofit of a bridge, or installation of scour countermeasures to a bridge under this section without regard to whether the bridge is eligible for replacement or rehabilitation under this section.'';

(3) in subsection (e)—

(A) in the third sentence, by striking ''square footage'' and inserting ''area'';

(B) in the fourth sentence—

(i) by striking ''by the total cost of any highway bridges constructed under subsection (m) in such State, relating to replacement of destroyed bridges and ferryboat services, and,''; and

(ii) by striking ''1997'' and inserting ''2003''; and

(C) in the seventh sentence, by striking ''the Federal-aid primary system'' and inserting ''Federal-aid highways'';

(4) by striking subsections (f) and (g) and inserting the following:

''(f) Set Asides.—

''(1) Discretionary bridge program.—

''(A) In general.—Of the amounts authorized to be appropriated to carry out the bridge program under this section for each of fiscal years 2004 through 2009, all but $150,000,000 shall be apportioned as provided in subsection (e).

''(B) Availability.—The $150,000,000 referred to in subparagraph (A) shall be available at the discretion of the Secretary, except that not to exceed $25,000,000 of that amount shall be available only for projects for the seismic retrofit of bridges.

''(C) Set asides.—For fiscal year 2004, the Secretary shall provide—

''(i) $50,000,000 to the State of Nevada for construction of a replacement of the federally-owned bridge over the Hoover Dam in the Lake Mead National Recreation Area; and

''(ii) $50,000,000 to the State of Missouri for construction of a structure over the Mississippi River to connect the city of St. Louis, Missouri, to the State of Illinois.

''(2) Off-system bridges.—

''(A) In general.—Not less than 15 percent of the amount apportioned to each State in each of fiscal years 2004 through 2009 shall be expended for projects to replace, rehabilitate, perform systematic preventative maintenance or seismic retrofit, or apply calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions or install scour countermeasures to highway bridges located on public roads, other than those on a Federal-aid highway, or to complete the Warwick Intermodal Station (including the construction of a people mover between the Station and the T.F. Green Airport).

''(B) Reduction of expenditures.—The Secretary, after consultation with State and local officials, may, with respect to the State, reduce the requirement for expenditure for bridges not on a Federal-aid highway if the Secretary determines that the State has inadequate needs to justify the expenditure.'';

(5) in subsection (i)—

(A) in paragraph (3), by striking ''and'';

(B) in paragraph (4), by striking the period at the end and inserting ''; and'';

(C) by striking ''Such reports'' and all that follows through ''to Congress.''; and

(D) by adding at the end the following:

''(5) biennially submit such reports as are required under this subsection to the appropriate committees of Congress simultaneously with the report required by section 502(g).'';

(6) in the first sentence of subsection (n), by striking ''all standards'' and inserting ''all general engineering standards'';

(7) in subsection (o)—

(A) in paragraph (3)—

(i) by striking ''title (including this section)'' and inserting ''section''; and

(ii) by inserting ''200 percent of'' after ''shall not exceed''; and

(B) in paragraph (4)(B)—

(i) in the second sentence, by inserting ''200 percent of'' after ''not to exceed''; and

(ii) in the last sentence, by striking ''title'' and inserting ''section'';

(8) by redesignating subsections (h) through (q) as subsections (g) through (p), respectively; and

(9) by adding at the end the following:

''(q) Continuation of Annual Materials Report on New Bridge Construction and Bridge Rehabilitation.—Not later than 1 year after the date of enactment of this subsection, and annually thereafter, the Secretary shall publish in the Federal Register a report describing construction materials used in new Federal-aid bridge construction and bridge rehabilitation projects.

''(r) Federal Share.—The Federal share of the cost of a project payable from funds made available to carry out this section shall be the share applicable under section 120(b), as adjusted under subsection (d) of that section.''.

(b) Conforming Amendment.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 144 and inserting the following:

''144. Highway bridge program.''.

SEC. 1808. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.

(a) In General.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1702(a)), is amended by adding at the end the following:

''§ 170. Appalachian development highway system

''(a) Apportionment.—

''(1) In general.—The Secretary shall apportion funds made available under section 1101(7) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 for fiscal years 2004 through 2009 among States based on the latest available estimate of the cost to construct highways and access roads for the Appalachian development highway system program prepared by the Appalachian Regional Commission under section 14501 of title 40.

''(2) Availability.—Funds described in paragraph (1) shall be available to construct highways and access roads under chapter 145 of title 40.

''(b) Applicability of Title.—Funds made available under section 1101(7) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 for the Appalachian development highway system shall be available for obligation in the same manner as if the funds were apportioned under this chapter, except that—

''(1) the Federal share of the cost of any project under this section shall be determined in accordance with subtitle IV of title 40; and

''(2) the funds shall remain available until expended.''.

(b) Conforming Amendments.—

(1) Use of toll credits.—Section 120(j)(1) of title 23, United States Code is amended by inserting ''and the Appalachian development highway system program under subtitle IV of title 40'' after ''(other than the emergency relief program authorized by section 125''.

(2) Analysis.—The analysis of chapter 1 of title 23, United States Code (as amended by section 1702(b)), is amended by adding at the end the following:

''170. Appalachian development highway system.''.

SEC. 1809. MULTISTATE CORRIDOR PROGRAM.

(a) In General.—Subchapter I of chapter 1 of title 23, United States Code (as amended by 1808(a)), is amended by adding at the end the following:

''§ 171. Multistate corridor program

''(a) Establishment and Purpose.—The Secretary shall carry out a program to—

''(1) support and encourage multistate transportation planning and development; and

''(2) facilitate transportation decisionmaking and coordinate project delivery involving multistate corridors.

''(b) Eligible Recipients.—A State transportation department and a metropolitan planning organization may receive and administer funds provided under this section.

''(c) Eligible Activities.—The Secretary shall make allocations under this program for multistate highway and multimodal planning studies and construction.

''(d) Other Provisions Regarding Eligibility.—

''(1) Studies.—All studies funded under this program shall be consistent with the continuing, cooperative, and comprehensive planning processes required by sections 134 and 135.

''(2) Construction.—All construction funded under this program shall be consistent with section 133(b)(1).

"(e) Selection Criteria.—The Secretary shall select studies and projects to be carried out under the program based on—

"(1) the existence and significance of signed and binding multijurisdictional agreements;

"(2) endorsement of the study or project by applicable elected State and local representatives;

"(3) prospects for early completion of the study or project; or

"(4) whether the projects to be studied or constructed are located on corridors identified by section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2032).

"(f) Program Priorities.—In administering the program, the Secretary shall—

"(1) encourage and enable States and other jurisdictions to work together to develop plans for multimodal and multijurisdictional transportation decisionmaking; and

"(2) give priority to studies or projects that emphasize multimodal planning, including planning for operational improvements that—

"(A) increase—

"(i) mobility;

"(ii) freight productivity;

"(iii) access to marine or inland ports;

"(iv) safety and security; and

"(v) reliability; and

"(B) enhance the environment.

"(g) Federal Share.—Except as provided in section 120, the Federal share of the cost of a study or project carried out under the program, using funds from all Federal sources, shall be 80 percent.

"(h) Applicability.—Funds authorized to be appropriated under section 1101(10) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under this chapter.".

(b) Conforming Amendment.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1809(b)) is amended by adding at the end the following:

"171. Multistate corridor program.".

SEC. 1810. BORDER PLANNING, OPERATIONS, TECHNOLOGY, AND CAPACITY PROGRAM.

(a) In General.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1809(a)), is amended by adding at the end the following:

"§172. Border planning, operations, technology, and capacity program

"(a) Definitions.—In this section:

"(1) Border state.—The term 'border State' means any of the States of Alaska, Arizona, California, Idaho, Maine, Michigan, Minnesota, Montana, New Hampshire, New Mexico, New York, North Dakota, Texas, Vermont, and Washington.

"(2) Program.—The term 'program' means the border planning, operations, technology, and capacity program established under subsection (b).

"(b) Establishment and Purpose.—The Secretary shall establish and carry out a border planning, operations, technology, and capacity improvement program to support coordination and improvement in bi-national transportation planning, operations, efficiency, information exchange, safety, and security at the international borders of the United States with Canada and Mexico.

"(c) Eligible Activities.—

"(1) In general.—The Secretary shall make allocations under the program for projects to carry out eligible activities described in paragraph (2) at or near international land borders in border States.

"(2) Eligible activities.—A border State may obligate funds apportioned to the border State under this section for—

"(A) highway and multimodal planning or environmental studies;

"(B) cross-border port of entry and safety inspection improvements, including operational enhancements and technology applications;

"(C) technology and information exchange activities; and

"(D) right-of-way acquisition, design, and construction, as needed—

"(i) to implement the enhancements or applications described in subparagraphs (B) and (C);

"(ii) to decrease air pollution emissions from vehicles or inspection facilities at border crossings; or

"(iii) to increase highway capacity at or near international borders.

"(d) Other Provisions Regarding Eligibility.—

"(1) In general.—Each project funded under the program shall be carried out in accordance with the continuing, cooperative, and comprehensive planning processes required by sections 134 and 135.

"(2) Regionally significant projects.—To be funded under the program, a regionally significant project shall be included on the applicable transportation plan and program required by sections 134 and 135.

"(e) Program Priorities.—Border States shall give priority to projects that emphasize—

"(1) multimodal planning;

"(2) improvements in infrastructure; and

"(3) operational improvements that—

"(A) increase safety, security, freight capacity, or highway access to rail, marine, and air services; and

"(B) enhance the environment.

"(f) Mandatory Program.—

"(1) In general.—For each fiscal year, the Secretary shall allocate among border States, in accordance with the formula described in paragraph (2), funds to be used in accordance with subsection (d).

"(2) Formula.—Subject to paragraph (3), the amount allocated to a border State under this paragraph shall be determined by the Secretary, as follows:

"(A) 25 percent in the ratio that—

"(i) the average annual weight of all cargo entering the border State by commercial vehicle across the international border with Canada or Mexico, as the case may be; bears to

"(ii) the average annual weight of all cargo entering all border States by commercial vehicle across the international borders with Canada and Mexico.

"(B) 25 percent in the ratio that—

"(i) the average trade value of all cargo imported into the border State and all cargo exported from the border State by commercial vehicle across the international border with Canada or Mexico, as the case may be; bears to

"(ii) the average trade value of all cargo imported into all border States and all cargo exported from all border States by commercial vehicle across the international borders with Canada and Mexico.

"(C) 25 percent in the ratio that—

"(i) the number of commercial vehicles annually entering the border State across the international border with Canada or Mexico, as the case may be; bears to

"(ii) the number of all commercial vehicles annually entering all border States across the international borders with Canada and Mexico.

"(D) 25 percent in the ratio that—

"(i) the number of passenger vehicles annually entering the border State across the international border with Canada or Mexico, as the case may be; bears to

"(ii) the number of all passenger vehicles annually entering all border States across the international borders with Canada and Mexico.

"(3) Data source.—

"(A) In general.—The data used by the Secretary in making allocations under this subsection shall be based on the Bureau of Transportation Statistics Transborder Surface Freight Dataset (or other similar database).

"(B) Basis of calculation.—All formula calculations shall be made using the average values for the most recent 5-year period for which data are available.

"(4) Minimum allocation.—Notwithstanding paragraph (2), for each fiscal year, each border State shall receive at least ½ of 1 percent of the funds made available for allocation under this paragraph for the fiscal year.

"(g) Federal Share.—Except as provided in section 120, the Federal share of the cost of a project carried out under the program shall be 80 percent.

"(h) Obligation.—Funds made available under section 1101(11) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 to carry out the program shall be available for obligation in the same manner as if the funds were apportioned under this chapter.

"(i) Information Exchange.—No individual project the scope of work of which is limited to information exchange shall receive an allocation under the program in an amount that exceeds $500,000 for any fiscal year.

"(j) Projects in Canada or Mexico.—A project in Canada or Mexico, proposed by a border State to directly and predominantly facilitate cross-border vehicle and commercial cargo movements at an international gateway or port of entry into the border region of the State, may be constructed using funds made available under the program if, before obligation of those funds, Canada or Mexico, or the political subdivision of Canada or Mexico that is responsible for the operation of the facility to be constructed, provides assurances satisfactory to the Secretary that any facility constructed under this subsection will be—

"(1) constructed in accordance with standards equivalent to applicable standards in the United States; and

"(2) properly maintained and used over the useful life of the facility for the purpose for which the Secretary allocated funds to the project.

"(k) Transfer of Funds to the General Services Administration.—

"(1) State funds.—At the request of a border State, funds made available under the program may be transferred to the General Services Administration for the purpose of funding 1 or more specific projects if—

"(A) the Secretary determines, after consultation with the State transportation department of the border State, that the General Services Administration should carry out the project; and

"(B) the General Services Administration agrees to accept the transfer of, and to administer, those funds.

"(2) Non-federal share.—

"(A) In general.—A border State that makes a request under paragraph (1) shall provide directly to the General Services Administration, for each project covered by the request, the non-Federal share of the cost of each project described in subsection (f).

"(B) NO AUGMENTATION OF APPROPRIATIONS.—Funds provided by a border State under subparagraph (A)—

"(i) shall not be considered to be an augmentation of the appropriations made available to the General Services Administration; and

"(ii) shall be—

"(I) administered in accordance with the procedures of the General Services Administration; but

"(II) available for obligation in the same manner as if the funds were apportioned under this chapter.

"(C) OBLIGATION AUTHORITY.—Obligation authority shall be transferred to the General Services Administration in the same manner and amount as the funds provided for projects under subparagraph (A).

"(3) DIRECT TRANSFER OF AUTHORIZED FUNDS.—

"(A) IN GENERAL.—In addition to allocations to States and metropolitan planning organizations under subsection (c), the Secretary may transfer funds made available to carry out this section to the General Services Administration for construction of transportation infrastructure projects at or near the border in border States, if—

"(i) the Secretary determines that the transfer is necessary to effectively carry out the purposes of this program; and

"(ii) the General Services Administration agrees to accept the transfer of, and to administer, those funds.

"(B) NO AUGMENTATION OF APPROPRIATIONS.—Funds transferred by the Secretary under subparagraph (A)—

"(i) shall not be considered to be an augmentation of the appropriations made available to the General Services Administration; and

"(ii) shall be—

"(I) administered in accordance with the procedures of the General Services Administration; but

"(II) available for obligation in the same manner as if the funds were apportioned under this chapter.

"(C) OBLIGATION AUTHORITY.—Obligation authority shall be transferred to the General Services Administration in the same manner and amount as the funds transferred under subparagraph (A).".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1809(b)), is amended by adding at the end the following:

"172. Border planning, operations, and technology program.".

SEC. 1811. PUERTO RICO HIGHWAY PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1810(a)), is amended by adding at the end the following:

"§173. Puerto Rico highway program

"(a) IN GENERAL.—The Secretary shall allocate funds authorized by section 1101(15) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 for each of fiscal years 2004 through 2009 to the Commonwealth of Puerto Rico to carry out a highway program in the Commonwealth.

"(b) APPLICABILITY OF TITLE.—

"(1) IN GENERAL.—Amounts made available by section 1101(15) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 shall be available for obligation in the same manner as if such funds were apportioned under this chapter.

"(2) LIMITATION ON OBLIGATIONS.—The amounts shall be subject to any limitation on obligations for Federal-aid highway and highway safety construction programs.

"(c) TREATMENT OF FUNDS.—Amounts made available to carry out this section for a fiscal year shall be administered as follows:

"(1) APPORTIONMENT.—For the purpose of imposing any penalty under this title or title 49, the amounts shall be treated as being apportioned to Puerto Rico under sections 104(b) and 144, for each program funded under those sections in an amount determined by multiplying—

"(A) the aggregate of the amounts for the fiscal year; by

"(B) the ratio that—

"(i) the amount of funds apportioned to Puerto Rico for each such program for fiscal year 1997; bears to

"(ii) the total amount of funds apportioned to Puerto Rico for all such programs for fiscal year 1997.

"(2) PENALTY.—The amounts treated as being apportioned to Puerto Rico under each section referred to in paragraph (1) shall be deemed to be required to be apportioned to Puerto Rico under that section for purposes of the imposition of any penalty under this title and title 49.

"(3) EFFECT ON ALLOCATIONS AND APPORTIONMENTS.—Subject to paragraph (2), nothing in this section affects any allocation under section 105 and any apportionment under sections 104 and 144.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1810(b)), is amended by adding at the end the following:

"173. Puerto Rico highway program.".

SEC. 1812. NATIONAL HISTORIC COVERED BRIDGE PRESERVATION.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1811(a)), is amended by adding at the end the following:

"§174. National historic covered bridge preservation

"(a) DEFINITION OF HISTORIC COVERED BRIDGE.—In this section, the term 'historic covered bridge' means a covered bridge that is listed or eligible for listing on the National Register of Historic Places.

"(b) HISTORIC COVERED BRIDGE PRESERVATION.—Subject to the availability of appropriations, the Secretary shall—

"(1) collect and disseminate information on historic covered bridges;

"(2) conduct educational programs relating to the history and construction techniques of historic covered bridges;

"(3) conduct research on the history of historic covered bridges; and

"(4) conduct research on, and study techniques for, protecting historic covered bridges from rot, fire, natural disasters, or weight-related damage.

"(c) GRANTS.—

"(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall make a grant to a State that submits an application to the Secretary that demonstrates a need for assistance in carrying out 1 or more historic covered bridge projects described in paragraph (2).

"(2) ELIGIBLE PROJECTS.—A grant under paragraph (1) may be made for a project—

"(A) to rehabilitate or repair a historic covered bridge; or

"(B) to preserve a historic covered bridge, including through—

"(i) installation of a fire protection system, including a fireproofing or fire detection system and sprinklers;

"(ii) installation of a system to prevent vandalism and arson; or

"(iii) relocation of a bridge to a preservation site.

"(3) AUTHENTICITY REQUIREMENTS.—A grant under paragraph (1) may be made for a project only if—

"(A) to the maximum extent practicable, the project—

"(i) is carried out in the most historically appropriate manner; and

"(ii) preserves the existing structure of the historic covered bridge; and

"(B) the project provides for the replacement of wooden components with wooden components, unless the use of wood is impracticable for safety reasons.

"(4) FEDERAL SHARE.—Except as provided in section 120, the Federal share of the cost of a project carried out with a grant under this subsection shall be 80 percent.

"(d) FUNDING.—There is authorized to be appropriated to carry out this section $14,000,000 for each of fiscal years 2004 through 2009, to remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1811(b)), is amended by adding at the end the following:

"174. National historic covered bridge preservation.".

SEC. 1813. TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1812(a)), is amended by adding at the end the following:

"§175. Transportation and community and system preservation program

"(a) ESTABLISHMENT.—The Secretary shall establish a comprehensive program to facilitate the planning, development, and implementation of strategies by States, metropolitan planning organizations, federally-recognized Indian tribes, and local governments to integrate transportation, community, and system preservation plans and practices that address the goals described in subsection (b).

"(b) GOALS.—The goals of the program are to—

"(1) improve the efficiency of the transportation system in the United States;

"(2) reduce the impacts of transportation on the environment;

"(3) reduce the need for costly future investments in public infrastructure;

"(4) provide efficient access to jobs, services, and centers of trade; and

"(5) examine development patterns, and to identify strategies, to encourage private sector development patterns that achieve the goals identified in paragraphs (1) through (4).

"(c) ALLOCATION OF FUNDS FOR IMPLEMENTATION.—

"(1) IN GENERAL.—The Secretary shall allocate funds made available to carry out this subsection to States, metropolitan planning organizations, and local governments to carry out projects to address transportation efficiency and community and system preservation.

"(2) CRITERIA.—In allocating funds made available to carry out this subsection, the Secretary shall give priority to applicants that—

"(A) have instituted preservation or development plans and programs that—

“(i) meet the requirements of this title and chapter 53 of title 49, United States Code; and

“(ii)(I) are coordinated with State and local adopted preservation or development plans;

“(II) are intended to promote cost-effective and strategic investments in transportation infrastructure that minimize adverse impacts on the environment; or

“(III) are intended to promote innovative private sector strategies.

“(B) have instituted other policies to integrate transportation and community and system preservation practices, such as—

“(i) spending policies that direct funds to high-growth areas;

“(ii) urban growth boundaries to guide metropolitan expansion;

“(iii) ‘green corridors’ programs that provide access to major highway corridors for areas targeted for efficient and compact development; or

“(iv) other similar programs or policies as determined by the Secretary;

“(C) have preservation or development policies that include a mechanism for reducing potential impacts of transportation activities on the environment;

“(D) examine ways to encourage private sector investments that address the purposes of this section; and

“(E) propose projects for funding that address the purposes described in subsection (b)(2).

“(3) EQUITABLE DISTRIBUTION.—In allocating funds to carry out this subsection, the Secretary shall ensure the equitable distribution of funds to a diversity of populations and geographic regions.

“(4) USE OF ALLOCATED FUNDS.—

“(A) IN GENERAL.—An allocation of funds made available to carry out this subsection shall be used by the recipient to implement the projects proposed in the application to the Secretary.

“(B) TYPES OF PROJECTS.—The allocation of funds shall be available for obligation for—

“(i) any project eligible for funding under this title or chapter 53 of title 49, United States Code; or

“(ii) any other activity relating to transportation and community and system preservation that the Secretary determines to be appropriate, including corridor preservation activities that are necessary to implement—

“(I) transit-oriented development plans;

“(II) traffic calming measures; or

“(III) other coordinated transportation and community and system preservation practices.

“(d) FUNDING.—

“(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $50,000,000 for each of fiscal years 2004 through 2009.

“(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under this chapter.”.

(b) ELIGIBLE PROJECTS.—Section 133(b) of title 23, United States Code (as amended by section 1701(a)), is amended by adding at the end the following:

“(18) Transportation and community system preservation to facilitate the planning, development, and implementation of strategies of metropolitan planning organizations and local governments to integrate transportation, community, and system preservation plans and practices that address the following:

“(A) Improvement of the efficiency of the transportation system in the United States.

“(B) Reduction of the impacts of transportation on the environment.

“(C) Reduction of the need for costly future investments in public infrastructure.

“(D) Provision of efficient access to jobs, services, and centers of trade.

“(E) Examination of development patterns, and identification of strategies to encourage private sector development patterns, that achieve the goals identified in subparagraphs (A) through (D).

“(19) Projects relating to intersections, including intersections—

“(A) that—

“(i) have disproportionately high accident rates;

“(ii) have high levels of congestion, as evidenced by—

“(I) interrupted traffic flow at the intersection; and

“(II) a level of service rating, issued by the Transportation Research Board of the National Academy of Sciences in accordance with the Highway Capacity Manual, that is not better than ‘F’ during peak travel hours; and

“(iii) are directly connected to or located on a Federal-aid highway; and

“(B) improvements that are approved in the regional plan of the appropriate local metropolitan planning organization.”.

(c) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1812(b)), is amended by adding at the end the following:

“175. Transportation and community and system preservation pilot program.”.

SEC. 1814. PARKING PILOT PROGRAMS.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1813(a)), is amended by adding at the end the following:

“§ 176. Parking pilot programs

“(a) COMMERCIAL TRUCK PARKING PILOT PROGRAM.—

“(1) ESTABLISHMENT.—In cooperation with appropriate State, regional, and local governments, the Secretary shall establish a pilot program to address the shortage of long-term parking for drivers of commercial motor vehicles on the National Highway System.

“(2) ALLOCATION OF FUNDS.—

“(A) IN GENERAL.—The Secretary shall allocate funds made available under this subsection to States, metropolitan planning organizations, and local governments.

“(B) CRITERIA.—In allocating funds under this subsection, the Secretary shall give priority to an applicant that—

“(i) demonstrates a severe shortage of commercial vehicle parking capacity on the corridor to be addressed;

“(ii) consults with affected State and local governments, community groups, private providers of commercial vehicle parking, and motorist and trucking organizations; and

“(iii) demonstrates that the project proposed by the applicant is likely to have a positive effect on highway safety, traffic congestion, or air quality.

“(3) USE OF ALLOCATED FUNDS.—

“(A) IN GENERAL.—A recipient of funds allocated under this subsection shall use the funds to carry out the project proposed in the application submitted by the recipient to the Secretary.

“(B) TYPES OF PROJECTS.—Funds under this subsection shall be available for obligation for projects that serve the National Highway System, including—

“(i) construction of safety rest areas that include parking for commercial motor vehicles;

“(ii) construction of commercial motor vehicle parking facilities that are adjacent to commercial truck stops and travel plazas;

“(iii) costs associated with the opening of facilities (including inspection and weigh stations and park-and-ride facilities) to provide commercial motor vehicle parking;

“(iv) projects that promote awareness of the availability of public or private commercial motor vehicle parking on the National Highway System, including parking in connection with intelligent transportation systems and other systems;

“(v) construction of turnouts along the National Highway System for commercial motor vehicles;

“(vi) capital improvements to public commercial motor vehicle truck parking facilities closed on a seasonal basis in order to allow the facilities to remain open year-around; and

“(vii) improvements to the geometric design at interchanges on the National Highway System to improve access to commercial motor vehicle parking facilities.

“(4) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary shall submit to Congress a report on the results of the pilot program carried out under this subsection.

“(5) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this subsection shall be consistent with section 120.

“(6) FUNDING.—

“(A) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $10,000,000 for each of fiscal years 2005 through 2009.

“(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under this chapter.

“(b) CORRIDOR AND FRINGE PARKING PILOT PROGRAM.—

“(1) ESTABLISHMENT.—

“(A) IN GENERAL.—In cooperation with appropriate State, regional, and local governments, the Secretary shall carry out a pilot program to provide corridor and fringe parking facilities.

“(B) PRIMARY FUNCTION.—The primary function of a corridor and fringe parking facility funded under this subsection shall be to provide parking capacity to support car pooling, van pooling, ride sharing, commuting, and high occupancy vehicle travel.

“(C) OVERNIGHT PARKING.—A State may permit a facility described in subparagraph (B) to be used for the overnight parking of commercial vehicles if the use does not foreclose or unduly limit the primary function of the facility described in subparagraph (B).

“(2) ALLOCATION OF FUNDS.—

“(A) IN GENERAL.—The Secretary shall allocate funds made available to carry out this subsection to States.

“(B) CRITERIA.—In allocating funds under this subsection, the Secretary shall give priority to a State that—

“(i) demonstrates demand for corridor and fringe parking on the corridor to be addressed;

“(ii) consults with affected metropolitan planning organizations, local governments, community groups, and providers of corridor and fringe parking; and

“(iii) demonstrates that the project proposed by the State is likely to have a positive effect on ride sharing, traffic congestion, or air quality.

"(3) USE OF ALLOCATED FUNDS.—

"(A) IN GENERAL.—A recipient of funds allocated under this subsection shall use the funds to carry out the project proposed in the application submitted by the recipient to the Secretary.

"(B) TYPES OF PROJECTS.—Funds under this subsection shall be available for obligation for projects that serve the Federal-aid system, including—

"(i) construction of corridor and fringe parking facilities;

"(ii) costs associated with the opening of facilities;

"(iii) projects that promote awareness of the availability of corridor and fringe parking through the use of signage and other means;

"(iv) capital improvements to corridor and fringe parking facilities closed on a seasonal basis in order to allow the facilities to remain open year-around; and

"(v) improvements to the geometric design on adjoining roadways to facilitate access to, and egress from, corridor and fringe parking facilities.

"(4) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary shall submit to Congress a report on the results of the pilot program carried out under this subsection.

"(5) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this subsection shall be consistent with section 120.

"(6) FUNDING.—

"(A) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $10,000,000 for each of fiscal years 2005 through 2009.

"(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under this chapter.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter I of title 23, United States Code (as amended by section 1813(c)), is amended by adding at the end the following:

"176. Parking pilot programs.".

SEC. 1815. INTERSTATE OASIS PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1814(a)), is amended by adding at the end the following:

"§ 177. Interstate oasis program

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, in consultation with the States and other interested parties, the Secretary shall—

"(1) establish an Interstate oasis program; and

"(2) develop standards for designating, as an Interstate oasis, a facility that—

"(A) offers—

"(i) products and services to the public;

"(ii) 24-hour access to restrooms; and

"(iii) parking for automobiles and heavy trucks; and

"(B) meets other standards established by the Secretary.

"(b) STANDARDS FOR DESIGNATION.—The standards for designation under subsection (a) shall include standards relating to—

"(1) the appearance of a facility; and

"(2) the proximity of the facility to the Interstate System.

"(c) ELIGIBILITY FOR DESIGNATION.—If a State elects to participate in the interstate oasis program, any facility meeting the standards established by the Secretary shall be eligible for designation under this section.

"(d) LOGO.—The Secretary shall design a logo to be displayed by a facility designated under this section.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter I of title 23, United States Code (as amended by section 1814(b)), is amended by adding at the end the following:

"177. Interstate oasis program.".

SEC. 1816. TRIBAL-STATE ROAD MAINTENANCE AGREEMENTS.

Section 204 of title 23, United States Code (as amended by section 1806(f)(4)), is amended by adding at the end the following:

"(n) TRIBAL-STATE ROAD MAINTENANCE AGREEMENTS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, regulation, policy, or guideline, an Indian tribe and a State may enter into a road maintenance agreement under which an Indian tribe assumes the responsibilities of the State for—

"(A) Indian reservation roads; and

"(B) roads providing access to Indian reservation roads.

"(2) TRIBAL-STATE AGREEMENTS.—Agreements entered into under paragraph (1)—

"(A) shall be negotiated between the State and the Indian tribe; and

"(B) shall not require the approval of the Secretary.

"(3) ANNUAL REPORT.—Effective beginning with fiscal year 2004, the Secretary shall prepare and submit to Congress an annual report that identifies—

"(A) the Indian tribes and States that have entered into agreements under paragraph (1);

"(B) the number of miles of roads for which Indian tribes have assumed maintenance responsibilities; and

"(C) the amount of funding transferred to Indian tribes for the fiscal year under agreements entered into under paragraph (1).".

SEC. 1817. NATIONAL FOREST SYSTEM ROADS.

Section 205 of title 23, United States Code, is amended by adding at the end the following:

"(e) Of the amounts made available for National Forest System roads, $15,000,000 for each fiscal year shall be used by the Secretary of Agriculture to pay the costs of facilitating the passage of aquatic species beneath roads in the National Forest System, including the costs of constructing, maintaining, replacing, or removing culverts and bridges, as appropriate.".

SEC. 1818. TERRITORIAL HIGHWAY PROGRAM.

(a) IN GENERAL.—Chapter 2 of title 23, United States Code, is amended by striking section 215 and inserting the following:

"§ 215. Territorial highway program

"(a) DEFINITIONS.—In this section:

"(1) PROGRAM.—The term 'program' means the territorial highway program established under subsection (b).

"(2) TERRITORY.—The term 'territory' means the any of the following territories of the United States:

"(A) American Samoa.

"(B) The Commonwealth of the Northern Mariana Islands.

"(C) Guam.

"(D) The United States Virgin Islands.

"(b) PROGRAM.—

"(1) IN GENERAL.—Recognizing the mutual benefits that will accrue to the territories and the United States from the improvement of highways in the territories, the Secretary may carry out a program to assist each territorial government in the construction and improvement of a system of arterial and collector highways, and necessary inter-island connectors, that is—

"(A) designated by the Governor or chief executive officer of each territory; and

"(B) approved by the Secretary.

"(2) FEDERAL SHARE.—The Secretary shall provide Federal financial assistance to territories under this section in accordance with section 120(h).

"(c) TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—To continue a long-range highway development program, the Secretary may provide technical assistance to the governments of the territories to enable the territories to, on a continuing basis—

"(A) engage in highway planning;

"(B) conduct environmental evaluations;

"(C) administer right-of-way acquisition and relocation assistance programs; and

"(D) design, construct, operate, and maintain a system of arterial and collector highways, including necessary inter-island connectors.

"(2) FORM AND TERMS OF ASSISTANCE.—Technical assistance provided under paragraph (1), and the terms for the sharing of information among territories receiving the technical assistance, shall be included in the agreement required by subsection (e).

"(d) NONAPPLICABILITY OF CERTAIN PROVISIONS.—

"(1) IN GENERAL.—Except to the extent that provisions of chapter 1 are determined by the Secretary to be inconsistent with the needs of the territories and the intent of the program, chapter 1 (other than provisions of chapter 1 relating to the apportionment and allocation of funds) shall apply to funds authorized to be appropriated for the program.

"(2) APPLICABLE PROVISIONS.—The specific sections of chapter 1 that are applicable to each territory, and the extent of the applicability of those section, shall be identified in the agreement required by subsection (e).

"(e) AGREEMENT.—

"(1) IN GENERAL.—Except as provided in paragraph (3), none of the funds made available for the program shall be available for obligation or expenditure with respect to any territory until the Governor or chief executive officer of the territory enters into a new agreement with the Secretary (which new agreement shall be entered into not later than 1 year after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004), providing that the government of the territory shall—

"(A) implement the program in accordance with applicable provisions of chapter 1 and subsection (d);

"(B) design and construct a system of arterial and collector highways, including necessary inter-island connectors, in accordance with standards that are—

"(i) appropriate for each territory; and

"(ii) approved by the Secretary;

"(C) provide for the maintenance of facilities constructed or operated under this section in a condition to adequately serve the needs of present and future traffic; and

"(D) implement standards for traffic operations and uniform traffic control devices that are approved by the Secretary.

"(2) TECHNICAL ASSISTANCE.—The new agreement required by paragraph (1) shall—

"(A) specify the kind of technical assistance to be provided under the program;

"(B) include appropriate provisions regarding information sharing among the territories; and

"(C) delineate the oversight role and responsibilities of the territories and the Secretary.

"(3) Review and revision of agreement.—The new agreement entered into under paragraph (1) shall be reevaluated and, as necessary, revised, at least every 2 years.

"(4) Existing agreements.—With respect to an agreement between the Secretary and the Governor or chief executive officer of a territory that is in effect as of the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004—

"(A) the agreement shall continue in force until replaced by a new agreement in accordance with paragraph (1); and

"(B) amounts made available for the program under the agreement shall be available for obligation or expenditure so long as the agreement, or a new agreement under paragraph (1), is in effect.

"(f) Permissible Uses of Funds.—

"(1) In general.—Funds made available for the program may be used only for the following projects and activities carried out in a territory:

"(A) Eligible surface transportation program projects described in section 133(b).

"(B) Cost-effective, preventive maintenance consistent with section 116.

"(C) Ferry boats, terminal facilities, and approaches, in accordance with subsections (b) and (c) of section 129.

"(D) Engineering and economic surveys and investigations for the planning, and the financing, of future highway programs.

"(E) Studies of the economy, safety, and convenience of highway use.

"(F) The regulation and equitable taxation of highway use.

"(G) Such research and development as are necessary in connection with the planning, design, and maintenance of the highway system.

"(2) Prohibition on use of funds for routine maintenance.—None of the funds made available for the program shall be obligated or expended for routine maintenance.

"(g) Location of Projects.—Territorial highway projects (other than those described in paragraphs (1), (3), and (4) of section 133(b)) may not be undertaken on roads functionally classified as local.".

(b) Conforming Amendments.—

(1) Eligible projects.—Section 103(b)(6) of title 23, United States Code, is amended by striking subparagraph (P) and inserting the following:

"(P) Projects eligible for assistance under the territorial highway program under section 215.".

(2) Funding.—Section 104(b)(1)(A) of title 23, United States Code, is amended by striking "to the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands" and inserting "for the territorial highway program authorized under section 215".

(3) Analysis.—The analysis for chapter 2 of title 23, United States Code, is amended by striking the item relating to section 215 and inserting the following:

"215. Territorial highway program.".

SEC. 1819. MAGNETIC LEVITATION TRANSPORTATION TECHNOLOGY DEPLOYMENT PROGRAM.

Section 322 of title 23, United States Code, is amended—

(1) in subsection (c)—

(A) by striking "Not later than" and inserting the following:

"(1) Initial solicitation.—Not later than"; and

(B) by adding at the end the following:

"(2) Additional solicitation.—Not later than 1 year after the date of enactment of this paragraph, the Secretary may solicit additional applications from States, or authorities designated by 1 or more States, for financial assistance authorized by subsection (b) for planning, design, and construction of eligible MAGLEV projects.";

(2) in subsection (e), by striking "Prior to soliciting applications, the Secretary" and inserting "The Secretary";

(3) in subsection (h)—

(A) in subparagraph (A), by striking clause (i) and inserting the following:

"(i) In general.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $15,000,000 for each of fiscal years 2004 through 2009."; and

(B) in subparagraph (B), by striking clause (i) and inserting the following:

"(i) In general.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section—

"(I) $375,000,000 for fiscal year 2004;

"(II) $400,000,000 for fiscal year 2005;

"(III) $415,000,000 for fiscal year 2006;

"(IV) $425,000,000 for fiscal year 2007;

"(V) $435,000,000 for fiscal year 2008; and

"(VI) $450,000,000 for fiscal year 2009."; and

(4) by striking subsection (i).

SEC. 1820. DONATIONS AND CREDITS.

Section 323 of title 23, United States Code, is amended—

(1) in the first sentence of subsection (c), by inserting ", or a local government from offering to donate funds, materials, or services performed by local government employees," after "services"; and

(2) striking subsection (e).

SEC. 1821. DISADVANTAGED BUSINESS ENTERPRISES.

(a) General Rule.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under titles I, II, and III of this Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

(b) Definitions.—In this section:

(1) Small business concern.—

(A) In general.—The term "small business concern" has the meaning given the term under section 3 of the Small Business Act (15 U.S.C. 632).

(B) Exclusion.—The term "small business concern" does not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals that has average annual gross receipts over the preceding 3 fiscal years in excess of $17,420,000, as adjusted by the Secretary for inflation.

(2) Socially and economically disadvantaged individuals.—The term "socially and economically disadvantaged individuals" has the meaning given the term under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated under that section, except that women shall be presumed to be socially and economically disadvantaged individuals for the purposes of this section.

(c) Annual Listing of Disadvantaged Business Enterprises.—Each State shall annually survey and compile a list of the small business concerns referred to in subsection (a) and the location of such concerns in the State and notify the Secretary, in writing, of the percentage of such concerns which are controlled by women, by socially and economically disadvantaged individuals (other than women), and by individuals who are women and are otherwise socially and economically disadvantaged individuals.

(d) Uniform Certification.—The Secretary shall establish minimum uniform criteria for State governments to use in certifying whether a concern qualifies for purposes of this section. Such minimum uniform criteria shall include on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, and type of work preferred.

(e) Compliance With Court Orders.—Nothing in this section limits the eligibility of an entity or person to receive funds made available under titles I, III, and V of this Act, if the entity or person is prevented, in whole or in part, from complying with subsection (a) because a Federal court issues a final order in which the court finds that the requirement of subsection (a), or the program established under subsection (a), is unconstitutional.

SEC. 1822. EMERGENCY RELIEF.

Section 125(c)(1) of title 23, United States Code, is amended by striking $100,000,000" and inserting "$300,000,000".

SEC. 1823. PRIORITY FOR PEDESTRIAN AND BICYCLE FACILITY ENHANCEMENT PROJECTS.

Section 133(e)(5) of title 23, United States Code, is amended by adding at the end the following:

"(D) Priority for pedestrian and bicycle facility enhancement projects.—The Secretary shall encourage States to give priority to pedestrian and bicycle facility enhancement projects that include a coordinated physical activity or healthy lifestyles program.".

SEC. 1824. THE DELTA REGIONAL AUTHORITY.

(a) In General.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1814(a)), is amended by adding at the end the following:

"§ 178. Delta Region transportation development program

"(a) In General.—The Secretary shall carry out a program to—

"(1) support and encourage multistate transportation planning and corridor development;

"(2) provide for transportation project development;

"(3) facilitate transportation decisionmaking; and

"(4) support transportation construction.

"(b) Eligible Recipients.—A State transportation department or metropolitan planning organization may receive and administer funds provided under the program.

"(c) Eligible Activities.—The Secretary shall make allocations under the program for multistate highway and transit planning, development, and construction projects.

"(d) Other Provisions Regarding Eligibility.—All activities funded under this program shall be consistent with the continuing, cooperative, and comprehensive planning processes required by section 134 and 135.

"(e) Selection Criteria.—The Secretary shall select projects to be carried out under the program based on—

"(1) whether the project is located—

"(A) in an area that is part of the Delta Regional Authority; and

"(B) on the Federal-aid system;

"(2) endorsement of the project by the State department of transportation; and

"(3) evidence of the ability to complete the project.

"(f) Program Priorities.—In administering the program, the Secretary shall—

"(1) encourage State and local officials to work together to develop plans for multimodal and multijurisdictional transportation decisionmaking; and

"(2) give priority to projects that emphasize multimodal planning, including planning for operational improvements that—

"(A) increase the mobility of people and goods;

"(B) improve the safety of the transportation system with respect to catastrophic—

"(i) natural disasters; or

"(ii) disasters caused by human activity; and

"(C) contribute to the economic vitality of the area in which the project is being carried out.

"(g) FEDERAL SHARE.—Amounts provided by the Delta Regional Authority to carry out a project under this section shall be applied to the non-Federal share required by section 120.

"(h) AVAILABILITY OF FUNDS.—Amounts made available to carry out this section shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code (as amended by section 1814(b)), is amended by adding at the end the following:

"178. Delta Region transportation development program.".

SEC. 1825. MULTISTATE INTERNATIONAL CORRIDOR DEVELOPMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a program to develop international trade corridors to facilitate the movement of freight from international ports of entry and inland ports through and to the interior of the United States.

(b) ELIGIBLE RECIPIENTS.—State transportation departments and metropolitan planning organizations shall be eligible to receive and administer funds provided under the program.

(c) ELIGIBLE ACTIVITIES.—The Secretary shall make allocations under this program for any activity eligible for funding under title 23, United States Code, including multistate highway and multistate multimodal planning and project construction.

(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—All activities funded under this program shall be consistent with the continuing, cooperative, and comprehensive planning processes required by sections 134 and 135 of title 23, United States Code.

(e) SELECTION CRITERIA.—The Secretary shall only select projects for corridors—

(1) that have significant levels or increases in truck and traffic volume relating to international freight movement;

(2) connect to at least 1 international terminus or inland port;

(3) traverse at least 3 States; and

(4) are identified by section 115(c) of the Intermodal Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2032).

(f) PROGRAM PRIORITIES.—In administering the program, the Secretary shall—

(1) encourage and enable States and other jurisdictions to work together to develop plans for multimodal and multijurisdictional transportation decisionmaking; and

(2) give priority to studies that emphasize multimodal planning, including planning for operational improvements that increase mobility, freight productivity, access to marine ports, safety, and security while enhancing the environment.

(g) FEDERAL SHARE.—The Federal share required for any study carried out under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter I of title 23, United States Code.

SEC. 1826. AUTHORIZATION OF CONTRACT AUTHORITY FOR STATES WITH INDIAN RESERVATIONS.

Section 1214(d) of the Transportation Equity Act for the 21st Century (23 U.S.C. 202 note; 112 Stat. 206) is amended—

(1) in paragraph (1), by inserting "(except Arizona)" after "each State"; and

(2) in paragraph (5)(A), by striking "$1,500,000 for each of fiscal years 1998 through 2003" and inserting "$1,800,000 for each of fiscal years 2004 through 2009".

Subtitle I—Technical Corrections

SEC. 1901. REPEAL OR UPDATE OF OBSOLETE TEXT.

(a) LETTING OF CONTRACTS.—Section 112 of title 23, United States Code, is amended—

(1) by striking subsection (f); and

(2) by redesignating subsection (g) as subsection (f).

(b) FRINGE AND CORRIDOR PARKING FACILITIES.—Section 137(a) of title 23, United States Code, is amended in the first sentence by striking "on the Federal-aid urban system" and inserting "on a Federal-aid highway".

SEC. 1902. CLARIFICATION OF DATE.

Section 109(g) of title 23, United States Code, is amended in the first sentence by striking "The Secretary" and all that follows through "of 1970" and inserting "Not later than January 30, 1971, the Secretary shall issue".

SEC. 1903. INCLUSION OF REQUIREMENTS FOR SIGNS IDENTIFYING FUNDING SOURCES IN TITLE 23.

(a) IN GENERAL.—Section 154 of the Federal-Aid Highway Act of 1987 (23 U.S.C. 101 note; 101 Stat. 209) is—

(1) transferred to title 23, United States Code;

(2) redesignated as section 321;

(3) moved to appear after section 320 of that title; and

(4) amended by striking the section heading and inserting the following:

"§ 321. Signs identifying funding sources".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 320 the following:

"321. Signs identifying funding sources.".

SEC. 1904. INCLUSION OF BUY AMERICA REQUIREMENTS IN TITLE 23.

(a) IN GENERAL.—Section 165 of the Highway Improvement Act of 1982 (23 U.S.C. 101 note; 96 Stat. 2136) is—

(1) transferred to title 23, United States Code;

(2) redesignated as section 313;

(3) moved to appear after section 312 of that title; and

(4) amended by striking the section heading and inserting the following:

"§ 313. Buy America".

(b) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 312 the following:

"313. Buy America.".

(2) Section 313 of title 23, United States Code (as added by subsection (a)), is amended—

(A) in subsection (a), by striking "by this Act" the first place it appears and all that follows through "of 1978" and inserting "to carry out the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title";

(B) in subsection (b), by redesignating paragraph (4) as paragraph (3);

(C) in subsection (d), by striking "this Act," and all that follows through "Code, which" and inserting "the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title that";

(D) by striking subsection (e); and

(E) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

SEC. 1905. TECHNICAL AMENDMENTS TO NONDISCRIMINATION SECTION.

Section 140 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking "subsection (a) of section 105 of this title" and inserting "section 135";

(B) in the second sentence, by striking "He" and inserting "The Secretary";

(C) in the third sentence, by striking "where he considers it necessary to assure" and inserting "if necessary to ensure"; and

(D) in the last sentence—

(i) by striking "him" and inserting "the Secretary" and

(ii) by striking "he" and inserting "the Secretary";

(2) in subsection (b)—

(A) in the first sentence, by striking "highway construction" and inserting "surface transportation"; and

(B) in the second sentence—

(i) by striking "as he may deem necessary" and inserting "as necessary"; and

(ii) by striking "not to exceed $2,500,000 for the transition quarter ending September 30, 1976, and";

(3) in the second sentence of subsection (c)—

(A) by striking "subsection 104(b)(3) of this title" and inserting "section 104(b)(3)"; and

(B) by striking "he may deem"; and

(4) in the heading of subsection (d), by striking "AND CONTRACTING".

TITLE II—TRANSPORTATION RESEARCH

Subtitle A—Funding

SEC. 2001. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) SURFACE TRANSPORTATION RESEARCH.—

(A) IN GENERAL.—For carrying out sections 502, 503, 506, 507, 508, and 511 of title 23, United States Code—

(i) $211,000,000 for each of fiscal years 2004 and 2005;

(ii) $215,000,000 for fiscal year 2006;

(iii) $218,000,000 for fiscal year 2007;

(iv) $220,000,000 for fiscal year 2008; and

(v) $223,000,000 for fiscal year 2009.

(B) SURFACE TRANSPORTATION-ENVIRONMENTAL COOPERATIVE RESEARCH PROGRAM.—For each of fiscal years 2004 through 2009, the Secretary shall set aside $20,000,000 of the funds authorized under subparagraph (A) to carry out the surface transportation-environmental cooperative research program under section 507 of title 23, United States Code.

(2) TRAINING AND EDUCATION.—For carrying out section 504 of title 23, United States Code—

(A) $27,000,000 for fiscal year 2004;

(B) $28,000,000 for fiscal year 2005;

(C) $29,000,000 for fiscal year 2006;

(D) $30,000,000 for fiscal year 2007;

(E) $31,000,000 for fiscal year 2008; and

(F) $32,000,000 for fiscal year 2009.

(3) BUREAU OF TRANSPORTATION STATISTICS.—For the Bureau of Transportation Statistics to carry out section 111 of title 49, United States Code, $28,000,000 for each of fiscal years 2004 through 2009.

(4) ITS STANDARDS, RESEARCH, OPERATIONAL TESTS, AND DEVELOPMENT.—For carrying out sections 524, 525, 526, 527, 528, and 529 of title 23, United States Code—

(A) $120,000,000 for fiscal year 2004;

(B) $123,000,000 for fiscal year 2005;

(C) $126,000,000 for fiscal year 2006;

(D) $129,000,000 for fiscal year 2007;

(E) $132,000,000 for fiscal year 2008; and

(F) $135,000,000 for fiscal year 2009.

(5) UNIVERSITY TRANSPORTATION CENTERS.—For carrying out section 510 of title 23, United States Code—

(A) $40,000,000 for fiscal year 2004; and

(B) $45,000,000 for each of fiscal years 2005 through 2009.

(b) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated by subsection (a)—

(1) shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of a project or activity carried out using the funds shall be the share applicable under section 120(b) of title 23, United States Code, as adjusted under subsection (d) of that section (unless otherwise specified or otherwise determined by the Secretary); and

(2) shall remain available until expended.

(c) ALLOCATIONS.—

(1) SURFACE TRANSPORTATION RESEARCH.—Of the amounts made available under subsection (a)(1)—

(A) $27,000,000 for each of fiscal years 2004 through 2009 shall be available to carry out advanced, high-risk, long-term research under section 502(d) of title 23, United States Code;

(B) $18,000,000 for fiscal years 2004 and 2005, $17,000,000 for fiscal year 2006, $15,000,000 for fiscal year 2007, $12,000,000 for fiscal year 2008, and $10,00,000 for fiscal year 2009 shall be available to carry out the long-term pavement performance program under section 502(e) of that title;

(C) $6,000,000 for each of fiscal years 2004 through 2009 shall be available to carry out the high-performance concrete bridge research and technology transfer program under section 502(i) of that title;

(D) $6,000,000 for each of fiscal years 2004 through 2009 shall be made available to carry out research on asphalt used in highway pavements;

(E) $6,000,000 for each of fiscal years 2004 through 2009 shall be made available to carry out research on concrete pavements;

(F) $3,000,000 for each of fiscal years 2004 through 2009 shall be made available to carry out research on aggregates used in highway pavements;

(G) $4,750,000 for each of fiscal years 2004 through 2009 shall be made available for further development and deployment of techniques to prevent and mitigate alkali silica reactivity;

(H) $2,000,000 for fiscal year 2005 shall be remain available until expended for asphalt and asphalt-related reclamation research at the South Dakota School of Mines; and

(I) $3,000,000 for each of fiscal years 2004 through 2009 shall be made available to carry out section 502(f)(3) of title 23, United States Code.

(2) TECHNOLOGY APPLICATION PROGRAM.—Of the amounts made available under subsection (a)(1), $60,000,000 for each of fiscal years 2004 through 2009 shall be available to carry out section 503 of title 23, United States Code.

(3) TRAINING AND EDUCATION.—Of the amounts made available under subsection (a)(2)—

(A) $12,000,000 for fiscal year 2004, $12,500,000 for fiscal year 2005, $13,000,000 for fiscal year 2006, $13,500,000 for fiscal year 2007, $14,000,000 for fiscal year 2008, and $14,500,000 for fiscal year 2009 shall be available to carry out section 504(a) of title 23, United States Code (relating to the National Highway Institute);

(B) $15,000,000 for each of fiscal years 2004 through 2009 shall be available to carry out section 504(b) of that title (relating to local technical assistance); and

(C) $3,000,000 for each of fiscal years 2004 through 2009 shall be available to carry out section 504(c)(2) of that title (relating to the Eisenhower Transportation Fellowship Program).

(4) INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM.—Of the amounts made available under subsection (a)(1), $500,000 for each of fiscal years 2004 through 2009 shall be available to carry out section 506 of title 23, United States Code.

(5) NEW STRATEGIC HIGHWAY RESEARCH PROGRAM.—For each of fiscal years 2004 through 2009, to carry out section 509 of title 23, United States Code, the Secretary shall set aside—

(A) $15,000,000 of the amounts made available to carry out the interstate maintenance program under section 119 of title 23, United States Code, for the fiscal year;

(B) $19,000,000 of the amounts made available for the National Highway System under section 101 of title 23, United States Code, for the fiscal year;

(C) $13,000,000 of the amounts made available to carry out the bridge program under section 144 of title 23, United States Code, for the fiscal year;

(D) $20,000,000 of the amounts made available to carry out the surface transportation program under section 133 of title 23, United States Code, for the fiscal year;

(E) $5,000,000 of the amounts made available to carry out the congestion mitigation and air quality improvement program under section 149 of title 23, United States Code, for the fiscal year; and

(F) $3,000,000 of the amounts made available to carry out the highway safety improvement program under section 148 of title 23, United States Code, for the fiscal year.

(6) COMMERCIAL VEHICLE INTELLIGENT TRANSPORTATION SYSTEM INFRASTRUCTURE PROGRAM.—Of the amounts made available under subsection (a)(4), not less than $30,000,000 for each of fiscal years 2004 through 2009 shall be available to carry out section 527 of title 23, United States Code.

(d) TRANSFERS OF FUNDS.—The Secretary may transfer—

(1) to an amount made available under paragraphs (1), (2), or (4) of subsection (c), not to exceed 10 percent of the amount allocated for a fiscal year under any other of those paragraphs; and

(2) to an amount made available under subparagraphs (A), (B), or (C) of subsection (c)(3), not to exceed 10 percent of the amount allocated for a fiscal year under any other of those subparagraphs.

SEC. 2002. OBLIGATION CEILING.

Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Highway Trust Fund (other than the Mass Transit Account) by section 2001(a) shall not exceed—

(1) $426,200,000 for fiscal year 2004;

(2) $435,200,000 for fiscal year 2005;

(3) $443,200,000 for fiscal year 2006;

(4) $450,200,000 for fiscal year 2007;

(5) $456,200,000 for fiscal year 2008; and

(6) $463,200,000 for fiscal year 2009.

SEC. 2003. NOTICE.

(a) NOTICE OF REPROGRAMMING.—If any funds authorized for carrying out this title or the amendments made by this title are subject to a reprogramming action that requires notice to be provided to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate, notice of that action shall be concurrently provided to the Committee on Transportation and Infrastructure and the Committee on Science of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(b) NOTICE OF REORGANIZATION.—On or before the 15th day preceding the date of any major reorganization of a program, project, or activity of the Department of Transportation for which funds are authorized by this title or the amendments made by this title, the Secretary shall provide notice of the reorganization to the Committee on Transportation and Infrastructure and the Committee on Science of the House of Representatives and the Committee on Environment and Public Works of the Senate.

Subtitle B—Research and Technology

SEC. 2101. RESEARCH AND TECHNOLOGY PROGRAM.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended to read as follows:

"CHAPTER 5—RESEARCH AND TECHNOLOGY

"SUBCHAPTER I—SURFACE TRANSPORTATION

"Sec.
"501. Definitions.
"502. Surface transportation research.
"503. Technology application program.
"504. Training and education.
"505. State planning and research.
"506. International highway transportation outreach program.
"507. Surface transportation-environmental cooperative research program.
"508. Surface transportation research technology deployment and strategic planning.
"509. New strategic highway research program.
"510. University transportation centers.
"511. Multistate corridor operations and management.
"512. Transportation analysis simulation system.

"SUBCHAPTER II—INTELLIGENT TRANSPORTATION SYSTEM RESEARCH AND TECHNICAL ASSISTANCE PROGRAM

"521. Finding.
"522. Goals and purposes.
"523. Definitions.
"524. General authorities and requirements.
"525. National ITS Program Plan.
"526. National ITS architecture and standards.
"527. Commercial vehicle intelligent transportation system infrastructure program.
"528. Research and development.
"529. Use of funds.

"SUBCHAPTER I—SURFACE TRANSPORTATION

"§ 501. Definitions

"In this subchapter:

"(1) FEDERAL LABORATORY.—The term 'Federal laboratory' includes—

"(A) a Government-owned, Government-operated laboratory; and

"(B) a Government-owned, contractor-operated laboratory.

“(2) SAFETY.—The term ‘safety’ includes highway and traffic safety systems, research, and development relating to—

“(A) vehicle, highway, driver, passenger, bicyclist, and pedestrian characteristics;

“(B) accident investigations;

“(C) integrated, interoperable emergency communications;

“(D) emergency medical care; and

“(E) transportation of the injured.

“§ 502. Surface transportation research

“(a) IN GENERAL.—

“(1) RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—The Secretary may carry out research, development, and technology transfer activities with respect to—

“(A) all phases of transportation planning and development (including new technologies, construction, transportation systems management and operations development, design, maintenance, safety, security, financing, data collection and analysis, demand forecasting, multimodal assessment, and traffic conditions); and

“(B) the effect of State laws on the activities described in subparagraph (A).

“(2) TESTS AND DEVELOPMENT.—The Secretary may test, develop, or assist in testing and developing, any material, invention, patented article, or process.

“(3) COOPERATION, GRANTS, AND CONTRACTS.—

“(A) IN GENERAL.—The Secretary may carry out this section—

“(i) independently;

“(ii) in cooperation with—

“(I) any other Federal agency or instrumentality; and

“(II) any Federal laboratory; or

“(iii) by making grants to, or entering into contracts, cooperative agreements, and other transactions with—

“(I) the National Academy of Sciences;

“(II) the American Association of State Highway and Transportation Officials;

“(III) planning organizations;

“(IV) a Federal laboratory;

“(V) a State agency;

“(VI) an authority, association, institution, or organization;

“(VII) a for-profit or nonprofit corporation;

“(VIII) a foreign country; or

“(IX) any other person.

“(B) COMPETITION; REVIEW.—All parties entering into contracts, cooperative agreements or other transactions with the Secretary, or receiving grants, to perform research or provide technical assistance under this section shall be selected, to the maximum extent practicable and appropriate—

“(i) on a competitive basis; and

“(ii) on the basis of the results of peer review of proposals submitted to the Secretary.

“(4) TECHNOLOGICAL INNOVATION.—The programs and activities carried out under this section shall be consistent with the surface transportation research and technology development strategic plan developed under section 508(c).

“(5) FUNDS.—

“(A) SPECIAL ACCOUNT.—In addition to other funds made available to carry out this section, the Secretary shall use such funds as may be deposited by any cooperating organization or person in a special account of the Treasury established for this purpose.

“(B) USE OF FUNDS.—The Secretary shall use funds made available to carry out this section to develop, administer, communicate, and promote the use of products of research, development, and technology transfer programs under this section.

“(b) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

“(1) IN GENERAL.—To encourage innovative solutions to surface transportation problems and stimulate the deployment of new technology, the Secretary may carry out, on a cost-shared basis, collaborative research and development with—

“(A) non-Federal entities (including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State); and

“(B) Federal laboratories.

“(2) AGREEMENTS.—In carrying out this subsection, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)).

“(3) FEDERAL SHARE.—

“(A) IN GENERAL.—The Federal share of the cost of activities carried out under a cooperative research and development agreement entered into under this subsection shall not exceed 50 percent, except that if there is substantial public interest or benefit, the Secretary may approve a greater Federal share.

“(B) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners, including personnel, travel, and hardware development costs, shall be credited toward the non-Federal share of the cost of the activities described in subparagraph (A).

“(4) USE OF TECHNOLOGY.—The research, development, or use of a technology under a cooperative research and development agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

“(5) WAIVER OF ADVERTISING REQUIREMENTS.—Section 3709 of the Revised Statutes (41 U.S.C. 5) shall not apply to a contract or agreement entered into under this chapter.

“(c) CONTENTS OF RESEARCH PROGRAM.—The Secretary shall include as priority areas of effort within the surface transportation research program—

“(1) the development of new technologies and methods in materials, pavements, structures, design, and construction, with the objectives of—

“(A)(i) increasing to 50 years the expected life of pavements;

“(ii) increasing to 100 years the expected life of bridges; and

“(iii) significantly increasing the durability of other infrastructure;

“(B) lowering the life-cycle costs, including—

“(i) construction costs;

“(ii) maintenance costs;

“(iii) operations costs; and

“(vi) user costs.

“(2) the development, and testing for effectiveness, of nondestructive evaluation technologies for civil infrastructure using existing and new technologies;

“(3) the investigation of—

“(A) the application of current natural hazard mitigation techniques to manmade hazards; and

“(B) the continuation of hazard mitigation research combining manmade and natural hazards;

“(4) the improvement of safety—

“(A) at intersections;

“(B) with respect to accidents involving vehicles run off the road; and

“(C) on rural roads;

“(5) the reduction of work zone incursions and improvement of work zone safety;

“(6) the improvement of geometric design of roads for the purpose of safety;

“(7) the examination of data collected through the national bridge inventory conducted under section 144 using the national bridge inspection standards established under section 151, with the objectives of determining whether—

“(A) the most useful types of data are being collected; and

“(B) any improvement could be made in the types of data collected and the manner in which the data is collected, with respect to bridges in the United States;

“(8) the improvement of the infrastructure investment needs report described in subsection (g) through—

“(A) the study and implementation of new methods of collecting better quality data, particularly with respect to performance, congestion, and infrastructure conditions;

“(B) monitoring of the surface transportation system in a system-wide manner, through the use of—

“(i) intelligent transportation system technologies of traffic operations centers; and

“(ii) other new data collection technologies as sources of better quality performance data;

“(C) the determination of the critical metrics that should be used to determine the condition and performance of the surface transportation system; and

“(D) the study and implementation of new methods of statistical analysis and computer models to improve the prediction of future infrastructure investment requirements;

“(9) the development of methods to improve the determination of benefits from infrastructure improvements, including—

“(A) more accurate calculations of benefit-to-cost ratios, considering benefits and impacts throughout local and regional transportation systems;

“(B) improvements in calculating life-cycle costs; and

“(C) valuation of assets;

“(10) the improvement of planning processes to better predict outcomes of transportation projects, including the application of computer simulations in the planning process to predict outcomes of planning decisions;

“(11) the multimodal applications of Geographic Information Systems and remote sensing, including such areas of application as—

“(A) planning;

“(B) environmental decisionmaking and project delivery; and

“(C) freight movement;

“(12) the development and application of methods of providing revenues to the Highway Trust Fund with the objective of offsetting potential reductions in fuel tax receipts;

“(13) the development of tests and methods to determine the benefits and costs to communities of major transportation investments and projects;

“(14) the conduct of extreme weather research, including research to—

“(A) reduce contraction and expansion damage;

“(B) reduce or repair road damage caused by freezing and thawing;

“(C) improve deicing or snow removal techniques;

“(D) develop better methods to reduce the risk of thermal collapse, including collapse from changes in underlying permafrost;

“(E) improve concrete and asphalt installation in extreme weather conditions; and

“(F) make other improvements to protect highway infrastructure or enhance highway safety or performance;

“(15) the improvement of surface transportation planning;

“(16) environmental research;

“(17) transportation system management and operations; and

“(18) any other surface transportation research topics that the Secretary determines, in accordance with the strategic planning process under section 508, to be critical.

“(d) ADVANCED, HIGH-RISK RESEARCH.—

“(1) IN GENERAL.—The Secretary shall establish and carry out, in accordance with the surface transportation research and technology development strategic plan developed under section 508(c) and research priority areas described in subsection (c), an advanced research program that addresses longer-term, higher-risk research with potentially dramatic breakthroughs for improving the durability, efficiency, environmental impact, productivity, and safety (including bicycle and pedestrian safety) aspects of highway and intermodal transportation systems.

“(2) PARTNERSHIPS.—In carrying out the program, the Secretary shall seek to develop partnerships with the public and private sectors.

“(3) REPORT.—The Secretary shall include in the strategic plan required under section 508(c) a description of each of the projects, and the amount of funds expended for each project, carried out under this subsection during the fiscal year.

“(e) LONG-TERM PAVEMENT PERFORMANCE PROGRAM.—

“(1) AUTHORITY.—The Secretary shall continue, through September 30, 2009, the long-term pavement performance program tests, monitoring, and data analysis.

“(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary shall make grants and enter into cooperative agreements and contracts to—

“(A) monitor, material-test, and evaluate highway test sections in existence as of the date of the grant, agreement, or contract;

“(B) analyze the data obtained in carrying out subparagraph (A); and

“(C) prepare products to fulfill program objectives and meet future pavement technology needs.

“(3) CONCLUSION OF PROGRAM.—

“(A) SUMMARY REPORT.—The Secretary shall include in the strategic plan required under section 508(c) a report on the initial conclusions of the long-term pavement performance program that includes—

“(i) an analysis of any research objectives that remain to be achieved under the program;

“(ii) an analysis of other associated longer-term expenditures under the program that are in the public interest;

“(iii) a detailed plan regarding the storage, maintenance, and user support of the database, information management system, and materials reference library of the program;

“(iv) a schedule for continued implementation of the necessary data collection and analysis and project plan under the program; and

“(v) an estimate of the costs of carrying out each of the activities described in clauses (i) through (iv) for each fiscal year during which the program is carried out.

“(B) DEADLINE; USEFULNESS OF ADVANCES.—The Secretary shall, to the maximum extent practicable—

“(i) ensure that the long-term pavement performance program is concluded not later than September 30, 2009; and

“(ii) make such allowances as are necessary to ensure the usefulness of the technological advances resulting from the program.

“(f) SEISMIC RESEARCH.—The Secretary shall—

“(1) in consultation and cooperation with Federal agencies participating in the National Earthquake Hazards Reduction Program established by section 5 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704), coordinate the conduct of seismic research;

“(2) take such actions as are necessary to ensure that the coordination of the research is consistent with—

“(A) planning and coordination activities of the Director of the Federal Emergency Management Agency under section 5(b)(1) of that Act (42 U.S.C. 7704(b)(1)); and

“(B) the plan developed by the Director of the Federal Emergency Management Agency under section 8(b) of that Act (42 U.S.C. 7705b(b)); and

“(3) in cooperation with the Center for Civil Engineering Research at the University of Nevada, Reno, carry out a seismic research program—

“(A) to study the vulnerability of the Federal-aid highway system and other surface transportation systems to seismic activity;

“(B) to develop and implement cost-effective methods to reduce the vulnerability; and

“(C) to conduct seismic research and upgrade earthquake simulation facilities as necessary to carry out the program.

“(g) INFRASTRUCTURE INVESTMENT NEEDS REPORT.—

“(1) IN GENERAL.—Not later than July 31, 2004, and July 31 of every second year thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes—

“(A) estimates of the future highway and bridge needs of the United States; and

“(B) the backlog of current highway and bridge needs.

“(2) COMPARISON WITH PRIOR REPORTS.—Each report under paragraph (1) shall provide the means, including all necessary information, to relate and compare the conditions and service measures used in the previous biennial reports.

“(h) SECURITY RELATED RESEARCH AND TECHNOLOGY TRANSFER ACTIVITIES.—

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Secretary, in consultation with the Secretary of Homeland Security, with key stakeholder input (including State transportation departments) shall develop a 5-year strategic plan for research and technology transfer and deployment activities pertaining to the security aspects of highway infrastructure and operations.

“(2) COMPONENTS OF PLAN.—The plan shall include—

“(A) an identification of which agencies are responsible for the conduct of various research and technology transfer activities;

“(B) a description of the manner in which those activities will be coordinated; and

“(C) a description of the process to be used to ensure that the advances derived from relevant activities supported by the Federal Highway Administration are consistent with the operational guidelines, policies, recommendations, and regulations of the Department of Homeland Security; and

“(D) a systematic evaluation of the research that should be conducted to address, at a minimum—

“(i) vulnerabilities of, and measures that may be taken to improve, emergency response capabilities and evacuations;

“(ii) recommended upgrades of traffic management during crises;

“(iii) integrated, interoperable emergency communications among the public, the military, law enforcement, fire and emergency medical services, and transportation agencies;

“(iv) protection of critical, security-related infrastructure; and

“(v) structural reinforcement of key facilities.

“(3) SUBMISSION.—On completion of the plan under this subsection, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

“(A) a copy of the plan developed under paragraph (1); and

“(B) a copy of a memorandum of understanding specifying coordination strategies and assignment of responsibilities covered by the plan that is signed by the Secretary and the Secretary of Homeland Security.

“(i) HIGH-PERFORMANCE CONCRETE BRIDGE RESEARCH AND TECHNOLOGY TRANSFER PROGRAM.—In accordance with the objectives described in subsection (c)(1) and the requirements under sections 503(b)(4) and 504(b), the Secretary shall carry out a program to demonstrate the application of high-performance concrete in the construction and rehabilitation of bridges.

“(j) BIOBASED TRANSPORTATION RESEARCH.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) $18,000,000 for each of fiscal years 2004 through 2009 equally divided and available to carry out biobased research of national importance at the National Biodiesel Board and at research centers identified in section 9011 of Public Law 107–171.

“§ 503. Technology application program

“(a) TECHNOLOGY APPLICATION INITIATIVES AND PARTNERSHIPS PROGRAM.—

“(1) ESTABLISHMENT.—The Secretary, in consultation with interested stakeholders, shall develop and administer a national technology and innovation application initiatives and partnerships program.

“(2) PURPOSE.—The purpose of the program shall be to significantly accelerate the adoption of technology and innovation by the surface transportation community.

“(3) APPLICATION GOALS.—

“(A) ESTABLISHMENT.—Not later than 180 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Secretary, in consultation with the Surface Transportation Research Technology Advisory Committee, State transportation departments, and other interested stakeholders, shall establish, as part of the surface transportation research and technology development strategic plan under section 508(c), goals to carry out paragraph (1).

“(B) DESIGN.—Each of the goals and the program developed to achieve the goals shall be designed to provide tangible benefits, with respect to transportation systems, in the areas of efficiency, safety, reliability, service life, environmental protection, and sustainability.

“(C) STRATEGIES FOR ACHIEVEMENT.—For each goal, the Secretary, in cooperation with representatives of the transportation community, such as States, local governments, the private sector, and academia, shall use domestic and international technology to develop strategies and initiatives to achieve the goal, including technical assistance in deploying technology and mechanisms for sharing information among program participants.

"(4) INTEGRATION WITH OTHER PROGRAMS.—The Secretary shall integrate activities carried out under this subsection with the efforts of the Secretary to—

"(A) disseminate the results of research sponsored by the Secretary; and

"(B) facilitate technology transfer.

"(5) LEVERAGING OF FEDERAL RESOURCES.—In selecting projects to be carried out under this subsection, the Secretary shall give preference to projects that leverage Federal funds with other significant public or private resources.

"(6) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary may make grants and enter into cooperative agreements and contracts to foster alliances and support efforts to stimulate advances in transportation technology.

"(7) REPORTS.—The results and progress of activities carried out under this section shall be published as part of the annual transportation research report prepared by the Secretary under section 508(c)(5).

"(8) ALLOCATION.—To the extent appropriate to achieve the goals established under paragraph (3), the Secretary may further allocate funds made available to carry out this section to States for use by those States.

"(b) INNOVATIVE SURFACE TRANSPORTATION INFRASTRUCTURE RESEARCH AND CONSTRUCTION PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish and carry out a program for the application of innovative material, design, and construction technologies in the construction, preservation, and rehabilitation of elements of surface transportation infrastructure.

"(2) GOALS.—The goals of the program shall include—

"(A) the development of new, cost-effective, and innovative materials;

"(B) the reduction of maintenance costs and life-cycle costs of elements of infrastructure, including the costs of new construction, replacement, and rehabilitation;

"(C) the development of construction techniques to increase safety and reduce construction time and traffic congestion;

"(D) the development of engineering design criteria for innovative products and materials for use in surface transportation infrastructure;

"(E) the development of highway bridges and structures that will withstand natural disasters and disasters caused by human activity; and

"(F) the development of new, nondestructive technologies and techniques for the evaluation of elements of transportation infrastructure.

"(3) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

"(A) IN GENERAL.—Under the program, the Secretary shall make grants to, and enter into cooperative agreements and contracts with—

"(i) States, other Federal agencies, universities and colleges, private sector entities, and nonprofit organizations, to pay the Federal share of the cost of research, development, and technology transfer concerning innovative materials and methods; and

"(ii) States, to pay the Federal share of the cost of repair, rehabilitation, replacement, and new construction of elements of surface transportation infrastructure that demonstrate the application of innovative materials and methods.

"(B) APPLICATIONS.—

"(i) IN GENERAL.—To receive a grant under this subsection, an entity described in subparagraph (A) shall submit to the Secretary an application in such form and containing such information as the Secretary may require.

"(ii) APPROVAL.—The Secretary shall select and approve an application based on whether the proposed project that is the subject of the application would meet the goals described in paragraph (2).

"(4) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall take such action as is necessary to—

"(A) ensure that the information and technology resulting from research conducted under paragraph (3) is made available to State and local transportation departments and other interested parties, as specified by the Secretary; and

"(B) encourage the use of the information and technology.

"(5) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be determined by the Secretary.

"§ 504. Training and education

"(a) NATIONAL HIGHWAY INSTITUTE.—

"(1) IN GENERAL.—The Secretary shall—

"(A) operate, in the Federal Highway Administration, a National Highway Institute (referred to in this subsection as the 'Institute'); and

"(B) administer, through the Institute, the authority vested in the Secretary by this title or by any other law for the development and conduct of education and training programs relating to highways.

"(2) DUTIES OF THE INSTITUTE.—In cooperation with State transportation departments, industries in the United States, and national or international entities, the Institute shall develop and administer education and training programs of instruction for—

"(A) Federal Highway Administration, State, and local transportation agency employees;

"(B) regional, State, and metropolitan planning organizations;

"(C) State and local police, public safety, and motor vehicle employees; and

"(D) United States citizens and foreign nationals engaged or to be engaged in surface transportation work of interest to the United States.

"(3) COURSES.—

"(A) IN GENERAL.—The Institute shall—

"(i) develop or update existing courses in asset management, including courses that include such components as—

"(I) the determination of life-cycle costs;

"(II) the valuation of assets;

"(III) benefit-to-cost ratio calculations; and

"(IV) objective decisionmaking processes for project selection; and

"(ii) continually develop courses relating to the application of emerging technologies for—

"(I) transportation infrastructure applications and asset management;

"(II) intelligent transportation systems;

"(III) operations (including security operations);

"(IV) the collection and archiving of data;

"(V) expediting the planning and development of transportation projects; and

"(VI) the intermodal movement of individuals and freight.

"(B) ADDITIONAL COURSES.—In addition to the courses developed under subparagraph (A), the Institute, in consultation with State transportation departments, metropolitan planning organizations, and the American Association of State Highway and Transportation Officials, may develop courses relating to technology, methods, techniques, engineering, construction, safety, maintenance, environmental mitigation and compliance, regulations, management, inspection, and finance.

"(C) REVISION OF COURSES OFFERED.—The Institute shall periodically—

"(i) review the course inventory of the Institute; and

"(ii) revise or cease to offer courses based on course content, applicability, and need.

"(4) ELIGIBILITY; FEDERAL SHARE.—The funds apportioned to a State under section 104(b)(3) for the surface transportation program shall be available for expenditure by the State transportation department for the payment of not to exceed 80 percent of the cost of tuition and direct educational expenses (excluding salaries) in connection with the education and training of employees of State and local transportation agencies in accordance with this subsection.

"(5) FEDERAL RESPONSIBILITY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), education and training of employees of Federal, State, and local transportation (including highway) agencies authorized under this subsection may be provided—

"(i) by the Secretary, at no cost to the States and local governments, if the Secretary determines that provision at no cost is in the public interest; or

"(ii) by the State, through grants, cooperative agreements, and contracts with public and private agencies, institutions, individuals, and the Institute.

"(B) PAYMENT OF FULL COST BY PRIVATE PERSONS.—Private agencies, international or foreign entities, and individuals shall pay the full cost of any education and training (including the cost of course development) received by the agencies, entities, and individuals, unless the Secretary determines that payment of a lesser amount of the cost is of critical importance to the public interest.

"(6) TRAINING FELLOWSHIPS; COOPERATION.—The Institute may—

"(A) engage in training activities authorized under this subsection, including the granting of training fellowships; and

"(B) exercise the authority of the Institute independently or in cooperation with any—

"(i) other Federal or State agency;

"(ii) association, authority, institution, or organization;

"(iii) for-profit or nonprofit corporation;

"(iv) national or international entity;

"(v) foreign country; or

"(vi) person.

"(7) COLLECTION OF FEES.—

"(A) IN GENERAL.—In accordance with this subsection, the Institute may assess and collect fees to defray the costs of the Institute in developing or administering education and training programs under this subsection.

"(B) PERSONS SUBJECT TO FEES.—Fees may be assessed and collected under this subsection only with respect to—

"(i) persons and entities for whom education or training programs are developed or administered under this subsection; and

"(ii) persons and entities to whom education or training is provided under this subsection.

"(C) AMOUNT OF FEES.—The fees assessed and collected under this subsection shall be established in a manner that ensures that the liability of any person or entity for a fee is reasonably based on the proportion of the costs referred to in subparagraph (A) that relate to the person or entity.

"(D) USE.—All fees collected under this subsection shall be used, without further appropriation, to defray costs associated with the development or administration of education and training programs authorized under this subsection.

"(8) RELATION TO FEES.—The funds made available to carry out this subsection may be combined with or held separate from the fees collected under—

"(A) paragraph (7);

"(B) memoranda of understanding;

"(C) regional compacts; and

"(D) other similar agreements.

"(b) LOCAL TECHNICAL ASSISTANCE PROGRAM.—

"(1) AUTHORITY.—The Secretary shall carry out a local technical assistance program that will provide access to surface transportation technology to—

"(A) highway and transportation agencies in urbanized areas;

"(B) highway and transportation agencies in rural areas;

"(C) contractors that perform work for the agencies; and

"(D) infrastructure security.

"(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—The Secretary may make grants and enter into cooperative agreements and contracts to provide education and training, technical assistance, and related support services to—

"(A) assist rural, local transportation agencies and tribal governments, and the consultants and construction personnel working for the agencies and governments, to—

"(i) develop and expand expertise in road and transportation areas (including pavement, bridge, concrete structures, intermodal connections, safety management systems, intelligent transportation systems, incident response, operations, and traffic safety countermeasures);

"(ii) improve roads and bridges;

"(iii) enhance—

"(I) programs for the movement of passengers and freight; and

"(II) intergovernmental transportation planning and project selection; and

"(iv) deal effectively with special transportation-related problems by preparing and providing training packages, manuals, guidelines, and technical resource materials;

"(B) develop technical assistance for tourism and recreational travel;

"(C) identify, package, and deliver transportation technology and traffic safety information to local jurisdictions to assist urban transportation agencies in developing and expanding their ability to deal effectively with transportation-related problems (particularly the promotion of regional cooperation);

"(D) operate, in cooperation with State transportation departments and universities—

"(i) local technical assistance program centers designated to provide transportation technology transfer services to rural areas and to urbanized areas; and

"(ii) local technical assistance program centers designated to provide transportation technical assistance to tribal governments; and

"(E) allow local transportation agencies and tribal governments, in cooperation with the private sector, to enhance new technology implementation.

"(c) RESEARCH FELLOWSHIPS.—

"(1) GENERAL AUTHORITY.—The Secretary, acting independently or in cooperation with other Federal agencies and instrumentalities, may make grants for research fellowships for any purpose for which research is authorized by this chapter.

"(2) DWIGHT DAVID EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—The Secretary shall establish and implement a transportation research fellowship program, to be known as the 'Dwight David Eisenhower Transportation Fellowship Program', for the purpose of attracting qualified students to the field of transportation.

"§ 505. State planning and research

"(a) IN GENERAL.—Two percent of the sums apportioned to a State for fiscal year 2004 and each fiscal year thereafter under sections 104 (other than subsections (f) and (h)) and 144 shall be available for expenditure by the State, in consultation with the Secretary, only for—

"(1) the conduct of engineering and economic surveys and investigations;

"(2) the planning of—

"(A) future highway programs and local public transportation systems; and

"(B) the financing of those programs and systems, including metropolitan and statewide planning under sections 134 and 135;

"(3) the development and implementation of management systems under section 303;

"(4) the conduct of studies on—

"(A) the economy, safety, and convenience of surface transportation systems; and

"(B) the desirable regulation and equitable taxation of those systems;

"(5) research, development, and technology transfer activities necessary in connection with the planning, design, construction, management, and maintenance of highway, public transportation, and intermodal transportation systems;

"(6) the conduct of studies, research, and training relating to the engineering standards and construction materials for surface transportation systems described in paragraph (5) (including the evaluation and accreditation of inspection and testing and the regulation of and charging for the use of the standards and materials); and

"(7) the conduct of activities relating to the planning of real-time monitoring elements.

"(b) MINIMUM EXPENDITURES ON RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—

"(1) IN GENERAL.—Subject to paragraph (2), not less than 25 percent of the funds subject to subsection (a) that are apportioned to a State for a fiscal year shall be expended by the State for research, development, and technology transfer activities that—

"(A) are described in subsection (a); and

"(B) relate to highway, public transportation, and intermodal transportation systems.

"(2) WAIVERS.—The Secretary may waive the application of paragraph (1) with respect to a State for a fiscal year if—

"(A) the State certifies to the Secretary for the fiscal year that total expenditures by the State for transportation planning under sections 134 and 135 will exceed 75 percent of the funds described in paragraph (1); and

"(B) the Secretary accepts the certification of the State.

"(3) NONAPPLICABILITY OF ASSESSMENT.—Funds expended under paragraph (1) shall not be considered to be part of the extramural budget of the agency for the purpose of section 9 of the Small Business Act (15 U.S.C. 638).

"(c) FEDERAL SHARE.—The Federal share of the cost of a project carried out using funds subject to subsection (a) shall be the share applicable under section 120(b), as adjusted under subsection (d) of that section.

"(d) ADMINISTRATION OF SUMS.—Funds subject to subsection (a) shall be—

"(1) combined and administered by the Secretary as a single fund; and

"(2) available for obligation for the period described in section 118(b)(2).

"(e) ELIGIBLE USE OF STATE PLANNING AND RESEARCH FUNDS.—A State, in coordination with the Secretary, may obligate funds made available to carry out this section for any purpose authorized under section 506(a).

"§ 506. International highway transportation outreach program

"(a) ESTABLISHMENT.—The Secretary may establish an international highway transportation outreach program—

"(1) to inform the United States highway community of technological innovations in foreign countries that could significantly improve highway transportation in the United States;

"(2) to promote United States highway transportation expertise, goods, and services in foreign countries; and

"(3) to increase transfers of United States highway transportation technology to foreign countries.

"(b) ACTIVITIES.—Activities carried out under the program may include—

"(1) the development, monitoring, assessment, and dissemination in the United States of information about highway transportation innovations in foreign countries that could significantly improve highway transportation in the United States;

"(2) research, development, demonstration, training, and other forms of technology transfer and exchange;

"(3) the provision to foreign countries, through participation in trade shows, seminars, expositions, and other similar activities, of information relating to the technical quality of United States highway transportation goods and services;

"(4) the offering of technical services of the Federal Highway Administration that cannot be readily obtained from private sector firms in the United States for incorporation into the proposals of those firms undertaking highway transportation projects outside the United States, if the costs of the technical services will be recovered under the terms of the project;

"(5) the conduct of studies to assess the need for, or feasibility of, highway transportation improvements in foreign countries; and

"(6) the gathering and dissemination of information on foreign transportation markets and industries.

"(c) COOPERATION.—The Secretary may carry out this section in cooperation with any appropriate—

"(1) Federal, State, or local agency;

"(2) authority, association, institution, or organization;

"(3) for-profit or nonprofit corporation;

"(4) national or international entity;

"(5) foreign country; or

"(6) person.

"(d) FUNDS.—

"(1) CONTRIBUTIONS.—Funds available to carry out this section shall include funds deposited by any cooperating organization or person into a special account of the Treasury established for this purpose.

"(2) ELIGIBLE USES OF FUNDS.—The funds deposited into the account, and other funds available to carry out this section, shall be available to cover the cost of any activity eligible under this section, including the cost of—

"(A) promotional materials;

"(B) travel;

"(C) reception and representation expenses; and

"(D) salaries and benefits.

"(3) REIMBURSEMENTS FOR SALARIES AND BENEFITS.—Reimbursements for salaries and benefits of Department of Transportation employees providing services under this section shall be credited to the account.

"(e) REPORT—For each fiscal year, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes the destinations and individual trip costs of international travel conducted in carrying out activities described in this section.

"§507. Surface transportation-environmental cooperative research program

"(a) IN GENERAL.—The Secretary shall establish and carry out a surface transportation-environmental cooperative research program.

"(b) CONTENTS.—The program carried out under this section may include research—

"(1) to develop more accurate models for evaluating transportation control measures and transportation system designs that are appropriate for use by State and local governments (including metropolitan planning organizations) in designing implementation plans to meet Federal, State, and local environmental requirements;

"(2) to improve understanding of the factors that contribute to the demand for transportation;

"(3) to develop indicators of economic, social, and environmental performance of transportation systems to facilitate analysis of potential alternatives;

"(4) to meet additional priorities as determined by the Secretary in the strategic planning process under section 508; and

"(5) to refine, through the conduct of workshops, symposia, and panels, and in consultation with stakeholders (including the Department of Energy, the Environmental Protection Agency, and other appropriate Federal and State agencies and associations) the scope and research emphases of the program.

"(c) PROGRAM ADMINISTRATION.—The Secretary shall—

"(1) administer the program established under this section; and

"(2) ensure, to the maximum extent practicable, that—

"(A) the best projects and researchers are selected to conduct research in the priority areas described in subsection (b)—

"(i) on the basis of merit of each submitted proposal; and

"(ii) through the use of open solicitations and selection by a panel of appropriate experts;

"(B) a qualified, permanent core staff with the ability and expertise to manage a large multiyear budget is used;

"(C) the stakeholders are involved in the governance of the program, at the executive, overall program, and technical levels, through the use of expert panels and committees; and

"(D) there is no duplication of research effort between the program established under this section and the new strategic highway research program established under section 509.

"(d) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities relating to the research, technology, and technology transfer activities described in subsections (b) and (c) as the Secretary determines to be appropriate.

"§508. Surface transportation research technology deployment and strategic planning

"(a) PLANNING.—

"(1) ESTABLISHMENT.—The Secretary shall—

"(A) establish, in accordance with section 306 of title 5, a strategic planning process that—

"(i) enhances effective implementation of this section through the establishment in accordance with paragraph (2) of the Surface Transportation Research Technology Advisory Committee; and

"(ii) focuses on surface transportation research funded through paragraphs (1), (2), (4), and (5) of section 2001(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, taking into consideration national surface transportation system needs and intermodality requirements;

"(B) coordinate Federal surface transportation research, technology development, and deployment activities;

"(C) at such intervals as are appropriate and practicable, measure the results of those activities and the ways in which the activities affect the performance of the surface transportation systems of the United States; and

"(D) ensure, to the maximum extent practicable, that planning and reporting activities carried out under this section are coordinated with all other surface transportation planning and reporting requirements.

"(2) SURFACE TRANSPORTATION RESEARCH TECHNOLOGY ADVISORY COMMITTEE.—

"(A) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Secretary shall establish a committee to be known as the 'Surface Transportation Research Technology Advisory Committee' (referred to in this section as the 'Committee').

"(B) MEMBERSHIP.—The Committee shall be composed of 12 members appointed by the Secretary—

"(i) each of which shall have expertise in a particular area relating to Federal surface transportation programs, including—

"(I) safety;

"(II) operations;

"(III) infrastructure (including pavements and structures);

"(IV) planning and environment;

"(V) policy; and

"(VI) asset management; and

"(ii) of which—

"(I) 3 members shall be individuals representing the Federal Government;

"(II) 3 members—

"(aa) shall be exceptionally qualified to serve on the Committee, as determined by the Secretary, based on education, training, and experience; and

"(bb) shall not be officers or employees of the United States;

"(III) 3 members—

"(aa) shall represent the transportation industry (including the pavement industry); and

"(bb) shall not be officers or employees of the United States; and

"(IV) 3 members shall represent State transportation departments from 3 different geographical regions of the United States.

"(C) MEETINGS.—The advisory subcommittees shall meet on a regular basis, but not less than twice each year.

"(D) DUTIES.—The Committee shall provide to the Secretary, on a continuous basis, advice and guidance relating to—

"(i) the determination of surface transportation research priorities;

"(ii) the improvement of the research planning and implementation process;

"(iii) the design and selection of research projects;

"(iv) the review of research results;

"(v) the planning and implementation of technology transfer activities and

"(vi) the formulation of the surface transportation research and technology deployment and deployment strategic plan required under subsection (c).

"(E) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this paragraph $200,000 for each fiscal year.

"(b) IMPLEMENTATION.—The Secretary shall—

"(1) provide for the integrated planning, coordination, and consultation among the operating administrations of the Department of Transportation, all other Federal agencies with responsibility for surface transportation research and technology development, State and local governments, institutions of higher education, industry, and other private and public sector organizations engaged in surface transportation-related research and development activities; and

"(2) ensure that the surface transportation research and technology development programs of the Department do not duplicate other Federal, State, or private sector research and development programs.

"(c) SURFACE TRANSPORTATION RESEARCH AND TECHNOLOGY DEPLOYMENT STRATEGIC PLAN.—

"(1) IN GENERAL.—After receiving, and based on, extensive consultation and input from stakeholders representing the transportation community and the Surface Transportation Research Advisory Committee, the Secretary shall, not later than 1 year after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, complete, and shall periodically update thereafter, a strategic plan for each of the core surface transportation research areas, including—

"(A) safety;

"(B) operations;

"(C) infrastructure (including pavements and structures);

"(D) planning and environment;

"(E) policy; and

"(F) asset management.

"(2) COMPONENTS.—The strategic plan shall specify—

"(A) surface transportation research objectives and priorities;

"(B) specific surface transportation research projects to be conducted;

"(C) recommended technology transfer activities to promote the deployment of advances resulting from the surface transportation research conducted; and

"(D) short- and long-term technology development and deployment activities.

"(3) REVIEW AND SUBMISSION OF FINDINGS.—The Secretary shall enter into a contract with the Transportation Research Board of the National Academy of Sciences, on behalf of the Research and Technology Coordinating Committee of the National Research Council, under which—

"(A) the Transportation Research Board shall—

"(i) review the research and technology planning and implementation process used by Federal Highway Administration; and

"(ii) evaluate each of the strategic plans prepared under this subsection—

"(I) to ensure that sufficient stakeholder input is being solicited and considered throughout the preparation process; and

"(II) to offer recommendations relevant to research priorities, project selection, and deployment strategies; and

"(B) the Secretary shall ensure that the Research and Technology Coordinating Committee, in a timely manner, informs the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of the findings of the review and evaluation under subparagraph (A).

"(4) RESPONSES OF SECRETARY.—Not later than 60 days after the date of completion of the strategic plan under this subsection, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives written responses to each of the recommendations of the Research and Technology Coordinating Committee under paragraph (3)(A)(ii)(II).

"(d) CONSISTENCY WITH GOVERNMENT PERFORMANCE AND RESULTS ACT OF 1993.—The plans and reports developed under this section shall be consistent with and incorporated as part of the plans developed under section 306 of title 5 and sections 1115 and 1116 of title 31.

"§ 509. New strategic highway research program

"(a) IN GENERAL.—The National Research Council shall establish and carry out, through fiscal year 2009, a new strategic highway research program.

"(b) BASIS; PRIORITIES.—With respect to the program established under subsection (a)—

"(1) the program shall be based on—

"(A) National Research Council Special Report No. 260, entitled 'Strategic Highway Research'; and

"(B) the results of the detailed planning work subsequently carried out to scope the research areas through National Cooperative Research Program Project 20–58.

"(2) the scope and research priorities of the program shall—

"(A) be refined through stakeholder input in the form of workshops, symposia, and panels; and

"(B) include an examination of—

"(i) the roles of highway infrastructure, drivers, and vehicles in fatalities on public roads;

"(ii) high-risk areas and activities associated with the greatest numbers of highway fatalities;

"(iii) the roles of various levels of government agencies and non-governmental organizations in reducing highway fatalities (including recommendations for methods of strengthening highway safety partnerships);

"(iv) measures that may save the greatest number of lives in the short- and long-term;

"(v) renewal of aging infrastructure with minimum impact on users of facilities;

"(vi) driving behavior and likely crash causal factors to support improved countermeasures;

"(vii) reduction in congestion due to nonrecurring congestion;

"(viii) planning and designing of new road capacity to meet mobility, economic, environmental, and community needs;

"(3) the program shall consider, at a minimum, the results of studies relating to the implementation of the Strategic Highway Safety Plan prepared by the American Association of State Highway and Transportation Officials; and

"(4) the research results of the program, expressed in terms of technologies, methodologies, and other appropriate categorizations, shall be disseminated to practicing engineers as soon as practicable for their use.

"(c) PROGRAM ADMINISTRATION.—In carrying out the program under this section, the National Research Council shall ensure, to the maximum extent practicable, that—

"(1) the best projects and researchers are selected to conduct research for the program and priorities described in subsection (b)—

"(A) on the basis of the merit of each submitted proposal; and

"(B) through the use of open solicitations and selection by a panel of appropriate experts;

"(2) the National Research Council acquires a qualified, permanent core staff with the ability and expertise to manage a large research program and multiyear budget;

"(3) the stakeholders are involved in the governance of the program, at the executive, overall program, and technical levels, through the use of expert panels and committees; and

"(4) there is no duplication of research effort between the program established under this section and the surface transportation-environment cooperative research program established under section 507 or any other research effort of the Department.

"(d) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities relating to research, technology, and technology transfer described in subsections (b) and (c) as the Secretary determines to be appropriate.

"(e) REPORT ON IMPLEMENTATION OF RESULTS.—

"(1) IN GENERAL.—Not later than October 1, 2007, the Secretary shall enter into a contract with the Transportation Research Board of the National Academy of Sciences under which the Transportation Research Board shall complete a report on the strategies and administrative structure to be used for implementation of the results of new strategic highway research program.

"(2) COMPONENTS.—The report under paragraph (1) shall include, with respect to the new strategic highway research program—

"(A) an identification of the most promising results of research under the program (including the persons most likely to use the results);

"(B) a discussion of potential incentives for, impediments to, and methods of, implementing those results;

"(C) an estimate of costs that would be incurred in expediting implementation of those results; and

"(D) recommendations for the way in which implementation of the results of the program under this section should be conducted, coordinated, and supported in future years, including a discussion of the administrative structure and organization best suited to carry out those responsibilities.

"(3) CONSULTATION.—In developing the report, the Transportation Research Board shall consult with a wide variety of stakeholders, including—

"(A) the American Association of State highway Officials;

"(B) the Federal Highway Administration; and

"(C) the Surface Transportation Research Technology Advisory Committee.

"(4) SUBMISSION.—Not later than February 1, 2009, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives the report under this subsection.

"§ 510. University transportation centers

"(a) CENTERS.—

"(1) IN GENERAL.—During fiscal year 2004, the Secretary shall provide grants to 40 nonprofit institutions of higher learning (or consortia of institutions of higher learning) to establish centers to address transportation design, management, research, development, and technology matters, especially the education and training of greater numbers of individuals to enter into the professional field of transportation.

"(2) DISTRIBUTION OF CENTERS.—Not more than 1 university transportation center (or lead university in a consortia of institutions of higher learning), other than a center or university selected through a competitive process, may be located in any State.

"(3) IDENTIFICATION OF CENTERS.—The university transportation centers established under this section shall—

"(A) comply with applicable requirements under subsection (c); and

"(B) be located at the institutions of higher learning specified in paragraph (4).

"(4) IDENTIFICATION OF GROUPS.—For the purpose of making grants under this subsection, the following grants are identified:

"(A) GROUP A.—Group A shall consist of the 10 regional centers selected under subsection (b).

"(B) GROUP B.—Group B shall consist of the following:

"(i) [ ].
"(ii) [ ].
"(iii) [ ].
"(iv) [ ].
"(v) [ ].
"(vi) [ ].
"(vii) [ ].
"(viii) [ ]
"(ix) [ ].
"(x) [ ].
"(xi) [ ].

"(C) GROUP C.—Group C shall consist of the following:

"(i) [ ].
"(ii) [ ].
"(iii) [ ].
"(iv) [ ].
"(v) [ ].
"(vi) [ ].
"(vii) [ ].
"(viii) [ ].
"(ix) [ ].
"(x) [ ].
"(xi) [ ].

"(D) GROUP D.—Group D shall consist of the following:

"(i) [ ].
"(ii) [ ].
"(iii) [ ].
"(iv) [ ].
"(v) [ ].
"(vi) [ ].
"(vii) [ ].
"(viii) [ ].

"(b) REGIONAL CENTERS.—

"(1) IN GENERAL.—Not later than September 30, 2004, the Secretary shall provide to nonprofit institutions of higher learning (or consortia of institutions of higher learning) grants to be used during the period of fiscal years 2005 through 2009 to establish and operate 1 university transportation center in each of the 10 Federal regions that comprise the Standard Federal Regional Boundary System.

“(2) SELECTION OF REGIONAL CENTERS.—

“(A) PROPOSALS.—In order to be eligible to receive a grant under this subsection, an institution described in paragraph (1) shall submit to the Secretary a proposal, in response to any request for proposals that shall be made by the Secretary, that is in such form and contains such information as the Secretary shall prescribe.

“(B) REQUEST SCHEDULE.—The Secretary shall request proposals once for the period of fiscal years 2004 through 2006 and once for the period of fiscal years 2007 through 2009.

“(C) ELIGIBILITY.—Any institution of higher learning (or consortium of institutions of higher learning) that meets the criteria described in subsection (c) (including any institution identified in subsection (a)(4)) may apply for a grant under this subsection.

“(D) SELECTION CRITERIA.—The Secretary shall select each recipient of a grant under this subsection through a competitive process on the basis of—

“(i) the location of the center within the Federal region to be served;

“(ii) the demonstrated research capabilities and extension resources available to the recipient to carry out this section;

“(iii) the capability of the recipient to provide leadership in making national and regional contributions to the solution of immediate and long-range transportation problems;

“(iv) the demonstrated ability of the recipient to disseminate results of transportation research and education programs through a statewide or regionwide continuing education program; and

“(v) the strategic plan that the recipient proposes to carry out using funds from the grant.

“(E) SELECTION PROCESS.—In selecting the recipients of grants under this subsection, the Secretary shall consult with, and consider the advice of—

“(i) the Research and Special Programs Administration;

“(ii) the Federal Highway Administration; and

“(iii) the Federal Transit Administration.

“(c) CENTER REQUIREMENTS.—

“(1) IN GENERAL.—With respect to a university transportation center established under subsection (a) or (b), the institution or consortium that receives a grant to establish the center—

“(A) shall annually contribute at least $250,000 to the operation and maintenance of the center, except that payment by the institution or consortium of the salary required for transportation-related faculty and staff for a period greater than 90 days may not be counted against that contribution;

“(B) shall have established, as of the date of receipt of the grant, undergraduate or graduate programs in—

“(i) civil engineering;

“(ii) transportation engineering;

“(iii) transportation systems management and operations; or

“(iv) any other field significantly related to surface transportation systems, as determined by the Secretary; and

“(C) not later than 120 days after the date on which the institution or consortium receives notice of selection as a site for the establishment of a university transportation center under this section, shall submit to the Secretary a 6-year program plan for the university transportation center that includes, with respect to the center—

“(i) a description of the purposes of programs to be conducted by the center;

“(ii) a description of the undergraduate and graduate transportation education efforts to be carried out by the center;

“(iii) a description of the nature and scope of research to be conducted by the center;

“(iv) a list of personnel, including the roles and responsibilities of those personnel within the center; and

“(v) a detailed budget, including the amount of contributions by the institution or consortium to the center; and

“(D) shall establish an advisory committee that—

“(i) is composed of a representative from each of the State transportation department of the State in which the institution or consortium is located, the Department of Transportation, and the institution or consortia, as appointed by those respective entities;

“(ii) in accordance with paragraph (2), shall review and approve or disapprove the plan of the institution or consortium under subparagraph (C); and

“(iii) shall, to the maximum extent practicable, ensure that the proposed research to be carried out by the university transportation center will contribute to the national highway research and technology agenda, as periodically updated by the Secretary, in consultation with stakeholders representing the highway community.

“(2) PEER REVIEW.—

“(A) IN GENERAL.—The Secretary shall require peer review for each report on research carried out using funds made available for this section.

“(B) PURPOSES OF PEER REVIEW.—Peer review of a report under this section shall be carried out to evaluate—

“(i) the relevance of the research described in the report with respect to the strategic plan under, and the goals of, this section;

“(ii) the research covered by the report, and to recommend modifications to individual project plans;

“(iii) the results of the research before publication of those results; and

“(iv) the overall outcomes of the research.

“(C) INTERNET AVAILABILITY.—Each report under this section that is received by the Secretary shall be published—

“(i) by the Secretary, on the Internet website of the Department of Transportation; and

“(ii) by the University Transportation Center.

“(3) APPROVAL OF PLANS—A plan of an institution or consortium described in paragraph (1)(C) shall not be submitted to the Secretary until such time as the advisory committee established under paragraph (1)(D) reviews and approves the plan.

“(4) FAILURE TO COMPLY.—If a recipient of a grant under this subsection fails to submit a program plan acceptable to the Secretary and in accordance with paragraph (1)(C)—

“(A) the recipient shall forfeit the grant and the selection of the recipient as a site for the establishment of a university transportation center; and

“(B) the Secretary shall select a replacement recipient for the forfeited grant.

“(5) APPLICABILITY.—This subsection does not apply to any research funds received in accordance with a competitive contract offered and entered into by the Federal Highway Administration.

“(d) OBJECTIVES.—Each university transportation center established under subsection (a) or (b) shall carry out—

“(1) undergraduate or graduate education programs that include—

“(A) multidisciplinary coursework; and

“(B) opportunities for students to participate in research;

“(2) basic and applied research, the results and products of which shall be judged by peers or other experts in the field so as to advance the body of knowledge in transportation; and

“(3) an ongoing program of technology transfer that makes research results available to potential users in such form as will enable the results to be implemented, used, or otherwise applied.

“(e) MAINTENANCE OF EFFORT.—To be eligible to receive a grant under this section, an applicant shall—

“(1) enter into an agreement with the Secretary to ensure that the applicant will maintain total expenditures from all other sources to establish and operate a university transportation center and related educational and research activities at a level that is at least equal to the average level of those expenditures during the 2 fiscal years before the date on which the grant is provided;

“(2) provide the annual institutional contribution required under subsection (c)(1); and

“(3) submit to the Secretary, in a timely manner, for use by the Secretary in the preparation of the annual research report under section 508(c)(5) of title 23, an annual report on the projects and activities of the university transportation center for which funds are made available under section 2001 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 that contains, at a minimum, for the fiscal year covered by the report, a description of—

“(A) the goals of the center;

“(B) the educational activities carried out by the center (including a detailed summary of the budget for those educational activities);

“(C) teaching activities of faculty at the center;

“(D) each research project carried out by the center, including—

“(i) the identity and location of each investigator working on a research project;

“(ii) the overall funding amount for each research project (including the amounts expended for the project as of the date of the report);

“(iii) the current schedule for each research project; and

“(iv) the results of each research project through the date of submission of the report, with particular emphasis on results for the fiscal year covered by the report; and

“(E) overall technology transfer and implementation efforts of the center.

“(f) PROGRAM COORDINATION.—The Secretary shall—

“(1) coordinate the research, education, training, and technology transfer activities carried out by recipients of grants under this section; and

“(2) establish and operate a clearinghouse for, and disseminate, the results of those activities.

“(g) FUNDING.—

“(1) NUMBER AND AMOUNT OF GRANTS.—The Secretary shall make the following grants under this subsection:

“(A) GROUP A.—For each of fiscal years 2004 through 2009, the Secretary shall make a grant in the amount of $20,000,000 to each of the institutions in group A (as described in subsection (a)(4)(A)).

“(B) GROUP B.—The Secretary shall make a grant to each of the institutions in group B (as described in subsection (a)(4)(B)) in the amount of—

"(i) $4,000,000 for each of fiscal years 2004 and 2005; and

"(ii) $6,000,000 for each of fiscal years 2006 and 2007.

"(C) Group c.—For each of fiscal years 2004 through 2007, the Secretary shall make a grant in the amount of $10,000,000 to each of the institutions in group C (as described in subsection (a)(4)(C)).

"(D) Group d.—For each of fiscal years 2004 through 2009, the Secretary shall make a grant in the amount of $25,000,000 to each of the institutions in group D (as described in subsection (a)(4)(D)).

"(E) Limited grants for groups b and c.—For each of fiscal years 2008 and 2009, of the institutions classified in groups B and C (as described in subsection (a)(4)(B)), the Secretary shall select and make a grant in the amount of $10,000,000 to each of not more than 15 institutions.

"(2) Use of funds—

"(A) In general.—Of the funds made available for a fiscal year to a university transportation center established under subsection (a) or (b)—

"(i) not less than $250,000 shall be used to establish and maintain new faculty positions for the teaching of undergraduate, transportation-related courses;

"(ii) not more than $500,000 for the fiscal year, or $1,000,000 in the aggregate, may be used to construct or improve transportation-related laboratory facilities; and

"(iii) not more than $300,000 for the fiscal year may be used for student internships of not more than 180 days in duration to enable students to gain experience by working on transportation projects as interns with design or construction firms.

"(B) Facilities and administration fee.—Not more than 10 percent of any grant made available to a university transportation center (or any institution or consortium that establishes such a center) for a fiscal year may be used to pay to the appropriate nonprofit institution of higher learning any administration and facilities fee (or any similar overhead fee) for the fiscal year.

"(3) Limitation on availability of funds.—Funds made available under this subsection shall remain available for obligation for a period of 2 years after September 30 of the fiscal year for which the funds are authorized.

"§ 511. Multistate corridor operations and management

"(a) In General.—The Secretary shall encourage multistate cooperative agreements, coalitions, or other arrangements to promote regional cooperation, planning, and shared project implementation for programs and projects to improve transportation system management and operations.

"(b) Interstate Route I–95 Corridor Coalition Transportation Systems Management and Operations.—

"(1) In general.—The Secretary shall make grants under this subsection to States to continue intelligent transportation system management and operations in the Interstate Route I–95 corridor coalition region initiated under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240).

"(2) Funding.—Of the amounts made available under section 2001(a)(4) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Secretary shall use to carry out this subsection—

"(A) $8,000,000 for fiscal year 2004;

"(B) $10,000,000 for fiscal year 2005;

"(C) $12,000,000 for fiscal year 2006;

"(D) $12,000,000 for fiscal year 2007;

"(E) $12,000,000 for fiscal year 2008; and

"(F) $12,000,000 for fiscal year 2009.

"§ 512. Transportation analysis simulation system

"(a) Continuation of Transims Development.—

"(1) In general.—The Secretary shall continue the deployment of the advanced transportation model known as the 'Transportation Analysis Simulation System' (referred to in this section as 'TRANSIMS') developed by the Los Alamos National Laboratory.

"(2) Requirements and considerations.—In carrying out paragraph (1), the Secretary shall—

"(A) further improve TRANSIMS to reduce the cost and complexity of using the TRANSIMS;

"(B) continue development of TRANSIMS for applications to facilitate transportation planning, regulatory compliance, and response to natural disasters and other transportation disruptions; and

"(C) assist State transportation departments and metropolitan planning organizations, especially smaller metropolitan planning organizations, in the implementation of TRANSIMS by providing training and technical assistance.

"(b) Eligible Activities.—The Secretary shall use funds made available to carry out this section—

"(1) to further develop TRANSIMS for additional applications, including—

"(A) congestion analyses;

"(B) major investment studies;

"(C) economic impact analyses;

"(D) alternative analyses;

"(E) freight movement studies;

"(F) emergency evacuation studies;

"(G) port studies; and

"(H) airport access studies;

"(2) provide training and technical assistance with respect to the implementation and application of TRANSIMS to States, local governments, and metropolitan planning organizations with responsibility for travel modeling;

"(3) develop methods to simulate the national transportation infrastructure as a single, integrated system for the movement of individuals and goods;

"(4) provide funding to State transportation departments and metropolitan planning organizations for implementation of TRANSIMS.

"(c) Allocation of Funds.—Of the funds made available to carry out this section for each fiscal year, not less than 15 percent shall be allocated for activities described in subsection (b)(3).

"(d) Funding.—Of the amounts made available under section 2001(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 for each of fiscal years 2004 through 2009, the Secretary shall use $1,000,000 to carry out this section.

"(e) Availability of Funds.—Funds made available under this section shall be available to the Secretary through the Transportation Planning, Research, and Development Account of the Office of the Secretary.".

(b) Other University Funding.—No university (other than university transportation centers specified in section 510 of title 23, United States Code (as added by subsection (a)) shall receive funds made available under section 2001 to carry out research unless the university is selected to receive the funds—

(1) through a competitive process that incorporates merit-based peer review; and

(2) based on a proposal submitted to the Secretary by the university in response to a request for proposals issued by the Secretary.

(c) Conforming Amendment.—Section 5505 of title 49, United States Code, is repealed.

SEC. 2102. STUDY OF DATA COLLECTION AND STATISTICAL ANALYSIS EFFORTS.

(a) Definitions.—In this section:

(1) Administration.—The term "Administration" means the Federal Highway Administration.

(2) Board.—The term "Board" means the Transportation Research Board of the National Academy of Sciences.

(3) Bureau.—The term "Bureau" means the Bureau of Transportation Statistics.

(4) Department.—The term "Department" means the Department of Transportation.

(5) Secretary.—The term "Secretary" means the Secretary of Transportation.

(b) Priority Areas of Effort.—

(1) Statistical standards.—The Secretary shall direct the Bureau to assume the role of the lead agency in working with other agencies of the Department to establish, by not later the date that is 1 year after the date of enactment of this Act, statistical standards for the Department.

(2) Statistical analysis effort.—

(A) In general.—The Bureau shall provide to the Secretary, on an annual basis, an overview of the level of effort expended on statistical analyses by each agency within the Department.

(B) Duty of agencies.—Each agency of the Department shall provide to the Bureau such information as the Bureau may require in carrying out subparagraph (A).

(3) National security.—The Bureau shall—

(A) conduct a study of the ways in which transportation statistics are and may be used for the purpose of national security; and

(B) submit to the Transportation Security Administration recommendations for means by which the use of transportation statistics for the purpose of national security may be improved.

(4) Modernization.—The Bureau shall develop new protocols for adapting data collection and delivery efforts in existence as of the date of enactment of this Act to deliver information in a more timely and frequent fashion.

(c) Study.—

(1) In general.—Not later than 90 days after the date of enactment of this Act, the Secretary shall provide a grant to, or enter into a cooperative agreement or contract with, the Board for the conduct of a study of the data collection and statistical analysis efforts of the Department with respect to the modes of surface transportation for which funds are made available under this Act.

(2) Purpose.—The purpose of the study shall be to provide to the Department information for use by agencies of the Department in providing to surface transportation agencies and individuals engaged in the surface transportation field higher quality, and more relevant and timely, data, statistical analyses, and products.

(3) Content.—The study shall include—

(A) an examination and analysis of the efforts, analyses, and products (with respect to usefulness and policy relevance) of the Bureau as of the date of the study, as compared with the duties of the Bureau specified in subsections (c) through (f) of section 111 of title 49, United States Code;

(B) an examination and analysis of data collected by, methods of data collection of, and analyses performed by, agencies within the Department; and

(C) recommendations relating to—

(i) the future efforts of the Department in the area of surface transportation with respect to—

(I) types of data collected;

(II) methods of data collection;

(III) types of analyses performed; and

(IV) products made available by the Secretary to the transportation community and Congress;

(ii) the means by which the Department may cooperate with State transportation departments to provide technical assistance in the use of data collected by traffic operations centers; and

(iii) duplication of efforts within the Department, including ways in which—

(I) the duplication may be reduced or eliminated; and

(II) each agency of the Department may cooperate with, and complement the efforts of, the others.

(4) Consultation.—In conducting the study, the Board shall consult with such stakeholders, agencies, and other entities as the Board considers to be appropriate.

(5) Report.—Not later than 1 year after the date on which a grant is provided, or a cooperative agreement or contract is entered into, for a study under paragraph (1)—

(A) the Board shall submit to the Secretary, the Committee on Environment and Public Works of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives a final report on the results of the study; and

(B) the results of the study shall be published—

(i) by the Secretary, on the Internet website of the Department; and

(ii) by the Board, on the Internet website of the Board.

(6) Implementation of results.—The Bureau shall, to the maximum extent practicable, implement any recommendations made with respect to the results of the study under this subsection.

(7) Compliance.—

(A) In general.—The Comptroller General of the United States shall conduct a review of the study under this subsection.

(B) Noncompliance.—If the Comptroller General of the United States determines that the Bureau failed to conduct the study under this subsection, the Bureau shall be ineligible to receive funds from the Highway Trust Fund until such time as the Bureau conducts the study under this subsection.

(d) Conforming Amendments.—

(1) Section 111 of title 49, United States Code, is amended—

(A) by redesignating subsection (k) as subsection (m);

(B) by inserting after subsection (j) the following:

"(k) Annual Report.—

"(1) In general.—For fiscal year 2005 and each fiscal year thereafter, the Bureau shall prepare and submit to the Secretary an annual report that—

"(A) describes progress made in responding to study recommendations for the fiscal year; and

"(B) summarizes the activities and expenditure of funds by the Bureau for the fiscal year.

"(2) Availability.—The Bureau shall—

"(A) make the report described in paragraph (1) available to the public; and

"(B) publish the report on the Internet website of the Bureau.

"(3) Combination of reports.—The report required under paragraph (1) may be included in or combined with the Transportation Statistics Annual Report required by subsection (j).

"(l) Expenditure of Funds.—Funds from the Highway Trust Fund (other than the Mass Transit Account) that are authorized to be appropriated, and made available, in accordance with section 2001(a)(3) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 shall be used only for the collection and statistical analysis of information relating to surface transportation systems."; and

(C) in subsection (m) (as redesignated by subparagraph (A)), by inserting "surface transportation" after "sale of".

(2) The analysis for chapter 55 of title 49, United States Code, is amended by striking the item relating to section 5505 and inserting the following:

"5505. University transportation centers.".

SEC. 2103. CENTERS FOR SURFACE TRANSPORTATION EXCELLENCE.

(a) Establishment.—The Secretary shall establish the centers for surface transportation excellence described in subsection (b) to promote high-quality outcomes in support of strategic national programs and activities, including—

(1) the environment;

(2) operations;

(3) surface transportation safety;

(4) project finance; and

(5) asset management.

(b) Centers.—The centers for surface transportation excellence referred to in subsection (a) are—

(1) a Center for Environmental Excellence to provide technical assistance, information sharing of best practices, and training in the use of tools and decision-making processes to assist States in planning and delivering environmentally-sound surface transportation projects;

(2) a Center for Operations Excellence to provide support for an integrated and coordinated national program for implementing operations in planning and management (including standards development) for the transportation system in the United States;

(3) a Center for Excellence in Surface Transportation Safety to implement a program of support for State transportation departments, including—

(A) the maintenance of an Internet site to provide critical information on safety programs;

(B) the provision of technical assistance to support a lead State transportation department for each of the safety emphasis areas (as identified by the Secretary); and

(C) the provision of training and education to enhance knowledge of personnel of State transportation departments in support of safety highway goals;

(4) a Center for Excellence in Project Finance—

(A) to provide support to State transportation departments in the development of finance plans and project oversight tools; and

(B) to develop and offer training in state-of-the-art financing methods to advance projects and leverage funds; and

(5) a Center for Excellence in Asset Management to develop and conduct research, provide training and education, and disseminate information on the benefits and tools for asset management.

(c) Program Administration.—

(1) In general.—Before funds authorized under this section for fiscal years 2005 through 2009 are obligated, the Secretary shall review and approve a multiyear strategic plan to be submitted by each of the centers.

(2) Timing.—The plan shall be submitted before the beginning of fiscal year 2005 and, subsequently, shall be annually updated.

(3) Content.—The plan shall include—

(A) a list of research and technical assistance projects and objectives; and

(B) a description of any other technology transfer activities, including a summary of training efforts.

(4) Cooperation and competition.—

(A) In general.—The Secretary shall carry out this section by making grants to, or entering into contracts, cooperative agreements, and other transactions with—

(i) the National Academy of Sciences;

(ii) the American Association of State Highway and Transportation Officials;

(iii) planning organizations;

(iv) a Federal laboratory;

(v) a State agency;

(vi) an authority, association, institution, or organization; or

(vii) a for-profit or nonprofit corporation.

(B) Competition; review.—All parties entering into contracts, cooperative agreements, or other transactions with the Secretary, or receiving grants, to perform research or provide technical assistance under this section shall be selected, to the maximum extent practicable—

(i) on a competitive basis; and

(ii) on the basis of the results of peer review of proposals submitted to the Secretary.

(5) Nonduplication.—The Secretary shall ensure that activities conducted by each of the centers do not duplicate, and to the maximum extent practicable, are integrated and coordinated with similar activities conducted by the Federal Highway Administration, the local technical assistance program, university transportation centers, and other research efforts supported with funds authorized by this title.

(d) Allocations.—

(1) In general.—For each of fiscal years 2004 through 2009, of the funds made available under section 2001(a)(1)(A), the Secretary shall set aside $10,000,000 to carry out this section.

(2) Allocation of funds.—Of the funds made available under paragraph (1)—

(A) 20 percent shall be allocated to the Center for Environmental Excellence established under subsection (b)(1);

(B) 30 percent shall be allocated to the Center for Operations Excellence established under subsection (b)(2);

(C) 20 percent shall be allocated to the Center for Excellence in Surface Transportation Safety established under subsection (b)(3);

(D) 10 percent shall be allocated to the Center for Excellence in Project Finance established under subsection (b)(4); and

(E) 20 percent shall be allocated to the Center for Excellence in Asset Management established under subsection (b)(5).

(3) Applicability of title 23.—Funds made available under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share shall be 100 percent.

SEC. 2104. MOTORCYCLE CRASH CAUSATION STUDY GRANTS.

(a) Grants.—The Secretary shall provide grants for the purpose of conducting a comprehensive, in-depth motorcycle crash causation study that employs the common international methodology for in-depth motorcycle accident investigation of the Organization for Economic Cooperation and Development.

(b) Funding.—Of the amounts made available under section 2001(a)(3), $1,500,000 for each of fiscal years 2004 and 2005 shall be available to carry out this section.

SEC. 2105. TRANSPORTATION TECHNOLOGY INNOVATION AND DEMONSTRATION PROGRAM.

(a) IN GENERAL.—Section 5117(b)(3) of the Transportation Equity Act for the 21st Century (112 Stat. 449; 112 Stat. 864; 115 Stat. 2330) is amended—

(1) in subparagraph (B)—

(A) in clause (i)—

(i) in the first sentence—

(I) by striking "Build an" and inserting "Build or integrate an"; and

(II) by striking "$2,000,000" and inserting "$2,500,000"; and

(ii) in the second sentence—

(I) by striking "300,000 and that" and inserting "300,000,"; and

(II) by inserting before the period at the end the following: ", and includes major transportation corridors serving that metropolitan area";

(B) in clause (ii), by striking all that follows "will be" and inserting "reinvested in the intelligent transportation infrastructure system.";

(C) by striking clause (iii); and

(D) by redesignating clauses (iv) and (v) as clauses (iii) and (iv), respectively;

(2) in subparagraph (C)(ii), by striking "July 1, 2002" and inserting "the date that is 180 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003";

(3) in subparagraph (E), by striking clause (ii) and inserting the following:

"(ii) The term "follow-on deployment areas" means the metropolitan areas of Albany, Atlanta, Austin, Baltimore, Birmingham, Boston, Burlington Vermont, Charlotte, Chicago, Cleveland, Columbus, Dallas/Ft. Worth, Denver, Detroit, Greensboro, Hartford, Houston, Indianapolis, Jacksonville, Kansas City, Las Vegas, Los Angeles, Louisville, Miami, Milwaukee, Minneapolis-St. Paul, Nashville, New Orleans, New York/Northern New Jersey, Norfolk, Northern Kentucky/Cincinnati, Oklahoma City, Orlando, Philadelphia, Phoenix, Pittsburgh, Portland, Providence, Raleigh, Richmond, Sacramento, Salt Lake, San Diego, San Francisco, San Jose, St. Louis, Seattle, Tampa, Tucson, Tulsa, and Washington, District of Columbia.";

(4) in subparagraph (F)—

(A) by striking "Of the amounts" and inserting the following:

"(i) THIS ACT.—Of the amounts"; and

(B) by adding at the end the following:

"(ii) SAFETEA.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) $5,000,000 for each fiscal year to carry out this paragraph.

"(iii) AVAILABILITY; NO REDUCTION OR SET-ASIDE.—Amounts made available by this subparagraph—

"(I) shall remain available until expended; and

"(II) shall not be subject to any reduction or setaside."; and

(5) by adding at the end the following:

"(H) USE OF RIGHTS-OF-WAY.—

"(i) IN GENERAL.—An intelligent transportation system project described in paragraph (3) or (6) that involves privately owned intelligent transportation system components and is carried out using funds made available from the Highway Trust Fund shall not be subject to any law (including a regulation) of a State or political subdivision of a State prohibiting or regulating commercial activities in the rights-of-way of a highway for which Federal-aid highway funds have been used for planning, design, construction, or maintenance, if the Secretary determines that such use is in the public interest.

"(ii) EFFECT OF SUBPARAGRAPH.—Nothing in this subparagraph affects the authority of a State or political subdivision of a State to regulate highway safety.".

(b) CONFORMING AMENDMENT.—Section 5204 of the Transportation Equity Act for the 21st Century (112 Stat. 453) is amended by striking subsection (k) (112 Stat. 2681–478).

Subtitle C—Intelligent Transportation System Research

SEC. 2201. INTELLIGENT TRANSPORTATION SYSTEM RESEARCH AND TECHNICAL ASSISTANCE PROGRAM.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code (as amended by section 2101), is amended by adding at the end the following:

"SUBCHAPTER II—INTELLIGENT TRANSPORTATION SYSTEM RESEARCH AND TECHNICAL ASSISTANCE PROGRAM

"§ 521. Finding

"Congress finds that continued investment in architecture and standards development, research, technical assistance for State and local governments, and systems integration is needed to accelerate the rate at which intelligent transportation systems—

"(1) are incorporated into the national surface transportation network; and

"(2) as a result of that incorporation, improve transportation safety and efficiency and reduce costs and negative impacts on communities and the environment.

"§ 522. Goals and purposes

"(a) GOALS.—The goals of the intelligent transportation system research and technical assistance program include—

"(1) enhancement of surface transportation efficiency and facilitation of intermodalism and international trade—

"(A) to meet a significant portion of future transportation needs, including public access to employment, goods, and services; and

"(B) to reduce regulatory, financial, and other transaction costs to public agencies and system users;

"(2) the acceleration of the use of intelligent transportation systems to assist in the achievement of national transportation safety goals, including the enhancement of safe operation of motor vehicles and nonmotorized vehicles, with particular emphasis on decreasing the number and severity of collisions;

"(3) protection and enhancement of the natural environment and communities affected by surface transportation, with particular emphasis on assisting State and local governments in achieving national environmental goals;

"(4) accommodation of the needs of all users of surface transportation systems, including—

"(A) operators of commercial vehicles, passenger vehicles, and motorcycles;

"(B) users of public transportation users (with respect to intelligent transportation system user services); and

"(C) individuals with disabilities; and

"(5)(A) improvement of the ability of the United States to respond to emergencies and natural disasters; and

"(B) enhancement of national security and defense mobility.

"(b) PURPOSES.—The Secretary shall carry out activities under the intelligent transportation system research and technical assistance program to, at a minimum—

"(1) assist in the development of intelligent transportation system technologies;

"(2) ensure that Federal, State, and local transportation officials have adequate knowledge of intelligent transportation systems for full consideration in the transportation planning process;

"(3) improve regional cooperation, interoperability, and operations for effective intelligent transportation system performance;

"(4) promote the innovative use of private resources;

"(5) assist State transportation departments in developing a workforce capable of developing, operating, and maintaining intelligent transportation systems;

"(6) maintain an updated national ITS architecture and consensus-based standards while ensuring an effective Federal presence in the formulation of domestic and international ITS standards;

"(7) advance commercial vehicle operations components of intelligent transportation systems—

"(A) to improve the safety and productivity of commercial vehicles and drivers; and

"(B) to reduce costs associated with commercial vehicle operations and Federal and State commercial vehicle regulatory requirements;

"(8) evaluate costs and benefits of intelligent transportation systems projects;

"(9) improve, as part of the Archived Data User Service and in cooperation with the Bureau of Transportation Statistics, the collection of surface transportation system condition and performance data through the use of intelligent transportation system technologies; and

"(10) ensure access to transportation information and services by travelers of all ages.

"§ 523. Definitions

"In this subchapter:

"(1) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.—The term 'commercial vehicle information systems and networks' means the information systems and communications networks that support commercial vehicle operations.

"(2) COMMERCIAL VEHICLE OPERATIONS.—

"(A) IN GENERAL.—The term 'commercial vehicle operations' means motor carrier operations and motor vehicle regulatory activities associated with the commercial movement of goods (including hazardous materials) and passengers.

"(B) INCLUSIONS.—The term 'commercial vehicle operations', with respect to the public sector, includes—

"(i) the issuance of operating credentials;

"(ii) the administration of motor vehicle and fuel taxes; and

"(iii) roadside safety and border crossing inspection and regulatory compliance operations.

"(3) INTELLIGENT TRANSPORTATION INFRASTRUCTURE.—The term 'intelligent transportation infrastructure' means fully integrated public sector intelligent transportation system components, as defined by the Secretary.

"(4) INTELLIGENT TRANSPORTATION SYSTEM.—The term 'intelligent transportation system' means electronics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.

"(5) NATIONAL ITS ARCHITECTURE.—The term 'national ITS architecture' means the common framework for interoperability adopted by the Secretary that defines—

"(A) the functions associated with intelligent transportation system user services;

"(B) the physical entities or subsystems within which the functions reside;

"(C) the data interfaces and information flows between physical subsystems; and

"(D) the communications requirements associated with the information flows.

"(6) STANDARD.—The term 'standard' means a document that—

"(A) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for their purposes; and

"(B) may—

"(i) support the national ITS architecture; and

"(ii) promote—

"(I) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

"(II) interoperability among intelligent transportation system technologies implemented throughout the States.

"§ 524. General authorities and requirements

"(a) SCOPE.—Subject to this subchapter, the Secretary shall carry out an ongoing intelligent transportation system research program—

"(1) to research, develop, and operationally test intelligent transportation systems; and

"(2) to provide technical assistance in the nationwide application of those systems as a component of the surface transportation systems of the United States.

"(b) POLICY.—Intelligent transportation system operational tests and projects funded under this subchapter shall encourage, but not displace, public-private partnerships or private sector investment in those tests and projects.

"(c) COOPERATION WITH GOVERNMENTAL, PRIVATE, AND EDUCATIONAL ENTITIES.—The Secretary shall carry out the intelligent transportation system research and technical assistance program in cooperation with—

"(1) State and local governments and other public entities;

"(2) the private sector;

"(3) Federal laboratories (as defined in section 501); and

"(4) colleges and universities, including historically black colleges and universities and other minority institutions of higher education.

"(d) CONSULTATION WITH FEDERAL OFFICIALS.—In carrying out the intelligent transportation system research program, the Secretary, as appropriate, shall consult with—

"(1) the Secretary of Commerce;

"(2) the Secretary of the Treasury;

"(3) the Administrator of the Environmental Protection Agency;

"(4) the Director of the National Science Foundation; and

"(5) the Secretary of Homeland Security.

"(e) TECHNICAL ASSISTANCE, TRAINING, AND INFORMATION.—The Secretary may provide technical assistance, training, and information to State and local governments seeking to implement, operate, maintain, or evaluate intelligent transportation system technologies and services.

"(f) TRANSPORTATION PLANNING.—The Secretary may provide funding to support adequate consideration of transportation system management and operations (including intelligent transportation systems) within metropolitan and statewide transportation planning processes.

"(g) INFORMATION CLEARINGHOUSE.—The Secretary shall—

"(1) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this subchapter; and

"(2) on request, make that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

"(h) ADVISORY COMMITTEES.—

"(1) IN GENERAL.—In carrying out this subchapter, the Secretary—

"(A) may use 1 or more advisory committees; and

"(B) shall designate a public-private organization, the members of which participate in on-going research, planning, standards development, deployment, and marketing of ITS programs, products, and services, and coordinate the development and deployment of intelligent transportation systems in the United States, as the Federal advisory committee authorized by section 5204(h) of the Transportation Equity Act for the 21st Century (112 Stat. 454).

"(2) FUNDING.—Of the amount made available to carry out this subchapter, the Secretary may use $1,500,000 for each fiscal year for advisory committees described in paragraph (1).

"(3) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—Any advisory committee described in paragraph (1) shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

"(i) PROCUREMENT METHODS.—The Secretary shall develop and provide appropriate technical assistance and guidance to assist State and local agencies in evaluating and selecting appropriate methods of deployment and procurement for intelligent transportation system projects carried out using funds made available from the Highway Trust Fund, including innovative and nontraditional methods such as Information Technology Omnibus Procurement (as developed by the Secretary).

"(j) EVALUATIONS.—

"(1) GUIDELINES AND REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary shall issue revised guidelines and requirements for the evaluation of operational tests and other intelligent transportation system projects carried out under this subchapter.

"(B) OBJECTIVITY AND INDEPENDENCE.—The guidelines and requirements issued under subparagraph (A) shall include provisions to ensure the objectivity and independence of the evaluator so as to avoid any real or apparent conflict of interest or potential influence on the outcome by—

"(i) parties to any such test; or

"(ii) any other formal evaluation carried out under this subchapter.

"(C) FUNDING.—The guidelines and requirements issued under subparagraph (A) shall establish evaluation funding levels based on the size and scope of each test that ensure adequate evaluation of the results of the test or project.

"(2) SPECIAL RULE.—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the evaluation of any test or program assessment activity under this subchapter shall not be subject to chapter 35 of title 44.

"§ 525. National ITS Program Plan

"(a) IN GENERAL.—

"(1) UPDATES.—Not later than 1 year after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Secretary, in consultation with interested stakeholders (including State transportation departments) shall develop a 5-year National ITS Program Plan.

"(2) SCOPE.—The National ITS Program Plan shall—

"(A) specify the goals, objectives, and milestones for the research and deployment of intelligent transportation systems in the contexts of—

"(i) major metropolitan areas;

"(ii) smaller metropolitan and rural areas; and

"(iii) commercial vehicle operations;

"(B) specify the manner in which specific programs and projects will achieve the goals, objectives, and milestones referred to in subparagraph (A), including consideration of a 5-year timeframe for the goals and objectives;

"(C) identify activities that provide for the dynamic development, testing, and necessary revision of standards and protocols to promote and ensure interoperability in the implementation of intelligent transportation system technologies, including actions taken to establish standards; and

"(D) establish a cooperative process with State and local governments for—

"(i) determining desired surface transportation system performance levels; and

"(ii) developing plans for accelerating the incorporation of specific intelligent transportation system capabilities into surface transportation systems.

"(b) REPORTING.—The National ITS Program Plan shall be transmitted and biennially updated as part of the surface transportation research and technology development strategic plan developed under section 508(c).

"§ 526. National ITS architecture and standards

"(a) IN GENERAL.—

"(1) DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.—In accordance with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783), the Secretary shall develop, implement, and maintain a national ITS architecture and supporting standards and protocols to promote the widespread use and evaluation of intelligent transportation system technology as a component of the surface transportation systems of the United States.

"(2) INTEROPERABILITY AND EFFICIENCY.—To the maximum extent practicable, the national ITS architecture shall promote interoperability among, and efficiency of, intelligent transportation system technologies implemented throughout the United States.

"(3) USE OF STANDARDS DEVELOPMENT ORGANIZATIONS.—In carrying out this section, the Secretary shall use the services of such standards development organizations as the Secretary determines to be appropriate.

"(b) PROVISIONAL STANDARDS.—

"(1) IN GENERAL.—If the Secretary finds that the development or selection of an intelligent transportation system standard jeopardizes the timely achievement of the objectives identified in subsection (a), the Secretary may establish a provisional standard—

"(A) after consultation with affected parties; and

"(B) by using, to the maximum extent practicable, the work product of appropriate standards development organizations.

"(2) CRITICAL STANDARDS.—If a standard identified by the Secretary as critical has not been adopted and published by the appropriate standards development organization by the date of enactment of this subchapter, the Secretary shall establish a provisional standard—

"(A) after consultation with affected parties; and

"(B) by using, to the maximum extent practicable, the work product of appropriate standards development organizations.

"(3) PERIOD OF EFFECTIVENESS.—A provisional standard established under paragraph (1) or (2) shall—

"(A) be published in the Federal Register; and

"(B) remain in effect until such time as the appropriate standards development organization adopts and publishes a standard.

"(c) WAIVER OF REQUIREMENT TO ESTABLISH PROVISIONAL CRITICAL STANDARD.—

"(1) IN GENERAL.—The Secretary may waive the requirement under subsection (b)(2) to establish a provisional standard if the Secretary determines that additional time would be productive in, or that establishment of a provisional standard would be counterproductive to, the timely achievement of the objectives identified in subsection (a).

"(2) NOTICE.—The Secretary shall publish in the Federal Register a notice that describes—

"(A) each standard for which a waiver of the provisional standard requirement is granted under paragraph (1);

"(B) the reasons for and effects of granting the waiver; and

"(C) an estimate as to the date on which the standard is expected to be adopted through a process consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783).

"(3) WITHDRAWAL OF WAIVER.—

"(A) IN GENERAL.—The Secretary may withdraw a waiver granted under paragraph (1) at any time.

"(B) NOTICE.—On withdrawal of a waiver, the Secretary shall publish in the Federal Register a notice that describes—

"(i) each standard for which the waiver has been withdrawn; and

"(ii) the reasons for withdrawing the waiver.

"(d) CONFORMITY WITH NATIONAL ITS ARCHITECTURE.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall ensure that intelligent transportation system projects carried out using funds made available from the Highway Trust Fund conform to the national ITS architecture, applicable standards or provisional standards, and protocols developed under subsection (a).

"(2) DISCRETION OF SECRETARY.—The Secretary may authorize exceptions to paragraph (1) for projects designed to achieve specific research objectives outlined in—

"(A) the National ITS Program Plan under section 525; or

"(B) the surface transportation research and technology development strategic plan developed under section 508(c).

"(3) EXCEPTIONS.—Paragraph (1) shall not apply to funds used for operation or maintenance of an intelligent transportation system in existence on the date of enactment of this subchapter.

"§527. Commercial vehicle information systems and networks deployment

"(a) DEFINITIONS.—In this section:

"(1) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.—The term 'commercial vehicle information systems and networks' means the information systems and communications networks that provide the capability to—

"(A) improve the safety of commercial vehicle operations;

"(B) increase the efficiency of regulatory inspection processes to reduce administrative burdens by advancing technology to facilitate inspections and increase the effectiveness of enforcement efforts;

"(C) advance electronic processing of registration information, driver licensing information, fuel tax information, inspection and crash data, and other safety information;

"(D) enhance the safe passage of commercial vehicles across the United States and across international borders; and

"(E) promote the communication of information among the States and encourage multistate cooperation and corridor development.

"(2) COMMERCIAL VEHICLE OPERATIONS.—

"(A) IN GENERAL.—The term 'commercial vehicle operations' means motor carrier operations and motor vehicle regulatory activities associated with the commercial movement of goods (including hazardous materials) and passengers.

"(B) INCLUSIONS.—The term 'commercial vehicle operations', with respect to the public sector, includes—

"(i) the issuance of operating credentials;

"(ii) the administration of motor vehicle and fuel taxes; and

"(iii) the administration of roadside safety and border crossing inspection and regulatory compliance operations.

"(3) CORE DEPLOYMENT.—The term 'core deployment' means the deployment of systems in a State necessary to provide the State with—

"(A) safety information exchange to—

"(i) electronically collect and transmit commercial vehicle and driver inspection data at a majority of inspection sites;

"(ii) connect to the Safety and Fitness Electronic Records system for access to—

"(I) interstate carrier and commercial vehicle data;

"(II) summaries of past safety performance; and

"(III) commercial vehicle credentials information; and

"(iii) exchange carrier data and commercial vehicle safety and credentials information within the State and connect to Safety and Fitness Electronic Records system for access to interstate carrier and commercial vehicle data;

"(B) interstate credentials administration to—

"(i)(I) perform end-to-end (including carrier application) jurisdiction application processing, and credential issuance, of at least the International Registration Plan and International Fuel Tax Agreement credentials; and

"(II) extend the processing to other credentials, including intrastate, titling, oversize or overweight requirements, carrier registration, and hazardous materials;

"(ii) connect to the International Registration Plan and International Fuel Tax Agreement clearinghouses; and

"(iii)(I) have at least 10 percent of the transaction volume handled electronically; and

"(II) have the capability to add more carriers and to extend to branch offices where applicable; and

"(C) roadside electronic screening to electronically screen transponder-equipped commercial vehicles at a minimum of 1 fixed or mobile inspection site and to replicate the screening at other sites.

"(4) EXPANDED DEPLOYMENT.—The term 'expanded deployment' means the deployment of systems in a State that—

"(A) exceed the requirements of a core deployment of commercial vehicle information systems and networks;

"(B) improve safety and the productivity of commercial vehicle operations; and

"(C) enhance transportation security.

"(b) PROGRAM.—The Secretary shall carry out a commercial vehicle information systems and networks program to—

"(1) improve the safety and productivity of commercial vehicles and drivers; and

"(2) reduce costs associated with commercial vehicle operations and Federal and State commercial vehicle regulatory requirements.

"(c) PURPOSE.—It is the purpose of the program to advance the technological capability and promote the deployment of intelligent transportation system applications for commercial vehicle operations, including commercial vehicle, commercial driver, and carrier-specific information systems and networks.

"(d) CORE DEPLOYMENT GRANTS.—

"(1) IN GENERAL.—The Secretary shall make grants to eligible States for the core deployment of commercial vehicle information systems and networks.

"(2) ELIGIBILITY.—To be eligible for a core deployment grant under this subsection, a State shall—

"(A) have a commercial vehicle information systems and networks program plan and a top level system design approved by the Secretary;

"(B) certify to the Secretary that the commercial vehicle information systems and networks deployment activities of the State (including hardware procurement, software and system development, and infrastructure modifications)—

"(i) are consistent with the national intelligent transportation systems and commercial vehicle information systems and networks architectures and available standards; and

"(ii) promote interoperability and efficiency, to the maximum extent practicable; and

"(C) agree to execute interoperability tests developed by the Federal Motor Carrier Safety Administration to verify that the systems of the State conform with the national intelligent transportation systems architecture, applicable standards, and protocols for commercial vehicle information systems and networks.

"(3) AMOUNT OF GRANTS.—The maximum aggregate amount a State may receive under this subsection for the core deployment of commercial vehicle information systems and networks may not exceed $2,500,000, including funds received under section 2001(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 for the core deployment of commercial vehicle information systems and networks.

"(4) USE OF FUNDS.—

"(A) IN GENERAL.—Subject to subparagraph (B), funds from a grant under this subsection may only be used for the core deployment of commercial vehicle information systems and networks.

"(B) REMAINING FUNDS.—An eligible State that has completed the core deployment of commercial vehicle information systems and networks, or completed the deployment before core deployment grant funds are expended, may use the remaining core deployment grant funds for the expanded deployment of commercial vehicle information systems and networks in the State.

"(e) EXPANDED DEPLOYMENT GRANTS.—

"(1) IN GENERAL.—For each fiscal year, from the funds remaining after the Secretary has made core deployment grants under subsection (d), the Secretary may make grants to each eligible State, on request, for the expanded deployment of commercial vehicle information systems and networks.

"(2) Eligibility.—Each State that has completed the core deployment of commercial vehicle information systems and networks shall be eligible for an expanded deployment grant.

"(3) Amount of grants.—Each fiscal year, the Secretary may distribute funds available for expanded deployment grants equally among the eligible States in an amount that does not exceed $1,000,000 for each State.

"(4) Use of funds.—A State may use funds from a grant under this subsection only for the expanded deployment of commercial vehicle information systems and networks.

"(f) Federal Share.—The Federal share of the cost of a project payable from funds made available to carry out this section shall be the share applicable under section 120(b), as adjusted under subsection (d) of that section.

"(g) Funding.—Funds authorized to be appropriated to carry out this section shall be available for obligation in the same manner and to the same extent as if the funds were apportioned under chapter 1, except that the funds shall remain available until expended.

"§ 528. Research and development

"(a) In General.—The Secretary shall carry out a comprehensive program of intelligent transportation system research, development, and operational tests of intelligent vehicles and intelligent infrastructure systems, and other similar activities that are necessary to carry out this subchapter.

"(b) Priority Areas.—Under the program, the Secretary shall give priority to funding projects that—

"(1) assist in the development of an interconnected national intelligent transportation system network that—

"(A) improves the reliability of the surface transportation system;

"(B) supports national security;

"(C) reduces, by at least 20 percent, the cost of manufacturing, deploying, and operating intelligent transportation systems network components;

"(D) could assist in deployment of the Armed Forces in response to a crisis; and

"(E) improves response to, and evacuation of the public during, an emergency situation;

"(2) address traffic management, incident management, transit management, toll collection traveler information, or highway operations systems with goals of—

"(A) reducing metropolitan congestion by 5 percent by 2010;

"(B) ensuring that a national, interoperable 511 system, along with a national traffic information system that includes a user-friendly, comprehensive website, is fully implemented for use by travelers throughout the United States by September 30, 2010; and

"(C)(i) improving incident management response, particularly in rural areas, so that rural emergency response times are reduced by an average of 10 minutes; and

"(ii) subject to subsection (d), improving communication between emergency care providers and trauma centers;

"(3) address traffic management, incident management, transit management, toll collection, traveler information, or highway operations systems;

"(4) conduct operational tests of the integration of at least 3 crash-avoidance technologies in passenger vehicles;

"(5) incorporate human factors research, including the science of the driving process;

"(6) facilitate the integration of intelligent infrastructure, vehicle, and control technologies;

"(7) incorporate research on the impact of environmental, weather, and natural conditions on intelligent transportation systems, including the effects of cold climates;

"(8) as determined by the Secretary, will improve the overall safety performance of vehicles and roadways, including the use of real-time setting of speed limits through the use of speed management technology;

"(9) examine—

"(A) the application to intelligent transportation systems of appropriately modified existing technologies from other industries; and

"(B) the development of new, more robust intelligent transportation systems technologies and instrumentation;

"(10) develop and test communication technologies that—

"(A) are based on an assessment of the needs of officers participating in a motor carrier safety program funded under section 31104 of title 49;

"(B) take into account the effectiveness and adequacy of available technology;

"(C) address systems integration, connectivity, and interoperability challenges; and

"(D) provide the means for officers participating in a motor carrier safety program funded under section 31104 of title 49 to directly assess, without an intermediary, current and accurate safety and regulatory information on motor carriers, commercial motor vehicles and drivers at roadside or mobile inspection facilities;

"(11) enhance intermodal use of intelligent transportation systems for diverse groups, including for emergency and health-related services;

"(12) improve sensing and wireless communications that provide real-time information regarding congestion and incidents;

"(13) develop and test high-accuracy, lane-level, real-time accessible digital map architectures that can be used by intelligent vehicles and intelligent infrastructure elements to facilitate safety and crash avoidance (including establishment of national standards for an open-architecture digital map of all public roads that is compatible with electronic 9–1–1 services);

"(14) encourage the dual-use of intelligent transportation system technologies (such as wireless communications) for—

"(A) emergency services;

"(B) road pricing; and

"(C) local economic development; and

"(15) advance the use of intelligent transportation systems to facilitate high-performance transportation systems, such as through—

"(A) congestion-pricing;

"(B) real-time facility management;

"(C) rapid-emergency response; and

"(D) just-in-time transit.

"(c) Operational Tests.—Operational tests conducted under this section shall be designed for—

"(1) the collection of data to permit objective evaluation of the results of the tests;

"(2) the derivation of cost-benefit information that is useful to others contemplating deployment of similar systems; and

"(3) the development and implementation of standards.

"(d) Federal Share.—The Federal share of the costs of operational tests under subsection (a) shall not exceed 80 percent.

"§ 529. Use of funds

"(a) In General.—For each fiscal year, not more than $5,000,000 of the funds made available to carry out this subchapter shall be used for intelligent transportation system outreach, public relations, displays, tours, and brochures.

"(b) Applicability.—Subsection (a) shall not apply to intelligent transportation system training, scholarships, or the publication or distribution of research findings, technical guidance, or similar documents.".

(b) Conforming Amendment.—Title V of the Transportation Equity Act for the 21st Century is amended by striking subtitle C (23 U.S.C. 502 note; 112 Stat. 452).

TITLE III—PUBLIC TRANSPORTATION

SEC. 3001. SHORT TITLE.

This title may be cited as the "Federal Public Transportation Act of 2004".

SEC. 3002. AMENDMENTS TO TITLE 49, UNITED STATES CODE; UPDATED TERMINOLOGY.

(a) Amendments to Title 49.—Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

(b) Updated Terminology.—Except for sections 5301(f), 5302(a)(7), and 5315, chapter 53, including the chapter analysis, is amended by striking "mass transportation" each place it appears and inserting "public transportation".

SEC. 3003. POLICIES, FINDINGS, AND PURPOSES.

(a) Development and Revitalization of Public Transportation Systems.—Section 5301(a) is amended to read as follows:

"(a) Development and Revitalization of Public Transportation Systems.—It is in the economic interest of the United States to foster the development and revitalization of public transportation systems, which are coordinated with other modes of transportation, that maximize the efficient, secure, and safe mobility of individuals and minimize environmental impacts.".

(b) General Findings.—Section 5301(b)(1) is amended—

(1) by striking "70 percent" and inserting "two-thirds"; and

(2) by striking "urban areas" and inserting "urbanized areas".

(c) Preserving the Environment.—Section 5301(e) is amended—

(1) by striking "an urban" and inserting "a"; and

(2) by striking "under sections 5309 and 5310 of this title".

(d) General Purposes.—Section 5301(f) is amended—

(1) in paragraph (1)—

(A) by striking "improved mass" and inserting "improved public"; and

(B) by striking "public and private mass transportation companies" and inserting "public transportation companies and private companies engaged in public transportation";

(2) in paragraph (2)—

(A) by striking "urban mass" and inserting "public"; and

(B) by striking "public and private mass transportation companies" and inserting "public transportation companies and private companies engaged in public transportation";

(3) in paragraph (3)—

(A) by striking "urban mass" and inserting "public"; and

(B) by striking "public or private mass transportation companies" and inserting "public transportation companies or private companies engaged in public transportation"; and

(4) in paragraph (5), by striking "urban mass" and inserting "public".

SEC. 3004. DEFINITIONS.

Section 5302(a) is amended—

(1) in paragraph (1)—

(A) in subparagraph (G)(i), by inserting "including the intercity bus and intercity rail portions of such facility or mall," after "transportation mall,";

(B) in subparagraph (G)(ii), by inserting ", except for the intercity bus portion of intermodal facilities or malls," after "commercial revenue-producing facility";

(C) in subparagraph (H)—

(i) by striking "and" after "innovative" and inserting "or"; and

(ii) by striking "or" after the semicolon at the end;

(D) in subparagraph (I), by striking the period at the end and inserting a semicolon; and

(E) by adding at the end the following:

"(J) crime prevention and security, including—

"(i) projects to refine and develop security and emergency response plans; or

"(ii) projects to detect chemical or biological agents in public transportation;

"(K) conducting emergency response drills with public transportation agencies and local first response agencies or security training for public transportation employees, except for expenses relating to operations; or

"(L) establishing a debt service reserve, made up of deposits with a bondholder's trustee, to ensure the timely payment of principal and interest on bonds issued by a grant recipient to finance an eligible project under this chapter.";

(2) by striking paragraph (16);

(3) by redesignating paragraphs (8) through (15) as paragraphs (9) through (16), respectively;

(4) by striking paragraph (7) and inserting the following:

"(7) MASS TRANSPORTATION.—The term 'mass transportation' means public transportation.

"(8) MOBILITY MANAGEMENT.—The term 'mobility management' means a short-range planning or management activity or project that does not include operating public transportation services and—

"(A) improves coordination among public transportation providers, including private companies engaged in public transportation;

"(B) addresses customer needs by tailoring public transportation services to specific market niches; or

"(C) manages public transportation demand.";

(5) by amending paragraph (11), as redesignated, to read as follows:

"(11) PUBLIC TRANSPORTATION.—The term 'public transportation' means transportation by a conveyance that provides local regular and continuing general or special transportation to the public, but does not include school bus, charter bus, intercity bus or passenger rail, or sightseeing transportation.";

(6) in subparagraphs (A) and (E) of paragraph (16), as redesignated, by striking "and" each place it appears and inserting "or"; and

(7) by amending paragraph (17) to read as follows:

"(17) URBANIZED AREA.—The term 'urbanized area' means an area encompassing a population of not less than 50,000 people that has been defined and designated in the most recent decennial census as an 'urbanized area' by the Secretary of Commerce.".

SEC. 3005. METROPOLITAN TRANSPORTATION PLANNING.

Section 5303 is amended to read as follows:

"§ 5303. Metropolitan transportation planning

"(a) DEFINITIONS.—As used in this section and in section 5304, the following definitions shall apply:

"(1) CONSULTATION.—A 'consultation' occurs when 1 party—

"(A) confers with another identified party in accordance with an established process;

"(B) prior to taking action, considers the views of the other identified party; and

"(C) periodically informs that party about action taken.

"(2) METROPOLITAN PLANNING AREA.—The term 'metropolitan planning area' means the geographic area determined by agreement between the metropolitan planning organization and the Governor under subsection (d).

"(3) METROPOLITAN PLANNING ORGANIZATION.—The term 'metropolitan planning organization' means the Policy Board of the organization designated under subsection (c).

"(4) NONMETROPOLITAN AREA.—The term 'nonmetropolitan area' means any geographic area outside all designated metropolitan planning areas.

"(5) NONMETROPOLITAN LOCAL OFFICIAL.—The term 'nonmetropolitan local official' means any elected or appointed official of general purpose local government located in a nonmetropolitan area who is responsible for transportation services for such local government.

"(b) GENERAL REQUIREMENTS.—

"(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To accomplish the objectives described in section 5301(a), each metropolitan planning organization, in cooperation with the State and public transportation operators, shall develop transportation plans and programs for metropolitan planning areas of the State in which it is located.

"(2) CONTENTS.—The plans and programs developed under paragraph (1) for each metropolitan planning area shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

"(3) PROCESS OF DEVELOPMENT.—The process for developing the plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

"(4) PLANNING AND PROJECT DEVELOPMENT.—The metropolitan planning organization, the State Department of Transportation, and the appropriate public transportation provider shall agree upon the approaches that will be used to evaluate alternatives and identify transportation improvements that address the most complex problems and pressing transportation needs in the metropolitan area.

"(c) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

"(1) IN GENERAL.—To carry out the transportation planning process under this section, a metropolitan planning organization shall be designated for each urbanized area—

"(A) by agreement between the Governor and units of general purpose local government that combined represent not less than 75 percent of the affected population (including the incorporated city or cities named by the Bureau of the Census in designating the urbanized area); or

"(B) in accordance with procedures established by applicable State or local law.

"(2) STRUCTURE.—Each metropolitan planning organization designated under paragraph (1) that serves an area identified as a transportation management area shall consist of—

"(A) local elected officials;

"(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area; and

"(C) appropriate State officials.

"(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities—

"(A) to develop plans and programs for adoption by a metropolitan planning organization; and

"(B) to develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

"(4) CONTINUING DESIGNATION.—The designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (5).

"(5) REDESIGNATION PROCEDURES.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that combined represent not less than 75 percent of the existing planning area population (including the incorporated city or cities named by the Bureau of the Census in designating the urbanized area) as appropriate to carry out this section.

"(6) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 metropolitan planning organization for the area appropriate.

"(d) METROPOLITAN PLANNING AREA BOUNDARIES.—

"(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

"(2) INCLUDED AREA.—Each metropolitan planning area—

"(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the transportation plan; and

"(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Office of Management and Budget.

"(3) IDENTIFICATION OF NEW URBANIZED AREAS WITHIN EXISTING PLANNING AREA BOUNDARIES.—The designation by the Bureau of the Census of new urbanized areas within an existing metropolitan planning area shall not require the redesignation of the existing metropolitan planning organization.

"(4) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the boundaries of the metropolitan planning area in existence as of the date of enactment of the Federal Public Transportation Act of 2004 shall be retained, except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in accordance with paragraph (5).

"(5) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—If an urbanized area is designated after the date of enactment of this paragraph in a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

"(A) shall be established in accordance with subsection (c)(1);

"(B) shall encompass the areas described in paragraph (2)(A);

"(C) may encompass the areas described in paragraph (2)(B); and

"(D) may address any nonattainment identified under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide.

"(e) COORDINATION IN MULTISTATE AREAS.—

"(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

"(2) INTERSTATE COMPACTS.—States are authorized—

"(A) to enter into agreements or compacts with other States, which agreements or compacts are not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

"(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

"(3) LAKE TAHOE REGION.—

"(A) DEFINITION.—In this paragraph, the term 'Lake Tahoe region' has the meaning given the term 'region' in subdivision (a) of article II of the Tahoe Regional Planning Compact, as set forth in the first section of Public Law 96–551 (94 Stat. 3234).

"(B) TRANSPORTATION PLANNING PROCESS.—The Secretary shall—

"(i) establish with the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region a transportation planning process for the region; and

"(ii) coordinate the transportation planning process with the planning process required of State and local governments under this section and section 5304.

"(C) INTERSTATE COMPACT.—

"(i) IN GENERAL.—Subject to clause (ii) and notwithstanding subsection (c), to carry out the transportation planning process required by this section, California and Nevada may designate a metropolitan planning organization for the Lake Tahoe region, by agreement between the Governor of the State of California, the Governor of the State of Nevada, and units of general purpose local government that combined represent not less than 75 percent of the affected population (including the incorporated city or cities named by the Bureau of the Census in designating the urbanized area), or in accordance with procedures established by applicable State or local law.

"(ii) INVOLVEMENT OF FEDERAL LAND MANAGEMENT AGENCIES.—

"(I) REPRESENTATION.—The policy board of a metropolitan planning organization designated under clause (i) shall include a representative of each Federal land management agency that has jurisdiction over land in the Lake Tahoe region.

"(II) FUNDING.—In addition to funds made available to the metropolitan planning organization under other provisions of title 23 and this chapter, not more than 1 percent of the funds allocated under section 202 of title 23 may be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.

"(D) ACTIVITIES.—Highway projects included in transportation plans developed under this paragraph—

"(i) shall be selected for funding in a manner that facilitates the participation of the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region; and

"(ii) may, in accordance with chapter 2 of title 23, be funded using funds allocated under section 202 of title 23.

"(f) COORDINATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

"(1) NONATTAINMENT AREAS.—If more than 1 metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans required by this section.

"(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE METROPOLITAN PLANNING AREAS.—If a transportation improvement funded from the highway trust fund is located within the boundaries of more than 1 metropolitan planning area, the metropolitan planning organizations shall coordinate plans regarding the transportation improvement.

"(3) INTERREGIONAL AND INTERSTATE PROJECT IMPACTS.—Planning for National Highway System, commuter rail projects, or other projects with substantial impacts outside a single metropolitan planning area or State shall be coordinated directly with the affected, contiguous, metropolitan planning organizations and States.

"(4) COORDINATION WITH OTHER PLANNING PROCESSES.—

"(A) IN GENERAL.—The Secretary shall encourage each metropolitan planning organization to coordinate its planning process, to the maximum extent practicable, with those officials responsible for other types of planning activities that are affected by transportation, including State and local land use planning, economic development, environmental protection, airport operations, housing, and freight.

"(B) OTHER CONSIDERATIONS.—The metropolitan planning process shall develop transportation plans with due consideration of, and in coordination with, other related planning activities within the metropolitan area. This should include the design and delivery of transportation services within the metropolitan area that are provided by—

"(i) recipients of assistance under this chapter;

"(ii) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

"(iii) recipients of assistance under section 204 of title 23.

"(g) SCOPE OF PLANNING PROCESS.—

"(1) IN GENERAL.—The goals and objectives developed through the metropolitan planning process for a metropolitan planning area under this section shall address, in relation to the performance of the metropolitan area transportation systems—

"(A) supporting the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency, including through services provided by public and private operators;

"(B) increasing the safety of the transportation system for motorized and nonmotorized users;

"(C) increasing the security of the transportation system for motorized and nonmotorized users;

"(D) increasing the accessibility and mobility of people and for freight, including through services provided by public and private operators;

"(E) protecting and enhancing the environment (including the protection of habitat, water quality, and agricultural and forest land, while minimizing invasive species), promoting energy conservation, and promoting consistency between transportation improvements and State and local land use planning and economic development patterns (including minimizing adverse health effects from mobile source air pollution and promoting the linkage of the transportation and development goals of the metropolitan area);

"(F) enhancing the integration and connectivity of the transportation system, across and between modes, for people and freight, including through services provided by public and private operators;

"(G) promoting efficient system management and operation; and

"(H) emphasizing the preservation and efficient use of the existing transportation system, including services provided by public and private operators.

"(2) SELECTION OF FACTORS.—After soliciting and considering any relevant public comments, the metropolitan planning organization shall determine which of the factors described in paragraph (1) are most appropriate to consider.

"(3) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under title 23, this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a transportation improvement plan, a project or strategy, or the certification of a planning process.

"(h) DEVELOPMENT OF TRANSPORTATION PLAN.—

"(1) IN GENERAL.—

"(A) REQUIREMENT.—Each metropolitan planning organization shall develop a transportation plan for its metropolitan planning area in accordance with this subsection, and update such plan—

"(i) not less frequently than once every 4 years in areas designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)), and in areas that were nonattainment that have been redesignated as attainment, in accordance with paragraph (3) of such section, with a maintenance plan under section 175A of the Clean Air Act (42 U.S.C. 7505a); or

"(ii) not less frequently than once every 5 years in areas designated as attainment, as defined in section 107(d) of the Clean Air Act.

"(B) COORDINATION FACTORS.—In developing the transportation plan under this section, each metropolitan planning organization shall consider the factors described in subsection (f) over a 20-year forecast period.

"(C) FINANCIAL ESTIMATES.—For the purpose of developing the transportation plan, the metropolitan planning organization, transit operator, and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

"(2) MITIGATION ACTIVITIES.—

"(A) IN GENERAL.—A transportation plan under this subsection shall include a discussion of—

"(i) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetland, and other environmental functions; and

"(ii) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

"(B) CONSULTATION.—The discussion described in subparagraph (A) shall be developed in consultation with Federal and State tribal wildlife, land management, and regulatory agencies.

"(3) CONTENTS.— A transportation plan under this subsection shall be in a form that the Secretary determines to be appropriate and shall contain—

"(A) an identification of transportation facilities, including major roadways, transit, multimodal and intermodal facilities, intermodal connectors, and other relevant facilities identified by the metropolitan planning organization, which should function as an integrated metropolitan transportation system, emphasizing those facilities that serve important national and regional transportation functions;

"(B) a financial plan that—

"(i) demonstrates how the adopted transportation plan can be implemented;

"(ii) indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan;

"(iii) recommends any additional financing strategies for needed projects and programs; and

"(iv) may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if approved by the Secretary and reasonable additional resources beyond those identified in the financial plan were available;

"(C) operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods;

"(D) capital investment and other strategies to preserve the existing metropolitan transportation infrastructure and provide for multimodal capacity increases based on regional priorities and needs; and

"(E) proposed transportation and transit enhancement activities.

"(4) CONSULTATION.—

"(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a long-range transportation plan.

"(B) ISSUES.—The consultation shall involve—

"(i) comparison of transportation plans with State conservation plans or with maps, if available;

"(ii) comparison of transportation plans to inventories of natural or historic resources, if available; or

"(iii) consideration of areas where wildlife crossing structures may be needed to ensure connectivity between wildlife habitat linkage areas.

"(5) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the metropolitan planning organization shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act.

"(6) APPROVAL OF THE TRANSPORTATION PLAN.—Each transportation plan prepared by a metropolitan planning organization shall be—

"(A) approved by the metropolitan planning organization; and

"(B) submitted to the Governor for information purposes at such time and in such manner as the Secretary may reasonably require.

"(i) PARTICIPATION BY INTERESTED PARTIES.—

"(1) DEVELOPMENT OF PARTICIPATION PLAN.—Not less frequently than every 4 years, each metropolitan planning organization shall develop and adopt a plan for participation in the process for developing the metropolitan transportation plan and programs by—

"(A) citizens;

"(B) affected public agencies;

"(C) representatives of public transportation employees;

"(D) freight shippers;

"(E) providers of freight transportation services;

"(F) private providers of transportation;

"(G) representatives of users of public transit;

"(H) representatives of users of pedestrian walkways and bicycle transportation facilities; and

"(I) other interested parties.

"(2) CONTENTS OF PARTICIPATION PLAN.—The participation plan—

"(A) shall be developed in a manner the Secretary determines to be appropriate;

"(B) shall be developed in consultation with all interested parties; and

"(C) shall provide that all interested parties have reasonable opportunities to comment on—

"(i) the process for developing the transportation plan; and

"(ii) the contents of the transportation plan.

"(3) METHODS.—The participation plan shall provide that the metropolitan planning organization shall, to the maximum extent practicable—

"(A) hold any public meetings at convenient and accessible locations and times;

"(B) employ visualization techniques to describe plans; and

"(C) make public information available in electronically accessible format and means, such as the World Wide Web.

"(4) CERTIFICATION.—Before the metropolitan planning organizations approve a transportation plan or program, each metropolitan planning organization shall certify that it has complied with the requirements of the participation plan it has adopted.

"(j) TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT AND UPDATE.—

"(A) IN GENERAL.—In cooperation with the State and affected operators of public transportation, a metropolitan planning organization designated for a metropolitan planning area shall develop a transportation improvement program for the area.

"(B) PARTICIPATION.—In developing the transportation improvement program, the metropolitan planning organization, in cooperation with the Governor and any affected operator of public transportation, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i).

"(C) UPDATES.—The transportation improvement program shall be updated not less than once every 4 years and shall be approved by the metropolitan planning organization and the Governor.

"(D) FUNDING ESTIMATE.—In developing the transportation improvement program, the metropolitan planning organization, operators of public transportation, and the State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

"(E) PROJECT ADVANCEMENT.—Projects listed in the transportation improvement program may be selected for advancement consistent with the project selection requirements.

"(F) MAJOR AMENDMENTS.—Major amendments to the list described in subparagraph (E), including the addition, deletion, or concept and scope change of a regionally significant project, may not be advanced without—

"(i) appropriate public involvement;

"(ii) financial planning;

"(iii) transportation conformity analyses; and

"(iv) a finding by the Federal Highway Administration and Federal Transit Administration that the amended plan was produced in a manner consistent with this section.

"(2) INCLUDED PROJECTS.—

"(A) PROJECTS UNDER CHAPTER 1 OF TITLE 23 AND THIS CHAPTER.—A transportation improvement program developed under this section for a metropolitan area shall include the projects and strategies within the metropolitan area that are proposed for funding under chapter 1 of title 23 and this chapter.

"(B) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—

"(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the metropolitan transportation improvement program.

"(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not regionally significant shall be grouped in 1 line item or identified individually in the metropolitan transportation improvement program.

"(3) SELECTION OF PROJECTS.—

"(A) IN GENERAL.—Except as otherwise provided under subsection (k)(4), the selection of federally funded projects in metropolitan planning areas shall be carried out, from the approved transportation plan—

"(i) by the State, in the case of projects under chapter 1 of title 23 or section 5308, 5310, 5311, or 5317 of this title;

"(ii) by the designated recipient, in the case of projects under section 5307; and

"(iii) in cooperation with the metropolitan planning organization.

"(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, a project may be advanced from the transportation improvement program in place of another project in the same transportation improvement program without the approval of the Secretary.

"(4) PUBLICATION REQUIREMENTS.—

"(A) PUBLICATION OF TRANSPORTATION IMPROVEMENT PROGRAM.—A transportation improvement program involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review, including, to the maximum extent practicable, in electronically accessible formats and means, such as the World Wide Web.

"(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—An annual listing of projects, including investments in pedestrian walkways and bicycle transportation facilities, for which Federal funds have been obligated in the preceding 4 years shall be published or otherwise made available for public review by the cooperative effort of the State, transit operator, and the metropolitan planning organization. This listing shall be consistent with the funding categories identified in the transportation improvement program.

"(C) RULEMAKING.—Not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue regulations specifying—

"(i) the types of data to be included in the list described in subparagraph (B), including—

"(I) the name, type, purpose, and geocoded location of each project;

"(II) the Federal, State, and local identification numbers assigned to each project;

"(III) amounts obligated and expended on each project, sorted by funding source and transportation mode, and the date on which each obligation was made; and

"(IV) the status of each project; and

"(ii) the media through which the list described in subparagraph (B) will be made available to the public, including written and visual components for each of the projects listed.

"(k) TRANSPORTATION MANAGEMENT AREAS.—

"(1) REQUIRED IDENTIFICATION.—The Secretary shall identify each urbanized area with a population of more than 200,000 individuals as a transportation management area.

"(2) TRANSPORTATION PLANS AND PROGRAMS.—Transportation plans and programs for a metropolitan planning area serving a transportation management area shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and transit operators.

"(3) CONGESTION MANAGEMENT SYSTEM.—

"(A) IN GENERAL.—The transportation planning process under this section shall address congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under title 23 and this chapter through the use of travel demand reduction and operational management strategies.

"(B) PHASE-IN SCHEDULE.—The Secretary shall establish a phase-in schedule that provides for full compliance with the requirements of this section not later than 1 year after the identification of transportation management areas under paragraph (1).

"(4) SELECTION OF PROJECTS.—

"(A) IN GENERAL.—All federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area under title 23 (except for projects carried out on the National Highway System and projects carried out under the bridge program or the interstate maintenance program) or under this chapter shall be selected for implementation from the approved transportation improvement program by the metropolitan planning organization designated for the area in consultation with the State and any affected public transit operator.

"(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects on the National Highway System carried out within the boundaries of a metropolitan planning area serving a transportation management area and projects carried out within such boundaries under the bridge program or the interstate maintenance program under title 23 shall be selected for implementation from the approved transportation improvement program by the State in cooperation with the metropolitan planning organization designated for the area.

"(5) CERTIFICATION.—

"(A) IN GENERAL.—The Secretary shall—

"(i) ensure that the metropolitan planning process of a metropolitan planning organization serving a transportation management area is being carried out in accordance with Federal law; and

"(ii) subject to subparagraph (B), certify, not less frequently than once every 4 years in nonattainment and maintenance areas (as defined under the Clean Air Act) and not less frequently than once every 5 years in attainment areas (as defined under such Act), that the requirements of this paragraph are met with respect to the metropolitan planning process.

"(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

"(i) the transportation planning process complies with the requirements of this section and all other applicable Federal law; and

"(ii) a transportation plan and a transportation improvement program for the metropolitan planning area have been approved by the metropolitan planning organization and the Governor.

"(C) PENALTY FOR FAILING TO CERTIFY.—

"(i) WITHHOLDING PROJECT FUNDS.—If the metropolitan planning process of a metropolitan planning organization serving a transportation management area is not certified, the Secretary may withhold any funds otherwise available to the metropolitan planning area for projects funded under title 23 and this chapter.

"(ii) RESTORATION OF WITHHELD FUNDS.—Any funds withheld under clause (i) shall be restored to the metropolitan planning area when the metropolitan planning process is certified by the Secretary.

"(D) REVIEW OF CERTIFICATION.—In making a certification under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

"(l) ABBREVIATED PLANS FOR CERTAIN AREAS.—

"(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated transportation plan and transportation improvement program for the metropolitan planning area that the Secretary determines is appropriate to achieve the purposes of this section, after considering the complexity of transportation problems in the area.

"(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).

"(m) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

"(1) IN GENERAL.—Notwithstanding any other provisions of title 23 or this chapter, Federal funds may not be advanced for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) for any highway project that will result in a significant increase in carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.

"(2) APPLICABILITY.—This subsection applies to any nonattainment area within the metropolitan planning area boundaries determined under subsection (d).

"(n) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project that is not eligible under title 23 or this chapter.

"(o) AVAILABILITY OF FUNDS.—Funds set aside under section 104(f) of title 23 or section 5308 of this title shall be available to carry out this section.

"(p) CONTINUATION OF CURRENT REVIEW PRACTICE.—Any decision by the Secretary concerning a plan or program described in this section shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).".

SEC. 3006. STATEWIDE TRANSPORTATION PLANNING.

Section 5304 is amended to read as follows:

"§ 5304. Statewide transportation planning

"(a) GENERAL REQUIREMENTS.—

"(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To support the policies described in section 5301(a), each State shall develop a statewide transportation plan (referred to in this section as a "Plan") and a statewide transportation improvement program (referred to in this section as a "Program") for all areas of the State subject to section 5303.

"(2) CONTENTS.—The Plan and the Program developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.

"(3) PROCESS OF DEVELOPMENT.—The process for developing the Plan and the Program shall—

"(A) provide for the consideration of all modes of transportation and the policies described in section 5301(a); and

"(B) be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

"(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—Each State shall—

"(1) coordinate planning under this section with—

"(A) the transportation planning activities under section 5303 for metropolitan areas of the State; and

"(B) other related statewide planning activities, including trade and economic development and related multistate planning efforts; and

"(2) develop the transportation portion of the State implementation plan, as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

"(c) INTERSTATE AGREEMENTS.—States may enter into agreements or compacts with other States for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.

"(d) Scope of Planning Process.—

"(1) In general.—Each State shall carry out a statewide transportation planning process that provides for the consideration of projects, strategies, and implementing projects and services that will—

"(A) support the economic vitality of the United States, the States, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

"(B) increase the safety of the transportation system for motorized and nonmotorized users;

"(C) increase the security of the transportation system for motorized and nonmotorized users;

"(D) increase the accessibility and mobility of people and freight;

"(E) protect and enhance the environment (including the protection of habitat, water quality, and agricultural and forest land, while minimizing invasive species), promote energy conservation, promote consistency between transportation improvements and State and local land use planning and economic development patterns, and improve the quality of life (including minimizing adverse health effects from mobile source air pollution and promoting the linkage of the transportation and development goals of the State);

"(F) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;

"(G) promote efficient system management and operation; and

"(H) emphasize the preservation and efficient use of the existing transportation system.

"(2) Selection of projects and strategies.—After soliciting and considering any relevant public comments, the State shall determine which of the projects and strategies described in paragraph (1) are most appropriate.

"(3) Mitigation activities.—

"(A) In general.—A transportation plan under this subsection shall include a discussion of—

"(i) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetland, and other environmental functions; and

"(ii) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

"(B) Consultation.—The discussion described in subparagraph (A) shall be developed in consultation with Federal and State tribal wildlife, land management, and regulatory agencies.

"(4) Failure to consider factors.—The failure to consider any factor described in paragraph (1) shall not be reviewable by any court under title 23, this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a Plan, a Program, a project or strategy, or the certification of a planning process.

"(e) Additional Requirements.—In carrying out planning under this section, each State shall consider—

"(1) with respect to nonmetropolitan areas, the concerns of affected local officials with responsibility for transportation;

"(2) the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

"(3) coordination of Plans, Programs, and planning activities with related planning activities being carried out outside of metropolitan planning areas and between States.

"(f) Statewide Transportation Plan.—

"(1) Development.—Each State shall develop a Plan, with a minimum 20-year forecast period for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

"(2) Consultation with governments.—

"(A) Metropolitan planning areas.—The Plan shall be developed for each metropolitan planning area in the State in cooperation with the metropolitan planning organization designated for the metropolitan planning area under section 5303.

"(B) Nonmetropolitan areas.—With respect to nonmetropolitan areas, the statewide transportation plan shall be developed in consultation with affected nonmetropolitan officials with responsibility for transportation. The consultation process shall not require the review or approval of the Secretary.

"(C) Indian tribal areas.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the Plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

"(D) Consultation, comparison, and consideration.—

"(i) In general.—The Plan shall be developed, as appropriate, in consultation with State and local agencies responsible for—

"(I) land use management;

"(II) natural resources;

"(III) environmental protection;

"(IV) conservation; and

"(V) historic preservation.

"(ii) Comparison and consideration.—Consultation under clause (i) shall involve—

"(I) comparison of transportation plans to State conservation plans or maps, if available;

"(II) comparison of transportation plans to inventories of natural or historic resources, if available; or

"(III) consideration of areas where wildlife crossing structures may be needed to ensure connectivity between wildlife habitat linkage areas.

"(3) Participation by interested parties.—In developing the Plan, the State shall—

"(A) provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, providers of freight transportation services, and other interested parties with a reasonable opportunity to comment on the proposed Plan; and

"(B) to the maximum extent practicable—

"(i) hold any public meetings at convenient and accessible locations and times;

"(ii) employ visualization techniques to describe plans; and

"(iii) make public information available in electronically accessible format and means, such as the World Wide Web.

"(4) Mitigation activities.—

"(A) In general.—A Plan shall include a discussion of—

"(i) types of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetlands, and other environmental functions; and

"(ii) potential areas to carry out these activities, including a discussion of areas that may have the greatest potential to restore and maintain the habitat types and hydrological or environmental functions affected by the plan.

"(B) Consultation.—The discussion described in subparagraph (A) shall be developed in consultation with Federal and State tribal wildlife, land management, and regulatory agencies.

"(5) Transportation strategies.—A Plan shall identify transportation strategies necessary to efficiently serve the mobility needs of people.

"(6) Financial plan.—The Plan may include a financial plan that—

"(A) demonstrates how the adopted Plan can be implemented;

"(B) indicates resources from public and private sources that are reasonably expected to be made available to carry out the Plan;

"(C) recommends any additional financing strategies for needed projects and programs; and

"(D) may include, for illustrative purposes, additional projects that would be included in the adopted Plan if reasonable additional resources beyond those identified in the financial plan were available.

"(7) Selection of projects from illustrative list.—A State shall not be required to select any project from the illustrative list of additional projects described in paragraph (6)(D).

"(8) Existing system.—The Plan should include capital, operations and management strategies, investments, procedures, and other measures to ensure the preservation and most efficient use of the existing transportation system.

"(9) Publication of long-range transportation plans.—Each Plan prepared by a State shall be published or otherwise made available, including, to the maximum extent practicable, in electronically accessible formats and means, such as the World Wide Web.

"(g) Statewide Transportation Improvement Program.—

"(1) Development.—Each State shall develop a Program for all areas of the State.

"(2) Consultation with governments.—

"(A) Metropolitan planning areas.—With respect to each metropolitan planning area in the State, the Program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan planning area under section 5303.

"(B) Nonmetropolitan areas.—With respect to each nonmetropolitan area in the State, the Program shall be developed in consultation with affected nonmetropolitan local officials with responsibility for transportation. The consultation process shall not require the review or approval of the Secretary.

"(C) Indian tribal areas.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the Program shall be developed in consultation with the tribal government and the Secretary of the Interior.

"(3) Participation by interested parties.—In developing the Program, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, providers of freight transportation services, representatives of users of public transit, representatives of users of pedestrian walkways and bicycle transportation facilities, and other interested parties with a reasonable opportunity to comment on the proposed Program.

"(4) Included projects.—

"(A) In general.—A Program developed under this subsection for a State shall include federally supported surface transportation expenditures within the boundaries of the State.

"(B) Listing of projects.—

"(i) In general.—The Program shall cover a minimum of 4 years, identify projects by year, be fiscally constrained by year, and be updated not less than once every 4 years.

"(ii) Publication.—An annual listing of projects for which funds have been obligated in the preceding 4 years in each metropolitan planning area shall be published or otherwise made available by the cooperative effort of the State, transit operator, and the metropolitan planning organization for public review. The listing shall be consistent with the funding categories identified in each metropolitan transportation improvement program.

"(C) Individual identification.—

"(i) Regionally significant projects.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program.

"(ii) Other projects.—Projects proposed for funding under chapter 2 of title 23 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually.

"(D) Consistency with statewide transportation plan.—Each project included in the list described in subparagraph (B) shall be—

"(i) consistent with the Plan developed under this section for the State;

"(ii) identical to the project or phase of the project as described in each year of the approved metropolitan transportation improvement program; and

"(iii) in conformance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.), if the project is carried out in an area designated as nonattainment for ozone or carbon monoxide under that Act.

"(E) Requirement of anticipated full funding.—The Program shall not include a project, or an identified phase of a project, unless full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(F) Financial plan.—The Program may include a financial plan that—

"(i) demonstrates how the approved Program can be implemented;

"(ii) indicates resources from public and private sources that are reasonably expected to be made available to carry out the Program;

"(iii) recommends any additional financing strategies for needed projects and programs; and

"(iv) may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

"(G) Selection of projects from illustrative list.—

"(i) No required selection.—Notwithstanding subparagraph (F), a State shall not be required to select any project from the illustrative list of additional projects described in subparagraph (F)(iv).

"(ii) Required approval by the Secretary.—A State shall not include any project from the illustrative list of additional projects described in subparagraph (F)(iv) in an approved Program without the approval of the Secretary.

"(H) Priorities.—The Program shall reflect the priorities for programming and expenditures of funds, including transportation and transit enhancement activities, required by title 23 and this chapter, and transportation control measures included in the State's air quality implementation plan.

"(5) Project selection for areas with fewer than 50,000 individuals.—

"(A) In general.—Each State, in cooperation with the affected nonmetropolitan local officials with responsibility for transportation, shall select projects to be carried out in areas with fewer than 50,000 individuals from the approved Program (excluding projects carried out under the National Highway System, the bridge program, or the interstate maintenance program under title 23 or sections 5310 and 5311 of this title).

"(B) Certain programs.—Each State, in consultation with the affected nonmetropolitan local officials with responsibility for transportation, shall select, from the approved Program, projects to be carried out in areas with fewer than 50,000 individuals under the National Highway System, the bridge program, or the Interstate maintenance program under title 23 or under sections 5310 and 5311 of this title.

"(6) Statewide transportation improvement program approval.—A Program developed under this subsection shall be reviewed and based on a current planning finding approved by the Secretary not less frequently than once every 4 years.

"(7) Planning finding.—Not less frequently than once every 4 years, the Secretary shall determine whether the transportation planning process through which Plans and Programs are developed are consistent with this section and section 5303.

"(8) Modifications to project priority.—Notwithstanding any other provision of law, a project included in the approved Program may be advanced in place of another project in the program without the approval of the Secretary.

"(h) Funding.—Funds set aside pursuant to section 104(i) of title 23 and 5308 of this title shall be available to carry out this section.

"(i) Treatment of Certain State Laws as Congestion Management Systems.—For purposes of this section and section 5303, State laws, rules, or regulations pertaining to congestion management systems or programs may constitute the congestion management system under section 5303(i)(3) if the Secretary determines that the State laws, rules, or regulations are consistent with, and fulfill the intent of, the purposes of section 5303.

"(j) Continuation of Current Review Practice.—Any decision by the Secretary under this section, regarding a metropolitan or statewide transportation plan or the Program, shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).".

SEC. 3007. TRANSPORTATION MANAGEMENT AREAS.

Section 5305 is repealed.

SEC. 3008. PRIVATE ENTERPRISE PARTICIPATION.

Section 5306 is amended—

(1) in subsection (a)—

(A) by striking "5305 of this title" and inserting "5308"; and

(B) by inserting ", as determined by local policies, criteria, and decision making," after "feasible";

(2) in subsection (b) by striking "5303–5305 of this title" and inserting "5303, 5304, and 5308"; and

(3) by adding at the end the following:

"(c) Regulations.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue regulations describing how the requirements under this chapter relating to subsection (a) shall be enforced.".

SEC. 3009. URBANIZED AREA FORMULA GRANTS.

(a) Technical Amendments.—Section 5307 is amended—

(1) by striking subsections (h), (j) and (k); and

(2) by redesignating subsections (i), (l), (m), and (n) as subsections (h), (i), (j), and (k), respectively.

(b) Definitions.—Section 5307(a) is amended—

(1) by amending paragraph (2)(A) to read as follows:

"(A) an entity designated, in accordance with the planning process under sections 5303, 5304, and 5306, by the chief executive officer of a State, responsible local officials, and publicly owned operators of public transportation, to receive and apportion amounts under sections 5336 and 5337 that are attributable to transportation management areas designated under section 5303; or"; and

(2) by adding at the end the following:

"(3) Subrecipient.—The term 'subrecipient' means a State or local governmental authority, a nonprofit organization, or a private operator of public transportation service that may receive a Federal transit program grant indirectly through a recipient, rather than directly from the Federal Government.".

(c) General Authority.—Section 5307(b) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) In general.—The Secretary of Transportation may award grants under this section for—

"(A) capital projects, including associated capital maintenance items;

"(B) planning, including mobility management;

"(C) transit enhancements;

"(D) operating costs of equipment and facilities for use in public transportation in an urbanized area with a population of less than 200,000; and

"(E) operating costs of equipment and facilities for use in public transportation in a portion or portions of an urbanized area with a population of at least 200,000, but not more than 225,000, if—

"(i) the urbanized area includes parts of more than 1 State;

"(ii) the portion of the urbanized area includes only 1 State;

"(iii) the population of the portion of the urbanized area is less than 30,000; and

"(iv) the grants will not be used to provide public transportation outside of the portion of the urbanized area.";

(2) by amending paragraph (2) to read as follows:

"(2) Special rule for fiscal years 2004 through 2006—

"(A) Increased flexibility.—The Secretary may award grants under this section, from funds made available to carry out this section for each of the fiscal years 2004 through 2006, to finance the operating cost of equipment and facilities for use in mass transportation in an urbanized area with a population of at least 200,000, as determined by the 2000 decennial census of population if—

"(i) the urbanized area had a population of less than 200,000, as determined by the 1990 decennial census of population;

"(ii) a portion of the urbanized area was a separate urbanized area with a population of less than 200,000, as determined by the 1990 decennial census of population;

"(iii) the area was not designated as an urbanized area, as determined by the 1990 decennial census of population; or

"(iv) a portion of the area was not designated as an urbanized area, as determined by the 1990 decennial census, and received assistance under section 5311 in fiscal year 2002.

"(B) MAXIMUM AMOUNTS IN FISCAL YEAR 2004.—In fiscal year 2004—

"(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

"(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than the amount apportioned to the urbanized area under this section for fiscal year 2003; and

"(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less than the amount the portion of the area received under section 5311 for fiscal year 2002.

"(C) MAXIMUM AMOUNTS IN FISCAL YEAR 2005.—In fiscal year 2005—

"(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than 50 percent of the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

"(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than 50 percent of the amount apportioned to the urbanized area under this section for fiscal year 2003; and

"(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less 50 percent of the amount the portion of the area received under section 5311 for fiscal year 2002.

"(D) MAXIMUM AMOUNTS IN FISCAL YEAR 2006.—In fiscal year 2006—

"(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than 25 percent of the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;

"(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than 25 percent of the amount apportioned to the urbanized area under this section for fiscal year 2003; and

"(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less than 25 percent of the amount the portion of the area received under section 5311 in fiscal year 2002."; and

(3) by striking paragraph (4).

(d) PUBLIC PARTICIPATION REQUIREMENTS.—Section 5307(c)(5) is amended by striking "section 5336" and inserting "sections 5336 and 5337".

(e) GRANT RECIPIENT REQUIREMENTS.—Section 5307(d)(1) is amended—

(1) in subparagraph (A), by inserting ", including safety and security aspects of the program" after "program";

(2) in subparagraph (E), by striking "section" and all that follows and inserting "section, the recipient will comply with sections 5323 and 5325;";

(3) in subparagraph (H), by striking "sections 5301(a) and (d), 5303-5306, and 5310(a)-(d) of this title" and inserting "subsections (a) and (d) of section 5301 and sections 5303 through 5306";

(4) in subparagraph (I) by striking "and" at the end;

(5) in subparagraph (J), by striking the period at the end and inserting "; and"; and

(6) by adding at the end the following:

"(K) if located in an urbanized area with a population of at least 200,000, will expend not less than 1 percent of the amount the recipient receives each fiscal year under this section for transit enhancement activities described in section 5302(a)(15).".

(f) GOVERNMENT'S SHARE OF COSTS.—Section 5307(e) is amended—

(1) by striking the first sentence and inserting the following:

"(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall cover 80 percent of the net project cost.";

(2) by striking "A grant for operating expenses" and inserting the following:

"(2) OPERATING EXPENSES.—A grant for operating expenses";

(3) by striking the fourth sentence and inserting the following:

"(3) REMAINING COSTS.—The remainder of the net project cost shall be provided in cash from non-Federal sources or revenues derived from the sale of advertising and concessions and amounts received under a service agreement with a State or local social service agency or a private social service organization."; and

(4) by adding at the end the following: "The prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to the remainder.".

(g) UNDERTAKING PROJECTS IN ADVANCE.—Section 5307(g) is amended by striking paragraph (4).

(h) RELATIONSHIP TO OTHER LAWS.—Section 5307(k), as redesignated, is amended to read as follows:

"(k) RELATIONSHIP TO OTHER LAWS.—

"(1) APPLICABLE PROVISIONS.—Sections 5301, 5302, 5303, 5304, 5306, 5315(c), 5318, 5319, 5323, 5325, 5327, 5329, 5330, 5331, 5332, 5333 and 5335 apply to this section and to any grant made under this section.

"(2) INAPPLICABLE PROVISIONS.—

"(A) IN GENERAL.—Except as provided under this section, no other provision of this chapter applies to this section or to a grant made under this section.

"(B) TITLE 5.—The provision of assistance under this chapter shall not be construed as bringing within the application of chapter 15 of title 5, any nonsupervisory employee of a public transportation system (or any other agency or entity performing related functions) to which such chapter is otherwise inapplicable.".

SEC. 3010. PLANNING PROGRAMS.

(a) IN GENERAL.—Section 5308 is amended to read as follows:

"§5308. Planning programs

"(a) GRANTS AUTHORIZED.—Under criteria established by the Secretary, the Secretary may award grants to States, authorities of the States, metropolitan planning organizations, and local governmental authorities, make agreements with other departments, agencies, or instrumentalities of the Government, or enter into contracts with private nonprofit or for-profit entities to—

"(1) develop transportation plans and programs;

"(2) plan, engineer, design, and evaluate a public transportation project; or

"(3) conduct technical studies relating to public transportation, including—

"(A) studies related to management, planning, operations, capital requirements, and economic feasibility;

"(B) evaluations of previously financed projects;

"(C) peer reviews and exchanges of technical data, information, assistance, and related activities in support of planning and environmental analyses among metropolitan planning organizations and other transportation planners; and

"(D) other similar and related activities preliminary to, and in preparation for, constructing, acquiring, or improving the operation of facilities and equipment.

"(b) PURPOSE.—To the extent practicable, the Secretary shall ensure that amounts appropriated pursuant to section 5338 to carry out this section and sections 5303, 5304, and 5306 are used to support balanced and comprehensive transportation planning that considers the relationships among land use and all transportation modes, without regard to the programmatic source of the planning amounts.

"(c) METROPOLITAN PLANNING PROGRAM.—

"(1) ALLOCATIONS TO STATES.—

"(A) IN GENERAL.—The Secretary shall allocate 80 percent of the amount made available under subsection (g)(3)(A) to States to carry out sections 5303 and 5306 in a ratio equal to the population in urbanized areas in each State, divided by the total population in urbanized areas in all States, as shown by the latest available decennial census of population.

"(B) MINIMUM ALLOCATION.—Each State shall receive not less than 0.5 percent of the total amount allocated under this paragraph.

"(2) AVAILABILITY OF FUNDS.—A State receiving an allocation under paragraph (1) shall promptly distribute such funds to metropolitan planning organizations in the State under a formula—

"(A) developed by the State in cooperation with the metropolitan planning organizations;

"(B) approved by the Secretary of Transportation;

"(C) that considers population in urbanized areas; and

"(D) that provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in this section.

"(3) SUPPLEMENTAL ALLOCATIONS.—

"(A) IN GENERAL.—The Secretary shall allocate 20 percent of the amount made available under subsection (g)(3)(A) to States to supplement allocations made under paragraph (1) for metropolitan planning organizations.

"(B) ALLOCATION FORMULA.—Amounts under this paragraph shall be allocated under a formula that reflects the additional cost of carrying out planning, programming, and project selection responsibilities in complex metropolitan planning areas under sections 5303, 5304, and 5306.

"(d) State Planning and Research Program.—

"(1) In general.—The Secretary shall allocate amounts made available pursuant to subsection (g)(3)(B) to States for grants and contracts to carry out sections 5304, 5306, 5315, and 5322 so that each State receives an amount equal to the ratio of the population in urbanized areas in that State, divided by the total population in urbanized areas in all States, as shown by the latest available decennial census.

"(2) Minimum allocation.—Each State shall receive not less than 0.5 percent of the amount allocated under this subsection.

"(3) Reallocation.—A State may authorize part of the amount made available under this subsection to be used to supplement amounts available under subsection (c).

"(e) Planning Capacity Building Program.—

"(1) Establishment.—The Secretary shall establish a Planning Capacity Building Program (referred to in this subsection as the "Program") to support and fund innovative practices and enhancements in transportation planning.

"(2) Purpose.—The purpose of the Program shall be to promote activities that support and strengthen the planning processes required under this section and sections 5303 and 5304.

"(3) Administration.—The Program shall be administered by the Federal Transit Administration in cooperation with the Federal Highway Administration.

"(4) Use of funds.—

"(A) In general.—Appropriations authorized under subsection (g)(1) to carry out this subsection may be used—

"(i) to provide incentive grants to States, metropolitan planning organizations, and public transportation operators; and

"(ii) to conduct research, disseminate information, and provide technical assistance.

"(B) Grants, contracts, cooperative agreements.—In carrying out the activities described in subparagraph (A), the Secretary may—

"(i) expend appropriated funds directly; or

"(ii) award grants to, or enter into contracts, cooperative agreements, and other transactions with, a Federal agency, State agency, local governmental authority, association, nonprofit or for-profit entity, or institution of higher education.

"(f) Government's Share of Costs.—Amounts made available to carry out subsections (c), (d), and (e) may not exceed 80 percent of the costs of the activity unless the Secretary of Transportation determines that it is in the interest of the Government not to require State or local matching funds.

"(g) Allocation of Funds.—Of the amounts made available under section 5338(b)(2)(B) for fiscal year 2005 and each fiscal year thereafter to carry out this section—

"(1) $5,000,000 shall be allocated for the Planning Capacity Building Program established under subsection (e);

"(2) $20,000,000 shall be allocated for grants under subsection (a)(2) for alternatives analyses required by section 5309(e)(2)(A); and

"(3) of the remaining amount—

"(A) 82.72 percent shall be allocated for the metropolitan planning program described in subsection (d); and

"(B) 17.28 percent shall be allocated to carry out subsection (b).

"(h) Reallocations.—Any amount allocated under this section that has not been used 3 years after the end of the fiscal year in which the amount was allocated shall be reallocated among the States.".

(b) Conforming Amendment.—The item relating to section 5308 in the table of sections for chapter 53 is amended to read as follows:

"5308. Planning programs.".

SEC. 3011. CAPITAL INVESTMENT PROGRAM.

(a) Section Heading.—The section heading of section 5309 is amended to read as follows:

"§ 5309. Capital investment grants".

(b) General Authority.—Section 5309(a) is amended—

(1) in paragraph (1)—

(A) by striking "(1) The Secretary of Transportation may make grants and loans" and inserting the following:

"(1) Grants authorized.—The Secretary may award grants";

(B) in subparagraph (A), by striking "alternatives analysis related to the development of systems,";

(C) by striking subparagraphs (B), (C), (D), and (G);

(D) by redesignating subparagraphs (E), (F), and (H) as subparagraphs (B), (C), and (D), respectively;

(E) in subparagraph (C), as redesignated, by striking the semicolon at the end and inserting ", including programs of bus and bus-related projects for assistance to subrecipients which are public agencies, private companies engaged in public transportation, or private nonprofit organizations; and"; and

(F) in subparagraph (D), as redesignated—

(i) by striking "to support fixed guideway systems"; and

(ii) by striking "dedicated bus and high occupancy vehicle";

(2) by amending paragraph (2) to read as follows:

"(2) Grantee requirements.—

"(A) Grantee in urbanized area.—The Secretary shall require that any grants awarded under this section to a recipient or subrecipient located in an urbanized area shall be subject to all terms, conditions, requirements, and provisions that the Secretary determines to be necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in the value of real property resulting from the project assisted under this section.

"(B) Grantee not in urbanized area.—The Secretary shall require that any grants awarded under this section to a recipient or subrecipient not located in an urbanized area shall be subject to the same terms, conditions, requirements, and provisions as a recipient or subrecipient of assistance under section 5311.

"(C) Subrecipient.—The Secretary shall require that any private, nonprofit organization that is a subrecipient of a grant awarded under this section shall be subject to the same terms, conditions, requirements, and provisions as a subrecipient of assistance under section 5310.

"(D) Statewide transit provider grantees.—A statewide transit provider that receives a grant under this section shall be subject to the terms, conditions, requirements, and provisions of this section or section 5311, consistent with the scope and purpose of the grant and the location of the project."; and

(3) by adding at the end the following:

"(3) Certification.—An applicant that has submitted the certifications required under subparagraphs (A), (B), (C), and (H) of section 5307(d)(1) shall be deemed to have provided sufficient information upon which the Secretary may make the findings required under this subsection.".

(c) Defined Term.—Section 5309(b) is amended to read as follows:

"(b) Defined Term.—As used in this section, the term 'alternatives analysis' means a study conducted as part of the transportation planning process required under sections 5303 and 5304, which includes—

"(1) an assessment of a wide range of public transportation alternatives designed to address a transportation problem in a corridor or subarea;

"(2) sufficient information to enable the Secretary to make the findings of project justification and local financial commitment required under this section;

"(3) the selection of a locally preferred alternative; and

"(4) the adoption of the locally preferred alternative as part of the long-range transportation plan required under section 5303.".

(d) Grant Requirements.—Section 5309(d) is amended to read as follows:

"(d) Grant Requirements.—The Secretary may not approve a grant for a project under this section unless the Secretary determines that—

"(1) the project is part of an approved transportation plan and program of projects required under sections 5303, 5304, and 5306; and

"(2) the applicant has, or will have—

"(A) the legal, financial, and technical capacity to carry out the project, including safety and security aspects of the project;

"(B) satisfactory continuing control over the use of the equipment or facilities; and

"(C) the capability and willingness to maintain the equipment or facilities.".

(e) Major Capital Investment Projects of $75,000,000 or More.—Section 5309(e) is amended to read as follows:

"(e) Major Capital Investment Projects of $75,000,000 or More.—

"(1) Full funding grant agreement.—The Secretary shall enter into a full funding grant agreement, based on the evaluations and ratings required under this subsection, with each grantee receiving not less than $75,000,000 under this subsection for a new fixed guideway capital project that—

"(A) is authorized for final design and construction; and

"(B) has been rated as medium, medium-high, or high, in accordance with paragraph (5)(B).

"(2) Determinations.—The Secretary may not award a grant under this subsection for a new fixed guideway capital project unless the Secretary determines that the proposed project is—

"(A) based on the results of an alternatives analysis and preliminary engineering;

"(B) justified based on a comprehensive review of its mobility improvements, environmental benefits, cost-effectiveness, operating efficiencies, economic development effects, and public transportation supportive land use patterns and policies; and

"(C) supported by an acceptable degree of local financial commitment, including evidence of stable and dependable financing sources to construct the project, and maintain and operate the entire public transportation system, while ensuring that the extent and quality of existing public transportation services are not degraded.

"(3) Evaluation of project justification.—In making the determinations under paragraph (2)(B) for a major capital investment grant, the Secretary shall analyze, evaluate, and consider—

"(A) the results of the alternatives analysis and preliminary engineering for the proposed project;

"(B) the reliability of the forecasts of costs and utilization made by the recipient and the contractors to the recipient;

"(C) the direct and indirect costs of relevant alternatives;

"(D) factors such as—

"(i) congestion relief;

"(ii) improved mobility;

"(iii) air pollution;

"(iv) noise pollution;

"(v) energy consumption; and

"(vi) all associated ancillary and mitigation costs necessary to carry out each alternative analyzed;

"(E) reductions in local infrastructure costs achieved through compact land use development and positive impacts on the capacity, utilization, or longevity of other surface transportation assets and facilities;

"(F) the cost of suburban sprawl;

"(G) the degree to which the project increases the mobility of the public transportation dependent population or promotes economic development;

"(H) population density and current transit ridership in the transportation corridor;

"(I) the technical capability of the grant recipient to construct the project;

"(J) any adjustment to the project justification necessary to reflect differences in local land, construction, and operating costs; and

"(K) other factors that the Secretary determines to be appropriate to carry out this chapter.

"(4) EVALUATION OF LOCAL FINANCIAL COMMITMENT.—

"(A) IN GENERAL.—In evaluating a project under paragraph (2)(C), the Secretary shall require that—

"(i) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases;

"(ii) each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

"(iii) local resources are available to recapitalize and operate the overall proposed public transportation system, including essential feeder bus and other services necessary to achieve the projected ridership levels, while ensuring that the extent and quality of existing public transportation services are not degraded.

"(B) EVALUATION CRITERIA.—In assessing the stability, reliability, and availability of proposed sources of local financing under paragraph (2)(C), the Secretary shall consider—

"(i) the reliability of the forecasts of costs and utilization made by the recipient and the contractors to the recipient;

"(ii) existing grant commitments;

"(iii) the degree to which financing sources are dedicated to the proposed purposes;

"(iv) any debt obligation that exists, or is proposed by the recipient, for the proposed project or other public transportation purpose; and

"(v) the extent to which the project has a local financial commitment that exceeds the required non-Federal share of the cost of the project, provided that if the Secretary gives priority to financing projects that include more than the non-Federal share required under subsection (h), the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.

"(5) PROJECT ADVANCEMENT AND RATINGS.—

"(A) PROJECT ADVANCEMENT.—A proposed project under this subsection shall not advance from alternatives analysis to preliminary engineering or from preliminary engineering to final design and construction unless the Secretary determines that the project meets the requirements of this section and there is a reasonable likelihood that the project will continue to meet such requirements.

"(B) RATINGS.—In making a determination under subparagraph (A), the Secretary shall evaluate and rate the project on a 5-point scale (high, medium-high, medium, medium-low, or low) based on the results of the alternatives analysis, the project justification criteria, and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established by regulation.

"(6) APPLICABILITY.—This subsection shall not apply to projects for which the Secretary has issued a letter of intent or entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2004.

"(7) RULEMAKING.—Not later than 240 days after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue regulations on the manner by which the Secretary shall evaluate and rate projects based on the results of alternatives analysis, project justification, and local financial commitment, in accordance with this subsection.

"(8) POLICY GUIDANCE.—

"(A) PUBLICATION.—The Secretary shall publish policy guidance regarding the new starts project review and evaluation process—

"(i) not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2004; and

"(ii) each time significant changes are made by the Secretary to the new starts project review and evaluation process and criteria, but not less frequently than once every 2 years.

"(B) PUBLIC COMMENT AND RESPONSE.—The Secretary shall—

"(i) invite public comment to the policy guidance published under subparagraph (A); and

"(ii) publish a response to the comments received under clause (i).".

(f) MAJOR CAPITAL INVESTMENT PROJECTS OF LESS THAN $75,000,000.— Section 5309(f) is amended to read as follows:

"(f) MAJOR CAPITAL INVESTMENT PROJECTS OF LESS THAN $75,000,000.—

"(1) PROJECT CONSTRUCTION GRANT AGREEMENT.—

"(A) IN GENERAL.—The Secretary shall enter into a project construction grant agreement, based on evaluations and ratings required under this subsection, with each grantee receiving less than $75,000,000 under this subsection for a new fixed guideway or corridor improvement capital project that—

"(i) is authorized by law; and

"(ii) has been rated as medium, medium-high, or high, in accordance with paragraph (3)(B).

"(B) CONTENTS.—

"(i) IN GENERAL.—An agreement under this paragraph shall specify—

"(I) the scope of the project to be constructed;

"(II) the estimated net cost of the project;

"(III) the schedule under which the project shall be constructed;

"(IV) the maximum amount of funding to be obtained under this subsection;

"(V) the proposed schedule for obligation of future Federal grants; and

"(VI) the sources of non-Federal funding.

"(ii) ADDITIONAL FUNDING.—The agreement may include a commitment on the part of the Secretary to provide funding for the project in future fiscal years.

"(C) FULL FUNDING GRANT AGREEMENT.—An agreement under this paragraph shall be considered a full funding grant agreement for the purposes of subsection (g).

"(2) SELECTION PROCESS.—

"(A) SELECTION CRITERIA.—The Secretary may not award a grant under this subsection for a proposed project unless the Secretary determines that the project is—

"(i) based on the results of planning and alternatives analysis;

"(ii) justified based on a review of its public transportation supportive land use policies, cost effectiveness, and effect on local economic development; and

"(iii) supported by an acceptable degree of local financial commitment.

"(B) PLANNING AND ALTERNATIVES.—In evaluating a project under subparagraph (A)(i), the Secretary shall analyze and consider the results of planning and alternatives analysis for the project.

"(C) PROJECT JUSTIFICATION.—In making the determinations under subparagraph (A)(ii), the Secretary shall—

"(i) determine the degree to which local land use policies are supportive of the public transportation project and the degree to which the project is likely to achieve local developmental goals;

"(ii) determine the cost effectiveness of the project at the time of the initiation of revenue service;

"(iii) determine the degree to which the project will have a positive effect on local economic development;

"(iv) consider the reliability of the forecasts of costs and ridership associated with the project; and

"(v) consider other factors that the Secretary determines to be appropriate to carry out this subsection.

"(D) LOCAL FINANCIAL COMMITMENT.—For purposes of subparagraph (A)(iii), the Secretary shall require that each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable.

"(3) ADVANCEMENT OF PROJECT TO DEVELOPMENT AND CONSTRUCTION.—

"(A) IN GENERAL.—A proposed project under this subsection may not advance from the planning and alternatives analysis stage to project development and construction unless—

"(i) the Secretary finds that the project meets the requirements of this subsection and there is a reasonable likelihood that the project will continue to meet such requirements; and

"(ii) the metropolitan planning organization has adopted the locally preferred alternative for the project into the long-range transportation plan.

"(B) EVALUATION.—In making the findings under subparagraph (A), the Secretary shall evaluate and rate the project as high, medium-high, medium, medium-low, or low, based on the results of the analysis of the project justification criteria and the degree of local financial commitment, as required under this subsection.

"(4) IMPACT REPORT.—

"(A) IN GENERAL.—Not later than 240 days after the date of enactment of the Federal

Public Transportation Act of 2004, the Federal Transit Administration shall submit a report on the methodology to be used in evaluating the land use and economic development impacts of non-fixed guideway or partial fixed guideway projects to—

"(i) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

"(ii) the Committee on Transportation and Infrastructure of the House of Representatives.

"(B) CONTENTS.—The report submitted under subparagraph (A) shall address any qualitative and quantitative differences between fixed guideway and non-fixed guideway projects with respect to land use and economic development impacts.

"(5) REGULATIONS.—Not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue regulations establishing an evaluation and rating process for proposed projects under this subsection that is based on the results of project justification and local financial commitment, as required under this subsection.".

(g) FULL FUNDING GRANT AGREEMENTS.—Section 5309(g)(2) is amended by adding at the end the following:

"(C) BEFORE AND AFTER STUDY.—

"(i) IN GENERAL.—Each full funding grant agreement shall require the applicant to conduct a study that—

"(I) describes and analyzes the impacts of the new start project on transit services and transit ridership;

"(II) evaluates the consistency of predicted and actual project characteristics and performance; and

"(III) identifies sources of differences between predicted and actual outcomes.

"(ii) INFORMATION COLLECTION AND ANALYSIS PLAN.—

"(I) SUBMISSION OF PLAN.—Applicants seeking a full funding grant agreement shall submit a complete plan for the collection and analysis of information to identify the impacts of the new start project and the accuracy of the forecasts prepared during the development of the project. Preparation of this plan shall be included in the full funding grant agreement as an eligible activity.

"(II) CONTENTS OF PLAN.—The plan submitted under subclause (I) shall provide for—

"(aa) the collection of data on the current transit system regarding transit service levels and ridership patterns, including origins and destinations, access modes, trip purposes, and rider characteristics;

"(bb) documentation of the predicted scope, service levels, capital costs, operating costs, and ridership of the project;

"(cc) collection of data on the transit system 2 years after the opening of the new start project, including analogous information on transit service levels and ridership patterns and information on the as-built scope and capital costs of the new start project; and

"(dd) analysis of the consistency of predicted project characteristics with the after data.

"(D) COLLECTION OF DATA ON CURRENT SYSTEM.—To be eligible for a full funding grant agreement, recipients shall have collected data on the current system, according to the plan required, before the beginning of construction of the proposed new start project. Collection of this data shall be included in the full funding grant agreement as an eligible activity.

"(E) PUBLIC PRIVATE PARTNERSHIP PILOT PROGRAM.—

"(i) AUTHORIZATION.—The Secretary may establish a pilot program to demonstrate the advantages of public-private partnerships for certain fixed guideway systems development projects.

"(ii) IDENTIFICATION OF QUALIFIED PROJECTS.—The Secretary shall identify qualified public-private partnership projects as permitted by applicable State and local enabling laws and work with project sponsors to enhance project delivery and reduce overall costs.".

(h) FEDERAL SHARE OF NET PROJECT COST.—Section 5309(h) is amended to read as follows:

"(h) FEDERAL SHARE OF ADJUSTED NET PROJECT COST.—

"(1) IN GENERAL.—The Secretary shall estimate the net project cost based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities.

"(2) ADJUSTMENT FOR COMPLETION UNDER BUDGET.—The Secretary may adjust the final net project cost of a major capital investment project evaluated under subsections (e) and (f) to include the cost of eligible activities not included in the originally defined project if the Secretary determines that the originally defined project has been completed at a cost that is significantly below the original estimate.

"(3) MAXIMUM FEDERAL SHARE.—

"(A) IN GENERAL.—A grant for the project shall be for 80 percent of the net project cost, or the net project cost as adjusted under paragraph (2), unless the grant recipient requests a lower grant percentage.

"(B) EXCEPTIONS.—The Secretary may provide a higher grant percentage than requested by the grant recipient if—

"(i) the Secretary determines that the net project cost of the project is not more than 10 percent higher than the net project cost estimated at the time the project was approved for advancement into preliminary engineering; and

"(ii) the ridership estimated for the project is not less than 90 percent of the ridership estimated for the project at the time the project was approved for advancement into preliminary engineering.

"(4) OTHER SOURCES.—The costs not funded by a grant under this section may be funded from—

"(A) an undistributed cash surplus;

"(B) a replacement or depreciation cash fund or reserve; or

"(C) new capital, including any Federal funds that are eligible to be expended for transportation.

"(5) PLANNED EXTENSION TO FIXED GUIDEWAY SYSTEM.—In addition to amounts allowed under paragraph (1), a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the Secretary determines that only non-Federal funds were used and that the purchase was made for use on the extension. A refund or reduction of the costs not funded by a grant under this section may be made only if a refund of a proportional amount of the grant is made at the same time.

"(6) EXCEPTION.—The prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to amounts allowed under paragraph (4).".

(i) LOAN PROVISIONS AND FISCAL CAPACITY CONSIDERATIONS.—Section 5309 is amended—

(1) by striking subsections (i), (j), (k), and (l);

(2) by redesignating subsections (m) and (n) as subsections (i) and (j), respectively;

(3) by striking subsection (o) (as added by section 3009(i) of the Federal Transit Act of 1998); and

(4) by redesignating subsections (o) and (p) as subsections (k) and (l), respectively.

(j) ALLOCATING AMOUNTS.—Section 5309(i), as redesignated, is amended to read as follows:

"(i) ALLOCATING AMOUNTS.—

"(1) FISCAL YEAR 2004.—Of the amounts made available or appropriated for fiscal year 2004 under section 5338(a)(3)—

"(A) $1,315,983,615 shall be allocated for projects of not less than $75,000,000 for major capital projects for new fixed guideway systems and extensions of such systems under subsection (e) and projects for new fixed guideway or corridor improvement capital projects under subsection (f);

"(B) $1,199,387,615 shall be allocated for capital projects for fixed guideway modernization; and

"(C) $603,617,520 shall be allocated for capital projects for buses and bus-related equipment and facilities.

"(2) IN GENERAL.—Of the amounts made available or appropriated for fiscal year 2005 and each fiscal year thereafter for grants under this section pursuant to subsections (b)(4) and (c) of section 5338—

"(A) the amounts appropriated under section 5338(c) shall be allocated for major capital projects for—

"(i) new fixed guideway systems and extensions of not less than $75,000,000, in accordance with subsection (e); and

"(ii) projects for new fixed guideway or corridor improvement capital projects, in accordance with subsection (f); and

"(B) the amounts made available under section 5338(b)(4) shall be allocated for capital projects for buses and bus-related equipment and facilities.

"(3) FIXED GUIDEWAY MODERNIZATION.—The amounts made available for fixed guideway modernization under section 5338(b)(2)(K) for fiscal year 2005 and each fiscal year thereafter shall be allocated in accordance with section 5337.

"(4) PRELIMINARY ENGINEERING.—Not more that 8 percent of the allocation described in paragraphs (1)(A) and (2)(A) may be expended on preliminary engineering.

"(5) FUNDING FOR FERRY BOATS.—Of the amounts described in paragraphs (1)(A) and (2)(A), $10,400,000 shall be available in each of the fiscal years 2004 through 2009 for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals.

"(6) BUS AND BUS FACILITY GRANTS.—

"(A) CONSIDERATIONS.—In making grants under paragraphs (1)(C) and (2)(B), the Secretary shall consider the age and condition of buses, bus fleets, related equipment, and bus-related facilities.

"(B) PROJECTS NOT IN URBANIZED AREAS.—Of the amounts made available under paragraphs (1)(C) and (2)(B), not less than 5.5 percent shall be available in each fiscal year for projects that are not in urbanized areas.

"(C) INTERMODAL TERMINALS.—Of the amounts made available under paragraphs (1)(C) and (2)(B), not less than $75,000,000 shall be available in each fiscal year for intermodal terminal projects, including the intercity bus portion of such projects.".

(k) REPORTS.—Section 5309 is amended by inserting at the end the following:

"(m) REPORTS.—

"(1) ANNUAL REPORT ON FUNDING RECOMMENDATIONS.—

"(A) IN GENERAL.—Not later than the first Monday of February of each year, the Secretary shall submit a report on funding recommendations to—

"(i) the Committee on Transportation and Infrastructure of the House of Representatives;

"(ii) the Committee on Banking, Housing, and Urban Affairs of the Senate;

"(iii) the Subcommittee on Transportation of the Committee on Appropriations of the House of Representatives; and

"(iv) the Subcommittee on Transportation of the Committee on Appropriations of the Senate.

"(B) CONTENTS.—The report submitted under subparagraph (A) shall contain—

"(i) a proposal on the allocation of amounts to finance grants for capital investment projects among grant applicants;

"(ii) a recommendation of projects to be funded based on—

"(I) the evaluations and ratings determined under subsection (e) and (f); and

"(II) existing commitments and anticipated funding levels for the subsequent 3 fiscal years; and

"(iii) detailed ratings and evaluations on each project recommended for funding.

"(2) TRIENNIAL REPORTS ON PROJECT RATINGS.—

"(A) IN GENERAL.—Not later than the first Monday of February, the first Monday of June, and the first Monday of October of each year, the Secretary shall submit a report on project ratings to—

"(i) the Committee on Transportation and Infrastructure of the House of Representatives;

"(ii) the Committee on Banking, Housing, and Urban Affairs of the Senate;

"(iii) the Subcommittee on Transportation of the Committee on Appropriations of the House of Representatives; and

"(iv) the Subcommittee on Transportation of the Committee on Appropriations of the Senate.

"(B) CONTENTS.—Each report submitted under subparagraph (A) shall contain—

"(i) a summary of the ratings of all capital investment projects for which funding was requested under this section;

"(ii) detailed ratings and evaluations on the project of each applicant that had significant changes to the finance or project proposal or has completed alternatives analysis or preliminary engineering since the date of the latest report; and

"(iii) all relevant information supporting the evaluation and rating of each updated project, including a summary of the financial plan of each updated project.

"(3) BEFORE AND AFTER STUDY REPORTS.—Not later than the first Monday of August of each year, the Secretary shall submit a report containing a summary of the results of the studies conducted under subsection (g)(2) to—

"(A) the Committee on Transportation and Infrastructure of the House of Representatives;

"(B) the Committee on Banking, Housing, and Urban Affairs of the Senate;

"(C) the Subcommittee on Transportation of the Committee on Appropriations of the House of Representatives; and

"(D) the Subcommittee on Transportation of the Committee on Appropriations of the Senate.

"(4) CONTRACTOR PERFORMANCE ASSESSMENT REPORT.—

"(A) IN GENERAL.—Not later than 180 days after the enactment of the Federal Public Transportation Act of 2004, and each year thereafter, the Secretary shall submit a report analyzing the consistency and accuracy of cost and ridership estimates made by each contractor to public transportation agencies developing major investment projects to the committees and subcommittees listed under paragraph (3).

"(B) CONTENTS.—The report submitted under subparagraph (A) shall compare the cost and ridership estimates made at the time projects are approved for entrance into preliminary engineering with—

"(i) estimates made at the time projects are approved for entrance into final design;

"(ii) costs and ridership when the project commences revenue operation; and

"(iii) costs and ridership when the project has been in operation for 2 years.

"(5) ANNUAL GENERAL ACCOUNTING OFFICE REVIEW.—

"(A) REVIEW.—The Comptroller General of the United States shall conduct an annual review of the processes and procedures for evaluating and rating projects and recommending projects and the Secretary's implementation of such processes and procedures.

"(B) REPORT.—Not later than 90 days after the submission of each report required under paragraph (1), the Comptroller General shall submit a report to Congress that summarizes the results of the review conducted under subparagraph (A).

"(6) CONTRACTOR PERFORMANCE INCENTIVE REPORT.—Not later than 180 days after the enactment of the Federal Public Transportation Act of 2004, the Secretary shall submit a report to the committees and subcommittees listed under paragraph (3) on the suitability of allowing contractors to public transportation agencies that undertake major capital investments under this section to receive performance incentive awards if a project is completed for less than the original estimated cost.".

SEC. 3012. NEW FREEDOM FOR ELDERLY PERSONS AND PERSONS WITH DISABILITIES.

(a) IN GENERAL.—Section 5310 is amended to read as follows:

"§ 5310. New freedom for elderly persons and persons with disabilities

"(a) GENERAL AUTHORITY.—

"(1) AUTHORIZATION.—The Secretary may award grants to a State for capital public transportation projects that are planned, designed, and carried out to meet the needs of elderly individuals and individuals with disabilities, with priority given to the needs of these individuals to access necessary health care.

"(2) ACQUISITION OF PUBLIC TRANSPORTATION SERVICES.—A capital public transportation project under this section may include acquiring public transportation services as an eligible capital expense.

"(3) ADMINISTRATIVE COSTS.—A State may use not more than 15 percent of the amounts received under this section to administer, plan, and provide technical assistance for a project funded under this section.

"(b) ALLOTMENTS AMONG STATES.—

"(1) IN GENERAL.—From amounts made available or appropriated in each fiscal year under subsections (a)(1)(C)(iv) and (b)(2)(D) of section 5338 for grants under this section, the Secretary shall allot amounts to each State under a formula based on the number of elderly individuals and individuals with disabilities in each State.

"(2) TRANSFER OF FUNDS.—Any funds allotted to a State under paragraph (1) may be transferred by the State to the apportionments made under sections 5311(c) and 5336 if such funds are only used for eligible projects selected under this section.

"(3) REALLOCATION OF FUNDS.—A State receiving a grant under this section may reallocate such grant funds to—

"(A) a private nonprofit organization;

"(B) a public transportation agency or authority; or

"(C) a governmental authority that—

"(i) has been approved by the State to coordinate services for elderly individuals and individuals with disabilities;

"(ii) certifies that nonprofit organizations are not readily available in the area that can provide the services described under this subsection; or

"(iii) will provide services to persons with disabilities that exceed those services required by the Americans with Disabilities Act.

"(c) FEDERAL SHARE.—

"(1) MAXIMUM.—

"(A) IN GENERAL.—A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

"(B) EXCEPTION.—A State described in section 120(d) of title 23 shall receive an increased Federal share in accordance with the formula under that section.

"(2) REMAINING COSTS.—The costs of a capital project under this section that are not funded through a grant under this section—

"(A) may be funded from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

"(B) may be derived from amounts appropriated to or made available to any Federal agency (other than the Department of Transportation, except for Federal Lands Highway funds) that are eligible to be expended for transportation.

"(3) EXCEPTION.—For purposes of paragraph (2), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

"(d) GRANT REQUIREMENTS.—

"(1) IN GENERAL.—A grant recipient under this section shall be subject to the requirements of a grant recipient under section 5307 to the extent the Secretary determines to be appropriate.

"(2) CERTIFICATION REQUIREMENTS.—

"(A) FUND TRANSFERS.—A grant recipient under this section that transfers funds to a project funded under section 5336 in accordance with subsection (b)(2) shall certify that the project for which the funds are requested has been coordinated with private nonprofit providers of services under this section.

"(B) PROJECT SELECTION AND PLAN DEVELOPMENT.—Each grant recipient under this section shall certify that—

"(i) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

"(ii) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

"(C) ALLOCATIONS TO SUBRECIPIENTS.—Each grant recipient under this section shall certify that allocations of the grant to subrecipients, if any, are distributed on a fair and equitable basis.

"(e) STATE PROGRAM OF PROJECTS.—

"(1) SUBMISSION TO SECRETARY.—Each State shall annually submit a program of transportation projects to the Secretary for approval with an assurance that the program provides for maximum feasible coordination between transportation services funded under this section and transportation services assisted by other Federal sources.

"(2) Use of funds.—Each State may use amounts made available to carry out this section to provide transportation services for elderly individuals and individuals with disabilities if such services are included in an approved State program of projects.

"(f) Leasing Vehicles.—Vehicles acquired under this section may be leased to local governmental authorities to improve transportation services designed to meet the needs of elderly individuals and individuals with disabilities.

"(g) Meal Delivery for Homebound Individuals.—Public transportation service providers receiving assistance under this section or section 5311(c) may coordinate and assist in regularly providing meal delivery service for homebound individuals if the delivery service does not conflict with providing public transportation service or reduce service to public transportation passengers.

"(h) Transfers of Facilities and Equipment.—With the consent of the recipient in possession of a facility or equipment acquired with a grant under this section, a State may transfer the facility or equipment to any recipient eligible to receive assistance under this chapter if the facility or equipment will continue to be used as required under this section.

"(i) Fares Not Required.—This section does not require that elderly individuals and individuals with disabilities be charged a fare.".

(b) Conforming Amendment.—The item relating to section 5310 in the table of sections for chapter 53 is amended to read as follows:

"5310. New freedom for elderly persons and persons with disabilities.".

SEC. 3013. FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.

(a) Definitions.—Section 5311(a) is amended to read as follows:

"(a) Definitions.—As used in this section, the following definitions shall apply:

"(1) Recipient.—The term 'recipient' means a State or Indian tribe that receives a Federal transit program grant directly from the Federal Government.

"(2) Subrecipient.—The term 'subrecipient' means a State or local governmental authority, a nonprofit organization, or a private operator of public transportation or intercity bus service that receives Federal transit program grant funds indirectly through a recipient.".

(b) General Authority.—Section 5311(b) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Grants authorized.—Except as provided under paragraph (2), the Secretary may award grants under this section to recipients located in areas other than urbanized areas for—

"(A) public transportation capital projects;

"(B) operating costs of equipment and facilities for use in public transportation; and

"(C) the acquisition of public transportation services.";

(2) by redesignating paragraph (2) as paragraph (3);

(3) by inserting after paragraph (1) the following:

"(2) State program.—

"(A) In general.—A project eligible for a grant under this section shall be included in a State program for public transportation service projects, including agreements with private providers of public transportation service.

"(B) Submission to secretary.—Each State shall annually submit the program described in subparagraph (A) to the Secretary.

"(C) Approval.—The Secretary may not approve the program unless the Secretary determines that—

"(i) the program provides a fair distribution of amounts in the State; and

"(ii) the program provides the maximum feasible coordination of public transportation service assisted under this section with transportation service assisted by other Federal sources.";

(4) in paragraph (3), as redesignated—

(A) by striking "(3) The Secretary of Transportation" and inserting the following:

"(3) Rural transportation assistance program.—

"(A) Establishment.—The Secretary";

(B) by striking "make" and inserting "use not more than 2 percent of the amount made available to carry out this section to award"; and

(C) by adding at the end the following:

"(B) Data Collection.—

"(i) Report.—Each grantee under this section shall submit an annual report to the Secretary containing information on capital investment, operations, and service provided with funds received under this section, including—

"(I) total annual revenue;

"(II) sources of revenue;

"(III) total annual operating costs;

"(IV) total annual capital costs;

"(V) fleet size and type, and related facilities;

"(VI) revenue vehicle miles; and

"(VII) ridership."; and

(5) by adding after paragraph (3) the following:

"(4) Of the amount made available to carry out paragraph (3)—

"(A) not more than 15 percent may be used to carry out projects of a national scope; and

"(B) any amounts not used under subparagraph (A) shall be allocated to the States.".

(c) Apportionments.—Section 5311(c) is amended to read as follows:

"(c) Apportionments.—

"(1) Public transportation on Indian reservations.—Of the amounts made available or appropriated for each fiscal year pursuant to subsections (a)(1)(C)(v) and (b)(2)(F) of section 5338, the following amounts shall be apportioned for grants to Indian tribes for any purpose eligible under this section, under such terms and conditions as may be established by the Secretary:

"(A) $6,000,000 for fiscal year 2005.

"(B) $8,000,000 for fiscal year 2006.

"(C) $10,000,000 for fiscal year 2007.

"(D) $12,000,000 for fiscal year 2008.

"(E) $15,000,000 for fiscal year 2009.

"(2) Remaining amounts.—Of the amounts made available or appropriated for each fiscal year pursuant to subsections (a)(1)(C)(v) and (b)(2)(F) of section 5338 that are not apportioned under paragraph (1)—

"(A) 20 percent shall be apportioned to the States in accordance with paragraph (3); and

"(B) 80 percent shall be apportioned to the States in accordance with paragraph (4).

"(3) Apportionments based on land area in nonurbanized areas.—

"(A) In general.—Subject to subparagraph (B), each State shall receive an amount that is equal to the amount apportioned under paragraph (2)(A) multiplied by the ratio of the land area in areas other than urbanized areas in that State and divided by the land area in all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.

"(B) Maximum apportionment.—No State shall receive more than 5 percent of the amount apportioned under this paragraph.

"(4) Apportionments based on population in nonurbanized areas.—Each State shall receive an amount equal to the amount apportioned under paragraph (2)(B) multiplied by the ratio of the population of areas other than urbanized areas in that State divided by the population of all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.".

(d) Use for Administrative, Planning, and Technical Assistance.—Section 5311(e) is amended—

(1) by striking "and Technical Assistance.—(1) The Secretary of Transportation" and inserting ", Planning, and Technical Assistance.—The Secretary";

(2) by striking "to a recipient"; and

(3) by striking paragraph (2).

(e) Intercity Bus Transportation.—Section 5311(f) is amended—

(1) in paragraph (1)—

(A) by striking "(1)" and inserting the following:

"(1) In general.—"; and

(B) by striking "after September 30, 1993,"; and

(2) in paragraph (2)—

(A) by striking "A State" and inserting "After consultation with affected intercity bus service providers, a State"; and

(B) by striking "of Transportation".

(f) Federal Share of Costs.—Section 5311(g) is amended to read as follows:

"(g) Federal Share of Costs.—

"(1) Maximum federal share.—

"(A) Capital projects.—

"(i) In general.—Except as provided under clause (ii), a grant awarded under this section for any purpose other than operating assistance may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

"(ii) Exception.—A State described in section 120(d) of title 23 shall receive a Federal share of the net capital costs in accordance with the formula under that section.

"(B) Operating assistance.—

"(i) In general.—Except as provided under clause (ii), a grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

"(ii) Exception.—A State described in section 120(d) of title 23 shall receive a Federal share of the net operating costs equal to 62.5 percent of the Federal share provided for under subparagraph (A)(ii).

"(2) Other funding sources.—Funds for a project under this section that are not provided for by a grant under this section—

"(A) may be provided from—

"(i) an undistributed cash surplus;

"(ii) a replacement or depreciation cash fund or reserve;

"(iii) a service agreement with a State or local social service agency or a private social service organization; or

"(iv) new capital; and

"(B) may be derived from amounts appropriated to or made available to a Federal agency (other than the Department of Transportation, except for Federal Land Highway funds) that are eligible to be expended for transportation.

"(3) Use of federal grant.—A State carrying out a program of operating assistance under this section may not limit the level or extent of use of the Federal grant for the payment of operating expenses.

"(4) EXCEPTION.—For purposes of paragraph (2)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(c)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(c)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.".

(g) WAIVER CONDITION.—Section 5311(j)(1) is amended by striking "but the Secretary of Labor may waive the application of section 5333(b)" and inserting "if the Secretary of Labor utilizes a Special Warranty that provides a fair and equitable arrangement to protect the interests of employees".

SEC. 3014. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.

(a) IN GENERAL.—Section 5312 is amended—

(1) by amending subsection (a) to read as follows:

"(a) RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROJECTS.—

"(1) IN GENERAL.—The Secretary may make grants, contracts, cooperative agreements, or other transactions (including agreements with departments, agencies, and instrumentalities of the United States Government) for research, development, demonstration or deployment projects, or evaluation of technology of national significance to public transportation that the Secretary determines will improve public transportation service or help public transportation service meet the total transportation needs at a minimum cost.

"(2) INFORMATION.—The Secretary may request and receive appropriate information from any source.

"(3) SAVINGS PROVISION.—This subsection does not limit the authority of the Secretary under any other law.";

(2) by striking subsections (b) and (c);

(3) by redesignating subsections (d) and (e) as (b) and (c), respectively.

(4) in subsection (b), as redesignated—

(A) in paragraph (2), by striking "other agreements" and inserting "other transactions"; and

(B) in paragraph (5), by striking "within the Mass Transit Account of the Highway Trust Fund"; and

(5) in subsection (c), as redesignated—

(A) in paragraph (2), by striking "public and private" and inserting "public or private"; and

(B) in paragraph (3), by striking "within the Mass Transit Account of the Highway Trust Fund".

(b) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The heading of section 5312 is amended to read as follows:

"§ 5312. Research, development, demonstration, and deployment projects".

(2) TABLE OF SECTIONS.—The item relating to section 5312 in the table of sections for chapter 53 is amended to read as follows:

"5312. Research, development, demonstration, and deployment projects.".

SEC. 3015. TRANSIT COOPERATIVE RESEARCH PROGRAM.

(a) IN GENERAL.—Section 5313 is amended—

(1) by striking subsection (b);

(2) in subsection (a)—

(A) in paragraph (1), by striking "(1) The amounts made available under paragraphs (1) and (2)C)(ii) of section 5338(c) of this title" and inserting "The amounts made available under subsections (a)(5)(C)(iii) and (b)(2)(G)(i) of section 5338"; and

(B) in paragraph (2), by striking "(2)" and inserting the following:

"(b) FEDERAL ASSISTANCE.—"; and

(3) by amending subsection (c) to read as follows:

"(c) FEDERAL SHARE.—If there would be a clear and direct financial benefit to an entity under a grant or contract financed under this section, the Secretary shall establish a Federal share consistent with such benefit.".

(b) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The heading of section 5313 is amended to read as follows:

"§ 5313. Transit cooperative research program".

(2) TABLE OF SECTIONS.—The item relating to section 5313 in the table of sections for chapter 53 is amended to read as follows:

"5313. Transit cooperative research program.".

SEC. 3016. NATIONAL RESEARCH PROGRAMS.

(a) IN GENERAL.—Section 5314 is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

"(1) AVAILABILITY OF FUNDS.—The Secretary may use amounts made available under subsections (a)(5)(C)(iv) and (b)(2)(G)(iv) of section 5338 for grants, contracts, cooperative agreements, or other transactions for the purposes described in sections 5312, 5315, and 5322.";

(B) in paragraph (2), by striking "(2) Of" and inserting the following:

"(2) ADA COMPLIANCE.—From";

(C) by amending paragraph (3) to read as follows:

"(3) SPECIAL DEMONSTRATION INITIATIVES.—The Secretary may use not more than 25 percent of the amounts made available under paragraph (1) for special demonstration initiatives, subject to terms that the Secretary determines to be consistent with this chapter. For a nonrenewable grant of not more than $100,000, the Secretary shall provide expedited procedures for complying with the requirements of this chapter.";

(D) in paragraph (4)—

(i) by striking subparagraph (B); and

(ii) by redesignating subparagraph (C) as subparagraph (B); and

(E) by adding at the end the following:

"(6) MEDICAL TRANSPORTATION DEMONSTRATION GRANTS.—

"(A) GRANTS AUTHORIZED.—The Secretary may award demonstration grants, from funds made available under paragraph (1), to eligible entities to provide transportation services to individuals to access dialysis treatments and other medical treatments for renal disease.

"(B) ELIGIBLE ENTITIES.—An entity shall be eligible to receive a grant under this paragraph if the entity—

"(i) meets the conditions described in section 501(c)(3) of the Internal Revenue Code of 1986; or

"(ii) is an agency of a State or unit of local government.

"(C) USE OF FUNDS.—Grant funds received under this paragraph may be used to provide transportation services to individuals to access dialysis treatments and other medical treatments for renal disease.

"(D) APPLICATION.—

"(i) IN GENERAL.—Each eligible entity desiring a grant under this paragraph shall submit an application to the Secretary at such time, at such place, and containing such information as the Secretary may reasonably require.

"(ii) SELECTION OF GRANTEES.—In awarding grants under this paragraph, the Secretary shall give preference to eligible entities from communities with—

"(I) high incidence of renal disease; and

"(II) limited access to dialysis facilities.

"(E) RULEMAKING.—The Secretary shall issue regulations to implement and administer the grant program established under this paragraph.

"(F) REPORT.—The Secretary shall submit a report on the results of the demonstration projects funded under this paragraph to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives."; and

(2) by amending subsection (b) to read as follows:

"(b) FEDERAL SHARE.—If there would be a clear and direct financial benefit to an entity under a grant, contract, cooperative agreement, or other transaction financed under subsection (a) or section 5312, 5313, 5315, or 5322, the Secretary shall establish a Federal share consistent with such benefit.".

(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION; ALTERNATIVE FUELS STUDY.—Section 5314 is amended by adding at the end the following:

"(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION.—

"(1) ESTABLISHMENT.—The Secretary shall award grants to a national not-for-profit organization for the establishment and maintenance of a national technical assistance center.

"(2) ELIGIBILITY.—An organization shall be eligible to receive the grant under paragraph (1) if the organization—

"(A) focuses significantly on serving the needs of the elderly;

"(B) has demonstrated knowledge and expertise in senior transportation policy and planning issues;

"(C) has affiliates in a majority of the States;

"(D) has the capacity to convene local groups to consult on operation and development of senior transportation programs; and

"(E) has established close working relationships with the Federal Transit Administration and the Administration on Aging.

"(3) USE OF FUNDS.—The national technical assistance center established under this section shall—

"(A) gather best practices from throughout the country and provide such practices to local communities that are implementing senior transportation programs;

"(B) work with teams from local communities to identify how they are successfully meeting the transportation needs of senior and any gaps in services in order to create a plan for an integrated senior transportation program;

"(C) provide resources on ways to pay for senior transportation services;

"(D) create a web site to publicize and circulate information on senior transportation programs;

"(E) establish a clearinghouse for print, video, and audio resources on senior mobility; and

"(F) administer the demonstration grant program established under paragraph (4).

"(4) GRANTS AUTHORIZED.—

"(A) IN GENERAL.—The national technical assistance center established under this section, in consultation with the Federal Transit Administration, shall award senior transportation demonstration grants to—

"(i) local transportation organizations;

"(ii) State agencies;

"(iii) units of local government; and

"(iv) nonprofit organizations.

"(B) USE OF FUNDS.—Grant funds received under this paragraph may be used to—

"(i) evaluate the state of transportation services for senior citizens;

"(ii) recognize barriers to mobility that senior citizens encounter in their communities;

"(iii) establish partnerships and promote coordination among community stakeholders, including public, not-for-profit, and for-profit providers of transportation services for senior citizens;

"(iv) identify future transportation needs of senior citizens within local communities; and

"(v) establish strategies to meet the unique needs of healthy and frail senior citizens.

"(C) Selection of grantees.—The Secretary shall select grantees under this subsection based on a fair representation of various geographical locations throughout the United States.

"(5) Allocations.—From the funds made available for each fiscal year under subsections (a)(5)(C)(iv) and (b)(2)(G)(iv) of section 5338, $3,000,000 shall be allocated to carry out this subsection.

"(d) Alternative Fuels Study.—

"(1) Study.—The Secretary shall conduct a study of the actions necessary to facilitate the purchase of increased volumes of alternative fuels (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)) for use in public transit vehicles

"(2) Scope of study.—The study conducted under this subsection shall focus on the incentives necessary to increase the use of alternative fuels in public transit vehicles, including buses, fixed guideway vehicles, and ferries.

"(3) Contents.—The study shall consider—

"(A) the environmental benefits of increased use of alternative fuels in transit vehicles;

"(B) existing opportunities available to transit system operators that encourage the purchase of alternative fuels for transit vehicle operation;

"(C) existing barriers to transit system operators that discourage the purchase of alternative fuels for transit vehicle operation, including situations where alternative fuels that do not require capital improvements to transit vehicles are disadvantaged over fuels that do require such improvements; and

"(D) the necessary levels and type of support necessary to encourage additional use of alternative fuels for transit vehicle operation.

"(4) Recommendations.—The study shall recommend regulatory and legislative alternatives that will result in the increased use of alternative fuels in transit vehicles.

"(5) Report.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall submit the study completed under this subsection to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives".

(c) Conforming Amendments.—

(1) Section heading.—The heading for section 5314 is amended to read as follows:

"§ 5314. National research programs".

(2) Table of sections.—The item relating to section 5314 in the table of sections for chapter 53 is amended to read as follows:

"5314. National research programs.".

SEC. 3017. NATIONAL TRANSIT INSTITUTE.

(a) Section 5315 is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) Establishment.—The Secretary shall award a grant to Rutgers University to conduct a national transit institute.

"(b) Duties.—

"(1) In general.—In cooperation with the Federal Transit Administration, State transportation departments, public transportation authorities, and national and international entities, the institute established pursuant to subsection (a) shall develop and conduct training programs for Federal, State, and local transportation employees, United States citizens, and foreign nationals engaged or to be engaged in Government-aid public transportation work.

"(2) Training programs.—The training programs developed under paragraph (1) may include courses in recent developments, techniques, and procedures related to—

"(A) intermodal and public transportation planning;

"(B) management;

"(C) environmental factors;

"(D) acquisition and joint use rights of way;

"(E) engineering and architectural design;

"(F) procurement strategies for public transportation systems;

"(G) turnkey approaches to delivering public transportation systems;

"(H) new technologies;

"(I) emission reduction technologies;

"(J) ways to make public transportation accessible to individuals with disabilities;

"(K) construction, construction management, insurance, and risk management;

"(L) maintenance;

"(M) contract administration;

"(N) inspection;

"(O) innovative finance;

"(P) workplace safety; and

"(Q) public transportation security."; and

(2) in subsection (d), by striking "mass" each place it appears.

SEC. 3018. BUS TESTING FACILITY.

Section 5318 is amended—

(1) in subsection (a)—

(A) by striking "Establishment.—The Secretary of Transportation shall establish one facility" and inserting "In General.—The Secretary shall maintain 1 facility"; and

(B) by striking "established by renovating" and inserting "maintained at"; and

(2) in subsection (d), by striking "section 5309(m)(1)(C) of this title" and inserting "paragraphs (1)(C) and (2)(B) of section 5309(l)".

SEC. 3019. BICYCLE FACILITIES.

Section 5319 is amended by striking "5307(k)" and inserting "5307(d)(1)(K)".

SEC. 3020. SUSPENDED LIGHT RAIL TECHNOLOGY PILOT PROJECT.

Section 5320 is repealed.

SEC. 3021. CRIME PREVENTION AND SECURITY.

Section 5321 is repealed.

SEC. 3022. GENERAL PROVISIONS ON ASSISTANCE.

Section 5323 is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

"(1) In general.—Financial assistance provided under this chapter to a State or a local governmental authority may be used to acquire an interest in, or to buy property of, a private company engaged in public transportation, for a capital project for property acquired from a private company engaged in public transportation after July 9, 1964, or to operate a public transportation facility or equipment in competition with, or in addition to, transportation service provided by an existing public transportation company, only if—

"(A) the Secretary determines that such financial assistance is essential to a program of projects required under sections 5303, 5304, and 5306;

"(B) the Secretary determines that the program provides for the participation of private companies engaged in public transportation to the maximum extent feasible; and

"(C) just compensation under State or local law will be paid to the company for its franchise or property."; and

(B) in paragraph (2), by striking "(2)" and inserting the following:

"(2) Limitation.—";

(2) by amending subsection (b) to read as follows:

"(b) Notice and Public Hearing.—

"(1) In general.—An application for a grant under this chapter for a capital project that will substantially affect a community, or the public transportation service of a community, shall include, in the environmental record for the project, evidence that the applicant has—

"(A) provided an adequate opportunity for public review and comment on the project;

"(B) held a public hearing on the project if the project affects significant economic, social, or environmental interests;

"(C) considered the economic, social, and environmental effects of the project; and

"(D) found that the project is consistent with official plans for developing the urban area.

"(2) Contents of notice.—Notice of a hearing under this subsection—

"(A) shall include a concise description of the proposed project; and

"(B) shall be published in a newspaper of general circulation in the geographic area the project will serve.";

(3) by amending subsection (c) to read as follows:

"(c) New Technology.—A grant for financial assistance under this chapter for new technology, including innovative or improved products, techniques, or methods, shall be subject to the requirements of section 5309 to the extent the Secretary determines to be appropriate.";

(4) by amending subsection (d) to read as follows:

"(d) Conditions on Bus Transportation Service.—Financial assistance under this chapter may be used to buy or operate a bus only if the recipient agrees to comply with the following conditions on bus transportation service:

"(1) Charter bus service.—

"(A) In general.—Except as provided under subparagraph (B), a recipient may provide incidental charter bus service only within its lawful service area if—

"(i) the recipient annually publishes, by electronic and other appropriate means, a notice—

"(I) indicating its intent to offer incidental charter bus service within its lawful service area; and

"(II) soliciting notices from private bus operators that wish to appear on a list of carriers offering charter bus service in that service area;

"(ii) the recipient provides private bus operators with an annual opportunity to notify the recipient of its desire to appear on a list of carriers offering charter bus service in such service area;

"(iii) upon receiving a request for charter bus service, the recipient electronically notifies the private bus operators listed as offering charter service in that service area with the name and contact information of the requestor and the nature of the charter service request; and "(iv) the recipient does not offer to provide charter bus service unless no private bus operator indicates that it is willing and able to provide the service within a 72-hour period after the receipt of such notice.

"(B) Exception.—A recipient that operates 2,000 or fewer vehicles in fixed-route peak hour service may provide incidental charter bus transportation directly to —

"(i) local governments; and

"(ii) social service entities with limited resources.

"(C) Irregularly scheduled events.—Service, other than commuter service, by a recipient to irregularly scheduled events, where the service is conducted in whole or in part outside the service area of the recipient, regardless of whether the service is contracted for individually with passengers, is subject to a rebuttable presumption that such service is charter service.

"(2) Violation of agreements.—

"(A) Complaints.—A complaint regarding the violation of a charter bus service agreement shall be submitted to the Regional Administrator of the Federal Transit Administration, who shall—

"(i) provide a reasonable opportunity for the recipient to respond to the complaint;

"(ii) provide the recipient with an opportunity for an informal hearing; and

"(iii) issue a written decision not later than 60 days after the parties have completed their submissions.

"(B) Appeals.—

"(i) In general.—A decision by the Regional Administrator may be appealed to a panel comprised of the Federal Transit Administrator, personnel in the Office of the Secretary of Transportation, and other persons with expertise in surface passenger transportation issues.

"(ii) Standard of review.—The panel described in clause (i) shall consider the complaint de novo on all issues of fact and law.

"(iii) Written decision.—The appeals panel shall issue a written decision on an appeal not later than 60 days after the completion of submissions. This decision shall be the final order of the agency and subject to judicial review in district court.

"(C) Correction.—If the Secretary determines that a violation of an agreement relating to the provision of charter service has occurred, the Secretary shall correct the violation under terms of the agreement.

"(D) Remedies.—The Secretary may issue orders to recipients to cease and desist in actions that violate the agreement, and such orders shall be binding upon the parties. In addition to any remedy spelled out in the agreement, if a recipient has failed to correct a violation within 60 days after the receipt of a notice of violation from the Secretary, the Secretary shall withhold from the recipient the lesser of—

"(i) 5 percent of the financial assistance available to the recipient under this chapter for the next fiscal year; or

"(ii) $200,000.

"(3) Regulations.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall issue amended regulations that—

"(A) implement this subsection, as revised by such Act; and

"(B) impose restrictions, procedures, and remedies in connection with sightseeing service by a recipient.

"(4) Public notice.—The Secretary shall make all written decisions, guidance, and other pertinent materials relating to the procedures in this subsection available to the public in electronic and other appropriate formats in a timely manner.";

(5) by striking subsection (e);

(6) by redesignating subsection (f) as subsection (e);

(7) in subsection (e), as redesignated—

(A) by striking "(1)" and inserting the following:

"(1) In general.—";

(B) by striking paragraph (2);

(C) by striking "This subsection" and inserting the following:

"(2) Exceptions.—This subsection; and

(D) by adding at the end the following:

"(3) Penalty.—If the Secretary determines that an applicant, governmental authority, or publicly owned operator has violated the agreement required under paragraph (1), the Secretary shall bar the applicant, authority, or operator from receiving Federal transit assistance in an amount the Secretary determines to be appropriate.";

(8) by inserting after subsection (e) the following:

"(f) Bond Proceeds Eligible for Local Share.—

"(1) In general.—Notwithstanding any other provision of law, a recipient of assistance under section 5307 or 5309, may use the proceeds from the issuance of revenue bonds as part of the local matching funds for a capital project.

"(2) Reimbursement by secretary.—The Secretary may reimburse an eligible recipient for deposits of bond proceeds in a debt service reserve that the recipient established pursuant to section 5302(a)(1)(K) from amounts made available to the recipient under section 5307 or 5309.";

(9) in subsection (g)—

(A) by striking "(f)" each place it appears and inserting "(e)"; and

(B) by striking "103(e)(4) and 142 (a) or (c)" each place it appears and inserting "133 and 142";

(10) by amending subsection (h) to read as follows:

"(h) Transfer of Lands or Interests in Lands Owned by the United States.—

(1) Request by secretary.—If the Secretary determines that any part of the lands or interests in lands owned by the United States and made available as a result of a military base closure is necessary for transit purposes eligible under this chapter, including corridor preservation, the Secretary shall submit a request to the head of the Federal agency supervising the administration of such lands or interests in lands. Such request shall include a map showing the portion of such lands or interests in lands, which is desired to be transferred for public transportation purposes.

"(2) Transfer of land.—If 4 months after submitting a request under paragraph (1), the Secretary does not receive a response from the Federal agency described in paragraph (1) that certifies that the proposed appropriation of land is contrary to the public interest or inconsistent with the purposes for which such land has been reserved, or if the head of such agency agrees to the utilization or transfer under conditions necessary for the adequate protection and utilization of the reserve, such land or interests in land may be utilized or transferred to a State, local governmental authority, or public transportation operator for such purposes and subject to the conditions specified by such agency.

"(3) Reversion.—If at any time the lands or interests in land utilized or transferred under paragraph (2) are no longer needed for public transportation purposes, the State, local governmental authority, or public transportation operator that received the land shall notify to the Secretary, and such lands shall immediately revert to the control of the head of the Federal agency from which the land was originally transferred.";

(11) in subsection (j)(5), by striking "Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240, 105 Stat. 1914)" and inserting "Federal Public Transportation Act of 2004";

(12) by amending subsection (l) to read as follows:

"(l) Relationship to Other Laws.—Section 1001 of title 18 applies to a certificate, submission, or statement provided under this chapter. The Secretary may terminate financial assistance under this chapter and seek reimbursement directly, or by offsetting amounts, available under this chapter, if the Secretary determines that a recipient of such financial assistance has made a false or fraudulent statement or related act in connection with a Federal transit program.";

(13) in subsection (m), by inserting at the end the following: "Requirements to perform preaward and postdelivery reviews of rolling stock purchases to ensure compliance with subsection (j) shall not apply to private nonprofit organizations or to grantees serving urbanized areas with a population of fewer than 1,000,000.";

(14) in subsection (o), by striking "the Transportation Infrastructure Finance and Innovation Act of 1998" and inserting "sections 181 through 188 of title 23"; and

(15) by adding at the end the following:

"(p) Prohibited Use of Funds.—Grant funds received under this chapter may not be used to pay ordinary governmental or nonproject operating expenses.".

SEC. 3023. SPECIAL PROVISIONS FOR CAPITAL PROJECTS.

(a) In General.—Section 5324 is amended to read as follows:

"§ 5324. Special provisions for capital projects

"(a) Real Property and Relocation Services.—Whenever real property is acquired or furnished as a required contribution incident to a project, the Secretary shall not approve the application for financial assistance unless the applicant has made all payments and provided all assistance and assurances that are required of a State agency under sections 210 and 305 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4630 and 4655). The Secretary must be advised of specific references to any State law that are believed to be an exception to section 301 or 302 of such Act (42 U.S.C. 4651 and 4652).

"(b) Advance Real Property Acquisitions.—

(1) In general.—The Secretary may participate in the acquisition of real property for any project that may use the property if the Secretary determines that external market forces are jeopardizing the potential use of the property for the project and if—

"(A) there are offers on the open real estate market to convey that property for a use that is incompatible with the project under study;

"(B) there is an imminent threat of development or redevelopment of the property for a use that is incompatible with the project under study;

"(C) recent appraisals reflect a rapid increase in the fair market value of the property;

"(D) the property, because it is located near an existing transportation facility, is likely to be developed and to be needed for a future transportation improvement; or

"(E) the property owner can demonstrate that, for health, safety, or financial reasons, retaining ownership of the property poses an undue hardship on the owner in comparison to other affected property owners and requests the acquisition to alleviate that hardship.

"(2) Environmental reviews.—Property acquired in accordance with this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.

"(3) Limitation.—The Secretary shall limit the size and number of properties acquired under this subsection as necessary to avoid any prejudice to the Secretary's objective evaluation of project alternatives.

"(4) Exemption.—An acquisition under this section shall be considered an exempt project under section 176 of the Clean Air Act (42 U.S.C. 7506).

"(c) Railroad Corridor Preservation.—

"(1) In general.—The Secretary may assist an applicant to acquire railroad right-of-way before the completion of the environmental reviews for any project that may use the right-of-way if the acquisition is otherwise permitted under Federal law. The Secretary may establish restrictions on such an acquisition as the Secretary determines to be necessary and appropriate.

"(2) Environmental reviews.—Railroad right-of-way acquired under this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.

"(d) Consideration of Economic, Social, and Environmental Interests.—

"(1) In general.—The Secretary may not approve an application for financial assistance for a capital project under this chapter unless the Secretary determines that the project has been developed in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Secretary's findings under this paragraph shall be made a matter of public record.

"(2) Cooperation and consultation.—In carrying out section 5301(e), the Secretary shall cooperate and consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency on each project that may have a substantial impact on the environment.".

(b) Conforming Amendment.—The item relating to section 5324 in the table of sections for chapter 53 is amended to read as follows:

"5324. Special provisions for capital projects.".

SEC. 3024. CONTRACT REQUIREMENTS.

(a) In General.—Section 5325 is amended to read as follows:

"§ 5325. Contract requirements

"(a) Competition.—Recipients of assistance under this chapter shall conduct all procurement transactions in a manner that provides full and open competition as determined by the Secretary.

"(b) Architectural, Engineering, and Design Contracts.—

"(1) In general.—A contract or requirement for program management, architectural engineering, construction management, a feasibility study, and preliminary engineering, design, architectural, engineering, surveying, mapping, or related services for a project for which Federal assistance is provided under this chapter shall be awarded in the same manner as a contract for architectural and engineering services is negotiated under chapter 11 of title 40, or an equivalent qualifications-based requirement of a State. This subsection does not apply to the extent a State has adopted or adopts by law a formal procedure for procuring those services.

"(2) Additional requirements.—When awarding a contract described in paragraph (1), recipients of assistance under this chapter shall comply with the following requirements:

"(A) Any contract or subcontract awarded under this chapter shall be performed and audited in compliance with cost principles contained in part 31 of title 48, Code of Federal Regulations (commonly known as the Federal Acquisition Regulation).

"(B) A recipient of funds under a contract or subcontract awarded under this chapter shall accept indirect cost rates established in accordance with the Federal Acquisition Regulation for 1-year applicable accounting periods by a cognizant Federal or State government agency, if such rates are not currently under dispute.

"(G) After a firm's indirect cost rates are accepted under subparagraph (B), the recipient of the funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment, and shall not be limited by administrative or de facto ceilings.

"(D) A recipient requesting or using the cost and rate data described in subparagraph (C) shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided by the group of agencies sharing cost data under this subparagraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.

"(c) Efficient Procurement.—A recipient may award a procurement contract under this chapter to other than the lowest bidder if the award furthers an objective consistent with the purposes of this chapter, including improved long-term operating efficiency and lower long-term costs.

"(d) Design-Build Projects.—

"(1) Defined term.—As used in this subsection, the term 'design-build project'—

"(A) means a project under which a recipient enters into a contract with a seller, firm, or consortium of firms to design and build an operable segment of a public transportation system that meets specific performance criteria; and

"(B) may include an option to finance, or operate for a period of time, the system or segment or any combination of designing, building, operating, or maintaining such system or segment.

"(2) Financial assistance for capital costs.—Federal financial assistance under this chapter may be provided for the capital costs of a design-build project after the recipient complies with Government requirements.

"(e) Rolling Stock.—

"(1) Acquisition.—A recipient of financial assistance under this chapter may enter into a contract to expend that assistance to acquire rolling stock—

"(A) with a party selected through a competitive procurement process; or

"(B) based on—

"(i) initial capital costs; or

"(ii) performance, standardization, life cycle costs, and other factors.

"(2) Multiyear contracts.—A recipient procuring rolling stock with Federal financial assistance under this chapter may make a multiyear contract, including options, to buy not more than 5 years of requirements for rolling stock and replacement parts. The Secretary shall allow a recipient to act on a cooperative basis to procure rolling stock under this paragraph and in accordance with other Federal procurement requirements.

"(f) Examination of Records.—Upon request, the Secretary and the Comptroller General, or any of their representatives, shall have access to and the right to examine and inspect all records, documents, and papers, including contracts, related to a project for which a grant is made under this chapter.

"(g) Grant Prohibition.—A grant awarded under this chapter may not be used to support a procurement that uses an exclusionary or discriminatory specification.

"(h) Bus Dealer Requirements.—No State law requiring buses to be purchased through in-State dealers shall apply to vehicles purchased with a grant under this chapter.

"(i) Awards to Responsible Contractors.—

"(1) In general.—Federal financial assistance under this chapter may be provided for contracts only if a recipient awards such contracts to responsible contractors possessing the ability to successfully perform under the terms and conditions of a proposed procurement.

"(2) Criteria.—Before making an award to a contractor under paragraph (1), a recipient shall consider—

"(A) the integrity of the contractor;

"(B) the contractor's compliance with public policy;

"(C) the contractor's past performance, including the performance reported in the Contractor Performance Assessment Reports required under section 5309(m)(4); and

"(D) the contractor's financial and technical resources.".

(b) Conforming Amendments.—Chapter 53 is amended by striking section 5326.

SEC. 3025. PROJECT MANAGEMENT OVERSIGHT AND REVIEW.

(a) Project Management Plan Requirements.—Section 5327(a) is amended—

(1) in paragraph (11), by striking "and" at the end;

(2) in paragraph (12), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(13) safety and security management.".

(b) Limitations on Use of Available Amounts.—Section 5327(c) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) In general.—The Secretary may not use more than 1 percent of amounts made available for a fiscal year to carry out any of sections 5307 through 5311, 5316, or 5317, or a project under the National Capital Transportation Act of 1969 (Public Law 91–143) to make a contract to oversee the construction of major projects under any of sections 5307 through 5311, 5316, or 5317 or under that Act.";

(2) in paragraph (2)—

(A) by striking "(2)" and inserting the following:

"(2) Other allowable uses.—"; and

(B) by inserting "and security" after "safety"; and

(3) in paragraph (3), by striking "(3) The Government shall" and inserting the following:

"(3) Federal share.—Federal funds shall be used to".

SEC. 3026. PROJECT REVIEW.

Section 5328 is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "(1) When the Secretary of Transportation allows a new fixed guideway project to advance into the alternatives analysis stage of project review, the Secretary shall cooperate with the applicant" and inserting the following:

"(1) ALTERNATIVES ANALYSIS.—The Secretary shall cooperate with an applicant undertaking an alternatives analysis under subsections (e) and (f) of section 5309";

(B) in paragraph (2)—

(i) by striking "(2)" and inserting the following:

"(2) ADVANCEMENT TO PRELIMINARY ENGINEERING STAGE.—"; and

(ii) by striking "is consistent with" and inserting "meets the requirements of";

(C) in paragraph (3)—

(i) by striking "(3)" and inserting the following:

"(3) RECORD OF DECISION.—";

(ii) by striking "of construction"; and

(iii) by adding before the period at the end the following: "if the Secretary determines that the project meets the requirements of subsection (e) or (f) of section 5309"; and

(D) by striking paragraph (4); and

(2) by striking subsection (c).

SEC. 3027. INVESTIGATIONS OF SAFETY AND SECURITY RISK.

(a) IN GENERAL.—Section 5329 is amended to read as follows:

"§ 5329. Investigation of safety hazards and security risks

"(a) IN GENERAL.—The Secretary may conduct investigations into safety hazards and security risks associated with a condition in equipment, a facility, or an operation financed under this chapter to establish the nature and extent of the condition and how to eliminate, mitigate, or correct it.

"(b) SUBMISSION OF CORRECTIVE PLAN.—If the Secretary establishes that a safety hazard or security risk warrants further protective measures, the Secretary shall require the local governmental authority receiving amounts under this chapter to submit a plan for eliminating, mitigating, or correcting it.

"(c) WITHHOLDING OF FUNDS.—Financial assistance under this chapter, in an amount to be determined by the Secretary, may be withheld until a plan is approved and carried out.

"(d) PUBLIC TRANSPORTATION SECURITY.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall enter into a memorandum of understanding with the Secretary of Homeland Security to define and clarify the respective roles and responsibilities of the Department of Transportation and the Department of Homeland Security relating to public transportation security.

"(2) CONTENTS.—The memorandum of understanding described in paragraph (1) shall—

"(A) establish national security standards for public transportation agencies;

"(B) establish funding priorities for grants from the Department of Homeland Security to public transportation agencies;

"(C) create a method of coordination with public transportation agencies on security matters; and

"(D) address any other issues determined to be appropriate by the Secretary and the Secretary of Homeland Security.".

(b) CONFORMING AMENDMENT.—The item relating to section 5329 in the table of sections for chapter 53 is amended to read as follows:

"5329. Investigation of safety hazards and security risks.".

SEC. 3028. STATE SAFETY OVERSIGHT.

(a) IN GENERAL.—Section 5330 is amended—

(1) by amending the heading to read as follows:

"§ 5330. Withholding amounts for noncompliance with State safety oversight requirements";

(2) by amending subsection (a) to read as follows:

"(a) APPLICATION.—This section shall only apply to—

"(1) States that have rail fixed guideway public transportation systems that are not subject to regulation by the Federal Railroad Administration; and

"(2) States that are designing rail fixed guideway public transportation systems that will not be subjected to regulation by the Federal Railroad Administration.";

(3) in subsection (d), by striking "affected States" and inserting the following: "affected States—

"(1) shall ensure uniform safety standards and enforcement; or

"(2) may designate"; and

(4) in subsection (f), by striking "Not later than December 18, 1992, the" and inserting "The".

(b) CONFORMING AMENDMENT.—The item relating to section 5330 in the table of sections for chapter 53 is amended to read as follows:

"5330. Withholding amounts for noncompliance with State safety oversight requirements.".

SEC. 3029. SENSITIVE SECURITY INFORMATION.

Section 40119(b) is amended—

(1) in paragraph (1)(C), by inserting ", transportation facilities or infrastructure, or transportation employees" before the period at the end; and

(2) by adding at the end the following:

"(3) A State or local government may not enact, enforce, prescribe, issue, or continue in effect any law, regulation, standard, or order to the extent it is inconsistent with this section or regulations prescribed under this section.".

SEC. 3030. TERRORIST ATTACKS AND OTHER ACTS OF VIOLENCE AGAINST PUBLIC TRANSPORTATION SYSTEMS.

(a) IN GENERAL.—Section 1993 of title 18, United States Code, is amended—

(1) by striking "mass" each place it appears and inserting "public";

(2) in subsection (a)(5), by inserting "controlling," after "operating"; and

(3) in subsection (c)(5), by striking "5302(a)(7) of title 49, United States Code," and inserting "5302(a) of title 49,".

(b) CONFORMING AMENDMENT.—The table of contents for chapter 97 of title 18, United States Code is amended by amending the item related to section 1993 to read as follows:

"1993. Terrorist attacks and other acts of violence against public transportation systems.".

SEC. 3031. CONTROLLED SUBSTANCES AND ALCOHOL MISUSE TESTING.

Section 5331 is amended—

(1) in subsection (a)(3), by inserting before the period at the end the following: "or sections 2303a, 7101(i), or 7302(e) of title 46. The Secretary may also decide that a form of public transportation is covered adequately, for employee alcohol and controlled substances testing purposes, under the alcohol and controlled substance statutes or regulations of an agency within the Department of Transportation or other Federal agency"; and

(2) in subsection (f), by striking paragraph (3).

SEC. 3032. EMPLOYEE PROTECTIVE ARRANGEMENTS.

Section 5333(b) is amended—

(1) in paragraph (3), by striking the period at the end and inserting ": *Provided*, That—

"(A) the protective period shall not exceed 4 years; and

"(B) the separation allowance shall not exceed 12 months."; and

(2) by adding at the end the following:

"(4) An arrangement under this subsection shall not guarantee continuation of employment as a result of a change in private contractors through competitive bidding unless such continuation is otherwise required under subparagraph (A), (B), or (D) of paragraph (2).

"(5) Fair and equitable arrangements to protect the interests of employees utilized by the Secretary of Labor for assistance to purchase like-kind equipment or facilities, and amendments to existing assistance agreements, shall be certified without referral.

"(6) Nothing in this subsection shall affect the level of protection provided to freight railroad employees.".

SEC. 3033. ADMINISTRATIVE PROCEDURES.

Section 5334 is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "5309–5311 of this title" and all that follows and inserting "5309 through 5311;";

(B) in paragraph (9), by striking "and" at the end;

(C) in paragraph (10), by striking the period at the end and inserting "; and"; and

(D) by inserting at the end the following:

"(11) issue regulations as necessary to carry out the purposes of this chapter.";

(2) by redesignating subsections (b), (c), (d), (e), (f), (g), (h), (i), and (j) as subsections (c), (d), (e), (f), (g), (h), (i), (j), and (k), respectively;

(3) by adding after subsection (a) the following:

"(b) PROHIBITIONS AGAINST REGULATING OPERATIONS AND CHARGES.—

"(1) IN GENERAL.—Except as directed by the President for purposes of national defense or in the event of a national or regional emergency, the Secretary may not regulate—

"(A) the operation, routes, or schedules of a public transportation system for which a grant is made under this chapter; or

"(B) the rates, fares, tolls, rentals, or other charges prescribed by any public or private transportation provider.

"(2) COMPLIANCE WITH AGREEMENT.—Nothing in this subsection shall prevent the Secretary from requiring a recipient of funds under this chapter to comply with the terms and conditions of its Federal assistance agreement."; and

(4) in subsection (j)(1), as redesignated, by striking "carry out section 5312(a) and (b)(1) of this title" and inserting "advise and assist the Secretary in carrying out section 5312(a)".

SEC. 3034. REPORTS AND AUDITS.

Section 5335 is amended—

(1) by striking subsection (b); and

(2) in subsection (a)—

(A) in paragraph (1), by striking "(1)"; and

(B) in paragraph (2), by striking "(2) The Secretary may make a grant under section 5307 of this title" and inserting the following:

"(b) REPORTING AND UNIFORM SYSTEMS.—The Secretary may award a grant under section 5307 or 5311".

SEC. 3035. APPORTIONMENTS OF APPROPRIATIONS FOR FORMULA GRANTS.

Section 5336 is amended—

(1) by striking subsection (d);

(2) by striking subsection (h);

(3) by striking subsection (k);

(4) by redesignating subsections (a) through (c) as subsections (b) through (d), respectively;

(5) by adding before subsection (b), as redesignated, the following:

"(a) Apportionments.—Of the amounts made available for each fiscal year under subsections (a)(1)(C)(vi) and (b)(2)(L) of section 5338—

"(1) there shall be apportioned, in fiscal year 2005 and each fiscal year thereafter, $35,000,000 to certain urbanized areas with populations of less than 200,000 in accordance with subsection (k); and

"(2) any amount not apportioned under paragraph (1) shall be apportioned to urbanized areas in accordance with subsections (b) through (d).";

(6) in subsection (b), as redesignated—

(A) by striking "Of the amount made available or appropriated under section 5338(a) of this title" and inserting "Of the amount apportioned under subsection (a)(3)"; and

(B) in paragraph (2), by striking "subsections (b) and (c) of this section" and inserting "subsections (c) and (d)";

(7) in subsection (c)(2), as redesignated, by striking "subsection (a)(2) of this section" and inserting "subsection (b)(2)";

(8) in subsection (d), as redesignated, by striking "subsection (a)(2) of this section" and inserting "subsection (b)(2)";

(9) in subsection (e)(1), by striking "subsections (a) and (h)(2) of section 5338 of this title" and inserting "subsections (a) and (b) of section 5338";

(10) in subsection (g), by striking "subsection (a)(1) of this section" each place it appears and inserting "subsection (b)(1)"; and

(11) by adding at the end the following:

"(k) Small Transit Intensive Cities Factors.—The amount apportioned under subsection (a)(1) shall be apportioned to urbanized areas as follows:

"(1) The Secretary shall calculate a factor equal to the sum of revenue vehicle hours operated within urbanized areas with a population of between 200,000 and 1,000,000 divided by the sum of the population of all such urbanized areas.

"(2) The Secretary shall designate as eligible for an apportionment under this subsection all urbanized areas with a population of under 200,000 for which the number of revenue vehicle hours operated within the urbanized area divided by the population of the urbanized area exceeds the factor calculated under paragraph (1).

"(3) For each urbanized area qualifying for an apportionment under paragraph (2), the Secretary shall calculate an amount equal to the product of the population of that urbanized area and the factor calculated under paragraph (1).

"(4) For each urbanized area qualifying for an apportionment under paragraph (2), the Secretary shall calculate an amount equal to the difference between the number of revenue vehicle hours within that urbanized area less the amount calculated in paragraph (3).

"(5) Each urbanized area qualifying for an apportionment under paragraph (2) shall receive an amount equal to the amount to be apportioned under this subsection multiplied by the amount calculated for that urbanized area under paragraph (4) divided by the sum of the amounts calculated under paragraph (4) for all urbanized areas qualifying for an apportionment under paragraph (2).

"(l) Study on Incentives in Formula Programs.—

"(1) Study.—The Secretary shall conduct a study to assess the feasibility and appropriateness of developing and implementing an incentive funding system under sections 5307 and 5311 for operators of public transportation.

"(2) Report.—

"(A) In general.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2004, the Secretary shall submit a report on the results of the study conducted under paragraph (1) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

"(B) Contents.—The report submitted under subparagraph (A) shall include—

"(i) an analysis of the availability of appropriate measures to be used as a basis for the distribution of incentive payments;

"(ii) the optimal number and size of any incentive programs;

"(iii) what types of systems should compete for various incentives;

"(iv) how incentives should be distributed; and

"(v) the likely effects of the incentive funding system.".

SEC. 3036. APPORTIONMENTS FOR FIXED GUIDEWAY MODERNIZATION.

Section 5337 is amended—

(1) in subsection (a), by striking "for each of fiscal years 1998 through 2003"; and

(2) by striking "section 5336(b)(2)(A)" each place it appears and inserting "section 5336(c)(2)(A)".

SEC. 3037. AUTHORIZATIONS.

Section 5338 is amended to read as follows:

"§ 5338. Authorizations

"(a) Fiscal Year 2004.—

"(1) Formula grants.—

"(A) Trust fund.—For fiscal year 2004, $3,053,079,920 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5309, 5310, and 5311 of this chapter and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

"(B) General fund.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated $763,269,980 for fiscal year 2004 to carry out sections 5307, 5309, 5310, and 5311 of this chapter and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

"(C) Allocation of funds.—Of the amounts made available or appropriated under this paragraph—

"(i) $4,821,335 shall be available to the Alaska Railroad for improvements to its passenger operations under section 5307;

"(ii) $6,908,995 shall be available to provide over-the-road bus accessibility grants under section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note);

"(iii) $90,117,950 shall be available to provide transportation services to elderly individuals and individuals with disabilities under section 5310;

"(iv) $239,188,058 shall be available to provide financial assistance for other than urbanized areas under section 5311;

"(v) $3,425,608,562 shall be available to provide financial assistance for urbanized areas under section 5307; and

"(vi) $49,705,000 shall be available to provide financial assistance for buses and bus facilities under section 5309.

"(2) Job access and reverse commute.—

"(A) Trust fund.—For fiscal year 2004, $99,410,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 3037 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5309 note).

"(B) General fund.—In addition to the amounts made available under paragraph (A), there are authorized to be appropriated $24,852,500 for fiscal year 2004 to carry out section 3037 of the Transportation Equity Act of the 21st Century (49 U.S.C. 5309 note).

"(3) Capital program grants.—

"(A) Trust fund.—For fiscal year 2004, $2,495,191,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309.

"(B) General fund.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated $623,797,750 for fiscal year 2004 to carry out section 5309.

"(4) Planning.—

"(A) Trust fund.—For fiscal year 2004, $58,254,260 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5308.

"(B) General fund.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated $14,315,040 for fiscal year 2004 to carry out section 5308.

"(C) Allocation of funds.—Of the amounts made available or appropriated under this paragraph—

"(i) 82.72 percent shall be allocated for metropolitan planning under section 5308(c); and

"(ii) 17.28 percent shall be allocated for State planning under section 5308(d).

"(5) Research.—

"(A) Trust fund.—For fiscal year 2004, $41,951,020 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5311(b), 5312, 5313, 5314, 5315, and 5322.

"(B) General fund.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated $10,736,280 for fiscal year 2004 to carry out sections 5311(b), 5312, 5313, 5314, 5315, and 5322.

"(C) Allocation of funds.—Of the funds made available or appropriated under this paragraph—

"(i) not less than $3,976,400 shall be available to carry out programs of the National Transit Institute under section 5315;

"(ii) not less than $5,219,025 shall be available to carry out section 5311(b)(2);

"(iii) not less than $8,201,325 shall be available to carry out section 5313; and

"(iv) the remainder shall be available to carry out national research and technology programs under sections 5312, 5314, and 5322.

"(6) University transportation research.—

"(A) Trust fund.—For fiscal year 2004, $4,771,680 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5505 and 5506.

"(B) General fund.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated $1,192,920 for fiscal year 2004 to carry out sections 5505 and 5506.

"(C) Allocation of funds.—Of the amounts made available or appropriated under this paragraph—

"(i) $1,988,200 shall be available for grants under 5506(f)(5) to the institution identified in section 5505(j)(3)(E), as in effect on the day before the date of enactment of the Federal Public Transportation Act of 2004;

"(ii) $1,988,200 shall be available for grants under section 5505(d) to the institution identified in section 5505(j)(4)(A), as in effect on the date specified in clause (i); and

"(iii) $1,988,200 shall be available for grants under section 5505(d) to the institution identified in section 5505(j)(4)(F), as in effect on the date specified in subclause (I).

"(C) SPECIAL RULE.—Nothing in this paragraph shall be construed to limit the transportation research conducted by the centers receiving financial assistance under this section.

"(7) ADMINISTRATION.—

"(A) TRUST FUND.—For fiscal year 2004, $60,043,640 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5334.

"(B) GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated $15,010,910 for fiscal year 2004 to carry out section 5334.

"(8) GRANTS AS CONTRACTUAL OBLIGATIONS.—

"(A) GRANTS FINANCED FROM HIGHWAY TRUST FUND.—A grant or contract that is approved by the Secretary and financed with amounts made available under paragraph (1)(A), (2)(A), (3)(A), (4)(A), (5)(A), (6)(A), or (7)(A) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project.

"(B) GRANTS FINANCED FROM GENERAL FUND.—A grant or contract that is approved by the Secretary and financed with amounts appropriated in advance under paragraph (1)(B), (2)(B), (3)(B), (4)(B), (5)(B), (6)(B), or (7)(B) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project only to the extent that amounts are appropriated for such purpose by an Act of Congress.

"(9) AVAILABILITY OF AMOUNTS.—Amounts made available or appropriated under paragraphs (1) through (6) shall remain available until expended.".

"(b) FORMULA GRANTS AND RESEARCH.—

"(1) IN GENERAL.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5308, 5309, 5310 through 5316, 5322, 5335, 5340, and 5505 of this title, and sections 3037 and 3038 of the Federal Transit Act of 1998 (112 Stat. 387 et seq.)—

"(A) $6,262,600,000 for fiscal year 2005;

"(B) $6,577,629,000 for fiscal year 2006;

"(C) $6,950,400,000 for fiscal year 2007;

"(D) $7,594,760,000 for fiscal year 2008; and

"(E) $8,275,320,000 for fiscal year 2009.

"(2) ALLOCATION OF FUNDS.—Of the amounts made available under paragraph (1) for each fiscal year—

"(A) 0.092 percent shall be available for grants to the Alaska Railroad under section 5307 for improvements to its passenger operations;

"(B) 1.75 percent shall be available to carry out section 5308;

"(C) 2.05 percent shall be available to provide financial assistance for job access and reverse commute projects under section 3037 of the Federal Transit Act of 1998 (49 U.S.C. 5309 note);

"(D) 3.00 percent shall be available to provide financial assistance for services for elderly persons and persons with disabilities under section 5310;

"(E) 0.125 percent shall be available to carry out section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note);

"(F) 6.25 percent shall be available to provide financial assistance for other than urbanized areas under section 5311;

"(G) 0.89 percent shall be available to carry out transit cooperative research programs under section 5313, the National Transit Institute under section 5315, university research centers under section 5505, and national research programs under sections 5312, 5313, 5314, and 5322, of which—

"(i) 17.0 percent shall be allocated to carry out transit cooperative research programs under section 5313;

"(ii) 7.5 percent shall be allocated to carry out programs under the National Transit Institute under section 5315, including not more than $1,000,000 to carry out section 5315(a)(16);

"(iii) 11.0 percent shall be allocated to carry out the university centers program under section 5505; and

"(iv) any funds made available under this subparagraph that are not allocated under clauses (i) through (iii) shall be allocated to carry out national research programs under sections 5312, 5313, 5314, and 5322;

"(H) $25,000,000 shall be available for each of the fiscal years 2005 through 2009 to carry out section 5316;

"(I) there shall be available to carry out section 5335—

"(i) $3,700,000 in fiscal year 2005;

"(ii) $3,900,000 in fiscal year 2006;

"(iii) $4,200,000 in fiscal year 2007;

"(iv) $4,600,000 in fiscal year 2008; and

"(v) $5,000,000 in fiscal year 2009;

"(J) 6.25 percent shall be allocated in accordance with section 5340 to provide financial assistance for urbanized areas under section 5307 and other than urbanized areas under section 5311; and

"(K) 22.0 percent shall be allocated in accordance with section 5337 to provide financial assistance under section 5309(i)(3); and

"(L) any amounts not made available under subparagraphs (A) through (K) shall be allocated in accordance with section 5336 to provide financial assistance for urbanized areas under section 5307.

"(3) UNIVERSITY CENTERS PROGRAM.—

"(A) ALLOCATION.—Of the amounts allocated under paragraph (2)(G)(iii), $1,000,000 shall be available in each of the fiscal years 2005 through 2009 for Morgan State University to provide transportation research, training, and curriculum development.

"(B) REQUIREMENTS.—The university specified under subparagraph (A) shall be considered a University Transportation Center under section 510 of title 23, and shall be subject to the requirements under subsections (c), (d), (e), and (f) of such section.

"(C) REPORT.—In addition to the report required under section 510(e)(3) of title 23, the university specified under subparagraph (A) shall annually submit a report to the Secretary that describes the university's contribution to public transportation.

"(4) BUS GRANTS.—In addition to the amounts made available under paragraph (1), there shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309(i)(2)(B)—

"(A) $839,829,000 for fiscal year 2005;

"(B) $882,075,000 for fiscal year 2006;

"(C) $932,064,000 for fiscal year 2007;

"(D) $1,018,474,000 for fiscal year 2008; and

"(E) $1,109,739,000 for fiscal year 2009.

"(c) MAJOR CAPITAL INVESTMENT GRANTS.—There are authorized to be appropriated to carry out section 5309(i)(2)(A)—

"(1) $1,461,072,000 for fiscal year 2005;

"(2) $1,534,568,000 for fiscal year 2006;

"(3) $1,621,536,000 for fiscal year 2007;

"(4) $1,771,866,000 for fiscal year 2008; and

"(5) $1,930,641,000 for fiscal year 2009.

"(d) ADMINISTRATION.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5334—

"(1) $86,500,000 for fiscal year 2005;

"(2) $90,851,000 for fiscal year 2006;

"(3) $96,000,000 for fiscal year 2007;

"(4) $104,900,000 for fiscal year 2008; and

"(5) $114,300,000 for fiscal year 2009.

"(e) GRANTS AS CONTRACTUAL OBLIGATIONS.—

"(1) MASS TRANSIT ACCOUNT FUNDS.—A grant or contract approved by the Secretary that is financed with amounts made available under subsection (b)(1) or (d) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project.

"(2) APPROPRIATED FUNDS.—A grant or contract approved by the Secretary that is financed with amounts made available under subsection (b)(2) or (c) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project only to the extent that amounts are appropriated in advance for such purpose by an Act of Congress.

"(f) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under subsections (b) and (c) shall remain available until expended.".

SEC. 3038. APPORTIONMENTS BASED ON GROWING STATES FORMULA FACTORS.

(a) IN GENERAL.—Chapter 53 is amended by adding at the end the following:

"§ 5340. Apportionments based on growing States and high density State formula factors

"(a) ALLOCATION.—Of the amounts made available for each fiscal year under section 5338(b)(2)(J), the Secretary shall apportion—

"(1) 50 percent to States and urbanized areas in accordance with subsection (b); and

"(2) 50 percent to States and urbanized areas in accordance with subsection (c).

"(b) GROWING STATE APPORTIONMENTS.—

"(1) APPORTIONMENT AMONG STATES.—The amounts apportioned under paragraph (a)(1) shall provide each State with an amount equal to the total amount apportioned multiplied by a ratio equal to the population of that State forecast for the year that is 15 years after the most recent decennial census, divided by the total population of all States forecast for the year that is 15 years after the most recent decennial census. Such forecast shall be based on the population trend for each State between the most recent decennial census and the most recent estimate of population made by the Secretary of Commerce.

"(2) APPORTIONMENTS BETWEEN URBANIZED AREAS AND OTHER THAN URBANIZED AREAS IN EACH STATE.—

"(A) IN GENERAL.—The Secretary shall apportion amounts to each State under paragraph (1) so that urbanized areas in that State receive an amount equal to the amount apportioned to that State multiplied by a ratio equal to the sum of the forecast population of all urbanized areas in that State divided by the total forecast population of that State. In making the apportionment under this subparagraph, the Secretary shall utilize any available forecasts made by the State. If no forecasts are available, the Secretary shall utilize data on urbanized areas and total population from the most recent decennial census.

"(B) REMAINING AMOUNTS.—Amounts remaining for each State after apportionment under subparagraph (A) shall be apportioned to that State and added to the amount made available for grants under section 5311.

"(3) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to urbanized areas in each State under subsection (b)(2)(A) so that each urbanized area receives an amount equal to the amount apportioned under subsection (b)(2)(A) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.

"(c) HIGH DENSITY STATE APPORTIONMENTS.—Amounts to be apportioned under subsection (a)(2) shall be apportioned as follows:

"(1) ELIGIBLE STATES.—The Secretary shall designate as eligible for an apportionment under this subsection all States with a population density in excess of 370 persons per square mile.

"(2) STATE URBANIZED LAND FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to the product of the urban land area of urbanized areas in the State times 370 persons per square mile.

"(3) STATE APPORTIONMENT FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to the difference between the total population of the State less the amount calculated in paragraph (2).

"(4) STATE APPORTIONMENT.—Each State qualifying for an apportionment under paragraph (1) shall receive an amount equal to the amount to be apportioned under this subsection multiplied by the amount calculated for the State under paragraph (3) divided by the sum of the amounts calculated under paragraph (3) for all States qualifying for an apportionment under paragraph (1).

"(5) APPORTIONMENTS BETWEEN URBANIZED AREAS AND OTHER THAN URBANIZED AREAS IN EACH STATE.—

"(A) IN GENERAL.—The Secretary shall apportion amounts apportioned to each State under paragraph (4) so that urbanized areas in that State receive an amount equal to the amount apportioned to that State multiplied by a ratio equal to the sum of the population of all urbanized areas in that State divided by the total population of that State.

"(B) REMAINING AMOUNTS.—Amounts remaining for each State after apportionment under subparagraph (a) shall be apportioned to that State and added to the amount made available for grants under section 5311.

"(6) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to urbanized areas in each State under subsection (c)(5)(A) so that each urbanized area receives an amount equal to the amount apportioned under subsection (c)(5)(A) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 53 is amended by adding at the end the following:

"5340. Apportionments based on growing States and high density States formula factors.".

SEC. 3039. JOB ACCESS AND REVERSE COMMUTE GRANTS.

Section 3037 of the Federal Transit Act of 1998 (49 U.S.C. 5309 note) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "means an individual" and inserting the following: "means—

"(A) an individual"; and

(ii) by striking the period at the end and inserting "; or

"(B) an individual who is eligible for assistance under the State program of Temporary Assistance to Needy Families funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et. seq.) in the State in which the recipient of a grant under this section is located."; and

(B) in paragraph (2), by striking "development of" each place it appears and inserting "development and provision of";

(2) in subsection (i), by amending paragraph (2) to read as follows:

"(2) COORDINATION.—

"(A) IN GENERAL.—The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.

"(B) CERTIFICATION.—A recipient of funds under this section shall certify that—

"(i) the project has been derived from a locally developed, coordinated public transit human services transportation plan; and

"(ii) the plan was developed through a process that included representatives of public, -private, and nonprofit transportation and human services providers and participation by the public.";

(3) by amending subsection (j) to read as follows:

"(j) GRANT REQUIREMENTS.—

"(1) IN GENERAL.—

"(A) URBANIZED AREAS.—A grant awarded under this section to a public agency or private company engaged in public transportation in an urbanized area shall be subject to the all of the terms and conditions to which a grant awarded under section 5307 of title 49, United States Code, is subject, to the extent the Secretary considers appropriate.

"(B) OTHER THAN URBANIZED AREAS.—A grant awarded under this section to a public agency or a private company engaged in public transportation in an area other than urbanized areas shall be subject to all of the terms and conditions to which a grant awarded under section 5311 of title 49, United States Code, is subject, to the extent the Secretary considers appropriate.

"(C) NONPROFIT ORGANIZATIONS.—A grant awarded under this section to a private nonprofit organization shall be subject to all of the terms and conditions to which a grant made under section 5310 of title 49, United States Code, is subject, to the extent the Secretary considers appropriate.

"(2) SPECIAL WARRANTY.—

"(A) IN GENERAL.—Section 5333(b) of title 49, United States Code, shall apply to grants under this section if the Secretary of Labor utilizes a Special Warranty that provides a fair and equitable arrangement to protect the interests of employees.

"(B) WAIVER.—The Secretary may waive the applicability of the Special Warranty under subparagraph (A) for private non-profit recipients on a case-by-case basis as the Secretary considers appropriate."; and

(4) by striking subsections (k) and (l).

SEC. 3040. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.

(a) SECTION HEADING.—The section heading for section 3038 of the Federal Transit Act of 1998 (49 U.S.C. 5310 note), is amended to read as follows:

"SEC. 3038. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.".

(b) FUNDING.—Section 3038(g) of the Federal Transit Act of 1998 (49 U.S.C. 5310 note) is amended to read as follows:

"(g) FUNDING.—Of the amounts made available for each fiscal year under subsections (a)(1)(C)(iii) and (b)(2)(E) of section 5338 of title 49, United States Code—

"(1) 75 percent shall be available, and shall remain available until expended, for operators of over-the-road buses, used substantially or exclusively in intercity, fixed-route over-the-road bus service, to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses; and

"(2) 25 percent shall be available, and shall remain available until expended, for operators of over-the-road bus service not described in paragraph (1), to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses.".

(b) CONFORMING AMENDMENT.—The item relating to section 3038 in the table of contents for the Transportation Equity Act for the 21st Century (Public Law 105-178) is amended to read as follows:

"Sec. 3038. Over-the-road bus accessibility program.".

SEC. 3041. ALTERNATIVE TRANSPORTATION IN PARKS AND PUBLIC LANDS.

(a) IN GENERAL.—Chapter 53 is amended by inserting after section 5315 the following:

"§ 5316. Alternative transportation in parks and public lands

"(a) IN GENERAL.—

"(1) AUTHORIZATION.—

"(A) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, may award a grant or enter into a contract, cooperative agreement, interagency agreement, intraagency agreement, or other transaction to carry out a qualified project under this section to enhance the protection of America's National Parks and public lands and increase the enjoyment of those visiting the parks and public lands by ensuring access to all, including persons with disabilities, improving conservation and park and public land opportunities in urban areas through partnering with state and local governments, and improving park and public land transportation infrastructure.

"(B) CONSULTATION WITH OTHER AGENCIES.—To the extent that projects are proposed or funded in eligible areas that are not within the jurisdiction of the Department of the Interior, the Secretary of the Interior shall consult with the heads of the relevant Federal land management agencies in carrying out the responsibilities under this section.

"(2) USE OF FUNDS.—A grant, cooperative agreement, interagency agreement, intraagency agreement, or other transaction for a qualified project under this section shall be available to finance the leasing of equipment and facilities for use in public transportation, subject to any regulation that the Secretary may prescribe limiting the grant or agreement to leasing arrangements that are more cost-effective than purchase or construction.

"(b) DEFINITIONS.—As used in this section, the following definitions shall apply:

"(1) ELIGIBLE AREA.—The term 'eligible area' means any federally owned or managed park, refuge, or recreational area that is open to the general public, including—

"(A) a unit of the National Park System;

"(B) a unit of the National Wildlife Refuge System;

"(C) a recreational area managed by the Bureau of Land Management; and

"(D) a recreation area managed by the Bureau of Reclamation.

"(2) FEDERAL LAND MANAGEMENT AGENCY.—The term 'Federal land management agency' means a Federal agency that manages an eligible area.

"(3) ALTERNATIVE TRANSPORTATION.—The term 'alternative transportation' means transportation by bus, rail, or any other publicly or privately owned conveyance that provides to the public general or special service on a regular basis, including sightseeing service.

"(4) QUALIFIED PARTICIPANT.—The term 'qualified participant' means—

"(A) a Federal land management agency; or

"(B) a State, tribal, or local governmental authority with jurisdiction over land in the vicinity of an eligible area acting with the consent of the Federal land management agency, alone or in partnership with a Federal land management agency or other Governmental or nongovernmental participant.

"(5) QUALIFIED PROJECT.—The term 'qualified project' means a planning or capital project in or in the vicinity of an eligible area that—

"(A) is an activity described in section 5302, 5303, 5304, 5308, or 5309(a)(1)(A);

"(B) involves—

"(i) the purchase of rolling stock that incorporates clean fuel technology or the replacement of buses of a type in use on the date of enactment of this section with clean fuel vehicles; or

"(ii) the deployment of alternative transportation vehicles that introduce innovative technologies or methods;

"(C) relates to the capital costs of coordinating the Federal land management agency public transportation systems with other public transportation systems;

"(D) provides a nonmotorized transportation system (including the provision of facilities for pedestrians, bicycles, and nonmotorized watercraft);

"(E) provides waterborne access within or in the vicinity of an eligible area, as appropriate to and consistent with this section; or

"(F) is any other alternative transportation project that—

"(i) enhances the environment;

"(ii) prevents or mitigates an adverse impact on a natural resource;

"(iii) improves Federal land management agency resource management;

"(iv) improves visitor mobility and accessibility and the visitor experience;

"(v) reduces congestion and pollution (including noise pollution and visual pollution); or

"(vi) conserves a natural, historical, or cultural resource (excluding rehabilitation or restoration of a non-transportation facility).

"(c) FEDERAL AGENCY COOPERATIVE ARRANGEMENTS.—The Secretary shall develop cooperative arrangements with the Secretary of the Interior that provide for—

"(1) technical assistance in alternative transportation;

"(2) interagency and multidisciplinary teams to develop Federal land management agency alternative transportation policy, procedures, and coordination; and

"(3) the development of procedures and criteria relating to the planning, selection, and funding of qualified projects and the implementation and oversight of the program of projects in accordance with this section.

"(d) LIMITATION ON USE OF AVAILABLE AMOUNTS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, may use not more than 10 percent of the amount made available for a fiscal year under section 5338(a)(2)(I) to carry out planning, research, and technical assistance under this section, including the development of technology appropriate for use in a qualified project.

"(2) ADDITIONAL AMOUNTS.—Amounts made available under this subsection are in addition to amounts otherwise available to the Secretary to carry out planning, research, and technical assistance under this title or any other provision of law.

"(3) MAXIMUM AMOUNT.—No qualified project shall receive more than 12 percent of the total amount made available to carry out this section under section 5338(a)(2)(I) for any fiscal year.

"(e) PLANNING PROCESS.—In undertaking a qualified project under this section,

"(1) if the qualified participant is a Federal land management agency—

"(A) the Secretary, in cooperation with the Secretary of the Interior, shall develop transportation planning procedures that are consistent with—

"(i) the metropolitan planning provisions under section 5303 of this title;

"(ii) the statewide planning provisions under section 5304 of this title; and

"(iii) the public participation requirements under section 5307(e); and

"(B) in the case of a qualified project that is at a unit of the National Park system, the planning process shall be consistent with the general management plans of the unit of the National Park system; and

"(2) if the qualified participant is a State or local governmental authority, or more than one State or local governmental authority in more than one State, the qualified participant shall—

"(A) comply with the metropolitan planning provisions under section 5303 of this title;

"(B) comply with the statewide planning provisions under section 5304 of this title;

"(C) comply with the public participation requirements under section 5307(e) of this title; and

"(D) consult with the appropriate Federal land management agency during the planning process.

"(f) COST SHARING.—

"(1) The Secretary, in cooperation with the Secretary of the Interior, shall establish the agency share of net project cost to be provided under this section to a qualified participant.

"(2) In establishing the agency share of net project cost to be provided under this section, the Secretary shall consider—

"(A) visitation levels and the revenue derived from user fees in the eligible area in which the qualified project is carried out;

"(B) the extent to which the qualified participant coordinates with a public transportation authority or private entity engaged in public transportation;

"(C) private investment in the qualified project, including the provision of contract services, joint development activities, and the use of innovative financing mechanisms;

"(D) the clear and direct benefit to the qualified participant; and

"(E) any other matters that the Secretary considers appropriate to carry out this section.

"(3) Notwithstanding any other provision of law, Federal funds appropriated to any Federal land management agency may be counted toward the non-agency share of the net project cost of a qualified project.

"(g) SELECTION OF QUALIFIED PROJECTS.—

"(1) The Secretary of the Interior, after consultation with and in cooperation with the Secretary, shall determine the final selection and funding of an annual program of qualified projects in accordance with this section.

"(2) In determining whether to include a project in the annual program of qualified projects, the Secretary of the Interior shall consider—

"(A) the justification for the qualified project, including the extent to which the qualified project would conserve resources, prevent or mitigate adverse impact, and enhance the environment;

"(B) the location of the qualified project, to ensure that the selected qualified projects—

"(i) are geographically diverse nationwide; and

"(ii) include qualified projects in eligible areas located in both urban areas and rural areas;

"(C) the size of the qualified project, to ensure that there is a balanced distribution;

"(D) the historical and cultural significance of a qualified project;

"(E) safety;

"(F) the extent to which the qualified project would-

"(i) enhance livable communities;

"(ii) reduce pollution (including noise pollution, air pollution, and visual pollution);

"(iii) reduce congestion; and

"(iv) improve the mobility of people in the most efficient manner; and

"(G) any other matters that the Secretary considers appropriate to carry out this section, including—

"(i) visitation levels;

"(ii) the use of innovative financing or joint development strategies; and

"(iii) coordination with gateway communities.

"(h) QUALIFIED PROJECTS CARRIED OUT IN ADVANCE.—

"(1) When a qualified participant carries out any part of a qualified project without assistance under this section in accordance with all applicable procedures and requirements, the Secretary, in consultation with the Secretary of the Interior, may pay the share of the net capital project cost of a qualified project if—

"(A) the qualified participant applies for the payment;

"(B) the Secretary approves the payment; and

"(C) before carrying out that part of the qualified project, the Secretary approves the plans and specifications in the same manner as plans and specifications are approved for other projects assisted under this section.

"(2)(A) The cost of carrying out part of a qualified project under paragraph (1) includes the amount of interest earned and payable on bonds issued by a State or local governmental authority, to the extent that proceeds of the bond are expended in carrying out that part.

"(B) The rate of interest under this paragraph may not exceed the most favorable rate reasonably available for the qualified project at the time of borrowing.

"(C) The qualified participant shall certify, in a manner satisfactory to the Secretary, that the qualified participant has exercised reasonable diligence in seeking the most favorable interest rate.

"(i) RELATIONSHIP TO OTHER LAWS.—

"(1) SECTION 5307.—A qualified participant under this section shall be subject to the requirements of sections 5307 and 5333(a) to the extent the Secretary determines to be appropriate.

"(2) OTHER REQUIREMENTS.—A qualified participant under this section is subject to any other terms, conditions, requirements, and provisions that the Secretary determines to be appropriate to carry out this section, including requirements for the distribution of proceeds on disposition of real property and equipment resulting from a qualified project assisted under this section.

"(3) PROJECT MANAGEMENT PLAN.—If the amount of assistance anticipated to be required for a qualified project under this section is not less than $25,000,000—

"(A) the qualified project shall, to the extent the Secretary considers appropriate, be carried out through a full funding grant agreement, in accordance with section 5309(g); and

"(B) the qualified participant shall prepare a project management plan in accordance with section 5327(a).

"(i) ASSET MANAGEMENT.—The Secretary, in consultation with the Secretary of the Interior, may transfer the interest of the Department of Transportation in, and control over, all facilities and equipment acquired under this section to a qualified participant for use and disposition in accordance with any property management regulations that the Secretary determines to be appropriate.

"(j) COORDINATION OF RESEARCH AND DEPLOYMENT OF NEW TECHNOLOGIES.—

"(1) The Secretary, in cooperation with the Secretary of the Interior, may undertake, or make grants, cooperative agreements, contracts (including agreements with departments, agencies, and instrumentalities of the Federal Government) or other transactions for research, development, and deployment of new technologies in eligible areas that will—

"(A) conserve resources;

"(B) prevent or mitigate adverse environmental impact;

"(C) improve visitor mobility, accessibility, and enjoyment; and

"(D) reduce pollution (including noise pollution and visual pollution).

"(2) The Secretary may request and receive appropriate information from any source.

"(3) Grants, cooperative agreements, contracts or other transactions under paragraph (1) shall be awarded from amounts allocated under subsection (c)(1).

"(k) INNOVATIVE FINANCING.—A qualified project receiving financial assistance under this section shall be eligible for funding through a state infrastructure bank or other innovative financing mechanism available to finance an eligible project under this chapter.

"(l) REPORTS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, shall annually submit a report on the allocation of amounts made available to assist qualified projects under this section to—

"(A) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

"(B) the Committee on Transportation and Infrastructure of the House of Representatives.

"(2) ANNUAL AND SUPPLEMENTAL REPORTS.—The report required under paragraph (1) shall be included in the report submitted under section 5309(m).".

(b) CONFORMING AMENDMENTS.—The table of sections for chapter 53 is amended by inserting after the item relating to section 5315 the following:

"5316. Alternative transportation in parks and public lands.".

SEC. 3042. OBLIGATION CEILING.

Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Mass Transit Account of the Highway Trust Fund by, and amounts appropriated under, subsections (a) through (c) of section 5338 of title 49, United States Code, shall not exceed—

(1) $7,265,876,900 for fiscal year 2004;

(2) $8,650,000,000 for fiscal year 2005;

(3) $9,085,123,000 for fiscal year 2006;

(4) $9,600,000,000 for fiscal year 2007;

(5) $10,490,000,000 for fiscal year 2008; and

(6) $11,430,000,000 for fiscal year 2009.

SEC. 3043. ADJUSTMENTS FOR THE SURFACE TRANSPORTATION EXTENSION ACT OF 2003.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall reduce the total apportionments and allocations made for fiscal year 2004 to each grant recipient under section 5338 of title 49, United States Code, by the amount apportioned to that recipient pursuant to section 8 of the Surface Transportation Extension Act of 2003 (117 Stat. 1121).

(b) FIXED GUIDEWAY MODERNIZATION ADJUSTMENT.—In making the apportionments described in subsection (a), the Secretary shall adjust the amount apportioned for fiscal year 2004 to each urbanized area for fixed guideway modernization to reflect the apportionment method set forth in 5337(a) of title 49, United States Code.

SEC. 3044. DISADVANTAGED BUSINESS ENTERPRISE.

Section 1101(b) of the Transportation Equity Act of the 21st Century shall apply to all funds authorized or otherwise made available under this title.

SEC. 3045. INTERMODAL PASSENGER FACILITIES.

(a) IN GENERAL.—Chapter 55 of title 49, United States Code, is amended by adding at the end the following:

"SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

§ 5571. Policy and purposes

"(a) DEVELOPMENT AND ENHANCEMENT OF INTERMODAL PASSENGER FACILITIES.—It is in the economic interest of the United States to improve the efficiency of public surface transportation modes by ensuring their connection with and access to intermodal passenger terminals, thereby streamlining the transfer of passengers among modes, enhancing travel options, and increasing passenger transportation operating efficiencies.

"(b) GENERAL PURPOSES.—The purposes of this subchapter are to accelerate intermodal integration among North America's passenger transportation modes through—

"(1) ensuring intercity public transportation access to intermodal passenger facilities;

"(2) encouraging the development of an integrated system of public transportation information; and

"(3) providing intercity bus intermodal passenger facility grants.

§ 5572. Definitions

"In this subchapter—

"(1) 'capital project' means a project for—

"(A) acquiring, constructing, improving, or renovating an intermodal facility that is related physically and functionally to intercity bus service and establishes or enhances coordination between intercity bus service and transportation, including aviation, commuter rail, intercity rail, public transportation, seaports, and the National Highway System, such as physical infrastructure associated with private bus operations at existing and new intermodal facilities, including special lanes, curb cuts, ticket kiosks and counters, baggage and package express storage, employee parking, office space, security, and signage; and

"(B) establishing or enhancing coordination between intercity bus service and transportation, including aviation, commuter rail, intercity rail, public transportation, and the National Highway System through an integrated system of public transportation information.

"(2) 'commuter service' means service designed primarily to provide daily work trips within the local commuting area.

"(3) 'intercity bus service' means regularly scheduled bus service for the general public which operates with limited stops over fixed routes connecting two or more urban areas not in close proximity, which has the capacity for transporting baggage carried by passengers, and which makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available and may include package express service, if incidental to passenger transportation, but does not include air, commuter, water or rail service.

"(4) 'intermodal passenger facility' means passenger terminal that does, or can be modified to, accommodate several modes of transportation and related facilities, including some or all of the following: intercity rail, intercity bus, commuter rail, intracity rail transit and bus transportation, airport limousine service and airline ticket offices, rent-a-car facilities, taxis, private parking, and other transportation services.

"(5) 'local governmental authority' includes—

"(A) a political subdivision of a State;

"(B) an authority of at least one State or political subdivision of a State;

"(C) an Indian tribe; and

"(D) a public corporation, board, or commission established under the laws of the State.

"(6) 'owner or operator of a public transportation facility' means an owner or operator of intercity-rail, intercity-bus, commuter-rail, commuter-bus, rail-transit, bus-transit, or ferry services.

"(7) 'recipient' means a State or local governmental authority or a nonprofit organization that receives a grant to carry out this section directly from the Federal government.

"(8) 'Secretary' means the Secretary of Transportation.

"(9) 'State' means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

"(10) 'urban area' means an area that includes a municipality or other built-up place that the Secretary, after considering local patterns and trends of urban growth, decides is appropriate for a local public transportation system to serve individuals in the locality.

"§ 5573. Assurance of access to intermodal passenger facilities

"Intercity buses and other modes of transportation shall, to the maximum extent practicable, have access to publicly funded intermodal passenger facilities, including those passenger facilities seeking funding under section 5574.

"§ 5574. Intercity bus intermodal passenger facility grants

"(a) GENERAL AUTHORITY.—The Secretary of Transportation may make grants under this section to recipients in financing a capital project only if the Secretary finds that the proposed project is justified and has adequate financial commitment.

"(b) COMPETITIVE GRANT SELECTION.—The Secretary shall conduct a national solicitation for applications for grants under this section. Grantees shall be selected on a competitive basis.

"(c) SHARE OF NET PROJECT COSTS.—A grant shall not exceed 50 percent of the net project cost, as determined by the Secretary.

"(d) REGULATIONS.—The Secretary may promulgate such regulations as are necessary to carry out this section.

"§ 5575. Funding

"(a) HIGHWAY ACCOUNT.—

"(1) There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter $10,000,000 for each of fiscal years 2005 through 2009.

"(2) The funding made available under paragraph (1) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23 and shall be subject to any obligation limitation imposed on funds for Federal-aid highways and highway safety construction programs.

"(b) PERIOD OF AVAILABILITY.—Amounts made available under subsection (a) shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 55 of title 49, United States Code, is amended by adding at the end the following:

"SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

Sec.
"5571. Policy and Purposes.
"5572. Definitions.
"5573. Assurance of access to intermodal facilities.
"5574. Intercity bus intermodal facility grants.
"5575. Funding.".

TITLE IV—SURFACE TRANSPORTATION SAFETY

SEC. 4001. SHORT TITLE.

This title may be cited as the "Surface Transportation Safety Reauthorization Act of 2004".

Subtitle A—Highway Safety

PART I—HIGHWAY SAFETY GRANT PROGRAM

SEC. 4101. SHORT TITLE; AMENDMENT OF TITLE 23, UNITED STATES CODE.

(a) SHORT TITLE.—This subpart may be cited as the "Highway Safety Grant Program Reauthorization Act of 2004".

(b) AMENDMENT OF TITLE 23, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this subpart an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 23, United States Code.

SEC. 4102. AUTHORIZATION OF APPROPRIATIONS.

(a) AMOUNTS FOR FISCAL YEARS 2004 THROUGH 2009.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to the Secretary of Transportation for the National Highway Traffic Safety Administration the following:

(1) To carry out the Highway Safety Programs under section 402 of title 23, United States Code, $170,000,000 in fiscal year 2004, $174,000,000 in fiscal year 2005, $179,000,000 in fiscal year 2006, $185,000,000 in fiscal year 2007, $204,000,000 in fiscal year 2008, and $207,000,000 in fiscal year 2009.

(2) To carry out the Highway Safety Research and Outreach Programs under section 403 of title 23, United States Code, $110,000,000 in fiscal year 2004, $112,000,000 in fiscal year 2005, $114,000,000 in fiscal year 2006, $116,000,000 in fiscal year 2007, $118,000,000 in fiscal year 2008, and $120,000,000 in fiscal year 2009.

(3) To carry out the Occupant Protection Programs under section 405 of title 23, United States Code, $120,000,000 in fiscal year 2004, $122,000,000 in fiscal year 2005, $124,000,000 in fiscal year 2006, $126,000,000 in fiscal year 2007, $128,000,000 in fiscal year 2008, and $130,000,000 in fiscal year 2009.

(4) To carry out the Emergency Medical Services Program under section 407A of title 23, United States Code, $5,000,000 in each of fiscal years 2004 through 2009.

(5) To carry out the Impaired Driving Program under section 410 of title 23, United States Code, $85,000,000 in fiscal year 2004, $89,000,000 in fiscal year 2005, $93,000,000 in fiscal year 2006, $110,000,000 in fiscal year 2007, $126,000,000 in fiscal year 2008, and $130,000,000 in fiscal year 2009.

(6) To carry out the State Traffic Safety Information System Improvements under section 412 of title 23, United States Code, $45,000,000 in each of fiscal years 2004 through 2009.

(7) To carry out chapter 303 of title 49, United States Code, $4,000,000 for each of fiscal years 2004 through 2009.

(b) PROHIBITION ON OTHER USES.—Except as otherwise provided in this subtitle, the amounts allocated from the Highway Trust Fund for programs provided for in chapter 4 of title 23, United States Code, shall only be used for such programs and may not be used by States or local governments for construction purposes.

(c) EFFECT OF REVENUE DEFICIENCY.—If revenue to the Highway Trust Fund for a given fiscal year is lower than the amounts authorized by this subpart, any subsequent reductions in the overall funding for highway and transit programs shall not affect the highway safety programs provided for in chapter 4 of title 23, United States Code.

(d) PROPORTIONAL INCREASES.—For each fiscal year from 2004 through 2009, if revenue to the Highway Trust Fund increases above the amounts for each such fiscal year set forth in the fiscal year 2004 joint budget resolution, then the amounts made available in such year for the programs in sections 402, 405, and 410 shall increase by the same percentage.

SEC. 4103. HIGHWAY SAFETY PROGRAMS.

(a) PROGRAMS TO BE INCLUDED.—

(1) MOTOR VEHICLE AIRBAGS PUBLIC AWARENESS.—Section 402(a)(2) is amended by striking "vehicles and to increase public awareness of the benefit of motor vehicles equipped with airbags" and inserting "vehicles,".

(2) AGRESSIVE DRIVING.—Section 402(a) is further amended—

(A) by redesignating clause (6) as clause (8);

(B) by inserting after "involving school buses," at the end of clause (5) the following: "(6) to reduce aggressive driving and to educate drivers about defensive driving, (7) to reduce accidents resulting from fatigued and distracted drivers, including distractions arising from the use of electronic devices in vehicles,"; and

(C) by inserting "aggressive driving, distracted driving," after "school bus accidents,".

(b) APPORTIONMENT.—

(1) TRIBAL GOVERNMENT PROGRAMS.—Section 402(c) is amended by striking "three-fourths of 1 percent" and inserting "2 percent".

(c) EXTRA FUNDING FOR OCCUPANT PROTECTION AND IMPAIRED DRIVING PROGRAMS.—Section 402 is amended by inserting after subsection (g) the following:

"(h) GRANTS.—Funds available to States under this section may be used for making grants of financial assistance for programs and initiatives authorized by sections 405 and 410 of this title.".

(d) LAW ENFORCEMENT CHASE TRAINING.—Section 402 is amended by adding at the end the following:

"(l) LIMITATION RELATING TO LAW ENFORCEMENT VEHICULAR PURSUIT TRAINING.—No State may receive any funds available for fiscal years after fiscal year 2004 for programs under this chapter until the State submits to the Secretary a written statement that the State actively encourages all relevant law enforcement agencies in that State to follow the guidelines established for police chases issued by the International Association of Chiefs of Police that are in effect on the date of enactment of the Highway Safety Grant Program Reauthorization Act of 2004, or as revised and in effect after that date as determined by the Secretary.

"(m) CONSOLIDATION OF GRANT APPLICATIONS.—The Secretary shall establish an approval process by which a State may apply for all grants included under this chapter through a single application with a single annual deadline. The Bureau of Indian Affairs shall establish a similarly simplified process for applications from Indian tribes.

"(n) ADMINISTRATIVE EXPENSES.—Funds authorized to be appropriated to carry out this section shall be subject to a deduction of not to exceed 5 percent for the necessary costs of administering the provisions of this section, section 405, section 407A, section 410, and 413 of this chapter.".

SEC. 4104. HIGHWAY SAFETY RESEARCH AND OUTREACH PROGRAMS.

(a) REVISED AUTHORITY AND REQUIREMENTS.—Section 403 is amended to read as follows:

"§ 403. Highway safety research and development

"(a) AUTHORITY OF THE SECRETARY.—The Secretary is authorized to use funds appropriated to carry out this section to—

"(1) conduct research on all phases of highway safety and traffic conditions, including accident causation, highway or driver characteristics, communications, and emergency care;

"(2) conduct ongoing research into driver behavior and its effect on traffic safety;

"(3) conduct research on, and launch initiatives to counter, fatigued driving by drivers of motor vehicles and distracted driving in such vehicles, including the effect that the use of electronic devices and other factors deemed relevant by the Secretary have on driving;

"(4) conduct training or education programs in cooperation with other Federal departments and agencies, States, private sector persons, highway safety personnel, and law enforcement personnel;

"(5) conduct research on, and evaluate the effectiveness of, traffic safety countermeasures, including seat belts and impaired driving initiatives; and

"(6) conduct demonstration projects.

"(b) SPECIFIC RESEARCH PROGRAMS.—

"(1) REQUIRED PROGRAMS.—The Secretary shall conduct research on the following:

"(A) EFFECTS OF USE OF CONTROLLED SUBSTANCES.—A study on the effects of the use of controlled substances on driver behavior to determine—

"(i) methodologies for measuring driver impairment resulting from use of the most common controlled substances (including the use of such substances in combination with alcohol); and

"(ii) effective and efficient methods for training law enforcement personnel to detect or measure the level of impairment of a driver who is under the influence of a controlled substance by the use of technology or otherwise.

“(B) ON-SCENE MOTOR VEHICLE COLLISION CAUSATION.—A nationally representative study to collect on-scene motor vehicle collision data, and to determine crash causation, for which the Secretary shall enter into a contract with the National Academy of Sciences to conduct a review of the research, design, methodology, and implementation of the study.

“(C) TOLL FACILITIES WORKPLACE SAFETY.—A study on the safety of highway toll collection facilities, including toll booths, conducted in cooperation with State and local highway safety organizations to determine the safety of highway toll collection facilities for the toll collectors who work in and around such facilities and to develop best practices that would be of benefit to State and local highway safety organizations. The study shall consider—

“(i) any problems resulting from design or construction of facilities that contribute to the occurrence of vehicle collisions with the facilities;

“(ii) the safety of crosswalks used by toll collectors in transit to and from toll booths;

“(iii) the extent of the enforcement of speed limits at and in the vicinity of toll facilities;

“(iv) the use of warning devices, such as vibration and rumble strips, to alert drivers approaching toll facilities;

“(v) the use of cameras to record traffic violations in the vicinity of toll facilities;

“(vi) the use of traffic control arms in the vicinity of toll facilities;

“(vii) law enforcement practices and jurisdictional issues that affect safety at and in the vicinity of toll facilities; and

“(viii) data (which shall be collected in conducting the research) regarding the incidence of accidents and injuries at and around toll booth facilities.

“(2) TIME FOR COMPLETION OF STUDIES.—The studies conducted in subparagraphs (A), (B), and (C) of paragraph (1) may be conducted in concert with other Federal departments and agencies with relevant expertise. The Secretary shall submit an annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the progress of each study conducted under this subsection.

“(3) ONGOING STUDIES.—The studies under subparagraphs (A) and (B) of paragraph (1) shall be conducted on an ongoing basis.

“(4) REPORTS.—

“(A) ONE-TIME STUDY.—Not later than 2 years after the date of enactment of the Highway Safety Grant Program Reauthorization Act of 2004, the Secretary shall submit a final report on the study referred to in paragraph (1)(C) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

“(B) ONGOING STUDIES.—The Secretary shall submit a report on the studies referred to in paragraph (3) to the Committees of Congress referred to in subparagraph (A) not later than December 31, 2005, and shall submit additional reports on such studies to such committees every 2 years. Such additional reports shall contain the findings, progress, remaining challenges, research objectives, and other relevant data relating to the ongoing studies.

“(5) RESEARCH ON DISTRACTED, INATTENTIVE, AND FATIGUED DRIVERS.—In conducting research under subsection (a)(3), the Secretary shall carry out not less than 5 demonstration projects to evaluate new and innovative means of combatting traffic system problems caused by distracted, inattentive, or fatigued drivers. The demonstration projects shall be in addition to any other research carried out under this subsection.

“(c) NATIONWIDE TRAFFIC SAFETY CAMPAIGNS.—

“(1) REQUIREMENT FOR CAMPAIGNS.—The Administrator of the National Highway Traffic Safety Administration shall establish and administer a program under which 3 high-visibility traffic safety law enforcement campaigns will be carried out for the purposes specified in paragraph (2) in each of years 2004 through 2009.

“(2) PURPOSE.—The purpose of each law enforcement campaign is to achieve either or both of the following objectives:

“(A) Reduce alcohol-impaired or drug-impaired operation of motor vehicles.

“(B) Increase use of seat belts by occupants of motor vehicles.

“(3) ADVERTISING.—The Administrator may use, or authorize the use of, funds available under this section to pay for the development, production, and use of broadcast and print media advertising in carrying out traffic safety law enforcement campaigns under this subsection. Consideration shall be given to advertising directed at non-English speaking populations, including those who listen, read, or watch nontraditional media.

“(4) COORDINATION WITH STATES.—The Administrator shall coordinate with the States in carrying out the traffic safety law enforcement campaigns under this subsection, including advertising funded under paragraph (3), with a view to—

“(A) relying on States to provide the law enforcement resources for the campaigns out of funding available under this section and sections 402, 405, and 410 of this title; and

“(B) providing out of National Highway Traffic Safety Administration resources most of the means necessary for national advertising and education efforts associated with the law enforcement campaigns.

“(5) ANNUAL EVALUATION.—The Secretary shall conduct an annual evaluation of the effectiveness of such initiatives.

“(6) FUNDING.—The Secretary shall use $24,000,000 in each of fiscal years 2004 through 2009 for advertising and educational initiatives to be carried out nationwide in support of the campaigns under this section.

“(d) IMPROVING OLDER DRIVER SAFETY.—

“(1) IN GENERAL.—Of the funds made available under this section, the Secretary shall allocate $2,000,000 in each of fiscal years 2004 through 2009 to conduct a comprehensive research and demonstration program to improve traffic safety pertaining to older drivers. The program shall—

“(A) provide information and guidelines to assist physicians and other related medical personnel, families, licensing agencies, enforcement officers, and various public and transit agencies in enhancing the safety and mobility of older drivers;

“(B) improve the scientific basis of medical standards and screenings strategies used in the licensing of all drivers in a non-discriminatory manner;

“(C) conduct field tests to assess the safety benefits and mobility impacts of different driver licensing strategies and driver assessment and rehabilitation methods;

“(D) assess the value and improve the safety potential of driver retraining courses of particular benefit to older drivers; and

“(E) conduct other activities to accomplish the objectives of this action.

“(2) FORMULATION OF PLAN.—After consultation with affected parties, the Secretary shall formulate an older driver traffic safety plan to guide the design and implementation of this program. The plan shall be submitted to the House of Representatives Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation within 180 days after the date of enactment of the Highway Safety Grant Program Reauthorization Act of 2004.

“(e) LAW ENFORCEMENT TRAINING.—

“(1) REQUIREMENT FOR PROGRAM.—The Administrator of the National Highway Traffic Safety Administration shall carry out a program to train law enforcement personnel of each State and political subdivision thereof in police chase techniques that are consistent with the police chase guidelines issued by the International Association of Chiefs of Police.

“(2) AMOUNT FOR PROGRAM.—Of the amount available for a fiscal year to carry out this section, $200,000 shall be available for carrying out this subsection.

“(f) INTERNATIONAL COOPERATION.—

“(1) AUTHORITY.—The Administrator of the National Highway Traffic Safety Administration may participate and cooperate in international activities to enhance highway safety.

“(2) AMOUNT FOR PROGRAM.—Of the amount available for a fiscal year to carry out this section, $200,000 may be used for activities authorized under paragraph (1).”.

(b) STUDY ON REFUSAL OF INTOXICATION TESTING.—

(1) REQUIREMENT FOR STUDY.—In addition to studies under section 403 of title 23, United States Code, the Secretary of Transportation shall carry out a study of the frequency with which persons arrested for the offense of operating a motor vehicle under the influence of alcohol and persons arrested for the offense of operating a motor vehicle while intoxicated refuse to take a test to determine blood alcohol concentration levels and the effect such refusals have on the ability of States to prosecute such persons for those offenses.

(2) CONSULTATION.—In carrying out the study under this section, the Secretary shall consult with the Governors of the States, the States' Attorneys General, and the United States Sentencing Commission.

(3) REPORT.—

(A) REQUIREMENT FOR REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report on the results of the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(B) CONTENT.—The report shall include any recommendation for legislation, including any recommended model State legislation, and any other recommendations that the Secretary considers appropriate for implementing a program designed to decrease the occurrence refusals by arrested persons to submit to a test to determine blood alcohol concentration levels.

SEC. 4105. NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE TECHNICAL CORRECTION.

Section 404(d) is amended by striking “Commerce” and inserting “Transportation”.

SEC. 4106. OCCUPANT PROTECTION GRANTS.

Section 405 is amended—

(1) by striking the second sentence of subsection (a)(1);

(2) by striking "Transportation Equity Act for the 21st Century." in subsection (a)(2) and inserting "Highway Safety Grant Program Reauthorization Act of 2004.";

(3) by striking subsections (a)(3) and (4), (b), (c), and (d) and redesignating subsections (e) and (f) as subsections (d) and (e), respectively; and

(4) by inserting after subsection (a) the following:

"(b) OCCUPANT PROTECTION GRANTS.—

"(1) IN GENERAL.—In addition to the grants authorized by subsection (a), the Secretary shall make grants in accordance with this subsection.

"(2) SAFETY BELT PERFORMANCE GRANTS.—

"(A) PRIMARY SAFETY BELT USE LAW.—

"(i) For fiscal years 2004 and 2005, the Secretary shall make a grant to each State that enacted, and is enforcing, a primary safety belt use law for all passenger motor vehicles that became effective by December 31, 2002.

"(ii) For each of fiscal years 2004 through 2009, the Secretary shall, after making grants under clause (i) of this subparagraph, make a one-time grant to each State that either enacts for the first time after December 31, 2002, and has in effect a primary safety belt use law for all passenger motor vehicles, or, in the case of a State that does not have such a primary safety belt use law, has a State safety belt use rate in the preceding fiscal year of at least 90 percent, as measured under criteria determined by the Secretary.

"(iii) Of the funds authorized for grants under this subsection, $100,000,000 in each of fiscal years 2004 through 2009 shall be available for grants under this paragraph. The amount of a grant available to a State in each of fiscal years 2004 and 2005 under clause (i) of this subparagraph shall be equal to ½ of the amount of funds apportioned to the State under section 402(c) for fiscal year 2003. The amount of a grant available to a State in fiscal year 2004 or in a subsequent fiscal year under clause (ii) of this subparagraph shall be equal to 5 times the amount apportioned to the State for fiscal year 2003 under section 402(c). A State that receives a grant under clause (ii) of this subparagraph is ineligible to receive funding under subparagraph (B) for that fiscal year and the following fiscal year. The Federal share payable for grants under this subparagraph shall be 100 percent. If the total amount of grants under clause (ii) of this subparagraph for a fiscal year exceeds the amount of funds available in the fiscal year, grants shall be made to each eligible State, in the order in which its primary safety belt use law became effective or its safety belt use rate reached 90 percent, until the funds for the fiscal year are exhausted. A State that does not receive a grant for which it is eligible in a fiscal year shall receive the grant in the succeeding fiscal year so long as its law remains in effect or its safety belt use rate remains at or above 90 percent. If the total amount of grants under this subparagraph for a fiscal year is less than the amount available in the fiscal year, the Secretary shall use any funds that exceed the total amount for grants under subparagraph (B) of this paragraph.

"(B) SAFETY BELT USE RATE.—

"(i) For each fiscal year, from 2004 through 2009, the funds authorized for a grant under this subparagraph shall be awarded to States that increase their measured safety belt use rate, as determined by the Secretary, by decreasing the proportion of non-users of safety belts by 10 percent, as compared to the proportion of non-users, in the preceding fiscal year.

"(ii) Each State that meets the requirement of clause (i) of this subparagraph shall be apportioned an amount of funds that is equal to the amount available under this subparagraph for the relevant fiscal year multiplied by the ratio that the funds apportioned to the State under section 402 for such fiscal year bear to the funds apportioned under section 402 for such fiscal year to all states that qualify for a grant for such fiscal year.

"(iii) Of the funds authorized for grants under this subsection, $20,000,000 for fiscal year 2004, $22,000,000 for fiscal year 2005, $24,000,000 for fiscal year 2006, $26,000,000 for fiscal year 2007, $28,000,000 for fiscal year 2008, and $30,000,000 for fiscal year 2009 shall be available for safety belt use rate grants under this subparagraph.

"(iv) The Federal share payable for grants under this subparagraph shall be 100 percent.

"(c) USE OF GRANTS.—A State allocated an amount for a grant under subparagraph (A) or (B) of subsection (b)(2) may use the amount for activities eligible for assistance under sections 402, 405, and 410 of this title.".

SEC. 4107. SCHOOL BUS DRIVER TRAINING.

Section 406(c) is amended by striking the first, second, and third sentences.

SEC. 4108. EMERGENCY MEDICAL SERVICES.

(a) FEDERAL COORDINATION AND ENHANCED SUPPORT OF EMERGENCY MEDICAL SERVICES.—Chapter 4 is amended by inserting after section 407 the following:

"§ 407A. Federal coordination and enhanced support of emergency medical services

"(a) FEDERAL INTERAGENCY COMMITTEE ON EMERGENCY MEDICAL SERVICES.—

"(1) ESTABLISHMENT.—The Secretary of Transportation and the Secretary of Homeland Security, through the Under Secretary for Emergency Preparedness and Response, shall establish a Federal Interagency Committee on Emergency Medical Services. In establishing the Interagency Committee, the Secretary of Transportation and the Secretary of Homeland Security through the Under Secretary for Emergency Preparedness and Response shall consult with the Secretary of Health and Human Services.

"(2) MEMBERSHIP.—The Interagency Committee shall consist of the following officials, or their designees:

"(A) The Administrator, National Highway Traffic Safety Administration.

"(B) The Director, Preparedness Division, Emergency Preparedness and Response Directorate, Department of Homeland Security.

"(C) The Administrator, Health Resources and Services Administration, Department of Health and Human Services.

"(D) The Director, Centers for Disease Control and Prevention, Department of Health and Human Services.

"(E) The Administrator, United States Fire Administration, Emergency Preparedness and Response Directorate, Department of Homeland Security.

"(F) The Director, Center for Medicare and Medicaid Services, Department of Health and Human Services.

"(G) The Undersecretary of Defense for Personnel and Readiness.

"(H) The Director, Indian Health Service, Department of Health and Human Services.

"(I) The Chief, Wireless Telecom Bureau, Federal Communications Commission.

"(J) A representative of any other Federal agency identified by the Secretary of Transportation or the Secretary of Homeland Security through the Under Secretary for Emergency Preparedness and Response, in consultation with the Secretary of Health and Human Services, as having a significant role in relation to the purposes of the Interagency Committee.

"(3) PURPOSES.—The purposes of the Interagency Committee are as follows:

"(A) To ensure coordination among the Federal agencies involved with State, local, tribal, or regional emergency medical services and 9–1–1 systems.

"(B) To identify State, local, tribal, or regional emergency medical services and 9–1–1 needs.

"(C) To recommend new or expanded programs, including grant programs, for improving State, local, tribal, or regional emergency medical services and implementing improved emergency medical services communications technologies, including wireless 9–1–1.

"(D) To identify ways to streamline the process through which Federal agencies support State, local, tribal or regional emergency medical services.

"(E) To assist State, local, tribal or regional emergency medical services in setting priorities based on identified needs.

"(F) To advise, consult, and make recommendations on matters relating to the implementation of the coordinated State emergency medical services programs.

"(4) ADMINISTRATION.—The Administrator of the National Highway Traffic Safety Administration, in cooperation with the Director, Preparedness Division, Emergency Preparedness and Response Directorate, Department of Homeland Security, shall provide administrative support to the Interagency Committee, including scheduling meetings, setting agendas, keeping minutes and records, and producing reports.

"(5) LEADERSHIP.—The members of the Interagency Committee shall select a chairperson of the Committee annually.

"(6) MEETINGS.—The Interagency Committee shall meet as frequently as is determined necessary by the chairperson of the Committee.

"(7) ANNUAL REPORTS.—The Interagency Committee shall prepare an annual report to Congress on the Committee's activities, actions, and recommendations.

"(b) COORDINATED NATIONWIDE EMERGENCY MEDICAL SERVICES PROGRAM.—

"(1) PROGRAM REQUIREMENT.—The Secretary of Transportation, acting through the Administrator of the National Highway Traffic Safety Administration, shall coordinate with officials of other Federal departments and agencies, and may assist State and local governments and emergency medical services organizations (whether or not a firefighter organization), private industry, and other interested parties, to ensure the development and implementation of a coordinated nationwide emergency medical services program that is designed to strengthen transportation safety and public health and to implement improved emergency medical services communication systems, including 9–1–1.

"(2) COORDINATED STATE EMERGENCY MEDICAL SERVICES PROGRAM.—Each State shall establish a program, to be approved by the Secretary, to coordinate the emergency medical services and resources deployed throughout the State, so as to ensure—

"(A) improved emergency medical services communication systems, including 9–1–1;

"(B) utilization of established best practices in system design and operations;

"(C) implementation of quality assurance programs; and

"(D) incorporation of data collection and analysis programs that facilitate system development and data linkages with other systems and programs useful to emergency medical services.

"(3) ADMINISTRATION OF STATE PROGRAMS.—The Secretary may not approve a coordinated State emergency medical services program under this subsection unless the program—

"(A) provides that the Governor of the State is responsible for its administration through a State office of emergency medical services that has adequate powers and is suitably equipped and organized to carry out such program and coordinates such program with the highway safety office of the State; and

"(B) authorizes political subdivisions of the State to participate in and receive funds under such program, consistent with a goal of achieving statewide coordination of emergency medical services and 9–1–1 activities.

"(4) FUNDING.—

"(A) USE OF FUNDS.—Funds authorized to be appropriated to carry out this subsection shall be used to aid the States in conducting coordinated emergency medical services and 9–1–1 programs as described in paragraph (2).

"(B) APPORTIONMENT.—

"(i) APPORTIONMENT FORMULA.—The funds shall be apportioned as follows: 75 percent in the ratio that the population of each State bears to the total population of all the States, as shown by the latest available Federal census, and 25 percent in the ratio that the public road mileage in each State bears to the total public road mileage in all States. For the purpose of this subparagraph, a 'public road' means any road under the jurisdiction of and maintained by a public authority and open to public travel. Public road mileage as used in this subsection shall be determined as of the end of the calendar year prior to the year in which the funds are apportioned and shall be certified by the Governor of the State and subject to approval by the Secretary.

"(ii) MINIMUM APPORTIONMENT.—The annual apportionment to each State shall not be less than ½ of 1 percent of the total apportionment, except that the apportionment to the Secretary of the Interior on behalf of Indian tribes shall not be less than ¾ of 1 percent of the total apportionment, and the apportionments to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not be less than ¼ of 1 percent of the total apportionment.

"(5) APPLICABILITY OF CHAPTER 1.—Section 402(d) of this title shall apply in the administration of this subsection.

"(6) FEDERAL SHARE.—The Federal share of the cost of a project or program funded under this subsection shall be 80 percent.

"(7) APPLICATION IN INDIAN COUNTRY.—

"(A) USE OF TERMS.—For the purpose of application of this subsection in Indian country, the terms 'State' and 'Governor of the State' include the Secretary of the Interior and the term 'political subdivisions of the State' includes an Indian tribe.

"(B) INDIAN COUNTRY DEFINED.—In this subsection, the term 'Indian country' means—

"(i) all land within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent and including rights-of-way running through the reservation;

"(ii) all dependent Indian communities within the borders of the United States, whether within the original or subsequently acquired territory thereof and whether within or without the limits of a State; and

"(iii) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.

"(c) STATE DEFINED.—In this section, the term 'State' means each of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Secretary of the Interior on behalf of Indian tribes.

"(d) CONSTRUCTION WITH RESPECT TO DISTRICT OF COLUMBIA.—In the administration of this section with respect to the District of Columbia, a reference in this section to the Governor of a State shall refer to the Mayor of the District of Columbia.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 4 is amended by inserting after the item relating to section 407 the following:

"407A. Federal coordination and enhanced support of emergency medical services.".

SEC. 4109. REPEAL OF AUTHORITY FOR ALCOHOL TRAFFIC SAFETY PROGRAMS.

(a) REPEAL.—Section 408 is repealed.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 4 is amended by striking the item relating to section 408.

SEC. 4110. IMPAIRED DRIVING PROGRAM.

(a) MAINTENANCE OF EFFORT.—Section 410(a)(2) is amended by striking "the Transportation Equity Act for the 21st Century" and inserting "the Highway Safety Grant Program Reauthorization Act of 2004".

(b) REVISED GRANT AUTHORITY.—Section 410 is amended—

(1) by striking paragraph (3) of subsection (a) and redesignating paragraph (4) as paragraph (3); and.

(2) by striking subsections (b) through (f) and inserting the following:

"(b) PROGRAM-RELATED ELIGIBILITY REQUIREMENTS.—To be eligible for a grant under this section, a State shall—

"(1) carry out each of the programs and activities required under subsection (c);

"(2) comply with the additional requirements set forth in subsection (d) with respect to such programs and activities; and

"(3) comply with any additional requirements of the Secretary.

"(c) REQUIRED STATE PROGRAMS AND ACTIVITIES.—For the purpose of subsection (b)(1), a State must meet the requirements of 4 of the following 6 criteria in order to receive a grant under this section:

"(1) CHECK-POINT, SATURATION PATROL PROGRAM.—

"(A) A State program to conduct of a series of high-visibility, Statewide law enforcement campaigns in which law enforcement personnel monitor for impaired driving, either through use of check-points or saturation patrols, on a nondiscriminatory, lawful basis for the purpose of determining whether the operators of the motor vehicles are driving while under the influence of alcohol or controlled substances that meets the requirements of subparagraphs (B) and (C).

"(B) A program meets the requirements of this subparagraph only if a State organizes the campaigns in cooperation with related national campaigns organized by the National Highway Traffic Safety Administration, but this subparagraph does not preclude a State from initiating high-visibility, Statewide law enforcement campaigns independently of the cooperative efforts.

"(C) A program meets the requirements of this subparagraph only if, for each fiscal year, a State demonstrates to the Secretary that the State and the political subdivisions of the State that receive funds under this section have increased, in the aggregate, the total number of impaired driving law enforcement activities, as described in subparagraph (A) (or any other similar activity approved by the Secretary), initiated in such State during the preceding fiscal year by a factor that the Secretary determines meaningful for the State over the number of such activities initiated in such State during the preceding fiscal year, which shall not be less than 5 percent.

"(2) PROSECUTION AND ADJUDICATION PROGRAM.—For grants made during fiscal years after fiscal year 2004, a State prosecution and adjudication program under which—

"(A) judges and prosecutors are actively encouraged to prosecute and adjudicate cases of defendants who repeatedly commit impaired driving offenses by reducing the use of State diversion programs, or other means that have the effect of avoiding or expunging a permanent record of impaired driving in such cases;

"(B) the courts in a majority of the judicial jurisdictions of the State are monitored on, the courts' adjudication of cases of impaired driving offenses; or

"(C) annual Statewide outreach is provided for judges and prosecutors on innovative approaches to the prosecution and adjudication of cases of impaired driving offenses that have the potential for significantly improving the prosecution and adjudication of such cases.

"(3) IMPAIRED OPERATOR INFORMATION SYSTEM.—

"(A) A State impaired operator information system that—

"(i) tracks drivers who are arrested or convicted for violation of laws prohibiting impaired operation of motor vehicles;

"(ii) includes information about each case of an impaired driver beginning at the time of arrest through case disposition, including information about any trial, plea, plea agreement, conviction or other disposition, sentencing or other imposition of sanctions, and substance abuse treatment;

"(iii) provides—

"(I) accessibility to the information for law enforcement personnel Statewide and for United States law enforcement personnel; and

"(II) linkage for the sharing of the information and of the information in State traffic record systems among jurisdictions and appropriate agencies, court systems and offices of the States;

"(iv) shares information with the National Highway Traffic Safety Administration for compilation and use for the tracking of impaired operators of motor vehicles who move from State to State; and

"(v) meets the requirements of subparagraphs (B), (C), and (D) of this paragraph, as applicable.

"(B) A program meets the requirements of this subparagraph only if, during fiscal years 2004 and 2005, a State—

"(i) assesses the system used by the State for tracking drivers who are arrested or convicted for violation of laws prohibiting impaired operation of motor vehicles;

"(ii) identifies ways to improve the system, as well as to enhance the capability of the system to provide information in coordination with impaired operator information systems of other States; and

"(iii) develops a strategic plan that sets forth the actions to be taken and the resources necessary to achieve the identified improvements and to enhance the capability for coordination with the systems of other States.

"(C) A program meets the requirements of this subparagraph only if, in each of fiscal years 2006, 2007, and 2008, a State demonstrates to the Secretary that the State has made substantial and meaningful progress in improving the State's impaired operator information system, and makes public a report on the progress of the information system.

"(D) A program meets the requirements of this subparagraph only if, in fiscal year 2009, a State demonstrates to the Secretary that the State's impaired operator information system meets the basic standards for such systems as determined by the Secretary.

"(4) IMPAIRED DRIVING PERFORMANCE.—The percentage of fatally-injured drivers with 0.08 percent or greater blood alcohol concentration in the State has decreased in each of the 2 most recent calendar years.

"(5) IMPAIRED DRIVING TASK FORCE.—(A) Establishment of an impaired driving task force that involves all relevant State, tribal, and local agencies responsible for reducing alcohol impairment and impaired driving and meets the requirements of subparagraphs (B), (C), and (D). The purpose of the task force is to oversee efforts to reduce impaired driving by strengthening applicable laws, regulations, programs, and policies, and to coordinate impaired driving resources and programs among different jurisdictions. The impaired driving task force shall include State, Tribal, and local law enforcement, motor carrier safety agencies, and State alcohol and drug abuse prevention agencies, State and local court systems, State drivers licensing agencies, the State highway safety office, and State parole and probation agencies.

"(B) In fiscal year 2004 and fiscal year 2005, the State shall establish a statewide impaired driving task force to assess the State's impaired driving system, identify the opportunities for improvements in the system, and develop a strategic plan that outlines the steps and resources necessary to improve the system and enhance coordination among State and local agencies responsible for reducing impaired driving.

"(C) In each subsequent fiscal year, the State demonstrates progress in the implementation of top priorities of the strategic plan.

"(D) The State provides the Secretary a copy of the strategic plan developed under subparagraph and in subsequent years, a report detailing the progress of the strategic plan. The Secretary shall make available for public viewing each strategic plan and progress report.

"(6) IMPAIRED DRIVING COURTS.—

"(A) IN GENERAL.—A program to consolidate and coordinate impaired driving cases into courts that specialize in impaired driving cases, with the emphasis on tracking and processing offenders of impaired driving laws, (hereinafter referred to as DWI courts) that meets the requirements of this paragraph.

"(B) CHARACTERISTICS.—A DWI Court is a distinct function performed by a court system for the purpose of changing the behavior of alcohol or drug dependent offenders arrested for driving while impaired. A DWI Court can be a dedicated court with dedicated personnel, including judges, prosecutors and probation officers. A DWI court may be an existing court system that serves the following essential DWI Court functions:

"(i) A DWI Court performs an assessment of high-risk offenders utilizing a team headed by the judge and including all criminal justice stakeholders (prosecutors, defense attorneys, probations officers, law enforcement personnel and others) along with alcohol/drug treatment professionals.

"(ii) The DWI Court team recommends a specific plea agreement or contract for each offender that can include incarceration, treatment, and close community supervision. The agreement maximizes the probability of rehabilitation and minimizes the likelihood of recidivism.

"(iii) Compliance with the agreement is verified with thorough monitoring and frequent alcohol testing. Periodic status hearings assess offender progress and allow an opportunity for modifying the sentence if necessary.

"(C) ASSESSMENT.—In the first year of operation, the States shall assess the number of court systems in its jurisdiction that are consistently performing the DWI Court functions.

"(D) PLAN.—In the second year of operation, the State shall develop a strategic plan for increasing the number of courts performing the DWI function.

"(E) PROGRESS.—In subsequent years of operation, the State shall demonstrate progress in increasing the number of DWI Courts and in increasing the number of high-risk offenders participating in and successfully completing DWI Court agreements.

"(d) USES OF GRANTS.—Grants made under this section may be used for programs and activities described in subsection (c) and to defray the following costs:

"(1) Labor costs, management costs, and equipment procurement costs for the high-visibility, Statewide law enforcement campaigns under subsection (c)(1).

"(2) The costs of the training of law enforcement personnel and the procurement of technology and equipment, such as and including video equipment and passive alcohol sensors, to counter directly impaired operation of motor vehicles.

"(3) The costs of public awareness, advertising, and educational campaigns that publicize use of sobriety check points or increased law enforcement efforts to counter impaired operation of motor vehicles.

"(4) The costs of public awareness, advertising, and educational campaigns that target impaired operation of motor vehicles by persons under 34 years of age.

"(5) The costs of the development and implementation of a State impaired operator information system described in subsection (c)(3).

"(6) The costs of operating programs that impound the vehicle of an individual arrested as an impaired operator of a motor vehicle for not less than 12 hours after the operator is arrested.

"(e) ADDITIONAL AUTHORITIES FOR CERTAIN AUTHORIZED USES.—

"(1) COMBINATION OF GRANT PROCEEDS.—Grant funds used for a campaign under subsection (d)(3) may be combined, or expended in coordination, with proceeds of grants under section 402 of this title.

"(2) COORDINATION OF USES.—Grant funds used for a campaign under paragraph (3) or (4) of subsection (d) may be expended—

"(A) in coordination with employers, schools, entities in the hospitality industry, and nonprofit traffic safety groups; and

"(B) in coordination with sporting events and concerts and other entertainment events.

"(f) FUNDING.—

"(1) IN GENERAL.—Except as provided in paragraph (2), grant funding under this section shall be allocated among eligible States on the basis of the apportionment formula that applies for apportionments under section 402(c) of this title.

"(2) HIGH FATALITY-RATE STATES.—The amount of the grant funds allocated under this subsection to each of the 10 States with the highest impaired driving-related fatality rate for the most recent fiscal year for which the data is available preceding the fiscal year of the allocation shall be twice the amount that, except for this subparagraph, would otherwise be allocated to the State under paragraph (1).

"(g) USE OF FUNDS BY HIGH FATALITY-RATE STATES.—

"(1) REQUIRED USES.—At least ½ of the amounts allocated to States under subsection (f)(2) shall be used for the program described in subsection (c)(1).

"(2) REQUIREMENT FOR PLAN.—A State receiving an allocation of grant funds under subsection (f)(2) shall expend those funds only after consulting with the Administrator of the National Highway Traffic Safety Administration regarding such expenditures.

"(h) DEFINITIONS.—In this section:

"(1) IMPAIRED OPERATOR.—The term 'impaired operator' means a person who, while operating a motor vehicle—

"(A) has a blood alcohol content of 0.08 percent or higher; or

"(B) is under the influence of a controlled substance.

"(2) IMPAIRED DRIVING-RELATED FATALITY RATE.—The term 'impaired driving-related fatality rate' means the rate of the fatal accidents that involve impaired drivers while operating motor vehicles, as calculated in accordance with regulations which the Administrator of the National Highway Traffic Safety Administration shall prescribe.".

(c) NHTSA TO ISSUE REGULATIONS.—Not later than 12 months after the date of enactment of the Highway Safety Grant Program Reauthorization Act of 2004, the National Highway Traffic Safety Administration shall issue guidelines to the States specifying the types and formats of data that States should collect relating to drivers who are arrested or convicted for violation of laws prohibiting the impaired operation of motor vehicles.

SEC. 4111. STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.

(a) GRANT PROGRAM AUTHORITY.—Chapter 4 is amended by adding at the end the following:

"§ 412. State traffic safety information system improvements

"(a) GRANT AUTHORITY.—Subject to the requirements of this section, the Secretary shall make grants of financial assistance to eligible States to support the development and implementation of effective programs by such States to—

"(1) improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of the safety data of the State that is needed to identify priorities for national, State, and local highway and traffic safety programs;

"(2) evaluate the effectiveness of efforts to make such improvements;

"(3) link the State data systems, including traffic records, with other data systems within the State, such as systems that contain medical, roadway, and economic data; and

"(4) improve the compatibility and interoperability of the data systems of the State with national data systems and data systems of other States and enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances.

"(b) FIRST-YEAR GRANTS.—

"(1) ELIGIBILITY.—To be eligible for a first-year grant under this section in a fiscal year, a State shall demonstrate to the satisfaction of the Secretary that the State has—

"(A) established a highway safety data and traffic records coordinating committee with a multidisciplinary membership that includes, among others, managers, collectors, and users of traffic records and public health and injury control data systems; and

"(B) developed a multiyear highway safety data and traffic records system strategic plan that addresses existing deficiencies in the State's highway safety data and traffic records system, is approved by the highway safety data and traffic records coordinating committee, and—

"(i) specifies how existing deficiencies in the State's highway safety data and traffic records system were identified;

"(ii) prioritizes, on the basis of the identified highway safety data and traffic records system deficiencies, the highway safety data and traffic records system needs and goals of the State, including the activities under subsection (a);

"(iii) identifies performance-based measures by which progress toward those goals will be determined; and

"(iv) specifies how the grant funds and any other funds of the State are to be used to address needs and goals identified in the multiyear plan.

"(2) GRANT AMOUNT.—Subject to subsection (d)(3), the amount of a first-year grant to a State for a fiscal year shall the higher of—

"(A) the amount determined by multiplying—

"(i) the amount appropriated to carry out this section for such fiscal year, by

"(ii) the ratio that the funds apportioned to the State under section 402 of this title for fiscal year 2003 bears to the funds apportioned to all States under such section for fiscal year 2003; or

"(B) $300,000.

"(c) SUCCESSIVE YEAR GRANTS.—

"(1) ELIGIBILITY.—A State shall be eligible for a grant under this subsection in a fiscal year succeeding the first fiscal year in which the State receives a grant under subsection (b) if the State, to the satisfaction of the Secretary—

"(A) submits an updated multiyear plan that meets the requirements of subsection (b)(1)(B);

"(B) certifies that its highway safety data and traffic records coordinating committee continues to operate and supports the multiyear plan;

"(C) specifies how the grant funds and any other funds of the State are to be used to address needs and goals identified in the multiyear plan;

"(D) demonstrates measurable progress toward achieving the goals and objectives identified in the multiyear plan; and

"(E) includes a current report on the progress in implementing the multiyear plan.

"(2) GRANT AMOUNT.—Subject to subsection (d)(3), the amount of a year grant made to a State for a fiscal year under this subsection shall equal the higher of—

"(A) the amount determined by multiplying—

"(i) the amount appropriated to carry out this section for such fiscal year, by

"(ii) the ratio that the funds apportioned to the State under section 402 of this title for fiscal year 2003 bears to the funds apportioned to all States under such section for fiscal year 2003; or

"(B) $500,000.

"(d) ADDITIONAL REQUIREMENTS AND LIMITATIONS.—

"(1) MODEL DATA ELEMENTS.—The Secretary, in consultation with States and other appropriate parties, shall determine the model data elements that are useful for the observation and analysis of State and national trends in occurrences, rates, outcomes, and circumstances of motor vehicle traffic accidents. In order to be eligible for a grant under this section, a State shall submit to the Secretary a certification that the State has adopted and uses such model data elements, or a certification that the State will use grant funds provided under this section toward adopting and using the maximum number of such model data elements as soon as practicable.

"(2) DATA ON USE OF ELECTRONIC DEVICES.—The model data elements required under paragraph (1) shall include data elements, as determined appropriate by the Secretary in consultation with the States and with appropriate elements of the law enforcement community, on the impact on traffic safety of the use of electronic devices while driving.

"(3) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for highway safety data programs at or above the average level of such expenditures maintained by such State in the 2 fiscal years preceding the date of enactment of the Highway Safety Grant Program Reauthorization Act of 2003.

"(4) FEDERAL SHARE.—The Federal share of the cost of adopting and implementing in a fiscal year a State program described in subsection (a) may not exceed 80 percent.

"(5) LIMITATION ON USE OF GRANT PROCEEDS.—A State may use the proceeds of a grant received under this section only to implement the program described in subsection (a) for which the grant is made.

"(e) APPLICABILITY OF CHAPTER 1.—Section 402(d) of this title shall apply in the administration of this section.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 4 is amended by adding at the end the following:

"412. State traffic safety information system improvements.".

SEC. 4112. NHTSA ACCOUNTABILITY.

(a) IN GENERAL.—Chapter 4, as amended by section 4111, is amended by adding at the end the following:

"§ 413. Agency accountability

"(a) TRIENNIAL STATE MANAGEMENT REVIEWS.—At least once every 3 years the National Highway Traffic Safety Administration shall conduct a review of each State highway safety program. The review shall include a management evaluation of all grant programs partially or fully funded under this title. The Administrator shall provide review-based recommendations on how each State may improve the management and oversight of its grant activities and may provide a management and oversight plan.

"(b) RECOMMENDATIONS BEFORE SUBMISSION.—In order to provide guidance to State highway safety agencies on matters that should be addressed in the State highway safety program goals and initiatives as part of its highway safety plan before the plan is submitted for review, the Administrator shall provide non-binding data-based recommendations to each State at least 90 days before the date on which the plan is to be submitted for approval.

"(c) STATE PROGRAM REVIEW.—The Administrator shall—

"(1) conduct a program improvement review of any State that does not make substantial progress over a 3-year period in meeting its priority program goals; and

"(2) provide technical assistance and safety program recommendations to the State for any goal not achieved.

"(d) REGIONAL HARMONIZATION.—The Administration and the Inspector General of the Department of Transportation shall undertake a State grant administrative review of the practices and procedures of the management reviews and program reviews conducted by Administration regional offices and formulate a report of best practices to be completed within 180 days after the date of enactment of the Highway Safety Grant Program Reauthorization Act of 2004.

"(e) BEST PRACTICES GUIDELINES.—

"(1) UNIFORM GUIDELINES.—The Administration shall issue uniform management review and program review guidelines based on the report under subsection (d). Each regional office shall use the guidelines in executing its State administrative review duties.

"(2) PUBLICATION.—The Administration shall make the following documents available via the Internet upon their completion:

"(A) The Administration's management review and program review guidelines.

"(B) State highway safety plans.

"(C) State annual accomplishment reports.

"(D) The Administration's State management reviews.

"(E) The Administration's State program improvement plans.

"(3) REPORTS TO STATE HIGHWAY SAFETY AGENCIES.—The Administrator may not make a plan, report, or review available under paragraph (2) that is directed to a State highway safety agency until after it has been submitted to that agency.

"(f) GENERAL ACCOUNTING OFFICE REVIEW.—The General Accounting Office shall analyze the effectiveness of the National Highway Traffic Safety Administration's oversight of traffic safety grants by seeking to determine the usefulness of the Administration's advice to the States regarding grants administration and State activities, the extent to which the States incorporate the Administration's recommendation into their highway safety plans and programs, and improvements that result in a State's highway safety program that may be attributable to the Administration's recommendations. Based on this analysis, the General Accounting Office shall submit a report by not later than the end of fiscal year 2008 to the House of Representatives Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 4, as amended by section 4111, is amended by inserting after the item relating to section 412 the following:

"413. Agency accountability.".

PART II—SPECIFIC VEHICLE SAFETY-RELATED RULINGS

SEC. 4151. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise specifically provided, whenever in this subpart an amendment is expressed in terms of an amendment to a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 4152. VEHICLE CRASH EJECTION PREVENTION.

(a) IN GENERAL.—Subchapter II of chapter 301 is amended by adding at the end the following:

"§ 30128. Vehicle accident ejection protection

"(a) IN GENERAL.—The Secretary of Transportation shall prescribe a safety standard under this chapter or upgrade existing Federal motor vehicle safety standards to reduce complete and partial occupant ejection from motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds that are involved in accidents that present a risk of occupant ejection. In formulating the safety standard, the Secretary shall consider the ejection-mitigation capabilities of safety technologies, such as advanced side glazing, side curtains, and side impact air bags.

"(b) Door Lock and Retention Standard.—The Secretary shall upgrade Federal Motor Vehicle Safety Standard No. 206 to require manufacturers of new motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds that are distributed in commerce for sale in the United States to make such modifications to door locks, door latches, and retention components of doors in such vehicles as the Secretary determines to be necessary to reduce occupant ejection from such vehicles in motor vehicle accidents.".

(b) Rulemaking Deadlines.—

(1) Rulemaking.—The Secretary of Transportation shall issue—

(A) a notice of a proposed rulemaking under section 30128 of title 49, United States Code, not later than June 30, 2006; and

(B) a final rule under that section not later than 18 months after the publication of the notice of proposed rulemaking.

(2) Effective Date of Requirements.—In the final rule, the Secretary shall set forth effective dates for the requirements contained in the rule.

(c) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Transportation $500,000 for each of fiscal years 2004 and 2005 to promulgate rules under section 30128 of title 49, United States Code.

(d) Conforming Amendment.—The chapter analysis for chapter 301 is amended by inserting after the item relating to section 30127 the following:

"30128. Vehicle accident ejection protection.".

SEC. 4153. VEHICLE BACKOVER AVOIDANCE TECHNOLOGY STUDY.

(a) In General.—The Administrator of the National Highway Traffic Safety Administration shall conduct a study of effective methods for reducing the incidence of injury and death outside of parked passenger motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds attributable to movement of such vehicles. The Administrator shall complete the study within 1 year after the date of enactment of this Act and report its findings to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce not later than 5 months after the date of enactment of this Act.

(b) Specific Issues To Be Covered.—The study required by subsection (a) shall—

(1) include an analysis of backover prevention technology;

(2) identify, evaluate, and compare the available technologies for detecting people or objects behind a motor vehicle with a gross vehicle weight rating of not more than 10,000 pounds for their accuracy, effectiveness, cost, and feasibility for installation; and

(3) provide an estimate of cost savings that would result from widespread use of backover prevention devices and technologies in motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds, including savings attributable to the prevention of—

(A) injuries and fatalities; and

(B) damage to bumpers and other motor vehicle parts and damage to other objects.

SEC. 4154. VEHICLE BACKOVER DATA COLLECTION.

In conjunction with the study required in section 4153, the National Highway Traffic Safety Administration may establish a method to collect and maintain data on the number and types of injuries and deaths involving motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds in non-traffic, non-accident incidents to assist in the analysis required in section 4153 of this Act regarding the inclusion of backover prevention technologies in motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds.

SEC. 4155. AGGRESSIVITY AND INCOMPATIBILITY REDUCTION STANDARD.

(a) In General.—Subchapter II of chapter 301, as amended by section 4152, is amended by adding at the end the following:

"§ 30129. Vehicle incompatibility and aggressivity reduction standard

"(a) In General.—The Secretary of Transportation shall issue motor vehicle safety standards to reduce vehicle incompatibility and aggressivity for motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds. In formulating the standards, the Secretary shall consider factors such as bumper height, weight, and any other design characteristics necessary to ensure better management of crash forces in frontal and side impact crashes among different types, sizes, and weights of motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds in order to reduce occupant deaths and injuries.

"(b) Standards.—The Secretary shall develop a standard rating metric to evaluate compatibility and aggressivity among motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds.

"(c) Public Information.—The Secretary shall create a public information program that includes vehicle ratings based on risks posed by vehicle incompatibility and aggressivity to occupants, risks posed by vehicle incompatibility and agressivity to other motorists, and combined risks posed by vehicle incompatibility and agressivity by vehicle make and model.".

(b) Rulemaking Deadlines.—

(1) Rulemaking.—The Secretary of Transportation shall issue—

(A) a notice of a proposed rulemaking under section 30129 of title 49, United States Code, not later than January 31, 2007; and

(B) a final rule under that section not later than 18 months after the publication of the notice of proposed rulemaking.

(2) Effective Date of Requirements.—In the final rule, the Secretary shall set forth effective dates for the requirements contained in the rule.

(c) Conforming Amendment.—The chapter analysis for chapter 301 is amended by inserting after the item relating to section 30128 the following:

"30129. Vehicle incompatibility and aggressivity reduction standard.".

SEC. 4156. IMPROVED CRASHWORTHINESS.

(a) Improved Crashworthiness.—Subchapter II of chapter 301, as amended by section 4155, is amended by adding at the end the following:

"§ 30130. Improved crashworthiness of motor vehicles

"(a) Rollovers.—

"(1) In general.—The Secretary of Transportation shall prescribe a motor vehicle safety standard under this chapter for rollover crashworthiness standards for motor vehicles with a gross weight rating of not more than 10,000 pounds. In formulating the safety standard, the Secretary shall consider the prescription of a roof strength standard based on dynamic tests that realistically duplicate the actual forces transmitted to a passenger motor vehicle during an on-roof rollover crash, and shall consider safety technologies and design improvements such as—

"(A) improved seat structure and safety belt design, including seat belt pretensioners;

"(B) side impact head protection airbags; and

"(C) roof injury protection measures.

"(2) Rollover resistance standard.—The Secretary shall prescribe a motor vehicle safety standard under this chapter to improve on the basic design characteristics of motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds to increase their resistance to rollover. The Secretary shall also consider additional technologies to improve the handling of motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds and thereby reduce the likelihood of vehicle instability and rollovers.

"(3) Study.—The Secretary shall conduct a study on electronic stability control systems and other technologies designed to improve the handling of motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds and shall report the results of that study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure by December 31, 2005.

"(b) Frontal Impact Standards and Crash Tests.—

"(1) In general.—The Secretary shall prescribe a motor vehicle safety standard under this chapter or upgrade existing Federal motor vehicle safety standards to improve the protection of occupants in frontal impact crashes involving motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds.

"(2) Test methodology.—In determining the standard under paragraph (1), the Secretary shall—

"(A) evaluate additional test barriers and measurements of occupant head impact and neck injuries; and

"(B) review frontal impact criteria, including consideration of criteria established by the Insurance Institute for Highway Safety.

"(c) Side Impact Standards and Crash Tests.—

"(1) In general.—The Secretary shall prescribe a motor vehicle safety standard under this chapter or upgrade existing Federal motor vehicle safety standards to improve the protection afforded to occupants in side impact crashes involving motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds.

"(2) Test methodology.—In prescribing the standard under paragraph (1), the Secretary shall—

"(A) evaluate additional test barriers and measurements of occupant head impact and neck injuries;

"(C) consider the need for additional and new crash test dummies that represent the full range of occupant sizes and weights; and

"(D) review side impact criteria, including consideration of criteria established by the Insurance Institute for Highway Safety.".

(b) Rulemaking Deadlines.—

(1) RULEMAKING.—The Secretary of Transportation shall—

(A) issue a notice of a proposed rulemaking under section 30130 of title 49, United States Code, not later than June 30, 2006; and

(B) issue a final rule not later than 18 months after publication of the notice of proposed rulemaking.

(2) EFFECTIVE DATE OF REQUIREMENTS.—In the final rule, the Secretary shall set forth effective dates for the requirements contained in this rule.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 301 is amended by inserting after the item relating to section 30129 the following:

"30130. Improved crashworthiness of passenger motor vehicles.".

SEC. 4157. 15-PASSENGER VANS.

(a) IN GENERAL.—The Secretary of Transportation shall initiate a rulemaking and issue a final regulation not later than September 31, 2005, to include all 15-passenger vans with a gross vehicle weight rating of not more than 10,000 pounds in the National Highway Traffic Safety Administration's dynamic rollover testing program and require such vans to comply with all existing and prospective Federal Motor Vehicle Safety Standards for occupant protection and vehicle crash avoidance that are relevant to such vehicles.

(b) NEW CAR ASSESSMENT PROGRAM.—The Secretary shall initiate a rulemaking and issue a final regulation not later than September 31, 2005, to include all 15-passenger vans with a gross vehicle weight of not more than 10,000 pounds in the Administration's New Car Assessment Program rollover resistance program.

(c) VEHICLE CONTROL TECHNOLOGY FOR 15-PASSENGER VANS.—The National Highway Traffic Safety Administration shall evaluate and test the potential of technological systems, particularly electronic stability control systems and rollover warning systems, to assist drivers in maintaining control of 15-passenger vans with a gross vehicle weight rating of not more than 10,000 pounds.

(d) CERTAIN SPECIALIZED VEHICLES EXCLUDED.—In this section, the term "15-passenger van" does not include an ambulance, tow truck, or other vehicle designed primarily for the transportation of property or special purpose equipment.

SEC. 4158. ADDITIONAL SAFETY PERFORMANCE CRITERIA FOR TIRES.

(a) STRENGTH AND ROAD HAZARD PROTECTION.—The Secretary of Transportation shall issue a final rule to upgrade Federal Motor Vehicle Safety Standard No. 139 to include strength and road hazard protection safety performance criteria for light vehicle tires, which are criteria that were not addressed in the June 2003 final rule mandated by the Transportation Recall Enhancement, Accountability, and Documentation Act of 2000.

(b) RESISTANCE TO BEAD UNSEATING AND AGING.—The Secretary of Transportation shall issue a final rule to upgrade Federal Motor Vehicle Safety Standard No. 139 to include resistance to bead unseating and aging safety performance criteria for passenger motor vehicle tires, which are criteria that were not addressed in the June, 2003, final rule mandated by the Transportation Recall Enhancement, Accountability, and Documentation Act of 2000.

(c) RULEMAKING DEADLINES.—The Secretary of Transportation shall—

(1) issue a notice of proposed rulemaking under subsection (a) not later than June 30, 2005, and under subsection(b) not later than December 31, 2005; and

(2) issue a final rule relating to subsection (a) not later than 18 months after June 30, 2005, and a final rule under subsection (b) not later than 18 months after December 31, 2005.

(d) TECHNOLOGY USE AND REPORT.—The Secretary shall reconsider the use of shearography analysis, on a sampling basis, for regulatory compliance and the Administrator of the National Highway Traffic Safety Administration shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the most cost effective methods of using such technology within 2 years after the date of enactment of the Highway Safety Grant Program Reauthorization Act of 2004.

SEC. 4159. SAFETY BELT USE REMINDERS.

(a) NOTICE OF PROPOSED RULES TO ENCOURAGE MORE SEAT BELT USE.—Not later than 12 months after the date of enactment of this Act, the Secretary of Transportation shall issue a Notice of Proposed Rulemaking to amend the Federal Motor Vehicle Safety Standard No. 208 for motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds to encourage increased seat belt usage by drivers and passengers. The proposed rulemaking shall take into account the potential safety benefits and public acceptability of alternative means to encourage increased seat belt usage, including intermittent or continuous audible or visual reminders when a driver or passenger is not wearing a seat belt, features to prevent operation of convenience or entertainment features of the vehicle when a driver or passenger is not wearing a seat belt, and shall consider technology, including but not limited to technology identified by the National Academy of Sciences in its study of the potential benefits of seat belt usage reminder technologies.

(b) FINAL RULE.—Not later than 24 months after the date of enactment of this Act, the Secretary shall issue the final rule required by subsection (a).

(c) BUZZER LAW.—

(1) IN GENERAL.—Section 30124 is amended—

(A) by striking "not" the first place it appears; and

(B) by striking "except" and inserting "including".

(2) CONFORMING AMENDMENT.—Section 30122 is amended by striking subsection (d).

SEC. 4160. MISSED DEADLINES REPORTS.

(a) IN GENERAL.—If the Secretary of Transportation fails to meet any rulemaking deadline established in this subtitle, the Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 90 days after missing the deadline—

(1) explaining why the Secretary failed to meet the deadline; and

(2) setting forth a date by which the Secretary anticipates that the rulemaking will be made.

(b) CONSIDERATION OF EFFECTS.—The Secretary of Transportation shall consider and report the potential consequences, in terms of the number of deaths and the number and severity of injuries, that may result from not meeting any such deadline.

SEC. 4161. GRANTS FOR IMPROVING CHILD PASSENGER SAFETY PROGRAMS.

(a) IN GENERAL.—Chapter 4 of title 23, United States Code, as amended by section 4112 of this Act, is amended by adding at the end the following:

"§ 414. Booster seat incentive grants

"(a) IN GENERAL.—The Secretary of Transportation shall make a grant under this section to any eligible State.

"(b) ELIGIBILITY REQUIREMENTS.—

"(1) 'IN GENERAL.—The Secretary shall make a grant to each State that, as determined by the Secretary, enacts or has enacted, and is enforcing a law requiring that children riding in passenger motor vehicles (as defined in section 405(d)(4)) who are too large to be secured in a child safety seat be secured in a child restraint (as defined in section 7(1) of Anton's Law (49 U.S.C. 30127 note)) that meets requirements prescribed by the Secretary under section 3 of Anton's Law.

"(2) YEAR IN WHICH FIRST ELIGIBLE.—

"(A) EARLY QUALIFICATION.—A State that has enacted a law described in paragraph (1) that is in effect before October 1, 2005, is first eligible to receive a grant under subsection (a) in fiscal year 2006.

"(B) SUBSEQUENT QUALIFICATION.—A State that enacts a law described in paragraph (1) that takes effect after September 30, 2005, is first eligible to receive a grant under subsection (a) in the first fiscal year beginning after the date on which the law is enacted.

"(3) CONTINUING ELIGIBILITY.—A State that is eligible under paragraph (1) to receive a grant may receive a grant during each fiscal year listed in subsection (f) in which it is eligible.

"(4) MAXIMUM NUMBER OF GRANTS.—A State may not receive more than 4 grants under this section.

"(c) GRANT AMOUNT.—Amounts available for grants under this section in any fiscal year shall be apportioned among the eligible States on the basis of population.

"(d) USE OF GRANT AMOUNTS.—

"(1) IN GENERAL.—Of the amounts received by a State under this section for any fiscal year—

"(A) 50 percent shall be used for the enforcement of, and education to promote public awareness of, State child passenger protection laws; and

"(B) 50 percent shall be used to fund programs that purchase and distribute child booster seats, child safety seats, and other appropriate passenger motor vehicle child restraints to indigent families without charge.

"(2) REPORT.—Within 60 days after the State fiscal year in which a State receives a grant under this section, the State shall transmit to the Secretary a report documenting the manner in which grant amounts were obligated or expended and identifying the specific programs supports by grant funds. The report shall be in a form prescribed by the Secretary and may be combined with other State grant reporting requirements under this chapter.

"(e) DEFINITION OF CHILD SAFETY SEAT.—The term 'child safety seat' means any device (except safety belts (as such term is defined in section 405(d)(5)), designed for use in a motor vehicle (as such term is defined in section 405(d)(1)) to restrain, seat, or position a child who weighs 50 pounds or less.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation, out of the Highway Trust Fund—

"(1) $18,000,000 for fiscal year 2006;

"(2) $20,000,000 for fiscal year 2007;

"(3) $25,000,000 for fiscal year 2008; and

"(4) $30,000,000 for fiscal year 2009.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 4 of title 23, United States Code, is amended by inserting after the item relating to section 411 the following:

"414. Booster seat incentive grants.".

SEC. 4162. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Transportation to carry out this subtitle and chapter 301 of title 49, United States Code—

(1) $130,500,000 for fiscal year 2004;
(2) $133,500,000 for fiscal year 2005;
(3) $133,600,000 for fiscal year 2006;
(4) $134,500,000 for fiscal year 2007;
(5) $138,000,000 for fiscal year 2008; and
(6) $141,000,000 for fiscal year 2009.

PART III—MISCELLANEOUS PROVISIONS

SEC. 4171. DRIVER LICENSING AND EDUCATION.

(a) National Office of Driver Licensing and Education.—Section 105 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) There is a National Office of Driver Licensing and Education in the National Highway Traffic Safety Administration.

"(2) The head of the National Office of Driver Licensing and Education is the Director.

"(3) The functions of the National Office of Driver Licensing and Education are as follows:

"(A) To provide States with services for coordinating the motor vehicle driver training and licensing programs of the States.

"(B) To develop and make available to the States a recommended comprehensive model for motor vehicle driver education and graduated licensing that incorporates the best practices in driver education and graduated licensing, including best practices with respect to—

"(i) vehicle handling and crash avoidance;

"(ii) driver behavior and risk reduction;

"(iii) roadway features and associated safety implications;

"(iv) roadway interactions involving all types of vehicles and road users, such as car-truck and pedestrian-car interactions;

"(v) parent education; and

"(vi) other issues identified by the Director.

"(C) To carry out such research (pursuant to cooperative agreements or otherwise) and undertake such other activities as the Director determines appropriate to develop and, on an ongoing basis, improve the recommended comprehensive model.

"(D) To provide States with technical assistance for the implementation and deployment of the motor vehicle driver education and licensing comprehensive model recommended under subparagraph (B).

"(E) To develop and recommend to the States methods for harmonizing the presentation of motor vehicle driver education and licensing with the requirements of multistage graduated licensing systems, including systems described in section 410(c)(4) of title 23, and to demonstrate and evaluate the effectiveness of those methods in selected States.

"(F) To assist States with the development and implementation of programs to certify driver education instructors, including the development and implementation of proposed uniform certification standards.

"(G) To provide States with financial assistance under section 412 of title 23 for—

"(i) the implementation of the motor vehicle driver education and licensing comprehensive model recommended under subparagraph (B);

"(ii) the establishment or improved administration of multistage graduated licensing systems; and

"(iii) the support of other improvements in motor vehicle driver education and licensing programs.

"(H) To evaluate the effectiveness of the comprehensive model recommended under subparagraph (B).

"(I) To examine different options for delivering driver education in the States.

"(J) To perform such other functions relating to motor vehicle driver education or licensing as the Secretary may require.

"(4) Not later than 42 months after the date of the enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004, the Director shall submit to Congress a report on the progress made by the National Office of Driver Licensing and Education with respect to the functions under paragraph (3).".

(b) Grant Program for Improvement of Driver Education and Licensing.—

(1) Authority.—

(A) In general.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

"SEC. 412. DRIVER EDUCATION AND LICENSING.

"(a) Authority.—

"(1) In general.—The Secretary shall carry out a program to provide States, by grant, with financial assistance to support the improvement of motor vehicle driver education programs and the establishment and improved administration of graduated licensing systems, including systems described in section 410(c)(4) of this title.

"(2) Administrative office.—The Secretary shall administer the program under this section through the Director of the National Office of Driver Licensing and Education.

"(b) Eligibility Requirements.—

"(1) Regulations.—The Secretary shall prescribe in regulations the eligibility requirements, application and approval procedures and standards, and authorized uses of grant proceeds for the grant program under this section. The regulations shall, at a minimum, authorize use of grant proceeds for the following activities:

"(A) Quality assurance testing, including follow-up testing to monitor the effectiveness of—

"(i) driver licensing and education programs;

"(ii) instructor certification testing; and

"(iii) other statistical research designed to evaluate the performance of driver education and licensing programs.

"(B) Improvement of motor vehicle driver education curricula.

"(C) Training of instructors for motor vehicle driver education programs.

"(D) Testing and evaluation of motor vehicle driver performance.

"(E) Public education and outreach regarding motor vehicle driver education and licensing.

"(F) Improvements with respect to State graduated licensing programs, as well as related enforcement activities.

"(2) Consultation requirement.—In prescribing the regulations, the Secretary shall consult with the following:

"(A) The Administrator of the National Highway Traffic Safety Administration.

"(B) The heads of such other departments and agencies of the United States as the Secretary considers appropriate on the basis of relevant interests or expertise.

"(C) Appropriate officials of the governments of States and political subdivisions of States.

"(D) Other relevant experts.

"(c) Maximum Amount of Grant.—The maximum amount of a grant of financial assistance for a program, project, or activity under this section may not exceed 75 percent of the total cost of such program, project, or activity.".

(B) Clerical amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"412. Driver education and licensing.".

(2) Time for promulgation of regulations.—The Secretary of Transportation shall promulgate the regulations under section 412(b) of title 23, United States Code (as added by paragraph (1)), not later than October 1, 2005.

(c) Grant Program for Public Awareness of Organ Donation Through Driver Licensing Programs.—

(1) Authority.—

(A) In general.—Chapter 4 of title 23, United States Code (as amended by subsection (b)), is further amended by adding at the end the following new section:

"SEC. 413. ORGAN DONATION THROUGH DRIVER LICENSING.

"(a) Authority.—

"(1) In general.—The Secretary shall carry out a program to provide eligible recipients, by grant, with financial assistance to carry out campaigns to increase public awareness of, and training on, authority and procedures under State law to provide for the donation of organs through a declaration recorded on a motor vehicle driver license.

"(2) Administrative office.—The Secretary shall administer the program under this section through the Director of the National Office of Driver Licensing and Education.

"(b) Eligibility Requirements.—

"(1) Regulations.—The Secretary shall prescribe in regulations the eligibility requirements, application and approval procedures and standards, and authorized uses of grant proceeds for the grant program under this section.

"(2) Consultation requirement.—In prescribing the regulations, the Secretary shall consult with the following:

"(A) The Administrator of the National Highway Traffic Safety Administration.

"(B) The heads of such other departments and agencies of the United States as the Secretary considers appropriate on the basis of relevant interests or expertise.

"(C) Appropriate officials of the governments of States and political subdivisions of States.

"(D) Representatives of private sector organizations recognized for relevant expertise.".

(B) Clerical amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"413. Organ donation through driver licensing.".

(2) Time for promulgation of regulations.—The Secretary of Transportation shall promulgate the regulations under section 413(b) of title 23, United States Code (as added by paragraph (1)), not later than October 1, 2005.

(d) Study of National Driver Education Standards.—

(1) Requirement for study.—The Secretary of Transportation shall carry out a study to determine whether the establishment and imposition of nationwide minimum standards of motor vehicle driver education would improve national highway traffic safety or the performance and legal compliance of novice drivers.

(2) TIME FOR COMPLETION OF STUDY.—The Secretary shall complete the study not later than 2 years after the date of the enactment of this Act.

(3) REPORT.—The Secretary shall publish a report on the results of the study under this section not later than 2 years after the study is completed.

(e) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts available to carry out section 403 of title 23, United States Code, for each of the fiscal years 2005 through 2010, $5,000,000 may be made available for each such fiscal year to carry out sections 412 and 413 of title 23, United States Code (as added by subsections (b) and (c), respectively).

SEC. 4172. AMENDMENT OF AUTOMOBILE INFORMATION DISCLOSURE ACT.

(a) SAFETY LABELING REQUIREMENT.—Section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232) is amended by adding at the end the following:

"(g) if one or more safety ratings for such automobile have been assigned and formally published or released by the National Highway Traffic Safety Administration under the New Car Assessment Program, information about safety ratings that—

"(1) includes a graphic depiction of the number of stars that corresponds to each such assigned safety rating displayed in a clearly differentiated fashion from stars indicating the unattained safety rating;

"(2) refers to frontal impact crash tests, side impact crash tests, and rollover resistance tests (whether or not such automobile has been assigned a safety rating for such tests), including statements that—

"(A) frontal impact crash test ratings are based on risk of head and chest injury;

"(B) side impact crash test ratings are based on risk of chest injury; and

"(C) rollover resistance ratings are based on risk of rollover in the event of a single automobile crash;

"(3) is presented in a legible, visible, and prominent fashion and covers at least—

"(A) 8 percent of the total area of the label; or

"(B) an area with a minimum length of 4½ inches and a minimum height of 3½ inches; and

"(4) contains a heading titled 'Government Safety Information' and a disclaimer including the following text: 'Star ratings for frontal impact crash tests can only be compared to other vehicles in the same weight class and those plus or minus 250 pounds. Side impact and rollover ratings can be compared across all vehicle weights and classes. For more information on safety and testing, please visit http://www.nhtsa.dot.gov'; and

"(h) if an automobile has not been tested by the National Highway Traffic Safety Administration under the New Car Assessment Program, or safety ratings for such automobile have not been assigned in one or more rating categories, a statement to that effect.".

(b) REGULATIONS.—Not later than January 1, 2005, the Secretary of Transportation shall prescribe regulations to implement the labeling requirements under subsections (g) and (h) of section 3 of such Act (as added by subsection (a)).

(c) CONFORMING AND TECHNICAL AMENDMENTS.—Section 3 of such Act is further amended—

(1) in subsection (e), by striking "and" after the semicolon; and

(2) in subsection (f)—

(A) by adding "and" at the end of paragraph (3); and

(B) by striking the period at the end and inserting a semicolon.

(d) APPLICABILITY.—The labeling requirements under subsections (g) and (h) of section 3 of such Act (as added by subsection (a)), and the regulations prescribed under subsection (b), shall apply to new automobiles delivered on or after—

(1) September 1, 2005, if the regulations under subsection (b) are prescribed not later than August 31, 2004; or

(2) September 1, 2006, if the regulations under subsection (b) are prescribed after August 31, 2004.

SEC. 4173. CHILD SAFETY.

(a) INCORPORATION OF CHILD DUMMIES IN SAFETY TESTS.—

(1) RULEMAKING REQUIRED.—Not later than 2 years after the date of the enactment of this Act, the Administrator of the National Highway Traffic Safety Administration shall conduct a rulemaking to increase utilization of child dummies, including Hybrid-III child dummies, in motor vehicle safety tests, including crash tests, conducted by the Administration.

(2) CRITERIA.—In conducting the rulemaking under subsection (a), the Administrator shall select motor vehicle safety tests in which the inclusion of child dummies will lead to—

(A) increased understanding of crash dynamics with respect to children; and

(B) measurably improved child safety.

(3) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Transportation shall publish a report regarding the implementation of this section.

(b) CHILD SAFETY IN ROLLOVER CRASHES.—

(1) CONSUMER INFORMATION PROGRAM.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Transportation shall implement a consumer information program relating to child safety in rollover crashes. The Secretary shall make information related to the program available to the public following completion of the program.

(2) CHILD DUMMY DEVELOPMENT.—

(A) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall initiate the development of a biofidelic child crash test dummy capable of measuring injury forces in a simulated rollover crash.

(B) REPORTS.—The Secretary shall submit to Congress a report on progress related to such development—

(i) not later than 1 year after the date of the enactment of this Act; and

(ii) not later than 3 years after the date of the enactment of this Act.

(c) REPORT ON ENHANCED VEHICLE SAFETY TECHNOLOGIES.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report that describes, evaluates, and determines the relative effectiveness of—

(1) currently available and emerging technologies, including auto-reverse functions and child-safe window switches, that are designed to prevent and reduce the number of injuries and deaths to children left unattended inside parked motor vehicles, including injuries and deaths that result from hyperthermia or are related to power windows or power sunroofs; and

(2) currently available and emerging technologies that are designed to improve the performance of safety belts with respect to the safety of occupants aged between 4 and 8 years old.

(d) COMPLETION OF RULEMAKING REGARDING POWER WINDOWS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Transportation shall—

(1) complete the rulemaking initiated by the National Highway Traffic Safety Administration that is ongoing on the date of the enactment of this Act and relates to a requirement that window switches be designed to reduce the accidental closing by children of power windows; and

(2) issue performance-based regulations to take effect not later than September 1, 2006, requiring that window switches or related technologies be designed to prevent the accidental closing by children of power windows.

(e) DATABASE ON INJURIES AND DEATHS IN NONTRAFFIC, NONCRASH EVENTS.—

(1) IN GENERAL.—The Secretary of Transportation shall establish a new database of, and collect data regarding, injuries and deaths in nontraffic, noncrash events involving motor vehicles. The database shall include information regarding—

(A) the number, types, and proximate causes of injuries and deaths resulting from such events;

(B) the characteristics of motor vehicles involved in such events;

(C) the characteristics of the motor vehicle operators and victims involved in such events; and

(D) the presence or absence in motor vehicles involved in such events of advanced technologies designed to prevent such injuries and deaths.

(2) RULEMAKING.—The Secretary shall conduct a rulemaking regarding how to structure and compile the database.

(3) AVAILABILITY.—The Secretary shall make the database available to the public.

SEC. 4174. SAFE INTERSECTIONS.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"§ 39. Traffic signal preemption transmitters

"(a) OFFENSES.—

"(1) SALE.—A person who provides for sale to unauthorized users a traffic signal preemption transmitter in or affecting interstate or foreign commerce shall be fined not more than $10,000, imprisoned not more than 1 year, or both.

"(2) POSSESSION.—A person who is an unauthorized user in possession of a traffic signal preemption transmitter in or affecting interstate or foreign commerce shall be fined not more than $10,000, imprisoned not more than 6 months, or both.

"(b) DEFINITIONS.—In this section, the following definitions apply:

"(1) TRAFFIC SIGNAL PREEMPTION TRANSMITTER.—The term 'traffic signal preemption transmitter' means any device or mechanism that can change a traffic signal's phase.

"(2) UNAUTHORIZED USER.—The term 'unauthorized user' means a user of a traffic signal preemption transmitter who is not a government approved user.".

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 2 of title 18, United States Code, is amended by adding at the end the following:

"39. Traffic signal preemption transmitters.".

SEC. 4175. STUDY ON INCREASED SPEED LIMITS.

(a) STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall conduct a study to examine the effects of increased speed limits enacted by States after 1995.

(2) REQUIREMENTS.—The study shall collect empirical data regarding—

(A) increases or decreases in driving speeds on Interstate highways since 1995;

(B) correlations between changes in driving speeds and accident, injury, and fatality rates;

(C) correlations between posted speed limits and observed driving speeds;

(D) the overall impact on motor vehicle safety resulting from the repeal of the national maximum speed limit in 1995; and

(E) such other matters as the Secretary determines to be appropriate.

(b) REPORT.—Not later than 1 year after the date of completion of the study under subsection (a), the Secretary shall submit to Congress a report that describes the results of the study.

Subtitle B—Motor Carrier Safety and Unified Carrier Registration

PART I—ADMINISTRATIVE MATTERS

SEC. 4201. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED STATES CODE.

(a) SHORT TITLE.—This subtitle may be cited as the "Motor Carrier Safety Reauthorization Act of 2004".

(b) AMENDMENT OF TITLE 49, UNITED STATES CODE.—Except as otherwise specifically provided, whenever in this subtitle an amendment is expressed in terms of an amendment to a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 4202. REQUIRED COMPLETION OF OVERDUE REPORTS, STUDIES, AND RULEMAKINGS.

(a) REQUIREMENT FOR COMPLETION.—By no later than 36 months after the date of enactment of this Act, the Secretary of Transportation shall complete all reports, studies, and rulemaking proceedings to issue regulations which Congress directed the Secretary to complete in previous laws and which are not yet completed, including the following:

(1) Commercial Vehicle Driver Biometric Identifier, section 9105, Truck and Bus Safety and Regulatory Reform Act of 1988.

(2) General Transportation of HAZMAT, section 8(b), Hazardous Materials Transportation Uniform Safety Act of 1990.

(3) Nationally Uniform System of Permits for Interstate Motor Carrier Transport of HAZMAT, section 22, Hazardous Materials Transportation Uniform Safety Act of 1990.

(4) Training for Entry-Level Drivers of Commercial Motor Vehicles, section 4007 (a), Intermodal Surface Transportation Efficiency Act of 1991.

(5) Minimum Training Requirements for Operators and for Training Instructors of Multiple Trailer Combination Vehicles, section 4007(b)(2), Intermodal Surface Transportation Efficiency Act of 1991.

(6) Railroad-Highway Grade Crossing Safety, section 112, Hazardous Materials Transportation Authorization Act of 1994.

(7) Safety Performance History of New Drivers, section 114, Hazardous Materials Transportation Authorization Act of 1994.

(8) Motor Carrier Replacement Information and Registration System, section 103, ICC Termination Act of 1995.

(9) General Jurisdiction Over Freight Forwarder Service, section 13531, ICC Termination Act of 1995.

(10) Waivers, Exemptions, and Pilot Programs, section 4007, Transportation Equity Act for the Twenty-First Century.

(11) Safety Performance History of New Drivers, section 4014, Transportation Equity Act for the Twenty-First Century.

(12) Performance-based CDL Testing, section 4019, Transportation Equity Act for the Twenty-First Century.

(13) Improved Flow of Driver History Pilot Program, section 4022, Transportation Equity Act for the Twenty-First Century.

(14) Employee Protections, section 4023, Transportation Equity Act for the Twenty-First Century.

(15) Improved Interstate School Bus Safety, section 4024, Transportation Equity Act for the Twenty-First Century.

(16) Federal Motor Carrier Safety Administration 2010 Strategy, section 104, Motor Carrier Safety Improvement Act of 1999.

(17) New Motor Carrier Entrant Requirements, section 210, Motor Carrier Safety Improvement Act of 1999.

(18) Certified Motor Carrier Safety Auditors, section 211, Motor Carrier Safety Improvement Act of 1999.

(19) Medical Certificate, section 215, Motor Carrier Safety Improvement Act of 1999.

(20) Report on Any Pilots Undertaken to Develop Innovative Methods of Improving Motor Carrier Compliance with Traffic Laws, section 220, Motor Carrier Safety Improvement Act of 1999.

(21) Status Report on the Implementation of Electronic Transmission of Data State-to-State on Convictions for All Motor Vehicle Control Law Violations for CDL Holders, section 221, Motor Carrier Safety Improvement Act of 1999.

(22) Assessment of Civil Penalties, section 222, Motor Carrier Safety Improvement Act of 1999.

(23) Truck Crash Causation Study, section 224, Motor Carrier Safety Improvement Act of 1999.

(24) Drug Test Results Study, section 226, Motor Carrier Safety Improvement Act of 1999.

(b) FINAL RULE REQUIRED.—Unless specifically permitted by law, rulemaking proceedings shall be considered completed for purposes of this section only when the Secretary has issued a final rule and the docket for the rulemaking proceeding is closed.

(c) SCHEDULE FOR COMPLETION.—No fewer than one-third of the reports, studies, and rulemaking proceedings in subsection (a) shall be completed every 12 months after the date of enactment of this Act. The Inspector General of the Department of Transportation shall make an annual determination as to whether this schedule has been met.

(d) FAILURE TO COMPLY.—If the Secretary fails to complete the required number of reports, studies, and rulemaking proceedings according to the schedule set forth in subsection (c) during any fiscal year, the Secretary shall allocate to the States $3,000,000 from the amount authorized by section 31104(i)(1) of title 49, United States Code, for administrative expenses of the Federal Motor Carrier Safety Administration to conduct additional compliance reviews under section 31102 of that title instead of obligating or expending such amount for those administrative expenses.

(e) AMENDMENTS TO THE LISTED REPORTS, STUDIES, AND RULEMAKING PROCEEDINGS.—In addition to completing the reports, studies and rulemaking proceedings listed in subsection (c), the Secretary shall—

(1) amend the Interim Final Rule addressing New Motor Carrier Entrant Requirements to require that a safety audit be immediately converted to a compliance review and appropriate enforcement actions be taken if the safety audit discloses acute safety violations by the new entrant; and

(2) eliminate a proposed provision in the rulemaking proceeding addressing Commercial Van Operations Transporting Nine to Fifteen Passengers which exempts commercial van operations that operate within a 75-mile radius.

(f) COMPLETION OF NEW RULEMAKING PROCEEDINGS.—Nothing in this section delays or changes the deadlines specified for new reports, studies, or rulemaking mandates contained in this title.

(g) REPORT OF OTHER AGENCY ACTIONS.—Within 12 months after the date of enactment of this Act, the Secretary shall submit to the Senate Committee on Commerce, Science, and Transportation and to the House Committee on Transportation and Infrastructure a report on the status of the following projects:

(1) Rescinding the current regulation which prohibits truck and bus drivers from viewing television and monitor screens while operating commercial vehicles.

(2) Incorporating Out-Of-Service Criteria regulations enforced by the Federal Motor Carrier Safety Administration.

(3) Revision of the safety fitness rating system of motor carriers.

(4) Amendment of Federal Motor Carrier Safety Administration rules of practice for conducting motor carrier administrative proceedings, investigations, disqualifications, and for issuing penalties.

(5) Requiring commercial drivers to have a sufficient functional speaking and reading comprehension of the English language.

(6) Inspection, repair and maintenance of intermodal container chassis and trailers.

SEC. 4203. CONTRACT AUTHORITY.

Authorizations from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subtitle shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first. Approval by the Secretary of a grant with funds made available under this title imposes upon the United States Government a contractual obligation for payment of the Government's share of costs incurred in carrying out the objectives of the grant.

PART II—MOTOR CARRIER SAFETY

SEC. 4221. MINIMUM GUARANTEE.

There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) not less than 1.21 percent of the total amounts made available in any fiscal year from the Highway Trust Fund for purposes of this part.

SEC. 4222. AUTHORIZATION OF APPROPRIATIONS.

(a) ADMINISTRATIVE EXPENSES.—Section 31104 is amended by adding at the end the following:

"(i) ADMINISTRATIVE EXPENSES.—

"(1) There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to pay administrative expenses of the Federal Motor Carrier Safety Administration—

"(A) $202,900,000 for fiscal year 2004;

"(B) $206,200,000 for fiscal year 2005;

"(C) $211,400,000 for fiscal year 2006;

"(D) $217,500,000 for fiscal year 2007;

"(E) $222,600,000 for fiscal year 2008; and

"(F) $228,500,000 for fiscal year 2009.

"(2) The funds authorized by this subsection shall be used for personnel costs; administrative infrastructure; rent; information technology; programs for research and technology, information management, regulatory development (including a medical review board and rules for medical examiners), performance and registration information system management, and outreach and education; other operating expenses and similar matters; and such other expenses as may from time to time become necessary to implement statutory mandates not funded from other sources.

"(3) From the funds authorized by this section, the Secretary shall ensure that compliance reviews are completed on the motor carriers that have demonstrated through performance data that they pose the highest safety risk. At a minimum, compliance reviews shall be conducted within 6 months after whenever a carrier is rated as category A or B.

"(4) The amounts made available under this section shall remain available until expended.

"(5) Of the funds authorized by paragraph (1), $6,750,000 in each of fiscal years 2004 through 2009 shall be used to carry out the medical program under section 31149.".

(b) Amendment to Apportionment Provision of Title 23.—Section 104(a) of title 23, United States Code, is amended—

(1) by striking "exceed—" and so much of subparagraph (A) as precedes clause (i) and inserting "exceed 1⅙ percent of all sums so made available, as the Secretary determines necessary—";

(2) by redesignating clause (i) and (ii) of subparagraph (A) as subparagraphs (A) and (B), and indenting such clauses, as so redesignated, 2 em spaces; and

(3) by striking "system; and" in subparagraph (B) as so redesignated, and all that follows through "research." and inserting "system.".

(c) Grant Programs.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the following Federal Motor Carrier Safety Administration programs:

(1) Border enforcement grants under section 31107 of title 49, United States Code—

(A) $32,000,000 for fiscal year 2004;
(B) $33,000,000 for fiscal year 2005;
(C) $33,000,000 for fiscal year 2006;
(D) $34,000,000 for fiscal year 2007;
(E) $35,000,000 for fiscal year 2008; and
(F) $36,000,000 for fiscal year 2009.

(2) Performance and registration information system management grant program under 31109 of title 49, United States Code—

(A) $4,000,000 for fiscal year 2004;
(B) $4,000,000 for fiscal year 2005;
(C) $4,000,000 for fiscal year 2006;
(D) $4,000,000 for fiscal year 2007;
(E) $4,000,000 for fiscal year 2008; and
(F) $4,000,000 for fiscal year 2009.

(3) Commercial driver's license and driver improvement program grants under section 31318 of title 49, United States Code—

(A) $22,000,000 for fiscal year 2004;
(B) $22,000,000 for fiscal year 2005;
(C) $23,000,000 for fiscal year 2006;
(D) $23,000,000 for fiscal year 2007;
(E) $24,000,000 for fiscal year 2008; and
(F) $25,000,000 for fiscal year 2009.

(4) Deployment of the Commercial Vehicle Informations Systems and Networks established under section 4241 of this title, $25,000,000 for each of fiscal years 2004 through 2009.

(d) Motor Carrier Safety Account.—Funds made available under subsection (c) shall be administered in the account established in the Treasury entitled "Motor Carrier Safety 69–8055–0–7–401".

(e) Period of Availability.—The amounts made available under subsection (c) of this section shall remain available until expended.

SEC. 4223. MOTOR CARRIER SAFETY GRANTS.

(a) Motor Carrier Safety Assistance Program.—

(1) Section 31102 is amended—

(A) by striking "activities by fiscal year 2000;" in subsection (b)(1)(A) and inserting "activities for commercial motor vehicles of passengers and freight;";

(B) by striking "years before December 18, 1991;" in subsection (b)(1)(E) and inserting "years";

(C) by striking "and" after the semicolon in subsection (b)(1)(S);

(D) by striking "personnel." in subsection (b)(1)(T) and inserting "personnel;";

(E) adding at the end of subsection (b)(1) the following:

"(U) ensures that inspections of motor carriers of passengers are conducted at stations, terminals, border crossings, or maintenance facilities, except in the case of an imminent or obvious safety hazard;

"(V) provides that the State will include in the training manual for the licensing examination to drive a non-commercial motor vehicle and a commercial motor vehicle, information on best practices for driving safely in the vicinity of commercial motor vehicles and in the vicinity of non-commercial vehicles, respectively; and

"(W) provides that the State will enforce the registration requirements of section 13902 by suspending the operation of any vehicle discovered to be operating without registration or beyond the scope of its registration."; and

(F) by striking subsection (c) and inserting the following:

"(c) Use of Grants To Enforce Other Laws.—A State may use amounts received under a grant under subsection (a) of this section for the following activities:

"(1) If the activities are carried out in conjunction with an appropriate inspection of the commercial motor vehicle to enforce Government or State commercial motor vehicle safety regulations—

"(A) enforcement of commercial motor vehicle size and weight limitations at locations other than fixed weight facilities, at specific locations such as steep grades or mountainous terrains where the weight of a commercial motor vehicle can significantly affect the safe operation of the vehicle, or at ports where intermodal shipping containers enter and leave the United States; and

"(B) detection of the unlawful presence of a controlled substance (as defined under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)) in a commercial motor vehicle or on the person of any occupant (including the operator) of the vehicle.

"(2) Documented enforcement of State traffic laws and regulations designed to promote the safe operation of commercial motor vehicles, including documented enforcement of such laws and regulations against non-commercial motor vehicles when necessary to promote the safe operation of commercial motor vehicles.".

(2) Section 31103(b) is amended—

(A) by inserting "(1)" after "Activities.—"; and

(B) by adding at the end the following:

"(2) New Entrant Motor Carrier Audit Funds.—From the amounts designated under section 31104(f)(4), the Secretary may allocate new entrant motor carrier audit funds to States and local governments without requiring a matching contribution from such States or local governments.".

(3) Section 31104(a) is amended to read as follows:

"(a) In General.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out section 31102:

"(1) Not more than $186,100,000 for fiscal year 2004.

"(2) Not more than $189,800,000 for fiscal year 2005.

"(3) Not more than $193,600,000 for fiscal year 2006.

"(4) Not more than $197,500,000 for fiscal year 2007.

"(5) Not more than $201,400,000 for fiscal year 2008.

"(6) Not more than $205,500,000 for fiscal year 2009.".

(4) Section 31104(f) is amended by striking paragraph (2) and inserting the following:

"(2) High-Priority Activities.—The Secretary may designate up to 5 percent of amounts available for allocation under paragraph (1) for States, local governments, and organizations representing government agencies or officials for carrying out high priority activities and projects that improve commercial motor vehicle safety and compliance with commercial motor vehicle safety regulations, including activities and projects that are national in scope, increase public awareness and education, or demonstrate new technologies. The amounts designated under this paragraph shall be allocated by the Secretary to State agencies, local governments, and organizations representing government agencies or officials that use and train qualified officers and employees in coordination with State motor vehicle safety agencies. At least 80 percent of the amounts designated under this paragraph shall be awarded to State agencies and local government agencies.

"(3) Safety-Performance Incentive Programs.—The Secretary may designate up to 10 percent of the amounts available for allocation under paragraph (1) for safety performance incentive programs for States. The Secretary shall establish safety performance criteria to be used to distribute incentive program funds. Such criteria shall include, at a minimum, reduction in the number and rate of fatal accidents involving commercial motor vehicles. Allocations under this paragraph do not require a matching contribution from a State.

"(4) New Entrant Audits.—The Secretary shall designate up to $29,000,000 of the amounts available for allocation under paragraph (1) for audits of new entrant motor carriers conducted pursuant to 31144(f). The Secretary may withhold such funds from a State or local government that is unable to use government employees to conduct new entrant motor carrier audits, and may instead utilize the funds to conduct audits in those jurisdictions.".

(b) Grants to States for Border Enforcement.—Section 31107 is amended to read as follows:

"§ 31107. Border enforcement grants

"(a) General Authority.—From the funds authorized by section 4222(c)(1) of the Motor Carrier Safety Reauthorization Act of 2004, the Secretary may make a grant in a fiscal year to a State that shares a border with another country for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

"(b) Maintenance of Expenditures.—The Secretary may make a grant to a State under this section only if the State agrees that the total expenditure of amounts of the State and political subdivisions of the State, exclusive of United States Government amounts, for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects will be maintained at a level at least equal to the average level of that expenditure by the State and political subdivisions of the State for the last 2 State or Federal fiscal years before October 1, 2003.".

(c) Grants to States for Commercial Driver's License Improvements.—Chapter

313 is amended by adding at the end the following:

"§31318. Grants for commercial driver's license program improvements

"(a) General Authority.—From the funds authorized by section 4222(c)(3) of the Motor Carrier Safety Reauthorization Act of 2004, the Secretary may make a grant to a State, except as otherwise provided in subsection (e), in a fiscal year to improve its implementation of the commercial driver's license program, providing the State is in substantial compliance with the requirements of section 31311 and this section. The Secretary shall establish criteria for the distribution of grants and notify the States annually of such criteria.

"(b) Conditions.—Except as otherwise provided in subsection (e), a State may use a grant under this section only for expenses directly related to its commercial driver's license program, including, but not limited to, computer hardware and software, publications, testing, personnel, training, and quality control. The grant may not be used to rent, lease, or buy land or buildings. The Secretary shall give priority to grants that will be used to achieve compliance with the requirements of the Motor Carrier Safety Improvement Act of 1999. The Secretary may allocate the funds appropriated for such grants in a fiscal year among the eligible States whose applications for grants have been approved, under criteria established by the Secretary.

"(c) Maintenance of Expenditures.—Except as otherwise provided in subsection (e), the Secretary may make a grant to a State under this section only if the State agrees that the total expenditure of amounts of the State and political subdivisions of the State, exclusive of United States Government amounts, for the operation of the commercial driver's license program will be maintained at a level at least equal to the average level of that expenditure by the State and political subdivisions of the State for the last 2 fiscal years before October 1, 2003.

"(d) Government Share.—Except as otherwise provided in subsection (e), the Secretary shall reimburse a State, from a grant made under this section, an amount that is not more than 80 percent of the costs incurred by the State in a fiscal year in implementing the commercial driver's license improvements described in subsection (b). In determining those costs, the Secretary shall include in-kind contributions by the State.

"(e) High-Priority Activities.—

"(1) The Secretary may make a grant to a State agency, local government, or organization representing government agencies or officials for the full cost of research, development, demonstration projects, public education, or other special activities and projects relating to commercial driver licensing and motor vehicle safety that are of benefit to all jurisdictions or designed to address national safety concerns and circumstances.

"(2) The Secretary may designate up to 10 percent of the amounts made available under section 4222(c)(3) of the Motor Carrier Safety Reauthorization Act of 2004 in a fiscal year for high-priority activities under subsection (e)(1).

"(f) Emerging Issues.—The Secretary may designate up to 10 percent of the amounts made available under section 4222(c)(3) of the Motor Carrier Safety Reauthorization Act of 2004 in a fiscal year for allocation to a State agency, local government, or other person at the discretion of the Secretary to address emerging issues relating to commercial driver's license improvements.

"(g) Apportionment.—Except as otherwise provided in subsections (e) and (f), all amounts available in a fiscal year to carry out this section shall be apportioned to States according to a formula prescribed by the Secretary.

"(h) Deduction for Administrative Expenses.—On October 1 of each fiscal year or as soon after that date as practicable, the Secretary may deduct, from amounts made available under section 4222(c)(3) of the Motor Carrier Safety Reauthorization Act of 2004 for that fiscal year, up to 0.75 percent of those amounts for administrative expenses incurred in carrying out this section in that fiscal year.".

(d) Noncompliance With CDL Requirements.—Section 31314 is amended by striking subsections (a) and (b) and inserting the following:

"(a) First Fiscal Year.—The Secretary of Transportation shall withhold up to 5 percent of the amount required to be apportioned to a State under section 104(b)(1), (3), and (4) of title 23 on the first day of the fiscal year after the first fiscal year beginning after September 30, 1992, throughout which the State does not comply substantially with a requirement of section 31311(a) of this title.

"(b) Second Fiscal Year.—The Secretary shall withhold up to 10 percent of the amount required to be apportioned to a State under section 104(b)(1), (3), and (4) of title 23 on the first day of each fiscal year after the second fiscal year beginning after September 30, 1992, throughout which the State does not comply substantially with a requirement of section 31311(a) of this title.".

(e) Conforming Amendments.—(1) The chapter analysis for chapter 311 is amended—

(A) by striking the item relating to Subchapter I, and inserting the following:

"SUBCHAPTER I—GENERAL AUTHORITY AND STATE GRANTS";

and

(B) by striking the item relating to section 31107, and inserting the following:

"31107. Border enforcement grants.".

(2) Subchapter I of chapter 311 is amended by striking the subchapter heading and inserting the following:

"SUBCHAPTER I—GENERAL AUTHORITY AND STATE GRANTS"

(3) The chapter analysis for chapter 313 is amended by inserting the following after the item relating to section 31317:

"31318. Grants for commercial driver's license program improvements.".

SEC. 4224. CDL WORKING GROUP.

(a) In General.—The Secretary of Transportation shall convene a working group to study and address current impediments and foreseeable challenges to the commercial driver's license program's effectiveness and measures needed to realize the full safety potential of the commercial driver's license program. The working group shall address such issues as State enforcement practices, operational procedures to detect and deter fraud, needed improvements for seamless information sharing between States, effective methods for accurately sharing electronic data between States, updated technology, and timely notification from judicial bodies concerning traffic and criminal convictions of commercial driver's license holders.

(b) Membership.—Members of the working group should include State motor vehicle administrators, organizations representing government agencies or officials, members of the Judicial Conference, representatives of the trucking industry, representatives of labor organizations, safety advocates, and other significant stakeholders.

(c) Report.—Within 2 years after the date of enactment of this Act, the Secretary, on behalf of the working group, shall complete a report of the working group's findings and recommendations for legislative, regulatory, and enforcement changes to improve the commercial driver's license program. The Secretary shall promptly transmit the report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(d) Funding.—From the funds authorized by section 4222(c)(3) of this title, $200,000 shall be made available for each of fiscal years 2004 and 2005 to carry out this section.

SEC. 4225. CDL LEARNER'S PERMIT PROGRAM.

(a) In General.—Chapter 313 is amended—

(1) by striking "time." in section 31302 and inserting "license, and may have only 1 learner's permit at any time.";

(2) by inserting "and learners' permits" after "licenses" the first place it appears in section 31308;

(3) by striking "licenses." in section 31308 and inserting "licenses and permits.";

(4) by redesignating paragraphs (2) and (3) of section 31308 as paragraphs (3) and (4), respectively, and inserting after paragraph (1) the following:

"(2) before a commercial driver's license learner's permit can be issued to an individual, the individual must pass a written test on the operation of a commercial motor vehicle that complies with the minimum standards prescribed by the Secretary under section 31305(a) of this title;";

(5) by inserting "or learner's permit" after "license" each place it appears in paragraphs (3) and (4), as redesignated, of section 31308; and

(6) by inserting "or learner's permit" after "license" each place it appears in section 31309(b).

(b) Conforming Amendments.—

(1) Section 31302 is amended by inserting "**and learner's permits**" in the section caption.

(2) Sections 31308 and 31309 are each amended by inserting "**and learner's permit**" after "**license**" in the section captions.

(3) The chapter analysis for chapter 313 is amended by striking the item relating to section 31302 and inserting the following:

"31302. Limitation on the number of driver's licenses and learner's permits.".

(4) The chapter analysis for chapter 313 is amended by striking the items relating to sections 31308 and 31309 and inserting the following:

"31308. Commercial driver's license and learner's permit.
"31309. Commercial driver's license and learner's permit information system.".

SEC. 4226. HOBBS ACT.

(a) Section 2342(3)(A) of title 28, United States Code, is amended to read as follows:

"(A) the Secretary of Transportation issued pursuant to section 2, 9, 37, or 41 of the Shipping Act, 1916 (46 U.S.C. App. 802, 803, 808, 835, 839, and 841a) or pursuant to Part B or C of subtitle IV of title 49 or pursuant to subchapter III of chapter 311, chapter 313, and chapter 315 of Part B of subtitle VI of title 49; and".

(b) Section 351(a) is amended to read as follows:

"(a) Judicial Review.—An action of the Secretary of Transportation in carrying out a duty or power transferred under the Department of Transportation Act (Public Law

89-670; 80 Stat. 931), or an action of the Administrator of the Federal Railroad Administration, Federal Motor Carrier Safety Administration, or the Federal Aviation Administration in carrying out a duty or power specifically assigned to the Administrator by that Act, may be reviewed judicially to the same extent and in the same way as if the action had been an action by the department, agency, or instrumentality of the United States Government carrying out the duty or power immediately before the transfer or assignment.".

(c) Section 352 is amended to read as follows:

"§ 352. Authority to carry out certain transferred duties and powers

"In carrying out a duty or power transferred under the Department of Transportation Act (Public Law 89-670; 80 Stat. 931), the Secretary of Transportation and the Administrators of the Federal Railroad Administration, the Federal Motor Carrier Safety Administration, and the Federal Aviation Administration have the same authority that was vested in the department, agency, or instrumentality of the United States Government carrying out the duty or power immediately before the transfer. An action of the Secretary or Administrator in carrying out the duty or power has the same effect as when carried out by the department, agency, or instrumentality.".

SEC. 4227. PENALTY FOR DENIAL OF ACCESS TO RECORDS.

Section 521(b)(2) is amended by adding at the end the following:

"(E) Copying of records and access to equipment, lands, and buildings.—A motor carrier subject to chapter 51 of subtitle III, a motor carrier, broker, or freight forwarder subject to part B of subtitle IV, or the owner or operator of a commercial motor vehicle subject to part B of subtitle VI of this title who fails to allow the Secretary, or an employee designated by the Secretary, promptly upon demand to inspect and copy any record or inspect and examine equipment, lands, buildings and other property in accordance with sections 504(c), 5121(c), and 14122(b) of this title shall be liable to the United States for a civil penalty not to exceed $500 for each offense, and each day the Secretary is denied the right to inspect and copy any record or inspect and examine equipment, lands, buildings and other property shall constitute a separate offense, except that the total of all civil penalties against any violator for all offenses related to a single violation shall not exceed $5,000. It shall be a defense to such penalty that the records did not exist at the time of the Secretary's request or could not be timely produced without unreasonable expense or effort. Nothing herein amends or supersedes any remedy available to the Secretary under sections 502(d), 507(c), or other provision of this title.".

SEC. 4228. MEDICAL PROGRAM.

(a) In General.—Subchapter III of chapter 311 is amended by adding at the end the following:

"§ 31149. Medical program

"(a) Medical Review Board.—

"(1) Establishment and function.—The Secretary of Transportation shall establish a Medical Review Board to serve as an advisory committee to provide the Federal Motor Carrier Safety Administration with medical advice and recommendations on driver qualification medical standards and guidelines, medical examiner education, and medical research.

"(2) Composition.—The Medical Review Board shall be appointed by the Secretary and shall consist of 5 members selected from medical institutions and private practice. The membership shall reflect expertise in a variety of specialties relevant to the functions of the Federal Motor Carrier Safety Administration.

"(b) Chief Medical Examiner.—The Secretary shall appoint a chief medical examiner for the Federal Motor Carrier Safety Administration.

"(c) Medical Standards and Requirements.—The Secretary, with the advice of the Medical Review Board and the chief medical examiner, shall—

"(1) establish, review, and revise—

"(A) medical standards for applicants for and holders of commercial driver's licenses that will ensure that the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely;

"(B) requirements for periodic physical examinations of such operators performed by medical examiners who have received training in physical and medical examination standards and are listed on a national registry maintained by the Department of Transportation; and

"(C) requirements for notification of the chief medical examiner if such an applicant or holder—

"(i) fails to meet the applicable standards; or

"(ii) is found to have a physical or mental disability or impairment that would interfere with the individual's ability to operate a commercial motor vehicle safely;

"(2) require each holder of a commercial driver's license or learner's permit to have a current valid medical certificate;

"(3) issue such certificates to such holders and applicants who are found, upon examination, to be physically qualified to operate a commercial motor vehicle and to meet applicable medical standards; and

"(4) develop, as appropriate, specific courses and materials for medical examiners listed in the national registry established under this section, and require those medical examiners to complete specific training, including refresher courses, to be listed in the registry.

"(d) National Registry of Medical Examiners.—The Secretary, through the Federal Motor Carrier Safety Administration—

"(1) shall establish and maintain a current national registry of medical examiners who are qualified to perform examination, testing, inspection, and issuance of a medical certificate;

"(2) shall delegate to those examiners the authority to issue such certificates if the Medical Review Board develops a system to identify the medical examination forms uniquely and track them; and

"(3) shall remove from the registry the name of any medical examiner that fails to meet the qualifications established by the Secretary for being listed in the registry.

"(e) Consultation and Cooperation with FAA.—

"(1) In general.—The Administrator of the Federal Motor Carrier Safety Administration shall consult the Administrator of the Federal Aviation Administration with respect to examinations, the issuance of certificates, standards, and procedures under this section in order to take advantage of such aspects of the Federal Aviation Administration's airman certificate program under chapter 447 of this title as the Administrator deems appropriate for carrying out this section.

"(2) Use of FAA-qualified examiners.—The Administrator of the Federal Motor Carrier Safety Administration and the Administrator of the Federal Aviation Administration are authorized and encouraged to execute a memorandum of understanding under which individuals holding or applying for a commercial driver's license or learner's permit may be examined, for purposes of this section, by medical examiners who are qualified to administer medical examinations for airman certificates under chapter 447 of this title and the regulations thereunder—

"(A) until the national registry required by subsection (d) is fully established; and

"(B) to the extent that the Administrators determine appropriate, after that registry is established.

"(f) Regulations.—The Secretary is authorized to promulgate such regulations as may be necessary to carry out this section.".

(b) Medical Examiners.—Section 31136(a)(3) is amended to read as follows:

"(3) the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely, and the periodic physical examinations required of such operators are performed by medical examiners who have received training in physical and medical examination standards and are listed on a national registry maintained by the Department of Transportation; and".

(c) Definition of Medical Examiner.—Section 31132 is amended—

(1) by redesignating paragraphs (6) through (10) as paragraphs (7) through (11), respectively; and

(2) by inserting after paragraph (5) the following:

"(6) 'medical examiner' means an individual licensed, certified, or registered in accordance with regulations issued by the Federal Motor Carrier Safety Administration as a medical examiner.".

(d) Conforming Amendment.—The chapter analysis for chapter 311 is amended by inserting after the item relating to section 31148 the following:

"31149. Medical program.".

(e) Effective Date.—The amendment made by subsection (a) shall take effect 1 year after the date of enactment of this Act.

SEC. 4229. OPERATION OF COMMERCIAL MOTOR VEHICLES BY INDIVIDUALS WHO USE INSULIN TO TREAT DIABETES MELLITUS.

(a) Revision of Final Rule.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall revise the final rule to allow individuals who use insulin to treat their diabetes to operate commercial motor vehicles in interstate commerce. The revised final rule shall provide for the individual assessment of applicants who use insulin to treat their diabetes and who are, except for their use of insulin, otherwise qualified under the Federal Motor Carrier Safety Regulations. The revised final rule shall be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305 note) and shall conclude the rulemaking process in the Federal Motor Carrier Safety Administration docket relating to qualifications of drivers with diabetes.

(b) No History of Driving While Using Insulin Required for Qualification.—The Secretary may not require individuals to have experience operating commercial motor vehicles while using insulin in order to qualify to operate a commercial motor vehicle in interstate commerce.

(c) History of Diabetes Control.—The Secretary may require an individual to have used insulin for a minimum period of time and demonstrated stable control of diabetes in order to qualify to operate a commercial motor vehicle in interstate commerce. Any such requirement, including any requirement with respect to the duration of such insulin use, shall be consistent with the findings of the expert medical panel reported in July 2000 in "A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate Commercial Motor Vehicles in Interstate Commerce as Directed by the Transportation Equity Act for the 21st Century".

(d) Applicable Standard.—The Secretary shall ensure that individuals who use insulin to treat their diabetes are not held to a higher standard than other qualified commercial drivers, except to the extent that limited operating, monitoring, or medical requirements are deemed medically necessary by experts in the field of diabetes medicine.

SEC. 4230. FINANCIAL RESPONSIBILITY FOR PRIVATE MOTOR CARRIERS.

(a) Transportation of Passengers.—

(1) Section 31138(a) is amended to read as follows:

"(a) General Requirement.—The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability and property damage for the transportation of passengers by motor vehicle in the United States between a place in a State and—

"(1) a place in another State;

"(2) another place in the same State through a place outside of that State; or

"(3) a place outside the United States.".

(2) Section 31138(c) is amended by adding at the end the following:

"(4) The Secretary may require a person, other than a motor carrier as defined in section 13102(12) of this title, transporting passengers by motor vehicle to file with the Secretary the evidence of financial responsibility specified in subsection (c)(1) of this section in an amount not less than that required by this section, and the laws of the State or States in which the person is operating, to the extent applicable. The extent of the financial responsibility must be sufficient to pay, not more than the amount of the financial responsibility, for each final judgment against the person for bodily injury to, or death of, an individual resulting from the negligent operation, maintenance, or use of motor vehicles, or for loss or damage to property, or both.".

(b) Transportation of Property.—Section 31139 is amended—

(1) by striking so much of subsection (b) as precedes paragraph (2) and inserting the following:

"(b) General Requirements and Minimum Amount.—

"(1) The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability, property damage, and environmental restoration for the transportation of property by motor vehicle in the United States between a place in a State and—

"(A) a place in another State;

"(B) another place in the same State through a place outside of that State; or

"(C) a place outside the United States.";

(2) by aligning the left margin of paragraph (2) of subsection (b) with the left margin of paragraph (1) of that subsection (as amended by paragraph (1) of this subsection); and

(3) by redesignating subsection (c) through (g) as subsections (d) through (h), respectively, and inserting after subsection (b) the following:

"(c) Filing of Evidence of Financial Responsibility.—The Secretary may require a motor private carrier, as defined in section 13102 of this title, to file with the Secretary the evidence of financial responsibility specified in subsection (b) of this section in an amount not less than that required by this section, and the laws of the State or States in which the motor private carrier is operating, to the extent applicable. The amount of the financial responsibility must be sufficient to pay, not more than the amount of the financial responsibility, for each final judgment against the motor private carrier for bodily injury to, or death of, an individual resulting from negligent operation, maintenance, or use of motor vehicles, or for loss or damage to property, or both.".

SEC. 4231. INCREASED PENALTIES FOR OUT-OF-SERVICE VIOLATIONS AND FALSE RECORDS.

(a) Section 521(b)(2)(B) is amended to read as follows:

"(B) Recordkeeping and Reporting Violations.—A person required to make a report to the Secretary, answer a question, or make, prepare, or preserve a record under section 504 of this title or under any regulation issued by the Secretary pursuant to subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title about transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, or an officer, agent, or employee of that person—

"(i) who does not make that report, does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary requires the question to be answered, or does not make, prepare, or preserve that record in the form and manner prescribed by the Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed $1,000 for each offense, and each day of the violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses related to any single violation shall not exceed $10,000; or

"(ii) who knowingly falsifies, destroys, mutilates, or changes a required report or record, knowingly files a false report with the Secretary, knowingly makes or causes or permits to be made a false or incomplete entry in that record about an operation or business fact or transaction, or knowingly makes, prepares, or preserves a record in violation of a regulation or order of the Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each violation, if any such action can be shown to have misrepresented a fact that constitutes a violation other than a reporting or recordkeeping violation.".

(b) Section 31310(i)(2) is amended to read as follows:

"(2) The Secretary shall prescribe regulations establishing sanctions and penalties related to violations of out-of-service orders by individuals operating commercial motor vehicles. The regulations shall require at least that—

"(A) an operator of a commercial motor vehicle found to have committed a first violation of an out-of-service order shall be disqualified from operating such a vehicle for at least 180 days and liable for a civil penalty of at least $2,500;

"(B) an operator of a commercial motor vehicle found to have committed a second violation of an out-of-service order shall be disqualified from operating such a vehicle for at least 2 years and not more than 5 years and liable for a civil penalty of at least $5,000;

"(C) an employer that knowingly allows or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order shall be liable for a civil penalty of not more than $25,000; and

"(D) an employer that knowingly and willfully allows or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order shall, upon conviction, be subject for each offense to imprisonment for a term not to exceed 1 year or a fine under title 18, United States Code, or both.".

SEC. 4232. ELIMINATION OF COMMODITY AND SERVICE EXEMPTIONS.

(a) Section 13506(a) is amended—

(1) by striking paragraphs (6), (11), (12), (13), and (15);

(2) by redesignating paragraphs (7), (8), (9), (10), and (14) as paragraphs (6), (7), (8), (9) and (10), respectively;

(3) by inserting "or" after the semicolon in paragraph (9), as redesignated; and

(4) striking "13904(d); or" in paragraph (1), as redesignated, and inserting "14904(d).".

(b) Section 13507 is amended by striking "(6), (8), (11), (12), or (13)" and inserting "(6)".

SEC. 4233. INTRASTATE OPERATIONS OF INTERSTATE MOTOR CARRIERS.

(a) Subsection (a) of section 31144 is amended to read as follows:

"(a) In General.—The Secretary shall—

"(1) determine whether an owner or operator is fit to operate safely commercial motor vehicles, utilizing among other things the accident record of an owner or operator operating in interstate commerce and the accident record and safety inspection record of such owner or operator in operations that affect interstate commerce;

"(2) periodically update such safety fitness determinations;

"(3) make such final safety fitness determinations readily available to the public; and

"(4) prescribe by regulation penalties for violations of this section consistent with section 521.".

(b) Subsection (c) of section 31144 is amended by adding at the end the following:

"(5) Transportation Affecting Interstate Commerce.—Owners or operators of commercial motor vehicles prohibited from operating in interstate commerce pursuant to paragraphs (1) through (3) of this section may not operate any commercial motor vehicle that affects interstate commerce until the Secretary determines that such owner or operator is fit.".

(c) Section 31144 is amended by redesignating subsections (d), (e), and the second subsection (c) as subsections (e), (f), and (g), respectively, and inserting after subsection (c) the following:

"(d) Determination of Unfitness by a State.—If a State that receives Motor Carrier Safety Assistance Program funds pursuant to section 31102 of this title determines, by applying the standards prescribed by the Secretary under subsection (b) of this section, that an owner or operator of commercial motor vehicles that has its principal place of business in that State and operates in intrastate commerce is unfit under such standards and prohibits the owner or operator from operating such vehicles in the State, the Secretary shall prohibit the owner or operator from operating such vehicles in interstate commerce until the State determines that the owner or operator is fit.”.

SEC. 4234. AUTHORITY TO STOP COMMERCIAL MOTOR VEHICLES.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

“§ 38. Commercial motor vehicles required to stop for inspections

“(a) A driver of a commercial motor vehicle, as defined in section 31132(1) of title 49, shall stop and submit to inspection of the vehicle, driver, cargo, and required records when directed to do so by an authorized employee of the Federal Motor Carrier Safety Administration, Department of Transportation, at or in the vicinity of an inspection site. The driver shall not leave the inspection site until authorized to do so by an authorized employee.

“(b) A driver of a commercial motor vehicle, as defined in subsection (a), who knowingly fails to stop for inspection when directed to do so by an authorized employee of the Federal Motor Carrier Safety Administration at or in the vicinity of an inspection site, or leaves the inspection site without authorization, shall be fined under this title or imprisoned not more than 1 year, or both.”.

(b) AUTHORITY OF FMCSA.—Chapter 203 of title 18, United States Code, is amended by adding at the end the following:

“§ 3064. Powers of Federal Motor Carrier Safety Administration

“Authorized employees of the Federal Motor Carrier Safety Administration may direct a driver of a commercial motor vehicle, as defined in 49 U.S.C. 31132(1), to stop for inspection of the vehicle, driver, cargo, and required records at or in the vicinity of an inspection site.”.

(c) CONFORMING AMENDMENTS.—

(1) The chapter analysis for chapter 2 of title 18, United States Code, is amended by inserting after the item relating to section 37 the following:

“38. Commercial motor vehicles required to stop for inspections.”.

(2) The chapter analysis for chapter 203 of title 18, United States Code, is amended by inserting after the item relating to section 3063 the following:

“3064. Powers of Federal Motor Carrier Safety Administration.”.

SEC. 4235. REVOCATION OF OPERATING AUTHORITY.

Section 13905(e) is amended—

(1) by striking paragraph (1) and inserting the following:

“(1) PROTECTION OF SAFETY.—Notwithstanding subchapter II of chapter 5 of title 5, the Secretary—

“(A) may suspend the registration of a motor carrier, a freight forwarder, or a broker for failure to comply with requirements of the Secretary pursuant to section 13904(c) or 13906 of this title, or an order or regulation of the Secretary prescribed under those sections; and

“(B) shall revoke the registration of a motor carrier that has been prohibited from operating in interstate commerce for failure to comply with the safety fitness requirements of section 31144 of this title.”;

(2) by striking “may suspend a registration” in paragraph (2) and inserting “shall revoke the registration”; and

(3) by striking paragraph (3) and inserting the following:

“(3) NOTICE; PERIOD OF SUSPENSION.—The Secretary may suspend or revoke under this subsection the registration only after giving notice of the suspension or revocation to the registrant. A suspension remains in effect until the registrant complies with the applicable sections or, in the case of a suspension under paragraph (2), until the Secretary revokes the suspension.”.

SEC. 4236. PATTERN OF SAFETY VIOLATIONS BY MOTOR CARRIER MANAGEMENT.

(a) IN GENERAL.—Section 31135 is amended—

(1) by inserting “(a) IN GENERAL.—” before “Each”; and

(2) by adding at the end the following:

“(b) PATTERN OF NON-COMPLIANCE.—If an officer of a motor carrier engages in a pattern or practice of avoiding compliance, or masking or otherwise concealing non-compliance, with regulations on commercial motor vehicle safety prescribed under this subchapter, the Secretary may suspend, amend, or revoke any part of the motor carrier's registration under section 13905 of this title.

“(c) LIST OF PROPOSED OFFICERS.—Each person seeking registration as a motor carrier under section 13902 of this title shall submit a list of the proposed officers of the motor carrier. If the Secretary determines that any of the proposed officers has previously engaged in a pattern or practice of avoiding compliance, or masking or otherwise concealing non-compliance, with regulations on commercial motor vehicle safety prescribed under this chapter, the Secretary may deny the person's application for registration as a motor carrier under section 13902(a)(3).

“(d) REGULATIONS.—The Secretary shall by regulation establish standards to implement subsections (b) and (c).

“(e) DEFINITIONS.—In this section:

“(1) MOTOR CARRIER.—The term motor carrier has the meaning given the term in section 13102(12) of this title; and

“(2) OFFICER.—The term officer means an owner, chief executive officer, chief operating officer, chief financial officer, safety director, vehicle maintenance supervisor and driver supervisor of a motor carrier, regardless of the title attached to those functions.”.

(b) REGISTRATION OF CARRIERS.—Section 13902(a)(1)(B) is amended to read as follows:

“(B) any safety regulations imposed by the Secretary, the duties of employers and employees established by the Secretary under section 31135, and the safety fitness requirements established by the Secretary under section 31144; and”.

SEC. 4237. MOTOR CARRIER RESEARCH AND TECHNOLOGY PROGRAM.

(a) IN GENERAL.—Section 31108 is amended to read as follows:

“§ 31108. Motor carrier research and technology program

“(a) RESEARCH, TECHNOLOGY, AND TECHNOLOGY TRANSFER ACTIVITIES.—

“(1) The Secretary of Transportation shall establish and carry out a motor carrier and motor coach research and technology program. The Secretary may carry out research, development, technology, and technology transfer activities with respect to—

“(A) the causes of accidents, injuries and fatalities involving commercial motor vehicles; and

“(B) means of reducing the number and severity of accidents, injuries and fatalities involving commercial motor vehicles.

“(2) The Secretary may test, develop, or assist in testing and developing any material, invention, patented article, or process related to the research and technology program.

“(3) The Secretary may use the funds appropriated to carry out this section for training or education of commercial motor vehicle safety personnel, including, but not limited to, training in accident reconstruction and detection of controlled substances or other contraband, and stolen cargo or vehicles.

“(4) The Secretary may carry out this section—

“(A) independently;

“(B) in cooperation with other Federal departments, agencies, and instrumentalities and Federal laboratories; or

“(C) by making grants to, or entering into contracts, cooperative agreements, and other transactions with, any Federal laboratory, State agency, authority, association, institution, for-profit or non-profit corporation, organization, foreign country, or person.

“(5) The Secretary shall use funds made available to carry out this section to develop, administer, communicate, and promote the use of products of research, technology, and technology transfer programs under this section.

“(b) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

“(1) To advance innovative solutions to problems involving commercial motor vehicle and motor carrier safety, security, and efficiency, and to stimulate the deployment of emerging technology, the Secretary may carry out, on a cost-shared basis, collaborative research and development with—

“(A) non-Federal entities, including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, and sole proprietorships that are incorporated or established under the laws of any State; and

“(B) Federal laboratories.

“(2) In carrying out this subsection, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)).

“(3)(A) The Federal share of the cost of activities carried out under a cooperative research and development agreement entered into under this subsection shall not exceed 50 percent, except that if there is substantial public interest or benefit, the Secretary may approve a greater Federal share.

“(B) All costs directly incurred by the non-Federal partners, including personnel, travel, and hardware or software development costs, shall be credited toward the non-Federal share of the cost of the activities described in subparagraph (A).

“(4) The research, development, or use of a technology under a cooperative research and development agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

“(5) Section 5 of title 41, United States Code, shall not apply to a contract or agreement entered into under this section.

“(c) AVAILABILITY OF AMOUNTS.—The amounts made available under section 4222(a) of the Motor Carrier Safety Reauthorization Act of 2004 to carry out this section shall remain available until expended.

“(d) CONTRACT AUTHORITY.—Approval by the Secretary of a grant with funds made available under section 4222(a) of the Motor Carrier Safety Reauthorization Act of 2004 to carry out this section imposes upon the United States Government a contractual obligation for payment of the Government's share of costs incurred in carrying out the objectives of the grant.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 311 is amended by striking the item relating to section 31108, and inserting the following:

"31108. Motor carrier research and technology program.".

SEC. 4238. REVIEW OF COMMERCIAL ZONE EXEMPTION PROVISION.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall complete a review of part 372 of title 49, Code of Federal Regulations, as it pertains to commercial zone exemptions (excluding border commercial zones) from Department of Transportation and Surface Transportation Board regulations governing interstate commerce. The Secretary shall determine whether such exemptions should continue to apply as written, should undergo revision, or should be revoked. The Secretary shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report of the review not later than 14 months after such date of enactment.

(b) NOTICE.—The Secretary shall publish notice of the review required by subsection (a) and provide and opportunity for the public to submit comments on the effect of continuing, revising, or revoking the commercial zone exemptions in part 372 of title 49, Code of Federal Regulations.

SEC. 4239. INTERNATIONAL COOPERATION.

(a) IN GENERAL.—Chapter 311 is amended by inserting at the end the following:

"Subchapter IV—Miscellaneous

"§ 31161. International cooperation

"The Secretary is authorized to use funds appropriated under section 31104(i) of this title to participate and cooperate in international activities to enhance motor carrier, commercial motor vehicle, driver, and highway safety by such means as exchanging information, conducting research, and examining needs, best practices, and new technology.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 311 is amended by adding at the end the following:

"SUBCHAPTER IV—MISCELLANEOUS

"31161. International cooperation.".

SEC. 4240. PERFORMANCE AND REGISTRATION INFORMATION SYSTEM MANAGEMENT.

(a) IN GENERAL.—Section 31106(b) is amended—

(1) by striking paragraphs (2) and (3) and inserting the following:

"(2) DESIGN.—The program shall link Federal motor carrier safety information systems with State commercial vehicle registration and licensing systems and shall be designed to enable a State to—

"(A) determine the safety fitness of a motor carrier or registrant when licensing or registering the registrant or motor carrier or while the license or registration is in effect; and

"(B) deny, suspend, or revoke the commercial motor vehicle registrations of a motor carrier or registrant that has been issued an operations out-of-service order by the Secretary.

"(3) CONDITIONS FOR PARTICIPATION.—The Secretary shall require States, as a condition of participation in the program, to—

"(A) comply with the uniform policies, procedures, and technical and operational standards prescribed by the Secretary under subsection (a)(4);

"(B) possess the authority to impose sanctions relating to commercial motor vehicle registration on the basis of a Federal safety fitness determination; and

"(C) cancel the motor vehicle registration and seize the registration plates of an employer found liable under section 31310(i)(2)(C) of this title for knowingly allowing or requiring an employee to operate a commercial motor vehicle in violation of an out-of-service order."; and

(2) by striking paragraph (4).

(b) PERFORMANCE AND REGISTRATION INFORMATION SYSTEM MANAGEMENT GRANTS.—

(1) Subchapter I of chapter 311, as amended by this title, is further amended by adding at the end the following:

"§ 31109. Performance and Registration Information System Management

"(a) IN GENERAL.—From the funds authorized by section 4222(c)(2) of the Motor Carrier Safety Reauthorization Act of 2004, the Secretary may make a grant in a fiscal year to a State to implement the performance and registration information system management requirements of section 31106(b).

"(b) AVAILABILITY OF AMOUNTS.—Amounts made available to a State under section 4222(c)(2) of the Motor Carrier Safety Reauthorization Act of 2004 to carry out this section shall remain available until expended.

"(c) SECRETARY'S APPROVAL.—Approval by the Secretary of a grant to a State under section 4222(c)(2) of the Motor Carrier Safety Reauthorization Act of 2004 to carry out this section is a contractual obligation of the Government for payment of the amount of the grant.".

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 311 is amended by inserting after the item relating to section 31108 the following:

"31109. Performance and Registration Information System Management.".

SEC. 4241. COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS DEPLOYMENT.

(a) IN GENERAL.—The Secretary shall carry out a commercial vehicle information systems and networks program to—

(1) improve the safety and productivity of commercial vehicles; and

(2) reduce costs associated with commercial vehicle operations and Federal and State commercial vehicle regulatory requirements.

(b) PURPOSE.—The program shall advance the technological capability and promote the deployment of intelligent transportation system applications for commercial vehicle operations, including commercial vehicle, commercial driver, and carrier-specific information systems and networks.

(c) CORE DEPLOYMENT GRANTS.—

(1) IN GENERAL.—The Secretary shall make grants to eligible States for the core deployment of commercial vehicle information systems and networks.

(2) ELIGIBILITY.—To be eligible for a core deployment grant under this section, a State—

(A) shall have a commercial vehicle information systems and networks program plan and a top level system design approved by the Secretary;

(B) shall certify to the Secretary that its commercial vehicle information systems and networks deployment activities, including hardware procurement, software and system development, and infrastructure modifications, are consistent with the national intelligent transportation systems and commercial vehicle information systems and networks architectures and available standards, and promote interoperability and efficiency to the extent practicable; and

(C) shall agree to execute interoperability tests developed by the Federal Motor Carrier Safety Administration to verify that its systems conform with the national intelligent transportation systems architecture, applicable standards, and protocols for commercial vehicle information systems and networks.

(3) AMOUNT OF GRANTS.—The maximum aggregate amount a State may receive under this section for the core deployment of commercial vehicle information systems and networks may not exceed $2,500,000.

(4) USE OF FUNDS.—Funds from a grant under this subsection may only be used for the core deployment of commercial vehicle information systems and networks. Eligible States that have either completed the core deployment of commercial vehicle information systems and networks or completed such deployment before core deployment grant funds are expended may use the remaining core deployment grant funds for the expanded deployment of commercial vehicle information systems and networks in their State.

(d) EXPANDED DEPLOYMENT GRANTS.—

(1) IN GENERAL.—For each fiscal year, from the funds remaining after the Secretary has made core deployment grants under subsection (c) of this section, the Secretary may make grants to each eligible State, upon request, for the expanded deployment of commercial vehicle information systems and networks.

(2) ELIGIBILITY.—Each State that has completed the core deployment of commercial vehicle information systems and networks is eligible for an expanded deployment grant.

(3) AMOUNT OF GRANTS.—Each fiscal year, the Secretary may distribute funds available for expanded deployment grants equally among the eligible States, but not to exceed $1,000,000 per State.

(4) USE OF FUNDS.—A State may use funds from a grant under this subsection only for the expanded deployment of commercial vehicle information systems and networks.

(e) FEDERAL SHARE.—The Federal share of the cost of a project payable from funds made available to carry out this section shall not exceed 50 percent. The total Federal share of the cost of a project payable from all eligible sources shall not exceed 80 percent.

(f) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated under section 4222(c)(4) shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that such funds shall remain available until expended.

(g) DEFINITIONS.—In this section:

(1) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.—The term "commercial vehicle information systems and networks" means the information systems and communications networks that provide the capability to—

(A) improve the safety of commercial vehicle operations;

(B) increase the efficiency of regulatory inspection processes to reduce administrative burdens by advancing technology to facilitate inspections and increase the effectiveness of enforcement efforts;

(C) advance electronic processing of registration information, driver licensing information, fuel tax information, inspection and crash data, and other safety information;

(D) enhance the safe passage of commercial vehicles across the United States and across international borders; and

(E) promote the communication of information among the States and encourage multistate cooperation and corridor development.

(2) Commercial vehicle operations.—The term "commercial vehicle operations"—

(A) means motor carrier operations and motor vehicle regulatory activities associated with the commercial movement of goods, including hazardous materials, and passengers; and

(B) with respect to the public sector, includes the issuance of operating credentials, the administration of motor vehicle and fuel taxes, and roadside safety and border crossing inspection and regulatory compliance operations.

(3) Core deployment.—The term "core deployment" means the deployment of systems in a State necessary to provide the State with the following capabilities:

(A) Safety information exchange.—Safety information exchange to—

(i) electronically collect and transmit commercial vehicle and driver inspection data at a majority of inspection sites;

(ii) connect to the Safety and Fitness Electronic Records system for access to interstate carrier and commercial vehicle data, summaries of past safety performance, and commercial vehicle credentials information; and

(iii) exchange carrier data and commercial vehicle safety and credentials information within the State and connect to Safety and Fitness Electronic Records for access to interstate carrier and commercial vehicle data.

(B) Interstate credentials administration.—Interstate credentials administration to—

(i) perform end-to-end processing, including carrier application, jurisdiction application processing, and credential issuance, of at least the International Registration Plan and International Fuel Tax Agreement credentials and extend this processing to other credentials, including intrastate, titling, oversize/overweight, carrier registration, and hazardous materials;

(ii) connect to the International Registration Plan and International Fuel Tax Agreement clearinghouses; and

(iii) have at least 10 percent of the transaction volume handled electronically, and have the capability to add more carriers and to extend to branch offices where applicable.

(C) Roadside screening.—Roadside electronic screening to electronically screen transponder-equipped commercial vehicles at a minimum of 1 fixed or mobile inspection sites and to replicate this screening at other sites.

(4) Expanded deployment.—The term "expanded deployment" means the deployment of systems in a State that exceed the requirements of an core deployment of commercial vehicle information systems and networks, improve safety and the productivity of commercial vehicle operations, and enhance transportation security.

SEC. 4242. OUTREACH AND EDUCATION.

(a) In General.—The Secretary of Transportation, through the National Highway Traffic Safety Administration and the Federal Motor Carrier Safety Administration, may undertake outreach and education initiatives, including the "Share the Road Safely" program, that may reduce the number of highway accidents, injuries, and fatalities involving commercial motor vehicles. The Secretary may not use funds authorized by this part for the "Safety Is Good Business" program.

(b) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary for fiscal year 2004 to carry out this section—

(1) $250,000 for the Federal Motor Carrier Safety Administration; and

(2) $750,000 for the National Highway Traffic Safety Administration.

SEC. 4243. OPERATION OF RESTRICTED PROPERTY-CARRYING UNITS ON NATIONAL HIGHWAY SYSTEM.

(a) Restricted Property-Carrying Unit Defined.—Section 31111(a) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

"(3) Restricted property-carrying unit.—The term 'restricted property-carrying unit' means any trailer, semi-trailer, container, or other property-carrying unit that is longer than 53 feet.".

(b) Prohibition on Operation of Restricted Property-Carrying Units.—

(1) In general.—Section 31111(b)(1)(C) is amended to read as follows:

"(C) allows operation on any segment of the National Highway System, including the Interstate System, of a restricted property-carrying unit unless the operation is specified on the list published under subsection (h);".

(2) Effective date.—The amendment made by paragraph (1) shall take effect 270 days after the date of enactment of this subsection.

(c) Limitations.—Section 31111 is amended by adding at the end the following:

"(h) Restricted Property-Carrying Units.—

"(1) Applicability of prohibition.—

"(A) In general.—Notwithstanding subsection (b)(1)(C), a restricted property-carrying unit may continue to operate on a segment of the National Highway System if the operation of such unit is specified on the list published under paragraph (2).

"(B) Applicability of State laws and regulations.—All operations specified on the list published under paragraph (2) shall continue to be subject to all State statutes, regulations, limitations and conditions, including routing-specific, commodity-specific, and configuration-specific designations and all other restrictions, in force on June 1, 2003.

"(C) Fire-fighting units.—Subsection (b)(1)(C) shall not apply to the operation of a restricted property-carrying unit that is used exclusively for fire-fighting.

"(2) Listing of restricted property-carrying units.—

"(A) In general.—Not later than 60 days after the date of enactment of the Motor Carrier Safety Reauthorization Act of 2004, the Secretary shall initiate a proceeding to determine and publish a list of restricted property-carrying units that were authorized by State officials pursuant to State statute or regulation on June 1, 2003, and in actual and lawful operation on a regular or periodic basis (including seasonal operations) on or before June 1, 2003.

"(B) Limitation.—A restricted property-carrying unit may not be included on the list published under subparagraph (A) on the basis that a State law or regulation could have authorized the operation of the unit at some prior date by permit or otherwise.

"(C) Publication of final list.—Not later than 270 days after the date of enactment of this subsection, the Secretary shall publish a final list of restricted property-carrying units described in subparagraph (A).

"(D) Updates.—The Secretary shall update the list published under subparagraph (C) as necessary to reflect new designations made to the National Highway System.

"(3) ,Applicability of prohibition.—The prohibition established by subsection (b)(1)(C) shall apply to any new designation made to the National Highway System and remain in effect on those portions of the National Highway System that cease to be designated as part of the National Highway System.

"(4) Limitation on statutory construction.—This subsection does not prevent a State from further restricting in any manner or prohibiting the operation of a restricted property-carrying unit; except that such restrictions or prohibitions shall be consistent with the requirements of this section and sections 31112 through 31114.".

(d) Enforcement.—The second sentence of section 141(a) of title 23, United States Code, is amended by striking "section 31112" and inserting "sections 31111 and 31112".

SEC. 4244. OPERATION OF LONGER COMBINATION VEHICLES ON NATIONAL HIGHWAY SYSTEM.

(a) In General.—Section 31112 is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following:

"(f) National Highway System.—

"(1) General rule.—A State may not allow, on a segment of the National Highway System that is not covered under subsection (b) or (c), the operation of a commercial motor vehicle combination (except a vehicle or load that cannot be dismantled easily or divided easily and that has been issued a special permit under applicable State law) with more than 1 property-carrying unit (not including the truck tractor) whose property-carrying units are more than—

"(A) the maximum combination trailer, semitrailer, or other type of length limitation allowed by law or regulation of that State on June 1, 2003; or

"(B) the length of the property-carrying units of those commercial motor vehicle combinations, by specific configuration, in actual and lawful operation on a regular or periodic basis (including continuing seasonal operation) in that State on or before June 1, 2003.

"(2) Additional limitations.—

"(A) Applicability of State restrictions.—A commercial motor vehicle combination whose operation in a State is not prohibited under paragraph (1) may continue to operate in the State on highways described in paragraph (1) only in compliance with all State laws, regulations, limitations, and conditions, including routing-specific and configuration-specific designations and all other restrictions in force in the State on June 1, 2003. Subject to regulations prescribed by the Secretary under subsection (h), the State may make minor adjustments of a temporary and emergency nature to route designations and vehicle operating restrictions in effect on June 1, 2003, for specific safety purposes and road construction.

"(B) Additional State restrictions.—This subsection does not prevent a State from further restricting in any manner or prohibiting the operation of a commercial motor vehicle combination subject to this section, except that such restrictions or prohibitions shall be consistent with this section and sections 31113(a), 31113(b), and 31114.

"(C) Minor adjustments.—A State making a minor adjustment of a temporary and emergency nature as authorized by subparagraph (A) or further restricting or prohibiting the operation of a commercial motor vehicle combination as authorized by subparagraph (B) shall advise the Secretary not later than 30 days after the action. The Secretary shall publish a notice of the action in the Federal Register.

"(3) LIST OF STATE LENGTH LIMITATIONS.—

"(A) STATE SUBMISSIONS.—Not later than 60 days after the date of enactment of the Motor Carrier Safety Reauthorization Act of 2004, each State shall submit to the Secretary for publication a complete list of State length limitations applicable to commercial motor vehicle combinations operating in the State on the highways described in paragraph (1). The list shall indicate the applicable State laws and regulations associated with the length limitations. If a State does not submit the information as required, the Secretary shall complete and file the information for the State.

"(B) PUBLICATION OF INTERIM LIST.—Not later than 90 days after the date of enactment of the Motor Carrier Safety Reauthorization Act of 2004, the Secretary shall publish an interim list in the Federal Register consisting of all information submitted under subparagraph (A). The Secretary shall review for accuracy all information submitted by a State under subparagraph (A) and shall solicit and consider public comment on the accuracy of the information.

"(C) LIMITATION.—A law or regulation may not be included on the list submitted by a State or published by the Secretary merely because it authorized, or could have authorized, by permit or otherwise, the operation of commercial motor vehicle combinations not in actual operation on a regular or periodic basis on or before June 1, 2003.

"(D) PUBLICATION OF FINAL LIST.—Except as revised under this subparagraph or subparagraph (E), the list shall be published as final in the Federal Register not later than 270 days after the date of enactment of the Motor Carrier Safety Reauthorization Act of 2004. In publishing the final list, the Secretary shall make any revisions necessary to correct inaccuracies identified under subparagraph (B). After publication of the final list, commercial motor vehicle combinations prohibited under paragraph (1) may not operate on a highway described in paragraph (1) except as published on the list.

"(E) INACCURACIES.—On the Secretary's own motion or on request by any person (including a State), the Secretary shall review the list published under subparagraph (D). If the Secretary decides there is reason to believe a mistake was made in the accuracy of the list, the Secretary shall begin a proceeding to decide whether a mistake was made. If the Secretary decides there was a mistake, the Secretary shall publish the correction.".

(b) CONFORMING AMENDMENTS.—Section 31112 is amended—

(1) by inserting "126(e) or" before "127(d)" in subsection (g)(1) (as redesignated by subsection (a) of this section);

(2) by inserting "(or June 1, 2003, with respect to highways described in subsection (f)(1))" after "June 2, 1991" in subsection (g)(3) (as redesignated by subsection (a) of this section); and

(3) by striking "Not later than June 15, 1992, the Secretary" in subsection (h)(2) (as redesignated by subsection (a) of this section) and inserting "The Secretary"; and

(4) by inserting "or (f)" in subsection (h)(2) (as redesignated by subsection (a) of this section) after "subsection (d)".

SEC. 4245. APPLICATION OF SAFETY STANDARDS TO CERTAIN FOREIGN MOTOR CARRIERS.

(a) APPLICATION OF SAFETY STANDARDS.—Section 30112 is amended—

(1) by striking "person" in subsection (a) and inserting "person, including a foreign motor carrier,"; and

(2) by adding at the end the following:

"(c) DEFINITIONS.—In this section:

"(1) FOREIGN MOTOR CARRIER.—The term 'foreign motor carrier' has the meaning given that term in section 13102 of this title.

"(2) IMPORT.—The term 'import' means transport by any means into the United States, on a permanent or temporary basis, including the transportation of a motor vehicle into the United States for the purpose of providing the transportation of cargo or passengers.".

(b) REQUIREMENT FOR CERTIFICATE OF COMPLIANCE.—Section 30115 is amended by adding at the end the following:

"(c) APPLICATION TO FOREIGN MOTOR CARRIERS.—

"(1) IN GENERAL.—The requirement for certification described in subsection (a) shall apply to a foreign motor carrier that imports a motor vehicle or motor vehicle equipment into the United States. Such certification shall be made to the Secretary of Transportation prior to the import of the vehicle or equipment.

"(2) DEFINITIONS.—In this subsection:

"(A) FOREIGN MOTOR CARRIER.—The term 'foreign motor carrier' has the meaning given that term in section 13102 of this title.

"(B) IMPORT.—The term 'import' has the meaning given that term in section 30112 of this title.".

(c) TIME FOR COMPLIANCE.—The amendments made by sections (a) and (b) shall take effect on September 1, 2004.

SEC. 4246. BACKGROUND CHECKS FOR MEXICAN AND CANADIAN DRIVERS HAULING HAZARDOUS MATERIALS.

(a) IN GENERAL.—No commercial motor vehicle operator registered to operate in Mexico or Canada may operate a commercial motor vehicle transporting a hazardous material in commerce in the United States until the operator has undergone a background records check similar to the background records check required for commercial motor vehicle operators licensed in the United States to transport hazardous materials in commerce.

(b) DEFINITIONS.—In this section:

(1) HAZARDOUS MATERIALS.—The term "hazardous material" means any material determined by the Secretary of Transportation to be a hazardous material for purposes of this section.

(2) COMMERCIAL MOTOR VEHICLE.—The term "commercial motor vehicle" has the meaning given that term by section 31101 of title 49, United States Code.

(c) EFFECTIVE DATE.—This section takes effect on April 1, 2004.

SEC. 4247. EXEMPTION OF DRIVERS OF UTILITY SERVICE VEHICLES.

Section 345 of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note) is amended—

(1) by striking paragraph (4) of subsection (a) and inserting the following:

"(4) DRIVERS OF UTILITY SERVICE VEHICLES.—

"(A) INAPPLICABILITY OF FEDERAL REGULATIONS.—Such regulations may not apply to a driver of a utility service vehicle.

"(B) PROHIBITION ON STATE REGULATIONS.—A State, a political subdivision of a State, an interstate agency, or other entity consisting of 2 or more States, may not enact or enforce any law, rule, regulation, or standard that imposes requirements on a driver of a utility service vehicle that are similar to the requirements contained in such regulations.";

(2) by striking "Nothing" in subsection (b) and inserting "Except as provided in subsection (a)(4), nothing"; and

(3) by striking "paragraph (2)" in the first sentence of subsection (c) and inserting "an exemption under paragraph (2) or (4)".

SEC. 4248. OPERATION OF COMMERCIAL MOTOR VEHICLES TRANSPORTING AGRICULTURAL COMMODITIES AND FARM SUPPLIES.

(a) EXEMPTION FROM HOURS-OF-SERVICE REQUIREMENTS.—

(1) IN GENERAL.—Section 345(c) of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note), as amended by section 4247(3) of this title, is amended by striking "paragraph (2) or (4)" and inserting "paragraph (1), (2), or (4) of that subsection)".

(2) APPLICABILITY.—The exemption provided by section 345(a)(1) of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note) shall apply to a person transporting agricultural commodities or farm supplies for agricultural purposes under that section on and after the date of enactment of this Act regardless of any action taken by the Secretary of Transportation under section 345(c) of that Act before the date of enactment of this Act.

(b) DEFINITION OF AGRICULTURAL COMMODITY.—Section 345(e) of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note) is amended—

(1) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (5), (6), (4), and (7), respectively, and moving the paragraphs so as to appear in numerical order; and

(2) by inserting after paragraph (2) the following:

"(3) AGRICULTURAL COMMODITY.—The term 'agricultural commodity' has the meaning given the term in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602).".

SEC. 4249. SAFETY PERFORMANCE HISTORY SCREENING.

(a) IN GENERAL.—Subchapter III of chapter 311, as amended by section 4228, is amended by adding at the end the following:

"§ 31150. Safety performance history screening

"(a) IN GENERAL.—The Secretary of Transportation shall provide companies conducting pre-employment screening services for the motor carrier industry electronic access to—

"(1) commercial motor vehicle accident reports,

"(2) inspection reports that contain no driver-related safety violations, and

"(3) serious driver-related safety violation inspection reports that are contained in the Motor Carrier Management Information System.

"(b) ESTABLISHMENT.—Prior to making information available to such companies under subsection (a), the Secretary shall—

"(1) ensure that any information released is done in accordance with the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) and all applicable Federal laws;

"(2) require the driver applicant's written consent as a condition of releasing the information;

"(3) ensure that the information made available to companies providing pre-employment screening services is not released to any other unauthorized company or individual, unless expressly authorized or required by law; and

"(4) provide a procedure for drivers to remedy incorrect information in a timely manner.

"(c) DESIGN.—To be eligible to have access to information under subsection (a), a company conducting pre-employment screening services for the motor carrier industry shall utilize a screening process—

"(1) that is designed to assist the motor carrier industry in assessing an individual driver's crash and serious safety violation inspection history as a pre-employment condition;

"(2) the use of which is not mandatory; and

"(3) which is used only during the pre-employment assessment of a driver-applicant.

"(d) SERIOUS DRIVER-RELATED SAFETY VIOLATIONS.—In this section, the term 'serious driver-related safety violation' means a violation listed in the North American Standard Out-of-service Criteria that prohibits the continued operation of a commercial motor vehicle.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 311, as amended by section 4228, is amended by inserting after the item relating to section 31149 the following:

"31150. Safety performance history screening.".

SEC. 4250. COMPLIANCE REVIEW AUDIT.

Within 1 year after the date of enactment of this Act, the Inspector General for the Department of Transportation shall audit the compliance reviews performed by the Federal Motor Carrier Safety Administration in fiscal year 2003 and submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on—

(1) the enforcement actions taken as a result of the compliance reviews, including fines, suspension or revocation of operating authority, unsatisfactory ratings, and follow-up actions to ensure compliance with Federal motor carrier safety regulations;

(2) whether compliance reviews are or should be performed on a corporate-wide basis for all affiliates of the motor carrier selected for a compliance review as a result of its Safety Status Measurement System ranking or the submission of a complaint;

(3) whether the enforcement actions taken by the Federal Motor Carrier Safety Administration are adequate to assure future compliance of the motor carrier with Federal safety regulations and what deterrent effect those enforcement actions may have industry-wide;

(4) whether the methodology for calculating the crash rate of commercial motor vehicles in the Safety Status Measurement System would be more appropriately based on the number of vehicle miles driven by a motor carrier rather than the number of trucks operated by the carrier;

(5) whether the public access information in the Safety Status Measurement System meets the agency's requirements under the Data Quality Act; and

(6) the existing information Selection System Indicators criteria and weighting and whether the safety evaluation area containing data on accidents should receive higher priority for complaince reviews and inspection selection.

PART III—UNIFIED CARRIER REGISTRATION

SEC. 4261. SHORT TITLE.

This part may be cited as the "Unified Carrier Registration Act of 2004".

SEC. 4262. RELATIONSHIP TO OTHER LAWS.

Except as provided in section 14504 of title 49, United States Code, and sections 14504a and 14506 of title 49, United States Code, as added by this part, this part is not intended to prohibit any State or any political subdivision of any State from enacting, imposing, or enforcing any law or regulation with respect to a motor carrier, motor private carrier, broker, freight forwarder, or leasing company that is not otherwise prohibited by law.

SEC. 4263. INCLUSION OF MOTOR PRIVATE AND EXEMPT CARRIERS.

(a) PERSONS REGISTERED TO PROVIDE TRANSPORTATION OR SERVICE AS A MOTOR CARRIER OR MOTOR PRIVATE CARRIER.—Section 13905 is amended by—

(1) redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively; and

(2) inserting after subsection (a) the following:

"(b) PERSON REGISTERED WITH SECRETARY.—Any person having registered with the Secretary to provide transportation or service as a motor carrier or motor private carrier under this title, as in effect on January 1, 2002, but not having registered pursuant to section 13902(a) of this title, shall be deemed, for purposes of this part, to be registered to provide such transportation or service for purposes of sections 13908 and 14504a of this title.".

(b) SECURITY REQUIREMENT.—Section 13906(a) is amended by—

(1) redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) inserting the following:

"(2) SECURITY REQUIREMENT.—Not later than 120 days after the date of enactment of the Unified Carrier Registration Act of 2004, any person, other than a motor private carrier, registered with the Secretary to provide transportation or service as a motor carrier under section 13905(b) of this title shall file with the Secretary a bond, insurance policy, or other type of security approved by the Secretary, in an amount not less than required by sections 31138 and 31139 of this title.".

SEC. 4264. UNIFIED CARRIER REGISTRATION SYSTEM.

(a) Section 13908 is amended to read as follows:

"§ 13908. Registration and other reforms

"(a) ESTABLISHMENT OF UNIFIED CARRIER REGISTRATION SYSTEM.—The Secretary, in cooperation with the States, representatives of the motor carrier, motor private carrier, freight forwarder and broker industries, and after notice and opportunity for public comment, shall issue within 1 year after the date of enactment of the Unified Carrier Registration Act of 2004 regulations to establish, an online, Federal registration system to be named the Unified Carrier Registration System to replace—

"(1) the current Department of Transportation identification number system, the Single State Registration System under section 14504 of this title;

"(2) the registration system contained in this chapter and the financial responsibility information system under section 13906; and

"(3) the service of process agent systems under sections 503 and 13304 of this title.

"(b) ROLE AS CLEARINGHOUSE AND DEPOSITORY OF INFORMATION.—The Unified Carrier Registration System shall serve as a clearinghouse and depository of information on, and identification of, all foreign and domestic motor carriers, motor private carriers, brokers, and freight forwarders, and others required to register with the Department, including information with respect to a carrier's safety rating, compliance with required levels of financial responsibility, and compliance with the provisions of section 14504a of this title. The Secretary shall ensure that Federal agencies, States, representatives of the motor carrier industry, and the public have access to the Unified Carrier Registration System, including the records and information contained in the System.

"(c) PROCEDURES FOR CORRECTING INFORMATION.—Not later than 60 days after the effective date of this section, the Secretary shall prescribe regulations establishing procedures that enable a motor carrier to correct erroneous information contained in any part of the Unified Carrier Registration System.

"(d) FEE SYSTEM.—The Secretary shall establish, under section 9701 of title 31, a fee system for the Unified Carrier Registration System according to the following guidelines:

"(1) REGISTRATION AND FILING EVIDENCE OF FINANCIAL RESPONSIBILITY.—The fee for new registrants shall as nearly as possible cover the costs of processing the registration and conducting the safety audit or examination, if required, but shall not exceed $300.

"(2) EVIDENCE OF FINANCIAL RESPONSIBILITY.—The fee for filing evidence of financial responsibility pursuant to this section shall not exceed $10 per filing. No fee shall be charged for a filing for purposes of designating an agent for service of process or the filing of other information relating to financial responsibility.

"(3) ACCESS AND RETRIEVAL FEES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the fee system shall include a nominal fee for the access to or retrieval of information from the Unified Carrier Registration System to cover the costs of operating and upgrading the System, including the personnel costs incurred by the Department and the costs of administration of the Unified Carrier Registration Agreement.

"(B) EXCEPTIONS.—There shall be no fee charged—

"(i) to any agency of the Federal Government or a State government or any political subdivision of any such government for the access to or retrieval of information and data from the Unified Carrier Registration System for its own use; or

"(ii) to any representative of a motor carrier, motor private carrier, leasing company, broker, or freight forwarder (as each is defined in section 14504a of this title) for the access to or retrieval of the individual information related to such entity from the Unified Carrier Registration System for the individual use of such entity.".

SEC. 4265. REGISTRATION OF MOTOR CARRIERS BY STATES.

(a) TERMINATION OF REGISTRATION PROVISIONS.—Section 14504 is amended by adding at the end the following:

"(d) TERMINATION OF PROVISIONS.—Subsections (b) and (c) shall cease to be effective on the first January 1st occurring more than 12 months after the date of enactment of the Unified Carrier Registration Act of 2004.".

(b) UNIFIED CARRIER REGISTRATION SYSTEM PLAN AND AGREEMENT.—Chapter 145 is amended by inserting after section 14504 the following:

"§ 14504a. Unified carrier registration system plan and agreement

"(a) DEFINITIONS.—In this section and section 14506 of this title:

"(1) COMMERCIAL MOTOR VEHICLE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'commercial motor vehicle' has the meaning given the term in section 31101 of this title.

"(B) EXCEPTION.—With respect to motor carriers required to make any filing or pay any fee to a State with respect to the motor carrier's authority or insurance related to operation within such State, the term 'commercial motor vehicle' means any self-propelled vehicle used on the highway in commerce to transport passengers or property for compensation regardless of the gross vehicle weight rating of the vehicle or the number of passengers transported by such vehicle.

"(2) BASE-STATE.—

"(A) IN GENERAL.—The term 'Base-State' means, with respect to the Unified Carrier Registration Agreement, a State—

"(i) that is in compliance with the requirements of subsection (e); and

"(ii) in which the motor carrier, motor private carrier, broker, freight forwarder or leasing company maintains its principal place of business.

"(B) DESIGNATION OF BASE-STATE.—A motor carrier, motor private carrier, broker, freight forwarder or leasing company may designate another State in which it maintains an office or operating facility as its Base-State in the event that—

"(i) the State in which the motor carrier, motor private carrier, broker, freight forwarder or leasing company maintains its principal place of business is not in compliance with the requirements of subsection (e); or

"(ii) the motor carrier, motor private carrier, broker, freight forwarder or leasing company does not have a principal place of business in the United States.

"(3) INTRASTATE FEE.—The term 'intrastate fee' means any fee, tax, or other type of assessment, including per vehicle fees and gross receipts taxes, imposed on a motor carrier or motor private carrier for the renewal of the intrastate authority or insurance filings of such carrier with a State.

"(4) LEASING COMPANY.—The term 'leasing company' means a lessor that is engaged in the business of leasing or renting for compensation motor vehicles without drivers to a motor carrier, motor private carrier, or freight forwarder.

"(5) MOTOR CARRIER.—The term 'motor carrier' has the meaning given the term in section 13102(12) of this title, but shall include all carriers that are otherwise exempt from the provisions of part B of this title pursuant to the provisions of chapter 135 of this title or exemption actions by the former Interstate Commerce Commission under this title.

"(6) PARTICIPATING STATE.—The term 'participating state' means a State that has complied with the requirements of subsection (e) of this section.

"(7) SSRS.—The term 'SSRS' means the Single State Registration System in effect on the date of enactment of the Unified Carrier Registration Act of 2004.

"(8) UNIFIED CARRIER REGISTRATION AGREEMENT.—The terms 'Unified Carrier Registration Agreement' and 'UCR Agreement' mean the interstate agreement developed under the Unified Carrier Registration Plan governing the collection and distribution of registration and financial responsibility information provided and fees paid by motor carriers, motor private carriers, brokers, freight forwarders and leasing companies pursuant to this section.

"(9) UNIFIED CARRIER REGISTRATION PLAN.—The terms 'Unified Carrier Registration Plan' and 'UCR Plan' mean the organization of State, Federal and industry representatives responsible for developing, implementing and administering the Unified Carrier Registration Agreement.

"(10) VEHICLE REGISTRATION.—The term 'vehicle registration' means the registration of any commercial motor vehicle under the International Registration Plan or any other registration law or regulation of a jurisdiction.

"(b) APPLICABILITY OF PROVISIONS TO FREIGHT FORWARDERS.—A Freight forwarder that operates commercial motor vehicles and is not required to register as a carrier pursuant to section 13903(b) of this title shall be subject to the provisions of this section as if a motor carrier.

"(c) UNREASONABLE BURDEN.—For purposes of this section, it shall be considered an unreasonable burden upon interstate commerce for any State or any political subdivision of a State, or any political authority of 2 or more States—

"(1) to enact, impose, or enforce any requirement or standards, or levy any fee or charge on any interstate motor carrier or interstate motor private carrier in connection with—

"(A) the registration with the State of the interstate operations of a motor carrier or motor private carrier;

"(B) the filing with the State of information relating to the financial responsibility of a motor carrier or motor private carrier pursuant to sections 31138 or 31139 of this title;

"(C) the filing with the State of the name of the local agent for service of process of a motor carrier or motor private carrier pursuant to sections 503 or 13304 of this title; or

"(D) the annual renewal of the intrastate authority, or the insurance filings, of a motor carrier or motor private carrier, or other intrastate filing requirement necessary to operate within the State, if the motor carrier or motor private carrier is—

"(i) registered in compliance with section 13902 or section 13905(b) of this title; and

"(ii) in compliance with the laws and regulations of the State authorizing the carrier to operate in the State pursuant to section 14501(c)(2)(A) of this title

except with respect to—

"(I) intrastate service provided by motor carriers of passengers that is not subject to the preemptive provisions of section 14501(a) of this title,

"(II) motor carriers of property, motor private carriers, brokers, or freight forwarders, or their services or operations, that are described in subparagraphs (B) and (C) of section 14501(c)(2) and section 14506(c)(3) or permitted pursuant to section 14506(b) of this title, and

"(III) the intrastate transportation of waste or recycables by any carrier); or

"(2) to require any interstate motor carrier or motor private carrier to pay any fee or tax, not proscribed by paragraph (1)(D) of this subsection, that a motor carrier or motor private carrier that pays a fee which is proscribed by that paragraph is not required to pay.

"(d) UNIFIED CARRIER REGISTRATION PLAN.—

"(1) BOARD OF DIRECTORS.—

"(A) GOVERNANCE OF PLAN.—The Unified Carrier Registration Plan shall be governed by a Board of Directors consisting of representatives of the Department of Transportation, Participating States, and the motor carrier industry.

"(B) NUMBER.—The Board shall consist of 15 directors.

"(C) COMPOSITION.—The Board shall be composed of directors appointed as follows:

"(i) FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION.—The Secretary shall appoint 1 director from each of the Federal Motor Carrier Safety Administration's 4 Service Areas (as those areas were defined by the Federal Motor Carrier Safety Administration on January 1, 2003), from among the chief administrative officers of the State agencies responsible for overseeing the administration of the UCR Agreement.

"(ii) STATE AGENCIES.—The Secretary shall appoint 5 directors from the professional staffs of State agencies responsible for overseeing the administration of the UCR Agreement in their respective States. Nominees for these 5 directorships shall be submitted to the Secretary by the national association of professional employees of the State agencies responsible for overseeing the administration of the UCR Agreement in their respective States.

"(iii) MOTOR CARRIER INDUSTRY.—The Secretary shall appoint 5 directors from the motor carrier industry. At least 1 of the appointees shall be an employee of the national trade association representing the general motor carrier of property industry.

"(iv) DEPARTMENT OF TRANSPORTATION.—The Secretary shall appoint the Deputy Administrator of the Federal Motor Carrier Safety Administration, or such other presidential appointee from the United States Department of Transportation, as the Secretary may designate, to serve as a director.

"(D) CHAIRPERSON AND VICE-CHAIRPERSON.—The Secretary shall designate 1 director as Chairperson and 1 director as Vice-Chairperson of the Board. The Chairperson and Vice-Chairperson shall serve in such capacity for the term of their appointment as directors.

"(E) TERM.—In appointing the initial Board, the Secretary shall designate 5 of the appointed directors for initial terms of 3 years, 5 of the appointed directors for initial terms of 2 years, and 5 of the appointed directors for initial terms of 1 year. Thereafter, all directors shall be appointed for terms of 3 years, except that the term of the Deputy Administrator or other individual designated by the Secretary under subparagraph (C)(iv) shall be at the discretion of the Secretary. A director may be appointed to succeed himself or herself. A director may continue to serve on the Board until his or her successor is appointed.

"(2) RULES AND REGULATIONS GOVERNING THE UCR AGREEMENT.—The Board of Directors shall develop the rules and regulations to govern the UCR Agreement and submit such rules and regulations to the Secretary for approval and adoption. The rules and regulations shall—

"(A) prescribe uniform forms and formats, for—

"(i) the annual submission of the information required by a Base-State of a motor carrier, motor private carrier, leasing company, broker, or freight forwarder;

"(ii) the transmission of information by a Participating State to the Unified Carrier Registration System;

"(iii) the payment of excess fees by a State to the designated depository and the distribution of fees by the depository to those States so entitled; and

"(iv) the providing of notice by a motor carrier, motor private carrier, broker, freight forwarder, or leasing company to the Board of the intent of such entity to change its Base-State, and the procedures for a State to object to such a change under subparagraph (C) of this paragraph;

"(B) provide for the administration of the Unified Carrier Registration Agreement, including procedures for amending the Agreement and obtaining clarification of any provision of the Agreement;

"(C) provide procedures for dispute resolution that provide due process for all involved parties; and

"(D) designate a depository.

"(3) COMPENSATION AND EXPENSES.—Except for the representative of the Department of Transportation appointed pursuant to paragraph 1(D), no director shall receive any compensation or other benefits from the Federal Government for serving on the Board or be considered a Federal employee as a result of such service. All Directors shall be reimbursed for expenses they incur attending duly called meetings of the Board. In addition, the Board may approve the reimbursement of expenses incurred by members of any subcommittee or task force appointed pursuant to paragraph (5). The reimbursement of expenses to directors and subcommittee and task force members shall be based on the then applicable rules of the General Service Administration governing reimbursement of expenses for travel by Federal employees.

"(4) MEETINGS.—

"(A) IN GENERAL.—The Board shall meet at least once per year. Additional meetings may be called, as needed, by the Chairperson of the Board, a majority of the directors, or the Secretary.

"(B) QUORUM.—A majority of directors shall constitute a quorum.

"(C) VOTING.—Approval of any matter before the Board shall require the approval of a majority of all directors present at the meeting.

"(D) OPEN MEETINGS.—Meetings of the Board and any subcommittees or task forces appointed pursuant to paragraph (5) of this section shall be subject to the provisions of section 552b of title 5.

"(5) SUBCOMMITTEES.—

"(A) INDUSTRY ADVISORY SUBCOMMITTEE.—The Chairperson shall appoint an Industry Advisory Subcommittee. The Industry Advisory Subcommittee shall consider any matter before the Board and make recommendations to the Board.

"(B) OTHER SUBCOMMITTEES.—The Chairperson shall appoint an Audit Subcommittee, a Dispute Resolution Subcommittee, and any additional subcommittees and task forces that the Board determines to be necessary.

"(C) MEMBERSHIP.—The chairperson of each subcommittee shall be a director. The other members of subcommittees and task forces may be directors or non-directors.

"(D) REPRESENTATION ON SUBCOMMITTEES.—Except for the Industry Advisory Subcommittee (the membership of which shall consist solely of representatives of entities subject to the fee requirements of subsection (f) of this section), each subcommittee and task force shall include representatives of the Federal Motor Carrier Safety Administration, the Participating States, and the motor carrier industry.

"(6) DELEGATION OF AUTHORITY.—The Board may contract with any private commercial or non-profit entity or any agency of a State to perform administrative functions required under the Unified Carrier Registration Agreement, but may not delegate its decision or policy-making responsibilities.

"(7) DETERMINATION OF FEES.—The Board shall determine the annual fees to be assessed carriers, leasing companies, brokers, and freight forwarders pursuant to the Unified Carrier Registration Agreement. In determining the level of fees to be assessed in the next Agreement year, the Board shall consider—

"(A) the administrative costs associated with the Unified Carrier Registration Plan and the Agreement;

"(B) whether the revenues generated in the previous year and any surplus or shortage from that or prior years enable the Participating States to achieve the revenue levels set by the Board; and

"(C) the parameters for fees set forth in subsection (f)(1).

"(8) LIABILITY PROTECTIONS FOR DIRECTORS.—No individual appointed to serve on the Board shall be liable to any other director or to any other party for harm, either economic or non-economic, caused by an act or omission of the individual arising from the individual's service on the Board if—

"(A) the individual was acting within the scope of his or her responsibilities as a director; and

"(B) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the right or safety of the party harmed by the individual.

"(9) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Unified Carrier Registration Plan or its committees.

"(10) CERTAIN FEES NOT AFFECTED.—This section does not limit the amount of money a State may charge for vehicle registration or the amount of any fuel use tax a State may impose pursuant to the International Fuel Tax Agreement.

"(e) STATE PARTICIPATION.—

"(1) STATE PLAN.—No State shall be eligible to participate in the Unified Carrier Registration Plan or to receive any revenues derived under the Agreement, unless the State submits to the Secretary, not later than 3 years after the date of enactment of the Unified Carrier Registration Act of 2004, a plan—

"(A) identifying the State agency that has or will have the legal authority, resources, and qualified personnel necessary to administer the Unified Carrier Registration Agreement in accordance with the rules and regulations promulgated by the Board of Directors of the Unified Carrier Registration Plan; and

"(B) containing assurances that an amount at least equal to the revenue derived by the State from the Unified Carrier Registration Agreement shall be used for motor carrier safety programs, enforcement, and financial responsibility, or the administration of the UCR Plan and UCR Agreement.

"(2) AMENDED PLANS.—A State may change the agency designated in the plan submitted under this subsection by filing an amended plan with the Secretary and the Chairperson of the Unified Carrier Registration Plan.

"(3) WITHDRAWAL OF PLAN.—In the event a State withdraws, or notifies the Secretary that it is withdrawing, the plan submitted under this subsection, the State may no longer participate in the Unified Carrier Registration Agreement or receive any portion of the revenues derived under the Agreement.

"(4) TERMINATION OF ELIGIBILITY.—If a State fails to submit a plan to the Secretary as required by paragraph (1) or withdraws its plan under paragraph (3), the State shall be prohibited from subsequently submitting or resubmitting a plan or participating in the Agreement.

"(5) PROVISION OF PLAN TO CHAIRPERSON.—The Secretary shall provide a copy of each plan submitted under this subsection to the initial Chairperson of the Board of Directors of the Unified Carrier Registration Plan not later than 90 days of appointing the Chairperson.

"(f) CONTENTS OF UNIFIED CARRIER REGISTRATION AGREEMENT.—The Unified Carrier Registration Agreement shall provide the following:

"(1) DETERMINATION OF FEES.—

"(A) Fees charged motor carriers, motor private carriers, or freight forwarders in connection with the filing of proof of financial responsibility under the UCR Agreement shall be based on the number of commercial motor vehicles owned or operated by the motor carrier, motor private carrier, or freight forwarder. Brokers and leasing companies shall pay the same fees as the smallest bracket of motor carriers, motor private carriers, and freight forwarders.

"(B) The fees shall be determined by the Board with the approval of the Secretary.

"(C) The Board shall develop no more than 6 and no less than 4 ranges of carriers by size of fleet.

"(D) The fee scale shall be progressive and use different vehicle ratios for different ranges of carrier fleet size.

"(E) The Board may adjust the fees within a reasonable range on an annual basis if the revenues derived from the fees—

"(i) are insufficient to provide the revenues to which the States are entitled under this section; or

"(ii) exceed those revenues.

"(2) DETERMINATION OF OWNERSHIP OR OPERATION.—Commercial motor vehicles owned or operated by a motor carrier, motor private carrier, or freight forwarder shall mean those commercial motor vehicles registered in the name of the motor carrier, motor private carrier, or freight forwarder or controlled by the motor carrier, motor private carrier, or freight forwarder under a long term lease during a vehicle registration year.

"(3) CALCULATION OF NUMBER OF COMMERCIAL MOTOR VEHICLES OWNED OR OPERATED.—The number of commercial motor vehicles owned or operated by a motor carrier, motor private carrier, or freight forwarder for purposes of subsection (e)(1) shall be based either on the number of commercial motor vehicles the motor carrier, motor private carrier, or freight forwarder has indicated it operates on its most recently filed MCS–150 or the total number of such vehicles it owned or operated for the 12-month period ending on June 30 of the year immediately prior to the each registration year of the Unified Carrier Registration System.

"(4) PAYMENT OF FEES.—Motor carriers, motor private carriers, leasing companies, brokers, and freight forwarders shall pay all fees required under this section to their Base-State pursuant to the UCR Agreement.

"(g) PAYMENT OF FEES.—Revenues derived under the UCR Agreement shall be allocated to Participating States as follows:

"(1) A State that participated in the Single State Registration System in the last calendar year ending before the date of enactment of the Unified Carrier Registration Act of 2004 and complies with the requirements of subsection (e) of this section is entitled to receive a portion of the UCR Agreement revenues generated under the Agreement equivalent to the revenues it received under the SSRS in the last calendar year ending before the date of enactment of the Unified Carrier Registration Act of 2004, as long as the State continues to comply with the provisions of subsection (e).

"(2) A State that collected intrastate registration fees from interstate motor carriers, interstate motor private carriers, or interstate exempt carriers and complies with the requirements of subsection (e) of this section is entitled to receive an additional portion of the UCR Agreement revenues generated under the Agreement equivalent to the revenues it received from such interstate carriers in the last calendar year ending before the date of enactment of the Unified Carrier Registration Act of 2004, as long as the State continues to comply with the provisions of subsection (e).

"(3) States that comply with the requirements of subsection (e) of this section but did not participate in SSRS during the last calendar year ending before the date of enactment of the Unified Carrier Registration Act of 2004 shall be entitled to an annual allotment not to exceed $500,000 from the UCR Agreement revenues generated under the Agreement as long as the State continues to comply with the provisions of subsection (e).

"(4) The amount of UCR Agreement revenues to which a State is entitled under this section shall be calculated by the Board and approved by the Secretary.

"(h) Distribution of UCR Agreement Revenues.—

"(1) Eligibility.—Each State that is in compliance with the provisions of subsection (e) shall be entitled to a portion of the revenues derived from the UCR Agreement in accordance with subsection (g).

"(2) Entitlement to revenues.—A State that is in compliance with the provisions of subsection (e) may retain an amount of the gross revenues it collects from motor carriers, motor private carriers, brokers, freight forwarders and leasing companies under the UCR Agreement equivalent to the portion of revenues to which the State is entitled under subsection (g). All revenues a Participating State collects in excess of the amount to which the State is so entitled shall be forwarded to the depository designated by the Board under subsection (d)(2)(D).

"(3) Distribution of funds from depository.—The excess funds collected in the depository shall be distributed as follows:

"(A) Excess funds shall be distributed on a pro rata basis to each Participating State that did not collect revenues under the UCR Agreement equivalent to the amount such State is entitled under subsection (g), except that the sum of the gross UCR Agreement revenues collected by a Participating State and the amount distributed to it from the depository shall not exceed the amount to which the State is entitled under subsection (g).

"(B) Any excess funds held by the depository after all distributions under subparagraph (A) have been made shall be used to pay the administrative costs of the UCR Plan and the UCR Agreement.

"(C) Any excess funds held by the depository after distributions and payments under subparagraphs (A) and (B) shall be retained in the depository, and the UCR Agreement fees for motor carriers, motor private carriers, leasing companies, freight forwarders, and brokers for the next fee year shall be reduced by the Board accordingly.

"(i) Enforcement.—

"(1) Civil actions.—Upon request by the Secretary of Transportation, the Attorney General may bring a civil action in a court of competent jurisdiction to enforce compliance with this section and with the terms of the Unified Carrier Registration Agreement.

"(2) Venue.—An action under this section may be brought only in the Federal court sitting in the State in which an order is required to enforce such compliance.

"(3) Relief.—Subject to section 1341 of title 28, the court, on a proper showing—

"(A) shall issue a temporary restraining order or a preliminary or permanent injunction; and

"(B) may issue an injunction requiring that the State or any person comply with this section.

"(4) Enforcement by states.—Nothing in this section—

"(A) prohibits a Participating State from issuing citations and imposing reasonable fines and penalties pursuant to applicable State laws and regulations on any motor carrier, motor private carrier, freight forwarder, broker, or leasing company for failure to—

"(i) submit documents as required under subsection (d)(2); or

"(ii) pay the fees required under subsection (f); or

"(B) authorizes a State to require a motor carrier, motor private carrier, or freight forwarder to display as evidence of compliance any form of identification in excess of those permitted under section 14506 of this title on or in a commercial motor vehicle.

"(j) Application to Intrastate Carriers.—Notwithstanding any other provision of this section, a State may elect to apply the provisions of the UCR Agreement to motor carriers and motor private carriers subject to its jurisdiction that operate solely in intrastate commerce within the borders of the State.".

SEC. 4266. IDENTIFICATION OF VEHICLES.

Chapter 145 is amended by adding at the end the following:

"§ 14506. Identification of vehicles

"(a) Restriction on Requirements.—No State, political subdivision of a State, interstate agency, or other political agency of 2 or more States may enact or enforce any law, rule, regulation standard, or other provision having the force and effect of law that requires a motor carrier, motor private carrier, freight forwarder, or leasing company to display any form of identification on or in a commercial motor vehicle, other than forms of identification required by the Secretary of Transportation under section 390.21 of title 49, Code of Federal Regulations.

"(b) Exception.—Notwithstanding paragraph (a), a State may continue to require display of credentials that are required—

"(1) under the International Registration Plan under section 31704 of this title;

"(2) under the International Fuel Tax Agreement under section 31705 of this title;

"(3) in connection with Federal requirements for hazardous materials transportation under section 5103 of this title; or

"(4) in connection with the Federal vehicle inspection standards under section 31136 of this title.".

SEC. 4267. USE OF UCR AGREEMENT REVENUES AS MATCHING FUNDS.

Section 31103(a) is amended by inserting "Amounts generated by the Unified Carrier Registration Agreement, under section 14504a of this title and received by a State and used for motor carrier safety purposes may be included as part of the State's share not provided by the United States." after "United States Government.".

SEC. 4268. CLERICAL AMENDMENTS.

(a) Section 13906 Caption.—The section caption for section 13906 is amended by inserting "**motor private carriers,**" after "**motor carriers,**".

(b) Table of Contents.—The chapter analysis for chapter 139 is amended by striking the item relating to section 13906 and inserting the following:

"13906. Security of motor carriers, motor private carriers, brokers, and freight forwarders.".

Subtitle C—Household Goods Movers

SEC. 4301. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED STATES CODE.

(a) Short Title.—This subtitle may be cited as the "Household Goods Mover Oversight Enforcement and Reform Act of 2004".

(b) Amendment of Title 49, United States Code.—Except as otherwise specifically provided, whenever in this subtitle an amendment is expressed in terms of an amendment to a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 4302. FINDINGS; SENSE OF CONGRESS.

The Congress finds the following:

(1) There are approximately 1,500,000 interstate household moves every year. While the vast majority of these interstate moves are completed successfully, consumer complaints have been increasing since the Interstate Commerce Commission was abolished in 1996 and oversight of the household goods industry was transferred to the Department of Transportation.

(2) While the overwhelming majority of household goods carriers are honest and operate within the law, there appears to be a growing criminal element that is exploiting a perceived void in Federal and State enforcement efforts. The growing criminal element tends to prey upon consumers.

(3) The movement of an individual's household goods is unique and differs from the movement of a commercial shipment. A consumer may utilize a moving company once or twice in the consumer's lifetime and entrust virtually all of the consumer's worldly goods to a mover.

(4) Federal resources are inadequate to properly police or deter, on a nationwide basis, those movers who willfully violate Federal regulations governing the household goods industry and knowingly prey on consumers who are in a vulnerable position. It is appropriate that a Federal-State partnership be created to enhance enforcement against fraudulent moving companies.

SEC. 4303. DEFINITIONS.

In this title, the terms "carrier", "household goods", "motor carrier", "Secretary", and "transportation" have the meaning given such terms in section 13102 of title 49, United States Code.

SEC. 4304. PAYMENT OF RATES.

Section 13707(b) is amended by adding at the end the following:

"(3) Shipments of household goods.—

"(A) In general.—A carrier providing transportation for a shipment of household goods shall give up possession of the household goods transported at the destination upon payment of—

"(i) 100 percent of the charges contained in a binding estimate provided by the carrier;

"(ii) not more than 110 percent of the charges contained in a nonbinding estimate provided by the carrier; or

"(iii) in the case of a partial delivery of the shipment, the prorated percentage of the charges calculated in accordance with subparagraph (B).

"(B) Calculation of prorated charges.—For purposes of subparagraph (A)(iii), the prorated percentage of the charges shall be the percentage of the total charges due to the carrier as described in clause (i) or (ii) of subparagraph (A) that is equal to the percentage of the weight of that portion of the shipment delivered to the total weight of the shipment.

"(C) POST-CONTRACT SERVICES.—Subparagraph (A) does not apply to additional services requested by a shipper after the contract of service is executed that were not included in the estimate.

"(D) IMPRACTICABLE OPERATIONS.—Subparagraph (A) does apply to impracticable operations, as defined by the applicable carrier tariff, if the shipper agrees to pay the charges for such operations within 30 days after the goods are delivered.".

SEC. 4305. HOUSEHOLD GOODS CARRIER OPERATIONS.

Section 14104 is amended—

(1) by striking paragraph (1) of subsection (b) and inserting the following:

"(1) REQUIREMENT FOR WRITTEN ESTIMATE.—A motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 shall provide to a prospective shipper a written estimate of all charges related to the transportation of the household goods, including charges for—

"(A) packing;

"(B) unpacking;

"(C) loading;

"(D) unloading; and

"(E) handling of the shipment from the point of origin to the final destination (whether that destination is storage or transit).";

(2) by redesignating paragraph (2) of such subsection as paragraph (4); and

(3) by inserting after paragraph (1), as amended by paragraph (1), the following:

"(2) OTHER INFORMATION.—At the time that a motor carrier provides the written estimate required by paragraph (1), the motor carrier shall provide the shipper a copy of the Department of Transportation publication FMCSA–ESA–03–005 (or its successor edition or publication) entitled 'Ready to Move?'. Before the execution of a contract for service, a motor carrier shall provide the shipper a copy of the Department of Transportation publication OCE 100, entitled 'Your Rights and Responsibilities When You Move' required by section 375.2 of title 49, Code of Federal Regulations (or any corresponding similar regulation).

"(3) BINDING AND NONBINDING ESTIMATES.—The written estimate required by paragraph (1) may be either binding or nonbinding. The written estimate shall be based on a visual inspection of the household goods if the household goods are located within a 50-mile radius of the location of the carrier's household goods agent preparing the estimate. The Secretary may not prohibit any such carrier from charging a prospective shipper for providing a written, binding estimate for the transportation and related services.";

(4) by redesignating subsection (c) as subsection (e); and

(5) by inserting after subsection (b), as amended by paragraphs (1) and (2), the following:

"(c) NOTIFICATION OF FINAL CHARGES.—If the final charges for a shipment of household goods exceed 100 percent of a binding estimate or 110 percent of a nonbinding estimate, the motor carrier shall provide the shipper an itemized statement of the charges. The statement shall be provided to the shipper within 24 hours prior to the delivery of the shipment unless the shipper waives this requirement or the shipper cannot be reached by fax, regular mail, or electronic mail. Such notification shall—

"(1) be delivered in writing at the motor carrier's expense; and

"(2) disclose the requirements of section 13707(b)(3) of this title regarding payment for delivery of a shipment of household goods.

"(d) REQUIREMENT FOR INVENTORY.—A motor carrier providing transportation of a shipment of household goods, as defined in section 13102(10), that is subject to jurisdiction under subchapter I of chapter 135 of this title shall, before or at the time of loading the shipment, prepare a written inventory of all articles tendered and accepted by the motor carrier for transportation. Such inventory shall—

"(1) list or otherwise reasonably identify each item tendered for transportation;

"(2) be signed by the shipper and the motor carrier, or the agent of the shipper or carrier, at the time the shipment is loaded and at the time the shipment is unloaded at the final destination;

"(3) be attached to, and considered part of, the bill of lading; and

"(4) be subject to the same requirements of the Secretary for record inspection and preservation that apply to bills of lading.".

SEC. 4306. LIABILITY OF CARRIERS UNDER RECEIPTS AND BILLS OF LADING.

Section 14706(f) is amended—

(1) by resetting the text as a paragraph indented 2 ems from the left margin and inserting "(1) IN GENERAL.—" before "A carrier"; and

(2) by adding at the end, the following:

"(2) FULL VALUE PROTECTION OBLIGATION.—Unless the carrier receives a waiver in writing under paragraph (3), a carrier's maximum liability for household goods that are lost, damaged, destroyed, or otherwise not delivered to the final destination is an amount equal to the replacement value of such goods, subject to a maximum amount equal to the declared value of the shipment, subject to rules issued by the Surface Transportation Board and applicable tariffs.

"(3) APPLICATION OF RATES.—The released rates established by the Board under paragraph (1) (commonly known as 'released rates') shall not apply to the transportation of household goods by a carrier unless the liability of the carrier for the full value of such household goods under paragraph (2) is waived in writing by the shipper.".

SEC. 4307. DISPUTE SETTLEMENT FOR SHIPMENTS OF HOUSEHOLD GOODS.

(a) IN GENERAL.—Section 14708(a) is amended—

(1) by resetting the text as a paragraph indented 2 ems from the left margin and inserting "(1) REQUIREMENT TO OFFER.—" before "As a condition"; and

(2) by striking "shippers of household goods concerning damage or loss to the household goods transported." and inserting "shippers. The carrier may not require the shipper to agree to use arbitration as a means to settle such a dispute."; and

(3) by inserting at the end, the following:

"(2) REQUIREMENTS FOR CARRIERS.—If a dispute with a carrier providing transportation of household goods involves a claim that is—

"(A) not more than $10,000 and the shipper requests arbitration, such arbitration shall be binding on the parties; or

"(B) for more than $10,000 and the shipper requests arbitration, such arbitration shall be binding on the parties only if the carrier agrees to arbitration.".

(b) ARBITRATION REQUIREMENTS.—

(1) IN GENERAL.—Section 14708(b) is amended—

(A) by striking paragraph (4) and inserting the following:

"(4) INDEPENDENCE OF ARBITRATOR.—The Secretary shall establish a system for the certification of persons authorized to arbitrate or otherwise settle a dispute between a shipper of household goods and a carrier. The Secretary shall ensure that each person so certified is—

"(A) independent of the parties to the dispute;

"(B) capable, as determined under such regulations as the Secretary may issue, to resolve such disputes fairly and expeditiously; and

"(C) authorized and able to obtain from the shipper or carrier any material and relevant information to the extent necessary to carry out a fair and expeditious decisionmaking process.";

(B) by striking paragraph (6); and

(C) by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(2) CONFORMING AMENDMENT.—Section 14708(d)(3)(A) is amended by striking "(b)(8)" and inserting "(b)(7)".

(c) ATTORNEY'S FEES TO CARRIERS.—Section 14708(e) is further amended by striking "only if" and all that follows through the period at the end and inserting "if—

"(1) the court proceeding is to enforce a decision rendered in favor of the carrier through arbitration under this section and is instituted after the shipper has a reasonable opportunity to pay any charges required by such decision; or

"(2) the shipper brought such action in bad faith—

"(A) after resolution of such dispute through arbitration under this section; or

"(B) after institution of an arbitration proceeding by the shipper to resolve such dispute under this section but before—

"(i) the period provided under subsection (b)(7) for resolution of such dispute (including, if applicable, an extension of such period under such subsection) ends; and

"(ii) a decision resolving such dispute is rendered.".

(d) REVIEW AND REPORT ON DISPUTE SETTLEMENT PROGRAMS.—

(1) REVIEW AND REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall complete a review of the outcomes and the effectiveness of the programs carried out under title 49, United States Code, to settle disputes between motor carriers and shippers and submit a report on the review to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. The report shall describe—

(A) the subject of, and amounts at issue is, the disputes;

(B) patterns in disputes or settlements;

(C) the prevailing party in disputes, if identifiable; and

(D) any other matters the Secretary considers appropriate.

(2) REQUIREMENT FOR PUBLIC COMMENT.—The Secretary shall publish notice of the review required by paragraph (1) and provide an opportunity for the public to submit comments on the effectiveness of such programs. Notwithstanding any confidentiality or nondisclosure provision in a settlement agreement between a motor carrier and a shipper, it shall not be a violation of that provision for a motor carrier or shipper to submit a copy of the settlement agreement, or to provide information included in the agreement, to the Secretary for use in evaluating dispute settlement programs under this subsection. Notwithstanding anything to the contrary in section 552 of title 5, United States Code, the Secretary may not post on

the Department of Transportation's electronic docket system, or make available to any requester in paper or electronic format, any information submitted to the Secretary by a motor carrier or shipper under the preceding sentence. The Secretary shall use the settlement agreements or other information submitted by a motor carrier or shipper solely to evaluate the effectiveness of dispute settlement programs and shall not include in the report required by this subsection the names or, or other identifying information concerning, motor carriers or shippers that submitted comments or information under this subsection.

SEC. 4308. ENFORCEMENT OF REGULATIONS RELATED TO TRANSPORTATION OF HOUSEHOLD GOODS.

(a) Nonpreemption of Intrastate Transportation of Household Goods.—Section 14501(c)(2)(B) is amended by inserting "intrastate" before "transportation".

(b) Enforcement of Federal Law With Respect to Interstate Household Goods Carriers.—

(1) In general.—Chapter 147 is amended by adding at the end the following:

"§ 14710. Enforcement of Federal laws and regulations with respect to transportation of household goods

"(a) Enforcement by States.—Notwithstanding any other provision of this title, a State authority may enforce the consumer protection provisions, as determined by the Secretary of Transportation, of this title that are related to the transportation of household goods in interstate commerce. Any fine or penalty imposed on a carrier in a proceeding under this subsection shall, notwithstanding any provision of law to the contrary, be paid to and retained by the State.

"(b) State Authority Defined.—The term 'State authority' means an agency of a State that has authority under the laws of the State to regulate the intrastate movement of household goods.

"§ 14711. Enforcement by State attorneys general

"(a) In General.—A State, as parens patriae, may bring a civil action on behalf of its residents in an appropriate district court of the United States to enforce the consumer protection provisions, as determined by the Secretary of Transportation, of this title that are related to the transportation of household goods in interstate commerce, or regulations or orders of the Secretary or the Board thereunder, or to impose the civil penalties authorized by this part or such regulation or order, whenever the attorney general of the State has reason to believe that the interests of the residents of the State have been or are being threatened or adversely affected by a carrier or broker providing transportation subject to jurisdiction under subchapter I or III of chapter 135 of this title, or a foreign motor carrier providing transportation registered under section 13902 of this title, that is engaged in household goods transportation that violates this part or a regulation or order of the Secretary or Board, as applicable, promulgated under this part.

"(b) Notice.—The State shall serve written notice to the Secretary or the Board, as the case may be, of any civil action under subsection (a) prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action, except that if it is not feasible for the State to provide such prior notice, the State shall provide such notice immediately upon instituting such civil action.

"(c) Authority To Intervene.—Upon receiving the notice required by subsection (b), the Secretary or Board may intervene in such civil action and upon intervening—

"(1) be heard on all matters arising in such civil action; and

"(2) file petitions for appeal of a decision in such civil action.

"(d) Construction.—For purposes of bringing any civil action under subsection (a), nothing in this section shall prevent the attorney general of a State from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(e) Venue; Service of Process.—In a civil action brought under subsection (a)—

"(1) the venue shall be a judicial district in which—

"(A) the carrier, foreign motor carrier, or broker operates;

"(B) the carrier, foreign motor carrier, or broker was authorized to provide transportation at the time the complaint arose; or

"(C) where the defendant in the civil action is found;

"(2) process may be served without regard to the territorial limits of the district or of the State in which the civil action is instituted; and

"(3) a person who participated with a carrier or broker in an alleged violation that is being litigated in the civil action may be joined in the civil action without regard to the residence of the person.

"(f) Enforcement of State Law.—Nothing contained in this section shall prohibit an authorized State official from proceeding in State court to enforce a criminal statute of such State.".

(2) Conforming amendment.—The analysis for chapter 147 is amended by inserting after the item relating to section 14709 the following:

"14710. Enforcement of Federal laws and regulations with respect to transportation of household goods.
"14711. Enforcement by State attorneys general.".

SEC. 4309. WORKING GROUP FOR DEVELOPMENT OF PRACTICES AND PROCEDURES TO ENHANCE FEDERAL-STATE RELATIONS.

(a) In General.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish a working group of State attorneys general, State authorities that regulate the movement of household goods, and Federal and local law enforcement officials for the purpose of developing practices and procedures to enhance the Federal-State partnership in enforcement efforts, exchange of information, and coordination of enforcement efforts with respect to interstate transportation of household goods and making legislative and regulatory recommendations to the Secretary concerning such enforcement efforts.

(b) Consultation.—In carrying out subsection (a), the working group shall consult with industries involved in the transportation of household goods, the public, and other interested parties.

SEC. 4310. CONSUMER HANDBOOK ON DOT WEBSITE.

Within 6 months after the date of enactment of this Act, the Secretary shall take such action as may be necessary to ensure that the Department of Transportation publication OCE 100, entitled "Your Rights and Responsibilities When You Move" required by section 375.2 of title 49, Code of Federal Regulations (or any corresponding similar regulation), is prominently displayed, and available in language that is readily understandable by the general public, on the website of the Department of Transportation.

SEC. 4311. INFORMATION ABOUT HOUSEHOLD GOODS TRANSPORTATION ON CARRIERS' WEBSITES.

Not later than 1 year after the date of enactment of this Act, the Secretary shall modify the regulations contained in part 375 of title 49, Code of Federal Regulations, to require a motor carrier or broker that is subject to such regulations and that establishes and maintains a website to prominently display on the website—

(1) the number assigned to the motor carrier or broker by the Department of Transportation;

(2) the OCE 100 publication referred to in section 4310; and

(3) in the case of a broker, a list of all motor carriers providing transportation of household goods used by the broker and a statement that the broker is not a motor carrier providing transportation of household goods.

SEC. 4312. CONSUMER COMPLAINTS.

(a) Requirement for Database.—Subchapter II of chapter 141 is amended by adding at the end the following:

"§ 14124. Consumer complaints

"(a) Establishment of System and Database.—The Secretary of Transportation shall—

"(1) establish a system to—

"(A) file and log a complaint made by a shipper that relates to motor carrier transportation of household goods; and

"(B) to solicit information gathered by a State regarding the number and type of complaints involving the interstate transportation of household goods;

"(2) establish a database of such complaints; and

"(3) develop a procedure—

"(A) to provide the public access to the database;

"(B) to forward a complaint, including the motor carrier bill of lading number related to the complaint to a motor carrier named in such complaint and to an appropriate State authority (as defined in section 14710(c) in the State in which the complainant resides; and

"(C) to permit a motor carrier to challenge information in the database.

"(b) Requirement for Annual Reports.—The Secretary shall issue regulations requiring a motor carrier that provides transportation of household goods to submit to the Secretary, not later than March 31st of each year, an annual report covering the 12-month period ending on the preceding March 31st that includes—

"(1) the number of interstate shipments of household goods that the motor carrier received from shippers and that were delivered to a final destination during the preceding calendar year;

"(2) the number and general category of complaints lodged against the motor carrier during the preceding calendar year;

"(3) the number of shipments described in paragraph (1) that resulted in the filing of a claim against the motor carrier for loss or damage to the shipment for an amount in excess of $500 during the preceding calendar year; and

"(4) the number of shipments described in paragraph (3) that were—

"(A) resolved during the preceding calendar year; or

"(B) pending on the last day of the preceding calendar year.

"(c) SUMMARY TO CONGRESS.—The Secretary shall transmit a summary each year of the complaints filed and logged under subsection (a) for the preceding calendar year to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 141 is amended by inserting after the item relating to section 14123 the following:

"14124. Consumer complaints.".

SEC. 4313. REVIEW OF LIABILITY OF CARRIERS.

(a) REVIEW.—Not later than 1 year after the date of enactment of this Act, the Surface Transportation Board shall complete a review of the current Federal regulations regarding the level of liability protection provided by motor carriers that provide transportation of household goods and revise such regulations, if necessary, to provide enhanced protection in the case of loss or damage.

(b) DETERMINATIONS.—The review required by subsection (a) shall include a determination of—

(1) whether the current regulations provide adequate protection;

(2) the benefits of purchase by a shipper of insurance to supplement the carrier's limitations on liability;

(3) whether there are abuses of the current regulations that leave the shipper unprotected in the event of loss and damage to a shipment of household goods; and

(4) whether the section 14706 of title 49, United States Code, should be modified or repealed.

SEC. 4314. CIVIL PENALTIES RELATING TO HOUSEHOLD GOODS BROKERS.

Section 14901(d) is amended—

(1) by resetting the text as a paragraph indented 2 ems from the left margin and inserting "(1) IN GENERAL.—" before "If a carrier"; and

(2) by adding at the end the following:

"(2) ESTIMATE OF BROKER WITHOUT CARRIER AGREEMENT.—If a broker for transportation of household goods subject to jurisdiction under subchapter I of chapter 135 of this title makes an estimate of the cost of transporting any such goods before entering into an agreement with a carrier to provide transportation of household goods subject to such jurisdiction, the broker is liable to the United States for a civil penalty of not less than $10,000 for each violation.

"(3) UNAUTHORIZED TRANSPORTATION.—If a person provides transportation of household goods subject to jurisdiction under subchapter I of chapter 135 this title or provides broker services for such transportation without being registered under chapter 139 of this title to provide such transportation or services as a motor carrier or broker, as the case may be, such person is liable to the United States for a civil penalty of not less than $25,000 for each violation.".

SEC. 4315. CIVIL AND CRIMINAL PENALTY FOR FAILING TO GIVE UP POSSESSION OF HOUSEHOLD GOODS.

(a) IN GENERAL.—Chapter 149 is amended by adding at the end the following:

"§ 14915. Penalties for failure to give up possession of household goods

"(a) CIVIL PENALTY.—Whoever is found to have failed to give up possession of household goods is liable to the United States for a civil penalty of not less than $10,000. Each day a carrier is found to have failed to give up possession of household goods may constitute a separate violation. If such person is a carrier or broker, the Secretary may suspend for a period of not less than 6 months the registration of such carrier or broker under chapter 139 of this title.

"(b) CRIMINAL PENALTY.—Whoever has been convicted of having failed to give up possession of household goods shall be fined under title 18 or imprisoned for not more than 2 years, or both.

"(c) FAILURE TO GIVE UP POSSESSION OF HOUSEHOLD GOODS DEFINED.—For purposes of this section, the term 'failed to give up possession of household goods' means the knowing and willful failure of a motor carrier to deliver to, or unload at, the destination of a shipment of household goods that is subject to jurisdiction under subchapter I or III of chapter 135 of this title, for which charges have been estimated by the motor carrier providing transportation of such goods, and for which the shipper has tendered a payment described in clause (i), (ii), or (iii) of section 13707(b)(3)(A) of this title.".

(b) CONFORMING AMENDMENT.—The analysis for such chapter is amended by adding at the end the following:

"14915. Penalties for failure to give up possession of household goods.".

SEC. 4316. PROGRESS REPORT.

Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the progress being made in implementing the provisions of this title.

SEC. 4317. ADDITIONAL REGISTRATION REQUIREMENTS FOR MOTOR CARRIERS OF HOUSEHOLD GOODS.

Section 13902(a) is amended—

(1) by striking paragraphs (2) and (3);

(2) by redesignating paragraph (4) as paragraph (5) and inserting after paragraph (1) the following:

"(2) ADDITIONAL REGISTRATION REQUIREMENTS FOR HOUSEHOLD GOODS TRANSPORTATION.—Notwithstanding paragraph (1), the Secretary may register a person to provide transportation of household goods (as defined in section 13102(10) of this title) only after that person—

"(A) provides evidence of participation in an arbitration program and provides a copy of the notice of that program as required by section 14708(b)(2) of this title;

"(B) identifies its tariff and provides a copy of the notice of the availability of that tariff for inspection as required by section 13702(c) of this title;

"(C) provides evidence that it has access to, has read, is familiar with, and will observe all laws relating to consumer protection, estimating, consumers' rights and responsibilities, and options for limitations of liability for loss and damage; and

"(D) discloses any relationship involving common stock, common ownership, common management, or common familial relationships between that person and any other motor carrier, freight forwarder, or broker of household goods within the past 3 years.

"(3) CONSIDERATION OF EVIDENCE; FINDINGS.—The Secretary shall consider, and, to the extent applicable, make findings on any evidence demonstrating that the registrant is unable to comply with any applicable requirement of paragraph (1) or, in the case of a registrant to which paragraph (2) applies, paragraph (1) or (2).

"(4) WITHHOLDING.—If the Secretary determines that a registrant under this section does not meet, or is not able to meet, any requirement of paragraph (1) or, in the case of a registrant to which paragraph (2) applies, paragraph (1) or (2), the Secretary shall withhold registration."; and

(3) by adding at the end of paragraph (5), as redesignated, "In the case of a registration for the transportation of household goods (as defined in section 13102(10 of this title), the Secretary may also hear a complaint on the ground that the registrant fails or will fail to comply with the requirements of paragraph (2) of this subsection.".

Subtitle D—Hazardous Materials Transportation Safety and Security

SEC. 4401. SHORT TITLE.

This subtitle may be cited as the "Hazardous Material Transportation Safety and Security Reauthorization Act of 2004".

SEC. 4402. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

PART I—GENERAL AUTHORITIES ON TRANSPORTATION OF HAZARDOUS MATERIALS

SEC. 4421. PURPOSE.

The text of section 5101 is amended to read as follows:

"The purpose of this chapter is to protect against the risks to life, property, and the environment that are inherent in the transportation of hazardous material in intrastate, interstate, and foreign commerce.".

SEC. 4422. DEFINITIONS.

Section 5102 is amended as follows:

(1) COMMERCE.—Paragraph (1) is amended—

(A) by striking "or" after the semicolon in subparagraph (A);

(B) by striking the "State." in subparagraph (B) and inserting "State; or"; and

(C) by adding at the end the following:

"(C) on a United States-registered aircraft.".

(2) HAZMAT EMPLOYEE.—Paragraph (3) is amended to read as follows:

"(3) 'hazmat employee' means an individual—

"(A) who—

"(i) is employed or used by a hazmat employer; or

"(ii) is self-employed, including an owner-operator of a motor vehicle, vessel, or aircraft, transporting hazardous material in commerce; and

"(B) who performs a function regulated by the Secretary under section 5103(b)(1) of this title.".

(3) HAZMAT EMPLOYER.—Paragraph (4) is amended to read as follows:

"(4) 'hazmat employer' means a person—

"(A) who—

"(i) employs or uses at least 1 hazmat employee; or

"(ii) is self-employed, including an owner-operator of a motor vehicle, vessel, or aircraft, transporting hazardous material in commerce; and

"(B) who performs, or employs or uses at least 1 hazmat employee to perform, a function regulated by the Secretary under section 5103(b)(1) of this title.".

(4) IMMINENT HAZARD.—Paragraph (5) is amended by inserting "relating to hazardous material" after "of a condition".

(5) MOTOR CARRIER.—Paragraph (7) is amended to read as follows:

"(7) 'motor carrier'—

"(A) means a motor carrier, motor private carrier, and freight forwarder as those terms are defined in section 13102 of this title; but

"(B) does not include a freight forwarder, as so defined, if the freight forwarder is not performing a function relating to highway transportation.".

(6) National response team.—Paragraph (8) is amended—

(A) by striking "national response team" both places it appears and inserting "National Response Team"; and

(B) by striking "national contingency plan" and inserting "National Contingency Plan".

(7) Person.—Paragraph (9)(A) is amended by striking "offering" and all that follows and inserting "that—

"(i) offers hazardous material for transportation in commerce;

"(ii) transports hazardous material to further a commercial enterprise; or

"(iii) manufactures, designs, inspects, tests, reconditions, marks, or repairs a packaging or packaging component that is represented as qualified for use in transporting hazardous material in commerce; but".

(8) Secretary of transportation.—Section 5101 is further amended—

(A) by redesignating paragraphs (11), (12), and (13), as paragraphs (12), (13), and (14), respectively; and

(B) by inserting after paragraph (10) the following:

"(11) 'Secretary' means the Secretary of Transportation except as otherwise provided.".

SEC. 4423. GENERAL REGULATORY AUTHORITY.

(a) Reference to Secretary of Transportation.—Section 5103(a) is amended by striking "of Transportation".

(b) Designating Material as Hazardous.—Section 5103(a) is further amended—

(1) by striking "etiologic agent" and all that follows through "corrosive material," and inserting "infectious substance, flammable or combustible liquid, solid, or gas, toxic, oxidizing, or corrosive material,"; and

(2) by striking "decides" and inserting "determines".

(c) Regulations for Safe Transportation.—Section 5103(b)(1)(A) is amended to read as follows:

"(A) apply to a person who—

"(i) transports hazardous material in commerce;

"(ii) causes hazardous material to be transported in commerce;

"(iii) manufactures, designs, inspects, tests, reconditions, marks, or repairs a packaging or packaging component that is represented as qualified for use in transporting hazardous material in commerce;

"(iv) prepares or accepts hazardous material for transportation in commerce;

"(v) is responsible for the safety of transporting hazardous material in commerce;

"(vi) certifies compliance with any requirement under this chapter;

"(vii) misrepresents whether such person is engaged in any activity under clause (i) through (vi) of this subparagraph; or

"(viii) performs any other act or function relating to the transportation of hazardous material in commerce; and".

(d) Technical Amendment Regarding Consultation.—Section 5103 is amended—

(1) by striking subsection (b)(1)(C); and

(2) by adding at the end the following:

"(c) Consultation.—When prescribing a security regulation or issuing a security order that affects the safety of the transportation of hazardous material, the Secretary of Homeland Security shall consult with the Secretary of Transportation.".

SEC. 4424. LIMITATION ON ISSUANCE OF HAZMAT LICENSES.

(a) Reference to Secretary of Transportation.—Section 5103a is amended by striking "of Transportation" each place it appears in subsections (a)(1), (c)(1)(B), and (d) and inserting "of Homeland Security".

(b) Covered Hazardous Materials.—Section 5103a(b) is amended by striking "with respect to—" and all that follows and inserting "with respect to any material defined as hazardous material by the Secretary for which the Secretary requires placarding of a commercial motor vehicle transporting that material in commerce.".

(c) Recommendations on Chemical or Biological Materials.—Section 5103a is further amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting after subsection (b) the following:

"(c) Recommendations on Chemical and Biological Materials.—The Secretary of Health and Human Services shall recommend to the Secretary any chemical or biological material or agent for regulation as a hazardous material under section 5103(a) of this title if the Secretary of Health and Human Services determines that such material or agent is a threat to the national security of the United States.".

(d) Conforming Amendment.—Section 5103a(a)(1) is amended by striking "subsection (c)(1)(B)," and inserting "subsection (d)(1)(B),".

SEC. 4425. REPRESENTATION AND TAMPERING.

(a) Representation.—Section 5104(a) is amended—

(1) by striking "a container," and all that follows through "packaging) for" and inserting "a package, component of a package, or packaging for"; and

(2) by striking "the container" and all that follows through "packaging) meets" and inserting "the package, component of a package, or packaging meets".

(b) Tampering.—Section 5104(b) is amended—

(1) by inserting ", without authorization from the owner or custodian," after "may not";

(2) by striking "unlawfully"; and

(3) by inserting "component of a package, or packaging," after "package," in paragraph (2).

SEC. 4426. TRANSPORTING CERTAIN HIGHLY RADIOACTIVE MATERIAL.

(a) Repeal of Routes and Modes Study.—Section 5105 is amended by striking subsection (d).

(b) Repeal of Requirement for Inspections of Certain Motor Vehicles.—Section 5105 is amended by striking subsection (e).

SEC. 4427. HAZMAT EMPLOYEE TRAINING REQUIREMENTS AND GRANTS.

(a) Reference to Secretary of Transportation.—Section 5107 is amended by striking "of Transportation" each place it appears in subsections (a), (b), (c) (other than in paragraph (1)), (d), and (f).

(b) Training Grants.—Section 5107(e) is amended—

(1) by striking "section 5127(c)(3)" and inserting "section 5128(b)(1) of this title";

(2) by inserting "and, to the extent determined appropriate by the Secretary, grants for such instructors to train hazmat employees" after "employees" in the first sentence thereof.

SEC. 4428. REGISTRATION.

(a) Reference to Secretary of Transportation.—Section 5108 is amended by striking "of Transportation" each place it appears in subsections (a), (b) (other than following "Department"), (d), (e), (f), (g), (h), and (i).

(b) Persons Required To File.—

(1) Requirement to file.—Section 5108(a)(1)(B) is amended by striking "class A or B explosive" and inserting "Division 1.1, 1.2, or 1.3 explosive material".

(2) Authority to require to file.—Section 5108(a)(2)(B) is amended to read as follows:

"(B) a person manufacturing, designing, inspecting, testing, reconditioning, marking, or repairing a package or packaging component that is represented as qualified for use in transporting hazardous material in commerce.".

(3) No transportation without filing.—Section 5108(a)(3) is amended by striking "fabricate," and all that follows through "package or" and inserting "design, inspect, test, recondition, mark, or repair a package, packaging component, or".

(c) Form and Content of Filings.—Section 5108(b)(1)(C) by striking "the activity." and inserting "any of the activities.".

(d) Filing.—Section 5108(c) is amended to read as follows:

"(c) Filing.—Each person required to file a registration statement under subsection (a) of this section shall file the statement in accordance with regulations prescribed by the Secretary.".

(e) Fees.—Section 5108(g)(1) is amended by striking "may establish," and inserting "shall establish,".

(f) Relationship to Other Laws.—Section 5108(i)(2)(B) is amended by inserting "an Indian tribe," after "subdivision of a State,".

(g) Registration and Annual Fees.—

(1) Reduction in cap.—Section 5108(g)(2)(A) is amended by striking "$5,000" and inserting "$2,000".

(2) Rulemaking.—Any rule, regulation, or order issued by the Secretary of Transportation under which the assessment, payment, or collection of fees under section 5108(g) of title 49, United States Code, was suspended or terminated before the date of enactment of this Act is declared null and void effective 30 days after such date of enactment. Beginning on the 31st day after such date of enactment, the fee schedule established by the Secretary and set forth at 65 Federal Register 7297 (as modified by the rule set forth at 67 Federal Register 58343) shall take effect and apply until such time as it may be modified by a rulemaking proceeding.

(3) Planning and training grants.—Notwithstanding any other provision of law to the contrary, including any limitation on the amount of grants authorized by section 5116 of title 49, United States Code, not contained in that section, the Secretary shall make grants under that section from the account established under section 5116(i) to reduce the balance in that account over the 6 fiscal year period beginning with fiscal year 2004, but in no fiscal year shall the grants distributed exceed the level authorized by section 5116 of title 49, United States Code.

SEC. 4429. SHIPPING PAPERS AND DISCLOSURE.

(a) Reference to Secretary of Transportation.—Section 5110(a) is amended by striking "of Transportation".

(b) Disclosure Considerations and Requirements.—Section 5110 is amended—

(1) by striking "under subsection (b) of this section." in subsection (a) and inserting "in regulations.";

(2) by striking subsection (b); and

(3) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively.

(c) Retention of Papers.—The first sentence of section 5110(d), as redesignated by subsection (b)(3) of this section, is amended to read as follows: "The person who provides the shipping paper, and the carrier required to keep it, under this section shall retain the paper, or an electronic format of it, for a period of 3 years after the date the shipping paper is provided to the carrier, with the paper and format to be accessible through their respective principal places of business.".

SEC. 4430. RAIL TANK CARS.

(a) Repeal of Requirements.—Section 5111 is repealed.

(b) Clerical Amendment.—The chapter analysis for chapter 51 is amended by striking the item relating to section 5111.

SEC. 4431. HIGHWAY ROUTING OF HAZARDOUS MATERIAL.

The second sentence of section 5112(a)(1) is amended by striking "However, the Secretary of Transportation" and inserting "The Secretary".

SEC. 4432. UNSATISFACTORY SAFETY RATINGS.

(a) In General.—The text of section 5113 is amended to read as follows:

"A violation of section 31144(c)(3) of this title shall be considered a violation of this chapter, and shall be subject to the penalties in sections 5123 and 5124 of this title.".

(b) Conforming Amendments.—The first subsection (c) of section 31144 is amended—

(1) by striking "sections 521(b)(5)(A) and 5113" in paragraph (1) and inserting "section 521(b)(5)(A) of this title"; and

(2) by adding at the end of paragraph (3) "A violation of this paragraph by an owner or operator transporting hazardous material shall be considered a violation of chapter 51 of this title, and shall be subject to the penalties in sections 5123 and 5124 of this title.".

SEC. 4433. AIR TRANSPORTATION OF IONIZING RADIATION MATERIAL.

Section 5114(b) is amended by striking "of Transportation".

SEC. 4434. TRAINING CURRICULUM FOR THE PUBLIC SECTOR.

(a) In General.—Section 5115(a) is amended to read as follows:

"(a) In General.—In coordination with the Director of the Federal Emergency Management Agency, the Chairman of the Nuclear Regulatory Commission, the Administrator of the Environmental Protection Agency, the Secretaries of Labor, Energy, and Health and Human Services, and the Director of the National Institute of Environmental Health Sciences, and using existing coordinating mechanisms of the National Response Team and, for radioactive material, the Federal Radiological Preparedness Coordinating Committee, the Secretary shall maintain a current curriculum of lists of courses necessary to train public sector emergency response and preparedness teams in matters relating to the transportation of hazardous material.".

(b) Requirements.—Section 5115(b) is amended—

(1) by striking "developed" in the matter preceding paragraph (1) and inserting "maintained"; and

(2) by striking "under other United States Government grant programs" in paragraph (1)(C) and all that follows and inserting "with Federal assistance; and".

(c) Training on Compliance With Legal Requirements.—Section 5115(c)(3) is amended by striking "Association." and inserting "Association or by any other voluntary organization establishing consensus-based standards that the Secretary considers appropriate.".

(d) Distribution and Publication.—Section 5115(d) is amended—

(1) by striking "national response team—" and inserting "National Response Team—"; and

(2) by striking "publish a list" in paragraph (2) and all that follows and inserting "publish and distribute the list of courses maintained under this section, and of any programs utilizing such courses.".

SEC. 4435. PLANNING AND TRAINING GRANTS; EMERGENCY PREPAREDNESS FUND.

(a) Reference to Secretary of Transportation.—Section 5116 is amended by striking "of Transportation" each place it appears in subsections (a), (b), (c), (d), (g), and (i).

(b) Government Share of Costs.—Section 5116(e) is amended by striking the second sentence.

(c) Monitoring and Technical Assistance.—Section 5116(f) is amended by striking "national response team" and inserting "National Response Team".

(d) Delegation of Authority.—Section 5116(g) is amended by striking "Government grant programs" and inserting "Federal financial assistance programs".

(e) Emergency Preparedness Fund.—

(1) Name of fund.—Section 5116(i) is amended by inserting after "an account" the following: "(to be known as the 'Emergency Preparedness Fund')".

(2) Publication of emergency response guide.—Section 5116(i) is further amended—

(A) by striking "collects under section 5108(g)(2)(A) of this title and";

(B) by striking "and" after the semicolon in paragraph (2);

(C) by redesignating paragraph (3) as paragraph (4); and

(D) by inserting after paragraph (2) the following:

"(3) to publish and distribute an emergency response guide; and".

(3) Conforming amendment.—Section 5108(g)(2)(C) is amended by striking "the account the Secretary of the Treasury establishes" and inserting "the Emergency Response Fund established".

(f) Reports.—Section 5116(k) is amended—

(1) by striking the first sentence and inserting "The Secretary shall make available to the public annually information on the allocation and uses of planning grants under subsection (a), training grants under subsection (b), and grants under subsection (j) of this section and under section 5107 of this title."; and

(2) by striking "Such report" in the second sentence and inserting "The information".

SEC. 4436. SPECIAL PERMITS AND EXCLUSIONS.

(a) Special Permits and Exclusions.—

(1) In general.—Section 5117(a)(1) is amended by striking "the Secretary of Transportation may issue" and all that follows through "in a way" and inserting "the Secretary may issue, modify, or terminate a special permit authorizing variances from this chapter, or a regulation prescribed under section 5103(b), 5104, 5110, or 5112 of this title, to a person performing a function regulated by the Secretary under section 5103(b)(1) of this title in a way".

(2) Duration.—Section 5117(a)(2) is amended to read as follows:

"(2) A special permit under this subsection—

"(A) shall be effective when first issued for not more than 2 years; and

"(B) may be renewed for successive periods of not more than 4 years each.".

(b) References to Special Permits.—Section 5117 is further amended—

(1) by striking "an exemption" each place it appears and inserting "a special permit"; and

(2) by striking "the exemption" each place it appears and inserting "the special permit".

(c) Conforming and Clerical Amendments.—

(1) Conforming amendment.—The heading of section 5117 is amended to read as follows:

"§ 5117. Special permits and exclusions"

(2) Clerical amendment.—The chapter analysis for chapter 51 is amended by striking the item relating to section 5117 and inserting the following:

"5117. Special permits and exclusions.".

(d) Repeal of Section 5118.—

(1) Section 5118 is repealed.

(2) The chapter analysis for chapter 51 is amended by striking the item relating to section 5118 and inserting the following:

"5118. Repealed.".

SEC. 4437. UNIFORM FORMS AND PROCEDURES.

The text of section 5119 is amended to read as follows:

"(a) In General.—The Secretary may prescribe regulations to establish uniform forms and regulations for States on the following:

"(1) To register and issue permits to persons that transport or cause to be transported hazardous material by motor vehicles in a State.

"(2) To permit the transportation of hazardous material in a State.

"(b) Uniformity in Forms and Procedures.—In prescribing regulations under subsection (a) of this section, the Secretary shall develop procedures to eliminate discrepancies among the States in carrying out the activities covered by the regulations.

"(c) Limitation.—The regulations prescribed under subsection (a) of this section may not define or limit the amount of any fees imposed or collected by a State for any activities covered by the regulations.

"(d) Effective Date.—

"(1) In general.—Except as provided in paragraph (2) of this subsection, the regulations prescribed under subsection (a) of this section shall take effect 1 year after the date on which prescribed.

"(2) Extension.—The Secretary may extend the 1-year period in subsection (a) for an additional year for good cause.

"(e) State Regulations.—After the regulations prescribed under subsection (a) of this section take effect under subsection (d) of this section, a State may establish, maintain, or enforce a requirement relating to the same subject matter only if the requirement is consistent with applicable requirements with respect to such activity in the regulations.

"(f) Interim State Programs.—Pending the prescription of regulations under subsection (a) of this section, States may participate in the program of uniform forms and procedures recommended by the Alliance for Uniform Hazmat Transportation Procedures.".

SEC. 4438. INTERNATIONAL UNIFORMITY OF STANDARDS AND REQUIREMENTS.

Section 5120 is amended by striking "of Transportation" each place it appears in subsections (a), (b), and (c)(1).

SEC. 4439. HAZARDOUS MATERIALS TRANSPORTATION SAFETY AND SECURITY.

The text of section 5121 is amended to read as follows:

"(a) General Authority.—

"(1) To carry out this chapter, the Secretary may investigate, conduct tests, make reports, issue subpoenas, conduct hearings, require the production of records and property, take depositions, and conduct research, development, demonstration, and training activities.

"(2) Except as provided in subsections (c) and (d) of this section, the Secretary shall provide notice and an opportunity for a hearing before issuing an order directing compliance with this chapter, a regulation prescribed under this chapter, or an order, special permit, or approval issued under this chapter.

"(b) Records, Reports, Property, and Information.—A person subject to this chapter shall—

"(1) maintain records, make reports, and provide property and information that the Secretary by regulation or order requires; and

"(2) make the records, reports, property, and information available for inspection when the Secretary undertakes an inspection or investigation.

"(c) Inspections and Investigations.—

"(1) A designated officer or employee of the Secretary may—

"(A) inspect and investigate, at a reasonable time and in a reasonable way, records and property relating to a function described in section 5103(b)(1) of this title;

"(B) except for packaging immediately adjacent to the hazardous material contents, gain access to, open, and examine a package offered for or in transportation when the officer or employees has an objectively reasonable and articulable belief that the package may contain hazardous material;

"(C) remove from transportation a package or related packages in a shipment offered for or in transportation for which—

"(i) such officer or employee has an objectively reasonable and articulable belief that the package may pose an imminent hazard; and

"(ii) such officer or employee contemporaneously documents such belief in accordance with procedures set forth in regulations prescribed under subsection (e) of this section;

"(D) gather information from the offeror, carrier, packaging manufacturer or retester, or other person responsible for a package or packages to ascertain the nature and hazards of the contents of the package or packages;

"(E) as necessary under terms and conditions prescribed by the Secretary, order the offeror, carrier, or other person responsible for a package or packages to have the package or packages transported to an appropriate facility, opened, examined, and analyzed; and

"(F) when safety might otherwise be compromised, authorize properly qualified personnel to assist in activities carried out under this paragraph.

"(2) An officer or employee acting under the authority of the Secretary under this subsection shall display proper credentials when requested.

"(3) In instances when, as a result of an inspection or investigation under this subsection, an imminent hazards is not found to exist, the Secretary shall, in accordance with procedures set forth in regulations prescribed under subsection (e) of this section, assist the safe resumption of transportation of the package, packages, or transport unit concerned.

"(d) Emergency Orders.—

"(1) If, upon inspection, investigation, testing, or research, the Secretary determines that a violation of a provision of this chapter, or a regulation prescribed under this chapter, or an unsafe condition or practice, constitutes or is causing an imminent hazard, the Secretary may issue or impose emergency restrictions, prohibitions, recalls, or out-of-service orders, without notice or an opportunity for a hearing, but only to the extent necessary to abate the imminent hazard.

"(2) The action of the Secretary under paragraph (1) of this subsection shall be in a written emergency order that—

"(A) describes the violation, condition, or practice that constitutes or is causing the imminent hazard;

"(B) states the restrictions, prohibitions, recalls, or out-of-service orders issued or imposed; and

"(C) describe the standards and procedures for obtaining relief from the order.

"(3) After taking action under paragraph (1) of this subsection, the Secretary shall provide for review of the action under section 554 of title 5 if a petition for review is filed within 20 calendar days of the issuance of the order for the action.

"(4) If a petition for review of an action is filed under paragraph (3) of this subsection and the review under that paragraph is not completed by the end of the 30-day period beginning on the date the petition is filed, the action shall cease to be effective at the end of such period unless the Secretary determines, in writing, that the imminent hazard providing a basis for the action continues to exist.

"(5) In this subsection, the term 'out-of-service order' means a requirement that an aircraft, vessel, motor vehicle, train, railcar, locomotive, other vehicle, transport unit, transport vehicle, freight container, potable tank, or other package not be moved until specified conditions have been met.

"(e) Regulations.—The Secretary shall prescribe in accordance with section 553 of title 5 regulations to carry out the authority in subsections (c) and (d) of this section.

"(f) Facility, Staff, and Reporting System on Risks, Emergencies, and Actions.—

"(1) The Secretary shall—

"(A) maintain a facility and technical staff sufficient to provide, within the United States Government, the capability of evaluating a risk relating to the transportation of hazardous material and material alleged to be hazardous;

"(B) maintain a central reporting system and information center capable of providing information and advice to law enforcement and firefighting personnel, and other interested individuals, and officers and employees of the United States Government and State and local governments on meeting an emergency relating to the transportation of hazardous material; and

"(C) conduct a continuous review on all aspects of transporting hazardous material to decide on and take appropriate actions to ensure safe transportation of hazardous material.

"(2) Paragraph (1) of this subsection shall not prevent the Secretary from making a contract with a private entity for use of a supplemental reporting system and information center operated and maintained by the contractor.

"(g) Grants, Cooperative Agreements, and Other Transactions.—The Secretary may enter into grants, cooperative agreements, and other transactions with a person, agency, or instrumentality of the United States, a unit of State or local government, an Indian tribe, a foreign government (in coordination with the Department of State), an educational institution, or other appropriate entity—

"(1) to expand risk assessment and emergency response capabilities with respect to the security of transportation of hazardous material;

"(2) to conduct research, development, demonstration, risk assessment and emergency response planning and training activities; or

"(3) to otherwise carry out this chapter.

"(h) Reports.—

"(1) The Secretary shall, once every 2 years, submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a comprehensive report on the transportation of hazardous material during the preceding 2 calendar years. Each report shall include, for the period covered by such report—

"(A) a statistical compilation of the accidents, incidents, and casualties related to the transportation of hazardous material during such period;

"(B) a list and summary of applicable Government regulations, criteria, orders, and special permits;

"(C) a summary of the basis for each special permit issued;

"(D) an evaluation of the effectiveness of enforcement activities relating to the transportation of hazardous material during such period, and of the degree of voluntary compliance with regulations;

"(E) a summary of outstanding problems in carrying out this chapter, set forth in order of priority; and

"(F) any recommendations for legislative or administrative action that the Secretary considers appropriate.

"(2) Before December 31, 2005, and every 3 years thereafter, the Secretary, through the Bureau of Transportation Statistics and in consultation with other Federal departments and agencies, shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the transportation of hazardous material in all modes of transportation during the preceding 3 calendar years. Each report shall include, for the period covered by such report—

"(A) a summary of the hazardous material shipments, deliveries, and movements during such period, set forth by hazardous materials type, by tonnage and ton-miles, and by mode, both domestically and across United States borders; and

"(B) a summary of shipment estimates during such period as a proxy for risk.

"(i) Security Sensitive Information.—

"(1) If the Secretary determines that particular information may reveal a vulnerability of a hazardous material to attack during transportation in commerce, or may facilitate the diversion of hazardous material during transportation in commerce for use in an attack on people or property, the Secretary may disclose such information only—

"(A) to the owner, custodian, offeror, or carrier of such hazardous material;

"(B) to an officer, employee, or agent of the United States Government, or a State or local government, including volunteer fire departments, concerned with carrying out transportation safety laws, protecting hazardous material in the course of transportation in commerce, protecting public safety or national security, or enforcing Federal law designed to protect public health or the environment; or

"(C) in an administrative or judicial proceeding brought under this chapter, under other Federal law intended to protect public health or the environment, or under other Federal law intended to address terrorist actions or threats of terrorist actions.

"(2) The Secretary may make determinations under paragraph (1) of this subsection with respect to categories of information in accordance with regulations prescribed by the Secretary.

"(3) A release of information pursuant to a determination under paragraph (1) of this subsection shall not be treated as a release of such information to the public for purposes of section 552 of title 5.".

SEC. 4440. ENFORCEMENT.

(a) Reference to Secretary of Transportation.—Section 5122(a) is amended by striking "of Transportation".

(b) General.—Section 5122(a) is further amended—

(1) by striking "chapter or a regulation prescribed or order" in the first sentence and inserting "chapter, a regulation prescribed under this chapter, or an order, special permit, or approval"; and

(2) by striking the second sentence and inserting "In an action under this subsection, the court may award appropriate relief, including a temporary or permanent injunction, civil penalties under section 5123 of this title, and punitive damages.".

(c) Imminent Hazards.—Section 5122(b)(1)(B) is amended by striking "ameliorate" and inserting "mitigate".

SEC. 4441. CIVIL PENALTIES.

(a) Reference to Secretary of Transportation.—Section 5123(b) is amended by striking "of Transportation".

(b) Penalty.—Section 5123(a)(1) is amended—

(1) by striking "chapter or a regulation prescribed or order" and inserting "chapter, a regulation prescribed under this chapter, or an order, special permit, or approval"; and

(2) by striking "$25,000" and inserting "$100,000".

(c) Hearing Requirement.—Section 5123(b) is amended by striking "chapter or a regulation prescribed" and inserting "chapter, a regulation prescribed under this chapter, or an order, special permit, or approval issued".

(d) Civil Actions To Collect.—Section 5123(d) is amended by striking "section." and inserting "section and any accrued interest on the civil penalty as calculated in accordance with section 1005 of the Oil Pollution Act of 1990 (33 U.S.C. 2705). In the civil action, the amount and appropriateness of the civil penalty shall not be subject to review.".

(e) Effective Date.—(1) The amendments made by subsections (b) and (c) of this section shall take effect on the date of the enactment of this Act, and shall apply with respect to violations described in section 5123(a) of title 49, United States Code (as amended by this section), that occur on or after that date.

(2) The amendment made by subsection (d) of this section shall apply with respect to civil penalties imposed on violations described in section 5123(a) of title 49, United States Code (as amended by this section), which violations occur on or after the date of the enactment of this Act.

SEC. 4442. CRIMINAL PENALTIES.

(a) In General.—Section 5124 is amended—

(1) by inserting "(a) In General.—" before "A person"; and

(2) by striking "chapter or a regulation prescribed or order" and inserting "chapter, a regulation prescribed under this chapter, or an order, special permit, or approval".

(b) Additional Matters.—That section is further amended by adding at the end the following:

"(b) Aggravated Violations.—A person knowingly violating section 5104(b) of this title or willfully violating this chapter or a regulation prescribed, or an order, special permit, or approval issued, under this chapter, who thereby causes the release of hazardous material shall be fined under title 18, imprisoned for not more than 20 years, or both.

"(c) Separate Violations.—A separate violation occurs for each day the violation, committed by a person who transports or causes to be transported hazardous material, continues.".

SEC. 4443. PREEMPTION.

(a) Reference to Secretary of Transportation.—Section 5125(b)(2) is amended by striking "of Transportation".

(b) Purposes.—Section 5125 is amended—

(1) by redesignating subsections (a), (b), (c), (d), (e), (f), and (g) as subsections (b), (c), (d), (e), (f), (g), and (h), respectively;

(2) by inserting before subsection (b), as so redesignated, the following:

"(a) Purposes.—The Secretary shall exercise the authority in this section—

"(1) to achieve uniform regulation of the transportation of hazardous material;

"(2) to eliminate rules that are inconsistent with the regulations prescribed under this chapter; and

"(3) to otherwise promote the safe and efficient movement of hazardous material in commerce.";

(3) by striking subsection (g), as redesignated; and

(4) by redesignating subsection (h), as redesignated, as subsection (g).

(c) General Preemption.—Section 5125(b), as redesignated by subsection (b)(1) of this section, is further amended by striking "General.—Except as provided in subsection (b), (c), and (e)" and inserting "Preemption Generally.—Except as provided in subsections (c), (d), and (f)".

(d) Substantive Differences.—Section 5125(c), as so redesignated, is further amended—

(1) in the matter preceding subparagraph (A) of paragraph (1), by striking "subsection (c)" and inserting "subsection (d)";

(2) by striking subparagraph (E) of paragraph (1) and inserting the following:

"(E) the manufacturing, designing, inspecting, testing, reconditioning, or repairing of a packaging or packaging component that is represented as qualified for use in transporting hazardous material in commerce."; and

(3) by striking "prescribes after November 16, 1990. However, the" in paragraph (2) and inserting "prescribes. The".

(e) Decisions on Preemption.—Section 5125(e), as so redesignated, is further amended by striking "subsection (a), (b)(1), or (c) of this section." in the first sentence and inserting "subsection (b), (c)(1), or (d) of this section or section 5119(b) of this title.".

(f) Waiver of Preemption.—Section 5125(f), as so redesignated, is further amended by striking "subsection (a), (b)(1), or (c) of this section." and inserting "subsection (b), (c)(1), or (d) of this section or section 5119(b) of this title.".

(g) Emergency Waiver of Preemption; Additional Matters.—Section 5125 is further amended—

(1) by redesignating subsection (g), as redesignated by subsection (b)(4) of this section, as subsection (j); and

(2) by inserting after subsection (f), as redesignated by subsection (b)(1) of this section, the following:

"(g) Emergency Waiver of Preemption.—

"(1) The Secretary may, upon a finding of good cause, waive the preemption of a requirement of a State, political subdivision of a State, or Indian tribe under this section without prior notice or an opportunity for public comment thereon.

"(2) For purposes of paragraph (1) of this subsection, good cause exists when—

"(A) there is a potential threat that hazardous material being transported in commerce may be used in an attack on people or property; and

"(B) notice and an opportunity for public comment thereon are impracticable or contrary to the public interest.

"(3)(A) A waiver of preemption under paragraph (1) of this subsection shall be in effect for a period specified by the Secretary, but not more than 6 months.

"(B) If the Secretary determines before the expiration of a waiver of preemption under subparagraph (A) of this paragraph that the potential threat providing the basis for the waiver continues to exist, the Secretary may, after providing notice and an opportunity for public comment thereon, extend the duration of the waiver for such period after the expiration of the waiver under that subparagraph as the Secretary considers appropriate.

"(4) An action of the Secretary under paragraph (1) or (3) of this subsection shall be in writing and shall set forth the standards and procedures for seeking reconsideration of the action.

"(5) After taking action under paragraph (1) or (3) of this subsection, the Secretary shall provide for review of the action if a petition for review of the action is filed within 20 calendar days after the date of the action.

"(6) If a petition for review of an action is filed under paragraph (5) of this subsection and review of the action is not completed by the end of the 30-day period beginning on the date the petition is filed, the waiver under this subsection shall cease to be effective at the end of such period unless the Secretary determines, in writing, that the potential threat providing the basis for the waiver continues.

"(h) Application of Each Preemption Standard.—Each standard for preemption in subsection (b), (c)(1), or (d) of this section, and in section 5119(b) of this title, is independent in its application to a requirement of a State, political subdivision of a State, or Indian tribe.

"(i) Non-Federal Enforcement Standards.—This section does not apply to any procedure, penalty, required mental state, or other standard utilized by a State, political subdivision of a State, or Indian tribe to enforce a requirement applicable to the transportation of hazardous material.".

SEC. 4444. RELATIONSHIP TO OTHER LAWS.

Section 5126 is amended—

(1) by striking "or causes to be transported hazardous material," in subsection (a) and inserting "hazardous material, or causes hazardous material to be transported,";

(2) by striking "manufactures," and all that follows through "or sells" in subsection (a) and inserting "manufactures, designs, inspects, tests, reconditions, marks, or repairs a packaging or packaging component that is represented";

(3) by striking "must" in subsection (a) and inserting "shall";

(4) by striking "manufacturing," in subsection (a) and all that follows through "testing" and inserting "manufacturing, designing, inspecting, testing, reconditioning, marking, or repairing"; and

(5) by striking "39." in subsection (b)(2) and inserting "39, except in the case of an imminent hazard.".

SEC. 4445. JUDICIAL REVIEW.

(a) In General.—Chapter 51 is amended—

(1) by redesignating section 5127 as section 5128; and

(2) by inserting after section 5126 the following:

"§ 5127. Judicial review

"(a) FILING AND VENUE.—Except as provided in section 20114(c) of this title, a person suffering legal wrong or adversely affected or aggrieved by a final action of the Secretary under this chapter may petition for review of the final action in the United States Court of Appeals for the District of Columbia or in the court of appeals of the United States for the circuit in which the person or resides or has the principal place of business. The petition shall be filed not more than 60 days after the action of the Secretary becomes final.

"(b) PROCEDURES.—When a petition on a final action is filed under subsection (a) of this section, the clerk of the court shall immediately send a copy of the petition to the Secretary. The Secretary shall file with the court a record of any proceeding in which the final action was issued as provided in section 2112 of title 28.

"(c) AUTHORITY OF COURT.—The court in which a petition on a final action is filed under subsection (a) of this section has exclusive jurisdiction, as provided in subchapter II of chapter 5 of title 5 to affirm or set aside any part of the final action and may order the Secretary to conduct further proceedings. Findings of fact by the Secretary, if supported by substantial evidence, are conclusive.

"(d) REQUIREMENT FOR PRIOR OBJECTIONS.—In reviewing a final action under this section, the court may consider an objection to the final action only if—

"(1) the objection was made in the course of a proceeding or review conducted by the Secretary; or

"(2) there was a reasonable ground for not making the objection in the proceeding.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 51 is amended by striking the item relating to section 5127 and inserting the following:

"5127. Judicial review.
"5128. Authorization of appropriations.".

SEC. 4446. AUTHORIZATION OF APPROPRIATIONS.

Section 5128, as redesignated by section 4445 of this title, is amended to read as follows:

"§ 5128. Authorization of appropriations

"(a) GENERAL.—In order to carry out this chapter (except sections 5107(e), 5108(g), 5112, 5113, 5115, 5116, and 5119 of this title), the following amounts are authorized to be appropriated to the Secretary:

"(1) For fiscal year 2004, not more than $24,981,000.

"(2) For fiscal year 2005, not more than $27,000,000.

"(3) For fiscal year 2006, not more than $29,000,000.

"(4) For each of fiscal years 2007 through 2009, not more than $30,000,000.

"(b) EMERGENCY PREPAREDNESS FUND.—There shall be available from the Emergency Preparedness Fund under section 5116(i) of this title, amounts as follows:

"(1) To carry out section 5107(e) of this title, $4,000,000 for each of fiscal years 2004 through 2009.

"(2) To carry out section 5115 of this title, $200,000 for each of fiscal years 2004 through 2009.

"(3) To carry out section 5116(a) of this title, $8,000,000 for each of fiscal years 2004 through 2009.

"(4) To carry out section 5116(b) of this title, $13,800,000 for each of fiscal years 2004 through 2009.

"(5) To carry out section 5116(f) of this title, $150,000 for each of fiscal years 2004 through 2009.

"(6) To carry out section 5116(i)(4) of this title, $150,000 for each of fiscal years 2004 through 2009.

"(7) To carry out section 5116(j) of this title, $1,000,000 for each of fiscal years 2004 through 2009.

"(8) To publish and distribute an emergency response guidebook under section 5116(i)(3) of title 49, United States Code, $500,000 for each of fiscal years 2004 through 2009.

"(c) SECTION 5121 REPORTS.—There are authorized to be appropriated to the Secretary of Transportation for the use of the Bureau of Transportation Statistics such sums as may be necessary to carry out section 5121(h) of this title.".

"(d) CREDIT TO APPROPRIATIONS.—The Secretary may credit to any appropriation to carry out this chapter an amount received from a State, political subdivision of a State, Indian tribe, or other public authority or private entity for expenses the Secretary incurs in providing training to the State, political subdivision, Indian tribe, or other authority or entity.

"(e) AVAILABILITY OF AMOUNTS.—Amounts available under subsections (a) and (b) of this section shall remain available until expended.".

SEC. 4447. ADDITIONAL CIVIL AND CRIMINAL PENALTIES.

(a) TITLE 49 PENALTIES.—Section 46312 is amended—

(1) by striking "part—" in subsection (a) and inserting "part or chapter 51 of this title—"; and

(2) by inserting "or chapter 51 of this title" in subsection (b) after "under this part".

(b) TITLE 18 PENALTIES.—Section 3663(a)(1)(A) of title 18, United States Code, is amended by inserting "5124," before "46312,".

PART II—OTHER MATTERS

SEC. 4461. ADMINISTRATIVE AUTHORITY FOR RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION.

Section 112 is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) ADMINISTRATIVE AUTHORITIES.—

"(1) GRANTS, COOPERATIVE AGREEMENTS, AND OTHER TRANSACTIONS.—The Administrator may enter into grants, cooperative agreements, and other transactions with Federal agencies, State and local government agencies, other public entities, private organizations, and other persons—

"(A) to conduct research into transportation service and infrastructure assurance; and

"(B) to carry out other research activities of the Administration.

"(2) LIMITATION ON DISCLOSURE OF CERTAIN INFORMATION.—

"(A) LIMITATION.—If the Administrator determines that particular information developed in research sponsored by the Administration may reveal a systemic vulnerability of transportation service or infrastructure, such information may be disclosed only to—

"(i) a person responsible for the security of the transportation service or infrastructure; or

"(ii) a person responsible for protecting public safety; or

"(iii) an officer, employee, or agent of the Federal Government, or a State or local government, who, as determined by the Administrator, has need for such information in the performance of official duties.

"(B) TREATMENT OF RELEASE.—The release of information under subparagraph (A) shall not be treated as a release to the public for purposes of section 552 of title 5.".

SEC. 4462. MAILABILITY OF HAZARDOUS MATERIALS.

(a) NONMAILABILITY GENERALLY.—Section 3001 of title 39, United States Code, is amended—

(1) by redesignating subsection (n) as subsection (o); and

(2) by inserting after subsection (m) the following:

"(n)(1) Except as otherwise authorized by law or regulations of the Postal Service under section 3018 of this title, hazardous material is nonmailable.

"(2) In this subsection, the term 'hazardous material' means a substance or material designated by the Secretary of Transportation as hazardous material under section 5103(a) of title 49.".

(b) MAILABILITY.—

(1) IN GENERAL.—Chapter 30 of title 39, United States Code, is amended by adding at the end the following:

"§ 3018. Hazardous material

"(a) IN GENERAL.—The Postal Service shall prescribe regulations for the safe transportation of hazardous material in the mails.

"(b) PROHIBITIONS.—No person may—

"(1) mail or cause to be mailed hazardous material that has been declared by statute or Postal Service regulation to be nonmailable;

"(2) mail or cause to be mailed hazardous material in violation of any statute or Postal Service regulation restricting the time, place, or manner in which hazardous material may be mailed; or

"(3) manufacture, distribute, or sell any container, packaging kit, or similar device that—

"(A) is represented, marked, certified, or sold by such person for use in the mailing of hazardous material; and

"(B) fails to conform with any statute or Postal Service regulation setting forth standards for a container, packaging kit, or similar device used for the mailing of hazardous material.

"(c) CIVIL PENALTY.—

"(1) IN GENERAL.—A person who knowingly violates this section or a regulation prescribed under this section shall be liable to the Postal Service for—

"(A) a civil penalty of at least $250, but not more than $100,000, for each violation;

"(B) the costs of any clean-up associated with such violation; and

"(C) damages.

"(2) KNOWING ACTION.—A person acts knowingly for purposes of paragraph (1) when—

"(A) the person has actual knowledge of the facts giving rise to the violation; or

"(B) a reasonable person acting in the circumstances and exercising reasonable care would have had that knowledge.

"(3) KNOWLEDGE OF STATUTE OR REGULATION NOT ELEMENT OF OFFENSE.—Knowledge of the existence of a statutory provision or Postal Service regulation is not an element of an offense under this subsection.

"(4) SEPARATE VIOLATIONS.—

"(A) VIOLATIONS OVER TIME.—A separate violation under this subsection occurs for each day hazardous material, mailed or cause to be mailed in noncompliance with this section, is in the mail.

"(B) SEPARATE ITEMS.—A separate violation under this subsection occurs for each item containing hazardous material that is mailed or caused to be mailed in noncompliance with this section.

"(d) HEARINGS.—The Postal Service may determine that a person has violated this section or a regulation prescribed under this section only after notice and an opportunity for a hearing.

"(e) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty for a violation of this section, the Postal Service shall consider—

"(1) the nature, circumstances, extent, and gravity of the violation;

"(2) with respect to the person who committed the violation, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue in business;

"(3) the impact on Postal Service operations; and

"(4) any other matters that justice requires.

"(f) CIVIL ACTIONS TO COLLECT.—

"(1) IN GENERAL.—In accordance with section 4409(d) of this title, a civil action may be commenced in an appropriate district court of the United States to collect a civil penalty, clean-up costs, and damages assessed under subsection (c).

"(2) LIMITATION.—In a civil action under paragraph (1), the validity, amount, and appropriateness of the civil penalty, clean-up costs, and damages covered by the civil action shall not be subject to review.

"(3) COMPROMISE.—The Postal Service may compromise the amount a civil penalty, clean-up costs, and damages assessed under subsection (c) before commencing a civil action with respect to such civil penalty, clean-up costs, and damages under paragraph (1).

"(g) CIVIL JUDICIAL PENALTIES.—

"(1) IN GENERAL.—At the request of the Postal Service, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this section or a regulation prescribed under this section.

"(2) RELIEF.—The court in a civil action under paragraph (1) may award appropriate relief, including a temporary or permanent injunction, civil penalties as determined in accordance with this section, or punitive damages.

"(3) CONSTRUCTION.—A civil action under this subsection shall be in lieu of civil penalties for the same violation under subsection (c)(1)(A).

"(h) DEPOSIT OF AMOUNTS COLLECTED.—Amounts collected under this section shall be deposited into the Postal Service Fund under section 2003 of this title.".

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 30 of title 39, United States Code, is amended by adding at the end the following:

"3018. Hazardous material.".

(c) CONFORMING AMENDMENT.—Section 2003(b) of title 39, United States Code, is amended—

(1) by striking "and" after the semicolon in paragraph (7);

(2) by striking "purposes." in paragraph (8) and inserting "purposes; and"; and

(3) by adding at the end the following:

"(9) any amounts collected under section 3018 of this title.".

SEC. 4463. CRIMINAL MATTERS.

Section 845(a)(1) of title 18, United States Code, is amended by striking "which are regulated" and all that follows and inserting "that is subject to the authority of the Departments of Transportation and Homeland Security;".

SEC. 4464. CARGO INSPECTION PROGRAM.

(a) IN GENERAL.—The Secretary of Transportation may establish a program of random inspections of cargo at points of entry into the United States for the purpose of determining the extent to which undeclared hazardous material is being offered for transportation in commerce through such points of entry.

(b) INSPECTIONS.—Under the program under subsection (a)—

(1) an officer of the Department of Transportation who is not located at a point of entry into the United States may select at random cargo shipments at points of entry into the United States for inspection; and

(2) an officer or employee of the Department may open and inspect each cargo shipment so selected for the purpose described in subsection (a).

(c) COORDINATION.—The Secretary of Transportation shall coordinate any inspections under the program under subsection (a) with the Secretary of Homeland Security.

(d) DISPOSITION OF HAZARDOUS MATERIALS.—The Secretary of Transportation shall provide for the appropriate handling and disposition of any hazardous material discovered pursuant to inspections under the program under subsection (a).

SEC. 4465. INFORMATION ON HAZMAT REGISTRATIONS.

The Administrator of the Department of Transportation's Research and Special Programs Administration shall—

(1) transmit current hazardous material registrant information to the Federal Motor Carrier Safety Administration to cross reference the registrant's Federal motor carrier registration number; and

(2) notify the Federal Motor Carrier Safety Administration immediately, and provide a registrant's United States Department of Transportation identification number to the Administration, whenever a new registrant registers to transport hazardous materials as a motor carrier.

SEC. 4466. REPORT ON APPLYING HAZARDOUS MATERIALS REGULATIONS TO PERSONS WHO REJECT HAZARDOUS MATERIALS.

Within 6 months after the date of enactment of this Act, the Secretary of Transportation shall complete an assessment of the costs and benefits of subjecting persons who reject hazardous material for transportation in commerce to the hazardous materials laws and regulations. In completing this assessment, the Secretary shall—

(1) estimate the number of affected employers and employees;

(2) determine what actions would be required by them to comply with such laws and regulations; and

(3) consider whether and to what extent the application of Federal hazardous materials laws and regulations should be limited to—

(A) particular modes of transportation;

(B) certain categories of employees; or

(C) certain classes or categories of hazardous materials.

PART III—SANITARY FOOD TRANSPORTATION

SEC. 4481. SHORT TITLE.

This part may be cited as the "Sanitary Food Transportation Act of 2004".

SEC. 4482. RESPONSIBILITIES OF THE SECRETARY OF HEALTH AND HUMAN SERVICES.

(a) UNSANITARY TRANSPORT DEEMED ADULTERATION.—Section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) is amended by adding at the end the following:

"(i) NONCOMPLIANCE WITH SANITARY TRANSPORTATION PRACTICES.—If the food is transported under conditions that are not in compliance with the sanitary transportation practices prescribed by the Secretary under section 416.".

(b) SANITARY TRANSPORTATION REQUIREMENTS.—Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.) is amended by adding at the end the following:

"SEC. 416. SANITARY TRANSPORTATION PRACTICES.

"(a) DEFINITIONS.—In this section:

"(1) BULK VEHICLE.—The term 'bulk vehicle' includes a tank truck, hopper truck, rail tank car, hopper car, cargo tank, portable tank, freight container, or hopper bin, and any other vehicle in which food is shipped in bulk, with the food coming into direct contact with the vehicle.

"(2) TRANSPORTATION.—The term 'transportation' means any movement in commerce by motor vehicle or rail vehicle.

"(b) REGULATIONS.—The Secretary shall by regulation require shippers, carriers by motor vehicle or rail vehicle, receivers, and other persons engaged in the transportation of food to use sanitary transportation practices prescribed by the Secretary to ensure that food is not transported under conditions that may render the food adulterated.

"(c) CONTENTS.—The regulations shall—

"(1) prescribe such practices as the Secretary determines to be appropriate relating to—

"(A) sanitation;

"(B) packaging, isolation, and other protective measures;

"(C) limitations on the use of vehicles;

"(D) information to be disclosed—

"(i) to a carrier by a person arranging for the transport of food; and

"(ii) to a manufacturer or other person that—

"(I) arranges for the transportation of food by a carrier; or

"(II) furnishes a tank vehicle or bulk vehicle for the transportation of food; and

"(E) recordkeeping; and

"(2) include—

"(A) a list of nonfood products that the Secretary determines may, if shipped in a bulk vehicle, render adulterated food that is subsequently transported in the same vehicle; and

"(B) a list of nonfood products that the Secretary determines may, if shipped in a motor vehicle or rail vehicle (other than a tank vehicle or bulk vehicle), render adulterated food that is simultaneously or subsequently transported in the same vehicle.

"(d) WAIVERS.—

"(1) IN GENERAL.—The Secretary may waive any requirement under this section, with respect to any class of persons, vehicles, food, or nonfood products, if the Secretary determines that the waiver—

"(A) will not result in the transportation of food under conditions that would be unsafe for human or animal health; and

"(B) will not be contrary to the public interest.

"(2) PUBLICATION.—The Secretary shall publish in the Federal Register any waiver and the reasons for the waiver.

"(e) PREEMPTION.—

"(1) IN GENERAL.—No State or political subdivision of a State may directly or indirectly establish or continue in effect, as to any food in interstate commerce, any authority or requirement concerning transportation of food that is not identical to an authority or requirement under this section.

"(2) Applicability.—This subsection applies to transportation that occurs on or after the effective date of the regulations promulgated under subsection (b).

"(f) Assistance of Other Agencies.—The Secretary of Transportation, the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the heads of other Federal agencies, as appropriate, shall provide assistance on request, to the extent resources are available, to the Secretary for the purposes of carrying out this section.".

(c) Inspection of Transportation Records.—

(1) Requirement.—Section 703 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 373) is amended—

(A) by striking the section heading and all that follows through "For the purpose" and inserting the following:

"SEC. 703. RECORDS.

"(a) In General.—For the purpose"; and

(B) by adding at the end the following:

"(b) Food Transportation Records.—A shipper, carrier by motor vehicle or rail vehicle, receiver, or other person subject to section 416 shall, on request of an officer or employee designated by the Secretary, permit the officer or employee, at reasonable times, to have access to and to copy all records that the Secretary requires to be kept under section 416(c)(1)(E).".

(2) Conforming amendment.—Subsection (a) of section 703 of the Federal Food, Drug, and Cosmetic Act (as designated by paragraph (1)(A)) is amended by striking "carriers." and inserting "carriers, except as provided in subsection (b)".

(d) Prohibited Acts.—

(1) Records inspection.—Section 301(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(e)) is amended by inserting "416," before "504," each place it appears.

(2) Unsafe food transportation.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by adding at the end the following:

"(hh) Noncompliance With Sanitary Transportation Practices.—The failure by a shipper, carrier by motor vehicle or rail vehicle, receiver, or any other person engaged in the transportation of food to comply with the sanitary transportation practices prescribed by the Secretary under section 416.".

SEC. 4483. DEPARTMENT OF TRANSPORTATION REQUIREMENTS.

Chapter 57, is amended to read as follows:

"CHAPTER 57—SANITARY FOOD TRANSPORTATION

"Sec.

"5701. Food transportation safety inspections.

"§ 5701. Food transportation safety inspections

"(a) Inspection Procedures.—

"(1) In general.—The Secretary of Transportation, in consultation with the Secretary of Health and Human Services and the Secretary of Agriculture, shall—

"(A) establish procedures for transportation safety inspections for the purpose of identifying suspected incidents of contamination or adulteration of—

"(i) food in violation of regulations promulgated under section 416 of the Federal Food, Drug, and Cosmetic Act; and

"(ii) meat subject to detention under section 402 of the Federal Meat Inspection Act (21 U.S.C. 672); and

"(iii) poultry products subject to detention under section 19 of the Poultry Products Inspection Act (21 U.S.C. 467a); and

"(B) train personnel of the Department of Transportation in the appropriate use of the procedures.

"(2) Applicability.—The procedures established under paragraph (1) of this subsection shall apply, at a minimum, to Department of Transportation personnel that perform commercial motor vehicle or railroad safety inspections.

"(b) Notification of Secretary of Health and Human Services or Secretary of Agriculture.—The Secretary of Transportation shall promptly notify the Secretary of Health and Human Services or the Secretary of Agriculture, as applicable, of any instances of potential food contamination or adulteration of a food identified during transportation safety inspections.

"(c) Use of State Employees.—The means by which the Secretary of Transportation carries out subsection (b) of this section may include inspections conducted by State employees using funds authorized to be appropriated under sections 31102 through 31104 of this title.".

SEC. 4484. EFFECTIVE DATE.

This part takes effect on October 1, 2003.

Subtitle E—Recreational Boating Safety Programs

SEC. 4501. SHORT TITLE.

This subtitle may be cited as the "Sport Fishing and Recreational Boating Safety Act".

PART I—FEDERAL AID IN SPORT FISH RESTORATION ACT AMENDMENTS

SEC. 4521. AMENDMENT OF FEDERAL AID IN FISH RESTORATION ACT.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Act entitled "An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes," approved August 9, 1950 (64 Stat. 430; 16 U.S.C. 777 et seq.).

SEC. 4522. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—Section 3 (16 U.S.C. 777b) is amended—

(1) by striking "the succeeding fiscal year." in the third sentence and inserting "succeeding fiscal years."; and

(2) by striking "in carrying on the research program of the Fish and Wildlife Service in respect to fish of material value for sport and recreation." and inserting "to supplement the 55.3 percent of each annual appropriation to be apportioned among the States, as provided for in section 4(b) of this title.".

(b) Conforming Amendments.—

(1) In general.—Section 3 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777b) is amended in the first sentence—

(A) by striking "Sport Fish Restoration Account" and inserting "Sport Fish Restoration Trust Fund"; and

(B) by striking "that Account" and inserting "that Trust Fund, except as provided in section 9504(c) of the Internal Revenue Code of 1986".

(2) Effective date.—The amendments made by paragraph (1) take effect on October 1, 2004.

SEC. 4523. DIVISION OF ANNUAL APPROPRIATIONS.

Section 4 (16 U.S.C. 777c) is amended—

(1) by striking subsections (a) through (d) and redesignating subsections (e), (f), and (g) as subsections (b), (c), and (d);

(2) by inserting before subsection (b), as redesignated, the following:

"(a) In General.—For fiscal years 2004 through 2009, each annual appropriation made in accordance with the provisions of section 3 of this title shall be distributed as follows:

"(1) Coastal wetlands.—18 percent to the Secretary of the Interior for distribution as provided in the Coastal Wetlands Planning, Protection, and Restoration Act (16 U.S.C. 3951 et seq.).

"(2) Boating safety.—18 percent to the Secretary of Homeland Security for State recreational boating safety programs under section 13106 of title 46, United States Code.

"(3) Clean vessel act.—1.9 percent to the Secretary of the Interior for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note).

"(4) Boating infrastructure.—1.9 percent to the Secretary of the Interior for obligation for qualified projects under section 7404(d) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g–1(d)).

"(5) National outreach and communications.—1.9 percent to the Secretary of the Interior for the National Outreach and Communications Program under section 8(d) of this title. Such amounts shall remain available for 3 fiscal years, after which any portion thereof that is unobligated by the Secretary for that program may be expended by the Secretary under subsection (b) of this section.

"(6) Set-aside for expenses for administration of this chapter.—

"(A) In general.—2.1 percent to the Secretary of the Interior for expenses for administration incurred in implementation of this title, in accordance with this section, section 9, and section 14 of this title.

"(B) Apportionment of unobligated funds.—If any portion of the amount made available to the Secretary under subparagraph (A) remains unexpended and unobligated at the end of a fiscal year, that portion shall be apportioned among the States, on the same basis and in the same manner as other amounts made available under this title are apportioned among the States under subsection (b) of this section, within 60 days after the end of that fiscal year. Any amount apportioned among the States under this subparagraph shall be in addition to any amounts otherwise available for apportionment among the States under subsection (b) for the fiscal year.";

(3) by striking "of the Interior, after the distribution, transfer, use, and deduction under subsections (a), (b), (c), and (d), respectively, and after deducting amounts used for grants under section 14, shall apportion the remainder" in subsection (b), as redesignated, and inserting "shall apportion 55.3 percent";

(4) by striking "per centum" each place it appears in subsection (b), as redesignated, and inserting "percent";

(5) by striking "subsections (a), (b)(3)(A), (b)(3)(B), and (c)" in paragraph (1) of subsection (d), as redesignated, and inserting "paragraphs (1), (3), (4), and (5) of subsection (a)"; and

(6) by adding at the end the following:

"(e) Transfer of Certain Funds.—Amounts available under paragraphs (3) and (4) of subsection (a) that are unobligated by the Secretary after 3 fiscal years shall be transferred to the Secretary of Homeland Security and shall be expended for State recreational boating safety programs under section 13106(a) of title 46, United States Code.".

SEC. 4524. MAINTENANCE OF PROJECTS.

Section 8 (16 U.S.C. 777g) is amended—

(1) by striking "in carrying out the research program of the Fish and Wildlife

Service in respect to fish of material value for sport or recreation." in subsection (b)(2) and inserting "to supplement the 55.3 percent of each annual appropriation to be apportioned among the States under section 4(b) of this title."; and

(2) by striking "subsection (c) or (d) of section 4" in subsection (d)(3) and inserting "paragraph (5) or (6) of section 4(a)".

SEC. 4525. BOATING INFRASTRUCTURE.

Section 7404(d)(1) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g-1(d)(1)) is amended by striking "section 4(b)(3)(B)" and inserting "section 4(a)(4)".

SEC. 4526. REQUIREMENTS AND RESTRICTIONS CONCERNING USE OF AMOUNTS FOR EXPENSES FOR ADMINISTRATION.

Section 9 (16 U.S.C. 777h) is amended—

(1) by striking "section 4(d)(1)" in subsection (a) and inserting "section 4(a)(6)"; and

(2) by striking "section 4(d)(1)" in subsection (b)(1) and inserting "section 4(a)(6)".

SEC. 4527. PAYMENTS OF FUNDS TO AND COOPERATION WITH PUERTO RICO, THE DISTRICT OF COLUMBIA, GUAM, AMERICAN SAMOA, THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, AND THE VIRGIN ISLANDS.

Section 12 (16 U.S.C. 777k) is amended by striking "in carrying on the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation." and inserting "to supplement the 55.3 percent of each annual appropriation to be apportioned among the States under section 4(b) of this title.".

SEC. 4528. MULTISTATE CONSERVATION GRANT PROGRAM.

Section 14 (16 U.S.C. 777m) is amended—

(1) by striking so much of subsection (a) as precedes paragraph (2) and inserting the following:

"(a) IN GENERAL.—

"(1) AMOUNT FOR GRANTS.—For each of fiscal years 2004 through 2009, 0.9 percent of each annual appropriation made in accordance with the provisions of section 3 of this title shall be distributed to the Secretary of the Interior for making multistate conservation project grants in accordance with this section.";

(2) by striking "section 4(e)" each place it appears in subsection (a)(2)(B) and inserting "section 4(b)"; and

(3) by striking "Of the balance of each annual appropriation made under section 3 remaining after the distribution and use under subsections (a), (b), and (c) of section 4 for each fiscal year and after deducting amounts used for grants under subsection (a)—" in subsection (e) and inserting "Of amounts made available under section 4(a)(6) for each fiscal year—".

PART II—CLEAN VESSEL ACT AMENDMENTS

SEC. 4541. GRANT PROGRAM.

Section 5604(c)(2) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note) is amended—

(1) by striking subparagraph (A); and

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

PART III—RECREATIONAL BOATING SAFETY PROGRAM AMENDMENTS

SEC. 4561. STATE MATCHING FUNDS REQUIREMENT.

Section 13103(b) of title 46, United States Code, is amended by striking "one-half" and inserting "75 percent".

SEC. 4562. AVAILABILITY OF ALLOCATIONS.

Section 13104(a) of title 46, United States Code, is amended—

(1) by striking "2 years" in paragraph (1) and inserting "3 years"; and

(2) by striking "2-year" in paragraph (2) and inserting "3-year".

SEC. 4563. AUTHORIZATION OF APPROPRIATIONS FOR STATE RECREATIONAL BOATING SAFETY PROGRAMS.

Section 13106(c) of title 46, United States Code, is amended—

(1) by striking "Secretary of Transportation under paragraphs (2) and (3) of section 4(b)" and inserting "Secretary under subsections (a)(2) and (e) of section 4"; and

(2) by inserting "a minimum of" before "$2,083,333".

SEC. 4564. MAINTENANCE OF EFFORT FOR STATE RECREATIONAL BOATING SAFETY PROGRAMS.

(a) IN GENERAL.—Chapter 131 of title 46, United States Code, is amended by inserting after section 13106 the following:

"§ 13107. Maintenance of effort for State recreational boating safety programs

"(a) IN GENERAL.—The amount payable to a State for a fiscal year from an allocation under section 13103 of this chapter shall be reduced if the usual amounts expended by the State for the State's recreational boating safety program, as determined under section 13105 of this chapter, for the previous fiscal year is less than the average of the total of such expenditures for the 3 fiscal years immediately preceding that previous fiscal year. The reduction shall be proportionate, as a percentage, to the amount by which the level of State expenditures for such previous fiscal year is less than the average of the total of such expenditures for the 3 fiscal years immediately preceding that previous fiscal year.

"(b) REDUCTION OF THRESHHOLD.—If the total amount available for allocation and distribution under this chapter in a fiscal year for all participating State recreational boating safety programs is less than such amount for the preceding fiscal year, the level of State expenditures required under subsection (a) of this section for the preceding fiscal year shall be decreased proportionately.

"(c) WAIVER.—

"(1) IN GENERAL.—Upon the written request of a State, the Secretary may waive the provisions of subsection (a) of this section for 1 fiscal year if the Secretary determines that a reduction in expenditures for the State's recreational boating safety program is attributable to a non- selective reduction in expenditures for the programs of all Executive branch agencies of the State government, or for other reasons if the State demonstrates to the Secretary's satisfaction that such waiver is warranted.

"(2) 30-DAY DECISION.—The Secretary shall approve or deny a request for a waiver not later than 30 days after the date the request is received.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 131 of title 46, United States Code, is amended by inserting after the item relating to section 13106 the following:

"13107. Maintenance of effort for State recreational boating safety programs.".

PART IV—MISCELLANEOUS

SEC. 4581. TECHNICAL CORRECTION TO HOMELAND SECURITY ACT.

Section 1511(e)(2) of the Homeland Security Act of 2002 (Pub. L. 107-296) is amended by striking "and to any funds provided to the Coast Guard from the Aquatic Resources Trust Fund of the Highway Trust Fund for boating safety programs." and inserting "and any funds provided to the Coast Guard from the Highway Trust Fund and transferred into the Sport Fish Restoration Account of the Aquatic Resources Trust Fund for boating safety programs.".

Subtitle F—Rail Transportation

PART I—AMTRAK

SEC. 4601. AUTHORIZATION OF APPROPRIATIONS.

The text of section 24104 of title 49, United States Code, is amended to read as follows:

"There are authorized to be appropriated to the Secretary of Transportation $2,000,000,000 for each of fiscal years 2004, 2005, 2006, 2007, 2008, and 2009 for the benefit of Amtrak for operating expenses.".

SEC. 4602. ESTABLISHMENT OF BUILD AMERICA CORPORATION.

There is established a nonprofit corporation, to be known as the "Build America Corporation". The Build America Corporation is not an agency or establishment of the United States Government. The purpose of the Corporation is to support qualified projects described in section 4603(c)(2) through the issuance of Build America bonds. The Corporation shall be subject, to the extent consistent with this section, to the laws of the State of Delaware applicable to corporations not for profit.

SEC. 4603. FEDERAL BONDS FOR TRANSPORTATION INFRASTRUCTURE.

(a) USE OF BOND PROCEEDS.—The proceeds from the sale of—

(1) any bonds authorized, issued, or guaranteed by the Federal Government that are available to fund passenger rail projects pursuant to any Federal law (enacted before, on, or after the date of the enactment of this Act), and

(2) any Build America bonds issued by the Build America Corporation as authorized by section 4602,

may be used to fund a qualified project if the Secretary of Transportation determines that the qualified project is a cost-effective alternative for efficiently maximizing mobility of individuals and goods.

(b) COMPLIANCE OF BENEFICIARIES WITH CERTAIN STANDARDS.—A recipient of proceeds of a grant, loan, Federal tax-credit bonds, or any other form of financial assistance provided under this title shall comply with the standards described in section 24312 of title 49, United States Code, as in effect on June 25, 2003, with respect to any qualified project described in subsection (c)(1) in the same manner that the National Passenger Railroad Corporation is required to comply with such standards for construction work financed under an agreement entered into under section 24308(a) of such title.

(c) QUALIFIED PROJECT DEFINED.—In this section—

(1) IN GENERAL.—Except as provided in paragraph (2), the term "qualified project" means any transportation infrastructure project of any governmental unit or other person that is proposed by a State, including a highway project, a transit system project, a railroad project, an airport project, a port project, and an inland waterways project.

(2) BUILD AMERICA CORPORATION PROJECTS.—

(A) IN GENERAL.—With respect to any Build America bonds issued by the Build America Corporation as authorized by section 4602, the term "qualified project" means any—

(i) qualified highway project,

(ii) qualified public transportation project, and

(iii) congestion relief project,

proposed by 1 or more States and approved by the Build America Corporation, which meets the requirements under clauses (i), (ii), and (iii) of subparagraph (D).

(B) QUALIFIED HIGHWAY PROJECT.—The term "qualified highway project" means a project for highway facilities or other facilities which are eligible for assistance under title 23, United States Code.

(C) QUALIFIED PUBLIC TRANSPORTATION PROJECT.—The term "qualified public transportation project" means a project for public transportation facilities or other facilities which are eligible for assistance under chapter 53 of title 49, United States Code.

(D) CONGESTION RELIEF PROJECT.—The term "congestion relief project" means an intermodal freight transfer facility, freight rail facility, freight movement corridor, intercity passenger rail or facility, intercity bus vehicle or facility, border crossing facility, or other public or private facility approved as a congestion relief project by the Secretary of Transportation. In making such approvals, the Secretary of Transportation shall—

(i) consider the economic, environmental, mobility, and national security improvements to be realized through the project, and

(ii) give preference to projects with national or regional significance, including any projects sponsored by a coalition of States or a combination of States and private sector entities, in terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system.

(D) ADDITIONAL REQUIREMENTS FOR QUALIFIED PROJECTS.—For purposes of subparagraph (A)—

(i) COSTS OF QUALIFIED PROJECTS.—The requirement of this clause is met if the costs of the qualified project funded by Build America bonds only relate to capital investments in depreciable assets and do not include any costs relating to operations, maintenance, or rolling stock.

(ii) APPLICABILITY OF FEDERAL LAW.—The requirement of this clause is met if the requirements of any Federal law, including titles 23, 40, and 49 of the United States Code, which would otherwise apply to projects to which the United States is a party or to funds made available under such law and projects assisted with those funds are applied to—

(I) funds made available under Build America bonds for similar qualified projects, and

(II) similar qualified projects assisted by the Build America Corporation through the use of such funds.

(iii) UTILIZATION OF UPDATED CONSTRUCTION TECHNOLOGY FOR QUALIFIED PROJECTS.—The requirement of this clause is met if the appropriate State agency relating to the qualified project has updated its accepted construction technologies to match a list prescribed by the Secretary of Transportation and in effect on the date of the approval of the project as a qualified project.

PART II—RAILROAD TRACK MODERNIZATION

SEC. 4631. SHORT TITLE.

This part may be cited as the "Railroad Track Modernization Act of 2004".

SEC. 4632. CAPITAL GRANTS FOR RAILROAD TRACK.

(a) AUTHORITY.—Chapter 223 of title 49, United States Code, is amended to read as follows:

"CHAPTER 223—CAPITAL GRANTS FOR RAILROAD TRACK

"Sec.
"22301. Capital grants for railroad track.

"§ 22301. Capital grants for railroad track

"(a) ESTABLISHMENT OF PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary of Transportation shall establish a program of capital grants for the rehabilitation, preservation, or improvement of railroad track (including roadbed, bridges, and related track structures) of class II and class III railroads. Such grants shall be for rehabilitating, preserving, or improving track used primarily for freight transportation to a standard ensuring that the track can be operated safely and efficiently, including grants for rehabilitating, preserving, or improving track to handle 286,000 pound rail cars. Grants may be provided under this chapter—

"(A) directly to the class II or class III railroad; or

"(B) with the concurrence of the class II or class III railroad, to a State or local government.

"(2) STATE COOPERATION.—Class II and class III railroad applicants for a grant under this chapter are encouraged to utilize the expertise and assistance of State transportation agencies in applying for and administering such grants. State transportation agencies are encouraged to provide such expertise and assistance to such railroads.

"(3) REGULATIONS.—

"(A) IN GENERAL.—The Secretary shall prescribe regulations to carry out the program under this section.

"(B) CRITERIA.—In developing the regulations, the Secretary shall establish criteria that—

"(i) condition the award of a grant to a railroad on reasonable assurances by the railroad that the facilities to be rehabilitated and improved will be economically and efficiently utilized;

"(ii) ensure that the award of a grant is justified by present and probable future demand for rail services by the railroad to which the grant is to be awarded;

"(iii) ensure that consideration is given to projects that are part of a State-sponsored rail plan; and

"(iv) ensure that all such grants are awarded on a competitive basis.

"(b) MAXIMUM FEDERAL SHARE.—The maximum Federal share for carrying out a project under this section shall be 80 percent of the project cost. The non-Federal share may be provided by any non-Federal source in cash, equipment, or supplies. Other in-kind contributions may be approved by the Secretary on a case by case basis consistent with this chapter.

"(c) PROJECT ELIGIBILITY.—For a project to be eligible for assistance under this section the track must have been operated or owned by a class II or class III railroad as of the date of the enactment of the Railroad Track Modernization Act of 2004.

"(d) USE OF FUNDS.—Grants provided under this section shall be used to implement track capital projects as soon as possible. In no event shall grant funds be contractually obligated for a project later than the end of the third Federal fiscal year following the year in which the grant was awarded. Any funds not so obligated by the end of such fiscal year shall be returned to the Secretary for reallocation.

"(e) ADDITIONAL PURPOSE.—In addition to making grants for projects as provided in subsection (a), the Secretary may also make grants to supplement direct loans or loan guarantees made under title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(d)), for projects described in the last sentence of section 502(d) of such title. Grants made under this subsection may be used, in whole or in part, for paying credit risk premiums, lowering rates of interest, or providing for a holiday on principal payments.

"(f) EMPLOYEE PROTECTION.—The Secretary shall require as a condition of any grant made under this section that the recipient railroad provide a fair arrangement at least as protective of the interests of employees who are affected by the project to be funded with the grant as the terms imposed under section 11326(a), as in effect on the date of the enactment of the Railroad Track Modernization Act of 2001.

"(g) LABOR STANDARDS.—

"(1) PREVAILING WAGES.—The Secretary shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed by a grant made under this section will be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.). The Secretary shall make a grant under this section only after being assured that required labor standards will be maintained on the construction work.

"(2) WAGE RATES.—Wage rates in a collective bargaining agreement negotiated under the Railway Labor Act (45 U.S.C. 151 et seq.) are deemed for purposes of this subsection to comply with the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.).".

(b) CONFORMING AMENDMENT.—The item relating to chapter 223 in the table of chapters of subtitle V of title 49, United States Code, is amended to read as follows:

"223. CAPITAL GRANTS FOR RAILROAD TRACK 22301".

SEC. 4633. REGULATIONS.

(a) REGULATIONS.—The Secretary of Transporation shall prescribe under subsection (a)(3) of section 22301 of title 49, United States Code (as added by section 4601), interim and final regulations for the administration of the grant program under such section as follows:

(1) INTERIM REGULATIONS.—The Secretary shall prescribe the interim regulations to implement the program not later than December 31, 2003.

(2) FINAL REGULATIONS.—The Secretary shall prescribe the final regulations not later than October 1, 2004.

(b) INAPPLICABILITY OF RULEMAKING PROCEDURE TO INTERIM REGULATIONS.—Subchapter II of chapter 5 of title 5, United States Code, shall not apply to the issuance of an interim regulation or to any amendment of such an interim regulation.

(c) CRITERIA.—The requirement for the establishment of criteria under subparagraph (B) of section 22301(a)(3) of title 49, United States Code, applies to the interim regulations as well as to the final regulations.

SEC. 4634. STUDY OF GRANT-FUNDED PROJECTS.

(a) REQUIREMENT FOR STUDY.—The Secretary of Transportation shall conduct a study of the projects carried out with grant assistance under section 22301 of title 49, United States Code (as added by section 4601), to determine the public interest benefits associated with the light density railroad networks in the States and their contribution to a multimodal transportation system.

(b) REPORT.—Not later than March 31, 2004, the Secretary shall submit to Congress a report on the results of the study under subsection (a). The report shall include any recommendations that the Secretary considers appropriate regarding the eligibility of light density rail networks for Federal infrastructure financing.

SEC. 4635. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Transportation $350,000,000 for each of fiscal years 2004, 2005, and 2006 for carrying out section 22301 of title 49, United States Code (as added by section 4601).

PART III—OTHER RAIL TRANSPORTATION-RELATED PROVISIONS

SEC. 4661. CAPITAL GRANTS FOR RAIL LINE RELOCATION PROJECTS.

(a) ESTABLISHMENT OF PROGRAM.—

(1) PROGRAM REQUIREMENTS.—Chapter 201 of title 49, United States Code, is amended by adding at the end of subchapter II the following:

"§ 20154. Capital grants for rail line relocation projects

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Transportation shall carry out a grant program to provide financial assistance for local rail line relocation projects.

"(b) ELIGIBILITY.—A State is eligible for a grant under this section for any project for the improvement of the route or structure of a rail line passing through a municipality of the State that—

"(1) is carried out for the purpose of mitigating the adverse effects of rail traffic on safety, motor vehicle traffic flow, or economic development in the municipality;

"(2) involves a lateral or vertical relocation of any portion of the rail line within the municipality to avoid a closing of a grade crossing or the construction of a road underpass or overpass; and

"(3) meets the costs-benefits requirement set forth in subsection (c).

"(c) COSTS-BENEFITS REQUIREMENT.—A grant may be awarded under this section for a project for the relocation of a rail line only if the benefits of the project for the period equal to the estimated economic life of the relocated rail line exceed the costs of the project for that period, as determined by the Secretary considering the following factors:

"(1) The effects of the rail line and the rail traffic on motor vehicle and pedestrian traffic, safety, and area commerce if the rail line were not so relocated.

"(2) The effects of the rail line, relocated as proposed, on motor vehicle and pedestrian traffic, safety, and area commerce.

"(3) The effects of the rail line, relocated as proposed, on the freight and passenger rail operations on the rail line.

"(d) CONSIDERATIONS FOR APPROVAL OF GRANT APPLICATIONS.—In addition to considering the relationship of benefits to costs in determining whether to award a grant to an eligible State under this section, the Secretary shall consider the following factors:

"(1) The capability of the State to fund the rail line relocation project without Federal grant funding.

"(2) The requirement and limitation relating to allocation of grant funds provided in subsection (e).

"(3) Equitable treatment of the various regions of the United States.

"(e) ALLOCATION REQUIREMENTS.—

"(1) GRANTS NOT GREATER THAN $20,000,000.—At least 50 percent of all grant funds awarded under this section out of funds appropriated for a fiscal year shall be provided as grant awards of not more than $20,000,000 each.

"(2) LIMITATION PER PROJECT.—Not more than 25 percent of the total amount available for carrying out this section for a fiscal year may be provided for any 1 project in that fiscal year.

"(f) FEDERAL SHARE.—The total amount of a grant awarded under this section for a rail line relocation project shall be 90 percent of the shared costs of the project, as determined under subsection (g)(4).

"(g) STATE SHARE.—

"(1) PERCENTAGE.—A State shall pay 10 percent of the shared costs of a project that is funded in part by a grant awarded under this section.

"(2) FORMS OF CONTRIBUTIONS.—The share required by paragraph (1) may be paid in cash or in kind.

"(3) IN-KIND CONTRIBUTIONS.—The in-kind contributions that are permitted to be counted under paragraph (2) for a project for a State are as follows:

"(A) A contribution of real property or tangible personal property (whether provided by the State or a person for the State).

"(B) A contribution of the services of employees of the State, calculated on the basis of costs incurred by the State for the pay and benefits of the employees, but excluding overhead and general administrative costs.

"(C) A payment of any costs that were incurred for the project before the filing of an application for a grant for the project under this section, and any in-kind contributions that were made for the project before the filing of the application, if and to the extent that the costs were incurred or in-kind contributions were made, as the case may be, to comply with a provision of a statute required to be satisfied in order to carry out the project.

"(4) COSTS NOT SHARED.—

"(A) IN GENERAL.—For the purposes of subsection (f) and this subsection, the shared costs of a project in a municipality do not include any cost that is defrayed with any funds or in-kind contribution that a source other than the municipality makes available for the use of the municipality without imposing at least 1 of the following conditions:

"(i) The condition that the municipality use the funds or contribution only for the project.

"(ii) The condition that the availability of the funds or contribution to the municipality is contingent on the execution of the project.

"(B) DETERMINATIONS OF THE SECRETARY.—The Secretary shall determine the amount of the costs, if any, that are not shared costs under this paragraph and the total amount of the shared costs. A determination of the Secretary shall be final.

"(h) MULTISTATE AGREEMENTS TO COMBINE AMOUNTS.—Two or more States (not including political subdivisions of States) may, pursuant to an agreement entered into by the States, combine any part of the amounts provided through grants for a project under this section if—

"(1) the project will benefit each of the States entering into the agreement; and

"(2) the agreement is not a violation of a law of any such State.

"(i) REGULATIONS.—The Secretary shall prescribe regulations for carrying out this section.

"(j) STATE DEFINED.—In this section, the term 'State' includes, except as otherwise specifically provided, a political subdivision of a State.

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for use in carrying out this section $350,000,000 for each of the fiscal years 2004 through 2008.".

(2) CLERICAL AMENDMENT.—The chapter analysis for such chapter is amended by adding at the end the following:

"20154. Capital grants for rail line relocation projects.".

(b) REGULATIONS.—

(1) INTERIM REGULATIONS.—Not later than October 1, 2003, the Secretary of Transportation shall issue temporary regulations to implement the grant program under section 20154 of title 49, United States Code, as added by subsection (a). Subchapter II of chapter 5 of title 5, United States Code, shall not apply to the issuance of a temporary regulation under this subsection or of any amendment of such a temporary regulation.

(2) FINAL REGULATIONS.—Not later than April 1, 2004, the Secretary shall issue final regulations implementing the program.

SEC. 4662. USE OF CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT FUNDS FOR BOSTON TO PORTLAND PASSENGER RAIL SERVICE.

Notwithstanding any other provision of law, funds authorized to be appropriated under section 1101(5) that are made available to the State of Maine may be used to support, through December 15, 2006, the operation of passenger rail service between Boston, Massachusetts, and Portland, Maine.

TITLE V—HIGHWAY REAUTHORIZATION AND EXCISE TAX SIMPLIFICATION

SEC. 5000. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the "Highway Reauthorization and Excise Tax Simplification Act of 2004".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Trust Fund Reauthorization

SEC. 5001. EXTENSION OF HIGHWAY TRUST FUND AND AQUATIC RESOURCES TRUST FUND EXPENDITURE AUTHORITY AND RELATED TAXES.

(a) HIGHWAY TRUST FUND EXPENDITURE AUTHORITY.—

(1) HIGHWAY ACCOUNT.—Paragraph (1) of section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits) is amended—

(A) in the matter before subparagraph (A), by striking "March 1, 2004" and inserting "October 1, 2009",

(B) by striking "or" at the end of subparagraph (E),

(C) by striking the period at the end of subparagraph (F) and inserting ", or",

(D) by inserting after subparagraph (F), the following new subparagraph:

"(G) authorized to be paid out of the Highway Trust Fund under the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004.", and

(E) in the matter after subparagraph (G), as added by subparagraph (D), by striking "Surface Transportation Extension Act of 2003" and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

(2) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) (relating to establishment of Mass Transit Account) is amended—

(A) in the matter before subparagraph (A), by striking "March 1, 2004" and inserting "October 1, 2009",

(B) by striking "or" at the end of subparagraph (C),

(C) by striking the period at the end of subparagraph (D) and inserting ", or",

(D) by inserting after subparagraph (D), the following new subparagraph:

"(E) the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004,", and

(E) in the matter after subparagraph (E), as added by subparagraph (D), by striking "Surface Transportation Extension Act of 2003" and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Subparagraph (B) of section 9503(b)(5) (relating to limitation on transfers to Highway Trust Fund) is amended by striking "March 1, 2004" and inserting "October 1, 2009".

(b) AQUATIC RESOURCES TRUST FUND EXPENDITURE AUTHORITY.—

(1) SPORT FISH RESTORATION ACCOUNT.—Paragraph (2) of section 9504(b) (relating to Sport Fish Restoration Account) is amended by striking "Surface Transportation Extension Act of 2003" each place it appears and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

(2) BOAT SAFETY ACCOUNT.—Section 9504(c) (relating to expenditures from Boat Safety Account) is amended—

(A) by striking "March 1, 2004" and inserting "October 1, 2009", and

(B) by striking "Surface Transportation Extension Act of 2003" and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Paragraph (2) of section 9504(d) (relating to limitation on transfers to Aquatic Resources Trust Fund) is amended by striking "March 1, 2004" and inserting "October 1, 2009".

(4) TECHNICAL CORRECTION.—The last sentence of paragraph (2) of section 9504(b) is amended by striking "subparagraph (B)", and inserting "subparagraph (C)".

(c) EXTENSION OF TAXES.—

(1) IN GENERAL.—The following provisions are each amended by striking "2005" each place it appears and inserting "2009":

(A) Section 4041(a)(1)(C)(iii)(I) (relating to rate of tax on certain buses).

(B) Section 4041(a)(2)(B) (relating to rate of tax on special motor fuels).

(C) Section 4041(m)(1)(A) (relating to certain alcohol fuels produced from natural gas).

(D) Section 4051(c) (relating to termination of tax on heavy trucks and trailers).

(E) Section 4071(d) (relating to termination of tax on tires).

(F) Section 4081(d)(1) (relating to termination of tax on gasoline, diesel fuel, and kerosene).

(G) Section 4481(e) (relating to period tax in effect).

(H) Section 4482(c)(4) (relating to taxable period).

(I) Section 4482(d) (relating to special rule for taxable period in which termination date occurs).

(2) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) (relating to floor stocks refunds) is amended—

(A) by striking "2005" each place it appears and inserting "2009", and

(B) by striking "2006" each place it appears and inserting "2010".

(d) EXTENSION OF CERTAIN EXEMPTIONS.—The following provisions are each amended by striking "2005" and inserting "2009":

(1) Section 4221(a) (relating to certain tax-free sales).

(2) Section 4483(g) (relating to termination of exemptions for highway use tax).

(e) EXTENSION OF DEPOSITS INTO, AND CERTAIN TRANSFERS FROM, TRUST FUND.—

(1) IN GENERAL.—Subsections (b), (c)(2), (c)(3), (c)(4)(A)(i), and (c)(5)(A) of section 9503 (relating to the Highway Trust Fund) are amended—

(A) by striking "2005" each place it appears and inserting "2009", and

(B) by striking "2006" each place it appears and inserting "2010".

(2) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–11(b)) is amended—

(A) by striking "2003" and inserting "2007", and

(B) by striking "2004" each place it appears and inserting "2008".

(f) EXTENSION OF TAX BENEFITS FOR QUALIFIED METHANOL AND ETHANOL FUEL PRODUCED FROM COAL.—Section 4041(b)(2) (relating to qualified methanol and ethanol fuel) is amended—

(1) by striking "2007" in subparagraph (C)(ii) and inserting "2010", and

(2) by striking "October 1, 2007" in subparagraph (D) and inserting "January 1, 2011".

(g) PROHIBITION ON USE OF HIGHWAY ACCOUNT FOR RAIL PROJECTS.—Section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits) is amended by adding at the end the following new paragraph:

"(6) PROHIBITION ON USE OF HIGHWAY ACCOUNT FOR CERTAIN RAIL PROJECTS.—With respect to rail projects beginning after the date of the enactment of this paragraph, no amount shall be available from the Highway Account (as defined in subsection (e)(5)(B)) for any rail project, except for any rail project involving publicly owned rail facilities or any rail project yielding a public benefit.".

(h) HIGHWAY TRUST FUND EXPENDITURES FOR HIGHWAY USE TAX EVASION PROJECTS.—Section 9503(c), as amended by subsection (g), is amended to add at the end the following new paragraph:

"(7) HIGHWAY USE TAX EVASION PROJECTS.—From amounts available in the Highway Trust Fund, there is authorized to be expended—

"(A) for each fiscal year after 2003 to the Internal Revenue Service—

"(i) $30,000,000 for enforcement of fuel tax compliance, including the per-certification of tax-exempt users,

"(ii) $10,000,000 for Xstars, and

"(iii) $10,000,000 for xfirs, and

"(B) for each fiscal year after 2003 to the Federal Highway Administration, $50,000,000 to be allocated $1,000,000 to each State to combat fuel tax evasion on the State level.".

(i) EFFECTIVE DATE.—The amendments made by and provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 5002. FULL ACCOUNTING OF FUNDS RECEIVED BY THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(c) (relating to transfers from Highway Trust Fund for certain repayments and credits), as amended by section 5001 of this Act, is amended by striking paragraph (2) and redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), and (6), respectively.

(b) INTEREST ON UNEXPENDED BALANCES CREDITED TO TRUST FUND.—Section 9503 (relating to the Highway Trust Fund) is amended by striking subsection (f).

(c) CONFORMING AMENDMENTS.—

(1) Section 9503(b)(4)(D) is amended by striking "paragraph (4)(D) or (5)(B)" and inserting "paragraph (3)(D) or (4)(B)".

(2) Paragraph (2) of section 9503(c) (as redesignated by subsection (a)) is amended by adding at the end the following new sentence: "The amounts payable from the Highway Trust Fund under this paragraph shall be determined by taking into account only the portion of the taxes which are deposited into the Highway Trust Fund.".

(3) Section 9504(a)(2) is amended by striking "section 9503(c)(4), section 9503(c)(5)" and inserting "section 9503(c)(3), section 9503(c)(4)".

(4) Paragraph (2) of section 9504(b), as amended by section 5001 of this Act, is amended by striking "section 9503(c)(5)" and inserting "section 9503(c)(4)".

(5) Section 9504(e) is amended by striking "section 9503(c)(4)" and inserting "section 9503(c)(3)".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts paid for which no transfer from the Highway Trust Fund has been made before April 1, 2004.

(2) INTEREST CREDITED.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 5003. MODIFICATION OF ADJUSTMENTS OF APPORTIONMENTS.

(a) IN GENERAL.—Section 9503(d) (relating to adjustments for apportionments) is amended—

(1) by striking "24-month" in paragraph (1)(B) and inserting "48-month", and

(2) by striking "2 YEARS"' in the heading for paragraph (3) and inserting "4 YEARS"'.

(b) MEASUREMENT OF NET HIGHWAY RECEIPTS.—Section 9503(d) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) MEASUREMENT OF NET HIGHWAY RECEIPTS.—For purposes of making any estimate under paragraph (1) of net highway receipts for periods ending after the date specified in subsection (b)(1), the Secretary shall treat—

"(A) each expiring provision of subsection (b) which is related to appropriations or transfers to the Highway Trust Fund to have been extended through the end of the 48-month period referred to in paragraph (1)(B), and

"(B) with respect to each tax imposed under the sections referred to in subsection (b)(1), the rate of such tax during the 48-month period referred to in paragraph (1)(B) to be the same as the rate of such tax as in effect on the date of such estimate.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Volumetric Ethanol Excise Tax Credit

SEC. 5101. SHORT TITLE.

This subtitle may be cited as the "Volumetric Ethanol Excise Tax Credit (VEETC) Act of 2004".

SEC. 5102. ALCOHOL AND BIODIESEL EXCISE TAX CREDIT AND EXTENSION OF ALCOHOL FUELS INCOME TAX CREDIT.

(a) IN GENERAL.—Subchapter B of chapter 65 (relating to rules of special application) is amended by inserting after section 6425 the following new section:

"SEC. 6426. CREDIT FOR ALCOHOL FUEL AND BIODIESEL MIXTURES.

"(a) ALLOWANCE OF CREDITS.—There shall be allowed as a credit against the tax imposed by section 4081 an amount equal to the sum of—

"(1) the alcohol fuel mixture credit, plus

"(2) the biodiesel mixture credit.

"(b) ALCOHOL FUEL MIXTURE CREDIT.—

"(1) IN GENERAL.—For purposes of this section, the alcohol fuel mixture credit is the product of the applicable amount and the number of gallons of alcohol used by the taxpayer in producing any alcohol fuel mixture for sale or use in a trade or business of the taxpayer.

"(2) APPLICABLE AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable amount is 52 cents (51 cents in the case of any sale or use after 2004).

"(B) MIXTURES NOT CONTAINING ETHANOL.—In the case of an alcohol fuel mixture in which none of the alcohol consists of ethanol, the applicable amount is 60 cents.

"(3) ALCOHOL FUEL MIXTURE.—For purposes of this subsection, the term 'alcohol fuel mixture' means a mixture of alcohol and a taxable fuel which—

"(A) is sold by the taxpayer producing such mixture to any person for use as a fuel,

"(B) is used as a fuel by the taxpayer producing such mixture, or

"(C) is removed from the refinery by a person producing such mixture.

"(4) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) ALCOHOL.—The term 'alcohol' includes methanol and ethanol but does not include—

"(i) alcohol produced from petroleum, natural gas, or coal (including peat), or

"(ii) alcohol with a proof of less than 190 (determined without regard to any added denaturants).

Such term also includes an alcohol gallon equivalent of ethyl tertiary butyl ether or other ethers produced from such alcohol.

"(B) TAXABLE FUEL.—The term 'taxable fuel' has the meaning given such term by section 4083(a)(1).

"(5) TERMINATION.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2010.

"(c) BIODIESEL MIXTURE CREDIT.—

"(1) IN GENERAL.—For purposes of this section, the biodiesel mixture credit is the product of the applicable amount and the number of gallons of biodiesel used by the taxpayer in producing any biodiesel mixture for sale or use in a trade or business of the taxpayer.

"(2) APPLICABLE AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable amount is 50 cents.

"(B) AMOUNT FOR AGRI-BIODIESEL.—In the case of any biodiesel which is agri-biodiesel, the applicable amount is $1.00.

"(3) BIODIESEL MIXTURE.—For purposes of this section, the term 'biodiesel mixture' means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

"(A) is sold by the taxpayer producing such mixture to any person for use as a fuel,

"(B) is used as a fuel by the taxpayer producing such mixture, or

"(C) is removed from the refinery by a person producing such mixture.

"(4) CERTIFICATION FOR BIODIESEL.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

"(5) OTHER DEFINITIONS.—Any term used in this subsection which is also used in section 40A shall have the meaning given such term by section 40A.

"(6) TERMINATION.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2006.

"(d) MIXTURE NOT USED AS A FUEL, ETC.—

"(1) IMPOSITION OF TAX.—If—

"(A) any credit was determined under this section with respect to alcohol or biodiesel used in the production of any alcohol fuel mixture or biodiesel mixture, respectively, and

"(B) any person—

"(i) separates the alcohol or biodiesel from the mixture, or

"(ii) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the applicable amount and the number of gallons of such alcohol or biodiesel.

"(2) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under paragraph (1) as if such tax were imposed by section 4081 and not by this section.

"(e) COORDINATION WITH EXEMPTION FROM EXCISE TAX.—Rules similar to the rules under section 40(c) shall apply for purposes of this section.".

(b) REGISTRATION REQUIREMENT.—Section 4101(a)(1) (relating to registration), as amended by sections 5211 and 5242 of this Act, is amended by inserting "and every person producing or importing biodiesel (as defined in section 40A(d)(1)) or alcohol (as defined in section 6426(b)(4)(A))" after "4081".

(c) ADDITIONAL AMENDMENTS.—

(1) Section 40(c) is amended by striking "subsection (b)(2), (k), or (m) of section 4041, section 4081(c), or section 4091(c)" and inserting "section 4041(b)(2), section 6426, or section 6427(e)".

(2) Paragraph (4) of section 40(d) is amended to read as follows:

"(4) VOLUME OF ALCOHOL.—For purposes of determining under subsection (a) the number of gallons of alcohol with respect to which a credit is allowable under subsection (a), the volume of alcohol shall include the volume of any denaturant (including gasoline) which is added under any formulas approved by the Secretary to the extent that such denaturants do not exceed 5 percent of the volume of such alcohol (including denaturants).".

(3) Section 40(e)(1) is amended—

(A) by striking "2007" in subparagraph (A) and inserting "2010", and

(B) by striking "2008" in subparagraph (B) and inserting "2011".

(4) Section 40(h) is amended—

(A) by striking "2007" in paragraph (1) and inserting "2010", and

(B) by striking ", 2006, or 2007" in the table contained in paragraph (2) and inserting "through 2010".

(5) Section 4041(b)(2)(B) is amended by striking "a substance other than petroleum or natural gas" and inserting "coal (including peat)".

(6) Section 4041 is amended by striking subsection (k).

(7) Section 4081 is amended by striking subsection (c).

(8) Paragraph (2) of section 4083(a) is amended to read as follows:

"(2) GASOLINE.—The term 'gasoline'—

"(A) includes any gasoline blend, other than qualified methanol or ethanol fuel (as defined in section 4041(b)(2)(B)), partially exempt methanol or ethanol fuel (as defined in section 4041(m)(2)), or a denatured alcohol, and

"(B) includes, to the extent prescribed in regulations—

"(i) any gasoline blend stock, and

"(ii) any product commonly used as an additive in gasoline (other than alcohol).

For purposes of subparagraph (B)(i), the term 'gasoline blend stock' means any petroleum product component of gasoline.".

(9) Section 6427 is amended by inserting after subsection (d) the following new subsection:

"(e) ALCOHOL OR BIODIESEL USED TO PRODUCE ALCOHOL FUEL AND BIODIESEL MIXTURES OR USED AS FUELS.—Except as provided in subsection (k)—

"(1) USED TO PRODUCE A MIXTURE.—If any person produces a mixture described in section 6426 in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the alcohol fuel mixture credit or the biodiesel mixture credit with respect to such mixture.

"(2) USED AS FUEL.—If alcohol (as defined in section 40(d)(1)) or biodiesel (as defined in section 40A(d)(1)) or agri-biodiesel (as defined in section 40A(d)(2)) which is not in a mixture described in section 6426—

"(A) is used by any person as a fuel in a trade or business, or

"(B) is sold by any person at retail to another person and placed in the fuel tank of such person's vehicle,

the Secretary shall pay (without interest) to such person an amount equal to the alcohol credit (as determined under section 40(b)(2)) or the biodiesel credit (as determined under section 40A(b)(2)) with respect to such fuel.

"(3) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under paragraph (1) with respect to any mixture with respect to which an amount is allowed as a credit under section 6426.

"(4) TERMINATION.—This subsection shall not apply with respect to—

"(A) any alcohol fuel mixture (as defined in section 6426(b)(3)) or alcohol (as so defined) sold or used after December 31, 2010, and

"(B) any biodiesel mixture (as defined in section 6426(c)(3)) or biodiesel (as so defined) or agri-biodiesel (as so defined) sold or used after December 31, 2006.".

(10) Section 6427(i)(3) is amended—

(A) by striking "subsection (f)" both places it appears in subparagraph (A) and inserting "subsection (e)(1)",

(B) by striking "gasoline, diesel fuel, or kerosene used to produce a qualified alcohol mixture (as defined in section 4081(c)(3))" in subparagraph (A) and inserting "a mixture described in section 6426",

(C) by adding at the end of subparagraph (A) the following new flush sentence:

"In the case of an electronic claim, this subparagraph shall be applied without regard to clause (i).",

(D) by striking "subsection (f)(1)" in subparagraph (B) and inserting "subsection (e)(1)",

(E) by striking "20 days of the date of the filing of such claim" in subparagraph (B) and inserting "45 days of the date of the filing of such claim (20 days in the case of an electronic claim)", and

(F) by striking "ALCOHOL MIXTURE" in the heading and inserting "ALCOHOL FUEL AND BIODIESEL MIXTURE".

(11) Section 9503(b)(1) is amended by adding at the end the following new flush sentence:

"For purposes of this paragraph, taxes received under sections 4041 and 4081 shall be determined without reduction for credits under section 6426.".

(12) Section 9503(b)(4), as amended by section 5101 of this Act, is amended—

(A) by adding "or" at the end of subparagraph (C),

(B) by striking the comma at the end of subparagraph (D)(iii) and inserting a period, and

(C) by striking subparagraphs (E) and (F).

(13) The table of sections for subchapter B of chapter 65 is amended by inserting after the item relating to section 6425 the following new item:

"Sec. 6426. Credit for alcohol fuel and biodiesel mixtures.".

(14) TARIFF SCHEDULE.—Headings 9901.00.50 and 9901.00.52 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) are each amended in the effective period column by striking "10/1/2007" each place it appears and inserting "1/1/2011".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to fuel sold or used after September 30, 2004.

(2) REGISTRATION REQUIREMENT.—The amendment made by subsection (b) shall take effect on April 1, 2005.

(3) EXTENSION OF ALCOHOL FUELS CREDIT.—The amendments made by paragraphs (3), (4), and (14) of subsection (c) shall take effect on the date of the enactment of this Act.

(4) REPEAL OF GENERAL FUND RETENTION OF CERTAIN ALCOHOL FUELS TAXES.—The amendments made by subsection (c)(12) shall apply to fuel sold or used after September 30, 2003.

(e) FORMAT FOR FILING.—The Secretary of the Treasury shall describe the electronic format for filing claims described in section 6427(i)(3)(B) of the Internal Revenue Code of 1986 (as amended by subsection (c)(10)(C)) not later than September 30, 2004.

SEC. 5103. BIODIESEL INCOME TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 40 the following new section:

"SEC. 40A. BIODIESEL USED AS FUEL.

"(a) GENERAL RULE.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the sum of—

"(1) the biodiesel mixture credit, plus

"(2) the biodiesel credit.

"(b) DEFINITION OF BIODIESEL MIXTURE CREDIT AND BIODIESEL CREDIT.—For purposes of this section—

"(1) BIODIESEL MIXTURE CREDIT.—

"(A) IN GENERAL.—The biodiesel mixture credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel used by the taxpayer in the production of a qualified biodiesel mixture.

"(B) QUALIFIED BIODIESEL MIXTURE.—The term 'qualified biodiesel mixture' means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

"(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

"(ii) is used as a fuel by the taxpayer producing such mixture.

"(C) SALE OR USE MUST BE IN TRADE OR BUSINESS, ETC.—Biodiesel used in the production of a qualified biodiesel mixture shall be taken into account—

"(i) only if the sale or use described in subparagraph (B) is in a trade or business of the taxpayer, and

"(ii) for the taxable year in which such sale or use occurs.

"(D) CASUAL OFF-FARM PRODUCTION NOT ELIGIBLE.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

"(2) BIODIESEL CREDIT.—

"(A) IN GENERAL.—The biodiesel credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel which is not in a mixture with diesel fuel and which during the taxable year—

"(i) is used by the taxpayer as a fuel in a trade or business, or

"(ii) is sold by the taxpayer at retail to a person and placed in the fuel tank of such person's vehicle.

"(B) USER CREDIT NOT TO APPLY TO BIODIESEL SOLD AT RETAIL.—No credit shall be allowed under subparagraph (A)(i) with respect to any biodiesel which was sold in a retail sale described in subparagraph (A)(ii).

"(3) CREDIT FOR AGRI-BIODIESEL.—In the case of any biodiesel which is agri-biodiesel, paragraphs (1)(A) and (2)(A) shall be applied by substituting '$1.00' for '50 cents'.

"(4) CERTIFICATION FOR BIODIESEL.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer or importer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

"(c) COORDINATION WITH CREDIT AGAINST EXCISE TAX.—The amount of the credit determined under this section with respect to any biodiesel shall be properly reduced to take into account any benefit provided with respect to such biodiesel solely by reason of the application of section 6426 or 6427(e).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) BIODIESEL.—The term 'biodiesel' means the monoalkyl esters of long chain fatty acids derived from plant or animal matter which meet—

"(A) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

"(B) the requirements of the American Society of Testing and Materials D6751.

"(2) AGRI-BIODIESEL.—The term 'agri-biodiesel' means biodiesel derived solely from virgin oils, including esters derived from virgin vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds, and from animal fats.

"(3) MIXTURE OR BIODIESEL NOT USED AS A FUEL, ETC.—

"(A) MIXTURES.—If—

"(i) any credit was determined under this section with respect to biodiesel used in the production of any qualified biodiesel mixture, and

"(ii) any person—

"(I) separates the biodiesel from the mixture, or

"(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(1)(A) and the number of gallons of such biodiesel in such mixture.

"(B) BIODIESEL.—If—

"(i) any credit was determined under this section with respect to the retail sale of any biodiesel, and

"(ii) any person mixes such biodiesel or uses such biodiesel other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(2)(A) and the number of gallons of such biodiesel.

"(C) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) or (B) as if such tax were imposed by section 4081 and not by this chapter.

"(4) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(e) TERMINATION.—This section shall not apply to any sale or use after December 31, 2006.".

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking "plus" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ", plus", and by adding at the end the following new paragraph:

"(16) the biodiesel fuels credit determined under section 40A(a).".

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d) is amended by adding at the end the following new paragraph:

"(11) NO CARRYBACK OF BIODIESEL FUELS CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40A may be carried back to a taxable year ending on or before September 30, 2004.".

(2)(A) Section 87 is amended to read as follows:

"SEC. 87. ALCOHOL AND BIODIESEL FUELS CREDITS.

"Gross income includes—

"(1) the amount of the alcohol fuels credit determined with respect to the taxpayer for the taxable year under section 40(a), and

"(2) the biodiesel fuels credit determined with respect to the taxpayer for the taxable year under section 40A(a).".

(B) The item relating to section 87 in the table of sections for part II of subchapter B of chapter 1 is amended by striking "fuel credit" and inserting "and biodiesel fuels credits".

(3) Section 196(c) is amended by striking "and" at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting ", and", and by adding at the end the following new paragraph:

"(11) the biodiesel fuels credit determined under section 40A(a).".

(4) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 40 the following new item:

"Sec. 40A. Biodiesel used as fuel.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel produced, and sold or used, after September 30, 2004, in taxable years ending after such date.

Subtitle C—Fuel Fraud Prevention

SEC. 5200. SHORT TITLE.

This subtitle may be cited as the "Fuel Fraud Prevention Act of 2004".

PART I—AVIATION JET FUEL

SEC. 5211. TAXATION OF AVIATION-GRADE KEROSENE.

(a) RATE OF TAX.—

(1) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) in the case of aviation-grade kerosene, 21.8 cents per gallon.".

(2) COMMERCIAL AVIATION.—Paragraph (2) of section 4081(a) is amended by adding at the end the following new subparagraph:

"(C) TAXES IMPOSED ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in commercial aviation, the rate of tax under subparagraph (A)(iv) shall be 4.3 cents per gallon.".

(3) NONTAXABLE USES.—

(A) IN GENERAL.—Section 4082 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

"(e) AVIATION-GRADE KEROSENE.—In the case of aviation-grade kerosene which is exempt from the tax imposed by section 4041(c) (other than by reason of a prior imposition of tax) and which is removed from any refinery or terminal directly into the fuel tank of an aircraft, the rate of tax under section 4081(a)(2)(A)(iv) shall be zero.".

(B) CONFORMING AMENDMENTS.—

(i) Subsection (b) of section 4082 is amended by adding at the end the following new flush sentence: "The term 'nontaxable use' does not include the use of aviation-grade kerosene in an aircraft.".

(ii) Section 4082(d) is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(4) NONAIRCRAFT USE OF AVIATION-GRADE KEROSENE.—

(A) IN GENERAL.—Subparagraph (B) of section 4041(a)(1) is amended by adding at the end the following new sentence: "This subparagraph shall not apply to aviation-grade kerosene.".

(B) CONFORMING AMENDMENT.—The heading for paragraph (1) of section 4041(a) is amended by inserting "AND KEROSENE" after "DIESEL FUEL".

(b) COMMERCIAL AVIATION.—Section 4083 is amended redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

"(b) COMMERCIAL AVIATION.—For purposes of this subpart, the term 'commercial aviation' means any use of an aircraft in a business of transporting persons or property for compensation or hire by air, unless properly allocable to any transportation exempt from the taxes imposed by section 4261 and 4271 by reason of section 4281 or 4282 or by reason of section 4261(h).".

(c) REFUNDS.—

(1) IN GENERAL.—Paragraph (4) of section 6427(l) is amended to read as follows:

"(4) REFUNDS FOR AVIATION-GRADE KEROSENE.—

"(A) NO REFUND OF CERTAIN TAXES ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene used in commercial aviation (as defined in section 4083(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4081 as is attributable to—

"(i) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

"(ii) so much of the rate of tax specified in section 4081(a)(2)(A)(iv) as does not exceed 4.3 cents per gallon.

"(B) PAYMENT TO ULTIMATE, REGISTERED VENDOR.—With respect to aviation-grade kerosene, if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).".

(2) TIME FOR FILING CLAIMS.—Paragraph (4) of section 6427(i) is amended by striking "subsection (l)(5)" and inserting "paragraph (4)(B) or (5) of subsection (l)".

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 6427(l)(2) is amended to read as follows:

"(B) in the case of aviation-grade kerosene—

"(i) any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax, or

"(ii) any use in commercial aviation (within the meaning of section 4083(b)).".

(d) REPEAL OF PRIOR TAXATION OF AVIATION FUEL.—

(1) IN GENERAL.—Part III of subchapter A of chapter 32 is amended by striking subpart B and by redesignating subpart C as subpart B.

(2) CONFORMING AMENDMENTS.—

(A) Section 4041(c) is amended to read as follows:

"(c) AVIATION-GRADE KEROSENE.—

"(1) IN GENERAL.—There is hereby imposed a tax upon aviation-grade kerosene—

"(A) sold by any person to an owner, lessee, or other operator of an aircraft for use in such aircraft, or

"(B) used by any person in an aircraft unless there was a taxable sale of such fuel under subparagraph (A).

"(2) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—No tax shall be imposed by this subsection on the sale or use of any aviation-grade kerosene if tax was imposed on such liquid under section 4081 and the tax thereon was not credited or refunded.

"(3) RATE OF TAX.—The rate of tax imposed by this subsection shall be the rate of tax specified in section 4081(a)(2)(A)(iv) which is in effect at the time of such sale or use.".

(B) Section 4041(d)(2) is amended by striking "section 4091" and inserting "section 4081".

(C) Section 4041 is amended by striking subsection (e).

(D) Section 4041 is amended by striking subsection (i).

(E) Section 4041(m)(1) is amended to read as follows:

"(1) IN GENERAL.—In the case of the sale or use of any partially exempt methanol or ethanol fuel, the rate of the tax imposed by subsection (a)(2) shall be—

"(A) after September 30, 1997, and before September 30, 2009—

"(i) in the case of fuel none of the alcohol in which consists of ethanol, 9.15 cents per gallon, and

"(ii) in any other case, 11.3 cents per gallon, and

"(B) after September 30, 2009—

"(i) in the case of fuel none of the alcohol in which consists of ethanol, 2.15 cents per gallon, and

"(ii) in any other case, 4.3 cents per gallon.".

(F) Sections 4101(a), 4103, 4221(a), and 6206 are each amended by striking ", 4081, or 4091" and inserting "or 4081".

(G) Section 6416(b)(2) is amended by striking "4091 or".

(H) Section 6416(b)(3) is amended by striking "or 4091" each place it appears.

(I) Section 6416(d) is amended by striking "or to the tax imposed by section 4091 in the case of refunds described in section 4091(d)".

(J) Section 6427 is amended by striking subsection (f).

(K) Section 6427(j)(1) is amended by striking ", 4081, and 4091" and inserting "and 4081".

(L)(i) Section 6427(l)(1) is amended to read as follows:

"(1) IN GENERAL.—Except as otherwise provided in this subsection and in subsection (k), if any diesel fuel or kerosene on which tax has been imposed by section 4041 or 4081 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4041 or 4081, as the case may be, reduced by any refund paid to the ultimate vendor under paragraph (4)(B).".

(ii) Paragraph (5)(B) of section 6427(l) is amended by striking "Paragraph (1)(A) shall not apply to kerosene" and inserting "Paragraph (1) shall not apply to kerosene (other than aviation-grade kerosene)".

(M) Subparagraph (B) of section 6724(d)(1) is amended by striking clause (xv) and by redesignating the succeeding clauses accordingly.

(N) Paragraph (2) of section 6724(d) is amended by striking subparagraph (W) and by redesignating the succeeding subparagraphs accordingly.

(O) Paragraph (1) of section 9502(b) is amended by adding "and" at the end of subparagraph (B) and by striking subparagraphs (C) and (D) and inserting the following new subparagraph:

"(C) section 4081 with respect to aviation gasoline and aviation-grade kerosene, and".

(P) The last sentence of section 9502(b) is amended to read as follows:

"There shall not be taken into account under paragraph (1) so much of the taxes imposed by section 4081 as are determined at the rate specified in section 4081(a)(2)(B).".

(Q) Subsection (b) of section 9508 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(R) Section 9508(c)(2)(A) is amended by striking "sections 4081 and 4091" and inserting "section 4081".

(S) The table of subparts for part III of subchapter A of chapter 32 is amended to read as follows:

"Subpart A. Motor and aviation fuels.
"Subpart B. Special provisions applicable to fuels tax.".

(T) The heading for subpart A of part III of subchapter A of chapter 32 is amended to read as follows:

"Subpart A—Motor and Aviation Fuels"

(U) The heading for subpart B of part III of subchapter A of chapter 32 is amended to read as follows:

"Subpart B—Special Provisions Applicable to Fuels Tax".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to aviation-grade kerosene removed, entered, or sold after September 30, 2004.

(f) FLOOR STOCKS TAX.—

(1) IN GENERAL.—There is hereby imposed on aviation-grade kerosene held on October 1, 2004, by any person a tax equal to—

(A) the tax which would have been imposed before such date on such kerosene had the amendments made by this section been in effect at all times before such date, reduced by

(B) the tax imposed before such date under section 4091 of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—The person holding the kerosene on October 1, 2004, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD AND TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid at such time and in such manner as the Secretary of the Treasury shall prescribe, including the nonapplication of such tax on de minimis amounts of kerosene.

(3) Transfer of floor stock tax revenues to trust funds.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this subsection shall be treated as imposed by section 4081 of the Internal Revenue Code of 1986—

(A) at the Leaking Underground Storage Tank Trust Fund financing rate under such section to the extent of 0.1 cents per gallon, and

(B) at the rate under section 4081(a)(2)(A)(iv) to the extent of the remainder.

(4) Held by a person.—For purposes of this section, kerosene shall be considered as held by a person if title thereto has passed to such person (whether or not delivery to the person has been made).

(5) Other laws applicable.—All provisions of law, including penalties, applicable with respect to the tax imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock tax imposed by paragraph (1) to the same extent as if such tax were imposed by such section.

SEC. 5212. TRANSFER OF CERTAIN AMOUNTS FROM THE AIRPORT AND AIRWAY TRUST FUND TO THE HIGHWAY TRUST FUND TO REFLECT HIGHWAY USE OF JET FUEL.

(a) In General.—Section 9502(d) is amended by adding at the end the following new paragraph:

"(7) Transfers from the trust fund to the highway trust fund.—

"(A) In general.—The Secretary shall pay annually from the Airport and Airway Trust Fund into the Highway Trust Fund an amount (as determined by him) equivalent to amounts received in the Airport and Airway Trust Fund which are attributable to fuel that is used primarily for highway transportation purposes.

"(B) Amounts transferred to mass transit account.—The Secretary shall transfer 11 percent of the amounts paid into the Highway Trust Fund under subparagraph (A) to the Mass Transit Account established under section 9503(e).".

(b) Conforming Amendments.—

(1) Subsection (a) of section 9503 is amended—

(A) by striking "appropriated or credited" and inserting "paid, appropriated, or credited", and

(B) by striking "or section 9602(b)" and inserting ", section 9502(d)(7), or section 9602(b)".

(2) Subsection (e)(1) of section 9503 is amended by striking "or section 9602(b)" and inserting ", section 9502(d)(7), or section 9602(b)".

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 2004.

PART II—DYED FUEL

SEC. 5221. DYE INJECTION EQUIPMENT.

(a) In General.—Section 4082(a)(2) (relating to exemptions for diesel fuel and kerosene) is amended by inserting "by mechanical injection" after "indelibly dyed".

(b) Dye Injector Security.—Not later than June 30, 2004, the Secretary of the Treasury shall issue regulations regarding mechanical dye injection systems described in the amendment made by subsection (a), and such regulations shall include standards for making such systems tamper resistant.

(c) Penalty for Tampering With or Failing To Maintain Security Requirements for Mechanical Dye Injection Systems.—

(1) In general.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding after section 6715 the following new section:

"SEC. 6715A. TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.

"(a) Imposition of Penalty—

"(1) Tampering.—If any person tampers with a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082, then such person shall pay a penalty in addition to the tax (if any).

"(2) Failure to maintain security requirements.—If any operator of a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082 fails to maintain the security standards for such system as established by the Secretary, then such operator shall pay a penalty.

"(b) Amount of Penalty.—The amount of the penalty under subsection (a) shall be—

"(1) for each violation described in paragraph (1), the greater of—

"(A) $25,000, or

"(B) $10 for each gallon of fuel involved, and

"(2) for each—

"(A) failure to maintain security standards described in paragraph (2), $1,000, and

"(B) failure to correct a violation described in paragraph (2), $1,000 per day for each day after which such violation was discovered or such person should have reasonably known of such violation.

"(c) Joint and Several Liability.—

"(1) In general.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

"(2) Affiliated groups.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.".

(2) Clerical amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by adding after the item related to section 6715 the following new item:

"Sec. 6715A. Tampering with or failing to maintain security requirements for mechanical dye injection systems.".

(d) Effective Date.—The amendments made by subsections (a) and (c) shall take effect 180 days after the date on which the Secretary issues the regulations described in subsection (b).

SEC. 5222. ELIMINATION OF ADMINISTRATIVE REVIEW FOR TAXABLE USE OF DYED FUEL.

(a) In General.—Section 6715 is amended by inserting at the end the following new subsection:

"(e) No Administrative Appeal for Third and Subsequent Violations.—In the case of any person who is found to be subject to the penalty under this section after a chemical analysis of such fuel and who has been penalized under this section at least twice after the date of the enactment of this subsection, no administrative appeal or review shall be allowed with respect to such finding except in the case of a claim regarding—

"(1) fraud or mistake in the chemical analysis, or

"(2) mathematical calculation of the amount of the penalty.".

(b) Effective Date.—The amendment made by this section shall apply to penalties assessed after the date of the enactment of this Act.

SEC. 5223. PENALTY ON UNTAXED CHEMICALLY ALTERED DYED FUEL MIXTURES.

(a) In General.—Section 6715(a) (relating to dyed fuel sold for use or used in taxable use, etc.) is amended by striking "or" in paragraph (2), by inserting "or" at the end of paragraph (3), and by inserting after paragraph (3) the following new paragraph:

"(4) any person who has knowledge that a dyed fuel which has been altered as described in paragraph (3) sells or holds for sale such fuel for any use which the person knows or has reason to know is not a nontaxable use of such fuel,".

(b) Conforming Amendment.—Section 6715(a)(3) is amended by striking "alters, or attempts to alter," and inserting "alters, chemically or otherwise, or attempts to so alter,".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5224. TERMINATION OF DYED DIESEL USE BY INTERCITY BUSES.

(a) In General.—Paragraph (3) of section 4082(b) (relating to nontaxable use) is amended to read as follows:

"(3) any use described in section 4041(a)(1)(C)(iii)(II).".

(b) Ultimate Vendor Refund.—Subsection (b) of section 6427 is amended by adding at the end the following new paragraph:

"(4) Refunds for use of diesel fuel in certain intercity buses.—

"(A) In general.—With respect to any fuel to which paragraph (2)(A) applies, if the ultimate purchaser of such fuel waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor; but only if such ultimate vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

"(B) Credit cards.—For purposes of this paragraph, if the sale of such fuel is made by means of a credit card, the person extending credit to the ultimate purchaser shall be deemed to be the ultimate vendor.".

(c) Payment of Refunds.—Subparagraph (A) of section 6427(i)(4), as amended by section 5211 of this Act, is amended by inserting "subsections (b)(4) and" after "filed under".

(b) Effective Date.—The amendments made by this section shall apply to fuel sold after September 30, 2004.

PART III—MODIFICATION OF INSPECTION OF RECORDS PROVISIONS

SEC. 5231. AUTHORITY TO INSPECT ON-SITE RECORDS.

(a) In General.—Section 4083(d)(1)(A) (relating to administrative authority), as amended by section 5211 of this Act, is amended by striking "and" at the end of clause (i) and by inserting after clause (ii) the following new clause:

"(iii) inspecting any books and records and any shipping papers pertaining to such fuel, and".

(b) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5232. ASSESSABLE PENALTY FOR REFUSAL OF ENTRY.

(a) In General.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5221 of this Act, is amended by adding at the end the following new section:

“SEC. 6717. REFUSAL OF ENTRY.

“(a) IN GENERAL.—In addition to any other penalty provided by law, any person who refuses to admit entry or refuses to permit any other action by the Secretary authorized by section 4083(d)(1) shall pay a penalty of $1,000 for such refusal.

“(b) JOINT AND SEVERAL LIABILITY.—

“(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

“(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

“(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 4083(d)(3), as amended by section 5211 of this Act, is amended—

(A) by striking “ENTRY.—The penalty” and inserting: “ENTRY.—

“(A) FORFEITURE.—The penalty”, and

(B) by adding at the end the following new subparagraph:

“(B) ASSESSABLE PENALTY.—For additional assessable penalty for the refusal to admit entry or other refusal to permit an action by the Secretary authorized by paragraph (1), see section 6717.”.

(2) The table of sections for part I of subchapter B of chapter 68, as amended by section 5221 of this Act, is amended by adding at the end the following new item:

“Sec. 6717. Refusal of entry.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART IV—REGISTRATION AND REPORTING REQUIREMENTS

SEC. 5241. REGISTRATION OF PIPELINE OR VESSEL OPERATORS REQUIRED FOR EXEMPTION OF BULK TRANSFERS TO REGISTERED TERMINALS OR REFINERIES.

(a) IN GENERAL.—Section 4081(a)(1)(B) (relating to exemption for bulk transfers to registered terminals or refineries) is amended—

(1) by inserting “by pipeline or vessel” after “transferred in bulk”, and

(2) by inserting “, the operator of such pipeline or vessel,” after “the taxable fuel”.

(b) CIVIL PENALTY FOR CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5232 of this Act, is amended by adding at the end the following new section:

“SEC. 6718. CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.

“(a) IMPOSITION OF PENALTY.—If any person knowingly transfers any taxable fuel (as defined in section 4083(a)(1)) in bulk pursuant to section 4081(a)(1)(B) to an unregistered, such person shall pay a penalty in addition to the tax (if any).

“(b) AMOUNT OF PENALTY.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the amount of the penalty under subsection (a) on each act shall be an amount equal to the greater of—

“(A) $10,000, or

“(B) $1 per gallon.

“(2) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, paragraph (1) shall be applied by increasing the amount in paragraph (1) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

“(c) JOINT AND SEVERAL LIABILITY.—

“(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

“(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.

“(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.”.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5232 of this Act, is amended by adding at the end the following new item:

“Sec. 6718. Carrying taxable fuels by nonregistered pipelines or vessels.”.

(c) PUBLICATION OF REGISTERED PERSONS.—Not later than June 30, 2004, the Secretary of the Treasury shall publish a list of persons required to be registered under section 4101 of the Internal Revenue Code of 1986.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2004.

SEC. 5242. DISPLAY OF REGISTRATION.

(a) IN GENERAL.—Subsection (a) of section 4101 (relating to registration) is amended—

(1) by striking “Every” and inserting the following:

“(1) IN GENERAL.—Every”, and

(2) by adding at the end the following new paragraph:

“(2) DISPLAY OF REGISTRATION.—Every operator of a vessel required by the Secretary to register under this section shall display proof of registration through an electronic identification device prescribed by the Secretary on each vessel used by such operator to transport any taxable fuel.”.

(b) CIVIL PENALTY FOR FAILURE TO DISPLAY REGISTRATION.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5241 of this Act, is amended by adding at the end the following new section:

“SEC. 6719. FAILURE TO DISPLAY REGISTRATION OF VESSEL.

“(a) FAILURE TO DISPLAY REGISTRATION.—Every operator of a vessel who fails to display proof of registration pursuant to section 4101(a)(2) shall pay a penalty of $500 for each such failure. With respect to any vessel, only one penalty shall be imposed by this section during any calendar month.

“(b) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, subsection (a) shall be applied by increasing the amount in subsection (a) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

“(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.”.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5241 of this Act, is amended by adding at the end the following new item:

“Sec. 6719. Failure to display registration of vessel.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5243. REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC.

(a) IN GENERAL.—Section 4101(a), as amended by section 5242 of this Act, is amended by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

“(2) REGISTRATION OF PERSONS WITHIN FOREIGN TRADE ZONES, ETC..—The Secretary shall require registration by any person which—

“(A) operates a terminal or refinery within a foreign trade zone or within a customs bonded storage facility, or

“(B) holds an inventory position with respect to a taxable fuel in such a terminal.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5244. PENALTIES FOR FAILURE TO REGISTER AND FAILURE TO REPORT.

(a) INCREASED PENALTY.—Subsection (a) of section 7272 (relating to penalty for failure to register) is amended by inserting “($10,000 in the case of a failure to register under section 4101)” after “$50”.

(b) INCREASED CRIMINAL PENALTY.—Section 7232 (relating to failure to register under section 4101, false representations of registration status, etc.) is amended by striking “$5,000” and inserting “$10,000”.

(c) ASSESSABLE PENALTY FOR FAILURE TO REGISTER.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties), as amended by section 5242 of this Act, is amended by adding at the end the following new section:

“SEC. 6720. FAILURE TO REGISTER.

“(a) FAILURE TO REGISTER.—Every person who is required to register under section 4101 and fails to do so shall pay a penalty in addition to the tax (if any).

“(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

“(1) $10,000 for each initial failure to register, and

“(2) $1,000 for each day thereafter such person fails to register.

“(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.”.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68, as amended by section 5242 of this Act, is amended by adding at the end the following new item:

“Sec. 6720. Failure to register.”.

(d) ASSESSABLE PENALTY FOR FAILURE TO REPORT.—

(1) IN GENERAL.—Part II of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

“SEC. 6725. FAILURE TO REPORT INFORMATION UNDER SECTION 4101.

“(a) IN GENERAL.—In the case of each failure described in subsection (b) by any person with respect to a vessel or facility, such person shall pay a penalty of $10,000 in addition to the tax (if any).

"(b) FAILURES SUBJECT TO PENALTY.—For purposes of subsection (a), the failures described in this subsection are—

"(1) any failure to make a report under section 4101(d) on or before the date prescribed therefor, and

"(2) any failure to include all of the information required to be shown on such report or the inclusion of incorrect information.

"(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.".

(2) CLERICAL AMENDMENT.—The table of sections for part II of subchapter B of chapter 68 is amended by adding at the end the following new item:

"Sec. 6725. Failure to report information under section 4101.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to failures pending or occurring after September 30, 2004.

SEC. 5245. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

(a) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new section:

"SEC. 4104. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

"(a) IN GENERAL.—The Secretary shall require any person claiming tax benefits—

"(1) under the provisions of section 34, 40, and 40A to file a return at the time such person claims such benefits (in such manner as the Secretary may prescribe), and

"(2) under the provisions of section 4041(b)(2), 6426, or 6427(e) to file a monthly return (in such manner as the Secretary may prescribe).

"(b) CONTENTS OF RETURN.—Any return filed under this section shall provide such information relating to such benefits and the coordination of such benefits as the Secretary may require to ensure the proper administration and use of such benefits.

"(c) ENFORCEMENT.—With respect to any person described in subsection (a) and subject to registration requirements under this title, rules similar to rules of section 4222(c) shall apply with respect to any requirement under this section.".

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new item:

"Sec. 4104. Information reporting for persons claiming certain tax benefits.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5246. ELECTRONIC REPORTING.

(a) IN GENERAL.—Section 4101(d), as amended by section 5273 of this Act, is amended by adding at the end the following new sentence: "Any person who is required to report under this subsection and who has 25 or more reportable transactions in a month shall file such report in electronic format.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply on October 1, 2004.

PART V—IMPORTS

SEC. 5251. TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.

(a) TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.—

(1) IN GENERAL.—Subpart C of part III of subchapter A of chapter 31, as amended by section 5245 of this Act, is amended by adding at the end the following new section:

"SEC. 4105. TAX AT ENTRY WHERE IMPORTER NOT REGISTERED.

"(a) IN GENERAL.—Any tax imposed under this part on any person not registered under section 4101 for the entry of a fuel into the United States shall be imposed at the time and point of entry.

"(b) ENFORCEMENT OF ASSESSMENT.—If any person liable for any tax described under subsection (a) has not paid the tax or posted a bond, the Secretary may—

"(1) seize the fuel on which the tax is due, or

"(2) detain any vehicle transporting such fuel,

until such tax is paid or such bond is filed.

"(c) LEVY OF FUEL.—If no tax has been paid or no bond has been filed within 5 days from the date the Secretary seized fuel pursuant to subsection (b), the Secretary may sell such fuel as provided under section 6336.".

(2) CONFORMING AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 31 of the Internal Revenue Code of 1986, as amended by section 5245 of this Act, is amended by adding after the last item the following new item:

"Sec. 4105. Tax at entry where importer not registered.".

(b) DENIAL OF ENTRY WHERE TAX NOT PAID.—The Secretary of Homeland Security is authorized to deny entry into the United States of any shipment of a fuel which is taxable under section 4081 of the Internal Revenue Code of 1986 if the person entering such shipment fails to pay the tax imposed under such section or post a bond in accordance with the provisions of section 4105 of such Code.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5252. RECONCILIATION OF ON-LOADED CARGO TO ENTERED CARGO.

(a) IN GENERAL.—Subsection (a) of section 343 of the Trade Act of 2002 is amended by inserting at the end the following new paragraph:

"(4) IN GENERAL.—Subject to paragraphs (2) and (3), not later than 1 year after the enactment of this paragraph, the Secretary of Homeland Security, together with the Secretary of the Treasury, shall promulgate regulations providing for the transmission to the Internal Revenue Service, through an electronic data interchange system, of information pertaining to cargo of taxable fuels (as defined in section 4083 of the Internal Revenue Code of 1986) destined for importation into the United States prior to such importation.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

PART VI—MISCELLANEOUS PROVISIONS

SEC. 5261. TAX ON SALE OF DIESEL FUEL WHETHER SUITABLE FOR USE OR NOT IN A DIESEL-POWERED VEHICLE OR TRAIN.

(a) IN GENERAL.—Section 4083(a)(3) is amended—

(1) by striking "The term" and inserting the following:

"(A) IN GENERAL.—The term", and

(2) by inserting at the end the following new subparagraph:

"(B) LIQUID SOLD AS DIESEL FUEL.—The term 'diesel fuel' includes any liquid which is sold as or offered for sale as a fuel in a diesel-powered highway vehicle or a diesel-powered train.".

(b) CONFORMING AMENDMENTS.—

(1) Section 40A(b)(1)(B), as amended by section 5103 of this Act, is amended by striking "4083(a)(3)" and inserting "4083(a)(3)(A)".

(2) Section 6426(c)(3), as added by section 5102 of this Act, is amended by striking "4083(a)(3)" and inserting "4083(a)(3)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5262. MODIFICATION OF ULTIMATE VENDOR REFUND CLAIMS WITH RESPECT TO FARMING.

(a) IN GENERAL.—

(1) REFUNDS.—Section 6427(l) is amended by adding at the end the following new paragraph:

"(6) REGISTERED VENDORS PERMITTED TO ADMINISTER CERTAIN CLAIMS FOR REFUND OF DIESEL FUEL AND KEROSENE SOLD TO FARMERS.—

"(A) IN GENERAL.—In the case of diesel fuel or kerosene used on a farm for farming purposes (within the meaning of section 6420(c)), paragraph (1) shall not apply to the aggregate amount of such diesel fuel or kerosene if such amount does not exceed 500 gallons (as determined under subsection (l)(5)(A)(iii)).

"(B) PAYMENT TO ULTIMATE VENDOR.—The amount which would (but for subparagraph (A)) have been paid under paragraph (1) with respect to any fuel shall be paid to the ultimate vendor of such fuel, if such vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).".

(2) FILING OF CLAIMS.—Section 6427(i) is amended by inserting at the end the following new paragraph:

"(5) SPECIAL RULE FOR VENDOR REFUNDS WITH RESPECT TO FARMERS.—

"(A) IN GENERAL.—A claim may be filed under subsection (l)(6) by any person with respect to fuel sold by such person for any period—

"(i) for which $200 or more ($100 or more in the case of kerosene) is payable under subsection (l)(6),

"(ii) which is not less than 1 week, and

"(iii) which is for not more than 500 gallons for each farmer for which there is a claim.

Notwithstanding subsection (l)(1), paragraph (3)(B) shall apply to claims filed under the preceding sentence.

"(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.".

(3) CONFORMING AMENDMENTS.—

(A) Section 6427(l)(5)(A) is amended to read as follows:

"(A) IN GENERAL.—Paragraph (1) shall not apply to diesel fuel or kerosene used by a State or local government.".

(B) The heading for section 6427(l)(5) is amended by striking "FARMERS AND".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuels sold for nontaxable use after the date of the enactment of this Act.

SEC. 5263. TAXABLE FUEL REFUNDS FOR CERTAIN ULTIMATE VENDORS.

(a) IN GENERAL.—Paragraph (4) of section 6416(a) (relating to abatements, credits, and refunds) is amended to read as follows:

"(4) REGISTERED ULTIMATE VENDOR TO ADMINISTER CREDITS AND REFUNDS OF GASOLINE TAX.—

"(A) IN GENERAL.—For purposes of this subsection, if an ultimate vendor purchases any gasoline on which tax imposed by section 4081 has been paid and sells such gasoline to an ultimate purchaser described in subparagraph (C) or (D) of subsection (b)(2) (and such gasoline is for a use described in such subparagraph), such ultimate vendor shall be treated as the person (and the only person) who paid such tax, but only if such ultimate vendor is registered under section 4101. For purposes of this subparagraph, if the sale of gasoline is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.

"(B) Timing of claims.—The procedure and timing of any claim under subparagraph (A) shall be the same as for claims under section 6427(i)(4), except that the rules of section 6427(i)(3)(B) regarding electronic claims shall not apply unless the ultimate vendor has certified to the Secretary for the most recent quarter of the taxable year that all ultimate purchasers of the vendor are certified and entitled to a refund under subparagraph (C) or (D) of subsection (b)(2).".

(b) Credit Card Purchases of Diesel Fuel or Kerosene by State and Local Governments.—Section 6427(l)(5)(C) (relating to nontaxable uses of diesel fuel, kerosene, and aviation fuel), as amended by section 5252 of this Act, is amended by adding at the end the following new sentence: "For purposes of this subparagraph, if the sale of diesel fuel or kerosene is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.".

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5264. TWO-PARTY EXCHANGES.

(a) In General.—Subpart C of part III of subchapter A of chapter 32, as amended by section 5251 of this Act, is amended by adding at the end the following new section:

"SEC. 4106. TWO-PARTY EXCHANGES.

"(a) In General.—In a two-party exchange, the delivering person shall not be liable for the tax imposed under of section 4081(a)(1)(A)(ii).

"(b) Two-Party Exchange.—The term 'two-party exchange' means a transaction, other than a sale, in which taxable fuel is transferred from a delivering person registered under section 4101 as a taxable fuel registrant to a receiving person who is so registered where all of the following occur:

"(1) The transaction includes a transfer from the delivering person, who holds the inventory position for taxable fuel in the terminal as reflected in the records of the terminal operator.

"(2) The exchange transaction occurs before or contemporaneous with completion of removal across the rack from the terminal by the receiving person.

"(3) The terminal operator in its books and records treats the receiving person as the person that removes the product across the terminal rack for purposes of reporting the transaction to the Secretary.

"(4) The transaction is the subject of a written contract.".

(b) Conforming Amendment.—The table of sections for subpart C of part III of subchapter A of chapter 32, as amended by section 5251 of this Act, is amended by adding after the last item the following new item:

"Sec. 4106. Two-party exchanges.".

(c) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 5265. MODIFICATIONS OF TAX ON USE OF CERTAIN VEHICLES.

(a) No Proration of Tax Unless Vehicle Is Destroyed or Stolen.—

(1) In general.—Section 4481(c) (relating to proration of tax) is amended to read as follows:

"(c) Proration of Tax Where Vehicle Sold, Destroyed, or Stolen.—

"(1) In general.—If in any taxable period a highway motor vehicle is sold, destroyed, or stolen before the first day of the last month in such period and not subsequently used during such taxable period, the tax shall be reckoned proportionately from the first day of the month in such period in which the first use of such highway motor vehicle occurs to and including the last day of the month in which such highway motor vehicle was sold, destroyed, or stolen.

"(2) Destroyed.—For purposes of paragraph (1), a highway motor vehicle is destroyed if such vehicle is damaged by reason of an accident or other casualty to such an extent that it is not economic to rebuild.".

(2) Conforming amendments.—

(A) Section 6156 (relating to installment payment of tax on use of highway motor vehicles) is repealed.

(B) The table of sections for subchapter A of chapter 62 is amended by striking the item relating to section 6156.

(b) Display of Tax Certificate.—Paragraph (2) of section 4481(d) (relating to one tax liability for period) is amended to read as follows:

"(2) Display of tax certificate.—Every taxpayer which pays the tax imposed under this section with respect to a highway motor vehicle shall, not later than 1 month after the due date of the return of tax with respect to each taxable period, receive and display on such vehicle an electronic identification device prescribed by the Secretary.".

(c) Electronic filing.—Section 4481, as amended by section 5001 of this Act, is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) Electronic filing.—Any taxpayer who files a return under this section with respect to 25 or more vehicles for any taxable period shall file such return electronically.".

(d) Repeal of Reduction in Tax for Certain Trucks.—Section 4483 of the Internal Revenue Code of 1986 is amended by striking subsection (f).

(e) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

(2) Subsection (b).—The amendment made by subsection (b) shall take effect on October 1, 2005.

SEC. 5266. DEDICATION OF REVENUES FROM CERTAIN PENALTIES TO THE HIGHWAY TRUST FUND.

(a) In General.—Subsection (b) of section 9503 (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes), as amended by section 5001 of this Act, is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

"(5) Certain penalties.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the penalties assessed under sections 6715, 6715A, 6717, 6718, 6719, 6720, 6725, 7232, and 7272 (but only with regard to penalties under such section related to failure to register under section 4101).".

(b) Conforming Amendments.—

(1) The heading of subsection (b) of section 9503 is amended by inserting "and Penalties" after "Taxes".

(2) The heading of paragraph (1) of section 9503(b) is amended by striking "In general" and inserting "Certain taxes".

(c) Effective Date.—The amendments made by this section shall apply to penalties assessed after October 1, 2004.

SEC. 5267. NONAPPLICATION OF EXPORT EXEMPTION TO DELIVERY OF FUEL TO MOTOR VEHICLES REMOVED FROM UNITED STATES.

(a) In General.—Section 4221(d)(2) (defining export) is amended by adding at the end the following new sentence: "Such term does not include the delivery of a taxable fuel (as defined in section 4083(a)(1)) into a fuel tank of a motor vehicle which is shipped or driven out of the United States.".

(b) Conforming Amendments.—

(1) Section 4041(g) (relating to other exemptions) is amended by adding at the end the following new sentence: "Paragraph (3) shall not apply to the sale for delivery of a liquid into a fuel tank of a motor vehicle which is shipped or driven out of the United States.".

(2) Clause (iv) of section 4081(a)(1)(A) (relating to tax on removal, entry, or sale) is amended by inserting "or at a duty-free sales enterprise (as defined in section 555(b)(8) of the Tariff Act of 1930)" after "section 4101".

(c) Effective Date.—The amendments made by this section shall apply to sales or deliveries made after the date of the enactment of this Act.

PART VII—TOTAL ACCOUNTABILITY

SEC. 5271. TOTAL ACCOUNTABILITY.

(a) Taxation of Reportable Liquids.—

(1) In general.—Section 4081(a), as amended by this Act, is amended—

(A) by inserting "or reportable liquid" after "taxable fuel" each place it appears, and

(B) by inserting "such liquid" after "such fuel" in paragraph (1)(A)(iv).

(2) Rate of tax.—Subparagraph (A) of section 4081(a)(2), as amended by section 5211 of this Act, is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", and", and by adding at the end the following new clause:

"(v) in the case of reportable liquids, the rate determined under section 4083(c)(2).".

(3) Exemption.—Section 4081(a)(1) is amended by adding at the end the following new subparagraph:

"(C) Exemption for registered transfers of reportable liquids.—The tax imposed by this paragraph shall not apply to any removal, entry, or sale of a reportable liquid if—

"(i) such removal, entry, or sale is to a registered person who certifies that such liquid will not be used as a fuel or in the production of a fuel, or

"(ii) the sale is to the ultimate purchaser of such liquid.".

(4) Reportable liquids.—Section 4083, as amended by this Act, is amended by redesignating subsections (c) and (d) (as redesignated by section 5211 of this Act) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new section:

"(c) Reportable Liquid.—For purposes of this subpart—

"(1) In general.—The term 'reportable liquid' means any petroleum-based liquid other than a taxable fuel.

"(2) Taxation.—

"(A) Gasoline blend stocks and additives.—Gasoline blend stocks and additives which are reportable liquids (as defined in paragraph (1)) shall be subject to the rate of tax under clause (i) of section 4081(a)(2)(A).

"(B) Other reportable liquids.—Any reportable liquid (as defined in paragraph (1)) not described in subparagraph (A) shall be subject to the rate of tax under clause (iii) of section 4081(a)(2)(A).".

(5) CONFORMING AMENDMENTS.—

(A) Section 4081(e) is amended by inserting "or reportable liquid" after "taxable fuel".

(B) Section 4083(d) (relating to certain use defined as removal), as redesignated by paragraph (4), is amended by inserting "or reportable liquid" after "taxable fuel".

(C) Section 4083(e)(1) (relating to administrative authority), as redesignated by paragraph (4), is amended—

(i) in subparagraph (A)—

(I) by inserting "or reportable liquid" after "taxable fuel", and

(II) by inserting "or such liquid" after "such fuel" each place it appears, and

(ii) in subparagraph (B), by inserting "or any reportable liquid" after "any taxable fuel".

(D) Section 4101(a)(2), as added by section 5243 of this Act, is amended by inserting "or a reportable liquid" after "taxable fuel".

(E) Section 4101(a)(3), as added by section 5242 of this Act and redesignated by section 5243 of this Act, is amended by inserting "or any reportable liquid" before the period at the end.

(F) Section 4102 is amended by inserting "or any reportable liquid" before the period at the end.

(G)(i) Section 6718, as added by section 5241 of this Act, is amended—

(I) in subsection (a), by inserting "or any reportable liquid (as defined in section 4083(c)(1))" after " section 4083(a)(1))", and

(II) in the heading, by inserting "or reportable liquids" after "taxable fuel".

(ii) The item relating to section 6718 in table of sections for part I of subchapter B of chapter 68, as added by section 5241 of this Act, is amended by inserting "or reportable liquids" after "taxable fuels".

(H) Section 6427(h) is amended to read as follows:

"(h) GASOLINE BLEND STOCKS OR ADDITIVES AND REPORTABLE LIQUIDS.—Except as provided in subsection (k)—

"(1) if any gasoline blend stock or additive (within the meaning of section 4083(a)(2)) is not used by any person to produce gasoline and such person establishes that the ultimate use of such gasoline blend stock or additive is not to produce gasoline, or

"(2) if any reportable liquid (within the meaning of section 4083(c)(1)) is not used by any person to produce a taxable fuel and such person establishes that the ultimate use of such reportable liquid is not to produce a taxable fuel,

then the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such person with respect to such gasoline blend stock or additive or such reportable fuel.".

(I) Section 7232, as amended by this Act, is amended by inserting "or reportable liquid (within the meaning of section 4083(c)(1))" after "section 4083)".

(J) Section 343 of the Trade Act of 2002, as amended by section 5252 of this Act, is amended by inserting "and reportable liquids (as defined in section 4083(c)(1) of such Code)" after "Internal Revenue Code of 1986)".

(b) DYED DIESEL.—Section 4082(a) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by inserting after paragraph (3) the following new paragraph:

"(4) which is removed, entered, or sold by a person registered under section 4101.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to reportable liquids (as defined in section 4083(c) of the Internal Revenue Code) and fuel sold or used after September 30, 2004.

SEC. 5272. EXCISE TAX REPORTING.

(a) IN GENERAL.—Part II of subchapter A of chapter 61 is amended by adding at the end the following new subpart:

"Subpart E—Excise Tax Reporting

"SEC. 6025. RETURNS RELATING TO FUEL TAXES.

"(a) IN GENERAL.—The Secretary shall require any person liable for the tax imposed under Part III of subchapter A of chapter 32 to file a return of such tax on a monthly basis.

"(b) INFORMATION INCLUDED WITH RETURN.—The Secretary shall require any person filing a return under subsection (a) to provide information regarding any refined product (whether or not such product is taxable under this title) removed from a terminal during the period for which such return applies.".

(b) CONFORMING AMENDMENT.—The table of parts for subchapter A of chapter 61 is amended by adding at the end the following new item:

"Subpart E—Excise Tax Reporting".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after September 30, 2004.

SEC. 5273. INFORMATION REPORTING.

(a) IN GENERAL.—Section 4101(d) is amended by adding at the end the following new flush sentence:

"The Secretary shall require reporting under the previous sentence with respect to taxable fuels removed, entered, or transferred from any refinery, pipeline, or vessel which is registered under this section.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply on October 1, 2004.

Subtitle D—Definition of Highway Vehicle

SEC. 5301. EXEMPTION FROM CERTAIN EXCISE TAXES FOR MOBILE MACHINERY.

(a) EXEMPTION FROM TAX ON HEAVY TRUCKS AND TRAILERS SOLD AT RETAIL.—

(1) IN GENERAL.—Section 4053 (relating to exemptions) is amended by adding at the end the following new paragraph:

"(8) MOBILE MACHINERY.—Any vehicle which consists of a chassis—

"(A) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

"(B) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

"(C) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the day after the date of the enactment of this Act.

(b) EXEMPTION FROM TAX ON USE OF CERTAIN VEHICLES.—

(1) IN GENERAL.—Section 4483 (relating to exemptions) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) EXEMPTION FOR MOBILE MACHINERY.—No tax shall be imposed by section 4481 on the use of any vehicle described in section 4053(8).".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the day after the date of the enactment of this Act.

(d) EXEMPTION FROM FUEL TAXES.—

(1) IN GENERAL.—Section 6421(e)(2) (defining off-highway business use) is amended by adding at the end the following new subparagraph:

"(C) USES IN MOBILE MACHINERY.—

"(i) IN GENERAL.—The term 'off-highway business use' shall include any use in a vehicle which meets the requirements described in clause (ii).

"(ii) REQUIREMENTS FOR MOBILE MACHINERY.—The requirements described in this clause are—

"(I) the design-based test, and

"(II) the use-based test.

"(iii) DESIGN-BASED TEST.—For purposes of clause (ii)(I), the design-based test is met if the vehicle consists of a chassis—

"(I) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

"(II) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

"(III) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.

"(iv) USE-BASED TEST.—For purposes of clause (ii)(II), the use-based test is met if the use of the vehicle on public highways was less than 5,000 miles during the taxpayer's taxable year.

"(v) SPECIAL RULE FOR USE BY CERTAIN TAX-EXEMPT ORGANIZATIONS.—In the case of any use in a vehicle by an organization which is described in section 501(c) and exempt from tax under section 501(a), clause (ii) shall be applied without regard to subclause (II) thereof.".

(2) ANNUAL REFUND OF TAX PAID.—Section 6427(i)(2) (relating to exceptions) is amended by adding at the end the following new subparagraph:

"(C) NONAPPLICATION OF PARAGRAPH.—This paragraph shall not apply to any fuel used in any off-highway business use described in section 6421(e)(2)(C).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5302. MODIFICATION OF DEFINITION OF OFF-HIGHWAY VEHICLE.

(a) IN GENERAL.—Section 7701(a) (relating to definitions) is amended by adding at the end the following new paragraph:

"(48) OFF-HIGHWAY VEHICLES.—

"(A) OFF-HIGHWAY TRANSPORTATION VEHICLES.—

"(i) IN GENERAL.—A vehicle shall not be treated as a highway vehicle if such vehicle is specially designed for the primary function of transporting a particular type of load other than over the public highway and because of this special design such vehicle's capability to transport a load over the public highway is substantially limited or impaired.

"(ii) DETERMINATION OF VEHICLE'S DESIGN.—For purposes of clause (i), a vehicle's design is determined solely on the basis of its physical characteristics.

"(iii) DETERMINATION OF SUBSTANTIAL LIMITATION OR IMPAIRMENT.—For purposes of clause (i), in determining whether substantial limitation or impairment exists, account may be taken of factors such as the size of the vehicle, whether such vehicle is subject to the licensing, safety, and other requirements applicable to highway vehicles, and whether such vehicle can transport a load at a sustained speed of at least 25 miles per hour. It is immaterial that a vehicle can transport a greater load off the public highway than such vehicle is permitted to transport over the public highway.

"(B) NONTRANSPORTATION TRAILERS AND SEMITRAILERS.—A trailer or semitrailer shall not be treated as a highway vehicle if it is specially designed to function only as an enclosed stationary shelter for the carrying on of an off-highway function at an off-highway site.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall take effect on the date of the enactment of this Act.

(2) FUEL TAXES.—With respect to taxes imposed under subchapter B of chapter 31 and part III of subchapter A of chapter 32, the amendment made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

Subtitle E—Excise Tax Reform and Simplification

PART I—HIGHWAY EXCISE TAXES

SEC. 5401. DEDICATION OF GAS GUZZLER TAX TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(b)(1) (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes), as amended by section 5101 of this Act, is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

"(C) section 4064 (relating to gas guzzler tax),".

(b) UNIFORM APPLICATION OF TAX.—Subparagraph (A) of section 4064(b)(1) (defining automobile) is amended by striking the second sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5402. REPEAL CERTAIN EXCISE TAXES ON RAIL DIESEL FUEL AND INLAND WATERWAY BARGE FUELS.

(a) TAXES ON TRAINS.—

(1) IN GENERAL.—Subparagraph (A) of section 4041(a)(1) is amended by striking "or a diesel-powered train" each place it appears and by striking "or train".

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 4041(a)(1), as amended by section 5001 of this Act, is amended by striking clause (ii) and by redesignating clause (iii) as clause (ii).

(B) Subparagraph (C) of section 4041(b)(1) is amended by striking all that follows "section 6421(e)(2)" and inserting a period.

(C) Subsection (d) of section 4041 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) DIESEL FUEL USED IN TRAINS.—There is hereby imposed a tax of 0.1 cent per gallon on any liquid other than gasoline (as defined in section 4083)—

"(A) sold by any person to an owner, lessee, or other operator of a diesel-powered train for use as a fuel in such train, or

"(B) used by any person as a fuel in a diesel-powered train unless there was a taxable sale of such fuel under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if tax was imposed on such liquid under section 4081.".

(D) Subsection (f) of section 4082 is amended by striking "section 4041(a)(1)" and inserting "subsections (d)(3) and (a)(1) of section 4041, respectively".

(E) Subparagraphs (A) and (B) of section 4083(a)(3), as amended by section 5261 of this Act; are amended by striking "or a diesel-powered train".

(F) Paragraph (3) of section 6421(f) is amended to read as follows:

"(3) GASOLINE USED IN TRAINS.—In the case of gasoline used as a fuel in a train, this section shall not apply with respect to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081.".

(G) Paragraph (3) of section 6427(l) is amended to read as follows:

"(3) REFUND OF CERTAIN TAXES ON FUEL USED IN DIESEL-POWERED TRAINS.—For purposes of this subsection, the term 'nontaxable use' includes fuel used in a diesel-powered train. The preceding sentence shall not apply to the tax imposed by section 4041(d) and the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 except with respect to fuel sold for exclusive use by a State or any political subdivision thereof.".

(b) FUEL USED ON INLAND WATERWAYS.—

(1) IN GENERAL.—Paragraph (1) of section 4042(b) is amended by adding "and" at the end of subparagraph (A), by striking ", and" at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 4042(b) is amended by striking subparagraph (C).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

PART II—AQUATIC EXCISE TAXES

SEC. 5411. ELIMINATION OF AQUATIC RESOURCES TRUST FUND AND TRANSFORMATION OF SPORT FISH RESTORATION ACCOUNT.

(a) SIMPLIFICATION OF FUNDING FOR BOAT SAFETY ACCOUNT.—

(1) IN GENERAL.—Section 9503(c)(3) (relating to transfers from Trust Fund for motorboat fuel taxes), as redesignated by section 5002 of this Act, is amended—

(A) by striking "Fund—" and all that follows through "shall be transferred" in subparagraph (B) and inserting "Fund which is attributable to motorboat fuel taxes shall be transferred", and

(B) by striking subparagraph (A), and

(C) by redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively.

(2) CONFORMING AMENDMENTS.—

(A) Section 9503(b)(4), as amended by section 5102 of this Act, is amended—

(i) by adding "or" at the end of subparagraph (B),

(ii) by striking the comma at the end of subparagraph (C) and inserting a period, and

(iii) by striking subparagraph (D).

(B) Subparagraph (B) of section 9503(c)(3), as redesignated by section 5002 of this Act and subsection (a)(3), is amended—

(i) by striking "ACCOUNT" in the heading and inserting "TRUST FUND",

(ii) by striking "or (B)" in clause (ii), and

(iii) by striking "Account in the Aquatic Resources".

(C) Subparagraph (C) of section 9503(c)(3), as redesignated by section 5002 of this Act and subsection (a)(3), is amended by striking ", but only to the extent such taxes are deposited into the Highway Trust Fund".

(D) Paragraph (4) of section 9503(c), as redesignated by section 5002 of this Act, is amended—

(i) by striking "Account in the Aquatic Resources" in subparagraph (A), and

(ii) by striking ", but only to the extent such taxes are deposited into the Highway Trust Fund" in subparagraph (B).

(b) MERGING OF ACCOUNTS.—

(1) IN GENERAL.—Subsection (a) of section 9504 is amended to read as follows:

"(a) CREATION OF TRUST FUND.—There is hereby established in the Treasury of the United States a trust fund to be known as the 'Sport Fish Restoration Trust Fund'. Such Trust Fund shall consist of such amounts as may be appropriated, credited, or paid to it as provided in this section, section 9503(c)(3), section 9503(c)(4), or section 9602(b).".

(2) CONFORMING AMENDMENTS.—

(A) Subsection (b) of section 9504 is amended—

(i) by striking "ACCOUNT" in the heading and inserting "TRUST FUND",

(ii) by striking "Account" both places it appears in paragraphs (1) and (2) and inserting "Trust Fund", and

(iii) by striking "ACCOUNT" both places it appears in the headings for paragraphs (1) and (2) and inserting "TRUST FUND".

(B) Subsection (d) of section 9504, as amended by section 5001 of this Act, is amended—

(i) by striking "AQUATIC RESOURCES" in the heading,

(ii) by striking "any Account in the Aquatic Resources" in paragraph (1) and inserting "the Sports Fish Restoration", and

(iii) by striking "any such Account" in paragraph (1) and inserting "such Trust Fund".

(C) Subsection (e) of section 9504, as amended by section 5002 of this Act, is amended by striking "Boat Safety Account and Sport Fish Restoration Account" and inserting "Sport Fish Restoration Trust Fund".

(D) Section 9504 is amended by striking "**AQUATIC RESOURCES**" in the heading and inserting "**SPORT FISH RESTORATION**".

(E) The item relating to section 9504 in the table of sections for subchapter A of chapter 98 is amended by striking "aquatic resources" and inserting "sport fish restoration".

(c) PHASEOUT OF BOAT SAFETY ACCOUNT.—Subsection (c) of section 9504 is amended to read as follows:

"(c) EXPENDITURES FROM BOAT SAFETY ACCOUNT.—Amounts remaining in the Boat Safety Account on October 1, 2004, and amounts thereafter credited to the Account under section 9602(b), shall be available, as provided by appropriation Acts, for making expenditures before October 1, 2009, to carry out the purposes of section 13106 of title 46, United States Code (as in effect on the date of the enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004).".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

SEC. 5412. EXEMPTION OF LED DEVICES FROM SONAR DEVICES SUITABLE FOR FINDING FISH.

(a) IN GENERAL.—Section 4162(b) (defining sonar device suitable for finding fish) is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", or", and by adding at the end the following new paragraph:

"(5) an LED display.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2004.

SEC. 5413. REPEAL OF HARBOR MAINTENANCE TAX ON EXPORTS.

(a) IN GENERAL.—Subsection (d) of section 4462 (relating to definitions and special rules) is amended to read as follows:

"(d) NONAPPLICABILITY OF TAX TO EXPORTS.—The tax imposed by section 4461(a) shall not apply to any port use with respect to any commercial cargo to be exported from the United States.".

(b) CONFORMING AMENDMENTS.—

(1) Section 4461(c)(1) is amended by adding "or" at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(2) Section 4461(c)(2) is amended by striking "imposed—" and all that follows through "in any other case," and inserting "imposed".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect before, on, and after the date of the enactment of this Act.

SEC. 5414. CAP ON EXCISE TAX ON CERTAIN FISHING EQUIPMENT.

(a) IN GENERAL.—Paragraph (1) of section 4161(a) (relating to sport fishing equipment) is amended to read as follows:

"(1) IMPOSITION OF TAX.—

"(A) IN GENERAL.—There is hereby imposed on the sale of any article of sport fishing equipment by the manufacturer, producer, or importer a tax equal to 10 percent of the price for which so sold.

"(B) LIMITATION ON TAX IMPOSED ON FISHING RODS AND POLES.—The tax imposed by subparagraph (A) on any fishing rod or pole shall not exceed $10.".

(b) CONFORMING AMENDMENTS.—Section 4161(a)(2) is amended by striking "paragraph (1)" both places it appears and inserting "paragraph (1)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2004.

SEC. 5415. REDUCTION IN RATE OF TAX ON PORTABLE AERATED BAIT CONTAINERS.

(a) IN GENERAL.—Section 4161(a)(2)(A) (relating to 3 percent rate of tax for electric outboard motors and sonar devices suitable for finding fish) is amended by inserting "or a portable aerated bait container" after "fish".

(b) CONFORMING AMENDMENT.—The heading of section 4161(a)(2) is amended by striking "ELECTRIC OUTBOARD MOTORS AND SONAR DEVICES SUITABLE FOR FINDING FISH" and inserting "CERTAIN SPORT FISHING EQUIPMENT".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2004.

PART III—AERIAL EXCISE TAXES

SEC. 5421. CLARIFICATION OF EXCISE TAX EXEMPTIONS FOR AGRICULTURAL AERIAL APPLICATORS AND EXEMPTION FOR FIXED-WING AIRCRAFT ENGAGED IN FORESTRY OPERATIONS.

(a) NO WAIVER BY FARM OWNER, TENANT, OR OPERATOR NECESSARY.—Subparagraph (B) of section 6420(c)(4) (relating to certain farming use other than by owner, etc.) is amended to read as follows:

"(B) if the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.".

(b) EXEMPTION INCLUDES FUEL USED BETWEEN AIRFIELD AND FARM.—Section 6420(c)(4), as amended by subsection (a), is amended by adding at the end the following new flush sentence:

"For purposes of this paragraph, in the case of an aerial applicator, gasoline shall be treated as used on a farm for farming purposes if the gasoline is used for the direct flight between the airfield and 1 or more farms.".

(c) EXEMPTION FROM TAX ON AIR TRANSPORTATION OF PERSONS FOR FORESTRY PURPOSES EXTENDED TO FIXED-WING AIRCRAFT.—Subsection (f) of section 4261 (relating to tax on air transportation of persons) is amended to read as follows:

"(f) EXEMPTION FOR CERTAIN USES.—No tax shall be imposed under subsection (a) or (b) on air transportation—

"(1) by helicopter for the purpose of transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or

"(2) by helicopter or by fixed-wing aircraft for the purpose of the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations),

but only if the helicopter or fixed-wing aircraft does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code, during such use. In the case of helicopter transportation described in paragraph (1), this subsection shall be applied by treating each flight segment as a distinct flight.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel use or air transportation after the date of the enactment of this Act.

SEC. 5422. MODIFICATION OF RURAL AIRPORT DEFINITION.

(a) IN GENERAL.—Section 4261(e)(1)(B) (defining rural airport) is amended—

(1) by inserting "(in the case of any airport described in clause (ii)(III), on flight segments of at least 100 miles)" after "by air" in clause (i), and

(2) by striking the period at the end of subclause (II) of clause (ii) and inserting ", or", and by adding at the end of clause (ii) the following new subclause:

"(III) is not connected by paved roads to another airport.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 2004.

SEC. 5423. EXEMPTION FROM TICKET TAXES FOR TRANSPORTATION PROVIDED BY SEAPLANES.

(a) IN GENERAL.—Section 4261 (relating to imposition of tax) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) EXEMPTION FOR SEAPLANES.—No tax shall be imposed by this section or section 4271 on any air transportation by a seaplane with respect to any segment consisting of a takeoff from, and a landing on, water, but only if the places at which such takeoff and landing occur have not received and are not receiving financial assistance from the Airport and Airways Trust Fund.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transportation beginning after March 31, 2004.

SEC. 5424. CERTAIN SIGHTSEEING FLIGHTS EXEMPT FROM TAXES ON AIR TRANSPORTATION.

(a) IN GENERAL.—Section 4281 (relating to small aircraft on nonestablished lines) is amended by adding at the end the following new sentence: "For purposes of this section, an aircraft shall not be considered as operated on an established line if such aircraft is operated on a flight the sole purpose of which is sightseeing.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to transportation beginning on or after the date of the enactment of this Act, but shall not apply to any amount paid before such date for such transportation.

PART IV—ALCOHOLIC BEVERAGE EXCISE TAXES

SEC. 5431. REPEAL OF SPECIAL OCCUPATIONAL TAXES ON PRODUCERS AND MARKETERS OF ALCOHOLIC BEVERAGES.

(a) REPEAL OF OCCUPATIONAL TAXES.—

(1) IN GENERAL.—The following provisions of part II of subchapter A of chapter 51 (relating to occupational taxes) are hereby repealed:

(A) Subpart A (relating to proprietors of distilled spirits plants, bonded wine cellars, etc.).

(B) Subpart B (relating to brewer).

(C) Subpart D (relating to wholesale dealers) (other than sections 5114 and 5116).

(D) Subpart E (relating to retail dealers) (other than section 5124).

(E) Subpart G (relating to general provisions) (other than sections 5142, 5143, 5145, and 5146).

(2) NONBEVERAGE DOMESTIC DRAWBACK.—Section 5131 is amended by striking ", on payment of a special tax per annum,".

(3) INDUSTRIAL USE OF DISTILLED SPIRITS.—Section 5276 is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1)(A) The heading for part II of subchapter A of chapter 51 and the table of subparts for such part are amended to read as follows:

"PART II—MISCELLANEOUS PROVISIONS

"Subpart A. Manufacturers of stills.
"Subpart B. Nonbeverage domestic drawback claimants.
"Subpart C. Recordkeeping by dealers.
"Subpart D. Other provisions.".

(B) The table of parts for such subchapter A is amended by striking the item relating to part II and inserting the following new item:

"Part II. Miscellaneous provisions.".

(2) Subpart C of part II of such subchapter (relating to manufacturers of stills) is redesignated as subpart A.

(3)(A) Subpart F of such part II (relating to nonbeverage domestic drawback claimants) is redesignated as subpart B and sections 5131 through 5134 are redesignated as sections 5111 through 5114, respectively.

(B) The table of sections for such subpart B, as so redesignated, is amended—

(i) by redesignating the items relating to sections 5131 through 5134 as relating to sections 5111 through 5114, respectively, and

(ii) by striking "**AND RATE OF TAX**" in the item relating to section 5111, as so redesignated.

(C) Section 5111, as redesignated by subparagraph (A), is amended—

(i) by striking "AND RATE OF TAX" in the section heading,

(ii) by striking the subsection heading for subsection (a), and

(iii) by striking subsection (b).

(4) Part II of subchapter A of chapter 51 is amended by adding after subpart B, as redesignated by paragraph (3), the following new subpart:

"SUBPART C—RECORDKEEPING BY DEALERS

"Sec. 5121. Recordkeeping by wholesale dealers.
"Sec. 5122. Recordkeeping by retail dealers.
"Sec. 5123. Preservation and inspection of records, and entry of premises for inspection.".

(5)(A) Section 5114 (relating to records) is moved to subpart C of such part II and inserted after the table of sections for such subpart.

(B) Section 5114 is amended—

(i) by striking the section heading and inserting the following new heading:

"SEC. 5121. RECORDKEEPING BY WHOLESALE DEALERS.",

and

(ii) by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) WHOLESALE DEALERS.—For purposes of this part—

"(1) WHOLESALE DEALER IN LIQUORS.—The term 'wholesale dealer in liquors' means any dealer (other than a wholesale dealer in beer) who sells, or offers for sale, distilled spirits, wines, or beer, to another dealer.

"(2) WHOLESALE DEALER IN BEER.—The term 'wholesale dealer in beer' means any dealer who sells, or offers for sale, beer, but not distilled spirits or wines, to another dealer.

"(3) DEALER.—The term 'dealer' means any person who sells, or offers for sale, any distilled spirits, wines, or beer.

"(4) PRESUMPTION IN CASE OF SALE OF 20 WINE GALLONS OR MORE.—The sale, or offer for sale, of distilled spirits, wines, or beer, in quantities of 20 wine gallons or more to the same person at the same time, shall be presumptive evidence that the person making such sale, or offer for sale, is engaged in or carrying on the business of a wholesale dealer in liquors or a wholesale dealer in beer, as the case may be. Such presumption may be overcome by evidence satisfactorily showing that such sale, or offer for sale, was made to a person other than a dealer.".

(C) Paragraph (3) of section 5121(d), as so redesignated, is amended by striking "section 5146" and inserting "section 5123".

(6)(A) Section 5124 (relating to records) is moved to subpart C of part II of subchapter A of chapter 51 and inserted after section 5121.

(B) Section 5124 is amended—

(i) by striking the section heading and inserting the following new heading:

"SEC. 5122. RECORDKEEPING BY RETAIL DEALERS.",

(ii) by striking "section 5146" in subsection (c) and inserting "section 5123", and

(iii) by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

"(c) RETAIL DEALERS.—For purposes of this section—

"(1) RETAIL DEALER IN LIQUORS.—The term 'retail dealer in liquors' means any dealer (other than a retail dealer in beer or a limited retail dealer) who sells, or offers for sale, distilled spirits, wines, or beer, to any person other than a dealer.

"(2) RETAIL DEALER IN BEER.—The term 'retail dealer in beer' means any dealer (other than a limited retail dealer) who sells, or offers for sale, beer, but not distilled spirits or wines, to any person other than a dealer.

"(3) LIMITED RETAIL DEALER.—The term 'limited retail dealer' means any fraternal, civic, church, labor, charitable, benevolent, or ex-servicemen's organization making sales of distilled spirits, wine or beer on the occasion of any kind of entertainment, dance, picnic, bazaar, or festival held by it, or any person making sales of distilled spirits, wine or beer to the members, guests, or patrons of bona fide fairs, reunions, picnics, carnivals, or other similar outings, if such organization or person is not otherwise engaged in business as a dealer.

"(4) DEALER.—The term 'dealer' has the meaning given such term by section 5121(c)(3).".

(7) Section 5146 is moved to subpart C of part II of subchapter A of chapter 51, inserted after section 5122, and redesignated as section 5123.

(8) Part II of subchapter A of chapter 51 is amended by inserting after subpart C the following new subpart:

"SUBPART D—OTHER PROVISIONS

"Sec. 5131. Packaging distilled spirits for industrial uses.
"Sec. 5132. Prohibited purchases by dealers.".

(9) Section 5116 is moved to subpart D of part II of subchapter A of chapter 51, inserted after the table of sections, redesignated as section 5131, and amended by inserting "(as defined in section 5121(c))" after "dealer" in subsection (a).

(10) Subpart D of part II of subchapter A of chapter 51 is amended by adding at the end thereof the following new section:

"SEC. 5132. PROHIBITED PURCHASES BY DEALERS.

"(a) IN GENERAL.—Except as provided in regulations prescribed by the Secretary, it shall be unlawful for a dealer to purchase distilled spirits for resale from any person other than a wholesale dealer in liquors who is required to keep the records prescribed by section 5121.

"(b) LIMITED RETAIL DEALERS.—A limited retail dealer may lawfully purchase distilled spirits for resale from a retail dealer in liquors.

"(c) PENALTY AND FORFEITURE.—

"For penalty and forfeiture provisions applicable to violations of subsection (a), see sections 5687 and 7302.".

(11) Subsection (b) of section 5002 is amended—

(A) by striking "section 5112(a)" and inserting "section 5121(c)(3)",

(B) by striking "section 5112" and inserting "section 5121(c)",

(C) by striking "section 5122" and inserting "section 5122(c)".

(12) Subparagraph (A) of section 5010(c)(2) is amended by striking "section 5134" and inserting "section 5114".

(13) Subsection (d) of section 5052 is amended to read as follows:

"(d) BREWER.—For purposes of this chapter, the term 'brewer' means any person who brews beer or produces beer for sale. Such term shall not include any person who produces only beer exempt from tax under section 5053(e).".

(14) The text of section 5182 is amended to read as follows:

"For provisions requiring recordkeeping by wholesale liquor dealers, see section 5121, and by retail liquor dealers, see section 5122.".

(15) Subsection (b) of section 5402 is amended by striking "section 5092" and inserting "section 5052(d)".

(16) Section 5671 is amended by striking "or 5091".

(17)(A) Part V of subchapter J of chapter 51 is hereby repealed.

(B) The table of parts for such subchapter J is amended by striking the item relating to part V.

(18)(A) Sections 5142, 5143, and 5145 are moved to subchapter D of chapter 52, inserted after section 5731, redesignated as sections 5732, 5733, and 5734, respectively, and amended by striking "this part" each place it appears and inserting "this subchapter".

(B) Section 5732, as redesignated by subparagraph (A), is amended by striking "(except the tax imposed by section 5131)" each place it appears.

(C) Paragraph (2) of section 5733(c), as redesignated by subparagraph (A), is amended by striking "liquors" both places it appears and inserting "tobacco products and cigarette papers and tubes".

(D) The table of sections for subchapter D of chapter 52 is amended by adding at the end thereof the following:

"Sec. 5732. Payment of tax.
"Sec. 5733. Provisions relating to liability for occupational taxes.
"Sec. 5734. Application of State laws.". .

(E) Section 5731 is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

(19) Subsection (c) of section 6071 is amended by striking "section 5142" and inserting "section 5732".

(20) Paragraph (1) of section 7652(g) is amended—

(A) by striking "subpart F" and inserting "subpart B", and

(B) by striking "section 5131(a)" and inserting "section 5111".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2004, but shall not apply to taxes imposed for periods before such date.

SEC. 5432. SUSPENSION OF LIMITATION ON RATE OF RUM EXCISE TAX COVER OVER TO PUERTO RICO AND VIRGIN ISLANDS.

(a) IN GENERAL.—Section 7652(f)(1) (relating to limitation on cover over of tax on distilled spirits) is amended by striking "January 1, 2004" and inserting "October 1, 2004, and $13.50 in the case of distilled spirits brought into the United States after September 30, 2004, and before January 1, 2006".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to articles containing distilled spirits brought into the United States after December 31, 2003.

(2) SPECIAL RULE.—

(A) IN GENERAL.—After September 30, 2004, the treasury of Puerto Rico shall make a Conservation Trust Fund transfer within 30 days from the date of each cover over payment to such treasury under section 7652(e) of the Internal Revenue Code of 1986.

(B) CONSERVATION TRUST FUND TRANSFER.—

(i) IN GENERAL.—For purposes of this paragraph, the term "Conservation Trust Fund transfer" means a transfer to the Puerto Rico Conservation Trust Fund of an amount equal to 50 cents per proof gallon of the taxes imposed under section 5001 or section 7652 of such Code on distilled spirits that are covered over to the treasury of Puerto Rico under section 7652(e) of such Code.

(ii) TREATMENT OF TRANSFER.—Each Conservation Trust Fund transfer shall be treated as principal for an endowment, the income from which to be available for use by the Puerto Rico Conservation Trust Fund for the purposes for which the Trust Fund was established.

(iii) RESULT OF NONTRANSFER.—

(I) IN GENERAL.—Upon notification by the Secretary of the Interior that a Conservation Trust Fund transfer has not been made by the treasury of Puerto Rico, the Secretary of the Treasury shall, except as provided in subclause (II), deduct and withhold from the next cover over payment to be made to the treasury of Puerto Rico under section 7652(e) of such Code an amount equal to the appropriate Conservation Trust Fund transfer and interest thereon at the underpayment rate established under section 6621 of such Code as of the due date of such transfer. The Secretary of the Treasury shall transfer such amount deducted and withheld, and the interest thereon, directly to the Puerto Rico Conservation Trust Fund.

(II) GOOD CAUSE EXCEPTION.—If the Secretary of the Interior finds, after consultation with the Governor of Puerto Rico, that the failure by the treasury of Puerto Rico to make a required transfer was for good cause, and notifies the Secretary of the Treasury of the finding of such good cause before the due date of the next cover over payment following the notification of nontransfer, then the Secretary of the Treasury shall not deduct the amount of such nontransfer from any cover over payment.

(C) PUERTO RICO CONSERVATION TRUST FUND.—For purposes of this paragraph, the term "Puerto Rico Conservation Trust Fund" means the fund established pursuant to a Memorandum of Understanding between the United States Department of the Interior and the Commonwealth of Puerto Rico, dated December 24, 1968.

PART V—SPORT EXCISE TAXES

SEC. 5441. CUSTOM GUNSMITHS.

(a) SMALL MANUFACTURERS EXEMPT FROM FIREARMS EXCISE TAX.—Section 4182 (relating to exemptions) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) SMALL MANUFACTURERS, ETC.—

"(1) IN GENERAL.—The tax imposed by section 4181 shall not apply to any article described in such section if manufactured, produced, or imported by a person who manufactures, produces, and imports less than 50 of such articles during the calendar year.

"(2) CONTROLLED GROUPS.—All persons treated as a single employer for purposes of subsection (a) or (b) of section 52 shall be treated as one person for purposes of paragraph (1).".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer on or after the date which is the first day of the month beginning at least 2 weeks after the date of the enactment of this Act.

(2) NO INFERENCE.—Nothing in the amendments made by this section shall be construed to create any inference with respect to the proper tax treatment of any sales before the effective date of such amendments.

SEC. 5442. MODIFIED TAXATION OF IMPORTED ARCHERY PRODUCTS.

(a) BOWS.—Paragraph (1) of section 4161(b) (relating to bows) is amended to read as follows:

"(1) BOWS.—

"(A) IN GENERAL.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any bow which has a peak draw weight of 30 pounds or more, a tax equal to 11 percent of the price for which so sold.

"(B) ARCHERY EQUIPMENT.—There is hereby imposed on the sale by the manufacturer, producer, or importer—

"(i) of any part or accessory suitable for inclusion in or attachment to a bow described in subparagraph (A), and

"(ii) of any quiver or broadhead suitable for use with an arrow described in paragraph (2),

a tax equal to 11 percent of the price for which so sold.".

(b) ARROWS.—Subsection (b) of section 4161 (relating to bows and arrows, etc.) is amended by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following:

"(3) ARROWS.—

"(A) IN GENERAL.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any arrow, a tax equal to 12 percent of the price for which so sold.

"(B) EXCEPTION.—In the case of any arrow of which the shaft or any other component has been previously taxed under paragraph (1) or (2)—

"(i) section 6416(b)(3) shall not apply, and

"(ii) the tax imposed by subparagraph (A) shall be an amount equal to the excess (if any) of—

"(I) the amount of tax imposed by this paragraph (determined without regard to this subparagraph), over

"(II) the amount of tax paid with respect to the tax imposed under paragraph (1) or (2) on such shaft or component.

"(C) ARROW.—For purposes of this paragraph, the term 'arrow' means any shaft described in paragraph (2) to which additional components are attached.".

(c) CONFORMING AMENDMENTS.—Section 4161(b)(2) is amended—

(1) by inserting "(other than broadheads)" after "point", and

(2) by striking "ARROWS.—" in the heading and inserting "ARROW COMPONENTS.—".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after the date of the enactment of this Act.

SEC. 5443. TREATMENT OF TRIBAL GOVERNMENTS FOR PURPOSES OF FEDERAL WAGERING EXCISE AND OCCUPATIONAL TAXES.

(a) IN GENERAL.—Subsection (a) of section 7871 (relating to Indian tribal governments treated as States for certain purposes) is amended by striking "and" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting "; and", and by adding at the end the following new paragraph:

"(8) for purposes of chapter 35 (relating to taxes on wagering).".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2004, but shall not apply to taxes imposed for periods before such date.

PART VI—OTHER PROVISIONS

SEC. 5451. INCOME TAX CREDIT FOR DISTILLED SPIRITS WHOLESALERS AND FOR DISTILLED SPIRITS IN CONTROL STATE BAILMENT WAREHOUSES FOR COSTS OF CARRYING FEDERAL EXCISE TAXES ON BOTTLED DISTILLED SPIRITS.

(a) IN GENERAL.—Subpart A of part I of subchapter A of chapter 51 (relating to gallonage and occupational taxes) is amended by adding at the end the following new section:

"SEC. 5011. INCOME TAX CREDIT FOR AVERAGE COST OF CARRYING EXCISE TAX.

"(a) IN GENERAL.—For purposes of section 38, the amount of the distilled spirits credit for any taxable year is the amount equal to the product of—

"(1) in the case of—

"(A) any eligible wholesaler—

"(i) the number of cases of bottled distilled spirits—

"(I) which were bottled in the United States, and

"(II) which are purchased by such wholesaler during the taxable year directly from the bottler of such spirits, or

"(B) any person which is subject to section 5005 and which is not an eligible wholesaler, the number of cases of bottled distilled spirits which are stored in a warehouse operated by, or on behalf of, a State, or agency or political subdivision thereof, on which title has not passed on an unconditional sale basis, and

"(2) the average tax-financing cost per case for the most recent calendar year ending before the beginning of such taxable year.

"(b) ELIGIBLE WHOLESALER.—For purposes of this section, the term 'eligible wholesaler' means any person which holds a permit under the Federal Alcohol Administration Act as a wholesaler of distilled spirits which is not a State, or agency or political subdivision thereof.

"(c) AVERAGE TAX-FINANCING COST.—

"(1) IN GENERAL.—For purposes of this section, the average tax-financing cost per case for any calendar year is the amount of interest which would accrue at the deemed financing rate during a 60-day period on an amount equal to the deemed Federal excise tax per case.

"(2) DEEMED FINANCING RATE.—For purposes of paragraph (1), the deemed financing rate for any calendar year is the average of the corporate overpayment rates under paragraph (1) of section 6621(a) (determined without regard to the last sentence of such paragraph) for calendar quarters of such year.

"(3) DEEMED FEDERAL EXCISE TAX PER CASE.—For purposes of paragraph (1), the deemed Federal excise tax per case is $25.68.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CASE.—The term 'case' means 12 80-proof 750 milliliter bottles.

"(2) NUMBER OF CASES IN LOT.—The number of cases in any lot of distilled spirits shall be determined by dividing the number of liters in such lot by 9.".

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by section 5103 of this Act, is amended by striking "plus" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting ", plus", and by adding at the end the following new paragraph:

"(17) the distilled spirits credit determined under section 5011(a).".

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d), as amended by section 5103 of this Act, is amended by adding at the end the following new paragraph:

"(12) NO CARRYBACK OF SECTION 5011 CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 5011(a) may be carried back to a taxable year beginning before the date of the enactment of section 5011.".

(2) The table of sections for subpart A of part I of subchapter A of chapter 51 is

amended by adding at the end the following new item:

"Sec. 5011. Income tax credit for average cost of carrying excise tax.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5452. CREDIT FOR TAXPAYERS OWNING COMMERCIAL POWER TAKEOFF VEHICLES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following new section:

"SEC. 45G. COMMERCIAL POWER TAKEOFF VEHICLES CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, the amount of the commercial power takeoff vehicles credit determined under this section for the taxable year is $250 for each qualified commercial power takeoff vehicle owned by the taxpayer as of the close of the calendar year in which or with which the taxable year of the taxpayer ends.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED COMMERCIAL POWER TAKEOFF VEHICLE.—The term 'qualified commercial power takeoff vehicle' means any highway vehicle described in paragraph (2) which is propelled by any fuel subject to tax under section 4041 or 4081 if such vehicle is used in a trade or business or for the production of income (and is licensed and insured for such use).

"(2) HIGHWAY VEHICLE DESCRIBED.—A highway vehicle is described in this paragraph if such vehicle is—

"(A) designed to engage in the daily collection of refuse or recyclables from homes or businesses and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a load compactor, or

"(B) designed to deliver ready mixed concrete on a daily basis and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a mixer drum to agitate and mix the product en route to the delivery site.

"(c) EXCEPTION FOR VEHICLES USED BY GOVERNMENTS, ETC.—No credit shall be allowed under this section for any vehicle owned by any person at the close of a calendar year if such vehicle is used at any time during such year by—

"(1) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

"(2) an organization exempt from tax under section 501(a).

"(d) TERMINATION.—This section shall not apply with respect to any calendar year after 2006.".

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by section 5451 of this Act, is amended by striking "plus" at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting ", plus", and by adding at the end the following new paragraph:

"(18) the commercial power takeoff vehicles credit under section 45G(a).".

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d), as amended by section 5451 of this Act, is amended by adding at the end the following new paragraph:

"(13) NO CARRYBACK OF SECTION 45G CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45G(a) may be carried back to a taxable year beginning on or before the date of the enactment of section 45G.".

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45G. Commercial power takeoff vehicles credit.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5453. CREDIT FOR AUXILIARY POWER UNITS INSTALLED ON DIESEL-POWERED TRUCKS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by section 5452 of this Act, is amended by adding at the end the following new section:

"SEC. 45H. AUXILIARY POWER UNIT CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, the amount of the auxiliary power unit credit determined under this section for the taxable year is $250 for each qualified auxiliary power unit—

"(1) purchased by the taxpayer, and

"(2) installed or caused to be installed by the taxpayer on a qualified heavy-duty highway vehicle during such taxable year.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED AUXILIARY POWER UNIT.—The term 'qualified auxiliary power unit' means any integrated system which—

"(A) provides heat, air conditioning, engine warming, and electricity to the factory installed components on a qualified heavy-duty highway vehicle as if the main drive engine of such vehicle was in operation,

"(B) is employed to reduce long-term idling of the diesel engine on such a vehicle, and

"(C) is certified by the Environmental Protection Agency as meeting emission standards in regulations in effect on the date of the enactment of this section.

"(2) QUALIFIED HEAVY-DUTY HIGHWAY VEHICLE.—The term 'qualified heavy-duty highway vehicle' means any highway vehicle weighing more than 12,500 pounds and powered by a diesel engine.

"(c) TERMINATION.—This section shall not apply with respect to any installation occurring after December 31, 2006.".

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by section 5452 of this Act, is amended by striking "plus" at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting ", plus", and by adding at the end the following new paragraph:

"(19) the auxiliary power unit credit under section 45H(a).".

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d), as amended by section 5452 of this Act, is amended by adding at the end the following new paragraph:

"(14) NO CARRYBACK OF SECTION 45H CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45H(a) may be carried back to a taxable year beginning on or before the date of the enactment of section 45H.".

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 5452 of this Act, is amended by adding at the end the following new item:

"Sec. 45H. Auxiliary power unit credit.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to auxiliary power units purchased and installed for taxable years beginning after the date of the enactment of this Act.

Subtitle F—Miscellaneous Provisions

SEC. 5501. MOTOR FUEL TAX ENFORCEMENT ADVISORY COMMISSION.

(a) ESTABLISHMENT.—There is established a Motor Fuel Tax Enforcement Advisory Commission (in this section referred to as the "Commission").

(b) FUNCTION.—The Commission shall—

(1) review motor fuel revenue collections, historical and current;

(2) review the progress of investigations;

(3) develop and review legislative proposals with respect to motor fuel taxes;

(4) monitor the progress of administrative regulation projects relating to motor fuel taxes;

(5) review the results of Federal and State agency cooperative efforts regarding motor fuel taxes;

(6) review the results of Federal interagency cooperative efforts regarding motor fuel taxes; and

(7) evaluate and make recommendations regarding—

(A) the effectiveness of existing Federal enforcement programs regarding motor fuel taxes,

(B) enforcement personnel allocation, and

(C) proposals for regulatory projects, legislation, and funding.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of the following representatives appointed by the Chairmen and the Ranking Members of the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives:

(A) At least 1 representative from each of the following Federal entities: the Department of Homeland Security, the Department of Transportation—Office of Inspector General, the Federal Highway Administration, the Department of Defense, and the Department of Justice.

(B) At least 1 representative from the Federation of State Tax Administrators.

(C) At least 1 representative from any State department of transportation.

(D) 2 representatives from the highway construction industry.

(E) 5 representatives from industries relating to fuel distribution — refiners (2 representatives), distributors (1 representative), pipelines (1 representative), and terminal operators (2 representatives).

(F) 1 representative from the retail fuel industry.

(G) 2 representatives from the staff of the Committee on Finance of the Senate and 2 representatives from the staff of the Committee on Ways and Means of the House of Representatives.

(2) TERMS.—Members shall be appointed for the life of the Commission.

(3) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(4) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(5) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(d) FUNDING.—Such sums as are necessary shall be available from the Highway Trust fund for the expenses of the Commission.

(e) CONSULTATION.—Upon request of the Commission, representatives of the Department of the Treasury and the Internal Revenue Service shall be available for consultation to assist the Commission in carrying out its duties under this section.

(f) OBTAINING DATA.—The Commission may secure directly from any department or agency of the United States, information (other than information required by any law to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission. The Commission shall also gather evidence through such means as it may deem appropriate, including through holding hearings and soliciting comments by means of Federal Register notices.

(g) TERMINATION.—The Commission shall terminate after September 30, 2009.

SEC. 5502. NATIONAL SURFACE TRANSPORTATION INFRASTRUCTURE FINANCING COMMISSION.

(a) ESTABLISHMENT.—There is established a National Surface Transportation Infrastructure Financing Commission (in this section referred to as the "Commission"). The Commission shall hold its first meeting within 90 days of the appointment of the eighth individual to be named to the Commission.

(b) FUNCTION.—

(1) IN GENERAL.—The Commission shall—

(A) make a thorough investigation and study of revenues flowing into the Highway Trust Fund under current law, including the individual components of the overall flow of such revenues;

(B) consider whether the amount of such revenues is likely to increase, decline, or remain unchanged, absent changes in the law, particularly by taking into account the impact of possible changes in public vehicular choice, fuel use, or travel alternatives that could be expected to reduce or increase revenues into the Highway Trust Fund;

(C) consider alternative approaches to generating revenues for the Highway Trust Fund, and the level of revenues that such alternatives would yield;

(D) consider highway and transit needs and whether additional revenues into the Highway Trust Fund, or other Federal revenues dedicated to highway and transit infrastructure, would be required in order to meet such needs; and

(E) study such other matters closely related to the subjects described in the preceding subparagraphs as it may deem appropriate.

(2) TIME FRAME OF INVESTIGATION AND STUDY.—The time frame to be considered by the Commission shall extend through the year 2015.

(3) PREPARATION OF REPORT.—Based on such investigation and study, the Commission shall develop a final report, with recommendations and the bases for those recommendations, indicating policies that should be adopted, or not adopted, to achieve various levels of annual revenue for the Highway Trust Fund and to enable the Highway Trust Fund to receive revenues sufficient to meet highway and transit needs. Such recommendations shall address, among other matters as the Commission may deem appropriate—

(A) what levels of revenue are required by the Federal Highway Trust Fund in order for it to meet needs to—

(i) maintain, and

(ii) improve the condition and performance of the Nation's highway and transit systems;

(B) what levels of revenue are required by the Federal Highway Trust Fund in order to ensure that Federal levels of investment in highways and transit do not decline in real terms; and

(C) the extent, if any, to which the Highway Trust Fund should be augmented by other mechanisms or funds as a Federal means of financing highway and transit infrastructure investments.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members, appointed as follows:

(A) 7 members appointed by the Secretary of Transportation, in consultation with the Secretary of the Treasury.

(B) 2 members appointed by the Chairman of the Committee on Ways and Means of the House of Representatives.

(C) 2 members appointed by the Ranking Minority Member of the Committee on Ways and Means of the House of Representatives.

(D) 2 members appointed by the Chairman of the Committee on Finance of the Senate.

(E) 2 members appointed by the Ranking Minority Member of the Committee on Finance of the Senate.

(2) QUALIFICATIONS.—Members appointed pursuant to paragraph (1) shall be appointed from among individuals knowledgeable in the fields of public transportation finance or highway and transit programs, policy, and needs, and may include representatives of interested parties, such as State and local governments or other public transportation authorities or agencies, representatives of the transportation construction industry (including suppliers of technology, machinery and materials), transportation labor (including construction and providers), transportation providers, the financial community, and users of highway and transit systems.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(6) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(d) STAFF.—The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(e) FUNDING.—Funding for the Commission shall be provided by the Secretary of the Treasury and by the Secretary of Transportation, out of funds available to those agencies for administrative and policy functions.

(f) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any department or agency of the United States may detail any of the personnel of that department or agency to the Commission to assist in carrying out its duties under this section.

(g) OBTAINING DATA.—The Commission may secure directly from any department or agency of the United States, information (other than information required by any law to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission. The Commission shall also gather evidence through such means as it may deem appropriate, including through holding hearings and soliciting comments by means of Federal Register notices.

(h) REPORT.—Not later than 2 years after the date of its first meeting, the Commission shall transmit its final report, including recommendations, to the Secretary of Transportation, the Secretary of the Treasury, and the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Environment and Public Works of the Senate, and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(i) TERMINATION.—The Commission shall terminate on the 180th day following the date of transmittal of the report under subsection (h). All records and papers of the Commission shall thereupon be delivered to the Administrator of General Services for deposit in the National Archives.

SEC. 5503. TREASURY STUDY OF FUEL TAX COMPLIANCE AND INTERAGENCY COOPERATION.

(a) IN GENERAL.—Not later than January 31, 2006, the Secretary of the Treasury shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report regarding fuel tax enforcement which shall include the information and analysis specified in subsections (b) and (c) and any other information and recommendations the Secretary of the Treasury may deem appropriate.

(b) AUDITS.—With respect to audits conducted by the Internal Revenue Service, the report required under subsection (a) shall include—

(1) the number and geographic distribution of audits conducted annually, by fiscal year, between October 1, 2001, and September 30, 2005;

(2) the total volume involved for each of the taxable fuels covered by such audits and a comparison to the annual production of such fuels;

(3) the staff hours and number of personnel devoted to the audits per year; and

(4) the results of such audits by year, including total tax collected, total penalties collected, and number of referrals for criminal prosecution.

(c) ENFORCEMENT ACTIVITIES.—With respect to enforcement activities, the report required under subsection (a) shall include—

(1) the number and geographic distribution of criminal investigations and prosecutions annually, by fiscal year, between October 1, 2001, and September 30, 2005, and the results of such investigations and prosecutions;

(2) to the extent such investigations and prosecutions involved other agencies, State or Federal, a breakdown by agency of the number of joint investigations involved;

(3) an assessment of the effectiveness of joint action and cooperation between the Department of the Treasury and other Federal and State agencies, including a discussion of the ability and need to share information across agencies for both civil and criminal Federal tax enforcement and enforcement of State or Federal laws relating to fuels;

(4) the staff hours and number of personnel devoted to criminal investigations and prosecutions per year;

(5) the staff hours and number of personnel devoted to administrative collection of fuel taxes; and

(6) the results of administrative collection efforts annually, by fiscal year, between October 1, 2001, and September 30, 2005.

SEC. 5504. EXPANSION OF HIGHWAY TRUST FUND EXPENDITURE PURPOSES TO INCLUDE FUNDING FOR STUDIES OF SUPPLEMENTAL OR ALTERNATIVE FINANCING FOR THE HIGHWAY TRUST FUND.

(a) IN GENERAL.—From amounts available in the Highway Trust Fund, there is authorized to be expended for 2 comprehensive studies of supplemental or alternative funding sources for the Highway Trust Fund—

(1) $1,000,000 to the Western Transportation Institute of the College of Engineering at Montana State University for the study and report described in subsection (b), and

(2) $16,500,000 to the Public Policy Center of the University of Iowa for the study and report described in subsection (c).

(b) STUDY OF FUNDING MECHANISMS.—Not later than December 31, 2006, the Western Transportation Institute of the College of Engineering at Montana State University shall report to the Secretary of the Treasury and the Secretary of Transportation on a study of highway funding mechanisms of other industrialized nations, an examination of the viability of alternative funding proposals, including congestion pricing, greater reliance on tolls, privatization of facilities, and bonding for construction of added capacity, and an examination of increasing the rates of motor fuels taxes in effect on the date of the enactment of this Act, including the indexation of such rates.

(c) STUDY ON FIELD TEST OF ON-BOARD COMPUTER ASSESSMENT OF HIGHWAY USE TAXES.—Not later than December 31, 2011, the Public Policy Center of the University of Iowa shall direct, analyze, and report to the Secretary of the Treasury and the Secretary of Transportation on a long-term field test of an approach to assessing highway use taxes based upon actual mileage driven by a specific vehicle on specific types of highways by use of an on-board computer—

(1) which is linked to satellites to calculate highway mileage traversed,

(2) which computes the appropriate highway use tax for each of the Federal, State, and local governments as the vehicle makes use of the highways, and

(3) the data from which is periodically downloaded by the vehicle owner to a collection center for an assessment of highway use taxes due in each jurisdiction traversed.The components of the field test shall include 2 years for preparation, including selection of vendors and test participants, and 3-year testing period.

SEC. 5505. TREASURY STUDY OF HIGHWAY FUELS USED BY TRUCKS FOR NON-TRANSPORTATION PURPOSES.

(a) STUDY.—The Secretary of the Treasury shall conduct a study regarding the use of highway motor fuel by trucks that is not used for the propulsion of the vehicle. As part of such study—

(1) in the case of vehicles carrying equipment that is unrelated to the transportation function of the vehicle—

(A) the Secretary of the Treasury, in consultation with the Secretary of Transportation, and with public notice and comment, shall determine the average annual amount of tax paid fuel consumed per vehicle, by type of vehicle, used by the propulsion engine to provide the power to operate the equipment attached to the highway vehicle, and

(B) the Secretary of the Treasury shall review the technical and administrative feasibility of exempting such nonpropulsive use of highway fuels for the highway motor fuels excise taxes,

(2) in the case where non-transportation equipment is run by a separate motor—

(A) the Secretary of the Treasury shall determine the annual average amount of fuel exempted from tax in the use of such equipment by equipment type, and

(B) the Secretary of the Treasury shall review issues of administration and compliance related to the present-law exemption provided for such fuel use, and

(3) the Secretary of the Treasury shall—

(A) estimate the amount of taxable fuel consumed by trucks and the emissions of various pollutants due to the long-term idling of diesel engines, and

(B) determine the cost of reducing such long-term idling through the use of plug-ins at truck stops, auxiliary power units, or other technologies.

(b) REPORT.—Not later than January 1, 2006, the Secretary of the Treasury shall report the findings of the study required under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 5506. DELTA REGIONAL TRANSPORTATION PLAN.

(a) STUDY.—The Delta Regional Authority shall conduct a study of the transportation assets and needs in the States of Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee which comprise the Delta region.

(b) REGIONAL STRATEGIC TRANSPORTATION PLAN.—Upon completion of the study required under subsection (a), the Delta Regional Authority shall establish a regional strategic transportation plan to achieve efficient transportation systems in the Delta region. In developing the regional strategic transportation plan, the Delta Regional Authority shall consult with local planning and development districts, local and regional governments, metropolitan planning organizations, State transportation entities, and Federal transportation agencies.

(c) ELEMENTS OF STUDY AND PLAN.—The study and plan under this section shall include the following transportation modes and systems: transit, rail, highway, interstate, bridges, air, airports, waterways and ports.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Delta Regional Authority $1,000,000 to carry out the purposes of this section, to remain available until expended.

SEC. 5507. TREATMENT OF EMPLOYER-PROVIDED TRANSIT AND VAN POOLING BENEFITS.

(a) IN GENERAL.—Subparagraph (A) of section 132(f)(2) (relating to limitation on exclusion) is amended by striking "$100" and inserting "$120".

(b) INFLATION ADJUSTMENT CONFORMING AMENDMENTS.—The last sentence of section 132(f)(6)(A) (relating to inflation adjustment) is amended—

(1) by striking "2002" and inserting "2005", and

(2) by striking "2001" and inserting "2004".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 5508. STUDY OF INCENTIVES FOR PRODUCTION OF BIODIESEL.

(a) STUDY.—The General Comptroller of the United States shall conduct a study related to biodiesel fuels and the tax credit for biodiesel fuels established under this Act. Such study shall include—

(1) an assessment on whether such credit provides sufficient assistance to the producers of biodiesel fuel to establish the fuel as a viable energy alternative in the current market place,

(2) an assessment on how long such credit or similar subsidy would have to remain in effect before biodiesel fuel can compete in the market place without such assistance,

(3) a cost-benefit analysis of such credit, comparing the cost of the credit in forgone revenue to the benefits of lower fuel costs for consumers, increased profitability for the biodiesel industry, increased farm income, reduced program outlays from the Department of Agriculture, and the improved environmental conditions through the use of biodiesel fuel, and

(4) an assessment on whether such credit results in any unintended consequences for unrelated industries, including the impact, if any, on the glycerin market.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall report the findings of the study required under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

Subtitle G—Revenue Offsets

PART I—LIMITATION ON EXPENSING CERTAIN PASSENGER AUTOMOBILES

SEC. 5601. EXPANSION OF LIMITATION ON DEPRECIATION OF CERTAIN PASSENGER AUTOMOBILES.

(a) IN GENERAL.—Section 179(b) (relating to limitations) is amended by adding at the end the following new paragraph:

"(6) LIMITATION ON COST TAKEN INTO ACCOUNT FOR CERTAIN PASSENGER VEHICLES.—

"(A) IN GENERAL.—The cost of any sport utility vehicle for any taxable year which may be taken into account under this section shall not exceed $25,000.

"(B) SPORT UTILITY VEHICLE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The term 'sport utility vehicle' means any 4-wheeled vehicle which—

"(I) is manufactured primarily for use on public streets, roads, and highways,

"(II) is not subject to section 280F, and

"(III) is rated at not more than 14,000 pounds gross vehicle weight.

"(ii) CERTAIN VEHICLES EXCLUDED.—Such term does not include any vehicle which—

"(I) does not have the primary load carrying device or container attached,

"(II) has a seating capacity of more than 12 individuals,

"(III) is designed for more than 9 individuals in seating rearward of the driver's seat,

"(IV) is equipped with an open cargo area, or a covered box not readily accessible from the passenger compartment, of at least 72.0 inches in interior length, or

"(V) has an integral enclosure, fully enclosing the driver compartment and load carrying device, does not have seating rearward of the driver's seat, and has no body section protruding more than 30 inches ahead of the leading edge of the windshield.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after February 2, 2004.

PART II—PROVISIONS DESIGNED TO CURTAIL TAX SHELTERS

SEC. 5611. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

"(1) GENERAL RULES.—

"(A) In general.—In any case in which a court determines that the economic substance doctrine is relevant for purposes of this title to a transaction (or series of transactions), such transaction (or series of transactions) shall have economic substance only if the requirements of this paragraph are met.

"(B) Definition of economic substance.—For purposes of subparagraph (A)—

"(i) In general.—A transaction has economic substance only if—

"(I) the transaction changes in a meaningful way (apart from Federal tax effects) the taxpayer's economic position, and

"(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

In applying subclause (II), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

"(ii) Special rule where taxpayer relies on profit potential.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

"(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

"(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

"(C) Treatment of fees and foreign taxes.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

"(2) Special rules for transactions with tax-indifferent parties.—

"(A) Special rules for financing transactions.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

"(B) Artificial income shifting and basis adjustments.—The form of a transaction with a tax-indifferent party shall not be respected if—

"(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

"(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

"(3) Definitions and special rules.—For purposes of this subsection—

"(A) Economic substance doctrine.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

"(B) Tax-indifferent party.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

"(C) Exception for personal transactions of individuals.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

"(D) Treatment of lessors.—In applying paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease—

"(i) the expected net tax benefits with respect to the leased property shall not include the benefits of—

"(I) depreciation,

"(II) any tax credit, or

"(III) any other deduction as provided in guidance by the Secretary, and

"(ii) subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

"(4) Other common law doctrines not affected.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

"(5) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.".

(b) Effective Date.—The amendments made by this section shall apply to transactions entered into after February 2, 2004.

SEC. 5612. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) In General.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

"SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

"(a) Imposition of Penalty.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

"(b) Amount of Penalty.—

"(1) In general.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

"(2) Listed transaction.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

"(3) Increase in penalty for large entities and high net worth individuals.—

"(A) In general.—In the case of a failure under subsection (a) by—

"(i) a large entity, or

"(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

"(B) Large entity.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

"(C) High net worth individual.—For purposes of subparagraph (A), the term 'high net worth individual' means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

"(c) Definitions.—For purposes of this section—

"(1) Reportable transaction.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

"(2) Listed transaction.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

"(d) Authority To Rescind Penalty.—

"(1) In general.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

"(A) the violation is with respect to a reportable transaction other than a listed transaction,

"(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

"(C) it is shown that the violation is due to an unintentional mistake of fact;

"(D) imposing the penalty would be against equity and good conscience, and

"(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

"(2) Discretion.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

"(3) No appeal.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

"(4) Records.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

"(A) the facts and circumstances of the transaction,

"(B) the reasons for the rescission, and

"(C) the amount of the penalty rescinded.

"(5) Report.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

"(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

"(B) a description of each penalty rescinded under this subsection and the reasons therefor.

"(e) Penalty Reported to SEC.—In the case of a person—

"(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

"(2) which—

"(A) is required to pay a penalty under this section with respect to a listed transaction,

"(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c), or

"(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

"(f) Coordination With Other Penalties.—The penalty imposed by this section is in addition to any penalty imposed under this title.".

(b) Conforming Amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

"Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.".

(c) Effective Date.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 5613. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) In General.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

"SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

"(a) Imposition of Penalty.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

"(b) Reportable Transaction Understatement.—For purposes of this section—

"(1) In general.—The term 'reportable transaction understatement' means the sum of—

"(A) the product of—

"(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

"(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

"(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

"(2) Items to which section applies.—This section shall apply to any item which is attributable to—

"(A) any listed transaction, and

"(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

"(c) Higher Penalty for Nondisclosed Listed and Other Avoidance Transactions.—

"(1) In general.—Subsection (a) shall be applied by substituting '30 percent' for '20 percent' with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

"(2) Rules applicable to assertion and compromise of penalty.—

"(A) In general.—Only upon the approval by the Chief Counsel for the Internal Revenue Service or the Chief Counsel's delegate at the national office of the Internal Revenue Service may a penalty to which paragraph (1) applies be included in a 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals. If such a letter is provided to the taxpayer, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(B) Applicable rules.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

"(d) Definitions of Reportable and Listed Transactions.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

"(e) Special Rules.—

"(1) Coordination with penalties, etc., on other understatements.—In the case of an understatement (as defined in section 6662(d)(2))—

"(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

"(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements.

"(2) Coordination with other penalties.—

"(A) Application of fraud penalty.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement and a noneconomic substance transaction understatement.

"(B) No double penalty.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662B or 6663.

"(3) Special rule for amended returns.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement or noneconomic substance transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

"(4) Noneconomic substance transaction understatement.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).

"(5) Cross reference.—

"For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).".

(b) Determination of Other Understatements.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

"The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies and without regard to items with respect to which a penalty is imposed by section 6662B.".

(c) Reasonable Cause Exception.—

(1) In general.—Section 6664 is amended by adding at the end the following new subsection:

"(d) Reasonable Cause Exception for Reportable Transaction Understatements.—

"(1) In general.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

"(2) Special rules.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

"(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

"(B) there is or was substantial authority for such treatment, and

"(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

"(3) Rules relating to reasonable belief.—For purposes of paragraph (2)(C)—

"(A) In general.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

"(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

"(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

"(B) Certain opinions may not be relied upon.—

"(i) In general.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

"(I) the tax advisor is described in clause (ii), or

"(II) the opinion is described in clause (iii).

"(ii) Disqualified tax advisors.—A tax advisor is described in this clause if the tax advisor—

"(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

"(II) is compensated directly or indirectly by a material advisor with respect to the transaction, "(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

"(IV) as determined under regulations prescribed by the Secretary, has a disqualifying financial interest with respect to the transaction.

"(iii) Disqualified opinions.—For purposes of clause (i), an opinion is disqualified if the opinion—

"(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

"(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

"(III) does not identify and consider all relevant facts, or

"(IV) fails to meet any other requirement as the Secretary may prescribe.".

(2) Conforming amendment.—The heading for subsection (c) of section 6664 is amended by inserting "for Underpayments" after "Exception".

(d) Conforming Amendments.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking "(as defined in section 6662(d)(2)(C)(iii))" in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

"(C) Tax shelter.—For purposes of subparagraph (B), the term 'tax shelter' means—

"(i) a partnership or other entity,

"(ii) any investment plan or arrangement, or

"(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.".

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking "this part" and inserting "section 6662 or 6663".

(5) Subsection (b) of section 7525 is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(6)(A) The heading for section 6662 is amended to read as follows:

"SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS.".

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

"Sec. 6662. Imposition of accuracy-related penalty on underpayments.
"Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions.".

(e) Effective Date.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 5614. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) In General.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

"SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

"(a) Imposition of Penalty.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

"(b) Reduction of Penalty for Disclosed Transactions.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

"(c) Noneconomic Substance Transaction Understatement.—For purposes of this section—

"(1) In general.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

"(2) Noneconomic substance transaction.—The term 'noneconomic substance transaction' means any transaction if—

"(A) there is a lack of economic substance (within the meaning of section 7701(n)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(n)(2), or

"(B) the transaction fails to meet the requirements of any similar rule of law.

"(d) Rules Applicable To Compromise of Penalty.—

"(1) In general.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(2) Applicable rules.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of paragraph (1).

"(e) Coordination With Other Penalties.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

"(f) Cross References.—

"(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e).

"(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e).".

(b) Clerical Amendment.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

"Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.".

(c) Effective Date.—The amendments made by this section shall apply to transactions entered into after February 2, 2004.

SEC. 5615. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NONREPORTABLE TRANSACTIONS.

(a) Substantial Understatement of Corporations.—Section 6662(d)(1)(B) (relating to special rule for corporations) is amended to read as follows:

"(B) Special rule for corporations.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

"(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000), or

"(ii) $10,000,000.".

(b) Reduction for Understatement of Taxpayer Due to Position of Taxpayer or Disclosed Item.—

(1) In general.—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

"(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or".

(2) Conforming amendment.—Section 6662(d) is amended by adding at the end the following new paragraph:

"(3) Secretarial list.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin.".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5616. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) In General.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

"(b) Section Not To Apply to Communications Regarding Tax Shelters.—The privilege under subsection (a) shall not apply to any written communication which is—

"(1) between a federally authorized tax practitioner and—

"(A) any person,

"(B) any director, officer, employee, agent, or representative of the person, or

"(C) any other person holding a capital or profits interest in the person, and

"(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C)).".

(b) Effective Date.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 5617. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) In General.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

"SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

"(a) In General.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

"(1) information identifying and describing the transaction,

"(2) information describing any potential tax benefits expected to result from the transaction, and

"(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

"(b) Definitions.—For purposes of this section—

"(1) Material advisor.—

"(A) In general.—The term 'material advisor' means any person—

"(i) who provides any material aid, assistance, or advice with respect to organizing, managing, promoting, selling, implementing, or carrying out any reportable transaction, and

"(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

"(B) Threshold Amount.—For purposes of subparagraph (A), the threshold amount is—

"(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

"(ii) $250,000 in any other case.

"(2) Reportable Transaction.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

"(c) Regulations.—The Secretary may prescribe regulations which provide—

"(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

"(2) exemptions from the requirements of this section, and

"(3) such rules as may be necessary or appropriate to carry out the purposes of this section.".

(b) Conforming Amendments.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6111. Disclosure of reportable transactions.".

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

"SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

"(a) In General.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

"(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

"(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.".

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting "written" before "request" in paragraph (1)(A), and

(ii) by striking "shall prescribe" in paragraph (2) and inserting "may prescribe".

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6112. Material advisors of reportable transactions must keep lists of advisees.".

(3)(A) The heading for section 6708 is amended to read as follows:

"SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS.".

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

"Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions.".

(c) Required Disclosure Not Subject to Claim of Confidentiality.—Subparagraph (A) of section 6112(b)(1), as redesignated by subsection (b)(2)(B), is amended by adding at the end the following new flush sentence:

"For purposes of this section, the identity of any person on such list shall not be privileged.".

(d) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

(2) No claim of confidentiality against disclosure.—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 142 of the Deficit Reduction Act of 1984.

SEC. 5618. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) In General.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

"SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

"(a) In General.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

"(1) fails to file such return on or before the date prescribed therefor, or

"(2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

"(b) Amount of Penalty.—

"(1) In general.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

"(2) Listed transactions.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

"(A) $200,000, or

"(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the listed transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

"(c) Certain Rules To Apply.—The provisions of section 6707A(d) shall apply to any penalty imposed under this section.

"(d) Reportable and Listed Transactions.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).".

(b) Clerical Amendment.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking "tax shelters" and inserting "reportable transactions".

(c) Effective Date.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

SEC. 5619. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) In General.—Subsection (a) of section 6708 is amended to read as follows:

"(a) Imposition of Penalty.—

"(1) In general.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

"(2)′ Reasonable cause exception.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause.".

(b) Effective Date.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 5620. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.

(a) In General.—Section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

"(a) Authority To Seek Injunction.—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

"(b) Adjudication and Decree.—In any action under subsection (a), if the court finds—

"(1) that the person has engaged in any specified conduct, and

"(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

"(c) Specified Conduct.—For purposes of this section, the term 'specified conduct' means any action, or failure to take action, subject to penalty under section 6700, 6701, 6707, or 6708.".

(b) Conforming Amendments.—

(1) The heading for section 7408 is amended to read as follows:

"SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.".

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

"Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions.".

(c) Effective Date.—The amendment made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 5621. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

(a) Standards Conformed to Taxpayer Standards.—Section 6694(a) (relating to understatements due to unrealistic positions) is amended—

(1) by striking "realistic possibility of being sustained on its merits" in paragraph (1) and inserting "reasonable belief that the tax treatment in such position was more likely than not the proper treatment",

(2) by striking "or was frivolous" in paragraph (3) and inserting "or there was no reasonable basis for the tax treatment of such position", and

(3) by striking "Unrealistic" in the heading and inserting "Improper".

(b) Amount of Penalty.—Section 6694 is amended—

(1) by striking "$250" in subsection (a) and inserting "$1,000", and

(2) by striking "$1,000" in subsection (b) and inserting "$5,000".

(c) Effective Date.—The amendments made by this section shall apply to documents prepared after the date of the enactment of this Act.

SEC. 5622. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) In General.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

"(5) Foreign financial agency transaction violation.—

"(A) Penalty authorized.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

"(B) Amount of penalty.—

"(i) In general.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $5,000.

"(ii) Reasonable cause exception.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

"(I) such violation was due to reasonable cause, and

"(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

"(C) Willful violations.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

"(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

"(I) $25,000, or

"(II) the amount (not exceeding $100,000) determined under subparagraph (D), and

"(ii) subparagraph (B)(ii) shall not apply.

"(D) Amount.—The amount determined under this subparagraph is—

"(i) in the case of a violation involving a transaction, the amount of the transaction, or

"(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.".

(b) Effective Date.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

SEC. 5623. FRIVOLOUS TAX SUBMISSIONS.

(a) Civil Penalties.—Section 6702 is amended to read as follows:

"SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

"(a) Civil Penalty for Frivolous Tax Returns.—A person shall pay a penalty of $5,000 if—

"(1) such person files what purports to be a return of a tax imposed by this title but which—

"(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

"(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

"(2) the conduct referred to in paragraph (1)—

"(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(B) reflects a desire to delay or impede the administration of Federal tax laws.

"(b) Civil Penalty for Specified Frivolous Submissions.—

"(1) Imposition of penalty.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

"(2) Specified frivolous submission.—For purposes of this section—

"(A) Specified frivolous submission.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

"(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(ii) reflects a desire to delay or impede the administration of Federal tax laws.

"(B) Specified submission.—The term 'specified submission' means—

"(i) a request for a hearing under—

"(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

"(II) section 6330 (relating to notice and opportunity for hearing before levy), and

"(ii) an application under—

"(I) section 6159 (relating to agreements for payment of tax liability in installments),

"(II) section 7122 (relating to compromises), or

"(III) section 7811 (relating to taxpayer assistance orders).

"(3) Opportunity to withdraw submission.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

"(c) Listing of Frivolous Positions.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

"(d) Reduction of Penalty.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

"(e) Penalties in Addition to Other Penalties.—The penalties imposed by this section shall be in addition to any other penalty provided by law.".

(b) Treatment of Frivolous Requests for Hearings Before Levy.—

(1) Frivolous requests disregarded.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

"(g) Frivolous Requests for Hearing, Etc.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(2) Preclusion from raising frivolous issues at hearing.—Section 6330(c)(4) is amended—

(A) by striking "(A)" and inserting "(A)(i)";

(B) by striking "(B)" and inserting "(ii)";

(C) by striking the period at the end of the first sentence and inserting "; or"; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

"(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).".

(3) Statement of grounds.—Section 6330(b)(1) is amended by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing".

(c) Treatment of Frivolous Requests for Hearings Upon Filing of Notice of Lien.—Section 6320 is amended—

(1) in subsection (b)(1), by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing", and

(2) in subsection (c), by striking "and (e)" and inserting "(e), and (g)".

(d) Treatment of Frivolous Applications for Offers-in-Compromise and Installment Agreements.—Section 7122 is amended by adding at the end the following new subsection:

"(e) Frivolous Submissions, Etc.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(e) Clerical Amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

"Sec. 6702. Frivolous tax submissions.".

(f) Effective Date.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 5624. REGULATION OF INDIVIDUALS PRACTICING BEFORE THE DEPARTMENT OF TREASURY.

(a) Censure; Imposition of Penalty.—

(1) In general.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting ", or censure," after "Department", and

(B) by adding at the end the following new flush sentence:

"The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure of the representative.".

(2) Effective date.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) Tax Shelter Opinions, Etc.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

"(d) Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary of the Treasury to impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion.".

SEC. 5625. PENALTY ON PROMOTERS OF TAX SHELTERS.

(a) PENALTY ON PROMOTING ABUSIVE TAX SHELTERS.—Section 6700(a) is amended by adding at the end the following new sentence: "Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 5626. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH REQUIRED LISTED TRANSACTIONS NOT REPORTED.

(a) IN GENERAL.—Section 6501(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

"(10) LISTED TRANSACTIONS.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a listed transaction (as defined in section 6707A(c)(2)) which is required under section 6011 to be included with such return or statement, the time for assessment of any tax imposed by this title with respect to such transaction shall not expire before the date which is 1 year after the earlier of—

"(A) the date on which the Secretary is furnished the information so required; or

"(B) the date that a material advisor (as defined in section 6111) meets the requirements of section 6112 with respect to a request by the Secretary under section 6112(b) relating to such transaction with respect to such taxpayer.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years with respect to which the period for assessing a deficiency did not expire before the date of the enactment of this Act.

SEC. 5627. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONDISCLOSED REPORTABLE AND NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) IN GENERAL.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) INTEREST ON UNPAID TAXES ATTRIBUTABLE TO NONDISCLOSED REPORTABLE TRANSACTIONS AND NONECONOMIC SUBSTANCE TRANSACTIONS.—No deduction shall be allowed under this chapter for any interest paid or accrued under section 6601 on any underpayment of tax which is attributable to—

"(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

"(2) any noneconomic substance transaction understatement (as defined in section 6662B(c)).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions in taxable years beginning after the date of the enactment of this Act.

SEC. 5628. AUTHORIZATION OF APPROPRIATIONS FOR TAX LAW ENFORCEMENT.

There is authorized to be appropriated $300,000,000 for each fiscal year beginning after September 30, 2003, for the purpose of carrying out tax law enforcement to combat tax avoidance transactions and other tax shelters, including the use of offshore financial accounts to conceal taxable income.

PART III—OTHER CORPORATE GOVERNANCE PROVISIONS

SEC. 5631. AFFIRMATION OF CONSOLIDATED RETURN REGULATION AUTHORITY.

(a) IN GENERAL.—Section 1502 (relating to consolidated return regulations) is amended by adding at the end the following new sentence: "In prescribing such regulations, the Secretary may prescribe rules applicable to corporations filing consolidated returns under section 1501 that are different from other provisions of this title that would apply if such corporations filed separate returns.".

(b) RESULT NOT OVERTURNED.—Notwithstanding subsection (a), the Internal Revenue Code of 1986 shall be construed by treating Treasury regulation §1.1502–20(c)(1)(iii) (as in effect on January 1, 2001) as being inapplicable to the type of factual situation in 255 F.3d 1357 (Fed. Cir. 2001).

(c) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

SEC. 5632. DECLARATION BY CHIEF EXECUTIVE OFFICER RELATING TO FEDERAL ANNUAL CORPORATE INCOME TAX RETURN.

(a) IN GENERAL.—The Federal tax return of a corporation with respect to income shall also include a declaration signed by the chief executive officer of such corporation (or other such officer of the corporation as the Secretary of the Treasury may designate if the corporation does not have a chief executive officer), under penalties of perjury, that the chief executive officer has established processes and procedures that ensure that such return complies with the Internal Revenue Code of 1986 and that the chief executive officer was provided reasonable assurance of the accuracy of all material aspects of such return. The preceding sentence shall not apply to any return of a regulated investment company (within the meaning of section 851 of such Code).

(b) EFFECTIVE DATE.—This section shall apply to Federal tax returns filed after the date of the enactment of this Act.

SEC. 5633. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

(a) IN GENERAL.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

"(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

"(2) EXCEPTION FOR AMOUNTS CONSTITUTING RESTITUTION.—Paragraph (1) shall not apply to any amount which the taxpayer establishes constitutes restitution for damage or harm caused by the violation of any law or the potential violation of any law. This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

"(3) EXCEPTION FOR AMOUNTS PAID OR INCURRED AS THE RESULT OF CERTAIN COURT ORDERS.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

"(4) CERTAIN NONGOVERNMENTAL REGULATORY ENTITIES.—An entity is described in this paragraph if it is—

"(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

"(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after April 27, 2003, except that such amendment shall not apply to amounts paid or incurred under any binding order or agreement entered into on or before April 27, 2003. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained on or before April 27, 2003.

SEC. 5634. DISALLOWANCE OF DEDUCTION FOR PUNITIVE DAMAGES.

(a) DISALLOWANCE OF DEDUCTION.—

(1) IN GENERAL.—Section 162(g) (relating to treble damage payments under the antitrust laws) is amended by adding at the end the following new paragraph:

"(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).".

(2) CONFORMING AMENDMENTS.—

(A) Section 162(g) is amended—

(i) by striking "If" and inserting:

"(1) TREBLE DAMAGES.—If", and

(ii) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

(B) The heading for section 162(g) is amended by inserting "OR PUNITIVE DAMAGES" after "LAWS".

(b) INCLUSION IN INCOME OF PUNITIVE DAMAGES PAID BY INSURER OR OTHERWISE.—

(1) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

"SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.

"Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.".

(2) REPORTING REQUIREMENTS.—Section 6041 (relating to information at source) is amended by adding at the end the following new subsection:

"(f) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.".

(3) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end the following new item:

"Sec. 91. Punitive damages compensated by insurance or otherwise.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to damages paid or incurred on or after the date of the enactment of this Act.

SEC. 5635. INCREASE IN CRIMINAL MONETARY PENALTY LIMITATION FOR THE UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.

(a) IN GENERAL.—Section 7206 (relating to fraud and false statements) is amended—

(1) by striking "Any person who—" and inserting "(a) In General.—Any person who—", and

(2) by adding at the end the following new subsection:

"(b) Increase in Monetary Limitation for Underpayment or Overpayment of Tax Due To Fraud.—If any portion of any underpayment (as defined in section 6664(a)) or overpayment (as defined in section 6401(a)) of tax required to be shown on a return is attributable to fraudulent action described in subsection (a), the applicable dollar amount under subsection (a) shall in no event be less than an amount equal to such portion. A rule similar to the rule under section 6663(b) shall apply for purposes of determining the portion so attributable.".

(b) Increase in Penalties.—

(1) Attempt to evade or defeat tax.—Section 7201 is amended—

(A) by striking "$100,000" and inserting "$250,000",

(B) by striking "$500,000" and inserting "$1,000,000", and

(C) by striking "5 years" and inserting "10 years".

(2) Willful failure to file return, supply information, or pay tax.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking "misdemeanor" and inserting "felony", and

(ii) by striking "1 year" and inserting "10 years", and

(B) by striking the third sentence.

(3) Fraud and false statements.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking "$100,000" and inserting "$250,000",

(B) by striking "$500,000" and inserting "$1,000,000", and

(C) by striking "3 years" and inserting "5 years".

(c) Effective Date.—The amendments made by this section shall apply to underpayments and overpayments attributable to actions occurring after the date of the enactment of this Act.

SEC. 5636. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENTS.

(a) General Rule.—If—

(1) a taxpayer eligible to participate in—

(A) the Department of the Treasury's Offshore Voluntary Compliance Initiative, or

(B) the Department of the Treasury's voluntary disclosure initiative which applies to the taxpayer by reason of the taxpayer's underreporting of United States income tax liability through financial arrangements which rely on the use of offshore arrangements which were the subject of the initiative described in subparagraph (A), and

(2) any interest or applicable penalty is imposed with respect to any arrangement to which any initiative described in paragraph (1) applied or to any underpayment of Federal income tax attributable to items arising in connection with any arrangement described in paragraph (1),

then, notwithstanding any other provision of law, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(b) Definitions and Rules.—For purposes of this section—

(1) Applicable penalty.—The term "applicable penalty" means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(2) Voluntary offshore compliance initiative.—The term "Voluntary Offshore Compliance Initiative" means the program established by the Department of the Treasury in January of 2003 under which any taxpayer was eligible to voluntarily disclose previously undisclosed income on assets placed in offshore accounts and accessed through credit card and other financial arrangements.

(3) Participation.—A taxpayer shall be treated as having participated in the Voluntary Offshore Compliance Initiative if the taxpayer submitted the request in a timely manner and all information requested by the Secretary of the Treasury or his delegate within a reasonable period of time following the request.

(c) Effective Date.—The provisions of this section shall apply to interest, penalties, additions to tax, and fines with respect to any taxable year if as of the date of the enactment of this Act, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

PART IV—ENRON-RELATED TAX SHELTER PROVISIONS

SEC. 5641. LIMITATION ON TRANSFER OR IMPORTATION OF BUILT-IN LOSSES.

(a) In General.—Section 362 (relating to basis to corporations) is amended by adding at the end the following new subsection:

"(e) Limitations on Built-In Losses.—

"(1) Limitation on importation of built-in losses.— ;

"(A) In general.—If in any transaction described in subsection (a) or (b) there would (but for this subsection) be an importation of a net built-in loss, the basis of each property described in subparagraph (B) which is acquired in such transaction shall (notwithstanding subsections (a) and (b)) be its fair market value immediately after such transaction.

"(B) Property described.—For purposes of subparagraph (A), property is described in this subparagraph if—

"(i) gain or loss with respect to such property is not subject to tax under this subtitle in the hands of the transferor immediately before the transfer, and

"(ii) gain or loss with respect to such property is subject to such tax in the hands of the transferee immediately after such transfer.

In any case in which the transferor is a partnership, the preceding sentence shall be applied by treating each partner in such partnership as holding such partner's proportionate share of the property of such partnership.

"(C) Importation of net built-in loss.—For purposes of subparagraph (A), there is an importation of a net built-in loss in a transaction if the transferee's aggregate adjusted bases of property described in subparagraph (B) which is transferred in such transaction would (but for this paragraph) exceed the fair market value of such property immediately after such transaction.".

"(2) Limitation on transfer of built-in losses in section 351 transactions.—

"(A) In general.—If—

"(i) property is transferred by a transferor in any transaction which is described in subsection (a) and which is not described in paragraph (1) of this subsection, and

"(ii) the transferee's aggregate adjusted bases of such property so transferred would (but for this paragraph) exceed the fair market value of such property immediately after such transaction,

then, notwithstanding subsection (a), the transferee's aggregate adjusted bases of the property so transferred shall not exceed the fair market value of such property immediately after such transaction.

"(B) Allocation of basis reduction.—The aggregate reduction in basis by reason of subparagraph (A) shall be allocated among the property so transferred in proportion to their respective built-in losses immediately before the transaction.

"(C) Exception for transfers within affiliated group.—Subparagraph (A) shall not apply to any transaction if the transferor owns stock in the transferee meeting the requirements of section 1504(a)(2). In the case of property to which subparagraph (A) does not apply by reason of the preceding sentence, the transferor's basis in the stock received for such property shall not exceed its fair market value immediately after the transfer.".

(b) Comparable Treatment Where Liquidation.—Paragraph (1) of section 334(b) (relating to liquidation of subsidiary) is amended to read as follows:

"(1) In general.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332 applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution—

"(A) in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, or

"(B) in any case in which the liquidating corporation is a foreign corporation, the corporate distributee is a domestic corporation, and the corporate distributee's aggregate adjusted bases of property described in section 362(e)(1)(B) which is distributed in such liquidation would (but for this subparagraph) exceed the fair market value of such property immediately after such liquidation.".

(c) Effective Date.—The amendments made by this section shall apply to transactions after February 13, 2003.

SEC. 5642. NO REDUCTION OF BASIS UNDER SECTION 734 IN STOCK HELD BY PARTNERSHIP IN CORPORATE PARTNER.

(a) In General.—Section 755 is amended by adding at the end the following new subsection:

"(c) No Allocation of Basis Decrease to Stock of Corporate Partner.—In making an allocation under subsection (a) of any decrease in the adjusted basis of partnership property under section 734(b)—

"(1) no allocation may be made to stock in a corporation (or any person which is related (within the meaning of section 267(b) or 707(b)(1)) to such corporation) which is a partner in the partnership, and

"(2) any amount not allocable to stock by reason of paragraph (1) shall be allocated under subsection (a) to other partnership property in such manner as the Secretary may prescribe.

Gain shall be recognized to the partnership to the extent that the amount required to be allocated under paragraph (2) to other partnership property exceeds the aggregate adjusted basis of such other property immediately before the allocation required by paragraph (2).".

(b) Effective Date.—The amendment made by this section shall apply to distributions after February 13, 2003.

SEC. 5643. REPEAL OF SPECIAL RULES FOR FASITS.

(a) In General.—Part V of subchapter M of chapter 1 (relating to financial asset securitization investment trusts) is hereby repealed.

(b) Conforming Amendments.—

(1) Paragraph (6) of section 56(g) is amended by striking "REMIC, or FASIT" and inserting "or REMIC".

(2) Clause (ii) of section 382(l)(4)(B) is amended by striking "a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies," and inserting "or a REMIC to which part IV of subchapter M applies,".

(3) Paragraph (1) of section 582(c) is amended by striking ", and any regular interest in a FASIT,".

(4) Subparagraph (E) of section 856(c)(5) is amended by striking the last sentence.

(5)(A) Section 860G(a)(1) is amended by adding at the end the following new sentence: "An interest shall not fail to qualify as a regular interest solely because the specified principal amount of the regular interest (or the amount of interest accrued on the regular interest) can be reduced as a result of the nonoccurrence of 1 or more contingent payments with respect to any reverse mortgage loan held by the REMIC if, on the startup day for the REMIC, the sponsor reasonably believes that all principal and interest due under the regular interest will be paid at or prior to the liquidation of the REMIC.".

(B) The last sentence of section 860G(a)(3) is amended by inserting ", and any reverse mortgage loan (and each balance increase on such loan meeting the requirements of subparagraph (A)(iii)) shall be treated as an obligation secured by an interest in real property" before the period at the end.

(6) Paragraph (3) of section 860G(a) is amended by adding "and" at the end of subparagraph (B), by striking ", and" at the end of subparagraph (C) and inserting a period, and by striking subparagraph (D).

(7) Section 860G(a)(3), as amended by paragraph (6), is amended by adding at the end the following new sentence: "For purposes of subparagraph (A), if more than 50 percent of the obligations transferred to, or purchased by, the REMIC are originated by the United States or any State (or any political subdivision, agency, or instrumentality of the United States or any State) and are principally secured by an interest in real property, then each obligation transferred to, or purchased by, the REMIC shall be treated as secured by an interest in real property.".

(8)(A) Section 860G(a)(3)(A) is amended by striking "or" at the end of clause (i), by inserting "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) represents an increase in the principal amount under the original terms of an obligation described in clause (i) or (ii) if such increase—

"(I) is attributable to an advance made to the obligor pursuant to the original terms of the obligation,

"(II) occurs after the startup day, and

"(III) is purchased by the REMIC pursuant to a fixed price contract in effect on the startup day.".

(B) Section 860G(a)(7)(B) is amended to read as follows:

"(B) Qualified reserve fund.—For purposes of subparagraph (A), the term 'qualified reserve fund' means any reasonably required reserve to—

"(i) provide for full payment of expenses of the REMIC or amounts due on regular interests in the event of defaults on qualified mortgages or lower than expected returns on cash flow investments, or

"(ii) provide a source of funds for the purchase of obligations described in clause (ii) or (iii) of paragraph (3)(A).

The aggregate fair market value of the assets held in any such reserve shall not exceed 50 percent of the aggregate fair market value of all of the assets of the REMIC on the startup day, and the amount of any such reserve shall be promptly and appropriately reduced to the extent the amount held in such reserve is no longer reasonably required for purposes specified in clause (i) or (ii) of paragraph (3)(A).".

(9) Subparagraph (C) of section 1202(e)(4) is amended by striking "REMIC, or FASIT" and inserting "or REMIC".

(10) Clause (xi) of section 7701(a)(19)(C) is amended—

(A) by striking "and any regular interest in a FASIT,", and

(B) by striking "or FASIT" each place it appears.

(11) The table of parts for subchapter M of chapter 1 is amended by striking the item relating to part V.

(c) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall take effect on February 14, 2003.

(2) Exception for existing FASITs.—Paragraph (1) shall not apply to any FASIT in existence on the date of the enactment of this Act to the extent that regular interests issued by the FASIT before such date continue to remain outstanding in accordance with the original terms of issuance.

SEC. 5644. EXPANDED DISALLOWANCE OF DEDUCTION FOR INTEREST ON CONVERTIBLE DEBT.

(a) In General.—Paragraph (2) of section 163(l) is amended by striking "or a related party" and inserting "or equity held by the issuer (or any related party) in any other person".

(b) Capitalization Allowed With Respect to Equity of Persons Other Than Issuer and Related Parties.—Section 163(l) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6) and by inserting after paragraph (3) the following new paragraph:

"(4) Capitalization allowed with respect to equity of persons other than issuer and related parties.—If the disqualified debt instrument of a corporation is payable in equity held by the issuer (or any related party) in any other person (other than a related party), the basis of such equity shall be increased by the amount not allowed as a deduction by reason of paragraph (1) with respect to the instrument.".

(c) Exception for Certain Instruments Issued By Dealers In Securities.—Section 163(l), as amended by subsection (b), is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7) and by inserting after paragraph (4) the following new paragraph:

"(5) Exception for certain instruments issued by dealers in securities.—For purposes of this subsection, the term 'disqualified debt instrument' does not include indebtedness issued by a dealer in securities (or a related party) which is payable in, or by reference to, equity (other than equity of the issuer or a related party) held by such dealer in its capacity as a dealer in securities. For purposes of this paragraph, the term 'dealer in securities' has the meaning given such term by section 475.".

(c) Conforming Amendments.—Paragraph (3) of section 163(l) is amended—

(1) by striking "or a related party" in the material preceding subparagraph (A) and inserting "or any other person", and

(2) by striking "or interest" each place it appears.

(d) Effective Date.—The amendments made by this section shall apply to debt instruments issued after February 13, 2003.

SEC. 5645. EXPANDED AUTHORITY TO DISALLOW TAX BENEFITS UNDER SECTION 269.

(a) In General.—Subsection (a) of section 269 (relating to acquisitions made to evade or avoid income tax) is amended to read as follows:

"(a) In General.—If—

"(1)(A) any person or persons acquire, directly or indirectly, control of a corporation, or

"(B) any corporation acquires, directly or indirectly, property of another corporation and the basis of such property, in the hands of the acquiring corporation, is determined by reference to the basis in the hands of the transferor corporation, and

"(2) the principal purpose for which such acquisition was made is evasion or avoidance of Federal income tax,

then the Secretary may disallow such deduction, credit, or other allowance. For purposes of paragraph (1)(A), control means the ownership of stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of all shares of all classes of stock of the corporation.".

(b) Effective Date.—The amendment made by this section shall apply to stock and property acquired after February 13, 2003.

SEC. 5646. MODIFICATION OF INTERACTION BETWEEN SUBPART F AND PASSIVE FOREIGN INVESTMENT COMPANY RULES.

(a) Limitation on Exception From PFIC Rules for United States Shareholders of Controlled Foreign Corporations.—Paragraph (2) of section 1297(e) (relating to passive foreign investment company) is amended by adding at the end the following flush sentence:

"Such term shall not include any period if the earning of subpart F income by such corporation during such period would result in only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i).".

(b) Effective Date.—The amendment made by this section shall apply to taxable years of controlled foreign corporations beginning after February 13, 2003, and to taxable years of United States shareholders with or within which such taxable years of controlled foreign corporations end.

PART V—PROVISIONS TO DISCOURAGE EXPATRIATION

SEC. 5651. TAX TREATMENT OF INVERTED CORPORATE ENTITIES.

(a) In General.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle) is amended by adding at the end the following new section:

"SEC. 7874. RULES RELATING TO INVERTED CORPORATE ENTITIES.

"(a) Inverted Corporations Treated as Domestic Corporations.—

"(1) In general.—If a foreign incorporated entity is treated as an inverted domestic corporation, then, notwithstanding section 7701(a)(4), such entity shall be treated for purposes of this title as a domestic corporation.

"(2) Inverted domestic corporation.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

"(A) the entity completes after March 20, 2002, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership, "(B) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

"(i) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

"(ii) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

"(C) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (A) if none of the corporation's stock was readily tradeable on an established securities market at any time during the 4-year period ending on the date of the acquisition.

"(b) PRESERVATION OF DOMESTIC TAX BASE IN CERTAIN INVERSION TRANSACTIONS TO WHICH SUBSECTION (a) DOES NOT APPLY.—

"(1) IN GENERAL.—If a foreign incorporated entity would be treated as an inverted domestic corporation with respect to an acquired entity if either—

"(A) subsection (a)(2)(A) were applied by substituting 'after December 31, 1996, and on or before March 20, 2002' for 'after March 20, 2002' and subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent', or

"(B) subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent',

then the rules of subsection (c) shall apply to any inversion gain of the acquired entity during the applicable period and the rules of subsection (d) shall apply to any related party transaction of the acquired entity during the applicable period. This subsection shall not apply for any taxable year if subsection (a) applies to such foreign incorporated entity for such taxable year.

"(2) ACQUIRED ENTITY.—For purposes of this section—

"(A) IN GENERAL.—The term 'acquired entity' means the domestic corporation or partnership substantially all of the properties of which are directly or indirectly acquired in an acquisition described in subsection (a)(2)(A) to which this subsection applies.

"(B) AGGREGATION RULES.—Any domestic person bearing a relationship described in section 267(b) or 707(b) to an acquired entity shall be treated as an acquired entity with respect to the acquisition described in subparagraph (A).

"(3) APPLICABLE PERIOD.—For purposes of this section—

"(A) IN GENERAL.—The term 'applicable period' means the period—

"(i) beginning on the first date properties are acquired as part of the acquisition described in subsection (a)(2)(A) to which this subsection applies, and

"(ii) ending on the date which is 10 years after the last date properties are acquired as part of such acquisition.

"(B) SPECIAL RULE FOR INVERSIONS OCCURRING BEFORE MARCH 21, 2002.—In the case of any acquired entity to which paragraph (1)(A) applies, the applicable period shall be the 10-year period beginning on January 1, 2003.

"(c) TAX ON INVERSION GAINS MAY NOT BE OFFSET.—If subsection (b) applies—

"(1) IN GENERAL.—The taxable income of an acquired entity (or any expanded affiliated group which includes such entity) for any taxable year which includes any portion of the applicable period shall in no event be less than the inversion gain of the entity for the taxable year.

"(2) CREDITS NOT ALLOWED AGAINST TAX ON INVERSION GAIN.—Credits shall be allowed against the tax imposed by this chapter on an acquired entity for any taxable year described in paragraph (1) only to the extent such tax exceeds the product of—

"(A) the amount of the inversion gain for the taxable year, and

"(B) the highest rate of tax specified in section 11(b)(1).

For purposes of determining the credit allowed by section 901 inversion gain shall be treated as from sources within the United States.

"(3) SPECIAL RULES FOR PARTNERSHIPS.—In the case of an acquired entity which is a partnership—

"(A) the limitations of this subsection shall apply at the partner rather than the partnership level,

"(B) the inversion gain of any partner for any taxable year shall be equal to the sum of—

"(i) the partner's distributive share of inversion gain of the partnership for such taxable year, plus

"(ii) income or gain required to be recognized for the taxable year by the partner under section 367(a), 741, or 1001, or under any other provision of chapter 1, by reason of the transfer during the applicable period of any partnership interest of the partner in such partnership to the foreign incorporated entity, and

"(C) the highest rate of tax specified in the rate schedule applicable to the partner under chapter 1 shall be substituted for the rate of tax under paragraph (2)(B).

"(4) INVERSION GAIN.—For purposes of this section, the term 'inversion gain' means any income or gain required to be recognized under section 304, 311(b), 367, 1001, or 1248, or under any other provision of chapter 1, by reason of the transfer during the applicable period of stock or other properties by an acquired entity—

"(A) as part of the acquisition described in subsection (a)(2)(A) to which subsection (b) applies, or

"(B) after such acquisition to a foreign related person.

The Secretary may provide that income or gain from the sale of inventories or other transactions in the ordinary course of a trade or business shall not be treated as inversion gain under subparagraph (B) to the extent the Secretary determines such treatment would not be inconsistent with the purposes of this section.

"(5) COORDINATION WITH SECTION 172 AND MINIMUM TAX.—Rules similar to the rules of paragraphs (3) and (4) of section 860E(a) shall apply for purposes of this section.

"(6) STATUTE OF LIMITATIONS.—

"(A) IN GENERAL.—The statutory period for the assessment of any deficiency attributable to the inversion gain of any taxpayer for any pre-inversion year shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of the acquisition described in subsection (a)(2)(A) to which such gain relates and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

"(B) PRE-INVERSION YEAR.—For purposes of subparagraph (A), the term 'pre-inversion year' means any taxable year if—

"(i) any portion of the applicable period is included in such taxable year, and

"(ii) such year ends before the taxable year in which the acquisition described in subsection (a)(2)(A) is completed.

"(d) SPECIAL RULES APPLICABLE TO ACQUIRED ENTITIES TO WHICH SUBSECTION (B) APPLIES.—

"(1) INCREASES IN ACCURACY-RELATED PENALTIES.—In the case of any underpayment of tax of an acquired entity to which subsection (b) applies—

"(A) section 6662(a) shall be applied with respect to such underpayment by substituting '30 percent' for '20 percent', and

"(B) if such underpayment is attributable to one or more gross valuation understatements, the increase in the rate of penalty under section 6662(h) shall be to 50 percent rather than 40 percent.

"(2) MODIFICATIONS OF LIMITATION ON INTEREST DEDUCTION.—In the case of an acquired entity to which subsection (b) applies, section 163(j) shall be applied—

"(A) without regard to paragraph (2)(A)(ii) thereof, and

"(B) by substituting '25 percent' for '50 percent' each place it appears in paragraph (2)(B) thereof.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) RULES FOR APPLICATION OF SUBSECTION (a)(2).—In applying subsection (a)(2) for purposes of subsections (a) and (b), the following rules shall apply:

"(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (a)(2)(B)—

"(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

"(ii) stock of such entity which is sold in a public offering or private placement related to the acquisition described in subsection (a)(2)(A).

"(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (a)(2)(B) are met with respect to such domestic corporation or partnership, such actions shall be treated as pursuant to a plan.

"(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

"(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (a)(2) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482) shall be treated as 1 partnership.

"(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary—

"(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

"(ii) to treat stock as not stock.

"(2) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a) but without regard to section 1504(b)(3), except that section 1504(a) shall be applied by substituting ‘more than 50 percent’ for ‘at least 80 percent’ each place it appears.

“(3) FOREIGN INCORPORATED ENTITY.—The term ‘foreign incorporated entity’ means any entity which is, or but for subsection (a)(1) would be, treated as a foreign corporation for purposes of this title.

“(4) FOREIGN RELATED PERSON.—The term ‘foreign related person’ means, with respect to any acquired entity, a foreign person which—

“(A) bears a relationship to such entity described in section 267(b) or 707(b), or

“(B) is under the same common control (within the meaning of section 482) as such entity.

“(5) SUBSEQUENT ACQUISITIONS BY UNRELATED DOMESTIC CORPORATIONS.—

“(A) IN GENERAL.—Subject to such conditions, limitations, and exceptions as the Secretary may prescribe, if, after an acquisition described in subsection (a)(2)(A) to which subsection (b) applies, a domestic corporation stock of which is traded on an established securities market acquires directly or indirectly any properties of one or more acquired entities in a transaction with respect to which the requirements of subparagraph (B) are met, this section shall cease to apply to any such acquired entity with respect to which such requirements are met.

“(B) REQUIREMENTS.—The requirements of the subparagraph are met with respect to a transaction involving any acquisition described in subparagraph (A) if—

“(i) before such transaction the domestic corporation did not have a relationship described in section 267(b) or 707(b), and was not under common control (within the meaning of section 482), with the acquired entity, or any member of an expanded affiliated group including such entity, and

“(ii) after such transaction, such acquired entity—

“(I) is a member of the same expanded affiliated group which includes the domestic corporation or has such a relationship or is under such common control with any member of such group, and

“(II) is not a member of, and does not have such a relationship and is not under such common control with any member of, the expanded affiliated group which before such acquisition included such entity.

“(f) REGULATIONS.—The Secretary shall provide such regulations as are necessary to carry out this section, including regulations providing for such adjustments to the application of this section as are necessary to prevent the avoidance of the purposes of this section, including the avoidance of such purposes through—

“(1) the use of related persons, pass-thru or other noncorporate entities, or other intermediaries, or

“(2) transactions designed to have persons cease to be (or not become) members of expanded affiliated groups or related persons.”.

(b) INFORMATION REPORTING.—The Secretary of the Treasury shall exercise the Secretary’s authority under the Internal Revenue Code of 1986 to require entities involved in transactions to which section 7874 of such Code (as added by subsection (a)) applies to report to the Secretary, shareholders, partners, and such other persons as the Secretary may prescribe such information as is necessary to ensure the proper tax treatment of such transactions.

(c) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 80 is amended by adding at the end the following new item:

“Sec. 7874. Rules relating to inverted corporate entities.”.

(d) TRANSITION RULE FOR CERTAIN REGULATED INVESTMENT COMPANIES AND UNIT INVESTMENT TRUSTS.—Notwithstanding section 7874 of the Internal Revenue Code of 1986 (as added by subsection (a)), a regulated investment company, or other pooled fund or trust specified by the Secretary of the Treasury, may elect to recognize gain by reason of section 367(a) of such Code with respect to a transaction under which a foreign incorporated entity is treated as an inverted domestic corporation under section 7874(a) of such Code by reason of an acquisition completed after March 20, 2002, and before January 1, 2004.

SEC. 5652. IMPOSITION OF MARK-TO-MARKET TAX ON INDIVIDUALS WHO EXPATRIATE.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

“SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

“(a) GENERAL RULES.—For purposes of this subtitle—

“(1) MARK TO MARKET.—Except as provided in subsections (d) and (f), all property of a covered expatriate to whom this section applies shall be treated as sold on the day before the expatriation date for its fair market value.

“(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

“(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

“(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

“(3) EXCLUSION FOR CERTAIN GAIN.—

“(A) IN GENERAL.—The amount which, but for this paragraph, would be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

“(B) COST-OF-LIVING ADJUSTMENT.—

“(i) IN GENERAL.—In the case of an expatriation date occurring in any calendar year after 2004, the $600,000 amount under subparagraph (A) shall be increased by an amount equal to—

“(I) such dollar amount, multiplied by

“(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting ‘calendar year 2003’ for ‘calendar year 1992’ in subparagraph (B) thereof.

“(ii) ROUNDING RULES.—If any amount after adjustment under clause (i) is not a multiple of $1,000, such amount shall be rounded to the next lower multiple of $1,000.

“(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

“(A) IN GENERAL.—If a covered expatriate elects the application of this paragraph—

“(i) this section (other than this paragraph and subsection (i)) shall not apply to the expatriate, but

“(ii) in the case of property to which this section would apply but for such election, the expatriate shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

“(B) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

“(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

“(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

“(iii) complies with such other requirements as the Secretary may prescribe.

“(C) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

“(b) ELECTION TO DEFER TAX.—

“(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the payment of the additional tax attributable to such property shall be postponed until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

“(2) DETERMINATION OF TAX WITH RESPECT TO PROPERTY.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

“(3) TERMINATION OF POSTPONEMENT.—No tax may be postponed under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), unless the taxpayer corrects such failure within the time specified by the Secretary).

“(4) SECURITY.—

“(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided to the Secretary with respect to such property.

“(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

“(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2) for the property, or

“(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

“(5) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

“(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be made under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

"(7) Interest.—For purposes of section 6601—

"(A) the last date for the payment of tax shall be determined without regard to the election under this subsection, and

"(B) section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

"(c) Covered Expatriate.—For purposes of this section—

"(1) In general.—Except as provided in paragraph (2), the term 'covered expatriate' means an expatriate.

"(2) Exceptions.—An individual shall not be treated as a covered expatriate if—

"(A) the individual—

"(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

"(ii) has not been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) during the 5 taxable years ending with the taxable year during which the expatriation date occurs, or

"(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

"(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

"(d) Exempt Property; Special Rules for Pension Plans.—

"(1) Exempt property.—This section shall not apply to the following:

"(A) United states real property interests.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the day before the expatriation date, meet the requirements of section 897(c)(2).

"(B) Specified property.—Any property or interest in property not described in subparagraph (A) which the Secretary specifies in regulations.

"(2) Special rules for certain retirement plans.—

"(A) In general.—If a covered expatriate holds on the day before the expatriation date any interest in a retirement plan to which this paragraph applies—

"(i) such interest shall not be treated as sold for purposes of subsection (a)(1), but

"(ii) an amount equal to the present value of the expatriate's nonforfeitable accrued benefit shall be treated as having been received by such individual on such date as a distribution under the plan.

"(B) Treatment of subsequent distributions.—In the case of any distribution on or after the expatriation date to or on behalf of the covered expatriate from a plan from which the expatriate was treated as receiving a distribution under subparagraph (A), the amount otherwise includible in gross income by reason of the subsequent distribution shall be reduced by the excess of the amount includible in gross income under subparagraph (A) over any portion of such amount to which this subparagraph previously applied.

"(C) Treatment of subsequent distributions by plan.—For purposes of this title, a retirement plan to which this paragraph applies, and any person acting on the plan's behalf, shall treat any subsequent distribution described in subparagraph (B) in the same manner as such distribution would be treated without regard to this paragraph.

"(D) Applicable plans.—This paragraph shall apply to—

"(i) any qualified retirement plan (as defined in section 4974(c)),

"(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

"(iii) to the extent provided in regulations, any foreign pension plan or similar retirement arrangements or programs.

"(e) Definitions.—For purposes of this section—

"(1) Expatriate.—The term 'expatriate' means—

"(A) any United States citizen who relinquishes citizenship, and

"(B) any long-term resident of the United States who—

"(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

"(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

"(2) Expatriation date.—The term 'expatriation date' means—

"(A) the date an individual relinquishes United States citizenship, or

"(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

"(3) Relinquishment of citizenship.—A citizen shall be treated as relinquishing United States citizenship on the earliest of—

"(A) the date the individual renounces such individual's United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

"(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

"(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

"(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

"(4) Long-term resident.—The term 'long-term resident' has the meaning given to such term by section 877(e)(2).

"(f) Special Rules Applicable to Beneficiaries' Interests in Trust.—

"(1) In general.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust on the day before the expatriation date—

"(A) the individual shall not be treated as having sold such interest,

"(B) such interest shall be treated as a separate share in the trust, and

"(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

"(ii) the separate trust shall be treated as having sold its assets on the day before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

"(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii). In determining the amount of such distribution, proper adjustments shall be made for liabilities of the trust allocable to an individual's share in the trust.

"(2) Special rules for interests in qualified trusts.—

"(A) In general.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

"(i) paragraph (1) and subsection (a) shall not apply, and

"(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

"(B) Amount of tax.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

"(i) the highest rate of tax imposed by section 1(e) for the taxable year which includes the day before the expatriation date, multiplied by the amount of the distribution, or

"(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

"(C) Deferred tax account.—For purposes of subparagraph (B)(ii)—

"(i) Opening balance.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

"(ii) Increase for interest.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods, except that section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

"(iii) Decrease for taxes previously paid.—The balance in the tax deferred account shall be reduced—

"(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

"(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

"(D) Allocable expatriation gain.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

"(E) Tax deducted and withheld.—

"(i) In general.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

"(ii) Exception where failure to waive treaty rights.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

"(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

"(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

"(F) Disposition.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

"(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

"(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

"(G) Definitions and special rules.—For purposes of this paragraph—

"(i) Qualified trust.—The term 'qualified trust' means a trust which is described in section 7701(a)(30)(E).

"(ii) Vested interest.—The term 'vested interest' means any interest which, as of the day before the expatriation date, is vested in the beneficiary.

"(iii) Nonvested interest.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

"(iv) Adjustments.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

"(v) Coordination with retirement plan rules.—This subsection shall not apply to an interest in a trust which is part of a retirement plan to which subsection (d)(2) applies.

"(3) Determination of beneficiaries' interest in trust.—

"(A) Determinations under paragraph (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar adviser.

"(B) Other determinations.—For purposes of this section—

"(i) Constructive ownership.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

"(ii) Taxpayer return position.—A taxpayer shall clearly indicate on its income tax return—

"(I) the methodology used to determine that taxpayer's trust interest under this section, and

"(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

"(g) Termination of Deferrals, etc.—In the case of any covered expatriate, notwithstanding any other provision of this title—

"(1) any period during which recognition of income or gain is deferred shall terminate on the day before the expatriation date, and

"(2) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

"(h) Imposition of Tentative Tax.—

"(1) In general.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

"(2) Due date.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

"(3) Treatment of tax.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

"(4) Deferral of tax.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

"(i) Special Liens for Deferred Tax Amounts.—

"(1) Imposition of lien.—

"(A) In general.—If a covered expatriate makes an election under subsection (a)(4) or (b) which results in the deferral of any tax imposed by reason of subsection (a), the deferred amount (including any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on all property of the expatriate located in the United States (without regard to whether this section applies to the property).

"(B) Deferred amount.—For purposes of this subsection, the deferred amount is the amount of the increase in the covered expatriate's income tax which, but for the election under subsection (a)(4) or (b), would have occurred by reason of this section for the taxable year including the expatriation date.

"(2) Period of lien.—The lien imposed by this subsection shall arise on the expatriation date and continue until—

"(A) the liability for tax by reason of this section is satisfied or has become unenforceable by reason of lapse of time, or

"(B) it is established to the satisfaction of the Secretary that no further tax liability may arise by reason of this section.

"(3) Certain rules apply.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this subsection as if it were a lien imposed by section 6324A.

"(j) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) Inclusion in Income of Gifts and Bequests Received by United States Citizens and Residents From Expatriates.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

"(d) Gifts and Inheritances From Covered Expatriates.—

"(1) In general.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.

"(2) Exceptions for transfers otherwise subject to estate or gift tax.—Paragraph (1) shall not apply to any property if either—

"(A) the gift, bequest, devise, or inheritance is—

"(i) shown on a timely filed return of tax imposed by chapter 12 as a taxable gift by the covered expatriate, or

"(ii) included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate, or

"(B) no such return was timely filed but no such return would have been required to be filed even if the covered expatriate were a citizen or long-term resident of the United States.".

(c) Definition of Termination of United States Citizenship.—Section 7701(a) is amended by adding at the end the following new paragraph:

"(48) Termination of united states citizenship.—

"(A) In general.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

"(B) Dual citizens.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.".

(d) Ineligibility for Visa or Admission to United States.—

(1) In general.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

"(E) Former citizens not in compliance with expatriation revenue provisions.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation).".

(2) Availability of information.—

(A) In general.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

"(19) Disclosure to deny visa or admission to certain expatriates.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).".

(B) Safeguards.—

(i) Technical amendments.—Paragraph (4) of section 6103(p) of the Internal Revenue

Code of 1986, as amended by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961), is amended by striking “or (17)” after “any other person described in subsection (l)(16)” each place it appears and inserting “or (18)”.

(ii) Conforming amendments.—Section 6103(p)(4) (relating to safeguards), as amended by clause (i), is amended by striking “or (18)” after “any other person described in subsection (l)(16)” each place it appears and inserting “(18), or (19)”.

(3) Effective dates.—

(A) In general.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(B) Technical amendments.—The amendments made by paragraph (2)(B)(i) shall take effect as if included in the amendments made by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961).

(e) Conforming Amendments.—

(1) Section 877 is amended by adding at the end the following new subsection:

“(g) Application.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after February 2, 2004.”.

(2) Section 2107 is amended by adding at the end the following new subsection:

“(f) Application.—This section shall not apply to any expatriate subject to section 877A.”.

(3) Section 2501(a)(3) is amended by adding at the end the following new subparagraph:

“(F) Application.—This paragraph shall not apply to any expatriate subject to section 877A.”.

(4)(A) Paragraph (1) of section 6039G(d) is amended by inserting “or 877A” after “section 877”.

(B) The second sentence of section 6039G(e) is amended by inserting “or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))” after “877(a))”.

(C) Section 6039G(f) is amended by inserting “or 877A(e)(2)(B)” after “877(e)(1)”.

(f) Clerical Amendment.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

“Sec. 877A. Tax responsibilities of expatriation.”.

(g) Effective Date.—

(1) In general.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after February 2, 2004.

(2) Gifts and bequests.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to gifts and bequests received on or after February 2, 2004, from an individual or the estate of an individual whose expatriation date (as so defined) occurs after such date.

(3) Due date for tentative tax.—The due date under section 877A(h)(2) of the Internal Revenue Code of 1986, as added by this section, shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 5653. EXCISE TAX ON STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

(a) In General.—Subtitle D is amended by adding at the end the following new chapter:

“CHAPTER 48—STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS

“Sec. 5000A. Stock compensation of insiders in inverted corporations entities.

“SEC. 5000A. STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

“(a) Imposition of Tax.—In the case of an individual who is a disqualified individual with respect to any inverted corporation, there is hereby imposed on such person a tax equal to 20 percent of the value (determined under subsection (b)) of the specified stock compensation held (directly or indirectly) by or for the benefit of such individual or a member of such individual's family (as defined in section 267) at any time during the 12-month period beginning on the date which is 6 months before the inversion date.

“(b) Value.—For purposes of subsection (a)—

“(1) In general.—The value of specified stock compensation shall be—

“(A) in the case of a stock option (or other similar right) or any stock appreciation right, the fair value of such option or right, and

“(B) in any other case, the fair market value of such compensation.

“(2) Date for determining value.—The determination of value shall be made—

“(A) in the case of specified stock compensation held on the inversion date, on such date,

“(B) in the case of such compensation which is canceled during the 6 months before the inversion date, on the day before such cancellation, and

“(C) in the case of such compensation which is granted after the inversion date, on the date such compensation is granted.

“(c) Tax To Apply Only If Shareholder Gain Recognized.—Subsection (a) shall apply to any disqualified individual with respect to an inverted corporation only if gain (if any) on any stock in such corporation is recognized in whole or part by any shareholder by reason of the acquisition referred to in section 7874(a)(2)(A) (determined by substituting ‘July 10, 2002’ for ‘March 20, 2002’) with respect to such corporation.

“(d) Exception Where Gain Recognized on Compensation.—Subsection (a) shall not apply to—

“(1) any stock option which is exercised on the inversion date or during the 6-month period before such date and to the stock acquired in such exercise, if income is recognized under section 83 on or before the inversion date with respect to the stock acquired pursuant to such exercise, and

“(2) any specified stock compensation which is exercised, sold, exchanged, distributed, cashed out, or otherwise paid during such period in a transaction in which gain or loss is recognized in full.

“(e) Definitions.—For purposes of this section—

“(1) Disqualified individual.—The term ‘disqualified individual’ means, with respect to a corporation, any individual who, at any time during the 12-month period beginning on the date which is 6 months before the inversion date—

“(A) is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 with respect to such corporation, or

“(B) would be subject to such requirements if such corporation were an issuer of equity securities referred to in such section.

“(2) Inverted corporation; inversion date.—

“(A) Inverted corporation.—The term ‘inverted corporation’ means any corporation to which subsection (a) or (b) of section 7874 applies determined—

“(i) by substituting ‘July 10, 2002’ for ‘March 20, 2002’ in section 7874(a)(2)(A), and

“(ii) without regard to subsection (b)(1)(A).

Such term includes any predecessor or successor of such a corporation.

“(B) Inversion date.—The term ‘inversion date’ means, with respect to a corporation, the date on which the corporation first becomes an inverted corporation.

“(3) Specified stock compensation.—

“(A) In general.—The term ‘specified stock compensation’ means payment (or right to payment) granted by the inverted corporation (or by any member of the expanded affiliated group which includes such corporation) to any person in connection with the performance of services by a disqualified individual for such corporation or member if the value of such payment or right is based on (or determined by reference to) the value (or change in value) of stock in such corporation (or any such member).

“(B) Exceptions.—Such term shall not include—

“(i) any option to which part II of subchapter D of chapter 1 applies, or

“(ii) any payment or right to payment from a plan referred to in section 280G(b)(6).

“(4) Expanded affiliated group.—The term ‘expanded affiliated group’ means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)(3)); except that section 1504(a) shall be applied by substituting ‘more than 50 percent’ for ‘at least 80 percent’ each place it appears.

“(f) Special Rules.—For purposes of this section—

“(1) Cancellation of restriction.—The cancellation of a restriction which by its terms will never lapse shall be treated as a grant.

“(2) Payment or reimbursement of tax by corporation treated as specified stock compensation.—Any payment of the tax imposed by this section directly or indirectly by the inverted corporation or by any member of the expanded affiliated group which includes such corporation—

“(A) shall be treated as specified stock compensation, and

“(B) shall not be allowed as a deduction under any provision of chapter 1.

“(3) Certain restrictions ignored.—Whether there is specified stock compensation, and the value thereof, shall be determined without regard to any restriction other than a restriction which by its terms will never lapse.

“(4) Property transfers.—Any transfer of property shall be treated as a payment and any right to a transfer of property shall be treated as a right to a payment.

“(5) Other administrative provisions.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

“(g) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.”.

(b) Denial of Deduction.—

(1) In general.—Paragraph (6) of section 275(a) is amended by inserting “48,” after “46,”.

(2) $1,000,000 limit on deductible compensation reduced by payment of excise tax on specified stock compensation.—Paragraph (4) of section 162(m) is amended by adding at the end the following new subparagraph:

“(G) Coordination with excise tax on specified stock compensation.—The dollar limitation contained in paragraph (1) with respect to any covered employee shall be reduced (but not below zero) by the amount of any payment (with respect to such employee) of the tax imposed by section 5000A directly or indirectly by the inverted corporation (as defined in such section) or by any member of the expanded affiliated group (as defined in such section) which includes such corporation.".

(c) Conforming Amendments.—

(1) The last sentence of section 3121(v)(2)(A) is amended by inserting before the period "or to any specified stock compensation (as defined in section 5000A) on which tax is imposed by section 5000A".

(2) The table of chapters for subtitle D is amended by adding at the end the following new item:

"Chapter 48. Stock compensation of insiders in inverted corporations.".

(d) Effective Date.—The amendments made by this section shall take effect on July 11, 2002; except that periods before such date shall not be taken into account in applying the periods in subsections (a) and (e)(1) of section 5000A of the Internal Revenue Code of 1986, as added by this section.

SEC. 5654. REINSURANCE OF UNITED STATES RISKS IN FOREIGN JURISDICTIONS.

(a) In General.—Section 845(a) (relating to allocation in case of reinsurance agreement involving tax avoidance or evasion) is amended by striking "source and character" and inserting "amount, source, or character".

(b) Effective Date.—The amendments made by this section shall apply to any risk reinsured after April 11, 2002.

Subtitle H—Additional Revenue Provisions

PART I—ADMINISTRATIVE PROVISIONS

SEC. 5671. EXTENSION OF IRS USER FEES.

(a) In General.—Section 7528(c) (relating to termination) is amended by striking "December 31, 2004" and inserting "September 30, 2013".

(b) Effective Date.—The amendment made by this section shall apply to requests after the date of the enactment of this Act.

SEC. 5672. CLARIFICATION OF RULES FOR PAYMENT OF ESTIMATED TAX FOR CERTAIN DEEMED ASSET SALES.

(a) In General.—Paragraph (13) of section 338(h) (relating to tax on deemed sale not taken into account for estimated tax purposes) is amended by adding at the end the following: "The preceding sentence shall not apply with respect to a qualified stock purchase for which an election is made under paragraph (10).".

(b) Effective Date.—The amendment made by subsection (a) shall apply to transactions occurring after the date of the enactment of this Act.

SEC. 5673. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.

(a) In General.—

(1) Section 6159(a) (relating to authorization of agreements) is amended—

(A) by striking "satisfy liability for payment of" and inserting "make payment on", and

(B) by inserting "full or partial" after "facilitate".

(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting "full" before "payment".

(b) Requirement To Review Partial Payment Agreements Every Two Years.—Section 6159, as amended by this Act, is amended by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively, and inserting after subsection (c) the following new subsection:

"(d) Secretary Required To Review Installment Agreements for Partial Collection Every Two Years.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.".

(c) Effective Date.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

PART II—FINANCIAL INSTRUMENTS

SEC. 5675. TREATMENT OF STRIPPED INTERESTS IN BOND AND PREFERRED STOCK FUNDS, ETC.

(a) In General.—Section 1286 (relating to tax treatment of stripped bonds) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) Treatment of Stripped Interests in Bond and Preferred Stock Funds, etc.—In the case of an account or entity substantially all of the assets of which consist of bonds, preferred stock, or a combination thereof, the Secretary may by regulations provide that rules similar to the rules of this section and 305(e), as appropriate, shall apply to interests in such account or entity to which (but for this subsection) this section or section 305(e), as the case may be, would not apply.".

(b) Cross Reference.—Subsection (e) of section 305 is amended by adding at the end the following new paragraph:

"(7) Cross Reference.—

"For treatment of stripped interests in certain accounts or entities holding preferred stock, see section 1286(f).".

(c) Effective Date.—The amendments made by this section shall apply to purchases and dispositions after the date of the enactment of this Act.

SEC. 5676. APPLICATION OF EARNINGS STRIPPING RULES TO PARTNERSHIPS AND S CORPORATIONS.

(a) In General.—Section 168(j) (relating to limitation on deduction for interest on certain indebtedness) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) Application to partnerships and S corporations.—

"(A) In general.—This subsection shall apply to partnerships and S corporations in the same manner as it applies to C corporations.

"(B) Allocations to certain corporate partners.—If a C corporation is a partner in a partnership—

"(i) the corporation's allocable share of indebtedness and interest income of the partnership shall be taken into account in applying this subsection to the corporation, and

"(ii) if a deduction is not disallowed under this subsection with respect to any interest expense of the partnership, this subsection shall be applied separately in determining whether a deduction is allowable to the corporation with respect to the corporation's allocable share of such interest expense.".

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5677. RECOGNITION OF CANCELLATION OF INDEBTEDNESS INCOME REALIZED ON SATISFACTION OF DEBT WITH PARTNERSHIP INTEREST.

(a) In General.—Paragraph (8) of section 108(e) (relating to general rules for discharge of indebtedness (including discharges not in title 11 cases or insolvency)) is amended to read as follows:

"(8) Indebtedness satisfied by corporate stock or partnership interest.—For purposes of determining income of a debtor from discharge of indebtedness, if—

"(A) a debtor corporation transfers stock, or

"(B) a debtor partnership transfers a capital or profits interest in such partnership,

to a creditor in satisfaction of its recourse or nonrecourse indebtedness, such corporation or partnership shall be treated as having satisfied the indebtedness with an amount of money equal to the fair market value of the stock or interest. In the case of any partnership, any discharge of indebtedness income recognized under this paragraph shall be included in the distributive shares of taxpayers which were the partners in the partnership immediately before such discharge.".

(b) Effective Date.—The amendment made by this section shall apply with respect to cancellations of indebtedness occurring on or after the date of the enactment of this Act.

SEC. 5678. MODIFICATION OF STRADDLE RULES.

(a) Rules Relating to Identified Straddles.—

(1) In general.—Subparagraph (A) of section 1092(a)(2) (relating to special rule for identified straddles) is amended to read as follows:

"(A) In general.—In the case of any straddle which is an identified straddle—

"(i) paragraph (1) shall not apply with respect to identified positions comprising the identified straddle,

"(ii) if there is any loss with respect to any identified position of the identified straddle, the basis of each of the identified offsetting positions in the identified straddle shall be increased by an amount which bears the same ratio to the loss as the unrecognized gain with respect to such offsetting position bears to the aggregate unrecognized gain with respect to all such offsetting positions, and

"(iii) any loss described in clause (ii) shall not otherwise be taken into account for purposes of this title.".

(2) Identified straddle.—Section 1092(a)(2)(B) (defining identified straddle) is amended—

(A) by striking clause (ii) and inserting the following:

"(ii) to the extent provided by regulations, the value of each position of which (in the hands of the taxpayer immediately before the creation of the straddle) is not less than the basis of such position in the hands of the taxpayer at the time the straddle is created, and", and

(B) by adding at the end the following new flush sentence:

"The Secretary shall prescribe regulations which specify the proper methods for clearly identifying a straddle as an identified straddle (and the positions comprising such straddle), which specify the rules for the application of this section for a taxpayer which fails to properly identify the positions of an identified straddle, and which specify the ordering rules in cases where a taxpayer disposes of less than an entire position which is part of an identified straddle.".

(3) Unrecognized gain.—Section 1092(a)(3) (defining unrecognized gain) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) Special rule for identified straddles.—For purposes of paragraph (2)(A)(ii), the unrecognized gain with respect to any identified offsetting position shall be the excess of the fair market value of the position at the time of the determination over the fair market value of the position at the time the taxpayer identified the position as a position in an identified straddle."

(4) CONFORMING AMENDMENT.—Section 1092(c)(2) is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(b) PHYSICALLY SETTLED POSITIONS.—Section 1092(d) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(8) SPECIAL RULES FOR PHYSICALLY SETTLED POSITIONS.—For purposes of subsection (a), if a taxpayer settles a position which is part of a straddle by delivering property to which the position relates (and such position, if terminated, would result in a realization of a loss), then such taxpayer shall be treated as if such taxpayer—

"(A) terminated the position for its fair market value immediately before the settlement, and

"(B) sold the property so delivered by the taxpayer at its fair market value.".

(c) REPEAL OF STOCK EXCEPTION.—

(1) IN GENERAL.—Section 1092(d)(3) is repealed.

(2) CONFORMING AMENDMENT.—Section 1258(d)(1) is amended by striking "; except that the term 'personal property' shall include stock".

(d) REPEAL OF QUALIFIED COVERED CALL EXCEPTION.—Section 1092(c)(4) is amended by adding at the end the following new subparagraph:

"(I) TERMINATION.—This paragraph shall not apply to any position established on or after the date of the enactment of this subparagraph.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to positions established on or after the date of the enactment of this Act.

SEC. 5679. DENIAL OF INSTALLMENT SALE TREATMENT FOR ALL READILY TRADEABLE DEBT.

(a) IN GENERAL.—Section 453(f)(4)(B) (relating to purchaser evidences of indebtedness payable on demand or readily tradeable) is amended by striking "is issued by a corporation or a government or political subdivision thereof and".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales occurring on or after the date of the enactment of this Act.

PART III—CORPORATIONS AND PARTNERSHIPS

SEC. 5680. MODIFICATION OF TREATMENT OF TRANSFERS TO CREDITORS IN DIVISIVE REORGANIZATIONS.

(a) IN GENERAL.—Section 361(b)(3) (relating to treatment of transfers to creditors) is amended by adding at the end the following new sentence: "In the case of a reorganization described in section 368(a)(1)(D) with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355, this paragraph shall apply only to the extent that the sum of the money and the fair market value of other property transferred to such creditors does not exceed the adjusted bases of such assets transferred.".

(b) LIABILITIES IN EXCESS OF BASIS.—Section 357(c)(1)(B) is amended by inserting "with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355" after "section 368(a)(1)(D)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of money or other property, or liabilities assumed, in connection with a reorganization occurring on or after the date of the enactment of this Act.

SEC. 5681. CLARIFICATION OF DEFINITION OF NONQUALIFIED PREFERRED STOCK.

(a) IN GENERAL.—Section 351(g)(3)(A) is amended by adding at the end the following: "Stock shall not be treated as participating in corporate growth to any significant extent unless there is a real and meaningful likelihood of the shareholder actually participating in the earnings and growth of the corporation.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions after May 14, 2003.

SEC. 5682. MODIFICATION OF DEFINITION OF CONTROLLED GROUP OF CORPORATIONS.

(a) IN GENERAL.—Section 1563(a)(2) (relating to brother-sister controlled group) is amended by striking "possessing—" and all that follows through "(B)" and inserting "possessing".

(b) APPLICATION OF EXISTING RULES TO OTHER CODE PROVISIONS.—Section 1563(f) (relating to other definitions and rules) is amended by adding at the end the following new paragraph:

"(5) BROTHER-SISTER CONTROLLED GROUP DEFINITION FOR PROVISIONS OTHER THAN THIS PART.—

"(A) IN GENERAL.—Except as specifically provided in an applicable provision, subsection (a)(2) shall be applied to an applicable provision as if it read as follows:

'(2) BROTHER-SISTER CONTROLLED GROUP.—Two or more corporations if 5 or fewer persons who are individuals, estates, or trusts own (within the meaning of subsection (d)(2) stock possessing—

'(A) at least 80 percent of the total combined voting power of all classes of stock entitled to vote, or at least 80 percent of the total value of shares of all classes of stock, of each corporation, and

'(B) more than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.'

"(B) APPLICABLE PROVISION.—For purposes of this paragraph, an applicable provision is any provision of law (other than this part) which incorporates the definition of controlled group of corporations under subsection (a).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5683. MANDATORY BASIS ADJUSTMENTS IN CONNECTION WITH PARTNERSHIP DISTRIBUTIONS AND TRANSFERS OF PARTNERSHIP INTERESTS.

(a) IN GENERAL.—Section 754 is repealed.

(b) ADJUSTMENT TO BASIS OF UNDISTRIBUTED PARTNERSHIP PROPERTY.—Section 734 is amended—

(1) by striking ", with respect to which the election provided in section 754 is in effect," in the matter preceding paragraph (1) of subsection (b),

(2) by striking "(as adjusted by section 732(d))" both places it appears in subsection (b),

(3) by striking the last sentence of subsection (b),

(4) by striking subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively, and

(5) by striking "**OPTIONAL**" in the heading.

(c) ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY.—Section 743 is amended—

(1) by striking "with respect to which the election provided in section 754 is in effect" in the matter preceding paragraph (1) of subsection (b),

(2) by striking subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively,

(3) by adding at the end the following new subsection:

"(c) ELECTION TO ADJUST BASIS FOR TRANSFERS UPON DEATH OF PARTNER.—Subsection (a) shall not apply and no adjustments shall be made in the case of any transfer of an interest in a partnership upon the death of a partner unless an election to do so is made by the partnership. Such an election shall apply with respect to all such transfers of interests in the partnership. Any election under section 754 in effect on the date of the enactment of this subsection shall constitute an election made under this subsection. Such election may be revoked by the partnership, subject to such limitations as may be provided by regulations prescribed by the Secretary.", and

(4) by striking "**OPTIONAL**" in the heading.

(d) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 732 is repealed.

(2) Section 755(a) is amended—

(A) by striking "section 734(b) (relating to the optional adjustment" and inserting "section 734(a) (relating to the adjustment", and

(B) by striking "section 743(b) (relating to the optional adjustment" and inserting "section 743(a) (relating to the adjustment".

(3) Section 761(e)(2) is amended by striking "optional".

(4) Section 774(a) is amended by striking "743(b)" both places it appears and inserting "743(a)".

(5) The item relating to section 734 in the table of sections for subpart B of part II of subchapter K of chapter 1 is amended by striking "Optional".

(6) The item relating to section 743 in the table of sections for subpart C of part II of subchapter K of chapter 1 is amended by striking "Optional".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transfers and distributions made after the date of the enactment of this Act.

(2) REPEAL OF SECTION 732(d).—The amendments made by subsections (b)(2) and (d)(1) shall apply to—

(A) except as provided in subparagraph (B), transfers made after the date of the enactment of this Act, and

(B) in the case of any transfer made on or before such date to which section 732(d) applies, distributions made after the date which is 2 years after such date of enactment.

SEC. 5684. CLASS LIVES FOR UTILITY GRADING COSTS.

(a) GAS UTILITY PROPERTY.—Section 168(e)(3)(E) (defining 15-year property) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) initial clearing and grading land improvements with respect to gas utility property.".

(b) Electric Utility Property.—Section 168(e)(3) is amended by adding at the end the following new subparagraph:

"(F) 20-year property.—The term '20-year property' means initial clearing and grading land improvements with respect to any electric utility transmission and distribution plant.".

(c) Conforming Amendments.—The table contained in section 168(g)(3)(B) is amended—

(1) by inserting "or (E)(iv)" after "(E)(iii)", and

(2) by adding at the end the following new item:

"(F) .... 25".

(d) Effective Date.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 5685. CONSISTENT AMORTIZATION OF PERIODS FOR INTANGIBLES.

(a) Start-Up Expenditures.—

(1) Allowance of deduction.—Paragraph (1) of section 195(b) (relating to start-up expenditures) is amended to read as follows:

"(1) Allowance of deduction.—If a taxpayer elects the application of this subsection with respect to any start-up expenditures—

"(A) the taxpayer shall be allowed a deduction for the taxable year in which the active trade or business begins in an amount equal to the lesser of—

"(i) the amount of start-up expenditures with respect to the active trade or business, or

"(ii) $5,000, reduced (but not below zero) by the amount by which such start-up expenditures exceed $50,000, and

"(B) the remainder of such start-up expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the active trade or business begins.".

(2) Conforming amendment.—Subsection (b) of section 195 is amended by striking "Amortize" and inserting "Deduct" in the heading.

(b) Organizational Expenditures.—Subsection (a) of section 248 (relating to organizational expenditures) is amended to read as follows:

"(a) Election To Deduct.—If a corporation elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenditures—

"(1) the corporation shall be allowed a deduction for the taxable year in which the corporation begins business in an amount equal to the lesser of—

"(A) the amount of organizational expenditures with respect to the taxpayer, or

"(B) $5,000, reduced (but not below zero) by the amount by which such organizational expenditures exceed $50,000, and

"(2) the remainder of such organizational expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the corporation begins business.".

(c) Treatment of Organizational and Syndication Fees or Partnerships.—

(1) In general.—Section 709(b) (relating to amortization of organization fees) is amended by redesignating paragraph (2) as paragraph (3) and by amending paragraph (1) to read as follows:

"(1) Allowance of deduction.—If a taxpayer elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenses—

"(A) the taxpayer shall be allowed a deduction for the taxable year in which the partnership begins business in an amount equal to the lesser of—

"(i) the amount of organizational expenses with respect to the partnership, or

"(ii) $5,000, reduced (but not below zero) by the amount by which such organizational expenses exceed $50,000, and

"(B) the remainder of such organizational expenses shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the partnership begins business.

"(2) Dispositions before close of amortization period.—In any case in which a partnership is liquidated before the end of the period to which paragraph (1)(B) applies, any deferred expenses attributable to the partnership which were not allowed as a deduction by reason of this section may be deducted to the extent allowable under section 165.".

(2) Conforming amendment.—Subsection (b) of section 709 is amended by striking "Amortization" and inserting "Deduction" in the heading.

(d) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

Subtitle I—Tax-Exempt Financing of Highway Projects and Rail-Truck Transfer Facilities

SEC. 5691. TAX-EXEMPT FINANCING OF HIGHWAY PROJECTS AND RAIL-TRUCK TRANSFER FACILITIES.

(a) Treatment as Exempt Facility Bond.—Subsection (a) of section 142 (relating to exempt facility bond) is amended by striking "or" at the end of paragraph (12), by striking the period at the end of paragraph (13), and by adding at the end the following:

"(14) qualified highway facilities, or

"(15) qualified surface freight transfer facilities.".

(b) Qualified Highway Facilities and Qualified Surface Freight Transfer Facilities.—Section 142 is amended by adding at the end the following:

"(l) Qualified Highway and Surface Freight Transfer Facilities.—

"(1) Qualified highway facilities.—For purposes of subsection (a)(14), the term 'qualified highway facilities' means—

"(A) any surface transportation project which receives Federal assistance under title 23, United States Code (as in effect on the date of the enactment of this subsection), or

"(B) any project for an international bridge or tunnel for which an international entity authorized under Federal or State law is responsible and which receives Federal assistance under such title 23.

"(2) Qualified Surface Freight Transfer Facilities.—For purposes of subsection (a)(15), the term 'qualified surface freight transfer facilities' means facilities for the transfer of freight from truck to rail or rail to truck (including any temporary storage facilities directly related to such transfers) which receives Federal assistance under either title 23 or title 49, United States Code (as in effect on the date of the enactment of this subsection).

"(3) Aggregate face amount of tax-exempt financing for facilities.—

"(A) In general.—An issue shall not be treated as an issue described in subsection (a)(14) or (a)(15) if the aggregate face amount of bonds issued by any State pursuant thereto (when added to the aggregate face amount of bonds previously so issued) exceeds $15,000,000,000.

"(B) Allocation by Secretary of Transportation.—The Secretary of Transportation shall allocate the amount described in subparagraph (A) among eligible projects described in subsections (a)(14) and (a)(15) in such manner as the Secretary determines appropriate.".

(c) Exemption From General State Volume Caps.—Paragraph (3) of section 146(g) of the Internal Revenue Code of 1986 (relating to exception for certain bonds) is amended by striking "or (13)" and all that follows through the end of the paragraph and inserting "(13), (14), or (15) of section 142(a), and".

(d) Effective Date.—The amendments made by this section apply to bonds issued after the date of the enactment of this Act.

SEC. 5692. ADDITION OF VACCINES AGAINST HEPATITIS A TO LIST OF TAXABLE VACCINES.

(a) In General.—Section 4132(a)(1) (defining taxable vaccine) is amended by redesignating subparagraphs (I), (J), (K), and (L) as subparagraphs (J), (K), (L), and (M), respectively, and by inserting after subparagraph (H) the following new subparagraph:

"(I) Any vaccine against hepatitis A.".

(b) Conforming Amendment.—Section 9510(c)(1)(A) is amended by striking "October 18, 2000" and inserting "the date of the enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004".

(c) Effective Date.—

(1) Sales, etc.—The amendments made by this section shall apply to sales and uses on or after the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act.

(2) Deliveries.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 5693. ADDITION OF VACCINES AGAINST INFLUENZA TO LIST OF TAXABLE VACCINES.

(a) In General.—Section 4132(a)(1) (defining taxable vaccine), as amended by section 5692 of this Act, is amended by adding at the end the following new subparagraph:

"(N) Any trivalent vaccine against influenza.".

(b) Effective Date.—

(1) Sales, etc.—The amendment made by this section shall apply to sales and uses on or after the later of—

(A) the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act, or

(B) the date on which the Secretary of Health and Human Services lists any vaccine against influenza for purposes of compensation for any vaccine-related injury or death through the Vaccine Injury Compensation Trust Fund.

(2) Deliveries.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 5694. EXTENSION OF AMORTIZATION OF INTANGIBLES TO SPORTS FRANCHISES.

(a) In General.—Section 197(e) (relating to exceptions to definition of section 197 intangible) is amended by striking paragraph (6) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(b) Conforming Amendments.—

(1)(A) Section 1056 (relating to basis limitation for player contracts transferred in connection with the sale of a franchise) is repealed.

(B) The table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1056.

(2) Section 1245(a) (relating to gain from disposition of certain depreciable property) is amended by striking paragraph (4).

(3) Section 1253 (relating to transfers of franchises, trademarks, and trade names) is amended by striking subsection (e).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property acquired after the date of the enactment of this Act.

(2) SECTION 1245.—The amendment made by subsection (b)(2) shall apply to franchises acquired after the date of the enactment of this Act.

TITLE VI—TRANSPORTATION DISCRETIONARY SPENDING GUARANTEE AND BUDGET OFFSETS

SEC. 6101. SENSE OF THE SENATE ON OVERALL FEDERAL BUDGET.

It is the sense of the Senate that—

(1) comprehensive statutory budget enforcement measures, the jurisdiction of which lies with the Senate Budget Committee and Senate Governmental Affairs Committee, should—

(A) be enacted this year; and

(B) address all areas of the Federal budget, including discretionary spending, direct spending, and revenues; and

(2) special allocations for transportation or any other categories of spending should be considered in that context and be consistent with the rest of the Federal budget.

SEC. 6102. DISCRETIONARY SPENDING CATEGORIES.

(a) DEFINITIONS.—

(1) HIGHWAY CATEGORY.—Section 250(c)(4)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(4)(B)) is amended—

(A) by striking "Transportation Equity Act for the 21st Century" and inserting "Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004"; and

(B) by adding at the end the following:

"(v) 69–8158–0–7–401 (Motor Carrier Safety Grants).

"(vi) 69–8159–0–7–401 (Motor Carrier Safety Operations and Programs).".

(2) MASS TRANSIT CATEGORY.—Section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(4)) is amended by striking subparagraph (C) and inserting the following:

"(C) MASS TRANSIT CATEGORY.—The term 'mass transit category' means the following budget accounts, or portions of the accounts, that are subject to the obligation limitations on contract authority provided in the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 or for which appropriations are provided in accordance with authorizations contained in that Act:

"(i) 69–1120–0–1–401 (Administrative Expenses).

"(ii) 69–1134–0–1–401 (Capital Investment Grants).

"(iii) 69–8191–0–7–401 (Discretionary Grants).

"(iv) 69–1129–0–1–401 (Formula Grants).

"(v) 69–8303–0–7–401 (Formula Grants and Research).

"(vi) 69–1127–0–1–401 (Interstate Transfer Grants—Transit).

"(vii) 69–1125–0–1–401 (Job Access and Reverse Commute).

"(viii) 69–1122–0–1–401 (Miscellaneous Expired Accounts).

"(ix) 69–1139–0–1–401 (Major Capital Investment Grants).

"(x) 69–1121–0–1–401 (Research, Training and Human Resources).

"(xi) 69–8350–0–7–401 (Trust Fund Share of Expenses).

"(xii) 69–1137–0–1–401 (Transit Planning and Research).

"(xiii) 69–1136–0–1–401 (University Transportation Research).

"(xiv) 69–1128–0–1–401 (Washington Metropolitan Area Transit Authority).".

(b) HIGHWAY FUNDING REVENUE ALIGNMENT.—Section 251(b)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)(B)) is amended—

(1) in clause (i)—

(A) by inserting "for each of fiscal years 2006 through 2009" after "submits the budget";

(B) by inserting "the obligation limitation and outlay limit for" after "adjustments to"; and

(C) by striking "provided in clause (ii)(I)(cc)." and inserting the following: "follows:

"(I) OMB shall take the actual level of highway receipts for the year before the current year and subtract the sum of the estimated level of highway receipts in clause (iii), plus any amount previously calculated under clauses (i)(II) and (ii) for that year.

"(II) OMB shall take the current estimate of highway receipts for the current year and subtract the estimated level of highway receipts in clause (iii) for that year.

"(III) OMB shall—

"(aa) take the sum of the amounts calculated under subclauses (I) and (II) and add that amount to the obligation limitation set forth in section 6103 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 for the highway category for the budget year, and calculate the outlay change resulting from that change in obligations relative to that amount for the budget year and each outyear using current estimates; and

"(bb) after making the calculation under item (aa), adjust the obligation limitation set forth in section 6103 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 for the budget year by adding the amount calculated under subclauses (I) and (II).";

(2) by striking clause (ii) and inserting the following:

"(ii) When the President submits the supplementary budget estimates for each of fiscal years 2006 through 2009 under section 1106 of title 31, United States Code, OMB's Mid-Session Review shall include adjustments to the obligation limitation and outlay limit for the highway category for the budget year and each outyear as follows:

"(I) OMB shall take the most recent estimate of highway receipts for the current year (based on OMB's Mid-Session Review) and subtract the estimated level of highway receipts in clause (iii) plus any amount previously calculated and included in the President's Budget under clause (i)(II) for that year.

"(II) OMB shall—

"(aa) take the amount calculated under subclause (I) and add that amount to the amount of obligations set forth in section 6103 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 for the highway category for the budget year, and calculate the outlay change resulting from that change in obligations relative to that amount for the budget year and each outyear using current estimates; and

"(bb) after making the calculation under item (aa), adjust the amount of obligations set forth in section 6103 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 for the budget year by adding the amount calculated under subclause (I)."; and

(3) by adding at the end the following:

"(iii) The estimated level of highway receipts for the purpose of this subparagraph are—

"(I) for fiscal year 2004, $29,945,938,902;

"(II) for fiscal year 2005, $36,294,778,392;

"(III) for fiscal year 2006, $37,766,517,123;

"(IV) for fiscal year 2007, $38,795,061,111;

"(V) for fiscal year 2008, $39,832,795,606; and

"(VI) for fiscal year 2009, $40,964,722,457.

"(iv) In this subparagraph, the term "highway receipts" means the governmental receipts and interest credited to the highway account of the Highway Trust Fund.".

(c) CONTINUATION OF SEPARATE SPENDING CATEGORIES.—For the purpose of section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(c)), the discretionary spending limits for the highway category and the mass transit category shall be—

(1) for fiscal year 2004—

(A) $28,876,732,956 for the highway category; and

(B) $6,262,000,000 for the mass transit category;

(2) for fiscal year 2005—

(A) $31,991,246,160 for the highway category; and

(B) $6,903,000,000 for the mass transit category;

(3) for fiscal year 2006—

(A) $35,598,640,776 for the highway category; and

(B) $7,974,000,000 for the mass transit category;

(4) for fiscal year 2007—

(A) $37,871,760,938 for the highway category; and

(B) $8,658,000,000 for the mass transit category;

(5) for fiscal year 2008—

(A) $38,722,907,474 for the highway category; and

(B) $9,222,000,000 for the mass transit category; and

(6) for fiscal year 2009—

(A) $40,537,563,667 for the highway category; and

(B) $9,897,000,000 for the mass transit category.

(d) ADDITIONAL ADJUSTMENTS.—Section 251(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)) is amended—

(1) in subparagraph (C)—

(A) in clause (i), by striking "fiscal years 2000, 2001, 2002, or 2003," and inserting "each of fiscal years 2006, 2007, 2008, and 2009,"; and

(B) in clause (ii), by striking "2002 and 2003" and inserting "2008 and 2009"; and

(2) in subparagraph (D)—

(A) in clause (i)—

(i) by striking "1999" and inserting "2005";

(ii) by striking "2000 through 2003" and inserting "2006 through 2009"; and

(iii) by striking "section 8103 of the Transportation Equity Act for the 21st Century" and inserting "section 6102 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004"; and

(B) in clause (ii), by striking "2000, 2001, 2002, or 2003" and inserting "2006, 2007, 2008, and 2009".

SEC. 6103. LEVEL OF OBLIGATION LIMITATIONS.

(a) HIGHWAY CATEGORY.—For the purpose of section 251(b) of the Balanced Budget and

Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)), the level of obligation limitations for the highway category is—

(1) for fiscal year 2004, $34,651,000,000;
(2) for fiscal year 2005, $38,927,000,000;
(3) for fiscal year 2006, $40,186,000,000;
(4) for fiscal year 2007, $40,229,000,000;
(5) for fiscal year 2008, $40,563,000,000; and
(6) for fiscal year 2009, $45,622,000,000.

(b) MASS TRANSIT CATEGORY.—For the purpose of section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)), the level of obligation limitations for the mass transit category is—

(1) for fiscal year 2004, $7,265,877,000;
(2) for fiscal year 2005, $8,650,000,000;
(3) for fiscal year 2006, $9,085,123,000;
(4) for fiscal year 2007, $9,600,000,000;
(5) for fiscal year 2008, $10,490,000,000; and
(6) for fiscal year 2009, $11,430,000,000.

For the purpose of this subsection, the term "obligation limitations" means the sum of budget authority and obligation limitations.

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 7001. REIMBURSEMENT OF CERTAIN TRANSPORTATION COSTS INCURRED BY MEMBERS OF THE UNITED STATES ARMED FORCES ON REST AND RECUPERATION LEAVE.

The Secretary of Defense shall reimburse a member of the United States Armed Forces (out of funds available for the Armed Forces for operation and maintenance for the relevant fiscal year) for transportation expenses incurred by such member for 1 round trip by such member between 2 locations within the United States in connection with leave taken under the Central Command Rest and Recuperation Leave Program during the period beginning on September 25, 2003, and ending on December 18, 2003.

TITLE VIII—SOLID WASTE DISPOSAL

SEC. 8001. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

(a) IN GENERAL.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) is amended by adding at the end the following:

"SEC. 6005. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

"(a) DEFINITIONS.—In this section:

"(1) AGENCY HEAD.—The term 'agency head' means—

"(A) the Secretary of Transportation; and

"(B) the head of each other Federal agency that on a regular basis procures, or provides Federal funds to pay or assist in paying the cost of procuring, material for cement or concrete projects.

"(2) CEMENT OR CONCRETE PROJECT.—The term 'cement or concrete project' means a project for the construction or maintenance of a highway or other transportation facility or a Federal, State, or local government building or other public facility that—

"(A) involves the procurement of cement or concrete; and

"(B) is carried out in whole or in part using Federal funds.

"(3) RECOVERED MINERAL COMPONENT.—The term 'recovered mineral component' means—

"(A) ground granulated blast furnace slag;

"(B) coal combustion fly ash; and

"(C) any other waste material or byproduct recovered or diverted from solid waste that the Administrator, in consultation with an agency head, determines should be treated as recovered mineral component under this section for use in cement or concrete projects paid for, in whole or in part, by the agency head.

"(b) IMPLEMENTATION OF REQUIREMENTS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator and each agency head shall take such actions as are necessary to implement fully all procurement requirements and incentives in effect as of the date of enactment of this section (including guidelines under section 6002) that provide for the use of cement and concrete incorporating recovered mineral component in cement or concrete projects.

"(2) PRIORITY.—In carrying out paragraph (1) an agency head shall give priority to achieving greater use of recovered mineral component in cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally.

"(3) CONFORMANCE.—The Administrator and each agency head shall carry out this subsection in accordance with section 6002.

"(c) FULL IMPLEMENTATION STUDY.—

"(1) IN GENERAL.—The Administrator, in cooperation with the Secretary of Transportation and the Secretary of Energy, shall conduct a study to determine the extent to which current procurement requirements, when fully implemented in accordance with subsection (b), may realize energy savings and environmental benefits attainable with substitution of recovered mineral component in cement used in cement or concrete projects.

"(2) MATTERS TO BE ADDRESSED.—The study shall—

"(A) quantify the extent to which recovered mineral components are being substituted for Portland cement, particularly as a result of current procurement requirements, and the energy savings and environmental benefits associated with that substitution;

"(B) identify all barriers in procurement requirements to greater realization of energy savings and environmental benefits, including barriers resulting from exceptions from current law; and

"(C)(i) identify potential mechanisms to achieve greater substitution of recovered mineral component in types of cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally;

"(ii) evaluate the feasibility of establishing guidelines or standards for optimized substitution rates of recovered mineral component in those cement or concrete projects; and

"(iii) identify any potential environmental or economic effects that may result from greater substitution of recovered mineral component in those cement or concrete projects.

"(3) REPORT.—Not later than 30 months after the date of enactment of this section, the Administrator shall submit to Congress a report on the study.

"(d) ADDITIONAL PROCUREMENT REQUIREMENTS.—Unless the study conducted under subsection (c) identifies any effects or other problems described in subsection (c)(2)(C)(iii) that warrant further review or delay, the Administrator and each agency head shall, not later than 1 year after the release of the report in accordance with subsection (c)(3), take additional actions authorized under this Act to establish procurement requirements and incentives that provide for the use of cement and concrete with increased substitution of recovered mineral component in the construction and maintenance of cement or concrete projects, so as to—

"(1) realize more fully the energy savings and environmental benefits associated with increased substitution; and

"(2) eliminate barriers identified under subsection (c).

"(e) EFFECT OF SECTION.—Nothing in this section affects the requirements of section 6002 (including the guidelines and specifications for implementing those requirements).".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding after the item relating to section 6004 the following:

"Sec. 6005. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.".

SEC. 8002. USE OF GRANULAR MINE TAILINGS.

(a) IN GENERAL.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) (as amended by section 8001(a)) is amended by adding at the end the following:

"SEC. 6006. USE OF GRANULAR MINE TAILINGS.

"(a) MINE TAILINGS.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Administrator, in consultation with the Secretary of Transportation and heads of other Federal agencies, shall establish criteria (including an evaluation of whether to establish a numerical standard for concentration of lead and other hazardous substances) for the safe and environmentally protective use of granular mine tailings from the Tar Creek, Oklahoma Mining District, known as 'chat', for—

"(A) cement or concrete projects; and

"(B) transportation construction projects (including transportation construction projects involving the use of asphalt) that are carried out, in whole or in part, using Federal funds.

"(2) REQUIREMENTS.—In establishing criteria under paragraph (1), the Administrator shall consider—

"(A) the current and previous uses of granular mine tailings as an aggregate for asphalt; and

"(B) any environmental and public health risks and benefits derived from the removal, transportation, and use in transportation projects of granular mine tailings.

"(3) PUBLIC PARTICIPATION.—In establishing the criteria under paragraph (1), the Administrator shall solicit and consider comments from the public.

"(4) APPLICABILITY OF CRITERIA.—On the establishment of the criteria under paragraph (1), any use of the granular mine tailings described in paragraph (1) in a transportation project that is carried out, in whole or in part, using Federal funds, shall meet the criteria established under paragraph (1).

"(b) EFFECT OF SECTIONS.—Nothing in this section or section 6005 affects any requirement of any law (including a regulation) in effect on the date of enactment of this section.".

(b) CONFORMING AMENDMENT.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) (as amended by section 8001(b)) is amended by adding after the item relating to section 6005 the following:

"Sec. 6006. Use of granular mine tailings.".

Passed the Senate February 12, 2004.

Attest:

AUTHORIZING USE OF ROTUNDA OF CAPITOL BY JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES

ESTABLISHING JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES

Mr. McCONNELL. I ask unanimous consent that the Senate proceed to the immediate consideration of the following Senate concurrent resolutions which were introduced today en bloc: S. Con. Res. 93 and S. Con. Res. 94.

The PRESIDING OFFICER. The clerk will report the concurrent resolutions by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 93) authorizing the use of the rotunda of the Capitol by the Joint Congressional Committee on Inaugural Ceremonies.

A concurrent resolution (S. Con. Res. 94) establishing the Joint Congressional Committee on Inaugural Ceremonies.

There being no objection, the Senate proceeded to consider the concurrent resolutions.

Mr. McCONNELL. I ask unanimous consent that the resolutions be agreed to, the motions to reconsider be laid upon the table en bloc, and any statements relating to the resolutions be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolutions (S. Con. Res 93 and S. Con. Res. 94) were agreed to, as follows:

S. CON. RES. 93

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. USE OF THE ROTUNDA OF THE CAPITOL BY THE JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES.

The rotunda of the United States Capitol is authorized to be used on January 20, 2005, by the Joint Congressional Committee on Inaugural Ceremonies in connection with the proceedings and ceremonies conducted for the inauguration of the President-elect and the Vice President-elect of the United States.

S. CON. RES. 94

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. ESTABLISHMENT OF JOINT COMMITTEE.

There is established a Joint Congressional Committee on Inaugural Ceremonies (in this resolution referred to as the "joint committee"), consisting of 3 Senators and 3 Members of the House of Representatives appointed by the President of the Senate and the Speaker of the House of Representatives, respectively. The joint committee is authorized to make the necessary arrangements for the inauguration of the President-elect and the Vice President-elect of the United States.

SEC. 2. SUPPORT OF THE JOINT COMMITTEE.

The joint committee—

(1) is authorized to utilize appropriate equipment and the services of appropriate personnel of departments and agencies of the Federal Government, under arrangements between the joint committee and the heads of the departments and agencies, in connection with the inaugural proceedings and ceremonies; and

(2) may accept gifts and donations of goods and services to carry out its responsibilities.

ORDERS FOR FRIDAY, FEBRUARY 27, 2004

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. tomorrow, Friday, February 27. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of S. 1805, the gun liability bill.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, it is my understanding that tomorrow the majority will allow a period of morning business that will come sometime during the day. I would ask that the consent be, on the Democratic side, that Senator CONRAD be recognized for 45 minutes, Senator HARKIN for 30 minutes, Senator BYRD for 30 minutes; and, of course, if the majority wants whatever time, in whatever order they wish, they would be interspersed with these speakers, meaning there would be a Republican, a Democrat, as we do all the time.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. McCONNELL. Mr. President, tomorrow the Senate will resume consideration of S. 1805, the gun liability bill. There will be no rollcall votes tomorrow, and the next vote will occur Monday evening. We will have more to say about Monday's session tomorrow.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. McCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:55 p.m., adjourned until Friday, February 27, 2004, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate February 26, 2004:

DEPARTMENT OF COMMERCE

THEODORE WILLIAM KASSINGER, OF MARYLAND, TO BE DEPUTY SECRETARY OF COMMERCE, VICE SAMUEL W. BODMAN, RESIGNED.

DEPARTMENT OF STATE

JOHN J. DANILOVICH, OF CALIFORNIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERATIVE REPUBLIC OF BRAZIL.

MICHAEL CHRISTIAN POLT, OF TENNESSEE, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO SERBIA AND MONTENEGRO.

MERIT SYSTEMS PROTECTION BOARD

NEIL MCPHIE, OF VIRGINIA, TO BE CHAIRMAN OF THE MERIT SYSTEMS PROTECTION BOARD, VICE SUSANNE T. MARSHALL.

DEPARTMENT OF EDUCATION

EDWARD R. MCPHERSON, OF TEXAS, TO BE UNDER SECRETARY OF EDUCATION, VICE EUGENE HICKOK.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 624 AND 1552:

To be colonel

ARTHUR R. HOMER, 8293

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 624 AND 1552:

To be lieutenant colonel

WILLIAM R. KENT III, 9844

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

LORI J. FINK, 9359

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 531 AND 1552:

To be lieutenant colonel

PATRICIA K. COLLINS, 8473
JEFFREY E. SHERWOOD, 5295

THE FOLLOWING NAMED OFFICERS FOR A REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531:

To be lieutenant colonel

CHRISTOPHER D. BOYER, 6699
MATTHEW E. COOMBS, 0067

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

RICHARD G. HUTCHISON, 0392

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

JEFFERY C. SIMS, 2996

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

FLOYD T. CURRY, 6389
JOHN M. DOLAN, 7533
RANDY A. HURTT, 1749
MALCOLM F. KIRSOP, 0490
RAPHAEL F. PERL, 9526
BYRON E. SHORT JR., 2370
RONALD E. TRIGGS, 3985
JEFFREY B. WHEELER, 1387

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

JOHN E ARMITSTEAD, 9341
MICHAEL L BRITTON, 5706
WILLIAM L BRUNOLD, 3202
JOHN T DINSMORE, 3090
HENRI P FISCHER, 4151
LAWRENCE M HENDEL, 0268
MELVIN R JACOB, 2055
ALAN J JOHNSON JR., 3049
BONNIE J KOPPELL, 3924
ERNEST E LAMERTHA, 6440
COYSE D MCLEMORE, 8883
JERRY L MILLER, 7288
BILLY R MIMS, 1550
CHARLES M PURINTON JR., 8060
BRANDON K TRAVIS, 0311
ALEXANDER F C WEBSTER, 9902
FRANKLIN E WESTER, 4656
JAMES P WOMACK, 6261
EUGENE R WOOLRIDGE, 5987

CENTERS FOR MEDICARE AND MEDICAID SERVICES

MARK B. MCCLELLEN, OF THE DISTRICT OF COLUMBIA, TO BE ADMINISTRATOR OF THE CENTERS FOR MEDICARE AND MEDICAID SERVICES, VICE THOMAS SCULLY, RESIGNED.

WITHDRAWALS

EXECUTIVE MESSAGE TRANSMITTED BY THE PRESIDENT TO THE SENATE ON FEBRUARY 26, 2004, WITHDRAWING FROM FURTHER SENATE CONSIDERATION THE FOLLOWING NOMINATIONS:

JOHN JOSEPH GROSSENBACHER, OF ILLINOIS TO BE A MEMBER OF THE NUCLEAR REGULATORY COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JUNE 30, 2004, WHICH WAS SENT TO THE SENATE ON JULY 25, 2003.

JOHN JOSEPH GROSSENBACHER, OF ILLINOIS TO BE A MEMBER OF THE NUCLEAR REGULATORY COMMISSION FOR A TERM EXPIRING JUNE 30, 2009, WHICH WAS SENT TO THE SENATE ON JULY 25, 2003.

SUSANNE T. MARSHALL, OF VIRGINIA, TO BE CHAIRMAN OF THE MERIT SYSTEM PROTECTION BOARD, WHICH WAS SENT TO THE SENATE ON JANUARY 26, 2004.

EXTENSIONS OF REMARKS

IN HONOR OF ORAH BELLE SHERMAN

HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. LEWIS of Georgia. Mr. Speaker, in the last days of Black History Month, I want to be sure this Congress honors the memory of Orah Belle Sherman, a woman who served our democracy well. In the eyes of some, her labor may have seemed humble, but her spirit was great. For 41 years, Orah Belle Sherman served the citizens of Atlanta as the hostess of Paschal's restaurant, and the comfort and hospitality of Paschal's reached the very soul of the Civil Rights Movement.

The role of the capable hostess is fully acknowledged in politics today. Sometimes decisions that impact the history of mankind may be made in the relaxation of social environments. A hostess is the architect of that relaxation, creating a seamless atmosphere of comfort where minds can meet undistracted and strike an agreement. Her grace eases the tension of division, and the ambience she offers invites opposing sides to sit down together. Orah Belle Sherman was a master hostess among hostesses because her grace not only cooled the tensions of ideological differences but momentarily silenced the ravages of racism.

In a segregated Atlanta, where a cacophony of signs declared "White Only," "Colored Only," "Colored Waiting," "White Waiting," in the heart of a hostile America, in the recesses of the Jim Crow South where a wilderness of racism threatened the future of this nation, Paschal's became an oasis of friendship, brotherhood and peace. There African Americans were always welcomed by Orah Belle Sherman.

She created a safe space where men and women who were outcasts of mainstream America could socialize in dignity and peace. In her haven of comfort and acceptance, Dr. Martin Luther King, Jr., Ambassador Andrew Young, Supreme Court Justice Thurgood Marshall, Dr. Benjamin Mays and many other soon-to-be great men of the Civil Rights Movement were welcomed, fed, and given the room to deliberate. In the loving glow of Orah Belle Sherman, they strategized the actions that would become the Movement we know today. Many of the great civil rights speeches, the plans for marches and sit-ins, the boycotts and sermons were discussed in the ambience of Paschals restaurant.

Dr. Martin Luther King, Jr. once said that, "Love is the most durable power in the world. This creative force is the most potent instrument available in mankind's quest for security and peace." The love of Orah Belle Sherman has an enduring place in the history of the Civil Rights Movement. She is a gem of the South that reminds us of a culture of hospitality that is slipping away. Her graciousness and charm consoled the builders of a new day for America. She will long be remembered in the hearts of all the lives she touched.

RECOGNIZING THE HONOREES OF THE 57TH ANNUAL PUBLIC SERVANTS MERIT AWARDS

HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mrs. JONES of Ohio. Mr. Speaker, I rise today to recognize the nine honorees of the 57th Annual Public Servants Merit Awards Luncheon, held Friday, February 13, 2004. This event was hosted by the Cuyahoga County Bar Foundation and the Cuyahoga County Bar Association.

Tim Brennan currently serves as the Civil Division's Assistant Personnel Director/Acting Office Manager for the Clerk of Courts, Cuyahoga County Court of Common Pleas. Tim assists with interviewing applicants for the Clerk's office, promoting employees, and assisting in resolving personnel disputes.

Tim and his wife, Janene are Lakewood residents and have been married almost as long as Tim has worked in the Clerk's office. They met as employees of the Clerk's office and have three children, Patrick, Megan, and Molly.

Tim is very active in Lakewood and Cuyahoga County Democratic Party activities. He became interested in politics at an early age, as the son of Judge Hugh P. Brennan. Also, Tim has been active for many years with St. Mark's Church.

Despite his many accomplishments in work and politics, Tim feels that his greatest achievement is securing the love and support of his family.

Since 1974, Tom Bykowski has been an office mainstay for the Cleveland Municipal Court. As a supervisor in the office, he is responsible for drafting the judgment entries and other pleadings.

Tom attended St. John Cantius High School and Cuyahoga Community College. He is a longtime Old Brooklyn resident and lives with Helen, his wife of more than 25 years, and their children Benjamin and Kate. Tom is devoted to his family, but still has found time to be active in his local community development corporation, his parish school, as well as his ward & county Democratic Party activities.

He often spends his days asking the tide of people passing through the Clerk's office, "How can I help you" because he enjoys contact with the public.

Richard L. Gray has been employed at the Lakewood Municipal Court since 1974. He began his tenure in the Criminal Division and, for more than 20 years, has been the Clerk of Court.

Richard has been honored by many organizations for his work, and is particularly proud of his 1991 nomination as the Outstanding Clerk by the Ohio Association of Municipal Court Clerks. He is a past President of that organization, as well as past President of the Northeastern Ohio Municipal Court Clerk's Association. He remains an active member in both organizations.

Richard is also an Army veteran of the Vietnam campaign and a graduate of Baldwin-Wallace College. He and his wife of more than three decades, Janice, live in Lakewood where they raised their two children, Jessica and Alissa.

Terri Lynn Hudak is a Deputy Clerk/Supervisor in the Cuyahoga County Probate Court's Data Entry Department. She began her employment with the Court after graduating from Parma's Valley Forge High School, 23 years ago.

Terri and her department are responsible for entering new filings on the court's docket, organizing files for transmission to the Court of Appeals and assisting the public in locating court records.

She still lives in Parma with her husband Paul and their children Matthew and Valerie. She is active in St. Charles school events, parish activities, and her neighborhood block committees.

Terri says that raising her family, supporting her children's sporting events, and working full-time are her most outstanding accomplishments.

Dorothy Lawson began her work with the Cuyahoga County Common Pleas Court as a typist in the court constable's office. She then went on to serve as a scheduler for as many as four judges at one time.

For the past 15 years, Dorothy has served as the personal bailiff, first for Judge William E. Mahon and currently for Judge Brian J. Corrigan. She views her 1989 promotion to personal bailiff as one of her greatest accomplishments in life.

A Euclid resident, Dorothy lives with John, her husband of almost a quarter century. She spends much of her time evaluating the creativity of the excuses given by tardy lawyers. However, she fundamentally believes that her three decades of service has allowed her a deeper understanding of the judicial system.

Regina Laura Mandanci has worked for Domestic Relations Court for 24 years. She is the nominee of Administrative Judge Timothy M. Flanagan. For the past two years, Gina serves as Personal Bailiff to Judge James P. Celebreeze, after over 20 years in the Central Scheduling Department.

Gina, a Florida native and Brecksville High School graduate, lives in Brecksville with her children, Nickolas and Jessica. She is proud of her service in the Domestic Relations Court, which she started with just out of high school.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mary Jo O'Toole is a Judicial Secretary at the Eighth District Court of Appeals with 17 years with Judge Ann Dyke. Nominated by Judge Kenneth A. Rocco and Presiding Judge Michael J. Corrigan, Mary Jo, after a brief detour into the private sector, has worked in the courts for over 20 years, shortly after her graduation from Holy Name High School.

Mary Jo and Patrick, her husband of 16 years, live in Avon with their two children, Megan and Brian. The family enjoys weekends at their cottage and spent many years renovating their residence, a century home.

Carolyn Penn, nominated by Juvenile Court Administrative Judge Joseph F. Russo, is a Probation Manager at the Court's Bedford Heights office, where she manages a staff of probation officers and administrative assistants who deal with delinquent, unruly and violent children living in the southeast portion of Cuyahoga County.

A graduate of Central State University with a master's degree from Case's School of Applied Social Sciences Administration, Carolyn lives in Cleveland Heights. The widow of James E. Penn, Jr., and the mother of a grown son, James E. Penn III, Carolyn was also honored by a Cleveland Mayoral proclamation for her years of service to at-risk children and the community.

Carolyn volunteers with senior citizens and participates in charities, along with actively supporting individual political candidates and social service ballot issues. She takes pride in her work and protecting her community.

Pauline Pope is the Assistant Chief of Security in the Bailiffs Department of the Cleveland Municipal court, where she has worked since 1986.

Presiding and Administrative Judge Larry A. Jone's nominee, Pauline previously worked for the City of Cleveland, as part of more than a quarter century of public service. She works hard to assure that the employees and the public enjoys a safe environment in the Court.

Pauline came to Cleveland after graduating from high school in South Carolina. She is active in ministries, nursing homes and prisons. Early in her court employment career, she was assigned to provide security to the late Judge Carl B. Stokes.

On behalf of the people of the 11th Congressional District of Ohio and the United States Congress, I pay tribute to the leadership, dedication, support, and commitment of the 2004 Annual Public Servants Merit Award honorees.

HON. THE WORK OF REVEREND RUBEN LOUIS ARCHIELD, SR.

HON. CIRO D. RODRIGUEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. RODRIGUEZ. Mr. Speaker, I rise today to recognize Reverend Ruben Louis Archield, Sr., a great friend, teacher, and counselor. As pastor of Friendship Baptist Church in San Antonio, Texas since 1963, Reverend Archield has served the spiritual needs of his congregation and the San Antonio community.

Under Reverend Archield's direction, Friendship Baptist Church has enjoyed an unparalleled period of growth as many new buildings have been constructed and programs established to serve the ever-changing needs of the surrounding community.

Reverend Archield has also contributed to the community through involvement with organizations such as the Baptist Ministers' Union, the Citywide Brotherhood of San Antonio, the National Baptist Convention, the San Antonio Development Agency, and the Project Drug Abuse Center. For these extraordinary deeds, Reverend Archield received the San Antonio Register's Pulpit Heritage Award and the Patriarch Award from Greater Love Baptist Church.

February 22, 2004 marks Friends and Family Day at Friendship Baptist Church, a time to come together with special friends and loved ones to worship and express thanks for our many blessings. I wish Reverend Archield and the members of Friendship Baptist Church all the best on this special day.

RECOGNIZING THE FAIRFAX COUNTY CHAMBER OF COMMERCE 2004 VALOR AWARD RECIPIENTS FROM THE FAIRFAX COUNTY OFFICE OF THE SHERIFF

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. TOM DAVIS of Virginia. Mr. Speaker, Mr. MORAN, Mr. WOLF and I rise today to recognize an extraordinary group of men and women in Northern Virginia. Each year, the Fairfax County Chamber of Commerce recognizes individuals who courageously have demonstrated selfless dedication to public safety. The hard work, dedication, and perseverance of the Fairfax County Office of the Sheriff have earned several of its members the highest honor that Fairfax County bestows upon its public safety officials—The Valor Award.

There are several types of Valor Awards awarded to a public safety officer: The Lifesaving Award, the Certificate of Valor, or the Gold, Silver, or Bronze Medal of Valor. During the 26th Annual Awards Ceremony, 53 men and women from the Office of the Sheriff, Fire and Rescue Department, and the Police Department received one of the aforementioned honors for their bravery and heroism.

It is with great honor that we enter into the RECORD the names of the recipients of the 2004 Valor Awards in the Fairfax County Office of the Sheriff. Receiving the Lifesaving Award: Second Lieutenant Steve J. Elbert, Sergeant William E. Friedman, Private First Class Morris F. Hood Jr., Private First Class Dena M. Hubbard, Private First Class Steven P. Queen, Master Deputy Sheriff Juan L. Romero, Sergeant Mark W. Sites, Second Lieutenant Elaine M. Stanley, Private First Class Zachary D. Taylor, Private First Class Huihao Wang, Private First Class Kenneth W. Wing, Jr.; the Certificate of Valor: Private First Class Peter J. Fox; the Bronze Medal of Honor: Deputy William L. Bishop, Second Lieutenant Gregory A. Merck, Sergeant Eli G. Rejeili.

Mr. Speaker, in closing, we would like to take this opportunity to thank all men and women who serve the Fairfax County Office of the Sheriff. The events of September 11th serve as a reminder of the sacrifices our emergency service workers make for us each day. These individuals' continuous efforts on behalf of Fairfax County citizens are paramount to preserving security, law, and order throughout our community. Their selfless acts of heroism truly merit our highest praise. We ask our colleagues to join us in applauding this group of remarkable citizens.

IN RECOGNITION OF THE MEKHITARIST FATHERS' ARMENIAN SCHOOL'S 25TH ANNIVERSARY

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. SCHIFF. Mr. Speaker, I rise today to honor the Mekhitarist Fathers' Armenian School. On Saturday, February 28, 2004, members of the Armenian community in Southern California will gather to celebrate the 25th anniversary of the establishment of the Mekhitarist Fathers' Armenian School.

The school is the pride of the Armenian community. Its impressive curriculum, dedicated faculty and administration, quality extracurricular activities, devoted parents, alumni and committed Trustees serve as strong pillars of this unique educational institution.

The Mekhitarist Fathers' Armenian school was established in 1979 with dreams of rearing and educating young Armenians about their past. Yet they taught their pupils to appreciate their new home in America and establish respectable, productive and thriving communities as well as the importance of making lasting contributions to society.

In 1998, when the school had prospered to more than 350 students, they leased a campus in La Crescenta. The school was facing unlimited difficulties. Mekhitarist Fathers had a very short time to find a home for those whose educational responsibilities were put upon their shoulders. They proved without a doubt that despite insurmountable obstacles, they fulfilled their seemingly impossible responsibility toward this community when they purchased their own land on Foothill Boulevard, in Tujunga.

Today, the number of students has dropped due to obstacles that the school has had to overcome. Yet, that is what has made this institution stronger. As Fr. Augustine Szekula said, "It is the very existence of nurturing Armenian schools in the Diaspora that supports and indeed, enables our Mother country [Armenia] to exist, and for our rich Armenian cultural heritage to continue to flourish with dignity and grace."

It is my distinct honor to recognize the Mekhitarist Fathers' Armenian School's invaluable service to the community and congratulate them upon their 25th anniversary.

TRIBUTE TO BOEING ENGINEERING TEAM

HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. CRAMER. Mr. Speaker, I have the honor to represent NASA's Marshall Space Flight Center and numerous space contractors. Throughout North Alabama, scientists and engineers are working diligently to create the necessary technology to take humans and cargo into space. In addition, the innovative research and development that is being done and managed by the Marshall Space Flight Center and its partners is having significant and positive impact on our Nation's quality of life.

Mr. Speaker, I rise today to honor the members of Boeing's Space Launch Initiative TA–2 Self-Reacting Friction Stir Welding Cryogenic Tank Demonstration Team. Recently, these engineers from Huntsville, Alabama and Huntington Beach, California, successfully joined two twenty-seven foot diameter aluminum barrels together using a new process that utilizes friction rather than traditional welding methods. This successful test at the Marshall Space Flight Center was the largest test of the circumferential self-reacting friction stir welding. Boeing officials recognized this significant achievement by awarding this engineering team with the Boeing Silver Phantom Award.

This process will help NASA to overcome many technical obstacles that it will face during its ambitious exploration plans. By using friction, rather than electrical or gas fusion methods, the weld is significantly stronger and performed at a higher quality and lower cost. This process enables a wider range of options as NASA considers designs for future space launch vehicles.

Mr. Speaker, I close by sending my sincere congratulations to the Self-Reacting Friction Stir Welding Cryogenic Tank Demonstration Team for winning Boeing's Silver Phantom Award. I am proud to recognize their hard work and dedication that led to this important technical achievement.

ACADEMY NOMINEES FOR 2003 11TH CONGRESSIONAL DISTRICT OF NEW JERSEY

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. FRELINGHUYSEN. Mr. Speaker, every year, more high school seniors from the 11th Congressional District trade in varsity jackets for Navy pea coats, Air Force flight suits, and Army brass buckles than most other districts in the country. But this is nothing new—our area has repeatedly sent an above average portion of its sons and daughters to the Nation's military academies for decades.

This fact should not come as a surprise. The educational excellence of area schools is well known and has long been a magnet for families looking for the best environment in which to raise their children. Our graduates are skilled not only in mathematics, science, and social studies, but also have solid backgrounds in sports, debate teams, and other extracurricular activities. This diverse upbringing makes military academy recruiters sit up and take note—indeed, many recruiters know our towns and schools by name.

Since the 1830's, Members of Congress have enjoyed meeting, talking with, and nominating these superb young people to our military academies. But how did this process evolve? In 1843, when West Point was the sole academy, Congress ratified the nominating process and became directly involved in the makeup of our military's leadership. This was not an act of an imperial Congress bent on controlling every aspect of Government. Rather, the procedure still used today was, and is, a further check and balance in our democracy. It was originally designed to weaken and divide political coloration in the officer corps, provide geographical balance to our armed services, and to make the officer corps more resilient to unfettered nepotism and handicapped European armies.

In 1854, Representative Gerritt Smith of New York added a new component to the academy nomination process—the academy review board. This was the first time a Member of Congress appointed prominent citizens from his district to screen applicants and assist with the serious duty of nominating candidates for academy admission. Today, I am honored to continue this wise tradition in my service to the 11th Congressional District.

The Academy Review Board is composed of six local citizens who have shown exemplary service to New Jersey, to their communities, and to the continued excellence of education in our area—many are veterans. Though from diverse backgrounds and professions, they all share a common dedication that the best qualified and motivated graduates attend our academies. And, as true for most volunteer panels, their service goes largely unnoticed.

I would like to take a moment to recognize these men and women and thank them publicly for participating in this important panel. Being on the board requires hard work and an objective mind. Members have the responsibility of interviewing upwards of 50 outstanding high school seniors every year in the academy review process.

The nomination process follows a general timetable. High school seniors mail personal information directly to the Military Academy, the Naval Academy, the Air Force Academy, and the Merchant Marine Academy once they become interested in attending. Information includes academic achievement, college entry test scores, and other activities. At this time, they also inform my office of their desire to be nominated.

The academies then assess the applicants, rank them based on the data supplied, and return the files to my office with their notations. In late November, our Academy Review Board interviews all of the applicants over the course of 2 days. They assess a student's qualifications and analyze character, desire to serve, and other talents that may be hidden on paper.

This year the board interviewed over 50 applicants. Nominations included 9 to the Naval Academy, 10 to the Military Academy, 5 to the Merchant Marine Academy and 8 to the Air Force Academy—the Coast Guard Academy does not use the Congressional nomination process. The recommendations are then forwarded to the academies by January 31, where recruiters reviewed files and notified applicants and my office of their final decision on admission.

As these highly motivated and talented young men and women go through the academy nominating process, never let us forget the sacrifice they are preparing to make: to defend our country and protect our citizens. This holds especially true at a time when our nation is fighting the war against terrorism. Whether it is in Afghanistan, Iraq, or other hot spots around the world, no doubt we are constantly reminded that wars are fought by the young. And, while our military missions are both important and dangerous, it is reassuring to know that we continue to put America's best and brightest in command.

ACADEMY NOMINEES FOR 2003 11TH CONGRESSIONAL DISTRICT, NEW JERSEY

AIR FORCE ACADEMY

Ryan M. Cortner, Scotland, International School
Michael P. Dickson, Flanders, Mt. Olive H.S.
Marc D. Honrath, Dover, Morris Knolls H.S.
Asha Padmanabhan, Raritan, Bridgewater–Raritan
Heather G. Pinsky, Morristown, Morristown H.S.
Edward J. Schmeltz, Chatham, Chatham H.S.
Anthony Stegman, Sparta, Sparta H.S.
Christopher A. Wolff, Mendham, West Morris Mendham H.S.

MERCHANT MARINE

Steve R. Kline, Chatham, Chatham H.S.
Vincent J. Lusardi, Rockaway, Morris Hills H.S.
Jarrod M. Prill, Boonton, Boonton H.S.
Eric B. Warner, Morris Plains, Parsippany Hills H.S.
Richard W. White, Bloomingdale, Butler H.S.

MILITARY ACADEMY

Corey R. Belton, Brookside, West Morris Mendham HS
Assison T. Gaydosh, Bridgewater, Syracuse University
Sean P. Groome, Andover, Lenape Valley H.S.
Ross Kuskovsky, Livingston, Livingston H.S.
Anthony A. Margue, Randolph, Randolph H.S.
Michael A. Robinson, Brookside, West Morris Mendham H.S.
Allen J. Rooney, Madison, Madison H.S.
Stephane M. Slotten, Mendham, Newark Academy
Christopher M. Tarney, Chatham, Seton Hall Prep
Ernie Young, Whippany, Whippany Park H.S.

NAVAL ACADEMY

Sean K. Bergstrom, Mendham, Delbarton
Bradley C. Fromm, Madison, Madison H.S.
Chris Lakhiani, Mountain Lakes, Mountain Lakes H.S.
Julie-Ann Latona, Madison, Madison H.S.
John S. Quick, Liberty Corner, Oratory Prep
Jonathan V. Salmon, Bridgewater, St. Joseph's H.S.
Brian M. Schenig, Pompton Plains, Pequannock H.S.
Sarah A. Shewmaker, Short Hills, Millburn H.S.

Michael R. Wooters, Morristown, Seton Hall Prep
Michael J. Zecca, Bridgewater, Bridgewater—Raritan H.S.

HONORING U.S. MARSHAL MARK TUCKER

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. PRICE of North Carolina. Mr. Speaker, I rise today in honor of one of North Carolina's most respected law enforcement officers, a man whom I am proud to have called a friend.

Deputy Mark Reid Tucker served our community as both a Wake County Sheriff's Deputy and a U.S. Marshal for eastern North Carolina. No matter the rank, law enforcement was a job he loved—and a job he did exceedingly well. He was killed in the line of duty earlier this month at 49 years of age.

Always equipped with a strong sense of right and wrong, Mark thought of law enforcement as a calling. It was a job that suited him perfectly.

Mark joined Wake County's Sheriff's Department in 1976. I first knew him as the president of the local chapter of the Fraternal Order of Police, and he has championed the interests of rank and file law enforcement officers from that position since 1988. After serving with the Sheriff's Department for some 20 years, Mark's lifelong interest in politics spurred him to pursue a federal marshal appointment in the Clinton administration. It was a long, hard battle, but Mark showed characteristic stamina as the process dragged out for several years. When his nomination appeared indefinitely stalled because of partisan battles over Presidential appointments, President Clinton decided to use a rarely invoked recess appointment privilege, and Mark went on to be confirmed to a full term as U.S. Marshal for the Eastern District of North Carolina on May 24, 2000. There is no federal appointment that has given me more satisfaction, both because we worked on it so long and because Mark served with such dedication and distinction.

Mark was thrilled to be a part of the U.S. Marshals Service. He took security very seriously, working with local judges, Federal agencies, and my office to ensure that the courthouse was brought up to the standards for Federal judicial facilities. He also recognized that he had a responsibility to maintain good relations with the community. Taking on the role of an unofficial goodwill ambassador for the Marshals Service, Mark usually carried a deputy's badge in his pocket that he could award to a smiling child or interested citizen. When President Clinton left office, Mark returned to the beat in Wake County, going back to his roots and to the people who had long relied on his commitment to the job.

Mark was only the fourth officer to be killed in the line of duty in the Wake County Sheriff's Office's 71-year history, and the overwhelming response of his fellow officers makes clear how acutely they felt his loss. An entire community of law enforcement officers—from the DEA to the Marshals Service to local deputies—came together to find the person responsible, making an arrest within 48 hours. They said it was the least they could do for the deputy they described as "well-respected," "dedicated," and "a gentlemen, as well as a friend." Close to 1,500 people from law enforcement across the State attended his memorial service.

Mark leaves behind his loving parents, Dallas and Virginia Tucker, his wife Patricia, and sons Chad and Matthew. This tragedy has thrust the whole family into the media spotlight, and Patricia in particular has spoken of her husband and the circumstances surrounding his death with courage, compassion, and dignity.

Mark Tucker perfectly exemplified the dedication of our law enforcement community, and his death is a reminder of the risks these officers take for us every single day. But Mark was one of a kind, a unique combination—a cop's cop, a skilled political leader, an active and engaged citizen, a solid family man, a magnetic personality. His death is a great loss for the community, and we will miss him terribly. May we find comfort in the outpouring of affection and respect and gratitude that his memory has brought forth.

RECOGNIZING THE CONTRIBUTIONS OF CRISTINA VILLARREAL

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Ms. SOLIS. Mr. Speaker, today I rise to recognize Cristina Villarreal, a staff member who will be leaving my Washington, DC, office this week.

Cristina came to our office after graduating from American University to work as a staff assistant. She worked her way up to serve as a scheduler and as a legislative aide working on foreign affairs issues. Cristina has worked with me as we developed legislation (H. Res. 466) to call attention to the disturbing abduction and murder of hundreds of women taking place in Ciudad Juárez, Mexico. H. Res. 466 conveys the sympathy of the U.S. House of Representatives to the families of the young women murdered in the State of Chihuahua, Mexico, and encourages increased United States involvement in bringing an end to these crimes. Cristina also helped me organize a Congressional delegation to travel to Mexico to bring light to the over 300 young women who have been killed in Ciudad Juárez over the last decade. Cristina shares my commitment to bringing light to this human rights issue.

Cristina is beloved by her colleagues and will be missed by them. As Cristina moves on to pursue graduate education, I wish her the best of luck in her future endeavors.

THANKING COL. LEE FARMER FOR HIS SERVICE TO THE UNITED STATES OF AMERICA

HON. DARRELL E. ISSA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. ISSA. Mr. Speaker, I rise today to honor Colonel Lee Farmer for his service to the country for over 30 years in the United States Marine Corps. On March 4, Colonel Farmer will be retiring from the Corps, completing a career marked by dedication and excellence.

Colonel Farmer was commissioned as an officer in November 1973. Early in his career he served as a Rifle and Weapons Platoon Commander as well as the Executive Officer and Commanding Officer of Company A, 1st Battalion, 4th Marines. He remained with the Battalion as it became the first unit to initiate the unit Rotation Program, relocating to Twentynine Palms, Calif. There he served as a Rifle Company Commander for two years and was later assigned as the Staff Secretary of the 7th Marine Amphibious Brigade.

After graduating from the Amphibious Warfare School in 1982, Colonel Farmer served as Aide-de-camp to the Commandant of the Marine Corps. In July 1984 he was reassigned to the Basic School, Quantico, VA, where he eventually assumed command of Company A. He then attended Marines Corps Command and Staff College.

He later transferred to Okinawa, Japan, where he served as the Assistant Plans Officer to Marine Aircraft Group–36. Transferring to Camp Pendleton in 1987, Colonel Farmer was later deployed to Southwest Asia and participated in Operation Desert Shield.

Following the war, he attended the Defense Language Institute in Monterey, California, in preparation for his two-year assignment to Chile where he attended the Chilean Naval War College. He was reassigned to the Office of the Secretary of Defense, at the Pentagon, in July 1993, where he worked counter-narcotics issues until his assignment as the Military Assistant to the Under Secretary of Defense for Policy.

Following this assignment, he returned to Camp Pendleton to command the School of Infantry. After leaving Camp Pendleton for another brief assignment in Okinawa, Japan, he again returned to Camp Pendleton, where he served as the Assistant Chief of Staff, Operations and Training until his reassignment as the Chief of Staff in May 2001.

Since Colonel Farmer assumed his role as Chief of Staff, he has worked closely with my office on a number of issues. Colonel Farmer has distinguished himself as an honest, sincere, and hard-working leader—ready to listen and always ready to help. During Colonel Farmer's tenure, Camp Pendleton has become one of our Nation's finest defense installations, training Marines who have served on the front lines of Operation Enduring Freedom and Operation Iraqi Freedom.

Camp Pendleton Marines are in the process of returning to Iraq, replacing the Army's 4th Infantry Division in the largest troop rotation in history. These Marines will now carry out a task that is critical to our national security and to the security of the entire Middle East. They have been prepared by the leadership of Camp Pendleton—Colonel Farmer and the commanding officers who serve alongside him. These leaders of Marines have good reason to be proud of their service.

It has been a pleasure working with Colonel Farmer. We are grateful for his distinguished service to our country. He will be missed.

MINORITY HOME OWNERSHIP AND THE WOW INITIATIVE

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to address the importance of homeownership in our country; the difficulties that many Americans have becoming homeowners; and the financial strain put on Americans, particularly minorities, when seeking reasonable housing options.

Homeownership is an effective way for Americans to establish wealth and solidarity for their families. More should have the ability to pass homes from generation to generation, with the comfort and knowledge that home is more than a roof over one's head, but that home is a possession. Most consider purchasing a house a major investment, perhaps the largest that one will ever make, but to many it is more than an investment; it is the first step in achieving the American Dream. Families that own homes are entitled to an added sense of pride and a feeling of belonging to a neighborhood or community.

We should strive for all families to have the means necessary to become homeowners and to live comfortably. The fact that homeownership is unrealistic for so many Americans is disheartening. Homeownership has proven to be a tremendous difficulty for a large number of Americans. As housing has gradually become less affordable, families are struggling to pay their rent, let alone mortgage. Housing is considered affordable when a person spends less than 30 percent of their income on rent or mortgage, but contrastingly 4.9 million Americans spend more than 50 percent of their income to remain in their homes. In Illinois, nearly 420,000 renting families, about 30 percent of the total number of renters spend more than 35 percent of their income on rent, 258,000 spend more than half of their salaries on rent; as a result many do not consider home owning an option when apartment living is a struggle in itself. Subsequently, of the Illinois residents who have been fortunate enough to purchase homes, 370,000 of them are spending more than the affordable rate of 30 percent, which is a 38 percent increase from 1990 to 2000.

Financial stress due to housing costs has become an incredible burden in the United States. Unfortunately the frustration shared amongst all Americans occurs at an increased level for minorities, particularly African Americans. African Americans lag behind the U.S. population 48 percent to 68 percent in homeownership. The great wealth gap between African Americans and the rest of the nation creates varying levels of housing affordability, thus what is affordable to some is not affordable for others. In the Chicago metropolitan area alone, there are 850,000 individuals living at or near poverty. For Americans whose everyday reality is grim and discouraging due to lack of financial resources; for Americans who are overlooked despite their hard work; the means to live comfortably are unattainable unless a considerable increase in affordable housing is made.

The Congressional Black Caucus Foundation has joined with many partners and sponsors including Habitat for Humanity, Fannie Mae, and Freddie Mac to stride towards a resolution for the homeownership gap where African Americans, other minorities and low-income families are receiving the short end of the stick. The With Ownership, Wealth Initiative (WOW), was created several years ago to give African American families an opportunity to build wealth through homeownership. The Initiative recognized the rates of African American poverty and homeownership as significantly imbalanced with those of Americans as a whole, and in turn set forth to begin closing the gap. WOW offers credit counseling, housing counseling, home buying assistance and other resources which help families to get on a track that will lead to ownership. After participating in events organized by the WOW Initiative, I am proud to report 200 preapproved mortgages and 103 actual closings in the Chicago area. I commend the CBCF, WOW and its partners for understanding the urgent need to ensure housing affordability for minorities and low-income families. Further, I applaud their success leading families a step closer to our American Dream.

Mr. Speaker, I would like to stress the need for affordable housing for all Americans and further I would like to emphasize the importance of WOW and other programs which share similar goals. These programs along with an end to drastic cuts in funding for housing and the development of more affordable homes are an absolute necessity to aid our country in its current housing crisis.

COMMENTARY ON THE BUSH ADMINISTRATION DNC BLACK HISTORY MONTH PETITION

HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. LEWIS of Georgia. Mr. Speaker, I would like to enter the comments of some Georgia residents into the CONGRESSIONAL RECORD. For Black History Month, the Democratic National Committee queried African Americans asking them to write in and describe how the policies of President George W. Bush's administration are affecting them. The following are the words of Georgia residents who responded:

John A. Olagoke, Dallas, Ga: "Dear Mr. President, For the very first time in American History, I have never seen such a mess up in the American Economy. So many of us African Americans have lost their jobs, their homes, their assets and everything they have worked hard for. I am talking about well-educated people, Mr. President. Most of our telecommunication jobs are being moved overseas for cheaper labor. Last week, again, over 500 co-workers were laid-off at my company. I and others can no longer wait until the November election. I intend to take two of my family members who have not voted for eight years with me to the polling station to express our feelings."

Arnitta Lawson, College Park, Ga.: "In spite of the fact that I have a job, I am very worried that the job I do have will not last. I was laid off once because of 9/11, as well as other family members. [I was] forced to take menial jobs and worry about how to get food for the children, pay bills and try to get a job. I am very distrusting of Republicans such as George W. Bush."

Ginny Albert, Atlanta, Ga.: "Mr. President, because your administration has been so lax and deliberately cruel to the middle class, the corporations who have filled your coffer, thanks to the tax cuts and special initiatives that favor businesses over people, these same corporations now feel that they can be negligent and indifferent toward their customers and employees. They demand more and pay less in every sector. They have cut back on benefits, and in some cases have eliminated benefits altogether. Yes, your lack of true caring toward the non-rich has engendered a sense that cruelty toward people is okay and acceptable, and that employers no longer have to promise their workers anything. And another thing, why have you not initiated a program that will assist the unemployed in keeping their homes. Legislate something that will make it impossible for companies to foreclose on unemployed Americans. The homeless rolls are growing under your administration. If you care, put a stop to it."

TRIBUTE TO GARRETT AUGUSTUS MORGAN

HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mrs. JONES of Ohio. Mr. Speaker, I rise today to pay tribute to a highly gifted and innovative African-American whose inventions play an integral role in public safety all across the world. I would like to take a few moments to recognize Garrett Augustus Morgan's contributions that have improved public safety today, and forever.

Garrett A. Morgan was born in Paris, Kentucky on March 4, 1877. Although Morgan was born into poverty and attained only a fifth grade education, he aspired to be successful. In 1895, while he was a teenager, he moved to Cincinnati and then to Cleveland, Ohio to pursue his ambitions. Morgan started off working in a sewing factory later established his own sewing factory. Morgan was curious by nature and began to venture into other projects.

In 1909, he discovered a substance that straightened hair and made African-American's his target patrons. This product was sold to African-Americans through his own G.A. Morgan Hair Refining Co. He later achieved the financial security to pursue other ideas.

Morgan received national attention for using a gas mask he had invented to rescue several men trapped during an explosion in a tunnel that was being built to ease congestion under Lake Erie. Many fire departments became interested in these gas masks, because they filtered the air in the tunnel. These masks were later used in World War I, and Morgan received a patent for a Safety Hood and Smoke Protector in the following years. Among other awards he received for this invention were a gold medal at the International Exposition of Sanitation and Safety, and a gold medal from the International Association of Fire Chiefs.

In 1920, Morgan collaborated and established a newspaper for African-Americans, called the Cleveland Call, which is now known as the Call and Post. After first running a sewing firm, inventing the gas mask, and creating the Cleveland Call, Morgan gained a great reputation as a worker and entrepreneur. But it was Morgan's invention of the traffic light that he is most remembered for. After observing an accident between a vehicle and horse-carriage, Morgan was zealous to improve public safety. In the early 20th century, many accidents were common partly because animal transportation, pedestrians, and vehicles shared streets. Instead of being satisfied with his prior achievements, Garrett A. Morgan subsequently was granted a patent for the traffic signals. He later sold his rights to his traffic signal to the General Electric Corporation for $40,000.

Garrett A. Morgan died on August 27, 1963 at the age of 86. Due to his safety inventions, the world is much safer. I ask you all to take a moment to ponder on how many lives have been saved due to Garrett A. Morgan's innovative inventions. I like to salute a Cleveland Legend, businessman, inventor, and hero. Mr. Speaker, I yield back the balance of my time.

MILITARY SEXUAL TRAUMA COUNSELING ACT

HON. CIRO D. RODRIGUEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. RODRIGUEZ. Mr. Speaker, I rise today to speak on behalf of legislation I am introducing today, the "Military Sexual Trauma Counseling Act of 2004." This legislation would permanently extend VA's authority to offer services to women and men who experienced sexual harassment, abuse or assault while serving on active duty in the armed services.

Congress originally authorized VA to offer sexual trauma counseling in November 1992 in the wake of the Tailhook Scandal where U.S. naval aviators were found to have sexually abused 14 women officers and 12 civilians at a 1991 convention in Las Vegas. In the wake of another scandal at the Aberdeen Proving Ground in 1998, legislation resulting in the extension and expansion of authority for the sexual trauma counseling program was enacted. I want to commend my colleague on the VA Committee, Luis Gutierrez, for his hard work in support of this legislation.

As the number of women serving in the military continues to grow, the need for this program is sadly more evident. According to a VA report, more than half (55%) of all women in VA's patient population said they had experienced sexual harassment while in the military, and almost one-quarter claimed to have been sexually assaulted. Although the military is moving to address some of the long-standing problems it has had in managing sexism of all kinds in its increasingly integrated armed services workforce, we cannot expect the military's culture to change overnight.

VA's sexual trauma counseling programs are designed to create a secure and sensitive environment in which women who served in the military can deal with the emotional burden of being a victim of sexual abuse. Studies have shown that almost a third of all rape victims have active cases of post-traumatic stress disorder. Typically individuals who seek care may need other types of VA services including appropriate treatment for the psychological effects of trauma, in addition to medication and treatment for the substance use disorders that sometimes arise from victims' attempts to "self-medicate" symptoms such as stress, impaired concentration and nightmares.

Since the program was authorized, VA has embraced the challenge of developing unique resources to serve women and men who suffered such abuses during their military service. The program does not limit its services to veterans and is authorized to provide services to members of the National Guard and Reserve and others who were on active duty, such as trainees, who may never attain veteran status.

To date, thousands of veterans have received VA sexual trauma services and a General Accounting Office study shows a general satisfaction with the programs provided. All VA medical centers, in addition to some vet centers, have resources available to veterans and reservists. It is through effective intervention and counseling that individuals may overcome some of the problems associated with sexual trauma and return to normal, productive lives.

In 2002, the Committee on Veterans Affairs examined the status of VA's health programs for women. One witness, Linda Spoonster-Schwartz, the former Chairperson of the VA's Advisory Committee on Women Veterans and now the Commissioner of Veterans Affairs in Connecticut had this to say:

> Surely by now, this Committee is aware that the need for this treatment program will persist as long as incidents of sexual assault and trauma continue to occur in the ranks of our military. For all practical purposes, this problem is not going away. Indeed, there is no question that there is sufficient utilization of VA resources committed to treat veterans who were victimized while in the service of their country. Women of all ages and periods of service continue to seek assistance from VA for the physical and emotional aftermath of these traumatic events. The burning question to this Committee is why hasn't this become a permanent program of the VA?

The time is right to give this proven program the permanent authority it deserves. I urge this Congress to pass this bill so sexual trauma counseling services will be available to current and future generations of veterans.

RECOGNIZING THE FAIRFAX COUNTY CHAMBER OF COMMERCE 2004 VALOR AWARD RECIPIENTS FROM THE FAIRFAX COUNTY FIRE AND RESCUE DEPARTMENT

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. TOM DAVIS of Virginia. Mr. Speaker, Mr. MORAN, Mr. WOLF and I rise today to recognize an extraordinary group of men and women in Northern Virginia. Each year, the Fairfax County Chamber of Commerce recognizes individuals who courageously have demonstrated selfless dedication to public safety. The hard work, dedication, and perseverance of the Fairfax County Fire and Rescue Department have earned several of its members the highest honor that Fairfax County bestows upon its public safety officials—The Valor Award.

There are several types of Valor Awards awarded to a public safety officer: The Lifesaving Award, the Certificate of Valor, or the Gold, Silver, or Bronze Medal of Valor. During the 26th Annual Awards Ceremony, 53 men and women from the Office of the Sheriff, Fire and Rescue Department, and the Police Department received one of the aforementioned honors for their bravery and heroism.

It is with great honor that we enter into the RECORD the names of the recipients of the 2004 Valor Awards in the Fairfax County Fire and Rescue Department. Receiving the Lifesaving Award: Technician Brent M. Schnupp; the Certificate of Valor: Master Technician John L. Capps, Master Technician Even J. Lewis, EMS Captain Gary D. Pemberton; the Silver Medal of Honor: Firefighter Michael V. Allen, Lieutenant Edward D. Bowman, HazMat Technician Thomas L. Flint, Captain Samuel L. Gray, Firefighter Richard D. Riley, Master Technician Timothy A. Sparrow, Lieutenant Daniel T. Young; the Bronze Medal of Honor: Master Technician Anthony E. Doran, Firefighter Clayton Thompson III.

Mr. Speaker, in closing, we would like to take this opportunity to thank all men and women who serve the Fairfax County Fire and Rescue Department. The events of September 11th serve as a reminder of the sacrifices our emergency service workers make for us each day. These individuals' continuous efforts on behalf of Fairfax County citizens are paramount to preserving security, law, and order throughout our community. Their selfless acts of heroism truly merit our highest praise. We ask our colleagues to join us in applauding this group of remarkable citizens.

TRIBUTE TO FATHER AUGUSTINE SZEKULA

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. SCHIFF. Mr. Speaker, I rise today to proudly honor Father Augustine Szekula. Father Szekula is being honored on the joyous occasion of 60 productive years of distinguished service and leadership in Armenian, religious, cultural and literary endeavors.

Father Szekula is a man for all seasons—devoted parish priest, distinguished educator, prolific author and editor. He is highly respected by the Armenian communities throughout the world, especially in the United States, Lebanon and Austria, where his dedicated service and visionary leadership has impacted a score of students and priests.

Father Augustine Szekula was born on September 19, 1921 in a city called Gyergyoszentmiklos, Transylvania, which currently is Gheogheni in Romanian. His ancestors emigrated in 1913 from the city of Ani, part of the historic Armenia. In 1931, Father Szekula attended the Mekhitarist Seminary of Vienna and was granted membership into the congregation in 1938. In 1946, he received his masters degree from the State University of Vienna. From 1946 through 1993, among his other duties, he served as director of the Mekhitarist "Madenataran," the museum, and the Chancery and editor of "Hantes" Armenological Review. Father Szekula went on to become Vice-Superintendent of the Mekhitarist Seminary in Vienna, Austria, principal of the Mekhitarist school in Hasmie, Lebanon and parish priest of the Armenian church in Budapest, Hungary.

Today, he is the Principal of the Mekhitarist Fathers' School and continues to serve the Armenian community with his leadership and wisdom. Please join me in extending congratulations to Father Szekula on his 60 years of exemplary community service.

TRIBUTE TO AUNT EUNICE MERRELL

HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. CRAMER. Mr. Speaker, it is with a heavy heart that I rise today to honor the memory of Eunice Merrell, known affectionately as Aunt Eunice to everyone that knew her. Aunt Eunice passed away last week at the age of 84.

Aunt Eunice was the proprietor and host at Eunice's Country Kitchen. There you could find friendly faces and good down-home cooking. In addition to the best biscuits in North Alabama, Aunt Eunice never met a stranger. She loved every one of her customers and especially her community. Her restaurant was in business for over 50 years.

Mr. Speaker, there was no place like Eunice's Country Kitchen. It was a part of local legend. At Eunice's, people from all walks of life at all stages of life, were welcomed.

I considered Aunt Eunice a close friend and trusted advisor. She was the type of person who would speak her mind and report what other people were saying about the issues, not what she thought you wanted to hear. She could always be counted on to give honest opinions on developments, controversies, and issues in the community. I believe that Aunt Eunice was part of the unique fabric that makes North Alabama such a wonderful place to live, work, and raise a family. She will be deeply missed.

Aunt Eunice is survived by her sisters Naomi Johnson and Elizabeth Lyon, brother John Jenkins, son Joseph, daughters Doris Elkins and Linda Sledge, six grandchildren, two great-grandchildren, as well as countless friends and admirers. My thoughts and prayers are with them all.

BILL McNEAL: NATIONAL SCHOOL SUPERINTENDENT OF THE YEAR

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. PRICE of North Carolina. Mr. Speaker, I am pleased and proud to inform my colleagues that last Friday, the American Association of School Administrators selected Wake County Superintendent Bill McNeal as the 2004 National School Superintendent of the Year.

Bill has a career of service to Wake County that dates back to 1974, when he arrived to teach middle school social studies. He rose through the ranks to serve as an Assistant Principal, Principal, Assistant Superintendent and Associate Superintendent. He is a graduate of Merrick Moore High School in Durham, North Carolina and received his bachelor's and master's degrees from North Carolina Central University. Bill is the definition of a homegrown leader, and I couldn't be more pleased that his outstanding commitment to education has been recognized on the national level.

As Associate Superintendent for Instructional Services, Bill played a key role in developing Goal 2003, Wake County's groundbreaking effort to take elementary education to a new level. Adopted by the Wake County Board of Education in 1998, Goal 2003 aimed to have 95 percent of the county's third and eighth graders performing at or above grade level in 5 years. Upon assuming the position of superintendent in 2000, it was Bill's challenge to implement strategies for achieving this goal. The tremendous academic improvement which has been achieved as a result is a testament to Bill's leadership and to the power of pursuing a common endeavor on behalf of our children.

Today the Wake County Public School System serves more than 104,000 students from kindergarten through 12th grade in 79 elementary schools, 25 middle schools, 16 high schools, and 5 special/alternative schools. It is North Carolina's fastest growing, highest-performing large urban school district. With a record-high average score of 1067 on the SATs, a low dropout rate, end-of-grade test scores higher than the state average for every ethnic group and income level, and continued academic growth among struggling and advanced students alike, it's evident that Bill's emphasis on academic excellence for all children has had a tremendous impact.

As a former teacher himself, Bill has worked hard to make sure that the views of educators are valued and utilized in the school system's planning efforts. He has convened the Superintendent's Teacher Advisory Council to provide him ongoing feedback about teacher and classroom issues. In addition, he recognizes that the success of schools depends on teachers accepting increasingly complex roles and leadership responsibilities. The challenge is to create the conditions necessary for success and to structure the work of teaching to make it more attractive and rewarding.

Mr. Speaker, as I join in recognizing Bill McNeal for this tremendous honor, I also want to thank him for his service to the schools of North Carolina's 4th District. Just this week, Forbes Magazine named the school system he leads third in the nation on its Top Ten List for the Best Education in the Biggest Cities. I know that Bill's outstanding efforts in Wake County will continue to serve as a model for others across the country.

HONORING TOWNSHIP OF WEST CALDWELL

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to honor the Township of West Caldwell, in Essex County, New Jersey a vibrant community I am proud to represent. Incorporated on February 16, 1904, the good citizens of West Caldwell are celebrating the Township's Centennial Anniversary with special events throughout the entire year.

In the very early history of our country, well before the American Revolution, the towns known today as Caldwell, West Caldwell, North Caldwell, Verona, Essex Fells, Roseland, Fairfield, Cedar Grove and Livingston were inhabited by the Lenni Lenape Indians. As Europeans emigrated to the New World, however, property ownership changed hands; and soon the entire region was purchased by the newcomers and renamed Horseneck. A century after Puritans settled the "metropolis" of the area known as Newark in 1666, steadily growing populations spurred settlers to move slightly westward to occupy what would be the Caldwells in the early 1700s. Almost 50 years of peace followed, until disputes over property rights with the Royal Proprietors of the colony led to jailbreaks and protests led down the narrow, dusty road called Bloomfield Avenue, which today remains a major business corridor through Essex County.

At the time of the Horseneck Riots in 1745, James Caldwell, after whom the Caldwells are named, was a young boy of about 11 years. By the time of the Revolution, though, he was an adult, a minister, in fact, who had endeared himself to the people of Horseneck by journeying over the mountains to preach to them. During the War for Independence not long afterwards, Caldwell earned the nickname "the Fighting Parson" because of his aid to Washington's men as they battled in various parts of Horseneck. Following the Revolution, a local chapel was finally erected and in memory of the Fighting Parson who had stood with them since colonial times, the citizens of Horseneck in 1798 renamed their home "Caldwell."

Caldwell Township flourished throughout the 1800's. Prescribed by physicians as a "pure air" retreat for patients with all kinds of ailments, the quiet region was home to about 485 people (1800 census). Franklin and Westville, what would eventually become known as West Caldwell, began to grow as well. Westville, owned predominantly by the Crane and Harrison families, whose historical homes still exist, was the site of farming lands and the local sawmill. Franklin, on the other hand, was the principal business center of Caldwell Township and had an economy supported by firms, a store, two factories, a cider mill and distillery.

By 1904, the population of Caldwell Township had grown and become so spread out that public renovations could never be approved by residents on both sides of town. To alleviate the problem, on February 16, 1904, West Caldwell was incorporated as an individual borough comprised of 3,175 acres and 410 people. Like every suburb of the metropolitan New York and Newark, New Jersey area, the 20th Century brought with it incredible growth and today West Caldwell boasts more than 11,000 proud residents who treasure the Township's legacy of patriotism, its small town flavor and its strong sense of community.

Mr. Speaker, I urge you and my colleagues to join me in congratulating the residents of West Caldwell on the celebration of 100 years of a rich history and the building of one of New Jersey's finest municipalities.

RECOGNIZING THE CONTRIBUTIONS OF NIKKI YAMASHIRO

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Ms. SOLIS. Mr. Speaker, today I rise to recognize Nikki Yamashiro, a dedicated, thoughtful, and intelligent young woman who I have been fortunate to have working on my staff for over two years.

Nikki first began working in my Washington office as an intern in the winter of 2001. We were pleased to have a resident of Monterey Park, a community I represent, and a graduate of the University of California at San Diego, in our office. Nikki quickly showed us the qualities that would make her a valuable contribution to our team—her intelligence, willingness to work hard, and commitment to the residents of California's 32nd Congressional District.

Nikki gradually worked her way up from an intern to her current position of Legislative Assistant. Along the way, she spearheaded my office's participation in the Congressional Arts—Competition and improved the efficiency of our constituent mail system. Last year, she played a key role in strengthening two bills I introduced—the Domestic Violence Courts Assistance Act and the Domestic Violence Prevention, Education, and Awareness Act. Nikki is a true champion for women's rights and has helped me build nationwide support for these bipartisan bills.

I am very proud of her work, but I am most proud of the work Nikki did to shepherd into law a bill important to our community—the Francisco A. Martinez Flores Post Office Act (Public Law 108–116). Lance Corporal Martinez Flores was a courageous Marine from Duarte, CA, who lost his life while serving in Operation Iraqi Freedom. Nikki and I worked together to get all 53 Members of the California delegation on board as cosponsors of a bill to rename a local post office after Francisco. Nikki would not rest until we achieved our goal—and I am proud to say the post office will be officially renamed on February 28, 2004.

Although I am proud that Nikki is choosing to pursue graduate education, I know that our office will not be the same without her. Nikki is very much loved and respected by everyone she works with. I wish Nikki the best of luck in all her future endeavors. I have no doubt she can achieve anything she sets her mind to.

HONORING THE OCEANSIDE ROTARY CLUB ON THE OCCASION OF THEIR 80TH ANNIVERSARY

HON. DARRELL E. ISSA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. ISSA. Mr. Speaker, I rise today to recognize the good works of the Oceanside Rotary Club on the occasion of their 80th Anniversary. The Oceanside Rotary Club was founded in 1924 and during the past 80 years has undertaken numerous philanthropic projects in its community, the nation and around the World.

The Oceanside Rotary Club has a proud motto of "Service Above Self". The club has contributed in renovation of historic structures and provides books for Marines on deployment. Oceanside Rotarians have sponsored an orphanage and senior center in Baja, Mexico and provided wheel chairs for seriously injured people in the country of Malawi.

Five years ago, Oceanside Rotary raised more than $35,000 to buy and donate automatic external defibrillators to the City of Oceanside.

In 2002 the Oceanside Rotary Club began providing musical instruments for Oceanside Unified elementary and middle school students.

This year the Oceanside Rotary Club raised money to feed 200 needy families during the holiday season.

The Oceanside Rotary Club continues to support Rotary International's "Polio Plus" program, which is on track to eradicate this disease world-wide by the year 2005.

It gives me great pleasure to recognize the Oceanside Rotary Club for over 80 years of noteworthy service. It is these types of organizations that make our country strong. We are proud of their service to our community.

CELEBRATING THE 50TH ANNIVERSARY OF BROWN VS. TOPEKA BOARD OF EDUCATION

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to recognize and celebrate the 50th Anniversary of Brown vs. Board of Education. This case has been acknowledged as the commencement of other milestones from the civil rights struggle. As we take the time to embrace and celebrate, Brown vs. Board of Education has truly become ground zero of the civil rights movements. This movement has affected African Americans tremendously; although Brown has opened many doors for African Americans some have remained closed. It is unfortunate that our society has not truly integrated.

Brown vs. Board of Education's primary focus was to integrate schools; however it did not pertain to anything occurring outside of schools. Several schools had been integrated, but as time persists we are continuing to revert back to a time of segregation within the schools.

Fifty years ago the U.S. Supreme Court realized the truth that, "separate educational facilities are inherently unequal." Consequently, educational integration is an essential prerequisite to achieving a just, democratic fair society, which was finally acknowledged by the high court. If the U.S. Supreme Court had not recognized this ongoing dilemma that continuously occurred I may not be standing before you all today. There would not have been as many African American's pursuing or fulfilling their dreams and providing a better lifestyle for themselves and their family.

Although Brown opened many doors and we have experienced same success, nevertheless much remains to come, such as the problems surrounding housing, poverty, inadequate education for minority children, and increasing the enrollment for post-graduate studies. Yet today, 50 years after this landmark decision, more African American, Latino, and Native American children attend segregated and unequal schools than ever before.

Currently, Black communities in every part of the country, including schools, are experiencing an increase in segregation; although it does not surpass the stratum of the pre-civil rights of the South.

Despite the fact, in my state, Illinois is one of the nation's most segregated metropolitan communities; and has been consistently among areas in the nation's most segregated, in terms of their schools. The National Center for Educational Statistics conducted a study on African American males ages 16–24 are more than twice as likely as white males to be both out of school and out of work.

It is horrendous that children of today are continuing to experience segregation within educational institutions. For instance, a study conducted by Harvard University in 2001–2002 stated, in Illinois, 18 percent of African American students attended white schools, while 61 percent of African Americans attended minority schools. Some African American children are forced to attend school in dilapidated buildings; many do not receive an adequate education, and several are displaced into special education frequently because the teacher cannot manage the child's behavior.

The school dropout rate is higher for African Americans than for whites. According to the Chicago Reporter, 2 out of 3 African American male students who entered high school did not graduate from high school within 5 years. White high school graduates are much more likely to go to college and complete college than African Americans. The problem also persists throughout post graduate degrees. For instance, of the 17,000 dental students enrolled in U.S. dental schools in 1998–1999, less than 1,000 were African Americans, according to the American Dental Association (ADA). The Journal of Dental Education states that, African Americans instead have a higher percentage in jobs with lower skills and lower pay, such as a Dental Assistant rather than a Dental Hygienist. This clearly demonstrates the inequalities in education for African Americans.

The Supreme Court was supposed to create and continue the legacy of "separate but equal," however our Nation is truly experiencing desegregation in public schools.

African American students nationwide are unbelievably disproportionately placed in special educational classes. These individuals who have been overly classified as special education students are confronted with the denial of equal opportunity. When compared to white children, African American children were three times as likely to be labeled "mentally retarded" or "emotionally disturbed," while minority students are usually misclassified, inadequately served, receive low quality services, or segregated from white students according to a study by Harvard University.

Currently, education is perhaps the most important function of the state and local governments. Education is a principal instrument in awakening children to their cultural values, in preparing them for later professional training, and in helping them to adjust normally to their environment. If we take away a valued education, how can we expect any child to succeed in life? Education in not an opportunity, but it is a right, which the states must make available to all on equal terms. Unfortunately, as time recedes, the condition of receiving a quality education worsens daily for African Americans. Although Martin Luther King, Jr. had a dream he also had a nightmare, which has been forgotten. He predicted and was concerned that the promise of Brown and the civil rights law would deceive those who dedicated their lives and souls for the struggle of justice: In his last book, "Where do we go from here? Chaos or Community," he stated,

> For twelve years I, and others like me, had held out radiant promises of progress. I had preached to them about my dream. I had lectured to them about the not too distant day when we would have freedom, "all, here and now." I had urged them to have faith in America and in white society. Their hopes had soared. They were now booing . . . because we had urged them to have faith in people who had too often proved to be unfaithful. They were hostile because they were watching the dream that they had so readily accepted turn into a frustrating nightmare.

Now it is our duty to realize the promise of Brown, so long deferred and still so necessary for progress to occur within our Nation. I would like to leave you with one more quote by Dr. King back in 1959. He said, "As I stand here and look out upon the thousands of negro faces, and the thousands of white faces, intermingled like the waters of a river, I see only one face—the face of the future." So, too, must we. Even though we may not be here to see all the fruits of our labor, we plant these seeds for that child being born. We plant them for the young people of our future.

"Separate can never be equal!"

GREAT AFRICAN AMERICAN LEADER IN AGRICULTURE

HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. LEWIS of Georgia. Mr. Speaker, Mr. Pearlie S. Reed, a native of Heth, Arkansas, attended the University of Arkansas at Pine Bluff, where he received a Bachelor of Science in Animal Husbandry in 1970. He then attended graduate school at American University in Washington, D.C., where he earned a degree in Public Administration-Finance in 1980.

Mr. Reed began his career with the United States Department of Agriculture (USDA) Soil Conservation Service in a temporary appointment in June 1968 as a Soil Conservationist Student Trainee. Thirty years later, in March 1998, he became the chief executive officer for USDA's Private Lands Conservation agency, and the Natural Resources Conservation Service (NRCS), formerly the Soil Conservation Service. He served NRCS in various positions and locations including District Conservationist, Budget and Accounting Officer, Administrative Officer for NRCS National Headquarters, Deputy State Conservationist in Wisconsin, State Conservationist in Maryland and California, Regional Conservationist, and the Associate Chief for the agency. Under the Clinton administration, Mr. Reed served as the Acting Assistant Secretary for Administration that led the most powerful USDA Civil Rights Action Team that developed the most comprehensive report ever written to document the status of Civil Rights in USDA.

As the Acting Assistant Secretary of Agriculture for Administration, Mr. Reed provided leadership for USDA-wide offices and functions, such as the Office of Civil Rights, the Office of Human Resources Management, procurement, contracting, and facilities and property management, the Office of Small Business Utilization, the National Office of Outreach, the Board of Contract Appeals, the Office of Administrative Law Judges, and the Office of the Judicial Officer.

As the Team Leader for the Secretary's Civil Rights Action Team, Mr. Reed provided the leadership for recommendations to address civil rights problems in programs delivery and employment, and actions to ensure accountability and follow-through. The Secretary accepted the findings from that project, and committed to act on all 92 recommendations. The work of the Civil Rights Action Team is recognized as setting the direction for civil rights policy at USDA that semantically reformed a movement within USDA.

As the Chief of NRCS, Mr. Reed served as the executive officer for USDA's private lands conservation agency serving communities in all 50 states, the Pacific Basin, and the Caribbean area. He led a conservation partnership consisting of over 12,000 federal employees, 15,000 conservation district officials, 7,000 conservation district employees, 20,000 Earth Team volunteers, and 350 Resource Conservation and Development Councils. Mr. Reed served as a leader of several USDA-wide activities, such as the chair of the USDA/1990 Task Force, chair of the USDA Agricultural Air Quality Task Force, chair of the USDA National Food and Agriculture Council, and the USDA representative on the United States Migratory Bird Conservation Commission.

As Associate Chief, Mr. Reed served as the chief operating official for NRCS. Under his leadership, NRCS initiated a workforce planning process that was recognized by the National Academy of Public Administration as a model for other agencies. He led the development and implementation of the most comprehensive reorganization of the agency in its 60-year history. With a strong commitment to customer service and conservation partnerships, he initiated the American Indian outreach effort for NRCS to work directly with tribes. He also provided leadership in the development and implementation of the Conservation Title of the 1996 Farm Bill.

Mark Rey, USDA Under Secretary for the Natural Resources and Environment said of Mr. Reed, "I believe that if you look up the term 'public service' in the dictionary, you'd likely see a picture of Pearlie Reed there next to it."

Mr. Reed has had a distinguished career, with 35 years of service which also included international conservation experience and service outside the continental United States. His contributions in South Africa, Australia, and with the International Soil Conservation Organization, exemplify his span of influence as a strong leader, visionary, and unquestionable natural resources conservation ethic.

Mr. Reed received numerous awards for outstanding sustained performance, including the Distinguished Presidential Rank Award—the highest award that can be bestowed upon a Career Senior Executive Service member. Another significant award included is the USDA Secretary's Honor Award for equal opportunity and civil rights that recognizes his vision and leadership in the most comprehensive reorganization in the history of NRCS.

Other recognitions he has received includes the Professional Service Award from the National Association of Conservation Districts, the Soil and Water Conservation Society Award, the George Washington Carver Public Service Hall of Fame Award, and the Distinguished Alumni Award, University of Arkansas, Pine Bluff. Another tribute to Mr. Reed was the naming of several campus buildings, including the Pearlie S. Reed/Robert Cole Smith

Farm Outreach-Wetland Water Management Center by the University of Arkansas System's Board of Trustees.

Mr. Reed is a soft spoken man of few words; a visionary who is marked by foresight, and a person who has distinguished himself by making contributions to conservation in America that will never be forgotten. He is a dedicated man that has never wavered from his work ethic: "Each day I come to work, I think about what is important and how the NRCS can get more conservation on the ground."

TRIBUTE TO JESSE OWENS

HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mrs. JONES of Ohio. Mr. Speaker, I rise today to pay tribute to a very special person, athlete, and role model in African-American history: Jesse Owens. Born "James Cleveland," Jesse Owens was the son of a sharecropper and the grandson of a slave. He was born into a modest household in Alabama, and moved to Cleveland, Ohio, with his family at the age of nine in hopes of finding better employment for his father. During his first day of school in Cleveland, his teacher mistook his name to be "Jesse"; and that nickname stayed with him for the rest of his life.

Jesse went on to attend East Technical High School in Cleveland, where his natural talent for running was immediately recognized by the school's track coach. Jesse was unable to attend after-school track practices because of the numerous jobs he held on the side, including delivering groceries, loading freight cars, and working in a shoe repair shop. Realizing Jesse's abilities, the track coach agreed to meet with Jesse before school. With the refining of his natural talent, Jesse was able to set world records in high school for the 100-yard dash, 220-yard dash, and broad jump.

After being aggressively recruited by top universities, Jesse chose to attend the Ohio State University to continue his athletic and academic career. As Ohio State did not give out track scholarships at this time, Jesse continued to work several part-time jobs to provide for his education, himself, and his wife, Ruth. He juggled his employment with his studies and an intense practice and competition schedule. Jesse continued to excel in track and field, despite the discrimination and segregation he faced on a daily basis. He was forced to live off-campus in housing designated for African-American athletes, and he was not allowed to eat with the rest of his teammates when they were on the road and ate at "whites only" restaurants.

Overcoming all of these obstacles, Jesse continued his record-setting career in his first year in college, as he set world records for the 220-yard dash, the 220-yard low hurdles, and the broad jump and tied the world record for the 100-yard dash. Prior to his record-breaking broad jump, Jesse boldly tied a handkerchief at the height of the previous world record and then confidently jumped an entire six inches above it.

Wanting to take his competitive skills to the next level, Jesse entered the 1936 Olympics, which were to be held in Berlin, Germany during the reign Adolf Hitler. Jesse was used to the discrimination he felt at home and was determined to show Hitler's Germany, and the world, that there was no such thing as a "dominant race." He did just that. Jesse swept the competition by winning the 100-meter dash, the 200-meter dash, and the broad jump. He was also a member of the gold medal-winning 400-meter relay team and set three world records during the competition. His performance placed him permanently in the history books as the first American to win four track and field gold medals in a single Olympics. Perhaps more importantly, Jesse's unprecedented performance caused many people around the world to reconsider their notions of race and capabilities.

Unfortunately, when Jesse arrived home to the United States, the racial barriers that he left were still in place. "I wasn't invited to shake hands with Hitler, but I wasn't invited to the White House to shake hands with the President, either," he said. Showing his grace and class, Jesse did not turn bitter, but rather went on to become a public speaker and advocate for youth sports programs in disadvantaged neighborhoods. His humanitarian efforts were not carried out in vain, as he was awarded the Medal of Freedom from President Gerald Ford in 1976, the highest honor a U.S. civilian may receive.

On March 31, 1980, Jesse Owens passed away after a battle with lung cancer. He left behind his wife and three daughters, numerous world records, and a legendary performance in Germany that reshaped the world's notions of race. He gave America hope during a time when America gave him a seat in the "blacks only" restaurant and a place to stand on the bus. During this month in which we honor Black History and the significant achievements of African Americans, it is proper and fitting that we recognize Jesse Owens as a champion of track and field and, more importantly, humanity.

HIGHLIGHTING THE IMPACT OF THE US-VISIT PROGRAM ON SOUTH TEXAS COMMUNITIES

HON. CIRO D. RODRIGUEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. RODRIGUEZ. Mr. Speaker, I rise today to highlight an issue of great importance to the communities of South Texas—the United States Visitor and Immigration Status Indicator Technology (US-VISIT) program. I would like to thank the gentleman from Texas, Congressman JIM TURNER for his leadership on homeland security issues. He is a great advocate for improving our national security infrastructure at all levels.

We face many challenges in the homeland security area, from the need to improve our intelligence capabilities to providing more resources for local first responders. Without question, we need to continue efforts to improve our national security. But, we must do so in a way that does not undermine our economy. Security and commerce must go hand in hand.

Without a doubt, one of the goals of the September 11th terrorists was to damage our economy. We should not let them win by imposing security measures without the proper infrastructure and preparation needed to make them work smoothly. Texas is the gateway for trade between the United States and Mexico, one of our largest trading partners. Our ports along the border, from El Paso to Brownsville, handle the majority of land-based trade with Mexico. Laredo and El Paso are the two largest ports of entry and six out of the top 10 lands ports are in Texas.

I recently had the opportunity to visit the Port of Laredo with the Ranking Member, Mr. TURNER, to hear first hand about the impact of US-VISIT on our border communities. We met at the World Trade Bridge which, along with a sister bridge, accounts for roughly 40 percent of all overland trade between the United States and Mexico. The US-VISIT program, as currently designed, poses a great threat to our border and national economies. We clearly lack the infrastructure to handle the new requirements. Even without US-VISIT, our border infrastructure is inadequate to meet the current demands and future potential. We need to improve our roads, build new bridges, and update our technology. With implementation of the US-VISIT program, we face the likelihood of greater delays, confusion, and a decrease in legitimate trade and tourist travel.

We must not tolerate any decrease in border trade. Our goal must be to expand it while improving our security. To do so requires more investment. To do so requires the development of new technologies that will protect us while allowing more people and goods to cross our borders.

We need to better understand how US-VISIT will impact us. For that reason, I have requested, through Ranking Member TURNER, that the GAO study the economic impact of US-VISIT on our land ports and to report on what infrastructure and technology we need in order to avoid an economic disaster. Once we have that information, and only then, can we decide how to properly carry out our border security measures.

And it's not just communities directly on the border that will suffer. Cities like San Antonio, a major trade gateway, will suffer similarly as trade becomes snarled at our ports and as trade literally moves elsewhere.

We must also address the unfairness of the existing border visa program. Currently, Mexican citizens can obtain a border laser visa, a secure document that allows them to enter the United States for 72 hours and travel no more than 25 miles from the port of entry. Obtaining a laser visa requires extensive background and security checks. Applicants are screened and checked. For that reason, we should also insist that holders of laser visas not be required to go through any duplicative requirements of US-VISIT, such as photographing and fingerprinting. Moreover, the 72-hour limit is unfair and if strictly enforced would devastate many border economies. We should allow laser visa holders to stay in the United States for up to six months.

These laser visa holders are an important part of our economy. Many of them have businesses, homes and family members in the United States. We must protect our security, but we must value our visitors who do not come to harm us, but rather to visit our country and contribute to our economy.

RECOGNIZING THE FAIRFAX COUNTY CHAMBER OF COMMERCE 2004 VALOR AWARD RECIPIENTS FROM THE FAIRFAX COUNTY POLICE DEPARTMENT

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. TOM DAVIS of Virginia. Mr. Speaker, Mr. MORAN, Mr. WOLF, and I rise today to recognize an extraordinary group of men and women in Northern Virginia. Each year, the Fairfax County Chamber of Commerce recognizes individuals who courageously have demonstrated selfless dedication to public safety. The hard work, dedication, and perseverance of the Fairfax County Police Department have earned several of its members the highest honor that Fairfax County bestows upon its public safety officials—The Valor Award.

There are several types of Valor Awards awarded to a public safety officer: The Lifesaving Award, the Certificate of Valor, or the Gold, Silver, or Bronze Medal of Valor. During the 26th Annual Awards Ceremony, 53 men and women from the Office of the Sheriff, Fire and Rescue Department, and the Police Department received one of the aforementioned honors for their bravery and heroism.

It is with great honor that we enter into the record the names of the recipients of the 2004 Valor Awards in the Fairfax County Police Department. Receiving the Lifesaving Award: PSCC Assistant Supervisor Jackie A. Ahrens, Police Officer First Class Garrett G. Broderick, Public Safety Communicator Gail M. Gibson, Police Officer First Class Daniel V. Johnson, Detective Thomas P. Lawn, Sergeant Shawn C. Martin, Police Officer First Class Weiss Rasool, Officer Stacy L. Sassano, Police Officer First Class Donna E. Shaw, and Detective James N. Sparks, III; the Certificate of Valor: Police Officer First Class William G. Brett, Senior Police Officer Robert A. Galpin Jr., Detective Matthew G. Payne, Detective Steven T. Pihonak, and Detective Gene M. Taitano; the Silver Medal of Honor: Police Officer First Class Timothy W. Cook; the Bronze Medal of Honor: Master Police Officer Bryan K. Cooke, Second Lieutenant Scott C. Durham, Master Police Officer Charles M. Haugan, Second Lieutenant Daniel P. Janickey, Police Officer First Class Ryan W. Morgan, Senior Sergeant John W. Orpin, Private First-Class David B. Patterson, Officer Randolph G. Philp, and Officer Frederick W. Von Meister.

Mr. Speaker, in closing, we would like to take this opportunity to thank all men and women who serve the Fairfax County Police Department. The events of September 11th serve as a reminder of the sacrifices our emergency service workers make for us each day. These individuals' continuous efforts on behalf of Fairfax County citizens are paramount to preserving security, law, and order throughout our community. Their selfless acts of heroism truly merit our highest praise. We ask our colleagues to join us in applauding this group of remarkable citizens.

IN RECOGNITION OF ASBAREZ, ARMENIAN DAILY NEWSPAPER'S 95TH ANNIVERSARY OF ESTABLISHMENT IN CALIFORNIA

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. SCHIFF. Mr. Speaker, I rise today to honor the bilingual daily newspaper, Asbarez, as it celebrates its 95th anniversary of establishment in California. Asbarez, which means 'arena' in English, was founded in August of 1908 in Fresno, California. At that time those who had come from Armenia looked to Armenia and Armenians for guidance, and the seven founding fathers, noticing the community's desire to preserve its heritage and identity, created Asbarez, with the hope of bringing the community and the homeland together.

Asbarez was born through the sacrifice of all those involved. In the words of Edward Megerdichian, who worked at Asbarez from 1956–1963, "[Asbarez] was ninety percent voluntary, and everyone had a sense of ownership, a sense of community—that this is our paper and our lives are described in this paper." It was with such dedication that the newspaper persevered to keep all the Armenians in California informed and connected.

Recognizing that there was an important role for Asbarez to play in the growing Armenian community in Southern California, Asbarez Publishing Company moved its operation to Los Angeles in the 1970's. In the last three decades, Asbarez has become a bilingual daily newspaper, becoming the voice of the Armenian-American community from libraries to newsrooms.

Today, what was once a small paper has grown to thousands of subscriptions, and is read in numerous countries reaching a larger, more diverse audience than ever before. It has maintained and reaffirmed its commitment to providing reliable news and information to the community for 95 years.

It is my distinct honor to recognize Asbarez's invaluable service to the constituents of the 29th Congressional District over the years. Asbarez has truly succeeded in becoming a trusted information and community source. I ask that all the members join me in congratulating Asbarez's 95 years of establishment and service to the community.

JAVITS-WAGNER-O'DAY NATIONAL DISABILITIES DAY

HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. LEWIS of Georgia. Mr. Speaker, I would like to remind my colleagues of the many barriers people with disabilities face. They confront barriers to employment, transportation and mobility issues, environmental obstacles, as well as fears, prejudices and misconceptions about their ability to offer valuable service to business, to our communities, and to our nation.

People with disabilities battle a 50 percent nationwide unemployment rate, and those with severe disabilities struggle with a debilitating 70 percent rate of unemployment. I regret that ten years after this Congress passed the Americans with Disabilities Act, it is still necessary to affirm that people with disabilities can work and want to work. They can enrich the workplace with meaningful skills and talents. And they, like any other Americans, want to contribute their talents to our society.

The key to changing these shocking labor statistics is to encourage employers to focus on the abilities of an individual, rather than an individual's disabilities. Hiring a deserving, qualified individual with a disability is a win-win situation for business and the community. When a person with a disability is employed, the positive benefits reverberate in the community reducing welfare dependency and generating self-sufficiency, independence, stable families, and an increased tax base. Employing people with disabilities helps businesses as well. They have extremely high retention rates, higher than most employees, and there can be tax advantages for businesses that hire employees with disabilities.

The Javits-Wagner-O'Day (JWOD) Program is to be commended and should be supported for providing employment opportunities to Americans with disabilities. The JWOD Program uses the purchasing power of the Federal Government to buy products and services from participating, community-based nonprofit agencies dedicated to training and employing individuals with disabilities. JWOD completes the cycle of support by enabling persons with disabilities to acquire job skills and training, receive good wages and benefits, and gain greater independence.

The program serves 40,000 people with disabilities nationwide. Last year, it generated approximately $280 million in wages earned and nearly $1.5 billion in products sold. In Georgia alone, some 972 people with disabilities earned nearly $3 million in wages last year as a result of the Javits-Wagner-O'Day program.

The Bobby Dodd Institute (BDI), a community rehabilitation facility in my district, has found particular success with JWOD contracts. Bobby Dodd Institute trainees operate the Veterans Administration Hospital switchboard, the U.S. Attorney Office mailroom, the Decatur Army Reserve Base janitorial service, and even have an expanded regional presence at the Veterans Administration Hospital switchboard in Murfreesboro, Tennessee.

As a result of these JWOD contracts, the Bobby Dodd Institute has been able to provide employment opportunities to numerous individuals with disabilities and has helped them to become independent, self-sufficient citizens. I am pleased that these JWOD contracts have had such a positive impact and hope that this is only the beginning. With support from my esteemed colleagues, Javits-Wagner-O'Day contracts can increase, and our whole society will benefit.

This is a program that truly makes a difference in the nation, and in Georgia. I am proud to support it.

INTRODUCTION OF END RACIAL PROFILING ACT OF 2004

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. CONYERS. Mr. Speaker, I am pleased to introduce the End Racial Profiling Act of 2000, along with additional bipartisan cosponsors. As a product of years of extensive consultation with both the law enforcement and civil rights communities, this legislation represents the most comprehensive federal commitment to healing the rift cause by racial profiling and restoring public confidence in the criminal justice system at-large. The introduction of this legislation is critical step in what should be a nationwide, bipartisan effort to end this divisive practice.

Before September 11, 2001, there was wide agreement among Americans, including President Bush and Attorney General Ashcroft, that racial profiling is wrong and should end. Many in the law enforcement community acknowledged that singling out people for heightened scrutiny based on their race, ethnicity or national origin had eroded the trust in law enforcement necessary to appropriately serve and protect our communities. What was true before September 11th is even more true today: racial profiling is inappropriate and ineffective as a law enforcement tactic.

To that end, the Bush administration has promulgated a series of guidelines which are designed to end the practice of racial profiling by federal law enforcement agencies. However, we must not mistake the issuance of federal guidelines as the final resolution of the racial profiling problem nationwide. The vast majority of racial profiling complaints arise from the routine activities of state and local law enforcement agencies. While these guidelines send a signal, they are not a replacement for the enactment of comprehensive federal anti-profiling legislation.

Racial profiling not only undermines our constitutional rights, it undermines the trust on which law enforcement depends to protect our communities. Since the first introduction of racial profiling legislation in the 105th Congress, the pervasive nature of the practice has gone from anecdote and theory to well documented fact. Data collected from New Jersey, Maryland, Texas, Pennsylvania, Florida, Illinois, Ohio, New York and Massachusetts show beyond a shadow of a doubt that African-Americans and Latinos are being stopped for routine traffic violations far in excess of their share of the population or even the rate at which such populations are accused of criminal conduct. Moreover, a recent Justice Department report found that although African-Americans and Hispanics are more likely to be stopped and searched by law enforcement, they are much less likely to be found in possession of contraband.

This legislation is designed to eliminate racial profiling by changing the policies and procedures underlying the practice. First, the bill provides a prohibition on racial profiling, enforceable by injunctive relief. Second, the receipt of federal law enforcement and other monies that go to state and local governments is conditioned on their adoption of effective policies that prohibit racial profiling. Third, the Justice Department is authorized to provide grants for the development and implementation of best policing practices, such as early warning systems, technology integration, and other management protocols that discourage profiling. Finally, the Attorney General is required to provide periodic reports to assess the nature of any ongoing discriminatory profiling practices.

The vast majority of law enforcement officers discharge their duties professionally and without bias. The value of their service should not be tarnished by a minority of police officials who engage in discriminatory behavior. Evidence obtained from enforcement efforts over the past several years has made it clear that federal action is necessary to address this problem with finality.

Racial profiling is a divisive practice that strikes at the very foundation of our democracy. When law-abiding citizens are treated differently by those who enforce the law simply because of their race, ethnicity, religion or national origin, they are denied the basic respect and equal treatment that is the right of every American. Decades ago, with the passage of sweeping civil rights legislation this country made clear race should not affect the treatment of individual Americans under the law. The practice of using race as a criterion in law enforcement flies in the face of the progress we have made toward racial equality.

With the continuing cooperation of the Administration, we have the opportunity to move bipartisan legislation and end the practice of racial profiling. I hope that we do not miss an historic opportunity to heal the rift cause by racial profiling and restore community confidence in law enforcement.

BLACK HISTORY MONTH

HON. RAÚL M. GRIJALVA

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. GRIJALVA. Mr. Speaker, I rise today in celebration of Black History Month. Black History Month was established in 1926 to pay tribute to the many African-Americans and other people of African descent for their myriad of contributions to human civilization. It is important to remember that during the years of 1619 and 1926 African-Americans received no recognition of their achievements that are inseparable from our lives.

Under President Woodrow Wilson's tutelage, the "Negro History Week" was created to promulgate the African-American achievements through sets of colloquiums, lectures, and exhibitions. It was to give a balanced view of all the people that contributed to the improvements of the Western society. Since then, the government has extended the longevity of the celebration to a month in order to provide a more extensive, global recognition and educational opportunity.

This year marks the 50th anniversary of the landmark Supreme Court ruling in the case of Brown versus the Board of Education, which established that every child deserves an education that is equal and substantive. This case changed the way African-American children were educated and was a catalyst that promoted change in the areas of voting, housing, and social justice.

In my home state of Arizona, before the year 1909, Arizona's schools were not segregated. However, during that year, Arizona's General Assembly passed legislation requiring African-American children to attend all black schools and be taught by black educators for the first eight years of their schooling. The first Tucson Unified Arizona District school to engage in segregation was the Paul Lawrence Dunbar School, named after a notable African-American poet. Through the collaboration of zealous teachers and caring parents, the students were able to receive a good education despite the school's inadequacies.

In 1951, Tucson Unified School District freely decided to integrate the school system, and in 1952 the school was renamed John Spring.

The school closed in 1978. To preserve the school, the Dunbar Coalition, a community organization, bought the property from Tucson Unified School District in 1995. The coalition is currently refurbishing the school and transforming it into an African-American Museum and Cultural Center. The school now serves as a venue for community events, and will be having a hearing on May 8th, 2004 to discuss the 50th anniversary of the Brown versus the Board of Education. Over 100 years ago, this building represented the inequities African-American children faced within the education system; it now symbolizes the injustices that are still present in the education system.

Black History Month, along with other celebrations, holidays and laws, has recognized the discrimination, harassment and abuse that blacks have endured. It showcases how far we have progressed, as well as reminds us that our goal in reaching true equality has not yet been completely fulfilled. Black History Month is a tool that educates and teaches the community on the African-American experience and struggle.

During this month, we acknowledge the many national African-American trailblazers such as, W.E.B. Dubois, Harriet Tubman, Rosa Parks, Martin Luther King Jr., Frederick Douglas, Malcolm X, and Hiram Revels and Shirley Chisholm, the first African-Americans elected to the U.S. Congress. Through these individuals and the dedication and hard work of countless others we, as Americans, are more tolerant, patient and accepting of others. We benefit from their legacies not in February alone, but every day.

It is important that minority groups work collectively to ensure civil rights are sustained and each person is treated with the respect and dignity they deserve, regardless of the color of their skin or ethnic background. It is my goal to build strong alliances and coalitions among all minority communities to work collectively toward reaching true equality.

I am very proud to have the opportunity to stand on the floor of the United States House of Representatives to help celebrate Black History Month. This is the time when we must commemorate and celebrate the lives of the many African-Americans that have made historic contributions in the areas of academics, politics, science/technology, and social justice. Their struggles and their triumphs are engraved in our everyday life and it is essential that we celebrate all of their accomplishments.

REGARDING THE TRAGIC EVENTS TAKING PLACE IN HAITI AND INTRODUCING LEGISLATION WITH RESPECT TO THE URGENCY OF CESSATION OF HOSTILITIES

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. HASTINGS of Florida. Mr. Speaker, the situation in Haiti continues to get worse. The attacks on towns and cities are ongoing and more frequent. There are reports of widespread looting and roundups. Haiti is now threatened with chaos.

The ongoing political crisis in Haiti has devastated the country's economy, social fabric, and the livelihoods of its people, leaving Haitians with a ruined economy and barely functioning physical infrastructure, few resources or the basic necessities to maintain life, and an insolvent government.

The path we tread is a difficult one. On the one hand, the disappointing Aristide presidency has reached an impasse, and has not yet shaken off the questions of constitutional legality. On the other hand, the democratic and constitutional principles are the foundations to a free society that we must always treasure. But the issue is not whether or not to support President Aristide. Rather, finding a solution that will bring stability while strengthening the democratic process in Haiti.

To achieve this, a political solution is needed to bring together all those that refuse to make things worse. The rebels are degrading the democratic institutions. For that reason, sacking an elected leader is a recipe for illegitimacy and more bloodshed.

The American people eagerly support a peaceful transition to a representative government in Haiti. Moreover, the Haitian communities in exile are committed to peace and democracy in their country, and I thank them for their steadfast advocacy for Haiti's interests.

Mr. Speaker, to put an end to violence, the best solution is to involve the international community in ceasing the hostilities, to find respite and protect the population. A peaceful and democratic solution is needed that respects the rule of law and the people's rights.

But, what can we do? I am introducing a resolution that will call for international efforts to end the violence and develop the economic and political institutions necessary to permit Haiti to sustain its population and restore its economic, social, and political process.

This legislation would also call on President Aristide to announce early elections. Thereafter, all the people of Haiti will decide whether or not new political leaders are needed.

It would be structured as follows:

The immediate formation of a United Nations peacekeeping force to help put an end to the violence in Haiti and assist with the subsequent peace, provide for political transition, and establish an economic reconstruction in Haiti.

International support preparing for early presidential elections by establishing a legitimate electoral process.

An international and long-term commitment to aid with the reconstruction of Haiti.

All of the above must be legitimized and implemented by the international community, with the absolute steadfastness from the United States to Haiti's peace, justice, and prosperity.

Mr. Speaker, as the Western Hemisphere's second-oldest democracy—wrestled from the clutches of European colonialism in 1804 by African slaves—the turbulent events in Haiti are of great concern to me. As a result, I am introducing this legislation with the utmost urgency.

I implore my colleagues to support this resolution.

IN HONOR OF DON RAY

HON. CHARLES W. "CHIP" PICKERING

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. PICKERING. Mr. Speaker, next month, Don Ray, a great servant in Mississippi will be leaving his home and work in my district to serve a higher calling. We will miss him in the South, but the Lord has called him to a church in Michigan, and we are proud and excited he will be responding to this, the highest of callings.

Don and Jeannie Ray have reared a wonderful and loving family: son Craig; daughter Jene with her husband Michael Barranco and their children Mia Julia and Michael; daughter Jerri with her husband Ralph Ross and their children Jennings and Graeme; daughter Julie; and son Kyle with his wife Hilmari and their children Baylor and Carly Marie. Five children and six grandchildren are fitting legacy for anyone, but Don has made an impact in many other ways: the Church, higher education, and the world of finance.

Don has served as Vice President for Development at Belhaven College since November of 1999. Under his leadership, Belhaven has brought in multi-million dollar deals significantly increasing the vitality and stability of the campus, including funding a new student center. Alumni have been rejuvenated and their positive excitement has led to more and greater financial commitments to the institution. His direction created a vibrant and engaging Homecoming event that has Belhaven alumni eagerly anticipating their annual visit to Jackson, Mississippi.

Belhaven College and Mississippi will miss Don and Jeannie Ray, but the First Congregational Church of Otsego, Michigan will benefit from his years of experience as a pastor and administrator. Before serving in development in higher Christian education including service at Belhaven College, Millsaps College, and Wheaton College, Don served at various churches as a youth pastor and senior pastor.

Don excelled in his previous career of financial planner. He began with Connecticut General Life Insurance in 1964 as an estate planner and business analyst. He moved up the corporate ranks through Northwestern Life Insurance and A.G. Edwards & Sons. He was selected by "Money Magazine" as one of the "200 Best Financial Planners in America" in 1987 and again in 1990. In 1991 he left Financial Review Services, where he served as president of the full services financial planning firm, to begin serving higher Christian education.

For about 25 years, Don Ray has been a Certified Financial Planner and he has a total of 40 years in the financial and estate planning industry. He is a past president and chairman of the board of the Mississippi Chapter of the International Association of Financial Planning, has served as an adjunct faculty member of the College for Financial Planning, and has been a member of both the Registry for Practicing Financial Planners and the Institute for Certified Financial Planners. His training in finance has benefited the Kingdom through gifts to education, churches, and other organizations for many years. He has served on the boards of several Christian organizations including Pioneer Bible Translators, Wheaton Christian Academy High School, Windsor Park Manor Retirement Center, Marble Retreat for Clergy, the Fellowship of Christian Athletes, and the Board of Stewards at Galloway United Methodist Church. Don and Jeannie both have served long hours in ministries at Galloway in Jackson and that congregation will certainly miss their gifts and their spirit of servanthood.

I know Belhaven College will be sad to see him go, though they, too, are excited about his new opportunity. I believe Belhaven President Dr. Roger Parrott described Don Ray's service best: "Don was exactly what we needed for this season of Belhaven's growth. He has helped us broaden our base of support among our friends and alumni, crafted together major gifts that have catapulted us forward, and created a platform of professionalism among the team that will carry us forward. Please join us in praying for Don's ministry."

The motto of Belhaven College is "to serve, not to be served." That phrase is the executive summary of Don Ray's life so far, and I believe will continue for many years to come. I hope Congress will join me and Belhaven College, a great Christian liberal arts college in my district, in saluting the service of Don Ray and wishing him the best in his return to the ministry.

IN RECOGNITION OF SAMUEL ALVIN "SAMMY" BRASHER

HON. MIKE ROGERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. ROGERS of Alabama. Mr. Speaker, I rise today to pay tribute to Samuel Alvin "Sammy" Brasher—known to many of us as the man with the harmonica.

Sammy Brasher was an inspiration to us all. Born in 1959 with Down syndrome, Sammy was not expected to live a full life. When he was born doctors told his parents he would only have 3 years on Earth. He lived to be 44.

Mr. Speaker, Sammy Brasher is a shining example to us all. Never one to give up easily, Sammy lived his life as a testament to what we all can be, and what we all can achieve. He never let his health slow him down, and kept us smiling with his ever-present musical companion, his harmonica.

Sammy Brasher's memory will always be with us, and so will his life. His smile, his harmonica, and his honesty touched us all. At this difficult time we grieve for his family and remember them in our hearts, and in our prayers.

INTRODUCTION OF THE PRESCRIPTION DRUG SAFETY AND AFFORDABILITY ACT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. STARK. Mr. Speaker, I rise today to introduce the Prescription Drug Safety and Affordability Act. For far too long, the pharmaceutical industry has jeopardized patient safety and inflated prescription drug prices by using tax-deductible dollars to underwrite their marketing efforts. The Prescription Drug Safety and Affordability Act would root out this unethical and potentially fraudulent behavior by denying tax deductions to pharmaceutical companies for the gifts they lavish on physicians.

Recently, Congress passed a new Medicare prescription drug benefit that falls far short of giving seniors the relief they need from the high prices of prescription drugs. In fact, the average senior will still pay $1660 out of pocket per year under the new drug benefit, and a total of $2080 out of pocket when premiums are included. Unfortunately, the new drug bill does nothing to lower prescription drug prices. In fact, it specifically prevents the government from using the bargaining power of 40 million beneficiaries to negotiate lower drug prices. At the same time, it continues to prohibit seniors from shopping for a better price on the global market, despite broad bipartisan support for allowing them to do so.

Relief is all the more urgent because prescription drug prices are rising for seniors, who now pay an average of $2,322 for their drugs. Between 1998 and 2003, of the 50 drugs most commonly prescribed to seniors, nearly three-quarters of them increased in price by at least one and one-half times the rate of inflation, and more than half increased by at least three times the rate of inflation. We must do all that we can to lower the price of prescription drugs and to spend our healthcare dollars wisely.

Yet, drug companies are spending billions of dollars on promotions to entice doctors to prescribe their products, and these dollars are tax deductible. An April 2002 survey by the Kaiser Family Foundation found that pharmaceutical companies spent $13 billion in 2001 on incentives for doctors, or more than $15,000 per doctor. Sixty-one percent of physicians surveyed said they had received gifts from the industry. Drug companies often give out free meals, tickets to the theater, concerts, or sporting events, gifts such as watches and jewelry, and pay for physicians' travel to symposiums or conferences.

These gifts are often attempts by the pharmaceutical industry to induce doctors to prescribe their products even when it is not in the patient's best interest. For example, recently disclosed court documents have revealed that Warner-Lambert encouraged hundreds of doctors to prescribe Neurontin for unapproved uses by inviting them to dinners, weekend trips to resorts, and free tickets to the 1996 Summer Olympics in Atlanta. Just a few months ago, the U.S. Attorney's office filed court papers accusing the company of implementing a "marketing scheme that is rife with false statements and fraudulent conduct." The U.S. Attorney concluded that the public interest can only be served when drug promotion is "free of the insidious effects of kickbacks and related financial conflicts of interest," which artificially inflate sales and prices. These gift-giving campaigns contribute to preference and rapid prescribing of new drugs, and decreased prescribing of generics. In other words, tax-deductible dollars contribute to the rising prices of prescription drugs.

These campaigns and inflated prices are particularly outrageous, given the level of profit the drug companies make at the expense of patients. The pharmaceutical industry is consistently the most profitable industry in America, with profit margins in 2001 more than five times the median for fortune 500 companies. Spending on prescription drugs has increased by 20% each year between 1997 and 2001. Between January 1997 and January 2002, the average price of the most commonly used prescription drugs for seniors rose by 27.6%, more than twice the rate of inflation.

The Pharmaceutical Research and Manufacturers of America (PhRMA) pretended to discourage these improper marketing ploys by issuing conflict-of interest guidelines in April 2002. After announcing the guidelines with fanfare, they then paid the American Medical Association to "educate" their members on these guidelines-that is, they gave doctors financial incentives to promote ethical guidelines that called for an end to financial incentives! It is obvious that PhRMA is not serious about ending the practice of giving financial incentives to doctors. This bill would create an incentive for drug companies to adhere to their own code of conduct.

Not only are these incentives unethical, but they could even be illegal. The HHS Inspector General issued final guidance to pharmaceutical manufacturers saying that many of these gifts to doctors could be considered illegal kickbacks. By allowing tax deductions for these gifts, current tax law actually encourages this potentially illegal practice. This bill seeks to redress this perverse incentive.

The Prescription Drug Safety and Affordability Act would help ensure that pharmaceutical companies' behavior matched their rhetoric. This bill eliminates the tax-deduction that pharmaceutical companies currently receive for the gifts they give to physicians. Clever marketing ploys that influence physician prescribing habits do little to actually save lives, but do much to increase drug prices and corporate profits. By removing incentives for pharmaceutical companies to lavish gifts of dubious public value on physicians, I hope that pharmaceutical companies will either redirect those funds toward research and development of lifesaving drugs or reduce the prices of prescription drugs for seniors and all Americans. These price reductions will provide much needed relief to America's seniors, who face an ever-increasing burden when paying for their prescriptions, and will stretch scarce Medicare drug benefit dollars further.

I hope that my colleagues will join with me in support of the Prescription Drug Safety and Affordability Act. Prohibiting industry gifts to physicians is a nonpartisan issue that should receive bipartisan support. In fact, the Republican appointed Health and Human Services Inspector General issued guidance restricting the practice, and, next door in Maryland, a Republican state representative has introduced a bill to prohibit these gifts. It is time to stop using taxpayer dollars to fund the industry's marketing campaign to doctors, which puts profits above patients.

COMMEMORATING THE LIFE OF HELEN HORRAL

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. OBERSTAR. Mr. Speaker, it is with tremendous respect and deepest sympathy that I rise today to honor Mrs. Helen Horral who died January 3, 2004, at the age of 87. Helen Horral was a loyal Democrat and a vocal activist who will be deeply missed by everyone who knew her. For the last seventeen years, Mrs. Horral dedicated her life to helping working people, the elderly and the struggling underclass through her tireless advocacy for affordable housing, and senior citizen rights.

From 1985 to 1995, Helen helped set low income housing policies by serving on the Duluth Housing Redevelopment Authority (HRA). She also served as president of the Authority for one year and helped create solutions for Duluth's low-income housing needs. In addition, Helen was a member of the Single Room Occupancy Commission (SRO) examining issues of homelessness and the use of shelters and food banks. As part of the SRO Commission, she worked to improve living standards and make housing more affordable. While serving on the SRO commission, Helen was a staunch advocate for residents, ensuring that tenants were treated with respect. She came to be known as the "resident caretaker" of the SRO Commission.

Her deep compassion and bold sincerity made her one of the most respected women in the Democratic Farmer Labor party history. Accordingly, Mrs. Horral was one of the first inductees to the DFL party's Women's Hall of Fame, in 2000. Yet she did not set out to be noticed; for most of her life, her tireless work was done without acknowledgement. Helen was the driving force behind Duluth's political scene, spending countless hours in campaign offices, hosting political dinners, and recruiting other volunteers to engage in the political process. In the end, Helen did all of this not because she was asked, but because she felt a passion to provide service to those less fortunate in our society.

Mr. Speaker, today I would like to openly recognize Mrs. Helen Horral's dedication and exceptional service to Minnesota politics and the DFL Party. She has had a tremendous impact on my community and on many communities throughout

Minnesota. As a result of Helen's dedicated work, there has been real improvement in Duluth's low-income housing; there are now more low-income, high quality units in Duluth, and low-income senior citizens are living in the dignity they deserve.

My thoughts and prayers go out to Helen's family; her son Duane Horral; sisters Betty Guinn and Maxine Hoppus; and her five grandchildren and nine great grandchildren. I extend my deepest condolences and sympathy to those whose lives

Helen touched, which have undoubtedly grown dimmer since her passing. Her contributions will be forever remembered, her presence forever missed, and her memory forever in our hearts.

TRIBUTE TO THE ST. FRANCIS HIGH SCHOOL VARSITY FOOTBALL TEAM 2003–04 MICHIGAN DIVISION 7 STATE CHAMPIONS

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. CAMP. Mr. Speaker, I rise today to pay tribute to the St. Francis High School Varsity Football Team, who recently won the 2003–04 Michigan Division 7 state title. In their heart-stopping championship game played at the Pontiac Silverdome, located in Detroit, Michigan, the St. Francis Gladiators defeated Hudson 28–14.

Led by Head Coach Josh Sellers and assistant coaches Jim Carroll, Pat Cleland, Joe Forlenza, Steve Curtis, Greg Sherwin, Craig Bauer, Scott Doriot, and Mark DeSantis, the 2003–04 Gladiators include seniors Garrett Petterson (Captain, 2), Travis Sivek (Captain, 3), Tyler Schell (5), Sean Currie (6), Kevin Curtis (Captain, 10), Nathan Dunham (20), Brett Milliman (30), Ryan Asam (32), Jacob Preston (Captain, 51), Ken Underwood (61), John Bailey (62), Devin Tremp (65), Caleb Richardson (71), and Mike Freundl (86).

The dedication that these players put forth throughout the entire season is one of which the entire district can be proud. Their victory not only brought the team together in great spirit, but their family, friends and community as well.

Once again, on behalf of the Fourth Congressional District of Michigan, I would like to congratulate the coaches and members of the St. Francis High School Varsity Football Team on their achievement. I wish them the best in their future season.

A TRIBUTE TO MS. BEULAH “BEAH” RICHARDS

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. THOMPSON of Mississippi. Mr. Speaker, I would like to recognize an African American pioneer, actress Ms. Beulah “Beah” Richards.

For the daughter of a Mississippi-born Baptist minister, a good education might have led to a secure job and a middle-class existence. For Beah Richards of Vicksburg, Mississippi, it meant freedom and rejection of life in a town in which she claimed to have suffered racism “every day of my life”.

In 1948, Richards graduated from Dillard University, New Orleans, and decided to pursue an acting career. Although she had her first paid acting job at age 36, Richards won three Emmy awards and was nominated for a Tony award and an Academy Award for her 1967 role in Guess Who's Coming to Dinner.

Her career began at a time when roles for black actors were becoming marginally less stereotypical compared with the pre-war years, when comic characters or minor parts as spear carriers or domestic servants were the norm. Since she was solely an actress, not an entertainer, Richards never achieved star status, and specialized in feisty character roles, usually older than her years, notably indomitable matriarchs.

A move to New York in the early 1950s, to play the role of the grandmother in Take a Giant Step, boosted her career. Take a Giant Step was a thoughtful drama about race that proliferated in the 1950's. Richards shined in the Pulitzer Prize winning play, A Raisin in the Sun, where she understudied the lead on Broadway and played in later productions.

In the social thriller In the Heat of the Night (1967), she shared the screen with Sidney Poitier, Hollywood's leading black actor; later that year she did so again in Stanley Kramer's Guess Who's Coming to Dinner, this time playing Poitier's mother, despite being two years his junior. Poitier was to be the first of many screen sons. She later mothered James Earl Jones in The Great White Hope (1970), Danny Glover in And the Children Shall Weep (1984) and Eriq La Salle as the irascible Dr. Benton in ER.

Aside from her acting career, Richards' life was an apex of activism and artistry. Her little known friendships with historical giants Paul Robeson, W.E.B DuBois and African-American communist leaders William and Louise Patterson helped cultivate her passion for using words to create wisdom.

Reading her fiery poem A Black Woman Speaks of White Womanhood, White Supremacy and Peace garnered the attention of the FBI under the J. Edgar Hoover administration. The agency's surveillance of her from 1951 to 1972 yielded a 100-page file.

She also had a brief stint as a journalist for New-York based Freedom Ways magazine covering the civil rights movement in Alabama in the 1960s.

Richards, who started smoking at age 17, had emphysema and returned to Vicksburg in 2000 to live with family. Richards died Sept. 14, 2000, 10 days after receiving an Emmy award for a guest role on The Practice. It was her last role.

Beah Richards pioneered a trail for African Americans in the film community. She was one of the original foot soldiers in the fight for African Americans and women in film and for this she deserves recognition.

COMMENDING CRANSTON HIGH SCHOOL WEST'S COMMUNITY SERVICE

HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. LANGEVIN. Mr. Speaker, I rise today to congratulate the students of Cranston High School West for their incredible devotion to combating hunger in the State of Rhode Island. The Student Council decided this school year to once again participate in “The Feinstein Youth Hunger Brigade Program.” This State-wide program encourages school-children to collect non-perishable food items, distribute them to a local agency, and raise awareness of the problem of hunger in their community.

The students of Cranston High School West have decided to collect food items for the Comprehensive Community Action Program for the second consecutive year. This worthy program assists between 500 and 600 families in immediate crisis in the Cranston community. The students at Cranston West raised money at football games, held food drives in their homerooms, and bought non-perishable food items. They even started a newsletter to illustrate their efforts and increase awareness of hunger. Their December donation to the Comprehensive Community Action Program, totaling 2,258 items, nearly doubled the largest donation from the previous year. For their dedication to combating hunger in their own community, I commend the students of Cranston High School West and wish them great success in providing an equally impressive donation in April.

TRIBUTE TO WBGO, JAZZ 88

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. PAYNE. Mr. Speaker, I am proud to rise today to recognize a valued institution in my home city of Newark, New Jersey, WBGO Jazz 88, as they celebrate 25 years of service to our community. Founded in a time when there were no New Jersey-based public radio stations, WBGO recognized the opportunity to use public radio as a means of engaging the community and raising cultural awareness. They saw that they could play a role in uniting people who were divided from years of racial and social unrest, as well as helping to rebuild a city that was in great need of revitalization.

Newark Public Radio is one of 12 New Jersey cultural organizations that has been designated a “Major Impact” arts organization by the New Jersey State Council on the Arts. WBGO has been awarded this distinction for each of the past thirteen years. Within public radio, WBGO is regarded as a leader for its ground-breaking work in community and volunteer involvement, special events, and the presentation of jazz (including collaboration with local artists).

WBGO has made it their mission "to champion jazz . . . through radio, other technology, and events." Through education and entertainment, they preserve the rich heritage and cultural achievements of jazz, ensuring its place as an institution of American culture.

Jazz music has been shaped by multiple influences and cultural experiences—a fusion of European and Caribbean elements—but has emerged as a uniquely American art form. Embedded in the African-American experience, jazz tells a story of the American experiment from a new perspective.

WBGO Jazz 88 brings this story to 15 of the 21 counties of New Jersey, all five boroughs of New York, and portions of Connecticut, reaching an estimated 405,000 listeners each and every week.

I salute WBGO for their dedication to the arts, to public radio, to our community, and to jazz. I am proud to have them in my district, and I wish them continued success as they endeavor to bring the truly magical, truly American legacy of jazz to the 21st Century.

HONORING MARJORIE MURPHY ON BEING NAMED THE COHASSET MARINER'S CITIZEN OF THE YEAR

HON. WILLIAM D. DELAHUNT

OF MASSACHSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. DELAHUNT. Mr. Speaker, I rise today to pay tribute to Marjorie Murphy, who has recently been named Citizen of the Year by the Cohasset Mariner, a respected newspaper on the South Shore of Boston, MA. Marjie, as she is affectionately known, has made a positive impact on the lives of families throughout the area for 30 years. Originally a first grade teacher, she soon realized her true passion was introducing youngsters to the wonder of a good book. For the next quarter-century, Marjie touched countless lives as a librarian at Deer Hill Elementary School in Cohasset.

With her lifetime of public service in mind, Mr. Speaker, I submit to my colleagues this Cohasset Mariner tribute:

CITIZEN OF THE YEAR

(By Mary Ford)

As editor of the Cohasset Mariner, it is my pleasure to announce that Marjorie Murphy is the Citizen of the Year. The mother of three and grandmother of two has touched countless lives through her roughly 25 years as school librarian at Deer Hill.

With eyes that twinkle and an infectious smile, Mrs. Murphy—fondly known as Marjie—can make even the oldest readers among as decide to pick up a children's book, perhaps for the first time in many years.

Mrs. Murphy did not start out as a librarian. She taught the first grade and wasn't so sure being in the library was the right place for her—until she tried it, and then she didn't look back.

She doesn't forget any of the hundreds of children that have passed through the doors to her warm, welcoming library complete with sofas to curl up and read upon.

While nominations were open, a total of 33 different individuals, families or organizations took the time to propose a citizen for the annual award—detailing his or her contributions to help make this town we all love a better place.

The selection panel consisting of Judy Volungis of Forest Avenue, Betsy Connolly of Lily Pond Lane and Roger Hill of Highland Avenue joined myself, editor Mary Ford, on Sunday to pore over the heartfelt letters of nomination.

Barb Mullin wrote, "With Marjie, children always come first. She's never too busy to help a child select that 'perfect' book or listen to a review of their latest read. It's a pleasure to watch former students drop by—and they frequently do! She never seems to forget a face or a name. Ask any one of them about a teacher who positively influenced them and Marjie's name always pops up."

Claire Cahill said Mrs. Murphy deserved the award for her many yeas of dedication to the children of Cohasset.

"Her smile, her sparks of enthusiasm, and her unending quest to interest every child in her love of reading has made her a very likely candidate for Citizen of the Year," wrote Karen Murphy.

Dot and Lee Cisneros stated, "Marjie is a giver. She has given and continues to give of her time, her knowledge, her understanding, her devotion to selling the young and the old on her definition of the value of learning."

Judith Collins simply said. "She makes each child feel special."

So we extend our warm congratulations to Mrs. Murphy, who has devoted her life to helping children discover the wonders of reading and the value of a good book.

With this award, the Cohasset Mariner offers recognition for making a difference. In our society too many role models go unrecognized. Too often people today look to the sports, rock or movie stars with envy, when the real hero is the local police officer, firefighter, parent, teacher, church leader, neighbor or government official.

The annual Citizen of the Year Award is our way of taking our hats off to those among us who go that extra mile without asking for anything in return but the intrinsic reward of helping to make Cohasset a better place.

CONGRATULATIONS TO MR. KENNETH SMITH, RECIPIENT OF THE AMERICAN SHORE AND BEACH ACHIEVEMENT AWARD FOR 2004

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. SAXTON. Mr. Speaker, those people who dedicate their lives to the protection of the environment are very special and deserve full recognition of their devotion, which is why I'm so pleased to be able to congratulate Ken Smith for being awarded the American Shore and Beach Preservation Association's Lifetime Achievement Award for 2004.

Ken has been a tireless, devoted advocate for not only New Jersey beaches but for beaches throughout the United States. Ken has spent twenty-five years as the "Coastal Advocate"; has spent more than seven years as a Vice President and as a Director of the American Shore and Beach Preservation; and is a co-founder of the Alliance for a Living Ocean, formed in response to the awful summer when garbage and other pollution was washing up on the Jersey shore in 1987. The Alliance for a Living Ocean won the Governor's Award for Volunteerism in 1999, and last but not least, Ken won the American Shore and Beach Preservation Association's Morrough P. O'Brien Award in 1999.

Ken has led by example for many years, bringing an awareness to so many people about the importance of working together to preserve not only our beaches and oceans, but the environment and our natural resources as a whole. He has been tireless in his dedication to not only protecting the beaches but educating people on the importance of preservation. Even as he is fighting his own battle with cancer, his amazing drive and devotion to our shores has not wavered in the least.

Congratulations Ken, I look forward to working with you for many more years to come.

RECOGNIZING COMMUNITY BLOOD SERVICES

HON. SCOTT GARRETT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. GARRETT of New Jersey. Mr. Speaker, I rise today to bring both attention and admiration to a program that truly has had lifesaving results.

The Community Blood Services, located in Paramus, NJ, within my fifth Congressional District, has working partnerships with many hospitals in the New York metropolitan area to supply cord blood. This cord blood is used in the treatment of leukemia, breast cancer, lymphoma, Hodgkin's Disease, Aplastic Anemia, various other cancers, blood diseases, hereditary/genetic conditions and immune system disorders.

The Elie Katz Umbilical Cord Blood Program at Community Blood Services recently and generously announced it will donate one of its umbilical cord units to St. Joseph's Regional Medical Center in Paterson, NJ, to assist an uninsured patient in need of a lifesaving transplant.

The patient is suffering from Burkitt's Lymphoma, a non-Hodgkin's disease which is rare in most of the world, but is the most common childhood cancer in Central Africa.

The Elie Katz Umbilical Cord Blood Program was inaugurated in 1997. Since then, it has accepted more than 1600 donated cord blood units. To date, 24 of those units have been used for transplants in children throughout the world. The unit being donated to St. Joseph's will be the twenty-fifth.

Stem cells obtained from placentas and umbilical cords, have been proven to successfully aid in the treatment of many life-threatening diseases. Researchers have found that umbilical cords especially are a rich source of stem cells. This discovery could make the use of embryonic stem cells unnecessary. The cells are easily attainable and can be expanded in vitro, maintained in culture, and induced to differentiate into neural cells. They are a potential source of multipotent stem cells that may serve many therapeutic and biotechnological roles.

In order to identify possible genetic diseases or past illnesses that could jeopardize the patient, when collecting donated cord blood there is a wide-ranging parental history considered. Once the parents agree to the donation, a technician working closely with the delivery team collects the residual blood from the umbilical cord after it has been detached from the baby, ensuring no risk to the mother or child. The cord blood unit is then transferred to the processing laboratory at Community Blood Services, where the red blood cells are removed and the remaining stem cells are frozen in liquid nitrogen for long-term storage.

Let me close by portraying just how proud I am that such a worthwhile organization is located within my community. It is an honor for me today to bring attention to Community Blood Services on the floor of the House. We thank you for everything that you do.

RECOGNIZING PUTNAM COUNTY, NEW YORK

HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mrs. KELLY. Mr. Speaker, as the Member of Congress who represents all of Putnam County, NY, I rise today to recognize Putnam County leaders, groups, and residents for their remarkable achievement in being recognized nationwide as one of eight Preserve America communities.

The new Preserve America initiative was developed in cooperation with the Advisory Council on Historic Preservation, as well as the U.S. Departments of Interior and Commerce. Putnam County recently received a Preserve America Award at a White House ceremony hosted by First Lady Laura Bush.

Located along the Hudson River, many of Putnam County's towns and villages were instrumental to trade and commerce throughout our nation's history. Putnam County has further demonstrated its ability to make history by becoming one of the first communities in our country to apply for and receive this special designation as a Preserve America Community. Putnam County's proactive spirit has been duly rewarded with this prestigious recognition.

County government has partnered with local municipalities, historic societies, and non-profit organizations to develop initiatives and plans to protect historic property for economic development and community revitalization. These efforts have helped Putnam County emerge as a national leader in the preservation of cultural and natural heritage.

I rise to commend Putnam County legislator Vincent Tamagna's dedicated efforts in spearheading the county's application efforts. I also rise to thank the Hudson River Valley Institute for its active support of Putnam County. Also deserving recognition and congratulations are Putnam County Executive Robert Bondi; the Putnam County legislature; Putnam County Historical Society; Putnam County Tourist Promotion Agency; Foundry School Museum; and the county's Historic Advisory Preservation Commission and its Office of the County Historian and County Archives.

Mr. Speaker, I am extremely proud and honored to represent the people of Putnam County. They deserve this special designation for their steadfast commitment to preserving a uniquely historic past while planning for a bright and promising future.

ONE MORE CHEER FOR THE CAT IN THE HAT

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. FILNER. Mr. Speaker:

I rise today as many have before,
To honor Theodor Seuss Guisel for his contributions galore!
The literary world will never be the same,
After being introduced to Dr. Seuss' name
We remember the dreamer, the artist, the man,
Who taught us about life, green eggs and ham
For 60 years he captivated us with stories for all to know,
And left a legacy of cherished books about the places we'd go
He may not have been a real doctor—but boredom he cured,
With rhythm and rhyme and colorful words,
When our troops needed morale during World War II,
He was too old to serve but did what he could do,
With satire and imagery he inspired platoons
With silly and potent political cartoons!
We celebrate today, a man who dreamed,
And created for all an unending stream
Of insights and poems, books and tales,
Of red fish, blue fish and others with scales
He gave us the Lorax to speak for the trees,
A little creature to save saplings from corporate greed
And we cannot forget the Grinch with a heart so cold,
Or the innocence of a child, "Who," touched his soul
His 46 books weren't meant to be silly,
Barbaloots were for grown-ups and leaders of cities,
Ahhh—So many stories, yet so little time,
To commend this man for his gift of rhyme
So when the sun does not shine,
When it is too wet to play,
When you are sitting in your house,
On a cold, cold, wet day
Always remember in December or September,
The spell of wonder,
Dr. Seuss put us under.

INTRODUCTION OF ELECTION ASSISTANCE COMMISSION BOARD OF ADVISORS APPOINTMENTS

HON. JOHN B. LARSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. LARSON of Connecticut. Mr. Speaker, today I rise to recognize two outstanding individuals who have dedicated their lives to encouraging all Americans to participate in our government through the voting process. Under the authority granted to me by the Help America Vote Act of 2002 (HAVA), I have appointed two election experts, Joseph F. Crangle of Buffalo, NY and Hilary O. Shelton of Washington, DC, to serve as national voting procedure advisors to continue improving the election process in the wake of the 2000 elections.

HAVA established a four-person body called the Election Assistance Commission (EAC). I am appointing Mr. Crangle and Mr. Shelton to the Board of Advisors, which will serve essentially as the EAC's board of directors. The board consists of 37 members representing a range of groups involved in elections.

I am very confident that with their decades of election experience and dedication to the voting process, Joseph Crangle and Hilary Shelton will have a tremendous impact on the EAC. It is my hope that they and the other 35 members of the board will examine the many issues involved in administering fair and accurate elections in this country, including the concerns that have been raised regarding the security and reliability of electronic voting systems.

I am grateful for the advice of my colleague from New York, Representative CHARLIE RANGEL, who informed me about Mr. Crangle's decades of experience and dedication to the election process. It is truly an honor for me to appoint him for this position.

Joseph Crangle served as chairman of the Erie County Democratic Party from 1965 to 1988; as chair of the New York State Democratic Party from 1971 to 1974; as a delegate to every Democratic National Committee from 1968 to 1992; and as a member of the Democratic National Committee's Executive Committee from 1972 to 1988. Mr. Crangle is regarded as one of the leading experts in the country on voter registration and "get-out-the-vote" programs. He is an attorney for the law firm of Colucci and Gallaher, P.C. in Buffalo, NY.

Hilary Shelton's commitment to improving our election system was evident during the development of the Help America Vote Act. He worked tirelessly during the entire legislative process to ensure that this bill became law.

Mr. Shelton is the Director of the Washington Bureau of the National Association for the Advancement of Colored People (NAACP). Prior to working for the NAACP, he was the Federal Liaison Assistant Director of the Government Affairs Department of The United Negro College Fund. In addition, he worked for the 9.5 million member United Methodist Church advocating on numerous public policy issues including civil rights, access to higher education, and voting rights. He serves on the national boards of directors for the Center for

Democratic Renewal, the Leadership Conference on Civil Rights, and the U.S. Census Advisory Board.

Members of the Board of Advisors serve a 2-year term in a strictly advisory capacity; they have no rule-making authority. Once all the appointments have been made and the EAC is fully functional, the board will begin its duties.

Mr. Speaker, I urge my colleagues to join me in supporting Mr. Crangle and Mr. Shelton as they begin their positions on the Board of Advisors. They are truly two of the best advocates in the country for our election process. I am confident that future generations of voters will be inspired to make their voices heard, because of the contributions of these two remarkable Americans.

HONORING EAT CAPTAIN ERIC GENNOTTE

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Ms. WOOLSEY. Mr. Speaker, I rise today to honor European Air Transport (EAT) Captain Eric Gennotte, a civilian volunteer pilot, for his remarkable heroism while flying in Iraq. Captain Gennotte demonstrated incredible valor on Saturday, November 22, 2003, when he landed his Airbus 300 after it was hit by multiple surface-to-air rockets upon take off from Baghdad Airport.

At the time of the incident, Captain Gennotte was returning to a DHL Global Delivery mail distribution center in Europe after delivering mail to U.S. soldiers in Baghdad. Shortly after taking off on November 22, Captain Gennotte's cargo and crew were struck by hostile rocket fire causing the complete loss of hydraulic power to the aircraft. Losing "stick control" rendered the aircraft non-navigable under normal circumstances. In a display of immense skill and bravery, Captain Gennotte regained control of the aircraft using the plane's engines as rudders to stabilize and turn the weakened vessel. In order to turn right, Captain Gennotte fired the left engine; to turn left he fired the right engine. After dodging continued missile attacks with failed equipment, Captain Gennotte successfully landed the burning plane with nothing but the two engines, completing a feat that had never before been accomplished in EAT piloting history. Captain Gennotte is already in line to receive a safety award from the Secretary General of the Belgian Cockpit Association.

Because of Captain Gennotte's deft skill, his cargo and the crew, which included a British flight engineer and another Belgian pilot, lived through the assault. As peacekeepers continue to come under attack, it is particularly uplifting to hear tales of bravery like that of Captain Gennotte. Heroic stories like this one are prime examples that the best way to combat cowardly acts of terror is to share our own heroic responses to it.

Mr. Speaker, I ask my colleagues to join me in paying special tribute to EAT Captain Eric Gennotte. Honorable and gallant allies like him risk their lives to help others. I wish him and his family all the best as we pay tribute to one of our Nation's fearless friends.

HONORING MR. JOHN SMITH

HON. MICHAEL R. TURNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. TURNER of Ohio. Mr. Speaker, I am pleased to have the opportunity to express my appreciation to John R. Smith for his service to the Dayton community and his commitment to the Ohio Postal Workers Union.

John R. Smith is being honored by the Ohio Postal Workers Union, AFL–CIO for a lifetime of service to his home community of Dayton, Ohio as well as his union, the American Postal Workers Union, AFL–CIO.

Mr. Smith has held numerous local, state, and national positions in the American Postal Workers Union and its predecessor unions since he began to work for the U. S. Postal Service in 1950. Mr. Smith currently serves as the National APWU Retirees Director, a position he has held since his appointment in 1993. He served as the President of the Dayton Area Local APWU from 1981–1993, Director of the APWU National Mail Handlers from 1970–1980 and President of the Dayton National Postal Union from 1964–1970.

John Smith has been active in the community, serving on numerous boards and commissions, such as the Dayton Metropolitan Housing Authority Board, Dayton Catholic Elementary School Board, First Dayton Little League Board and the United Way at Work Committee. He is also a Deacon at Corinthian Baptist Church, a member of the Board of Christian Education, and a Sunday school teacher.

Mr. Smith is a devoted family man, having been married to his wife Ida for over 50 years. They have three children, nine grandchildren and four great grandchildren.

The local union office in Dayton, Ohio was renamed the John R. Smith APWU office, and the states of Ohio, Indiana, and Kentucky have named their annual training school the John R. Smith Leadership School in honor of Mr. Smith's dedication to the American Postal Workers Union.

I join the Ohio Postal Workers Union and the Dayton community in thanking Mr. Smith for his service.

IN RECOGNITION OF BLACK HISTORY MONTH

HON. BRAD MILLER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. MILLER of North Carolina. Mr. Speaker, I rise today in honor of Black History Month and to take this opportunity to honor the African American citizens whom I represent. Our state is home to a rich tradition of African American leaders whose educational, economic and political achievements have enriched North Carolina and our Nation.

Hard work and perseverance are traditions of the African American community. During a time when hatred and bigotry triumphed over our Nation's loving and generous spirit, African American leaders worked diligently to ensure and enhance the quality of life for future generations of both blacks and whites.

Particularly important to our quality of life in North Carolina has been the African American community's persistent commitment to education. This is demonstrated in the work of acclaimed educator Dr. Charlotte Hawkins Brown who founded the Alice Freeman Palmer Memorial Institute. Founded in 1902, the Institute served as an African American preparatory school in Guilford County until 1971.

This commitment remains strong among those who are seated at the helm of Historically Black Colleges and Universities in the 13th and neighboring Congressional Districts. Dr. Dianne Boardley Suber of St. Augustine's College and Dr. James Renick of North Carolina A&T State University are leaders of thriving higher education institutions. Both serve on the President's Board of Advisors on HBCUs. These leaders, along with Dr. Johnnetta B. Cole of Bennett College for Women are extraordinary examples of those who continue the legacy of producing young scholars who will contribute to the progress of our state and nation.

Evidence of this progress is apparent in the accomplishments of two graduates from NC A&T, former Chief Justice Henry Frye, the first African American appointed to the Supreme Court of North Carolina, as well as Dr. Ronald Erwin McNair, Physicist and Astronaut who lost his life in the Space Shuttle Challenger disaster in January 1986.

The contributions of the African American community in North Carolina are also demonstrated in the unique furniture designs and skills of artisan Thomas Day of Caswell County whose work continues to influence the industry.

Recently a good friend of mine, John Wesley Winters, Sr. passed away. Mr. Winters was a leader in North Carolina, his contributions as a businessman, civil rights leader and political leader leaves a powerful legacy. Many African American families own their own homes in Raleigh because of Mr. Winters' work.

My District includes the Civil Rights Museum in Greensboro, North Carolina. Four brave young men, Joseph McNeil, Franklin McCain, David L. Richmond and Ezell Blair, Jr. (now known as Jibreel Khazan) took a firm stand by sitting down at a "white only" Woolworth lunch counter. This new museum helps us reflect every day on how their strength and determination, even in the face of threats, jolted a burgeoning civil rights movement that forever changed the American cultural landscape. We are a better Nation, we are better human beings, because of their courage.

Black History Month reminds us of these and other achievements. We will never forget the important contributions that African Americans have made and will continue to our Nation.

TRIBUTE TO MR. AUBREY BOOZER, JR.

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. CLYBURN. Mr. Speaker, I would like to insert into the RECORD, two tributes to Mr. Aubrey Boozer, Jr., of Austin, Texas, who passed on December 23, 2003. While I did not personally know Mr. Boozer, his son, Lyndon K. Boozer, has been a great friend since I arrived in Washington almost twelve years ago. Lyndon often spoke of his father and the profound impact that he had on his life. Two tributes follow, which I believe capture the true essence of a life well lived. The first is the eulogy which Lyndon delivered at the memorial service for his dad, and, the second is the obituary which appeared in the Austin American Statesman.

MY DAD

(By Lynden K. Boozer, December 30, 2003.)

"As you know, my Dad recently moved to DC. About a month ago, he was over for Thanksgiving Dinner.

After getting everyone's attention—he commanded it—he told this story he had heard from LBJ Ranch foreman Dale Malechek about a preacher at a Bar B Que. Now I won't tell this story as well as Dad because he was a master storyteller—one of the best. But it seems the Reverand was thanking the Lord for the Blessings and went on and on and on. Finally, after about 10 minutes, Dale turns over to Dad and says: "You reckon the Bar B Que ain't done yet?"

That was the last story I remember him tell, and I remember it like yesterday. Dad liked to keep things simple. And short. So we won't keep you from your Bar B Que today, but I just wanted to share a few of my favorite things about Dad because he had 78 full years of life.

He liked Westerns, Cowboys and old War movies, maybe because it reminded him of his days in the Navy. WW II he used to call it, the only "good" war..

He loved to cook—and he was a master in the kitchen. Laura and I used to wake up on Sunday mornings to the wafting aroma of bacon and eggs, biscuits and cream gravy. For most of his adult life, we remember him as a big, authoritative man. He was strong willed and stubborn which meant it was "his way or the highway." His way was usually right.

Even though his body gave out this year, his mind and spirit were still tough as nails. He organized his move to Washington like he did everything else, with precision and fortitude. He didn't look back. His goodbyes were short. I suspect it was because he knew he'd be back soon.

Beneath his tough exterior and grumpy ways was a kind heart that overshadowed his modest outward appearance. He didn't care about much except his family and his close friends whom he tested on a regular basis. He loved his dogs whom he entrusted to Laura. They are alive and well.

He loved my Mother deeply, and she was his axis of life. A close relative said, "Well, you know why he died before Christmas? He wanted to spend it with your Mom." There's some truth to that...

They were so different but were there for each other through it all—Houston where they met, New York City where they loved, Washington, DC where they grew, Mexico City where they enjoyed and finally Austin, Texas where they settled down and raised a family.

And after Mom died in 1998, he visited this very grave site almost every week until his health was too poor. Our friends here at Cook Walden remember, especially Evelyn Williams.

He never stopped wanting the best for Laura and me. And he was proud of us I'm told. He wouldn't say so to us but we knew it because everyone always said so.

He was truly a Classic, a stand up guy, funny and honest and a straight shooter. Independent, And a proud Democrat. He didn't mince words and in this day of political correctness, he was a refreshing opinion.

His values were ones to live by, and we will. We miss you Dad, and will think of you every day. While we cannot cheat father time, the past lives within us and is eternal in our hearts and minds. You will always be remembered.

We love you, Pops.

[From the Austin American Statesman, December 28, 2004, Obituary.]

AUBREY BOOZER, JR.

Aubrey Boozer, Jr. was born in Clint, Texas. He was reared in Houston, Texas, having attended John Reagan High School, graduating in 1942. He immediately volunteered for military service. After serving his country in the U.S. Navy during World War II, he enrolled at Southwestern University, Georgetown, Texas, in 1946 where he was President of the Pi Kappa Alpha fraternity, and a varsity basketball player. He earned a Bachelor of Science degree and graduated in 1951.

Aubrey held various positions in government service, including a post at the United Nations in New York City, with the Civil Service Commission, then with the Treasury Department in Washington, D.C., and the Office of Economic Opportunity with the Johnson Administration. He and his wife, Yolanda, who was on the staff of President Lyndon B. Johnson, lived in Washington, D.C. during the 60s. He subsequently served in the U.S. Foreign Service at posts in the U.S. Embassy, Mexico City, Bangkok, Hong Kong, and wartime Saigon, South Vietnam, where he was Special Assistant to the Ambassador. He was awarded a commendation from the U.S. Army for "Outstanding Work and Cooperation with All Government Agencies and the Vietnamese Government for Community Relations in the City of Saigon."

After service to his country for the second time in Vietnam, he operated restaurants in Austin, Waco, Temple and College Station, Texas, for the Monterey House Mexican Foods, Inc. He was also Vice President of Operations for the company in Houston, Texas.

He was preceded in death by his wife, Yolanda Boozer; and by his Mother and Father. He had no brothers or sisters. Survivors are Lyndon, a son who resides in Washington, D.C.; a daughter, Laura of San Francisco, California; and two grandchildren, Jordan and Kyle. He is also survived by cousins, JoAnn Harris, Charles Hale, Alec Hale Reid, and Amy; and nieces, Diane VanHootegem, Christine Rayburn and Rosalind Johansson, all of whom he cared for very much.

Mr. Speaker, thank you for this opportunity to honor the life of Mr. Aubrey Boozer. I ask that my colleagues join me in expressing condolences to this fine family.

INTRODUCTION OF THE "EXTENDED DEPLOYMENT PAY INCREASE ACT OF 2004"

HON. ROBERT C. SCOTT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. SCOTT of Virginia. Mr. Speaker, I rise to introduce the "Extended Deployment Pay Increase Act of 2004." I believe this legislation provides critical financial support to our men and women in uniform.

All of us are familiar with the change in policy that is requiring tens of thousands of National Guard, Reservists, and active duty troops in Iraq and surrounding countries to extend their active duty to 12 months.

These longer deployments cause additional financial and emotional stresses on our military, and their families. For example, it has been reported that more than one-third of the Reservists and National Guard members suffer cuts in pay when called to active duty. So while it may be reasonable to expect members of the National Guard and Reserves to forgo peacetime salaries for six months to serve on active duty thousands of miles away from home, or to expect private employers to continue to pay part of their salaries for a few months, these stopgap measures are limited. The financial strain is especially acute for those who are self-employed—especially those who are called up on short notice and those who have made business arrangements for a six month absence, only to be notified later that their deployment will be extended for a full year.

There are similar stresses on career military personnel that are required to serve extended deployments of 12 months on active duty. While 6 months may be more manageable for a family to make temporary arrangements regarding covering day care and usual family responsibilities, deployments of 12 months require a more permanent solution. At a minimum, the normal family life is disrupted. Parents are forced to be away from their children for prolonged periods of time, and the parent that is left behind must fill the role of both parents. As a result, additional social services, or additional day care services, are often needed—at additional financial expense.

This bill would increase individual pay by $1000 per month for active duty military, Reservists, and National Guard members who are deployed away from home for more than 6 months. The increase would apply to each month of active duty in excess of 6 months.

Many of these individuals and their families will be suffering hardship well in excess of $1000 per month. The least we can do is attempt to offset the financial hardship imposed on these families. If one third of 150,000 troops in Iraq are eligible for extended deployment pay in any month; the cost would be $50 million a month or $600 million per year. This amounts to less than one-half of one percent of the total cost of the war to date.

Mr. Speaker, I urge my colleagues to support this effort to aid the military men and women who are honorably serving our country.

CELEBRATING BLACK HISTORY MONTH

HON. JUANITA MILLENDER-McDONALD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Ms. MILLENDER-MCDONALD. Mr. Speaker, each February our Nation celebrates Black History Month. African-Americans have a rich and deep history, and many individuals should be recognized. This year marks the 50th anniversary of the landmark Supreme Court decision of Brown versus the Board of Education, and it is my pleasure to speak about a very special woman who blazed a trail in completing her education.

While the Supreme Court decision allowed for equal access and opportunity to education for African-Americans, long before this decision was handed down, Mary Eliza Mahoney, was the first African-American registered nurse, graduating from the New England Hospital for Women and Children Training School for Nurses in 1879.

Mary Eliza Mahoney was born in Dorchester, Massachusetts in 1845. At the age of 33, Ms. Mahoney was admitted as a student into the hospital's nursing program, which had been established by Dr. Marie Zakrewska, notably, one of the first women doctors in the United States.

Ms. Mahoney completed a strenuous and rigorous 16-month program, becoming one of only three people to actually complete the program.

In 1896, Mr. Speaker, Ms. Mahoney became one of the first African-American members of the American Nurses Association (ANA). In 1908, she co-founded the National Association of Colored Graduate Nurses, an organization working toward complete integration of Black Nurses in the ANA. Additionally, Mahoney participated in the campaign for woman suffrage and in 1921, was one of the first women in line to vote after the ratification of the nineteenth amendment.

Ms. Mahoney spent her life caring for the sick until her death on January 4, 1926. In 1993, Ms. Mahoney was inducted into the Women's Hall of Fame.

The indomitable courage of this African-American woman has set an example for equality, dignity and respect for African-Americans in nursing, as well as women's rights. I urge all of my colleagues to reflect on all the great African-American individuals who helped shape this great Nation during Black History Month.

MOURNING THE UNTIMELY DEATH OF PRESIDENT BORIS TRAJKOVSKI OF THE REPUBLIC OF MACEDONIA

HON. MARK E. SOUDER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. SOUDER. Mr. Speaker, I rise today with a heavy heart to mourn the untimely death of President Boris Trajkovski of the Republic of Macedonia. As many of my colleagues have heard, President Trajkovski was killed this morning in a plane crash while traveling to Mostar, Bosnia-Herzegovina.

Mr. Trajkovski was born in Strumica, Macedonia on June 25, 1956. He graduated with a degree in law from the University of St. Cyril and Methodius in 1980. He was an ordained Methodist minister and President of the Church Council of the United Methodist Church.

In 1998, he was appointed to the post of Deputy-Minster of Foreign Affairs. During his time as Deputy-Minister, he predicted the rise of ethnic tensions in Macedonia due to the crisis in Kosovo. He was right to criticize NATO's lack of help in that crisis. During much of the fighting in the Balkans, Macedonia allowed NATO to use Macedonian territory. During Macedonia's ethnic crisis, NATO was sorely lacking in assistance

In 1999 he was inaugurated as President of the Republic of Macedonia. During his term as president, he faced near-civil war in his country. Ethnic divisions threatened to tear his country apart. President Trajkovski, however, worked with all ethnic groups to forge a solution. Despite criticism that he was too lenient on minority groups, he pressed for peace and facilitated a peace deal.

In addition to forging peace in his country, Mr. Trajkovski worked to improve Macedonia's standing on the world stage. Under his leadership, Macedonia was one of the first countries to publicly support Operation Iraqi Freedom and to commit troops to the effort. Mr. Trajkovski was a tireless advocate for religious tolerance, religious freedom, and conflict resolution.

Mr. Trajkovski's work also focused on improving the lives of all Macedonians. A strong believer in free markets and the importance of international economic co-operation, Mr. Trajkovski died while on his way to an international investors meeting that would undoubtedly have helped the development and future prosperity of Macedonia.

The death of President Trajkovski is a tragedy. Macedonia has lost a true leader. The international community has lost a strong voice for peace and co-operation. On the passing of President Trajkovski, Kerri Houston, Vice President of Policy for Frontiers of Freedom noted, "President Trajkovski was a courageous leader who sought security, economic progress, and a common national identity for the Macedonian people." A truer statement was never uttered.

Mr. Trajkovski leaves behind a wife, Vilma, and two children Sara and Stefan. I offer my sympathies to his family and the families of the other victims of this terrible accident.

RECOGNITION OF SUSAN B. ANTHONY'S BIRTHDAY

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mrs. EMERSON. Mr. Speaker, Susan B. Anthony campaigned endlessly for women's rights to equality and freedom. Her protecting legacy has taught many American women how to fight injustice, and this lesson includes the unborn. For Anthony, the rights of women and the rights of unborn children are the same.

Susan B. Anthony is best known for her leading role in the women's suffrage movement, but few realize that she was also a strong pro-life activist. February marks the 184th year following her birth, and there could hardly be a more fitting commemoration than the passage of the Unborn Victims of Violence Act. This Act would hold individuals accountable for harming a life when, in the act of committing a federal crime, an unborn child is killed or injured. Murder must not go unrecognized and unpunished. The law should recognize two victims and two distinct tragedies.

After a brutal beating, a New York mother delivered two stillborn twins. The law saw one assault victim, but was blind to the two lives lost. This horrible crime and numerous others are going unpunished; Congress must act to stop this injustice.

The key to understanding abortion lies in the recognition of a human life wherever it exists. We must follow Susan B. Anthony's example and recognize the lives of unborn children. I encourage all Members of Congress to support our unborn children and pass the Unborn Victims of Violence Act.

REMEMBERING THE LIFE OF THE PRESIDENT OF THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA BORIS TRAJKOVASKI

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to offer my condolences upon hearing the news of the death of Boris Trajkovski, the President of the Former Yugoslav Republic of Macedonia. President Trajkovski lost his life in a plane crash this morning in the mountainous region of southern Bosnia. I would like to offer my most sincere condolences to the wife, son, and daughter of President Trajkovski for their tragic and untimely loss as well as to all of the families and friends of the two pilots and six aides on board the flight who also perished in the crash. Furthermore, I wish to extend my deepest condolences to the people of Macedonia who have today lost a truly forward-looking and unifying leader.

Boris Trajkovski, who served as President of Macedonia since 1999, will be remembered in the international community for his role as a peacemaker and a moderate in a region troubled by ethnic tensions and conflicts. These tensions and conflicts have at times been so severe as to threaten the stability and unity of Macedonia. President Trajkovski's accomplishments as a peacemaker are many and premised on his will to work together with all ethnic groups. Included among his accomplishments to this end is his role in a NATO-brokered peace agreement in 2001 that ended months of armed clashes between Macedonia's Slavic-speaking Orthodox Christians and ethnic Albanian minority. This agreement played an integral role in warding off a full-scale civil war in the country.

Since gaining its independence, Macedonia has been a member of the Organization for Security and Cooperation in Europe, the Parliamentary Assembly of which I am proud to serve as Vice President. Thus I have followed closely the developments in Macedonia and have observed first hand the efforts made by Macedonia under the leadership of President Trajkovski to secure a peaceful nation and to move the country forward to a bright future. Just this past Wednesday, President Trajkovski signed Macedonia's formal application to join the European Union, a move that would further benefit the people of Macedonia in their attempts to cement democracy and prosperity in their nation.

It is my hope that the loss of President Trajkovski does not signify a loss in any degree of the strong unifying efforts in which he so strongly believed and for which he fought. As well as offering my condolences to the people of Macedonia in their time of grief, I also want to take this opportunity to wish them every success in overcoming this tragedy and continuing on the path of peace and prosperity.

It is my hope that the greatest legacy left by the loss of President Trajkovski is the ongoing effort to see across ethnic divisions and to secure a peaceful and unified Macedonia in an equally peaceful and unified Europe.

IN HONOR OF RAUL VARGAS

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. BECERRA. Mr. Speaker, it is with the utmost pleasure and privilege that I rise today to recognize and pay tribute to a friend and an educator, Mr. Raul Vargas. For more than 32 years Raul has guided young men and women along the path of academic excellence and future leadership success. Through his years of effort, more than 5,600 college undergraduate and graduate students from across the country have received scholarships totaling $10.3 million during their time at the University of Southern California (USC) in Los Angeles. How fitting that on the evening of February 27, 2004, the USC Mexican American Alumni Association (MAAA), of which he is a founding member, will honor Raul Vargas for his lifetime commitment to education and inspirational leadership at USC.

The son of Felipe Vargas and Helena Sotelo, Raul Vargas was born on May 21, 1939, in Lordsburg, New Mexico. Raul lost his father at the tender age of four and when his mother married Alfredo Mejia, the family moved to Miami, Arizona. Growing up in this small mining town, Raul and his siblings Felipa, Alfredo, Alfonso, Elvia, and Elisa learned a strong work ethic and core values from their parents.

Raul is a proud alumnus of Miami High School and Arizona State University, where he earned a Bachelor of Science degree in Business Administration in 1961. That same year, Raul enlisted in the United States Army where he served until 1964.

Raul's service to his country evolved into a lifetime of service in the classroom. After completing his teaching credential at Arizona State University in 1966, Raul went on to teach Spanish in the Ontario School District in California. After five years of teaching, he resumed his studies at California State University, Los Angeles as a student in the Master's in Administration program. From there he continued his doctoral work in public policy at the University of Southern California. In January 1972, Raul joined the USC family as Executive Director of the Office for Mexican American Programs at the University of Southern California.

Raul has always been a hard worker and driven to succeed. Fortunately, he had the good sense to pause for a moment and recognize that the best thing in his life stood before him: Marcia Wyse. Raul and Marcia married in December of 1966. Together they have become an indivisible and indispensable team, blessed with a true partnership, friendship and love. Raul and Marcia are now the proud parents of two children, Tracie and Cesar, and one grandchild, Alexandra. And Marcia, in her own right, is one of our country's preeminent and forceful voices advocating for America's English-language learners and the value of bilingual education.

Raul's career has always combined his passion for students with his commitment to innovation as an administrator. So it was that in 1974, Raul and eight USC alumni founded the USC Mexican American Alumni Association with a bold, but untested vision to build a mighty anchor and support for Latino college enrollment at the University. Their success has surpassed all expectations. Raul and the MAAA recently completed the association's Endowment Fund Campaign which increased its endowment to $2.1 million to assist future generations of Latino college students. Marcia will tell you that Raul takes great pride and honor in making a prestigious university like USC more accessible to Latino students.

Mr. Speaker, as family, friends and colleagues gather to celebrate Raul's many accomplishments, it is with great admiration and pride that I ask my colleagues to join me today in saluting this exceptional man and brother to many. America, the University of Southern California, and America's future leaders have certainly gotten the better end of the bargain when the doors of education and public service opened to Raul Vargas. Fight on, my friend!

INTRODUCTION OF THE RESIDUAL RADIOACTIVE CONTAMINATION ACT

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Ms. SLAUGHTER. Mr. Speaker, I rise to introduce important legislation that seeks to undo—in some small measure—an injustice done to thousands of American workers in the years following the Manhattan Project.

Beginning in the 1940s, throughout the United States, the government secretly contracted with hundreds of private-sector factories and laboratories to develop, test, and produce atomic weapons. For well over a decade, many of these facilities processed enormous amounts of radioactive materials such as thorium, uranium and radium. Yet, when the government contracts expired in the 1950s, few of these facilities were properly decontaminated.

In 2000, Congress saw fit to establish a reparations program for workers who developed diseases because of their work on our nation's atomic weapons program. Under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA), workers could receive a one-time payment of $150,000 and medical coverage for expenses associated with the treatment of diseases contracted due to this exposure. One major shortcoming of the program is its failure to compensate individuals made sick from their work in former atomic weapons plants—where the walls and floors were permeated with radioactive residue—for decades following the end of Cold War era production.

In fact, the National Institute of Occupational Safety and Health released a report in the fall that found "significant" residual radioactive contamination existed in many of the former contractor sites well into the 1970s, 80s and beyond. Today, we see the legacy of this failure to properly decontaminate. Employees who, unbeknownst to them, worked in facilities with significant residual contamination, have contracted or succumbed to radiation-related cancers or disease.

The enactment of the EEOICPA was recognition that the federal government bore a responsibility to workers who were made sick and even died because of the work they did on the nation's atomic program. It is long since past the time for our government to take responsibility for its role in allowing these Cold War era facilities to remain dangerously contaminated and place workers needlessly at risk.

Mr. Speaker, the bill I am introducing today with my colleague, Mr. Quinn, the Residual Radioactive Contamination Compensation Act (RRCCA), would extend eligibility for the EEOICP to workers who were employed at facilities where NIOSH has found potential for significant radioactive contamination. For instance, of the fourteen facilities in and around my congressional district, NIOSH found that five of the sites had potential for significant contamination well into the 1990s and beyond. At the same time, NIOSH reported that it could not make a determination at three of the sites without additional information. For this reason, the bill I am introducing would require NIOSH to update its report on an annual basis to include new information when it becomes available.

Mr. Speaker, the RRCCA seeks to open the door of eligibility for valid claims. At the same time, passage of this bill will mean very little if the chronic problems that have plagued this program are not addressed. As you may know, the implementation of this important program has been plagued by bureaucratic red tape. For far too many claimants, it's a waiting game. I know of dozens of constituents whose work and health history leave no doubt about eligibility but are still waiting to have their records reviewed. In those rare instances where the National Institute of Occupational Safety and Health (NIOSH) has managed to evaluate claims, the approval rate has been abysmal.

Moreover, the Department of Health and Human Services has failed to issue one of the key regulations required by the law nearly 3½ years since the law was signed. The "Special Exposure Cohort" regulation is needed to address situations where the records needed to estimate radiation dose are not available, where the workers were not monitored, or the monitoring data is unreliable or altered. We note, for example, that NIOSH was unable to produce individual monitoring records for workers at Bethlehem Steel plant in Lackawanna, New York, where uranium billets were rolled into rods used as fuel in the government's plutonium reactors during the years 1949–1952. Just this week, a group of 25 Bethlehem Steel workers boarded a bus for Cleveland, to stage a protest outside of the Northeast Regional Headquarters of the program. These workers and others have been denied the right to petition for eligibility in the Special Exposure Cohort because the Department of Health and Human Services has failed to issue its regulations in a timely manner. Further delay is simply inexcusable.

As I have said, over and over again, this is an aging and ill population. Time is of the essence. Congress must act to ensure that the Energy Employee Occupational Illness Compensation Program is properly administered.

Mr. Speaker, I look forward to working with my colleagues to pass the Residual Radioactive Contamination Compensation Act to help our constituents.

SURFACE TRANSPORTATION EXTENSION ACT OF 2004

SPEECH OF

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 11, 2004

Mr. GREEN of Texas. Mr. Speaker, on February 11, 2004, I supported H.R. 3783, legislation to provide an extension of the transportation programs funded out of the Highway Trust Fund pending enactment of a reauthorization of the Transportation Equity Act for the 21st Century (TEA–21).

The fact that Congress had to approve yet another temporary extension of the Highway Trust Fund programs clearly shows the leadership of this Congress has misplaced priorities.

I am a cosponsor of H.R. 3550, the Transportation Equity Act, a Legacy for Users (TEA–LU), legislation which is the product of the hard and tireless work of two well respected members of the House, Transportation and Infrastructure Chairman DON YOUNG and Ranking Member JIM OBERSTAR. I call on my colleagues to enact this legislation at the full authorized level of $375 billion through 2009.

Their legislation is being held hostage by ideological interests in the White House and House leadership who are apparently blind to the number one issue in my community of Houston, Texas: mobility.

While transportation reauthorization is stalled in Congress, residents in my community are idling away an average of 37 hours and 60 gallons of gas this year in congested traffic. We lose $2.1 billion, every year, in productivity and fuel, and congestion has been getting worse. These figures are according to the Texas Transportation Institute's 2003 Urban Mobility Report.

Texas mobility is also impacted severely by the fact that 10 cents of every dollar we pay in gasoline taxes goes to other states. I strongly believe that Texas deserves at least 95 percent of Texas gas tax revenue for Texas transportation projects and have cosponsored legislation, H.R. 2208, to that effect. But it will be much, much easier to increase our slice of the pie and get to that 95 percent level, if we fully fund H.R. 3550 and have a larger, total pie.

The gasoline tax funds our public highways by tapping revenue from those who benefit from them—motorists and truckers. Every cent we pay at the pump to the federal government goes to transportation. How else should we pay for our unavoidable road, bridge, and transit construction? The current gasoline user fee method is simpler than having to stop every 5 miles or so and dig around for change in our car seats to pay a highway toll.

Unless we can fully fund H.R. 3550, our constituents will be stopping to pay a lot more tolls in the future. The amount of funding generated by the static $0.18 per gallon federal gasoline tax has significantly eroded over the last several years due to inflation. To allow for necessary highway construction the federal gas tax should be indexed to inflation, as proposed by my respected colleagues Chairman DON YOUNG and Ranking Member OBERSTAR.

It is frustrating to be confined by inadequate transportation funding during tough economic times because infrastructure investment brings major employment and development benefits. Each billion spent on infrastructure creates 47,500 American jobs, with 3.5 million jobs to be generated and sustained through 2009 under H.R. 3550, including over 200,000 jobs in Texas.

Inadequate transportation investment leads to lost hours spent in traffic, lost job opportunities, and lost lives from unsafe road conditions. I call on my colleagues to fully fund H.R. 3550 at the bipartisan level of $375 billion.

RECOGNITION OF MRS. GINA CAYNE IN APPRECIATION FOR HER EFFORTS TO ASSIST THE VICTIMS OF THE SEPTEMBER 11, 2001 ATTACKS

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. PALLONE. Mr. Speaker, it is with great privilege that I have the opportunity to recognize an outstanding woman, Mrs. Gina Cayne, for her distinguished efforts creating the Jason David Cayne Foundation, a non-profit organization dedicated to assisting the families of deceased spouses.

Mrs. Cayne spent her youth in Marlboro, New Jersey where she met her childhood sweetheart and future husband, Mr. Jason David Cayne. In 1992, Jason and Gina wed, and Jason began his career trading Municipal Bonds. His success led him to a partnership with the firm of Cantor Fitzgerald in 1995. Six years later, during the September 11, 2001 attacks on the World Trade Center, Jason's life came to a tragic end. He was survived by his wife and three children.

However, in the wake of tragedy, the community reached out to Gina, and provided for her every need while she grieved for her beloved husband. After this difficult period ended, Gina was so thankful of the help of the community that she decided to return the favor, and try to bestow the same generosity to other victims of tragedy that results in the loss of a spouse.

Gina created the Jason David Cayne foundation in October of 2003 to assist with the immediate burden that families face when losing a spouse. In addition to financial assistance, the foundation provides help with organizing finances, and finding counseling that is required from the loss of a husband or wife.

Mr. Speaker, for overcoming the overwhelming loss of her husband, and in the wake of such tragedy, creating a foundation to help others like herself, Mrs. Gina Cayne deserves praise. I would like to extend my gratitude to Mrs. Cayne for her service to the grieving families of Monmouth County. In addition, I would like to ask my colleagues to join me in honoring a remarkable woman who's career in non-profit work has positively shaped the lives of all her foundation touches.

RECOGNIZING THE 101ST ANNIVERSARY OF THE JUVENILE COURTS IN CALIFORNIA

HON. DOUG OSE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. OSE. Mr. Speaker, I rise today to honor the 101st anniversary of the Juvenile Courts in California. As a result of the tireless efforts of the California Federation of Women's Clubs (CFWC), a bill was passed and signed into law by Governor George C. Pardee establishing the California juvenile court system on February 26, 1903. California became the seventh state to establish a juvenile court system with the first courts in San Francisco and Los Angeles—only 4 years after the nation's first juvenile court began in Chicago, Illinois.

Until the 19th century, children were confined and punished according to the standards established by criminal courts—adults and juveniles, men and women, sane and insane criminals were treated the same. CFWC fought to establish a system that would consider that children may have less than fully developed moral and cognitive capacities. The CFWC's umbrella organization, the General Foundation for Women's Clubs established 75 percent of the nation's libraries and was the national model for juvenile courts upon which California's system is based.

The California Federation of Women's Clubs, chartered in 1900, sought legislation to create a separate court system for juveniles based on the understanding that children are inherently different from adults and that the state has a certain responsibility to protect and rehabilitate young offenders. Juvenile courts provide rehabilitation and benevolent supervision based on the concept of parens patriae (the State as Parent), allowing the state to intervene in the interest of protecting the child. The focus of the juvenile court was on the offender, not on the offense, on rehabilitation, not punishment.

Because of the actions of the CFWC, criminal cases involving individuals under the age of eighteen began to be adjudicated in a juvenile court. The CFWC also funded the courts until the courts were included in the State budget. This system allowed courts to provide a standard procedure for processing the crimes committed by juvenile offenders while paying additional attention to the special needs and circumstances of children. Over the years juvenile courts have evolved to more closely resemble the criminal justice system.

Today the CFWC continues to work for adequate programs of probation and rehabilitative services in humane facilities for children. In addition to creating the Juvenile Courts of California, CFWC members strive to promote education, literacy, healthy lifestyles, preservation of natural resources, crime prevention, art appreciation and increased international understanding. The organization contributes an average of 4 million volunteer hours and $3 million on 25,000 projects annually.

The California Federation of Women's Clubs is a non-profit, charitable organization that was organized in January 1900, becoming the thirty-seventh state to join the General Federation of Women's Clubs—which is one of the largest and oldest volunteer organizations in the world. "Strength United is Stronger" was chosen as the motto and still holds true today as the Clubs working together make a difference throughout the world.

HONORING REV. DR. ISAIAH SCIPIO, JR.

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. KILDEE. Mr. Speaker, I rise before you today on behalf of the membership and friends of the Itinerant Ministry of the Christian Methodist Episcopal Church to honor my friend Rev. Dr. Isaiah Scipio, Jr. for fifty five years of spiritual leadership within the Christian Methodist community. On Saturday, February 28, 2004 the friends of Rev. Dr. Isaiah Scipio, Jr. will honor him during a retirement luncheon celebration to be held at the Sarvis Conference Center in my hometown of Flint, Michigan.

Rev. Isaiah Scipio, Jr. was born in Darlington, South Carolina on July 11, 1923 to Isaiah Sr. and Margaret Scipio. He graduated from Mayo High School. He was drafted into the U.S. Air Corps December of 1942, where he served honorably as a Technical Sergeant until August of 1946. After his tour of duty he enrolled at the University of Southern California where he received a Bachelor of Business Arts degree in 1959. In 1947 Rev. Scipio received his license to preach, and two years later in 1949 he was ordained Deacon and Elder. He earned his Master of Theology from the University of Southern California School of Religion. In 1947 a year after receiving his receiving his Theology Doctorate, he was assigned interim pastor of the New Era C.M.E. Church of South Los Angeles, California. Rev. Scipio from this point forward would be known as the traveling preacher. He has had the honor of spreading the word to congregations in California, Michigan, New York, Richmond, Virginia, Indiana and Ohio. From 1959–1962 Rev. Scipio served under Rev. Dr. Martin L. King Jr. as President of the Western Christian Leadership Conference. He served two years as the President of the Greater Flint Council of Church. In 1970 he was elected General Secretary of the board of Missions, supervising work in Liberia, Ghana, Nigeria, West Africa, Haiti and Jamaica. In 1993 he transferred to Flint, Michigan and was assigned to his current position as pastor of Dozier Memorial C.M.E. Church. As the passage of 2 Cor 9:13–14 reads "While, through the proof of this ministry, they glorify God for the obedience of your confession to the gospel of Christ, and for your liberal sharing with them and all men. And by their prayer for you, who long for you because of the exceeding grace of God in you." Rev. Scipio, you have championed for Christ for fifty-five years and the community thanks you.

Rev. Scipio is also an outstanding father, grandfather and husband. He is married to Marion and they have two lovely daughters, Brenda and Deborah and three lovely granddaughters: Stephanie, Donya and Shonna.

Mr. Speaker, as a Member of Congress, I ask my colleagues in the 108th Congress to please join me in honoring my constituent and friend Rev. Dr. Isaiah Scipio for his outstanding service to the Christian community.

COMMEMORATING THE PRESIDENT OF TUNISIA'S RECENT VISIT TO WASHINGTON, DC

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Mr. HINCHEY. Mr. Speaker, I rise today to commemorate the recent visit to Washington, DC by the President of the Republic of Tunisia, His Excellency Zine El Abidine Ben Ali. President Ben Ali met with President Bush on Wednesday, February 18, 2004. During the meeting President Bush praised the social progress in Tunisia and welcomed its leader as a partner in the fight against terrorism.

The United States and Tunisia have maintained a strong relationship throughout both our histories. Tunisia has been a crucial partner in the Mediterranean region through first the Cold War and, more recently, in our current efforts to fight terrorism. Our relationship has grown even stronger in the last few years. In December 2003, Tunis was chosen as the regional center for the Middle East Partnership Initiative, a Near Eastern affairs program to promote democracy and political reform in the region. This is a welcome development because Tunisia plays a crucial role in stabilizing Middle East politics.

President Bush rightly praised the government in Tunisia for working with the United States in fighting terrorism, for a "modern and viable" education system and for giving equal rights to women. Tunisia can help the Middle East achieve greater reform and freedom, something that is necessary for peace for the long term.

As a friend of Tunisia, I again commemorate the recent visit by His Excellency President Ben Ali. This meeting was an opportunity to highlight the longstanding relations between our two countries and the friendship shared by our two peoples. It was also an occasion to strengthen our joint efforts on the international scene for the causes of peace, security, human dignity and development.

AMERICA AT RISK—ANNIVERSARY REPORT ON THE STATE OF HOMELAND SECURITY

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to join my fellow Members of the House Select Committee on Homeland Security from this side of the aisle to underscore the importance of a report issued by Ranking Member Turner entitled America at Risk: Closing the Security Gap. This report answers the question of whether we are as safe as we need to be one year after the creation of the Department of Homeland Security (DHS) in the negative.

Despite the fact that for fiscal year 2005, DHS is slated to receive $40.2 billion in total funding, representing a $3.7 billion—or 10 percent increase relative to the fiscal year 2004 level of $36.5 billion, there still exist major problems in the Department's overall function.

There is an emergency situation occurring in Haiti right now, such that political upheaval and the threat of murder is forcing people to flee the country for our borders. Over the past two days, at least two boats full of Haitians have arrived at our borders. Neither the Department of Homeland Security's Bureau of Immigration and Customs Enforcement (BICE) nor our nation as a whole is prepared for the mass exodus that may arrive.

I will support a bill sponsored by our colleague Mr. MEEK of Florida to designate Haiti under Section 244 of the Immigration and Nationality Act to allow Haitian refugees to obtain Temporary Protective Status (TPS). I have signed on to join my brother today in fact to take leadership in this crisis.

Furthermore, I will introduce a piece of legislation, the "Comprehensive Immigration Reform Act of 2003." Section 502 of this bill responds to Attorney General Ashcroft's decision in Matter of D–J–, 23 I&N Dec. 572 (AG 2003), in which he denied bond release to a Haitian on the ground that giving bond to undocumented refugees who come to the United States by sea would cause adverse consequences for national security and sound immigration policy.

This legislation would permit the adjustment of status for Haitians who meet the following categories:

(1) The individual would have to be a native or citizen of Haiti;

(2) The individual would have to have been inspected and admitted or paroled into the United States; and

(3) The individual would have to have been physically present in the United States for at least one year.

It will be critical for BICE to have a system in place that will process these individuals but not illegally and excessively detain them or otherwise violate their civil liberties.

The United States Visitor and Immigrant Status Indicator Technology program's (US–VISIT) first phase is deployed at 115 airports and 14 seaports. US VISIT was designed to expedite the arrival and departure of legitimate travelers, while making it more difficult for those intending to do us harm to enter our nation.

The budget for FY 2005 provides $340 million in 2005, an increase of $12 million over the FY 2004 funding to continue expansion of the US VISIT system. In his testimony in the Full Committee hearing held on February 12, 2004, Secretary Ridge indicated that "over $1 billion will be used to support [US-VISIT]." Unfortunately, he failed to adequately address how the budgetary plan will address the following issues:

That US–VISIT will not be effective for border security.

That it will impede U.S.-Mexican trade.

That it will discourage legitimate international travel and hinder South Texas retail.

That it essentially amounts to an anti-immigration policy under the guise of homeland security.

Harm to efficiency—Without a way to separate travelers, lines during high-volume times will be staggering, regardless of how fast the machines may operate.

Of the estimated 400 million people whom US–VISIT would process annually, 360 million would go through land ports of entry—five times more than go through airports and seaports. And unlike air and sea travelers, most land travelers do not file itineraries, carry passport information or go through personal screening.

Legitimate travelers—truckers who haul goods to warehouses just north of the border; people who live in Mexico and work in Texas rail shops or factories; Mexicans who own property in the United States—could be stuck in processing lines.

That US–VISIT targets the wrong people: Mexican and Texas businesses and people who have created an interdependent relationship.

Furthermore, there are tremendous problems with our aviation security systems. Spending on aviation security since September 11, 2001 has totaled $14.5 billion. Since September 11, we have spent $18 securing our skies for every $1 spent securing ports, trucks, buses, mass transit, and pipelines combined.

Numerous media accounts tell of passengers bringing knives and guns on flights without realizing it, and not getting caught. In the recent situation regarding Nathaniel Heatwole, it was discovered that he told the TSA that he was going to put box cutters and other potentially dangerous items on airplanes, but it still took a routine maintenance check a month later to find them.

Planes that carry only cargo are also dangerously unsecured. Many do not have hardened cockpit doors, and the pilots are not yet allowed to carry firearms.

Another problem was created by the Administration's inexplicable policy of allowing airport employees to enter secure areas of the airport without being screened in the same way passengers and pilots are. Congress has given the Administration substantial resources to do the job—more than any other aspect of homeland security. They must move faster to strengthen our front line defense against the terrorists threatening the safety of our skies and our communities.

Overall, $890 million is provided for aviation security, a nearly 20 percent increase, including funds to improve integration of explosive detection system (EDS) equipment into individual airports' baggage processing to increase security effectiveness and promote greater efficiency.

On February 24, 2004, Fox News aired a segment on airline security that is simply shocking. It showed a video shot by a passenger on an international flight bound for the United States. While there weren't many open seats on the Air Tahiti Niu passenger jet, the cockpit door remained open. The passenger who shot the film said, "As we were rolling down the runway, the door kept slamming against the back wall." This passenger taped the open cockpit door from his first class seat on a trip from Auckland, New Zealand to Los Angeles, California with a stop-over in Tahiti. He reported that the door remained open most of the time on both legs of the flight and was closed just before the plane's decent into Los Angeles.

This incident shows the severe gaps that we have in our airline security. I have written a letter to Secretary Ridge highlighting this problem and requested that he respond with a specific plan to address it.

Poor data collection, data sharing, equipment, training, and a lack of oversight make our nation extremely vulnerable to terrorist attacks. We must act quickly to address these weaknesses in order to protect our families.

PRESIDENT BUSH'S FY 2005 NATIONAL BUDGET

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 26, 2004

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today being very disturbed with the direction that President Bush is taking our great nation. The prime reason for my concern is the President's budget that was submitted to this body a few weeks ago. It has become apparent to me that this Administration has lost all sense of reality when it comes to satisfying the needs of average Americans. I say this not out of partisanship, but from a statement of the facts. This President decided that multiple tax cuts for the rich would outweigh the programs and services most needed by average Americans. The truth is staggering; by 2009 discretionary spending outside of Homeland Security will be $47 billion less than current levels. In fact, by 2009 the tax cuts this Administration has sponsored will cost more than the cuts in discretionary spending outside of Homeland Security. This means that so many of the programs and services that average Americans rely upon will be cut drastically, all in an effort to finance irresponsible tax cuts that only benefit a small fraction of wealthy Americans.

The truth is that this President is trying to hide from the American people the amount of cuts in important programs that his budget contains. For the first time, this President's 2005 published budget materials do not show discretionary funding totals, or program or account totals, beyond 2005. Again, this President is out of touch with the American people, and worse still he is trying to hide his true intentions. I will not stay silent while he advocates an irresponsible agenda that is geared towards only one small sector of the American population. It is our responsibility to advocate for all Americans, and the great majority of them will be hurt by this irresponsible budget. I want to highlight a few areas in this budget that are particularly egregious.

Education: This year marks the 50th Anniversary of Brown v. Board of Education, the historic Supreme Court decision that desegregated America's schools. I would not be true to the principles of Brown v. Board of Education if I did not address the current state of our nation's education system. It pains me to do so, I'd much rather stand here and celebrate our great victory from 50 years ago, but to do so and ignore the needs of our nation's children would be a slap in the face to all that we have fought for. At the top of the list of my concerns is the No Child Left Behind Act (NCLB) and the fact that it has not lived up to its mandate. In the years before Brown v. Board of Education the proponents of "separate but equal" might have said that no black child was being left behind, but we know that to have been a lie. Likewise we know under the current state of affairs that the idea that American children are not being left behind is a farce.

President Bush shortchanges his own No Child Left Behind Act (NCLB) by $9.4 billion—including $7.2 billion for Title I. The President breaks his promise to provide $20.5 billion for Title I under NCLB. His budget will deny nearly 5 million disadvantaged children critical education services, such as extra help to become proficient in reading and math. Since NCLB was signed into law President Bush has underfunded the initiative by $26.5 billion or 21.7 percent.

President Bush freezes or cuts college aid, forces taxes on students, and fails to stop tuition hikes. Not only does the President fail to address the rising college tuition, but he also makes college even more expensive by freezing or cutting student aid and taxing students.

President Bush jeopardizes aid to children of military families. The Bush budget freezes all Impact Aid funding at the FY 2004 level, jeopardizing programs and services for children of military families.

President Bush breaks his NCLB promise on afterschool programs. The Bush budget freezes funding for afterschool programs. As a result, nearly 1.3 million children will be shut out of afterschool programs.

President Bush makes certain that full funding of special education will never happen. The Bush budget proposes a $1 billion increase for the Individuals with Disabilities Education Act (IDEA). This marks the 4th year in a row President Bush has proposed this exact level of increase, placing disabled students at an even greater disadvantage. At this rate of increase, we will never reach full funding of IDEA.

President Bush cuts $316 million from vocational education and community colleges—again. The Bush Budget would cut $316 million, or nearly 25 percent, from vocational education. On top of this, President Bush has cut more than $1.5 billion out of job training and vocational education programs since he took office. In addition, the budget proposes to turn this program into a block grant to states, eliminating accountability and targeting of resources to disadvantaged students and programs.

We all know that education is one of the most important priorities for our great nation. Our children's success or failure will be the true indicator of our effectiveness in this body. The generation of African American leaders who preceded us spent their lives making sure that all children would be able to get educated and have the ability to succeed that every American was entitled to. This President's budget threatens that very core principle. This is more than rhetoric; this idea is based on staggering facts. Of the 65 programs cut completely from the Bush budget, 39 of them were education programs. This President believes America will be better off if the richest Americans get $66,000 tax cuts, but he doesn't believe our children will be better with programs like Dropout Prevention, Even Start and School Leadership, all of which are now obsolete under his proposal. This President has a different set of priorities when he believes that hundreds of millions of dollars in cuts for our children's education will be better for America. We as a body of the people can not allow this flawed budget proposal to stand. Our children's future and in turn the future prosperity of this nation is at stake.

Veterans: Our brave American veterans are another group who will have to suffer if this Bush budget is allowed to be put into effect. Funding for America's veterans will be cut by $13.5 billion over the next five years. The Secretary of Veterans Affairs himself has testified that the Veterans Affairs (VA) budget just for 2005 is $1.2 billion below the amount that the VA requested from the White House, and that the funding levels for 2006 through 2009 in the President's budget may not be realistic. What other proof needs to be shown that this President and his Administration are simply not in touch with reality when it comes to the needs of our nation. I want to stress that funding for our veterans is not a luxury or an option, it's a requirement. When our veterans went off into service for America and risked their lives they didn't give a half hearted commitment, sadly this President can not say the same for his commitment to our veterans.

I have talked to a number of veterans groups from my district and they are all screaming for better health care for themselves and their families. They have a right to be angry, they gave a sacrifice to this nation that no other group can claim and the treatment they receive in this President's budget is unacceptable. I stand in solidarity with our brave veterans and everyone else in this body who would like to say the same must be against this President's budget. His proposal does nothing to increase health care coverage for our veterans and their families. I am asking this President, that without proper medical coverage how can any proposal for funding of Veterans Affairs ever be worthwhile?

Education and Veterans Affairs make up only two areas where this President's budget fails Americans. The truth is there are many other programs and services vital to our nation that are at risk because of this Administration. At this point, an average American may be asking why this President finds it necessary to cut so many fundamental programs. The answer is simple, yet disturbing; this President is cutting important programs in order to finance his irresponsible tax cuts. He will continue to make the argument that tax cuts provide stimulus for our economy, but millions of unemployed Americans will tell you otherwise. In fact the Congressional Budget Office itself said "tax legislation will probably have a net negative effect on saving, investment, and capital accumulation over the next 10 years." Yet, this President continues to push forward his failing policies, as he does he falls farther and farther away from the reality faced by average Americans. This body was made to stand for the will of all Americans; if we allow this budget proposal to take effect we will have failed our mandate. I for one will not stand by silently; I have a duty to my constituents and indeed to all Americans to work for their well being and I will continue to honor that duty.

SENATE—*Friday, February 27, 2004*

The Senate met at 9:32 a.m. and was called to order by the Honorable LARRY E. CRAIG, a Senator from the State of Idaho.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

As we begin another day, most gracious God, help us to see that we never escape Your love and care. Forgive us for duties unperformed and for promptings disobeyed. Make us worthy of Your goodness. Thank You for guiding us and for blessing our land. May we trust Your plan for our lives.

Bless our Senators. Remind them that they do not live by their own strength, but that You sustain them. Lord, empower each of us to reflect upon the things that are true, just, pure, lovely, good, and honest, as You keep us with Your constant care. May we strive less for success and more for faithfulness. We pray this in Your strong Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable LARRY E. CRAIG led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The assistant Journal clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, February 27, 2004.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable LARRY E. CRAIG, a Senator from the State of Idaho, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. CRAIG thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senate majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning we will resume consideration of the gun manufacturers liability bill. We have made real progress over the course of the week. The managers are here to discuss the legislation and other Senators are expected to come to the floor for further debate over the course of the day.

There will be no rollcall votes today. Therefore, the next vote will occur on Monday. As to the timing of that vote on Monday, I will have more to announce over the course of the day after consultation with the bill managers and the Democratic leader.

Pursuant to the agreement that was reached on Wednesday, we will finish this bill on Tuesday. I thank everyone for their assistance in reaching that consent agreement. I commend the bill managers for their efforts during the negotiations.

HIGHWAY REAUTHORIZATION

We have a very important outstanding issue before we finish our business this week. As Members know, the current highway authorization expires this weekend. Thus, it is imperative that we pass an extension of the authorization before we conclude our work today. I have talked to Members on both sides of the aisle, as well as to our House counterparts, as to how best to achieve this temporary extension.

Yesterday the House passed a 2-month extension, and they have adjourned for the week. Regardless of what Senators think about the long-term solution for this legislation—legislation which we debated—we have an issue that we must settle today in terms of the extension. The House, again, passed a 2-month extension. They sent that to us and they have adjourned.

The real issue is that we absolutely must extend the current law to keep people working until we find some agreement. We will need to address this over the next several minutes because of the sense of urgency, the significance of not passing this highway extension today, this week. That is because beginning Monday, 3 days from now, no funds will be available to pay for the operation of surface transportation programs or the salaries of individuals who run them. That is why we must act today.

That means, as of this Monday, more than 4,600 Department of Transportation employees will be furloughed, if we fail to act today. The Federal Highway Administration will have to stop paying bills on Monday. That includes reimbursements to States for ongoing highway projects.

Federal Highway Administration employees, 2,925 Federal Highway Administration employees, will be furloughed, in Washington, DC, and, indeed, in State offices around the country. If they are furloughed on Monday, these Federal Highway Administration employees will not be able to carry out the necessary steps required to approve the federally approved, funded highway projects. We have construction contractors and their suppliers who will suffer economic losses and hardships.

The National Highway Traffic Safety Administration also will be affected. They would have to stop paying bills on Monday. There are 630 Highway Traffic Safety Administration employees who would be furloughed. The operation of our Federal highway safety programs would be dramatically impacted. States would receive no Federal funding for things such as alcohol-impaired driving and safety belt programs.

In addition, the Federal Motor Carrier Safety Administration would have to stop its operations. The Motor Carrier Safety Administration employees, numbering 1,078, would have to be furloughed, and the agency and its partners would not be able to carry out the new entrant safety audits on motor carriers.

The issues go on and on. I state those at the outset because by the end of the day we have to come to some agreement to make sure that what could happen doesn't happen. It is important for people to understand the significance of where we are, in particular the leadership, as we address the other important issues we will talk about shortly.

For clarification, the House sent us two vehicles, a 2-month extension as well as a 4-month extension. The House is not in session today. The practical reality is we must pass one of the extensions—I think it would be the 2-month extension today—or 4,600 people are going to be laid off on Monday. We cannot let that happen.

Now the challenge is to figure out how we are going to address that. Again, it is a very important issue, which I know my colleague from Arizona will address shortly and we need to resolve it.

At this point, I am prepared to ask unanimous consent to allow us to pass the short-term extension. I know Senators will want to comment.

UNANIMOUS CONSENT REQUEST—H.R. 3850

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

H.R. 3850, a highway program extension bill, which is at the desk. I further ask unanimous consent that the bill be read the third time and passed, and the motion to reconsider be laid upon the table.

(Mr. CHAFEE assumed the Chair.)

Mr. REID. Is this the 2-month extension?

Mr. FRIST. Yes.

Mr. McCAIN. Mr. President, reserving the right to object. first of all, I don't object to taking up the highway extension bill under the normal Senate procedures, which is that the bill is an amendable vehicle. That is the normal parliamentary procedure we abide by as we address legislation, so I don't object to taking up the highway extension bill under the normal Senate procedures, which makes the bill amendable. I would obviously have an amendment to the bill.

I object to the unanimous consent request that it be taken up and passed without debate or amendment.

Second of all, we have to make some choices here. The choice is whether we will have a short-term disruption—and I might point out no existing projects now underway would be cut off—of the highway programs, or we renege on our commitment to the families who lost their loved ones, brave firefighters and members of law enforcement agencies, on September 11, 2001.

Senator LIEBERMAN and I introduced legislation that created a commission to study the causes of the tragedy of September 11, 2001, and also an effort to prevent a recurrence of that terrible tragedy. We have a choice here between a temporary disruption—I might say a minor one, although it will be described, as it is whenever a government agency might be disrupted, as "Apocalypse Now"—or telling the families of those who died on September 11 the Commission will not be able to complete its work and part of the reason for it, as described by Commission members, is because of failure to cooperate on the part of the administration.

We are faced with a choice. If there is another amendable vehicle that would have an amendment on it that must pass by the House, I would be glad to agree to passage of this extension. If there is any way we could get the other body to agree with what the President has asked for—not Senators McCAIN and LIEBERMAN, but what the President asked for—and that is an extension of 2 months of the 9/11 Commission, which was reported out of the Intelligence Committee unanimously yesterday, then I would be glad to withdraw my objection.

The majority leader just pointed out, this is the end of civilization as we know it if these highway employees are deprived of some hours. I might point out we knew when this bill was going to expire. Why is it we do business in such a way that we are faced with a shutdown unless we give an extension, knowing when the bill was going to expire? Most importantly, we all have a choice to make here, including the majority leader and the Senator from Missouri and the Senator from Nevada. We have a choice. Are we going to face a disruption in some highway projects which, although important, can be fixed and repaired over time or are we going to abandon the families of 9/11 who demanded and received the appointment of a commission that would thoroughly and completely investigate the events that led up to one of the greatest tragedies in American history? That is our choice. I intend to again object to this unanimous consent agreement.

I will agree to taking up the highway extension bill and to not blocking it if I am allowed to amend it. I cannot dictate the schedule of the other body. But I do know the President of the United States, the majority leader, a majority of the Senate, the members of the 9/11 Commission, and the families of those who died want this Commission to be able to complete its work and, by God, we should honor that commitment to them.

I object.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Mr. President, reserving the right to object, I intend to join Senator McCAIN in this objection. Let me say this briefly because he has spoken clearly and powerfully. Life is about choices. We don't take any pleasure in stopping the extension of the highway law and the consequent disruption that may occur. There are priorities here.

As I see this, the objection we are registering in pursuit of an extension of the time limit or deadline of the work of the September 11 Commission, as agreed to by the White House, as requested by the bipartisan 9/11 Commission led by the distinguished former Governor of New Jersey, Republican Tom Kean, as demanded by the families of the victims of September 11, that has to take precedence in the choices we make.

I believe the work of this Commission is a critical element in the larger war on terrorism because the work of this Commission is to determine independently, aggressively how did September 11 happen. September 11 occasioned the official commencement of our war on terrorism. Unless we exhaust every opportunity to determine how it happened, we cannot feel we are successfully prepared to fight and win the war on terrorism and to protect the American people at home from ever having to suffer again the kind of devastating attack we suffered September 11, 2001. It is that important.

Senator McCAIN and I introduced this proposal in the fall of 2001 to create the Commission. It took more time than it should have to create it. It has been created. The Commission has had more trouble than it should have had obtaining documents, including noncooperation—or at least footdragging by folks in the administration, which I don't understand, because we are all on the same side here. It is possible had that kind of delay not occurred, the original deadline of May 27 of this year for the work of the Commission would have been adequate. It is not.

The bipartisan commissioners have told us that the White House has agreed—to the President's credit and the administration's credit—that a 2-month extension is necessary, to July 27, plus an additional month for the Commission to wind down after it issues its report and the work it is doing.

The Senate Intelligence Committee unanimously reported out such a proposal yesterday. I don't believe there is any objection to it here in the Senate. There is bipartisan support. Yet some of our friends in the House leadership apparently do object. With all respect, I say they are plain wrong. I don't understand it.

Therefore, Senator McCAIN and I are faced with a choice. We have to make a choice. We have made the choice and, in doing so, respectfully, there may be consequences to this highway bill. I join the Senator in saying we would be happy to have another vehicle that the House will definitely have to take up to get this done. It is that important.

We do not live in ordinary times. We have constitutional responsibilities to provide for the common defense and to insure domestic tranquility. To me, with all respect to the consequences of not extending the highway law—and they are real—they pale in significance to not giving this commission the extra time it needs to complete its work.

Here again, the Congress is challenged procedurally to find a way to allow what I think every Member of the Senate wants to happen. That is why Senator McCAIN and I are standing up and basically crying out to our colleagues: Help us. Don't just help us, help the country successfully prosecute the war on terrorism with the information that will result from this Commission's report. Help us honor the memory of the 3,000 who were killed on September 11, 2001, and help us respond to the understandable appeals of the families of the victims of September 11, of which about 114 families live in the State of Connecticut.

It is for those reasons, respectfully, that I join Senator McCAIN in this objection.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Objection is heard. The majority leader.

Mr. FRIST. Mr. President, let me make several points in response because we are going to work this out in some shape or form. I am not exactly sure how yet, but the challenge has been laid out.

We have two independent issues that my two colleagues are rightfully linking, but by linking them, 5,000 Americans and their families are going to be hurt. I would argue they are being hurt by their proposal—it can be blamed on all sorts of situations as to how we got to where we are, but the point is, if the action they propose is taken, 5,000 families who have nothing to do with the Commission—they are separate issues—these transportation families are going to be hurt unnecessarily by their action today.

I hope what I have just said is proven right by us working together today and settling this matter because what they propose, because the House is out of session and because the bill is before us, if amended, cannot be acted upon by the House until next Tuesday night, and 5,000 transportation families will be hurt by what they are insisting upon. Therefore, that is unacceptable to me.

I say that very quickly. Let me say that I support the extension. Both Senators who have spoken know I am a supporter of their initiative. The President of the United States supports their initiative of an extension. But I am not going to have 5,000 families hurt unnecessarily today. That is what we need to work out. That is No. 1.

No. 2, the Commission—I have talked mainly about transportation—the Commission about which my colleagues from Arizona and Connecticut talked so eloquently, and the families, my commitment is to them to also make sure through this Commission that we have an extension, and I will use all the powers that a leader has in his caucus to make sure that Commission has sufficient time and access in fairness to the benefit of those families. They deserve that. It is very important the families understand that is my commitment as majority leader of the Senate and that is what the majority of the Senate believes. Though we are having a disagreement with the House, in part, I am confident we will be able to work through that, as well.

The reason I say these 5,000 families do not have to be hurt, with paychecks stopping, a big furlough, don't show up for work, which has real repercussions throughout our transportation system, is that what we decide today on extension of the Commission will not have any impact if we can make that same decision a week from now or 2 days from now or 3 days from now.

Why do I say that? Because the Commission is still working. It is working February, March, April, and May. The Commission is underway. They are doing their work. Originally, on May 27, the Commission is supposed to end, and the idea is extending it 2 months beyond that, which, again, I support. But the Commission is underway. We do not have to hurt 5,000 people in transportation families which will affect our infrastructure today because the Commission is working and we can still address the extension.

There is no urgency about addressing the extension today. I understand my colleagues are using the leverage of this must-pass transportation bill, in my mind, to force the vote today on the extension. But for me, it does not have to be done today. I pledge to keep working with them.

Mr. REID. Will the Senator yield for a question?

Mr. FRIST. Let me go through my points quickly because it is important for people to understand we have been working on this for the last couple of days. I have been working with the Senator from Arizona, and he knows my commitment in trying to work out alternatives.

The Senators from Arizona and Connecticut asked if there is another vehicle on which we can put this extension that is a must-do that will get through the system and make sure it will happen, which is their objective and my objective. The problem with that—and again we had this discussion—is, What vehicle does he suggest?

I suggested the adjournment resolution. That is usually a must-do. But then the response to that was that is not certain these days for all sorts of reasons. Can we put it on the underlying bill that is pending before the Senate, the gun liability bill? That may not quite work because we don't know what the outcome of that bill is going to be.

I mention that only to say, let's work together, and if we can agree on another amendable vehicle, then I am willing to work with that, and I will do everything I can. I think we can be successful. The problem is when you set a bar that is going to become law in the next few days, it is impossible.

Mr. McCAIN. Will the majority leader yield?

Mr. FRIST. One other point, because it is going to be important as we go forward, has to do with what the Intelligence Committee did yesterday. Again, all of the Senators are aware that the Intelligence Committee yesterday, on Thursday, marked up a bill which is consistent with what I believe and what the Senator from Arizona believes, that a 2-month extension is appropriate. They marked up that legislation. We are going to hotline that bill right now to see if we can get unanimous consent for that bill. I just want to put that on the table. Again, it is a freestanding bill that later this morning I will ask unanimous consent that we address. That bill would be brought to the floor and passed, which again is exactly what the families want, what Senator McCAIN wants, what Senator LIEBERMAN wants, what the President of the United States, I suppose, the administration wants and would ask that my two colleagues at least consider that approach as well.

Let me close and say it is unnecessary to hurt these 5,000 people today. There are alternatives that will allow the Commission, if we work together, to be extended, if that is the will of the Senate. We would be unnecessarily hurting our transportation community by linking two unrelated issues just to use leverage to get this extension passed.

Mr. McCAIN. Mr. President, will the majority leader yield for one question?

Mr. FRIST. Let me yield to the Senator from Connecticut and then the Senator from Arizona, or either one.

Mr. McCAIN. Mr. President, I just have a brief question for the majority leader. In case he missed the morning Washington Post, it says that the independent commission investigating the September 11, 2001, attacks will have to consider scaling back the scope of its inquiry and limiting public hearings unless Congress agrees by next week to give the panel more time to finish its work, its chairman. Governor Keane, a Republican chairman, said that their ability to conduct their investigation will be impaired permanently and severely unless Congress acts by next week.

Mr. FRIST. In response to the Senator's question, I have not read the article today, but I am glad he pointed it out. Let's do it by next week and not hurt 5,000 people with an unrelated issue trying to use leverage that he knows we have no alternative to deal with on the floor of the Senate.

I am glad he pointed it out. Let's deal with it next week. He knows I am working to deal with it, which shows it does not have to be dealt with today and hurt 5,000 people.

Mr. McCAIN. The majority leader is incorrect. This article was last Friday, talking about this week, the chairman of the panel talking about this week.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair and the leader.

My friend from Arizona is right. That is the first thing I wanted to point out that it was February 20, 1 week ago, in the Washington Post that Governor Keane made those statements.

I will give a quote from him:

> Every week that goes by makes the extension less valuable. When you have to work toward the earlier deadline, you have to start cancelling things and you can't go over things quite as clearly as you might like.

This is last Friday. He says:

> Congress comes back into session next week and we really need to hear something by then.

We all know we would not be here doing this if the leadership in the House at one point had not said quite clearly that they were not going to let this extension pass, notwithstanding the fact that the Commission requested it, the President has accepted the extension, and it is pretty clear to me, Senator FRIST, the leader, the Democratic leadership, all support the extension.

Unfortunately, the nature of the presses that often breaks down here, the only way one can get done what one really thinks is necessary in the national interest is to stand up and say, stop.

Of course, we do not want to put those 5,000 families at a disadvantage even temporarily, but we do not have an alternative.

Mr. FRIST. Will the Senator yield?

Mr. LIEBERMAN. Yes.

Mr. FRIST. Is it the contention of both the Senators that the Commission right now has had to shut down this week because we have not allowed this extension?

Mr. LIEBERMAN. No, not at all.

Mr. FRIST. Is that what the Senator from Arizona is basically implying, that the Commission has cut back this week or if it is not settled today that the Commission has been compromised?

Mr. McCAIN. Could I respond by again repeating what was in last week's Washington Post: The independent Commission will have to consider scaling back the scope of its inquiry, limiting public hearings, unless the Congress agrees by next week—that is this week—to give the panel more time.

They may not have to shut down but certainly their ability to conduct their investigation, according to the chairman of the Commission, Mr. Keane, former Governor of New Jersey, a Republican, says would be impaired.

Every week that goes by makes the extension less valuable, and when they have to work toward the earlier deadline they have to start cancelling things and cannot go over things quite as clearly as they might like. There is a certain urgency, obviously, to Governor Keane's plea that we act this week.

Mr. FRIST. Mr. President, let me go ahead, because I had asked that we further explore the only option I see, and again I think we ought to at least address that. If we do what the Senator from Arizona has proposed, 4,600 employees cannot show up for work, are not going to be paid and are going to be hurt if we accept their proposal. So I ask that they consider the proposal which I mentioned a few minutes ago, I said we would be hotlining, and to take the bill that was passed out of the Intelligence Committee yesterday, that does exactly what they want, what I want, which is to extend the Commission, and pass that as a freestanding bill. So as majority leader, I am prepared to get this bill done this minute.

EXTENSION OF FINAL REPORT DATE OF NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

Mr. FRIST. I ask unanimous consent that the Senate now proceed to the consideration of S. 2136, a bill to extend the 9/11 Commission. I further ask unanimous consent that the bill be read the third time and passed and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. McCAIN. Reserving the right to object, and I will not object, that is the bill that was passed through the Intelligence Committee yesterday; is that correct?

Mr. FRIST. That is correct.

Mr. McCAIN. I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2136) was read the third time and passed, as follows:

S. 2136

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES.

(a) FINAL REPORT DATE.—Subsection (b) of section 610 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 6 U.S.C. 101 note; 116 Stat. 2413) is amended by striking "18 months" and inserting "20 months".

(b) TERMINATION DATE.—Subsection (c) of that section is amended—

(1) in paragraph (1), by striking "60 days" and inserting "30 days"; and

(2) in paragraph (2), by striking "60-day period" and inserting "30-day period".

(c) ADDITIONAL FUNDING.—Section 611 of that Act (6 U.S.C. 101 note; 116 Stat. 2413) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by inserting after subsection (a) the following new subsection (b):

"(b) ADDITIONAL FUNDING.—In addition to the amounts made available to the Commission under subsection (a) and under chapter 2 of title II of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 591), of the amounts appropriated for the programs and activities of the Federal Government for fiscal year 2004 that remain available for obligation, not more than $1,000,000 shall be available for transfer to the Commission for purposes of the activities of the Commission under this title."; and

(3) in subsection (c), as so redesignated, by striking "subsection (a)" and inserting "this section".

ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I ask unanimous consent to proceed as if in morning business for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I ask unanimous consent to modify my unanimous consent to have the Senator from Missouri proceed for 5 minutes followed by myself for 15.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Missouri.

EXTENSION OF TEA-21

Mr. BOND. Mr. President, I thank my colleague from New Hampshire for his request.

Before the distinguished minority assistant leader leaves the Chamber, I want to say I appreciate the good work of the majority leader and the minority to try to resolve this roadblock.

What we have before us is a false choice posited by the Senators from Arizona and Connecticut. It does not matter how much they try to hold hostage the extension of the highway bill to keep these people working, there is no guarantee—and they cannot guarantee—that the House would accept whatever they put on.

They can hold this body hostage, and they have shown their willingness and ability to do so, but should they be able to add an amendment to the highway extension, or now that we have passed the bill on extending the 9/11 Commission, it still has to go to the House.

The action of the Senate Intelligence Committee yesterday was not unanimous. There are many other issues that should be debated about that bill, but I was not here to object and no one objected to passing the bill from this body to extend the 9/11 Commission.

It is important to realize this Commission was set up a long time ago. They knew their deadline was May 27, and if one were to ask the Senator from Mississippi, Mr. LOTT, who appointed members of the Commission, I believe he said at the time that the problem with commissions is we give them a lot of time and a lot of money and they do not always come up with the deadline.

They have had this time. They have had extensive hearings. Now the question is whether the House will accept the proposal that the Senate has adopted to extend the 9/11 Commission for 2 more months.

This body cannot hold hostage the other body. What the Senators from Arizona and Connecticut are doing is seeking to hold hostage the whole highway program in the United States. If they hold that hostage, there is no assurance that even next week there will be agreement by the House to take a bill with the 9/11 Commission.

TEA-21's current extension expires on Sunday. If we fail to extend this, there will be a shutdown of any further contract authority for Federal aid highway projects and a shutdown of payments for work already contracted for by the States and performed by contractors. This means no further projects can be approved or awarded. It also means that not only the Federal Highway Administration but also the National Highway Traffic Safety Administration, the Federal Motor Carrier Administration, as well as the Bureau of Transportation Statistics, will cease operation.

The Federal Highway Administration said that 2,925 employees will be furloughed. These are not just employees in Washington but Federal employees in every State office throughout the Nation, including those in the States of Arizona and Connecticut. This also does not even include the many contractors that will be affected by the shutdown.

The National Highway Traffic Safety Administration employees would also be furloughed affecting about 630 Federal employees. The Federal Motor Carrier Safety Administration would stop operation. This action would put out of work 1,078 employees, and that does not even include the Bureau of Transportation Statistics.

All told, 4,633 people will not be able to report to work on Monday, March 1, if this bill is held hostage to a proposition that may or may not be acceptable sometime or any time by the House of Representatives. Not only are we talking about people's livelihoods, we are shutting down the Federal agencies, which will have an adverse consequence for our Nation's highways, motor carrier safety, and consequentially for the condition and operation of our Nation's surface transportation system.

The Federal Transit Administration will be affected without passage of this extension. This is a time when the States are reaching the most intense quarter of the fiscal year for announcing construction projects.

States, particularly those that have seasonal construction award periods, and others that have work immediately prepared to go to bid, will be effectively stopped from making further awards or bid lettings that have not been previously approved. Construction and other contractors will suffer economic loss with the potential for smaller operators to suffer substantial economic hardship. Many of the businesses and many of the operations involved are small businesses that would effectively be cut off from their ability to be paid for their work if we refuse to do this extension.

Jobs will be lost in the private sector. Immense harm could happen. It is not possible to calculate immediately the actual job impacts for shutdown outside the workforce, but there was a survey, AASHTO's August 2003 survey, which emphasized that perhaps 90,000 jobs could be lost if we went to a short-term extension. An extension is bad enough, but a complete disruption of the program when there are crucial job needs across the country will have an economic impact on the families directly, and on the economy.

Another major problem if we fail to extend it is that further debts will not be paid. In the absence of an extension, the Government will not have authority to continue to reimburse States for projects for which expenditures by States have already been made. This has caused a cashflow crisis, since States are obligated to pay contractors with or without reimbursement from the Federal Highway Administration. Some States depend on Federal aid funds to pay bond debt service, and the highway trust fund will be charged interest under the Cash Management Improvement Act. We need the extension to stop playing politics with people's jobs in this most important legislation.

I thank my colleague from New Hampshire.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire.

CHARLES TAYLOR

Mr. GREGG. Mr. President, in 1989, a little known thief and thug named Charles Taylor set in motion a series of events which have thrown the impoverished nation of Liberia into chaos and its neighboring nations into genocide. From Ivory Coast he launched a successful coup against Liberia's sitting President, Samuel Doe, plunging Liberia into 15 years of civil war. We are still dealing with the fallout of that war today.

The coup, notably, followed after Charles Taylor had escaped from a Massachusetts prison in 1985, where he was about to be extradited for embezzlement.

Groups on all sides of the Liberian conflict have committed atrocities, including widespread rape, massacres, mutilation and torture, and forced labor of children. There are literally hundreds of accounts of villagers having been slaughtered as they tried to flee, women being raped, children being brutally raped. Such atrocities have been part of the deliberate policies of Charles Taylor, his government, and the groups that fought for him.

In the conflict, it is estimated approximately 60,000 to 200,000 people died in the violence, and many more died from hunger, disease, and lack of medical care.

After the end of the civil war in 1996—it really wasn't a civil war; it was more of an attempt by Charles Taylor to use brutality to force his way into Liberia—Charles Taylor became the President of Liberia by winning an election which he won simply by saying if he did not win, he would continue the violence, continue the rape and destruction and plunder of the country. Meanwhile, in 1991, civil war erupted in the neighboring country of Sierra Leone. Sierra Leone is one of the most impoverished nations in the world, which is particularly tragic in light of the fact that it has some tremendous natural resources. The conflict was primarily between the Government of Sierra Leone and a rebel group known as the Revolutionary United Front. The RUF lacked any discernible political agenda other than violence and plunder. Its main objective was to take control of the Sierra Leone diamond mines.

The RUF became notorious for its use of forced amputations to control the civilian population. The conflict between the government and the RUF and other factions has resulted in tens of thousands of deaths and the displacement of more than 2 million people,. well over one-third of the population.

The situation in Sierra Leone became so bad in 1999 the United Nations established a peacekeeping mission. This mission was called UNAMSIL and has cost the U.S. taxpayers a total of $646 million over a period of 6 years. This mission got off to a rocky start. The British intervention in 2000 helped stabilize the situation, and we should congratulate the British for being willing to step up to this issue.

Today, Sierra Leone is a relatively stable country, which is quite a miracle. It is widely known that the then-Liberian President, Charles Taylor, during the time of the violence in Sierra Leone, was essentially the force behind the RUF. He was supplying the weapons, the training, and it was his purpose to use the RUF to control the diamond trade. For his support, he got a great amount of the resources in the diamond trade. This is an important point because herein lies two roots of the cause of Sierra Leone's woes: First Charles Taylor, and second, conflict diamonds.

We have addressed the issue of conflict diamonds through the Kimberley Process, which is something that our committee has played a major role in driving forward, where we now have some control over the types of diamonds that are sold into the international market and whether or not they are conflict diamonds.

We have also attempted to address Charles Taylor. This is why I come to the floor today, to talk about where we stand in addressing Charles Taylor. Back in Liberia, around the time that the mission to Sierra Leone got underway, the anti-Taylor forces began to mobilize and to actively fight the Taylor government in Liberia. In 1999, an anti-Taylor faction called the Liberians United for Reconciliation and Democracy, LURD, was formed in northern Liberia. In 2003, a second anti-Taylor faction called the Movement for Democracy in Liberia, or MODEL, emerged in the southern Liberia area. Both groups have been accused of atrocities similar to those committed by the Taylor forces.

As the situation in Liberia worsened in the summer of 2003, the United States came under intense pressure to intervene. At one point, the U.S. sent marines in to protect U.S. citizens in Monrovia and to conduct an assessment of the situation in Monrovia. On September 19, 2003, with U.S. support, the United Nations established a full-blown peacekeeping mission to Liberia, ordering the deployment of some 15,000 troops. One month later Congress responded by appropriating $245 million to cover the U.S. cost of the UNMIL project, which is the U.N. initiative there—$200 million for humanitarian aid in Liberia. In the fiscal year 2005 budget request, the State Department has requested another $215 million for UNMIL. I am told the amount fell short of what the U.S. believes its share of the cost will actually be. I am unclear what will be required to stabilize Liberia, but it is estimated that 40,000 combatants, including 15,000 children, must be disarmed, demobilized, and reintegrated into society.

Hundreds of thousands of civilians who were forced to flee their homes during the wars must be reintegrated into their villages from squalid refugee camps in and outside Liberia. Liberia's infrastructure must be rebuilt. So it is an expensive and long path.

In the fall of 2002, the neighboring and equally unstable country of Ivory Coast also collapsed into violence. Charles Taylor is known to have recruited some of his mercenary fighters in Ivory Coast. He is now reported to have supported rebels in west Ivory Coast who were trying to oust the President of Ivory Coast. He is now reported to be supporting the rebels in west Ivory Coast that seek to oust the President of Burkina Faso, a neighboring country that has enjoyed relative stability.

The U.N. is expected to take a vote as early as tomorrow, or maybe even today, on the establishment of another U.N. peacekeeping mission to Ivory Coast. The State Department has informed me that the United States will vote for such a mission. The U.S. share of that cost will be about $60 million.

Both Sierra Leone and the Liberian missions are attributable in large part to Charles Taylor. It is clear that Taylor is also heavily involved in the Ivory Coast conflict. We know he continues to dabble in other west African countries.

The conflicts that plague west Africa have many common denominators, but the one that stands out is Charles Taylor. Another one that stands out is the amount of death, destruction, and loss of economic well-being that has occurred in that region as a result of Charles Taylor's actions.

In 2000, with strong U.S. backing, the U.N. and the Government of Sierra Leone began the process of establishing a special court for Sierra Leone. The mission of the Special Court is to try those who bear the greatest responsibility for the genocide which occurred in Sierra Leone and to try them under Sierra Leone law.

The Special Court for Sierra Leone indicted Charles Taylor as its first act. As its first act, it indicted the President of Liberia. He is accused of 17 counts of war crimes against humanity, and other serious violations of international humanitarian law.

But where is Charles Taylor? Not in prison awaiting trial where he should be. He is living in a luxury villa in the southeastern port city of Calabar, Nigeria. He is able to live in luxury because of the timber he plundered from Liberia and the diamonds he plundered from Sierra Leone, much of which can be tracked to terrorists. He is able to live in luxury because he was allowed to leave Liberia and to go to Nigeria.

When the situation in Monrovia last summer became so bad that his safety could no longer be assured, Taylor began looking for an escape route.

As pressure mounted in the international community for an intervention in Liberia, key players such as the U.S., U.N., the Economic Community of West African States—ECOWAS—and Nigeria correctly realized that a peace agreement—a necessary precursor to U.N. intervention—could not include Taylor, an indicted war criminal. Further, the parties recognized that even if an agreement could be reached, the rebels would never trust Taylor to abide by it, given his long history of reneging on peace agreements. So Taylor had to go—and fast.

The U.S., U.N., ECOWAS, and Nigeria engaged in talks about how to get Taylor out of Liberia. An agreement was reached in which Nigeria would offer Taylor asylum, but would not then be pressured to turn Taylor over. The details of these talks are vague, but finding a way to bring Taylor to the Special Court was reportedly not even discussed. But such a promise to Nigeria—that it would not be pressured to hand over Taylor—should not have been made.

The parties involved decided that getting Taylor out of Liberia was the fastest way to "stop the bloodshed." I would argue that, indeed, giving Taylor asylum in Nigeria was the surest way to prolong the bloodshed. Now safely ensconced in Nigeria with a hefty security detail, Taylor is arguably in a better position now to destabilize Liberia and other West African nations. I will come back to this point.

Taylor, astutely, took Nigeria up on its offer of asylum. And on August 11, 2003, he and his entourage of 100 flew to Nigeria. Taylor used Nigeria's offer to escape both the rebels and prosecution by the Special Court.

The Nigerians have been offended by Congress' recent calls for them to hand over Charles Taylor to the Special Court. The Nigerians should be commended for the important leadership role they have played in this and other West African crises. But their past and continued contributions do not justify their refusal to cooperate with the Special Court. If Nigeria is going to play a leadership role in West Africa, it must be committed to seeing those who destabilize that region stopped and held accountable for their actions. It must be committed to promoting the rule of law.

But the blame does not rest on Nigeria alone. The blame rests equally on the parties that negotiated for Taylor's transfer to Nigeria instead of his delivery to the Special Court—the U.S. and the U.N. It is inconceivable that the U.S. and the U.N., which have been driving forces behind the Special Court, would cast aside an opportunity to get the Special Court halfway to its goal and would not pursue the first person consequential in their activities of violence in Sierra Leone.

Upon his departure from Liberia, Taylor pledged: "I'll be back." Taylor has reneged on at least 13 cease fire agreements and 8 peace agreements, each time using the negotiations to stall and re-arm. It is clear from statements like this and from Taylor's past actions that he intends to use asylum in Nigeria to stall and re-arm, just as he has done in the past. The result of this is that, now, no one believes Liberia has seen the last of Charles Taylor—least of all the Liberians.

Very clear conditions were placed upon Mr. Taylor's offer of asylum: he was to completely disengage himself from the day to day affairs—military or otherwise—of Liberia. Immediately upon his arrival in Nigeria, however, Taylor began breaking—flagrantly—the terms of his asylum agreement.

Taylor has maintained contact with his lieutenants and supporters through telephone calls, instant messaging, and intermediaries who act as couriers. It is also said that Taylor maintains control over substantial numbers of combatants. Sources told me that Taylor was "on a satellite phone every day talking with Liberian officials." Even the United Nations Security Council in October, 2003, then under U.S. chairmanship, issued a warning that Taylor should discontinue communications with his supporters in Liberia.

In November, 2003, it was reported that Taylor's former chief of staff was recruiting mercenaries in Ivory Coast, Burkina Faso, and Ghana, all small and similarly troubled West African nations. Also in November, it was reported that Charles Taylor's son was in Ukraine negotiating for arms with which to launch a fresh attack from Ivorian territory.

It is reported that Taylor lieutenants and loyalists have carved out a piece of western Ivory Coast and have clashed with French peacekeepers there.

It has even been reported by highly reliable sources that Taylor engineered the attempted coup in Burkina Faso last October. The reason? The President of Burkina Faso, a former ally of Taylor's, was starting to cooperate with the Special Court. It is also thought that Taylor supported the coup because he believes renewed regional chaos would assist him in his return to power in Liberia. Taylor is reported to be training 400 armed men in the town of Guiglo Ivory Coast. This group, called "Death Roll M–15", was reportedly established for the sole purpose of destabilizing Burkina Faso.

These are just reports. It will be partly the Special Court's job to confirm or discredit them. But if even one of these reports is true, that is enough.

As long as Taylor's former warlords take their orders from the man himself, no one is going to disarm. I am told that Taylor supporters are already, in fact, refusing to disarm because they believe he will return to power. Anti-Taylor rebels also refuse to disarm because they too believe Taylor's exile is temporary. They believe they will need to maintain the ability to defend themselves against reprisals or prevent his return to power.

Disarmament, Demobilization, and Reintegration, or DDR, is the backbone of all U.N. peacekeeping missions. U.N. peacekeepers do not have the authority to disarm rebels forcibly. Disarmament is always voluntary. What incentive, I ask you, do combatants have to lay down their arms while their boss is still calling the shots from his mobile command center in Calabar?

Similarly, many Taylor subordinates hold key positions in Liberia's transitional government. What incentive do they have to cooperate on necessary reforms when they too believe that Taylor could one day return? The longer Taylor escapes justice, the longer UNMIL will last and the worse its prospects for success.

As if all of this weren't bad enough, I am told by well-placed sources that reports of Taylor's link to Al Qaeda and other terrorist groups are "highly credible". We have heard public testimony from members of the Liberian media, now living in the U.S., that Taylor "supports terrorists and encourages the presence of al-Qaeda members in Liberia". Taylor's reported motive for supporting terrorists is to assure himself access to large amounts of arms.

What am I missing here? Why are we so willing to go around cleaning up messes created by Charles Taylor, and yet we seem so content to let him live his life peacefully in his villa? He continues to terrorize and destabilize, and yet now he does so under the protection of a nation that is in danger of becoming an accomplice, though most certainly unwitting, to his crimes.

The people of Sierra Leone deserve justice. They deserve the right to have the person who essentially designed and was the brains behind the RUF and the atrocities which it committed brought to justice.

It sends a terrible signal to Charles Taylor, an indicted war criminal by an internationally recognized tribunal set up by the United Nations, underwritten by the United Nations and supported with American tax dollars. That tribunal has not been able to bring Charles Taylor before it. The forces which are keeping that from happening are the very forces which set up the tribunal itself. This is not only a bad precedent for the Sierra Leone situation but we know that other special courts are going to be needed to deal with atrocities in other countries, with genocide in other countries. Who is going to take those courts seriously when a court that has been set up by the U.N. and underwritten by the United States finds itself stymied when the person it believes is most responsible for the genocide and the horror, the destruction and the death in Sierra Leone is not allowed to be brought before the court because the intermediaries that allow him to maintain his safe haven in Nigeria are the same people who set up the court? Nobody is going to take the special court seriously if we do not pursue Charles Taylor and bring him to justice before that court. He cannot be tried in absentia under Sierra Leone law; he must be present in Sierra Leone.

I have heard that some have the position, maybe we could try him in Nigeria while doing the trial in Sierra Leone. That does not work because Sierra Leone does not allow that to happen. Nigeria tried to be a positive and constructive player in this effort. I congratulate them for their purpose of being constructive and positive. But it is now time to hand over Mr. Taylor. We should support Nigeria in that effort. The United States should support Nigeria in that effort.

We are not pursuing the handover of Charles Taylor to the special court for what I believe are selfish reasons. That we are pursuing the Taylor handover is critical to peace and stability in west Africa and because the people of Sierra Leone deserve justice.

I commend the men and women of Sierra Leone. They have gone through extraordinary pain and trauma. They have made the difficult decision to support the special court. They are trying to run a democratic government. They have done this with the expectation that the international community will support the commitments we have made. Clearly, one of the fundamental commitments we have made is that the special court, when it indicts an individual, will have the ability to bring that person before it.

The prosecutor of the special court is a man named David Crane. He is an American, a very competent and dedicated former Defense Department official. Each day, he and his team demonstrate that justice can be effectively and efficiently delivered in a war-torn region of the world. We should be proud of what they have done. What they have done is incomplete and will continue to be incomplete as long as they are not allowed to bring Charles Taylor before the bar of justice in Sierra Leone.

It is time for the international community, the U.N., the United States, to put an end to this extraordinarily destructive chapter in west African history. The only way we can put an end to it is if we allow the court to try Charles Taylor and bring him to justice. It is time to support that effort.

I yield the floor.

Mr. LEAHY. Mr. President, I want to thank Senator GREGG for his important statement.

As we all know, Charles Taylor was the brutal dictator of Liberia, responsible for numerous atrocities in West Africa. His loyalists raped, killed and hacked the limbs off of innocent civilians. To bring Mr. Taylor—and others responsible for these crimes—to justice, the United States and United Nations Security Council established an international tribunal—the Special Court for Sierra Leone.

Congress has consistently supported the Special Court by appropriating $20 million for it. The Prosecutor for the Special Court is an American, a former lawyer in the Defense Department. He moved quickly to indict Mr. Taylor for his crimes. To back up this indictment, INTERPOL issued a Red Notice asking member states to help bring him to justice.

Today, Mr. Taylor remains beyond the reach of the court. He is in Nigeria—shielded by that government. To make matters worse, Taylor continues to work to destabilize parts of West Africa. The State Department says it will not pressure Nigeria to turn Taylor over to the court.

This is completely unacceptable. Taylor is under indictment by a UN-backed court. He continues to destabilize parts of West Africa. We know where he is. The United States needs to act and it needs to act now.

Yesterday, Senator GREGG and I—along with 5 other Senators—sent a letter to the State Department urging immediate action to get Taylor to the court. It is time for the United States to do the right thing. It is time for Taylor to come before the court.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

PROTECTION OF LAWFUL COMMERCE IN ARMS ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1805, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1805) to prohibit civil liability actions from being brought or continuing against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others.

Pending:

Hatch (for Campbell) amendment No. 2623, to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns.

Kennedy amendment No. 2619, to expand the definition of armor piercing ammunition and to require the Attorney General to promulgate standards for the uniform testing of projectiles against body armor.

Craig (for Frist/Craig) amendment No. 2625, to regulate the sale and possession of armor piercing ammunition.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, today we begin the third day of debate on this important bill, S. 1805, addressing the problem that should outrage many Members of this Senate and by the cosponsorship we have at this moment, I believe that is the case. That outrage should be against the abuse of our courts by those who cannot change public policy through representative government but instead are attempting an end run around the State and Federal legislatures to impose their political agenda on the people of this country through litigation. In this case, their target is the one consumer product whose access is protected by nothing less than the U.S. Constitution itself; that is, firearms.

The bill, the Protection of Lawful Commerce In Arms Act, we are talking about today and debated thoroughly yesterday and the day before, would stop what I call junk lawsuits that attempt to pin the blame and the cost of criminal misbehavior on business men and women who are following the law and selling a legal product.

This bill responds to a series of lawsuits filed primarily by municipalities advancing a variety of theories as to why gun manufacturers and sellers should be liable for the cost of injuries caused by people over whom they have no control, criminals who use firearms illegally.

This is a bipartisan bill. Let me acknowledge my Democrat sponsor, MAX BAUCUS of Montana, for his work on this initiative. Many others have helped advance it, as well as the leaders and the assistant leaders on both sides. By that demonstration, this bill is truly a bipartisan effort. The cosponsors we have to date are substantial. With myself and Senator BAUCUS included, we now have 54 cosponsors.

We introduced the bill nearly a year ago, last March, with more than half of the Senate as cosponsors at that time: Senator ALEXANDER, Senator ALLARD, Senator ALLEN, Senator BENNETT, Senator BOND, Senator BREAUX, Senator BROWNBACK, Senator BUNNING, Senator BURNS, Senator CAMPBELL, Senator CHAMBLISS, Senator COCHRAN, Senator COLEMAN, Senator COLLINS, Senator CORNYN, Senator CRAPO, Senator DOLE, Senator DOMENICI, Senator DORGAN, Senator ENSIGN, Senator ENZI, Senator GRAHAM of South Carolina, Senator GRASSLEY, Senator GREGG, Senator HAGEL, Senator HATCH, Senator HUTCHISON, Senator INHOFE, Senator JOHNSON, Senator KYL, Senator LANDRIEU, Senator LINCOLN, Senator LOTT, Senator MILLER, Senator MURKOWSKI, Senator NELSON of Nebraska, Senator NICKLES, Senator ROBERTS, Senator SANTORUM, Senator SESSIONS, Senator SHELBY, Senator SNOWE, Senator SMITH, Senator SPECTER, Senator STEVENS, Senator SUNUNU, Senator TALENT, Senator THOMAS, and Senator VOINOVICH.

This range of cosponsorship reflects extraordinarily widespread support that crosses party and geographical lines and covers the spectrum of political ideologies that is clearly always represented in the Senate. It demonstrates a strong commitment by a majority of this body to take a stand against a trend of predatory litigation that impugns the integrity of our courts, threatens a domestic industry that is critical to our Nation's defense, jeopardizes hundreds of thousands of good-paying jobs, and puts at risk access Americans have to a legal product used for hundreds of years across this Nation for lawful purposes such as recreation and defense.

We have been joined in this effort by a host of supporting organizations representing literally tens of millions of Americans from all walks of life. I thank them all for their effort to help pass the Protection of Lawful Commerce in Arms Act. I invite my colleagues to consider a broad cross section of American citizens represented by such diverse organizations as unions, including United Mine Workers of America, United Steelworkers of America, United Automobile, Aerospace and Agricultural Implement Workers of America, the locals of the International Association of Machinists and Aerospace Workers; business groups, including the U.S. Chamber of Commerce, the Alliance of America's Insurers, the National Association of Wholesale Distributors, the National Association of Manufacturers, and the American Tort Reform Association, the National Rifle Association; and more than 30 different sportsmen's groups and organizations whose members are engaged in the conservation and hunting and the shooting sports industry in all 50 States across this great Nation.

I have used the term "junk lawsuits," and I want to make it very clear, because this was part of our discussion yesterday, to anyone listening to this debate, I do not mean any disrespect to the victims of gun violence in any way who might be involved or brought into these actions by other groups.

Although their names are sometimes used in the lawsuits, they are not the people who came up with the notion of going after the industry instead of going after criminals responsible for their injuries or for their losses. The notion originated with some bureaucrats and some anti-gun advocates, and the lawyers they were with.

Victims, including their families and communities, deserve our support and our compassion, not to mention our insistence, on the aggressive enforcement of the laws that provide punishment for the criminals who have caused harm to them.

There are adequate laws out there now, and we constantly encourage our courts to go after the criminal, to lock them up, and to toss the key away when they are involved in gun violence and when they use a gun in the commission of a crime. If those laws need to be toughened, our law enforcement efforts improved, then the proper source of help is the legislatures and the governments, not the courts, and certainly not law-abiding businessmen and workers who have nothing to do with their victimization. No.

The reason there are junk lawsuits is that they do not target the responsible party for those terrible crimes. They are predatory litigation looking for a convenient deep pocket to pay for somebody else's criminal behavior. Let me repeat that. I define junk lawsuits as predatory litigation looking for a convenient deep pocket to pay for somebody else's criminal behavior. They are junk lawsuits by any definition of the word because they are driven by political motives to hobble or bankrupt the gun industry as a way to control guns, not to control crime.

By definition, the legislation we are considering today aims to stop lawsuits that are trying to force the gun industry into paying for the crimes of people over whom they have absolutely no control.

Let me stop a minute right here and make sure everyone understands the very limited nature of this bill. I have expressed it. I have explained it. I have talked about it. I have asked all of our Members to read S. 1805.

What this bill does not do is as important as what it does. This is not a gun industry immunity bill. This bill does not create a legal shield for anyone who manufacturers or sells firearms. It does not protect members of the gun industry from every lawsuit or legal action that could be filed against them. It does not prevent them from being sued for their own misconduct.

Let me repeat that. It does not prevent them—"them," the gun industry—from being sued for their own misconduct. This bill only stops one extremely narrow category of lawsuits: lawsuits that attempt to force the gun industry to pay for the crimes of third parties over whom they have no control.

We have tried to make that limitation clear in the bill in several ways. For instance, section 2 of the bill says its No. 1 purpose is:

> To prohibit causes of action against manufacturers, distributors, dealers, and importers of firearms or ammunition products for the harm caused by the criminal or unlawful misuse of firearm products or ammunition products by others when the product functioned as designed and intended.

We have also tried to make the bill's narrow purpose clear by defining the kind of lawsuit that is prohibited. Section 4 defines the one and only kind of lawsuit prohibited by this bill. Let me repeat that. Section 4 defines the one and only kind of lawsuit prohibited by this bill. Let me quote:

> a civil action brought by any person against a manufacturer or seller of a qualified product, or a trade association, for damages resulting from the criminal or unlawful misuse of a qualified product by the person or a third party . . .

We have also tried to make the narrow scope of the bill clear by listing specific kinds of lawsuits that are not prohibited. Section 4 says they include: actions for harm resulting from defects in the firearm itself when used as intended—that is product liability suits—actions based on the negligence or negligent entrustment by the gun manufacturer, seller, or trade association; actions for breach of contract by those parties.

Furthermore, if someone has been convicted under title 18, section 924(h), in plain English, that means someone who has been convicted of transferring a firearm knowing that the gun will be used to commit a crime of violence or drug trafficking, that individual is not shielded from a civil lawsuit by someone harmed by the firearms transfer.

Finally, the bill does not protect any member of the gun industry from lawsuits for harm resulting from any illegal action they have committed. Let me repeat that. If a gun dealer, manufacturer, or trade association violates the law, this bill is not going to protect them from a lawsuit brought against them for harm resulting from that misconduct.

What I have listed for my colleagues' convenience is all spelled out in section 4 of the bill. We have been through that section several times over the last several days. Again, this is a rundown of the universe of lawsuits against members of the firearms industry that would not be stopped—I repeat, not be stopped—by this narrowly targeted bill.

What all these nonprohibited lawsuits have in common is that they involve actual misconduct or wrongful actions of some sort by a gun manufacturer, seller, or trade association. Whether you support or oppose the bill, I think we can all agree that individuals should not be shielded from the legal repercussions of their own lawless acts. The Protection of Lawful Commerce in Arms Act expressly does not provide such a shield.

I am going to repeat this again because some opponents continue to mischaracterize the bill. This is not a gun industry immunity bill. It prohibits one kind of lawsuit: a suit trying to fix the blame of a third party's criminal acts or misdeeds on the manufacturer or seller of the firearm used in that crime.

Even though this is a narrowly focused bill, it is an extremely important bill. The junk lawsuits we are addressing today would reverse a longstanding legal principle in this country that manufacturers of products are not responsible for the criminal—I repeat, the criminal—misuse of their products.

You do not have to be a lawyer to know that runaway juries and activist judges can turn common sense on its head in specific cases, setting precedents that have had dramatic repercussions. The potential repercussions here could be devastating.

If a gun manufacturer is held liable for the harm done by a criminal for misusing a gun, then there is nothing to stop the manufacturers of any products used in crimes from having to bear the cost of those crimes. Since when is this country going to step to that level? So automobile manufacturers will have to take the blame for the death of a bystander who gets in the way of a drunk driver? Yes, there are some who would suggest that. The local hardware store will be held responsible for a kitchen knife it sold that was later used in the crime of rape? A baseball team, whose bat was used to bludgeon a victim, will have to pay for the cost of that crime?

Now, does that sound silly to the average listener? It may. But those kinds of charges are being brought today because this country does not want to hold its criminal element accountable, in many instances.

It is not just unfair to hold law-abiding businesses and workers responsible for criminal misconduct with the products they make and sell, but it would also bring havoc to our marketplaces.

Hold on to your wallets, America, because those businesses that don't actually go into bankruptcy will have to pass their costs through to the consumer. My guess is that many in the anti-gun community would say: That is just fine; if we cannot bankrupt the business, then let's price the product out of the range of the average law-abiding citizen who would like to afford a gun. To the criminal element that probably steals for a living, they may have the kind of funds to buy that gun in the black market at any price, and oftentimes they do.

Even without being successful, this litigation imposes enormous financial burdens on the gun industry. It is important to keep in mind that the deep pocket of the gun industry isn't all that deep. In hearings on the House side, experts testified that the firearms industry, taken together—I mean put them all together, look at their assets, their income—would not collectively equal one Fortune 500 company.

Last year it was estimated—and we can only estimate because the costs of litigation are confidential business information—that these baseless lawsuits have cost the firearms industry more than $100 million. Furthermore, don't think these companies can just pass the costs off to their insurer because in nearly every case, insurance carriers have denied coverage.

I quote from what a Massachusetts union had to say about the issue, the union whose members work at the Savage Arms Company in Westfield, MA:

> Today, we have 160 members from Savage workforce. By comparison, about a dozen years ago, we had over 500 Savage workers who were members of our Local. . . .

Savage Arms is not alone. Other businesses have closed their doors, and the jobs have not been lost because of the sheer cost, the jobs have been lost because of the sheer cost of fighting these junk lawsuits.

The impact on innocent workers and communities is not the only potential repercussion of these lawsuits. If U.S. firearms manufacturers close their doors, where will our military and peace officers have to go to obtain their guns? Do we then have to start a government gun manufacturing company? I doubt that the efficiencies and the qualities and the costs would be the same. Surely we don't want foreign suppliers to control our national defense and community law enforcement, not to mention the ability of individual American citizens to exercise their second amendment protected rights through accessing firearms for self-defense, recreation, and other lawful purposes.

For all these reasons, more than 30 States have laws on the books offering some protection for the gun industry from these extraordinary suits. Support has steadily grown in Congress for taking action at the Federal level. This would not be the first time Congress had acted to prevent this kind of threat to industries. Some would suggest it is unprecedented, it has never happened before.

Let me give an example. There are a number of Members in this Chamber who were serving when the Congress passed the General Aviation Revitalization Act barring product liability suits against manufacturers of planes that were more than 18 years old. Just a couple of years ago, in the Homeland Security Act, Congress placed limits on the liability of a half a dozen industries, including manufacturers of smallpox vaccine and sellers of antiterrorist technologies. These are only a couple examples out of a significant list of Federal tort reform measures that have been enacted over the years when Congress perceived a need to protect a specific sector of our economy or defense interests from burdensome, unfair, and/or frivolous litigation.

I could go on. I have said enough for the moment. My colleagues are here. Senator REED, who is handling the opposition, has statements to make. I believe Senator LEVIN has an amendment he would like to offer. But clearly, this is an issue whose time has come. It is time to step out and say: We are not going to suggest to law-abiding citizens that you ought to bear the brunt of the criminal action. That is not the case. Law-abiding citizens already bear a substantial amount of that brunt. Taxpayers usually pick up most of the bills in these tragic instances. That is why enforcing the law, putting those who misuse firearms behind bars, is what it really ought to be all about.

But for social purposes, for political purposes, for whatever reason that the anti-gun community has not been able to legislate either on the floor of the Senate, on the floor of the House, or in State legislatures across the Nation, they now run to the court system.

We suggest they can't do that, nor should they do that. We want to protect the victims. We certainly want to protect them from the criminal element. Much legislation is talked about now for the victim and victims' rights. I support all of those kinds of things. But why should the law-abiding manufacturer of any product in this country, that is quality but simply misused and that misuse takes the life of a third party—why should that manufacturer be responsible? We already have a broad range of areas in which that responsibility is described and in which the consumer is protected if that responsibility is not followed by the manufacturer or those who sell that product in the marketplace. That is an arena that is well litigated today. That is an arena in tort law that is well spelled out.

Here today and in past lawsuits, we have had great imagination that tries to cook up the issue of negligence or to redefine it or shape it in a way that Americans have said and that tort law has said for centuries: You shall not go there; you cannot go there.

Judges are saying that today and have said it consistently in these kinds of lawsuits. That doesn't stop the lawsuits from coming. That does not stop these lawsuits from draining hundreds of millions of dollars out of a law-abiding, responsible commercial and manufacturer entities.

I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER (Mrs. DOLE). The Senator from Rhode Island.

Mr. REED. Madam President, the legislation before us can't be all things. It can't be an effective barrier against litigation to protect the gun industry and yet a way to protect the legitimate rights of citizens who have been harmed by guns.

In fact, it is not both; it is one of them. It is carefully, cleverly worded legislation to immunize the gun industry—dealers, manufacturers, and the National Rifle Association—from any type of liability with respect to guns, virtually.

There are perhaps minor exceptions, but the cases we see before us today—the case of the DC snipers, the case of two police officers in New Jersey—would be barred. These cases have already been filed. In fact, one of the sweeping aspects of this legislation is, it doesn't attempt to set the rules prospectively, to say as we go forward these cases would not be heard by the courts. It literally walks in and tells people who have filed cases, cases that have survived summary judgment motions already by State court judges: You are out of court.

This is sweeping, and it is unprecedented. It deals a serious blow to citizens throughout this country while enhancing dramatically the legal protections for the gun industry.

Consistently the proponents say: You can't hold someone responsible for the criminal actions of another. That is not what these cases are about. These cases suggest, declare, allege that an individual failed in his or her duties, his or her responsibility to do what is necessary, responsibility in the conduct of their activity—in the case of gun dealers, to take sensible, reasonable precautions, the standard of care that a business person would use, the standard of care that any business person must use in the United States.

The allegation is they fail to do that. The evidence is overwhelming there was no standard of adequate care. Here is a gun dealer who could not account for 238 weapons, who claims a teenager—he didn't realize it at the time—must have walked in and shoplifted an automatic weapon, a sniper weapon, and carried it away undetected. In fact, this weapon was missing without his knowledge for weeks and months, undetermined.

Is that the standard of care we would expect a businessperson to exercise, particularly one who deals in products that can kill? I don't think so. That is what this is about. This is not about punishing people for the criminal activity of others. It is about holding individuals up to a standard of conduct we expect from anyone. There are various examples. Some say, my God, if the hardware store sells a knife to somebody and it is used in a crime, they are not responsible. If you have a car dealer who leaves the keys in the cars and has no security, and a teenager takes that car and gets into an accident and harms someone, certainly I think the parents of the individuals harmed or that individual could legitimately go to court and say this dealer didn't meet the rational standard of care of anybody in the automobile industry. They have to secure these cars. You cannot make them available to people and teenagers who might steal them. That is common sense.

That would apply to the automobile dealer, but if this legislation passes, common sense doesn't apply to the gun industry in this country. In fact, this is really a license for irresponsibility we are considering today. As I said before, when they get the Federal firearms license, if this bill passes, you can get another license. You are being irresponsible. That is not to suggest all dealers are irresponsible, but many are.

We talk about junk lawsuits. It is not a junk lawsuit when your husband has been shot while sitting in the bus waiting to go to work. I don't think the Johnson family volunteered to be part of this social experiment. I think any suggestion to that effect is offensive. They have been harmed grievously. A wife has lost her husband; children have lost their father. Their livelihoods are in question. They seek redress, as anyone would. That is not a junk suit. That is someone who says I have been harmed by the negligence of someone and that person should pay.

The suggestion that this suit is in response to some avalanche of lawsuits that is devastating the firearm manufacturers is without any foundation. The industry is so stressed they have raised $100 million to protect themselves, not just legally, but also in terms of controlling the documents and communications between themselves and their attorneys. This is not an industry that seems to be without resources. But I can tell you many of the families of victims of the Washington snipers are looking forward to a lifetime where they might have the resources to send children to college and do the things they would have been able to do if their spouse was still alive. The industry, it has been suggested, is being pushed into bankruptcy because of these frivolous junk lawsuits.

Well, Savage Arms was mentioned. It is a company that was founded in 1894. It has provided firearms for now over a century. It went bankrupt in 1988 because, according to the CEO, Ron Coburn: "We had too many products, each of them in dire need of re-engineering."

There is no suggestion they were being intimidated by these fancy political science lawsuits. Under the bankruptcy plan, Coburn reduced the product line and fired 400 employees. There has been contraction in this industry, as in every manufacturing industry, but it is not as a result of these suits.

Since that time, Savage has done remarkably well. They have taken the lead in many different aspects. They are a responsible company. They were honored as manufacturer of the year and in many other aspects. It has been suggested this company, in effect, is overwhelmed by these lawsuits. I don't think that is the case. I think they make business judgments as any business—based upon products, demand, and all these things.

We are not facing a situation where we would be without the benefit of gun manufacturers in the United States because of these lawsuits. The suggestion that this somehow would interfere with our national security is outlandish. The suggestion we would then have to turn to foreign suppliers for our military is rather odd. Indeed, today, many of the suppliers for our national defense are the subsidiaries of foreign companies. Browning, Winchester and Fabrique Nationale, which supplies M-16 A-4 assault rifles and the M-2 49G squad automatic weapon, are subsidiaries of Herstal, a Belgium firm. The Pentagon contracted with Heckler and Koch, a German firm, to help develop the next generation of industry weapons.

Clearly, the Pentagon doesn't feel American manufacturers are so distressed that they have to go overseas. They are going overseas because they are looking for superior weapons. They are dealing with American subsidiaries of foreign companies. This is not about preserving the defense and the ability to access weapons. This is about protecting one industry from the legal responsibility to exercise caution any individual must exercise—one industry, when all industries must do that, or indeed the vast majority. This is not about protecting the integrity of the courts. What does it say to the integrity of the courts of West Virginia when a judge already found that a suit involving these two New Jersey police officers should proceed, when we say, no, you are wrong, this case is out the door? This is not about protecting courts. It is about protecting an industry.

We have been asked to look closely at the law. We have to look closely at the law in terms of the cases we know are pending because, frankly, we could hypothesize about cases in the future. This is the law:

> A qualified civil liability action may not be brought in any Federal or State court.

That is not a particularly narrow excerpt. It is not a listing of those exemptions the gun industry made available themselves. This is broad and sweeping, barring the doors of these types of suits. In addition to that—talking about overreaching, dismissal of pending actions—it is rare indeed that this Congress could go in and tell plaintiffs who have a case in progress you are out the door, you cannot proceed. This is extraordinary, to me.

> A qualified civil liability action that is pending on the date of enactment of this act shall be immediately dismissed by the court.

Not reviewed but dismissed. I think, again, that is extraordinarily broad and sweeping. The real aspect of this legislation goes to the definition on the next chart.

> A qualified civil liability action means a civil action brought by any person against a manufacturer or a seller of a qualified product or trade association, for damages resulting from the criminal or unlawful misuse of the qualified product by the person or a third party, but shall not include—

So it is any action, again not narrowly constrained, carefully worded legislation.

Then there are several exemptions. Let me point out, if this were a narrowly crafted piece of legislation, the exemption I think should apply to the gun industry, not to the litigants. It should be those safe harbors where if they do certain things, they are protected, if they exercise due care. That is the way we want to draft narrowly worded legislation. And this is quite to the contrary.

The burden is now on the individual to show that they qualify to bring their case to court, not on the companies to show that their case is somehow outside the normal range of negligent actions.

The key provision, in terms of the sniper case—and I will talk about the sniper case in a moment—is sections ii and iii. Madam President, ii is "actions brought against a seller for "negligent entrustment" or "negligence per se."

Negligent entrustment is a defined term in the legislation. It means:

> . . . the supplying of a qualified product by a seller for use by another person when the seller knows, or should know, the person to whom the product is supplied to is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others.

The key element is "know." For example, in the sniper case, the dealer claims he did not know that the weapon was missing. It has been acknowledged by the sniper that the weapon was shoplifted. This theory will not provide that case to go forward.

"Negligence per se," again, is an element of knowledge which does not seem to exist within the facts as we know them about the Bull's Eye situation. By the way, it has been abrogated as a theory of law in Washington State which would be an appropriate forum for the trial, or at least for consideration. That doesn't work.

The next section is actions in which a manufacturer or seller of a qualified product who violated a State or Federal statute and, quite importantly, that violation was a proximate cause of the harm.

In the case of the sniper shootings, literally it would have to be shown that the individual gun dealer at Bull's Eye knew the particular weapon was missing more than 48 hours before he was confronted by the ATF and that he failed to report it and, as a result, the sniper using that weapon inflicted the harm. But, of course, the facts suggest otherwise. The weapon was shoplifted. The individual claimed he did not know it was missing at all.

All of these carefully worded exceptions do not provide relief for individual plaintiffs. They do not provide it for the plaintiffs in the case of the snipers. They do not provide relief in the case of the two police officers in New Jersey. Yesterday, we had an opportunity to correct that, just a small correction that would allow for these situations, and we failed to do that.

This legislation is designed with one purpose: to immunize the gun industry. I think it is unfortunate, it is unprecedented, and it leads to the conclusion that we are essentially encouraging the kind of reckless behavior, the kind of irresponsible behavior which is not the norm, but it is certainly present and, indeed, it is present in the context that firearms pose a particular danger to the community.

We talked about Bull's Eye Shooter Supply in Tacoma, WA, over 238 weapons missing. You are not supposed to have any weapons missing.

Then there are the situations, for example, of Buckner Enterprises, Pro Guns and Sporting Goods, D&D Discount, Hock Shop, Julie's Pawn, Kent Arms, Northwest Shooters, Woodstove Supply, and Steve's Guns and Archery, all in Michigan.

Over a 4-month period, an undercover State trooper and a 20-year-old convicted felon traveled to 14 firearms retailers and attempted to make a straw purchase. The eight stores I mentioned above agreed to make the straw deal—irresponsible and reckless and, under this legislation, perhaps invulnerable to a suit by someone who might have been hurt as a result of the potential straw sales.

Bob's Gunshop, Bristol, PA, repeatedly sold firearms to convicted felons and out-of-State residents, including a 9 mm Taurus sold to a New Jersey convicted felon. The owners of the store counseled criminals and out-of-State residents to find a local resident to complete the background check.

Is that irresponsible? Yes. Is that against the law? Perhaps not.

It goes on and on. One gun store with which I am intrigued is Illinois Gun Works in Chicago, IL. John "No Nose" DiFronzo, a reputed mobster, owns the property where Illinois Gun works is located. Illinois Gun Works is one of the leading suppliers of crime guns to local criminals. This is from the Chicago Sun Times.

There are gun dealers out there who are acting irresponsibly and negligently. They will escape liability if this legislation passes. There are manufacturers that are not policing the ranks of their dealers effectively enough who continue to sell to dealers such as these, who continue to report, as Bushmaster, the company that manufactured the sniper weapon, reported in regard to Bull's Eye. They are a good company. Even after all of this, they will escape liability.

We are in an extraordinarily important moment. Will we extend this unprecedented protection to an industry, will we signal to an industry that they can be irresponsible, they can be negligent? That is what we are talking about today.

I know my colleague, Senator LEVIN, is here to offer an amendment. Let me ask that he be allowed to do that. I retain my time for additional comments later.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. CRAIG. Madam President, may I briefly say, I think the Senator is here for the offering of an amendment, and then I believe Senator WARNER would like to follow him in the offering of an amendment. If there is no objection, I ask unanimous consent that be the procedure.

Mr. LEVIN. Reserving the right to object, it is my understanding the Senator from Virginia wants to offer an amendment.

Mr. WARNER. Following the Senator from Michigan, that is correct.

Mr. LEVIN. Madam President, I ask the Senator from Virginia, is it a second-degree amendment?

Mr. WARNER. Madam President, no, it is a freestanding amendment in no way related to the amendment of my distinguished colleague from Michigan.

Mr. LEVIN. I would agree to that providing—

Mr. CRAIG. Let me clarify—

Mr. LEVIN. I want to make sure we get a vote on my amendment. This is what this is all about. We might as well get this out in the open as to whether or not there will be votes that will be agreed to on the amendments that are offered. The unanimous consent agreement talked about amendments being offered today and Monday. The Senator from Idaho, I think, as well as I believe the Senator from Nevada, talked about votes on these amendments, but it is not clear in the UC that the amendments offered would be voted upon.

I do not want to lose the regular order that my amendment would be disposed of by agreeing to a unanimous consent agreement that my good friend from Virginia would then come next. That is the issue, I tell my good friend from Idaho.

Mr. CRAIG. If the Senator will yield.

Mr. LEVIN. I will be happy to yield.

Mr. CRAIG. It is our belief, it is my purpose today to disallow any votes from occurring. There will be no votes today.

Mr. LEVIN. Of course.

Mr. CRAIG. On any action. The Senator can offer his amendment. We have just seen it. Senator REED and I will review it over the weekend, or our staffs will. I think that is fair and appropriate. Because the amendment of the Senator from Virginia is not in the second degree, it is my understanding the amendment of the Senator from Michigan would have to be set aside for the purpose of offering the amendment by the Senator from Virginia.

Mr. LEVIN. I would then offer—Madam President, do I have the floor?

The PRESIDING OFFICER. The Senator from Michigan has the floor.

Mr. LEVIN. I then suggest the amendment in a unanimous consent request, that my amendment again be the regular order first thing on Monday. The reason for this is that it is important to assure that there be votes on these amendments. I do not know what the intention of the Senator from Idaho is relative to——

Mr. CRAIG. I object to that unanimous consent. There may be other amendments offered today by other parties.

Mr. LEVIN. I have no objection, of course, to that, but my question to the Senator from Idaho is, is it the intention of the Senator from Idaho that there be votes on amendments that are offered on Monday?

Mr. CRAIG. I believe the leadership on both sides intends for there to be votes, or a vote on an amendment, but I cannot tell the Senator what that amendment will be. I object to a specific amendment at this time.

Mr. LEVIN. Then I would have to object because otherwise I am no longer the regular order.

The PRESIDING OFFICER. The objection is heard.

Mr. WARNER. Might I seek a clarification from the distinguished floor manager?

The PRESIDING OFFICER. The Senator from Michigan has the floor.

Mr. LEVIN. I am happy to yield for a question without losing my right to the floor.

Mr. WARNER. Well, I do not seek to take the floor, but if the Senator carried out his objection to the full meaning, it would prohibit any amendments coming up today unless the Senator agreed to laying his amendment aside so that another amendment could come up. Is that the desire of the Senator?

Mr. LEVIN. Not at all. My desire is that I not lose my opportunity to have a vote on my amendment.

I do not want a vote today. Let's be very clear on this. When the operating UC was entered into, it was my understanding that amendments would be allowed to be offered today and Monday. It was also my understanding that there was an intention that that meant those amendments would be voted on at some point—not today but at some point. If there is any doubt that that is the intention of the leadership or of the floor managers, to allow votes on amendments that are offered today, the only way I can come close to having assurance that there will be a vote on my amendment at some point will be to modify any UC to agree to set aside my amendment, which will be fine, but then make it a part of the UC that my amendment then be the amendment that is in order on Monday, because otherwise I am weakening the position I have.

Mr. WARNER. Madam President, there is no intention of this Senator to weaken. As a matter of fact, I intend to vote in favor of the Senator's amendment, subject to a colloquy we will have to clarify a question I have in my mind. But the Senate must go forward today on amendments. I am trying to figure out what is the procedure by which we do it so that my colleague from Michigan is protected.

The PRESIDING OFFICER. The Senator from Michigan has the floor.

Mr. LEVIN. I have no objection to yielding the floor for an answer to that question, without losing my right to the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Certainly the explanation of the Senator as to what leadership proposed in the unanimous consent request, that amendments could be offered today and Monday, is accurate. But the unanimous consent request guaranteed votes only to those amendments that were within the unanimous consent request. I am not today going to allow that unanimous consent request to be amended for the purpose of stacking up a variety of votes. I am willing to look at that on Monday. I have not yet seen the Senator's amendment. We just received it. We are reviewing it now. There may be other amendments I want to review with staff over the weekend.

So I renew my objection to allowing the Senator to become in order again. We have an amendment that we did not get to last night, and that is Senator BINGAMAN's amendment that was in order under the unanimous consent agreement. The hour was late and most were wanting to go home. The Senator was kind enough to put that vote over. It is my understanding that that will be at least one amendment that could be voted on, because it is entitled to be voted on within the unanimous consent agreement, late Monday afternoon.

Mr. LEVIN. I thank my good friend from Idaho.

AMENDMENT NO. 2631

Mr. LEVIN. Madam President, I send my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant Journal clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 2631:

(Purpose: To exempt any civil action against a person from the provisions of the bill if the gross negligence or reckless conduct of the person proximately caused death or injury)

On page 11, after line 19, add the following:

SEC. 5. GROSS NEGLIGENCE OR RECKLESS CONDUCT.

(a) IN GENERAL.—None of the provisions in the Act shall be construed to prohibit a civil liability action from being brought or continued against a person if that person's own gross negligence or reckless conduct was a proximate cause of death or injury.

(b) DEFINITIONS.—As used in this section—

(1) the term "gross negligence" has the meaning given the term in subsection (b)(7) of the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791(b)(7)); and

(2) the term "reckless" has the meaning given the term in the application notes under section 2A1.4 of the Federal Sentencing Guidelines Manual.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Madam President, let us try to sort this out so that the Senator from Virginia is not left out.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant Journal clerk proceeded to call the roll.

Mr. CRAIG. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Madam President, let me place a unanimous consent request to facilitate actions of the two Senators on the floor. I ask unanimous consent the Levin amendment be temporarily set aside for the purpose of allowing the Senator from Virginia to offer his amendment. Once that amendment is offered and discussed, the Warner amendment would then be set aside for the purpose of returning to the Levin amendment.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Do I understand, then, that the Levin amendment would continue to be the regular order under that unanimous consent?

Mr. WARNER. I believe that is correct, yes.

The PRESIDING OFFICER. It would be the pending question.

Mr. LEVIN. I thank the Senator from Idaho. It is fine with me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. I thank the Senator for his cooperation and turn to the Senator from Virginia.

AMENDMENT NO. 2624

Mr. WARNER. I thank my colleagues. I ask that amendment No. 2624 be the pending business.

The PRESIDING OFFICER. The clerk will report the amendment.

The senior Journal clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 2624.

Mr. WARNER. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. WARNER. Madam President, I want to make it eminently clear that I desire in every way to cooperate with the joint leadership which, in a bipartisan way, has indicated their desire, together with expressions of the President, that this bill move forward. This is not a dilatory tactic on my part, nor is it to be construed in any way as a political tactic. The subject of this amendment simply is a very heartfelt, personal matter for me.

Each of us counts our joys and benefits through life. I was blessed with two very strong and wonderful parents. My father devoted his life to the medical profession. He served in World War I as a very young doctor in the trenches. He returned a decorated soldier, and established his practice as a surgeon. He concluded a lifetime of total dedication to the profession of medicine, his patients, and the healing of those who have the misfortune of illnesses and other diseases. It is for that reason I bring up this amendment for consideration in the Senate. In brief, this amendment states that if the Senate believes certain protections from lawsuits should be afforded to the gun industry, then certain protections should be likewise afforded to the medical profession. It is as simple as that.

Earlier this week, we dealt with a similar piece of legislation. But this amendment differs in the sense that I have purposely removed any reference to insurance companies or to those companies engaged in the manufacture of healing drugs. I have done this to point out with absolute clarity in the minds of all Senators that if the underlying bill does move forward, then should comparable fair treatment be extended to the medical profession that serves every single American.

The gun industry has a narrow following, in terms of those served under this bill. I don't say that with any disrespect. I, throughout my life, have owned and enjoyed guns. My father gave me my first gun when I was 9 years old, and I have a modest collection to this day. I enjoy the fields and the streams. I pride myself as being a hunter and an outdoorsman. In no way, do I make any personal affront against those who similarly follow the joys of the outdoors.

But, I believe it is essential that if this mighty institution of the Senate move forward with the underlying bill, they carry with it an amendment which accords the same protections to the medical profession, whether it is an emergency room or the doctor's office.

With that in mind, I hope my colleagues look upon my effort as one of purity of heart, and not for political reason. I have no reason to try to impede the underlying bill, but I simply want to give the medical profession such benefits as the Senate is now contemplating in giving to a very narrow segment of our industry; namely, the gun industry and the gun dealers.

I rise today to offer an amendment to address the issue of a form of tort reform. Today the Senate is debating tort reform for the gun industry. I wish to take a few minutes to raise the issue of tort reform with regard to another industry—the health care profession.

I have indicated my father's lifework was in medicine. I had often thought as a young man to pursue that profession. But without getting too personal about this, I served briefly in World War II in the Navy. My father died just months after I returned home. I think had he lived I might well have followed in his profession. But nevertheless, I went on to law school, and had a modest career in the practice of law and in one thing and another. And here I am today, proud to represent my great State in the Senate.

Soon, the Senate will vote on S. 1805, legislation to provide certain legal protections to the gun industry—legal protections which are denied almost across the board to almost every other industry in the private sector, and certainly the medical profession.

It is a very selective piece of legislation for a very selective group. Proponents have argued this legislation is necessary because lawsuits are driving gun dealers and gun manufacturers out of business.

It is very simple. The same thing is happening to the medical profession. Simply stated, the same situation, although far more serious in my judgment and in the judgment of others, is happening to the medical profession. Doctors, nurses, and other health care professionals are leaving the practice of medicine due to the astronomical cost of malpractice insurance, frivolous lawsuits, and what is regarded as runaway jury verdicts where awards, by any standard of fairness, far exceed the damages which some may have suffered as a consequence of receiving medical attention.

In my view, if we are going to be protecting the gun industry from lawsuits, we at least ought to protect the medical profession. We have all heard the real stories from doctors about the rapidly increasing cost of medical malpractice insurance. Some States' malpractice insurance premiums have increased as much as 75 percent in a single year.

As a result, the fact is these doctors, unable to afford ever increasing premiums, are leaving the profession altogether and patients are losing access to health care.

Again, my father's profession was surgery primarily, but he also practiced gynecology.

I was astonished to learn that in many medical schools today those young people studying to go into the various segments of medical practice are shunning gynecology. Some medical schools are not even graduating those engaged in gynecology. They have just stopped that segment of the profession because they know of the difficulties to practice gynecology as a result of medical malpractice suits.

I have here today the front pages of two of the leading magazines we all read. There it is. One: "The Doctor Is Out." The other: "Lawsuit Hell—How Fear of Litigation Is Paralyzing Our Professions."

There is the story.

All I am asking is if this bill passes the Senate that doctors, nurses, and other practitioners in health care are given the same equal treatment as the gun dealers and the gun manufacturers. It is as simple as that.

I have received numerous letters, as have every single Member of this body, from medical professionals in the Commonwealth of Virginia that share with me the very real difficulties they are encountering with malpractice insurance as a consequence of this problem.

I myself went through a modest medical procedure the other day. The radiologist literally cornered me as I was exiting the examination, and stopped to talk to me—not one, not two, but about eight came in knowing the Senator from Virginia was in the facility. They had me flat on my back. I listened very carefully as they explained—not complaining nor whining in any way, but in a factual way—how the radiologists in their profession have watched the astronomical increase in cost of their insurance.

Let me read a letter I just received. I will withhold the name. But the letter is in my office. This young doctor writes:

> I am writing you to elicit your support and advice for the acute malpractice crisis going on in Virginia. . . . I am a 48-year-old single parent of a 14- and 17-year-old. After all the time and money spent training to practice OB-GYN, I find myself on the verge of almost certain unemployment and unemployability because of the malpractice crisis. I have been employed by a small OB-GYN Group for the last 7 years. Our malpractice premiums were increased by 60 percent in May 2003. The prediction from our malpractice carrier is that our rates will probably double at our renewal date in May 2004. The reality is that we will not be able to keep the practice open and cover the malpractice insurance along with other expenses of practice.

Colleagues, that is happening in just about every State in this great country of ours. We have here and now the chance to address this crisis in a fair and constructive way.

I mentioned the two magazines: The June 2003 edition of Time magazine had a cover story on the effects of rising malpractice insurance costs. The story, entitled "The Doctor Is Out," discusses several doctors all across America who have had to either stop practicing medicine or have had to take other action due to increased insurance premiums. One example cited in this magazine is the case of Dr. Mary-Emma Beres. Time reports this doctor, a family practitioner from Sparta, NC—incidentally, the distinguished Presiding Officer represents this State with great distinction. That doctor in Sparta, NC "has always loved delivering babies. But last year, Beres, 35 years old, concluded that she couldn't afford the tripling of her $17,000 malpractice premium and had to stop" caring for those women going through perhaps the greatest joy of life; that is, childbirth.

The article continues:

"With just one obstetrician left in town for high-risk cases, some women who need C-sections now must take a 40-minute ambulance ride" to other communities to try to get that service.

Dr. Beres' case makes clear that not only doctors are being affected by the medical practice insurance crisis, but patients are as well. With increased frequency, due to rising malpractice rates, more and more patients are not able to find the medical specialists they need.

The second magazine, Newsweek, also recently had a cover story on the medical liability crisis entitled "Lawsuit Hell."

I was particularly struck by the feature in this magazine about a doctor from Ohio who saw his malpractice premiums rise in 1 year from $12,000 to $57,000—1 year. As a result, this doctor "decided to lower his bill by cutting out higher-risk procedures like vasectomies, setting broken bones and delivering babies—even though obstetrics was his favorite part of the practice. Now he glances wistfully at the cluster of baby photos still tacked to his wall in the office. 'I miss that part of the practice terribly,' he says."

While these stories are compelling on their own, the consequences of this malpractice crisis can be more profound. On February 11, 2003, a young woman in Gulfport, MS, shared with both the HELP Committee in the Senate, on which I serve, and the Judiciary Committee her personal story about how this crisis affected her.

This woman told us how on July 5, 2002, her husband Tony was involved in a single car accident, in which he had a head injury, and was rushed to a hospital in Gulfport where he received medical attention. He could not be treated at the Gulfport hospital because they did not have the specialist necessary to care for him. After a 6-hour wait, he was airlifted to University Medical Center.

Today, Tony is permanently brain damaged. According to the person delivering this story, no specialist was on staff that night in Gulfport because overriding medical costs forced almost all the brain specialists in that community to abandon their practice. As a result, Tony had to wait 6 hours before the only specialist left in Gulfport could treat him to reduce the swelling of his brain.

Without a doubt, the astronomical increases in medical malpractice premiums are having wide-ranging effects. It is a national problem. It is time for a fair and national solution. This moment in the life of this great Senate is the chance to address that.

The President has indicated that the medical liability system in America is largely responsible for the rising costs of malpractice insurance. The American Medical Association and the American College of Surgeons agree with him as does almost every doctor in Virginia who I have discussed the issue with.

The president of the AMA, Dr. John Nelson, has publicly stated, "We cannot afford the luxury of waiting until the liability crisis gets worse to take action. Too many patients will be hurt."

The American College of Surgeons concurs by stating, "More and more Americans aren't getting the care they need when they need it. . . . The 'disappearing doctor' phenomenon is getting progressively and rapidly worse. It is an increasingly serious threat to everyone's ability to get the care they need."

Let me state unequivocally that I agree with our President, with the AMA, with the American College of Surgeons, and with the vast majority of doctors all across Virginia. That is why I am offering my amendment today.

My amendment is simple, like other measures that have come before the Senate, my amendment provides a nationwide cap on damages in medical malpractice lawsuits.

My amendment differs from other measures that have been voted on in the Senate in one key aspect—whereas these other bills would have applied to doctors, my amendment is solely limited to the caring medical professionals who take care of each and every one of us when we need medical care.

It is a commonsense solution to a serious problem.

Now that I have laid out the amendment, I would like to reiterate one important point. As you know, the gun immunity bill provides broad protection to gun manufacturers and gun dealers in both Federal and State court. The bill is aimed at protecting the manufacturers and dealers from lawsuits that result from the criminal or unlawful use of a firearm. The basic data is that if a manufacturer or dealer follows the statutory law in the manufacturing and sale of a legal product, they should not be held responsible for the actions of a third party.

While some may claim that this gun immunity bill might be an important component of tort reform, in my opinion, health care liability reform is even more important. We must protect the medical profession and the patients it serves.

How can we give near absolute protection from litigation for one industry—the gun industry—and do absolutely nothing for another industry that is solely dedicated to saving lives?

Let's ask ourselves, in the event that a bullet from a firearm is shot into an innocent victim, is our healthcare system prepared to help that victim? Without healthcare liability reform, it may not be, as there might not be the appropriate doctor in the area to tend to the patient. That is why my amendment goes hand-in-hand with the gun immunity bill.

So now it is up to my colleagues in the Congress. It is your choice. If we are going to give legal protections to the gun industry, all I say is let's give it to the doctors as well.

If you gave this choice to the American people, there is no doubt that the doctors would win by a 100 to 1 margin.

I urge my colleagues to support my amendment.

I yield the floor.

AMENDMENT NO. 2631

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, what is the pending amendment?

The PRESIDING OFFICER. The Senator's amendment is pending, the Levin amendment.

Mr. LEVIN. Madam President, in the fall of 2002 the entire country was focused on the Washington, DC, area as an unknown sniper indiscriminately shot 16 innocent people in little more than a month, from September 14 to October 24. Among the sniper victims were Jim Martin, shot and killed on October 2 while walking across a Shoppers Food Warehouse parking lot in Wheaton, MD, after purchasing groceries for his church; Sarah Ramos was shot and killed while sitting on a bench in front of a post office. She was waiting for a ride to take her to a babysitting job; Thirteen-year-old Iran Brown, the youngest of the victims, was shot in the chest and wounded on October 7 after getting out of a car at his middle school; and Conrad Johnson, a 35-year-old busdriver, was shot and killed on October 22 while standing on the top step of his bus at a ride-on bus staging area in Aspen Hill, MD.

On Thursday, October 24, members of the sniper task force arrested John Allen Muhammad and John Lee Boyd Malvo at a rest stop on I–75 in Frederick County. They were charged with shooting the victims with a Bushmaster semiautomatic assault rifle. Both were prohibited under Federal law from possessing a gun. Malvo is a juvenile and Muhammad was the subject of a domestic violence restraining order. Both have been convicted of capital murder in Virginia.

The sniper rifle used by Malvo and Muhammad was later traced to Bull's Eye Shooter Supply in Takoma, WA. Bull's Eye representatives claim not to have any record of sale of the weapon, cannot account for how the snipers obtained the assault rifle. Malvo later admitted he had shoplifted the gun.

The sniper case prompted an ATF investigation of Bull's Eye. The investigation revealed that the gun dealer had no record that the gun used by the snipers was missing from the inventory. The ATF investigation also determined that 77 other guns were missing from the Bull's Eye store. Four prior audits of the dealer found at least 160 additional guns missing from the store. The guns that were missing from Bull's Eye were not all handguns that could walk out the door in somebody's pocket. The gun shoplifted by Malvo was an assault rifle.

The families of the sniper victims filed a lawsuit against Bull's Eye and Bushmaster, the manufacturers that supplied the sniper weapon to the dealer, claiming that Bull's Eye operated its business in such a grossly negligent manner that scores of guns routinely disappeared from its store and that Bushmaster continued to supply that dealer even after years of audits by ATF showing that scores of guns were missing from the dealer's inventory.

Did Bull's Eye or Bushmaster violate any Federal or State statute? That is the issue. That is the heart of the issue we are debating. If you are reckless in your operations, even though you may not have acted illegally, but if you are reckless or if you are grossly negligent in your operations, should you be held accountable for your own actions? That is the question. Should you be held accountable for your own reckless or grossly negligent actions if that gross negligence or recklessness is the proximate cause of somebody else's death or injury?

That is what this amendment is all about. Frankly, that is what the bill is all about, to eliminate the possibility of recovery in cases where somebody can prove recklessness or negligence unless they can also prove illegality. That is the purpose of the bill, to give that immunity unless plaintiffs can prove illegality. The purpose of this amendment is to say that if you can prove gross negligence or recklessness on the part of an individual, and if that recklessness and gross negligence is the proximate cause of injury or death, then you are entitled to bring a lawsuit.

I listened to this debate; I have not been here for much of it, but I read a great deal and tried to follow it. It seems to me that is the heart of the matter and what it comes down to. That is what this amendment is intended to clarify.

Mr. WARNER. Could I ask my distinguished colleague a question, because Virginia was hard hit, as were Maryland and other States, by that sniper case, which the Senator recounted in the opening remarks.

It is my understanding—and I have followed the debate very carefully on all aspects of this legislation—but the legislation, if it were to pass, would put in doubt, to some considerable extent, the right of the many families. The greater community of the Nation's Capital was in semiparalysis. Schools closed. People could not conduct their normal activities because of the sense of lack of safety. They could not even do something simple such as filling the gas tank of the car.

It seems to me unless we let the full force and brunt of all the legal remedies available to citizens of our Nation be utilized to bring to justice, either civilly or criminally, all those who may have contributed—as the Senator says, by gross negligence—then we are denying, particularly to these sniper victims' families and others across the Nation, some very fundamental rights.

I commend my distinguished colleague from Michigan. It is my intent to support the Senator.

Am I correct in my premise, in my question?

Mr. LEVIN. The Senator from Virginia is very much on point and is correct. This is a victim's right remedies issue. Do we provide a remedy for a victim of somebody's gross negligence or recklessness that has injured that victim where the proximate cause of the injury—or a proximate cause of the injury, to be technically correct—is the defendant's recklessness or gross negligence or are we going to deny victims that remedy? Are we going to tell a victim: You have to prove that someone violated a law in order to get recovery, even though you can prove gross negligence or recklessness. Even though you can prove that recklessness or gross negligence on the part of someone you sue was a proximate cause of death or injury, you have to prove that there was a violation of law?

Why would we immunize any particular industry from that kind of recovery where it is not somebody else who is being sued for their contribution to somebody's injury but it is the industry itself or a gunstore itself or any store that contributed, through recklessness or gross negligence, to somebody's death or injury?

I have read and heard a lot in this debate about individual responsibility and accountability, that you should not be accountable for somebody else's actions injuring somebody else, and I do not disagree with that. My amendment says where it is your own recklessness or gross negligence which is a proximate cause of an injury or a death, you should not be immunized. That is what my amendment provides, that if your own recklessness or your own gross negligence is a proximate cause of death or injury, you should still be held accountable.

That is what we are going to be voting on. I hope we are going to be voting on it, I should say.

Mr. WARNER. Mr. President, for clarification, when my distinguished colleague from Michigan refers to "victims," we should make it clear that oftentimes victims perish, so it is their spouses, their families we are talking about. I think in our discussion we ought to make it clear it is a class of people we are trying to protect.

Mr. LEVIN. The Senator is correct. In terms of the definition of "victims," we are talking here about families who lose loved ones as well as people who are injured themselves.

I want to emphasize one fact here, which is there was a motion to dismiss this case in the State of Washington brought by victims against Bull's Eye and against Bushmaster. On June 27, 2003, the court denied the motions, and here is what the court said:

> [T]he facts in the present case indicate that a high degree of risk of harm to the plaintiffs was created by Bull's Eye Shooter Supply's alleged reckless or incompetent conduct in distributing firearms.

The court said it was the defendant's actions that caused damage to the plaintiffs. It seems to me for us to say even though Bull's Eye caused damage through recklessness or gross negligence to victims, we are going to deny those victims a remedy unless they can prove there was an illegal action—not just a reckless action, but an illegal action—is to mistreat this particular class of victims.

To single out this class of victims and say, "You cannot recover unless you can prove illegal action on the part of the defendant"—not just that they were reckless, not just that they were negligent—I think is highly arbitrary and discriminatory treatment of real victims who right now can go to court, and if they can show reckless behavior, negligent behavior on the part of the defendants that was a proximate cause of their injury, then they can recover.

I do not even know that Congress can constitutionally destroy the pending claim. I hope not. I hope we cannot destroy a claim that is pending for an injury that has already been caused, constitutionally, but I do know we should not try. We should not be trying to remove the rights of victims to sue people whose recklessness or gross negligence was a proximate cause of their injury.

That is what this amendment would assure, that that right of action for recklessness or gross negligence which is a proximate cause of the injury can be compensated for.

There are a number of other troubling cases that have been referred to that would be jeopardized. Again, I do not know that we can constitutionally eliminate a claim based on an action which has already taken place. I sure hope not. But I know what the intent of this bill is, which is to immunize the defendants whose reckless or negligent conduct is being sued upon.

The Guzman case, on Christmas Eve 1999—this was a man who was killed by a shot to his heart while standing in front of a Worcester, MA, nightclub. About a week later, the police recovered a handgun in a lot near where this man, Danny Guzman, was killed. The gun was lacking a serial number. It was found by a 4-year-old child. A ballistics test determined the gun was the one that killed Danny Guzman.

The investigation following the shooting revealed the gun was one of several stolen by employees of Kahr Arms. It was discovered that one of the employees in the Kahr manufacturing facility had stolen the gun used to kill Danny Guzman and sold it to buy crack cocaine.

Publicly available records, summarized in a complaint filed by Danny Guzman's family, indicate this employee of the Kahr facility had not only been arrested on various charges over the years but as early as 1995 had been addicted to cocaine and was "habitually stealing money to support his cocaine habit."

In March of 2000, the police arrested the Kahr employee who later pled guilty to the gun thefts. The investigation also led to the arrest of a second Kahr employee who also pled guilty to stealing a gun.

According to a complaint that was filed by Danny Guzman's family, Kahr Arms not only apparently hired a drug addict with a record of criminal charges, but the company also chose not to utilize basic security measures that could have prevented the theft, or an inventory tracking system that could have determined that guns were missing. According to the family's complaint, Kahr Arms did not conduct background checks on employees. The company did not install medal detectors, security cameras, x-ray machines, or other devices to ensure that employees did not just walk off with guns.

In fact, an affidavit signed by ATF Special Agent Michael Curran says the person who stole the gun that ended up killing Danny Guzman once said—we all should listen to those words—"he had taken the firearm out of the company, that he does it all the time, and that he can just walk out with them." Those are his words. He takes guns out of here "all the time"—this drug addict. He can just walk out with them.

The company did not track its inventory in any meaningful way. And according to the complaint, from February 1998 to February 1999, approximately 16 shipments of handguns from Kahr Arms failed to arrive at their points of destination.

Did Kahr Arms violate a State or Federal statute? Nobody has claimed they did. And unless they did, under this pending bill, immunity from suit would result. It seems to me this is something all of us ought to be troubled by and focus on because there is a lot of uncertainty and confusion, I believe, as to what this bill would provide.

But at its heart, the issue is this: Should we say unless you can prove an act was illegal on the part of the defendant, you will not be able to recover for damages caused by that defendant's recklessness or gross negligence?

Should that defendant be immune from suit even though his recklessness or gross negligence has caused your injuries, unless you can prove that that conduct was also illegal?

The lawsuit that was filed by Danny Guzman's surviving family members alleges the wrongful death based on Kahr Arms alleged negligence. While the defendants moved to dismiss this case on April 7, 2003, the Massachusetts Superior Court denied the motions. This bill is aimed at nullifying that kind of case. I hope we can't constitutionally do it retroactively. I hope we cannot destroy that cause of action. But we should not try and we surely should not single out one industry to help immunize them against their own acts of recklessness or gross negligence.

In a third case, a team of Orange, NJ, police officers was operating undercover at a gas station that had been robbed repeatedly over the course of several months. Detective Lemongello was among the officers taking part in the undercover surveillance. In the course of a stakeout, Detective Lemongello attempted to question a man who had suspiciously approached the gas station. Lemongello walked up to the man and asked him to remove his hand from his pockets, whereupon the man turned and opened fire, shooting Detective Lemongello three times—once each in his stomach, chest, and left arm.

Detective Lemongello was able to announce over his police radio that he had been shot and that the suspect had fled the scene. In response to the radio call, Officer Kenneth McGuire set off on foot after the shooter, who had fled into a nearby neighborhood. When Officer McGuire entered a backyard where the suspect was hiding, the suspect emptied his ammunition clip, shooting Officer McGuire in the abdomen and leg. Officer McGuire managed to return fire, killing the suspect. It turned out that the man who shot Officer McGuire and Detective Lemongello was wanted for attempted murder and had at least three felony convictions on his record. This man could not have legally purchased a gun, so the question is, Where did he get it?

Mr. President, I have been asked by my good friend from Vermont to interject a statement on a different subject at this point. To accommodate him, I would be perfectly happy if the Senator from Idaho would be willing to have me yield to him for a statement, without losing my right to the floor.

Mr. CRAIG. If the Senator will yield, we had hoped to conclude the offering of amendments. I know there are many on your side who asked for morning business time today, some to make fairly extensive statements. I would not object to this happening. I hope you can get another Senator here for the offering of that amendment. Then we could step off the bill into morning business and open up other opportunities.

Mr. REID. Will the Senator from Michigan yield?

Mr. LEVIN. Yes.

Mr. REID. Mr. President, we have a situation we have to address. We know Senator LAUTENBERG is coming to the floor to offer an amendment, but that can't be done unless Senator LEVIN sets his amendment aside. If Senator LEVIN sets his amendment aside, he loses his rights to maybe have a vote. I certainly have no problem whatsoever with the Senator from Vermont speaking for 10 minutes since that is my understanding. Senator LEVIN would get the floor again. But I think for Senator LAUTENBERG, he should understand that he may not be able to offer his amendment today, as it is my understanding from my conversations with the Senator from Michigan, he is not going to allow his amendment to be set aside.

Mr. LEVIN. I would be happy to have my amendment set aside, providing that after the Lautenberg amendment is offered, the floor then be returned to me.

Mr. REID. We could certainly do it that way.

Mr. LEAHY. If the Senator will yield for a question, I saw the distinguished Senator from New Jersey just enter the Chamber. I ask my friends, the senior Senators from Michigan, Nevada, Rhode Island, and Idaho, if perhaps the senior Senator from Vermont could proceed for about 10 minutes on the subject of land mines without the Senator from Michigan losing his right to reclaim the floor. In the meantime, maybe through the work that is always done with such finesse by the senior Senator from Nevada, something can be worked out.

Mr. REID. I ask unanimous consent that the Senator from Vermont be allowed to speak as in morning business for up to 10 minutes and, following that, the Senator from Michigan would reclaim his right to the floor. He would be recognized after that.

The PRESIDING OFFICER (Mr. SESSIONS). Is there objection?

Mr. CRAIG. Reserving the right to object, what the Senator from Michigan did a few moments ago—the Senator from Nevada may not have been present—was yield to the Senator from Virginia for the offering of an amendment. He did not lose his place. We returned to that. So if you are willing to extend that kind of courtesy to the Senator from New Jersey, we certainly have no objection.

Mr. REID. What we should do is have it go back to the Senator from Michigan, and then we will try to do something that will get us out of here today.

Mr. CRAIG. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont is recognized.

PRESIDENT BUSH'S POLICY ON LANDMINES

Mr. LEAHY. Mr. President, as an aside, for one who has been here for 29 years, sometimes the press talks about the rancor in the Senate. This was a matter of courtesy shown by the senior Senator from Idaho, the senior Senator from Rhode Island, and the senior Senator from Michigan to the Senator from Vermont. These are the kind of things that make the Senate work. I appreciate it.

Mr. President, back in the 1980s, about 15 years ago, I flew in a helicopter from Tegucigalpa, Honduras to the border of Honduras and Nicaragua. It was at the height of the Iran-contra war. On the way I met with the contras there at their camp. And on the way back, there was a clearing in the jungle. You could see a Quonset hut with a red cross on the top. We landed there. It was a field hospital. There was a dirt floor inside, with beds, and an operating room next to it.

Inside I met a little boy, probably about 12 years old, with one leg; he had a homemade crutch. He had no place to live, and the doctors let him stay there on sort of a makeshift bed of blankets and rags in the corner.

He was a nice boy. He had no idea who I was or what I was doing there. He was just excited to see a helicopter come in. I talked with him through a translator. He had lost his leg from a landmine along one of the trails near where his family lived. They were farmers.

I asked him if the landmine was placed there by a Sandinista or a contra. He didn't have the foggiest idea. He wasn't even sure what this country, just a few miles away across the border, Nicaragua, was.

What he did know was his life was changed forever, and that he would not be able to run again, or work in the fields, or be a farmer like his father. It was a tragic story.

I came back and started work on a fund for mine victims, which through the courtesy of the Republican side is now known as the Leahy War Victims Fund, and it has had strong bipartisan support. But while that fund has helped many mine victims get artificial limbs and walk again, I soon realized that no matter how much money we spend we would never stem the loss of life from landmines that way.

Since I met that boy over a decade and a half ago, I have spoken on this floor about the dangers of landmines to innocent civilians and American soldiers so many times I have lost count. Perhaps I sound like a broken record, but I feel so passionately about this.

Years ago, I sponsored the first law anywhere in the world to stop the export of antipersonnel landmines. My distinguished friend from West Virginia and my distinguished friend from Michigan voted for it. The United States had the first law in the world stopping the export of antipersonnel landmines. That led to similar actions by other nations. In a short time, our allies took far bolder steps. Just 5 years later, a treaty banning antipersonnel mines was signed in Ottawa. I was there when it was signed. Today, over 150 nations have joined that treaty, including every NATO ally and every country in the Western Hemisphere, except two, the United States and Cuba.

It is interesting to recall the speech of former Foreign Minister Lloyd Axworthy, who laid down the challenge in Ottawa. Yet today, almost a decade later, in this hemisphere only two countries, the United States and Cuba remain the outcasts.

During the Clinton administration, I worked closely with the White House on this issue. I was disappointed that President Clinton did not join the Ottawa Treaty, even though he could have, but he pledged to work aggressively to find alternatives to landmines so the United States could join by 2006.

Until this morning, that pledge was United States policy and the Pentagon publicly embraced it.

I ask unanimous consent that a May 15, 1998, letter to me from the former National Security Advisor, Sandy Berger, which spells out that policy be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEAHY. The Pentagon said publicly that they would uphold the pledge of the President of the United States, but behind the scenes they worked assiduously to undermine the Clinton policy. Today, we see the result in an announcement that the White House and Pentagon carefully leaked to the press last night in an attempt to put a positive spin on what anyone who knows the issue can see is a step backward.

We see that the Bush administration has abandoned any pretext of joining other civilized nations to eliminate these outmoded, indiscriminate weapons.

Before I explain why the administration's policy is so deeply disappointing to those of us who have worked on this issue for years, I want to be clear of my respect for Secretary of State Powell, for Assistant Secretary Lincoln Bloomfield, and others in the State Department who administer our humanitarian demining programs. These programs save lives and limbs, and this administration's plan to increase funding for these programs by $20 million is constructive. It is far too little, especially for the wealthiest Nation on earth, but it is a positive step.

I also want to emphasize that, except for in Korea, the United States no longer uses the type of landmines which pose the gravest risk to innocent people, the way some nations and rebel forces do. Instead, we are helping countries clear their minefields. Just this week, the Vietnam Veterans of America Foundation, led so courageously by Bobby Muller, signed an agreement with the Vietnamese Ministry of Defense to conduct a countrywide survey of unexploded mines and other bombs, many of which were left by our soldiers, as well as by Vietnamese soldiers, and which continue to maim and kill innocent people. Once that survey is completed, we and other nations can help remove these explosives and end the deadly legacy of that war.

So the issue for the United States is not whether the U.S. is using mines that are causing civilian casualties. In fact, we have not used landmines since 1991 in the first Gulf war, and there is no evidence those mines had any effect whatsoever. In fact there is no evidence the Iraqis even knew they were there. The real issue, which the Pentagon and White House are either incapable of grasping or, more likely, want to ignore, is that as long as the United States, with by far the most powerful Armed Forces ever known in history, continues to insist on its right to use these indiscriminate weapons, other nations with armies far weaker than ours are going to insist on their right to use them also.

The victims are going to be innocent civilians and U.S. soldiers who, even today, are losing their lives and limbs from mines in Iraq.

Mr. President, over 2 years ago, the Bush administration announced it would review U.S. landmine policy. I welcomed that review. I told President Bush, the Secretary of State, and officials in the Pentagon that I wanted to find an approach with broad, bipartisan support, including from the Pentagon. Also, as much as I wanted us to be one of the overwhelming majority of nations that have joined the treaty, I knew the Bush administration was not likely to do that. I felt that working together we could move toward that goal by strengthening our own policy.

Today, over 2 years later, and after refusing to consult with me or other Members of Congress on either side, the White House announced its plans. We now see that we would have been far better off if the administration had not conducted its review in the first place. Except for a few positive aspects, the policy is a disappointing step backward.

What we see is another squandered opportunity for U.S. leadership on a crucial arms control and humanitarian issue. We see the United States saying we will continue to use landmines indefinitely.

Once again, we had the opportunity to join the civilized world in solving a global crisis, as all our NATO allies have. And once again, we have chosen unilateral arrogance over leadership and cooperation.

The administration's press office has done an impressive job portraying this policy as an important advance, but it is not.

They say they will eliminate persistent landmines by 2010. That is constructive. But in fact, except for Korea, the United States has not used these types of mines for decades.

Six years ago, the Clinton administration, including the Pentagon, pledged to "search aggressively" for alternatives to self-destructing anti-vehicle mine systems by 2006. The Bush administration abandons this pledge and will allow the use of these mines anywhere, indefinitely.

In 1998, the Clinton administration pledged that it would sign the Ottawa treaty banning anti-personnel mines by 2006, if suitable alternatives to these mines were fielded by then. The Bush administration abandons this pledge.

The Bush administration says it will seek a worldwide ban on the sale or export of persistent mines, but that we will keep our self-destruct mines indefinitely. Let's be honest. We tried that back in 1994, and the reason it failed was, not surprisingly, that other countries said "if you, the world's strongest military power are unwilling to give up your landmines, why should we give up ours?"

Mr. President, I had hoped that the President would seize this opportunity to show real leadership. We can solve this problem if we set the example. It could be done so easily. Instead, the President has taken us backwards.

I will speak more about this in future weeks. I do appreciate the consideration of my colleagues in giving me this time.

I yield the floor.

EXHIBIT 1

THE WHITE HOUSE,
Washington, May 15, 1998.

Hon. PATRICK J. LEAHY,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEAHY: The President has asked me to confirm our understanding regarding the one-year statutory moratorium on the use of anti-personnel landmines (APLs) that is due to take effect next February. We very much appreciate your working so closely with us to define an approach that meets not only our solemn obligation to provide for the protection and safety of our Armed Forces in battle, but also our mutual goal of advancing our efforts to rid the world of APLs.

We are very gratified that you will not oppose adding flexibility to the 1996 moratorium legislation in the form of a Presidential waiver authority that would be attached to the pending FY 1999 defense authorization bill when it is considered by the Senate next week.

In this context, let me reiterate the following commitments on the part of the Administration:

The United States will destroy by 1999 all of its non-self-destructing APLs, except those needed for Korea.

The United States will end the use of all APLs outside Korea by 2003, including those that self-destruct.

The United States will aggressively pursue the objective of having APL alternatives ready for Korea by 2006, including those that self-destruct.

The United States will search aggressively for alternatives to our mixed anti-tank systems by (a) actively exploring the use of APL alternatives in place of the self-destructing anti-personnel submunitions currently used in our mixed systems and (b) exploring the development of other technologies and/or operational concepts that result in alternatives that would enable us to eliminate our mixed systems entirely.

Finally, the United States will sign the Ottawa Convention by 2006 if we succeed in identifying and fielding suitable alternatives to our anti-personnel landmines and mixed anti-tank systems by then.

Again, I thank you for your leadership on this issue.

Sincerely,

SAMUEL R. BERGER,
Assistant to the President
for National Security Affairs.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I know under the order, Senator LEVIN is to have the floor. I ask unanimous consent that I be allowed to propound a unanimous consent request and that he have the floor following that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, the Senator from Michigan says he will complete his statement in 10 minutes. The Senator from New Jersey has two amendments he wishes to offer, 10 minutes on each amendment, for a total of 20 minutes. I will propound a unanimous consent request in just a second, but I want everyone to know what is going on. That will take a half hour. Following that, I ask that there be a time to go to morning business. There will be no more amendments offered today, and we would go to morning business and Senator LEVIN's amendment would be the amendment that would recur following the two amendments of the Senator from New Jersey.

I will propound that in the form of a unanimous consent request unless someone at this stage believes there is anything inappropriate with it. I know Senator BYRD has been waiting. He asked yesterday to come and speak, but we didn't know it would take as long. I tell the Senator from West Virginia, it will be approximately a half hour before we get to morning business.

Mr. BYRD. Mr. President, will the distinguished Democratic whip yield?

Mr. REID. Yes.

Mr. BYRD. About what time would it be possible for me to get the floor?

Mr. REID. Mr. President, I tell the distinguished senior Senator from West Virginia, it would be a little bit after 1 o'clock, thereabouts. Then we have Senator CONRAD who wishes to speak for 45 minutes and Senator HARKIN who wishes to speak for a half hour. I am not going to set the order, but I ask that Senator BYRD be recognized initially in morning business.

Mr. BYRD. I thank the Chair.

Mr. CRAIG. Mr. President, will the Senator yield?

Mr. REID. I will be happy to yield.

Mr. CRAIG. Mr. President, I do not believe I have any disagreement with that concept or the UC the Senator will propound, just as long as we have adequately served all Senators who want to offer amendments to S. 1805. It appears the numbers are here for that purpose.

Mr. REID. I say to my friend from Rhode Island, Senator REED, who is in the Chamber, we are still in the process of trying to work out definite times on Monday so that he, Senator FEINSTEIN, and those who are speaking in opposition—which will take a total of 3 to 4 hours—will have time on Monday.

Mr. President, I ask unanimous consent that Senator LEVIN be recognized for up to 10 minutes to complete debate on his amendment; following that, that his amendment be set aside temporarily and that Senator LAUTENBERG be recognized to offer two amendments and that Senator LAUTENBERG be able to speak for a total of 20 minutes on his two amendments; following that, the amendment of the Senator from Michigan would recur; and that following that, we go to a period for the transaction of morning business, and that Senator BYRD be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Michigan.

Mr. LEVIN. Mr. President, I thank the Chair and thank the Senator from Nevada.

I want to go back to the case of the two police officers who were shot with a gun that was sold under extremely suspicious circumstances by a gun dealer who was then sued by these two police officers.

The lawsuit alleged on the part of the defendants some very serious negligence, gross negligence, recklessness in terms of that sale. The person who purchased the gun bought 11 other guns at the same time, selected by somebody else. The person who filled out the purchase paperwork was not the person who actually bought the guns. They were picked out by a second person.

Like the New Jersey man who shot these two officers, the man who selected the guns was a convicted felon. The guns were paid for entirely in cash, several thousand dollars. The gun purchase was about the second in 3 weeks from the same two buyers from that dealer.

These were significant allegations that were brought by two police officers who were severely injured by that gun, claiming that the action on the part of the gun dealer was negligent and reckless behavior. There is a lot of evidence suggesting that it was.

A West Virginia judge refused to dismiss this case that these two police officers brought saying there was sufficient evidence to go to a jury; that is, evidence of recklessness or negligence on the part of the defendants. It was their recklessness, their negligence which was the proximate cause, allegedly, of the damage.

We have heard a lot about whether people should be held accountable for somebody else's illegal action. That is not what this amendment is about. That is not what this bill is about. What this bill is about is to immunize a certain industry from their own reckless and negligent behavior, not somebody else's, but from their own reckless and negligent behavior, unless the people who are injured can also show that they acted illegally.

This is special treatment for one particular industry.

We owe a great debt to these police officers who put their lives on the line, and it seems to me it is an insult for the response to their bravery to be: You cannot bring an action against a gun dealer who acted negligently or recklessly and whose negligence or recklessness was a proximate cause of your injury. Sorry, you have to prove that gun dealer acted illegally; that he acted reckless is not enough; that you were injured as a proximate result of that recklessness is not enough. We are going to immunize that particular gun dealer and anyone like him from their own reckless, negligent behavior unless you can carry an additional burden that they also acted illegally.

That is the response to officers who are gunned down and where their injuries were a proximate result of the recklessness and negligence of that gunshop.

Those are the allegations. Should they be allowed to prove them? The intention of the legislation in front of us is that they not be allowed to prove them unless they can also allege there was illegal action on the part of that gunshop. I think we can see why so many associations of police officers are very much opposed to this legislation and its purpose.

A number of law enforcement officers wrote Senators a letter opposing what this bill intends. In it they said police officers like Ken McGuire and David Lemongello put their lives on the line every day to protect the public. Instead of honoring them for their service, this bill would deprive them of their basic rights as American citizens to prove their case in a court of law.

Manufacturers and dealers of guns have a right to make and sell guns, but that right also is not unlimited because it comes with some responsibility. Like every other business in this country, people who are in the gun business have a responsibility to conduct that business with reasonable care. If a gun manufacturer or gun dealer fails to do so, and their negligence or recklessness leads to someone being killed or injured, they should not be immune from suit.

According to a recent report, 57 percent of crime guns in the United States could be traced back to 1 percent of the gun dealers in this country. We should not let that 1 percent off the hook. We should not single out one industry for these special protections.

Earlier this Congress, the Senate Judiciary Committee, considered an amendment to exempt class action lawsuits filed against the gun industry from the diversity and removal provisions of the class action bill. The committee rejected that amendment and in its report on the bill the majority put it this way:

> Simply put, there should not be one set of rules for one category of defendants and another for another group of defendants.

Well, if that holds true in the case of a class action bill, it should be true also relative to this legislation. This bill not only singles out one industry for special favored treatment, but in the process it undermines long-standing principles of tort law.

Traditionally, tort law has been left to the States to define, and if changes have been necessary Congress has usually deferred to State legislatures to make those changes. This bill seeks to impose a Federal tort regime that would virtually eliminate the ability of State courts to hear and decide cases involving even grossly negligent or reckless conduct by gun dealers and manufacturers, even where existing State law would permit such cases.

A Georgetown University Center law professor by the name of Heidi Feldman put it this way about this bill:

> . . . one of the most radical statutory revisions of the common law of torts that any

legislature—Federal or State—has ever considered, let alone passed.

I have looked at a lot of Federal laws that affect the civil liability of various industries, and I, too, have seen nothing that comes close to what this bill would do.

Whatever we are going to do, it seems to me we ought to do it knowingly. We ought to understand what it is that we are being asked to do. What the bill says is, unless someone who is injured by somebody else's reckless or negligent conduct, unless that plaintiff can also show that the conduct was illegal, they will not be able to recover damages for their injuries. That is a radical departure from fairness, not just from the common law. That is a radical departure from protecting victims and trying to preserve their rights.

We should not take that step without at least understanding what we are doing. The purpose of my amendment is to make sure that we at least have an opportunity to vote on a central proposition: Whether or not when somebody is injured as a proximate result of somebody else's gross negligence or recklessness that that person who is injured should have an opportunity to recover damages, even if they are unable to show that the defendant's reckless or negligent conduct was also illegal.

That is the central issue this bill addresses. It is the central issue my amendment addresses. I think it is important that this Senate not only understand what the central issue is but have an opportunity to vote on that specific issue, and that is what my amendment is all about.

My amendment will give us the opportunity to vote on whether we intend to give immunity to persons who cause injuries to others through their own—and I emphasize "their own"—reckless and grossly negligent behavior, where that behavior is a proximate cause of somebody else's injuries.

I hope the Senate will adopt my amendment. I hope we will modify the bill in front of us so that we can protect victims, and that is really what the amendment and the bill is all about.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

AMENDMENT NO. 2632

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. Under the previous order, the pending amendment is set aside and the clerk will report the Lautenberg amendment.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes an amendment numbered 2632.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require that certain notifications occur whenever a query to the National Instant Criminal Background Check System reveals that a person listed in the Violent Gang and Terrorist Organization File is attempting to purchase a firearm, and for other purposes)

At the appropriate place, insert the following:

SEC. —. AMENDMENTS TO BRADY HANDGUN VIOLENCE PREVENTION ACT.

(a) SHORT TITLE.—This section may be cited as the "Terrorist Apprehension Act".

(b) AMENDMENTS.—Section 103 of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note) is amended—

(1) in subsection (i), by striking "No department" and inserting "Except as provided in subsection (j), no department";

(2) by redesignating subsections (j) and (k) as subsections (k) and (*l*), respectively; and

(3) by inserting after subsection (i) the following:

"(j) TERRORIST APPREHENSION.—

"(1) INITIAL NOTIFICATION.—If the system established under this section determines that a prospective transferee is listed in the Violent Gang and Terrorist Organization file or a similar terrorist watch list, regardless of the eligibility of such person to purchase a firearm, the system shall provide this information to the employee at the Criminal Justice Information Services Division of the Federal Bureau of Investigation that is accessing the national instant criminal background check system (referred to in this subsection as the 'NICS operator').

"(2) NOTIFICATION OF LAW ENFORCEMENT.—Upon receiving information under paragraph (1), the NICS operator shall immediately provide the Federal Bureau of Investigation, the Department of Homeland Security, the terrorist task force, and State and local law enforcement in the jurisdiction in which the firearm purchase is being attempted with—

"(A) the name, date of birth, and any other identifying information reported by the prospective transferee;

"(B) the time and place of the attempted firearm purchase; and

"(C) the type of weapon, if known, that the prospective transferee attempted to purchase.

"(3) NOTIFICATION OF ORIGINATING AGENCY.—In addition to the notifications under paragraph (2), the NICS operator shall immediately provide the agency that placed the name of the suspected terrorist on the terrorist watch list with the information described in subparagraphs (A) through (C) of paragraph (2).".

Mr. LAUTENBERG. Mr. President, this amendment would override what I see as a misguided Department of Justice policy that adds to the threats to our homeland security and leaves our country more vulnerable to terrorist attacks. This amendment is identical to bipartisan legislation I previously introduced. It was called the Terrorist Apprehension Act, and it was cosponsored by Senator DEWINE with me.

This amendment will direct the administration to do all it can to apprehend potential terrorists within our borders.

We found out if someone on the terrorist watch list, someone who is a potential threat to communities across the country, purchases a weapon, and that information is logged into the gun background check system, the Department of Justice has an order that prevents that background check information not to be put on an alert. They do not even share the critical information with law enforcement concerning the whereabouts of the terrorists.

It sounds kind of backwards to me. I find it very disturbing that we could have a nationwide lookout for known terrorists within our borders, and if he obtained a weapon the Justice Department's policy is to conceal that information from the FBI or other interested law enforcement personnel.

I know there are differences on gun policy that we may have within the Government, but I cannot believe there is anyone in this body who would not want to see us do whatever we can to alert the FBI or the appropriate parties to the fact that there is a terrorist lurking around trying to purchase a gun or who has purchased a gun.

I know many pro-gun groups have said terrorists are not likely to or would not buy a firearm on the legal market anyway, but the evidence we have discovered points otherwise.

An investigation by my staff revealed that a small sample of gun purchases reviewed by the Department of Justice showed that over a few months 13 people on the terrorist watch list successfully purchased a firearm at gunshops. The access that terrorists in our country have to guns is chilling, such as the .50 caliber assault weapon which could take down a helicopter, according to the Congressional Research Service. We learned also that that weapon can penetrate 6 inches of steel plating and has the range of a mile; that a target can be hit from a mile away, and it can also carry an incendiary bullet that would immediately cause the surroundings to burst into flames.

I know the Justice Department's position is at odds with the Department of Homeland Security, but again I cannot believe that either one of those Departments are not anxious to get as much information as they can about terrorist activity relating to guns.

During his confirmation earlier this year, Tom Ridge acknowledged to me the dangers of terrorist access to guns, and under oath at another hearing the General Counsel of the Department of Homeland Security told me it was his belief that someone on the terrorist watch list should not be at all permitted to purchase guns.

Unlike the Department of Homeland Security, the Department of Justice apparently sees things very differently. DOJ is not willing to give critical information to law enforcement sectors when someone on the terrorist watch list purchases a firearm. In fact, the

Department of Justice requires the FBI to prove—believe this—that the terrorist should not be able to legally buy a gun and DOJ gives the FBI 3 days to come up with a reason. But if no reason is given in 3 days, then the gun is handed over to the terrorist.

It is quite an anomaly, that the Department of Justice requires the FBI to prove a terrorist should not be able to legally buy a gun. That doesn't make sense to me.

To make matters worse, the policy of the Department of Justice is not to tell law enforcement the details of the transaction, including where it took place and when it took place. So we could have a nationwide lookout for a terrorist and the Department of Justice, knowing that the terrorist just obtained a gun, will not tell the appropriate law enforcement people where the terrorist is.

This is a misguided policy of the Department of Justice. It has to change. My amendment would make that change. My amendment is simple and to the point. It says if a terrorist buys a gun, law enforcement must be notified promptly that this transaction has taken place. The FBI, local police, and the regional terrorist task force must be told the time and place of the purchase, without excuses. Every minute we allow the current Department of Justice policy to stand, we put our constituents at unnecessary risk.

I ask my colleagues to support this commonsense, bipartisan amendment. It is my hope that amendment will carry. We are all interested in reducing the threat of terrorism as much as we possibly can.

Mr. President, of course, we have to lay the first amendment aside before we can proceed to the second.

The PRESIDING OFFICER. Under the previous order, the first Lautenberg amendment is set aside.

Mr. LAUTENBERG. Mr. President, I neglected to use the graph I have to demonstrate what happens. The subject of a terrorist watch list purchases weapons, the NICS gun background check system is in place, it is entered in the NCIC crime database, and here there is a silent alarm. It doesn't really tell anything to the FBI terrorist task force. That is almost totally incomprehensible.

AMENDMENT NO. 2633

Mr. President, pursuant to the request I made that the other amendment be laid aside, I now send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes an amendment numbered 2633.

Mr. LAUTENBERG. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To exempt lawsuits involving injuries to children from the definition of qualified civil liability action)

On page 9, between lines 2 and 3 insert the following:

"(vi) any action involving injury to children.".

Mr. LAUTENBERG. Mr. President, this amendment is designed to protect the rights of our most vulnerable and most precious resource, our children. If this bill is enacted without this amendment to the pending bill, we will be passing legislation that protects the interests of the National Rifle Association and negligent gun dealers and manufacturers, errant manufacturers, at the expense of our kids.

It is really coldhearted, as we see if we examine this legislation. How distant do we want to make ourselves from a condition that is so tragic that even just hearing about it, if it is in your own household, sends chills up and down the spine? We have already rejected in this debate the rights of sniper victims and police officers. But are we now willing to go ahead and victimize our children? Children who are injured by a gun, the families of children killed by guns, do we want to shut down their rights? I am a proud grandfather of 10 wonderful grandchildren. It pains me to think that the Senate in which I serve is willing to expose them to greater danger. That process is pretty easy, if there is no punishment severe enough to curb either negligent or reckless behavior on the part of manufacturers, dealers, or distributors.

I think the biggest rogue of all that we all talk about is the shop that permitted Lee Malvo to get the gun he had, the Bull's Eye shop. They had guns all over the place on display and couldn't detect that 237 or so guns were unaccounted for. That suggests even greater danger. What I really hope we can do is not take away a tool that helped make this society safer for our kids.

How can we leave out the children, the children's families, when it comes to seeking redress if this kind of tragedy strikes that family? Every day we hear more about another child falling victim to gun violence. It is a national epidemic. In 2002 alone, the Centers for Disease Control and Prevention estimates there were 13,000 kids injured by a firearm. From 1996 to 2001, more than 1,500 children were killed in firearm accidents. The CDC also found the overall firearm-related death rate among United States children below the age of 15 was nearly 12 times higher than it is in 25 other industrialized countries combined. This horrible trend in our Nation must be stopped. We should be working to enhance the safety of our children and not reduce it.

Tennille Jefferson, the mother of a child victim, understands only too well what dangers can result from negligent gun dealers. On April 19, 1999, her son Nathan was shot and killed by a young boy who found the gun on the street, a gun belonging to a gun trafficker named Perry Bruce, who bought the gun from a disreputable gun dealer. The gun dealer sold Perry Bruce guns, despite many obvious signs that he was trafficking in guns. Bruce had shown a welfare card as his only form of identification. Yet somehow he was never questioned about how he managed to scrape up the thousands of dollars necessary to purchase 10 guns.

The gun trafficker, Mr. Bruce, admitted the gun dealer "had to know what I was doing," and that he was high on marijuana each time he bought guns from this company. But the dealer acted recklessly. He had the information. Yet he sold the guns to Bruce. The result was the death of Nathan Jefferson. If this bill passes, families like the Jeffersons will not be able to hold the negligent, careless, irresponsible dealers and manufacturers who sell them to be liable for the murder of innocent children. This bill chooses special interests over the innocents. It is a sad commentary on this Senate. To be blunt, this immunity bill is a form of child abuse. We still have a chance to reverse the course and I hope we are going to do it. Meanwhile, I urge my colleagues to support this amendment and preserve the rights of America's children.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from West Virginia.

A BUDGET OF GIMMICKS, FALSE PROMISES, AND UNREALISTIC EXPECTATIONS

Mr. BYRD. Mr. President, with the release of the President's budget for the fiscal year 2005, and the upcoming markup of the fiscal year 2005 budget resolution, it is now clear the promises made by this administration during the 2000 election have not been kept. Contrary to the promise made 4 years ago to ensure the Social Security benefits promised to our Nation's workers, our retirement and disability system has become more vulnerable.

Contrary to the promise made 4 years ago to make health care more affordable, drug prices continue to rise and health insurance remains unobtainable for too many Americans.

Contrary to the promise made 4 years ago to protect our Nation's vital industry, this administration's tax and trade policies have been an unmitigated disaster with an alarming number of jobs being lost overseas.

Contrary to those assurances that it could be trusted to act as a prudent and responsible manager of our Nation's fiscal policies, the Bush administration has demonstrated neither prudence nor fiscal responsibility.

In his February 2001 address to a joint session of Congress, the President promised to pay down $2 trillion in debt during the next 10 years. He said that is "more debt repaid more quickly than has ever been repaid by any nation at any time in history."

The President has not kept that promise.

Since President Bush submitted his fiscal year 2002 budget, our gross national debt has increased from $5.6 trillion to $7 trillion, and deficits have risen to $521 billion in fiscal year 2004.

With the deficit projections mounting, the cries of alarm are growing steadily louder. The IMF—an international organization normally concerned with the debt problems of third world nations—has issued an alarming critique of the United States, pleading with the Bush administration to rein in its massive budget and trade deficits. Similar warnings have emanated from Federal Reserve Chairman Alan Greenspan, former Treasury Secretary Robert Rubin, and the U.S. Comptroller General, David Walker.

Even the administration's own political allies, ranging from the conservative Heritage Foundation to private sector economists who endorsed the President's tax cuts, have pleaded with this administration to get its fiscal act together. Yet these warnings fall on deaf ears in this administration.

After spending $1.7 billion to finance three enormous tax cuts in the last 3 years, the President's budget proposes an additional $1.24 trillion—in other words, that is one and a quarter trillion dollars—for more tax cuts.

President Bush's assertion that his budget will cut the deficit in half by 2009 is one more in a litany of promises that will go unfulfilled.

The Bush administration's own budget documents show that if none of its proposals were enacted into law, the deficit would still be cut in half.

The President's budget actually makes the deficit worse in 2009 than if the Congress took no action at all.

For the fiscal years 2001 through 2010, this administration's policies have transformed a 10-year, $5.6 trillion surplus into a $4 trillion deficit—and it just keeps getting worse.

The President's budget includes record deficit projections that will push our national debt to extreme limits never before seen in our Nation's history, or any other nation's history for that matter.

President Bush's budget is a wake-up call for working Americans. Under the guise of inviting middle class workers to sit at the table and share in the tax cut, this administration ran up a tab that won't be paid for by those with golden parachutes. It will be the working man—the man who works with his hands, in many instances, or most. It will be the working man who gets stuck with the bill—the working man, the forgotten man in this administration. In this administration's tenure, the working man is the forgotten man.

Instead of ensuring the Social Security benefits promised to workers—hear me out there—the President's budget would spend the entire Social Security surplus over the next 5 years—all $1.1 trillion of it—to pay for the administration's tax cuts for the affluent and for the corporate elite. Not one thin dime would be allocated to save your Social Security.

I remember life in the coalfields, life in southern West Virginia when there was no Social Security. We had the old Raleigh County poor farm. Raleigh County is in south-central West Virginia, a great coal-producing county over the years. I remember the old county poor farm out at Shady Springs.

It used to be when folks became old—and there in those coalfields they became old early—when they became old, they could no longer get a job. A person who was 60 years old, I can remember when I was a boy, was an old man. Sixty years old, that was old. Fifty-five years of age or 60 years of age was considered old. There was no Social Security when they became old. Those men and women who had given their best years in the toil and labor had given their best years. And they could no longer get work. The only thing they could do would be to go to the gates of their children with their hats in their hand and hope their children could take them in. Many of them went to that old county poor farm. No Social Security.

Then like the rays of hope breaking away the shadows in those West Virginia mountains, a new President, a crippled President, Franklin D. Roosevelt, came to the helm of this shipless state. He and a Democratic Congress enacted a law bringing to the country and to the old folks Social Security. I remember when those first Social Security checks came. A check came to my house where my old coal miner father—he was not my father, he was my foster father—received a check. And my mom, who was my aunt, had taken me to raise when my mother died in the great influenza in 1918. So the Byrds took me in and raised me and they drew a Social Security check.

So I know what it meant for those who had to depend upon Social Security, and those out in the plains, mountains, the prairies, and the valleys of America, who still depend upon Social Security.

But even the enormous surpluses in the Social Security accounts cannot cover the colossal cost of the administration's tax cuts. President Bush's budget would also cut the funding for those Federal programs that most benefit working families: Federal student aid, unemployment and job training programs, health care initiative for veterans and the poor and the elderly by a whooping $50 billion to pay for the administration's tax cuts. Hear me, out there. And still it is not enough.

After Draconian spending cuts on the loss of the entire Social Security surplus, the President's budget proposes to borrow an additional $1.4 trillion. How long does it take to count $1 trillion? At the rate of $1 per second, how long would it take to count $1 trillion? A thousand years? Two thousand years? Thirty-six thousand years.

The President's budget proposes to borrow an additional $1.4 trillion, much of it from countries such as China and entities like OPEC, to pay for what? To pay for its tax cuts, tax cuts for the well-to-do, tax cuts for the wealthy. I say to the people from West Virginia who may be watching, there are not many of you included in that group.

When you look at the promises of this administration on the one hand versus the performance on the other hand and the massive increases in the national debt necessary to finance their ill-conceived fiscal policies, our Nation would be left with a Bush debt gap of $4.5 trillion.

The administration is forcing working class Americans not only to shoulder a massive debt burden but also to give up those Federal programs and services from which they most benefit. The President's tax cuts are squeezing State revenue, forcing increases in tuition rates. The cost of attendance at a 4-year public college or university has gone up 26 percent since Mr. Bush became President, from an average of $8,418 in the year 2000 to $10,636 in 2003. Let me say that again: The cost of attending a 4-year public college or university has gone up 26 percent since Mr. Bush became President, from an average of $8,418 in 2000 to $10,636 in 2003. Interest rates on student loans will increase, while Pell grant moneys and Federal student aid programs are rolled back.

Drug prices will continue to increase and veterans and senior citizens—the old folks; I can call them senior citizens; I can call them old folks because I am one of them, thank God—veterans and seniors will continue to see their savings depleted while cuts are made in those programs that help to provide them with basic health care.

Workers' pensions will remain underfunded and vulnerable while this administration stands passively mute. Social Security's financing problems will continue to worsen as money that should be saved to ensure the benefits promised to workers is wasted on an ideological fiscal policy that advocates tax cuts above all else.

The financial perils underlying the Social Security Program were brought to light this week when Federal Reserve Chairman Alan Greenspan forced the President to confront the fact that his administration has been for 3 years hiding from the facts. Namely, if we continue on the fiscal course set by this administration, we will lose the only opportunity that we will have left to save Social Security. Congress has a responsibility to better educate the public about their Social Security system.

The panic—have you ever heard panic in the voice of someone? The panic in the voices of my constituents as they called my office yesterday made it clear that more must be done to keep the public informed.

What is regrettable is that the real problems confronting future Social Security retirees have only recently surfaced in the Presidential debates—how about that—only recently surfaced in the Presidential debates.

What is unforgivable, however, is if it were not for Chairman Greenspan's comments, this administration may not have even raised it as an issue this year. The President's evasive remarks have been to assure the American people that he will not cut the benefits of retirees or those near retirement. But what does that mean for 59-year-olds? What does that mean for 60-year-olds? Oh, I wish I could say I was 60 again. Maybe not. Maybe not.

What does that mean for 59-year-olds or 60-year-olds? Will the President try to cut their Social Security benefits or not? To cut Social Security benefits, without first engaging the public about its intentions, should tell us a great deal about the fiscal priorities and methods of this administration.

In the face of this dismal reality, the administration does not offer solutions, it offers excuses—just excuses. This administration can only argue that their budgetary decisions are not their fault. The recession and out-of-control spending is to blame for massive deficits. Corporate accounting scandals are to blame for weak pension funds. The September 11 terrorists are to blame for the shoddy economy.

All of these arguments are belied by the facts.

Our investments in education, health care, transportation, and other domestic discretionary programs are not the source of this administration's deficit problems. Domestic discretionary comprises only 9 percent of the increase in spending over the last 3 years, and it represents only 17 percent of all Federal spending. President Bush's budget does not even look at mandatory expenditures for savings even though they comprise two-thirds of the Federal budget. While the President's proposed spending cuts would significantly undermine our education and health care investments, it would barely make a dent in the administration's deficit projections.

Meanwhile, the Defense Department is plagued with accounting problems so severe that the Secretary of Defense cannot account for billions of taxpayers' dollars. The General Accounting Office estimates that the very earliest that the Defense Department could possibly pass an audit would be the year 2007, and that is optimistic. The administration does not even know how much time and how much money it will take to fix the accounting problems.

It is absurd that the administration is proposing to cut vital domestic investments while billions and billions and billions of dollars are lost every year in the Pentagon's broken accounting system. The administration's deficits have exploded, and they have exploded in large measure because revenues as a percentage of our gross domestic product have declined to their lowest levels since 1950—1950. According to the House Budget Committee, the three Bush tax cuts have increased the deficit by nearly $2.6 trillion from 2001 to 2013.

The notion that the administration's deficits were created by a poor economy and increased spending is pure fantasy. It is made all the worse by this administration's efforts to hide these facts from the public—from you, you. They say it is your money. The administration is touting the tough choices it is making to cut the deficit in half over 5 years. Yet its budget is full of "magic asterisks" that assume an initiative will be offset, such as the $65 billion health care tax credit but provides no information on from where that savings will come.

Contrary to the Bush administration's past budgets, with surplus projections extending out 10 years to justify their tax cuts, this year President Bush proposed a 5-year budget—a 5-year budget. It hides from the public the alarming long-term deficits projected by the Congressional Budget Office. It hides the real cost of the administration's proposals, such as the $1.1 trillion cost of extending the Bush tax cuts. Further, President Bush's budget includes no additional funds for Iraq, even though the administration reportedly will submit another supplemental request for Iraq—when? After the November elections.

Not many of you, perhaps, are old enough to remember the old vaudeville shows, where they would tell you, "Watch this hand," while they were doing something they did not tell you about with the other hand, or, "Now you see it; now you don't."

So they do not tell us how much money they need for Iraq, but they reportedly will submit another supplemental for Iraq after the November elections.

Here, perhaps more than anywhere else, is where the budget deficit is the most deceptive.

To date, contrary to the modern tradition of an administration funding large-scale, ongoing wars, at least in part, through the regular appropriations process, the Bush administration has refused to request funds for the war in Iraq in its annual budget.

Why? They do not want you to know. They want the American people to be fooled. The administration waits until funds for the troops are almost exhausted before requesting additional funds through a supplemental—through a supplemental. The Bush administration's purpose is clear. What is it? To limit debate, to limit discussion, to limit having to explain to those people out there who are watching the Senate through those electronic lenses—to limit having to explain to the American people how much this war will cost. This unnecessary war, how much will it cost, this war which the American people should never have fought, never. They were fooled, then, into believing there were weapons of mass destruction all over Iraq and that we were in danger of seeing a mushroom cloud. But to date there have been none found. This administration, which will argue until they are blue in the face that black is white and white is black, will still say: Oh, there are still weapons of mass destruction there; we just have not found them yet. They are there. Well, who knows? Maybe they will be. But that is not the way it was when the administration proposed our invasion of Iraq early last year.

How much will it cost, to say nothing of how many lives will be lost before it is over? How many lives? On how many doors will that knock fall before the war ends?

See, we have two wars. We have the war in Afghanistan, which resulted from the attacks upon us on the Twin Towers, on the Pentagon—the attacks by al-Qaida, by the 19 hijackers, not one of whom was an Iraqi. Not one was from Iraq. That is the war that is still going on in Afghanistan. That is the war I support. That is the war I have supported from the beginning. But I have never supported the other war, the Bush war, the war still going on in Iraq, the war that comes under the rubric of the doctrine of preemptive strikes. That is another war. That is the Bush war in Iraq. That is the war in which the American people should never have had to spill a drop of blood. The American people should never have had to send one of their sons or daughters to fight. That is the Bush war, and nobody knows how many more lives will be lost before that war is over.

This year, the political posturing has gotten worse. Not only did the President not include any funds in his budget for the ongoing operations in Iraq, the administration has announced no supplemental will be sent to the Congress until after the November election, depriving the American voters of any opportunity to judge the President based on his promises about the cost of a war in Iraq. This is a budget of gimmicks, false promises, unrealistic expectations. It is a budget of misdirection, canards, speciousness, spuriousness, sophistry, equivocation, fallacies, prevarications, and flatout fantasy.

Worse, under the guise of reining in budget deficits, this administration is continuing its assault on the values of the working class. This is an administration of corporate CEOs and Texas oil men. The corporate elite of this administration did not grow up wondering if their parents could afford to send them to college. Their parents did not have to choose between paying for groceries and paying for health care. Their parents did not have to stay up late at night worried about whether they would lose their pension benefits or whether Social Security would be enough to provide for their retirement.

When the administration proposes to cut these programs or fails to provide adequate resources for them, it is because it has no personal understanding of the plight of American workers and how much the President's budget cuts affect middle-class Americans.

Only a President who never had to apply for unemployment benefits would oppose extending them when so many workers are without a job. Only a President who never needed overtime pay would advocate taking it away from those workers who rely on it to make ends meet. Only a President who never needed Federal aid to attend college would advocate cutting it back for those students who cannot attend college without it.

When this administration leaves office—and I hope it won't be long—its legacy will be an enormous debt, an enormous debt burden that will weigh heavily on the middle class. In the process, it will have severely weakened their safety net and will have left little means for fixing it. But it won't matter to this President. At that point, he will just move back to Texas, back to good old Crawford, TX, knowing that his pension and his health care benefits are secure, and that corporate CEOs and Texas oil men are wealthier and more comfortable than ever before. He will never have to rely on the safety net his administration has worked so hard to dismantle.

Mr. President, I yield the floor.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate is now in morning business.

The Senator from North Dakota is recognized.

THANKING SENATOR BYRD

Mr. CONRAD. Mr. President, I want to thank our very able senior Senator from West Virginia, former majority leader, ranking member on the Appropriations Committee, for his wisdom. Every time I have a chance to listen to Senator ROBERT BYRD, I treasure it. Senator BYRD has a mix of wisdom and experience that informs his remarks.

Mr. BYRD. If the Senator will yield, I apologize for interrupting his remarks. I thank the Senator for his words. I thank him, however, far more for his wisdom and for his courage, and for his insight, and for his constructive contributions that are made so often to the debates in the Senate. I marvel at his talent. He is not one who has hidden his talents. He is out front, outspoken, and I listen always with great admiration. May he long continue to serve the people of the United States in this Senate in the capacity which he now serves, in which capacity he would have no peer; I have not seen a peer yet. I thank him again.

PRESIDENT BUSH'S ECONOMIC POLICY

Mr. CONRAD. Mr. President, I want to talk for a few moments about many of the subjects Senator BYRD addressed. I think this week has been a wake-up call to the United States, for the Senate, for the House of Representatives, and I hope for the White House, because this week the chairman of the Federal Reserve, Chairman Greenspan, as the Washington Post headlined from the next morning indicates: "Fed Chief Urges Cut in Social Security." The subhead says: "Future Benefits Must Be Curtailed, Greenspan Warns."

Chairman Greenspan is talking in this article about the overcommitment this country has. He said:

> I am just basically saying we are overcommitted at this stage.

Chairman Greenspan went on to suggest that he favors making permanent the tax cuts the President has proposed. He also says he recommends we cut Social Security benefits as one way of beginning to deal with these long-term imbalances.

Not so long ago, the President, in his FY2002 budget, "A Blueprint for New Beginnings" said:

> None of the Social Security surplus will be used to fund other spending initiatives or tax relief.

None. Oh, how wrong the President was in that assertion because when we look at his budget what we find is he is going to borrow from Social Security $2.4 trillion over the next 10 years—$2.4 trillion—and he has no plan to pay it back.

It is very interesting to look at the relationship between the money the President is taking from the Social Security surplus over the next 10 years to float this boat, nearly $2.4 trillion, and to compare it to his tax cuts during this same period.

Notice how similar the figures are. They are almost identical. The amount being borrowed from the Social Security trust fund is almost identical to the money going out in the tax cuts, primarily income tax cuts, that go overwhelmingly to the wealthiest among us, as this chart shows.

This chart shows the benefits of the Bush income tax cuts. What it demonstrates is the top 1 percent, those with incomes of over $337,000 a year, get 33 percent of the tax cuts. That is pretty stunning. Let me repeat it. Those who are in the top 1 percent, earning over $337,000 a year, got 33 percent of the benefits of the income tax cuts. And now we find out it is being financed by taking Social Security money funded by the payroll taxes overwhelmingly paid by middle-income Americans.

This is an enormous wealth transfer from the many to the few. This is class warfare writ large. Take from the many, give to the few, and then have us head in a fiscal direction that leads the Chairman of the Federal Reserve to say, at the end of the day, cut the Social Security benefits that were supposed to have been financed by the payroll taxes of the people who paid them.

It is very interesting to see the effect of Social Security on this society. Two-thirds of retirees rely on Social Security for more than half of their income; 31 percent of Social Security beneficiaries get at least 90 percent of their income from Social Security; 33 percent get 50 to 89 percent of their income from Social Security.

If you put those two together, nearly two-thirds of retirees rely on Social Security for more than half of their income. We know Social Security has been the engine driving people who are Social Security beneficiaries out of poverty.

This chart shows without Social Security, 48 percent of our Nation's seniors would be in poverty. With Social Security, only 9 percent are. Is anybody paying attention here? We talk about connecting the dots. We talk about what has happened with the fiscal policy this President has constructed, a fiscal policy that has led to the largest deficits in the history of our country, budget deficits that have no end in sight, that have led the Chairman of the Federal Reserve to say: Cut Social Security benefits but make the tax cuts permanent, and the tax cuts have about the same cost over the 10-year period as the amount of money that is being taken from the Social Security trust fund surpluses over that same period. If we connect the dots, it becomes very clear.

Middle-class people are paying heavily into Social Security with payroll taxes on the promise they will get Social Security benefits, but the money is being taken and instead of being used to prepay the liability or to pay down the debt to prepare for their retirement, the money is being used to finance income tax cuts for the wealthiest among us.

I showed a chart that demonstrated the top 1 percent, those earning over $337,000 a year, get a third of the tax benefits. But it is even much more dramatic than that. If you are earning over $1 million a year, those who in this country are fortunate enough to earn over $1 million a year will get a tax cut this year of over $100,000.

Those earning over $1 million a year will get an average income tax cut of over $100,000, and yet we are running deficits that are the biggest in the history of the country with no end in sight, so serious that the Chairman of the Federal Reserve board says: Cut Social Security benefits.

This is all about choices. This chart shows the cost of the President's tax cuts over a 75-year period, $12 trillion. The Social Security shortfall over that same period is just under $4 trillion. It is a 3-to-1 ratio. The difference between the cost of the President's tax cuts over a 75-year period and the Social Security shortfall. The Chairman of the Federal Reserve looks at that shortfall and says: Cut benefits, but make the tax cuts permanent. That is the logic of where the President's budgets are leading, and nobody should be under any illusion that is where this is all headed because here is what is about to happen.

This chart is the number of Social Security beneficiaries whose numbers will explode with the retirement of the baby boom generation. We are going to go from about 40 million in 2005, look at 2045, there will be 82 million people receiving Social Security. This isn't a projection. These people are alive. They have been born, and they are going to be eligible, and the President has no plan, none, to deal with it.

Under the President's budget, we are spending $991,000 a minute more than we are taking in—$991,000 a minute. If we look at budget deficits and the relationship over a long period of time, from 1969 to this year, we can see the deficits in dollar terms are at an all-time high, by far the biggest budget deficit we have ever had—$100 billion more than last year, and last year was a record.

Some try to minimize it, saying: As a percentage of our gross domestic product, these deficits are not so large. Wait just a minute, these deficits are huge by any measure. If you look as a percentage of gross domestic product on an operating basis, protecting Social Security as it was intended to be, what one sees is this deficit is only exceeded once since World War II as a percentage of gross domestic product, only exceeded by a deficit of 6 percent of GDP back in 1983.

The big problem with the President's plan is he is hiding from the American people the true effect of his policies. I do not make that charge lightly. The President is hiding from the American people the full effect of his policies. Here is just one way. Here is what happens to his tax cut proposal just beyond the budget window. This dotted line is the end of the 5-year period.

Here is what happens to the cost of the President's tax cut once you get beyond the 5-year window. It absolutely explodes. But it is not just his tax cut that explodes just beyond the budget window. So does the cost of fixing the alternative minimum tax, the old millionaires' tax, designed to make certain that people with high incomes paid some taxes. And yet that old millionaires' tax is rapidly becoming a middle-class tax because, as we know, there will be 3 million people affected by it now, and at the end of the 10-year period there will be 40 million Americans affected by the alternative minimum tax.

The President does something about it for 1 year. He does nothing about it for all of the future years.

This is the pattern of the cost increases to deal with the alternative minimum tax, which everybody knows has to be dealt with. The President has no plan to do anything about it. It is not just in terms of paying the $2.4 trillion he is borrowing from back Social Security. He has no plan there. He has no plan to deal with the exploding cost of the alternative minimum tax. He has no plan to pay the war cost, the war on terror.

He says we are going to fight a robust battle against terror, but he is not going to fund it because he has zero in his budget past September 30 of this year. Does anybody believe the war on terror, the war in Iraq, the war in Afghanistan, is going to neatly end at the end of the fiscal year? Does anybody seriously believe that? That is what the President says is going to happen. He says there is going to be no cost past September 30, no cost for Afghanistan, no cost for the war on terror, no cost for the war in Iraq, none.

When we ask him how can that be, his response is, gee, I really do not know what the cost is going to be. Well, the right answer is not zero. The right answer is not no cost.

The Congressional Budget Office tells us the cost is going to be $280 billion, but the President does not acknowledge that cost. It is no wonder that he is able to say he is going to cut the deficit in half in 5 years. He just does not count things. He does not count the war cost. He does not count dealing with the alternative minimum tax crisis. He does not count paying back the $2.4 trillion he is taking from Social Security, every penny of which he has to pay back but none of which he has a plan to do.

The President says he is going to cut the deficit in half in the next 5 years. We have gone back and included the cost of his war policies, his tax cut proposals, and the alternative minimum tax, just those three areas. What emerges is a more realistic view of where the deficit is headed. As we can see, there is no cutting the deficit in half.

In fact, we do not see the deficit ever getting below about $600 billion. That is a realistic expectation, instead of what the President is telling the American people.

Here is what is happening to the debt: The gross debt of the United States is absolutely exploding, at the very time the President promised us he would have maximum paydown of the debt. Remember 2001, that is what he told us, that he would have maximum paydown of the debt. Instead, the debt is exploding from some $6 trillion in 2001 to $15 trillion by 2014.

This chart is one of the most sobering of all. The green bars show the Social Security trust fund, the blue bars the Medicare trust fund, and the red bars show the tax cuts already enacted and those proposed by the President. What this shows is right now we are being buffered from the full effect of what the President has proposed by the surpluses in the trust funds.

Look what happens when those trust funds go cash negative out in 2016. At that very time the cost of the President's tax cut proposals explode, driving us right over the cliff into deficits and debt never before seen in this country. Do not take my word for it. Here is the Congressional Budget Office report on the long-term budget outlook showing the President's tax cuts exploding the deficit at the very time the baby-boomers retire. This is not just reckless and irresponsible. It is wildly reckless and irresponsible.

This is what happens under the President's scenario. Where is the money coming from? Well, he is going to borrow $2.4 trillion from Social Security with no plan to pay it back, but that is not the only place he is borrowing. Now he is borrowing from countries all over the world. We are into Japan for over $500 billion and this is from 2003. We know this is a much higher number now because Japan is buying dollars at a furious pace. So is China. We are into them for over $140 billion, and that number would be much higher if we had a current number. We borrowed $62 billion from Caribbean banking centers. We are in hock to Hong Kong for $56 billion, to Taiwan for $46 billion, but we have even borrowed $43 billion from South Korea.

When I was growing up, if anybody had told me America would be having to borrow money from South Korea, that we would be having to be borrowing money from Japan and China, why nobody would have believed it. But that is what is happening.

This was the President's statement just the other day in Louisville, KY:

> We've got plenty of money in Washington, DC, by the way.

This is not the statement of a serious person, "We've got plenty of money in

Washington, DC, by the way." That is not the statement of a serious person when he is running the biggest deficit in the history of the United States of America, with no end in sight, and his proposal is to dig the hole deeper, to have no more spending and cut the revenue even more when we already are running record deficits, right on the eve of the retirement of the baby boom generation.

This President tells the American people that we have plenty of money? The only reason there is plenty of money is because he is borrowing it from every place that he can find somebody who will loan it to him.

There is $2.4 trillion being borrowed from the Social Security trust fund with no plan to pay it back, and now Chairman Greenspan warns that the over commitments are so large that Social Security benefits ought to start being cut.

That is the logic of the President's course, and it is a disastrous course. It is one that risks the economic security of this country. It is one that risks putting upward pressure on interest rates that will choke off economic growth, that will cost this Nation even more jobs, and force this Congress and a future President into the most excruciating of choices.

This is a reckless course. This is not conservative. This is radical. It is reckless and it has to be stopped.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, parliamentary inquiry: Are Senators allotted a certain amount of time?

The PRESIDING OFFICER. The Senate is in morning business. Under the previous order, there is no time limit.

Mr. HARKIN. I thank the Presiding Officer.

HAITI

Mr. HARKIN. Mr. President, today things are peaceful in Washington, DC, and around the United States. We are all enjoying our time at home with our families knowing that we can walk outside and go to our local grocery store or to a shopping or a local theater, and knowing that we are reasonably assured we can do so with the assurance that we will not be subjected to being killed or be subjected to a violent activity.

But today, as we are here, a reign of terror has descended upon a small and impoverished country a few hundred miles off our coast, the poorest country in this hemisphere, Haiti. A reign of terror has descended upon Haiti. It is a crisis of immense human proportions.

As I take the floor today, the people of Haiti are living under the threat of anarchy—under the threat that a few well-armed thugs and killers who are well known to them because of their past involvement in plotting coup d'etat in Haiti because in the previous years they have been convicted by the courts in Haiti of murder. These same individuals now have guns, modern weapons, flak jackets, helmets, and communication gear. They are threatening to take over the democratically elected Government of Haiti, and they are going to do it by killing thousands of people.

Today, stores and shops are closed in Port-au-Prince. The situation is deteriorating by the hour. Commercial airlines have cancelled all flights in and out of Haiti. Private charter flights have been halted. Parts of the main port are reportedly on fire. U.S. diplomatic representatives are hunkered down in the embassy compound guarded by some Marines. France, Canada, Brazil, and the Dominican Republic have withdrawn their personnel.

What is our response? Silence, nothing. We are a pitiful, helpless giant when it comes to averting a humanitarian crisis in a small impoverished country in our hemisphere a few hundred miles from our shores.

We can send $160 billion to Iraq. We can send our young men and women to Iraq to die. We can send billions of taxpayer dollars to Iraq to build their infrastructure. But we can do nothing to stop the bloodshed and the anarchy descending upon Haiti today.

I find this inexcusable. We have a moral obligation, a moral imperative because of our past relationships with Haiti, because it is a neighbor of ours, because it is in our hemisphere, because we are the most powerful country in this hemisphere, let alone the world, and because we believe in democracy, we believe in the rule of law, we believe in human rights and human dignity.

Do we only believe in it for Iraq? Do we only believe in it when it suits our convenience? Do we only believe in these principles when the country has a lot of oil, for example? Are these just so many words we utter about human rights, democracy, and rule of law? When it comes to a small, black, impoverished nation where people are poorer than dirt, where they have been subject to centuries of dictatorial rule, where they have been ignored by their neighbors and by us for centuries, where they have been ground down for a couple of hundred years, I guess when it comes to a country like that, like Haiti, democracy, human rights, rule of law does not mean much. I guess it just means we can turn a deaf ear and a blind eye to what is happening.

The situation in Haiti cries out for us to do something. The poorest people in this hemisphere are crying out to us to help them. Somehow, we are saying we cannot do anything. Talk about a lack of moral spine. Where is the moral spine of this administration when it comes to Haiti, when it comes to a poor, black, impoverished country like that? What is our response to the situation?

I read in the newspaper this morning that Powell puts pressure on Haitian leader to resign, that Secretary Powell is questioning whether he should stay in office, and as Secretary Powell even said:

> He is the democratically elected president, but he has had difficulties in his presidency.

United States officials, speaking on condition of anonymity, said a resignation would be in order, that Aristide should resign.

He has been democratically elected. He has had some difficulties, and therefore he should resign.

Let us take a look at that record, because I find this totally unacceptable and the American people ought to find this unacceptable. These statements, combined with our inaction, have encouraged and emboldened a lawless insurrection by armed thugs and murderers. This is no legitimate uprising indigenous to the people of Haiti. These are a few killers and thugs who got their hands on guns, who were in the old army Aristide disbanded, and now they want to come back and take over Haiti again. Guess what. We are helping them by our inaction.

Human Rights Watch has said these insurrections are by the very same people who are responsible for widespread killings and abuses that occurred during the military rule in the early 1990s.

Who are these people? We see them in the Post. They get pictures taken. They give interviews. Guy Philippe is quoted all the time. Kind of a handsome-looking guy. Guy Philippe has given all these interviews. He said in the paper he is going to get Aristide. We are going to get him. He said, No way, Jose, will he be allowed to stay in office. This Guy Philippe knows how to use colloquial English.

Who is Guy Philippe? Who is this individual who now says he wants to run the country, that he wants to take it over, who has the guns and the arms? Well, not a very savory character. Guy Philippe was convicted of drug trafficking in Panama. He was extradited to the Dominican Republic, put in jail in the Dominican Republic. Somehow—we do not know how—somehow he got out of jail last year and, lo and behold, now he is in Haiti with guns and with his old thugs from the military.

Louis Jodel Chamblain, one of the main leaders of this FRAPH, the Revolution Front for Haitian Advancement Progress. It means "hit" in Creole. Again, where does he come from? Well, you do not have to go very far back. In the early 1990s during the military government this guy was very active—in killing people. In fact, he was convicted in absentia in September of 1995 and sentenced to life imprisonment for the murder of Antoine Izmery, a well-known prodemocracy activist. Chamblain has been notorious for killing people in the past. Yet he is in Haiti right now, one of the guys who is going to liberate Haiti. And you have Jean Tatoune, Jean-Pierre Baptiste, also a FRAPH leader, also in Haiti, one of those responsible for the massacre in Raboteau in 1994. Again, he was convicted in absentia and sentenced to life imprisonment.

He is back again. He will liberate Haiti. These three individuals—and there are only three I mentioned; there are more who used to be in the military—want to take Haiti back. They do not want democratic government. They do not want to run for office.

Again, a little history is in order. We all know Haiti was one of the first countries where there was a slave uprising in 1804 and they threw off the French rule and defeated Napoleon, defeated Napoleon's forces and became a free country. It was kind of unsettling, because we still had slavery in America and a lot of Senators and Congressmen at that time in the Congress of the United States were very upset about this slave revolt in Haiti. We had to be very careful it did not reach our shores.

After that, Haiti devolved into one dictatorship after another. For the better part of the last century, most of the dictators were supported by us, the Duvalier regime being the most infamous of them all.

Finally, after the Haitian people had been tortured and enough people killed, they rose up in the 1980s and they got rid of not only Papa "Doc" Duvalier, who died, but also his son, Baby "Doc," and ran him out of the country. They had an electoral process and had an election in 1990 everyone said was fair, and a guy by the name of John Bertrand Aristide won the Presidency in 1990. He was inaugurated, if I am not mistaken, in January of 1991.

How long was he President? Eight months. In 8 months the military came in and threw him out. There was a coup d'etat and they threw him out of the country. And thus began a ruthless killing field in Haiti. Of all those people who had supported Aristide, the military went out and killed them. Some of these guys like Chamblain and Tatoune were involved in this.

The international community came down pretty hard on Haiti at that time. Under President Clinton, we sent about 20,000 troops to Haiti to restore order and to bring Aristide back as the elected President, which was accomplished.

It took 3 years, but we accomplished it. He came back, if I am not mistaken, in late 1994 or early 1995.

One of the things that was agreed upon with Aristide is that the 3 years he was out of the country would count as part of his presidency. For the good of Haiti, and to move democracy along, President Aristide agreed to that. Though he only served 8 months as President, he agreed they would count all the time he was out of the country as part of his presidency.

He came back, and he had about a year in office before he had to leave, on a 5-year term. Before he left office, though, he did one thing: President Aristide, in 1995, disbanded the military. He said: Haiti does not need a military. No one is going to invade us. It uses up a lot of the money that should go for hospitals and education and things like that, paying all these soldiers. We do not need soldiers.

He was right. Haiti did not need a military. So he disbanded the military. Since that time, there has not been a military in Haiti.

A lot of these military people left the country, Guy Philippe being one of them, who went to Panama and got involved in drug trafficking and got caught. He got put, as I said, in prison in the Dominican Republic. Now he is out. Now he is back with a gun.

A little history is important to see what happened.

Aristide was out for 5 years because he also agreed he would abide by the Constitution and he would not seek a consecutive reelection. The Constitution of Haiti says for a 5-year presidential term, you cannot have two consecutive terms. You can come back and run later on, but you cannot have two consecutive terms. President Aristide agreed to that.

From 1995 until 2000, there was another President in there named Preval. I will not go into that. Aristide basically was not heard of much during that period of time. He formed a new political party. He ran again in 2000 and was reelected in what was deemed a fair election. Some people say only 5 percent of the people turned out, but there are other accounts that as many as 60 percent of the people turned out to vote in that election. But the opposition wanted to boycott it, would not participate.

Aristide was reelected for another term. Since that time, the Bush administration has put an embargo on financial aid and assistance to Haiti. So when Secretary Powell says he has had difficulties in his presidency, sure, when we pull the rug out from underneath him, and we cut down aid and support to a democratically elected government, of course they are going to have difficulties.

This is a poor country. This is a country where the military wants to take over again. This is a country that for 200 years had no democracy whatsoever and is still struggling to try to figure out how to make democracy work there. Of course there are difficulties. So I question Secretary Powell's and our administration's insistence somehow that Aristide has to go.

One other thing is important. Recently the CARICOM nations—this is the Caribbean community of nations—met in Jamaica to come up with a proposal to help try to solve the impasse in Haiti, the political stalemate in Haiti. They met. They invited the opposition to come. They invited Aristide to come. Aristide went to Kingston, Jamaica. The opposition boycotted it.

The CARICOM nations decided on a plan they promoted for a political settlement in Haiti. Guess who backed that plan. Our State Department, I assume speaking for the President. Our Secretary of State, the same Secretary Colin Powell, supported the CARICOM proposal, which was a power-sharing arrangement Aristide would have to give to the opposition. For the benefit of Haiti, to promote, again, democratic principles, Aristide agreed to that. He did not have to, but he agreed to it. Guess who did not agree to the CARICOM proposal. The opposition.

Let's get this straight. The Caribbean community comes up with a proposal for political settlement. Aristide agrees to it; the opposition does not. Our own Secretary of State prompted the CARICOM proposal, the settlement, and now our Secretary of State is saying it is Aristide who has to go. Wait a minute. He was the one who agreed to the proposal. It was the opposition who did not agree.

What is going on here? One has to ask, what is going on? I see this, and I say, there is a disconnect here. There is something wrong here. There is something wrong here when all of the focus is being put on Aristide to leave the country. When you have murderers and thugs, ex-military people convicted in absentia of vicious killings and murders in Haiti, who left the country, who are now coming back in with guns, modern weaponry, one has to ask, where did they get them?

This is a country of 8 million people. How many people are we talking about in Gonaives or in Cap-Haitien or places like that? The best estimates are maybe a couple hundred. One town got overrun with 40 people. Forty people with guns came in, shot the police chief, killed him, burned the police station down, and left the town. Out of 8 million people, you have 200 or 300 people who have these guns causing this trouble.

That is a popular uprising? You might say, well, why don't the Haitian people, then, confront these people? Because the Haitian people do not have an army because Aristide disbanded the army. The police forces he set up are ill-trained, ill-equipped to deal with it because we did not come in to help them set up a professional police force in Haiti.

So when you come in with guns blazing, and you have the guns, who is going to stand up to you? That is why I opened my comments by saying, the people in Haiti are in a reign of terror right now. And make no mistake about it, if Guy Philippe and Chamblain and those armed thugs are able to take over Port-au-Prince and either kill President Aristide or somehow run him out of the country, there will be a killing field in Haiti. Thousands of people will lose their lives because this army, vicious as it was in the 1990s, will be even more vicious now in seeking retribution against those who supported Aristide in disbanding the Haitian military.

It is devolving into anarchy in Port-au-Prince and the rest of Haiti. People are fearful. They are fearful for their children, for their families. Businesses are closed. Food aid. We were feeding 300,000 people a day—malnourished, starving people. That now is not happening. Think about the implications of that. Think about it. Don't we have a moral obligation here? The Bush administration, justifying inaction, says it does not want to choose sides. I am not asking anyone to choose a side. What we are asking the administration to do is to—right now, this weekend, tomorrow—join with the OAS and send in a peacekeeping force to bring some order to let people know they cannot run roughshod, they cannot come in and shoot police stations up and burn buildings down, to help create some stability.

The side we should choose is the side of democracy. That is the side we should choose. These armed thugs were not elected. President Aristide was elected, not the armed thugs. It is clear that the administration's unwillingness to get involved is paving the way for the destruction of Haiti's fledgling democracy.

What about all this talk of spreading democracy? What about the forward strategy for freedom? Can you imagine how this must sound to Haitians as we embolden and encourage the gunmen, criminals, and thugs who are now trying to overthrow the democratically elected Government of Haiti? The administration speaks about democracy halfway around the world. What about democracy 600 miles off our shores?

To be sure, the fledgling democracy in Haiti is imperfect. I am the first to admit that. But it would be a profound mistake of historic proportions that I believe would have deep moral implications for our country if we abandon this fledgling democracy to the likes of these gunmen.

Well, maybe the administration says this is an easy way out. We don't do anything, we just let it go. Talk about an abdication of our position in this hemisphere. We have a responsibility in Haiti—a responsibility based on our democratic values, a responsibility based on humanitarianism.

Mr. President, there is one other thing. There are now 20,000 U.S. citizens in Haiti. We have a responsibility to protect them also. What about those 20,000 American citizens in Haiti? Why are we not protecting them? I ask that question. Why are we not protecting the 20,000 U.S. citizens living in Haiti? Maybe you can draw your own conclusions. I don't know.

Well, what needs to be done? Right now, there is a debate on how we got there. Who is right? Who is wrong? Did Aristide do this, or did he not do that? Did he keep out the opposition? There is all this talk about how we got here. When your house is on fire, you put out the fire first. You don't go around saying, How did it start? Get the fire out, then we can have the debate about how we got there.

Haiti is on fire. It is burning right now. Innocent men, women, and children are being killed right now. We can stop it. We have the power to stop it—with very little involvement on our part. We have the power to stop it.

Tomorrow, the United States should deploy a stabilization force in Haiti along with the Organization of American States. The Organization of American States has a history in this, by the way. They have sent peacekeeping operations to places like Yugoslavia. The Caribbean countries are one-third of the OAS. They have sent people, too, as peacekeepers. They have experience in this. They can be involved with us in setting up a stabilizing force this weekend in Haiti. If we were to send that signal now, that would stop these thugs and gunmen and murderers in their tracks. But I can tell you, from conversations I have had on the phone with people in Haiti today, that the people in Haiti are thinking that we are on the side of the thugs and the killers. Why? Because we are not doing anything and they have the guns. If we were to send in a stabilization force, the people of Haiti would know we are on their side. That would give them courage. But right now, the poor people of Haiti believe that they are alone—alone, forgotten, abandoned, as they have tried to implement a democratic form of government in their country.

The administration says they don't want to act until there is a political settlement. Mr. President, you cannot have a political settlement until you have some stability. You cannot have a political settlement when people are being gunned down in the streets, when armed thugs are burning down police stations. Think about that.

The people who want to "liberate" Haiti are the people with guns. What are they doing? They are burning down police stations. Does that give you an idea of what they want to do after they take over?

The administration says they are reluctant to act without a political settlement. You cannot have a political settlement without stability. Stability first. That is why I say this administration, tomorrow, needs to send in a peacekeeping force to Haiti, along with the Organization of American States. It can be done in less than 24 hours. It would stop the bloodshed immediately. Then we can work on the CARICOM proposal or other proposals for a political settlement.

How are you going to have a political dialog, a political settlement in this environment right now? Our own embassy staff cannot even leave the compound or move around. How can we work on dialog and a resolution? You have to have a secure environment in order for a productive dialog to take place. Is it this administration's intent to totally destabilize the Aristide government, the democratically elected government of Haiti, and let the gunmen take over and hope somehow we can deal with them later? Is that their intent? Because that is who is going to take over. It will not be the political opposition. It will be the people with the guns. The most lethal element in Haiti will be the ones who will take over. Don't take my word for it. Read the paper. What are Guy Phillipe and Jodel Chamblain and others saying to the press? They are going to run things, not some civilian opposition.

After we would send in a stabilizing force this weekend, we would work with OAS, the CARICOM, to mediate a political solution, one that respects and preserves Haiti's emerging democracy. On February 20, I joined with a number of my colleagues in sending a letter to Secretary Powell saying the CARICOM initiative offers the best vehicle for a peaceful resolution of this critical situation. If we fail to act, there will be real consequences.

Consider what happened in 1993 and 1994 when we didn't act at that time. Thousands of Haitians were killed, torture chambers were set up. There was raping and pillaging and looting. Many more fled to the U.S. and other neighboring countries. That was in 1993. That is when we had a military dictatorship in Haiti. The same people are now trying to overthrow the Aristide government.

But today we are on the brink of even a bigger catastrophe. The World Food Program, which I have mentioned, is feeding about 300,000 Haitians a day. This distribution, for all intents and purposes, is stopping. A humanitarian crisis of immense proportions is happening on our own doorstep, and we do nothing.

What kind of signal do we send to the children of Haiti? Is it our signal that the only way to get anything done is to pick up a gun, to kill, to intimidate?

The issue is not about partisanship. The issue is about a humanitarian crisis. This small impoverished country, the poorest in our hemisphere, a nation with this long history of dictatorial regimes supported a lot by us is crying out for help.

We have a small, diminutive man, a former Catholic priest, Jean-Bertrand Aristide, a hero to his people, elected freely twice, overthrown once by a murderous coup in the nineties who has come back fearlessly to try to engender a political democratic solution to the problems in Haiti, this very small diminutive man who disbanded the military in Haiti is asking for our help to save the democratic system.

Every time we have called upon President Aristide to take a step back to do something for the democratic process in Haiti, he has done so. As I said, when he was in exile in the nineties, in our dealing with the military in Haiti, we made Aristide agree that the 3 years he was in exile would be counted as part of his Presidency, even though he was not there, even though he served only 8 months as President. For the good of democracy and his constitution, he agreed to those requests. Even though he would have been reelected in a landslide in 1995, he abided by the constitution and did not seek reelection, as the constitution provides.

So this little man without an army, without any oil, without some strategic importance in the world community, this little diminutive man, Jean-Bertrand Aristide, a former Catholic priest, who, back when he first started in the eighties, only wanted to increase the educational level, the health level, the living standards of the poorest people in Haiti—it has been his life's work—is crying out for our help to save democracy.

What are we saying to him? Leave the country. You leave the country and turn it over to the gunmen. That is not saving democracy. That is destroying it. That is killing the fledgling democracy in Haiti.

President Aristide said he would serve until his term is up, I believe it is February of 2006, but when Secretary Powell and the CARICOM nations went to Aristide and said, Look, to save your fledgling democracy, you have to agree upon powersharing, upon this, all the elements they put into that package, what did Aristide say? OK, to save democracy in Haiti, he would do it. The opposition, to save democracy, would they come halfway and meet him? They said, no, they would not agree to that. The only thing they would agree to is Aristide going completely out of the country and them taking over.

One has to wonder what is going on. This is a seminal moment, I believe, in the history of our country and in our relationship to the rest of this hemisphere because what we do or do not do in Haiti this weekend and immediately speaks to what the American character is, what we really stand for. The moment is now.

Haiti could descend into anarchy at any moment. On the radios in Port-au-Prince, opposition people are getting on the air saying Aristide is fleeing the country; right now he is fleeing the country. The poor people who were counting on Aristide to protect them now are frightened, and it emboldens the gunmen and the thugs to take over because they do not see us anywhere, and not seeing us anywhere must mean we are on the gunmen's side because they have the guns.

Now they are trying to say this is some kind of a popular uprising. These gunmen, these murderers, these ex-military people were not even in Haiti. They had been convicted by the courts in Haiti of murder, sentenced to life in prison in absentia. There is no popular uprising. These are armed thugs coming across the border from the Dominican Republic taking arms, communications equipment, and everything with them and terrorizing people, killing policemen, and burning down police stations.

They are well equipped. They have big weapons. They move at night. They know how to communicate. This is an uprising of Haitian people? Not a bit.

The people of Haiti are crying out to us. It speaks to our moral values. Are we going to pay attention to the poorest country in this hemisphere, one of the poorest in the world, almost an entirely black country where they have been beaten and trod upon for so long and where they saw a little bit of hope and finally getting out from under military rule, under dictatorial regimes, such as the Duvaliers, being able to have some power to vote for who they wanted to see in office, not who we wanted to see in office? Are we just now going to turn our backs on them?

I hope not. I hope that somewhere in this State Department, somewhere in this administration there is a spark of conscience that says we cannot stand by, that we must send a peacekeeping force to Haiti immediately, and we have to work upon a political settlement rather than a settlement at the end of a gun barrel held by thugs and murderers.

I hope there is a spark of conscience someplace because if there is not, a lot of people are going to die, a lot of innocent people, poor people, people who do not have much to begin with. They are going to get in their boats. They are going to want to flee the country. What did our President say? If they come out, we will pick them up and send them right back. Think about that. Poor people trying to flee the killing fields, and we are telling them if they get in a boat and try to go someplace, we will send them back.

Is this America? Is this the country my mother came to as an immigrant? There is a lot to ponder in our relationship with Haiti at this point in time. It is a seminal moment. I believe what happens within the next 24 to 48 hours will determine the fate of democracy in Haiti. It will determine the fate of thousands of innocent Haitian people and it will determine our moral standing, not only in this hemisphere but in the world.

I hope that spark of conscience happens very soon somewhere in this administration, because anarchy, murder, and killings are going to happen very soon unless that spark of conscience happens somewhere in this administration.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, we are still in some negotiations and will be in for a bit longer. But I will speak for a few moments on several issues while those negotiations continue.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMEMORATING BORIS TRAJKOVSKI, PRESIDENT OF MACEDONIA

Mr. FRIST. At this juncture, Mr. President, I rise with heavy heart in that Thursday morning, Boris Trajkovski, the President of Macedonia, perished in a plane crash in the mountains of Bosnia. He was a good man, a man I had met, a man with whom I had extensive discussions, a man who was a great leader. Indeed, the people of Macedonia have lost a true hero and, indeed, America has lost a great friend.

Elected to his country's highest post in 1999, President Trajkovski held his country together through terrible crises and conflicts. He kept the struggling new Republic from descending into anarchy and civil war and, in doing so, set an example for the entire region.

President Trajkovski was one of our first allies to publicly support Operation Iraqi Freedom and to commit troops to the liberation. The Iraqi people owe President Trajkovski and the Macedonian people a debt of gratitude for his belief in them.

He was a sincere champion of freedom. Only 47 years old, Boris Trajkovski was a President, a minister, an attorney, a father, and a husband. Our prayers go out to his family and the families of all who were lost on that fateful plane.

It is my hope that the people of Macedonia will honor him by carrying on his work of cultivating and nurturing their newfound freedom.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The senior journal clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ASBESTOS LITIGATION

Mr. FRIST. Mr. President, I rise this afternoon to discuss the progress that has been made to date in my efforts to resolve a critically important issue; that is, the issue of asbestos litigation—a crisis that is currently playing out and has been playing out over the last several years, an issue I have addressed on the floor of the Senate. I wanted to give an update of where we are, a little bit about where we have been, but also what my expectations will be as we look to the future.

First and foremost, we have made good progress toward enacting Chairman HATCH's FAIR Act, which is the Fairness In Asbestos Injury Resolution Act. I have made this a personal priority in that the Senate must resolve this issue.

First of all, the crisis itself, the asbestos crisis. As I mentioned on the floor last fall, the magnitude of the asbestos crisis is truly overwhelming. The torrent of litigation has wreaked havoc on victims, on American jobs, and on the economy. The 600,000 claims that have been filed have already cost $54 billion in settlements, in judgments, and in litigation costs.

Even with those billions being spent, the current asbestos tort system has today become nothing more than a litigation lottery. A few victims receive adequate compensation, and far more suffer long delays for unpredictable and inequitable awards, if they receive anything at all. Today, it is a system with only one real winner; that is, the plaintiffs' trial lawyers. They are taking half of every dollar that is awarded to victims. One-half of every dollar that is awarded to victims ends up going to plaintiffs' trial lawyers.

The future prospect for people who have been victimized even gets worse. But let me say it is not only the victims who suffer—that is clear—but workers lose their jobs. Asbestos-related bankruptcies spell doom for workers' jobs, for their incomes and, of course, for their retirement savings. It has already cost more than 60,000 Americans their jobs. For those who lose their jobs, the average personal loss in wages over a career is as much as $50,000. That $50,000 does not include lost retirement and lost health benefits.

Workers at asbestos-related bankrupt firms with 401(k) plans lost about 25 percent of the value of their 401(k) plans. The victims; yes. They have been hurt by the current system but, indeed, with the bankruptcy of these companies, employees are hurt all around the country.

The problem is there. It is a crisis. It is a crisis that is getting worse. It is not getting better. Thus, it is incumbent upon us to act.

I asked a simple question during my remarks last year. That question was, Can we create a system that is better than the status quo? The answer is, of course, yes. But time is running short. That is what brings me to the floor today.

First of all, progress to date: The crisis is there, it is getting worse, and it demands a response from us. As an update on what we have accomplished to date, the FAIR Act—Fairness In Asbestos Injury Resolution Act—has already made significant headway. Under the leadership of Chairman HATCH, it was passed by the Senate Judiciary Committee last July, and there have been ongoing discussions and negotiations ever since.

I commend Senator HATCH and the ranking minority member, Senator LEAHY, for their tremendous hard work on this bill.

I also want to recognize my colleague from Pennsylvania, Senator SPECTER, who has done hard work in conjunction with Judge Becker on this particular issue.

A strong bill, steady progress, and constant discussion.

I want to note that my Democratic colleagues as well as organized labor and other stakeholders have been deeply involved throughout the process.

Led by Senator HATCH, bipartisan breakthroughs were made on issues that previously have proved irreconcilable. These included a whole range of issues but included the linchpin issue of medical criteria that has proven historically to be so difficult and controversial.

In addition, much work was done over the winter recess to resolve outstanding issues regarding the appropriate administrative structures of the system for resolving current and future asbestos claims.

What has emerged under S. 1125 and the current negotiations is a streamlined national trust fund for paying asbestos claimants quickly, fairly, and efficiently. The new system will provide more certainty and efficiency for claimants, and more certainty and predictability for businesses.

Passing this bill will create enormous economic benefits. Certainty that flows from a bill will stimulate capital investment, preserving existing jobs and creating new ones. I had hoped to bring this bill to a floor vote before the end of last session, but we were simply unable to achieve that goal.

Chairman HATCH and Senator LEAHY worked hard to resolve many difficult issues at the committee level. Senator DASCHLE and I, along with our staffs, have continued to work with stakeholders to put more issues behind us over the past months. In fact, there have been more than 20 meetings starting last July at which my staff, Senator HATCH's staff, Senator SPECTER's staff, and staff representing the minority have negotiated these issues.

While there are many issues which remain outstanding, the core principles of an effective bill are now clear. The crisis is there, the crisis is getting worse, the bill has been delivered, continued progress, continued discussions with improvement of the bill.

Then the question is, Where do we go from here?

If we intend to make good on our collective hope to pass legislation, at some point the ongoing discussions and negotiations must end and a bill must be brought to the floor.

In addition to the months of work that have been put in by my staff and others on these discussions last year, we had an additional 90 days since the winter recess, and I am prepared to have talks go on for another 30 days through the end of March. But at some point, talking must end. As I made clear last fall, I am committed to bringing a bill to the floor by the end of March.

Victims are still going uncompensated. Companies are still going bankrupt, and the economy is still being unnecessarily burdened.

The minority leader, as well as Senator LEAHY, Senator DODD and other Democratic Members have made clear to me their interest in working toward consensus legislation.

I ask all participants in the process to work during these remaining days to bring these discussions to a close and to reach consensus on the remaining outstanding issues.

I am not interested in forcing a vote on this bill. But the victims and the workers who are being hurt by these delays deserve closure. They deserve a bill that puts an end to this ongoing crisis. I will begin floor action on an asbestos bill either the last week of March or the first week in April. Again, I will begin floor action on an asbestos bill either the last week of March or the first week in April.

There is no perfect solution to the current asbestos litigation crisis. But it is clear that maintaining the status quo is simply unacceptable. We must not let this historic opportunity to enact fair and meaningful reform pass in order to pursue a perfect solution that is unachievable. The time has come for the Senate to fashion the right solution for one of the most pressing issues facing us, facing our economy, and facing this Nation today.

BLACK HISTORY MONTH

Mr. FRIST. Mr. President, I will make a few comments in respect to the closing days of Black History Month, the month of February.

Two weeks ago, I had the opportunity to take a truly extraordinary journey with Members of the Senate and House Members. I use the word "journey" because this trip was not only to a geographic destination, not only a place to which we traveled but, indeed, was in many ways an emotional and a spiritual voyage that touched—I know me and, in talking to my colleagues, them—in very deep and meaningful ways.

It was 2 weeks ago Friday that we departed from Washington. This journey was one I had the honor of leading. It was a bipartisan delegation. Ten Senators participated at some time over the course of those 3 days on this civil rights pilgrimage to Alabama and to Tennessee. It was a real privilege to travel not just with my colleagues in this body and the House of Representatives, but also traveling with us were some of the loftiest figures of the civil rights movement.

These included our colleague, Congressman JOHN LEWIS, who, by the way, graciously organizes this trip each year for his colleagues. This is the first time he specifically put it together for the Senate, but also traveling with us or speaking to us as we were in Alabama and Tennessee were the real civil rights giants, people such as Dorothy Cotton; Bernard LaFayette, who I had the opportunity to get to know over the years, he is a close friend of a physician friend, Dr. Karl VanDevender from Nashville; Diane Nash, who played a prominent role in the nonviolence movement, much of which originated in Tennessee; Johnnie Carr; Attorney Chestnut, whose vivid words are starkly ringing in my mind even as I stand here: Bob Mants, and the list goes on—people who were there, people who participated through the late 1950s and early 1960s in the civil rights and nonviolence movement.

I say to them and take this opportunity, something I have told each one personally, to publicly thank them for their service to our country, for their willingness to face violence and intimidation directly, to face injustice and to face oppression, and to face all of this with bravery and to face it with love and caring and compassion. It was this juxtaposition of one facing the other that ultimately had the impact of transforming America. Indeed, it led to a great awakening that continues to reverberate through history.

I also thank these remarkable individuals for sharing their hearts over this 3-day period, of sharing their faith, sharing their spirituality, and sharing their stories with us for these intense sessions over Friday, Saturday, and Sunday. I speak for my colleagues. Again, 10 Senators is 10 percent of the Senators in this body participating in this pilgrimage in some shape or form. I speak for all of them when I say that we thank the participants from the civil rights movement who spoke to us, who spent time with us, and left us profoundly inspired.

We began our trip in Montgomery, AL, visiting the Montgomery bus stop where Rosa Parks said no to moving to the back of the bus. We marched over the Edmund Pettus Bridge where—you read about it and you study it and you hear where, as they marched over the bridge they were trampled by horses and were beaten with billy clubs and were sprayed with tear gas just for the audacity of seeking their constitutional right to vote. You read about it and you hear about it and you see it in some little clips, but actually being there, that physical presence, that physical sense of time and space that we were given 2 weeks ago, really captures the full picture as much as one can. Again, to those participants, I say thank you.

We met with people throughout who were present and who described the crushing of bones as those billy clubs came down; people who, in the first person, described in such vivid detail, that had such a tremendous impact when you hear it. It is difficult for me to find just the right words to express the power of standing shoulder to shoulder with people who actually crossed the bridge at the time, that bridge that almost 40 years ago was faced with the threatening opposition standing before them.

We later visited the Birmingham Sixteenth Street Baptist Church where four young girls perished on that vicious Sunday morning bomb attack—again, talking to other people who were in the church that morning when that bomb went off, taking the lives of those four young girls.

We walked through Kelly Ingram Park where Bull Connor unleashed dogs and fire hoses on schoolchildren. And on Sunday we entered the Nashville First Baptist Church where the nonviolence movement's young heroes studied and learned and where we heard accurately described the role-playing of nonviolence which ultimately played out just a few weeks and a few months later in the historic lunch counter sit-ins in Nashville. The role-playing, the studying, the curriculum, the discipline, was all around a movement of nonviolence which characterized so much of the subsequent Civil Rights Act in the late 1950s and early 1960s. We met many of the participants who were at the historic lunch counter sit-ins in Nashville, sit-ins that peacefully transformed Nashville, TN, over a period of weeks and then months, sit-ins that started at the lunch counters and subsequently a few months later moved to the movie theaters.

We walked in the footsteps of giants, and we came closer thereby to knowing them as men and women.

I relate all this because it is also clear to me that the movement is not over. So much has changed. We heard it again and again, so much has changed in a very short period of time, but the great hope of that movement has yet to be realized; that is, full equality not only before the law but in the lives of every single citizen.

Immediately you relate it to the sort of things we do in the Senate, to create an environment that equality is not just before the law but in the lives of every citizen. That means equal education. It means no child left behind. It means equal opportunity to live the American dream. It means equal treatment at the doctor's office. It means equal consideration by the mortgage lender. It means equal opportunities to climb that economic ladder and to open the doors to higher learning.

As we celebrate Black History Month, as we look forward to the 50th anniversary of Brown v. Board of Education, we must remember that, yes, yes, we have come a long, long way, but there are still many miles to go.

In his historic speech following the march to Selma, the great Dr. King told his fellow freedom marchers and, I should add, generations to follow:

> We must come to see that the end we seek is a society at peace with itself, a society that can live with its conscience. And that will be a day not of the white man, not of the black man. That will be the day of man as man.

I would like to close with a wonderful account that I think does underscore the universality and great achievement of the civil rights movement. It also underscores the truth that all it takes is one person and one act of courage to inspire millions.

The following is an account by the historian Douglas Brinkley. The year is 1990. Nelson Mandela is arriving in Detroit, MI, where Rosa Parks awaits on the tarmac. The passage reads:

> "He won't know me," Parks kept repeating, embarrassed that she had come.
>
> Moments later the airplane's door opened and Nelson Mandela accompanied by his then-wife Winnie appeared to the enthusiastic crowd, shouting "Viva Nelson!" and "Amandala!" the Swahili word for power. Slowly he made his way down the steps and toward the receiving line. Suddenly he froze, staring openmouthed in wonder. Tears filled his eyes as he walked up to the small old woman with her hair in two silver braids crossed atop her head.
>
> And in a low, melodious tone, Nelson Mandela began to chant, "Ro-sa Parks. Ro-sa Parks. Ro-sa Parks," until his voice crescendoed into a rapturous shout, "Ro-sa Parks!"
>
> Then the two brave old souls, their lives so distant yet their dreams so close, fell into each other's arms, rocking back and forth in a long, joyful embrace. And in that poignant, redemptive moment, the enduring dignity of the undaunted afforded mankind rare proof of its own progress.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

THE HIGHWAY BILL AND 9/11 COMMISSION EXTENSION

Mr. McCAIN. Mr. President, in regards to the issue which has been holding up the proceedings of the Senate, that is the extension of the highway bill and the issue tied to it, which is the charter of the 9/11 Commission chaired by Governor Keane and former Congressman Lee Hamilton, we have been in extensive discussions all day long. I would like to begin by thanking the majority leader as well as the Senator from Nevada for their patience, but also their involvement in trying to help bring about a resolution to this issue. They have certainly done everything in their power.

The upshot of it is that the Senator from Connecticut and I have been in conversations with former Congressman Hamilton and Governor Keane. As we understand from our conversations with them, they are scheduled to meet with the Speaker on Tuesday, this coming Tuesday, and that their chief of staff, the general counsel of the Commission, has been assured by the chief of staff of the Speaker that at that time the Speaker will agree to an additional 30 days in addition to the 60 days that the Commission will need to operate, and will be then given an additional 30 days in which to wrap up their report. That is satisfactory to Congressman Hamilton and Governor Keane. Both of them have personally assured me that is satisfactory to them. They will be proceeding on the assumption that they will receive an additional 30 days, as well as the 60-day extension.

I hope, as a result of this, that the House will take up and pass the bill reported out of the Senate Intelligence Committee which the Senate majority leader had approved by a voice vote earlier today. It seems to me that is the most reasonable resolution.

I thank the majority leader again for his patience and hard work in this effort, including visits over on the other side of the Capitol. He certainly performed above and beyond.

May I finally say I believe that the Commission will now receive an additional 60 days of work plus 30 days to wrap up, and hopefully this issue will be resolved.

I thank my friend from Connecticut who has always done such great work.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, very briefly, let me join the Senator from Arizona in thanking the majority leader, the Senator from Nevada, and our colleagues for working together. We have, in fact, in the words of Scripture, "reasoned together," have we not? It may have taken longer than it should have, which is not unusual for the Congress, but we have reached a just result. I am grateful to the Speaker for having agreed to the extension of the deadline during which the Commission investigating September 11 will have to report by the 2 months that the Commission itself, the bipartisan Commission, requested and now having apparently indicated to at least staff of the Commission that he is prepared, in addition to the 2-month extension for the report to be completed, to have an additional 30 days for a winddown period. But this will be worked out in detail.

As Senator McCAIN said, the easiest way to do this is the way we all started today, which was with the Senate bill adopted that, in fact, does this 2-month extension for the report, 30 days for winding down of the Commission.

The basic principle is the enormity of what happened, the horror of what happened on September 11, 2001, that none of us want to ever happen again. That is what this Commission was created to investigate, and then advise us how to avoid.

There never should have been on the question of the search for truth about September 11 a time deadline which the Commission itself believed was too short to complete their work. I think we have now opened a path—a door—to give it the time it needs to complete its work, which is going to be critical to us as we continue to protect the security of the American people at home.

Again, I thank everybody for being part of it.

Once again, it reminds me of the truth of what I said a short while ago. It is good to be back in the Senate where sometimes it takes a little longer but good things actually get done. This is one of them.

I thank my colleagues, and I thank my friend from Arizona. He is a great and principled fighter for what is right.

The majority leader is bipartisan.

I thank the Chair.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Mr. President, I want to say on behalf of the minority leader that we certainly thank Senator McCAIN and Senator LIEBERMAN for their persistence in accomplishing something that is important.

I extend my appreciation to the majority leader for his patience. His job is a difficult job. He has 99 of us to put up with. Even though we are the most reasonable people in the world most of the time, once in a while it happens that we are not, and that makes his life more difficult. Having been involved in working with leaders for a while now, I appreciate his patience. It is an admirable quality.

Having worked with the very patient Senator LIEBERMAN since he came to the Senate, I have such great admiration for him. I am personally disappointed that it didn't work out better for him on the campaign trail. But we are really happy to have him back. He is such a great addition to the Senate.

My friend from Arizona is one peg ahead of me in seniority. I am No. 1778 and he is No. 1777 as far as the number of Senators coming here. Senator McCAIN is a unique individual. Every day, serving with him is an experience. The vast majority of those experiences are extremely good.

(Laughter.)

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. FRIST. It is an experience, Mr. President.

TRANSPORTATION, TREASURY, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2004

TECHNICAL CORRECTION TO PUBLIC LAW 108–199

Mr. STEVENS. Mr. President, I and my colleagues would like to engage my friend, the majority leader, in a colloquy regarding a necessary change that must be made to the Transportation, Treasury, and Independent Agencies Appropriations Act for Fiscal Year 2004. This change pertains to the administration of the Federal Aid Highway Program and corrects a technical drafting error in the original bill. This technical correction must be enacted soon so as not to create unnecessary confusion as to how the program is to be administered.

It was my expectation and that of several of my colleagues that this technical correction would be included as part of the temporary extension bill that was to be adopted today to extend the Federal Aid Highway Program for an additional 2 months. However, since it is the desire of the majority leader to have the Senate pass the House-passed bill that was adopted last evening, we are not in a position to have the technical correction included in the bill at this time. It is essential that this correction be enacted into law at the earliest possible date. It must be enacted into law during the next few weeks so that the intent of the appropriations act can be carried out as intended.

Mr. BYRD. I share the concern of my chairman, Senator STEVENS, on this matter and join with him in insisting that the Senate attend to this matter on a legislative vehicle that will be enacted into law very soon. This matter is of the utmost urgency, if we are not to create confusion at the Federal Highway Administration as to how this program is to be implemented.

Mr. SHELBY. As the chairman of the Transportation, Treasury and General Government Appropriations Subcommittee, I, too, wish to echo the adamant view of Chairman STEVENS that this provision must be enacted into law in the next few weeks.

Mrs. MURRAY. As the ranking member of the Appropriations Subcommittee on Transportation, Treasury and General Government, I also must insist that this technical correction be adopted immediately. The provision in question simply ensures that the program will be administered in the same manner as it has been in previous years. It must be enacted into law at the earliest possible date.

Mr. FRIST. I thank my colleagues for bringing this matter to my attention. As the bipartisan leaders of the full Appropriations Committee and its Transportation Subcommittee, they have all been unified and consistent in their view as to the legislative intent of the 2004 appropriations act. They have been equally unified in their insistence that this matter be fixed as quickly as possible.

Given the fact that the other body has now adjourned, we are required to pass a bill without this technical correction in order to keep the highway program operating beyond its expiration date of this Sunday, February 29. I give my personal assurance to my colleagues that, in the coming few weeks, I will work with my Senate colleagues as well as with the House leadership to ensure that the necessary technical correction is incorporated in a legislative vehicle that the President will sign in the very near future. I share their hope that this can be accomplished prior to the expiration of the short term highway extension bill that we will be adopting today.

Mr. BOND. Mr. President, I have the pleasure of serving both as chairman of the Transportation and Infrastructure Subcommittee of the Environment and Public Works Committee and a member of the Transportation/Treasury Appropriations Committee. I want to join with my colleagues on the Appropriations Committee in emphasizing the urgency of adopting this technical correction as soon as possible. I also want to join with the majority leader and commit myself to seeing to it that this correction is enacted into law in the next few weeks.

Mr. REID. I serve as the ranking member of Transportation and Infrastructure Subcommittee and I, like Chairman BOND, also serve on the Transportation/Treasury Appropriations Subcommittee. In both of those capacities, I want to commit myself to getting this important technical correction enacted into law at the earliest possible date.

SURFACE TRANSPORTATION EXTENSION ACT OF 2004

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 3850, the highway program extension bill, which is at the desk. I further ask unanimous consent that the bill be read a third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The bill (H.R. 3850) was read a third time and passed.

Mr. FRIST. Mr. President, before making further remarks, I wanted to make sure that was done.

As we started about 7 hours ago, we had two issues. One was the extension which we passed.

There have been a lot of people over the course of the day who have wondered whether they were going to get paychecks on Monday and whether they would show up for work on Monday. After all of this, we have settled pretty much both issues in terms of moving forward. The highway extension has just been passed. So for those people who were on furlough and wondering what was going on today, they are going to be OK on Monday.

BLACK HISTORY MONTH

Mr. REID. Mr. President, in 1926, historian Carter G. Woodson designated the second week of February as "Negro History Week," an opportunity for America to recognize the achievements and contributions made by African Americans.

As a result of promoting our Nation's history of diversity, and advancing tolerance and civil rights, this week was extended into a month in 1976.

Today, Black History Month serves as more than just a reminder of African American culture. It serves as a reminder of how far America has come in the areas of tolerance, civil rights, and diversity and far we have yet to go.

Black History Month conjures up familiar heroes for all of us: Rosa Parks and her legendary defiance; Dr. Martin Luther King, Jr. and his historic leadership; Supreme Court Justice Thurgood Marshall and his equitable judgment.

There are also inventors and physicians who may be less familiar to some of us: Granville Woods, who was granted more than 60 patents for inventions including steam-driven engines and a telephone transmitter; and Dr. Charles Drew, a medical professor at Howard University who, among other things, developed a way to extend the storage life of blood from two days to 1 week.

Interestingly, Elijah McCoy, the developer of the locomotive lubricator, is responsible for one of the most familiar expressions in the English language. Mr. McCoy, in an attempt to promote his product, coined a catchy slogan to remind railroad engineers that his original invention was the best: "The Real McCoy."

These are just some of our national heroes and heroines who achieved social, political, economic, and scientific goals. By reaching their own goals, they also contributed their strength and innovation to the collective American thought.

While the southern United States is the birthplace of many significant achievements in African American history, there are also accomplishments of note in western States, including my native Nevada.

Among the African American men and women who hailed from or made significant contributions to Nevada, there are a few pioneers I want to introduce to you.

At a time when black people were not invited to participate in the political process or the business world, there was a group of ranchers in Nevada who thought differently.

Ben Palmer, who was noted as "one of the heaviest taxpayers in Douglas County," was a hugely successful rancher and businessman.

This may seem commonplace today. But at the time when he was prospering, blacks couldn't even vote, serve on a jury, testify against whites, send their children to public school, or marry whites.

Mr. Palmer lived in Carson Valley, NE, which is not only one of the most beautiful parts of the State, but also served as an early route for the migration to California.

It didn't take long for him and his sister to deduce that, by establishing ranches, they could turn a profit by providing care for weary travelers and their livestock.

Since there was no Federal authority over much of the land at that time, ranchers used to just claim a spot of land and water rights; then they would start to sell grazing rights to emigrants and cut grass to provide feed during the winter.

By the 1870's, Palmer had established himself as a prosperous cattleman. It was reported in the Carson Valley News that he had driven 1,500 head of cattle from Seattle to Carson Valley to replenish his herd. He also introduced fine horses into the Valley, pioneering locally with the Bonner breed.

Despite the legal restrictions facing African Americans during this time, Palmer was so highly regarded that he was invited to register to vote in the Mottsville precinct before the 15th Amendment to the Constitution was passed.

It is recorded that in 1876 and 1878, he was selected to be a member of a Douglas County grand jury, and was named to the panel of trial jurors for that year's term of the District Court.

When the residents of Carson Valley launched a short-lived political organization, the National Greenback and Workingmen's Party, a county central committee was selected and Ben Palmer was one of the committee members representing the Mottsville precinct.

He couldn't read or write, but that didn't stop him; he wasn't supposed to vote or serve on a jury, but he did anyway; the color of his skin was supposed to prevent him from participating in the political process, but he pressed ahead.

It is no wonder that his obituary in the Record-Courier said that, "He met success in every meaning of the word and leaves one of the finest farms in Carson Valley as a monument. He bore a man's part in the battle of life, bore it bravely, gently and without ostentation. He believed in the right and practiced the right always."

Treasure Hill and Virginia City are two other areas of Nevada where African Americans overcame restrictions to find success.

The mining prospects in Nevada and other parts of the West attracted people from all races and walks of life in search of gold.

Black people came to Nevada in hopes of securing mining jobs and finding prosperity for themselves. Unfortunately, most mines would not hire blacks, as some whites quipped that they would be too ignorant to tell one rock from another.

This discriminatory perspective may explain why there were only six black people recorded as official miners in Nevada in 1870. Another reason for their widespread absence from the mining industry may be their exclusion from unions.

Despite these obstacles, African Americans had considerable success mining in Treasure Hill in eastern Nevada from 1868 to 1870, noted as "probably the shortest, most intense mining rush in the history of the West."

In April 1869, a group of black miners, headed by William Hall and J.C. Mortimer, announced their discovery of a rich mining ledge in Treasure Hill and vowed that they would "supply (their) colored brethren of the low countries with mines as good as any a white man dare own."

Messrs. Hall and Mortimer incorporated the Elevator Mining Company of Treasure Hill, White Pine, and planned to issue 6,000 shares of stock at $100 each.

Treasure Hill was an economic advance for blacks and the area was home to several wealthy families: Samuel Wilcox, Daniel W. Cherry, John Maxwell, Sanford Venery, and Joseph Anderson.

After fires and poor prospects drove many residents out, Treasure Hill was left with only one black resident and only eight black residents in White Pine County.

Another mining district, the Comstock Mining District, was founded in 1859 and was once considered to be one of the richest gold and silver discoveries in history.

Blacks who had come to Virginia City in hopes of securing jobs in the industry would face discrimination; however, when their mettle was tested, most were resolute to become business owners. Although there is no documentation of a particular neighborhood or area where they lived, there is a scant record of the number of businesses they owned and operated.

One of the most successful businesses in Virginia City was the Boston Saloon. In 1864, William A.G. Brown founded the Boston Saloon only a year after arriving from Massachusetts and initially working as a bootblack and street polisher.

The Boston Saloon catered to the Comstock black population and served as a place to socialize and exchange information about business opportunities.

Archeologists and historians discovered the site of the Boston Saloon in 1997 and quickly determined that uncovering the history behind the specific characteristics of the saloon and its patrons would help reveal an important chapter of African American history in the early west.

Ranchers, frontiersmen, miners, business owners—all success stories during a time when success was discouraged or denied by ignorance and discrimination.

These are just a handful of the African Americans who made important contributions toward the early establishment of Nevada and the early West. Countless others have gone unnoticed or uncelebrated.

I commend Dr. Elmer Rusco of Reno for his tireless leadership in attempting to chronicle the contributions of African Americans in Nevada. It is due to his scholarship that much of Nevada's black history is preserved and presented.

I am honored to share these nuggets of Nevada history on behalf of the African Americans who helped establish the great Silver State, and in honor of Black History Month.

Mr. LAUTENBERG. Mr. President, for the past month, we have been celebrating Black History Month.

I believe that Black History Month is not only a time to recognize the contributions and achievements of African Americans to this Nation, but it is also a time to acknowledge both progress African Americans have made and the continued racial disparities in this Nation.

We usually celebrate African-American athletes, musicians, and actors. While their successes have been significant, I feel it is important that we acknowledge some of the great thinkers, inventors, and discoverers who were African American.

Some of the great pioneers include Dr. Charles Drew, who discovered the process for storing blood plasma; Garrett Morgan, who was the first to patent the traffic light and the gas mask; Granville T. Woods, who invented a train-to-station communication system; Astronaut Mae Jamison, the first African-American woman to enter space; Dr. Benjamin Carson, who successfully separated Siamese twins joined at the head; and Otis Boykin who invented the electronic control devise for guided missiles, IBM computers, and the pacemaker.

These great innovators and pioneers not only blazed the trail for other young African Americans to follow, but they also inspired and contributed to American development and progress. Therefore, these pioneers were not only great African Americans, they were quintessentially American.

During this time when our Nation's military is engaged in conflicts throughout the world, I would like to acknowledge the contributions that African Americans have made to every war in American history. Today, African Americans serve a vital part of the troops deployed throughout the world, including Afghanistan and Iraq. Almost 22 percent of the members of our enlisted armed services are African-American.

Despite all of these important accomplishments, African Americans have yet to enjoy true racial equality in this Nation. And, in the absence of real equality, African Americans are being denied the essence of what it means to be a first-class American.

Statistics are the clearest barometer for determining and measuring the quality of life in American society and far too many of them reveal that African Americans continue to lag behind whites in important ways.

In January 2004, the national unemployment rate was 5.6 percent overall but just 4.9 percent for white Americans while it was 10.5 percent—more than twice as high—for African Americans.

The national poverty rate rose, for the second straight year, to 12.1 percent in 2002, from 11.7 percent the year before. In 2002, the national poverty rate for African Americans was 22.7 percent.

In 1999, median income for African Americans was $31,778, compared to $51,244, for the median income of white families. According to one report, in 1995, average white households had $18,000 in financial wealth, while African-American households possessed a total of only $200.

These statistics show the depth of racial inequality in America. In addition to economic disparities, the incarceration rate of African Americans, especially African-American males, is deeply disturbing.

Today, black men make up 41 percent of the inmates in Federal, State, and local prisons, but black men are only 4 percent of all students in American institutions of higher education, according to the Journal of Blacks in Higher Education, autumn 2003.

> According to a recent study, while African Americans are 13 percent of the population of my home State of New Jersey, they represent a staggering 63 percent of New Jersey's 27,891 State prisoners in 2002.
>
> About 10 percent of all black men between 25 and 29 were incarcerated in 2002, compared with 1.2 percent of white men and 2.4 percent of Hispanic men

Not only are African Americans imprisoned in disproportionately high numbers, they are disproportionately the victims of crimes, as well. In New Jersey, out of 341 total homicides by guns in 2002, 138 of those victims were African American. In 2000, more than 6,200 African Americans were killed by guns. In the 15 to 24 age group, firearm homicides were responsible for more than 86 percent of homicides suffered by African Americans. In the next age group up, 25 to 34, firearm homicides were more than 81 percent of homicides. In both cases firearm homicides were the number one cause of death for African Americans. The homicide victim rate for African Americans, 20.5 per 100,000 persons, is over six times that of whites, 3.3 per 100,000 persons.

I highlight these statistics about our Nation and my home State because the problems confronting the African-American community are in New Jersey, and they are in every State. We all bear responsibility to acknowledge them, to confront them, to help remedy them.

There are no easy answers to the problems African Americans face, but as Theodore Roosevelt put it a century ago, "This country will not be a really good place for any of us to live in if it is not a really good place for all of us to live in." So while we take this opportunity to celebrate the wonderful accomplishments of African Americans through the ages, we should also rededicate ourselves to making America a really good place for all of us to live in.

Mr. LEVIN. Mr. President, every February nationwide we celebrate the diverse and monumental contributions African Americans have made not only for the advancement of African Americans but for all people of our Nation.

This celebratory month was made possible by Dr. Carter G. Woodson, an African-American studies scholar, who proposed such a recognition as a way of preserving African-American history. In keeping with the spirit and vision of Dr. Carter G. Woodson, I would like to pay tribute to one courageous woman, Sojourner Truth, who lived and died in Battle Creek, MI, and who played a significant role in addressing injustice and inequality in America. Sojourner Truth was a leader in the abolitionist movement and a powerful voice in the women's suffrage movement, playing a pivotal role in ensuring the right of all women to vote. Sojourner Truth changed the course of history.

Sojourner Truth was unable to read or write, but she mesmerized others by her speeches addressing the inhumanity and immorality of slavery. In 1851, Sojourner delivered her famous "Ain't I a Woman?" speech at the Women's Convention in Akron, OH. She spoke from her heart about the most troubling issues of her time. Her words on that day in Ohio are a testament to Sojourner Truth's convictions and are a part of the great legacy she left for us all.

I am proud and the people of my State are proud to claim this legendary leader as our own. In September 1999, we honored Sojourner Truth with the dedication of the Sojourner Truth Memorial Monument, which was unveiled in Battle Creek, MI.

Sojourner Truth was a political and social activist who personally conversed with President Abraham Lincoln on behalf of freed, unemployed slaves, and campaigned for Ulysses S. Grant in the Presidential election in 1868. Sojourner was a woman of great passion and determination who was spiritually motivated to preach and teach in ways that have had a profound and lasting imprint on American history.

Sojourner Truth was born Isabella Baumfree in 1797 in Ulster County, NY, and served as a slave under several different masters. She bore four children who survived infancy, and all except one daughter were sold into slavery. Baumfree became a freed slave in 1828 when New York State outlawed slavery. She remained in New York and instituted successful legal proceedings to secure the return of her son, Peter, who had been illegally sold to a slave-owner from Alabama.

In 1843, Baumfree changed her name to Sojourner Truth and dedicated her life to traveling and lecturing. She began her migration west in 1850, where she shared the stage with other abolitionist leaders such as Frederick Douglass. In October 1856, Truth came to Battle Creek, MI, with Quaker leader Henry Willis to speak at a Friends of Human Progress meeting. She eventually bought a house and settled in the area. Her antislavery, women's rights, and temperance arguments brought Battle Creek both regional and national recognition. Sojourner Truth died at her home in Battle Creek, November 26, 1883, having lived quite an extraordinary life.

I ask unanimous consent that the text of the Sojourner Truth "Ain't I a Woman" speech be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AIN'T I A WOMAN?

(By Sojourner Truth)

> Well, children, where there is so much racket there must be something out of kilter. I think that 'twixt the negroes of the South and the women at the North, all talking about rights, the white men will be in a fix pretty soon. But what's all this here talking about?
>
> That man over there says women need to be helped into carriages, and lifted over ditches and to have the best place everywhere. Nobody ever helps me into carriages, or over mud puddles, or gets me any best place!
>
> And Ain't I a Woman?
>
> Look at me! Look at my arm! I have ploughed, and planted, and gathered into barns, and no man could head me!
>
> And Ain't I a Woman?
>
> I could work as much and eat as much as a man—when I could get it—and bear the lash as well!
>
> And Ain't I a Woman?
>
> I have borne five children and seen most all sold off to slavery, and when I cried out with a mother's grief, none but Jesus heard me.
>
> And Ain't I a Woman?
>
> Then they talk about this thing in the head; what's this they call it? (member of the audience whispers 'intellect') That's it, honey.
>
> What's that got to do with women's right or negroes' rights? If my cup won't hold but a pint, and your holds a quart, wouldn't you be mean not to let me have my little half measure full?
>
> Then that little man in black there, he says women can't have as much rights as men, cause Christ wasn't a women?
>
> Where did your Christ come from? Where did your Christ come from? From God and a woman! Man had nothing to do with Him.
>
> If the first woman God ever made was strong enough to turn the world upside down all alone, these women together ought to be able to turn it back, and get it right side up again! And now they is asking to do it, the men better let them.
>
> Obliged to you for hearing me, and now old Sojourner ain't got nothing more to say.

FIRST ANNIVERSARY OF THE DEPARTMENT OF HOMELAND SECURITY

Ms. COLLINS. Mr. President, it has been nearly 2½ years since a monstrous act of war was committed against the United States. The American people responded to the attacks of September 11 with courage—courage that was evident that horrible day in the heroic actions of the passengers on Flight 93, in the firefighters and police officers at Ground Zero, and in the Pentagon employees who led their co-workers to safety through fire, smoke, and rubble.

That courage is evident today in the men and women of our Armed Forces on the front lines in the war on terrorism and in the ordinary Americans across the country who carry on normal, productive lives, refusing to be terrorized by terrorism.

President Bush and Congress responded by recognizing that this was a different kind of war with a different kind of enemy. Together we saw that this enemy used as a weapon the freedom and openness that Americans cherish but that it despises. We realized that our efforts to defend our Nation against this unconventional and unprincipled enemy were hampered by the lack of a unified strategy. To revisit a phrase used so often in the aftermath of September 11, we were not connecting the dots. We knew that turf battles, communication gaps, and interagency rivalries could no longer be tolerated. The stakes were too high.

The Department of Homeland Security is perhaps the most significant manifestation of the efforts undertaken by the President and Congress to create that unified strategy, to connect those dots, to coordinate this urgent new mission. The Senate Committee on Governmental Affairs, which I chair, played a key role in creating the department and is helping it to succeed.

My committee swiftly confirmed eight talented and dedicated individuals to lead the department, including Secretary Ridge himself. We have held hearings and investigations on a wide range of homeland security issues, from the President's plan to better coordinate intelligence analysis and sharing, to unraveling the tangled web of international terrorism financing, to protecting American agriculture from sabotage, to securing our seaports. We have approved bills to reform the department's multi-billion dollar State grant program, to provide cutting edge technology to first responders, to help the department attract talented individuals with sought-after skills, and to ensure accountability within DHS's financial system.

Now the department is 1 year old. And in the span of just 1 year, the Department of Homeland Security, under the leadership of Secretary Tom Ridge, has made significant, even remarkable, progress.

The melding of 22 Federal agencies and 180,000 employees has occurred with some of the resistance we all expected but without the widespread turf battles many predicted. The level of cooperation and coordination within this new department, though not perfect, is a vast improvement over the previous, ad hoc structure. The initial focus upon airport security has been expanded to include other vulnerabilities, such as seaport and border security. The department has distributed billions of dollars to our first responders—the local and State emergency personnel on the front lines—for the equipment, training and guidance to carry out their vital missions. And we will continue to work with Secretary Ridge to ensure that a steady stream of funding is available for those efforts.

Of course, challenges lie ahead for this new agency, for the President and for this Congress. As we change, so does our enemy. As we address vulnerabilities, he seeks out new ones to exploit. As we move to protect our most high-profile targets in our major cities, we must always be aware that our small cities, towns and countryside are at risk as well. As we improve security at our borders, we must strive to keep them open to friendship and to commerce. As we defend our Nation against future attacks, we must never sacrifice the liberty that makes our Nation so worthy of being defended.

In an address given February 23 before the Homeland Security Institute, Secretary Ridge offered a first anniversary assessment of his department's accomplishments. He charted an ambitious but necessary course for its second year, and he described his vision for the years ahead.

Secretary Ridge pledge that the department will pursue the development of new technologies to combat terrorism. Analysis tools and detection equipment are keys to thwarting nuclear, chemical and biological attacks before they occur. We must, as he said, button up our lab coats and push the scientific envelope by forging new partnerships among government, the private sector, national laboratories and university research centers.

The Secretary pledged to strengthen information sharing among the public and private sectors and to create standards for communications and equipment. "Interoperability" is a cumbersome word, but it is one we all should add to our vocabularies. Only by improving communications and ensuring that equipment works across jurisdictions will our front-line defenders and our first responders be able to better detect attacks and to coordinate their efforts during an emergency.

Secretary Ridge pledged to integrate our port and border security systems in a way that does not impede the flow of trade and travel across our borders, a critical goal for border States like Maine. The department's first year produced much progress: screeners, air marshals and state-of-the-art technology have made air travel safer. Traffic through our ports and our borders, which nearly ground to a halt after the attacks, is moving with speed, efficiency and greater security: more than 500 million people, 130 million motor vehicles, and millions more railcars and containers are processed at our borders every year. At the same time, container inspection has been expanded from our own shores to 16 key overseas ports.

Borders will always be a point of vulnerability for any free society. In partnership with the private sector and our international allies, we can reduce that vulnerability without unduly impeding the flow of legitimate commerce.

The Committee on Governmental Affairs stands ready to assist the Department as it begins its second year. We will continue to provide the department with the authority it needs to protect our Nation, and we will continue our aggressive oversight of its programs and activities. At times, we may disagree with the department, but our goal is always to improve the department and to recognize the extraordinary progress made by Secretary Ridge and Deputy Security Loy, their talented leadership team, and the dedicated men and women in the department who work each and every day to strengthen our security.

PRYOR RECESS APPOINTMENT

Mr. LEAHY. Mr. President, during the Presidents Day break in the Senate session, President Bush chose to act unilaterally to appoint William Pryor to the Eleventh Circuit Court of Appeals. Over the past few weeks, I have shared with the Senate three other divisive developments regarding judicial nominations: The Pickering recess appointment, the renomination of Claude Allen, and the theft of Democratic computer files by Republican staff. In spite of all those affronts, Senate Democrats cooperated in confirming two additional judicial nominees this year and continue to participate in hearings for judicial nominees. We have done so without the kinds of delays and obstruction that Republicans relied upon to stall more than 60 of President Clinton's judicial nominees.

Today, I report upon the President's appointment of William Pryor in what the Democratic leader has properly termed an abuse of power. It was an abuse of the limited constitutional authority of the executive to make necessary recess appointments only when the Senate is unavailable. This is unprecedented.

Actions like this show the American people that this White House will stop at nothing to try to turn the independent Federal judiciary into an arm of the Republican Party. Doing this further erodes the White House's credibility and the respect that the American people have for the courts.

This is an administration that promised to unite the American people but that has chosen time and again to act in ways that divides us, to disrespect the Senate and our representative democracy. This is an administration that squandered the goodwill and good faith that Democrats showed in the aftermath of September 11, 2001.

This is an administration that refused to acknowledge the strides we made in filling 100 judicial vacancies under Democratic Senate leadership during 17 difficult months in 2001 and 2002, while overcoming the September 11 attacks, the subsequent anthrax attacks and in spite of Republican mistreatment of scores of qualified, moderate judicial nominees of President Clinton.

This is an administration that has once again demonstrated its unilateralism, arrogance and intention to divide the American people and the Senate with its controversial judicial nominations. With this appointment, the President is acting—as he has in so many areas over the past 3 years—unilaterally, overextending and expanding his power, with disregard for past practice and the rule of law.

The recess appointment of Mr. Pryor threatens both the independence of the judiciary and the constitutional balance of power between the legislative and executive branches. We entrust to the stewardship of lifetime judges in our independent Federal judiciary the rights that all of us are guaranteed by our Constitution and laws. That is an awesome responsibility. Accordingly, the Constitution was designed so that it would only be extended after the President and the Senate agreed on the suitability of the nomination.

The President has chosen for the second time in as many months to circumvent this constitutional design.

I have sought in good faith to work with this administration for the last 3 years in filling judicial vacancies, including so many left open by Republican obstruction of President Clinton's qualified nominees. When chairman, I made sure that President Bush's nominees were not treated the way his predecessor's had been. They were treated much better, as I had promised.

Republicans had averaged only 37 confirmations a year while vacancies rose from 65 to 110 and circuit vacancies more than doubled from 16 to 33. Under Democratic leadership, we reversed those trends and opened the system to public accountability and debate by making home-State Senators' objections to proceeding public for the first time and debating and voting on nominations. We were able to confirm 100 judges in just 17 months and virtually doubled the Republican annual average with 72 confirmations in 2002, alone.

I have urged that we work together, that we cooperate, and that the President be what he promised the American people he would be during the last campaign—a uniter and not a divider. I have offered to consult and made sure we explained privately and in the public record why this President's most extreme and controversial nominations were unacceptable. Our efforts at reconciliation continue to be rebuffed.

Both these recess appointments are troubling. The President says that he wants judges who will "follow the law" and complains about what he calls "judicial activism." Yet, he has acted—with disregard for the constitutional balance of powers and the Senate's advice and consent authority—unilaterally to install on the Federal bench two nominees from whom the Senate withheld its consent precisely because they are seen by so many as likely to be judicial activists, who will insert their personal views in decisions and will not follow the law.

In the case of Mr. Pryor, he is among the most extreme and ideologically committed and opinionated nominees ever sent to the Senate. Mr. Pryor's nomination to a lifetime appointment on the Federal bench was opposed by every Democrat on the Senate Judiciary Committee after hearings and debate.

It was opposed on the Senate floor because he appears to have extreme—some might say, "radical"—ideas about what the Constitution should provide with regard to federalism, criminal justice and the death penalty, violence against women, the Americans with Disabilities Act, and the Government's ability to protect the environment on behalf of the American people. He has been a crusader for the federalist revolution. He has urged that Federal laws on behalf of the disabled, the aged, women, minorities, and the environment all be limited.

His comments have revealed insensitivity to the barriers that disadvantaged persons and members of minority groups and women continue to face in the criminal justice system. He has testified before Congress in support of dropping a crucial part of the Voting Rights Act and has repeatedly described the Supreme Court and certain justices in overtly political terms. He received the lowest possible qualified rating from the American Bar Association—a partial rating of "Not Qualified"—underscoring his unfitness for the bench.

In sum, Mr. Pryor has demonstrated that he is committed to an ideological agenda that puts corporate interests over the public's interests and that he would roll back the hard-won rights of consumers, minorities, women, and others.

Mr. Pryor's nomination was considered in committee and on the Senate floor. The Senate debated his nomination, and had enough concerns about his fitness for a lifetime appointment that two motions to end debate on his nomination failed. That is the constitutional right of the Senate.

But President Bush has decided to use the recess appointment clause of the Constitution to end-run the Senate. As far as I know, this power has never been used this way before this President. Of course, this is the first President in our Nation's history to renominate someone rejected after hearings, debate and a fair vote by the Senate Judiciary Committee. He did that twice. He has now twice overridden the Senate's withholding of its consent after hearings and debate on judicial nominees. This demonstrates contempt for the Constitution and the Senate.

The New York Times opined over the weekend about "President Bush . . . stacking the courts with right-wing judges of dubious judicial qualifications" and even the Washington Post editorialized that recess appointments of judges "should never be used to mint judges who cannot be confirmed on their merits."

The recess appointments clause of the Constitution was not intended to change the balance of power between the Senate and the President that is established as part of the fundamental set of checks and balances in our government. Indeed, the appointments clause in the Constitution requires the consent of the Senate as just such a fundamental check on the executive. This was meant to protect against the "aggrandizement of one branch at the expense of the other."

The clause was debated at the Constitutional Convention, and the final language—with shared power—is intended to be a check upon favoritism of the President and prevent the appointment of unfit characters.

The President's claimed power to make a unilateral appointment of a nominee, Mr. Pryor, who the Senate considered and effectively rejected, slights the Framers' deliberate and considered decision to share the appointing power equally between the President and the Senate.

This President's appointment of Mr. Pryor to the Eleventh Circuit—after he was considered by the full Senate—seems irreconcilable with the original purpose of the appointments and recess appointment clauses in the Constitution. Perhaps that explains why the Pryor and Pickering recess appointments by this President are the first times in our centuries-long history that the recess appointment power has been so abused. No other President so acted. No other President sought such unilateral authority without balance from the Senate.

The President chose to sully the Martin Luther King Jr. weekend with his unilateral appointment of Judge Pickering. Sadly, he chose the Presidents Day congressional break unilaterally to appoint Mr. Pryor. We resumed our proceedings in the Senate this week with the traditional reading of President George Washington's farewell address. The Senate proceeds in this way every year. I urge this President and those in his administration to recall the wisdom of our first President. George Washington instructs us on the importance of not abusing the power each branch is given by the Constitution. He urges the three branches of our government to "confine themselves within their respective constitutional spheres."

He said more than 200 years ago words that ring true to this day:

> The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism. . . . The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositaries, and constituting each the guardian of the public weal against invasions by the others, has been evinced by experiments ancient and modern. . . . To preserve them must be as necessary as to institute them.

The current occupant of the White House might do well to take this wisdom to heart and respect the constitutional allocations of shared authority that have protected our nation and our rights for more than 200 years so brilliantly and effectively.

The recess appointments power was intended as a means to fill vacancies when the Senate was not available to give its consent; it was intended to ensure effective functioning of the government when the Senate adjourned for months at a time. It was never intended as an alternative means of appointment by the executive when the President chose to serve some partisan short-term goal by simply overriding the will of the Senate especially with respect to our third branch of government, the Federal judiciary.

This administration and its partisan enablers in the Senate have again demonstrated their disdain for the constitutional system of checks and balances and for shared power among the three branches of our Federal Government. By such actions, this administration shows that it seeks all power consolidated in the executive and that it wants a Judiciary that will serve its narrow ideological purposes.

Such overreaching by this administration hurts the courts and the country. President Bush and his partisans have disrespected the Senate, its constitutional role of advice and consent on lifetime appointments to the Federal courts, the Federal courts, and the representative democracy that is so important to the American people. It is indicative of the confrontational and "by any means necessary" attitude that underlies so many actions by this administration and that created the atmosphere on this Committee in which Republican staff felt justified in spying upon their counterparts and stealing computer files.

After 8 years in office in which more than 60 judicial nominees had been stalled from consideration by Republican partisans, President Clinton made his one and only recess appointment of a judge. Contrast that appointment with the actions of the current President.

President Clinton acted to bring diversity to the Fourth Circuit, the last Federal circuit court not to have had an African-American member. Judge Roger Gregory was subsequently approved by the Senate for a lifetime appointment under Democratic Senate leadership in the summer of 2001. This was made possible by the steadfast support of Senator John Warner, the senior Senator from Virginia, and I have commended my friend for his actions in this regard. When Judge Gregory's nomination was finally considered by the Senate it passed by consensus and with only one negative vote. Senator LOTT explained his vote as a protest vote against President Clinton's use of the recess appointment power. How ironic then that Judge Pickering now serves based on President Bush's abuse of that power.

Judge Gregory was one of scores of highly qualified judicial nominations stalled under Republican Senate leadership. Indeed, Judge Gregory and so many others were prevented from having a hearing, from ever being considered by the Judiciary Committee and from ever being considered by the Senate. Sadly, others, such as the nominations of Bonnie Campbell, Christine Arguello, Allen Snyder, Kent Markus, Kathleen McCree Lewis, Jorge Rangel, Carlos Moreno, and so many more, have not been reinstated and considered. But President Clinton did not abuse his recess appointment power. Instead, his appointment of Judge Gregory was in keeping with traditional practices and his use of that power with respect to judicial appointments was limited to that one occasion.

By contrast, the current President has made two circuit recess appointments in 2 months and his White House threatens that more are on the way: These appointments are from among the most controversial and contentious nominations this administration has sent the Senate. After reviewing their records and debating at length, the Senate withheld its consent. The reasons for opposing these nominations were discussed in hearings and open debate during which the case was made that these nominees were among the handful that a significant number of Senators determined had not demonstrated their fairness and impartiality to serve as judges.

Contrast Roger Gregory's recess appointment, which fit squarely in the tradition of President's exercising such authority in order to expand civil rights and to bring diversity to the courts, with that of Mr. PRYOR. Four of the five first African American appellate judges were recess-appointed to their first Article III position, including Judge William Hastie in 1949, Judge Thurgood Marshall in 1961, Judge Spottswood Robinson in 1961, and Judge Leon Higginbotham in 1964.

The recent appointments of Judge Pickering and Mr. Pryor stand in sharp contrast to these outstanding nominees and the public purposes served by their appointments.

The nominations of Judge Pickering and Mr. Pryor were opposed by individuals, organizations and editorial pages across the nation. Organizations and individuals concerned about justice before the Federal courts, such as Log Cabin Republicans, the Leadership Conference on Civil Rights, and many others opposed the Pryor nomination. The opposition extended to include organizations that rarely take positions on nominations but felt so strongly about Mr. Pryor that they were compelled to write, such as the National Senior Citizens Law Center, Anti-Defamation League, and Sierra Club. Rather than bring people together and move the country forward, this President's recess appointment is another example of unnecessarily divisive action.

Further, the legality of this use of the recess appointments power, without precedent and during such a short Senate break, is itself now a source of division and dispute. Recent Attorneys General have all opined that a recess of 10 days or less does not justify the President's use of the recess appointments power and would be considered unconstitutional. Starting in 1921, Attorney General Daugherty advised the President that he could make recess appointments during a mid-session adjournment of approximately four weeks but that 2 days was not sufficient "nor do I think an adjournment for 5 or even 10 days can be said to constitute the recess intended by the Constitution." More recently, a memo from the Reagan administration Justice Department concluded: "Under no circumstances should the President attempt to make recess appointment during intrasession recess of less than 10 days." This year, a Federalist Society paper noted the dubious constitutionality of appointments during short intrasession breaks.

We will not resolve the question of legality of these recess appointments here today, but we can all anticipate challenges to rulings in which Mr. Pryor participates. Thus, we can expect this audacious action by the administration will serve to spawn litigation and uncertainty for months and years to come.

I thank the Democratic leader for the statements he made this week in connection with the abuse of the recess appointment power by this President. I remind the Senate that a few years ago when President Clinton used his recess appointment power with regard to a short-term executive appointment of James Hormel to serve as ambassador to Luxembourg, Senator INHOFE responded by saying that President Clinton had "shown contempt for Congress and the Constitution" and declared that he would place "holds on every single Presidential nomination." Republicans continued to block nominations until President Clinton agreed to make recess appointments only after Congress was notified in advance. On November 10, 1999, 17 Republican Senators sent a letter to President Clinton telling him that if he violated the agreement, they would "put holds for the remaining of the term of your Presidency on all of the judicial nominees."

In November 1999, President Clinton sent a list of 13 positions to the Senate that he planned to fill through recess appointments. In response, Senator INHOFE denounced 5 of the 13 civilian nominees with a threat that if they went forward, he would personally place a hold on every one of President Clinton's judicial nominees for the remainder of his term. That led to more delays and to the need for a floor vote on a motion to proceed to consider the next judicial nomination, in order to override Republican objections.

When President Clinton appointed Judge Gregory at the end of 2000, Senator INHOFE called it "outrageously inappropriate for any President to fill a federal judgeship through a recess appointment in a deliberate way to bypass the Senate." When the Gregory nomination was confirmed with near unanimity under Senate Democratic leadership in 2001, Senator LOTT's spokesperson indicated that Senator LOTT's solitary opposition was to underscore his position that "any appointment of federal judges during a recess should be opposed."

PROGRESS OF FILLING JUDICIAL VACANCIES

The American people understand that Democrats in the Senate have shown great restraint and extensive cooperation in the confirmation of 171 of this President's judicial nominations. Republicans are loath to acknowledge that cooperation but with it this President has been achieving record numbers of judicial confirmations and we have reduced judicial vacancies to the lowest level in decades. Despite the unprecedented political upheavals and the aftermath of September 11, as of today, the Senate has already confirmed more judges than were confirmed during President Reagan's entire first 4-year term. Indeed, at this point in President Clinton's last term, only 140 judges had been confirmed, as compared to the 171 confirmed and two recess appointed by this President.

The President's recent actions are unnecessarily divisive and harmful. We have already achieved much. If the President would work with the Senate, we could achieve so much more.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

One such crime occurred in Tillamook, a small town on the Oregon coast. On February 11, 1999, James Ash, 48, and Kevin Hawthorn, 25, were charged with intimidation and assault for allegedly beating a man because of his sexual orientation.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

ADDITIONAL STATEMENTS

IN MEMORY OF MARY FRANCES DIAZ

● Mr. CARPER. Mr. President, I would like to set aside a moment to reflect on the life of Ms. Mary Frances Diaz upon her passing in February. Mary was a woman who made a remarkable contribution toward improving the lives of refugee women, children, and adolescents around the world. She was a truly selfless woman who dedicated her life to others.

Mary was born in Newport News, VA. She spent her childhood in Pottstown, PA, before going to Brown University, where she graduated with a major in international relations in 1982. After working for several years at WPVI television news station in Philadelphia, she returned to school and received a master's degree in international education from Harvard University in 1988.

But Mary's passion and life mission was refugees. While she was still at Harvard she began working for Catholic Charities in Boston, and upon graduation became director of refugee and immigration services there.

In 1994, at the age of 33, Mary became executive director of the Women's Commission for Refugee Women and Children, an organization that helps some of the most vulnerable people on Earth. For 10 years, Mary traveled to the world's trouble spots, dodging minefields, tsetse flies, and wars on her mission to help refugee women and children reclaim their lives. She went on fact-finding missions to places such as Serbia, Angola, Rwanda, Nepal, Pakistan, Haiti, and Colombia to talk to uprooted women and children firsthand.

Back in the United States and in Geneva, she would plead their cases before the United Nations and lobby lawmakers and relief agencies to improve their conditions. She also fought for the rights of people claiming asylum in the United States.

Her advocacy led to concrete results. After she reported on the situation in Bosnia, the Clinton administration provided a fund to help refugee women rebuild their lives. During a visit to Tanzania, she got the rules changed to allow Burundian women as well as men to distribute food to fellow refugees. As a result, many more women and their children got their food rations. After a visit to Afghanistan in 2002, Mary initiated a fund for programs for Afghan women.

Under Mary's leadership, the Women's Commission grew from a small organization with a staff of 4 and a budget of $425,000 to one with more than 20 staff and a budget of $4 million. She believed the international community had a responsibility to help women and children who had been uprooted by war and persecution, and in her quiet, elegant way, used her eloquence and strong persuasive powers to persuade policy makers to change policies and programs.

Mary, who was 43 years old, died of pancreatic cancer. She leaves behind her longtime partner, Tom Ferguson of New York City; her mother, Bertha Diaz of Pottstown, PA; two brothers, Dr. Philip Diaz of Columbus, OH, and Dr. Joseph Diaz of Barrington, RI; and two sisters, Theresa Diaz of Reading, PA, and Bernadette Diaz of Oak Park, IL. She also leaves behind innumerable friends and colleagues.

Mary's legacy will live on in the lives of the refugees around the world whose lives she helped improve and in the work of the Women's Commission for Refugee Women and Children. I rise today to commemorate Mary Diaz, to celebrate her too-short life and to offer her family, friends, and colleagues our support. She will be sorely missed.●

IN HONOR OF RITA DOLAN SELLAR

● Mr. REED. Mr. President, on Tuesday, February 24, 2004, an extraordinary resident of Newport, RI celebrated a monumental achievement, her 100th birthday.

Rita Dolan Sellar has led a full and exceptional life. She was born February 24, 1904, to Clarence Dolan and Rosalie Brown Dolan. She had two sisters, Rose and Alexandra.

As a young lady, Rita attended Foxcroft School in Virginia, where she is now the oldest living alumna. Later she married Norrie Sellar, and they traveled extensively throughout the world.

Rita and Norrie had five children: Daphne, Norrie, Rosalie, Owen, and Alexandra.

Rita was an accomplished and bold horsewoman, who in the 1930s founded and played on the first women's polo team, in Aiken, SC, and rode in fox hunts, steeplechase races, and jumping contests.

She was also an active sailor, who kept sailboats in Newport Harbor, and often sailed with her sister—one of America's first and most capable women sailors.

Her home in Newport, "Seaweed," has hosted five generations of the family, innumerable cheerful parties and dinners, and an extensive array of friends, cousins, in-laws, and visitors. She is the oldest member of Newport's Spouting Rock Beach Association.

In addition to her 5 children, she has 15 grandchildren and 13 great-grandchildren, as well as 3 step-grandchildren and 6 step-great-grandchildren, of which she is the beloved, affectionate, and patient matriarch.

Rita Dolan Sellar has led a successful and remarkable life as evident by her many achievements and, more importantly, her large, loving and successful family which includes former Rhode Island Attorney General Sheldon Whitehouse.

I would like to congratulate Rita on her 100th birthday. This extraordinary moment is not about the number of years she has lived but the accomplishments she has made during those years and the excitement, pride, love, and joy she has brought to her many family and friends through her life. I wish Rita a happy birthday and many more.●

MEASURES REFERRED

The Committee on Energy and Natural Resources was discharged from further consideration of the following measure which was referred to the Committee on Commerce, Science, and Transportation:

H.R. 2584. A bill to provide for the conveyance to the Utrok Atoll local government of a decommissioned national Oceanic and Atmospheric Administration ship.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 2137. A bill to authorize the Secretary of Health and Human Services to promulgate regulations for the reimportation of prescription drugs, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. LAUTENBERG (for himself and Mr. CORZINE):

S. 2142. A bill to authorize appropriations for the New Jersey Coastal Heritage Trail Route, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DURBIN:

S. 2143. A bill to extend trade adjustment assistance to service workers; to the Committee on Finance.

By Mr. LUGAR:

S. 2144. A bill to authorize appropriations for the Department of State and international broadcasting activities for fiscal year 2005, for the Peace Corps for fiscal year 2005 through 2007, for foreign assistance programs for fiscal year 2005, and for other purposes; to the Committee on Foreign Relations.

By Mr. BURNS (for himself, Mr. WYDEN, and Mrs. BOXER):

S. 2145. A bill to regulate the unauthorized installation of computer software, to require clear disclosure to computer users of certain computer software features that may pose a threat to user privacy, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. LANDRIEU (for herself, Mr. BAYH, Mr. BREAUX, Mr. BURNS, Mr. CHAFEE, Mr. CHAMBLISS, Mr. COCHRAN, Mr. DURBIN, Mr. FEINGOLD, Mr. JOHNSON, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MILLER, Mrs. MURRAY, Mr. NELSON of Florida, Mr. PRYOR, Mr. REID, Mr. SANTORUM, Ms. STABENOW, Mr. STEVENS, Mr. VOINOVICH, and Mr. WARNER):

S. 2146. A bill to require the Secretary of the Treasury to mint coins in commemoration of the contributions of Dr. Martin Luther King, Jr., to the United States; to the Committee on Banking, Housing, and Urban Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. COLLINS (for herself and Mr. REED):

S. Res. 306. A resolution designating March 2, 2004, as "Read Across America Day"; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 68

At the request of Mr. INOUYE, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 68, a bill to amend title 38, United States Code, to improve benefits for Filipino veterans of World War II, and for other purposes.

S. 604

At the request of Mr. BAYH, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 604, a bill to amend part D of title IV of the Social Security Act to provide grants to promote responsible fatherhood, and for other purposes.

S. 683

At the request of Mr. FEINGOLD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 683, a bill to amend the Family and Medical Leave Act of 1993 to provide entitlement to leave to eligible employees whose spouse, son, daughter, or parent is a member of the Armed Forces serving on active duty in support of a contingency operation or notified of an impending call or order to active duty in support of a contingency operation.

S. 983

At the request of Mr. CHAFEE, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 983, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 1129

At the request of Mrs. FEINSTEIN, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1129, a bill to provide for the protection of unaccompanied alien children, and for other purposes.

S. 1292

At the request of Ms. LANDRIEU, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 1292, a bill to establish a servitude and emancipation archival research clearinghouse in the National Archives.

S. 1485

At the request of Mr. KENNEDY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1485, a bill to amend the Fair Labor Standards Act of 1938 to protect the rights of employees to receive overtime compensation.

S. 1510

At the request of Mr. LEAHY, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 1510, a bill to amend the Immigration and Nationality Act to provide a mechanism for United States citizens and lawful permanent residents to sponsor their permanent partners for residence in the United States, and for other purposes.

S. 1516

At the request of Mr. DOMENICI, the names of the Senator from Montana (Mr. BAUCUS) and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. 1516, a bill to further the purposes of the Reclamation Projects Authorization and Adjustment Act of 1992 by directing the Secretary of the Interior, acting through the commissioner of Reclamation, to carry out an assessment and demonstration program to assess potential increases in water availability for Bureau of Reclamation projects and other uses through control of salt cedar and Russian olive.

S. 1687

At the request of Mr. BINGAMAN, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1687, a bill to direct the Secretary of the Interior to conduct a study on the preservation and interpretation of the historic sites of the Manhattan Project for potential inclusion in the National Park System.

S. 1709

At the request of Mr. CRAIG, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 1709, a bill to amend the USA PATRIOT ACT to place reasonable limitations on the use of surveillance and the issuance of search warrants, and for other purposes.

S. 1843

At the request of Ms. SNOWE, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1843, a bill to amend titles XIX and XXI of the Social Security Act to provide for FamilyCare coverage for parents of enrolled children, and for other purposes.

S.J. RES. 28

At the request of Mr. CAMPBELL, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Virginia (Mr. ALLEN) were added as cosponsors of S.J. Res. 28, a joint resolution recognizing the 60th anniversary of the Allied landing at Normandy during World War II.

S. CON. RES. 8

At the request of Ms. COLLINS, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. Con. Res. 8, a concurrent resolution designating the second week in May each year as "National Visiting Nurse Association Week".

S. RES. 269

At the request of Mr. LEVIN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. Res. 269, a resolution urging the Government of Canada to end the commercial seal hunt that opened on November 15, 2003.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LAUTENBERG (for himself and Mr. CORZINE):

S. 2142. A bill to authorize appropriations for the New Jersey Coastal Heritage Trail Route, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. LAUTENBERG. Mr. President, I rise to introduce legislation to reauthorize the New Jersey Coastal Heritage Trail Route on behalf of myself and Senator CORZINE. This bill makes a number of important changes to legislation that was enacted in 1988 and reauthorized in 1994 and 1999.

The original legislation, which I cosponsored, called for a route that links nationally significant natural and cultural sites associated with the coastal area of New Jersey. The New Jersey Coastal Heritage Trail runs south for nearly 300 miles from Perth Amboy along the Atlantic Ocean to Cape May, then west along the Delaware Bay to the Delaware Memorial Bridge. Along the way are sites like the Barnegat Bay Decoy and Baymen's Museum, the Cape May Migratory Bird Refuge, and the Sandy Hook Unit of the Gateway National Recreation Area.

Five theme trails, of which three are open, are planned to showcase different aspects of New Jersey coastal life: maritime history, coastal habitats, wildlife migration, historic settlements, and relaxation/inspiration. The Trail is operated by a partnership that includes the National Park Service, the State of New Jersey, local communities, and private non-profit organizations. Fifty percent of the funding for the Trail is provided from non-federal funds.

My legislation raises the funding authorization for the New Jersey Coastal Heritage Trail to $8 million, doubling the current authorization of $4 million. The legislation also: extends the deadline for project completion by 5 years to May 4, 2009; allows funds to be used for grants in addition to technical assistance; and requires the National Park Service to prepare a strategic plan for the long-term maintenance of this coastal route. A companion bill, H.R. 3070, has been introduced in the House by Congressman LOBIONDO, with cosponsorship by the entire New Jersey delegation.

New Jersey has a long shoreline of which we are extremely proud. This bill will provide the necessary resources and strategic planning to ensure that the New Jersey Coastal Heritage Trail fulfills its promise to the people of my home State and to visitors from around the world. The additional funding authorized in this bill will support: 1. Creation of a long-term strategic plan on the roles of the National Park Service and other Trail partners; 2. Development of two remaining theme trails (historic settlements and relaxation/inspiration); 3. Development of interpretive media such as videos, brochures and exhibits; 4. Technical assistance for the State park system, wildlife management, and historic and cultural sites; 5. Construction of a New Jersey State Park Service facility on the trail at Double Trouble State Park in the Barnegat Bay Region; 6. Continuing work on a welcome center at Sandy Hook; and 7. Construction of a welcome center in the Absecon region.

I urge my colleagues to support this legislation, which is needed to assure that funding for this valuable undertaking will continue to be authorized after May 2004.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2142

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NEW JERSEY COASTAL HERITAGE TRAIL ROUTE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 6 of Public Law 100–515 (16 U.S.C. 1244 note) is amended—

(1) in subsection (b)(1), by striking "$4,000,000" and inserting "$8,000,000"; and

(2) in subsection (c), by striking "10" and inserting "15".

(b) GRANTS.—Public Law 100–515 (16 U.S.C. 1244 note) is amended—

(1) in section 4, by inserting "and, subject to the availability of appropriations, grants for," after "technical assistance in"; and

(2) in section 6(b)(2) by inserting "and grants" after "technical assistance".

(c) STRATEGIC PLAN.—Public Law 100–515 (16 U.S.C. 1244 note) is amended by adding at the end the following:

"SEC. 8. STRATEGIC PLAN.

"(a) IN GENERAL—Not later than 4 years after the date of the enactment of this section, the Secretary shall prepare a strategic plan for the route.

"(b) CONTENTS.—The strategic plan prepared under subsection (a) shall describe—

"(1) opportunities to increase participation by national and local private and public interests in the planning, development, and administration of the route; and

"(2) organizational options for sustaining the route.".

By Mr. DURBIN:

S. 2143. A bill to extend trade adjustment assistance to service workers; to the Committee on Finance.

Mr. DURBIN. Mr. President, today, I am introducing the Service Workers Fairness Act to provide aid for American workers facing a disturbing new trend: the offshore outsourcing of service jobs.

Congress first established Trade Adjustment Assistance (TAA) in 1962, in recognition that international trade can harm our workers. The program was overhauled in 1974, and since then, it has offered extended unemployment compensation benefits and job training for workers who lose their manufacturing jobs due to import competition.

Over the past decade, Congress has shown its willingness to adapt to increasing globalization by modernizing TAA. For example, in 1993, with the adoption of the North American Free Trade Agreement, we added a provision to offer those same unemployment and job training benefits to workers whose manufacturing jobs were relocated to Canada or Mexico. Most recently, when the program was reauthorized in 2002, we expanded eligibility once again. The program now includes workers whose manufacturing jobs have been relocated to certain countries other than Canada or Mexico. It also now provides assistance to certain secondary workers who have lost their manufacturing jobs as suppliers or downstream producers to firms that have been affected by trade or plant relocation.

Despite these changes, one factor has remained constant: Trade Adjustment Assistance is only available to workers in the manufacturing sector. If a service sector employee's job has been outsourced to a foreign country, he or she is not eligible for TAA because the performance of services is not considered production of an "article," as required by the law.

I can understand why the law was written that way—until recently, we believed that our service jobs were not put at risk by international trade. But now, unfortunately, we know this is no longer the case. Hundreds of thousands of service sector jobs already have been outsourced to other countries, including China and India. A report by Forrester Research predicts that 3.3 million service jobs will be outsourced by the year 2015—and some economists believe that forecast is conservative. Last fall, the Fisher Center for Real Estate and Urban Economics at the

University of California, Berkeley, estimated that more than 14 million service jobs are "at risk to outsourcing"—that is 11 percent of all jobs.

That is the outer limit of service jobs at risk, but it demonstrates that this issue will reach far beyond the software programmers and call centers that are receiving attention today. The Fisher Center report notes that the jobs being created in India and elsewhere also include the following service sectors: geographic information systems services for insurance companies; stock market research for financial firms; medical transcription services; legal online database research; data analysis for consulting firms; and payroll and other back-office related activities.

In fact, the offshore outsourcing of service jobs likely will grow at a much faster rate than the manufacturing outsourcing we have witnessed over the past two decades because there is an enormous cost differential in the wages of well-educated workers here and abroad. For example, the hourly wage for telephone operators in the United States is $12.57, while it is less than $1.00 in India. The hourly wage for legal assistants and paralegals in the United States is $17.86, compared to $6.00 to $8.00 in India. Accountants in the United States earn $23.35 per hour, while those in India earn $6.00 to $15.00 per hour. Finally, financial researchers and analysts in the United States earn $33.00 to $35.00 per hour, while those in India earn only $6.00 to $15.00 per hour.

The offshore outsourcing of service jobs already is having an impact on our economy. For example, it may be one reason that the recent increase in the unemployment rate is larger for highly-educated workers. From 2000 to 2003, total unemployment for workers with at least a bachelor's degree increased by 95 percent, compared to a 40 percent increase for workers with a high school diploma or less. Statistics for long-term unemployment—representing workers who have been unemployed for more than six months—are similar. From 2000 to 2003, long term unemployment for workers with at least a bachelor's degree increased by 299 percent, compared to an increase of 156 percent for workers with a high school diploma or less.

The offshore outsourcing of service jobs also may help explain why the few jobs that have been created since the recession officially ended in November 2001 have been primarily in low-paying sectors.

The question before us today is: How should Congress respond to this new facet of globalization and how can we aid these hundreds of thousands—and eventually millions—of service workers whose jobs have been outsourced?

Although there are broader trade issues that we should examine over time, there is one thing we can and should do now, and that is extend Trade Adjustment Assistance to these service employees. The service-providing sector provides more than 86 million jobs and accounts for more than half of our total GDP. We must extend the same helping hand to these men and women when their jobs are outsourced as we do to workers in the manufacturing sector.

Trade Adjustment Assistance not only provides additional unemployment compensation benefits. Just as importantly, it provides training to help workers find jobs at a similar or higher skill level, including classroom training, on-the-job training, and customized employer-based training. TAA also provides reemployment services, including employment counseling, case assessment, job development, and supportive services.

The bill I am introducing today, the Service Workers Fairness Act, would provide TAA eligibility to laid-off service workers whose firm shifts the work for the same or directly competitive services to a foreign country. It also would cover contract service workers whose contracts have been shifted overseas. Finally, my bill would extend the current provisions for adversely affected secondary workers to those who provide services.

Last week, Federal Reserve Chairman Alan Greenspan noted that "rigorous education and ongoing training" are critical in ensuring that as many Americans as possible can benefit from increased globalization.

My bill would provide this education and training to service workers whose jobs are outsourced abroad. I urge my colleagues to join me in support of this important legislation.

By Mr. BURNS (for himself, Mr. WYDEN, and Mrs. BOXER):

S. 2145. A bill to regulate the unauthorized installation of computer software, to require clear disclosure to computer users of certain computer software features that may pose a threat to user privacy, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. BURNS. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2145

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Software Principles Yielding Better Levels of Consumer Knowledge Act" or the "SPY BLOCK Act".

SEC. 2. UNAUTHORIZED INSTALLATION OF COMPUTER SOFTWARE.

(a) NOTICE, CHOICE, AND UNINSTALL PROCEDURES.—It is unlawful for any person who is not the user of a protected computer to install computer software on that computer, or to authorize, permit, or cause the installation of computer software on that computer, unless—

(1) the user of the computer has received notice that satisfies the requirements of section 3;

(2) the user of the computer has granted consent that satisfies the requirements of section 3; and

(3) the computer software's uninstall procedures satisfy the requirements of section 3.

(b) RED HERRING PROHIBITION.—It is unlawful for any person who is not the user of a protected computer to install computer software on that computer, or to authorize, permit, or cause the installation of computer software on that computer, if the design or operation of the computer software is intended, or may reasonably be expected, to confuse or mislead the user of the computer concerning the identity of the person or service responsible for the functions performed or content displayed by such computer software.

SEC. 3. NOTICE, CONSENT, AND UNINSTALL REQUIREMENTS.

(a) NOTICE.—For purposes of section 2(a)(1), notice to the user of a computer shall—

(1) include a clear notification, displayed on the screen until the user either grants or denies consent to installation, of the name and general nature of the computer software that will be installed if the user grants consent; and

(2) include a separate disclosure, with respect to each information collection, advertising, distributed computing, and settings modification feature contained in the computer software, that—

(A) remains displayed on the screen until the user either grants or denies consent to that feature;

(B) in the case of an information collection feature, provides a clear description of—

(i) the type of personal or network information to be collected and transmitted by the computer software; and

(ii) the purpose for which the personal or network information is to be collected, transmitted, and used;

(C) in the case of an advertising feature, provides—

(i) a representative example of the type of advertisement that may be delivered by the computer software;

(ii) a clear description of—

(I) the estimated frequency with which each type of advertisement may be delivered; or

(II) the factors on which the frequency will depend; and

(iii) a clear description of how the user can distinguish each type of advertisement that the computer software delivers from advertisements generated by other software, Internet website operators, or services;

(D) in the case of a distributed computing feature, provides a clear description of—

(i) the types of information or messages the computer software will cause the computer to transmit;

(ii)(I) the estimated frequency with which the computer software will cause the computer to transmit such messages or information; or

(II) the factors on which the frequency will depend;

(iii) the estimated volume of such information or messages, and the likely impact, if any, on the processing or communications capacity of the user's computer; and

(iv) the nature, volume, and likely impact on the computer's processing capacity of any computational or processing tasks the computer software will cause the computer to perform in order to generate the information or messages the computer software will cause the computer to transmit;

(E) in the case of a settings modification feature, provides a clear description of the nature of the modification, its function, and any collateral effects the modification may produce; and

(F) provides a clear description of procedures the user may follow to turn off such feature or uninstall the computer software.

(b) CONSENT.—For purposes of section 2(a)(2), consent requires—

(1) consent by the user of the computer to the installation of the computer software; and

(2) separate affirmative consent by the user of the computer to each information collection feature, advertising feature, distributed computing feature, and settings modification feature contained in the computer software.

(c) UNINSTALL PROCEDURES.—For purposes of section 2(a)(3), computer software shall—

(1) appear in the "Add/Remove Programs" menu or any similar feature, if any, provided by each operating system with which the computer software functions;

(2) be capable of being removed completely using the normal procedures provided by each operating system with which the computer software functions for removing computer software; and

(3) in the case of computer software with an advertising feature, include an easily identifiable link clearly associated with each advertisement that the software causes to be displayed, such that selection of the link by the user of the computer generates an onscreen window that informs the user about how to turn off the advertising feature or uninstall the computer software.

SEC. 4. UNAUTHORIZED USE OF CERTAIN COMPUTER SOFTWARE.

It is unlawful for any person who is not the user of a protected computer to use an information collection, advertising, distributed computing, or settings modification feature of computer software installed on that computer, if—

(1) the computer software was installed in violation of section 2;

(2) the use in question falls outside the scope of what was described to the user of the computer in the notice provided pursuant to section 3(a); or

(3) in the case of an information collection feature, the person using the feature fails to establish and maintain reasonable procedures to protect the security and integrity of personal information so collected.

SEC. 5. EXCEPTIONS.

(a) PREINSTALLED SOFTWARE.—A person who installs, or authorizes, permits, or causes the installation of, computer software on a protected computer before the first retail sale of the computer shall be deemed to be in compliance with this Act if the user of the computer receives notice that would satisfy section 3(a)(2) and grants consent that would satisfy section 3(b)(2) prior to—

(1) the initial collection of personal or network information, in the case of any information collection feature contained in the computer software;

(2) the initial generation of an advertisement on the computer, in the case of any advertising feature contained in the computer software;

(3) the initial transmission of information or messages, in the case of any distributed computing feature contained in the computer software; and

(4) the initial modification of user settings, in the case of any settings modification feature.

(b) OTHER EXCEPTIONS.—Sections 3(a)(2), 3(b)(2), and 4 do not apply to any feature of computer software that is reasonably needed to—

(1) provide capability for general purpose online browsing, electronic mail, or instant messaging, or for any optional function that is directly related to such capability and that the user knowingly chooses to use;

(2) determine whether or not the user of the computer is licensed or authorized to use the computer software; and

(3) provide technical support for the use of the computer software by the user of the computer.

(c) PASSIVE TRANSMISSION, HOSTING, OR LINK.—For purposes of this Act, a person shall not be deemed to have installed computer software, or authorized, permitted, or caused the installation of computer software, on a computer solely because that person provided—

(1) the Internet connection or other transmission capability through which the software was delivered to the computer for installation;

(2) the storage or hosting, at the direction of another person and without selecting the content to be stored or hosted, of the software or of an Internet website through which the software was made available for installation; or

(3) a link or reference to an Internet website the content of which was selected and controlled by another person, and through which the computer software was made available for installation.

(d) SOFTWARE RESIDENT IN TEMPORARY MEMORY.—In the case of an installation of computer software that falls within the meaning of section 7(10)(B) but not within the meaning of section 7(10)(A), the requirements set forth in subsections (a)(1), (b)(1), and (c) of section 3 shall not apply.

(e) FEATURES ACTIVATED BY USER OPTIONS.—In the case of an information collection, advertising, distributed computing, or settings modification feature that remains inactive or turned off unless the user of the computer subsequently selects certain optional settings or functions provided by the computer software, the requirements of subsections (a)(2) and (b)(2) of section 3 may be satisfied by providing the applicable disclosure and obtaining the applicable consent at the time the user selects the option that activates the feature, rather than at the time of initial installation.

SEC. 6. ADMINISTRATION AND ENFORCEMENT.

(a) IN GENERAL.—Except as provided in subsection (b), this Act shall be enforced by the Commission as if the violation of this Act were an unfair or deceptive act or practice proscribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(b) ENFORCEMENT BY CERTAIN OTHER AGENCIES.—Compliance with this Act shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601 and 611), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (b) of its powers under any Act referred to in that subsection, a violation of this Act is deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (b), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this Act, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act. Any entity that violates any provision of that section is subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of that section.

(e) PRESERVATION OF COMMISSION AUTHORITY.—Nothing contained in this section shall be construed to limit the authority of the Commission under any other provision of law.

SEC. 7. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that this Act prohibits, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction—

(A) to enjoin that practice;

(B) to enforce compliance with the rule;

(C) to obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) to obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this subtitle shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of section 2 of this Act, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that section.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 8. DEFINITIONS.

In this Act:

(1) ADVERTISEMENT.—The term "advertisement" means a commercial promotion for a product or service, but does not include promotions for products or services that appear on computer software help or support pages that are displayed in response to a request by the user.

(2) ADVERTISING FEATURE.—The term "advertising feature" means a function of computer software that, when installed on a computer, delivers advertisements to the user of that computer.

(3) AFFIRMATIVE CONSENT.—The term "affirmative consent" means consent expressed through action by the user of a computer other than default action specified by the installation sequence and independent from any other consent solicited from the user during the installation process.

(4) CLEAR DESCRIPTION.—The term "clear description" means a description that is clear, conspicuous, concise, and in a font size that is at least as large as the largest default font displayed to the user by the software.

(5) COMPUTER SOFTWARE.—The term "computer software"—

(A) means any program designed to cause a computer to perform a desired function or functions; and

(B) does not include any cookie.

(6) COOKIE.—The term "cookie" means a text file—

(A) that is placed on a computer by an Internet service provider, interactive computer service, or Internet website; and

(B) the sole function of which is to record information that can be read or recognized by an Internet service provider, interactive computer service, or Internet website when the user of the computer uses or accesses such provider, service, or website.

(7) DISTRIBUTED COMPUTING FEATURE.—The term "distributed computing feature" means a function of computer software that, when installed on a computer, transmits information or messages, other than personal or network information about the user of the computer, to any other computer without the knowledge or direction of the user and for purposes unrelated to the tasks or functions the user intentionally performs using the computer.

(8) FIRST RETAIL SALE.—The term "first retail sale" means the first sale of a computer, for a purpose other than resale, after the manufacture, production, or importation of the computer. For purposes of this paragraph, the lease of a computer shall be considered a sale of the computer at retail.

(9) INFORMATION COLLECTION FEATURE.—The term "information collection feature" means a function of computer software that, when installed on a computer, collects personal or network information about the user of the computer and transmits such information to any other party on an automatic basis or at the direction of a party other than the user of the computer.

(10) INSTALL.—The term "install" means—

(A) to write computer software to a computer's persistent storage medium, such as the computer's hard disk, in such a way that the computer software is retained on the computer after the computer is turned off and subsequently restarted; or

(B) to write computer software to a computer's temporary memory, such as random access memory, in such a way that the software is retained and continues to operate after the user of the computer turns off or exits the Internet service, interactive computer service, or Internet website from which the computer software was obtained.

(11) NETWORK INFORMATION.—The term "network information" means—

(A) an Internet protocol address or domain name of a user's computer; or

(B) a Uniform Resource Locator or other information that identifies Internet web sites or other online resources accessed by a user of a computer.

(12) PERSONAL INFORMATION.—The term "personal information" means—

(A) a first and last name, whether given at birth or adoption, assumed, or legally changed;

(B) a home or other physical address including street name, name of a city or town, and zip code;

(C) an electronic mail address or online username;

(D) a telephone number;

(E) a social security number;

(F) any personal identification number;

(G) a credit card number, any access code associated with the credit card, or both;

(H) a birth date, birth certificate number, or place of birth; or

(I) any password or access code.

(13) PERSON.—The term "person" has the meaning given that term in section 3(32) of the Communications Act of 1934 (47 U.S.C. 153(32)).

(14) PROTECTED COMPUTER.—The term "protected computer" has the meaning given that term in section 1030(e)(2)(B) of title 18, United States Code.

(15) SETTINGS MODIFICATION FEATURE.—The term "settings modification feature" means a function of computer software that, when installed on a computer—

(A) modifies an existing user setting, without direction from the user of the computer, with respect to another computer software application previously installed on that computer; or

(B) enables a user setting with respect to another computer software application previously installed on that computer to be modified in the future without advance notification to and consent from the user of the computer.

(16) USER OF A COMPUTER.—The term "user of a computer" means a computer's lawful owner or an individual who operates a computer with the authorization of the computer's lawful owner.

SEC. 9. EFFECTIVE DATE.

This Act shall take effect 180 days after the date of enactment of this Act.

By Ms. LANDRIEU (for herself, Mr. BAYH, Mr. BREAUX, Mr. BURNS, Mr. CHAFEE, Mr. CHAMBLISS, Mr. COCHRAN, Mr. DURBIN, Mr. FEINGOLD, Mr. JOHNSON, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MILLER, Mrs. MURRAY, Mr. NELSON of Florida, Mr. PRYOR, Mr. REID, Mr. SANTORUM, Ms. STABENOW, Mr. STEVENS, Mr. VOINOVICH, and Mr. WARNER):

S. 2146. A bill to require the Secretary of the Treasury to mint coins in commemoration of the contributions of Dr. Martin Luther King, Jr., to the United States; to the Committee on Banking, Housing, and Urban Affairs.

Ms. LANDRIEU. Mr. President, every year, Americans commemorate the birthday of America's greatest civil rights leader, Dr. Martin Luther King, Jr. Last year I was pleased to introduce legislation to authorize the Secretary of the Treasury to mint coins to recognize Dr. King's contribution to the people of the United States. Revenues from the surcharge on the coin would go to the Library of Congress to purchase and maintain historical documents and other materials associated with the life and legacy of Martin Luther King, Jr.

I had hoped that this bill could have been enacted last year on the 40th anniversary of Dr. King's "I Have a Dream" speech, but we were unable to do so. Today, I would like to reintroduce the Dr. Martin Luther King Jr. Commemorative Coin Act of 2004, to have the coin minted in 2009 in commemoration of the 80th anniversary of Dr. King's birth. Dr. King's significant contributions and his message should live on for future generations. America should remember him as a national hero and a pioneer.

In recognizing Dr. Martin Luther King's legacy, it is important that we continue to learn from his actions and words. When I was a young girl in Louisiana, I learned from Dr. King that the struggle for civil rights and racial equality was more than simply changing the law, it required changing our hearts as well. Dr. King recognized that the civil rights movement presented Americans with a choice. We could choose hate and fear, or we could choose love and understanding. Dr. King believed that when Americans choose love in their hearts, peace and equality would follow. Dr. King offered us a peaceful way to reach equality through non-violent protest and action. I believe that this should continue to be a fundamental moral challenge for our country. In his famous "I Have a Dream" speech, Dr. King said, "I have a dream that one day, the sons of former slaves and the sons of former slave owners will be able to sit down together at the table of brotherhood."

I would also like to take the time to thank my good friends on both sides of the aisle for supporting this important legislation. I urge others to join us in remembering the selfless deeds of Dr. Martin Luther King, Jr., by cosponsoring this bill.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 306—DESIGNATING MARCH 2, 2004, AS "READ ACROSS AMERICA DAY"

Ms. COLLINS (for herself and Mr. REED) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 306

Whereas reading is a basic requirement for quality education and professional success, and source of pleasure throughout life;

Whereas the people of the United States must be able to read if the United States is to remain competitive in the global economy;

Whereas Congress, through the No Child Left Behind Act of 2001 (Public Law 107–110) and the new Reading First, Early Reading First, and Improving Literacy Through School Libraries programs, has placed great emphasis on reading intervention and additional resources for reading assistance; and

Whereas more than 40 national associations concerned about reading and education have joined with the National Education Association to use March 2, the anniversary of the birth of Theodor Geisel, also known as Dr. Seuss, to celebrate reading: Now, therefore, be it

Resolved, That the Senate—

(1) designates March 2, 2004, as "Read Across America Day";

(2) honors Theodor Geisel, also known as Dr. Seuss, for his success in encouraging children to discover the joy of reading;

(3) encourages parents to read with their children for at least 30 minutes on Read Across America Day in honor of Dr. Seuss and in celebration of reading; and

(4) requests that the President issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2631. Mr. LEVIN proposed an amendment to the bill S. 1805, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others.

SA 2632. Mr. LAUTENBERG proposed an amendment to the bill S. 1805, supra.

SA 2633. Mr. LAUTENBERG proposed an amendment to the bill S. 1805, supra.

TEXT OF AMENDMENTS

SA 2631. Mr. LEVIN proposed an amendment to the bill S. 1805, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others; as follows:

On page 11, after line 19, add the following:

SEC. 5. GROSS NEGLIGENCE OR RECKLESS CONDUCT.

(a) IN GENERAL.—None of the provisions in the Act shall be construed to prohibit a civil liability action from being brought or continued against a person if that person's own gross negligence or reckless conduct was a proximate cause of death or injury.

(b) DEFINITIONS.—As used in this section—

(1) the term "gross negligence" has the meaning given the term in subsection (b)(7) of the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791(b)(7)); and

(2) the term "reckless" has the meaning given the term in the application notes under section 2A1.4 of the Federal Sentencing Guidelines Manual.

SA 2632. Mr. LAUTENBERG proposed an amendment to the bill S. 1805, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others; as follows:

At the appropriate place, insert the following:

SEC. . AMENDMENTS TO BRADY HANDGUN VIOLENCE PREVENTION ACT.

(a) SHORT TITLE.—This section may be cited as the "Terrorist Apprehension Act".

(b) AMENDMENTS.—Section 103 of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note) is amended—

(1) in subsection (i), by striking "No department" and inserting "Except as provided in subsection (j), no department";

(2) by redesignating subsections (j) and (k) as subsections (k) and (*l*), respectively; and

(3) by inserting after subsection (i) the following:

"(j) TERRORIST APPREHENSION.—

"(1) INITIAL NOTIFICATION.—If the system established under this section determines that a prospective transferee is listed in the Violent Gang and Terrorist Organization file or a similar terrorist watch list, regardless of the eligibility of such person to purchase a firearm, the system shall provide this information to the employee at the Criminal Justice Information Services Division of the Federal Bureau of Investigation that is accessing the national instant criminal background check system (referred to in this subsection as the 'NICS operator').

"(2) NOTIFICATION OF LAW ENFORCEMENT.—Upon receiving information under paragraph (1), the NICS operator shall immediately provide the Federal Bureau of Investigation, the Department of Homeland Security, the terrorist task force, and State and local law enforcement in the jurisdiction in which the firearm purchase is being attempted with—

"(A) the name, date of birth, and any other identifying information reported by the prospective transferee;

"(B) the time and place of the attempted firearm purchase; and

"(C) the type of weapon, if known, that the prospective transferee attempted to purchase.

"(3) NOTIFICATION OF ORIGINATING AGENCY.—In addition to the notifications under paragraph (2), the NICS operator shall immediately provide the agency that placed the name of the suspected terrorist on the terrorist watch list with the information described in subparagraphs (A) through (C) of paragraph (2).".

SA 2633. Mr. LAUTENBERG proposed an amendment to the bill S. 1805, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others; as follows:

On page 9, between lines 2 and 3, insert the following:

"(vi) any action involving injury to children.".

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar No. 555, and all nominations on the Secretary's desk.

I further ask unanimous consent that the above listed nominations be confirmed, the motions to reconsider be laid upon the table, the President be notified of the Senate's action, and the Senate return to legislative session.

The PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

IN THE MARINE CORPS

The following named officer for appointment in the United States Marine Corps Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen Douglas V. O'Dell, Jr., 0212

Nominations Placed on the Secretary's Desk

IN THE AIR FORCE

PN1046 Air Force nominations (21) beginning MICHEL L. BUNNING, and ending DEBRA M. NIEMEYER, which nominations were received by the Senate and appeared in the Congressional Record of October 16, 2003.

PN1052 Air Force nominations (1277) beginning RAAN R. AALGAARD, and ending STEVEN R. ZWICKER, which nominations were received by the Senate and appeared in the Congressional Record of October 16, 2003.

PN1276 Air Force nominations of Lindsey O. Graham, which was received by the Senate and appeared in the Congressional Record of January 28, 2004.

PN1277 Air Force nominations (7) beginning DONALD L. BUEGE, and ending SAMUEL R. WEINSTEIN, which nominations were received by the Senate and appeared in the Congressional Record of January 28, 2004.

PN1278 Air Force nominations (7) beginning ALAN C. DICKERSON, and ending CAMILLE PHILLIPS, which nominations were received by the Senate and appeared in the Congressional Record of January 28, 2004.

PN1279 Air Force nominations (12) beginning WALTER F. BURGHARDT, JR., and ending PHILLIP Y. YOSHIMURA, which nominations were received by the Senate and appeared in the Congressional Record of January 28, 2004.

PN1280 Air Force nominations (22) beginning MONICA M. ALLISONCERUTI, and ending MARK J. YOST, which nominations were received by the Senate and appeared in the Congressional Record of January 28, 2004.

PN1281 Air Force nominations (25) beginning PATRICIA S ANGELILAMB, and ending KATHLEEN L. ZYGOWICZ, which nominations were received by the Senate and appeared in the Congressional Record of January 28, 2004.

PN1284 Air Force nominations (21) beginning MICHAEL A. ALDAY, and ending DAVID J. SNELL, which nominations were received by the Senate and appeared in the Congressional Record of January 28, 2004.

PN1344 Air Force nominations of Virginia A. Schneider, which was received by the Senate and appeared in the Congressional Record of February 11, 2004.

PN1345 Air Force nominations (2) beginning PERRY L. AMERINE, and ending JAMES R. PATTERSON, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2004.

PN1346 Air Force nominations (5) beginning STEWART J. HAZEL, and ending WILLIAM W. POND, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2004.

PN1347 Air Force nominations (5) beginning WILLIAM E. ENRIGHT, JR., and ending MICHAEL F. VANHOOMISSEN, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2004.

PN1348 Air Force nomination of Collen B. Hough, which was received by the Senate and appeared in the Congressional Record of February 11, 2004.

PN1349 Air Force nominations (37) beginning NORMA L. ALLGOOD, and ending MATTHEW P. *WICKLUND, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2004.

PN1350 Air Force nominations (33) beginning RICHARD C. BATZER, and ending RICHARD I. VANCE, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2004.

PN1351 Air Force nominations (56) beginning JOHN A. ALEXANDER, and ending JOHN A. WISNIEWSKI, JR., which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2004.

PN1352 Air Force nomination (119) beginning TODD B. * ABEL, and ending GIANNA R. ZEH, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2004.

PN1353 Air Force nominations (17) beginning DOUGLAS P. * BETHONEY, and ending DOUGLAS E. *THOMAS, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2004.

PN1354 Air Force nominations (370) beginning ADAM M. ANDERSON, and ending DAVID J. ZOLLINGER, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2004.

PN1355 Air Force nominations (43) beginning MARY J. BARNES, and ending KARYN E. YOUNGCARIGNAN, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2004.

IN THE ARMY

PN1282 Army nomination of Edward M. Willis, which was received by the Senate and appeared in the Congressional Record of January 28, 2004.

PN1299 Army nominations (34) beginning JAMES R. AGAR, II, and ending NOEL L. WOODWARD, which nominations were received by the Senate and appeared in the Congressional Record of February 2, 2004.

PN1322 Army nominations (56) beginning JEREMY A. BALL, and ending MICHAEL C. * WONG, which nominations were received by the Senate and appeared in the Congressional Record of February 5, 2004.

PN1356 Army nominations (2) beginning DAVID H. FORDEN, and ending GERALD E. STONE, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2004.

IN THE MARINE CORPS

PN1300 Marine Corps nominations (6) beginning RANDY M. ADAIR, and ending ANDREW N. SULLIVAN, which nominations were received by the Senate and appeared in the Congressional Record of February 2, 2004.

PN1301 Marine Corps nominations (4) beginning JOSE GONZALEZ, and ending JEFFREY G. YOUNG, which nominations were received by the Senate and appeared in the Congressional Record of February 2, 2004.

PN1302 Marine Corps nominations (4) beginning EDWIN N. LLANTOS, and ending MATTHEW E. SUTTON, which nominations were received by the Senate and appeared in the Congressional Record of February 2, 2004.

PN1303 Marine Corps nominations (3) beginning THOMAS E. BLAKE, and ending JAMES A. GRIFFITHS, which nominations were received by the Senate and appeared in the Congressional Record of February 2, 2004.

PN1304 Marine Corps nominations (3) beginning GERALD A. CUMMINGS, and ending JOHN M. MCKEON, which nominations were received by the Senate and appeared in the Congressional Record of February 2, 2004.

PN1305 Marine Corps nomination of Paul J. Smith, which was received by the Senate and appeared in the Congressional Record of February 2, 2004.

PN1306 Marine Corps nominations (2) beginning RICHARD D. BEDFORD, and ending JAMES D. MCCOY, which nominations were received by the Senate and appeared in the Congressional Record of February 2, 2004.

PN1307 Marine Corps nominations (4) beginning SAMUEL E. DAVIS, and ending DAVID H. STEPHENS, which nominations were received by the Senate and appeared in the Congressional Record of February 2, 2004.

PN1308 Marine Corps nomination of Donald L. Bohannon, which was received by the Senate and appeared in the Congressional Record of February 2, 2004.

PN1309 Marine Corps nominations (7) beginning PETER D. CHARBONEAU, and ending JOHN A. TANINECZ, which nominations were received by the Senate and appeared in the Congressional Record of February 2, 2004.

PN1310 Marine Corps nominations (11) beginning JOHN M. BISHOP, and ending JEFFREY W. SMITH, which nominations were received by the Senate and appeared in the Congressional Record of February 2, 2004.

PN1323 Marine Corps nominations (2) beginning BALWINDAR K. RAWALAYVANDEVOORT, and ending TROY A. TYRE, which nominations were received by the Senate and appeared in the Congressional Record of February 5, 2004.

PN1357 Marine Corps nomination of Steve E. Howell, which was received by the Senate and appeared in the Congressional Record of February 11, 2004.

PN1358 Marine Corps nomination Richard K. Rohr, which was received by the Senate and appeared in the Congressional Record of February 11, 2004.

PN1360 Marine Corps nomination of William E. Hidle, which was received by the Senate and appeared in the Congressional Record of February 11, 2004.

PN1362 Marine Corps nominations (4) beginning RONALD W. COCHRAN, and ending PAUL J. MINER, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2004.

PN1363 Marine Corps nomination of Todd P. Ohman, which was received by the Senate and appeared in the Congressional Record of February 11, 2004.

PN1364 Marine Corps nominations (3) beginning MICHAEL E. BEAN, and ending WALTON S. PITCHFORD, which nominations were received by the Senate and appeared in the Congressional Record of February 11, 2004.

LEGISLATIVE SESSION

The PRESIDENT pro tempore.

Under the previous order, the Senate will return to legislative session.

MEASURE PLACED ON THE CALENDAR—S. 2137

Mr. FRIST. Mr. President, I understand that S. 2137 is at the desk and is due for a second reading.

The PRESIDENT pro tempore. The clerk will read the title of the bill for a second time.

The assistant legislative clerk read as follows:

> A bill (S. 2137) to authorize the Secretary of Health and Human Services to promulgate regulations for the reimportation of prescription drugs, and for other purposes.

Mr. FRIST. Mr. President, I object to further proceedings on the measure at this time.

The PRESIDENT pro tempore. Objection is heard. The bill will be placed on the calendar.

DISCHARGE AND REFERRAL OF H.R. 2584

Mr. FRIST. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of H.R. 2584, and that the bill then be referred to the Commerce Committee.

The PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

THE SENATE THIS WEEK

Mr. FRIST. Mr. President, we will be wrapping up very shortly for the week. Because it has been a very busy week, I would like to run through the progress that has been made. We have proceeded in step-wise fashion and advanced the business of this body in a very thoughtful way. We started the week hoping to consider the OB/GYN medical liability bill, aptly entitled "Healthy Mothers and Healthy Babies Access Care Act." We debated the issue on Monday and Tuesday but, unfortunately, were prevented from formally going to the bill. A cloture motion was filed on the motion to proceed.

I also want to thank our colleagues, Senator ENSIGN and Senator GREGG, for their real leadership on this particular issue. As we closed that debate, it was clear—as both sides stated—that we were going to have to come back and address the liability issues, and we will bring it back before the Senate again.

S. 1805, the gun manufacturers' liability bill, which is more formally called the Protection of Lawful Commerce in Arms Act, was then addressed, continues to be addressed through today. I commend our leader, Senator CRAIG, for his leadership.

We do plan on proceeding and having a final vote on this bill Tuesday. There was an objection to proceeding from the Democratic side of the aisle initially on that bill and thus we had to file, once again, a cloture motion. We prevailed on that cloture motion to proceed by a vote of 75 to 22, and thus we were able to get on the bill and debate the bill.

We were able to lock in the agreement limiting amendments to the gun liability bill, and during Thursday and Friday's session we have considered 16 amendments. We disposed of eight of those amendments, conducted six rollcall votes on Thursday. Under the agreement, we will pass the legislation on Tuesday. The House passed their version of this bill April 19th of last year. I hope we will be able to proceed on a conference on this bipartisan legislation so we can reconcile the differences. Again, I understand there is an objection to proceeding to a conference from the other side of the aisle, but we will continue to discuss with the Democratic leadership how we can best proceed to conference.

Finally, just a few moments ago, we passed H.R. 3850, a 2-month extension of the highway bill. As we witnessed over the course of the day, it has required a lot in terms of discussions among colleagues in this body with Members of the House of Representatives, but I am pleased to announce we have reached a satisfactory conclusion for all parties involved. I thank all the Senators who were just appropriately thanked for their participation.

Again, the 5,000 Transportation employees who were at risk of not being able to go to work and being paid for work on Monday can rest now and, indeed, will receive both those checks and show up for work on Monday.

ORDERS FOR MONDAY, MARCH 1, 2004

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today, it adjourn until 12 noon Monday, March 1. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of S. 1805, the gun liability bill; provided that there be 4 hours of debate with the following Senators to control the time: Senator MCCAIN or his designee, 1 hour; Senator FEINSTEIN or her designee, 1 hour; Senator CRAIG or his designee, 2 hours; provided further that at 4 p.m. Senator BINGAMAN be recognized to offer his definition amendment, and the time until 5 p.m. be equally divided between Senators CRAIG and BINGAMAN; provided further that at 5 p.m. the Senate will proceed to a vote in relation to the Bingaman amendment without any intervening action or debate, and following the disposition of the amendment, the Senate resume consideration of the Levin amendment numbered 2631.

The PRESIDENT pro tempore. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. On Monday, the Senate will resume consideration of S. 1805, the gun liability bill. There are a number of Senators who will be here to debate the remaining amendments and there will be adequate time for debate on Monday.

I sincerely thank the bill managers for their hard work on this legislation. They have been on the floor constantly for the past 3 days, working through amendments and moving this bill forward. Through their efforts and a lot of hard work, we are poised to finish the bill Tuesday of next week. Again, they should be complimented.

I inform all my colleagues we will have a vote on an amendment to the bill Monday afternoon. Senators should expect that vote in relation to the Bingaman definition amendment to occur promptly at 5 p.m.

Mr. REID. I wonder, with the easy week the majority leader has had this week, could you tell us what we will do after we finish the gun liability legislation?

Mr. FRIST. Through the Chair, Mr. President, we have the agreement to complete the gun liability legislation Tuesday. It is our plan, although I want to discuss it further with the Democratic leadership and also my colleagues, but the plans are at this juncture to continue with the manufacturing bill called FSC/ETI. There is a deadline we are all familiar with of March 1. This bill has been taken through committee and we will be addressing it on the floor. The House has not yet addressed it.

It is my intention, at this point in time—again, it could be subject to change—to proceed with FSC/ETI.

ADJOURNMENT UNTIL MONDAY, MARCH 1, 2004

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 4:41 p.m., adjourned until Monday, March 1, 2004, at 12 noon.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 27, 2004:

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. DOUGLAS V. O'DELL, JR.

AIR FORCE NOMINATIONS BEGINNING MICHEL L. BUNNING AND ENDING DEBRA M. NIEMEYER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 16, 2003.

AIR FORCE NOMINATIONS BEGINNING RAAN R. AALGAARD AND ENDING STEVEN R. ZWICKER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 16, 2003.

AIR FORCE NOMINATION OF LINDSEY O. GRAHAM.

AIR FORCE NOMINATIONS BEGINNING DONALD L. BUEGE AND ENDING SAMUEL R. WEINSTEIN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 28, 2004.

AIR FORCE NOMINATIONS BEGINNING ALAN C. DICKERSON AND ENDING CAMILLE PHILLIPS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 28, 2004.

AIR FORCE NOMINATIONS BEGINNING WALTER F. BURGHARDT, JR. AND ENDING PHILLIP Y. YOSHIMURA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 28, 2004.

AIR FORCE NOMINATIONS BEGINNING MONICA M. ALLISONCERUTI AND ENDING MARK J. YOST, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 28, 2004.

AIR FORCE NOMINATIONS BEGINNING PATRICIA S. ANGELILAMB AND ENDING KATHLEEN L. ZYGOWICZ, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 28, 2004.

AIR FORCE NOMINATIONS BEGINNING MICHAEL A. ALDAY AND ENDING DAVID J. SNELL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 28, 2004.

AIR FORCE NOMINATION OF VIRGINIA A. SCHNEIDER.

AIR FORCE NOMINATIONS BEGINNING PERRY L. AMERINE AND ENDING JAMES R. PATTERSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2004.

AIR FORCE NOMINATIONS BEGINNING STEWART J. HAZEL AND ENDING WILLIAM W. POND, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2004.

AIR FORCE NOMINATIONS BEGINNING WILLIAM E. ENRIGHT, JR. AND ENDING MICHAEL F. VANHOOMISSEN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2004.

AIR FORCE NOMINATION OF COLLEN B. HOUGH.

AIR FORCE NOMINATIONS BEGINNING NORMA L. ALLGOOD AND ENDING MATTHEW P. * WICKLUND, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2004.

AIR FORCE NOMINATIONS BEGINNING RICHARD C. BATZER AND ENDING RICHARD I. VANCE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2004.

AIR FORCE NOMINATIONS BEGINNING JOHN A. ALEXANDER AND ENDING JOHN A. WISNIEWSKI, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2004.

AIR FORCE NOMINATIONS BEGINNING TODD B. * ABEL AND ENDING GIANNA R. ZEH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2004.

AIR FORCE NOMINATIONS BEGINNING DOUGLAS P. * BETHONEY AND ENDING DOUGLAS E. * THOMAS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2004.

AIR FORCE NOMINATIONS BEGINNING ADAM M. ANDERSON AND ENDING DAVID J. ZOLLINGER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2004.

AIR FORCE NOMINATIONS BEGINNING MARYA J. BARNES AND ENDING KARYN E. YOUNGCARIGNAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2004.

ARMY NOMINATION OF EDWARD M. WILLIS.

ARMY NOMINATIONS BEGINNING JAMES R. AGAR II AND ENDING NOEL L. WOODWARD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 2, 2004.

ARMY NOMINATIONS BEGINNING JEREMY A. BALL AND ENDING MICHAEL C. * WONG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 5, 2004.

ARMY NOMINATIONS BEGINNING DAVID H. FORDEN AND ENDING GERALD E. STONE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2004.

MARINE CORPS NOMINATIONS BEGINNING RANDY M. ADAIR AND ENDING ANDREW N. SULLIVAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 2, 2004.

MARINE CORPS NOMINATIONS BEGINNING JOSE GONZALEZ AND ENDING JEFFREY G. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 2, 2004.

MARINE CORPS NOMINATIONS BEGINNING EDWIN N. LLANTOS AND ENDING MATTHEW E. SUTTON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 2, 2004.

MARINE CORPS NOMINATIONS BEGINNING THOMAS E. BLAKE AND ENDING JAMES A. GRIFFITHS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 2, 2004.

MARINE CORPS NOMINATIONS BEGINNING GERLAD A. CUMMINGS AND ENDING JOHN M. MCKEON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 2, 2004.

MARINE CORPS NOMINATION OF PAUL J. SMITH.

MARINE CORPS NOMINATIONS BEGINNING RICHARD D. BEDFORD AND ENDING JAMES D. MCCOY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 2, 2004.

MARINE CORPS NOMINATIONS BEGINNING SAMUEL E. DAVIS AND ENDING DAVID H. STEPHENS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 2, 2004.

MARINE CORPS NOMINATION OF DONALD L.BOHANNON.

MARINE CORPS NOMINATIONS BEGINNING PETER D. CHARBONEAU AND ENDING JOHN A. TANINECZ, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 2, 2004.

MARINE CORPS NOMINATIONS BEGINNING JOHN M. BISHOP AND ENDING JEFFREY W. SMITH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 2, 2004.

MARINE CORPS NOMINATIONS BEGINNING BALWINDAR K. RAWALAYVANDEVOORT AND ENDING TROY A. TYRE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 5, 2004.

MARINE CORPS NOMINATION OF STEVE E. HOWELL.

MARINE CORPS NOMINATION OF RICHARD K. ROHR.

MARINE CORPS NOMINATION OF WILLIAM E. HIDLE.

MARINE CORPS NOMINATIONS BEGINNING RONALD W. COCHRAN AND ENDING PAUL J. MINER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2004.

MARINE CORPS NOMINATION OF TODD P. OHMAN.

MARINE CORPS NOMINATIONS BEGINNING MICHAEL E. BEAN AND ENDING WALTON S. PITCHFORD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 11, 2004.

HOUSE OF REPRESENTATIVES—*Monday, March 1, 2004*

The House met at noon and was called to order by the Speaker pro tempore (Mr. THORNBERRY).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 1, 2004.

I hereby appoint the Honorable MAC THORNBERRY to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Show us Your way, O Lord.

Even today people hear Your urgent call and are moved to seek Your aid on their pilgrim road of faith. Many have decided to follow this road, O Lord, but they have discovered this is no superhighway but a narrow path leading to You and the gift of life.

Silence and prayer emerge as the source and depth of faith. Conversion of heart and renewed, painful letting go hold our new beginnings.

Allow government leaders and all the people of this great Nation to receive new life and energy, to rebuild avenues of trust and an enduring infrastructure that will enlighten our future with security and peace.

For this we ask and work now and forever, O Lord. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New Mexico (Mr. PEARCE) come forward and lead the House in the Pledge of Allegiance.

Mr. PEARCE led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed concurrent resolutions of the following titles in which the concurrence of the House is requested.

S. Con. Res. 93. Concurrent resolution authorizing the use of the rotunda of the Capitol by the Joint Congressional Committee on Inaugural Ceremonies.

S. Con. Res. 94. Concurrent resolution establishing the Joint Congressional Committee on Inaugural Ceremonies.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, February 27, 2004.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on February 27, 2004 at 4:55 p.m.:

That the Senate passed without amendment H.R. 3850.

With best wishes, I am
Sincerely,

JEFF TRANDAHL,
Clerk.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 4 of rule I, the Speaker pro tempore signed the following enrolled bill on Friday, February 27, 2004:

H.R. 3850, to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

The Speaker pro tempore laid before the House the following communication from the chairman of the Committee on Transportation and Infrastructure; which was read and, without objection, referred to the Committee on Appropriations:

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, February 25, 2004.

Hon. J. DENNIS HASTERT,
Speaker of the House,
The Capitol,
Washington, DC.

DEAR MR. SPEAKER: Enclosed please find resolutions approved by the Committee on Transportation and Infrastructure on February 25, 2004, in accordance with 40 U.S.C. §3307.

Sincerely,

DON YOUNG,
Chairman.

Enclosures.

AMENDED PROSPECTUS—LEASE

DEPARTMENT OF HEALTH AND HUMAN SERVICES, ADMINISTRATION FOR CHILDREN AND FAMILIES, WASHINGTON, DC

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to an additional 86,846 rentable square feet for a total maximum square footage of 252,670 square feet of space for the Department of Health and Human Services, Administration for Children and Families, currently located in leased space at various locations in Washington, DC, at an additional cost of $3,908,070 for a proposed total annual cost of $11,370,150 for a lease term of 10 years, a prospectus for which is attached to and included in this resolution. This resolution amends a Committee resolution dated April 9, 2003, which authorized 165,824 square feet at a total annual cost of $7,462,080.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

LEASE

DEPARTMENT OF JUSTICE, WASHINGTON, DC

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 584,400 rentable square feet of space for the Department of Justice currently located in leased space at 601 D St., NW, in Washington, DC, at a proposed total annual cost of $26,298,000 for a lease term of 10 years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

☐This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

LEASE

FOOD AND DRUG ADMINISTRATION, SUBURBAN MARYLAND

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 113,993 rentable square feet of space for the Food and Drug Administration currently located in leased space at 7500 Standish Place, in Rockville, Maryland, at a proposed total annual cost of $3,533,783 for a lease term of 10 years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

LEASE

FOOD AND DRUG ADMINISTRATION, SUBURBAN MARYLAND

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 110,035 rentable square feet of space for the Food and Drug Administration's Center for Drug Evaluation and Research currently located at 1451 Rockville Pike, Rockville, Maryland, at a proposed total annual cost of $3,411,085 for a lease term of 3 years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

LEASE

FOOD AND DRUG ADMINISTRATION, SUBURBAN MARYLAND

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 107,886 rentable square feet of space for the Food and Drug Administration, Center for Drug Evaluation and Research currently located at 9201 Corporate Boulevard, Rockville, Maryland, at a proposed total annual cost of $3,344,466 for a lease term of 3 years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constituents authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

LEASE

NATIONAL INSTITUTES OF HEALTH, NATIONAL INSTITUTES OF ALLERGY AND INFECTIOUS DISEASES, SUBURBAN MARYLAND

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 159,773 rentable square feet of space for the National Institutes of Health, National Institute of Allergy And Infectious Diseases currently located at 6700 Rockledge Drive, Bethesda, Maryland, at a proposed total annual cost of $4,952,963 for a lease term of 5 years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

ALTERATION

PRINCE KUHIO FEDERAL BUILDING AND U.S. COURTHOUSE, HONOLULU, HAWAII

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, appropriations are authorized for the alteration of the Prince Kuhio Federal Building and United States Courthouse located at 300 Ala Moana Boulevard, in Honolulu, Hawaii, at an estimated construction cost of $8,704,000, design and review cost of $1,345,000, and a management and inspection cost of $749,000 for an estimated total project cost of $10,798,000, a prospectus for which is attached to, and included in, this resolution.

ALTERATION

JACOB J. JAVITS FEDERAL BUILDING, NEW YORK CITY, NEW YORK

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, appropriations are authorized for the alteration of the Jacob J. Javits Federal Building located at 26 Federal Plaza, in New York City, New York, at an estimated construction cost of $10,988,000, design and review cost of $403,000, and a management and inspection cost of $703,000 for an estimated total project cost of $12,094,000, a prospectus for which is attached to, and included in, this resolution.

LEASE

DEPARTMENT OF JUSTICE, DRUG ENFORCEMENT ADMINISTRATION, MIAMI, FLORIDA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 58,811 rentable square feet of space for the Department of Justice, Drug Enforcement Administration currently located at 5205 NW 84th Avenue, Miami, Florida, at a proposed total annual cost of $3,116,983 for a lease term of 15 years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

LEASE

NATIONAL INSTITUTES OF HEALTH, CENTER FOR SCIENTIFIC REVIEW AND NATIONAL HEART, LUNG, AND BLOOD INSTITUTE, SUBURBAN MARYLAND

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 258,558 rentable square feet of space for the National Heart, Lung, and Blood Institute currently located at 6701 Rockledge Drive, Bethesda, Maryland, at a proposed total annual cost of $8,015,298 for a lease term of 10 years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

AMENDMENT—CONSTRUCTION

UNITED STATES COURTHOUSE, ORLANDO, FLORIDA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, appropriations are authorized for the construction of a 336,049 gross square foot United States Courthouse, including 40 inside parking spaces, 160 space parking structure, landscaped square, and entrance pavilion, located in Orlando, Florida, at a total estimated cost of $94,705,000. This resolution amends a Committee resolution dated May 26, 1994, which authorized site acquisition for a 235,050 gross square foot courthouse plus 35 inside parking spaces and 200 outside parking spaces, which was amended by a Committee resolution dated November 7, 2001, which authorized construction of a 257,050 gross square foot building, including 40 inside parking spaces and 200 surface parking spaces.

Provided, That any design shall, to the maximum extent possible incorporate shared or collegial space, consistent with efficient court operations that will minimize the size and cost of the building to be constructed.

Provided further, That any design shall incorporate changes in the 1997 United States Courts Design Guide, including the implementation of a policy on shared courtrooms.

AMENDMENT—SITE AND DESIGN

UNITED STATES COURTHOUSE, ROCKFORD, ILLINOIS

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, additional appropriations are authorized for site acquisition and design of a 166,043 gross square foot United States courthouse, including 55 inside parking spaces, located in Rockford, Illinois, at additional site cost of $1,012,000 (site cost of $1,800,000 was previously authorized) and additional design cost of $990,000 (design cost of $3,133,000 was previously authorized), for which an amended prospectus is attached to, and included in, this resolution. This resolution amends a Committee resolution dated July 18, 2001 that authorized $2,096,000 for additional site and design of a 147,249 gross square foot courthouse, including 33 inside parking spaces, which amended a Committee resolution authorizing $618,000 for site and $2,219,000 for design of a 129,800 gross square foot courthouse including 33 inside parking spaces, adopted on July 26, 2000.

Provided, That any design shall, to the maximum extent possible incorporate shared or collegial space, consistent with efficient court operations that will minimize the size and cost of the building to be constructed.

Provided further, That any design shall incorporate changes in the 1997 United States Courts Design Guide, including the implementation of a policy on shared courtrooms.

Lease

DEPARTMENT OF JUSTICE, FEDERAL BUREAU OF INVESTIGATION, SAN ANTONIO, TEXAS

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 145,000 rentable square feet of space for the Federal Bureau of Investigation, currently located in Government-owned space at 615 E. Houston Street, and in leased space at 209 6th Street, in San Antonio, Texas, at a proposed total annual cost of $4,567,500 for a lease term of 14 years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

Lease

FEDERAL BUREAU OF INVESTIGATION, NORTHERN VIRGINIA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 199,110 rentable square feet of space for the Federal Bureau of Investigation, currently located AT 7799 Leesburg Pike, Falls Church, Virginia, at a proposed total annual cost of $6,919,740 for a lease term of 15 years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

There was no objection.

PERMISSION FOR COMMITTEE ON SCIENCE TO FILE REPORT ON H.R. 3752, COMMERCIAL SPACE LAUNCH AMENDMENTS ACT OF 2004

Mr. PEARCE. Mr. Speaker, I ask unanimous consent that the Committee on Science may have until midnight tonight to file a report on H.R. 3752.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

ENROLLED BILL SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker.

H.R. 3850. An act to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

BILL PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on February 27, 2004, he presented to the President of the United States, for his approval, the following bill.

H.R. 3850. To provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

ADJOURNMENT

Mr. PEARCE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 5 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, March 2, 2004, at 12:30 p.m., for morning hour debates.

RULES AND REPORTS SUBMITTED PURSUANT TO THE CONGRESSIONAL REVIEW ACT

Pursuant to 5 U.S.C. 801(d), executive communications [final rules] submitted to the House pursuant to 5 U.S.C. 801(a)(1) during the period of July 8, 2003 through January 20, 2004, shall be treated as though received on March 1, 2004. Original dates of transmittal, numberings, and referrals to committee of those executive communications remain as indicated in the Executive Communication section of the relevant CONGRESSIONAL RECORD.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

6843. A letter from the Comptroller, Department of Defense, transmitting a report of a violation of the Antideficiency Act by the Department of the Army, Case Number 99–02, pursuant to 31 U.S.C. 1351; to the Committee on Appropriations.

6844. A letter from the Comptroller, Department of Defense, transmitting a report of a violation of the Antideficiency Act by the Department of the Army, Case Number 02–05, pursuant to 31 U.S.C. 1351; to the Committee on Appropriations.

6845. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on U.S. military personnel and U.S. individual civilians retained as contractors involved in supporting Plan Colombia, pursuant to Public Law 106–246, section 3204 (f) (114 Stat. 577); to the Committee on Armed Services.

6846. A letter from the Under Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General James E. Sherrard III, United States Air Force, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

6847. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on transactions involving U.S. exports to the Grand Duchy of Luxembourg, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Financial Services.

6848. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Plan for Designated Facilities and Pollutants: South Carolina [SC—200409(a); FRL–7628–5] received February 25, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6849. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Control of Emissions From New Marine Diesel Compression-Ignition Engines at or Above 30 Liters Per Cylinder [AMS–FRL–7627–4] (RIN: 2060–AJ98) received February 25, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6850. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Protection of Stratospheric Ozone; Refrigerant Recycling; Substitute Refrigerants [FRL–7625–6] (RIN: 2060–AF37) received February 25, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6851. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting reports in accordance with Section 36(a) of the Arms Export Control Act, pursuant to 22 U.S.C. 2776(a); to the Committee on International Relations.

6852. A letter from the Assistant Director, Executive & Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6853. A letter from the White House Liaison, Department of Education, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6854. A letter from the White House Liaison, Department of Education, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6855. A letter from the Secretary, Department of Transportation, transmitting the Department's FY 2003 Performance and Accountability Report; to the Committee on Government Reform.

6856. A letter from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 2003, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform.

6857. A letter from the Administrator, General Services Administration, transmitting the FY 2003 Annual Performance and Accountability Report in accordance with the Report Consolidation Act of 2000; to the Committee on Government Reform.

6858. A letter from the Chairman, National Science Board, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 2003, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform.

6859. A letter from the Director, Office of Personnel Management, transmitting the Office's Congressional Budget Justification and Performance Budget for FY 2005; to the Committee on Government Reform.

6860. A letter from the National Commander, American Ex-Prisoners of War, transmitting a copy of the Financial Statements with the Independent Auditors' report, for the year ended August 31, 2003, pursuant to 36 U.S.C. 1101(57) and 1103; to the Committee on the Judiciary.

6861. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulations: Hackensack River, NJ. [CGD01-04-012] received February 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6862. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulations: Providence River, RI. [CGD01-04-005] (RIN: 1625-AA09) received February 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6863. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulations: Cheesequake Creek, NJ [CGD01-04-009] received February 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6864. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulations; Willamette River, OR. [CGD13-04-003] (RIN: 1625-AA09) received February 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6865. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, Wrightsville Beach, NC [CGD05-04-027] (RIN: 1625-AA09) received February 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6866. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulations; Columbia River, OR [CGD13-03-027] (RIN: 1625-AA09) received February 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6867. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulations; Miami River, Miami-Dade County, FL. [CGD07-03-118] (RIN: 1625-AA09) received February 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6868. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulations: Rahway River, NJ. [CGD01-03-096] (RIN: 1625-AA09) received February 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6869. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Paerdegat Basin, Belt Parkway Bridge Emergency Repairs, Brooklyn, NY [CGD01-03-097] (RIN: 1625-AA00) received February 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6870. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Ice Conditions, Upper Potomac River, Upper Chesapeake Bay and Chesapeake & Delaware Canal, Maryland [CGD05-04-019] (RIN: 1625-AA00) received February 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6871. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Chesapeake Bay, Hampton Roads, Elizabeth River, VA [CGD05-04-011] (RIN: 1625-AA00) received February 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6872. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulations: Newton Creek, Dutch Kills, English Kills, and their tributaries, NY. [CGD01-04-014] received February 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6873. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulations; Passaic River, NJ. [CGD01-04-007] received February 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6874. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulations; Gulf Intracoastal Waterway—Black Bayou, LA. [CGD08-04-008] received February 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6875. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulations; Miami River, North Fork, Miami, FL [CGD07-03-088] (RIN: 1625-AA09) received February 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6876. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulations; Gulf Intracoastal Waterway, Boca Grande, Charlotte County, FL [CGD07-03-072] (RIN: 1625-AA09) received February 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6877. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Pollutant Discharge Elimination System—Final Regulations to Establish Requirements for Cooling Water Intake Structures at Phase II Existing Facilities [FRL-7625-9] (RIN: 2040-AD62) received February 25, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6878. A letter from the Principal Deputy Under Secretary, Department of Defense, transmitting the Department's FY 2005 Cooperative Threat Reduction Annual Report, pursuant to Public Law 106-398; jointly to the Committees on International Relations and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[The following actions occurred on February 27, 2004]

Mr. HYDE: Committee on International Relations. House Resolution 499. Resolution requesting the President and directing the Secretary of State, the Secretary of Defense, and the Attorney General to transmit to the House of Representatives not later than 14 days after the date of the adoption of this resolution documents in the possession of the President and those officials relating to the disclosure of the identity and employment of Ms. Valerie Plame; adversely (Rept. 108-413 Pt. 2). Ordered to be printed.

Mr. SENSENBRENNER: Committee on the Judiciary. House Resolution 499. Resolution requesting the President and directing the Secretary of State, the Secretary of Defense, and the Attorney General to transmit to the House of Representatives not later than 14 days after the date of the adoption of this resolution documents in the possession of the President and those officials relating to the disclosure of the identity and employment of Ms. Valerie Plame; adversely (Rept. 108-413 Pt. 3). Ordered to be printed.

Mr. HUNTER: Committee on Armed Services. House Resolution 499. Resolution requesting the President and directing the Secretary of State, the Secretary of Defense, and the Attorney General to transmit to the House of Representatives not later than 14 days after the date of the adoption of this resolution documents in the possession of the President and those officials relating to the disclosure of the identity and employment of Ms. Valerie Plame; adversely (Rept. 108-413 Pt. 4). Referred to the House Calendar and ordered to be printed.

[Filed on March 1, 2004]

Mr. BOEHLERT: Committee on Science. H.R. 3752. A bill to promote the development of the emerging commercial human space flight industry, to extend the liability indemnification regime for the commercial space transportation industry, to authorize appropriations for the Office of the Associate Administrator for Commercial Space Transportation, and for other purposes (Rept. 108-429). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SENSENBRENNER (for himself, Mr. CONYERS, Mr. SWEENEY, Mr. OSBORNE, and Mr. BERMAN):

H.R. 3866. A bill to amend the Controlled Substances Act to provide increased penalties for anabolic steroid offenses near sports facilities, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DEUTSCH (for himself, Ms. CORRINE BROWN of Florida, Mr. WEXLER, and Mr. HASTINGS of Florida):

H.R. 3867. A bill to require the Secretary of Homeland Security to designate Haiti under section 244(b) of the Immigration and Nationality Act so that nationals of Haiti present in the United States may be granted temporary protected status; to the Committee on the Judiciary.

ADDITIONAL SPONSORS TO PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 339: Mr. BEAUPREZ and Mr. SIMPSON.

H.R. 857: Mr. CLYBURN

H.R. 1160: Mr. MORAN of Kansas.

H.R. 2151: Mr. KENNEDY of Rhode Island and Mr. HOEFFEL.

H.R. 2173: Ms. SLAUGHTER, Mr. TIAHRT, Mr. SERRANO, and Mrs. MCCARTHY of New York.

H.R. 2771: Mr. QUINN and Mr. NADLER.

H.R. 3507: Mr. BISHOP of New York.

H.R. 3644: Mr. SOUDER.

H. Con. Res. 327: Mrs. LOWEY.

H. Con. Res. 371: Ms. GINNY BROWN-WAITE of Florida, Mr. NEUGEBAUER, Mr. BURNS, Mr. BERMAN, Mr. VITTER, Mr. SIMPSON, Mr. WEXLER, Mr. BURR, Mr. ALEXANDER, Mr. CULBERSON, and Mr. SIMMONS.

H. Con. Res. 375: Mr. NEUGEBAUER and Mr. LEACH.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

57. The SPEAKER presented a petition of the Board of Trustees of the Village of Oak Park, County of Cook, State of Illinois, relative to a Resolution dated January 5, 2004, petitioning the repeal of certain sections of the USA Patriot Act and similar legislation; to the Committee on the Judiciary.

58. Also, a petition of the Common Council of the City of Buffalo, New York, relative to Resolution No. 218, supporting the filibuster and defeat of the Energy Policy Act of 2003; jointly to the Committees on Energy and Commerce, Science, Ways and Means, Resources, Education and the Workforce, Transportation and Infrastructure, Financial Services, and Agriculture.

SENATE—*Monday, March 1, 2004*

The Senate met at 12 noon and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Lord of life and love and laughter, You are the alpha and the omega, the beginning and the end. Thank You for the miracle of a new day. We pause to acknowledge Your sovereignty and to admit that because of You we live and move and breathe and have our being.

Show us how to use this day's fleeting minutes for Your glory. Make us Your instruments to bring deliverance to captives and sight to the blind. Open our ears to cries of despair all around us and forgive us for our premature declarations of peace. Sanctify our thoughts, words, and deeds throughout this week and in all the days of our lives. We pray this in Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

PROTECTION OF LAWFUL COMMERCE IN ARMS ACT

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1805, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 1805) to prohibit civil liability actions from being brought or continuing against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others.

Pending:

> Hatch (for Campbell) amendment No. 2623, to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns.
>
> Kennedy amendment No. 2619, to expand the definition of armor piercing ammunition and to require the Attorney General to promulgate standards for the uniform testing of projectiles against body armor.
>
> Craig (for Frist/Craig) amendment No. 2625, to regulate the sale and possession of armor piercing ammunition.
>
> Levin amendment No. 2631, to exempt any civil action against a person from the provisions of the bill if the gross negligence or reckless conduct of the person proximately caused death or injury.
>
> Warner amendment No. 2624, to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system.
>
> Lautenberg amendment No. 2632, to require that certain notifications occur whenever a query to the National Instant Criminal Background Check System reveals that a person listed in the Violent Gang and Terrorist Organization File is attempting to purchase a firearm.
>
> Lautenberg amendment No. 2633, to exempt lawsuits involving injuries to children from the definition of qualified civil liability action.

The PRESIDENT pro tempore. The Senator from Idaho is recognized.

SCHEDULE

Mr. CRAIG. Mr. President, today, the Senate will resume consideration of S. 1805, the gun liability bill. The unanimous consent agreement from Friday provides for approximately 4 hours of debate in relation to two proposed amendments that will be voted on tomorrow. The debate today will center around the gun show loophole amendment and the assault weapons ban amendment.

I will manage time on our side during this period, so Senators are welcome to come to the floor to speak.

Following the debate, at 4 p.m. today, Senator BINGAMAN will offer his amendment relating to definition. Under the order, that debate will go until 5 o'clock, at which time we will vote in relation to the Bingaman amendment. Therefore, the first vote of today's session will occur at 5 o'clock.

The consent agreement governing the remaining consideration of the gun manufacturers' liability bill allows for further debate tomorrow morning prior to a series of stacked votes on a number of amendments. There will be as many as seven stacked votes, including final passage, in that series of votes, which will begin at 11:35 a.m. on Tuesday.

Members can therefore expect final passage of S. 1805 tomorrow afternoon.

The PRESIDENT pro tempore. The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, Senator FEINSTEIN will be managing the first hour of the debate today on assault weapons; and Senator JACK REED from Rhode Island will be the manager of the second hour relating to gun show loopholes.

Let me wish my colleagues a good afternoon.

THE BUDGET FOR VETERANS AFFAIRS

Mr. President, I want to talk, on my leader time, about an issue that will be the subject of a good deal of attention next week; and that is the budget, especially as it relates to our veterans.

The budget this year has many reasons for concern for all of us. I will address many of those concerns at a later time. But I want to focus, this afternoon, if I can, on just one; that is, the budget for Veterans Affairs.

The legislation before the Budget Committee would increase the Veterans Affairs budget by about 2 percent. Unfortunately, that represents about a $700 million increase in health care for veterans going from approximately $28.5 billion to $29.2 billion—a $700 million increase for veterans health.

What is disturbing to me about that number is what one finds when you look at what it means a little more closely. What it means is that, for the first time, veterans themselves will be required to pay fees in excess of $1 billion for health care that they were promised. People probably cannot fully appreciate what that means—a billion-dollar fee requirement from veterans themselves for the first time. We have never, in all of history, had a requirement that veterans pay at this level—$1 billion—for health care.

For now, categories 7 and 8 will be charged $250 a year before they can walk in the door the first time. Their fees—which have been $7, and were $2 just a couple years ago—for prescription drugs now go up to $15. Their per-office doctor visits go from $15 to $20.

So for the first time, veterans, in many cases, will be denied care, not because they do not need it but because they cannot afford it.

When I was home over the last week or so, it was troubling to me how many veterans said: Senator DASCHLE, $250 may not seem like a lot to you, but there is no way I can pay $250. I just won't get care; or: I will try to find care at some clinic where it's free.

It is so troubling to me that I would be hearing that from veterans who gave so much to their country, at a time when we are counting on our soldiers to do so much for us in Iraq, in Afghanistan, and now in Haiti. Time after time, we send our soldiers into harm's way. They come back now, having felt the brunt of that war, and we tell them we just can't afford to give them the care they need.

This is only one of the issues that will be debated during the veterans budget. But I hope all of us—Republicans and Democrats alike—will be very careful before we commit to this new fee structure.

Some of us have argued for a long time that it is now time for us to pass

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

what we call mandatory funding—to treat veterans health the way we treat Medicare, the way we treat Social Security—to recognize that we have an obligation, and it ought to be met.

Mandatory funding is a bill that has been offered to authorize this new status in health care delivery, and I hope that our colleagues would consider it very carefully.

What is all the more troubling is that there is also a provision in our veterans health care system that is very ironic, it seems to me, in so many ways. We actually require a veteran, after he has gone to a private physician and has been prescribed prescription medicine, to go to a VA doctor to have it verified. Sometimes the VA doctor requires additional physicals. But this duplicative process, this requirement for yet another VA physician review now costs the Veterans' Administration a billion dollars. So the irony is that now that we are asking veterans to pay for fees they cannot afford—now in excess of a billion dollars—we are actually spending a billion dollars we would not have to spend if we simply said we are going to trust the decisions made by those physicians in the first place. We tested it with 8,000 veterans over the last couple years, and we found there was absolutely no problem associated with having this requirement that a VA doctor be consulted eliminated. We could save a billion dollars.

I argue that billion dollars ought to come out of the fees required of our veterans. That alone would reduce some of the anxiety and extraordinary frustration so many of our veterans now experience. This, too, is a veterans budget matter that I hope we can address both in the Budget Committee, as well as on the floor of the Senate in the coming days as we debate the veterans budget.

There are two other issues of budget connection and budget relevance that I think we ought to address. The next is the concurrent receipt problem. It is still remarkable to me in this day and age that we deduct disability compensation from retirement income for veterans. Those who gave the most are now required to pay the biggest financial sacrifice. For the life of me, I cannot understand why. We are told we cannot afford it, but those men and women could not afford to give up their jobs, sometimes their good health, to go into war either.

Where there is a will, there is a way. We ought to be cognizant of the incredible disparity and extraordinary unfairness for every disabled American veteran today by this practice of deducting disability pay from retirement. Over the last couple of years, we have actually ultimately passed compromise legislation that would allow veterans who are at least 50-percent disabled from beginning to receive their full compensation for both disability and retirement. But it will be phased in over the next 10 years. A lot of veterans in South Dakota told me they will be gone before this legislation is fully phased in. So I hope we can also look at concurrent receipt.

Let's eliminate the disability tax. Let's recognize that we owe these disabled veterans more than just lipservice. Let's recognize in this day and age, especially now as some are even required to pay fees, that this disparity, this unfairness, this embarrassment in our Veterans' Administration health delivery and compensation system has to be addressed.

Finally, while the President pro tempore has been as sensitive to this issue as anybody in the Chamber, we still have a long way to go in providing TRICARE to all members of the Guard and Reserve. I was reminded, as I talked to another guardsman who has been permanently injured as a result of wounds incurred in Iraq, he has no health insurance. I worry about all of those veterans who come home, about the prospect of losing their health insurance not only for themselves but for their families. In this day and age, with the extraordinary role now played by the National Guard and the Reserve, we can't accept a double standard with regard to the way health care is provided. If we are forcing these young men and women into battle, if we are forcing them to endure the pain, suffering, anxiety, the loss of life and limb, we ought to at the very least provide them with the health insurance they have earned and they deserve.

So we will be offering legislation once again to provide full funding for TRICARE health insurance for members of the Guard and Reserve. It is my hope that on a bipartisan basis, as we have done now on several occasions, we can pass it, enact it into law, and send a clear message that that double standard, too, will end in this Congress.

Mr. President, there are a lot of issues relating to veterans that I hope will be provided the time, attention, and priority they deserve. We will have the first opportunity during the budget debate next week. I look forward to that debate and to the consideration of amendments to address many of these concerns. I am hopeful that on a bipartisan basis we can address them successfully.

I yield the floor.

The PRESIDENT pro tempore. Under the previous order, there will be 4 hours of debate, with 1 hour of the time controlled by the Senator from Arizona, Mr. MCCAIN or his designee; 1 hour under the control of the Senator from California or her designee; 2 hours under the control of the Senator from Idaho, Mr. CRAIG, or his designee.

Mr. REID. Mr. President, if anybody wants to use part of their time, they have to get permission from Senator FEINSTEIN. She is here to use her hour. Senator REED will be the designee for Senator MCCAIN. We have the offer of the amendment by Senator BINGAMAN for an hour, and then we will vote.

The PRESIDENT pro tempore. Who seeks recognition?

The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I rise on behalf of myself and Senators WARNER, SCHUMER, DEWINE, LEVIN, CHAFEE, DODD, JEFFORDS, BOXER, and CLINTON, and also Senators REID and LAUTENBERG, to offer an amendment which is identical to S. 2109, introduced early last week. This amendment will simply reauthorize the 1994 assault weapons ban. It is a straight reauthorization. There is nothing added to it.

The present legislation sunsets on September 13 of this year. As you and others know, the President has said he will sign a straight reauthorization. This is it.

Mr. President, I want to thank Senator WARNER, who I hope will be here shortly to speak for himself. I very much appreciate his cosponsorship of this legislation. When the legislation came before this Senate 10 years ago, Senator WARNER didn't support it. Therefore, his reconsideration of that position is all important. I won't give reasons for it. I believe that is up to him. I believe both he and Senators DEWINE and SCHUMER will be utilizing the hour of our time.

I ask that the Chair inform me when 15 minutes of the hour has passed, if I might.

The issue of assault weapons is near and dear to my heart. It is not about politics or polls or interest groups. In my view, it is about real people and real lives. It is about the ability of working men and women and children to be safe from disgruntled employees or schoolmates who show up one day at a law firm or school or a place of business and fire away until the room becomes filled with dead and wounded colleagues.

Unfortunately, in this society, we are always going to have some people who are prone to grievance killing.

It is my belief the assault weapon, the military-style semiautomatic assault weapon, has become the weapon of choice for grievance killers.

It is about the ability of children to learn, play, and grow without the fear that someone such as Dylan Klebold or Eric Harris would show up at Columbine High School with assault weapons and fire until the school is literally littered with bodies—a dozen students and a teacher murdered, more than two dozen others injured.

It is about making sure our law enforcement officers can safely go about their duties and return home to their families at the end of the day, instead of finding themselves confronted, such as Officer James Guelff found himself in 1994, with assailants wearing body armor and firing from an arsenal of 2,000 rounds of ammunition and a cache of assault weapons.

The officer was gunned down after 10 years of service, and it took 150 police officers to equal the firepower of a gunman clad in Kevlar carrying assault weapons.

I first raised this issue in 1993, when I was a new Senator. I was determined to try to pass the assault weapons legislation as an amendment to the crime bill. Members told me: Forget it; the gun owners around here have too much authority. We would never be able to enact assault weapons legislation. I was told the NRA was simply too strong. Senator BIDEN, then-chair of the Judiciary Committee, said it would be a good learning experience for me, and, in fact, it was.

It was the will of the American people, it turns out, that was stronger than any lobbying organization, even the National Rifle Association. And today, 77 percent of the American people and 66 percent of gun owners believe this legislation should be reauthorized.

We got the bill passed, and America has been safer for it. In fact, the percentage of assault weapons used in crimes since this bill has passed has diminished by two-thirds. That is the fact. Assault weapons traced to crimes since the passage of this legislation have diminished by two-thirds. That is the good news.

It is interesting, the NRA says: Oh, the ban doesn't work; it is just cosmetic; forget it. But the ban does work, and it was carefully put together. No gun owners have lost their weapon because of this legislation. No gun anywhere in America has been confiscated from a legal owner because of this ban. The sky did not fall. Life went on, but it went on with fewer grievance killings, fewer juveniles using them, fewer driveby shooters having access to the most dangerous of firearms.

I want to talk about just a few of the guns we banned. The bill banned 19 specific assault weapons and then set up a physical characteristics test which, frankly, if given my way, I would toughen now. We have had more experience. We know gun manufacturers get around it. California has toughened the test and, basically, I would like to emulate that legislation. Clearly, the votes are not in this Chamber for it; certainly not in the other Chamber, and we probably would not be able to gain a Presidential signature. I probably used too optimistic a word by using "probably." Let me say we would not be able to gain a Presidential signature.

Let me speak for a moment about perhaps the most notorious assault weapon, the AK–47. This gun, developed in the former Soviet Union, is one of the most widely used military weapons in the world. It is not used to hunt, at least not to hunt animals. It is not well designed for home defense. Its ammunition can easily pierce walls and kill innocent bystanders. I will tell you what it is good for: the rapid killing of other people. How well I remember when an unstable drifter by the name of Patrick Purdy, with an assault weapon modeled after the AK–47, walked into a Stockton schoolyard in northern California. He lay on his belly, and he fired indiscriminately into the schoolyard. He fired 106 rounds of ammunition. By the time he was done, 5 children were dead and 29 were injured—five children dead because a of drifter who could gain one of the most powerful military weapons and use it against children.

Each of these children had families. They had futures. One might have been a doctor one day, another a teacher, maybe even one a Senator, but they never got that chance. Their families did not see them grow up.

Then there is the Uzi. The Uzi was designed for Israeli paratroopers in the 1950s. Again, this is not a weapon designed for hunting or self-defense. This is a weapon of war. It can spray fire rapidly and with some accuracy and is used for raids, firefights, and, to put it simply, the killing of enemy soldiers in close combat.

An easily concealed weapon of war that sprays fire can also be used against civilians, and so it was when James Huberty walked into a McDonald's in San Ysidro, CA. He was able to kill 21 people and wound 15 others. The McDonald's customers were simply in the wrong place at the wrong time. Had Huberty carried a revolver, who knows how many lives would have been saved. But with an Uzi, there is no ability to escape. With a big clip and a light trigger, nobody can get to you to disarm you before you have emptied the clip. The spray fire begins and the tragedy looms large. Again, a weapon of war falls into the hands of a grievance killer.

The TEC–9. For me, these incidents really came to a head on July 1, 1993, when a man by the name of Gian Luigi Ferri walked into 101 California Street carrying two high-capacity TEC-DC9 assault pistols.

Let me show you what he looked like. He is dead in this picture. Look at this clip on this assault pistol. Look at the additional clips he was carrying in the bag. And look at the weapon in his hand.

Ferri's gun—well, his guns—actually had special spring-loaded hellfire switches that allowed them to be fired, for all practical purposes, as fast as a machine gun. As a result, it did not take long for him to accomplish his task. Within minutes, he murdered eight people and six others were wounded.

I just looked at a shot of a lovely blond woman on the floor in her office with three shots in her back and one in her shoulder. I have spoken to the survivors and families of these victims over the years, and I can tell you it is just plain heartbreaking.

One such survivor was Michelle Scully. I will paraphrase what happened to her that day. Michelle and her husband John Scully—he was a lawyer in the firm—sought refuge in the nearest room, but the door did not have a lock. Michelle and John tried to block the door with a file cabinet, but they could not move it. Finally, he spread his 6-foot-4 body over his wife as a shield as the gunman wordlessly opened the door and fired this gun over and over again.

John was hit six times. His wife once. "Michelle, I'm sorry," John Scully said a few minutes later, "I am dying."

No one should have to go through this. No one should have to read about it in a newspaper. Nobody goes to work in the morning or says goodbye to their spouse expecting something like what happened at 101 California Street.

These were not soldiers or law enforcement officers. These were people doing everyday jobs in an everyday place. Because a person who had a bone to pick also had two assault pistols, eight lives were ended before the day was done.

Now, my colleagues can tell me guns do not kill people, that people kill people. Of course, I have to agree with that, but when there is a nut or a man so inflamed that he is going to go out and exact vengeance and a weapon of war designed to kill large numbers in close combat is made available to him, when our Government enables this to happen, we fall down on the job because we are here to see that there are laws that protect people.

In 1994, a man used a TEC–9 to kill three people in the Washington, DC, police headquarters. Those killed were two FBI agents and a veteran police sergeant. The shooter walked into the crowded building with a concealed weapon, one of the key factors in how dangerous these weapons can be because they either have collapsable shoulder mounts or they are easily concealed. He then proceeded unimpeded directly into a homicide squad office and began firing. This is what the TEC–9 can do. Again, we do not hear stories of TEC–9s being used to hunt deer. We do hear about tragedy after tragedy.

The PRESIDENT pro tempore. The distinguished Senator has utilized 15 minutes of her time.

Mrs. FEINSTEIN. I thank the Chair. I appreciate that.

In 1999, even after the assault weapons ban had been law for almost 5 years, Dylan Klebold fired 55 shots from a TEC-DC9 at Columbine. The TEC–DC9, a gun manufactured before the ban took effect and thus grandfathered and legal, was obtained from a gun show and then used to kill his fellow students.

It is my hope that over time and the way the bill is structured, the availability of these guns will dry up because what the legislation does is prohibit the manufacture and the sale of these weapons, not the possession. When they do dry up, the Dylan Klebolds of the world can no longer have access to them.

The supply of these guns is not going to dry up, however, if the assault weapons ban sunsets in September. We would be giving Intratec and other such companies a renewed license to manufacture these military guns and market them elsewhere across the Nation.

We specifically exempted 670 rifles and shotguns from the legislation so anybody who said, oh, my gun is going to be taken, could be reassured and we could show them we did not, in fact, take their gun.

Although it may be difficult to read, this is the listing of the hunting guns and other recreational weapons protected in the legislation. It goes on and on. The Weatherby Mark V Sport Rifle, the Savage Model 111BC heavy barrel varmint rifle, and all centerfire rifles that are single shot, drillings, combination guns; shotguns-auto loaders; shotguns-slide actions; shotguns-over/unders; centerfire rifles-auto loaders; centerfire rifles-lever and slide; centerfire rifles-bolt action; shotguns-side by sides, shotguns-bolt actions and single shots. Total, 670 hunting weapons.

The reason I did this is I approached some Members of the Senate and said, what do they need to support legislation? And they said they needed assurance that hunting weapons are not covered. We provided that assurance. That assurance has worked and no one has lost a single weapon on this list.

The list includes every conceivable weapon: shotgun, rifle, et cetera. It is designed to protect the ability of innocent gunowners to keep their hunting weapons and to keep their guns for self-defense. The list of protected guns and the 9 years of accounting of history behind the ban show that the National Rifle Association's hysterical claims of gun confiscation are simply not true.

I will speak about support for this legislation. As my colleagues can see from the list behind me, countless organizations, civic and law enforcement, are asking that this assault weapons legislation be reauthorized. At the top of the list we have the largest law enforcement organization in the Nation, the Fraternal Order of Police. We have the National League of Cities, the United States Conference of Mayors, National Association of Counties, the International Association of Chiefs of Police, the National Association of Police Organizations, the International Brotherhood of Police Officers, the United States Conference of Catholic Bishops, the National Education Association the NAACP, and the list goes on.

By latest poll, more than three-fourths of the American people, even two-thirds of gunowners, support reauthorizing the assault weapons legislation. So the will of the people could not be more clear. The American people know that these guns should not, once again, be manufactured and imported into the United States.

We saw in the Columbine shooting, the Long Island Railroad shooting, and so many others that high-capacity assault weapons can make those who wield them temporarily invincible because it is so difficult to get close to them to disarm them. So the fate of this bill is in this Senate.

In April of last year Presidential White House spokesman Scott McClellan said of the assault weapons legislation:

> The President supports the current law, and he supports reauthorization of the current law.

That is what we are doing with this legislation, reauthorizing the current law, period.

Now, I realize the President has expressed concern about amendments to the gun immunity bill that might delay its passage beyond this year, but the assault weapons legislation expires in less than 7 months and we cannot delay this bill beyond this year, either. I am hopeful that as people look back and they look at this terrible litany of events all across this Nation, in schoolyards, in businesses, in factories, in print shops, in law offices, wherever people congregate, they recognize that it is prudent to keep assault weapons off the streets of our American cities.

As gangs move guns across State lines, they move assault weapons. So the ability to dry up this supply over time, the ability to prohibit their manufacture and their sale is what this legislation does.

It has always puzzled me because the NRA says it is only cosmetic, it does not work, and I wonder, if it is only cosmetic why do they get so exercised about it? But it does work, because assault weapon gun traces to crimes have declined by two-thirds since this bill has passed. That is the proof. It has had an effect. That is why the NRA is calling offices today. That is why the NRA is asking Members not to vote for this: Because it has worked.

I reserve the remainder of our time. I yield the floor. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ROBERTS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. I ask unanimous consent the time that is running be equally divided between both sides.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. The first hour, of course, is allocated to the debate over the semiauto ban, so your request is against the semiauto ban and the total?

Mrs. FEINSTEIN. Just this one.

Mr. CRAIG. I object to that until I better understand it. I want to allocate my 2 hours reserved in the UC for this afternoon. Could the Senator explain?

Mrs. FEINSTEIN. There is a reason for it. We were told this would be later, at 3 o'clock, and then learned it would be 1 o'clock, and then it was noon. I was here so I could come down. Senator WARNER, I believe, has not yet arrived, and would like to speak, as would Senator DEWINE and Senator SCHUMER. It is a Monday. The time has essentially changed. So I would like to leave them time to be able to speak.

Mr. CRAIG. Mr. President, might I ask we go into a quorum, only for the purpose of discussing this and better understanding it?

Mrs. FEINSTEIN. I have no objection.

Mr. CRAIG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator is able to do that. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, before the Senator from Florida speaks—and neither the Senator from California nor I, who control time at this moment, object to that; it is my understanding he wants to speak on the crisis in Haiti—what I would like to consider is that we reconsider the unanimous consent from the Senator from California as it relates to time. Apparently there has been a misunderstanding on the part of some Senators, or their staff failed to inform them as to the time schedule that was agreed upon in the unanimous consent that was established to operate today.

What is critical is a 5 o'clock vote on the Bingaman amendment and allocating necessary time for the Senators to speak to that prior to that vote, and for me to respond.

I ask unanimous consent that time that is being used now, or that may not be used in quorum call, be taken equally from all sides and that that time be extended after the vote, at 5 o'clock, for those who were not given the opportunity to speak on the assault weapons ban or the semiauto ban who are missing it at this time, so we can keep the Senate running.

Mr. President, I will withhold that UC for a while. There is another Senator who has an amendment that is in position at this time who would have to concur. Why don't I withdraw my UC and yield the floor to the Senator from Florida for speaking on Haiti as in morning business.

The PRESIDING OFFICER. Who yields time to the Senator from Florida?

Mr. CRAIG. He would speak as in morning business.

The PRESIDING OFFICER. With the time now charged against anyone?

Mr. CRAIG. Time charged on all sides.

The PRESIDING OFFICER. Is there objection? Time charged on all sides?

Mr. CRAIG. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The distinguished Senator from Florida is recognized.

HAITI

Mr. NELSON of Florida. Mr. President, moment by moment things are unfolding down in the poverty-wracked, AIDS-infected, politically unstable island nation of Haiti. I have had quite a bit of commentary on this subject since I had sent a letter of February 10 to the President suggesting what should be done. Given the events that have unfolded over the weekend—the fact that Aristide has fled, the fact that the U.S. military is located there as a first wave of an international security force to try to establish order—I want to talk about the future of that island nation.

Clearly, it is a nation that has been troubled for stability, political and economic. I think what is in the interests of Haiti, as well as the interests of the United States, is to stabilize that nation. It is a nation that has not been comfortable because of the scores of coups d'etat that have occurred over the 200-year history of that little country. It is a country where we only need to look 10 years back to see that.

When Aristide was elected President, a coup went in, removed him from power, and it took the U.S. military to come back in to put him back into power. The problem is that we didn't stay for the long haul. We didn't help Haiti pull itself up by its economic bootstraps. We didn't continue to help them understand if they had no history of democratic institutions that functioned well—to help them continue to improve their institutions so it would foster free and fair elections and people would respect the rule of law.

That is why we are at this place. That is why I have taken this occasion to come and talk to my colleagues about what ought to happen in the future in Haiti.

First, the Haitian people are an industrious people, and they are a proud people.

I visited the city slum called Cite Soleil in the capital city of Port-au-Prince amidst enormous poverty and the most meager of material possessions. There is a huge drainage ditch running through this section of Port-au-Prince. It is an open garbage sewer. Yet as I walked into those little homes which many times only had a piece of corrugated tin across the top not even sealing the roof, I found those little homes so neatly kept with such pride. I found in the middle of that slum a little area no larger than half the size of a basketball court neatly swept and used as a soccer field. I found there were lots of Americans there trying to assist with education.

One of our colleagues from this body, Senator DEWINE of Ohio, has been to Haiti some 12 or 13 times. He contributes from his own pocket each year to some of the missions there and a Catholic priest who has a school—not only for the children but a school afterhours for the parents to come and learn what their children are learning so they will be in a position of encouraging their own children to have a chance to escape poverty by opening up their minds through education.

I saw an extraordinary medical clinic, much of which is assisted by the United States, in the midst of all of that poverty and disease—indeed AIDS as well. This medical clinic was like a beacon of light in the midst of darkness. It was well respected—even by the hooligans who are there. They respect that medical clinic as well.

Our delegation talked to a Dr. Pap who has had tremendous success in bringing under control the surging numbers of AIDS infections. But when you start with a huge percentage of the population already infected with AIDS—indeed the highest degree of infection in the Western Hemisphere—then you have to start from a base that is already out of control.

I saw industries that were once thriving suddenly, because those private enterprises could not get loans—by the way, what bank was to give loans to an area where it was so wracked with political and economic chaos? I saw the fact that our Government had basically not gone to bat for Haiti on international loans from the development banks; and that we were insisting that Haiti pay off arrears before it would get another loan. How was Haiti going to pay off any arrears? As a result, there were not the loans coming in to build the roads or, more importantly, to improve the existing roads and just to maintain them.

As I went 50 miles north from Port-au-Prince on a road that only had a hard surface for 16 or maybe 17 miles, then there was nothing but potholes, and all the commerce running north and south in the island was attempting to go on that road.

What can we learn about what to do for the future of Haiti? It is very clear to me. The United States had better be involved. We had better not have a hands-off policy as we have had over the course of the past 5 or 6 years. We had better be involved, because it not only affects Haitians but it affects the United States. Let me tell you how.

In the midst of the Western Hemisphere with a country to be as poverty stricken as Haiti is, it is going to be ripe for insurrection and tumult. What happens when there is insurrection and tumult? It is ripe to attract the drug trade—which it already has in big-time numbers—and it is ripe to attract terrorists.

When we start talking about what is in the interest of the United States, it had better be one conclusion: to help Haiti in the future. If there is hopelessness and despair with no way out and no jobs, what is going to happen? There is going to be a mass exodus from that island nation just as there was in the beginning of all of this political strife that occurred over the past few weeks.

The Coast Guard has picked up over 700 people at sea. What is in the interest of the United States? The Coast Guard doesn't have to do that. But if people start fleeing in such huge numbers that they start overwhelming the coast of Florida, what does that do to our social system in Florida? What does that do to Immigration and Customs? What does that do in our ability to protect the homeland by securing our borders?

Need I remind you that in a mass migration to the United States, is there not the opportunity for terrorists to slip into the country under the cover of that mass migration, not even to speak of the drug trade that would be entering our country?

I appreciate the time in the midst of this gun debate. I thank the two Senators who are leading this debate for allowing me to come and pour out my heart. I am not looking to the past now. The past is past. Let us go forward. It is clearly in the interest of the United States and it is clearly in the interest of the Haitian people for the United States to take the lead economically and politically; for institutions to help them understand and develop. That should be an international effort outside of the Western Hemisphere.

France has an interest and has already offered to help. We should work with all of the nations of the world that want to help this little poverty stricken nation. Then we will be doing what we should. We will be leading by an example—that what we preach, in fact, we are doing with our daily acts.

Thank you, Mr. President.

I yield the floor.

The PRESIDING OFFICER (Mr. SMITH). Who yields time? The distinguished Senator from Idaho.

Mr. CRAIG. Mr. President, we will not propound a unanimous consent request because time is burning on the clock equally. The unanimous consent agreement that brought us here this morning largely allocated 4 hours of time between 1 and 4 p.m. to debate both the assault weapons ban and the gun show loophole argument.

At 4 o'clock, Senator BINGAMAN will be here to offer his amendment and that will be debated. We will vote at 5 p.m. Following that, the Levin amendment will be debated. Of course, we can debate into the evening on either of those two issues, if Senators so wish. Feeling they may not have gained time this afternoon to do so, there is no restriction in that.

For a few moments let me discuss the issue that is at hand, the effort to reinstate the assault weapons ban. In September of this year the law expires, so there is urgency on the part of those who believe it was an effective law to get it reinstated. I will argue in the next few moments it has made no difference and that statistics do demonstrate certain things, but statistics have to be placed in the right context of understanding how they were gained to show the ineffectiveness of this law and the ineffectiveness of the ban itself.

Semiautos are not the weapon of choice in the commission of nearly all the crimes in this country.

What is important is to understand where we are with S. 1805, the underlying bill and the ability to keep that bill as clean as possible so that it can get to the President's desk. The semiauto ban, the gun show loophole, and a variety of other issues could simply drag this bill down and deny substantial tort reform in an area that is narrow, that is specific, that is clean, that says to the American people: Yes, we are becoming responsible in denying the kinds of junk lawsuits that some push through the courts to legislate a public policy that they cannot effectively gain by bringing it to the Congress of the United States.

That is why the administration has been clear in its statement of administrative policy. On S. 1805, the administration strongly supports the passage of this legislation. The administration urges the Senate to pass a clean bill in order to ensure enactment of the legislation this year. Any amendment that would delay enactment of the bill beyond this year, in their opinion, is unacceptable. For myself, being the author of the amendment, I clearly agree with that.

The manufacturers or sellers of a legal, nondefective product should not be held liable for the criminal or unlawful misuse of that product by others.

This is a continuation of the statement of administrative policy: The possibility of imposing liability on an entire industry for harm that is solely caused by others is an abuse of the legal system, erodes public confidence in our Nation's laws, threatens the diminution of a basic constitutional right and civil liberty, sets a poor precedent for other lawful industries, will cause a loss of jobs and burden interstate and foreign commerce. S. 1805 would help curb frivolous litigation against a lawful American industry and the thousands of workers it employs and would help prevent abuse of the legal system.

At the same time, the legislation would carefully preserve the rights of individuals to have their day in court with civil liability actions. These civil actions are enumerated in the bill and respect the traditional role of the States in our Federal system with regard to such actions.

That is the statement from the administration as it relates to this legislation. It is important because they are asking for a clean bill.

Listeners will hear me say time and time again over the course of today and tomorrow as we move to the vote on these amendments that are being debated today: Let's keep this bill clean. The legislative year is short. We have a bill that is supported now by a 2-to-1 vote margin in the Senate. This bill will pass this Senate by a fair margin. That expresses a bipartisan will of this Congress to get this bill to our President under the same context as the statement of administrative policy so spoke.

Let's talk about the amendment at hand at this moment, the assault weapon or semiauto ban. I prefer to call it a semiauto ban, and during the course of the next few minutes you will see why. The word, "assault," is by itself an image-getter. It is a cosmetic word that defines for some a certain type of firearm, at the same time sometimes as a weapon, obviously sometimes as a collector's piece. What more clearly identifies the issue at hand is the mechanism of the gun itself, the firearm itself. For the next few moments I will speak to that.

At the time this law was first enacted, most in Congress were very skeptical it would work. That is why there was a sunset provision included in the law. OK, if the law is able to accomplish this, let's see if, in fact, it can accomplish that. Let's make sure that Congress has an opportunity to revisit it, as we do quite often with laws we are not sure of, and therefore a sunset provision. The year is at hand, the sunset provision is such that this bill will expire. The results are in. These firearms are not, nor have they been generally—and I use the word "generally"—used in crime. The restrictions imposed by this law make no sense and only create a burden on law-abiding citizens and businesses.

It is my opinion we ought to let it expire. Again, it is another one of the bureaucratic hurdles we love to put in front of the law-abiding citizens of this country, knowing full well that the criminal on the ground does not play by the rules, and that in a civil society is the law. My arguments of the next few moments will show just that.

There continues to be a tremendous amount of misinformation about the firearms banned by this law and what the ban has accomplished, so let me go through some of the facts. Semiautomatic firearms were first introduced more than a century ago. The first semiautomatic rifle was introduced in 1885, the first small pistol in 1890. The first semiautomatic gun, the Browning automatic 5, was patented in 1900. Theodore Roosevelt, our United States President from 1901 through 1909, hunted with a semiauto shotgun.

Today, Americans own approximately 30 million semiautomatic rifles, pistols, and shotguns across the landscape of this great Nation, approximately 15 percent of privately owned firearms in the United States. About 15 percent of all firearms owned in the United States meet the definition of semiauto. What are they doing with these firearms? Semiauto rifles, including many defined as assault weapons—again, a definition of a term based on how a given weapon appears by the 1994 Federal gun ban—are used for formal marksmanship, competition, recreational target shooting, and hunting. Semiauto shotguns are very widely used for hunting, as well as skeet, trap and sporting clay shooting.

Many of us enjoy that sport and engage in it. Semiautomatic handguns are used in formal marksmanship competition, as well as for recreational shooting and hunting. Many semiautomatic firearms, including some affected by the Federal assault weapon law, are highly valued by gun collectors. They are also commonly kept and used, as witnesses testified during the hearings before the House of Representatives Subcommittee on Crime in 1995, for protection against crime and criminals.

There is nothing intrinsically more dangerous about these firearms than others. In fact, they do less damage to a target than a shotgun does. Clearly, the shotgun, given the range, has by far the greater force. And they are functionally identical to thousands of other guns being used for legal purposes in this country today, functionally identical. Many people mistakenly believe these are machine guns which fire more than one bullet when the trigger is pulled. If someone was listening to this debate and they heard the words "spraying a crowd," they would think of a fully automatic weapon. That is simply not the case, and I think that fact needs to be clearly understood.

On the contrary, semiauto firearms do not spray bullets. They fire one bullet per trigger pull. The mechanism simply ejects the shell and replaces it with another bullet, and you have to pull the trigger again. That is a semiauto. Let's remember that fully automatic machine guns have been banned since 1934. This Congress spoke to that in 1934.

The Federal assault weapon law is set to expire, as I have said. It has prohibited the manufacture, since September 13, 1994, of a semiauto rifle equipped with a detachable magazine or two or more attachments, such as a bayonet lug or a flash suppressor, with similar guidelines imposed on handguns and shotguns. The manufacture of large ammunition magazines, holding more than 10 rounds, was also outlawed.

Now we are beginning to get into what is, by those who understand it, viewed as an assault weapon. It is the physical attributes of two or more attachments, such as a bayonet lug and a flash suppressor.

Assault weapons, large magazines manufactured before September 13, 1994, are exempt from the law. Before September 13, 1994, manufacturers accelerated production to increase inventories available for sale later.

After the law took effect, the BATF informed manufacturers that they could produce firearms identical to assault weapons but without one or more of the prohibited features. And that is a reality today. So again, when I use the word, "cosmetic," there is a lot more truth to that than fiction. If it does not look this way, if it does not have this particular item on it, but it shoots identically and it has the same firepower, well, then it is legal.

Also, new models of semiautomatics have been introduced, and the production of some previously discontinued models has resumed.

The ban affects firearms never widely used in crime, according to a study conducted by Congress—the Urban Institute, Impact Evaluation of the Public Safety and Recreational Firearms Use Protection Act of 1994.

According to the FBI, rifles of any kind are used in only about 3 percent of homicides—only about 3 percent of homicides.

Here is an explanation of why a law-abiding gun owner would purchase one of these firearms. Now, I pulled it out of my files because I thought it was a good one because the Senator from California said: Well, these weapons are not for hunting purposes.

Yes, some people do hunt with them. Does it mean you simply machine gun down a deer? No, it does not mean that at all. It is because it is a weapon of choice, largely because it is lighter than many hunting weapons, and it can be carried by a smaller person.

In this instance, this person's name is Mary. She happens to be a licensed hunter in Idaho, and she happens to use a Colt AR-15. It is a semiauto that uses a 20-round clip. That is what she hunts her deer with. That is what she kills her deer with. So she and her boyfriend wrote us and sent a picture, saying: Look, what the semiauto ban of 1994 does is it eliminates this kind of firearm, and, in essence, it eliminates the ability of a smaller person to go out into the brush to hunt deer and to recreate in that fashion.

Now, the ban in 1994 did a couple of things. First of all, it named certain guns specifically. And I could go through that list of particular firearms that it actually named. Of course, the Senator from California is very well aware of that in crafting a specific list of firearms at that time. Some guns it only named by features.

A semiautomatic rifle that can accept a detachable magazine and has at least two of the following is included within the ban: a folding or telescoping stock, a pistol grip that protrudes conspicuously beneath the action of the weapon, a bayonet mount, a flash suppressor or threaded barrel, a grenade launcher. But, then again, of course, the National Firearms Act already outlaws those, so even if this law expires in September of this year, it still is going to be illegal to have a grenade launcher, as it should be, unless you are a bona fide collector and have been given the authority to collect for collection purposes.

A semiautomatic pistol that can accept a detachable magazine and has at least two of the following: again, an ammunition magazine that attaches to the pistol outside of the pistol grip; a threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer; a shroud that is attached to, or partially or completely encircles the barrel, and that permits the shooter to hold the firearm with the nontrigger hand without being burned; a manufactured weight of 50 ounces or more when the pistol is unloaded; and a semiautomatic version of an automatic firearm.

That is how technical this law has become.

Here is another one: a semiautomatic shotgun that has at least two of the following: a folding or telescoping stock, a pistol grip that protrudes conspicuously beneath the action of the weapon, a fixed magazine in excess of five rounds, and an ability to accept a detachable magazine.

But here is something that is important to understand. You know the old phrase, "Let's make the record perfectly clear." I think it is appropriate.

What were banned by other laws that will still be banned after this law expires? I think I heard reference to the popularity of the AK-47, a foreign rifle, and Uzis. Well, they were banned from importation in 1989, under Federal firearms importation law—now 18 USC 925(d)(3). The use of gun parts to assemble the same guns in the United States was prohibited by the Unsoeld amendment in 1990. In 1993, the so-called assault pistols, like the Uzi pistol, were banned under the importation law. In February of 1994, revolving cylinder shotguns—I have heard the words used here, and they were commonly called "Street Sweepers" and "Striker-12s"—were banned under the National Firearms Act.

So those will still be illegal firearms to traffic in, to commerce in. And as a result of that, it is important that we make the record perfectly clear that ownership of these prior to the passage of the law but after the passage of the law, these do not go away.

Again, as I have said, after the assault weapons law expires, here is what will happen. American-made rifles, such as the AR-15, will once again be made in their original configurations. Private citizens will also, once again, be able to buy standard capacity ammunition—magazines usually between 13- and 17-round capacity—instead of the arbitrarily reduced capacity 10-round magazines the law imposed, a change that will assist in defending themselves against criminals and for recreational purposes. In other words, what a difference a law makes.

Well, in this instance, the difference the law made was it kept firearms of these type and by definition out of the hands of law-abiding citizens. But if you are a criminal, if you want to deal in the back streets and in the black market, as most criminals do, then you are not going to walk in and try to buy one of these off the shelf. That is why criminals will have them, because you cannot acquire them off the shelf because it is illegal under the current law, and you would not be able to anyway if you were a criminal. It is the law-abiding citizens who subject themselves to the laws, as they should.

Now, is this statistic that I have in front of me accurate? The Senator from California had a chart a few moments ago that would indicate quite the difference. In fact, she showed a declining number in the statistics. This statistic is accurate. Bureau of Justice statistics, Department of Justice: Before the semiautomatic firearms ban, less than 2 percent of crimes in this country were semiauto. After the ban, 1997 and forward, less than 2 percent were. Same figure.

How is it possible, then, that the Senator from California gets the statistic and the chart that shows the decline? I am not suggesting she misrepresents this chart, because I believe this chart to be accurate, and I believe it is accumulated in a nonbiased way.

Let me try to talk about the use of and/or the misuse of what is known as tracing data. There is a problem when using firearm commerce tracing reports justifying any assault weapon law. Let me try to walk you through this. Is this technical? It is a bit technical. But the CRS looked at it and they agree with this figure. That is the research service that we employ in a nonpartisan way to give us accurate facts and statistics about those items we debate on the floor.

More than a decade ago, the CRS examined the firearms tracing system in the context of the assault weapon issue and determined that information derived from traces should not be used to determine how often any kind of guns—not just assaults or semiautos—were used by criminals. One of the key limitations of the tracing system is the fact most guns that are traced have not been used to commit violent crimes, and most guns that are used to commit violent crimes are never traced. The tracing system was designed to collect statistics. The Congressional Research Service said this:

> Fire arms selected for tracing do not constitute a random sample and cannot be considered representative of the large universe of all firearms used by criminals or of any subset of that universe.

CRS also noted that:

> A law enforcement officer may initiate a trace request for any reason. No crime need be involved.

It pointed out that the Bureau of Alcohol, Tobacco, and Firearms and Explosives admitted:

> It is not possible to determine if traced firearms are related to criminal activity.

In other words, it is just a matter of gaining certain statistics on certain items.

One problem with the tracing system in the context of assault weapons is that before the assault weapon law was enacted, traces on those guns were requested disproportionate to their use in crimes. That is because there was so much political interest in the guns at the time. It was the talk of the day, if you will. It was the placebo of action in 1994 that gave us the political law we have today that still represents those figures, known as the assault weapons ban. That is why it was disproportionate. Why? Political interests, a lot of questions being asked.

Certainly crimes that were committed using a semiauto or an assault weapon in this percentage of 2 percent or less were highly dramatized at the time. That is because there was, again, so much action today. A decade later, they constitute a smaller share of traces because there has been less interest in them and because other guns are now being traced more heavily. In other words, the decline in the Senator's chart, in my opinion, represents that shift in attitude and in attention, if in fact you use tracing data as a way to determine that semiautos/assault weapons are being used in the commission of the crime. That is the reason for this statistic from the Department of Justice.

While they look at these kinds of statistics, they don't believe them valid. Because of the method by which they are collected, they are viewed as heavily inaccurate if used in certain contexts. To determine the extent to which assault weapons have been used in crimes, we have to look at State and local law enforcement agency reports on prime weapons. That is the Department of Justice's felony survey and the congressionally mandated study on the assault weapon law. They all show assault weapons have been used in only a very small percentage of violent crimes. That is the reason for that statistic.

Well, getting technical about a technical issue is important. We can talk about all of the dramatics and the tragedies that happen when firearms are misused. We can talk about Columbine, and there are a lot of kinds of things that are, appropriately so, to emote the kind of emotion all of us feel and understand when these kinds of firearms are used improperly and illegally.

But what happens when we start banning them, we have all learned, is that it is the law-abiding citizen who may own them and use them responsibly and who may be collecting them that is blocked by the law. The criminal is not.

In this survey that the Department of Justice uses, they go out and survey criminals. They surveyed 14,000 of them locked up in prison and, as a result of that, that figure, along with a good many others, I think clearly demonstrates the dramatic and important side of this issue.

Well, I will talk through the balance of the day on this issue. But I think it is important that we demonstrate in its appropriate context the information we are providing.

In my opinion, based on CRS's studies, based on the Department of Justice studies, to say the assault weapons ban law has dramatically worked since 1994 is inappropriate. The reality is that it was less than 2 percent in 1991, and less than 2 percent after its passage in 1997 and beyond. That statistic holds today, in my opinion, based on the sources that I quote, which I believe are valid and justifiable. There are a good many more statistics that I can talk about, and we will throughout the course of the day.

Let me return to my initial argument. I think we have the opportunity to, in a very narrow and specific way, protect law-abiding people—gun manufacturers, licensed gun dealers who play by the rules that this Congress has laid down, and provide a quality product to Americans under their second amendment rights. But what we now see is a class of lawsuit out there that is designed for one reason: to control guns. It is a new form of gun control, because the gun control advocates of this country who continually came to Congress through the 1960s, 1970s, and 1980s, saying we have to have gun control to save people's lives, found out that we read the statistics, we looked at the facts, and we said no. They decided they would go through the courts and they would begin to, by law or by action of the court, attempt to legislate those kinds of actions—in this case, by penalizing a law-abiding citizen for a third party action.

Let me close with this thought. It happened to me once again this morning. I was on the phone to my State of Idaho in a radio interview. The interviewer said:

> Senator, we watch what you are doing on the floor of the Senate. How is that any different from suggesting that—

And he used the particular automobile, the Chevy truck. He said:

> How is what you are doing any different from suggesting if a drunk driver uses a Chevy truck and runs over someone and kills them, that Chevrolet is responsible for that third party action?

I said:

> Frankly, there is no difference. That is why it is important that this Congress reinstate the historic tort law as we understand it. Individuals are held responsible for their actions. That is what the administration is asking us to do.

That is what we are doing in S. 1805. Let's not extend the assault weapon ban, add it to S. 1805 and risk a failure to pass this very important piece of legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I hope I will have an opportunity to rebut the distinguished Senator's comments. I find it very interesting that suddenly gun trace information is not acceptable information, but we can go out and do a survey of criminals, and that is an acceptable way of evaluating the success or failure of the assault weapons legislation. I don't buy it. In my view, tracing guns to crime is an appropriate way.

I ask unanimous consent to have printed in the RECORD the executive summary of a new report out on "Target: The Impact of the 1994 Federal Civil Assaults Weapons Legislation."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXECUTIVE SUMMARY

To evaluate the questions below, the Brady Center to Prevent Gun Violence asked Crime Gun Solutions LLC to review and analyze national crime gun trace data maintained by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). This data represents guns nationwide that have been illegally possessed, used in a crime, or suspected of being used in a crime, thereafter recovered by law enforcement, and then traced to learn about the sales history of the gun.

Has the Federal Assault Weapons Act reduced the incidence of assault weapons in crime?

Yes. In the five year period (1990-1994) before enactment of the Federal Assault Weapons Act, assault weapons named in the Act constituted 4.82% of the crime gun traces ATF conducted nationwide. Since the law's enactment, however, these assault weapons have made up only 1.61% of the guns ATF has traced to crime—a drop of 66% from the pre-ban rate. Moreover, ATF trace data shows a steady year-by-year decline in the percentage of assault weapons traced, suggesting that the longer the statute has been in effect, the less available these guns have become for criminal misuse. Indeed, the absolute number of assault weapons traced has also declined.

This decline is extremely significant to law enforcement and has clearly enhanced public safety, especially since these military-style weapons are among the deadliest ever sold on the civilian market. For example, if the Act had not been passed and the banned assault weapons continued to make up the same percentage of crime gun traces as before the Act's passage, approximately 60,000 additional assault weapons would have been traced to crime in the last 10 years—an average of 6,000 additional assault weapons traced to crime each year.

Have industry efforts to evade the Act through "copycat" assault weapons eliminated its positive effects?

No. After the Assault Weapons Act was passed, gun manufacturers sought to evade the ban by producing weapons with minor. changes or new model names. The Act was designed to prevent this occurrence by defining assault weapons to include "copies or duplicates" or the firearms listed in the ban in any caliber, though this provision has never been enforced. Yet, even if copycats of the federally banned guns are considered, there has still been a 45% decline between the pre-ban period (1990–1994) and the post-ban period (1995 and after) in the percentage of ATF crime gun traces involving assault weapons and copycat models.

The results of this study make it clear that the United States Congress needs to renew the Federal Assault Weapons Act. If the Act is not renewed, a decade of progress could be lost and thousands of additional assault weapons are likely to be used in crime in the future.

Mrs. FEINSTEIN. Mr. President, I would like to recognize the presence of the Senator from Ohio and cede 10 minutes of time to him.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, first, I thank my colleague, Senator FEINSTEIN, for her great work in this area. I rise today in support of her amendment to reauthorize the 1994 assault weapons ban which is set to expire later this year. I thank her for her great leadership in this area.

Since it took effect in 1994, the assault weapons ban has been an effective tool in curbing crime in this country. The assault weapons ban has made it more difficult for vicious criminals to get access to firearms that are designed really only to maximize the number of shots that can be fired and people killed in a short period of time. It is the only reason they exist, the only reason they are made. The ban has allowed us to keep these dangerous weapons out of the hands of dangerous criminals and has helped make our streets safer.

Banning these weapons is smart law enforcement and it is good public policy. Continuing the ban is simply the right thing to do.

I am not alone in this assessment. The assault weapons ban reauthorization has the support of the White House and also has the support of every major law enforcement organization in this country—every single one. Furthermore, it has the support of the National League of Cities, the United States Conference of Mayors, and the U.S. Conference of Catholic Bishops. This is for good reason.

Prior to the 1994 ban, the Cox newspaper service conducted a survey using data from the Bureau of Alcohol, Tobacco, and Firearms. That study found that assault weapons were 20 times more likely to be used in a crime than a conventional firearm. This, therefore, is a question of public safety.

It is to me disconcerting that we still hear complaints about extending the duration of the ban. One stated concern is the ban may somehow accidentally infringe on the rights of law-abiding gun owners. For example, some people worry the ban may affect hunting or recreational rifles. The ban has been in effect for almost 10 years now and that has not been a problem so far.

What is the compelling reason to repeal this law, because that is, in effect, what we would be doing if we do not extend it? What has been the problem? How many of us have heard from our hunters? How many of us have heard from people who want to use a firearm in a proper way to protect themselves or for recreation purposes, that this particular law is somehow infringing upon their rights? I do not think we have.

This law will not be a problem in the future either because this legislation specifically provides protection of 670 different types of hunting and recreational rifles that are presently being manufactured. This list is by no means meant to be exhaustive. A gun does not have to be on the list to be protected.

Furthermore, the ban does not just protect the right to purchase and use rifles. It also protects a wide range of guns because it only affects those weapons with no legitimate use.

We know why American citizens buy guns. The most common answer to the question of why we buy a gun is protection, hunting, target shooting, and other legitimate reasons. These are very legitimate uses for legally acquired firearms. The firearms included in the assault weapons ban do not effectively serve any of these purposes.

No legitimate gun owner need have a weapon such as the TEC–9 that has been talked about before. I will not take my colleagues' time to talk about this weapon, but it is not a legitimate weapon for anyone but a criminal who wants to see how quickly he can kill a large number of people.

Probably the most important reason to have this ban, if we really want to analyze it, is that it limits the number of rounds in a clip to 10. What significance does this have in regard to law enforcement? Maybe if I can go back to my days as a county prosecuting attorney and draw upon my conversations I had not just then but throughout the years with my friends in law enforcement, some of my police officer friends who I have known and continue to know and call my good friends, what is it people fear and police officers fear? One thing is someone comes in and they have a big clip, and they can just shoot, shoot, shoot, and shoot and nothing will stop them—15, 20, 30 rounds.

What does this law do? It limits it to 10. That is an arbitrary figure. It could have been something different. We understand that. At least it limits it to 10. That makes some sense. Yes, someone could put the other clip in and continue on, but there is a period of time where they have to stop and do that. What law enforcement people tell us is that period of time, when you have a mass murderer who is intent on killing as many people as he or she can, is valuable, that period of time is significant from a law enforcement point of view and it maybe will save lives. In some cases, it will save lives.

Law enforcement will be able to react in that period of time and lives will be saved and shots will not be able to be taken, and that criminal, that person who maybe is insane, will be stopped, disabled, or killed by law enforcement, by a bystander, by someone.

That, from a law enforcement point of view, is the most effective part of this bill. In my opinion, at least, and in the opinion of many people in law enforcement with whom I have talked, that is the heart of this law we have today, and I think it is the heart of the Feinstein amendment. She is attempting to do something that is not revolutionary. All she is trying to do with this very modest amendment is to keep current law. Let me emphasize that. A vote for the Feinstein amendment is a vote for the status quo. It is a vote to keep current law. I urge my colleagues to follow that law.

The assault weapons ban prevents the manufacture of new high-capacity military style magazines for sale to the general public. Indeed, the guns we banned were designed to work in conjunction with these high-capacity magazines. Many of them are able to hold 30 or 40 rounds in each magazine. That is 30 bullets that can be fired rapidly without ever reloading.

This is far more ammunition than a hunter, sportsman, or individual concerned with self-protection needs in one magazine. This deadly combination of large clips and rapidly firing guns is not characteristic of recreational guns or guns used for personal protection. We all know that. Neither is a threaded barrel designed to accommodate a silencer, a feature that is much more useful to assassins and snipers than it is to a sportsman; or a bayonet mount that allows a knife to be attached to the front of a rifle; or a grenade launcher. Again, it was provided in this bill. Does a grenade launcher sound recreational?

Under this provision, the Feinstein amendment, and under current law, we do not outlaw a gun unless it has two of these features. It has to have two of them. I think it is a pretty modest law, and a pretty modest amendment.

The assault weapons ban does not outlaw a gun if it has one of these features. It only outlaws a gun with two or more of these features.

These are dangerous weapons that do not belong on our streets. I urge my colleagues to talk, as I have, to law enforcement officers in their States. Talk to the mayors of their cities, talk to people who are on the front lines and who might potentially have to deal with these types of weapons if we do not reenact this law. They will say these weapons are a threat to law enforcement and to the general public. These weapons are not for hunting. They are not for self-defense. It is time to once again reauthorize this law.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the Senator from Ohio for his comments and for his support. I very much appreciate it.

One of the issues is that those States that have big cities see how these weapons are used, and in the big cities they are used by gangs. So the argument of the collector versus the argument of the majority who wants to be protected from these weapons is what we are talking about today.

The distinguished Senator from Idaho referred to them as just semiautomatic firearms, really no different from other firearms. I do not see it that way at all. Many of these come with collapsable stocks. They come with 20-round clips. Two 30-round clips can be put together, and two banana clips, and have 60 rounds. The trigger can be adjusted so that with some of these weapons one can fire as many as, believe it or not, 30 bullets in 3 seconds. That cannot be done with a revolver and with most rifles.

So these are different weapons, and those of us who support this legislation essentially believe they do not belong on our streets. No collector is stopped from collecting one of these weapons. A collector can still buy one of these weapons. What is stopped is the manufacture and sale of new weapons. The existing stock is still around.

I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mrs. FEINSTEIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that during the quorum call the remaining time be equally divided between the two sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. REED. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. Mr. President, I ask that time allocated to Senator McCAIN, cosponsor of the gun show amendment with myself, be given to me for such time as I may consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. Mr. President, we are debating legislation that is a serious encroachment on the common law of negligence. It is a legislative proposal that, in my view, is audacious in its breadth and also something that is presumptuous, presumptuous in the fact that, at the heart of this legislation, any liability for a gun dealer or a manufacturer or a trade association would rest on a violation of a statute, a Federal or State statute. Of course that presumes we are wise enough and bright enough to provide a statutory answer to every question posed by life. And I don't think we are.

That is, in effect, one of the reasons why the law of negligence arose. It was not a response to the fact that we have too many laws; it was a response to the fact we had laws that did not require a standard of care in every circumstance. This legislation presumes we will govern every conceivable item of conduct and if one of those items of conduct is violated, a statutory requirement, then liability will arise. That defies human experience.

Again, that is why our system of law over centuries developed the notion that outside of laws there is another standard. That is the standard of reasonable conduct. That is a standard that says an individual should act in a way that does not reasonably lead to the injury of another.

We are upsetting that totally with this legislation. One example of the deficiency of the current legislation that we have, the legislative framework, is the governance of gun shows. These are sales of weapons in public areas that take place in most jurisdictions of this country—in many, many jurisdictions. We became aware of one of the glaring shortcomings of this legislative framework after the Columbine killings. There, two very disturbed young men were able to obtain a weapon through a gun show. They used this weapon and other weapons to go in to wreak havoc in Columbine High School: classmates dead, families shattered, a community in turmoil.

At that point, this body moved very appropriately to try to close the gun show loophole. What is this gun show loophole? It is very simply stated. If you are a licensed Federal firearm dealer, then you must conduct a background check upon anyone who purchases a weapon from you. But if you are an unlicensed dealer, i.e. someone who does not engage in the sale of firearms, then there is no requirement that you conduct this background check. It turns out that at gun shows there are many licensed dealers but a significant number of unlicensed dealers.

They come and sell their wares at that show. In fact, you can go up to one table at a gun show and ask about a weapon. A licensed dealer would presumably quote you a price and say, I also have to conduct a background check under Federal law. You can step 3 or 4 feet away to another table to an unlicensed dealer, someone who "knows the business" of selling weapons, where in fact you don't have to do a background check. He says, "I don't have a license. This is the price I want for it."

It is not fair. It also allows for the distribution of this weapon into society in a way that can be harmful. The Columbine case is an example of that. Senator McCAIN and I are proposing legislation that will close this loophole.

Again, back in 1999, in the wake of Columbine, Senator LAUTENBERG proposed legislation that passed this body. It was, unfortunately, stripped out of the legislation before it reached the desk of the President. We hope to offer an amendment tomorrow morning, and hopefully it will be agreed to.

It is very important to have an active framework for the regulation of firearms in the country. It is important because in many cases we have avoided subjecting firearms to the regulation which is common for other goods that are sold in commerce. Firearms are exempt from consumer product safety laws that apply to virtually every other product in the country.

I think it is important when we have public sales of firearms that we should have a situation in which every dealer is required to conduct a background check on the purchase.

The Bureau of Alcohol, Tobacco, and Firearms reported to Congress in 2000 that gun shows are a major source of gun trafficking, responsible for 26,000 illegal firearms sales during the 18-month period they studied these sales.

That suggests to me this is an issue that must be dealt with and must be dealt with in this legislation. They have told us many of these purchases are by convicted felons, domestic abusers, and other prohibited purchasers who cannot obtain a weapon if they go to a licensed dealer and have a background check.

At least three suspected terrorists that we know have also exploited the rules to acquire firearms, including one suspected member of al-Qaida.

Under Federal law, Federal firearms licensees are required to maintain careful records of their sales and, under the Brady Act, to check the purchaser's background with the National Instant Criminal Background Check System. However, as I explained, a person does not need a Federal firearms license, and the Brady Act does not apply, if the person is not "engaged in a business" of selling firearms pursuant to Federal law.

These unlicensed sellers make up to one quarter or more of the sellers of firearms at thousands of gun shows in America each year. Consequently, felons and other prohibited persons who want to avoid Brady Act checks and records of their purchases buy firearms at these gun shows. It stands to reason if you are a felon and you know the system and know that if you go to a licensed dealer you have to have a background check, where do you go? You go to someone who doesn't have to conduct a background check. In many cases, it is gun shows and unlicensed dealers.

As I also mentioned, 5 years ago, Eric Harris and Dylan Klebold killed 13 people at Columbine with weapons purchased from an unlicensed seller at a gun show. The woman who purchased those guns on behalf of Harris and Klebold testified to the Colorado Legislature she would never have purchased the weapons had she been required to undergo a background check. Had we had those background checks in place, then we might have avoided a terrible tragedy at Columbine.

We are united in this bipartisan legislation, Senator McCain and myself and other cosponsors, and we have brought together provisions from several previous gun show bills to make gun show transactions safer for all Americans. The amendment we will propose tomorrow will require Brady law background checks on all firearms transactions at any event where 75 or more guns are offered for sale. Three years after enactment, States could apply to the Attorney General of the United States for certification for a 24-hour background check for unlicensed sellers at gun shows. In order to be eligible for this 24-hour certification, a State would be required to have 95 percent of its disqualifying records automated and searchable under NICS, including 95 percent of all domestic violence misdemeanor and restraining orders dating back 30 years.

If a State can show their records are accessible through the system, if they are updated, if they cover the range not only of felony convictions and other criminal convictions but also domestic violence, misdemeanors, and restraining orders, then they could have a system in which an unlicensed dealer could have the check resolved in no more than 24 hours.

Before certifying a State for this 24-hour background check, the Attorney General would be required to establish a toll-free telephone number to enable State and local courts to immediately notify the NIC system anytime a domestic violence restraining order is filed, and courts within a certified State would be required to use the telephone number immediately upon the filing of such an order to notify the NIC system.

The bill also directs the Attorney General to work with States to encourage the development of computer systems that would allow courts to provide electronic records to NICS immediately. The Bureau of Justice Statistics would conduct an interim review of all certified States to ensure they continue to meet the conditions of the 24-hour background check and certification.

The amendment Senator McCain and I will offer tomorrow differs in several respects from the legislation Senator McCain and I proposed last fall.

First, gun show operators would not be required to notify the Attorney General of plans to hold a gun show. This provision was included in previous legislation, but it has been stricken from the amendment. Thus, there will be no requirement for a gun show operator to notify any Federal agency about plans to operate a gun show.

Second, gun show operators would not be required to notify the Attorney General of vendors who sell firearms at gun shows. Again, this is a provision that has been dropped from previous legislation. The ledger of vendors at a gun show would be maintained at the permanent place of business of the gun show operator.

Let me repeat that our amendment contains no requirement for gun show operators to notify any Federal agency about the names of firearms vendors at gun shows. Therefore, the amendment would not, as the NRA has claimed, in their words, create "gun owner registration." It would not do that.

Third, our amendment does not authorize the Department of Justice to draft regulations concerning how gun shows notify each gun show patron on the provisions of the law.

Again, in previous editions of legislation, there was a requirement they would inform patrons about the provisions of the law. This legislation does not contain such a provision.

The NRA has claimed, in keeping with their longstanding tradition of extreme rhetoric, our bill would create "massive bureaucratic red tape" and give a so-called "antigun administration" the power to "regulate gun shows out of business." That was never true to begin with. But the changes Senator McCain and I have made to our amendment should put these accusations to rest.

The overriding purpose of our bill is to require background checks on all gun show sales in the most convenient manner possible for gun show operators, unlicensed sellers, and private citizens who seek to purchase firearms at gun shows.

I have no doubt the gun lobby will continue to say this is an attempt to end gun shows. But the experience of States that have closed the gun show loophole proves otherwise.

California, for example, requires not only background checks at gun shows but a 10-day waiting period for all gun sales. Yet gun shows continue to thrive there.

We are not trying to end gun shows. We are trying to end the free pass we are giving to terrorists and convicted felons that allows them to simply walk into a gun show, find an unlicensed fellow, buy whatever weapons they want, and walk out without a Brady background check.

In overwhelming numbers, gun owners believe a background check should be required whenever a firearm is sold at a gun show. An October 2003 poll found 85 percent of gun owners support closing the gun show loophole, that 83 percent of those who have attended gun shows support closing the loophole as well.

The people of Colorado—one of several States—confirmed this widespread support after Columbine when they approved a ballot initiative to close the gun show loophole. President George Bush said repeatedly during the 2000 campaign he supported legislation to require background checks at gun shows.

We hope tomorrow this amendment will be adopted so the President can sign a bill which he has indicated clearly and repeatedly throughout the 2000 campaign that he supports. I urge my colleagues to support the McCain-Reed amendment so we can finally close the loophole in every State and make sure that convicted felons, domestic abusers, and other prohibited persons do not use gun shows to purchase firearms without the background check.

There has been some discussion and rebuttal by those who say this is unnecessary because this is not an opportunity for felons to obtain weapons. In fact, the NRA maintains there is no gun show loophole. What is the truth? Under Federal law, licensed dealers must do background checks at gun shows, but unlicensed dealers do not. Thus, at thousands of gun shows each year, a licensed firearm dealer must conduct a background check, while 2 feet away an unlicensed dealer is able to sell a weapon without a check. That suggests strongly—it would defy common sense otherwise—that if you are looking to get a weapon and you are prohibited from having one, where would you go? Right to the unlicensed dealer, right to that loophole. Put the money on the table and take the weapon and walk out, no questions asked.

According to the NRA, they suggest hundreds of thousands of guns are sold each year at gun shows without these background checks—that is their own statement—hundreds of thousands of guns not subject to background checks.

It is not fair. I have talked to my colleagues from States that have quite a few gun shows and they simply say, what sense does it make that someone who walks into a Target or a Wal-Mart to buy a weapon has to undergo a Federal firearms check and they can just walk across the street to some type of gun show and get one without a background check. That is not fair. It is not an even playing field. It is a loophole. We hope we can close that loophole tomorrow.

The NRA says if we adopt this legislation we will put gun shows out of business. That is not true, either. Seventeen States have closed the gun show loophole on their own. According to the Krause Gun/Knife Show Calendar, which bills itself as the complete guide for anyone who attends or displays at gun shows, States which closed the loophole hosted more gun shows each year than States which have left this loophole open: an average of 45 gun shows per year in the 17 States which have closed the loophole compared to 41 in the other 33 States.

The NRA also says lengthy background checks take too long for weekend gun shows. But thanks to improvements made by the NIC system, National Instant Recovery background system, 91 percent of the background checks take less than 5 minutes; 95 percent take less than 2 hours to complete. For 19 out of 20 background checks, instant checking is truly instant, within minutes, and no more than 2 hours. Of the remaining 5 percent that take longer than 2 hours, about one-third of these result in a denial because they have found information indicating the individual is prohibited from purchasing a weapon.

Also, as indicated, our amendment gives the State the opportunity to qualify for a 24-hour background check for unlicensed sellers at gun shows if it has automated 95 percent of its background check records. These checks can be made, they will be made, they are being made without inhibiting gun shows on behalf of licensed dealers who sell at the shows. The idea that requiring unlicensed dealers to get a background check would disrupt gun shows is, in my view, completely unsubstantiated.

The NRA says criminals do not buy guns from gun shows. The truth is, crime guns do come from gun shows and it has been documented. That is according to ATF Special Agent Jeff Fulton. In a comprehensive ATF report on illegal guns, they found gun shows were the second leading source of firearms recovered in illegal gun trafficking operations.

The NRA says also the Department of Justice survey of prison inmates found only 2 percent of prisoners obtained their firearms from the gun shows and flea markets. The 1997 survey at the NRA sites admits an obvious flaw: The gun show loophole did not exist until the Brady law passed at the end of 1993, requiring background checks by licensed dealers. Thus, any criminal imprisoned before 1994, or inmate who acquired a firearm before 1994, could go to a gun store without having to undergo any type of background check. The survey they rely upon is invalid.

We have several recent examples of gun show loopholes being exploited by criminals. Thomas Timms was arrested last October with 147 guns, 60,000 rounds of ammunition, a submachine gun, a 20 millimeter antitank rifle, a 12-gauge "street sweeper" and a rocket launcher. According to Federal agents, he had been selling large quantities of weapons at Georgia gun shows that were used in crimes in Washington, DC, New York, and Georgia.

Caesar Gaglio was arrested in September after selling 11 guns to undercover agents and was among 5 unlicensed sellers caught with 572 guns in an undercover sting that encompassed gun shows in Oklahoma, Kentucky, and Kansas.

John Loveall and eight others were arrested in June for selling firearms to felons or people under indictment at Tennessee gun shows. They were arrested with 500 guns in their possession. In the words of the Federal attorney, this is 500 guns that will not wind up in the hands of criminals to use, to rob, or to shoot or murder citizens of Memphis or anywhere else in the western district of western Tennessee.

Tommy Holmes pleaded guilty in October for being part of a trafficking scheme that included a known felon buying scores of guns at Alabama gun shows to sell on the streets of Chicago. Fifteen of the firearms have been recovered in the course of criminal investigations or at crime scenes.

Bud Varnadore was sentenced to prison in November for trafficking in firearms at Tennessee gun shows. He was caught in a sting that identified 23 other suspicious sellers and recovered over 1,600 firearms. Tennessee is a "source State" of guns for criminals, through unlicensed dealers, according to AFT Special Agent James Cavanaugh.

Nigel Bostic and two accomplices were arrested for buying 239 firearms at 11 Ohio gun shows and reselling them to criminals in Buffalo, NY. At least one was recovered in a homicide. In one instance, Bostic purchased 45 firearms and his accomplice purchased 85 guns. "We are still finding guns that have been used in crimes and tracing them back to him," said Buffalo Police Lieutenant Amy Marracino.

Viktor Mascak was arrested on 56 counts of trafficking in firearms at Washington State gun shows. At least five of Mascak's guns were recovered in crimes, including one that was carried into Hanford Middle School by a 13-year-old.

Billy Gage and Lowell Ronald Wilson, a felon, were arrested at the Seagoville flea market outside of Dallas with 2 machine guns, 91 handguns, and 49 rifles. They were apprehended after a 9 millimeter pistol they sold to a felon was used to murder Garland County Police Officer Michael Moore.

This is quite a record of criminals exploiting gun shows and exploiting the current loophole. If we do not close it, there will be more to add to this infamous list.

The NRA says supporters of closing the gun show loophole are shamefully exploiting terrorism to make their case. The truth is, we know three cases where suspected terrorists exploited the gun show loophole. Ali Boumelhem, a Lebanese national and member of the terrorist group Hezbollah, was arrested and convicted of attempting to smuggle firearms he bought from Michigan gun shows to Lebanon.

Muhammed Nasrar, a Pakistani national in the country on an expired visa, admitted to buying and selling firearms at Texas gun shows. Nasrar is a suspected al-Qaida member who obtained a pilot's license, had photos of tall buildings of American cities, and, though seemingly impoverished, attempted to purchase a time share for a Lear jet.

Connor Claxton, an admitted member of the Irish Republican Army, spent over $100,000 at Florida gun shows and through other private dealers to obtain firearms to smuggle to Ireland.

The National Rifle Association says also the McCain-Reed amendment creates gun owner registration. Not correct.

The truth: Special firearms event licensees, those who are certified to perform background checks for unlicensed firearms vendors at gun shows, are required to keep the same records as federally licensed firearms dealers, no more or no less. Unless one argues that buying a firearm from a licensed dealer constitutes gun owner registration, then one cannot argue this amendment constitutes gun owner registration.

The NRA says the McCain-Reed amendment requires gun show operators to register all firearm vendor names to the Federal Government.

The truth: The amendment does not require this. Gun show operators are not required to submit a list of vendors to the Federal Government. Gun show operators are only required to maintain their own paper records of those who sell firearms at gun shows.

The NRA says the McCain-Reed amendment requires registration of gun shows.

The truth: The amendment does not require gun show operators to register or notify the Federal Government about the scheduling of any gun shows. A gun show notification requirement in our bill has not been included in this amendment. We struck it. The Federal Government has no role in approving or denying gun shows from operating in any way.

The NRA says the McCain-Reed amendment allows harassment of gun show organizers and vendors.

The truth: Federal authorities will have no more inspection authority over gun show operators than they have now with licensed firearms dealers. There is no new inspection authority over any vendors in this amendment.

The NRA also says the McCain-Reed amendment creates massive bureaucratic redtape.

The truth: This amendment is remarkably redtape free. There are no new paperwork requirements for unlicensed sellers. The Federal Government has no role in approving or disapproving gun show events. Gun shows are under no obligation to notify Federal authorities about their intent to hold an event.

The NRA also says the McCain-Reed amendment turns casual conversations into gun show sales.

Not true. The amendment clearly defines a firearms transaction as "the sale, offer for sale, transfer, or exchange of a firearm."

The NRA says the McCain-Reed amendment's 24-hour maximum allowable background check is a smokescreen.

It is not. If a State wants to place a 24-hour limit on the length of background checks at gun shows, it may do so once that State has its background check records in order and automated. If a State chooses not to limit the length of background checks below the current 3 business days, it does not have to.

The NRA says the McCain-Reed amendment makes no improvements to instant check.

The truth: Legislation to improve instant check has been introduced separately by Senators SCHUMER, CRAIG, HATCH, and KENNEDY. I am proud to be both a cosponsor of the legislation and a longtime supporter of the National Criminal History Improvement Program to help States get more of their disqualifying records into the system.

NRA also says the McCain-Reed amendment gives no priority to gun show background checks.

That is because it is not necessary. The NIC System currently operates from 8 a.m. to 1 a.m. 7 days a week and 364 days a year. That is why 91 percent of background checks are completed in minutes, and 95 percent are completed within 2 hours. The remaining 5 percent are 20 times more likely to turn up an illegal buyer than the rest of the checks. There is no need to put gun show checks in front of other background checks the NICS processes nationwide every day because the system is working very efficiently.

These are some of the refutations of the amendment Senator McCAIN and I are offering, but none of them hold any weight. This is an amendment that will close the gun show loophole without materially affecting the operation of gun shows or the conduct of unlicensed gun dealers, but it will attempt to prevent some of the rogues, whom I described, from getting access to weapons.

Once again, there is a great discussion on this floor almost every moment of the principles of law, the principles we espouse. But a lot of what we do must be common sense. I ask my colleagues, and also the people listening, to think about it. If you were a felon, or if you were a terrorist, and you were aware, as so many of them are, that you could go to a gun show, find unlicensed dealers and buy a weapon—some of them extremely dangerous weapons—without any questions asked, where would you go? You would go right there.

All the principles of law, all the principles of legal theory, have to respond to that commonsense insight. The McCain-Reed amendment seeks to make a commonsense response to this glaring omission, to close the loophole, to require anyone purchasing a weapon at a gun show must go through a background check, and to do so in a way that we do not inhibit gun shows and we do not impose undue requirements on both the operator of the gun show or those dealers, both licensed and unlicensed, who may attend.

I mentioned before discussion of the terrorist connection. It seems to me that after 9/11, when we attempted to strike an extraordinarily strong posture against any form of terrorism—where this body, in virtual unanimity, passed the PATRIOT Act, which empowers the Federal Government to take unusually strong steps with respect to individual privacy and individual protections—to now suddenly allow this loophole to exist that may be exploited by terrorists, seems to me astounding.

If we can have thousands of people at airports screening bags against terrorist threats, why can't we simply pass a gun show loophole amendment that will close a source of weapons that has been exploited in the past by terrorists?

I mentioned three cases in particular. I would like to elaborate, if I may.

The first is Ali Boumelhem, a known terrorist, connected to Hezbollah. He is currently serving prison time for attempting to smuggle guns into Lebanon. He was discovered by an informant. As a result of this information, Federal law enforcement agents trailed him, observed him, and saw him go to a gun show in Michigan. He purchased a weapon. He also involved his brother as a straw buyer, to purchase another weapon. He was caught after attempting to smuggle the weapons out of this country to Beirut.

It is important to note, because there has been some suggestion that he never actually purchased a weapon at these shows, that he always used straw purchasers to purchase them. As a result, it would foil our amendment, the McCain-Reed amendment.

But in a sworn affidavit, dated November 6, 2000, ATF Special Agent Cheryl Crockett testified agents assigned to the Joint Terrorism Task Force had Boumelhem under surveillance on October 29, 2000, when he went to the Grand Rapids Gun and Knife Show. One agent particularly, Edwin Edmunds, observed Boumelhem approach a table and examine an M-16 rifle upper receiver—that is, the receiver, barrel, carrying handle, and handguards. This configuration is a firearm under Federal law.

Boumelhem walked away, but then returned minutes later with a wad of cash, which he exchanged for the M-16. He was seen leaving the gun show with a plastic bag that, in the language of the agent, "comports with the size and shape of an M-16 receiver."

Mr. Boumelhem himself purchased a weapon at a gun show. Had the McCain-Reed amendment been in effect, the individual would have been required to have conducted a background check of Mr. Boumelhem, and he would have been denied the right to buy that weapon because he had already been convicted in California of an offense that would disqualify him to purchase such a weapon.

Mr. Boumelhem was involved in a conspiracy not only to purchase weapons on his own behalf but to enlist others to purchase these weapons and to ship these weapons back to Beirut. In fact, he was finally arrested after a Federal agent searched an auto park's cargo container on a ship bound for

Lebanon. They found weapons and other materiel. He was attempting to flee the country, apparently, when he was arrested by the Federal agent. He had a one-way ticket to Beirut. It appeared he was not making just a business stop but, indeed, was trying to flee the country.

Our Federal agents also had witnesses and informants who had seen Boumelhem in Lebanon with, in their words, AK–47s, M–16s, explosives, grenade launchers, grenades, rocket launchers, and rockets in his possession. The press reported the FBI has a video tape apparently showing Ali Boumelhem firing automatic weapons in Lebanon and acknowledging he is a member of Hezbollah.

This is the charge—someone who, under observation by Federal agents, used the gun show loophole to acquire an M–16. He was engaged in significant conspiracy with others before to exploit gun shows or other means. His brother said Ali Boumelhem was a frequent gun show attendee. In his own words, he said his brother said he went to "gun shows everywhere. Gun shows everywhere here, almost every week. If it's not Mt. Clemens, it's in Taylor."

Both of them were searching out gun shows all through Michigan. This individual qualifies as a terrorist. He would have been denied the right to purchase this firearm had the Reed-McCain legislation been in effect.

There are others, too, who have been indicated as terrorists and have been involved in these details. One other is the case of Muhammad Asrar. Mr. Asrar is an illegal Pakistani immigrant who has pleaded guilty to weapons and immigration charges. At a presentencing hearing, the Government sought an "upward departure" from the sentencing guidelines because of Asrar's "intent and demonstration of violent and terrorist motives." Asrar remains under investigation by a Federal grand jury on suspicion of involvement with al-Qaida. The Government has revealed that he was stockpiling guns he had illegally bought and sold at Texas gun shows. Asrar had also obtained a pilot's license, collected pictures of tall buildings in the U.S., and tried to purchase a timeshare in a Lear jet.

Asrar was convicted of illegally possessing 50 rounds of 9 mm ammunition. As an illegal alien, it was illegal for Asrar to buy or possess guns or ammunition. He was also convicted on an immigration charge—illegally overstaying his student visa since 1988. He has admitted to having bought and sold guns at gun shows. Asrar told authorities that he had bought and sold a variety of guns at Texas gun shows over the last 7 years. These included a copy of a Sten submachine gun, Ruger Mini-14 rifle, two handguns, and a hunting rifle. None of the guns were in his possession when he was arrested on September 17.

In addition to the ammunition, authorities also found pictures of the tall buildings, as I indicated, and also pictures of the guns that he said he at one time purchased and had in his possession. He told the authorities he bought and sold guns at gun shows.

It appears he was stockpiling these weapons. The fact is, he had at least 16 guns, and possibly as many as 30 guns. He was arrested on September 11 when an informant had indicated he was behaving suspiciously. The informant indicated that Asrar had asked him whether or not he could help Asrar smuggle a foreign national across the border from Mexico, and if he would take pictures of tall buildings for him during his travels, and if he would mail letters for him from Pennsylvania.

Now, the Government is presently developing cases against this individual based on a theory that he is involved in terrorist activity. As I said, in a presentencing motions hearing, the Government indicated that it is conducting this further investigation. In their words, "We are asking for upward departure based on his intent and demonstration of violent and terrorist motives." This is the text of the open session in court:

> . . . will testify that he, there's numerous gun transactions, there's more than what's in the presentencing report.

This is the Federal attorney:

> The presentencing report contains most of the ones that are more well defined, but there's other witnesses who are a little bit more vague, but they describe more gun transactions, or gun incidents I should call them, not gun transactions necessarily. But also the presentencing report contains incidents where he's trying to buy explosives. There's also the—on September 8, Your Honor, he rented a car. He drove to Houston, Texas; he returned the car on the 11th. He met with well-known persons of middle eastern descent there in Houston. He has obtained a flying, a pilot's license. Although he was apparently completely broke, he was trying to purchase a timeshare in a Lear jet. He requested a person who was traveling to the East Coast to take pictures of tall buildings for him and send them to his brother. There's an incident, Your Honor, where approximately a year before the defendant was arrested, persons had been calling in to local authorities saying he had been involved in gun transactions and the ATF went with, I believe it was the TABC, or some alcohol-related agency, and they went to search his property, and about a year before he was arrested. And they found no guns. When we began interviewing people after he was arrested, we looked into one, Mr. Robert Fang, who's an admitted friend of Mr. Asrar, who says, who referred back to that incident a year earlier and said that Mr. Asrar brought him a case of guns, a case of guns, I believe it was 5 to 7 guns, somewhere in there, and said, "Please hold these for me. My place is about to get searched by agents. Please keep these for me so they won't find them."

Mr. President, you have someone who is behaving extremely suspiciously, is illegally in this country, who has apparent ties to terrorist organizations—at least enough to ask the Federal authorities to ask in a presentencing that he be treated as such. Of his own admission, he frequented gun shows, and bought and sold guns. Again, I think this is a strong case for closure of the gun show loophole.

Briefly, before I yield the floor, I will mention the case of Conor Claxton. Mr. Claxton is an admitted member of the Irish Republican Army. He came to the United States—specifically Florida—because he was looking to develop an arsenal of weapons to ship back to Ireland. He testified that the IRA chose Florida because "we don't have gun shows in Ireland, and you see things here like you never imagined." He told the FBI it is common knowledge that obtaining weapons in the United States is easy.

Now, Mr. Claxton was involved in, apparently, using about $100,000 to assemble an arsenal for the IRA. The Irish authorities recovered 46 handguns in 1999 and more than 600 rounds of ammunition hidden inside 23 packages containing toys, computers, and other goods to be shipped from the cabal of the IRA in the United States.

Claxton usually used a straw purchaser, a naturalized American citizen, Siobhan Browne, who is also his girlfriend. She acquired many of these guns. But it appears, also, because Browne indicated that Claxton "spent more than $100,000 off the books on semi and fully automatic weapons in sales from private dealers." So there is strong evidence to suggest that Claxton himself was engaged in the acquisition directly of firearms for the purpose of arming IRA members in Northern Ireland.

Now, Mr. Claxton was ultimately charged and he was convicted along with two codefendants on the gun smuggling charge of which he was accused. He is currently serving a 56-month sentence.

Despite his admission that he was a member of the IRA, he was acquitted of the charges of terrorism and conspiracy to maim and murder. That seems to be a technicality. According to the Good Friday accord negotiations, the IRA had been dropped from the Federal Government's "Dirty 30," the list of officially recognized terrorist organizations. If the IRA had stayed on this list, his conviction would be automatic. Because of that delisting, however, Federal authorities had to show that the weapons had been smuggled "with the specific intent to murder or maim."

A specific intent offense requires a level of proof that is significant. Even though they failed in this level of proof, Mr. Claxton's contact and his own admission of the involvement with the IRA strongly suggests that he, too, was involved in terrorist activities.

We have a situation in which, because of the gun show loophole, there is mounting evidence that criminals have access to weapons and indeed terrorists have access to these weapons. The amendment Senator MCCAIN and I will propose will close this gun show loophole without unduly burdening gun show operators. It will also not interfere with the operation of unlicensed gun dealers.

I have suggested, by pointing out specific incidents, a situation where individuals have used the gun show loophole. Let me say in conclusion that the vast majority of individuals participating in these gun shows, licensed and unlicensed dealers, are law-abiding individuals who have no intent to defeat the law. But as long as we have such a low, virtually nonexistent threshold, there will be a few—and there certainly will probably be more—criminals and terrorists who will seek to avoid the responsibilities under the gun laws.

I think it is entirely appropriate to pass this legislation to close this gun show loophole and to ensure simply that at a gun show everyone is treated the same—licensed dealers and unlicensed dealers—and that everyone knows the rules. Gun shows now will require a background check.

I retain the remainder of my time. I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, we have just heard an explanation as to why we ought to change a law on gun commerce in this country. It has largely been touted as a loophole. My contention this afternoon and my contention has always been that there is not a loophole because if there is one, it exists outside of gun shows if it exists inside of gun shows.

Gun shows are, in fact, a mirror image of gun commerce in this country. An individual can sell a gun without a federally licensed firearm permit to do so, but if he or she is in the business of selling guns, then they have to have that license.

It is also true in gun shows. When you walk through the door of a gun show, the law has not changed nor does it change. But under the McCain-Reed amendment, they are suggesting it should change and that this particular cloistered environment of a gun show ought to be something new and different.

We have heard the explanation. Let me attempt to set the record straight this afternoon because it is important we understand that an attempt is being made to set a whole new tranche of Federal regulations against what has historically been U.S. commerce that was legal and law-abiding.

Gun shows grew out of the firearms collectors associations that were formed as part of this country's commerce in legitimate firearms in the early 20th century. Those associations remain active today and some became national and even international organizations and some sponsor gun shows.

Commercial gun shows first appeared largely after World War II. They are large, well-advertised public events in convention centers and similar facilities. Annually, some 4 million people attend gun shows. Four million people attend these kinds of efforts in gun commerce.

Behind me is a picture of a typical gun show. I have attended numerous of them over the years. You will see all kinds of displays, from educational material to actual firearms.

Gun shows provide an opportunity for people interested in gun selecting and in the shooting sports to examine and learn about many different types of firearms, as well as to buy and to sell or to trade guns, ammunition, and related materials. Notice I said "to buy and to sell or to trade guns, ammunition, and related materials." Right now if you are buying and selling and moving guns and ammunition and related material for your living and you are in the commerce of firearms, you have to be a federally licensed firearm dealer. But if you are a collector, if you are an individual and you do not commerce in guns, you do not make your living by doing commerce in guns, you do not have to be federally licensed. But you could still go to a gun show, you could still rent a table, and you could sell an occasional firearm.

Why? Because the law outside is the same law today that is inside, and the Reed-McCain amendment would say: Oh, no, we have now established for you the raw example of the unique thing that goes on at a gun show and, therefore, it ought to be licensed. What they fail to say is, but in the back streets of America where there are gun traffickers and black market dealers, we would really like to license them, too, but, of course, they are criminals and you cannot get them licensed, and they won't play by the rules.

To suggest that guns are sometimes sold at a gun show that might enter into a criminal act, I am not going to stand here and deny that because guns that are bought from legitimate licensed firearm dealers, bought by a straw person are finding their way into misuse for criminal purposes. That is the reality of the world in which we live, but that is not the norm.

Finally, at the end of all of this debate, Senator REED acknowledged that a very large majority of those who attend gun shows are law-abiding, honest citizens who go there for all the right purposes. But he is suggesting that we have to have this one little special dot on the legal map because it is uniquely different from everything that goes on outside of a gun show.

If you want to traffic in guns, you can set up across the street from a gun show, and yet his law would not pertain to that person. If they happen to be standing out there and open the trunk of their car and try to persuade people who come in and out of a gun show that they ought to buy from them, isn't that somehow a misconception of reality? I think it is.

Gun shows are also important venues for those interested in the general ownership of guns and the general manufacture of them. Gun rights groups frequently set up booths at gun shows and distribute literature. Attendees share information to work together to protect what I believe is their constitutionally mandated right in this country to have fair, open access to firearms. Therefore, gun shows are an important part of what we in this country call the political process.

Free speech under the first amendment—I know in going to gun shows, a lot of dialog ensues between those who are attending. Why? Because they are advocates; because they are collectors; because they are vocal in their constitutional rights.

It is estimated that more than 1,000 commercial gun shows are held each year in this country. A typical gun show will have approximately 300 exhibitors offering items for sale and educational display. The paid public attendance at an average gun show can be estimated at about 4,000 people. Generally, gun shows are held in a 2- or 3-day timeframe over a weekend. Larger shows attract exhibitors and patrons from hundreds if not thousands of miles away.

Gun shows today are regulated by State law in relation to gathering and commerce and by local ordinances as is appropriate for all large gatherings that cities would want to know about and have registered.

Let us talk about statistics. I think I can, by what I just said, establish the long tradition of gun shows in this country, some 1,000 of them starting in the early part of this century, largely following World War II.

In the mid-eighties, the National Institutes of Justice sponsored a study of how convicted felons in 12 States obtained their guns. One of its findings was that gun shows were such a tiny source of crime guns that they were not even worth reporting as a separate figure. That was in the eighties.

In 1997, the National Institutes of Justice report called "Homicide in 8 U.S. Cities" actually covered more than homicides, which put the number of crime guns from gun shows at or around 2 percent by that statistic.

In 2000, a BJS study of Federal firearms offenders, 1992 through 1998, found that 1.7 percent of Federal prison inmates obtained their guns from gun shows; in other words, a statistic that will show up, but a very minor one in reality of the total misuse of firearms in our country.

The most recent study done by the Bureau of Justice Statistics, November 2001, found that less than 1 percent of crimes committed involving the use of firearms utilized guns obtained at gun shows, including sales by fully licensed firearm dealers at gun shows; in other words, those who were doing background checks.

This was the largest study of its kind based on an investigation of 18,000 convicted felons. According to these reports, most criminals get guns from theft, burglary, black market, friends, or family.

The one inconsistent study is misleading. In January of 1999, the Justice and Treasury Departments published the result of a study on gun shows, Brady checks, and crime gun traces, concluding that nonlicensee firearm sales at gun shows contributed to trafficking in crime guns, the use of firearms in drug crimes and crimes of violence. The study, based upon an examination of 314 ATF criminal investigations, recommended additional legislation to deal with so-called loopholes. That is where the word began to appear in 1999.

However, the study does not show that occasional gun sales by one-time sellers at gun shows significantly contributed to illegal trafficking. They made the argument, but they did not make their case. The majority, 54 percent, of investigations involved unlicensed persons who were actually dealing in firearms without the required Federal dealer license, which is a felony and may be prosecuted under the law.

What they found out is that when it did happen, it was happening by those who were already trafficking in guns. The reason they found out is they were able to arrest them because they were already violators of the law. The Federal firearms laws were at work, and that is how we got the statistics because we used the laws to investigate and apprehend the bad guys.

Twenty-three percent of the investigations involved violations of existing law by Federal licensees; for example, illegal sales to straw purchasers, persons with clean backgrounds who acquired firearms for the actual purchasers. Even the Reed-McCain bill would not screen out a straw man. Somebody with a clean record could acquire a firearm for someone else, complete the sale, take it out, and hand it off. Does this great new loophole plugger solve it? Not at all. That hole cannot be plugged when somebody lies and they happen to have a clean background.

In 23 percent of the cases where they are now citing examples, folks simply lied. They did not tell the truth, and if one does not tell the truth and they have a clean background and the NICS system cannot pick it up, then that person is legitimate in the eyes of the law and in the eyes of a licensed firearm dealer.

The point is, in all of these crimes, under current law they were apprehended, and the vast majority of them are just that.

Now we hear a new argument: Terrorists and terrorism, and somehow the terrorists who are going to create havoc on the American public are going to go to a gun show, and he cited one buying an M–16—only that was not to do damage here, it was to do damage outside the country—and therefore we ought to put new restrictions on law-abiding citizens.

All I can say is, the great havoc that was wreaked on this country on 9/11 by terrorists was not by a gun purchased at a gun show. For the terrorists, the weapon of choice that did so much damage to our country happened to be a jet airliner and not an M–16 that was due to be exported.

Senator REED speaks the truth because these terrorists we now find, who are apprehended and behind bars, were arrested because they were operating illegally under current law in many instances. If someone lied about their background, they cannot be found, but if they are illegal and undocumented in this country, it is a violation to go to a gun show and buy a gun. So one deals with an individual purchase and not a licensed dealer. That is so rare and so minuscule that if Senator REED thinks that hole can be plugged by sticking one's finger in it, they are simply diverted to the street where they know they can acquire a gun, but the price is probably going to be a lot more.

All of that is the tragic environment in which we live, but what is important to say about the so-called "loophole" is, if one walks into a gun show and only in there a loophole exists, they can walk out of the gun show and it does not exist because they are not proposing to change current law where all commerce in firearms must be background checked.

Any individual citizen in this country can sell a firearm they own to his or her neighbor, and they do not have to do a background check—nor should they. But if they are legitimate, or if they are commercing or making their living in firearms, they are going to have to get a license and they are going to have to do a background check. That is the law, and that is the way it ought to be.

So, again, this is a political placebo for a problem that so rarely—I say rarely—exists, and it does rarely exist.

I listened very carefully to all of those he listed whom we found out to be violators of law. That is why he could list them, because they were already arrested under current Federal firearms laws, and that is why many of them are doing time.

So the answer to the problem is to stack a new law on top of law-abiding citizens at a thousand gun shows, and for the Federal Government to step into the business of regulating commerce in this area saying that in some way it might protect the average citizen.

Again, I point to the picture behind me. There is the average gun show in America. Nearly 4,000 people attend each one, and there are over 1,000 of them. Does the loophole exist? Well, when we look at the statistics from the report that bore the name of the loophole that they are now using, we find out those statistics just do not hold up; that what happened at a gun show can happen outside a gun show.

The reality is, one simply cannot make the holes in the sieve tight enough to stop everybody. Tighten it as we will, every time we do we step much harder on the private law-abiding citizen than we do the criminal or terrorist element in the world because they know they can play outside the law because the rest of us are required to play inside the law. That is the reality of any law, whether it be a gun law or anything else. We know that.

That is the history of law. That is the history of those who choose to play outside of it and break the law, and the gun show loophole will do nothing to change that. It will simply divert the commerce outside the building instead of inside the building, if someone chooses to operate illegally or outside the law.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. May I inquire how much time is allocated to each individual side?

The PRESIDING OFFICER. The Senator from Rhode Island controls 9 minutes. The Senator from——

Mr. WARNER. May I ask that the parliamentary inquiry be done outside the time constraint? I pose this inquiry to our distinguished floor leader, the Senator from Idaho. I am reading from the RECORD of the Senate on Thursday of last week when the distinguished Senator from Idaho said the following:

> I am sure there are some Members on both sides who might have amendments that were not listed to be considered for votes today and/or Tuesday. What I would ask them to do is to come to the Chamber and talk to Senator Reed and myself to see if we might work those out. Certainly, we are happy to take a look at them. There may be an opportunity late Tuesday and possibly Friday to offer additional amendments. The unanimous consent request does not preclude any Member from doing that.

I wrote the distinguished majority leader a letter on November 18 last year indicating that I wanted to offer an amendment on this bill, and I received back a reply from Mr. Schiappa, who had the authority to address this, that said it has been noted. So I have tried to diligently follow the rules and procedures by which to bring up an amendment. On Friday morning——

The PRESIDING OFFICER. If the Senator will suspend, I need to find out who yields time.

Mr. WARNER. I ask unanimous consent the parliamentary inquiry be addressed by the Chair outside the time agreement.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. Reserving the right to object, we have a time problem. That is, at 4 o'clock we go off these two amendments that have been offered, and we go to Senator BINGAMAN. And we have a 5 o'clock deadline in which there will be a vote on the Bingaman amendment. So any time you use now, you are eating somebody's time because of the fixed times we have set before us.

I will not object to your inquiry at the moment but understand you cannot effectively allocate yourself time without changing the underlying unanimous consent, which I do not want to allow to happen for the sake of the 5 o'clock vote and the debate on the Bingaman amendment.

Mr. WARNER. Fine. Then if I could quickly ask the distinguished floor leaders——

Mr. CRAIG. Let me yield the distinguished Senator 2 minutes of time for the purposes of this question.

Mr. WARNER. I see my colleague from Michigan. He, likewise, offered an amendment on Friday morning. My understanding is his is the pending amendment following the Bingaman vote; is that correct?

Mr. CRAIG. I believe that is the unanimous consent; that is correct.

Mr. WARNER. Could I then ask unanimous consent my amendment, also offered on Friday morning in good faith, pursuant to the instructions you laid down, be the pending amendment following that?

Mr. CRAIG. Following?

Mr. WARNER. Following the Senator from Michigan?

Mr. CRAIG. Reserving the right to object, following the amendment of the Senator from Michigan?

Mr. WARNER. That is correct, whatever disposition the Senator makes on that.

Mr. LEVIN. Will the Senator yield?

Mr. CRAIG. First of all, we have a UC. I will not object to that request.

Mr. WARNER. I thank the chairman.

Mr. REED. Reserving the right to object.

Mr. LEVIN. I would make inquiry.

Mr. REED. May I make a point? All of this would be subject to the underlying unanimous consent that all amendments also are withdrawn tomorrow morning.

Mr. WARNER. Could the Senator speak up a bit?

Mr. REED. I understand that under the controlling unanimous consent that all amendments are withdrawn tomorrow morning. So if your amendment was in order after Senator LEVIN, I think both amendments technically at this point would be withdrawn tomorrow morning.

Mr. LEVIN. Reserving the right to object, I would do everything I can reasonably do to obtain disposition of my amendment before 8 o'clock or whatever time it is tomorrow morning. So I ask the Senator from Virginia as to whether his unanimous consent request is that his amendment be in order following the disposition of my amendment?

Mr. WARNER. Mr. President, that is how I so stated my UC.

Mr. LEVIN. If the UC is that following the disposition of the Levin amendment the amendment of the Senator from Virginia would then be the pending amendment, I would have no objection to that, providing that is the way it is presented.

Mr. WARNER. That is correct. I hear no objection.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. I thank the distinguished Presiding Officer.

The PRESIDING OFFICER. Hearing no objection——

Mr. REED. Reserving my right once more to object again, the understanding, of course, is that all of these amendments are withdrawn tomorrow morning.

Mr. LEVIN. Reserving the right to object now, Mr. President, that assumes they have not been disposed of prior to tomorrow morning or according to some modification of the pending unanimous consent agreement. I am not willing to agree that my amendment will still be pending tomorrow at that hour, nor am I willing to agree that we could not work out some modification of the unanimous consent agreement, which is now pending, to allow for the disposition of my amendment at some point before or after that appointed hour tomorrow morning.

Mr. CRAIG. Mr. President, with that discussion I understand the unanimous consent is still operative? Until I understand clearly where we are, so that none of this language in any way undererodes the underlying unanimous consent, which means that all amendments that might be up but have not yet been disposed of by the opening of business on Tuesday morning fall, I would have to object at this point because that underlying agreement cannot be eroded.

Mr. WARNER. Mr. President, at this time I am not trying to seek in any way by my UC to modify that request. It is simply that I be considered after the disposition of the Levin amendment. It is a very simple procedural request.

Mr. CRAIG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. CRAIG. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. DOLE). Without objection, it is so ordered.

Mr. CRAIG. I yield to the Senator from Virginia for an inquiry.

Mr. WARNER. Madam President, I thank my distinguished colleague. I think we clarified among ourselves the parliamentary situation of this matter. I therefore ask, at the conclusion of the disposition of the Levin amendment, whatever that may be, is the amendment by the Senator from Virginia in order?

The PRESIDING OFFICER. Yes.

Mr. WARNER. I thank the distinguished Presiding Officer. I thank my colleagues.

I rise today in support of the Feinstein/Warner amendment to reauthorize the assault weapons ban.

Signed into law in 1994, the assault weapons ban placed a 10-year prohibition on the domestic manufacture, transfer, or possession of semi-automatic assault weapons and the transfer and possession of high capacity ammunition clips. The 10-year ban ends on September 13, 2004. Consequently, unless Congress and the President act prior to September 13, 2004, weapons like Uzis and AK–47s will once again be produced in America, and more and more often, these weapons will fall into the hands of criminals who lurk in our neighborhoods.

For a number of years, President Bush has indicated that he supports renewing the assault weapons ban for another decade. Although his administration has not presented a bill to date, it recently reiterated his support for the renewal. Consequently, we introduced a bill, S. 2109, that achieves his goal: extending the law, without any changes, for another 10 years.

The Feinstein/Warner amendment that we debate today is the exact text of S. 2109.

Some in the Senate, myself included, opposed the ban a decade ago, fearing it would do little to reduce crime, and could threaten the Constitutional rights of law-abiding gun-owners and hunters.

However, a decade of experience has provided us with key facts. The assault weapons ban has made our communities safer. Recent Department of Justice records indicate that the use of banned assault weapons in crimes has declined measurably—by 65 percent in one analysis—since the measure took effect.

Moreover, it is clear that the assault weapons ban has in no way challenged legitimate gun-owners' rights. Let me state, without hesitation, the vast majority of gun owners are law-abiding citizens who responsibly keep their guns. As a gun-owner myself, I have long been a supporter of the Second Amendment. I remember well the day my father gave me my first gun, and I have spent most of my life around guns, both with antiques and in hunting.

The assault weapons ban only bans a small percentage of all weapons—those military-style assault weapons, that have no hunting or sporting purpose, and that are just used to create mass destruction.

Furthermore, our world has changed dramatically from 10 years ago. September 11, 2001, has taught us many lessons; among them that terrorism lurks in our own cities and communities. Given the current world situation, it defies logic to let a good law expire, and in so doing let suicidal terrorists and others simply walk up to a counter and buy these weapons for potential attacks.

It is for these reasons that my thinking on the assault weapons ban has evolved over the last 10 years, and for these reasons that I join with Senator FEINSTEIN in sponsoring legislation to extend the assault weapons ban another 10 years.

Not only does President Bush support the continuation of these protections; men and women of law enforcement across the Nation join him, because, being on the front lines, they know it makes communities safer. I note that several sheriffs and chiefs of police, all across Virginia, have written to me indicating their support for reauthorizing the assault weapons ban, as has the Virginia State Lodge of the Fraternal Order of Police.

Now, over my 25 years plus in the United States Senate, I have always tried to stand up for what is right, regardless of politics. I believe that is why the good people of the Commonwealth of Virginia have given me their trust and elected me to represent them in the United States Senate.

I know that reauthorizing the assault weapons ban is the right thing to do.

I urge my colleagues to support this important amendment.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Madam President, could I once again determine how much time is available to all the participants?

The PRESIDING OFFICER. The Senator from Rhode Island has 9 minutes; the Senator from California, 6 minutes; the Senator from Idaho, 37 minutes.

Mr. REED. Madam President, I ask unanimous consent that at 3:35 Senator SCHUMER be recognized for 5 minutes, from the time of Senator FEINSTEIN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. REED. I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. REED. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. Madam President, I listened quite attentively to my colleague, the Senator from Idaho, talk about gun shows and the need or lack of necessity to close the gun show loophole. It struck me there is something quite a bit different between a private sale and a sale through a gun show. Again, not the law but the logic. Most private sales involve people who know each other. In fact, for a home sale you invite the person into the home to offer them the sale of a weapon. It is quite different from a gun show, as the picture indicated. These are huge events. These are supermarkets for firearms. No individual has the knowledge of the perhaps hundreds or even thousands of people who might come up to them and offer to purchase a weapon. In that case, the very particular specialized case of a gun show, the need for a background check seems obvious. That is why we insist that Federal licensed firearms dealers conduct such a check.

To argue that this is some aberration, that this gun show loophole amendment we are proposing somehow turns the law on its head, is completely wrong. Again, here is a situation where these unlicensed sellers have very little, if any, knowledge of the thousands of people who come up to them, which of those people is a terrorist or a criminal seeking to exploit the gun law. That is what has happened. These individuals I referred to have been captured and prosecuted. But there are, I am sure, many others who avoid capture and prosecution.

There are those today in this situation. Anyone could. Anyone listening today—I hope they don't take this as direction or guidance—but understanding that, they could walk up to an unlicensed dealer, find an unlicensed dealer and ask to purchase a weapon and do that.

Again, the cases seem compelling. Nigel Bostic and two accomplices were arrested for buying 239 firearms at 11 Ohio gun shows. Here is a team of people systematically using gun shows to acquire 239 weapons which they then sold to criminals in Buffalo, NY. One was recovered in a homicide. I don't know how many others were involved. That is just one example, and there are more examples than this.

It seems to me this makes obvious sense that we cannot have a situation where there are two standards, for a licensed dealer and for an unlicensed dealer at the same place, in a public setting, in a place that is advertising the sale of guns. This is not a situation where you are at home or you have a weapon in your garage that you would like to sell to someone who came by. You have a friend. You were talking at the local doughnut shop and discovered that you and your friend have an interest in common, firearms, and you decide: Come back to my place; I'll show you a weapon.

That is not a gun show, and our amendment does not reach those activities.

It is clear, it is logical, it is consistent, it is fair, and it sets a common standard.

This amendment will not disrupt gun shows. California has a statute that not only requires background checks at all sales but a 10-day waiting period for gun shows, and they still have gun shows. In fact, I am told their gun shows are quite popular and quite successful. This amendment is about common sense. It is about dealing with problems which we know exist—Columbine showed us that—and the arrest of criminals who are engaged in conspiracies to exploit the gun show loophole. We have evidence of terrorists—real terrorists—who are aware of this who have tried to use it.

I don't think we can be so sanguine as to say we know how terrorists will attack us, that they will always choose an airline or they will always choose explosives. They will choose the way that is most disruptive to our life and which will cause the most damage. That could involve in some way, shape, or form exploiting the gun show loophole.

I urge my colleagues to support this amendment.

I yield the floor, retaining the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CRAIG. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. CRAIG. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Madam President, we know a great deal about gun shows. We know thousands of Americans go there each year—law-abiding citizens who are collectors, who are avid sportsmen, hunters, and target shooters. They go for information. They go to access collections of libraries of gun manuals. Many people who respect firearms and collect them like to have the manuals on how they were manufactured, and the ballistics of particular firearms. All of those are available at gun shows.

What is most important is to try to plug a loophole which I argue clearly does not exist today, or it exists outside of gun shows, because we are all operating under the same law whether you are inside the door of a gun show or outside the door of a gun show.

Senator REED mentioned three terrorists and talked about how they had used a gun show. They were apprehended, they were prosecuted, and they were convicted under existing law. Did they break the law? Yes. That is how they were apprehended and convicted. It appears the law is working and working quite well at this moment. In fact, we are more aware today of terrorist activity and undocumented people in our country's activities than we ever were before, and it took a tragic event to cause that to happen.

I received the amendment about 3 hours ago, and I did not have a chance to look at it in detail as it relates to the original amendment introduced by Senator MCCAIN and Senator REED. I must say considerable change has been made. Of course, the Senator admitted that. But there is a great deal left in the bill which I think dramatically alters the nature of gun shows and the bureaucracy and the Federal involvement in the law-abiding commerce of firearms that we are not talking about.

The McCain-Reed 24-hour wait is in fact a smokescreen. The bill provides the wait may be reduced to 24 hours if a State applies for the privilege of improving its records after the fact, after it happened. In other words, if it happened and when it happened, then only may accommodate, but with no real incentive for States or the Federal Government to improve records even though we are pushing hard to make that happen. It is a complicated and expensive process. There is no reason to think the 24-hour check would ever be achieved. Even if a State did switch to 24 hours, the change is strictly optional and could be reserved for an anti-gun State government—well, you know in this instance you are going to get the irregular application of the McCain-Reed law if it were to become law.

With a 3 business-day period still allowed to check out-of-State records, a few large States could drag down the whole scheme for all transfers across the country. In other words, the Federal bureaucracy reigns supreme against a legitimate action of commerce that today is regulated only by Federal law as it relates to licensed dealers specific to their action and only those who make their living commercing in a law-abiding way in firearms.

The McCain-Reed amendment makes no instant check improvements, unlike S. 890, and the Senator referenced that. The bill provides no funding to criminal upgrades. Hopefully, we can get that accomplished in the near future. I am certainly in favor of that—the carrot and the stick—to make States comply so the NICS background check is legitimate, is effective, and certainly has within its recordkeeping the range of violations of law that makes an individual ineligible for acquiring a firearm.

McCain-Reed gives no priority to gun shows. Remember, we are talking about a weekend event. Yet if the system were active, there is no priority to move that check to the front of the list to make it happen in those areas where there might be a question—and there oftentimes are. It does not mean a person is a violator of the law or has within his or her background something, but there possibly is a triggering that needs further investigation.

Does this offer the priority? No, we know it does not. Sometimes law-abiding citizens travel hundreds of miles, if not thousands of miles, to some of these gun show events, some of the larger ones in the country, and to not be able to transact their commerce and leave with reasonable time involved just does not make a lot of sense. They can do it outside the door of the gun show; they cannot do it inside the door of the gun show. Today, how you act is legal based on your adherence to law. That transaction can occur inside or outside the door of the gun show.

Most importantly, McCain-Reed ignores the real problem. Multiple government studies have proven that gun shows are not the source of crime. But because there was once a crime report that mentioned the word "loophole," all the romance of that word, somehow out there they can catch the ear of the American public suggesting that here is a hole that all types of criminals and terrorists are getting through to gain access to firearms.

The Bureau of Justice Statistics reports in "Firearm Use By Offenders Found" that less than 1 percent of U.S. crime guns come from gun shows. The 2001 study was based on an interview of 18,000 prison inmates and is the largest such study ever conducted by the Government under legitimate polling and informational-gathering terms.

That is a pretty significant figure, 1 percent—a significant figure if you want to compare that to establishing a whole new bureaucracy and controlling over 1,000 legitimate gun shows on an annual basis.

The Bureau of Justice Statistics study is consistent with a previous study. The 2000 study, "Federal Firearm Offenders," as reported in 1992 and 1998, found that 1.7 percent of Federal prison inmates obtained their guns from a gun show.

Similarly, the National Institute of Justice, 1997 study, "Homicides In Eight United States Cities" reported less than 2 percent. All of the studies are hovering in that 1 to 1½ percent range on the average. Those are the realities of what we are dealing with.

We are today trying to drag down a very important law in this country or the very important effort to change law in this country to protect legitimate commerce and legitimate manufacturers and those who are licensed gun dealers by cluttering up, in my words, S. 1805 in a way that might drag it down.

The McCain-Reed bill, S. 1807, masquerades as reform, imposing bureaucratic restrictions aimed at shutting down gun shows without fixing real problems on the national instant background check.

The Senator deserves credit. We have worked together to try to make those improvements. I want a background check. I want no law-abiding citizen to be blocked from acquiring a gun or making it difficult to do. For those who have in their background those kinds of records that violate the law, we want to check them and keep them out of the business of owning a gun.

Despite changes from the Lautenberg juvenile justice amendment of 1999 that is based on the new compromise bill like its parent, S. 890 fails to address gun shows most significant concern and would create, again, massive liability for gun show promoters who would likely drive gun shows into extinction.

The rhetoric is one thing. No, we are not out to close gun shows. The practical application is another. Gun show promoters who play by all the rules, if you have substantially put them at risk by liability, they will step back. Again, you close another door for the legitimate citizen who would attempt to acquire a firearm in a logical way.

McCain-Reed creates massive bureaucratic redtape. That is reasonable to assume. Certainly the author of the amendment can say one thing, the ATF in its administration and the regulations that would be written would be quite another.

McCain-Reed turns what can oftentimes be a casual conversation into a gun show sale. Let me give an example. If you are a gun show active participant, you go, attend, you like to walk around and look at the displays; you see a firearm you like. But you decide not to buy it at that time. But you know a given dealer has it, or an individual in this case, because a dealer—you would obviously be protected by the Federal law and the need for a background check. This is an exhibitor, a collector, who is not required by law to adhere to that standard.

Some weeks later you have convinced your wife that maybe that is really the firearm you ought to own and you pick up the phone and call him because you took their business card and you buy the weapon. Is that a transaction of a gun show? I don't think it is clear in the McCain-Reed amendment. Is that person, by that telephone call, in violation of the law? He may not be, but if the person who owns the gun says, great, I will sell it to you, come over and pick it up, or I will arrive at a point in time where we can meet and exchange the necessary purchase to do so, are they in violation of the law? I don't know. This unenforceable system makes it arguable whether that is the kind of thing that would happen.

Those are some of the preliminary questions I have at first glance at this amendment that we saw several hours ago which is different from what has been originally produced over the years that certainly would have created substantial bureaucratic redtape. At the same time, there is a simple premise here that we ought not ignore. We are now setting gun shows apart as a separate and unique form of commerce for law-abiding citizens in the exercise of their second amendment rights. All that can go on inside the door of the gun show can go on outside the door of the gun show.

So if that is the basis of the argument that step one is to control the inside, I have to believe the desire is step two sometime down the road, to work aggressively to control the outside. That is why I and others who believe in our constitutional rights and our second amendment rights believe the current laws that are on the books are adequate to effectively police the legitimate and legal commerce of firearms in our country. That is why I hope Senators will vote this amendment down. We want to keep S. 1805 clean.

The President and the administrative policy statement urged us to keep this bill clean so it can become law this year instead of simply fall because the goal of those who are gun control advocates in the Senate would load it up in a way that it would be too heavy to move back through the Senate and back through the House or through a conference.

I yield the floor and suggest the absence of a quorum if all time can be taken equally from both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. REED. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. Madam President, I make a parliamentary inquiry and ask how much time is remaining for the various parties.

The PRESIDING OFFICER. The Senator from Rhode Island has 3½ minutes; the Senator from California, 5½ minutes; the Senator from Idaho, 19 minutes.

Mr. REED. Madam President, just very briefly, I would like to respond to two points that the Senator from Idaho made. One is the suggestion that the Federal study of the felons indicates a very low number of people who have used gun shows to get weapons.

I would be very curious to study State prisons because it is in the State prisons you find more people who are convicted of crimes such as homicides and armed robberies and burglaries. Federal laws usually encompass more white-collar criminals, although there are a significant number of criminals in jail under Federal drug trafficking charges.

But I think the studies we have seen suggest, very strongly—and the ATF has suggested very strongly—that gun shows are a source of a significant number of weapons.

I also point out, in response to the Senator from Idaho, the suggestion that this is going to disrupt gun shows, create very difficult matters of interpretation so that individuals will be so confused that gun shows will wither on the vine, I think that could not be further from the truth.

Let me point out that States have already stepped up and passed legislation to close this loophole, to require everyone who is selling weapons at a gun show—regardless of their license status—to involve a background check on a potential purchaser.

In North Carolina, in 2003, there were 76 gun shows. I am told, actually, North Carolina is ahead of the rest of the country in developing their data system for instant checks. So there is one example where a State has closed a gun show loophole, but gun shows continue to thrive. In fact, North Carolina has the distinction of having the most gun shows in the year 2003, from our records. I am sorry, Wisconsin had 88. So they eclipsed them. And Florida had 111. But North Carolina is among the top 10, at least.

I think that is an example to demonstrate this will not undermine gun shows. It will not impose undue burdens on individuals, people who wish to sell weapons and people who wish, honestly and legally, to acquire them. So I believe this amendment is compelled by the evidence we have seen.

Now, the Senator from Idaho has indicated the law has worked. It certainly did not work for that police officer in Garland, TX, who was killed by a weapon that apparently flowed through people exploiting the gun show loophole. And it certainly did not work for the 13 children at Columbine High School.

I think we can make it work. I think we can make it work if we adopt the Reed-McCain amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

If no one yields time, time will be charged proportionately to all sides.

The Senator from Idaho.

Mr. CRAIG. Madam President, time is running on both sides, and running out rapidly, because at 4 o'clock Senator BINGAMAN will have the floor for the purpose of offering an amendment.

So I want to make some concluding remarks, at least for today, as it relates to the gun show loophole amendment.

I think, clearly, we have established that there are well over 1,000 gun shows commercially in this country that are registered and abide by the law, some 300 exhibitors on the average, and some 4,000 people who attend each show on a regular basis. And the law that is currently on the books outside of the gun show is appropriately and legally and necessarily on the books inside the gun show.

So how does the word "loophole" appear? Well, it appeared out of a special study that said, yes, rarely but on occasion—those are my words, not the study's words—does somebody get a gun out of a gun show that is used by them or someone else in the commission of a crime. And the answer is, yes, around 1 percent. Oh, therefore, there must be a loophole.

Well, there is a loophole, and it is also outside of a gun show, if you want to argue it from that standpoint. It is called the back streets and the alleys and the car trunks and the drug traffickers who deal in this illicit commerce for not good will, but for profit. Usually many acquire their firearms who then use them in the commission of a crime in another way.

Here is our problem with any kind of failure to do instant check. That is, the 3-day waiting period is still in place. We know that. Gun shows, by their own activity, are a 2-day event. If you drive 100 miles or 200 or 300 miles to a show, you want to buy a gun that day. You want an instant background check. There is a waiting period involved in normal commerce—I should put it this way: the Lautenberg amendment allowed a 3-day waiting period, the same as current law. That is the only uniqueness I know to a gun show. It is like a flea market, from the standpoint that you go there to buy, not to look and think and buy later. You need instant capability to say yes or no. You are legitimate in that commerce. We are working hard to get there with federally licensed firearm dealers.

Also, I argue those who are collectors and casual dealers at gun shows should not be tied to that law because they are not involved in major commerce. Those are some of the complications involved in this type of restriction.

Then the last argument I place is a great frustration. Much of what we do is impulse buying. But, then again, much of what we do isn't impulse buying. If you are buying a $200 or $300 or $400 or $500 item, sometimes you have to go home and talk to somebody else about that kind of acquisition. So if you do and days later you call the individual who may not be—well, if he or she isn't a dealer, they are not required to comply with the background check, but are very legitimate and honest.

The question is, if their amendment were law, would you in fact be causing that person to violate the law or forcing that individual to find a way to do a background check when they were the collector or the casual seller of a particular firearm? Those are, I believe, legitimate questions that speak to the complication and frustration of stepping into a commerce in which there are no Federal regulations today, other than existing Federal law that governs the sale of firearms by licensed dealers.

Those are our concerns. Once again, I appeal to my colleagues to turn down this amendment with a no vote, to keep S. 1805 clean, so we can get it to the President's desk, hoping it will become law.

I understand Senator CORNYN is on his way to the floor and hopes to speak for a few moments on this issue. We hope he will be able to get here before 4 o'clock when our time runs out on this particular amendment.

Mr. REED. Madam President, I am informed Senator SCHUMER will not be arriving to the floor. Since there was a unanimous consent that allocated 5 minutes to him from Senator FEINSTEIN's time, I ask unanimous consent I be given any time remaining of Senator FEINSTEIN and Senator McCAIN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. How much time will that be?

The PRESIDING OFFICER. That will be 4½ minutes.

Mr. REED. Madam President, one of the factual points that has to be stressed again and again is the national criminal background check system is very efficient and rapid. Ninety-one percent of background checks take less than 5 minutes, so 91 percent of the checks involved in the sale under our amendment, by an unlicensed dealer, would be expedited in a matter of minutes—less than 5 minutes. And 95 percent of these checks take less than 2 hours. This is not a burden that is going to undermine the ability of a licensed or unlicensed dealer to operate at a gun show, or for a gun show to operate at all.

The evidence before us suggests that in States which have not only instant checks on all sales but also background checks, and sometimes even waiting periods, gun shows continue to operate. Again, this is not going to cause an undue burden on individuals who want to acquire a weapon.

The other factor I think has to be pointed out again is surveys of gun owners overwhelmingly support the idea of a background check applying to all sales at these shows. In a recent survey, 83 percent of gun owners said it makes sense. Again, the public nature of a gun show—the inability for an individual to screen his customers is quite different than a private sale or a transfer of a weapon between family members, and quite different than the transfer of weapons among people in a hunt club.

That is all protected in our amendment, because there is knowledge who you are dealing with. Here, you could have literally hundreds of thousands of people come to your booth, look at a weapon, and say I would like to buy. If there is no background check, how does that conscientious seller know if he is dealing with a criminal?

That is why I think the overwhelming number of gun owners and attendees at gun shows suggests this amendment would be helpful, not hurtful. And I agree. I urge my colleagues, when we lay the amendment down tomorrow and when we vote, to support this amendment. It provides a commonsense approach to ensuring there is an even and level playing field so everybody who is participating in a gun show on both sides of the transaction knows there will be a background check. I think it is particularly important because we already have evidence of individuals who are criminals who have exploited this loophole, and terrorists—three we know by name—and, frankly, they are not in the business of broadcasting their names. They understood the loophole, sought to exploit it and indeed, in some cases, they were successful—momentarily successful.

We owe it to the safety of the public to ensure this gun show loophole is closed. The McCain-Reed amendment will do that. I urge my colleagues to support it tomorrow.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Madam President, I understand my colleague has reserved the balance of the time to be granted to both Senators FEINSTEIN and McCAIN.

Mr. REED. No. Senator SCHUMER will not be here. I asked to be given the remaining time to allocate to anybody who may come to speak.

Mr. CRAIG. How much time remains on both sides?

The PRESIDING OFFICER. The Senator from Idaho has 11 minutes, 50 seconds. The Senator from Rhode Island, 45 seconds.

Mr. CRAIG. Thank you, Madam President.

"Momentarily," but they were caught. That is how my colleague just referred to those three terrorists he highlighted as a major reason to establish a new bureaucratic hurdle for law-abiding citizens. How were they caught? They violated the law. They violated the current law that governs the sale of firearms, that controls, or hopefully controls, illegal aliens from acquiring firearms, and all the rest of it. That is a recordable fact.

Did they acquire the firearms at a gun show? Maybe they did. Were they caught? Yes. Does it mean the loophole stops that, that the sieve is so tight nothing falls through? I don't think it means that. If the desire is there to acquire the gun, then they simply stand at the door. The person or persons involved, if they are not licensed federally regulated firearms dealers, can step outside and, in a different transaction, sell that weapon. That is the tragedy today of any commerce, especially by those seeking to acquire illegally and seeking to do harm with that which they acquire—whether it be explosives or a firearm of any kind. So walk into a gun show and say I would really be interested in selling that firearm. But if you would meet me outside somewhere, maybe I could buy it. I would hope 100 percent of those who are registered would never do that and 99.9 percent of them won't because they are law-abiding citizens and would not. If there is a loophole, there is another one, and that is the reality of what we are trying to deal with.

Finally, let us understand that we have been able to reduce crime rates in this country and we have been able to save lives in this country when we said if you use a gun in the commission of a crime, you do the time. No questions asked. You are not plea-bargained back to the street. You are not granted leniency. If you use the gun, you do the time.

Time and again where that principle has been used, commission of a crime with the use of a firearm drops dramatically. The fellow who was robbing the 7-Eleven stores in Richmond with a baseball bat and caught was asked by the authorities why he didn't use a gun. He said: Because if I did, they would have put me in prison. Because in Richmond they were absolute in the prosecution of the law. So he chose another weapon to intimidate the operator of a 7-Eleven store.

Does the law work? You bet it works if it is enforced. We are finding out all new kinds of things about terrorists, and the reason we are tragically finding them out is because we were lax in our country. Gun shows are not the chosen venue by which the terrorist element acquires lethalness, and we know that to be a fact. We know less than 1 percent, or around that figure, of firearms that might be sold at gun shows somehow find their way into criminal activity. Oh, and that is a reason to set up a whole new Federal bureaucracy, a brand new hurdle over which we ask the law-biding citizens to adhere? I think not.

The wonderful thing about law-abiding citizens is they obey the law. Sometimes they are very frustrated by it, but they obey the law. Thank goodness most of the citizens in our country believe so strongly in obeying the law.

All of the examples, I believe, Senator REED has given and the reason he can report on them is because the examples are of people who broke the law, were apprehended by the law, and did the time or were convicted and are serving time. That is the reality of what we are about.

I am one of the coauthors of the NICS Instant Background Check System, and I am going to push to get it as accurate as we possibly can, and we ought to apply that to all federally licensed firearm commerce. But to suggest to the individual, whether they are inside the gun show or outside the gun show, that if you are not in the business of selling a firearm, you, too, must comply, I don't think that is the case. I hope my colleagues will agree with me.

May I ask how much time is remaining?

The PRESIDING OFFICER. Six minutes 10 seconds.

Mr. CRAIG. Madam President, the Senator from Texas having arrived, I say to him I have 6 minutes left in the allocated time under the unanimous consent agreement and would be happy to yield to the Senator for the use of that time.

I yield to the Senator from Texas all but 30 seconds of my remaining time.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. Is it the Chair's understanding this amendment is just to be submitted?

Mr. CORNYN. To clarify, I send an amendment to the desk to be filed.

The PRESIDING OFFICER. The amendment will be received.

The Senator from Texas.

Mr. CORNYN. Madam President, this amendment is the gun owner privacy protection amendment. This amendment actually will not change the laws that currently exist, but it will continue a temporary provision that was included in the omnibus appropriations bill that will otherwise expire at the end of this fiscal year.

I believe when it comes to protecting the American people, the instant background checks that are required upon the sale of firearms are a very important part of protecting the public. Principally, I believe it is important because it does, on a near instantaneous basis, determine who can legally purchase a firearm and who cannot. Indeed, it is a Federal crime for a convicted felon, or some other person who cannot legally possess a firearm, to purchase one and, conversely, for the retailer to sell it. This provides an instantaneous piece of essential information when it comes to compliance with the law.

Of course, we know the primary threat, in terms of public safety, comes from when career criminals illegally use firearms to commit crimes, which they do typically from the time they get up in the morning until the time they go to bed at night.

This would provide for the continuation of this privacy protection that was contained in the omnibus appropriations bill.

It is specific. What this would require is 24 hours after a sale takes place to a lawful gun owner—that is, there is no reason to limit or otherwise be concerned about the legality of that sale; it is as if the gun were sold to you, me, Senator REED, or Senator CRAIG—that it would be required to be destroyed. The purpose of this, of course, is to determine the sale takes place to somebody who can legally purchase the gun and is no threat to the public safety.

The purpose of the instant background check is not—I repeat not—for the Government to maintain a permanent record of who owns firearms. That invasion of personal privacy is not justified by any sound public policy of which I am aware, and I think it would be altogether appropriate for those records of instant background checks to lawful purchasers be destroyed, as is currently the law, after no more than 24 hours.

I emphasize this does not change the requirement that dealers must keep records of all firearms sales. Under current law, these records must be retained for up to 20 years to help trace firearms purchases, and dealers must still comply with all Bureau of Alcohol, Tobacco, Firearms and Explosives trace requests in the course of a criminal investigation.

Finally, for any instant background check that reveals a potential sale to an unlawful purchaser, those records would be retained, as they are under current law, and they would not be subject to destruction after 24 hours.

I submit to my colleagues this would be altogether an appropriate way of protecting the privacy of gun owners of an important corollary to the instant background checks which I believe have protected the American people from felons and others who cannot legally purchase or even possess firearms, which is the policy of the current law.

I yield back the remaining time.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Madam President, I thank the Senator from Texas for what I think is a very sensible and responsible amendment as he proposed it. I wish it could become part of S. 1805. It will not have that opportunity at this time. I do believe in protecting law-abiding citizens and not allowing our Federal Government to develop a paper trail of the kind that has no value other than to know what a private law-abiding citizen may own in relation to a firearm.

These records ought to be destroyed, as the Senator clearly spelled out, in a 24-hour period. That is what is important about it. We are not going to be able to get to this particular segment of the issue at this time. I hope we will have the opportunity to do so.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Just very quickly because I have very little time, this amendment does not create a new Federal bureaucracy. The national instant criminal background check system exists. We simply are applying it to unlicensed dealers at gun shows.

Second, I have heard much this afternoon about the law working. It has worked occasionally to punish terrorists and criminals who have used violence and weapons, but it has not worked as effectively to prevent harm to people who have been killed, the most obvious and most notable, 13 young people at Columbine High School. The Reed-McCain, McCain-Reed amendment can help prevent, we hope, this violence that so often strikes our communities.

I yield back my time.

The PRESIDING OFFICER. Under the previous order, the Senator from New Mexico is recognized.

Mr. BINGAMAN. Madam President, what is the pending business?

The PRESIDING OFFICER. The Levin amendment is currently pending.

Mr. BINGAMAN. Madam President, I ask unanimous consent that amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2635

Mr. BINGAMAN. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant journal clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] for himself and Mr. CORZINE, proposes an amendment numbered 2635.

Mr. BINGAMAN. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To modify the definition of reasonably foreseeable)

On page 9, strike lines 1 and 2, and insert the following:

product, when used as intended or when used in a manner that is reasonably foreseeable, provided that the term "reasonably foreseeable" means the reasonable anticipation that harm or injury is likely to result.

Mr. BINGAMAN. Madam President, my amendment would correct one of the most obvious problems with S. 1805. In fact, what it would do is to amend S. 1805 so that the bill would do more of what its proponents claim they want to do.

The proponents of S. 1805 say its purpose is to bar frivolous or junk lawsuits against gun manufacturers and dealers. They define these frivolous suits as situations in which the manufacturer and the dealer have done nothing wrong, but situations where although they have done nothing wrong they are being sued when a perfectly good gun, but in a perfectly legal manner, is misused by a criminal to cause damage that neither the manufacturer nor the dealer intended or could have foreseen.

I have some sympathy with that concern. In my view, there ought to be some protections against frivolous cases, but S. 1805 bars much more than frivolous cases. It also bars cases where the injury is caused by an act or omission of the manufacturer or dealer where the gun was defectively designed or manufactured and where that defective design or manufacture was what caused the injury.

The National Rifle Association has distributed a statement opposing my amendment. In that statement they say that S. 1805 does not prohibit reasonable suits in product defect cases where the firearm or ammunition is used in a reasonably foreseeable manner.

That statement is blatantly false. S. 1805 says a person can bring a suit for injury caused by a defective product if the injury is reasonably foreseeable, but then it goes on to say it is only reasonable to foresee injuries that occur when in all other respects the gun is used in a lawful manner. In other words, we should not expect a manufacturer of a gun to anticipate that anyone would ever be injured from the use of that gun while some other law might be violated.

This is contrary to common sense. It is analogous to saying that a car manufacturer could only be held liable for a defective steering system in the car if the driver were in all other respects obeying all traffic laws when the injury occurred. If the driver happened to be speeding or had an expired license, then suit for the defective steering system would be barred. That means all suits against the manufacturer/dealer, not just by the driver of the car but by anyone else who was injured, a pedestrian or a passenger in the car, would be barred if we were to apply the same logic that we are applying in this bill to automobile manufacturers as well.

Let me explain a real-life situation where this problem occurred in my home State and in our largest city of Albuquerque. In 1993, there were three teenage boys, 14, 15 and 16, who were hanging out together at the house of the parents of the 14-year-old. Sean Smith was his name. They decided to go out for something to eat, and while they were out they were approached in a parking lot to see if they would be willing to buy a gun along with some ammunition for that gun, and the price quoted to them was $40.

The 15-year-old in the group, whose name was Michael, examined the gun's chamber and saw that it was empty. He took the ammunition magazine and he inserted it in the gun since it was being offered as part of the package deal. He inserted it in the gun and he bought the whole thing. Then they went back to Sean's house to continue to waste time.

At the house, Michael took the magazine back out of the gun and they continued to pass the gun around while they were doing various other things. All three of these teenagers thought the gun was unloaded since the magazine had been taken out of the gun again.

While they were passing this gun around, one of the boys, as he later said, stupidly pulled the trigger and accidentally shot Sean, the youngest of these three teenagers, who was talking on the telephone across the room. A bullet hit him in the mouth. It seriously injured him.

Sean and his parents filed suit against the manufacturer and distributor, claiming that the gun was defectively designed in that there was no warning that the gun might still be loaded even though the magazine had been removed and there was no safety device on the gun to prevent it from being fired when the magazine had been removed.

The trial judge dismissed the case, but the New Mexico Court of Appeals said the case should have been allowed to proceed, and they reinstated the case. In doing so, they made a very key distinction. In their opinion, they said:

> This is not a case where the plaintiffs are arguing that this gun was per se defective and capable of being misused. This is a case where the plaintiffs are saying that the design of a gun was defective and that the designers and manufacturers should have foreseen that an accident like this could happen.

The court said that the jury should have been allowed to determine whether this kind of injury was foreseeable with a gun designed in this way.

If S. 1805, as it currently exists on the Senate floor, is enacted without my amendment, this suit by Sean Smith and his parents will be banned, and similar suits will be banned.

This is not just my opinion. This is the opinion of the Congressional Research Service. In a memorandum to me last week, they stated that for this case to avoid the bar that is imposed by S. 1805, the plaintiffs would have to show two things. No. 1, they would have to persuade a jury that the injury was reasonably foreseeable, but second, they would have to show that in no other respect was the misuse of the weapon either criminal or unlawful.

The Congressional Research Service concludes that there is a New Mexico criminal statute prohibiting the negligent use of a deadly weapon, and that this statute was violated here so that in their view the suit would be barred under the language of S. 1805.

The truth is, in virtually every State in this country there is a criminal statute prohibiting the negligent use of a deadly weapon. So what S. 1805 is saying is, if a person is injured by the negligent use of a gun, then the Congress is declaring that the designer, manufacturer, and dealer cannot be sued even if the injury was the result of the negligence of that designer, manufacturer, or dealer.

Congress is saying that regardless of the facts of the case, we in Congress are deciding that all such injuries are not reasonably foreseeable by those potential defendants.

I said that this conclusion contradicts all common sense. Let me also point out in addition to that the tort laws of our States say you can sue people for injuries they suffer if the injuries were caused by the negligence of the person you are suing and the person should have reasonably foreseen those injuries would occur. This is also black letter law, well recognized by the American Law Institute in their restatement of torts, their Second Restatement of Torts, which I think is universally recognized as an accurate statement of the law in this country.

In section 302(a) of that restatement of torts, the ALI, the American Law Institute, says:

> An act or an omission may be negligent if the actor realizes or should realize that it involves an unreasonable risk of harm to another through the negligent or reckless conduct of another or a third person.

Then, in 302(b), they go on to say:

> An act or an omission may be negligent if the actor realizes or should realize that it involves an unreasonable risk of harm to another through the conduct of the other or a third person which is intended to cause harm, even though such conduct is criminal.

S. 1805 redefines what is reasonably foreseeable for companies that are in this particular business—this particular business being the designing, the manufacturing, and the selling of guns. It says that we may want to require auto manufacturers to foresee that producing a defective steering system could injure people, even people who are riding in cars where the driver is violating another law, but we will not require that gun manufacturers foresee that producing a defective gun may injure people unless, in all other respects, there are no laws being violated.

So my amendment is very simple. It states gun manufacturers should be held to the same standard of care as other manufacturers are; that is, auto manufacturers, lawnmower manufacturers, manufacturers of toasters. It defines "reasonably foreseeable" the way it is universally defined in the tort law. That is the reasonable anticipation that harm or injury is likely to result.

We should not be passing a law to shield gun manufacturers from the standard of care that all other manufacturers are required to meet. As written, S. 1805 carves out special protection for a special interest group. This is not the equal justice under law that we all give speeches about on the Senate floor. This is not fair to the victims of gun violence and gun accidents, such as Sean Smith and his family in Albuquerque. When an injury such as this occurs, they should have some redress in the courts. Without my amendment, they will not. I urge my colleagues to support the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Madam President, I understand Senator SESSIONS will be to the floor momentarily to join with me in debating the Bingaman amendment. But for the moment let me suggest that the Bingaman amendment would modify very clearly the definition of "reasonably foreseeable" in product defect cases in such a way that would undermine, clearly, the purpose of S. 1805 and undo the Daschle amendment, the very corrections that the minority leader thought were necessary to be made and to which I and others agreed.

Rather than leave criminal and unlawful misuse out of the definition of reasonably foreseeable use, like S. 1805 and the Daschle amendment, the amendment of Senator BINGAMAN would define the term "reasonably foreseeable" in product defect cases to mean the reasonable anticipation that harm or injury is likely to result.

S. 1805 exempts product defect cases from qualified civil liability actions. The bill, in other words, allows actions for physical injuries or property damage resulting directly from a defect in design or manufacture of the product when the product is used as intended or in a manner that is reasonably foreseeable. As it relates to product defect cases, the term "reasonably foreseeable" does not include any criminal or unlawful misuse of a qualified product, other than possessory offenses.

The Daschle amendment simply made a technical change by including this definition of reasonably foreseeable in the section on product defect cases.

In other words, current product liability law still pertains. S. 1805 does not erase this. The substance, however, remains the same as I have said. That is, both S. 1805 and the Daschle amendment make clear that criminal and unlawful misuse of a qualified product is not included in use that is reasonably foreseeable.

Tort law has long recognized the principle that criminal acts and others are not foreseeable, that a person can generally assume others will obey the law. As one authoritative treatise stated:

> There is normally much less reason to anticipate acts on the part of others which are those which are merely negligent, and this is all the more true where, as is usually the case, such acts are criminal.

Under all ordinary and normal circumstances, in the absence of any reason to expect the contrary, the actor may reasonably proceed under the assumption that others will obey the criminal law.

A Maryland court, in the case of Valentine v. On Target, quoted this when it ruled that a victim of a criminal shooting could not sue a gunshop for a murder committed by a gun stolen from the dealer's display case.

Again, here, as in product defect cases, the criminal and unlawful misuse of a product is not included in the definition of reasonably foreseeable.

Senator BINGAMAN's amendment, by including this language, would strike these longstanding principles of tort law and, as lawmakers, it is important to recognize these principles of law in S. 1805, and that is exactly what we do. Although the legislation does not prohibit reasonable suit in product defect cases where a firearm or ammunition is used in a reasonably foreseeable manner, there is also no open door for antigun activist lawyers to claim that firearms are defective products just because they can be used in crime. For this reason I certainly urge that my colleagues oppose the Bingaman amendment. In fact, it strikes to the very heart of that which Senator DASCHLE and I proposed in a very bipartisan way, to make this legislation as broadly acceptable as it is.

The case that the Senator is referring to, no matter how sympathetic, still involves a violation of the law for something such as negligent homicide or the negligent handling of a weapon. Again, criminal or unlawful behavior is not foreseeable. This is established in longstanding principles of tort law, as I said, and here, in product defect cases, these principles similarly apply.

The Senator's amendment again would strike language, as I said, from S. 1805, that clearly restates what we believe to be current law and an important part of the law.

The practical effect of this definition is that it would bar many valid product liability suits involving accidental shootings.

For example, in Smith v. Bryco, as he mentioned, a 15-year-old unintentionally shot his friend when he pulled the trigger of an illegally purchased handgun after removing the magazine. He thought the gun would not fire without the magazine and did not realize that a bullet may remain in the chamber. His parents sued the manufacturer under strict product liability and negligence theories asserting that the handgun should have incorporated a warning, chamber-loading indicator, or a magazine-out safety. Under S. 1805, cases like this one would likely be dismissed because they involve some violation of law—certainly in this case—other than a possessory offense such as negligent homicide, negligent handling of a weapon, or similar offense.

Those are the fundamental issues. I certainly urge my colleagues to oppose the Bingaman amendment.

We will vote on this amendment at 5 o'clock. I hope others might come to the floor for purposes of debate on this amendment.

I see Senator SESSIONS entering the Chamber now and he wished time on this important amendment.

Let me also repeat that clearly part of the Bingaman amendment goes to the very heart of the definition as it relates to "reasonably foreseeable" in the law. We think that is critically important. That is why Senator DASCHLE and I teamed to make sure this law was, as I expressed it to be on Wednesday and Thursday and Friday of last week, a very narrow approach toward dealing with the kinds of junk or frivolous lawsuits we have seen filed now well over 30 times across this country in which law-abiding gun manufacturers and dealers have spent hundreds of millions of dollars defending themselves, only to have, in most instances, these cases thrown out of court. We would hope as they enter the courthouse door and the arguments are placed that the judge, based on S. 1805, can make reasonable decisions as to whether this case ought to go forward or whether it meets the definition of what we are proposing.

May I inquire how much time remains?

The PRESIDING OFFICER. Twenty-one minutes 17 seconds. The Senator from New Mexico has just under 18 minutes.

Mr. CRAIG. I yield 10 minutes of my time to Senator SESSIONS.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, I thank the Senator from Idaho for his leadership on this issue. We really do need to deal with the question of excessive lawsuits in America and try to restore the classical understanding about fault and who is at fault and who ought to be responsible when bad things happen. The legal system has never understood that somebody has to pay every time somebody is hurt. What the legal system has always contemplated is that people who do wrong get sued, not the people who do right. People who are responsible for the activity are the ones who are subject to the lawsuit—not the person who is the victim of the activity.

I just had a number of doctors from Alabama in my office. They feel so strongly that lawsuits are driving up the cost of their doing business and their insurance rates. Every time we come in with a proposal to constrict that and reduce it, we have all kinds of complaints at the margin about this or that would be wrong and how it could be harmful.

As a young law student in Alabama, we had courses on common law pleadings. I think Massachusetts and Alabama were the last two in the Nation that still had that. You had to plead with specificity in replevin and trover and trespass. It goes back to the English days. You had to say exactly what your cause of action was and why you were entitled to relief. If you did not state it properly, the judge threw it out before trial. It became so complex that it was abused. So we went to the more common law pleading like every other State had done. But I think we have gone too far the other way.

I want to share this story that was in Saturday's Washington Times about an incident that occurred in Maryland. The story is as follows:

> Sometime after closing on Friday night, March 16, and Saturday night, March 17, 2001, thieves broke into Back River Supply's Glyndon plant, owned by the Geckle brothers. They made off with equipment, including saws, a laser and a fax machine. Most ominously, they took a gun.
>
> Matt and Tony called the police and filled out the requisite reports. On March 18, they tried to install a security camera, but could not get it to work. Matt (who told the Baltimore Sun he was worried that the burglars would steal the company computers, which were needed to operate the plant) decided that he would stay over on Sunday night to drive off the burglars if they decided to come back for a third evening in a row. Tony reluctantly agreed, and the pair brought their rifles with them.
>
> Early on the morning of March 19, the burglars returned. Tony, armed and standing guard, ordered them to stop, but says the intruders ran toward him in the darkness.

He fired and killed one of the burglars. No criminal charges were brought. That should have been the end of it. Unfortunately, the Steinbach estate has now filed a lawsuit demanding $13 million from Geckles and Back River Supply company. The lawsuit contends that the 4-year-old child of the criminal has suffered because of his father's death.

One of our Senators—Friday, I believe it was—in carrying on the debate here talked about a circumstance in which someone stole a weapon from a gun dealer and went out and committed a crime with it and said that something was wrong if we would keep the victim of this criminal act from suing this gun dealer. But in these circumstances, the gun dealer is a victim of a crime.

How did we get to the point where we are suing criminal victims instead of the person who sold the gun and committed a criminal act? What are we doing having burglars suing people who are defending their property? This is contrary to the rule of law on which our American Republic was founded. It is contrary to the Anglo law that we inherited from England. It is contrary to our traditions. Somebody said: Well, police officers might want to sue a gun dealer or a gun manufacturer if a criminal got a gun and shot one of them and that we ought not to stop that. But I don't know police officers who want to sue the gun manufacturer when a criminal shoots them. They carry on their hip a gun made by a gun manufacturer every day.

This bill, to its credit, is moving forward. Our amendment, which was agreed to, will allow officers not on active duty to carry guns so they can be available to help defend American citizens if they come upon someone in trouble from a criminal act.

I guess what I want to emphasize—and I express my appreciation to Senator CRAIG and others who have brought this liability bill—is they are not doing something wrong. They are changing the law as it has historically been. They are dealing with a situation in which a group of activist attorneys or a group of activist politicians—sometimes mayors, sometimes DAs—are filing lawsuits in jurisdictions that are less friendly to guns than other jurisdictions. They are seeking million-dollar verdicts against perfectly innocent manufacturers who have complied with the law, who have done everything the Federal Government has said they should, has sent the guns down to a dealer who has a whole complex series of rules that he must comply with before selling a gun. And if a person does that, they still want to sue because of an intervening criminal act.

I have dealt with this, as I said on the Senate floor the other day, in defense of a lawsuit. Under the law, a person is not expected to foresee and, therefore, be liable for an intervening criminal act. It is just not right. But if a gun dealer has a gun and sells it loaded, and it goes off and injures somebody, he should be sued. If a gun manufacturer produces a gun that blows up and knocks somebody's eye out, they ought to be sued. But if the gun performs according to its manufacturer's requirement, and a criminal uses it to harm somebody, then they should not be sued. That has always been the law.

I do not know where we have gotten to this idea that we are going to politicize the law to the extent that we are to go against lawfully and regulated businesses. Another Senator in the debate said if we cannot pass it, somebody has to stand up and do something about these guns. If it is not done by the legislature, we ought to let them do it by lawsuits.

That is the very definition of activism. We are the people elected to pass gun laws. We have had a lot of debate on that. People have disagreements about where we should draw the line, about what is legal or illegal. That is the way it should be. We are accountable to the people. If we do something wrong, we can be voted out of office. It is in a lot of political campaigns on both sides, what a Senator or Congressman did with regard to gun rights in America. That is what we are paid for.

To have a judge who is elected to decide lawsuits or a mayor in some city that is hostile to guns twist the law around to carry out a political agenda that affects the whole United States and changes the law in that fashion, not voted for by elected representatives, is not good policy.

I thank the Senator from Idaho. We had many, many examples of these kinds of lawsuits that are unwise, not sound as a matter of public policy. This legislation fundamentally is designed to deal with that and to say that we are not going to have frivolous lawsuits brought. We are not going to have individuals who comply with the law in this highly regulated environment and do what they are supposed to do, comply with the Government regulations, have them sued because of what a criminal did. It does not make sense, not correct.

I wanted to share those remarks, and I reserve the remainder of my time.

Mr. BINGAMAN. Will the Senator yield?

Mr. SESSIONS. I am delighted to yield.

Mr. BINGAMAN. From what the Senator has said, he is on my side and should support my amendment.

Where a gun is designed and manufactured in such a way that a person would be misled in believing it was unloaded when, in fact, it was still loaded, and a teenager got ahold of that gun and accidentally shot his friend, would the Senator agree under those circumstances that the designer or manufacturer of that gun could be held liable if the jury found that the injury that resulted was reasonably foreseeable?

Mr. SESSIONS. I say to my distinguished colleague from New Mexico, who has grown up with guns as I have, the first principle of a firearm is you assume it is loaded. Yet you have to be very knowledgeable of that fact.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BINGAMAN. I yield additional time to the Senator.

Mr. SESSIONS. If the dealer handed a customer a gun that was loaded, perhaps that dealer could be held liable. I think probably they should. The dealer should have checked before they handed it to them. But I don't think you want a circumstance where you say a gun that does not clearly show whether or not it is loaded creates a liability. We have never had that before.

I have never had a gun that I know of that shows clearly whether it is loaded or not. You have to open it up to see if it is loaded.

My time has expired.

Mr. BINGAMAN. If the Senator will respond on my time, in this case, the gun in question, a pistol these kids bought, and when they bought it they looked in the barrel—he was 15 years old—he looked in the chamber, saw there was no bullet in there, he got the magazine and put it in because he was buying a magazine along with the gun. They went back home and he took the magazine out and they were passing it around. He assumed when he took the magazine out the bullets also all came out. They all assumed that, these three boys.

Now, in fact, they were wrong. One of these bullets had stayed in the chamber and then there was the accidental shooting of one of the boys.

The parents of this boy who was shot went to court and said, either you should have had some kind of warning that having a magazine out did not mean the gun was unloaded or you should have a safety which provided if the magazine was out you could not pull the trigger, one of the two.

The issue before our court in New Mexico was, shouldn't the jury be able to decide that; should the jury be able to decide whether the injury that resulted here was reasonably foreseeable. But does the Senator think in that circumstance it is appropriate for the jury to make a decision?

Mr. SESSIONS. I say this to the Senator. The Senator has to understand, and everybody does who deals with a firearm, you have to be careful. You cannot assume because you put a clip, a magazine, in it and take it out that a cartridge has not been put in the chamber.

You want the manufacturer of this gun to be liable for the action of one of those kids with regard to another one who was reckless or negligent?

That is what I am saying. I am not saying the other person who handled the gun in an unsafe manner should not be liable if they did. But I don't think the manufacturer should be liable for that.

Of course drawing these lines, as the Senator knows because he is skilled and knowledgeable in these matters, is difficult, but having a clear line about what we are going to allow in this country under classical rules of law is what we ought to strive for more. I think your amendment is just chipping away and pushing further in this instance about which you feel strongly.

Mr. BINGAMAN. I thank the Senator for his response.

Madam President, how much time remains on my side?

The PRESIDING OFFICER. There are 14 minutes and 10 minutes 29 seconds on the other side.

Mr. BINGAMAN. Madam President, let my respond to a few points the Senator from Idaho made, and also the Senator from Alabama.

The first point that the Senator made that I will respond to is the Senator from Idaho said the bill as it now stands represents longstanding principles to tort law. The quote he gave us was from Prosser and Keeton's Treatise on the Law of Torts. All who have been to law school know that Prosser on torts is the accepted authority. The quote he gave was: An actor may proceed upon the assumption that others will obey criminal law.

What he failed to say, if you go on in that same paragraph, that: A defendant may still be held liable for not taking precautions for foreseeable, intentional, or criminal acts which the defendant might reasonably anticipate.

The case I have been focused on was not a criminal act in the traditional sense. This was an accident. This 15-year-old boy did not intend to shoot his friend who was sitting across the room talking on the telephone. He did shoot him. He shot him in the mouth. It was accidental. But because our State legislature and virtually every State legislature in the country has said that the negligent use of a deadly weapon is a crime, then essentially they have said negligence is the same as criminal activity in this instance.

The position which the Senator from Idaho is taking is that since negligence is the same as criminal activity, we are determining as a matter of law here—if we pass this law without my amendment, we are determining as a minority of law that it is not reasonable to assume that any teenager with a gun might act in a negligent fashion.

I don't know how many in Congress have had teenagers in their house but that is just not a commonsense, reasonable position to take. We all know that at times kids act negligently. Grownups act negligently. Everyone does at times.

The question is not whether the person acts negligently but whether an innocent person who was in that room at the time that negligent activity occurred should be barred from suing for a defective product.

Now, the Senator from Alabama says he would not allow suits against a manufacturer because, in his view, this was not something which would justify that. That should be decided by a jury. That is exactly what our court of appeals in New Mexico said. That is the law of the State of New Mexico. This bill is going to override that. This bill is going to say, it does not matter what your juries think, we in the Congress are saying these guns are not defective, even if the design of the gun results in this type of an injury.

The Senator from Alabama said the people who do wrong are the ones who should get sued. I agree with that. That is exactly what my amendment tries to provide. It says let's make a determination as to whether the designer and the manufacturer of this gun did something wrong when they designed it and manufactured it; and, if so, let's allow them to be held liable.

That is exactly what we do in the case of automobile manufacturers. That is exactly what we do in the case of lawnmower manufacturers. It is exactly what we do in the case of manufacturers of every other item that we have in our country.

We are saying, in this bill, look, we are going to hold gun manufacturers to a lower standard than everybody else. I do not understand why it is in the public interest for us to hold gun manufacturers to a lower standard of care than everybody else who manufacturers anything in our country. That does not compute with me.

I think, clearly, the better course is to allow the State law of New Mexico and of most States to prevail, to allow the courts to use traditional principles for what is foreseeable to determine who will be held liable. In fact, in this case, the Court of Appeals of New Mexico was right. This case should have been allowed to proceed—should still be allowed to proceed, I would say, because this case has still not been completed. This case will be barred, if we pass this legislation, and the Smith family—Sean Smith and his parents—will be denied recovery, not because Sean was acting negligently, because he was not, because his 15-year-old friend was acting negligently. And the New Mexico Legislature has said that the negligent use of a deadly weapon is, in fact, a crime.

So I think my amendment is a small change in the underlying bill which would dramatically improve it, in my opinion, and would cause it to still deal with the frivolous cases that the Senator from Idaho and the Senator from Alabama and all are worried about.

I am not trying to protect frivolous cases. There is all this reference to how we have activist attorneys going after innocent manufacturers. That was what the Senator from Alabama said. Frankly, I do not doubt that there are some innocent manufacturers. I do not doubt there are some activist lawyers. In this case, we had a lawyer representing a family that had been injured, through no fault of their own, and they have a right to go to court. That is all I think we should maintain.

So I hope my amendment will be agreed to and that all Senators will support it.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Let' see. Madam President, I have 10 minutes remaining?

The PRESIDING OFFICER. Ten minutes 22 seconds.

Mr. CRAIG. Madam President, I yield 5 of those minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

ORDER OF PROCEDURE

Mrs. HUTCHISON. Madam President, I thank the Senator from Idaho for allowing me to do something I have traditionally done every year I have been in the Senate, actually taking a tradition that Senator John Tower started. I ask unanimous consent to speak as in morning business to read the letter from William Barret Travis from the

Alamo at the time they were under siege.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE LETTER OF WILLIAM BARRET TRAVIS AT THE ALAMO

Mrs. HUTCHISON. Madam President, at the Alamo, in San Antonio, 184 Texas rebels, led by William Barret Travis, made their stand against Santa Ana's vastly superior Mexican army. On the second day of the siege, February 24, 1836, Travis called for reinforcements with this heroic message.

Just to put this in context, the war for independence from Mexico was being fought through the last several months and would eventually end because of the valiant stand at the Alamo, at the battle of San Jacinto. These 184 men were looking at what they thought were 6,000 Mexican soldiers marching on them. They were asking for reinforcements.

They did not get those reinforcements, but they, nevertheless, fought to the last death. They held them for so long that it gave Sam Houston time to then get his troops lined up and to form the line on which they would take their stand; and that was near Houston, TX. It was the battle of San Jacinto.

But this letter was dated February 24, 1836:

> Fellow citizens and compatriots: I am besieged by a thousand or more of the Mexicans under Santa Ana—I have sustained a continual bombardment and cannonade for 24 hours and have not lost a man—the enemy has demanded a surrender at discretion, otherwise, the garrison are to be put to the sword, if the fort is taken—I have answered the demands with a cannon shot, and our flag still waves proudly from the wall—I shall never surrender or retreat.
>
> Then, I call on you in the name of liberty, of patriotism and of everything dear to the American character, to come to our aid, with all dispatch. The enemy is receiving reinforcements daily and will no doubt increase to three or four thousand in four or five days. If this call is neglected, I am determined to sustain myself as long as possible and die like a soldier who never forgets what is due to his own honor and that of his country—Victory or Death—William Barret Travis, Lt. Col., Commander.

So, Madam President, this is something that is celebrated in Texas on March 2 of every year. That is the date of the signing of the Texas Declaration of Independence from Mexico.

My great-great-grandfather signed that declaration of independence, along with the first two Senators who eventually served Texas when, 10 years after it won its independence and had become a nation, then joined the United States as a State. And the first two Senators were Sam Houston and Thomas Jefferson Rusk. I hold the Rusk seat. He was the secretary of war and signed the Texas Declaration of Independence alongside my great-great-grandfather. They were both delegates from my mother's hometown of Nacogdoches, TX.

So, Madam President, I thank you. And I certainly thank the Senator from Idaho for allowing me to keep this tradition.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Madam President, I thought it was important that the Senator from Texas be allowed to keep the tradition. My only observation is, if that fight had occurred under modern law, and with gun control advocates, it would not have been a gun fight; it would have been a knife fight.

But I do thank my colleague. That was an awfully important part of Texas history that became American history.

I retain the remainder of my time and yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Madam President, I rise in support of the Bingaman amendment. I would just note, if I could, my understanding is this amendment would clarify that the manufacturer or the seller of a firearm would still be liable for the foreseeable injuries to a consumer who purchases a firearm, just like the producer of a toaster or a lawnmower or car seats or any other product, for that matter.

I also want to take a moment to speak on behalf of an amendment that is going to be offered and probably voted on tomorrow; and that is, with respect to gun shows, an effort, on the part of Senators MCCAIN and REED to close what many of us believe is a loophole.

By way of full disclosure, this past weekend I have been working with my youngest son, who is an eighth grader in a school back in Delaware. In school, he has a genealogy project. He has to not only tell his life story, but he has to tell the story of both sides of his family—his parents' ancestors—all the way back to North Carolina and Germany, and places like that.

One of things we came across, in looking through the genealogy, is that about 150 years ago, one of the things that was going on in the Carper family, in West Virginia, was the development of something called the Carper rifle.

It turned out to be a firearm that bears my family's name and was thought to be a weapon people were anxious to have a long time ago. In fact, we still trade a few from time to time. My dad was a big hunter and fisherman. I also like to fish and take my boys. My sons are Boy Scouts and they are being introduced to weapons as they go through their training. Occasionally, we will do some trap shooting. I remember my dad being a gun collector, too. I remember visiting him and my mom in Florida where they had lived for some time. I remember looking at his gun collection. He had enough for a small army in their home in Seminole, FL. He had rifles, shotguns, and even a musket or two, and handguns as well. He used to say, with some humor, if anybody tried to break into this house, it would be the last time they tried to do it. All I know is nobody tried to break into their house.

My dad also liked people. He was a claims adjuster for Nationwide Insurance Company. In the course of his work, he worked with troopers, police, law enforcement officers. He had a great affection for them and the work they did. I am like my father in some ways and different in some ways. We share an affection for the outdoors and also for people. We have a strong respect for the second amendment of the Constitution, believing people ought to have a right to bear arms and own arms.

We have a situation in Delaware, as in about 30-some other States, where folks can go to a gun show—and people are not able to buy guns under Delaware law. But you can show up at a licensed dealer and they call in to the State Bureau of Investigation, and in a minute or two they will know whether you are eligible to buy a gun.

That same person can go to a gun show in my State and if they deal with a licensed dealer, within a couple of minutes, they know whether the person may or may not buy a weapon. If not, they are told you cannot buy a weapon. Yet somebody can go as far from me as to the reporter right here, who is not a licensed dealer, and that same person who cannot purchase a gun in my State will purchase a gun. It happens in my State and in dozens of other States around America.

My law enforcement officers want to see a change. They want to see it stopped. All of our major law enforcement agencies in Delaware, from Dover, to Wilmington, to Newcastle, would like to see that loophole closed. Tomorrow when we vote on the gun show loophole amendment from Senators MCCAIN and REED, I plan to vote for it. It is good, commonsense legislation. I hope it will carry the day tomorrow when we vote.

I thank the Senator from New Mexico for allowing me to have this time.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Madam President, I ask unanimous consent that the time from 9:30 a.m. to 11:15 a.m. tomorrow be equally divided between the two leaders or their designees; provided further, that the time from 11:15 to 11:25 a.m. be under the control of the Democratic leader or his designee, and the time from 11:25 to 11:35 a.m. be under the control of the majority leader or his designee.

Mr. REID. Madam President, I will not object to this. But everybody within the sound of my voice should understand these times will not be changed tomorrow. We are working under very tight time deadlines. For anybody who wants an extra minute here or there, or to have a vote later, there will be objection and that will not happen.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. CRAIG. Madam President, I thank Senator REID for reinforcing the UC and the time constraints we are under tomorrow as we vote on several key amendments.

How much time remains on my side?

The PRESIDING OFFICER. There are 4 minutes 16 seconds remaining.

Mr. CRAIG. I thank the Chair.

Let me say I don't question the sincerity or the desire with which the Senator from New Mexico comes to the floor to offer his amendment. I must tell you I think he is rewriting current law to fit a situation in his State, or attempting to do so. What we have always said here is individuals are responsible for their acts, not a third party or, in this case, the third party is responsible and not the gun manufacturer. It is my understanding all three of these young people were minors; they acquired the gun off the street. You have heard the Senator from Alabama talk about the knowledge of handling a firearm and the tragic mistake some make when they assume it is empty. Any of us who have ever taken a course in firearms knows that, first and foremost, that is the one assumption you never make. That gun has to be presumed to be loaded until you yourself establish by visual contact it is not.

The Bingaman amendment would modify the definition of reasonably foreseeable in product defect cases in such a way it would undermine clearly the purpose of S. 1805 and undo the Daschle amendment we worked in compromise and balance to bring. Rather than leave criminal and unlawful misuse out of the definition of reasonably foreseeable use, like S. 1805 and the Daschle amendment does, the Bingaman amendment would define the term reasonably foreseeable in product defect cases to mean the reasonable anticipation that harm or injury is likely to result.

We don't think that is how this argument ought to be approached. Again, there is this great desire in our country that somehow the individual cannot be held responsible, that somehow it was somebody else's fault. The case the Senator speaks of is, without question, tragic. That I don't dispute, and my heart goes out to the families in those kinds of incidents, where young people become involved in the misuse of a firearm and it takes someone's life or injures them. We hope that does not happen.

Again, we have to go back to the underlying principle of responsibility, and in the case of well and long-established court law, it is the individual who is responsible, and if their act causes injury, they are responsible. Certainly, that is the intent and the very narrow character of S. 1805.

There are lawsuits filed for the purpose of changing public policy in our country or simply, if you will, draining down the resources of a company that someone believes should not be in business, even though historically we have said that is a law-abiding, responsible business to be in in our country. In this case, it is a business that was spoken to by our Founding Fathers in the second amendment.

We think those who play by the Federal rules, whether they be a manufacturer or a dealer, ought to be exempt from these kinds of lawsuits, unless under product liability and other law they clearly are in violation. But the third party is the one who takes the action, causes the crime that is the criminal act. Why do we want to reach back through the courts and go after the law-abiding individual or company? That is the issue at hand. I know the Senator speaks to a specific version of that, but at the same time that is the reality with which we deal here.

I hope my colleagues, when we vote at 5 or soon after that, will object to the Bingaman amendment in support of a clean S. 1805.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Madam President, how much time do I have?

The PRESIDING OFFICER. Two minutes, 18 seconds.

Mr. BINGAMAN. Madam President, to me, this amendment is a question of whether we are going to hold gun manufacturers and designers and dealers to the same standards we hold all other manufacturers in this country. Or are we instead going to pass a law that says, look, everybody else has to be held to a high standard, but if you are designing, manufacturing, or selling a gun, you can forget about that high standard; you have a much lower standard. That is exactly what this bill does without my amendment. It holds manufacturers to a much lower standard.

I don't think that is the best public policy. I think we are making a major mistake in this regard. In this circumstance, the case I have talked about for the last hour, where you have three teenagers, one of whom acts negligently and another of whom is injured as a result of that, there is no doubt that 15-year-old who acted negligently should be subject to liability for what he did. I am not suggesting he should not be subject to liability. All I am saying is a good argument can be made that if this gun had been properly designed, there would have been some warning the gun still was loaded or could be loaded even though the magazine was out, or there would be some safety mechanism on the gun to keep it from being fired when the magazine was out. In either case, this injury would have been avoided.

All I am saying is that under New Mexico law, as our courts have interpreted New Mexico law, an American has a right to go to a jury and argue that this injury was reasonably foreseeable by the manufacturer and, therefore, the manufacturer should be liable for the damage that was done by this defectively designed gun.

I believe we ought to maintain that ability. This bill, S. 1805, undercuts that ability and basically bars those lawsuits. That would be a big mistake.

I urge my colleagues to support the amendment I have offered. I believe it would dramatically improve this legislation and actually bring it into line with traditional tort law.

I yield the floor.

The PRESIDING OFFICER (Mr. CHAFEE). The question is on agreeing to amendment No. 2635.

Mr. BINGAMAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant journal clerk called the roll.

Mr. McCONNELL. I announce that the Senator from South Carolina (Mr. GRAHAM), the Senator from Arizona (Mr. MCCAIN), the Senator from Alaska (Ms. MURKOWSKI), and the Senator from Ohio (Mr. VOINOVICH) are necessarily absent.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Delaware (Mr. BIDEN), the Senator from California (Mrs. BOXER), the Senator from New Jersey (Mr. CORZINE), the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Massachusetts (Mr. KERRY), and the Senator from New Jersey (Mr. LAUTENBERG) are necessarily absent.

I further announce that if present and voting, the Senator from Delaware (Mr. BIDEN) and the Senator from Massachusetts (Mr. KERRY) would each vote "yea".

The PRESIDING OFFICER (Mr. FITZGERALD). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 28, nays 59, as follows:

[Rollcall Vote No. 23 Leg.]

YEAS—28

Bingaman
Byrd
Cantwell
Carper
Chafee
Clinton
DeWine
Dodd
Durbin
Feingold
Feinstein
Fitzgerald
Harkin
Hollings
Inouye
Kohl
Leahy
Levin
Lieberman
Mikulski
Murray
Nelson (FL)
Reed
Sarbanes
Schumer
Stabenow
Warner
Wyden

NAYS—59

Alexander
Allard
Allen
Baucus
Bayh
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Chambliss
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
Daschle
Dayton
Dole
Domenici
Dorgan
Ensign
Enzi
Frist
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Jeffords
Johnson
Kyl
Landrieu
Lincoln
Lott
Lugar
McConnell
Miller
Nelson (NE)
Nickles
Pryor
Reid
Roberts
Rockefeller
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas

NOT VOTING—13

Akaka
Biden
Boxer
Corzine
Edwards
Graham (FL)
Graham (SC)
Kennedy
Kerry
Lautenberg
McCain
Murkowski
Voinovich

The amendment (No. 2635) was rejected.

Mr. CRAIG. I move to reconsider the vote.

Mr. McCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Mr. President, S. 1805, which we are in the midst of debating, is good legislation and I am a cosponsor of this bill. It will help curb frivolous litigation against a lawful American industry and the thousands of workers it employs. Imagine if General Motors were to be held liable for every accident caused by a reckless or drunk driver. Likewise, businesses legally engaged in manufacturing, importing or selling firearms should not be liable for the harm caused by people who use that firearm in an unsafe or criminal manner. This legislation does carefully preserve the right of individuals to have their day in court with civil liability actions for injury or danger caused by negligence or defective product, a standard in product liability law.

Adding amendments such as an extension of the assault weapons ban threatens the chances of this important legislation ever becoming law. This bill is too important to be saddled with "poison pill" amendments.

Four years ago, in the midst of the 2000 election, I said that my goal in fighting criminals was to enforce, not repeal, existing laws. And, indeed, in Virginia we have seen that incarcerating violent felons is the best crime reduction policy. I would support reauthorization of the assault weapons ban in its current form if this legislation had proven effective in reducing violent crime. I have reviewed the thoughtful claims and extensive assertions of proponents and opponents of this law. I have concluded, after a review of the evidence, that this symbolic ban of 19 firearms chosen for cosmetic reasons is a meaningless, toothless law that has virtually no impact on crime. I have decided, therefore, to vote against extension of the assault weapons ban.

Police reports and Federal felon surveys have consistently shown that so-called assault weapons are used in only 1 to 2 percent of violent crimes. Crime victim surveys indicate the figure is only one-quarter of 1 percent, 0.25. Murders with knives, clubs and hands outnumber those with assault weapons by over 20-to-1.

Put another way, notwithstanding this 10-year ban of 19 firearms, criminals continue to commit criminal acts, they just do so with other weapons; with other guns, knives or objects.

The simple fact is that the assault weapons ban only attacks the cosmetic features of a gun, banning some guns even though they function exactly the same as hundreds of other semi-automatic firearms.

It is also worth noting that we are not talking about the fully automatic firearms or machine guns that many Americans view as assault weapons—the Uzi and the AK-47—they were already banned by previous laws. Nor are we talking about any firearms that are readily or easily converted to fully automatic firearms. Sale of such firearms is already banned under current federal law.

I recently watched a CNN interview that showed an individual firing a gun that was banned under the 1994 law and a gun that is readily available today. Both guns produced the same results with the same impact. The only difference is that one had a different type of grip, stock or bayonet lock than the other. Therefore, the banning of these accessories is purely cosmetic. The focus should be on criminals not guns, and it should be on programs that work, like Project Exile and the Abolition of Parole.

I am also concerned that by reauthorizing this gun ban legislation, it will serve as a platform inviting added restrictions on Second Amendment rights. The current law, then, only makes sense if the ultimate goal it is to ban more and more guns in the future, something I cannot support. This can be seen in several proposals and amendments now before Congress to expand the current assault weapons ban proposals that permanently ban a large number of guns that citizens lawfully use for competition, hunting or self-defense. I have a long and consistent record of supporting the rights of Virginians and Americans to protect their families and themselves, and I am committed to protecting those rights of law-abiding American citizens.

MORNING BUSINESS

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate now proceed to a period for morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMBATING SEXUAL ASSAULT OF U.S. SERVICEWOMEN IS CRITICAL

Mr. DASCHLE. Mr. President, last week members of the Senate Armed Services Committee heard deeply disturbing testimony about unspeakable acts of violence committed against at least 112 of our military personnel deployed in Afghanistan and the Iraq theater. Unfortunately, the acts of violence discussed in the committee were not committed by the Taliban or terrorists, but by fellow American troops who have sexually assaulted their female counterparts. This egregious situation is unacceptable.

Back home in South Dakota, I have met so many female soldiers who have proudly volunteered to serve this Nation. Like their male colleagues, they demonstrate tremendous patriotism and love for America. They also share the strong sense of duty and pride in being a member of our great military. They deserve the country's and their fellow soldiers' wholehearted respect.

Sadly, the Armed Services Committee testimony suggests that too many of our women soldiers must be concerned not just about combating enemy soldiers, but also about a soldier who is fighting beside her.

Over 30,000 brave women answered our Nation's call to duty to support Operation Iraqi Freedom. Fourteen of them have given their lives to ensure that democracy flourishes in a country that has only recently been liberated from brutality and repression.

These soldiers are performing their duties with courage and honor. At a time when the insurgency and unrest continue in Iraq, these women continue to defend Iraqi citizens from senseless violence. They should not have to be concerned about having to defend themselves against the most senseless violence of all—sexual assault perpetrated by their fellow soldiers.

Women make invaluable contributions to our armed forces. In fact, it is safe to say that our military could not perform all that we currently require of it without the service and sacrifices of female soldiers. When we brutalize the very people who are willing to sacrifice their life for the defense of liberty and freedom, we harm the institution that protects us all and undermine the principles upon which this great Nation was founded.

What makes last week's reports on sexual assault more distressing is that this is not the first time female service members have come forward with allegations that they were raped and assaulted by their male compatriots. We have heard these accusations before the Navy's Annual Tailhook Symposium, the Army's Aberdeen Proving Grounds, and the Air Force Academy in Colorado.

I commend the women who have come forward to report these reprehensible acts. Far too often women suffer in silence, too afraid of possible reprisals that may come from reporting a sexual assault. This is true in civilian life and must be doubly so in military life. To help these victims, the military must take immediate and concrete steps to address their needs. We must ensure that victims have access to medical care and confidential counseling. If we fail to create an environment where women feel safe to report their assaults, we risk teaching them that, in order to advance their military careers, they must remain silent.

I am pleased that the Department of Defense has launched an investigation into these allegations, and that my colleagues on the Senate Armed Services Committee recently heard testimony addressing this issue. Still we must do more. It is imperative that we all continue to work together to send to send a clear signal to the entire military that any sexual misconduct will not be tolerated, and offenders will be vigorously prosecuted and punished. It is time to ensure this issue is given the urgency and attention it deserves.

HONORING OUR ARMED FORCES

SGT RANDY S. ROSENBERG

Mr. GREGG. Mr. President, I rise today to pay tribute to a special person, SGT Randy S. Rosenberg of Berlin, NH.

Tragically, on January 24, 2004, this courageous young soldier, only 23 years of age, gave his last full measure for our Nation when a vehicle-based explosive device detonated near his military vehicle in Khalidiyah, Iraq, located in the Sunni Triangle, about 70 miles west of Baghdad. Randy and two of his comrades lost their lives in the explosion and six other American soldiers were wounded in the attack near the Euphrates River. At the time of the hostile action SGT Rosenberg was serving as an infantryman in Company B, 1st Squadron, 9th Cavalry, a component of Task Force "All American" which was supporting Operation Iraqi Freedom.

Randy joined the United States Army in September 1998, after graduating from Berlin High School, where he played hockey and baseball. He completed Basic Training and Advanced Individual Training at Fort Benning, GA, and was assigned to Fort Hood, TX, since March 1999. His awards include the Army Commendation Medal, Good Conduct Medal, National Defense Medal, Noncommissioned Officer Professional Development Ribbon, Army Service Ribbon, Combat Infantry Badge, Purple Heart, posthumous, and Bronze Star, posthumous. This was his second tour of duty in the Middle East, having served previously in Kuwait.

His wife, Misty, is from Goffstown, NH. His mother and stepfather are Rick and Sandy Fournier. Sandy works in the Berlin City Hall. His sister, Tanya, 15, is a student at Berlin High School. SGT Rosenberg also leaves his maternal grandfather, Saul Rosenberg, and his maternal grandmother, Shirley Gemitti, and her husband, William Gemitti, a veteran of the Korean war.

Patriots from the State of New Hampshire have served our Nation with honor and distinction from Bunker Hill to Iraq—and Randy served in that fine tradition. Daniel Webster said:

> God grants liberty only to those who love it, and are always ready to guard and defend it.

Randy was one of those proud and dedicated volunteers who chose to serve our Nation, and guard our precious liberty, and for that we will always owe our sincere gratitude.

The sudden death of a young person is especially difficult for family and friends. In November 1864, President Abraham Lincoln was informed by the War Department of a mother who had lost five sons in the Civil War. He wrote the mother:

> I feel how weak and fruitless must be any word of mine which should attempt to beguile you from the grief of a loss so overwhelming. But I cannot refrain from tendering you the consolation that may be found in the thanks of the Republic they died to save.
>
> I pray that our Heavenly Father may assuage the anguish of your bereavement, and leave you only the cherished memory of the loved and lost, and the solemn pride that must be yours to have laid so costly a sacrifice upon the altar of freedom.

Family, friends, and fellow soldiers will no longer be able to enjoy the company of SGT Randy S. Rosenberg. Strangers will never have the opportunity to know his friendship. Yet memories of this young patriot will last forever with those who were fortunate enough to have had the opportunity to know him. May God bless Randy Rosenberg.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

A horrendous crime occurred 4 years ago today in Richmond, VA. There, a homeless man was killed and his severed head left atop a footbridge in James River Park near a popular meeting place for gay men.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. By passing this legislation and changing current law, we can change hearts and minds as well.

IN RECOGNITION OF THE PEACE CORPS

Mr. LEVIN. Mr. President, in October 1960, then-U.S. Senator John Fitzgerald Kennedy, visited the University of Michigan in the heat of his successful Presidential campaign. The Presidential aspirant and self-proclaimed graduate "of the Michigan of the East" stood on the steps of the Student Union and called for the creation of a program that would enable college graduates to serve their Nation as part of a "greater purpose" rooted in service.

Forty-three years later, this program, the Peace Corps, has been a resounding success. Seeking to promote world peace and friendship by sending American volunteers to participate in community service in villages and towns across the world, this program addresses the critical shortage in technical capacity that many parts of the world face. Further, it fosters increased cultural understanding. Peace Corps volunteers, witting or not, represent their Nation while abroad and upon returning home help promote increased global awareness here as well.

President Kennedy, in his inaugural address, called for a "grand and global alliance" to fight tyranny, poverty and disease. With over 7,500 current volunteers in 71 nations, the Peace Corps has been a key part of this alliance. Since its inception, over 170,000 volunteers have worked in 137 nations in a variety of programs. An increasing number of Peace Corps volunteers are over 60 years of age. In fact, this year there is one 84-year-old volunteer. That said, our Nation's college campuses are still the largest source of Peace Corps volunteers. Our universities are "immense reservoirs" of talent and idealism, and each year thousands of college students seek to join the Peace Corps in hopes of pursuing a difficult yet rewarding task.

Last week, the Peace Corps released a list ranking the schools that provided the largest number of graduates accepted to the Peace Corps this year. Two schools from my home State, the University of Michigan-Ann Arbor and Michigan State University, were ranked fourth and eighth respectively in terms of the numbers of volunteers they provided. Since the inception of the program, these schools are ranked fourth and fifth overall in terms of the number of total volunteers that they have provided to the program. Both schools have worked to instill an ethos of volunteerism and service in their graduates, and for that they are to be commended.

All Peace Corps volunteers, regardless of their alma mater, deserve our respect and gratitude. By giving of themselves, they take concrete actions to improve the lives of countless individuals around the world.

ADDITIONAL STATEMENTS

TRIBUTE TO ROBERT HARRIS

● Mr. BUNNING. Mr. President, I today in the Senate pay tribute to Robert Harris, of Daviess County, KY. Recently, Mr. Harris received the AP State Scholar Awards based on his outstanding performance on the advanced placement program examinations.

AP State Scholar awards are presented to one female and one male student in each State and the District of Columbia. As a senior at Daviess County's Apollo High School, Mr. Harris was one of only 105 from across the Nation who have qualified to receive this honor.

The citizens of Daviess County are fortunate to have Mr. Harris living and learning in their community. His example of hard work and determination should be followed by all in the Commonwealth of Kentucky.

I congratulate Mr. Harris for his success. But also, I congratulate all his peers, coaches, teachers, administrators, and his parents for their support and sacrifices they've made to help Mr. Harris reach this goal and fulfill his dreams.●

IN RECOGNITION OF THE DETROIT RESCUE MISSION MINISTRIES

● Mr LEVIN. Mr. President, I would like to take a moment to celebrate the 95th anniversary of the Detroit Rescue Mission Ministries. This very successful faith-based organization began as a food assistance program and over the years has broadened its scope to include 13 different ministries to combat problems such as homelessness, substance abuse, hunger and teen pregnancy.

The Detroit Rescue Mission Ministries provides food, shelter and spiritual guidance to more than 725 people a day and donates over 75,000 articles of clothing to the poor annually. The organization also provides over 500,000 meals and 146,000 nights of emergency shelter annually.

The Detroit Rescue Mission Ministries has consistently met the changing and growing needs of the Detroit community by partnering with churches, schools, and social and governmental agencies. The Christian Guidance Center, one ministry of the Detroit Rescue Mission, operates in cooperation with the Michigan Department of Corrections and provides individual counseling, group therapy, substance abuse support, rehabilitation groups, and social activities for Detroit area prisoners.

A pioneer in the field of serving the less fortunate, the Detroit Rescue Mission Ministries established the "Genesis Houses," one of Michigan's first longer term residential facilities. In addition to sheltering the homeless, these homes provide food, clothing, advocacy and referral services.

Understanding the importance education plays in reducing poverty, the Detroit Rescue Mission established the Teen Moms Program, which provides housing to teen mothers who are enrolled in high school, GED training or junior high. To further educational opportunities, the Oasis Library furnishes residents with access to knowledge and facilitates computer literacy skills.

I know my Senate colleagues join me in offering our congratulations and sincerest appreciation to the Detroit Rescue Mission Ministries on its 95th anniversary. We recognize and thank the dedicated staff and volunteers who have made the organization a success and offer our support as they continue to work to fulfill their mission of rebuilding the inner city one life at a time.●

TRIBUTE TO JESSICA LOWELL

● Mr. BUNNING. Mr. President, I rise today in the Senate to pay tribute to Jessica Lowell, of Louisville, KY. Recently, Ms. Lowell received the AP State Scholar Awards based on her outstanding performance on the advanced placement program examinations.

AP State Scholar awards are presented to one female and one male student in each State and the District of Columbia. As a senior at Louisville's DuPont Manual High School, Ms. Lowell was one of only 105 from across the Nation who have qualified to receive this honor.

The citizens of Louisville, Kentucky are fortunate to have Ms. Lowell living and learning in their community. Her example of hard work and determination should be followed by all in the Commonwealth of Kentucky.

I congratulate Ms. Lowell for her success. But also, I congratulate all her peers, coaches, teachers, administrators, and her parents for their support and sacrifices they've made to help Ms. Lowell reach this goal and fulfill her dreams.●

REVEREND MICHAEL JONES

● Mr. TALENT. Mr. President, I honor Reverend Michael Jones, who is the senior pastor of Friendly Temple Missionary Baptist Church in St. Louis. I was moved to do this after recently attending a wonderful service at the church in celebration of the 10th anniversary of Reverend Jones becoming pastor.

Reverend Jones accepted a call into ministry at Friendly Temple in 1979, and he worked for several years under the tutelage of his grandfather, Reverend R.F. Davis. After his grandfather's passing, he was commissioned to serve as senior pastor in 1994. During Reverend Jones' 9 years as senior pastor, the church has been very active in meeting the needs of the community around it, helping to feed the hungry, house the homeless and educate the unskilled to prepare them for jobs.

Friendly Temple also has a jail ministry, an alcohol and drug ministry and a youth ministry, among others, which seek to provide a hand up to many of society's most troubled members. In all its efforts, the church reaches out to people with a message of rebirth, renewal, restoration, revival and resurrection based on the teachings of the Gospels. That is because Pastor Jones and the leaders of the church are committed to the glory service of their Lord and Savior.

Reverend Jones and his wife Phyllis are proud parents of three children, Kawonza, Mike and Joshua. In addition, Reverend Jones has a bachelor's degree in business management and marketing management and a master's degree from Covenant Theological Seminary in General Theological Studies.

I commend Reverend Jones and the congregation of Friendly Temple Missionary Baptist Church for their outstanding service to the community. His message of hope and strong moral values is an inspiration and a blessing to all of us. I am honored to share his successes with my colleagues, and I wish him and his congregation all the best for the future.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings).

2004 NATIONAL DRUG CONTROL STRATEGY—PM 67

The Presiding Officer laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on the Judiciary:

To the Congress of the United States:

I am transmitting the 2004 National Drug Control Strategy, consistent with the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1705).

Two years ago, my Administration issued its National Drug Control Strategy setting forth a balanced approach to reducing drug use among teenagers and adults. The Strategy set ambitious two- and five-year performance-based goals: (i) to lower the rate of drug use by 10 percent over two years; and (ii) to lower the rate by 25 percent over five years. The success of the Strategy can be measured by its results.

I am pleased to report that we have exceeded our two-year goal of reducing drug use among young people. The most recent survey shows an 11 percent drop between 2001 and 2003 in the use of illicit drugs by teenagers. Among teens, some drugs—such as LSD—have dropped to record low levels of use. For others, we are seeing the lowest levels of use in almost a decade.

Despite this good news, drug addiction continues to challenge far too many Americans. Addiction to drugs destroys ties of trust, family, and friendship, and reduces all the richness of life to a single destructive desire. Almost every American has known someone who has followed the self-destructive path of addiction. Too many Americans want to change a family member's behavior, but are afraid of causing division and, perhaps, estrangement.

Our Strategy proposes a remarkable and unprecedented array of drug control programs, treatment initiatives, and media campaign efforts. But more than any program, it seeks to engage the desire of all Americans to make this a better Nation, facing down the lie of addiction, and offering the hope of recovery.

My Administration will continue to place a high priority on reducing drug addiction in America. I ask for your continued support in this critical endeavor.

GEORGE W. BUSH.
THE WHITE HOUSE, *March 1, 2004.*

MESSAGE FROM THE HOUSE DURING ADJOURNMENT

ENROLLED BILL SIGNED

Under the authority of the order of January 7, 2003, the Secretary of the Senate, on February 27, 2004, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill:

H.R. 3850. An act to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

Under the authority of the order of January 7, 2003, the enrolled bill was signed by the President pro tempore (Mr. STEVENS) on February 27, 2004.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–6494. A communication from the Secretary of Homeland Security, transmitting, pursuant to law, a report relative to the Edible Oil Regulatory Reform Act; to the Committee on Commerce, Science, and Transportation.

EC–6495. A communication from the Secretary of Homeland Security, transmitting, pursuant to law, a report relative to the Edible Oil Regulatory Reform Act; to the Committee on Commerce, Science, and Transportation.

EC–6496. A communication from the Secretary of Homeland Security, transmitting, pursuant to law, a report relative to the Edible Oil Regulatory Reform Act; to the Committee on Commerce, Science, and Transportation.

EC–6497. A communication from the Secretary of Homeland Security, transmitting, pursuant to law, a report relative to the Edible Oil Regulatory Reform Act; to the Committee on Commerce, Science, and Transportation.

EC–6498. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations: [CGD07–03–088], [CGD07–03–072]" (RIN1625–AA09) received on February 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6499. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations: [CGD08–04–008], [CGD01–04–007], [CGD01–04–014]" (RIN1625–AA09) received on February 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6500. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: [CGD05–04–011], [CGD05–04–019], [CGD01–03–097]" (RIN1625–AA00) received on February 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6501. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Chemical Testing [USCG–2003–16414]" (RIN1625–AA80) received on February 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6502. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: [CGD05–04–022], [CGD05–04–21], [CGD05–04–015], [CGD05–04–003], [CGD05–03–207], [CGD05–03–207], [COTP San Juan 03–176], [COTP Philadelphia 03–005], [COTP Philadelphia 03–003], [COTP New Orleans 03–029], [CGD05–03–205]" (RIN1625–AA00) received on February 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6503. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Vessel Documentation: Lease Financing for Vessels Engages in the Coastwise Trade" (RIN1625–AA28) received on February 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6504. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations: [CGD08–04–005], [CGD08–04–001], [CGD08–04–002]" (RIN1625–AA09) received on February 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6505. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: [CGD13–03–025], [CGD05–03–111], [CGD05–03–113]" (RIN1625–AA00) received on February 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6506. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: Safety Zone for Outer Continental Shelf Facility in the Gulf of Mexico for Green Canyon 645 (CGD08–03–028)" (RIN1625–AA76) received on February 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6507. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Special Anchorage Areas/Anchorage Grounds Regulations/Security Zones: [CGD07–03–110], [St. Lucie River, Stuart, FL]" (RIN1625–AA01) received on February 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6508. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Regulated Navigation Area: (CGD11–03–001); San Francisco Bay, CA" (RIN1625–AA11) received on February 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6509. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations: [CGD07–03–118], [CGD13–03–027], [CGD01–03–096]" (RIN1625–AA09) received on February 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6510. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: San Fracisco Bay, California [COTP San Francisco Bay 03–002]" (RIN1625–AA00) received on February 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6511. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations: [CGD05–04–027], [CGD07–04–024], [CGD13–04–003], [CGD01–04–009], [CGD01–04–005], [CGD01–04–012]" (RIN1625–AA09) received on February 26, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6512. A communication from the Administrator, Foreign Agricultural Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "7 CFR Part 20, Export Sales Reporting Requirements" received on February 24, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6513. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "National Poultry Improvement Plan; Technical Amendment" (Doc. No. 03-017-3) received on February 24, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6514. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Irradiation of Sweet Potatoes from Hawaii" (Doc. No. 03-062-2) received on February 24, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6515. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Tart Cherries Grown in the States of Michigan; et al.; Final Free and Restricted Percentages for the 2003-2004 Crop Year for Tart Cherries" (Doc. No. FV04-930-1) received on February 24, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6516. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Olives Grown in California; Decreased Assessment Rate" (Doc. No. FV04-932-1) received on February 24, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6517. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Ports of Entry for Certain Plants and Plant Products" (Doc. No. 03-067-2) received on February 24, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6518. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Aminoethoxyvinlglycinehidrocholride (aviglycine HCI); Pesticide Tolerance" (FRL#7341-6) received on February 24, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6519. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Brucellosis in Cattle; State and Area Classifications; Wyoming" (Doc. No. 04-009-1) received on February 24, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6520. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Karnal Bunt; Revision of Domestic Regulations" (Doc. No. 02-056-2) received on February 24, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6521. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Texas (Splenetic) Fever in Cattle; Incorporation by Reference" (Doc. No. 04-008-1) received on February 24, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6522. A communication from the Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 02-05; to the Committee on Appropriations.

EC-6523. A communication from the Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 99-02; to the Committee on Appropriations.

EC-6524. A communication from the Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 99-09A; to the Committee on Appropriations.

EC-6525. A communication from the Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law, a report entitled "Acceptance of contributions for defense programs, projects, and activities; Defense Cooperation Account"; to the Committee on Armed Services.

EC-6526. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, Department of Defense, transmitting, pursuant to law, a report relative to Department of Defense purchases from foreign entities; to the Committee on Armed Services.

EC-6527. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, transmitting, the authorization of the wearing of the insignia of lieutenant general; to the Committee on Armed Services.

EC-6528. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, transmitting, the authorization of the wearing of the insignia of lieutenant general; to the Committee on Armed Services.

EC-6529. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, transmitting, the authorization of the wearing of the insignia of major general; to the Committee on Armed Services.

EC-6530. A communication from the Assistant Secretary for Legislative Affairs, Department of the Treasury, transmitting, pursuant to law, a report relative to the financial balances of the Vietnam Education Foundation; to the Committee on Banking, Housing, and Urban Affairs.

EC-6531. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations 69 FR 518" (44 CFR Part 65) received on February 24, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC-6532. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations 69 FR 521" (44 CFR Part 67) received on February 24, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC-6533. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations 69 FR 522" (44 CFR Part 67) received on February 24, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC-6534. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations 69 FR 524" (44 CFR Part 67) received on February 24, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC-6535. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations 69 FR 516" (44 CFR Part 65) received on February 24, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC-6536. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Suspension of Community Eligibility 69 FR 40" (44 CFR Part 64) received on February 24, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC-6537. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations 69 FR 514" (44 CFR Part 65) received on February 24, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC-6538. A communication from the Assistant General Counsel for Regulations, Office of Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "FHA TOTAL Mortgage Scorecard; Technical Correction" (RIN2502-AI00) received on February 24, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC-6539. A communication from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting, pursuant to law, the report of a rule entitled "Deposit Insurance Regulations; Living Trust Accounts" received on February 24, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC-6540. A communication from the Secretary of Energy, transmitting, a draft of proposed legislation to enhance the effectiveness of the counterintelligence programs within the Department of Energy; to the Committee on Energy and Natural Resources.

EC-6541. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, a draft of proposed legislation relative to redesignating Fort Clatsop as the Lewis and Clark National Historical Park; to the Committee on Energy and Natural Resources.

EC-6542. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plan for Designated Facilities and Pollutants: South Carolina" (FRL#7628-5) received on February 24, 2004; to the Committee on Environment and Public Works.

EC-6543. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Control of Emissions from New Marine Diesel Compression Ignition Engines at or Above 30 Liters Per Cylinder" (FRL#7627-4) received on February 24, 2004; to the Committee on Environment and Public Works.

EC-6544. A communication from the Deputy Associate Administrator, Environmental

Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Pollutant Discharge Elimination System—Final Regulations to Establish Requirements for Cooling Water Intake Structures at Phase II Existing Facilities" (FRL#7625-9) received on February 24, 2004; to the Committee on Environment and Public Works.

EC-6545. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Protection of Stratospheric Ozone; Refrigerant Recycling; Substitute Refrigerants" (FRL#7625-6) received on February 24, 2004; to the Committee on Environment and Public Works.

EC-6546. A communication from the Director, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Final Rule to Delist the Mariana Mallard and Guam Broadbill From the List of Threatened and Endangered Wildlife" (RIN1080-AH50) received on February 19, 2004; to the Committee on Environment and Public Works.

EC-6547. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval of Section 112(1) Authority for Hazardous Air Pollutants; Equivalency by Permit Provisions; Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry; State of South Carolina" (FRL#7623-8) received on February 24, 2004; to the Committee on Environment and Public Works.

EC-6548. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, the 2003 Revisions to the Hazardous Waste Enforcement Response; to the Committee on Environment and Public Works.

EC-6549. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, the Agency's Fiscal Year 2003 Annual Report; to the Committee on Environment and Public Works.

EC-6550. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Reduction in Face Amount of Note Used to Purchase Employer Stock" (Rev. Rule 2004-37) received on February 26, 2004; to the Committee on Finance.

EC-6551. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Service by a Student That Qualify for the Exception from Federal Insurance Contributions Act" (Notice 2004-12) received on February 26, 2004; to the Committee on Finance.

EC-6552. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Deductibility of Contributions to a Section 412(i) Plan" (Rev. Rul. 2004-20) received on February 26, 2004; to the Committee on Finance.

EC-6553. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Fair Market Value in a Section 412(i) Plan" (Rev. Proc. 2004-16) received on February 26, 2004; to the Committee on Finance.

EC-6554. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Discrimination in a Section 412(i) Plan" (Rev. Rul. 2004-21) received on February 26, 2004; to the Committee on Finance.

EC-6555. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Notice Adopting Rev. Rule 2002-62" (Notice 2004-15) received on February 26, 2004; to the Committee on Finance.

EC-6556. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Request for Comments Concerning Treatment of Amounts Required to be Capitalized Under Section 1.263(a)-5" () received on February 26, 2004; to the Committee on Finance.

EC-6557. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Abusive Foreign Tax Credit Intermediary Transactions" (Notice 2004-20) received on February 26, 2004; to the Committee on Finance.

EC-6558. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Foreign Tax Credit Abuse" (Notice 2004-19) received on February 26, 2004; to the Committee on Finance.

EC-6559. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Applicable Federal Rates—March 2004" (Rev. Rule 2004-25) received on February 26, 2004; to the Committee on Finance.

EC-6560. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Electronic Payee Statements" (TD9114) received on February 26, 2004; to the Committee on Finance.

EC-6561. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Guidance Under Section 355 Regarding Spin-offs of a Controlled Corporation" (Rev. Rule 2004-23) received on February 26, 2004; to the Committee on Finance.

EC-6562. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Treatment of Environmental Remediation Expenses under Sec. 1341" (Rev. Rule 2004-17) received on February 26, 2004; to the Committee on Finance.

EC-6563. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Bureau of Labor Statistics Price Indexes for Department Stores—December 2003" (Rev. Rule 2004-19) received on February 26, 2004; to the Committee on Finance.

EC-6564. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Electonic Filing of Duplicate Forms 5472" (RIN1545-BD02) received on February 26, 2004; to the Committee on Finance.

EC-6565. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Average Area and Nationwide Purchase Prices for Issuers of Qualified Mortgage Bonds and Qualified Mortgage Certificates" (Rev. Proc. 2004-18) received on February 26, 2004; to the Committee on Finance.

EC-6566. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Treatment of Environmental Remediation Expenses Under 263A" (Rev. Rul. 2004-18) received on February 26, 2004; to the Committee on Finance.

EC-6567. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Revisions to the One-time Appeal Process for Hospital Wage Index Classification" (RIN0938-AN00) received on February 26, 2004; to the Committee on Finance.

EC-6568. A communication from the President of the United States, transmitting, pursuant to law, a notification of the President's intention to enter into a Free Trade Agreement with Costa Rica, El Salvador, Honduras, Guatemala, and Nicaragua; to the Committee on Finance.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. MILLER:

S. 2147. A bill to increase the penalties for violations by television and radio broadcasters of the prohibitions against transmission of obscene, indecent, and profane language; to the Committee on Commerce, Science, and Transportation.

By Mr. COLEMAN:

S. 2148. A bill to protect American workers from competition of foreign workforces for performance of Federal and State contracts; to the Committee on Governmental Affairs.

By Mr. COLEMAN (for himself and Mr. BAUCUS):

S. 2149. A bill to provide customs services after hours at certain airports; to the Committee on Finance.

By Mr. NELSON of Florida:

S. 2150. A bill to promote better health for young people through Federal matching awards for physical education programs of excellence, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. JOHNSON:

S. 2151. A bill to encourage the development and integrated use by the public and private sectors of remote sensing and other geospatial information, and for other purposes; to the Committee on Commerce, Science, and Transportation.

ADDITIONAL COSPONSORS

S. 349

At the request of Mrs. FEINSTEIN, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 349, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 595

At the request of Mr. BREAUX, the name of the Senator from Connecticut

(Mr. DODD) was added as a cosponsor of S. 595, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financings to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

At the request of Mr. HATCH, the names of the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Nevada (Mr. ENSIGN) were added as cosponsors of S. 595, supra.

S. 596

At the request of Mr. ENSIGN, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 596, a bill to amend the Internal Revenue Code of 1986 to encourage the investment of foreign earnings within the United States for productive business investments and job creation.

S. 921

At the request of Mr. LAUTENBERG, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 921, a bill to authorize the Secretary of Homeland Security to make grants to reimburse State and local governments and Indian tribes for certain costs relating to the mobilization of Reserves who are first responder personnel of such governments or tribes.

S. 950

At the request of Mr. DASCHLE, his name was added as a cosponsor of S. 950, a bill to allow travel between the United States and Cuba.

S. 985

At the request of Mr. DODD, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 985, a bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas, and for other purposes.

S. 1129

At the request of Mrs. FEINSTEIN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1129, a bill to provide for the protection of unaccompanied alien children, and for other purposes.

S. 1143

At the request of Mrs. HUTCHISON, the names of the Senator from Maryland (Mr. SARBANES) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 1143, a bill to amend the Public Health Service Act to direct the Secretary of Health and Human Services to establish, promote, and support a comprehensive prevention, research, and medical management referral program for hepatitis C virus infection.

S. 1397

At the request of Mr. GREGG, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1397, a bill to prohibit certain abortion-related discrimination in governmental activities.

S. 1516

At the request of Mr. DOMENICI, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1516, a bill to further the purposes of the Reclamation Projects Authorization and Adjustment Act of 1992 by directing the Secretary of the Interior, acting through the commissioner of Reclamation, to carry out an assessment and demonstration program to assess potential increases in water availability for Bureau of Reclamation projects and other uses through control of salt cedar and Russian olive.

S. 1527

At the request of Mr. SANTORUM, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 1527, a bill to establish a Tick-Borne Disorders Advisory Committee, and for other purposes.

S. 1568

At the request of Mr. HATCH, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 1568, a bill to amend the Internal Revenue Code of 1986 to simplify certain provisions applicable to real estate investment trusts.

S. 1597

At the request of Mr. ALLEN, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1597, a bill to provide mortgage payment assistance for employees who are separated from employment.

S. 1916

At the request of Ms. LANDRIEU, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1916, a bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

S. 1925

At the request of Mr. CONRAD, his name was added as a cosponsor of S. 1925, a bill to amend the National Labor Relations Act to establish an efficient system to enable employees to form, join, or assist labor organizations, to provide for mandatory injunctions for unfair labor practices during organizing efforts, and for other purposes.

At the request of Mr. KENNEDY, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1925, supra.

S. 1977

At the request of Ms. SNOWE, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1977, a bill to promote the manufacturing industry in the United States by establishing an Assistant Secretary for Manufacturing within the Department of Commerce, an Interagency Manufacturing Task Force, and a Small Business Manufacturing Task Force, and for other purposes.

S. 2016

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of S. 2016, a bill to provide for infant crib safety, and for other purposes.

S. 2018

At the request of Mr. BUNNING, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 2018, a bill to amend the National Trails System Act to extend the Lewis and Clark National Historic Trail to include additional sites associated with the preparation or return phase of the expedition, and for other purposes.

S. 2056

At the request of Mr. BROWNBACK, the names of the Senator from North Carolina (Mrs. DOLE) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of S. 2056, a bill to increase the penalties for violations by television and radio broadcasters of the prohibitions against transmission of obscene, indecent, and profane language.

S. 2057

At the request of Mr. DAYTON, the names of the Senator from North Dakota (Mr. CONRAD) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 2057, a bill to require the Secretary of Defense to reimburse members of the United States Armed Forces for certain transportation expenses incurred by the members in connection with leave under the Central Command Rest and Recuperation Leave Program before the program was expanded to include domestic travel.

S. 2093

At the request of Mrs. HUTCHISON, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 2093, a bill to maintain full marriage tax penalty relief for 2005.

S. 2096

At the request of Mr. LUGAR, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 2096, a bill to promote a free press and open media through the National Endowment for Democracy and for other purposes.

S. 2131

At the request of Mr. BURNS, the names of the Senator from Oregon (Mr. WYDEN) and the Senator from California (Mrs . BOXER) were withdrawn as cosponsors of S. 2131, a bill to regulate the unauthorized installation of computer software, to require clear disclosure to computer users of certain computer software features that may pose a threat to user privacy, and for other purposes.

S. 2145

At the request of Mr. BURNS, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2145, a bill to regulate the unauthorized installation of computer software, to require clear disclosure to computer users of certain computer software features that may pose a threat to user privacy, and for other purposes.

S.J. RES. 28

At the request of Mr. CAMPBELL, the names of the Senator from Mississippi (Mr. COCHRAN), the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from North Carolina (Mrs. DOLE) were added as cosponsors of S.J. Res. 28, a joint resolution recognizing the 60th anniversary of the Allied landing at Normandy during World War II.

S. CON. RES. 81

At the request of Mrs. FEINSTEIN, the names of the Senator from Texas (Mr. CORNYN), the Senator from North Carolina (Mrs. DOLE) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. Con. Res. 81, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

S. RES. 294

At the request of Mr. KENNEDY, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. Res. 294, a resolution designating January 2004 as " National Mentoring Month".

S. RES. 299

At the request of Mr. CAMPBELL, the names of the Senator from Maine (Ms. COLLINS), the Senator from Michigan (Mr. LEVIN) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. Res. 299, a resolution recognizing, and supporting efforts to enhance the public awareness of, the social problem of child abuse and neglect.

AMENDMENT NO. 2623

At the request of Mr. LEAHY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of amendment No. 2623 proposed to S. 1805, a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NELSON of Florida:

S. 2150. A bill to promote better health for young people through Federal matching awards for physical education programs of excellence, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. NELSON of Florida. Mr. President, as we have all heard, childhood obesity has reached epidemic proportions in our country. 30 percent of children between the ages of 6 and 11 are overweight, and 15 percent are obese. The same is true for kids between the ages of 12 and 19. And the number of overweight children has increased 382 percent in 6–11 year olds and 258 percent in 12–19 years old since 1974.

According to a 2001 report by the U.S. Department of Health and Human Services, a poor diet and sedentary lifestyle are estimated to cause 310,000 to 580,000 deaths a year due to cancer, heart disease, stroke, and diabetes. Obesity is second only to the 418,000 smoking-related fatalities as the leading cause of preventable deaths in the United States.

And unfortunately, this obesity epidemic hits our country at the same time that state governments are cash-strapped and education programs are being cut. In my State of Florida, that means that physical education programs, among other programs, are discarded as non-essential. Specifically, in Duval County, where Jacksonville is, 29 elementary schools have no formal physical education programs. Five years ago, there were just five schools with no programs.

To stem this horrible trend, I'm introducing legislation to encourage State, school districts and schools to provide physical fitness programs in their schools. Through the President's Council on National Fitness those schools that receive recognition either as Physical Fitness State Champions, Active Lifestyle Model Schools or Physical Activity and Fitness Demonstration Programs, will be eligible for Federal matching funds. This will encourage other schools and other school districts to strive for these distinctions because the Federal Government will reward them for their efforts.

It is imperative that we continue to provide our children physical well-being instruction so that our teachers are teaching alert and fit students each day.

Recently, I had the opportunity to visit a wonderful elementary school in Duval County named the Alimacani Elementary School. The physical education instructor, Jan Tipton, showed me their facilities and they were marvelous. I even rolled up my sleeves and did some pull-ups.

The enthusiasm I encountered in that school for physical education was amazing. All of our young people should be given the opportunity to build strong minds and bodies at school through regular physical activity.

For these reasons, I hope that my colleagues will support passage of this legislation this Congress.

By Mr. JOHNSON:

S. 2151. A bill to encourage the development and integrated use by the public and private sectors of remote sensing and other geospatial information, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. JOHNSON. Mr. President, today I proudly introduce the Remote Sensing Applications Act of 2004. Remote sensing technology is utilized to map and monitor the surface of the globe. The data we recover through remote sensing equipment contributes to our ability to evaluate and measure a wide scope of variables. The Federal Government incorporates remote sensing data to accomplish many critical tasks from monitoring global food supply and environmental developments to enhancing our national security initiatives.

The Landsat program, for example, has collected and distributed a 32-year continuous record of the land surfaces of the world. The program has become so successful that a significant portion of the program's budget is recovered through outside data-sales.

Despite the overwhelming success of our remote sensing programs, many state, local, and tribal government may not be familiar with the data or how to apply the data to meet local needs. In addition, there remains significant opportunities for private industry to develop specialized and profit making adaptations based on remote sensing data.

The Remote Sensing Applications Act directs the United States Geological Survey to invest in pilot projects to explore the integrated use of sources of remote sensing information to address State, local, regional and tribal needs. This legislation emphasizes the need to develop greater commercial applications for this data and provides the USGS important opportunities to develop public-private partnerships.

The Remote Sensing Applications Act of 2004 will build upon the many successes of our remote sensing mission. By investing in adequate infrastructure and by making the appropriate tools available, we can firmly preserve our nation's leadership in remote sensing technologies. By enhancing opportunities to use this technology to more fully address the needs of State, regional, local, and tribal governments, as well as the needs of private industry, we may maximize the global effectiveness of our remote sensing programs. Accomplishing these goals through public-private partnerships has the added benefits of creating new jobs and new markets that may ultimately reduce or replace the need for federal financing or remote sensing policies.

I encourage the Senate to fully consider this important legislation and to work expeditiously to enact it into law.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2634. Mr. CORNYN submitted an amendment intended to beproposed by him to the bill S. 1805, to prohibit civil liabilityactions from being brought or continued against manufacturers,distributors, dealers, or importers of firearms or ammunition fordamages resulting from the misuse of their products by others;which was ordered to lie on the table.

SA 2635. Mr. BINGAMAN (for himself and Mr. CORZINE) proposed an amendment to the bill S. 1805, supra.

TEXT OF AMENDMENTS

SA 2634. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1805, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

SEC. ___. PROTECTING THE PRIVACY OF GUN OWNERS.

(a) IN GENERAL.—Section 922(t) of title 18, United States Code, is amended by inserting at the end the following:

"(7)(A) No tax or fee may be implemented in connection with the implementation of this subsection.

"(B) A system to implement this subsection shall require the destruction of any identifying information submitted by or on behalf of any person who has been determined not to be prohibited from possessing or receiving a firearm not more than 24 hours after the system advises a Federal firearms licensee that possession or receipt of a firearm by the prospective transferee would not violate subsection (g) or (n) of this section.".

(b) EFFECTIVE DATE.—This section shall take effect 120 days after the date of enactment of this Act.

SA 2635. Mr. BINGAMAN (for himself and Mr. CORZINE) proposed an amendment to the bill S. 1805, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others; as follows:

On page 9, strike lines 1 and 2, and insert the following:

product, when used as intended or when used in a manner that is reasonably foreseeable, provided that the term "reasonably foreseeable" means the reasonable anticipation that harm or injury is likely to result.

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that the following bills are added to the agenda for the Subcommittee on National Parks hearing for Tuesday, March 9, 2004, at 2:30 p.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC:

S. 1430, to direct the Secretary of the Interior to conduct a study of the Baranov Museum in Kodiak, Alaska, for potential inclusion in the National Park System; and S. 1687, to direct the Secretary of the Interior to conduct a study on the preservation and interpretation of the historic sites of the Manhattan Project for potential inclusion in the National Park System.

Because of the limited time available for the hearings, witnesses, may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364, Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Tom Lillie at (202) 224–5161 or Sarah Creachbaum at (202) 224–6293.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON FINANCIAL MANAGEMENT, THE BUDGET, AND INTERNATIONAL SECURITY

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs', Subcommittee on Financial Management, the Budget, and International Security be authorized to meet on Monday, March 1, 2004, at 11 a.m., for a hearing entitled, "Oversight of the Thrift Savings Plan: Ensuring the Integrity of Federal Employee Retirement Savings."

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that Anjali Chaturvedi, a detailee in my office, be allowed floor privileges for the duration of the debate on the gun immunity legislation today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I ask unanimous consent that privilege of the floor be granted to Ross Baker, a fellow with the office of Senator LEAHY, for the remainder of the debate on S. 1805.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Mr. President, I ask unanimous consent that James G. Flood, a detailee from the Department of Justice, who is an assistant U.S. attorney for the District of Columbia, be granted the privilege of the floor for the remainder of this session.

The PRESIDING OFFICER. Without objection, it is so ordered.

READ ACROSS AMERICA DAY

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 306 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection it is so ordered. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 306) designating March 2, 2004, as "Read Across America Day."

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the resolution be agreed to; that the preamble be agreed to; that the motions to reconsider be laid upon the table, en bloc; and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 306) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads, as follows:

S. RES. 306

Whereas reading is a basic requirement for quality education and professional success, and source of pleasure throughout life;

Whereas the people of the United States must be able to read if the United States is to remain competitive in the global economy;

Whereas Congress, through the No Child Left Behind Act of 2001 (Public Law 107–110) and the new Reading First, Early Reading First, and Improving Literacy Through School Libraries programs, has placed great emphasis on reading intervention and additional resources for reading assistance; and

Whereas more than 40 national associations concerned about reading and education have joined with the National Education Association to use March 2, the anniversary of the birth of Theodor Geisel, also known as Dr. Seuss, to celebrate reading: Now, therefore, be it

Resolved, That the Senate—

(1) designates March 2, 2004, as "Read Across America Day";

(2) honors Theodor Geisel, also known as Dr. Seuss, for his success in encouraging children to discover the joy of reading;

(3) encourages parents to read with their children for at least 30 minutes on Read Across America Day in honor of Dr. Seuss and in celebration of reading; and

(4) requests that the President issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 93–642, appoints the Senator from Montana, Mr. BAUCUS, to be a member of the Harry S Truman Scholarship Foundation Board of Trustees, vice the Senator from Washington, Mrs. MURRAY.

ORDERS FOR TUESDAY, MARCH 2, 2004

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Tuesday, March 2. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of S. 1805, the gun liability bill, as provided under the previous order. I further ask unanimous consent that just before the vote on passage, the Senate proceed to a vote in relation to the Levin amendment No. 2631, with no second degree amendments in order, and that following that vote, the Senate proceed with the order as previously entered.

Mr. WARNER. Mr. President, reserving the right to object, and I will not object because I think everyone has been very straightforward in the presentations on this issue, I hope I would be given a few minutes before we close down tonight to speak on my situation and put some material into the RECORD. Is there objection to that—less than 5 minutes before we close tonight?

Mr. McCONNELL. Mr. President, Senator WARNER is requesting some time to explain.

Mr. WARNER. I will need less than 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. McCONNELL. Mr. President, tomorrow the Senate will resume consideration of S. 1805, the gun liability bill. Senator McCAIN will then be recognized to offer an amendment relating to the gun show loophole, which will immediately be laid aside for Senator FEINSTEIN to offer her assault weapons ban amendment. Senator FRIST will then be recognized to offer his D.C. gun ban amendment. Following the offering of these amendments, the time until 11:35 a.m. will be equally divided for debate on these three amendments. At 11:35 a.m., the Senate will proceed to a stacked series of votes culminating in the passage of the bill. Therefore, I inform our colleagues that the first vote of tomorrow's session will occur at 11:35 a.m.

ORDER FOR ADJOURNMENT

Mr. McCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order following the remarks of Senator WARNER for 5 minutes; Senator SCHUMER for 15 minutes; Senator DEWINE for 30 minutes; Senator DAYTON for 15 minutes; and Senator LEVIN for 5 minutes.

The PRESIDING OFFICER. Is there objection?

The Democratic leader.

The Senator from Minnesota.

Mr. DAYTON. I ask unanimous consent that the time be switched and I go after Senator LEVIN.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. I know the distinguished Senator from Virginia and the Senator from Michigan have just a couple of minutes they wish to speak—actually Senator LEVIN had only asked for 3 minutes—so I ask unanimous consent that Senator LEVIN and Senator WARNER be recognized prior to Senator SCHUMER, Senator DEWINE, and Senator DAYTON.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Virginia.

PROTECTION OF LAWFUL COMMERCE IN ARMS ACT

Mr. WARNER. I rise to speak to an amendment to address the issue of tort reform. While today, the Senate is debating tort reform for the gun industry, I wish to take a few moments to raise the issue of tort reform with regard to another industry—the health care profession.

My father dedicated his life's work to medicine as a surgeon gynecologist. As a youngster, I watched first-hand how he caringly watched over his patients. As a result of my father, I have always had a great deal of respect for the medical profession.

For one reason or another, though, I did not follow in my father's footsteps. Rather than become a doctor, I became a lawyer.

Upon graduation from law school, I served as a law clerk for Judge E. Barrett Prettyman of the United States Court of Appeals for the DC Circuit. Subsequently, I worked as a Federal prosecutor and then moved to private practice with a major law firm.

I have direct experience with two professions—the medical profession and the legal profession. I admire both professions and believe the overwhelming majority of doctors and lawyers are dedicated people who work hard to serve their patients and clients.

Soon, the Senate will vote on S. 1805, legislation that provides certain legal protections to the gun industry. Legal protections which are denied almost across the board to every other industry in the private sector, including the medical profession.

Proponents have argued that this legislation is necessary because lawsuits are driving gun dealers and gun manufacturers out of business. Well, the same is happening to our doctors.

Doctors, nurses, and other health professionals are leaving the practice of medicine due to the astronomical costs of malpractice insurance and due to the constant battle against frivolous lawsuits and runaway jury verdicts. In my view, if we are going to protect the gun industry from lawsuits, we at least ought to provide some measure of protection for doctors and nurses as well.

We have all heard the real stories from doctors about the rapidly increasing cost of medical malpractice insurance. In some States, malpractice insurance premiums have increased as much as 75 percent in 1 year. As a result, the fact is that those doctors, unable to afford ever-increasing premiums, are leaving the profession altogether and patients are losing access to quality health care.

I have received numerous letters from medical professionals in the Commonwealth of Virginia that share with me the very real difficulties they are encountering with malpractice insurance and the consequences of this problem. Let me read part of one those letters that was sent to me by a doctor in Virginia. The doctor writes:

> I am writing you to elicit your support and advice for the acute malpractice crisis going on in Virginia. . . . I am a 48-year-old single parent of a 14 and 17 year old. After all the time and money spent training to practice Ob-Gyn, I find myself on the verge of almost certain unemployment and unemployability because of the malpractice crisis. I have been employed by a small Ob-Gyn Group for the last 7 years. . . . Our malpractice premiums were increased by 60% in May 2003. . . . The prediction from our malpractice carrier is that our rates will probably double at our next renewal date in May 2004. The reality is that we will not be able to keep the practice open and cover the malpractice insurance along with other expenses of practice.

Out of respect for this doctor's privacy, I will not share the doctor's name, but I do keep her letter in my files. Unfortunately, though, this doctor's experience is not unique.

Both Time Magazine and Newsweek have thoroughly detailed the crisis doctors are facing across America.

In June of 2003, Time Magazine had a cover story on the affects of rising malpractice insurance rates. The story, entitled "The Doctor is Out" discusses several doctors, all across America, who have had to either stop practicing medicine or have had to take other action due to increased insurance premiums.

One example cited in Time's article is the case of Dr. Mary-Emma Beres. Time reports:

> Dr Mary-Emma Beres, a family practitioner in Sparta, N.C., has always loved delivering babies. But last year Beres, 35, concluded that she couldn't afford the tripling

of her $17,000 malpractice premium and had to stop. With just one obstetrician left in town for high risk cases, some women who need C-sections now must take a 40-minute ambulance ride.

Dr. Beres case makes clear that not only doctors are being affected by the medical malpractice insurance crisis, patients are as well. With increased frequency, due to rising malpractice rates, more and more patients are not able to find the medical specialists they need.

Newsweek also recently had a cover story on the medical liability crisis. That cover story was entitled, "Lawsuit Hell." I was particularly struck by the feature in this magazine about a doctor from Ohio who saw his malpractice premiums rise in one year from $12,000 to $57,000 a year. As a result, this doctor, and I quote from the article, "decided to lower his bill by cutting out higher-risk procedures like vasectomies, setting broken bones and delivering babies even though obstetrics was his favorite part of the practice. Now he glances wistfully at the cluster of baby photos still tacked to a wall in his office, 'I miss that terribly,' he says."

While these stories are compelling on their own, the consequences of this malpractice crisis can even be more profound.

On February 11, 2003, Ms. Leanne Dyess of Gulfport, MS, shared with both the HELP Committee and the Judiciary Committee her very personal story about how this crisis has affected her.

Ms. Dyess told us how on July 5, 2002, her husband, Tony, was involved in a single car accident. He was rushed to the hospital in Gulfport where he had head injuries and received medical attention. Tony could not be treated at the Gulfport hospital because they did not have the specialist necessary to take care of him. After a 6 hour wait, he was airlifted to the University Medical Center. Today, Tony is permanently brain damaged.

According to Mrs. Dyess, no specialist was on staff that night in Gulfport because rising medical liability costs had forced almost all of the brain specialists in that community to abandon their practices. As a result, Tony had to wait 6 hours before the only specialist left in Gulfport could treat Tony to reduce the swelling in his brain.

Without a doubt, the astronomical increases in medical malpractice insurance premiums are having wide-ranging effects. It is a national problem, and it is time for a national solution.

The President has indicated that the medical liability system in America is largely responsible for the rising costs of malpractice insurance. The American Medical Association and the American College of Surgeons agree with him as does almost every doctor in Virginia who I have discussed the issue with.

The President of the AMA, Dr. John Nelson, has publicly stated, "We cannot afford the luxury of waiting until the liability crisis gets worse to take action. Too many patients will be hurt."

The American College of Surgeons concurs by stating, "More and more Americans aren't getting the care they need when they need it. . . . The 'disappearing doctor' phenomenon is getting progressively and rapidly worse. It is an increasingly serious threat to everyone's ability to get the care they need."

Let me state unequivocally that I agree with our President, with the AMA, with the American College of Surgeons, and with the vast majority of doctors all across Virginia. That is why I am offering my amendment today.

My amendment is simple, like other measures that have come before the Senate, my amendment provides a nationwide cap on damages in medical malpractice lawsuits.

My amendment differs from other measures that have been voted on in the Senate in one key aspect—whereas these other bills would have applied to doctors, nurses, insurance companies, drug companies, and others, my amendment is solely limited to the caring medical professionals who take care of each and every one of us when we need medical care.

It is a common sense solution to a serious problem.

Now that I have laid out the amendment, I would like to reiterate one important point. The gun immunity bill provides broad protection to gun manufacturers and gun dealers in both federal and state court. The bill is aimed at protecting the manufacturers and dealers from lawsuits that result from the criminal or unlawful use of a firearm. The basic idea is that if a manufacturer or dealer follows the statutory law in the manufacturing and sale of a legal product, they should not be held responsible for the actions of a third party.

While some may claim that this gun immunity bill might be an important component of tort reform, in my opinion, health care liability reform is even more important. We must protect the medical profession and the patients it serves.

How can we give near absolute protection from litigation for one industry, the gun industry, and do absolutely nothing for another industry that is solely dedicated to saving lives?

Let's ask ourselves, in the event that a bullet from a firearm is shot into an innocent victim, is our healthcare system prepared to help that victim? Without healthcare liability reform, it may not be, as there might not be the appropriate doctor in the area to tend to the patient. That is why my amendment goes hand-in-hand with the gun immunity bill.

So now it is up to my colleagues in the Congress. It is their choice. If we are going to give legal protections to the gun industry, all I say is let's give it to the doctors as well.

If this choice is given to the American people, there is no doubt that the doctors would win by a 100–1 margin.

Now, I clearly recognize my situation. I want to compliment the leadership of both the majority and the minority. They were eminently fair. They explained to me the situation, and I am not able to obtain a vote on my amendment tonight. It comes as a matter of considerable disappointment to me. Nevertheless, I think there are times when frankness and honesty have to be shared. Under the current parliamentary situation on this bill, it is not possible for me to achieve the vote.

I ask unanimous consent that the magnificent communications I have received from a number of groups, physicians and their organizations, that have strongly supported the initiative the Senator from Virginia has taken on their behalf, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COLLEGE OF AMERICAN PATHOLOGISTS,
Northfield, IL, March 1, 2004.

Hon. JOHN WARNER,
U.S. Senate,
Washington, DC.

DEAR SENATOR WARNER: The College of American Pathologists, a medical specialty serving 16,000 pathologists and the laboratory community, supports your amendment, the Protecting the Practice of Medicine Act. This amendment would ensure that patients have continued access to quality, affordable health care by addressing excessive medical liability costs that are threatening pathologist and other physician practices.

Physicians are finding that liability insurance is no longer available or affordable. Double digit rate increases coupled with withdrawals of liability insurance providers from the market have forced nearly thirty percent of pathologists to look for new coverage. Your amendment includes key elements of effective reform, such as caps on non-economic and punitive damages, expert witness standards, and preventing excessive attorney contingent fees to maximize the recovery for patients. No limits would be imposed on economic damages and states would be able to maintain their own laws limiting damage awards.

Again the College supports your amendment and applauds your leadership on this important issue. We look forward to working with you to enact meaningful medical liability reform that will strengthen our health care system and benefit patients.

Sincerely,
E. RANDY ECKERT, MD, FCAP,
Chair, Council on Government and Professional Affairs.

THE AMERICAN COLLEGE OF
OBSTETRICIANS AND GYNECOLOGISTS,
March 1, 2004.

Hon. JOHN WARNER,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR WARNER: The American College of Obstetricians and Gynecologists (ACOG), an organization representing nearly 46,000 physicians, thanks you for introducing S. Amdt. 2624, the Protecting the Practice of Medicine Act, an amendment to S. 1805, the Protection of Lawful Commerce in Arms Act. We appreciate your commitment to resolve the medical liability crisis facing this nation and protect access to needed health care for our nation's women and children.

ACOG is deeply committed to resolving the medical liability crisis—our number one legislative priority. The crisis is severely jeopardizing women's access to ob-gyn care and worsens with each passing day. Many obstetricians no longer deliver babies, while many others are driven out of the practice completely. And future generations of moms and babies are at risk as fewer and fewer medical students choose to become ob-gyns.

We are pleased that your amendment contains proven and effective reforms, including a cap on non-economic damages, limits on the number of years a plaintiff has to file a lawsuit, and fair allocation of damages in proportion to a party's degree of fault, as well as important expert witness qualifications.

It is clear that the Senate presents unique challenges to passing comprehensive legislation. It is important that every effort to focus the Nation's attention on this important issue is taken. Congress must pass, and the President must sign, legislation that will resolve this crisis for all physicians.

ACOG will do everything to end the medical liability crisis, which is destroying this nation's health care system. We look forward to continuing to work with you in the future on this top priority.

Sincerely,
RALPH W. HALE, MD, FACOG,
Executive Vice President.

AMERICAN COLLEGE OF SURGEONS,
Washington, DC, February 27, 2004.

Hon. JOHN WARNER,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR WARNER: On behalf of the 66,000 Fellows of the American College of Surgeons, I am pleased to offer our support for amendment titled Protecting the Practice of Medicine Act. Outrageous medical liability premiums are driving more surgeons from practice and making access for patients more difficult than ever before.

We are grateful that you have taken the lead in sponsoring this necessary medical liability reform amendment that promises protections for both patients and physicians. Not only does its assure injured parties full compensation for medical expenses and lost wages, but it also promotes a speedy resolution of claims and directs monetary awards to the patient.

Surgeons, in particular, have been targeted by skyrocketing medical liability premiums, with some increasing by as much as 300 percent. Many surgeons are being forced to retire earlier, stop providing high-risk procedures, or move to states where strong medical liability reforms are in place.

While we are offering our support for this amendment, we do have some concerns with the subrogation language. We hope this issue can be resolved as we work with you to move medical liability reform legislation closer to becoming law.

We appreciate your effort to advance medical liability reform through the United States Senate. If we can be of assistance, please do not hesitate to contact us.

Sincerely,
THOMAS R. RUSSELL, MD, FACS,
Executive Director.

AMERICAN OSTEOPATHIC ASSOCIATION,
Washington, DC, February 27, 2004.

Hon. JOHN W. WARNER,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR WARNER: As President of the American Osteopathic Association (AOA), I write to thank you for introducing the "Protecting the Practice of Medicine Act" (S. Amdt. 2624). The AOA, which represents the nation's 52,000 osteopathic physicians, support the provisions contained in your amendment and applaud your continued efforts to reform the nation's medical liability system.

The nation's health care delivery system and patient access to quality and timely health care are damaged greatly by the out-of-control medical liability system. As a result of this crisis, patients in Virginia and numerous other states, face the stark reality that their physician may not be available to them at their time of need.

Osteopathic physicians are dedicated to providing quality care to their patients. However, many of our members find it difficult to secure professional liability insurance. Those fortunate enough to secure a policy face premiums that are largely unaffordable. As a result, our members are forced to limit the services they offer their patients, move their practices to states with meaningful medical liability reforms, or simply retire from the practice of medicine. Regardless of the decision made, patients are the ones who suffer. They lose access to physician services, they lose access to trauma centers, they lose access to hospitals—plain and simple, patients lose.

It is our opinion that the medical liability crisis is the greatest danger facing the health care delivery system. For this reason, professional liability insurance reform remains the top legislative priority for the AOA. Beyond access problems, the liability crisis is a leading contributor to the escalating costs of health care in this country.

The AOA and the American public support the enactment of meaningful and comprehensive medical liability reforms in the United States Senate. Please do not hesitate to call upon the AOA and our members for assistance in your efforts on this issue.

Sincerely,
DARRYL A. BEEHLER, D.O.,
President.

AMERICAN MEDICAL ASSOCIATION,
February 27, 2004.

Hon. JOHN W. WARNER,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR WARNER: On behalf of the physicians and medical students of the American Medical Association (AMA), I am writing to support your proposed medical liability reform amendment to S. 1805, the "Protection of Lawful Commerce in Arms Act."

We are particularly pleased to see that your amendment would establish a $250,000 Federal cap of non-economic damages in medical liability suits against physicians, hospitals, and other health care professionals and entities. The legislation would provide states the flexibility to set equal or lower caps on non-economic damages. It would also protect those states that limit the amount of total damages (including economic and non-economic damages) that may be awarded in a lawsuit.

We deeply appreciate that your bill includes many of the medical liability reforms that are part of the comprehensive reforms that have proven effective in California and are found in H.R. 5.

We are concerned, however, that language in the amendment that relates to the collateral source/subrogation provision and the ERISA cause of action/scope of preemption provision could disadvantage patients and physicians. We would value the opportunity to continue to discuss these concerns with you.

The AMA applauds you for your leadership in offering this amendment and for highlighting the continued and urgent need for medical liability reform at the Federal level. We look forward to working with you toward our mutual goal of enacting comprehensive Federal reforms, including a $250,000 cap on non-economic damages.

Sincerely,
MICHAEL D. MAVES, MD, MBA.

Mr. WARNER. I feel very strongly that we have to recognize, as a nation, that the medical profession must, at some point in time, be given protections not dissimilar to those protections sought in this particular legislation. In this humble Senator's view, I feel it is far more important that the medical profession be cared for now, and it should be the top priority. The situation is, though, that I cannot get a vote on my amendment. I feel this vote would be a very strong one, if I could get a vote, because I have stripped out all other beneficiaries that were included in previous efforts, such as insurance companies and drug manufacturers. I have limited it purely to physicians and nurses. I think they need help now because they are not able to deliver that quality of medical care they want to give to Americans throughout the fifty states.

With a great sense of disappointment I say that tonight I will not withdraw the amendment, it will remain, but under the standing order it will, unfortunately, expire automatically. I say to my colleagues, though, that I will continue this fight another day.

I ask unanimous consent to place in the RECORD the full text of the statement I made Friday on the Senate floor in support of my amendment.

I yield the floor.

EXEMPTION TO S. 1805

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Before the Senator from Virginia leaves the floor, I express to him my gratitude for his willingness to do what he has just done, which is to accept the facts that exist tonight, not because he likes them but because he realistically has understood there is no alternative. I have always admired my friend from Virginia. He has spoken out in support of the principle which is also included in my amendment. Although he did not say this to me personally, I know he will not mind me sharing this with the body. He also wanted to make it possible for me to have an opportunity for a vote tomorrow, if not an up-or-down vote, at least on a motion to table. I thank him for his expression of support to me personally and his willingness to help make it possible for me to have a vote tomorrow.

Mr. WARNER. Mr. President, I thank my colleague for those remarks. We have been together in the Senate for 25 years. We have a responsibility together on the Armed Services Committee and so we know how to work together. I intend to support the distinguished Senator from Michigan in his efforts. The fact is, it is a good amendment and I urge all Members to take a look at the amendment of the Senator from Michigan. I thank the Senator from Michigan for his personal comments. No one works harder for people than the Senator from Michigan.

Mr. LEVIN. Mr. President, I thank the Senator from Virginia and all those in leadership who made it possible for this amendment to be voted on tomorrow afternoon and before final passage. This is a very significant amendment we will be voting on tomorrow.

It has been stated by the manager of the bill—and now I am reading his words—that we must insist the law be clear, unambiguous. That the officer—here an officer who was injured by a weapon—have a day in court if he is harmed—here I am skipping over a few words to get to the point—by someone who through negligence has caused a firearm to get into the hand of a criminal.

The amendment we will be voting on tomorrow afternoon makes it very clear lawsuits will be permitted if the defendant's own gross negligence and own recklessness was a proximate cause of somebody's death or injury. The Senator from Idaho has said on a number of occasions people should not be held liable for somebody else's criminal act. I do not disagree with that. What my amendment says is someone can be liable for their own recklessness and their own negligence. I make it clear in my amendment we are talking about gross negligence.

A number of cases have been referred to during the debate on this bill. One of the cases involves the so-called Bull's Eye Shooter Supply Company. We had a situation where a gun dealer was allegedly reckless in terms of failing to secure his inventory and over and over again there were losses from that inventory, and the DC shooters who killed so many people, Muhammad and Malvo, got one of those guns.

But for the negligence and recklessness of that gun dealer, they would not have gotten those guns. That is the allegation in the lawsuit. So it is not Muhammad's and Malvo's criminal act that is the issue in this lawsuit in the State of Washington. It is the recklessness and negligence of the gun dealer that is the issue in that lawsuit.

The court there was faced with a motion to dismiss and the court ruled it was the alleged reckless or incompetent conduct of distributing firearms which was the cause of action, not the criminal activity of Muhammad and Malvo, and that but for that reckless and incompetent conduct in distributing firearms, the killing would not have occurred. So my amendment makes clear what I think should be clear in this law, or any law, which is reckless or grossly negligent conduct on the part of a defendant, if it is the proximate cause of somebody's death or injury, may be grounds for civil liability.

That is very separate from saying somebody is responsible for somebody else's criminal conduct. This is making somebody responsible for their own conduct which, of course, is the whole purpose of our tort law.

Tomorrow we are going to have an opportunity to make that clear in the bill on which we are going to be voting. It might be argued that the bill we are voting on says if you are negligent per se, you can be held accountable. That is fine. Negligence per se means if you violate a statute or violate the law.

But what happens if you are not violating a statute or law but that you are still reckless or you are still grossly negligent? What if you are not violating a criminal law or a statute but you are just simply reckless in the way in which you do not maintain your inventory and you do not secure the weapons you are selling? Most negligence, most gross negligence, and most recklessness is not based on a violation of law. It is based on a violation of a standard. We set forth those standards in gross negligence and recklessness in this amendment to make sure the people who are going to be subject to civil liability are people whose own gross negligence, whose own recklessness is the proximate cause of somebody else's injury or death.

It is simply not right that we say somebody whose gross negligence or recklessness has caused injury or death to someone else should not be liable unless they have also violated a statute.

The lawsuit filed by Detective Lemongello and Officer McGuire, the two injured police officers who were shot by a gun sold to a straw purchaser, alleged negligence on the part of the seller of that gun. The court denied a motion to dismiss the suit. This isn't a junk lawsuit. It is based on the alleged negligence of a gun dealer. But the bill before us would require it also to allege that the dealer violated a statute.

It is not right that people who have been injured or killed by the reckless or grossly negligent conduct of a gun dealer or manufacturer must also prove that the dealer or manufacturer violated a statute.

Individual responsibility has always been at the heart of good tort law and my amendment will keep it at the heart of the tort law that we are apparently going to be writing in the Senate.

The PRESIDING OFFICER. The 5 minutes of the Senator has expired.

Mr. LEVIN. Again, I thank all of those who made it possible for me to get to a vote tomorrow afternoon on a rollcall. I thank the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from New York is recognized for 15 minutes.

Mr. SCHUMER. Mr. President, I am rising in support of the amendment we will vote on tomorrow on continuing the assault weapons ban. I am carrying this amendment along with Senator FEINSTEIN, who passed the bill in the Senate in 1993. I was the lead sponsor in the House as well as the two of our colleagues from the other side of the aisle, Senator WARNER and Senator DEWINE, and many others.

When we passed the assault weapons ban in 1993, there was a great deal of concern. The arguments against the ban were two: One, that the bill would cause to be confiscated weapons far beyond the 19 banned weapons, the Uzis and the AK–47s; and, two, that it would not be effective.

We now have 10 years of evidence and the evidence is clear that neither of those worries about this bill have proven to be true. We cannot report a single instance where a nonassault weapon was confiscated, an overreaching Government, ATF, or whomever went in and confiscated hunting rifles or, frankly, other than the 19, weapons that were not on the list. We were careful in the bill. We named 670 different guns used for hunting, protection, and sports shooting that could not be touched. But it is even new guns that have come out since then. There has not been a single complaint of which I am aware.

Second, the bill has been effective. In all gun crimes, the percent of assault weapons that are used has gone down to one-third of what it was. A little more than 3.5 percent—I think it is 3.75 percent of crime guns were assault weapons back before 1993. In the last 10 years, it has gone down to 1.2 percent.

Law enforcement is strongly for our bill for the simple reason they don't want to be outgunned on the streets. They don't want one of our latest criminal problems, gangs, to have Uzis and AK–47s while they are shooting back with their 9 mms. The bill has worked.

As a result, the American people are overwhelmingly in favor of the assault weapons ban. Mr. President, 77 percent of the voters are for it; 21 percent against; even among gun owners, 66 percent for, 30 percent against. So the bill has overwhelming support.

You would think it would be renewed and renewed rather quickly, but instead it is hanging by a hair. If I had to bet—and I have been whipping this bill for the last week—there will either be a tie or it will pass by one vote or it will fail by one vote. This bill is neck and neck. All it does is renew this controversial but successful piece of legislation for another 10 years. In fact, it is an exact replica of the previous bill.

Many of us would have liked the bill to go further, to cover weapons that are semiautomatic assault weapons but are not covered by the bill. Manufacturers have come out and created new weapons around the 19. But in deference to those who worry that the Government will expand unreasonably search and confiscation, so to speak, of these weapons, we didn't do it. So we are simply asking to renew the 19 different types of assault weapons.

Just to show, these weapons that were banned can never be used for hunting. They can never be used for target practice. They can't be used, really, in self-defense unless you are reckless and wild, because they were designed by armies for use in military combat. In other words, they didn't have to be terribly accurate. They had to have strong firepower and be able to fire a whole lot of bullets in a very short time. Names such as AK–47, Uzi, TEC–9, and Streetsweeper—these are weapons of mass devastation. They are very efficient killing machines. They are appropriate on the field of battle but not in a reasonable country where there is a right to bear arms—which I believe in but not an unlimited right to bear any arm whatsoever.

I would say to my colleagues, my adversaries, because that is what they are really, in the NRA, no amendment is absolute. I believe in the first amendment. I cherish it. But there are a lot of limits on first amendment rights. Judge Oliver Wendell Holmes said you can't wrongly scream "fire" in a crowded theater. That is an imposition on my complete rights of free speech but it is a reasonable limitation.

The same on the second amendment. I tell you I resent those on the left who want the first amendment to be expanded as broadly as possible and then say the second amendment has to fit through a pinhole. There is a right to bear arms but it is not an unlimited right to bear arms. Should anyone be able to buy a tank or a bazooka? Of course not.

Here is an AK–47. It is the most widely used assault weapon in the world. It is a very good military machine. It comes with a 30-round ammunition clip capable of being fired as fast as the operator can pull the trigger. The faster you can move your finger, the more people you can kill. With a little practice, a shooter could kill an entire basketball team in seconds. That is not what we want and no one would use this weapon for hunting. No store owner or homeowner would use this for self-defense. They are not even accurate. They just fire a lot of bullets.

How about the next one, the Uzi? This was designed originally as a submachinegun. It comes with a 32-round ammunition magazine capable of being fired as fast as the operator can pull the trigger. It is easy to hide because of its compact design and it is very reliable. Why? Because the Uzi was made for the Israeli Army. Not for the Bloods or the Crips or the MS–13 or any of the violent gangs that love to use these weapons.

There is the TEC–9. We don't have a chart of it. It is similar; 30- to 36-rounds, easily convertible into a machinegun.

Perhaps the most scary of all, is the Streetsweeper. The Streetsweeper—here it is—can fire twelve 12-gauge shotgun shells in less than 15 seconds. That's right, shotgun shells, not regular ammunition. Anyone who knows guns knows a shotgun sprays wide with shot, rather than fixing on a narrow target with a single bullet. That is what makes the Streetsweeper's capability remarkable. It is not part of the right of the average citizen to bear arms.

So the bottom line is this is a reasonable bill that has been successful. There is no, let me repeat, no civilian use for the 19 weapons banned by the assault weapons ban.

Pre-ban assault weapons continue to plague our streets. A couple of weeks ago in my city of Albany, NY, my State, the Albany Police Department suffered its first death of a police officer since 1987. LT John Finn, a highly decorated well-regarded officer and 13-year veteran of the Albany PD was shot on December 23, 2003, 2 days before Christmas, by a criminal using a pre-ban assault weapon, an American Arms AP 9 mm. On February 12, Officer Finn succumbed to his wounds and died.

That is all we are trying to stop, not impinge on the rights of gun owners. Police organizations, law enforcement are for us; the FOP, the International Brotherhood of Police, Major Cities Chiefs of Police, International Association of Chiefs of Police, Hispanic-American Police Command Officers, many other groups. I ask unanimous consent to have the list printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

The International Brotherhood of Police Officers; the Major Cities Chiefs of Police; the International Association of Chiefs of Police; and the Hispanic-American Police Command Officers Association.

Groups which represent our State and local municipalities, who see first hand the bloody violence that assault weapons can cause, likewise support this bill.

They include: the National League of Cities; the National Association of Counties; and the United States Conference of Mayors.

Renewing the Assault Weapons Ban makes so much sense that organizations which represent the doctors and nurses who see gunshot victims in emergency rooms every day likewise support this bill. They include: the American Academy of Family Physicians; the American Public Health Association; the National Association of Public Hospitals and Health Systems; and the Physicians for a Violence Free Society;

It makes so much sense that organizations which represent victims of gun violence and other crimes in society likewise support this bill. They include: the Family Violence Prevention Fund; the National Coalition Against Domestic Violence; and the National Network to End Domestic Violence.

Renewing the Assault Weapons Ban makes so much sense that organizations which represent just regular mothers, fathers, children and families across America strongly support this bill, like: the Mothers Against Violence in America; and the Child Welfare League of America;

Even religious organizations like the National Association of Catholic Bishops and the American Academy of Episcopal Churches support renewing the ban.

Finally, more then 100 mayors across America have written to Senator Feinstein or myself in support of this bill.

Mr. SCHUMER. Finally, the tactics.

As I said, this bill is hanging by a thread. The vote is neck and neck.

I would first ask any of you out there in America who are listening to support this ban and to call your Senator. Let them know how you feel because most Americans are overwhelmingly for the bill.

I would say to our President down at the other end of Pennsylvania Avenue: Please. You said you support renewing the ban. Step up to the plate. Help get it passed.

One thing the American people are upset with these days is when any politician says one thing but then does another. To say we shouldn't amend the immunity bill, to say do not lift a finger and help get this ban passed when it is so close, will make the American people, in my opinion, justifiably think the President doesn't want it to pass.

I would again renew my plea to the Vice President that he be available tomorrow. There may well be a tie vote, and he has been a loyal and true servant to the President. We ask him to sit in the Chair you are now sitting in, Mr. President, and cast that vote in favor of renewing the ban.

I hope my colleagues will look into their consciences.

I understand there is a lot of misinformation about this bill. I still have people occasionally who come to me in my State and ask, Why do you want to take away my gun rights? I believe in the right to bear arms. I have opposed abolition of the second amendment, like some of my colleagues from New

York on the House side have argued should be done. But if you do not have reasonable laws within the confines of amendment rights, our country wouldn't function.

Again, I urge my colleagues to look into their consciences because we are going to need every vote we can get here to not allow the assault weapons ban to expire, which would be a step backward in America—a step backward for law enforcement, a step backward for safety and, frankly, a step backward in the political discourse of civility and rationality we all prize.

I urge support of the amendment Senators FEINSTEIN, WARNER, DEWINE, and myself will be offering for a vote tomorrow morning at 11:30.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Ohio is recognized for 15 minutes.

Mr. DEWINE. Mr. President, I spoke earlier today in favor of an amendment we have offered which the Senator from New York is talking about; that is, the assault weapon ban. It is a very simple amendment. I don't intend to talk about it this evening other than to say this is merely a reiteration of status quo—a law that has been on the books now for 10 years, and a law that has the support of law enforcement officers across this country. It is the right thing to do from a law enforcement point of view. This Congress should in fact continue this law in effect. This is truly a law enforcement vote. I commend my colleague from New York for his comments.

Let me speak tonight about three different items.

First, very briefly, I would like to support the Levin amendment which will be voted on tomorrow. I thank my colleague from Michigan for his leadership on this issue. His amendment is a simple, modest amendment. It would merely allow injured victims to bring cases of gross negligence or recklessness against irresponsible gun dealers without the unreasonable restrictions of the gun liability bill that is in front of us. That is fair. It is justice.

I have already spoken about what I consider to be the drastic attack the underlying bill makes on ordinary negligence cases and on this select group of victims in our society. It is wrong. As my colleagues know, cases of gross negligence or recklessness require even greater wrongdoing by irresponsible people before liability can be found. This amendment merely restores the ability of parties injured as a result of gross negligence or recklessness to have their day in court. I implore my colleagues in the Senate when Senator LEVIN's amendment is offered tomorrow to vote in favor of it.

I rise this evening also in support of Senator MCCAIN's amendment which will also be voted on tomorrow. This amendment is known as the Gun Show Loophole Closing Act of 2003. Senators LIEBERMAN, REED, and myself are the original cosponsors of this commonsense amendment, an amendment that aims to keep guns out of the hands of criminals and out of the hands of children.

The United States Constitution guarantees the rights of gun owners. We all believe strongly in the second amendment. As a former prosecutor in Greene County, Ohio, I have learned the best way to protect the rights of law-abiding citizens and reducing illegal and often fatal use of guns is to pass and enforce tough laws that severely punish criminals who use them. I have tried to do that throughout my legislative career.

I have consistently supported measures to keep firearms from getting into the wrong hands and efforts that increase the punishment of those who use firearms in the commission of a crime. I believe the Gun Show Loophole Closing Act helps achieve this goal.

For the most part, our current system is working. Under the existing Brady bill, when a purchaser buys a gun from a licensed dealer, he or she must undergo a background check through the Federal Government's National Instant Criminal Background Check System, or NICS, into which States feed records of certain criminals and others not qualified to own a gun. NICS has up to 3 days to inform the dealer as to whether the buyer is qualified to purchase a gun. But 95 percent of these checks come up with an instant or near instant response allowing or disallowing the purchase immediately. So a decision can be made. The person can get their gun.

This amendment simply applies the same commonsense check to all gun show sales. Right now, there is no statute requiring that all sellers at gun shows run these checks on potential gun buyers. Yet according to Federal officials, gun shows are the second leading source of illegal guns recovered from gun trafficking investigations.

By leaving this loophole open, by not requiring all gun show sellers to run NICS checks, we are presenting gun traffickers and other criminals with a prime opportunity to acquire firearms. This is terrifying. This is unacceptable. In common language, we have a situation where someone can walk into a gun show, look around, look for a licensed firearm dealer, and find a firearm dealer. If they buy a gun from that person, there will be a check run. But if they do not want a check run on them, all they have to do is find someone at the gun show who is not a licensed firearm dealer. At most gun shows they can find that person. They just have to look around. They will find them. Guess what. They do not have to have a check run.

If you are a criminal, if you have a felony conviction, or worse yet, if you are a terrorist, you go to a gun show and you find someone who is not a registered firearm dealer and you buy their gun and there is no check done. That is a classic definition or classic example of a loophole.

Following the attacks on September 11, for example, news reports suggested that al-Qaida produced a handbook in which it advised terrorists to purchase firearms at gun shows in the United States. Other media reports indicate that suspected terrorists have exploited this loophole to acquire firearms. It is imperative now, more than ever, to enact legislation to protect our citizens from this potential area of terrorist exploitation.

This amendment is simply common sense. Regardless of where firearms are purchased, whether at a gun shop or a gun show, the laws should be the same. It seems silly if you go to a gun show to buy a gun, the determination as to whether you will have to undergo a background check is wholly dependent upon how you purchase a gun; that is, you could buy a gun from one seller and be subjected to the government's Brady check. But if you walk a few feet away, you can find another seller, give them some cash, they would be willing to give you a gun, and that gun would not be subject to a check and that seller would not be subject to a check. You would walk away with a gun and totally be unchecked. Don't we think that criminals know this? Of course they know it.

It is like having a metal detector at the front entrance of our building but leaving the back door wide open for anyone to pass through. Don't we think that under that circumstance, someone with nefarious intentions would simply use the back entrance? That would make our attempt at security completely illusory. Indeed, not only would there be no greater security whatever, we would be paying a lot of money to do absolutely nothing, nothing other than giving hard-working Americans a false sense of security. That certainly makes no sense and would not under those circumstances.

That is the exact same thing that is going on with the gun show loophole. People with these nefarious intentions know they have a back door to getting guns without any threat of a background check. Thus, this Government, spending millions of dollars on a sophisticated system of background checks to check the background of people who voluntarily choose to be checked, they go in, buy the gun, they voluntarily choose to be checked, but the system totally misses those who, with very little effort, choose to evade it.

That is a waste of the American people's money. At the same time, it gives them a false sense of security. We need to provide the American people with the security they deserve and for which they are already paying. This amendment, the McCain amendment, that we will vote on tomorrow, closes the gun show loophole in a way that respects the second amendment and also respects an honest law-abiding American's right to buy and sell guns and to attend gun shows. That is good law. It is good policy. It makes good common sense. That is why I support this amendment and urge my colleagues to join me tomorrow.

HAITI

Mr. DEWINE. Mr. President, I will discuss tonight the situation in Haiti. I have come to the Senate many times in the past to discuss the situation in Haiti. Over the last 9, 10 years since I have been in the Senate, I have traveled to Haiti 13 or 14 different times. Haiti has been on the front page of the papers now and in the news for the last several weeks. The situation certainly reached a climax this weekend.

Once more, Haiti is at a crossroad. Once more, the U.S. troops, U.S. Marines, are back in Haiti. I commend President Bush for taking decisive action and sending the Marines into Haiti to stabilize the situation in this poor country. We have 20,000 Americans who live in Haiti. This country is in our own back yard. The President made the right decision.

But if we are to avoid this happening again and again and again, avoid the necessity of sending U.S. troops back to Haiti time and time again, avoid seeing the boat people coming toward the United States, avoid having to see the very sad scene of the U.S. Coast Guard having to pick these poor, miserable people up on the high seas and take them back to Haiti, if we are to avoid this in the future, and if the people of Haiti are to have any hope, then this country and the international community has to now take some very bold and radical steps.

Now is the time to change the future and to do some things differently. We have to do them in conjunction with the new coalition Haitian Government. The Haitian Government, by the way, cannot include and should not include the thugs, the drug dealers, the bad people who are part of this group of rebels who were marching on Port-au-Prince. These are not good people. They cannot be part of the government. But there are many good people in Haiti who can be a part, and are going to be a part of the new coalition government.

Briefly, in the time remaining in the Senate, I will make a few suggestions. These are suggestions made in regard to the long-term health of Haiti. They are this idea of bold and innovative and radical change of things that need to be done. First is trade. Congressman CLAY SHAW and I have introduced in our respective bodies a bill, S. 489, a trade bill, a very modest bill. It would not cost any American job. It might cost some jobs in Asia, but certainly it would not cost any jobs in the United States. It would create some jobs in Haiti, give them modest trade preference.

It was not too many years ago there were 100,000 assembly jobs in Haiti. Today, there are only about 30,000. This bill would create very quickly, probably 60,000 or 70,000 jobs in Haiti, assembly jobs. Haitian people are an industrious, hard-working people. Anyone who knows anything about Haiti will tell you that. These jobs would be created very quickly. For each job that is created, each one of those individuals would support many people and their families. Haitian people want the same thing that people in this country want. They want to be able to make a living, to support their families, feed their children. This bill would go a long way to do that.

Second, the Haitian Government has inherited this new government, will inherit from past governments from years and years ago, a debt to the international community of $1.17 billion. Let's do something bold. Let's get together with the international community and say that debt needs to be forgiven. Let's get rid of it. Don't saddle this government with that debt. That is bold. That is different. We have done it in the past. The international community did it as far as wiping away some of the debt for Nicaragua, another very poor country in this hemisphere—not as poor as Haiti—but we did it a few years ago. It needs to be done for Haiti if this Government of Haiti will have a chance.

Third, we have to put resources in and work with the new Government of Haiti in regard to the rule of law, and to start with the courts. We can have free elections and try to bring back democracy, and have democracy, but there is nothing more important—frankly, nothing tougher—than to develop a court system that respects the rule of law.

Why is the rule of law important? Well, one reason it is important is, if you are going to have foreign investment in the country, if you are going to get people, companies to put money into a country and to invest and create jobs—which is what you have to have; you have to have jobs—then they have to be able to have some assurance that when they make an investment, their investment will be protected. You only do that through the rule of law, and you do that by having honest judges and cases that can be processed in court.

We can do that by mentoring the judges, by helping create the system in their country, the magistrates. We need to put extra effort into that. We have the ability in this country to do it. We have good programs through our Justice Department and State Department. We have done it in other countries. We can do it there.

In relation to the police, we were making very good headway a few years ago in Haiti. We brought into Haiti some great Haitian-American cops from New York City and Chicago and LA. They went down to Haiti. They mentored the new, young recruits, and things were working. I saw it myself. You should have seen the pride when I talked to these Haitian-American policemen from Chicago and LA and New York. They were so proud of what they were doing.

Unfortunately, President Aristide allowed it to become political. It then started to become corrupt, and all that good work started to go down the drain. That work can be revised. Some of those policemen who were trained are still in the country. Some of them were fired, kicked out by the politicians. They can be brought back. We can retrain some people, and that can be reconstituted, because Haiti has to have a good police force.

This time it is going to have to be separated somehow from the government politicians. It is going to have to be independent. It is going to have to respect the rule of law and not be politicized.

Fourth, we are going to have to restore aid to the government. A few years ago, when we became very disenchanted—what our Government did with the Aristide regime, I believe understandably so—we stopped giving any aid to the government. We gave aid to the NGOs and to the nonprofits and to the charitable organizations down there. I happened to think it was the right thing to do, and I supported that. But what that meant was, the government institutions suffered.

Today, with the new government that is starting to emerge in Haiti, we have to nourish that because if the institutions in a country do not flourish, it is hard to have democracy. So we have to reinstate, now, our direct aid. And other countries have to do the same. We are in this with other countries. They have to reinstate their direct aid. We have to reinstate our direct aid to the Government of Haiti so they can develop their institutions, whether they are the courts or the police or the other basic institutions of the country.

Fifth, Haiti is one of the most deforested countries in the world. It is a country that suffers from depleted topsoil. We have to work with them to develop better agricultural practices.

All the people are fleeing the countryside, going to Port-au-Prince, going to Cap-Haitien, creating more and more slums, with more and more people who cannot be fed, with more and more crime and all kinds of problems that you see with slums in cities.

That trend can only be reversed if people have a way of making a living and farming. So our economic development has to be focused on agriculture and good practices. USAID has to work with other donors around the world to focus on that.

Haiti is a relatively small country of 8 million people; it has hardly any topsoil left. It is deforested. The emphasis has to be put on sustainable agriculture and economic development.

Finally, we have to continue our assistance. The international community has to continue the assistance. We have to continue our assistance on all the good work that is being done in Haiti, including the amazing work in regard to fighting the AIDS problem in Haiti. AIDS is a huge problem, but there are excellent doctors who are working on that problem. Dr. Pape and Dr. Farmer are doing very wonderful work there.

So we have to be bold; we have to be radical, if we do not want to be back in Haiti in a couple more years with the Marines again.

Haiti is in our backyard. It will always be in our backyard. It will never be of strategic importance to the United States, but it will always be of importance. It will always be a country we will have to deal with. If not for humanitarian concerns—and I think it should be; I think we should worry about their humanitarian concerns—we will always be there because of the reasons I have mentioned.

No other nation in our hemisphere has a higher rate of AIDS than Haiti. No other nation in our hemisphere has a higher infant mortality rate or a lower life expectancy rate than Haiti. No other country in our hemisphere is as environmentally strapped as Haiti.

Despite its radical differences, Haiti remains in our own backyard. It is intrinsically linked to the United States by history, geography, and humanitarian concerns. It is linked to us by illicit drug trade and the ever-present possibility of droves of incoming refugees. Haiti's problems are—whether we like it or not—our problems.

To assure progress, Mr. President and Members of the Senate, we—Republicans and Democrats—in Congress need to join forces and approach Haiti with a united, bipartisan front. Haiti's dire humanitarian and economic crisis transcends partisan politics. Moreover, the United States must work with the international community over the long haul because any improvements will require a serious, sustained long-term commitment.

Conditions in Haiti will not change overnight. We must remain, though, committed to Haiti for as long as it takes for reforms to take root and for a democratic system of government to emerge.

Ultimately, the United States cannot "fix" Haiti, nor can the international community. But we can improve the situation, and we can help Haiti begin to help itself. Clearly, Haiti is at a pivotal point in its history, and so is the international community. We can either choose a path that builds upon Haiti's tentative democracy or choose a road that will lead to yet another dictatorial regime. This time, let's get it right. This time, let's not blow it.

Mr. President, I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Thank you, Mr. President. I commend my friend and colleague from Ohio for his eloquent and very thoughtful statements on both the legislation before the Senate as well as the situation in Haiti. I commend his wisdom to the rest of my colleagues, as I will take it upon myself.

A CONSTITUTIONAL AMENDMENT ON MARRIAGE

Mr. DAYTON. Mr. President, I wish to change the subject to another important matter that has arisen, because recently President Bush announced his support for a constitutional amendment which would define marriage.

While our majority leader, Senator FRIST, wisely observed, last week, that one does not want to knee-jerk or respond too quickly to changing the Constitution—and I certainly agree with that observation—the Senate Republican Conference chairman recently said he hoped the amendment would pass out of the Judiciary Committee and be before the full Senate by mid to late April. So much for not knee-jerking or responding too quickly to amend the Constitution.

This is one constitutional amendment that evidently is being put on the fast track. I ask my colleagues to compare that timetable with the proposed constitutional amendment to ban the burning or desecration of the American flag, which I support, which has been proposed for the 3 years I have been in the Senate. No votes scheduled on that. No statement by the President about the need to protect the American flag.

For almost as long as that, there has been a proposed constitutional amendment to protect the rights of victims of violent crimes, which I also support. No vote planned on that. No statement from the President on protecting the victims of violent crimes—just a budget that cuts funding for local law enforcement programs, including almost eliminating the COPS program that puts more police officers on streets in cities and sheriffs in rural areas, in Minnesota and across the country, to prevent violent crimes.

It certainly shows the priorities of this President and the Senate's majority that protection of the American flag and of the rights of victims of violent crimes are set aside, while the constitutional amendment to define marriage gets this priority treatment.

In my opinion, it is the wrong priority and the wrong policy. The proposed constitutional amendment on marriage is un-American, un-Christian, and unwise. It is the wrong approach. We need to find a better answer. We also need to avoid the mean, ugly, dehumanizing, and divisive debate that a constitutional amendment would require. We owe the American people much better than that.

In the Bible, Jesus says, "Render unto Caesar the things which are Caesar's, and render unto God the things that are God's." Many of the Christian religions' marriage ceremonies proclaim marriage as an institution created by God. I agree. So let us leave the definition of marriage to the various religions as they interpret the Word of God, and Congress, the Federal Government, any government in this country, should keep its hands off of marriage. It belongs to God. That follows the words of Jesus and it also follows the founding principle of this country, the freedom of religion, the separation of church and state.

Surely this body doesn't intend to tamper with that bedrock principle long enshrined in our Constitution, the free exercise of religion. It is the civil side of this overlapping term called marriage that we can and should concern ourselves with. First, we should clear up the confusion being caused by the dual usage of the word "marriage" to apply to both a religious ceremony and a legal contract. Let's find a term like "marital contract" or "legal union" or "matrimony" to describe the civil relationship for everybody. It will be perhaps a little awkward at first, as word changes always are, but they are far easier than constitutional amendments, and far less destructive than this one would be.

Yesterday I was having lunch with my father, a wonderful man whom I love dearly. He expressed his concern about gay marriages, and then I explained some of the real-life rights and protections involved, like property transfers, inheritance rights, or hospital visitations. He said, "I am for all that." That is the distinction which must be made. Not everybody will agree with my father about all of that. However, most Americans, I believe, would consider those issues differently and feel differently about them than about the term "gay marriage," which should not be forced upon them.

We have a choice. We can lead the consideration of these very personal, very sensitive, and very controversial matters toward a higher plain of respectful, rational discussion and resolution or we can drag them through divisive, destructive, and dehumanizing demagoguery on the Senate floor. Obviously, some people—starting, evidently, with the President of the United States—believe it is to their political advantage to do the latter. That is really a shame.

Our Constitution should be above Presidential politics; it should be above partisan politics; it should be above any politics at all. It is the greatest document on governance ever written by the human race in all of recorded history throughout the world. Since the first 12 amendments were quickly added, it has been amended only 15 other times in the past 200 years. Those amendments were either to adjust how our Government functions, such as the direct election of Senators, or the succession after the death of a President, or as amendments to extend the founding principles of this country of life, liberty, and the pursuit of happiness to all our citizens fully and equally, like the abolishment of slavery, giving women the right to vote, and providing equal protections to all of our citizens.

The Constitution doesn't define the Ten Commandments or the Golden Rule. It doesn't define war, peace, family values, spiritual growth, or even good and evil. It is big hearted, not mean spirited. It unites rather than divides us. It expands human liberties, protects human rights, and it treats all of us as equals. Our Constitution affirms the best of the human spirit, tolerance, and acceptance of differences, and the rights of each of us as human beings—not the worst of human nature, prejudice, and hatred.

The proposed amendment on marriage is the worst. It is that mean spirited, degrading, and divisive. It is un-American and it is unworthy of our Constitution. It is also un-Christian.

I am not going to dwell on this point, but as a Christian I am offended by those false prophets who cloak their arguments with biblical references that simply do not exist. I recently reread the four Gospels of the New Testament—actually, the entire New Testament, the King James version. I cannot find anywhere that Jesus Christ condemns homosexual relationships or gay marriages. He makes no mention of them at all. Twelve times he condemns adultery. Six times he opposes divorce. No one is proposing a constitutional amendment to ban adultery or divorce.

What Jesus does say repeatedly is to love thy neighbor as thyself. One of the ten great commandments is: "Love one another as I have loved you. By this, people will know thee as my disciple."

Jesus did not say to love only thy opposite sex neighbor, or love only thy same race neighbor, or love thy just like my neighbor. He said, "Love thy neighbor as thy self." He also said to beware of false prophets who appear like sheep, but inwardly are raving wolves. How do you tell them apart? He said by those who preach love versus those who preach hatred. A simple test.

This proposed constitutional amendment spews hatred and that is why it is un-Christian. This amendment is un-American, un-Christian, and it is unwise. It is ugly, divisive, and destructive. Some people like to promote the so-called culture wars. They try to build themselves up by tearing other people down, try to make them seem immoral or bad or wrong for being the way God made them, or however one comes to be who he or she really is.

Ugly, divisive, destructive, hateful—that is what this debate will become right here on the Senate floor and spread all across America by false prophets who claim the moral high ground while they reach down into the emotional cesspool and hurl their slime at decent and innocent human beings—our fellow citizens.

As I said earlier—and I will close by saying it again—we have the choice and the obligation to do better than that. We can and we must address these issues and the people affected by them respectfully and responsibly. We can render unto Caesar the things that are Caesar's and render unto God the things that are God's. We can leave marriage to God, treat it as a religious ceremony under the terms and conditions established by religions and, as Government, leave those matters to God.

We can define the legal union of two people as a marital contract or matrimony or some other term, and either allow the States to define those terms, benefits, and protections of that contract or do so ourselves. I prefer we do the latter, consistent with the equal protections clauses in article 4 and the fourteenth amendment to the United States Constitution for everyone, by passing laws, not a constitutional amendment—laws which define a legal union or a marital contract for everyone but which leave marriage as a separate province of religions.

By following this course, we will judge not that we shall not be judged; we will condemn not that we shall not be condemned. For it is said that with the same measure that we mete withal, it shall be measured to us again.

The Founders of this country were wise enough not to inscribe their condemnations into the Constitution. Senators for over 200 years have been wise enough not to insert their religious interpretations or their personal condemnations into our Constitution. We would be most unwise to do otherwise.

Thank you, Mr. President. I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m. tomorrow.

Thereupon, the Senate, at 7:21 p.m., adjourned until Tuesday, March 2, 2004, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate March 1, 2004:

ENVIRONMENTAL PROTECTION AGENCY

ANN R. KLEE, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE ROBERT E. FABRICANT, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING NAMED STUDENTS FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 531 AND 2114.

To be captain

DOUGLAS R. ALFAR, 9785
KORY R. BODILY, 2381
JASON D. BOYD, 8367
RUTH N. BRENNER, 4185
TYSON C. BROWN, 5127
CHRISTOPHER W. BUNT, 5912
JEFFREY S. BURBIDGE, 5400
ANGELIQUE N. CHRISTMAN, 7553
CHARLES B. COFFMAN, 3029
CHANTAL M. COUSINEAU, 6247
STEFANI L. DIEDRICH, 7986
LANCE D. EDMONDS, 9265
KEVIN A. FAJARDO, 3238
BRIAN B. GLODT, 8542
ARTHUR F. GUERRERO, 4051
CINDY LOU HARRIS, 2960
JOSHUA A. HARTMAN, 3379
JOSEPH A. HUSEMAN II, 9318
BRENT IZU, 1005
MARTIN P. KASZUBOWSKI, 1499
JESSICA A. KEHREN, 9215
KIMBERLY A. KERRKNOTT, 7227
DANIEL L. LAMAR, 8904
GREGORY D. LANGAS, 5145
BRETT E. LINCK, 6430
SEAN P. MARTIN, 5816
NECIA M. MCREE, 8546
MICHAEL A. MEEKER, 2701
BENJAMIN MONSON, 5924
ROMAN M. J. NATION, 7934
JENNIFER A. NOWE, 0885
CADE M. NYLUND, 9681
MICHAEL P. OREJUDOS, 6526
ERIK D. PEARSON, 4275
DAMIEN C. POWELL, 6127
RICHARD J. ROBINS, 8654
VANCE M. ROTHMEYER, 3598
NAPOLEON P. ROUX III, 8921
AARON M. RUBIN, 1255
MEREDITH A. SARDA, 7925
CHARLES M. SNOW, 9419
SAMUEL A. SPEAR, 9972
DANIEL A. STEIGELMAN, 4238
KENJI L. TAKANO, 7192
TRUNG T. TRAN, 8336
VIRGINIA A. UNDERWOOD, 8195
BRYAN J. UNSELL, 1134
KENNETH W. VAWTER, 3586
CHARLENE A. WILLIAMS, 8383
PETER M. WILLIAMS, 9839
VANESSA W. WONG, 9491
CURTIS J. WOZNIAK, 0622
FI A. YI, 5132

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY JUDGE ADVOCATE GENERAL'S CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be lieutenant colonel

RANDALL J. VANCE, 2773

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be major

CRAIG M. DOANE, 1279

EXTENSIONS OF REMARKS

TRIBUTE TO DEBRA GLENN

HON. ARTUR DAVIS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 2004

Mr. DAVIS of Alabama. Mr. Speaker, I rise today to pay honor and tribute to an outstanding member of our community. Mrs. Debra Glenn has been a driving force and an inspiration for the Expanded Food and Nutrition Program ("EFNP") in Alabama for the past 3 decades. Through Mrs. Glenn's tireless efforts, EFNP has been a mainstay in providing self-sufficiency and empowerment tools for individuals actively seeking to break the chains of poverty. Mrs. Glenn, who was inspired herself while attending the program growing up in Birmingham's Housing Projects, recalls, "Every week, I learned simple, affordable recipes that I'd take home and prepare for my mother and brothers." Mrs. Glenn goes on to say, "Those classes opened the door to a lifetime of self-sufficiency and empowerment." Empowered to succeed, Mrs. Glenn earned her degree in elementary education from the University of Alabama at Birmingham. Armed with her degree, she became an administrator with the Birmingham VA Medical Center's Health Care System.

A stalwart in the community, Mrs. Glenn is actively involved in many community programs, including but not limited to Children's Hospital Volunteer Program, Chaplain of Heart Matters, Inc., Prison Fellowship Ministries, and Big Brothers/Big Sisters. Mrs. Glenn's fervent commitment to championing causes of those less fortunate than her clearly demonstrates the qualities that have made this country strong and continues to make her community proud. While sharing her story during a listening session at the National Association of Family and Consumer Sciences ("NAFCS") in Kansas City, Kansas (October 2002), community leaders from across the country were moved by her (Mrs. Jones) unwavering resolve to provide a better life for those populations that have been underserved.

Mrs. Glenn recalls having a strong community driven mentor as she was growing up. "Mrs. Helen Tibbs-Wilson, retired Extension Agent from Alabama, gave me inspiration and educational instruction I needed to be successful in life. She (Mrs. Wilson) was one of the catalysts God provided to inspire me." Accordingly, Mrs. Glenn continues to give back in the same way. Mrs. Glenn has been an indispensable resource for the Alabama Cooperative Extension System and she will be truly missed. Her commitment, energy and efforts will not soon be replaced.

Mr. Speaker, I stand today representing all those whose lives are richer for having known Mrs. Glenn, and to recognize her efforts and dedication to the community she loves on this second day of March, 2004.

PERSONAL EXPLANATION

HON. CHRIS BELL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 2004

Mr. BELL. Mr. Speaker, due to critical official business in the 25th Congressional District of Texas I was unable to record my votes Thursday, February 26, 2004. Had I been present, I would have voted "yea" on Rollcall Vote No. 30, the Lofgren substitute amendment to H.R. 1997, and I would have voted "nay" on Rollcall Vote No. 31, the final passage of H.R. 1997.

TRIBUTE TO IRA RESNICK

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 2004

Mr. PAYNE. Mr. Speaker, I rise today to recognize a valued member of my district, the late Ira Resnick. The city of Montclair recently experienced the loss of this dedicated public servant who devoted his professional life to serving his neighbors through community organizing.

As the chief operating officer at the Community Foundation of New Jersey, Ira worked to build the Neighborhood Leadership Initiative into a year-long, statewide training fellowship for community leaders.

He has also been involved with the Association of Community Organizations for Reform Now, the Indiana Citizens Action Coalition, the Paterson Interfaith Communities Organization, the United Passaic Organization, the Jewish Fund for Justice, the Neighborhood Small Grants Network, the Center for Social and Community Development of the School of Social Work at Rutgers University, and the National Housing Institute's Conference on Families and Civil Society.

My district is fortunate to have citizens such as Mr. Resnick, who quietly go about the work of improving the quality of life within our neighborhoods, seeking service rather than recognition, and accomplishment rather than reward.

My district will long be the beneficiary of his life of hard work and dedication to community values. I extend my sympathy and prayers to Ira's wife, Ellen, and to their two sons, Robert and Caleb; and I thank Ira for his years of service.

HONORING THE VASCULAR BIRTHMARK FOUNDATION

HON. JOHN E. SWEENEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 2004

Mr. SWEENEY. Mr. Speaker, on behalf of the House of Representatives, I would like to take this time to honor an extraordinary organization. The Vascular Birthmark Foundation is dedicated to changing the lives of those children who were born with vascular birthmarks or tumors, such as hemangiomas and port wine stains.

Vascular birthmarks occur in approximately 40,000 children born annually. One in 10 children is born with a vascular birthmark; and of these children, one in 100 is born with a birthmark that will require the attention of a medical specialist.

Such a birthmark can have a huge impact on the life of the child and his or her family. Fortunately, the Vascular Birthmark Foundation exists to lend support and help to those affected.

The New York-based Vascular Birthmark Foundation promotes public awareness of vascular birthmarks, provides educational resources, funds research projects, and helps families and individuals receive the information and support they deserve.

Mr. Speaker, please join me in recognizing May 15, 2004, the National Vascular Birthmark Foundation Awareness Day.

SECOND HALF OF THE SPEECH BY DR. ARCH BARRETT

HON. JOHN M. SPRATT, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 2004

Mr. SPRATT. Mr. Speaker, today I am submitting for the record the second half of the graduation address given by Arch Barrett at the Naval Postgraduate School Joint Professional Military Education Course in June, 2003. I submitted the other half for the RECORD on February 24. I commend Arch's speech to all those with an interest in the founding of the Goldwater-Nichols legislation, and I am proud to enter it into the RECORD.

REFLECTIONS ON LEADERSHIP IN DEFENSE AND PROFESSIONAL MILITARY EDUCATION REFORM

As you well know, White's retirement did not end Congress's involvement in correcting the problems Jones identified. A large part of the credit for keeping the issue alive and finally succeeding in enacting fundamental changes must be credited to the then little-known, and very junior, Representative from Missouri, Ike Skelton.

Congressman Skelton was about 50 years old at the time; he was and is, tall and slim,

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

and has a studious air. He also has the gift of quickly conveying to even the briefest acquaintances his interest in, and respect for, them as human beings. An avid reader of military history, Skelton was one of the first members of Congress to grasp the significance of Jones' criticisms of the existing organization. Although he was not a member of White's subcommittee, Skelton probably attended more of the hearings than any member except White. He sat on the dais, listened to testimony, and patiently waited his turn to ask penetrating questions. In 1983, Skelton introduced his own legislation for revamping the Joint Chiefs of Staff. It was based on his conversations with Gen. Maxwell Taylor. Skelton testified in support of his bill before the Investigations Subcommittee. He continued to attend almost every hearing for the next three years even though was never a member of the Subcommittee. During mark-ups and floor debates he defended the proposed legislation. He played a pivotal role in shaping the final outcome.

I will tell you what happened as a consequence of White, Skelton and Jones's efforts in a few minutes.

First, however, I would like you to ponder a few questions.

Why did Jones and White put so much effort into defense reform when they knew nothing could happen in 1982 and that they would not be in office after that year?

Why did White, a former Marine and very conservative Democrat who had a solid record of supporting higher defense budgets and Pentagon legislative proposals, choose to take on the Pentagon in his last nine months as a legislator? It must have taken a lot of soul searching for him to reverse course and oppose the Pentagon. He could just as easily have sidestepped the issue and quietly retired from public service.

Why did Skelton, also a strong advocate of the Department of Defense, spend so much time over a period of more than a decade wrestling with defense organization matters? As a junior Congressman, Skelton had to be concerned with his reelection prospects. Defense reform probably never garnered one vote for any congressman.

Finally, Why did Jones knowingly incur the wrath of the military community that had anointed him with such success? He soon became more vilified by his former colleagues than an American Idol contestant that Simon decides to ridicule.

The answer to these questions, in my opinion, is that General Jones and Representatives White and Skelton were leaders in the best sense of the word. Their behavior reveals four essential characteristics of leadership.

First, Leaders select their goals and steadfastly pursue them. We followers must hope that the goals our leaders choose are worthy. In this case they were. These leaders chose the harder right rather than the easier wrong.

Second, Leaders shoulder their responsibilities. Both White and Jones readily accepted their responsibilities even though they involved personal hardship. Skelton chose to assume added responsibilities because he recognized the need for leadership.

Third, Leaders sometimes have to show the way by going first, acting as a guide to others. As you will see, White, Skelton, and Jones's efforts eventually led to a fundamental reordering of the entire Armed Forces of the United States.

Fourth, Leaders must constantly prepare themselves. They must be knowledgeable, and be perceived by others as knowledgeable. Representatives White and Skelton were unschooled in the defense reorganization issues. Consequently, they dedicated untold hours to gaining knowledge and understanding of the issues that confronted them. Because White prepared himself, he garnered the support of the committee and the House of Representatives. Because Skelton prepared himself, he was able to shape the final outcome.

What happened after Jones and White retired in 1982? Were they vindicated? Yes. But it took four more years of effort. Other legislators saw what White had accomplished and considered his efforts "unfinished business." These leaders included Republican Senators Barry Goldwater, Bill Cohen, and Strom Thurmond, Democratic Senators Sam Nunn and Carl Levin, and Representatives Bill Nichols, Les Aspin, and, of course, Ike Skelton. To a man, these Congressmen possessed strong pro-defense records. All took a stand against the Pentagon and the White House. All were strongly criticized. As leaders, they exemplified the traits first demonstrated by Jones, White, and Skelton.

The Goldwater-Nichols Department of Defense Reorganization Act of 1986 rewarded their efforts. The legislation attempts to ensure that when America goes to war the services work together as joint integrated teams of land, sea, and air forces. It strengthened field commanders like Gen. Schwarzkopf in the Persian Gulf War and Gen. Franks in Afghanistan and Iraq today. It also streamlined and unified the chain of command to the field commanders, elevated the chairman above the parochial Joint Chiefs of Staff, and ensured that talented and qualified service officers like you in this audience are assigned to the multi-service staffs.

Representative Skelton was responsible for a fundamentally important amendment that gives the Vice Chairman of the Joint Chiefs of Staff the powers he enjoys today. He was selected as one of the seven conferees on the Goldwater-Nichols Act. He negotiated wording with Sen. Nunn that gives the unified commanders some of the extraordinary command authorities they enjoy today. Finally, he headed the Panel on Military Education that I spoke of earlier that was largely responsible for much of the architecture of military education today.

I would be the last to claim that the Goldwater-Nichols Act has been the sole reason for the turn-around in U.S. military performance since 1986. Nevertheless, it has played a significant role in the string of successful military operations since then including Operation Just Cause in Panama, the Persian Gulf War, Bosnia, Kosovo, Haiti, Afghanistan, and Iraq. Observing these results, the defense establishment long ago reversed itself and embraced the principles of joint military command and operations established in the Goldwater-Nichols Act. This record of success is a tremendous pay-off for the efforts of Gen. Jones, Chairman White, and Representative Skelton—not only for themselves but also for the nation they served.

This record of success is also a credit to you in this audience and the entire armed forces of the United States. It is a privilege for me to have a formal opportunity to express my gratitude to you. As an older person, I long ago left the ranks of defenders and joined those who must be defended. I, for one, very much appreciate the sacrifices you are prepared to make for me, and for all of your fellow citizens.

At the beginning of my remarks, I admitted asking myself why I would choose to speak about leadership. Having thought about my experience observing White, Jones, and Skelton, I soon realized precisely why I chose to talk to you on that subject on the occasion of your graduation from JOINT professional military education. I chose to speak about leadership because it would allow me to remind you graduates, as you rejoin your service comrades and assume ever-greater responsibilities, that you have an opportunity to be genuine leaders—leaders writ large. You have an opportunity to choose to attempt to make a difference, as did White, Skelton, and Jones, to select worthy goals and make a dedicated effort to achieve them. You will encounter opportunities to shoulder responsibilities that you can easily evade, to choose the harder right rather than the easier wrong. You will face the choice of whether to continue to prepare yourself to the best of your ability by dint of hard work and study to be a competent leader. I firmly believe that if you are to be satisfied with your life in general, and your performance in the profession of arms in particular, you will choose to assume the burden and reap the rewards of leadership.

CONGRATULATIONS TO DAN EGAN

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 1, 2004

Mr. FRANK of Massachusetts. Mr. Speaker, one aspect of my work in Congress of which I am most proud is the aid I am able to give to credit unions, which perform such an important economic and social function. One of the people who has helped me understand the role of credit unions is Daniel Egan, who plays a leadership role not just in Massachusetts, but through cooperative arrangements with our neighboring States of New Hampshire and Rhode Island.

Recently, the Neighborhood Reinvestment Corporation, a very important national organization fighting for economic fairness, passed a resolution congratulating Dan Egan in his capacity as president of the New Hampshire Credit Union League—which he holds in addition to his Massachusetts work—for his efforts to promote credit union activity.

Mr. Egan very much deserves this recognition and as a tribute both to him and to the important work of the credit unions of New England, I ask that the resolution from the Neighborhood Reinvestment Corporation be printed here.

RESOLUTION COMMENDING NEW HAMPSHIRE CREDIT UNIONS AND THE NEW HAMPSHIRE CREDIT UNION LEAGUE FOR THEIR STATEWIDE PARTNERSHIP WITH NEIGHBORWORKS® ORGANIZATIONS

Whereas, the Neighborhood Reinvestment Corporation and its affiliated NeighborWorks® organizations are devoted to providing non-profit financial counseling and affordable housing in more than 2,300 communities throughout the United States;

Whereas, New Hampshire Credit Union League President Daniel Egan and the National Credit Union Administration cohosted a workshop to encourage credit unions to partner with NeighborWorks® organizations;

Whereas, as a result of that workshop, leaders of New Hampshire's 32 credit unions pledged a total of $35 million to establish a fund, in conjunction with the Neighborhood Housing Services of Manchester, a NeighborWorks® organization, to provide affordable housing, counseling and loan programs;

Whereas, the Home Ownership Loans program provides a NeighborWorks® course on life skills, financial management, and property management for first-time homebuyers who do not qualify for conventional mortgages;

Whereas, the Family Emergency Loans program helps families in need make critical payments such as home heating bills, and provides NeighborWorks® counseling for these families to set aside funds that will protect them from future emergencies;

Whereas, the New Hampshire credit unions' partnerships with NeighborWorks® organizations serve as a model for other institutions to partner with NeighborWorks® organizations throughout the United States: *Now, Therefore, Be It*

Resolved, The Board of Directors of the Neighborhood Reinvestment Corporation officially commends the credit unions of New Hampshire and the New Hampshire Credit Union League for establishing this fund in partnership with the NeighborWorks® network in New Hampshire and helping to make homeownership affordable so that more people can realize the American dream and lay a foundation to build wealth that they can pass on to future generations.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, March 2, 2004 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 3

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings to examine the impact of climate change.

SR–253

Armed Services

Emerging Threats and Capabilities Subcommittee

To hold hearings to examine the role of defense science and technology in the global war on terrorism and in preparing for emerging threats in review of the defense authorization request for fiscal year 2005.

SR–325

Environment and Public Works

To hold oversight hearings to examine grants management within the Environmental Protection Agency.

SD–406

Finance

To hold hearings to examine health insurance challenges.

SD–215

Foreign Relations

To hold hearings to examine building operational readiness in Foreign Affairs agencies.

SH–216

10 a.m.

Judiciary

Constitution, Civil Rights and Property Rights Subcommittee

To hold hearings to examine national implications of the Massachusetts Goodridge decision and the judicial invalidation of traditional marriage laws.

SD–226

Appropriations

Energy and Water Development Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2005 for the Department of Energy's Office of Science, Office of Nuclear Energy, Science and Technology, and Office of Energy Efficiency and Renewable Energy.

SD–138

Indian Affairs

To hold oversight hearings to examine the status of the completion of the National Museum of the American Indian.

SR–485

10:30 a.m.

Appropriations

Defense Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2005 for the Department of Defense.

SD–192

Appropriations

District of Columbia Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2005 for the government of the District of Columbia, focusing on Court Services, Offender Supervision Agency, and the Public Defender Service.

SD–124

2 p.m.

Armed Services

SeaPower Subcommittee

To hold hearings to examine future Navy and Marine Corps capabilities and requirements in review of the defense authorization request for fiscal year 2005 and the future years defense program.

SR–232A

2:15 p.m.

Budget

Business meeting to markup the concurrent resolution on the budget for fiscal year 2005.

SD–608

2:30 p.m.

Energy and Natural Resources

Public Lands and Forests Subcommittee

To hold hearings to examine S. 1420, to establish terms and conditions for use of certain Federal land by outfitters and to facilitate public opportunities for the recreational use and enjoyment of such land.

SD–366

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings to examine impact of abortion on women.

SR–253

MARCH 4

9:30 a.m.

Armed Services

To hold open and closed hearings to examine the Defense Authorization Request for Fiscal Year 2005, focusing on military strategy and operational requirements (closed in SH–219).

SH–216

Foreign Relations

Business meeting to consider S. 2096, to promote a free press and open media through the National Endowment for Democracy, S. 2127, to build operational readiness in civilian agencies, and an original bill, entitled Foreign Relations Authorization Act, Fiscal Year 2005, to authorize appropriations for the Department of State and international broadcasting activities for fiscal year 2005, for the Peace Corps for fiscal year 2005 through 2007, and for foreign assistance programs for fiscal year 2005.

SD–419

Appropriations

Interior Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2005 for the Department of Energy.

SD–124

Judiciary

Business meeting to consider pending calendar business.

SD–226

Appropriations

Labor, Health and Human Services, and Education Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2005 for the Department of Education.

SD–192

10 a.m.

Budget

Business meeting to markup the concurrent resolution on the budget for fiscal year 2005.

SD–608

Energy and Natural Resources

To hold hearings to examine the Energy Information Administration (EIA) Annual Energy Outlook 2004 forecast regarding the supply, demand, and price projections for oil, natural gas, nuclear, coal and renewable sources, including commercial and market perspectives on the state of oil and natural gas markets.

SD–366

Health, Education, Labor, and Pensions

To hold hearings to examine issues for reauthorization of the higher education act.

SD–430

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2005 for the Department of Veterans Affairs.

SD–628

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentations of the Non-Commissioned Officers Association, the Military Order of the Purple Heart, the Paralyzed Veterans of America, the Jewish War Veterans, and the Blinded Veterans Association.

345 CHOB

11 a.m.

Appropriations

Legislative Branch Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2005 for the General Accounting Office, the Government Printing Office, and the Congressional Budget Office.

SD–116

2 p.m.

Agriculture, Nutrition, and Forestry

Marketing, Inspection, and Product Promotion Subcommittee

To hold oversight hearings to examine the development of a national animal identification plan.

SH–216

United States Senate Caucus on International Narcotics Control

To hold hearings to examine the current status of federal efforts to coordinate and combat money laundering and terrorist financing.

SD–215

2:30 p.m.

Commerce, Science, and Transportation

To hold hearings to examine the nominations of Rhonda Keenum, of Mississippi, to be Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Services, Linda Morrison Combs, of North Carolina, to be an Assistant Secretary for Budget and Programs and Chief Financial Officer, Department of Transportation, W. Douglas Buttrey, of Tennessee, and Francis Mulvey, of Maryland, both to be a Member of the Surface Transportation Board.

SR–253

Foreign Relations

East Asian and Pacific Affairs Subcommittee

To hold hearings to examine the state of democracy in Hong Kong.

SD–419

Energy and Natural Resources

Energy Subcommittee

To hold hearings to examine new nuclear power generation in the United States.

SD–366

Armed Services

Personnel Subcommittee

To hold hearings to examine compensation, benefits, and health care for active and Reserve military personnel and their families in review of the defense authorization request for fiscal year 2005.

SR–222

Intelligence

To hold closed hearings to examine certain intelligence matters.

SH–219

MARCH 5

9:30 a.m.

Joint Economic Committee

To hold joint hearings to examine the employment situation for February.

SD–562

10 a.m.

Finance

To hold hearings to examine the nomination of Mark B. McClellen, of the District of Columbia, to be Administrator of the Centers for Medicare and Medicaid Services.

SD–215

MARCH 9

9:30 a.m.

Armed Services

To hold hearings to examine current and future worldwide threats to the national security of the United States; to be followed by a closed session in SH–219.

SD–106

Health, Education, Labor, and Pensions

To hold hearings to examine advantages and impediments in relation to a year round college calendar.

SD–430

10 a.m.

Governmental Affairs

To hold hearings to examine sustaining the 9 million jobs in the $900 billion mailing industry relating to postal reform.

SD–342

2:30 p.m.

Energy and Natural Resources

National Parks Subcommittee

To hold hearings to examine S. 1306, to introduce the efforts of the California Missions Foundation to restore and repair the Spanish colonial and mission-era missions in the State of California and to preserve the artworks and artifacts of these missions, H.R. 1521, to provide for additional lands to be included within the boundary of the Johnstown Flood National Memorial in the State of Pennsylvania, H.R. 1446, to support the efforts of the California Missions Foundation to restore and repair the Spanish colonial and mission-era missions in the State of California and to preserve the artworks and artifacts of these missions, S. 1430, to direct the Secretary of the Interior to conduct a study of the Baranov Museum in Kodiak , Alaska, for potential inclusion in the National Park System, and S. 1687, to direct the Secretary of the Interior to conduct a study on the preservation and interpretation of the historic sites of the Manhattan Project for potential inclusion in the National Park System.

SD–366

MARCH 10

9:30 a.m.

Armed Services

Emerging Threats and Capabilities Subcommittee

To hold hearings to examine the defense nuclear nonproliferation programs of the Department of Energy and the Cooperative Threat Reduction programs of the Department of Defense in review of the defense authorization request for fiscal year 2005; to be followed by closed hearings in SR–232A.

SR–222

Foreign Relations

To hold hearings to examine nonproliferation and arms control issues, focusing on strategic choices.

SD–419

Indian Affairs

To hold oversight hearings to examine proposed reorganization of major agencies and functions related to Indian trust reform matters within the Department of the Interior.

SR–485

10 a.m.

Health, Education, Labor, and Pensions

Business meeting to consider pending calendar business.

SD–430

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the Veterans of Foreign Wars.

SH–216

11:30 a.m.

Energy and Natural Resources

Business meeting to consider pending calendar business.

SD–366

2 p.m.

Armed Services

SeaPower Subcommittee

To hold hearings to examine the posture of the U.S. Transportation Command in review of the defense authorization request for fiscal year 2005 and the future years defense program.

SR–232A

2:30 p.m.

Energy and Natural Resources

Public Lands and Forests Subcommittee

To hold hearings to examine S. 1354, to resolve certain conveyances and provide for alternative land selections under the Alaska Native Claims Settlement Act related to Cape Fox Corporation and Sealaska Corporation, S. 1575 and H.R. 1092, both to direct the Secretary of Agriculture to sell certain parcels of Federal land in Carson City and Douglas County, Nevada, S. 1778, to authorize a land conveyance between the United State and the City of Craig, Alaska, S. 1819 and H.R. 272, both to direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use as cemeteries, and H.R. 3249, to extend the term of the Forest Counties Payments Committee.

SD–366

MARCH 11

9:30 a.m.

Governmental Affairs

To hold hearings to examine sustaining the 9 million jobs in the $900 billion mailing industry relating to postal reform.

SD–342

10 a.m.

Health, Education, Labor, and Pensions

Children and Families Subcommittee

To hold hearings to examine child and family issues.

SD–430

Energy and Natural Resources

To hold hearings to examine S. 2086, to amend the Surface Mining Control and Reclamation Act of 1977 to improve the reclamation of abandoned mines, and S. 2049, to amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize collection of reclamation fees, revise the abandoned mine reclamation program, promote remining, authorize the Office of Surface Mining to collect the black lung excise tax, and make sundry other changes.

SD–366

2 p.m.
Armed Services
Airland Subcommittee
To hold hearings to examine Army Transformation in review of the defense authorization request for fiscal year 2005 and the future years defense program.
SR–232A

MARCH 18

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentations of the Air Force Sergeants Association, the Retired Enlisted Association, Gold Star Wives of America, and the Fleet Reserve Association.
345 CHOB

MARCH 23

9:30 a.m.
Armed Services
To hold hearings to examine atomic energy defense activities of the Department of Energy relating to the Defense Authorization request for fiscal year 2005.
SD–106

10 a.m.
Health, Education, Labor, and Pensions
Substance Abuse and Mental Health Services Subcommittee
To hold hearings to examine mental health services.
SD–430

MARCH 24

9:30 a.m.
Indian Affairs
To hold hearings to examine S. 1529, to amend the Indian Gaming Regulatory Act to include provisions relating to the payment and administration of gaming fees.
SR–485

MARCH 25

9:30 a.m.
Armed Services
To hold hearings to examine the role of the U.S. Northern Command and U.S. Special Operations Command in defending the homeland and in the global war on terrorism, in review of the defense authorization request for fiscal year 2005; to be followed by a closed session in SH–219.
SH–216

10 a.m.
Health, Education, Labor, and Pensions
Employment, Safety, and Training Subcommittee
To hold hearings to examine MSDS and OSHA hazardous commission.
SD–430

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentations of the National Association of State Directors of Veterans Affairs, AMVETS, American Ex-Prisoners of War, the Vietnam Veterans of America, and the Military Officers Association of America.
345 CHOB

MARCH 31

10 a.m.
Health, Education, Labor, and Pensions
Business meeting to consider pending calendar business.
SD–430

SEPTEMBER 21

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the American Legion.
345 CHOB

SENATE—*Tuesday, March 2, 2004*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Majestic and merciful God, You and You alone have brought us to this moment. Thank you for the beauty of the Earth and the glory of the skies. Help us to know that You often speak to us in whispers. May we hear Your still small voice in the despair of those who lack the means to help themselves.

Speak to us also in the difficult issues that confront our leaders and may they choose right over political expediency. Give us the ability to shut out yesterday's disappointments and tomorrow's fears. Teach us, Lord, to count our blessings that we might cultivate an attitude of gratitude. Help us to cherish the freedom of this land but emancipate us from the slavery of sin. We pray this in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning, under the order from last week, the Senate will resume consideration of the gun manufacturers liability bill for the final amendments and debate. This morning until 11:35 the remaining amendments enumerated in the list will be offered in the debate time and the time will be equally divided.

At 11:35 this morning, the Senate will begin a series of stacked rollcall votes. I would expect approximately seven votes to occur, including final passage in this series of votes. Both parties do have their weekly policy luncheons and therefore I expect we will pause after the third vote or so and recess to allow those meetings to occur.

When the Senate reconvenes at 2:15, we will resume the voting sequence until we vote on final passage of the pending gun manufacturers liability legislation. It will, thus, be a busy morning and afternoon.

I encourage Members to remain on the floor or in close proximity to avoid missing any votes.

ORDER OF PROCEDURE

Mr. FRIST. I ask unanimous consent that following the first vote the remaining votes in the sequence prior to the luncheon be limited to 10 minutes each. I further ask that when the Senate reconvenes at 2:15, the first vote be 15 minutes under the standing order, with all remaining votes in the sequence limited to 10 minutes each.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FRIST. As I indicated last week, following the conclusion of this bill, the Senate will next take up consideration of the jumpstart jobs bill, also known as FSC/ETI. I will have more to say on that and the schedule later today, following the completion of the gun manufacturers bill. I thank everyone for their attention.

The PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. It is my understanding that following the first votes we will have our usual weekly conferences, is that true?

Mr. FRIST. That is correct. We will do three votes under the time agreement we just agreed to. We may adjust that as the day goes on, but that would be the plan.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

YIELDING OF TIME

Mr. DASCHLE. Mr. President, as the majority leader has indicated, the time is allocated now for the debate on the amendments that are pending. At 11:15, I will yield 5 minutes of my time to Senator KERRY and yield 10 minutes each to Senators JACK REED, MCCAIN, and FEINSTEIN, with the remainder of the time outside of that allocation to Senator HARRY REID for his own managerial decisions with regard to the allocation of the balance of the time.

The PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

PROTECTION OF LAWFUL COMMERCE IN ARMS ACT

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1805, which the clerk will report.

The assistant journal clerk read as follows:

> A bill (S. 1805) to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers or importers of firearms or ammunition for damages resulting from the misuse of their products by others.

Pending:

> Hatch (for Campbell) amendment No. 2623, to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns.
>
> Kennedy amendment No. 2619, to expand the definition of armor piercing ammunition and to require the Attorney General to promulgate standards for the uniform testing of projectiles against body armor.
>
> Craig (for Frist/Craig) amendment No. 2625, to regulate the sale and possession of armor piercing ammunition.
>
> Levin amendment No. 2631, to exempt any civil action against a person from the provisions of the bill if the gross negligence or reckless conduct of the person proximately caused death or injury.
>
> Warner amendment No. 2624, to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system.
>
> Lautenberg amendment No. 2632, to require that certain notifications occur whenever a query to the National Instant Criminal Background Check System reveals that a person listed in the Violent Gang and Terrorist Organization File is attempting to purchase a firearm.
>
> Lautenberg amendment No. 2633, to exempt lawsuits involving injuries to children from the definition of qualified civil liability action.

The PRESIDENT pro tempore. Under the previous order, the time between 9:30 a.m. and 11:15 a.m. will be equally divided between the two leaders or their designees.

Who yields time?

The Senator from Nevada.

Mr. REID. Mr. President, Senator MCCAIN is not in the Chamber. We are ready to proceed on our side. I think we should do the time proportionately, so that it will be equal, proponents and opponents of the legislation, when going into a quorum call.

The PRESIDENT pro tempore. Is there objection? Without objection, the time will be equally charged.

Mr. REID. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator is recognized.

AMENDMENT NO. 2636

Mr. McCAIN. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The assistant journal clerk read as follows:

The Senator from Arizona, [Mr. McCAIN], for himself, Mr. REED, Mr. DEWINE, Mr. LIEBERMAN, Mr. CHAFEE, Mr. CORZINE, Mr. DODD, and Mr. DURBIN, proposes an amendment numbered 2636.

Mr. McCAIN. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. McCAIN. Mr. President, as a strong defender of law-abiding Americans' second amendments rights, today I join my colleagues, Senators REED, DEWINE, LIEBERMAN, CHAFEE, and DODD to offer a bipartisan compromise amendment to address what has become known as the gun show loophole.

Currently an individual can walk into a gun show and purchase a firearm from either a federally licensed dealer or an unlicensed dealer. A background check is only performed on that individual if he or she buys a gun from a licensed dealer. There is no requirement—I repeat, no requirement—for a background check of any kind when purchasing a firearm from an unlicensed dealer. This is a very dangerous loophole in the law and we are doing a disservice to the American people if we allow it to remain open.

This amendment would close this dangerous loophole in our gun safety laws in a way that is respectful of the rights of gunshop operators, gun show vendors, and gun show enthusiasts. It defines gun shows in a reasonable manner to cover only public events where at least 75 firearms are offered for sale. It specifically exempts from regulation any private sale from the home, such as yard sales or estate sales. Additionally, it exempts sales between members of hunt clubs, an exception that I know is important to a number of our colleagues who represent hunting and sporting clubs that occasionally sell, trade, or raffle firearms between club members.

The amendment would also create a new category of licensees who can become deputized to perform background checks for unlicensed sellers at gun shows. This licensee, who could even be a gun show employee, would enable any unlicensed vendor to conveniently have an instant background check performed when selling a firearm. In addition, this amendment would allow States to graduate to an even faster instant check once they have sufficiently automated the records necessary to ensure that a faster check does not sacrifice accuracy.

Why do we need this amendment? Some might point to tragedies such as Columbine, but as horrific as the massacre at Columbine was, where 11 young people needlessly lost their lives, that is not what drives the need to close the gun show loophole. We need this amendment because criminals and terrorists have exploited and are exploiting this very obvious loophole in our gun safety laws. We need this amendment because our second amendment rights do not extend to criminals who violate our laws and terrorists who hate this country.

We need this amendment because, according to the NRA, "hundreds of thousands" of unlicensed firearms sales occur at gun shows each year. We need this amendment because ATF has identified gun shows as the second leading source of firearms recovered from illegal gun trafficking investigations.

We also need this amendment because my law-abiding constituents who attend gun shows in Arizona should not have to rub shoulders with the scum of the Earth who use this loophole to evade background checks to buy firearms to peddle to God knows who. We need this because every one of the 15 leading gun trafficking States in America has not taken action to close the gun show loophole. Conversely, 11 of the 15 States with the lowest level of interstate gun trafficking have taken action to close the gun show loophole.

When discussing the topic of gun safety, I often hear my colleagues say things such as, let's enforce existing law before we make new ones. I completely agree and that is exactly what we are seeking to do today. We are seeking to strengthen existing laws by closing an enormous, dangerous loophole.

I offer this amendment as one who counts himself as a strong supporter of the underlying legislation to protect the gun industry from frivolous lawsuits. I plan to vote for the underlying bill because it is fundamentally unfair to blame a firearms manufacturer when a criminal misuses a gun. But it is also unfair to the American people to knowingly leave open a gaping hole in our gun safety laws that criminals and terrorists can and do easily exploit.

The last time the Senate considered similar legislation was in 1999, following the school shootings at Columbine High School. Two amendments were proposed to close the gun show loophole. One amendment received 51 votes with then-Vice President Gore casting his deciding vote. I opposed that amendment because, frankly, I thought it defined gun shows too broadly, covering certain private sales from the home, at yard sales, estate sales, and between members of private hunt clubs, places that obviously are not gun shows.

The second amendment which I supported also passed the Senate. Unfortunately, opponents of that amendment said it weakened the Brady law for licensed dealers and created new loopholes.

Today we offer a compromise proposal that is a reasonable, responsible consensus. I urge this body not to let this opportunity slip by.

Opponents of today's amendment will make several arguments. I would like to take a few moments to address them head on. It is important to point out that this amendment is a modification of the legislation we introduced last fall. This amendment contains none of the vendor notification requirements contained in that bill. The vender notification requirements in this amendment are the same as those that passed the Senate in 1999. Let me state that again for clarity. This amendment does not contain the vendor notification provisions contained in S. 1807. They are gone.

We still hear that criminals don't obtain guns from gun shows and we will hear about a survey of State and Federal inmates conducted by the Justice Department showing that about 3 percent of prisoners obtained their guns from gun shows. Let me make a couple of points.

First, the survey was conducted in 1997. The gun show loophole didn't exist until December of 1993, so any criminal in prison for more than 3 years or any criminal who had a firearm for at least 3 years would not have had a reason to exploit this loophole.

Second, let's be clear to quote ATF field agent Jeff Fulton: "Crime guns do originate at gun shows. That's been documented." In fact, the ATF says gun shows are the second leading source of guns recovered in illegal trafficking investigations.

Some opponents of this amendment will say that background checks take too long for weekend gun shows. That may have been the case in 1999, but today, thanks to the diligence of the Department of Justice, 91 percent of criminal background checks are completed within several minutes and over 95 percent of background checks are completed within 2 hours.

For 19 out of 20 background checks, instant check has lived up to its name. For the 1 out of 20 checks that take more than 2 hours, these applicants are 20 times more likely to be unlawful than the rest of the applicants. Additionally, this amendment encourages States to improve their records, making them eligible for even faster background checks.

I point out again that 91 percent of criminal background checks are completed within several minutes; 95 percent, within 2 hours.

Opponents say the background check requirements would put gun shows out of business. That is not true. According to the Krause Gun/Knife Show Calendar, the definitive source of gun show information in the Nation, in 2003, the 17 States that have closed the gun show loophole have hosted, on average, more gun shows than the 33 States that have not closed the loophole.

I repeat, the 17 States that have taken action to close the gun show loophole hosted, on average, 45 gun shows in 2003. The other 33 States, on average, 41 gun shows.

I am a gun show supporter. Arizona is a big gun show State. This amendment will have zero effect on legitimate gun show businesses.

This amendment has been endorsed by the International Association of Chiefs of Police, Major Cities Chiefs of Police, the Conference Of Mayors—the list goes on and on with those who have to deal with the results of guns obtained illegally.

Let me say that the administration has said they want a "clean bill." The administration has supported closing the gun show loophole but now they want a "clean bill." Wink-wink, nod-nod. It is remarkable. It is remarkable. This loophole needs to be closed. The administration has had the position that it needs to be closed. We all know it needs to be closed.

There were two State referendums in the 2002 election, in Colorado, not notoriously a liberal State, and Oregon, not notoriously a conservative State. Both of those ballot initiatives carried overwhelmingly when taken to the people instead of the incredible influence of the NRA over this process.

I hope my friends will stand with the police chiefs and mayors and those who are required to enforce the law and vote for this amendment.

I reserve the remainder of my time.

The PRESIDENT pro tempore. Who yields time?

Mr. REID. Mr. President, the Senator from Rhode Island has agreed to give 2 minutes to Senator LAUTENBERG, and on the time I control I will give him 2 minutes for a total of 4 minutes.

The PRESIDENT pro tempore. The Senator from New Jersey is recognized for 4 minutes.

Mr. LAUTENBERG. Mr. President, I thank my colleagues on both sides who support this gun show loophole amendment.

We have just heard Senator MCCAIN make a case to close this loophole. There doesn't seem to be any reason on Earth that this loophole should exist. We are talking about allowing felons, criminals generally, and terrorists to buy guns without any identification. It is hard to understand why something such as this can occur.

Back in 1999, I authored the original gun show loophole closure to require that sales at gun shows require the same background checks that licensed gun dealers are required to perform under the Brady law. The bill passed in 1999 after Vice President Gore cast the deciding vote to break a 50–50 vote on the measure. Unfortunately, those who want to buy guns—who might be criminals, and again terrorists—decided to kill this bill in conference. This loophole has continued to exist.

I am sure the American people will not be able to understand in general what this loophole is about. Why do we want to protect the rights of those who would evade the law to get guns? As long as this loophole is around, our other gun laws mean virtually nothing. Does it matter if there are background checks by licensed gun dealers if the convicted felon can walk into a gun show and get a weapon with no questions asked? Right now, gun shows are cash and carry for firearms. Terrorists, criminals, and the mentally unstable can get anything they want at a gun show from one of these unlicensed dealers. It has to stop. For the life of me, I cannot understand why those who want to see guns generally available under their interpretation of what the second amendment means would resist this. It is not understandable by any measure.

We know the people who got the guns for the Columbine massacre got a weapon which was a measure of an assault weapon illegally from a nonlicensed dealer.

When firearms are available to terrorists with instructions from their headquarters in Afghanistan to go to the United States; you can buy guns at a gun show; never tell who you are and never identify yourself, doesn't make any sense at all.

I hope my colleagues will take a second look at this and say: OK, this one we have got to patch up. But we do not hear that from those who would defend this arcane and ridiculous process.

I yield the floor.

Mr. KENNEDY. Mr. President, I strongly support this bipartisan amendment to close the gun show loophole.

Americans overwhelmingly favor responsible gun safety measures. They want effective background checks for firearm purchases, whether the purchases take place at a gun store, a gun show, or any other large gathering.

The gun show loophole allows firearms to be purchased illegally at gun shows—no questions asked. The result has been the sale of massive numbers of firearms to terrorists, criminals, juveniles, and other prohibited purchasers without background checks.

In 2001, Attorney General Ashcroft appeared at an oversight hearing of the Senate Judiciary Committee. He held up an al-Qaida terrorist manual, to make the point that terrorists were being trained on "how to use America's freedom as a weapon against us."

When I questioned the Attorney General at the hearing, I held up a different terrorist training manual entitled,, "How Can I Train Myself for Jihad," which had been found in a house in Afghanistan that November. As the manual stated:

> In other countries, e.g. some states of USA . . . it is perfectly legal for members of the public to own certain types of firearms. If you live in such a country, obtain an assault rifle legally . . . learn how to use it properly and go and practice in the areas allowed for such training.

There is a long list of examples of terrorists exploiting weaknesses and loopholes in the Nation's gun laws. In 2000, a member of the terrorist group Hezbollah in the Middle East was convicted in Detroit on weapons charges and conspiracy to ship weapons and ammunition to Lebanon. He had bought many of those weapons at gun shows in Michigan.

In 1999, only a lack of cash prevented two persons from purchasing a grenade launcher at a gun show, in a plot to blow up two large propane tanks in suburban Sacramento.

Enough is enough. Since the atrocities of September 11, Congress has acted with strong bipartisan support to win the war on terrorism and protect the country from future attacks. We have improved the security of our airports and borders. We have strengthened our defenses against bioterrorism. We have given law enforcement new powers to investigate and prevent terrorism.

Clearly, we need to strengthen our defenses against gun violence. The best way to start is by closing the gaping loopholes in our gun laws that allow rogue gun dealers to sell guns to criminals, terrorists, and other prohibited purchasers. According to the ATF, gun shows are now the second leading source of firearms confiscated in illegal gun trafficking investigations. Gun shows accounted for nearly 31 percent of the 84,000 guns illegally diverted during one 30-month period. Even the strongest opponents of gun control understand the need to confront this rampant law-breaking. Closing the gun show loophole will strengthen the safety and security of all Americans.

This amendment will not shut down gun shows. It will not prevent gun enthusiasts and other lawful purchasers from buying and selling guns.

Instead, it requires background checks to take place at any event where more than 75 guns are offered for sale. These checks can be conducted by licensed sellers or by gun show operators or their employees who have been certified by the Justice Department. This this certification option, background checks can be completed quickly and accurately.

Since its enactment in 1994, the Brady law's background check system has truly become an "instant" check system. According to the Attorney General, 91 percent of background checks are completed in 3 minutes or less. A 3-minute wait is not a significant inconvenience for a gun purchase. And 95 percent of all background checks are completed within 2 hours. The maximum amount a buyer can be forced to wait is 3 business days. Under this amendment, the period will be reduced to 24 hours for States with sufficiently automated background check records.

I commend my colleagues, Senator MCCAIN, Senator REED, Senator DEWINE, and Senator LIEBERMAN, for their leadership on this important issue, and I urge all my colleagues to do now what we should have done years ago. It is time to put the interest of law enforcement and public safety above the interests of the gun lobby. Let's close the gun show loophole, once and for all.

Mr. LIEBERMAN. Mr. President, I am very proud to join Senators MCCAIN, REED, DEWINE and our other cosponsors in proposing and supporting this critical amendment. Too often gun legislation has divided Members of Congress. This is a proposal that should not do that. This is a proposal that builds on common values we all share as Americans. As citizens of this great Republic, we all recognize that we have rights and we have responsibilities. Among our rights is the right to own guns. Among our responsibilities are the responsibilities to use those guns safely and to make sure that those who are neither law-abiding nor peaceful are permitted access to deadly force.

For several decades, our Nation has had a clear policy against allowing convicted felons to buy guns, because we know that mixing criminals and firearms far too often yields violent results. That same insight has caused us to agree that it causes too great a risk to society for a number of other groups of people to buy guns—those under felony indictments, who are fugitives from justice, who are subject to restraining orders and who are convicted spouse abusers.

Through the Brady law, we established what seems like an obvious corollary to that policy a requirement that those selling guns first determine whether someone trying to buy a firearm isn't supposed to get one. The Brady law has been an enormous success. Since its enactment, background checks have stopped almost one million gun sales to those who by law aren't allowed to own guns. The majority of stopped sales involve convicted criminals or those under felony indictment. Stopping these nearly one million transactions has saved an untold number of our citizens from the violence, injury or death the sale of many of these guns would have brought.

Importantly, this life-saving legislation has brought its benefits with the most minimal of impact on the law-abiding citizens who have the right to buy guns. Over 90 percent of background checks are completed immediately; 95 percent within 2 hours. In other words, the vast, vast majority of those seeking to buy guns suffer no inconvenience whatsoever from these virtually instant background checks. But, again, the benefits to the rest of us, to those who have been saved from the violence that could have resulted from just a fraction of those nearly one million sales stopped by the Brady law—those benefits are incalculable.

Unfortunately, the Brady law contained a loophole that has since been exploited to allow criminals and others who aren't legally allowed to buy guns to evade the background check requirement by buying their guns at gun shows. The problem is that Brady applies only to Federal Firearms Licensees, so-called FFLs—people who are in the business of selling guns. Brady explicitly exempts from the background check requirement anyone "who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms." As a result, any person selling guns as a hobby or only occasionally, whether at a gun show, flea market or elsewhere, need not obtain a Federal license and therefore has no obligation to conduct a background check. This means that any person wanting to avoid a background check can go to a gun show, find out which vendors are not FFLs, and buy a gun. This situation is dangerous not only because it allows convicted felons and other prohibited persons to buy guns, but also because—in contrast to FFLs—non-FFLs have no obligation to keep records of the transaction, thereby depriving law enforcement of the ability to trace the gun if it later turns up at a crime scene.

Now I know that some argue that there is no gun show loophole, or that if there is one, it has little or no consequence. That's just wrong. But don't just believe me on this—listen to a report by the government agency charged with investigating gun trafficking. In June 2000, the Bureau of Alcohol, Tobacco and Firearms issued a report in which they stated: "The access to anonymous sales and large numbers of secondhand firearms makes gun shows attractive to criminals. . . . [G]unshows were associated with the diversion of approximately 26,000 firearms." The report went on to describe an ATF review of gun show investigations, which it said:

> shows that prohibited persons, such as convicted felons and juveniles, do personally buy firearms at gun shows and gun shows are sources of firearms that are trafficked to such prohibited persons. The gun show review found that firearms were diverted at and through gun shows by straw purchasers, unregulated private sellers, and licensed dealers. Felons were associated with selling or purchasing firearms in 46 percent of the gun show investigations. Firearms that were illegally diverted at or through gun shows were recovered in subsequent crimes, including homicide and robbery, in more than a third of the gun show investigations.

Our amendment will change that. We will make sure that no one will be able to buy a gun at a gun show without it first being determined whether that person is a convicted felon, a spouse abuser or a member of one of the other categories of people we all agree should not be allowed to buy guns.

Our bill does this, though, by respecting the rights of law-abiding gun owners and taking into account some of the concerns that were expressed about previous efforts to close this loophole. At the outset, let me emphasize that background checks at gun shows will be no more burdensome than those that so successfully and efficiently have been conducted over the past decade, with minimal intrusion on the rights of law abiding citizens. Again, over 90 percent of checks produce immediate answers and 95 percent yield results in under two hours. Just as importantly, there's nothing in the experience of those states that have already closed the gun show loophole to suggest that gun shows will suffer as a result of closing this dangerous loophole. According to the Americans for Gun Safety, gun shows are thriving in the States where background checks are required. Pennsylvania, which closed the loophole in 1995, hosts the second most gun shows of any State in the country. And of the top 5 gun show States, three Pennsylvania, Illinois and California—require background checks or a firearms ID card for gun purchases.

But we understand the concerns some have expressed—that a bill closing the gun show loophole will somehow extend beyond gun shows into small private sales from someone's home or will create a barrier so high that gun shows won't be able to operate. We've made sure that won't happen. First, our bill has a simple definition of a gun show—an event where 75 or more guns are offered or exhibited for sale—and we make clear that that definition doesn't include sales from a private collection by nonlicensed sellers out of their homes.

Second, to respond to the argument that previous proposals made it too difficult for nonlicensed sellers to fulfill the background check requirement, our bill makes sure that nonlicensed sellers will have easy access to someone who can initiate background checks for them, by creating a new class of licensee whose sole purpose will be to initiate background checks at gun shows.

Third, we have tried to respond to those who say that a three-day check is too long for gun shows, because those events only last a couple of days.

It is worth noting yet again that the length allowed for the check doesn't affect the overwhelming majority of gun purchasers, because over 90 percent of checks are completed almost instantly. But to allay the concerns that have been expressed, we have come up with a compromise that authorizes a State to move to a 24-hour check for nonlicensed dealers at gun shows when the State can prove that a 24-hour check is feasible. A State can prove that by showing that 95 percent of the records that would disqualify people in that State from buying guns are computerized and searchable by the NICS system. And, because of the particular need to keep guns out of the hands of spouse abusers, the bill specifically provides that a State must have computerized 95 percent of its domestic violence misdemeanor and restraining order records dating back 30 years before it is eligible to go to a 24-hour check at gun shows.

Putting all of these provisions together, I frankly cannot understand why reasonable people would oppose this amendment. If we all agree that criminals, spouse abusers and the like shouldn't be able to buy guns, why in the world aren't we doing a very simple thing and saying that just like the person who sells at a gun store has to do a background check, the person who sells at a gun show does too. All this bill does is make sure that we have an effective means to implement something upon which there has been a national consensus for decades—that criminals and other people we all agree shouldn't own guns can't buy them.

Now I know that there are many who argue that what we need to solve the gun violence problem are not new laws, but the enforcement of existing ones. I agree with part of that statement, and firmly support efforts to crack down on those who violate our gun laws. But I believe we must go farther than that, because we will never be able to enforce existing laws unless we close the loopholes in them that criminals exploit. And we all know that there is a big loophole in the provision saying that felons and spouse abusers aren't supposed to buy guns, and that is that criminals know that if they go to a gun show, they will be able to avoid the background check that was set up to keep them from getting guns.

Gun crime remains a critical public safety problem. For too long, differences over finding a solution to that problem have unnecessarily divided the Congress, and the American people have been left to suffer the violent consequences. But the reality is that most of us agree on most of the critical questions. We agree that the laws on the books should be enforced, that the rights of law-abiding gun owners should be protected, and that convicted felons and spouse abusers shouldn't be able to get guns. Again, I believe law abiding citizens have every right to own guns, but we also all share in the responsibility of keeping our society safe and keeping guns out of the hands of those who shouldn't have them. This amendment would write those principles into law. I hope all of my colleagues support it.

The PRESIDENT pro tempore. The Senator from Idaho.

Mr. CRAIG. Mr. President, the Senator from California is now on the floor to offer her amendment. So we can expedite matters, under the unanimous consent agreement, the McCain-Reed amendment is to be set aside for the purposes of the introduction of an amendment by the Senator from California.

The PRESIDENT pro tempore. The Senator from California is recognized.

Mrs. FEINSTEIN. I thank the Chair.

AMENDMENT NO. 2637

Mrs. FEINSTEIN. Mr. President, I send an amendment to the desk.

The PRESIDENT pro tempore. The clerk will report.

The assistant journal clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for herself, Mr. WARNER, Mr. SCHUMER, Mr. DEWINE, Mr. LEVIN, Mr. CHAFEE, Mr. DODD, Mr. JEFFORDS, Mrs. BOXER, Mrs. CLINTON, Mr. REED, Mr. LAUTENBERG, and Ms. MIKULSKI, proposes an amendment numbered 2637.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for a 10-year extension of the assault weapons ban)

On page 11, after line 19, add the following:

SEC. 5. ASSAULT WEAPONS BAN REAUTHORIZATION.

(a) SHORT TITLE.—This section may be cited as the "Assault Weapons Ban Reauthorization Act of 2004".

(b) 10-YEAR EXTENSION OF ASSAULT WEAPONS BAN.—Section 110105 of the Public Safety and Recreational Firearms Use Protection Act (18 U.S.C. 921 note) is amended to read as follows:

"SEC. 110105. SUNSET PROVISION.

"This subtitle and the amendments made by this subtitle are repealed September 13, 2014.".

Mrs. FEINSTEIN. Mr. President, it is my understanding that I have 10 minutes to speak on the amendment. I ask the Chair to alert me when 5 minutes have passed. I will then cede time to Senator WARNER for 2 minutes and to Senator SCHUMER for 2 minutes.

The PRESIDENT pro tempore. The Senator is recognized for 5 minutes.

Mrs. FEINSTEIN. Mr. President, this amendment is offered on behalf of Senators WARNER, SCHUMER, DEWINE, LEVIN, CHAFEE, DODD, JEFFORDS, BOXER, CLINTON, REED, LAUTENBERG, and MIKULSKI.

This is an ad from this morning's Washington Post. It says:

> Senators, if police officers sat in your seats today, do you think they'd vote to put Uzi's and AK-47's back on the streets?

That clearly is the question before the Senate this morning.

It is going to be a very close vote. However, that is the issue. That will be the result, if this legislation is not reauthorized for another 10 years.

The legislation has the support of 77 percent of the American people, and 66 percent of gun owners. It does not remove a legal gun owner from his weapon, and it has reduced traces of assault weapons to crimes by two-thirds in the last 10 years. I stand by those figures.

We believe the assault weapons legislation should be reauthorized. It was enacted in 1994 for 10 years. That 10 years is up on September 13.

There is a broad coalition of organizations including every single law enforcement organization in this country supporting it, from the International Chiefs of Police to the Fraternal Order of Police, to virtually every civic group supporting reauthorization of this legislation.

I very much hope the votes are present in the Senate this morning.

Another interesting note is that on the one hand we are accused, well, it is just cosmetic; it doesn't work. If it is just cosmetic and it doesn't work, then why this enormous effort to prevent the bill from being reauthorized?

Additionally, the legislation contains a written exemption by name for 670 weapons. So no one in the United States who legally possessed one of these assault weapons has had those assault weapons taken away. But what we believe is the legislation which stops the manufacture and the sale of semiautomatic assault weapons has been effective. It also stops the domestic manufacture of clips, drums, or strips of more than 10 bullets. No hunter needs more than 10 bullets. No person for defense needs more.

I am very hopeful this morning we will in a sense look to the law enforcement community and sustain a vote to reauthorize the assault weapons legislation for another 10 years.

I now yield 2 minutes of my time to the distinguished senior Senator from Virginia, Mr. JOHN WARNER.

The PRESIDENT pro tempore. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I thank our distinguished colleague from California. I salute her leadership on this measure.

I am very hopeful we can persuade the Senate this morning to continue this legislation.

Might I say that when first introduced, it was somewhat different than what the President indicated he would support. At my request, the Senator conformed her bill so it is precisely the legislative measure to which the President of the United States has indicated he would lend his support.

I could say many things about this bill. But in the time constraints we have, law enforcement was the pivotal decision which switched me from 10 years ago voting against this measure, to today not only standing here to vote for it but joining in the leadership of the Senator from California to get it passed. Law enforcement has shown it has reduced the use of these weapons in crime.

My words pale in significance to the law enforcement officers from the four corners of the Commonwealth of Virginia.

The sheriff of Amherst County, the chief of police of Blacksburg, the chief of police of the town of Vienna, the chief of police of Waynesboro, the acting chief of police of Fairfax County, the sheriff of the city of Alexandria, the chief of police of Roanoke, the chief of police of Virginia Beach, the chief of police of Chesapeake, the chief of police of Portsmouth, the sheriff of Roanoke City, the chief of police of Newport News, the chief of police of Winchester, the chief of police of the city of Alexandria, the chief of police of Arlington County, the chief of police of Staunton, the chief of police of Salem, the sheriff of Rockingham County, and the chief of police of Norfolk—the four corners of the Commonwealth of Virginia. These law enforcement officers come forward to support this legislation.

I yield the floor.

The PRESIDING OFFICER (Mr. TALENT). The Senator has used 2 minutes of the time.

Mrs. FEINSTEIN. I thank the distinguished Senator from Virginia for his leadership on this issue. We are delighted he is a major sponsor of this bill.

Mr. President, inadvertently the name of the Senator from Illinois, Mr. DURBIN, was left off the bill as a cosponsor. I ask unanimous consent it be added.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. I yield 2 minutes of my time to the distinguished Senator from New York, Mr. SCHUMER.

The PRESIDING OFFICER. Senator SCHUMER is recognized for 2 minutes.

Mr. SCHUMER. I, too, salute both my colleagues for their superb leadership on this issue. This bill, the assault weapons ban, is hanging by a thread. There is no good reason on God's green Earth why. It has been a success in preventing crimes. It has not hurt a single law-abiding gun owner. Yet we are here today at the eleventh hour worrying and wondering whether this legislation will be renewed. If it is not renewed, it is a giant step backwards, I say to my colleagues.

How can we take it in the light of 10 years of experience which shows how successful the legislation is? The number of guns, assault weapons, 19 banned weapons, used in crimes has dramatically declined—by 300 percent. The number of individuals who have been hurt by this—hunters, small businesspeople, homeowners who want to protect themselves by having a gun—have not been hurt at all.

These are weapons of war. They are designed to kill a whole lot of people quickly. They are not designed for hunting. They are not designed for self-defense of a homeowner or a store owner. The only reason we are here today is politics.

I plead with our President—he has said he is for the legislation after the modification the good Senator from California made, so it is exactly the same as the bill we have had in effect—I plead to not just simply state once or twice he is for this. One phone call, Mr. President, can pass this bill. Please, we need this legislation. I urge my colleagues to reach into their consciences and pass it.

Mr. KENNEDY. Mr. President, I strongly support this bipartisan amendment to continue the Federal ban on assault weapons. The ban is now scheduled to expire on September 13, 2004.

The fact that this common-sense and necessary ban requires any debate at all shows how misplaced and misguided our priorities on domestic safety and security have become.

Even before 9/11, renewal of the assault weapons ban should have been a no-brainer. After 9/11, to even consider letting the ban expire is absurd.

Semi-automatic assault weapons are killing machines—nothing more, nothing less. They are intentionally designed to maximize their killing power by a rapid rate of fire. They are intended to be spray-fired from the hip, so that the killer can fire many rounds in rapid succession.

Civilians have no need whatever for such military-style killing machines. They are of no use for hunting, unless the goal is to obliterate the duck or deer being hunted. They are unnecessary and impractical for self-defense, and they have no recreational value.

The purpose of these weapons is to facilitate crime. By the late 1980s, assault weapons had become the weapon of choice for drug traffickers, gangs, and other criminal organizations. Their high firepower and ability to penetrate body armor exposed the police officers to increased danger, and innocent bystanders were killed in indiscriminate assault-weapon shootouts in the streets.

Assault weapons have been used in a series of massacres:

In 1989, in an attack at Cleveland Elementary School in Stockton, CA, Patrick Purdy used an assault weapon to kill five small children and wound 29 others. Purdy fired off 106 rounds in less than two minutes.

In 1993, two CIA employees were killed outside the entrance to CIA headquarters by a Pakistani national using an AK-47 assault rifle equipped with a 30-round magazine.

Also in 1993, eight persons were killed and six others were wounded at a San Francisco law firm by an assailant using two assault pistols with 50-round magazines.

That's the kind of world we'll return to if Congress allows the current ban on assault weapons to expire.

In fact, the ban contributed to a dramatic decrease in violent crime in the 1990s. Many of us remember the dire "juvenile superpredator" predictions that were in vogue before that reduction took place. In 1996, William Bennett and John Walters had written that America was a "ticking crime bomb," faced with the "youngest, biggest, and baddest generation" of juvenile offenders that our country had ever known.

Fortunately, these predictions were wrong. From 1993 to 2001, arrest rates for violent juvenile crime declined by more than two-thirds. We're still enjoying the benefits of this low crime rate today.

The decrease in crime is explained in large part by the sensible measures that Congress took on gun safety in the early 1990s, including the ban on assault weapons. In 1999, the National Center for Juvenile Justice concluded that all of the increase in homicides by juveniles between the mid-1980s and mid-1990s was firearm-related. The U.S. Surgeon General concluded that guns were responsible for both the epidemic in juvenile violence in the late 1980s and the decrease in violence after 1993. "It is now clear," the Surgeon General wrote, "that the violence epidemic was caused largely by an upsurge in the use of firearms by young people. . . . Today's youth violence is less lethal, largely because of a decline in the use of firearms."

After Congress passed the assault weapons ban in 1994, fewer criminals used assault weapons to kill and commit other crimes. According to the National Institute of Justice, requests to trace assault weapons—one of the best indicators of gun use in crimes—declined 20 percent in the first calendar year after the ban took effect. In 1995 and 1996, the number of assault weapons used in crime in Boston declined by 24 percent. In St. Louis, it declined by 29 percent.

With these proven results, why would anyone vote against reauthorization of the current assault weapons ban?

It's no surprise that the law enforcement community strongly supports the ban. The amendment now before us is supported by: The International Association of Chiefs of Police; the National Association of Police Organizations; the National Organization of Black Police Officials; the International Brotherhood of Police Officers; the Hispanic American Police Command Officers Association; the

American Probation and Parole Association; the United States Conference of Mayors; and countless other religious, public health, and domestic violence organizations.

Congress needs to do more than renew the ban on assault weapons now in effect. We should make clear that the definition of assault weapons includes "copycat" guns made by the gun industry with devious cosmetic changes to evade the 1994 law. We should ban parts kits that can be bought through the mail and used to build assault weapons. We should regulate the transfer of "grandfathered" assault weapons and facilitate their tracing. We should ban high-capacity ammunition magazines, and prohibit juveniles from buying or possessing assault rifles and shotguns. Senator LAUTENBERG has introduced a bill that would do all of these things, and I commend him for his leadership.

What we absolutely cannot do is let the current ban on assault weapons expire. Such a failure would drastically undermine the safety of our streets, neighborhoods, and schools, and strengthen the hand of terrorists and other criminals.

We know that terrorists are now exploiting the weaknesses and loopholes in our gun laws. A terrorist training manual discovered by American soldiers in Afghanistan in 2001 advised al Qaeda operatives to buy assault weapons in the United States and use them against us. Terrorists are bent on exploiting weaknesses in our gun laws. Americans will be at much greater risk if Congress fails to renew the ban on assault weapons.

We can't let that happen. I urge my colleagues to vote for this essential protection against crime and terrorism.

Mr. DODD. Mr. President, I strongly support the extension of the assault weapons ban. I want to commend Senators FEINSTEIN and SCHUMER for championing this important legislation for many years.

We need to close a number of loopholes in the current assault weapons ban that have allowed gun manufacturers to make minor design changes to evade the law. One gun maker in my State has skirted the ban by replacing the prohibited flash suppressor on one of its assault weapons with non-prohibited muzzle breaks or compensators, which ironically reduce "muzzle climb" during rapid firing.

The actual functional elements of this assault weapon, however, have remained the same. The gun still fires a high volume of bullets over a large area. Such loopholes need to be closed, and I am pleased to co-sponsor legislation authored by Senator LAUNTENBERG to further strengthen the existing assault weapons ban.

The current assault weapons ban will expire in September. There are many powerful reasons why extending the assault weapons ban must be a top priority for the Congress this year.

First, assault weapon bans do work. According to the Department of Justice, the proportion of assault weapons traced to crimes has dropped by nearly two-thirds since 1995, the first year that the Federal ban went into effect.

Between 1988 and 1991, assault weapons accounted for nearly 8 percent of guns used in crimes. In 1995, it plummeted to 3.6 percent. In 2002, it dropped even further to 1.2 percent. The ban on assault weapons is therefore clearly making a difference in reducing crime and saving lives.

Second, assault weapons have a devastating impact on people's lives and on the safety of their communities. These aren't hunting weapons we are talking about. Nor are they for recreational or sporting use. We have heard it said before that one does not need an AK-47 or an Uzi for duck hunting.

Quite simply, assault weapons are weapons of war. They are designed with one purpose in mind—for slaughtering human beings over a wide area. They belong on a faraway battlefield, not on our Nation's streets. However one feels about the Second Amendment, assault weapons have no place in a civilized society.

If assault weapons end up in the wrong hands, the results can be horrific. The increased firepower of these weapons has a particularly devastating impact on its victims, who often suffer multiple gunshot wounds and severe penetrating trauma. It often takes longer for victims to recover from such injuries, placing significant burdens on scarce medical resources.

Law enforcement officers are particularly vulnerable to assault weapons fire, since they are on the front lines protecting our communities from those gangs, drug traffickers, and even terrorist groups who have made such firearms their weapons of choice. In the years leading up to the enactment of the Federal ban, assault weapons accounted for 8 percent of all guns traced to crime, although they comprised only 1 percent of privately owned guns in America.

Even with the Federal ban in place over the last decade, assault weapons have been implicated in the death of one in five police officers killed in the line of duty between 1998 and 2001. It is no coincidence then that numerous law enforcement organizations, including groups devoted to protecting children's rights and stopping domestic violence, support extending the ban on these deadly weapons.

In fact, it is really a matter of homeland security that these weapons must be taken out of the hands of criminals. A May 2003 editorial in The San Antonio Express News had it right when it said that just as it is a priority for allied officials in Iraq to get AK-47s out of the hands of Iraqi civilians, Congress shouldn't let such military-type weapons back on the streets of American cities by failing to extend the assault weapons ban. If terrorists can turn a jet aircraft into instruments to kill Americans, does anyone think they would hesitate for even one second to use an assault weapon for the same purposes?

In addition to police officers being vulnerable to assault weapons, so are our children. These firearms were used to kill 5 children and wound 29 others in a Stockton, CA, schoolyard in 1989. The AK-47 used in this incident held a staggering 75 bullets. A TEC-9 assault weapon was also used in the 1999 killing of a teacher, 12 students, and the wounding of more than 20 others at Columbine High School.

Connecticut was the fourth State in the Nation to ban assault weapons, after California, New Jersey and Hawaii. The National Rifle Association challenged the ban in Connecticut State court and it was upheld as constitutional in 1994. Federal courts have upheld the constitutionality of the Federal ban on assault weapons as well. Extending the ban for another 10 years will save lives, prevent serious injuries and make our communities safer from the tragic consequences of gun violence. I urge my colleagues to support this legislation.

One more point, one of the most surprising things I have learned in this debate is that firearms, which are responsible for 29,000 deaths a year, are specifically exempt from regulation under the Consumer Product Safety Act.

Section 3(a)(1)(E) of the Act exempts firearms and ammunitions from the definition of "consumer products." This provision was inserted into the Act in 1972 at the behest of the gun lobby. As a result, guns are among the only consumer products, along with tobacco, exempt from Federal health and safety regulations.

This fact is shocking. Even more shocking is the fact that firearms cause more deaths a year than the 15,000 consumer products regulated under the Act combined.

Other potentially dangerous products—from cars to lawnmowers to household products to medicines—are regulated to protect the health of the American public. The fact that guns are already specifically exempt from the oversight of the Consumer Product Safety Commission is reason enough why we cannot afford to grant the firearm industry legal immunity.

Strangely enough, toy guns are more heavily regulated than real guns, despite the fact that toy guns do not kill or maim. There are over 140 pages in the Code of Federal Regulations that apply to toys, but only one paragraph devoted to guns, and that paragraph exempts guns from the Consumer Product Safety Act.

Under the Act, toy guns fall under the standard for toys. At least four types of Federal safety standards cover toys: if they have sharp edges and points, small parts, contain hazardous materials, and are flammable. The regulations even say that toy guns should have a bright orange tip at the end of the barrel to distinguish them from real guns.

The lack of Federal health and safety regulations for guns has a number of serious consequences. It means that there is no way to recall defective firearms. Guns that are manufactured poorly and pose a serious threat to gun owners and the public would remain in circulation, with the government essentially unable to do anything about it.

The lack of Federal regulation of firearms also means that there is no way to mandate the use of safety devices. And it means that there is no detailed data collection on deaths and injuries from guns.

Gun violence has a devastating impact on people's lives and their communities. The fact that toy guns are regulated and real guns are not makes little sense, and I urge the Senate to eventually rectify it.

Mrs. FEINSTEIN. How much time remains?

The PRESIDING OFFICER. The Senator from California has 1 minute 10 seconds.

Mrs. FEINSTEIN. I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. The Senator reserves her time and yields the floor.

The Senator from Idaho.

Mr. CRAIG. Mr. President, under the unanimous consent request, this amendment currently before the Senate, the Feinstein amendment, would be set aside for the purposes of the introduction by our leader, Senator FRIST, of the DC gun ban repeal. That amendment will not be offered today, so we are now on full debate for the balance of time until votes start at 11:30 on the two issues before the Senate and the balance of the whole bill.

Certainly, there are other amendments besides the assault weapons ban introduced by the Senator from California, the gun show loophole by Senators REED and MCCAIN. Also, we will have votes today, and it is critical for Senators who want to debate on armor piercing by KENNEDY and the Frist-Craig alternative, also on conceal and carry, offered in behalf of Senator BEN CAMPBELL, that some have debated.

For a few moments, let me debate one general topic. The clock has started for all of us on the 2-hour balance of time equally divided between us on this issue.

For a moment today, I will talk about attitudes of the American public as it relates to the second amendment in the Senate today. The Senator from New York talked about why we are at the eleventh hour debating the gun show loophole. We are because he and his colleagues introduced it, obviously, believing it was a timely topic to debate at a time when we have a very narrowly prescribed bill to deal with the legitimacy of law-abiding citizens in the manufacture of firearms. He has decided to add or attempt to add this to the bill. Our President has asked for a clean bill.

Let me talk about where the American people are. Once again, we find ourselves in a political season. And once again, we find ourselves debating and arguing about gun ownership in America. The second amendment is clear. Many who are strong advocates of that amendment believe it is extremely clear.

We have heard over the last several days Senators with honest differences of opinion take to the Senate floor and claim their vows to represent the folks back in their home States.

Let's take a few minutes to look at some of the relevant research from respected polling from the firm Zogby International. Zogby recently surveyed 1,200 voters nationwide on firearms issues. As a conservative, I don't view Zogby as a conservative pollster; some call him middle of the road, some call him middle left. I guess what I am saying is Zogby and his polling are largely respected by many across the country. The Zogby International group, working with the John Goodwin Tower Center for political science at Southern Methodist University, looked at and decided to poll in a unique way. They said: Let's examine the difference between the George Bush States in 2000, the red States, and the Al Gore States, the blue States. For the balance of my comment, think red and think blue and remember that map we saw after the last Presidential election when the vast majority of America was red except for a few blue strips along the west coast line and the east coast line.

Here were the questions asked of 1,200 voters—not citizens, voters; those who said they voted in the last election—as to the attitude of Americans on firearms. They asked: Do you agree or disagree that American firearm manufacturers that sell a legal product which is not defective—meaning a quality product used for the intent of its manufacture—should be allowed to be sued if a criminal used their product in a crime.

What are the answers? The answers are, there were enough laws on the books. In the Bush States, 69 percent agreed they should not be sued; in the Gore States, 63 percent agreed they should not be sued and they ought not be sued; military people in those States, 70 percent; veterans, 71 percent; nonmilitary, on the average 66 percent. A very strong majority of the American people made it very clear. The answer came back loudly, from every demographic group opposed to these kinds of lawsuits.

That is why we have S. 1805 before the Senate. American minds are made up. These are junk and frivolous lawsuits. They ought not be filed. They also said a manufacturer of a product ought to be held liable if that product is defective, if it malfunctions, and if that defectiveness or that malfunction might create an injury. That is exactly what we continue to allow to happen.

Opposition in the Bush States on that issue, 74 percent; while 72 percent of the voters in the Al Gore States voiced opposition. Interestingly, across the board those most strongly opposed to these lawsuits against the firearms industry are current members of the military and their family. Their opposition collectively measured at 83 percent. This is not from a conservative right-wing pollster. This is from Zogby himself.

When certain gun organizations heard about this, they called the Zogby polling group and asked, Are these valid? The answer from Zogby: Yes, we ran them again. We were not so sure, and we believe they are accurate and valid.

Which of the following two statements regarding gun control comes closer to your own opinion? Of course, those were the figures we showed in the first chart. There needs to be new and tougher gun law legislation to help fight against crime. That is what we are debating now in the Senate. That was question A: There are enough laws on the books. What is needed is better law enforcement of current laws regarding gun control, by a better than 2 to 1, 66 to 31.

In essence, the American people are saying no new gun laws; we have plenty of them on the books. That is not about laws but going after criminals. That is common sense in America, and we never want to doubt the common sense of the average American when they are well informed about an issue or when they just suggest that somebody is playing politics with an issue and it really does not make any sense.

Sixty-nine percent in the Bush States; 63 percent in the Gore States; and those numbers are extremely strong.

So what are we saying? We are saying that moderates solidly favor better law enforcement—62 percent to 34 percent. They are saying: Leave the gun owner alone. Gun control laws do not work.

Somehow, the American people have settled into understanding what most people understand, with common sense: If you do not use the laws to go after the criminal element in our country, if you try to blame their problem on somebody else or their malfunctioning in society, and you try to reach through and sue somebody else, the

American people are saying: No, we don't go there anymore and we won't tolerate that.

Those are the issues at hand. That is the underlying purpose for why we are here today debating S. 1805. We think it is fundamental to the American people to allow them to speak and say: Enough is enough; 30-plus lawsuits by municipalities or political jurisdictions, and 21 of them already thrown out of the courts. Our courts are now full of many of these. Hundreds of millions of dollars have been spent in defense of law-abiding manufacturers and licensed firearms dealers. It is time we say, no, if that third party is trying to be held unaccountable by going after somebody else who is a law-abiding, legitimate citizen. Let's return to old, historic, fundamental tort law. It is the individual who is responsible for their actions, not someone else.

I think we were all taught that as a child. If we were not taught that by our parents, then I guess I have to say shame on our parents because that is pretty fundamental. You are responsible for your actions. If you misact, you might be punished for it. In society, if you misuse a gun, you ought to be punished for it instead of trying to pass it on to somebody else who is a law-abiding citizen playing by the rules that society has laid down and of which our Constitution so clearly speaks.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I yield 2 minutes to the Senator from Delaware, Mr. CARPER.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 2 minutes.

Mr. CARPER. Mr. President, I thank the Senator for yielding.

Most Senators have already made up their minds on how they are going to vote on the proposal by Senator McCAIN and Senator REED on closing the gun show loophole. A few have not. What I would like to do is direct my comments to them.

During my first term as Governor of Delaware, I remember a meeting I had with law enforcement officers who came to see me. They wanted to talk with me about something called the gun show loopholes.

As they went through their explanation, I said: Do I understand correctly, that if I happen to be a licensed gun dealer at a gun show in my State, and let's say Senator REED over here is an unlicensed gun dealer at the same gun show, that I have to do an instant background check on the folks who want to buy a weapon from me, and if they do not pass that instant background check, they can go over and buy the same weapon from my competitor?

They said: That's right.

For the life of me, at that time that made no sense, and for the life of me, it still does not make any sense.

I mentioned yesterday on the floor that my dad, who is now deceased, was a gun collector. He had rifles and shotguns, a musket or two, pistols of all kinds. He would buy weapons from guys he would hunt with. They had an informal hunt club. He would buy weapons from relatives, members of our family. He might go to a yard sale in the neighborhood where they lived in Florida and buy a weapon. He ought to have been able to do that, and under the law, under this amendment that is offered today, he could still do those things, were he alive.

Let me close with this: Technology is going to help us solve this problem. Technology can be a great way to solve this problem. Instant background checks make feasible what 10 years ago was not feasible and the right thing to do.

I yield back my time.

The PRESIDING OFFICER. The Senator yields the floor.

Who seeks recognition?

The Senator from Rhode Island.

Mr. REED. Mr. President, I yield myself such time as I may consume from my time.

I rise to support the McCain-Reed amendment and also the Feinstein amendment. I am a cosponsor, obviously, of both amendments.

I wish to talk, for a moment, about the gun show loophole. It is clear and obvious to anyone—at least I believe it is—that we should not have two different standards at a public gun show. We should not have a situation where you can approach one seller who is a licensed firearms dealer and in that transaction have to undergo a background check, and then, 5 feet away, have an unlicensed seller and be able to purchase a weapon without any type of background check.

These are public functions. Thousands of people stream through these gun shows. This is not a private sale where the seller and the buyer know each other, have an association to each other, and essentially do not need any kind of a background check. In order to prevent these gun shows from being exploited by criminals and terrorists, there has to be a common standard. Every transaction should be governed by a background check at a public gun show.

We know these unlicensed dealers and these gun shows have been exploited by criminals. I have mentioned, over the course of the last several days of debate, numerous examples. Let me return to one.

Nigel Bostic and two accomplices were arrested for buying 239 firearms at 11 Ohio gun shows and reselling them to criminals in Buffalo, NY.

It is a very obvious scheme. You go to a place, if you are a felon or a criminal, that requires no background checks, that are publicly advertised, that are easily accessible, you buy the weapons, take them to another State that has very tough laws, and you sell them to criminals.

One of these weapons was recovered in a homicide. It has been reported that Bostic purchased 45 firearms at one of these sales; his accomplices, 85 guns.

These are the examples that will continue to take place unless we close this gun show loophole. Indeed, it is obvious to gun owners it should be closed. More than 80 percent of gun owners surveyed indicated they support closing the gun show loophole. President Bush repeatedly, in the campaign of 2000, said he was for closing the gun show loophole.

The legislation that we present imposes no great burden on any participant at a gun show. Because of the National Instant Check System, 91 percent of these background checks are accomplished in less than 5 minutes; 95 percent are accomplished in less than 2 hours. The remaining checks reveal, in many cases, prohibitive purchases. That is the purpose of the check.

I think we can do something logical that is supported by the broad majority of Americans, including gun owners, by closing this gun show loophole. I hope we can do it today.

But let me, before I conclude, make a general comment on the underlying bill. We have heard the proponents of the bill talk a lot about responsibility, that we have all been taught as children that if we misuse a gun, we should be responsible for that.

Well, the underlying legislation is a license for irresponsibility. The most salient example is Bull's Eye Shooter Supply gun store up in Washington State, the source of the weapons for the snipers who were plaguing this Washington metropolitan area.

There, the individual gun dealer apparently let weapons lay around. He could not account for over 238 weapons. He did not inventory his weapons. That is what I call a misuse of a weapon. People were harmed by that misuse, but we are insulating that individual from any serious liability because there is no Federal law—and my colleagues on the other side are not likely to propose it—for strict control of the security of weapons.

I am amazed about the statistics my colleague from Idaho cited about the military support for no new weapons, et cetera. I tell you what. I served for 12 years in the U.S. Army. If you told an Army officer there was someone with hundreds of weapons, unsecured, lying around, subject to being shoplifted by teenagers, they would be appalled. Because the first thing you learn in the military is that you better secure those weapons, you better lock them up, you better inventory them, and do all the things you have to do, not only to protect yourself but to ensure those weapons do not fall into the wrong hands. This legislation, if passed, will be a license for irresponsible behavior, unconstrained by any civil suit that could not only compensate the victims but suggest a higher level of care. So I hope that not only we support these amendments but look seriously at the underlying bill.

I yield the floor and retain the remainder of my time.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, the gun show loophole bill now being introduced by Senator MCCAIN and Senator REED is before us for full debate at this moment. Let me talk for a few moments about this issue and what it is and what it is not, and what has been done and what has not been done.

I believe some of the language used on the floor deserves to be clarified for the Members who might be looking in. The Senator from Rhode Island said yesterday that a good many States have already closed the loophole. I think he meant that 15 States have preexisting processes. Long before you go to a gun show, if in fact you are in the market to purchase a gun, you pick up a permit by which to purchase. States do backgrounds and have backgrounds and do that kind of thing.

He did mention, though, North Carolina and spoke greatly about how North Carolina had closed the loophole, and then gun shows flourished. Well, numbers are not any different in the number of gun shows. North Carolina requires a handgun permit to purchase a handgun. So they do a check, a normal check, the kind you would normally do. You have to have that going in or coming out of a gun show to acquire from any activity, other than a one-on-one private sale. So to examine all of those issues, none of the States have the kind of regulatory structure that is being asked to be imposed on all gun shows in all States by the McCain-Reed gun show amendment. Clearly, what we have is an effort to create a blanket Federal policy across 1,000 gun shows, attended by millions of people annually, which is legal, responsible commerce.

Well, it has also been argued that gun shows are now the venue by which terrorists acquire firearms. It is interesting that the reason they suggest that is because the terrorists who acquired a firearm through a gun show, or through a straw dealer who bought a firearm at a gun show, are arrested and in jail. Somehow the law must have worked. It did work because if you are an illegal alien in this country, you cannot acquire a firearm. If you are a felon, you cannot acquire a firearm. It catches up with you if you are a law breaker.

In this instance, those they know of are three. There were three they can talk about. Does a purchase of three make the gun show venue a wide open market for terrorist activities? Absolutely not. It never has and it never will.

What we know, what the statistics show from the Department of Justice, is that the reality would suggest there are possibly a couple of percentage points, 1.5, 2 percentage points, that we can actually understand as it relates to firearms obtained through gun shows, used in criminal activity.

The Bureau of Justice Statistics is, I believe, by far the most reputable accumulator of this kind of information. They suggest that it has been a constant, all the way through, possibly about 1 percent. So that is the reality we deal with on this issue.

Let me put forth another scenario. This is a question they cannot answer because they have set up a major, new tripwire for an individual.

Let's say an individual goes to a gun show. He or she looks around and they find a particular gun in which they are interested. It is not being offered by a licensed Federal firearms dealer; it is being offered by a collector or an individual who bought a table and has two or three firearms to sell. He likes it. The dealer or the person says, take my card.

So he takes his or her card and he goes home and talks to his spouse; the spouse says, you have enough guns, you don't need another gun. That conversation goes on for quite a while. Finally, they agree that maybe for the collection, or for whatever purpose this citizen would want to own that gun, that they will buy it. They call the fellow on the business card. The purchase goes about.

Now, has that gun been purchased illegally? I do believe under the Reed-McCain amendment you have set up a major new tripwire for innocent, law-abiding citizens who, after the fact of a gun show, purchase the gun.

It can be argued that it was outside the gun show, but the point of contact was inside the room, inside the organized gun show.

What if 2 or 3 years later you realize that particular collector, who you met at the gun show and visited with and you saw his particular collection at the gun show, has that one firearm that you want to add to your collection? Does that point of contact, therefore, require, under Reed-McCain, a background check? I believe it is a phenomenally gray area and a critical area for an awful lot of law-abiding citizens who, once again, out of a desire to put up a law that doesn't work, when you create a Federal bureaucracy, you throw them into the middle of the bureaucracy when they in every way have been law-abiding citizens. I believe that is a phenomenal risk to place on our citizens, and that is exactly what we are doing—placing a risk on a citizen when we have never before said that this was a problem.

The ATF did research a few years ago and found out that less than 2 percent—1.7 percent—of firearms involved in criminal activity came from a gun show and they said, oh, there is a loophole. If there is a loophole in a gun show, there is one outside of a gun show. The laws that pertain to every citizen outside the gun show today pertain inside the gun show as well.

Yet McCain-Reed says that is not good enough. This is a special activity—1,000 legal activities that go on across our Nation a year, and millions of people attend them not just to acquire a gun but to get information, to collect, do all kinds of things you do at normal shows.

So our Federal Government is going to decide to regulate one more activity of commerce out there in the free marketplace. Why? To set up a charade that hasn't worked and won't work any differently than it has outside the gun show.

Let's stay with the laws we have. Let's go after the criminal element. Let's keep S. 1805 a clean bill so we can get it to the President for his signature.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. CRAIG. Mr. President, I yield 5 minutes to the Senator from Colorado. He has worked with us and has the concealed-carry bill we will be voting on later today.

Mr. CAMPBELL. I thank my colleague.

Mr. President, before I make some comments on the amendment, No. 2623, which we discussed Thursday, listening to the Senator's comments about the so-called gun show loopholes and the point of contact, I might ask, what if a person goes to a gun show and sees something he might like and forgets about it and months later he sees it in a classified ad of a newspaper and buys it through the classified ad in the paper from the man who originally had it at a gun show the year before? Does that make the person liable who had the booth at a gun show? I think this amendment complicates things rather than answers things.

Mr. CRAIG. I think the Senator sees it clearly, as I see it. That has established a very big gray area. Of course, if that weapon fell into the hands of a criminal who misused it, and if that trace came back, that is a field day for a lawyer inside a court saying, you bet, that contact was made, that sale was initiated at a gun show, when the scenario could have been just as the Senator explained it.

Mr. CAMPBELL. Mr. President, I rise to comment on amendment No. 2623 of S. 1805, the Protection of Lawful Commerce and Arms Act, which was offered on my behalf by my colleague and friend Senator CRAIG from Idaho last Thursday.

This amendment is based on a bill I worked on for a number of years. I am pleased to say it has the broad bipartisan support of my colleagues. In fact, it has 67 cosponsors. It enjoys the support of numerous local law enforcement agencies, including the Fraternal Order of Police. I am delighted to have Senators HATCH, LEAHY, and REED joining me as original cosponsors of this amendment.

I was particularly pleased that last Thursday, a second-degree amendment was adopted naming this bill to honor Steve Young, the recently retired president of the 300,000-member Fraternal Order of Police.

This amendment, which is identical to my bill which was introduced as S. 253 and was reported out of the Judiciary Committee in March 2003, would permit qualified former and current law enforcement officers who are employed by or retired from a local, State, or Federal law enforcement agency to carry concealed weapons across jurisdictions.

A "qualified law enforcement officer" is any individual who has retired in good standing from service of a government agency as a law enforcement officer for a total of 15 years or more. The only exception is if the officer was separated from duty by a duty-related injury. Officers will be required to carry photographic identification issued by the agency for which they are or were employed. It is an extremely important measure.

With specific regard to retired officers, this amendment requires them to meet annually and at their own expense the very same standards that active officers must meet in the State where they reside. Thus, there should be no question as to the qualifications of either active or retired officers.

There are several important benefits to this amendment. First, the American public will undoubtedly be safer as off-duty and retired law enforcement officers are allowed to carry concealed weapons as they travel across jurisdictions. If enacted into law, the basic net effect will be thousands of additional police officers on the streets at zero taxpayer expense. Criminals and terrorists certainly will not be happy when this bill is passed. They would not be sure whether or not seemingly average citizens are actually off-duty or retired law enforcement officers who are armed, trained, and ready to deal with whatever situation may arise. I certainly believe that this type of knowledge should act as a major deterrent for anyone dumb enough to be contemplating crime.

Now there may be some who question whether or not this is a States rights issue. Let me address that for a moment. In this instance, it is exactly the wide and vast variety of different State gun laws that make this type of Federal legislation necessary. The result is this amazing maze of different laws in the States and other jurisdictions which results in a paradox for officers, and sometimes places them in extreme jeopardy.

Congress has the authority, under the "full faith and credit" clause of the Constitution, to extend full faith and credit to qualified active and retired officers who have met the criteria to carry firearms set by one State, and make those credentials applicable and recognized in the States and territories of the United States. My legislation maintains the State's power to set these requirements and determine whether or not an active or retired office is qualified to use the firearm, and it would only allow this vary narrow group of people to carry their firearms when traveling outside their immediate jurisdiction.

In the most simplistic terms, it is like a driver's license. Each State issues their own version and gives their own test, yet although the standards may differ from State to State, all drivers can still cross lines, as they have been recognized and certified to operate a motor vehicle on public roadways.

Congress has the authority to preempt state and local prohibitions on the carrying of concealed weapons and has done so in the past on the basis of employment for other professions.

To do the same for law enforcement just makes good sense.

This amendment will also help off-duty and retired law enforcement officers protect themselves and their families. All too often, after they are released from prison, violent criminals seek revenge against the law enforcement officers who helped lock them away. While at a minimum this legislation will even out the playing field for off-duty and retired law enforcement officers, I hope that it will go further and actually give them an advantage. This isn't a "firearms issue"—it is an officer safety issue. And without a doubt, on September 11, 2001, it became a critical public safety and homeland security issue.

This important law enforcement amendment is especially meaningful to me for a number of reasons. First of all, through 6 years of service as a deputy sheriff with Sacramento County, CA, I was able to get first-hand experience with the challenges facing our Nation's law enforcement officers. While in that position, I personally patrolled the streets and encountered some dangerous characters. I also clearly learned that a law enforcement officer's job does not necessarily end when he or she is off duty since you never know when you may come face-to-face with violent criminals.

Now is the time to clearly demonstrate the Senate's strong support for our Nation's men and women serving on the front lines of law enforcement. Law enforcement officers are a dedicated and trained body of men and women who are sworn to uphold the law and keep the peace. Unlike many other professions, a police officer is rarely "off duty." When there is a threat to the peace or to public safety, officers are sworn to answer the call of duty. Officers who are traveling from one jurisdiction to another don't leave their instincts or training behind them, but without being able to carry their weapon, all of that training and knowledge is basically useless.

This amendment will help officers protect themselves, their families, and their fellow Americans by harmonizing our Nation's conceal-carry laws for qualified off-duty and retired law enforcement officers.

More now than ever before, we all realize Homeland Security is vital to protecting our Nation, and this amendment will enhance the ability of our valuable law enforcement officers to do their job—to protect and serve.

One of the problems we have now, of course, is with multiple jurisdictions in multiple States. A good example is where I live in southwest Colorado, a law enforcement officer who lives, say, in Durango, only 30 miles from New Mexico, is duly authorized to carry a weapon on or off duty in Colorado. But if he goes to New Mexico, he is in violation if he has a concealed weapon. It seems to me we need some kind of blanket protection for law enforcement officers when they cross State lines.

Also, there is another factor involved in this issue, and that is we are in a new kind of war, one in which the Geneva Convention rules of engagement and distinguishing between an armed soldier or armed opponent and an innocent child is simply no longer a consideration. "Kill all Americans" seems to be the credo of terrorists, and because of that, American policemen, firemen, and EMTs have become frontline warriors.

I know some question that this is a States rights issue. As I explained, there is a patchwork, a crazy quilt of different jurisdictions, and we need some kind of Federal recognition of that. Congress certainly has this authority under the full faith and credit clause of the Constitution to extend full faith and credit to qualified and active retired officers who have met the criteria to carry firearms set by one State and to make those credentials applicable and recognized in all States and territories in the United States.

This legislation maintains State power to set these requirements and to determine whether or not an active or retired officer is qualified for continued use of a firearm. It would only allow, to a narrow group of people, the authority to carry firearms when traveling outside their immediate jurisdiction. I think this is very good. We have already done this in one case by allowing airline pilots to arm, and that bill did pass and was incorporated in H.R. 5005, which is now a public law. So this is not the first time we have done this.

I hope my colleagues will support this amendment when it comes up for a vote because I think it is going to be beneficial, not only to law enforcement officers, but certainly to people who rely on law enforcement officers who are off duty but still trained in the use of firearms and trained in the rule of law to protect us in this new kind of war.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CAMPBELL. I thank the Chair.

The PRESIDING OFFICER. Who seeks recognition?

Mr. CRAIG. Mr. President, I thank my colleague from Colorado for his excellent amendment and for his willingness to stand up and speak out on these critical issues.

I now yield 10 minutes of my time to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, Senators CAMPBELL, LEAHY, REID and I have offered as an amendment to S. 1805 the "Law Enforcement Officers Safety Act of 2003" which was favorably reported out of the Judiciary Committee with strong bi-partisan support during last session. This amendment, which permits qualified current and retired law enforcement officers to carry a concealed firearm in any jurisdiction, will help protect the American public, our Nation's officers, and their families. I note that this bill has the overwhelming support of the Fraternal Order of Police and other law enforcement associations, which have vigorously worked in support of this measure.

The amendment allows qualified law enforcement officers and retired officers to carry, with appropriate identification, a concealed firearm that has been shipped or transported in interstate or foreign commerce regardless of State or local laws. Importantly, this legislation does not supersede any State law that permits private persons to prohibit or restrict the possession of firearms on private property or any State law that prohibits possession on State or local government properties, installations, buildings, bases or parks. Additionally, this amendment clearly defines what is meant by "qualified law enforcement officer" and "qualified retired [or former] law enforcement officer" to ensure that those individuals permitted to carry concealed firearms are highly trained professionals.

There are approximately 740,000 sworn law enforcement officers currently serving in the United States. Since the first recorded police death in 1792, there have been more than 16,300 law enforcement officers killed in the line of duty. A total of 1,800 law enforcement officers died in the line of duty over the last decade, an average of 180 deaths per year. In 2001 alone, there were 232 police deaths, representing a 49 percent increase from the 156 officers who died in 2000. Roughly 5 percent of officers who die are killed while taking law enforcement action in an off-duty capacity.

While a police officer may not remember the name and face of every criminal he or she has locked behind bars, criminals often have long and exacting memories. A law enforcement officer is a target in uniform and out; active or retired; on duty or off.

Because law enforcement officers are, in reality, never "off-duty," this amendment will not only provide law enforcement officers with a legal means to protect themselves and their families when they travel interstate, it will also enhance the security of the American public. By enabling qualified active duty and retired law enforcement officers to carry firearms, even when not on the clock, more trained law enforcement officers will be on the street to enforce the law and to respond to crises.

The idea that a police officer is never really off-duty is not some abstract concept. Let me share a real life off-duty example. Not long ago in Arlington, TX, Bradley Merreighn, a serial bank robber, walked into a bank, pulled out and pointed a gun at a young woman employee of the bank and demanded the bank's money. Unbeknownst to Merreighn, off-duty Arlington Police Sergeant John Gonzales was standing directly behind him with his two small children.

Merrieghn took the bank's money from the young woman and left the bank. Sergeant Gonzales instinctively identified himself to the bank's employees as an off-duty police officer, asked the bank employees to watch his children and, although unarmed, followed Merrieghn as he fled from the bank.

Sergeant Gonzales' police instincts were to try to tail Merrieghn to prevent him from hurting someone and to assist on duty police officers in apprehending him. Sergeant Gonzales commandeered a car outside the bank and followed Merrieghn. During the pursuit, Sergeant Gonzales fortunately avoided being shot and killed when Merrieghn unleashed a torrent of gunfire in an attempt to stop Sergeant Gonzales from following him. Ultimately, because of Sergeant Gonzales' instincts and efforts, other police officers were able to respond and, after a standoff, arrest Merrieghn before he harmed anyone.

The FOP has shared with Members of this body another example of the need for this legislation. Two Maryland police officers and their families were camping in Harpers Ferry, WV. While packing up their campsite following a 3-day camping trip, a gunman opened fire on another camper, wounding him in the lower leg. Two police officers instinctively directed their families away from the scene and retrieved their firearms.

They confronted the gunman with their weapons and ordered the gunman to the ground. After searching the gunman, the off-duty officers discovered that the man had several more live rounds for his shotgun in his possession. These officers held the gunman until West Virginia authorities could arrive. It was later discovered that the gunman had an extensive criminal history—including a murder conviction. The Jefferson County Sheriff's Department remarked that there was no way to know how many lives the off-duty officers saved that day.

Although they were certainly heroes, they were also in violation of West Virginia law because they possessed firearms. These brave officers—who prevented a massacre that day, on their day off and outside of their jurisdiction—were not charged, but they were in technical violation of the law. No one can argue that allowing officers to carry firearms off-duty and outside of their jurisdiction did not save lives that day.

These are but a few of the many examples of law enforcement officers acting on instinct to protect the public and thwart violent crime, even though they are not armed and face life threatening circumstances.

We should adopt this amendment because this important piece of legislation will provide that extra layer of protection to current and retired law enforcement officers and their families who have ably served our communities across the country.

I yield the floor.

AMENDMENT NO. 2637

Mr. HATCH. Mr. President, I am compelled to speak out against continuing this assault weapons ban proposed by Senator FEINSTEIN. An assault weapon is a military firearm which can be fired either automatically or semiautomatically with the flip of a switch. In other words, a true assault weapon is a machine gun, which is a gun already regulated by Federal law.

The firearms covered by the so-called "assault weapons" laws are semiautomatic handguns, rifles, and shotguns. Some of these firearms are made to look like a military-style weapon but are mechanically indistinguishable from any true traditional-looking deer rifle.

According to the FBI, in 2001, nearly five times as many individuals were murdered at the hands of criminals wielding knives than were murdered by criminals using rifles. I might add, only a fraction of those rifles were the semiautomatic rifles that were banned by the so-called assault weapons ban. What I think is most interesting and telling about this statistic is that the proportion is nearly identical to what it was 10 years ago; that is, according to the FBI, in 1991, 3 years before the assault weapons ban passed, nearly five times as many murders were committed with knives than rifles—exactly the same proportion as exists today.

The so-called assault weapons ban has succeeded in only one thing: law-abiding men and women, precisely because they abide by the law, were stripped of some of their second amendment rights. We cannot make the same mistake this body made 10 years ago.

The number of murders committed with different weapons has decreased in all areas, proportionally, over the last 10 years. The suggestion that the assault weapons ban is responsible for this decrease is as preposterous as it is misleading. There is no more evidence that the ban on semiautomatic weapons has had a positive impact on crime than there is that the setting Sun is responsible for street lights turning on.

The fact is, just as we feared 10 years ago, the only impact the ban on semiautomatic weapons has had has been on law-abiding citizens. I would like, therefore, to take a few minutes about how we ought to address gun violence. Instead of banning certain firearms for merely political reasons, we need to continue aggressively prosecuting criminals.

Rather than focusing on crafting and enacting more laws that erode law-abiding citizens' constitutionally protected rights, we ought to channel our efforts towards enforcing our current laws and punishing those who choose to abuse those rights and commit crimes with guns.

For example, President Bush has made a commitment to reduce gun crime by getting armed criminals off the streets through his initiative, Project Safe Neighborhoods. In contrast to the 10-year assault weapons ban and its ineffectiveness in combating gun violence is the overwhelming success of Project Safe Neighborhoods. Project Safe Neighborhoods, announced by the President and the Attorney General in 2001, is a comprehensive strategy that brings together Federal, State, and local agencies to reduce violent crime in our communities.

I might add that we have had a 68-percent reduction in violent crime since that came into being. And I might also add that the only way to keep this under control is to get tough on those who abuse the right to have guns and who abuse the use of guns.

The President is on the right track. We do not need this particular amendment. I hope my colleagues will not accept it.

This ought to be our approach. Not simply saying all guns of a certain appearance are banned. We must continue to vigorously pursue those who abuse the right to own a firearm—not stripping away law-abiding individuals' rights to own and possess firearms. Especially when, other than their appearance, those firearms are no different than thousands of other firearms that are considered legitimate. In fact, in May of last year, I held a hearing for the purpose of determining the effectiveness of Project Safe Neighborhoods. The results are in, and they are impressive.

The number of Federal firearms prosecutions has increased significantly every year under Project Safe Neighborhoods. Specifically, prosecutions have increased 68 percent in the past 3 years. In 2003, the Department of Justice filed over 10,500 Federal firearms cases—the highest number ever recorded by the Department.

Federal offenders are being sentenced to significant jail time. In 2003, approximately 72 percent of offenders were sentenced to prison terms greater than 3 years.

The per capita number of violent crimes involving firearms has dropped 14 percent since the start of the Bush administration. This has translated into an average of over 32,000 fewer gun crimes annually in each of the first 2 years of the Bush administration.

There were nearly 130,000 fewer victims of gun crime in 2001–2002 than in 1999–2000.

The President has been and Congress should be making America's neighborhoods safer by vigorously enforcing gun laws and preventing and deterring gun crime. Arbitrarily taking guns away from law-abiding citizens does not assist the President in making the neighborhoods of America safer.

Inthe course of the debate over gun liability my colleague, Senator DURBIN, spoke of Korean-American victims in Illinois. Let me tell you about Korean-American victims in California.

Many of the guns which current assault weapons bans are targeting—including the Federal ban enacted in 1994—are the very guns with which the Korean-American merchants used to defend themselves during the 1992 Los Angeles riots. For those of you who may not recall the Los Angeles Riots, let me tell you about this tragedy. On April 29, 1992, African Americans, upset over the verdict in the Rodney King case, took to the streets of Korea Town in downtown Los Angeles. Although these innocent Korean-Americans had nothing to do with the police brutality inflicted upon Rodney King, their businesses were singled out. Calls for help came in to 911 by the hundreds, but citizens were informed that no assistance was available. Order had broken down. People were on their own.

As a result of one night of violence, 55 people died, over 2,300 were injured and one billion dollars of property damage was sustained according to the Christian Science Monitor. Gunfire killed 35 people. Six died in arson fires. Attackers used sticks or boards to kill two people. Two other were stabbed to death. Six died in car accidents, two in hit-and-runs, and one person was strangled. The violence crossed racial and ethnic lines.

Seventy-five percent of the businesses destroyed belonged to Korean Americans. Those Korean-American merchants who possessed assault weapons and used them to defend themselves, would likely have a different story about gun control laws and how they help victims. The Korean-American merchants would agree that when one is facing mob violence and the police are unable to respond, one may need a gun that shoots more than just six bullets or has a menacing appearance. A ban on large capacity semiautomatic firearms will only harm one's ability to defend himself and his family rather than deter crime.

While most American spend little time thinking of what the police can do to protect them during times of domestic tranquility, there is no guarantee that this will always be the case. Citizens, like the police, have a right, and some would say a duty, to defend themselves and their families against deadly threats.

The assault weapons ban is a measure entirely devoid of rational thought. It is not based upon compelling factual data or civil necessity, but of political strategy and the machinations of overreactive, quick-fix ideologues. This amendment addresses neither the problem nor the solution, when it comes to gun crime. And because the amendment serves only the political agenda of the few and not the convictions and rights of the many, I strongly oppose the amendment.

AMENDMENT NO. 2636

Mr. HATCH. Mr. President, another issue I would like to talk about is the amendment sponsored by my colleague, Senator MCCAIN, the so-called gun show loophole.

Based on some of the arguments I hear made by Senator MCCAIN and his cosponsors, it is apparent there are some misunderstandings about what gun shows are, how they operate, and existing applicable laws.

Gun shows are large events that are open to the public. These events attract a broad range of people. They include collectors, hunters, target shooters, police officers, and those who serve in the Armed Forces.

Gun shows are an opportunity for Americans—fathers and mothers and their sons and daughters—to pass along a family tradition. Exhibitors at these gun shows include gun dealers who are all federally licensed, as well as gun collectors, hunting guides, target shooting clubs, and vendors of books, clothing, hunting accessories, and so on.

What Federal laws currently apply to gun shows? Contrary to popular opinion, there are no special exemptions for gun shows. Anyone who engages in the business of selling firearms must be licensed, regardless of where he or she does business.

More specifically, there is simply no such thing as an unlicensed dealer. In fact, dealing in guns without a license is a Federal felony, punishable by up to 5 years in prison and a substantial fine. Congress authorized licensed firearms dealers to conduct business at gun shows in 1986 under the Firearms Owner Protection Act.

So what happens when these dealers sell guns at gun shows? Have these dealers applied for and received Federal firearms licenses from the Bureau of Alcohol, Tobacco, Firearms, and Explosives? The answer is a simple yes.

Dealers are required by Federal law to conduct a criminal background check. They must conduct a check through the national instant check system at gun shows just as they would have had to do in any other location. So if we adopt this amendment, who will it affect? The answer is not surprisingly, but unfortunately ignored by the proponents of this amendment. The answer is it would affect law-abiding citizens who are out to hurt no one.

It would drive out and shut down the gun collectors who buy and trade some of their guns at gun shows. They represent a fraction of the exhibitors at gun shows.

Remember, gun collectors are not gun dealers and may not engage in the business of dealing firearms without a firearms license.

I would like to touch on an issue that many Utahns and I find particularly troublesome. If we adopt this amendment, it will effectively create gun owner registration.

I want to make sure my colleagues understand how this legislation, if it became law, would work. Under the amendment, special firearms event operators would have to verify the identity of all participating vendors and have those vendors sign a ledger saying they were there selling firearms, whether or not any of the vendors actually sold a firearm. This requirement is a modest improvement of the original bill, which, as introduced, would have required vendors to submit to the Attorney General the names of all vendors slated to participate in the Gun Show. Regardless of the slight change, it is clear what the sponsors of this amendment intend. That is, to track and register law abiding citizens who merely want to exercise their constitutionally protected Second Amendment rights.

So suppose a private, law-abiding citizen enters a gun show hoping to sale or trade a firearm, but that person does not make a deal and leaves with his own firearm. This person, this private law-abiding citizen, would be on file and in a ledger forever as a special firearms event vendor, copies of the ledgers to be used for any future purpose.

This amendment also purports to provide for instant background checks. Now, anyone who knows anything about the national instant criminal check system knows that they do not turn around such inquiries in 24 hours. In fact, currently, the national instant criminal check system has 3 days to turn around a request for a background check.

The amendment before us provides that the wait may be reduced to 24 hours if a State applies for the privilege of improving its records. With a 3-business-day period still allowed to check out-of-State records, a few large States will drag down the whole scheme for all transfers across the Nation.

Again, what is the practical effect? Gun collectors who occasionally attend gun shows for a day or two on a weekend will be shut down because they will not be able to have the national instant criminal check system run the required check on a prospective buyer and make such a transaction in that day.

There are two more important points that I think many of the Members in this body may have overlooked. First, in November of 2001, the Bureau of Justice Statistics released a report on imprisoned felons and where they obtained their firearms. Fewer than 1 percent obtained the guns they used to commit their crimes at gun shows. Of that 1 percent, only a fraction obtained weapons through collectors.

What does this tell us? The idea that shutting down collectors at gun shows will affect crime in any appreciable way is dramatically overstated, if not preposterous.

Criminals are getting their guns on the street or from the residential burglaries, but not from heavily police-attended gun shows.

Second, and I want my colleagues to hear this: Law enforcement and Federal prosecutors continue to use gun shows to weed out corrupt gun dealers. In fact, Federal prosecutors stress to me that passing this amendment would serve only to drive those few who would unlawfully deal in firearms without a license into the black market, into the back alleyways, and into the hidden areas of our communities, making it nearly impossible to locate and prosecute such criminals.

So not only will this amendment fail to address the true nature of the problem, but it will punish law-abiding collectors who choose to publicly trade their firearms.

I submit that adopting this politically driven, knee-jerk amendment, which only injects partisanship into a bill that otherwise enjoys broad bipartisan support, will have two effects: One, it will shut down lawful gun collectors who attend and trade guns at gun shows; and two, if it has any effect on crime, it will affect it negatively by driving the few dealers who are unlawful into the black market where it is exorbitantly more difficult for them to be located and prosecuted.

I urge my colleagues on other side of the aisle to re-examine their analysis, put politics aside, and reject this amendment.

It will serve no purpose in pursuing our common goal of fighting crime, but instead will only hurt innocent law-abiding citizens.

Let us not be distracted from the issue at hand.

We have legislation before us that enjoys broad bipartisan support and that deserves our attention. That should be the focus of our efforts, not passage of this unwise amendment.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Idaho.

Mr. CRAIG. Mr. President, I thank the chairman of the Judiciary Committee for his comments and the work that he has done to keep the gun laws in this Nation clean, appropriate where necessary, and enforceable without the entrapment of law-abiding citizens. I thank him for that work, and I yield the floor.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Rhode Island.

Mr. REED. Mr. President, I initially want to respond to some of the comments made by the Senator from Utah. I believe he read a legislative proposal that Senator MCCAIN and I submitted last fall, not the amendment that is before us today because we specifically removed from the amendment today any requirement for the turning in of lists of vendors at gun shows to the Attorney General of the United States. That is not in this amendment.

There is no requirement for unlicensed sellers to execute any paperwork. That requirement will be undertaken by a special licensee, presumably the gun show sponsor and operator, not the unlicensed gun dealer. Furthermore, there is no requirement to seek permission from the Attorney General or any Federal authority to conduct a gun show. So I think the comments of the Senator from Utah reflect not this amendment but previous proposals. This amendment has been specifically modified to make it as easy, as efficient, and as effective as possible to conduct these background checks.

The Federal authorities have a 3-day period of time in which to execute a gun show background check, but, frankly, with the National Instant Criminal Background System, we all know the facts are clear. Ninety-one percent of these checks are accomplished in less than 5 minutes; 95 percent in less than 2 hours. If the check is not completed in 3 days, then the transaction goes through. That is just a backstop in case there is information that these Federal authorities cannot obtain.

So, frankly, the suggestion that gun shows will be put out of business is quite wrong. Those places which have even tougher standards than those suggested by the McCain-Reed bill still have gun shows, and they are still highly popular and highly successful.

I thank the Senator from Idaho for his comments about North Carolina. My comments generally talked about closing the gun show loophole. As he points out, North Carolina requires everyone who is buying a firearm at a gun show to have a North Carolina firearm permit, which is probably a more demanding standard than we are suggesting in our amendment, and we would not suggest that. That is a State prerogative. Technically, they do not require all the background checks on licensees and unlicensees, but they do in fact require any purchaser to have a permit. That is a very stringent standard.

Now, there has also been some discussion today about the fact that this is going to cause tremendous chaos because what if someone saw a weapon at a gun show and then later called a private dealer. Well, that is why the amendment clearly defines activities that are not part of a gun show subject to this amendment.

The language states:

> does not include an offer or exhibit of firearms for sale, exchange, or transfer by an individual from the personal collection of that individual, at the private residence of that individual, if the individual is not required to be licensed under section 923 or 932.

For example, if someone is a private collector, if they have some guns in their home and they are selling those weapons from their home, then they are not subject to this provision.

It is as clear as we can make it to exempt the many people who are private collectors and the many people who, indeed, should not be subject to this license requirement.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

The Senator from Nevada.

Mr. REID. Mr. President, I yield 2 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for an additional 2 minutes.

Mr. REED. Mr. President, I want to thank my colleague, Senator REID from Nevada, for the 2 minutes.

In summary, this amendment that Senator McCAIN and I proposed is as sensible as I think one can ever fashion a law. When someone walks into a gun show with thousands of individuals, hundreds of booths, it makes no sense to the average person why one individual should require a background check and another does not have to conduct a background check in the sale of a firearm. It makes sense to have an even playing field.

These are public events. It is virtually impossible for a seller at a major gun show to know the background of all the potential purchasers. We know these gun shows are exploited. This is not hypothetical. They are exploited by criminals. Goodness gracious, it makes perfect sense why they would be. It is a supermarket where a person can obtain firearms without any background check. It is like a neon sign that says: Come here if you are looking to get weapons and you cannot buy them legally.

We know what happens. We also know because of the threat of terrorists that terrorists have looked at these gun shows as possible ways to obtain firearms. Frankly, I think the American public would demand, as they have in the past, anything we can do that would curtail access to dangerous weapons to terrorists.

So I hope we support closing the gun show loophole. I also hope we support the assault weapons ban. Finally, I think we have to carefully look at the underlying legislation as a severe encroachment on hundreds and hundreds of years—indeed, many years—of common law tradition.

The PRESIDING OFFICER. The Senator has used his 2 minutes.

Mr. REED. I yield the floor.

Mr. REID. Mr. President, I yield 3 minutes to the Senator from New Jersey, Mr. LAUTENBERG.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 3 minutes.

Mr. LAUTENBERG. Mr. President, I thank the Senator from Nevada.

This bill, which has been in place since 1994, held back on the availability of assault weapons, those holding more than 10 rounds in their cartridge holder.

The assault weapons ban amendment would simply extend the current ban on these deadly weapons for another 10 years, with no other changes in current law. It is hard to understand why we would not go ahead and simply extend this. The President of the United States said at one point that this ban should continue to exist. Assault weapons are intended for one purpose and one purpose only, and that is to kill as many people as possible in the shortest amount of time.

We should never forget that ill-fated day of April 20, 1999, in Littleton, CO, when Eric Harris and Dylan Klebold opened fire on teachers and fellow students at Columbine High School. They were armed with a TEC-DC9 assault weapon. When the shooting was over, 15 people, including the gunmen, were dead and 23 wounded. We can never forget the picture of those youngsters hanging out the window, pleading for help, pleading for safety, trying to protect themselves.

These assault weapons have no place in a civilized society. According to FBI data, one in five law enforcement officers who were killed in the line of duty between 1998 and 2001 were killed with assault weapons.

Even terrorists have identified our gun laws as a point of vulnerability. Found among the rubble at a terrorist training camp in Afghanistan was a manual called "How I Can Train Myself for Jihad." The manual stipulates that terrorists living in the United States should "obtain an assault weapon legally, preferably AK-47 or variations."

It also advises would-be terrorists on how they should conduct themselves in order to avoid arousing suspicion as they amass and transport firearms. It defies logic to understand why it is that we have to protect those who want to have assault weapons.

I was in the Army during the war. I carried a carbine. Assault weapons were available for those in the infantry—sometimes—so they could kill as many of the enemy as possible. Who is the enemy here?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. REID. I am happy to yield an additional minute to the Senator.

The PRESIDING OFFICER. The Senator is recognized for an additional minute.

Mr. LAUTENBERG. Mr. President, who would be the enemy in this case? More law enforcement officers? More kids in a school? More people in an office where a disgruntled employee took out his rage by pointing a rapid-fire weapon at fellow workers?

No, this amendment makes all the sense in the world. Ban these weapons. Don't let them continue to be available in our society—assault weapons, weapons of war.

Why is it necessary to ensure that the rights of those who would carry that lethal a weapon be protected? I see no sense in it, and I hope my colleagues will take a second look. I hope those who support the gun immunity bill will take a second look and say: You know what, this is not a fight worth having. We don't need these weapons in our society, and we ought to continue this ban as it is.

I would have preferred something stronger, and I think people here know that, but let's at least continue the ban as it exists, as the Senator from California presented it.

I thank my colleague from Nevada and yield the floor.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Idaho.

Mr. CRAIG. Mr. President, would you notify me when I have used 5 minutes of my remaining time?

The PRESIDING OFFICER. The Chair will notify the Senator.

Mr. CRAIG. Mr. President, why are we on the floor today debating a law, not debating a proposed law? We are debating this law because some years ago, when the Congress put it in place, they said, let's sunset it to force Congress to come back and look at it to see whether or not it worked. Because at that time there was a concern and somebody sought a political placebo to go home to their constituents and say, look what I did for you to protect you and therefore the world is safer. But many of us said, wait a moment, let's watch the law and see if it works. Let's put a sunset in it and come back and revisit it. That is what we are doing today.

In September of 2004, the assault weapons ban expires and the great debate is whether we ought to extend it for another period of time or whether we should not. The rationale to extend it is based on the fact it worked.

If it is a good law in place, it ought to be extended. I think the argument today is, fundamentally, did it or did it not work? That is the business of statistics and polling and data. The Senator from California, who offered the extension, used tracing data. I am using data that has been put forward by the Justice Department. Let's compare the two.

I am not saying the Senator from California's data is wrong. What she presented to the Congress, and to the Senate, is an accurate presentation. But let's put it into the context of how it was intended to be used because I don't believe it was intended to be used for this debate.

What is tracing data from BATF? This is a phrase to remember when you are talking about tracing data: Not all crime guns are traced—period. Not all gun traces are of crime weapons. Not all traces are of crime weapons.

For example, if you get a search warrant and you go into a house and you find firearms and the police department wants to know from whence they came, you do a trace. Were they used in the commission of a crime? No. In other words, it is an intelligence-gathering piece of information for the law enforcement community.

In 1994, in the passage of the assault weapon ban, there was this bubble of public interest because there was a lot of accusation out there that semiautos and assault weapons were the common weapon of the criminal. A lot of traces were done during that period of time. It tapered off over time. So if you argue it worked, the law worked—it didn't. It was simply reassessing the value of the trace at that time and the need to trace.

Back to the same premise: Not all crime guns are traced and not all gun traces are of crime guns. It is an information-gathering tool by BATF.

Let's turn to this statistic. Let's turn to the 2 percent of semi-autos used in the commission of a crime pre-1991; same difference after the passage of the bill and the implementation of the bill.

Where do my figures come from? My figures come from the Justice Department, from extensive surveys of criminals now in prison as to how they gained their gun, and through additional information and polling data; a different purpose and a different educational informational flow.

The Senator from California, BATF, mine, the Justice Department—are they inaccurate? No. But, if you are really talking about a reason, a basis from which to extend the current law, and you look at this and some people stand on the floor and say, oh, you have to stop this because this is the weapon of choice of criminals and they are using it all the time, that simply is not true. Those facts do not bear out. That is not a valid basis from which to argue the extension of the semiauto ban.

The Senator from California said "all" law enforcement—and she went through several. Many law enforcement groups have said: Extend it. Why? I guess it is logical. I will tell you one that didn't, though, the Western States Sheriffs' Association. The elected sheriffs of the Western States of this Nation, when the Brady Center brought them a resolution and said, here, we want you to pass this supporting the extension of the semiauto ban, they voted on it and voted it down by a very large margin.

Why? They looked at the statistics and saw that this bill would have more to do with stopping law-abiding citizens from owning the gun of their choice and very little to do with the crime element.

Let us return to the weapon that is the choice of the criminal. It is not packing around a rifle. Somehow they are just visible on the street. It is the handgun. It always has been the handgun. It is the choice, tragically enough, of most of the criminal element. Sure, there is a small percentage—less than 2 percent. Pictures have been shown graphically about the assault weapon and what it is.

Well, what is a semiauto rifle? I went through that argument yesterday. A semiauto rifle, semiauto shotgun, a semiauto pistol is one that you pull shot by shot, trigger by trigger. You do not depress the trigger and rapid-fire your entire amount of ammunition within the weapon itself.

The PRESIDING OFFICER. If the Senator will suspend, the Senator has used 5 minutes.

Mr. CRAIG. I thank you, Mr. President. I allot myself 2 more minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. CRAIG. Machine guns: Fully automatic—the kind that is already banned. You can acquire them by permit from BATF to put in your collections, but you can't go to the street and buy them unless you buy them illegally and you buy them in the black market. You don't buy them at gun shows. That is the reality of what we are talking about.

Where lies the burden of proof to renew or re-up a law that has restricted the ability of law-abiding citizens, created another tripwire, and denied them what is a legitimate ownership right in this country? Less than 2 percent. I believe those are fully verifiable statistics when we are examining this. That is why the House and many others have said, no, let's not go there. Let this law expire. It may have been necessary at the time largely for political purposes only. Many of us opposed it then, saying it wouldn't work and it wasn't necessary. It didn't work and it isn't necessary. That is the reality of what we are doing.

Let us take this law from the books. Let us make sure we go after the criminal who misuses the gun—who uses a gun in the commission of a crime. That is where we get law enforcement. That is how we protect law-abiding citizens in this country and we don't thereby deny them their constitutional right.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. REID. Mr. President, I have 7 minutes under my control. It is my understanding that the Senator from Arizona wishes to speak for 2 minutes. I yield the Senator from Arizona 2 minutes.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 2 minutes.

Mr. McCAIN. Mr. President, let me just for a minute put a practical face on the issue we are talking about this morning. These are just a few examples of the criminals who are exploiting this loophole.

Ali Boumelhem, a Lebanese national, member of the terrorist group Hezbollah, arrested and convicted for attempting to smuggle firearms bought from Michigan gun shows to Lebanon; Muhammad Asrar, a Pakistani national in this country on an expired visa who admitted to buying and selling firearms at Texas gun shows. Asrar is a suspected al-Qaida member who obtained a pilot's license and had photos of tall buildings in American cities and, though seemingly impoverished, purchased a time-share for a Lear jet. And Conor Claxton, an admitted member of the Irish Republican Army, spent over $100,000 at Florida gun shows and through other private dealers to obtain firearms to smuggle into Ireland.

We are talking about the ability of terrorists—the proven record of terrorists exploiting the gun show loophole for the purpose of obtaining weapons that could be used against the United States of America.

This is a serious amendment and a serious issue. I want my colleagues to understand when voting on this amendment that there have already been cases where members of known terrorist organizations have exploited the gun show loophole and purchased weapons with which to eventually commit acts of terror against the United States of America. This is not an issue that should be in any way dismissed. There are many others.

Mr. Thomas Timms was arrested October 2003 with 147 guns and 66,000 rounds.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. McCAIN. Mr. President, do I have time remaining on my time?

The PRESIDING OFFICER. The Senator has used his time.

Mr. REID. Mr. President, I yield 2 minutes to the Senator from New Jersey. I would like to reserve the last 3 minutes for the Senator from Rhode Island, Mr. REED, on this matter.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 2 minutes.

Mr. LAUTENBERG. Mr. President, I don't know what we are talking about when I listen to the speeches. I hear it said that these aren't necessarily the guns of criminals.

By the way, I asked the question whether the two kids who killed their classmates and others in Columbine High School, were they criminals before they started to shoot that gun? I don't think so. The question is, how does the gun get into their hands? It was an assault weapon, and we ought to ban these weapons. The President of the United States even said so.

I heard reference to the fact there were organizations that said this ban should be removed. I want to talk about those who want to support the ban. For instance, the Fraternal Order of Police, the world's largest organization of sworn law enforcement officers; the International Brotherhood of Police Officers; the Major Cities Chiefs of Police; the International Association of Chiefs of Police; the Hispanic American Police Command Officers Association—and the list goes on.

Let us listen to what the people are saying. Who are we protecting? Are we protecting the average citizen? Are we protecting the worker who has a disgruntled fellow employee pull the trigger? I don't think so.

We ought to continue this ban.

The PRESIDING OFFICER (Mr. ENZI). Who yields time?

Mr. CRAIG. Mr. President, may I inquire how much time remains?

The PRESIDING OFFICER. Five minutes 30 seconds.

Mr. CRAIG. Mr. President, we are within a short time of beginning three very critical votes today starting at 11:30 on three very important items.

First, let me start with the underlying bill, S. 1805. The Statement of Administration Policy is to keep the bill clean. Don't add all of these other amendments to it. It is a clean, well-drafted, narrow provision that says we are going to exempt law-abiding gun manufacturers and dealers who play by the rules from third party suits of those who might take a law-abiding object and turn it into a criminal weapon; and that action should not be allowed to reach back through the court system and go after law-abiding gun manufacturers and licensed dealers.

Product liability: Don't change that law. Standard tort law: Don't change that law. But we narrow and we define so that all of these new creative arguments that the trial bar is trying to bring up in the 30-plus lawsuits they have brought don't fit anymore.

It is plain and simple. We go back to old tort in this country that says the individual is responsible for their actions. The individual is responsible for their actions. That is the underlying premise of S. 1805.

Added to that, certainly the Senator from California will attempt to extend the assault weapon ban.

A few moments ago I argued that there is no clear evidence, and the Justice Department's own statistics would argue that it really doesn't make a lot of sense.

The Senator from Arizona talked about the gun show loophole and mentioned that it is now accessed by terrorists for their weapons of choice. He also didn't mention that all of those terrorists were arrested. Somehow the law worked. They were caught. They were illegal. They may have made the point of contact and they may have lied and they may have acquired a firearm which they could have acquired outside of a gun show, but they were caught. They were arrested. They were trafficking in guns. And darn it, that is illegal in this country. We have well established that.

Do you create a whole new bureaucracy and a whole new hurdle over which the law-abiding citizen has to jump? I don't think so. I hope not. Or do you really create that gray area that I talked about earlier?

What if I go to the gun show and see the gun I like, but it is a licensed dealer, it is a collector, and months later I have his card? I call him up and I say, I visited with you at the gun show. I have decided to buy your weapon, the firearm. I want to add it to my collection. I want to add it to my personal inventory.

A legal action, it is today a legal action. If the gun show loophole bill passes, I think it is a phenomenally gray area. We set up another tripwire for the law-abiding citizen.

The Senator from Arizona and I know how creative the trial bar is. Let's at least argue that they discussed it and that they avoided the background check at that time by buying it outside the gun show. The point of contact was the gun show. The point of contact for millions of Americans who legally buy firearms is the gun show, with 1,000 gun shows a year, millions of people attending them. So now we overlay that with the Federal bureaucracy.

Yes, States do shape gun shows in their own likeness, and I don't object to that. Permits are required in some instances. Twelve States have done so. Have they plugged a loop hole? They have required that on all gun sales in their State, whether they are done inside of a gun show or outside of a gun show. Is that plugging a loophole or is that standardizing a law that fits that given State and the population of that State? That is 12 or 15, at the most. The rest have not. We had those kinds of requirements in the State of New York in 1911 and Congress did not speak to it. It was not called a loophole then. It was called a loophole only when the BATF, in their survey, said there might be a loophole through which some might be acquiring guns. One percent, 2 percent, 20 percent—how about 1.7 percent? It was true before the law; it is now true after the law.

Did the law work? In the case of assault weapons, it did not work. We have denied it before, but what the Senator is going to say, let's plug the loophole in the gun shows and then later on let's reach outside the gun shows and do the same thing, by gosh, that is called gun control. When the right of a free citizen to engage with his neighbor, which they have exempted now, and they have trimmed it down a bit—and I don't argue that—that is a new Federal law over all of our citizens. I question the need and I question the responsible act.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, let me first indicate that this legislation already includes an amendment by Senator BOXER on child safety locks, so the bill is not clean.

The question today is, Will we add additional sensible gun safety measures? One of them is the assault weapons ban. That is something that is entirely appropriate, one that has been supported by vast numbers of the American public, that we should continue.

The idea we are suddenly going to open up, once again, access to assault weapons across this country is difficult to bear, particularly by police officers. That is why they are so committed to this extension of the assault weapons ban because they are the individuals who have to face these weapons on the street.

There is another amendment which I cosponsored with Senator McCAIN that will close the gun show loophole. Senator McCAIN pointed out quite clearly the terrorists who have already been identified as exploiting this loophole or attempting to exploit it. Indeed, I suspect there are others because the nature of terrorists is that they do not go around advertising themselves too much. The loophole is there. They know it is there. They will exploit it to our detriment. It is our responsibility to do everything we can to prohibit, preempt terrorists from attacking us within the United States.

My colleague from Idaho conjured up this fear that this legislation is creeping gun control; this amendment will interfere with private sales. That is why the McCain-Reed amendment clearly specified that it does not apply to the sale, exchange, or transfer by an individual from the personal collection of that individual at the private residence of that individual. That is a private transaction unaffected by this legislation.

We know this loophole is being exploited. We know guns are going into the hands of criminal elements, perhaps terrorist elements, through the gun show, and we also know it makes no sense to anyone—forget legislative, forget advocates, the common person—to walk into a gun show and understand some people have to do background checks and others do not because those weapons are equally dangerous. The potential customers of these shows could be terrorists, could be criminals. We have to be responsible and reasonable. That is exactly what this amendment does.

This amendment does not create any new Federal bureaucracy. It does not require a gun show operator to report vendors to the Attorney General. It does not require that the Attorney General approve a gun show. It places no administrative burden practically at all on an unlicensed vendor.

Just remember, 5 years ago, two young men went into a high school and killed 13 people because they were able to exploit the gun show loophole.

The PRESIDING OFFICER. Under the previous order, the time from 11:15 a.m. to 11:25 a.m. is under the control of the Democratic leader or his designee.

Mr. REID. Mr. President, I yield 6 minutes to the Senator from Massachusetts, Mr. KERRY.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, the issue before the Senate today can really be summed up in one word: Responsibility. I first started hunting with my cousins when I was a kid, and I still enjoy hunting today. I believe strongly in the second amendment. I believe in the right to bear arms as it has been interpreted in our country.

But I also believe that with our rights come fundamental, commonsense responsibilities. The right to bear arms is a right that should be protected for law-abiding Americans who want to protect themselves and their families.

There is, however, no right to place military-style assault weapons into the hands of terrorists and/or criminals who wish to cause American families harm. There is no right to have access to the weapons of war in the streets of America. For those who want to wield those weapons, we have a place for them. It is the U.S. military. And we welcome them.

If we do not act today to continue the ban on these deadly weapons, then our families in America, our police officers in America, are more threatened than they ought to be. For 10 years, the assault weapons ban has stopped fugitives, rapists, and murderers from purchasing weapons such as AK–47s. And for 10 years, not one honest, responsible American has had their guns taken away because of this law.

It is interesting that a few months ago I was actually hunting in Iowa with the sheriff and with some of his deputies. As we walked through a field with the dogs, hunting pheasant, he pointed out a house in back of me, a house they had raided only a few weeks earlier, where meth and crack were being sold. On the morning when they went in to arrest this alleged criminal, there was an assault weapon on the floor lying beside that individual.

That sheriff and others across this country do not believe we should be selling these weapons or allowing them to be more easily available to criminals in our country. That is why gun owners across America support renewing the assault weapons ban. They support also closing the gun show loophole so that gun shows can continue uninterrupted without being magnets for criminals and/or terrorists who try to get around the law.

If there is a gun show loophole, a terrorist could simply go to one State, go into the gun show, buy a gun without the kind of ground check normal in the process, leave that gun show, travel to another State, and engage in either criminal or terrorist activity or both.

Let's be honest about what we are facing today. The opposition to this commonsense gun safety law is being driven by the powerful NRA special interest leadership and by lobbyists in Washington. I don't believe this is the voice of responsible gun owners across America.

Gun owners in America want to defend their families, and I believe the NRA leadership is defending the indefensible. There is a gap between America's "Field & Stream" gun owners and the NRA's "Soldier of Fortune" leaders.

When he ran for President in 2000, President Bush promised the American people he would work to renew the assault weapons ban. But now, under pressure, he is walking away from that commitment, as he has from so many other promises—from education, to the environment, to the economy. This President says he will sign this giveaway to the gun industry, but he is refusing to sign the assault weapons ban he told America he would support.

I believe gun owners have a responsibility, and so does the President of the United States—a responsibility to keep his word, a responsibility to do what he says he will do, a responsibility to protect Americans from danger, and to provide for the common defense.

There is a reason every major law enforcement and police group in America supports this ban. They know no police officer should ever have to face the prospect of being outgunned by the military-style assault weapons. No American citizen should have to live in fear of being gunned down by snipers, gang members, or even terrorists who wield assault weapons.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. REID. Mr. President, is there any time left on our side?

The PRESIDING OFFICER. Four minutes.

Mr. REID. Mr. President, I yield the remaining time to the Senator from Massachusetts.

Mr. KERRY. I thank the distinguished leader.

President Bush needs to tell America's police officers why he is not standing on their side.

Today George Bush will celebrate the anniversary of the creation of the Department of Homeland Security, and I am glad the President joined us in that effort. But it will take more than a big, new bureaucracy to make America safer. Today airport screeners are being cut, air marshals are not getting trained, fire departments only have enough radios for about 50 percent of the firefighters, and almost two-thirds of our firehouses are shortchanged. The COPS funds have been eliminated in order to fund the President's tax cuts for the wealthiest few. By taking cops off our streets with one hand, and allowing military-style assault weapons back on them with the other, this President is jeopardizing the safety of our communities. It is wrong to do so, to pay for more tax breaks for billionaires and pay back more favors to a special interest lobbying group.

Let me just say one word quickly about the overall issue of liability itself. I am not for, and I do not think any reasonable person is for, a gun manufacturer being held liable for a murder that takes place in the life of America, unfortunately too often. But what we do know is about 1.2 percent or so of gun dealers and wholesalers are responsible for about 57 percent of the weapons that wind up in the hands of criminals. There are many "straw" transactions that take place in situations where manufacturers know who the problem dealers are.

To not have a wanton-and-reckless-conduct standard for liability is to avoid responsibility; it is to allow people to look the other way, as they have in the past, when we demand responsible actions in the communities of America.

I believe American gun owners are right to act responsibly and to live by common sense, and I am proud to stand with those gun owners today. I hope President Bush, the NRA leadership, and other lobby groups will reverse course and join the millions of Americans who know gun rights and gun responsibilities are mainstream American values, and that is what we should vote for in the Senate.

I thank the leader for the extra time.

Mr. FEINGOLD. Mr. President, I wish to speak today on the bill before us, S. 1805, and some of the amendments relating to firearms that have been offered to it.

Listening to the debate on this issue, the American people might get the impression that there are just two sides to the gun debate: On one side are those who view the right to bear arms as absolute and oppose any proposals that could remotely be considered as restrictions on that right. On the other side are those who view gun use as an evil in our society that must be limited in any way possible. Sometimes the rhetoric gets turned up so high that reasoned analysis and debate is obscured. That is unfortunate.

I have never accepted the proposition that the gun debate is a black and white issue, a matter of "you're with us, or you're against us." Instead, I have followed what I believe is a moderate course, faithful to the Constitution and to the realities of modern society. I believe that the Second Amendment was not an afterthought, that it has meaning today and must be respected. I support the right to bear arms for lawful purposes—for hunting and sport and for self-protection. Millions of Americans own firearms legally and we should not take action that tells them that they are second-class citizens or that their constitutional rights are under attack. At the same time, there are actions we can and should take to protect public safety that do not infringe on constitutional rights.

I supported the Brady bill requiring background checks of gun purchasers. I have voted in favor of closing the gun show loophole that unacceptably increases the danger that a gun will fall into the hands of a criminal. And I support child safety locks and other measures to make firearms less dangerous to gun owners and their families. These are reasonable measures that do not infringe on the rights of law-abiding citizens to own and use guns.

On the other hand, I have long opposed banning handguns, requiring national gun registration, and restricting the rights of young adults to own guns even if they are well trained and operating under adult supervision. I believe that prohibiting certain types of weapons is problematic as well. Although I voted for the ban on certain kinds of semi-automatic weapons in 1994, I have come to believe that it is a largely arbitrary and symbolic measure. Citizens see it as a first step towards confiscating their firearms. I will, therefore, vote against its reauthorization.

Finally, on the bill before us, I do not believe that granting special liability protection to the gun industry is necessary to protect the right to bear arms. There is no evidence that liability lawsuits threaten the existence of the gun industry in America. I believe it would be a mistake to impose a nationwide standard of tort liability on this industry that is more lenient than the standard that applies to the manufacturers or suppliers of any other product. The gun industry, like other industries, owes a duty to consumers of reasonable care, and juries of citizens are best able to define that standard as they do in tort cases of every imaginable type every day in this country. Giving sweeping liability protection will cut off the rights of those injured by negligence and set a very dangerous precedent for how Congress treats corporate wrongdoers. I will, therefore, vote against S. 1805.

I realize that many have very strong feelings about gun issues. But I also believe that most Americans favor a moderate approach. That is the approach I intend to follow. My votes will not satisfy those on the extremes of this debate, but I believe they reflect the commonsense views of reasonable Americans who regret that this issue has become the subject of such overheated rhetoric.

Mr. BIDEN. Mr. President, I rise today to make plain my strong opposition to the bill under consideration today, S. 1805, the "Protection of Lawful Commerce in Arms Act." Let me state at the outset, I support the rights of law-abiding citizens to own and appropriately use firearms. But this bill has nothing to do with protecting those citizens' rights. Instead, this bill is about protecting rogue gun manufacturers that sell defective products and rogue gun dealers who turn a blind eye to suspicious sales and thefts.

The shorthand title for the bill is accurate, the Gun Industry Immunity Act. I won't mince words, this bill gives an entire industry a free pass. In exchange for that free pass, hundreds of thousands of victims across the county will confront closed doors at the courthouse. While I recognize that the bill carves out a set of exceptions of permissible law suits, this is cold comfort. The exceptions are extremely narrow and do not provide reasonable opportunities for legitimate lawsuits to proceed. I am deeply troubled by the fact that this bill will stop pending and future civil lawsuits against the gun industry, including those filed in the wake of the DC Sniper shootings.

As the American public well knows, prior to their killing spree, John Muhammad and Lee Malvo allegedly obtained a Bushmaster rifle from a store in Tacoma, Washington, the infamous Bull's Eye Shooter Supply Shop. This rifle was one of 238 weapons that disappeared from the store's inventory over a three year period. More than fifty of those same "missing" firearms turned up in crime traces. Civil suits have been filed against Bull's Eye alleging that the store was negligent by failing to keep track of its weapons, and against the gun manufacturer alleging that continuing to supply such dangerous weapons to a store that cannot maintain accurate track is also negligent conduct. But under today's bill, these allegations do not fit the narrow exceptions of permissible suits. Legal experts David Boies and Lloyd N. Cutler, as well as the Congressional Research Service, opine that these sniper suits will be dismissed immediately if the President signs the gun industry immunity act. In real terms this means that the snipers' victims, including Denise Johnson, widow of the Montgomery County bus driver Conrad Johnson, and the family of James "Sonny" Buchanan, who was gunned down while mowing the lawn, will have no remedies.

Another lawsuit that will be derailed if the gun industry immunity bill passes is a 1999 case against a gun dealer who repeatedly supplied a so-called "straw purchaser" with handguns, one of which killed 9-year old Nafis Jefferson in Philadelphia, PA. I was struck by what Nafis' mother said when advised that her lawsuit may be dismissed. She stated, "Before this happened, I believed in the American dream. You work hard, you have a family, you have a good life. This—this has devastated me. I understand commerce, but there also has to be common sense."

Under the gun industry immunity bill it is quite likely that a pending suit filed by the families of two New Jersey police officers will be dismissed. The officers' families have sued the gun dealer who sold the gun used to shoot them, one of twelve guns the dealer sold in one transaction, in cash, in circumstances so suspicious that the dealer subsequently called to alert the Bureau of Alcohol, Tobacco and Firearms. Yet rather than having the careful consideration of the facts by judge and jury, today, Congress will decide that Mr. McGuire's and Mr. Lemongello's families cannot pursue any remedies in civil court.

A family in Massachusetts will also be denied a right to sue should the Gun Industry Immunity Bill pass. Twenty-six year old Danny Guzman was killed with a 9 mm Kahr Arms gun. The gun was one of a dozen taken from Kahr's unsecured factory, some by the manufacturer's own employee with a criminal record and history of drug abuse. The guns were taken before serial numbers had been stamped on them, making them very difficult to trace. Eventually, a young child found the gun used in Mr. Guzman's death behind an apartment building close to the scene of the shooting. A Massachusetts court found that the suit alleges valid negligence and public nuisance claims against the gun manufacturer and it is set for trial. Yet today's bill would deny Mr. Guzman's family their day in court.

Some have characterized the lawsuits against the gun manufacturers and dealers as "junk" suits that are cluttering our court houses and bankrupting the industry and thus, justifying this extraordinary solution of blanket civil immunity. But our local, State and Federal judges and court personnel are no where to be found in this debate. No letters or reports document an inundation of firearm lawsuits plugging up the halls of justice. Furthermore, there is no evidence that our State and Federal courts cannot efficiently and effectively manage the pending forearm lawsuits. Indeed, the opposite is true. Look no further than a recently issued opinion by the U.S. Court of Appeals for the Second Circuit in which the court addressed the certified question on whether state law created a duty to protect victims of handgun violence from injury caused by illegal gun trafficking. This Court wrote a careful and balanced opinion that fully addressed the issue. As a former Chairman of the Judiciary Committee, I am well aware of the complicated and deliberate process courts follow to develop tort law. I am not persuaded that Congress should tread into these waters so adeptly managed by our nation's judges and juries.

Gun manufacturers and dealers are not above the law. The gun industry Immunity bill is a radical and unprecedented attempt to undercut common tort law, usurp the responsibilities of judges and juries and most importantly, deny worthy victims of their day in court. I urge my colleagues to vote against S. 1805, and thank the distinguished Senator from Rhode Island for his hard work fighting this bill.

Mrs. CLINTON. Mr. President, I rise to join many of my colleagues, led by Senator REED of Rhode Island, to express the strongest opposition that I possibly can to the legislation before the Senate. I want to say, Mr. President, that enough is enough.

In doing so I am proud to not only stand with many of my colleagues but many of my fellow Americans who are on the front lines trying to keep our communities safe, such as our chiefs of police, other law enforcement, and mayors from around the country, as well as the tens of thousands of victims of gun violence, including my friends Jim and Sarah Brady.

Here in Washington, there is a lot of talk about responsibility and accountability. Yet, this legislation does just the opposite. It does nothing but shield irresponsible gun makers and gun sellers from accountability.

Gun owners are asked to act responsibly and the vast majority of them do. Gun makers and gun sellers should be held to the same standard. And yet, the legislation before us—the gun immunity bill—says to gun makers and gun sellers that they don't need to meet the same standards as every as other business is required to meet, and that is to conduct one's business in a reasonable and non-negligent manner.

No other industry has the kind of protection that the NRA is seeking on behalf the gun industry with respect to a relatively small number of lawsuits that have been filed or may be filed in the future. I simply cannot understand why the Congress would give this extraordinary and unprecedented liability protection to the gun industry.

Mr. President, we must do all we can to defeat the gun immunity bill which, among many other things, will give legal protection to the gun dealer—Bull's Eye Shooter Supply—who armed the D.C. area snipers and will take away the right to sue from the victims. What an injustice to the DC sniper victims and the American people. What a real shame.

Let me be clear, Mr. President. Despite protestations and suggestions to the contrary, this bill isn't about helping people. This bill is not about the rights of hunters.

Not one single gun owner will be helped by this immunity legislation. This bill is also not about jobs. This is about serving the will of the gun industry first, and the interest of the American people a distant second.

As noted by Mayor Bloomberg of New York City, Mayor Daley of Chicago, Mayor Kahn of Los Angeles, and Mayor King of Gary, in an op-ed in the New York Times opposing this bill, federal data from 2000 shows that a little more than 1 percent of dealers account for 57 percent of all guns recovered in criminal investigations.

Responsible gun sellers should be angry about this. They should demand action to clean up their industry. Yet, the legislation the Senate is considering now would say to the small group of irresponsible gun dealers, "don't bother running a responsible business," and "you are not responsible for your actions no matter how reckless or negligent they may be."

Before addressing the specifics of this legislation, let me clear up some other misinformation about how criminals get their guns. Many falsely believe that criminals and drug dealers steal most of their guns and that gun dealers are not responsible in any way for the vast majority of guns that end up being used in violent crime, that it is the fault of criminals. This is simply not true.

In 1998, a Northwestern University study of records maintained by the Bureau of Alcohol, Tobacco, and Firearms demonstrated that more criminals buy their guns new than steal them. Specifically, the ATF determined that while more than 11,000 of the weapons traced were stolen from licensed gun dealers or residences, almost four times as many—more than 40,000—were sold by licensed dealers. This number is astounding.

Almost four times as many guns recovered from criminals by the ATF were gained through licensed traffickers and not through theft.

This is an important point to note because if most guns used in crimes in our country are not stolen but in fact are purchased, manufacturers and sellers of guns and ammunition can greatly influence the degree to which guns flow get in the hands of criminals.

Gun dealers hold an enormous and unparreled power over the supply of guns in America. While most gun dealers who wield this power act responsibly, the negligence and irresponsibility of a few bad seeds, like the Bull's Eye Shooter Supply in Tacoma, WA, are the cause of the problem. These bad gun dealers, the 1 percent of dealers who account for 57 percent of all guns recovered in criminal investigations, need to be held accountable. Yet this bill removes that accountability.

This legislation removes that accountability through section 3 of the bill, which precludes even the bringing of civil actions against gun manufacturers, gun dealers, distributors, sellers of ammunition, and even trade associations in any Federal or State court.

By the way, the prohibition on commencing an action applies not just to individuals, but to states, local governments, and, incredibly, even the federal government.

Section 3 also states that pending civil actions "shall be immediately dismissed" by the court in which the action was brought.

This bill is particularly disturbing to me because it directly and significantly affects New Yorkers. Currently, the City of New York has a suit pending—initially commenced by Rudy Giuliani when he served as Mayor of New York. Given that bill proponents have argued that this legislation is needed to protect against frivolous lawsuits, are they suggesting that Rudy Giuliani would file such a lawsuit against the gun industry. I don't think so.

It would be a shame if New York City's suit were to be dismissed because New York City—under the

Giuliani administration—filed suit to try and protect the health and safety of New Yorkers by getting the gun industry to change its practices.

Indeed, a New York federal court has already found in another case that gun manufacturers improper sales and distribution practices contribute to the illegal gun market in NY State, and there is ample evidence, including a study conducted by the National Economic Research Associates, that if gun manufacturers and sellers change their practices and use care and act responsible in their selling practices, many fewer guns wind up in the hands of criminals and used in committing crimes.

And the New York Police Department—the largest and one of the finest law enforcement agencies in the world—has had to expend enormous resources to control gun-trafficking. I don't want their work—none of us should want their work—to be conducted in vain by failing to hold accountable irresponsible gun dealers.

As New York Attorney General Eliot Spitzer has said: "The nation's law enforcement officials struggle every day against the scourge of gun crimes, and we look to Congress to assist us in that fight, not make our jobs harder. By providing broad immunity to the gun industry, this bill will endanger the very police officers who place their lives on the line to protect all Americans."

In addition to New York City, a small number of New Yorkers who have been severely injured because of the negligence of others have also commenced actions against certain gun manufactures and gun dealers. I am not going to prejudge the merits of these cases, but the bottom line is that they deserve their day in court. This law would deny them that basic right.

One of these suits arose out of what has been referred to as the "Wendy's Massacre."

In May of 2001, two criminals armed with an allegedly illegally acquired semi-automatic pistol went into a Wendy's restaurant, ordered all of the employees into the basement, marched them single file into a walk-in refrigerator, duct taped their mouths, tied them up, covered their heads with plastic bags, and one by one, shot them execution style in the back of the head. These workers were brutally gunned down for a total of $2,400.

One of those injured individuals fortunate enough to have survived the tragedy was Jaquione Johnson, who now has a suit pending against Bryco Arms. Johnson sustained serious injuries including brain damage and paralysis.

Jaquione contends that the defendant's distribution practices created, contributed to, and maintained the illegal secondary gun market through which the handgun passed until it did its deadly work. This underground market, the complaint asserts, depended upon defendants' irresponsible business practices, such as multiple firearms sales and straw purchases.

The complaint further asserts that because the gun dealers could gain significant revenue from illegal firearms sales, they failed to adopt basic policies and practices that would greatly decrease the number of guns reaching criminals despite the knowledge that it was reasonably foreseeable that individuals like the plaintiff and the public at large would be harmed.

No one in the Wendy's case is arguing that the defendant gun manufacturer and dealer pulled the trigger that killed and maimed the Wendy's workers. Instead, the victim is simply seeking to be compensated for serious injuries that were caused by the negligence of another.

If the defendants were not negligent in distributing the deadly weapon used here, they will not be held liable by the court. However, if the defendant gun dealers were negligent in their distribution of the guns and that negligence helped cause the plaintiff' harm, then they will be held accountable.

A suit like Jacquoine's, despite what others would have you believe, is not frivolous. This is a meritorious suit that must be heard in our courts to ensure accountability.

In fact, just a few weeks ago, on February 3, a Federal judge in New York denied the defendant's motion to dismiss Jaquione's suit, making clear that Jaquione claim is anything but frivolous. Yet, the NRA believes that it, by legislative fiat, should pre-ordain the result in Jaquione's case.

This New York case and the case commenced by the City of New York under the Giuliani administration are not outliers. Gary, IN has a suit pending and the Supreme Court of Indiana has held that city had a valid legal claim. The Illinois Court of Appeals held similar with respect to a case brought by the city of Chicago. The bill before us, however, would override the decisions of these appellate State courts.

Similarly, in New Mexico, a teenager who was shot in the face has brought suit against Bryco Arms alleging that the pistol's design was defective and unreasonably dangerous for its failure to incorporate safety devices like a loaded chamber indicator and a magazine disconnect safety that would prevent a pistol from being fired with the magazine removed.

The New Mexico Court of Appeals held that the suit stated a valid legal claim and should go to trial. Further, the court stated, "application of our tort law can be expected to enhance [gun] ownership by tending to increase the safety of guns." This legitimate and worthy claim would be in danger of dismissal if this bill is passed.

There are a number of other suits just like the ones I have just mentioned and they are before our State and Federal courts. That Congress, rather than these courts, would make the decision by legislative fiat to dismiss these cases, regardless of the facts and the law, is extraordinary and unprecedented and a real shame. It should not be countenanced.

The proponents of this legislation point to the exceptions contained in section 4 of the bill and have argued that the exceptions are sufficient to allow non-frivolous lawsuits to be maintained.

First of all, despite all the talk of frivolous suits, the proponents point to not one court that has deemed any lawsuit brought in any federal or state court against a manufacturer or gun dealer as frivolous. The proponents of this special interest legislation cannot point to such a decision because there is none. No frivolous lawsuits have been filed. That assertion is simply devoid of merit.

As to the purported exceptions in the bill, they are so narrowly crafted as to be illusory.

The first exception provides that a lawsuit can be brought by the party "directly harmed" against a defendant who has been convicted of the crime of "knowingly" transferring a firearm "knowing" that the guns would be used to commit a crime of violence or a drug trafficking crime.

In other words, this exception would not apply to a dealer who is extraordinarily reckless or negligent as to how it markets or sells its guns unless the dealer knew it was selling a gun to someone who would commit a violent crime.

This is an extraordinarily high burden because it says that you can only sue a dealer if the dealer engaged in a criminal act—if the dealer is, in effect, an accomplice to a violent or drug trafficking crime.

The second exception provides that an action may be brought "against a seller for negligent entrustment or negligence per se."

"Negligent entrustment" is defined in the bill to mean "the supplying of a qualified product by a seller for use by another person when the seller knows, or should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others."

In other words, according to the Congressional Research Service, this exception would appear to allow a suit to be maintained against an entity that supplied a firearm or ammunition to a person who, because of age, mental disability, intoxication, or violent propensity, seems likely to use the product in a dangerous manner.

That may be all well and good, but I wondered why the crafters of the bill went to the trouble of defining "negligent entrustment," when such a cause of action is defined by state law.

Well, it's because "negligent entrustment" has been defined in this legislation much more narrowly than how it has been defined by many states under state law.

In fact, in the case brought by the victims of the DC snipers against Bull's Eye Shooter Supply, the Washington state court held that "negligent entrustment" also occurs when a firearms manufacturer sells firearms to a retail store that it "knew or should have known . . . was operating its store in a reckless or incompetent manner, creating an unreasonable risk of harm."

Indeed, one of the allegations in the complaint brought by victims of the DC sniper against the manufacturer of the gun used by the DC snipers was that the manufacturer knew or should have known that the retailer—Bull's Eye—had a "history of a large number of weapons for which it could not account."

The Washington state court found that if the plaintiff could prove this, then the manufacturer "may be liable for plaintiff's injuries under the theory of negligent entrustment." The court, therefore, denied the defendant manufacturer's motion to dismiss.

So the bottom line is that this supposed "exception" in the bill is not really an exception because it dramatically narrows the State law definition of negligent entrustment.

To make matters even worse, the exception does not cover manufacturers; it only covers "sellers," such as gun dealers. So even if there were a broader definition of negligent entrustment in this exception, it would still prohibit such a cause of action from ever being brought against a manufacturer. This is one of the major objections to the bill made by New York Attorney General Eliot Spitzer.

Lastly, as to this second exception in section 4 of the bill, including "negligence per se" doesn't add much because the common law definition of "negligence per se" means that a person or entity is negligent per se, 1, if the party violated a state or federal statute; 2, if it demonstrated that the person bringing the action was the member of the class of persons that the statute was intended to protect, and 3, that the party's injuries suffered were the kind that the statute was enacted to prevent.

But the bottom line is that violation of a statute is required. That's not very much of an exception to the gun immunity's general provision that no civil action can be brought in any federal or state court and that all pending cases must be dismissed.

There has been much discussion about the third exception because it was recently added to this legislation, but this exception, like the others in the bill, is extraordinarily narrow as to be almost meaningless.

The third exception provides that an action may be brought in which a manufacturer or a seller of a gun violated state or federal law concerning the sale or marketing of guns or ammunition and the violation of the statute was the proximate cause of the harm for which relief is sought, including, 1, any case in which the manufacturer or seller knowingly made a false entry in, or failed to make an appropriate entry in, any record required to be kept under federal or state law; 2, any case in which the manufacturer or seller aided, abetted, or conspired with any person in making any false or fictitious oral or written statement with respect to any material factor concerning the lawfulness of the sale; or 3, any case in which the manufacturer or seller aided, abetted, or conspired with some to sell or otherwise dispose of a gun or ammunition, knowing, or having reasonable cause to believe, that the actual buyer of the gun or ammunition was prohibited from possessing or receiving a firearm or ammunition under subsections (g) or (n) of section 922 of title 18.

I know this section has already been discussed at some length, but I want to underscore that two esteemed lawyers, Lloyd Cutler and David Boies, after reviewing this language extensively and the complaint filed by the DC sniper victims against Bull's Eye Shooter Supply, stated that in two separate legal opinions that this suit could not be maintained under this exception and would have to be dismissed.

The fourth exception is an action for breach of contract or warranty in the connection with the purchase of a gun.

This exception is also of no moment, however, because as troubling and out of the mainstream as this legislation is, one would hope that the United States Congress would not seek to render null and void contracts and warranty agreements entered into between the sellers and purchasers of guns.

The fifth and final exception to the general provision requiring the dismissal of pending cases and the prohibition on bringing any future cases is an exception for "an action for physical injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a manner that is reasonably foreseeable."

"Reasonably foreseeable", however, is defined to exclude any criminal or unlawful misuse—violation of a statute, ordinance, or regulation—of a gun or ammunition, other than possessory offenses. What does this mean?

Contrary to what some of my colleagues have said during this floor debate, it does not mean that all design or manufacturing defect cases can be brought or maintained.

This is so for a number of reasons. First, the product would have to be used as intended. If there is a defect in the gun, for example, but an unintended use is that a child uses the gun and accidently maims or kills himself, this legislation would prevent the child or his parents from even filing a lawsuit against the manufacturer to seek recovery and, equally important, from trying to hold the manufacturer accountable so that the defect could be fixed and such injuries to other children could be prevented.

This exception is also extraordinarily narrow in that even if there is a design or manufacturing defect and even if someone is harmed because of the defect, no recovery can even be sought if the gun was used in any criminal activity or misused in any way.

I know I have taken a fair amount of time to talk about the exceptions contained in section 4 of this bill, but I felt it important because proponents of this legislation have constantly said "look to section 4," suggesting that these exceptions will enable legitimate cases to be brought and/or maintained against negligent manufacturers and gun dealers.

As I have laid out in great detail, the assertion made by the proponents of this legislation is unequivocally—simply—not true. And I want to make sure that the American people who are watching and listening to this debate understand that.

I also want to take a moment to correct some other misstatements that have been statements in support of this bill.

As noted above, one of the assertions is that there are thousands of frivolous lawsuits—including I guess the one filed by former New York Mayor Rudy Giuliani—that have been filed. Well, as we now know, that statement is simply not true because not one court has deemed any case filed to be frivolous.

In fact, a respected senior Federal judge in New York, Judge Jack Weinstein, actually dismissed a case brought by the NAACP because he held that the NAACP wasn't the proper plaintiff. However, in his 178-page ruling, Judge Weinstein found that gun manufacturer's improper sales and distribution practices contribute to the illegal gun market in New York State. His conclusion was based on previously unavailable data from the ATF and from the gun industry that established a connection between the gun industry's marketing practices and access to guns by criminals.

He also found that the data demonstrated that a "handful of 'bad apple' retailers in the industry supply a disproportionate share of guns used in crimes."

Indeed, according to Robert Haas, the former Senior Vice President for marketing and sales for defendant Smith & Wesson, the gun industry knows that the criminal market is fueled by the industry's distribution practices, but does nothing.

Haas has said: "The company and the industry as a whole are fully aware of the extent of the criminal misuse of firearms."

"The company and the industry are also aware that the black market in firearms is not simply the result of stolen guns but is due to the seepage of guns into the illicit market from multiple thousands of unsupervised federal firearms licensees. In spite of their knowledge, however, the industry's position has consistently been to take no independent action to insure responsible distribution practices."

This failure to take action is particularly disturbing because the problem can be fixed. If all gun manufacturers took reasonable measures in distributing their guns, then there would be significantly fewer guns in the hands of criminals.

This is consistent with Judge Weinstein's finding that the data in the case before him showed that the handgun industry could have done something about these dealers, including implementing obvious common sense solutions such as data gathering and monitoring regulations, but chose not to do so.

Another assertion by proponents of this legislation is that these lawsuits—less than 100 of them—are bankrupting the industry. Well, from what I can tell, the gun industry is doing anything but hurting. That's not my view, but the view of gun manufacturers that have filed reports with the Securities and Exchange Commission.

Manufacturer after manufacturer has reported to the SEC that it is financially stable and that "it is not probable and is unlikely that litigation, including punitive damage claims, will have a material adverse effect on the financial position of the Company."

Another claim made is that these suits are going to cause jobs to go overseas. Now, I would love it, and more important, the American people would greatly appreciate it, if instead of considering this bill, the Senate was seeking to address in a comprehensive way the more than 3 million jobs lost in the past 3 years. But the Senate has chosen not to do so.

I have worked hard to support the development of jobs in my state and appreciate that there are New Yorkers in my state who help to manufacture guns at Remington Arms.

But the truth is that Remington Arms is not in financial trouble based on this litigation. Remington Arms produces long guns primarily and the vast majority of the victims of gun violence and crime are shot by hand guns, not long guns, such as rifles and shotguns. Remington Arms does not need this protection; it is financially strong. Instead, it is the victims of gun violence that need protection from this legislation.

In short, these suits are not about putting the gun industry out of business. They are about responsible business practices, they are about keeping the guns out of the wrong hands through responsible distribution practices.

In fact, it is because of some of the lawsuits that have been filed that some gun manufacturers have improved their marketing and distribution practices.

In March of 2000, for example, the gun manufacturer Smith & Wesson reached a settlement with a number of government entities, including the State of New York.

This settlement demonstrates why the gun immunity bill will actually make guns less safe.

As part of the agreement, Smith & Wesson agreed to change the ways it distributes guns it manufacturers. It promised to sell only to authorized distributors and dealers who adhere to a stringent code of conduct and it agreed to terminate sales to any dealer who sells a disproportionate number of guns used in crime. The settlement makes us safer because it helps to ensure that guns won't end up in the hands of criminals.

Smith & Wesson also agreed that their guns will be shipped with external safety locks, that all pistols will have a chamber loaded indicator, that new gun designs will include smart gun technology, and that all guns must pass performance tests to ensure safety and quality.

These are reasonable agreements that all gun manufacturers should follow. They make guns safer for everyone, especially those who own and operate them, especially for the children of gun owners. This settlement demonstrates the great possibilities that exist to improve the safety of guns.

This settlement underscores how much manufacturers and dealers can do to keep Americans safer without unduly affecting the bottom business line.

If the bill before us becomes law, however, don't expect to see any similar settlements in the future. If gun makers cannot be held liable, they will have no incentive to enter into a settlement. If they cannot be held liable, gun makers will have absolutely no financial incentive to make their guns safer. Indeed, they will actually have a financial disincentive to develop new safety mechanisms and distribution practices.

As a Senator from a State with millions of law abiding gun owners, I want guns to be as safe as possible. I want new safety features and improvements developed. And I want—we should all want—the victims who are injured or killed because of defective guns or bad marketing and sales practices to not have the courthouse doors slammed in their faces.

Gun violence is a dangerous threat throughout our nation claiming the lives of thousands of people every year across America and New York State.

In 2001, the number of deaths in the U.S. from firearms was 29,573. In addition, for every firearm fatality in the U.S., there are two non-fatal firearm injuries.

A study of all direct and indirect costs of gun violence estimates that gun violence costs the nation $100 billion a year.

In 1999, New Yorkers suffered 1,652 hospitalizations and 965 deaths at the hands of gun violence. 291 of those deaths were individuals below the age of 24.

In 2000, there were 1,093 deaths in New York State from firearms.

We should be talking about how we can reduce gun violence and prevent deaths of American men, women, and children, not how to slam the courthouse door shut to gun victims and while at the same time giving bad gun dealers blanket immunity from irresponsibly and negligent conduct.

Although this very bad bill is currently before the U.S. Senate, all of my colleagues, including the bill's proponents, have an opportunity to help make our communities safer by supporting a number of amendments currently pending, including the amendment offered by Senators FEINSTEIN, WARNER, and SCHUMER that reauthorizes the assault weapons ban and the amendment offered by Senators MCCAIN and REED that seeks to close what has been called the "gun show loophole."

I must say that it is astonishing to me that we even need to debate the reauthorization of the assault weapons ban because there is no reasonable argument that can be made against it. People do not hunt with assault weapons. Instead, assault weapons are designed for one purpose and for one purpose only and that is to kill people.

Extending and improving upon the assault weapons ban is essential because assault weapons are a clear threat to law enforcement. Assault weapons kill police officers.

One in five law enforcement officers slain in the line of duty is killed with an assault weapon. I would hope that everyone would agree that we need to put the interests of law enforcement officers far ahead of the interests of the NRA. If we are to remain true to our support for law enforcement officials, we need to extend and improve the assault weapons ban because it is our duty to protect those who risk their lives to protect us.

In addition, a report released yesterday by the Brady Center to Prevent Gun Violence, "On Target: The Impact of the 1994 Federal Assault Weapons Act," demonstrates that the assault weapons ban passed 10 years ago has been working. The report shows that the assault weapons banned by name in the Act have declined substantially, 66 percent, as a percentage of overall crime gun traces since the assault weapons ban was enacted in 1994. The study concludes that the ban has contributed to a substantial reduction in the use of assault weapons in crime, despite the industry's efforts to evade the law through the sale of copycat guns.

The assault weapons ban has been successful keeping these killing machines off our streets but it is set to expire later this year. To protect our law enforcement officials, to protect our safety, we cannot let this law expire. We must reauthorize the ban on assault weapons.

We must also do all we can to close the "gun show loophole" because the loophole enables those who are otherwise prohibited from purchasing firearms under federal law to easily obtain guns.

Terrorists, criminals and other people prohibited from buying or possessing guns seek out unlicensed sellers at gun shows because they know that they can simply put down their money and walk away with deadly weapons. Additionally, because these unlicensed sellers are not well-regulated and do not keep records, criminals exploit gun shows to sell firearms and law enforcement has difficulty tracing gun-show firearms that turn up at crime scenes. Gun shows are now the second leading source of firearms recovered in illegal gun trafficking investigations.

The gun show loopholes in our laws allow individuals otherwise prohibited from legally purchasing firearms to easily gain access to potentially deadly weapons. Both the City and State of New York have enacted laws regulating gun sales and the possession of guns within the City and State. Yet, because of the gun show loophole, these laws have been unable to stop guns from coming into New York. Expert studies by Dr. Howard Andrews of Columbia University show almost 90 percent of guns recovered at crime scenes in NY were purchased out state.

If our background checks on gun purchases are going to have meaning and value, we must close the gun show loopholes and that is why I support the McCain-Reed-DeWine-Lieberman amendment and I hope the entire Senate will do the same.

In closing, Mr. President, I want to implore my colleagues to examine the legislation before us that will give blanket immunity to bad gun manufacturers and dealers and to support the amendments designed to make our country safer.

I can't even begin to imagine what this nation will be like at the end of this September if the assault weapons ban is not renewed, the gun show loophole is not closed, and the gun immunity bill becomes law.

Unscrupulous and negligent gun manufacturers and dealers—both licensed and unlicensed—will be able to sell guns of all kinds, including assault weapons, and incredibly, no matter what happens, no matter how many Americans will be maimed and killed, they will be immune from liability.

I implore my colleagues to do all we can to make sure that doesn't happen.

The PRESIDING OFFICER. There is still 1 minute remaining of the minority's time.

Under the previous order, the time until 11:35 is under the control of the majority leader or his designee.

Mr. CRAIG. Mr. President, I might ask the other side how they want to deal with their 1 minute remaining prior to my closing statement.

Mr. REID. I yield it back.

Mr. CRAIG. Mr. President, I have been granted the time of the leader to close out this debate before we start votes at 11:35.

I must tell you, I am honored by the presence of the Senator from Massachusetts today on the floor to debate this critical issue. I am honored we have lifted the gun debate, on a fundamentally important bill for the average American, to Presidential politics. So let's go to where the average American is, by a Zogby poll taken some months ago, and this is: The red States versus the blue States, the Bush States versus the Gore States, in 2000.

When the average American, by the Zogby International polling group—certainly no rightwing polling group—did their work with Southern Methodists, here is what they got. For the statement: "There are enough laws on the books. What is needed is better law enforcement for current laws regarding gun control."—69 percent in the Bush States agreed, 63 percent in the Gore States; for the military, the veterans, and the nonmilitary—all of them well above a majority of 50 percent. When it comes to the underlying bill, that number jumps into the 70s.

Americans are fed up with the politics and the placebos to put a law on the books and somehow you have made the world safer. What they want is the cop on the beat arresting the bad guy or gal, and the courts not summarily putting them back on the streets. And when you use a gun in the commission of a crime, I suggest, and we suggest, and the American people suggest, you do the time. You don't plea-bargain them back to the streets out of a liberal court system.

That is the reality. That is what is important about this underlying debate. I am proud we have elevated it to the stature it is today.

I yield 5 minutes of my remaining time to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. I thank Senator CRAIG.

Mr. President, I want to address this bill generally but then close my comments on the so-called gun show loophole amendment.

I believe there are those who benefit from the job-destroying lawsuit lottery in this country, and there are those who seek to restrict the rights of law-abiding citizens to use firearms for legitimate purposes.

On the job-destroying lawsuit lottery, let me just mention one company in Texas, Maverick Arms, located in Eagle Pass, where 140 dedicated people work to assemble Mossberg and Maverick guns, high-quality firearms for shooting sports, military, and law enforcement communities. Maverick's ability to continue providing good jobs to the citizens of Texas is in jeopardy. It is in jeopardy because of junk lawsuits filed by trial lawyers, and the politicians who support their right to terrorize a legal employer providing a legal product, as opposed to focusing our efforts on the criminals and those who illegally use firearms who should be punished for doing so.

I believe it is absolutely imperative that, rather than focusing on and punishing law-abiding citizens who want nothing more than to provide for their families by engaging in a lawful enterprise and producing a legal product, we ought to focus our law enforcement efforts on the criminals. Indeed, we have found through programs such as Project Exile in Richmond, VA, and Texas Exile in my own State, we can have a real impact by punishing the convicted felons who illegally possess firearms and those who use firearms illegally to jeopardize our communities and threaten our communities, and that there is absolutely no benefit to be gained by passing additional laws, as the proponents of these amendments would do, that limit the rights of law-abiding citizens.

I would like to just mention in closing why I believe we do need to expand the role of instant background checks to all commercial gun sales, no matter where they occur. But as well-intentioned as the amendments proposed by Senator McCAIN and Senator REED and Senator LIEBERMAN and others are, the so-called closing the gun show loophole bill—as well-intentioned as they are, I think it misses the mark. I would like to work with them to try to bring the instant background check to all commercial gun sales in this country.

The problem is this amendment, as well-intentioned as it is, will have the effect, should there be a State attorney general who doesn't seek a 24-hour instant background check period, that there will be a default through a 3-day check period, which will essentially obliterate gun show sales.

It is important to point out that, currently, everybody who is a dealer in firearms is subject to the Federal firearms license. Indeed, there is no such thing as an unlicensed dealer. But what this amendment would seek to do would be to affect people who are not dealers in firearms, but are collectors, people who engage in sales to friends and family and others, and these are. As long as they are lawful possessors of these firearms, I don't believe the full apparatus of the Federal Government ought to intrude on that ability to conduct a sale that is no threat to the people of this country.

So S. 1706, which Senator CRAIG and others have cosponsored, which currently sits in the Judiciary Committee, I suggest is an appropriate vehicle. Senator McCAIN and others are cosponsors of that bill. I think it will ultimately accomplish the goal of this gun show amendment. I cannot support that amendment as it is written now, but I look forward to working with them to write a bill that would address the real problem, and that is a need for instant background checks across the board to make sure guns are not sold to common criminals, and make sure that we do not unnecessarily interfere with the rights of law-abiding citizens.

With that, I yield back the remaining time to the Senator from Idaho.

Mr. CRAIG. Mr. President, I thank the Senator from Texas for his debate and leadership on these issues. He has been a statewide law enforcement officer. He knows what laws are all about. He knows how the public reacts to them, and he knows that laws have to be enforced.

We are minutes away from starting a very critical vote process on three amendments before we break for lunch. We will vote on the Feinstein, McCain, and Campbell amendments. There will be time allotted for each one as we get to them. In the minute that remains, I will say this has been a very positive debate. At the same time, I think there is a common sense and a reality that stacking up gun laws on the Federal books of the U.S. Code doesn't work, unless they are effectively enforced on the ground and the criminal element who may violate these laws knows there is a bite in the law; that somehow if they use a gun in the commission of a crime, they are going to do the time.

Everywhere that principle has been applied, crime has gone down, the use of a gun by a criminal has gone down. There have been arguments about keeping guns out of the hands of terrorists. They have not made their case because every example they use was a terrorist who had been arrested, stopped. The guns, strangely, were to be exported out of the country by the terrorist. So they placed themselves in double jeopardy. Now they are doing the time. Somehow, in that portion of the law it worked well. But the vote we are going to take is over whether to extend the law for another period of time that Congress said some years ago they wanted to look at. Therefore, we would sunset it and reconsider it. That is what we are doing and will do by a vote on the extension of the assault weapons ban, the extension of a law that hasn't worked.

All of the statistics are in. The numbers have not changed. Is the assault weapon, or a weapon of similar appearance, misused on occasion? Yes, it is, but by less than 2 percent in participating in a crime. Is that a justification for, again, establishing a tripwire? The Senator from Massachusetts said you are going to unleash AK-47s back on the streets. Well, the law that bans them is still in place. It doesn't fall out with the assault weapons ban going away. That and the Uzi law are in place.

Senators will now come to the Chamber for a vote in a few moments on these critical issues. I hope they have been engaged. The debate has been very civil over a very important part of what we do in the Senate.

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. Mr. President, the first vote will be 15 minutes, and for the second two there is an order that they be 10 minutes.

The PRESIDING OFFICER. Also, there are 2 minutes of debate equally divided before each of the amendments. The first amendment is the Feinstein assault weapons amendment.

Who yields time? If no one yields time, time will be charged equally.

The Senator from Rhode Island is recognized.

Mr. REED. Mr. President, I understand we are about to vote on the Feinstein amendment. On behalf of Senator FEINSTEIN, I urge all colleagues to support this amendment. This amendment would continue a ban on assault weapons that has been in place for 10 years. It has ensured that military weapons will not be on the streets of America, will not be used in crimes, will not be accessible to terrorists, which will not force our police officers to confront these weapons.

I urge my colleagues to support this amendment. It is a continuation of present law. It is not a new law. I think the American public has come to understand this law and appreciate it and support it. I think they would urge its adoption and its continuation. Again, I urge a favorable vote on the Feinstein amendment.

Mr. CRAIG. Mr. President, I ask my colleagues to let the assault weapons ban die in peace. It expires in September of 2004. Statistics show it has not changed the method of operation of criminals in this country. The assault weapons or the definition to which we prescribe in the law is not a weapon of choice of the criminal on the streets of America. It has simply set up the tripwires for law-abiding citizens who may choose to have this type of gun in their collection. By definition, that means that gun doesn't get misused. The stolen weapon, the one trafficked in the black market, is the one that is misused. That is why I believe—and many colleagues agree with me—when you sunset a law, you do so for the purpose of reexamining it to see whether it is worthy of staying on the books of this country. It is not. It is time for it to go away. I ask my colleagues to vote no on this amendment.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to amendment No. 2637.

The yeas and nays are ordered and the clerk will call the roll.

The assistant journal clerk called the roll.

Mr. REID. I announce that the Senator from South Dakota (Mr. JOHNSON) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 24 Leg.]

YEAS—52

Akaka
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carper
Chafee
Clinton
Collins
Conrad
Corzine
Daschle
Dayton
DeWine
Dodd
Dorgan
Durbin
Edwards
Feinstein
Fitzgerald
Graham (FL)
Gregg
Harkin
Hollings
Inouye
Jeffords
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lugar
Mikulski
Murray
Nelson (FL)
Pryor
Reed
Rockefeller
Sarbanes
Schumer
Smith
Snowe
Stabenow
Voinovich
Warner
Wyden

NAYS—47

Alexander
Allard
Allen
Baucus
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chambliss
Cochran
Coleman
Cornyn
Craig
Crapo
Dole
Domenici
Ensign
Enzi
Feingold
Frist
Graham (SC)
Grassley
Hagel
Hatch
Hutchison
Inhofe
Kyl
Landrieu
Lott
McCain
McConnell
Miller
Murkowski
Nelson (NE)
Nickles
Reid
Roberts
Santorum
Sessions
Shelby
Specter
Stevens
Sununu
Talent
Thomas

NOT VOTING—1

Johnson

The amendment (No. 2637) was agreed to.

Mrs. FEINSTEIN. Mr. President, I move to reconsider the vote.

Mr. SCHUMER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2636

Mr. CRAIG. Following this is the debate on the gun show loophole. There are 2 minutes of debate and a 10-minute vote to follow. I wish my colleagues would cease conversation so they can hear the proponent of the amendment.

The PRESIDING OFFICER. The Senate will please come to order. Will the Senators in the well please cease their conversations so we can continue with the debate. We will now proceed with debate on amendment No. 2636. Who yields time?

The Senator from Idaho.

Mr. CRAIG. Mr. President, if I could have the attention of my colleagues, another critical vote is at hand.

To my colleagues, envision a door. If you walk through the door, the Federal Government takes over. If you stay outside the door, the current laws are in authority. It is called the gun show loophole. We have an amendment here that puts a whole new tripwire in front of the law-abiding citizen. It does not go after the criminal element. We know less than 2 percent of guns that are used in the commission of a crime are gotten through a gun show. Most of them are obtained in the back streets.

Let's talk about law enforcement and the argument about terrorists gaining their guns through gun shows. The reason they arrested the terrorists is the current laws work. There are 1,000 gun shows for law-abiding citizens. Let's not create a Federal bureaucracy that will begin to govern and control what is the right of free commerce in this country. Let the current Federal law work.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time? The Senator from Arizona.

Mr. McCAIN. I remind my colleagues all reference to the Attorney General has been removed from this amendment. There is no Department of Justice oversight of the gun shows in this amendment.

Ali Boumelhem, a Lebanese national and a member of the terrorist group Hezbollah, was arrested and convicted for attempting to smuggle firearms he bought from Michigan gun shows to Lebanon.

Muhammed Asrar, a Pakistani national, in this country on an expired visa, who admitted to buying and selling firearms at Texas gun shows. Asrar is a suspected al-Qaida member who had obtained a pilot's license, had photos of tall buildings.

Connor Claxton, an admitted member of the Irish Republican Army, spent over $100,000 at Florida gun shows and through other private dealers to obtain firearms to smuggle to Ireland.

They were arrested. How many were not arrested? This is the most curious logic I have ever heard. They were arrested. Who wasn't arrested? A loophole exists. If we are interested in the security of this Nation, we will close it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. CRAIG. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from South Dakota (Mr. JOHNSON) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 46, as follows:

[Rollcall Vote No. 25 Leg.]

YEAS—53

Akaka
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carper
Chafee
Clinton
Conrad
Corzine
Daschle
Dayton
DeWine
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Fitzgerald
Graham (FL)
Hagel
Harkin
Hollings
Inouye
Jeffords
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lugar
McCain
Mikulski
Murray
Nelson (FL)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Voinovich
Warner
Wyden

NAYS—46

Alexander
Allard
Allen
Baucus
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
Dole
Domenici
Ensign
Enzi
Frist
Graham (SC)
Grassley
Gregg
Hatch
Hutchison
Inhofe
Kyl
Lott
McConnell
Miller
Murkowski
Nelson (NE)
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas

NOT VOTING—1

Johnson

The amendment (No. 2636) was agreed to.

Mr. REED. I move to lay that motion on the table.

Mr. CRAIG. I move to reconsider the vote.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2623

The PRESIDING OFFICER. The next amendment is amendment No. 2623, the Campbell-Leahy amendment. There are 2 minutes of debate equally divided.

The Senator from Colorado.

Mr. CAMPBELL. Mr. President, this amendment has 67 cosponsors. I am proud to say Senator LEAHY and Senator REID of Nevada are original cosponsors.

This is the No. 1 priority for the 300,000-member Fraternal Order of Police, and has been endorsed by literally every major police organization in the country, giving off-duty and retired policemen authority to carry concealed weapons interstate with proper training.

We already have a similar law in place for airline pilots. Certainly law enforcement is kind of the front line of new defense in the war on terrorism as well as the work they do with traditional law enforcement.

It defies common sense that trained policemen cannot carry interstate when we all know criminals and terrorists do outside of the law. I want to make sure we give America's policemen the same protection.

I yield to Senator LEAHY.

Mr. LEAHY. Mr. President, Senator CAMPBELL and I have worked on this for some time. I serve in the Judiciary Committee where it passed nearly unanimously. Having served in law enforcement, I know what it is like.

Our bipartisan amendment will establish national standards for law enforcement officers to carry concealed firearms so that they may respond immediately to crimes across State and other jurisdictional lines, as well as protect themselves and their families from vindictive criminals.

I look forward to the Senate approving our bipartisan amendment today to make our communities safer and to better protect law enforcement officers and their families.

Ms. CANTWELL. Mr. President, I am pleased to rise today as a cosponsor of the amendment offered by Senators CAMPBELL and LEAHY, the Law Enforcement Safety Act. This legislation will take sensible steps to improve public safety by allowing trained active and retired law enforcement officers to carry their service weapons across State lines without needless bureaucratic hurdles.

In my State of Washington, all law enforcement officers are permitted to carry concealed weapons, and many jurisdictions require officers to do so. In addition, all retired officers can obtain concealed weapons permits, and my State grants reciprocal privileges to any law enforcement officer visiting the State. This allows officers to continue to play a role in maintaining public safety wherever they may be. I believe that the successful example set by officers in my State shows that this legislation warrants the support of this body. I believe that this is solid policy and that extending a similar policy across the country will have beneficial public safety effects.

I fully support aspects of this bill that are stronger than the current policy in my State: Requiring retired officers to maintain their firearms skills, and preserving local laws barring firearms in specific locations, like churches and schools.

Police officers are entrusted by the public with an important responsibility. Since the events of September 11, we have placed new burdens of our Federal, local, and State officers. We have often done so without providing them the resources they need to do the job. This amendment is a step to correcting that oversight by allowing the people who are the most well-trained in how and when to use firearms to avoid outdated restrictions on carrying and traveling with firearms.

I urge my colleagues to support this legislation, and to provide additional support to our law enforcement officers across the country. I look forward to working with the amendments sponsors to ensure its adoption.

Mrs. BOXER. Mr. President, as we all know, law enforcement officers are never "off duty." They are dedicated public servants who are sworn to protect public safety at any time and place that the peace is threatened. They need all the help that they can get.

That is why I am so proud to cosponsor this bipartisan amendment to allow off-duty and retired law enforcement officers to carry a firearm if they meet the same state firearms training and qualifications as an active officer.

Today, there is a complex patchwork of Federal, State, and local laws that govern whether current and retired law enforcement officers can carry concealed firearms. This patchwork approach is confusing and ineffective. This amendment will establish a measure of uniformity and consistency across the country.

Over 740,000 sworn law enforcement officers serve in this country. In the last decade alone, more than 1,700 law enforcement officers have been killed in the line of duty. That's an average of 170 deaths per year. And, roughly 5 percent of these were killed while taking law enforcement action in an off-duty capacity.

Even the death of one police officer is unacceptable. We can and must do more to protect them, and that is why I support this amendment. It will increase the ability of law enforcement officers to protect themselves, their families, and our communities.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I am under no illusion what the outcome of this vote is going to be. But this is gun legislation run amok. This is demonstrating that the Senate is more interested in the profits of the gun industry than protecting the citizens.

This legislation will override every mayor's decision that has ruled that they do not want concealable weapons in the bars and the churches or on the playgrounds of the schools of their district. This legislation will override every Governor's decision to protect local citizens by prohibiting concealable weapons in bars and churches and schoolyards across the country.

The mayors have made the decision. The States have made the decision. Now in the Senate of the United States we say it does not make any difference if the local community is making a judgment to protect their local citizens; we know better in the Senate.

I don't want to hear from the other side anymore about one size fits all. This is it. Override the States, override the local communities, that is what this does with concealable weapons which are deadly to the children and the people of this Nation.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2623.

Mr. CRAIG. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. REID. I announce that the Senator from South Dakota (Mr. JOHNSON) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 91, nays 8, as follows:

[Rollcall Vote No. 26 Leg.]

YEAS—91

Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dole
Domenici
Dorgan
Edwards
Ensign
Enzi
Feingold
Feinstein
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Jeffords
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NAYS—8

Akaka
Dodd
Durbin
Fitzgerald
Inouye
Kennedy
Lautenberg
Sarbanes

NOT VOTING—1

Johnson

The amendment (No. 2623) was agreed to.

Mr. CRAIG. Mr. President, I move to reconsider the vote.

Mr. REED. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRAIG. Mr. President, we will now adjourn for lunch. When we return at 2:15, we will have under consideration the Frist-Craig amendment on armor piercing, the Kennedy amendment on the armor-piercing gun ban, and a Levin amendment to be tabled, and final passage. We will reconvene at 2:15.

RECESS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Senate now recess until 2:15 p.m. for the weekly party lunches.

There being no objection, the Senate, at 12:46 p.m., recessed until 2:16 p.m. and reassembled when called to order by the Presiding Officer (Mr. BUNNING).

UNANIMOUS CONSENT AGREEMENT—S. 1637

Mr. CRAIG. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar 381, S. 1637, at 10:30 a.m. on Wednesday, March 3, 2004.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nevada.

PROTECTION OF LAWFUL COMMERCE IN ARMS ACT—Continued

Mr. REID. Mr. President, I ask unanimous consent that instead of 1 minute on each side between votes, there be 2 minutes on each side.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2625

The PRESIDING OFFICER (Mr. VOINOVICH). Who yields time on the Frist amendment No. 2625? The Senator from Idaho.

Mr. CRAIG. Mr. President, I ask unanimous consent that we proceed with 2 minutes of debate prior to the vote. The Frist-Craig amendment is the pending amendment. I would like to close. I ask the Senator to proceed.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I am glad if Senator CRAIG wishes to close on this amendment. I would like to close on the next amendment, if that is agreeable.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I have seen a lot of phony amendments around here in the 42 years I have been here, and this is about as phony an amendment as one could possibly imagine.

We have to ask ourselves, What is the problem? The problem has been 17 law enforcement officers have been killed, according to the FBI, from armor-piercing bullets. Deer and ducks do not wear armor vests. Police officers wear armor vests. What do police officers do? They try and protect the public interest.

What is out there now on the Internet? I have four different charts that show what is out on the Internet selling this armor-piercing ammunition. Let's just take a look at what the armor-piercing ammunition does.

Armor-piercing projectiles contain a core of hardened steel or tungsten carbide which allows it to penetrate metal objects. That is what our police officers are up against.

The Craig amendment does what? It asks whether we ought to have a study of this kind of problem. In the meantime, if we accept that and oppose my amendment, we know there will be law enforcement officials who will be killed, shot, with these armor-piercing bullets.

What in the world justification is there for hunters to use armor-piercing bullets? Perhaps that can be answered. I have not heard it, but the Senator wants to have a study.

What else will they do? They will increase the penalties. That will be fine. Tell that to the families after these police officers have been killed. What is going to happen after that? They will even provide the death penalty in some instances. This does not protect law enforcement officials, and I hope the Senate will support my amendment later.

The PRESIDING OFFICER. The Senator's 2 minutes has expired.

The Senator from Idaho.

Mr. CRAIG. Mr. President, the Fraternal Order of Police, 311,000 police, oppose what the Senator from Massachusetts has just said. Their official organization says this is nothing more than a smokescreen to ban about 30 percent of ammunition that is currently in the market for the purpose of hunting, for the purpose of using in it a law-abiding way by sportsmen.

Can a piece of ammunition, shot in a 30.06, that will kill a deer or an elk pierce certain types of armor? The answer is, yes, it can. The Senator from Massachusetts is truthful in that. But do we want to now summarily erase all of that from the market or do we want to do an official bona fide ballistic study, directed by the Department of Justice, to have a clear and clean understanding of what is, in fact, armor piercing and what is, in fact, a legitimate piece of ammunition that is used by marksmen, that is used by sportsmen, that is used in the legitimate business of hunting that we have longtime said is a great tradition in this country?

Anti-gunners have always said, if you can't get the gun, go after the ammo—if you can't get the gun, go after the ammo. Clearly, the underlying amendment that we will debate next goes after the ammo. The Frist-Craig amendment says, whoa, wait a minute, let's make darn sure what we are doing is the right thing before we go there.

No one is in favor of a cop-killer bullet. Shame on anybody who would accuse any Senator on this floor for being in favor of a cop-killer bullet. What we are in favor of is legitimate ammunition and its use, not its misuse, and not the ability to say, well, that is a good bullet but it was used badly; therefore, it ought to be eliminated.

Mr. HATCH. Mr. President, I urge my colleagues to vote in favor of the Frist-Craig amendment relating to armor piercing ammunition. The Frist-Craig amendment restates existing law which prohibits the manufacture, import, or sale of armor piercing ammunition except for use by the United States Government or for export. Additionally, the Frist-Craig amendment requires the Department of Justice to study and report to Congress whether a uniform standard for the testing of projectiles against body armor is feasible.

The Department would include in its study the standards which Senator KENNEDY seeks in his proposed amendment. Ideally, this report will confirm or put to rest the issue of whether the amendment proposed by Senator KENNEDY would have the effect of banning standard hunting information. This is a sensible approach to an issue which has so many legitimate hunters and other gun owners concerned. Finally, and importantly, the Frist-Craig amendment does something about Senator KENNEDY's concerns in a way that his amendment does not. Specifically, the Frist-Craig amendment imposes serious penalties on those who use and carry armor piercing ammunition during and in relation to crimes of violence and drug trafficking crimes.

The Frist-Craig amendment sends a clear message that those criminals who use this type of ammunition in their crimes that they will face significant punishment. Additionally, if the criminals murder someone with armor piercing ammunition in the course of a drug trafficking crime or crime of violence, they will face the full range of punishment, including the death penalty.

The Frist-Craig amendment would therefore punish those who use armor piercing ammunition to carry out illegal activities while permitting those who intend to legitimately use ammunition with common and conventional hunting or sporting rifles to do so.

It is through the Frist-Craig amendment that we would preserve what is the classic first deer rifle given to millions of Americans; that is, the 30-30 Winchester deer rifle. Finally, it is important to note that the Fraternal Order of Police, representing over 311,000 police officers nationwide, supports the Frist-Craig amendment.

A difficulty many have with Senator KENNEDY's amendment is the definition of body armor, which is directed at the minimum standard for protection of law enforcement officers. According to the Department of Justice, the minimum standard is level 1 body armor which is designed to resist bullets fired from various low caliber handguns, such as .22s or .380s. Therefore, under this amendment common handgun ammunition for other handguns, including .44 calibers and 9 mm, would be banned. Additionally, neither level 1 nor level 2 body armor is designed to prevent penetration by rifles. Therefore, to ban all ammunition that may penetrate level 1 body armor, or level 2 body armor for that matter, would in effect ban all rifle ammunition.

I am troubled by this issue because I remember the draft AFT report issued in 1997 by ATF's career personnel that concluded that there was no need for new legislation. Unfortunately, those in that administration's political positions whose agenda was to push gun control legislation reversed those findings.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CRAIG. I yield back the remainder of my time and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 2625.

The clerk will call the roll.

The assistant journal clerk called the roll.

Mr. McCONNELL. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 85, nays 12, as follows:

[Rollcall Vote No. 27 Leg.]

YEAS—85

Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Dorgan
Durbin
Ensign
Enzi
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Jeffords
Kerry
Kohl
Kyl
Landrieu
Leahy
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reid
Roberts
Rockefeller
Santorum
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—12

Akaka
Cantwell
Carper
Corzine
Feingold
Hollings
Kennedy
Lautenberg
Levin
Reed
Sarbanes
Wyden

NOT VOTING—3

Domenici
Edwards
Johnson

The amendment (No. 2625) was agreed to.

AMENDMENT NO. 2619

The PRESIDING OFFICER. There will be 4 minutes of debate evenly divided before the vote on the Kennedy amendment.

The Senator from Idaho.

Mr. CRAIG. Mr. President, I believe the Kennedy amendment is now up. Both the Senator from Massachusetts and I agree, this being his amendment, he should be able to close the debate.

Let me suggest as clearly as I can to all of our colleagues, if you just voted yes on the immediate past amendment that passed by a very large margin, 85 to 12, then you would vote no on Kennedy. It is quite simple why.

He sets a new ballistic standard. He does not allow the professional to determine what is or is not armor piercing. I don't believe a Senator wants to ban from the marketplace potentially 30 percent of the kind of ammunition that is now used in legitimate hunting.

That is fundamentally the issue that is at hand, to reach out into the marketplace and arbitrarily draw a line when we all know that hunting weapons, when misdirected, have the potential of penetrating soft armor and other types of armor. Are they armor piercing? No. But they have the capability of phenomenal penetration. That is why they are hunting ammunition. That is why our sportsmen use them.

It is not the role of the Senate to draw that kind of line and determine what is hunting and what is not in respect to this amendment. I believe that is the underlying basis of the Kennedy amendment.

I ask that the Senate oppose it and vote no.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the current cop-killer bullets that we have accepted now took 5 years to pass in the Senate. We heard the same arguments. I was part of that whole effort. It took us 5 years to provide it. We have made very marginal progress on it.

I raise this: Law enforcement officers killed and assaulted, on page 17, law enforcement officers killed by firearms while wearing body armor. There it is, page 17: 17 law enforcement officers were killed while wearing body armor by armor-piercing bullets.

Don't worry about this amendment. The only people who have to worry about this amendment are people who use sniper rifles and assault weapons and use armor-piercing bullets.

That is the record. The FBI has stated that. We have a chance to make a difference. We have had a study. I can understand some people want a study. You can vote for this amendment.

Let me finally say this has the support of the International Association of Chiefs of Police, International Brotherhood of Police Officers, City Chiefs Association, National Organization of Black Law Enforcement, National Association of School Reserve Officers.

This applies to sniper rifles and assault weapons. Some of these bullets can travel as far as a mile. Some of them have incendiary tips with electronic scopes. We are talking about homeland security and we are not even prepared to do something about armor-piercing bullets that can go through police officers' vests. It is as simple as that.

If we care about our law enforcement officers trying to protect our people, we will at least resist letting snipers have armor-piercing bullets.

Mr. CRAIG. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 2619.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from South Dakota (Mr. JOHNSON), are necessarily absent.

The PRESIDING OFFICER (Mr. CRAPO). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 34, nays 63, as follows:

[Rollcall Vote No. 28 Leg.]

YEAS—34

Akaka
Bayh
Biden
Boxer
Byrd
Cantwell
Carper
Chafee
Clinton
Corzine
Dayton
Dodd
Durbin
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Inouye
Kennedy
Kerry
Kohl
Lautenberg
Levin
Lieberman
Mikulski
Murray
Nelson (FL)
Reed
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

NAYS—63

Alexander
Allard
Allen
Baucus
Bennett
Bingaman
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Chambliss
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
Daschle
DeWine
Dole
Dorgan
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Jeffords
Kyl
Landrieu
Leahy
Lincoln
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nelson (NE)
Nickles
Pryor
Reid
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NOT VOTING—3

Domenici
Edwards
Johnson

The amendment (No. 2619) was rejected.

AMENDMENT NO. 2631

The PRESIDING OFFICER. There will now be 4 minutes equally divided on the Levin amendment.

The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, if I could have the attention of our colleagues, this is a key amendment to the underlying S. 1805.

I yield to the Senator from Arizona.

Mr. KYL. Mr. President, I went to law school and studied the concepts of gross negligence and reckless conduct. There are thousands, in fact probably millions, of pages of case law trying to define those legal terms.

The reality is no judge or lawyer can tell you today what they mean. They say it all depends. This amendment does not clear that up. In fact, it only adds to the confusion, because it statutorily creates a standard of care when there is no underlying cause of action, no basis for liability against the defendant. There will still be lawsuits to defend and lawyers to pay even if you win. I guess that may be the whole point of the proponents—create a requirement for manufacturers to defend themselves in court even though there is no legitimate cause of action against them. They pay more insurance, more lawyers, so even if they win, they lose.

This bill is all about ensuring there is no cause of action against a manufacturer which makes a legal, nondefective product. It makes no sense to say unless he is grossly negligent. He is already liable if he is grossly negligent. Say the gun blows up and kills somebody; that standard applies already if there is a legal cause of action against him—in other words, a legal basis for holding him liable. It adds nothing but confusion when there is no underlying cause of action.

Here is an example: You get yourself rear-ended by the guy behind you, and I am not that guy. You have no right to sue me. It doesn't change anything if we say in the law "unless KYL is grossly negligent;" KYL wasn't even there. All we are doing is adding confusion to this by adding this gross negligence language which, unfortunately, will cause a lot of people to have to defend themselves in court, pay lawyer fees, and at the end of the day we are trying to avoid that here.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, the purpose of this bill is said to be that you want to make sure you do not hold people accountable for the actions of others. That is what we have been told the purpose of this bill is. That is what the stated purpose of this bill is. This amendment says we surely should hold people accountable for their own actions. That is the difference. Are people going to be held accountable for their own reckless and grossly negligent conduct? The way this bill is written, the only grossly negligent conduct or reckless conduct somebody is held accountable for is if that conduct is also illegal.

What if the conduct is not illegal but is grossly negligent and reckless and causes the death or injury of somebody else? Should that manufacturer or that dealer be immunized if his own reckless or grossly negligent conduct is a proximate cause of death or injury? It is a simple provision. I am going to read it, if I have 20 seconds left:

> None of the provisions in the act shall be construed to prohibit a civil liability action from being brought or continued against the person if that person's own gross negligence or reckless conduct was a proximate cause of death or injury.

The key word in this whole sentence is "own." The key argument that the opponents of the amendment make is that you only should be responsible for your own actions, and I agree. The NRA has a point. You should be responsible for your own actions. This amendment says if your actions are reckless or grossly negligent, then you are not going to be immunized. This is not someone else's conduct. It is your own.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Idaho.

Mr. CRAIG. Mr. President, I move to table the Levin amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant journal clerk called the roll.

Mr. McCONNELL. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 41, as follows:

[Rollcall Vote No. 29 Leg.]

YEAS—56

Alexander
Allard
Allen
Baucus
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
Daschle
Dole
Dorgan
Ensign
Enzi
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Landrieu
Lincoln
Lott
McCain
McConnell
Miller
Murkowski
Nelson (NE)
Nickles
Pryor
Reid
Roberts
Rockefeller
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich

NAYS—41

Akaka
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Chafee
Clinton
Conrad
Corzine
Dayton
DeWine
Dodd
Durbin
Feingold
Feinstein
Fitzgerald
Graham (FL)
Harkin
Hollings
Inouye
Jeffords
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mikulski
Murray
Nelson (FL)
Reed
Sarbanes
Schumer
Stabenow
Warner
Wyden

NOT VOTING—3

Domenici
Edwards
Johnson

The motion was agreed to.

Mr. CRAIG. Mr. President, I move to reconsider the vote.

Mr. DODD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRAIG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, I believe the order at hand is final passage on S. 1805, as amended. I turn to my colleague, Senator REED, for any closing comments he would like to make.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, despite the passage of three very important amendments for gun safety—one that closed the gun show loophole, another that extended the assault weapons ban, and a third to require child safety locks with all handguns sold in this country—the underlying bill still represents a fundamental undermining of a principle of law that has lasted for centuries, and that principle is that an individual is not just responsible to follow the statutes of this country, that individual is responsible to act reasonably. Even the most elaborate construct of statutes will never reach all the variations of human behavior. That is why this fundamental principle of responsible conduct must by maintained.

This bill turns it on its head. This bill, if enacted, will be a license to be irresponsible, and there is no more graphic example than Bull's Eye Shooter Supply in Washington State, the source of the weapons for the snipers who terrorized Washington, DC. The individual could not account for 238 weapons, had numerous citations by ATF, and was unaware that a weapon was shoplifted and had fallen into the hands of assassins. That is irresponsible conduct. That conduct would be immunized by this legislation.

I urge all my colleagues to vote no, against this legislation. We have made progress on important gun safety measures, but the underlying legislation would say to gun manufacturers: You can be irresponsible through your distribution network to whom you sell; to dealers, you can be irresponsible to the customer to whom you sell. We don't want that. The peace, security, and safety of all of us cannot tolerate that, and I urge defeat of this measure.

Mr. CRAIG. Mr. President, we are about to vote on S. 1805, as amended. The House passed a clean S. 1805 with over a 2-to-1 margin. The President has asked for a clean bill. But in the process of the last 5 days we have added a great deal to this bill that makes it much less than clean.

We have added back the assault weapons ban. We have added trigger locks. We put a new tripwire in gun shows that will allow law-abiding citizens to be at risk.

I don't think we can go there, nor do I believe we should go there. I, and certainly my colleagues, have worked in good will, as have all who have come to the floor to debate this issue. There has been a real difference of opinion.

I am now told even if we passed it, it would never get to conference. If you can't work the process and get to conference, how can you complete the legislative process for which the House and the Senate have always historically been known? To simply have someone say no to allow the difference between the House and the Senate to be worked out is the very clear message I am hearing at this moment. That is a message that doesn't work. If that is the strategy here, that we move legislation by offering amendments by working in a bipartisan fashion only to say no at the end, how can we accept the process and simply say, well, let us vote it out, anyway?

This is a very important bill. There is no question about that. It was a substantial move in tort reform. It enshrined once again the historic tort belief that you as an individual are responsible for your own actions. If somebody acts criminally down the line and you have been law abiding and you are at risk, that is what the bill said. It wasn't convoluted. It was clear and it was clean. I worked on it a long while, as have many others.

I am proud of our work product, and I would love to see this bill pass. But I now believe it is so dramatically wounded that it should not pass. I urge my colleagues to vote against it.

I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. CHAFEE). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 8, nays 90, as follows:

[Rollcall Vote No. 30 Leg.]

YEAS—8

Breaux
Daschle
Lieberman
Lincoln
Lugar
McCain
Pryor
Voinovich

NAYS—90

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lott
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Warner
Wyden

NOT VOTING—2

Edwards
Johnson

The bill (S. 1805), as amended, was rejected.

Mr. CRAIG. Mr. President, I move to reconsider the vote.

Mr. DODD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I yield to the Senator from Arizona.

MORNING BUSINESS

Mr. KYL. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. DODD. Mr. President, may I inquire, what sort of time—I want to get a few minutes in morning business, myself.

Mr. CRAIG. Mr. President, I would like only to thank all who were involved in the legislation.

Mr. KYL. Mr. President, I have a presentation I would like to make in morning business.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. While the Senator from Idaho is speaking, I will be happy to speak to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Idaho.

CONSIDERATION OF S. 1805

Mr. CRAIG. Mr. President, we have just had 5 days of very important debate. I think all who entered the debate entered it with good will in mind. There have been different points of view, very strongly held different points of view. As a result of that, the final passage of S. 1805 was not possible, and the Senate defeated it. That is all I will say about that process.

I wish to thank so many people who have been tremendously helpful on my staff: Brooke Roberts, Lisa McGrath, and Doug Lucke, who worked extremely hard with me to perfect S. 1805 and bring it to the floor; Chairman HATCH and his staff of the Judiciary Committee: Ted Lehman, Brett Tolman, and Reed O'Connor; the leadership staff in the cloakroom; and the 55 cosponsors of S. 1805.

Certainly, there was a strong effort on the part of all to get this legislation to the floor, to get clean votes on it. We even, of course, had the effort of the House, with a better than two-to-one majority in the House, on a clean bill. The President asked that a clean bill be received at the White House.

None of that, in the final hours, appeared to be possible. Clearly, we were not going to be allowed to go to conference. The minority saw no advantage in allowing the process that is historical and responsible in the Senate to move forward because that, of course, takes unanimous consent or prolonged effort and votes to get there.

It is a very short timeline for this year, and we clearly need to move the process forward. We will look now to bring the House bill forward in a clean way. Ultimately, we hope we might get a cloture vote. This issue will not go away. It deserves to be voted on, up or down, by the Senate. Clearly, it is the will of the American people and, ultimately, we will have that day and that opportunity. That day was not today, as much as I wished it could be.

At the same time, when you have a bad bill that is created by the amendment process, it sometimes is difficult, if not impossible, to make it better or to make it acceptable. I would not send to this President or any President a bad bill of the kind that was crafted in the Senate through the amendment process over the last several days.

But, again, I thank so many who were involved in this effort. It is greatly appreciated.

With that, I yield the floor.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The minority whip.

Mr. REID. Mr. President, I ask unanimous consent that the Senator from Connecticut, Mr. DODD, be recognized for up to 30 minutes—we are in a period of morning business—and following that, the floor return to Senator KYL.

Mr. KYL. Reserving the right to object; 20 minutes, yes, 30 minutes, no.

Mr. REID. I would say, no, he asked for 20 minutes.

Mr. KYL. Sorry. I say to the Senator from Nevada, is 20 minutes all right, then?

Mr. REID. Could we give him 25? Twenty minutes is fine. Twenty minutes is fine. Then the floor would return to Senator KYL.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DODD. Mr. President, first, I thank the distinguished Senator from Nevada and the Senator from Arizona for their courtesies. I appreciate that very much.

HAITI

Mr. DODD. Mr. President, I wish to address, if I may, the subject matter of Haiti and the events that have occurred there over the last several days, now going back a week or more, in that country, that beleaguered nation only a few hundred miles off the southern coast of Florida.

On Sunday morning, as we now all know, the democratically elected government, the President of Haiti, was forced out of office. The armed insurrection, led by former members of the disbanded Haitian Army, and its paramilitary wing called FRAPH, made it impossible for the Aristide government to maintain public order, without assistance from the international community—international assistance that was consciously withheld, in my view.

President Aristide left Haiti on Sunday morning aboard an American aircraft. President Aristide reportedly has gone into exile in the Central African Republic, where I am now being told he is not allowed to communicate with others outside of that country.

Members of the Black Caucus of the other body, and others who had an opportunity to speak with President Aristide yesterday, have publicly restated his claim that he was forcibly removed from Haiti by U.S. officials.

I quickly point out that Secretary of State Colin Powell and others have emphatically denied that charge. Such an allegation, if true, is extremely troubling and would be a gross violation of the laws of the U.S. and international law. Only time will tell. I presume there will be a thorough investigation to determine exactly what occurred from late Saturday night and early Sunday morning, regarding the departure and ouster of the President of Haiti, President Aristide.

Over the coming days, I believe an effort should be made to reconstruct what happened in the final 24 or 48 hours leading up to President Aristide's departure so we can resolve questions of the U.S. participation in the ouster of a democratically elected leader in this hemisphere.

Let's be clear that whether U.S. officials forcibly removed Aristide from Haiti, as he has charged, or he left voluntarily, as Secretary of Powell and others have stated, it is indisputable, based on everything we know, that the U.S. played a very direct and public role in pressuring him to leave office by making it clear that the United States would do nothing to protect him from the armed thugs who are threatening to kill him. His choice was simple: Stay in Haiti with no protection from the international community, including the U.S., and be killed or you can leave the country. That is hardly what I would call a voluntary decision to leave.

I will point out as well, if I can—and I know that international agreements are not always thought of as being terribly important in some people's minds. But in 1991, President Bush, the 41st President, along with other nations in this hemisphere, had signed the Santiago Declaration of 1991. That declaration, authored by the Organization of American States, said that any nation, democratically elected in this hemisphere, that seeks the help of others when they are threatened with an overthrow should be able to get that support.

Ten years later, the Inter-American Charter on Democracy was signed into law, a far more comprehensive proposal, again authored by the Organization of American States, the U.S. supporting. The present President Bush and our administration supported that. That charter on democracy stated that when asked for help by a democratically elected government being threatened with overthrow, we should respond.

President Aristide, a democratically elected President made that request and, of course, not only did we not provide assistance, in fact we sat back and watched as he left the country, offering assistance for him to depart.

I cite those international agreements because we think of our Nation as being a nation of laws, not of men. These agreements either meant something or they didn't. The Santiago Declaration and the Inter-American Charter on Democracy, apparently both documents mean little or nothing when it comes to supporting democratically elected governments in this hemisphere—not ones that you necessarily like or agree with or find everything they do is in your interest, but we do adhere to the notion that democratically elected governments are what we support in this hemisphere.

When they are challenged by violent thugs, people with records of violent human rights violations, engaged in death squad activity, in the very country they are now moving back into and threatened, of course, successfully the elected government of President Aristide, then I think it is worthy of note that we have walked away from these international documents signed only 3 years ago and 10 years ago.

There is no doubt, I add, that President Aristide has made significant mistakes during his 3 years in office—these last 3 years. He allowed his supporters to use violence as a means of controlling a growing opposition movement against his government. The Haitian police were ill trained and ill equipped to maintain public order in the face of violent demonstrations by progovernment and antigovernment activists. Poverty, desperation, and opportunism led to wide government corruption.

President Aristide, in my view, must assume responsibility for these things. But did the cumulative effect of these failures amount to a decision that we thought we could no longer support this democratically elected government? If that becomes the standard in this hemisphere, we are going to find ourselves sitting by and watching one democratically elected government after another fall to those that breed chaos and remove governments with which they don't agree. They are being told by the Bush administration now that the Haitian Government was a government of failed leadership. That is a whole new standard when it comes to engaging in the kind of activity we have seen over the last several days.

Having been critical of President Aristide, I point out that he was elected twice overwhelmingly in his country. He was thrown out of office in a coup in the early 1990s. Through the efforts of the U.S. Government and others, he was brought back to power in Haiti. Then he gave up power when the government of President Preval was elected. During those 4 years, President Aristide supported that transitional government. He ran again himself, as the Haitian Constitution allowed, and was elected overwhelmingly again, despite the fact the opposition posed little or no efforts to stand against him.

There was a very bad election that occurred in the spring of 2000, in which eight members of the Haitian Senate were elected by fraud. Those Senators were removed from office. Six months later, President Aristide was elected overwhelmingly again. It is the first time I know of in the 200-year history of Haiti as an independent nation where a President turned over power transitionally peacefully to another democratically elected government. Whatever other complaints there are—and they are not illegitimate about the Aristide government—there was a peaceful transition of democratically elected governments in Haiti. That never, ever happened before. What has happened there repeatedly is one coup after another—33 over the 200-year history of that nation.

Whatever shortcomings they may have had, President Aristide provided for the first time in Haiti's history a democratically elected government transitioning power to other people peacefully. I will also point out that he abolished the military and the army, an institution that did nothing but drain the feeble economy of Haiti of necessary resources.

Haiti did not have a need for an army. There were no threats to Haiti. In retrospect, he may regret that. But the army, in my view, was a waste of money in Haiti, served no legitimate purpose, and President Aristide should be commended for abolishing an institution that had been the source of constant corruption and difficulty on that nation.

Blame for the chaos does not rest solely on the shoulders of President Aristide. The so-called democratic opposition bears a share of the responsibility for the death and destruction that has wreaked havoc throughout Haiti over the past several weeks.

The members of CARICOM, with U.S. backing, put on the table a plan calling for the establishment of a unity government to defuse the political crisis. The opposition rejected this proposal on three different occasions, despite the fact that President Aristide said he was willing to have a government of unity, to give up power, to share governmental functions with the opposition. The opposition said no on three different occasions, despite the fact that the nations of the Caribbean region urged the opposition to avoid the kind of transition that we have seen over the last several days.

A hundred or more Haitians already have lost their lives. Property damage may be in the millions. Given the direct role the U.S. played in the removal of the Aristide government, it is now President Bush's responsibility, in my view, and moral obligation to take charge of this situation. That means more than sending a couple hundred marines for 90 days or so into Haiti. Rather, it means a sustained commitment of personnel and resources for the foreseeable future by the U.S. and other members of the international community that called for the removal of the elected government.

If the Bush administration and others inside and outside of Haiti had been at all concerned over the last 3 weeks about the fate of the Haitian people, perhaps the situation would not have deteriorated into near anarchy, nor would the obligation of the U.S. to clean up this mess now loom so large.

We are now reaping what we have sown. Three years of a hands-off policy left Haiti unstable, with a power vacuum that will be filled in one way or another. Will that vacuum be filled by individuals such as Guy Philippe, a former member of the disbanded Haitian Army, a notorious human rights abuser and drug trafficker, or is the administration prepared to take action against him and his followers, based upon a long record of criminal behavior?

It is rather amazing to this Senator that the administration has said little or nothing about its plans for cracking down on the armed thugs who have terrorized Haiti since February 5.

Only with careful attention by the United States and the international community does Haiti have a fighting chance to break from its tragic history. In the best of circumstances, it is never easy to build and nurture democratic institutions where they are weak and nonexistent. When ignorance, intolerance, and poverty are part of the very fabric of a nation, as is the case in Haiti, it is Herculean.

Given the mentality of the political elites in Haiti—one of winner take all—I, frankly, believe it is going to be extremely difficult to form a unity government that has any likelihood of being able to govern for any period of time without resorting to repressive measures against those who have been excluded from the process.

It brings me no pleasure to say at this juncture that Haiti is failing, if not a failed state. The United Nations Security Council has authorized the deployment of peacekeepers to Haiti to stabilize the situation. I would go a step further and urge the Haitian authorities to consider sharing authority with an international administration authorized by the United Nations in order to create the conditions necessary to give any future Government of Haiti a fighting chance at succeeding. The United States must lead in this multinational initiative, as Australia did, I might point out, in the case of East Timor; not as Secretary Defense Rumsfeld suggested yesterday: Wait for someone else to step up to the plate to take the lead. It will require substantial, sustained commitment of resources by the United States and the international community if we are to be successful.

The jury is out as to whether the Bush administration is prepared to remain engaged in Haiti. Only in the eleventh hour did Secretary of State Colin Powell focus his attention on Haiti as he personally organized the pressure which led to President Aristide's resignation on Sunday. Unless Secretary Powell is equally committed to remaining engaged in the rebuilding of that country, then I see little likelihood that anything is going to change for the Haitian people. The coming days and weeks will tell whether the Bush administration is as concerned about strengthening and supporting democracy in our own hemisphere as it claims to be in other more distant places around the globe. The people of this hemisphere are watching and waiting.

I yield the floor.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from Arizona.

Mr. REID. Mr. President, will my friend yield for a question?

Mr. KYL. Yes.

Mr. REID. Mr. President, we have people on both sides trying to determine what their schedules will be tonight. It is my understanding the Senator from Arizona would like to speak for an extended period of time or have someone on his side speak. We certainly think that is appropriate. We would, however, like to see what we can do to determine how much time would be used on each side. I ask my distinguished friend from Arizona, through the Chair, if he believes they can do their speeches in 2 hours.

Mr. KYL. If I can answer the question of the Senator from Nevada this way, I know that we have 2 hours. I just asked the staff on the schedule they have if it goes beyond that. They are checking that right now. I say to my friend from Nevada, if there are no people beyond that time, then 2 hours, and then if there are, then whatever the Senator is willing to agree to we will be happy to enter an agreement on.

Mr. REID. Mr. President, I ask unanimous consent that during this period for morning business, that I be in control of 2½ hours and that the majority be in control of 2½ hours, with the time starting from the time Senator KYL starts his speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

IRAQ

Mr. KYL. Mr. President, I rise today to discuss the subject of the removal of Saddam Hussein's regime in Iraq and to address some of the recent criticism regarding whether, given that large stockpiles of weapons of mass destruction have not been found, action by the United States was justified. When I have concluded, I know there are some colleagues who will want to address this same question from slightly different perspectives.

The tragic events of September 11, 2001, demonstrated with great clarity that we can no longer afford to wait for threats to fully emerge before we deal with them. We paid a heavy price that day for our previous half-measures against those who hate us and want to destroy us.

By definition, intelligence is imprecise, and no matter what reforms we implement in our intelligence community, the fact is, at least to some degree, it will always be uncertain. This is precisely why intelligence information is just part of a larger puzzle, as it was in the case of Iraq, that we used to determine the direction of U.S. policy.

So given the uncertainty about weapons of mass destruction stockpiles, were our actions in Iraq justified? The answer to that question is most certainly yes. There is no doubt that the United States, the Iraqi people, and the international community are far better off today without Saddam Hussein in power.

The inability to find weapons of mass destruction stockpiles now does not mean that Iraq did not have access to such weapons, and that under Saddam Hussein Iraq was not a grave and gathering danger. In fact, the overwhelming body of evidence, including most recently that from the Iraq Survey Group, indicates that his regime did, indeed, pose a threat, and that its removal will aid in our overall aid against terror.

Some of our colleagues have charged that the President led the American people to war under false pretenses; that the case for removing Saddam Hussein's regime was supposedly based on an imminent threat posed by that regime because of its arsenals of weapons of mass destruction which now cannot be found. This assertion is categorically false, and today I intend to explain why.

Let's briefly review how we arrived at the decision to authorize force against Iraq in October of 2002.

Contrary to what some would have us believe, the Bush administration did not fundamentally change U.S. policy with Iraq from that of the Clinton administration. Upon entering office in January 2001, President Bush inherited from the Clinton administration a policy of regime change. I repeat, the Bush administration pursued the same Iraqi policy as the Clinton administration. That policy was based on the 1998 Iraq Liberation Act which stated:

> It should be the policy of the United States to support efforts to remove the regime headed by Saddam Hussein from power and to promote the emergence of a democratic government to replace that regime.

This policy was unanimously approved by this Senate. This legislation and, thus, the shift in U.S. policy from containment to regime change reflected an acknowledgment that diplomatic solutions for dealing with Saddam's intransigence were being exhausted.

Even before that shift, however, the Clinton administration was clear about the nature and capabilities of Saddam Hussein's regime and, moreover, believed that if left unchecked, the regime would pose a serious threat in the future.

On February 17, 1998, as he prepared for war against Iraq, President Clinton stated the following:

> Now let's imagine the future. What if [Saddam Hussein] fails to comply and we fail to act or we take some ambiguous third route, which gives him yet more opportunities to develop this program of weapons of mass destruction and continue to press for the release of the sanctions and continue to ignore the solemn commitments that he made? Well, he will conclude that the international community has lost its will. He will then conclude that he can go right on and do more to rebuild an arsenal of devastating destruction. And some day, some way, I guarantee you he will use that arsenal. . . . In the next century, the community of nations may see more and more of the very kind of threat Iraq poses now—a rogue state with weapons of mass destruction, ready to use them or provide them to terrorists, drug traffickers, or organized criminals who travel the world among us unnoticed.

That quote was from President Clinton's remarks in 1998 as he prepared for war against Iraq. He pointed out that the arsenal which Iraq possessed—"a rogue state with weapons of mass destruction" were his exact words—will pose a threat because he can provide them to terrorists, drug traffickers, or organized criminals who travel the world among us unnoticed.

Note that he talked about weapons of mass destruction which Saddam Hussein possessed.

I have noted no objections or caveats on these warnings by Democratic Members of the Senate.

Later that year, not 2 months after President Clinton signed the Iraqi Liberation Act into law, he delivered an address to the Nation explaining his decision to order air strikes against Iraqi military targets. He discussed the potential long-term threat posed by Saddam Hussein. Again, I quote President Clinton:

> The hard fact is that so long as Saddam Hussein remains in power he threatens the well-being of his people, the peace of his region, the security of the world. The best way to end that threat once and for all is with a new Iraqi government, a government ready to live in peace with its neighbors, a government that respects the right of its people.
>
> . . . Heavy as they are, the costs of inaction must be weighed against the price of inaction. If Saddam defies the world and we fail to respond, we will face a far greater threat in the future. Saddam will strike again at his neighbors; he will make war on his own people. Mark my words, he will develop weapons of mass destruction. He will deploy them, and he will use them.

Again, I note no dissent from Democratic Senators to these comments of President Clinton.

Consider the striking similarity between these statements by President Clinton and the statements Bush administration officials made about Iraq during the leadup to Operation Iraqi Freedom. In the first statement I cited from February of 1998, President Clinton discussed the consequences of inaction in the face of continued noncompliance by Saddam Hussein, noting that inaction would lead the dictator to conclude the international community had lost its will.

Consider the statements of President George W. Bush to the United Nations General Assembly in September 2002:

> The conduct of the Iraqi regime is a threat to the authority of the United Nations. Iraq has answered a decade of U.N. demands with a decade of defiance. . . . The United Nations [faces] a difficult and defining moment. Are Security Council resolutions to be honored and enforced, or cast aside without consequence? Will the United Nations serve the purpose of its founding, or will it be irrelevant?

I point out the focus of President Clinton's statements was on the totality of our knowledge about Saddam Hussein's history, his defiance of the United Nations, use of chemical weapons, aggression against his neighbors, savage treatment of his own people.

This is what we had to gauge his intentions by. This broad focus on Saddam's past actions and known capabilities, not any particular piece of intelligence, was also what prompted many Members of this body to authorize force against Iraq in October 2002. Consider some of the statements made in 2002 by my colleagues. First I quote Senator DASCHLE, majority and minority leader:

> Iraq's actions pose a serious and continued threat to international peace and security. It is a threat we must address. Saddam is a proven aggressor who has time and again turned his wrath on his neighbors and on his own people. Iraq is not the only nation in the world to possess weapons of mass destruction, but it is the only nation with a leader who has used them against his own people . . .

Note: 2002, Saddam Hussein possesses weapons of mass destruction, no qualifications except he is not the only country to do so. No expression of doubts or caveats. As minority leader or majority leader, Senator DASCHLE has access to all of the intelligence that is available to anybody in this body.

Now I quote Senator BIDEN, whose comments I quote not just because he is one of the more thoughtful Members of this body and ranking member of the Foreign Relations Committee, but also because they happen to be very close to the views I expressed on this issue. I quote Senator BIDEN in his colorful way of putting it:

> There is a guy named Saddam Hussein who, in the early 1990s broke international law, invaded another country, violating every rule of international law. The world, under the leadership of a President named Bush, united and expelled him from that country. Upon expulsion, he said a condition for your being able to remain in power, Saddam Hussein, is you sue for peace and you agree to the following terms of surrender . . . If the world decides it must use force for his failure to abide by the terms of surrender, then it is not preempting, it is enforcing. It is enforcing, it is finishing a war he reignited, because the only reason the war stopped is he sued for peace.

That is exactly true. That is precisely what happened.

Now let me quote another leader in the Senate, Senator KERRY, who said this:

> It would be naive, to the point of grave danger, not to believe that, left to his own devices, Saddam Hussein will provoke, misjudge, or stumble into a future, more dangerous confrontation with the civilized world. . . .

So this was the backdrop against which we all had voted to authorize the President to act and upon which he acted. I should not say we all voted to authorize the President because there were a few who did not, but the vast majority of the House of Representatives and the Senate voted to authorize the President to take appropriate action.

Some now are voicing second thoughts. Since our successful removal of Saddam Hussein from power, it emerges that some of the intelligence regarding the regime's weapons of mass destruction capabilities may have been wrong, because most notably large stockpiles of chemical and biological weapons have yet to be found.

I feel compelled to point out three obvious facts: One, an intelligence failure is not synonymous with a misuse of intelligence. Two, this intelligence issue does not fundamentally change the case against Saddam Hussein. Three, since Iraq itself had provided documentation to the United Nations on its production of chemical and biological agents, the question is not whether but what happened to the stockpiles.

Let's take the first, the misuse of intelligence. The fact remains the Bush administration relied largely on the same intelligence information used by the Clinton administration during the late 1990s, the same information that was available to Senators and about which they spoke on this floor, some of which I have quoted.

President Clinton's CIA Director was retained by President Bush. By and large, the intelligence information was also the same as that of the other allied intelligence services, with a primary source being the two U.N. inspection bodies UNSCOM and UNMOVIC, the initials of which are U-N-S-C-O-M and U-N-M-O-V-I-C, which were led by non-Americans, such as Rolf Ekeus and Richard Butler. That Saddam had weapons of mass destruction capabilities was widely accepted, even by those who vehemently opposed the war. As French President Jacques Chirac commented during an interview with "Time" Magazine in February of 2004:

> There is a problem—The probable possession of weapons of mass destruction by an uncontrollable country, Iraq. The international community is right to be disturbed by this situation, and it's right in having decided Iraq should be disarmed.

I would note, if he does not have any weapons of mass destruction, there is no point in talking about disarming him. The entire world community believed he possessed these weapons, among other things because he himself had said he did.

So given the information the international community had at the time, the conclusions about Iraq's capabilities seemed clear. As former head of the Iraqi Survey Group David Kay recently stated in his testimony to the Senate Armed Services Committee:

> . . . All I can say is if you read the total body of intelligence in the last 12 to 15 years that flowed on Iraq, I quite frankly think it would be hard to come to a conclusion other than Iraq was a gathering, serious threat to the world with regard to WMD.

I might add, that is exactly what President Bush said. That is obviously a big-picture view.

It seems opponents of the President, in charging the administration misled the American people, preferred to point to specific intelligence. So let's take a closer look at a couple of those examples. First, that the President's reference in his State of the Union Address regarding Iraq's attempts to purchase uranium and, second, that the administration presented intelligence community information on Iraq's WMD capabilities as though it were an undeniable fact rather than qualifying it properly with caveats.

First, there were the following 16 words in the President's State of the Union Address:

> The British government has learned that Saddam Hussein recently sought significant quantities of uranium from Africa.

Major newspapers, the Democratic National Committee, and some policymakers claim this is one of the top examples of the Bush administration knowingly misleading the American people and presenting false intelligence information. As the DNC chairman Terry McAuliffe stated:

> This may be the first time in recent history that a President knowingly misled the American people during a State of the Union Address. . . . this was not a mistake. It was no oversight and it was no error.

That is a grave charge. Charges that the administration purposely included false information in the President's speech I deem despicable, an attempt to create a scandal where one does not exist. The President had every reason to believe the information in his speech was true. It had been vetted by the CIA Director and it was consistent with the judgment of the intelligence community in October 2002. The National Intelligence Estimate at that time said Iraq was "vigorously trying to procure uranium ore" from several African countries.

The British government, which the President cited, included a judgment in its dossier similar to that of the intelligence community's majority judgment on this point.

In retrospect, Director Tenet stated this phrase, though factually correct and approved in the interagency process, should not have been included in the President's speech because it was not central to the intelligence community's judgment that Iraq was reconstituting its nuclear weapons program. In other words, it was just a piece of evidence, not important enough to include in a speech like the State of the Union speech, and certainly not what we relied upon for our conclusion Iraq was trying to reconstitute its nuclear weapons program. In any event, it does not suggest in any way that the President was at fault for including the information, or that he had any intention of misleading the American people. The President believed the text was sound. It was not in error. If there was an error, it was simply including a piece of information which really wasn't central to making the case, but not misleading the American people.

Second, the President's critics argue he failed to mention caveats in the intelligence community's assessment of Iraqi capability. This criticism is highly misleading. According to the 2002 National Intelligence Estimate, and I have an unclassified copy of it here, the intelligence community had "high confidence" in the following statements:

> Iraq is continuing, and in some areas expanding, its chemical, biological, nuclear, and missile programs contrary to U.N. Resolutions.
>
> Iraq possesses proscribed chemical and biological weapons and missiles.
>
> Iraq could make a nuclear weapon in months to a year once it acquires sufficient weapons-grade material.

So the National Intelligence Estimate, prepared by the entire intelligence community, led by the CIA Director George Tenet, had high confidence, among other things, in the fact that Iraq possessed proscribed biological and chemical weapons and missiles. After the fact we found some of the missiles. We found the programs to make chemical and biological weapons. But we don't find the big stockpile of those weapons. It turns out the intelligence community's high confidence in this statement was either misplaced or we simply haven't found the material yet, or it went somewhere else. We don't know the answers to those questions.

As to this, the only dissent came from the State Department. But even in its alternate view it said Saddam continues to want nuclear weapons and available evidence suggests Baghdad is pursuing a limited effort to maintain and acquire nuclear weapons capabilities.

Moreover, it appears the State Department did not have significant objections to the key judgments related to chemical, biological, and missile programs.

So it is clear, it is fair to say, we had a general opinion of Saddam's capabilities, that that is what the President addressed.

I want to also make it clear the President and the administration never claimed Iraq posed an imminent threat, as some have said. To the contrary, administration officials said the United States and the international community needed to act before it became imminent. Indeed, President Bush challenged those who wanted to wait until the threat was imminent in his 2003 State of the Union Address, saying the following:

> Some have said that we must not act until the threat is imminent. Since when have terrorists and tyrants announced their intentions, politely putting us on notice before they strike? If this threat is permitted to fully and suddenly emerge, all actions, all words, and all recriminations would come too late. Trusting in the sanity and restraint of Saddam Hussein is not a strategy, and it is not an option.

So said President Bush.

Administration officials did use words like "immediate" and "urgent" but more to convey the importance of dealing with the threat they judged to be growing; that they did not imply or state was imminent, in other words, that the attack was about to occur. They did not say that.

Indeed, that the threat was not yet imminent was well understood on both sides of the aisle. As Senator DASCHLE, whom I quoted earlier, stated in explaining his support for the resolution authorizing the use of force against Iraq:

> The threat posed by Saddam Hussein may not be imminent, but it is real, it is growing, and it cannot be ignored.

I submit he was correct. One can argue, and indeed some of my colleagues have argued, administration officials were at times too certain in the way they said it, too certain in their statements using phrases like "we know." But given all the information we had about Saddam's history of using and producing weapons of mass destruction, his aggressive intentions, and the intelligence community's high confidence in the key areas of assessment, it is difficult to imagine how the administration could have determined Iraq was not a threat that needed to be dealt with immediately.

So, no, there may have been mistakes in intelligence. We have yet to find that out. But there was not a misleading—an attempt to mislead by the administration.

The second point is the larger point, that whatever deficiencies there may have been about the stockpiles of weapons of mass destruction, it doesn't change the basic case against Saddam Hussein. Some of what I have quoted earlier makes that point. While it is troubling our intelligence cannot tell us where these stockpiles are, the larger case remains. The Bush administration, supported by a large coalition, pursued a responsible policy, given all of the pieces of the puzzle it had. As I said, there was Saddam's previously known missile capabilities and chemical and biological weapons programs; his desire to acquire a nuclear weapon; his continuing flagrant violation of numerous Security Council resolutions; his history of aggression including, I might add, shooting at American airplanes constantly in the no-fly zone while we were trying to enforce that, if you will recall; and even an attempt to assassinate former President Bush. Add to this the regime's vast human rights abuses which really only came to light after we were able to liberate Iraq.

In other words, absent any statement or specific piece of intelligence, the case against Saddam Hussein was already made by Saddam Hussein himself and this was before, as I said, we found the mass graves of hundreds of thousands of Iraqis.

Our colleague Senator KERRY summed it up well at the time. He said this:

> I believe the record of Saddam Hussein's ruthless, reckless breach of international values and standards of behavior is cause enough for the world community to hold him accountable by the use of force, if necessary..

I want to quote that again:

> I believe the record of Saddam Hussein's ruthless, reckless breach of international values and standards of behavior is cause enough for the world community to hold him accountable by use of force, if necessary.

There is no suggestion here we had to find weapons of mass destruction, or even necessarily that we had to believe those weapons existed at the time, even though, as I said, we all did, based upon the intelligence at the time, but that this gross violation of human rights was, in and of itself, a sufficient casus belli.

Given the same causes and information, what then accounts for the differences between the actions of the Bush and Clinton administrations? Very simply, the Bush administration made a decision that, post 9/11, it was too dangerous to allow American security to rest in the hands of an international organization that, after 12 years, had failed to enforce its own resolutions demanding Iraqi compliance with the 1991 Gulf war cease-fire. It was too dangerous to allow a regime to stay in place which had demonstrated a clear intent to develop weapons of mass destruction, had ongoing ties to terrorist organizations, and whose leader made it abundantly and routinely clear the United States was his enemy.

We needed to begin the process of changing the facts on ground in the Middle East.

In fact, it was, in part, the very uncertainty that made dealing with Saddam Hussein an urgent matter.

As Senator KERRY explained before his vote in favor of the authorization to use force:

> In the wake of September 11, who among us can say, with any certainty, to anybody, that those weapons might not be used against our troops or against allies in the region? Who can say that this master of miscalculation will not develop a weapon of mass destruction even greater—a nuclear weapon—then reinvade Kuwait, push the Kurds out, attack Israel, any number of scenarios to try to further his ambition to be the pan-Arab leader or simply to confront in the region, once again miscalculate the response, to believe he is stronger than those weapons?
>
> And while the administration has failed to provide any direct link between Iraq and September 11, can we afford to ignore the possibility that Saddam might accidentally, as well as purposely, allow those weapons to slide off to one group or other in a region where weapons are the currency of trade? How do we leave that to chance?

While we have not and may not find these weapons stockpiles, the case against Saddam Hussein is not diminished. His was a threat that needed to be dealt with.

The third and final point, the jury is still out as to what happened to Iraq's weapons of mass destruction and when. It is an intelligence failure—a lack of knowledge, not an attempt to mislead people—that we don't know the answer to that question. Presumably, some day we will find out or at least come closer to the resolution of the issue. Perhaps some day we will find some of the weapons, or maybe we will find evidence they were destroyed or removed before the war. There is no way now to know.

But one fact is certain. What we know is that at one time Saddam Hussein had chemical and biological weapons. Saddam Hussein admitted it and the entire world believed it. What is more, that Saddam used those weapons against Iran and against the Iraqi Kurds will remain forever etched in our minds.

I point to simply one picture among many which we can present to remind us of the fact that Saddam Hussein had weapons of mass destruction and used them—in this case, against his own people. Who will forget the picture of this Kurdish mother with arms wrapped around baby, both dead, as a result of Saddam Hussein's perfidy—the use of his chemical weapons.

Mr. MCCONNELL. Mr. President, will the Senator yield for a question?

Mr. KYL. I am happy to yield for a question.

Mr. MCCONNELL. Is it not correct that was one issue upon which everyone was in agreement prior to the Iraq war, the French, the Germans, the Russians, the British, ourselves, the United Nations, the world in its entirety? The one thing they agreed on prior to the Iraq war was the point the Senator from Arizona was just making.

Mr. KYL. Mr. President, if we didn't agree on anything else—and there were some issues we agreed on—all of the countries mentioned, all of the intelligence services mentioned by the Senator from Kentucky, in fact agreed on that point.

Among other things, they agreed because they read the documentation provided to the United Nations by Saddam Hussein in which he admitted he had biological and chemical weapons stockpiles. We knew he had used them. He said he had them. The question now is, What happened to them between sometime in the late 1990s, maybe right up to a week or two before the Iraqi war, and the time we were able to go in after the Iraqi war in search of them since we haven't yet found large stockpiles? We found some things. We certainly found missiles. We have found the programs to reconstitute the chemical weapons program and the biological weapons program. But what we thought we were going to find was a lot of artillery shells filled with chemical munitions and some mortars and things of that sort. We thought they were going to be used against our troops. That we haven't yet found. That is a mystery. You can say it is an intelligence failure, but as the Senator from Kentucky pointed out, nobody disagreed with the proposition that at one time he had those weapons. There is a lot of evidence to that fact.

Mr. MCCONNELL. So if there were any effort to mislead the public, an awful lot of countries were complicit in this effort, were they not?

Mr. KYL. If there was an effort to mislead, there would have been a lot of countries complicit and a lot of Senators complicit. I don't believe for a minute that, in fact, any of us attempted to mislead; that Jacques Chirac attempted to mislead, that the United Nations, or President Bush attempted to mislead. We were all going forth with the same intelligence. We all reached the same conclusion.

Maybe we don't know yet, but at some point in the last few months or years Saddam Hussein buried, sent to Syria, blew up, or otherwise got rid of those weapons. We just do not know. But about their existence at one time, there can be no doubt.

Mr. MCCONNELL. I thank my friend from Arizona.

Mr. KYL. I thank the Senator very much. The Senator made the last point I wanted to make in this regard, and then I will conclude my remarks.

We were briefed every day of the war at 9 o'clock in an area here in which we can receive classified briefings by the general in charge of the operation at the Pentagon and representatives of the CIA, the Defense Department, State Department, and others. Every morning they checked several boxes to remind us of the status of the open relationship.

Before the operation started, they told us about their belief that Saddam

Hussein would lob artillery shells with chemical munitions at our troops. They pointed out that they were going to make efforts to try to prevent this from happening. They called it the "red line" around Baghdad. When we got that close, then there would be this threat of chemical weapons fired against our troops—maybe biological.

So before the war, they began the bombardment on the command and control systems that would send the orders out to the generals in the field. They bombed artillery sites hoping to destroy their artillery weapons. They bombed the warehouses where they thought the munitions might be stored. They dropped millions of leaflets warning that if any officer carried out an order to use these weapons against the allied forces we would hold them accountable as war crime criminals.

As our troops got closer to that red line, they had to don the equipment that would protect them against these munitions. It was not easy to fight under those conditions, but we believed this attack could very well occur.

We got to the Baghdad Airport. By that briefing, the generals were scratching their heads saying: We are not sure why, but we haven't been attacked with these artillery shells. Yet maybe it is because we destroyed the artillery units that would have fired them. Maybe they just got scared because of our leaflets or they couldn't issue the orders. We are not sure. But for some reason they didn't fire them. For several days, they continued to wonder about that.

My point is this: At the highest levels, our troops and our leaders at the Department of Defense all believed this was a threat that could well materialize against our troops. They went to great lengths to try to protect against it. This was not a matter of somebody misleading the American people. We believed it, our troops believed it, the generals believed it, and the Defense Department believed it. And, yes, the President believed it. Nobody was trying to mislead anyone. We based a lot of our actions on this belief.

Let me conclude my remarks by saying this: Much has been made of David Kay's acknowledgment that all of the intelligence agencies apparently were wrong about the weapons stockpiles. But listen to what David Kay said as he reflected on the decision to go to war:

> I think at the end of the inspection process we'll paint a picture of Iraq that was far more dangerous than even we thought it was before the war. It was a system collapsing. It was a country that had the capability in weapons of mass destruction areas and in which terrorists, likes ants to honey, were going after it.

Kay stated on numerous occasions that Saddam Hussein was in clear material breach of Security Council Resolution 1441. The Iraq Survey Group, of which he was head, discovered hundreds of cases of activities that were prohibited under the original United Nations cease-fire resolution and that should have been but were not reported under Resolution 1441.

The group found a prison laboratory complex which may have been used in human testing of biological agents. It found "reference strains" of biological organisms which can be used to produce biological weapons. It found new research on agents applicable to biological weapons, including the Congo-Crimean hemorrhagic fever. It found continuing research on ricin and aflatoxin. It also found plants and advanced design work on new missiles with ranges well beyond what was permitted.

Not just the words of Resolution 1441 but the entire credibility of the U.N. was at stake. The years of Iraqi violations had to come to an end. Now that awful and bloody regime has come to an end.

In the final analysis, whatever the inaccuracies of specific pieces of intelligence, that Saddam Hussein continued to harbor intentions for the development and use of WMD remains true. The observations of David Kay, once again, showed this. He reported earlier this year that Iraq "was in the early stages of renovating the nuclear program, building new buildings." This is the regime that, as I said, David Kay called "far more dangerous than even we thought. To wait any longer to remove it would have been a gamble not worth taking."

I yield to the Senator from Kentucky.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Kentucky.

Mr. MCCONNELL. I thank the Senator from Arizona and appreciate so much his contribution to this important discussion about the war in Iraq and how we got into it and what people understood at the time.

It has occurred to me there is a criminal analogy that summarizes the debate we seem to be having. So let's pose a hypothetical question to all of our fellow Senators. Say the FBI has received a credible tip that a domestic terrorist group is planning to bomb the Capitol. This group is responsible for previous deadly terrorist attacks, we know that, but has been able so far to avoid capture. When the FBI breaks down the door to the group's rural compound, they find all sorts of prohibited weapons—machine guns, sawed-off shotguns, and grenade launchers. They also find detailed plans to gun down lawmakers, diagrams of the Capitol, and information on how to construct a large bomb capable of destroying the Capitol Building. But they do not find the bomb itself or any grenades or the grenade launchers. They found all of the other things, but they did not find the bombs themselves or the grenade launchers.

Should the FBI apologize to the terrorists and offer to replace their door, even though they just caused the apprehension of the terrorists? Since they had yet to construct the bomb, should the terrorists go free? Should we fret that we acted before the bomb was ready, even though the terrorists' intent to attack the Capitol was absolutely clear?

The answer is obviously and definitely no; we should not wait until terrorists roam our streets before responding. We should not wait until the planes have been hijacked or until the bombs have been assembled. We should not have waited until Hussein's army once again stood ready at the border. We should not have waited until the threat he posed to the United States and its allies was imminent. We should not have waited for the French to say it was OK to act to defend the free world.

Some seem to suggest that even though we know Saddam Hussein continued to develop ballistic missiles prohibited by the U.N., our military effort was illegitimate because we have not yet found WMD warheads or the missiles. I can confidently state that Saddam's ballistic missiles were not for the Iraqi space program.

On another note, I am fairly confident that the Iraqi people do not believe for a minute that their liberation is any less legitimate because we have yet to find stockpiles of WMD. I raise this simple analogy because the fundamental questions about our policy in Iraq are fairly basic. The crux of the matter is that Saddam Hussein posed a growing threat to the United States, to our allies, and to his own people. There is no doubt that Iraqis and Americans alike are better off now that Saddam Hussein is in prison and his evil sons have met their end.

Now it occurs to me, we have also lost sight of the moral dimension that accompanied our liberation of Iraq. I represent in my State Fort Campbell, KY, the home of the 101st Airborne. I followed their efforts in that country very closely. This is the unit whose brave soldiers brought to justice Usay and Quday Hussein. The 101st Airborne got them. My colleagues are surely not unaware of how vile these two murderers were and how deserving they were of the tow missiles that ended their brutish lives.

In case we have forgotten that, let me recount a little bit of their evil legacy. According to many reports, Usay Hussein routinely ordered his bodyguards to snatch young women off the streets so that he could rape them. He also ordered political prisoners to be dropped into tubs of acid to punish them. Usay was also in charge of Iraq's olympic committee where he oversaw the training of that country's professional athletes. Usay's training regimen included torturing and jailing athletes for poor performance. Usay would sometimes force Iraq's track stars to crawl along a strip of newly poured asphalt, and once required soccer kickers to kick a concrete ball until their feet were broken after they failed to reach the 1994 World Cup finals. This was Usay Hussein.

Although it is difficult to think of an individual more brutal and evil than Usay Hussein, his brother, Quday, who was known by many Iraqis as "the snake" for his blood thirsty manner, surely comes close. Quday was responsible for the massacre of tens of thousands of Shiite Muslims in the wake of the first gulf war. Maybe some of our colleagues have forgotten about the marsh Arabs who live in southern Iraq. These Iraqis used to live in the Iraqi wetlands that covered nearly 3,200 square miles. They had lived in these marshes for hundreds and perhaps thousands of years until Quday ordered them drained in a massive ethnic cleansing operation. Quday was also responsible for horrible cleansings of Hussein's prisons.

When Hussein's prisons became overcrowded, the regime did not build more jails or let prisoners go. Instead, Quday ordered mass executions in order to reduce overcrowding. A London-based human rights group reports that these unlucky prisoners were sometimes put feet first into massive shredders at Quday's request.

We do not hear much about these awful crimes anymore, so maybe some of our colleagues have forgotten, if they ever knew, about the extent of the Hussein family's brutality. I highlight their brutality in order to ask a serious question about the reality of the international system in the absence of American action. Does anybody seriously believe that had the 101st Airborne not banged down their door, Usay and Quday would have been brought to justice? Of course they would not have. Without the 101st Airborne going after them, they would not have been brought to justice. Absent U.S. leadership, I cannot imagine a situation in which the U.N. would have been able to arrange for the apprehension and trial of the Hussein family.

Had the United States not acted in Iraq, who could say with any confidence that Usay and Quday would not this very day be raping young Iraqi girls and torturing Iraqi dissidents. Of course they would still be doing that. That is what they did.

Had the United States not acted in Iraq, could anyone say with any confidence that Saddam would not be plotting our doom, that his sons would not be torturing the Iraqi people, and that his regime would not be preparing to rebuild the WMD infrastructure we all have agreed Hussein once had?

In conclusion, Madam President, it is more than enough to justify the war in Iraq and the liberation of the Iraqi people.

I yield the floor.

Mr. KYL. Madam President, I know the majority leader wishes to speak next; and then I know the distinguished chairman of the Judiciary Committee is here as well. I now yield to Majority Leader FRIST.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Madam President, I just want to share with my colleagues some recent experiences I had in meeting with Kurdish physicians not too long ago in my office, not too far from here, because it relates so dramatically to the debate and to the unfolding of many of the questions that seem to be raised today.

I should really begin by saying in my home State of Tennessee there are a number of Kurdish residents who live, who reside particularly in the area of Nashville where I am from. I have had the opportunity to meet with them and to listen to their concerns and have had the opportunity to support a project called the Health Partnerships With Northern Iraq, which is a project that is sponsored by the Meridian International Center here in the District, with the support of the State Department. It is a fantastic program, it is a great program, the purpose of which is to train Kurdish doctors in northern Iraq to do primary care; that is, basic care. It is probably 90 percent of health care in terms of responding to individual needs of families and individuals.

What is interesting is these doctors, for a period of time, spent a few weeks, and then months, of their training in this country in primary care, and part of that time was spent in Tennessee at East Tennessee State University.

Last January, I met with this group of Kurdish doctors in my office, just down the hall. They came to me as a physician, as a doctor, and also as majority leader, but they came to me with very specific concerns. They shared with me that they knew the war to topple Saddam Hussein was near, and they were concerned—these are Iraqi physicians—that they would be attacked with chemical and biological weapons. Their concern, as I will share with my colleagues shortly, was based on practical experience, experiences they have firsthand knowledge of, in terms of being with people who had suffered from attacks.

But at the time when they were in my office, they came to me because they said: We are simply unprepared to be practicing primary care in our homeland in northern Iraq. They were in a region of about 6 million individuals, which had 240 primary care centers, but they had very few supplies. They had only the very most rudimentary needs in terms of treatment. They had no personal protective equipment in terms of biological contaminants or chemical weapons. They had no ability to contain or even treat victims of a chemical or biological attack. They had little time for the intensive training they knew they would need in order to respond to such a biological or chemical attack. Yet they came to my office very specifically asking for help.

Dr. Ali Sindi, the delegation leader, asked for basic supplies. He asked for medical supplies and some help with acquiring medical supplies, coming to the majority leader, but also coming to a physician. He asked for hydrogen peroxide. He asked for bleach. Hydrogen peroxide and bleach, as most people know today, are used to decontaminate affected areas from biological or chemical weapons. He asked for gas masks. He asked for chemical suits. He asked for antibiotics in the event there was a biological attack.

He noted—and, again, it was a group of Kurdish physicians—he told me the Kurdish water systems are generally open to the air and, a lot of times, sitting on the rooftops of the villages there. So he, concerned about chemical and biological attacks, said: And in addition, what I need is some kind of protection for these rooftop water systems.

Their fear—these doctors' fear, the doctors from Iraq—was not based on intelligence briefings. Their fear was based on experience. Their fear was based on reality. Their fear was based on what they had seen, and their fear was based on what they had actually treated; that is, chemical weapons, weapons of mass destruction.

As the Senator from Arizona knows, the Kurds had been attacked by chemical weapons before, most notably in the city of Halabja. There, thousands of innocent Kurds were killed with weapons of mass destruction, these chemical weapons. These doctors from that region had come to see me. They had treated victims of that particular attack. They know from that direct experience what chemical weapons, weapons of mass destruction, can do. These doctors believed, obviously, the Kurds were going to be attacked with chemical weapons once again. They asked from me and from our Government, through me, for that help to be prepared.

At this juncture, I ask the Senator from Arizona, in light of these doctors' past, direct experience with weapons of mass destruction—these chemical weapons—does the Senator agree the Kurds were acting reasonably when they, with this direct experience, believed Saddam Hussein possessed and intended to use weapons of mass destruction; namely, the chemical weapons they had seen and had experience with being used before?

Mr. KYL. Madam President, I would answer the question this way: It is easy for us, in this sort of antiseptic environment of the Senate, to talk about these matters. But I was moved by the story of these Kurdish doctors, who saw it with their own eyes. I cannot imagine how they would not believe, and why we should not think it reasonable they would believe, Saddam Hussein would do this again, that he had every intention to, every capability of doing it again.

When I look at this picture, I think of the words of Secretary Powell when he visited Halabja and saw what occurred there and basically vowed the United States would never, ever again allow something like that to happen if he could do anything about it. It made me proud. It made me recommitted to the proposition that when we know something like that is going on, or we believe it to be the case, like these Kurdish doctors did, we have a duty to do something about it.

I absolutely agree with the Senator.

Mr. FRIST. I thank the Senator from Arizona.

Again, these physicians who came to see me from Iraq had seen with their own eyes these chemical weapons having been used before. They had come—and this is just last January—to me to say: We need help to protect ourselves and our communities from the use of these biological and chemical weapons.

Is the Senator aware many of the critics of the war to topple Saddam Hussein seem to suggest there was never cause to be concerned with Saddam Hussein? In fact, if you listen closely to the critics, they go so far as to imply there was never a threat at all.

Is the Senator from Arizona familiar with the details of one of the most horrendous examples of Saddam's brutality, the 1988 massacre of Kurdish civilians in the village of Halabja? Indeed, at the time, 50,000 Kurds lived in the village of Halabja, a city that is very close to the Iranian border. They had already suffered immeasurably from the 8 years of conventional war between Iraq and Iran. But for Saddam Hussein, that was not enough.

On March 16, 1988, the Iraqi regime launched an artillery attack against Halabja, driving the residents of the city there underground. They went to these underground shelters and to the basements for protection from this overhead attack. But that is when the real, true terror began. Iraqi helicopters then came in with planes, and they came back once again, but this time with chemical weapons. The chemical weapons were all carefully documented—nerve gas, VX, mustard gas—all weapons of mass destruction, which were aimed at these buildings, these cellars, all of a sudden turning these cellars in which the Kurds were hiding into gas chambers. They fled, of course, gathering their families, exposed, running for their lives.

Graphic evidence showed the results of Saddam's use of weapons of mass destruction. The Senator from Arizona just showed that picture with the question: No weapons of mass destruction?

It reminds me so dramatically of what one survivor relayed at the scene:

> People were dying all around. When a child could not go on, the parents, becoming hysterical with fear, abandoned him. Many children were left on the ground by the side of the road. Old people as well. They were running. Then they would stop breathing and die.

Experts agree over 5,000 innocent citizens died as a result of the chemical weapons attack. These were weapons of mass destruction used on Halabja. Again, those physicians in my office told me these stories. Other survivors had scarring of the lungs, something called fibrosis of the lung, where the lung becomes nothing but a fibrous scar. Others were blinded permanently. The consequences of this cruelty continue to this day, and indeed these physicians continue to treat the residual effects of people in that Kurdish community. Chemicals contaminated the food and water supply. The chemicals caused cancer. The chemicals caused those respiratory diseases like fibrosis. They caused infertility and high levels of severe abnormalities in Halabja's children.

Christine Gosden, a British professor of medical genetics, traveled to northern Iraq in 1998 to study the effects on the Kurdish population of the poison gas unleashed on them. She founded the Halabja Medical Institute and discovered the consequences of the chemical weapons attack were even more damaging than she expected. She wrote in the Washington Post:

> What I found was far worse than anything I had suspected—devastating problems occurring 10 years after the attack. These chemicals seriously affected people's eyes and respiratory and neurological systems. Many became blind. Skin disorders, which involve severe scarring are frequent, and many progress to skin cancer. An increasing number of children are dying each year of leukemias and lymphomas.

The Halabja Medical Institute, in its research on the attacks, discovered something even more vicious. Its conclusions noted:

> While these weapons had many terrible direct effects, such as immediate death, or skin and eye burns, Iraqi government documents indicate they were used deliberately for known long-term effects, including cancers, birth defects, neurological problems, and infertility. Inexpensive in terms of death per unit cost, there is evidence that these weapons were used in different combinations by Baath forces attempting to discern their effectiveness as weapons of terror and war.

Yes, Saddam's regime conducted experiments using chemical weapons on innocent Kurdish civilians. These are Kurdish civilians in his own country. Experimenting. The Kurdish physicians told me—it is to vivid in my mind—that in buildings like hotels with different wings, single floors, people would be herded and placed into these rooms; one wing would be to test VX gas on humans, killing them, and another wing would be mustard gas, and there would be another gas in a third wing, to see which was more effective.

Iraqi soldiers even went so far as to return to the town after that attack in Halabja to study how efficient, how effective those chemicals weapons were, using the number of people who died as a measure of success.

I want to ask the Senator from Arizona another question. Does the Senator from Arizona have any doubt in his mind that Saddam would continue to develop and use such weapons at the first possible opportunity?

Mr. KYL. Madam President, I will answer in a couple of different ways. First of all, I served on the Intelligence Committee for 8 years, and I was convinced, based upon the intelligence estimates provided to us over that period of time, these weapons were possessed, they had been used, and they would likely be used again if he had the opportunity to do so, and that there were weapons programs ongoing within the country of Iraq. So I don't have any doubt, as the Senator has so eloquently pointed out here, that the Kurds, who he referred to and spoke with, were absolutely right that these kinds of attacks would occur again.

I wondered whether I was alone in this and, of course, in looking, I found that I was not. Let me note two or three things colleagues have said. Then I will turn to Senator HATCH. But I note that in 1998, long before President Bush came to town, President Clinton had come to the same conclusion, based upon the intelligence that had been provided to him by the intelligence agencies. A couple things struck me and then I will move on. He said:

> Other countries possess weapons of mass destruction and ballistic missiles. With Saddam, there is one big difference: he has used them, not once but repeatedly.

That is the point the leader made.

> Unleashing chemical weapons against Iranian troops . . . against civilians, firing Scud missiles at the citizens of Israel, Saudi Arabia, Bahrain, and Iran . . . even against his own people, gassing Kurdish civilians in Northern Iraq.

I also found it interesting that in December of 1998, in an Oval Office address, President Clinton said this, and I take just one sentence:

> I have no doubt today that, left unchecked, Saddam Hussein will use these terrible weapons again.

That was the President of the United States responding to the intelligence he was given. I know some colleagues have said the current administration hasn't qualified the intelligence enough. They have not said we think or we judge. They said we are pretty sure. Here is President Clinton staying, "I have no doubt today." That is not caveated or qualified.

Then several members of his cabinet—I looked at what they had to say.

Madeleine Albright, the distinguished Secretary of State, said:

> I think the record will show that Saddam Hussein has produced weapons of mass destruction, which he's clearly not collecting for his own personal pleasure, but in order to use. Therefore, he is qualitatively and quantitatively different from every brutal dictator that has appeared recently.

That is her judgment.

Secretary of Defense William Cohen talked about Secretary Albright, indicating Saddam Hussein has "developed an arsenal of deadly chemical and biological weapons. He has used these weapons repeatedly against his own people as well as Iran."

We are talking about an arsenal of weapons here. Here is the former Secretary of Defense in the Clinton administration talking about that. He went on to say in this particular interview, which occurred at Ohio State University:

> I have a picture which I believe CNN can show on its cameras, but here's a picture taken of an Iraqi mother and child killed by Iraqi nerve gas. This is what I would call Madonna and child Saddam Hussein-style.

That is the picture Secretary Cohen at that time displayed on the screen. He said:

> Now, the United Nations believes that he still has very large quantities of VX.

VX is the nerve agent which is so deadly. As Dr. FRIST knows, a single drop can kill you within a couple of minutes.

Here is Secretary Cohen and Secretary Albright referring to the United Nations believing that he still has a large quantity of this product, the point being that everybody thought he had it.

The United Nations thought he had it, Secretary Cohen thought he had it, Secretary Albright thought he had it, and President Clinton thought he had it.

I found it interesting that Senator LEAHY, the distinguished ranking member on the Judiciary Committee, said in 1988—and he is right on target:

> If Saddam Hussein had nothing to hide, why would he have gone to great lengths to prevent U.N. inspectors from doing their job?

That is a question we all asked.

> There is no doubt that since 1991, Saddam Hussein has squandered his country's resources to maintain his capacity to produce and stockpile chemical and biological weapons.

The point is, a lot of our colleagues had no doubt and they said they had no doubt.

Senator KERRY—I will make this the last quotation—in 1998 said:

> We do know that he had them—

Referring to WMD—

> in his inventory, and the means of delivering them. We do know that his chemical, biological, and nuclear weapons development programs were proceeding with his active support.

The bottom line is the distinguished majority leader is absolutely correct. But not only do we have reason, not only did those Kurdish physicians have reason to believe he had these horrible weapons and would use them again, so did the leaders of our country, including the leaders of the United Nations all throughout this period of time of 1996, 1998, right on up forward.

Unless the distinguished majority leader has anything else, I yield at this point to the distinguished chairman of the Senate Judiciary Committee.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I ask my colleagues on the floor just to think this through. I have been watching this debate about the threat of Iraq, frankly, since the early 1990s. I have been privileged to serve in this body since 1977, which means I have been here long enough to see the evolving trends in terrorism, from the Iranian revolution to the perversion of the Islamic faith and advent of fundamentalism. I also have been here through all the stages of relations with Iraq since the rise of Saddam Hussein.

I recall the debate prior to the first gulf war. While certainly not absolutely partisan, that debate in 1990 was the last time we had a very partisan debate on foreign policy. Through the 1990s, while I had many disputes with the Clinton administration over various aspects of foreign policy, I seemed to recall that partisanship on the question of Iraq had diminished. In fact, the Iraq Liberation Act of 1998 was passed in this body unanimously and in the House overwhelmingly and was signed into law by President Clinton.

I think my colleagues would have to agree with this. I would like to ask my colleagues if they agree with the following assessment: Since the fall of 2002, the debate over Iraq policy has become more and more partisan and more and more bitter. While the authorization to use force was passed by a large majority—I believe it was 77 to 23—and with the support of many of my Democratic colleagues, including some not present today, the debate since then has been troubling to me.

You would think that Congress could maintain our proper role of oversight without descending into partisan attacks. You would think that with our military in the midst of a historic mission and over 500 American families grieving because their loved ones paid the ultimate sacrifice, that legitimate criticism could be expressed without partisan rancor or misleading rhetoric. You would think so.

One of the most troubling aspects of the criticism of our President and his policy was the suggestion, deceivingly made, that the threat of Saddam Hussein was not imminent. I believe these criticisms beginning last year deliberately tried to confuse the American public. The threat was not imminent, the critics said, implying the response to go to war was not required.

Yet I have reviewed most of the President's rhetoric, and I have concluded that he made numerous honest statements that declared that after the historic attacks of September 11, we would not be defining our response by outdated measures of imminence. I went back and read a key quote from the President's State of the Union Address in 2003 in which he declared to us, the American people, and to the world:

> Some have said we must not act until the threat is imminent. Since when have terrorists and tyrants announced their intentions politely, putting us on notice before they strike? If this threat is permitted to fully and suddenly emerge, all actions, all words, and all recriminations would come too late.

That is what he said, and it was right then, and it is right today. So will my colleagues recall this extremely clear statement? Do they think his words were casually stated? Give me a break.

I have given a lot of thought to the concept of imminence since September 11, and as we debated our response to Iraq, I recognized that the definition of "imminence" is necessary to support a doctrine of preemption. I wonder what our various Senators' views about this are since the definition of "imminence" is different in the 21st century than it was in the 19th or the 20th centuries.

During the debate over authorization of the use of force last year, I made the following points:

Osama bin Laden launched an attack that changed the way America sees the world. We had to recognize that the concept of imminence was not an abstract idea as we contemplated preemptive use of force. Preemption is not a new concept in international law, despite what many of the President's critics suggest. It is as old as Grotius, the founder of modern international law.

Contrary to critics' misinformed assertions, the U.S. has never foresworn the use of preemption, not since the U.N. charter and not under either Democratic or Republican administrations.

Preemption has always been conditioned on the idea of imminent threat. In the prenuclear era, we could see conventional armies amassing on a border and base imminence on that measure. But in the nuclear era, the idea of imminence grew quite a bit murkier.

Was it the fueling of an enemy ICBM? Was it the glare on the rocket as it left the launch pad? Was it the warheads' return through the atmosphere? Because we raised these questions, by the way, was the reason the U.S. rejected a "no first use" policy during the era of strategic competition with the Soviet Union. Was that the reason we did that? You bet your life.

Imminence becomes even murkier in an era of terrorism and weapons of mass destruction. When did the threat of al-Qaida become imminent? I know when it became manifest. Not, by the way, on September 11. Osama bin Laden had struck many times before then. On September 11, the threat became catastrophic. It was well beyond manifest. It was well beyond imminent.

Today, most people agree the threat of Bin Laden should have been considered imminent well back into the 1990s. I first started speaking of this threat in 1996, but I now believe this threat could have been considered imminent even before that.

Do my colleagues agree we had to reconsider the definition of "imminence" after September 11, that the threat of terrorism forces us to redefine threats to our national security, that it would have been irresponsible for any administration entrusted with national security to avoid doing so? Does anybody disagree with that?

Would my colleagues allow me just a few more questions which I would like to ask everybody in this body, please? I wonder if my colleagues would agree with this assessment about the threat that Iraq poses.

I had to make, for my own conscience and to present to my constituents, my own assessment of the threat posed by Iraq. The threats Saddam Hussein posed to his own people were clear. Free Iraqis today will be undertaking the grim task of exhuming mass graves for a long time. Saddam's threat to his neighbors and our friends in the gulf and Middle East are also well established. But all of us had to determine what threat was posed to the United States.

I feared a nexus between weapons of mass destruction and a terrorism-sponsoring state, and we feared they had weapons of mass destruction. The U.N. confirmed they had had weapons of mass destruction. They used weapons of mass destruction against their own people and threatened the use of them against others. They used them against others, as well, in the Iranian war.

On weapons of mass destruction, we know that we have not discovered any weapons of mass destruction so far. This debate has been joined on a number of levels. I fully support the chairman of the Senate Select Committee on Intelligence in his determined efforts to learn about the failures of our intelligence, if there were, in fact, failures.

We still have not even looked at the vast majority of sites in Iraq where weapons of mass destruction may still lie. I know that every intelligence community professional agrees with our need to learn from many errors because all of us know the value of accurate intelligence, while all of us recognize the limits to perfectibility.

On another level, both in the Intelligence Committee and in the public arena, the debate has become more partisan, acrimonious and, once again, deceptive.

Will my colleagues agree with me that the cost of making intelligence oversight partisan is not worth the devaluation of a tool that we need more than at any other time in our history?

I would like to know if my colleagues would agree with the following conclusion about Saddam Hussein's weapons of mass destruction. We faced a weapons of mass destruction gap.

This gap was the difference between the chemical and biological stockpiles we had confirmed existed until the late 1990s and the lack of evidence regarding their status or destruction in 2002—their status, their destruction, or their removal someplace else. The gap was significant. No other Western government or intelligence government could explain it, nor could the United States verify that the gap had been closed by the coöperation of the Iraqi regime in proving the destruction of these weapons.

This was a requirement, by the way, under international law, made to the international community, a requirement that was the result of the cessation of hostilities at the end of the first gulf war; a requirement that unmet left that war unresolved, unconcluded, and therefore without a promise of peace.

The attempts at denial and deception by the Iraqi regime were blatant. The refusal to cooperate with the international community was obstinate. The potential threat posed by a regime violently hostile to the United States was grave. I hope my colleagues will agree that it would have been irresponsible for any administration entrusted with the national security to avoid reaching similar conclusions.

There was the threat of terrorism. For well over a decade, Iraq was on our list of state sponsors of terrorism. Every Member in this body had ample opportunities to review the evidence supporting this claim—this verified knowledge, by the way.

To my knowledge, no Member on either side of the aisle questioned the President's determination, or this determination.

Now, of course, we have not proven a link to September 11, and ultimately there will likely not be a causal link. Perhaps Saddam was directly involved. Perhaps we will learn more.

Association is not causation, as every logic professor would say. Caution in leaping to conclusions is in order. Associating with terrorist groups, as we know Saddam Hussein has done and had done, training them, giving them moral and financial support, is different than directing them. Nevertheless, his links to terrorism had been evident for a long time.

The President has made it clear, since his first speech before the Congress days after September 11, that associating with terrorist groups would no longer be responded to with apathy. The previous administration did so, there is no question about that, and America's security was gravely compromised.

Do my colleagues remember the President's speech to the Congress after September 11, 2001? Do they recall, as I do, the public's overwhelming support for what the President said that day?

Certainly the evidence of Al-Zurqawi whose documents were captured and released a few weeks ago, as well as the reports in the press suggesting links with the Ansar-al-Islam indicated a troubling link between Iraq and al-Qaida.

I am waiting for some of the administration's critics to suggest that these two terrorist elements were caused by our intervention in Afghanistan and that had we supported the status quo there we would not be facing the terrorists of the jihadists and Ansar-al-Islam. That would have been another very specious analysis.

It is true that Al-Zarqawi and Ansar became more active as a result of our intervention in Afghanistan, when we deposed the Taliban and al-Qaida and fled from that country to hide in Pakistan or to get safe passage from Iran to travel to Iraq. In my estimation, if Saddam Hussein was not involved in September 11, his regime certainly became more dangerous to us as a result of our attack on the Taliban in Afghanistan.

I hope my colleagues can imagine that this President or any President would not have had to respond similarly to the way President Bush responded to the Taliban's protection of al-Qaida after September 11, 2001. That is, of course, unless a President had judged the threat of al-Qaida imminent before that fateful day.

Finally, I would like my colleagues to allow me a question or two on the responses we have heard from David Kay's testimonies. The response to the Kay testimonies has also been very troubling to me because the testimonies of an honest and substantive man have been subject to partisan rancor over the President's difficult decision to go to war.

Listening to some commentators, one would think Kay's honest assessment that weapons of mass destruction will not be found, an assessment that I believe may still be premature, could be interpreted into a challenge to the sincerity of the administration's estimate of the Iraqi threat.

As I have said, I believe we need to investigate any flaws in our intelligence that David Kay or any other serious professional exposes. Yet this is what David Kay told us. In an interview earlier this month, he said: I certainly believe that Iraq was a gathering threat. In fact, in many ways, it will probably turn out that Saddam and that regime were more dangerous than we anticipated because, in fact, it was falling apart into unbelievable depravity and corruption.

Where is that quote among all of our liberal commentators in this country today? Where is that quote? That was one of the most important quotes he made.

The week before, Kay told the public, in responding to a question of whether the decision to go to war was prudent: I think it was absolutely prudent. He said: I think it was absolutely prudent. In fact, I think at the end of the inspection process we will paint a picture of Iraq that was far more dangerous than even we thought it was before the war. It was of a system collapsing. It was a country that had the capability and weapons of mass destruction areas and in which terrorists, like ants to honey, were going after it.

The fact is, it took guts for the President to do what he did. He was right, and history will prove him to be right.

When I hear these testimonies of David Kay, I become concerned of yet another intelligence failure: We did not adequately assess the political degradation of the Saddam Hussein regime, the political degradation of a regime that killed 300,000-plus of its own citizens, men, women, and children, and buried them in mass graves, and helped to kill a million others in its war with Iran. We did not adequately assess the political depravity and degradation of Saddam Hussein's regime. Iraq had become a gangster state.

It was, according to David Kay, and all the reports we are now getting from free Iraq, more dangerous than we thought. Yet some criticize the President's decision? Give me a break. They ought to be criticized. The critics know these facts as well as I do, and ignoring them is a terrible thing.

I would just like to ask my colleagues whether the assessment by David Kay should not support the President's brave decision to address the threat of the Hussein regime by implementing a policy of regime change—a policy that had been nearly unanimously supported in our Government for 4 years?

Was Iraq a grave and gathering threat, as the President said? I ask my colleagues, especially those who have been so critical of the President, would it have been responsible for any administration entrusted with the national security to avoid reaching similar conclusions? I think Senator KERRY was right when he said this:

> I believe the record of Saddam Hussein's ruthless, reckless breach of international values and standards of behavior, which is at the core of the cease-fire agreement, with no reach, no stretch, is cause enough for the world community to hold him accountable by use of force, if necessary.

The ranking member of the Senate Intelligence Committee said, back in 2002:

> There is unmistakable evidence that Saddam Hussein is working aggressively to develop nuclear weapons and will likely have nuclear weapons within the next 5 years. We also should remember we have always underestimated the progress Saddam has made in the development of weapons of mass destruction.

That was said in the CONGRESSIONAL RECORD. Why the difference today? Let's go back to my friend, Senator KERRY, the Senator from Massachusetts, again. Back in 1990 he said:

> Today, we are confronted by a regional power, Iraq, which has attacked a weaker State, Kuwait. . . . The crisis is even more threatening by virtue of the fact that Iraq has developed a chemical weapons capability, and is pursuing a nuclear weapons development program. And Saddam Hussein has demonstrated a willingness to use such weapons of mass destruction in the past, whether in his war against Iran or against his own Kurdish population.

My gosh, that was said in the CONGRESSIONAL RECORD on October 2, 1990.

On November 9, 1990, the distinguished Senator from Massachusetts said this:

> [Saddam Hussein] cannot be permitted to go unobserved and unimpeded towards his horrific objective of amassing a stockpile of weapons of mass destruction. This is not a matter about which there should be any debate whatsoever in the Security Council, or, certainly, in this Nation.

All I can say is why did he say that then, and why, as a candidate, is he saying the things he is saying today?

The distinguished Senator from Massachusetts said:

> [W]hile we should always seek to take significant international actions on a multilateral rather than a unilateral basis whenever that is possible, if in the final analysis we face what we truly believe to be a grave threat to the well-being of our Nation or the entire world and it cannot be removed peacefully, we must have the courage to do what we believe is right and wise.

That is in the CONGRESSIONAL RECORD on November 9, 1997.

I think the distinguished Senator from Massachusetts deserves credit for those statements. He was warning America during the Clinton years of how terrible the Saddam Hussein regime really was. He deserves credit for that.

On November 9, 1997, the distinguished Senator from Massachusetts was right again. He said:

> It is not possible to overstate the ominous implications for the Middle East if Saddam were to develop and successfully develop and deploy potent biological weapons. We can all imagine the consequences. Extremely small quantities of several known biological weapons have the capability to exterminate the entire populations of cities the size of Tel Aviv or Jerusalem. These could be delivered by ballistic missile, but they also could be delivered by much more pedestrian means; aerosol applicators on commercial trucks easily could suffice. If Saddam were to develop and then deploy usable atomic weapons, the same holds true.

He was warning the nation and he deserves credit for having done so then.

On February 23, 1998, the distinguished Senator from Massachusetts said this:

> There are a set of principles here that are very large, larger in some measure than I think has been adequately conveyed, both internationally and certainly to the American people. Saddam Hussein has already used these weapons and has made it clear that he has intent to continue to try, by virtue of his duplicity and secrecy, to continue to do so. That is a threat to the stability of the Middle East. It is a threat with respect to the potential of terrorist activities on a global basis. It is a threat even to regions near but not exactly in the Middle East.

I am hooked. Incredible. I am proud of the distinguished Senator from Massachusetts for having said that during the Clinton years. I just wish he would acknowledge that he said that during the Bush years.

There are other distinguished Senators who knew of this threat and who made statements on what we should do back during the Clinton years, and even during the Bush years.

It bothers me that this President has been so viciously attacked by people who know the facts and who knew them back during the Clinton years and spoke out about them during the Clinton years, who are so willing to demean this President during the years of George W. Bush as President. It never ceases to amaze me how out of tune we become when Presidential years come along. I think it happens to both sides. I really believe that. I believe there are partisans on both sides. But I have never seen it like it is today.

It used to be that we supported whoever was President in foreign matters. We stand together. I guess this partisanship really began during the Vietnam war. But it has reached a pitch today that is unseemly.

Mr. KYL. Mr. President, I yield to the other Senator from Utah, Mr. BENNETT.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Utah.

Mr. BENNETT. Mr. President, I thank my colleague from Arizona for the time and for the opportunity to address this issue. Let me make one statement at the beginning that I think needs to be made on the political rhetoric that is surrounding this issue. I am not questioning the patriotism of those who are complaining about, disagreeing with, or even attacking the President. I question their accuracy. I question their wisdom. But I am not questioning their patriotism. I think that needs to be made clear because in the debate over this war, there has been rhetoric that, in my opinion, has gone over the top.

The former Vice President with the blood rushing to his face and the veins standing out on his neck screeched before a crowd which has been repeated on the television that the President has betrayed this country. You can disagree with George W. Bush. That is legitimate and proper and in an election year expected. But you should not accuse him of being a traitor. You should not accuse him of treason.

I want to make it clear again that as I disagree with those who are attacking the President, I am not attacking their patriotism or their love of this country. But I do disagree with their wisdom and with their accuracy.

In the speeches that have just been given, we have had a lot of conversation about what I would consider past history. I am not going to get into that; that is, what did we know about weapons of mass destruction? What did the inspectors know? What should we have done here? What should we have interpreted there? I will leave that to the historians themselves to sort out. A debate on those issues becomes an attempt simply to bash the President and avoid the fundamental issue.

The fundamental issue that we have to face as Senators, as policymakers, is what do we do now? We are in Iraq whether you voted for the resolution, as Senator KERRY and Senator EDWARDS did and as I did, or whether you voted against it, as Senator DURBIN did. Debating the wisdom of that at this point is merely an exercise in avoiding the reality of the situation with which we find ourselves faced now. What do we do now?

The large majority of this body along with a large majority of the Members of the House of Representatives, and the unanimous vote in the Security Council of the United Nations took us to war. What do we do now?

That is the fundamental question that we should be addressing and that we should be facing.

Oh, say some, no, no. The fundamental question is whether or not there were weapons of mass destruction. And, since there were not, the real question is, Did the President lie?

Well, let us look at the situation we are facing now with respect to weapons of mass destruction. The question is not are there weapons of mass destruction in Iraq and did the President lie? The question is, What happened to the weapons that everybody knew were in Iraq, and has the President taken proper steps to protect us from them?

When I say the weapons that everybody knew were in Iraq, whom do I include in that? The first person to convince me there were weapons of mass destruction in Iraq was Madeleine Albright, Secretary of State to President Clinton. She met with us here in the secure room of the Capitol; the room where we get top secret briefings from the highest possible level. It was in that room that Madeleine Albright sat down with the Members of the Senate and laid out the irrefutable evidence that Saddam Hussein had weapons of mass destruction and justified to us the Clinton administration's determination that they would go to war, and they did.

Bombing another country is an act of war, and the Clinton administration, in 1998, in response to the irrefutable evidence that Saddam Hussein had weapons of mass destruction, took the United States to war. We did not invade Iraq with troops, but certainly dropping bombs in the quantity and regularity with which we dropped them in 1998 is an act of war. We did it unilaterally. We did it without consulting the United Nations. We did it without talking to the French or the Germans in the way that some of the President's critics say we must. We did it because we knew Saddam Hussein had weapons of mass destruction.

David Kay and his inspectors have been to Iraq, and they say they cannot find warehouses full of weapons of mass destruction, which raises the fundamental question that most people are not addressing. What happened to them? Where are they? We know he had them. We went to war to deal with them. What happened to them?

I think there are four possible answers to that question.

First, one that has been raised by President Clinton himself, we got them all in the bombing. President Clinton said we didn't know how many we got. We could have gotten all of them. We could have gotten none. But we did our best to try to destroy them.

One answer to the question of why David Kay was unable to find weapons of mass destruction when he got into Iraq with his inspectors is the possibility that we got them all in the bombing and had no way of knowing that.

No. 2, the second possibility raised by David Kay and others is that they were trucked out of the country. They went off the border to Syria or someplace else. They are still in existence. They just aren't still in Iraq. We don't know the answer to that. But that is a possibility.

Possibility No. 3, they were destroyed by Saddam Hussein himself. Someone would ask why would he want to do that. Look at the man. Look at what he did. Look at his record. He believed that the United States would, in fact, not invade. We had bombed in the first gulf war. We had bombed in 1998. He believed we would bomb again but that we would not invade, or, if we did invade, we would not topple him. After all, we didn't topple him last time.

Pressure from the French, pressure from the Germans, said don't go ahead with this. He could very well have believed that the international community would put enough pressure on President Bush that the United States ultimately would stop short of removing him, particularly if inspectors from the U.N. got into Iraq and discovered there were no weapons of mass destruction. Therefore, he could have destroyed them himself on the assumption that he would stay in power and then, as soon as the inspectors were gone, he could reconstruct his weapons program, reestablish weapons of mass destruction, and be right back where he was before we took the action in 1998. That is the third possibility.

The fourth possibility is that they are still there. There is the possibility that we haven't been able to find them but they are still there. That is a very serious question, one that is being ignored by everybody who is debating the question of whether Bush went to the United Nations the right way, or whether he said the right things, or whether he read the right intelligence. Those questions are minor compared to the consequences of answering this question.

Let me pose it again and go through the four possibilities and give you my answer.

What happened to the weapons of mass destruction that everybody in the world knew he had? We destroyed them in the bombing, or they were taken over the border to someplace else, or Saddam Hussein himself destroyed them in order to fool the inspectors, or they are still there.

My answer is I believe all four. I believe we destroyed some in the bombing. I believe some got over the border. I believe he dismantled some of his programs, and I believe there are some still to be found.

That means, if I am right, there is work to be done to help make the world safer that is not being done while we are being distracted by an irrelevant debate that is best left to historians.

There is possibly still a threat out there that we are not addressing because we are paying so much attention to the questions of what kind of intelligence did he read and did he have the right 16 words in the State of the Union Message. We waste our time on that when we are facing this far more serious and obvious question.

What happened to the weapons that we knew he had? We should not rest easy until we have an answer to that question.

Which of the four or combination of the four possibilities really applies? The real question we are facing as we look ahead to November—and make no mistake, this debate is all about looking ahead to November—is what will the United States do after the Presidential election is over?

How will we proceed in Iraq once the determination has been made as to who will control our foreign policy for the next 4 years? That is the fundamental question the American voters need to be debating. That is the question they need to pay attention to as they make up their minds as to whom they will support in this election.

The choice is fairly clear. We can only guess about the future, but the best indication of the future lies in the actions of the past. President Bush has made it pretty clear what the future would be with respect to Iraq if he prevails in November. President Bush has made it clear if he prevails in November, we will stay the course in Iraq. We will stay in Iraq until we have succeeded in our goal, which is to plant in Iraq a self-governing, westward-looking, open society where private property rights are respected, where the rights of individuals to vote and control their destiny are preserved, and where free market principles will prevail; an Iraq that will stand as an example to the rest of the Middle East that freedom, democracy and capitalism can indeed thrive there. President Bush is an optimist who believes those things are so fundamental in the human spirit that they can survive in an Islamic background.

There are pessimists around who say no, the Muslims can never live in democracy. The Muslims can never live in freedom. President Bush is an optimist who says, I don't believe that—without trying to change their religion or attack their culture. I believe they will respond to freedom and the Americans will stay there until we have achieved the goal of planting freedom there.

That is the answer to the question of what will happen in Iraq if George W. Bush wins this election. That is an easy answer to give because his past resolve and his past determination have been very clear.

The second question, of course, is what will happen in Iraq if President Bush loses the election and we get a new steward in charge of our foreign affairs. That question is a little harder to answer because we do not have as clear a track record. On the assumption that the junior Senator from Massachusetts will become the President if President Bush loses the election, we do have the signposts indicating what he would do if he inherited the situation we now have. He said on "Face the Nation," the first thing he would do is go to the United Nations and apologize. I am not quite sure for what he would apologize, but he has indicated the first thing he would do is to go to the United Nations and apologize.

If I may quote the columnist for the New York Times, Tom Friedman, who spoke to a group in Europe. They turned to him after the weapons of mass destruction question arose and asked, Are you now prepared to apologize for your defense of Bush and your support for this war? He said something like this: Well, let me see. We have removed Saddam Hussein, one of the most brutal dictators of the world, found in the process that he had slaughtered at least 300,000 of his own people whom he had buried in mass graves. We know he is responsible for a million more deaths in the two wars he started with his neighbors over the last 12 years. We know he supported terrorism, down to the detail of paying $25,000 to anyone who would wrap himself in dynamite and blow himself up just so long as he could take another human being with him, and that he kept his people in absolute degradation and subjugation for 38 years. Now he is gone with his torture chambers and his secret police and his brutality, and I am supposed to apologize for that?

I am not quite sure what Senator KERRY might say to the U.N. when he goes to apologize, but apparently what he will say, as I try to gather from the speeches he has given, is the United States should no longer act unilaterally, that we should get international support before we go forward in an event like this, and presumably he would then say to the U.N. we are where we are, the responsibility now of building the kind of Iraq George W. Bush envisioned—I give Senator KERRY the credit of assuming he is in favor of that kind of Iraq—the responsibility for building that kind of Iraq now lies with you, United Nations. We in America are going to show a little humility—that is another word he used—show a little humility on this issue and turn it over to you and let you take over the responsibility of producing the results we all want in Iraq.

If that is, indeed, his program—and I assume we will find that out as the election goes forward—I make these observations. Number one, the United Nations has no force with which it can provide security to the Iraqis. There is no United Nations army. There is no United Nations police force. There are no United Nations federal marshals or any other kind of enforcement facility you might think of. The only force the United Nations can ever use is the force that would be provided to it by its member states. The United Nations can pass resolutions, the United Nations can threaten people, but the threats carry no force unless the member states of the United Nations respond to the U.N. resolutions and can go forward.

That is the point President Bush made when he spoke to the United Nations and said to them, if you won't enforce your resolutions, we will. I don't think we need to apologize to the United Nations for enforcing their resolution 1441 that passed by a unanimous vote in the Security Council and which David Kay has now said Saddam Hussein was in complete violation of. That is something we should remember as we have this debate.

The history is not all that comforting to me. Koffi Annan sent a group of U.N. folk into Iraq to help with the nation building and here is the series of events that occurred. The head of the U.N. mission showed up and took possession of a building where he was going to operate. The Americans showed up and put their armored vehicles around the building. He came out and said, No, that is too militaristic. You Americans are too quick to show force. We are the United Nations. We come in peace. Get rid of the armored vehicles.

The American commander, after arguing with this fellow, said all right, and he got rid of the armored vehicles, but he spread concertina wire through the courtyard, and the U.N. head of the group came out and said, get rid of that. You are too militaristic. We are the United Nations. We are not the United States. We are not here to show military force. We are here to help build the country.

Finally, the Americans took away the concertina wire and the next day a truck bomb drove across the courtyard, blew up the building and killed the man who had said, I don't need this kind of protection. After this, Koffi Annan said, get them out of there. We can't provide their security. We can't keep them safe.

I welcome the United Nations involvement. I hope we get the United Nations involvement, but I don't think that track record speaks very well for the idea that the first thing we should do about dealing with the problem in Iraq is to go to the United Nations and show some humility and apologize. The number one civil right which all of us desire more than anything else and that is most essential in Iraq is the right to walk down the street without being shot, the right to walk out in public without being beaten over the head. To establish security is the first responsibility of civilization. Security in Iraq is being provided by the American military and its allies in the Iraqi forces.

George W. Bush, for all of the mistakes that have been made, and all of the difficulties that have been encountered, has demonstrated America's resolve to provide this civil right to Iraqis. The United Nations has fallen short in this category.

This is the fundamental question all of us should look at: Instead of debating whether the President looked at the right piece of intelligence, whether the committees had the right information, whether this or that or the other was looked at and was not, the real question is, where do we go from here. We are where we are, regardless of how we got here. Where do we go from here—the question the American people will decide in November.

I close with this anecdote or comment from Bernard Lewis. Bernard Lewis probably knows more about this region than any other academic in America. He has spent more time studying it, and has written books on it. He spoke to a group of us, and he was an optimist. He agreed with President Bush that democracy could be planted in the region and we should stay the course until we do it. He made this comment. He said: Listen to the jokes. In the Middle East, the only form of expression that is not censored is the jokes. And this is the joke that is going around in Iran, right next to Iraq. Two Iranians are talking. The first Iranian is complaining about how bad the government is, how bad things are. The second Iranian says: Yeah. They go back and forth, saying: What are we going to do? Where are we going to turn? Finally, the second Iranian says: I know. What we need is an Osama bin Laden. The first Iranian says: Are you crazy? That would make things that much worse, and the second Iranian says: Nope. If we had an Osama bin Laden, then the Americans would come and save us.

There are hundreds of thousands, if not millions, of people in the Middle East who are watching what we are doing in Iraq in the hope that, in the words of the joke, the Americans will "come and save us."

We have set our hand to the plow to that particular assignment. We should not turn back now. We should back our President and his resolve to see this through until freedom, prosperity, and self-determination are established in Iraq, from which it will then spread, change the Middle East, and ultimately transform the world.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I thank the Senator from Utah for an incredibly fine speech. I appreciate the remarks he gave tonight very much, and I am sure the President does, as well.

At this time, I yield to the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I thank the Senator from Arizona for yielding, as well as for his leadership on this issue. He has provided strong and forceful leadership in support of the war on terrorism. It is vitally important that all of us, not just as Members of the Senate, but as Americans, support this administration and support our troops in making sure we win this war on terrorism.

I would like to start by saying I have spent the last 3 years working on intelligence issues, first in the House and now in the Senate Intelligence Committees, and have learned some things that are very relevant to this discussion.

First, many across the aisle supported massive cuts to the intelligence community budget throughout the 1990s. Between 1992 and 1998, in fact, the Central Intelligence Agency closed one-third of its overseas field stations, lost one-quarter of its clandestine service case officers, lost 40 percent of its recruited spies, and CIA intelligence reports declined by nearly one-half.

The Clinton administration, supported by many Democrats in this Chamber today, decided from the outset that the end of the cold war meant we no longer needed intelligence on national security threats. The end of the cold war divide in actual fact made the world a much more complex place, with a host of new, unconventional, and asymmetric threats to our security we were not well prepared to address. Instead of dismantling our intelligence apparatus in the 1990s, recent history has proved beyond a shadow of doubt we should have been expanding and enhancing the quality of those capabilities so we could better understand and counter the new nature of the threat. The record will show many on our side of the aisle were making this very point throughout the 1990s.

It is absurd to argue, as some in the other party appear to have suggested over the years, that by emasculating the CIA and our other intelligence agencies, our Nation's security would not be affected, or even would be enhanced.

I would just add that penetrating terrorist groups and rogue states, so-called hard targets, is a difficult and dangerous business. It requires a robust overseas intelligence presence, adequate and sustained resources, a wide-ranging stable of recruited and vetted spies, strong bipartisan support from Congress and the White House, and a willingness to take calculated risks. I submit the facts of the 1990s strongly suggest we had none of these.

In addition, it is apparent to me the intelligence community during the 1990s was skewed far too heavily in favor of technical collection of intelligence over what is the cornerstone of the business: human intelligence gathering or HUMINT, i.e., using spies to acquire information on the plans and intentions of our adversaries.

When my House Intelligence Subcommittee on Terrorism and Homeland Security took a hard look at the erosion of our intelligence capabilities in the 1990s, right after 9/11, it became clear to me our human spies were almost considered to be obsolete by the Clinton administration and its appointed intelligence community leadership.

When David Kay spoke about his experiences searching for WMD in Iraq on the "Jim Lehrer News Hour" last month, he said:

> We are not very good as a nation in our intelligence capability at reading the most fundamental secrets of a society, what are its capabilities, what are its intentions? We can't photograph those. You need Americans on the ground penetrating those societies and people who are speaking their languages.

I fully agree with Dr. Kay, and would just note it takes a long time and a great deal of effort to build such human espionage capabilities. Yet our colleagues across the aisle proved in the 1990s that such capabilities, however imperfect, could be torn down quickly and with ease.

In July of 1997, Congresswoman MAXINE WATERS, over in the House, said:

> I think the day for the CIA has come and gone.

I cite the CONGRESSIONAL RECORD, dated July 9, 1997. In that same debate, then-Congressman David Bonior commented:

> [W]e are spending, according to the New York Times, over $30 billion on intelligence, and the cold war is what? Nine years, seven years, eight years over with?

I cite again the CONGRESSIONAL RECORD, dated July 9, 1997. That same year, here in the Senate, the junior Senator from Massachusetts questioned: "Why is it that our vast intelligence apparatus continues to grow . . ." now that the cold war struggle is over?

I cite the CONGRESSIONAL RECORD, dated May 1, 1997. Two years before that, the same Senator proposed we cut the intelligence budget by $1.5 billion, not for specific programs but across the board. In 1994, that same Senator wanted to cut the intelligence budget by $1 billion and to freeze intelligence spending. That is the record.

Now, it is going to be awfully hard for certain individuals in the other party to justify their actions on national security matters during the near decade-long period of neglect and erosion of our intelligence capabilities of which they were directly complicit. It is stunning—although not surprising—that such individuals are now seeking to rewrite their own history.

I add that the junior Senator from Massachusetts in 1995 proposed to cut $1.5 billion from the intelligence community. That bill he introduced would have exacted cuts of $300 million in each of the fiscal years 1996, 1997, 1998, 1999, and again in the year 2000. The proposal was so out of line with reality that there were no cosponsors on the bill and, thank goodness, it never made it to the floor.

I ask the question, Why is it that an atmosphere of extreme risk aversion pervaded the intelligence community during the 1990s and lasts even to the present day in some respects?

There are two particular events that bother me. First, when I chaired the House Intelligence Subcommittee on Terrorism and Homeland Security in 2001 and 2002, I was particularly struck by the internal CIA guidelines promulgated in 1995 by then-Director of CIA, John Deutch, that severely limited the ability of CIA case officers to meet with, develop, and recruit foreign nationals who may have been involved in dubious activities or have blood on their hands.

We found, through extensive oversight work and dialog with CIA field officers, that these so-called Deutch guidelines had a significant chilling effect on our ability to operate against terrorist and rogue state "hard targets." After all, how can one penetrate a terrorist organization or Saddam's brutal regime, for that matter, without dealing with unsavory people?

The guidelines were, in my view, a primary cause of the risk aversion to which I refer in my question, and they actually stayed in effect through July of 2002, when we finally succeeded after many efforts to compel the DCI to repeal them.

The second event concerns Mr. Deutch's decision during his mercifully short tenure as DCI to conduct a CIA-wide "asset scrub," which applied an inflexible reporting standard to all CIA spies that, if not met, resulted in their automatic firing.

The fact is, the spying business is a lot different than a simple calculation of profit and loss. Spies are human beings who put their lives on the line to spy for us. We have a special responsibility to them and their families. Just because a spy's access may have dried up for a time, that doesn't mean they won't prove useful later on on other issues. Moreover, since we have had many gaps in our clandestine coverage of key issues at the time of the scrub, termination of spies was done without regard to how we might otherwise cover a subject by other means. Thus, our gaps were further exacerbated.

In my opinion, the Deutch guidelines and Deutch asset scrub are two of the major driving forces behind the risk aversion to which I referred in my question.

Mr. President, that is a direct by-product of those years of neglect and resource starvation during the previous administration.

I want to first make it clear that it has been my experience that the stifling problem of risk aversion went from Washington to the field, and not vice versa. I know that the young, often idealistic, aggressive CIA case officers out on the front lines are not the problem.

Risk aversion starts when elected officials, on whose support CIA depends in the face of failure as well as success, abandons the discipline. The "end of the cold war" and "peace dividend" type arguments of those in the other party during the 1990s clearly manifested themselves in the form of political abandonment of our intelligence community.

During those years of Democratic control of Congress, Hill support for the intelligence mission was also questionable. I refer back to my previous remarks about what the junior Senator from Massachusetts and others tried to do to further reduce the intelligence community during the 1990s as a case in point.

Moreover, the record will clearly show that during the periods of Republican control of the House and Senate, significant efforts were made to increase the top line of President Clinton's annual intelligence budget requests. Some of these Republican efforts were successful; others were not. But for the most part, we brought the previous administration along kicking and screaming.

It should not be surprising that when the politicians turn their back on the intelligence community, politically appointed intelligence seniors start to become more reluctant to approve operations that might result in some sort of political flap because they know they won't be supported.

When such intelligence seniors start to become overly conservative, the managers below them follow suit. After a while, bureaucratic obstacles, and other hoops through which field officers must jump before getting operations approved, start to appear. That is where you get the Deutch guidelines and the Deutch asset scrub.

Now we have to figure out how to undo the bureaucratic risk averse mindset that has taken a decade to spread across the intelligence community like a cancer and, like a cancer, radical treatment with often painful side effects may very well be required.

That is what happens when national security becomes relegated to the bottom of our Nation's priorities. Fortunately, we have a President now who is anything but risk averse and who puts the long-term security interests and safety of all Americans at the top of his list of priorities.

On the issue of terrorism and homeland security, Americans deserve strong leadership, not political games. Our President is providing the positive leadership that will ensure the safety of our citizens.

I yield back to the Senator from Arizona.

Mr. KYL. Mr. President, I very much appreciate those remarks coming from a member of the Select Committee on Intelligence.

I now will yield to the Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank the Senator from Arizona for his leadership on this important matter. I feel very strongly that our country is not fully aware—at least the public debate on the television and so forth have not shown a full awareness of the leadership that President Bush has given this country to help us deal with the challenges facing us.

I thank Senator CHAMBLISS for his comments about the intelligence-gathering functions. I wish to share some of my insights into where we are and where we can expect to be going.

After 9/11, the President of the United States was a challenged leader. He faced difficult times. We lost 3,000 people. Some decisions had to be made. He decided that business as usual would not continue and the United States was going to have to take a leadership role against terrorism.

About that time, former Secretary of Defense and former Secretary of Energy, James Schlesinger, who served in President Carter's Cabinet, testified before our Armed Services Committee, of which the Chair is a member. Mr. Schlesinger talked about the U.N. and its inability to make decisions and take action. He referred, quoting another writer, to the UN as being "an institution given only to talk."

Well, in the last decade, before President Bush took office, during the 8 years under President Clinton's leadership, we did a lot of talking about the problems facing the world. We did a lot of talking about Iraq. We passed a resolution in this body that declared it to be the policy of the United States to effect a regime change in Iraq. President Clinton signed it but we didn't do anything. We talked but we didn't do anything.

We now have a President who decided that we need to show some courage and leadership, and he did that. One of the first things he did, and I ask the American people to recall, was that he confronted a great country, Pakistan. Pakistan's intelligence agencies, Senator KYL knows as a senior member of the Intelligence Committee, were collaborating with the Taliban government in Afghanistan. Everybody knew that and that there was a lot of partnership there. We now know they were participating in the proliferation of nuclear weapons. President Bush challenged them and he said: President Musharraf, you have to choose. This is very serious. Are you going to allow Pakistan to be a country associated with the Taliban and terrorism, or are you going to stand your country in the future against that kind of activity?

To his credit, President Musharraf made a decision. It was not academic. It was not talk. It was: Mr. Musharraf, you must make a decision.

Since that time, he has been helpful to us in many ways, at risk of his own life. His opponents have attempted to assassinate him. Would anybody suggest that had our President been weak and waffling and vacillating, that the President of Pakistan would have made that decision, would he have put his very life on the line against terrorism?

Then he made the same challenge to Mullah Omar in Afghanistan where, as you remember, Bin Laden was training his terrorist soldiers. He said: You must reject that; you must turn against the al-Qaida; you must turn to your country; and you must choose. Mullah Omar chose. He chose to remain friends with Bin Laden and al-Qaida terrorist groups. He chose not to side with the nations who turned against terrorism.

Mullah Omar, I suppose, is hiding in some cave somewhere in Afghanistan. His government is completely gone.

Yes, Bin Laden, who was in his country, attacked and damaged our Pentagon, and killed our soldiers right out here at the Pentagon. But his pentagon no longer exists. It is rubble. And there is a new government with a new constitution in the works to preside over a new Afghanistan where women have a chance to have freedom and prosperity; when I was there I saw that the people are re-building all over that country. Houses that had been destroyed are being refurbished, and people seemed to be making real progress there. That is such a tremendous step forward for the world.

Then the challenge was placed before Saddam Hussein. We had the U.N. try to find these weapons. We know he used these kinds of weapons. We know he was not complying with the U.N. resolutions. The U.N. found him in violation of those resolutions and voted in 1441 that he was in violation of the resolutions. We gave him every chance to renounce weapons of mass destruction, and to demonstrate that he had complied with multiple U.N resolutions. Because he lost the first gulf war he made a commitment to eliminate these kinds of weapons and to comply with U.N. resolutions, but he refused to do so. And President Bush acted.

Saddam Hussein was dug out of a hole in the ground and is now in the Bastille where he used to put his people and kill them. But he is not going to be killed. He will be given a fair trial.

The people of Iraq are forming a new government. Production is up. Electricity production is up. I know the chief of police there, and there are 70,000 new police officers, some of them being killed this day, but they are standing firmly for freedom in a new Iraq.

Lo and behold, after we dug Saddam Hussein out of the ground, Muammar Qadhafi of Libya, known as one of the world's most significant terrorists in the past, renounced his terrorism and called for the United States and Great Britain—he did not talk to the U.N., but he wanted us to be involved in his renunciation of terrorism and he has allowed inspections.

During the former administration—and I am not criticizing, but I was frustrated—when President Clinton was in office, we talked all the time about nuclear proliferation but accomplished little. But only recently, we had Abdul Khan, the chief nuclear scientist in Pakistan come forward. What did he say? He said he was proliferating weapons from Pakistan to North Korea to Iraq to Libya and to Iraq. That had been going on but it is not going on now because he has renounced it and told all that he had done to the world.

Iran is now allowing the United Nations to come in and inspect their nuclear program. The nations in the East—China, Japan, and South Korea—are confronting North Korea. We are not going to keep rewarding North Korea for bad activity, as has been done in the past. We are going to insist they step up like these other nations and assume a place among the decent nations in the world, or they are not going to get any benefits from us. We are going to keep the pressure on, and that is exactly the right thing for us to do.

These events have occurred for one reason and one reason only: We have a President of the United States who loves this country, who believes in our values. He believes in freedom. He believes in democracy. He wants to see the world be a better place. He does not want to just preside over the office of President. He wants to do something good for this world, and he is doing it.

As a direct result of his leadership, we made extraordinary progress in just 2 years, progress not seen in decades.

It has been tough. Our soldiers are at risk, and they are putting their lives at risk every day to effect a policy that those of us in this Senate voted for by an overwhelming vote. Some of them voted for it and then turned around and voted not to support our troops. But most of the Senators here, Republicans and Democrats, have stayed. Yes, we have had complaints, but when has there ever been a war when everything has gone perfectly smoothly?

I urge the Members of this body, my Senate colleagues, to look at what has occurred, to recognize that we are seeing the benefits of extraordinary and courageous leadership. When they do so, we shall hear less carping, less complaining, less whining, and less second-guessing than we have heard. We are making progress. We are going to continue to make progress. We are going to make this world a better place and safer place for the people of the United States.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER (Mr. TALENT). The Senator from Arizona.

Mr. KYL. Mr. President, let me summarize what I think has been established during the last couple of hours. The reason we took to the floor is because there has been a lot of criticism of the President of the United States and the administration for its actions in finally deciding that enough was enough with Saddam Hussein, that his continual violation of the U.N. resolutions had to be enforced by someone, and that before there was an imminent threat posed by his dangerous regime, it was important for the United States and a coalition of other countries to take action to remove him.

The criticism has come both from potential Democratic nominees for President, Members of this body, news organizations, and others outside the body, but we sought to try to put into perspective some of these criticisms and to point out that at the end of the day, there should be no question that President Bush did the right thing.

The three key points were, first, that an intelligence failure is not the same thing as intelligence misuse or misleading, and if there was a failure because the intelligence agencies were wrong about the stockpiles of weapons of mass destruction that they thought existed and which we have not been able to find, it is not the same thing as saying that the President misled anyone or that anyone else with access to intelligence misled anyone.

The second point was that whatever the state of intelligence, the case for removing Saddam Hussein is still very strong, a point which several of our colleagues have made repeatedly on both sides of the aisle, as well as President Clinton and other members of his administration prior to the Bush administration.

And, third, that the question regarding the weapons of mass destruction, the stockpiles of biological and chemical weapons is not a matter of whether they existed but what happened to them; that everyone who had access to the intelligence was convinced they existed.

In fact, we know they existed at least one time because they were used against the Kurds and against the Iranians. Saddam Hussein himself, in submitting documents to the United Nations, admitted they existed. This was, I believe, either 1996 or 1998 and then again in the year 2002. So we had his admission that they existed. As Senator BENNETT said a while ago, nobody knows whether they were destroyed, shipped someplace else, or whether we destroyed them, but eventually we will find out the answers to those questions.

The fact we cannot find those weapons of mass destruction stockpiles—primarily artillery shells with chemical munitions—does not detract at all from the case against Saddam Hussein or make the case that somehow or another the American people were somehow misled by the President.

In closing, I will quote from the chairman of the Senate Intelligence Committee and the ranking member of the Senate Intelligence Committee. What the current ranking member of the Senate Intelligence Committee had to say is: As the attacks of September 11 demonstrated, the immense destructiveness of modern technology means we can no longer afford to wait around for a smoking gun. I do believe that Iraq poses an imminent threat, but I also believe after September 11 that question is increasingly outdated. It is in the nature of these weapons and the way they are targeted against civilian populations that documented capability and demonstrated intent may be the only warning we get. To insist on further evidence would put some of our fellow Americans at risk. Can we afford to take that chance? We cannot.

The ranking member of the Senate Intelligence Committee is the junior

Senator from West Virginia, Mr. ROCKEFELLER. These were his comments on October 10, 2002. Yet today we find some saying the President contended there was an imminent threat, when he did not, and that we should not have acted unless, in fact, there was an imminent threat.

I think Senator ROCKEFELLER was correct, and I know he has access to all of the intelligence because, of course, he is the ranking member of the Intelligence Committee.

Now I will read from the chairman of the Intelligence Committee: I have seen enough evidence. I do not know if I have seen all the evidence, but I have seen enough to be satisfied that there has been a continuing effort by Saddam Hussein, since the end of the gulf war, particularly since 1998, to reestablish and enhance Iraq's capacity of weapons of mass destruction, chemical, biological, and nuclear.

That was the immediate past chairman of the Senate Intelligence Committee, the senior Senator from Florida, Mr. GRAHAM. He, too, had access to all of the intelligence.

My point in quoting my two colleagues is that in the Senate, those of us on the Intelligence Committee had access to the same intelligence the President did, at least similar intelligence to what other countries in the world had, and all of us, including the United States, believed these things. We had the same intelligence that was given to the President.

We were not misleading anyone. The President obviously was not misleading anyone. The fact that it turns out some of the intelligence turned out not to be totally correct is not the same thing as saying somebody misused the intelligence. I hope my colleagues on the other side do not cross that line of accusing the President of intentionally misleading the American people because to do so, in effect, would be also to accuse our own colleagues of that very same thing. I do not believe, based upon what I know of my colleagues, that that could be said of any one of them. So I hope we can get over this notion that just because not all the intelligence was correct, therefore, it must mean somebody was misleading someone else. I think we have established that is not true and that it would be very wrong to try to pursue that line of attack against President Bush simply because we happen to be in an election year.

We will have more to say on this subject in the future, but I want my colleagues to understand that if there are charges made against the President or against this administration relating to the use of intelligence with respect to the war in Iraq, those charges will be rebutted. I appreciate very much the attention of my colleagues to this matter this evening.

THAI POLICY TOWARD BURMA: PRINCIPLED OR FOR PROFIT?

Mr. McCONNELL. Mr. President, as my colleagues know, freedom in Burma has long been under siege by a military junta calling itself the State Peace and Department Council (SPDC). In response to last year's brutal assault against the supporters of the National League for Democracy NLD, and its leader Daw Aung San Suu Kyi, Congress quickly passed—and the President signed into law—the Burmese Freedom and Democracy Act of 2003.

This was an appropriate response to an act of Terrorism orchestrated and carried out buy the SPDC and its affiliated organizations.

Last week, the State Department issued its annual human rights report, and the section on Burma evidences egregious and systematic human rights abuses. Let me read one excerpt from that report:

> [the SPDC's] extremely poor human rights record worsened, and it continued to commit numerous serious abuses. Citizens still did not have the right to change their government. Security forces continued to commit extrajudical killings and rape, forcibly relocate persons, use forced labor, conscript child soldiers, and reestablished forced conscription of the civilian population into militia units.

Murder, rape, forced labor, child soldiers . . . this is a sobering reminder of how egregious and extreme human rights violations are in Burma.

While many in Burma's neighborhood raised concerns with the situation in that country, including Malaysia and Indonesia, Thailand—led by Prime Minister Thaksin Shinawatra—seemed keen on letting the wind out of sanction sails at every opportunity. This strikes me as odd behavior given Thailand's processed commitment to democracy and human rights.

Where others speak out to demand concrete actions from the SPDC, including the unconditional and immediate release of Suu Kyi and her compatriots, Thaksin has repeatedly risen to defend those who Secretary Powell referred to as "murderous thugs".

Last year, he initiated an international forum on Burma self-dubbed the "Bangkok Process" that did not include the NLD, the United States, or other proven champions of freedom. However, it did include the SPDC, and was described the Thaksin as a meeting of the "like minded." The "Bangkok Process" is fundamentally flawed by the very absence of Suu Kyi and her supporters at the table. Tellingly, they remain under arrest and detention in Burma.

I agree with Norwegian Foreign Minister Jan Petersen that "all voices in the country had to be heard and opposition leader Aung San Suu Kyi must be released." In stark contrast, Thaksin recently stated, "Burma is on the right track. . . . If they follow our recommendations, they will be okay and get everything done."

With narcotics, HIV/AIDS and other undesirable exports pouring across Burma's borders into Thailand, it is only fair to question Thaksin's motivations in his cozy relationship with the SPDC. Some suspect that the raison d'etre can be summed up in a single word: iPSTAR.

iPSTAR is a $350 million broadband satellite owned by Shin Satellite, Sattel, and Shin Corporation, a holding company created by the Prime Minister that owns 53 percent of Sattel. If successfully launched and operational, the satellite will beam its signal across Asia.

To convince doubting Thomases who suspect that Thailand's approach to Burma may be based on selfish profit—not principle—Thaksin should answer the following single question:

What investments, including projects and activities related to iPSTAR, do Shin Satellite and Shin Corporation have in Burma, and/or have planned for Burma?

I intend to pose this same question to Secretary of State Colin Powell when he appears before the Foreign Operations Subcommittee next month.

Let me close by saying that many of us remain concerned with the continued deterioration of democratic institutions in Thailand—including a free and independent press. We are alarmed and distressed by continued reports of the deportation of as many as 10,000 Burmese refugees, exiles, and migrant workers from Thailand to Burma each month. My colleagues can find additional information on this matter in a February 25th article by Ellen Nakashima in the Washington Post and through Human Rights Watch's report "Out of Sight, Out of Mind: Thai Policy Toward Burmese Refugees and Migrants."

With rising tensions in the south, it is more important that ever that Thailand stay the course in its political and legal development.

I am sure my colleagues will agree that accountability and transparency must be maintained in Thailand, be it a crackdown on drugs or business with Burma. As the last few weeks have clearly demonstrated, Thai politicians are quick to promise a chicken in every pot—but sometimes chickens get the flu. I say this only to illustrate my hopes that Prime Minister Thaksin has prepared an alternative approach toward Burma and the SPDC that includes the full participation and input of Suu Kyi and the NLD as well as all ethnic nationalities.

I ask unanimous consent that following my remarks an article from Thailand's English language newspaper The Nation be printed in the RECORD. Thaksin has it wrong—the United States is not a "useless friend" to Thailand. On the contrary, America is a strong advocate of democracy and human rights throughout the region.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From The Nation, Feb. 28, 2004]

REACTION TO US RIGHTS REPORT: "YOU'RE A USELESS FRIEND"

Prime Minister Thaksin Shinawatra yesterday slammed the United States as a "useless friend" for issuing a damning report on the deterioration of human rights here. "It's unacceptable to me the way the US came out with the report by citing media reports. What kind of friend are they?" a fuming Thaksin said. "Once every year, the US comes out and damages the reputation of its friend. What would they do if Thailand issued the same [kind of] report?" Thaksin told reporters that although Thailand has been in discussions with the US on the human rights situation here the US produced a report that differed from the information Thailand supplied.

The US State Department yesterday released its annual country-by-country review of human rights. Thailand's record "worsened" last year as a result of the extra-judicial killings and arbitrary arrests during the first round of the war on drugs, from February to April, the report said. "I have to say bluntly that it [the US report] really annoyed me. I have asked the Foreign Ministry to issue a statement," Thaksin said.

The Foreign Ministry "invited" US Ambassador Darryl Johnson to receive an official complaint. Foreign Minister Surakiart Sathirathai said: "It has been like this for at least three times during my time [as foreign minister]. We feel that it is something that is not healthy for close allies like the US and Thailand." In what appeared to be an attempt by the ministry to maximize media coverage of the summoning of Johnson, photographers were asked to position themselves in what is usually an off-limits area. The ministry issued a statement on Thursday expressing its "deep disappointment" over the report, saying it contained "serious inaccuracies"—particularly on the government's anti-drugs campaign—and overstated the toll from summary killings.

"The report does not provide a balanced account of the facts, even though the Thai government has gone to great lengths to provide all the information to the US side," the statement read. This was also the case for the reports in 2002 and 2001, when Thailand had to pinpoint various factual errors and the US apologized and admitted that the reports were done in haste, Surakiart claimed. Such a report is "useless" for the governments as well as the public and it needs to be corrected, he added. Johnson, who met with Deputy Foreign Permanent Secretary Veerasak Futrakul, declined to make any statement.

Ministry spokesman Sihasak Phuangketkeow, however, quoted Johnson as saying: "The US generally views Thailand's human rights record in a positive light, whether it is about economic or political freedom." Sihasak submitted a memo to Johnson claiming that only 46 cases of extra-judicial killings were recorded and the 1,386 drug-related deaths cited in the US report were not extra-judicial executions. He also dismissed the allegation that the government would not allow the United Nations High Commissioner for Human Rights to make a visit to look into the matter. "A request has never been made," he said. According to National Police figures released in December, only nine cases out of 1,176 drug-related deaths have been prosecuted.

The drug killings sparked an outcry from local and international human rights organizations. Foreign governments and the UN Human Rights Commissioner expressed grave concern about the murders, while His Majesty the King called on the government to give a detailed accounting for all the deaths. The Thai government had "failed to investigate and prosecute vigorously those who committed such abuses, contributing to a climate of impunity," the US report said.

After Thaksin's visit to Washington last June, bilateral relations strengthened as Thailand agreed to dispatch troops to Iraq and offered Americans immunity from the International Criminal Court. Thailand signed the ICC treaty but has not yet ratified it. Last December, US President George W. Bush officially designate Thailand a major non-Nato ally, a move that boosted security cooperation between the two countries.

YELLOWSTONE NATIONAL PARK'S 132ND ANNIVERSARY

Mr. REID. Mr. President, it gives me great pleasure to note that as of yesterday, the priceless treasure we call Yellowstone National Park has been preserved and protected for 132 years.

Yellowstone was our first national park, and one visit there explains why.

It is home to majestic wildlife including bison, elk, wolves and grizzly bears.

It is the site of most of the world's geysers, including the famous Old Faithful.

And Yellowstone National Park offers breathtaking vistas at every turn, from raging rivers to soaring mountain peaks.

Before Yellowstone became a national park, the story of its discovery was scattered with myths and truths throughout the 19th century.

Explorers and trappers stumbled upon Yellowstone's incredible beauty, and returned home with descriptions that sounded like fiction to the American public.

It took nearly 80 years, and an official expedition sanctioned by the government in 1870, to sort out the myth about Yellowstone from the striking reality.

Shortly thereafter, President Ulysses S. Grant signed the law in 1872 establishing Yellowstone National Park "as a public park or pleasuring ground for the benefit and enjoyment of the people."

President Theodore Roosevelt, a great protector of the environment and treasures like Yellowstone, visited the park in 1903.

One hundred years ago this spring, he laid the cornerstone for the official gateway to the park. The gateway is still known as the Roosevelt Arch.

The American people's love of Yellowstone helped lead to the establishment of our National Park Service. Today the Park Service protects and preserves 83 million acres of natural treasures across our country.

The Park Service employees at Yellowstone have done a wonderful job of protecting the park's natural beauty, while providing opportunities for people to enjoy it.

For example, all of the large mammal species known to exist in Yellowstone before European Americans arrived have been restored to their natural habitats.

I recently had the good fortune, after many years, to once again visit Yellowstone National Park. I was only able to spend a couple of hours there, but it was a great experience.

I first went there shortly after my wife and I returned from law school in Washington. We traveled from Las Vegas on one of the first vacations we ever took.

I still look back with great awe at Old Faithful and the many other things we were able to see, the buffalos and other animals. So when I returned there, even though it was only for a few hours, the place I wanted to go visit again was Old Faithful.

Old Faithful spewed a few times during the time I was there. We took a walk through Geyser Park. We saw buffalo lying right near the geysers. The reason these great animals come and lie down near these spewing geysers is that, to a great extent, they keep the pests off themselves by doing so.

Even though I was there just a short time, it was wonderful again, after 25 years, to reflect back on my little children when they were tiny going there and visiting that park.

I am sure that millions of Americans also keep a special place in their hearts for Yellowstone and the memories it holds for them.

I hope our grandchildren's grandchildren's grandchildren will be able to enjoy the wonders of Yellowstone National Park, the way we do today.

HONORING OUR ARMED FORCES

SGT CORY R. MRACEK

Mr. NELSON of Nebraska. Mr. President, SGT Cory R. Mracek was a dedicated and distinguished soldier who loved the military and was excited to go to Iraq. He attended Chadron State College for one semester before joining the National Guard and then later, the U.S. Army.

He spent his first year in Korea, where he was awarded several medals. He was chosen to be a United Nations Command Honor Guard for 6 weeks, an honor for which only the best soldiers were chosen. He came home 4 years later and worked as a night stocker at Wal-Mart. However, army life was calling him and he missed it more than he thought. He re-enlisted and was again stationed in Korea for 12 months. Because of the war in Iraq, his tour was extended to 15 months. He returned to the States in October 2003 and proceeded to Ft. Benning, GA, where he trained to be a paratrooper. He loved the thrill the first time he jumped from the plane and it had been his dream to be a part of the 82nd Airborne Unit in Fort Bragg, NC. He had been in Iraq just 8 days when a roadside bomb exploded west of Baghdad and killed him and two other soldiers.

SGT Cory Mracek's sacrifice will forever remind this Nation of the danger that comes with the duty to protect our Nation's interests and the freedoms of other arounds the world. As a nation we are grateful to soldiers like Cory Mracek who make the ultimate sacrifice so that all Americans can live in freedom.

SGT DENNIS A. CORRAL

Mr. NELSON of Nebraska. Mr. President, SGT Dennis Corral served our Nation bravely and honorably. He entered the Army in 1989 and later left the service to pursue other interests. In 1997 he re-entered the Army and was sent to Iraq in December of 2003. Corral was not scheduled for deployment to Iraq until January 2004, but he volunteered to go earlier in place of another soldier who was married and had children. Sergeant Corral was not one to complain, and readily accepted every task that was asked of him. His arrival was greatly anticipated by his company, as they had been without a supply sergeant, and were greatly in need of his skills. Immediately upon his arrival, he set to work improving the company supply system—organizing, filing, and issuing out equipment. In all that he did he showed his dedication and his love for serving his country. Sergeant Corral was the first American soldier to die in Iraq in 2004. SGT Dennis A. Corral will always be remembered as a soldier who fought for freedom and made the ultimate sacrifice on behalf of his country.

THE SUPREME COURT'S REVIEW OF THE EXECUTION OF CHILD OFFENDERS

Mr. FEINGOLD. Mr. President I want to speak today on the Supreme Court's recent decision to review whether the execution of child offenders—those under 18 at the time the crime was committed—is constitutional. The Court will soon hear the case of Christopher Simmons, a Missouri man who was sentenced to die for a crime he committed at the age of 17. The case is called Roper v. Simmons.

In the past few years, our Nation has taken important strides toward fairness and justice in the administration of the death penalty. In 2000, former Illinois Gov. George Ryan took the courageous step of halting executions in his State pending a top-to-bottom study of the use of capital punishment in Illinois. Following an exhaustive review of his State's system, Gov. Ryan commuted the death sentences of all death row inmates in Illinois in December 2002. Former Maryland Gov. Parris Glendening suspended executions in his State in the face of glaring racial and geographic disparities in the Maryland death penalty system. Current Maryland Gov. Robert Ehrlich has since lifted the State's moratorium, but an execution has not taken place in Maryland since 1998.

A number of State legislatures have inched closer and closer to abolishing the death penalty or instituting moratoria in their jurisdictions. And in 2002, in a significant turning point for our Nation, the Supreme Court ruled unconstitutional the execution of the mentally retarded. That decision, in the case of Atkins v. Virginia, confirmed that our Nation's standards of decency concerning the ultimate punishment are indeed evolving and maturing.

While these events are steps toward fairness and indications of progress, they also serve as reminders that our system is seriously flawed. The statistics and stories of innocent people wrongly convicted are shocking. In the modern death penalty era, 113 individuals in 25 different States have been exonerated after being convicted and put on death row. The most recent exoneration occurred just last week in a case from North Carolina. This should be disturbing to all Americans who believe in the founding principles of our Nation, liberty and justice for all.

As Supreme Court Justice John Paul Stevens wrote in a 2002 dissent, after the Court refused to consider another case involving child offenders, the practice of executing child offenders is "inconsistent with evolving standards of decency in a civilized society." In my view, Justice Stevens is right. Executions of child offenders have occurred in only eight countries since 1990: China, the Democratic Republic of the Congo, Iran, Nigeria, Pakistan, Saudia Arabia, Yemen, and the United States of America. Most of these countries, however, have since banned executions of child offenders, leaving the United States as the only country that acknowledges its use of capital punishment for child offenders.

According to Amnesty International, there have been 34 executions of child offenders since 1990—19 of them in the United States. And there are currently child offenders on death row in America who are scheduled to be executed this year. In fact, incredibly, Texas has scheduled the execution of four child offenders between March and June of this year, despite the Supreme Court's announcement that it will consider the constitutionality of such executions in the Simmons case this term.

Currently, 38 States authorize the use of the death penalty. Nineteen of those States have decided that they will only execute defendants who were 18 or older at the time of the crime. But 5 States use 17 as the minimum age, and the other 16 States permit the execution of defendants who were as young as 16 when they committed the crime.

The State Department has said: "Because the promotion of human rights is an important national interest, the United States seeks to hold governments accountable to their obligations under universal human rights norms and international human rights instruments." But we can only call ourselves protectors of human rights if we practice what we preach. Here at home, we continue to apply capital punishment to those who were convicted of crimes committed before legally becoming adults. Spreading decency and humanity must begin here at home. As long as America executes child offenders, our reputation as a shining example of respect for human rights is tarnished.

At the beginning of the 108th Congress, I introduced the National Death Penalty Moratorium Act, which would suspend Federal executions while we conduct a thorough study of the administration of the Federal death penalty at the State and Federal levels. My bill would specifically require a commission to review all aspects of the system, including the practice of sentencing child offenders to death. I urge my colleagues to cosponsor and support the National Death Penalty Moratorium Act, and I look forward to the Supreme Court's review of this important issue. I am hopeful that the Court will build upon the progress it made two years ago when it ended the execution of the mentally retarded. Banning the execution of child offenders is the right thing to do. Congress should act if the Court doesn't.

HEALTHY MOTHERS AND HEALTHY BABIES ACCESS TO CARE ACT OF 2003

MEDICAL MALPRACTICE

Mr. KYL. Mr. President, last year, the Senate considered legislation to try to mitigate healthcare cost increases by reforming the medical malpractice system. The bill we took up was S. 11, "The Patients First Act of 2003," which I had co-sponsored. Unfortunately, gridlock prevailed when a cloture motion was defeated. While I was disappointed that the Senate could not address healthcare liability reform on a comprehensive basis, we now have the opportunity to address the obstetrics and gynecological specialty with S. 2061, "The Healthy Mothers and Healthy Babies Access to Care Act."

There is a reason that the OB/GYN specialty should be one of the first areas addressed by medical malpractice. It is one of three specialties subject to the highest liability insurance premiums. Nationally, the dramatic increases in premiums—more than 160 percent over 16 years, 1982 to 1998—have greatly outpaced the rate of inflation, and many physicians and hospitals have been unable to keep up with these escalating costs. In Arizona, OB/GYN practices face premiums averaging $67,000—up 16 percent in just one year's time.

There are only a few ways doctors and hospitals can bear these costs. They can pass a portion of them on to patients or they can alter their practice patterns. Some physicians have cut the salaries of their hard-working, professionally trained medical staff or reduced headcount in their practices. Those who are still employed after the cutbacks are overworked, stretched thin with added responsibilities. Other doctors have reduced or completely eliminated some gynecological, surgical or high-risk obstetric procedures. Perhaps most disturbing are the instances of physicians retiring early, relocating their practices to states with friendly laws, or dropping obstetrics altogether.

The result is that women's access to prenatal and delivery care is compromised. There are fewer physicians in practice to tend to women; patients have less time with their doctor. I am concerned that women seeking prenatal care and delivering their babies in Arizona may have to travel long distances, passing by hospitals along the way, just to find a facility that can accommodate their needs. While Arizona is not deemed a medical liability "crisis state" by the American Medical Association—I am working to make sure that does not become the case—instances of facilities having to close are too frequent. For instance, Copper Queen Community Hospital in Bisbee, AZ, closed its maternity ward after physicians there, who were able to deliver babies, lost their liability insurance coverage. Imagine a community hospital that cannot meet one of the primary needs of its residents because of escalating medical liability costs.

The problem lies with a tremendous backlog in our courts and excessive jury awards that average $3.9 million. With more than 50 percent of jury awards totaling over $1 million, and the number of cases presented steadily on the rise, medical malpractice insurance carriers incur a great expense for defending suits, even those that are dismissed with no indemnity payment. Physicians Insurers Association of America claims that it costs physicians more than $75,000 to defend themselves in cases that they win—of course, even more in cases where they are found liable. Most notable may be the number of cases that are settled out of court without an admission or determination of guilt, just to avert the possibility of a "mega award" that could bankrupt a practice.

Looking ahead, I am troubled by the number of medical students and residents who are feeling medical liability's sting. Almost 50 percent of America's medical students say they factor the medical liability crisis in their choice of specialty. Can we afford to have some of the best and brightest physicians of tomorrow dissuaded from specialties because we did not do what was right and fix the system today?

The Healthy Mothers and Healthy Babies Access to Care Act only addresses obstetrical and gynecological care. It would establish parameters to maximize returns to the patients instead of trial lawyers. It would hold physicians and insurers accountable for medical expenses in instances where they are clearly wrong. The legislation would establish a period of 3 years from the date of injury for a person to bring forth a claim, making exceptions to this statute of limitations in cases involving minors. S. 2061 would allow for unlimited awards of economic damages, while placing reasonable caps on non-economic damages—pain and suffering. This is an important distinction that I want to take a moment to address.

Economic damages are for the payment of medical expenses—both past and future—the loss of earnings—both past and future—as well as the cost of having services in the home to assist someone who has been injured or incapacitated from a negligent act. There is no limit on these awards. It is important to me to preserve a patient's access to full medical care when a party has been found negligent. This legislation does that.

Non-economic damages meant to compensate for physical and emotional pain and suffering are not easily quantified. For these damages, awards would be capped at $250,000 and would be in addition to economic damages awarded. Very often, juries have awarded individuals millions of dollars to punish a defendant, not necessarily to compensate for what is an intangible loss.

Under S. 2061, contingency fees would be set to make sure that patients with valid claims do not see their awards siphoned away by lawyers. The bill would allow lawyers to recoup fees and make a profit, but not at the unfair expense of the plaintiff.

We have been down this road before and I am hopeful that my colleagues on both sides of the aisle will join me in support of medical malpractice reform. This legislation will deliver on the promise made to our constituents to fix the healthcare system in this country and rein in excessive and frivolous lawsuits.

SAFE, ACCOUNTABLE, FLEXIBLE, AND EFFICIENT TRANSPORTATION EQUITY ACT OF 2003

Mr. DORGAN. Mr. President, I rise today to discuss S. 1072, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003.

The transportation bill is a needed investment for America's infrastructure. Our Nation's roads, bridges and transit systems need help now. Thirty-eight percent of our Nation's major roads are in poor or fair condition, and 28 percent of our bridges are structurally deficient and unsafe for travel.

This bill is important for the economy as well. Transportation surpasses education and recreation and nearly equals health care and food as a contributor to economic growth, and the transportation sector is critical to jobs, employing millions of workers. A 6-year, $311 billion transportation bill will create more than 830,000 jobs across the United States.

I want to specifically mention how important transportation funding is to North Dakota. North Dakota has only 17 people per lane mile of Federal-aid highway; the national average is 124. As a result, there is a huge per capita investment by North Dakota citizens to support a national transportation system.

That means that Federal aid is critical for ensuring the development, safety and reliability of transportation infrastructure, as it simply does not have the population to support its needs. The $1.463 billion that North Dakota is projected to receive over the next 6 years will benefit the infrastructure, economy, and citizens of North Dakota, and the many others who use North Dakota's roadways for interstate commerce and tourism.

Chairman INHOFE and Ranking Member JEFFORDS worked hard to ensure that rural States would receive adequate funding in this bill, and I thank them for their efforts. I emphasize that we must continue to work to preserve this funding as this bill proceeds. I also thank them for their work to include two of my amendments in S. 1072.

My first amendment will ease the burdens of cumbersome hazardous materials regulations on small farmers. Farmers driving their pickup trucks with a 120-gallon tank of fuel in the back should not have to file security plans. These farmers are not a threat to our Nation's security, and my amendment exempts them from these unnecessary rules.

My second amendment will ensure that States prohibit open containers of alcoholic beverages in vehicles. In this day and age, it is unbelievable that someone can still drive with one hand on the wheel and one hand holding an open bottle of Jack Daniels, and my amendment takes action so that States crack down on this violation.

Lastly, I want to say that it is unfortunate that we were not able take up amendments that Senator BURNS, Senator ROCKEFELLER and I submitted to address current problems with rail policy in this Nation.

While more than 40 major railroads existed in 1980, these have now consolidated to seven, with four major railroads generating over 90 percent of the total annual rail revenue. The previous Interstate Commerce Commission, and the current Surface Transportation Board, STB, have failed to implement captive customer protections, and in fact have interpreted the deregulation act to allow railroads to deny rail customer access to rail competition. As a result, today we have a national rail industry that is both deregulated and retains almost unchecked monopoly power over at least 30 percent of its customers.

This issue hits home for my constituents and me. Grain production is a major industry in my State. Unfortunately, our grain producers are captive to a single railroad. That railroad consistently charges rates that are so outrageously high that our grain loses access to both U.S. and foreign markets. When we do move our grain at these high rail rates, every dollar for rail transportation comes out of the pockets of our grain farmers in the form of reduced net-backs from their grain sales.

It is unfortunate that our rail amendments could not be offered for a full debate and vote. They would have begun to introduce the competition in the national rail system that should have resulted from deregulation 23 years ago. These amendments would have provided some much needed relief to our farmers, manufacturers and electric ratepayers and would help save American jobs for Americans. I will continue to work for a chance to take action on these amendments and move our rail system toward the efficient, procompetitive system this Nation needs and deserves.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On July 3, 1999, in Philadelphia, PA, a 59-year-old gay man was found beaten to death in his apartment. The bodies of two other gay men from the Philadelphia area were found in the Schuylkill River the previous month.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

LTC COLONEL FRANK LOUIS BOSCH: IN MEMORIAM

Mrs. BOXER. Mr. President, I rise to share with my colleagues the memory of retired Air Force LTC Frank Louis Bosch. COL Bosch was a dedicated member of the armed services and a dedicated community volunteer. His life is truly an example of selflessness and service to others.

COL Bosch was born in New Orleans and raised in Brooklyn, NY. Throughout his commendable service in the Army Air Forces, he flew night missions in World War II, commanded a fighter group in the Korean War, and received the Distinguished Flying Cross for his participation in the Battle of Khe Sanh in Vietnam.

Upon retiring, COL Bosch refused to believe that his service to others must end. After earning a bachelor's and master's degree in physical education from George Mason University, he created and led exercise programs for seniors at the Fairfax County recreation department. He also organized softball leagues, ice skating groups, and the Northern Virginia Senior Olympics. He worked as a docent and guide at the Vietnam Veterans Memorial and assisted the priests of Fort Meyers with burials of veterans at Arlington National Cemetery. He served as an election officer in Fairfax, Eucharistic minister and usher at St. Michael's church in Annandale, was a former vice president of the WWII Night Fighters Association and a member of the Knights of Columbus.

Although he never looked to be rewarded for his service to both country and community, honors were frequently bestowed upon him. Along with the Distinguished Flying Cross, he was awarded the Virginia Governors Award for volunteering and the National Park Service's volunteer-of-the-year.

COL Bosch's life serves as an inspiration to all who knew him or have heard his story. When his son Paul called my office today, he mentioned that at the colonel's funeral at Arlington, "the sun came out just long enough for us to have a very warm feeling." I know that the example of COL Bosch's life will be a warm feeling for all of us as we remember his bravery, generosity and compassion.

I extend my deepest sympathies to his wife, Mardy, his sons and daughters, his grandchildren, and great-grandchildren. I am confident that COL Bosch's spirit will live on in them for years to come.

ADDITIONAL STATEMENTS

IN RECOGNITION OF ERNEST C. LEVISTER

• Mrs. BOXER. Mr. President, I rise today to recognize the philanthropic works of Ernest C. Levister, Jr., M.D. For his longstanding commitment to the health of residents of the Inland Empire, he has been honored by the California Medical Association Foundation with the Robert D. Sparks, M.D. Leadership Award.

The Robert D. Sparks, M.D. Leadership Award recognizes individuals or organizations for outstanding community health achievements. Dr. Levister's accomplishments have not only met this criterion, but led to programs and policy that will continue to facilitate medical advances for years to come.

For the past 30 years, Dr. Levister has used his expertise to educate others, empowering his community with knowledge. He has been honored for addressing the medical concerns and questions of the Inland Empire's African-American community through his "Our Bodies" column in the Black Voice News since 1986. His founding role in the Technology Access Partnership Foundation, a foundation that endeavors to increase accessibility to informational technologies, is also testament to his commitment to ensuring that traditionally underrepresented groups have the tools they need to live happy, healthy lives.

As president of the J.W. Vines Medical Society from 1994 to 2001, Dr. Levister strove to make educational opportunities available to students of all backgrounds, encourage African Americans' entrance into and continued progress in the medical field, and improve overall patient care. He is a cofounder of the Vines Foundation, which works to create educational opportunities for African-American students pursuing health and science-related careers.

Dr. Levister is credited as a major influence in changes that the University of California, Riverside made to its Bio Medical Science Program, which now offers more opportunities to disadvantaged students and pre-med faculty positions to those who are traditionally underrepresented. Other recognitions include the Silver Scalpel Award from the California Society of Industrial Medicine and Surgery for his work to protect the rights of injured workers and their physicians, the 2000 Black Rose and Humanitarian of the Year Award given to Dr. and Mrs. Levister for their service to their community, and the San Bernardino County Medical Society's 2003 Award for Outstanding Contribution to the Community.

Dr. Levister's fine leadership has paved the way for the continued propagation of a diverse medical community to address the complex and varied health care needs of the Inland Empire Community. It is with great pleasure that I congratulate Dr. Levister on his receipt of the prestigious Robert D. Sparks Leadership Award.•

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

HONORING SHARON STROSCHEIN, 2003 WINNER OF THE ATHENA AWARD

• Mr. JOHNSON. Mr. President, I rise today to publicly recognize and honor Sharon Stroschein of my Aberdeen, SD staff, who recently was presented with the Athena Award, an honor that is cosponsored by the Aberdeen Chamber of Commerce and Johnsons Motors of Aberdeen.

The Athena Award is annually presented to an individual who actively assists women in realizing their full leadership potential. The individual must demonstrate excellence, creativity, and initiative in their business or profession. The individual provides a valuable service by contributing time and energy toward improving the quality of life for others in the community.

I know first hand that Sharon has done a great deal to improve northeastern South Dakota. She is a tremendously talented woman with a great deal of energy and ambition.

Sharon is not only a great friend, she is also the northeast area director for my State office in Aberdeen. She has earned the respect and admiration of all those who have had the opportunity to work with her. Her passion and love for her work have improved the lives of countless South Dakotans.

Sharon's friendly demeanor and wealth of knowledge have helped her develop close relationships with her colleagues and with community leaders throughout our State. This friendly attitude has led to numerous elected posts and honors. Among those, she was elected South Dakota's National Committeewoman to the Democratic National Committee. She was also the McGovern Grassroots Award recipient, and Woman of the Year by the South Dakota Federation of Democratic Women.

I congratulate Sharon Stroschein for being selected to receive this prestigious award. It is with great honor that I share her impressive accomplishments with my colleagues.•

CONGRATULATING MRS. CORNELIA McREYNOLDS

• Mr. BUNNING. Mr. President, I would like to take a moment today to congratulate Mrs. Cornelia McReynolds of Pembroke, KY, for receiving the Modernette Civic Club's Woman of the Year Award.

Mrs. McReynolds is best known in the Hopkinsville community as a devoted mother of seven children. But her influence stretches far beyond the boundaries of her home and her family.

She is an active member of the Eastern Star and helped to organize the Community Choir of Hopkinsville. She is also director of the junior choir and president of the usher board at the St. Bethlehem Baptist Church. The children of the church are so fond of Mrs. McReynolds, they call her "Granny."

Six of her seven children were with her when she received the award at the Modernette Club's 10th annual African-American Heritage Breakfast. They traveled from as far away as Chicago and Florida to be with their mother—and of course her seventh child called by cell phone from Florida after she received the award. Even her seven-month-old great granddaughter attended the Saturday morning breakfast in her honor at the Pioneer Memorial Complex. It was family dedication like this and her amazing work in the community that likely prompted this special award.

Congratulations again, Mrs. McReynolds, on receiving the 2004 Modernette Civil Club's Woman of the Year award. You are truly an inspiration for all of us throughout the Commonwealth of Kentucky.•

SALUTE TO THE AIR FORCE ACADEMY FALCONS BASKETBALL TEAM

• Mr. ALLARD. Mr. President, I rise to salute the U.S. Air Force Academy Falcons basketball team. It gives me a great deal of pleasure as a member of the U.S. Air Force Academy Board of Visitors to congratulate the high flying Air Force Academy men's basketball team on winning the 2003–2004 regular season Mountain West Conference Basketball Championship.

On March 1, the Falcons clinched the championship with a 61–49 victory over San Diego State University. This is the first conference championship the Air Force Academy has achieved in basketball. Their improbable championship is even more impressive when you realize that this is the first winning basketball season at the Air Force Academy since the 1977–1978 season.

Coach Joe Scott, my candidate for coach of the year, has done an incredible job guiding his team to upset victories over the University of California, Brigham Young University and two victories against the University of Utah on the way to an overall 21–5 record.

I wish them well in the coming weeks as they represent my home State and the Air Force in the upcoming NCAA tournament. If my colleagues are looking for a real-life Cinderella story in this year's basketball tournament, I have found one in Colorado Springs, CO: the U.S. Air Force Academy.•

CELEBRATING THE CENTENNIAL OF CONGREGATION SHERITH ISRAEL'S HISTORIC SANCTUARY BUILDING

• Mrs. BOXER. Mr. President, I take this opportunity to recognize the 100th Anniversary of Congregation Sherith Israel's historic sanctuary building in the City of San Francisco in my home State of California.

Congregation Sherith Israel, established in 1849, is one of the oldest Reform congregations in the West. Reform Judaism spread throughout North America more than 130 years ago and is now the largest Jewish movement in North America, with more than 900 congregations and 1.5 million people.

Congregation Sherith Israel's synagogue building is located at the corner of California and Webster Streets in San Francisco. This year marks the centennial of this historic building, whose cornerstone was laid on February 22, 1904. The building was designed by renowned Bay Area architect Albert Pissis, who was an important figure in the rebuilding of downtown San Francisco after the city's most famous disaster, the Great Earthquake and Fire of 1906.

The 1906 Earthquake and Fire left the city in smoking ruins and destroyed many public structures. Congregation Sherith Israel's synagogue withstood this disaster and was able to house many important events following the destruction. The building served as the city's Superior Court for more than 2 years and, in 1945, hosted one of the organizing sessions of the United Nations.

Today, this unique building has an austere exterior which hides a lavish and ornamental interior, complete with the finest stained glass, pews of rare Honduran mahogany, polished marble floors and beautifully detailed painted walls and ceilings. The synagogue is home to a working original Murray M. Harris Company organ. Harris was the pioneer Los Angeles organ builder who is generally regarded as "the Father of Organbuilding in the West." The chapel also contains Congregation Sherith Israel's original Holy Ark, built in 1970.

The blue-grey dome of the synagogue, taller than the dome of San Francisco City Hall, is touted as one of the highest in the city. The dome, visible from many vistas around San Francisco, is a wonderful reminder of this building's history and importance to San Francisco. Congregation Sherith Israel's sanctuary building also continues to represent the spiritual strength, diversity and pioneer spirit of San Francisco's Jewish community. A hallmark of Reform Judaism is "tikkun olam," or repairing the world, a desire to bring peace, freedom, and justice to all people. Congregation Sherith Israel is a wonderful example of tikkun olam in the San Francisco Bay Area.

I am very pleased to recognize this beautiful and historic building. I hope the people of San Francisco and the members of Congregation Sherith Israel continue to enjoy this building for many more years.•

IN HONOR OF DR. FELIX G. SHEEHAN

• Mr. DODD. Mr. President, I rise to speak in honor of Dr. Felix G. Sheehan, of Middletown, CT. Next week, on March 13, 2004, Dr. Sheehan will be receiving the "Irish Person of the Year" award from the Middletown division of the Ancient Order of Hibernians, the oldest and largest Irish Catholic society in the United States.

Dr. Sheehan retired 2 years ago after 47 years in the medical practice. As a doctor, he was, in so many ways, a treasure from a bygone era. Even as health care became more and more of a business, and even as Americans increasingly dealt with the complicated world of copayments, referrals, and coverage networks, Dr. Sheehan was a doctor who built lifelong relationships with his patients and made house calls at all hours of the day and night.

His tremendous dedication, warmth, and kind spirit are legendary in Middletown, where many of his patients became just as devoted to him as he was to them. One of those patients described him as "the best doctor in the world."

Dr. Sheehan was born in Belfast and came to America with his family at the age of 6. He served his new country in the Pacific during World War II. During his service, he had an experience that would change his life—and the lives of many others. While stationed aboard the USS *Wasp*, he was asked one day to help out a nurse who was having trouble treating a patient. It was then that he first realized that medicine would be his calling.

After attending college at St. John's University in New York, Felix Sheehan spent the next 5 years in his native Belfast earning his medical degree from Queen's University. It was happenstance, he says, that he found Connecticut. But after seeing the slogan on Middlesex Hospital that read, "Caring and Kindness Always, All Ways," he knew that Middletown would be his home. Because although that motto belonged to the hospital, it could have easily been written to describe Felix Sheehan.

To Felix Sheehan, being a doctor meant so much more than examining patients and prescribing medicines. He offered complimentary medical services to local parochial schools. He took on needy patients free of charge. He hosted a wedding for one of his employees who couldn't afford it. He retained legal counsel for the child of one of his patients. And as his own career drew to a close, he served as a mentor and role model to young doctors entering the profession.

From the day he took up his practice until the day he retired, Dr. Sheehan gave so much of himself to so many people. In the words of his daughter Laureen, "in a very real and special sense, he was more than a physician—he was and is a healer."

From one Irishman to another, I offer my warmest congratulations to Dr. Sheehan on the honor he will receive next week. I wish him, his wife Marie, and their children many more happy years together.•

HONORING THE JOHN EHRET HIGH SCHOOL

• Ms. LANDRIEU. Mr. President, from May 1–3, 2004 more than 1,200 students from across the United States will visit Washington, D.C. to take part in the national finals of We the People: The Citizen and the Constitution, the most extensive educational program in the country developed specifically to educate young people about the U.S. Constitution and Bill of Rights. Administered by the Center for Civic Education, the We the People program is funded by the U.S. Department of Education by act of Congress.

I am proud to announce that the class from John Ehret High School from Marrero will represent the State of Louisiana in this prestigious national event. These outstanding students, through their knowledge of the U.S. Constitution, won their statewide competition and earned the chance to come to our Nation's Capital and compete at the national level.

The 3-day We the People National Finals Competition is modeled after hearings in the U.S. Congress. The students are given an opportunity to demonstrate their knowledge before a panel of adult judges while they evaluate and defend positions on relevant historical and contemporary issues. Their testimony is followed by questions designed to probe the students' depth of understanding and ability to apply their constitutional knowledge. Columnist David Broder once described this annual competition as "the place to come to have your faith in the younger generation restored."

Most recently, the We the People program was highlighted at two national conferences held in 2003: the White House Forum on American History, Civics, and Service, and the first annual Congressional Conference on Civic Education. Evaluations and independent studies have validated the effectiveness of the We the People program on students' civic knowledge and attitudes. This innovative civic education program continues to be one of the best antidotes to apathy and cynicism in our Nation.

I wish these students the best of luck at the We the People national finals and applaud their achievement. We should all be proud that they are learning and advocating the fundamental ideals that identify us as a people and bind us together as a Nation.•

CELEBRATING THE 25TH ANNIVERSARY OF THE MARIN COUNTY CIVIC CENTER VOLUNTEERS PROGRAM

• Mrs. BOXER. Mr. President, I take this opportunity to recognize the 25th anniversary of the Marin County Civic Center Volunteers program.

In 1979, the Civic Center Volunteers program (CCV) was established to help Marin County maintain its excellent public services by providing local government agencies with volunteers from the community.

During CCV's 25 years of service, over 10,000 volunteers have contributed countless hours of their time. Their work translates into the equivalent of providing over $60 million in services to Marin County's local government agencies. CCV provides a unique service by bringing energetic volunteers with a community perspective into almost all aspects of Marin's county government. By involving the local community, the county is able to run its programs more efficiently and with broader community involvement.

CCV has succeeded in enhancing civic participation by Marin County residents in their local government. Civic Center volunteers become advocates for the community by becoming a part of the governmental process. Over the years, programs that were initially started by volunteers, such as the Consumer Mediation Unit and Job Coach, have become a part of the county's regular services.

As one of the Nation's first centralized county volunteer programs, CCV has received numerous awards and accolades, including the United States Congress Achievement Award and the National Association of Counties' "Acts of Caring" Award for Public Education and Information. The CCV program has been successfully used as a model for volunteerism in local governments, both nationally and internationally.

For 25 years, the Marin County Civic Center Volunteers program has served as a national model for civic leadership. CCV's dedication to the community is inspiring and impressive. I congratulate the Marin County Civic Center Volunteers on their 25th anniversary and wish them another 25 years of success.•

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on Commerce, Science, and Transportation.

(The nomination received today is printed at the end of the Senate proceedings.)

REPORT RELATIVE TO MODIFYING DUTY-FREE TREATMENT UNDER THE GENERALIZED SYSTEM OF PREFERENCES—PM 68

The Presiding Officer laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance:

To the Congress of the United States:

Consistent with section 502(f) of the Trade act of 1974, as amended (the "Act"), I am writing to inform you of my intent to designate Algeria as a beneficiary developing country and to terminate the designation of Antigua and Barbuda, Barbados, Behrain, the Czech Republic, Estonia, Hungary, Lativia, Lithuania, Poland, and Slovakia as beneficiary developing countries for purposes of the Generalized System of Preferences (GSP).

I have considered the criteria set forth in sections 501 and 502 of the Act. In light of these criteria, I have determined that it is appropriate to extend GSP benefits to Algeria. I have also determined that Antigua and Barbuda, Barbados, and Bahrain have become "high income" countries, and I therefore terminate their designation as beneficiary developing countries effective January 1, 2006. Furthermore, consistent with the Act's prohibition on designation of European Union member states as beneficiary developing countries, I am terminating such designation for the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, and Slovakia when they become European Union member states.

GEORGE W. BUSH.

THE WHITE HOUSE, *March 1, 2004.*

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. MILLER (for himself, Mr. CHAMBLISS, and Mr. DEWINE):

S. 2152. A bill to amend title 10, United States Code, to provide eligibility for reduced non-regular service military retired pay before age 60, and for other purposes; to the Committee on Armed Services.

By Mr. EDWARDS:

S. 2153. A bill to designate the facility of the United States Postal Service located at 223 South Main Street in Roxboro, North Carolina, as the "Oscar Scott Woody Post Office Building"; to the Committee on Governmental Affairs.

By Mr. DORGAN (for himself, Mr. DAYTON, Mr. COLEMAN, and Mr. CONRAD):

S. 2154. A bill to establish a National sex offender registration database, and for other purposes; to the Committee on the Judiciary.

By Ms. COLLINS:

S. 2155. A bill to amend the Internal Revenue Code of 1986 to provide for a manufacturer's jobs credit, and for other purposes; to the Committee on Finance.

By Ms. SNOWE:

S. 2156. A bill to amend title II of the Higher Education Act of 1965 to enhance teacher training programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BAUCUS (for himself, Mr. COLEMAN, Ms. CANTWELL, Mr. WYDEN, Mr. ROCKEFELLER, Mr. BREAUX, Mr. INOUYE, Mr. CARPER, Mr. BINGAMAN, Mr. CORZINE, Mr. BAYH, Mrs. CLINTON, Ms. LANDRIEU, Mrs. MURRAY, Mr. LAUTENBERG, Mr. BIDEN, Mrs. BOXER, and Mr. REID):

S. 2157. A bill to amend the Trade Act of 1974 to extend the trade adjustment assistance program to the services sector, and for other purposes; to the Committee on Finance.

By Ms. COLLINS (for herself, Mrs. MURRAY, Mr. WARNER, Mr. BINGAMAN, Mr. ALLEN, Mr. FEINGOLD, Mr. COCHRAN, Mr. LAUTENBERG, Mr. HAGEL, Mr. REED, Mr. SMITH, Mr. ENSIGN, and Mr. DEWINE):

S. 2158. A bill to amend the Public Health Service Act to increase the supply of pancreatic islet cells for research, and to provide for better coordination of Federal efforts and information on islet cell transplantation; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. EDWARDS:

S. Res. 307. A resolution honoring the county of Cumberland, North Carolina, its municipalities and community partners as they celebrate the 250th year of the existence of Cumberland County; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 333

At the request of Mr. BREAUX, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 333, a bill to promote elder justice, and for other purposes.

S. 412

At the request of Mr. KYL, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 412, a bill to amend the Balanced Budge Act of 1997 to extend and modify the reimbursement of State and local funds expended for emergency health services furnished to undocumented aliens.

S. 491

At the request of Mr. REID, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 491, a bill to expand research regarding inflammatory bowel disease, and for other purposes.

S. 595

At the request of Mr. HATCH, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 595, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financings to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 596

At the request of Mr. ENSIGN, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S . 596, a bill to amend the Internal Revenue Code of 1986 to encourage the investment of foreign earnings within the United States for productive business investments and job creation.

S. 633

At the request of Mr. KERRY, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 633, a bill to modify the contract consolidation requirements in the Small Business Act, and for other purposes.

S. 664

At the request of Mr. HATCH, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 664, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, to increase the rates of the alternative incremental credit, and to provide an alternative simplified credit for qualified research expenses.

S. 683

At the request of Mr. FEINGOLD, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 683, a bill to amend the Family and Medical Leave Act of 1993 to provide entitlement to leave to eligible employees whose spouse , son, daughter, or parent is a member of the Armed Forces serving on active duty in support of a contingency operation or notified of an impending call or order to active duty in support of a contingency operation.

S. 736

At the request of Mr. ENSIGN, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 736, a bill to amend the Animal Welfare Act to strengthen enforcement of provisions relating to animal fighting, and for other purposes.

S. 750

At the request of Mr. MCCAIN, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 750, a bill to amend title II of the Social Security Act to increase the level of earnings under which no individual who is blind is determined to have demonstrated an ability to engage in substantial gainful activity for purposes of determining disability.

S. 822

At the request of Mr. KERRY, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 822, a bill to create a 3-year pilot program that makes small, non-profit child care businesses eligible for SBA 504 loans.

S. 846

At the request of Mr. SMITH, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 846, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance, and for other purposes.

S. 1020

At the request of Mr. KOHL, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1020, a bill to amend the Child Nutrition Act of 1966 and the Richard B. Russell National School Lunch Act to improve the school breakfast program.

S. 1021

At the request of Mr. KOHL, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1021, a bill to amend the Richard B. Russell National School Lunch Act to improve the summer food service program for children.

S. 1022

At the request of Mr. KOHL, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1022, a bill to amend the Richard B. Russell National School Lunch Act to improve the child and adult care food program.

S. 1129

At the request of Mrs. FEINSTEIN, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 1129, a bill to provide for the protection of unaccompanied alien children, and for other purposes.

S. 1138

At the request of Mr. COLEMAN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1138, a bill to amend the Employee Retirement Income Security Act of 1974, Public Health Service Act, and the Internal Revenue Code of 1986 to provide parity with respect to substance abuse treatment benefits under group health plans and health insurance coverage.

S. 1143

At the request of Mrs. HUTCHISON, the names of the Senator from North Dakota (Mr. CONRAD) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 1143, a bill to amend the Public Health Service Act to direct the Secretary of Health and Human Services to establish, promote, and support a comprehensive prevention, research, and medical management referral program for hepatitis C virus infection.

S. 1180

At the request of Mr. SANTORUM, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1180, a bill to amend the Internal Revenue Code of 1986 to modify the work opportunity credit and the welfare-to-work credit.

S. 1197

At the request of Mr. ENZI, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1197, a bill to amend the Public Health Service Act to ensure the safety and accuracy of medical imaging examinations and radiation therapy treatments.

S. 1255

At the request of Mr. KERRY, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 1255, a bill to amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a pilot program to provide regulatory compliance assistance to small business concerns, and for other purposes.

S. 1298

At the request of Mr. AKAKA, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 1298, a bill to amend the Farm Security and Rural Investment Act of 2002 to ensure the humane slaughter of non-ambulatory livestock, and for other purposes.

S. 1523

At the request of Mr. SMITH, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 1523, a bill to amend part A of title IV of the Social Security Act to allow a State to treat an individual with a disability, including a substance abuse problem, who is participating in rehabilitation services and who is increasing participation in core work activities as being engaged in work for purposes of the temporary assistance for needy families program, and to allow a State to count as a work activity under that program care provided to a child with a physical or mental impairment or an adult dependent for care with a physical or mental impairment.

S. 1554

At the request of Mrs. MURRAY, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1554, a bill to provide for secondary school reform, and for other purposes.

S. 1595

At the request of Mr. KERRY, the names of the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 1595, a bill to amend the Internal Revenue Code of 1986 to allow small business employers a credit against income tax with respect to employees who participate in the military reserve components and are called to active duty and with respect to replacement employees and to allow a comparable credit for activated military reservists who are self-employed individuals, and for other purposes.

S. 1703

At the request of Mr. SMITH, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 1703, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax for expenditures for the maintenance of railroad tracks of Class II and Class III railroads.

S. 2076

At the request of Mr. BAUCUS, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 2076, a bill to amend title XI of the Social Security Act to provide direct congressional access to the office of the Chief Actuary in the Centers for Medicare & Medicaid Services.

S. 2090

At the request of Mr. DASCHLE, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 2090, a bill to amend the Worker Adjustment and Retraining Notification Act to provide protections for employees relating to the offshoring of jobs.

S. 2127

At the request of Mr. LUGAR, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 2127, a bill to build operational readiness in civilian agencies, and for other purposes.

S. 2143

At the request of Mr. DURBIN, the names of the Senator from Louisiana (Ms. LANDRIEU), the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 2143, a bill to extend trade adjustment assistance to service workers.

S. 2146

At the request of Ms. LANDRIEU, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 2146, a bill to require the Secretary of the Treasury to mint coins in commemoration of the contributions of Dr. Martin Luther King, Jr., to the United States.

S.J. RES. 1

At the request of Mr. KYL, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S.J. Res. 1 , a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

S. CON. RES. 14

At the request of Mr. SMITH, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. Con. Res. 14, a concurrent resolution expressing the sense of Congress regarding the education curriculum in the Kingdom of Saudi Arabia.

S. CON. RES. 81

At the request of Mrs. FEINSTEIN, the name of the Senator from Missouri

(Mr. BOND) was added as a cosponsor of S. Con. Res. 81, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DORGAN (for himself, Mr. DAYTON, Mr. COLEMAN, and Mr. CONRAD):

S. 2154. A bill to establish a National sex offender registration database, and for other purposes; to the Committee on the Judiciary.

Mr. DORGAN. Mr. President, I rise today to offer a bipartisan piece of legislation. As I will describe, this bill seeks to fill a gaping hole in our criminal justice system, made tragically evident by a recent tragedy in North Dakota.

Last November, Dru Sjodin, a student at the University of North Dakota, was abducted in the parking lot of a Grand Forks shopping mall. A suspect has been arrested, and there is significant evidence that he was responsible for Dru's abduction. Dru has not been found.

The tragedy of Dru's abduction is compounded by the fact that her alleged assailant, Alfonso Rodriguez, Jr., had been released from prison only six months earlier, having served a 23-year sentence for rape in Minnesota. And what's more, Minnesota authorities had known that he was at high risk of committing another sexual assault if released.

The Minnesota Department of Corrections had rated Rodriguez as a "type 3" offender—meaning that he was at the highest risk for reoffending. In an evaluation conducted in January 2003, a prison psychiatrist wrote that Rodriguez had demonstrated "a willingness to use substantial force, including the use of a weapon, in order to gain compliance from his victims."

Despite this determination, the Minnesota Department of Corrections released Rodriguez in May 2003, and essentially washed its hands of the case. Since Rodriguez had served the full term of his sentence, the Department of Corrections imposed no further supervision on him at all.

Now, the Minnesota Department of Corrections could have recommended that the State Attorney General seek what is known as a "civil commitment." Under this procedure, a State court would have required Rodriguez to be confined as long as he posed a sufficient threat to the public, even if he had served his original sentence. But the State Attorney General was never notified that Rodriguez was getting out, and there was no chance for the Minnesota courts to consider the case.

So upon his release, Mr. Rodriguez went to live in Crookston, MN, completely unsupervised, a short distance from the Grand Forks shopping mall where Dru Sjodin was abducted.

To make matters worse, the North Dakota public had no way of knowing that Rodriguez had been released. There is currently no national sex offender registry. Each State has its own sex offender registry, which tracks only its own residents. So although Minnesota listed Rodriguez in its sex offender registry, residents of North Dakota checking their own State's sex offender registry would have no way of knowing this.

For all intents and purposes, Rodriguez was free to prey on nearby communities in North Dakota, without fear of recognition.

This situation is unacceptable. We must do better. A recent study found that 72 percent of "highest risk" sexual offenders reoffend within 6 years of being released. And the Bureau of Justice Statistics has determined that sex offenders released from prison are over ten times more likely to be arrested for a sexual crime than individuals who have no record of sexual assault. We cannot just release such individuals with no supervision whatsoever, and let them prey upon an unsuspecting public.

Today, I am offering legislation to that will hopefully ensure that these breakdowns in our criminal justice system do not reoccur, and that will give our citizens the tools to better protect themselves from sexual offenders.

This bill, which is co-sponsored by Senators DAYTON, COLEMAN, and CONRAD, does the following three things: First, it directs the Department of Justice to create and manage a national sex offender registry, which would be accessible to the general public through the Internet. This database would allow users of the registry to specify a search radius across State lines. This will give residents in the many states that have large population centers close to State lines, like North Dakota and Minnesota, a much more meaningful report on nearby sexual offenders.

Second, to try to ensure that the highest risk sex offenders are not released at all, the bill requires that States provide automatic and timely notification to their States attorneys of the planned release of any "high-risk" sex offender, so that states attorneys can have a chance to determine whether to seek a civil commitment of that offender.

And third, the bill requires intensive State supervision of "high-risk" sex offenders released after serving their full sentence—that is, offenders who would otherwise go unsupervised—for a period of no less than one year.

The cost of these steps would be shared by the Federal Government and the States. The Federal Government would bear the cost of maintaining the national sex offender registry, and the States, would bear the cost of supervising high risk offenders upon their release from prison.

To ensure compliance with these measures, the legislation would reduce Federal funding for prison construction by 25 percent for those states that did not comply, and would reallocate such funds to States that do comply with those provisions. This will be the "stick" that some States may need to ensure that they comply with these important protections.

Our thoughts and prayers go to Dru Sjodin's family. I cannot guarantee that that passage of the legislation we are introducing today will prevent such tragedies from ever occurring again. But I believe that it will be a significant step towards making our neighborhoods safer for our loved ones.

I look forward to working with my colleagues, on a bipartisan basis, to secure passage of this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2154

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Sex Offender Registry Act of 2004".

SEC. 2. DEFINITION.

In this Act:

(1) CRIMINAL OFFENSE AGAINST A VICTIM WHO IS A MINOR.—The term "criminal offense against a victim who is a minor" has the same meaning as in section 170101(a)(3) of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 U.S.C. 14071(a)(3)).

(2) MINIMALLY SUFFICIENT SEXUAL OFFENDER REGISTRATION PROGRAM.—The term "minimally sufficient sexual offender registration program" has the same meaning as in section 170102(a) of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 U.S.C. 14072(a)).

(3) SEXUALLY VIOLENT OFFENSE.—The term "sexually violent offense" has the same meaning as in section 170101(a)(3) of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 U.S.C. 14071(a)(3)).

(4) SEXUALLY VIOLENT PREDATOR.—The term "sexually violent predator" has the same meaning as in section 170102(a) of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 U.S.C. 14072(a)).

SEC. 3. ESTABLISHMENT OF DATABASE.

(a) IN GENERAL.—The Attorney General shall establish a National sex offender registry that—

(1) makes publicly available, via the Internet, all information required to be submitted by States to the Attorney General under subsection (b); and

(2) allows for users of the registry to determine which registered sex offenders are currently residing within a radius, as specified by the user of the registry, of the location indicated by the user of the registry.

(b) Information from States.—

(1) In general.—If any person convicted of a criminal offense against a victim who is a minor or a sexually violent offense, or any sexually violent predator, is required to register with a minimally sufficient sexual offender registration program within a State, including a program established under section 170101 of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 U.S.C. 14017(b)), that State shall submit to the Attorney General—

(A) the name and any known aliases of the person;

(B) the date of birth of the person;

(C) the current address of the person and any subsequent changes of that address;

(D) a physical description and current photograph of the person;

(E) the nature of and date of commission of the offense by the person; and

(F) the date on which the person is released from prison, or placed on parole, supervised release, or probation.

(2) States without registration program.—The Federal Bureau of Investigation shall collect from any person required to register under section 170102(c) of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 U.S.C. 14072(b)) the information required under paragraph (1), and submit that information to the Attorney General for inclusion in the National sex offender registry established under section 2.

SEC. 4. RELEASE OF HIGH RISK INMATES.

(a) Civil Commitment Proceedings.—

(1) In general.—Any State that provides for a civil commitment proceeding, or any equivalent proceeding, shall issue timely notice to the attorney general of that State of the impending release of any person incarcerated by the State who—

(A) is a sexually violent predator; or

(B) has been deemed by the State to be at high-risk for recommitting any sexually violent offense or criminal offense against a victim who is a minor.

(2) Review.—Upon receiving notice under paragraph (1), the State attorney general shall consider whether or not to institute a civil commitment proceeding, or any equivalent proceeding required under State law.

(b) Monitoring of Released Persons.—

(1) In general.—Each State shall intensively monitor, for not less than 1 year, any person described under paragraph (2) who—

(A) has been unconditionally released from incarceration by the State; and

(B) has not been civilly committed pursuant to a civil commitment proceeding, or any equivalent proceeding under State law.

(2) Applicability.—Paragraph (1) shall apply to—

(A) any sexually violent predator; or

(B) any person who has been deemed by the State to be at high-risk for recommitting any sexually violent offense or criminal offense against a victim who is a minor.

SEC. 5. COMPLIANCE.

(a) Compliance Date.—Each State shall have not more than 3 years from the date of enactment of this Act in which to implement the requirements of sections 3 and 4.

(b) Ineligibility for Funds.—A State that fails to submit the information required under section 3(b) to the Attorney General, or fails to implement the requirements of section 4, shall not receive 25 percent of the funds that would otherwise be allocated to the State under section 20106(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13706(b)).

(c) Reallocation of Funds.—Any funds that are not allocated for failure to comply with this section shall be reallocated to States that comply with sections 3 and 4.

By Ms. SNOWE:

S. 2156. A bill to amend title II of the Higher Education Act of 1965 to enhance teacher training programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Ms. SNOWE. Mr. President, I rise today to introduce legislation, the "Community College Teacher Preparation Enhancement Act of 2004," which addresses two of the Nation's most pressing education needs: first, the projected demand for roughly 2.4 million new 'highly qualified' teachers over the next decade, due to teacher attrition, teacher retirement, and a growing student population, and second, the requirement under the No Child Left Behind Act that all teachers be 'highly qualified' by 2006. This is an enormous challenge for the Nation, but one that this legislation would take giant strides toward meeting.

Our Nation's colleges and universities have done a wonderful job graduating highly qualified teachers. There is no question about this, but given the coming teacher shortages, it is unlikely that our four-year colleges and universities, alone, will be sufficient to satisfy the rising demand for well-educated teachers. Certainly, and sadly, this will simply not be possible in the near term. Yet throughout the educational community, community colleges have come to be recognized for their potential to play a leading role in filling the looming teacher shortage. Community colleges are already a vital part of our higher education system, particularly in producing teachers. Nearly half of all of the country's undergraduates who enter post-secondary institutions began their studies at community colleges. Of the country's teachers, one in five began their education at a community college. Clearly, community colleges are already a great resource.

In addition to their current role, community colleges have access to a vast population of students who could potentially become teachers, if given encouragement, opportunity and training. The Nation's 1200 community colleges enroll more than 6 million students. Let me put that in perspective. That means that 44 percent of the Nation's undergraduates are enrolled in community colleges! It's not difficult to see that community colleges have the unique potential to assist the country in meeting its increased demand for high-quality teachers. Now let me tell you how this legislation would utilize this resource for the benefit of both our children and our future.

This bill seeks to build strong teacher training networks by allowing us to tap the extraordinary resources and student pool at all post-secondary levels to increase the number of teachers across the nation. This is accomplished through the establishment of a Department of Education grant program to award funding to applicants who will strengthen their teacher training systems.

Four-year institutions can offer the community college population access to their established and recognized curriculum of teacher training courses. Four-year institutions that have already established relationships with schools can offer practical learning to community college students who are seeking a teaching degree, and can receive federal money to help implement these programs.

Moreover, by promoting close collaboration between community colleges and four-year institutions, this legislation increases the opportunity for community college students to earn a baccalaureate degree in education. This would help the Nation keep pace with the demand for high-quality teachers that is due—in addition to the demographic changes I mentioned earlier—to requirements of the No Child Left Behind Act, most notably the mandate that all new teachers have at least a baccalaureate degree.

While this legislation aims to prevent a shortage of teachers nationwide, it prioritizes teacher preparation in areas of extreme shortage, typically rural and urban areas. Further, it targets specific academic areas that face even greater shortages, such as mathematics, science, and special education.

The Community College Teacher Preparation Enhancement Act also promotes teacher training and outreach to secondary schools to develop innovative approaches to attracting high school students into the teaching profession.

Finally, recognizing that teacher shortage is not a regional problem, care will be taken to ensure that grants are distributed in a geographically diverse manner.

This legislation addresses a pressing issue. School districts across the nation are struggling to meet the requirements of No Child Left Behind, and delaying assistance would only compound the problem as shortages of qualified teachers increase. This was not the intent of No Child Left Behind, but idleness on this issue will surely leave a devastating shortage of quality educators for our children. It is time to act, and this legislation offers us a tremendous opportunity to send a clear and overdue signal to states that we intend to be true to this landmark legislation's title.

I look forward to working on this issue and urge my colleagues to join me in this effort.

By Mr. BAUCUS (for himself, Mr. COLEMAN, Ms. CANTWELL, Mr. WYDEN, Mr. ROCKEFELLER, Mr. BREAUX, Mr. INOUYE, Mr. CARPER, Mr. BINGAMAN, Mr. CORZINE, Mr. BAYH, Mrs. CLINTON, Ms. LANDRIEU, Mrs. MURRAY, Mr. LAUTENBERG, Mr. BIDEN, Mrs. BOXER, and Mr. REID):

S. 2157. A bill to amend the Trade Act of 1974 to extend the trade adjustment assistance program to the services sector, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I rise today to introduce the Trade Adjustment Assistance Equity for Service Workers Act.

Since 1962, Trade Adjustment Assistance—what we call "TAA"—has provided retraining, income support, and other benefits so that workers who lose their jobs due to trade can make a new start.

The rationale for TAA is simple. When our government pursues trade liberalization, we create benefits for the economy as a whole. But there is always some dislocation from trade.

As President Kennedy said, "those injured by . . . trade competition should not be required to bear the full brunt of the impact." "There is an obligation," he said, for the Federal Government "to render assistance to those who suffer as a result of national trade policy." We meet that obligation through TAA.

The TAA program has not been static over time. Several times, Congress has revised the program to meet new economic realities. In 1993, for example, Congress created a new TAA program targeted specifically at workers who might suffer dislocation as a result of the North American Free Trade Agreement.

Most recently, in the Trade Act of 2002, Congress completed the most comprehensive overhaul and expansion of the TAA program since its inception.

We expanded the program to cover workers affected by shifts in production, secondary workers, and farmers, ranchers, and fishermen. We extended income support to permit workers to complete needed training.

We added wage insurance and other incentives to employers to promote on-the-job training. And we added a health insurance tax credit, so that workers don't need to choose between needed retraining and health care for their families.

I am very proud to have played a leading role in passing this landmark legislation. But I am also the first to admit that our work is not done. Economic realities continue to change, and TAA must continue to change with them.

One fundamental aspect of TAA that has remained unchanged since 1962 is its focus on manufacturing. We only give TAA benefits to workers who make things. That means that the 80 percent or more of American workers in the service sector cannot access this program.

Excluding service workers from TAA may have made sense in 1962, when most non-farm jobs were in manufacturing and most services were not traded across national borders.

But today, most U.S. jobs are in the service sector. And the market for many services is becoming just as global as the market for manufactured goods.

In 2001, the service sector accounted for 81 percent of U.S. private sector gross domestic product and a similar percentage of total U.S. employment. Although trade in goods continues to dominate, cross-border services trade rose to 21 percent of the total value of U.S. trade in 2001.

Trade in services is a net plus for the U.S. economy. In fact, the service sector generated a trade surplus of nearly $74 billion in 2001.

Just as we have seen with trade in manufactured goods, however, trade in services will inevitably cost some workers their jobs.

Indeed, there have been some well-publicized examples in the papers. Software design. Technical support. Accounting and tax preparation services. Just recently, a group of call center workers in Kalispell, Montana saw their jobs move to Canada.

Examples abound of service-sector jobs—even high tech service jobs—relocating overseas. Over the past three years, somewhere between a quarter and a half million service jobs have moved to other—mainly low-wage—countries.

The legislation that I am introducing today is a simple matter of equity. When a factory relocates to another country, those workers are eligible for TAA. When a call center moves to another country, those workers are not eligible for TAA. But they should be. And under this legislation they will.

This bill provides TAA benefits to three categories of trade-impacted service workers:

First, it covers workers who lose their jobs due to competition from imported services. For example, if a U.S. truck driver loses his job because his employer loses routes to a Mexican-domiciled trucking company, the U.S. driver would be eligible for TAA.

Second, it covers workers who lose their jobs when a service facility relocates overseas as, for example, in the case of a call center or software design operation.

These workers would be eligible if their employer opens an overseas facility, or—as is often the case—if the employer contracts out the jobs to a foreign service provider. This "offshoring" eligibility would apply to both private and public sector service workers whose jobs relocate overseas.

Third, the bill covers secondary service workers. Secondary workers are those who provide inputs to a primary firm where the workers are eligible for TAA.

Right now, workers who make parts for manufactured products are covered if they lose their jobs when the primary firm closes. But workers who supply services to a TAA-eligible firm do not. This bill corrects that inequity.

The benefits service workers will receive under this legislation would be exactly the same as those that trade-impacted manufacturing workers now receive. They include retraining, income support, job search and relocation allowances, and the health insurance tax credit.

The bill also expands the TAA for Firms program to cover services. The TAA for Firms program provides technical assistance to mostly small and medium-sized businesses that face layoffs due to import competition.

The program helps firms become more competitive so they can retain and expand employment. As with TAA for workers, there is no reason to exclude businesses that provide services from this program.

Hard-working American service workers deserve this safety net. Despite what some opponents of TAA suggest, no worker would choose to lose his job so he can qualify for TAA. These benefits will always be second best to a job. But they can really make a difference in helping workers make a new start.

It is also critical to note that TAA can make an important difference in public attitudes. Surveys show that most Americans feel a lot more comfortable with globalization and with trade agreements when they know they will get help if their jobs are threatened.

That's why 66 percent of Americans responding to a recent poll agreed with the following statement: "I favor free trade, and I believe that it is necessary for the government to have programs to help workers who lose their jobs."

The world is changing and TAA must keep up with the times. This bill will help our government to keep its promise to the American people to make trade work for everyone.

I want to thank my colleagues who have joined me in co-sponsoring this important legislation, particularly Senator COLEMAN. I've also been working closely with Members in the House, including Representatives SMITH, HOLDEN, INSLEE, RANGEL, and LEVIN.

I know they share my interest in seeing this bill move quickly through the legislative process and I thank them for their support. I plan to work hard this year to move this legislation.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2157

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Trade Adjustment Assistance Equity For Service Workers Act of 2004".

SEC. 2. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE TO SERVICES SECTOR.

(a) Adjustment Assistance for Workers.—Section 221(a)(1)(A) of the Trade Act of 1974 (19 U.S.C. 2271(a)(1)(A)) is amended by striking "firm)" and inserting "firm, and workers in a service sector firm or subdivision of a service sector firm or public agency)".

(b) Group Eligibility Requirements.—Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "agricultural firm)" and inserting "agricultural firm, and workers in a service sector firm or subdivision of a service sector firm or public agency)";

(B) in paragraph (1), by inserting "or public agency" after "of the firm"; and

(C) in paragraph (2)—

(i) in subparagraph (A)(ii), by striking "like or directly competitive with articles produced" and inserting "or services like or directly competitive with articles produced or services provided";

(ii) by striking the period at the end of subparagraph (B) and inserting "; or"; and

(iii) by adding after subparagraph (B) the following:

"(C)(i) there has been a shift, by such workers' firm, subdivision, or public agency to a foreign country, in provision of services, like or directly competitive with services which are provided by such firm, subdivision, or public agency; or

"(ii) such workers' firm, subdivision, or public agency has obtained or is likely to obtain such services from a foreign country.";

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "agricultural firm)" and inserting "agricultural firm, and workers in a service sector firm or subdivision of a service sector firm or public agency)";

(B) in paragraph (2), by inserting "or service" after "related to the article"; and

(C) in paragraph (3)(A), by inserting "or services" after "component parts";

(3) in subsection (c)—

(A) in paragraph (3)—

(i) by inserting "or services" after "value-added production processes";

(ii) by striking "or finishing" and inserting ", finishing, or testing";

(iii) by inserting "or services" after "for articles"; and

(iv) by inserting "(or subdivision)" after "such other firm"; and

(B) in paragraph (4)—

(i) by striking "for articles" and inserting ", or services, for articles or services, used in the production of articles or in the provision of services"; and

(ii) by inserting "(or subdivision)" after "such other firm"; and

(4) by adding at the end the following new subsection:

"(d) Basis for Secretary's Determinations.—

"(1) Increased imports.—For purposes of subsection (a)(2)(A)(ii), the Secretary may determine that increased imports of like or directly competitive services exist if the workers' firm or subdivision or customers of the workers' firm or subdivision accounting for not less than 20 percent of the sales of the workers' firm or subdivision certify to the Secretary that they are obtaining such articles or services from a foreign country.

"(2) Obtaining services abroad.—For purposes of subsection (a)(2)(C)(ii), the Secretary may determine that the workers' firm, subdivision, or public agency has obtained or is likely to obtain like or directly competitive services from a foreign country based on a certification thereof from the workers' firm, subdivision, or public agency.

"(3) Authority of the secretary.—The Secretary may obtain the certifications under paragraphs (1) and (2) through questionnaires or in such other manner as the Secretary determines is appropriate.".

(c) Training.—Section 236(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2296(a)(2)(A)) is amended by striking "$220,000,000" and inserting "$440,000,000".

(d) Definitions.—Section 247 of the Trade Act of 1974 (19 U.S.C. 2319) is amended—

(1) in paragraph (1)—

(A) by inserting "or public agency" after "of a firm"; and

(B) by inserting "or public agency" after "or subdivision";

(2) in paragraph (2)(B), by inserting "or public agency" after "the firm";

(3) by redesignating paragraphs (8) through (17) as paragraphs (9) through (18), respectively; and

(4) by inserting after paragraph (6) the following:

"(7) The term 'public agency' means a department or agency of a State or local government or of the Federal Government.

"(8) The term 'service sector firm' means an entity engaged in the business of providing services.".

(e) Technical Amendment.—Section 245(a) of the Trade Act of 1974 (19 U.S.C. 2317(a)) is amended by striking ", other than subchapter D".

SEC. 3. TRADE ADJUSTMENT ASSISTANCE FOR FIRMS AND INDUSTRIES.

(a) Firms.—

(1) Assistance.—Section 251 of the Trade Act of 1974 (19 U.S.C. 2341) is amended—

(A) in subsection (a), by inserting "or service sector firm" after "(including any agricultural firm";

(B) in subsection (c)(1)—

(i) in the matter preceding subparagraph (A), by inserting "or service sector firm" after "any agricultural firm";

(ii) in subparagraph (B)(ii), by inserting "or service" after "of an article"; and

(iii) in subparagraph (C), by striking "articles like or directly competitive with articles which are produced" and inserting "articles or services like or directly competitive with articles or services which are produced or provided"; and

(C) by adding at the end the following:

"(e) Basis for Secretary Determination.—

"(1) Increased imports.—For purposes of subsection (c)(1)(C), the Secretary may determine that increases of imports of like or directly competitive services exist if customers of the firm accounting for not less than 20 percent of the sales of the firm certify to the Secretary that they are obtaining such articles or services from a foreign country.

"(2) Authority of the secretary.—The Secretary may obtain the certifications under paragraph (1) through questionnaires or in such other manner as the Secretary determines is appropriate. The subpoena power described in section 249 shall be extended to the Secretary of Commerce for purposes of carrying out this subsection.".

(2) Authorization of appropriations.—Section 256(b) of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended by striking "$16,000,000" and inserting "$32,000,000".

(3) Definition.—Section 261 of the Trade Act of 1974 (19 U.S.C. 2351) is amended—

(A) by striking "For purposes of" and inserting "(a) Firm.—For purposes of"; and

(B) by adding at the end the following:

"(b) Service Sector Firm.—For purposes of this chapter, the term 'service sector firm' means a firm engaged in the business of providing services.".

(b) Industries.—Section 265(a) of the Trade Act of 1974 (19 U.S.C. 2355(a)) is amended by inserting "or service" after "new product".

(c) Technical Amendments.—Section 249 of the Trade Act of 1974 (19 U.S.C. 2321) is amended by striking "subpena" and inserting "subpoena" each place it appears in the heading and the text.

SEC. 4. MONITORING AND REPORTING.

Section 282 of the Trade Act of 1974 (19 U.S.C. 2393) is amended—

(1) in the first sentence—

(A) by striking "The Secretary" and inserting "(a) Monitoring Programs.—The Secretary";

(B) by inserting "and services" after "imports of articles";

(C) by inserting "and domestic provision of services" after "domestic production";

(D) by inserting "or providing services" after "producing articles"; and

(E) by inserting ", or provision of services," after "changes in production"; and

(2) by adding at the end the following:

"(b) Collection of Data and Reports on Services Sector.—

"(1) Secretary of labor.—Not later than 3 months after the date of the enactment of the Trade Adjustment Assistance Equity for Service Workers Act of 2004, the Secretary of Labor shall implement a system to collect data on adversely affected service workers that includes the number of workers by State, industry, and cause of dislocation of each worker.

"(2) Secretary of commerce.—Not later than 6 months after such date of enactment, the Secretary of Commerce shall, in consultation with the Secretary of Labor, conduct a study and report to the Congress on ways to improve the timeliness and coverage of data on trade in services, including methods to identify increased imports due to the relocation of United States firms to foreign countries, and increased imports due to United States firms obtaining services from firms in foreign countries.".

By Ms. COLLINS (for herself, Mrs. Murray, Mr. Warner, Mr. Bingaman, Mr. Allen, Mr. Feingold, Mr. Cochran, Mr. Lautenberg, Mr. Hagel, Mr. Reed, Mr. Smith, Mr. Ensign, and Mr. DeWine):

S. 2158. A bill to amend the Public Health Service Act to increase the supply of pancreatic islet cells for research, and to provide for better coordination of Federal efforts and information on islet cell transplantation; to the Committee on Health, Education, Labor, and Pensions.

Ms. COLLINS. Mr. President, I am pleased to join my colleague from Washington, Senator PATTY MURRAY, in introducing the Pancreatic Islet Cell Transplantation Act of 2004, which will help to advance tremendously important research that holds the promise of a cure for the more than one million Americans with Type 1, or juvenile diabetes. The legislation is similar to the bipartisan bill, S. 518, which we introduced last year and which attracted 52 cosponsors.

As the founder and co-chair of the Senate Diabetes Caucus, I have learned a great deal about this serious disease and the difficulties and heartbreak that it causes for so many Americans and their families as they await a cure. The burden of juvenile diabetes is particularly heavy for children and young people. It is the second most common disease affecting children. Moreover, it is one that they never outgrow.

In individuals with juvenile diabetes, the body's own immune system attacks the pancreas and destroys the islet cells that produce insulin. As a consequence, people with juvenile diabetes require daily insulin injections for survival. While the discovery of insulin was a landmark breakthrough in the treatment of people with diabetes, it is not a cure. People with juvenile diabetes face the constant threat of developing devastating, life-threatening conditions such as kidney failure, blindness or amputation, as well as a dramatic reduction in their quality of life.

Thankfully, there is good news for people with diabetes. We have seen some tremendous breakthroughs in diabetes research in recent years, and I am convinced that diabetes is a disease that can be cured, and will be cured in the near future.

We were all encouraged by the development of the "Edmonton Protocol," an experimental treatment developed at the University of Alberta involving the transplantation of insulin-producing pancreatic islet cells, which has been hailed as the most important advance in diabetes research since the discovery of insulin in 1920. Pancreatic islet cell transplantation has been performed on nearly 300 individuals to date, and the majority of them no longer need to take insulin to stay alive. Significant research questions, however, remain to be answered if we are to make certain that the procedure is appropriate for everyone who suffers from juvenile diabetes.

There are also non-scientific barriers to expanding islet cell transplantation, and the Pancreatic Islet Cell Transplantation Act of 2004 addresses some of them. We were extremely pleased that a key component of S. 518 was included in the Medicare reform bill signed into law last year. That provision authorized a Medicare demonstration project to test the efficacy of pancreatic islet cell transplants for individuals with juvenile diabetes who are eligible for Medicare because they have end-stage renal disease.

The legislation we are introducing today includes the remaining two provisions from last year's legislation that were not included in the Medicare bill. These two provisions are intended to increase the supply of pancreata for islet cell transplantation and to improve the coordination of federal efforts and information regarding islet cell transplantation.

There currently are only about 2,000 pancreases donated annually, and, of these only about 500 are available each year for islet cell transplants. Moreover, most patients require islet cells from two pancreases for the procedure to work effectively. To increase the supply of available pancreases, our legislation will direct the Centers for Medicare and Medicaid Services (CMS) to grant credit to organ procurement organizations (OPOs)—for the purposes of their certification—for pancreases harvested and used for islet cell transplantation and research. While CMS considers a pancreas to have been procured for transplantation if it is used for a whole organ transplant, the OPO receives no credit towards its certification if the pancreas is procured and used for islet cell transplantation or research. Our legislation will therefore give the OPOs an incentive to step up their efforts to increase the supply of pancreases donated for this purpose.

Finally, to provide a more focused effort in the are of islet cell transplantation, our legislation requires the Diabetes Mellitus Interagency Coordinating Committee at the National Institutes of Health to include in its annual report an assessment of the Federal activities and programs related to islet cell transplantation and to make recommendations for legislative or administrative actions that might increase the supply of pancreases available for islet cell transplantation.

Islet cell transplantation offers real hope for people with diabetes. Our legislation, which is strongly supported by the Juvenile Diabetes Research Foundation (JDRF), addresses some of the specific obstacles to moving this research forward as rapidly as possible, and I urge all of my colleagues to sign on as cosponsors.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 307—HONORING THE COUNTY OF CUMBERLAND, NORTH CAROLINA, ITS MUNICIPALITIES AND COMMUNITY PARTNERS AS THEY CELEBRATE THE 250TH YEAR OF EXISTENCE OF CUMBERLAND COUNTY

Mr. EDWARDS submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 307

Whereas for thousands of years before the European settlers arrived, Cumberland County's streams and forests were home to native peoples who lived in the area, hunted, farmed, and buried their dead;

Whereas Cumberland County, located at the head of navigation on the Cape Fear River, quickly became a strong area of trade between the port city of Wilmington and the lower Cape Fear River to the southeast and the Carolina back country to the west;

Whereas the upper Cape Fear Valley in present Cumberland County experienced an early migration of Highland Scots beginning in 1739, many of whom settled in the area known as "The Bluff" along side the Cape Fear River 4 miles south of the Lower Little River;

Whereas in 1754, the area known as Cumberland County was formed from lands carved from Bladen County and was named in honor of William Augustus, Duke of Cumberland, third son of George II, King of England, an area which reflected a mixture of ethnic and national backgrounds;

Whereas each municipality was individually chartered: Falcon in 1913; Fayetteville in 1762; Godwin in 1905; Hope Mills in 1891; Linden in 1913; Spring Lake in 1951; Stedman in 1913; and Wade in 1913;

Whereas on June 20, 1775, 13 months before the Declaration of Independence, a group of Cumberland County's active patriots signed "The Association" later called the "Liberty Point Resolves", a document that vowed to "Go forth and be ready to sacrifice our lives and fortunes to secure her freedom and safety"; a marker at the point lists the signers of "The Association";

Whereas the period of the American Revolution was a time of divided loyalties in Cumberland County, and a considerable portion of the population, especially Highland Scots, were staunchly loyal to the British Crown, among them was the famous Scottish heroine Flora McDonald;

Whereas African-American people, both slaves and free citizens, were represented in the early population of Cumberland County, and during the American Revolution several of the county's free African-Americans fought for the patriot cause; among the notables was the midwife Aunt Hannah Mallet (1755–1857) who died at the age of 102; she delivered hundreds of babies in her lifetime, and she typified the courage and vital role of the early 19th-century African-American community;

Whereas in 1783, the towns of Campbellton and Cross Creek merged to become Fayetteville, the first town in the United States named in honor of the Revolutionary War hero, Marquis de Lafayette;

Whereas in November 1789, the North Carolina General Assembly voted to adopt and ratify the United States Constitution at the

Market House in Fayetteville, then known as the State House;

Whereas in 1789, the University of North Carolina, the first State university charted in the United States, was chartered by the North Carolina General Assembly in Fayetteville, it being the first State university;

Whereas in 1793, the Fayetteville Independent Light Infantry Company was organized in Cumberland County; it has the distinction of being the oldest military unit in the South in continuous existence;

Whereas in 1816, the Fayetteville Observer was founded as a weekly newspaper; it is now published daily and is North Carolina's oldest newspaper still in publication;

Whereas in 1825, the Marquis de Lafayette visited the city named for him and stayed in the McRae family home that once stood on the site of the Historic Courthouse on Gillespie Street in Fayetteville;

Whereas in 1831, the Great Fire destroyed the State House (the Market House) and many other buildings and caused more damage than the 1871 Chicago fire or the 1906 San Francisco earthquake;

Whereas in 1865, General William T. Sherman brought the Union Army to Cumberland County, destroying the Confederate arsenal and effectively bringing the county back into the Union;

Whereas in 1867, 7 visionary African-American citizens of Cumberland County paid about $136 for 2 lots on Gillespie Street and formed the self-perpetuating Board of Trustees of the Howard School for the education of African-American youth; this school later became Fayetteville State University (FSU), which now offers 41 undergraduate programs, 22 graduate programs, and 1 doctoral program; FSU has 18 Central Intercollegiate Athletic Association (CIAA) and 2 National Collegiate Athletic Association (NCAA) championships;

Whereas in 1914, Babe Ruth, the New York Yankee great, hit his first homerun as a professional at the old ballpark on Gillespie Street in Cumberland County, and in doing so, the 19-year-old "babe" so amazed the crowd, that George Herman Ruth was forever known by the nickname, "Babe", bestowed upon him while playing in Cumberland County;

Whereas in 1918, Camp Bragg was established from lands ceded from Cumberland County; it is now known as Fort Bragg, home of the 18th Airborne Corps, the 82d Airborne Division, and the United States Army Special Operations Command;

Whereas Fort Bragg was named for North Carolina native Lt. General Braxton Bragg; Fort Bragg soldiers and their families continue to be an integral part of the history and heritage of Cumberland County;

Whereas in 1919, Pope Army Airfield was established and remained part of the Army Air Corps until 1947 when the United States Air Force was established; it was home to the 43d Airlift Wing and the 18th Air Support Operations Group; Pope airmen and their families continue to be an integral part of the history and heritage of Cumberland County;

Whereas on November 1, 1956, Methodist College was chartered as a senior coeducational liberal arts college; it has grown to more than 2,100 students who hail from 48 States and 30 countries, graduated 8,145 students, and awarded associate's, bachelor's, or master's degrees in 57 majors and concentrations; Methodist College NCAA Division III athletic teams have earned 24 national championship titles;

Whereas in 1961, Fayetteville Technical Community College (FTCC) was founded as the Fayetteville Area Industrial Education Center, with a faculty and staff of 9 people serving 50 students, and has since evolved into a comprehensive institution serving approximately 40,000 students annually, offering more than 121 programs;

Whereas Cumberland County's 6th courthouse, circa 1924, which is listed on the National Register of Historic Places, is being established and dedicated, pursuant to the county's 250th anniversary, as a gallery of early prominent members of the local bar and elected county officials; and

Whereas Cumberland County and the municipalities of Falcon, Fayetteville, Godwin, Hope Mills, Linden, Spring Lake, Stedman, and Wade, along with civic groups, private businesses and military partners, are joining together to celebrate 250 years of history, culture, and diversity; the celebration will take place March 26–28, 2004: Now, therefore, be it

Resolved, That the Senate honors the county of Cumberland, North Carolina, its municipalities, and other community partners for Cumberland County's 250th Anniversary Celebration.

AMENDMENTS SUBMITTED & PROPOSED

SA 2636. Mr. McCAIN (for himself, Mr. REED, Mr. DEWINE, Mr. LIEBERMAN, Mr. CHAFEE, Mr. CORZINE, Mr. DODD, and Mr. DURBIN) proposed an amendment to the bill S. 1805, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others.

SA 2637. Mrs. FEINSTEIN (for herself, Mr. WARNER, Mr. SCHUMER, Mr. DEWINE, Mr. LEVIN, Mr. CHAFEE, Mr. DODD, Mr. JEFFORDS, Mrs. BOXER, Mrs. CLINTON, Mr. REED, Mr. LAUTENBERG, Ms. MIKULSKI, and Mr. DURBIN) proposed an amendment to the bill S. 1805, supra.

TEXT OF AMENDMENTS

SA 2636. Mr. McCAIN (for himself, Mr. REED, Mr. DEWINE, Mr. LIEBERMAN, Mr. CHAFEE, Mr. CORZINE, Mr. DODD, and Mr. DURBIN) proposed an amendment to the bill S. 1805, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others; as follows:

On page 11, after line 19, add the following:

TITLE II—GUN SHOW LOOPHOLE CLOSING ACT OF 2004

SEC. 201. SHORT TITLE.

This title may be cited as the "Gun Show Loophole Closing Act of 2004".

SEC. 202. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(36) The term 'special firearms event'—

"(A) means any event at which 75 or more firearms are offered or exhibited for sale, exchange, or transfer, if 1 or more of the firearms has been shipped or transported in, or otherwise affects, interstate or foreign commerce;

"(B) does not include an offer or exhibit of firearms for sale, exchange, or transfer by an individual from the personal collection of that individual, at the private residence of that individual, if the individual is not required to be licensed under section 923 or 932; and

"(C) does not include an offer or exhibit of firearms for sale, exchange, or transfer at events conducted and attended by permanent or annual dues paying members, and their immediate family, of private, not-for-profit organizations whose primary purpose is owning and maintaining real property for the purpose of hunting activities.

"(37) The term 'special firearms event licensee' means any person who has obtained and holds a valid license in compliance with section 932(d) and who is authorized to contact the national instant criminal background check system on behalf of another individual, who is not licensed under this chapter, for the purpose of conducting a background check for a potential firearms transfer at a special firearms event in accordance with section 932(c).

"(38) The term 'special firearms event vendor' means any person who is not required to be licensed under section 923 and who exhibits, sells, offers for sale, transfers, or exchanges 1 or more firearms at a special firearms event, regardless of whether or not the person arranges with the special firearms event promoter for a fixed location from which to exhibit, sell, offer for sale, transfer, or exchange 1 or more firearms.".

SEC. 203. REGULATION OF FIREARMS TRANSFERS AT SPECIAL FIREARMS EVENTS.

(a) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by adding at the end the following:

"§932. Regulation of firearms transfers at special firearms events

"(a) SPECIAL FIREARMS EVENTS OPERATORS.—It shall be unlawful for a special firearms events operator to organize, plan, promote, or operate a special firearms event unless that operator—

"(1) before the commencement of the special firearms event, or in the case of a vendor who arrives after the commencement of the event, upon the arrival of the vendor, verifies the identity of each special firearms event vendor participating in the special firearms event by examining a valid identification document (as defined in section 1028(d)(2)) of the vendor containing a photograph of the vendor;

"(2) before the commencement of the special firearms event, or in the case of a vendor who arrives after the commencement of the event, upon the arrival of the vendor, requires each special firearms event vendor to sign—

"(A) a ledger with identifying information concerning the vendor; and

"(B) a notice advising the vendor of the obligations of the vendor under this chapter;

"(3) notifies each person who attends the special firearms event of the requirements of this chapter; and

"(4) maintains a copy of the records described in paragraphs (1) and (2) at the permanent place of business of the operator.

"(b) FEES.—The Attorney General shall not impose or collect any fee from special firearms event operators in connection with the requirements under this section.

"(c) RESPONSIBILITIES OF TRANSFERORS OTHER THAN LICENSEES.—

"(1) IN GENERAL.—If any part of a firearm transaction takes place at a special firearms event, or on the curtilage of the event, it shall be unlawful for any person who is not licensed under this chapter to transfer a firearm to another person who is not licensed under this chapter, unless the firearm is transferred through a licensed importer, licensed manufacturer, licensed dealer, or a special firearms event licensee in accordance with subsection (d).

"(2) CRIMINAL BACKGROUND CHECKS.—A person who is subject to the requirement under paragraph (1) shall not—

"(A) transfer the firearm to the transferee until the licensed importer, licensed manufacturer, licensed dealer, or a special firearms event licensee through which the transfer is made makes the notification described in subsection (d)(2)(A); or

"(B) transfer the firearm to the transferee if the person has been notified under subsection (d)(2)(B) that the transfer would violate section 922 or State law.

"(3) ABSENCE OF RECORDKEEPING REQUIREMENTS.—Nothing in this section shall permit or authorize the Attorney General to impose recordkeeping requirements on any nonlicensed special firearms event vendor.

"(d) RESPONSIBILITIES OF LICENSEES.—A licensed importer, licensed manufacturer, licensed dealer, or special firearms event licensee who agrees to assist a person who is not licensed under this chapter in carrying out the responsibilities of that person under subsection (c) with respect to the transfer of a firearm shall—

"(1) except as provided in paragraph (2), comply with section 922(t) as if transferring the firearm from the inventory of the licensed importer, licensed manufacturer, or licensed dealer to the designated transferee, (although a licensed importer, licensed manufacturer, or licensed dealer complying with this subsection shall not be required to comply again with the requirements of section 922(t) in delivering the firearm to the nonlicensed transferor);

"(2) not later than 3 business days (meaning days on which State offices are open) after the date of the agreement to purchase, or if the event is held in a State that has been certified by the Attorney General under section 204 of the Gun Show Loophole Closing Act of 2004, not later than 24 hours after such date (or 3 business days after such date if additional information is required in order to verify disqualifying information from a State that has not been certified by the Attorney General), notify the nonlicensed transferor and the nonlicensed transferee—

"(A) of any response from the national criminal background check system, or if the licensee has had no response from the national criminal background check system within the applicable time period under this paragraph, notify the nonlicensed transferor that no response has been received and that the transfer may proceed; and

"(B) of any receipt by the licensed importer, licensed manufacturer, or licensed dealer of a notification from the national instant criminal background check system that the transfer would violate section 922 or State law;

"(3) in the case of a transfer at 1 time or during any 5 consecutive business days, of 2 or more pistols or revolvers, or any combination of pistols and revolvers totaling 2 or more, to the same nonlicensed person, in addition to the recordkeeping requirements described in paragraph (4), prepare a report of the multiple transfers, which report shall be—

"(A) on a form specified by the Attorney General; and

"(B) not later than the close of business on the date on which the multiple transfer occurs, forwarded to—

"(i) the office specified on the form described in subparagraph (A); and

"(ii) the appropriate State law enforcement agency of the jurisdiction in which the transfer occurs; and

"(4) comply with all recordkeeping requirements under this chapter.

"(e) SPECIAL FIREARMS EVENT LICENSE.—

"(1) IN GENERAL.—The Attorney General shall issue a special firearms event license to a person who submits an application for a special firearms event license in accordance with this subsection.

"(2) APPLICATION.—The application required by paragraph (1) shall be approved if—

"(A) the applicant is 21 years of age or older;

"(B) the application includes a photograph and the fingerprints of the applicant;

"(C) the applicant (including, in the case of a corporation, partnership, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership, or association) is not prohibited from transporting, shipping, or receiving firearms or ammunition in interstate or foreign commerce under subsection (g) or (n) of section 922;

"(D) the applicant has not willfully violated any of the provisions of this chapter or regulations issued thereunder;

"(E) the applicant has not willfully failed to disclose any material information required, or has not made any false statement as to any material fact, in connection with the application; and

"(F) the applicant certifies that—

"(i) the applicant meets the requirements of subparagraphs (A) through (D) of section 923(d)(1);

"(ii) the business to be conducted under the license is not prohibited by State or local law in the place where the licensed premises is located; and

"(iii) the business will not be conducted under the license until the requirements of State and local law applicable to the business have been met.

"(3) APPLICATION AND APPROVAL.—

"(A) IN GENERAL.—Upon the approval of an application under this subsection and payment by the applicant of a fee of $200 for 3 years, and upon renewal of a valid registration and payment of a fee of $90 for 3 years, the Attorney General shall issue to the applicant an instant check registration, and advise the Attorney General of that registration.

"(B) NICS.—A special firearms event licensee may contact the national instant criminal background check system established under section 103 of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note) for information about any individual desiring to obtain a firearm at a special firearms event from any special firearms event vendor who has requested the assistance of the registrant in complying with subsection (c) with respect to the transfer of the firearm, during the 3-year period that begins on the date on which the registration is issued.

"(4) REQUIREMENTS.—The requirements for a special firearms event licensee shall not exceed the requirements for a licensed dealer and the recordkeeping requirements shall be the same.

"(5) RESTRICTIONS.—

"(A) BACKGROUND CHECKS.—A special firearms event licensee may have access to the national instant criminal background check system to conduct a background check only at a special firearms event and only on behalf of another person.

"(B) TRANSFER OF FIREARMS.—A special firearms event licensee shall not transfer a firearm at a special firearms event.

"(f) DEFINED TERM.—In this section, the term 'firearm transaction'—

"(1) includes the sale, offer for sale, transfer, or exchange of a firearm; and

"(2) does not include—

"(A) the mere exhibition of a firearm; or

"(B) the sale, transfer, or exchange of firearms between immediate family members, including parents, children, siblings, grandparents, and grandchildren.".

(b) PENALTIES.—Section 924(a) of title 18, United States Code, is amended by adding at the end the following:

"(8)(A) Whoever organizes, plans, promotes, or operates a special firearms event, knowing that the requirements under section 932(a)(1) have not been met—

"(i) shall be fined under this title, imprisoned not more than 2 years, or both; and

"(ii) in the case of a second or subsequent conviction, shall be fined under this title, imprisoned not more than 5 years, or both.

"(B) Whoever organizes, plans, promotes, or operates a special firearms event, knowing that the requirements under subsection (a)(2) or (c) of section 932 have not been met, shall be fined under this title, imprisoned not more than 5 years, or both.

"(C) Whoever organizes, plans, promotes, or operates a special firearms event, knowing that the requirements under section 932(a)(3) have not been met, shall be fined under this title, imprisoned not more than 2 years, or both.

"(D) In addition to any other penalties imposed under this paragraph, the Attorney General may, with respect to any person who violates any provision of section 932—

"(i) if the person is registered pursuant to section 932(a), after notice and opportunity for a hearing, suspend for not more than 6 months or revoke the registration of that person under section 932(a); and

"(ii) impose a civil fine in an amount equal to not more than $10,000.".

(c) UNLAWFUL ACTS.—Section 922(b) of title 18, United States Code, is amended in the matter preceding paragraph (1), by striking "or licensed collector" and inserting "licensed collector, or special firearms event licensee".

(d) TECHNICAL AND CONFORMING AMENDMENT.—Chapter 44 of title 18, United States Code, is amended in the chapter analysis, by adding at the end the following:

"932. Regulation of firearms transfers at special firearms events.".

SEC. 204. STATE OPTION FOR 24-HOUR BACKGROUND CHECKS AT SPECIAL FIREARMS EVENTS FOR STATES WITH COMPUTERIZED DISQUALIFYING RECORDS.

(a) IN GENERAL.—Effective 3 years after the date of enactment of this Act, a State may apply to the Attorney General for certification of the 24-hour verification authority of that State.

(b) CERTIFICATION.—The Attorney General shall certify a State for 24-hour verification authority only upon a clear showing by the State, and certification by the Bureau of Justice Statistics, that—

(1) not less than 95 percent of all records containing information that would disqualify an individual under subsections (g) and (n) of section 922 of title 18, United States Code, or under State law, is available on computer records in the State, and is searchable under the national instant criminal background check system established under section 103 of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note);

(2) not less than 95 percent of all records containing information that would disqualify an individual under paragraphs (8)

and (9) of subsection 922(g) of title 18, United States Code, or under State law, is available on computer records in the State, and is searchable under the national instant criminal background check system established under section 103 of the Brady Handgun Violence Protection Act (18 U.S.C. 922 note); and

(3) the chief judicial officer of the State requires the courts of the State to use the toll-free telephone number described in subsection (d)(1) to immediately notify the National Instant Criminal Background Check System each time a restraining order (as described in section 922(g)(8) of title 18, United States Code) is issued, lifted, or otherwise removed by order of the court.

(c) CLARIFICATIONS.—

(1) DISQUALIFYING INFORMATION.—Disqualifying information for each State under subsection (b) shall include the disqualifying records for that State generated during the 30 years preceding the date of application to the Attorney General for certification.

(2) TOLL-FREE TELEPHONE NUMBER.—Upon a showing by the State that a court of the State has developed computer systems which permit the court to immediately electronically notify the National Instant Criminal Background Check System with respect to the issuance or lifting of restraining orders, the use of the toll-free telephone number described in subsection (d)(1) shall no longer be required under subsection (b)(3).

(d) NOTIFICATION INFRASTRUCTURE.—Before certifying any State under subsection (b), the Attorney General shall—

(1) create a toll-free telephone number through which State and local courts may immediately notify the National Instant Background Check System whenever a restraining order (as described in section 922(g)(8) of title 18, United States Code) is issued, lifted, or otherwise removed by order of the court; and

(2) encourage States to develop computer systems that permit courts to immediately electronically notify the National Instant Criminal Background Check System whenever a restraining order (as described in section 922(g)(8) of title 18, United States Code) has been issued, lifted, or otherwise removed by order of the court.

(e) 24-HOUR PROVISION.—Upon certification by the Attorney General, the 24-hour provision in section 932(c)(2) of title 18, United States Code, shall apply to the verification process (for transfers between unlicensed persons) in that State unless additional information is required in order to verify disqualifying information from a State that has not been certified by the Attorney General, in which case the 3 business day limit shall apply.

(f) ANNUAL REVIEW.—The Director of the Bureau of Justice Statistics shall annually review the certifications under this section.

(g) REVOCATION.—The Attorney General shall revoke the certification required under this section for any State that is not in compliance with subsection (b).

SEC. 205. INSPECTION AUTHORITY.

Section 923(g)(1)(B), of title 18, United States Code, is amended by striking "or licensed dealer" and inserting "licensed dealer, or special firearms event operator".

SEC. 206. INCREASED PENALTIES FOR SERIOUS RECORDKEEPING VIOLATIONS BY LICENSEES.

Section 924(a)(3) of title 18, United States Code, is amended to read as follows:

"(3)(A) Except as provided in subparagraph (B), any licensed dealer, licensed importer, licensed manufacturer, licensed collector, or special firearms event licensee who knowingly makes any false statement or representation with respect to the information required by this chapter to be kept in the records of a person licensed under this chapter, or violates section 922(m) shall be fined under this title, imprisoned not more than 1 year, or both.

"(B) If the violation described in subparagraph (A) is in relation to an offense—

"(i) under paragraph (1) or (3) of section 922(b), such person shall be fined under this title, imprisoned not more than 5 years, or both; or

"(ii) under subsection (a)(6) or (d) of section 922, such person shall be fined under this title, imprisoned not more than 10 years, or both.".

SEC. 207. INCREASED PENALTIES FOR VIOLATIONS OF CRIMINAL BACKGROUND CHECK REQUIREMENTS.

Section 924(a) of title 18, United States Code, as amended by section 203(b), is further amended—

(1) in paragraph (5), by striking "subsection (s) or (t) of section 922" and inserting "section 922(s)"; and

(2) by adding at the end the following:

"(9) Whoever knowingly violates section 922(t) shall be fined under this title, imprisoned not more than 5 years, or both.".

SEC. 208. RULE OF INTERPRETATION.

A provision of State law is not inconsistent with this title or an amendment made by this title if the provision imposes a regulation or prohibition of greater scope or a penalty of greater severity than any prohibition or penalty imposed by this title or an amendment made by this title.

SEC. 209. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 180 days after the date of enactment of this Act.

SA 2637. Mrs. FEINSTEIN (for herself, Mr. WARNER, Mr. SCHUMER, Mr. DEWINE, Mr. LEVIN, Mr. CHAFEE, Mr. DODD, Mr. JEFFORDS, Mrs. BOXER, Mrs. CLINTON, Mr. REED, Mr. LAUTENBERG, Ms. MIKULSKI, and Mr. DURBIN) proposed an amendment to the bill S. 1805, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others; as follows:

On page 11, after line 19, add the following:

SEC. 5. ASSAULT WEAPONS BAN REAUTHORIZATION.

(a) SHORT TITLE.—This section may be cited as the "Assault Weapons Ban Reauthorization Act of 2004".

(b) 10-YEAR EXTENSION OF ASSAULT WEAPONS BAN.—Section 110105 of the Public Safety and Recreational Firearms Use Protection Act (18 U.S.C. 921 note) is amended to read as follows:

"SEC. 110105. SUNSET PROVISION.

"This subtitle and the amendments made by this subtitle are repealed September 13, 2014.".

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, March 3, 2004, at 10:00 a.m. in Room 485 of the Russell Senate Office Building to conduct a business meeting on the Committees Views and Estimate Letter on the President's FY '05 Budget Request for Indian Programs, to be followed immediately by an oversight hearing on the Status of the Completion of the National Museum of The American Indian.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

ENERGY AND NATURAL RESOURCES COMMITTEE

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Tuesday, March 9th, at 10 a.m. in Room SD–366 of the Dirksen Senate Office Building. The purpose of the hearing is to receive testimony regarding water supply issues in the arid West.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510–6150.

For further information please contact Shelly Randel at 202–224–7933 or Colin Hayes at 202–224–0883.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, March 10, 2004, at 9:30 a.m. in Room 485 of the Russell Senate Office Building to conduct an oversight hearing on the Proposed Reorganization of major agencies and functions related to Indian trust reform matters within the Department of the Interior.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. LOTT. Mr. President, I wish to announce that the Committee on Rules and Administration will meet at 9:30 a.m., Wednesday, March 10, 2004, to examine the scope and operation of organizations registered under Section 527 of the Internal Revenue Code.

For further information concerning this meeting, please contact Susan Wells at 202–224–6352.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Thursday, March 11, 2004, at 2:30 p.m., in room 366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to consider the nomination of Sue Ellen

Wooldridge, to be Solicitor of the Department of the Interior.

For further information, please contact Judy Pensabene of the Committee staff at (202) 224-1327.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, March 24, 2004, at 9:30 a.m., in room 485 of the Russell Senate Office Building to conduct a hearing on S. 1529, the Indian Gaming Regulatory Act Amendments of 2003.

Those wishing additional information may contact the Indian Affairs Committee at 224-2251.

SUBCOMMITTEE ON WATER AND POWER

Ms. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources.

The hearing will be held on Thursday, March 25, at 2:30 p.m., in room SD-366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on S. 1085, a bill to provide for a Bureau of Reclamation program to assist states and local communities in evaluating and developing rural and small community water supply systems, and for other purposes and S. 1732 a bill to direct the Secretary of the Interior to establish a rural water supply program in the Reclamation States to provide a clean, safe, affordable, and reliable water supply to rural residents.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Water and Power, Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510-6150.

For further information, please contact Shelly Randel at 202-224-7933, Erik Webb at 202-224-4756 or Colin Hayes at 202-224-0883.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on March 2, 2004, at 9:30 a.m., in open session to receive testimony on the Defense authorization request for Fiscal Year 2005 and the Future Years Defense Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, March 2, 2004, at 10 a.m., to consider the President's Proposed FY 2005 Budget for the Forest Service.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, March 2, 2004, at 9 a.m., to hold a hearing on foreign assistance oversight.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, March 2, 2004, at 3 p.m., to hold a hearing on North Korea.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, March 2, 2004, at 10 a.m., to conduct a hearing on "Review of Current Investigations and Regulatory Actions Regarding the Mutual Fund Industry."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Tuesday, March 2, 2004, for a hearing on the final report of the Department of Veterans' Affairs Capital Asset Re-alignment for Enhanced Services (CARES) Commission.

The hearing will take place in room 418 of the Russell Senate Office Building at 2:15 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. CRAIG. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on March 2, 2004, at 2:30 p.m. to hold a closed business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMPETITION, FOREIGN COMMERCE AND INFRASTRUCTURE

Mr. CRAIG. Mr. President, I ask unanimous consent that the Subcommittee on Competition, Foreign Commerce, and Infrastructure be authorized to meet on The Rise of Obesity in Children on Tuesday, March 2, 2004, at 2:30 p.m. in SR-253.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PERSONNEL

Mr. CRAIG. Mr. President, I ask unanimous consent that the Subcommittee on Personnel of the Committee on Armed Services be authorized to meet during the session of the Senate on March 2, 2004, at 2:30 p.m. in open session to receive testimony on Active Component, Reserve Component and Civilian Personnel Programs, in review of the Defense Authorization Request for Fiscal Year 2005.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Substance Abuse and Mental Health Services be authorized to meet for a hearing on Suicide Prevention and Youth: Saving Lives, during the session of the Senate on Tuesday, March 2, 2004, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, pursuant to Public Law 108-199, Section 104(c), 1(A), appoints the following individual to serve as a member of the Abraham Lincoln Study Abroad Fellowship Program: Dr. Stevan Trooboff of Portland, Maine.

ORDERS FOR WEDNESDAY, MARCH 3, 2004

Mr. KYL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Wednesday, March 3. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day and the Senate then begin a period for morning business until 10:30 a.m., with the time equally divided in the usual form, provided that the time under Republican control be equally divided between Senators MURKOWSKI and COLLINS or their designees.

Mr. REID. No objection. We have already done the other paragraph.

Mr. KYL. All right. I thank the Senator.

Mr. REID. It is my understanding we already have an order to go to S. 1637 at 10:30 in the morning.

The PRESIDING OFFICER. The Senator from Nevada is correct. Without objection, the unanimous consent request of the Senator from Arizona is agreed to.

PROGRAM

Mr. KYL. Tomorrow morning, following morning business, the Senate will begin consideration of S. 1637, the FSC/ETI bill. This legislation will have a direct impact on the creation of jobs and it is important that we move the bill forward. I make this statement on behalf of the majority leader and point out he and others have been working with our Democratic colleagues to lock in a list of amendments to the bill. Thus far, as the leader points out, we have not been able to limit the number of amendments, but we will continue to work toward that end. Senators GRASSLEY and BAUCUS will be here in the morning to start working through the amendments to the bill. The leader would encourage all Members who wish to offer an amendment to contact the bill managers as soon as possible.

The leader would also inform all Senators that votes are expected throughout the day tomorrow as we begin consideration of this important legislation, and Senators will be notified as votes are scheduled.

ORDER FOR ADJOURNMENT

Mr. KYL. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of Members of the other side of the aisle as under the earlier order.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT

Mr. REID. Mr. President, I express my appreciation to my friend, the Senator from Arizona, for the dignified manner in which the debate was conducted today. We feel that certainly it has been fair. I now ask unanimous consent that on the Democratic side there be 5 minutes for Senator REID from Nevada, 15 minutes for Senator LEVIN, 30 minutes for Senator REED of Rhode Island, 30 minutes for Senator GRAHAM of Florida, and 20 minutes for Senator DAYTON.

The PRESIDING OFFICER. Without objection, it is so ordered.

CAMPAIGNING ON THE ISSUES

Mr. REID. Mr. President, there has been some conversation today about statements made by people running for President on the Democratic side. Today, we had the person who appears to be the frontrunner for the nomination at this time, Senator KERRY of Massachusetts, who came and spoke before the Senate. He did an extremely good job of articulating his feelings of the legislation pending before the Senate. At the same time, he also outlined in a very brief fashion those things he thought were wrong, in his view, as far as what was going on in America today.

I want the majority to know as the election proceeds toward November, we in the Senate are going to do everything within our power to protect our nominee. By that I mean anything that is said outside this Capitol or inside this Capitol that reflects upon our nominee we are going to be on this floor defending him.

We believe the issues are on our side, that they favor us, and we want this campaign to be on the issues.

What has transpired during this Presidential primary season has been extremely important and good for the American people because the Democratic candidates running for President have been able to place their views on the record, and the American people have accepted what they have said about what is wrong with this country.

There have been debates—I do not know the number of them but a significant number of debates—where the American people have been able to hear how those seeking the Democratic nomination feel about our country. I want again to say whoever our nominee is, that person is going to get all the protection that is needed in the Senate. There will be nothing said that is negative toward our candidate that will not be responded to.

We feel we have had a primary season conducted with dignity and we are going to do everything we can to make sure the final months of this campaign are conducted with dignity as far as the Democratic nominee is concerned.

The PRESIDING OFFICER. Under the previous order, the Senator from Michigan is recognized.

IRAQ INTELLIGENCE

Mr. LEVIN. Mr. President, the question of whether or not the intelligence was flawed which was used so forcefully by the administration prior to going to war as the reason for going to war is a question which is going to consume the time of this body and a number of our committees for some time to come. It is a critically important question as to whether or not the intelligence was flawed, not just in terms of the accountability—which is so important if mistakes were made, if exaggerations were undertaken in order to advance the decision to go to war—but also in terms of the future security of this Nation.

This country went to war, we were told, because Iraq had weapons of mass destruction. That was the reason that was given over and over again by the administration. Whether or not there were other reasons, and there surely were, for that decision, which could be argued as a basis for the decision, the facts are that the American people were told it was the presence in Iraq of weapons of mass destruction which was the basis for attacking that country.

When a decision is made to go to war based on intelligence, it is a fateful decision. It has ramifications and impacts way beyond the current months and years. If the intelligence is as flawed as this intelligence was, we should find out why.

Whether people are glad we went to war or are not glad we went to war, whether history will prove we should have waited until we had greater support through the United Nations in order to avoid the kind of aftermath which we have seen, or not—we don't know what history is going to show in that regard—but regardless of the arguments back and forth as to the timing of it, the way in which it was handled, the failure to galvanize the international community so we had a broad array of countries with us, including Muslim nations so we would not be there as a Western occupying power with other Western nations after the military success; whether or not there was adequate planning for the aftermath, and I think it is obvious that there was not adequate planning, but regardless of what position one takes on all of those issues, it is incumbent upon us to find out how in Heaven's name the intelligence could be so far off.

How could we have 120 top suspect sites for the presence of weapons of mass destruction that were high-level to medium-level sites, where there was confidence that there were weapons of mass destruction either being stored or produced, and we batted zero for 120? How could we be so far off?

How is it possible that the CIA could tell us, as they did in their assessments, that there were chemical weapons and biological weapons and that a nuclear program was being undertaken again when, in fact, that apparently is not the case? How is it possible that intelligence can be as flawed as is this intelligence?

Again, regardless of what the arguments are on any side or any issue, I don't think any of us should be in the position of arguing that it is irrelevant to the future security of this Nation whether or not the intelligence upon which the decision to go to war was based is important. It is critically important.

Does North Korea have nuclear weapons or doesn't it have nuclear weapons? Should we put some credibility in the intelligence community's assessment of that? Where is Iran along the continuum of obtaining nuclear weapons? What are their intentions? Should we put confidence in the intelligence community's assessment of that?

Whether or not we place confidence or make decisions based upon the intelligence community's assessment is critically important. The lives of young men and women, perhaps the life of this Nation, could be dependent upon intelligence which is being assessed by the intelligence community. Life and death decisions are being made by the President of the United States based on decisions and assessments and appraisals of the intelligence community. When it is as wildly off as this intelligence community's assessments apparently were, then it seems to me we better find out for the future health of this country, not just in terms of trying to assess the accountability for past assessments.

Something happened to the intelligence after 9/11. The pre-2002 intelligence assessments relative to nuclear programs and biological programs and chemical programs were different from the October 2002 National Intelligence Estimate. Some of this has been set forth in the Carnegie Endowment's recent report. There are so many examples of where the intelligence shifted on these critical issues after 9/11.

A few examples: On the reconstitution of the nuclear program after 1998, the pre-2002 intelligence assessment was that Iraq had probably not continued their research and development program relative to reconstituting a nuclear program after 1998. Yet in October 2002, the intelligence community said, yes, it has restarted its nuclear program after the United Nations left in 1998. What happened between the pre-2002 intelligence assessment and the post-9/11 assessment?

What about enriching uranium for use in nuclear weapons? Prior to 2002, the assessment was that Baghdad may be attempting to acquire materials that could be used to reconstitute a nuclear weapons program. But after 9/11, in the October 2002 National Intelligence Estimate, we have, yes, Iraq has imported aluminum tubes and high-strength magnets. The Department of Energy's disagreement with this conclusion was set forth, but the assessment of the intelligence community shifted after 9/11.

Whether they attempted to purchase uranium from abroad, the same kind of shift in the intelligence assessment, there were no reports mentioning any attempts to acquire uranium prior to that 2002 assessment, but in 2002, October, suddenly the National Intelligence Assessment says Iraq has been trying to procure uranium ore and yellow cake. Again, disagreement from the Department of State, but that was the assessment of the intelligence community, and on and on. We have this kind of change that occurred in the intelligence assessments.

What is the explanation for that? What happened? There is no evidence, as the President has mentioned; there is no evidence that Saddam Hussein was part of the attack of 9/11, so what happened that caused the intelligence community to shift its assessment of chemical, biological, and nuclear programs after the 9/11 attack on us? That is something which we must find out.

We must make a determination—hopefully someday there will be an outside commission which will make a comprehensive review of this whole matter—but, in any event, we must do the best we can through the Intelligence Committee.

I am making an effort, the Armed Services Committee, my staff, to look into these issues, particularly as they relate to the question of how intelligence affected the operations and the planning relative to our military effort in Iraq.

But we must make that decision. We have an obligation. This is not a partisan issue and it makes no difference to me whether this assessment is finished before the election or after the election. It must be made for the health of this Nation, as to how our intelligence community, No. 1, could be so totally wrong relative to the presence of weapons of mass destruction on Iraqi soil immediately prior to the war; and, No. 2, how and why did the intelligence community shift its assessments so significantly after 9/11 from the assessments that occurred before 9/11?

There is another aspect of this which relates to the way in which intelligence was used or exaggerated by the policymakers. Here we have another issue—an issue which is going to be looked at by the Intelligence Committee at least as far as the use of the intelligence is concerned up to the point where the war began. There are some recent statements that I think also require explanation.

I have tried a number of times to find out how the Vice President could have, about a month ago, made a statement relative to the vans that were found in Iraq, that those vans were part of a mobile biological weapons program. For the life of me, I do not understand how the Vice President can make that statement when Dr. Kay who has looked at the van has said that there is a consensus in the intelligence community—and I am now reading from Dr. Kay's answer to my question in the Armed Services Committee—that the consensus opinion is that those two trailers were not intended for the production of biological weapons.

How is it that the Vice President of the United States at about the same time that statement was made before the Armed Services Committee by the chief weapons inspector—that some trailers which were found in Iraq are unrelated to a biological weapons program—would say the opposite in a very public forum? What is the basis for the Vice President's statement? I tried to find out. In fact, I wrote the Vice President the other day asking him: What is the basis for your statement?

We should know. The American people should know when the Vice President says something as significant as that, that these particular vans which we have now gotten in our possession are, in fact, biological weapons laboratories. In fact, what the Vice President said on January 22 on NPR was:

> I would deem that—

Here he is referring to those two vans—

> conclusive evidence that Saddam did in fact have programs for weapons of mass destruction.

Again, this is so totally opposite from what our chief weapons inspector has decided and said the consensus opinion is—that surely the American public is entitled to an explanation from the Vice President.

What is the basis for his statement of January 22 on national radio? What is the basis, Mr. Vice President, for your statement? The American public is entitled to know that. This is not some assistant secretary of some agency sitting in the bowels of the Pentagon or the bowels of some other building. This is the Vice President of the United States who is saying on national radio that we believe, in fact, that those semitrailers were part of the biological weapons program, that they were biological weapons vans. There is no explanation forthcoming, just sort of silence from the Office of the Vice President. We are entitled to more than that.

One possibility which the CIA's Director suggested when I asked him the question was that, well, maybe the Vice President was using old information when he said that. If the Vice President of the United States is making statements of significance based on old information, first, it seems to me he ought to say so and then say, Too bad that happened, I will make sure it doesn't happen again.

But it is also kind of discouraging, if that is true. There are daily briefings which I assume he is a part of—at least weekly briefings on these critical issues. We have a chief weapons inspector who says those vans, according to the consensus opinion, are not part of and were not part of the production of biological weapons.

But what all this is part of is kind of what is going to be phase 2 of the Intelligence Committee's investigation which is the use of intelligence by the policymakers. Here the statements of our top leadership go beyond the intelligence in a number of ways. They are much more certain than the intelligence communities' assessments were.

For instance, the Vice President, on August 2002, said the following:

> There is no doubt that Saddam Hussein now has weapons of mass destruction. There is no doubt that he is amassing them to use against our friends and against our allies and against us.

We have this additional aspect which is now being looked into by the Intelligence Committee and again by my staff on the Armed Services Committee as to how the administration could take the intelligence that was given and then turn those less certain findings into certainties.

Our friend from Arizona, Senator KYL, made the point earlier tonight that there is a lot of uncertainty in intelligence, and he surely is right. But wow. It sure doesn't sound that way coming from the administration prior to the war.

Vice President CHENEY told Tim Russert: We know with absolute certainty that Saddam is using his procurement system to acquire the equipment he needs in order to enrich uranium to build a nuclear weapon.

Secretary of State Colin Powell—and this will be my last comment—said at the U.N.: There can be no doubt that Saddam Hussein has biological weapons.

The list of these statements where there is no doubt and there is absolute certainty that the administration says exists about these programs goes beyond what the intelligence communities' assessments were. It is those statements of absolute certainty which, it seems to me, require an explanation as to what was the basis of those statements of absolute certainty and there being no doubt, particularly in light of the fact Senator KYL pointed out that intelligence is, indeed, very uncertain and should be treated that way.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Rhode Island is recognized for 30 minutes.

PROTECTION OF LAWFUL COMMERCE IN ARMS ACT

Mr. REED. Mr. President, before I make some comments about the national situation, I express my thanks to Senator CRAIG of Idaho who is the manager on the Republican side of the bill that we considered today. I had the occasion to manage the bill for the Democratic side, and his fairness and his gentlemanlike conduct was deeply appreciated.

I also recognize two of my staff members, Neil Campbell and Steve Eichenauer, who did a superb job. Thank you very much for this opportunity to mention my respect for Senator CRAIG and also my appreciation for my staff.

IRAQ INTELLIGENCE

Mr. REED. Mr. President, Seamus Heaney, the Irish poet and Nobel laureate, wrote lines that are destined for immortality:

> History says, Don't hope on this side of the grave. But then, once in a lifetime the longed for tidal wave of justice can rise up, and hope and history rhyme.

We all long for that day when hope and history rhyme. But it is the special province of statecraft to try to make that rhyme.

As such, one way to look at foreign policy is to determine if our policies do rhyme with history or whether they represent the triumph of hope over history. By history, I do not mean the strictly academic variety. I mean the accumulation of insight and experience that we all carry about. Perhaps it is better described as our rough sense of the way the world works.

It is particularly interesting to pose these questions in light of the Bush foreign policy since so much of it seems to spring from ideological hope, from robust attempts to reshape the world along predetermined lines.

Iraq, of course, is the crucial arena. It has been made so by the administration.

Our immediate response to September 11 was to seek out and destroy the terrorist apparatus that struck us. Our attack in Afghanistan was aimed at the heart of al-Qaida and the rogue regime that provided it sanctuary. We understood very painfully that we could not grant these terrorists safe harbor. We had to act and we had to be prepared to act preemptively to destroy al-Qaida. The threat was clear and in the context of international terrorists like al-Qaida, the doctrine of preemption was not only compelling but also inescapable.

Operation Enduring Freedom, the demolition of the Taliban regime, and the disruption of the al-Qaida infrastructure represented a shrewd use of military power to focus directly on an existential threat. The history, again, using my very nontechnical definition, clearly shows that al-Qaida could not be deterred and toleration would simply invite further attack.

Ironically, having begun the destruction of al-Qaida in Afghanistan, the administration quickly shifted its attention from the complete destruction of the al-Qaida network to Iraq. Only in the past few weeks has the Bush administration begun to realize that Afghanistan is far from secure. They are redoubling their military and political efforts to ensure that Afghanistan does not slide back into a failed state. Still, the President's recent budget request only provides about $1 billion in funding for that effort, whereas commanders in the field have said they will annually need $5 billion to ensure success.

Furthermore, regardless of the situation in Afghanistan, and indeed anywhere else, the Bush administration has never lost its preoccupation with Saddam Hussein and his Baathist regime.

Some may recall that in January of 1998, Secretary Rumsfeld, Secretary Wolfowitz, and other prominent neoconservatives wrote to President Clinton urging him to use military force to remove Saddam Hussein. In their words:

> The only acceptable strategy is one that eliminates the possibility that Iraq would be able to use weapons of mass destruction. In the near term, this means a willingness to undertake military action as diplomacy is clearly failing. In the long term, it means removing Saddam Hussein and his regime from power. That now needs to become the aim of American foreign policy.

This letter predated the attack on Iraq by 5 years. It predated September 11 by more than 3 years.

With the publication of the first glimpses inside the Bush administration, this preoccupation with Iraq becomes more obvious. Former Secretary of the Treasury Paul O'Neill recounts that at the first meeting of the National Security Council on January 30, 2001, the discussion quickly vaulted over nagging issues of the conflict between Israel and the Palestinian Authority and landed squarely on Iraq. In an apparently scripted exchange, Condoleezza Rice and Vice President CHENEY and George Tenet not only led the discussion but also concluded with an examination of grainy photos purporting to show what the CIA thought was a plant producing chemical or biological materials for weapons manufacture. According to O'Neill, "ten days in, and it was about Iraq."

September 11 did not put Iraq in the administration's gunsights. It was always there. It was there as a challenge, a personal one for the President, and in the view of neoconservatives, it was there as an opportunity to make hope and history rhyme.

But in focusing almost exclusively on Iraq, the administration, in my view, disregarded a great deal of history. Again, I use the term history colloquially. The justification for action was based more on assumptions than evidence. The planning for their actions was based more on hopes than experience. The end of the cold war and the demise of the Soviet Union unshackled our military power so that we are unbeatable in any conventional battle against any conventional foe.

However, it has not reversed a century in which empires collapsed and foreign colonies began a troubled but independent road. Our military power may be unchecked by any military adversary, but it is exercised in a world that has come to distrust the unilateral use of force and disbelief of the motives of those who wield such force.

The administration's insistence on an essentially unilateral approach to confronting Iraq not only increased our effort both militarily and economically, but it also defied the worldwide consensus that without an immediate threat, the unilateral action of a great power against a lesser state is a vanished aspect of the colonial epic.

Today, the United States is fervently trying to maintain the mantle of liberator and avoid the label of occupier. In large part, this is due to the overwhelming presence of the United States unleavened by a broad array of allies or the significant presence of the United States or United Nations or NATO in Iraq.

In contrast, multinational operations in places such as the Balkans managed to avoid the stigma of occupation and insurgency for almost a decade. A multilateral attack is not a talisman that will guarantee success, but it is more congruent with a world that has rejected the colonial solution in favor of multinational action.

The administration's rationale for a preemptive and virtually unilateral operation against Iraq rested on a faithful devotion to their preconceived notions and a strained reading of available intelligence. One of the more thoughtful and evenhanded military analysts, Anthony Cordesman, at the Center for Strategic and International Studies has accurately summarized the record of the administration's intelligence activities leading up to Operation Iraqi Freedom.

In his words:

> [T]here are many indications that the U.S. intelligence community came under pressure to accept reporting by Iraqi opposition forces with limited credibility, and in some cases, a history of actively lying to either exaggerate their own importance or push the U.S. towards a war to overthrow Saddam Hussein. In what bore a striking resemblance to similar worst case interpretations of the global threat from the proliferation of ballistic missiles under the Rumsfeld Commission, U.S. policymakers not only seem to have pushed for the interpretation that would best justify military action, but to have focused on this case as if it were a reality, rather than a possibility.
>
> In the U.S., this pressure seems to have come primarily from the Office of the Vice President and the Office of the Secretary of Defense, but it seems clear that the Bush administration as a whole sought intelligence that would support its case in going to war, and this had a significant impact on the intelligence community from 2002-onwards.

The administration did not use intelligence to help make a difficult decision. It used intelligence to sell a preconceived notion. The long-term fixed view of the administration held that deterrence and international inspectors were inherently incapable of containing Saddam. Only the elimination of the regime could suffice. Moreover, regime change, in their view, could have the added benefit of precipitating a transformation of the entire region.

In effect, what the President and the administration did is present a false dichotomy to the American people—two choices, when there are many more. The two choices were: Attack Iraq or do nothing. In fact, there are many other things we could have done and perhaps should have done, including give the U.N. inspectors more time to search. They might have come to the same conclusion that David Kay did: there are no weapons of mass destruction in Iraq. We could have used not only the legitimacy but also the cooperation of the United Nations if we had pursued a course of diplomacy. But the President saw only two options: Do nothing or attack Iraq.

Of course, we could not do nothing; indeed, we were not doing nothing. We should have been actively engaged in containment, and not just containment but enforcing the U.N. resolution with inspectors on the ground. We should recall there were U.N. inspectors on the ground inside Iraq and the administration, through their actions, had those inspectors recalled prior to the inception of the military operations. That is a result of this preoccupation with Saddam, the destruction of his regime, the triumph of hope over history.

Then in planning for post-hostilities, the administration most clearly let its hopes triumph over history. They bet that Iraqi gratitude, together with a government of exiles, would provide for a cheap and easy exit strategy. They ignored a history of antagonism among the Sunni, the Shia, and the Kurds. They spoke of a rapidly emerging democracy and market economy in Iraq, a country whose civic life and social institutions had been suppressed for many years. They insinuated exiles of dubious reputations, like Chalabi, who do not command the respect of the Iraqi people. The administration entrusted post-hostility planning to the Department of Defense, not for their expertise, but for their ideological correctness.

One other aspect of the administration's hopes is that our operations in Iraq would have a transformative effect on the region, if not the world. They saw a democratic, market-oriented Iraq as an irresistible attraction and example to the masses of Arabs who hunger for a better way of life. Our success in Iraq would be emulated either by enlightened leaders or rebellious streets. Since we have yet to succeed in creating this new Iraq, it is hard to judge its transformative value. In the very short run, the jury seems to be out.

Furthermore, our engagement in Iraq has limited our strategic flexibility and narrowed our strategic focus. We are paying insufficient attention to a place that is more likely than Iraq to produce that dreaded intersection of "nukes" and terrorists; and that place is North Korea.

We know the North Koreans have nuclear material and the ability to make much more of it, if they have not done so already. Although there does not appear to be any direct links between North Korea and al-Qaida or other terrorist organizations, the North Koreans have a disturbing history of weapons proliferation. Inept at economic development, they have become too adept at trading dangerous weapons to stay afloat or as a means to underscore their demands for international aid.

A few days ago, we concluded another round of international talks with the North Koreans without any apparent breakthrough. As encouraging as these discussions may seem, success—meaning the complete and verifiable elimination of nuclear material and nuclear weapons held by North Korea—can come, in my view, only with more resolute and determined leadership by the President. To date, Iraq seems to have monopolized the effective attention of the President and his inner circle. Failure to resolve the situation in North Korea through diplomacy will result in an intolerable situation that could prompt the consideration of military action. A military option is not appealing, and it may be extraordinarily difficult to carry out with the current open-ended and demanding commitment to Iraq.

In addition, there has been little progress between the Israelis and the Palestinians. In another regional problem area, the Iranians have opened their nuclear program to more robust international inspection but still refuse to moderate their domestic policies and their international rhetoric. Indeed, the hardliners in Iran recently won an election, giving them more clout and marginalizing the reformers within that country, in the wake of our attack against Iraq.

Libya presents an interesting case. Our military success seems to have focused their attention on repairing their relationship with the West. One must be grateful any time a regime effectively renounces weapons of mass destruction. Nevertheless, Qadhafi's actions seem more like self-preservation than democratization. And, as previously discussed, the "shock and awe" in Iraq did not influence the Afghanis to be more cooperative. In fact, we lost ground in Afghanistan to reconstituted insurgent forces. In the longer run, these hopes of democratic reform and economic renewal in the region and throughout the world will battle historic and cultural forces that may yield, but not without a struggle and not without time.

There are signs that even the administration is coming to recognize that history has overtaken some of their hopes. To minimize the stigma of occupier, the Coalition Provisional Authority has accelerated the transition to sovereignty with a target date of June 30, a date that is more difficult to achieve with each passing day. It remains unclear who they will be returning this sovereignty over to. An interim constitution was adopted apparently today, but there is still a great deal of uncertainty as to who will be the ruling authority and ultimately how this sovereignty will be passed—truly passed—to the Iraqi people.

In recognition of the economic reality of Iraq, the CPA has quietly shelved plans to privatize the Iraqi economy, plans they had initially. Now this would be a wrenching exercise in unemployment since almost every Iraqi directly or indirectly seems to work for a state industry or governmental entity.

The CPA is also deferring serious land reform in a country where land was expropriated from traditional owners and bestowed upon supporters of Saddam. The CPA also seems quietly poised to allow the Kurds to develop an autonomous region under a loose federation, belying the initial commitment to a fully integrated Iraqi state. And still outstanding is whether the Shia majority will ultimately accept the governing arrangements for the new Iraq.

And, having assumed the burden of Iraq, none of these recent pragmatic adjustments are themselves without great dangers. A hasty transfer of sovereignty could lead to a government without legitimacy or one that quickly morphs into a religious and authoritarian regime that does not share our enthusiasm for democracy. This political process becomes an inviting target for insurgents who see disorder as their key ally. Leaving economic restructuring to the Iraqis is probably leaving it undone. Allowing the Kurds to create an autonomous or semiautonomous region will cause consternation within Turkey while adding to the difficulties of the new central government in Baghdad.

This administration has committed the Nation to operations in Iraq. And we cannot fail. Let me emphasize that again. We cannot fail. But we need to recognize that these ideological preoccupations that have led us to Iraq have very real costs. We are spending approximately $4 billion a month to continue our operations in Iraq and Afghanistan, the bulk of it being spent in Iraq. These costs do not include the heartbreaking loss of American service men and women.

One must question a strategy in which you cannot afford to fail, but you may not win anything. But, questioning aside, one has little choice but to support our forces in the field and insist upon a more pragmatic approach.

First, the administration must increase the overall size of our land forces, not temporarily, but in anticipation of a long deployment in both Afghanistan and Iraq.

Last fall, I was able to propose an amendment with my colleague, CHUCK HAGEL, to increase the size of our Army by 10,000 soldiers. It passed on the floor of the Senate but was stripped out of the conference report at the insistence of the administration. They, at that point, failed to recognize the need for more military personnel. Since that time, the administration has indicated that they now recognize a need for additional forces in the Army. But they still continue to insist that it can be paid for out of supplemental appropriations.

I believe we have to prepare for a long stay in Iraq. These new military personnel should be paid for through the budget process, not supplemental appropriations here and there on an irregular basis.

I believe also that in addition to increasing our overall end strength, the administration must increase the number of forces in Iraq and direct those forces to the protection of the Iraqi people, not just to hunt for insurgents. Today, the greatest threat to the successful reconstruction of Iraq is the rampant violence that engulfs the country. Only a small portion of this violence is directed against American forces. The greatest portion is directed against the Iraqi people, creating a daily climate of violence facing every Iraqi which saps their will to remake their country and support our efforts.

Today is a prime example. Over 140 Shiites were killed when bombs exploded in Karbala and Baghdad during a religious holy day. However, the Department of Defense still stubbornly clings to the proposition that more American troops won't help. Rather, they claim that indigenous Iraqi security forces are the answer. So they have created, mostly on paper, Iraqi security forces that are inadequate and insufficient for the critical months ahead.

"Iraqization" has dim echoes of "Vietnamization." Both are political responses to real security problems. One failed; the other is of dubious value at the moment.

Secondly, the administration must candidly and promptly acknowledge the huge costs that are necessary to pursue our international objectives. The recently submitted Presidential budget does not include any funds for operations in Iraq and Afghanistan. The President is attempting to rely on previous supplemental appropriations until the election. Recently, the chiefs of the Army, the Marine Corps, and the Air Force admitted they would run out of funds on October 1 for operations in Iraq and Afghanistan. More recently, reports have surfaced that the services may indeed run out of these funds sooner than that. They are now robbing Peter to pay Paul as they scavenge other accounts to fund operations in Iraq and Afghanistan.

In addition to funding for our military forces directly, we should understand even at the most optimal success level, military forces will buy you time to deal with the more fundamental problems that cause terrorism, that cause unstable governments, unstable regions. Those costs are also huge: costs in economic development assistance, costs in educational assistance. Those costs have to be factored in also. They are not included effectively or sufficiently in the budget the President sent to us.

As I said, this is not only poor budget policy with regard to military forces, but if we cannot even honestly budget for military operations, how can we marshal the will and the dollars to reinforce military success with the resources for economic development that will address the root causes of the animosity we are confronting.

One measure of the wisdom of any strategy is whether that strategy is sustainable. The administration's choice of a virtually unilateral preemptive attack followed by long-term and expensive nation building is not a strategy that can be easily duplicated. It is especially difficult to sustain without broad-based international support. Ironically, our preoccupation with Iraq might serve as an inhibition as we confront other adversaries. Moreover, our military advantages simply buy us time, precious time, to deal with fundamental issues that create the climate in which terrorism thrives.

Our attention to these issues of education and economic development is necessary now and not just in Iraq. These, too, are expensive undertakings that require international cooperation with strong American leadership. We face great challenges around the world and here at home. But Americans are not strangers to great challenges. We will endure. And with wisdom and courage, we will prevail—the courage we witness every day in the extraordinary valor of our fighting forces.

But the challenges before us require a strategic vision grounded on attention to the compelling threats we face, not the ideological impulses that stir our hearts. These challenges can best be faced with other nations, not alone. These challenges require huge resources and a long-term commitment, not budgetary gimmicks in the short run.

Until the administration acts on these basic principles, our response to real threats will be hobbled by ideology rather than focused by experience.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator from Florida is recognized for 30 minutes.

Mr. GRAHAM. Mr. President, I would like to start by saying I believe our colleagues who scheduled this debate today have done a great service to this body and to the American people. The topic of the United States in the world and specifically the United States in the war on terror is of great importance to the American people. They deserve to have the kind of elevated discussion we are giving this evening.

This should not be a partisan issue. Rather, it is an issue of our national and personal security. Never in our Nation's history have we been so dependent on credible intelligence for our safety and security as we are today.

The real test all of us will face as policymakers on behalf of the people of the United States will be how wise we are in identifying the problems we need to address and how willing we are to cast away the anchor of the status quo and initiate real reforms. In both of those efforts, one of our strongest assets will be our American intelligence.

If we were to ask any person who has a reasonable knowledge of the capabilities of terrorists and the extent of America's vulnerability the question, what is the likelihood the United States of America will suffer another successful terrorist attack on our homeland within the next 5 years, the consensus answer is certainly going to be almost a 100 percent likelihood of a successful attack.

That is a sad but true fact. It is a sad but true fact which is unnecessary. In part, it is unnecessary because we need to initiate the reforms within our intelligence community. Reforms we have learned from the experience of September 11, and learned again in the war against Iraq and, I suggest, we will learn again in the incidents that have led up to the events in Haiti, the lack of transforming our intelligence community to a set of agencies that can effectively understand, interpret, and then assist policymakers in making decisions that will make us more secure, those reforms have not been made.

It is also unfortunately true there has been a lack of accountability. We have had major intelligence failures in the last 3 years. Yet, as of today, virtually no one has been held accountable for those. What signal does that send to our agency and our adversaries, that we are willing to tolerate performance that is less than acceptable, or to benefit by performance which is beyond the call of duty, and the former is not sanctioned and the latter is not recognized.

What I think we are facing this evening is a series of deficits that will prove as significant to the future of the American people as the skyrocketing budget deficit of this administration will be to our economic future. These deficits include a deficit in judgment. The reality is in the spring of 2002, the United States and our coalition partners had the terrorist group which had perpetrated the tragedy of September 11 on the ropes in Afghanistan. But a decision was made in the early spring—a decision which military officials close to its implementation describe as an ending of the war on terror in Afghanistan and a substitution of a manhunt in Afghanistan and Pakistan, and a redirection of American intelligence and military personnel and resources to commence the war in Iraq.

This was more than a year before the war actually started. If you will read the front page of this past Sunday's New York Times, it talks about the fact that we are now, 2 years later, beginning to reintensify our efforts in Afghanistan, and we are returning to Afghanistan those very military and intelligence resources that were shifted to Iraq in the beginning of the spring of 2002.

So the consequence of making a decision that our greater enemy was Saddam Hussein than the enemy which had already shown the capability, the will, and the presence in the United States to effectively strike us on September 11 has been to allow our greater enemy to become yet stronger.

Al-Qaida is a powerful network today. It is a powerful network which is less hierarchical, more entrepreneurial, more diffuse, more difficult to attack—especially as al-Qaida cells form alliances with other radical Islamic groups. We missed the opportunity in the spring of 2002 to have cut off the head of this snake because we exercised unacceptably poor judgment as to which was the greater danger to the people of the United States.

What is the report card on that decision of judgment? I quote from a statement made by the director of the Central Intelligence Agency, Mr. George Tenet, on Tuesday of last week. This is what the leader of our American intelligence community said:

> . . . We have made notable strides. But do not misunderstand me. I am not suggesting that al-Qaida is defeated. It is not. We are still at war. This is a learning organization that remains committed to attacking the United States, its friends and allies.

Continuing to quote from the director of the CIA:

> Successive blows to al-Qaida's central leadership has transformed the organization into a loose collection of regional networks that operate almost autonomously. These regional components have demonstrated their operational prowess in the past year.
>
> The sites of their attacks span the entire reach of al-Qaida—Morocco, Kenya, Turkey, Jordan, Saudi Arabia, Kuwait, Afghanistan, Pakistan, Indonesia.
>
> And al-Qaida seeks to influence the regional networks with operational training, consultations, and money. . . .

You should not take the fact that these attacks occurred abroad to mean the threat to the United States homeland has waned. As al-Qaida and associated groups undertook these attacks overseas, detainees consistently talked about the importance the group still attaches to striking the main enemy: the United States.

In conclusion, the Director of Central Intelligence made this chilling observation:

> The steady growth of Osama bin Laden's anti-U.S. sentiment through the wider Sunni extremist movement, and the broad dissemination of al-Qaida's destructive expertise, ensure that a serious threat will remain for the foreseeable future—with or without al-Qaida in the picture.

That is the residue of the decision to allow the snake of al-Qaida to regenerate itself because we determined that the greater enemy to the United States—the enemy which had the greater capability to threaten the people of the United States of America—was Saddam Hussein. We have paid and we will pay a significant price for that flawed judgment.

There is also a deficit in credibility. Once the administration made the decision at least as early as the spring of 2002—and probably earlier—it used incredible information to convince the Congress and the American people to support that invasion.

To pick one example which has been widely reported, the administration knew, or should have known, that it was using misleading information about Saddam's weapons of mass destruction, about yellow cake from Niger, about the existence of tubes which could be used for centrifuges to make nuclear products, and about the connections of Saddam Hussein's regime with the tragedy of 9/11.

On several occasions, it was a leading figure within the administration, including the Vice President of the United States, who went to the intelligence agencies, asked for further information on the specific charge relative to Saddam Hussein's status as a producer and user of weapons of mass destruction, received from the intelligence agencies a report indicating it was a fabrication, and yet the administration continued to recycle incredible misinformation.

The administration's fondness for calling Iraq the new front in the war on terror has become a self-fulfilling proposition. There is little, if any, evidence that Saddam Hussein had ties to al-Qaida and that terrorist networks were active in the sections of Iraq that were controlled by Saddam Hussein.

What now? Now we have created chaos in Iraq, and in spite of the bravery and professionalism of our troops, we have seen a situation in which the terrorist organizations which did not exist in Iraq prior to the war have now become serious threats to the stability of that country and to the lives of American fighting men and women.

This is how the Director of the Defense Intelligence Agency, VADM Lowell Jacoby, described the situation in Iraq when he testified before the Senate Intelligence Committee on Tuesday of last week:

> Foreign fighters who have entered Iraq since the end of the war have carried out

> some of the most significant attacks, including suicide bombings. Left unchecked, Iraq has the potential to serve as a training ground for the next generation of terrorists.

There was minimal to no al-Qaida influence in Iraq before the war. Now, and this is credible, al-Qaida has found a new base of operations in Iraq. There is also a deficit of trust in the American people. This great democracy has had, as one of its fundamental values, that the people of America will serve their role as citizens only if they are fully informed about the operations of their Government. But why does this administration not want to let the people know the truth about our foreign policy and about the decisionmaking that takes place in forming that foreign policy?

This President lacks a basic respect for the common sense of the American people and relies excessively on secrecy, not to protect the national interests but to avoid political embarrassment.

I cochaired the House-Senate joint inquiry into the intelligence failures that preceded September 11. Our joint committee produced a lengthy report, some 800 pages, which focused on, among other things, the findings relative to the support which one or more foreign governments had provided to some, if not all, of the 19 terrorists.

The executive branch, after 7 months of examining our report, insisted on censoring the 27 pages of our report that contain the most important findings about that foreign support. It reached this level of absurdity. The Ambassador of the Kingdom of Saudi Arabia, responding to media speculation that it was his government mentioned in those 27 pages, pleaded with the President and his administration that the full report be released. "How can I defend my kingdom against attacks of treacherous nature unless I can know what is the basis of those attacks?" It was not just the Ambassador of the Kingdom of Saudi Arabia. The Foreign Minister of the Kingdom flew to Washington to plead for the declassification, for the release of this information so that he could also defend the honor of the Kingdom.

The President refused that request even before the Foreign Minister had reached the White House. Are we supposed to believe there wasn't some coordination of efforts, that there were private assurances of maintaining the status quo despite public pleas for release?

This President has shown that he does not believe the American people have the right nor the ability to effectively utilize information which will help them to understand who to hold accountable and to participate in reforms necessary for their security.

These are some of the deficits we have seen as a result of the events before and particularly after September 11, that we have seen in the preparation for the war in Iraq, and which we may well see repeated in the circumstances leading up to the current anarchy that grips Haiti.

Again, I conclude by saying how pleased I am that Senator KYL and other colleagues have given us the chance to have this discussion. We, too, have a responsibility to the American people to offer them the best security that the Government can provide. There is no cave, there is no spider hole that we will be able to hide in to escape that responsibility should there be another terrorist attack on our homeland and we have not utilized the information of our previous failures to make our Nation more secure.

Let us look in the mirror. The face we see will share the responsibility for the loss of life and for the deficits I have outlined which are unacceptable in our democratic society.

Before I conclude, I would like to say that I believe the value of this debate has indicated the value of similar debates on other issues that have wide public concern. I will soon seek unanimous consent that we schedule time for a debate of this nature on the floor of the Senate on a regular basis for the remainder of this session.

I propose that the next issue to be discussed be our budget deficit, the inheritance of debt that we are going to leave to our people. The suggestion made recently by the Chairman of the Federal Reserve Board that we make tax cuts permanent while we also cut benefits for Social Security and Medicare could help in framing the choices that we will have in dealing with this budget deficit.

The American people deserve from this, the greatest deliberative body in the world, to pay attention to their future. They deserve to know that we serve their interests with sound judgment, with credibility, and with respect for those who have given us the opportunity to serve them.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Florida yields the floor. Does the Senator suggest the absence of a quorum?

Mr. GRAHAM of Florida. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DAYTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator is recognized for 20 minutes.

Mr. DAYTON. Mr. President, I thank my colleagues from the other side of the aisle for giving us this opportunity to discuss the matters surrounding the Iraq war, a war in which we are still engaged, a war in which Americans are losing their lives and their limbs on an almost daily basis. I am sure my colleagues have attended funerals, as I have in my own State, of brave men who did not return from that war alive. We all know the human cost that has been involved.

A number of us were at Walter Reed Hospital 2 weeks ago for an evening with brave men and women who have lost limbs and health, and in some cases will not ever be able to live fully normal lives because of the terrible devastation wreaked on their bodies by the war in Iraq. So what we are talking about tonight is something of enormous importance, something we should have talked about far more often in the past months and year than we have. I attempted back in the first months of 2003 to get this body to address some of these critical issues, questions about the information we had been provided even though we had voted previously in October of 2002 on this resolution that the President requested the majority of this body authorize, along with the House, to initiate a war at a time of his determination. But in the weeks preceding that I tried in vain, as did some of my colleagues, to ask the majority leader to bring this matter before the Senate, before the American people again. Unfortunately we were not able to. The decision was made not to create the time and the opportunity to do so.

Better late than never. This is much later than it should have been. I look forward to this opportunity in the weeks and months ahead because, as I understood from the Senator from Arizona, who was coordinating the time the Republican caucus used before we were given a chance to reply, that whenever the questions were raised, challenges were raised about the use or the misuse of intelligence information by the President of the United States and by his administration, there would be these occasions to discuss those matters again in the future. If that is the case, then I look forward to those opportunities because those questions should be raised. They have been raised before.

The American people have a right to know the truth, the facts about these matters. Those who have lost sons and daughters over in Iraq, those whose sons and daughters are serving there now, all of us whose lives, whose children, and grandchildren will bear the consequences of these profoundly important decisions that have affected not only the United States and our national security but the stability of the entire world have a right to know the truth.

Let's have these debates and these considerations as frequently as possible and air these matters fully, particularly since the commissions that have been established—the most recent one, by the President himself singlehandedly—are being precluded from addressing many of these issues like the misuse, as has been alleged, of intelligence information by high intelligence officials. That commission will not be allowed to investigate those matters. It will not have the authority to subpoena documents and information, investigating those matters. We will remain in the dark as those of us on the Senate Armed Services Committee on which I serve will remain in the dark despite our requests repeatedly to have that committee investigate these matters under its jurisdiction. At one point the distinguished chairman of that committee, Senator WARNER, a man for whom I have the greatest respect, one of the finest of the men and women with whom I have had the privilege of serving in this body over my 3 years, suggested on a Sunday talk show that would be the appropriate purview of the committee and that should be investigated to its determination of the facts and truth and then, from all accounts, was forcefully dissuaded from that position by higher level officials in the administration who did not want that kind of investigation.

So if we can't get the facts because we can't get committees of the Senate to look into these matters, if we can't get the facts because the President's own hand-picked commission is going to be prevented by him from investigating and reviewing these matters, then let's use these occasions here on the Senate floor, even if we are going to be, as the word was used, ambushed by the Republican caucus on these matters. That was reported last week. This was going to be a big surprise last Thursday. It was reported in one of the Hill newspapers and evidently it was decided to postpone it.

Today, after we talked, even at our caucus lunch today, the Democratic caucus lunch at 1 o'clock today, based on the information the Democratic leader received from the majority leader, we were going to finish the resolution of the bill before us and then we were going to turn to another piece of legislation. Lo and behold, we found out literally as members of the Republican caucus took the floor this afternoon that this was going to be the subject for debate.

But so be it. If you want to ambush us on this topic, then do it as frequently as possible so we can present to the American people all the facts, facts they may not receive in any other way.

Let's go back a minute and review the bidding on this whole matter. Let's go back to January of 2002. Mr. Karl Rove, senior adviser to the President, political strategist, was quoted as telling a Republican political gathering that the winning issue for the Republicans in November of 2002, at the midterm election, would be "the war." By that at the time he meant the war against al-Qaida, against the Taliban in Afghanistan. But evidently in June of 2002, according to published reports based on an interview with the chief of staff of the White House, Andrew Card, published in the New York Times on September 7 of 2002, but referring back to a decision that was, according to Mr. Card, made in June of that year, 3 months earlier, to bring the spotlight onto this supposed immediate, desperate, urgent threat to the national security of the United States and the safety of our people by Saddam Hussein and his regime in Iraq, the question was asked of Mr. Card by the reporter, why, then, was there this delay until then right before and then right after Labor Day of 2002, a good 3 months later, to bring this matter to the attention of Congress and to the American people. Mr. Card's answer, and I quote, was, "Well, from a marketing standpoint you don't bring out your new products in August."

About two sentences later he indicated also the President was on vacation in August. So, instead, we were all, I think, startled—this Senator was certainly surprised to hear from the Vice President, Vice President CHENEY, at two conventions of former men and women of the armed services in the last week of August of 2002, where he spoke to the Veterans of Foreign Wars, and he announced, "Simply stated, there is no doubt that Saddam Hussein has weapons of mass destruction."

The President himself then elaborated on these claims time and time again. He conjured up the most serious of threats to this country. On September 26 of 2002, at the time when this body was being pressured to rush to a vote about authorizing a war in Iraq, the President, after meeting with Members of Congress on that date, said:

> The danger to our country is grave. The danger to our country is growing. The Iraqi regime possesses biological and chemical weapons. . . .The regime is seeking a nuclear bomb, and with fissile material, could build one within a year.

He continued on that day to say:

> The dangers we face will only worsen from month to month and from year to year. To ignore these threats is to encourage them. When they have fully materialized, it may be too late to protect ourselves and our friends and our allies. By then the Iraqi dictator would have the means to terrorize and dominate the region. Each passing day could be the one on which the Iraqi regime gives anthrax or VX or someday a nuclear weapon to a terrorist ally.

On October 7, just 4 days before the October 11 vote in the Senate on the war resolution, the President said:

> We know that Iraq and the al-Qaida terrorist network share a common enemy—the United States of America. We know that Iraq and al-Qaida have had high-level contacts that go back a decade.

He continued:

> We've learned that Iraq has trained al-Qaida members in bombmaking and poisons and deadly gases. Alliance with terrorists could allow the Iraqi regime to attack America without leaving any fingerprints.

He also elaborated on claims of Iraq's nuclear weapons program when he said on October 7 of that year:

> The evidence indicates that Iraq is reconstituting its nuclear weapons program. Saddam Hussein has held numerous meetings with Iraqi nuclear scientists, a group he calls his "nuclear mujahideen"—his holy warriors. If the Iraqi regime is able to produce, buy, or steal an amount of highly-enriched uranium a little larger than a single softball, it could have a nuclear weapon in less than a year.

At that time, 4 days thereafter, the Senate voted historically and, I believe, having voted against that resolution, erroneously to authorize the war with the determination of the President—on a resolution which I believed and still believe is unconstitutional, was premature and, which has ultimately turned out to be the case, unfounded.

These assertions continued during the fall and then into the new year. Of course, Secretary of State Colin Powell went before the United Nations and stated that there were thousands of tons of these strains of botulism, of nerve gas agents, of botox, and other substances that were of such enormous quantities that they would have been easily identified by satellite surveillance or by the United Nations weapons inspectors then in Iraq, though at the time none had been found.

The Vice President again on March 16, just before the eve of the decision by the President to invade Iraq, leveled a serious new allegation that Hussein already had nuclear weapons. He said, "We know he has been absolutely devoted to trying to acquire nuclear weapons," and "We believe he has in fact reconstituted nuclear weapons."

Subsequent events, of course, have proven all of those assertions to be almost totally incorrect.

Thank God. When United States and British forces invaded Iraq just a few days later, there were no chemical or biological or nuclear weapons used against them. None were found on the battlefield unused or in caches hidden and ready for use or even those weapons materials anywhere in Iraq, as the chief weapons inspector, David Kay, has now indicated in his public statements. He said to our Senate Armed Services Committee that he does not believe they will be found. But the more important fact, the irrefutable fact, is that they did not exist to be used against our Armed Forces. I am grateful for that. But that was the overriding premise—at least I know from a number of my colleagues on this side of the aisle—the overriding factor in their decision to support the resolution in October.

Under the United Nations charter, under international law, the only justification legally for invading another country, for launching a preemptive attack against another country, starting war against another country, is either an actual attack itself or the imminent danger or threat of an attack against a country.

It was certainly on that assertion by the administration repeatedly that Members of Congress were persuaded to support the resolution in October. It was that assertion that was made by the President himself and others leading up to and even in the speech the President gave to the Nation the night he authorized that invasion of forces.

In his State of the Union Address, he made assertions that Iraq had sought to buy uranium in Africa to reconstitute its nuclear weapons program. It was not until July 7 of 2003—almost 6 months later, or over 5 months later—that the administration acknowledged for the first time that the President should not have made that statement even though the reports were they knew conclusively as early as March. Some allegations are that they knew even prior to the time, or at the time of that statement, that that was not substantiated, or, in fact in March, a report even said it was false.

There are other statements that have been made by former CIA intelligence officials, reports made by investigative reporters that refer to information that was available to the administration at the time these various assertions were made that were contrary to facts as they were being reported.

The linkage to al-Qaida, between Iraq and al-Qaida, is one that I certainly can say from my own direct experience, being involved in probably two dozen top secret briefings in the fall of 2002 and early 2003 with members of the administration, that was something that was repeated, was raised in a most speculative way from other intelligence sources.

Then it is reported in June of 2003, after all this has been underway, according to the New York Times, two high officials of al-Qaida now in U.S. custody told interrogators, told them before the war in fact, that the organization did not work with Mr. Hussein. Several intelligence officials said no evidence of cooperation had been found in Iraq.

It caused the CIA Director, George Tenet, to state that:

> "it was not at all clear there was any coordination or joint activities," a CIA source told the Washington Post.

An article in the Baltimore Sun went on to say:

> Last fall, in a classified assessment of Iraq, the CIA said the only thing that might induce Mr. Hussein to give weapons to terrorists was an American invasion. But month after month, unconstrained by mere facts, the president trumpeted a danger that his own intelligence officials dismissed.

Yes, there are very serious questions and a most profoundly serious matter reflecting on the veracity of the President of the United States and his officials at the highest levels. The debate should be undertaken here and the American people should have a right to all the facts but they will not get them.

One of the most disgusting ploys tonight has been to blame President Clinton and Senate Democrats during the 1990s for the supposed curtailment of our Nation's military preparedness and its intelligence operations. Some people are masters at this kind of slander.

In 2002, there were Republican campaign commercials that put Senator Max Cleland, a Democratic Senator from Georgia, upon the television screen next to pictures of Osama bin Laden and Saddam Hussein, claiming that all three of them were enemies of the national security of the United States.

Senator Cleland was a triple amputee and sat in this chair next to me during my first 2 years of the Senate, the most amazing demonstration of human courage I have ever heard. I could scarcely imagine a man who lost three limbs serving in the military in Vietnam, a member of the Senate Armed Services Committee, who had voted for every single dollar of President Bush's requested military increases for military spending, for homeland security, every dollar, being smeared as an enemy of this Nation along with Saddam Hussein and Osama bin Laden.

Here they go again, smearing President Clinton and even Senator JOHN KERRY. I heard President Clinton attacked by colleagues across the aisle from the day I joined the Senate Armed Services Committee in January of 2001 for supposed military weaknesses. That continued up until the military that President Clinton commanded for 8 years routed the Taliban and al-Qaida in Afghanistan 10 months later. Now he is accused of emasculating the Intelligence Agency, causing the failures to prevent September 11, 2001, and the failures to inform us properly about the absence of weapons of mass destruction in Iraq.

Unfortunately, we cannot find out who is and who is not responsible for whatever failures occurred. We cannot find out because President Bush has blocked the 9/11 Commission access to the information that bipartisan group of distinguished Americans has been requesting for months from the administration.

We will not get to the truth about who misused intelligence information about weapons of mass destruction in Iraq because the President refused to appoint an independent commission, refused to grant them subpoena powers, and refused to authorize them to investigate the use of intelligence information by himself and his administration.

If the former administration is the one that is so culpable and if the current administration is so blameless, why wouldn't this administration want those two commissions to have access to all relevant information? Why would this administration block the 9/11 information that its cochairman, former Republican Governor of New Jersey, Thomas Kean, has requested for months on behalf of his Commission? Why won't the President allow his own handpicked Commission to assess the misinformation about weapons of mass destruction in Iraq that was provided to Congress and to the American people to investigate all the questions about that colossal misrepresentation of the truth as we later discovered it to be?

Those are critical questions that affect the future safety of our country and our citizens, whatever flaws existed before September 11, whatever errors were made after September 11, whatever mistakes, whatever lack of communication, whatever misreporting, misunderstanding, misrepresenting, exaggerating, or improper influencing of information, whatever or wherever it occurred, which weakened our national security, must know what that was in order to prevent it from ever happening again.

That imperative should transcend partisan politics. It should transcend Presidential reelections. It should transcend any consideration except for the safety of this country and of the American people.

If my colleagues on the other side of the aisle want to strengthen our national security, as I know they do—as we all do, because we are Americans first, and we are partisans after that—then I ask them to join us in insisting that the President unshackle those two commissions. Let them find the truth, the whole truth, whatever it might be, wherever it is, whoever it helps, whoever it hinders, so that we can know what we must do to ensure that the horrors of 9/11 never, ever occur again, and to ensure that the serious misinformation about weapons of mass destruction in Iraq, which influenced Members of this body to support a resolution to authorize the President to start a war against that country—to make sure that kind of misinformation used to justify a war to the American people never, ever happens again.

So, yes, let's debate these matters as frequently as possible. Let's get out all of the facts. And then let's let the American people decide.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota yields the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m., tomorrow morning.

Thereupon, the Senate, at 8:52 p.m., adjourned until Wednesday, March 3, 2004, at 9:30 a.m.

NOMINATIONS

Executive nomination received by the Senate March 2, 2004:

DEPARTMENT OF TRANSPORTATION

DEBORAH HERSMAN, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM EXPIRING DECEMBER 31, 2008, VICE JOHN GOGLIA, TERM EXPIRED.

HOUSE OF REPRESENTATIVES—*Tuesday, March 2, 2004*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. PETRI).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 2, 2004.

I hereby appoint the Honorable THOMAS E. PETRI to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Florida (Mr. STEARNS) for 5 minutes.

SOCIAL SECURITY: TAXING BENEFITS, LIMITING CHOICE

Mr. STEARNS. Mr. Speaker, last week the chairman of the Federal Reserve, Alan Greenspan, gave some seniors all over the country a little bit of a scare. But his suggestion that Congress should consider reducing Social Security benefits for future retirees was just that, a suggestion by the chairman. Current beneficiaries and near retirees should not worry. All of us, including myself, will fight to protect the benefits of current and near retirees. They should receive nothing less than 100 percent of what they have been promised.

What seniors should take from this conversation, though, is that Social Security is just that, a promise from our government. It is not a real asset in your name. If it were, you would have a little more flexibility and decision-making on how you plan to use it for your retirement. Currently, Social Security gives retirees a one-two punch: first, taxing their benefits; and, second, discouraging productivity among early retirees by limiting their earnings.

I would like to talk about the first of these shortcomings today, taxation of benefits after you receive the check.

Until 1984, Social Security benefits were exempt from the Federal income tax. For years, many analysts questioned the basis for the IRS rulings and advocated that the tax treatment of Social Security be the same as for other pension income, because there are other options for retirement planning today than traditional pensions, other options that are taxed differently, thereby serving as an alternative retirement planning tool. I am referring to the nearly 7-year-old Roth IRA account. But first let me explain further about Social Security taxation of benefits.

If a Social Security beneficiary files a Federal tax return as an individual and his combined income is between $25,000 and $34,000, he may have to pay income tax on 50 percent of those benefits. If his combined income is above $34,000, up to 85 percent of his Social Security benefit is subject to income tax. That hurts. If he files a joint return, he may have to pay taxes on 50 percent of his benefits if the spouse's combined income is between $32,000 and $44,000. But, Mr. Speaker, if that couple's combined income is more than $44,000, up to 85 percent of those folks' Social Security benefits are subject to income tax. Of course, to help discipline your money management, the pain of the IRS withholding the taxes along the way is available. So after a lifetime of seeing your paycheck eroded by taxation, inflation, you are not done when you are a senior receiving your Social Security benefits.

My objection, Mr. Speaker, to this is that we are limiting retirees' options on how they plan for their own retirement. For some of us, a preferred option while we are young in our working years might be to not have our retirement savings withheld before payroll taxes. Maybe we are willing to pay annual income taxes on all of it each year in exchange for the long-term security of knowing it will be free from taxation later, on earnings and withdrawal. Some would rather pay Uncle Sam up front like this. This is why the Taxpayer Relief Act of 1997 authorized the new Roth IRA to provide tax-free income from after-tax contributions.

But there is a bill that remedies this taxation of benefits when a senior thought he or she was on the receiving end, not the contributing end, of life. I am proud to cosponsor the bill of the gentleman from Texas (Mr. SAM JOHNSON), H.R. 434, the Social Security Benefits Tax Relief Act of 2003, which would repeal the 1993 income tax increase on Social Security benefits that President Clinton signed as a bill.

Again, this is all about choices. Social Security is one of our government's most popular domestic programs. Since its inception at the heart of the Great Depression, it has become the primary and often sole source of income for millions of Americans. However, it, like so many other staid Federal Government programs, is a one-size-fits-all program for an American people who want to try different sizes and have different choices. Just as we prefer choice in our health care, rather than a government-run system, some retirees, at least future ones, might prefer choice in retirement vehicles, and Social Security does not offer that.

I reiterate, Mr. Speaker, that current and near retirees need not fear alteration of their current benefits. But we should glean something from Chairman Greenspan's comments. As examination of the program occurs, let us consider all the aspects, lack of individual assets; noninheritability to one's children; penalties for early, partial retirement; and the taxation of one's benefits, that make it less than a truly secure choice and system.

THE BUSH BUDGET AND SOCIAL SECURITY

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from New Jersey (Mr. PALLONE) is recognized during morning hour debates for 5 minutes.

Mr. PALLONE. Mr. Speaker, finally some of my Republican colleagues are waking up and seeing the fiscal mess that they have created here in Washington. This morning, the headline in The Washington Post read: "Some GOP Lawmakers Aim To Scale Back Bush Tax Cuts."

Mr. Speaker, somebody really ought to tell the President about this. He is still running around the Nation telling anyone who will listen that he wants Congress to make all of his tax cuts permanent. These are the same tax cuts that overwhelmingly benefit the wealthiest Americans and have turned a $5.6 trillion surplus into a $3 trillion deficit over the next 10 years.

The article in The Washington Post quotes my Republican colleague, CHRISTOPHER SHAYS, the vice chairman of the House Budget Committee, as saying, and I quote, "We would be foolish to extend all the tax cuts now." Again, these are the words not of a Democrat but of a Republican, the vice chairman of the House Budget Committee, saying that we would be foolish to extend all the tax cuts right now.

I ask, what is turning some Republicans against their President on this issue of tax cuts? Maybe they finally realized the true ramifications of their fiscal insanity over the last 3 years when Federal Reserve Chairman Alan Greenspan said just last week that fully implementing President Bush's tax cuts would require cuts in Social Security down the line. Chairman Greenspan's comments illustrate the destructive effects of reckless Republican economic policies, policies that have led to record budget deficits, lower economic growth, and a substantial risk to the Social Security benefits that millions of seniors depend on.

Mr. Speaker, when President Bush took office 3 years ago, the projected budget surpluses were enough to cover the cost of Social Security during the baby boomers' retirement years. When then-Governor Bush was campaigning for the Presidency, he promised that any tax cuts he proposed would leave Social Security solvent. That was candidate Bush. But 3 years later, Chairman Greenspan says that, due to the fiscal situation this Republican Congress and President Bush have created, Congress may be forced to begin cutting promised Social Security benefits.

My Democratic colleagues and I will not let this happen. Hardworking Americans have paid a portion of their wages into Social Security their entire careers, and Washington has always known that we have an obligation to pay them benefits when they retire. Instead of making American seniors pay for the Bush administration's fiscal recklessness, the President should work with Congress and get their spiraling deficit under control.

Democrats, Mr. Speaker, believe that fiscal responsibility is the way to create prosperity for America and secure the retirement of America's seniors. The government needs to get back to balanced budgets and fiscal discipline as soon as possible to ensure that we can protect the Social Security trust fund for future retirees. My Democratic colleagues and I believe that our parents and grandparents should be able to enjoy their golden years and not live in fear of poverty.

Another reason some Republicans may now be skittish toward making all tax cuts permanent would be the latest estimates out of the Congressional Budget Office. Last Friday, CBO estimated President Bush's budget for the upcoming year would generate $2.75 trillion of additional Federal debt over the next decade. CBO also says that, despite the President's claims, his budget fails to cut the deficit in half by 2009. Could it finally be that some Republicans are realizing what many of us on this side of the aisle have known for almost 3 years, that President Bush lacks any credibility on our Nation's fiscal situation?

In order to prevent a total fiscal collapse, it is time for President Bush and my Republican colleagues to face reality and repeal the President's tax cuts for the very wealthiest Americans. It is time President Bush and congressional Republicans stand with our Nation's children who will be forced to bear the brunt of the cost of their fiscal irresponsibility. It is time the President and congressional Republicans stand with our Nation's seniors and baby boomers that need Social Security and Medicare strengthened, not raided. Chairman Greenspan and the CBO have sent a wakeup call to Washington Republicans, and I hope after reading this article in today's Washington Post that some of those congressional Republicans are finally listening.

TWELVE CONSENSUS PRINCIPLES TO REDUCE SPENDING

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from Illinois (Mr. KIRK) is recognized during morning hour debates for 5 minutes.

Mr. KIRK. Mr. Speaker, with a $500 billion deficit, it is clear that Congress must cut spending and reform our budget process. Like our predecessors in the 1980s, we must come together not as Republicans or Democrats but as Americans to share equally in the cuts so that the Federal budget is brought back into balance.

We all support a balanced budget. It is the right thing to do, and it is also the moral thing to do. Our Founding Fathers created the Federal Government as a limited institution whose mission was clearly defined. Some things the Federal Government was to do well. Many things were left up to the States. When the Federal budget is out of balance, it calls into question our ability to sustain core Federal functions: defense, Federal law enforcement, and the retirement security of Americans under Social Security and Medicare.

I believe the Federal Government should fulfill its current promises to Americans currently in uniform and retirees before making any additional promises. Service in Congress is about making tough choices. For too long we have said, You get yours, I get mine and the kids get the bill. This must end.

Recently, Republican moderates and conservatives joined together on 12 budget principles. The Moderate Tuesday Group and the Conservative Action Team agreed on a surprising list of definitive budget proposals that will bring our budget back into balance even faster than the White House has proposed. What are these principles?

First, that we have automatic spending reductions if spending exceeds the amount in the congressional budget resolution. If we find that there is an uncontrolled debt above that which is set by Congress, we will have across-the-board spending cuts for all discretionary and mandatory accounts except Social Security and Medicare. Second, we have numbers in the budget that are enforceable. The current budget identifies 20 separate budget functions that are not enforced. They should be replaced with enforceable, one-page budget numbers that set four levels of spending: mandatory spending, spending on defense and homeland security, nondefense discretionary spending, and emergency spending.

Next, we should budget for emergency spending. Emergency spending requests should be included in a budget rainy-day account. Our budget should also have the force of law. The current budget resolution, which is not signed into law by the President, should be reformed into a joint budget resolution that is signed into law and enforceable under our code.

Next, we should have the protection of earned benefits, such as Social Security and Medicare, so that the automatic cuts do not fall on our retirees who worked hard, played by the rules, and are depending on the support of this core Federal function. Next, we should show spending increases clearly. Under our current baseline budgeting, we automatically include inflation adjustments for Federal programs. This should be replaced by a straightforward comparison of last year's spending compared to proposed new spending.

Our seventh principle would block spending outside the budget. We need to update the pay-as-you-go rules in the budget that would allow a point of order to lie so that any Member could prevent consideration of a proposal that did not also include offsetting cuts to pay for itself. Our eighth principle is that we would review government programs and set up another Grace Commission, which worked so effectively in the 1980s, to eliminate wasteful and duplicative spending.

□ 1245

Our ninth proposal is to have an enhanced rescission power by the President so that he could identify critical programs, probably pork barrel programs, that he did not support spending on, send up a package to the Congress, which would then ensure a rapid up or down vote on the President's spending rescission proposal.

Our 10th proposal is to have a clear presentation of the government's full debts and liabilities. The Federal Government must account for its full share of accrued costs of covering pensions, retired pay, and other health benefits so we make sure that we know exactly financially where we stand.

Our 11th principle is that we should have a clear presentation of the debt owed to the public. An intergovernmental debt should be separated from other public debt in disclosures.

And our final, 12th, principle is that we need to enforce the rules of Congress. Points of order raised against proposals intended to lift the uncontrolled deficit or to waive these restrictions should be unwaiverable as several other provisions in our rules allow. This would help us control the deficit. It would help us bring this problem together, and now it is our job to reach across the aisle to make this a bipartisan proposal.

MEDICAL ISSUES AFFECTING OUR SOLDIERS

The SPEAKER pro tempore (Mr. PETRI). Pursuant to the order of the House of January 20, 2004, the gentleman from Washington (Mr. McDERMOTT) is recognized during morning hour debates for 5 minutes.

Mr. McDERMOTT. Mr. Speaker, listening to the last speaker here on the floor, I almost had the feeling he was a Member of the minority, as though enforcing the rules was something that on his side there was not the possibility to do.

But I digress. I really came here to question the war. I have questioned the war in the past, and I really am here to stand and question what the Pentagon is saying and not saying about medical care and about medical issues affecting our soldiers.

The Pentagon has claimed no ill effects from the use of depleted uranium. I have piles and piles of information that comes out of the Defense Department or the War Department, whatever one wants to call it, that says that there are no problems with depleted uranium. Over the weekend British newspapers reported that the British Army, the British Army, our allies, are telling their soldiers in Iraq that DU, depleted uranium, can cause ill effects. They give them a card that tells them that they can go and have their urine checked, and they have a right, they should ask about it if they are having any problems whatsoever.

Now, one has to wonder about our War Department sending our troops out there into war and continually denying that there are problems with depleted uranium in the face of the effects that we have seen among Iraqi women and Iraqi babies in southern Iraq as a result of the 1991 Gulf War. A 600 percent increase in leukemia among children, a 600 percent increase among women delivering children having deformed babies, 600 percent, and our government continues to decide that they can say there is no problem.

Now, the Brits, for whatever reason, are more honest with their troops. They are not saying there is not danger out there. They are saying there is danger and here is how they can check to see if it is bothering them.

I know as a doctor that the evidence is not conclusive. The issue needs to be studied. It needs to be directly gone after to find the answer.

Today I picked up the newspaper. One can learn a lot, as Yogi Berra said, if one reads the newspaper. If people read the newspaper today, there is a story about a G.I. from Tennessee, a nice young kid from Tennessee who went to war and got his shots like everybody else and nearly died from an anthrax vaccination. We have had arguments with sailors and Marines and soldiers for the last couple of years that there were some problems with the vaccinations. But, in fact, no, no, no, we are told they are going to war, they have got to have one of these. And the fact is that we now have the evidence that some of the fears of our troops were legitimate. Just because somebody is a corporal or a private or a lance corporal does not mean that he does not understand or that he cannot be right. One does not have to have a colonel's eagle on their shoulder or stars for a general to be correct. And we have treated our troops as though it was in their minds or, I do not know, some explanation.

This young man has not recovered yet, but his medical claim is still pending. They do not want to blame it on the vaccination even though it happened right after. And there are other stories. I could go on with stories. But they remind me of my experience since 1968 in the Vietnam War when we sprayed defoliant all over the trees and it fell down on the troops and everybody said Agent Orange is no problem, Agent Orange is no problem, and we really did not deal with post traumatic stress disorder.

On Thursday night when I got home I finished up what I was doing, and I turned on the TV at 10 o'clock, and I caught a program called Without a Trace. It is a story of a young man who comes back from Iraq. His business has gone to pieces because his brother has not been a very good businessman. His girlfriend is having a relationship with her boss. And he is pretty depressed, and he goes out and gets involved in a couple of armed robberies and tries to straighten his life out. That, my friends, is post traumatic stress disorder, and it is coming as the 100,000 people come home. We must be prepared to deal with that and acknowledge it when we see it. It is our duty to the people that have served for us.

THE CURTAILING OF INVESTIGATIONS

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from California (Mr. GEORGE MILLER) is recognized during morning hour debates for 5 minutes.

Mr. GEORGE MILLER of California. Mr. Speaker, I was deeply disturbed last week when I read that the Speaker of the House may use his authority and his power in the House not to extend the investigation into what happened before 9/11, what it is we did that was right and what it is we did that was wrong, what it is we knew and what it is we did not know that led to the tragedy of the World Trade Center and the tragic loss of life there and the largest terrorist attack against this Nation on this soil. I was deeply disturbed that somehow the investigation into that would be curtailed, that the commission would not be given the time that it believed professionally was necessary to arrive at those answers, when I think about the families and how important those answers are as to what were the real circumstances under which their family members died and perished in the World Trade Center. I was deeply disturbed that the President said that he would only talk with two members of the commission, that there apparently is a concerted effort to take those members of the commission that appeared to be the most intent on getting to the bottom of these issues and these questions on behalf of our Nation and on behalf of our security and on behalf of the families, that they would not be allowed to talk with the President, to interview them, that they would not be allowed to share their notes, those who got in to see the President.

It is very troubling because the image of 9/11 and the tragedy of 9/11 is absolutely seared in the mind of every American, those images and that tragedy. And for us to suggest that in any fashion this commission's work would be curtailed, not be given the time or the documents necessary, this is a matter of our national security so that it will never ever happen again. This cannot be about people in various agencies of the United States Government covering their tail because of something they did or did not do that may have helped us detect that act before it happened or have us understand what we need to do in the future.

As I see that effort by the administration to curtail this, and now apparently it is going to go forward, they are going to get the 2 months, I am also deeply concerned that I see the administration involved in some dramatic rewriting of history. When David Kay came back from his search for the weapons of mass destruction, in his meetings with the House and the Senate he told the American public and these two bodies that we all had it wrong. I am not sure that is quite accurate, because there in fact is a whole body of evidence that has been developed within the Intelligence Community, within the international Intelligence Community, within the State Department, and elsewhere that was present at the time suggesting that in fact maybe many of the reasons and the conditions in which this administration said we are going to war did not exist. They certainly did not exist in the clarity that the administration presented them to the Congress or to the American people or to the international community. And now it appears that the President is trying to say because he got it wrong everybody had it wrong. That is just not the case. That is just not the case. And yet we now have commissions to look into that matter.

Tragically, this administration again is trying to curtail what those commissions can look at and not look at. The Senate may be allowed to look at one piece of evidence but not other pieces of evidence. The House may or may not have access. And then the President has his own commission which is supposed to investigate the administration but has been appointed by the administration. A little bit of a conflict of interest there. But these commissions are important, and these questions are important because, again, it goes to our national security.

And there is another set of families, just as there are the 9/11 families and those communities that suffer that tragic loss of those thousands of individuals, there is another set of families of those who have been sent off to fight in Iraq, over 500 that have been killed, thousands that have been wounded, so many that we have visited that are multiple amputees, that have lost their arms, lost their legs, lost the sight of one eye, that their life is changed forever. They are entitled to the answers and understanding how is it that this decision was set forth to go into Iraq when in fact we see substantial evidence suggesting, and as said by the CIA Director, "We never said this was an imminent threat." The President wants to suggest that if we make that the test, the real threat against the United States, before we commit the lives of young men and women in this country, that somehow the only other option is it will surprise us. No, that is not the test, Mr. Speaker, but we will have more on this. But I think the American public ought to start to consider the level of interference that is being engaged in by this administration to keep these commissions, both congressional and civilian commissions, from getting to the bottom, to the real answers that are directly related to the future security of this Nation.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 2 p.m. today.

Accordingly (at 12 o'clock and 58 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. BIGGERT) at 2 p.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

As we await the unveiling of spring's beauty, O Lord, we stand in the bright promise of Your presence.

Warm our hearts with sincere love and our efforts of reconciliation, that we may be ready to engage in the seasonal battles of justice and the work of restoration under law.

Guide the President and all the Members of Congress, that they may be Your instruments of renewal in the strength and security of this Nation.

We long for the full revelation of Your power and mercy, now and forever.

Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New York (Mr. MCNULTY) come forward and lead the House in the Pledge of Allegiance.

Mr. MCNULTY led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Wanda Evans, one of his secretaries.

COMMEMORATING THE 184TH BIRTHDAY OF SUSAN B. ANTHONY

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Madam Speaker, this month we commemorate the 184th birthday of a great woman in the history of our great country, Susan B. Anthony.

Susan B. Anthony was one of the many exemplary feminist leaders who is now known not only for her fight to gain women the right to vote but also for her great courage in her stand against abortion. She saw abortion as a great offense against human dignity.

She recognized the incomparable worth of every person and realized that whatever goes against life, whatever violates the integrity of the individual, whatever insults human dignity is a poison to society.

Susan B. Anthony fought tirelessly to safeguard the dignity of motherhood, which she believed to be an inherent right for all women.

So as we honor Susan B. Anthony, as a pro-life feminist and suffragist, I ask my colleagues to remember those who have fought to respect, protect, love and serve life, every human life.

SCHOOL LUNCH STIGMA

(Mr. KELLER asked and was given permission to address the House for 1 minute.)

Mr. KELLER. Madam Speaker, I rise today to address an issue many low-income school children face every day as they go through the lunch line: embarrassment. Embarrassed that their parents cannot afford to pay for daily meals so they are singled out in the lunch line in front of their peers as participants in the free or reduced lunch program.

I was encouraged to see a program in one of my local school districts, Lake County, Florida, that uses technology to enable every child to go through the school lunch line without being identified as a free or reduced school lunch recipient. Regardless of family income, every child has the exact same debit card which either their parents deposit money into or is funded by the program.

Today, I am introducing the Pride in the Lunch Line Act, which will amend the National School Act to allow schools access to existing Federal funds to purchase technology like that used in Lake County. It will reduce the stigma for students, and it will reduce the paperwork for our schools.

I encourage my colleagues to cosponsor this legislation. Let us help children eat their lunch with pride.

PRAISING CONGRESSMAN KINGSTON

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Madam Speaker, an economist once said that it is easy to spend money that you do not earn or for which you do not have to take responsibility. That seems to sum up the way we operate around here lately.

Last week, my friend, the gentleman from Georgia (Mr. KINGSTON), took a step to change that. After looking at requests, asking for as high as 30 percent increases from legislative agencies, requested from his subcommittee, he canceled hearings on their requests until they came to their senses. While the other agencies were facing cutbacks, the legislative branch thought it was Christmas morning.

If we are serious about being fiscally responsible, we need to start right here in this branch of government. If we cannot keep ourselves in check, how do we expect other agencies to do so? Fiscal responsibility should start right here. Either we have the courage to cut back or freeze here, or we will not have the courage to cut back or freeze at all.

While we all have a long way to go, the gentleman from Georgia's actions are a step in the right direction. We need to stop robbing from our children to pay for our addiction in spending.

A BUDGET VISION FOR ALL TO SEE

(Mr. DELAY asked and was given permission to address the House for 1 minute.)

Mr. DELAY. Madam Speaker, tomorrow the House Committee on the Budget will hold its Members Day hearings as the congressional budget-writing process kicks into high gear around here. As usual in election years, politics will play a decisive role in that budget debate.

This is not entirely a bad thing. Congress' annual priority-setting document is a good tool, a test Americans can use to judge the competing fiscal visions of the two parties. Unfortunately, only one party seems to have done its homework for this test.

The Republican majority, led by the gentleman from Iowa (Chairman NUSSLE) of the Committee on the Budget, is working to craft a conference-wide budget that embodies the shared values and priorities of our party.

The Democrat leaders, on the other hand, seem unwilling to go to all that trouble. Nobody seems to know. Rather than take hard positions on hard issues, the Democrat leadership appears ready to turn their backs on those issues and their constituents and leave the American people guessing as to their core values.

On the other hand, the Republican Party's values are clear to everyone who asks. They are the same values that have guided our party and our Nation through difficult times in the past: security, prosperity, and families.

Republicans believe the job the Federal Government is to do is to preserve, defend, and support these three great pillars of American democracy. They will all be there in our budget: resources and policies to fight and win the war on terror and defend our homeland; protect the economy from Democrat tax hikes on parents, married couples and working families, while anchoring discretionary spending; maintain the global competitiveness of the national economy and encourage companies to create jobs here in the United States; and protect and defend American families from a culture of violence and self-indulgence that creeps deeper into our society every day.

Whether people agree with us or not, Republicans will at least have the courage to lay our vision out for everyone to see; and as we move forward in this debate, we can only hope that the Democrats show the budget process and the American people the same respect.

A BETTER MEDICARE FOR SENIORS

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Madam Speaker, this past Friday, I had the opportunity to make presentations about the improvements made to Medicare with medical students at the University of South Carolina Medical School led by Mark Versnick and with seniors in the Low Country, where Darren Katz of the Health Leadership Council joined me. I informed them that last year the Republican-led Congress passed a historic bill that finally provides prescription drug coverage for our seniors through Medicare. This was a central issue of recent campaigns, and Republican lawmakers and President George W. Bush have proven that their promises are trustworthy.

The seniors I met with near Sun City at Hardeeville, South Carolina, were happy to learn that their benefits have not changed. Today's Medicare is better for seniors, meeting their needs while keeping costs sustainable. The new voluntary prescription drug benefit allows seniors to lead healthier lives, while preventing disease and avoiding unnecessary hospital visits that will keep costs down.

I am proud of the work we have done to improve Medicare, and I look forward to working with my colleagues to build on this historic success.

In conclusion, God bless our troops, and we will never forget September 11.

TRIBUTE TO THE 50TH ANNIVERSARY OF THE HOUSE FLOOR SHOOTING

(Mr. CAMP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CAMP. Madam Speaker, I rise today to pay tribute to the Members of Congress injured in the 1954 shooting in the United States House of Representatives Chamber.

On March 1, 1954, four Puerto Rican nationals entered the House gallery on the southwest corner of the Chamber. As then-Speaker Joseph W. Martin, Jr., concluded tallying the "aye" votes on a Mexican immigrant labor program, Puerto Rican nationalists stood up and began waving a Puerto Rican flag and firing at the floor. The terrorists eventually shot approximately 30 rounds before being apprehended.

As we face a new day of terrorist activity, it is important to remember and honor those who suffered as a result of this assault on the United States Congress. Representative Alvin M. Bentley, who was most severely injured in the attack, represented communities in Michigan that I represent now, such as his hometown of Owosso. I would like to take this opportunity to honor him, as well as the other injured representatives: George H. Fallon of Maryland, Ben F. Jensen of Iowa, Kenneth A. Roberts of Alabama, and Clifford Davis of Tennessee.

These five men were proud to serve their country and nearly paid for it with their lives. The simple passing of time should not diminish their memory nor the lesson we learn from that attack. Now more than ever, we must always remember that the price of freedom is eternal vigilance. I am, therefore, honored today to recognize those who have suffered and continue to fight terrorism on behalf of the United States Congress.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 1, 2004.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on March 1, 2004 at 12:20 p.m. and said to contain a message from the President whereby he submits the 2004 National Drug Control Strategy.

With best wishes, I am
Sincerely,

JEFF TRANDAHL,
Clerk of the House.

□ 1415

2004 NATIONAL DRUG CONTROL STRATEGY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mrs. BIGGERT) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on the Judiciary, Committee on Agriculture, Committee on Armed Services, Committee on Energy and Commerce, Committee on Education and the Workforce, Committee on Financial Services, Committee on Government Reform, Committee on International Relations, Committee on Small Business, Committee on Transportation and Infrastructure, Committee on Ways and Means, Committee on Veterans' Affairs, the Permanent Select Committee on Intelligence, and the Select Committee on Homeland Security:

To the Congress of the United States:

I am transmitting the 2004 National Drug Control Strategy, consistent with the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1705).

Two years ago, my Administration issued its National Drug Control Strategy setting forth a balanced approach to reducing drug use among teenagers and adults. The Strategy set ambitious two- and five-year performance-based goals: (i) to lower the rate of drug use by 10 percent over two years; and (ii) to lower the rate by 25 percent over five years. The success of the Strategy can be measured by its results.

I am pleased to report that we have exceeded our two-year goal of reducing drug use among young people. The most recent survey shows an 11 percent drop between 2001 and 2003 in the use of illicit drugs by teenagers. Among teens, some drugs—such as LSD—have dropped to record low levels of use. For others, we are seeing the lowest levels of use in almost a decade.

Despite this good news, drug addiction continues to challenge far too many Americans. Addiction to drugs destroys ties of trust, family, and friendship, and reduces all the richness of life to a single destructive desire. Almost every American has known someone who has followed the self-destructive path of addiction. Too many Americans want to change a family member's behavior, but are afraid of causing division and, perhaps, estrangement.

Our Strategy proposes a remarkable and unprecedented array of drug control programs, treatment initiatives, and media campaign efforts. But more than any program, it seeks to engage the desire of all Americans to make this a better Nation, facing down the lie of addiction, and offering the hope of recovery.

My Administration will continue to place a high priority on reducing drug addiction in America. I ask for your continued support in this critical endeavor.

GEORGE W. BUSH.

THE WHITE HOUSE, *March 1, 2004.*

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

* * *

HONORING THE LIFE AND CAREER OF THE LATE WILLIE SHOEMAKER

Mr. DUNCAN. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 439) honoring the life and career of Willie Shoemaker and expressing the condolences of the House of Representatives to his family and friends on his death.

The Clerk read as follows:

H. RES. 439

Whereas Willie Shoemaker was born Billie Lee Shoemaker on August 19, 1931, in Fabens, Texas;

Whereas Willie Shoemaker, nicknamed the "Shoe", is arguably the most successful jockey in the history of horse racing;

Whereas Willie Shoemaker won his first race at the age of 18 and had compiled 8,833 victories by the time he retired in 1990;

Whereas in 1970, Willie Shoemaker became the all-time leader in career wins by surpassing John Longden's total of 6,033 wins;

Whereas on March 3, 1985, while riding Lord at War at the Santa Anita Handicap, Willie Shoemaker became the first jockey to total $100,000,000 in purse winnings;

Whereas Willie Shoemaker held the record for career wins for 29 years;

Whereas Willie Shoemaker won four Kentucky Derbies, five Belmont Stakes, and three Preakness Stakes;

Whereas Willie Shoemaker was the oldest jockey to ride a winner in the Kentucky Derby and the Breeder's Cup;

Whereas at Santa Anita in 1990, Willie Shoemaker ran the final race of his storied 41-year career;

Whereas Willie Shoemaker is a member of thoroughbred racing's Hall of Fame and the Texas Horse Racing Hall of Fame;

Whereas on April 8, 1991, just over a year after his retirement, Willie Shoemaker was involved in a car accident that left him paralyzed from the neck down;

Whereas Willie Shoemaker was an honorary Chairman of the Board of Directors of the Paralysis Project of America, whose mission is to accelerate progress toward finding a cure for paralysis caused by spinal cord injury; and

Whereas on October 13, 2003, America was saddened by the death of Willie Shoemaker at the age of 72: Now, therefore, be it

Resolved, That the House of Representatives—

(1) honors the life and legendary career in horse racing of Willie Shoemaker; and

(2) expresses condolences on the passing of Willie Shoemaker to his family and friends.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN).

GENERAL LEAVE

Mr. DUNCAN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the resolution under consideration, H. Res. 439.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. DUNCAN. Madam Speaker, I yield myself such time as I may consume.

On behalf of the Committee on Government Reform, and particularly on behalf of the sponsor, our colleague, the gentleman from Texas (Mr. REYES), I rise in support of House Resolution 439, which honors the life and career of one of horse racing's most legendary figures, Willie Shoemaker.

Willie Shoemaker ranks second all-time among jockeys in career wins, with 8,833. During his unbelievable 42-year career, Shoemaker won each of horse racing's Triple Crown events multiple times. He won the Preakness twice, he won the Kentucky Derby four times, and prevailed at the Belmont Stakes five times. Remarkably, at age 54, while riding the horse Ferdinand, he became the oldest jockey ever to win the Kentucky Derby in 1986.

After entering his first professional race at age 17 in 1949, Shoemaker made his last mount, number 40,352 of his incredible career, in 1990. The following year, he was involved in a tragic auto accident that left him paralyzed from the neck down. Despite being confined to a wheelchair, Shoemaker remained focused on his desire to return to horse racing in any possible capacity. Indeed, he returned to the sport he loved as a trainer in a supervisory role on September 29, 1991, less than 6 months after his accident.

Madam Speaker, perhaps horse racing's greatest and most renowned jockey ever passed away in his sleep last October 12 at the age of 72 at his home in Santa Anita, California. I commend the gentleman from Texas (Mr. REYES) for working to honor Willie Shoemaker with this timely and deserved resolution, and I urge all Members to support House Resolution 439.

Madam Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, "Pound for pound, he's got to be the greatest living athlete" in racing, writer Red Smith once wrote of Willie Shoemaker. This resolution honors Willie Shoemaker, who was one of the most successful and respected jockeys ever to mount a thoroughbred.

Willie Shoemaker was born in 1931 in Fabens, Texas. He later moved to southern California, where he cleaned stables and began riding thoroughbreds. Once "Shoe," as he was called, began racing, he quickly learned how to win. In his career, Willie Shoemaker won 8,833 races, a record that stood for 29 years.

One of Willie Shoemaker's most memorable rides was in the 1986 Kentucky Derby. He guided Ferdinand through the pack of Derby competitors to victoriously cross the finish line 2½ lengths ahead. At age 54, he became the oldest jockey to win the Kentucky Derby.

Willie Shoemaker made an impression on our Nation not just as an athlete but as a person. In 1957, Shoemaker was poised to win the Kentucky Derby when he misjudged a finish line and eased up too soon, losing the race. He turned his mistake into something positive by honoring Ralph Lowe, the owner of the horse Shoemaker was riding, who handled Shoemaker's loss with grace. Shoemaker endowed the Ralph Lowe Trophy to be presented annually to a distinguished racing competitor for good sportsmanship.

After he was severely injured in a car accident, Shoemaker used his talents in other ways. He served as honorary chairman of the Paralysis Project and served as director of the Shoemaker Foundation, which provides support to those injured in horse racing.

This resolution honors Willie Shoemaker and expresses condolences to his family and friends. Though his loss is certainly felt by many, the memory and legend of Willie Shoemaker and his perseverance will endure. People will certainly remember him as a great jockey, but also remember him as a great humanitarian. He used his ability, his presence not only to win races but to help us all understand that when you give of yourself that is when you are really at your best. Willie Shoemaker was the best.

Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DUNCAN. Madam Speaker, I yield myself such time as I may consume to urge support for this resolution.

Mr. DREIER. Madam Speaker, I rise to join my colleagues in honoring the life and career of Willie Shoemaker, arguably the most successful jockey in the history of horse racing.

Willie Shoemaker, also known as the "Shoe", had a storied career, beginning at age 18, and continuing on for 41 amazing years. In that time he compiled 8,833 victories, including four Kentucky Derbies, five Belmont Stakes, and three Preakness Stakes.

It was in my district, at Arcadia's Santa Anita park, that Willie Shoemaker was truly at home, and where he so often made history. There, on March 3, 1985, while riding Lord at War at the Santa Antia Handicap, he became the first jockey to total $100,000,000 in purse winning. On February 3, 1990, Santa Anita hosted the final race of his long career, after which Shoemaker went on to become a trainer.

Tragically, Shoemaker was critically injured in an auto accident just over 1 year after his retirement. But though paralyzed from the neck down and confined to a wheelchair, he refused to give up his love for horses. Just 6 months after his accident, Willie was back at Santa Anita, where he supervised training activities.

When Willie Shoemaker passed away at his San Marino home on October 13, 2003, at the age of 72, the world lost a true sporting legend and an exemplary human being. I therefore urge my colleagues to join with me in remembering and honoring his life and legendary career.

Mr. REYES. Madam Speaker, on October 13, 2003, America was saddened by the death of Willie Shoemaker at the age of 72. Born in Fabens, TX, which I represent, Shoemaker has truly been an inspiration to his family and his community alike.

Arguably the most successful jockey in the history of horse racing, "Shoe," lead the life of champions. Competing for the first time at the age of 18, Shoemaker retired in 1990 with an impressive 8,833 victories. Accomplishments such as winning four Kentucky Derbies, five Belmont Stakes, and three Preakness Stakes established Shoemaker among the elite; Willie Shoemaker is a member of thoroughbred racing's Hall of Fame and the Texas Horse Racing Hall of Fame.

On April 8, 1991, just over a year after his retirement, Willie Shoemaker was involved in a car accident that left him paralyzed from the neck down. Paralyzation did not diminish Shoemaker's character or spirit. As an honorary Chairman of the Board of Directors of the Paralysis Project of America, the progress toward finding a cure for paralysis, by spinal cord injury, was greatly accelerated.

I would like to thank the lead cosponsor of this resolution, Mr. DREIER of California, for his work on this resolution, as well as the Chairman and Ranking Member for helping bring this resolution to the floor.

Madam Speaker, I am proud to honor such an outstanding individual from my community. I encourage my colleagues to support this resolution. Our strongest condolences goes out to his family and friends as we honor the life and legendary career in horse racing of Willie Shoemaker.

Mr. DUNCAN. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Tennessee (Mr. DUNCAN) that the House suspend the rules and agree to the resolution, H. Res. 439.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

BEN ATCHLEY POST OFFICE BUILDING

Mr. DUNCAN. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3769) to designate the facility of the United States Postal Service located at 137 East Young High Pike in Knoxville, Tennessee, as the "Ben Atchley Post Office Building".

The Clerk read as follows:

H.R. 3769

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BEN ATCHLEY POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 137 East Young High Pike in Knoxville, Tennessee, shall be known and designated as the "Ben Atchley Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Ben Atchley Post Office Building.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN).

GENERAL LEAVE

Mr. DUNCAN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on the bill under consideration, H.R. 3769.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. DUNCAN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 3769 would name the post office building at 137 East Young High Pike in Knoxville, Tennessee as the Ben Atchley Post Office Building. No tribute could be more fitting than to name a facility of the United States Government after one of our most patriotic public servants, Senator Ben Atchley.

Ben Atchley has served for 32 years with great honor and distinction in the Tennessee State Legislature. He served for 4 years in the Tennessee House of Representatives and has served the last 28 years as a State Senator from Knox County, Tennessee. Senator Atchley has served for most of that time as the Senate minority leader, but in a coalition with conservative Democrats he has really had effective control of the Tennessee State Senate. However, I think it is fair, and I think people on both sides of the aisle would agree, he is perhaps the most respected and admired figure in the entire government of our State of Tennessee.

He is a long-time personal friend. He is an outstanding family man, with his wife Sue and two children. He is a recognized and very respected figure in the Presbyterian Church, having received the very first Barnabas award, the highest award ever given to a lay member of the Presbyterian Church.

He has served as the National Chairman for the Ethics Committee of the National Association of State legislators. He has been a leader in his business, in his profession of life underwriting and in the mutual fund business. He has received the Distinguished President Award of the Optimist International.

Ben Atchley has been outstanding in every conceivable way in both public and private life. He also served from 1948 to 1958 in the Naval Reserves. He has served his community, he has served his State, and he has served this Nation. I think it is very accurate to say that this country is a better place today because of the service of Senator Ben Atchley.

So it is with great pride and a special privilege that I have introduced this bill to name this post office facility after him in tribute to his years of public service, and I urge support for this legislation.

Madam Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Madam Speaker, I yield myself such time as I may consume.

As a member of the House Committee on Government Reform, I am pleased to join my colleague in consideration of H.R. 3769, legislation naming a postal facility in Knoxville, Tennessee, after Ben Atchley. This measure was introduced by the gentleman from Tennessee (Mr. DUNCAN) on February 4, 2004 and unanimously reported by our committee on February 12, 2004.

Ben Atchley was born in Knoxville, grew up in the area and attended the University of Tennessee in Knoxville. He served in the Tennessee State Senate from the 90th through the 103rd general assemblies. Prior to serving in the State Senate, Mr. Atchley was a member of the State House. As a member of the Tennessee State Senate, Senator Atchley served as the Senate Republican leader from the 95th through the 103rd general assemblies.

As a seasoned politician representing District 6 in Knoxville, Tennessee, Senator Atchley has enjoyed a very successful career. I note that he is retiring this year after 32 years in politics. He has also been very involved in community and business organizations.

Madam Speaker, what I find most interesting about Senator Atchley is that, according to his secretary, his first apartment, after he got married, was directly across the street from the post office being named after him. The Senator also worked right next door to the same post office where he had a job with South Central Bell Telephone Company. And his high school, Young High School, was a stone's throw down the road from the post office. This postal designation was definitely meant to happen.

So I commend my colleague for seeking to honor the contributions of Senator Atchley and urge swift passage of this bill.

Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DUNCAN. Madam Speaker, I yield myself such time as I may consume.

First, I want to commend my friend, the gentleman from Illinois (Mr. DAVIS), for his very kind and fitting and appropriate comments in regard to this legislation, and I simply would like to note that our congressional delegation from the State of Tennessee consists of five Democrats and four Republicans. I think we get along about as well as any delegation in this entire Congress. All nine Members of the House Congressional delegation from Tennessee very quickly and eagerly joined this legislation and cosponsored it.

Ben Atchley has been a very loyal Republican, but he has as many friends on the Democratic side as on the Republican side. He is truly a great, great American, and I urge passage of this bill.

Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

☐ 1430

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Tennessee (Mr. DUNCAN) that the House suspend the rules and pass the bill, H.R. 3769.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. DUNCAN. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

URGING INTRODUCTION OF RESOLUTION CALLING ON CHINA TO END ITS HUMAN RIGHTS VIOLATIONS

Mr. SMITH of New Jersey. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 530) urging the appropriate representative of the United States to the 60th session of the United Nations Commission on Human Rights to introduce a resolution calling upon the Government of the People's Republic of China to end its human rights violations in China, and for other purposes, as amended.

The Clerk read as follows:

H. RES. 530

Whereas the annual meeting of the United Nations Commission on Human Rights in Geneva, Switzerland, is the most important international forum for discussing human rights and expressing international support for improved human rights performance;

Whereas according to the Department of State, the United States Commission on International Religious Freedom, and international human rights organizations, the Government of the People's Republic of China continues to commit well-documented human rights abuses against the Chinese people;

Whereas the People's Republic of China has yet to demonstrate its willingness to abide by internationally accepted norms of freedom of belief, expression, and association by repealing or amending laws and decrees that restrict those freedoms;

Whereas the Government of People's Republic of China continues to ban and criminalize groups it labels as cults or heretical organizations;

Whereas the Government of the People's Republic of China has repressed unregistered religious groups and spiritual movements and persists in persecuting persons on the basis of unauthorized religious activities using such measures as harassment, surveillance, job discrimination, exorbitant fines, prolonged detention, physical abuse, incarceration, and closure or destruction of places of worship;

Whereas international human rights organizations have documented that torture, maltreatment, the use of confessions extracted through torture, and other abuses while in detention are rampant in the Chinese legal system;

Whereas the persecution of Falun Gong practitioners has been particularly harsh;

Whereas the Government of the People's Republic of China launched a brutal campaign to eradicate Falun Gong from their country;

Whereas since this time large numbers of Falun Gong practitioners have been arrested, subjected to harsh reeducation efforts, and some have even been tortured to death;

Whereas Falun Gong practitioners continue to report harassment and acts of violence at the hands of foreign nationals which have occurred against them during peaceful protests in the United States and other countries;

Whereas the Federal Bureau of Investigation is currently investigating the possibility of links between attacks against Falun Gong practitioners in the United States and the Government of the People's Republic of China;

Whereas Catholics who remain faithful to the Pope and in communion with Rome face continuing restrictions, including difficulties holding worship services, obtaining building permits for churches, and training clergy;

Whereas Protestant house church leaders are facing increased pressure to register with the official Protestant church or face harassment, detention, and destruction of their places of worship;

Whereas many Catholic and Protestant leaders and believers have been imprisoned or subject to house arrest including Su Zhimin, a Catholic Bishop who was reportedly arrested in 1997 and who is currently reported to be in very poor health;

Whereas the Government of the People's Republic of China continues to exert tight control over the religious and cultural institutions of Tibetan Buddhists and Uighur Muslims, using torture, arbitrary arrest, and detention without public trial against these individuals for peacefully expressing their religious or political views;

Whereas the whereabouts of Gendun Choekyi Nyima, the boy identified by the Dalai Lama as the 11th Panchen Lama, are still unknown;

Whereas Gendun Choekyi Nyima was 6 years old when the Chinese authorities took him and his family away in 1995;

Whereas it is believed that the Chinese authorities are holding him in a secret location;

Whereas Tibetans caught displaying photos of the 11th Panchen Lama or the Dalai Lama face harassment, fines, and detention;

Whereas in January 2003, the Government of the People's Republic of China executed a Tibetan man named Lobsang Dhondup without due process and despite repeated assurances to United States officials that his case and that of Tenzin Delek Rinpoche would be would reviewed by the Chinese Supreme People's Court;

Whereas this review never happened and Tenzin Delek Rinpoche remains on death row, in the second year of his suspended death sentence;

Whereas enforcement by the Government of the People's Republic of China of its one-child per family policy has been cruel and inhumane and has included the use of forced abortion and forced sterilization;

Whereas this one-child per family policy has led to the abandonment and infanticide of baby girls and a disproportionate number of male children in China, which will have serious and detrimental sociological impacts on China for years to come;

Whereas 14 years after the 1989 pro-democracy demonstrations in Tiananmen Square, many protesters remain in prison and no independent investigations have taken place regarding the massacre that occurred during those demonstrations;

Whereas authorities in the People's Republic of China have continued their efforts to extinguish expressions of protest or criticism and have detained and sentenced scores of citizens associated with attempts to organize peaceful protests, to expose corruption, to preserve their ethnic minority identity, and to use the Internet for the free exchange of ideas;

Whereas many prisoners in China are confined to state run psychiatric hospitals for simple acts of expressing their thoughts on political issues, like veteran human rights activist and prisoner of conscience Wang Wanxing;

Whereas many Chinese prisoners are in Laogai, forced labor camps in which inmates are subject to various forms of cruel and forced labor;

Whereas the International Committee of the Red Cross and other international human rights organizations have been denied access to the Chinese prison system;

Whereas it well documented that organs taken from executed prisoners are sold for use in transplants in China and abroad;

Whereas the percentage of transplant kidneys estimated to be derived from executed prisoners in China has been put as high as 90 percent of all transplanted kidneys in China;

Whereas organs reported to be harvested from executed prisoners in China include corneas, kidneys, and hearts;

Whereas the Government of the People's Republic of China agreed during the December 2002 session of the United States-China Bilateral Human Rights Dialogue to invite, without conditions, the United States Commission on International Religious Freedom, the United Nations Special Rapporteurs on Religious Intolerance and Torture, and the United Nations Working Group on Arbitrary Detention to visit China;

Whereas none of these visits have taken place in the last year and, in the case of the United States Commission on International Religious Freedom, two agreed upon trips were canceled because of unacceptable conditions placed on the visit by the Government of the People's Republic of China;

Whereas the United States decision not to introduce a resolution calling upon the People's Republic of China to end its human rights violations in China at the 59th Session of United Nations Commission on Human Rights in Geneva was based, in part, on the belief that the aforementioned agreements signaled a good faith commitment on the part of Chinese officials to improve human rights practice in China;

Whereas when well-founded, balanced, and accurate resolutions regarding human rights in China were raised in previous sessions of the United Nations Commission on Human Rights, the Government of the People's Republic of China strongly pressured other countries to oppose the consideration of those resolutions;

Whereas since the last session of the United States China Bilateral Human Rights Dialogue, a number of very troubling incidents have occurred, including—

(1) the arrests of a number of democracy advocates,

(2) the detention and torture of 18 Tibetans who were forcibly repatriated from Nepal with the cooperation of Chinese officials, in contravention of international law,

(3) the ongoing forced repatriation of North Korean nationals, who upon return to North Korea will face almost certain arrest, torture, or even death,

(4) the arrest and sentencing of Internet essayists and labor protesters,

(5) the execution of Lobsang Dondrup and continued detention of Tenzin Delek Rinpoche, and

(6) the continued refusal to allow access by United States diplomats and family members of the accused to the trials of those detained for political or religious activities;

Whereas the People's Republic of China has signed the International Covenant on Civil and Political Rights, but has yet to take the necessary steps to make the treaty legally binding;

Whereas the Government of the People's Republic of China is a party to the 1951 United Nations Convention Relating to Refugees and its 1967 Protocol;

Whereas the Government of the People's Republic of China is a party to the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman, or Degrading Treatment or Punishment; and

Whereas the Constitution and laws of the People's Republic of China purport to provide for fundamental human rights, however, the protections of these rights are often ignored in practice: Now, therefore, be it

Resolved, That—

(1) it is the sense of Congress that—

(A) the United States Government should continue to insist that the People's Republic of China adhere to fundamental human rights principles and allow its citizens the full enjoyment of those rights;

(B) at the 60th Session of the United Nations Human Rights Commission in Geneva, Switzerland, the appropriate representative of the United States should introduce a resolution calling upon the People's Republic of China to end its human rights violations in China and meet internationally recognized standards for human rights;

(C) the United States Government should take the lead in organizing multilateral support to obtain passage by the Commission of such a resolution and should draft the resolution in such a way as to highlight specific human rights abuses;

(D) all countries with representatives at the 60th Session of the United Nations Human Rights Commission should support passage of such a resolution and resist efforts by representatives of the People's Republic of China to oppose the consideration or passage of such a resolution; and

(E) United States Government officials and officials from other governments should continue to speak out in international forums and elsewhere against Chinese repression of religious and political freedom, persecution of Tibetans, Falun Gong practitioners, Catholics, Protestants, and Uighur Muslims, the unjust arrest and detention of religious leaders and political dissidents, harsh conditions in Laogai and other prisons, coercive family planning policies, and the forced return of North Korean refugees; and

(2) Congress urges the Government of the People's Republic of China—

(A) to take the necessary measures to stop the persecution of all religious practitioners and to safeguard fundamental human rights;

(B) to stop the forced return of North Korean refugees, to allow the United Nations High Commissioner for Refugees access to North Koreans inside China, and to work with the United Nations High Commissioner for Refugees to develop a viable solution to the humanitarian crisis involving North Korean refugees;

(C) to end its coercive one-child per family policy and ensure that no national, provincial, or local government officials subject women to forced abortions or sterilizations;

(D) to immediately hold an open and transparent investigation into the 1989 crackdown on pro-democracy demonstrators in Tiananmen Square, to release all the prisoners held in connection with that event, and to pay compensation to the families who lost their loved ones;

(E) to release from detention all prisoners of conscience, persons held because of their religious activities, and persons of humanitarian concern;

(F) to release the 11th Panchen Lama identified by Dalai Lama and allow him to undertake his rightful role;

(G) to allow the Chinese people to practice freely and openly their religious beliefs;

(H) to adhere to the provisions and guidelines of the International Covenant on Civil and Political Rights, the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman, or Degrading Treatment or Punishment, and the 1951 Convention Relating to Refugees and its 1967 Protocol; and

(I) to allow, immediately and without restrictions, visits to China by the United States Commission on International Religious Freedom, the United Nations Special Rapporteurs on Religious Intolerance and Torture, the United Nations Working Group on Arbitrary Detention, and the International Committee of the Red Cross.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from

New Jersey (Mr. SMITH) and the gentlewoman from Minnesota (Ms. MCCOLLUM) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Madam Speaker, I yield myself such time as I may consume.

Despite the hopes and expectations of some that robust trade with China would usher in at least a modicum of respect for basic human rights and fundamental liberties, the simple fact of the matter is that the dictatorship in China oppresses, tortures and mistreats tens of millions of its own citizens.

According to the U.S. Department of State, the government's human rights record remains poor, and the government continued to commit numerous and serious abuses, and the repression is getting worse. The State Department Human Rights Report went on to say there was backsliding, their word, backsliding on key human rights issues, including arrests. Abuses include killing, torture, mistreatment of prisoners, and forced confessions.

Amazingly, many years, 15 years after Tiananmen Square when we saw people protesting the government asking for simple liberties and simple rights, carrying around a facsimile of the Statue of Liberty, 15 years after that there are still some 2,000 people remaining incarcerated in prison camps and detention centers. That is unconscionable this many years afterwards.

I remind my colleagues that people who argue that if we just traded with the Chinese, that things would get better. Back in 1989, the trade deficit was about $6 billion. Now it is $124 billion and counting. It goes up by the day. We trade; they torture, abuse, incarcerate, arrest and mistreat.

Some years ago soon after Tiananmen Square, it brought this to life to me and I was thinking about it this morning, the gentleman from Virginia (Mr. WOLF) and I went to Beijing Prison No. 1, a prison where 40 Tiananmen Square prisoners were being held. They were like modern-day concentration camp victims. Their heads were shaved. Men who had been out there protesting, asking peacefully that the government allow just some basic liberties that we take for granted in the United States and in many other nations of the world, and yet for that the book was thrown at them and there they were making jelly shoes and socks for export to the United States.

The torture does not stop with those who demand political freedoms. On the religious front there is ongoing aggressive repression of those who want to practice their faith as they see fit. We see Falun Gong practitioners who are routinely rounded up and beaten and abused, and hundreds have been tortured to death while held in captivity.

I remember meeting in 1994 with a Catholic bishop by the name of Bishop Su. He now, counting all of the years to date he was in Chinese prisons, has spent 27 years of his life being mistreated in Chinese prison and detention centers. Here is a man whose only violation of the law was to practice his faith with faithfulness. He is a very holy man. In 1994 when he was out of prison briefly, I met with him, and there was not one ounce of malice or hate in him for the dictatorship that was so abusing him. He spoke of forgiveness and reconciliation and how he hoped some day China would be free; and for that, he has been severely punished.

After I left, he was made a captive again and spent 9 days. Then he went into hiding, and in 1997 was recaptured again and put back into prison. In mid-November, we discovered that this great man was still alive and was getting some medical care under heavy guard. Here he is 27 years, a Roman Catholic bishop, and he is just a tip of the iceberg.

Protestant underground believers, Catholics who are underground Falun Gong, Tibetan Buddhists, and Uighur Muslims who have been rounded up under the pretext of post-9/11 saying somehow they are committing acts of terrorism, they are good, honest people, and the government of China enslaves them and mistreats them.

As my colleagues know, China has been designated a CPC country, a country of particular concern, by the U.S. State Department because of its ongoing violations of religious liberties and rights. And as my colleagues know, since 1979 there has been the one-child per family policy. The policy says if the second child happens to come along, he or she has to be aborted. Heavy fines are imposed upon the women, particularly. They call it social compensation fees. Sometimes it is six times the annual salaries of the parents compelling them to abort that baby. Forced abortion and forced sterilization are commonplace in China.

This resolution calls upon the government to cease that horrific attack on the human family and upon women. It is a violation of their basic human rights. It is violence against women, and the child as well.

What this resolution does in a nutshell, it calls on the administration, it calls on all interested parties at the U.N. Commission on Human Rights, which will convene in mid-March, to take up a resolution to just bring out the facts and bring out the basic lack of human rights in China today and not bury it under the table, which unfortunately all of us have done to some extent; and certainly, the U.N. has done it for years.

I would hope that the administration, and I believe they will, will try to get such a resolution passed. We have tried six times. We have not succeeded. One reason is that the Chinese government is very adroit at intimidating other countries or giving them foreign aid so they will back what we call a no-action motion that is offered in Geneva. Even with that as a possibility, and most likely a probability, I think we have a moral duty and obligation to raise it and raise it as aggressively as we can for the victims and those who will be victimized in the future.

Madam Speaker, despite the hopes and expectations of some that robust trade with China would usher in at least a modicum of respect for basic human rights and fundamental liberties, the simple fact of the matter is that the dictatorship in China oppresses, tortures and mistreats tens of millions of its own citizens.

According to the U.S. Department of State, the government's human rights record remains "poor," and the government continued "to commit numerous and serious abuses," and the repression is getting worse. The State Department Human Rights Report went on to say there was "backsliding, on key human rights issues, including arrests. Abuses include killing, torture, mistreatment of prisoners, and forced confessions."

Amazingly, 15 years after Tiananmen Square when we witnessed courageous Chinese protesting government abuse, asking for simple liberties and elemental rights, even carrying around Tiananmen a facsimile of the Statue of Liberty, 15 years after that historic outpouring there are still some 2,000 people incarcerated in prison camps and detention centers. That is unconscionable.

I remind my colleagues that the people who argued that if we just traded more with the Chinese, that things would get better on the human rights front. Back in 1989, the trade deficit was about $6 billion. Now it is $124 billion and counting. It worsens by the day. We trade, they torture; we trade, they abuse; we trade, they incarcerate; we trade, they arrest and mistreat.

Right after Tiananmen Square, the gentleman from Virginia (Mr. WOLF) and I went to Beijing and visited Prison No. 1, a prison where 40 Tiananmen Square prisoners were being held. They were like modern-day Nazi concentration camp victims. Their heads were shaved. These men had been out there in Tiananmen protesting, asking peacefully that the government allow some basic liberties that we take for granted in the United States and in many other nations of the world, and yet for that they where hunted down, tortured and jailed. In the prison they were making shoes and socks for export to the United States.

By now most Members know that the torture does not stop with those who demand political freedoms. On the religious front there is ongoing aggressive repression of those who want to practice their faith as they see fit. We see Falun Gong practitioners who are routinely rounded up and beaten and abused, and hundreds have been tortured to death while held in captivity.

I remember meeting in 1994 with a Catholic bishop by the name of Bishop Su. Bishop Su is a saintly man of God who has spent 27 years of his life being mistreated, tortured and oppressed in Chinese prison and detention centers. Here is a man whose only violation of the law was to practice his faith with faithfulness. He is a very holy man. In 1994 when he was out of prison briefly, I met with him in Beijing and there was not one ounce of malice or hate in him for the dictatorship that was so harsh and cruel to him. It was stunning. He spoke of forgiveness and reconciliation and how he hoped some day China would permit religious freedom; and for that, he has been severely punished.

After I left, he was arrested again and spent 9 days in jail. He was released and then he went into hiding, and in 1997 was recaptured again and put back into prison. In mid-November, we discovered that this great man was still alive, for we feared he might be dead, and was getting some medical care under heavy guard. Here he is 27 years in Chinese jails, a Roman Catholic bishop, a holy man, and he is just one example of many.

Protestant underground believers, Catholics, Falun Gong, Tibetan Buddhists, and Uighur Muslims who have been repressed and even more so recently under the pretext of post-9/11 they are good, honest people, and the government of China enslaves them and mistreats them.

As my colleagues know, China has been designated a CPC country, a country of particular concern, by the U.S. State Department because of its ongoing violations of religious liberties and rights. That's a serious designation shared by rogue states. And as my colleagues know, since 1979 there has been the one-child per family policy. The policy says that any child who happens to come along without explicit government permission is to be aborted. Heavy fines and pressure are imposed upon the women, particularly. They call it social compensation fees. The fee can be six times the annual salaries of the parents, compelling them to abort that baby. Forced abortion and forced sterilization are commonplace in China.

This resolution calls upon the government to cease their horrific attack on the human family and upon women. It is a violation of their basic human rights. It is violence against women, and violence against the child as well.

What this resolution does in sum is to call on the administration, and on all interested parties at the U.N. Commission on Human Rights in Geneva, which will convene in mid-March, to take up a resolution to bring out the facts and to scrutinize and condemn the lack of human rights in China today and not bury it under the table, which unfortunately all of us have done to some extent; and certainly, the U.N. has done it for years.

I would hope that the administration, and I believe they will, will try to get such a resolution passed. We have tried six times. We have not succeeded. One reason is that the Chinese government is very adroit at intimidating other countries or giving them foreign aid so they will back what we call a no-action motion that will be offered in Geneva. Even with that as a possibility, and most likely a probability, I think we have a moral duty and obligation to raise Chinese human rights abuses and raise the issue as aggressively as we can for the victims who cannot speak or fend for themselves.

Madam Speaker, I reserve the balance of my time.

Ms. McCOLLUM. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in strong support of this resolution, and before addressing the substance of the resolution I would like to thank its author, the gentleman from New Jersey (Mr. SMITH). He has been a leader on human rights issues, particularly as they relate to China.

This resolution calls upon the administration to offer a resolution on China's human rights record at the upcoming meeting of the Human Rights Convention in Geneva. Given the human rights situation in China, it is imperative that the United States take a leadership role in galvanizing the world community to hold China accountable for gross violations of internationally recognized human rights.

Last year the administration did not offer a China resolution at the Human Rights Commission, which has been only the third time since 1989 that the United States had given China a pass on human rights. In announcing its decision, the administration asserted that China had made progress on human rights and religious freedoms. Madam Speaker, this was a profound mistake.

China took America's unwillingness to lead the charge in Geneva as a sign of weakness, as a statement that China human rights issues had faded from the consciousness of the American public policymakers. Not surprisingly, human rights situations in China grew worse over the past year, not improved. Dissidents jailed remained behind bars; and incredibly, even some protesters from the 1989 Tiananmen demonstrations continue to be imprisoned. Chinese authorities have arrested average citizens who download or post politically sensitive materials on the Internet and have moved to place greater restrictions on Internet access.

The Chinese government also continues its brutal crackdown on the Falun Gong spiritual movement and unregistered Christian churches. According to the State Department's 2003 Human Rights Report, China continues to deny internationally recognized labor rights, the rights of workers to organize. In addition, forced labor prisons remain a serious concern and a problem.

Labor leaders in northeastern China fighting for the rights of unemployed workers from state-owned enterprises were tried and sentenced to long jail terms for their advocacy. Furthermore, China has not adopted a comprehensive policy to combat child labor. In urban areas children often work as street laborers. The State Department notes that children work in coal mines which often operate far from urban centers out of the view of law enforcement officials. This unacceptable policy puts the health and safety of children at risk. It is time for China to address this issue for once and all.

Finally, this resolution will send a strong message to China that the imprisonment of Tibetan political prisoners is unacceptable. The release of one of Tibet's most prominent political prisoners and the longest serving female political prisoner was a positive step, but it is not sufficient. Hundreds of Tibetans remain imprisoned for their political or religious beliefs, detainees are regularly tortured and exiled Tibetans have only limited access to their country. We must continue to put pressure on China to promote the human rights of the Tibetan people.

In short, Madam Speaker, the decision last year to treat China with kid gloves produced a backsliding on human rights, not progress. I hope the administration does not make this mistake again. True political change and representative government will eventually come to China. But, unfortunately, we cannot know whether it will take 5 years or 25 years. But regardless of how long it takes, leaders of a new democratic China must believe that the United States stood with them in their time of darkness. An American-sponsored resolution in Geneva exposing China's poor human rights record accomplishes this vital task. I urge my colleagues to support this resolution.

Madam Speaker, I reserve the balance of my time.

Mr. SMITH of New Jersey. Madam Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. WOLF), the man who authored the International Religious Freedom Act 5 years ago.

Mr. WOLF. Madam Speaker, I thank the gentleman from New Jersey (Mr. SMITH), the gentleman from Illinois (Mr. HYDE), the gentleman from California (Mr. LANTOS) and others who have been strong supporters with regard to speaking out on behalf of those being persecuted in China.

I heard the gentleman from New Jersey (Mr. SMITH) talk about the Tiananmen Square demonstrators. We saw them making socks. I still have the socks in my office. That was 15 years ago.

Madam Speaker, I ask Members, what were they doing 15 years ago? For the last 15 years, what were you doing? For the last 15 years, these men and women have been in prison, and very few people really speak out.

I rise in strong support of this resolution. Every Member of Congress should be outraged that the men and women in China are routinely being persecuted by the government. Every Member of Congress and everyone in the administration ought to imagine a country and think about a country where factory workers have no workplace safety, labor and environmental protections, and are required to work 80 hours a week for no more than $110 per month for goods exported. Imagine a country which boldly supplies missile and chemical weapons technology to countries that harbor terrorists.

☐ 1445

Imagine a country that oversees a network of espionage operations against American companies. The Chinese have a spying program against American industry second to none. The KGB could not hold a candle to what the Chinese Government is doing. Imagine a country which is plundering a neighbor and wiping out its religion-based culture. Imagine a country which tortures and imprisons Catholic bishops. There are 11 Catholic bishops according to the Cardinal Kung Foundation in prison today. Eleven. You almost never hear anybody speak out on behalf of them. You have a large number, 250, 300 Protestant house church leaders. I had a Protestant pastor come by to see me 2 weeks ago, a pastor that we had helped and worked with; he had been in prison 10 years. He said his last job in a slave labor camp was making Christmas tree lights. A Protestant pastor in a Chinese prison making Christmas tree lights to celebrate the birth of Jesus. What is wrong? Yet you never really hear anybody speak out with regard to that.

Buddhist monks and nuns, persecuted severely. Keep in mind the leader of the Chinese Government now is the guy who brought down all of the persecution of those who were Buddhists with regard to the Drapchi prison and what took place in Tibet. As the gentleman from New Jersey said, the Muslims are being pounded left and right. If you need a new organ or kidney, you can go to China and for $50,000, they will go into the prison, take your blood type, take his blood type, find a match, kill him, take him away, transplant the kidney for $50,000.

Slave labor camps. There are more slave labor camps in China today than there were when Solzhenitsyn wrote that Nobel Prize-winning book, "Gulag Archipelago." There are more in China today than there were then. We all know what country this imaginary country is. It is China.

The other day I was coming in and I heard Simon and Garfunkel on the radio sing the words of "The Boxer." It really struck me: "Man hears what he wants to hear and disregards the rest." This administration and this Congress hears only what it wants to hear and disregards the rest.

I had an opportunity several weeks ago to go to Berlin. We went to a train stop called Grunewald Station. It is where they took people who were Jewish and put them on trains and sent them away. I was there kind of late. As it was getting dark, I looked out, I looked at big, large homes that were all around this station. I said to myself, these people must have known what was taking place in 1941 and 1942 and 1943. They had little signs of how many were put on the trains in 1942 and 1943. Thousands and thousands. It got down to 1944 and 1945, in one train 17 or 18. But the people that lived in the neighborhood had to know what was taking place.

We have a 71-page report that the State Department has put out. So it is kind of like saying, We did not know. But we know. We cannot now say, We do not know what's taking place in China. The one-child per family, the human organ transplants, the slave labor camps. We cannot say we do not know because you get the 71-page report and you read it, 71 pages about China.

Later on when the Chinese Government falls, and it will fall, they will go the way of the Ceausescu government; and God bless Ronald Reagan when he spoke out and called the Soviet Union the Evil Empire and put the cruise missiles into Europe when nobody else wanted them. But they will fall and when they go back and open up the records, nobody will be able to say, we did not know, because now we know. We read the human rights report that came out of the State Department 3 days ago.

Madam Speaker, I am going to put the rest in the RECORD and just say this administration ought to follow this resolution. If it does not follow the resolution and yet it followed that 71-page report, I do not see how it can live with itself. Let me just say, as Dietrich Bonhoeffer said, it is cheap grace for the Congress just to pass a resolution urging them to do a resolution. We ought to be doing a lot more and speaking out on behalf of those who are being persecuted.

Many people will tell you when the Reagan administration and the Carter administration used to go to the Soviet Union, they always met with the dissidents. They went into their apartments. They had them into the embassy. Somewhere there are bracelets with their names on them. They stood in solidarity with the people in the Soviet Union that were being persecuted. I find that when delegations, both congressional and executive branch, go to China, they meet with the leaders. They have their shark fin soup, and they meet in the big halls; but they do not meet with the people.

We have a lot to learn, we in Congress and in the administration, to emulate President Ronald Reagan. Ronald Reagan always spoke out on behalf of the persecuted. Sharansky will tell you that his life got better when Ronald Reagan and the Congress, both Republicans and Democrats, raised the Sharansky case. He sometimes just got more food. He got more visitations. We need the administration, one, to introduce a resolution. Secondly, this Congress ought to do more or else the words from Simon and Garfunkel, "The Boxer," "Man hears what he wants to hear and disregards the rest," will in essence be the theme song for us in the United States where we say Congress hears only what it wants to hear and disregards the rest.

Madam Speaker, there are 71 pages. We cannot ever again say we did not know, because now we know. I urge the strong passage of this resolution.

Madam Speaker, I rise in strong support of H. Res. 530 urging the United States to introduce a resolution highlighting China's human rights record at the 60th session of the United Nations Commission on Human Rights this month. Every Member of Congress should be outraged that men and women in China are routinely persecuted by the Chinese Government.

Imagine a country where factory workers have no workplace safety, labor, or environmental protections and are required to work 80 hour-weeks for no more than $110 per month to produce goods for export.

Imagine a country which boldly supplies missile and chemical weapons technology to countries that support or harbor terrorists.

Imagine a country that oversees a network of espionage operations against American companies.

Imagine a country which is plundering a neighbor and wiping out its religion-based culture.

Imagine a country which tortures and imprisons Catholic bishops, Protestant church leaders, Muslim worshipers, Falun Gong followers, and Buddhist monks and nuns just because of their faith and systematically destroys churches and confiscates bibles.

Imagine a country which has a thriving business of harvesting and selling for transplant kidneys, corneas, and other human organs from executed prisoners who are thrown in prison with no trial or sentencing procedures.

Imagine a country which maintains an extensive system of gulags—slave labor camps—as large as existed in the former Soviet Union that are used for brainwashing and "reeducation through labor."

That country is not imaginary. It is the People's Republic of China.

I was appalled last year when the United States administration chose not to introduce a resolution condemning China at the U.N. Commission on Human Rights meeting in Geneva. We were told over and over again that China's human rights record was improving and that change was coming.

The recently released State Department country reports on human rights unequivocally states that over the last year China didn't improve its human rights record. In fact, there was backsliding.

I would like to share with you some facts from that 71-page report.

> The Chinese government has failed to demonstrate its willingness to abide by the internationally accepted norms of freedom of belief, expression, and association.
>
> Citizens lacked both the freedom peacefully to express opposition to the political system or the right to change the system.
>
> Violence against women (including imposition of a birth limitation policy coercive in

nature that resulted in instances of forced abortion and forced sterilization) continued.

Last year alone the government executed more prisoners than any other country.

All over China Catholic Bishops and Priests are in jail, some for decades at a time, simply for practicing their faith.

Over 250,000 persons are serving sentences in "reeducation through labor" camps.

As many as 2,000 people remained in prison for their activities during the June 1989 Tiananmen demonstrations.

The government used the international war on terror as a justification for cracking down harshly on suspected Uighur separatists.

The government continues to deport thousands of North Koreans, who face persecution upon their return.

And the list goes on.

China cannot fool the international community any longer. The Chinese Government continues to commit well-documented human rights abuses against the Chinese people.

America must be a country that stands up for basic decency and human rights. America must speak out on behalf of those who cannot speak for themselves—men and women who are being persecuted on account of their religious or political beliefs.

Our foreign policy must be a policy that helps promote human rights and freedom. Not a policy that sides with dictators who oppress their own citizens.

The facts are before us. The United States can no longer say that things are improving in China.

Each day we fail to speak out is another day that a Catholic Priest is arrested.

Another day a Falun Gong practitioner is tortured. Another day that innocent voices are silenced.

Will the United States step up as the leader of the free world and sponsor a resolution on China, or will the world sit by and watch China suppress its citizens for another year?

How will history judge us? We must not be afraid to act.

Mr. SMITH of New Jersey. Madam Speaker, I yield 3½ minutes to the gentlewoman from Florida (Ms. ROS-LEHTINEN), chairman of the Subcommittee on the Middle East and Central Asia.

Ms. ROS-LEHTINEN. Madam Speaker, I rise in support of this resolution that outlines the deplorable record of China's authoritarian regime, a regime which continues to systematically violate the most basic human rights of all of its people and the civil and political liberties of all of its citizens. State security personnel are responsible for extensive abuses such as political and extrajudicial killings, lengthy incommunicado detentions, and the use of torture. Police target certain dissidents for incarceration in psychiatric facilities, subjecting them to unspeakable punishment. National, racial, and ethnic minorities remain subject to intense persecution and discrimination. Thugs employed by the regime frequently launch campaigns to crack down on opposition and pro-democracy groups. Freedom of movement, speech, assembly, and association are severely restricted. The controls on religious worship have intensified. Church leaders and other faithful are harassed and repressed with fines, detentions, physical abuse and, yes, torture. Many houses of worship have been destroyed. Catholic and Protestant leaders and believers have been imprisoned or subjected to house arrest.

This cowardly, dictatorial regime has harassed, imprisoned, and tortured members of the Falun Gong group, sending women, children and men to torture camps for doing nothing but exercising their most basic, fundamental rights of freedom of conscience and belief. This deplorable action by the Chinese authorities has included the brutal torture of followers, particularly women, who have been arrested, gang-raped, and brutally beaten. They have been demoted or dismissed from their employment. They have been held in prison. They have been sent to labor camps and psychiatric hospitals, all because they chose to live by the strength of their convictions and refused to renounce their beliefs.

Additionally, trafficking in persons, mainly women and children, for forced prostitution or illegal forced labor continues, placing this segment of the population in constant risk of slavery. The gross violations of human rights and fundamental freedoms by the Chinese regime and the deteriorating situation in China are highlighted in the Department of State's Human Rights Report released last week. The China report says: "The government continued to commit numerous and serious abuses. There was backsliding on key human rights issues during the year."

The People's Republic of China must be held accountable for its deplorable actions. Constant pressure from the U.S. and the international community is vital if any improvements are to take place in China.

Madam Speaker, we must support the Chinese people in their efforts and send a clear message to their oppressors that the U.S. is committed to the defense of democratic principles and human rights. This resolution before us is an important part of that strategy. As the U.S. delegation works to ensure debate on human rights conditions in China and to secure the votes for a resolution at the United Nations Commission on Human Rights calling on China to end its terrible human rights practices, let us show them our full support by voting in favor of the resolution in front of us, House Resolution 530.

I thank the gentleman from New Jersey (Mr. SMITH) as well as the gentleman from Virginia (Mr. WOLF) for their steadfast support for the Chinese people to live free one day soon.

Ms. McCOLLUM. Madam Speaker, I yield 5 minutes to the gentleman from California (Mr. COX).

Mr. COX. I thank the gentlewoman for yielding me this time.

Madam Speaker, I rise in strong support of H. Res. 530, which urges the representative of the United States to the 60th session of the United Nations Commission on Human Rights to introduce a resolution calling upon the government of the People's Republic of China to end its human rights violations.

A year ago, the government of the PRC agreed to invite three international human rights organizations to China without conditions. Those three organizations were the U.S. Commission on International Religious Freedom, the U.N. Special Rapporteurs on Religious Intolerance and Torture, and the U.N. Working Group on Arbitrary Detention. Two visits were scheduled, but the arrangement was that they were supposed to come without conditions and none of those visits has taken place precisely because of unacceptable preconditions imposed in violation of its own promises by the government of the People's Republic of China.

The failure of the PRC government to follow through on its promises once again is instructive. First, it demonstrates the lack of commitment and good faith on the part of the PRC to acknowledge and improve the human rights conditions for the Chinese people. Second, it reveals a PRC strategy to assuage international concerns with bare rhetoric and deceptive practices in order to advance the political and economic interests of its rulers. Most importantly, it shows that additional pressure is necessary to improve human rights in the PRC.

Several cases have been cited. In fact, the pattern of hundreds and thousands of cases has been cited during this debate. I will add just one more, the case of Dr. Yang Jianli, the U.S.-educated scholar of democracy. In June 2003, this House unanimously approved legislation calling for Dr. Yang's release. His case is one more example of the unwillingness of the PRC government to fulfill its promise, or to follow its own law. The PRC has held Dr. Yang Jianli, whose wife and children are citizens of the United States, without access to a lawyer, without the right to contact his family, and even without a court ruling against him. This indefinite detention is a violation of international standards and the PRC's own criminal law.

Since 1997, the denial of basic rights is beginning to extend even to Hong Kong. Just today, we read in The Washington Post that the PRC is secretly holding a group of Hong Kong residents, including at least three British citizens, and prosecuting them for espionage. What have they done? According to The Post, the charges include discussion of the Tiananmen Square massacre. Madam Speaker, there are many people who should be prosecuted for the Tiananmen Square massacre, but they are most assuredly not citizens of China or British citizens living in Hong Kong; and they are not people who simply talk about this abomination. They are, instead, the rulers who perpetrated this assault on the Chinese people and who continue to occupy positions of high power in Beijing.

We ask the government of the PRC to accomplish simple and humane goals: stop the persecution of religious practitioners; stop the forced return of Korean refugees to the totalitarian half of the peninsula; end forced abortions and forced sterilization of women; adhere to the International Covenant on Civil and Political Rights, the U.N. Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment; and the 1951 Convention Relating to Refugees and its 1967 Protocol.

Madam Speaker, today there appears in the news the fact that the People's Republic of China has announced it is going to change its constitution to include private property as a right of the Chinese people. In practice, the National People's Congress exists mainly to carry out the will of the party leadership; and if the party leadership will not observe its own laws, we can expect nothing to come of this as well.

Article 35 of the existing state constitution proclaims that citizens of the PRC enjoy freedom of speech, of the press, of assembly, of association, of procession, and of demonstration; and that is a lie.

□ 1500

We are here today to urge our government to work to see to it that these lies come to an end and that the People's Republic of China honors the citizens of China with basic fundamental human rights.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself the balance of the time.

I want to thank, first of all, the gentleman from California (Mr. COX) of the Select Committee on Homeland Security for his very eloquent statement and to the gentlewoman from Florida (Ms. ROS-LEHTINEN) and to the gentleman from Virginia (Mr. WOLF) and the gentlewoman from Minnesota (Ms. MCCOLLUM) and especially to the gentleman from Illinois (Chairman HYDE), who is a very strong and steadfast supporter of human rights around the globe, including China, and of course the gentleman from California (Mr. LANTOS), who also speaks out boldly on these issues.

I would just say finally, Mr. Speaker, that one of the great leaders of the whole human rights movement in China is a man by the name of Harry Wu. Most people know about him. He is a man who has an impeccable reputation for honesty, for courage. He spent 19 years in the Chinese laogai system and suffered immensely for it. I will never forget when he helped us organize one of our first committee hearings when I chaired the Committee on International Operations and Human Rights on the laogai. He brought in six survivors of the laogai. One of those survivors was Palden Gyatso, a Buddhist monk who tried to get through security into the Rayburn Building bringing the instruments of torture that are routinely used and deployed to abuse prisoners in the laogai, including cattle prods and the like, horrible, horrific implements, and he was stopped, obviously, by the guards who were wondering what is this all about. We had to go down and usher him through. Those kinds of instruments, Mr. Speaker, are commonplace. Torture is commonplace.

The gentleman from California (Mr. COX) talked about all these promises that are made time after time. They sign covenants. They say they are going to do this. The Chinese government routinely does not follow through, and so it will be with the most recent property rights. They make promises, and routinely it is predictable they do not follow through. And I just want to pay a special tribute to Harry Wu for his great leadership.

The ICRC has been trying for years, the Red Cross, to get into the Chinese prisons. They cannot get in because it is closed, because torture is routinely used against political and religious prisoners and against other prisoners as well. If they are arrested for just about anything, the way they get their conviction is to compel a confession out of them by torturing them.

Let me also remind Members, too, and the gentleman from California (Mr. COX) made mention of this as well, forced abortion is commonplace in China. Brothers and sisters are illegal. Women are compelled to have their children destroyed because they do not fit into a grandiose plan by this dictatorship. That too is an egregious human rights abuse. At the Nuremberg War Crimes Tribunal it was construed to be a crime against humanity. It is a crime against humanity in 2004 as it is practiced in the People's Republic of China. This resolution puts us on record against it and says let us take our case to the UN Human Rights Commission and hopefully we can garner sufficient votes to censure this despicable behavior. I hope we have unanimous support for this resolution.

Mr. Speaker, I want to thank, first of all, the gentleman from California (Mr. COX) of the Select Committee on Homeland Security for his very eloquent statement and to the gentlewoman from Florida (Ms. ROS-LEHTINEN) and to the gentleman from Virginia (Mr. WOLF) and the gentlewoman from Minnesota (Ms. MCCOLLUM) and especially to the gentleman from Illinois (Chairman HYDE), who is a very strong and steadfast supporter of human rights around the globe, including China, and of course the gentleman from California (Mr. LANTOS), who also speaks out boldly on these issues.

Mr. Speaker, one of the great leaders in the whole human rights movement in China is a man by the name of Harry Wu. Most people know about him. He is a man who has an impeccable reputation for honesty, persistence, and courage. He is a hero of democracy. He spent 19 years in the Chinese laogai system and suffered immensely for it. His witness is a rebuke to the hardliners in Beijing. I will never forget when he helped us organize one of our first committee hearings on PRC abuse back when I chaired the Committee on International Operations and Human Rights. The hearing was on the laogai. He brought in six survivors of the laogai. One of those survivors was Palden Gyatso, a Buddhist monk who tried to get through security into the Rayburn Building bringing the instruments of torture that are routinely used and deployed to abuse prisoners in the laogai, including cattle prods and the like, horrible, horrific implements. He was stopped, obviously, by the guards who were wondering what is this all about. We had to go down and usher him through. Sadly those kinds of torture instruments, Mr. Speaker, are commonplace in the PRC. Torture is commonplace.—An everyday occurrence.

The gentleman from California (Mr. COX) talked about PRC promises made but never kept. They sign covenants. They say they are going to do this. It makes good headlines. The Chinese government, however, routinely does not follow through, and so it will be with the most recent property rights announcement. They make promises, and it is predictable they do not follow through.

The Internation Committee for Red Cross has been trying for years, to get into the Chinese prisons. To inspect and to hold the PRC to account. They cannot get in because it is closed, because torture is routinely used against political and religious prisoners and against other prisoners as well. If you are arrested for just about anything, watch out. The way PRC thugs get their conviction is to compel confessions out of the accused by torturing them.

Let me also remind Members, too, and the gentlelady from Florida (Ms. ROS-LEHTINEN) made mention of this as well, forced abortion is commonplace in China. Brothers and sisters are illegal because big brother in Beijing says so. Women are compelled to have their children destroyed because they do not fit into a grandiose plan of quotas and permission slips by the dictatorship. That too is an egregious human rights abuse. At the Nuremberg War Crimes Tribunal forced abortion was construed to be a crime against humanity. It is a crime against humanity in 2004 as it is practiced in the People's Republic of China. This resolution puts us on record against China's brutal one child per couple policy. This resolution admonishes the administration to take our case to the UN Human Rights Commission and work to garner sufficient votes to censure this despicable government behavior. I hope we have unanimous support for this resolution.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of H. Res. 530, a bill that makes a strong statement of advocacy for human rights and urges the People's Republic of China to adhere to the principles of international law and respect for the fundamental human rights of individuals. This bill is timely in light of the equally urgent crisis that occurs today in Haiti.

We must work to ensure that all of our international neighbors uphold the principles of international law. On July 9th of last year, I participated in a rally held on the Capitol lawn to uphold justice and freedom for the practitioners of the Falun Gong religion.

As I stood that day to support the practitioners of Falun Gong and their unwarranted persecution, I stand today to request that Congress must insist that China adheres to worldwide standards on human rights and toleration.

We as a nation have a unique relationship with the People's Republic of China, and we must take every action to maintain and foster that relationship. Yet we cannot overlook the injustices committed in that nation. The persecution of the Falun Gong, an organization whose three principles are truthfulness, compassion, and tolerance, is a prime example of that very injustice I speak of.

I must preempt my statement by clarifying that this bill will not serve to diminish the strength of our two great nations' relationship; rather it will cultivate an environment of peace and regional security. This bill will send the People's Republic of China a clear message that it must alter its current position on Human rights in order to be a true member of the world community.

As one of our largest trading partners our relationship with China has become closer then ever. We are constantly building new bridges of communication; politically, socially, and economically. Yet we cannot be content with these developments. We cannot sit idly by while China forces women to abort their children and imprisons people based on their religious beliefs. The World Community has set general principles for human rights. The simple fact is that China is not meeting these standards.

The fear of change and diversity has infected the minds of those who are in a position to wield power and physical strength. The situation will not change until we take a clear position condemning China for its human rights abuses.

Because of our unique relationship with the People's Republic of China we have a strong footing upon which to make these claims. By working with China, with the explicit goals of improving human rights conditions in that country, we can make China a better, safer country and create a new and stronger relationship between the United States and China. Our demands that China meet internationally accepted levels for human rights will not serve to hinder China's development, rather it will enable China to flourish.

I will end by saying that we as Americans have a duty to stand up for those who are less fortunate, for those who voices are forced into silence, and for those shackled down by tyranny. We espouse and will constantly fight for human rights, freedom of speech, and freedom of religion in this country as well as internationally. Join me in supporting H. Res. 530.

Mr. SCHIFF. Mr. Speaker, as a member of the Committee on International Relations and the Congressional Human Rights Caucus, and as a friend of the Chinese people, I am proud to be an original cosponsor of this resolution.

In the three decades since President Nixon made his historic trip to China, that country has undergone a remarkable transformation that all of us in this House should applaud.

Gone are the Red Guards, the mass rallies, and the ubiquitous Mao Suits. Today's, young Chinese enjoy a far better standard of living than their parents. They are often dressed in stylish western fashions. They have access to western movies, books, and the Internet. Bicycles, once the primary means of transportation for millions of urban Chinese, are being replaced by scooters, motorcycles and growing numbers of cars.

But, Mr. Speaker, there is one area where the China of 2004 is little changed from the China of 1972: the Chinese government's persistent and systematic abuse of the human rights of its citizens. Even as we deepen and broaden the commercial, diplomatic, and cultural ties with China, the United States must not sacrifice its commitment to freedom, democracy, the rule of law, human rights and religious freedom.

Chinese prisons, labor camps, and psychiatric hospitals are filled with political prisoners. Fifteen years after the 1989 pro-democracy demonstrations in Tiananment Square, many protesters remain in prison and Beijing has continued its efforts to extinguish expressions of protest or criticism and have detained and sentenced scores of Chinese citizens associated with attempts to organize peaceful protests, to expose corruption, to preserve their ethnic minority identity, and to use the Internet for the free exchange of ideas.

China's persecution of religious minorities has been especially cruel. China's small Christian population has been subject to persecution and many Catholic and Protestant leaders have been imprisoned or placed under house arrest. Practitioners of Falun Gong, which Chinese authorities denounce as an illegal cult, have been singled out for especially harsh treatment. Some Falun Gong adherents have been tortured to death in Chinese prisons; others have been sent to reeducation camps that have changed little since the days of the Cultural Revolution.

Beijing's obsession with eradicating the Falun Gong has not been confined to China. The FBI is investigating possible links between the Chinese government and attacks upon Falun Gong practitioners here in the United States.

The Chinese government has continued its brutal repression of Tibet. The whereabouts of the boy identified by the Dalai Lama as the 11th Panchen Lama are unknown. Tibetans caught displaying photos of this child or of the Dalai Lama face fines or imprisonment. Tibetan prisoners have been executed without due process and others remain on death row. Beijing continues to move ethnic Chinese citizens into Tibet in order to dilute and gradually extinguish the cultural and social identity of the Tibetan people.

During the December 2002 session of the United States-China Bilateral Human Rights Dialogue, Beijing agreed to invite, without conditions, the United States Commission on International Religious Freedom, the United Nations Special Rapporteurs on Religious Intolerance and Torture, and the United Nations Working Group on Arbitrary Detention to visit China. None of these visits have taken place and, in the case of the United States Commission on International Religious Freedom, two agreed upon trips were canceled because of unacceptable conditions placed on the visit by the Government of the People's Republic of China, including refusing the Commission entry into Hong Kong.

China's refusal to live up to its promises to cooperate with American and United Nations human rights representatives is especially troubling as the United States decision not to introduce a resolution calling upon the People's Republic of China to end its human rights violations in China at last year's session of United Nations Commission on Human Rights in Geneva was based, in part, on the belief that the aforementioned agreements signaled a good faith commitment on the part of Chinese officials to improve human rights practice in China.

In fact, since the last session of the United States-China Bilateral Human Rights Dialogue, a number of very troubling incidents have occurred, including: arrests of democracy advocates; the detention and torture of 18 Tibetans who were forcibly repatriated from Nepal with the cooperation of Chinese officials, in contravention of international law; ongoing forced repatriation of North Korean nationals, who upon return to North Korea will face almost certain arrest, torture, or even death; arrest and sentencing of Internet essayists and labor protesters; and the continued refusal to allow access by United States diplomats and family members of the accused to the trials of those detained for political or religious activities.

China's continued abysmal human rights record has convinced me that Beijing will not take the necessary steps to improve its human rights record absent the external pressure and exposure of a U.S.-sponsored resolution in Geneva. The late Supreme Court Justice Louis Brandeis famously said, "Sunlight is the best disinfectant." The Chinese leadership will doubtless resist our efforts to open the shutters to allow that light to illuminate its repression, but I believe that China will be better for it in the end. The Chinese government would do well to remember that the eyes of the world will be focused on China in four years' time when Beijing hosts the 2008 Olympic Games. For China, readying itself to host the world must mean more than building an Olympic Village and sporting venues. China must also rise to meet the aspirations of the Olympic movement by dismantling the systems of repression that stifle dissent, free expression, and religious observance.

I urge my colleagues to join me in supporting this resolution.

Mr. HOYER. Mr. Speaker, I join my colleagues on both sides of the aisle in urging the Members of this House to support this important Resolution.

As I remarked in a speech on trade relations nearly four years ago, the most powerful nation on earth cannot ignore the most populous nation of earth. The United States, in my view, must use its best efforts to move the People's Republic of China toward democratic reform, market economics and the rule of law.

However, even as we seek to engage the People's Republic on issues of mutual interest and concern, we have a continuing obligation, in my view, to hold the communist regime in Beijing accountable for its unjustified and indefensible human rights violations.

Just today, Mr. Speaker, the Washington Post reported that China has detained a group of Hong Kong residents—including at least three British citizens—and has begun to prosecute them on espionage charges.

One of the British citizens charged is accused of, among other things, discussing he 1989 Tiananmen Square massacre with a British agent.

And it remains unclear how these British citizens are being prosecuted under Chinese law for activities that allegedly took place in Hong Kong before China resumed control of that territory.

And just last week, the State Department's 2003 Human Rights Report Scored Beijing on this issue. The report stated:

> "We began 2003 with hopes that the incremental but unprecedented progress in China seen in 2002 would be continued and expanded; however, throughout the year, we saw backsliding on key human rights issues. Arrests of democracy activists, individuals discussing subjects deemed sensitive by the Government on the Internet, HIV/AIDS activists, protesting workers, defense lawyers advocating on behalf of dissidents or the dispossessed, house church members and others seeking to take advantage of the space created by Chinese reforms increased."

In short, this Resolution urges the United States to introduce a resolution at the 60th Session of the U.N. Human Rights Commission that calls on China to end its human rights violations and to meet internationally recognized standards for human rights.

Furthermore, it states that the United States should take the lead in organizing support for the passage of such a resolution, and that American officials continue to speak out against religious and political persecution in China, as well as coercive family planning practices, forced labor camps, the forced repatriation of North Korean nationals and other abuses.

Mr. Speaker, I thank our colleagues from New Jersey (Mr. SMITH) for introducing this Resolution. And I urge all my Members to support it.

The People's Republic has made great economic progress over the last half century. But its persistent pattern of human rights abuses is a dark stain on its record. As a beacon of liberty and democracy, we have an obligation to ensure that it is held accountable for such abuses.

Mr. HYDE. Mr. Speaker, I thank the gentleman from New Jersey for yielding. I rise in support of H. Res. 530, and I'd like to commend my colleague, Mr. SMITH of New Jersey, for sponsoring this important and timely resolution. This bill urges the U.S. Representative to the 60th Session of a the United Nations Commission on Human Rights to introduce a resolution calling upon the Government of the People's Republic of China to end its human rights abuses. H. Res. 530 also urges the People's Republic of China to safeguard fundamental human rights.

Last year at the 59th Session of the U.N. Commission on Human Rights in Geneva, the United States did not sponsor a resolution on the People's Republic of China. The United States refrained from doing so in part because of commitments which the Government of China made to the United States during bilateral talks in December of 2002 that it would improve its human rights record and would allow greater access of international monitors into the country. However, these commitments were not fulfilled.

In fact, during the past year we witnessed continued disturbing trends in the human rights situation in China. Indeed, in last week's release of the State Department's annual Country Reports of Human Rights Practices, referring to China, it notes that, "We saw backsliding on key human rights issues."

Unfortunately, there are far too many examples of their "backsliding." In January, Tibetan activist Lobsang Dhondup (Lob-sang Dun-op) was executed without due process. Arrests and harsh sentencing of democracy activists, critics on the Internet, and labor organizers continued throughout the year. And other than the lone release of Tibetan prisoner of conscience, Phuntsog Nyidrol (Putt-sok Nee-droo), last week—the day after the State Department's Country Reports on Human Rights Practices was released—there have been no recent releases of political prisoners. Further, religious adherents continue to be persecuted, and Falun Gong followers remain targeted by the government. Another area of grave concern is Beijing's forced repatriation of North Korean refugees in China and other human rights abuses directed against these refugees, including the trafficking of women and children.

Mr. Speaker, the People's Republic of China must understand that increased bilateral cooperation in other areas, including security, does not in any way negate or lessen obligations to uphold basic human rights. I encourage my colleagues to support H. Res. 530.

Mr. SMITH of New Jersey. Mr. Speaker, I yield back the balance of my time.

Ms. MCCOLLUM. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SCHROCK). The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and agree to the resolution, H. Res. 530, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SMITH of New Jersey. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 530, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

EXPRESSING SYMPATHY OF HOUSE FOR VICTIMS OF EARTHQUAKE IN IRAN

Mr. HYDE. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 526) expressing the sympathy of the House of Representatives for the victims of the devastating earthquake that occurred on December 26, 2003, in Bam, Iran.

The Clerk read as follows:

H. RES. 526

Whereas approximately 40,000 men, women, and children, including a United States citizen, perished in an earthquake that occurred on December 26, 2003, in Bam, Iran;

Whereas the people of the United States immediately expressed their sincerest sympathy by sending aid to the victims of the earthquake in Iran;

Whereas 90 percent of the 2,000 year-old city of Bam was destroyed;

Whereas the magnificent buildings in Bam belonged not only to the people of Iran, but to our common world heritage;

Whereas President George W. Bush lifted sanctions on Iran temporarily in order to enable United States relief organizations to swiftly send aid to Bam;

Whereas United States aid channeled through United States-based relief organizations and charities has been warmly welcomed by the people of Iran;

Whereas United States aid workers have been received with generosity and great appreciation in Iran;

Whereas the United States generosity has confirmed that the United States holds no ill will toward the people of Iran; and

Whereas the spirit and compassionate conduct of the United States has won it tremendous goodwill among the people of Iran: Now, therefore, be it

Resolved, That the House of Representatives—

(1) expresses its heartfelt sympathy for the victims of the earthquake that occurred on December 26, 2003, in Bam, Iran, and their loved ones;

(2) expresses its heartfelt gratitude and appreciation for the courageous work of the United States and international aid personnel saving lives in Iran; and

(3) welcomes the President's decision to issue a general license for donations to nongovernmental entities engaged in humanitarian relief activities in response to the earthquake in Iran.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. HYDE) and the gentlewoman from Minnesota (Ms. MCCOLLUM) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. HYDE).

GENERAL LEAVE

Mr. HYDE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Today I rise in support of House Resolution 526, introduced by the gentleman from Ohio (Mr. NEY) on February 11, 2004, expressing the sympathy of the House of Representatives for the victims of the devastating earthquake that occurred on December 26, 2003, in Bam, Iran. This resolution is a reflection of the goodwill that emanates from the people of the United States to the people of Iran during their time of great need and profound sorrow.

On that tragic day, an earthquake measuring 6.6 on the Richter scale struck the southeastern area of Iran. During the days that followed, the American people and the rest of the world watched in sympathy as helpless Iranian families tried to put the pieces of their lives back together. With approximately 40,000 people dead, 30,000 people injured, and up to 75,000 people made homeless, the U.S. Government reacted in solidarity with the Iranian people by implementing necessary measures so that millions of dollars in emergency earthquake assistance could be distributed through United States relief organizations.

Immediately, the President directed that a general license be issued to temporarily permit U.S. individuals or nongovernmental organizations to transfer funds to organizations operating in Iran to assist humanitarian aid activities. I commend the administration's handling of this tragic situation and President Bush's message that "We stand ready to help the people of Iran."

Many factors characterize the perceived power and greatness of America throughout the world. However, it is the spirit of our unconditional compassion in times like these that truly resonates in the hearts and minds of the Iranian people and communicates our real hopes and desires for them.

Currently, the people of Iran need their courage and strength to help parallel the efforts by international aid personnel in rebuilding their lives. Children who are orphaned and homeless will need guidance and direction from their elders. Elders who are grieving the loss of their loved ones will need the inspiration of their youth to go on. Through their trials and tribulations, the Iranian people have proved to be a resilient force while never losing hope for the blessings of a new day. I am convinced that through exercising their faith and reconstructing their lives a stronger and empowered community will be unearthed.

I commend the gentleman from Ohio (Mr. NEY) for introducing this meaningful resolution and thank him for his understanding of Iran's needs and challenges. Mr. Speaker, I strongly support this resolution and urge its passage.

Mr. Speaker, I reserve the balance of my time.

Ms. MCCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this resolution. I commend the gentleman from Ohio (Mr. NEY) for this important resolution.

The suffering of the Iranian people from the Bam earthquake in December is incalculable. As many as 50,000 dead, countless injured. Tragic as well is the destruction of 90 percent of an historic 2,000-year-old city. This is truly a loss to all the world. The resolution appropriately expresses the heartfelt sympathy of the House for the victims of the earthquake and for their loved ones. It also expresses gratitude for the courageous work of U.S. and international aid personnel and relief workers. It was right for the administration to temporarily lift the sanctions that otherwise would have prevented such humanitarian activities in Iran.

Relief workers in Iran came from the United States and around the world. They were ordinary people like Jim Ricci of St. Paul, Minnesota serving in the Air National Guard. Mr. Ricci, who was on his third tour of duty in the Persian Gulf, was on the last of the military's 11 humanitarian flights to Iran. Relief also came from groups like the American Refugee Committee International, headquartered in Minnesota. The American Refugee Committee helped coordinate several significant relief efforts, while donating medical supplies and nonfood items. This coordinated assistance was critical in providing the most effective aid programs possible.

Everyone in Congress is concerned by the conduct of the Islamic Republic of Iran, particularly by the hardliners who dominate the regime, support for terrorism, threats against Israel's existence, deceitful pursuit of nuclear arms and other weapons of mass destruction, and notorious human rights abuse. This recent stacked-deck election are cases in point. We all share the concerns about the Iranian regime, but we also know it is wrong to blame the Iranian people. I believe the vast majority of Iranian people would yearn for the freedom and the friendship with the U.S. and the world at large.

This resolution recognizes the common humanity of Americans and Iranians. Our common bond of humanity was also acknowledged by the Iranians, who held a spontaneous candlelight vigil on behalf of the victims of September 11, 2001.

The Iranian people should know they have our deepest sympathies for their terrible tragedy. I strongly support this resolution, and I urge all of my colleagues to do the same.

Mr. Speaker, I reserve the balance of my time.

Mr. HYDE. Mr. Speaker, I thank the gentlewoman for an excellent statement, and I yield such time as he may consume to the gentleman from Ohio (Mr. NEY).

Mr. NEY. Mr. Speaker, I want to thank the chairman and also the gentlewoman for supporting this resolution. I want to particularly thank the chairman for always responding when it comes to international affairs and making our Congress proud.

Mr. Speaker, we have the support of many great colleagues, the gentleman from California (Mr. LANTOS), the gentleman from Missouri (Mr. BLUNT), the gentleman from Arkansas (Mr. SNYDER), the gentleman from California (Mr. BERMAN), the gentleman from New York (Mr. ACKERMAN), the gentleman from Iowa (Mr. LEACH), the gentleman from Nebraska (Mr. BEREUTER), just to mention a few of the cosponsors of this resolution. I want to thank the gentleman from California (Mr. LANTOS) for being the prime sponsor and the gentleman from Illinois (Chairman HYDE) for all his support, again.

I rise today in support of House Resolution 526, which expresses the sympathy of the House of Representatives for the victims of the devastating earthquake that occurred on December 26, 2003, in Bam, Iran.

□ 1515

More than 40,000 men, women and children, including an American, were killed when the ancient city of Bam was struck by a massive earthquake. While the final toll is still being tallied, the loss of life ranks this as one of the worst human tragedies in recent memory. Aside from the unspeakable humanitarian disaster, which has been pointed out on the floor today, more than 90 percent of the 2,000-year-old city was destroyed. Indeed, in this destruction was the magnificent citadel of Bam.

Located in southeastern Iran, 200 kilometers south of Kerman, Bam was made mostly of mud bricks, clay, straw, and the trunks of palm trees. The more modern part of the city was originally founded during the Sassanian Period, around the third century A.D.

During this time of suffering, the American people immediately showed their sympathy and offered their help. Rescue teams and aid personnel from all over our Nation jumped into action as though this tragedy hit their own next-door neighbors.

President Bush was among those who acted with great speed. He temporarily lifted sanctions on Iran only 5 days after the earthquake. The President's actions enabled American relief organizations to swiftly send aid to the people of Bam. It is not inconsequential that American help was warmly received and welcomed by the Iranian people. Our workers were received with generosity and great appreciation by the Iranian people.

Teams from the Mercy Corps were among the first to arrive and worked hand in hand with local aid organizations. American and Iranian personnel rescued people from the rubble and brought much-needed supplies to very weary survivors.

Our brave aid workers dispelled misconceptions about America that pervade the Middle East. They showed the real essence of our great Nation and of our people, one of generosity and one of compassion.

Mr. Speaker, the leadership that President Bush has shown in exempting humanitarian aid from U.S. sanctions on Iran will go a long way towards improving understanding by the people of Iran, the Mideast and America towards each other. The President's actions have shown that two societies can work with each other in a time of great need and in a time of great trauma and strife.

I ask that the Congress join me in expressing our heartfelt sympathy for the victims of the Bam earthquake and our gratitude and appreciation for the courageous work of the American aid personnel.

By passing this important resolution, we will commend President Bush's decision and this Congress' support to temporarily make aid organizations exempt from the sanctions on Iran, and we will continue to show that the compassion and generosity that has kept America the world's leader in humanitarian missions still continue to this day.

Ms. McCOLLUM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, once again I would like to express my sincere support for this resolution. I would like to thank the gentleman from Ohio (Mr. NEY) for bringing this forward, and our distinguished chairman on the Committee on International Relations, the gentleman from Illinois (Mr. HYDE), for making sure for the people of Iran that we stand with them during this terrible loss of life.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today as a heartfelt supporter of H. Res. 526 which expresses the sympathy of the House of Representatives for the victims of the devastating earthquake that occurred in Bam, Iran on December 26, 2003. It is important that we as a body stand united on issues that may not directly affect us but that are nonetheless very important. I am proud to say that members of this body and this nation as a whole stood up to support our brothers and sisters in Iran when this great tragedy occurred.

The numbers attributed to this earthquake are staggering. In a city with 100,000 residents at the time of the earthquake approximately 40,000 men, women, and children lost their lives due to this disaster. I have heard from many constituents in my district who told me they lost family members in Iran. I was told of some families who even lost as many as thirty-three members of their family. I'm sure this kind of heartbreak was felt throughout the entire Iranian American community.

While the human toll was immense, the sheer destruction of the city of Bam was truly tragic. It is estimated that a full ninety percent of the city was completely destroyed. Unfortunately the historical value of a 2,000 year old city is lost to us forever.

We must take more than sadness away from this tragedy; we must now focus our efforts on how to prevent the deadly effects of future disasters. The amount of casualties in this disaster were far too high. To demonstrate the effect of the quake on this region—as compared to other regions, an earthquake of 6.2 magnitude in Los Angeles on December 23 left a casualty of only two persons as compared to approximately 40,000 in Iran. The number of casualties was so high particularly because of the quality of the local building material consisting of mudbricks, and construction techniques using little reinforcements. We must study ways to protect people throughout the world from being involved in a tragedy like the one in Bam. This is why I have joined the Iran Earthquake Task Force initiated by the Iranian Medical Relief Foundation (IMRF). I urge all Members of this body to follow suit and pursue actions that will facilitate greater protection from the effects of natural disasters.

We must show the world that we stand with them when tragic natural disasters occur. I was proud to see that so many U.S. based charities and organizations joined the world community to care for those affected by the earthquake. I commend the efforts of so many who took their time and effort to search through the rubble. Their heroic efforts may not have been able to reverse the tragic disaster, but the world realized that we as a nation stand by our humanitarian obligations. I hope we will continue this proud practice whenever events such as this occur.

Mr. McCOLLUM. Mr. Speaker, I yield back the balance of my time.

Mr. HYDE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SCHROCK). The question is on the motion offered by the gentleman from Illinois (Mr. HYDE) that the House suspend the rules and agree to the resolution, H. Res. 526.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. HYDE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

DESIGNATION OF AND TERMINATION OF DESIGNATION OF CERTAIN COUNTRIES AS BENEFICIARY DEVELOPING COUNTRIES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 108–166)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

Consistent with section 502(f) of the Trade Act of 1974, as amended (the "Act"), I am writing to inform you of my intent to designate Algeria as a beneficiary developing country and to terminate the designation of Antigua and Barbuda, Barbados, Bahrain, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, and Slovakia as beneficiary developing countries for purposes of the Generalized System of Preferences (GSP).

I have considered the criteria set forth in sections 501 and 502 of the Act. In light of these criteria, I have determined that it is appropriate to extend GSP benefits to Algeria. I have also determined that Antigua and Barbuda, Barbados, and Bahrain have become "high income" countries, and I therefore terminate their designation as beneficiary developing countries effective January 1, 2006. Furthermore, consistent with the Act's prohibition on designation of European Union member states as beneficiary developing countries, I am terminating such designation for the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, and Slovakia when they become European Union member states.

GEORGE W. BUSH.
THE WHITE HOUSE, *March 1, 2004.*

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m.

Accordingly (at 3 o'clock and 20 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

□ 1830

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BOOZMAN) at 6 o'clock and 30 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3752, COMMERCIAL SPACE LAUNCH AMENDMENTS ACT OF 2004

Mr. REYNOLDS, from the Committee on Rules, submitted a privileged report (Rept. No. 108–430) on the resolution (H. Res. 546) providing for consideration of the bill (H.R. 3752) to promote the development of the emerging commercial human space flight industry, to extend the liability indemnification regime for the commercial space transportation industry, to authorize appropriations for the Office of the Associate Administrator for Commercial Space Transportation, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on two motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 3769, by the yeas and nays;

House Resolution 526, by the yeas and nays.

House Resolution 530 will be voted on tomorrow.

Each electronic vote today will be conducted as a 15-minute vote.

BEN ATCHLEY POST OFFICE BUILDING

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3769.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Tennessee (Mr. DUNCAN) that the House suspend the rules and pass the bill, H.R. 3769, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 383, nays 0, not voting 50, as follows:

[Roll No. 32]

YEAS—383

Abercrombie
Ackerman
Akin
Alexander
Allen
Andrews
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bereuter
Berkley
Berman
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Chabot
Chandler
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Hill
Hinchey
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (NY)
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanders
Saxton
Schakowsky
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)

NOT VOTING—50

Aderholt
Baca
Bell
Berry
Burton (IN)
Calvert
Castle
Chocola
Cummings
Davis (CA)
DeMint
Doggett
Dooley (CA)
Filner
Gilchrest
Gutierrez
Harman
Herger
Hinojosa
Hooley (OR)
Johnson (CT)
Jones (OH)
King (IA)
Kingston
Kucinich
Lantos
Markey
McCotter
Meeks (NY)
Millender-McDonald
Mollohan
Napolitano
Ortiz
Ose
Pelosi
Pence
Reyes
Rodriguez
Royce
Sanchez, Loretta
Sandlin
Schiff
Smith (MI)
Toomey
Towns
Waters
Weldon (PA)
Woolsey
Wynn
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BOOZMAN) (during the vote). Members are advised 2 minutes remain in this vote.

☐ 1856

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. FILNER. Mr. Speaker, on rollcall No. 32, due to urgent constituent support commitments in my Congressional District, I missed the vote. Had I been present, I would have voted "yea."

EXPRESSING SYMPATHY OF HOUSE FOR VICTIMS OF EARTHQUAKE IN IRAN

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 526.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. HYDE) that the House suspend the rules and agree to the resolution, H. Res. 526, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 381, nays 0, not voting 52, as follows:

[Roll No. 33]

YEAS—381

Abercrombie
Ackerman
Akin
Alexander
Allen
Andrews
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bereuter
Berkley
Berman

Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Chabot
Chandler
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Everett
Farr
Fattah
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Hill
Hinchey
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (NY)
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanders
Saxton
Schakowsky
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)

NOT VOTING—52

Aderholt
Baca
Bell
Berry
Burton (IN)
Calvert
Castle
Chocola
Cummings
Davis (CA)
DeMint
Doggett
Dooley (CA)
Evans
Filner
Gilchrest
Gutierrez
Harman
Herger
Hinojosa
Hooley (OR)
Jones (OH)
King (IA)
Kingston
Kucinich
Lantos
Markey
Marshall
McCotter
Meeks (NY)
Millender-McDonald
Mollohan
Murtha
Napolitano
Ortiz
Ose
Pelosi
Pence
Reyes
Rodriguez
Royce
Sanchez, Loretta
Sandlin
Schiff
Smith (MI)
Toomey
Towns
Waters
Weldon (PA)
Woolsey
Wynn
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BOOZMAN) (during the vote). Members are advised that 2 minutes remain in the vote.

□ 1913

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. FILNER. Mr. Speaker, on rollcall No. 33, due to urgent constituent support commitments in my Congressional District, I missed the vote. Had I been present, I would have voted "yea."

PERSONAL EXPLANATION

Mr. DEMINT. Mr. Speaker, I was absent during rollcall votes 32 and 33. Had I been present, I would have voted "yea" on each of those votes.

PERSONAL EXPLANATION

Mr. BACA. Mr. Speaker, on rollcall Nos. 32 and 33, for personal reasons, I was unable to be in the chamber when the time elapsed on the vote.

Had I been able to vote, I would have voted "yea" for both votes.

PERSONAL EXPLANATION

Mr. BURTON of Indiana. Mr. Speaker, I have just returned from leading a Congressional delegation trip to Iraq and due to an unavoidable delay, I was unable to be on the House Floor for rollcall votes 32 and 33. Had I been here I would have voted "yea" for rollcall vote 32, and "yea" for rollcall vote 33.

INVESTIGATE HAITI CLAIMS

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, needless to say, all of our eyes have been focused on a small little nation just south of this great Nation. Small though it may be, Haiti stood alongside Americans in their fight for independence, and Haiti stands this 200th year as an independent democratic nation.

As we read the Nation's headlines, we see Haitians struggle to pull their nation out of chaos, and then the most tragic statement came this weekend when words were stated by President Aristide that someone, this Nation, allegedly forced him to leave his beloved nation, forced him to leave his position as the duly elected president of Haiti.

I believe this Congress cannot sit in silence. So I am asking the Speaker and the leader of the House to convene major congressional investigations that will include a number of committees, and, in particular, the Permanent Select Committee on Intelligence.

We must know the truth of the CIA's involvement, who directed the military, and what occurred on that fateful night. America has the responsibility to take the high moral standard. And even though Haiti is not Iraq, Haiti is still a country that we should feel for. Haiti asked us to come in peace, but it seems as if we came in war. An investigation is necessary and we must do it now.

IN HONOR OF TEXAS INDEPENDENCE DAY

(Mr. LAMPSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAMPSON. Mr. Speaker, I rise today to recognize Texas' Independence Day, March 2, 1836, the day that Texas declared its independence from Mexico.

On that fateful day, the Texas Declaration of Independence from Mexico was signed by State delegates and began Texans' journey to joining the United States in 1845. As all Texans know, this was not a calm time or serene event. Indeed, as the delegates prepared the very document itself, the Alamo, the famous mission in San Antonio, and our ancestors were literally under siege by the Mexican army. And as all Americans know, the battle of the Alamo was one of the greatest in American history where 189 brave Texans gave their lives, pushing back around 1,600 opposing soldiers in what became the strategic turning point in the ultimate and successful push for Texas independence.

Mr. Speaker, as we pause again to commemorate Texas on its most important anniversary, I also rise to recognize the countless important contributions that Texans have given to our great Nation since those tumultuous times. Thousands of brave Texas men and women, including many from the Ninth District, bravely serve in our armed forces, and Texas continually produces great civic and business leaders, strongly promotes the arts, and proudly serves as an international hub of commerce and culture.

So I ask my colleagues to join me in honoring the great State of Texas on this momentous occasion, to honor all the heroes who gave their lives so that Texas eventually won its hard-fought independence, and to salute Texans who defend our Nation and promote peace and America's interests worldwide.

MARK McCLELLAN: THE WRONG MAN FOR THE JOB

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include therein extraneous material.)

Mr. BEREUTER. Madam Speaker, Members of this body should be alarmed that Secretary Tommy Thompson, Secretary of Health and Human Services, named Food and Drug Commissioner Dr. Mark McClellan, a vocal opponent of importing drugs from Canada, to lead a government study of reimportation. This decision is a bad one and is a slap in the face of 243 Members of Congress who voted in support of the Pharmaceutical Market Access Act.

As head of the FDA, Dr. McClellan has vehemently opposed the importation of drugs from Canada. Despite the assurance of Secretary Thompson that the study will be balanced and fair, with Dr. McClellan at the helm there is no way this study will be seen as objective. With the proper effort and technology, it is clearly possible for pharmaceuticals to be safely reimported from Canada and from other countries. American consumers are now asked to subsidize the consumers in the rest of the world by the prices we are charged. This is an issue that will not go away.

Madam Speaker, in closing, no matter what barriers they erect and excuses the FDA or drug companies offer, Americans will continue to search for the much lower drug prices found everywhere else in the world.

[From the Omaha World Herald, Mar. 1, 2004]

CHOOSE SOMEONE ELSE

The Bush administration on Wednesday took a step toward establishing a commonsense policy on importing prescription drugs from Canada. Then it took two steps back. That's no way to reach a reasonable policy on a highly significant issue.

Good: Officials announced a year-long study of how drugs could be safely imported from Canada, where the prices can be 60 percent or more lower than U.S. citizens pay. Importation is technically against the law, but many senior citizens, some encouraged and even aided by their local or state governments, do it anyway. The saving is significant for those on fixed incomes and the risks appear minimal.

Bad: U.S. officials appointed Dr. Mark B. McClellan, recently nominated to head the Centers for Medicare and Medicaid Services, to lead the study. McClellan has been a vocal and vehement opponent of any change in the rules that prohibit drug imports, and his agency has threatened legal action against local and state governments that help seniors.

In the Senate, Democrats and some Republicans have objected. "Putting the fox in charge of the chicken house," observed Sen. Byron Dorgan, D-N.D. McClellan has already shown "a personal bias" against drug importation, said a spokeswoman for Sen. John McCain, R-Ariz.

Health and Human Services Department leaders promised a balanced commission and a thorough study of the issue. But Director Tommy Thompson has launched a leaky ship with serious holes in its credibility merely by appointing McClellan to captain it.

Drug importation distresses the pharmaceutical industry for obvious reasons. The Canadian government regulates prescription prices. In the recent Medicare reform bill that would give senior citizens a prescription drug benefit in 2006, Congress forbade the federal government from negotiating for lower drug prices for Americans. That is industry-friendly to the extreme.

So is the appointment of McClellan to such a sensitive post. The administration shouldn't squander the opportunity to settle this contentious issue in a rational manner. And it shouldn't squander its credibility by so blatantly stacking the deck. A more objective professional should be chosen.

□ 1915

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. BOOZMAN). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

EXTENSION OF ASSAULT WEAPONS BAN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. McCARTHY) is recognized for 5 minutes.

Mrs. McCARTHY of New York. Mr. Speaker, today over in the Senate, our colleagues are having a debate on basically assault weapons to certainly make sure that we renew that by September 13 and also making sure that we close the loopholes in the gun shows.

Mr. Speaker, the NRA today, once again, reached into their bag of tricks to kill a bill it actually supported. Earlier the Senate had voted to add two commonsense gun safety measures to the gun industry liability bill. One would extend the ban on assault weapons. The other would close the gun show loophole bill. Because of this, the NRA said, Jump, and its supporters in the Senate said, How high?

It marked a triumph of special interests in this country. Our Nation's police officers have worked hard to keep assault weapons off our streets. That is why Congress must revisit the assault weapons ban without attaching special interest handouts. Otherwise, assault weapons will go back onto America's streets in 195 days. That is the good news for terrorists and cop-killing criminals. That is the good news for drug dealers. That is the good news for the gangs that are across our country. Unfortunately, it is bad news for America's families and communities and police officers.

Since I took the floor in the House 1 week ago, 400 more Americans have died from gun violence; but instead of a sense of urgency, the House has stood idly by. Some seem content to let the assault weapons ban expire on September 13, the ban that has kept us safer for the last 10 years.

It has also respected the rights of gun owners, protecting the hunting rifles, shotguns, and pistols favored by law-abiding citizens. We do not have problems with people owning guns, but gun owners need to take responsibility on making sure certain guns do not get onto the street.

Only criminals have been kept from their gun of choice. This explains why 66 percent of gun owners support renewing the ban. The American people support it by even more overwhelming margins. Once again, our Nation's law enforcement officers are leading the fight to keep assault weapons, making sure that they are not back on our streets.

But today, I want to highlight one notable flaw in the assault weapons ban. A loophole in the law has allowed gun makers to create hundreds of copycat weapons. The MAC-10, this gun right here, has become the MPA-10. The AK-47 has clones, so many of them, they are too numerous to count. Cosmetically altering the TEC-9, for example, has resulted in the fully legal AB-10. Cosmetically. This is what the gun manufacturers are allowed to do. The A-B, by the way, stands for "after ban," but one can see they almost look identical.

Another weapon advertised for its ability to circumvent the law is the Bushmaster XM-15. People might remember this gun. This was the gun used by the D.C. snipers. Residents of

D.C. and across this country know what that weapon was able to do. During October 2002, the snipers used the gun to kill 10 people and wound three others. Bushmaster's slogan for the gun, "The Best—by a long shot," provided deadly accuracy for those in its cross-hairs.

I came to Congress to fight for gun safety. I have fought for commonsense, effective measures, which is why I have introduced H.R. 2038, which would renew the ban, while closing these particular gaping holes.

Let us face it, you cannot tell me that the American people want to see these particular guns back on the streets. You cannot tell me that you want to have our police officers coming across the drug dealer, the terrorists that possibly might be in this country, to come across these.

Another fact, by the way: our police officers have to wear special armor. These guns can go through that armor.

I came here 10 years ago when I was not in Congress to make sure that this bill went through, and now it is time for the American people to realize the power that they have. People always say they have no voice in government. Well, you can have a voice; but you have to call your representative here in Congress. You have to start calling the Senate again. You have to call the Speaker of the House and allow the bill to come up for a vote. We are told that it is not going to be able to come up for a vote. That is wrong, when the American people want to make sure this does not happen again.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. KLINE). Members are reminded not to refer to actions in the other body.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1561, UNITED STATES PATENT AND TRADEMARK FEE MODERNIZATION ACT OF 2003

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 108–431) on the resolution (H. Res. 547) providing for consideration of the bill (H.R. 1561) to amend title 35, United States Code, with respect to patent fees, and for other purposes, which was referred to the House Calendar and ordered to be printed.

HEROIN GROWTH IN AFGHANISTAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. SOUDER) is recognized for 5 minutes.

Mr. SOUDER. Mr. Speaker, I rise today to address one of our Nation's most difficult narcotics problems: Afghanistan.

Afghanistan has historically produced significant quantities of opium which is refined into heroin. Afghanistan's opium crops accounted for over 70 percent of the world's supply in the year 2000. According to the DEA, about 50 percent of the heroin in the American market originated in the Afghanistan-Pakistani border area in 1984.

We must learn from history and diligently work to prevent any Afghan heroin from entering the American market. While Europe is the primary destination for Afghan heroin today, we suspect that 7 to 10 percent of the illegal crop ultimately reaches the streets of our congressional districts.

Opium production in Afghanistan has resumed over the past 2 years. With the fall of the Taliban, Afghan growers resumed cultivation despite the renewal of the ban on poppy growth by the Karzai government. This problem could grow far worse. Only 8 percent of Afghanistan's cultivated land is presently used to grow opium poppies. If we do not prevail over this problem, the remaining cultivated land could easily accommodate more of this illegal crop.

These drugs are of great concern to all of us because they increase the worldwide supply and have the potential to fund terrorists and other destabilizing groups, and they subvert all of our efforts to assist Afghanistan. The new Afghanistan cannot survive on an illegal economy.

Drug proceeds are the source of a growing reservoir of illegal money that funds international crime across the region; that sustains the destabilizing activities of warlords; and that fosters local coercion and terrorism. Just like the challenges faced south of our own borders for decades, I am convinced that drug money and terrorist organizations in Afghanistan and throughout that region are locked together like a daisy chain. Our resolve to restore Afghanistan must include a broad, comprehensive plan to eradicate poppy production, not only to help the people of Afghanistan, but to cut off the funding of the terror organizations that threaten our own security.

I recently returned from a trip to Libya, Iraq, Pakistan and Afghanistan. We met with President Karzai and he reaffirmed my conviction that he means business. He is serious about tackling the heroin threat to his country. Together, we must prevent the institutionalization of the heroin cartels. We must support democracy's early days in post-Taliban Afghanistan. We must help them confront those that still threaten to destabilize their society through both the narcotics trade and terrorism. If we are to win the war in Afghanistan, we must recognize that narcotics play a large part in funding the radical anti-democratic elements.

We are pressing for increased coordination with the British on counternarcotics; with the Germans on policing and police training; and with the Italians on justice sector reform. In addition to the traditional smuggling routes through Iran and Turkey, reports indicate a continued movement of heroin shipments north from Afghanistan through the central Asian states, Pakistan and India en route to international markets.

Our strongest partners in these efforts must be those consumer nations where the drugs are destined. The financial, resource, and intelligence requirements to defeat the scourge are not our sole responsibility. The administration must seek commitments from Europe and elsewhere to share this burden, where they get 90 percent of the heroin.

Let me give my colleagues an example of a successful international operation. Operation Containment is an ongoing effort by the DEA. They recently arrested 15 members of a heroin trafficking organization and seized 7.4 tons of morphine base in Turkey. Morphine base can be converted to heroin at a ratio of one to one with a chemical. This is the largest seizure of morphine base ever made. To put the magnitude of this seizure in perspective, the amount seized was more than four times the total worldwide morphine base seizures made in 2000.

There are legitimate uses of the chemical acetic anhydride in industry. Countries that produce this chemical must do their part by restricting or controlling its sale and transportation to legitimate consumers.

The Department of Defense has seen the magnitude of the transshipment problem with three separate seizures by the U.S. Navy operating in the Gulf region. The first seizure was made on December 15 when a motorized dhow was apprehended in the Arabian Gulf. Two tons of narcotics were seized, and three of the 15-man crew were identified as having possible ties to al Qaeda. On December 18, two more dhows were intercepted. Those seizures yielded drugs worth more than $10 million.

I am passionate about this subject. I have chaired a hearing on Afghanistan just last week. Many of the members of my subcommittee have visited the region. The administration must extract commitments from the Europeans to pull their own weight. As leaders of the coalition of Afghanistan and Iraq, the Department of Defense must be compelled to address the growth, storage, processing, and transshipment of drugs in the region. The bullets and bombs used against our own troops are purchased with illicit funds. The Department of State and the DEA must be resourced adequately to address and to assist Afghanistan in reestablishing a viable criminal justice system so that their own poppy ban can be effectively enforced.

□ 1930

LONGEST MAJOR STRIKE IN UFCW ENDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BECERRA) is recognized for 5 minutes.

Mr. BECERRA. Mr. Speaker, I am here tonight to discuss the end of a long strike; in fact, the longest major strike in the history of the United Food and Commercial Workers Union, and the largest and longest strike in the history of the supermarket industry, a strike that saw the United Food and Commercial Workers hold the line in southern California.

The dispute, which involved some 60,000 UFCW members employed at 852 Safeway-owned Vons and Pavillions stores, Kroger-owned Ralphs and Albertsons stores, began back in October 11, 2003. Officials for the grocery store chain said their workers had a Cadillac health plan that the stores could not maintain in a market with nonunion competitors such as Wal-Mart. I am not sure I would call the plan in question a Cadillac plan, but the proposal to replace it was clearly a Yugo.

Supermarket workers in southern California average about $12 to $14 an hour, and most work less than 40 hours a week, not by choice. Under the employer's proposal, after 3 years an average worker would earn about $12.30 an hour, that is $369 a week before taxes are taken out, or about $19,000 a year. That is a salary that can keep a single mom and her children just above the poverty line; but cut her health care benefits or shift several thousand dollars worth of health care costs from the company on to her and a self-supporting working family can be reduced to near poverty.

In fact, many workers will drop coverage because it will be too expensive and move over to Medi-Cal, which is California's Medicaid program for the elderly, poor, and disabled, as well as to other State and Federal programs for low-income workers. In my mind, this is safety net exploitation by employers. This marks a shift from the employer's books to the ledgers of the American taxpayer.

Thankfully, for 5 months the picket line remained strong, members remained united, and customers honored the workers' picket lines. This is a testament to the rank-and-file UFCW workers and to the leadership of UFCW local leaders. To people like Rick Icaza, President, and Rod Diamond, Secretary-Treasurer of UFCW Local 770; to Connie Leyva, President of UFCW Local 1428; Michael Straeter, President of UFCW Local 1442; to George Hartwell, President of Local 1036, Greg Conger, President of Local 324; Bill Lathrop, President of Local 1167; and Mickey Kasparian, President of Local 135 of the UFCW, we say thank you to you, and we hope that you will express our sincerest congratulations and thanks to all of your men and women in your locals who fought and stood tall throughout this entire 5-month long process.

Every day support for the fight for affordable health care grew stronger. Community and religious leaders joined the cause. The southern California supermarket strike became a national cause as well. There were rallies, picket lines, and hand billing across America.

The men and women on the picket lines are genuine heroes. Their sacrifice for affordable family health care has motivated and activated workers across the Nation. To the Webb family in Los Angeles I send a special message of esteem and pride. Andre and Dee, you, like many of your brothers and sisters, persevered. Christmas was tough this past December, but you weathered these difficult times in a way that makes all of us who are parents so very, very proud. And Andre, your daughter A.J. wrote you a letter for Valentine's Day, which many of us had a chance to read during the father-daughter dance at school, which you will never forget. She understood your fight and offered the best reason to stand firm. At 8 years of age, A.J. is already giving us a glimpse of the next generation of leaders for America.

The labor struggle in southern California is one manifestation of a very large national debate on health care. Lack of access to quality health care and escalating health care costs are issues of concern to all Americans, particularly to communities that are minority and very poor, that suffer the highest rates of uninsured Americans, and are also among those that are least well covered because of disproportionate and disparate health care received by these communities.

The lack of insurance is devastating to millions of families across America. We must make every effort to find ways to extend coverage and to work to end the erosion of employment-based health care coverage due to rising out-of-pocket health care costs that make insurance unaffordable for many workers. If the supermarket giants, profitable, growing corporations, can launch an attack on health care benefits, then every employer is sure to follow. They have sounded the alarm that the American health care system is under siege.

I say to all Americans who are working: Take note of what the United Food and Commercial Workers did over the last 5 months. They stood tall. Let us defend health care coverage for all Americans and we will fight to make sure our next generation also has it.

TRIBUTE TO COMMAND SERGEANT MAJOR ERIC COOKE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. GINGREY) is recognized for 5 minutes.

Mr. GINGREY. Mr. Speaker, there have been over 500 soldiers now killed in action in Operation Iraqi Freedom, and I rise this evening to share with the Members of this body a letter that my office received today in tribute to one of these great American heroes, Command Sergeant Major Eric Cooke.

"There seem to be so few heroes today. I wanted to tell you about one: Command Sergeant Major Eric Cooke of the First Armored Division. Command Sergeant Major Cooke died on Christmas Eve when a roadside bomb ripped into his Humvee north of Baghdad on a convoy to Samara. He was 43 years old.

"Just before his death, Command Sergeant Major Cooke had written my uncle, David Hunter, that he had not signed up for the 2-week Christmas leave available to soldiers who were deployed to Iraq because he could not take the leave knowing that one of his men would not be receiving theirs. CSM Cooke said he was lucky to have a loving wife who would understand why he was not coming home for Christmas. He was career United States Army, and she understood his commitment.

"On the day he died, Command Sergeant Major Cooke heard of an injured soldier who was in urgent need of O-positive blood, so he rushed to a nearby field hospital to donate his own. He almost missed that convoy going to Samara. Command Sergeant Major Cooke had the opportunity to have an armored Humvee, but he chose to give it to his men so they would be protected during armed escort duty, patrols and raid operations. His selfless service knew no limits.

"If you or I knew the day we would die, we might change the way we were living as that day approached. Command Sergeant Major Cooke did not need to change a thing. He lived each of his days in a selfless and noble manner. Every soldier's death is a tragedy, but this one seemed especially sad.

"Command Sergeant Major Cooke was buried at Arlington National Cemetery on January 5, 2004 at 3 p.m. with full military honors befitting an American hero.

"Written by Lucy Everett Edmondson of Rocky Mount, North Carolina."

Mr. Speaker, I knew Command Sergeant Major Cooke. I met him on the tarmac at the Baghdad International Airport on December 22, 2 days before his death. It was my only opportunity to ever be in a theater of combat operations, and it seemed relatively safe there on the tarmac. But as I looked into his crystal clear blue eyes, he told me about his 26 years of service to this country in Kosovo, Desert Storm, Operation Enduring Freedom, and now Operation Iraqi Freedom as well. He was looking forward to his retirement in 4 years, but very proud of his service to his country.

Indeed, Ms. Edmondson, Sergeant Major Eric Cooke was a true American hero.

TRADE AGREEMENTS, THE U.S. ECONOMY, AND JOBS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, 2 weeks ago, President Bush sent to Congress this Central American Free Trade Agreement, an agreement that would expand NAFTA to six countries in Central America. He plans later to send to Congress an agreement called the Free Trade Area of the Americas, which would expand NAFTA, except for Cuba, to all the rest of Latin America.

These two agreements will double the size of the North American Free Trade Agreement in population, will quadruple the number of low-income workers in what is now the North American Free Trade Agreement, so that in the Free Trade Area of the Americas it would have that many countries, that many people, that many low-income workers.

Now, you would think that the President of the United States would understand, with the economy the way it is, that this is not the right response. Ohio, my home State and that of the gentlewoman from Ohio (Ms. KAPTUR), who is here, also from Toledo, our State has lost 166,000 manufacturing jobs. One out of six Ohio manufacturing jobs is gone, likely will not return, mostly gone overseas. Companies have shut down, companies have outsourced production, companies have moved their facilities overseas, south of the border, or elsewhere.

Ohio literally has lost, in fact the country has lost manufacturing jobs every single month since George Bush took office. This country has lost some 3 million jobs since President Bush took office. And to every bit of bad economic news, every time the unemployment rate goes up, every time there is a report on lost jobs, every time there is bad economic news, the President has two answers: Tax cuts for the people who need them least. Tax cuts for the wealthiest people in our society. Half these tax cuts go to the richest 1 percent. Tax cuts for the wealthy, hoping they trickle down and provide a few jobs maybe, or give some economic prosperity to the country. That is one of his answers. The other answer is more trade agreements, like NAFTA, like MFN/PNTR for China, like the World Trade Organization, more trade agreements that ship jobs overseas; that hemorrhage jobs overseas.

Now, in this economic report of the President, which came out last week, signed by President Bush, on page 4, issued by the President's Chief Economic Adviser Gregory Mankiw, also signed by him, he is the President's top economic adviser, it says that Mr. Mankiw predicted on behalf of the President that we would create 2.6 million jobs this year. Even the President's people, after that report came out, said, no, no, no, we cannot create that many, and they immediately disavowed parts of this report.

But it is the same old thing. When the President first took office, he said, give me the tax breaks and we will create millions of jobs. He got the tax cuts, but no jobs were created. Jobs were lost. Then after September 11, clearly a tragedy for our country, clearly a blow to our economy, but after September 11, the President said, give me more tax cuts for the wealthiest, aimed at the most wealthy people, the most privileged, the ones who needs it least in society, and we will create 2.5 million jobs. Again he said that, and again we had job loss in this country.

In this report now it says 2.6 million jobs will be created, but it is simply not happening. And again the President's response to every problem with our economy, as this economic report of the President says, more tax cuts for the wealthy and more trade agreements that hemorrhage jobs, that ship jobs overseas.

Now, as we continue, the President wants to see us do more tax cuts this year. Those tax cuts will go again overwhelmingly to the most privileged people in society. But Alan Greenspan came to this Congress last week and he said because we do not have any money, we are going to have to cut Social Security. So not only do the President's tax cuts not create jobs in this country, not only do the President's tax cuts, who overwhelmingly go to the wealthiest people in society, not only do they not simulate the economy and create jobs, but they also mean that the President and his economic advisers are making a choice; it is either tax cuts or funding Social Security.

They have made their choice. Alan Greenspan, the President's man at the Federal Reserve, has said we cannot afford to fully fund Social Security, and later he will talk the same about Medicare because we have this huge budget deficit. We have this huge budget deficit because of the these tax cuts going overwhelmingly to the wealthiest people. And Alan Greenspan and the President are saying we need this year to do additional tax cuts, again for the wealthiest people in society.

You see how this adds up? Tax cuts for the wealthiest people in society, trade agreements that hemorrhage jobs and that ship jobs overseas. We do not have much in economic recovery and we have to cut Social Security. It simply does not add up.

The President needs to redirect his efforts against these trade agreements. Stop the trade agreements. No more tax cuts. Let us concentrate on job creation, creating manufacturing jobs and restoring Social Security.

□ 1945

THE CRISIS IN HAITI

The SPEAKER pro tempore (Mr. KLINE). Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I look forward to joining my colleagues just a short while from now to lay out for the Members of the House, and in many instances the American people, just where we are as it relates to a small nation by the name of Haiti.

First, I applaud the leadership of the Congressional Black Caucus not just for its involvement with Haiti over the last trying and tumultuous days, but I think it should be noted the constant meetings and engagement with this administration on providing the necessary resources so Haiti might understand. President Aristide has a longstanding relationship with this Nation inasmuch as he left the country some years ago in the 1990s so that Haiti might regain its strength and that there might be a democratic process. President Clinton restored Aristide to power around 1994 with a number of U.S. military troops as requested by the then-president. President Aristide did not attempt to be a dictator. He left office in 2 years and a new president was duly elected and he maintained his position for 5 years. At that time the people of Haiti decided to reelect President Aristide, and he came back to power.

During the course of that time, the world's economy collapsed. Money due to Haiti to ensure their economic survival were denied by this administration. There were constant negotiations and engagement of the International Monetary Fund, the World Bank and others to release their funds and work with Haiti to ensure that they followed all of the necessary rules, which fell on deaf ears.

Even as late as last summer, the economy of Haiti was crumbling because the world did not come to its aid. Some might say, here we go again, another nation to give sustenance to. But I say we need to look at this country, which is a mere 600 to 700 miles away from our shore, a country which stood alongside us during our Revolutionary War, and a nation which has maintained its independence for 200 years.

The Haitians look to the United States, the United States looks to the Haitians. Haitians are vibrant contributors to our economy. Many Haitians are living in south Florida in the district of the gentleman from Florida (Mr. MEEK), who has worked so tirelessly, along with his mother before him, to work on their behalf.

Mr. Speaker, I think we are shamefaced today because President Aristide begged for our involvement to protect a democracy. He asked that this Nation not come in war, but it come to restore democracy and peace and the end of violence to a nation that was struggling. The cause of his demise or the conflict was based a lot on the lack of international resources, first from France and other allies, and certainly the United States participated in that.

Even the Congressional Black Caucus saw the writing on the wall but gave to this administration three easy accomplishments that would have thwarted the violence that we have seen over the last couple of days: (1) establish a humanitarian corps that would provide water and food and safety for those in Haiti; (2) devise an international peace effort bringing in allies from around the world who were willing; and (3) establish a political resolution which President Aristide was willing to engage in. President Aristide even accepted the cosharing of government with the opposition, and yet they refused.

I am fearful that what our Nation did was engage with the rebels, the insurgents and those who would undermine the government. What a conflict of position to go into Iraq with a unilateral preemptive strike to in essence undermine a despot like Saddam Hussein and to find weapons of mass destruction; but yet when a peaceful democracy led by a duly elected democratic president of that country asked for our involvement, we refuse to get involved. And yet when the question was posed, who are the insurgents, who do they represent, no one can identify whether these are simply thugs or drug dealers.

Even now as there is complete chaos in Haiti, we cannot understand why we would want to engage in negotiations with individuals who have a very shady background. I beg of this Congress to fully investigate the scenario of the last 48 hours and the unfortunate departure of President Aristide. Was he or was he not kidnapped? Mr. Speaker, this Congress must answer that question, and this Nation must be told the truth.

COMMISSION ON SEPTEMBER 11, 2001

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from New York (Mr. HINCHEY) is recognized for 60 minutes as the designee of the minority leader.

Mr. HINCHEY. Mr. Speaker, it has now been 30 months, 2½ years, since the attack of September 11, 2001, on the World Trade Center in New York City, the Pentagon in Virginia, and the loss of the plane in Pennsylvania and the loss of all of those lives, more than 3,000 lives lost on that particular day, all the result of the attack of a group of organized criminals known as al Qaeda, the base, or the al Qaeda network.

It is a very important thing for us to examine that attack and to understand it in its full dimensions and implications. It is very important for at least two reasons. First of all, there are the families and the friends, associates of all of those Americans who were killed that day. They have a right to expect that we will provide them with every detail, that we will look into this event, this catastrophe, this disaster meticulously, and we will understand it in every aspect, and all of that will be done publicly and they will have access to all of that information. We owe them, the families of the victims, nothing less, not a scintilla less than that.

Secondly, it is important because the al Qaeda network still exists, and they have others that are operating with them, perhaps in many countries around the world, and some people suggest as many as 60. To the extent that is true, we can expect that they are contemplating additional attacks on our country. In fact, our intelligence agencies inform us that they believe that is the case; and they are working diligently to try to prevent that from happening.

But nevertheless, these plans are being laid and in order for our intelligence agencies and our government to prevent another attack from occurring, we need to know everything possible about the attack of September 11, 2001: precisely who was behind it, how they formulated it, why they did it, what were their motivations, what information and evidence did we have prior to the attack, when did we have it, who had the information, to whom was that information communicated, how was it communicated, under what circumstances, how was it not communicated, and what did we do as a government before, during, and immediately after that attack. All of that information is essential knowledge if we have any chance of preventing another attack from occurring in the future.

So the commission that has been set up to examine these questions is obviously crucially important, and we should be working with them in a fully cooperative way. We should be providing them with all of the resources and all of the time they need to complete this very essential work. To the extent that we are not doing so, either this Congress or the administration, we are failing in our responsibilities to the American people and failing in a very serious way.

The commission is in existence now, but there was a question initially as to whether or not it would actually exist. After initially opposing the creation of an independent commission to investigate the September 11 attacks, the Bush administration has consistently hampered the commission's investigation. They have done so by failing to fully cooperate and to share with the commission information that is necessary for it to be able to conduct its work. This is inexplicable. Why would the administration fail to cooperate with this commission? Why did the administration initially not want the commission to come into existence?

Should we infer from that that the administration had something to hide, has something to hide, does not want information to come out? It is hard to come to a different conclusion based upon the way in which the administration opposed the creation of the commission and the way in which the administration has hampered the work of the commission by failing to fully cooperate with it and to share with it necessary information. This has forced the commission, this failure to cooperate and to provide necessary information, has forced the commission to request an initial 2 months of time in order to fully complete the investigation that it is mandated to complete.

Now, while such a request would seem to be routine, President Bush and the Speaker of the House of Representatives opposed it. Both eventually relented, but they have not done so sincerely. The Speaker now refuses to allow the commission the original 60 days it was originally given after publishing its report to formally wrap up its work and communicate and work with the Congress on its recommendations. This extra time is crucial and should not be eliminated.

We are having the pretense of cooperation and the pretense of extending time but not the fact. The commission is given the same amount of time; it is just being told to do different things within the limited context of that time. The commission should have all the time it needs. Why does the administration and the leadership of this House not want to give it the time that it needs?

The Senate, on the other hand, has passed this legislation. Legislation passed in the Senate would extend the commission's report deadline and its eventual termination for an additional 2 months. The House must follow suit, and it must do so quickly or the commission will be forced to curtail its work and begin preparing its final report before the original deadline. This work is too important to rush. Why is the administration and the leadership of this House forcing this commission to work under a very tight, restricted deadline when its work is complex and complicated and it should have all of the time it needs to complete it because the information that it is going to provide is so essential to the safety and security of every American citizen?

□ 2000

Already the commission has produced findings. They have made great strides in uncovering the events that allowed the September 11 attack to occur. Let me give my colleagues just a few examples. The commission has exposed some of the immigration screening flaws that allowed the hijackers to enter the United States, including the dismal lack of cooperation among Federal agencies with security watch lists. In other words, our Federal agencies had watch lists, individuals that they were watching, that they were alerted to and watching for; but the information was not shared, and as a consequence, these people were able to slip through.

The commission has also highlighted the air security flaws that allowed the terrorists to board the planes and carry on with them makeshift weapons. The commission has uncovered evidence that United States intelligence agencies were given information that they did not use properly and information that they did not share with other elements of intelligence, other intelligence organizations within the context of our government. For example, they were given the first name and phone number of one of the hijackers. This information was provided by German intelligence. But no action was taken on it. The first name and the telephone number of one of the hijackers. Nothing was done about it. Why?

These questions must be answered, and the commission must be given enough time to develop the information which will enable these kinds of answers to be forthcoming. If given sufficient time, the commission will no doubt compile the most comprehensive and extensive report about the September 11 attack and provide Congress and the White House with concrete recommendations for improving the security of the American people. It is essential that we do that.

Throughout the commission's existence, cooperation from the administration has been grudging and delayed. The commission had to issue a subpoena to the Federal Aviation Administration in order to obtain detailed transcripts and other information about communications that took place on September 11. That subpoena had to be issued because the agency refused to cooperate. The Federal Aviation Administration would not give the 9/11 commission transcripts and information about communications that took place on the date of September 11, the date of the attack. It is just incomprehensible.

In October 2003, the commission had to threaten the White House with subpoena because the commission believed it was not being provided all the necessary materials for its investigation by the White House. While interviews have been scheduled with former President Clinton and Vice President Gore, similar cooperation has not been forthcoming either from President Bush or other members of his administration. President Bush and Vice President CHENEY refused to meet with the entire commission. Instead, they have decided that they will only agree to separate, limited meetings with the chairman and the vice chairman. They will meet separately for 1 hour and only 1 hour, and only with the chairman and the vice chairman of the commission. National Security Adviser Condoleezza Rice continues to refuse to testify publicly. The commission is now considering whether to issue her a subpoena. Obviously, because of this lack of cooperation, the commission needs more time and the deadline needs to be extended.

In addition to studying the causes of September 11, there are other things about this circumstance that the Congress ought to be looking into. Congress should be conducting a vigorous examination of the administration's actions in Iraq prior to, during, and currently with regard to the war. With the exception of limited inquiries by the House Permanent Select Committee on Intelligence, the House has failed to exercise its oversight responsibilities with respect to our operations in Iraq. The Constitution of the United States provides the responsibility to the House of Representatives to oversee the operations of the executive branch and to perform oversight functions and to carry out oversight responsibilities. What could be more important than the war in Iraq, which has now cost 550 American lives, American servicemen and -women killed, nearly 3,000 others seriously wounded, many of them lost limbs, wounds that they will carry for the rest of their lives, not to mention thousands of other lives that have been lost? What could be more important than that?

House committees should be thoroughly investigating, not just our intelligence community's massive failures but how the President and members of his administration used the intelligence that they were given to support their case for making war in Iraq. We should also examine all the other reasons that President Bush and other members of the administration cited to support his war. All of this should be examined carefully and in detail.

House committees should be thoroughly investigating the Pentagon's postwar plans. The guerilla war is continuing despite Saddam Hussein's capture. Civil strife is at an all-time high after today's synchronized bombings of Shiite religious gatherings despite the apparent adoption of an interim constitution. Why did the civilian leadership in the Pentagon ignore Army recommendations for a more comprehensive occupation? Why? House committees should be thoroughly investigating how the administration secretly awarded billions of dollars in no-bid contracts to companies like Halliburton. It is only thanks to the work of Members of the Congress, like the gentleman from California (Mr. WAXMAN) and the gentleman from Michigan (Mr. DINGELL), that we have begun to uncover the scope of some of these massive contracts and that the U.S. taxpayer is actually being overcharged, in fact grossly overcharged, for much of the work that is going on in Iraq by these companies.

House committees should be thoroughly investigating the administration's plan to hand over power in Iraq. How was this hand-over date chosen? It seems conveniently selected to take the upcoming Presidential election into consideration. Why did it take months to get the United Nations involved?

And then there is the whole matter of the case for the war itself. How did we come to go to war in Iraq? How was it that this resolution was presented to the Congress and passed in a very controversial and divisive way? Now that several months of searching have passed without finding any weapons of mass destruction and there remains no evidence whatsoever of a connection between Saddam Hussein, the leader of Iraq, and September 11, one thing is inarguably clear: President Bush and his surrogates intentionally misled the Congress, the American public, and the world about the evidence that such weapons existed in Iraq.

Some may say that this is a premature accusation because it remains possible that some weapons of mass destruction will be found. But such a discovery would not change the indisputable fact that the President, the Vice President, members of the Cabinet, particularly the Secretary of Defense, and other White House advisers were not truthful about the certainty of that evidence. The President would like us to believe that the discrepancies between what the White House said before the war and what we now know to be the truth resulted from failures in our intelligence. He has disingenuously appointed another commission to supposedly study these failures, but he has carefully bounded the commission's scope to prevent scrutiny of his own actions as well as those close to him who were involved in this decision-making process.

Gaps in our intelligence-gathering represent a gravely serious matter that needs to be examined fully. But it is even more important that we scrutinize the discrepancies between what the intelligence agencies told the White House and what the White House told the Congress and the world. If we cannot trust the President to tell us the truth about the need to send our troops into harm's way, then we have lost an essential component of our system of government. Whatever power our leaders have derives from the informed consent of the governed. This President failed to properly inform those we govern.

There are numerous documented examples of the White House's deception in this matter. Part of the administration's method of operation was to take the intelligence community's assessment that a threat may exist and transform that possibility into a certainty in its public statements. For example, United Nations inspectors found that Iraq had failed to account for a quantity of bacterial-growth media. Had this been used, the United Nations inspectors reported, it, and I quote, "could have produced about three times as much" anthrax as Iraq admitted to having.

This report was fed into the White House propaganda machine and came out somewhat differently in President Bush's October 7 address. It came out in the following form, and I quote: "The inspectors, however, concluded that Iraq had likely produced already two to four times that amount. This is a massive stockpile of biological weapons that has never been accounted for and is capable of killing millions." The added rhetoric there did not come about by accident. Those words, used the way they are in that sentence, are designed to frighten people. And people who are frightened are more likely to bend to your will, even if your will is warped and taking them in the wrong direction. If you frighten people, they are more likely to follow you. That was the intention of those words and the misleading elements that are inherent in them.

A recent report by the Carnegie Endowment for International Peace described this particular act of trickery this way: "In two sentences, possibility becomes likelihood, likelihood then subtly becomes fact, and a huge stockpile is created. Finally, biological agent is transformed into weapons, and not just any weapons but extremely sophisticated delivery systems, the only way such weapons could kill 'millions.' Small changes like these can easily transform a threat from minor to dire."

The Carnegie report has identified 40 distinct caveats or conditions included in the October 2002 national intelligence estimate that White House officials usually left out of their public statements. The Bush administration regularly omitted terms like "probably" or "we suspect" or "we cannot exclude" when telling the world what our intelligence agencies had reported. Sometimes the White House was less subtle. Secretary of State Colin Powell told the United Nations, and I quote, "Every statement I make today is backed up by sources, solid sources. These are not assertions. What we are giving you are facts and conclusions based on solid evidence." That is the end of Mr. Powell's quote. We now know that what the Bush administration gave us was indeed nothing more than speculation, speculation presented as if it were fact.

Another trick the administration and its advisers employed was the lumping of chemical, biological, and nuclear weapons under the single rubric "weapons of mass destruction." In so doing, the White House could combine the likelihood that Saddam Hussein had chemical weapons, a relatively minor threat, with the potentially catastrophic scenario of an Iraqi nuclear program for which there was never any evidence whatsoever.

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The administration further inflated the threat to the United States by insisting, with absolutely no supporting evidence, that Saddam would give weapons of mass destruction to terrorists. The October 2002 National Intelligence Estimate concluded that this was unlikely. It was unlikely, said our National Intelligence Estimate, except under imminent threat of United States attack. Establishing this nightmare scenario was essential to securing public as well as congressional support for war. Only through terrorists did Saddam pose a threat on American soil. Without that threat, enthusiasm for an attack on Iraq would have been, no doubt, greatly diminished.

Using those methods, the White House presented us with the image of a "mushroom cloud," without which they could not wage the war they had been wanting to wage for years.

Today's synchronized bombing of Shiite Muslim religious ceremonies in Baghdad and in Karbala are tragic reminders that Iraq remains an extremely dangerous place. At least 143 people were killed and thousands more were likely injured just today.

These bombings are just the latest in a series of attacks against Iraqi civilians and against United States soldiers. Five hundred and fifty United States soldiers have died in Iraq, and over 2,700 have been wounded, seriously injured. While there is no accurate figure available for Iraqi casualties, it is reasonable to assume that that number is in the thousands. The vast majority of these deaths occurred after the end of major combat, after the end of those major combat operations was announced by President Bush on May 1 of last year.

It is now conventional wisdom that the President and his administration failed abysmally to plan for the conditions in postwar Iraq. Vice President CHENEY's predictions of a rosy welcome were shattered long ago. Our troops remain engaged in a guerilla war, and Iraq's civilian population lives under constant threat by the same adversary.

Why is the House, this House, ignoring this reality? The CIA, the State Department, the Army, the Marine Corps, the Army War College, and various nongovernmental organizations have produced thousands of pages of recommendations that were ignored. These predictions have proved extremely accurate after the fall of Baghdad. Outside experts are saying that the ongoing financial, diplomatic and human costs of the Iraq occupation are far worse than expected because the administration did not take its own agencies' suggestions.

This is an extremely serious charge, yet no House committee is currently investigating what went wrong with our postwar plans. We are in this House ignoring our responsibilities to oversee the operations of the administration on matters of great and grave seriousness.

Tonight is an opportunity to outline some of the advice that has been ignored by the administration, first with regard to U.S. military recommendations. War games run by the Army and the Pentagon's Joint Staff in preparation for war with Iraq led to very high troop levels. The Army's recommendation for an invasion force was 400,000 troops. Secretary Rumsfeld envisioned the force level of 75,000.

The Army's recommendation took into account the invasion and subsequent occupation. It argued a larger force would actually be more useful after Baghdad fell as opposed to the initial invasion. A large force would allow the Army to restore order quickly and perhaps allow for a much smaller occupation force 6 months or so later.

In Bosnia the Army stationed 200,000 troops to watch over 5 million people. In Iraq, with a population of 25 million, the Army dispatched fewer than 200,000 troops for postwar action. The heart of the Army's argument was that the U.S. would win the war and do so quickly but could be trapped in an untenable occupation if there were too few soldiers.

Marine General Anthony Zinni, who preceded Tommy Franks as CENTCOM Commander, agreed with the Army's recommendation for higher troop levels. The Army had also worked out cost projections prior to the war, despite claims by Secretary Rumsfeld and Deputy Secretary Wolfowitz that it was impossible to produce such numbers.

The State Department's Future of Iraq Project is also important for us to look at. Starting in late 2001, the State Department began contemplating postwar plans and created the Future of Iraq Project. It brought in outside experts and teams of exiles and created 17 working groups designed to systematically cover what would be needed to rebuild Iraq's political and economic infrastructure. Congress authorized $5 million to fund the project's studies in May of 2002. The final report consisted of 13 volumes of recommendations on specific topics. Among the list of recommendations were these:

First, restore electricity and water supplies as soon as possible after regime change by employing Iraqis, thereby creating jobs and engendering goodwill toward the coalition by the indigenous population.

Secondly, they recommended do not disband the entire Iraqi army. The project suggested purging the Iraqi army of its Baathist elements but retaining most members to help restore public order and provide for the country's defense when the U.S. departs. It also stressed, however, that "all combatants who are included in the demobilization process must be assured by their leaders and the new government of their legal rights and that new prospects for work and education will be provided by the new system." The report later detailed steps on how this could be accomplished.

The project went on to stress how disorderly Iraq would be soon after liberation, despite Vice President CHENEY's rosy predictions. The report predicted the power vacuum and the crime and looting that followed Saddam's removal would be extensive, and, of course, they were entirely accurate.

The report also suggested that despite the need for a long United States postwar commitment, instituting a long-term military government would alienate the Iraqi people.

The report also warned against the ill will that would result from Iraqis being seen as working for foreign contractors instead of having foreign contractors be seen as assisting the Iraqi people. We have seen all of that come to pass because the recommendations of that report were ignored.

There were other suggestions that came from the Central Intelligence Agency that were forwarded to the administration. The common theme among all CIA predictions was that disorder would follow the fall of Baghdad. The CIA believed that rivalries in Iraq were so deep that quick transfer of sovereignty would invite chaos. The CIA began running war games to plan for the postwar Iraq. These included representatives from the Defense Department. But when the Secretary of Defense's office heard of this kind of cooperation between Defense and the CIA in the early summer of 2002, the Office of the Secretary of Defense reprimanded the Department of Defense employees who participated and ordered them to stop cooperating with the Central Intelligence Agency. It is astonishing.

These war games were intended to make cost predictions and simulate potential problems. Because of that they were seen as weakening the case for launching this "war of choice."

There were also numerous recommendations from nongovernment organizations and the relationship of NGOs and USAID. In the fall of 2002, USAID began planning for postwar Iraq. Since it was the natural contact for nongovernmental organizations, these NGOs were concerned with relief operations in Iraq. At the time most high-ranking officials in the Bush administration were comparing the eventual fall of Iraq to the fall of Germany and Japan. The NGOs strongly disagreed with this assumption and made those views known to USAID.

The NGOs believed Iraq would likely fall into chaos following regime change and requested that sanction restrictions be lifted from them so that they could prepare for postwar Iraq. The NGOs should be allowed to go there and make the arrangements so that postwar Iraq could be organized and people would see that there were organizations that they could relate to and that chaos would not ensue. This request was denied. The NGOs continued to stress the disorder that would follow war, but all they received back from USAID representatives were broad assurances that everything was taken care of.

There was a report from the War College. In January, 2003, the Army War College produced a report that addressed Iraq reconstruction challenges. It predicted long-term gratitude towards the United States was unlikely and that if the United States had to supply the bulk of the occupation force this would lead to many more problems in postwar Iraq. The Army War College report strongly recommended that a large international force would be ideal for postwar occupation. It also provided a 135-item checklist of what tasks would have to be done right after the war and by whom those tasks would have to be accomplished.

According to those involved with this report, the Pentagon paid little attention to any of its postwar recommendations.

There were, of course, unrealistic assumptions. Exaggerations during the buildup for war were not limited to weapons of mass destruction. Administration officials often made widely ridiculed assumptions about postwar Iraq. Here are just a few: Both President Bush and Vice President CHENEY claimed we would be greeted as liberators. USAID Administrator Natsios claimed rebuilding would cost U.S. taxpayers $1.7 billion. Secretary Rumsfeld and Deputy Secretary Wolfowitz repeatedly claimed it was impossible to guess any costs for the war. Secretary Rumsfeld called former Economic Adviser Lawrence Lindsey's claim that the war would cost $200 billion way off. He thought that was a gross exaggeration. Wolfowitz claimed reconstruction would cost U.S. taxpayers very little. What is the record? To date, the United States Government has spent approximately $150 billion in Iraq, and we know that the President has an additional bill of at least $50 billion which he will present to the Congress sometime after the November election. Lawrence Lindsey's recommendation seems quite good now based upon the experience. It is too bad he was not listened to at the time.

The House of Representatives must investigate. These examples are just the tip of the iceberg. There are literally thousands of pages of postwar planning that were prepared and then ignored.

Why was the Defense Department and not the State Department initially put in charge of postwar Iraq? Why were we not more prepared? Why did the administration not take its own recommendations? Why were we told there were no cost estimates when of course there were?

Postwar plans were available and they were ignored. The House of Representatives must investigate this to ensure that legislative remedies are examined and to put in place mechanisms that will prevent another failure of this magnitude.

Just for a moment let us take a look at the no bid contracts. Halliburton and Bechtel already have contracts in Iraq worth $3.14 billion. Those contracts result from the conflict in Iraq and the reconstruction efforts. Yet the gentleman from California (Mr. WAXMAN) and his staff at the Committee on Government Reform have found that the cost of many of the reconstruction projects could be reduced by 90 percent if the projects were awarded to local Iraqi companies rather than contractors like Halliburton and Bechtel. The American people, in other words, could be saving 90 cents on the dollar if this reconstruction activity were done in a way that is not designed to benefit the people who benefit the administration.

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There is ample evidence of overcharging. We have learned that Kellogg Brown & Root, a Halliburton subsidiary, is overcharging the United States for fuel delivered to Baghdad from Kuwait. They are charging as much as three times the amount for gasoline that can be purchased there on the market, inflating the price three times.

We have also learned that Kellogg Brown & Root employees received kickbacks from a Kuwaiti subcontractor in exchange for awarding that subcontractor a reconstruction contract. But that is all. How much of a kickback was there? Who were these people who received the kickback? Who at Halliburton knew about it? Who at the Defense Department may have known about it? Who else in the administration may have known about it? There is an awful lot of information we do not have, and that is why this investigation needs to go forward.

Members of Congress were informed of these sole-source noncompetitive contracts by media reports, by investigative reporters in the media. Despite repeated requests by Members to Federal agencies, the administration has been slow to respond, or simply has declined to provide details about why these large private contracts were awarded on a non-competitive basis.

Here are two brief examples. USAID awarded several contracts worth hundreds of millions of dollars to a few companies it hand-picked to compete against each other, yet repeated inquiries from the minority on the Committee on Government Reform to USAID have been brushed aside, and now USAID has refused to provide copies of the contracts or information on how it chose which companies would bid on these initial contracts.

This is the taxpayers' money. We are spending enormous amounts of money, and it is being spent secretly, and the Congress is not being allowed to look at the contracts or examine how this bidding process went forward.

The administration has also failed to disclose information about its sole-source oil field contract with Halliburton's Kellogg Brown & Root. Kellogg Brown & Root was awarded a no-bid contract on March 8, 2003, but the Defense Department did not disclose until April 8 that this contract has a potential value of $7 billion. Today, despite a recommendation by the Army Corps of Engineers to open this contract to public scrutiny, the Defense Department continues to keep its content classified for allegedly national security reasons. Whose security is at stake, we have cause to wonder.

House committees must investigate. It is clear that Members of Congress are receiving grudging and delayed cooperation, if they receive any cooperation at all, from the administration regarding reconstruction contracts. Only a formal committee investigation will be able to answer the serious questions and allegations that have arisen from these no-bid contracts and this no-bid process.

Ambassador Bremer has set the deadline for transferring power back to the Iraqi people as June 30, 2004. This date falls conveniently close to the beginning of the summer Presidential campaign. The date was set solely by the United States, despite recent events indicating that Iraq will not be able to make a peaceful transition without the United Nations leading negotiations. This begs the question. Was this date set for political purposes?

The House should be asking these questions and demanding clear proof of the reasoning behind this date. Part of the original reasoning was that elections in Iraq would be held shortly after the transition deadline to ensure the legitimacy of the new government. But that is no longer the case. The United States plan for such an election was roundly rejected, and it was the United Nations that had to step in and negotiate a solution to the election question.

Does this administration still believe the United Nations is a "worthless debating society"? I wonder.

Under the United Nations plan, national elections will take place in the late fall of 2004. Should this new development not affect the transfer date? The Congress and the American people deserve answers to these questions that at this late date still remain unanswered.

So, Mr. Speaker, we have two issues. One is the 9/11 commission and why that commission is not being allowed the time it needs to complete its work comprehensively and completely and provide answers to questions that beg answers, answers that we need as Representatives and which the administration should have also, if it does not have them already.

The 9/11 commission should be given more time to carry out its work, and the 2-month extension is not too much to ask. Why are we rushing the completion of the work of that commission? That question ought to be on the mind of every Member of this House, and every Member of this House ought to demand an answer. The extension ought to be granted, and it ought to be granted sincerely and accurately so that they have the full time that they need to complete their work.

There, of course, remains all of the questions that I raised, and many, many more. I have just begun to scratch the surface of the questions that remain with regard to what happened prior to our going into Iraq in that war, what has happened during it, and what is continuing to happen and what we will do subsequently with regard to that country. Many questions remain unanswered.

The responsibility to develop those answers lies with this House of Representatives. The leadership of this House should appoint appropriate bipartisan committees to look into these matters. We are derelict in our duty. We are not fulfilling our responsibilities to the American people on an issue that is of paramount importance, an issue that involves thousands of lives, hundreds of billions of dollars in American treasure and the future safety and security of the American people. Those answers should be forthcoming, and there should be no delay in setting up the mechanisms which will allow them to come forward.

POLL SHOWS ENTHUSIASM FOR FREE TRADE FADES

The SPEAKER pro tempore (Mr. KLINE). Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, I wish to place in the RECORD this evening a poll done by the University of Maryland that shows that even high-income Americans, those earning over $100,000 a year, now have lost their enthusiasm for free trade and the loss of jobs in this country as they perceive their jobs are now threatened by white collar workers in China, in India and other countries, and rising anxiety exists across all income bands in our country relative to free trade.

So it is as much of a curiosity as anything that the chairman of the President's Council of Economic Advisers, Mr. Greg Mankiw, caused an uproar recently when he said the practice of shipping out our jobs, outsourcing U.S. jobs, is good for our country.

How can shipping out our jobs be a good thing? Not surprisingly, Mr. Mankiw was forced to backtrack and profess his sympathy for anyone who had lost a job. My goodness, that is the least he could have done. Predictably, Mr. Mankiw was defended by free trade fundamentalists like The Washington Post and some of his fellow economists. But something has changed profoundly in America over the past 10 years, and I would say it is reality. Reality has set in coast to coast.

NAFTA is celebrating its 10th anniversary, and we are seeing the impact of failed NAFTA-style trade policy throughout our country and continent.

It is no longer just in Ohio and Michigan, although the Great Lakes States are undoubtedly the epicenter of the job-loss earthquake. It is not just the Carolinas or Massachusetts, where the job losses have been so staggering. And it is not just vehicles, cars and trucks and the massive auto parts industry. It is not just machining businesses, and it is not just machinery in general.

In fact, the damage to our economy from outsourcing and the doctrine of free trade is no longer confined to just the manufacturing sector.

Something has changed in America, and it will undermine and eventually destroy public support for NAFTA-style trade agreements. Suddenly, it is not only manufacturing jobs that are being outsourced to Mexico, to China and other low-wage platforms. Now outsourcing is beginning to bite into whole new sectors of our economy, where the promise of future job growth once lay. Indeed, the loss of jobs in manufacturing has been dramatic over the past several years.

Look at these sectors: apparel, 37 percent of the jobs lost; textile mills, 34 percent; primary metals, down 25 percent; machinery, down 22 percent.

But the decline in what has been called knowledge-based industries has been dramatic too: computer and peripheral equipment, down 28 percent; communications equipment, down 39 percent; semiconductors and electronic components, down 37 percent; electrical equipment and appliances, down 23 percent; telecommunications, down 19 percent; data processing, down 23 percent.

During the NAFTA debate, the free trade fundamentalists promised that high-wage, high-benefit jobs would be replaced by high-wage jobs in the computer sector. In other words, automotive industry jobs would be replaced by computer jobs.

Wrong. As economist Paul Craig Roberts wrote recently in the Washington Times, "For years, as U.S. multinationals moved manufacturing offshore, Americans were told their future was in 'knowledge jobs.' Today, knowledge jobs are being moved offshore more rapidly than even manufacturing jobs were moved away."

The Institute of Electrical and Electronics Engineers said last week that in 2003, the U.S. jobless rate for computer scientists and systems analysts has reached an all-time high of 5.3 percent. That is roughly in line with the national unemployment rate of 5.6 percent. In Ohio, the unemployment rate is 6.2 percent, in my region of Ohio, over 8.4 percent, and in some counties of Ohio as high as 18.5 percent.

But the burden of proof is now in the proponents of NAFTA-style trade agreements. If outsourcing is sending the jobs of highly trained computer scientists, computer programmers and medical diagnosticians overseas, then where are the new jobs supposed to come from?

It is hard to believe, but Vice President CHENEY said, "If the Democratic policies had been pursued over the last 2 or 3 years, the kind of tax increases that both Messrs. KERRY and EDWARDS have talked about, we would not have had the kind of job growth we have had."

I would just ask the Vice President, where is the job growth? I do not see any job growth. And that is what the average real American is asking too, where are the good new jobs going to come from? Where?

Mr. Speaker, I include for the RECORD the poll I referred to earlier.

[From USA Today, Feb. 24, 2004]

Poll: Enthusiasm for Free Trade Fades; Dip Sharpest for $100K Set; Loss of Jobs Cited

(By Peronet Despeignes)

High-income Americans have lost much of their enthusiasm for free trade as they perceive their own jobs threatened by white-collar workers in China, India and other countries, according to data from a survey of views on trade.

The survey by the University of Maryland's Program on International Policy Attitudes (PIPA) is one of the most comprehensive U.S. polls on trade issues. It found that support for free trade fell in most income groups from 1999 to 2004 but dropped most rapidly among high-income respondents—the group that has registered the strongest support for free trade. "Free trade" means the removal of barriers such as tariffs that restrict international trade.

The poll shows that among Americans making more than $100,000 a year, support for actively promoting more free trade collapsed from 57 percent to less than half that, 28 percent. There were smaller drops, averaging less than 7 percentage points, in income brackets below $70,000, where support for free trade was already weaker.

The same poll found that the share of Americans making more than $100,000 who want the push toward free trade slowed or stopped altogether nearly doubled from 17 percent to 33 percent.

Rising anxiety about free trade and shipping out of U.S. jobs could intensify an already fierce political battle this election year.

In the fight for the Democratic presidential nomination, Sen. John Edwards, D-N.C., has gained ground on front-runner Sen. John Kerry, D-Mass., by hitting Kerry's support for free-trade agreements that critics say have cost American jobs. The two have bitterly accused each other of supporting past agreements.

Whoever the Democratic nominee, he is expected to use the trade issue against President Bush, whose administration has generally been supportive of free trade.

The poll was released last month, but breakdowns by income level were performed at the request of USA TODAY. The results are based on responses from more than 1,800 U.S. residents. The margin of error is ±2.3 to 4 percentage points.

The findings suggest that anxieties about free trade long held by lower-income Americans and blue-collar workers—who have been losing jobs to cheaper labor markets abroad—have spread up the income ladder.

The findings come as the U.S. job market remains sluggish and accounting, computer programming, radiology and other high-end service jobs are being lost to workers abroad.

"This is huge," said Steven Kull, director of the Maryland polling unit. He said the PIPA poll shows most Americans remain supportive, or at least tolerant, of free trade, but with big caveats. "They're not saying, 'put on the brakes,'" he said. "But they are saying, 'Don't step on the gas. Don't rush. We need to make adjustments. We need more time to adapt to these changes.'"

IN DEFENSE OF ACTIONS TAKEN IN IRAQ AND TEACHING AN APPRECIATION FOR WESTERN CIVILIZATION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Colorado (Mr. TANCREDO) is recognized for 60 minutes as the designee of the majority leader.

Mr. TANCREDO. Mr. Speaker, as I listened to the comments that preceded me in the Special Order that dealt with our involvement in Iraq, certain thoughts came to mind that I think I would like to present this evening prior to getting involved with the issue of primary importance right now, or, I should say, not primary importance, but the issue I had intended to bring forward. I will do that, but I will do it subsequent to the thoughts I have had listening to our loyal opposition.

We have heard for approximately an hour that there were a number of things wrong with the intelligence reports that we received; that there are problems that we now face in trying to pacify Iraq; and that as a result of these things, there should be investigations. And a lot of people's integrity has been called into question, not the least of which the President of the United States.

□ 2045

There are many issues that I disagree with the President on, and I have not been hesitant to express my opinions when I do disagree. But on this issue of Iraq, let me just present a few ideas that may I hope stimulate some thinking about whether or not we were right to do what we did in Iraq.

I would ask, Mr. Speaker, for all of us to think about what pundits and political opponents would have said if in some time between, say, 1933, when Hitler took power in Germany, and 1939, when finally the world decided to go to war against Hitler, or at least a good portion of the world decided to go to war, what if at any point in time between 1933 and 1939 the United States and Great Britain and as many other countries as would join us would have taken a very, very bold action? And that action would have been preemptive. It would have been before any sort of aggressive action had been taken by Germany and by Hitler against the West, against the Allies, before Poland had been invaded, even before Czechoslovakia. Could we imagine what would have happened on this floor and throughout the world, really, in terms of the reaction, if America and a group of nations had taken preemptive action and stopped Hitler, if we had gone into Germany, if we had deposed Hitler and attempted to bring about a different and truly democratic regime?

Well, certainly there would have been an awful lot of second guessing. Certainly there would have been people here on the floor of the House talking about the fact that we really do not know for sure whether V-1 and V-2 rockets were being developed. Maybe the hard evidence would not have been available at the time. And so where were we? Why were we doing such things and was it not against all rules of engagement, was it not something that we should be challenging our administration for and saying you did the wrong thing?

We did not have all of the very specific information that we needed to make this decision. Could it be that we would have been questioning whether or not Hitler's intention would have been to, in fact, bring about the "final solution" for the Jews in the world?

All these things would have been speculative, certainly. We could not have perhaps proven that that was his intent. We would have been perhaps without all of the hard evidence to bring in front of the world body to prove that the decision we made to preemptively act was right. But if we had done so, just think about what would have been the outcome of that decision and that action. Fifty million people, 50 million people died as a result of our unwillingness to take action. National treasure, untold national treasure had to be expended; and, of course, hundreds of thousands of American lives were lost to try and stop him and stop the Axis powers after they made their intentions perfectly clear.

Now, I think that there is a lesson to be learned here, and it is that at some point in time it is imperative that the civilized world take action and, in fact, take preemptive action to try to prevent an occurrence similar to World War II. If we could have done that now, knowing what was the outcome of World War II, knowing what it took to actually stop him when we chose to finally get involved, who would suggest that we should not have taken preemptive action?

Does anyone really believe that we should have waited knowing now what we know? Does anybody believe that we should have waited for Hitler and the Japanese empire to strike first? Well, we did. That is history. And we know the outcome. So I will suggest to the body that there was a great deal of evidence presented not just to the United States but to many other countries and many other intelligence networks around the world that would lead us to believe that there was a problem in the making in Iraq. No one, not a single person has ever denied the fact that Iraq was in the process of developing nuclear weaponry and weapons of mass destruction; and, of course, we knew that they had used similar weapons in the past. So that was not a question.

The question is would he have, would Saddam Hussein have actually used those weapons had he gotten ahold of them? How long would it have taken for Iraq to actually obtain those weapons? Those are questions we do not know the answer to right now, but we can be fairly sure by all of the empirical evidence that we have in front of us that they have would have developed the weapons and that either he would have used them or think of this, what if, what if those weapons became disposable to the two sons of Saddam Hussein, Uday and Qusay? Does anybody really believe that they would like to live in a world where those two guys would have the ability to push the button?

Well, now they are gone. Saddam is in custody. Uday and Qusay are history. So now we can stand on the floor of the House and we can get on all of the talk shows and say we really did not have all of that to worry about. It really was not worth the expenditure of our resources, both human and financial. Well, maybe not. But I have to say that from everything we know about history and from everything that we know, absolutely, unequivocally know, not the if's, not the "I wonder if," but what we know about the regime in Iraq would lead us to believe that the action we took eventually would end up saving a lot of lives. Not only that, but we are now engaged in a very difficult process and that is to impose democracy, to plant the seeds of democracy in an area of the world in which, of course, it is a very alien idea. And the task is incredible, it is true, but think of the task we have faced when we chose to rebuild Germany and Japan and to rebuild those countries on democratic models. In Japan, of course, where it had never ever existed before, and in Germany, where it had been bastardized, the concept of democracy. We undertook that huge, monumental task; and people could have said in 1946, 1947, 1948, look at the problems we are facing. How come we have not been able to construct these democratic models over there by now? Why are American troops still occupying Germany and Japan? Why are our people still at risk? Why are we spending hundreds of millions of dollars which would equate in today's terms to hundreds of billions of dollars in the rebuilding of both Japan and Germany? Why are we doing it? They would have been there and they may have been here on the floor saying those things at that time. I know that is true.

I am not saying they are not legitimate questions and that they should not be raised. All I am saying to you is that we have history on our side. We know what happens when you do not undertake the task, and we know what happens when you do in fact persevere, when you say we are going to rebuild these countries, it is going to take a lot of money, a lot of time and a lot of effort because they are not used to this concept; but did it work out to the benefit of humanity that we did what we did? Of course it did.

Who argues that we should not have rebuilt Western Europe and even Japan? They became prosperous. They became willing to accept the ideas and ideals of Western civilization, which will get me into my next area of discussion here. But we faced all of these things. We did it. We persevered.

In terms of the time frame that has expired between the ending of major hostility to today, it is a blink of the eye. Think how long it took for the United States of America to perfect this concept of a republic based on democratic ideals. It did not happen overnight. You may recall at the end of our revolution many people went to George Washington with a council, figuratively speaking, a council and said, We want you to be king. And, of course, Washington refused and said that is not why we fought a war against a king. That is not the kind of government we were going to establish. Even then, of course, we did not warm to this concept of a republic very quickly.

The Articles of Confederation were problematic. There were things in them that did not actually address all of the problems that we had in this country trying to pull it together. Just as today we are watching Iraq in this process, and we are saying, gee, whiz, even their constitution, or the lead up to the constitution, even what we have developed in Iraq today is problematic because we still do not know whether or not exactly what the role of religion will be in Iraq.

Well, you may recall that we did not know exactly what the role of slavery would be in the United States and we refused to address it in the Constitutional Convention because we could not come to an agreement. So we put it off and, admittedly, it led to a lot of violence. But the issue was settled. The republic remained and we now still present to the world the best possible hope for stable government and for peace. But it did not come easily. It did not happen when Cornwallis surrendered at Yorktown. Lots of things, even bloodshed followed the surrender of the British.

Peace will not come easily in Iraq. Democracy will not come easily in Iraq. Many trials and tribulations lay ahead, much bloodshed, certainly true. Should we abandon it because there are these obstacles? Shall we walk away because the challenge is very, very difficult? Well, that is the proposition that is put before us. And I suggest to you that planting democracy and the concept of a republic in a part of the world where it had not heretofore existed is a worthy endeavor.

□ 2100

I also suggest to my colleagues that our efforts in Iraq up to this time can be described as noble.

This is an interesting situation that we are in; and this develops into another discussion that I want to have tonight, and that is the value of Western Civilization and what it really means, because tomorrow I am going to introduce a resolution, and I am joined by many of my colleagues, and the resolution is a simple one.

It says that this body, the Congress of the United States, believes that all children graduating from schools in this country should be able to articulate an appreciation for Western Civilization; and it may seem to some at first to be a heavy topic, some amorphous idea, and one might wonder what are its practical implications and why

I would be doing that, as I say, and I and my colleagues would be doing this.

I think in a way it is ironic that we are desperately attempting to implant concepts of Western Civilization in a place called Iraq while we, in this country, challenge their relevance in our schools and in our textbooks and certainly in the media in our culture. I believe that we are in a war that can be described as a clash of civilizations. There is a great book by an author by the name of Samuel Huntington called the "Clash of Civilizations," and I remember reading this book, I do not know, maybe 8 years ago and thinking that it was interesting; but I remember going back and reading it again after 9/11 and thinking that it was profound and prophetic.

I believe the United States is in a clash and Western Civilization is in a clash of civilizations. It is a real clash, if you will, a real war. It is bloody. There are times when the clash becomes even more violent and times when it subsides, but the clash is real and it will be here for some time. The clash is with radical Islam. It is with people who have said openly and repeatedly that their desire is to come here and kill you and your children, me and my children, to eradicate us from the planet.

There is an interesting diary, I do not know whether it was on Al Jazeera, but it was published some time ago, and it is a diary of a person who became a suicide bomber. He talks about in this diary why he has to do what he believes he has to do. He says that the ultimate threat to his view of Islam is the West, is the concept of a republic, a democratic republic. He said that this is a threat to the heart; this is a threat to the existence of Islam as he saw it because what the West provided, through democratic principles and free enterprise, was the good life essentially, what it sort of boils down to. It provided the good life. People could achieve more and more; and, yes, they could achieve in monetary ways, but they could also achieve even from the standpoint of advancing oneself and one's self-esteem, and this he said would turn people away from looking to the afterlife as the ultimate goal or as the ultimate glory.

I can tell my colleagues that certainly there are aspects of Judeo-Christian tenets that tell us also that it is what comes next that is important, but Western Civilization has allowed us many things. It has provided a system and a set of ideas and ideals that have served humanity well; and, yes, those ideas and ideals are a threat to other ideas; and, therefore, a clash occurs.

How do we fight this war? How do we deal with this clash? Well, of course, it will require the force of arms at times, and it will require the commitment of resources, and it will require something else. It will require a belief in who we are, which by the way is the title of Samuel Huntington's new book, which I certainly commend to everyone, "Who We Are."

We have to know the answer to that question. We have to know who we are. We have to understand that this Nation uniquely was created on the basis of ideas and ideals, all other nations formed for other reasons, but ours started for a brand new reason, ideas. Those ideas were held up to the world, and people came from all over the world to embrace them. Uniquely, we said this old concept that people should be ruled by individuals is not acceptable; it has not worked out well and it does not accrue to the benefit of most human beings. So Western Civilization was based upon a different idea, and it is called the rule of law, not the rule of man, not one person making arbitrary decisions about everything that affects our lives, but the law making those decisions as developed by people who represent all of us, a brand new concept that we put into effect and that I think serves the world well.

Western Civilization was based on other ideals, the ideal of the individual being superior to that of the collective; the idea that humans had inalienable rights. This is a Western concept. No place else does it show its face but in Western Civilization.

Today, in America, however, there is a movement, a philosophy, I call it radical multiculturalism. It has taken hold of our society. It is seeping its way into our public schools and on to our college campuses. This philosophy may be peculiar to most Americans; but it does seem to be taking hold among elites, academics, the media, and certain groups within the political establishment. It is a corrosive movement, and its purveyors are threatening to accomplish in the classrooms what they could not get through elections: one, to erase the notion of citizenship; and, two, to teach young people that there is nothing positive or unique about America and that Western Civilization contributed nothing to world history but imperialism, slavery, and discord.

Let me emphasize something here. I do not for a moment want to tell the children of America, the citizens of America or the world that we believe that we have never done anything wrong and that Western Civilization is nothing but a set of ideas and principles that have been put into place without problem. Many of those ideals are not yet reached, by the way. So I am totally and completely supportive of the thought that we have to teach our children the truth about who we are, the truth, warts and all; but I have to tell my colleagues I am becoming extremely concerned, as I think many others are, about the fact that we concentrate so much of our effort and time on teaching children and immigrants into this country that there is nothing good about Western Civilization or about the United States as a representation of that civilization.

These are some examples that we have taken, by no means exhaustive. These are just tiny little snippets of some of the things we tell our children in textbooks and some of the things that, in fact, teachers and professors have told our children about America, about the West, all in an attempt to essentially eliminate any concept that there is something good and special about us and who we are, and I will go through them in a minute.

I just want to tell my colleagues about something that happened to me just a short time ago.

I was visiting a high school in my district, and there were probably 150 to 200 students who came into the auditorium to have a discussion with me; and it went on for, as I say, about 60 minutes or so, and at the end, some students were sending up written questions. One of them said, What do you think is the most serious problem facing the country? I said, well, I am going to answer that question with a question, if you do not mind, and that is this. How many people in here believe that we live in the greatest Nation on the Earth or as Michael Medved always says, on God's green Earth? And I looked around. It was fascinating to see what happened out there.

This was a suburban district in Douglas County, Colorado, middle- to higher-income families in the area, predominantly white. If one looked up suburbs in the dictionary, probably a picture of this particular area, and when I asked the question how many of you believe that you live in the best country in the world, about two dozen raised their hands, most of them very sheepishly I should say, and the rest just sat there. Some looked uncomfortable, and I must admit that I thought to myself at the time that some of them looked like they actually wanted to say yes, but they were afraid to. They looked at the teachers who were lined up on the sides of the walls. They were kind of looking at them like, gee, should I actually say this, and more than that I think that they were thinking, if I say yes, if I say yes I believe I live in the best country in the world, someone might challenge me, maybe even he will, and would I be able to defend that principle.

These are high school students; and I said, well, let me ask you about do you realize that we are a product of Western Civilization and that how many of you would agree that this is something again about which you can be proud? Maybe a dozen at that one, and I said, well, this is what I consider to be one of the biggest problems facing America, what is happening to you and what has happened to you as a result of this multiculturalist philosophy that we push in the schools.

☐ 2115

This idea that all cultures are at worst the same; at best they are better than ours; and that we cannot make these kinds of statements about what is better or best, about which country is better or best, which civilization is better.

Now, that happened, and I know it is not unique to this little typical suburban school in my district. I could have asked that question in any high school in America and the response would have been similar; tepid, sheepish support, with most people saying, I do not know, I do not care, and what does it matter?

I wonder how this could have happened. How is it that people living here in this country, at this time, can look at the rest of the world and not recognize that every single day millions of people are struggling to get here, if not to America at least to Western Europe; that they are struggling to get to Western civilization? And I have to ask, how many people do you know that are struggling to go the other way? Is that not empirical evidence of some sort that what we have is pretty good; that it is worthy of our allegiance, worthy of continuing?

People ask me why I am so involved with the immigration issue; why I speak on that issue so often. Well, there are a whole bunch of reasons, and they deal with jobs and the environment, and the cost, and all that sort of thing. But after all of that is said and done, I worry about this. I worry about the fact that we are not doing a very good job of creating a society, a cohesive, homogenous society out of all of the disparate parts that make up America. I worry that we are working very hard to divide us, to divide this Nation into camps; into Balkanized areas that are based on linguistic, cultural, or political differences while simultaneously trying to erase anything that smacks of an attempt to bring people together around a set of ideas other than the concept of diversity, which is the only thing that multiculturalists will say is worthy of our allegiance.

I worry about what will happen to us in this clash of civilizations when it is not only the force of arms necessary to win the day but it is the force of ideas. For us to be successful as a people, as a civilization, as a country we have to know who we are, where we came from, and where we are going. We have to believe in who we are, where we came from, and where we are going. And I worry that too few of us know who we are, where we came from or where we are going, and that this in the long run will prove to be our undoing.

So that is why I talk about immigration, and that is why I talk about issues like this. That is why I worry about the fact that in the textbook called Across the Centuries, which is used for 7th grade history, the book defines the word jihad as "To do one's best to resist temptation and overcome evil."

Now, maybe that is somebody's interpretation of jihad. But, remember, this was not even suggested as someone's idea, this is presented as the interpretation, the definition of jihad: "To do one's best to resist temptation and overcome evil."

I guess we would not want to tell children, would we, that that word implied something quite different? It is a call to arms to those people who believe we should be annihilated, and everything we believe in should be wiped out because it is a threat to fundamentalist Islam. Well, we need to say it, because it is true. We may not like it, we may feel uncomfortable by telling children the truth, but it is imperative that we do so. That is not the only definition of jihad.

In 2002, the New Guidelines for Teaching History in New Jersey's public schools failed to even mention America's Founding Fathers, the pilgrims, or the *Mayflower*. How do you tell the history of the United States, I might ask, without mentioning the Founding Fathers, the pilgrims, or the *Mayflower*?

Maybe it is a good thing that the book did not, because in many textbooks, and certainly out of the mouths of many teachers, the mentioning of these people would be in derogatory terms. The Founding Fathers, all white men, who were slave owners, who came here to pillage and rape and whatever. Columbus came here to destroy paradise. I have seen that.

So maybe it was better that they did not mention it. Do you think at least some reference to the ideas and ideals upon which this Nation was founded should have been made, and the fact that people struggled and died to bring those ideals into fruition? Do you think that was worthy of mentioning?

In a Prentice Hall textbook used by students in Palm Beach County High Schools, titled A World Conflict, the first five pages of the World War II chapter focused almost entirely on topics such as gender roles in the armed forces, racial segregation in the war, internment camps, and women and the war effort.

Do you think I make this stuff up? You can go and look, if you do not believe me, that this is in fact being taught to our children. This is in the textbooks of the schools in this Nation.

By the way, Madam Speaker, if anyone were to be so inclined, they can go to our Web site, www.House.Gov/Tancredo and they can click on a popup that says Our Heritage, Our Hope, and they can see what I am talking about here, and they can also sign up to help us in this endeavor to change the situation. And I have some very specific things I would like them to do.

A Washington State teacher substituted the word "winter" for the word "Christmas" in a carol to be sung at school programs so as not to appear to be favoring one faith over the other. The lyrics in Dale Wood's carol From an Irish Cabin were changed to read "the harsh wind blows down from the mountains and blows a white winter to me." Not "Christmas."

I was in a school, again in my district, again a typical public school, and it was right before Christmas. I was talking to a lot of, I think they were in grades 5 and 6 in an elementary school. When I left the room, I said Merry Christmas. Again, there was this kind of an uneasy response, and some kids said okay. And as I was walking out the lady who had invited us to come and speak, who was an aide at the school, said, you know, the principal does not like us using the word "Christmas" here. I said what is that, as I pointed to a Christmas tree in the hallway? And she said, that is a seasonal tree. And I said, are you telling me that we cannot use "Christmas"? And she said, no, the teachers do not.

So I went back and I yelled, as I was leaving and all the kids were coming out, I said, Merry Christmas, and they all said, Merry Christmas. But this is happening, of course, in schools all over the United States. I bet if people go to their own schools and check these things out, they will see what I am saying is not just unique to my little suburban district in Colorado.

In a school district in New Mexico the introduction to a textbook called 500 Years of Chicano History in Pictures states that it was written "In response to the bicentennial celebration of the 1776 American Revolution and its lies. Its stated purpose is to "celebrate our resistance to being colonized and absorbed by racist empire builders." The book describes defenders of the Alamo as "slave owners, land speculators, and Indian killers," Dave Crockett as a cannibal, and the 1857 "War on Mexico" as an unprovoked U.S. invasion. The chapter headings include, Death to the Invader, U.S. Conquest and Betrayal, We Are Now a U.S. Colony, In Occupied America, and They Stole the Land.

Now, again, I certainly do not say that mistakes were not made, that manifest destiny as an idea and an ideal did not have inherent in it problems for other people. I certainly believe that is true, and I believe we should teach our children about those problems. But this is what we call objective history text?

I am going to repeat it. This book, it said, was written "in response to the bicentennial celebration of the 1776 American Revolution and its lies." Its stated purpose is to "celebrate our resistance to being colonized and absorbed by a racist empire builder."

Children are often taught only the most negative things about the United

States and about Western civilization. And if these efforts go unchecked, children will lose any real connection to the goals and aspirations and ideals of America and the West, the ideals exemplified in the Constitution and articulated by the people who founded the country over 200 years ago. If we fail to instill these values in our children, we risk losing our national identity.

It is not surprising to me that a brand new phenomenon is developing in the United States with regard to the immigrant community. Since about 1947, the United States has allowed people to claim a dual citizenship. Most of this happened in 1947 as a result of the creation of the State of Israel, and to provide Israelis here with the opportunity to travel back and forth and to state their allegiance to Israel by accepting a dual citizenship. But we never had very many people, to tell you the truth, that actually accepted that offer. It numbered in the hundreds of thousands, at the most, at any given time in America.

Today estimates are that there are between, we do not know for sure, 5 and 10 million people in this country who claim a dual citizenship, mostly with Mexico, after Mexico allowed Mexican nationals to keep their citizenship once they came to the United States. This happened a couple of years ago, and the number skyrocketed.

When we tell people that they should keep their political associations, political allegiances to other countries, that they should keep their language of origin, that they should not actually blend into this American mosaic, should we be surprised by the fact that they do not?

□ 2130

McDougal's "The Americas," another textbook, states that the Reagan-Bush conservative agenda limits advances in civil rights for minorities. Again, these are statements of fact by a textbook, not somebody's opinion, and that the conservatives' bid to dismantle the Great Society's social programs could be compared to abandoning the Nation.

It goes on to include a text stating that Communism had potentially totalitarian underpinnings, and contrasts future Taiwan President Chiang Kai-Shek's repressive rule with Communist Chinese Dictator Mao Zedong's benevolence toward peasants in the early 1940s.

Now, if we did not know anything else and read this, why would you not believe it to be true? If the book and your teacher failed to mention the deaths of about 65 million Chinese after Mao came to power in 1949 or Taiwan's peaceful transformation into a thriving, pluralistic multiparty democracy, no one would know this. They would never understand it. They would never truly understand world history. Would we be lying to tell children this was the case? Would it be chauvinistic of us to suggest that it was not just the possibility of some totalitarian underpinnings, but a totalitarian regime, and that Communism could only survive out of terror.

Is it not acceptable for us to tell the truth? That is what I wonder. Why are we so fearful about telling children about who we are really, all of the warts but all of the good things, too.

Here is a study by Philip Sadler, director of science education at the Harvard-Smithsonian Center for Astrophysics, which shows that students who had taken high school physics classes that used textbooks did substantially worse than high school classrooms that used no textbooks at all. I would suggest that if these other textbooks, these history textbooks are an example of what we are doing, it would be better to not use them at all.

Madam Speaker, tomorrow I am going to ask this Congress to pass a simple resolution, and that resolution will state, as I said, that all children graduating from our schools should be able to articulate an appreciation for Western civilization. That is it. No mandate, no textbook mandates, no curriculum change, just whatever you do, this should be an outcome.

Simultaneously we are going to be joined by State representatives all over the country who will be introducing into their representative legislatures a similar resolution, and we are going to be joined by hundreds of Americans, and this is where other people can get involved because we are going to be joined by I hope eventually hundreds of thousands, maybe millions of American citizens who will go to their school board with a resolution that we have on that Website that I mentioned earlier, www.house.gov/trancredo, and go to Our Heritage, Our Hope, and there you will see a copy of a resolution that a person could take to their school board and ask their school board to adopt.

Now, the NEA, the National Education Association, has already attacked this proposal. And I keep thinking to myself, what is there about this? And not just the NEA. Tomorrow is when we are going to actually drop this resolution and announce it, but we have had all kinds of people responding saying that in fact this is a bad idea. Now, please, let us really think about this for a second. They are saying it is a bad idea to teach children facts so that they could articulate an appreciation for Western civilization. I mean, is that not the definition of what would be a good history education, a good civics education? Should children not be able to articulate those principles?

We can argue whether they are right or wrong, but we should be able to have children who can articulate them, understand who we are, where we come from and where we are going.

I know that this is a stretch for a lot of people. It is hard for a lot of people to get their hands on this because it is not an issue that you can condense into a bumper sticker, but I encourage people to think through this and think about the possibility that it is important for us and for our civilization to actually transmit these goals and ideas to the next generation. We cannot continue to teach only the negative. Doing so contributes to the balkanization of the United States into subgroups, subcategories, and hyphenated Americans.

In Numbers U.S.A., an organization that does a lot of great work and also has a great Website, Numbers U.S.A. talks about the fact that if we continue as we are in terms of population growth and the source of our population growth in this country, being 90 percent from immigrants, that by the year 2100 two-thirds of the people here in the United States will be descendants of people not yet here at the present time. Think about that. In 96 years, two-thirds of the people living in this country will be descendants of people not yet here. Think about that and then think about what we are teaching them, the folks that are coming in and the folks that are here about who we are. How can we expect this new Nation essentially that will be created by 2100 to be steeped in the same goals and principles and ideas?

Again, Madam Speaker, I hope that we will be joined by hundreds of thousands of Americans all over the country who will be willing to say that it is important for their schools, it is important for our civilization that we teach children to appreciate the value of Western civilization and there is something we all can do about it. I am going to do what I can do here, State legislators will do what they can do in their respective bodies, and then it is up to the people of this country to take this on and move it forward. It will determine whether we are a Nation at all in years to come.

PROTECT HAITIAN LIVES

The SPEAKER pro tempore (Mrs. BLACKBURN). Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. CONYERS) is recognized for 60 minutes.

Mr. CONYERS. Madam Speaker, this Special Order is taken in a spirit of deep sadness and regret about the events that are going on in the nation of Haiti. We have come here this evening to recommit ourselves to the proposition that the United States has a responsibility to prevent the loss of life and the continued deterioration of the nation of Haiti. The present administration's inaction has undermined democracy and security in Haiti, and it is our responsibility to make sure that this does not get any worse.

So we, Members of Congress, call upon the administration to protect

Haitian lives by restoring order, upholding the rule of law and disarmament across the country. The current state of affairs in Haiti is chaos. The rebels who were empowered by our inaction must be held accountable and not allowed to benefit from their violence. Humanitarian aid must flow to Haiti immediately. A humanitarian corridor with supplies of food and water and medical equipment must be established to provide assistance to the beleaguered Haitian people. Humanitarian aid must flow to Haiti immediately. We must support the formulation of a donor conference so the people of Haiti can finally get the kind of assistance that they so desperately need and so properly deserve.

This administration is misinterpreting and failing to honor the spirit of the Haitian constitution. Where is Article 149 in the transitional government talks?

So we as Members of Congress call upon this administration to follow the rule of law and the Haitian constitution. In it, Article 149 of the 1987 Haitian constitution clearly outlines the process by which the interim president is appointed and it includes the ratification of the legislature. Due to the unwillingness on the part of the political opposition party's willingness to participate in elections, there is no legislature to confirm the interim president; and, therefore, the recently sworn in president is, unfortunately, regrettably not ruling pursuant to the Haitian constitution.

On Sunday President Bush said, "The Haitian constitution is working." How does he believe just because he said it that that could make it true? The President forgets that when they fail to respond to the opposition's rejection of the U.S. brokered peace plan that they had in fact repudiated their own plan for peace. It was just on Monday of last week that Secretary of State Powell said "The United States will not support the overthrow of a democratically elected government by thugs and criminals."

For the administration to remain mute while the constitutional process was thwarted and then to pressure President Aristide, the one who was compromised to resign, is in no way in line or in accordance with Haiti's constitutional process.

Moreover, now that the administration has created this constitutional quagmire in Haiti, it is reprehensible to claim that the constitution is working.

□ 2145

Our administration is jeopardizing the lives of countless numbers of Haitian asylum seekers by enforcing immediate Coast Guard interdiction without an opportunity for a fair asylum hearing.

Members of Congress call on the Bush administration to extend temporary protected status to Haitian asylum seekers because returning to Haiti will pose a serious threat to their personal safety.

To require the Secretary of Homeland Security to designate Haiti under section 244(b) of the Immigration and Nationality Act so that the nationals of Haiti present in the United States or reaching our shores may be granted temporary protected status. This would mean that both Haitians who are present in the United States and those who may be fortunate enough to make it to shore will not arbitrarily be sent back to Haiti until the country is stable.

This administration's neglect of Haiti and the intentional, systematic dismantling of the Haitian social, economic, and political circumstance which culminated in the current political instability and provided the environment for a coup d'etat.

As Members of the Congress, we call on our leaders in Congress to hold joint public hearings between the House Intelligence Committee and the International Relations Committee on the Bush administration's role in undermining a democratically elected government in, of all places, the western hemisphere. The United States should not have allowed the opposition in Haiti without a legislative popular mandate to veto the possibility for peace in Haiti. Now there is mayhem and on-the-spot executions and other atrocities which are taking place daily.

Why did the United States not send in a force to reinforce the police when a political solution was still possible? Why did the United States only act after that possibility, along with President Aristide, was removed? Why have the rebels not been arrested? Were their actions not illegal? How did the leaders of the insurgence, some of whom are the most notorious torturers and death squad members, return to power? Louis Jodel Chamberlain is a former military leader who led a brutal paramilitary group that backed the most recent of Haiti's coup d'etats in 1991. The other, Guy Philippe, is a charismatic former soldier once loyal to President Jean-Bertrand Aristide who fled Haiti 3 years ago after being accused of drug dealing and of treason.

What are we to say to history? How will we account for this tragic set of circumstances that have now surrounded this poor beleaguered nation? As of today, the United States Coast Guard has repatriated 902 Haitian refugees to Port-au-Prince despite the escalating and continuing violence there. A handful of Haitians only have met the "credible fear" standard required for asylum. They remain on Coast Guard vessels and are being assessed by asylum officers from the Department of Homeland Security's Bureau of Citizenship and Immigration Services.

Officials from the Department of Homeland Security and Coast Guard have said that Haitians picked up at sea who indicate that they are afraid of returning to Haiti are given interviews with asylum officers on Coast Guard cutters. Haitians are not individually asked if they have a fear of return, nor are they necessarily spoken to individually where they may have a chance to say why they left. Homeland security says that when people are afraid, they find a way to convey that. I do not know whether any of the Coast Guard officials who first encountered the Haitians speak French or Creole. If Haitians do not express fear somehow, then they are given an interview with asylum officers who either speak French or Creole or have interpreters. Thus far, three Haitians have been found to possibly have a credible fear of persecution. Those who are deemed to be economic migrants have been turned over to the Haitian Coast Guard and were disembarked in Port-au-Prince. The last repatriation was today when 21 refugees returned to the Haitian Coast Guard. No new refugees have been picked up by the United States Coast Guard since Friday; and as far as is known, the repatriations will be ongoing despite the terrible insecurity in Port-au-Prince.

I have been unable to get information on the current control of the Haitian Coast Guard now that the government in effect ceases to exist. It seems that the United States Government is still treating the Haitian Coast Guard as an official agency under legitimate command of the Republic of Haiti.

And so, my colleagues in the Congress, we are now called to an immediate task to make right, to correct the terrible wrong that has been visited much by our inaction upon the 8 million inhabitants of this small country. We have a duty to persist. It is not over. We will investigate, we will protest, we will evaluate, we will persuade, until the majority of the American people are convinced that we cannot leave this wrong, which is a wrong for which we must be responsible, to go uncorrected. That is the pledge I leave my colleagues with on this evening.

I am pleased to yield to the gentlewoman from Texas (Ms. JACKSON-LEE), who serves with great effectiveness on the Committee on the Judiciary of the House of Representatives and is the ranking member on the Subcommittee on Immigration.

Ms. JACKSON-LEE of Texas. I thank the distinguished ranking member of the full committee for yielding.

Madam Speaker, this has been a tumultuous and trying set of days for the members of the Congressional Black Caucus and other Members of this House who have shown their leadership and concern for the Haitian people. I want to thank, particularly, the gentleman from Michigan for an untiring and unrelenting effort as the chair of the Haiti Task Force, a persistent and informed advocate for Haiti over the years, knowledgeable about issues of democracy. I join him tonight because I believe that not only have we tainted the page of democracy but some might say that we have torn it from its book.

As I look over this last weekend and the last couple of days in the meetings that we held or had with both the Secretary of State and the National Security Adviser and, of course, the President of the United States, the Members who were present were there in good faith and they had good intentions to be able to accept or at least to make real democratic principles, and, that is, our plea was at that time to establish a humanitarian corridor, to have an international force of peacekeeping and peace maintenance, and to restore or to have a diplomatic solution once the violence had ended.

Unfortunately, I believe that the direction that was taken was maybe somewhat parallel to what we saw in Iraq. Interestingly enough, the people of Iraq did not call the United States in for a unilateral, preemptive attack against Iraq. We all acknowledge the despotic and heinous acts of Saddam Hussein, but the people did not call us. But yet the people of Haiti begged for our intervention and they asked us to intervene along with the head of state. Unfortunately, they decided to ignore them. And what we have today are the following words, in an article dated March 2, 2004, in the Houston Chronicle. U.S. officials have called for the rebels to lay down their weapons now that Aristide has surrendered power. But the rebels make it clear that disarming is not in their playbook. Philippe, 37, and we know Guy Philippe, a former police chief, has said he has no intention of becoming Haiti's next president; but in the vacuum left by Aristide's departure, Philippe and the other armed rebels have become a force that cannot be ignored.

Tippenhauer, another one of the opposition party leaders, said he and other opposition politicians were not formally cooperating with the rebels before Aristide's resignation, but they would have to deal with them now. Rebels, insurgents, individuals who have criminal records, I happen to believe that all are innocent until proven guilty; but there is a long history of their involvement in violence. And so the question is to the American people and to this government, how could you depose of and remove a duly elected democratic President in the name of Jean-Bertrand Aristide and now place as leaders of the Haitian nation those who have been called many names, rebels and thugs, opposition leaders who are in fear of their lives, and rebels who suggest that they are not about to lay their arms down.

And so, Madam Speaker, I am joining with my colleagues to ask now for full congressional hearings, not next week, not next month or next year, but immediately. President Aristide, who I believe has no reason to misrepresent how he was led away from his nation, his presidency, has indicated now in fear and apprehension that he was swished away from his home against his will. The question is who and why and who directed it. The question is whether or not the United States will abide by the governance of international law and whether or not we will tell the American people the truth.

We now have as my colleague here on the floor of the House has so eloquently put in his statement and joined by the gentleman from Florida (Mr. MEEK) those Haitians who are now in the United States who are in fear of their lives, there needs to be an immediate addressing of the question of temporary protection status. I join with my colleagues in pressing that opportunity and that emergency need. I further press the need for a complete overhaul of the treatment of Haitians in this country and will be pressing for, again, legislation to equate Haitians to Cubans, that when they touch the soil, their status will be able to be adjusted.

I join the gentleman from Michigan in asking the question, how can you interrogate a boatload of Haitians by a global question, looking at them, asking either the leader or whoever is the senior person on board and then determining whether or not there is a credible claim of fear? I believe that the Homeland Security Department has to immediately revise its policies to retrain inspectors and immediately send out a directive that says each individual Haitian and family member must be questioned separately as to whether or not their life has been threatened and that they are in jeopardy upon returning. I have joined my colleagues in sending letters to the Speaker of the House and the leader of the House to ensure that we have these immediate investigations. It is imperative that they be the International Relations Committee, the Permanent Select Committee on Intelligence, and I would offer to say the Select Committee on Homeland Security and the Judiciary Committee. Questions of the violation of law have been raised.

Allow me just to read these words as I come to a close. In 1825, France forced Haiti to assume a debt of $90 million to compensate French plantation slave owners for their financial losses in exchange for France's recognition of Haiti's independence.

My friends, Haiti paid back that debt. It took them 100 years, to 1925, to pay back $90 million. President Aristide, duly restored to power in the 1990s and then stepping down from power, having a duly democratic election for a new president who served 5 years, and then the people of Haiti reelected him, came back and asked France, one of the nations who early on had asked for him to leave or to be deposed, if you will, or to step down and resign, a few years later President Aristide asked for that debt to be repaid to the Haitian people, totaling about $21.7 billion in today's currency.

□ 2200

That amount of money would have restored Haiti to its prominence, would have provided them with the ability to rebuild its crumbling economy. Restitution, reparations, fair reparations, that this should have occurred. Is it not interesting that as President Aristide tried to hold his nation together, the International Monetary Fund, the World Bank, and the leadership of this Nation refused to release funds that would have helped the agrieconomy and other aspects of its economy be rebuilt, and yet we blame President Aristide in totality for the condition of this nation?

I join the gentleman in asking and demanding an immediate response by this administration that international forces be maintained in Haiti to keep the peace and to hold the peace, that immediate infusion of funds come into that Nation in order to provide a safety net for the people who are now starving without water and good food, and as well that the constitutional premise be adhered to and that is that the transition of government be adhered to under Article 149 where it speaks to the transfer of government. The present leader now admits he is not a politician. I do not even know if he will have the wherewithal to lead Haiti in this time, but what I will say is that the hand of the United States is very much involved in this process. Thugs have said that they are not going to lay their weapons down. What I actually say tonight is that we have a crisis, and I believe, along with the United Nations, this government has a responsibility to stand up and be counted. I am asking the administration now to be counted in this effort to rebuild Haiti. I am also asking for this administration to be accountable for what has happened to President Aristide, a duly-elected President, and I am asking for this Congress to abide by the Constitution for the fact that this Congress is an oversight body and ask the hard questions as to why freedom has seemingly been jeopardized and seemingly been undermined in the last 48 hours.

I thank the gentleman from Michigan (Mr. CONYERS) for allowing us to have an opportunity to be able to challenge both our government and the international arena for what has occurred to an independent people who have sought nothing but freedom in this 200th year of their independence. I will continue to join with the voices of those who will join and stand up with them and be reminded of words heard earlier this evening: Someone said how does one change this government? They said by agitation, agitation, agitation. And I hope tonight will be the beginning of our agitation of change.

Madam Speaker, I rise this evening to once again ask the Administration to take leadership and responsibility to bring peace and stability to Haiti. We read and hear in all media sources information that suggests that the CIA may have been involved with or had knowledge of the alleged kidnapping of Haitian President Jean-Bertrand Aristide. I have reached out to our leadership to request that they schedule congressional hearings immediately to investigate this matter. One government was supposed to be in Haiti for the specific purpose of helping restore peace, give humanitarian aid, and to uphold the principles of democracy and the rule of law. Apparently, the Administration had another agenda in mind. If the allegations are true, it will be an atrocity, an embarrassment, and a hypocrisy for this Administration to facilitate the commission of a crime against international law and an act that is completely adverse to the principles of democracy.

His Excellency, the Prime Minister of Jamaica, P.J. Patterson, chairman of the Caribbean regional group, CARICOM, has verbally supported the allegations that Aristide had been removed illegally. I question the authority that guided the CIA and the military's involvement in the removal of President Aristide—especially since he has been duly elected under a recognized democracy.

Because there is uncertainty as to what caused President Aristide to depart from or to be removed from Haiti, it is imperative that we hold immediate Congressional hearings to ensure that there has not been a violation of international law. Allowing or facilitating the removal of a democratically elected president in a manner that violates international law sets a dangerous precedent for other established democracies and tarnishes our reputation in the international community.

I rise this evening to once again revisit the escalating political crisis in Haiti. I, along with Members of the Congressional Black Caucus (CBC) met with President George Bush, Secretary of State Colin Powell, and National Security Advisor Dr. Condoleezza Rice to discuss the immediate need for the establishment of a humanitarian zone with foresight in Haiti.

When I, along with my colleagues of the Congressional Black Caucus met with President Bush concerning this situation, we stressed that the United States must support democracy and that the rule of law is paramount. Instead of political ideologies, we need to preserve the innocent lives in the region where over 70 have been killed and dozens wounded to date. Violence, chaos, and anarchy cannot be allowed to oust the democratic government.

The deadly uprisings in this war-torn nation come at the hands of the same factions that ravaged Haiti several years ago. Reports show that two of the rebel leaders are the most notorious torturers of the death squads, having already earned a reputation of infamy in a massacre that took place before Jean-Bertrand Aristide returned to power.

Louis-Jodel Chamblain is a former military leader who once orchestrated the most recent coup d'etat in Haiti in 1991 with a brutal paramilitary group. Guy Phillipe, a charismatic former soldier and loyalist to President Aristide, fled Haiti three years ago in exile to the Dominican Republic to escape charges of drug-dealing and treason. Phillipe and Chamblain crossed the Dominican border back into Haiti a week ago to join their gang of former police and soldiers.

We cannot allow innocent Haitians to die at the hands of thugs who want to thwart the establishment of democracy. We hope that, after our meeting, the President will call for an affirmative plan to respond to the Opposition Party's rejection of peace proposals offered by the Caribbean Community (CARICOM) and the Organization of American States (OAS). Our acquiescence and inaction will soon suggest support of the opposition; therefore, it is time that we acted to demonstrate our strong commitment to democracy, constitutional government, peace, and the rule of law.

Humanitarian aid and military assistance are critical needs for the Haitians given the threat that demonstrators may thwart the delivery of food and other relief items. There has already been a cry for assistance by President Aristide. Haiti, the poorest country in the Western Hemisphere, with only 4,000 police officers for 8 million citizens has formally requested humanitarian aid and security forces.

As we work with the government of Haiti to explore the role of the international community in averting civil war, we must also begin to look beyond the current crisis. For example, Haiti continues to be in dire need of food aid and medical assistance. The current unrest could set off an exodus of refugees. Furthermore, there is an uncertainty as to the timing and fairness of the next elections is promoting suspicions and instability. We must anticipate the work that will have to be done in order to effectively and humanely process the imminent influx of refugees by improving our immigration screening and detention processes.

I do not believe that Haitian refugees receive a fair chance to satisfy the requirements for entitlement to an asylum hearing. Also, I am disturbed by the lack of parity between the Haitian refugees and the Cuban refugees. While Haitian refugees are detained and then removed from the United States, Cuban refugees who reach American soil are welcomed. They are admitted or paroled into the United States, and a year later they are eligible for adjustment of status to that of lawful permanent residents. This difference in treatment is unfair and unjustifiable.

I will support a bill sponsored by our colleague Mr. MEEK of Florida to designate Haiti under Section 244 of the Immigration and Nationality Act to allow Haitian refugees to obtain Temporary Protective Status (TPS). I have signed on to join my brother today in fact to take leadership in this crisis.

Furthermore, I will introduce a piece of legislation, the "Comprehensive Immigration Reform Act of 2003." Section 502 of this bill responds to Attorney General Ashcroft's decision in Matter of D–J–, 23 I&N Dec. 572 (AG 2003), in which he denied bond release to a Haitian on the ground that giving bond to undocumented refugees who come to the United States by sea would cause adverse consequences for national security and sound immigration policy.

This legislation would permit the adjustment of status for Haitians who meet the following categories:

(1) The individual would have to be a native or citizen of Haiti;

(2) The individual would have to have been inspected and admitted or paroled into the United States; and

(3) The individual would have to have been physically present in the United States for at least one year.

The Caucus advocates positive action by the U.S. Government to support peaceful and democratic efforts to alleviate the violent and unsanitary conditions to prevent the spread of diseases such as HIV/AIDS. Collaboration by and assistance from the United Nations will be key in the effort to stimulate the participation of the international community. The Haitian people must implement the organic constitutional and democratic principles to indicate its contrition and willingness to effect change. With the plan to institute a democratic form of governance must accompany maintenance of the rule of law so as to ensure the development of a framework of fundamental rights. Violence will not bring about peace, but fair and transparent electoral processes will.

Madam Speaker, I hope that our words are heard and that this nation will move to end this problem before a full-scale civil war results. Action today will translate into an investment that will benefit innocent Haitian lives and the immigration challenges that do not diminish. I urge this Administration to do the right thing and to provide the humanitarian aid and security provisions necessary to save these lives.

Mr. CONYERS. Madam Speaker, I thank the distinguished gentlewoman from Texas for her analysis and her contributions to this discussion.

I yield to, if he desires, the gentleman from Florida (Mr. MEEK).

Mr. MEEK of Florida. Madam Speaker, I want to thank the chairman for holding this special order on Haiti tonight. I believe all through the week and next week and the week after that and the month after that that we will continue to raise the issue of the policy decision that the Bush administration has put forth as it relates to Haiti. I must say that it is sad today in this democracy that we celebrate that we are now in the position and seen by the world community as being a country to decide who will lead in a democracy and who will leave a democracy.

Madam Speaker, I just wanted to come down here for a minute. This is the front page of the Washington Post. Mr. Guy Philippe, the rebel leader who went through Haiti, taking cities over and left about 70 people dead in the path of that. Here is the cover of the New York Times. This is Mr. Philippe again, with two armed individuals with AK–47 fully automatic weapons, going through the streets of Port-au-Prince. Mr. Philippe called a meeting today and he said if police chiefs throughout Haiti and also the prime minister, if they did not show up, that he would place them under arrest. He has declared himself as the leader of the Haitian army. He said that he respects democracy and that he would respect the wishes of the now president, who was the supreme court justice, if he asked him to lay his weapons down.

Madam Speaker, I am no great cheerleader, I must add, of President Aristide or the opposition forces, but I am a cheerleader for democracy, and I will tell the Members, regardless of what anyone may say or what they feel, representing south Florida where we have several Haitian Americans, I must add that it is a disappointing day on behalf of democracy. The fact that the President of the United States, along with the Secretary of State, along with Mr. Noriega, who is Assistant Secretary of State, made the singular decision to go visit President Aristide on a Saturday night to give him two options: One, board a plane to save his life or, two, die. I do not consider that an easy and nonpersuasive discussion. I will take that as a very persuasive discussion if someone, just any American, just think about it, if military forces came to one's house representing the United States of America and said they have two options, one, leave with us and live, two, die, we will not stop them from killing them.

Madam Speaker, we have a lot of distinguished Members that are ready to address the House here tonight, but I want to say regardless of how one may feel toward Haiti, the administration, as far as I am concerned, the Bush administration had something personally against President Aristide. It was personal. This was not, well, he is not a great guy, he is not this, that, and the other. Guy Philippe is a murderer. He is a murderer and a thug and still carrying out thuggery on the streets of Haiti. He is willing to arrest the prime minister? He is going to arrest any police chief who did not show up at a meeting, and he is parading around the streets with armed individuals? This does not look like security for Haiti. What this looks like is more difficulty for Haiti. And he says he is interested in politics; so, Madam Speaker, I will say to the other Members the next leader of Haiti is going to be the person with the biggest guns and the most guns and who are willing to do what they have to do. I will tell the Members also as it relates to U.S. forces on the ground, what the Bush administration did on that Saturday night, Sunday morning have endangered the lives of American troops that are there that are trying to restore peace and security there, and international force troops, the President himself has placed their lives in jeopardy. As a member of the Committee on Armed Services, I am very upset about that. We do not go and do this kind of Saturday night visit giving people an ultimatum.

Madam Speaker, I look forward to the hearings that will be hopefully held in the coming days here in this Congress because if we allow this to happen as a U.S. Congress, we are in for a rude awakening from the international community about our integrity as it relates to democracy. I thank the chairman so very much.

Ms. JACKSON-LEE of Texas. Madam Speaker, may I just thank the gentleman for his leadership. He has just heightened the drama and the fear and the crisis that we are in. Coming from south Florida, does it make any sense for this administration not to immediately grant, as the gentleman has requested, temporary protective status to present to those who may be in fear of their lives? When we have just read that we have Guy Philippe who is not laying down his arms, he indicated that he is going to arrest leadership of government if we even have a government, is there any reason for this not to be granted in the next 24 hours to protect the people that the gentleman represents and others around the Nation?

Mr. MEEK of Florida. Madam Speaker, that answer is yes. I just want to say that the President and the Department of Homeland Security can grant temporary protective status as they have done in similar situations in Nicaragua and other places where they had disruption and danger on the streets. But, Madam Speaker, I must say the repatriating of 900-plus individuals seeking safety and refuge and to get a true asylum hearing of being returned back to Haiti, 12 executions, 12, took place on Monday. These are pro-Aristide supporters. Twelve individuals died execution style. So I am going to tell the Members right now that our country, and I will not even say our country, I would say our leadership has placed us in that position. So, once again, we have other Members here. We will be hitting the floor in the coming days and coming hours. It is important that we have leadership in this House that is willing to schedule congressional hearings immediately based on the actions of the executive branch on a Saturday evening to go to a democratically elected president's home and tell him either he gets on a plane or he loses his life.

Mr. CONYERS. Madam Speaker, I want to tell the gentleman from Florida (Mr. MEEK) that as usual his perception about this problem is remarkable. I know that he has not an awful lot of seniority, but he worked on this problem for many years before he became a Member of Congress. He worked in his State legislature as a State senator. He worked alongside with his mother, Ms. Carrie Meek, who held a seat before he did. So it is very important that we seriously analyze the contribution that he has made tonight, and I thank him for it.

I yield to the gentlewoman from California (Ms. WATSON).

Ms. WATSON. Madam Speaker, I thank the chairman so much in this late hour.

The die has been cast. Our country's leap year contribution to Haiti's bicentennial celebration is another example of the support of violence over democracy when it suits our national political interests.

There is no doubt that this administration empowered the so-called opposition which consisted of no more than a coterie of wealthy Haitians, CIA operatives, neo-Duvalierists, and drug merchants to inflame a struggling populace. We did this by denying a democratically elected president the support and the resources needed and promised for his people's development.

This rebel opposition is no more than a retread of the same elements traditionally militating against the people's interest ever since the African slaves soundly thrashed the finest of the French and other European legions to reclaim their freedom 200 years ago.

The United States State Department, which "never negotiates with terrorists," had sufficient cozy contact with the Haitian rebels to convince them to delay their onslaught on Port-au-Prince. Even after the rebels rejected terms of settlement acceptable to President Aristide, in a matter of hours the State Department acceded to the rebels' demand, the removal of President Aristide.

There is a distressing school of thought that subscribes to the new official spin that President Aristide has no one but himself to blame for this sordid state of affairs. Maybe Aristide is to blame for not realizing that there was no way that the Haitian elite and their U.S. conservative supporters would allow a government of black ex-slaves to succeed in this hemisphere.

□ 2215

Maybe the priest-turned-politician was too naive in committing his faith and the fate of his people to the tender mercies of the U.S. State Department.

Maybe Father Aristide was so consumed in doing good that he could not recognize the need to play ball with the powers that be, making himself a conduit through which the millions of international aid funds would flow into the greedy hands of the elite who would keep Haiti impoverished while they pranced on the ritzy edges of society.

But whatever the cause, the deed has been done. Regime change has again trumped sovereignty. The first democratically elected president of the first black nation in this hemisphere has, on the last day of Black History Month, 2004, been removed from office and escorted into exile.

Whether Aristide's removal was voluntary, that is, by free will, or voluntary, as in eagerly handing over your wallet to a gunman in the alley, will be resolved, I hope, in time. The question is, where do we go from here?

As legislators, we have a duty to attempt, wherever possible, to snatch victory from the jaws of defeat. So far, the United States has spearheaded the drive to commit peacekeepers on the Haitian scene, to bring back stability to the political environment and to set the stage for prosperity and development. Keeping the peace is the simplest of these missions. You can keep the peace by totally suppressing disorder with overwhelming force, or you can rely on the natural establishment of peace emanating from the application of social justice and economic prosperity.

In Haiti's case, building a solid social and economic structure is more important than building our concept of democratic institutions, and military forces and police law and other actions are only applicable if required in the pursuit of social and economic goals.

Therefore, the size and national composition and duration of deployment of the peacekeeping force should be determined by the extent and the progress of the nation-building force, and not by proposed election schedules. Rather, the question of political elections in Haiti from now on should be determined by the stability and the economic progress achieved and sustained by an interim government replacing the deposed Aristide regime.

This situation proposes that the international community, possibly through the United Nations Development Program, deploy a Haitian Reconstruction Commission, a nation-building force charged with the responsibility for reconstructing the economic and social fabric of Haitian society, and with the employment of the peacekeeping force, constitute the interim government of Haiti.

Any intervention that fails to establish an interim regime strong enough to assert a humane face on the Haitian nation and that lacks the sustained commitment of the U.S. and the international community to Haiti's future well-being can only condemn the millions of that country to the future of neo-slavery from which Dr. Jean-Bertrand Aristide tried to save them.

Madam Speaker, we have much work to do to right an egregious wrong that has been committed by our so-called democratic administration. We must act.

Mr. CONYERS. Madam Speaker, I want to express my appreciation to the gentlewoman from Los Angeles, California, for the work and steadfast commitment she has had to make democracy work in a tiny, impoverished nation, now celebrating its 200th anniversary. I thank the gentlewoman deeply.

I yield now to the distinguished gentleman from New York (Mr. OWENS), who has worked in this as long as anyone I know.

(Mr. OWENS asked and was given permission to revise and extend his remarks.)

Mr. OWENS. Madam Speaker, I want to thank the gentleman for having this Special Order at this critical moment in the history of Haiti and world relations.

First, I would like to salute Jean-Bertrand Aristide, the Father of Democracy in Haiti. In all the years Haiti has existed, it has never had a democracy. Jean-Bertrand Aristide was elected democratically in 1991. He was deposed by a coup d'etat by the army. He was here in this capital for 3 years.

He went back after the Congressional Black Caucus urged President Clinton and worked very closely with President Clinton to restore democracy to Haiti. He went back, and he gave up the fact that he had missed 3 years. He did not insist on serving 5 years, he just completed the term, 2 years. Like George Washington, he stepped down in order to guarantee there would be a constitutional process going on, just as George Washington stepped down. He stepped down and there was another president for 5 years, and then Aristide came back. He was reelected later on for another 5-year term.

It is important for people to know that Jean-Bertrand Aristide was not in charge of Haiti for all these years that you hear talked about, especially the year that the parliamentary elections were questioned. The parliamentary elections that were questioned were held and the irregularities that were charged, which involved six out of 100-some people elected, those irregularities were charged during a period when Jean-Bertrand Aristide was not in power. It is important to get the chronology straight.

There are many people who say that Jean-Bertrand Aristide has only one fault, and some of us might have a tendency to want to agree with that, and the fault is he is not a seasoned politician. He came out of the priesthood. He was a priest. He was almost murdered three times before he was elected president.

This priest, who some say is an inept politician, also was able to maintain influence, to maintain a following for all the years that have gone on since he was first elected. While he was out of office, he had influence and had a following. Does that sound like somebody who is inept and not a person who knows how to organize people?

He has been accused of being a ruthless dictator. I have been trying to find out what the basis of that charge is. What ruthless dictator do we know who would disband his army? What ruthless dictator would not want an army?

One of the most important things that Jean-Bertrand Aristide did when he went back after being deposed by the army was to abolish the army. The army of Haiti has been in charge ever since the United States created the army.

Most people do not know the United States Marines created the army of Haiti. In their long occupation of more than 30 years, they built the Haitian army. After they left, whenever there was somebody not liked by the rich governing families, the oligarchy of Haiti, whenever there was somebody not liked by the United States, the army was used to remove them. He got rid of the army. What ruthless dictator would get rid of the army?

I just want to say that this democratically elected president, this very unusual person of a magnitude you do not see in politics usually, who is accused of so many crimes in general, but when you start asking people specifically what he did, nobody ever has an answer.

Did he go all over the world shopping, like Baby Doc Duvalier and his wife, spending $1 million on a weekend? Did he have palaces built like Saddam Hussein while the population starved? Where is the personal use of government funds to be seen? Nobody can tell me specifically any of that.

But what I do know is because of his antipathy toward violence, because he understood the long history of Haiti and did not have an army, he has been taken advantage of by terrorists. Terrorists. If you look at the fact, this is a group of terrorists that has taken over Haiti. Terrorists.

Now, we have varying degrees of suspicion about to what degree our own government was involved. We do know certain individuals well known to our government who have cooperated with the CIA in the past have shown up among these terrorists. We do know that they had modern weapons, United States weapons, machine guns, grenade launchers and so forth, that are not made in Haiti.

We do know that our government said to Aristide, we will not accept your agreement. Aristide agreed to the CARICOM agreement, and our government would not support the legitimate government of Haiti, and say, well, you agreed, therefore we will step in and protect you from the violence until there is some kind of settlement. No. They said to Aristide as long as the opposition, as they called it, do not agree, we will not get involved in trying to guarantee the safety of your government.

They empowered the terrorists. Whatever else they did not do, whatever other lack of complicity there is, there is the open complicity of the United States Government in empowering the terrorists, making them equal to Aristide, saying unless they agree, you have a doomed government.

Beyond our own United States of America, the international community went along with all that, unfortunately.

There is a lesson, unfortunately, here, for all the Caribbean nations of this hemisphere and for small nations throughout the world. There is no more gunboat diplomacy. There will not be any obvious takeover that the United Nations can object to, but look forward to a new kind of takeover process; and that is the process with the use of terrorists.

Evidently, some people think there are good terrorists and bad terrorists; there are terrorists you can use and terrorists you have to worry about. But I say that Haiti is a victim of terrorism, and we should bear that in mind as we start sifting out the facts. As we go to our hearings, as we call into account our own elected officials and our appointed officials connected with this, let us remember to ask the question, have we acted in complicity with terrorists?

I thank the gentleman very much for yielding to me, and again congratulate him on this Special Order.

Mr. CONYERS. How profoundly we are in the debt of the gentleman from New York (Mr. OWENS) for his contribution tonight and from across the years around the people and the country and the idea of a democratic process.

Madam Speaker, I yield to the gentlewoman from Florida (Ms. CORRINE BROWN), a strong and dedicated leader and fighter in seeking justice for Haiti.

Ms. CORRINE BROWN of Florida. Madam Speaker, let me just say that I am sick and tired of being sick and tired.

I think everything goes back for me to the 2000 election when we had our own form of coup d'etat; when in my district alone, over 27,000 votes were stolen, 27,000 votes. So when we think about the domestic issues, I go back and blame that election. But what happened this weekend and last week is just unacceptable.

This administration, the Bush administration, it is clear, if you do not go along with them lockstep, then they will take you out.

□ 2230

Look at Venezuela, look at Iraq, and now Haiti. For the past 3 years, this administration, the Bush administration, along with its leadership have blocked humanitarian assistance to Haiti. And, yes, the Haitian people are suffering. And the words "corrupt government," what do you have to be corrupt with? We block any funds from the international community. The majority of the money that the Haitian people receive is for those people that are working abroad in the United States and sending it back.

I am on the Committee on Transportation and the Infrastructure. I understand something about infrastructure, roads, bridges. They do not have food, water. The people are suffering. But we are responsible for the crumbling of that poor island. And I want to thank the chairman because I have been there on numerous occasions with him. And, of course, he and I and others in the Congressional Black Caucus attended their election. And I can tell you that the people were excited about voting. And I can also tell you that 27,000 votes were not thrown out in Haiti like it was thrown out in Duvall County.

But I have four questions that I would like to just ask the chairman and other Members. The first one, to what extent do you think the role of the United States played in a Haitian coup d'etat? What part did we play?

Mr. CONYERS. Well, apparently there was an American role. The details have not been forthcoming because what actually happened has been covered up with a series of misrepresentations that are clearly not accurate, and that is a challenge that remains for us to uncover. That is our job as legislators. And I think that the gentlewoman's fierce determination to get to the bottom of this will lead this country, this Congress, to an honest evaluation of what has gone down.

Ms. CORRINE BROWN of Florida. Madam Speaker, in talking to other international leaders and, of course, we have to be careful not to call any names because then they will also be put on the hit list, but they were very disappointed with the leadership of the Bush administration. They were willing to act but not only would this Bush administration and its leadership not act; they blocked other nations from acting. So do you think that the State Department has been honest to the American people in regard to Haiti?

Mr. CONYERS. Madam Speaker, it is very clear that what has happened and what has been explained as what has happened are both totally inconsistent and have yet to be reconciled and that this is another responsibility that has added to our duties.

Ms. CORRINE BROWN of Florida. Mr. Chairman, do you believe that if the United States had acted earlier in a more humane way that this crisis could have been averted?

Mr. CONYERS. Now, on that I firmly believe that had we not taken the incredible diplomatic position that we had to resolve a political dispute before security could be brought to the people, that we would not be in the position that we are in.

Just consider, how can you tell people that when the rebels do not want to compromise, do not want to negotiate, do not want to resolve the violence, that unless President Aristide can reach a conclusion with them, they did not even listen to representatives of the United States, much less their own government, because they were determined not to reach a political accord, something that was patently obvious from the very beginning?

Ms. CORRINE BROWN of Florida. Madam Speaker, I would like to thank our troops for preventing further chaos and killing in Haiti. But I would like to know what in the world does the future hold for the Haitian people.

Mr. CONYERS. That is precisely what we are in the process of determining. And I would like to say that my optimism is still on the side of justice, that my conviction that there are enough people in this Federal legislature and in this country to right the terrible wrong that has been visited upon the poor beleaguered citizens of that little tiny nation only miles away from our shore. We can make Haiti better. We can still create a humanitarian corridor to bring in the life-giving supplies without which they will not only perish but the violence will continue.

I again thank the gentlewoman for her perseverance and commitment across the years on this subject.

Ms. CORRINE BROWN of Florida. I once again want to thank the chairman for his leadership. But my mind goes back to our meeting that we had Wednesday at the White House with the Congressional Black Caucus members, with Colin Powell, Secretary of State, and with Condoleezza Rice and with later the President; and I guess I have a little Haitian or a little African in me because I knew then that our government under the leadership of the Bush administration and those Cabinet members were not going to lift their hands to help the poor people of Haiti. They were not going to do one single thing.

We have spent $200 billion of American dollars in Iraq to build up a democracy there, but we deny people less than 600 miles from our shore any assistance, any intervention. And not only do we deny them; we are prohibiting, prohibiting other countries from going in and assist them.

Shame on this administration. And hopefully we can have a regime change or a change in our government come November.

Ever since I was elected to office, I have advocated on behalf of the Haitian people, and it simply enrages me that Haiti has been nothing more than a stepchild to policymakers in the State Department. While Cubans gain access to U.S. citizenship by merely stepping on land in Florida, Haitian immigrants are not just detained indefinitely when they try to come to the United States, but they are mercilessly sent back to the island.

These groups that refer to themselves as "the opposition," are in reality nothing more than armed gangs often funded by drug lords, that are on the verge of taking power through undemocratic means. I repeat: these are not legitimate political opposition groups, many of them are the same criminals that were in power before Aristide, the same thugs we removed from office just a decade ago. Ex military, ex death squad members, drug and gang members, and members of the wealthy business elite that dislike representative government are their leaders. It is more than ironic that just as the Bush administration admonishes Haiti and other nations for being "undemocratic," they led the way for these armed gangs (the same gangs they criticize in the press) to usurp power.

They did not like the idea of a government that is trying to redistribute money to the poor and provide Haitians with proper education and health care, because they feel threatened that their previous absolute hold on power will dissolve. And since they can't defeat Aristide in a fair election, they resorted to overthrow him militarily.

I have traveled to Haiti numerous times with Members of the Congressional Black Caucus, met with Haitian government officials, opposition groups, and leaders of NGOs, and served the Nation as an election observer, and I will tell you that Aristide won by a landslide. This cannot be denied by anyone. Yet for whatever reason, the Bush administration has been anything but a friend to the Aristide government, and insists ironically that Haiti does not deserve our monetary assistance because their elections were "unfair." It simply mystifies me how President Bush, a President who was selected by the Supreme Court under more than questionable circumstances (in my district alone 27,000 votes were thrown out), is telling another country that their elections were not fair and that they are therefore undeserving of aid or international recognition.

Haiti is a nation that is still in the incipient stages of democracy and is in desperate need of foreign aid. and the Bush administration's economic stranglehold on the island has exacerbated Haiti's already crippled economy. The economic situation in Haiti is dire, yet the Bush administration's State Department apparently does not lend help to nations for humanitarian reasons, only when a precious natural resource such as oil is at stake.

Moreover, I remain outraged that Attorney General John Ashcroft and the Miami INS office is explicitly going after the Haitian refugees. In December, the INS routinely released refugees who passed credible-fear interviews—unless they were deemed special security risks connected to September 11. That is still the case for asylum seekers from Colombia, Venezuela, Cuba and almost any other country—except Haiti. The Miami INS, under orders from the Department of Justice, imprisons Haitians seeking to prove they deserve asylum, while asylum seekers from other countries roam freely within American borders. This unfair discrimination against Haiti has become a common practice under the current administration, and the Congressional Black Caucus is one of the few voices fighting against this outrageous policy.

To conclude: I reiterate my utter disappointment in the events that occurred in Haiti, and my outrage at the Bush administration's contribution to the fall of a democratically elected government.

Mr. CONYERS. I thank all of the Members that have participated in the Special Order.

HELP HAITI

The SPEAKER pro tempore (Mrs. BLACKBURN). Under a previous order of the House, the gentlewoman from California (Ms. LEE) is recognized for 5 minutes.

Ms. LEE. Madam Speaker, first, let me thank Members of Congress tonight, the Congressional Black Caucus, the gentleman from Michigan (Mr. CONYERS) for our focus and for leading this effort not only tonight but over the years with regard to Haiti.

Of course, Haiti tonight is on the minds and in the hearts of the international community, of many of us here in Congress and throughout the country. And tonight I want to first ask and raise concern for the safety and for the security of President Aristide and Mrs. Aristide and for their family. Given the circumstances of their departure, I think it is appropriate that we be concerned about their safety and insist that our government ensure that they not be put in harm's way.

For many years now we have consistently attempted to increase the Congress's role, the administration's role with regard to engagement with Haiti. We have asked over and over again for immediate humanitarian assistance, development assistance, infrastructure assistance. Really, all of those efforts to allow the Haitian people to live, to survive, and to move forward. Yet, repeatedly, over and over and over again, this administration has blocked any type of assistance, has embargoed efforts to ensure that the Haitian people receive the funding that they have negotiated, every single time. This administration went to the international community and blocked from the world the type of aid and assistance and economic development that Haiti needs.

It is unbelievable the type of circling of the wagons that we have seen as it relates to Haiti. Now, unfortunately, our country has helped to ensure that democratically elected president of Haiti was overthrown and this is totally unacceptable. What I have seen in the last few years is that really this country was setting up the situation which has occurred over the last few weeks. It really has helped democracy fail in Haiti, and that to me is a shame and it is a disgrace. Over and over again this administration has undermined and undercut President Aristide's attempts at social and economic development and the political challenges that have devastated his country. Over and over again I witnessed President Aristide comply with all of the requirements of the United States. One month it was this. The next month it was that. The next month it was something else. The Haitian government continually complied, continually stepped up to the plate even when it caused some discussions and some turmoil in their own country as a result of, for instance, having to raise the price of gasoline so that the international banks would be satisfied so that they could get the money that then negotiated for their loans. Outrageous kinds of requirements this country put on the Haitian government. Yet, still President Aristide responded and complied.

So what we have witnessed over the last couple of weeks really was the march to a coup d'etat. We witnessed the execution of a plan that I believe was really developed by, of course, those; and we are having hearings tomorrow so we will begin to expose and at least ask the questions, but it was the execution of a plan that we saw, I remember I think during the 1980s around Nicaragua, around some of the attempts to overthrow governments in Latin America, the U.S. ambassador, Negroponte, and Noriega who then was Senator Helm's person. We see many of the same kinds of players in place. And so, unfortunately, I am seeing an updated repeated performance of what we saw in the 1980s in Latin America. And, yes, this country has said that central to its foreign policy is regime change. That is a public kind of policy. And regime change manifests itself in many, many ways.

If I were Venezuela or Brazil, not to mention Cuba, I would be a bit concerned with what we know now and what we see taking place in terms of how the execution of a regime change, foreign policy takes place.

Finally, let me just say, when Secretary Powell says, it is nonsense and we are engaged in conspiracy theories, I would ask people to look at the "U.S. War Against Haiti, Hidden From the Headlines." These are the facts. We will begin to expose it tomorrow.

AMERICAN REGIME CHANGE IN NOVEMBER

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Illinois (Ms. SCHAKOWSKY) is recognized for 5 minutes.

Ms. SCHAKOWSKY. Madam Speaker, there is a president in the western hemisphere who was chosen in what many voters believe is a flawed 2000 election. Many people in his country and around the world believe that this president misled his people into a violent conflict in which many lives were lost. Revelations of corruption including falsifying documents, financial mismanagement, gross overcharging by well-connected corporations, kickbacks to politically allied organizations continue to accumulate. What is the proper response of the people of that country who no longer wish to be led by that president? Because it is a democracy, the answer is clear: vote him out at the next election.

I speak of President George W. Bush, not President Jean-Bertrand Aristide of Haiti.

□ 2245

Those of us who do not support President Bush will work to remove and replace him in the November 2 election. That is the way we do it in our democracy. In a democracy, one does not take up arms against an elected President. We do not threaten his life nor is he forced out of the country nor are convicted murderers and drug dealers and armed thugs welcomed in to do the dirty work. In a democracy, one goes from elected President to elected President and not coup d'etat to coup d'etat.

So this is a very, very sad time for those of us who believe in democracy. The Bush administration had the choice of defending the democratically-elected government in Haiti or supporting its overthrow. It chose the latter. Jean-Bertrand Aristide was the first democratically-elected President of Haiti, his successor due to be chosen in the next presidential election in 2005.

Over the last several weeks, an armed insurrection was organized by former death squad leaders, convicted murderers and drug dealers. They used terrorist tactics to take over police stations and then cities which were protected by only a very small government police force.

The New York Times describes these so-called rebels: "The public face of the rebel army is the smile of Mr. Guy Phillipe. He is suspected by both Haitian and United States officials of cocaine trafficking. Mr. Phillipe has few democratic credentials. In 2001 he stood accused of planning a coup. Government said he masterminded a raid on the Presidential palace that left seven dead. He is joined in this rebellion by Louis Jodel Chamblain, the convicted assassin from FRAPH."

The New York Times described FRAPH as "an instrument of terror wielded by the military junta that overthrew Haiti's embattled Jean-Bertrand Aristide in 1991. It killed thousands over the next 3 years."

Rather than coming to the defense of the democratically-elected government of Haiti, the Bush administration joined with the anti-democratic forces in the country to call for the President's ouster.

The administration, our administration, the Bush administration has consistently supported a small, elite group in Haiti whose principal economic interests is working with multinational corporations to exploit Haiti's vast pool of cheap labor. It is not a pretty history.

Last weekend, the United States and the international community met with President Aristide, at which time he agreed to a power-sharing proposal made by CARICOM and supported by the United States and France. He agreed but the opposition refused. Colin Powell extended the deadline, but the opposition stood by its insistence that Aristide step down, essentially dead or alive.

So, in the end, the Bush administration sided with the murderers, with the terrorists. While it is unclear exactly what happened early Sunday morning, the message from the U.S. to President Aristide was crystal clear, the United States will not protect you from being cleared by the assassins that are on your doorstep.

So President Aristide has gone. People are dead. The brutal former dictator Duvalier is on TV saying he wants to come back. Guy Phillipe wants to reinstate the brutal army. Chaos reigns in Haiti.

Where do we go from here? Clearly, we need to be part of this international force to establish security, but it would be shameful if we do not look back and figure out how we got into this mess, that is, to have a full investigation of every taxpayer dollar that was spent in Haiti and find out whether it was involved in the destabilization of Haiti. We have to assure the security of the Aristides so that they can go to a country where they can be safe, and we have to help the refugees. We need that full investigation, and we will be pushing for it, starting tomorrow.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BACA (at the request of Ms. PELOSI) for today on account of personal business.

Ms. HARMAN (at the request of Ms. PELOSI) for today on account of personal business.

Mr. HINOJOSA (at the request of Ms. PELOSI) for today through March 10 on account of business in the district.

Ms. MILLENDER-MCDONALD (at the request of Ms. PELOSI) for today on account of personal reasons.

Mrs. NAPOLITANO (at the request of Ms. PELOSI) for today on account of personal business.

Mr. ORTIZ (at the request of Ms. PELOSI) for today on account of official business.

Mr. REYES (at the request of Ms. PELOSI) for today on account of official business.

Ms. WOOLSEY (at the request of Ms. PELOSI) for today on account of the California primary.

Mr. CASTLE (at the request of Mr. DELAY) for today and March 3 on account of a death in the family.

Mr. CHOCOLA (at the request of Mr. DELAY) for today and March 3 on account of official travel to Libya.

Mr. KING of Iowa (at the request of Mr. DELAY) for today on account of illness.

Mr. PENCE (at the request of Mr. DELAY) for today and the balance of the week on account of a death in the family.

Mr. ROYCE (at the request of Mr. DELAY) for today on account of personal reasons.

Mr. SMITH of Michigan (at the request of Mr. DELAY) for today and March 3 on account of official travel to Libya.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BROWN of Ohio) to revise and extend their remarks and include extraneous material:)

Mrs. MCCARTHY of New York, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. BECERRA, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. DELAHUNT, for 5 minutes, today.

Mr. HOEFFEL, for 5 minutes, today.

Mr. ABERCROMBIE, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Mr. INSLEE, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Mr. HOLT, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. CORRINE BROWN of Florida, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. LAMPSON, for 5 minutes, today.

(The following Members (at the request of Mr. SOUDER) to revise and extend their remarks and include extraneous material:)

Mr. SOUDER, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, today and March 3 and 4.

Mr. GINGREY, for 5 minutes, today.

Mr. MCCOTTER, for 5 minutes, March 3.

Mr. OSBORNE, for 5 minutes, March 3.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Ms. LEE, for 5 minutes, today.

Ms. SCHAKOWSKY, for 5 minutes, today.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 714. An act to provide for the conveyance of a small parcel of Bureau of Land Management land in Douglas County, Oregon, to the county to improve management of and recreational access to the Oregon Dunes National Recreation Area, and for other purposes.

ADJOURNMENT

Mr. OWENS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 50 minutes p.m.), the House adjourned until tomorrow, Wednesday, March 3, 2004, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

6879. A letter from the Comptroller, Department of Defense, transmitting a report of a violation of the Antideficiency Act by the Department of the Navy, Case Number 99-09A, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

6880. A letter from the Principal Deputy Under Secretary, Department of Defense, transmitting Authorization of the enclosed list of officers to wear the insignia of brigadier general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

6881. A letter from the Assistant Secretary, Department of Defense, transmitting the National Guard ChalleNGe Program Annual Report for Fiscal Year 2003, required under section 509(k) of title 32, United States Code; to the Committee on Armed Services.

6882. A letter from the Comptroller, Department of Defense, transmitting the Department's quarterly report as of December 31, 2003, entitled, "Acceptance of contributions for defense programs, projects and activities; Defense Cooperation Account" as well as a report on the value of personal property that foreign nations have provided the United States for the Global War on Terrorism, Operation Enduring Freedom, and Operation Iraqi Freedom for the period October 1, 2003 through December 31, 2003, pursuant to 10 U.S.C. 2608; to the Committee on Armed Services.

6883. A letter from the Chairman, Board of Governors of the Federal Reserve System, transmitting the Board's semiannual Monetary Policy Report pursuant to Pub. L. 106-569; to the Committee on Financial Services.

6884. A letter from the Director, Office of Legislative Affairs, Federal Communications Commission, transmitting the Commission's final rule — Section 257 Triennial Report to Congress Indentifying and Eliminating Market Entry Barriers For Entrepreneurs and Other Small Businesses — received February 11, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6885. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b) FM Table of Allotments, FM Broadcast Stations. (Hart, Pentwater and Coopersville, Michigan) [MB Docket No. 02-335; RM-10545] received February 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6886. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Dos Palos, Chualar, and Big Sur, California) [MM Docket No. 01-248; RM-10241; RM-10342] received February 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6887. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Saluda and Irmo, South Carolina) [MB Docket No. 03-8; RM-10625] received February 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6888. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcst Stations. (Muleshoe, Texas) [MB Docket No. 02-251; RM-10315] (Big Lake, Texas) [MB Docket No. 02-254; RM-10550] (Turkey, Texas)[MB Docket No. 02-370; RM-10612] received February 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6889. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.2029b0, Table of Allotments, FM Broadcast Stations. (Charlotte Amalie, Frederiksted, and Christiansted, Virgin Islands0 [MM Docket No. 00-102; RM-9888] received February 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6890. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Amherst and Lynchburg, Virginia) [MM Docket No. 96-100; RM-9963] received February 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6891. A letter from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Shawnee and Topeka, Kansas) [MB Docket No. 03-26; RM-10638] received February 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6892. A letter from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Park City, Montana) [MB Docket No. 02-79; RM-10424] received February 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6893. A letter from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.606(b), Table of Allotments, Television Broadcast Stations; and Section 73.600(b), Table of Allotment Digital Television Broadcast Stations. (Knoxville, Tennessee) [MB Docket No. 03-224; RM-10801] received February 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6894. A letter from the Senior Legal Advisor to Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations. (Hobbs, New Mexico) [MB Docket No. 03-193; RM-10768] received February 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6895. A letter from the Senior Legal Advisor to Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations. (Portland, Maine) [MM Docket No. 00-133; RM-9895] received February 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6896. A communication from the President of the United States, transmitting a report prepared by the Department of State concerning international agreements other than treaties entered into by the United States be transmitted to the Congress within a sixty day period after the execution thereof as specified in the Case -Zablocki Act, pursuant to 1 U.S.C. 112b(b); to the Committee on International Relations.

6897. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed issuance of export licenses to Australia and Singapore (Transmittal No. DDTC 126-03), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6898. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

6899. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

6900. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the annual inventory of U.S. Government-sponsored international exchanges and training programs, as well as the FY 2003 report on the activities of the Interagency Working Group on U.S. Government-Sponsored International Exchanges and Training (IAWG), pursuant to 22 U.S.C. 2460(f) and (g); to the Committee on International Relations.

6901. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting Pursuant to section 565(b) of the Foreign Relations Authorization Act for FY 1994 and 1995 (Pub. L. 103-236), certifications and waivers of the prohibtion against contracting with firms that comply with the Arab League Boycott of the State of Israel and of the prohibition against contracting with firms that discriminate in the award of subcontracts on the basis of religion, and accompanying Memorandum of Justification; to the Committee on International Relations.

6902. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule — Amendment to the International Traffic in Arms Regulations: United States Munitions List (RIN: 1400-ZA06) received February 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

6903. A letter from the Assistant Secretary for Administration and Management, Department of Health and Human Services, transmitting a copy of the Department's commercial and inherently governmental activities inventory, pursuant to Public Law 105—270; to the Committee on Government Reform.

6904. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting Pursuant to the Federal Activities Inventory Reform (FAIR) Act of 1998

(Pub. L. 105-270), the Department's Inventory for FY 2003; to the Committee on Government Reform.

6905. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule — Department of State Acquisition Regulation (DOSAR) (RIN: 1400-AB06) received February 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

6906. A letter from the Archivist of the United States, National Archives and Records Administration, transmitting the Fiscal Year 2003 Annual Performance Report; to the Committee on Government Reform.

6907. A letter from the Board Members, Railroad Retirement Board, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the Calendar Year 2003, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform.

6908. A letter from the Chairman, Securities and Exchange Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 2003, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform.

6909. A letter from the Architect of the Capitol, transmitting a report discussing the Congressional Office recycling programs for traditional and electronic equipment waste (E-waste) for the fourth quarter of FY 2003, pursuant to the directions issued in House Report 107-576; to the Committee on House Administration.

6910. A letter from the Assistant Administrator for Fisheries, NOAA, Department of Commerce, transmitting the annual report entitled the "Northeast Multispecies Harvest Capacity and Impact of Northeast Fishing Capacity Reduction" covering the period December 1, 2002 through November 30, 2003, as pursuant to Section 308(d)(7) of the Interjurisdictional Fisheries Act, as amended; to the Committee on Resources.

6911. A letter from the Assistant Attorney General, Department of Justice, transmitting a report of the Bureau of Justice Assistance Fiscal Year 2002 Annual Report entitled, "Promoting Partnerships for Public Safety Partnerships," pursuant to 42 U.S.C. 3711; to the Committee on the Judiciary.

6912. A letter from the Assistant Attorney General, Department of Justice, transmitting a letter concerning grants made under the Paul Coverdell National Forensic Science Improvement Act of 2000 (Pub L. 106-561) to improve forensic science services, pursuant to Public Law 106—561, section 2806(b); to the Committee on the Judiciary.

6913. A letter from the Secretary, Department of Homeland Security, transmitting a report on the extent to which the implementation by the United State Coast Guard of regulations issued or enforced, or interpretations or guidelines established, pursuant to Public Law 104—55, Public Law 104—324, section 1130(b); to the Committee on Transportation and Infrastructure.

6914. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Gulfstream Model G-V Series Airplanes [Docket No. 2003-NM-275-AD; Amendment 39-13436; AD 2004-02-01] (RIN: 2120-AA64) received February 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6915. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135 and -145 Series Airplanes [Docket No. 2002-NM-330-AD; Amendment 39-13437; AD 2004-02-02] (RIN: 2120-AA64) received February 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6916. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model CL-600-2B19 (Regional Jet Series 100 & 440) Airplanes [Docket No. 2003-NM-262-AD; Amendment 39-13442; AD 2004-02-07] (RIN: 2120-AA64) received February 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6917. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Dassault Model Falcon 900EX Series Airplanes [Docket No. 2003-NM-276-AD; Amendment 39-13439; AD 2004-02-04] (RIN: 2120-AA64) received February 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6918. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Agusta S.p.A. Model A109E Helicopters [Docket No. 2003-SW-28-AD; Amendment 39-13438; AD 2004-02-03] (RIN: 2120-AA64) received February 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6919. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 767-200, -300, and -300F Series Airplanes [Docket No. 2002-NM-152-AD; Amendment 39-13415; AD 2004-01-02] (RIN: 2120-AA64) received February 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6920. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pratt & Whitney JT9D-7R4 Series Turbofan Engines [Docket No. 2003-NE-01-AD; Amendment 39-13422; AD 2004-01-08] (RIN: 2120-AA64) received February 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6921. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146 and Avro 146-RJ Series Airplanes [Docket No. 2002-NM-144-AD; Amendment 39-13421; AD 2004-01-07] (RIN: 2120-AA64) received February 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6922. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Kidde Aerospace Part Number (P/N) 898052 Hand-held Halon Fire Extinguishers [Docket No. 2003-CE-19-AD; Amendment 39-13413; AD 2003-26-14] (RIN: 1220-AA64) received February 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6923. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model CL-600-2B19 (Regional Jet Series 100 & 440) Airplanes [Docket No. 2002-NM-112-AD; Amendment 39-13414; AD 2004-01-01] (RIN: 2120-AA64) received February 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6924. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Fokker Model F.28 Mark 0070 and 0100 Series Airplanes [Docket No. 2002-NM-252-AD; Amendment 39-13420; AD 2004-01-06] (RIN: 2120-AA64) received February 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6925. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A319, A320, and A321 Series Airplanes [Docket No. 2001-NM-120-AD; Amendment 39-13416; AD 2004-01-03] (RIN: 2120-AA64) received February 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6926. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model CL-600-1A11 (CL-600), CL-600-2A12 (CL-601), and CL-600-2B16 (CL-601-3A, CL-601-3R, and CL-604) Series Airplanes [Docket No. 2001-NM-267-AD; Amendment 39-13417; AD 97-24-02 R1] (RIN: 2120-AA64) received February 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6927. A letter from the Program Analsyt, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-120 Series Airplanes [Docket No. 2002-NM-87-AD; Amendment 39-13418; AD 2004-01-04] (RIN: 2120-AA64) received February 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6928. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting in accordance with the provisions of section 17(a) of the Federal Deposit Insurance Act, the Chief Financial Officers Act of 1990, Public Law 101-576, and the Government Performance and Results Act of 1993, the Corporation's 2003 Annual Report; jointly to the Committees on Financial Services and Government Reform.

6929. A letter from the Executive Director, Office of Compliance, transmitting the annual report on the use of the Office of Compliance by covered employees for calendar year 2003, pursuant to section 301(h) of the Congressional Accountability Act; jointly to the Committees on House Administration and Education and the Workforce.

6930. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a two-part report to the Congress on various conditions in Bosnia-Herzegovina. Part I responds to the requirements of section 7 of Pub. L. 105-174 (1998 Supplemental Appropriations and Rescissions Act) and outlines the latest developments in our continuing efforts to achieve a sustainable peace in Bosnia-Herzegovina. Part II responds to the supplementary reporting requirements contained in section 1203(a) of Pub. L. 105-261 (Strom Thurmond National Defense Authorization Act for FY 1999), covering the period from July 1 to December 31, 2003; jointly to the Committees on International Relations, Armed Services, and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. REYNOLDS: Committee on Rules. House Resolution 546. Resolution providing for consideration of the bill (H.R. 3752) to promote the development of the emerging commercial human space flight industry, to extend the liability indemnification regime for the commercial space transportation industry, to authorize appropriations for the Office of the Associate Administrator for Commercial Space Transportation, and for other purposes (Rept. 108–430). Referred to the House Calendar.

Mr. LINDER: Committee on Rules. House Resolution 547. Resolution providing for consideration of the bill (H.R. 1561) to amend title 35, United States Code, with respect to patent fees, and for other purposes (Rept. 108–431). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SMITH of New Jersey:

H.R. 3868. A bill to amend the Internal Revenue Code of 1986 to phaseout the 1993 income tax increase on Social Security benefits; to the Committee on Ways and Means.

By Mr. KELLER:

H.R. 3869. A bill to provide for the expanded use of technology and information management systems in the administration of the school lunch and breakfast programs; to the Committee on Education and the Workforce.

By Mr. NORWOOD (for himself and Mr. STRICKLAND):

H.R. 3870. A bill to amend the Public Health Service Act, the Federal Food, Drug, and Cosmetic Act, and the Controlled Substances Import and Export Act to provide grants to States to establish prescription drug monitoring programs, to impose requirements respecting Internet pharmacies, to require manufacturers to implement chain-of-custody procedures, to restrict an exemption respecting the importation of controlled substances for personal use, and for other purposes; to the Committee on Energy and Commerce.

By Mr. TURNER of Texas (for himself and Mr. WELDON of Pennsylvania):

H.R. 3871. A bill to establish the Unites States-Israel Homeland Security Foundation to make grants to joint business ventures between United States and Israeli private corporate entities to develop products and services with applications related to homeland security, and for other purposes; to the Committee on Science, and in addition to the Committee on Homeland Security (Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STEARNS (for himself, Ms. SCHAKOWSKY, Mr. BOUCHER, Mr. UPTON, Mr. DINGELL, Mr. SHADEGG, Mr. MARKEY, Mr. PICKERING, Mr. DEUTSCH, Mr. TERRY, Mr. TOWNS, Mr. ISSA, Mr. GORDON, Mr. RUSH, Ms. ESHOO, Mr. GREEN of Texas, Ms. McCARTHY of Missouri, Ms. SOLIS, and Mr. GONZALEZ):

H.R. 3872. A bill to prohibit the misappropriation of databases while ensuring consumer access to factual information; to the Committee on Energy and Commerce.

By Mr. CASTLE (for himself, Mr. BOEHNER, Mr. McKEON, Mr. UPTON, Mr. EHLERS, Mr. KELLER, Mr. WILSON of South Carolina, Mr. PORTER, Mr. CARTER, Mr. CASE, Mr. PEARCE, Mr. SIMMONS, Ms. WATSON, Mr. PETERSON of Minnesota, and Ms. KILPATRICK):

H.R. 3873. A bill to amend the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966 to provide children with access to food and nutrition assistance, to simplify program operations, to improve children's nutritional health, and to restore the integrity of child nutrition programs, and for other purposes; to the Committee on Education and the Workforce.

By Mrs. BONO (for herself and Mrs. DAVIS of California):

H.R. 3874. A bill to convey for public purposes certain Federal lands in Riverside County, California, that have been identified for disposal; to the Committee on Resources.

By Mr. COLLINS (for himself and Mr. BECERRA):

H.R. 3875. A bill to amend the Internal Revenue Code of 1986 to provide that qualified homeowner downpayment assistance is a charitable purpose; to the Committee on Ways and Means.

By Mr. HASTINGS of Florida (for himself, Mr. WEXLER, Mr. DAVIS of Florida, Mr. BOYD, Mr. MEEK of Florida, Ms. CORRINE BROWN of Florida, and Mr. DEUTSCH):

H.R. 3876. A bill to amend part C of title XVIII of the Social Security Act to prohibit the comparative cost adjustment (CCA) program from operating in the State of Florida; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. OTTER:

H.R. 3877. A bill to amend title II of the Social Security Act and the Internal Revenue Code of 1986 to provide for an election by individuals eligible for old-age insurance benefits under such title to waive payment of benefits based on their work record, to provide for income tax deductions based on the actuarial present value of benefits foregone by reason of such an election, and to provide that special Government obligations issued exclusively for purchase by the Social Security Trust Funds shall bear interest at the average market yield then prevailing for comparable obligations issued in the private sector; to the Committee on Ways and Means.

By Ms. WATERS:

H.R. 3878. A bill to establish the Commission on American Jobs; to the Committee on Education and the Workforce.

By Mr. HOYER (for himself, Mr. WOLF, Ms. NORTON, Mr. WYNN, Mr. MORAN of Virginia, and Mr. VAN HOLLEN):

H. Con. Res. 376. Concurrent resolution authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby; to the Committee on Transportation and Infrastructure.

By Mr. TANCREDO (for himself, Mr. GOODE, Mr. AKIN, Mr. ADERHOLT, Mr. PENCE, Mr. PITTS, Mr. SMITH of Texas, Mr. DEAL of Georgia, Mr. KELLER, Mr. KINGSTON, Mr. BARTLETT of Maryland, Mr. NORWOOD, Mr. JONES of North Carolina, and Ms. GINNY BROWN-WAITE of Florida):

H. Con. Res. 377. Concurrent resolution recognizing the importance of Western civilization; to the Committee on Education and the Workforce.

By Mr. MANZULLO:

H. Res. 548. A resolution recognizing the contributions of environmental systems and the technicians who install and maintain them to our quality of life; to the Committee on Energy and Commerce.

By Ms. PELOSI (for herself and Mr. GEORGE MILLER of California):

H. Res. 549. A resolution encouraging the President of the United States to designate a "Read Across America Day"; to the Committee on Education and the Workforce.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 25: Mrs. CUBIN.

H.R. 308: Mr. BISHOP of New York.

H.R. 339: Mr. FERGUSON.

H.R. 463: Mr. MILLER of North Carolina and Mr. VAN HOLLEN.

H.R. 466: Mr. NETHERCUTT.

H.R. 503: Mr. UDALL of New Mexico.

H.R. 566: Mr. COLE.

H.R. 677: Mr. PETERSON of Minnesota and Mr. SHIMKUS.

H.R. 814: Mr. STUPAK.

H.R. 847: Ms. McCOLLUM.

H.R. 871: Mr. ISAKSON and Mrs. MUSGRAVE.

H.R. 891: Mr. GRIJALVA, Mr. WAXMAN, and Ms. McCARTHY of Missouri.

H.R. 931: Ms. GINNY BROWN-WAITE of Florida.

H.R. 935: Mr. BRADY of Pennsylvania.

H.R. 970: Mr. LANGEVIN.

H.R. 972: Ms. JACKSON-LEE of Texas.

H.R. 1005: Mr. JENKINS.

H.R. 1043: Mr. BOUCHER and Mr. NEAL of Massachusetts.

H.R. 1051: Mr. MOORE.

H.R. 1083: Mr. WAMP, Mr. DELAHUNT, Mrs. McCARTHY of New York, and Mr. HINCHEY.

H.R. 1098: Mr. ENGLISH, Mr. BARTLETT of Maryland, and Mr. PAUL.

H.R. 1105: Mr. LATOURETTE.

H.R. 1117: Mr. McINNIS.

H.R. 1258: Mr. GORDON, Mr. STRICKLAND, and Mr. LAMPSON.

H.R. 1264: Ms. ESHOO and Mr. STARK.

H.R. 1345: Mrs. McCARTHY of New York and Mr. MICHAUD.

H.R. 1421: Mr. PALLONE.

H.R. 1478: Mr. SESSIONS.

H.R. 1519: Mr. McDERMOTT.

H.R. 1582: Mr. PORTER, Ms. JACKSON-LEE of Texas, Mr. BONILLA, and Mr. SANDERS.

H.R. 1608: Mr. CANTOR and Mr. BARTLETT of Maryland.

H.R. 1716: Ms. MILLENDER-McDONALD.

H.R. 1734: Mr. WEXLER.

H.R. 1811: Mr. VAN HOLLEN, Mr. DOGGETT, Ms. DELAURO, Mr. SMITH of Washington, and Mr. FORD.

H.R. 1873: Mrs. MUSGRAVE.

H.R. 1930: Mr. MARKEY.

H.R. 2052: Mr. RENZI.

H.R. 2217: Mr. VISCLOSKY.

H.R. 2239: Mr. SERRANO, Mr. CROWLEY, Mrs. DAVIS of California, Mr. THOMPSON of California, Mr. INSLEE, Mr. RUSH, and Mr. ACKERMAN.

H.R. 2256: Mr. SABO.

H.R. 2262: Mr. TIERNEY.

H.R. 2322: Mr. WEXLER.

H.R. 2323: Mr. WOLF.

H.R. 2569: Mr. NADLER.

H.R. 2582: Mr. OWENS and Ms. CARSON of Indiana.

H.R. 2626: Mr. KUCINICH.

H.R. 2627: Mr. GERLACH.

H.R. 2699: Mr. MORAN of Virginia, Mr. ENGLISH, and Mr. TIBERI.

H.R. 2727: Ms. Majette, Mr. Ruppersberger, and Mr. Schiff.

H.R. 2771: Mr. Rangel.

H.R. 2863: Mr. Thompson of Mississippi and Mr. Wu.

H.R. 2932: Ms. Norton.

H.R. 2946: Mr. Kirk.

H.R. 2999: Mr. Burr and Mr. Gary G. Miller of California.

H.R. 3015: Mr. Pitts.

H.R. 3069: Mr. Hostettler.

H.R. 3158: Ms. Velázquez and Mr. Boswell.

H.R. 3226: Mr. Conyers and Mr. Rodriguez.

H.R. 3243: Mr. King of New York and Mr. Davis of Illinois.

H.R. 3266: Mr. Calvert.

H.R. 3344: Mr. McDermott and Mr. Pallone.

H.R. 3397: Mr. Paul.

H.R. 3416: Mr. Rush.

H.R. 3429: Mr. Burns and Mrs. Biggert.

H.R. 3438: Mr. McGovern, Mr. Allen, and Ms. Berkley.

H.R. 3441: Mr. Rush, Mr. Davis of Alabama, Ms. Millender-McDonald, Mr. Quinn, Mr. Emanuel, and Mr. Abercrombie.

H.R. 3458: Mr. Wamp, Mr. Boucher, and Mr. Bishop of Georgia.

H.R. 3474: Mr. Blumenauer, Mr. Porter, and Mr. Berman.

H.R. 3480: Mr. Calvert.

H.R. 3488: Mr. Gonzalez.

H.R. 3528: Mrs. Davis of California.

H.R. 3543: Mr. Michaud, Mr. Doyle, and Mr. Bradley of New Hampshire.

H.R. 3550: Ms. Linda T. Sánchez of California and Mr. Watt.

H.R. 3567: Ms. McCollum, Mr. McNulty, Mr. Rush, Mr. Ryan of Ohio, Mr. Hinchey, Mr. Cardoza, Ms. Majette, and Mr. Wexler.

H.R. 3574: Mr. Grijalva, Ms. Harris, Mr. Blunt, Mr. Menendez, Ms. Pelosi, Mr. Royce, Mr. Carson of Oklahoma, Mr. Meeks of New York, Mr. Scott of Georgia, Mr. Otter, Mr. Isakson, Mr. Reynolds, and Mr. Wu.

H.R. 3582: Mr. Kildee.

H.R. 3619: Mr. Edwards and Mr. Gonzalez.

H.R. 3643: Mr. Smith of New Jersey.

H.R. 3656: Ms. Norton, Mr. McIntyre, Mr. Neal of Massachusetts, Mr. Blumenauer, Ms. Schakowsky, Ms. Kaptur, and Mr. Pallone.

H.R. 3658: Mr. Boehlert.

H.R. 3693: Mr. Waxman.

H.R. 3714: Mr. McDermott.

H.R. 3717: Mr. Otter, Mr. Norwood, Mr. Pickering, Mr. Shays, Mr. Simpson, Mr. Manzullo, and Mr. Boyd.

H.R. 3755: Mr. Owens, Ms. Harris, and Mr. Pallone.

H.R. 3763: Mr. Holt, Ms. DeGette, Mr. Crenshaw, Mr. Simpson, Mr. Hefley, and Mr. Davis of Florida.

H.R. 3771: Mrs. McCarthy of New York and Mr. Stark.

H.R. 3777: Mr. Edwards, Mr. Otter, and Mr. Ross.

H.R. 3793: Mr. Wu, Mr. Souder, Mr. Ortiz, Mr. Shimkus, Mr. Scott of Georgia, Mr. Honda, Mr. Isakson, Mr. Kennedy of Rhode Island, Mr. Baker, Mr. Davis of Florida, and Mr. Stark.

H.R. 3801: Mr. Herger, Mr. Calvert, Mr. Souder, Mr. Franks of Arizona, and Mrs. Myrick.

H.R. 3804: Mr. English.

H.R. 3815: Mr. Van Hollen.

H.R. 3818: Mrs. Jo Ann Davis of Virginia, Mr. Houghton, Mr. Davis of Florida, Mr. McDermott, Mr. Edwards, Mr. Rothman, Ms. McCollum, Mr. Berman, Mrs. Tauscher, Mr. Udall of New Mexico, Ms. Lee, Mr. Inslee, Mr. Moran of Virginia, and Mr. Blumenauer.

H.R. 3833: Mr. Serrano and Mr. Pallone.

H.R. 3848: Mr. McKeon.

H.R. 3857: Mr. Foley and Mr. McInnis.

H.R. 3860: Mr. Moran of Virginia, Mr. Upton, Mr. Sensenbrenner, Mr. Michaud, and Mr. Turner of Ohio.

H.R. 3867: Mr. Brown of Ohio, Mr. Conyers, Mr. Engel, Mr. Grijalva, Ms. Jackson-Lee of Texas, Mr. Meeks of New York, Mr. Owens, Mr. Nadler, Ms. Norton, Ms. Schakowsky, Mr. Weiner, Mr. Kucinich, Mr. Davis of Florida, and Mr. Payne.

H.J. Res. 48: Mr. Jefferson.

H.J. Res. 56: Mr. Sandlin.

H. Con. Res. 37: Mr. Weller.

H. Con. Res. 47: Mr. Menendez.

H. Con. Res. 332: Mr. Chandler, Mr. Cardin, Mr. Stearns, Mr. Shays, Mr. Larsen of Washington, Mr. Reynolds, Mr. Bishop of Utah, Mr. Kingston, Mr. Nadler, Mr. Baca, Mr. Upton, Mrs. Miller of Michigan, Mr. George Miller of California, Mr. Owens, and Mr. Menendez.

H. Con. Res. 356: Mr. Crowley, Mr. Levin, Mr. Michaud, Mr. Sandlin, Ms. Schakowsky, Mr. Frost, Mr. Farr, Mr. Waxman, Mr. Davis of Illionis, Mr. Rush, Mr. Gutierrez, Mr. McDermott, Mr. Kildee, Mr. Stenholm, Mr. Abercrombie, Ms. Kilpatrick, Mr. Larsen of Washington, Mr. Hinchey, Mr. Andrews, Mr. George Miller of California, Mr. Jackson of Illinois, Mr. Frank of Massachusetts, Ms. McCollum, Mr. Rodriguez, Mrs. Christensen, Ms. Carson of Indiana, Mr. Cardoza, Mr. Moore, Mr. Oberstar, Mr. Owens, Mr. Acevedo-Vilá, and Mr. Holt.

H. Con. Res. 366: Ms. Kaptur, Ms. Carson of Indiana, Mr. Strickland, Mr. Frank of Massachusetts, and Mr. Filner.

H. Con. Res. 367: Mr. Pallone.

H. Con. Res. 371: Mr. Baker, Mr. Istook, Mrs. Northup, Mr. Engel, Mr. Gingrey, and Mr. Cole.

H. Con. Res. 375: Mr. Castle.

H. Res. 144: Mr. Carson of Oklahoma.

H. Res. 167: Mr. McDermott.

H. Res. 402: Mrs. Northup.

H. Res. 481: Mr. Pombo.

H. Res. 482: Mr. Forbes.

H. Res. 485: Mr. Schiff and Mr. Bishop of New York.

H. Res. 501: Mr. English and Mr. Wexler.

H. Res. 522: Ms. Jackson-Lee of Texas, Mrs. Capps, Mrs. Napolitano, Mr. Hoeffel, Ms. Schakowsky, Mr. Wu, Ms. Solis, Mr. Udall of New Mexico, and Mr. Pascrell.

H. Res. 530: Mr. Engel, Mr. McCotter, Ms. Berkley, and Mr. Price of North Carolina.

H. Res. 540: Mr. Tom Davis of Virginia, Mr. Engel, Mr. Pence, Mr. Wexler, Mr. Kirk, Mr. Burton of Indiana, Mr. Flake, and Mr. King of New York.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 3752

Offered By: Mr. Boehlert

Amendment No. 1: In section 3(c)(5), strike "by striking" and all that follows through ", and the item" and insert "by striking '**License applications**' and inserting '**Applications**', and the item".

In section 3(c)(12), strike "is amended" and all that follows through "by adding" and insert "is amended by adding".

In section 3(c)(17)—

(1) in subparagraph (A)—

(A) strike "crew,"; and

(B) strike "and";

(2) in subparagraph (B), strike "employees,'." and insert "employees'; and"; and

(3) add at the end the following new subparagraph:

(C) by adding at the end the following: "The requirement for space flight participants to make a reciprocal waiver of claims with the licensee or transferee shall expire 3 years after the first licensed launch of a launch vehicle carrying a space flight participant.".

In section 3(c)(18)(B), strike "employees," and insert "employees".

In section 3(c)(19)—

(1) insert "(1)" after "70113(a)"; and

(2) strike ", but not" and insert "but not".

EXTENSIONS OF REMARKS

THANKS TO COMMANDER ROY G. ORGERON AND AMERICAN LEGION, NICHOLSON POST #38

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mr. BAKER. Mr. Speaker, I rise today to send a heartfelt thanks to both Commander Roy G. Orgeron and the entire American Legion, Nicholson Post #38 in Baton Rouge, Louisiana for helping us "Honor and Remember those who Served and Sacrificed" on Veterans Day, November 11, 2003.

Mr. Speaker, originally chartered by the United States Congress in 1919 as a patriotic, mutual-help, war-time veterans organization, the American Legion is best described by the Preamble to its Constitution:

> For God and Country we associate ourselves together for the following purposes: To uphold and defend the Constitution of the United States of America; To maintain law and order; To foster and perpetuate a one hundred percent Americanism; To preserve the memories and incidents of our associations in the great wars; To inculcate a sense of individual obligation to the community, state and nation; To combat the autocracy of both the classes and the masses; To make right the master of might; To promote peace and good-will on earth; To safeguard and transmit to posterity the principles of justice, freedom and democracy; To consecrate our comradeship by our devotion to mutual helpfulness.

As the facilitative host of a Veterans Day breakfast, and on a day where as a country we paused to reflect on the sacrifices of all those who have put on the uniform to serve in the United States military, the members of Nicholson Post #38 honorably upheld these words, demonstrating their endless commitment to south Louisiana's veterans.

Mr. Speaker, although we can never adequately repay their service to our great Nation, as a senior Member of the House Veterans' Affairs Committee, I ask that you and my colleagues join me in saluting and congratulating Nicholson Post #38 on this outstanding achievement.

A PROCLAMATION RECOGNIZING OHIO UNIVERSITY AS THEY COMMEMORATE THEIR BICENTENNIAL

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mr. NEY. Mr. Speaker:

Whereas, Ohio University in Athens, Ohio, is celebrating 200 years of excellence in advanced education and character development; and

Whereas, liberal arts institutions are essential to the progress of arts and sciences and important to morality, virtue and religion in any society; and

Whereas, the General Assembly of the State of Ohio met in Chillicothe, Ohio, to establish a university in the town of Athens by the name and style of "Ohio University" on February 18, 1804;

Therefore, I join with the residents of Ross County and the entire 18th Congressional District in celebrating Ohio University's Bicentennial Anniversary.

HOPE IN HAITI

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mr. BEREUTER. Mr. Speaker, this Member wishes to call the attention of his colleagues to the excellent editorial on Haiti in the March 2, 2004, edition of the Omaha World-Herald. The Bush administration has responded properly to the crisis in Haiti. The citizens of that desperately poor country have suffered greatly under the regime of the autocratic and quixotic Jean-Bertrand Aristide. Now he is finally gone and good riddance. The international community under the leadership of the United Nations needs to be fully engaged in bringing peace and stability to this terribly troubled country so that the livelihood of its people can begin to receive the necessary attention.

[From the Omaha World-Herald, Mar. 2, 2004]

HAITI'S NEW HOPE

The Bush administration has had sharp foreign policy disagreements with other countries. But in responding to the political collapse in Haiti, the international community is in general consensus. For Haiti to move forward, it's widely agreed that the country's president, Jean-Bertrand Aristide, had to go.

That is a reasonable stance. Aristide is a former priest reinstalled in 1994 by a U.S. military campaign as the duly elected president. But during the past decade, he amassed a record of shamelessly backtracking on his promises to uphold democracy.

He even copied the fascistic tactics of Haiti's old-time dictator, "Papa Doc" Duvalier, using gangs of thugs to intimidate and murder members of the political opposition. Four years ago, such tactics spurred the Clinton administration to end all aid to Haiti except for humanitarian assistance. The foul tactics also led the United Nations to refuse to recognize the validity of the country's tainted Senate elections. In 2000, Aristide was elected president in a contest boycotted in protest by the political opposition.

Bush's Democratic critics are arguing that the administration should have sent in U.S. Marines last week to buttress Aristide. But Bush's refusal to maintain Aristide in power had the support of leading players such as France and Canada (whose governments were at loggerheads with Bush over the Iraq war last year).

It was the political opposition in Haiti that may well have made the key decision leading to Aristide's downfall. Last week the United States headed a multilateral diplomatic effort that was poised to force Aristide to agree to accept a politically independent prime minister. But opposition leaders balked at the proposal, saying Aristide couldn't be trusted.

Now Aristide has fled to a safe haven in Africa (facilitated by the efforts of U.S. Secretary of State Colin Powell to find him a host country), and U.S. Marines are arriving in Haiti to provide order. Up to around 1,000 American troops will ultimately be placed there, with a large contingent serving as gendarmes, Powell says.

A multinational security force, approved Sunday night by the United Nations Security Council, is also in the works.

Prospects for a politically stable Haiti (which this year marks the 200th anniversary of its successful revolt against French rule) are unclear. Armed bands, seemingly tethered only to an agenda of plundering and vendetta-settling, have proliferated. The gap between the country's rich and poor feeds tremendous resentments. The large amounts of aid that the Clinton administration pumped into Haiti in the 1990s for police training and economic development appear to have done little good.

Nonetheless, the end of Aristide's regime provides encouragement. Particularly welcome is the widespread support from abroad that Haiti enjoys as it attempts to pull itself away from the injustice and brutality of the past.

For all the problems their country faces, the Haitian people can count on the support of the United States and many other countries in the effort to make the fall of Haiti's latest dictator the turning point it can be to a better future. In that, there can be great hope.

RECOGNIZE AND CELEBRATE THE ACCOMPLISHMENTS OF COLORADO NONPROFIT ORGANIZATIONS

HON. BOB BEAUPREZ

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mr. BEAUPREZ. Mr. Speaker, I rise today to recognize and celebrate the accomplishments of Colorado nonprofit organizations. This week is Colorado Nonprofit Week, an annual event organized by the Colorado Association of Nonprofit Organizations (CANPO) and volunteer committees around the state to recognize and celebrate the vital impact Colorado's nonprofits have on our economy and quality of life.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The theme for this year's Colorado's Nonprofit Week is "where hope resides." Nonprofit organizations do not only provide much needed benevolent services to the needy, but they also provide a sense of hope for those in the direst of circumstances.

The three major goals of Colorado Nonprofit Week is to increase the visibility of these organizations, strengthen the relationship between nonprofit leaders and public officials, and to encourage individual nonprofit leaders to see themselves as part of the greater nonprofit private sector.

Nonprofit organizations throughout Colorado serve as responsible stewards of charitable dollars. Over 16,000 charitable nonprofit organizations operate in Colorado. In 2001 nonprofit expenditures totaled more than $9 billion in Colorado for the 5,400 largest nonprofits and $822 billion in the U.S. for the nearly 267,000 largest nonprofits.

These organizations subscribe to a number of missions and values. I strongly commend their efforts to invest in the potential of all citizens through education, employment, recreation, arts, and culture.

The nonprofit sector throughout Colorado has a proud history of service, innovation, and the accomplishments of the sector deserve acknowledgement, affirmation, and celebration.

Mr. Speaker, that is why I ask my colleagues to join me to commend the efforts of nonprofit organizations, not only throughout Colorado, but also the entire Nation.

A PROCLAMATION HONORING CARRIE MYTINGER

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mr. NEY. Mr. Speaker:

Whereas, Carrie Mytinger was presented the 2003 Rookie of the Year Award by the Chillicothe Jaycees; and

Whereas, Carrie Mytinger must be commended for her work with the Chillicothe community; and

Whereas, Carrie Mytinger has demonstrated a commitment to community service through her work with various organizations, meeting challenges with enthusiasm and confidence;

Therefore, I join with the residents of the entire 18th Congressional District in congratulating Carrie Mytinger for her outstanding accomplishment.

HOUSE COMMISSION FOR ASSISTING DEMOCRATIC PARLIAMENTS RESOLUTION: A PRICE-BEREUTER-DREIER-FROST INITIATIVE

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mr. BEREUTER. Mr. Speaker, this Member wishes to thank his friend the distinguished gentleman from North Carolina, Mr. PRICE, for working with me and introducing a resolution to establish the House Commission for Assisting Democratic Parliaments. This Member is proud to be an original cosponsor of this measure, along with the chairman and the ranking Democratic member of the Committee on Rules. Having been involved in the Frost-Solomon Task Force, which undertook a similar effort a decade ago, this Member is enthused to offer this new initiative.

The spread of parliamentary democracy in Central and Eastern Europe is one of the great success stories in recent history. Of course, the efforts by those nations to overthrow their communist dictatorships in some cases traces back several decades, but the rapid downfall of those regimes began after the events of 1989 and accelerated in the early 1990s.

Sadly, some countries that gained independence after the collapse of the Soviet Union and Yugoslavia simply traded communist dictatorships for new dictatorships of nationalists and former apparatchiks. But most of these countries moved quickly to establish new democracies, holding free and fair elections and transforming their parliaments from rubber-stamp facades into independent legislatures. However, this task proved easier on paper than in practice.

As we well know in this Congress, our ability to legislate independently of the executive depends on our access to independent information and analysis. We are fortunate to have our own staffs and support agencies to which we can turn to research an issue and provide alternative points of view. Recognizing the importance of this, the Congress has created agencies like the General Accounting Office, Congressional Research Service and Congressional Budget Office to provide Members with independent views and oversight.

In the newly democratic parliaments, this capacity and expertise was lacking. Recognizing its importance for legislative autonomy, in 1990 the distinguished gentleman from Texas, Mr. FROST, established a task force through the Speaker's office to help them develop the needed capabilities. In cooperation with the late gentleman from New York, Mr. Solomon, the gentleman from Texas developed a program that allowed the House of Representatives to share the expertise of Members and staff, especially from the Congressional Research Service, with the newly democratic parliaments. The task force provided modest donations of information technology-related office equipment and reference materials for parliamentary libraries, thereby facilitating the establishment of independent research services.

The task force also helped those parliaments develop parliamentary procedures and the means to inform Members and the general public about parliamentary activities in a timely and open fashion. At a modest cost, we were able to help these parliaments become effective legislatures and play their part in a democratic system.

The Frost-Solomon Task Force was terminated in 1996. While most of those countries that received aid have indeed become full-fledged democracies, others still need a helping hand. The Price-Bereuter Resolution aims to provide that assistance.

The resolution that has been introduced would create a House Commission for Assisting Democratic Parliaments, comprised of eight House Members—four Republicans and four Democrats—and it would have a small staff to coordinate its activities and help Members determine which parliaments would most benefit from such assistance.

Much of the expertise that these parliaments require can be found in the House and its support agencies, so the resolution would allow congressional offices to detail employees to the Commission. Recognizing that many of those who worked on the initial Frost-Solomon Task Force have retired or are about to retire from congressional employment, the resolution allows the Commission to use those retirees as consultants, so that parliaments can benefit from their years of expertise.

In addition to providing expert advice from Members and staff, the resolution envisions a modest assistance program to provide parliaments with information, technology-related equipment and with reference materials so that they could establish a research service and better disseminate legislative information. When the Commission identified needs in selected parliaments, it could recommend that the Agency for International Development provide certain equipment, materials or technical assistance to enable those parliaments to become more efficient and transparent.

The first task of this Commission should be to finish the work that was begun in Central and Eastern Europe, but the resolution does not limit the Commission's scope to that region. Once this program is established, it could expand to assist parliaments in other countries, as appropriate, like those in the Caucasus and Central Asian regions and perhaps in other parts of the world. For example, the United States is committed to help create representative democracies in Afghanistan and Iraq. It would be worthwhile if the House were to work with the new parliaments in those nations to help them develop as autonomous institutions in a democratic society.

Mr. Speaker, this Member was pleased to play a small part in the Frost-Solomon Task Force in the 1990s by participating in Frost-Solomon congressional delegations that reviewed the accomplishments of the assistance that had been given. Today, we have an opportunity to further assist in the emergence of democratic parliaments by enabling this House to share its expertise and to work with AID in providing the necessary assistance. This Member urges his colleagues to become cosponsors of the Price-Bereuter-Dreier-Frost resolution to create the House Commission for Assisting Democratic Parliaments.

MELHA SHRINERS—CELEBRATING 50 YEARS OF FAMILY ENTERTAINMENT

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mr. NEAL. Mr. Speaker, I rise today to celebrate the 50th anniversary of the Melha Shrine Circus of Springfield. For 50 years the Melha Shriners have proudly presented this show as a great and historic form of family entertainment.

The Shriners have done this for the past half of a century in order to raise money to fund their marching units and other community activities in western Massachusetts. These events are meant to maintain their visibility and presence in the community so that they can continue to support their main message about their hospital work.

Beyond merely putting on a circus to entertain families across western Massachusetts, these philanthropists also always perform what they like to call "The Community Service Show." For this event they donate all of the almost 5,000 tickets to the circus to various community service groups who deal with children, adults, and families in need of aid. By bringing a little extra light into the lives of people down on their luck the Melha Shriners simply show that they are willing to take the extra step to give back to the community in which they live and work without asking anything in return.

It is a great honor to be able to rise today and commend this giving group of people from Springfield, Massachusetts. Their commitment to family entertainment and charity is admirable and sets an excellent example to others. This spring the Melha Shriners will go out with their circus tent. And this spring for the 50th year in a row, they will bring laughs to children, smiles to adults, and they will give back to the community as only they can do. I am proud to be a long-time supporter of the Melha Shriners, and so I wish you luck with the circus this year and hope for 50 more years of the Shriners.

A PROCLAMATION RECOGNIZING THE RETIREMENT OF JAMES E. CARNES

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mr. NEY. Mr. Speaker:

Whereas, James E. Carnes served the people of Ohio as a member of the Ohio State Senate for 9 years; and

Whereas, James E. Carnes has served as Chairman of the Senate's Finance Committeee, overseeing the State budget; and

Whereas, James E. Carnes is currently the longest serving member of the Ohio State Senate; and

Whereas, James E. Carnes has used his position within the Ohio State Senate to help better the lives of thousands of people; and

Whereas, James E. Carnes has been appointed to continue his service to the citizens of Ohio as the Deputy Director of the Ohio Department of Natural Resources; and

Whereas, James E. Carnes must be commended for his dedication to improving the State of Ohio and his willingness to continue this service through his new appointment.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in celebrating James E. Carnes' 9 years of service in the Ohio State Senate and wish him the best of luck in his new position.

CELEBRATING WISCONSIN'S LEGAL HISTORY

HON. TAMMY BALDWIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Ms. BALDWIN. Mr. Speaker, I rise today in recognition of an important historic program that celebrates famous cases throughout Wisconsin's legal history and honors Wisconsin's Women Jurists.

This year, Wisconsinites have had the opportunity to take part in a traveling exhibit showcasing the rich history of the Wisconsin Supreme Court. The exhibit examines several of the influential cases Wisconsin has confronted during its over 150 years, including slavery, women's suffrage, and mandatory education for children. I commend the members of the Wisconsin Legal History Committee for their efforts in developing this exhibit so that this generation has the opportunity to learn from Wisconsin's extensive legal history.

On March 17, 2004, for the first time in Wisconsin's history, Judge Maxine A. White, District Director of the National Association of Women Judges, with the assistance of over 25 sponsoring legal associations and community groups, will unveil the portraits of fifteen Wisconsin Women Jurists who are retired or deceased. I am excited that the changing face of the Wisconsin judiciary is being recognized in this exhibit. These 15 female jurists served the courts of Wisconsin between 1972 and 2003 and covered eight different counties across the State—Olga Bennett, Vernon County Court (1969–75); Vel R. Phillips, Milwaukee County Court (1971–73); Martha Bablitch, Court of Appeals, District IV (1978–85); Leah M. Lampone, Milwaukee County Circuit Court (1978–93); Donna J. Muza, Dunn County Circuit Court (1979–98); Arlene D. Connors, Milwaukee County Circuit Court (1980–98); Janine P. Geske, Milwaukee County Circuit Court (1981–93), Wisconsin Supreme Court (1993–98); Vivi L. Dilweg, Brown County Circuit Court (1982–99); Marianne E. Becker, Waukesha County Circuit Court (1985–2003); Paulette L. Siebers (1985–86), Dane County Circuit Court; Susan R. Steingass, Dane County Circuit Court (1985–93); Virginia A. Wolfe, Sauk County Circuit Court (1988–2000); Louise Tesmer, Milwaukee County Circuit Court (1989–2001); Jacqueline Schellinger, Milwaukee County Circuit Court (1992–2003); Nancy E. Wheeler, Racine County Circuit Court (1993–98).

I have had the privilege of getting to know several of these amazing women, and it has been such an honor to learn from them.

I would also like to congratulate and commend Judge White on her leadership of this event, and Wisconsin Justice Ann Walsh Bradley, who will receive the prestigious American Judicature Society's "Herbert Harley" Award at the March 17 event. The "Herbert Harley" Award is given to individuals who have made outstanding efforts to improve the administration of justice in their State. Justice Ann Walsh Bradley is certainly deserving of this award for her tireless work on behalf of Wisconsin.

TRIBUTE IN HONOR OF DON RICHARDSON'S RETIREMENT FROM HIGHLAND PARK HIGH SCHOOL

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mr. SESSIONS. Mr. Speaker, I rise to pay tribute to Don Richardson from Highland Park High School on the occasion of his upcoming retirement. I have the pleasure of representing Highland Park High School in Congress, and I am proud to have four alums from Highland Park High School on my staff and two of them that played football for Coach Richardson.

Coach Richardson retires as the defensive coordinator for the Highland Park Scots football team. Don Richardson has been a career educator for 34 years, including 31 distinguished years with the Highland Park Independent School District. In his capacity with the Highland Park football team, Coach Richardson has been a jack-of-all-trades. In his tenure, he has served as the head football coach, offensive coordinator, offensive line coach, and defensive coordinator.

I salute Coach Richardson for the positive influence that he has had on his players and students over the last 31 years. Off the playing field, he has been an outstanding government and history teacher for Highland Park High School. Coach Richardson was selected by his teaching peers as the Highland Park High School Teacher of the Year for 1998–1999. He is a role model of leadership and dependability, and he will be greatly missed by future Highland Park football teams and by his former players and fans in the stands on Friday nights. Highland Park's football team is a benchmark of success within Dallas County year in and year out. Coach Richardson's coaching abilities greatly contribute to the team's victories on the field, as he puts his players in the best positions to make game-changing plays.

Highland Park's football team has historically been one of the best programs in the State. Highland Park ranks fourth in the State for all-time victories with 637 and is fifth in all-time playoff victories with 62.

Coach Richardson's family has played a vital role in his success over the years. Don's loving wife, Carolyn, and children, Sharla Cassiano and Kyle Richardson, have brought him great warmth and support. Sharla was an All-Sun Belt Conference volleyball player at Louisiana Tech, and Kyle played linebacker for the University of Texas Longhorns.

I wish Coach Richardson and his family a pleasant start to his well-earned retirement, and I thank him for his years of dedicated service in education.

A PROCLAMATION COMMEMORATING THE 99TH BIRTHDAY OF THE BRIDGEPORT AERIE NO. 995

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mr. NEY. Mr. Speaker:

Whereas, the Bridgeport Aerie No. 995 Fraternal Order of Eagles is celebrating 99 years of service to the Bridgeport area; and

Whereas, the Bridgeport Eagles have contributed untold volunteer hours in building character, citizenship, and leadership to the community; and

Whereas, the Bridgeport Eagles must be commended for its hard work and dedication in providing an outstanding service to the Bridgeport area; and

Therefore, I join with the residents of Bridgeport and the entire 18th Congressional District in recognizing the Bridgeport Aerie No. 995 Fraternal Order of Eagles for 99 years of community service.

PERSONAL EXPLANATION

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mr. ROGERS of Michigan. Mr. Speaker, on the legislative day of Tuesday, February 24, 2004, the House had a vote on S. 714, legislation that would authorize the Bureau of Land Management to convey land to Douglas County, OR. On House rollcall vote No. 27, I was unavoidably detained. Had I been present, I would have voted "yea."

HONORING CLARK KERR

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Ms. LEE. Mr. Speaker, I rise today to honor the man who created the blueprint for public higher education in the United States, Clark Kerr. On December 1, 2003, Mr. Kerr passed away at the age of 92 in El Cerrito, California. The 9th Congressional District salutes and thanks him for his tireless and spirited service.

As the most distinguished American academic administrator of his day, and the man who introduced free university tuition in California, Clark Kerr was known as the Henry Ford of higher education. His nine-year tenure as president of the University of California in the 1960s, and his earlier chancellorship of the Berkeley campus (1952–58), set the standard for American universities.

After being elected governor in 1967, Ronald Reagan slashed the UC budget by 10 percent and threatened to bring in tuition fees. Kerr demurred, and was denounced as a sympathizer. Following an illegal harassment campaign conducted by the CIA and the FBI, the Board of Regents was persuaded to vote 14–8 for Kerr's dismissal. Yet he was never bitter, and the student uproar at Berkeley raged on after his departure.

Although offered posts at Harvard and Stanford universities, Kerr chose instead to head the Carnegie commission on higher education, where he produced a series of publications covering every aspect of higher education. These continue to be essential reading for educators, but when he left in 1980, the institution closed. Without Kerr, apparently, it was inoperable.

Kerr's earlier master plan for Californian higher education had a big impact across the U.S. and brought him renown abroad.

It established three tuition-free tiers: community colleges offering two-year courses; state colleges open to the top third of high school graduates and granting bachelor's and master's degrees; and the UC system, taking the top eighth of students and able to award doctorates.

The plan became law in April 1960, immediately making California a leader in American higher education, and earning Kerr praise for "mass-producing low-cost quality education and research potential for a nation that hungered deeply for both". Later, while at the Carnegie commission, he moderated his views on free tuition, reflecting that "a very high proportion of students at UC came from upper-income families. This was a free ride for the well-to-do. I now think it is better to charge a moderate level of tuition and have a strong program of financial aid for those who can't afford it." In 1972, Congress translated this financial aid program into the Basic Educational Opportunity Grant, later known as Pell Grants.

Kerr's years as UC president coincided with some of the most tumultuous periods of student protests. In 1961, he responded to complaints that a communist was speaking to Berkeley students by declaring that "the university is not engaged in making ideas safe for students. It is engaged in making students safe for ideas." As the protests became increasingly bitter, however, he found himself caught between liberal students and conservative politicians.

Kerr was born May 17, 1911 in Pennsylvania, the son of an apple farmer and a milliner, who imbued their son with a deep respect for education. His father was the first member of his family to go to university and spoke four languages; his mother had left school at 12 but postponed getting married until she had saved enough money to fund a college education for her future children. Kerr graduated from Swarthmore College, where he was president of the student union. He also became a Quaker. He took an MA in economics at Stanford, and transferred to Berkeley for his PhD before entering the new field of labor economics. He taught for a bit at the London School of Economics and at Stanford, and then went into labor negotiating, completing 500 settlements up and down the West Coast. He would later emphasize negotiating skills as essential for leading faction-wracked universities.

Kerr returned to Berkeley as an academic in 1945, as many ex-service personnel were entering higher education thanks to the GI bill. As the cold war gathered momentum, the UC Regents demanded that all professors sign a loyalty oath, and this controversy changed Kerr's life. He became a powerful advocate of faculty views and, in 1952, his peers successfully recommended him for chancellor. During his Berkeley leadership, he added eight new residence halls and expanded the faculty.

As head of the entire UC system, he doubled the number of students, broadened three specialized campuses and added three new ones—at San Diego, Irvine and Santa Cruz—bringing the total to nine. He also wrote The Uses of the University (1963), which developed the idea of the modern research institution as what Kerr called the "multiversity". Two volumes of memoirs appeared in 2001 and earlier this year.

Catherine, his wife of 69 years, survives him, as do two sons and a daughter. Finally, as we honor Mr. Kerr today, I want to thank him for being a noble visionary and humanitarian. I take great pride in joining Clark's family, friends and colleagues to recognize and celebrate the accomplishments and contributions of Clark Kerr.

IN SUPPORT OF TAIWAN'S MARCH 20, 2004 REFERENDUM

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mr. ANDREWS. Mr. Speaker, I rise today in strong support of the Taiwanese government's decision to hold a referendum on March 20, 2004, thus allowing their citizens to exhibit a true expression of democracy. It is clearly in the best interests of the United States to promote the spread of democracy, and to defend democracy wherever it exists, and I therefore urge my colleagues as well as the current Administration to support Taiwan's right to hold this referendum free from intimidation or threat of force from any nation.

In 2001, President Bush declared that America would do whatever it takes to defend Taiwan. Now it is time for us to act on this promise, not by a show of military force but by a show of vocal support for Taiwan's desire to express its democratic form of government. On March 20, 2004, Taiwan plans to hold a referendum to ask voters two questions on governmental relations with the PRC. First, Taiwanese citizens will be asked if they agree that their government should acquire more advanced anti-missile weapons to strengthen Taiwan's self-defense capabilities if the PRC refuses to remove the missiles it currently has targeting Taiwan. Second, they will be asked if they are in favor of negotiations with the PRC to reach a peaceful resolution to cross-strait differences. The people of Taiwan, and not the Government of the People's Republic of China, should have the sole right and responsibility for determining the future of Taiwan. Within this right of self-determination for the Taiwanese people lies the undeniable right of the Taiwanese government to hold referenda votes, when necessary, to assist the government in making key decisions that will effect the lives of their constituency.

As a democracy, Taiwan has shown great promise. Over the past decades, Taiwan has gone from having a one-party, martial law dictatorship to a growing democracy that has shown great respect for human rights and freedoms. It has also become a strong ally of the United States as well as a stabilizing democratic force in the Asian Pacific region. Now, Taiwan is in need of American assistance to preserve and defend the democratic form of government that it has worked so hard to create.

President Woodrow Wilson once said, "Just what is it that America stands for? If she stands for one thing more than another it is for the sovereignty of self-governing people." Mr. Speaker, as the foremost promoter of democracy and a country that stands for the sovereignty of the people, the United States cannot allow the collective voice of the Taiwanese people to be muffled due to intimidation from the People's Republic of China. It is the right of the Taiwanese people to be the sovereign rulers of their fate. I urge my colleagues and the administration to support this right as well as the growth of democracy in Taiwan.

INTRODUCING A BILL TO PROHIBIT THE COMPARATIVE COST ADJUSTMENT PROGRAM FROM OPERATING IN THE STATE OF FLORIDA

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to introduce legislation that will prohibit the comparative cost adjustment program, as included in the recently passed Medicare bill, from operating in the State of Florida. My bill serves as a companion to legislation introduced last week by Florida's two Senators BOB GRAHAM and BILL NELSON. I am pleased that this legislation enjoys the full support of every Democrat in Florida's Congressional delegation.

The recently passed Medicare law requires the Secretary of Health and Human Services to establish six premium support demonstration projects. These demonstration projects, sometimes referred to as comparative cost adjustment, must be established in 2010 and run through 2015. When established, they will essentially allow insurance companies to set the cost of prescription drugs provided for under Medicare at different levels throughout these six areas dependent upon geographic location, the density of those participating in the plan, and average age of those living in a given region. The selection criteria of the program make it likely that Florida would be one of the six selected sites.

A recent analysis done by Bush Administration actuaries last August confirmed that the "premium support" proposal originally included in the House Medicare bill would lead to higher fee-for-service premiums. That is, seniors and individuals with disabilities would have to spend more to remain in traditional Medicare.

Further, according to the Administration, within Florida, if premium support were enacted in Broward, Palm Beach, Miami-Dade, Brevard, Flagler, Hernando, Hillsborough, Indian River, Pasco, Pinellas, Seminole, or Volusia counties, premiums would increase for seniors in these counties wanting to remain in traditional Medicare. Realize, not all Florida counties were analyzed, and premium increases would be possible in other counties as well.

Mr. Speaker, as a result of the President's flawed Medicare bill, for the first time in history, Medicare beneficiaries living in different parts of the country and even within the same State would face different premiums. These wide variations in premiums do not exist in traditional Medicare today.

For Medicare's almost 40-year history, seniors and individuals with disabilities in traditional Medicare have paid the same premium, no matter where they live. Premium support would end this uniformity and exacerbate existing concerns about geographic inequity in Medicare.

Although premium support is possible in counties with managed care, seniors and individuals with disabilities in counties without managed care are not off the hook. That is because there are several provisions in the Medicare bill that are designed to encourage managed care companies to enter new areas. If those provisions are successful—and given the enormous amounts of money devoted to encouraging companies to enter new areas, they undoubtedly will be—even seniors in counties currently without managed care could be forced to pay more to remain in traditional Medicare.

Mr. Speaker, in its nearly 37-year history, Medicare has provided millions of American seniors with important health protections. With more than 34 percent of the people living in the district which I represent over the age of 55, Medicare is a critical tool in improving the lives of so many.

However, under current law, seniors in my district may find themselves paying more for prescription drugs than those living in a neighboring county. This is completely unacceptable. My constituents do not wish to be guinea pigs for a prescription drug plan that pits their well being against the pocketbooks of pharmaceutical executives. My constituents expect to pay fair and honest prices for their prescription drugs. They expect to pay the same amount for their prescriptions as seniors in California, New York, and every other State in the Union. Even more, they expect to pay the same amount as other seniors in Florida. Current law provides no such guarantee to Florida seniors, and that is completely unacceptable.

My legislation fairly addresses this shortfall and ensures that Florida seniors do not fall victim to vicious Republican efforts to privatize Medicare.

I urge the House Leadership to bring my bill to the House floor for its immediate consideration, and I ask for my colleagues' support.

BISHOP MUNIB YOUNAN ADDRESSES CONGRESS ON THE PROSPECTS FOR ISRAELI-PALESTINIAN PEACE

HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mrs. CAPPS. Mr. Speaker, I recently traveled to Israel and the West Bank on a trip sponsored by the Evangelical Lutheran Church in America. It was one of the busiest, most exciting, and thought-provoking weeks of my life, and it added immeasurably to my understanding of the complexities and challenges of Israeli and Palestinian life.

During this trip, I had the good fortune to spend a great deal of time with Bishop Dr. Munib A. Younan, the Lutheran Bishop in Jerusalem. I was not only blessed by Bishop Younan's extraordinary hospitality, but benefited so much from his intimate knowledge of the region, the issues, and the key players on both sides.

Mr. Speaker, 2 weeks ago, Bishop Younan came to Capitol Hill for a discussion with several Members and staffers. It was indeed a compelling conversation. Since not all of my colleagues were able to meet the Bishop personally, I would like to publish in the CONGRESSIONAL RECORD a copy of his remarks. I look forward to continuing to work with all of my colleagues on the critical imperative to bring the Israeli-Palestinian conflict to an end.

Dear Friends: Good afternoon. It is an honor and a privilege for me to be here. I am going to talk about peace building and reconciliation in the Israeli-Palestinian conflict. I will do so from a Palestinian Christian perspective.

I am a Palestinian and a Christian, and I happen to be a Lutheran. My home is in Jerusalem. We Palestinian Christians have lived in the Holy Land since the very beginning of Christianity.

Today we Christians are not as many as we used to be, due to emigration. But nevertheless we Christians are an integral segment of the Palestinian people. My family became refugees in the 1948 war. I still carry a United Nations-issued refugee card. I wonder if I had grown up in the difficult circumstances of a refugee camp in Bethlehem, Jenin, Nablus or Ramallah and if the Lutheran Church had not embraced me and my family in Jerusalem, if I ever would have had the opportunity to serve the church as a pastor or a bishop.

Sometimes, I am asked what is the role of the Church in the midst of such an unjust and destructive situation? I believe the Church is called to be prophetic. That means the Church is to stand for justice, condemning every kind of injustice, spiral violence or oppression whoever the perpetrator may be. But at the same time, the Palestinian Church has a vision for justice and peace. This prophetic role emanates from Prophet Micah who taught us: "God has told you, O mortal, what is good, and what does the Lord require of you but to do justice, and to love kindness, and to walk humbly with your God." (Micah 6:8)

I wish to mention three particular circumstances of injustice:

(1) The Separation Wall being built by Israel.

The Separation Wall is intended to separate Israelis from Palestinians and is said to be a "security wall" for Israelis. I would submit to you that this wall is bound to create more hatred, more anger and more outrage because of the enormous losses and suffering it is creating among the Palestinian people. In my own Lutheran synod we are finding our people, pastors and churches being torn apart, separated by the Wall. The members of the Lutheran Church of the Redeemer in the Old City of Jerusalem and other Christians will find half of their congregations on one side and half on the other if the wall is built through a northern area of Jerusalem as is proposed. In Beit Sahour, 110 Palestinian Christian families are threatened to lose their houses because they happen to be near the separation wall that will be built. The Catholic bishops from the U.S.A. and Europe issued a statement on the 16th of

January 2004 after their visit to Jerusalem by saying: "We have seen the devastating effect of the wall currently being built through the land and homes of Palestinian communities. This appears to be a permanent structure dividing families, isolating them from their farmland and their livelihoods, and cutting off religious institutions." His Holiness, Pope John Paul II, has said that "the Holy Land does not need walls, but bridges." We long in the Holy Land for bridges rather than walls!

The separation wall diminishes the hope held by Palestinians and Israelis that a negotiated solution resulting in two states, side by side, living in peace, is possible. The wall undermines the viability of a two state solution.

(2) A rapidly declining Palestinian economy.

The World Bank notes that 70 percent of Palestinians living under the military occupation are unemployed. And 65 percent of the population is living under the poverty line of $2.00 USD per day. Another statistic recently released shows that the average per capita income of Palestinians is under $1500.00, while the average per capita income of Israelis is more than $18,000.00, again according to the World Bank. As you can imagine, this impoverishment has created major health and nutrition crises, as well as shattering the dignity of people and severely damaging the family unit and the whole society. The poverty has a devastating impact on our daily lives, but also undermines our hope for the future and reconciliation.

(3) Increasing isolation of Palestinian people in their towns and cities.

Most of our Palestinian cities and villages have become under siege. People are forced to remain within their town, hemmed in by checkpoints, roadblocks, tanks, armaments and Israeli Defense Force (IDF) soldiers and now, increasingly, by the Separation Wall. Recently we have begun hearing that any foreign visitors or workers in Israel must apply for a permit to enter the West Bank, something that has been done in regard to the Gaza Strip for sometime. Such permits, even if issued, will severely limit the people who come into the Palestinian towns and villages to help people and churches. I would like again to quote the report of the Catholic bishops: "We have had an experience of the frustration and humiliation undergone everyday by Palestinians at checkpoints, which impede them from providing for their families, reaching hospital, getting to work, attending their studies and visiting their relatives."

I am here carrying in my body the pains and suffering of my Palestinian people. But I am here with an olive branch in my hand, saying, "Enough for hatred, enough for occupation, enough for spiral violence, enough for revenge and counter-revenge; enough for stigmatization, demonization and dehumanization of the other. I say, enough for war! It is time for truth, justice and peace for all the people of our land."

Our prophetic task is to address the root cause of the Middle East problem: The occupation has to end. It is a sin against God and against humanity because it is depriving people of their rights and their dignity. Occupation is as destructive to the occupier, as it is to the occupied. As the Heads of Churches in Jerusalem stated in March 2002: "We believe that the Israeli security is dependent on the Palestinian freedom and justice. For this reason, we join our voices with every Israeli and Palestinian seeking for a just peace. We ask everyone to take the appropriate measures to stop further massacres or tragedies for our two peoples."

We want security for the Israelis, and freedom and justice for the Palestinians. But the security of Israel is dependent on the freedom of the Palestinians, and the justice of the Palestinians is dependent on the security of Israel. Once we recognize the symbiotic relationship between the two peoples, a just peace and reconciliation will become reality.

The prophetic voice of the Palestinian Church that seeks a just peace is a voice that believes in the future. We support a two state solution which means having the state of Israel and the Palestinian state within the 67 borders living side by side in peace, justice, equality and reconciliation with a shared Jerusalem. Here I would like to affirm the statement made by President George W. Bush on June 24, 2002, calling for a two-state solution with people living side by side. I also admire the president's call for a viable, contiguous Palestinian state. It is also our call that a just solution will be found to the problems of the Israeli settlements in the West Bank and Gaza, and the right of return for Palestinian refugees in accordance with the rule of law and international legitimacy.

No forms of peaceful settlement of the conflict will ever be realized unless the grassroots will be reconciled with one another. In this task the three monotheistic religions are called to be the forerunners—preparing the way for reconciliation. At the moment 'both nations are polarized with both political and religious extremists from the three religions forcing the two peoples apart from each other. But those extremists must never kidnap the Middle East nor kidnap justice, peace and reconciliation. I believe that religion should be an instrument of peace and broker for justice. Religion is to call Palestinians and Israelis—Jews, Christians and Muslims—not to see God only in ourselves and our own religion, but also in the other's, in the people who are different from us. When we learn to see God in the other, then we can accept the humanity of the other. Once we accept the humanity of the other, then we accept the otherness of the other, and then mutually recognize each other's human, civil, religious, national and political rights. Only then the Holy Land will become the promised land of milk and honey for both Palestinians and Israelis.

The Palestinian Church also has a vision for the Palestinian society. The church leaders are also calling for justice within our society based on respect of human and religious rights. We envision a modern democratic just civil society. This is the reason that we have been vocal in our joint ecumenical work to call for equality, freedom of religion, opinion and expression for every human being. But the Palestinian Church does not only talk, but walks the talk and reflects that either in the immerging basic constitution, or practices it in our educational, health and social institutions. If we take the Evangelical Lutheran Church as an example, we serve the needy regardless of gender, religion, confessional or political affiliation. Our schools raise up a new generation that is capable of building a Palestinian democratic modern civil society. We are teaching 3000 children in 5 schools. 37 percent of our students are Muslims. It is our aim to teach coexistence among Jews, Christians and Muslims, and we offer peace education and non-violent ways of dealing with the conflict. As it is written in our school in Bethlehem, "Violence is the tool of the incompetent." We also serve in hospitals. Our Augusta Victoria Hospital has been serving the Palestinian refugees for the last 55 years. Statistics show that 22,000 patients were treated in the last year. However, we are facing a problem of the employer's tax with the ministry of finance of the state of Israel. The Lutheran World Federation hopes that a solution will be found and that the agreement of tax exemption will continue for the sake of the services we render. Although we Christians are less than 2 percent of the total population, we serve 20 to 25 percent of the Palestinian people. And we urge you to see the significant role that the Christian Church is playing to create hope in a situation that often seems hopeless and to build a future with justice, peace and reconciliation in our country.

When God gave freedom and power to the United States of America through the struggles of many women and men such as Washington, Lincoln, Martin Luther King Jr. and others, He did not give you liberation to keep it in the United States, but to help smaller nations, who are living in fear and injustice, to enjoy what God allowed you to enjoy. Our concern is the future of the Palestinian and Israeli children; they are entitled to live their lives in security, justice, freedom, respect for human rights and in peace as American children do.

As Representative Lois Capps made plans to visit us, I told her, "Come and see for yourself—see the whole story on the ground. Then judge for yourself." This is what I want to tell each of you today: "Come and see! You are very welcome. See and hear the whole story—the fears and hopes of both sides—and then make up your mind for yourself."

As I come to address you, I am not asking you to be pro-Palestinian nor to be pro-Israeli. I am asking you to be pro-humanity, pro-truth, pro-peace and pro-reconciliation. Because it is only then you help both peoples to find a dignified solution.

It is time to commit ourselves to move from statements to action and to change our warrior swords into peaceful ploughshares. We all can say, as a graffiti said in Ramallah: "Better the pains of peace, than the agonies of war and occupation."

Let us sing with King David: "Justice and peace must kiss each other" (Psalm 85: 10).

May the peace of the Lord fill our hearts and direct our ways.

TRIBUTE TO LEE MARSHALL

HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mr. CRAMER. Mr. Speaker, I rise today to congratulate Lee Marshall on the release of her debut album, "Anchored." The National Children's Advocacy Center, located in Huntsville, hosted Lee's CD release party on Friday, February 27, 2004.

Mr. Speaker, Lee Marshall is a celebrated news anchor for WAFF NBC 48 in Huntsville. In addition to her role as the lead morning and noon news anchor, Lee is the host of a weekly segment on WAFF called "Kids to Love." On every episode of "Kids to Love," she highlights one of the five thousand kids that are in foster care and the five hundred that are waiting to be adopted in the State of Alabama. Every show is close to her heart because Lee herself was adopted. Lee is a shining example of what the love of a permanent family can do for a child's future success.

Lee also volunteers countless hours working with the American Cancer Society and the National Children's Advocacy Center. She is a strong supporter of the NCAC model and has lent her name to help educate others and raise awareness of the severity of child abuse.

Mr. Speaker, all of us in North Alabama are proud of Lee and the work that she has done for our area. I have admired her energy, compassion, and commitment to the community and on behalf of every one in North Alabama, I wish her the best of luck with her debut album.

TRIBUTE TO SYLVIA CLARK

HON. DIANA DeGETTE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Ms. DEGETTE. Mr. Speaker, I would like to recognize the extraordinary life and accomplishments of a remarkable woman in Colorado. It is both fitting and proper that we recognize Sylvia Clark for her impressive record of civic leadership and invaluable service.

Sylvia was a dear friend and a stalwart leader who will be greatly missed. She lived her life on the front lines of progress and proved to be a powerful force in transforming the landscape of our State. Her indomitable spirit sustained her through many challenges and molded a life of genuine accomplishment.

Sylvia was born in St. Anthony, Idaho, and spent a good portion of her youth in Honduras where she saw first hand the impact of poverty on women and children. She studied nursing at Johns Hopkins University and went on to become a registered nurse, a certified nurse midwife, a certified obstetrics and gynecology nurse, and earned a master's degree in public administration. Sylvia came of age professionally at the time women were gaining their rights to forms of birth control previously considered illegal. She began an eminent career at Planned Parenthood of the Rocky Mountains in 1967 and went on to become executive director where she guided the organization through turbulent political times and succeeded in building a preeminent reproductive health care agency, providing services to over 100,000 clients through 35 health centers in six States.

No one has been more courageous and unrelenting in the struggle to make sure that every pregnancy is planned, that every child is wanted, and that every woman is assured access to reproductive health care. Sylvia's life is a testament to the principle that government should not interfere in the health choices of women. She was dedicated to the proposition that all women should be given the support they need to make wise decisions about their families. Despite numerous attempts to chip away at reproductive rights and health care services in Colorado, Sylvia never faltered and labored tirelessly to ensure that family planning practices in our State remain both respectful and voluntary. For these efforts, Sylvia was honored by the Religious Coalition for Reproductive Choice with the Alex Luken Faith and Freedom Award and the Anti-Defamation League's Civil Rights Award.

We are grateful for Sylvia's leadership in sustaining an ethic of family planning in our State and Nation. She was a fervent defender of rights that have deep roots in our democracy and our tradition of civil liberties. I believe Sylvia's message to us would be that we must be ever vigilant and continue the fight for the kind of America which respects these rights.

Sylvia Clark lived a life of meaning and one that is rich in consequence. It is the character and deeds of Sylvia Clark, and all Americans like her, which distinguish us as a people. Truly, we are all diminished by the passing of this remarkable woman. Please join me in paying tribute to the life of Sylvia Clark, a distinguished citizen. It is the values, leadership, and commitment she exhibited during her life that serve to build a better future for all Americans.

MONTENEGRO'S EFFORTS TO COMBAT TRAFFICKING IN PERSONS

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mr. SMITH of New Jersey. Mr. Speaker, I wish to inform my colleagues of the steps Montenegro has undertaken to combat trafficking in persons. This progress was reported to me by Montenegro's Deputy Prime Minister and Interior Minister, Dragan Djurovic, the republic's anti-trafficking coordinator, Aleksandr Mostrokol, and Mirjana Vlahovic from the Montenegro Women's Lobby. All three were in Washington last month for a conference hosted by the Center for Strategic and International Studies.

Montenegro is a republic of the former Yugoslavia, and the only one to remain in a state with Serbia. After some political changes took place in the late 1990s, Montenegrin authorities stood in opposition to Slobodan Milosevic's undemocratic rule at home and aggression towards Serbia's neighbors. Montenegro, however, has been plagued by official corruption and organized crime. Trafficking in persons, the human slavery of our day, has become a highly developed criminal activity in Montenegro, as in other places in the region.

Last year, Montenegro received considerable attention for a case in which a trafficking victim—a woman from Moldova who had been raped, tortured and severely beaten for more than 3 years while enslaved in prostitution—escaped her captors, went to the authorities and provided testimony against several persons, including Deputy State Prosecutor Zoran Piperovic. What was a welcomed effort to prosecute traffickers even if they hold official positions, however, turned problematic as the victim was subjected to various forms of intimidation and her family in Moldova was threatened due to her cooperation in the investigation. When charges were suddenly dropped against Piperovic and three others, I issued a statement expressing outrage over this development. This set a dangerous precedent for going after traffickers with clout and connections elsewhere. Many likewise criticized the Montenegrin authorities for the failure to bring the case to trial.

To its credit, the Montenegrin Government responded to the widespread criticism. Mr. Djurovic invited a joint team of the Organization for Security and Cooperation in Europe and the Council of Europe to examine the case and make recommendations. Flaws were found. As a result, both the accused Deputy State Prosecutor and the prosecutor responsible for dropping the charges were sacked and new prosecutors put into office. In addition, the Montenegrin Government adopted an anti-trafficking strategy and passed several new laws designed to combat trafficking as well as to prevent future manipulations of the legal system. Additional laws, including one on witness protection, are still being developed.

In my meeting, Mr. Speaker, I welcomed the progress which has taken place in Montenegro in recent months. I also encouraged my guests to ensure that the new laws are properly implemented, and that the police, in particular, be made part of the effort to combat trafficking rather than part of the problem. Finally, I urged them to seek the reopening of the high profile trafficking case. In my view, it is insufficient to learn lessons from a crime and a subsequently botched investigation or prosecution; the perpetrators still need to be brought to justice.

The meeting left me hopeful that progress is being made in Montenegro. I also hope, Mr. Speaker, that my colleagues will join me in supporting U.S. programs designed to combat trafficking in persons in Montenegro, in southeastern Europe, and around the globe.

HONORING MR. CLIFF "C.J." GUFFEY

HON. BRAD CARSON

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mr. CARSON of Oklahoma. Mr. Speaker, Cliff "C.J." Guffey is the Executive Vice President of the American Postal Workers Union, AFL–CIO. Vice President Guffey was elected as the Executive Vice President of the American Postal Workers Union, AFL–CIO in November 2002. Prior to his election to the American Postal Worker's Union's second highest elected office, he served as Assistant Director, Clerk Division from 1986 to 1999. Prior to serving as an officer at the American Postal Workers Union, AFL–CIO headquarters he was President of the Oklahoma City Area Local from 1979 to 1986.

Vice President Guffey's job within the Postal Service was as an LSM Operator with brief tenure at a station.

Vice President Guffey also served with the United States Marine Corps from 1968 to 1970 as a rifleman in the 2nd Battalion, 3rd Marine Division in Viet Nam.

Vice President Guffey was born in Shawnee, Oklahoma. His father was a career navy pilot with the United States Navy and he and the family were stationed around the world living in: Hawaii, Naples Italy, San Diego and Alabama, just to mention a few.

Cliff is married with children and numerous grandchildren. He and his wife Donna reside in Virginia. Cliff and Wife Donna, have two daughters; Carrie and Terrie. Daughter Carrie is married to Matt Benjamin. Daughter Terrie is married to Derek Kilgo.

NATIONAL SPORTSMANSHIP DAY

HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mr. LANGEVIN. Mr. Speaker, today I rise to commemorate March 2, 2004 as National Sportsmanship Day.

National Sportsmanship Day is based on the belief that athletic competition will teach students, coaches, and parents valuable lessons that are useful on and off the athletic field. A study conducted by Michigan State University in the 1990s found that 14 million of the 20 million American children who participate in organized sports drop out by age 13, mostly because their parents' attitudes take the fun out of playing the games. Recent news stories of fights among and between officials and parents and the pressure parents place on their young children to "win at any cost" highlight the importance of sportsmanship.

National Sportsmanship Day serves as an opportunity for athletes and sports fans of all ages to recognize and discuss the need for ethics, fair play and sportsmanship. This year, more than 12,000 elementary, middle, and high schools, as well as colleges and universities in all 50 states and more than 125 countries, are participating in the fourteenth annual celebration of the personal ethics and hard work of athletes.

Each year, the Institute for International Sport, based in Rhode Island's Second District, recognizes individuals who exemplify ethics and sportsmanship in both their professional and personal endeavors by naming them as Sports Ethics Fellows on National Sportsmanship Day.

The 2004 Sports Ethics Fellows represent a range of athletes, coaches, and administrators as diverse as those who enjoy sports. Each one of the Fellows is a tribute to his or her game, and their skills are only surpassed by their desire to play fairly. Their strong character and great talent make them each a role model to current and future generations of athletes.

This year's list of fellows consists of the following athletes, coaches, and administrators:

Wayne Bryan—Tennis; Bill Buckner—Professional Baseball; Patti Dillon—Marathon Winner; Chris Drury—Professional Hockey; Jennie Finch—Softball; Karen Finocchio—Head Coach of the Brown University Men's and Women's Ski Teams; Kristine Lilly—Professional Soccer; Chuck Mitrano—Empire 8 Commissioner; Jamie Moyer—Professional Baseball; Michael Phelps—Swimming; Christine Plonsky—Athletics Director, University of Texas; Chanda Rubin—Tennis; and Lynn Schweizer—Associate Director of Athletics, Denison University.

I urge my colleagues to join me in celebrating National Sportsmanship Day, and I hope that continued recognition will help our country become more active, ethical, and team-oriented. Thank you, Mr. Speaker.

TRIBUTE TO SYDNEY ELIZABETH ROGERS

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mr. ROGERS of Kentucky. Mr. Speaker, I rise today to inform the House of yet another magnificent event that has taken place in my family.

On August 31, 2003, my youngest son John and his wife Tracy gave birth to their second daughter. Sydney Elizabeth Rogers weighed 6 pounds, 9 ounces and was 20 inches long. Sydney is a happy, healthy baby girl and has brought much joy to our family. Her grandmothers, Cynthia Rogers and JoAnn Walker, and I are all too happy to shower Sydney with love and affection.

At a time when the world is filled with much uncertainty and turmoil, my announcement of this beautiful baby girl is a welcome breath of fresh air. As the Congress works to make America a better, safer place to live, I will be certain to keep precious little Sydney in mind.

Mr. Speaker, I ask that you and all of our colleagues join me in wishing all the best to Sydney Elizabeth Rogers.

COMMEMORATING THE LIFE OF JULIAN ROTHBAUM

HON. BRAD CARSON

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mr. CARSON of Oklahoma. Mr. Speaker, in September of 2003 Oklahoma lost one of its greatest public servants, Julian Rothbaum. Although Mr. Rothbaum was a successful oilman, he was perhaps best known for his work in education and politics. A close confidant of Speaker of the House Carl Albert, Mr. Rothbaum worked diligently to support and advance education and provided advice and counsel to many including many of Oklahoma's most influential public servants.

Born October 3, 1913, in Hartshorne, a small town in Southeastern Oklahoma, Mr. Rothbaum spent his life in service to his state and his country. After graduating from Hartshorne High School in 1932 as the President of his senior class, he went on to the University of Oklahoma, where he earned a bachelors degree in 1936, a law degree in 1938, and where he served as president of the student body. At OU, Mr. Rothbaum received his commission in ROTC and served his Country as a field artillery officer in World War II. After the war, he returned to Oklahoma City where he began working as an attorney. He relocated to Tulsa in 1946 when he was named the first Director of the Tulsa District of the Federal Housing Administration. Mr. Rothbaum was the youngest FHA Director in the United States at the time.

Following his work With the FHA Mr. Rothbaum owned and operated a mortgage banking company, and in 1953 served as president of the Oklahoma Mortgage Banking Association. Shortly thereafter Mr. Rothbaum joined the Francis Oil and Gas Company and worked his way to chairman of the board. However, Mr. Rothbaum was not only successful in the business world and consistently devoted a great deal of time and energy to the people of Oklahoma through his work in education and politics.

Widely regarded as one of Oklahoma's most generous philanthropists, Mr. Rothbaum had a huge heart and was known to write hundreds of personal notes of thanks, congratulations, and encouragement while serving on the University of Oklahoma Board of Regents. His life-long support of and dedication to education was illustrated in many ways, including his two terms on the OU Board of Regents, one term on the State Board of Regents for Higher Education, and as Special Advisor on Higher Education.

As a tribute to his good friend Carl Albert, Mr. Rothbaum created and endowed a scholarship in Albert's name at every school the Speaker attended in his life, including McAlester High School, the University of Oklahoma, and Oxford University. Mr. Rothbaum also created and endowed many other awards as a way of supporting, encouraging, and strengthening education, at institutions including OU, Hartshorne High School, Carl Albert State College, and Central State University. These awards recognize a wide variety of accomplishments in many fields. He also initiated the Rothbaum Lecture Series on economics, education, and government at Eastern Oklahoma State College in Wilburton.

For all of his hard work and dedication to the people of Oklahoma, Mr. Rothbaum was presented for induction into the Oklahoma Hall of Fame by his good friend Speaker Albert in 1986. Mr. Rothbaum also received many other awards and accolades throughout his life, and, though he was grateful for each, he always preferred to give rather than to receive.

In addition to his work with education, Mr. Rothbaum also served as an ardent supporter and advisor to many in Oklahoma politics, including Speaker Albert, former Governors George Nigh, David Boren, and David Walters, and many more. His interest in politics was grounded in the belief that the government should help people and that in order to make a better world, good competent people should be involved in politics. He believed in promise and possibility and lived his life as a shining example to all those whose lives he touched.

On a more personal note, Mr. Rothbaum was also a beloved husband, father, grandfather, and great grandfather. Preceded in death in 1996 by Irene, his wife of 47 years, Mr. Rothbaum is survived by a daughter, Sue McCoy, of San Jose, California; a son, Joel Jankowsky, of Washington, DC; five grandchildren; and four great grandchildren. In all aspects of his life Mr. Rothbaum is remembered by everyone who knew him as a warm, kind, generous, caring and down-to-earth person who genuinely wanted to make this world, his country, and his state a better place to live.

In commemoration of his life, his works and his impact on the people of Oklahoma, Governor Brad Henry dedicated September 29, 2003, as Julian Rothbaum Day. The State of Oklahoma has had no greater benefactor than Julian Rothbaum.

He believed in the promise of our State and, most of all, in the importance of education to improve Oklahoma. He had such love for public service and no person had a greater impact behind the scenes on Oklahoma politics than did Julian. His life and legacy has and will continue to touch people in many ways. The State of Oklahoma is poorer for his passing.

TRIBUTE TO PHYLLIS BRANDS HUMBERT

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mr. MCINNIS. Mr. Speaker, it is with great sadness that I rise today to pay tribute to the memory of Phyllis Brands Humbert who passed away recently at age eighty-five. Phyllis did much for her Walden, Colorado community as a rancher, schoolteacher, and member of many charitable organizations. As her family mourns her loss, I believe it is appropriate to remember Phyllis and pay tribute to a remarkable woman.

Phyllis embraced the pioneering spirit of Colorado, growing up on her family's historic ranch in Higho, Colorado. Phyllis and her late husband Dick started their own ranch, Humbert Ranches, Inc. in 1948, and it is still in the family today. Phyllis also pursued a career as a schoolteacher, and spent many years enriching the lives of her students at Gould, Rangely, and Craig high schools. In more recent years, Phyllis devoted much of her time to a number of charitable organizations in her community, including the IOOF, VFW Auxiliary, and the Rebekah Assembly of Colorado where she served as president in 1986.

Mr. Speaker, it is always difficult when a beloved member of the community passes away. Fortunately, those who knew Phyllis will have fond memories of her generosity and good nature. I am honored to bring the memory of Phyllis Humbert to the attention of this Congress and this nation.

HONORING THE 101ST AIRBORNE DIVISION (AIR ASSAULT) ON ITS RETURN FROM OPERATION IRAQI FREEDOM

HON. JIM COOPER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mr. COOPER. Mr. Speaker, I rise today to honor the heroes of the Army's 101st Airborne Division (Air Assault). This famous division needs little introduction. Brave members of the "Screaming Eagle" division have fought for their country in countless towns and cities in the 62 years of the division's service to America. In earlier wars, and in places such as Normandy, Eindhoven, Bastogne, and the A Shau Valley, thousands of brave Americans have fought while proudly wearing the emblem of the 101st on their left sleeve.

Today I honor a new generation of heroes from the 101st. After almost a year overseas in the Persian Gulf and in Iraq, thousands of the brave men and women of this storied unit have returned home. Of course, thousands of other US troops—soldiers, sailors, airmen, and marines—have also served in Iraq or serve there today, including more than a thousand members of the Tennessee Army and Air National Guard. However, today I pay special tribute to the members of the fabled "Screaming Eagle" division in honor of their return to Tennessee.

These soldiers have seen a great deal since they were last home at Fort Campbell. First came the excitement of a rapid deployment and intensive training in Kuwait. For veteran and new recruit alike, this was a time of mixed emotions. On one hand, I'm sure they all felt the excitement of being on the verge of doing what they've trained for years to do: fight and win our nation's wars. At the same time, the thought of real combat was surely a source of worry and concern. Throughout the division, soldiers asked themselves the same question that soldiers have asked for centuries: When the time comes, will I measure up? When my buddies need me, will I be there for them? And most importantly—will I make it home?

Then came the first phase of the war in Iraq—the drive to Baghdad. During this phase of the war, the 101st fought in dozens of towns and cities. As is often the case in war, they encountered challenges they did not expect. But, as is also often the case in war, the fighting spirit and ingenuity of the American soldier overcame these challenges. In back alleys, across barren desert, on vital bridges, in tall buildings, and lowly huts, the troops of the 101st Airborne Division lived up to the reputation of previous generations of "Screaming Eagles." On the road to Baghdad they added new towns—like Karbala and Najaf—to the already long list of places where members of the 101st Airborne Division have made us proud.

Once Baghdad fell and Saddam went into hiding, the war entered a new, and in some ways more difficult phase—a guerilla war against remnants of Saddam's regime. For this phase the 101st was assigned an enormous and diverse section of northern Iraq, where they had the challenging dual mission of continuing to fight the enemy while also starting Iraq on the long road to democracy and economic reconstruction. Though it should not come as a surprise, the soldiers and leaders of the 101st showed that they were once again up to the challenge. The 101st succeeded in missions as diverse as building schools, training policemen, repairing utilities, and distributing new currency—all the while continuing to conduct combat operations against insurgents.

The members of the 101st Airborne Division (Air Assault) clearly deserve our thanks for their fine service in Iraq, but so does another group of patriots—the families at Fort Campbell and elsewhere that had to stay behind. So, while I congratulate the men and women of the "Screaming Eagle" division, I want to also add my personal thanks to the family members and friends of the brave troops who served in Iraq.

Mr. Speaker, I think I speak for all members of Congress when I congratulate the 101st Division on a job well done in Iraq, and I pray for the safe return of all our troops serving overseas.

TRIBUTE TO THE FRATERNAL ORDER OF EAGLES

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mr. MCINNIS. Mr. Speaker, it is a special honor that I rise today to pay tribute to the Fraternal Order of Eagles, a devoted and compassionate community service organization from Grand Junction, Colorado. The Fraternal Order of Eagles have been improving the lives of Colorado citizens for over a century, and I would like to join my colleagues here today in recognizing their tremendous service to the Colorado community.

The Grand Junction branch of the Fraternal Order of Eagles was formed in 1904 to help the less fortunate people in the community have a chance at a better life. One hundred years later, the organization has been so successful that the men's group has grown to include over 800 members. Every year the Fraternal Order of Eagles gives thousands of dollars to various local groups to aide impoverished citizens facing difficult times. The organization proudly admits that more than 90 percent of the money they give away comes directly from their members. One of the biggest events that the organization conducts in the Grand Junction community is a Christmas children's shopping spree at K-Mart as a reward to them for being good citizens.

Mr. Speaker, the Fraternal Order of Eagles is a dedicated, selfless organization that has long been active in helping those in need from the Grand Junction community. Their focus on public service to their fellow man is an outstanding example for America's youth. The Fraternal Order of Eagles organization's enthusiasm and commitment certainly deserve the recognition of this body of Congress. Congratulations on celebrating 100 years of public service, Eagles, and keep up the good work!

HONORING SENATOR JOHN WINTERS

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mr. PRICE of North Carolina. Mr. Speaker, I rise tonight to pay tribute to one of North Carolina's most beloved leaders, former State Senator John Winters, who died on February 15.

John was one of North Carolina's towering business and political leaders of the Twentieth Century. John was a member of the Raleigh

City Council beginning in 1961, went to the N.C. General Assembly in 1974 as one of two African American state senators elected since Reconstruction, and served from 1977–1983 on the N.C. Utilities Commission.

John had a dignity about him, and a tenacity as well, that infused every job he held. He began as an amateur boxer in New York City and later worked as a milkman and skycap in the 1950s.

He opened John W. Winters & Co. in 1957 and built new homes or apartments almost every year afterwards. His developments included Biltmore Hills, where he named streets after famous African-Americans, Madonna Acres, Wintershaven, and several small shopping centers. John understood that homeownership was an important way for people to build economic independence and a stake in their community, and he made it available to hundreds of families.

He practiced his craft of bringing people together during the most turbulent of civil rights times by being respectful, confident, compassionate, and wise in the ways of political and business leadership.

As we go forward from February's Black History Month celebrations, it is appropriate that we remember this African-American pioneer now and throughout the years as a model of kindness and practical assistance to those who sought a step up. He completely understood how to "walk with kings and princes but not lose the common touch." I personally benefited from his counsel and encouragement and appreciate the trail he blazed for all seeking social justice and expanded opportunity.

Mr. Speaker, I ask unanimous consent to place in the RECORD "The Lion in Winters," an editorial from the Raleigh News & Observer extolling John Winters' personal qualities and numerous civic contributions.

John Winters had a gentle smile, but he was tenacious at everything he did, and possessed of the grit and courage to back it up. It helped, because during the era in which Winters came along, an ambitious black man faced many obstacles constructed of the stern stuff of prejudice.

Winters, a former Raleigh City Council member and one of the first black state senators elected since Reconstruction, died Sunday at the age of 84. What a marvelous life he led, and what a gutsy one.

Winters used savings from his days as a milkman and skycap to build a successful development business with a multitude of projects, many of them in southeast Raleigh. Federal and state initiatives would help make home ownership possible for people of average means, but in this area Winters had an important role in offering people a chance at that dream.

All the while, he was working as a City Council member to advance civil rights and make Raleigh's transition into an integrated community a peaceful one. Winters was a forceful advocate for his beliefs in equality and opportunity, and in the North Carolina of the 1960s that wasn't an easy thing to be. Thankfully, he lived long enough to see many of his dreams realized.

Former Gov. Jim Hunt called Winters a "bridge-builder," and that's a good description. That Winters was a skilled business leader helped with the bridges, and gave him a chance also to help others who aspired to follow him into a business community where opportunities for minorities were few in that era.

John Winters made his mark. His hometown of Raleigh will wear it proudly, forever.

TRIBUTE TO GABBY GEORGE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mr. MCINNIS. Mr. Speaker, it is my honor that I rise today to pay tribute to Gabby George, a devoted public servant from North Fork, Colorado. Gabby is a kind and generous man who has dedicated forty years to improving the water systems of the Hotchkiss and Crawford communities. He is an intelligent and multi-talented employee of the Public Works Department who actively improves the lives of his fellow citizens, and I would like to join my colleagues here today in recognizing his tremendous service to the Colorado community.

Gabby George recently celebrated his twentieth year with the Crawford public works department, after serving a previous twenty years in the Hotchkiss public works department. Over the years, he has helped to add a new water main and additional service lines as well as securing the pavement of many city streets. Gabby has served the community in many other ways, as an auctioneer, a rodeo announcer, a basketball referee, a volunteer firefighter and even as a Santa Claus for local kids.

Mr. Speaker, Gabby George is a dedicated individual who is actively involved in building productive and caring Colorado communities. Gabby has demonstrated a love for public service that resonates in his compassionate and selfless service to the North Fork Community. Gabby's enthusiasm and commitment certainly deserve the recognition of this body of Congress. Thanks for all your hard work, Gabby, and I wish you all the best in your future endeavors.

BLACK HISTORY MONTH

HON. NICK LAMPSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mr. LAMPSON. Mr. Speaker, when the idea of Black History Month (formerly Black History Week) was conceived by historian, Carter G. Woodson, he envisioned a celebration of black history achievement as well as an educational medium. Mr. Woodson organized the first celebration in 1926 to be held the second week in February in honor of Frederick Douglas and Abraham Lincoln's birthday. Because of its popularity among the black and white press, schools and women's clubs, the week long commemoration was expanded into a month long salute to African Americans. Black History month has provided a forum for African Americans to share their culture with the world and it is a very educational and entertaining month.

For the past 5 years, I have hosted an Unsung Hero Program during Black History Month as a means of acknowledging the many accomplishments of my constituents who often go unnoticed for their service to the community.

We are living in challenging times and the African American community is being severely impacted by many of the subtle changes in our society. Despite the fact that the 2004 theme for Black History Month is BROWN VS. THE BOARD OF EDUCATION, for the first time in many years, our schools are becoming more segregated, African American students are experiencing a higher drop out rate than their peers, it's becoming more difficult to obtain student loans to attend college and affirmative action is being challenged on all fronts. In addition, that dreadful disease AIDS, has reached the pandemic stage in the African American community. However, in the past, my sisters and brothers of color have faced more formidable threats to their well-being and I am confident that each challenge will be met with a fierce determination to resolve the issues at hand.

The following residents of the 9th Congressional District have proven they are willing to embrace Mr. Woodson's vision of a brighter tomorrow by their efforts to serve humanity. I am proud and honored to present to you my 2004 Unsung Heroes for inclusion in the U.S. CONGRESSIONAL RECORD:

Ms. Thomasine Allen, Mr. Abdul Amin, Mr. Lewis Briscoe, Mrs. Rose Etienne, Ms. Loretta Fontenot, Mrs. Janis Matthews, Miss Charlotte Menifee, Mrs. Dianne Henderson Moore, Mrs. Barbara Myles, Mr. Kenneth Negbenebor, Mr. David Mitchell, Ms. Cheryl Randle, Mrs. Janice Stanton, Ms. Helen Truscott, Mr. Ennis Williams, Mrs. Maggie Williams and Mr. Spergon Wynn, Jr.

These individuals were nominated by their friends and neighbors. However, because of redistricting by the Texas Legislature, after this term, the residents of Galveston County will no longer be my constituents. While this is my last Unsung Hero Program in their community, I assure you that Galveston County will always hold a special place in my heart. I am grateful to have represented their community and for their encouragement throughout the years.

IN MEMORY OF EMMETT "BUD" BEAUREGARD

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mr. FARR. Mr. Speaker, I rise today to honor the life of Emmett V. "Bud" Beauregard—husband, father, and friend. For over 60 years, he managed to preserve the traditional flavor of his historic market, Shoppers Corner, and has been a valued community member and family man. Bud ran his market with the reputation as a demanding but fair boss who spoke his mind and he is remembered today as a hardworking and dedicated member of the community, who went head to head with corporate chains with his traditional market and left it as a legacy that still thrives.

A Santa Cruz native, Bud was born August 10, 1917 to Dwight and Cecelia Beauregard. He was a graduate of Chaminade High School, and as a boy he worked for the Espindola Grocery Store on Pacific Avenue. This led to the opportunity to buy Shoppers Corner from Ed Calwell and Carl Schwartz in 1938 with his long time friend and business partner, Vincent Williams. The transaction was famously finalized on a piece of butcher paper and with a hand shake over a barrel of pickles.

During World War II Bud was drafted and served for four years in the Army Air Corp. In 1940 he met Patricia Oaks and in 1942, while stationed in Blytheville, Arkansas, the couple married. Following his military service he returned to Santa Cruz where he resumed his ownership of Shoppers Corner and continued to build the business into a successful and well known local establishment. Bud's son Jim now owns and runs the Shoppers Corner in the family tradition learned from father to son.

Mr. Speaker, I believe don't believe that it is an exaggeration to say that Bud Beauregard was a community icon in Santa Cruz, and a tireless advocate for "Main Street" versus "Wall Street". He is survived by his daughters, Cheryl Ann Beauregard and Joanne Malmin; son, Jim Beauregard and sister, Vernie Reed. He is also survived by his five grandchildren, Ryan Beauregard, Andre Beauregard, Michael Ann Demille, Troy Malmin and Hayley Malmin and two great grandchildren, Emily Demille and Robert Demilie. He was preceded in death by his wife, Patricia Beauregard in 2000 and his son, Michael Beauregard in 1976. He will be missed by many in the community, as well as his family.

TRIBUTE TO STANLEY BARRON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mr. McINNIS. Mr. Speaker, it is with a heavy heart that I rise before you to pay tribute to the life of a remarkable man from my district. Stanley Barron from Stonewall, Colorado passed away recently at the age of eighty-two. Stanley was a patriot, rancher, and conservationist, and it is my privilege to honor his accomplishments today.

Stanley began his career serving in the Army Air Corps during World War II, flying thirty missions over Europe in his B–17 aircraft, which he aptly named the Colorado Eagle. When Stanley returned to Colorado, he began conservation work, and later won multiple awards for his expertise on land surveys and property boundaries throughout the southern areas of the state. Upon retiring from conservation work, he started volunteering at the Stonewall Fire Department, the Las Animas County Sheriff's Department, and the Colorado Cattleman's Association. Stanley eventually rose to chief of the fire department and president of the Southern Colorado Cattleman's Association.

Mr. Speaker, it is an honor to rise before this body of Congress to pay tribute to the life of Stanley Barron. Stanley was a devoted volunteer, husband, and father who made a tremendous impact on his community and all that were fortunate enough to know him. The Stonewall community, and the State of Colorado mourns his loss, and my heart goes out to his loved ones during this difficult time of bereavement.

TRIBUTE TO THE CURIOUS KIDS' MUSEUM OF ST. JOSEPH, MICHIGAN

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mr. UPTON. Mr. Speaker, I rise today to pay tribute to the Curious Kids' Museum of St. Joseph, Michigan, which will celebrate its 1,000,000th visitor this year, as well as its 15th anniversary. This great educational museum is a treasure for the children of southwest Michigan, and I am very proud of the wonderful work it has accomplished over the years.

The Curious Kids' Museum began in 1987 as an idea shared by several local residents interested in alternative approaches to science education. Today it has over 100 hands-on educational exhibits and programs dedicated to stimulating the curiosity of children. The great many visitors of all ages that have had the fortunate opportunity to visit this museum have explored and gained awareness in the areas of science and technology, history, culture, and human perception.

The goal of the Museum's founders' was to establish a place where "children and families pursue their natural curiosity about the world through exploration and hands-on interactive exhibits, making learning fun and increasing self-esteem." I for one would like to say, and I know I am not alone, mission accomplished and surpassed. It pleases me to honor this great museum, and I know the next million visitors will be just as moved and inspired as the first.

INTRODUCTION OF THE HOUSE COMMISSION FOR ASSISTING DEMOCRATIC PARLIAMENTS RESOLUTION

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mr. PRICE of North Carolina. Mr. Speaker, on February 26, my colleagues DOUG BEREUTER, DAVID DREIER, MARTIN FROST and I introduced H. Res. 543, a resolution establishing a House Commission For Assisting Democratic Parliaments.

This resolution would provide for the establishment of a commission in the House of Representatives to assist parliaments in emerging democracies. The legislative branches of governments of emerging democracies are largely comprised of new legislators who face the challenges of creating new democratic systems without the benefit of previous legislative experience. The legislatures of these fledgling democracies often lack the training, equipment, and resources they need to carry out their work effectively. For democracies to mature and to withstand cyclical turnover in government, strong government institutions—particularly national legislatures with appropriate infrastructure—are critical.

From 1990 through 1996, the House of Representatives, through a task force ably led by our colleagues MARTIN FROST and the late Gerald Solomon, provided equipment, technical assistance, orientation, and training to new parliaments in Central and Eastern European countries, including Albania, Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, and Slovakia in an effort to develop and strengthen those institutions. The program was designed to improve the efficiency of parliaments and the professionalism of its members and staff, as well as to increase transparency and accountability. The "Frost-Solomon Task Force" not only served the United States foreign policy goal of helping to establish democratic institutions in other countries, but also developed significant goodwill in the countries in which it was implemented. As one who participated in the Task Force, I found our work immensely rewarding and was struck by the ways the parliamentary leaders we worked with looked to the U.S. Congress for inspiration.

Since its founding, the United States has championed the development of democracy around the world. This goal continues to be in the national interests of the United States. The House Commission For Assisting Democratic Parliaments would help emerging parliaments function effectively and responsively, and would enable this body to champion democracy and representative government in a tangible way.

I invite my colleagues to join us in carrying on the work begun by the Frost-Solomon Task Force by cosponsoring the House Commission For Assisting Democratic Parliaments Resolution, H. Res. 543.

TRIBUTE TO JIM LUNN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mr. McINNIS. Mr. Speaker, it is my honor to rise before you today to honor the lifetime achievements of a man from my district. For over thirty years, Jim Lunn, of Pueblo, Colorado has dedicated his life toward educating young musicians. Jim has been an outstanding teacher, and for his service, has recently been inducted into the Colorado Music Educators Hall of Fame. I would like to ask my colleagues in Congress to please join me in recognizing him here today.

Jim was nominated for this prestigious award by several of his colleagues, who recognized his dedication to helping children learn and appreciate music. Jim also volunteers his time to grade schools, choral concerts, local theaters and his church. Jim's love of music and his willingness to share his passion for it has been a blessing for his community.

Mr. Speaker, it is a great privilege to rise before this body of Congress to pay tribute to the life-long achievements and dedication of Jim Lunn. For almost forty years, Jim has devoted his life to fostering children's interest in music. Jim now joins his wife as a recipient of the award and they are only the second couple in Colorado to win this high honor. It is my privilege to offer my congratulations and gratitude to Jim for his continuing efforts to bring music appreciation to the Pueblo community and the State of Colorado.

CONGRATULATING MS. DIXIE TAYLOR-HUFF UPON HER RECEIPT OF THE AHCA JOE WARNER PATIENT ADVOCACY AWARD

HON. JIM COOPER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mr. COOPER. Mr. Speaker, I rise today to honor my friend, Dixie Taylor-Huff, for her years of selfless service and dedication to the health and welfare of all Tennesseans. Dixie, who hails from Lebanon, is the honored recipient today of the American Health Care Association's Joe Warner Patient Advocacy Award. This award recognizes civic leaders who have shown exceptional dedication to the welfare of elderly and disabled Americans and who have been especially successful in raising awareness of such issues among local, state, and federal policymakers. We are all grateful to Dixie for her outstanding efforts and applaud her national recognition.

Dixie's leadership in the healthcare field and beyond has benefited countless lives in our great state. As the owner and operator of several skilled nursing facilities and home healthcare agencies, Dixie has long been a leader in the field of long-term health care. Her expertise has led several governors to seek her counsel by appointing her to various commissions and task forces dedicated to these issues. As the former president of the Tennessee Healthcare Association, and as a regional vice-president of the American Health Care Association, she has been a passionate and effective advocate for State and Federal policies to improve the quality of long-term care.

In addition to her work in health care, Dixie has served as a prominent civic leader in our district. As a trustee for both Cumberland University and Volunteer State Community College, she has been a vocal proponent of affordable high-quality public education. She is now the immediate past-president of the Nashville Women's Political Caucus and is treasurer of the Tennessee Democratic Party. I know that our colleagues in Tennessee value her greatly, and it is with the deepest respect and pride that I, on behalf of the people of the 5th District of Tennessee, seek to recognize this remarkable citizen.

Dixie, thank you again for your contributions to our great State and congratulations.

IN MEMORY OF SUSAN EATON

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Ms. PELOSI. Mr. Speaker, I rise today to express my sadness on the tragic early death of Susan Eaton, a wonderful woman who had recently become a noted professor at Harvard University's Kennedy School, but had also spent many years as an effective advocate for the rights of workers, particularly low-paid workers, throughout this country. Susan died of complications from leukemia on December 30, at the age of 46. Susan was also the wife of another remarkable person—my friend, Marshall Ganz—who worked with Cesar Chavez 39 years ago to help create the United Farm Workers union and who has continued doing pathbreaking organizing work over the last 39 years, as well as also becoming a Kennedy School professor.

I would like to submit for the RECORD an obituary of Susan Eaton, which appeared in the Harvard Gazette.

TEACHER, RESEARCHER ADVOCATE—A WHOLE LIFE

Esteemed Kennedy School faculty member Susan C. Eaton died Dec. 30 of complications from leukemia. She was 46.

Eaton was a tireless advocate for the rights of workers, both as a union organizer and in her teaching and research at the Kennedy School. Her husband and fellow faculty member Marshall Ganz expressed it well: "She was a deeply committed person, a person who walked the walk. She translated her values into action in her teaching, in her research, and in her public life."

Eaton, an assistant professor of public policy, completed her Ph.D. in industrial relations and organizational studies at the Sloan School of Management at the Massachusetts Institute of Technology. She received her master's degree in public administration from the Kennedy School. Her research focused on challenges faced by low-wage workers, particularly women providing health care, and the role of work organizations, including unions, in addressing these challenges. Last summer, Eaton received a Robert Woods Johnson Award to study the links between quality of work and quality of care in the nursing home industry. Eaton's writings focused on work-family issues, women's roles in union leadership, union-management relations, and the role of management in the quality of nursing home care. She was editor of the online Civil Practices Network and contributed to several other industry journals and publications.

Prior to entering academia, Eaton worked for 12 years as a union negotiator, trainer, and manager for the Service Employees International Union (SEIU), AFL–CIO, and CLC.

She joined the Kennedy School faculty in 2000 and became a highly regarded teacher, whose human resources course, "Leading and Managing People Well," received consistently high marks, exemplifying the leadership model she tried to teach.

"Susan brought a heightened awareness of others to our community in her breadth of research and passionate dedication," said Kennedy School Dean Joseph S. Nye Jr. "She was a person who cared—about social justice, about her work, about her students, about her colleagues. While comfortable with the abstractions of social justice, she applied her concerns every day in the way she treated each of us as individuals."

Kennedy School Associate Academic Dean and Director of the School's Weiner Center for Social Policy Julie Boatright Wilson reflected on the loss of a colleague and a friend.

"Susan was a vibrant presence on the fourth floor of the Taubman building," said Wilson. "She had time for all of us, was interested in what everyone was thinking about and working on, and had advice and ideas and wisdom she willingly shared. Even more than what Susan did for us is what she did for the low-wage employees she had spent her life working with and working for. Everything about Susan's activities—her scholarship, her teaching, her day-to-day interactions—exhibited her commitment to improving the lives of those who provide the services we all need but for which we seem remarkably unwilling to pay a decent wage."

Eaton's teaching earned her enormous respect from students while her research brought attention to the issues that touched her heart. "She demonstrated that nursing homes and hospitals could both do better by their workers and improve the quality of care simply with better management practices. Much of her work spoke to the dignity that both caregivers and patients seek and deserve. This readily generalizable lesson seems so terribly important in this increasingly marketized era," said David Ellwood, Scott M. Black Professor of Political Economy at the Kennedy School.

Eaton was co-winner of the 1996 Margaret Clark award of the Institute of Gerontology for the paper "Beyond Unloving Care: Linking Nursing Home Quality and Working Conditions." Her other recent writings included: "Career as Life Path" in "Career Frontiers: New Conceptions of Working Lives," edited by Maury Peiperl et al. (Oxford University Press, 2000); "Work and Life Strategies of Professionals in Biotechnology Firms," Annals of the American Academy of Science, March 1999; and "Pennsylvania's Nursing Homes: Promoting Quality Care and Quality Jobs," Keystone Research Center, April 1997.

In addition to Ganz, Eaton is survived by her father, William J. of Washington, D.C.; her mother, Marilynn, of Alexandria, Va.; and her sister Sally Misare of Castle Rock, Colo.

TRIBUTE TO RICHARD HOPKINS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mr. McINNIS. Mr. Speaker, it is with a heavy heart that I rise before you today to pay tribute to the life of an extraordinary American from my district. Rich Hopkins from Durango, Colorado passed away last November after a remarkable life. Rich was a beloved husband, father, colleague and sportsman who will be missed and I think it is appropriate that we take the time to recognize his contributions here today.

Rich began his tireless service to his community and country by entering the Navy after his graduation from Grand Junction High School. After an Honorable Discharge, Rich attended college and received his Law Degree from the University of Colorado. During his long and distinguished career as a lawyer, Rich helped to establish groundbreaking case law in the area of domestic relations.

Rich had a full and vigorous life, whether he spent it with his loving wife Susie and his children and grandchildren, or with his friends, "The Money Boys" out on the golf course. Even after his formal studies were over, Rich always had a passion for the pursuit of knowledge, spending the last years of his life writing a novel.

Mr. Speaker, it is an honor to rise before this body of Congress and this nation to pay tribute to the life of Rich Hopkins. Rich was a patriot, husband and father and made a tremendous impact on all that were fortunate enough to know him. The Durango community and the State of Colorado will truly miss him. My thoughts are with his loved ones during this difficult time of bereavement.

RECOGNITION OF DAVID E. SCHAFFER'S SERVICE

HON. JOHN L. MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mr. MICA. Mr. Speaker, It is my honor to recognize the Congressional and public service of David E. Schaffer upon his retirement.

David provided outstanding, professional leadership and service as a member of the House Aviation Subcommittee staff since 1984. He became Majority Counsel and staff director of the Subcommittee in 1995 and was instrumental in passing twenty major aviation bills during his time on Capitol Hill.

As Chair of that Subcommittee, I believe the Congress and the American People have benefited not only from his decades of public service, but also from his untiring efforts after the attack on our Nation on September 11, 2001. Indeed, we were privileged to have David's experience and talents as we developed legislation to secure our national aviation and transportation systems.

I have been fortunate, along with Full Committee Chairman DON YOUNG, to also have David Schaffer lead our staff efforts as we worked to replace AIR–21 with a new four-year federal aviation authorization bill.

David Schaffer's service to Congress, the aviation industry and our country spans more than a quarter of a century. As he retires from federal service, we wish him every future success.

I thank David Schaffer for his tremendous assistance to me and our Aviation Subcommittee, for his loyalty and commitment to good government, and most of all for his friendship and professional work over the years.

BOWIE ELKS WELCOME GRAND EXALTED RULER OF THE B.P.O.E. TO MARYLAND

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mr. HOYER. Mr. Speaker, on March 26, 2004, Bowie Lodge Number 2309 of the Benevolent and Protective Order of the Elks will welcome Amos A. McCallum of Saco, Maine, Grand Exalted Ruler of the Grand Lodge of Elks to Maryland at a luncheon to be held at the Bowie Lodge on March 26, 2004.

My long-time friend Judge Gerard F. Devlin will serve as the Master of Ceremonies and I regret that my duties here in this House will not permit me to attend and join with my many friends in the Bowie Elks in welcoming this distinguished guest to our State. Initiated in the Biddleford-Saco lodge in 1963, Grand Exalted Ruler McCallum rose through the chairs in his native Maine to eventually hold the high office he now occupies with such distinction.

Space would not permit me to list all of the many charitable philanthropic activities individual lodges and the Grand Lodge participate in, but suffice it to say that no fraternal organization does more for people than the Benevolent and Protective Order of the Elks.

I salute the Grand Exalted Ruler Amos A. McCallum and hope he enjoys typical Maryland hospitality in his visit to our State.

IN COMMEMORATION OF TEXAS INDEPENDENCE DAY

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mr. GREEN of Texas. Mr. Speaker, today marks the independence of Texas, the greatest, most diverse state in the Union. Texas also has some of the most interesting and instructive history. I believe the lessons of Texas' struggle for independence are no less important today.

One hundred and sixty-eight years ago, March 2, 1836, Texan delegates met at Washington-On-The-Brazos to sign the Texas Declaration of Independence.

Less than 100 years after American patriots threw off the tyrannical British Empire's military domination, Texans and Tejanos were forced to launch a similar struggle against the military dictator, General Antonio Lopez de Santa Anna.

In the words of the Texas Declaration of Independence, the people's government had been "forcibly changed, without their consent, from a restricted federative republic, composed of sovereign states, to a consolidated central military despotism."

As Sam Houston and other Texan delegates signed the Texas Declaration of Independence, General Santa Anna's army was besieging the Texans and Tejanos at the Alamo in San Antonio. That fortress fell four days later on the morning of March 6, 1836, when Lt. Colonel William Barrett Travis, Tennessee Congressman David Crockett, and approximately 200 other Texan and Tejano defenders were killed in action. Thankfully, their deaths were not in vain, as the remaining Texas forces under Sam Houston were able to surprise and defeat the much larger Mexican Army at the Battle of San Jacinto, just east of my hometown of Houston, Texas.

At San Jacinto, noted Tejano patriot Captain Juan Seguin commanded a cavalry company during this final victory and later became a Senator in the Republic of Texas.

Like the American patriots in 1776, Texans did not create a perfect state with their independence. It would not be until June 19th, or Juneteenth, 1865, that Texas' African-American citizens achieved the freedom that is an inalienable human right. Every Juneteenth, we remember that the struggle for equal rights is long and difficult, and demands our enduring commitment.

A popular misconception of the Texas War for Independence is that the conflict was a case of Anglos fighting Mexicans. But accurate Texas history tells us that Hispanics who had long lived in Texas mostly did not consider themselves to be Mexicans, but instead thought of themselves as Tejanos. Tejanos inhabited Texas long before Mexico existed, and they lived there for the same reasons Anglos later moved there—freedom and vast productive land.

So when General Santa Anna's forces began plundering areas of Texas, Tejanos and Texans both reacted with horror.

It is inspiring to me that many Tejanos joined the fight for independence when the Mexican government became an exploitive military regime. The brotherhood of freedom can be stronger than the brotherhood of ethnicity, as Tejanos proved at Gonzalez, Bexar, Goliad, the Alamo, and finally along the banks of the San Jacinto River.

On Texas Independence Day we reflect on our shared achievements, celebrate our peaceful cooperation with Mexico, and renew our commitment to preserving our representative government, freedom, and human and civil rights.

Thank you Mr. Speaker, long live Texas, and I yield back the balance of my time.

TRIBUTE TO STEVE CARTER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mr. MCINNIS. Mr. Speaker, it is with great pride that I rise before you to pay tribute to a remarkable public servant from my district. After an impressive thirty-three year career, Judge Steve Carter recently retired from the Garfield County bench, and I would like to take this opportunity to highlight his life and accomplishments before this body of Congress and this nation today.

As a rising attorney in 1972, Steve was appointed to the Garfield County bench at the age of twenty-seven by then-Governor Love. He has won much praise from his colleagues and his fellow Coloradans over the years, both for his commitment to the judicial system and to his community. Steve has worked tirelessly to resolve many of his community's ailments, such as drug and alcohol abuse, and devoted much of his time and energy to overseeing the county's juvenile court system. He has truly enjoyed a wonderful career in jurisprudence, and his many years on the bench have earned him the distinction of being the longest serving county judge in the State of Colorado.

Mr. Speaker, with almost four decades of service and experience under his belt, I can guarantee that Judge Robert Carter will be sorely missed. He selflessly dedicated his time and efforts toward the betterment of Garfield County and the State of Colorado, and I wish him all the best in his retirement. Thanks for your service, Judge Carter, and good luck in your future endeavors.

THE 132ND ANNIVERSARY OF YELLOWSTONE NATIONAL PARK

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mr. HOLT. Mr. Speaker, I rise to recognize that yesterday was the 132nd anniversary of the founding of Yellowstone National Park, the world's first national park and the crown jewel in America's national park system and the model of parks for the world.

The most remarkable thing about Yellowstone is that it offers modern-day visitors a chance to experience the same sense of wonder and disbelief that the first European American explorers did back in the late 1860s.

Although Yellowstone has been a model for parks around the world, no other country has the splendor that Yellowstone has. These explorers came upon such astonishing sights that they were skeptical that anyone would actually believe their descriptions of the area we now know as Yellowstone National Park. They though that their tales of gushing geysers, bubbling mud pots, towering waterfalls, and dramatic canyons would be dismissed as the fantastical delusions of people who had spent too much time out in the wilderness.

Thankfully, their stories did eventually capture the nation's imagination, and on March 1, 1872, President Ulysses S. Grant signed into law a bill establishing Yellowstone as our first national park, comprising an area of approximately two million acres near the headwaters of the Yellowstone River. Yellowstone, which preceded the founding of the National Park Service by 44 years, has become the image of national parks across the country and throughout the world.

I have visited Yellowstone myself from time to time during different seasons and am always astounded by its spectacular beauty. Old Faithful, the reliable geyser that represents the park for most Americans, is but one of the 300 geysers there, which account for two-thirds of the world's geysers. Yellowstone boasts a total of over 10,000 thermal features, including bubbling mudpots, steaming fumaroles, and brightly colored hot springs.

These thermal features are fueled by a giant volcanic caldera, the remains of a tremendous eruption of tens of thousands of years ago. Surrounding this caldera are majestic peaks rising over 11,000 feet. Within the caldera is Yellowstone Lake, the largest freshwater lake above 7000 feet in North America.

Nearby, the Grand Canyon of the Yellowstone astounds visitors to nearly the same degree as the canyon that shares its name further south in Arizona. In the canyon and across the backcountry are Yellowstone's famous waterfalls, numbering around 290 and in some cases towering over 300 feet.

Yellowstone is also home to large populations of some of the animal species that best represent the United States. The only remaining wild American bison herd makes its home in the park, accompanied by countless elk. Bald eagles nest throughout the park, and the endangered gray wolf has been reintroduced, becoming a real treat for wildlife watchers.

In short, Yellowstone is a place where fantasy becomes reality, where some of the most majestic lands in the world have become the embodiment of America's natural splendor. It's no accident that the park gets around three million visitors every year, coming from just about every one of our districts.

I urge all of my colleagues to visit this park if they have not already had the chance, and to remember the legacy and value of this spectacular parcel of land. It will be a reminder of why Congress has designated Yellowstone and other natural parks for future generations to enjoy.

Mr. Speaker, protecting Yellowstone and all of our natural parks is a noble and patriotic duty. These parks are repositories of our national heritage and preserve our most precious natural and cultural resources. Too often, unfortunately, the Park Service has found itself lacking the funds it needs to protect and ensure visitor access to everything from Revolutionary and Civil War sites to the most majestic public lands across the country. NPS is currently facing a $600 million shortfall in operations alone, to say nothing of a continuing maintenance backlog that is approaching $5 billion.

As we move through this legislative session and begin the process of determining our funding priorities, I hope my colleagues will remember our national parks and see fit to support them and the men and women who work there.

SENATE—*Wednesday, March 3, 2004*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Lord God, You are the source of every blessing. Thank You for Your unfailing love. Lord, we know that You want our hearts more than anything we have, and we would give them to You. Forgive us when we forget to see our challenges from a faith perspective. Remind us that You are an ever present help for all our troubles.

Inspire our Senators today. May they build their hope on You. As they are pressed by many issues, help them to slow down long enough to hear Your voice. Cheer our hearts with the knowledge that You will always sustain us. And, Lord, bless our military.

We pray this in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning there will be a period of morning business until 10:30 a.m. Following morning business, the Senate will begin consideration of S. 1637, the Jumpstart JOBS or, as it is also known, the FSC/ETI bill. Senators GRASSLEY and BAUCUS will be here through the morning to begin working through the amendments as they are offered.

Over the last couple of weeks we have been attempting to work out an agreement for consideration of the bill with the Democratic leadership. With the March 1 deadline behind us, it is imperative we attempt to consider this bill in an expeditious way. We have been unable, unfortunately, to reach agreement with our colleagues on the other side of the aisle to limit the nature of the amendments to the underlying bill. Thus, we are proceeding today in good faith and hope we can consider related amendments in order to make progress. Again, the March 1 deadline has passed. It is incumbent upon us to address this bill in an organized and expeditious way.

Rollcall votes can be expected today in relation to the Jumpstart JOBS bill. We will alert all Members as the votes are scheduled. It is critical that we work aggressively on the bill Wednesday, Thursday, and Friday of this week. Next week we will be going to the budget.

NEW LEADERS FOR NEW SCHOOLS

Mr. FRIST. Mr. President, I want to take several minutes to comment on some good news from Tennessee, good news from Tennessee that underscores the importance of having a good, strong leader as principal of K through 12 schools.

Last month, the national, nonprofit New Leaders for New Schools chose the city of Memphis to participate in its education program. Memphis joins other cities—Chicago and New York and Washington—as a participant in this new and innovative reform effort in education. The program is called New Leaders for New Schools. It is the brainchild of John Schnur, a young social entrepreneur and education expert. He came up with the idea while at Harvard Business School. His idea was to take concepts of business leadership and apply it to education K through 12.

As we all know, every successful company is led by a successful CEO. Successful schools, in turn, are really no different. Great principals make for great schools. Really, it makes sense. New Leaders for New Schools trains outstanding individuals to become outstanding school principals. The program draws applicants from all walks of life, from former bankers and dot commers, to teachers and, indeed, retired principals. What they share is a deep belief in the potential of every child to succeed. These committed individuals are sent into urban school districts to turn around poor performing schools. As they prove their effectiveness, they can earn flexibility in hiring and carrying out reforms.

In Memphis, New Leaders for New Schools will recruit and develop 60 new principals over 3 years to serve in the public school system. City leaders are rightly excited about this great opportunity. The No Child Left Behind Act does set high standards, and a strong and effective school principal is key to meeting these goals.

I should note that 45 percent of Memphis school principals are eligible for retirement in the next 3 years. Training the next generation of principals is critical.

I am excited for the parents and the teachers of Memphis. I am especially excited for the schoolchildren of Memphis. With strong and motivated leadership at the top, they will have even more opportunities to realize their potential.

Every child can learn. Every child can succeed. New Leaders for New Schools is one more step in moving our education system forward.

I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

IRAQ INTELLIGENCE AND POSTWAR PLANNING

Mr. DASCHLE. Mr. President, in recent weeks, Americans have witnessed a steady stream of reports that raise grave questions about the accuracy of statements made by senior Bush administration officials leading up to the war in Iraq.

The unequivocal administration pronouncements that Saddam Hussein possessed weapons of mass destruction, was pursuing nuclear capabilities, and had close ties with al-Qaida have not been proven or been proven unequivocally wrong.

Implications of these intelligence failures are far-reaching. While Saddam Hussein may be in prison, just this week CIA Director Tenet indicated America is still the target of terrorists who seek to kill as many Americans as possible in any way available to them.

At no time in our Nation's history has the integrity of the people who use intelligence and the people who produce intelligence been more vital to national security. Americans need to have confidence in both our policymakers and our intelligence community. To rebuild that confidence, Americans have a right to know how the administration and how our intelligence community could have been so wrong on matters of such grave import.

For a failure this massive, every aspect of America's national security policymaking process should be put under the microscope: How we collect information, how we analyze it, how it gets interpreted by administration officials, and how the Senate performs its oversight responsibilities.

Much of the discussion about our Iraq intelligence failures thus far has

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

focused on our incorrect assessments of the threat posed by Saddam Hussein. While important, there is another vital piece of this story that has been overlooked until this point. That is, the administration's failure to plan for post-war Iraq and the consequences that would arise from toppling Saddam Hussein.

The administration's myopic approach to planning for post-Saddam Iraq continues to have consequences for the safety of our troops and the long-term security of our Nation and its interests. As a result, it is critical that the Nation learn more about why the administration failed to plan for the contingencies of a post-Saddam Iraq. As officials from the Bush administration, the United Nations, and the Iraq Governing Council seek to reach agreement on the administration's third and latest proposal for forming the first official post-Saddam government, we would be wise to look back at what went wrong.

A thorough, bipartisan investigation is warranted.

What makes the unfolding evidence of insufficient post-war planning most troubling is that, in this instance, contrary to the questions of weapons of mass destruction, it appears that our intelligence was right.

There was a consensus among the intelligence community that removing Saddam would be the easiest part of our efforts to secure and rebuild Iraq.

Our intelligence community, our military, and numerous independent groups all concurred in the assessment that our gravest challenges would come in the days after Saddam was ousted.

The greatest difficulty, all agreed, would come in the days following the toppling of Saddam Hussein. Senior administration policymakers were repeatedly warned by other officials within the government, as well as a raft of independent outside experts, to plan accordingly.

Months before the start of the conflict, these officials and experts carefully examined these issues and offered concrete proposals to maximize our chances for bringing about a stable Iraq while minimizing the risks to our troops and our taxpayers.

For instance, as far back as March 2002, a year before the invasion, the State Department was working on a $5 million project entitled the Future of Iraq. Experience from previous conflicts demonstrated the importance of preparing in advance for our postwar duties.

And experience from the past gave us all a guide as to what to expect in Iraq.

Although there were many other officials and organizations making similar assessments, the State Department's Future of Iraq project provides some useful insights into the information available to the administration had it chose to listen.

In its 13-volume study plus a one-volume summary and overview, the Future of Iraq project reached some prescient conclusions.

First, the project said Iraq would be disorderly after liberation and stressed that the days immediately after liberation would be critical—to both those who seek to work with us and those who do not.

> The removal of Saddam's regime will provide a power vacuum and create popular anxieties about the viability of all Iraqi institutions . . . the traumatic and disruptive events attendant to the regime change will affect all Iraqis, both Saddam's conspirators and the general populace.

Second, this report stressed the importance of restoring basic services as quickly as possible after the regime change. The report "stressed the importance of getting the electrical grid up and running immediately—[this is] key to water systems, jobs. [This] could go a long way to determining Iraqis attitudes' toward coalition forces."

Third, the report warned about the problems created by a wholesale demobilization of the Iraqi military.

> The decommissioning of hundreds of thousands of trained military personnel that [a rapid purge] implies could create social problems.

Each of these conclusions should have waved a red flag to administration officials: if addressed effectively, the transition will be smoother; if ignored, the transition will be more difficult. More difficult for our troops and more difficult for the Iraqi people.

Unfortunately, the administration apparently chose to ignore these and many other similar findings offered up by other groups. In fact, news reports indicate that White House and senior Defense Department civilian officials actually worked to exclude people who worked on or shared the views contained in the Future of Iraq report—views that have proven to be 100 percent correct.

One of the most comprehensive reports about this issue can be found in James Fallows' article in the January/February 2004 Atlantic Monthly entitled "Blind into Baghdad."

I highly commend this article to my colleagues.

Unfortunately, the many warnings about post-war Iraq fell upon deaf ears in the administration. For a variety of reasons, senior administration officials in the White House and senior civilians in the Defense Department ignored these warnings, instead apparently opting to rely on dubious sources to back up their rosy predictions about how our troops would be received by Iraqis and how smooth the transition would be.

For example, the administration was repeatedly pressed for an estimate before the start of the war on the number of troops and the cost of the operation.

Even though press reports indicate administration officials had signed off on a war plan in November 2002 that spelled out the size of the forces necessary for an Iraq mission, the administration persistently claimed not to know the size of the forces needed or their cost.

As late as February 2003, 2 months after the President had authorized the deployment of 200,000 troops to the region and less than 2 months before the start of the conflict, Deputy Defense Secretary Wolfowitz said, "Fundamentally, we have no idea what is needed unless and until we get there on the ground."

Even worse, the administration suggested that there would be no cost at all.

Administration officials stated that the proceeds from the sale of Iraqi oil would be used to pay for the American military presence.

On March 27, 8 days after the war had started, Wolfowitz was again pressed on a figure and indicated that whatever it turned out to be, Iraq's oil supplies would keep it low: "There's a lot of money to pay for this. It doesn't have to be U.S. taxpayer money. We are dealing with a country that can really finance its own reconstruction and relatively soon."

In April, after more than a month of conflict, Andrew Natsios, the director of USAID, said the total cost to the taxpayer would be no more than $1.7 billion. "We have no plans for any further-on-funding for this."

The administration either knew better at the time or should have known better.

And our troops and the American people certainly deserved better. Over 500 Americans have been killed and over 3,000 wounded in Iraq. Unfortunately, these numbers are likely to continue to grow before our mission there is complete.

We have already appropriated over $150 billion for this operation, and this cost could easily double before we are through.

Let me take another example—the administration's statements about the post-war environment we would encounter and the challenges we would face.

Although there are a few instances where administration officials went on the record before the war warning that a war with Iraq could require a lengthy commitment, administration officials repeatedly painted the most optimistic portrait possible in order to gain support for its strategy.

Vice President CHENEY's remarks 3 days before the start of the war typify much of what the administration was telling the American public.

When asked if the American people are prepared for a long, costly battle with significant casualties, the Vice President said, "Well, I don't think it's likely to unfold that way . . . because I really do believe we will be greeted as liberators."

This tragic miscalculation allowed the administration to abandon the intelligence-based, analytical process needed to plan successfully for the occupation of Iraq. The administration sent a smaller force than our senior military officials initially recommended.

Our personnel were not suitably prepared for the immense economic, social, and political complexities that we should have known would inevitably arise after the fall of Saddam Hussein. And our troops and the American people were not adequately equipped for the guerrilla tactics that have become all too common since President Bush declared an end to major combat operations.

Overall, the administration's overly optimistic attitude about post-war Iraq has contributed to a far more costly and arduous effort than needed to be the case.

Mr. President, not long ago, many of my colleagues and I had the honor of having dinner with more than 100 soldiers and their families at Walter Reed Army Medical Center. These soldiers had all been wounded while serving their country in Iraq. I hope my colleagues will take the opportunity to visit these young men and women. After seeing first-hand the kind of people our country has produced, I have never been more proud to be an American.

As I think of my night with these brave men and women who have sacrificed so much and asked for so little in return, I cannot help but think: Did we do right by them? Did we do everything possible to put them in a position to succeed at the least possible risk? Did we provide them with a plan for success and the tools needed to carry it out?

In a statement last year, General Anthony Zinni, one of the most respected and distinguished military leaders this country has produced, commented on what we owed those who we placed in harm's way.

He said:

> They should never be put on a battlefield without a strategic plan, not only for the fighting—our generals will take care of that—but for the aftermath and winning that war. Where are we, the American people, if we accept this, if we accept this level of sacrifice without that level of planning?

The administration based its post-war planning on blind hope, and hope is not a plan. We owe it to our troops and ourselves to determine whether we did everything we could to succeed in Iraq. Our success in Iraq and future conflicts depends on it. Our need to ensure that we do right by our troops demands it.

I yield the floor.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business until 10:30, with the time equally divided, and the time under Republican control to be equally divided between the Senator from Alaska, Ms. MURKOWSKI, and the Senator from Maine, Ms. COLLINS.

Mr. REID. Mr. President, I have a unanimous consent request I wish to make.

The PRESIDENT pro tempore. The Senator is recognized.

Mr. REID. Mr. President, we have only 40 minutes left until 10:30 a.m. We have on our side, and I am sure on the other side, more than 20 minutes. On our side, the Senator from Oregon wishes to speak for 15 minutes, the Senator from Connecticut wishes to speak for 10 minutes, which is 25 minutes. I don't know how much total time the two Senators on the majority would like. I am sure it is more than 20 minutes total.

I ask unanimous consent that the time be extended to 25 minutes on each side for morning business—not in addition to but 25 minutes total to each side.

The PRESIDENT pro tempore. On both sides, for a total of 50 minutes.

Mr. REID. A total of 50 minutes, yes, and that on our side, the Senator from Connecticut be recognized for 10 minutes and the Senator from Oregon be recognized for 15 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Alaska, Ms. MURKOWSKI, is recognized.

ALASKA GAS PIPELINE—NO LONGER A PIPE DREAM

Ms. MURKOWSKI. I thank the Chair.

Mr. President, we will soon begin debating the merits of the tax bill that will bring the United States into compliance with our World Trade Organization's obligations and assist domestic manufacturers. I understand this bill has been renamed the Jumpstart JOBS Act, referring to the number of manufacturing jobs that have been lost in the past few years, whether it is from businesses relocating their plants overseas, the outsourcing of jobs, or increased efficiency that does not require as much manual labor.

I believe that every Senator in this body wants to help those Americans who have been laid off to find new employment and to provide assistance to our domestic manufacturers that will lead to real job creation. But when we talk about job creation, too often this body overlooks a project that would produce those jobs for Americans, that would create jobs in all 50 States, and not just a few jobs but by at least one estimate we would create over 1 million jobs across the country.

Certainly, the number of jobs nationwide will at a minimum—at a minimum—be in the thousands, and that project I am speaking of is the construction of a natural gas pipeline from Alaska to the lower 48.

With the reality in mind that this project will lead to real job creation, I would like to speak to the body this morning about three very exciting announcements relating to the Alaska natural gas pipeline.

Three consortiums have filed applications to build a gas pipeline from Alaska's North Slope. These proposals would transport the 35 trillion cubic feet of known technically recoverable reserves to the starved markets in the lower 48. This would happen at a rate of roughly 4.5 billion cubic feet per day. Many believe there is upwards of 100 trillion cubic feet of natural gas on the North Slope and quite possibly more than that.

The first announcement from MidAmerican Energy Holdings Company, a major U.S. pipeline company and a subsidiary of Berkshire Hathaway whose chief investor is financier Warren Buffett. Partnering with MidAmerican will be Cook Inlet Regional Corporation and Pacific Star Energy, which is a consortium of Alaska Native corporations.

This is great news for Alaska, and it is great news for America. Individual Alaskans, Alaska Native corporations, and Alaska-owned corporations will have ownership opportunities in the pipeline under this proposal—this is good for Alaska's economy—and oversight of the main transportation project that will be used to move Alaska's commonly owned resources to market.

Rather than just benefit from the jobs and influx of short-term construction spending, as we saw during the construction of the Trans-Alaska pipeline, this represents a significant long-term benefit to individual Alaskans and their families.

Following MidAmerican's application, the three major producing companies in Alaska—ConocoPhillips, BP Exploration, and ExxonMobile—also filed an application with the State. These three companies hold the lion's share of the right to produce North Slope natural gas.

Late last week, a third group, which is the Alaska Gasline Port Authority, filed another application to build a pipeline. This third option proposes a liquefied natural gas project that would take natural gas from the North Slope, liquefy it at tidewater in south central Alaska for transport to the west coast markets in the lower 48.

In the end, the project that best meets the needs of Alaska and the markets will get built, but too often in our discussions we overlook the proposed LNG project in favor of the land route that goes through Canada. Two years ago, Alaska voters indicated their desire for construction of an LNG project, but we have to make sure the numbers make sense and the proposal is good for the State of Alaska.

I inserted language in the omnibus appropriations bill that provides the opportunity for the loan guarantees included in the Energy bill to be available for the LNG project option; that is, if the Secretary of Energy determines that it is the best project for purposes of this provision. It is something that needs to be proven by the project sponsors. Again, it demonstrates the need for passage of the Energy bill.

In the meantime, we have three applicants that are vying to build a gas pipeline along the Alaska-Canadian highway, with a possible spur to south central Alaska for an LNG project. They have come forward, put their names on paper, and they are willing to begin negotiations with the State. For all of these reasons, Alaskans are excited.

I need to back up and clarify. When the initial announcements were made about filing the applications, both MidAmerican and the producers stressed the need to enact the regulatory streamlining, the judicial streamlining, and the fiscal incentives that are currently contained in the Energy bill for the construction of a natural gas pipeline to go forward. There should be no misunderstanding about this; the provisions in the Energy bill relating to these issues must be enacted into law if we hope to see positive movement on this project.

These filings we have in place now in the State are not a guarantee that the project will be built. These applications represent the beginning of a dialog between the applicants and the State of Alaska, but no one should interpret these events to mean that we do not need to pass the Energy bill.

A cornerstone of our national energy policy is the production of Alaskan gas and delivery of the needed resources to markets in the lower 48. Members on both sides of the aisle recognize the benefit that Alaska gas means for America.

We have seen the volatility in the natural gas prices that had significant negative impacts on businesses and on families struggling to make ends meet and to keep their homes warm in the winter. The Alaska natural gas pipeline will bring welcome stability and a measure of predictability to the natural gas marketplace, as well as benefit consumers across the United States.

A couple of weeks ago, I had an opportunity to read an article by a gentleman by the name of Douglas Reynolds, an associate professor of oil and energy economics at the University of Alaska Fairbanks. Mr. President, you have read his book, I know, and have had good things to say about what he has written in the past. I have a copy of the article.

I ask unanimous consent that the article be printed in the RECORD immediately following my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Ms. MURKOWSKI. Mr. President, Mr. Reynolds brought out the point, which I would like to emphasize, that providing the financial incentives for a natural gas pipeline is "like a futures contract to insure a more reliable natural gas supply source."

Then he went on to say:

> Congress has the option to assure a future supply of Alaska gas at a reasonable price, and to get that supply on line sooner than markets alone will do it.

The effect would be to make Alaska's gas supply less reliant on NLG exporters with less chance for market manipulation.

To me, this just hits it right on the head. Consumers are facing increasing prices of natural gas. We have the opportunity to access a reliable supply of energy that will be produced under some of the most stringent environmental standards in the world and we can do it now, before we become dependent on foreign sources.

Douglas Reynolds and I are not the only ones who agree with this viewpoint. Recognizing the United States need for natural gas, the Federal Reserve Board Chairman Alan Greenspan testified before the Congress last year that natural gas supplies represent a "serious problem" to the national economy.

He noted U.S. policy with respect to natural gas is contradictory as we encourage consumption more than production. The chairman of the Energy and Natural Resources Committee, Senator DOMENICI, has worked diligently for more than a year to craft a bill that promotes many forms of renewable energy, encourages energy efficiency in the Federal Government and consumer products, increases the authorization of the low-income home energy assistance program, and moves us closer to construction of the Alaska natural gas pipeline.

To allay the major concerns of Members that led to the filibuster on the conference report on H.R. 6, the Senator from New Mexico has introduced a new Energy bill that has significantly less impact on the Federal budget. The new Energy bill streamlines the permitting process for the Alaska natural gas pipeline, expedites judicial review and provides for Federal loan guarantees and accelerated depreciation to lessen the cost of financing the project.

To those of my colleagues in the Senate who want to see this project built, who want to stop the rise of natural gas prices, who want to ensure a reliable supply of natural gas, who want to create hundreds of thousands of jobs across the country, I say pass this new Energy bill.

The fiscal and regulatory provisions in the Energy bill are a prerequisite to the construction of this project. The longer we wait, the longer we allow this important policy to remain caught in congressional gridlock, the more our economy is going to suffer. Senators should not accept the status quo when it comes to energy production. We should instead work to pass this Energy bill so we can tell the American people help is on the way, so we can begin to rationalize the energy markets, and so we can work to become less dependent on foreign sources of energy.

The Alaska natural gas pipeline will be the largest construction project of its kind ever completed. I believe the Federal Government should play a role in reducing the risk involved with this project, just as the Federal Government played a role in bringing affordable electricity to the South and to the Pacific Northwest.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator's time has expired.

Ms. MURKOWSKI. The provisions in the Energy bill fulfill the Federal Government's role in bringing this pipeline to fruition.

I yield the floor.

EXHIBIT 1

[From the Fairbanks Daily News-Miner, Feb. 22, 2004]

GAS LINE WILL HAPPEN, BUT ALASKA MUST NEGOTIATE

(By Douglas Reynolds)

During winter break in the Lower 48, I heard over and over again concerns about the price of natural gas. It is currently about $7 per thousand cubic feet, when only a few months ago it was $4. Some fear there is market manipulation since stocks of gas in reserve are adequate and the winter has not been colder than normal so far. Investigations have already started.

However, there is a reason behind the price rise. While this year there may be adequate supplies of natural gas, next year may be a different story. As I explain in my book, Lower 48 and Southern Canadian natural gas production will decline and the United States will face a supply gap with prices climbing above $10.

However, supply is declining faster than I anticipated. The market may merely be anticipating next year's supply gap—increasing prices now to conserve reserves and to increase production later.

Of course it is theoretically possible to have market manipulation. But this is extremely difficult to do and only works if the supply system is uncompetitive. The internal North American market is not.

Interestingly enough, if people in the Lower 48 are upset now about alleged manipulation of the natural gas market, they sure won't be happy when the United States starts depending more heavily on imported liquefied natural gas. This is because with imported LNG, the LNG exporters themselves will be able to manipulate natural gas prices and do it with impunity. It will be like OPEC all over again.

There is a mechanism to reduce LNG exporter's ability to manipulate the gas market. It is to get Alaska natural gas to market more quickly. Congress still has a chance to change the Energy Bill by putting back in the natural gas credit provisions. I know such a move is highly unlikely, but it is certainly something each Alaskan should be clambering for.

Interestingly enough, some experts would actually like to put in tax credits for Lower 48 gas producers rather than for Alaska gas even though Lower 48 producers are making money hand over foot. If more gas existed in the Lower 48, the current incentives would already be pushing supplies higher.

The fact of the matter is, the Alaska pipeline tax credits that were cut from the energy bill are like a futures contract to insure a more reliable natural gas supply source.

In other words, Congress has the option to assure a future supply of Alaska gas at a reasonable price, and to get that supply on line sooner than markets alone will do it. The effect would be to make America's gas supply less reliant on LNG exporters with less chance for market manipulation.

Since consumers are already complaining over high natural gas prices, I would think that having such tax credits and a more reliable source of natural gas would be to America's advantage. As it stands, American consumers will undoubtedly begin to complain ever louder when it's apparent that Alaska gas is stuck on the North Slope just waiting for the time when prices reach outrageous levels before reserves are finally developed.

Needless to say, our Alaska congressional delegation has fought hard to help make the gas line a reality, but now it is up to the state to take the initiative.

So will the gas line happen? Yes. But Alaska may have to negotiate with the producers or other pipeline companies to get a deal. I believe the best strategy for the state is to give a progressive royalty and severance tax package for all natural gas production.

That means a low royalty and tax percent during low prices and a high royalty and tax percent during high prices. This will give Alaska much more revenue than the current royalty and severance tax system would give because of anticipated high prices. It will also quicken the pace of developing a pipeline. It does however imply more risk in Alaska's revenues over the years.

The future price of natural gas will not be lower than $4 on the East Coast and will easily stay in the $6 to $10 range.

This is because Atlantic Basin LNG producers will be slow to ramp up production even while Lower 48 production goes into decline. Plus LNG exporters can manipulate market prices exactly the way domestic suppliers have been accused of doing. Alaska can take advantage of this and negotiate to get a line done quickly and with greater profits.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 10 minutes.

AMERICA'S ECONOMIC ISSUES

Mr. DODD. Mr. President, I rise to very briefly address two subject matters. As I understand it, we will be moving later this morning to this ETI bill, or the extraterritorial income legislation. My fervent hope is that in addition to debating the underlying bill itself, we will also have an opportunity to raise questions about a staggering set of issues that is unfolding in our country, and that is the outsourcing of jobs all across this Nation to foreign lands.

We all understand this happens from time to time, but the explosion that has occurred in the last 36 months is deeply alarming to many Americans. We now have lost some 2.6 million to 2.7 million jobs over the last 36 months in the manufacturing sector alone. Many of these jobs are showing up either offshore in places such as India, Bangladesh, the People's Republic of China, or elsewhere. There is great concern in this country that we are losing a very important strategic base in our Nation, not to mention these critically important jobs which can never be replaced.

I inform my colleagues, and I know others feel similarly as I do, when we get to this bill there will be some opportunities to offer amendments and to address the very issue of American jobs.

When we hear the administration say, as the chairman of the President's Council of Economic Advisers did just a few days ago, that outsourcing of jobs was a good thing for America, we begin to understand the depths of concern people have when the administration fails to understand, at least through its leadership, how critically important it is that we stand up and do what we can to preserve critically important jobs, although not at the expense of international trade. We all understand the importance of trade in a global economy, but we also understand if we are going to be a vibrant participant in a global economy that we have to produce the goods or the services to compete.

If not only low-income jobs are given away but also high-technology jobs, information technology jobs, and engineering jobs, for instance, are leaving, then the ability of this country to compete in the 21st century is going to be severely disadvantaged.

I look forward to the coming hours today, tomorrow, and possibly Friday, to engage with my colleagues in some of this debate and discussion. It will be the first time since we have returned that we are going to have a real debate and discussion about jobs in this country and what we might do in this body to address those issues.

HAITI

Mr. DODD. Secondly, on an unrelated matter, I was alarmed but not terribly surprised to pick up the morning newspapers and to read what I thought might happen. I did not wish it to happen, but I thought it might happen in the island nation of Haiti.

Over the past weekend, I warned, as others did, if we did not step up and try to support a democratically elected government, albeit a flawed one but a democratically elected government, we would end up reaping what we sow. And we are doing just that.

In the headlines this morning we read things such as: Haiti rebel says he is in charge and has taken over down there. The man's name is Guy Philippe. This is a person who has a dreadful human rights record. These are people who ran death squads and are involved in the drug trades. They are now taking over. Anarchy apparently is reigning in the island nation of Haiti.

Parts of this article state the country is in my hands, this so-called rebel leader says. Although American officials denounced the armed rebels and said they should have no role in ruling Haiti, the American forces did not take any action to counter them at all. They have now taken over in that country and are apparently in charge down there. Anarchy is reigning. There are bodies in the streets of Port-au-Prince.

What I feared might happen if we did not stand up and support a democratic government—and again I will say a flawed one, but when the United States decided we were going to put a foot in the back of this elected President and send him out of the country, we warned the vacuum would be filled by the worst elements. In fact, I read over last evening and this morning that Baby Doc Duvalier, the worst oppressive leader in that country, and his father, wants to come back to Haiti under this new operation that is going on down there.

I am terribly disappointed the administration failed to step to the plate. I knew it was going to be difficult, but if we cannot support democratically elected governments—and again I will repeat, whatever problems Aristide had, they were not a few; they were many. Nonetheless, he was chosen by the people of that country on two different occasions, overwhelmingly so. If we are unwilling to stand and back democratically elected governments in this hemisphere and give a wink and a nod to those who replace governments that have been duly elected, we will see a repetition of what occurred in Haiti elsewhere. We are seeing it in Caracas, Venezuela, because we are endorsing the notion that when we don't like leaders in certain countries, we will ignore the chaos that can result from changing of government other than through the normal means of elected government. That is something that can happen, and it has happened.

So I rise to express my deep disappointment that once again the administration, in this hemisphere, is just failing terribly, and Haiti is a classic example of failure. We now have a huge mess on our hands.

I pointed out the other day, 30 percent of the population of the Bahamas is now Haitian. Thirty percent of that country is now occupied by people who have fled Haiti because of the repression and economic conditions in that nation. Twenty percent of children never reach the age of 5 in Haiti. The average income is $250. It is a poor

Black country, and as a result I don't think we give it the kind of support we should have been giving it.

In fact, over the last 36 months we embargoed any assistance directed to the Government of Haiti. What kind of a country do we live in today that turns to a nation only 300 or 400 miles off our shore, with people living in desperate conditions, with the highest rate of AIDS in the hemisphere, and we have virtually nothing to say to them. Here we have today, once again, these impoverished, poor people down there, who had to live under dreadful governments over the years, finally get one they elect democratically, and because we don't like it, it is a failed leadership in our view, we walk away from it, and now you have thugs running the place again. It is not all our fault but, Mr. President a large part is. I am terribly disappointed about what has happened, and I wanted to rise this morning to express those sentiments.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

GROWING OUR MANUFACTURING EMPLOYMENT ACT

Ms. COLLINS. Mr. President, few issues are as important to the American people than the availability of good jobs in their communities. Manufacturing jobs have long provided quality employment for generations of Americans. Today, however, we are losing these jobs at a terrible rate, and no State has been hit harder than my home State of Maine.

According to a study by the National Association of Manufacturers, on a percentage basis Maine has lost more manufacturing jobs in the past 3 years than any other State in the Nation. We have lost nearly 18,000 manufacturing jobs during that period, good jobs that once provided lifelong employment to Mainers in towns such as Millinocket, Wilton, Waterville, Fort Kent, Dexter, Westbrook, and Sanford.

In response to this loss of manufacturing jobs, I have introduced legislation, the Growing Our Manufacturing Employment Act, which is aimed at reinvigorating the domestic manufacturing sector, boosting the level of domestic manufacturing, and preventing the further loss of these important jobs.

Mr. President, I know this is a major problem in your State as well, and we have had many conversations on what we might do to help.

At the national level, we are finally beginning to see the economic recovery for which Americans have been longing. Third and fourth quarter gross domestic product figures are up dramatically, the best two quarters since 1984, and analysts expect the gross domestic product to grow by 5.7 percent this year, which would make 2004 the best year in the past 20 years.

But even so, I don't have to tell you that parts of our economy simply are not sharing in this good news. Nowhere is this more true than in the manufacturing sector, where we have seen a steady erosion of good jobs. The number of American manufacturing jobs has declined each year since the end of 1997. In fact, if you look at the past 84 months, since March of 1997, the number of manufacturing jobs has declined each and every month, except for 7.

This loss of jobs has occurred under both Democratic and Republican administrations, so this is not a partisan issue. The final 3 years of the Clinton administration saw 27 months of manufacturing job losses, and the greatest single monthly decline in manufacturing jobs occurred in July of 1998 when 219,000 American manufacturing jobs disappeared.

As I mentioned, nowhere is the reality of this job loss in the manufacturing sector more acute than in my home State of Maine. The job losses during the past 3 years in the manufacturing sector in Maine represent more than 22 percent of my State's total manufacturing employment, a higher percentage of manufacturing jobs lost than in any other State.

Why are American manufacturing jobs disappearing? According to a new study conducted for the National Association of Manufacturers, one answer is the disparity in manufacturing costs in the United States versus other countries. In fact, compared to other countries, it costs an average of 22 percent more to manufacture goods here.

While it would surprise no one that American manufacturers face higher costs of doing business than manufacturers in countries such as China or Mexico, it would be a mistake to assume that wage rates alone explain those differences. They do not. In fact, the productivity of the American worker is unrivaled, allowing American workers to receive more value in wages for the goods they produce.

As the NAM study indicates, if wages were the only factor, then U.S. manufacturers would be far more dominant in the global markets than the current trade situation suggests.

It is other structural costs, such as the high corporate tax rate we impose on manufacturers, that make it more expensive to manufacture goods in the United States relative to the costs elsewhere. Indeed, the NAM study shows it is significantly cheaper to produce goods, even in high-wage industrialized countries such as Japan and France. This fact illustrates the critical impact these high structural costs have on manufacturers in the United States.

In essence, these costs have the same effect as a tax, as imposing a 22-percent additional tax on the cost of making goods here rather than overseas. To compete, American manufacturers must somehow do more with less, move operations overseas, or get out of manufacturing altogether. The end result is fewer jobs, a weaker economy, and a manufacturing sector in crisis.

I believe a healthy manufacturing base is essential to our Nation's future. Not only is manufacturing a key source of skilled high-paying jobs, but it is also critical to our economic and national security that we have the ability to manufacture the goods we need in this country.

For all of these reasons, I am proposing the Growing Our Manufacturing Employment Act. This bill would eliminate that 22-percent cost differential that American manufacturers face by providing a variety of tax incentives. For example, a jobs tax credit would be provided to manufacturers that employ displaced workers who are receiving trade adjustment assistance. That would help get those workers back to work.

In Maine alone, nearly 60 manufacturers are currently TAA-certified, and more than 4,200 Maine workers have been deemed eligible for benefits under TAA since the beginning of 2002. The credit would only be available to manufacturers that increase their employment level. The availability of this credit would be a powerful incentive to hire workers who are receiving benefits because they have been displaced.

As important as it is to assist workers who are eligible for benefits under trade adjustment assistance, however, this alone is not sufficient to address the crisis facing America's manufacturers. That is why my bill also includes a 2-year, across-the-board deduction of 9 percent on domestic manufacturing income, a tax break that would not be available for income earned on overseas operations. This, too, would be a powerful incentive, a powerful tax break, to help encourage manufacturers to keep their operations in America. It would help offset that disparity in costs.

In Maine, the sector that provides the most manufacturing jobs is the forest products industry, an industry that is struggling. Paper plant after paper plant in Maine has been laying off workers or closing down altogether, hurting our economy and leaving thousands of hard-working skilled workers without jobs.

My proposal includes provisions to encourage the recovery of the forest products industry, which is critically important not only to my State but to many other States, as well.

My bill, for example, provides a tax credit for reforestation expenses and changes the tax treatment for wood harvested on nonindustrial woodlots. These changes would both encourage sound forestry stewardship practices and also increase the wood supply by removing artificial barriers to sound woodlot management. Taken together, these provisions will help to ensure an affordable, reliable wood supply upon which so many manufacturing jobs in Maine depend.

Finally, this bill is designed to ensure that only companies that are helping to build America's manufacturing base obtain its benefits. It has both a carrot and a stick approach. Companies that move jobs offshore will see their benefits reduced. For example, they will not be able to claim that 9-percent deduction on operations that are located in the United States. Companies that choose to invert their corporate structure altogether in order to avoid U.S. taxes will not be eligible for this credit at all.

The crisis in the manufacturing sector demands our attention. It did not start yesterday, and it will not be resolved tomorrow. Solutions can and should be sought today.

The bill I have introduced is a good start, but additional remedies are needed. Manufacturing jobs arise in part because some of our trading partners simply do not play by the rules. The Presiding Officer has been a leader in this area. Our Nation's manufacturers can compete against the best in the world, but they cannot compete against nations that provide huge subsidies and other help to their manufacturers.

I hear from manufacturers in my State time and again whose efforts to compete successfully in a global economy simply cannot overcome the practices of the illegal pricing and subsidies of nations such as China. That is why I will soon be introducing a second bill that will help ensure that nations such as China are held fully accountable for their actions by our trade remedy laws. Unfair market conditions cannot continue to cause our manufacturers to hemorrhage jobs.

I am hopeful that working together on this and other legislative and administrative proposals, we can take the important steps needed to strengthen American manufacturers, to preserve our manufacturing capacity, and most of all, to help ensure that hard-working Americans have the jobs they need and deserve.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. I thank the Chair.

(The remarks of Mr. WYDEN pertaining to the introduction of S. 2160 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. WYDEN. Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

JUMPSTART OUR BUSINESS STRENGTH (JOBS) ACT

The PRESIDING OFFICER. Under the previous order, the hour of 10:30 a.m. having arrived, the Senate will proceed to the consideration of S. 1637, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1637) to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Finance, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1637

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

[(a) SHORT TITLE.—This Act may be cited as the "Jumpstart Our Business Strength (JOBS) Act".

[(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

[(c) TABLE OF CONTENTS.—

[Sec. 1. Short title; amendment of 1986 Code; table of contents.

[TITLE I—PROVISIONS RELATING TO REPEAL OF EXCLUSION FOR EXTRATERRITORIAL INCOME

[Sec. 101 Repeal of exclusion for extraterritorial income.
[Sec. 102. Deduction relating to income attributable to United States production activities.

[TITLE II—INTERNATIONAL TAX PROVISIONS

[Subtitle A—International Tax Reform

[Sec. 201. 20-year foreign tax credit carryforward.
[Sec. 202. Look-thru rules to apply to dividends from noncontrolled section 902 corporations.
[Sec. 203. Foreign tax credit under alternative minimum tax.
[Sec. 204. Recharacterization of overall domestic loss.
[Sec. 205. Interest expense allocation rules.
[Sec. 206. Determination of foreign personal holding company income with respect to transactions in commodities.

[Subtitle B—International Tax Simplification

[Sec. 211. Repeal of foreign personal holding company rules and foreign investment company rules.
[Sec. 212. Expansion of de minimis rule under subpart F.
[Sec. 213. Attribution of stock ownership through partnerships to apply in determining section 902 and 960 credits.
[Sec. 214. Application of uniform capitalization rules to foreign persons.
[Sec. 215. Repeal of withholding tax on dividends from certain foreign corporations.
[Sec. 216. Repeal of special capital gains tax on aliens present in the United States for 183 days or more.

[TITLE I—PROVISIONS RELATING TO REPEAL OF EXCLUSION FOR EXTRA TERRITORIAL INCOME

[SEC. 101. REPEAL OF EXCLUSION FOR EXTRA TERRITORIAL INCOME.

[(a) IN GENERAL.—Section 114 is hereby repealed.

[(b) CONFORMING AMENDMENTS.—

[(1)(A) Subpart E of part III of subchapter N of chapter 1 (relating to qualifying foreign trade income) is hereby repealed.

[(B) The table of subparts for such part III is amended by striking the item relating to subpart E.

[(2) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 114.

[(3) The second sentence of section 56(g)(4)(B)(i) is amended by striking "or under section 114".

[(4) Section 275(a) is amended—

[(A) by inserting "or" at the end of paragraph (4)(A), by striking "or" at the end of paragraph (4)(B) and inserting a period, and by striking subparagraph (C), and

[(B) by striking the last sentence.

[(5) Paragraph (3) of section 864(e) is amended—

[(A) by striking:

["(3) TAX-EXEMPT ASSETS NOT TAKEN INTO ACCOUNT.—

["(A) IN GENERAL.—For purposes of"; and inserting:

["(3) TAX-EXEMPT ASSETS NOT TAKEN INTO ACCOUNT.—For purposes of", and

[(B) by striking subparagraph (B).

[(6) Section 903 is amended by striking "114, 164(a)," and inserting "164(a)".

[(7) Section 999(c)(1) is amended by striking "941(a)(5),".

[(c) EFFECTIVE DATE.—

[(1) IN GENERAL.—The amendments made by this section shall apply to transactions occurring after the date of the enactment of this Act.

[(2) BINDING CONTRACTS.—The amendments made by this section shall not apply to any transaction in the ordinary course of a trade or business which occurs pursuant to a binding contract—

[(A) which is between the taxpayer and a person who is not a related person (as defined in section 943(b)(3) of such Code, as in effect on the day before the date of the enactment of this Act), and

[(B) which is in effect on September 17, 2003, and at all times thereafter.

[(d) REVOCATION OF SECTION 943(e) ELECTIONS.—

[(1) IN GENERAL.—In the case of a corporation that elected to be treated as a domestic corporation under section 943(e) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act)—

[(A) the corporation may, during the 1-year period beginning on the date of the enactment of this Act, revoke such election, effective as of such date of enactment, and

[(B) if the corporation does revoke such election—

[(i) such corporation shall be treated as a domestic corporation transferring (as of such date of enactment) all of its property to a foreign corporation in connection with an exchange described in section 354 of such Code, and

[(ii) no gain or loss shall be recognized on such transfer.

[(2) Exception.—Subparagraph (B)(ii) of paragraph (1) shall not apply to gain on any asset held by the revoking corporation if—

[(A) the basis of such asset is determined in whole or in part by reference to the basis of such asset in the hands of the person from whom the revoking corporation acquired such asset,

[(B) the asset was acquired by transfer (not as a result of the election under section 943(e) of such Code) occurring on or after the 1st day on which its election under section 943(e) of such Code was effective, and

[(C) a principal purpose of the acquisition was the reduction or avoidance of tax (other than a reduction in tax under section 114 of such Code, as in effect on the day before the date of the enactment of this Act).

[(e) General Transition.—

[(1) In general.—In the case of a taxable year ending after the date of the enactment of this Act and beginning before January 1, 2007, for purposes of chapter 1 of such Code, a current FSC/ETI beneficiary shall be allowed a deduction equal to the transition amount determined under this subsection with respect to such beneficiary for such year.

[(2) Current FSC/ETI beneficiary.—The term "current FSC/ETI beneficiary" means any corporation which entered into one or more transactions during its taxable year beginning in calendar year 2002 with respect to which FSC/ETI benefits were allowable.

[(3) Transition amount.—For purposes of this subsection—

[(A) In general.—The transition amount applicable to any current FSC/ETI beneficiary for any taxable year is the phaseout percentage of the base period amount.

[(B) Phaseout percentage.—

[(i) In general.—In the case of a taxpayer using the calendar year as its taxable year, the phaseout percentage shall be determined under the following table:

[Years:	The phaseout percentage is:
[2004	80
[2005	80
[2006	60.

[(ii) Special rule for 2003.—The phaseout percentage for 2003 shall be the amount that bears the same ratio to 100 percent as the number of days after the date of the enactment of this Act bears to 365.

[(iii) Special rule for fiscal year taxpayers.—In the case of a taxpayer not using the calendar year as its taxable year, the phaseout percentage is the weighted average of the phaseout percentages determined under the preceding provisions of this paragraph with respect to calendar years any portion of which is included in the taxpayer's taxable year. The weighted average shall be determined on the basis of the respective portions of the taxable year in each calendar year.

[(4) Base period amount.—For purposes of this subsection, the base period amount is the aggregate FSC/ETI benefits for the taxpayer's taxable year beginning in calendar year 2002.

[(5) FSC/ETI benefit.—For purposes of this subsection, the term "FSC/ETI benefit" means—

[(A) amounts excludable from gross income under section 114 of such Code, and

[(B) the exempt foreign trade income of related foreign sales corporations from property acquired from the taxpayer (determined without regard to section 923(a)(5) of such Code (relating to special rule for military property), as in effect on the day before the date of the enactment of the FSC Repeal and Extraterritorial Income Exclusion Act of 2000).

In determining the FSC/ETI benefit there shall be excluded any amount attributable to a transaction with respect to which the taxpayer is the lessor unless the leased property was manufactured or produced in whole or in part by the taxpayer.

[(6) Special rule for farm cooperatives.—Determinations under this subsection with respect to an organization described in section 943(g)(1) of such Code, as in effect on the day before the date of the enactment of this Act, shall be made at the cooperative level and the purposes of this subsection shall be carried out in a manner similar to section 250(h) of such Code, as added by this Act. Such determinations shall be in accordance with such requirements and procedures as the Secretary may prescribe.

[(7) Certain rules to apply.—Rules similar to the rules of section 41(f) of such Code shall apply for purposes of this subsection.

[(8) Coordination with binding contract rule.—The deduction determined under paragraph (1) for any taxable year shall be reduced by the phaseout percentage of any FSC/ETI benefit realized for the taxable year by reason of subsection (c)(2), except that for purposes of this paragraph the phaseout percentage for 2003 shall be treated as being equal to 100 percent.

[(9) Special rule for taxable year which includes date of enactment.—In the case of a taxable year which includes the date of the enactment of this Act, the deduction allowed under this subsection to any current FSC/ETI beneficiary shall in no event exceed—

[(A) 100 percent of such beneficiary's base period amount for calendar year 2003, reduced by

[(B) the aggregate FSC/ETI benefits of such beneficiary with respect to transactions occurring during the portion of the taxable year ending on the date of the enactment of this Act.

[SEC. 102. DEDUCTION RELATING TO INCOME ATTRIBUTABLE TO UNITED STATES PRODUCTION ACTIVITIES.

[(a) In General.—Part VIII of subchapter B of chapter 1 (relating to special deductions for corporations) is amended by adding at the end the following new section:

["SEC. 250. INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES.

["(a) In General.—In the case of a corporation, there shall be allowed as a deduction an amount equal to 9 percent of the qualified production activities income of the corporation for the taxable year.

["(b) Phasein.—In the case of taxable years beginning in 2004, 2005, 2006, 2007, or 2008, subsection (a) shall be applied by substituting for the percentage contained therein the transition percentage determined under the following table:

["Taxable years beginning in:	The transition percentage is:
[2004	1
[2005	2
[2006	3
[2007 or 2008	6.

["(c) Qualified Production Activities Income.—For purposes of this section—

["(1) In general.—The term 'qualified production activities income' means an amount equal to the applicable percentage of the portion of the modified taxable income of the taxpayer which is attributable to domestic production activities.

["(2) Applicable percentage.—For purposes of this subsection, the term 'applicable percentage' means—

["(A) in the case of taxable years beginning before 2012, a percentage equal to the domestic/worldwide fraction,

["(B) in the case of taxable years beginning in 2012, a percentage (not greater than 100 percent) equal to twice the domestic/worldwide fraction, and

["(C) in the case of taxable years beginning after 2012, 100 percent.

["(d) Determination of Income Attributable to Domestic Production Activities.—For purposes of this section—

["(1) In general.—The portion of the modified taxable income which is attributable to domestic production activities is so much of the modified taxable income for the taxable year as does not exceed—

["(A) the taxpayer's domestic production gross receipts for such taxable year, reduced by

["(B) the sum of—

["(i) the costs of goods sold that are allocable to such receipts,

["(ii) other deductions, expenses, or losses directly allocable to such receipts, and

["(iii) a proper share of other deductions, expenses, and losses that are not directly allocable to such receipts or another class of income.

["(2) Allocation method.—The Secretary shall prescribe rules for the proper allocation of items of income, deduction, expense, and loss for purposes of determining income attributable to domestic production activities.

["(3) Special rules for determining costs.—

["(A) In general.—For purposes of determining costs under clause (i) of paragraph (1)(B), any item or service brought into the United States without a transfer price meeting the requirements of section 482 shall be treated as acquired by purchase, and its cost shall be treated as not less than its value when it entered the United States. A similar rule shall apply in determining the adjusted basis of leased or rented property where the lease or rental gives rise to domestic production gross receipts.

["(B) Exports for further manufacture.—In the case of any property described in subparagraph (A) that had been exported by the taxpayer for further manufacture, the increase in cost or adjusted basis under subparagraph (A) shall not exceed the difference between the value of the property when exported and the value of the property when brought back into the United States after the further manufacture.

["(4) Modified taxable income.—The term 'modified taxable income' means taxable income computed without regard to the deduction allowable under this section.

["(e) Domestic Production Gross Receipts.—For purposes of this section, the term 'domestic production gross receipts' means the gross receipts of the taxpayer which are derived from—

["(1) any sale, exchange, or other disposition of, or

["(2) any lease, rental, or license of,

qualifying production property which was manufactured, produced, grown, or extracted in whole or in significant part by the taxpayer within the United States.

["(f) Qualifying Production Property.—For purposes of this section—

["(1) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'qualifying production property' means—

["(A) any tangible personal property,

["(B) any computer software, and

["(C) any property described in section 168(f) (3) or (4).

["(2) EXCLUSIONS FROM QUALIFYING PRODUCTION PROPERTY.—The term 'qualifying production property' shall not include—

["(A) consumable property that is sold, leased, or licensed by the taxpayer as an integral part of the provision of services,

["(B) oil or gas (or any primary product thereof),

["(C) electricity,

["(D) water supplied by pipeline to the consumer,

["(E) any unprocessed timber which is softwood,

["(F) utility services, or

["(G) any property (not described in paragraph (1)(B)) which is a film, tape, recording, book, magazine, newspaper, or similar property the market for which is primarily topical or otherwise essentially transitory in nature.

For purposes of subparagraph (E), the term 'unprocessed timber' means any log, cant, or similar form of timber.

["(g) DOMESTIC/WORLDWIDE FRACTION.—For purposes of this section—

["(1) IN GENERAL.—The term 'domestic/worldwide fraction' means a fraction—

["(A) the numerator of which is the value of the domestic production of the taxpayer, and

["(B) the denominator of which is the value of the worldwide production of the taxpayer.

["(2) VALUE OF DOMESTIC PRODUCTION.—The value of domestic production is the excess of—

["(A) the domestic production gross receipts, over

["(B) the cost of purchased inputs allocable to such receipts that are deductible under this chapter for the taxable year.

["(3) PURCHASED INPUTS.—

["(A) IN GENERAL.—Purchased inputs are any of the following items acquired by purchase:

["(i) Services (other than services of employees) used in manufacture, production, growth, or extraction activities.

["(ii) Items consumed in connection with such activities.

["(iii) Items incorporated as part of the property being manufactured, produced, grown, or extracted.

["(B) SPECIAL RULE.—Rules similar to the rules of subsection (d)(3) shall apply for purposes of this subsection.

["(4) VALUE OF WORLDWIDE PRODUCTION.—

["(A) IN GENERAL.—The value of worldwide production shall be determined under the principles of paragraph (2), except that—

["(i) worldwide production gross receipts shall be taken into account, and

["(ii) paragraph (3)(B) shall not apply.

["(B) WORLDWIDE PRODUCTION GROSS RECEIPTS.—The worldwide production gross receipts is the amount that would be determined under subsection (e) if such subsection were applied without any reference to the United States.

["(5) SPECIAL RULE FOR AFFILIATED GROUPS.—

["(A) IN GENERAL.—In the case of a taxpayer that is a member of an expanded affiliated group, the domestic/worldwide fraction shall be the amount determined under the preceding provisions of this subsection by treating all members of such group as a single corporation.

["(B) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a), determined—

["(i) by substituting '50 percent' for '80 percent' each place it appears, and

["(ii) without regard to paragraphs (2), (3), (4), and (8) of section 1504(b).

["(h) DEFINITIONS AND SPECIAL RULES.—

["(1) EXCLUSION FOR PATRONS OF AGRICULTURAL AND HORTICULTURAL COOPERATIVES.—

["(A) IN GENERAL.—If any amount described in paragraph (1) or (3) of section 1385 (a)—

["(i) is received by a person from an organization to which part I of subchapter T applies which is engaged in the marketing of agricultural or horticultural products, and

["(ii) is allocable to the portion of the qualified production activities income of the organization which is deductible under subsection (a) (determined as if the organization were a corporation if it is not) and designated as such by the organization in a written notice mailed to its patrons during the payment period described in section 1382(a),

then such person shall be allowed an exclusion from gross income with respect to such amount. The taxable income of the organization shall not be reduced under section 1382 by the portion of any such amount with respect to which an exclusion is allowable to a person by reason of this paragraph.

["(B) SPECIAL RULES.—For purposes of applying subparagraph (A), in determining the qualified production activities income of the organization under this section—

["(i) there shall not be taken into account in computing the organization's modified taxable income any deduction allowable under subsection (b) or (c) of section 1382 (relating to patronage dividends, per-unit retain allocations, and nonpatronage distributions), and

["(ii) the organization shall be treated as having manufactured, produced, grown, or extracted in whole or significant part any qualifying production property marketed by the organization which its patrons have so manufactured, produced, grown, or extracted.

["(2) SPECIAL RULE FOR PARTNERSHIPS.—For purposes of this section, a corporation's distributive share of any partnership item shall be taken into account as if directly realized by the corporation.

["(3) COORDINATION WITH MINIMUM TAX.—The deduction under this section shall be allowed for purposes of the tax imposed by section 55; except that for purposes of section 55, alternative minimum taxable income shall be taken into account in determining the deduction under this section.

["(4) ORDERING RULE.—The amount of any other deduction allowable under this chapter shall be determined as if this section had not been enacted.

["(5) COORDINATION WITH TRANSITION RULES.—For purposes of this section—

["(A) domestic production gross receipts shall not include gross receipts from any transaction if the binding contract transition relief of section 101(c)(2) of the Jumpstart Our Business Strength (JOBS) Act applies to such transaction, and

["(B) any deduction allowed under section 101(e) of such Act shall be disregarded in determining the portion of the taxable income which is attributable to domestic production gross receipts.".

[(b) DEDUCTION ALLOWED TO SHAREHOLDERS OF S CORPORATIONS.—

[(1) IN GENERAL.—Section 1363(b) (relating to computation of S corporation's taxable income) is amended by striking "and" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", and", and by adding at the end the following new paragraph:

["(5) the deduction under section 250 shall be allowed to the S corporation."

[(2) INCREASE IN BASIS.—Section 1367(a)(1) (relating to increases in basis) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by adding at the end the following new subparagraph:

["(D) any deduction allowed under section 250."

[(c) MINIMUM TAX.—Section 56(g)(4)(C) (relating to disallowance of items not deductible in computing earnings and profits) is amended by adding at the end the following new clause:

["(v) DEDUCTION FOR DOMESTIC PRODUCTION.—Clause (i) shall not apply to any amount allowable as a deduction under section 250."

[(d) CLERICAL AMENDMENT.—The table of sections for part VIII of subchapter B of chapter 1 is amended by adding at the end the following new item:

["Sec. 250. Income attributable to domestic production activities."

[(e) EFFECTIVE DATE.—

[(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

[(2) APPLICATION OF SECTION 15.—Section 15 of the Internal Revenue Code of 1986 shall apply to the amendments made by this section as if they were changes in a rate of tax.

[TITLE II—INTERNATIONAL TAX PROVISIONS

[Subtitle A—International Tax Reform

[SEC. 201. 20-YEAR FOREIGN TAX CREDIT CARRYFORWARD.

[(a) GENERAL RULE.—Section 904(c) (relating to carryback and carryover of excess tax paid) is amended by striking "in the first, second, third, fourth, or fifth" and inserting "in any of the first 20".

[(b) EXCESS EXTRACTION TAXES.—Paragraph (1) of section 907(f) is amended by striking "in the first, second, third, fourth, or fifth" and inserting "in any of the first 20".

[(c) EFFECTIVE DATE.—The amendments made by this section shall apply to excess foreign taxes which (without regard to the amendments made by this section) may be carried to any taxable year beginning after December 31, 2004.

[SEC. 202. LOOK-THRU RULES TO APPLY TO DIVIDENDS FROM NONCONTROLLED SECTION 902 CORPORATIONS.

[(a) IN GENERAL.—Section 904(d)(4) (relating to look-thru rules apply to dividends from noncontrolled section 902 corporations) is amended to read as follows:

["(4) LOOK-THRU APPLIES TO DIVIDENDS FROM NONCONTROLLED SECTION 902 CORPORATIONS.—

["(A) IN GENERAL.—For purposes of this subsection, any dividend from a noncontrolled section 902 corporation with respect to the taxpayer shall be treated as income described in a subparagraph of paragraph (1) in proportion to the ratio of—

["(i) the portion of earnings and profits attributable to income described in such subparagraph, to [“(ii) the total amount of earnings and profits.

[“(B) SPECIAL RULES.—For purposes of this paragraph—

[“(i) EARNINGS AND PROFITS.—

[“(I) IN GENERAL.—The rules of section 316 shall apply.

[“(II) REGULATIONS.—The Secretary may prescribe regulations regarding the treatment of distributions out of earnings and profits for periods before the taxpayer's acquisition of the stock to which the distributions relate.

[“(ii) INADEQUATE SUBSTANTIATION.—If the Secretary determines that the proper subparagraph of paragraph (1) in which a dividend is described has not been substantiated, such dividend shall be treated as income described in paragraph (1)(A).

[“(iii) LOOK-THRU WITH RESPECT TO CARRYFORWARDS OF CREDIT.—Rules similar to subparagraph (A) also shall apply to any carryforward under subsection (c) from a taxable year beginning before January 1, 2003, of tax allocable to a dividend from a noncontrolled section 902 corporation with respect to the taxpayer. The Secretary may by regulations provide for the allocation of any carryback of tax allocable to a dividend from a noncontrolled section 902 corporation to such a taxable year for purposes of allocating such dividend among the separate categories in effect for such taxable year.

[“(iv) COORDINATION WITH HIGH-TAXED INCOME PROVISIONS.—Rules similar to the rules of paragraph (3)(F) shall apply for purposes of this paragraph.”.

[(b) CONFORMING AMENDMENTS.—

[(1) Section 904(d)(2)(E) is amended—

[(A) by inserting “or (4)” after “paragraph (3)” in clause (i), and

[(B) by striking clauses (ii) and (iv) and by redesignating clause (iii) as clause (ii).

[(2) Clause (i) of section 864(d)(5)(A) is amended to read as follows:

[“(i) Subclause (I) of section 904(d)(2)(B)(iii).”

[(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

[SEC. 203. FOREIGN TAX CREDIT UNDER ALTERNATIVE MINIMUM TAX.

[(a) IN GENERAL.—

[(1) Subsection (a) of section 59 is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

[(2) Section 53(d)(1)(B)(i)(II) of such Code is amended by striking “and if section 59(a)(2) did not apply”.

[(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

[SEC. 204. RECHARACTERIZATION OF OVERALL DOMESTIC LOSS.

[(a) GENERAL RULE.—Section 904 is amended by redesignating subsections (g), (h), (i), (j), and (k) as subsections (h), (i), (j), (k), and (l) respectively, and by inserting after subsection (f) the following new subsection:

[“(g) RECHARACTERIZATION OF OVERALL DOMESTIC LOSS.—

[“(1) GENERAL RULE.—For purposes of this subpart and section 936, in the case of any taxpayer who sustains an overall domestic loss for any taxable year beginning after December 31, 2006, that portion of the taxpayer's taxable income from sources within the United States for each succeeding taxable year which is equal to the lesser of—

[“(A) the amount of such loss (to the extent not used under this paragraph in prior taxable years), or

[“(B) 50 percent of the taxpayer's taxable income from sources within the United States for such succeeding taxable year,

shall be treated as income from sources without the United States (and not as income from sources within the United States).

[“(2) OVERALL DOMESTIC LOSS DEFINED.—For purposes of this subsection—

[“(A) IN GENERAL.—The term ‘overall domestic loss’ means any domestic loss to the extent such loss offsets taxable income from sources without the United States for the taxable year or for any preceding taxable year by reason of a carryback. For purposes of the preceding sentence, the term ‘domestic loss’ means the amount by which the gross income for the taxable year from sources within the United States is exceeded by the sum of the deductions properly apportioned or allocated thereto (determined without regard to any carryback from a subsequent taxable year).

[“(B) TAXPAYER MUST HAVE ELECTED FOREIGN TAX CREDIT FOR YEAR OF LOSS.—The term ‘overall domestic loss’ shall not include any loss for any taxable year unless the taxpayer chose the benefits of this subpart for such taxable year.

[“(3) CHARACTERIZATION OF SUBSEQUENT INCOME.—

[“(A) IN GENERAL.—Any income from sources within the United States that is treated as income from sources without the United States under paragraph (1) shall be allocated among and increase the income categories in proportion to the loss from sources within the United States previously allocated to those income categories.

[“(B) INCOME CATEGORY.—For purposes of this paragraph, the term ‘income category’ has the meaning given such term by subsection (f)(5)(E)(i).

[“(4) COORDINATION WITH SUBSECTION (f).—The Secretary shall prescribe such regulations as may be necessary to coordinate the provisions of this subsection with the provisions of subsection (f).”

[(b) CONFORMING AMENDMENTS.—

[(1) Section 535(d)(2) is amended by striking “section 904(g)(6)” and inserting “section 904(h)(6)”.

[(2) Subparagraph (A) of section 936(a)(2) is amended by striking “section 904(f)” and inserting “subsections (f) and (g) of section 904”.

[(c) EFFECTIVE DATE.—The amendments made by this section shall apply to losses for taxable years beginning after December 31, 2006.

[SEC. 205. INTEREST EXPENSE ALLOCATION RULES.

[(a) ELECTION TO ALLOCATE ON WORLDWIDE BASIS.— Section 864 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

[“(f) ELECTION TO ALLOCATE INTEREST, ETC. ON WORLDWIDE BASIS.—For purposes of this subchapter, at the election of the worldwide affiliated group—

[“(1) ALLOCATION AND APPORTIONMENT OF INTEREST EXPENSE.—

[“(A) IN GENERAL.—The taxable income of each domestic corporation which is a member of a worldwide affiliated group shall be determined by allocating and apportioning interest expense of each member as if all members of such group were a single corporation.

[“(B) TREATMENT OF WORLDWIDE AFFILIATED GROUP.—The taxable income of the domestic members of a worldwide affiliated group from sources outside the United States shall be determined by allocating and apportioning the interest expense of such domestic members to such income in an amount equal to the excess (if any) of—

[“(i) the total interest expense of the worldwide affiliated group multiplied by the ratio which the foreign assets of the worldwide affiliated group bears to all the assets of the worldwide affiliated group, over

[“(ii) the interest expense of all foreign corporations which are members of the worldwide affiliated group to the extent such interest expense of such foreign corporations would have been allocated and apportioned to foreign source income if this subsection were applied to a group consisting of all the foreign corporations in such worldwide affiliated group.

[“(C) WORLDWIDE AFFILIATED GROUP.—For purposes of this paragraph, the term ‘worldwide affiliated group’ means a group consisting of—

[“(i) the includible members of an affiliated group (as defined in section 1504(a), determined without regard to paragraphs (2) and (4) of section 1504(b)), and

[“(ii) all controlled foreign corporations in which such members in the aggregate meet the ownership requirements of section 1504(a)(2) either directly or indirectly through applying paragraph (2) of section 958(a) or through applying rules similar to the rules of such paragraph to stock owned directly or indirectly by domestic partnerships, trusts, or estates.

[“(2) ALLOCATION AND APPORTIONMENT OF OTHER EXPENSES.—Expenses other than interest which are not directly allocable or apportioned to any specific income producing activity shall be allocated and apportioned as if all members of the affiliated group were a single corporation. For purposes of the preceding sentence, the term ‘affiliated group’ has the meaning given such term by section 1504 (determined without regard to paragraph (4) of section 1504(b)).

[“(3) TREATMENT OF TAX-EXEMPT ASSETS; BASIS OF STOCK IN NONAFFILIATED 10-PERCENT OWNED CORPORATIONS.—The rules of paragraphs (3) and (4) of subsection (e) shall apply for purposes of this subsection; except that paragraph (4) shall be applied on worldwide affiliated group basis.

[“(4) TREATMENT OF CERTAIN FINANCIAL INSTITUTIONS.—

[“(A) IN GENERAL.—For purposes of paragraph (1), any corporation described in subparagraph (B) shall be treated as an includible corporation for purposes of section 1504 only for purposes of applying this subsection separately to corporations so described.

[“(B) DESCRIPTION.—A corporation is described in this subparagraph if—

[“(i) such corporation is a financial institution described in section 581 or 591,

[“(ii) the business of such financial institution is predominantly with persons other than related persons (within the meaning of subsection (d)(4)) or their customers, and

[“(iii) such financial institution is required by State or Federal law to be operated separately from any other entity which is not such an institution.

[“(C) TREATMENT OF BANK AND FINANCIAL HOLDING COMPANIES.—To the extent provided in regulations—

[“(i) a bank holding company (within the meaning of section 2(a) of the Bank Holding Company Act of 1956),

[“(ii) a financial holding company (within the meaning of section 2(p) of the Bank Holding Company Act of 1956), and

[“(iii) any subsidiary of a financial institution described in section 581 or 591, or of any such bank or financial holding company, if such subsidiary is predominantly engaged (directly or indirectly) in the active conduct of a banking, financing, or similar business,

shall be treated as a corporation described in subparagraph (B).

["(5) Election to expand financial institution group of worldwide group.—

["(A) In general.—If a worldwide affiliated group elects the application of this subsection, all financial corporations which—

["(i) are members of such worldwide affiliated group, but

["(ii) are not corporations described in paragraph (4)(B),

shall be treated as described in paragraph (4)(B) for purposes of applying paragraph (4)(A). This subsection (other than this paragraph) shall apply to any such group in the same manner as this subsection (other than this paragraph) applies to the pre-election worldwide affiliated group of which such group is a part.

["(B) Financial corporation.—For purposes of this paragraph, the term 'financial corporation' means any corporation if at least 80 percent of its gross income is income described in section 904(d)(2)(D)(ii) and the regulations thereunder which is derived from transactions with persons who are not related (within the meaning of section 267(b) or 707(b)(1)) to the corporation. For purposes of the preceding sentence, there shall be disregarded any item of income or gain from a transaction or series of transactions a principal purpose of which is the qualification of any corporation as a financial corporation.

["(C) Antiabuse rules.—In the case of a corporation which is a member of an electing financial institution group, to the extent that such corporation—

["(i) distributes dividends or makes other distributions with respect to its stock after the date of the enactment of this paragraph to any member of the pre-election worldwide affiliated group (other than to a member of the electing financial institution group) in excess of the greater of—

["(I) its average annual dividend (expressed as a percentage of current earnings and profits) during the 5-taxable-year period ending with the taxable year preceding the taxable year, or

["(II) 25 percent of its average annual earnings and profits for such 5-taxable-year period, or

["(ii) deals with any person in any manner not clearly reflecting the income of the corporation (as determined under principles similar to the principles of section 482),

an amount of indebtedness of the electing financial institution group equal to the excess distribution or the understatement or overstatement of income, as the case may be, shall be recharacterized (for the taxable year and subsequent taxable years) for purposes of this paragraph as indebtedness of the worldwide affiliated group (excluding the electing financial institution group). If a corporation has not been in existence for 5 taxable years, this subparagraph shall be applied with respect to the period it was in existence.

["(D) Election.—An election under this paragraph with respect to any financial institution group may be made only by the common parent of the pre-election worldwide affiliated group and may be made only for the first taxable year beginning after December 31, 2009, in which such affiliated group includes 1 or more financial corporations. Such an election, once made, shall apply to all financial corporations which are members of the electing financial institution group for such taxable year and all subsequent years unless revoked with the consent of the Secretary.

["(E) Definitions relating to groups.—For purposes of this paragraph—

["(i) Pre-election worldwide affiliated group.—The term 'pre-election worldwide affiliated group' means, with respect to a corporation, the worldwide affiliated group of which such corporation would (but for an election under this paragraph) be a member for purposes of applying paragraph (1).

["(ii) Electing financial institution group.—The term 'electing financial institution group' means the group of corporations to which this subsection applies separately by reason of the application of paragraph (4)(A) and which includes financial corporations by reason of an election under subparagraph (A).

["(F) Regulations.—The Secretary shall prescribe such regulations as may be appropriate to carry out this subsection, including regulations—

["(i) providing for the direct allocation of interest expense in other circumstances where such allocation would be appropriate to carry out the purposes of this subsection,

["(ii) preventing assets or interest expense from being taken into account more than once, and

["(iii) dealing with changes in members of any group (through acquisitions or otherwise) treated under this paragraph as an affiliated group for purposes of this subsection.

["(6) Election.—An election to have this subsection apply with respect to any worldwide affiliated group may be made only by the common parent of the domestic affiliated group referred to in paragraph (1)(C) and may be made only for the first taxable year beginning after December 31, 2009, in which a worldwide affiliated group exists which includes such affiliated group and at least one foreign corporation. Such an election, once made, shall apply to such common parent and all other corporations which are members of such worldwide affiliated group for such taxable year and all subsequent years unless revoked with the consent of the Secretary.".

[(b) Expansion of Regulatory Authority.—Paragraph (7) of section 864(e) is amended—

[(1) by inserting before the comma at the end of subparagraph (B) "and in other circumstances where such allocation would be appropriate to carry out the purposes of this subsection", and

[(2) by striking "and" at the end of subparagraph (E), by redesignating subparagraph (F) as subparagraph (G), and by inserting after subparagraph (E) the following new subparagraph:

["(F) preventing assets or interest expense from being taken into account more than once, and".

[(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

[SEC. 206. DETERMINATION OF FOREIGN PERSONAL HOLDING COMPANY INCOME WITH RESPECT TO TRANSACTIONS IN COMMODITIES.

[(a) In General.—Clauses (i) and (ii) of section 954(c)(1)(C) (relating to commodity transactions) are amended to read as follows:

["(i) arise out of commodity hedging transactions (as defined in paragraph (6)(A)),

["(ii) are active business gains or losses from the sale of commodities, but only if substantially all of the controlled foreign corporation's commodities are property described in paragraph (1), (2), or (8) of section 1221(a), or".

[(b) Definition and Special Rules.—Subsection (c) of section 954 is amended by adding after paragraph (5) the following new paragraph:

["(6) Definition and special rules relating to commodity transactions.—

["(A) Commodity hedging transactions.—For purposes of paragraph (1)(C)(i), the term 'commodity hedging transaction' means any transaction with respect to a commodity if such transaction—

["(i) is a hedging transaction as defined in section 1221(b)(2), determined—

["(I) without regard to subparagraph (A)(ii) thereof,

["(II) by applying subparagraph (A)(i) thereof by substituting 'ordinary property or property described in section 1231(b)' for 'ordinary property', and

["(III) by substituting 'controlled foreign corporation' for 'taxpayer' each place it appears, and

["(ii) is clearly identified as such in accordance with section 1221(a)(7).

["(B) Regulations.—The Secretary shall prescribe such regulations as are appropriate to carry out the purposes of paragraph (1)(C) in the case of transactions involving related parties."

[(c) Effective Date.—The amendments made by this section shall apply to transactions entered into after December 31, 2004.

[Subtitle B—International Tax Simplification

[SEC. 211. REPEAL OF FOREIGN PERSONAL HOLDING COMPANY RULES AND FOREIGN INVESTMENT COMPANY RULES.

[(a) General Rule.—The following provisions are hereby repealed:

[(1) Part III of subchapter G of chapter 1 (relating to foreign personal holding companies).

[(2) Section 1246 (relating to gain on foreign investment company stock).

[(3) Section 1247 (relating to election by foreign investment companies to distribute income currently).

[(b) Exemption of Foreign Corporations From Personal Holding Company Rules.—

[(1) In general.—Subsection (c) of section 542 (relating to exceptions) is amended—

[(A) by striking paragraph (5) and inserting the following:

["(5) a foreign corporation,",

[(B) by striking paragraphs (7) and (10) and by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively,

[(C) by inserting "and" at the end of paragraph (7) (as so redesignated), and

[(D) by striking "; and" at the end of paragraph (8) (as so redesignated) and inserting a period.

[(2) Treatment of income from personal service contracts.—Paragraph (1) of section 954(c) is amended by adding at the end the following new subparagraph:

["(I) Personal service contracts.—

["(i) Amounts received under a contract under which the corporation is to furnish personal services if—

["(I) some person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or

["(II) the individual who is to perform the services is designated (by name or by description) in the contract, and

["(ii) amounts received from the sale or other disposition of such a contract.

This subparagraph shall apply with respect to amounts received for services under a particular contract only if at some time during the taxable year 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual who has performed, is to perform, or may be designated (by name or by description) as the one to perform, such services."

[(c) Conforming Amendments.—

[(1) Section 1(h) is amended—

[(A) in paragraph (10), by inserting "and" at the end of subparagraph (F), by striking subparagraph (G), and by redesignating subparagraph (H) as subparagraph (G), and

[(B) by striking "a foreign personal holding company (as defined in section 552), a foreign investment company (as defined in section 1246(b)), or" in paragraph (11)(C)(iii).

[(2) Paragraph (2) of section 171(c) is amended—

[(A) by striking ", or by a foreign personal holding company, as defined in section 552", and

[(B) by striking ", or foreign personal holding company".

[(3) Paragraph (2) of section 245(a) is amended by striking "foreign personal holding company or".

[(4) Section 312 is amended by striking subsection (j).

[(5) Subsection (m) of section 312 is amended by striking ", a foreign investment company (within the meaning of section 1246(b)), or a foreign personal holding company (within the meaning of section 552)".

[(6) Subsection (e) of section 443 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

[(7) Subparagraph (B) of section 465(c)(7) is amended by adding "or" at the end of clause (i), by striking clause (ii), and by redesignating clause (iii) as clause (ii).

[(8) Paragraph (1) of section 543(b) is amended by inserting "and" at the end of subparagraph (A), by striking ", and" at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

[(9) Paragraph (1) of section 562(b) is amended by striking "or a foreign personal holding company described in section 552".

[(10) Section 563 is amended—

[(A) by striking subsection (c),

[(B) by redesignating subsection (d) as subsection (c), and

[(C) by striking "subsection (a), (b), or (c)" in subsection (c) (as so redesignated) and inserting "subsection (a) or (b)".

[(11) Subsection (d) of section 751 is amended by adding "and" at the end of paragraph (2), by striking paragraph (3), by redesignating paragraph (4) as paragraph (3), and by striking "paragraph (1), (2), or (3)" in paragraph (3) (as so redesignated) and inserting "paragraph (1) or (2)".

[(12) Paragraph (2) of section 864(d) is amended by striking subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

[(13)(A) Subparagraph (A) of section 898(b)(1) is amended to read as follows:

["(A) which is treated as a controlled foreign corporation for any purpose under subpart F of part III of this subchapter, and".

[(B) Subparagraph (B) of section 898(b)(2) is amended by striking "and sections 551(f) and 554, whichever are applicable,".

[(C) Paragraph (3) of section 898(b) is amended to read as follows:

["(3) United States shareholder.—The term 'United States shareholder' has the meaning given to such term by section 951(b), except that, in the case of a foreign corporation having related person insurance income (as defined in section 953(c)(2)), the Secretary may treat any person as a United States shareholder for purposes of this section if such person is treated as a United States shareholder under section 953(c)(1)."

[(D) Subsection (c) of section 898 is amended to read as follows:

["(c) Determination of Required Year.—

["(1) In general.—The required year is—

["(A) the majority U.S. shareholder year, or

["(B) if there is no majority U.S. shareholder year, the taxable year prescribed under regulations.

["(2) 1-month deferral allowed.—A specified foreign corporation may elect, in lieu of the taxable year under paragraph (1)(A), a taxable year beginning 1 month earlier than the majority U.S. shareholder year.

["(3) Majority U.S. shareholder year.—

["(A) In general.—For purposes of this subsection, the term 'majority U.S. shareholder year' means the taxable year (if any) which, on each testing day, constituted the taxable year of—

["(i) each United States shareholder described in subsection (b)(2)(A), and

["(ii) each United States shareholder not described in clause (i) whose stock was treated as owned under subsection (b)(2)(B) by any shareholder described in such clause.

["(B) Testing day.—The testing days shall be—

["(i) the first day of the corporation's taxable year (determined without regard to this section), or

["(ii) the days during such representative period as the Secretary may prescribe."

[(14) Clause (ii) of section 904(d)(2)(A) is amended to read as follows:

["(ii) Certain amounts included.—Except as provided in clause (iii), the term 'passive income' includes, except as provided in subparagraph (E)(iii) or paragraph (3)(I), any amount includible in gross income under section 1293 (relating to certain passive foreign investment companies)."

[(15)(A) Subparagraph (A) of section 904(g)(1), as redesignated by section 204, is amended by adding "or" at the end of clause (i), by striking clause (ii), and by redesignating clause (iii) as clause (ii).

[(B) The paragraph heading of paragraph (2) of section 904(g), as so redesignated, is amended by striking "FOREIGN PERSONAL HOLDING OR".

[(16) Section 951 is amended by striking subsections (c) and (d) and by redesignating subsections (e) and (f) as subsections (c) and (d), respectively.

[(17) Paragraph (3) of section 989(b) is amended by striking ", 551(a),".

[(18) Paragraph (5) of section 1014(b) is amended by inserting "and before January 1, 2005," after "August 26, 1937,".

[(19) Subsection (a) of section 1016 is amended by striking paragraph (13).

[(20)(A) Paragraph (3) of section 1212(a) is amended to read as follows:

["(3) Special rules on carrybacks.—A net capital loss of a corporation shall not be carried back under paragraph (1)(A) to a taxable year—

["(A) for which it is a regulated investment company (as defined in section 851), or

["(B) for which it is a real estate investment trust (as defined in section 856)."

[(B) The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 2004.

[(21) Section 1223 is amended by striking paragraph (10) and by redesignating the following paragraphs accordingly.

[(22) Subsection (d) of section 1248 is amended by striking paragraph (5) and by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

[(23) Paragraph (2) of section 1260(c) is amended by striking subparagraphs (H) and (I) and by redesignating subparagraph (J) as subparagraph (H).

[(24)(A) Subparagraph (F) of section 1291(b)(3) is amended by striking "551(d), 959(a)," and inserting "959(a)".

[(B) Subsection (e) of section 1291 is amended by inserting "(as in effect on the day before the date of the enactment of the Jumpstart Our Business Strength (JOBS) Act)" after "section 1246".

[(25) Paragraph (2) of section 1294(a) is amended to read as follows:

["(2) Election not permitted where amounts otherwise includible under section 951.—The taxpayer may not make an election under paragraph (1) with respect to the undistributed PFIC earnings tax liability attributable to a qualified electing fund for the taxable year if any amount is includible in the gross income of the taxpayer under section 951 with respect to such fund for such taxable year."

[(26) Section 6035 is hereby repealed.

[(27) Subparagraph (D) of section 6103(e)(1) is amended by striking clause (iv) and redesignating clauses (v) and (vi) as clauses (iv) and (v), respectively.

[(28) Subparagraph (B) of section 6501(e)(1) is amended to read as follows:

["(B) Constructive dividends.—If the taxpayer omits from gross income an amount properly includible therein under section 951(a), the tax may be assessed, or a proceeding in court for the collection of such tax may be done without assessing, at any time within 6 years after the return was filed."

[(29) Subsection (a) of section 6679 is amended—

[(A) by striking "6035, 6046, and 6046A" in paragraph (1) and inserting "6046 and 6046A", and

[(B) by striking paragraph (3).

[(30) Sections 170(f)(10)(A), 508(d), 4947, and 4948(c)(4) are each amended by striking "556(b)(2)," each place it appears.

[(31) The table of parts for subchapter G of chapter 1 is amended by striking the item relating to part III.

[(32) The table of sections for part IV of subchapter P of chapter 1 is amended by striking the items relating to sections 1246 and 1247.

[(33) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6035.

[(d) Effective Date.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2004, and taxable years of United States shareholders of such corporations ending with or within such taxable years of such corporations.

[SEC. 212. EXPANSION OF DE MINIMIS RULE UNDER SUBPART F.

[(a) In General.—Clause (ii) of section 954(b)(3)(A) (relating to de minimis, etc., rules) is amended by striking "$1,000,000" and inserting "$5,000,000".

[(b) Technical Amendments.—

[(1) Clause (ii) of section 864(d)(5)(A) is amended by striking "$1,000,000" and inserting "$5,000,000".

[(2) Clause (i) of section 881(c)(5)(A) is amended by striking "$1,000,000" and inserting "$5,000,000".

[(c) Effective Date.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2004, and taxable years of United States shareholders of such corporations ending with or within such taxable years of such corporations.

[SEC. 213. ATTRIBUTION OF STOCK OWNERSHIP THROUGH PARTNERSHIPS TO APPLY IN DETERMINING SECTION 902 AND 960 CREDITS.

[(a) IN GENERAL.—Subsection (c) of section 902 is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

["(7) CONSTRUCTIVE OWNERSHIP THROUGH PARTNERSHIPS.—Stock owned, directly or indirectly, by or for a partnership shall be considered as being owned proportionately by its partners. Stock considered to be owned by a person by reason of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person. The Secretary may prescribe such regulations as may be necessary to carry out the purposes of this paragraph, including rules to account for special partnership allocations of dividends, credits, and other incidents of ownership of stock in determining proportionate ownership."

[(b) CLARIFICATION OF COMPARABLE ATTRIBUTION UNDER SECTION 901(b)(5).—Paragraph (5) of section 901(b) is amended by striking "any individual" and inserting "any person".

[(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes of foreign corporations for taxable years of such corporations beginning after the date of the enactment of this Act.

[SEC. 214. APPLICATION OF UNIFORM CAPITALIZATION RULES TO FOREIGN PERSONS.

[(a) IN GENERAL.—Section 263A(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

["(7) FOREIGN PERSONS.—Except for purposes of applying sections 871(b)(1) and 882(a)(1), this section shall not apply to any taxpayer who is not a United States person if such taxpayer capitalizes costs of produced property or property acquired for resale by applying the method used to ascertain the income, profit, or loss for purposes of reports or statements to shareholders, partners, other proprietors, or beneficiaries, or for credit purposes."

[(b) EFFECTIVE DATE.—

[(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2004.

[(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by the amendment made by this section to change its method of accounting for its first taxable year beginning after December 31, 2004—

[(A) such change shall be treated as initiated by the taxpayer,

[(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

[(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account in such first year.

[SEC. 215. REPEAL OF WITHHOLDING TAX ON DIVIDENDS FROM CERTAIN FOREIGN CORPORATIONS.

[(a) IN GENERAL.—Paragraph (2) of section 871(i) (relating to tax not to apply to certain interest and dividends) is amended by adding at the end the following new subparagraph:

["(D) Dividends paid by a foreign corporation which are treated under section 861(a)(2)(B) as income from sources within the United States.".

[(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 2004.

[SEC. 216. REPEAL OF SPECIAL CAPITAL GAINS TAX ON ALIENS PRESENT IN THE UNITED STATES FOR 183 DAYS OR MORE.

[(a) IN GENERAL.—Subsection (a) of section 871 is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

[(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.]

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Jumpstart Our Business Strength (JOBS) Act".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—PROVISIONS RELATING TO REPEAL OF EXCLUSION FOR EXTRATERRITORIAL INCOME

Sec. 101. Repeal of exclusion for extraterritorial income.
Sec. 102. Deduction relating to income attributable to United States production activities.

TITLE II—INTERNATIONAL TAX PROVISIONS

Subtitle A—International Tax Reform

Sec. 201. 20-year foreign tax credit carryover; 1-year foreign tax credit carryback.
Sec. 202. Look-thru rules to apply to dividends from noncontrolled section 902 corporations.
Sec. 203. Foreign tax credit under alternative minimum tax.
Sec. 204. Recharacterization of overall domestic loss.
Sec. 205. Interest expense allocation rules.
Sec. 206. Determination of foreign personal holding company income with respect to transactions in commodities.

Subtitle B—International Tax Simplification

Sec. 211. Repeal of foreign personal holding company rules and foreign investment company rules.
Sec. 212. Expansion of de minimis rule under subpart F.
Sec. 213. Attribution of stock ownership through partnerships to apply in determining section 902 and 960 credits.
Sec. 214. Application of uniform capitalization rules to foreign persons.
Sec. 215. Repeal of withholding tax on dividends from certain foreign corporations.
Sec. 216. Repeal of special capital gains tax on aliens present in the United States for 183 days or more.

Subtitle C—Additional International Tax Provisions

Sec. 221. Active leasing income from aircraft and vessels.
Sec. 222. Look-thru treatment of payments between related controlled foreign corporations under foreign personal holding company income rules.
Sec. 223. Look-thru treatment for sales of partnership interests.
Sec. 224. Election not to use average exchange rate for foreign tax paid other than in functional currency.
Sec. 225. Treatment of income tax base differences.
Sec. 226. Modification of exceptions under subpart F for active financing.
Sec. 227. United States property not to include certain assets of controlled foreign corporation.
Sec. 228. Provide equal treatment for interest paid by foreign partnerships and foreign corporations.
Sec. 229. Clarification of treatment of certain transfers of intangible property.
Sec. 230. Modification of the treatment of certain REIT distributions attributable to gain from sales or exchanges of United States real property interests.
Sec. 231. Toll tax on excess qualified foreign distribution amount.
Sec. 232. Exclusion of income derived from certain wagers on horse races and dog races from gross income of nonresident alien individuals.
Sec. 233. Limitation of withholding tax for Puerto Rico corporations.
Sec. 234. Report on WTO dispute settlement panels and the appellate body.
Sec. 235. Study of impact of international tax laws on taxpayers other than large corporations.
Sec. 236. Consultative role for Senate Committee on Finance in connection with the review of proposed tax treaties.

TITLE III—DOMESTIC MANUFACTURING AND BUSINESS PROVISIONS

Subtitle A—General Provisions

Sec. 301. Expansion of qualified small-issue bond program.
Sec. 302. Expensing of broadband Internet access expenditures.
Sec. 303. Exemption of natural aging process in determination of production period for distilled spirits under section 263A.
Sec. 304. Modification of active business definition under section 355.
Sec. 305. Exclusion of certain indebtedness of small business investment companies from acquisition indebtedness.
Sec. 306. Modified taxation of imported archery products.
Sec. 307. Modification to cooperative marketing rules to include value added processing involving animals.
Sec. 308. Extension of declaratory judgment procedures to farmers' cooperative organizations.
Sec. 309. Temporary suspension of personal holding company tax.
Sec. 310. Increase in section 179 expensing.
Sec. 311. Three-year carryback of net operating losses.

Subtitle B—Manufacturing Relating to Films

Sec. 321. Special rules for certain film and television productions.
Sec. 322. Modification of application of income forecast method of depreciation.

Subtitle C—Manufacturing Relating to Timber

Sec. 331. Expensing of certain reforestation expenditures.
Sec. 332. Election to treat cutting of timber as a sale or exchange.
Sec. 333. Capital gain treatment under section 631(b) to apply to outright sales by landowners.
Sec. 334. Modification of safe harbor rules for timber REITS.

TITLE IV—ADDITIONAL PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

Sec. 401. Clarification of economic substance doctrine.

Sec. 402. Penalty for failing to disclose reportable transaction.
Sec. 403. Accuracy-related penalty for listed transactions and other reportable transactions having a significant tax avoidance purpose.
Sec. 404. Penalty for understatements attributable to transactions lacking economic substance, etc.
Sec. 405. Modifications of substantial understatement penalty for nonreportable transactions.
Sec. 406. Tax shelter exception to confidentiality privileges relating to taxpayer communications.
Sec. 407. Disclosure of reportable transactions.
Sec. 408. Modifications to penalty for failure to register tax shelters.
Sec. 409. Modification of penalty for failure to maintain lists of investors.
Sec. 410. Modification of actions to enjoin certain conduci related to tax shelters and reportable transactions.
Sec. 411. Understatement of taxpayer's liability by income tax return preparer.
Sec. 412. Penalty on failure to report interests in foreign financial accounts.
Sec. 413. Frivolous tax submissions.
Sec. 414. Regulation of individuals practicing before the Department of Treasury.
Sec. 415. Penalty on promoters of tax shelters.
Sec. 416. Statute of limitations for taxable years for which required listed transactions not reported.
Sec. 417. Denial of deduction for interest on underpayments attributable to nondisclosed reportable and noneconomic substance transactions.
Sec. 418. Authorization of appropriations for tax law enforcement.

Subtitle B—Other Corporate Governance Provisions

Sec. 421. Affirmation of consolidated return regulation authority.
Sec. 422. Signing of corporate tax returns by chief executive officer.
Sec. 423. Denial of deduction for certain fines, penalties, and other amounts.
Sec. 424. Disallowance of deduction for punitive damages.
Sec. 425. Increase in criminal monetary penalty limitation for the underpayment or overpayment of tax due to fraud.

Subtitle C—Enron-Related Tax Shelter Provisions

Sec. 431. Limitation on transfer or importation of built-in losses.
Sec. 432. No reduction of basis under section 734 in stock held by partnership in corporate partner.
Sec. 433. Repeal of special rules for FASITs.
Sec. 434. Expanded disallowance of deduction for interest on convertible debt.
Sec. 435. Expanded authority to disallow tax benefits under section 269.
Sec. 436. Modification of interaction between subpart F and passive foreign investment company rules.

Subtitle D—Provisions To Discourage Expatriation

Sec. 441. Tax treatment of inverted corporate entities.
Sec. 442. Imposition of mark-to-market tax on individuals who expatriate.
Sec. 443. Excise tax on stock compensation of insiders of inverted corporations.
Sec. 444. Reinsurance of United States risks in foreign jurisdictions.
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Subtitle E—International Tax

Sec. 451. Clarification of banking business for purposes of determining investment of earnings in United States property.
Sec. 452. Prohibition on nonrecognition of gain through complete liquidation of holding company.
Sec. 453. Prevention of mismatching of interest and original issue discount deductions and income inclusions in transactions with related foreign persons.
Sec. 454. Effectively connected income to include certain foreign source income.
Sec. 455. Recapture of overall foreign losses on sale of controlled foreign corporation.
Sec. 456. Minimum holding period for foreign tax credit on withholding taxes on income other than dividends.

Subtitle F—Other Revenue Provisions

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Sec. 461. Treatment of stripped interests in bond and preferred stock funds, etc.
Sec. 462. Application of earnings stripping rules to partnerships and S corporations.
Sec. 463. Recognition of cancellation of indebtedness income realized on satisfaction of debt with partnership interest.
Sec. 464. Modification of straddle rules.
Sec. 465. Denial of installment sale treatment for all readily tradeable debt.

PART II—CORPORATIONS AND PARTNERSHIPS

Sec. 466. Modification of treatment of transfers to creditors in divisive reorganizations.
Sec. 467. Clarification of definition of nonqualified preferred stock.
Sec. 468. Modification of definition of controlled group of corporations.
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PART III—DEPRECIATION AND AMORTIZATION

Sec. 471. Extension of amortization of intangibles to sports franchises.
Sec. 472. Services contracts treated in the same manner as leases for rules relating to tax-exempt use of property.
Sec. 473. Class lives for utility grading costs.
Sec. 474. Expansion of limitation on depreciation of certain passenger automobiles.
Sec. 475. Consistent amortization of periods for intangibles.
Sec. 476. Limitation on deductions allocable to property used by governments or other tax-exempt entities.

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Sec. 481. Clarification of rules for payment of estimated tax for certain deemed asset sales.
Sec. 482. Extension of IRS user fees.
Sec. 483. Doubling of certain penalties, fines, and interest on underpayments related to certain offshore financial arrangement.
Sec. 484. Partial payment of tax liability in installment agreements.
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Sec. 487. Qualified tax collection contracts.

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Sec. 491. Addition of vaccines against hepatitis A to list of taxable vaccines.
Sec. 492. Recognition of gain from the sale of a principal residence acquired in a like-kind exchange within 5 years of sale.
Sec. 493. Clarification of exemption from tax for small property and casualty insurance companies.
Sec. 494. Definition of insurance company for section 831.
Sec. 495. Limitations on deduction for charitable contributions of patents and similar property.
Sec. 496. Repeal of 10-percent rehabilitation tax credit.
Sec. 497. Increase in age of minor children whose unearned income is taxed as if parent's income.

TITLE I—PROVISIONS RELATING TO REPEAL OF EXCLUSION FOR EXTRATERRITORIAL INCOME

SEC. 101. REPEAL OF EXCLUSION FOR EXTRATERRITORIAL INCOME.

(a) In General.—Section 114 is hereby repealed.

(b) Conforming Amendments.—

(1)(A) Subpart E of part III of subchapter N of chapter 1 (relating to qualifying foreign trade income) is hereby repealed.

(B) The table of subparts for such part III is amended by striking the item relating to subpart E.

(2) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 114.

(3) The second sentence of section 56(g)(4)(B)(i) is amended by striking "or under section 114".

(4) Section 275(a) is amended—

(A) by inserting "or" at the end of paragraph (4)(A), by striking "or" at the end of paragraph (4)(B) and inserting a period, and by striking subparagraph (C), and

(B) by striking the last sentence.

(5) Paragraph (3) of section 864(e) is amended—

(A) by striking:

"(3) Tax-exempt assets not taken into account.—

"(A) In general.—For purposes of"; and inserting:

"(3) Tax-exempt assets not taken into account.—For purposes of", and

(B) by striking subparagraph (B).

(6) Section 903 is amended by striking "114, 164(a)," and inserting "164(a)".

(7) Section 999(c)(1) is amended by striking "941(a)(5),".

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to transactions occurring after the date of the enactment of this Act.

(2) Binding contracts.—The amendments made by this section shall not apply to any transaction in the ordinary course of a trade or business which occurs pursuant to a binding contract—

(A) which is between the taxpayer and a person who is not a related person (as defined in section 943(b)(3) of such Code, as in effect on the day before the date of the enactment of this Act), and

(B) which is in effect on September 17, 2003, and at all times thereafter.

(d) Revocation of Section 943(e) Elections.—

(1) In general.—In the case of a corporation that elected to be treated as a domestic corporation under section 943(e) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act)—

(A) the corporation may, during the 1-year period beginning on the date of the enactment of this Act, revoke such election, effective as of such date of enactment, and

(B) if the corporation does revoke such election—

(i) such corporation shall be treated as a domestic corporation transferring (as of such date of enactment) all of its property to a foreign corporation in connection with an exchange described in section 354 of such Code, and

(ii) no gain or loss shall be recognized on such transfer.

(2) EXCEPTION.—Subparagraph (B)(ii) of paragraph (1) shall not apply to gain on any asset held by the revoking corporation if—

(A) the basis of such asset is determined in whole or in part by reference to the basis of such asset in the hands of the person from whom the revoking corporation acquired such asset,

(B) the asset was acquired by transfer (not as a result of the election under section 943(e) of such Code) occurring on or after the 1st day on which its election under section 943(e) of such Code was effective, and

(C) a principal purpose of the acquisition was the reduction or avoidance of tax (other than a reduction in tax under section 114 of such Code, as in effect on the day before the date of the enactment of this Act).

(e) GENERAL TRANSITION.—

(1) IN GENERAL.—In the case of a taxable year ending after the date of the enactment of this Act and beginning before January 1, 2007, for purposes of chapter 1 of such Code, a current FSC/ETI beneficiary shall be allowed a deduction equal to the transition amount determined under this subsection with respect to such beneficiary for such year.

(2) CURRENT FSC/ETI BENEFICIARY.—The term "current FSC/ETI beneficiary" means any corporation which entered into one or more transactions during its taxable year beginning in calendar year 2002 with respect to which FSC/ETI benefits were allowable.

(3) TRANSITION AMOUNT.—For purposes of this subsection—

(A) IN GENERAL.—The transition amount applicable to any current FSC/ETI beneficiary for any taxable year is the phaseout percentage of the base period amount.

(B) PHASEOUT PERCENTAGE.—

(i) IN GENERAL.—In the case of a taxpayer using the calendar year as its taxable year, the phaseout percentage shall be determined under the following table:

Years:	**The phaseout percentage is:**
2004	80
2005	80
2006	60.

(ii) SPECIAL RULE FOR 2003.—The phaseout percentage for 2003 shall be the amount that bears the same ratio to 100 percent as the number of days after the date of the enactment of this Act bears to 365.

(iii) SPECIAL RULE FOR FISCAL YEAR TAXPAYERS.—In the case of a taxpayer not using the calendar year as its taxable year, the phaseout percentage is the weighted average of the phaseout percentages determined under the preceding provisions of this paragraph with respect to calendar years any portion of which is included in the taxpayer's taxable year. The weighted average shall be determined on the basis of the respective portions of the taxable year in each calendar year.

(C) SHORT TAXABLE YEAR.—The Secretary shall prescribe guidance for the computation of the transition amount in the case of a short taxable year.

(4) BASE PERIOD AMOUNT.—For purposes of this subsection, the base period amount is the FSC/ETI benefit for the taxpayer's taxable year beginning in calendar year 2002.

(5) FSC/ETI BENEFIT.—For purposes of this subsection, the term "FSC/ETI benefit" means—

(A) amounts excludable from gross income under section 114 of such Code, and

(B) the exempt foreign trade income of related foreign sales corporations from property acquired from the taxpayer (determined without regard to section 923(a)(5) of such Code (relating to special rule for military property), as in effect on the day before the date of the enactment of the FSC Repeal and Extraterritorial Income Exclusion Act of 2000).

In determining the FSC/ETI benefit there shall be excluded any amount attributable to a transaction with respect to which the taxpayer is the lessor unless the leased property was manufactured or produced in whole or in significant part by the taxpayer.

(6) SPECIAL RULE FOR AGRICULTURAL AND HORTICULTURAL COOPERATIVES.—Determinations under this subsection with respect to an organization described in section 943(g)(1) of such Code, as in effect on the day before the date of the enactment of this Act, shall be made at the cooperative level and the purposes of this subsection shall be carried out in a manner similar to section 199(h)(2) of such Code, as added by this Act. Such determinations shall be in accordance with such requirements and procedures as the Secretary may prescribe.

(7) CERTAIN RULES TO APPLY.—Rules similar to the rules of section 41(f) of such Code shall apply for purposes of this subsection.

(8) COORDINATION WITH BINDING CONTRACT RULE.—The deduction determined under paragraph (1) for any taxable year shall be reduced by the phaseout percentage of any FSC/ETI benefit realized for the taxable year by reason of subsection (c)(2) or section 5(c)(1)(B) of the FSC Repeal and Extraterritorial Income Exclusion Act of 2000, except that for purposes of this paragraph the phaseout percentage for 2003 shall be treated as being equal to 100 percent.

(9) SPECIAL RULE FOR TAXABLE YEAR WHICH INCLUDES DATE OF ENACTMENT.—In the case of a taxable year which includes the date of the enactment of this Act, the deduction allowed under this subsection to any current FSC/ETI beneficiary shall in no event exceed—

(A) 100 percent of such beneficiary's base period amount for calendar year 2003, reduced by

(B) the FSC/ETI benefit of such beneficiary with respect to transactions occurring during the portion of the taxable year ending on the date of the enactment of this Act.

SEC. 102. DEDUCTION RELATING TO INCOME ATTRIBUTABLE TO UNITED STATES PRODUCTION ACTIVITIES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end the following new section:

"SEC. 199. INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES.

"(a) ALLOWANCE OF DEDUCTION.—

"(1) IN GENERAL.—There shall be allowed as a deduction an amount equal to 9 percent of the qualified production activities income of the taxpayer for the taxable year.

"(2) PHASEIN.—In the case of taxable years beginning in 2003, 2004, 2005, 2006, 2007, or 2008, paragraph (1) shall be applied by substituting for the percentage contained therein the transition percentage determined under the following table:

"Taxable years beginning in:	**The transition percentage is:**
2003 or 2004	1
2005	2
2006	3
2007 or 2008	6.

"(b) DEDUCTION LIMITED TO WAGES PAID.—

"(1) IN GENERAL.—The amount of the deduction allowable under subsection (a) for any taxable year shall not exceed 50 percent of the W–2 wages of the employer for the taxable year.

"(2) W–2 WAGES.—For purposes of paragraph (1), the term 'W–2 wages' means the sum of the aggregate amounts the taxpayer is required to include on statements under paragraphs (3) and (8) of section 6051(a) with respect to employment of employees of the taxpayer during the taxpayer's taxable year.

"(3) SPECIAL RULES.—

"(A) PASS-THRU ENTITIES.—In the case of an S corporation, partnership, estate or trust, or other pass-thru entity, the limitation under this subsection shall apply at the entity level.

"(B) ACQUISITIONS AND DISPOSITIONS.—The Secretary shall provide for the application of this subsection in cases where the taxpayer acquires, or disposes of, the major portion of a trade or business or the major portion of a separate unit of a trade or business during the taxable year.

"(c) QUALIFIED PRODUCTION ACTIVITIES INCOME.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified production activities income' means an amount equal to the portion of the modified taxable income of the taxpayer which is attributable to domestic production activities.

"(2) REDUCTION FOR TAXABLE YEARS BEGINNING BEFORE 2013.—The amount otherwise determined under paragraph (1) (the 'unreduced amount') shall not exceed—

"(A) in the case of taxable years beginning before 2010, the product of the unreduced amount and the domestic/worldwide fraction, and

"(B) in the case of taxable years beginning in 2010, 2011, or 2012, an amount equal to the sum of—

"(i) the product of the unreduced amount and the domestic/worldwide fraction, plus

"(ii) the applicable percentage of an amount equal to the unreduced amount minus the amount determined under clause (i).

For purposes of subparagraph (B)(ii), the applicable percentage is 25 percent for 2010, 50 percent for 2011, and 75 percent for 2012.

"(d) DETERMINATION OF INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES.—For purposes of this section—

"(1) IN GENERAL.—The portion of the modified taxable income which is attributable to domestic production activities is so much of the modified taxable income for the taxable year as does not exceed—

"(A) the taxpayer's domestic production gross receipts for such taxable year, reduced by

"(B) the sum of—

"(i) the costs of goods sold that are allocable to such receipts,

"(ii) other deductions, expenses, or losses directly allocable to such receipts, and

"(iii) a proper share of other deductions, expenses, and losses that are not directly allocable to such receipts or another class of income.

"(2) ALLOCATION METHOD.—The Secretary shall prescribe rules for the proper allocation of items of income, deduction, expense, and loss for purposes of determining income attributable to domestic production activities.

"(3) SPECIAL RULES FOR DETERMINING COSTS.—

"(A) IN GENERAL.—For purposes of determining costs under clause (i) of paragraph (1)(B), any item or service brought into the United States shall be treated as acquired by purchase, and its cost shall be treated as not less than its fair market value immediately after it entered the United States. A similar rule shall apply in determining the adjusted basis of leased or rented property where the lease or rental gives rise to domestic production gross receipts.

"(B) EXPORTS FOR FURTHER MANUFACTURE.—In the case of any property described in subparagraph (A) that had been exported by the taxpayer for further manufacture, the increase in cost or adjusted basis under subparagraph

(A) shall not exceed the difference between the value of the property when exported and the value of the property when brought back into the United States after the further manufacture.

"(4) MODIFIED TAXABLE INCOME.—The term 'modified taxable income' means taxable income computed without regard to the deduction allowable under this section.

"(e) DOMESTIC PRODUCTION GROSS RECEIPTS.—For purposes of this section—

"(1) IN GENERAL.—The term 'domestic production gross receipts' means the gross receipts of the taxpayer which are derived from—

"(A) any sale, exchange, or other disposition of, or

"(B) any lease, rental, or license of,

qualifying production property which was manufactured, produced, grown, or extracted in whole or in significant part by the taxpayer within the United States.

"(2) SPECIAL RULES FOR CERTAIN PROPERTY.—In the case of any qualifying production property described in subsection (f)(1)(C)—

"(A) such property shall be treated for purposes of paragraph (1) as produced in significant part by the taxpayer within the United States if more than 50 percent of the aggregate development and production costs are incurred by the taxpayer within the United States, and

"(B) if a taxpayer acquires such property before such property begins to generate substantial gross receipts, any development or production costs incurred before the acquisition shall be treated as incurred by the taxpayer for purposes of subparagraph (A) and paragraph (1).

"(f) QUALIFYING PRODUCTION PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'qualifying production property' means—

"(A) any tangible personal property,

"(B) any computer software, and

"(C) any property described in section 168(f)(3) or (4), including any underlying copyright or trademark.

"(2) EXCLUSIONS FROM QUALIFYING PRODUCTION PROPERTY.—The term 'qualifying production property' shall not include—

"(A) consumable property that is sold, leased, or licensed by the taxpayer as an integral part of the provision of services,

"(B) oil or gas,

"(C) electricity,

"(D) water supplied by pipeline to the consumer,

"(E) utility services, or

"(F) any film, tape, recording, book, magazine, newspaper, or similar property the market for which is primarily topical or otherwise essentially transitory in nature.

"(g) DOMESTIC/WORLDWIDE FRACTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'domestic/worldwide fraction' means a fraction (not greater than 1)—

"(A) the numerator of which is the value of the domestic production of the taxpayer, and

"(B) the denominator of which is the value of the worldwide production of the taxpayer.

"(2) VALUE OF DOMESTIC PRODUCTION.—The value of domestic production is the excess (if any) of—

"(A) the domestic production gross receipts, over

"(B) the cost of purchased inputs allocable to such receipts that are deductible under this chapter for the taxable year.

"(3) PURCHASED INPUTS.—

"(A) IN GENERAL.—Purchased inputs are any of the following items acquired by purchase:

"(i) Services (other than services of employees) used in manufacture, production, growth, or extraction activities.

"(ii) Items consumed in connection with such activities.

"(iii) Items incorporated as part of the property being manufactured, produced, grown, or extracted.

"(B) SPECIAL RULE.—Rules similar to the rules of subsection (d)(3) shall apply for purposes of this subsection.

"(4) VALUE OF WORLDWIDE PRODUCTION.—

"(A) IN GENERAL.—The value of worldwide production shall be determined under the principles of paragraph (2), except that—

"(i) worldwide production gross receipts shall be taken into account, and

"(ii) paragraph (3)(B) shall not apply.

"(B) WORLDWIDE PRODUCTION GROSS RECEIPTS.—The worldwide production gross receipts is the amount that would be determined under subsection (e) if such subsection were applied without any reference to the United States.

"(h) DEFINITIONS AND SPECIAL RULES.—

"(1) APPLICATION OF SECTION TO PASS-THRU ENTITIES.—In the case of an S corporation, partnership, estate or trust, or other pass-thru entity—

"(A) subject to the provisions of paragraph (2) and subsection (b)(3)(A), this section shall be applied at the shareholder, partner, or similar level, and

"(B) the Secretary shall prescribe rules for the application of this section, including rules relating to—

"(i) restrictions on the allocation of the deduction to taxpayers at the partner or similar level, and

"(ii) additional reporting requirements.

"(2) EXCLUSION FOR PATRONS OF AGRICULTURAL AND HORTICULTURAL COOPERATIVES.—

"(A) IN GENERAL.—If any amount described in paragraph (1) or (3) of section 1385 (a)—

"(i) is received by a person from an organization to which part I of subchapter T applies which is engaged in the marketing of agricultural or horticultural products, and

"(ii) is allocable to the portion of the qualified production activities income of the organization which is deductible under subsection (a) and designated as such by the organization in a written notice mailed to its patrons during the payment period described in section 1382(d),

then such person shall be allowed an exclusion from gross income with respect to such amount. The taxable income of the organization shall not be reduced under section 1382 by the portion of any such amount with respect to which an exclusion is allowable to a person by reason of this paragraph.

"(B) SPECIAL RULES.—For purposes of applying subparagraph (A), in determining the qualified production activities income of the organization under this section—

"(i) there shall not be taken into account in computing the organization's modified taxable income any deduction allowable under subsection (b) or (c) of section 1382 (relating to patronage dividends, per-unit retain allocations, and nonpatronage distributions), and

"(ii) the organization shall be treated as having manufactured, produced, grown, or extracted in whole or significant part any qualifying production property marketed by the organization which its patrons have so manufactured, produced, grown, or extracted.

"(3) SPECIAL RULE FOR AFFILIATED GROUPS.—

"(A) IN GENERAL.—All members of an expanded affiliated group shall be treated as a single corporation for purposes of this section.

"(B) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a), determined—

"(i) by substituting '50 percent' for '80 percent' each place it appears, and

"(ii) without regard to paragraphs (2) and (4) of section 1504(b).

For purposes of determining the domestic/worldwide fraction under subsection (g), clause (ii) shall be applied by also disregarding paragraphs (3) and (8) of section 1504(b).

"(4) COORDINATION WITH MINIMUM TAX.—The deduction under this section shall be allowed for purposes of the tax imposed by section 55; except that for purposes of section 55, alternative minimum taxable income shall be taken into account in determining the deduction under this section.

"(5) ORDERING RULE.—The amount of any other deduction allowable under this chapter shall be determined as if this section had not been enacted.

"(6) TRADE OR BUSINESS REQUIREMENT.—This section shall be applied by only taking into account items which are attributable to the actual conduct of a trade or business.

"(7) POSSESSIONS, ETC.—

"(A) IN GENERAL.—For purposes of subsections (d) and (e), the term 'United States' includes the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands of the United States.

"(B) SPECIAL RULES FOR APPLYING WAGE LIMITATION.—For purposes of applying the limitation under subsection (b) for any taxable year—

"(i) the determination of W–2 wages of a taxpayer shall be made without regard to any exclusion under section 3401(a)(8) for remuneration paid for services performed in a jurisdiction described in subparagraph (A), and

"(ii) in determining the amount of any credit allowable under section 30A or 936 for the taxable year, there shall not be taken into account any wages which are taken into account in applying such limitation.

"(8) COORDINATION WITH TRANSITION RULES.—For purposes of this section—

"(A) domestic production gross receipts shall not include gross receipts from any transaction if the binding contract transition relief of section 101(c)(2) of the Jumpstart Our Business Strength (JOBS) Act applies to such transaction, and

"(B) any deduction allowed under section 101(e) of such Act shall be disregarded in determining the portion of the taxable income which is attributable to domestic production gross receipts.".

(b) MINIMUM TAX.—Section 56(g)(4)(C) (relating to disallowance of items not deductible in computing earnings and profits) is amended by adding at the end the following new clause:

"(v) DEDUCTION FOR DOMESTIC PRODUCTION.—Clause (i) shall not apply to any amount allowable as a deduction under section 199.".

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end the following new item:

"Sec. 199. Income attributable to domestic production activities.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(2) APPLICATION OF SECTION 15.—Section 15 of the Internal Revenue Code of 1986 shall apply to the amendments made by this section as if they were changes in a rate of tax.

TITLE II—INTERNATIONAL TAX PROVISIONS

Subtitle A—International Tax Reform

SEC. 201. 20-YEAR FOREIGN TAX CREDIT CARRYOVER; 1-YEAR FOREIGN TAX CREDIT CARRYBACK.

(a) GENERAL RULE.—Section 904(c) (relating to carryback and carryover of excess tax paid) is amended—

(1) by striking "in the second preceding taxable year,", and

(2) by striking ", and in the first, second, third, fourth, or fifth" and inserting "and in any of the first 20".

(b) EXCESS EXTRACTION TAXES.—Paragraph (1) of section 907(f) is amended—

(1) by striking "in the second preceding taxable year,",

(2) by striking ", and in the first, second, third, fourth, or fifth" and inserting "and in any of the first 20", and

(3) by striking the last sentence.

(c) EFFECTIVE DATE.—

(1) CARRYBACK.—The amendments made by subsections (a)(1) and (b)(1) shall apply to excess foreign taxes arising in taxable years beginning after the date of the enactment of this Act.

(2) CARRYOVER.—The amendments made by subsections (a)(2) and (b)(2) shall apply to excess foreign taxes which (without regard to the amendments made by this section) may be carried to any taxable year ending after the date of the enactment of this Act.

SEC. 202. LOOK-THRU RULES TO APPLY TO DIVIDENDS FROM NONCONTROLLED SECTION 902 CORPORATIONS.

(a) IN GENERAL.—Section 904(d)(4) (relating to look-thru rules apply to dividends from noncontrolled section 902 corporations) is amended to read as follows:

"(4) LOOK-THRU APPLIES TO DIVIDENDS FROM NONCONTROLLED SECTION 902 CORPORATIONS.—

"(A) IN GENERAL.—For purposes of this subsection, any dividend from a noncontrolled section 902 corporation with respect to the taxpayer shall be treated as income described in a subparagraph of paragraph (1) in proportion to the ratio of—

"(i) the portion of earnings and profits attributable to income described in such subparagraph, to

"(ii) the total amount of earnings and profits.

"(B) EARNINGS AND PROFITS OF CONTROLLED FOREIGN CORPORATIONS.—In the case of any distribution from a controlled foreign corporation to a United States shareholder, rules similar to the rules of subparagraph (A) shall apply in determining the extent to which earnings and profits of the controlled foreign corporation which are attributable to dividends received from a noncontrolled section 902 corporation may be treated as income in a separate category.

"(C) SPECIAL RULES.—For purposes of this paragraph—

"(i) EARNINGS AND PROFITS.—

"(I) IN GENERAL.—The rules of section 316 shall apply.

"(II) REGULATIONS.—The Secretary may prescribe regulations regarding the treatment of distributions out of earnings and profits for periods before the taxpayer's acquisition of the stock to which the distributions relate.

"(ii) INADEQUATE SUBSTANTIATION.—If the Secretary determines that the proper subparagraph of paragraph (1) in which a dividend is described has not been substantiated, such dividend shall be treated as income described in paragraph (1)(A).

"(iii) COORDINATION WITH HIGH-TAXED INCOME PROVISIONS.—Rules similar to the rules of paragraph (3)(F) shall apply for purposes of this paragraph.

"(iv) LOOK-THRU WITH RESPECT TO CARRYOVER OF CREDIT.—Rules similar to subparagraph (A) also shall apply to any carryforward under subsection (c) from a taxable year beginning before January 1, 2003, of tax allocable to a dividend from a noncontrolled section 902 corporation with respect to the taxpayer. The Secretary may by regulations provide for the allocation of any carryback of tax allocable to a dividend from a noncontrolled section 902 corporation to such a taxable year for purposes of allocating such dividend among the separate categories in effect for such taxable year.".

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (E) of section 904(d)(1) is hereby repealed.

(2) Section 904(d)(2)(C)(iii) is amended by adding "and" at the end of subclause (I), by striking subclause (II), and by redesignating subclause (III) as subclause (II).

(3) The last sentence of section 904(d)(2)(D) is amended to read as follows: "Such term does not include any financial services income.".

(4) Section 904(d)(2)(E) is amended—

(A) by inserting "or (4)" after "paragraph (3)" in clause (i), and

(B) by striking clauses (ii) and (iv) and by redesignating clause (iii) as clause (ii).

(5) Section 904(d)(3)(F) is amended by striking "(D), or (E)" and inserting "or (D)".

(6) Section 864(d)(5)(A)(i) is amended by striking "(C)(iii)(III)" and inserting "(C)(iii)(II)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 203. FOREIGN TAX CREDIT UNDER ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—

(1) Subsection (a) of section 59 is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(2) Section 53(d)(1)(B)(i)(II) is amended by striking "and if section 59(a)(2) did not apply".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 204. RECHARACTERIZATION OF OVERALL DOMESTIC LOSS.

(a) GENERAL RULE.—Section 904 is amended by redesignating subsections (g), (h), (i), (j), and (k) as subsections (h), (i), (j), (k), and (l) respectively, and by inserting after subsection (f) the following new subsection:

"(g) RECHARACTERIZATION OF OVERALL DOMESTIC LOSS.—

"(1) GENERAL RULE.—For purposes of this subpart and section 936, in the case of any taxpayer who sustains an overall domestic loss for any taxable year beginning after December 31, 2006, that portion of the taxpayer's taxable income from sources within the United States for each succeeding taxable year which is equal to the lesser of—

"(A) the amount of such loss (to the extent not used under this paragraph in prior taxable years), or

"(B) 50 percent of the taxpayer's taxable income from sources within the United States for such succeeding taxable year,

shall be treated as income from sources without the United States (and not as income from sources within the United States).

"(2) OVERALL DOMESTIC LOSS DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'overall domestic loss' means any domestic loss to the extent such loss offsets taxable income from sources without the United States for the taxable year or for any preceding taxable year by reason of a carryback. For purposes of the preceding sentence, the term 'domestic loss' means the amount by which the gross income for the taxable year from sources within the United States is exceeded by the sum of the deductions properly apportioned or allocated thereto (determined without regard to any carryback from a subsequent taxable year).

"(B) TAXPAYER MUST HAVE ELECTED FOREIGN TAX CREDIT FOR YEAR OF LOSS.—The term 'overall domestic loss' shall not include any loss for any taxable year unless the taxpayer chose the benefits of this subpart for such taxable year.

"(3) CHARACTERIZATION OF SUBSEQUENT INCOME.—

"(A) IN GENERAL.—Any income from sources within the United States that is treated as income from sources without the United States under paragraph (1) shall be allocated among and increase the income categories in proportion to the loss from sources within the United States previously allocated to those income categories.

"(B) INCOME CATEGORY.—For purposes of this paragraph, the term 'income category' has the meaning given such term by subsection (f)(5)(E)(i).

"(4) COORDINATION WITH SUBSECTION (f).—The Secretary shall prescribe such regulations as may be necessary to coordinate the provisions of this subsection with the provisions of subsection (f).".

(b) CONFORMING AMENDMENTS.—

(1) Section 535(d)(2) is amended by striking "section 904(g)(6)" and inserting "section 904(h)(6)".

(2) Subparagraph (A) of section 936(a)(2) is amended by striking "section 904(f)" and inserting "subsections (f) and (g) of section 904".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to losses for taxable years beginning after December 31, 2006.

SEC. 205. INTEREST EXPENSE ALLOCATION RULES.

(a) ELECTION TO ALLOCATE ON WORLDWIDE BASIS.—Section 864 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) ELECTION TO ALLOCATE INTEREST, ETC. ON WORLDWIDE BASIS.—For purposes of this subchapter, at the election of the worldwide affiliated group—

"(1) ALLOCATION AND APPORTIONMENT OF INTEREST EXPENSE.—

"(A) IN GENERAL.—The taxable income of each domestic corporation which is a member of a worldwide affiliated group shall be determined by allocating and apportioning interest expense of each member as if all members of such group were a single corporation.

"(B) TREATMENT OF WORLDWIDE AFFILIATED GROUP.—The taxable income of the domestic members of a worldwide affiliated group from sources outside the United States shall be determined by allocating and apportioning the interest expense of such domestic members to such income in an amount equal to the excess (if any) of—

"(i) the total interest expense of the worldwide affiliated group multiplied by the ratio which the foreign assets of the worldwide affiliated group bears to all the assets of the worldwide affiliated group, over

"(ii) the interest expense of all foreign corporations which are members of the worldwide affiliated group to the extent such interest expense of such foreign corporations would have been allocated and apportioned to foreign source income if this subsection were applied to a group consisting of all the foreign corporations in such worldwide affiliated group.

"(C) WORLDWIDE AFFILIATED GROUP.—For purposes of this paragraph, the term 'worldwide affiliated group' means a group consisting of—

"(i) the includible members of an affiliated group (as defined in section 1504(a), determined without regard to paragraphs (2) and (4) of section 1504(b)), and

"(ii) all controlled foreign corporations in which such members in the aggregate meet the ownership requirements of section 1504(a)(2) either directly or indirectly through applying paragraph (2) of section 958(a) or through applying rules similar to the rules of such paragraph to stock owned directly or indirectly by domestic partnerships, trusts, or estates.

"(2) ALLOCATION AND APPORTIONMENT OF OTHER EXPENSES.—Expenses other than interest which are not directly allocable or apportioned to any specific income producing activity shall be allocated and apportioned as if all members of the affiliated group were a single corporation. For purposes of the preceding sentence, the term 'affiliated group' has the meaning given such term by section 1504 (determined without regard to paragraph (4) of section 1504(b)).

"(3) TREATMENT OF TAX-EXEMPT ASSETS; BASIS OF STOCK IN NONAFFILIATED 10-PERCENT OWNED CORPORATIONS.—The rules of paragraphs (3) and (4) of subsection (e) shall apply for purposes of this subsection, except that paragraph (4) shall be applied on a worldwide affiliated group basis.

"(4) TREATMENT OF CERTAIN FINANCIAL INSTITUTIONS.—

"(A) IN GENERAL.—For purposes of paragraph (1), any corporation described in subparagraph (B) shall be treated as an includible corporation for purposes of section 1504 only for purposes of applying this subsection separately to corporations so described.

"(B) DESCRIPTION.—A corporation is described in this subparagraph if—

"(i) such corporation is a financial institution described in section 581 or 591,

"(ii) the business of such financial institution is predominantly with persons other than related persons (within the meaning of subsection (d)(4)) or their customers, and

"(iii) such financial institution is required by State or Federal law to be operated separately from any other entity which is not such an institution.

"(C) TREATMENT OF BANK AND FINANCIAL HOLDING COMPANIES.—To the extent provided in regulations—

"(i) a bank holding company (within the meaning of section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)),

"(ii) a financial holding company (within the meaning of section 2(p) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(p)), and

"(iii) any subsidiary of a financial institution described in section 581 or 591, or of any such bank or financial holding company, if such subsidiary is predominantly engaged (directly or indirectly) in the active conduct of a banking, financing, or similar business,

shall be treated as a corporation described in subparagraph (B).

"(5) ELECTION TO EXPAND FINANCIAL INSTITUTION GROUP OF WORLDWIDE GROUP.—

"(A) IN GENERAL.—If a worldwide affiliated group elects the application of this subsection, all financial corporations which—

"(i) are members of such worldwide affiliated group, but

"(ii) are not corporations described in paragraph (4)(B),

shall be treated as described in paragraph (4)(B) for purposes of applying paragraph (4)(A). This subsection (other than this paragraph) shall apply to any such group in the same manner as this subsection (other than this paragraph) applies to the pre-election worldwide affiliated group of which such group is a part.

"(B) FINANCIAL CORPORATION.—For purposes of this paragraph, the term 'financial corporation' means any corporation if at least 80 percent of its gross income is income described in section 904(d)(2)(C)(ii) and the regulations thereunder which is derived from transactions with persons who are not related (within the meaning of section 267(b) or 707(b)(1)) to the corporation. For purposes of the preceding sentence, there shall be disregarded any item of income or gain from a transaction or series of transactions a principal purpose of which is the qualification of any corporation as a financial corporation.

"(C) ANTIABUSE RULES.—In the case of a corporation which is a member of an electing financial institution group, to the extent that such corporation—

"(i) distributes dividends or makes other distributions with respect to its stock after the date of the enactment of this paragraph to any member of the pre-election worldwide affiliated group (other than to a member of the electing financial institution group) in excess of the greater of—

"(I) its average annual dividend (expressed as a percentage of current earnings and profits) during the 5-taxable-year period ending with the taxable year preceding the taxable year, or

"(II) 25 percent of its average annual earnings and profits for such 5-taxable-year period, or

"(ii) deals with any person in any manner not clearly reflecting the income of the corporation (as determined under principles similar to the principles of section 482),

an amount of indebtedness of the electing financial institution group equal to the excess distribution or the understatement or overstatement of income, as the case may be, shall be recharacterized (for the taxable year and subsequent taxable years) for purposes of this paragraph as indebtedness of the worldwide affiliated group (excluding the electing financial institution group). If a corporation has not been in existence for 5 taxable years, this subparagraph shall be applied with respect to the period it was in existence.

"(D) ELECTION.—An election under this paragraph with respect to any financial institution group may be made only by the common parent of the pre-election worldwide affiliated group and may be made only for the first taxable year beginning after December 31, 2008, in which such affiliated group includes 1 or more financial corporations. Such an election, once made, shall apply to all financial corporations which are members of the electing financial institution group for such taxable year and all subsequent years unless revoked with the consent of the Secretary.

"(E) DEFINITIONS RELATING TO GROUPS.—For purposes of this paragraph—

"(i) PRE-ELECTION WORLDWIDE AFFILIATED GROUP.—The term 'pre-election worldwide affiliated group' means, with respect to a corporation, the worldwide affiliated group of which such corporation would (but for an election under this paragraph) be a member for purposes of applying paragraph (1).

"(ii) ELECTING FINANCIAL INSTITUTION GROUP.—The term 'electing financial institution group' means the group of corporations to which this subsection applies separately by reason of the application of paragraph (4)(A) and which includes financial corporations by reason of an election under subparagraph (A).

"(F) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this subsection, including regulations—

"(i) providing for the direct allocation of interest expense in other circumstances where such allocation would be appropriate to carry out the purposes of this subsection,

"(ii) preventing assets or interest expense from being taken into account more than once, and

"(iii) dealing with changes in members of any group (through acquisitions or otherwise) treated under this paragraph as an affiliated group for purposes of this subsection.

"(6) ELECTION.—An election to have this subsection apply with respect to any worldwide affiliated group may be made only by the common parent of the domestic affiliated group referred to in paragraph (1)(C) and may be made only for the first taxable year beginning after December 31, 2008, in which a worldwide affiliated group exists which includes such affiliated group and at least 1 foreign corporation. Such an election, once made, shall apply to such common parent and all other corporations which are members of such worldwide affiliated group for such taxable year and all subsequent years unless revoked with the consent of the Secretary.".

(b) EXPANSION OF REGULATORY AUTHORITY.—Paragraph (7) of section 864(e) is amended—

(1) by inserting before the comma at the end of subparagraph (B) "and in other circumstances where such allocation would be appropriate to carry out the purposes of this subsection", and

(2) by striking "and" at the end of subparagraph (E), by redesignating subparagraph (F) as subparagraph (G), and by inserting after subparagraph (E) the following new subparagraph:

"(F) preventing assets or interest expense from being taken into account more than once, and".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 206. DETERMINATION OF FOREIGN PERSONAL HOLDING COMPANY INCOME WITH RESPECT TO TRANSACTIONS IN COMMODITIES.

(a) IN GENERAL.—Clauses (i) and (ii) of section 954(c)(1)(C) (relating to commodity transactions) are amended to read as follows:

"(i) arise out of commodity hedging transactions (as defined in paragraph (4)(A)),

"(ii) are active business gains or losses from the sale of commodities, but only if substantially all of the controlled foreign corporation's commodities are property described in paragraph (1), (2), or (8) of section 1221(a), or".

(b) DEFINITION AND SPECIAL RULES.—Subsection (c) of section 954 is amended by adding after paragraph (3) the following new paragraph:

"(4) DEFINITION AND SPECIAL RULES RELATING TO COMMODITY TRANSACTIONS.—

"(A) COMMODITY HEDGING TRANSACTIONS.—For purposes of paragraph (1)(C)(i), the term 'commodity hedging transaction' means any transaction with respect to a commodity if such transaction—

"(i) is a hedging transaction as defined in section 1221(b)(2), determined—

"(I) without regard to subparagraph (A)(ii) thereof,

"(II) by applying subparagraph (A)(i) thereof by substituting 'ordinary property or property described in section 1231(b)' for 'ordinary property', and

"(III) by substituting 'controlled foreign corporation' for 'taxpayer' each place it appears, and

"(ii) is clearly identified as such in accordance with section 1221(a)(7).

"(B) TREATMENT OF DEALER ACTIVITIES UNDER PARAGRAPH (1)(C).—Commodities with respect to which gains and losses are not taken into account under paragraph (2)(C) in computing a controlled foreign corporation's foreign personal holding company income shall not be taken into account in applying the substantially all test under paragraph (1)(C)(ii) to such corporation.

"(C) REGULATIONS.—The Secretary shall prescribe such regulations as are appropriate to carry out the purposes of paragraph (1)(C) in the case of transactions involving related parties.".

(c) MODIFICATION OF EXCEPTION FOR DEALERS.—Clause (i) of section 954(c)(2)(C) is amended by inserting "and transactions involving physical settlement" after "(including hedging transactions".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after December 31, 2004.

Subtitle B—International Tax Simplification

SEC. 211. REPEAL OF FOREIGN PERSONAL HOLDING COMPANY RULES AND FOREIGN INVESTMENT COMPANY RULES.

(a) GENERAL RULE.—The following provisions are hereby repealed:

(1) Part III of subchapter G of chapter 1 (relating to foreign personal holding companies).

(2) Section 1246 (relating to gain on foreign investment company stock).

(3) Section 1247 (relating to election by foreign investment companies to distribute income currently).

(b) EXEMPTION OF FOREIGN CORPORATIONS FROM PERSONAL HOLDING COMPANY RULES.—

(1) IN GENERAL.—Subsection (c) of section 542 (relating to exceptions) is amended—

(A) by striking paragraph (5) and inserting the following:

"(5) a foreign corporation,",

(B) by striking paragraphs (7) and (10) and by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively,

(C) by inserting "and" at the end of paragraph (7) (as so redesignated), and

(D) by striking "; and" at the end of paragraph (8) (as so redesignated) and inserting a period.

(2) TREATMENT OF INCOME FROM PERSONAL SERVICE CONTRACTS.—Paragraph (1) of section 954(c) is amended by adding at the end the following new subparagraph:

"(I) PERSONAL SERVICE CONTRACTS.—

"(i) Amounts received under a contract under which the corporation is to furnish personal services if—

"(I) some person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or

"(II) the individual who is to perform the services is designated (by name or by description) in the contract, and

"(ii) amounts received from the sale or other disposition of such a contract.

This subparagraph shall apply with respect to amounts received for services under a particular contract only if at some time during the taxable year 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual who has performed, is to perform, or may be designated (by name or by description) as the one to perform, such services.".

(c) CONFORMING AMENDMENTS.—

(1) Section 1(h) is amended—

(A) in paragraph (10), by inserting "and" at the end of subparagraph (F), by striking subparagraph (G), and by redesignating subparagraph (H) as subparagraph (G), and

(B) by striking "a foreign personal holding company (as defined in section 552), a foreign investment company (as defined in section 1246(b)), or" in paragraph (11)(C)(iii).

(2) Section 163(e)(3)(B), as amended by this Act, is amended by striking "which is a foreign personal holding company (as defined in section 552), a controlled foreign corporation (as defined in section 957), or" and inserting "which is a controlled foreign corporation (as defined in section 957) or".

(3) Paragraph (2) of section 171(c) is amended—

(A) by striking ", or by a foreign personal holding company, as defined in section 552", and

(B) by striking ", or foreign personal holding company".

(4) Paragraph (2) of section 245(a) is amended by striking "foreign personal holding company or".

(5) Section 267(a)(3)(B), as amended by this Act, is amended by striking "to a foreign personal holding company (as defined in section 552), a controlled foreign corporation (as defined in section 957), or" and inserting "to a controlled foreign corporation (as defined in section 957) or".

(6) Section 312 is amended by striking subsection (j).

(7) Subsection (m) of section 312 is amended by striking ", a foreign investment company (within the meaning of section 1246(b)), or a foreign personal holding company (within the meaning of section 552)".

(8) Subsection (e) of section 443 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(9) Subparagraph (B) of section 465(c)(7) is amended by adding "or" at the end of clause (i), by striking clause (ii), and by redesignating clause (iii) as clause (ii).

(10) Paragraph (1) of section 543(b) is amended by inserting "and" at the end of subparagraph (A), by striking ", and" at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(11) Paragraph (1) of section 562(b) is amended by striking "or a foreign personal holding company described in section 552".

(12) Section 563 is amended—

(A) by striking subsection (c),

(B) by redesignating subsection (d) as subsection (c), and

(C) by striking "subsection (a), (b), or (c)" in subsection (c) (as so redesignated) and inserting "subsection (a) or (b)".

(13) Subsection (d) of section 751 is amended by adding "and" at the end of paragraph (2), by striking paragraph (3), by redesignating paragraph (4) as paragraph (3), and by striking "paragraph (1), (2), or (3)" in paragraph (3) (as so redesignated) and inserting "paragraph (1) or (2)".

(14) Paragraph (2) of section 864(d) is amended by striking subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(15)(A) Subparagraph (A) of section 898(b)(1) is amended to read as follows:

"(A) which is treated as a controlled foreign corporation for any purpose under subpart F of part III of this subchapter, and".

(B) Subparagraph (B) of section 898(b)(2) is amended by striking "and sections 551(f) and 554, whichever are applicable,".

(C) Paragraph (3) of section 898(b) is amended to read as follows:

"(3) UNITED STATES SHAREHOLDER.—The term 'United States shareholder' has the meaning given to such term by section 951(b), except that, in the case of a foreign corporation having related person insurance income (as defined in section 953(c)(2)), the Secretary may treat any person as a United States shareholder for purposes of this section if such person is treated as a United States shareholder under section 953(c)(1).".

(D) Subsection (c) of section 898 is amended to read as follows:

"(c) DETERMINATION OF REQUIRED YEAR.—

"(1) IN GENERAL.—The required year is—

"(A) the majority U.S. shareholder year, or

"(B) if there is no majority U.S. shareholder year, the taxable year prescribed under regulations.

"(2) 1-MONTH DEFERRAL ALLOWED.—A specified foreign corporation may elect, in lieu of the taxable year under paragraph (1)(A), a taxable year beginning 1 month earlier than the majority U.S. shareholder year.

"(3) MAJORITY U.S. SHAREHOLDER YEAR.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'majority U.S. shareholder year' means the taxable year (if any) which, on each testing day, constituted the taxable year of—

"(i) each United States shareholder described in subsection (b)(2)(A), and

"(ii) each United States shareholder not described in clause (i) whose stock was treated as owned under subsection (b)(2)(B) by any shareholder described in such clause.

"(B) TESTING DAY.—The testing days shall be—

"(i) the first day of the corporation's taxable year (determined without regard to this section), or

"(ii) the days during such representative period as the Secretary may prescribe.".

(16) Clause (ii) of section 904(d)(2)(A) is amended to read as follows:

"(ii) CERTAIN AMOUNTS INCLUDED.—Except as provided in clause (iii), the term 'passive income' includes, except as provided in subparagraph (E)(iii) or paragraph (3)(I), any amount includible in gross income under section 1293 (relating to certain passive foreign investment companies).".

(17)(A) Subparagraph (A) of section 904(g)(1), as redesignated by section 204, is amended by adding "or" at the end of clause (i), by striking clause (ii), and by redesignating clause (iii) as clause (ii).

(B) The paragraph heading of paragraph (2) of section 904(g), as so redesignated, is amended by striking "FOREIGN PERSONAL HOLDING OR".

(18) Section 951 is amended by striking subsections (c) and (d) and by redesignating subsections (e) and (f) as subsections (c) and (d), respectively.

(19) Paragraph (3) of section 989(b) is amended by striking ", 551(a),".

(20) Paragraph (5) of section 1014(b) is amended by inserting "and before January 1, 2005," after "August 26, 1937,".

(21) Subsection (a) of section 1016 is amended by striking paragraph (13).

(22)(A) Paragraph (3) of section 1212(a) is amended to read as follows:

"(3) SPECIAL RULES ON CARRYBACKS.—A net capital loss of a corporation shall not be carried back under paragraph (1)(A) to a taxable year—

"(A) for which it is a regulated investment company (as defined in section 851), or

"(B) for which it is a real estate investment trust (as defined in section 856).".

(B) The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 2004.

(23) Section 1223 is amended by striking paragraph (10) and by redesignating the following paragraphs accordingly.

(24) Subsection (d) of section 1248 is amended by striking paragraph (5) and by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(25) Paragraph (2) of section 1260(c) is amended by striking subparagraphs (H) and (I) and by redesignating subparagraph (J) as subparagraph (H).

(26)(A) Subparagraph (F) of section 1291(b)(3) is amended by striking "551(d), 959(a)," and inserting "959(a)".

(B) Subsection (e) of section 1291 is amended by inserting "(as in effect on the day before the date of the enactment of the Jumpstart Our Business Strength (JOBS) Act)" after "section 1246".

(27) Paragraph (2) of section 1294(a) is amended to read as follows:

"(2) ELECTION NOT PERMITTED WHERE AMOUNTS OTHERWISE INCLUDIBLE UNDER SECTION 951.—The taxpayer may not make an election under paragraph (1) with respect to the undistributed PFIC earnings tax liability attributable to a qualified electing fund for the taxable year if any amount is includible in the gross income of the taxpayer under section 951 with respect to such fund for such taxable year.".

(28) Section 6035 is hereby repealed.

(29) Subparagraph (D) of section 6103(e)(1) is amended by striking clause (iv) and redesignating clauses (v) and (vi) as clauses (iv) and (v), respectively.

(30) Subparagraph (B) of section 6501(e)(1) is amended to read as follows:

"(B) CONSTRUCTIVE DIVIDENDS.—If the taxpayer omits from gross income an amount properly includible therein under section 951(a), the

tax may be assessed, or a proceeding in court for the collection of such tax may be done without assessing, at any time within 6 years after the return was filed.".

(31) Subsection (a) of section 6679 is amended—

(A) by striking "6035, 6046, and 6046A" in paragraph (1) and inserting "6046 and 6046A", and

(B) by striking paragraph (3).

(32) Sections 170(f)(10)(A), 508(d), 4947, and 4948(c)(4) are each amended by striking "556(b)(2)," each place it appears.

(33) The table of parts for subchapter G of chapter 1 is amended by striking the item relating to part III.

(34) The table of sections for part IV of subchapter P of chapter 1 is amended by striking the items relating to sections 1246 and 1247.

(35) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6035.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 212. EXPANSION OF DE MINIMIS RULE UNDER SUBPART F.

(a) IN GENERAL.—Clause (ii) of section 954(b)(3)(A) (relating to de minimis, etc., rules) is amended by striking "$1,000,000" and inserting "$5,000,000".

(b) TECHNICAL AMENDMENTS.—

(1) Clause (ii) of section 864(d)(5)(A) is amended by striking "$1,000,000" and inserting "$5,000,000".

(2) Clause (i) of section 881(c)(5)(A) is amended by striking "$1,000,000" and inserting "$5,000,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 213. ATTRIBUTION OF STOCK OWNERSHIP THROUGH PARTNERSHIPS TO APPLY IN DETERMINING SECTION 902 AND 960 CREDITS.

(a) IN GENERAL.—Subsection (c) of section 902 is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) CONSTRUCTIVE OWNERSHIP THROUGH PARTNERSHIPS.—Stock owned, directly or indirectly, by or for a partnership shall be considered as being owned proportionately by its partners. Stock considered to be owned by a person by reason of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person. The Secretary may prescribe such regulations as may be necessary to carry out the purposes of this paragraph, including rules to account for special partnership allocations of dividends, credits, and other incidents of ownership of stock in determining proportionate ownership.".

(b) CLARIFICATION OF COMPARABLE ATTRIBUTION UNDER SECTION 901(b)(5).—Paragraph (5) of section 901(b) is amended by striking "any individual" and inserting "any person".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes of foreign corporations for taxable years of such corporations beginning after the date of the enactment of this Act.

SEC. 214. APPLICATION OF UNIFORM CAPITALIZATION RULES TO FOREIGN PERSONS.

(a) IN GENERAL.—Section 263A(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

"(7) FOREIGN PERSONS.—Except for purposes of applying sections 871(b)(1) and 882(a)(1), this section shall not apply to any taxpayer who is not a United States person if such taxpayer capitalizes costs of produced property or property acquired for resale by applying the method used to ascertain the income, profit, or loss for purposes of reports or statements to shareholders, partners, other proprietors, or beneficiaries, or for credit purposes.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2004.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by the amendment made by this section to change its method of accounting for its first taxable year beginning after December 31, 2004—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account in such first year.

SEC. 215. REPEAL OF WITHHOLDING TAX ON DIVIDENDS FROM CERTAIN FOREIGN CORPORATIONS.

(a) IN GENERAL.—Paragraph (2) of section 871(i) (relating to tax not to apply to certain interest and dividends) is amended by adding at the end the following new subparagraph:

"(D) Dividends paid by a foreign corporation which are treated under section 861(a)(2)(B) as income from sources within the United States.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 2004.

SEC. 216. REPEAL OF SPECIAL CAPITAL GAINS TAX ON ALIENS PRESENT IN THE UNITED STATES FOR 183 DAYS OR MORE.

(a) IN GENERAL.—Subsection (a) of section 871 is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(b) CONFORMING AMENDMENT.—Section 1441(g) is amended is amended by striking "section 871(a)(3)" and inserting "section 871(a)(2)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

Subtitle C—Additional International Tax Provisions

SEC. 221. ACTIVE LEASING INCOME FROM AIRCRAFT AND VESSELS.

(a) IN GENERAL.—Section 954(c)(2) is amended by adding at the end the following new subparagraph:

"(D) CERTAIN RENTS, ETC.—

"(i) IN GENERAL.—Foreign personal holding company income shall not include qualified leasing income derived from or in connection with the leasing or rental of any aircraft or vessel.

"(ii) QUALIFIED LEASING INCOME.—For purposes of this subparagraph, the term 'qualified leasing income' means rents and gains derived in the active conduct of a trade or business of leasing with respect to which the controlled foreign corporation conducts substantial activity, but only if—

"(I) the leased property is used by the lessee or other end-user in foreign commerce and predominantly outside the United States, and

"(II) the lessee or other end-user is not a related person (as defined in subsection (d)(3)).

Any amount not treated as foreign personal holding income under this subparagraph shall not be treated as foreign base company shipping income.".

(b) CONFORMING AMENDMENT.—Section 954(c)(1)(B) is amended by inserting "or (2)(D)" after "paragraph (2)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2006, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 222. LOOK-THRU TREATMENT OF PAYMENTS BETWEEN RELATED CONTROLLED FOREIGN CORPORATIONS UNDER FOREIGN PERSONAL HOLDING COMPANY INCOME RULES.

(a) IN GENERAL.—Subsection (c) of section 954, as amended by this Act, is amended by adding after paragraph (4) the following new paragraph:

"(5) LOOK-THRU IN THE CASE OF RELATED CONTROLLED FOREIGN CORPORATIONS.—For purposes of this subsection, dividends, interest, rents, and royalties received or accrued from a controlled foreign corporation which is a related person (as defined in subsection (b)(9)) shall not be treated as foreign personal holding company income to the extent attributable or properly allocable (determined under rules similar to the rules of subparagraphs (C) and (D) of section 904(d)(3)) to income of the related person which is not subpart F income (as defined in section 952). The Secretary shall prescribe such regulations as may be appropriate to prevent the abuse of the purposes of this paragraph.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 223. LOOK-THRU TREATMENT FOR SALES OF PARTNERSHIP INTERESTS.

(a) IN GENERAL.—Section 954(c) (defining foreign personal holding company income), as amended by this Act, is amended by adding after paragraph (5) the following new paragraph:

"(6) LOOK-THRU RULE FOR CERTAIN PARTNERSHIP SALES.—

"(A) IN GENERAL.—In the case of any sale by a controlled foreign corporation of an interest in a partnership with respect to which such corporation is a 25-percent owner, such corporation shall be treated for purposes of this subsection as selling the proportionate share of the assets of the partnership attributable to such interest. The Secretary shall prescribe such regulations as may be appropriate to prevent abuse of the purposes of this paragraph, including regulations providing for coordination of this paragraph with the provisions of subchapter K.

"(B) 25-PERCENT OWNER.—For purposes of this paragraph, the term '25-percent owner' means a controlled foreign corporation which owns directly 25 percent or more of the capital or profits interest in a partnership. For purposes of the preceding sentence, if a controlled foreign corporation is a shareholder or partner of a corporation or partnership, the controlled foreign corporation shall be treated as owning directly its proportionate share of any such capital or profits interest held directly or indirectly by such corporation or partnership".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 224. ELECTION NOT TO USE AVERAGE EXCHANGE RATE FOR FOREIGN TAX PAID OTHER THAN IN FUNCTIONAL CURRENCY.

(a) IN GENERAL.—Paragraph (1) of section 986(a) (relating to determination of foreign taxes and foreign corporation's earnings and profits) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) ELECTIVE EXCEPTION FOR TAXES PAID OTHER THAN IN FUNCTIONAL CURRENCY.—

"(i) IN GENERAL.—At the election of the taxpayer, subparagraph (A) shall not apply to any foreign income taxes the liability for which is denominated in any currency other than in the taxpayer's functional currency.

"(ii) APPLICATION TO QUALIFIED BUSINESS UNITS.—An election under this subparagraph may apply to foreign income taxes attributable to a qualified business unit in accordance with regulations prescribed by the Secretary.

"(iii) ELECTION.—Any such election shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 225. TREATMENT OF INCOME TAX BASE DIFFERENCES.

(a) IN GENERAL.—Paragraph (2) of section 904(d) is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

"(H) TREATMENT OF INCOME TAX BASE DIFFERENCES.—

"(i) IN GENERAL.—A taxpayer may elect to treat tax imposed under the law of a foreign country or possession of the United States on an amount which does not constitute income under United States tax principles as tax imposed on income described in subparagraph (C) or (I) of paragraph (1).

"(ii) ELECTION IRREVOCABLE.—Any such election shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 226. MODIFICATION OF EXCEPTIONS UNDER SUBPART F FOR ACTIVE FINANCING.

(a) IN GENERAL.—Section 954(h)(3) is amended by adding at the end the following:

"(E) DIRECT CONDUCT OF ACTIVITIES.—For purposes of subparagraph (A)(ii)(II), an activity shall be treated as conducted directly by an eligible controlled foreign corporation or qualified business unit in its home country if the activity is performed by employees of a related person and—

"(i) the related person is an eligible controlled foreign corporation the home country of which is the same as the home country of the corporation or unit to which subparagraph (A)(ii)(II) is being applied,

"(ii) the activity is performed in the home country of the related person, and

"(iii) the related person is compensated on an arm's-length basis for the performance of the activity by its employees and such compensation is treated as earned by such person in its home country for purposes of the home country's tax laws.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of such foreign corporations beginning after December 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of such foreign corporations end.

SEC. 227. UNITED STATES PROPERTY NOT TO INCLUDE CERTAIN ASSETS OF CONTROLLED FOREIGN CORPORATION.

(a) IN GENERAL.—Section 956(c)(2) (relating to exceptions from property treated as United States property) is amended by striking "and" at the end of subparagraph (J), by striking the period at the end of subparagraph (K) and inserting a semicolon, and by adding at the end the following new subparagraphs:

"(L) securities acquired and held by a controlled foreign corporation in the ordinary course of its business as a dealer in securities if—

"(i) the dealer accounts for the securities as securities held primarily for sale to customers in the ordinary course of business, and

"(ii) the dealer disposes of the securities (or such securities mature while held by the dealer) within a period consistent with the holding of securities for sale to customers in the ordinary course of business; and

"(M) an obligation of a United States person which—

"(i) is not a domestic corporation, and

"(ii) is not—

"(I) a United States shareholder (as defined in section 951(b)) of the controlled foreign corporation, or

"(II) a partnership, estate, or trust in which the controlled foreign corporation, or any related person (as defined in section 954(d)(3)), is a partner, beneficiary, or trustee immediately after the acquisition of any obligation of such partnership, estate, or trust by the controlled foreign corporation.".

(b) CONFORMING AMENDMENT.—Section 956(c)(2) is amended by striking "and (K)" in the last sentence and inserting ", (K), and (L)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 228. PROVIDE EQUAL TREATMENT FOR INTEREST PAID BY FOREIGN PARTNERSHIPS AND FOREIGN CORPORATIONS.

(a) IN GENERAL.—Paragraph (1) of section 861(a) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end the following new subparagraph:

"(C) in the case of a foreign partnership in which United States persons do not hold directly or indirectly 20 percent or more of either the capital or profits interests, any interest not paid by a trade or business engaged in by the partnership in the United States and not allocable to income which is effectively connected (or treated as effectively connected) with the conduct of a trade or business in the United States.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 229. CLARIFICATION OF TREATMENT OF CERTAIN TRANSFERS OF INTANGIBLE PROPERTY.

(a) IN GENERAL.—Subparagraph (C) of section 367(d)(2) is amended by adding at the end the following new sentence: "For purposes of applying section 904(d), any such amount shall be treated in the same manner as if such amount were a royalty.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts treated as received pursuant to section 367(d)(2) of the Internal Revenue Code of 1986 on or after August 5, 1997.

SEC. 230. MODIFICATION OF THE TREATMENT OF CERTAIN REIT DISTRIBUTIONS ATTRIBUTABLE TO GAIN FROM SALES OR EXCHANGES OF UNITED STATES REAL PROPERTY INTERESTS.

(a) IN GENERAL.—Paragraph (1) of section 897(h) (relating to look-through of distributions) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, any distribution by a REIT with respect to any class of stock which is regularly traded on an established securities market located in the United States shall not be treated as gain recognized from the sale or exchange of a United States real property interest if the shareholder did not own more than 5 percent of such class of stock at any time during the taxable year.".

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 857(b) (relating to capital gains) is amended by adding at the end the following new subparagraph:

"(F) CERTAIN DISTRIBUTIONS.—In the case of a shareholder of a real estate investment trust to whom section 897 does not apply by reason of the second sentence of section 897(h)(1), the amount which would be included in computing long-term capital gains for such shareholder under subparagraph (B) or (D) (without regard to this subparagraph)—

"(i) shall not be included in computing such shareholder's long-term capital gains, and

"(ii) shall be included in such shareholder's gross income as a dividend from the real estate investment trust.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 231. TOLL TAX ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.

(a) IN GENERAL.—Subpart F of part III of subchapter N of chapter 1 is amended by adding at the end the following new section:

"SEC. 965. TOLL TAX IMPOSED ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.

"(a) TOLL TAX IMPOSED ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.—If a corporation elects the application of this section, a tax shall be imposed on the taxpayer in an amount equal to 5.25 percent of—

"(1) the taxpayer's excess qualified foreign distribution amount, and

"(2) the amount determined under section 78 which is attributable to such excess qualified foreign distribution amount.

Such tax shall be imposed in lieu of the tax imposed under section 11 or 55 on the amounts described in paragraphs (1) and (2) for such taxable year.

"(b) EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'excess qualified foreign distribution amount' means the excess (if any) of—

"(A) the aggregate dividends received by the taxpayer during the taxable year which are—

"(i) from 1 or more corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder on the date such dividends are paid, and

"(ii) described in a domestic reinvestment plan which—

"(I) is approved by the taxpayer's president, chief executive officer, or comparable official before the payment of such dividends and subsequently approved by the taxpayer's board of directors, management committee, executive committee, or similar body, and

"(II) provides for the reinvestment of such dividends in the United States (other than as payment for executive compensation), including as a source for the funding of worker hiring and training, infrastructure, research and development, capital investments, or the financial stabilization of the corporation for the purposes of job retention or creation, over

"(B) the base dividend amount.

"(2) BASE DIVIDEND AMOUNT.—The term 'base dividend amount' means an amount designated under subsection (c)(7), but not less than the average amount of dividends received during the fixed base period from 1 or more corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder on the date such dividends are paid.

"(3) FIXED BASE PERIOD.—

"(A) IN GENERAL.—The term 'fixed base period' means each of 3 taxable years which are

among the 5 most recent taxable years of the taxpayer ending on or before December 31, 2002, determined by disregarding—

"(i) the 1 taxable year for which the taxpayer had the highest amount of dividends from 1 or more corporations which are controlled foreign corporations relative to the other 4 taxable years, and

"(ii) the 1 taxable year for which the taxpayer had the lowest amount of dividends from such corporations relative to the other 4 taxable years.

"(B) SHORTER PERIOD.—If the taxpayer has fewer than 5 taxable years ending on or before December 31, 2002, then in lieu of applying subparagraph (A), the fixed base period shall include all the taxable years of the taxpayer ending on or before December 31, 2002.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) DIVIDENDS.—The term 'dividend' has the meaning given such term by section 316, except that the term shall include amounts described in section 951(a)(1)(B), but shall not include amounts described in sections 78 and 959.

"(2) CONTROLLED FOREIGN CORPORATIONS AND UNITED STATES SHAREHOLDERS.—The term 'controlled foreign corporation' has the meaning given such term by section 957(a) and the term 'United States shareholder' has the meaning given such term by section 951(b).

"(3) FOREIGN TAX CREDITS.—The amount of any income, war, profits, or excess profit taxes paid (or deemed paid under sections 902 and 960) or accrued by the taxpayer with respect to the excess qualified foreign distribution amount for which a credit would be allowable under section 901 in the absence of this section, shall be reduced by 85 percent. No deduction shall be allowed under this chapter for the portion of any tax for which credit is not allowable by reason of the preceding sentence.

"(4) FOREIGN TAX CREDIT LIMITATION.—For purposes of section 904, there shall be disregarded 85 percent of—

"(A) the excess qualified foreign distribution amount,

"(B) the amount determined under section 78 which is attributable to such excess qualified foreign distribution amount, and

"(C) the amounts (including assets, gross income, and other relevant bases of apportionment) which are attributable to the excess qualified foreign distribution amount which would, determined without regard to this section, be used to apportion the expenses, losses, and deductions of the taxpayer under section 861 and 864 in determining its taxable income from sources without the United States.

For purposes of applying subparagraph (C), the principles of section 864(e)(3)(A) shall apply.

"(5) TREATMENT OF ACQUISITIONS AND DISPOSITIONS.—Rules similar to the rules of section 41(f)(3) shall apply in the case of acquisitions or dispositions of controlled foreign corporations occurring on or after the first day of the earliest taxable year taken into account in determining the fixed base period.

"(6) TREATMENT OF CONSOLIDATED GROUPS.—Members of an affiliated group of corporations filing a consolidated return under section 1501 shall be treated as a single taxpayer for purposes of this section.

"(7) DESIGNATION OF DIVIDENDS.—Subject to subsection (b)(2), the taxpayer shall designate the particular dividends received during the taxable year from 1 or more corporations which are controlled foreign corporations in which it is a United States shareholder which are dividends excluded from the excess qualified foreign distribution amount. The total amount of such designated dividends shall equal the base dividend amount.

"(8) TREATMENT OF EXPENSES, LOSSES, AND DEDUCTIONS.—Any expenses, losses, or deductions of the taxpayer allowable under subchapter B—

"(A) shall not be applied to reduce the amounts described in subsection (a)(1), and

"(B) shall be applied to reduce other income of the taxpayer (determined without regard to the amounts described in subsection (a)(1)).

"(d) ELECTION.—

"(1) IN GENERAL.—An election under this section shall be made on the taxpayer's timely filed income tax return for the first taxable year (determined by taking extensions into account) ending 120 days or more after the date of the enactment of this section, and, once made, may be revoked only with the consent of the Secretary.

"(2) ALL CONTROLLED FOREIGN CORPORATIONS.—The election shall apply to all corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder during the taxable year.

"(3) CONSOLIDATED GROUPS.—If a taxpayer is a member of an affiliated group of corporations filing a consolidated return under section 1501 for the taxable year, an election under this section shall be made by the common parent of the affiliated group which includes the taxpayer and shall apply to all members of the affiliated group.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary and appropriate to carry out the purposes of this section, including regulations under section 55 and regulations addressing corporations which, during the fixed base period or thereafter, join or leave an affiliated group of corporations filing a consolidated return.".

(b) CONFORMING AMENDMENT.—The table of sections for subpart F of part III of subchapter N of chapter 1 is amended by adding at the end the following new item:

"Sec. 965. Toll tax imposed on excess qualified foreign distribution amount.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply only to the first taxable year of the electing taxpayer ending 120 days or more after the date of the enactment of this Act.

SEC. 232. EXCLUSION OF INCOME DERIVED FROM CERTAIN WAGERS ON HORSE RACES AND DOG RACES FROM GROSS INCOME OF NONRESIDENT ALIEN INDIVIDUALS.

(a) IN GENERAL.—Subsection (b) of section 872 (relating to exclusions) is amended by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8), respectively, and inserting after paragraph (4) the following new paragraph:

"(5) INCOME DERIVED FROM WAGERING TRANSACTIONS IN CERTAIN PARIMUTUEL POOLS.—Gross income derived by a nonresident alien individual from a legal wagering transaction initiated outside the United States in a parimutuel pool with respect to a live horse race or dog race in the United States.".

(b) CONFORMING AMENDMENT.—Section 883(a)(4) is amended by striking "(5), (6), and (7)" and inserting "(6), (7), and (8)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to wagers made after the date of the enactment of this Act.

SEC. 233. LIMITATION OF WITHHOLDING TAX FOR PUERTO RICO CORPORATIONS.

(a) IN GENERAL.—Subsection (b) of section 881 is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) COMMONWEALTH OF PUERTO RICO.—If dividends are received during a taxable year by a corporation—

"(A) created or organized in, or under the law of, the Commonwealth of Puerto Rico, and

"(B) with respect to which the requirements of subparagraphs (A), (B), and (C) of paragraph (1) are met for the taxable year,

subsection (a) shall be applied for such taxable year by substituting '10 percent' for '30 percent'.".

(b) WITHHOLDING.—Subsection (c) of section 1442 (relating to withholding of tax on foreign corporations) is amended—

(1) by striking "For purposes" and inserting the following:

"(1) GUAM, AMERICAN SAMOA, THE NORTHERN MARIANA ISLANDS, AND THE VIRGIN ISLANDS.—For purposes", and

(2) by adding at the end the following new paragraph:

"(2) COMMONWEALTH OF PUERTO RICO.—If dividends are received during a taxable year by a corporation—

"(A) created or organized in, or under the law of, the Commonwealth of Puerto Rico, and

"(B) with respect to which the requirements of subparagraphs (A), (B), and (C) of section 881(b)(1) are met for the taxable year,

subsection (a) shall be applied for such taxable year by substituting '10 percent' for '30 percent'.".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 881 is amended by striking "GUAM AND VIRGIN ISLANDS CORPORATIONS" in the heading and inserting "POSSESSIONS".

(2) Paragraph (1) of section 881(b) is amended by striking "IN GENERAL" in the heading and inserting "GUAM, AMERICAN SAMOA, THE NORTHERN MARIANA ISLANDS, AND THE VIRGIN ISLANDS".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dividends paid after the date of the enactment of this Act.

SEC. 234. REPORT ON WTO DISPUTE SETTLEMENT PANELS AND THE APPELLATE BODY.

Not later than March 31, 2004, the Secretary of Commerce, in consultation with the United States Trade Representative, shall transmit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, regarding whether dispute settlement panels and the Appellate Body of the World Trade Organization have—

(1) added to or diminished the rights of the United States by imposing obligations or restrictions on the use of antidumping, countervailing, and safeguard measures not agreed to under the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade of 1994, the Agreement on Subsidies and Countervailing Measures, and the Agreement on Safeguards;

(2) appropriately applied the standard of review contained in Article 17.6 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade of 1994; or

(3) exceeded their authority or terms of reference under the Agreements referred to in paragraph (1).

SEC. 235. STUDY OF IMPACT OF INTERNATIONAL TAX LAWS ON TAXPAYERS OTHER THAN LARGE CORPORATIONS.

(a) STUDY.—The Secretary of the Treasury or the Secretary's delegate shall conduct a study of the impact of Federal international tax rules on taxpayers other than large corporations, including the burdens placed on such taxpayers in complying with such rules.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives the results of the study conducted under subsection (a), including any recommendations for legislative or administrative changes to reduce the compliance burden on taxpayers other than large corporations and for such other purposes as the Secretary determines appropriate.

SEC. 236. CONSULTATIVE ROLE FOR SENATE COMMITTEE ON FINANCE IN CONNECTION WITH THE REVIEW OF PROPOSED TAX TREATIES.

Paragraph 1(j) of Rule XXV of the Standing Rules of the Senate is amended by adding at the end the following:

"(3)(A) Notwithstanding any other rule of the Senate, the Committee on Foreign Relations shall consult with the Committee on Finance with respect to any proposed treaty on taxation prior to reporting such treaty to the Senate.

"(B) The Committee on Foreign Relations shall request in writing the views of the Committee on Finance with respect to any proposed treaty on taxation which is referred to the Committee on Foreign Relations. Not less than 120 days after the date on which such request is made, the Committee on Finance shall respond to such request in writing. If the Committee on Finance does not provide such written response during such 120 day period, the Committee on Finance shall be deemed to have waived the opportunity to submit such views.

"(C) The Committee on Foreign Relations shall consider the views submitted by the Committee on Finance and shall include such views in any report of the treaty to the Senate.".

TITLE III—DOMESTIC MANUFACTURING AND BUSINESS PROVISIONS

Subtitle A—General Provisions

SEC. 301. EXPANSION OF QUALIFIED SMALL-ISSUE BOND PROGRAM.

(a) IN GENERAL.—Subparagraph (F) of section 144(a)(4) (relating to $10,000,000 limit in certain cases) is amended to read as follows:

"(F) ADDITIONAL CAPITAL EXPENDITURES NOT TAKEN INTO ACCOUNT.—With respect to any issue, in addition to any capital expenditure described in subparagraph (C), capital expenditures of not to exceed $10,000,000 shall not be taken into account for purposes of applying subparagraph (A)(ii).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 302. EXPENSING OF BROADBAND INTERNET ACCESS EXPENDITURES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 190 the following new section:

"SEC. 191. BROADBAND EXPENDITURES.

"(a) TREATMENT OF EXPENDITURES.—

"(1) IN GENERAL.—A taxpayer may elect to treat any qualified broadband expenditure which is paid or incurred by the taxpayer as an expense which is not chargeable to capital account. Any expenditure which is so treated shall be allowed as a deduction.

"(2) ELECTION.—An election under paragraph (1) shall be made at such time and in such manner as the Secretary may prescribe by regulation.

"(b) QUALIFIED BROADBAND EXPENDITURES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified broadband expenditure' means, with respect to any taxable year, any direct or indirect costs incurred during 2004 and properly taken into account for such taxable year with respect to—

"(A) the purchase or installation of qualified equipment (including any upgrades thereto), and

"(B) the connection of such qualified equipment to any qualified subscriber.

"(2) CERTAIN SATELLITE EXPENDITURES EXCLUDED.—Such term shall not include any costs incurred with respect to the launching of any satellite equipment.

"(3) LEASED EQUIPMENT.—Such term shall include so much of the purchase price paid by the lessor of qualified equipment subject to a lease described in subsection (c)(2)(B) as is attributable to expenditures incurred by the lessee which would otherwise be described in paragraph (1).

"(c) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—For purposes of this section—

"(1) IN GENERAL.—Qualified broadband expenditures with respect to qualified equipment shall be taken into account with respect to the first taxable year in which—

"(A) current generation broadband services are provided through such equipment to qualified subscribers, or

"(B) next generation broadband services are provided through such equipment to qualified subscribers.

"(2) LIMITATION.—

"(A) IN GENERAL.—Qualified expenditures shall be taken into account under paragraph (1) only with respect to qualified equipment—

"(i) the original use of which commences with the taxpayer, and

"(ii) which is placed in service, after December 31, 2003.

"(B) SALE-LEASEBACKS.—For purposes of subparagraph (A), if property—

"(i) is originally placed in service after December 31, 2003, by any person, and

"(ii) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in clause (ii).

"(d) SPECIAL ALLOCATION RULES.—

"(1) CURRENT GENERATION BROADBAND SERVICES.—For purposes of determining the amount of qualified broadband expenditures under subsection (a)(1) with respect to qualified equipment through which current generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified broadband expenditures shall be multiplied by a fraction—

"(A) the numerator of which is the sum of the number of potential qualified subscribers within the rural areas and the underserved areas which the equipment is capable of serving with current generation broadband services, and

"(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with current generation broadband services.

"(2) NEXT GENERATION BROADBAND SERVICES.—For purposes of determining the amount of qualified broadband expenditures under subsection (a)(1) with respect to qualified equipment through which next generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified expenditures shall be multiplied by a fraction—

"(A) the numerator of which is the sum of—

"(i) the number of potential qualified subscribers within the rural areas and underserved areas, plus

"(ii) the number of potential qualified subscribers within the area consisting only of residential subscribers not described in clause (i),

which the equipment is capable of serving with next generation broadband services, and

"(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with next generation broadband services.

"(e) DEFINITIONS.—For purposes of this section—

"(1) ANTENNA.—The term 'antenna' means any device used to transmit or receive signals through the electromagnetic spectrum, including satellite equipment.

"(2) CABLE OPERATOR.—The term 'cable operator' has the meaning given such term by section 602(5) of the Communications Act of 1934 (47 U.S.C. 522(5)).

"(3) COMMERCIAL MOBILE SERVICE CARRIER.—The term 'commercial mobile service carrier' means any person authorized to provide commercial mobile radio service as defined in section 20.3 of title 47, Code of Federal Regulations.

"(4) CURRENT GENERATION BROADBAND SERVICE.—The term 'current generation broadband service' means the transmission of signals at a rate of at least 1,000,000 bits per second to the subscriber and at least 128,000 bits per second from the subscriber.

"(5) MULTIPLEXING OR DEMULTIPLEXING.—The term 'multiplexing' means the transmission of 2 or more signals over a single channel, and the term 'demultiplexing' means the separation of 2 or more signals previously combined by compatible multiplexing equipment.

"(6) NEXT GENERATION BROADBAND SERVICE.—The term 'next generation broadband service' means the transmission of signals at a rate of at least 22,000,000 bits per second to the subscriber and at least 5,000,000 bits per second from the subscriber.

"(7) NONRESIDENTIAL SUBSCRIBER.—The term 'nonresidential subscriber' means any person who purchases broadband services which are delivered to the permanent place of business of such person.

"(8) OPEN VIDEO SYSTEM OPERATOR.—The term 'open video system operator' means any person authorized to provide service under section 653 of the Communications Act of 1934 (47 U.S.C. 573).

"(9) OTHER WIRELESS CARRIER.—The term 'other wireless carrier' means any person (other than a telecommunications carrier, commercial mobile service carrier, cable operator, open video system operator, or satellite carrier) providing current generation broadband services or next generation broadband service to subscribers through the radio transmission of energy.

"(10) PACKET SWITCHING.—The term 'packet switching' means controlling or routing the path of any digitized transmission signal which is assembled into packets or cells.

"(11) PROVIDER.—The term 'provider' means, with respect to any qualified equipment—

"(A) a cable operator,

"(B) a commercial mobile service carrier,

"(C) an open video system operator,

"(D) a satellite carrier,

"(E) a telecommunications carrier, or

"(F) any other wireless carrier,

providing current generation broadband services or next generation broadband services to subscribers through such qualified equipment.

"(12) PROVISION OF SERVICES.—A provider shall be treated as providing services to 1 or more subscribers if—

"(A) such a subscriber has been passed by the provider's equipment and can be connected to such equipment for a standard connection fee,

"(B) the provider is physically able to deliver current generation broadband services or next generation broadband services, as applicable, to such a subscriber without making more than an insignificant investment with respect to such subscriber,

"(C) the provider has made reasonable efforts to make such subscribers aware of the availability of such services,

"(D) such services have been purchased by 1 or more such subscribers, and

"(E) such services are made available to such subscribers at average prices comparable to those at which the provider makes available similar services in any areas in which the provider makes available such services.

"(13) QUALIFIED EQUIPMENT.—

"(A) IN GENERAL.—The term 'qualified equipment' means equipment which provides current generation broadband services or next generation broadband services—

"(i) at least a majority of the time during periods of maximum demand to each subscriber who is utilizing such services, and

"(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no deduction is allowed under subsection (a)(1).

"(B) ONLY CERTAIN INVESTMENT TAKEN INTO ACCOUNT.—Except as provided in subparagraph (C) or (D), equipment shall be taken into account under subparagraph (A) only to the extent it—

"(i) extends from the last point of switching to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a telecommunications carrier,

"(ii) extends from the customer side of the mobile telephone switching office to a transmission/receive antenna (including such antenna) owned or leased by a subscriber in the case of a commercial mobile service carrier,

"(iii) extends from the customer side of the headend to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a cable operator or open video system operator, or

"(iv) extends from a transmission/receive antenna (including such antenna) which transmits and receives signals to or from multiple subscribers, to a transmission/receive antenna (including such antenna) on the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a satellite carrier or other wireless carrier, unless such other wireless carrier is also a telecommunications carrier.

"(C) PACKET SWITCHING EQUIPMENT.—Packet switching equipment, regardless of location, shall be taken into account under subparagraph (A) only if it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of packet switching for current generation broadband services or next generation broadband services, but only if such packet switching is the last in a series of such functions performed in the transmission of a signal to a subscriber or the first in a series of such functions performed in the transmission of a signal from a subscriber.

"(D) MULTIPLEXING AND DEMULTIPLEXING EQUIPMENT.—Multiplexing and demultiplexing equipment shall be taken into account under subparagraph (A) only to the extent it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of multiplexing and demultiplexing packets or cells of data and making associated application adaptions, but only if such multiplexing or demultiplexing equipment is located between packet switching equipment described in subparagraph (C) and the subscriber's premises.

"(14) QUALIFIED SUBSCRIBER.—The term 'qualified subscriber' means—

"(A) with respect to the provision of current generation broadband services—

"(i) any nonresidential subscriber maintaining a permanent place of business in a rural area or underserved area, or

"(ii) any residential subscriber residing in a dwelling located in a rural area or underserved area which is not a saturated market, and

"(B) with respect to the provision of next generation broadband services—

"(i) any nonresidential subscriber maintaining a permanent place of business in a rural area or underserved area, or

"(ii) any residential subscriber.

"(15) RESIDENTIAL SUBSCRIBER.—The term 'residential subscriber' means any individual who purchases broadband services which are delivered to such individual's dwelling.

"(16) RURAL AREA.—The term 'rural area' means any census tract which—

"(A) is not within 10 miles of any incorporated or census designated place containing more than 25,000 people, and

"(B) is not within a county or county equivalent which has an overall population density of more than 500 people per square mile of land.

"(17) RURAL SUBSCRIBER.—The term 'rural subscriber' means any residential subscriber residing in a dwelling located in a rural area or nonresidential subscriber maintaining a permanent place of business located in a rural area.

"(18) SATELLITE CARRIER.—The term 'satellite carrier' means any person using the facilities of a satellite or satellite service licensed by the Federal Communications Commission and operating in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of such Code to establish and operate a channel of communications for distribution of signals, and owning or leasing a capacity or service on a satellite in order to provide such point-to-multipoint distribution.

"(19) SATURATED MARKET.—The term 'saturated market' means any census tract in which, as of the date of the enactment of this section—

"(A) current generation broadband services have been provided by a single provider to 85 percent or more of the total number of potential residential subscribers residing in dwellings located within such census tract, and

"(B) such services can be utilized—

"(i) at least a majority of the time during periods of maximum demand by each such subscriber who is utilizing such services, and

"(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no deduction is allowed under subsection (a)(1).

"(20) SUBSCRIBER.—The term 'subscriber' means any person who purchases current generation broadband services or next generation broadband services.

"(21) TELECOMMUNICATIONS CARRIER.—The term 'telecommunications carrier' has the meaning given such term by section 3(44) of the Communications Act of 1934 (47 U.S.C. 153(44)), but—

"(A) includes all members of an affiliated group of which a telecommunications carrier is a member, and

"(B) does not include a commercial mobile service carrier.

"(22) TOTAL POTENTIAL SUBSCRIBER POPULATION.—The term 'total potential subscriber population' means, with respect to any area and based on the most recent census data, the total number of potential residential subscribers residing in dwellings located in such area and potential nonresidential subscribers maintaining permanent places of business located in such area.

"(23) UNDERSERVED AREA.—The term 'underserved area' means—

"(A) any census tract which is located in—

"(i) an empowerment zone or enterprise community designated under section 1391, or

"(ii) the District of Columbia Enterprise Zone established under section 1400, or

"(B) any census tract—

"(i) the poverty level of which is at least 30 percent (based on the most recent census data), and

"(ii) the median family income of which does not exceed—

"(I) in the case of a census tract located in a metropolitan statistical area, 70 percent of the greater of the metropolitan area median family income or the statewide median family income, and

"(II) in the case of a census tract located in a nonmetropolitan statistical area, 70 percent of the nonmetropolitan statewide median family income.

"(24) UNDERSERVED SUBSCRIBER.—The term 'underserved subscriber' means any residential subscriber residing in a dwelling located in an underserved area or nonresidential subscriber maintaining a permanent place of business located in an underserved area.

"(f) SPECIAL RULES.—

"(1) PROPERTY USED OUTSIDE THE UNITED STATES, ETC., NOT QUALIFIED.—No expenditures shall be taken into account under subsection (a)(1) with respect to the portion of the cost of any property referred to in section 50(b) or with respect to the portion of the cost of any property specified in an election under section 179.

"(2) BASIS REDUCTION.—

"(A) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a)(1).

"(B) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a)(1) with respect to any property which is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

"(3) COORDINATION WITH SECTION 38.—No credit shall be allowed under section 38 with respect to any amount for which a deduction is allowed under subsection (a)(1).".

(b) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—Section 501(c)(12)(B) (relating to list of exempt organizations) is amended by striking "or" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", or", and by adding at the end the following:

"(v) from the sale of property subject to a lease described in section 191(c)(2)(B), but only to the extent such income does not in any year exceed an amount equal to the qualified broadband expenditures which would be taken into account under section 191 for such year if the mutual or cooperative telephone company was not exempt from taxation and was treated as the owner of the property subject to such lease.".

(c) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1) (relating to capital expenditures) is amended by striking "or" at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting ", or", and by adding at the end the following new subparagraph:

"(I) expenditures for which a deduction is allowed under section 191.".

(2) Section 1016(a) of such Code is amended by striking "and" at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting ", and", and by adding at the end the following new paragraph:

"(29) to the extent provided in section 191(f)(2).".

(3) The table of sections for part VI of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 190 the following new item:

"Sec. 191. Broadband expenditures.".

(d) DESIGNATION OF CENSUS TRACTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall, not later than 90 days after the date of the enactment of this Act, designate and publish those census tracts meeting the criteria described in paragraphs (16), (22), and (23) of section 191(e) of the Internal Revenue Code of 1986 (as added by this section). In making such designations, the Secretary of the Treasury shall consult with such other departments and agencies as the Secretary determines appropriate.

(2) SATURATED MARKET.—

(A) IN GENERAL.—For purposes of designating and publishing those census tracts meeting the

criteria described in subsection (e)(19) of such section 191—

(i) the Secretary of the Treasury shall prescribe not later than 30 days after the date of the enactment of this Act the form upon which any provider which takes the position that it meets such criteria with respect to any census tract shall submit a list of such census tracts (and any other information required by the Secretary) not later than 60 days after the date of the publication of such form, and

(ii) the Secretary of the Treasury shall publish an aggregate list of such census tracts and the applicable providers not later than 30 days after the last date such submissions are allowed under clause (i).

(B) NO SUBSEQUENT LISTS REQUIRED.—The Secretary of the Treasury shall not be required to publish any list of census tracts meeting such criteria subsequent to the list described in subparagraph (A)(ii).

(e) OTHER REGULATORY MATTERS.—

(1) PROHIBITION.—No Federal or State agency or instrumentality shall adopt regulations or ratemaking procedures that would have the effect of eliminating or reducing any deduction or portion thereof allowed under section 191 of the Internal Revenue Code of 1986 (as added by this section) or otherwise subverting the purpose of this section.

(2) TREASURY REGULATORY AUTHORITY.—It is the intent of Congress in providing the election to deduct qualified broadband expenditures under section 191 of the Internal Revenue Code of 1986 (as added by this section) to provide incentives for the purchase, installation, and connection of equipment and facilities offering expanded broadband access to the Internet for users in certain low income and rural areas of the United States, as well as to residential users nationwide, in a manner that maintains competitive neutrality among the various classes of providers of broadband services. Accordingly, the Secretary of the Treasury shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 191 of such Code, including—

(A) regulations to determine how and when a taxpayer that incurs qualified broadband expenditures satisfies the requirements of section 191 of such Code to provide broadband services, and

(B) regulations describing the information, records, and data taxpayers are required to provide the Secretary to substantiate compliance with the requirements of section 191 of such Code.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures incurred after December 31, 2003.

SEC. 303. EXEMPTION OF NATURAL AGING PROCESS IN DETERMINATION OF PRODUCTION PERIOD FOR DISTILLED SPIRITS UNDER SECTION 263A.

(a) IN GENERAL.—Section 263A(f) of the Internal Revenue Code of 1986 (relating to general exceptions) is amended by adding at the end the following new paragraph:

"(5) EXEMPTION OF NATURAL AGING PROCESS IN DETERMINATION OF PRODUCTION PERIOD FOR DISTILLED SPIRITS.—For purposes of this subsection, the production period for distilled spirits shall be determined without regard to any period allocated to the natural aging process.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to production periods beginning after the date of the enactment of this Act.

SEC. 304. MODIFICATION OF ACTIVE BUSINESS DEFINITION UNDER SECTION 355.

(a) IN GENERAL.—Section 355(b) (defining active conduct of a trade or business) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULES RELATING TO ACTIVE BUSINESS REQUIREMENT.—

"(A) IN GENERAL.—For purposes of determining whether a corporation meets the requirement of paragraph (2)(A), all members of such corporation's separate affiliated group shall be treated as one corporation. For purposes of the preceding sentence, a corporation's separate affiliated group is the affiliated group which would be determined under section 1504(a) if such corporation were the common parent and section 1504(b) did not apply.

"(B) CONTROL.—For purposes of paragraph (2)(D), all distributee corporations which are members of the same affiliated group (as defined in section 1504(a) without regard to section 1504(b)) shall be treated as one distributee corporation.".

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 355(b)(2) is amended to read as follows:

"(A) it is engaged in the active conduct of a trade or business,".

(2) Section 355(b)(2) is amended by striking the last sentence.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply—

(A) to distributions after the date of the enactment of this Act, and

(B) for purposes of determining the continued qualification under section 355(b)(2)(A) of the Internal Revenue Code of 1986 (as amended by subsection (b)(1)) of distributions made before such date, as a result of an acquisition, disposition, or other restructuring after such date.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution pursuant to a transaction which is—

(A) made pursuant to an agreement which was binding on such date of enactment and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

(3) ELECTION TO HAVE AMENDMENTS APPLY.—Paragraph (2) shall not apply if the distributing corporation elects not to have such paragraph apply to distributions of such corporation. Any such election, once made, shall be irrevocable.

SEC. 305. EXCLUSION OF CERTAIN INDEBTEDNESS OF SMALL BUSINESS INVESTMENT COMPANIES FROM ACQUISITION INDEBTEDNESS.

(a) IN GENERAL.—Section 514(c) (relating to acquisition indebtedness) is amended by adding at the end the following new paragraph:

"(10) CERTAIN INDEBTEDNESS OF SMALL BUSINESS INVESTMENT COMPANIES.—For purposes of this section, the term 'acquisition indebtedness' does not include any indebtedness incurred by a small business investment company licensed under the Small Business Investment Act of 1958 which is evidenced by a debenture—

"(A) issued by such company under section 303(a) of such Act, and

"(B) held or guaranteed by the Small Business Administration.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any indebtedness incurred after December 31, 2003, by a small business investment company described in section 514(c)(10) of the Internal Revenue Code of 1986 (as added by this section) with respect to property acquired by such company after such date.

SEC. 306. MODIFIED TAXATION OF IMPORTED ARCHERY PRODUCTS.

(a) BOWS.—Paragraph (1) of section 4161(b) (relating to bows) is amended to read as follows:

"(1) BOWS.—

"(A) IN GENERAL.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any bow which has a peak draw weight of 30 pounds or more, a tax equal to 11 percent of the price for which so sold.

"(B) ARCHERY EQUIPMENT.—There is hereby imposed on the sale by the manufacturer, producer, or importer—

"(i) of any part or accessory suitable for inclusion in or attachment to a bow described in subparagraph (A), and

"(ii) of any quiver or broadhead suitable for use with an arrow described in paragraph (2),

a tax equal to 11 percent of the price for which so sold.".

(b) ARROWS.—Subsection (b) of section 4161 (relating to bows and arrows, etc.) is amended by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following:

"(3) ARROWS.—

"(A) IN GENERAL.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any arrow, a tax equal to 12 percent of the price for which so sold.

"(B) EXCEPTION.—In the case of any arrow of which the shaft or any other component has been previously taxed under paragraph (1) or (2)—

"(i) section 6416(b)(3) shall not apply, and

"(ii) the tax imposed by subparagraph (A) shall be an amount equal to the excess (if any) of—

"(I) the amount of tax imposed by this paragraph (determined without regard to this subparagraph), over

"(II) the amount of tax paid with respect to the tax imposed under paragraph (1) or (2) on such shaft or component.

"(C) ARROW.—For purposes of this paragraph, the term 'arrow' means any shaft described in paragraph (2) to which additional components are attached.".

(c) CONFORMING AMENDMENTS.—Section 4161(b)(2) is amended—

(1) by inserting "(other than broadheads)" after "point", and

(2) by striking "ARROWS.—" in the heading and inserting "ARROW COMPONENTS.—".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after December 31, 2003.

SEC. 307. MODIFICATION TO COOPERATIVE MARKETING RULES TO INCLUDE VALUE ADDED PROCESSING INVOLVING ANIMALS.

(a) IN GENERAL.—Section 1388 (relating to definitions and special rules) is amended by adding at the end the following new subsection:

"(k) COOPERATIVE MARKETING INCLUDES VALUE-ADDED PROCESSING INVOLVING ANIMALS.—For purposes of section 521 and this subchapter, the marketing of the products of members or other producers shall include the feeding of such products to cattle, hogs, fish, chickens, or other animals and the sale of the resulting animals or animal products.".

(b) CONFORMING AMENDMENT.—Section 521(b) is amended by adding at the end the following new paragraph:

"(7) CROSS REFERENCE.—

"For treatment of value-added processing involving animals, see section 1388(k).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 308. EXTENSION OF DECLARATORY JUDGMENT PROCEDURES TO FARMERS' COOPERATIVE ORGANIZATIONS.

(a) IN GENERAL.—Section 7428(a)(1) (relating to declaratory judgments of tax exempt organizations) is amended by striking "or" at the end of subparagraph (B) and by adding at the end the following new subparagraph:

"(D) with respect to the initial classification or continuing classification of a cooperative as an organization described in section 521(b) which is exempt from tax under section 521(a), or".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to pleadings filed after the date of the enactment of this Act.

SEC. 309. TEMPORARY SUSPENSION OF PERSONAL HOLDING COMPANY TAX.

(a) IN GENERAL.—Section 541 (relating to imposition of personal holding company tax) is amended by adding at the end the following new sentence: "The preceding sentence shall not apply with respect to any taxable year to which section 1(h)(11) (as in effect on the date of the enactment of this sentence) applies.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 310. INCREASE IN SECTION 179 EXPENSING.

(a) IN GENERAL.—Section 179(b)(2) (relating to reduction in limitation) is amended by inserting "50 percent of" before "the amount".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 311. THREE-YEAR CARRYBACK OF NET OPERATING LOSSES.

(a) IN GENERAL.—Paragraph (1) of section 172(b) (relating to years to which loss may be carried) is amended by adding at the end the following new subparagraph:

"(I) SPECIAL RULE FOR 2003.—In the case of a net operating loss for any taxable year ending during 2003, subparagraph (A)(i) shall be applied by substituting '3' for '2'.".

(b) ELECTION TO DISREGARD 3-YEAR CARRYBACK.—Section 172 (relating to net operating loss deduction) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) ELECTION TO DISREGARD 3-YEAR CARRYBACK FOR CERTAIN NET OPERATING LOSSES.—Any taxpayer entitled to a 3-year carryback under subsection (b)(1)(I) from any loss year may elect to have the carryback period with respect to such loss year determined without regard to subsection (b)(1)(I). Such election shall be made in such manner as may be prescribed by the Secretary and shall be made by the due date (including extensions of time) for filing the taxpayer's return for the taxable year of the net operating loss. Such election, once made for any taxable year, shall be irrevocable for such taxable year.".

(c) TEMPORARY SUSPENSION OF 90 PERCENT LIMIT ON CERTAIN NOL CARRYOVERS.—

(1) IN GENERAL.—Section 56(d)(1)(A)(ii)(I) (relating to general rule defining alternative tax net operating loss deduction) is amended—

(A) by striking "or 2002" and inserting ", 2002, or 2003", and

(B) by striking "and 2002" and inserting ", 2002, and 2003".

(d) TECHNICAL CORRECTIONS.—

(1) Subparagraph (H) of section 172(b)(1) is amended by striking "a taxpayer which has".

(2) Section 102(c)(2) of the Job Creation and Worker Assistance Act of 2002 (Public Law 107–147) is amended by striking "before January 1, 2003" and inserting "after December 31, 1990".

(3)(A) Subclause (I) of section 56(d)(1)(A)(i) is amended by striking "attributable to carryovers".

(B) Subclause (I) of section 56(d)(1)(A)(ii) is amended—

(i) by striking "for taxable years" and inserting "from taxable years", and

(ii) by striking "carryforwards" and inserting "carryovers".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to net operating losses for taxable years ending after December 31, 2002.

(2) TECHNICAL CORRECTIONS.—The amendments made by subsection (d) shall take effect as if included in the amendments made by section 102 of the Job Creation and Worker Assistance Act of 2002.

(3) ELECTION.—In the case of a net operating loss for a taxable year ending during 2003—

(A) any election made under section 172(b)(3) of such Code may (notwithstanding such section) be revoked before April 15, 2004, and

(B) any election made under section 172(k) (as added by this section) of such Code shall (notwithstanding such section) be treated as timely made if made before April 15, 2004.

Subtitle B—Manufacturing Relating to Films

SEC. 321. SPECIAL RULES FOR CERTAIN FILM AND TELEVISION PRODUCTIONS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by inserting after section 180 the following new section:

"SEC. 181. TREATMENT OF QUALIFIED FILM AND TELEVISION PRODUCTIONS.

"(a) ELECTION TO TREAT CERTAIN COSTS OF QUALIFIED FILM AND TELEVISION PRODUCTIONS AS EXPENSES.—

"(1) IN GENERAL.—A taxpayer may elect to treat the cost of any qualified film or television production as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction.

"(2) DOLLAR LIMITATION.—

"(A) IN GENERAL.—The aggregate cost which may be taken into account under paragraph (1) with respect to each qualified film or television production shall not exceed $15,000,000.

"(B) HIGHER DOLLAR LIMITATION FOR PRODUCTIONS IN CERTAIN AREAS.—In the case of any qualified film or television production the aggregate cost of which is significantly incurred in an area eligible for designation as—

"(i) a low-income community under section 45D, or

"(ii) a distressed county or isolated area of distress by the Delta Regional Authority established under section 2009aa–1 of title 7, United States Code,

subparagraph (A) shall be applied by substituting '$20,000,000' for '$15,000,000'.

"(b) AMORTIZATION OF REMAINING COSTS.—

"(1) IN GENERAL.—If an election is made under subsection (a) with respect to any qualified film or television production, that portion of the basis of such production in excess of the amount taken into account under subsection (a) shall be allowed as a deduction ratably over the 36-month period beginning with the month in which such production is placed in service.

"(2) NO OTHER DEDUCTION OR AMORTIZATION DEDUCTION ALLOWABLE.—With respect to the basis of any qualified film or television production described in paragraph (1), no other depreciation or amortization deduction shall be allowable.

"(c) ELECTION.—

"(1) IN GENERAL.—An election under subsection (a) with respect to any qualified film or television production shall be made in such manner as prescribed by the Secretary and by the due date (including extensions) for filing the taxpayer's return of tax under this chapter for the taxable year in which costs of the production are first incurred.

"(2) REVOCATION OF ELECTION.—Any election made under subsection (a) may not be revoked without the consent of the Secretary.

"(d) QUALIFIED FILM OR TELEVISION PRODUCTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified film or television production' means any production described in paragraph (2) if 75 percent of the total compensation of the production is qualified compensation.

"(2) PRODUCTION.—

"(A) IN GENERAL.—A production is described in this paragraph if such production is property described in section 168(f)(3). For purposes of a television series, only the first 44 episodes of such series may be taken into account.

"(B) EXCEPTION.—A production is not described in this paragraph if records are required under section 2257 of title 18, United States Code, to be maintained with respect to any performer in such production.

"(3) QUALIFIED COMPENSATION.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'qualified compensation' means compensation for services performed in the United States by actors, directors, producers, and other relevant production personnel.

"(B) PARTICIPATIONS AND RESIDUALS EXCLUDED.—The term 'compensation' does not include participations and residuals (as defined in section 167(g)(7)(B)).

"(e) APPLICATION OF CERTAIN OTHER RULES.—For purposes of this section, rules similar to the rules of subsections (b)(2) and (c)(4) of section 194 shall apply.

"(f) TERMINATION.—This section shall not apply to qualified film and television productions commencing after December 31, 2008.".

(b) CONFORMING AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 180 the following new item:

"Sec. 181. Treatment of qualified film and television productions.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified film and television productions (as defined in section 181(d)(1) of the Internal Revenue Code of 1986, as added by this section) commencing after the date of the enactment of this Act.

SEC. 322. MODIFICATION OF APPLICATION OF INCOME FORECAST METHOD OF DEPRECIATION.

(a) IN GENERAL.—Section 167(g) (relating to depreciation under income forecast method) is amended by adding at the end the following new paragraph:

"(7) TREATMENT OF PARTICIPATIONS AND RESIDUALS.—

"(A) IN GENERAL.—For purposes of determining the depreciation deduction allowable with respect to a property under this subsection, the taxpayer may include participations and residuals with respect to such property in the adjusted basis of such property for the taxable year in which the property is placed in service, but only to the extent that such participations and residuals relate to income estimated (for purposes of this subsection) to be earned in connection with the property before the close of the 10th taxable year referred to in paragraph (1)(A).

"(B) PARTICIPATIONS AND RESIDUALS.—For purposes of this paragraph, the term 'participations and residuals' means, with respect to any property, costs the amount of which by contract varies with the amount of income earned in connection with such property.

"(C) SPECIAL RULES RELATING TO RECOMPUTATION YEARS.—If the adjusted basis of any property is determined under this paragraph, paragraph (4) shall be applied by substituting 'for each taxable year in such period' for 'for such period'.

"(D) OTHER SPECIAL RULES.—

"(i) PARTICIPATIONS AND RESIDUALS.—Notwithstanding subparagraph (A), the taxpayer may exclude participations and residuals from the adjusted basis of such property and deduct such participations and residuals in the taxable year that such participations and residuals are paid.

"(ii) COORDINATION WITH OTHER RULES.—Deductions computed in accordance with this paragraph shall be allowable notwithstanding paragraph (1)(B) or sections 263, 263A, 404, 419, or 461(h).

"(E) AUTHORITY TO MAKE ADJUSTMENTS.—The Secretary shall prescribe appropriate adjustments to the basis of property and to the lookback method for the additional amounts allowable as a deduction solely by reason of this paragraph.".

(b) DETERMINATION OF INCOME.—Section 167(g)(5) (relating to special rules) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and inserting after subparagraph (D) the following new subparagraph:

"(E) TREATMENT OF DISTRIBUTION COSTS.—For purposes of this subsection, the income with respect to any property shall be the taxpayer's gross income from such property.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

Subtitle C—Manufacturing Relating to Timber

SEC. 331. EXPENSING OF CERTAIN REFORESTATION EXPENDITURES.

(a) IN GENERAL.—So much of subsection (b) of section 194 (relating to amortization of reforestation expenditures) as precedes paragraph (2) is amended to read as follows:

"(b) TREATMENT AS EXPENSES.—

"(1) ELECTION TO TREAT CERTAIN REFORESTATION EXPENDITURES AS EXPENSES.—

"(A) IN GENERAL.—In the case of any qualified timber property with respect to which the taxpayer has made (in accordance with regulations prescribed by the Secretary) an election under this subsection, the taxpayer shall treat reforestation expenditures which are paid or incurred during the taxable year with respect to such property as an expense which is not chargeable to capital account. The reforestation expenditures so treated shall be allowed as a deduction.

"(B) DOLLAR LIMITATION.—The aggregate amount of reforestation expenditures which may be taken into account under subparagraph (A) with respect to each qualified timber property for any taxable year shall not exceed $10,000 ($5,000 in the case of a separate return by a married individual (as defined in section 7703)).".

(b) NET AMORTIZABLE BASIS.—Section 194(c)(2) (defining amortizable basis) is amended by inserting "which have not been taken into account under subsection (b)" after "expenditures".

(c) CONFORMING AMENDMENTS.—

(1) Section 194(b) is amended by striking paragraphs (3) and (4).

(2) Section 194(b)(2) is amended by striking "paragraph (1)" both places it appears and inserting "paragraph (1)(B)".

(3) Section 194(c) is amended by striking paragraph (4) and inserting the following new paragraphs:

"(4) TREATMENT OF TRUSTS AND ESTATES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), this section shall not apply to trusts and estates.

"(B) AMORTIZATION DEDUCTION ALLOWED TO ESTATES.—The benefit of the deduction for amortization provided by subsection (a) shall be allowed to estates in the same manner as in the case of an individual. The allowable deduction shall be apportioned between the income beneficiary and the fiduciary under regulations prescribed by the Secretary. Any amount so apportioned to a beneficiary shall be taken into account for purposes of determining the amount allowable as a deduction under subsection (a) to such beneficiary.

"(5) APPLICATION WITH OTHER DEDUCTIONS.—No deduction shall be allowed under any other provision of this chapter with respect to any expenditure with respect to which a deduction is allowed or allowable under this section to the taxpayer .".

(4) The heading for section 194 is amended by striking "**AMORTIZATION**" and inserting "**TREATMENT**".

(5) The item relating to section 194 in the table of sections for part VI of subchapter B of chapter 1 is amended by striking "Amortization" and inserting "Treatment".

(d) REPEAL OF REFORESTATION CREDIT.—

(1) IN GENERAL.—Section 46 (relating to amount of credit) is amended—

(A) by adding "and" at the end of paragraph (1),

(B) by striking ", and " at the end of paragraph (2) and inserting a period, and

(C) by striking paragraph (3).

(2) CONFORMING AMENDMENTS.—

(A) Section 48 is amended—

(i) by striking subsection (b),

(ii) by striking "this subsection" in paragraph (5) of subsection (a) and inserting "subsection (a)", and

(iii) by redesignating such paragraph (5) as subsection (b).

(B) The heading for section 48 is amended by striking "**; REFORESTATION CREDIT**".

(C) The item relating to section 48 in the table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by striking ", reforestation credit".

(D) Section 50(c)(3) is amended by striking "or reforestation credit".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to expenditures paid or incurred after the date of the enactment of this Act.

SEC. 332. ELECTION TO TREAT CUTTING OF TIMBER AS A SALE OR EXCHANGE.

Any election under section 631(a) of the Internal Revenue Code of 1986 made for a taxable year ending on or before the date of the enactment of this Act may be revoked by the taxpayer for any taxable year ending after such date. For purposes of determining whether the taxpayer may make a further election under such section, such election (and any revocation under this section) shall not be taken into account.

SEC. 333. CAPITAL GAIN TREATMENT UNDER SECTION 631(b) TO APPLY TO OUTRIGHT SALES BY LANDOWNERS.

(a) IN GENERAL.—The first sentence of section 631(b) (relating to disposal of timber with a retained economic interest) is amended by striking "retains an economic interest in such timber" and inserting "either retains an economic interest in such timber or makes an outright sale of such timber".

(b) CONFORMING AMENDMENTS.—

(1) The third sentence of section 631(b) is amended by striking "The date of disposal" and inserting "In the case of disposal of timber with a retained economic interest, the date of disposal".

(2) The heading for section 631(b) is amended by striking "WITH A RETAINED ECONOMIC INTEREST".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after the date of the enactment of this Act.

SEC. 334. MODIFICATION OF SAFE HARBOR RULES FOR TIMBER REITS.

(a) EXPANSION OF PROHIBITED TRANSACTION SAFE HARBOR.—Section 857(b)(6) (relating to income from prohibited transactions) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (C) the following new subparagraph:

"(D) CERTAIN SALES NOT TO CONSTITUTE PROHIBITED TRANSACTIONS.—For purposes of this part, the term 'prohibited transaction' does not include a sale of property which is a real estate asset (as defined in section 856(c)(5)(B)) if—

"(i) the trust held the property for not less than 4 years in connection with the trade or business of producing timber,

"(ii) the aggregate expenditures made by the trust, or a partner of the trust, during the 4-year period preceding the date of sale which—

"(I) are includible in the basis of the property (other than timberland acquisition expenditures), and

"(II) are directly related to operation of the property for the production of timber or for the preservation of the property for use as timberland,

do not exceed 30 percent of the net selling price of the property,

"(iii) the aggregate expenditures made by the trust, or a partner of the trust, during the 4-year period preceding the date of sale which—

"(I) are includible in the basis of the property (other than timberland acquisition expenditures), and

"(II) are not directly related to operation of the property for the production of timber, or for the preservation of the property for use as timberland,

do not exceed 5 percent of the net selling price of the property,

"(iv)(I) during the taxable year the trust does not make more than 7 sales of property (other than sales of foreclosure property or sales to which section 1033 applies), or

"(II) the aggregate adjusted bases (as determined for purposes of computing earnings and profits) of property (other than sales of foreclosure property or sales to which section 1033 applies) sold during the taxable year does not exceed 10 percent of the aggregate bases (as so determined) of all of the assets of the trust as of the beginning of the taxable year,

"(v) in the case that the requirement of clause (iv)(I) is not satisfied, substantially all of the marketing expenditures with respect to the property were made through an independent contractor (as defined in section 856(d)(3)) from whom the trust itself does not derive or receive any income, and

"(vi) the sales price of the property sold by the trust is not based in whole or in part on income or profits, including income or profits derived from the sale or operation of such property.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

TITLE IV—ADDITIONAL PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

SEC. 401. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

"(1) GENERAL RULES.—

"(A) IN GENERAL.—In any case in which a court determines that the economic substance doctrine is relevant for purposes of this title to a transaction (or series of transactions), such transaction (or series of transactions) shall have economic substance only if the requirements of this paragraph are met.

"(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—A transaction has economic substance only if—

"(I) the transaction changes in a meaningful way (apart from Federal tax effects) the taxpayer's economic position, and

"(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

In applying subclause (II), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

"(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

"(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

"(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

"(C) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

"(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

"(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

"(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

"(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

"(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

"(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

"(C) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

"(D) TREATMENT OF LESSORS.—In applying paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease—

"(i) the expected net tax benefits with respect to the leased property shall not include the benefits of—

"(I) depreciation,

"(II) any tax credit, or

"(III) any other deduction as provided in guidance by the Secretary, and

"(ii) subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

"(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 402. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

"SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

"(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

"(2) LISTED TRANSACTION.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

"(3) INCREASE IN PENALTY FOR LARGE ENTITIES AND HIGH NET WORTH INDIVIDUALS.—

"(A) IN GENERAL.—In the case of a failure under subsection (a) by—

"(i) a large entity, or

"(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

"(B) LARGE ENTITY.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

"(C) HIGH NET WORTH INDIVIDUAL.—For purposes of subparagraph (A), the term 'high net worth individual' means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

"(c) DEFINITIONS.—For purposes of this section—

"(1) REPORTABLE TRANSACTION.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

"(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

"(d) AUTHORITY TO RESCIND PENALTY.—

"(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

"(A) the violation is with respect to a reportable transaction other than a listed transaction,

"(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

"(C) it is shown that the violation is due to an unintentional mistake of fact;

"(D) imposing the penalty would be against equity and good conscience, and

"(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

"(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

"(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

"(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

"(A) the facts and circumstances of the transaction,

"(B) the reasons for the rescission, and

"(C) the amount of the penalty rescinded.

"(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

"(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

"(B) a description of each penalty rescinded under this subsection and the reasons therefor.

"(e) PENALTY REPORTED TO SEC.—In the case of a person—

"(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

"(2) which—

"(A) is required to pay a penalty under this section with respect to a listed transaction,

"(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c), or

"(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

"(f) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under this title.".

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68

is amended by inserting after the item relating to section 6707 the following:

"Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 403. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

"SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

"(a) IMPOSITION OF PENALTY.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

"(b) REPORTABLE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'reportable transaction understatement' means the sum of—

"(A) the product of—

"(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

"(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

"(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

"(2) ITEMS TO WHICH SECTION APPLIES.—This section shall apply to any item which is attributable to—

"(A) any listed transaction, and

"(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

"(c) HIGHER PENALTY FOR NONDISCLOSED LISTED AND OTHER AVOIDANCE TRANSACTIONS.—

"(1) IN GENERAL.—Subsection (a) shall be applied by substituting '30 percent' for '20 percent' with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

"(2) RULES APPLICABLE TO ASSERTION AND COMPROMISE OF PENALTY.—

"(A) IN GENERAL.—Only upon the approval by the Chief Counsel for the Internal Revenue Service or the Chief Counsel's delegate at the national office of the Internal Revenue Service may a penalty to which paragraph (1) applies be included in a 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals. If such a letter is provided to the taxpayer, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(B) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

"(d) DEFINITIONS OF REPORTABLE AND LISTED TRANSACTIONS.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

"(e) SPECIAL RULES.—

"(1) COORDINATION WITH PENALTIES, ETC., ON OTHER UNDERSTATEMENTS.—In the case of an understatement (as defined in section 6662(d)(2))—

"(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

"(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements.

"(2) COORDINATION WITH OTHER PENALTIES.—

"(A) APPLICATION OF FRAUD PENALTY.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement and a noneconomic substance transaction understatement.

"(B) NO DOUBLE PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662B or 6663.

"(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement or noneconomic substance transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

"(4) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).

"(5) CROSS REFERENCE.—

"For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).".

(b) DETERMINATION OF OTHER UNDERSTATEMENTS.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

"The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies and without regard to items with respect to which a penalty is imposed by section 6662B.".

(c) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.—Section 6664 is amended by adding at the end the following new subsection:

"(d) REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.—

"(1) IN GENERAL.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

"(2) SPECIAL RULES.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

"(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

"(B) there is or was substantial authority for such treatment, and

"(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

"(3) RULES RELATING TO REASONABLE BELIEF.—For purposes of paragraph (2)(C)—

"(A) IN GENERAL.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

"(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

"(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

"(B) CERTAIN OPINIONS MAY NOT BE RELIED UPON.—

"(i) IN GENERAL.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

"(I) the tax advisor is described in clause (ii), or

"(II) the opinion is described in clause (iii).

"(ii) DISQUALIFIED TAX ADVISORS.—A tax advisor is described in this clause if the tax advisor—

"(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

"(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

"(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

"(IV) as determined under regulations prescribed by the Secretary, has a disqualifying financial interest with respect to the transaction.

"(iii) DISQUALIFIED OPINIONS.—For purposes of clause (i), an opinion is disqualified if the opinion—

"(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

"(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

"(III) does not identify and consider all relevant facts, or

"(IV) fails to meet any other requirement as the Secretary may prescribe.".

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 6664 is amended by inserting "FOR UNDERPAYMENTS" after "EXCEPTION".

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking "(as defined in section 6662(d)(2)(C)(iii))" in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

"(C) TAX SHELTER.—For purposes of subparagraph (B), the term 'tax shelter' means—

"(i) a partnership or other entity,

"(ii) any investment plan or arrangement, or

"(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.".

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking "this part" and inserting "section 6662 or 6663".

(5) Subsection (b) of section 7525 is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(6)(A) The heading for section 6662 is amended to read as follows:

"SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS.".

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

"Sec. 6662. Imposition of accuracy-related penalty on underpayments.

"Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions.".

(e) Effective Date.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 404. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) In General.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

"SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

"(a) Imposition of Penalty.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

"(b) Reduction of Penalty for Disclosed Transactions.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

"(c) Noneconomic Substance Transaction Understatement.—For purposes of this section—

"(1) In general.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

"(2) Noneconomic substance transaction.—The term 'noneconomic substance transaction' means any transaction if—

"(A) there is a lack of economic substance (within the meaning of section 7701(n)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(n)(2), or

"(B) the transaction fails to meet the requirements of any similar rule of law.

"(d) Rules Applicable To Compromise of Penalty.—

"(1) In general.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(2) Applicable rules.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of paragraph (1).

"(e) Coordination With Other Penalties.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

"(f) Cross References.—

"(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e).

"(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e).".

(b) Clerical Amendment.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

"Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.".

(c) Effective Date.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 405. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NONREPORTABLE TRANSACTIONS.

(a) Substantial Understatement of Corporations.—Section 6662(d)(1)(B) (relating to special rule for corporations) is amended to read as follows:

"(B) Special rule for corporations.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

"(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000), or

"(ii) $10,000,000.".

(b) Reduction for Understatement of Taxpayer Due to Position of Taxpayer or Disclosed Item.—

(1) In general.—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

"(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or".

(2) Conforming amendment.—Section 6662(d) is amended by adding at the end the following new paragraph:

"(3) Secretarial list.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin.".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 406. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) In General.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

"(b) Section Not To Apply to Communications Regarding Tax Shelters.—The privilege under subsection (a) shall not apply to any written communication which is—

"(1) between a federally authorized tax practitioner and—

"(A) any person,

"(B) any director, officer, employee, agent, or representative of the person, or

"(C) any other person holding a capital or profits interest in the person, and

"(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C)).".

(b) Effective Date.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 407. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) In General.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

"SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

"(a) In General.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

"(1) information identifying and describing the transaction,

"(2) information describing any potential tax benefits expected to result from the transaction, and

"(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

"(b) Definitions.—For purposes of this section—

"(1) Material advisor.—

"(A) In general.—The term 'material advisor' means any person—

"(i) who provides any material aid, assistance, or advice with respect to organizing, managing, promoting, selling, implementing, or carrying out any reportable transaction, and

"(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

"(B) Threshold amount.—For purposes of subparagraph (A), the threshold amount is—

"(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

"(ii) $250,000 in any other case.

"(2) Reportable transaction.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

"(c) Regulations.—The Secretary may prescribe regulations which provide—

"(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

"(2) exemptions from the requirements of this section, and

"(3) such rules as may be necessary or appropriate to carry out the purposes of this section.".

(b) Conforming Amendments.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6111. Disclosure of reportable transactions.".

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

"SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

"(a) In General.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

"(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

"(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.''.

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting ''written'' before ''request'' in paragraph (1)(A), and

(ii) by striking ''shall prescribe'' in paragraph (2) and inserting ''may prescribe''.

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6112. Material advisors of reportable transactions must keep lists of advisees.''.

(3)(A) The heading for section 6708 is amended to read as follows:

''SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS.''.

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

''Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions.''.

(c) REQUIRED DISCLOSURE NOT SUBJECT TO CLAIM OF CONFIDENTIALITY.—Subparagraph (A) of section 6112(b)(1), as redesignated by subsection (b)(2)(B), is amended by adding at the end the following new flush sentence:

''For purposes of this section, the identity of any person on such list shall not be privileged.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

(2) NO CLAIM OF CONFIDENTIALITY AGAINST DISCLOSURE.—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 142 of the Deficit Reduction Act of 1984.

SEC. 408. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) IN GENERAL.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

''SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

''(a) IN GENERAL.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

''(1) fails to file such return on or before the date prescribed therefor, or

''(2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

''(2) LISTED TRANSACTIONS.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

''(A) $200,000, or

''(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the listed transaction before the date the return including the transaction is filed under section 6111. Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

''(c) CERTAIN RULES TO APPLY.—The provisions of section 6707A(d) shall apply to any penalty imposed under this section.

''(d) REPORTABLE AND LISTED TRANSACTIONS.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).''.

(b) CLERICAL AMENDMENT.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking ''tax shelters'' and inserting ''reportable transactions''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

SEC. 409. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) IN GENERAL.—Subsection (a) of section 6708 is amended to read as follows:

''(a) IMPOSITION OF PENALTY.—

''(1) IN GENERAL.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

''(2) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 410. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

''(a) AUTHORITY TO SEEK INJUNCTION.—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

''(b) ADJUDICATION AND DECREE.—In any action under subsection (a), if the court finds—

''(1) that the person has engaged in any specified conduct, and

''(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

''(c) SPECIFIED CONDUCT.—For purposes of this section, the term 'specified conduct' means any action, or failure to take action, subject to penalty under section 6700, 6701, 6707, or 6708.''.

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 7408 is amended to read as follows:

''SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.''.

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

''Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions.''.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 411. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

(a) STANDARDS CONFORMED TO TAXPAYER STANDARDS.—Section 6694(a) (relating to understatements due to unrealistic positions) is amended—

(1) by striking ''realistic possibility of being sustained on its merits'' in paragraph (1) and inserting ''reasonable belief that the tax treatment in such position was more likely than not the proper treatment'',

(2) by striking ''or was frivolous'' in paragraph (3) and inserting ''or there was no reasonable basis for the tax treatment of such position'', and

(3) by striking ''UNREALISTIC'' in the heading and inserting ''IMPROPER''.

(b) AMOUNT OF PENALTY.—Section 6694 is amended—

(1) by striking ''$250'' in subsection (a) and inserting ''$1,000'', and

(2) by striking ''$1,000'' in subsection (b) and inserting ''$5,000''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to documents prepared after the date of the enactment of this Act.

SEC. 412. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) IN GENERAL.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

''(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

''(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

''(B) AMOUNT OF PENALTY.—

''(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $5,000.

''(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

''(I) such violation was due to reasonable cause, and

''(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

''(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

''(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

''(I) $25,000, or

''(II) the amount (not exceeding $100,000) determined under subparagraph (D), and

''(ii) subparagraph (B)(ii) shall not apply.

''(D) AMOUNT.—The amount determined under this subparagraph is—

''(i) in the case of a violation involving a transaction, the amount of the transaction, or

''(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

SEC. 413. FRIVOLOUS TAX SUBMISSIONS.

(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

"SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

"(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

"(1) such person files what purports to be a return of a tax imposed by this title but which—

"(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

"(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

"(2) the conduct referred to in paragraph (1)—

"(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(B) reflects a desire to delay or impede the administration of Federal tax laws.

"(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

"(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

"(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

"(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

"(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(ii) reflects a desire to delay or impede the administration of Federal tax laws.

"(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

"(i) a request for a hearing under—

"(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

"(II) section 6330 (relating to notice and opportunity for hearing before levy), and

"(ii) an application under—

"(I) section 6159 (relating to agreements for payment of tax liability in installments),

"(II) section 7122 (relating to compromises), or

"(III) section 7811 (relating to taxpayer assistance orders).

"(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

"(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

"(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

"(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.".

(b) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS BEFORE LEVY.—

(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

"(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

(A) by striking "(A)" and inserting "(A)(i)";

(B) by striking "(B)" and inserting "(ii)";

(C) by striking the period at the end of the first sentence and inserting "; or"; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

"(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).".

(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing".

(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—

(1) in subsection (b)(1), by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing", and

(2) in subsection (c), by striking "and (e)" and inserting "(e), and (g)".

(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended by adding at the end the following new subsection:

"(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

"Sec. 6702. Frivolous tax submissions.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 414. REGULATION OF INDIVIDUALS PRACTICING BEFORE THE DEPARTMENT OF TREASURY.

(a) CENSURE; IMPOSITION OF PENALTY.—

(1) IN GENERAL.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting ", or censure," after "Department", and

(B) by adding at the end the following new flush sentence:

"The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure of the representative.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) TAX SHELTER OPINIONS, ETC.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

"(d) Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary of the Treasury to impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion.".

SEC. 415. PENALTY ON PROMOTERS OF TAX SHELTERS.

(a) PENALTY ON PROMOTING ABUSIVE TAX SHELTERS.—Section 6700(a) is amended by adding at the end the following new sentence: "Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 416. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH REQUIRED LISTED TRANSACTIONS NOT REPORTED.

(a) IN GENERAL.—Section 6501(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

"(10) LISTED TRANSACTIONS.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a listed transaction (as defined in section 6707A(c)(2)) which is required under section 6011 to be included with such return or statement, the time for assessment of any tax imposed by this title with respect to such transaction shall not expire before the date which is 1 year after the earlier of—

"(A) the date on which the Secretary is furnished the information so required; or

"(B) the date that a material advisor (as defined in section 6111) meets the requirements of section 6112 with respect to a request by the Secretary under section 6112(b) relating to such transaction with respect to such taxpayer.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years with respect to which the period for assessing a deficiency did not expire before the date of the enactment of this Act.

SEC. 417. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONDISCLOSED REPORTABLE AND NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) IN GENERAL.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) INTEREST ON UNPAID TAXES ATTRIBUTABLE TO NONDISCLOSED REPORTABLE TRANSACTIONS AND NONECONOMIC SUBSTANCE TRANSACTIONS.—No deduction shall be allowed under this chapter for any interest paid or accrued under section 6601 on any underpayment of tax which is attributable to—

"(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

"(2) any noneconomic substance transaction understatement (as defined in section 6662B(c)).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions in taxable years beginning after the date of the enactment of this Act.

SEC. 418. AUTHORIZATION OF APPROPRIATIONS FOR TAX LAW ENFORCEMENT.

There is authorized to be appropriated $300,000,000 for each fiscal year beginning after September 30, 2003, for the purpose of carrying out tax law enforcement to combat tax avoidance transactions and other tax shelters, including the use of offshore financial accounts to conceal taxable income.

Subtitle B—Other Corporate Governance Provisions

SEC. 421. AFFIRMATION OF CONSOLIDATED RETURN REGULATION AUTHORITY.

(a) IN GENERAL.—Section 1502 (relating to consolidated return regulations) is amended by adding at the end the following new sentence: "In prescribing such regulations, the Secretary may prescribe rules applicable to corporations filing consolidated returns under section 1501 that are different from other provisions of this title that would apply if such corporations filed separate returns.".

(b) RESULT NOT OVERTURNED.—Notwithstanding subsection (a), the Internal Revenue Code of 1986 shall be construed by treating Treasury regulation § 1.1502–20(c)(1)(iii) (as in effect on January 1, 2001) as being inapplicable to the type of factual situation in 255 F.3d 1357 (Fed. Cir. 2001).

(c) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

SEC. 422. SIGNING OF CORPORATE TAX RETURNS BY CHIEF EXECUTIVE OFFICER.

(a) IN GENERAL.—Section 6062 (relating to signing of corporation returns) is amended by inserting after the first sentence the following new sentences: "The return of a corporation with respect to income shall also include a declaration signed by the chief executive officer of such corporation (or other such officer of the corporation as the Secretary may designate if the corporation does not have a chief executive officer), under penalties of perjury, that the chief executive officer ensures that such return complies with this title and that the chief executive officer was provided reasonable assurance of the accuracy of all material aspects of such return. The preceding sentence shall not apply to any return of a regulated investment company (within the meaning of section 851).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns filed after the date of the enactment of this Act.

SEC. 423. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

(a) IN GENERAL.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

"(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

"(2) EXCEPTION FOR AMOUNTS CONSTITUTING RESTITUTION.—Paragraph (1) shall not apply to any amount which the taxpayer establishes constitutes restitution for damage or harm caused by the violation of any law or the potential violation of any law. This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

"(3) EXCEPTION FOR AMOUNTS PAID OR INCURRED AS THE RESULT OF CERTAIN COURT ORDERS.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

"(4) CERTAIN NONGOVERNMENTAL REGULATORY ENTITIES.—An entity is described in this paragraph if it is—

"(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

"(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after April 27, 2003, except that such amendment shall not apply to amounts paid or incurred under any binding order or agreement entered into on or before April 27, 2003. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained on or before April 27, 2003.

SEC. 424. DISALLOWANCE OF DEDUCTION FOR PUNITIVE DAMAGES.

(a) DISALLOWANCE OF DEDUCTION.—

(1) IN GENERAL.—Section 162(g) (relating to treble damage payments under the antitrust laws) is amended by adding at the end the following new paragraph:

"(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).".

(2) CONFORMING AMENDMENTS.—

(A) Section 162(g) is amended—

(i) by striking "If" and inserting:

"(1) TREBLE DAMAGES.—If", and

(ii) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

(B) The heading for section 162(g) is amended by inserting "OR PUNITIVE DAMAGES" after "LAWS".

(b) INCLUSION IN INCOME OF PUNITIVE DAMAGES PAID BY INSURER OR OTHERWISE.—

(1) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

"SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.

"Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.".

(2) REPORTING REQUIREMENTS.—Section 6041 (relating to information at source) is amended by adding at the end the following new subsection:

"(f) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.".

(3) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end the following new item:

"Sec. 91. Punitive damages compensated by insurance or otherwise.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to damages paid or incurred on or after the date of the enactment of this Act.

SEC. 425. INCREASE IN CRIMINAL MONETARY PENALTY LIMITATION FOR THE UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.

(a) IN GENERAL.—Section 7206 (relating to fraud and false statements) is amended—

(1) by striking "Any person who—" and inserting "(a) IN GENERAL.—Any person who—", and

(2) by adding at the end the following new subsection:

"(b) INCREASE IN MONETARY LIMITATION FOR UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—If any portion of any underpayment (as defined in section 6664(a)) or overpayment (as defined in section 6401(a)) of tax required to be shown on a return is attributable to fraudulent action described in subsection (a), the applicable dollar amount under subsection (a) shall in no event be less than an amount equal to such portion. A rule similar to the rule under section 6663(b) shall apply for purposes of determining the portion so attributable.".

(b) INCREASE IN PENALTIES.—

(1) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 is amended—

(A) by striking "$100,000" and inserting "$250,000",

(B) by striking "$500,000" and inserting "$1,000,000", and

(C) by striking "5 years" and inserting "10 years".

(2) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking "misdemeanor" and inserting "felony", and

(ii) by striking "1 year" and inserting "10 years", and

(B) by striking the third sentence.

(3) FRAUD AND FALSE STATEMENTS.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking "$100,000" and inserting "$250,000",

(B) by striking "$500,000" and inserting "$1,000,000", and

(C) by striking "3 years" and inserting "5 years".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to underpayments and overpayments attributable to actions occurring after the date of the enactment of this Act.

Subtitle C—Enron-Related Tax Shelter Provisions

SEC. 431. LIMITATION ON TRANSFER OR IMPORTATION OF BUILT-IN LOSSES.

(a) IN GENERAL.—Section 362 (relating to basis to corporations) is amended by adding at the end the following new subsection:

"(e) LIMITATIONS ON BUILT-IN LOSSES.—

"(1) LIMITATION ON IMPORTATION OF BUILT-IN LOSSES.—

"(A) IN GENERAL.—If in any transaction described in subsection (a) or (b) there would (but for this subsection) be an importation of a net built-in loss, the basis of each property described in subparagraph (B) which is acquired in such transaction shall (notwithstanding subsections (a) and (b)) be its fair market value immediately after such transaction.

"(B) PROPERTY DESCRIBED.—For purposes of subparagraph (A), property is described in this subparagraph if—

"(i) gain or loss with respect to such property is not subject to tax under this subtitle in the hands of the transferor immediately before the transfer, and

"(ii) gain or loss with respect to such property is subject to such tax in the hands of the transferee immediately after such transfer.

In any case in which the transferor is a partnership, the preceding sentence shall be applied by treating each partner in such partnership as holding such partner's proportionate share of the property of such partnership.

"(C) IMPORTATION OF NET BUILT-IN LOSS.—For purposes of subparagraph (A), there is an importation of a net built-in loss in a transaction if the transferee's aggregate adjusted bases of property described in subparagraph (B) which is transferred in such transaction would (but for this paragraph) exceed the fair market value of such property immediately after such transaction.".

"(2) LIMITATION ON TRANSFER OF BUILT-IN LOSSES IN SECTION 351 TRANSACTIONS.—

"(A) IN GENERAL.—If—

"(i) property is transferred by a transferor in any transaction which is described in subsection (a) and which is not described in paragraph (1) of this subsection, and

"(ii) the transferee's aggregate adjusted bases of such property so transferred would (but for this paragraph) exceed the fair market value of such property immediately after such transaction,

then, notwithstanding subsection (a), the transferee's aggregate adjusted bases of the property so transferred shall not exceed the fair market value of such property immediately after such transaction.

"(B) ALLOCATION OF BASIS REDUCTION.—The aggregate reduction in basis by reason of subparagraph (A) shall be allocated among the property so transferred in proportion to their respective built-in losses immediately before the transaction.

"(C) EXCEPTION FOR TRANSFERS WITHIN AFFILIATED GROUP.—Subparagraph (A) shall not apply to any transaction if the transferor owns stock in the transferee meeting the requirements of section 1504(a)(2). In the case of property to which subparagraph (A) does not apply by reason of the preceding sentence, the transferor's basis in the stock received for such property shall not exceed its fair market value immediately after the transfer.".

(b) COMPARABLE TREATMENT WHERE LIQUIDATION.—Paragraph (1) of section 334(b) (relating to liquidation of subsidiary) is amended to read as follows:

"(1) IN GENERAL.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332 applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution—

"(A) in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, or

"(B) in any case in which the liquidating corporation is a foreign corporation, the corporate distributee is a domestic corporation, and the corporate distributee's aggregate adjusted bases of property described in section 362(e)(1)(B) which is distributed in such liquidation would (but for this subparagraph) exceed the fair market value of such property immediately after such liquidation.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after February 13, 2003.

SEC. 432. NO REDUCTION OF BASIS UNDER SECTION 734 IN STOCK HELD BY PARTNERSHIP IN CORPORATE PARTNER.

(a) IN GENERAL.—Section 755 is amended by adding at the end the following new subsection:

"(c) NO ALLOCATION OF BASIS DECREASE TO STOCK OF CORPORATE PARTNER.—In making an allocation under subsection (a) of any decrease in the adjusted basis of partnership property under section 734(b)—

"(1) no allocation may be made to stock in a corporation (or any person which is related (within the meaning of section 267(b) or 707(b)(1)) to such corporation) which is a partner in the partnership, and

"(2) any amount not allocable to stock by reason of paragraph (1) shall be allocated under subsection (a) to other partnership property in such manner as the Secretary may prescribe.

Gain shall be recognized to the partnership to the extent that the amount required to be allocated under paragraph (2) to other partnership property exceeds the aggregate adjusted basis of such other property immediately before the allocation required by paragraph (2).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions after February 13, 2003.

SEC. 433. REPEAL OF SPECIAL RULES FOR FASITS.

(a) IN GENERAL.—Part V of subchapter M of chapter 1 (relating to financial asset securitization investment trusts) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (6) of section 56(g) is amended by striking "REMIC, or FASIT" and inserting "or REMIC".

(2) Clause (ii) of section 382(l)(4)(B) is amended by striking "a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies," and inserting "or a REMIC to which part IV of subchapter M applies,".

(3) Paragraph (1) of section 582(c) is amended by striking ", and any regular interest in a FASIT,".

(4) Subparagraph (E) of section 856(c)(5) is amended by striking the last sentence.

(5)(A) Section 860G(a)(1) is amended by adding at the end the following new sentence: "An interest shall not fail to qualify as a regular interest solely because the specified principal amount of the regular interest (or the amount of interest accrued on the regular interest) can be reduced as a result of the nonoccurrence of 1 or more contingent payments with respect to any reverse mortgage loan held by the REMIC if, on the startup day for the REMIC, the sponsor reasonably believes that all principal and interest due under the regular interest will be paid at or prior to the liquidation of the REMIC.".

(B) The last sentence of section 860G(a)(3) is amended by inserting ", and any reverse mortgage loan (and each balance increase on such loan meeting the requirements of subparagraph (A)(iii)) shall be treated as an obligation secured by an interest in real property" before the period at the end.

(6) Paragraph (3) of section 860G(a) is amended by adding "and" at the end of subparagraph (B), by striking ", and" at the end of subparagraph (C) and inserting a period, and by striking subparagraph (D).

(7) Section 860G(a)(3), as amended by paragraph (6), is amended by adding at the end the following new sentence: "For purposes of subparagraph (A), if more than 50 percent of the obligations transferred to, or purchased by, the REMIC are originated by the United States or any State (or any political subdivision, agency, or instrumentality of the United States or any State) and are principally secured by an interest in real property, then each obligation transferred to, or purchased by, the REMIC shall be treated as secured by an interest in real property.".

(8)(A) Section 860G(a)(3)(A) is amended by striking "or" at the end of clause (i), by inserting "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) represents an increase in the principal amount under the original terms of an obligation described in clause (i) or (ii) if such increase—

"(I) is attributable to an advance made to the obligor pursuant to the original terms of the obligation,

"(II) occurs after the startup day, and

"(III) is purchased by the REMIC pursuant to a fixed price contract in effect on the startup day.".'

(B) Section 860G(a)(7)(B) is amended to read as follows:

"(B) QUALIFIED RESERVE FUND.—For purposes of subparagraph (A), the term 'qualified reserve fund' means any reasonably required reserve to—

"(i) provide for full payment of expenses of the REMIC or amounts due on regular interests in the event of defaults on qualified mortgages or lower than expected returns on cash flow investments, or

"(ii) provide a source of funds for the purchase of obligations described in clause (ii) or (iii) of paragraph (3)(A).

The aggregate fair market value of the assets held in any such reserve shall not exceed 50 percent of the aggregate fair market value of all of the assets of the REMIC on the startup day, and the amount of any such reserve shall be promptly and appropriately reduced to the extent the amount held in such reserve is no longer reasonably required for purposes specified in clause (i) or (ii) of paragraph (3)(A).".

(9) Subparagraph (C) of section 1202(e)(4) is amended by striking "REMIC, or FASIT" and inserting "or REMIC".

(10) Section 1272(a)(6)(B) is amended by adding at the end the following new flush sentence:

"For purposes of clause (iii), the Secretary shall prescribe regulations permitting the use of a current prepayment assumption, determined as of the close of the accrual period (or such other time as the Secretary may prescribe during the taxable year in which the accrual period ends).".

(11) Subparagraph (C) of section 7701(a)(19) is amended by adding "and" at the end of clause (ix), by striking ", and" at the end of clause (x) and inserting a period, and by striking clause (xi).

(12) The table of parts for subchapter M of chapter 1 is amended by striking the item relating to part V.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on February 14, 2003.

(2) EXCEPTION FOR EXISTING FASITS.—

(A) IN GENERAL.—Paragraph (1) shall not apply to any FASIT in existence on the date of the enactment of this Act to the extent that regular interests issued by the FASIT before such date continue to remain outstanding in accordance with the original terms of issuance.

(B) TRANSFER OF ADDITIONAL ASSETS NOT PERMITTED.—Except as provided in regulations prescribed by the Secretary of the Treasury or the Secretary's delegate, subparagraph (A) shall cease to apply as of the earliest date after the date of the enactment of this Act that any property is transferred to the FASIT.

SEC. 434. EXPANDED DISALLOWANCE OF DEDUCTION FOR INTEREST ON CONVERTIBLE DEBT.

(a) IN GENERAL.—Paragraph (2) of section 163(l) is amended by striking "or a related party" and inserting "or equity held by the issuer (or any related party) in any other person".

(b) CAPITALIZATION ALLOWED WITH RESPECT TO EQUITY OF PERSONS OTHER THAN ISSUER AND RELATED PARTIES.—Section 163(l) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6) and by inserting after paragraph (3) the following new paragraph:

"(4) CAPITALIZATION ALLOWED WITH RESPECT TO EQUITY OF PERSONS OTHER THAN ISSUER AND

RELATED PARTIES.—If the disqualified debt instrument of a corporation is payable in equity held by the issuer (or any related party) in any other person (other than a related party), the basis of such equity shall be increased by the amount not allowed as a deduction by reason of paragraph (1) with respect to the instrument.".

(c) EXCEPTION FOR CERTAIN INSTRUMENTS ISSUED BY DEALERS IN SECURITIES.—Section 163(l), as amended by subsection (b), is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7) and by inserting after paragraph (4) the following new paragraph:

"(5) EXCEPTION FOR CERTAIN INSTRUMENTS ISSUED BY DEALERS IN SECURITIES.—For purposes of this subsection, the term 'disqualified debt instrument' does not include indebtedness issued by a dealer in securities (or a related party) which is payable in, or by reference to, equity (other than equity of the issuer or a related party) held by such dealer in its capacity as a dealer in securities. For purposes of this paragraph, the term 'dealer in securities' has the meaning given such term by section 475.".

(c) CONFORMING AMENDMENTS.—Paragraph (3) of section 163(l) is amended—

(1) by striking "or a related party" in the material preceding subparagraph (A) and inserting "or any other person", and

(2) by striking "or interest" each place it appears.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued after February 13, 2003.

SEC. 435. EXPANDED AUTHORITY TO DISALLOW TAX BENEFITS UNDER SECTION 269.

(a) IN GENERAL.—Subsection (a) of section 269 (relating to acquisitions made to evade or avoid income tax) is amended to read as follows:

"(a) IN GENERAL.—If—

"(1)(A) any person or persons acquire, directly or indirectly, control of a corporation, or

"(B) any corporation acquires, directly or indirectly, property of another corporation and the basis of such property, in the hands of the acquiring corporation, is determined by reference to the basis in the hands of the transferor corporation, and

"(2) the principal purpose for which such acquisition was made is evasion or avoidance of Federal income tax,

then the Secretary may disallow such deduction, credit, or other allowance. For purposes of paragraph (1)(A), control means the ownership of stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of all shares of all classes of stock of the corporation.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to stock and property acquired after February 13, 2003.

SEC. 436. MODIFICATION OF INTERACTION BETWEEN SUBPART F AND PASSIVE FOREIGN INVESTMENT COMPANY RULES.

(a) LIMITATION ON EXCEPTION FROM PFIC RULES FOR UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.—Paragraph (2) of section 1297(e) (relating to passive foreign investment company) is amended by adding at the end the following flush sentence:

"Such term shall not include any period if the earning of subpart F income by such corporation during such period would result in only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of controlled foreign corporations beginning after February 13, 2003, and to taxable years of United States shareholders with or within which such taxable years of controlled foreign corporations end.

Subtitle D—Provisions to Discourage Expatriation

SEC. 441. TAX TREATMENT OF INVERTED CORPORATE ENTITIES

(a) IN GENERAL.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle) is amended by adding at the end the following new section:

"SEC. 7874. RULES RELATING TO INVERTED CORPORATE ENTITIES

"(a) INVERTED CORPORATIONS TREATED AS DOMESTIC CORPORATIONS.—

"(1) IN GENERAL.—If a foreign incorporated entity is treated as an inverted domestic corporation, then, notwithstanding section 7701(a)(4), such entity shall be treated for purposes of this title as a domestic corporation.

"(2) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

"(A) the entity completes after March 20, 2002, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

"(B) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

"(i) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

"(ii) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

"(C) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (A) if none of the corporation's stock was readily tradeable on an established securities market at any time during the 4-year period ending on the date of the acquisition.

"(b) PRESERVATION OF DOMESTIC TAX BASE IN CERTAIN INVERSION TRANSACTIONS TO WHICH SUBSECTION (a) DOES NOT APPLY.—

"(1) IN GENERAL.—If a foreign incorporated entity would be treated as an inverted domestic corporation with respect to an acquired entity if either—

"(A) subsection (a)(2)(A) were applied by substituting 'after December 31, 1996, and on or before March 20, 2002' for 'after March 20, 2002' and subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent', or

"(B) subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent',

then the rules of subsection (c) shall apply to any inversion gain of the acquired entity during the applicable period and the rules of subsection (d) shall apply to any related party transaction of the acquired entity during the applicable period. This subsection shall not apply for any taxable year if subsection (a) applies to such foreign incorporated entity for such taxable year.

"(2) ACQUIRED ENTITY.—For purposes of this section—

"(A) IN GENERAL.—The term 'acquired entity' means the domestic corporation or partnership substantially all of the properties of which are directly or indirectly acquired in an acquisition described in subsection (a)(2)(A) to which this subsection applies.

"(B) AGGREGATION RULES.—Any domestic person bearing a relationship described in section 267(b) or 707(b) to an acquired entity shall be treated as an acquired entity with respect to the acquisition described in subparagraph (A).

"(3) APPLICABLE PERIOD.—For purposes of this section—

"(A) IN GENERAL.—The term 'applicable period' means the period—

"(i) beginning on the first date properties are acquired as part of the acquisition described in subsection (a)(2)(A) to which this subsection applies, and

"(ii) ending on the date which is 10 years after the last date properties are acquired as part of such acquisition.

"(B) SPECIAL RULE FOR INVERSIONS OCCURRING BEFORE MARCH 21, 2002.—In the case of any acquired entity to which paragraph (1)(A) applies, the applicable period shall be the 10-year period beginning on January 1, 2003.

"(c) TAX ON INVERSION GAINS MAY NOT BE OFFSET.—If subsection (b) applies—

"(1) IN GENERAL.—The taxable income of an acquired entity (or any expanded affiliated group which includes such entity) for any taxable year which includes any portion of the applicable period shall in no event be less than the inversion gain of the entity for the taxable year.

"(2) CREDITS NOT ALLOWED AGAINST TAX ON INVERSION GAIN.—Credits shall be allowed against the tax imposed by this chapter on an acquired entity for any taxable year described in paragraph (1) only to the extent such tax exceeds the product of—

"(A) the amount of the inversion gain for the taxable year, and

"(B) the highest rate of tax specified in section 11(b)(1).

For purposes of determining the credit allowed by section 901 inversion gain shall be treated as from sources within the United States.

"(3) SPECIAL RULES FOR PARTNERSHIPS.—In the case of an acquired entity which is a partnership—

"(A) the limitations of this subsection shall apply at the partner rather than the partnership level,

"(B) the inversion gain of any partner for any taxable year shall be equal to the sum of—

"(i) the partner's distributive share of inversion gain of the partnership for such taxable year, plus

"(ii) income or gain required to be recognized for the taxable year by the partner under section 367(a), 741, or 1001, or under any other provision of chapter 1, by reason of the transfer during the applicable period of any partnership interest of the partner in such partnership to the foreign incorporated entity, and

"(C) the highest rate of tax specified in the rate schedule applicable to the partner under chapter 1 shall be substituted for the rate of tax under paragraph (2)(B).

"(4) INVERSION GAIN.—For purposes of this section, the term 'inversion gain' means any income or gain required to be recognized under section 304, 311(b), 367, 1001, or 1248, or under any other provision of chapter 1, by reason of the transfer during the applicable period of stock or other properties by an acquired entity—

"(A) as part of the acquisition described in subsection (a)(2)(A) to which subsection (b) applies, or

"(B) after such acquisition to a foreign related person.

The Secretary may provide that income or gain from the sale of inventories or other transactions in the ordinary course of a trade or business shall not be treated as inversion gain under subparagraph (B) to the extent the Secretary determines such treatment would not be inconsistent with the purposes of this section.

"(5) Coordination with section 172 and minimum tax.—Rules similar to the rules of paragraphs (3) and (4) of section 860E(a) shall apply for purposes of this section.

"(6) Statute of limitations.—

"(A) In general.—The statutory period for the assessment of any deficiency attributable to the inversion gain of any taxpayer for any pre-inversion year shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of the acquisition described in subsection (a)(2)(A) to which such gain relates and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

"(B) Pre-inversion year.—For purposes of subparagraph (A), the term 'pre-inversion year' means any taxable year if—

"(i) any portion of the applicable period is included in such taxable year, and

"(ii) such year ends before the taxable year in which the acquisition described in subsection (a)(2)(A) is completed.

"(d) Special Rules Applicable to Acquired Entities to Which Subsection (b) Applies.—

"(1) Increases in accuracy-related penalties.—In the case of any underpayment of tax of an acquired entity to which subsection (b) applies—

"(A) section 6662(a) shall be applied with respect to such underpayment by substituting '30 percent' for '20 percent', and

"(B) if such underpayment is attributable to one or more gross valuation understatements, the increase in the rate of penalty under section 6662(h) shall be to 50 percent rather than 40 percent.

"(2) Modifications of limitation on interest deduction.—In the case of an acquired entity to which subsection (b) applies, section 163(j) shall be applied—

"(A) without regard to paragraph (2)(A)(ii) thereof, and

"(B) by substituting '25 percent' for '50 percent' each place it appears in paragraph (2)(B) thereof.

"(e) Other Definitions and Special Rules.—For purposes of this section—

"(1) Rules for application of subsection (a)(2).—In applying subsection (a)(2) for purposes of subsections (a) and (b), the following rules shall apply:

"(A) Certain stock disregarded.—There shall not be taken into account in determining ownership for purposes of subsection (a)(2)(B)—

"(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

"(ii) stock of such entity which is sold in a public offering or private placement related to the acquisition described in subsection (a)(2)(A).

"(B) Plan deemed in certain cases.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (a)(2)(B) are met with respect to such domestic corporation or partnership, such actions shall be treated as pursuant to a plan.

"(C) Certain transfers disregarded.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

"(D) Special rule for related partnerships.—For purposes of applying subsection (a)(2) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482) shall be treated as 1 partnership.

"(E) Treatment of certain rights.—The Secretary shall prescribe such regulations as may be necessary—

"(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

"(ii) to treat stock as not stock.

"(2) Expanded affiliated group.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a) but without regard to section 1504(b)(3), except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

"(3) Foreign incorporated entity.—The term 'foreign incorporated entity' means any entity which is, or but for subsection (a)(1) would be, treated as a foreign corporation for purposes of this title.

"(4) Foreign related person.—The term 'foreign related person' means, with respect to any acquired entity, a foreign person which—

"(A) bears a relationship to such entity described in section 267(b) or 707(b), or

"(B) is under the same common control (within the meaning of section 482) as such entity.

"(5) Subsequent acquisitions by unrelated domestic corporations.—

"(A) In general.—Subject to such conditions, limitations, and exceptions as the Secretary may prescribe, if, after an acquisition described in subsection (a)(2)(A) to which subsection (b) applies, a domestic corporation stock of which is traded on an established securities market acquires directly or indirectly any properties of one or more acquired entities in a transaction with respect to which the requirements of subparagraph (B) are met, this section shall cease to apply to any such acquired entity with respect to which such requirements are met.

"(B) Requirements.—The requirements of the subparagraph are met with respect to a transaction involving any acquisition described in subparagraph (A) if—

"(i) before such transaction the domestic corporation did not have a relationship described in section 267(b) or 707(b), and was not under common control (within the meaning of section 482), with the acquired entity, or any member of an expanded affiliated group including such entity, and

"(ii) after such transaction, such acquired entity—

"(I) is a member of the same expanded affiliated group which includes the domestic corporation or has such a relationship or is under such common control with any member of such group, and

"(II) is not a member of, and does not have such a relationship and is not under such common control with any member of, the expanded affiliated group which before such acquisition included such entity.

"(f) Regulations.—The Secretary shall provide such regulations as are necessary to carry out this section, including regulations providing for such adjustments to the application of this section as are necessary to prevent the avoidance of the purposes of this section, including the avoidance of such purposes through—

"(1) the use of related persons, pass-thru or other noncorporate entities, or other intermediaries, or

"(2) transactions designed to have persons cease to be (or not become) members of expanded affiliated groups or related persons.".

(b) Information Reporting.—The Secretary of the Treasury shall exercise the Secretary's authority under the Internal Revenue Code of 1986 to require entities involved in transactions to which section 7874 of such Code (as added by subsection (a)) applies to report to the Secretary, shareholders, partners, and such other persons as the Secretary may prescribe such information as is necessary to ensure the proper tax treatment of such transactions.

(c) Conforming Amendment.—The table of sections for subchapter C of chapter 80 is amended by adding at the end the following new item:

"Sec. 7874. Rules relating to inverted corporate entities.".

(d) Transition Rule for Certain Regulated Investment Companies and Unit Investment Trusts.—Notwithstanding section 7874 of the Internal Revenue Code of 1986 (as added by subsection (a)), a regulated investment company, or other pooled fund or trust specified by the Secretary of the Treasury, may elect to recognize gain by reason of section 367(a) of such Code with respect to a transaction under which a foreign incorporated entity is treated as an inverted domestic corporation under section 7874(a) of such Code by reason of an acquisition completed after March 20, 2002, and before January 1, 2004.

SEC. 442. IMPOSITION OF MARK-TO-MARKET TAX ON INDIVIDUALS WHO EXPATRIATE.

(a) In General.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

"SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

"(a) General Rules.—For purposes of this subtitle—

"(1) Mark to market.—Except as provided in subsections (d) and (f), all property of a covered expatriate to whom this section applies shall be treated as sold on the day before the expatriation date for its fair market value.

"(2) Recognition of gain or loss.—In the case of any sale under paragraph (1)—

"(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

"(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

"(3) Exclusion for certain gain.—

"(A) In general.—The amount which, but for this paragraph, would be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by \$600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

"(B) Cost-of-living adjustment.—

"(i) In general.—In the case of an expatriation date occurring in any calendar year after 2003, the \$600,000 amount under subparagraph (A) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 2002' for 'calendar year 1992' in subparagraph (B) thereof.

"(ii) Rounding rules.—If any amount after adjustment under clause (i) is not a multiple of \$1,000, such amount shall be rounded to the next lower multiple of \$1,000.

"(4) Election to continue to be taxed as United States citizen.—

"(A) In general.—If a covered expatriate elects the application of this paragraph—

"(i) this section (other than this paragraph and subsection (i)) shall not apply to the expatriate, but "(ii) in the case of property to which this section would apply but for such election, the expatriate shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

"(B) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

"(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

"(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

"(iii) complies with such other requirements as the Secretary may prescribe.

"(C) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

"(b) ELECTION TO DEFER TAX.—

"(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the payment of the additional tax attributable to such property shall be postponed until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

"(2) DETERMINATION OF TAX WITH RESPECT TO PROPERTY.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

"(3) TERMINATION OF POSTPONEMENT.—No tax may be postponed under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), unless the taxpayer corrects such failure within the time specified by the Secretary).

"(4) SECURITY.—

"(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided to the Secretary with respect to such property.

"(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

"(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2) for the property, or

"(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

"(5) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

"(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be made under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

"(7) INTEREST.—For purposes of section 6601—

"(A) the last date for the payment of tax shall be determined without regard to the election under this subsection, and

"(B) section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

"(c) COVERED EXPATRIATE.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'covered expatriate' means an expatriate.

"(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

"(A) the individual—

"(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

"(ii) has not been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) during the 5 taxable years ending with the taxable year during which the expatriation date occurs, or

"(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

"(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

"(d) EXEMPT PROPERTY; SPECIAL RULES FOR PENSION PLANS.—

"(1) EXEMPT PROPERTY.—This section shall not apply to the following:

"(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the day before the expatriation date, meet the requirements of section 897(c)(2).

"(B) SPECIFIED PROPERTY.—Any property or interest in property not described in subparagraph (A) which the Secretary specifies in regulations.

"(2) SPECIAL RULES FOR CERTAIN RETIREMENT PLANS.—

"(A) IN GENERAL.—If a covered expatriate holds on the day before the expatriation date any interest in a retirement plan to which this paragraph applies—

"(i) such interest shall not be treated as sold for purposes of subsection (a)(1), but

"(ii) an amount equal to the present value of the expatriate's nonforfeitable accrued benefit shall be treated as having been received by such individual on such date as a distribution under the plan.

"(B) TREATMENT OF SUBSEQUENT DISTRIBUTIONS.—In the case of any distribution on or after the expatriation date to or on behalf of the covered expatriate from a plan from which the expatriate was treated as receiving a distribution under subparagraph (A), the amount otherwise includible in gross income by reason of the subsequent distribution shall be reduced by the excess of the amount includible in gross income under subparagraph (A) over any portion of such amount to which this subparagraph previously applied.

"(C) TREATMENT OF SUBSEQUENT DISTRIBUTIONS BY PLAN.—For purposes of this title, a retirement plan to which this paragraph applies, and any person acting on the plan's behalf, shall treat any subsequent distribution described in subparagraph (B) in the same manner as such distribution would be treated without regard to this paragraph.

"(D) APPLICABLE PLANS.—This paragraph shall apply to—

"(i) any qualified retirement plan (as defined in section 4974(c)),

"(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

"(iii) to the extent provided in regulations, any foreign pension plan or similar retirement arrangements or programs.

"(e) DEFINITIONS.—For purposes of this section—

"(1) EXPATRIATE.—The term 'expatriate' means—

"(A) any United States citizen who relinquishes citizenship, and

"(B) any long-term resident of the United States who—

"(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

"(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

"(2) EXPATRIATION DATE.—The term 'expatriation date' means—

"(A) the date an individual relinquishes United States citizenship, or

"(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

"(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing United States citizenship on the earliest of—

"(A) the date the individual renounces such individual's United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

"(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)-(4)),

"(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

"(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

"(4) LONG-TERM RESIDENT.—The term 'long-term resident' has the meaning given to such term by section 877(e)(2).

"(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust on the day before the expatriation date—

"(A) the individual shall not be treated as having sold such interest,

"(B) such interest shall be treated as a separate share in the trust, and

"(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

"(ii) the separate trust shall be treated as having sold its assets on the day before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

"(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii). In determining the amount of such distribution, proper adjustments shall be made for liabilities of the trust allocable to an individual's share in the trust.

"(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

"(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

"(i) paragraph (1) and subsection (a) shall not apply, and

"(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

"(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

"(i) the highest rate of tax imposed by section 1(e) for the taxable year which includes the day before the expatriation date, multiplied by the amount of the distribution, or

"(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

"(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

"(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

"(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods, except that section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

"(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

"(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

"(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

"(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

"(E) TAX DEDUCTED AND WITHHELD.—

"(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

"(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

"(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

"(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

"(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

"(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

"(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

"(G) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

"(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust which is described in section 7701(a)(30)(E).

"(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the day before the expatriation date, is vested in the beneficiary.

"(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

"(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

"(v) COORDINATION WITH RETIREMENT PLAN RULES.—This subsection shall not apply to an interest in a trust which is part of a retirement plan to which subsection (d)(2) applies.

"(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

"(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar adviser.

"(B) OTHER DETERMINATIONS.—For purposes of this section—

"(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

"(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

"(I) the methodology used to determine that taxpayer's trust interest under this section, and

"(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

"(g) TERMINATION OF DEFERRALS, ETC.—In the case of any covered expatriate, notwithstanding any other provision of this title—

"(1) any period during which recognition of income or gain is deferred shall terminate on the day before the expatriation date, and

"(2) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

"(h) IMPOSITION OF TENTATIVE TAX.—

"(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

"(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

"(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

"(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.'

"(i) SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.—

"(1) IMPOSITION OF LIEN.—

"(A) IN GENERAL.—If a covered expatriate makes an election under subsection (a)(4) or (b) which results in the deferral of any tax imposed by reason of subsection (a), the deferred amount (including any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on all property of the expatriate located in the United States (without regard to whether this section applies to the property).

"(B) DEFERRED AMOUNT.—For purposes of this subsection, the deferred amount is the amount of the increase in the covered expatriate's income tax which, but for the election under subsection (a)(4) or (b), would have occurred by reason of this section for the taxable year including the expatriation date.

"(2) PERIOD OF LIEN.—The lien imposed by this subsection shall arise on the expatriation date and continue until—

"(A) the liability for tax by reason of this section is satisfied or has become unenforceable by reason of lapse of time, or

"(B) it is established to the satisfaction of the Secretary that no further tax liability may arise by reason of this section.

"(3) CERTAIN RULES APPLY.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this subsection as if it were a lien imposed by section 6324A.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS FROM EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

"(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—

"(1) IN GENERAL.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.

"(2) EXCEPTIONS FOR TRANSFERS OTHERWISE SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1) shall not apply to any property if either—

"(A) the gift, bequest, devise, or inheritance is—

“(i) shown on a timely filed return of tax imposed by chapter 12 as a taxable gift by the covered expatriate, or

“(ii) included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate, or

“(B) no such return was timely filed but no such return would have been required to be filed even if the covered expatriate were a citizen or long-term resident of the United States.”.

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

“(48) TERMINATION OF UNITED STATES CITIZENSHIP.—

“(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

“(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.”.

(d) INELIGIBILITY FOR VISA OR ADMISSION TO UNITED STATES.—

(1) IN GENERAL.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

“(E) FORMER CITIZENS NOT IN COMPLIANCE WITH EXPATRIATION REVENUE PROVISIONS.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation).”.

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

“(19) DISCLOSURE TO DENY VISA OR ADMISSION TO CERTAIN EXPATRIATES.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).”.

(B) SAFEGUARDS.—

(i) TECHNICAL AMENDMENTS.—Paragraph (4) of section 6103(p) of the Internal Revenue Code of 1986, as amended by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961), is amended by striking “or (17)” after “any other person described in subsection (l)(16)” each place it appears and inserting “or (18)”.

(ii) CONFORMING AMENDMENTS.—Section 6103(p)(4) (relating to safeguards), as amended by clause (i), is amended by striking “or (18)” after “any other person described in subsection (l)(16)” each place it appears and inserting “(18), or (19)”.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(B) TECHNICAL AMENDMENTS.—The amendments made by paragraph (2)(B)(i) shall take effect as if included in the amendments made by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961).

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

“(g) APPLICATION.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after February 5, 2003.”.

(2) Section 2107 is amended by adding at the end the following new subsection:

“(f) APPLICATION.—This section shall not apply to any expatriate subject to section 877A.”.

(3) Section 2501(a)(3) is amended by adding at the end the following new subparagraph:

“(F) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.”.

(4)(A) Paragraph (1) of section 6039G(d) is amended by inserting “or 877A” after “section 877”.

(B) The second sentence of section 6039G(e) is amended by inserting “or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))” after “877(a))”.

(C) Section 6039G(f) is amended by inserting “or 877A(e)(2)(B)” after “877(e)(1)”.

(f) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

“Sec. 877A. Tax responsibilities of expatriation.”.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after February 5, 2003.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to gifts and bequests received on or after February 5, 2003, from an individual or the estate of an individual whose expatriation date (as so defined) occurs after such date.

(3) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of the Internal Revenue Code of 1986, as added by this section, shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 443. EXCISE TAX ON STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

(a) IN GENERAL.—Subtitle D is amended by adding at the end the following new chapter:

“CHAPTER 48—STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS

“Sec. 5000A. Stock compensation of insiders in inverted corporations entities.

“SEC. 5000A. STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

“(a) IMPOSITION OF TAX.—In the case of an individual who is a disqualified individual with respect to any inverted corporation, there is hereby imposed on such person a tax equal to 20 percent of the value (determined under subsection (b)) of the specified stock compensation held (directly or indirectly) by or for the benefit of such individual or a member of such individual's family (as defined in section 267) at any time during the 12-month period beginning on the date which is 6 months before the inversion date.

“(b) VALUE.—For purposes of subsection (a)—

“(1) IN GENERAL.—The value of specified stock compensation shall be—

“(A) in the case of a stock option (or other similar right) or any stock appreciation right, the fair value of such option or right, and

“(B) in any other case, the fair market value of such compensation.

“(2) DATE FOR DETERMINING VALUE.—The determination of value shall be made—

“(A) in the case of specified stock compensation held on the inversion date, on such date,

“(B) in the case of such compensation which is canceled during the 6 months before the inversion date, on the day before such cancellation, and

“(C) in the case of such compensation which is granted after the inversion date, on the date such compensation is granted.

“(c) TAX TO APPLY ONLY IF SHAREHOLDER GAIN RECOGNIZED.—Subsection (a) shall apply to any disqualified individual with respect to an inverted corporation only if gain (if any) on any stock in such corporation is recognized in whole or part by any shareholder by reason of the acquisition referred to in section 7874(a)(2)(A) (determined by substituting ‘July 10, 2002’ for ‘March 20, 2002’) with respect to such corporation.

“(d) EXCEPTION WHERE GAIN RECOGNIZED ON COMPENSATION.—Subsection (a) shall not apply to—

“(1) any stock option which is exercised on the inversion date or during the 6-month period before such date and to the stock acquired in such exercise, if income is recognized under section 83 on or before the inversion date with respect to the stock acquired pursuant to such exercise, and

“(2) any specified stock compensation which is exercised, sold, exchanged, distributed, cashed out, or otherwise paid during such period in a transaction in which gain or loss is recognized in full.

“(e) DEFINITIONS.—For purposes of this section—

“(1) DISQUALIFIED INDIVIDUAL.—The term ‘disqualified individual’ means, with respect to a corporation, any individual who, at any time during the 12-month period beginning on the date which is 6 months before the inversion date—

“(A) is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 with respect to such corporation, or

“(B) would be subject to such requirements if such corporation were an issuer of equity securities referred to in such section.

“(2) INVERTED CORPORATION; INVERSION DATE.—

“(A) INVERTED CORPORATION.—The term ‘inverted corporation’ means any corporation to which subsection (a) or (b) of section 7874 applies determined—

“(i) by substituting ‘July 10, 2002’ for ‘March 20, 2002’ in section 7874(a)(2)(A), and

“(ii) without regard to subsection (b)(1)(A).

Such term includes any predecessor or successor of such a corporation.

“(B) INVERSION DATE.—The term ‘inversion date’ means, with respect to a corporation, the date on which the corporation first becomes an inverted corporation.

“(3) SPECIFIED STOCK COMPENSATION.—

“(A) IN GENERAL.—The term ‘specified stock compensation’ means payment (or right to payment) granted by the inverted corporation (or by any member of the expanded affiliated group which includes such corporation) to any person in connection with the performance of services by a disqualified individual for such corporation or member if the value of such payment or right is based on (or determined by reference to) the value (or change in value) of stock in such corporation (or any such member).

“(B) EXCEPTIONS.—Such term shall not include—

“(i) any option to which part II of subchapter D of chapter 1 applies, or

“(ii) any payment or right to payment from a plan referred to in section 280G(b)(6).

“(4) EXPANDED AFFILIATED GROUP.—The term ‘expanded affiliated group’ means an affiliated

group (as defined in section 1504(a) without regard to section 1504(b)(3)); except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

"(f) SPECIAL RULES.—For purposes of this section—

"(1) CANCELLATION OF RESTRICTION.—The cancellation of a restriction which by its terms will never lapse shall be treated as a grant.

"(2) PAYMENT OR REIMBURSEMENT OF TAX BY CORPORATION TREATED AS SPECIFIED STOCK COMPENSATION.—Any payment of the tax imposed by this section directly or indirectly by the inverted corporation or by any member of the expanded affiliated group which includes such corporation—

"(A) shall be treated as specified stock compensation, and

"(B) shall not be allowed as a deduction under any provision of chapter 1.

"(3) CERTAIN RESTRICTIONS IGNORED.—Whether there is specified stock compensation, and the value thereof, shall be determined without regard to any restriction other than a restriction which by its terms will never lapse.

"(4) PROPERTY TRANSFERS.—Any transfer of property shall be treated as a payment and any right to a transfer of property shall be treated as a right to a payment.

"(5) OTHER ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) DENIAL OF DEDUCTION.—

(1) IN GENERAL.—Paragraph (6) of section 275(a) is amended by inserting "48," after "46,".

(2) $1,000,000 LIMIT ON DEDUCTIBLE COMPENSATION REDUCED BY PAYMENT OF EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—Paragraph (4) of section 162(m) is amended by adding at the end the following new subparagraph:

"(G) COORDINATION WITH EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—The dollar limitation contained in paragraph (1) with respect to any covered employee shall be reduced (but not below zero) by the amount of any payment (with respect to such employee) of the tax imposed by section 5000A directly or indirectly by the inverted corporation (as defined in such section) or by any member of the expanded affiliated group (as defined in such section) which includes such corporation.".

(c) CONFORMING AMENDMENTS.—

(1) The last sentence of section 3121(v)(2)(A) is amended by inserting before the period "or to any specified stock compensation (as defined in section 5000A) on which tax is imposed by section 5000A".

(2) The table of chapters for subtitle D is amended by adding at the end the following new item:

"Chapter 48. Stock compensation of insiders in inverted corporations.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 11, 2002; except that periods before such date shall not be taken into account in applying the periods in subsections (a) and (e)(1) of section 5000A of the Internal Revenue Code of 1986, as added by this section.

SEC. 444. REINSURANCE OF UNITED STATES RISKS IN FOREIGN JURISDICTIONS.

(a) IN GENERAL.—Section 845(a) (relating to allocation in case of reinsurance agreement involving tax avoidance or evasion) is amended by striking "source and character" and inserting "amount, source, or character".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any risk reinsured after April 11, 2002.

SEC. 445. REPORTING OF TAXABLE MERGERS AND ACQUISITIONS.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6043 the following new section:

"SEC. 6043A. TAXABLE MERGERS AND ACQUISITIONS.

"(a) IN GENERAL.—The acquiring corporation in any taxable acquisition shall make a return (according to the forms or regulations prescribed by the Secretary) setting forth—

"(1) a description of the acquisition,

"(2) the name and address of each shareholder of the acquired corporation who is required to recognize gain (if any) as a result of the acquisition,

"(3) the amount of money and the fair market value of other property transferred to each such shareholder as part of such acquisition, and

"(4) such other information as the Secretary may prescribe.

To the extent provided by the Secretary, the requirements of this section applicable to the acquiring corporation shall be applicable to the acquired corporation and not to the acquiring corporation.

"(b) NOMINEE REPORTING.—Any person who holds stock as a nominee for another person shall furnish in the manner prescribed by the Secretary to such other person the information provided by the corporation under subsection (d).

"(c) TAXABLE ACQUISITION.—For purposes of this section, the term 'taxable acquisition' means any acquisition by a corporation of stock in or property of another corporation if any shareholder of the acquired corporation is required to recognize gain (if any) as a result of such acquisition.

"(d) STATEMENTS TO BE FURNISHED TO SHAREHOLDERS.—Every person required to make a return under subsection (a) shall furnish to each shareholder whose name is required to be set forth in such return a written statement showing—

"(1) the name, address, and phone number of the information contact of the person required to make such return,

"(2) the information required to be shown on such return with respect to such shareholder, and

"(3) such other information as the Secretary may prescribe.

The written statement required under the preceding sentence shall be furnished to the shareholder on or before January 31 of the year following the calendar year during which the taxable acquisition occurred.".

(b) ASSESSABLE PENALTIES.—

(1) Subparagraph (B) of section 6724(d)(1) (relating to definitions) is amended by redesignating clauses (ii) through (xvii) as clauses (iii) through (xviii), respectively, and by inserting after clause (i) the following new clause:

"(ii) section 6043A(a) (relating to returns relating to taxable mergers and acquisitions),".

(2) Paragraph (2) of section 6724(d) is amended by redesignating subparagraphs (F) through (AA) as subparagraphs (G) through (BB), respectively, and by inserting after subparagraph (E) the following new subparagraph:

"(F) subsections (b) and (d) of section 6043A (relating to returns relating to taxable mergers and acquisitions).".

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6043 the following new item:

"Sec. 6043A. Returns relating to taxable mergers and acquisitions.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to acquisitions after the date of the enactment of this Act.

Subtitle E—International Tax

SEC. 451. CLARIFICATION OF BANKING BUSINESS FOR PURPOSES OF DETERMINING INVESTMENT OF EARNINGS IN UNITED STATES PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 956(c)(2) is amended to read as follows:

"(A) obligations of the United States, money, or deposits with—

"(i) any bank (as defined by section 2(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)), without regard to subparagraphs (C) and (G) of paragraph (2) of such section), or

"(ii) any corporation not described in clause (i) with respect to which a bank holding company (as defined by section 2(a) of such Act) or financial holding company (as defined by section 2(p) of such Act) owns directly or indirectly more than 80 percent by vote or value of the stock of such corporation;".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 452. PROHIBITION ON NONRECOGNITION OF GAIN THROUGH COMPLETE LIQUIDATION OF HOLDING COMPANY.

(a) IN GENERAL.—Section 332 is amended by adding at the end the following new subsection:

"(d) RECOGNITION OF GAIN ON LIQUIDATION OF CERTAIN HOLDING COMPANIES.—

"(1) IN GENERAL.—In the case of any distribution to a foreign corporation in complete liquidation of an applicable holding company—

"(A) subsection (a) and section 331 shall not apply to such distribution, and

"(B) such distribution shall be treated as a distribution to which section 301 applies.

"(2) APPLICABLE HOLDING COMPANY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable holding company' means any domestic corporation—

"(i) which is a common parent of an affiliated group,

"(ii) stock of which is directly owned by the distributee foreign corporation,

"(iii) substantially all of the assets of which consist of stock in other members of such affiliated group, and

"(iv) which has not been in existence at all times during the 5 years immediately preceding the date of the liquidation.

"(B) AFFILIATED GROUP.—For purposes of this subsection, the term 'affiliated group' has the meaning given such term by section 1504(a) (without regard to paragraphs (2) and (4) of section 1504(b)).

"(3) COORDINATION WITH SUBPART F.—If the distributee of a distribution described in paragraph (1) is a controlled foreign corporation (as defined in section 957), then notwithstanding paragraph (1) or subsection (a), such distribution shall be treated as a distribution to which section 331 applies.

"(4) REGULATIONS.—The Secretary shall provide such regulations as appropriate to prevent the abuse of this subsection, including regulations which provide, for the purposes of clause (iv) of paragraph (2)(A), that a corporation is not in existence for any period unless it is engaged in the active conduct of a trade or business or owns a significant ownership interest in another corporation so engaged.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions in complete liquidation occurring on or after the date of the enactment of this Act.

SEC. 453. PREVENTION OF MISMATCHING OF INTEREST AND ORIGINAL ISSUE DISCOUNT DEDUCTIONS AND INCOME INCLUSIONS IN TRANSACTIONS WITH RELATED FOREIGN PERSONS.

(a) ORIGINAL ISSUE DISCOUNT.—Section 163(e)(3) (relating to special rule for original *issue discount on obligation held by related foreign person) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:*

"(B) SPECIAL RULE FOR CERTAIN FOREIGN ENTITIES.—

"(i) IN GENERAL.—In the case of any debt instrument having original issue discount which is held by a related foreign person which is a foreign personal holding company (as defined in section 552), a controlled foreign corporation (as defined in section 957), or a passive foreign investment company (as defined in section 1297), a deduction shall be allowable to the issuer with respect to such original issue discount for any taxable year before the taxable year in which paid only to the extent such original issue discount is included during such prior taxable year in the gross income of a United States person who owns (within the meaning of section 958(a)) stock in such corporation.

"(ii) SECRETARIAL AUTHORITY.—The Secretary may by regulation exempt transactions from the application of clause (i), including any transaction which is entered into by a payor in the ordinary course of a trade or business in which the payor is predominantly engaged.".

(b) INTEREST AND OTHER DEDUCTIBLE AMOUNTS.—Section 267(a)(3) is amended—

(1) by striking "The Secretary" and inserting: "(A) IN GENERAL.—The Secretary", and

(2) by adding at the end the following new subparagraph:

"(B) SPECIAL RULE FOR CERTAIN FOREIGN ENTITIES.—

"(i) IN GENERAL.—Notwithstanding subparagraph (A), in the case of any amount payable to a foreign personal holding company (as defined in section 552), a controlled foreign corporation (as defined in section 957), or a passive foreign investment company (as defined in section 1297), a deduction shall be allowable to the payor with respect to such amount for any taxable year before the taxable year in which paid only to the extent such amount is included during such prior taxable year in the gross income of a United States person who owns (within the meaning of section 958(a)) stock in such corporation.

"(ii) SECRETARIAL AUTHORITY.—The Secretary may by regulation exempt transactions from the application of clause (i), including any transaction which is entered into by a payor in the ordinary course of a trade or business in which the payor is predominantly engaged and in which the payment of the accrued amounts occurs within 8½ months after accrual or within such other period as the Secretary may prescribe.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments accrued on or after the date of the enactment of this Act.

SEC. 454. EFFECTIVELY CONNECTED INCOME TO INCLUDE CERTAIN FOREIGN SOURCE INCOME.

(a) IN GENERAL.—Section 864(c)(4)(B) (relating to treatment of income from sources without the United States as effectively connected income) is amended by adding at the end the following new flush sentence:

"Any income or gain which is equivalent to any item of income or gain described in clause (i), (ii), or (iii) shall be treated in the same manner as such item for purposes of this subparagraph.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 455. RECAPTURE OF OVERALL FOREIGN LOSSES ON SALE OF CONTROLLED FOREIGN CORPORATION.

(a) IN GENERAL.—Section 904(f)(3) (relating to dispositions) is amending by adding at the end the following new subparagraph:

"(D) APPLICATION TO DISPOSITIONS OF STOCK IN CONTROLLED FOREIGN CORPORATIONS.—In the case of any disposition by a taxpayer of any share of stock in a controlled foreign corporation (as defined in section 957), this paragraph shall apply to such disposition in the same manner as if it were a disposition of property described in subparagraph (A), except that the exception contained in subparagraph (C)(i) shall not apply.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dispositions after the date of the enactment of this Act.

SEC. 456. MINIMUM HOLDING PERIOD FOR FOREIGN TAX CREDIT ON WITHHOLDING TAXES ON INCOME OTHER THAN DIVIDENDS.

(a) IN GENERAL.—Section 901 is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) MINIMUM HOLDING PERIOD FOR WITHHOLDING TAXES ON GAIN AND INCOME OTHER THAN DIVIDENDS ETC.—

"(1) IN GENERAL.—In no event shall a credit be allowed under subsection (a) for any withholding tax (as defined in subsection (k)) on any item of income or gain with respect to any property if—

"(A) such property is held by the recipient of the item for 15 days or less during the 30-day period beginning on the date which is 15 days before the date on which the right to receive payment of such item arises, or

"(B) to the extent that the recipient of the item is under an obligation (whether pursuant to a short sale or otherwise) to make related payments with respect to positions in substantially similar or related property.

This paragraph shall not apply to any dividend to which subsection (k) applies.

"(2) EXCEPTION FOR TAXES PAID BY DEALERS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any qualified tax with respect to any property held in the active conduct in a foreign country of a business as a dealer in such property.

"(B) QUALIFIED TAX.—For purposes of subparagraph (A), the term 'qualified tax' means a tax paid to a foreign country (other than the foreign country referred to in subparagraph (A)) if—

"(i) the item to which such tax is attributable is subject to taxation on a net basis by the country referred to in subparagraph (A), and

"(ii) such country allows a credit against its net basis tax for the full amount of the tax paid to such other foreign country.

"(C) DEALER.—For purposes of subparagraph (A), the term 'dealer' means—

"(i) with respect to a security, any person to whom paragraphs (1) and (2) of subsection (k) would not apply by reason of paragraph (4) thereof if such security were stock, and

"(ii) with respect to any other property, any person with respect to whom such property is described in section 1221(a)(1).

"(D) REGULATIONS.—The Secretary may prescribe such regulations as may be appropriate to carry out this paragraph, including regulations to prevent the abuse of the exception provided by this paragraph and to treat other taxes as qualified taxes.

"(3) EXCEPTIONS.—The Secretary may by regulation provide that paragraph (1) shall not apply to property where the Secretary determines that the application of paragraph (1) to such property is not necessary to carry out the purposes of this subsection.

"(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (5), (6), and (7) of subsection (k) shall apply for purposes of this subsection.

"(5) DETERMINATION OF HOLDING PERIOD.—Holding periods shall be determined for purposes of this subsection without regard to section 1235 or any similar rule.".

(b) CONFORMING AMENDMENT.—The heading of subsection (k) of section 901 is amended by inserting "ON DIVIDENDS" after "TAXES".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or accrued more than 30 days after the date of the enactment of this Act.

Subtitle F—Other Revenue Provisions

PART I—FINANCIAL INSTRUMENTS

SEC. 461. TREATMENT OF STRIPPED INTERESTS IN BOND AND PREFERRED STOCK FUNDS, ETC.

(a) IN GENERAL.—Section 1286 (relating to tax treatment of stripped bonds) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) TREATMENT OF STRIPPED INTERESTS IN BOND AND PREFERRED STOCK FUNDS, ETC.—In the case of an account or entity substantially all of the assets of which consist of bonds, preferred stock, or a combination thereof, the Secretary may by regulations provide that rules similar to the rules of this section and 305(e), as appropriate, shall apply to interests in such account or entity to which (but for this subsection) this section or section 305(e), as the case may be, would not apply.".

(b) CROSS REFERENCE.—Subsection (e) of section 305 is amended by adding at the end the following new paragraph:

"(7) CROSS REFERENCE.—

"For treatment of stripped interests in certain accounts or entities holding preferred stock, see section 1286(f).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to purchases and dispositions after the date of the enactment of this Act.

SEC. 462. APPLICATION OF EARNINGS STRIPPING RULES TO PARTNERSHIPS AND S CORPORATIONS.

(a) IN GENERAL.—Section 168(j) (relating to limitation on deduction for interest on certain indebtedness) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) APPLICATION TO PARTNERSHIPS AND S CORPORATIONS.—

"(A) IN GENERAL.—This subsection shall apply to partnerships and S corporations in the same manner as it applies to C corporations.

"(B) ALLOCATIONS TO CERTAIN CORPORATE PARTNERS.—If a C corporation is a partner in a partnership—

"(i) the corporation's allocable share of indebtedness and interest income of the partnership shall be taken into account in applying this subsection to the corporation, and

"(ii) if a deduction is not disallowed under this subsection with respect to any interest expense of the partnership, this subsection shall be applied separately in determining whether a deduction is allowable to the corporation with respect to the corporation's allocable share of such interest expense.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 463. RECOGNITION OF CANCELLATION OF INDEBTEDNESS INCOME REALIZED ON SATISFACTION OF DEBT WITH PARTNERSHIP INTEREST.

(a) IN GENERAL.—Paragraph (8) of section 108(e) (relating to general rules for discharge of indebtedness (including discharges not in title 11 cases or insolvency)) is amended to read as follows:

"(8) INDEBTEDNESS SATISFIED BY CORPORATE STOCK OR PARTNERSHIP INTEREST.—For purposes of determining income of a debtor from discharge of indebtedness, if—

"(A) a debtor corporation transfers stock, or

"(B) a debtor partnership transfers a capital or profits interest in such partnership,

to a creditor in satisfaction of its recourse or nonrecourse indebtedness, such corporation or partnership shall be treated as having satisfied the indebtedness with an amount of money equal to the fair market value of the stock or interest. In the case of any partnership, any discharge of indebtedness income recognized under this paragraph shall be included in the distributive shares of taxpayers which were the partners in the partnership immediately before such discharge.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to cancellations of indebtedness occurring on or after the date of the enactment of this Act.

SEC. 464. MODIFICATION OF STRADDLE RULES.

(a) RULES RELATING TO IDENTIFIED STRADDLES.—

(1) IN GENERAL.—Subparagraph (A) of section 1092(a)(2) (relating to special rule for identified straddles) is amended to read as follows:

"(A) IN GENERAL.—In the case of any straddle which is an identified straddle—

"(i) paragraph (1) shall not apply with respect to identified positions comprising the identified straddle,

"(ii) if there is any loss with respect to any identified position of the identified straddle, the basis of each of the identified offsetting positions in the identified straddle shall be increased by an amount which bears the same ratio to the loss as the unrecognized gain with respect to such offsetting position bears to the aggregate unrecognized gain with respect to all such offsetting positions, and

"(iii) any loss described in clause (ii) shall not otherwise be taken into account for purposes of this title.".

(2) IDENTIFIED STRADDLE.—Section 1092(a)(2)(B) (defining identified straddle) is amended—

(A) by striking clause (ii) and inserting the following:

"(ii) to the extent provided by regulations, the value of each position of which (in the hands of the taxpayer immediately before the creation of the straddle) is not less than the basis of such position in the hands of the taxpayer at the time the straddle is created, and", and

(B) by adding at the end the following new flush sentence:

"The Secretary shall prescribe regulations which specify the proper methods for clearly identifying a straddle as an identified straddle (and the positions comprising such straddle), which specify the rules for the application of this section for a taxpayer which fails to properly identify the positions of an identified straddle, and which specify the ordering rules in cases where a taxpayer disposes of less than an entire position which is part of an identified straddle.".

(3) UNRECOGNIZED GAIN.—Section 1092(a)(3) (defining unrecognized gain) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) SPECIAL RULE FOR IDENTIFIED STRADDLES.—For purposes of paragraph (2)(A)(ii), the unrecognized gain with respect to any identified offsetting position shall be the excess of the fair market value of the position at the time of the determination over the fair market value of the position at the time the taxpayer identified the position as a position in an identified straddle."

(4) CONFORMING AMENDMENT.—Section 1092(c)(2) is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(b) PHYSICALLY SETTLED POSITIONS.—Section 1092(d) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(8) SPECIAL RULES FOR PHYSICALLY SETTLED POSITIONS.—For purposes of subsection (a), if a taxpayer settles a position which is part of a straddle by delivering property to which the position relates (and such position, if terminated, would result in a realization of a loss), then such taxpayer shall be treated as if such taxpayer—

"(A) terminated the position for its fair market value immediately before the settlement, and

"(B) sold the property so delivered by the taxpayer at its fair market value.".

(c) REPEAL OF STOCK EXCEPTION.—

(1) IN GENERAL.—Section 1092(d)(3) is repealed.

(2) CONFORMING AMENDMENT.—Section 1258(d)(1) is amended by striking "; except that the term 'personal property' shall include stock".

(d) REPEAL OF QUALIFIED COVERED CALL EXCEPTION.—Section 1092(c)(4) is amended by adding at the end the following new subparagraph:

"(I) TERMINATION.—This paragraph shall not apply to any position established on or after the date of the enactment of this subparagraph.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to positions established on or after the date of the enactment of this Act.

SEC. 465. DENIAL OF INSTALLMENT SALE TREATMENT FOR ALL READILY TRADEABLE DEBT.

(a) IN GENERAL.—Section 453(f)(4)(B) (relating to purchaser evidences of indebtedness payable on demand or readily tradeable) is amended by striking "is issued by a corporation or a government or political subdivision thereof and".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales occurring on or after the date of the enactment of this Act.

PART II—CORPORATIONS AND PARTNERSHIPS

SEC. 466. MODIFICATION OF TREATMENT OF TRANSFERS TO CREDITORS IN DIVISIVE REORGANIZATIONS.

(a) IN GENERAL.—Section 361(b)(3) (relating to treatment of transfers to creditors) is amended by adding at the end the following new sentence: "In the case of a reorganization described in section 368(a)(1)(D) with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355, this paragraph shall apply only to the extent that the sum of the money and the fair market value of other property transferred to such creditors does not exceed the adjusted bases of such assets transferred.".

(b) LIABILITIES IN EXCESS OF BASIS.—Section 357(c)(1)(B) is amended by inserting "with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355" after "section 368(a)(1)(D)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of money or other property, or liabilities assumed, in connection with a reorganization occurring on or after the date of the enactment of this Act.

SEC. 467. CLARIFICATION OF DEFINITION OF NONQUALIFIED PREFERRED STOCK.

(a) IN GENERAL.—Section 351(g)(3)(A) is amended by adding at the end the following: "Stock shall not be treated as participating in corporate growth to any significant extent unless there is a real and meaningful likelihood of the shareholder actually participating in the earnings and growth of the corporation.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions after May 14, 2003.

SEC. 468. MODIFICATION OF DEFINITION OF CONTROLLED GROUP OF CORPORATIONS.

(a) IN GENERAL.—Section 1563(a)(2) (relating to brother-sister controlled group) is amended by striking "possessing—" and all that follows through "(B)" and inserting "possessing".

(b) APPLICATION OF EXISTING RULES TO OTHER CODE PROVISIONS.—Section 1563(f) (relating to other definitions and rules) is amended by adding at the end the following new paragraph:

"(5) BROTHER-SISTER CONTROLLED GROUP DEFINITION FOR PROVISIONS OTHER THAN THIS PART.—

"(A) IN GENERAL.—Except as specifically provided in an applicable provision, subsection (a)(2) shall be applied to an applicable provision as if it read as follows:

'(2) BROTHER-SISTER CONTROLLED GROUP.—Two or more corporations if 5 or fewer persons who, are individuals, estates, or trusts own (within the meaning of subsection (d)(2) stock possessing—

'(A) at least 80 percent of the total combined voting power of all classes of stock entitled to vote, or at least 80 percent of the total value of shares of all classes of stock, of each corporation, and

'(B) more than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.'

"(B) APPLICABLE PROVISION.—For purposes of this paragraph, an applicable provision is any provision of law (other than this part) which incorporates the definition of controlled group of corporations under subsection (a).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 469. MANDATORY BASIS ADJUSTMENTS IN CONNECTION WITH PARTNERSHIP DISTRIBUTIONS AND TRANSFERS OF PARTNERSHIP INTERESTS.

(a) IN GENERAL.—Section 754 is repealed.

(b) ADJUSTMENT TO BASIS OF UNDISTRIBUTED PARTNERSHIP PROPERTY.—Section 734 is amended—

(1) by striking ", with respect to which the election provided in section 754 is in effect," in the matter preceding paragraph (1) of subsection (b),

(2) by striking "(as adjusted by section 732(d))" both places it appears in subsection (b),

(3) by striking the last sentence of subsection (b),

(4) by striking subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively, and

*(5) by striking "**optional**" in the heading.*

(c) ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY.—Section 743 is amended—

(1) by striking "with respect to which the election provided in section 754 is in effect" in the matter preceding paragraph (1) of subsection (b),

(2) by striking subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively,

(3) by adding at the end the following new subsection:

"(c) ELECTION TO ADJUST BASIS FOR TRANSFERS UPON DEATH OF PARTNER.—Subsection (a) shall not apply and no adjustments shall be made in the case of any transfer of an interest in a partnership upon the death of a partner unless an election to do so is made by the partnership. Such an election shall apply with respect to all such transfers of interests in the

partnership. Any election under section 754 in effect on the date of the enactment of this subsection shall constitute an election made under this subsection. Such election may be revoked by the partnership, subject to such limitations as may be provided by regulations prescribed by the Secretary.", and

(4) by striking "**optional**" in the heading.

(d) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 732 is repealed.

(2) Section 755(a) is amended—

(A) by striking "section 734(b) (relating to the optional adjustment" and inserting "section 734(a) (relating to the adjustment", and

(B) by striking "section 743(b) (relating to the optional adjustment" and inserting "section 743(a) (relating to the adjustment".

(3) Section 761(e)(2) is amended by striking "optional".

(4) Section 774(a) is amended by striking "743(b)" both places it appears and inserting "743(a)".

(5) The item relating to section 734 in the table of sections for subpart B of part II of subchapter K of chapter 1 is amended by striking "Optional".

(6) The item relating to section 743 in the table of sections for subpart C of part II of subchapter K of chapter 1 is amended by striking "Optional".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transfers and distributions made after the date of the enactment of this Act.

(2) REPEAL OF SECTION 732(d).—The amendments made by subsections (b)(2) and (d)(1) shall apply to—

(A) except as provided in subparagraph (B); transfers made after the date of the enactment of this Act, and

(B) in the case of any transfer made on or before such date to which section 732(d) applies, distributions made after the date which is 2 years after such date of enactment.

PART III—DEPRECIATION AND AMORTIZATION

SEC. 471. EXTENSION OF AMORTIZATION OF INTANGIBLES TO SPORTS FRANCHISES.

(a) IN GENERAL.—Section 197(e) (relating to exceptions to definition of section 197 intangible) is amended by striking paragraph (6) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(b) CONFORMING AMENDMENTS.—

(1)(A) Section 1056 (relating to basis limitation for player contracts transferred in connection with the sale of a franchise) is repealed.

(B) The table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1056.

(2) Section 1245(a) (relating to gain from disposition of certain depreciable property) is amended by striking paragraph (4).

(3) Section 1253 (relating to transfers of franchises, trademarks, and trade names) is amended by striking subsection (e).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property acquired after the date of the enactment of this Act.

(2) SECTION 1245.—The amendment made by subsection (b)(2) shall apply to franchises acquired after the date of the enactment of this Act.

SEC. 472. SERVICE CONTRACTS TREATED IN SAME MANNER AS LEASES FOR RULES RELATING TO TAX-EXEMPT USE PROPERTY.

(a) IN GENERAL.—Section 168(h)(7) (defining lease) is amended by adding at the end the following: "Such term shall also include any service contract or other similar arrangement.".

(b) LEASE TERM.—Section 168(i)(3) (relating to lease term) is amended by adding at the end the following new subparagraph:

"(C) SPECIAL RULE FOR SERVICE CONTRACTS.—In the case of any service contract or other similar arrangement treated as a lease under subsection (h)(7), the lease term shall be determined in the same manner as a lease.".

(c) CONFORMING AMENDMENTS.—Section 168(g)(3)(A) is amended—

(1) by inserting "(as defined in subsection (h)(7)" after "lease" the first place it appears, and

(2) by inserting "(as determined under subsection (i)(3))" after "term".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to leases and service contracts or other similar arrangements entered into after the date of the enactment of this Act.

SEC. 473. CLASS LIVES FOR UTILITY GRADING COSTS.

(a) GAS UTILITY PROPERTY.—Section 168(e)(3)(E) (defining 15-year property) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) initial clearing and grading land improvements with respect to gas utility property.".

(b) ELECTRIC UTILITY PROPERTY.—Section 168(e)(3) is amended by adding at the end the following new subparagraph:

"(F) 20-YEAR PROPERTY.—The term '20-year property' means initial clearing and grading land improvements with respect to any electric utility transmission and distribution plant.".

(c) CONFORMING AMENDMENTS.—The table contained in section 168(g)(3)(B) is amended—

(1) by inserting "or (E)(iv)" after "(E)(iii)", and

(2) by adding at the end the following new item:

"(F) .... 25".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 474. EXPANSION OF LIMITATION ON DEPRECIATION OF CERTAIN PASSENGER AUTOMOBILES.

(a) IN GENERAL.—Section 179(b) (relating to limitations) is amended by adding at the end the following new paragraph:

"(6) LIMITATION ON COST TAKEN INTO ACCOUNT FOR CERTAIN PASSENGER VEHICLES.—

"(A) IN GENERAL.—The cost of any sport utility vehicle for any taxable year which may be taken into account under this section shall not exceed $25,000.

"(B) SPORT UTILITY VEHICLE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The term 'sport utility vehicle' means any 4-wheeled vehicle which—

"(I) is manufactured primarily for use on public streets, roads, and highways,

"(II) is not subject to section 280F, and

"(III) is rated at not more than 14,000 pounds gross vehicle weight.

"(ii) CERTAIN VEHICLES EXCLUDED.—Such term does not include any vehicle which—

"(I) does not have the primary load carrying device or container attached,

"(II) has a seating capacity of more than 12 individuals,

"(III) is designed for more than 9 individuals in seating rearward of the driver's seat,

"(IV) is equipped with an open cargo area, or a covered box not readily accessible from the passenger compartment, of at least 72.0 inches in interior length, or

"(V) has an integral enclosure, fully enclosing the driver compartment and load carrying device, does not have seating rearward of the driver's seat, and has no body section protruding more than 30 inches ahead of the leading edge of the windshield.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 475. CONSISTENT AMORTIZATION OF PERIODS FOR INTANGIBLES.

(a) START-UP EXPENDITURES.—

(1) ALLOWANCE OF DEDUCTION.—Paragraph (1) of section 195(b) (relating to start-up expenditures) is amended to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection with respect to any start-up expenditures—

"(A) the taxpayer shall be allowed a deduction for the taxable year in which the active trade or business begins in an amount equal to the lesser of—

"(i) the amount of start-up expenditures with respect to the active trade or business, or

"(ii) $5,000, reduced (but not below zero) by the amount by which such start-up expenditures exceed $50,000, and

"(B) the remainder of such start-up expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the active trade or business begins.".

(2) CONFORMING AMENDMENT.—Subsection (b) of section 195 is amended by striking "AMORTIZE" and inserting "DEDUCT" in the heading.

(b) ORGANIZATIONAL EXPENDITURES.—Subsection (a) of section 248 (relating to organizational expenditures) is amended to read as follows:

"(a) ELECTION TO DEDUCT.—If a corporation elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenditures—

"(1) the corporation shall be allowed a deduction for the taxable year in which the corporation begins business in an amount equal to the lesser of—

"(A) the amount of organizational expenditures with respect to the taxpayer, or

"(B) $5,000, reduced (but not below zero) by the amount by which such organizational expenditures exceed $50,000, and

"(2) the remainder of such organizational expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the corporation begins business.".

(c) TREATMENT OF ORGANIZATIONAL AND SYNDICATION FEES OR PARTNERSHIPS.—

(1) IN GENERAL.—Section 709(b) (relating to amortization of organization fees) is amended by redesignating paragraph (2) as paragraph (3) and by amending paragraph (1) to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenses—

"(A) the taxpayer shall be allowed a deduction for the taxable year in which the partnership begins business in an amount equal to the lesser of—

"(i) the amount of organizational expenses with respect to the partnership, or

"(ii) $5,000, reduced (but not below zero) by the amount by which such organizational expenses exceed $50,000, and

"(B) the remainder of such organizational expenses shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the partnership begins business.

"(2) DISPOSITIONS BEFORE CLOSE OF AMORTIZATION PERIOD.—In any case in which a partnership is liquidated before the end of the period *to which paragraph (1)(B) applies, any deferred expenses attributable to the partnership which were not allowed as a deduction by reason of this section may be deducted to the extent allowable under section 165.".*

(2) Conforming Amendment.—Subsection (b) of section 709 is amended by striking "Amortization" and inserting "Deduction" in the heading.

(d) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SEC. 476. LIMITATION ON DEDUCTIONS ALLOCABLE TO PROPERTY USED BY GOVERNMENTS OR OTHER TAX-EXEMPT ENTITIES.

(a) In General.—Subpart C of part II of subchapter E of chapter 1 (relating to taxable year for which deductions taken) is amended by adding at the end the following new section:

"SEC. 470. DEDUCTIONS ALLOCABLE TO PROPERTY USED BY GOVERNMENTS OR OTHER TAX-EXEMPT ENTITIES.

"(a) General Rule.—The aggregate amount of deductions otherwise allowable to the taxpayer with respect to tax-exempt use property for any taxable year shall not exceed the aggregate amount of income includible in gross income of the taxpayer for the taxable year with respect to such property.

"(b) Disallowed Deduction Carried to Next Year.—Except as otherwise provided in this section, any deduction with respect to any tax-exempt use property which is disallowed under subsection (a) shall, subject to the limitation under subsection (a), be treated as a deduction with respect to such property in the next taxable year.

"(c) Tax-Exempt Use Property.—For purposes of this section—

"(1) In general.—The term 'tax-exempt use property' has the meaning given such term by section 168(h), except that such section shall be applied without regard to paragraphs (2)(C)(ii) and (3).

"(2) Special rules for service contracts and similar arrangements.—If tangible property is subject to a service contract or other similar arrangement between a taxpayer (or any related person) and any tax-exempt entity, such contract or arrangement shall be treated in the same manner as if it were a lease for purposes of determining whether such property is tax-exempt use property under paragraph (1).

"(d) Special Rules.—

"(1) Allocable deductions.—Subsection (a) shall apply to—

"(A) any deduction directly allocable to any tax-exempt use property, and

"(B) a proper share of other deductions that are not directly allocable to such property.

"(2) Property ceasing to be tax-exempt use property.—If property of a taxpayer ceases to be tax-exempt use property in the hands of the taxpayer—

"(A) any unused deduction allocable to such property under subsection (b) shall only be allowable as a deduction for any taxable year to the extent of any net income of the taxpayer allocable to such property, and

"(B) any portion of such unused deduction remaining after application of subparagraph (A) shall, subject to the limitation of subparagraph (A), be treated as a deduction allocable to such property in the next taxable year.

"(3) Disposition of entire interest in property.—If during the taxable year a taxpayer disposes of the taxpayer's entire interest in tax-exempt use property, rules similar to the rules of section 469(g) shall apply for purposes of this section.

"(e) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the provisions of this section.".

(b) Conforming Amendment.—The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by adding at the end the following new item:

"Sec. 470. Deductions allocable to property used by governments or other tax-exempt entities.".

(c) Effective Date.—The amendments made by this section shall apply to leases and service contracts or similar arrangements entered into after the date of the enactment of this Act.

PART IV—ADMINISTRATIVE PROVISIONS

SEC. 481. CLARIFICATION OF RULES FOR PAYMENT OF ESTIMATED TAX FOR CERTAIN DEEMED ASSET SALES.

(a) In General.—Paragraph (13) of section 338(h) (relating to tax on deemed sale not taken into account for estimated tax purposes) is amended by adding at the end the following: "The preceding sentence shall not apply with respect to a qualified stock purchase for which an election is made under paragraph (10).".

(b) Effective Date.—The amendment made by subsection (a) shall apply to transactions occurring after the date of the enactment of this Act.

SEC. 482. EXTENSION OF IRS USER FEES.

(a) In General.—Section 7528(c) (relating to termination) is amended by striking "December 31, 2004" and inserting "September 30, 2013".

(b) Effective Date.—The amendment made by this section shall apply to requests after the date of the enactment of this Act.

SEC. 483. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENT.

(a) General Rule.—If—

(1) a taxpayer eligible to participate in—

(A) the Department of the Treasury's Offshore Voluntary Compliance Initiative, or

(B) the Department of the Treasury's voluntary disclosure initiative which applies to the taxpayer by reason of the taxpayer's underreporting of United States income tax liability through financial arrangements which rely on the use of offshore arrangements which were the subject of the initiative described in subparagraph (A), and

(2) any interest or applicable penalty is imposed with respect to any arrangement to which any initiative described in paragraph (1) applied or to any underpayment of Federal income tax attributable to items arising in connection with any arrangement described in paragraph (1),

then, notwithstanding any other provision of law, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(b) Definitions and Rules.—For purposes of this section—

(1) Applicable penalty.—The term "applicable penalty" means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(2) Voluntary offshore compliance initiative.—The term "Voluntary Offshore Compliance Initiative" means the program established by the Department of the Treasury in January of 2003 under which any taxpayer was eligible to voluntarily disclose previously undisclosed income on assets placed in offshore accounts and accessed through credit card and other financial arrangements.

(3) Participation.—A taxpayer shall be treated as having participated in the Voluntary Offshore Compliance Initiative if the taxpayer submitted the request in a timely manner and all information requested by the Secretary of the Treasury or his delegate within a reasonable period of time following the request.

(c) Effective Date.—The provisions of this section shall apply to interest, penalties, additions to tax, and fines with respect to any taxable year if as of the date of the enactment of this Act, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

SEC. 484. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.

(a) In General.—

(1) Section 6159(a) (relating to authorization of agreements) is amended—

(A) by striking "satisfy liability for payment of" and inserting "make payment on", and

(B) by inserting "full or partial" after "facilitate".

(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting "full" before "payment".

(b) Requirement To Review Partial Payment Agreements Every Two Years.—Section 6159, as amended by this Act, is amended by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively, and inserting after subsection (c) the following new subsection:

"(d) Secretary Required To Review Installment Agreements for Partial Collection Every Two Years.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.".

(c) Effective Date.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

SEC. 485. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking "March 31, 2004" and inserting "September 30, 2013".

SEC. 486. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS.

(a) In General.—Subchapter A of chapter 67 (relating to interest on underpayments) is amended by adding at the end the following new section:

"SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS, ETC.

"(a) Authority To Make Deposits Other Than As Payment of Tax.—A taxpayer may make a cash deposit with the Secretary which may be used by the Secretary to pay any tax imposed under subtitle A or B or chapter 41, 42, 43, or 44 which has not been assessed at the time of the deposit. Such a deposit shall be made in such manner as the Secretary shall prescribe.

"(b) No Interest Imposed.—To the extent that such deposit is used by the Secretary to pay tax, for purposes of section 6601 (relating to interest on underpayments), the tax shall be treated as paid when the deposit is made.

"(c) Return of Deposit.—Except in a case where the Secretary determines that collection of tax is in jeopardy, the Secretary shall return to the taxpayer any amount of the deposit (to the extent not used for a payment of tax) which the taxpayer requests in writing.

"(d) Payment of Interest.—

"(1) In general.—For purposes of section 6611 (relating to interest on overpayments), a deposit which is returned to a taxpayer shall be treated as a payment of tax for any period to the extent (and only to the extent) attributable to a disputable tax for such period. Under regulations prescribed by the Secretary, rules similar to the rules of section 6611(b)(2) shall apply.

"(2) Disputable tax.—

"(A) In general.—For purposes of this section, the term 'disputable tax' means the

amount of tax specified at the time of the deposit as the taxpayer's reasonable estimate of the maximum amount of any tax attributable to disputable items.

"(B) SAFE HARBOR BASED ON 30-DAY LETTER.—In the case of a taxpayer who has been issued a 30-day letter, the maximum amount of tax under subparagraph (A) shall not be less than the amount of the proposed deficiency specified in such letter.

"(3) OTHER DEFINITIONS.—For purposes of paragraph (2)—

"(A) DISPUTABLE ITEM.—The term 'disputable item' means any item of income, gain, loss, deduction, or credit if the taxpayer—

"(i) has a reasonable basis for its treatment of such item, and

"(ii) reasonably believes that the Secretary also has a reasonable basis for disallowing the taxpayer's treatment of such item.

"(B) 30-DAY LETTER.—The term '30-day letter' means the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.

"(4) RATE OF INTEREST.—The rate of interest allowable under this subsection shall be the Federal short-term rate determined under section 6621(b), compounded daily.

"(e) USE OF DEPOSITS.—

"(1) PAYMENT OF TAX.—Except as otherwise provided by the taxpayer, deposits shall be treated as used for the payment of tax in the order deposited.

"(2) RETURNS OF DEPOSITS.—Deposits shall be treated as returned to the taxpayer on a last-in, first-out basis.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 67 is amended by adding at the end the following new item:

"Sec. 6603. Deposits made to suspend running of interest on potential underpayments, etc.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to deposits made after the date of the enactment of this Act.

(2) COORDINATION WITH DEPOSITS MADE UNDER REVENUE PROCEDURE 84-58.—In the case of an amount held by the Secretary of the Treasury or his delegate on the date of the enactment of this Act as a deposit in the nature of a cash bond deposit pursuant to Revenue Procedure 84-58, the date that the taxpayer identifies such amount as a deposit made pursuant to section 6603 of the Internal Revenue Code (as added by this Act) shall be treated as the date such amount is deposited for purposes of such section 6603.

SEC. 487. QUALIFIED TAX COLLECTION CONTRACTS.

(a) CONTRACT REQUIREMENTS.—

(1) IN GENERAL.—Subchapter A of chapter 64 (relating to collection) is amended by adding at the end the following new section:

"SEC. 6306. QUALIFIED TAX COLLECTION CONTRACTS.

"(a) IN GENERAL.—Nothing in any provision of law shall be construed to prevent the Secretary from entering into a qualified tax collection contract.

"(b) QUALIFIED TAX COLLECTION CONTRACT.—For purposes of this section, the term 'qualified tax collection contract' means any contract which—

"(1) is for the services of any person (other than an officer or employee of the Treasury Department)—

"(A) to locate and contact any taxpayer specified by the Secretary,

"(B) to request full payment from such taxpayer of an amount of Federal tax specified by the Secretary and, if such request cannot be met by the taxpayer, to offer the taxpayer an installment agreement providing for full payment of such amount during a period not to exceed 3 years, and

"(C) to obtain financial information specified by the Secretary with respect to such taxpayer,

"(2) prohibits each person providing such services under such contract from committing any act or omission which employees of the Internal Revenue Service are prohibited from committing in the performance of similar services,

"(3) prohibits subcontractors from—

"(A) having contacts with taxpayers,

"(B) providing quality assurance services, and

"(C) composing debt collection notices, and

"(4) permits subcontractors to perform other services only with the approval of the Secretary.

"(c) FEES.—The Secretary may retain and use an amount not in excess of 25 percent of the amount collected under any qualified tax collection contract for the costs of services performed under such contract. The Secretary shall keep adequate records regarding amounts so retained and used. The amount credited as paid by any taxpayer shall be determined without regard to this subsection.

"(d) NO FEDERAL LIABILITY.—The United States shall not be liable for any act or omission of any person performing services under a qualified tax collection contract.

"(e) APPLICATION OF FAIR DEBT COLLECTION PRACTICES ACT.—The provisions of the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) shall apply to any qualified tax collection contract, except to the extent superseded by section 6304, section 7602(c), or by any other provision of this title.

"(f) CROSS REFERENCES.—

"(1) For damages for certain unauthorized collection actions by persons performing services under a qualified tax collection contract, see section 7433A.

"(2) For application of Taxpayer Assistance Orders to persons performing services under a qualified tax collection contract, see section 7811(a)(4).".

(2) CONFORMING AMENDMENTS.—

(A) Section 7809(a) is amended by inserting "6306," before "7651".

(B) The table of sections for subchapter A of chapter 64 is amended by adding at the end the following new item:

"Sec. 6306. Qualified Tax Collection Contracts.".

(b) CIVIL DAMAGES FOR CERTAIN UNAUTHORIZED COLLECTION ACTIONS BY PERSONS PERFORMING SERVICES UNDER QUALIFIED TAX COLLECTION CONTRACTS.—

(1) IN GENERAL.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by inserting after section 7433 the following new section:

"SEC. 7433A. CIVIL DAMAGES FOR CERTAIN UNAUTHORIZED COLLECTION ACTIONS BY PERSONS PERFORMING SERVICES UNDER QUALIFIED TAX COLLECTION CONTRACTS.

"(a) IN GENERAL.—Subject to the modifications provided by subsection (b), section 7433 shall apply to the acts and omissions of any person performing services under a qualified tax collection contract (as defined in section 6306(b)) to the same extent and in the same manner as if such person were an employee of the Internal Revenue Service.

"(b) MODIFICATIONS.—For purposes of subsection (a)—

"(1) Any civil action brought under section 7433 by reason of this section shall be brought against the person who entered into the qualified tax collection contract with the Secretary and shall not be brought against the United States.

"(2) Such person and not the United States shall be liable for any damages and costs determined in such civil action.

"(3) Such civil action shall not be an exclusive remedy with respect to such person.

"(4) Subsections (c), (d)(1), and (e) of section 7433 shall not apply.".

(2) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76 is amended by inserting after the item relating to section 7433 the following new item:

"Sec. 7433A. Civil damages for certain unauthorized collection actions by persons performing services under a qualified tax collection contract.".

(c) APPLICATION OF TAXPAYER ASSISTANCE ORDERS TO PERSONS PERFORMING SERVICES UNDER A QUALIFIED TAX COLLECTION CONTRACT.—Section 7811 (relating to taxpayer assistance orders) is amended by adding at the end the following new subsection:

"(g) APPLICATION TO PERSONS PERFORMING SERVICES UNDER A QUALIFIED TAX COLLECTION CONTRACT.—Any order issued or action taken by the National Taxpayer Advocate pursuant to this section shall apply to persons performing services under a qualified tax collection contract (as defined in section 6306(b)) to the same extent and in the same manner as such order or action applies to the Secretary.".

(d) INELIGIBILITY OF INDIVIDUALS WHO COMMIT MISCONDUCT TO PERFORM UNDER CONTRACT.—Section 1203 of the Internal Revenue Service Restructuring Act of 1998 (relating to termination of employment for misconduct) is amended by adding at the end the following new subsection:

"(e) INDIVIDUALS PERFORMING SERVICES UNDER A QUALIFIED TAX COLLECTION CONTRACT.— An individual shall cease to be permitted to perform any services under any qualified tax collection contract (as defined in section 6306(b) of the Internal Revenue Code of 1986) if there is a final determination by the Secretary of the Treasury under such contract that such individual committed any act or omission described under subsection (b) in connection with the performance of such services.".

(e) EFFECTIVE DATE.—The amendments made to this section shall take effect on the date of the enactment of this Act.

PART V—MISCELLANEOUS PROVISIONS

SEC. 491. ADDITION OF VACCINES AGAINST HEPATITIS A TO LIST OF TAXABLE VACCINES.

(a) IN GENERAL.—Section 4132(a)(1) (defining taxable vaccine) is amended by redesignating subparagraphs (I), (J), (K), and (L) as subparagraphs (J), (K), (L), and (M), respectively, and by inserting after subparagraph (H) the following new subparagraph:

"(I) Any vaccine against hepatitis A.".

(b) CONFORMING AMENDMENT.—Section 9510(c)(1)(A) is amended by striking "October 18, 2000" and inserting "May 8, 2003".

(c) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendments made by this section shall apply to sales and uses on or after the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act.

(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 492. RECOGNITION OF GAIN FROM THE SALE OF A PRINCIPAL RESIDENCE ACQUIRED IN A LIKE-KIND EXCHANGE WITHIN 5 YEARS OF SALE.

(a) IN GENERAL.—Section 121(d) (relating to special rules for exclusion of gain from sale of principal residence) is amended by adding at the end the following new paragraph:

"(10) PROPERTY ACQUIRED IN LIKE-KIND EXCHANGE.—If a taxpayer acquired property in an

exchange to which section 1031 applied, subsection (a) shall not apply to the sale or exchange of such property if it occurs during the 5-year period beginning with the date of the acquisition of such property.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales or exchanges after the date of the enactment of this Act.

SEC. 493. CLARIFICATION OF EXEMPTION FROM TAX FOR SMALL PROPERTY AND CASUALTY INSURANCE COMPANIES.

(a) IN GENERAL.—Section 501(c)(15)(A) is amended to read as follows:

"(A) Insurance companies (as defined in section 816(a)) other than life (including interinsurers and reciprocal underwriters) if—

"(i) the gross receipts for the taxable year do not exceed $600,000, and

"(ii) more than 50 percent of such gross receipts consist of premiums.".

(b) CONTROLLED GROUP RULE.—Section 501(c)(15)(C) is amended by inserting ", except that in applying section 1563 for purposes of section 831(b)(2)(B)(ii), subparagraphs (B) and (C) of section 1563(b)(2) shall be disregarded" before the period at the end.

(c) CONFORMING AMENDMENT.—Clause (i) of section 831(b)(2)(A) is amended by striking "exceed $350,000 but".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 494. DEFINITION OF INSURANCE COMPANY FOR SECTION 831.

(a) IN GENERAL.—Section 831 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) INSURANCE COMPANY DEFINED.—For purposes of this section, the term 'insurance company' has the meaning given to such term by section 816(a)).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 495. LIMITATIONS ON DEDUCTION FOR CHARITABLE CONTRIBUTIONS OF PATENTS AND SIMILAR PROPERTY.

(a) DEDUCTION ALLOWED ONLY TO THE EXTENT OF BASIS.—Section 170(e)(1)(B) (relating to certain contributions of ordinary income and capital gain property) is amended by striking "or" at the end of clause (i), by adding "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) of any patent, copyright, trademark, trade name, trade secret, know-how, software, or similar property, or applications or registrations of such property,".

(b) TREATMENT OF CONTRIBUTIONS WHERE DONOR RECEIVES INTEREST.—Section 170(e) is amended by adding at the end the following new paragraph:

"(7) SPECIAL RULES FOR CONTRIBUTIONS OF PATENTS AND SIMILAR PROPERTY WHERE DONOR RECEIVES INTEREST.—

"(A) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed under this section with respect to a contribution of property described in paragraph (1)(B)(iii) if the taxpayer after the contribution has any interest in the property other than a qualified interest.

"(B) CONTRIBUTIONS WITH QUALIFIED INTEREST.—If a taxpayer after a contribution of property described in paragraph (1)(B)(iii) has a qualified interest in the property—

"(i) any payment pursuant to the qualified interest shall be treated as ordinary income and shall be includible in gross income of the taxpayer for the taxable year in which the payment is received by the taxpayer, and

"(ii) subsection (f)(3) and section 1011(b) shall not apply to the transfer of the property from the taxpayer to the donee.

"(C) QUALIFIED INTEREST.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'qualified interest' means, with respect to any taxpayer, a right to receive from the donee a percentage (not greater than 50 percent) of any royalty payment received by the donee with respect to property described in paragraph (1)(B)(iii) (other than copyrights which are described in section 1221(a)(3) or 1231(b)(1)(C)) contributed by the taxpayer to the donee.

"(ii) SECRETARIAL AUTHORITY.—

"(I) IN GENERAL.—Except as provided in subclause (II), the Secretary may by regulation or other administrative guidance treat as a qualified interest the right to receive other payments from the donee, but only if the donee does not possess a right to receive any payment (whether royalties or otherwise) from a third party with respect to the contributed property.

"(II) EXCEPTIONS.—The Secretary may not treat as a qualified interest the right to receive any payment which provides a benefit to the donor which is greater than the benefit retained by the donee or the right to receive any portion of the proceeds from the sale of the property contributed.

"(iii) LIMITATION.—An interest shall be treated as a qualified interest under this subparagraph only if the taxpayer has no right to receive any payment described in clause (i) or (ii)(I) after the earlier of the date on which the legal life of the contributed property expires or the date which is 20 years after the date of the contribution.".

(c) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Section 6050L(a) (relating to returns regarding certain dispositions of donated property) is amended—

(A) by striking "If" and inserting:

"(1) DISPOSITIONS OF DONATED PROPERTY.—If",

(B) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively, and

(C) by adding at the end the following new paragraph:

"(2) PAYMENTS OF QUALIFIED INTERESTS.—Each donee of property described in section 170(e)(1)(B)(iii) which makes a payment to a donor pursuant to a qualified interest (as defined in section 170(e)(7)) during any calendar year shall make a return (in accordance with forms and regulations prescribed by the Secretary) showing—

"(A) the name, address, and TIN of the payor and the payee with respect to such a payment,

"(B) a description, and date of contribution, of the property to which the qualified interest relates,

"(C) the dates and amounts of any royalty payments received by the donee with respect to such property,

"(D) the date and the amount of the payment pursuant to the qualified interest, and

"(E) a description of the terms of the qualified interest.".

(2) CONFORMING AMENDMENTS.—

*(A) The heading for section 6050L is amended by striking "**certain dispositions of**".*

(B) The item relating to section 6050L in the table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking "certain dispositions of".

(d) ANTI-ABUSE RULES.—The Secretary of the Treasury may prescribe such regulations or other administrative guidance as may be necessary or appropriate to prevent the avoidance of the purposes of section 170(e)(1)(B)(iii) of the Internal Revenue Code of 1986 (as added by subsection (a)), including preventing—

(1) the circumvention of the reduction of the charitable deduction by embedding or bundling the patent or similar property as part of a charitable contribution of property that includes the patent or similar property,

(2) the manipulation of the basis of the property to increase the amount of the charitable deduction through the use of related persons, pass-thru entities, or other intermediaries, or through the use of any provision of law or regulation (including the consolidated return regulations), and

(3) a donor from changing the form of the patent or similar property to property of a form for which different deduction rules would apply.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after October 1, 2003.

SEC. 496. REPEAL OF 10-PERCENT REHABILITATION TAX CREDIT.

Section 47 is amended by adding at the end the following new subsection:

"(e) TERMINATION.—This section shall not apply to expenditures described in subsection (a)(1) incurred in taxable years beginning after December 31, 2003.".

SEC. 497. INCREASE IN AGE OF MINOR CHILDREN WHOSE UNEARNED INCOME IS TAXED AS IF PARENT'S INCOME.

(a) IN GENERAL.—Section 1(g)(2)(A) (relating to child to whom subsection applies) is amended by striking "age 14" and inserting "age 18".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I am happy to be, once again, on the floor with a very important piece of legislation. With the cooperation of the Democratic leadership of the Senate Finance Committee, Senator BAUCUS, we bring to the floor a bill that was voted out of committee 19 to 2. Senator BAUCUS and I always work together as much as we can—that is, most of the time—to bring to the Senate a bill that can get through the Chamber because as so many people who watch the Senate regularly know, the Senate, unlike the House of Representatives, can't function if it does not function in a bipartisan way.

So we proceed, then, with this bipartisan bill: the Jumpstart Our Business Strength Act. If I refer to the acronym JOBS, it is jumpstart our business strength.

Since March 2000, long before President Bush took office, the manufacturing sector has been under significant economic pressure. Obviously, that has affected manufacturing workers. A recent CBO study estimates that going way back to March 2000, an estimated 3 million workers have lost their manufacturing jobs.

The Congressional Budget Office attributes this job decline to the recession that began in November 2000 and the weak economy in demand that followed, part of it a result of September 11 and recovery not coming as normal as recoveries do.

But we always tend to look at bad news. Bad news tends to make the front pages of the newspaper. Good news tends to make the back pages, if there is good news printed at all.

There is good news on the horizon. That is, that new manufacturing orders, just this past December, surged to their highest levels in 50 years. They haven't been that high since July of 1950. And January was the sixth consecutive month that manufacturing activity expanded. In December, the manufacturing employment index grew for the second consecutive month, but the overall economy during that month added 1,000 jobs only. That was, of course, disappointing. But it wasn't disappointing from the standpoint of the manufacturing employment index growing because it seems that is the lagging sector of this recovery.

I believe we are on the right path for a strong recovery. In fact, there has been a recovery underway since economists ruled that the last recession ended October 1, 2001. But when a recovery ends, it is not always visible. Of course, it is visible in most segments of the economy by very strong indices that are there to prove that. But one area that is not is manufacturing employment. We do now have those 2 consecutive months of increased employment.

I believe we are on the right path to strong recovery, but we must do more to ensure manufacturing stays on the path of recovery. Manufacturing is so vital to the overall health of our economy, including follow-on sectors that benefit: the service and financial sectors.

As government policymakers, which we are, we have to act to revitalize the manufacturing sector. Today we have some good news on manufacturing, and that is, the legislation we bring to the Senate, because it is going to help enhance employment in the manufacturing sector.

As I have said previously, but I cannot emphasize too much, by a vote of 19 to 2 this bill was voted out of the Senate Finance Committee. Our bill is a bipartisan balance of domestic tax relief and international tax reforms, all meant to strengthen American business. Not as an end in itself, but as business strengthens, jobs are created. We are talking about jobs for Americans.

Most importantly, this bill is revenue neutral. That is important, when we read in the newspapers about facing a budget deficit. This bill then will not add one dime to the Federal deficit. The JOBS bill will repeal the current FSC/ETI regime and use all the money from repeal to provide a 3-point tax rate cut on income from U.S.-based manufacturing. I emphasize U.S.-based manufacturing. We start those cuts phasing in next year. This 3-point rate cut is only for manufacturing and only for manufacturing in the United States. This bill will not help American manufacturers that want to manufacture offshore.

I point out how our bill would approach this effort to help create jobs in American manufacturing and do it on American soil as opposed to the way that the Ways and Means Committee of the other body, and even other bills that will be offered in the upcoming debate, would face these issues. Our bill reducing taxes applies to all that manufacture in America.

I wish to make clear to our colleagues this is a bill to help manufacturing in the United States. American companies that manufacture overseas will not get the benefit of the corporate rate reduction. Foreign corporations that want to come over here to America and build plants and employ people in this country would get the benefit. But this bill is about helping American manufacturing that takes place in the United States of America.

I wish to differentiate the approach we use from the approach the Ways and Means Committee uses.

Unlike the pending Ways and Means bill, and other bills that will be offered during the upcoming debate, these cuts apply to all who manufacture in America, regardless of size. So this is going to include sole proprietors, partnerships, farmers, individuals, family businesses, multinational corporations, and foreign companies that set up manufacturing plants in the United States. All of these enterprises will benefit as long as they manufacture.

So the objectives of this bill are pretty simple. Three: Jobs, jobs, jobs, meaning jobs that pay money because of manufacturing in America.

Manufacturing is important to all States, and I want to point out some benefits. For my State of Iowa—the figures I have are for 2001—Iowa's gross State product was $91 billion. Of that, $19 billion or 21 percent of the State's wealth was created by manufacturing. From 2001 to 2002, Iowa's exports grew by nearly 15 percent. We shipped nearly $5 billion of goods out of Iowa, and that was during the year 2002.

In Iowa, we have 222,000 jobs in manufacturing. So that shows how important it is for the United States to be competitive in manufacturing both home and abroad because of 222,000 jobs just in my State. Those kinds of export numbers translate into very good and lasting jobs at home. Many of our country's manufacturing jobs are dependent upon the current FSC/ETI international taxing regime.

I have a map behind me that makes this very clear. It shows by State the jobs that are existing today because of the current FSC/ETI provision: South Carolina, 47,000 jobs; my State of Iowa, 35,000 jobs; California, 429,000 jobs; Texas, 262,000; New York, 215,000; Illinois, 156,000; Washington State, 107,000 jobs generated by FSC/ETI.

As my colleagues probably know, FSC/ETI stands for Foreign Sales Corporation, extraterritorial income. This is what was determined to be contrary to our international trade agreements, and that is why we have this legislation before us because if we do not do something about this issue, these numbers of jobs that are dependent upon this legislation are in jeopardy because our manufacturing will not be competitive with our foreign competition.

Of course, what this is all about is passing legislation that will be in agreement with our trade agreements and, consequently, still protect American manufacturing as the FSC/ETI has done over the last 25 to 30 years.

FSC/ETI reduces the income tax on goods manufactured in the U.S. and sold overseas. FSC/ETI is critical to the manufacturing sector. It can reduce taxes on exports by as much as 3 to 8 tax rate percentage points.

The nonpartisan Joint Committee on Taxation says that 89 percent of the Foreign Sales Corporation benefits go to manufacturing companies. Many of those companies are the largest manufacturing employers in the Nation. This reduced rate of tax on exports of U.S.-manufactured goods keeps our companies competitive in the international marketplace. It allows our companies to compete with the European Union countries, which happen to have a taxing system where they get a rebate on their value-added tax on exports.

If we did not have the Foreign Sales Corporation, we would be exporting more of our taxes, making us uncompetitive with the European Community that has a different taxing system, value-added tax, that they do not export.

Several years ago, the European Union filed a claim with the World Trade Organization challenging FSC/ETI as an illegal export subsidy. Hence, we are here repealing such an important provision because under trading rules, according to the decision, we cannot have a subsidy if it is contingent upon the act of exporting. The World Trade Organization ruled that the FSC/ETI is an illegal export subsidy and has authorized the European Union to impose up to $4 billion a year of sanctions against U.S. exports.

The European Union has already started this because March 1, this year, was the date to do it. The sanctions start at 5 percent of the $4 billion, and they are going to increase 1 percent for each month if we do not repeal the FSC/ETI provisions. They are going to cap out at 17 percent. So by November, these sanctions will be 12 percent. How are we going to compete when the tax benefits that were supposed to level the playing field are not only used, but the European Union, in a legal way under our trade agreements, is levying sanctions. Just as the United States when the European Union lost a case on our beef—they did not take our beef—we leveled sanctions against European products that are coming into this country, all in a legal way but not necessarily in the best way to conduct international trade.

So eventually, these sanctions are going to get up to 17 percent, and at that point the European Union will review the effectiveness of the sanctions, and further increases are possible.

The European Union has been consistent in its message, that the FSC/ETI must be repealed; the same way that we were insistent upon Europe and we won a case in the World Trade Organization that they take our beef.

This is a serious threat against American manufacturing, and Europe knows where to hit us. One of those is agricultural products, plus paper products, and also a number of important manufacturing industries, and they are hitting us right now in our soft underbelly.

These sanctions are going to undermine the economic recovery that is underway, as I indicated before—underway with 2 months in a row of a positive upturn in the manufacturing index. So I believe it is important for the United States to fulfill its obligations under our trading rules.

Now, it so happens that we win a lot more cases than we lose, and it also is true that the United States has been a leader—in fact, the entire world recognizes us as a leader, and they wait for us sometimes—in reducing trade barriers around the world. We have shown leadership for the last 60 or 70 years in this area going back to the reciprocity agreements of the 1930s of reducing trade barriers.

As we expect Europe to import our beef when we win a case, it seems to me that we must show leadership in complying with these rules. What the World Trade Organization is all about is to bring the rule of law to what would otherwise be a jungle of international trade. That is because we get more business activity when there is predictability and understanding of how we are going to do business. Just as that is true in our domestic policy for business expansion, it is true in international trade; if there is predictability, we will get more business expansion around the world.

Domestic law has made that possible within the United States. We need to support a regime that does the same thing in international trade because we have seen under that regime of rule of law in international trade for the last 50 or 60 years the expansion of the world economic pie.

We are not talking about something that is just good for the United States. It is good for the United States. But we are talking about something that is good for the entire world.

We have a growing world population. If you don't have a growing world economic pie, there will be less for more people and less for more people means political, economic, and social instability, and chaos.

So we have seen under this regime of rule of law in international trade that the world economic pie has grown tremendously, and to a great extent because of international trade.

The United States has led the way. We need to continue leading the way. There are some lobbyists who are suggesting this is no big deal, this doesn't have to be done now, it can be done tomorrow, it can be done next year, and somehow these sanctions don't mean anything. They do mean something because they are going to make our products uncompetitive and then we can't sell. If these were put on John Deere tractors in Waterloo, IA, one-fourth of the jobs could go.

One-fourth of the jobs at John Deere Tractor in my home State are related to trade. But we do have to abide by the rule of law in international trade unless we want chaos, unless we want the jungle.

These lobbyists say sanctions don't matter. They argue: After all, sanctions only start at 5 percent. They would say: There has been a decline in the dollar. That is going to take care of that problem. With a decline in the dollar, add on 5 percent, no difference.

But I will bet these lobbyists who are spreading this word that Congress doesn't have to act don't represent anybody—any workers or any firms—on this retaliation list. But for those industries that I have already talked about, and there are a lot more, sanctions do matter because they will not be able to export if they can't compete. Five percent right now, and for sure 17 percent a year from now, is going to make a big difference.

In regard to the lower value of the dollar against the euro, that somehow merely restores the status quo of the 1990s for a lot of American companies so they can export more. The recent decline in the dollar helped these companies regain lost market share in Europe, and we have lobbyists saying they ought to be back in that position that they were in just a year ago, not being able to sell because of the high cost of the dollar?

Why would Congress want to deprive these companies and their employees, where these are good American jobs, of the opportunity to export? That is beyond me. These are good jobs, because statistics show conclusively that jobs connected with exports pay 15 percent above the national average.

Besides, there is no guarantee that the value of the dollar will not go up tomorrow because our official policy is a strong dollar policy. Our official policy is also to let the marketplace decide the value of the dollar. But if it does go up, it is going to leave American exporters in even a worse situation than they are today with that 5 percent and next month 6 percent.

It is plain wrong for us in Congress, when we can do something about it—and this bill does something about it—to gamble the future of these American working men and women on the volatile international currency market.

There is another fancy suggestion from these high-paid lobbyists, that all we have to do is cut a Government check to these U.S. exporters that are hurt by the sanctions.

That suggestion is just as stupid as the previous one. First, it is likely that the World Trade Organization would find such a scheme to be a prohibited export subsidy anyway, just as they originally did. That would continue the cycle of noncompliance and retaliation.

These birds don't believe in the rule of law on international trade. They like the jungle of international trade. In fact, most lobbyists like a jungle because they are the ones who think they are smart enough to sort it out. We are not going to allow that jungle to grow just so lobbyists can prosper.

But this scheme, as the original suggestions, is unworkable. It would probably require a new government bureaucracy to administer. You know what. This JOBS bill is about creating manufacturing jobs, not jobs in a government bureaucracy.

It has also been suggested that the U.S. Government could simply pay compensation to some foreign government rather than comply with our international trade obligations. I suppose, in the era of foreign aid, you might say that suggestion is theoretically possible. But it is not very realistic.

Under the World Trade Organization dispute settlement system, there is only one way, just one way, a nation can bring itself into compliance with an adverse ruling, conforming with the WTO-inconsistent measure, and that is with a report adopted by the dispute settlement body. That would dictate that as long as FSC/ETI is not repealed, the United States remains in violation of these international trade commitments. So paying compensation to some government, in my reading of the obligations under the trade commitments, is not going to bring the United States into compliance.

Furthermore, it has to be remembered that compensation in lieu of retaliation is only a viable option if the prevailing parties agree.

I think that is something the European Union is not inclined to do.

Even if it were possible, I am not going to suggest on the Senate floor that the United States taxpayers ought to be writing a check to the country of France. I, for one, don't think Congress is going to buy these arguments that we don't have to deal with this now and there are other ways around. These proposals are shell games expounded by Washington lobbyists trying to confuse Congress, confuse the public, and thus avoiding a real permanent solution to a longstanding FSC/ETI dispute with the European Union. This is not realistic. They will not stop the imposition of European sanctions.

People suggesting these alternatives ought to face facts. Gambling America's exports on the volatile currency market won't work. Cutting government checks to U.S. exporters won't work. Transferring taxpayers' money to foreign governments such as France won't work. These are shell games. There is only one real solution for American workers. This is something that has been worked out in a bipartisan way for the Senate to consider by the Senator from Montana and this Senator. This is the JOBS Act that is before us, and the best solution is to pass the JOBS Act now. I hope my Senate colleagues and our counterparts in the House of Representatives will act on the Finance Committee's FSC/ETI legislation. It is all of our responsibility—Democrat and Republican alike—to pass this bipartisan legislation.

If we, as a body, fail to act, American workers will suffer with fewer jobs, and the United States will lose an opportunity to rejuvenate and remain globally competitive in the mainstay of its economy—the manufacturing sector of our economy.

Our majority leader, Senator FRIST, should be commended for bringing this bill to the floor so that the Senate can act now to end sanctions before they seriously damage the economy and before they damage our transatlantic relations. The bill needs to be passed so we can end the sanctions as soon as possible.

Repealing FSC/ETI raises around $55 billion over 10 years. Eighty-nine percent of it comes from jobs in the manufacturing industry. If that money is not sent back to help the manufacturing sector to be competitive with Europe, FSC/ETI repeal will be a $50 billion tax increase on manufacturing. The old rule of economics is if you tax something more, you get less of it. So there is going to be less jobs in manufacturing.

I think we can all agree that a $50 billion tax increase on manufacturing will not stimulate job growth in that sector. That is why the JOBS bill passed by the Finance Committee uses every penny from the FSC/ETI bill repeal. To give this 3-percentage tax rate cut on all income derived from manufacturing—that is done in the United States—there is no benefit to American companies manufacturing overseas. There would be a benefit to international companies that come here to create jobs in America in manufacturing. Our 3-point rate reduction is not export contingent under the World Trade Organization rules. Unlike the FSC/ETI regime, this 3-point rate reduction applies to goods manufactured in the United States and which are sold domestically in the United States, or if they are exported for sale outside the United States. If you make it here, we cut your taxes regardless of whether you are a U.S. or foreign corporation—bringing those manufacturing jobs, then, to the United States of America. The JOBS bill starts phasing in the 3-point percentage tax rate reduction immediately in 2004.

If you look at this next chart behind me, you see on average, European Union manufacturing income is taxed at 21 percent but U.S. manufacturing income is taxed at 24 percent. As you can see, the 3-point rate cut on manufacturing income in the JOBS bill keeps us even with the European Union on manufacturing tax burdens.

We included in the JOBS bill several international tax reforms that are aimed specifically to help manufacturing. The whole JOBS bill is slanted towards manufacturing. Flaws in our international tax rules seriously undermine America's ability to compete in the global marketplace. International tax reform, like doing something with FSC/ETI, is long overdue.

Our current system is built upon a framework dating back to President Kennedy in the early 1960s. We clean up problems that cause foreign earnings to be double taxed by the United States and the foreign countries where those profits are earned. We reform subpart (f) to ensure that active foreign businesses are taxed when the money is brought home and not when the United States companies are locked in battle with foreign companies that do not pay taxes.

You will hear a lot of noise in the upcoming debate about these international provisions. But let me tell you right now that the international provisions in our bipartisan JOBS bill are targeted to benefit U.S. manufacturing companies. Members may be surprised to learn our international provisions can actually harm a company's expansion in the United States of America where we want companies to expand so that jobs are created here and so that those jobs are not exported. It is a simple thing to do. Just fix our tax laws so that jobs are created in America as opposed to overseas.

We will have plenty of opportunity to talk about that issue in the upcoming debate.

In an era of expanding global markets, in an era of falling trade barriers, and in an era of technological innovations that melt away traditional notions of national borders, it is critical that our international tax laws keep pace with these new business realities.

We also include a provision for manufacturing that is not making money right now. We allow a 3-year net operating loss carryback. This will allow companies to reclaim prior taxes paid. This will give them cash liquidity to weather the current storm.

I understand there may be some effort to expand this 3-year carryback to a 5-year carryback.

The JOBS bill also includes the Homeland Reinvestment Act sponsored by Senator SMITH of Oregon, Senator ENSIGN of Nevada, and Senator BOXER of California. That is a bipartisan group to which anybody ought to be drawn.

This subpart of our JOBS bill, which is sponsored by Senators SMITH, ENSIGN, and BOXER, is intended to encourage companies to bring their foreign earnings back to the United States by temporarily providing the reduced rate of tax. This bill will tax foreign earnings at 5¼ percentage points instead of the 35 percent that would normally apply.

Advocates of this Homeland Investment Act claim that those moneys will be invested overseas instead of the United States, if we don't tax them at a lower rate than the 35 percent.

These colleagues view this measure as I do, very much stimulative to the economy and helping with our unemployment problem.

One last point I will make is that our bipartisan manufacturing tax bill is revenue neutral. I don't think it does harm to emphasize, sometimes we pass a tax bill and less money comes into the Federal Treasury and we might have a bigger deficit. This bill does not do that. Not one dime is added to the current deficit.

Thank God, the President has been in the forefront of this, asking for a bill that would be revenue neutral. We have delivered for our colleagues who believe in revenue neutrality of tax bills. We have delivered for the President.

The JOBS bill provides over $112 billion in business tax relief which is paid for by shutting down tax shelters and by closing abusive loopholes. Let me emphasize that because people are reading about this every day in the newspaper, companies setting up shell corporations overseas, with nothing but a cabinet and maybe an address, a post office box, for the sole purpose of avoiding taxation. They dash and stash the cash, whereas we have all these other patriotic companies staying in America.

There are other schemes I will not go into, but we deal with those schemes in this legislation, bringing in additional revenue that can be used, then, to make our international taxing regime more fair and do it in a way that creates jobs in the United States of America, not overseas.

It is a fact of life with most bills that come to the Senate, there is never complete agreement on an approach. There is always 20 percent on the right and 20 percent on the left that might disagree with something that comes to this Senate. What this Senate is all about is moving things to the center, to get a consensus to get something passed. In the process, there is never complete agreement.

For instance, some Members did not favor including this Homeland Reinvestment Act which Senators SMITH, ENSIGN, and BOXER have written. We have included it in this bill. So we may have votes on that.

Our bill contains a temporary haircut on the rate reduction some Members would like to remove and others would like to retain. We will probably have that divisive issue before the Senate. Some Members prefer a reduction in the top corporate rate in place of all these international tax reforms and manufacturing rate cut deductions. Now, that is a more simple approach than we have, but this approach misses a couple of factors.

First, the top level rate cut would only go to the biggest corporations of America. It would not go to the local family-held S corporation or partnership as our finance bill does. We think we ought to help small business in the process.

Second, FSC/ETI repeal will not create a large tax increase on the service industry. That repeal will be a $50 billion tax increase on manufacturing. If we redirect the FSC/ETI repeal money to an across-the-board corporate cut, as a couple of my colleagues will offer an amendment to do, then the manufacturing sector will be the revenue offset for the services sector of tax cuts. It is a fact that we have a struggling manufacturing sector and I don't think a sector of our economy that is slowly recovering ought to be hit with this sort of a revenue offset for the benefit of the service industry. We have to face what is the current crisis in manufacturing.

Working families are living in financial fear. We owe a secure future to these hard-working men and women. For them, we have a secure future. Their employers must be able to compete and thrive both at home and abroad. Then their future is secure. Their employers cannot thrive if these companies are burdened with excessive tax rates at home and international tax barriers abroad.

Our bipartisan JOBS bill presents the best opportunity to end that burden and to make a downpayment on putting Americans back to work. Let's hope the Senate gets to work, puts American manufacturing back in the game. That is why I am here, urging my colleagues to support a bipartisan JOBS Act and cooperate to get this bill on the President's desk.

In closing, I have one message for the 39 Democrats who are not on the Finance Committee and may not see this, other than just a piece of legislation voted out of the Senate Finance Committee. I say to the 39 Democrats who are not on the committee, they have an opportunity to help us very quickly move a bill to the other body, very quickly help us pass a bill to help manufacturing, help us pass a bill to create jobs for American men and women in manufacturing, which is slow to recover. They have an opportunity to help with bipartisanship in the other body because there are bills in the other body, but they are short of the number of votes they need. Part of the reason is maybe the other body does not see the need to pass a bipartisan bill as we do in the Senate. There are Republicans and Democrats in the other body who are working on a way to do this, a way that is not far removed from our legislation.

If we have a real strong vote over here and we get this done quickly, we might be able to help the House of Representatives pass some legislation and to do it in a bipartisan way. Helping to pass legislation in a bipartisan way is not a bad goal for Senators, since we practice that.

Also, those 39 Democrats will have an opportunity to help the Senate Finance Committee do something we want to do because we can get it done in this bipartisan way and it is not exactly the way the White House wants us to get it done. Here again, we share governing responsibilities with the President and with the House of Representatives, and so Democrats working with Senator BAUCUS and myself, Democrats who are not on the committee, can help get a bill to the President, help the President to see maybe the aspects about this bill they do not like, they ought to take a second look at to see the good work, and help get a bipartisan bill through the House of Representatives.

I don't say that in a defensive way because I don't know of any reason the other 39 Democrats do not want to help us accomplish what we want to accomplish. What I have just said is not for that purpose, but only said for the purpose of those Democrats who are not on this committee, there is a larger aspect than just the language of the legislation that is before the Senate. It benefits them for a lot of goals they want to accomplish that sometimes cannot be accomplished as a minority part of this body.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I would like to make a few remarks about the JOBS bill before the Senate. With this bill, we join in the work of improving the economic well-being of Americans.

This bill is about creating good jobs in America. This bill is about improving the standard of living of all Americans.

Let me begin with the economic context for this bill. In a series of statements over the coming week, I will address particular aspects of the legislation. We begin with the dignity and importance of work. Our jobs often define who we are. They are where we spend much of our waking hours. As the preacher teaches in the book Ecclesiastes, "A man can do nothing better than to . . . find satisfaction in his work. This . . . I see, is from the hand of God. . . ."

Job creation is fundamental to our ability to live a good life. It is through the creation of good jobs that Americans have come to enjoy remarkable advancements in income and comforts. The American job creation machine makes our shores the shores to which immigrants swarm. We don't see people heading for the door. Rather, people from around the world want to live in America.

Ours is a dynamic economy. This economic growth is the key to our Nation's success.

I point out this chart. I will raise it up so people can see it. This chart shows the picture I have just basically described. In 1900, in the wake of the industrial revolution, America already stood at the pinnacle of the world economy. Already in 1900, believe it or not, we had the highest per capita income in the world, slightly more than Britain or Australia, and almost double that of France or Germany.

But even adjusted for inflation in today's dollars, not 1900 dollars, America's per capita GDP—a rough measure of our average income—was only about $5,000 a year in today's dollars. Measured by today's standards, we lived in poverty: Walking and horseback was how one got around; electricity lit only 3 percent of homes in 1900; only one-third of Americans had running water; only 15 percent had flush toilets; life expectancy was 47 years.

In 1900, America had one of the best educated populations in the world. But 1 in 10 were illiterate. The typical adult had left school after the eighth grade. There were only 382 Ph.Ds awarded in the entire country in 1900.

Even though in 1900 our economy was at the top of the world, Americans had an average income then that the average person in Mexico has today.

If our economy had not grown, our standard of living would be unacceptable by today's measures. Economic growth made a huge difference.

Because of economic growth, inflation-adjusted, our per capita income today is roughly seven times now what it was 104 years ago.

With economic growth, electricity became available across the country, and automobiles made us a mobile nation and made much more of the Nation within reach of work.

It is incredible to see how much we have grown in real per capita GDP since 1900. You can see a dip on the chart in 1929. But we have grown at a rapid rate.

The next chart is very interesting as well. This is private sector employment. American economic growth created 108 million new jobs, net, since 1900. In 1900, the American economy employed 27 million people in its civilian labor force. By January 2004, 104 years later, the American economy employed almost 140 million Americans.

Two-thirds of Americans participate in the labor force—substantially higher rates than in Europe. That is up from 55.5 percent in 1900. Americans are hard-working people. We work.

The American economy has, on average, created more than a million net new jobs every year since 1900. Since 1935, we have done better; America has created 1.5 million jobs every year. That is a net figure.

America's economic growth springs from our people, our freedom, our unity. The American people are smart and as hard working as any in the world. Our free market has given this great people the freedom to achieve their best potential. Our unity has protected its huge internal market from robbers, foreign and domestic.

We are lucky to be Americans, very lucky. Our Nation is still a magnet for immigrants. This country is still a beacon to countries around the world.

We can pride ourselves in our independent judiciary, which helped make this country strong. We can be proud of our system of government—this long-lived democracy. We have a dynamic, mobile society.

In a number of ways, America has it right. More times than not, Americans have struck about the right balance between government protections and private freedoms, to contribute to economic growth.

Our society provides an environment for success. Bill Gates, for example, might be a pauper in Sri Lanka. But America provides the environment and infrastructure and, of course, the political system and markets where a Bill Gates can succeed. We should not take this lesson for granted. This is not true in all countries. Our society, economy and, yes, the Government contributed to the successes of people such as Bill Gates.

Government does have a role to play, for good or evil, either to foster or to impede this economic growth.

Government can impede growth. By running large continuing budget deficits, the Government can suck vital capital out of the economy, robbing individuals and businesses of funds that can be used for investment.

Thus, the record budget deficits that the Government is now running pose a threat to our Nation's economic growth. We have to recognize that. These deficits decrease national savings, decrease private sector investment, and raise interest rates. The resulting slower economic growth and increased cost of borrowing harm businesses, large and small.

Foreign governments can impede our growth when they deny Americans access to their markets, when they don't let us sell products in their country, when they artificially depress the value of their currency, flooding our lands with their imports and denying our exports a fair opportunity to compete.

Our Government can foster growth by investing in education, by opening markets at home and abroad, and by removing barriers to our economic greatness. We can foster growth in America.

That is what this bill is about—removing barriers to economic growth and creating jobs.

It is no secret that in the past few years the engine of American job creation has ground to low gear; manufacturing has been particularly hard hit.

This next chart shows the story of private sector job creation in the American economy over the last decade. Beginning in March of 1993, here at the lower left, the American economy steadily created new jobs throughout the rest of the decade. The economy grew. People had jobs and families had more money in their pockets. In fact, from January of 1993 to January 2001, about 20 million—net jobs—were created in America.

Private sector employment peaked at 111.6 million jobs in December of 2000. The Bureau of Labor Statistics reports that since the end of the year 2000, the private sector of the American economy lost 3 million jobs. You can see that on the chart. Our peak was here in 2000 and we have lost jobs—3 million. Three million jobs were lost in the American economy since that peak in December of 2000. In January of this year—the month for which we have the latest statistics—the American economy employed 108 million private sector workers, which means 1 out of every 40 private sector jobs have disappeared since the end of 2000.

The manufacturing sector has disproportionately borne the brunt of these job losses.

This next chart shows the story. This is manufacturing jobs from 1993 to 2004. We can see the dramatic decline in roughly 2001, since July of 2000.

Since July of 2000, the American economy has lost 3 million manufacturing jobs. That is a net loss. The Bureau of Labor Statistics reports that in January, America employed 14.3 million workers in manufacturing, and that is down from the 42nd straight month from the high of 17.3 million in July of 2000. That is a drop of 17.5 percent in manufacturing employment. More than one in every six American manufacturing jobs has disappeared since July of 2000. Again, one in every six manufacturing jobs in America has disappeared since July of 2000.

Manufacturing jobs have disappeared in all 21 industries that constitute the manufacturing sector. It is in all sectors. We lost jobs in computer and electronics products. We lost jobs in transportation equipment. We lost jobs in machinery. We lost jobs in fabricated metals. We lost jobs across the board.

My home State of Montana has suffered more than most. It has had a 19-percent reduction in manufacturing jobs since January of 2000.

This next chart also shows job losses happening all across the country; not just across all manufacturing sectors but all across America. Every State in the Nation but one has lost manufacturing jobs since July 2000. The darker the shade, the greater the job loss; the lighter the shade—orange and yellow—there is less job loss. But every State in the Nation has lost jobs, except one.

The manufacturing jobs we are losing are good jobs. This next chart shows manufacturing jobs pay more than service jobs on the average. We all know we are moving from a manufacturing society to a service job society. Regrettably, those new jobs, service jobs, pay quite a bit less than manufacturing jobs, and that has been true from 1994 all the way up through the current date.

This next chart shows manufacturing employment is now at its lowest absolute level since July of 1950. Fewer Americans are employed in manufacturing today than at any time in more than half a century. We can see from the line from 1950 to today there is essentially the same number of jobs. Clearly, we are not doing very well.

Why do I mention all this? First, it is fact. Second, we have to deal with it. We have to do something about it, and that brings us to the bill before us, the JOBS bill. We have targeted the provisions of this bill directly at manufacturing employment. Why? Because that has been the greatest problem.

This bill will not be a complete solution. By no stretch of the imagination will this bill be a complete solution to job loss in America. To help create and keep manufacturing jobs, we also need to do many other things in addition to passing this bill. We need to open foreign markets to American goods much more aggressively than we have done in the last couple of years. We need to improve education, to preserve the comparative advantage of American workers. Clearly, we have to be the smartest—hopefully at least try to be the smartest—in the world. To do that, we have to educate our kids and keep education at all levels, and to retrain workers.

We also need to make health care more affordable. Health care costs in the United States are too high. They place a big burden on employment, on businesses. The cost of health insurance and the cost of health care is way too high and should be lowered. We also need to provide assistance to displaced workers. They need to be retrained.

This bill will do two things that will make an important contribution to creating and keeping manufacturing jobs in America. This bill will contribute to economic growth and increased demand. This bill will help reduce manufacturers' tax burdens. It will reduce the tax rate for domestic manufacturers by 3 percentage points. Basically, it is a 9-percent reduction for domestic manufacturing income, which translates to about a 3-percentage point break for corporations. The JOBS Act will thus help all manufacturers who produce goods in the United States.

Cutting taxes for domestic manufacturers will help prevent layoffs. It will help. It will not solve the entire problem, but it is going to certainly help. It will help preserve jobs, and this bill is paid for. It will not contribute to the deficit. It thus will not raise interest rates. It thus will not levy that hidden tax of higher borrowing costs for business.

This is an important bill. It comes none too soon. American manufacturing is calling out for help. This bill is part of the answer.

To ensure continued prosperity and well-being, the American economy needs to start growing again, and this bill is part of that solution.

This bill is an important first step to address the economic circumstances in which we find our country. Over the days to come, I look forward to working with my colleagues on this bill. I particularly thank the chairman of the committee, Chairman GRASSLEY, who has done a terrific job in putting this bill together in a way that focuses directly on the problem.

We know we are here in large respect because of the WTO ruling which says we must repeal the so-called FSC/ETI regime because it is WTO illegal and replace it with a system that helps our domestic manufacturers in a way that is legal under WTO. There are various ways to fashion a replacement bill, and the other body has a replacement bill which gives the break to American corporations, C corporations, big corporations. We have a different bill. Our bill says if you are a C corporation, if you are an S corporation, sole proprietorship, partnership—whatever—if you manufacture products domestically in the United States of America, whether you export is irrelevant. You get the same reduction in your tax rate. That is to help small business as well as big business. So business together across the board is helped, not just big business.

We all know that is important because most new jobs are created by small businesses. There are many more small business people in this country than there are big business. Small business tends to be more creative in creating new jobs and expanding rather than big corporations.

I will stop here. There is much more to say about this bill.

One final point. I mentioned it is paid for. It is paid for by measures which in themselves should be good public policy and we should pass, anyway. What are they? They are corporate tax loophole closures. They are shelters legislation. They are post-Enron provisions that have not yet been enacted into law. There is something else called silos, to shut down another abusive international transaction.

Not only is this bill paid for, it is paid for in ways that will help restore consumer and investment confidence in American business which, in and of itself, will help create and keep jobs in America.

I yield the floor.

Mr. GRASSLEY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. BAUCUS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Madam President, I have a few more comments I would like to make about this bill. I hope, though, we can get an agreement put together, a list of several amendments that would then be in order. I know various Senators and leadership are now discussing that. It would be my hope we could reach that agreement fairly soon so we can get on with this bill.

Let me just discuss for a few minutes what this JOBS bill is really all about. It is a bill which the Finance Committee reported last November. It is something we simply must pass due to the WTO decision. I hope we can get it enacted into law as soon as possible.

I think this bill is important for three reasons. First of all, it will cut taxes for domestic manufacturers. That is important. The bill will also simplify taxes for American companies operating overseas. That, too, is important. And it will bring us into compliance with an unfavorable ruling of the World Trade Organization—no small matter. The JOBS bill, the bill before us, reduces the tax rate for domestic manufacturers by 3 percentage points. So if you are in the top bracket, it is 3 percentage points. If you are a company or corporation in a lower bracket, it is still about the same. Actually, it is a 9-percent deduction for the cost of producing or manufacturing products in the United States, which translates to about a 3-point reduction. Cutting taxes for domestic manufacturers will help prevent layoffs. It will help preserve jobs. As we all know, this country has lost 3 million—think of that, 3 million—manufacturing jobs since July of 2000. That is net loss. We have lost a lot more and gained some, but the net loss is 3 million manufacturing jobs lost since July of 2000.

When I talk to manufacturers in my home State, as I know the Presiding Officer does in her own State, they say the rising cost of doing business is one of the biggest impediments to business. It is a big problem business has. By cutting the cost of doing business, this bill will help alleviate the job loss.

This bill will help companies do their job. This bill helps small businesses as well as larger businesses. The Tax Code treats different kinds of businesses differently, as we all know. C corporations, as you well know, are companies that exist as a separate entity from their owners, thus limiting the owners' liability. The corporations can be liable for various actions, but the stockholders themselves, the owners, are not. That is the reason why companies organize themselves, very often, in that manner.

This chart shows about 26 percent of companies in the United States are organized as C corporations; that is, they limit their owners' liability, the shareholders themselves. The owners are not liable.

Sole proprietorships and partnerships are businesses where the owners of the business are fully liable for its debts. S corporations are smaller businesses that are incorporated for liability purposes but taxed as a partnership. The S corporations, partnerships, and sole proprietorships are collectively known as passthrough entities. These are generally smaller businesses, while C corporations are larger concerns.

Why do I mention all of that? I mention all that because, as I earlier stated, about a quarter of companies are organized as C corporations, but about three-quarters of American companies are organized differently, either as sole proprietorships, as partnerships, or as S corporations. We want to make sure that not just standard, garden-variety C corporations get the benefit of this bill but that all companies that manufacture domestically get the benefit of this bill, so we have changed the underlying bill.

Currently, today, under the FSC/ETI regime, which has been declared illegal by the WTO, the C corporations are the ones that get the benefit of the tax break. It helps them export products overseas. But in the Finance Committee, we felt, not just big companies but all companies should get the benefit of reduced taxes.

Nearly three-fourths of the manufacturers in this country are S corporations, partnerships, and sole proprietorships. About three-quarters of all new jobs that are created are by these small businesses. This chart shows that. About one-half of all employees in this country are employed not by big C corporations, they are employed by the other passthrough entities I mentioned. About three-quarters of all the jobs created and held in the United States are not by the big companies but by all the other smaller companies.

That is why we have extended this bill to include so-called passthrough entities. Our smaller businesses are the backbone of my State's economy and certainly the backbone of the economy of the Presiding Officer's State. I think they deserve tax relief just as much as larger businesses do.

In addition, by including partnerships and sole proprietorships, more of our agricultural producers will become eligible for this tax relief.

The JOBS bill that is before us also includes long overdue international tax reform. We are not just talking about the domestic manufacturing reduction rate; we are also talking about international tax simplification. That is for bigger American companies that do operate overseas. We want to make sure our American companies are competing on equal ground with rivals from other countries. One way to do that is to limit double taxation. When our companies are taxed twice, that makes them less competitive. We have included international tax simplification and reform provisions that will help American companies compete with foreign companies overseas.

A number of provisions will help companies better utilize their foreign tax credits. Foreign tax credits prevent income from being taxed twice. There is a repatriation provision that encourages companies to bring back overseas profits for investments in the United States. There is also a provision that will ease the tax compliance burden for small businesses looking to gain access to overseas markets. These are worthwhile, and they are measures that will help restore fairness and integrity to our American tax system.

As I mentioned, the bill repeals the current FSC/ETI laws. Why? To bring us into compliance with WTO obligations. Our bill replaces a tax incentive that was dependent on exports with a tax incentive that is not dependent on exports. A company can utilize this tax benefit in this bill whether the product it manufacturers is exported. So long as it is manufactured in the United States, that company qualifies. We will partially offset the loss of tax benefits to U.S. exporting companies, therefore, by the repeal of the current law, which I said is inconsistent with WTO, and will also provide benefits to all American manufacturers, providing a needed boost to our economy.

Another point: This legislation is completely paid for. Repealing the old FSC/ETI regime will cover most of the cost for the new tax incentive. By repealing the current law, that almost pays for what we are doing here.

The international provisions are paid for; that is, the additional provisions of the bill are paid for with offsets that curb abusive tax shelters. We have offsets in this bill. They will not just create revenue, but they are also good provisions, good tax policy in and of themselves—clamping down on shelters, the inversions provisions, post-Enron reforms, something else called SILOs, which is a gimmick, frankly, that international American companies are using to shelter their income. All that is shut down, and that pays for the rest of the bill. Again, these shelter provisions are absolutely critical to be enacted.

Let me mention in a little bit more detail the three reasons for supporting this bill. I mentioned it is fully offset and the revenue goes to manufacturing. I think that is a principle we should maintain. We should not put incentives in this bill or change this bill in a way that deviates from that. We should also not change this bill in any way that reduces or diminishes stopping the abuses of tax shelters. That is a principle we should absolutely maintain.

I might say something about our budget deficit. Our current budget deficit is projected at about $521 billion this year. We all know that is basically an understatement. It is going to be much worse. Why? Because the administration's budget, as well as the budget resolution pending in the Senate Budget Committee, does not include several factors which more accurately reflect the true deficit our country is facing. What are those? First, both the budgets of the administration and the Budget Committee, which will be coming before the floor on Monday, will not include the cost of the war in Iraq. It will not include war costs. In fact, defense spending is going to be cut a little bit. One might wonder why, when costs are going up. My guess is the administration will come back with a supplemental next year with a big increase in Iraq costs and war costs. This budget does not include that and it should. That would be more honest.

Second, the budget does not include the cost of making expiring tax cuts permanent. That is the view of the administration, that they should be permanent. The budget does not include that.

It doesn't include providing alternative minimum tax relief. We all know this Congress is going to have to enact alternative minimum tax relief soon, and it is very expensive. That also is not included, to say nothing of the cost of paying for the baby boomers when they start to retire in the not too distant future.

Deficits are going to be a lot larger than contemplated in either the administration budget or the budget resolution that will come to the floor.

I say that because it is all the more reason why this bill must be budget neutral. I say that also because there are other Members of Congress who have a different view about that. They would not like this to be budget neutral. They would like there to be further tax cuts but not paid for. I think that is not wise. Frankly, psychologically, as well as actually, the American people will appreciate us having a budget-neutral bill and trying to work toward a balanced budget. That means people around the country are saying those guys and gals in Washington maybe have their heads screwed on straight. Maybe they are doing something right back there. Maybe they are not frittering away taxpayer money.

The more we do what is right, by keeping this budget neutral, not succumbing to the siren song of lowering taxes but not paying for them, the better off we will be in so many respects.

Another point: We have a heck of a job ahead of us, a huge challenge. What is it? It is how to create more jobs in America, how to keep jobs in America, and how to help those who have lost jobs—no easy task. It is extremely difficult. We all know the statistics. Three million manufacturing jobs lost in the last several years. We have to do something about that. The real question is, what do we do? What is the right thing to do? Some say it is OK. That is the way things are. That is international competition. That is globalization. It just happens. In the long run we are all better off. Some say that.

Essentially that was a statement of Mr. Mankiw the other day that has been bandied about so much. He said that is the way it is. There will be new technologies. Companies will be able to compete better. They have to lower their costs, and they can lower their costs if they can compete any place in the world. If that means jobs overseas, lowering costs, that makes American companies more competitive.

I have a different view. I think we have to face up to the challenge of creating more jobs and retraining Americans so they can have jobs, and keeping those jobs in America. That is, we cannot be passive. We have two choices: try or do nothing.

I say we try to create more jobs in America; we try to keep more jobs in America; we try to retrain people and help people who have lost jobs. We have to do something about it.

The administration thus far has been passive. It has gone AWOL. It does not seem to really care. I do not see any affirmative programs to create jobs in America. We need them. It is a hugely complex problem in both the short term and long term. In the long term, it is education—science, math, engineering. Did you know we don't graduate nearly as many engineers as does Japan, Europe? And China graduates about three times the number of engineers we do. Did you know that? How long can we continue that? In the long term, we cannot. It is unsustainable.

I must also say the amount of financial aid or the amount of support in basic research has dropped tremendously in America. The number of engineers who graduate in America is now about 30 percent less than it was not too many years ago. The figure is worse than that. We are not going to be able to compete in the long run if we continue that. It can't be done. There are lots of other long-term measures we have to undertake.

There are also in the midterm things we could be doing and we are not. What are they? No. 1, we are not opening foreign markets. Look at India, look at other countries in the world that are closed to America, particularly the country of India. We hear about all the call centers going to India. We don't hear about goods being exported to India for a very good reason: India is by and large closed. They are closed to intellectual property rights, closed to so many markets, so many products. India is closed. What are we doing about that? Not much.

The same can be said for other countries—China. Remember the WTO? They are a member of the WTO. We gave them PNTR. China has a lot more to do.

What are we doing in trade? Basically looking to countries—with no disrespect—such as Bahrain and Morocco. These smaller countries don't have huge commercial benefit to the United States. It is easier to reach trade agreements with those countries. It is much more difficult to go after where the real problem is. As I mentioned, this country is not doing that, and it should do that. It should start working more aggressively to open markets so we can sell products overseas. When we start selling products overseas, that means more jobs in America. It is pretty doggone simple, but it is not being done.

I might also add that there are other things we could be doing that we are not doing. I mentioned education. We are cutting education in this country. We are not fully financing No Child Left Behind. How are we going to compete in the world if we don't give full due to education? We have all gone overseas and visited high schools in countries worldwide. I have. The graduates in Pusan, Korea, are bright as the dickens, and they are hungry.

We have great schools and great teachers. But there is so much more we can do. In my State—and this may be true in other States—teachers are leaving because their salaries are so low. They cannot teach. A lot of schools in the country are cutting back on gifted children programs. They don't have any money. Why are we cutting back on gifted kids? That certainly helps all kids, including the underprivileged.

Madam President, I will yield the floor because I see our Democratic leader in the Chamber. He has a lot to tell us. Certainly, it will add immensely to this discussion. I urge us to think critically about the real problem. We cannot close our borders and put our heads in the sand. We have to meet this challenge head on. This is part of that effort.

I yield the floor.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. DASCHLE. Madam President, I compliment the Senator from Montana for his words. I have not heard all of his remarks this morning, but I could not agree more that this is a problem that has to be addressed head on. As he noted, this legislation gives us an opportunity to do so. It may not be the ultimate solution, but it is a critical building block in our effort to restore the economy and create new jobs.

I hope that very shortly we can get on with the debate. We had an agreement not to offer amendments, of course, until people have had a chance to make opening statements. I intend to make a short one. I hope in the not too distant future we can begin the real debate. We don't have a lot of time. We have 3 days. Senator FRIST is right that we have a lot to do in a short period of time. If we are going to maximize the use of these 3 days, it is time to get on with amendments. I know Senator HATCH is prepared to offer the first one. We hope that certainly before the end of this noon hour, we will have offered the first amendment.

Mr. President, these are very difficult times for millions of American families.

Nine million Americans can't find jobs. We have the highest long-term unemployment rate in 20 years. And in the last 3½ years, our economy has lost 2.9 million jobs; 2.8 million of those jobs were manufacturing jobs.

These aren't abstract numbers. They have real world, dramatic impacts in South Dakota and across our country. And the millions of affected families are looking to us for answers. They don't want hand-outs; they want jobs.

Unfortunately, American has lost manufacturing jobs every month since this administration took office—every single month. This is unprecedented. It's also dangerous for our economy.

Manufacturing is more productive, it pays higher wages, and provides more benefits than other sectors of the economy. Manufacturing jobs are the kind of jobs you can raise a family on. They're the kind of jobs that make it possible for middle-class families to put their kids through college, and put something away for retirement.

We have clear choices in facing this problem. We can let jobs move overseas—or we can fight to keep them here. We can try to create jobs here, or we can do nothing in the face of globalization.

We can provide help for workers who are losing their jobs, or we can look the other way. And we can strengthen worker protections, or we can strip away overtime and other benefits that have been a hallmark of the American workplace.

A couple of weeks ago, President Bush and his economic advisors weighted in on this issue and told Americans it was a good idea to ship jobs overseas and we ought not worry about it. I don't see it that way, and I know people in South Dakota don't see it that way. And we need to do something about it.

Today's legislation is the second step in this process. The first step was the creation and the passage of a very important highway bill, which will create hundreds of thousands, if not millions, of new jobs over the course of the next 6 years. This is the second step.

The foreign sales corporation regime was created to counterbalance provisions in the Tax Code that create incentives to move operations overseas. It provided tax advantages for American companies that keep their jobs in America and ship their products overseas.

But the World Trade Organization has decided that these advantages were an unfair subsidy and needed to be eliminated. And if they weren't eliminated, international sanctions would follow. Those sanctions kicked in beginning March 1.

The question before us is what to replace the old export tax regime with?

The Bush administration is completely focused on overseas activities and has proposed nothing to encourage manufacturing job creation at home.

But thanks to Chairman GRASSLEY and Senator BAUCUS, we have another solution before us.

The centerpiece of their legislation is creating tax incentives for manufacturers that will keep and create good jobs in America. Their proposal is one of the most important opportunities we will have this year to begin addressing America's manufacturing crisis.

Just as importantly, this bill gives us an overdue opportunity to do more.

We need to accelerate and increase domestic manufacturing tax incentives, and establish a strong job creation tax credit.

We need to prohibit tax deductions for outsourcing expenses, and require notice to employees about outsourcing plans. Every community has a right to know how many employees are losing their jobs, why then are losing their jobs, and where those jobs are being sent.

We need to restrict outsourcing of government contracts.

We need to help workers who are hurt by outsourcing, and make sure they have access to training and health care while they get back on their feet.

And we need to reverse some of the Bush administration's worst policies—

like eliminating overtime for 8 million workers, including veterans who have been given training in the military and are now ineligible for overtime pay as a result of this regulation. We need to do that. American workers have the same rights they have always had. That fact needs to be reemphasized with the legislation we will offer on this bill.

We can't wait until next year to make these improvements. Millions of American families need them today. And I have seen firsthand, in South Dakota, why this is so important.

I recently toured a manufacturing plant in Sioux Falls. Graco Incorporated is the world's leading manufacturer of fluid-handling systems and equipment. They've been in business for 78 years. They employ about 165 people.

The plant manager showed me two, nearly identical parts. The first was made in Sioux Falls. The other—made overseas—wasn't quite as high-quality, but it cost a little less because the people who made it were paid less, with no benefits.

The manager showed me those two parts. Then he introduced me to the workers who would lose their jobs if Graco took the easy, offshoring route. He said, "I don't want to be the one to have to tell them they don't have jobs anymore."

The people at Graco are resisting the temptation to export their workers' jobs. They're doing everything they can think of to be good, responsible corporate citizens of my State. The last thing the Federal Government should do is make that job any harder.

Our responsibility is to make it easier for Graco and thousands of other companies to keep and create jobs here at home.

As I said, this bill is one step in a long process. By itself, it will not completely reverse the unpredecented decline in American manufacturing that has occurred since 2001. That will require a comprehensive plan and sustained bipartisan cooperation over a period of time.

In the short term, we have to work together to restore fiscal sanity to the budget.

The Federal deficit this year will be half a trillion dollars—with no end in sight to the red ink. This debt could cripple our economy and destroy our children's future.

In the longer term, our Government should assist people with education and training so they can seize the opportunities that rapid change creates. We need to help people who are displaced by change, and we need to make sure America remains on the cutting edge of innovation.

The administration is not facing either of these challenges. We have the largest budget deficits in all of American history, and the administration is drastically underfunding training and education.

The President's budget recommends $9.3 billion less for the President's own educational reform plan than the new law calls for.

By choosing tax cuts for those at the top over assistance for States, the President has forced drastic increases in tuition at public colleges and universities.

The administration has fought Democratic efforts to help dislocated workers upgrade their skills at community colleges.

At a time when other countries are feverishly trying to challenge America's preeminence in critical technology, the administration, through neglect and politicization has weakened America's science and technology infrastructure and undercut America's scientific edge.

The decline in American manufacturing isn't just happening on President Bush's watch. It is happening in part because of President Bush's policies.

Our choices are clear. We can follow the administration's path and make it easier and cheaper for companies to ship American jobs overseas, or we can fight to keep good jobs in America. We can turn our back on millions of workers and families who cannot find jobs, or we can help them get back on their feet and get back to work.

It is our hope that, in a bipartisan way, we can find ways to ensure that these goals can be achieved, not only with this legislation but certainly beginning with the amendments we will offer throughout the debate on this bill and hopefully with final passage accorded this legislation someday soon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, before the distinguished Democratic leader leaves the floor, I would like, through you, to pose this to him: We have been here now for approximately 2 hours on this very important legislation. The Democratic leader has talked about how important it is, the distinguished chairman of the committee has talked about how important it is, our ranking member has talked about how important it is, and we are doing nothing. We have a gentleman's agreement that this would be for debate only, but I think the Democratic leader would agree with me, and I think everybody should be put on notice that this cannot go on all day long, that this is ridiculous; would the Senator agree to that?

Mr. DASCHLE. Madam President, I respond to the Senator from Nevada, the distinguished assistant Democratic leader, that the schedule is clear. We have this afternoon, we have tomorrow, and, let's face it, honestly, we only have Friday morning, and we will be under great pressure, I am sure, not to have any amendments offered beyond midmorning on Friday.

So for all intents and purposes, we have a little bit more than a day to debate this critical legislation prior to the time the majority leader has already indicated we are going to be moving to the budget, setting aside this legislation.

We are going to be assessed $4 billion in tariffs beginning this week if we do not correct the current situation. So this legislation is urgent. It needs to be addressed.

I think we have some very critical amendments that ought to be offered in this very narrow window to accommodate concerns on both sides of the aisle. I hope we can do so. Frankly, as the Senator suggests with his question, we need to do it soon.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, it is true also, is it not, that we have made—and I would like to hear the Democratic leader respond to this—a fair response? The majority has an amendment they want to offer, sponsored by Senator HATCH, dealing with extension of some tax credits. We then said we would like to offer an amendment to stop what—it is not a crime but it is close to it in our country today with all the outsourcing of all these contracts, and we want to make sure the U.S. Government contracts are not outsourced unless there are certain limitations placed upon them.

Then they would come back with another amendment sponsored by Senator BUNNING. Then we would come back with another amendment sponsored by Senator HARKIN dealing with overtime, and this is no secret; this is an issue about which we have great concern as to what the administration is doing with American workers with overtime.

Is there anything in this agreement the Democratic leader sees that should prevent us from moving forward on this critical legislation? We have even agreed to time limits; is that not true?

Mr. DASCHLE. The Senator from Nevada is correct. We have agreed with our Republican colleagues to limit the amount of time devoted to each of these amendments.

I see the distinguished chair of the Finance Committee, and it looks as if he may be about to propound a unanimous consent request. Perhaps we can yield the floor to accommodate his interests in doing so. I think we all hope to achieve the same goal. Let's move this bill forward. Let's have a good debate about amendments, up or down, and let's see if we can complete our work on this legislation in a timely way.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Madam President, I ask the following unanimous consent request. We have perfecting amendments that have been cleared on both sides. Therefore, I ask unanimous consent that the first-degree and second-degree perfecting amendments that are at the desk be considered and agreed to en bloc and that the motions to reconsider be laid upon the table; provided further that the committee substitute be agreed to and considered as original text for the purpose of further amendment. I further ask unanimous consent that the next first-degree amendments in order be the following: a Senator Hatch and Senator Murray amendment on R&D, with a Bingaman second-degree amendment which is relevant to the first degree; then Senator DODD dealing with outsourcing; then Senator BUNNING and Senator STABENOW dealing with accelerating manufacturers' tax cut; and then the fourth amendment will be Senator DASCHLE or his designee.

The PRESIDING OFFICER. Is there objection? The Senator from Nevada.

Mr. REID. Madam President, reserving the right object, I wish to express my appreciation to the chairman of the committee. He, in the statement he has made so far, along with the ranking member, underscored the importance of moving this legislation, and this is movement in that direction.

As we indicated in the dialog between Senator DASCHLE and this Senator, we will agree on time limits anytime the Senator wants to work something out in that regard. We will be happy to do that. This is a very good first step, and we do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2646) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The amendment (No. 2645), as amended, was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. REID. Madam President, we now have an amendment that will be offered as soon as Senator HATCH arrives. Senator BYRD saw we were not doing a lot on the floor, and he asks, through me, that he be able to speak for up to 20 minutes at this time.

Mr. GRASSLEY. Madam President, I feel as if I owe that to the Senator from West Virginia because I already made arrangements for him to speak before we completed this agreement.

Mr. REID. Madam President, I propound that in the form of a unanimous consent request, with the understanding that the first amendment be offered as soon as he finishes. That will be good.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from West Virginia.

Mr. BYRD. Madam President, I thank the distinguished Democratic whip and I thank the distinguished chairman of the committee for his courtesy.

INDEPENDENT COMMISSIONS ON NATIONAL SECURITY ISSUES

Most of us are familiar with the Aesop's fables, having read some of them at one or more times during our lives. Aesop once told the story of a jaybird that ventured into a yard where peacocks used to walk. There the jay found a number of feathers fallen from the majestic birds when they had last molted. He tied them all to his tail and strutted toward the peacocks. His cheat was quickly discovered, and the peacocks harassed the imposter until all his borrowed plumes had fallen away. When the jay could do no more than return to his own kind, having watched him from afar, they were equally affronted by the jay's actions.

The moral of the story, said Aesop, is that it takes more than just fine feathers to make fine birds.

It is an age-old lesson that the Congress should hold in its mind as we consider how best to investigate the distorted and misleading intelligence that the administration used to build its case for war in Iraq.

On February 6, the President announced the creation of his own commission to investigate our intelligence agencies to find out, in the words of Dr. David Kay, why we were almost all wrong about the administration's prewar claims of huge Iraqi stockpiles of weapons of mass destruction. If Congress is serious about getting to the bottom of this apparent intelligence failure and the administration's rush to war, we must realize that once stripped of its dazzling plumage, the White House proposal for its own so-called independent commission is a real, honest to goodness turkey. It is not only fine feathers that make fine birds.

The President has described the panel that he created as being an independent commission. Well, nothing could be further from the truth. This commission is 100 percent under the thumb of the White House. Who created the panel's charter? The President. Who chooses the panel members? The President. To whom does the panel report? The President. Whom shall the panel advise and assist? The President. Who is in charge of determining what classified reports the panel may see? The President. Who gets to decide whether the Congress may see the panel's report? The President.

To describe this commission as independent is to turn that word's definition on its head. In fact, the deeper one delves into the text of the Executive order that creates the President's so-called independent commission, the more one finds that the commission is ill-equipped to discover just what went wrong with the prewar intelligence on Iraq.

At first glance, the charter of the President's commission appears very broad. It is to assess whether the intelligence community of the United States is sufficiently authorized, organized, equipped, trained, and resourced to tackle the threats of terrorism and weapons of mass destruction. As part of that goal, the commission is to compare prewar intelligence on Iraq with what has so far been discovered.

That mission sounds like a mouthful, but it really misses the point of why the American people are calling for a commission to investigate in this matter.

The public has a right to know why our intelligence on Iraq was so wrong, how the administration may have misrepresented its intelligence, who is going to be held accountable for misleading our country into war, and what will be done to fix the problems with our intelligence. Those are exactly the questions an independent intelligence panel should be investigating, and yet the President's commission only skirts those key issues.

What is more, even though the President promised that his commission will investigate current intelligence on North Korea, Iran, and Pakistan, his Executive order, in fact, does not bother to direct the commission to review intelligence on those countries. Instead, the President's Executive order directs the commission to focus its energies on Libya and Afghanistan. Libya and Afghanistan are not countries that the President has labeled as part of his axis of evil. A real independent intelligence commission would shine new light on how we assess the threats of North Korea and Iran, not be distracted by sideshows that will keep the commission busy until March 31, 2005.

The President has carefully drafted this Executive order to allow himself to serve as the gatekeeper on what information the so-called independent commission might have access to. While the President directs Federal agencies to cooperate with this commission, he also has created a giant loophole that would prevent the most important intelligence products from being read by his commission.

The Executive order reads as follows: The President may at any time modify the security rules or procedures of the commission to provide the necessary protection to classified information.

I was born at night but not last night. All of America knows that the White House is in a dispute with the September 11 Commission over intelligence reports that were read by the President. The commission wants them. The White House will not give them. The Executive order drafted by the President to create an intelligence commission makes sure that his own commission will never see documents that the President does not want them to see.

At least the 9/11 Commission has the power to issue subpoenas for critical information. The President's intelligence commission does not even have that power. The deck is being stacked against a full and open inquiry on the prewar intelligence on Iraq. Congress is not even assured of having access to the commission's report.

The President has required that the commission send its report to him in March 2005 and then within 90 days the President will consult with the Congress concerning the commission's report and recommendations.

Why can the Congress not simply read the commission's report? Why should the White House be given the opportunity to reword, reshape, redact, or even flat out censor the so-called independent commission's report before Congress can get their hands on it?

It is quite possible that if this so-called independent commission is allowed to proceed as the President has directed, Congress will never have the chance to review the commission's work.

Tucked away in the President's Executive order is a provision that intends to exempt this commission from judicial review. Let us not forget that the Office of the Vice President fought tooth and nail in Federal courts, and is still doing so, to keep the General Accounting Office, an arm of the Congress, from learning about the meetings of the Vice President's energy task force.

Could this provision be an attempt to hide the work of the President's intelligence commission from Congress? I would not put such a scheme beyond the White House, which has already demonstrated its zeal for secrecy.

The administration's case for war in Iraq appears to have been built upon cherry-picked intelligence, produced and massaged to hype the American people into going along with a war of choice. The President's so-called independent commission would allow the White House to do the exact same number on the commission's report as it did on prewar intelligence and analysis; namely, pick out only the parts that it wants the public to see and bury the rest.

It is bitter irony that a report on whether the administration covered up evidence that contradicted a rush to war might itself be covered up under the terms of the President's Executive order.

So what is next? An independent commission to investigate the President's own commission? Is that so? I wonder. Let us not make the mistake of ignoring the shortcomings of the White House's version of an intelligence commission on Iraq, only to be haunted by those problems later.

The revelation by Dr. Kay that he does not believe any stockpiles of weapons of mass destruction existed in Iraq has dealt a blow to the President's case for war. It has shaken the American people's faith in their Government. We owe it to the American people to get to the bottom of what went wrong with our intelligence agencies and whether the administration misused the intelligence that it was provided.

The President has simultaneously promised a commission to investigate these matters and stacked the deck against the independence of his very own panel. That is not the right way to gain the confidence of the American people in their Government. It is yet another in a string of attempts by this White House to mislead the American people on issues of national security.

Congress must step in and correct the grievous error that the President has made in creating a commission that is not equipped properly to do its job. Congress should use the independent 9/11 Commission, a commission that has shown itself to be fair, independent, and bipartisan, as a starting point for how to create an independent panel to investigate the Iraq intelligence failures. If the administration is serious about getting to the bottom of this debacle, this new commission might even be created in just a matter of days.

The American people deserve answers on why the administration relied on faulty intelligence to take this country to war without presence of an imminent threat. A commission that is designed to keep the inquiry under the thumb of the same White House that misled Congress and the public about the nature of the threat from Saddam Hussein will never be able to operate independently. So Congress should not allow the President to get away with posting a fox at the door to the hen house.

The structure of the 9/11 Commission is a solid foundation upon which to conduct an inquiry into the administration's prewar intelligence claims. The 9/11 Commission has been doing yeoman's work in digging into all of the events that led up to those catastrophic attacks on New York and Washington. In fact, the only real problem that the 9/11 Commission has faced is the lack of cooperation from the White House.

After refusing to meet with the full membership of the 9/11 Commission, the President and Vice President have reluctantly proposed to meet only with the chairman and vice chairman of the panel. And for how long? Just 1 hour.

The National Security Adviser has flatly refused to participate in any public discussions with the Commission. The White House position on dealing with the 9/11 Commission is so unreasonable that the administration is drawing criticism from both sides of that panel. There is even talk that former Senator Bob Kerrey, who once served as Chairman of the Senate Intelligence Committee, could resign because of the administration's refusal to let the Commission do its work. What could possibly be the reason for this stonewalling by the White House?

It is as if a whole swath of the Washington establishment has completely forgotten the horror of the terrorist attacks that killed 3,000 innocent people. But the American people have not forgotten. The American people have their priorities straight. They place getting at the truth of how that tragedy was carried out above election year politics.

Enough with the stonewalling. Enough with the foot dragging. Enough with the election year politics. The Senate acted correctly a few days ago to extend the life of the 9/11 Commission so that it can get its work done, and the House should promptly follow suit. Now Congress should act quickly to create an independent Iraq intelligence commission. The confidence of the American people in their Government, the people's government, hangs in the balance.

Madam President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HAGEL). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2647

Mr. HATCH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant journal clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself, Mrs. MURRAY, Mr. BAUCUS, Ms. CANTWELL, Mr. SMITH, Mr. BUNNING, and Mr. GRASSLEY, proposes an amendment numbered 2647.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To extend and modify the research credit)

At the end of subtitle A of title III add the following:

SEC.. ___. EXTENSION AND MODIFICATION OF RESEARCH CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Section 41(h)(1)(B) (relating to termination) is amended by striking "June 30, 2004" and inserting "December 31, 2005".

(2) CONFORMING AMENDMENT.—Section 45C(b)(1)(D) is amended by striking "June 30, 2004" and inserting "December 31, 2005".

(b) INCREASE IN RATES OF ALTERNATIVE INCREMENTAL CREDIT.—Subparagraph (A) of section 41(c)(4) (relating to election of alternative incremental credit) is amended—

(1) by striking "2.65 percent" and inserting "3 percent",

(2) by striking "3.2 percent" and inserting "4 percent", and

(3) by striking "3.75 percent" and inserting "5 percent".

(c) ALTERNATIVE SIMPLIFIED CREDIT FOR QUALIFIED RESEARCH EXPENSES.—

(1) IN GENERAL.—Subsection (c) of section 41 (relating to base amount) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) ELECTION OF ALTERNATIVE SIMPLIFIED CREDIT.—

"(A) IN GENERAL.—At the election of the taxpayer, the credit determined under subsection (a)(1) shall be equal to 12 percent of so much of the qualified research expenses for the taxable year as exceeds 50 percent of the average qualified research expenses for the 3 taxable years preceding the taxable year for which the credit is being determined.

"(B) SPECIAL RULE IN CASE OF NO QUALIFIED RESEARCH EXPENSES IN ANY OF 3 PRECEDING TAXABLE YEARS.—

"(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The credit under this paragraph shall be determined under this subparagraph if the taxpayer has no qualified research expenses in any 1 of the 3 taxable years preceding the taxable year for which the credit is being determined.

"(ii) CREDIT RATE.—The credit determined under this subparagraph shall be equal to 6 percent of the qualified research expenses for the taxable year.

"(C) ELECTION.—An election under this paragraph shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary. An election under this paragraph may not be made for any taxable year to which an election under paragraph (4) applies."

(2) COORDINATION WITH ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—

(A) IN GENERAL.—Section 41(c)(4)(B) (relating to election) is amended by adding at the end the following: "An election under this paragraph may not be made for any taxable year to which an election under paragraph (5) applies."

(B) TRANSITION RULE.—In the case of an election under section 41(c)(4) of the Internal Revenue Code of 1986 which applies to the taxable year which includes the date of the enactment of this Act, such election shall be treated as revoked with the consent of the Secretary of the Treasury if the taxpayer makes an election under section 41(c)(5) of such Code (as added by paragraph (1)) for such year.

(f) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to amounts paid or incurred after the date of the enactment of this Act.

(2) SUBSECTIONS (b) AND (c).—The amendments made by subsections (b) and (c) shall apply to taxable years beginning after December 31, 2004.

Mr. HATCH. Mr. President, the amendment I am offering today is an important and appropriate one for any bill that has the word "jobs" in its title. It is a bill to extend and expand a tax provision that is central to creating and retaining U.S. jobs—the research credit. I am joined in this effort by Senators MURRAY, BAUCUS, CANTWELL, SMITH, BUNNING, and GRASSLEY.

This bipartisan amendment will help to ensure that businesses continue to increase research activities—and to create new jobs—in the United States. As many of our colleagues are aware, the current research credit expires in just a few weeks, on June 30, 2004.

I believe that if we fail to act to extend this credit, we surely will see the negative effects manifest in lower economic growth, fewer jobs, fewer innovative products, and opportunities lost as research is taken from this country to other nations that offer more attractive incentives.

Our colleagues many times have expressed their resounding support for the research credit and I hope they will again. This amendment not only would extend the credit for 18 months, until December 31, 2005, but also would allow businesses to choose a new way to calculate the credit so that more research-intensive companies can lower their costs of U.S.-based research activities.

The American taxpayer relies on us to make the right policy choices for the long-term health of our economy. We have faced and are still facing major challenges both to our national security and to our economic security. Time and again we have looked to the industries on the cutting edge of new and improved technologies to help us meet those challenges.

My home State of Utah is a good example of how State economies benefit from the research tax credit. Utah is home to a large number of firms that invest a high percentage of their revenue on research and development.

In Utah, 5 percent of the workers—51,000 people—work in the research-intensive high technology sector. That includes over 10,000 people working just to design computer systems, and over 6,000 producing medical equipment. And there is a lot of R&D taking place outside of Utah's high-tech sector.

Just to give one example, more than 7,000 people work in Utah's chemical industry, and workers in that industry benefit from research and development taking place in Utah and throughout the country. Aerospace and the pharmaceutical industries are two more examples of big Utah employer groups that reap the benefits of R&D.

I want Utah companies to be able to buy better manufacturing equipment, more reliable electronics, and have access to more efficient quality control techniques. The workers who use new inventions will get just as many benefits as workers who create those new inventions. And the evidence clearly shows, that the research credit will increase innovation.

In short, there are tens of thousands of employees working in Utah's thousands of technology based companies, with tens of thousands more working in other sectors that engage in R&D. Beyond that, practically all of Utah's hundreds of thousands of workers benefit from higher productivity coming from the innovations that researchers both inside and outside of Utah produce. Research and development is clearly the lifeblood of our economy throughout the Nation.

Since 1981, when the research credit was first enacted, the Federal Government has joined in partnership with businesses, large and small, in those industries to ensure that the research dollars were expended in the United States so that the jobs were created here. We as a nation have reaped the benefits of that research.

It seems clear to me that if we want to keep our Nation and our economy strong and growing, it is vital that we maintain and even enhance our position as the world leader in technological advances. Our Nation simply must continue to invest in research and development, especially in the private sector. And, the Federal Government must affirm its role as a partner in those private-sector endeavors.

I believe the best way to ensure that private-sector investment in R&D continues at the health rate needed to fuel further productivity gains is to extend the current-law research credit and make that credit more widely available. Ideally, the credit should be made permanent.

I have long advocated a permanent credit and this body is overwhelmingly on record for a permanent research credit. During the Senate's debate on the 2001 tax cut bill, I offered an amendment to provide for such a permanent credit that the Senate adopted. Unfortunately, that provision was dropped in conference and we lost a great opportunity.

Given our budget deficit situation, I do not believe it is possible politically to make the research credit permanent on this bill. Ironically, though, a permanent credit costs no more than one that is regularly extended. Because of the urgency and importance of this matter, however, this amendment seeks only a temporary extension.

Let me point out a few key points for our colleagues so they can understand the importance of the research credit. These are according to the staff of the Joint Committee on Taxation.

The primary category of expenditures that qualify for the research credit are wages paid to employees performing research in the Unites States. In 2001, more than 15,000 taxpayers claimed the research tax credit—42 percent of these businesses were engaged in manufacturing.

However, of the total $6.5 billion in research credits claimed in 2001, 66 percent of those dollars were claimed by manufacturers. When you look at the size of the companies claiming the credit in 2001, you see that 68 percent of the firms claiming it had assets of $10 million or less.

The research credit translates into real jobs in the United States and, as the statistics show, it is our small- and medium-size domestic manufacturers that most benefit from the research credit.

A great deal of the reason our economy grew so rapidly in the second half of the last decade was because of a strong surge in our productivity rate. This surge is continuing into the present and has been a marvel to most economists.

This increase in productivity has allowed the economy to continue to grow at a rapid pace without the increase in inflation that usually accompanies such growth. Moreover, increases in productivity growth are the key to future economic security, particularly in light of the huge entitlement challenges we face in the coming years. A very large factor in that productivity growth is innovation, which of course, requires R&D.

As I mentioned, this amendment would extend the current credit until December 31, 2005, giving businesses that utilize this important incentive some certainty in the short-term so that they can hire the needed personnel to take research activities off the drawing board now.

Over the years, the research credit has proven to be a powerful incentive for companies to increase their research and development activities. Unfortunately, it does not work perfectly. Part of the reason is that this is an incremental credit, designed to reward extra research efforts, not just what a company might do anyway. From a good tax policy point of view, I believe this is the best way to provide an incentive tax credit.

However, it is difficult to craft an incremental credit that works as it should in every case. While the regular credit works very well for many companies, it does not help some other firms that still incur significant research expenditures. This is because the credit's base period of 1984 through 1988 is growing more distant and some firms' business models have changed.

There is no good policy reason why research should be more expensive for some industries than it is for others. To partially solve this problem Congress enacted the alternative incremental research credit, AIRC, in 1996, and now we propose a way to address the rest of that problem.

In addition to increasing the AIRC rates, this amendment allows taxpayers to elect, in lieu of the regular credit or the AIRC, an alternative simplified credit that is based on a rolling average of the prior 3 years' qualified research expenses. This provides companies that are increasing their R&D with another way to take advantage of the credit when the 20-year-old base period proves to be irrelevant.

This is an important amendment. It is important to our economy, both now and in the future. It is important to good, high paying jobs in the United States.

We need to continue to be the world's leader in innovation. We cannot afford to allow other countries to lure away the research that has always been done in the United States. We cannot afford to have the lapses in the research pipeline that would result if we do not take care of extending this credit before it expires on June 30. I urge all of my colleagues to support this amendment. It is the right thing to do. We have done it before. We certainly should do it now. I wish it were permanent. But under the circumstances, this is the best we can do. I have every confidence my fellow Members of the Senate will vote for this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. I rise today to join with Senator HATCH to strengthen and extend the research and development tax credit. We are all concerned about our slow economy. Every day we learn of more American jobs that are being shipped overseas. We worry about American companies losing out in the global marketplace and the impact that has on our workers and on our economy.

Today, we are offering a way to fight back and help our workers and companies continue to lead the world in innovation. Today, I am proud to offer an amendment that will support high-wage jobs for American workers at home and make our products more competitive around the world.

Anyone who wants to support good-paying American jobs, and anyone who wants to help American companies compete and win in the global marketplace should vote for the Hatch-Murray amendment. We all know research and development is a critical part of any business's success, but investing in R&D is not cheap. Our foreign trade competitors offer substantial tax and financial incentives to encourage American companies to make their research investments elsewhere. But we need those jobs in the United States and this amendment gives us a chance to support American workers in the face of foreign competition.

That is why the R&D tax credit is so important. It provides a real incentive for companies to increase their investment in U.S.-based research and development. The credit helps stimulate innovation, wages, and exports which all contribute to a stronger economy and a higher standard of living for American workers.

This is about investing in America. Because this tax credit is only available for R&D performed in the United States, it provides a discount on qualifying expenditures, and it is a proven incentive for U.S. companies to increase their R&D investment in the United States.

Unfortunately, the existing research and development tax credit will expire this June. Unless we take action, in just a few months we will be throwing away one of the best incentives for spurring investments at home. I have always supported making the R&D tax credit permanent, but because of budget constraints, we are not in a position to do that today. But we can do the next best thing and extend and strengthen this incentive.

The Hatch-Murray amendment does three things: First, it extends the traditional credit for 18 months through December 31, 2005; second, it increases the alternative incremental credit rate starting in January of 2005; and finally, again starting in January of 2005, it provides an alternative simplified credit to encourage even more research-intensive businesses to spend more on research in the United States.

The R&D tax credit is a great example of how we make the Tax Code work for American workers and American families right here at home.

I have a letter from the R&D Tax Credit Coalition, and I ask unanimous consent to have it printed in the RECORD after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit No. 1)

Mrs. MURRAY. Mr. President, this letter is actually signed by over 500 companies and associations and urges Congress to permanently extend the R&D tax credit and make the modifications contained in S. 664.

I share with my colleagues a portion of the letter:

> The technological innovations made possible by the R&D Credit enable companies to bring more products and services to market, increase employment, and raise the standard of living for all Americans.
>
> R&D helps manufacturers and services companies with U.S. operations maintain a competitive edge over lower-cost foreign competitors.
>
> It allows a small, medium or large company to reduce its financial risk in expensive, labor-intensive R&D investments.
>
> Since the credit was created in 1981, investments in technology and innovation have spurred economic growth and contributed greatly to our country's high standard of living. Continued R&D spending is a necessary element in our country's ability to invest for our future.

This is not some abstract economic principle. It is a real incentive that creates jobs and helps workers in America. I have seen it firsthand at companies throughout Washington State. This year, Microsoft plans to invest $6.8 billion on R&D. Because this tax credit is targeted almost exclusively at wages, the credit will translate into additional jobs in Washington State and in the United States. That will mean jobs not just at Microsoft but at many other local companies.

In fact, according to a February 25, 2003, article in the Seattle Times, one study found that every job at Microsoft supports 3.4 other jobs in the economy. It also found that from 1990 to 2001 Microsoft was responsible for more than a fourth, 28.3 percent, of King County's growth. That is an example of how one company's investment in R&D is supporting good family wage jobs throughout the region.

That is just one company. There are many other companies engaged in R&D in Washington State and in the United States. Their investment in R&D will help our workers and help our economy.

I want to share some other figures that show the importance of R&D investment, especially in Washington State.

In the year 2000, companies performed almost $200 billion in R&D; $9.8 billion of that research was performed in Washington State.

Let me shed some light on types of employers that are doing that work. Thirty-three percent of the research done in Washington State was performed by manufacturers. We have seen a terrible loss of manufacturing jobs over the years, and this credit is one way to help them stem the tide. Mr. President, 11.4 percent of the research done in Washington State was done in the professional, scientific, and technical service industries.

This is about moving our economy forward. Technological innovations have accounted for more than one-third of our Nation's economic growth during the last decade. We know innovation is critical to sustained growth in the future.

Extending and improving the R&D tax credit is one of the most important steps we can take right now to foster investment at home and job creation throughout the country.

I urge my colleagues to give American workers a fair shot in the global marketplace by voting for the Hatch-Murray amendment.

Mr. President, I yield the floor.

EXHIBIT 1

R&D CREDIT COALITION,
Washington, DC, February 9, 2004.

Hon. BILL THOMAS,
Chairman, Committee on Ways and Means, House of Representatives, Washington, DC.

Hon. CHARLES GRASSLEY,
Chairman, Committee on Finance, U.S. Senate, Washington, DC.

Hon. CHARLES RANGEL,
Ranking Member, Committee on Ways and Means, House of Representatives, Washington, DC.

Hon. MAX BAUCUS,
Ranking Member, Committee on Finance, U.S. Senate, Washington, DC.

DEAR CHAIRMEN THOMAS AND GRASSLEY, AND RANKING MEMBERS RANGEL AND BAUCUS: We urge you to make the enactment of a permanent research tax credit (R&D Credit) with the modifications contained in companion bills H.R. 463/S. 664 an early legislative priority in 2004.

As you know, the technological innovations made possible by the R&D Credit enable companies to bring more products and services to market, increase employment, and raise the standard of living for all Americans. R&D helps manufacturers and services companies with U.S. operations maintain a competitive edge over lower-cost foreign competitors. It allows a small, medium or large company to reduce its financial risk in expensive, labor-intensive R&D investments.

Since the credit was created in 1981, investments in technology and innovation have spurred economic growth and contributed greatly to our country's high standard of living. Continued R&D spending is a necessary element in our country's ability to invest for our future.

The growth of our economy is inextricably tied to the ability to companies to make a sustained commitment to long-term research. Congress has consistently demonstrated support for the R&D credit. This year, in order to provide stability and to ensure that all companies performing intensive research in the United States are able to benefit from the credit, Congress should make the credit permanent, increase the Alternative Incremental Credit (AIRC) rates, and provide an alternative simplified credit calculation.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, just a parliamentary inquiry: I understand we are on the FSC bill, and we are on an amendment that has been laid down; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. I thank the Chair.

America is stuck in a jobless recovery and this jobless recovery is not an accident. It is in large measure the result of failed economic policies, policies that the administration stubbornly clings to despite the loss of nearly 3 million private sector jobs over the last 3 years.

This administration has embraced outsourcing. It is against extending unemployment insurance for the long-term unemployed. It is adamant against raising the minimum wage. And it is determined—any day now—to eliminate time-and-a-half overtime pay for millions of American workers.

It is time for Congress to step in and chart a new course. It is time for Washington to listen to ordinary working Americans. They are telling us loudly and clearly that their No. 1 issue is economic security. They are telling us that they fear losing their jobs, health care, and retirement.

Now they also fear losing their right, which has been their right since 1938, to time-and-a-half compensation for work over 40 hours a week. They fear, with good reason, that under the Department of Labor's new rules, they will be obligated to work a 50-, 55-, 60-hour week with zero additional compensation. For millions of working Americans and their families, this is unacceptable. It is, indeed, the last straw.

Accordingly, at the appropriate time, I will offer an amendment to this bill that will stop the administration from implementing its proposed new rules to eliminate overtime pay protection for millions of American workers.

This amendment will be very familiar to my colleagues. Late last year a similar amendment I offered passed the Senate by a vote of 54 to 45. It was endorsed in the House by a vote of 226 to 203. It also won the overwhelming support of the American public. Yet despite this clear expression of the will of Congress and of the public, my overtime amendment was stripped from the omnibus appropriations bill in conference.

Today this overtime amendment is back by popular demand. It amazes me that wherever I travel, anywhere in the country, people come up to me to talk about this overtime issue. They know now what the administration is trying to do. They are upset. Working families are angry and they want action. They want us to take action to stop the implementation of these new rules that will take away their protection so that they can get time and a half when they work overtime.

Frankly, at this point the administration has zero credibility on this issue. The Department of Labor claims that it simply wants to give employers clear guidance as to who is eligible for overtime pay. But ordinary Americans are not buying this happy talk. They know that the administration is proposing a radical rewrite of the Nation's overtime rules. They know these new rules will strip millions of workers of their right to fair compensation.

The people are right. They are correct. Plain and simply, the new overtime rules are a frontal attack on the 40-hour workweek, pushed aggressively by the administration without a single public hearing. Yes, that is correct. Last year these proposed rules came out, drastically changing our overtime pay protections, the rules that had been implemented since 1938, without one public hearing anywhere in the United States.

These new proposed rules could effectively end overtime pay in dozens of occupations, including nursing, police officers, firefighters, clerical workers, air traffic controllers, social workers, journalists. Indeed, the new criteria for excluding employees from overtime are deliberately vague and elastic so as to stretch across vast swaths of the workforce.

Listen to Mary Schlichte, a nurse in Cedar Rapids, IA:

> Many nurses just like me work long hours in a field with very stressful working conditions and little compensation. . . . Our patients rely on us. Our families depend on us. We need overtime pay so we can stay in the profession we love and still make our ends meet.

Ms. Schlichte told me about her Cedar Rapids nurse colleagues who also rely on overtime pay. One nurse is married to a struggling farmer. She relies on her overtime pay to cover their insurance premiums. They already fear losing their farm, and now they fear losing their health care coverage also.

Dixie Harms is a longtime trainer of nurses in Des Moines. Ms. Harms told me:

> If overtime is changed for hospital nurses, we will see a mass exodus of registered nurses from the hospital setting because they will get fed up and refuse to volunteer so many hours to what they really love doing.

Two and a half years ago, after the terrible September 11 attacks, many in this body spoke eloquently about the heroism of our firefighters, police officers, public safety workers. Ever since, America's first responders have worked long hours to protect us from terrorists threats. But now the administration apparently wants to deny them time-and-a-half compensation for those longer hours. Simply put, this is wrong.

Since passage of the Fair Labor Standards Act in 1938, overtime rights and the 40-hour workweek have been sacrosanct, respected by Presidents of both parties. But nothing, it seems, is sacred to this administration when it comes to workers' rights.

For 65 years, the 40-hour workweek has allowed workers to spend time with their families instead of toiling past dark and on weekends. At a time when the family dinner is becoming an oxymoron, this standard is more important than ever.

These radical revisions are antiworker and antifamily. Given the fact we are stuck in a jobless recovery, the timing of this attack on overtime could not be worse. It is yet another instance of this administration's economic malpractice.

Bear in mind that time-and-a-half pay accounts for some 25 percent of the total income of Americans who work overtime. With average U.S. incomes declining, the proposed changes would slash the paychecks of millions of American workers.

Moreover, the proposed new rules are all but guaranteed to hurt job creation in the United States. This is basic logic. If employers can more easily deny overtime pay, they will push their current employees to work longer hours without compensation.

With 9 million Americans currently out of work, these proposed regulations will give employers yet another disincentive to hire new workers. Why hire a new worker if you can get your present workers to work overtime and not have to pay them time and a half? That would be cheaper than hiring a new worker.

It is bad enough to deny 8 million workers their overtime rights, but what is really striking about these proposed rules is the mean-spiritedness of the language included in these proposed rules from the Department of Labor.

For example, the department is offering employers what amounts to kind of a cheat sheet—helpful hints on how to avoid paying overtime to the lowest paid workers, the same workers who are supposedly helped by the new rules.

Let me be clear about this. There is a part of the proposed changes that we all support, and that is raising the minimum pay level by which a worker would not be exempt from any overtime rules. For example, right now, if you make below about $7,000 a year, no matter what your job is, you cannot be exempted from overtime, from overtime rules—even if you are a professional or if you fall into one of the exempt categories. If you make below about $6,900 or $7,000 a year, you have to be paid time and a half overtime, no matter what your job is. The administration is proposing to raise that to about $21,900, close to $22,000 a year. It has not been raised for a long time, so that is all well and good. But, in so doing, the administration has put out technical advice to employers on how they can get around paying the lowest paid workers time and a half.

For example, the department suggested in writing that an employer might cut a worker's hourly wage so that any new overtime payments will not result in a net gain to the employee. It also recommends if the worker's salary is close to the threshold, you might want to raise their salary slightly to meet that threshold and then their protection for time and a half would end, and then they could be exempt.

This is kind of disgraceful. This would be like the IRS putting out advice to would-be scofflaws, or people or entities that might want to get around paying their fair share of taxes, telling them how to avoid paying their taxes, saying here is how you can effectively cheat. What would we say if the IRS started putting out advice to employers, saying here is how to get around paying your fair share of taxes?

That is what they are doing on overtime. They are putting out advice to employers, saying here is how you get around it. It is disgraceful. There is one part of this new proposed rule that I find probably more disgraceful than just about anything. I know that when I say this, people are going to say: HARKIN, this cannot be right, this cannot happen.

The more I dig into the nuts and bolts and fine print of this proposed rule for changing overtime, the more astounded I am at what we are finding, in terms of who is now being exempted, or trying to be exempted from overtime pay.

Would you believe it if I told you that the administration, for the first time since 1938, is changing the rules to make it harder for veterans to get overtime pay than their counterparts who did not serve in the military? Let me repeat that. Mr. President, generally, people would not believe me if I told them this administration, in their proposed rules, is making it harder for a veteran to qualify for overtime than someone who didn't serve in the military. People say: HARKIN, that cannot be right.

Read the proposed regulation. I have the old one. Here is the old rule that covers overtime pay. There is a section called "Learned Professions," and it is talking about who basically would be not barred from exemption. It talks about members of the professions, such as graduates of law school and different things like that. It says here the word "customarily" implies that in the vast majority of cases a specific academic training is a prerequisite for entrance into the profession. It makes the exemption available to the lawyer, the chemist, and things like that. But it does not in any way mention veterans in the old rule. There is no mention of veterans.

Here is the new rule. I have it blown up on the chart. It says:

> However, the word "customarily" means that the exemption is also available to employees in such professions who have substantially the same knowledge level as the degreed employees, but who attained such knowledge through a combination of work experience, training in the Armed Forces, attending a technical school.

Et cetera, et cetera. These words, "training in the Armed Forces" have never been in the rules before. In other words, since 1938, we have gone through World War II, the Korean war, cold war, Vietnam war, the gulf war, Dominican Republic war, Grenada, and a whole bunch of other things. And our veterans—people who have served in the military, who went in there, who the Army asks to "be all that you can be in the U.S. Army." How many ads do we see enticing young people to come into the military because they can get training which will increase their ability to earn more money later on in life, after they get out of the military—specialized training that will make them more desirable in the workforce?

Well, guess what. They are running those same ads to be all you can be, learn a specialized training, and be more valuable in the workforce, and at the same time the administration is promulgating a rule saying: Wait a minute, if you get training in the Armed Forces, guess what. You are now covered under this new rule that says you can be exempted from the overtime pay protection because now you fall into the same kind of category as lawyers and architects and people who went to school for a long time to receive specialized training.

Again, don't take my word for it. Read it. "Training in the Armed Forces"—those five words have never been in the rules before, never. We said before if you get training in the Armed Forces, you can now be exempt from overtime pay. That is what is coming down the pike. That is what is in these rules. That is why so many of us feel so strongly that this proposed overtime rule should not be adopted.

According to the proposed rules, employers can consider specialized training and knowledge gained in the military as equivalent to what is learned in professional schools. This will allow employers to reclassify veterans as ineligible for overtime. I started looking at some of the comments made regarding this. I wondered where it is coming from. Here are comments on behalf of the Boeing company:

> Boeing observes that many of its most skilled technical workers received a significant portion of their knowledge and training outside the university classroom, typically in a branch of the military service, where through a combination of classroom training and field experience they become "learned experts" on very sophisticated aerospace products or services. Oftentimes, such experts are actually more knowledgeable than colleagues with advanced degrees—
>
> degrees and Ph.D.s.
>
> and are viewed by the customers as the company's experts on the product. Boeing thus supports the Department's—

That is the Department of Labor—

> focus on the knowledge used by the employee in performing her job, rather than the source of the knowledge or skill.

What Boeing is saying is we have a lot of people who work for us who got their training in the military. They have become skilled in their profession. But because they did not go to graduate school, because they got their training in the military, we still have to pay these people overtime. We have to pay them time and a half, and we do not want to pay them time and a half. We want to treat them just like Ph.D.s and all those other people. So, therefore, they support the proposed rule change that would allow them, Boeing, to reclassify these former veterans as being exempt from overtime pay protections.

This is a letter from Thomas Corey, the national president of the Vietnam Veterans of America:

> Therefore, we would like to make you aware that the proposed modification of the rules would give employers the ability to prohibit veterans from receiving overtime pay based on the training they received in the military. . . . The proposed rule changes will make these veterans and their families unfairly economically vulnerable in comparison with their non-veteran peers.

Let me repeat that:

> The proposed rule changes will make these veterans and their families unfairly economically vulnerable in comparison with their non-veteran peers. We hope you will agree that the men and women who have served our Nation so well in military service should not be penalized for having served.

That is Thomas Corey, national president, Vietnam Veterans of America. I think that is the crux of it. You could have two people, both skilled in a certain area, let's say aerospace or whatever it might be. One got his training in the military and one got his training in some other way outside the military. So the person outside the military would be covered under overtime. The person who served in the military would not be covered by overtime.

I wish someone would make some sense out of that. It is just a slap in the face to the men and women who served in the military and were told: Be all you can be, get specialized training in the military, but what they are not telling them is once you do that, they are going to take away your right to overtime pay once you get out of the military.

This is outrageous—outrageous not just to our veterans but to most Americans. Veterans organizations are deeply disturbed by this, not just the Vietnam veterans but all veterans organizations.

Picture this: The Commander in Chief has mobilized thousand of reservists and National Guard troops from Iowa and from across America. They left their regular jobs as police officers, firefighters, nurses, clerical workers, on and on, and are deployed in Iraq for a year or more. But if the administration has its way, when these troops come back home from Iraq or wherever to resume their civilian jobs, they are going to find that if they received specialized training in the military, they have been stripped of their right to time-and-a-half overtime pay.

It is punishing veterans precisely because they were dedicated soldiers who pursued specialized instruction and training while in the military. The Department of Labor is preparing quite a welcome home present for many of the guardsmen and reservists returning from Iraq. It might read this way:

> Dear Returning Veteran: While you were away we reclassified your job so that you no longer qualify for time-and-a-half overtime pay. Thank you for serving our country.

There is another group I talked about last year—and it is still true this year—who are disproportionately harmed by the proposed new overtime rules—women.

The fact is, women tend to dominate in retail services and sales positions which would be particularly affected by the new rules. Married women in America increased their working hours by nearly 40 percent from 1979 to 2000. As women have increased their time in the paid labor market, their contribution to family income has also risen. These contributions are especially important to lower and middle-income families—important for housing, health care, heating bills and, of course, for sending kids to school.

Yet now the administration's new rules would take away overtime protections from millions of American women. Women in the paid workforce would be forced to work longer hours for less pay and, of course, this means more time away from families, more childcare expenses with no additional compensation. Not surprising, prominent women's groups are adamantly opposed to the new overtime rules.

The American Association of University Women, the National Organization of Women, the National Partnership for Women and Families, the YWCA, and Nine to Five, and the National Association of Working Women are all strongly supporting my amendment to stop the administration from implementing these new overtime rules.

There is a broader context to this discussion of overtime. There is a bigger picture. As I said, the No. 1 issue for Americans today is economic security, and with good reason, because it is abundantly clear that America is stuck in a jobless recovery.

Since this administration took office, nearly 3 million private sector jobs have been lost, including one in every seven jobs in manufacturing. George W. Bush has presided over the largest job loss of any President since Herbert Hoover. Yet the President remains wedded to policies that are making the problem worse. He remains wedded to policies that are destroying jobs, driving down wages, and threatening the economic security of the American people.

A couple of weeks ago, the White House issued its annual economic report signed by the President explaining why we should welcome the "offshoring" of U.S. jobs. The President's top economic adviser assured us that the outsourcing of high-end, white-collar jobs to Asia is "a plus for the economy in the long run."

The President's economic report praises the virtues of a "level playing field for goods and services," arguing that when a good or service is produced more cheaply abroad, it makes more sense to import it than to make or provide it domestically. That is from the President's report.

We have a very serious question to ask ourselves: Do we really want American workers competing on a "level playing field," head to head with factory workers in China working for 20 cents an hour, with software engineers in India working for $10,000 a year, going head to head with countries that employ abusive child labor to make products?

In reality, is this not a race to the bottom, with nations competing to slash salaries and benefits in order to win more jobs? Outsourcing is not the only thing hurting job creation and suppressing wages. These new overtime rules will have the same effect. Eight million workers will be stripped of their right and their protection to overtime pay.

Of course, the employers can deny overtime pay. As I said, they simply push their current employees to work longer hours without compensation. This is a powerful disincentive to hire new workers. So as with outsourcing, the idea of sending so many of these jobs overseas, where they are paying 20 cents an hour, no health benefits, no retirement benefits, no Social Security, no environmental protections, killing overtime pay is the same thing. Just keep in mind if an employer can work an employee more than 40 hours and not pay time and a half, we can see that an employer would then say, well, why should I hire new workers? I will just work my present workers longer. If I can get 4 or 5 more hours a week out of each employee and not pay time and a half overtime, that is better than hiring somebody else.

That is exactly what this proposed overtime rule is all about. It is terrible for job creation. I do not know why this administration does not see that. Yet in the face of facts, in the face of all of the reports we have gotten, in the face of what Americans are saying, which is that they want their overtime protected, the administration is surging ahead. They are going to strip people in this country of their right to overtime pay.

Since we have had no public hearings on it, we are not certain why the administration is doing this. Why are they moving ahead with the most profound change in our overtime laws since 1938? Now, I use my words carefully. I said the "most profound change." There have been changes in overtime rules and laws since 1938, since the Fair Labor Standards Act was passed, of course. Many occupations that existed then no longer exist, and they were taken off. I understand.

New occupations came in like computer software writers, computer engineers, which were not around in the late 1930s, 1940s, 1950s, or 1960s. So there have been changes.

Every time we have made a change in the overtime rules, we have done it through open hearings, through open collaboration between the administration and Congress and labor, all working together to do what is right for our people and our country.

So, yes, we have made a number of changes since 1938, but as far as my research shows, this is the first time since 1938 that an administration has made this profound a change, and it is the first time since 1938 that the administration has proposed these changes without having one public hearing. It is the first time since 1938 that any administration, Republican or Democrat, has proposed changes such as this in the overtime rules without consultation and working closely with Congress to develop a consensus as to what has to be done.

I am left with, perhaps, some conclusions: The administration really does not want to create a lot of new jobs; that by driving down labor costs, perhaps we can increase corporate profitability. It allows corporations to export cheap labor overseas with outsourcing. The administration puts pressure on U.S. workers to accept lower wages, less generous benefits, longer working hours. This is true of outsourcing, and it is true of eliminating overtime.

Right now, American workers work longer than any workers in any industrialized country in the world. We now work longer than workers in Japan, Germany, Great Britain, and our neighbor to the north, Canada. Guess what we are being told. Guess what our workers are being told by this administration. That they are going to work even longer, and they will not have any right to overtime pay.

There is more. The President refuses to extend benefits for the long-time unemployed, and opposes any increase in the minimum wage. It has been frozen at $5.15 an hour for years. This is not a living wage; it is a poverty wage. It keeps downward pressure on wages all across the spectrum.

All this means, again, is fewer jobs for U.S. citizens. It means downward pressure on wages for all of our workers.

Something is missing. What is missing is ordinary, hard-working Americans are not participating in this so-called economic recovery. More and more Americans live in fear of losing their jobs, their health benefits, and losing their retirement. The truth is, we cannot build a sustainable recovery by exporting jobs, by driving down wages, and by making Americans work longer hours without compensation.

Moreover, such a recovery, if it even could take place, is not desirable. As one individual said, my time with my family in the evenings and on the weekends is premium time. Yes, I work during the week to make a living, but the time with my family is premium time. If I am going to be asked to give up my premium time with my family, do I not deserve to have premium pay, time and a half, something out of the ordinary?

As this person said to me, I get my wages, which are ordinary, for my ordinary working hours that I have agreed to work, but I should not get ordinary pay for my premium time, which is the time I spend with my family. That is why I say a recovery that means that our American workers are going to work longer, spend more time away from their families, and not get paid any more for it is not a desirable recovery.

A true recovery must include all working Americans. It can only be built on a foundation of good jobs with good wages in America, not overseas. It can only be built on a foundation that includes a minimum wage that is a living wage, not a poverty wage. It can only be built on a foundation that preserves American workers' rights to time and a half overtime pay.

Shortly, I will be offering this amendment. Obviously, this FSC bill is touted as a JOBS bill. That is all well and good. Let us have an open and good discussion about that. We have some amendments to offer that a number of us believe will help increase jobs in this country. The one I will be offering will be protecting the overtime rights of American workers. So I am hopeful we can move on to that.

On this issue, the administration ignores the pleas of the public. It has brushed aside the clear wishes of both Houses of Congress. Last year, we passed the amendment in the Senate to disallow the Bush regulations on taking away overtime pay protections. The House emphatically approved of that. Yet it was stripped out in conference. Again, this is not acceptable. I hope we can have a strong bipartisan vote in support of my amendment that would disallow taking away overtime pay protection for American workers. We can save the administration from making a terrible mistake. We can protect American workers' time-honored right to overtime compensation, and we can support an economic recovery that includes all Americans, a recovery that respects and preserves the American way.

I yield the floor.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from New Mexico.

AMENDMENT NO. 2651 TO AMENDMENT NO. 2647

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 2651 to amendment No. 2647.

Mr. BINGAMAN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To expand the research credit)

At the end of the amendment add the following:

SEC. . EXPANSION OF RESEARCH CREDIT.

(a) CREDIT FOR EXPENSES ATTRIBUTABLE TO CERTAIN COLLABORATIVE RESEARCH CONSORTIA.—

(1) IN GENERAL.—Section 41(a) (relating to credit for increasing research activities) is

amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end the following new paragraph:

"(3) 20 percent of the amounts paid or incurred by the taxpayer in carrying on any trade or business of the taxpayer during the taxable year (including as contributions) to a research consortium.".

(2) RESEARCH CONSORTIUM DEFINED.—Section 41(f) (relating to special rules) is amended by adding at the end the following new paragraph:

"(6) RESEARCH CONSORTIUM.—

"(A) IN GENERAL.—The term 'research consortium' means any organization—

"(i) which is—

"(I) described in section 501(c)(3) and is exempt from tax under section 501(a) and is organized and operated primarily to conduct energy research, or

"(II) organized and operated primarily to conduct research in the public interest (within the meaning of section 501(c)(3)),

"(ii) which is not a private foundation,

"(iii) to which at least 5 unrelated persons paid or incurred during the calendar year in which the taxable year of the organization begins amounts (including as contributions) to such organization for research, and

"(iv) to which no single person paid or incurred (including as contributions) during such calendar year an amount equal to more than 50 percent of the total amounts received by such organization during such calendar year for research.

"(B) TREATMENT OF PERSONS.—All persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as related persons for purposes of subparagraph (A)(iii) and as a single person for purposes of subparagraph (A)(iv).".

(3) CONFORMING AMENDMENT.—Section 41(b)(3)(C) is amended by inserting "(other than a research consortium)" after "organization".

(b) REPEAL OF LIMITATION ON CONTRACT RESEARCH EXPENSES PAID TO SMALL BUSINESSES, UNIVERSITIES, AND FEDERAL LABORATORIES.—Section 41(b)(3) (relating to contract research expenses) is amended by adding at the end the following new subparagraph:

"(D) AMOUNTS PAID TO ELIGIBLE SMALL BUSINESSES, UNIVERSITIES, AND FEDERAL LABORATORIES.—

"(i) IN GENERAL.—In the case of amounts paid by the taxpayer to—

"(I) an eligible small business,

"(II) an institution of higher education (as defined in section 3304(f)), or

"(III) an organization which is a Federal laboratory,

for qualified research which is energy research, subparagraph (A) shall be applied by substituting '100 percent' for '65 percent'.

"(ii) ELIGIBLE SMALL BUSINESS.—For purposes of this subparagraph, the term 'eligible small business' means a small business with respect to which the taxpayer does not own (within the meaning of section 318) 50 percent or more of—

"(I) in the case of a corporation, the outstanding stock of the corporation (either by vote or value), and

"(II) in the case of a small business which is not a corporation, the capital and profits interests of the small business.

"(iii) SMALL BUSINESS.—For purposes of this subparagraph—

"(I) IN GENERAL.—The term 'small business' means, with respect to any calendar year, any person if the annual average number of employees employed by such person during either of the 2 preceding calendar years was 500 or fewer. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the person was in existence throughout the year.

"(II) STARTUPS, CONTROLLED GROUPS, AND PREDECESSORS.—Rules similar to the rules of subparagraphs (B) and (D) of section 220(c)(4) shall apply for purposes of this clause.

"(iv) FEDERAL LABORATORY.—For purposes of this subparagraph, the term 'Federal laboratory' has the meaning given such term by section 4(6) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(6)), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2004.

Mr. BINGAMAN. Mr. President, I thank my colleagues, Senator HATCH and Senator MURRAY, for their leadership on extending and strengthening the research and development, R&D tax credit. The ability of our Nation to remain a world leader in technology and innovation is directly related to the investment we make in research and development. The R&D tax credit is an important component of this strategy as it creates an incentive for private companies to invest in research they might not otherwise have invested in but for that tax credit. This is an efficient way to accomplish a goal in our society that is increasing funding for research.

Senator DOMENICI and I have been working here for the last several years to make some changes in the R&D tax credit law. The amendment I have sent to the desk incorporates those changes we have worked on. The amendment is based on legislation we filed in each of the last several Congresses, most recently S. 515 in the 107th Congress. This amendment addresses two weaknesses in the current R&D tax credit.

The first part of the amendment provides participants in a research consortium with a flat 20-percent research credit. A consortium is defined as a group of five or more unrelated companies which are working together on a specific type of mutually beneficial research. Under current law, these companies are unable to take advantage of the full R&D tax credit. That does not make good sense. We should be encouraging companies to work together to share the costs of research instead of requiring that each of them bear the full capital expenditure to which they would be entitled in order to get the research tax credit. The amendment I have sent to the desk which Senator DOMENICI and I have been working on would correct this and would encourage this type of private research teaming.

The second part of the amendment would be to get rid of a restriction that allows companies to only consider 65 percent of their research expenses for purposes of calculating their tax credit when the funds are paid to an outside party such as a Federal laboratory or university or a small business.

Again, as with consortiums, this provision makes no sense as it exists in current law. In many if not most cases it is far more efficient and economical for a company to have their research done at a facility that is already equipped to do this type of experimentation and development. We ought to be encouraging businesses to utilize these resources instead of discouraging that use. For this reason, the amendment would allow a company to consider 100 percent of all of their expenses when contracting with a lab or university or small business to handle their research projects.

The amendment would come into effect at the end of the year. It would continue for as long as the R&D provisions are in effect which, under the Hatch-Murray amendment which is what this proposal would amend, is the end of 2005.

I look forward to working with my colleagues, Senators HATCH and MURRAY, on their R&D amendment. I very much appreciate their support for these small changes Senator DOMENICI and I would like to see made in this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALEXANDER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ENSIGN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENSIGN. I ask unanimous consent the time until 3:30 be equally divided in the usual form and that if the Bingaman amendment has not been previously disposed of, the Senate would then vote in relation to the Bingaman second-degree, to be followed immediately by a vote in relation to the Hatch first-degree, as amended if amended, provided further no additional second degrees be in order prior to the vote.

The PRESIDING OFFICER. Is there objection?

Mr. REID. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENSIGN. Mr. President, I understand the Senator from Tennessee is going to seek recognition. I ask unanimous consent that following the Senator from Tennessee, I be recognized to speak on the R&D amendment.

Mr. REID. Reserving the right to object, we have no problem with that except we now have an hour and 10 minutes. We don't want those two Senators to use the entire 70 minutes so we should have some idea how long they are going to speak.

Mr. ENSIGN. For myself, I would only need 5 minutes.

Senator ALEXANDER?

Mr. REID. I think it would be appropriate if my friends agree the time be equally divided between now and 3:30 between the proponents and opponents of the measure.

The PRESIDING OFFICER. Under the order, the time is equally divided.

Mr. ENSIGN. I ask to be recognized after Senator ALEXANDER.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. ENSIGN. I yield to Senator ALEXANDER.

Mr. ALEXANDER. Mr. President, my intention was to ask unanimous consent to speak as in morning business for 7 or 8 minutes, which may not be appropriate at this moment.

The PRESIDING OFFICER. Under controlled time that is the Senator's right. The Senator is recognized.

Mr. ALEXANDER. I ask unanimous consent to speak as in morning business for up to 7 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. ALEXANDER are printed in today's RECORD under "Morning Business.")

Mr. ALEXANDER. I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. ENSIGN. Mr. President, I want to speak on the R&D tax credit that is in this bill—the proposal to extend that tax credit which is scheduled to expire. I want to talk about some of the benefits.

This is a tax credit that has been supported by both sides of the aisle and by both bodies. There are many benefits to keeping this R&D tax credit as part of our Tax Code; first of all, the industries that benefit from this tax credit. I am the chairman of the Republican High-Tech Task Force in the Senate, and I hear about this issue all the time from very important parts of our economy and how important it is to the creation of jobs.

The industries that benefit from this include—it is not limited to the aerospace industry—the agriculture industry, biotechnology, chemical industry, electronic, energy, information technology, manufacturing, medical technology, pharmaceuticals, software and telecommunications, as well as others.

It is not just big business that benefits from this R&D tax credit; it is also many small businesses. The companies that perform significant amounts of R&D perform that research and development in the United States. They pay very good wages to the people who do the research and development.

This tax credit should be made permanent in the long run. That is my goal—to someday make this tax credit permanent. We keep extending it. I think it has been extended 10 different times over the years. It was allowed to actually lapse once, but it has never been made permanent. I believe it should be made permanent. Unfortunately, we can't do that in the context of what we are doing today. But we should at least make sure that R&D tax credit is extended for the 18 months the bill calls for.

Why is it important? New vaccines, faster Internet, and other communications capabilities, safer transportation, enhanced energy-efficient appliances, higher quality entertainment, better homes, improved national security. The list of societal benefits as a result of R&D is endless.

R&D is the lifeblood of the U.S. economy. We really should encourage not only adoption of the extension but also eventually making permanent this tax credit.

The revenue analysis, according to the economic benefit of the R&D tax credit prepared by Coopers & Lybrand in 1998 says:

> In the long run, $1.75 of additional tax revenue would be generated for each dollar the Federal Government spends on the credit, creating a win-win situation for both the taxpayers and the government.

I will conclude with this: We should do the right thing for the economy and allow companies some level of predictability. We keep telling them we are going to extend it, we are going to extend it. But, frankly, it is hard when research and development is usually planned long term. It is hard to do that when we keep coming up to the deadline and then finally extending the tax credit.

I encourage us to do what we are doing today—extending it for 18 months but also be looking for ways to make this R&D tax credit permanent.

I yield the floor.

Mr. BAUCUS. Mr. President, I yield myself about 10 minutes.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. BAUCUS. Mr. President, I ask my friend from Wyoming how much time he has. It is my understanding that there was an agreement before I came to the floor.

The PRESIDING OFFICER. Under the previous order, the time until 3:30 is equally divided between the majority and minority leader.

Mr. BAUCUS. Mr. President, I will be very brief.

I am very happy to be supporting the pending amendment. This is an amendment that the author of the amendment, Senator HATCH, and I have introduced many times over many years. I have been a cosponsor of this amendment for years. Senator HATCH has been a cosponsor of this amendment for years. It is critically important that we finally get a major research and development tax stimulus enacted into law. This provision has been in law for various years, but it has always been extended—on and off again. It has been a yo-yo tax provision—a yo-yo incentive. Sometimes companies get it, sometimes they don't. Sometimes we enact it—all the way back to the expiration previous times—sometimes we don't. It is very irresponsible, in my judgment, for this Congress not to give permanent research and development tax credit to American companies. Other countries do. The Government of Canada, for example, has a R&D tax credit which is much more generous than the one we give to American companies.

There are other countries that also have stimulus incentives to research and development—more generous than we have in our country.

I urge adoption of this amendment.

I also agree with my good friend from Nevada. This provision should be permanently extended. It makes no sense not to be permanently extended. It should be a permanent fixture in the law.

I say that because the stakes are getting so high. We are losing jobs to overseas companies in lots of ways.

One way to create jobs in America is to have a very aggressive research and development tax credit for research and development in America. It is clear that jobs tend to be where the research is. The more research we have in America, the more likely it is we will have more jobs in America. It will also help to maintain jobs.

We do not want jobs to go overseas. This will help us maintain jobs in America. We should not erect barriers to our companies going overseas. We should not stick our heads in the sand. That does not work. We are facing an immense challenge, and one good way is to pass this amendment.

In addition to passing the underlying bill, this JOBS bill before the Senate is not going to be the silver bullet many would like but it will help significantly.

With respect to the R&D credit, 62 percent of total industry research and development is performed in manufacturing industries. That includes computer and electronic products, transportation, equipment, and chemicals. It is disproportionately helpful to manufacturing jobs. We clearly want more manufacturing jobs in this country. Manufacturing jobs are important to the entire economy.

The multiplier effect in manufacturing jobs is extremely high. For every 16 million manufacturing jobs in this country, another 9 million are created in retail, wholesale, finance, and other sectors. That is not as true in other sectors. Most of the R&D effect is manufacturing, and manufacturing has a very high multiplier effect, which is all the more reason to get this passed.

Workers employed in manufacturing plants with more technologies also earn 63 percent more than workers in plants using lower level technologies. It is a question not only of the number of jobs but the wages the jobs pay, the amount of income those workers will receive.

I can go on at great length as to why this is so important. I am not going to expand anymore on it because I think Senators realize how important it is. I expect this to pass by a very large margin, and well it should.

Once we pass this amendment, it is incumbent upon us to start looking for other ways we can help give stimulus and help American companies keep jobs in America. I am certainly going to be a part of this. It is something we desperately have to do.

What is the remaining time?

The PRESIDING OFFICER. The majority has 27 minutes remaining and the minority has 30 minutes remaining.

Mr. BAUCUS. I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. I will talk about an amendment that has not been laid down. There were comments about overtime a while ago, and I want people to know the rest of the story.

The bill we are on has the catchy name of FSC/ETI. What we are trying to do is comply with some World Trade Organization requirements that allow penalties to be put on our exports overseas and agricultural products are a big one. They always get targeted when this sort of thing happens. We need to correct our law so we are not being penalized, so we do not eliminate business that the United States can have.

Penalties went into effect on March 1 and go up 1 percent per month on U.S. businesses if we do not change the law. We are trying to change the law. It needs to be done quickly. It should be done pretty cleanly. It obviously is not going to be.

We keep talking about jobs, but our actions do not match our words. I point out one very important jobs program we have that affects Americans who want to improve their skills and get a better job. We have the Workforce Investment Act, and that has the potential each and every year to retrain 900,000 people so they have the skills and talents to handle the jobs available, the well-paying jobs available in this country that we are having to fill from overseas.

Do you know what has happened to that bill? Let me give Members a brief history. We passed it out of the Health, Education, Labor, and Pensions Committee unanimously. How often do you think that happens in that committee? It can be a very contentious committee. It passed out of the committee unanimously. What happened in the Senate? We passed it in the Senate by unanimous consent. That means not one person in the Senate wanted to amend the bill; not one person in the Senate wanted to vote against the bill. It was unanimous. That is as bipartisan as we can possibly get.

Where is that bill now? We cannot appoint a conference committee. That is the committee made up of Republicans and Democrats who would meet with Republicans and Democrats from the House to work out differences between what they passed and what we passed. We cannot have a conference committee to do that.

That is 900,000 jobs in this country that are being stalled out; 900,000 opportunities we are not going to give to Americans. Instead, we are going to talk about a whole bunch of amendments to this bill that are going to slow down this bill and increase penalties on American businesses trying to ship goods overseas. In fact, all American businesses.

Keep that in mind. If we want to take care of jobs in this country and make sure jobs stay in this country, we would get a conference committee appointed on the Workforce Investment Act and get that thing resolved and get people trained and to work.

One of the examples of what will happen on this is the overtime amendment that we have been promised. I could wait until it actually came up, but there were some comments made and there is a need to respond on the 40 minutes we have already heard about the overtime amendment.

It is time to strip the rhetoric from the reality and consider who is really helped and hurt by this amendment which prohibits the Department of Labor from updating the rules exempting white-collar employees from overtime pay. It is not all that simple.

When I am back in Wyoming, I like to hold town meetings to find out what is on the minds of my constituents. At each town meeting, there is usually someone in attendance who is quite concerned about government regulations. I am often told to rein big government in, keep the rules and regulations simple, keep them current and responsive, and make sure they make sense in today's ever changing workplace.

Most of the people I talk to are small businessmen, but that is most of business in this country. They are being killed by the rules and regulations, and, in some cases, by trial attorneys.

Today we are reviewing an amendment that takes the opposite approach. Instead of keeping it simple and current, it will prohibit the Secretary of Labor from updating the rules exempting white-collar employees from the Fair Labor Standards Act and overtime requirement in some cases, an attempt to reject the new, turn back the clock, and look to yesterday for the answer to tomorrow's problems. It is an approach that is doomed to failure before it is even applied. I am opposed to the amendment.

There is no question that the workplace has dramatically changed during the last half century. The regulations governing white-collar exemptions remain substantially the same as they were 50 years ago. The existing rules take us back to the time when workers held titles such as straw boss, keypunch operator, legman, and other occupations that no longer exist today.

Our economy has evolved. New occupations have emerged that were not even contemplated when the regulations were written. A 1999 study by the General Accounting Office recommended that the Department of Labor: Comprehensively review current regulations and restructure white-collar exemptions to better accommodate today's workplace and to anticipate future workplace trends. That is precisely what the Department of Labor's proposal to update and clarify the white-collar regulations will do.

While the Department's proposal will update and clarify, this amendment will do neither. Instead, it will set the clock back to 1954 and try to force the square peg of the 21st century jobs into the round hole of the workplace of 50 years ago.

I am a former shoe salesman and I know how to tell when something will not fit. This just will not fit. It is like trying to force a size 10 foot into a size 6 shoe. It will not fit no matter how hard you try.

Through the course of the debate on overtime over the next several days, we will hear a lot of numbers. Some of them are statistics and we know how statistics work. I am an accountant so I will try to give some good numbers and hope you will put up with me with the numbers, but there are numbers you need to know.

Let us be clear about what this amendment will do. The amendment will undermine the Department of Labor's efforts to extend overtime protection to 1.3 million low-wage workers. Under the current rules, only those rare workers earning less than $8,060 a year are protected for overtime pay. That is how old this rule is. You are protected if you are making less than $8,060 a year. Now the administration's proposed rule will raise that threshold to $22,100 a year.

Doesn't that sound more common sense in today's market? Doesn't that sound like a number that covers more people? If the old rule covered those making less than $8,060, a new rule, covering those making less than $22,100, would cover more people.

As a result, 20 percent of the lowest paid workers would be guaranteed overtime pay. The overtime provisions of the Fair Labor Standards Act were originally intended to protect lower income workers. The proposed rules will provide lower income workers with the protection they deserve.

That also makes it easier for businesses to know when they are complying with the law. And that is important, particularly for small businesses. They need to know. They should not have a bunch of different criteria that they need a special accountant or attorney to interpret for them so they can tell whether they are violating the law.

This rule, the one proposed—proposed; it is not finalized yet—by the Department of Labor will make it easier for businesses to know when they are complying.

By undermining the administration's efforts to better protect lower income workers, who will this amendment protect? The supporters of the amendment—the amendment that is going to be laid down, I guess—claim that an estimated 8 million workers will become ineligible for overtime under the proposed rules. However, this estimate is based on a study by the Economic Policy Institute, and it is riddled with errors. For example, the study includes in its calculations at least 18 percent of the workforce who work 35 hours or less a week. These part-time workers do not work more than 40 hours a week and, therefore, they do not receive overtime in the first place.

The study also claims the proposed rule will deny overtime pay to white-collar employees earning more than $65,000 a year. However, not all the employees earning over $65,000 are exempt under the proposed rules—only those performing office or nonmanual work and one or more exempt duties. This means workers, such as police officers, firefighters, plumbers, Teamsters, carpenters, and electricians will not—will not—lose their overtime pay. The Department of Labor acknowledges the possibility that 644,000 highly educated workers making over $65,000 a year might lose their overtime. Mr. President, 1.3 million get picked up on the bottom end; 644,000 drop out on the top.

Supporters of this amendment claim that the proposed rules will strip overtime pay for first responders and nurses. If we look behind the rhetoric, we find there will be virtually no change in status for first responders and nurses under the Department of Labor proposal. Under both the current and proposed regulations, only registered nurses are exempt from overtime pay.

Supporters of this amendment claim that military personnel and veterans will lose their overtime pay under the proposed rules. However, military personnel and veterans are not affected by the proposed rules by virtue of their military status or training. Nothing in the current or proposed regulation makes any mention of veteran status.

Who will this amendment protect, if not low-income workers, first responders, nurses, veterans, or millions of other working Americans? The antiquated and confusing white-collar exemptions have created a windfall—a windfall—for trial lawyers. Ambiguities and outdated terms have generated significant confusion regarding which employees are exempt from the overtime requirements. The confusion has generated significant litigation and overtime pay awards for highly paid, white-collar employees. Wage and hour cases now exceed discrimination suits as the leading type of employment law class action. Let me repeat that again. Wage and hour cases now exceed discrimination suits as the leading type of employment law class action.

This amendment—the amendment that Senator HARKIN is going to put in—will not preserve overtime for millions of working Americans. The amendment will not help employers and employees clearly and fairly determine who is entitled to overtime. The only clear winners from this amendment will be the trial lawyers who will continue to benefit from the current state of confusion. We are spending taxpayers' dollars sorting through what could be solved with clarity.

I stress that these are proposed rules—proposed rules. The Department of Labor has received, and is currently reviewing, around 80,000 comments to their proposed regulations. We should allow the regulatory process to continue and give the Department a chance to complete its review of the proposed rules. Once the review is completed, the Department will align the white-collar regulations with the realities of the 21st century workplace, the intent of the Fair Labor Standards Act, and—this is most important—what they have learned from the comments.

They have 80,000 comments. I expect them to read those. I expect them to react to those, and make sure that it becomes a part of the rule.

Now, supporters of this amendment are, in effect, denying the public a voice in the regulatory process. This amendment will deny the Department of Labor an opportunity to respond to public comments. I happen to believe that public comments play a critical role in the regulatory process.

I will tell you, I go back to Wyoming most weekends. I go out on Friday, travel to a different part of the State, and come back on Sunday. It is the most valuable thing I do around here, and that is because I get to talk to the person who has the problem firsthand. Do you know what? They are working on that all day, every day. And the advantage is they have usually thought of some kind of a solution. Now, when I bring it back, quite often, the comment is: It is too simple. It will never work. Where did you come up with a crazy idea like that? And I have to explain: From the guy with the problem who works on this every day and knows the commonsense approach to solving that problem.

Those are the people writing in with comments. Those are the people who are saying: This is where it is right. This is where it is wrong. Fix it where it is wrong. Leave it in the new context where it is right. That is how the process is supposed to work.

We want the Department of Labor to look at those comments and respond—respond by changing the rule, or respond by letting the people know how that will not work or how it is covered a different way. We have to have that process work.

Now, I hope if there are substantial changes it gets put out one more time for comments. There is not anything around that says they cannot reissue them for comment. The public comments are what help us get it right. We do not do these jobs, so we do not know all the right answers. But the people out there working on them do. The answers can be made right.

Now, if the final rule has gone astray, after all of this process, we can use the Congressional Review Act to reverse it. And we have done that before. That is where we say: You did not pay attention to the process. You did not pay attention to the comments. We are going to jerk you back to reality. But now is not the time or the vehicle for making that determination.

I hope my colleague will not put down the amendment, but if he does, I hope my other colleagues will support me in allowing the Department to move forward with the review and response that they need to be doing. They do need to be paying attention to all of this debate. But we do need to bring that rule into the current century and make sure people are working at jobs and the rules are understandable, particularly with small businesses that are trying to provide a service, not figure out Government regulations.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I ask unanimous consent to yield myself such time as I may consume from the time under the control of the Democratic side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Let me say to those who may be listening in the offices of Members who want to come over and wish to be heard on this matter, I will be prepared to yield some time. I am here to discuss an amendment that will come up after 3:30. I thought I would move things along while we have this dead time, while we are waiting for this vote to occur, to discuss upcoming amendments and encourage those who may want to participate in some of those debates to come to the floor and share some of their thoughts.

I will be offering at the appropriate time, sometime after 3:30, an amendment that deals with the outsourcing of jobs. I note the presence of the Presiding Officer who comes from the same region of the country I do. We have all been feeling it in our States, not just in the Northeast, but across the country, the tremendous pinch that is occurring as a result of job loss and the growing number of jobs that are being outsourced. I am told by those who cover these issues that the coalition opposed to any legislative efforts to stop outsourcing is coming up with some new language. They don't like the word, "outsourcing," so they are calling it worldwide sourcing, to take some of the sting out of the language. They may succeed in taking the sting out of the language by changing the vocabulary, but you cannot take the sting out of finding out that your job has been lost and that others offshore are taking those jobs because it enhances the bottom line in a quarterly report someplace. We need to address that.

I fully understand that outsourcing to some degree is going to go on. I expect that to be the case. But I don't think the Federal Government ought to be subsidizing that effort. I am one who has believed in and supported free and fair trade agreements over the years. I take great pride in that. In a global economy, you have to do that. But I also understand if we don't have the services or provide the manufactured goods with which to trade globally because we have given up a significant part of our manufacturing base or given up a critical area of technology in the service areas, for instance, we are necessarily going to be great competitors in a global marketplace in the 21st century.

You may say we are nowhere near that yet. The rest of the world doesn't even come close to producing the quality and high value goods we do in the United States. They can't come close to providing the high technology we do.

I think we have all learned over the last number of years that technology and productivity is highly portable, and it is moving at warp speed. What was true a year ago, 5 years ago, certainly 10 years ago, is no longer the case. I suspect this rate of speed of change is going to continue to grow.

At this particular juncture, I think it is important that we speak to this issue and that we try to find some balance on how we maintain our global leadership role, continue to provide opportunities for American workers, while simultaneously not allowing the exportation of jobs overseas.

I was terribly disheartened to read a report, the Economic Report of the President, February 2004, just last month, this publication that comes out. It is designed to give an overall economic report of the Nation, with various suggestions and ideas. I am not making up these quotes from some news article or some demagogue or pundit out there when talking about these issues. These are actual conclusions reached by the top economic advisers to the President of the United States when it comes to the issue of manufacturing and outsourcing.

First on outsourcing, chapter 12, on page 229 of this economic report of President Bush and his economic team, it says:

> When a good or a service is produced more cheaply abroad, it makes more sense to import it than to make or provide it domestically.

I would suggest that is a conclusion with which some economists may agree. Some have drawn the conclusion that that is inherently a far better idea, just thinking in terms of quarters or yearly reports, I suppose, and the bottom line. That may be OK. But if you are worried about generational change, if you are worried about trying to establish a bedrock of job opportunities, stability, and security in the 21st century, then it absolutely makes no sense to export that job rather than to provide it domestically.

I note in this morning's Wall Street Journal—so you don't think these ideas are merely being spouted by a Democrat in disagreement with the President's economic report—a March 3, 2004, article, "Lesson in India." I ask unanimous consent to print the full article in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Mar. 3, 2004]

LESSON IN INDIA: NOT EVERY JOB TRANSLATES OVERSEAS

(By Scott Thurm)

When sales of their security software slowed in 2001, executives at ValiCert Inc. began laying off engineers in Silicon Valley to hire replacements in India for $7,000 a year.

ValiCert expected to save millions annually while cranking out new software for banks, insurers and government agencies. Senior Vice President David Jevans recalls optimistic predictions that the company would "cut the budget by half here and hire twice as many people there." Colleagues would swap work across the globe every 12 hours, helping ValiCert "put more people on it and get it done sooner," he says.

The reality was different. The Indian engineers, who knew little about ValiCert's software or how it was used, omitted features Americans considered intuitive. U.S. programmers, accustomed to quick chats over cubicle walls, spent months writing detailed instructions for overseas assignments, delaying new products. Fear and distrust thrived as ValiCert's finances deteriorated, and coworkers, 14 time zones apart, traded curt e-mails. In the fall of 2002, executives brought back to the U.S. a key project that had been assigned to India, irritating some Indian employees.

"At times, we were thinking, 'What have we done here?' " recalls John Vigouroux, who joined ValiCert in July 2002 and became chief executive three months later.

Shifting work to India eventually did help cut ValiCert's engineering costs by two-thirds, keeping the company and its major products alive—and saving 65 positions which remained in the U.S. But not before ValiCert experienced a harrowing period of instability and doubt, and only after its executives significantly refined the company's global division of labor.

The successful formula that emerged was to assign the India team bigger projects, rather than tasks requiring continual interaction with U.S. counterparts. The crucial jobs of crafting new products and features stayed in Silicon Valley. In the end, exporting some jobs ultimately led to adding a small but important number of new, higher-level positions in the U.S.

In F2003, ValiCert agreed to be acquired by Tumbleweed Communications Corp., a maker of antispam software with its own offshore operation in Bulgaria. Today, the combined Tumbleweed is growing, and again hiring software architects in Silicon Valley with six-figure salaries, as well as engineers overseas. Without India, Mr. Vigouroux says, "I don't know if we'd be around today." '

ValiCert's experience offers important insights into the debate over the movement of service jobs to lower-cost countries, such as India. Such shifts can save companies money and hurt U.S. workers. But the process is difficult, and the savings typically aren't as great as a simple wage comparison suggests. Some jobs cannot easily or profitable be exported, and trying to do so can risk a customer backlash: In recent months, Dell Inc. and Lehman Brothers Holdings Inc., for example, moved several dozen call-center and help-desk jobs back to the U.S., after employee and customer complaints.

Founded in 1996, ValiCert specializes in software to securely exchange information over the Internet. Banks use ValiCert's software to safeguard electronic funds transfers, health insurers to protect patient medical records. Although still unprofitable, ValiCert conducted an initial public offering in July 2000, in the dying embers of the dot-com boom. In two months, the stock doubled to $25.25.

In 2001, however, sales growth slowed, as corporate customers reduced technology purchases. ValiCert had projected that it would break even with quarterly revenue of $18 million, according to Srinivasan "Chini" Krishnan, founder and then-chairman. Quarterly expenses had grown to $14 million, but revenue was stalled at less than half that figure. Executives began considering shifting work to India. The "motivation was pure survival," says Mr. Krishnan, who left the company after the Tumbleweed merger.

India was a natural choice because of its large pool of software engineers. Moreover, both Mr. Krishnan and ValiCert's then-head of engineering grew up in India and were familiar with large tech-outsourcing firms.

Some, including Mr. Jevans, harbored doubts. The Apple Computer Inc. veteran says he preferred "small teams of awesome people" working closely together. Nonetheless, that summer, ValiCert hired Infosys

Technologies Ltd., an Indian specialist in contract software-programming, to supply about 15 people in India to review software for bugs, and to update two older products.

With no manager in India, ValiCert employees in the U.S. managed the Infosys workers directly, often late at night or early in the morning because of the time difference. ValiCert also frequently changed the tasks assigned to Infosys, prompting Infosys to shuffle the employees and frustrating ValiCert's efforts to build a team there.

Within a few months, ValiCert abandoned Infosys and created its own Indian subsidiary, with as many as 60 employees. Most employees would be paid less than $10,000 a year. Even after accounting for benefits, office operating costs and communications links back to the U.S., ValiCert estimated the annual cost of an Indian worker at roughly $30,000. That's about half what ValiCert was paying Infosys per worker, and less than one-sixth of the $200,000 comparable annual cost in Silicon Valley.

To run the new office in India, ValiCert hired Sridhar Vutukuri, an outspoken 38-year-old engineer who had headed a similar operation for another Silicon Valley start-up. He set up shop in January 2002 in a ground-floor office in bustling Bangalore, the tech hub of southern India. The office looked much like ValiCert's California home, except for the smaller cubicles and Indian designs on the partitions. There were no savings on the rent. At $1 a square foot, it matched what ValiCert paid for its Mountain View, Calif., home offices, amid a Silicon Valley office glut.

Misunderstandings started right away. U.S. executives wanted programmers with eight to 10 years of experience, typical of ValiCert's U.S. employees. But such "career programmers" are rare in India, where the average age of engineers is 26. Most seek management jobs after four or five years. Expertise in security technology, key to ValiCert's products, was even rarer.

By contrast, Mr. Vutukuri quickly assembled a group to test ValiCert's software for bugs, tapping a large pool of Indian engineers that had long performed this mundane work.

But the Indian manager heading that group ran into resistance. It was ValiCert's first use of code-checkers who didn't report to the same managers who wrote the programs. Those U.S. managers fumed when the team in India recommended in June 2002 delaying a new product's release because it had too many bugs.

By midsummer, when Mr. Vutukuri had enough programmers for ValiCert to begin sending bigger assignments to India, U.S. managers quickly overwhelmed the India team by sending a half-dozen projects at once.

Accustomed to working closely with veteran engineers familiar with ValiCert's products, the U.S. managers offered only vague outlines for each assignment. The less-experienced Indian engineers didn't include elements in the programs that were considered standard among U.S. customers. U.S. programmers rewrote the software, delaying its release by months.

In India, engineer grew frustrated with long silences, punctuated by rejection. Suresh Marur, the head of one programming team, worked on five projects during 2002. All were either cancelled for delayed. Programmers who had worked around the clock for days on one project quit for new jobs in Bangalore's vibrant market. Of nine people on Mr. Marur's team in mid-2002, only three still work for ValiCert. "The first time people understand," he says. "The second time people understand. The third time it gets to be more of a problem."

In the U.S., executives lurched from crisis to crisis, as ValiCert's revenue dipped further. Each quarter brought more layoffs. By year end, the California office, which once employed 75 engineers, was reduced to 17; the India office, meanwhile, swelled to 45. Engineers "felt the sword of Damocles was swinging above their cube," recalls John Thielens, a product manager.

Executives knew they could save more money by exporting more jobs. But they were developing a keener sense of how critical it was to keep core managers in the U.S. who knew ValiCert, its products, and how they were used by customers. "Even if you could find someone" with the right skills in India, says Mr. Krishnan, the ValiCert founder, "it wouldn't make business sense to move the job."

Frustrations came to a head in September 2002, when a prospective customer discovered problems with the log-on feature of a ValiCert program. The anticipated purchase was delayed, causing ValiCert to miss third-quarter financial targets. The India team had recently modified the program, and the glitch prompted U.S. managers to question ValiCert's entire offshore strategy.

Relations had long been strained between the U.S. and Indian product teams. John Hines, the Netscape Communications Corp. veteran who headed the tight-knit U.S. product team, thrives on quick responses to customer requests. As his team shrank to six engineers from 20, Mr. Hines was assigned three engineers in India. But he viewed the Indians' inexperience and the communication delays, as more a hindrance than a help. "Things we could do in two days would take a week," he says.

Mr. Vigouroux, who became CEO in October 2002, admits to a touch of "panic" at this point. ValiCert's cash was running low. "We didn't have a lot of time," he says. He conferred with Mr. Hines, who said he wanted to be rid of India, even if it meant a smaller team. Mr. Vigouroux agreed to hire one engineer in California. When he learned of the decision, Mr. Vutukuri says he felt as if he had failed.

By contrast, Matt Lourie, who heads ValiCert's other big programming group, welcomed additional help in India. He was struggling to keep pace with customer demands for new features on his product and new versions for different types of computers.

At the same time, ValiCert executives were streamlining operations and changing how they divided work between California and India. They gave the India team entire projects—such as creating a PC version of a program initially built for bigger workstations—rather than small pieces of larger projects. U.S. managers began writing more detailed specifications for each assignment to India.

ValiCert also killed its three smallest-selling products to focus resources on the remaining two. To improve morale in the U.S., Mr. Vigouroux crowded the remaining employees into one corner of the half-vacant office and installed a ship's bell that he rang each time ValiCert recorded $10,000 in revenue. He made sure the India employees received company-wide e-mails, and conducted multiple sessions of monthly employee meetings so the India group could listen at a convenient hour. Engineering-team leaders began conferring twice a week by telephone, shifting the time of the calls every six months so that it's early morning in one office and early evening in the other.

Toward the end of 2002, Mr. Vigouroux began to ring the bell daily, as customers such as Washington Mutual Inc. and MasterCard International Inc. purchased ValiCert's software.

By early the next year, ValiCert executives believed the company had stabilized. Revenue increased to $3 million in the fourth quarter of 2002, up 27% from the previous quarter. Expenses declined, and the company neared profitability. Investors detected a pulse, and the stock rose to 46 cents on the Nasdaq Stock Market at the end of January, from a low of 20 cents in August 2002.

But with just $3 million in cash, ValiCert remained precarious. Mr. Vigouroux started meeting with potential new investors and began talks with Tumbleweed CEO Jeffrey C. Smith.

Tumbleweed also had been through significant layoffs and retrenchment, and in February 2003, the companies agreed to merge. The combined Redwood City, Calif., company's 150 engineers today are almost evenly divided among California, the Tumbleweed operation in Bulgaria, and the India office started by ValiCert. In Bulgaria, engineers write and test software, and scan millions of e-mails daily for traces of spam. In India, engineers test software, fix bugs and create new versions of one product. Last September, Tumbleweed released its first product developed entirely in India, a program that lets two computers communicate automatically and securely. Mr. Marur's team had worked on it for over 18 months.

Core development for new products remains in California, where engineers are closer to marketing teams and Tumbleweed's customers. Since July, Mr. Lourie's U.S. team has grown to nine engineers, from six.

Tumbleweed's fourth-quarter revenue grew 69% from a year earlier, as its net loss shrank to $700,000, and cash increased by $2.4 million. Shares have risen five-fold in the past year.

Brent Haines, 36, is a new hire. He joined in October as a $120,000-a-year software architect, charged largely with coordinating the work of the U.S. and India teams. That often means exchanging e-mail from home with engineers in India between 11 p.m. and 3 a.m. California time, as Mr. Haines reviews programming code and suggests changes. Such collaboration requires extensive planning, he says, "something very unnatural to people in software."

"Nine months ago, people would have said [moving offshore] was the biggest . . . disaster," says Mr. Thielens, the product manager. "Now we're starting to understand how we can benefit."

Mr. DODD. This is a story written by Scott Thurm. It is about a company, ValiCert, that learned key roles must remain in the U.S. for outsourcing to work. And the thrust of the article is this company rushed, like everybody else. Forty percent of the top 1,000 companies in America are now outsourcing their jobs, sort of like chasing into Mexico back in the 1980s when the financial service sector thought that was the place to be, without much thought. Once these trends begin, they are sort of like sheep following one after another without much thought involved.

This company ValiCert went racing off to outsource its jobs, reduced its employment, saved a lot of money, according to the article, expected to save millions annually while cranking out new software for banks.

I am quoting from the article now:

> When sales of their securities software slowed in 2001, executives at ValiCert began laying off engineers in Silicon Valley to hire replacements in India for $7,000 a year.
>
> ValiCert expected to save millions while cranking out new software for banks and insurers and government agencies. Senior Vice President David Jevans recalls optimistic predictions that the company would "cut the budget by half here and hire twice as many people there [in India]." Colleagues would swap work across the globe every 12 hours, helping ValiCert "put more people on it and get it done sooner," he says.
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> The reality was different. The Indian engineers, who knew little about ValiCert's software or how it was used, omitted features Americans considered intuitive. U.S. programmers, accustomed to quick chats over cubicle walls, spent months writing detailed instructions for overseas assignments, delaying new products. Fear and distrust thrived, and ValiCert's finances deteriorated and coworkers, 14 time zones apart, traded curt e-mails. In the fall of 2002, executives brought back to the U.S. a key project that had been assigned to India, irritating some Indian employees.
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> "At times we were thinking, what have we done here?" . . .

The article goes on; I won't read all of it; the point being sort of buyer beware. This notion that you might be hiring people for a fraction of what it would cost to hire someone in the Silicon Valley and it is going to allow you to make millions because of laid-off American workers and you hire someone 8 or 10 time zones away, has been, certainly in the case of this particular company, proven to be untrue.

So to the point that when a good or service is produced more cheaply abroad, it makes more sense to import it than to provide it domestically, I would suggest that the people who wrote the economic report for the President may want to talk to the people at ValiCert. I don't suspect that is one company. I suspect that is true of many companies. So it is not Biblical.

I agree that in certain cases you will make a lot more money by firing people in the United States and getting rid of them. Why should you worry about that? Your job is to provide a bottom line. That is your job.

My job is a little different than your job. My job, as a Senator, is to not only watch out for you and your company, to make sure you live in an environment where you can make a profit, I have an obligation to those people who work for you as well. I didn't get elected to the Senate just to guarantee you a bottom line. My job is setting public policy, not quarter by quarter, not just bottom line and yearly report to yearly report, but longer than that. That is what we are supposed to do in a Chamber such as this, to think a little longer, to worry about this country, those who are the children of the 21st century and what kind of a Nation are they going to inherit after you and I have left. They are going to ask us about what we did at the beginning of the 21st century when we saw the trend lines reaching out to cause literally millions of people to lose their jobs.

One report indicates that in the next 10 years or so we may lose as many as 4 million jobs, a loss of $140 billion in wages, just by outsourcing alone.

That number may be low, according to those who have done this. I will get to the charts in a minute and identify the source of that. I will get to the amendment at an appropriate time and talk about the specifics of it. I know I am going to hear that your amendment goes too far, it is too heavyhanded, because I am going to suggest that maybe the use of Federal tax dollars—we ought to have second thoughts about subsidizing this rushing to go overseas to outsource. I cannot stop a private company with its own dollars deciding to do that. You can make it less of an attractive thing through the Tax Code or more attractive for people to stay here, but I certainly cannot stop you from doing it.

But I ought to be able to say something about how American taxpayer money is being used. If their money is being used to cause somebody to lose their job and to hire someone for the attraction of the salary someplace else, maybe taxpayers have a right to be heard on this issue. This amendment says Federal tax, for the purpose of outsourcing—with the exceptions of national security and other provisional waivers, which I will explain—ought not to be something we are supporting. If you want to do it as a private company, that is your business. I don't think you ought to necessarily have a right to Uncle Sam's taxpayer money to do that at the expense of critical jobs that are important for this Nation's future.

I will go on in this economic report because I may not have time, when we get to the amendment, to talk about it. I cited chapter 12, page 229, where you have this emphatic statement that it automatically, in every case, as I read this, makes more sense to import. They don't talk about outsourcing. They act as if it were a good or a service. I know economists like to suggest that is all it is. But I think people in Ohio, Connecticut, or Pennsylvania are more than a good or a service. They may have a family, a home mortgage they are trying to pay, and they may have other obligations; and they worry about their future retirement and health care. So to have the cold eye of an economist saying a person out there who has a job in America may find it gone because the quarterly report would look a lot better if we can hire that person for $7,000 a year rather than paying you $40,000, $50,000, $60,000, or $70,000 a year, and you are really nothing more than a good or a service—I think many of us here believe otherwise.

These are not just goods or services; these are human beings who help to strengthen this country, provide us the kinds of liberties and opportunities we enjoy as Americans. I think it is about time we stood up for them and what their interests may be—not at the expense of others, but to merely strike a balance. This is not about being against trade, being an isolationist at all. It is merely saying strike some balance before this sort of giddy trend, where company after company is sort of playing follow the leader and runs amuck as they send these jobs willy-nilly offshore; we ought to say let's look at what we are doing and at what ultimate price we may pay.

The second point I want to make out of this economic report is a reference with regard to what is manufacturing. I don't have the page number, unfortunately, on this, but I will get it before I finish my remarks. It is a highlighted box, and the title of the box that is framed out here is "What Is Manufacturing?" This economic report says the definition of a manufactured product, however, is not straightforward. When a fast food restaurant sells a hamburger, for example, is it providing a service or manufacturing a product? You may say that is only a question. You know, if this is your question and the example you would cite in your question, what are you thinking of? Do you think it is a debatable item as to whether or not producing a hamburger or a hot dog involves manufacturing? This is not some op-ed piece; this is the official economic report of this administration's economic policy. In bold print in this economic report they suggest there is a legitimate question over whether or not working at McDonald's or Burger King flipping hamburgers ought to be classified as a manufacturing job. If you don't think we are in trouble on these issues, just read that.

That is an example of the kind of terribly naive at best, at worst rather callous, thinking when it comes to talking about the importance of manufacturing. I don't belittle a job somebody holds down working in a fast food restaurant. For many people out there, that is the only job they can get to provide for themselves and their families. They would be the first to tell you that they hardly think of themselves as being in the manufacturing business. Yet, in the administration's official report, it raises the question of whether or not it is a manufacturing job. At least this Member gets a sense they are lost on this issue, when they raise questions as foolish as that.

Let me go to some of these charts, if I may. Let me just give you a suggestion of what is happening on the issue of manufacturing. The first chart I raise here points to the fact that in the last 36 months, we have now lost in the United States of America 2.8 million manufacturing jobs—since January 2001, up until now, the winter of 2004. That is 2.8 million manufacturing jobs that have gone in this country. I believe that is the single largest loss of manufacturing jobs that has occurred since the Great Depression. I understand transitions in the economy. Things happen and move in different directions. But I don't think you can wash your hands of this and say I am sorry, but that is the trend line and that is the way life is—sort of a laissez-faire approach.

We ought to analyze why things are happening, where are the jobs going, and what are the implications for our country. I understand where the CEO of a company is coming from, and the board of directors or the administration of a company. Their concern is the bottom line and whether you have a profit to show the next quarter. I think Members of Congress ought to have a different set of questions from whether the quarterly report is all right—whether this trend line is going to continue, and what it means to our country. If this trend line continues and we end up losing a manufacturing sector, we will deeply regret it.

I come from a State where I have 5,400 small manufacturers—or I did—in Connecticut. Most of them are small operators, with 5, 10, 15 people, third and fourth generation, producing not just flowers or some other item but, rather, significant products, many of which are used in the aircraft engine industry of my State, the manufacture of the sophisticated submarines we produce in Connecticut, or other high value products. These manufacturers employ highly skilled people, producing very valuable pieces of equipment used in some of our most sophisticated defense and nondefense products. So when I see these jobs and these businesses going, I have to be reminded that we are not going to create this overnight. You don't reconstitute the manufacturing base overnight. Again, I accept we have to make changes and you cannot say we are going to stop this altogether. But I think we have an obligation to express our concerns and worries about where we are headed, if we don't speak up and begin to address what this may mean for our country.

I am very worried about where these trend lines are going and what it may mean. If we end up continuing to lose jobs and manufacturers, I am concerned about what it may mean for our country if we end up having to import not only the jobs but the products themselves. That is another subject matter we can discuss later. We ought to worry about it as a country. If we don't do something soon in this area, that is going to be a continuing problem.

Let me point out further, to give some idea of where this is all happening, because it is not, as I mentioned, just my State of Connecticut. I mentioned my friend and colleague, the Presiding Officer, comes from New Hampshire up in our area. Just to highlight, his small New England State as well had some 22,300 jobs in the manufacturing sector lost in New Hampshire. In my State of Connecticut, it is about 32,800, about 10,000 more. That is in the last 36 months.

The trend lines are: Pennsylvania, 132,000; Ohio, 153,000 jobs have been lost; California, 272,000 manufacturing jobs lost; the State of Washington, 59,000; Oregon, 21,000; Texas, 149,000; Florida, 52,000; Georgia, 67,000; 142,000 jobs lost in the small State of North Carolina. This is all in the last 36 months.

I won't go through State after State, but you get some sense of this. It is not isolated to our corner in Connecticut, our small State, or the area of New England: New York State, 115,000 jobs; Michigan, 121,000; Wisconsin, 168,000; Illinois, 115,000 jobs. It is a worrisome trend. It is going on all across the country.

Again, we cannot say this is transitional, I am sorry, America, you are going to have to live with this. We ought to respond in a way that acknowledges this trend and tries to offer some ideas on how we might turn this trend around.

I will be glad to share with my colleagues, if they are curious about their States—I will not go through all 50 States, but there is not a State in the country that has not lost manufacturing jobs. Some have lost very few. The State of Wyoming lost 700 jobs; North Dakota, 500. That may be the lowest. Arizona, 34,000; New Mexico, 5,000; Colorado, 37,000; Kansas, 19,000; Arkansas, 29,000; Missouri, 38,000. These job losses have been very painful.

We talk about these jobs, and I think the tendency is to talk about them in and of themselves, the job loss in any manufacturing sector in any given State. Each manufacturing job supports three other U.S. jobs. When we end up losing these jobs in the manufacturing sector, there is a ripple effect.

I won't dwell on this, but I think most of my colleagues are aware of this already. When someone loses their source of income in the area of manufacturing, the effects are felt in retail trade, personal/business services, and other manufacturing sectors with the inability of people to purchase goods. It is not as if these jobs exist or, when they are lost, the only people paying that price are the people who lost the job. In effect, it is being felt across the economy as well.

Mr. President, 14 million additional jobs are in danger.

Now we get into the question of jobs going offshore. I want to give some indication of what is happening. Let's get back to the outsourcing question. I mentioned manufacturing because a lot of these jobs are moving in that area.

We are told—and this is from Time magazine in their February 22 issue—that by the year 2015, more than 3 million American jobs are projected to be shipped overseas. We begin to see these trend lines. In 2005, it moves up to 588,000 which will be outsourced overseas. A few years later that number of jobs goes to 1.6 million, and projections are, with no effort being made to change this direction, the number gets up to 3 million. We are worried that if we do not speak up now and do something about this trend, we are going to find a continued erosion and continued loss of these jobs overseas.

Let me point out where they are coming from because this may be helpful as well to those interested in this subject matter. There are 14 million additional jobs in danger of being shipped overseas, as I mentioned. Where are they coming from? Office support areas, some 8 million jobs; business and financial support, 2 million; in the area of computer and math professionals, close to 3 million; in the area of paralegal, legal assistance, diagnostic support, medical transcriptions and the like, the numbers are in the thousands, to give some idea where we are going with all of this.

It isn't just these low-wage jobs that are going. They are also going in the more sophisticated areas as well. I mentioned earlier the story in the Wall Street Journal talking about ValiCert. They were talking about jobs in Silicon Valley. I guarantee you we are not talking about low-wage jobs at all. Those are jobs that are fairly well paid, and they are being lost. The trend lines are not good in just raw numbers, but also in sectors of the economy where these jobs are being lost.

At the appropriate time, I will offer a very specific amendment to address the issue. Very briefly, the amendment would do the following: It will restrict anyone from using Federal tax dollars to ship jobs offshore in three different ways. First, the Federal Government may not use Federal taxpayer dollars to procure goods or services to fulfill contracts that use overseas workers at the expense of American jobs.

Second, we tell State and local governments that any Federal dollars they receive in the form of a grant or in the form of an appropriation by formula or in any other way are not to be used to promote the loss of American jobs.

I point out that today 40 States outsource jobs. I am told that in the State of Minnesota, if you lose your job and you call up the unemployment office, you are going to talk to someone in India about what your rights and benefits are. I do not need to tell you the reaction of those people in that

State who lost their job and they are talking to someone offshore to tell them what their benefits are.

The third way is, any agency seeking to privatize a government contract being paid with U.S. taxpayer dollars may not enter that contract if it again displaces American workers in favor of offshore workers.

In all these cases, we have exceptions on the grounds of national security and we allow the Governor or a Federal agency head to, in effect, waive these provisions if there is bona fide lack of goods and services in the United States. There is an escape clause here.

The obvious question arises, one, on national security, or, two, if no one is producing these goods and services here, what are we supposed to do? Rather than have the President have to waive the provision, we allow a Governor or head of an agency who would be in charge of this particular area to do so.

Let me take a few minutes to explain why this is a timely amendment and why it is deserving of our support. A gentleman by the name of John Bowman dedicated 25 years of his life to becoming an information technology professional, and he was very good at it, I might add. He, like hundreds of thousands of Americans, lost his job because of outsourcing. John looked around and realized what happened to him was not an isolated incident. It was part of a massive trend, and he decided to do something about it.

John will tell you he would be the last person in the world leading a grassroots organization that has practically become a grassroots movement in this country, not just in my State but all across the Nation. These are white-collar professional people, highly trained, who are watching their jobs lost day after day, flying offshore, being outsourced.

Fortunately, John is now being joined in this fight from people of all walks of life—labor unions, small business owners, Republicans and Democrats alike. I had a meeting in my State a few days ago on this issue. I had people in the same room that I could not put in the same town in Connecticut a year ago—people from the manufacturing sector, from labor unions, and the private sector coming together. They differ on a lot of issues, but on this one they are joined in common cause. They recognize what we are experiencing is different from what we experienced before.

Today, advances in technology and fewer trade restrictions have made it far easier to move goods, information, and jobs around the globe. Foreign countries are aggressively enticing American businesses with promises of lower wages, lax worker protections, and weak environmental laws. Countries such as India and China have figured out if you want to compete in the global marketplace in the best jobs, you need to invest in the best education and training of your workers. Rather than trying to find a meaningful way to address these new circumstances, this administration would rather pretend the world is still functioning as it always did and actually that our economy is on a path to recovery. As a matter of fact, our country is hemorrhaging jobs at an alarming rate. As I mentioned already, according to one estimate, by the year 2015, 3.3 million, close to 4 million jobs and $136 billion in annual wages will have moved offshore if we do not do something about it. Four hundred of the largest 1,000 companies are already sending jobs offshore, with more planning to do so every single day.

In a short time I will get a chance to go into this in more detail as to why I think this is an important amendment and why I hope my colleagues will support it.

I realize it is a loud shout at this moment, and I know others will argue that maybe it is louder than it need be, but I do not know any other way to express my deep concern about what is happening in my State and all across this country if we do not begin to say that at least with taxpayer money you are going to have to act differently. You may decide to do it on your own dime, but you are not going to do it on the dimes of my taxpayers, to send jobs overseas when they are not necessary. You do not need to do that in order to survive.

I see my colleague from Montana in the Chamber. I yield the floor and at an appropriate time I will come back to this discussion.

The PRESIDING OFFICER. Under the previous order, the time for the minority has expired. The majority controls an additional 9 minutes 20 seconds.

Who yields time?

Mr. GRASSLEY. I suggest the absence of a quorum and that it come off of our time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2647

Mr. HATCH. Mr. President, there are several aspects of U.S. job creation and retention on which many of us may disagree. I do not believe, however, that the need for an effective research credit is one of them. It will do more for workers, more for jobs, more for high technology, more for opportunities, and more for the economy than most anything else we could pass. In this jobs bill it seems very appropriate for us to add this particular amendment to it.

This amendment has strong support from both sides of the aisle. It has the unified support of the whole business community. It is the right thing to do for U.S. workers, for the U.S. economy, and for our children and our grandchildren. This amendment will open a door for small businesses, where most of the jobs are created anyway, to create more jobs, more opportunities, more good products, more high technology, more ways of keeping the United States at the forefront, economically, in this world than almost anything else we could do.

This jobs bill, which itself is an excellent bill that will do a lot for jobs, will be much better for having this amendment added to it. I hope my colleagues will all vote for it. It is a worthwhile thing to do. It is something that every one of us ought to vote for.

I thank those who have cosponsored this with me, those who have amended it with their excellent suggestions and the members of the Senate Finance Committee who have been champions of this for many years. I believe over the long run this type of amendment is going to pay off in great dividends.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON AMENDMENT NO. 2651

The PRESIDING OFFICER. Under the previous order, the hour of 3:30 having arrived, the question is on agreeing to amendment No. 2651.

The amendment (No. 2651) was agreed to.

VOTE ON AMENDMENT NO. 2647

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2647, as amended.

Mr. BAUCUS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant journal clerk called the roll.

Mr. REID. I announce that the Senator from Louisiana (Mr. BREAUX), the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from South Dakota (Mr. JOHNSON), the Senator from Massachusetts (Mr. KERRY), and the Senator from Florida (Mr. NELSON) are necessarily absent.

I further announce that the Senator from Delaware (Mr. BIDEN) is absent on official business.

I further announce that, if present and voting, the Senator from South

Dakota (Mr. JOHNSON) and the Senator from Massachusetts (Mr. KERRY) would each vote "yea."

The PRESIDING OFFICER (Mr. CORNYN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 31 Leg.]

YEAS—93

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NOT VOTING—7

Biden
Breaux
Edwards
Graham (FL)
Johnson
Kerry
Nelson (FL)

The amendment (No. 2647) was agreed to.

Mr. GRASSLEY. I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, may I inquire what is the business before the Senate?

The PRESIDING OFFICER. The bill, as amended, is currently pending.

AMENDMENT NO. 2660

Mr. DODD. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Connecticut [Mr. DODD] proposes an amendment numbered 2660.

Mr. DODD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Data not supplied.)

Mr. DODD. Mr. President, I offer this amendment on behalf of myself, Senator COLEMAN of Minnesota, Senator KENNEDY, Senator CORZINE, Senator MIKULSKI, and others.

Let me say to the floor managers, if I may, I know they are interested in the time. I am prepared to agree to a 1-hour time agreement. I do not necessarily expect to take the hour. I know there are others who may want to be heard. I know you want to move things along, so I am prepared to have a time agreement and move on my amendment, give my remarks, and then others can speak, and then vote on it, if you would like.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, with this amendment, we are moving along on this bill. I very much appreciate the Senator's generosity in suggesting a time agreement. At this point, apparently, that is not advisable. But I thank the Senator for making his generous offer and for proceeding nevertheless.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I will move forward. If, at any moment you would like to have a time agreement, let me know and I will try to accommodate you so you can move on to other matters.

I have already spoken about the amendment during the time between 2:30 and around 3:30, describing, in a sense, what the amendment would do and the rationale for the amendment. I will be glad to go back over this amendment again for my colleagues and then engage in any debate or discussion about it.

In a sense, I am preaching to the choir when I talk about this issue to my colleagues on both sides of the aisle because we all painfully know what has happened in the last 36 months in our country. We have lost around 2.8 million manufacturing jobs in the United States. I have laid out on this chart I have in the Chamber how that breaks down State by State across the country.

In my home State of Connecticut, we have lost some 32,000 jobs in the manufacturing sector; California, 272,000; Ohio has lost around 153,000 jobs; in Illinois, 115,000; Texas—the Presiding Officer's State—150,000 jobs.

So certainly we all appreciate the fact there has been a tremendous erosion in a very critical area in our economy.

We also know there is another phenomena occurring, and at an accelerated pace; that is, the outsourcing of many jobs, including some manufacturing jobs, around the globe, and it is accelerating at warp speed.

We now know there are literally 400 of the top 1,000 companies in the United States outsourcing their jobs to India or China or other nations around the globe. Mr. President, 40 of the 50 States now outsource jobs.

My amendment simply says—and there are waivers in here and the like. I understand, although I do not like it, if a company decides on its own dime it is going to outsource a job. I disagree with that. I think they are wrong to do it, but it certainly is their right to do it. We can offer tax incentives to encourage people to stay here, tax disincentives so they do not go offshore, but ultimately a company can decide for itself.

It is another matter with taxpayer money, with the money that American taxpayers send to Washington. The idea that we would use their dollars to outsource an American job is something on which I think we ought to speak loudly and clearly. We ought to say: Look, we disagree with that. We don't think you ought to be able to do that.

So this amendment, in three different areas, very simply says: First, the Federal Government may not use Federal taxpayer money to procure goods and services to fulfill contracts that use overseas workers at the expense of American jobs. Second, we tell State and local governments that any Federal dollars they receive in the form of a grant, in the form of an appropriation, or any other way, that they are not to use those Federal dollars to promote the loss of American jobs for the creation of offshore jobs. And, third, we say any agency seeking to privatize a Government contract being paid with U.S. taxpayer dollars may not enter into that contract if it, again, displaces American workers in favor of offshore workers.

Now, very quickly, in anticipation of some of the arguments we may hear, we provide waivers and exceptions on grounds of national security, and we also allow Governors or Federal agency heads to waive these provisions if there is a bona fide lack of comparable goods or services in the United States.

In this legislation, we also, of course, make it clear that the Government procurement agreements between the United States and some 27 other nations, that are predominantly Western Europe countries, are not affected by the prohibitions contained in this bill. Those 27 nations do not include, I would point out, India or the People's Republic of China.

So the major sources of outsourcing are not affected by those provisions. Thus, we are in complete compliance with the WTO and every other formal agreement we have. We are not in violation of any of those agreements as a result of this amendment.

Now, I had a meeting in my State—and I assume my colleagues may have had similar kinds of gatherings—where people came together who you could not have put in the same county a year ago on this issue. I am talking about my chambers of commerce, my manufacturing associations, and my labor unions—all coming together saying:

When is Washington going to say something about this outsourcing that is going on?

If we continue to allow these jobs to flow out of our country, then I think we run the risk, at critical junctures, of having the human talent necessary for us to provide those services and to produce those goods which will allow us to compete effectively in the 21st century. Once you lose jobs, particularly in the manufacturing sector, or some of the high-skilled areas, it is very difficult to go back and re-create those jobs, to re-create those manufacturing centers.

Let me point out an article that appeared in the Wall Street Journal this morning. In fact, I have already included it in the RECORD. But the ValiCert company—and I think this is a front-page story or nearly a front-page story in the Wall Street Journal—discovered that outsourcing was no great success for them. They did it and discovered that the value they were getting for the jobs and products being produced did not equal that produced here in the United States. They have reversed that decision.

So when you read in this economic report, prepared for the President of the United States, last month, in February— and I will quote the report for my colleagues where they state, in absolute terms, on page 229 of this report:

> When a good or service is produced more cheaply abroad, it makes more sense to import it than to make or provide it domestically.

Well, tell that to the ValiCert company. They did not discover that. Certainly, while that may be true of a bottom line of a company, if you are trying to preserve jobs in this country, which is a responsibility we bear in this body, and not just to those companies but to the people who work for them—an American job is not just a good or a service. An American job has implications that go beyond just the dollar amount lost of income in wages or salaries. It means also that a family may not pay their home mortgage and may not be able to provide the goods and services that allow our economy to grow and expand. It means families are under more strain and stress because they have lost the source of income to provide for themselves.

So this ought not be a partisan issue. This ought to be something on which we stand united. This is not being an isolationist. I am a free trader. I have been so in the years I have been here. I have supported many, many free trade agreements, and I opposed some as well, but I honestly believe if you are going to be an effective trader, a free and fair trader in the 21st century, then you ought not squander and give up the very jobs that make it possible for you to compete in this global economy.

So I am deeply concerned that if we do not say something, particularly with U.S. taxpayer money that is being used to subsidize this outsourcing of jobs, then we are failing to understand what is going on across this country. In State after State after State, the trend lines are there in manufacturing. It is also occurring in other sectors in the economy.

Let me share with my colleagues, as shown on this chart, indication of where the outsourcing of these jobs is occurring. Presently, it is occurring in areas such as office support. The estimate is 14 million additional jobs, by the way, will be lost and shipped overseas over the next several years. The estimates are about 8 million will occur in office support areas; in computer and math professionals, close to 3 million jobs lost in that area; business and financial services, over 2 million jobs; paralegals, diagnostic support services, medical transcriptions, over 94,000.

So it is not just low-wage, low-salary jobs that are going but very sophisticated, high-technology jobs that could be leaving our country as well. That makes us weaker. It is not in the national security interests of the United States to be losing these critical jobs at a time when we need them most in order to provide for the economic growth of our own Nation.

So while I understand, from a business perspective, your job is to look at quarterly reports, to try to improve the bottom line, our job in the Senate and the Congress of the United States goes beyond looking at quarterly reports.

We should look generationally. I don't want my generation to be the first generation of Americans which leaves the coming generation less well off than every other succeeding generation has left their children and their grandchildren. We are at risk of doing that if we don't step up at this juncture and say we need to stop or at least discourage this outsourcing of jobs that is occurring at a rapid pace every single day.

It is hard not to pick up a U.S. newspaper in any city and read where one corporation, one business after another, is making the decision to outsource more jobs. I think we ought to say, let's slow down. Let's have some balance. Let's not use taxpayer money to allow these jobs to be lost. That is the thrust of the amendment.

I hope we will have overwhelming support for this idea. This bill is an appropriate place to be debating it. It is something that could make a huge difference for those who are worrying whether we are paying attention at all. We have just debated over the last 5 weeks medical malpractice, providing immunization for gun manufacturers. We have had a bill on pensions. But we have not spent 5 minutes debating the issue of what is happening to America's jobs. That is the big issue.

Look at any survey right now. Ask the American people what they worry about the most. It is the loss of jobs. They are outraged we have nothing to say when it comes to outsourcing of jobs to other nations, and we are not standing up and defending our own workforce.

In this same economic report I cited earlier, to give you some idea of why people get discouraged, I mentioned earlier the quote suggesting it was an automatic thing that outsourcing of jobs was good or, as they call it, importing of jobs. That is the way they describe it. I mentioned already a company identified in a Wall Street Journal article this morning, "Lesson in India, Not Every Job Translates Overseas." I encourage my colleagues to look at that article as one example of a company that discovered outsourcing was bad for business, not good.

In this same economic report prepared by the President's top economic advisors, they raised the following question:

> The definition of a manufactured product, however, is not straightforward. When a fast food restaurant sells a hamburger, for example, is it providing a service or inputs for manufacturing a product?

If this was some sort of cartoon in the paper, I might have laughed at it, but it is part of an official document, an economic report prepared by the President's top economic advisers which suggests through the question that flipping a hamburger or cooking a hot dog is a manufacturing job. You get some idea and sense of where the outrage of the American public is coming on why we are unable to speak to this issue.

Again, I don't care if you are a Democrat or Republican, what your politics or ideology is. We have to stand up and defend our country in a moment like this. I worry about losing these jobs.

I mentioned earlier I had some 5,400 manufacturers in my State employing well over 240,000 people. We have lost about 35,000 jobs in the last 36 months. My manufacturers produce critical components for some of the most sophisticated defense technologies in the Nation. If you lose that manufacturing base, it is not just the loss of a manufacturing job or the loss of a good little company, it is also a critical issue when it comes to national security needs. Many of these small manufacturers produce critical components and parts for some of the most sophisticated defense technologies in our Nation.

I mentioned earlier my friend and colleague from Texas. The number of jobs there, 150,000. I know this Senator has many of these small companies that are producing those parts for defense companies, defense technologies. There is a ripple effect. We know as well, beyond the implications for our national security, for every one of these jobs that are lost in the manufacturing sector, there are jobs lost in other sectors. It is not just that job that is lost or that family that is affected. Each manufacturing job supports three other U.S. jobs. So when we lose these jobs, we also feel it in the retail trade, in the professional services, and in manufacturing as well.

I apologize if I get heated about this subject, but it is painful to read some of this cold-eyed analysis that suggests somehow you just have to stomach this or weather this, that this is just one of these cyclical or structural occurrences in the national economy, and these statistics, as troublesome as they are, are nothing more than that, statistics.

Behind every one of those statistics, behind every one of those numbers I cite, is usually a head of household or people trying to keep their families together. They are not just statistics. These are American citizens. These are human beings who are doing everything they can to live by the rules and provide for their families. They want to know whether their Congress—they don't identify themselves when they get up in the morning as a Democrat or Republican; they get up in the morning and worry about their families and their future—gets it, if we understand it, and whether we are willing to do anything about it.

This is an attempt by myself and my colleague from Minnesota and others to say at least when it comes to your tax dollar, we are going to say to the States, localities, and other businesses with waiver provisions here, you are not going to use those dollars to outsource an American job, not on our watch. You may decide to do it with your own money, but you will not do it with American taxpayer money. That is why we offer this amendment.

I yield the floor to my colleague from Minnesota for any comments he would like to make.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. COLEMAN. Mr. President, I rise in support of the amendment offered by my colleague from Connecticut. I am proud of working with the President to grow jobs. I firmly believe, from my days as a mayor, when you cut taxes, you shape an environment in which folks invest. And when they invest, mom and dad have a job. The best welfare program is a job. The best housing program is a job. Access to health care comes with a job, most often. So we have to do what is necessary to grow jobs. We are moving in that direction. Clearly, more needs to be done.

Changing the economy at times reminds me of turning around one of those oar boats in Lake Superior: You have to get it moving in the right direction. I believe we are moving in the right direction, but more has to be done.

We have an opportunity with the Dodd amendment to do more, to make sure we use taxpayer dollars wisely, in a way that prevents the outsourcing of American jobs and grows jobs here.

The underlying bill we are dealing with, the Jumpstart JOBS Act, is moving us in that direction. We have to do more. We are doing it right here.

I am one who has supported and supports expanding markets. I understand the importance of trade in terms of growing jobs. This initiative is not designed to step in the way of our efforts to expand and broaden our capacity to find new markets for our products. On the contrary, what it does is ensures those firms which have exemplary goods and services to sell have a fair shake at contracts involving Federal dollars.

This issue has come up in Minnesota. From conversations with my Governor, it is clear—and I understood this when I was a former mayor—we have an obligation to get the best possible value for taxpayers. We have to look at the bottom line. But at the same time we have to be concerned about the impact on our State and national economy of foreign offshoring when other options are available, when the work can be done here.

I call this commonsense legislation. Again, I support trade as a way to create wealth and jobs. But for a government at any level to contract out with foreign entities for delivery of federally funded U.S. programs is tantamount to Detroit, MI buying a fleet of foreign-made squad cars. It doesn't make any sense. It flies in the face of common sense.

Recent news reports noted that under a $16.8 million contract with an Arizona firm, calls to a Minnesota toll-free number for help with lost and stolen food stamp cards are being routed to Bombay, India. Under a $13.3 million contract, software programs in India are helping build a Web-based system to automate eligibility for Medicaid and other health care benefits to low-income Minnesotans.

The administration of U.S. Government programs ought to be done here at home in the U.S. Even if some of the work is outsourced to private vendors, the thought of our Medicaid or food stamp programs being run out of someplace in India would offend most Minnesotans' sensibilities, and it offends mine.

We have an opportunity to talk about what we do with taxpayer dollars. Would you use those taxpayer dollars in a way that fosters the growth and development of American jobs or do we send them overseas? I think common sense says we use them here.

My colleague and I may disagree at times on tax policy or on a range of issues. But this is an issue that should cut across partisan lines. We have an interest in growing jobs in this country and this is a way to make commonsense use of taxpayer dollars. I am proud to stand in support of my colleague's amendment to this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. CORZINE. Mr. President, I also rise to support the amendment of the Senator from Connecticut. It is very hard for people in my State and across this country to read the President's economic report and hear economic theory that is pronounced in economics 101, that somehow or another 19th century comparative advantage is the basis on which we ought to be working jobs in this country.

Folks are very concerned when they don't have work. That is a very simple principle of economics. We are seeing so many of our manufacturing jobs go, and now 40 out of 50 of our States are taking jobs that are government jobs and shipping them overseas and undermining our economy here. That is not highfalutin economics. That is taking money out of the pockets of people who drive our economy and make a difference in our communities. It has all those multiplier effects other economists might talk about. Then you don't collect tax revenues, you don't have people spending money back into the economy and driving it. A Senator talked about manufacturing jobs, but there is a leverage or multiplier effect on government jobs as well.

This is really out of touch with the American people, when we believe our policy ought to be to encourage outsourcing. Here, with taxpayer dollars, in the Federal Government, we have an opportunity to say, no, this is not the direction we ought to take. We should not be moving jobs overseas that would be very properly done here at home. We see it in the manufacturing sector. I am not sure I totally agree we ought to let everybody look at their quarterly bottom line and move. I think we need to understand there are national security interests at stake on jobs we have right here at home. We need to make sure we have a manufacturing sector that can actually produce steel, manufacture the weapons that protect our men and women when they go to war. We need to have that strength and it needs to be substantial.

We need to work to make sure our technology is under our control, the privacy of the information that flows in. I think we ought to push back against all this outsourcing for a lot of reasons that don't just deal with economics. But it is absolutely unfathomable that we would take State and local folks, Federal Government people, and ship their jobs overseas at the cost of not being able to have the overall economic impact of this. I think, particularly with the waivers the Senator from Connecticut has built into these programs, we have a program that will make a difference.

It is not enough to talk about translating hamburger-flipping jobs into reclassifying manufacturing as a means to solve an outsourcing problem. It is incredible, absolutely incredible, the illogic we see running through this economic report.

I think the Senator from Connecticut has put together a response that makes sense. We are going to use U.S. taxpayer dollars to make sure when we have Government jobs, they stay here. I am proud to be a cosponsor. I think it is absolutely essential the American people know we are fighting for their best interests at home on the floor of the Senate. This is the most direct, clear method of pushing back against what is a very wrongheaded approach to creating jobs in America.

Again, I am pleased to be a cosponsor.

Mr. DODD. If my colleague will yield, I thank my colleague from New Jersey for his support, and my colleague from Minnesota as well.

My colleague from New Jersey is no stranger to these issues. I made note before of what is happening in Minnesota and other States. In Connecticut, we have lost 32,000 manufacturing jobs. New Jersey has lost over 55,000 manufacturing jobs.

Mr. CORZINE. If the Senator will yield for a quick statement, on Friday, we closed the last Ford production facility in New Jersey, and we are on track to have complete closure of the auto industry in New Jersey, which used to be one of the heartlands of auto production, outside of Michigan. It is very much reflected in the kinds of numbers the Senator is talking about.

We were supposed to be replacing those jobs with technology, information systems and telecommunications equipment, and now we see those jobs moving offshore just as much, and some are reflected in those numbers. That is why it is so important to stanch some of that movement by the kind of action that would be taken in reflection of the amendment of the Senator.

Mr. DODD. I mentioned earlier there was an article in this morning's Wall Street Journal entitled "Lesson in India: Not Every Job Translates Overseas." I want to ask my colleague a question. Because of his background in business, he understands those issues better than most of us. This reads:

> When sales of their security software slowed in 2001, executives at ValiCert Inc. began laying off engineers in Silicon Valley to hire replacements in India for $7,000 a year.

It says:

> The reality was different. The Indian engineers, who knew little about ValiCert's software or how it was used, omitted features Americans considered intuitive. U.S. programmers, accustomed to quick chats over cubicle walls, spent months writing detailed instructions for overseas assignments, delaying new products. Fear and distrust thrived as ValiCert's finances deteriorated, and coworkers, 14 time zones apart, traded curt e-mails. In the fall 2002, executives brought back to the U.S. a key project that had been assigned to India, irritating many Indian employees.
>
> "At times, we are thinking, 'What have we done here?'" recalls John Vigouroux, who joined ValiCert in July 2002 and became chief executive three months later.

Tell me a bit about this. I think the assumption is made automatically, and certainly in this economic report prepared for the President by his administration, it makes a categorical statement that outsourcing of jobs is always a good thing because it improves the bottom line. Here is an example of a company which had a very different example. Aside from the obvious reduction in payroll by hiring people in another country to do the job, and firing Americans, are there also examples where this kind of activity has actually been bad for business and not necessarily automatically good for business, as suggested by this report?

Mr. CORZINE. Well, the Senator from Connecticut raises a good point because I think when business decides it wants to outsource 14 time zones away or 12 time zones away, there are enormous synergies in business that are lost—the ability for people to work in similar space, to get the economies of the consolidation of ideas, working with people. It doesn't work nearly as well. As a matter of fact, a lot of businesses are consolidating so they can make a lot of their operations much more sympathetic with each other. These are business principles a lot of folks follow.

I don't think it is as obvious as is commented in the economic report of the President, but I guarantee sometimes the short-term benefits that somebody might see on a quarterly report, because they have lowered their loss, are grossly offset by long-term costs because they lose the technological innovation of having people work together. They lose the economies of scale, and the potential long-term costs, aside from the social costs the Senators from Connecticut, Minnesota, and New Jersey have been talking about, are huge.

Mr. DODD. I thank my colleague for those comments. They are very enlightening. It is further indication that these trend lines are moving forward.

There has been a report in Time magazine that indicates we are looking at, some indicate over the coming years as many as 14 million, 15 million jobs to be outsourced if we do not begin to do something about it. In the near term, I think the number is between 3 and 4 million with a loss, by the way, just looking at revenue loss, of wages lost—forget everything else, forget what happens when a person loses their job and the ripple effects that occur—just in lost wages it is about $140 billion.

We know what kind of budget deficit we are in already. I don't think this figure has been projected onto those numbers at all. We look at revenues coming in, and we look at what expenditures for which we have to account, and a loss of $136 billion to $140 billion in wages, lost because of outsourcing over the next decade or less, ought to be a matter of deep concern, even if you are not affected or moved by what happens to families or heads of households who are trying to provide for the needs of their families.

The fact that we lose that much salary and wages going out ought to be of great concern. I mention that as an additional implication of what is caused by outsourcing.

Again, I said earlier, we can offer incentives for people to stay, we can offer disincentives in the Tax Code for them not to go, but I don't know, for the life of me, why we ought to be taking American taxpayers' money—we insult the taxpayer to say, I am going to use your money to fire someone in this company and hire someone someplace else to do the job at a fraction of the cost because it is going to improve your bottom line.

I don't know how the Senator feels, but the societal implications are profound. Our job is not only to make sure there is wealth creation in the country, but also we bear a responsibility beyond quarterly reports to see to it, from a generational standpoint, that we are going to leave this country at least as in good a shape as we inherited from our parents.

Mr. CORZINE. Will the Senator yield?

Mr. DODD. I will be happy to yield.

Mr. CORZINE. The $140 billion the Senator from Connecticut spoke about with regard to salaries on the chart the Senator previously showed, there is a multiplier effect. It is almost three times that value to the economy. The Senator had the chart which showed the full implications. It is remarkable what is given up when our Nation loses these jobs overseas. It is not just those salaries. When you take the full implication, because you also have to look at the tax revenues that come back into the coffers of State, local, and Federal governments, these numbers could be even larger. This is just showing the impact of what the multiplier effect is for the economy.

These numbers are huge. So the undermining of the well-being of our economy by this outsourcing element is just way more profound than I think is being discussed and is an extraordinary misrepresentation and a mistake for the administration to believe that this is something we ought to be embracing and encouraging.

There is another element that needs to be thought about. Every time those outsourcing jobs cost an American job, then that individual has to compete for another job. Right now, for all but the top 20 percent of our economy, we are seeing declining real wages.

The fact is, people are competing for lesser quality jobs that pay less than the jobs that are leaving. I think we have seen estimates that it is about 20 percent less that an individual makes in the next job they take after they have been laid off. It is profoundly wrong for the administration to embrace such a dangerous idea both for the economic power and also the real hurt that I think it brings to the individual loss.

Mr. DODD. I thank my colleague. It is worthwhile to make the point that actually watching the buying power, the wealth of individuals being reduced, overall our country suffers from that—obviously the families do—but when you reduce that buying power, that wealth, implications are being felt throughout our economy.

These happen from a structural standpoint. But when you allow it to go on with Federal money being used—again, as I say, I would not be party, as much as I may object, to companies that want to do this. I think they are wrong to do it. They are making a mistake. It is harmful to our country. On their dime, I guess they have a right to do it. But on our dime, they ought not have the right to do it, and this is the American taxpayers' dime.

I don't think we ought to be saying to them, You can take your Federal taxpayer money and pay somebody offshore to do it, losing an American job that could be done here. I don't think that is right, and that is the purpose of this amendment. I thank my colleague.

Mr. BAUCUS. My good friend from New Jersey has to leave the floor. I compliment the Senator for what he is trying to do. This clearly is the issue, the problem that faces our country as it will certainly for the rest of the year and probably for the indefinite future.

I am wondering, in addition to the approach suggested today—and there probably are additional proposals, too. This is a complex problem and requires a complex solution. It reminds me of a quote I am fond of making. H.L. Mencken once said: For every complicated problem there is a simple solution, and it is usually wrong.

In my judgment, this administration not only is sort of laissez-faire but kind of going AWOL on this issue. I don't see a plan. I don't see a way to deal with job loss that passes the smell test. In addition, wouldn't it help to be much more aggressive in enforcing our trade laws?

One thing that bothers me, frankly, is that we are going about getting trade agreements with minuscule economies. The big bang for the buck is enforcing our trade laws, say, with respect to India or China or maybe the European Union. There are lots of examples.

We hear about all the call centers in India. We don't hear much about many products by American companies being sold in India, and the Indians are very much violating the intellectual property agreements. Billions of dollars are being lost to American companies that could be spent in America because other countries are not living up to their international obligations.

I was wondering if the Senators agree that is one of the additional ways we can take to keep more jobs in America? Let's open up markets in other countries so we can export more.

Mr. CORZINE. The Senator from Montana is exactly right, some of the regulatory restrictions or ability to actually penetrate some of these markets, while they may meet the letter of the law with regard to trade agreements, are virtually impossible, particularly in the services where we supposedly have the comparative advantage.

I think unless we are prepared to deal on all fronts—enforcing our trade agreements, particularly with large economies—we are not going to see even the theoretical benefits coming back of open trade markets. The situation is very true in the old industry that I worked in, financial services. It is very hard to penetrate these large economies about which the Senator has talked.

So we give up the jobs in outsourcing, but we are not getting the ability to actually provide the services that would make up for some of those jobs back here at home.

It goes back to a miscast presentation of a concept that is fine in Economics 101 books on comparative advantage but makes no sense in the everyday lives of working men and women in America.

Mr. BAUCUS. The point I am trying to make is, we Americans pride ourselves on being fair and open, but I don't know that other countries are as fair and open when it comes to trade.

We are not pure. We do not wear a white hat. Other countries are not necessarily Darth Vaders and wear black hats. But I think it is also true the shade of gray of our hat is a lot lighter shade of gray than the shade of gray of their hats. They do not agree to fair trade in the main. I am talking about the bigger countries. India is the best example, the most blatant example.

Mr. DODD. I thank my colleague from Montana, as well, for his comments. I think they are poignant. While we do not specifically address those issues, he is absolutely correct. It is another piece of this puzzle on which we need to do a far better job. I have had some recent discussions with ambassadors from some of the Latin American countries and have suggested to them they ought to start talking to us about having labor standards and environmental standards from their perspective.

Mr. BAUCUS. Absolutely.

Mr. DODD. If free and fair trade is to work well, it ought to be raising the quality of life and the level of wealth accumulation by people in these countries with whom we are about to enter into trading agreements. That is good for us, and it is good for them. Instead of us having to fight for it here, they ought to be fighting for it and insisting upon it on behalf of their own constituents.

Mr. BAUCUS. Let me ask the Senator a question on that same point. Would the Senator agree that in the main, most of the countries we are talking about—we are talking about environmental standards and labor standards in these countries—generally do not most of those countries want to sign free trade agreements with the United States because it adds to their prestige; it helps them market their products and helps them gain standing in the world? Would the Senator agree with that?

Mr. DODD. I say to my friend from Montana, it is as obvious as anything. These are the shelves—this is the marketplace you want to be. If you are any other country in the world, you want to be able to access the greatest consumer market in the history of mankind, which is the United States of America. This is the most inviolable place to which you can sale your services and your goods.

Mr. BAUCUS. Would the Senator also agree that it is the case that most of these countries probably want to enjoy the status or the prestige of having a free trade agreement with the United States? Certainly we are not going to negotiate an agreement that gives away the store. This is a bargain for an exchange. Is it not also true that it therefore is a mistake for the United States to in effect be negotiating against itself; that is, for some in the administration to say, no, we do not want those labor standards, we do not want those environmental standards, whereas in truth those countries, frankly, are the ones we should be talking with because they themselves want these agreements and would be much more willing to agree to them?

Mr. DODD. Absolutely. The whole point of these trading agreements, because we are a high value country, obviously, and we do not want to dumb down our system, we want to see improving quality products, you need to sell them to somebody. If the countries with whom you are entering trading agreements do not have a population that can afford to buy your higher value goods and services, then the trading arrangement is going to be all one way and not the other. So it is very much in our own interest, from a larger perspective, to be able to have it.

Too often it is U.S. interests that are insisting that labor and environmental agreements not be included because they want to be able to enter those markets and hire people at those depressed wages and be able to operate plants that do not face environmental regulations. So they see it as advantageous for them. They then turn around and sell those goods back here.

They are not thinking about an American corporation that wants to sell its quality product there. It is very shortsighted and, of course, it only leads to further encourage the outsourcing of jobs, which is exactly what is going on.

Mr. BAUCUS. The point being that the other countries themselves are much less concerned about this.

Mr. DODD. And they should be more concerned about it.

Mr. BAUCUS. Exactly.

Mr. DODD. My colleague would be interested to know, in my conversations, very informally at this point, but I am finding a great deal of receptivity to the point the Senator from Montana is making; that, in fact, they should be insisting upon these points. The politics of their own countries are changing and they are insisting if you are going to enter these agreements, that this be a part of it as well.

Mr. BAUCUS. Absolutely.

Mr. DODD. We may be looking at a new era where it is not going to be just people in this Chamber calling for these kinds of things, but, in fact, people in these other countries are going to be insisting upon it as well.

Mr. BAUCUS. I do not know how much time the Senator has, but I might ask, if the Senator does not mind, to address another subject with respect to jobs. Would the Senator agree, as we try to find a solution to this problem, that one of the issues we have to face and have to focus on is high health care costs that American companies pay and face? It is a very complex problem, clearly, but a lot of companies unfortunately are lowering their employee health benefits or their retiree health benefits because they say it is necessary in order to do business; the world is just so competitive.

The first casualty is those who lose their health benefits. They are scared to death, frankly, about lowered health benefits or no health benefits. On top of that, it is partly, it seems to me, because we do have high health care costs in America.

In fact, the last study I saw is that we pay twice as much per capita on health than does the next highest country. I do not know if we are twice as healthy as people in other countries, but we pay a lot, and that has to be the cost of doing business.

What I am getting at, is part of the solution of this some way to address efficiencies in health care and quality of health care, recognizing that employees of companies in other countries have their health covered by the government, where that is not true in our country; that that, too, is a part of the problem here? If we are honest with ourselves, we are going to have to figure out some way to get our hand on that one, too.

Mr. DODD. I appreciate the comments of my colleague from Montana. He is absolutely correct. I did not even get into the issue of what happens here. Obviously, when you fire someone, lay someone off, you hire someone offshore to do the job, there is absolutely no requirement that the fired or laid-off worker is necessarily going to be able to get any kind of health care coverage from the former employer. Even when you have retired with full benefits there is no guarantee, as we learned through the discussion of the Medicare bill that was before us only a few months ago.

So in addition to the lost jobs and wages—that is all I have been talking about today—there are benefits that are incredible, and when people lose those benefits it adds to the roles of the 44 million people in this country who have no health insurance.

They get health care. It might be showing up in an emergency room, which increases the costs of everyone else who has health care, as we all know. Fortunately, in this country if people get sick they can show up someplace and get some kind of coverage.

Mr. BAUCUS. Usually that is true.

Mr. DODD. It is not free, and it adds tremendously to the cost of others as well. So the implications, in addition to laying someone off—as we see now the thousands of jobs that have gone—the Senator from Montana is very accurate in pointing this out when looking at this issue.

Here we are taking Federal taxpayer money. That is what my amendment addresses. It says: With Federal taxpayer money you can lay someone off and hire someone else and pay them basically with Federal dollars. So we are, in a sense, not only causing that person to lose their job in this country but also their health care benefits and other benefits they may have, not to mention what it does to a family.

Talk about keeping families together, the single largest reason why families break up is economics. Every study in the world that has been done on that institution says it is economics.

As a matter of Federal policy, in effect we are saying we are going to outsource these jobs, causing a great disruption in America and families' lives. The Senator from Montana is so right to point out that the health care implications, because we have not yet sorted this out, are huge.

Again, I come back to the point, I do not accept it, I do not like it, but if someone on their dime wants to lay someone off and hire someone else, I do not like it and I wish I could do something about it and I certainly want to support measures that I know of the Senator from Montana and the Senator from California, such as giving tax incentives to encourage people to stay here, but when someone does it with Uncle Sam's nickel, with the taxpayers' money, then I say, no. I have some control over that.

I am offering an amendment today that says when it comes to U.S. taxpayer money, you are not going to lay somebody off and hire somebody else 12 time zones away to do the job. You may do it on your dime but not on their dime.

I will mention one other subject matter that I know my colleague from Montana and my colleague from California care about, and that is privacy. That is one of the things we have not talked about at all on this issue.

I pointed out earlier—I apologize to my colleague from California because she cannot see this chart, but I was talking earlier about where these jobs are going, from what sectors of our economy they are coming from, the 14 million additional jobs in danger of being shipped overseas. One of the areas we are talking about is in the area of medical, diagnostic and medical services. This covers a little more than almost 300,000 jobs in that area.

We all know what is happening. Today, with information technology, x-rays can be transmitted at the speed of light or faster.

Mr. BAUCUS. We are going to give you a Nobel Prize for that.

Mr. DODD. All sorts of medical information.

We have provisions of law in this country that say you cannot share certain private medical information with insurance companies or employers without consent. Medical information is now being processed by someone who has been hired 12 time zones away—all of a sudden that information is no longer well-protected. So as we see the increase in these diagnostic support services and medical transcriptions going offshore, then the very protections we ought to have as Americans are also being lost. I don't cover that in my amendment here, but we may offer some language on this bill at some point that would say you have to give people at least the opportunity to say I don't want my medical records being processed or handled by someone offshore. I want it kept in the United States because I don't want someone to be able to go in and find out highly sensitive information about me and my family that could be used against me.

Today the laws of the United States do not adequately protect you when this information is being processed and handled offshore. That is one of the major areas we are seeing these jobs moving.

Mrs. BOXER. Will my colleague yield for a question?

Mr. DODD. I am happy to yield.

Mrs. BOXER. First let me say how happy I am to hear you and our ranking member have this conversation. This is so important. In a way it is kind of a problem that snuck up on us. I took a look at the loss of manufacturing jobs in California and my heart sank.

Mr. DODD. There were 272,000 jobs lost.

Mrs. BOXER. Think about it, 272,000 jobs.

There is one area covered in your amendment. Since no one has mentioned it, I want to read into the record a letter and then answer the comment, and then I am done with my role here today other than to say thank you again for your leadership.

This is an interesting issue. It is covered. Your amendment is not reflected on the charts because it deals with agriculture, something in your State you don't have as much of as I have.

I want to read a letter I just wrote to Ann Veneman. I believe this will get you a lot of votes from agriculture country.

> DEAR MADAM SECRETARY: I was shocked to learn that the U.S. Department of Agriculture purchased 70,000 metric tons of rice for the Iraqi people from abroad rather than purchasing this product from U.S. sources. At a time when U.S. farmers are facing increased economic pressures and food surpluses, our taxpayer money should be spent on U.S. commodities, not the commodities of other nations.
>
> California, like many other States across our nation, is experiencing a surplus of commodities such as rice that could provide valuable nutrition to the Iraqi people while alleviating potential crop losses for our nation's farmers.

Then I talk about California's high quality of rice.

> As we work to alleviate food shortages experienced by the Iraqi people, we have a unique opportunity to assist our own farmers. I request USDA reconsider this decision and instead purchase the needed quantity of rice from U.S. farmers. In the future, USDA should use taxpayer dollars to purchase U.S. rice before it spends taxpayer dollars on foreign commodities.

I wrote this letter on February 24. I am so pleased. I discussed this with your staff. Your amendment would cover this.

Here we have the sons and daughters of America's working people, including people on the farms for sure, going off to Iraq and putting their lives on the line. Now their families either see their jobs going abroad or in this case they are ready and willing to feed the Iraqi people. They are excited about it, they have great products, they have surpluses, and our administration, the Bush administration, goes outside.

I wanted to first of all ask if you were aware of this issue, and, second, say to you whether you were or you were not, I thank you on behalf of the people who make a living from agriculture, because we have our serious problems. We have the best products in the world and we have farmers who are ready to feed the hungry.

Mr. DODD. Let me say to my colleague I was not aware of it. I apologize for not being aware of it.

I know agriculture is a huge industry in the State of California, particularly in the area of rice. It is significant. So I am pleased to know we are covering this kind of activity as well.

Again, this is not being isolationist.

Mrs. BOXER. No.

Mr. DODD. Every time you try to stand up for an American job you are called an isolationist. There is a new coalition. They want to change the language, by the way. There was an article this morning that says, "Business coalition rewrites lexicon for jobs outsourcing." They point out, they say the coalition is now rallying around "worldwide sourcing" as a less provocative term.

I apologize for sounding provocative, but we didn't make this up. What ought to be provocative is the fact that people like my colleague from California have constituents who are losing their jobs because we are not doing enough to protect these jobs—not from a protectionist standpoint, but protect them when in fact there is no loss to be incurred as a result of standing up and saying we ought to be doing what we can to protect these positions in our country. I commend her for it.

I thank you for raising it. It is an important point and I am glad our amendment covers it.

Mrs. BOXER. I will talk to those from agriculture states because they may not be aware this administration is taking the dollars this body voted on—I had problems with voting on it, but most people voted for it—they are taking that taxpayer money and taking it right out of this country. It is outrageous.

I thank you again for your leadership.

Mr. DODD. My staff gave me some other information. I have mentioned others. Tax experts now say Indian-chartered accountants, the subcontinent version of certified professional accountants, will prepare somewhere between 150,000 and 200,000 tax returns this year. That is up from 20,000 last year.

I am not making up these numbers. The trend lines are moving at a very rapid pace. In this case here I am not suggesting these are necessarily being paid for with Federal tax dollars. I don't know that. If it is not, obviously we are not covering the situation and these firms that want to continue doing it unfortunately will be able to continue. But if they were doing it with Federal tax money, I say no, just as my colleague from California says no.

If someone with their own dime wants to decide they are going to ship rice or whatever products and use someone else offshore, that is one thing. But when they are using taxpayer money to do that, that is when we have an obligation to stand up and say no.

Mrs. BOXER. Thank you.

Mr. DODD. I appreciate her very much for raising that issue.

Let me say I see my colleague from Iowa on the floor, and others. This Senator is prepared to vote. I talked about this. I have had colleagues come over and share some thoughts on it. I know there are other matters. I know Senators want to move on. I am certainly not engaged in any filibuster. I am prepared to ask for the yeas and nays and vote on this amendment and move on to other questions. Is there some opportunity? I don't want to go into a quorum call if other Members want to come over and discuss other matters, but if we want to vote on it, I would like to do it. What chance do we have, I ask my friend from Iowa?

Mr. GRASSLEY. I will be glad to respond to that. Some Members on our side have not studied the amendment as much as they felt they should and have some questions about it. I would say there are two things. One is understanding completely the impact of your amendment, which obviously is a legitimate concern. The other is that kind of makes a determination whether some Members on our side would want to take some action, maybe with an amendment to the amendment. That decision has not been made. My guess is that decision is not going to be made today. That decision will be made tomorrow.

Mr. DODD. I appreciate that.

Mr. GRASSLEY. Maybe I am being more candid than a Republican ought to be, but that is the way it looks to me. You have always been transparent with me. I think I ought to be transparent with you.

Mr. DODD. I thank my colleague and the manager of this bill for his candor on the subject matter. He will certainly understand if I share with him—I know these were not his views, he is expressing the views of others who didn't understand the impact of this amendment. Let me say to him, my good friend—and he is a good friend. We have been in Congress together for many years—the impact of not doing something here is huge, on workers losing their jobs. I know my colleague knows that and shares my concern about it as well.

It is not terribly complicated what I am suggesting here. It is straightforward. It says when it comes to taxpayer money, it can't be used to subsidize someone offshore at the cost of an American job.

I know the coalition of the Chamber of Commerce and the National Association of Manufacturers and some other groups out there don't particularly like this amendment because 400 of the top

1,000 corporations are now outsourcing jobs, and I am sorry if they are disappointed by this amendment, but there are an awful lot of people losing their jobs.

That is the only reason I raise it. I have to wait until tomorrow. We will have to wait, obviously. I am disappointed because I thought it was pretty straight forward. Nonetheless, I appreciate my friend's candor.

I see my colleague from California.

Mrs. BOXER. Mr. President, I wanted to ask a question of my friend. I would be happy to defer.

Mr. GRASSLEY. Mr. President, I think maybe I answered too casually when I answered the Senator's question—that maybe I have a feeling there were not legitimate concerns by people on my side. There are a couple legitimate concerns. No. 1, the Senator's amendment does have some mandate on States. That creates a lot of concern—I will bet not only on my side but on his side as well. That is a very philosophical point of view of the impact which we make in the Senate on 50 States, and how many subdivisions I don't know. The other one is the extent to which this might lead to legitimate legal retaliation as a result of the Senator's amendment. That seems to me to be a reasonable, free, and fair trade consideration in any action this body takes.

I want to make clear that it is not strictly political. There are some concerns about his amendment. I enunciated at least two.

Mr. DODD. Mr. President, I yield to my colleague from California.

Mrs. BOXER. I have a question of my friend, Senator GRASSLEY.

While the Senator was out, I was telling the Senate that I had written to Ann Veneman because with taxpayer dollars the USDA went out and bought rice from a foreign country instead of from my rice farmers. I think that is wrong.

I ask this question of my friend: If there are legitimate concerns, I am sure my friend will sit down and work them out with somebody because you have been here a long time. There is no one who is more patient and more willing to sit down and figure things out. But I have a feeling it is deeper than that. I have a feeling you have touched a nerve today which is a very important nerve to be touched. I think it is being touched in the Presidential campaign. I think it is being touched in the campaigns across our country, and it is being touched here today.

If we don't stand up and do something about this, as my friend pointed out in his very chilling chart—and say there is some complication, there is a message being sent, it may be too late.

I say to my friend, if he is willing and if there is some concerns around the edges which can be worked out, I just hope he won't back off this amendment in a substantial way. If there is a difference between the parties, bring it on, I say. This is what people care about in my State, and I know also in my friend's State. Can he give me a sense of the thinking on how he is going to proceed since the majority will not allow a vote today?

Mr. DODD. I will make two points.

I appreciate my friend from Iowa telling me what the substantive concerns are about the amendment, one which I think we have addressed.

On the second question he raised, we included language which very specifically makes clear that the government procurement agreements between the United States and 27 other predominantly western European countries would not be affected by this legislation. India and China are not part of that problem. The major culprit in all of this is outsourcing of jobs. But my colleague from Montana raised the question that we could be found in violation of World Trade Organization policies, if we didn't include this language. So I think we addressed the concerns about whether or not we are going to run afoul of some international agreements to which we are a signatory.

The second part about mandating States, if you are going to use Federal money to lay off workers in your State and hire someone 12 time zones away to do the job, I don't consider that a mandate. That is Federal money. If you want to do it with State money, I can't keep you from doing that. That is your choice. If you are going to do it with Federal money that comes from grants and so forth, I think the American taxpayer would like to know that Federal dollars are being used to lay off one person in your State and hire someone 12 time zones away. You can call that a mandate, but I call it common sense at this particular juncture.

I think we have gone as far as we can go on this issue. We have covered the ground.

I thank my colleague from Wisconsin, Senator KOHL, for joining me in a bipartisan fashion on this amendment.

Today, 40 States outsource jobs. That is pretty alarming.

If you are unemployed in a State and you call up your unemployment office to find out about your rights, and you are talking to someone 14 time zones away to find out your rights, that is offensive to people in this country. They want to know what we are going to do about it. Do we understand what they are going through?

This is the first opportunity we have had since we have been back over the last 5 or 6 weeks to raise the one issue here. Night after night, Lou Dobbs on CNN, to his great credit, is talking about this issue. He is not talking about it and speaking to an audience that is not interested. The audience across this country is deeply interested in this subject matter. They want to know whether or not anybody is doing anything about it. I can't stop a private company from outsourcing with their own money. But I can stop you from using Federal taxpayer money to fire somebody here and hire somebody 14 time zones away. That I can try. I may not win, but I can try to do it. And that is what we are trying to do.

Mrs. BOXER. I am really relieved to hear my friend's response to the Senator from Iowa. As I understand his amendment, he has already gone a very long way in answering the concerns that were raised. I hope we will stick with it. I think the people in this country are watching. They are not only watching CNN, but they want to know what we are doing. It is an amendment that I have been looking forward to for a long time. We have to make a stand, and I think what my friend is doing is not overreaching.

I rise to say thank you to the Senator for sticking with it, and I will do all I can to help him get it passed.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Iowa.

Mr. GRASSLEY. Madam President, first of all, the Senator from Connecticut has been right in the sense that we have raised some concerns, and we are working with him. He has made some modifications. We are still hearing about some more concerns. I have expressed two of those already. I would like to express another concern that I have heard.

Yes, it preserves jobs in America if there is not outsourcing of service jobs that are involved. But this is a legitimate concern on our side: The extent to which there might be retaliation by countries that outsource some things to the United States. That goes on as well. We want to make sure if we are losing jobs, we don't have a greater loss of jobs in retaliation for Americans who are already employed by a company outside the United States which is using the services of American people in America.

These are concerns that need to be addressed. These are things that will be brought out in debate, and it may be possible to work on continuing modifications of the Dodd amendment so that hopefully we can get it passed without a great deal of opposition.

At this point, we are not prepared to vote.

Mr. DODD. Madam President, I don't believe I yielded the floor.

The PRESIDING OFFICER. The Senator from Connecticut has the floor.

Mr. DODD. My colleague from Nevada is in the Chamber. I didn't know if he wanted to speak.

Mr. REID. If I could make a brief statement without the Senator losing the floor——

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. REID. For the minority, the majority leader has indicated there will be no votes tonight. Everyone should know that.

Mr. GRASSLEY. That is what my Blackberry said 5 minutes ago.

Mr. DODD. For the purposes of those who don't know what a Blackberry is, we will explain that.

I do not know whether my colleague from Texas has a question of me or not. I know he would like to speak on the issue. Does he have a question for this Senator on the subject matter?

Mr. CORNYN. If the Senator will yield, I will have a brief response but not so much a question at this time.

Mr. DODD. I will wrap up myself. I would like to come back, if I could.

Again, maybe I am wrong. But every survey I have seen over the last number of weeks has indicated that people—even people who have jobs—are worried about this issue.

To give you some indication of the disconnect that occurs when it comes to this issue, I quote from the Los Angeles Times story, which appeared elsewhere, but talking about this question, it says:

> "The movement of American factory jobs and other white collar work to other countries is part of a positive transformation that will enrich the United States economy over time even if it causes short term pain and dislocation," the Bush administration said the other day.

It goes down and says from the economic report:

> "Outsourcing is just a new way of doing international trade," said Gregory Mankiw, Chairman of the President's Council of Economic Advisers.

They prepared the report.

> More things are tradable than were tradable in the past, and that is a good thing.

The article goes on.

I remember the statement being made; Mr. Mankiw apologizing. He said it was a bad choice of words, and we certainly accept his apology. The problem is, it was not the words. It is not a bad choice of words; it is a bad idea.

The idea of saying I am sorry I said only indicated to me they were sorry they said it out loud. They did not change their mind about the subject matter but merely said we got caught at something we should not have said because it was bad politics to say it. I misspoke politically but not substantively, and there is a fundamental disagreement on this point that outsourcing is a good thing.

These are not just goods and services to be tradable in the open marketplace. These are critical jobs which mean a huge difference to the families affected. We bear no greater responsibility in this Chamber than to do what we can to protect American families. When they are being threatened by unnecessarily shipping their job overseas, it is our obligation to speak out and try to do something about it that is responsible.

I made the point over and over again, and I will make it again, I have supported far more free trade agreements over my course of service here than not because I believe that is where you have to be in the 21st century. But they have to be fair agreements. We have to negotiate them far better.

The Senator from Montana and I have talked about how we might achieve those desired results. I don't subscribe to the notion that it is isolationist or protectionist to stand in the Senate and say I think it is wrong to use Federal taxpayer money to cause someone in this country to lose their job and hire someone 14 time zones away. I don't think that is a good idea. Others may say that is their right, but we will have a vote on whether you think it is right.

Examine it until you are blue in the face and try every cockamamie idea to undermine what we are doing, but it is a bad idea to federally subsidize the exportation of jobs that ought to be kept here, not for protectionist reasons but if we provide services and jobs in the global marketplace in the 21st century, you better have the people here who can do it.

If we give up that kind of human capital that is so critical to our long-term success of people, we are putting our Nation in jeopardy. It is not a great quarterly answer. For that company which wants to make more money next quarter, this is a dreadful idea. But if you are thinking more than quarters, if you are thinking down the road about what kind of a Nation we will be leaving the next generation who will inhabit these seats we hold today as Members—we have an obligation to them, as well. We owe an obligation, just as others who sat in these seats bore an obligation to us and left us a pretty decent country—not a perfect one, but a good one. We should see to it that coming generations have the equal opportunity to bear the fruits we have provided for two centuries.

We do not do it by remaining silent or giving phony reasons about why jobs are being outsourced unnecessarily around the globe. That is why I bring it up and that is why I hope we can have a vote and move on it. It is not that difficult to understand.

I yield the floor, as I know my friend from Texas wants to be heard.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Madam President, the distinguished Senator from Connecticut has spoken passionately and eloquently about our concern about job loss in this country and certainly it is something we are all concerned and want to do something about. But I am sure none of us would want to endorse a cure which is worse than the disease or cause other problems that perhaps we have not thought through or that are not intended.

I do detect a whiff of politics. I notice the chart says manufacturing jobs lost under President Bush. Perhaps since the time when we had primarily an agrarian economy, we have seen tremendous shifts in our economy because of the efficiency of a flow market system that is far more efficient than the command-and-control economy that is used in other parts of the world that is inefficient and stifles competition and innovation and the productivity that we have in this country.

I certainly would not want to see us do anything that would harm the good things we had going on in the economy in the effort to address a real problem but perhaps with the wrong solution.

I appreciate the Senator from Wyoming mentioning this is something I and no doubt other Members would like to study a little further to see exactly what the details may be before we were asked to vote on it.

I am not an economist. I do understand why companies outsource, to find a cheaper way of producing their product. Even though the distinguished Senator from Connecticut says it is a bad idea, I am not sure what you can do or what we could do, short of erecting a wall around this country and saying we are no longer interested in international trade. I don't know what we can do to avoid companies who are seeking to produce a cheaper product in a more competitive environment from outsourcing some of those jobs. I do think there is an answer, but I am not sure the answer is what the distinguished Senator from Connecticut is proposing.

In fact, by prohibiting the outsourcing of jobs we are basically saying the American taxpayer has to pay a higher price than they would otherwise have to pay. Certainly, that is something we need to explore, whether the higher price is worth the proposed cure.

Also, the Senator from Iowa mentioned we are a country that has a policy of free and fair trade. Of course, there is a question of retaliation. But the truth is, we have seen a loss of manufacturing jobs in this country for a lot of reasons other than outsourcing or competition with China, India—now with the movement of white-collar jobs particularly in the service sector to that country—and that is simply because we have increased productivity. Technology has made it possible to do the same or, indeed, more work using less people. That is just a fact of life. I don't think anyone would want to go back to the last century and say we are not going to seek further improvements in technology or innovation because we do not want to put people out of work.

The truth is, the solution is, we need to make sure we continue to educate our workforce and not for minimum-wage jobs but for good high-paying jobs. Members may recall the President addressed this issue in his State of the Union speech and talked about the importance of Americans competing in a global economy by educating and perhaps retraining our workforce for new and better-paying jobs.

He mentioned his initiative, working with community colleges. I took the President's words to heart because I am concerned—as no doubt all 100 Members of this body are—about job loss in this country. I went to the community colleges in my State. I said, Tell me what you are doing to train the American worker or perhaps to retrain the American worker for good, high-paying jobs. I went to Amarillo in the Panhandle where I found that Bell Helicopter and the Amarillo College helped create a curriculum to train people to work on the V-22 Osprey which is produced in that plant.

I remember a young woman, a single mom, Hispanic woman, with two children, formerly working as a prison guard making about $9 an hour. As a result of this program with Amarillo College and Bell Helicopter—this is just one example—she is now working on a production line, contributing to the transformation of our military and also improving her standard of living, making about $16 an hour in a good job.

I have done the same thing in Austin where I went to the Austin Community College and learned about partnerships they had entered into to train nurses, surgical techs, dental hygienists. At the San Jacinto Community College near Houston they have partnerships with Boeing and NASA and others to train people for good, high-paying jobs.

Now, I realize we are in the political season, and I understand that perhaps nothing said in this body or anywhere else in Washington is perhaps totally devoid of politics, but the truth is, Americans can and will always be willing to compete and win in the global competition in this new economy.

Now is not the time for us to wring our hands and say: Oh, woe is us. We just can't quite do it. We have to erect protectionist walls. We have to come up with solutions which, perhaps maybe actually increase prices to the American consumer while not actually solving the problem that we are all concerned about; that is, job loss.

So I say as part of this debate—and, again, I know the Senator from Connecticut has the best of intentions, and we share the same concern—now is not the time for the American worker or for the Members of the Congress to lose faith in free markets and the capitalist economy which has made this Nation the envy of the world.

We are talking now again, thankfully, about addressing our immigration issues in this country. I will note that there are not people trying to get out of the United States of America because things are so bad. To the contrary, people are risking life itself to come here because we are still a beacon in terms of the opportunities provided, in terms of the freedom, in terms of the ability of people, working hard in this country, to have a good standard of living and a better quality of life.

I hope the election year does not consume us so much that we look at the glass always as half empty rather than half full, or look at something as a lemon rather than an opportunity to make lemonade.

I think the President is exactly on the right track. I think if we commit resources to train the American worker to be part of the innovation that has always characterized and been the hallmark of the American economy and the business providers in this country, to make sure those workers are trained in this constantly evolving economy, which is very efficient, and sometimes brutal, but to make sure we are there and are working with local and State and Federal governments to do everything we can to assist business partners and the education community to train the American worker for good, high-paying jobs, I think we have nothing to fear.

Finally, where I was raised we were taught that we would get our formal education and then we would go to work and maybe even stay in the same job for the rest of our adult life. But the truth is, today that is just not possible. We need to change our frame of mind so that we teach our younger people, look, learning is a lifetime endeavor, and it may be that you will change jobs at different times during your adult life because you want to improve your circumstances, you want to get a better paying job to better provide for your family, and you can do it in a free country where there is an opportunity to retrain, to get an education throughout the course of your life.

I firmly believe now is not the time for the American people to lose faith in the good thing we have going in this country, and that, as I said a moment ago, is the envy of the entire world. I believe our focus ought to be on that education, lifetime job training, and not on erecting barriers around this country or perhaps other solutions, although well intended, which will have a detrimental impact.

With that, Madam President, I yield the floor.

Mr. DODD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I think the American people need to look at what has transpired in recent weeks with this administration. Senator DODD has brought to the Senate's attention one issue; that is, a high-ranking member of this administration has said that outsourcing jobs—what does it mean? Shipping jobs overseas—is good for our economy. That is what he said. Well, if that were the end of it, you could well say, maybe that was just somebody who made a mistake.

Then we have today Tommy Thompson who says: We should not have Americans be concerned about all the money we are giving to Iraq to establish a health care system because we really have, in the United States, a universal health care system because those people who have no insurance get taken care of. That is what a Cabinet officer of this President said.

Now, should we stop there? Let's go on and talk about what another Cabinet officer said 2 weeks ago, the Secretary of Education. The Secretary of Education said, to a group of assembled Governors, that the National Education Association were terrorists. He did not say it once to the Governors but twice. I have talked to Governors who were there: The National Education Association are terrorists; the largest teacher organization in the world, based in the United States, are terrorists.

I think that is something I cannot comprehend: How the Secretary of Education can say this about teachers.

Someone I went to high school with—we played baseball together; we were on the first State championship baseball team in the history of the State of Nevada; He was a pitcher; I was a catcher—Reynaldo Martinez and I have been friends for these many years. He was my chief of staff in the Senate. He retired a few years ago. He was a longtime organizer for the National Education Association. To call Rey Martinez a terrorist because he was a member of that organization is difficult for me to comprehend.

For me personally, what is transpiring in Congress, because of the position the administration has taken regarding highway transportation—the former chairman of the Environment and Public Works Committee, the former chairman of the Finance Committee, now the ranking member of the Finance Committee, has worked, as I have worked, on a number of highway bills. There is no bill we do in the Senate, in the Congress, that is more important than a highway bill. It creates millions of jobs over a 6-year bill. We produced a bill based on the budget we passed a year ago. We have there, in the bill that we were able to report out of committee, in keeping with the budget, and as passed the Senate of the United States, a bill that is a very good bill, that does not raise one penny of taxes, that takes care of transit and highways. The President says he is going to veto the bill.

Outsourcing is good; 44 million Americans, don't worry, you have universal coverage because if you get sick, you can go to an emergency room, if you are lucky, if there is one there; the National Education Association personnel are terrorists; and he is going to veto the transportation bill. Is there somebody in the bowels of the White House trying to destroy the President? I cannot imagine the President would come up with these ideas himself. I certainly hope not.

I commend and applaud my friend from Connecticut, the senior Senator from Connecticut. He has brought to the attention of the Senate the importance of focusing on the disastrous loss of manufacturing jobs. Since this President has been in office, our Nation has lost a total of 2.8 million jobs. Every single month, with no exception, manufacturing jobs are lost.

I guess I should be leading the cheers here because out of the 50 States, the great State of Nevada is the only one in white on this chart. We hold the record. We created 200 new jobs in the last 3½ years. That is certainly better than losing 200, and it is certainly better than the State of Texas, which has lost 150,000 jobs, or the State of New York, 115,000 jobs. Even a small State such as Wyoming lost 700 jobs. California has lost 273,000 jobs. So 200 may not look like much, but for us in Nevada, we will take it.

Two hundred manufacturing jobs in 3½ years were created in the State of Nevada—not much, until you compare it to the rest of the country. Then we are doing pretty well. We are the only State in the Union that had a net gain of manufacturing jobs during this Presidency.

Where have these jobs gone? Some are gone forever, but lots of them have gone overseas. Our country cannot remain strong if we can't manufacture steel, automobiles, airplanes, and appliances. I am very happy that we do wonderfully well with our service industry. No place represents that better than the State of Nevada, especially Las Vegas. But we cannot remain the superpower of the world by flipping hamburgers, which is something I forgot to mention.

Somebody in the administration suggested 2 weeks ago that we should create a new manufacturing category; that is, people who work in fast food restaurants. I am not making that up. They want to turn people who work in McDonald's preparing meat patties, putting the sandwiches together, into manufacturers.

Mr. DODD. If my colleague will yield, in chapter 2, page 73 of the Economic Report of the President—this was prepared by the President's economic advisors—they raise the issue here as if it were a legitimate question. They say: The definition of a manufactured product, however, is not straightforward. When a fast food restaurant sells a hamburger, for example, is it providing a service or is it manufacturing a product? They think that is a legitimate question, that manufacturing a hamburger might actually be a manufacturing job. My colleague from Nevada is absolutely right to raise this point.

Mr. REID. Mr. President, I have only talked about what has happened in the last few weeks: Outsourcing is good, teachers are terrorists, veto the transportation bill. We have universal coverage in America because if you are one of the 44 million, you get taken care of some day somewhere. That is universal coverage. That was the Secretary of Health and Human Services who said that. And now they are trying to develop a new category of manufacturing.

This reminds me of my friend Greg Maddux. In Las Vegas we are so proud of him. He has won the Cy Young Award 4 years. He is slightly built and my size. He is one of the greatest pitchers of all size. His hands are smaller than mine. He is now going to Chicago. He needs to win 11 more games to become a 300-game winner, which is a big deal in baseball. Just a handful of people have done that. So he needs 11 more games. Based on the President's assumption of how we can create manufacturing jobs, maybe we can get him to 11 more quickly. What I suggest is having four strikes instead of three. With four strikes—he has great control—I guarantee you, even though he will be 37 years old next month, I think he could win his 11 games much more quickly.

That is what is going on with this administration. If you don't like what goes on, change the rules.

I have said before, I have two brothers older than I. One of them was working in a Standard station in a place called Ashfork, AZ. He wanted to take his little brother away from Searchlight. So we went to what I thought was the big town of Ashfork, AZ. Frankly, it was not a lot of fun for me because my brother had a girlfriend, and he didn't spend a lot of time with me. So I was pushed off on his girlfriend's brother. I could not beat him at anything. It didn't matter what it was. I never beat him at anything because he always changed the rules in the middle of the game. That is what is going on here with the administration. We are going to change the definition of manufacturing.

The loss of jobs in our country is very bad. If it were only manufacturing jobs that were going overseas, I would not like it, I would complain about it. But this has been compounded because the loss of manufacturing jobs is not the only problem. The Senator from Connecticut and I were looking earlier today at a chart. I am sure he has shown it. This chart talked about some of the diagnostic procedures that were going overseas. Look at some of these things: 14 million jobs in danger of being shipped overseas.

Mr. DODD. These charts belong to Senator KENNEDY. He feels very strongly about these charts. I wanted to make sure the record reflects we are borrowing Senator KENNEDY's charts. They are very good charts.

Mr. REID. As I was saying, Senator DODD and I were looking at this earlier today. We don't need to go through all of this, about the 14 million jobs, some of which have already been shipped overseas and some going overseas. Diagnostic support services, we already know what these are. They are actually shipping medical records to other countries and having them catalogued. But they are also having some of these medical records reviewed. Take, for example, a CAT scan. Ship it overseas. They can have somebody there review it very quickly. Take, for example, an X-ray, a simple X-ray, ship it overseas. They can do it quickly. You will get the results back soon. I don't feel very good about that. I go to my doctor in Las Vegas or Reno, Boulder City, Elko in Nevada. They are shipping the X-rays they take of my body to India or some foreign country to have somebody over there call my doctor or the hospital staff and tell them what is wrong with me? I don't think so.

The additional problem with that, just from a basic fairness standpoint, I won't disclose the Senator's name, but a Senator told me she had two complaints from constituents in that State that privacy was being violated, people had information that came from overseas about her health condition. I hope the people making these decisions for our President were not trained during the Reagan years.

Reagan, for whom I have the highest respect, didn't continue this. He learned early on it was not a good idea when someone in his administration said, let's have ketchup considered a vegetable for the school lunch programs. Maybe that person is still around here someplace and giving these great recommendations to this administration. I hope not. Or if it is true that that person is around, maybe they should put a stop to it. We do not want people who are being X-rayed, medical records, lawyers who research cases and write briefs, technological specialists to keep virtually every company running—all these jobs are fleeing America in a mad global case for cheap labor.

Every time a job goes overseas, it hurts an American family.

It used to be that if you lost a job, you would find one pretty quickly. Now the average time for getting a new job after losing a job in America is almost 1 year. Losing the job is bad enough because you lose self-esteem, you lose a sense of pride, you believe you have not been appreciated, even though you were doing the best job you could, but also that family probably loses their health insurance because they cannot pay for the COBRA; they don't have money to do so.

My son left to go to Vegas, and he needed coverage of insurance for 2 weeks. It cost him $2,200. He is married, has two little girls, his wife was pregnant. He had no choice. He had the money to pay for it. If he had not had it, I would have helped him. That is not the way it is with everybody. Many people are not able to buy insurance for periods of time when they don't have it. Maybe they are buying a home or were going to buy one and they lose the sense of a dream of owning a home.

What about college? College is so expensive. It used to be that when I was growing up, I could work in the summers and during the school year to pay for my education. My parents were not in a position to help me, and I basically educated myself with a few little scholarships I had. You cannot do that anymore. You cannot work during the off-season—unless you rob banks—to pay for a college education. It is too expensive. So that is another thing a family would lose—the ability to prepare for their children to attend college. That is why the loss of American jobs is a crisis in our country. We need a real plan to address that issue. We cannot afford to wait until the next business cycle because the flight of jobs overseas is a result of powerful economic forces.

American workers are not afraid of fair competition. I am not against that, but I am against the mentality of chasing cheap labor around the globe with no regard to long-term implications. When American companies choose cheap labor, they are saying our environment doesn't matter. They are saying conditions for their own workers do not matter, and they are forgetting the great lesson learned from Henry Ford. Henry Ford was not a person I liked everything he did or said, but he was a good businessman. He realized in order for his company to sell cars, the people who build them should be able to also buy those cars. In other words, workers are also customers. A worker who earns a decent living can afford to buy the products and services American companies are selling. So every time a so-called American company chases cheap labor by moving jobs overseas, we are all diminished. The market for goods and services in our country is damaged.

As I have said, the President's top economic advisers said the outsourcing of jobs is a good thing. Every day someone in the administration says the economy is getting better. It might be looking up to those who have the Wall Street Journal and the Financial Times delivered to their homes but not to middle class Americans. They feel that inside something is happening that goes beyond the normal business cycle.

Middle class Americans are deeper in debt than ever. Consumer debt is at an all-time high. Middle class Americans are afraid the Social Security benefits will be swallowed in the sink hole of a half-trillion-dollar deficit. And they are right. The debt would be much bigger for the 3 years that this President has been in office but for the fact that the debt is being disguised by the Social Security surplus. Middle class Americans are worried their jobs might be outsourced. They are being hit hard by the skyrocketing cost of health care. Their deductibles and copayments keep going up, and they wonder whether they are going to lose coverage entirely.

There are 77,000 people on strike in California who work in grocery stores. They are not on strike because of working conditions, not because of wages or hours; they are striking for one simple reason, health benefits. They could not make ends meet by having to pay what they were going to be told by their employer they had to pay for health costs, so they went on strike—one of the longest strikes in modern history.

All these problems are deeper than the business cycle. They all demand a real economic plan, and part of that plan is the amendment offered by the Senator from Connecticut. It is not everything. If we had the opportunity, we could come up with a better plan. This is a step in the right direction. What we have to do in Congress today is understand that we are not going to completely rewrite Superfund, endangered species, clean air and clean water, or the economic situation this country faces. But we have the ability to do things to improve Superfund and endangered species. We can do a little here and a little there to help the economic situation in this country.

The amendment by the Senator from Connecticut is a good amendment. It is a step in the right direction. That is why we chose this as our first amendment. It sends a message to the American people that we want to do something to stop the outflow of these jobs. Focusing on Federal Government outsourcing is one of the things at which we need to take a closer look.

We can start trying to improve our economy now, today, by cutting off Government contracts to companies that plan to outsource their work. Two years ago, the State of Florida ordered a $280 million contract to a company that outsources its work to India. If Florida wants to do that, it is their business. But when the American taxpayers hire somebody to do a job, it should be done by an American worker who is also a taxpayer.

For the fourth time in the last few minutes, I commend Senator DODD for this amendment and urge all of my colleagues to support it. I also say this to the majority: If tomorrow, when we come back in session, there is an effort made to prevent the Senator from Connecticut from having a vote on this, we are going to keep offering it and offering it until we get a vote on it. If we don't get it done on this bill, we will get it done on the next bill. If we don't get it done on the next bill, it will be offered on the next bill. This is our No. 1 amendment, and we are going to continue pushing it.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Madam President, I thank my colleague from Nevada for his comments. He is absolutely right about changing the rules. I have worried about that, when all of a sudden—and I have seen it happen in the past—you don't like the numbers you have, so you come up with a whole new definition and expand the numbers. That is what it looks like when you start talking about what clearly are fast food service jobs, manufacturing jobs, and we have seen those efforts being made.

This wasn't the first administration trying games like that. We have had others in the past doing that. I appreciate his comments, and I thank him for his support as well.

I have just a couple of other points. My friend and colleague from Texas cited earlier some of the efforts in the area of job training, vocational education. I wanted to respond by saying I don't disagree. I think that is an important element. But the problem is that one of the frustrations is the outsourcing of jobs that is occurring at a rather remarkable rate now, and it seems to be accelerating and very little is being offered to try to do something about this.

In fact, even in the area of protecting manufacturing jobs and doing something about retraining, let me share with my colleagues what is going on. In the manufacturing extension partnership, which is a very important issue for the manufacturing firms of this country, this is going to mean less help to an estimated 11,000 small businesses; 28,000 workers will either lose their jobs or not be hired as a result of these cuts.

So there is cutting back in this area. Outsourcing is going to have a huge impact on the manufacturing sector.

The Small Business Administration is being cut by $79 million, hurting hundreds of thousands of small businesses struggling to create jobs for Americans. There is a cut of $316 million for vocational education. This is in addition to the more than $1.5 million in proposed cuts to job training and vocational education made over the last 3 years. We are also cutting $448 million for the Workforce Investment Act programs.

My point is, as we watch these outsourcing of jobs and the loss of 2.8

million manufacturing jobs, I would be heartened if I thought we were making an effort at least to commit additional resources to help provide training for people who find themselves under normal cyclical circumstances losing a job, but here we are in an abnormal situation where there is an extraordinary loss of manufacturing jobs occurring across the country in the last 36 months and we have an extraordinary acceleration of outsourcing of jobs occurring over the same period of time—I pointed out that now 400 of the top 1,000 businesses in America are outsourcing, 40 of the 50 States, all for a very obvious reason. You can save a lot of money right off the top by doing it. When you can hire somebody in India at $7 a day as opposed to paying someone a salary in Silicon Valley, you do not have to have a Ph.D. in mathematics to know the outcome.

I understand the motivation behind it. The question I have is, are we going to sit back and allow this to continue at the expense of losing the kind of human investments that we ought to be making to guarantee that we have a workforce capable of doing jobs and providing the services that America ought to be providing in the coming years?

In addition to that, even if we were not doing an amendment or were not going to support language that would say that Federal taxpayer money ought not be used for this purpose, I would like to think that in the area of vocational education, small business assistance, manufacture extension partnerships, and certainly Workforce Investment Act—all of these areas—that the administration would say: Look, this is our answer to this. We don't agree with you, Senator, about not using Federal funds.

Madam President, I ask unanimous consent that an article from the Los Angeles Times be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Nation; Feb. 10, 2004]

Bush Supports Shift of Jobs Overseas

(By Warren Vieth and Edwin Chen)

Washington.—The movement of American factory jobs and white-collar work to other countries is part of a positive transformation that will enrich the U.S. economy over time, even if it causes short-term pain and dislocation, the Bush administration said Monday.

The embrace of foreign outsourcing, an accelerating trend that has contributed to U.S. job losses in recent years and has become an issue in the 2004 elections, is contained in the president's annual report to Congress on the health of the economy.

"Outsourcing is just a new way of doing international trade," said N. Gregory Mankiw, chairman of Bush's Council of Economic Advisers, which prepared the report. "More things are tradable than were tradable in the past. An that's a good thing."

The report, which predicts that the nation will reverse a three-year employment slide by creating 2.6 million jobs in 2004, is part of a weeklong effort by the administration to highlight signs that the recovery is picking up speed. Bush's economic stewardship has become a central issue in the presidential campaign, and the White House is eager to demonstrate that his policies are producing results.

In his message to Congress on Monday, Bush said the economy "is strong and getting stronger," thanks in part to his tax cuts and other economic programs. He said the nation had survived a stock market meltdown, recession, terrorist attacks, corporate scandals and war in Afghanistan and Iraq, and was finally beginning to enjoy "a mounting prosperity that will reach every corner of America."

The president repeated that message during an afternoon discussion about the economy at SRC Automotive, an engine-rebuilding plant in Springfield, Mo., where he lashed out at lawmakers who oppose making his tax cuts permanent.

"When they say, 'We're going to repeal Bush's tax cuts,' that means they're going to raise your taxes, and that's wrong. And that's bad economics," he said.

Democrats who want Bush's job were quick to challenge his claims.

Sen. John F. Kerry of Massachusetts, the front-runner for the Democratic presidential nomination, supports a rollback of Bush's tax cuts for the wealthiest Americans and backs the creation of tax incentives for companies that keep jobs in the United States—although he supported the North American Free Trade Agreement, which many union members say is responsible for the migration of U.S. jobs, particularly in the auto industry, to Mexico.

Campaigning Monday in Roanoke, Va., Kerry questioned the credibility of the administration's job-creation forecast.

"I've got a feeling this report was prepared by the same people who brought us the intelligence on Iraq," Kerry said. "I don't think we need a new report about jobs in America. I think we need a new president who's going to create jobs in America and put Americans back to work."

In an evening appearance at George Mason University in Fairfax, Va., Sen. John Edwards of North Carolina mocked the Bush administration's economic report.

Edwards, who also supports repealing tax cuts for the richest Americans and offering incentives to corporations that create new jobs in the United States, said it would come as a "news bulletin" to the American people that the economy was improving and that the outsourcing of jobs was good for America.

"These people," he said of the Bush administration, "what planet do they live on? They are so out of touch."

The president's 411-page report contains a detailed diagnosis of the forces the White House says are contributing to America's economic slowdown and a wide-ranging defense of the policies Bush has pursued to combat it.

It asserts that the last recession actually began in late 2000, before the president took office, instead of March 2001, as certified by the official recession-dating panel of the National Bureau of Economic Research.

Much of the report repeats the administration's previous economic prescriptions.

For instance, it says the Bush tax cuts must be made permanent to have their full effect on the economy.

Social Security also must be restructured to let workers put part of their retirement funds in private accounts, the report argues. Doing so could add nearly $5 trillion to the national debt by 2036, the president's advisors note, but the additional borrowing would be repaid 20 years later and the program's long-term health would be more secure.

The report devotes an entire chapter to an issue that has become increasingly troublesome for the administration: the loss of 2.8 million manufacturing jobs since Bush took office, and critics' claims that his trade policies are partly to blame.

His advisors acknowledge that international trade and foreign outsourcing have contributed to the job slump. But the report argues that technological progress and rising productivity—the ability to produce more goods with fewer workers—have played a bigger role than the flight of production to China and other low-wage countries.

Although trade expansion inevitably hurts some domestic workers, the benefits eventually will outweigh the costs as Americans are able to buy cheaper goods and services and as new jobs are created in growing sectors of the economy, the report said.

The president's report endorses the relatively new phenomenon of outsourcing high-end, white-collar work to India and other countries, a trend that has stirred concern within such affected occupations as computer programming and medical diagnostics.

"Maybe we will outsource a few radiologists," Mankiw told reporters. "What does that mean? Well, maybe the next generation of doctors will train fewer radiologists and will train more general practitioners or surgeons. . . . Maybe we've learned that we don't have a comparative advantage in radiologists."

Government should try to salve the short-term disruption by helping displaced workers obtain the training they need to enter new fields, such as health-care, Mankiw said, not by erecting protectionist barriers on behalf of vulnerable industries or professions. "The market is the best determination of where the jobs should be," he said.

Bush's quick visit to Missouri—his 15th to a state considered a critical election battleground—was the first of several events this week intended to underscore recent economic gains. Although U.S. job creation remains relatively sluggish, the nation's unemployment rate fell from 6.4% in June to 5.6% in January, and the economy grew at the fastest pace in 20 years during the last half of 2003.

The format of his visit to SRC Automotive—one that he particularly likes—involved several employees and local business owners sharing the stage with the president to discuss their perspectives on the economy, with Bush elaborating on their stories to emphasize particular aspects of his economic program.

Today, Bush is scheduled to meet with economic leaders at the White House. On Thursday, he goes to Pennsylvania's capital, Harrisburg—in another swing state that he has already visited more than two dozen times since becoming president.

Mr. DODD. The headline in the Los Angeles Times—it is a viewpoint—says: "Bush Supports Shift of Jobs Overseas." It goes on to talk about the report that I talked about all afternoon, this economic report prepared by the Council of Economic Advisers, where they conclude that the outsourcing of jobs is a good thing. The author of that language apologized for his use of those words, but he has not apologized, and I understand why, because he believes it is good economic policy to be outsourcing.

There are some of us—I do not know if it is a majority—who disagree with that conclusion, that outsourcing is necessarily good.

I cited already from the Wall Street Journal companies that painfully discovered when they outsourced, while they thought they were going to save money, it actually cost them dearly. It is not only not good, but it fails to take into account—watching somebody's job be lost because there is a cheaper labor pool that you don't have to pay health care benefits to, despite the fact the person here is going to lose them—if it is really good for America.

I am suggesting while this rush is occurring that we ought to put on the brakes and stop, look, and listen so we will not necessarily be caught up in a situation where a year or two or five from now we will look back and say: Why didn't somebody say something or do something when we knew this was happening, when we could sit, watch, and read on a daily basis the pouring of jobs out of this country to 14 time zones away, depriving people of benefits and income they needed for their families; what did you do on your watch? What did you do?

If the answer is we thought it was a good thing for the American economy, then I think we will be suffering an indictment historically.

I see my colleague from Kentucky who wants to move on to matters of the day. I yield the floor, with the right to be recognized at the conclusion of his remarks.

Mr. McCONNELL. I say to my friend from Connecticut, he will hardly have to hold his breath and he will be back up waxing eloquent to all of our colleagues who I am sure, back in their offices, are watching his speech and listening carefully to every word.

ELIMINATING THE "HAIRCUT" PROVISION

Mr. SMITH. Madam President, I rise today in support of S. 1637, the JOBS Act, which will halt European Union trade sanctions against American industries and provide immediate tax relief for domestic manufacturers.

U.S. manufacturing has experienced a crisis over the last three years due to the global economic downturn, sharply diminished capital spending, global overcapacity, and steady price declines for manufactured goods. S. 1637 provides a strong incentive for companies to keep and create jobs in the U.S.

However, I believe we can improve S. 1637 by eliminating the "haircut" provision that increases the taxes on U.S. manufacturers for their U.S. companies merely because these companies also manufacture products abroad. This concept is totally at odds with the purpose of this legislation—to cut taxes on manufacturers that employ American workers. U.S. companies with global operations employ more than 23 million Americans—9 million of which are manufacturing jobs. Foreign-owned companies with U.S. operations employ more than 2 million manufacturing workers in the U.S.

The haircut is structured so that the more a company manufacturers abroad, the less of a manufacturing rate cut it gets. The "haircut" makes the U.S. a less competitive location for current and future investment. Thus, it is less likely that multinational manufacturing companies will site new plants and new high-paying jobs in the U.S.

Furthermore, I am concerned that the "haircut" invites mirror legislation in other countries. In this time of crisis for the U.S. manufacturing industry, we cannot afford to let any more manufacturing jobs slip away, particularly due to bad tax policy.

With my colleague, Senator BREAUX, I am offering an amendment to the JOBS Act which will eliminate the "haircut" and provide an equal tax benefit for all manufacturers that employ American workers. Congress should be in the business of rewarding all well-paid manufacturing jobs that are created in the U.S.—not just those created by certain domestic manufacturers.

Mr. KENNEDY. Madam President, we call this bill the "Jumpstart Our Business Strength Act"—the JOBS Act, because that is exactly what we are debating this week—the critical issue facing so many millions of Americans, the lack of jobs.

To hear President Bush, you would never know there was a problem with jobs. According to the Bush administration, everything is sunshine and roses.

Over and over again, the President says things that show he is out of touch with the lives of ordinary Americans and can't understand the economic hardships they are facing. Happy talk about economic recovery doesn't jibe with the daily lives of the people on Main Street.

In his State of the Union Address in January, the President said ". . . this economy is strong, and growing stronger . . . Productivity is high, and jobs are on the rise."

A week later he said: "The economy is growing, people are finding work. There's an excitement in our economy . . . You can tell I'm upbeat, and I've got reason to be. Not only the numbers say things are looking pretty good, the American people are telling me they feel pretty good."

Then came his annual economic report and its ringing endorsement of sending jobs overseas.

At the National Governors Association meeting last Monday, he said he thinks the 5.6 percent unemployment rate is "a good national number."

Yesterday, Vice President CHENEY said, "The economy's in very good shape, and going forward there's every reason to be optimistic that we will have the kind of growth that we need to create jobs out there."

In fact, he went on to say that if "Democratic policies had been pursued over the last two or three years. . . . we would not have had the kind of job growth that we've had."

Job growth? Someone should tell the Vice President that we have lost over two million jobs in the Bush economy.

The reality of the Bush economic record is very different from the rhetoric.

Just a few weeks ago, the President said in his economic report that the economy will create 2.6 million new jobs this year. The reality is that no one in the White House or the Cabinet will endorse the 2.6 million number.

President Bush said his first tax cuts in 2001 would create 800,000 additional jobs by the end of 2002. The reality is, we lost 1.9 million jobs instead.

His 2002 economic report predicted 3 million jobs would be created in 2003. Instead, more than 300,000 were lost.

He said the tax breaks enacted last year would create 510,000 additional jobs by the end of the year, but we lost 53,000 jobs last year.

Even the few jobs being created are not as good as the jobs we have lost. The new jobs pay on average $8,000 less than jobs lost in the Bush economy. In 48 of the 50 States, jobs being created pay 21 percent less than had been paid by industries losing jobs.

Employees have smaller paychecks, and are even less able to keep up with the rising costs of education, let alone pay the bill for food, rent and health care.

A big part of the job problem is the worsening crisis in manufacturing. We have lost nearly 3 million manufacturing jobs since the Bush administration took office. It is a nationwide problem, affecting almost every State in the Union. Forty-nine of the 50 States have lost manufacturing jobs under this President.

That is only part of the story. Fourteen million other jobs are newly at risk of being sent overseas as well. Every day, we hear more stories about how white collar jobs and service sector jobs in health care, financial services, and information technology are going to other countries.

What is the President's response? More empty rhetoric and broken promises. Last year on Labor Day, the President met with workers and promised to appoint a manufacturing czar to deal with the loss of manufacturing jobs. How typical of the President to make a promise like that on Labor Day and then forget all about it.

Six months later, there is still no manufacturing czar. Administration officials say they're working on it, but the economy is still hemorrhaging manufacturing jobs.

American workers deserve better than this. They deserve better than to have their jobs exported with the President, as cheerleader in chief, waving good bye.

We need to do more, to encourage good-paying manufacturing jobs to stay here, and discourage corporations from sending jobs and new investment overseas.

This bill contains provisions to encourage manufacturing in the United States, and I commend Senator GRASSLEY and Senator BAUCUS for their bipartisan work on this bill. But we can do more and we must do more.

We need to provide incentives now for companies to keep and create manufacturing jobs in the United States. A key weakness in this bill is that the tax benefits for domestic manufacturing are phased in too slowly. These companies and their workers need help now.

We need to stop rewarding multinational corporations that send jobs to other countries.

This bill not only fails to do that, it creates $35 billion in new or larger tax breaks for companies doing business abroad. Why on earth do we want to make exporting of American jobs more attractive to corporations? These international provisions should be removed from the bill, and the tax dollars should be used to make the tax benefits for domestic manufacturing more robust.

In many respects, the tax code already gives a greater subsidy to profits from foreign operations over domestic plants. We ought to change that too, instead of kowtowing to the clout of multinational corporations. Our corporate tax laws should be rewritten to increase the cost of exporting jobs and decrease the cost of maintaining jobs in America.

And what about the urgent needs of Americans who have already lost their jobs and their long-term unemployment benefits too?

Solid majorities in the Senate and the House have already sent a message loud and clear to the White House and the Republican leadership in Congress that we want to reinstate those benefits, which expired on December 31st. Ninety thousand workers a week have lost their benefits and still can't get a job. They're moving in with friends or family, giving up health care, and struggling to pay every bill. Yet our Republican colleagues say, in their best imitation of Marie Antoinette, "let them eat cake."

They tell the unemployed to look harder for work. They treat them as slackers, and say they won't subsidize their idleness any longer. That attitude is wrong. The unemployment insurance extension we enacted when the economy began to decline has expired, and I urge my colleagues to fix it, before these hard-working employees who have lost their jobs through no fault of their own suffer any longer.

I also urge my colleagues to join me in strengthening this legislation. We must improve incentives in the manufacturing industries and give working Americans a chance for the jobs and the better future they deserve.

Mr. SMITH. Madam President, I will offer an amendment which would allow commercial fishermen to use income tax averaging to help mitigate the negative effects of their fluctuating incomes.

Progressive tax systems, like the Federal income tax, often penalize farmers and others whose incomes vary greatly from year to year. Recognizing this fact, Congress, in 1997, gave farmers the option to calculate their taxes by averaging their income over a 3-year period. This was an important change in the Tax Code and has helped many in our agriculture communities weather the up-and-downs of a sometimes erratic farm economy.

Like farmers, our fishermen are often subject to dramatic swings in income. Whether it's changing ocean conditions, harvest restrictions, or bad weather that keeps them in port, the change in income can be severe and beyond their control. For example, fishermen in Coos Bay, OR have struggled with regulatory restrictions and reduced stocks over the last several years. Unfortunately, our Tax Code doesn't allow for flexibility, and fishermen, who experience both good and bad years, are forced to pay more taxes than if they had steady income levels.

My amendment would resolve some of this inequality by extending to commercial fishermen the same income averaging benefit given to farmers. It would also fix a technical error in the original provision that has led to some farmers being caught under alternative minimum tax.

I thank the chairman for his leadership on this issue in the past and including this important provision in his bill, the Tax Empowerment and Relief for Farmers and Fishermen, TERFF, Act. I am pleased to see that portions of the TERFF Act were incorporated into the bill now before us, and I am hopeful that we will be able to address the issue of income averaging for fishermen also at this time.

Our farmers and fishermen represent an important sector of our economy. Unfortunately, they and their families often have to deal with more than their fair share of challenges. Making the Tax Code more consistent and more reflective of the variable nature of resource industries will also make it more fair and provide some measure of stability for these hard working individuals.

I encourage the Senate to consider and pass this important amendment.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Kentucky.

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate now proceed to a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMEMORATING DANIEL BOORSTIN

Mr. ALEXANDER. Over the weekend, the United States of America lost one of its great teachers of what it means to be an American. Daniel Boorstin died at the age of 89. He served as Librarian of Congress and director of the Smithsonian Institution's National Museum of Science and Technology. Daniel Boorstin's books about the American experience earned a Pulitzer Prize in 1974. He believed America's success came largely because we have been free from the "virus of ideology," free to be flexible and responsive, "free to take clues from the delightful, unexplored and uncongested world around us." Free from ideology, being an American became its own ideology.

Daniel Boorstin celebrated Americans for always trying the new. He believed we have been at our best when we have been "on the verge," encountering new territory—whether it was creating new schools, new crops, new planting techniques, new towns, a new form of the English language, new technologies, new cars and trains, or John Winthrop's new City on the Hill.

He observed during these encounters with new circumstances, we have been more aware of our Americanness, that our appetite for the new has been whetted, and that we have leaned on one another for support, often organizing new forms of communities to deal with new circumstances. Boorstin believed America works community by community. He argued that the prototype early American was not the solitary trailblazer but a wagon train community.

Despite his erudition and his Pulitzer, Dr. Boorstin was not especially popular with professional historians. Perhaps it was because he was such a booster, as have been most Americans. Perhaps it was because he contented himself with being an "amateur" historian, not shackled by the ruts along which professionals often trudge. Or, perhaps it was because he was a member of a diminishing band of public figures—the late Senator Pat Moynihan and American Federation of Teachers President Albert Shanker were two others—who believed passionately in American exceptionalism. A growing number of history professionals today reject this idea of exceptionalism. To them, our country is fortunate, rich and large, but not more exceptional than many other countries. These professionals prefer social studies to U.S. history. They take snapshots of our national experience instead of teaching the steady drumbeat of a work in progress toward grand goals. In their enthusiasm for overlooked victims, they themselves overlook heroes.

Because of their growing influence we now find American history courses watered down, the great controversies of race and religion "sensitized" from textbooks. Civics is often dropped entirely from the curriculum. As one result, our high school seniors score worse on U.S. history tests than on any other subject.

Daniel Boorstin's writings have reminded us of what is truly exceptional about America, warts and all. He emphasized that our greatest accomplishment is that, more than any other country, we have united people from everywhere into a single nation, united by beliefs in a few principles rather than by race, creed, and color. He taught that we may be proud of where we came from, but should be prouder to be Americans.

He left us one other very special insight. In an essay written in 1962, Dr. Boorstin foresaw that television would create a world in which we would have a hard time telling the difference between heroes—those worth paying attention to because we might learn from their nobility—and celebrities who are "famous primarily for being famous." He invented the term pseudo event, which most of us will recognize as today's photo opportunity.

My favorite of Daniel's Boorstin's books was not his Pulitzer winner. It was The Discoverers, a stream of stories about men and women in history who challenged dogma and created a better life for mankind.

As we are poised on yet another verge in our national experience, we would do well to remember Dr. Boorstin's advice about what has served us well before: be more aware of our Americanness, whet our appetites for the new, and form new communities so that we might rely better on one another as we deal with changing circumstances.

REPORT PURSUANT TO WAR POWERS RESOLUTION

Mr. STEVENS. Mr. President, I ask unanimous consent that the attached statement from the President of the United States be printed in the RECORD, consistent with the War Powers Resolution.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, March 2, 2004.

Hon. TED STEVENS,
President pro tempore of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: In my report to the Congress of February 25, 2004, I provided information on the deployment of combat-equipped U.S. Armed Forces to Haiti. I am providing this additional report, consistent with the War Powers Resolution, to help ensure that the Congress is kept fully informed on U.S. military activities in Haiti.

On February 29, 2004, approximately 200 additional U.S. combat-equipped, military personnel from the U.S. Joint Forces Command deployed to Port-au-Prince, Haiti, to secure key facilities, to facilitate the continued repatriation of Haitian migrants, to help create conditions in the capital for the anticipated arrival of the Multinational Interim Force, to protect American citizens as may be required, and for other purposes consistent with United Nations Security Council Resolution 1529 (2004). I anticipate additional combat-equipped military personnel will be deployed to Haiti until the situation in Haiti stabilizes. The forces that the United States deployed and continues to deploy will be part of the Multinational Interim Force.

The United Nations Security Council unanimously adopted Resolution 1529 on February 29, 2004. It authorized the deployment of a Multinational Interim Force to contribute to a more secure and more stable environment in the Haitian capital and elsewhere, to facilitate the provision of humanitarian assistance and the access of humanitarian aid workers to the Haitian people, and for other purposes.

It is anticipated U.S. forces will redeploy when the Multinational Interim Force has transitioned to a follow-on United Nations stabilization force.

I have taken this action pursuant to my constitutional authority to conduct U.S. foreign relations and as Commander in Chief and Chief Executive. I am providing this report as part of my efforts to keep the Congress informed, consistent with the War Powers Resolution.

Sincerely,
GEORGE W. BUSH

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

In February, 2003, in Antioch, CA, a 15-year-old teen was charged with assault and battery and for committing a hate crime. He viciously assaulted and taunted another teenager because he believed he was gay.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. By passing this legislation and changing current law, we can change hearts and minds as well.

CHANGES TO DISCRETIONARY CAPS

Mr. NICKLES. Mr. President, section 421 of H. Con. Res. 95, the 2004 Budget Resolution, requires the chairman of the Senate Budget Committee to make appropriate adjustments in the appropriate allocations and aggregates to reflect the difference between Public Law 108–11, the Emergency Wartime Supplemental Appropriations Act of 2003—and the corresponding levels assumed in the resolution.

As enacted, the Emergency Wartime Supplemental Appropriations Act of 2003 contains budgetary authority, outlays and revenues that differ from those assumed in the budget resolution. On May 5, 2003, the allocations and aggregates were revised, but the discretionary caps were not appropriately adjusted to reflect the changes.

I ask unanimous consent to have printed in the RECORD a table which reflects the revised discretionary caps for 2005. These revised caps are the appropriate levels to be used for enforcement of the 2004 Budget Resolution.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Category	2005 cap	Adjustment	New 2005 cap
Discretionary:			
[illegible]	812.598	0.175	812.773
OT	817.883	0.402	818.285
Highway:			
BA	0.000	0.000	0.000
OT	33.393	0.000	33.393
Mass Transit:			
BA	1.488	0.000	1.488
OT	6.726	0.000	6.726
Total:			
BA	814.086	0.175	814.261
OT	858.002	0.402	858.404

ADDITIONAL STATEMENTS

DISCOVERY BY JULIAN "JAY" W. McNEIL II

• Mr. BUNNING. Mr. President, today I would like to take the opportunity to honor Mr. Jay McNeil of Paducah, KY. On January 23, 2004, Mr. McNeil discovered a new nebula while examining the night sky over Western Kentucky.

Mr. McNeil immediately established himself as an extremely capable amateur astronomer. The discovery was made with a relatively small telescope. His discovery was a very rare occurrence. According to experts in the field, such a discovery by an amateur of this magnitude has not occurred since 1939.

The discovery, later named McNeil's Nebula, was verified by the International Astronomical Union in February of 2004. The nebula is believed to contain a newborn star and is about 1,500 light years from earth. This means that what Mr. McNeil saw actually occurred a millennium and a half ago, and is just now being seen on earth.

I salute Mr. McNeil for his discovery. The thirst for knowledge and appreciation for science that he has shown serves as an example for all Kentuckians.•

LEWISTON ELKS LODGE NO. 896 CELEBRATES 100-YEAR ANNIVERSARY

• Mr. CRAIG. Mr. President, it is with great honor that I congratulate the Lewiston Elks Club, Lodge No. 896, on its 100-year anniversary. The organization has overcome multiple obstacles in its efforts to continue the fellowship among its members, and more important, its consistent and significant contributions to the local community.

Lodge No. 896 was first chartered on March 8, 1904 by just eight members. The organization envisioned by the original eight founders has grown to include more than 13,000 members over the past century. Today it is the largest Elks Club in Idaho. Successful recruitment efforts bring in 15 to 18 new members each month, making the Lewiston lodge one of the Nation's best. Together, the Elks have made countless positive impacts on the Lewiston area, and have been stellar ambassadors of our great State.

The Lewiston Elks Lodge has endured two devastating fires, the first of which occurred in 1904 after the club's second meeting. The second fire happened in 1969, and spurred the group to move the lodge to a new location overlooking the beautiful Snake River, which passes through Lewiston. It was at its present location that disaster made a third attempt. In 1998, the lodge was closed for more than 18 months after a landslide on the hillside below threatened the structure. Despite these obstacles, the Lewiston Elks have continued their community service.

The service projects carried out by the Lewiston Elks are significant. They serve people of all ages, and from every walk of life. Some projects include making Christmas baskets, supporting a drug awareness program, poster contests, and an annual food caravan for needy families. The Elks also express their support for individuals and groups in the community by sponsoring a number of awards recognizing Boy Scouts, Cub Scouts, Special Olympics, and Teenager of the Month and Year. Education is another area that the Elks are firm in their support. The Lewiston club offers yearly scholarships to local youth ranging from $100 to $1,000.

Perhaps one of the greatest contributions from this organization is the support it offers to the Idaho State Elks Rehabilitation Hospital. The modern hospital, located in Boise, serves nearly 12,000 patients a year and is working on a proposal to provide rehabilitation services to military veterans returning from war zones. With the support of the Lewiston Elks and other organizations, the hospital plans to open a new Hearing and Balance Center in the next few months.

On behalf of the citizens of the Lewiston area, and the entire State of Idaho, I thank Lodge No. 896 for their commitment to their community. It is the standard set by the Lewiston Elks that encourages local youth to strive to improve themselves, and for neighbors to help one another. Their selflessness has allowed everyone in the community to benefit. Congratulations to the Lewiston Elks for their endurance and dedication for the past 100 years.•

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on Environment and Public Works.

(The nomination received today is printed at the end of the Senate proceedings.)

REPORT REQUIRED BY THE INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT ON THE CONTINUATION OF THE NATIONAL EMERGENCY BLOCKING PROPERTY OF PERSONS UNDERMINING DEMOCRATIC PROCESSES OR INSTITUTIONS IN ZIMBABWE—PM 69

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the *Federal Register* for publication. It states that the national emergency blocking the property of persons undermining the democratic processes or institutions in Zimbabwe is to continue in effect beyond March 6, 2004.

The crisis caused by the actions and policies of certain members of the Government of Zimbabwe and other persons to undermine Zimbabwe's democratic processes or institutions has not been resolved. These actions and policies pose a continuing, unusual, and extraordinary threat to the foreign policy of the United States. For these reasons, I have determined that it is necessary to continue the national emergency declared on March 6, 2003, blocking the property of persons undermining democratic processes or institutions in Zimbabwe and to maintain in force the sanctions to respond to this threat.

GEORGE W. BUSH.

THE WHITE HOUSE, *March 2, 2004.*

MESSAGE FROM THE HOUSE

At 10:30 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate.

H.R. 3769. An act to designate the facility of the United States Postal Service located at 137 East Young High Pike in Knoxville, Tennessee, as the "Ben Atchley Post Office Building".

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

S. 714. An act to provide for the conveyance of a small parcel of Bureau of Land Management land in Douglas County, Oregon, to the county to improve management of and recreational access to the Oregon Dunes National Recreation Area, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. STEVENS).

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3769. An act to designate the facility of the United States Postal Service located at 137 East Young High Pike in Knoxville, Tennessee, as the "Ben Atchley Post Office Building"; to the Committee on Governmental Affairs.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, March 3, 2004, she had presented to the President of the United States the following enrolled bill:

S. 714. An act to provide for the conveyance of a small parcel of Bureau of Land Management land in Douglas County, Oregon, to the county to improve management of and recreational access to the Oregon Dunes National Recreation Area, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–6569. A communication from the President and Chairman, Export-Import Bank of the United States, transmitting, pursuant to law, the report of a transaction involving U.S. exports to the Grand Duchy of Luxembourg; to the Committee on Banking, Housing, and Urban Affairs.

EC–6570. A communication from the Deputy Secretary, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Shareholder Reports and Quarterly Portfolio Disclosure of Registered Management Investment Companies" (RIN3235–AG64) received on March 2, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–6571. A communication from the Attorney Advisor, Maritime Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amended Service Obligation Reporting Requirements for U.S. Merchant Marine Academy and State Maritime Academy Graduates" (RIN2133–AB57) received on March 2, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6572. A communication from the Attorney, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Upper Interior Impact" (RIN21270–AH61) received on March 2, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6573. A communication from the Assistant General Counsel for Regulatory Law, Office of Energy Efficiency and Renewable Energy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Alternative Fuel Transportation Program; Private and Local Government Fleet Determination" (RIN1904–AA98) received on March 2, 2004; to the Committee on Energy and Natural Resources.

EC–6574. A communication from the Assistant General Counsel for Regulatory Law, Office of Energy Efficiency and Renewable Energy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Human Reliability Program" (RIN1992–AA29) received on March 2, 2004; to the Committee on Energy and Natural Resources.

EC–6575. A communication from the Secretary of Energy, transmitting, a draft of proposed legislation to authorize the reclassification of fees paid into the Nuclear Waste Fund as offsetting collections, in an amount equal to appropriations for nuclear waste disposal; to the Committee on Energy and Natural Resources.

EC–6576. A communication from the Attorney Advisor, Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Federal Lands Highway Program; Transportation Planning Procedures and Management Systems Pertaining to the Forest Service, Including the Forest Highways Programs" (RIN2125–AE55) received on March 2, 2004; to the Committee on Environment and Public Works.

EC–6577. A communication from the Attorney Advisor, Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Federal Lands Highway Program; Transportation Planning Procedures and Management Systems Pertaining to the Forest Service, Including the Park Roads and Parkways Program" (RIN2125–AE52) received on March 2, 2004; to the Committee on Environment and Public Works.

EC–6578. A communication from the Attorney Advisor, Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Federal Lands Highway Program; Transportation Planning Procedures and Management Systems Pertaining to the Forest Service, Including the Refuge Roads Program" (RIN2125–AE54) received on March 2, 2004; to the Committee on Environment and Public Works.

EC–6579. A communication from the Attorney Advisor, Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Federal Lands Highway Program; Transportation Planning Procedures and Management Systems Pertaining to the Forest Service, Including the Indian Reservations Road Program" (RIN2125–AE53) received on March 2, 2004; to the Committee on Environment and Public Works.

EC–6580. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the Financial Report of the United States Government for Fiscal Year 2003; to the Committee on Finance.

EC–6581. A communication from the United States Trade Representative, Executive Office of the President, transmitting, pursuant to law, the 2004 Trade Policy Agenda and 2003 Annual Report on the Trade Agreements Program as prepared by the Administration; to the Committee on Finance.

EC–6582. A communication from the Chief Executive Officer, Corporation for National and Community Service, transmitting, the Corporation's Performance and Accountability Report for Fiscal Year 2003; to the Committee on Governmental Affairs.

EC–6583. A communication from the Chairman, International Trade Commission, transmitting, pursuant to law, the Commission's Program Performance Report for Fiscal Year 2003; to the Committee on Governmental Affairs.

EC–6584. A communication from the Chairman, Federal Energy Regulatory Commission, transmitting, pursuant to law, the Commission's Fiscal Year 2003 Performance Report; to the Committee on Governmental Affairs.

EC–6585. A communication from the Secretary of Education, transmitting, pursuant to law, a report relative to surplus Federal real property disposed of to educational institutions; to the Committee on Governmental Affairs.

EC–6586. A communication from the Chairman, Federal Election Commission, transmitting, a report relative to the Commission's internal management control and financial management control systems; to the Committee on Governmental Affairs.

EC–6587. A communication from the Chairman, National Transportation Safety Board, transmitting, pursuant to law, a report relative to the Board's compliance with the Federal Manager's Integrity Act or the year 2003; to the Committee on Governmental Affairs.

EC–6588. A communication from the Chairman, Board of Governors, United States Postal Service, transmitting, pursuant to law, the Board's report under the Government in Sunshine Act for calendar year 2003; to the Committee on Governmental Affairs.

EC–6589. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the Office's Federal Activities Inventory Reform Act Inventory as of June 30, 2003; to the Committee on Governmental Affairs.

EC–6590. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a report relative to the transfer of the Nebraska Avenue Complex from the U.S. Navy to the General Services Administration; to the Committee on Governmental Affairs.

EC–6591. A communication from the Chairman, Merit Systems Protection Board, transmitting, pursuant to law, the Board's Fiscal Year 2002 Performance Report; to the Committee on Governmental Affairs.

EC–6592. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the GAO's Performance and Accountability Highlights Fiscal 2003; to the Committee on Governmental Affairs.

EC–6593. A communication from the Director of the Peace Corps, transmitting, pursuant to law, the report of the Office of Inspector General for the period from April 1, 2003 through September 30, 2003; to the Committee on Governmental Affairs.

EC–6594. A communication from the Acting Chief Executive Officer, Corporation for National and Community Service, transmitting, pursuant to law, the report of a nomination confirmed for the position of Chief Executive Officer, Corporation for National and Community Service, received on February 24, 2004; to the Committee on Governmental Affairs.

EC–6595. A communication from the Deputy Associate Administrator, Office of Acquisition Policy, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; Federal Acquisition Circular 2001–18" (FAC2001–18) received on February 24, 2004; to the Committee on Governmental Affairs.

EC–6596. A communication from the Deputy Executive Director, Neighborhood Reinvestment Corporation, transmitting, pursuant to law, the Corporation's Fiscal Year 2002 Annual Program Performance Report; to the Committee on Governmental Affairs.

EC–6597. A communication from the Regulations Coordinator, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled "Bar Code Label Requirements for Human Drug Products and Biological Treatments" (Doc. No. 2002N–0204) received on February 24, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–6598. A communication from the Regulations Coordinator, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled "Final Rule Declaring Dietary Supplements Containing Ephedrine Alkaloids Adulterated Because They Present an Unreasonable Risk" (RIN0910–AA59) received on February 24, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–6599. A communication from the Director, Occupational Safety and Health Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Commercial Diving Operations" (RIN1218–AB97) received on February 24, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–6600. A communication from the Chairman, Railroad Retirement Board, transmitting, pursuant to law, the Board's Annual Report for Calendar Year 2003; to the Committee on Health, Education, Labor, and Pensions.

EC-6601. A communication from the Secretary of Labor, transmitting, a draft of proposed legislation entitled the "Black Lung Disability Trust Fund Debt Restructuring Act"; to the Committee on Health, Education, Labor, and Pensions.

EC-6602. A communication from the General Counsel, National Science Foundation, transmitting, pursuant to law, the report of a rule entitled "Governmentwide Debarment and Suspension (Nonprocurement) and Requirements for Drug-Free Workplace (Grants)" (RIN3145-AA41) received on February 24, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC-6603. A communication from the Acting Clerk of Court, United States Court of Federal Claims, transmitting, pursuant to law, two copies of the report of the Court; to the Committee on the Judiciary.

EC-6604. A communication from the Administrator, Federal Aviation Administrator, transmitting, pursuant to law, the Federal Aviation Administration and National Air Traffic Controllers Association Collective Bargaining Impasse Submission to Congress; to the Committee on Commerce, Science, and Transportation.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SESSIONS (for himself, Mr. KYL, Mr. ENZI, Mr. MCCONNELL, and Mr. NICKLES):

S. 2159. A bill to amend section 1951 of title 18, United States Code (commonly known as the Hobbs Act), and for other purposes; to the Committee on the Judiciary.

By Mr. WYDEN (for himself, Mr. STEVENS, and Ms. MURKOWSKI):

S. 2160. A bill to regulate interstate commerce by prohibiting the sale of children's personally identifiable information for commercial marketing purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. BOXER:

S. 2161. A bill to amend title 5, United States Code, to establish a national health program administered by the Office of Personnel Management to offer Federal employee health benefits plans to individuals who are not Federal employees, and for other purposes; to the Committee on Finance.

By Mr. CRAPO:

S. 2162. A bill to implement the Inland Northwest Economic Adjustment Strategy, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SPECTER (for himself, Mr. ALLEN, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BREAUX, Mr. CARPER, Mr. CHAFEE, Mrs. CLINTON, Mr. COCHRAN, Mr. CORZINE, Mr. DASCHLE, Mr. DAYTON, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mrs. FEINSTEIN, Mr. FITZGERALD, Mr. GRAHAM of South Carolina, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mr. HOLLINGS, Mr. INHOFE, Mr. JOHNSON, Mr. KENNEDY, Mr. KOHL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Mr. LOTT, Mr. LUGAR, Ms. MIKULSKI, Mr. MILLER, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NICKLES, Mr. REED, Mr. REID, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Mr. SMITH, Ms. SNOWE, Ms. STABENOW, Mr. STEVENS, Mr. VOINOVICH, Mr. WARNER, Mr. WYDEN, and Mr. FEINGOLD):

S. Res. 308. A resolution designating March 25, 2004, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy"; to the Committee on the Judiciary.

By Mr. CRAIG (for himself, Mrs. FEINSTEIN, Mr. CAMPBELL, Mrs. BOXER, Mr. FITZGERALD, Ms. LANDRIEU, Mr. INHOFE, Mr. FEINGOLD, Mr. COCHRAN, Mr. JOHNSON, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. DURBIN, and Mr. KOHL):

S. Res. 309. A resolution designating the week beginning March 14, 2004 as "National Safe Place Week"; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 68

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 68, a bill to amend title 38, United States Code, to improve benefits for Filipino veterans of World War II, and for other purposes.

S. 596

At the request of Mr. ENSIGN, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 596, a bill to amend the Internal Revenue Code of 1986 to encourage the investment of foreign earnings within the United States for productive business investments and job creation.

S. 623

At the request of Mr. WARNER, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 623, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 738

At the request of Mrs. BOXER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 738, a bill to designate certain public lands in Humboldt, Del Norte, Mendocino, Lake, Napa, and Yolo Counties in the State of California as wilderness, to designate certain segments of the Black Butte River in Mendocino County, California as a wild or scenic river, and for other purposes.

S. 846

At the request of Mr. SMITH, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 846, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance, and for other purposes.

S. 874

At the request of Mr. TALENT, the names of the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 874, a bill to amend title XIX of the Social Security Act to include primary and secondary preventative medical strategies for children and adults with Sickle Cell Disease as medical assistance under the medicaid program, and for other purposes.

S. 983

At the request of Mr. CHAFEE, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 983, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 1420

At the request of Mr. CRAIG, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 1420, a bill to establish terms and conditions for use of certain Federal land by outfitters and to facilitate public opportunities for the recreational use and enjoyment of such land.

S. 1888

At the request of Mr. SPECTER, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1888, a bill to halt Saudi support for institutions that fund, train, incite, encourage, or in any other way aid and abet terrorism, and to secure full Saudi cooperation in the investigation of terrorist incidents.

S. 2035

At the request of Mr. GRAHAM of South Carolina, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 2035, a bill to amend title 10, United States Code, to revise the age and service requirements for eligibility to receive retired pay for non-regular service; to expand certain authorities to provide health care benefits for Reserves and their families, and for other purposes.

S. 2056

At the request of Mr. BROWNBACK, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 2056, a bill to increase the penalties for violations by television and radio broadcasters of the prohibitions against transmission of obscene, indecent, and profane language.

S. 2057

At the request of Ms. CANTWELL, her name was added as a cosponsor of S. 2057, a bill to require the Secretary of Defense to reimburse members of the United States Armed Forces for certain transportation expenses incurred by the members in connection with leave under the Central Command Rest and Recuperation Leave Program before the program was expanded to include domestic travel.

At the request of Mr. COLEMAN, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 2057, supra.

S. 2065

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 2065, a bill to restore health care coverage to retired members of the uniformed services, and for other purposes.

At the request of Mr. DASCHLE, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2065, supra.

S. 2158

At the request of Ms. COLLINS, the names of the Senator from Arizona (Mr. MCCAIN), the Senator from Illinois (Mr. FITZGERALD), and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 2158, a bill to amend the Public Health Service Act to increase the supply of pancreatic islet cells for research, and to provide for better coordination of Federal efforts and information on islet cell transplantation.

S.J. RES. 26

At the request of Mr. ALLARD, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S.J. Res. 26, a joint resolution proposing an amendment to the Constitution of the United States relating to marriage.

S.J. RES. 28

At the request of Mr. CAMPBELL, the names of the Senator from New Hampshire (Mr. SUNUNU) and the Senator from Wyoming (Mr. THOMAS) were added as cosponsors of S.J. Res. 28, a joint resolution recognizing the 60th anniversary of the Allied landing at Normandy during World War II.

S. CON. RES. 88

At the request of Mr. SARBANES, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S . Con. Res. 88, a concurrent resolution expressing the sense of Congress that there should continue to be parity between the adjustments in the pay of members of the uniformed services and the adjustments in the pay of civilian employees of the United States.

S. CON. RES. 91

At the request of Mr. BROWNBACK, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. Con. Res. 91, a concurrent resolution designating the month of April 2005 as "American Religious History Month."

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WYDEN (for himself, Mr. STEVENS, and Ms. MURKOWSKI):

S. 2160. A bill to regulate interstate commerce by prohibiting the sale of children's personally identifiable information for commercial marketing purposes; to the Committee on Commerce, Science, and Transportation.

Mr. WYDEN. Mr. President and colleagues, there is now clear evidence that it is open season for large-scale commercial marketing to the Nation's smallest children. As a result, today I am introducing with the distinguished chairman of the Senate Appropriations Committee, Senator STEVENS, legislation to protect the privacy of America's children.

I suspect parents of very young children would not want their children's names and addresses, their e-mail addresses, their ages and other data treated as a simple marketplace commodity to be freely bought and sold for a profit with no questions asked. Yet that is exactly what happens every day.

Parents may not be aware of it, but large list brokers routinely advertise and sell information on very young children for marketing purposes. Their lists cover millions of children and often include such data as ethnicity, family income, and hobbies or interests. In short, commercial trafficking in personal information about very young children is surprisingly commonplace.

How extreme has it gotten? Take a look at this example. The broker of this list says on their Web site that they have more than 15 million names of children from the ages of 2 to 13. They said they update it monthly. That is why it is clear it is open season for large-scale marketing to the country's smallest children, which has concerned Senator STEVENS and I. The list brokers break it down for the marketers, as well, to help them target the very young.

On this next graphic, a list broker offers marketing lists that only contain the names of preschool children ages 2 to 5. If that is too young for a particular marketer's needs, the marketer could pursue lists of elementary school children ages 5 through 11 or junior high school kids age 11 to 13. These lists of young children are advertised openly on the Internet for anyone who is interested.

We can see the details promised: Full name, address, and age. My view is that is not information about youngsters that parents want available for sale without the consent of the parents. But it is happening now all the time because there is big money in marketing to the very young. Children, of course, influence the purchases of their parents. Sometimes they have money to spend of their own. As a result, an estimated $12 billion per year is spent on marketing to these very young children.

Unfortunately, with all the money involved, the ethics of direct marketing to children and appropriate limits get short shrift. The very young are not likely to understand the intent and tactics of marketing pitches the way adults do and may be more vulnerable to influence, manipulation, and questionable and deceptive tactics. The wholesale trafficking of specific information about individual youngsters and the use of that information to target and contact those children for marketing purposes is something that most parents find very troubling.

The suggested use for these lists runs the gamut. Here is another list broker that has 20 million names of children in preschool through eighth grade. They have all kinds of suggestions. We can see a few of the examples on the chart that make it clear exactly how great this potential market is.

That is why I am introducing today, with the bipartisan support of our colleague, the distinguished chairman of the Senate Appropriations Committee, Senator STEVENS, a privacy act to protect our youngsters.

The bill's premise is simple: Trafficking in data on very young children for the purpose of commercial marketing should not be permitted in our country. Specifically, the bill bans the selling or purchasing of personal information about people that the seller and purchaser know to be very young. There would be an exception for cases where the parent is given express consent, provided that the parent had notice of what he or she was consenting to and was not required to grant consent as a condition of obtaining a desired product or service.

There would also be an exception for the sale of information for nonmarketing purposes as long as the purchaser certifies it will neither use the information for marketing nor allow others to do so. This exception would allow, for example, health care officials to still use available data to track the spread of a disease or for students, of course, to get information about various academic activities. The list buyers would have to certify that lists are not being purchased or resold for marketing; otherwise they will be in violation of the law.

The bill's enforcement provisions track those of the Children's Online Privacy Protection Act. Primary enforcement authority would rest with the Federal Trade Commission, and State attorneys general would be authorized to bring enforcement actions as well.

I think we all understand marketers have products they want to get out, and lists are a big part of their trade. But it is one proposition when the person on the list is an adult; it is quite another to be buying and selling and trafficking in all of this data and all of these lists on the very young.

I say to the Senate, if you just spend a little time on the Internet, you will see what I have concluded; that it is open season for the large-scale marketing that is targeted at very small children, and we ought to make an effort to draw some lines.

Yes, marketing is accepted and important with respect to adults. But I hope my colleagues will join me and Senator Stevens today in supporting a commonsense effort to limit the way in which data is used and commercialized about America's smallest children.

Mr. President, I ask unanimous consent that the text of the legislation I am introducing today with Senator Stevens be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2160

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Children's Listbroker Privacy Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Commercial list brokers routinely advertise and sell detailed information on children, including names, addresses, ages, and other data, for use in marketing. This data is commonly available on children as young as two years old, enabling marketers to target specific demographics such as junior high school, elementary school, or even preschool.

(2) Commercially available marketing databases can be very large, covering millions of children.

(3) Commercially available marketing databases can include a variety of information on the children they cover, from ethnicity to family income to hobbies and interests.

(4) Money spent on marketing to children has been estimated at $12 billion per year.

(5) Several Federal statutes, including section 1061 of the No Child Left Behind Act, the Children's Online Privacy Protection Act, and the Family and Educational Rights and Privacy Act, restrict the collection and disclosure of information about children or students under specified circumstances. When data on children is collected in a manner that is outside the scope of those statutes, however, Federal law does not significantly restrict the commercial sale or resale of such data.

(6) The ability to sell information about children to marketers for a profit creates an economic incentive to find new and creative ways to collect and compile such information, and possibly to circumvent or subvert the intent of those Federal statutes that do govern the collection of information about children or students. There are a variety of means and sources that marketers and list brokers can and do use to compile names, addresses, and other data about children.

SEC. 3. RESTRICTION ON SALE OR PURCHASE OF CHILDREN'S PERSONAL INFORMATION.

(a) In General.—It is unlawful—

(1) to sell personal information about an individual the seller knows to be a child;

(2) to purchase personal information about an individual identified by the seller as a child, for the purpose of marketing to that child; or

(3) for a person who has provided a certification pursuant to subsection (b)(2), in connection with the purchase of personal information about an individual identified by the seller as a child, to engage in any practice that violates the terms of the certification.

(b) Exceptions.—

(1) Parental consent.—Subsection (a) does not apply to any sale, purchase, or use of personal information about a child if the parent of the child has granted express consent to that sale, purchase, or use of the information.

(2) Certification.—Subsection (a)(1) shall not apply to the sale of personal information about a child if the purchaser certifies to the seller, electronically or in writing, before the sale is completed—

(A) the purpose for which the information will be used by the purchaser; and

(B) that the purchaser will neither—

(i) use the information for marketing that child; nor

(ii) permit the information to be used by others for the purpose of marketing to that child.

SEC. 4. ADMINISTRATION AND ENFORCEMENT.

(a) In General.—Except as provided in subsection (b), this Act shall be enforced by the Commission as if the violation of section 3 of this Act were an unfair or deceptive act or practice proscribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(b) Enforcement by Certain Other Agencies.—Compliance with this Act shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601 and 611), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) Exercise of Certain Powers.—For the purpose of the exercise by any agency referred to in subsection (b) of its powers under any Act referred to in that subsection, a violation of section 3 of this Act I is deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (b), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under section 3 of this Act, any other authority conferred on it by law.

(d) Actions by the Commission.—The Commission shall prevent any person from violating section 3 of this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act. Any entity that violates any provision of that section is subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of that section.

(f) Preservation of Commission Authority.—Nothing contained in this section shall be construed to limit the authority of the Commission under any other provision of law.

SEC. 5. ACTIONS BY STATES.

(a) In General.—

(1) Civil Actions.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that section 3 of this Act, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction—

(A) to enjoin that practice;

(B) to enforce compliance with the rule;

(C) to obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) to obtain such other relief as the court may consider to be appropriate.

(2) Notice.—

(A) In general.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) Exception.—

(i) In general.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) Notification.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) Intervention.—

(1) In general.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) Effect of intervention.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this subtitle shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of section 2 of this Act, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that section.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 6. DEFINITIONS.

In this Act:

(1) CHILD.—The term "child" means an individual under the age of 16.

(2) COMMISSION.—The term "Commission" means the Federal Trade Commission.

(3) EXPRESS CONSENT.—

(A) IN GENERAL.—The term "express consent" means an affirmative indication of permission in writing or electronic form. The term "express consent" does not include consent inferred from a failure to indicate affirmatively that consent is denied or withheld.

(B) PREREQUISITES.—Express consent is not valid unless—

(i) before granting the consent the individual granting the consent was informed of the purpose for which the information would be sold, purchased, or used; and

(ii) consent was not granted as a condition for making a product, service, or warranty available to the individual or the child to which the information pertains.

(4) MARKETING.—The term "marketing" means making a communication to encourage the purchase or use of a commercial product or service. For purposes of this paragraph, a product or service shall be considered to be commercial if some or all of the proceeds from the sale inure to the benefit of an enterprise conducted for profit.

(5) PARENT.—The term "parent" includes a legal guardian.

(6) PERSONAL INFORMATION.—The term "personal information" means identifiable information about an individual, including—

(A) a name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address or online username;

(D) a telephone number;

(E) a Social Security number; or

(F) any other information that permits a specific individual to be identified.

(7) PURCHASE; SELL; SALE.—In section 3, the terms "purchase", "sell", and "sale" include the purchase and sale of the right to use personal information, without regard to whether—

(A) the right is limited or unlimited;

(B) the transaction is characterized as a purchase, sale, lease, or otherwise; and

(C) the consideration for the transaction is monetary, goods, or services.

SEC. 7. EFFECTIVE DATE.

This Act takes effect 6 months after the date of enactment.

Mr. STEVENS. Mr. President, I am proud to introduce, with my colleague from Oregon, a bill which protects children from being strategically targeted by commercial advertising.

I was shocked to learn that presently there is no law that restricts companies from purchasing databases which contain information about children.

In fact, websites have been brought to my attention that actually sell lists of children as young as pre-school.

The thought of companies acquiring lists of information about kids that are barely past the toddler stage is appalling.

These companies actually market that the lists can be selected and purchased by sorting according to different age groups. They suggest possible commercial uses for the lists such as for magazines, amusement parks, child care services, etc.

One of the websites even points out that many high school students have their own credit cards or have use of their parents' credit cards. The website then suggests that companies could buy these lists so they could market to children various products such as clothing, computers, etc.

The bill that we are introducing today will deter entities from selling these lists of personal information about children to be used for commercial purposes.

The bill will prohibit anyone from selling or buying personal information about a person who is known to be under 16 years of age unless: 1. The parent has given express consent; or 2. The buyer certifies that the information is being obtained for strictly non-marketing purposes. If that is the case, they can't subsequently sell the information to a commercial marketing group.

The enforcement will be by the Federal Trade Commission and the 50 attorney generals.

I look forward to working with my colleague from Oregon and others on this bill.

By Mrs. BOXER:

S. 2161. A bill to amend title 5, United States Code, to establish a national health program administered by the Office of Personnel Management to offer Federal employee health benefits plans to individuals who are not Federal employees, and for other purposes; to the Committee on Finance.

Mrs. BOXER. Mr. President, over 43 million Americans are uninsured, which means that one in every 7 Americans has no health insurance. It is not surprising that two-thirds of the uninsured are low-income. What may be surprising to some is that most of the uninsured—8 in 10—come from working families. Most of these uninsured are not eligible for public health insurance programs, such as Medicaid or SCHIP.

Lack of health insurance too often means poorer health care. The uninsured receive less preventive care, are diagnosed at more advanced disease stages, and once diagnosed, tend to receive less therapeutic care. The Institute of Medicine estimates that 18,000 Americans die prematurely each year due to the effects of a lack of health insurance.

The plight of the uninsured has consequences that reach beyond the uninsured. In 2001, the uninsured amounted to about $35 billion in uncompensated care. Those costs are borne by all of us through higher health care costs and government-funded reimbursements.

Furthermore, the Institute of Medicine suggests that the reduced health and higher mortality of the uninsured costs society between $65 billion and $130 billion a year, and concludes that public programs are likely to have higher budgetary costs than they would if everyone under 65 had health insurance. In addition, the Urban Institute recently found that if people were covered by insurance, there could be savings to Medicare and Medicaid of $10 billion a year.

Even those who have health insurance find it extremely expensive and of poor quality. It is time to expand access to affordable, quality health insurance for all Americans.

The bill I am introducing today, the "Universal Access to Affordable Insurance for All Americans Act of 2004," is a partial solution that will give Americans access to the same health insurance program as Members of Congress.

It establishes a separate risk pool within the Federal Employee Health Benefit Program for individuals who wish to purchase individual or family coverage. The Office of Personnel Management would make at least one private health insurance plan available through the FEHBP to non-Federal employees. While individuals will have access to the same program as Federal employees, the entry of others into FEHBP will not affect Federal employees at all.

My bill also makes this insurance affordable by establishing advanceable, refundable tax credits for certain low and middle-income participants. For those below poverty, the credit is 100 percent. The credit is gradually decreased up to 400 percent of poverty. So a family of 4 making $18,850 or less would receive a 100 percent credit. A family of 4 making $75,000 would receive a 30 percent credit.

We need to begin implementing measures to provide all Americans with access to affordable health coverage. My bill is a step toward this goal.

By Mr. CRAPO:

S. 2162. A bill to implement the Inland Northwest Economic Adjustment Strategy, and for other purposes; to the Committee on Environment and Public Works.

Mr. CRAPO. Mr. President, I rise today to introduce legislation establishing the Inland Northwest Economic Adjustment Strategy (INEAS), a blueprint to address severe economic distress in the Inland Northwest region.

In recent years, communities throughout the Nation have confronted challenging economic times. However, as most begin to embark on the path towards economic recovery, the natural resource-based economies of the Inland Northwest remain in ruins.

Founded on the industries of forestry, mining, agriculture, commercial fisheries and other natural resource based commodities, the economies of Oregon, Washington, Montana, and my home State of Idaho once served a critical role in our Nation's economic development. However, modern Federal natural resource policies, regulations, and trade agreements have devastated this once thriving region of the country. For example, between 1989 and 2003, 123 mills were closed and an additional 3,816 million board feet in timber production was lost, costing the region roughly 24,000 jobs. The numerous counties where more than 75 percent of land is owned by the Federal Government, will never recover from the 89 percent decline in federal timber harvests seen over the past decade. Clearly, as Federal policy continues to contribute to the demise of this region's economy, we all have a responsibility to support alternative economic opportunities for growth.

The Inland Northwest Economic Adjustment Strategy is envisioned as temporary regional assistance, designed to address severe economic distress in 137 counties and 23 tribes across these four Northwestern States. With a strong focus on business development, INEAS will seek to increase good paying jobs, global competitiveness, community sustainability, and quality of life for these devastated economies. Along with the assistance of this Federal economic adjustment package, funding from States, tribes, and private partners will be brought together to support regional business clusters, entrepreneurial development, technology commercialization, and community sustainability for those whose way of life has been forever changed, in part by Federal policies and regulations.

This model has served many other regions of the Nation to restore economic viability. This plan to assist the Inland Northwest will help reaffirm our commitment to ensuring the viability of the region matches its beauty and potential, as well as the entrepreneurial spirit of its people.

I invite my colleagues to join me in supporting economic recovery for these crippled Northwest communities through this legislation. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2162

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

This Act may be cited as the "Inland Northwest Revitalization Act".

(a) SHORT TITLE.—This Act may be cited as the "Inland Northwest Revitalization Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Purposes.
Sec. 3. Definitions.

TITLE I—INLAND NORTHWEST REGIONAL PARTNERSHIP

Sec. 101. Establishment, membership, and employees.
Sec. 102. Decisions.
Sec. 103. Functions.
Sec. 104. Administrative powers and expenses.
Sec. 105. Meetings.
Sec. 106. Public participation.
Sec. 107. Annual report.

TITLE II—FINANCIAL ASSISTANCE

Sec. 201. Grants and other assistance.
Sec. 202. Approval of projects.

TITLE III—INLAND NORTHWEST REGIONAL PARTNERSHIP REGIONAL INITIATIVES

Sec. 301. Inland Northwest business cluster initiative.
Sec. 302. Entrepreneurial development initiative.
Sec. 303. Technology commercialization initiative.
Sec. 304. Community readiness initiative.
Sec. 305. Regional workforce development.

TITLE IV—ADMINISTRATION

Sec. 401. Consent of States.
Sec. 402. Program implementation.
Sec. 403. Program development criteria.
Sec. 404. Regional development planning process.
Sec. 405. Distressed and economically strong counties.

TITLE V—MISCELLANEOUS

Sec. 501. Authorization of appropriations.
Sec. 502. Cessation of effectiveness.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to assist the Inland Northwest Region in—

(A) making the industrial and commercial resources of the Region more competitive in national and world markets;

(B) generating a diversified regional economy;

(C) developing the industry of the Region;

(D) building entrepreneurial communities;

(E) providing the infrastructure necessary for economic and human resource development; and

(F) addressing problems unique to the Region;

(2) to provide a framework for coordinating Federal, State, tribal, and local initiatives to respond to the economic competitiveness challenges in the Region by—

(A) adapting and applying new technologies for businesses in the Region;

(B) improving the access of those businesses to the technical and financial resources necessary to development of the businesses;

(C) improving the skills of the workforce of the Region;

(D) using the actions of the Healthy Forests Restoration Act of 2003 (Public Law 108-148) to sustain rural communities and local economies of the Region in addition to forest ecosystems;

(E) anticipating the effects of alternative energy policies and practices; and

(F) implementing programs and projects carried out in the Region by Federal, State, tribal, and local governmental agencies so as to better meet the special problems generated in the Region by the natural resource and federal land management policies of the United States;

(3) as the Region obtains necessary physical and transportation facilities and develops human resources, to assist the Region in generating a diversified industry so that the Region will be able to support itself through the workings of a strengthened free enterprise economy; and

(4) to address the needs of severely and persistently distressed areas of the Region, and to focus special attention on the areas of greatest need, so as to provide a fairer opportunity for the people of the Region to share the quality of life generally enjoyed by citizens across the United States.

SEC. 3. DEFINITIONS.

In this Act:

(1) COOPERATIVE EXTENSION SERVICE.—The term "Cooperative Extension Service" means the Cooperative State Research, Education, and Extension Service of the Department of Agriculture.

(2) LOCAL DEVELOPMENT DISTRICT.—The term "local development district" means an entity located in the Region that is an economic development district that is—

(A) organized and operated in a manner that ensures broad-based community participation and an effective opportunity for local officials, community leaders, and the public to contribute to the development and implementation of programs in the Region;

(B) governed by a policy board with at least a simple majority of members consisting of—

(i) elected officials; and

(ii) designees or employees of a general purpose unit of local government that have been appointed to represent the unit of local government; and

(C) certified by the Governor or appropriate State officer as having a charter or authority that includes the economic development of counties, portions of counties, or other political subdivisions within the Region.

(3) MANUFACTURING EXTENSION PARTNERSHIP.—The term "manufacturing extension partnership" means a partnership of that name administered by the National Institute of Standards and Technology of the Department of Commerce.

(4) PARTNERSHIP.—The term "Partnership" means the Inland Northwest Regional Partnership established by section 101(a).

(5) REGION.—The term "Region" means the area of the inland northwestern United States consisting of—

(A) all counties in the State of Idaho (including any political subdivision and tribal nations located within such a county);

(B) all counties in the State of Montana (including any political subdivision and tribal nations located within such a county);

(C) in the State of Washington, the counties of Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Skamania, Spokane, Stevens, Walla Walla, Whitman, and Yakima; and

(D) in the State of Oregon, the counties of Baker, Crook, Deschutes, Gilliam, Grant, Harney, Hood River, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, and Wheeler.

(6) Resource conservation and development area.—The term "resource conservation and development area" means a designated area (as defined in section 1528(4) of the Agriculture and Food Act of 1981 (16 U.S.C. 3451(4)).

(7) Small business development center.—The term "small business development center" means any of the approximately 1,000 small business development centers that is—

(A) established by the Small Business Administration for the purpose of providing management and technical assistance to small businesses; and

(B) administered by the Office of Small Business Development Centers.

(8) State.—The term "State" means the State of Idaho, Montana, Oregon, or Washington.

(9) State rural development council.—The term "State rural development council" has the meaning given the term in section 378(a)(4) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008m(a)(4)).

TITLE I—INLAND NORTHWEST REGIONAL PARTNERSHIP

SEC. 101. ESTABLISHMENT, MEMBERSHIP, AND EMPLOYEES.

(a) Establishment.—There is established an Inland Northwest Regional Partnership.

(b) Membership.—The Partnership shall be comprised of 40 members, including, for each State—

(1) 3 representatives designated by the Governor of the State;

(2) the Director for Rural Development of the Department of Agriculture for the State;

(3) the representative of the Economic Development Administration of the Department of Commerce for the State;

(4) the leader of at least 1 Indian tribe located in the State, nominated by an Indian tribe in the State and appointed by the Affiliated Tribes of Northwest Indians;

(5) the mayor of at least 1 city in each State, selected by the respective State municipal associations;

(6) a county commissioner from each State, selected by the respective county associations;

(7) an industry leader from the State, nominated by industry associations and appointed by the Governor of the State; and

(8) a small business leader from the State, nominated by a chamber of commerce in the State and appointed by the Governor of the State.

(c) Cochairpersons and Executive Committee.—

(1) Cochairpersons.—The Partnership shall select from among the members of the Partnership the following 5 Cochairpersons:

(A) A State Cochairperson selected from among the 12 members of the Partnership that represent State government.

(B) A Federal Cochairperson selected from among the members of the Partnership that are—

(i) State directors of rural development of the Department of Agriculture; or

(ii) economic development representatives for each State under the Economic Development Administration of the Department of Commerce.

(C) A tribal Cochairperson selected from among the members of the Partnership that are leaders of Indian tribes.

(D) A local Cochairperson selected from among the members of the Partnership that are—

(i) the mayors of a city in a State; and

(ii) county commissioners from a State.

(E) A private Cochairperson selected from among the members of the Partnership that are—

(i) industry leaders from a State; or

(ii) small business leaders from a State.

(2) Executive committee.—

(A) In general.—The 5 Cochairpersons of the Partnership shall form the Executive Committee of the Partnership.

(B) Chairperson.—The Executive Committee of the Partnership shall select a Chairperson from the members of the Executive Committee.

(C) Powers and duties.—The powers and duties of the Executive Committee shall be established by policies developed and adopted by the Partnership.

(d) Delegation.—A power or responsibility of the Partnership specified in section 102(c), and a vote of any member of the Partnership, may not be delegated to an individual who is—

(1) not a member of the Partnership; or

(2) not entitled to vote in Partnership meetings.

(e) Status of Personnel.—

(1) In general.—No employee of the Partnership shall be considered to be a Federal employee for any purpose.

(2) Detailed personnel.—A Federal employee detailed under subsection (a)(3) or (b)(1) of section 106 shall not be considered to be an employee of the Partnership.

SEC. 102. DECISIONS.

(a) Requirements for Approval.—A decision by the Partnership shall require the affirmative vote of a majority of the members present.

(b) Consultation.—The Federal Cochairperson, to the maximum extent practicable, shall consult with the Federal departments and agencies having an interest in the subject matter of matters before the Partnership.

(c) Decisions Requiring Quorum of Members.—A quorum of 21 members is required for the Partnership to decide matters involving—

(1) policy of the Partnership;

(2) approval of development plans or strategy statements;

(3) modification or revision of the Partnership Code;

(4) allocation of amounts among the States;

(5) designation of—

(A) a distressed county; or

(B) an economically strong county; or

(6) approval of project and grant proposals.

SEC. 103. FUNCTIONS.

(a) In General.—In carrying out this title, the Partnership shall—

(1) coordinate, implement, and monitor—

(A) the strategic regional initiative described in sections 301 through 305; and

(B) projects developed by the Partnership;

(2) receive and disburse funds from Federal, State, tribal, and private sources designated for Inland Northwest economic adjustment strategy projects and programs;

(3) conduct and sponsor investigations, research, and studies (including an inventory and analysis of the resources of the Region) and, in cooperation with Federal, State, tribal, and local agencies, sponsor demonstration projects to foster regional productivity and growth;

(4) review and study, in cooperation with the agency involved, Federal, State, tribal, and local public and private programs and, as appropriate, recommend modifications which will increase the effectiveness of those programs in the Region;

(5) encourage private investment in industrial, commercial, and recreational projects;

(6) serve as a focal point and coordinating unit for programs in the Region;

(7) seek to coordinate the economic development activities of, and the use of economic development resources by, Federal agencies in the Region; and

(8) carry out such other projects and activities as are appropriate to promote regional, interstate, and local economic development.

(b) Identification of Needs and Goals of Subregional Areas.—In carrying out the functions in subsection (a), the Partnership shall identify the characteristics of, and may distinguish between the needs and goals of, appropriate subregional areas.

SEC. 104. ADMINISTRATIVE POWERS AND EXPENSES.

(a) Powers.—To carry out its duties under this title, the Partnership may—

(1) establish bylaws for the Partnership;

(2) appoint and compensate necessary personnel for the Partnership;

(3) enter into contracts to carry out the responsibilities of the Partnership;

(4) subject to section 101(e), request the head of any Federal department or agency to detail to temporary duty with the Partnership any personnel within the administrative jurisdiction of the head of the department or agency that the Partnership may need for carrying out its functions, provided that each detail is without loss of seniority, pay, or other employee status;

(5) arrange for the services of personnel from any State or local government, subdivision or agency of a State or local government, or intergovernmental agency;

(6) accept, use, and dispose of gifts or donations of services or any property; and

(7) take such other actions and incur such other expenses as may be appropriate.

(b) Authorizations.—

(1) Detail of employees.—Subject to section 101(e), the head of a Federal department or agency may detail personnel under subsection (a)(2).

(2) Enter into and perform transactions.—A department, agency, or instrumentality of the Government may enter into and perform a contract, lease, cooperative agreement, or other transaction under subsection (a).

(c) Expenses.—

(1) In general.—Subject to paragraph (3), administrative expenses of the Partnership shall be shared equally by the Federal Government, participating Indian tribes, and the States in the Region.

(2) Amount paid by each state.—The Partnership shall determine the amount to be paid by each State.

(3) Delinquent states.—During the period that a State or Indian tribe is delinquent in payment of the share of that State or Indian tribe of administrative expenses—

(A) assistance authorized by this title shall not be furnished to the delinquent State or Indian tribe, including any political subdivision or any resident of that State; and

(B) a State or tribal member of the Partnership shall not participate or vote in any decision by the Partnership.

SEC. 105. MEETINGS.

The Partnership shall conduct at least 1 meeting each year with at least a majority of the members present.

SEC. 106. PUBLIC PARTICIPATION.

(a) IN GENERAL.—The Partnership shall provide for and encourage public participation in the development, revision, and implementation of all plans and programs under this title by the Partnership, any State, or any local development district.

(b) GUIDELINES.—The Partnership shall develop and publish minimum guidelines for public participation, including public hearings.

SEC. 107. ANNUAL REPORT.

Not later than 180 days after the end of each fiscal year, the Partnership shall submit to the Governor of each State and to the President, for transmittal to Congress, a report describing the activities carried out under this title during the fiscal year.

TITLE II—FINANCIAL ASSISTANCE

SEC. 201. GRANTS AND OTHER ASSISTANCE.

(a) AUTHORIZATION TO MAKE GRANTS.—

(1) IN GENERAL.—The Partnership may make grants to qualified organizations within the Region for the purposes of implementing an Inland Northwest economic adjustment strategy.

(2) LIMITATION ON AVAILABLE AMOUNTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), not more than 50 percent (or, in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 405, 80 percent) of the cost of any activity eligible for financial assistance under this section may be provided from amounts appropriated to carry out this title.

(B) DISCRETIONARY GRANTS.—

(i) IN GENERAL.—Discretionary grants made by the Partnership to implement significant regional initiatives, to take advantage of special development opportunities, or to respond to emergency economic distress in the Region may be made without regard to the percentage limitations specified in subparagraph (A).

(ii) LIMITATION ON AGGREGATE AMOUNT.—For each fiscal year, the aggregate amount of discretionary grants under clause (i) shall not be more than 50 percent of the amount appropriated under section 503 for the fiscal year.

(3) SOURCES OF GRANTS.—Grant amounts may be provided entirely from appropriations to carry out this section, in combination with amounts available under other Federal or Federal grant programs, or from any other source.

(4) FEDERAL SHARE.—Notwithstanding any provision of law limiting the Federal share in any other Federal program, amounts made available to carry out this section may be used to increase that Federal share, as the Partnership determines to be appropriate.

(b) RECORDS.—

(1) PARTNERSHIP.—

(A) IN GENERAL.—The Partnership shall—

(i) maintain accurate and complete records of transactions and activities financed with Federal amounts; and

(ii) include a summary of those transactions and activities in the annual report under section 107.

(B) AUDIT.—The records described in subparagraph (A)(i) shall be available for audit by the President and the Comptroller General.

(2) RECIPIENTS OF FEDERAL ASSISTANCE.—

(A) IN GENERAL.—A recipient of Federal assistance under this section, as required by the Partnership, shall—

(i) maintain accurate and complete records of transactions and activities financed with Federal amounts; and

(ii) report to the Partnership on the transactions and activities.

(B) AUDIT.—The records described in subparagraph (A)(i) shall be available for audit by the President, the Comptroller General, and the Partnership.

SEC. 202. APPROVAL OF PROJECTS.

(a) IN GENERAL.—An application for a grant or for other assistance for a specific project under this title shall be made through a member of the Partnership representing the applicant.

(b) EVALUATION.—

(1) IN GENERAL.—The member shall evaluate the application for approval in accordance with paragraph (2).

(2) REQUIREMENTS FOR APPROVAL.—For an application to be approved, the member shall certify, and the executive committee shall determine, that the application—

(A) implements the Partnership-approved regional development strategy;

(B) adequately ensures that the project will be properly administered, operated, and maintained and that project results will be measured; and

(C) otherwise meets the requirements for assistance under this title.

TITLE III—INLAND NORTHWEST REGIONAL PARTNERSHIP REGIONAL INITIATIVES

SEC. 301. INLAND NORTHWEST BUSINESS CLUSTER INITIATIVE.

The Partnership may provide technical assistance, provide grants, enter into contracts, or otherwise provide amounts to persons or entities in the Region for business cluster development efforts that—

(1) increase the competitiveness and sustainability of clusters of related businesses; and

(2) bring together groups of related business leaders, industry experts, and related stakeholders and technical assistance providers to develop and implement cluster developments and projects.

SEC. 302. ENTREPRENEURIAL DEVELOPMENT INITIATIVE.

The Partnership may provide technical assistance, provide grants, enter into contracts, or otherwise provide amounts to individuals or entities in the Region for entrepreneurial development efforts that—

(1) organize, educate, and direct local communities in the Region to identify obstacles to the competitiveness and growth of existing businesses;

(2) assist communities in addressing those obstacles in business retention and expansion programs with specific implementation actions;

(3) promote and encourage the growth of entrepreneurial activity in the Region;

(4) bring together entrepreneurship practitioners, academic experts, business leaders, and technical assistance providers to identify, develop and implement a prioritized action plan to encourage entrepreneurship across the Region;

(5) form a working network of business incubator managers and stakeholders, academic experts, business leaders, and technical assistance providers;

(6) increase affordable access to advanced telecommunications, entrepreneurship, and information technologies or applications in the Region;

(7) provide education and training in the use of telecommunications and technology; or

(8) develop programs to increase the readiness of industry groups and businesses in the Region to engage in electronic commerce.

SEC. 303. TECHNOLOGY COMMERCIALIZATION INITIATIVE.

The Partnership may provide technical assistance, provide grants, enter into contracts, or otherwise provide amounts to individuals and entities in the Region for technology commercialization efforts that—

(1) increase the transfer of technology from universities, national laboratories, and other technology centers to businesses, and foster technology business development, in the Region;

(2) create a network of universities, national laboratories, business leaders, industry experts, and States; and

(3) implement strategies and projects that promote the growth and development of technology-related business through technology transfer and related activities.

SEC. 304. COMMUNITY READINESS INITIATIVE.

The Partnership may provide technical assistance, provide grants, enter into contracts, or otherwise provide amounts to persons or entities in the Region for capacity-building efforts that—

(1) increase the competitiveness and sustainability of local communities;

(2) bring together rural capacity-building practitioners, academic experts, related stakeholders, and technical assistance providers; and

(3) implement a system of providing assistance for basic community strategic planning, delivering more specialized community assessments, and delivering training to communities across the Region, using existing service providers to the maximum extent practicable.

SEC. 305. REGIONAL WORKFORCE DEVELOPMENT.

(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term "eligible entity" means a consortium that—

(1) is established to serve 1 or more industries in a specified geographic area; and

(2) consists of representatives of—

(A) businesses (or a nonprofit organization that represents businesses);

(B) labor organizations;

(C) State and local governments; or

(D) educational institutions.

(b) PROJECTS TO BE ASSISTED.—The Partnership may provide technical assistance, provide grants, enter into contracts, or otherwise provide amounts to eligible entities in the Region for projects to improve the job skills of workers for a specified industry.

TITLE IV—ADMINISTRATION

SEC. 401. CONSENT OF STATES.

Nothing in this title requires a State to engage in or accept a program under this title without the consent of the State.

SEC. 402. PROGRAM IMPLEMENTATION.

(a) REQUIREMENTS.—A program, project, or activity authorized under this chapter shall not be implemented until—

(1) the responsible Federal official determines that—

(A) applications and plans relating to the program, project, or activity are not incompatible with this title; and

(B) objectives of Federal laws that the official administers are not inconsistent with this title; and

(2) the Partnership has approved the program, project, or activity and has determined that the program, project, or activity—

(A) meets the applicable criteria under section 403 and the requirements of the development planning process under section 404; and

(B) will contribute to the development of the Region.

(b) DECISION IS CONTROLLING.—A decision under subsection (a)(2) shall apply to, and be accepted by, Federal agencies.

SEC. 403. PROGRAM DEVELOPMENT CRITERIA.

(a) FACTORS TO BE CONSIDERED.—In considering programs, projects, and activities to be provided assistance under this title, and in establishing a priority ranking of the requests for assistance presented to the Partnership, the Partnership shall follow procedures that will ensure consideration of—

(1) the relationship of the program, project, or activity or class of programs, projects, or activities to overall regional development, including the location of the program, project, or activity in a severely and persistently distressed county or area;

(2) the population and area to be served by the program, project, or activity or class of programs, projects, or activities, including the per capita market income and the unemployment rates in the area;

(3) the relative financial resources available to the State or political subdivisions or instrumentalities of the State that seek to undertake the program, project, or activity;

(4) the importance of the program, project, or activity or class of programs, projects, or activities in relation to other programs, projects, or activities or classes of programs, projects, or activities that may be in competition for the same amounts;

(5) the prospects that the program, project, or activity for which assistance is sought will improve, on a continuing rather than a temporary basis, the opportunities for employment, the average level of income, or the economic and social development of the area served by the program, project, or activity; and

(6) the extent to which the program, project, or activity design provides for detailed outcome measurements by which grant expenditures may be evaluated.

(b) LIMITATION ON USE.—Financial assistance made available under this title shall not be used to assist establishments relocating from 1 area to another.

(c) DETERMINATION REQUIRED BEFORE AMOUNTS MAY BE PROVIDED.—Amounts may be provided for programs, projects, or activities in a State under this title only if the Partnership determines that the level of Federal and State financial assistance under other laws for the same type of programs, projects, or activities in that part of the State within the Region will not be diminished in order to substitute amounts authorized by this title.

(d) MINIMUM AMOUNT OF ASSISTANCE TO DISTRESSED COUNTIES AND AREAS.—For each fiscal year, not less than 50 percent of the amount of grant expenditures approved by the Partnership shall support activities or projects that benefit severely and persistently distressed counties and areas.

SEC. 404. REGIONAL DEVELOPMENT PLANNING PROCESS.

(a) REGIONAL PLANNING AND COORDINATION.—

(1) IN GENERAL.—In accordance with such guidelines as shall be established by the Partnership, each State and tribal member shall be encouraged to submit to the Partnership a development plan for the 1 or more areas of the State, or area under the jurisdiction of the tribal member, within the Region.

(2) REQUIREMENTS.—The plan shall—

(A) reflect the goals, objectives, and priorities identified in the regional development plan and in any subregional development plan that may be approved for the subregion of which the State is a part;

(B) describe the goals, objectives, and priorities of the State for the Region, as established by the Governor, and identify the needs on which the goals, objectives, and priorities are based; and

(C) describe the development strategies for achieving the goals, objectives, and priorities (including availability of funding sources and recommendations for specific projects to receive assistance under this title).

(b) REGION-WIDE ACTION PROGRAMS.—

(1) IN GENERAL.—The Partnership shall encourage the preparation and execution of area-wide action programs.

(2) EXISTING PLANS.—The action programs shall make appropriate use of existing plans affecting the area.

(c) FEDERAL RESPONSIBILITIES.—To the maximum extent practicable, Federal departments, agencies, and instrumentalities undertaking or providing financial assistance for programs, projects, or activities in the Region shall—

(1) take into account the policies, goals, and objectives the Partnership and member States of the Partnership established under this Act; and

(2) recognize development strategies for the Region that are approved by the Partnership as satisfying requirements for overall economic development planning under the programs, projects, or activities.

SEC. 405. DISTRESSED AND ECONOMICALLY STRONG COUNTIES.

(a) DESIGNATIONS.—

(1) IN GENERAL.—The Partnership, in accordance with such criteria as the Partnership may establish, shall annually—

(A) designate as "distressed counties" those counties in the Region that are the most severely and persistently distressed; and

(B) designate 2 categories of economically strong counties, consisting of—

(i) "competitive counties", which shall be those counties in the Region that are approaching economic parity with the rest of the United States; and

(ii) "attainment counties", which shall be those counties in the Region that have attained or exceeded economic parity with the rest of the United States.

(2) ANNUAL REVIEW OF DESIGNATIONS.—The Partnership shall—

(A) conduct an annual review of each designation of a county under paragraph (1) to determine if the county still meets the criteria for the designation; and

(B) renew the designation for another 1-year period only if the county still meets the criteria.

(b) DISTRESSED COUNTIES.—In developing and implementing programs, projects, and activities under this title, and in allocating amounts made available to carry out this title, the Partnership shall give special consideration to the needs of counties for which a distressed county designation is in effect under this section.

(c) ECONOMICALLY STRONG COUNTIES.—

(1) COMPETITIVE COUNTIES.—Except as provided in paragraphs (3) and (4), assistance under this title for a program, project, or activity that is carried out in a county for which a competitive county designation is in effect under this section shall not be more than 30 percent of the cost of the program, project, or activity.

(2) ATTAINMENT COUNTIES.—Except as provided in paragraphs (3) and (4), amounts may not be provided under this title for a program, project, or activity that is carried out in a county for which an attainment county designation is in effect under this section.

(3) EXCEPTIONS.—Paragraphs (1) and (2) do not apply to a multicounty project that is carried out in at least 2 counties designated under this section, if—

(A) at least 1 of the participating counties is designated as a distressed county under this section; and

(B) the project will be of substantial direct benefit to at least 1 distressed county.

(4) WAIVER.—The Partnership may waive the requirements of paragraphs (1) and (2) for a program, project, or activity if the recipient of assistance for the program, project, or activity demonstrates the existence of any of the following:

(A) A significant area of distress in the part of the county in which the program, project, or activity is carried out.

(B) A significant potential benefit from the program, project, or activity in at least 1 area of the Region outside the designated county.

TITLE V—MISCELLANEOUS

SEC. 501. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this Act.

(b) AVAILABILITY.—Amounts made available under subsection (a) shall remain available until expended.

SEC. 502. CESSATION OF EFFECTIVENESS.

This Act (except subsections (a)(1) and (b) of section 102) ceases to be effective October 1, 2012.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 308—DESIGNATING MARCH 25, 2004, AS "GREEK INDEPENDENCE DAY: A NATIONAL DAY OF CELEBRATION OF GREEK AND AMERICAN DEMOCRACY"

Mr. SPECTER (for himself, Mr. ALLEN, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BREAUX, Mr. CARPER, Mr. CHAFEE, Mrs. CLINTON, Mr. COCHRAN, Mr. CORZINE, Mr. DASCHLE, Mr. DAYTON, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mrs. FEINSTEIN, Mr. FITZGERALD, Mr. GRAHAM of South Carolina, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mr. HOLLINGS, Mr. INHOFE, Mr. JOHNSON, Mr. KENNEDY, Mr. KOHL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Mr. LOTT, Mr. LUGAR, Ms. MIKULSKI, Mr. MILLER, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NICKLES, Mr. REED, Mr. REID, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Mr. SMITH, Ms. SNOWE, Ms. STABENOW, Mr. STEVENS, Mr. VOINOVICH, Mr. WARNER, Mr. WYDEN, and Mr. FEINGOLD) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 308

Whereas the ancient Greeks developed the concept of democracy, in which the supreme power to govern was vested in the people;

Whereas the Founding Fathers of the United States drew heavily on the political experience and philosophy of ancient Greece in forming our representative democracy;

Whereas Greek Commander in Chief Petros Mavromichalis, a founder of the modern Greek state, said to the citizens of the United States in 1821, "it is in your land that liberty has fixed her abode and . . . in imitating you, we shall imitate our ancestors and be thought worthy of them if we succeed in resembling you";

Whereas Greece is one of only three nations in the world, beyond the former British Empire, that has been allied with the United States in every major international conflict for more than 100 years;

Whereas Greece played a major role in the World War II struggle to protect freedom and democracy through such bravery as was shown in the historic Battle of Crete that presented the Axis land war with its first major setback, setting off a chain of events that significantly affected the outcome of World War II;

Whereas the price for Greece in holding our common values in their region was high, as hundreds of thousands of civilians were killed in Greece during the World War II period;

Whereas President George W. Bush, in recognizing Greek Independence Day, said, "Greece and America have been firm allies in the great struggles for liberty. Americans will always remember Greek heroism and Greek sacrifice for the sake of freedom... [and] as the 21st Century dawns, Greece and America once again stand united; this time in the fight against terrorism. The United States deeply appreciates the role Greece is playing in the war against terror.... America and Greece are strong allies, and we're strategic partners.";

Whereas Greece is a stabilizing force by virtue of its political and economic power in the volatile Balkan region and is one of the fastest growing economies in Europe;

Whereas Greece, through excellent work and cooperation with United States and international law enforcement agencies, arrested and convicted key members of the November 17 terrorist organization;

Whereas President Bush stated that Greece's successful "law enforcement operations against a terrorist organization [November 17] responsible for three decades of terrorist attacks underscore the important contributions Greece is making to the global war on terrorism";

Whereas the Olympic Games will be coming home in August 2004 to Athens, Greece, the land of their ancient birthplace 2,500 years ago and the city of their modern revival in 1896;

Whereas the unprecedented Olympic security effort in Greece, including a record-setting expenditure of over $850,000,000 and assignment of over 50,000 security personnel, as well as the utilization of a 7-country Olympic Security Advisory Group which includes the United States, will contribute to a safe and secure environment for staging the 2004 Olympic Games in Athens, Greece;

Whereas Greece, geographically located in a region where Christianity meets Islam and Judaism, maintains excellent relations with Muslim nations and Israel;

Whereas Greece has had extraordinary success in recent years in furthering cross-cultural understanding and reducing tensions between Greece and Turkey;

Whereas Greece and the United States are at the forefront of the effort for freedom, democracy, peace, stability, and human rights;

Whereas those and other ideals have forged a close bond between our two nations and their peoples;

Whereas March 25, 2004, marks the 183d anniversary of the beginning of the revolution that freed the Greek people from the Ottoman Empire; and

Whereas it is proper and desirable to celebrate with the Greek people and to reaffirm the democratic principles from which our two great nations were born: Now, therefore, be it

Resolved, That the Senate—

(1) designates March 25, 2004, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy"; and

(2) requests that the President issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

SENATE RESOLUTION 309—DESIGNATING THE WEEK BEGINNING MARCH 14, 2004 AS "NATIONAL SAFE PLACE WEEK"

Mr. CRAIG (for himself, Mrs. FEINSTEIN, Mr. CAMPBELL, Mrs. BOXER, Mr. FITZGERALD, Ms. LANDRIEU, Mr. INHOFE, Mr. FEINGOLD, Mr. COCHRAN, Mr. JOHNSON, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. DURBIN, and Mr. KOHL) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 309

Whereas today's youth are vital to the preservation of our country and will be the future bearers of the bright torch of democracy;

Whereas youth need a safe haven from various negative influences such as child abuse, substance abuse and crime, and they need to have resources readily available to assist them when faced with circumstances that compromise their safety;

Whereas the United States needs increased numbers of community volunteers acting as positive influences on the Nation's youth;

Whereas the Safe Place program is committed to protecting our Nation's most valuable assert, our youth, by offering short term "safe places" at neighborhood locations where trained volunteers are available to counsel and advise youth seeking assistance and guidance;

Whereas the Safe Place program combines the efforts of the private sector and nonprofit organizations uniting to reach youth in the early stages of crisis;

Whereas the Safe Place program provides a direct way to assist programs in meeting performance standards relative to outreach and community relations, as set forth in the Federal Runaway and Homeless Youth Act guidelines;

Whereas the Safe Place placard displayed at businesses within communities stands as a beacon of safety and refuge to at-risk youth;

Whereas more than 700 communities in 42 states and more than 14,000 locations have established Safe Place programs;

Whereas more than 68,000 young people have gone to Safe Place locations to get help when faced with crisis situations;

Whereas through the efforts of Safe Place coordinators across the country each year more than one-half million students learn that Safe Place is a resource if abusive or neglectful situations exist;

Whereas increased awareness of the program's existence will encourage communities to establish Safe Places for the Nation's youth throughout the country: Now, therefore, be it

Resolved, That the Senate—

(1) proclaims the week of March 14 through March 20, 2004 as "National Safe Place Week" and

(2) requests that the President issue a proclamation calling upon the people of the United States and interested groups to promote awareness of and volunteer involvement in the Safe Place programs, and to observe the week with appropriate ceremonies and activities.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2638. Mr. SANTORUM (for himself, Mr. BAYH, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table.

SA 2639. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2640. Mr. INOUYE submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2641. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2642. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2643. Mrs. LINCOLN (for herself and Mr. COLEMAN) submitted an amendment intended to be proposed by her to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2644. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2645. Mr. GRASSLEY (for himself and Mr. BAUCUS) proposed an amendment to the bill S. 1637, supra.

SA 2646. Mr. GRASSLEY (for himself and Mr. BAUCUS) proposed an amendment to amendment SA 2645 proposed by Mr. GRASSLEY (for himself and Mr. BAUCUS) to the bill S. 1637, supra.

SA 2647. Mr. HATCH (for himself, Mrs. MURRAY, Mr. BAUCUS, Ms. CANTWELL, Mr. SMITH, Mr. BUNNING, and Mr. GRASSLEY) proposed an amendment to the bill S. 1637, supra.

SA 2648. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2649. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2650. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2651. Mr. BINGAMAN (for himself and Mr. DOMENICI) proposed an amendment to amendment SA 2647 proposed by Mr. HATCH (for himself, Mrs. MURRAY, Mr. BAUCUS, Ms. CANTWELL, Mr. SMITH, Mr. BUNNING, and Mr. GRASSLEY) to the bill S. 1637, supra.

SA 2652. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2653. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2654. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2655. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2656. Mr. BUNNING (for himself and Mr. Bond) submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2657. Mr. BUNNING (for himself, Mr. Graham, of Florida, and Mr. Nelson, of Florida) submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2658. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2659. Mr. BUNNING (for himself and Mr. Schumer) submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2660. Mr. DODD (for himself, Mr. Coleman, Mr. Kennedy, Mr. Corzine, Ms. Mikulski, and Mr. Feingold) proposed an amendment to the bill S. 1637, supra.

SA 2661. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2662. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2663. Ms. CANTWELL (for herself, Mr. Thomas, Mr. Durbin, and Mr. Leahy) submitted an amendment intended to be proposed by her to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2664. Ms. LANDRIEU (for herself and Ms. Cantwell) submitted an amendment intended to be proposed by her to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2665. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2666. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2667. Mr. SMITH (for himself, Mr. Lautenberg, and Ms. Murkowski) submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2668. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2669. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2670. Mr. SANTORUM (for himself and Mr. Lieberman) submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2671. Mr. SMITH (for himself and Mr. Breaux) submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2672. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2673. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2674. Mr. BINGAMAN (for himself and Mr. Allen) submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2675. Mr. DURBIN (for himself, Mr. Graham, of South Carolina, Mr. Reid, and Mrs. Murray) submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2638. Mr. SANTORUM (for himself, Mr. Bayh, and Mr. Bingaman) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, after line 25, insert the following:

SEC. ___. MODIFICATIONS TO WORK OPPORTUNITY CREDIT AND WELFARE-TO-WORK CREDIT.

(a) Extension of Credit.—

(1) Subparagraph (B) of section 51(c)(4) is amended by striking "December 31, 2003" and inserting "December 31, 2005".

(2) Subsection (f) of section 51A is amended by striking by striking "December 31, 2003" and inserting "December 31, 2005".

(b) Eligibility of Ex-Felons Determined Without Regard to Family Income.—Paragraph (4) of section 51(d) is amended by adding "and" at the end of subparagraph (A), by striking ", and" at the end of subparagraph (B) and inserting a period, and by striking all that follows subparagraph (B).

(c) Increase in Maximum Age for Eligibility of Food Stamp Recipients.—Clause (i) of section 51(d)(8)(A) is amended by striking "25" and inserting "40".

(d) Increase in Maximum Age for Designated Community residents.—

(1) In general.—Paragraph (5) of section 51(d) is amended to read as follows:

"(5) Designated community residents.—

"(A) In general.—The term 'designated community resident' means any individual who is certified by the designated local agency—

"(i) as having attained age 18 but not age 40 on the hiring date, and

"(ii) as having his principal place of abode within an empowerment zone, enterprise community, or renewal community.

"(B) Individual must continue to reside in zone or community.—In the case of a designated community resident, the term 'qualified wages' shall not include wages paid or incurred for services performed while the individual's principal place of abode is outside an empowerment zone, enterprise community, or renewal community."

(2) Conforming amendment.—Subparagraph (D) of section 51(d)(1) is amended to read as follows:

"(D) a designated community resident,".

(e) Clarification of Treatment of Individuals Under Individual Work Plans.—Subparagraph (B) of section 51(d)(6) (relating to vocational rehabilitation referral) is amended by striking "or" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", or", and by adding at the end the following new clause:

"(iii) an individual work plan developed and implemented by an employment network pursuant to subsection (g) of section 1148 of the Social Security Act with respect to which the requirements of such subsection are met."

(f) Effective Dates.—

(1) Extension of credits.—The amendments made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2003.

(2) Modifications.—The amendments made by subsections (b), (c), (d), and (e) shall apply to individuals who begin work for the employer after December 31, 2004.

SEC. 503. CONSOLIDATION OF WORK OPPORTUNITY CREDIT WITH WELFARE-TO-WORK CREDIT.

(a) In General.—Paragraph (1) of section 51(d) is amended by striking "or" at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting ", or", and by adding at the end the following new subparagraph:

"(I) a long-term family assistance recipient."

(b) Long-Term Family Assistance Recipient.—Subsection (d) of section 51 is amended by redesignating paragraphs (10) through (12) as paragraphs (11) through (13), respectively, and by inserting after paragraph (9) the following new paragraph:

"(10) Long-term family assistance recipient.—The term 'long-term family assistance recipient' means any individual who is certified by the designated local agency—

"(A) as being a member of a family receiving assistance under a IV–A program (as defined in paragraph (2)(B)) for at least the 18-month period ending on the hiring date,

"(B)(i) as being a member of a family receiving such assistance for 18 months beginning after August 5, 1997, and

"(ii) as having a hiring date which is not more than 2 years after the end of the earliest such 18-month period, or

"(C)(i) as being a member of a family which ceased to be eligible for such assistance by reason of any limitation imposed by Federal or State law on the maximum period such assistance is payable to a family, and

"(ii) as having a hiring date which is not more than 2 years after the date of such cessation."

(c) Increased Credit for Employment of Long-Term Family Assistance Recipients and Qualified Ex-Felons.—Section 51 is amended by inserting after subsection (d) the following new subsection:

"(e) Credit for Second-Year Wages for Employment of Long-Term Family Assistance Recipients and Qualified Ex-Felons.—

"(1) In general.—With respect to the employment of a long-term family assistance recipient or a qualified ex-felon—

"(A) the amount of the work opportunity credit determined under this section for the taxable year shall include 50 percent of the qualified second-year wages for such year, and

"(B) in lieu of applying subsection (b)(3), the amount of the qualified first-year wages, and the amount of qualified second-year wages, which may be taken into account with respect to such a recipient shall not exceed $10,000 per year.

"(2) Qualified second-year wages.—For purposes of this subsection, the term 'qualified second-year wages' means qualified wages—

"(A) which are paid to a long-term family assistance recipient or a qualified ex-felon, and

"(B) which are attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such recipient determined under subsection (b)(2).

"(3) Special rules for agricultural and railway labor.—If such recipient is an employee to whom subparagraph (A) or (B) of subsection (h)(1) applies, rules similar to the rules of such subparagraphs shall apply except that—

"(A) such subparagraph (A) shall be applied by substituting '$10,000' for '$6,000', and

"(B) such subparagraph (B) shall be applied by substituting '$833.33' for '$500'."

(d) Repeal of Separate Welfare-to-Work Credit.—

(1) In general.—Section 51A is hereby repealed.

(2) Clerical amendment.—The table of sections for subpart F of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 51A.

(e) Effective Date.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 2004.

2639. Mr. ALLEN submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

TITLE III—HOMESTEAD PRESERVATION ACT

SEC. 301. SHORT TITLE.

This title may be cited as the "Homestead Preservation Act".

SEC. 302. MORTGAGE PAYMENT ASSISTANCE.

(a) Establishment of Program.—The Secretary of Labor (referred to in this section as the "Secretary") shall establish a program under which the Secretary shall award low-interest loans to eligible individuals to enable such individuals to continue to make mortgage payments with respect to the primary residences of such individuals.

(b) Eligibility.—To be eligible to receive a loan under the program established under subsection (a), an individual shall—

(1) be—

(A) an adversely affected worker with respect to whom a certification of eligibility has been issued by the Secretary of Labor under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.); or

(B) an individual who would be an individual described in subparagraph (A) but who resides in a State that has not entered into an agreement under section 239 of such Act (19 U.S.C. 2311);

(2) be a borrower under a loan which requires the individual to make monthly mortgage payments with respect to the primary place of residence of the individual; and

(3) be enrolled in a job training or job assistance program.

(c) Loan Requirements.—

(1) In general.—A loan provided to an eligible individual under this section shall—

(A) be for a period of not to exceed 12 months;

(B) be for an amount that does not exceed the sum of—

(i) the amount of the monthly mortgage payment owed by the individual; and

(ii) the number of months for which the loan is provided;

(C) have an applicable rate of interest that equals 4 percent;

(D) require repayment as provided for in subsection (d); and

(E) be subject to such other terms and conditions as the Secretary determines appropriate.

(2) Account.—A loan awarded to an individual under this section shall be deposited into an account from which a monthly mortgage payment will be made in accordance with the terms and conditions of such loan.

(d) Repayment.—

(1) In general.—An individual to which a loan has been awarded under this section shall be required to begin making repayments on the loan on the earlier of—

(A) the date on which the individual has been employed on a full-time basis for 6 consecutive months; or

(B) the date that is 1 year after the date on which the loan has been approved under this section.

(2) Repayment period and amount.—

(A) Repayment period.—A loan awarded under this section shall be repaid on a monthly basis over the 5-year period beginning on the date determined under paragraph (1).

(B) Amount.—The amount of the monthly payment described in subparagraph (A) shall be determined by dividing the total amount provided under the loan (plus interest) by 60.

(C) Rule of construction.—Nothing in this paragraph shall be construed to prohibit an individual from—

(i) paying off a loan awarded under this section in less than 5 years; or

(ii) from paying a monthly amount under such loan in excess of the monthly amount determined under subparagraph (B) with respect to the loan.

(e) Regulations.—Not later than 6 weeks after the date of enactment of this section, the Secretary shall promulgate regulations necessary to carry out this section, including regulations that permit an individual to certify that the individual is an eligible individual under subsection (b).

(f) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section, $10,000,000 for each of fiscal years 2004 through 2008.

SA 2640. Mr. INOUYE submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, after line 25, insert the following:

SEC. 312. EXTENSION OF POSSESSION TAX CREDIT WITH RESPECT TO AMERICAN SAMOA.

Subparagraph (A) of section 936(j)(8) of the Internal Revenue Code of 1986 (relating to special rules for certain possessions) is amended by inserting before the period at the end the following: "(January 1, 2016, in the case of American Samoa)".

SA 2641. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, after line 25, add the following:

SEC. ___. REPEAL OF ESTATE TAX ON FAMILY-OWNED BUSINESSES AND FARMS.

(a) Repeal of Qualified Family-Owned Business Interest.—Part IV of subchapter A of chapter 11 (relating to taxable estate) is amended by striking section 2057.

(b) Carryover Business Interest Exclusion.—Part IV of subchapter A of chapter 11 (relating to taxable estate) is amended by inserting after section 2058 the following new section:

"SEC. 2059. CARRYOVER BUSINESS INTERESTS.

"(a) General Rules.—

"(1) Allowance of deduction.—For purposes of the tax imposed by section 2001, in the case of an estate of a decedent to which this section applies, the value of the taxable estate shall be determined by deducting from the value of the gross estate the adjusted value of the carryover business interests of the decedent which are described in subsection (b)(2).

"(2) Application of carryover basis rules.—With respect to the adjusted value of the carryover business interests of the decedent which are described in subsection (b)(2), the rules of section 1023 shall apply.

"(b) Estates to Which Section Applies.—

"(1) In general.—This section shall apply to an estate if—

"(A) the decedent was (at the date of the decedent's death) a citizen or resident of the United States,

"(B) the executor elects the application of this section under rules similar to the rules of paragraphs (1) and (3) of section 2032A(d) and files the agreement referred to in subsection (e), and

"(C) during the 8-year period ending on the date of the decedent's death there have been periods aggregating 5 years or more during which—

"(i) the carryover business interests described in paragraph (2) were owned by the decedent or a member of the decedent's family, and

"(ii) there was material participation (within the meaning of section 2032A(e)(6)) by the decedent, a member of the decedent's family, or a qualified heir in the operation of the business to which such interests relate.

"(2) Includible carryover business interests.—The carryover business interests described in this paragraph are the interests which—

"(A) are included in determining the value of the gross estate (other than qualified spousal property with respect to which an aggregate spousal property basis increase is allocated under section 1023(c)),

"(B) are acquired by any qualified heir from, or passed to any qualified heir from, the decedent (within the meaning of section 2032A(e)(9)), and

"(C) are subject to the election under paragraph (1)(B).

"(3) Rules regarding material participation.—For purposes of paragraph (1)(C)(ii)—

"(A) in the case a surviving spouse, material participation by such spouse may be satisfied under rules similar to the rules under section 2032A(b)(5),

"(B) in the case of a carryover business interest in an entity carrying on multiple trades or businesses, material participation in each trade or business is satisfied by material participation in the entity or in 1 or more of the multiple trades or businesses, and

"(C) in the case of a lending and finance business (as defined in section 6166(b)(10)(B)(ii)), material participation is satisfied under the rules under subclause (I) or (II) of section 6166(b)(10)(B)(i).

"(c) ADJUSTED VALUE OF THE CARRYOVER BUSINESS INTERESTS.—For purposes of this section—

"(1) IN GENERAL.—The adjusted value of any carryover business interest is the value of such interest for purposes of this chapter (determined without regard to this section), as adjusted under paragraph (2).

"(2) ADJUSTMENT FOR PREVIOUS TRANSFERS.—The Secretary may increase the value of any carryover business interest by that portion of those assets transferred from such carryover business interest to the decedent's taxable estate within 3 years before the date of the decedent's death.

"(d) CARRYOVER BUSINESS INTEREST.—

"(1) IN GENERAL.—For purposes of this section, the term 'carryover business interest' means—

"(A) an interest as a proprietor in a trade or business carried on as a proprietorship, or

"(B) an interest in an entity carrying on a trade or business, if—

"(i) at least—

"(I) 50 percent of such entity is owned (directly or indirectly) by the decedent and members of the decedent's family,

"(II) 70 percent of such entity is so owned by members of 2 families, or

"(III) 90 percent of such entity is so owned by members of 3 families, and

"(ii) for purposes of subclause (II) or (III) of clause (i), at least 30 percent of such entity is so owned by the decedent and members of the decedent's family.

For purposes of the preceding sentence, a decedent shall be treated as engaged in a trade or business if any member of the decedent's family is engaged in such trade or business.

"(2) LENDING AND FINANCE BUSINESS.—For purposes of this section, any asset used in a lending and finance business (as defined in section 6166(b)(10)(B)(ii)) shall be treated as an asset which is used in carrying on a trade or business.

"(3) LIMITATION.—Such term shall not include—

"(A) any interest in a trade or business the principal place of business of which is not located in the United States,

"(B) any interest in an entity, if the stock or debt of such entity or a controlled group (as defined in section 267(f)(1)) of which such entity was a member was readily tradable on an established securities market or secondary market (as defined by the Secretary) at any time,

"(C) that portion of an interest in an entity transferred by gift to such interest within 3 years before the date of the decedent's death, and

"(D) that portion of an interest in an entity which is attributable to cash or marketable securities, or both, in any amount in excess of the reasonably anticipated business needs of such entity.

In any proceeding before the United States Tax Court involving a notice of deficiency based in whole or in part on the allegation that cash or marketable securities, or both, are accumulated in an amount in excess of the reasonably anticipated business needs of such entity, the burden of proof with respect to such allegation shall be on the Secretary to the extent such cash or marketable securities are less than 35 percent of the value of the interest in such entity.

"(4) RULES REGARDING OWNERSHIP.—

"(A) OWNERSHIP OF ENTITIES.—For purposes of paragraph (1)(B)—

"(i) CORPORATIONS.—Ownership of a corporation shall be determined by the holding of stock possessing the appropriate percentage of the total combined voting power of all classes of stock entitled to vote and the appropriate percentage of the total value of shares of all classes of stock.

"(ii) PARTNERSHIPS.—Ownership of a partnership shall be determined by the owning of the appropriate percentage of the capital interest in such partnership.

"(B) OWNERSHIP OF TIERED ENTITIES.—For purposes of this section, if by reason of holding an interest in a trade or business, a decedent, any member of the decedent's family, any qualified heir, or any member of any qualified heir's family is treated as holding an interest in any other trade or business—

"(i) such ownership interest in the other trade or business shall be disregarded in determining if the ownership interest in the first trade or business is a carryover business interest, and

"(ii) this section shall be applied separately in determining if such interest in any other trade or business is a carryover business interest.

"(C) INDIVIDUAL OWNERSHIP RULES.—For purposes of this section, an interest owned, directly or indirectly, by or for an entity described in paragraph (1)(B) shall be considered as being owned proportionately by or for the entity's shareholders, partners, or beneficiaries. A person shall be treated as a beneficiary of any trust only if such person has a present interest in such trust.

"(e) AGREEMENT.—The agreement referred to in this subsection is a written agreement signed by each person in being who has an interest (whether or not in possession) in any property designated in such agreement consenting to the application of this section with respect to such property.

"(f) OTHER DEFINITIONS AND APPLICABLE RULES.—For purposes of this section—

"(1) QUALIFIED HEIR.—The term 'qualified heir' means a United States citizen who is—

"(A) described in section 2032A(e)(1), or

"(B) an active employee of the trade or business to which the carryover business interest relates if such employee has been employed by such trade or business for a period of at least 10 years before the date of the decedent's death.

"(2) MEMBER OF THE FAMILY.—The term 'member of the family' has the meaning given to such term by section 2032A(e)(2).

"(3) APPLICABLE RULES.—Rules similar to the following rules shall apply:

"(A) Section 2032A(b)(4) (relating to decedents who are retired or disabled).

"(B) Section 2032A(e)(10) (relating to community property).

"(C) Section 2032A(e)(14) (relating to treatment of replacement property acquired in section 1031 or 1033 transactions).

"(D) Section 2032A(g) (relating to application to interests in partnerships, corporations, and trusts).

"(4) SAFE HARBOR FOR ACTIVE ENTITIES HELD BY ENTITY CARRYING ON A TRADE OR BUSINESS.—For purposes of this section, if—

"(A) an entity carrying on a trade or business owns 20 percent or more in value of the voting interests of another entity, or such other entity has 15 or fewer owners, and

"(B) 80 percent or more of the value of the assets of each such entity is attributable to assets used in an active business operation,

then the requirements under subsections (b)(1)(C)(ii) and (d)(3)(D) shall be met with respect to an interest in such an entity.".

(c) MODIFICATION OF TREATMENT OF MARITAL DEDUCTION; LIMITATION ON STEP-UP IN BASIS.—Section 2056 (relating to bequests, etc., to surviving spouses) is amended by adding at the end the following new subsection:

"(e) APPLICATION OF CARRYOVER BASIS RULES.—With respect to the value of the interests of the decedent which are described in subsection (a), the rules of section 1023 shall apply.".

(d) CARRYOVER BASIS RULES FOR CARRYOVER BUSINESS INTERESTS AND SPOUSAL PROPERTY.—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by inserting after section 1022 the following new section:

"SEC. 1023. TREATMENT OF CARRYOVER BUSINESS INTERESTS AND SPOUSAL PROPERTY.

"(a) IN GENERAL.—Except as otherwise provided in this section—

"(1) qualified property acquired from a decedent shall be treated for purposes of this subtitle as transferred by gift, and

"(2) the basis of the person acquiring qualified property from such a decedent shall be the lesser of—

"(A) the adjusted basis of the decedent, or

"(B) the fair market value of the property at the date of the decedent's death.

"(b) QUALIFIED PROPERTY.—For purposes of this section, the term 'qualified property' means—

"(1) the carryover business interests of the decedent with respect to which an election is made under section 2059(b)(1)(B), and

"(2) the qualified spousal property.

"(c) ADDITIONAL BASIS INCREASE FOR PROPERTY ACQUIRED BY SURVIVING SPOUSE.—

"(1) IN GENERAL.—In the case of property to which this subsection applies and which is qualified spousal property, the basis of such property under subsection (a) shall be increased by its spousal property basis increase.

"(2) SPOUSAL PROPERTY BASIS INCREASE.—For purposes of this subsection—

"(A) IN GENERAL.—The spousal property basis increase for property referred to in paragraph (1) is the portion of the aggregate spousal property basis increase which is allocated to the property pursuant to this section.

"(B) AGGREGATE SPOUSAL PROPERTY BASIS INCREASE.—In the case of any estate, the aggregate spousal property basis increase is $3,000,000.

"(3) QUALIFIED SPOUSAL PROPERTY.—For purposes of this section, the term 'qualified spousal property' means any interest in property which passes or has passed from the decedent to the decedent's surviving spouse with respect to which a deduction is allowed under section 2056.

"(4) DEFINITIONS AND SPECIAL RULES.—

"(A) PROPERTY TO WHICH SUBSECTION APPLIES.—The basis of property acquired from a decedent may be increased under this subsection only if the property was owned by the decedent at the time of death.

"(B) RULES RELATING TO OWNERSHIP.—

"(i) JOINTLY HELD PROPERTY.—In the case of property which was owned by the decedent and another person as joint tenants with right of survivorship or tenants by the entirety—

"(I) if the only such other person is the surviving spouse, the decedent shall be treated as the owner of only 50 percent of the property,

"(II) in any case (to which subclause (I) does not apply) in which the decedent furnished consideration for the acquisition of the property, the decedent shall be treated as the owner to the extent of the portion of the property which is proportionate to such consideration, and

"(III) in any case (to which subclause (I) does not apply) in which the property has been acquired by gift, bequest, devise, or inheritance by the decedent and any other person as joint tenants with right of survivorship and their interests are not otherwise specified or fixed by law, the decedent shall be treated as the owner to the extent of the value of a fractional part to be determined by dividing the value of the property by the number of joint tenants with right of survivorship.

"(ii) Revocable trusts.—The decedent shall be treated as owning property transferred by the decedent during life to a qualified revocable trust (as defined in section 645(b)(1)).

"(iii) Powers of appointment.—The decedent shall not be treated as owning any property by reason of holding a power of appointment with respect to such property.

"(iv) Community property.—Property which represents the surviving spouse's one-half share of community property held by the decedent and the surviving spouse under the community property laws of any State or possession of the United States or any foreign country shall be treated for purposes of this section as owned by, and acquired from, the decedent if at least one-half of the whole of the community interest in such property is treated as owned by, and acquired from, the decedent without regard to this clause.

"(C) Property acquired by decedent by gift within 3 years of death.—

"(i) In general.—This subsection shall not apply to property acquired by the decedent by gift or by inter vivos transfer for less than adequate and full consideration in money or money's worth during the 3-year period ending on the date of the decedent's death.

"(ii) Exception for certain gifts from spouse.—Clause (i) shall not apply to property acquired by the decedent from the decedent's spouse unless, during such 3-year period, such spouse acquired the property in whole or in part by gift or by inter vivos transfer for less than adequate and full consideration in money or money's worth.

"(D) Stock of certain entities.—This subsection shall not apply to—

"(i) stock or securities of a foreign personal holding company,

"(ii) stock of a DISC or former DISC,

"(iii) stock of a foreign investment company, or

"(iv) stock of a passive foreign investment company unless such company is a qualified electing fund (as defined in section 1295) with respect to the decedent.

"(E) Fair market value limitation.—The adjustments under this subsection shall not increase the basis of any interest in property acquired from the decedent above its fair market value in the hands of the decedent as of the date of the decedent's death.

"(d) Property Acquired From the Decedent.—For purposes of this section, the following property shall be considered to have been acquired from the decedent:

"(1) Property acquired by bequest, devise, or inheritance, or by the decedent's estate from the decedent.

"(2) Property transferred by the decedent during his lifetime—

"(A) to a qualified revocable trust (as defined in section 645(b)(1)), or

"(B) to any other trust with respect to which the decedent reserved the right to make any change in the enjoyment thereof through the exercise of a power to alter, amend, or terminate the trust.

"(3) Any other property passing from the decedent by reason of death to the extent that such property passed without consideration.

"(e) Coordination With Section 691.—This section shall not apply to property which constitutes a right to receive an item of income in respect of a decedent under section 691.

"(f) Certain Liabilities Disregarded.—

"(1) In general.—In determining whether gain is recognized on the acquisition of property—

"(A) from a decedent by a decedent's estate or any beneficiary other than a tax-exempt beneficiary, and

"(B) from the decedent's estate by any beneficiary other than a tax-exempt beneficiary,

and in determining the adjusted basis of such property, liabilities in excess of basis shall be disregarded.

"(2) Tax-exempt beneficiary.—For purposes of paragraph (1), the term 'tax-exempt beneficiary' means—

"(A) the United States, any State or political subdivision thereof, any possession of the United States, any Indian tribal government (within the meaning of section 7871), or any agency or instrumentality of any of the foregoing,

"(B) an organization (other than a cooperative described in section 521) which is exempt from tax imposed by chapter 1,

"(C) any foreign person or entity (within the meaning of section 168(h)(2)), and

"(D) to the extent provided in regulations, any person to whom property is transferred for the principal purpose of tax avoidance.

"(g) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.".

(e) Clerical Amendments.—

(1) The table of sections for part IV of subchapter A of chapter 11 is amended by striking the item relating to section 2057 and by inserting after the item relating to section 2058 the following new item:

"Sec. 2059. Carryover business exclusion.".

(2) The table of sections for part II of subchapter O of chapter 1 of such Code is amended by inserting after the item relating to section 1022 the following new item:

"Sec. 1023. Treatment of carryover business interests and spousal property.".

(f) Effective Dates.—The amendments made by this section shall apply to estates of decedents dying, and gifts made—

(1) after December 31, 2003, and before January 1, 2010, and

(2) after December 31, 2011.

SA 2642. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, after line 25, add the following:

SEC. ___. RESTORATION OF EXCLUSION FOR AMOUNTS RECEIVED UNDER QUALIFIED GROUP LEGAL SERVICES PLANS.

(a) Increase of Exclusion.—Subsection (a) of section 120 (relating to exclusion by employee for contributions and legal services) is amended by striking the last sentence thereof.

(b) Restoration of Exclusion.—Section 120 is amended by striking subsection (e) and by redesignating subsection (f) as subsection (e).

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004, and before December 31, 2009.

SA 2643. Mrs. LINCOLN (for herself and Mr. Coleman) submitted an amendment intended to be proposed by her to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, after line 25, insert the following:

SEC. ___. PAYMENT OF DIVIDENDS ON STOCK OF COOPERATIVES WITHOUT REDUCING PATRONAGE DIVIDENDS.

(a) In General.—Subsection (a) of section 1388 (relating to patronage dividend defined) is amended by adding at the end the following new sentence: "For purposes of paragraph (3), net earnings shall not be reduced by amounts paid during the year as dividends on capital stock or other proprietary capital interests of the organization to the extent that the articles of incorporation or bylaws of such organization or other contract with patrons provide that such dividends are in addition to amounts otherwise payable to patrons which are derived from business done with or for patrons during the taxable year.".

(b) Effective Date.—The amendment made by this section shall apply to distributions in taxable years beginning after the date of the enactment of this Act.

SA 2644. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 177, strike lines 13 through 16, and insert the following:

"(I) Special rule.—In the case of a net operating loss for any taxable year ending after December 31, 2002, and before February 1, 2004, subparagraph (A)(i) shall be applied by substituting '3' for '2'.".

On page 178, strike lines 9 through 15, and insert the following:

(1) In general.—Section 56(d)(1)(A)(ii)(I) (relating to general rule defining alternative tax net operating loss deduction) is amended—

(A) by striking "or 2002" and inserting ", 2002, or after December 31, 2002, and before February 1, 2004,", and

(B) by striking "and 2002" and inserting ", 2002, and after December 31, 2002, and before February 1, 2004".

On page 179, line 17, strike "during 2003" and inserting "after December 31, 2002, and before February 1, 2004".

SA 2645. Mr. GRASSLEY (for himself and Mr. BAUCUS) proposed an amendment to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; as follows:

Strike title IV and insert the following:

TITLE IV—ADDITIONAL PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

SEC. 401. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) In General.—Section 7701 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) Clarification of Economic Substance Doctrine; Etc.—

"(1) General rules.—

"(A) In general.—In any case in which a court determines that the economic substance doctrine is relevant for purposes of this title to a transaction (or series of transactions), such transaction (or series of transactions) shall have economic substance only if the requirements of this paragraph are met.

"(B) Definition of economic substance.—For purposes of subparagraph (A)—

"(i) In general.—A transaction has economic substance only if—

"(I) the transaction changes in a meaningful way (apart from Federal tax effects) the taxpayer's economic position, and

"(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

In applying subclause (II), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

"(ii) Special rule where taxpayer relies on profit potential.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

"(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

"(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

"(C) Treatment of fees and foreign taxes.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

"(2) Special rules for transactions with tax-indifferent parties.—

"(A) Special rules for financing transactions.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

"(B) Artificial income shifting and basis adjustments.—The form of a transaction with a tax-indifferent party shall not be respected if—

"(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

"(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

"(3) Definitions and special rules.—For purposes of this subsection—

"(A) Economic substance doctrine.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

"(B) Tax-indifferent party.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

"(C) Exception for personal transactions of individuals.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

"(D) Treatment of lessors.—In applying paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease—

"(i) the expected net tax benefits with respect to the leased property shall not include the benefits of—

"(I) depreciation,

"(II) any tax credit, or

"(III) any other deduction as provided in guidance by the Secretary, and

"(ii) subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

"(4) Other common law doctrines not affected.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

"(5) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.".

(b) Effective Date.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 402. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) In General.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

"SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

"(a) Imposition of Penalty.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

"(b) Amount of Penalty.—

"(1) In general.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

"(2) Listed transaction.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

"(3) Increase in penalty for large entities and high net worth individuals.—

"(A) In general.—In the case of a failure under subsection (a) by—

"(i) a large entity, or

"(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

"(B) Large entity.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

"(C) High net worth individual.—For purposes of subparagraph (A), the term 'high net worth individual' means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

"(c) Definitions.—For purposes of this section—

"(1) Reportable transaction.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

"(2) Listed transaction.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

"(d) Authority To Rescind Penalty.—

"(1) In general.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

"(A) the violation is with respect to a reportable transaction other than a listed transaction,

"(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

"(C) it is shown that the violation is due to an unintentional mistake of fact;

"(D) imposing the penalty would be against equity and good conscience, and

"(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

"(2) Discretion.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

"(3) No appeal.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

"(4) Records.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

"(A) the facts and circumstances of the transaction,

"(B) the reasons for the rescission, and

"(C) the amount of the penalty rescinded.

"(5) Report.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

"(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

"(B) a description of each penalty rescinded under this subsection and the reasons therefor.

"(e) Penalty Reported to SEC.—In the case of a person—

"(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

"(2) which—

"(A) is required to pay a penalty under this section with respect to a listed transaction,

"(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c), or

"(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

"(f) Coordination With Other Penalties.—The penalty imposed by this section is in addition to any penalty imposed under this title.".

(b) Conforming Amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

"Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.".

(c) Effective Date.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 403. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) In General.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

"SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

"(a) Imposition of Penalty.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

"(b) Reportable Transaction Understatement.—For purposes of this section—

"(1) In general.—The term 'reportable transaction understatement' means the sum of—

"(A) the product of—

"(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

"(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

"(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

"(2) Items to which section applies.—This section shall apply to any item which is attributable to—

"(A) any listed transaction, and

"(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

"(c) Higher Penalty for Nondisclosed Listed and Other Avoidance Transactions.—

"(1) In general.—Subsection (a) shall be applied by substituting '30 percent' for '20 percent' with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

"(2) Rules applicable to assertion and compromise of penalty.—

"(A) In general.—Only upon the approval by the Chief Counsel for the Internal Revenue Service or the Chief Counsel's delegate at the national office of the Internal Revenue Service may a penalty to which paragraph (1) applies be included in a 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals. If such a letter is provided to the taxpayer, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(B) Applicable rules.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

"(d) Definitions of Reportable and Listed Transactions.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

"(e) Special Rules.—

"(1) Coordination with penalties, etc., on other understatements.—In the case of an understatement (as defined in section 6662(d)(2))—

"(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

"(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements.

"(2) Coordination with other penalties.—

"(A) Application of fraud penalty.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement and a noneconomic substance transaction understatement.

"(B) No double penalty.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662B or 6663.

"(3) Special rule for amended returns.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement or noneconomic substance transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

"(4) Noneconomic substance transaction understatement.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).

"(5) Cross reference.—

"For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).".

(b) Determination of Other Understatements.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

"The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies and without regard to items with respect to which a penalty is imposed by section 6662B.".

(c) Reasonable Cause Exception.—

(1) In general.—Section 6664 is amended by adding at the end the following new subsection:

"(d) Reasonable Cause Exception for Reportable Transaction Understatements.—

"(1) In general.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

"(2) Special rules.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

"(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

"(B) there is or was substantial authority for such treatment, and

"(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

"(3) Rules relating to reasonable belief.—For purposes of paragraph (2)(C)—

"(A) In general.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

"(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

"(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

"(B) Certain opinions may not be relied upon.—

"(i) In general.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

"(I) the tax advisor is described in clause (ii), or

"(II) the opinion is described in clause (iii).

"(ii) Disqualified tax advisors.—A tax advisor is described in this clause if the tax advisor—

"(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

"(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

"(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

"(IV) as determined under regulations prescribed by the Secretary, has a disqualifying financial interest with respect to the transaction.

"(iii) Disqualified opinions.—For purposes of clause (i), an opinion is disqualified if the opinion—

"(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

"(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

"(III) does not identify and consider all relevant facts, or

"(IV) fails to meet any other requirement as the Secretary may prescribe.".

(2) Conforming amendment.—The heading for subsection (c) of section 6664 is amended by inserting "for Underpayments" after "Exception".

(d) Conforming Amendments.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking "(as defined in section 6662(d)(2)(C)(iii))" in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

"(C) Tax shelter.—For purposes of subparagraph (B), the term 'tax shelter' means—

"(i) a partnership or other entity,

"(ii) any investment plan or arrangement, or

"(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.".

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking "this part" and inserting "section 6662 or 6663".

(5) Subsection (b) of section 7525 is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(6)(A) The heading for section 6662 is amended to read as follows:

"SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS.".

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

"Sec. 6662. Imposition of accuracy-related penalty on underpayments.
"Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions.".

(e) Effective Date.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 404. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) In General.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

"SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

"(a) Imposition of Penalty.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

"(b) Reduction of Penalty for Disclosed Transactions.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

"(c) Noneconomic Substance Transaction Understatement.—For purposes of this section—

"(1) In general.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

"(2) Noneconomic substance transaction.—The term 'noneconomic substance transaction' means any transaction if—

"(A) there is a lack of economic substance (within the meaning of section 7701(n)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(n)(2), or

"(B) the transaction fails to meet the requirements of any similar rule of law.

"(d) Rules Applicable To Compromise of Penalty.—

"(1) In general.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(2) Applicable rules.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of paragraph (1).

"(e) Coordination With Other Penalties.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

"(f) Cross References.—

"(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e).

"(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e).".

(b) Clerical Amendment.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

"Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.".

(c) Effective Date.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 405. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NONREPORTABLE TRANSACTIONS.

(a) Substantial Understatement of Corporations.—Section 6662(d)(1)(B) (relating to special rule for corporations) is amended to read as follows:

"(B) Special rule for corporations.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

"(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000), or

"(ii) $10,000,000.".

(b) Reduction for Understatement of Taxpayer Due to Position of Taxpayer or Disclosed Item.—

(1) In general.—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

"(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or".

(2) Conforming amendment.—Section 6662(d) is amended by adding at the end the following new paragraph:

"(3) Secretarial list.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin.".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 406. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) In General.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

"(b) Section Not To Apply to Communications Regarding Tax Shelters.—The privilege under subsection (a) shall not apply to any written communication which is—

"(1) between a federally authorized tax practitioner and—

"(A) any person,

"(B) any director, officer, employee, agent, or representative of the person, or

"(C) any other person holding a capital or profits interest in the person, and

"(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C)).".

(b) Effective Date.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 407. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) In General.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

"SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

"(a) In General.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

"(1) information identifying and describing the transaction,

"(2) information describing any potential tax benefits expected to result from the transaction, and

"(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

"(b) Definitions.—For purposes of this section—

"(1) Material advisor.—

"(A) In general.—The term 'material advisor' means any person—

"(i) who provides any material aid, assistance, or advice with respect to organizing, managing, promoting, selling, implementing, or carrying out any reportable transaction, and

"(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

"(B) Threshold amount.—For purposes of subparagraph (A), the threshold amount is—

"(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

"(ii) $250,000 in any other case.

"(2) Reportable transaction.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

"(c) Regulations.—The Secretary may prescribe regulations which provide—

"(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

"(2) exemptions from the requirements of this section, and

"(3) such rules as may be necessary or appropriate to carry out the purposes of this section.".

(b) Conforming Amendments.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6111. Disclosure of reportable transactions.".

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

"SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

"(a) In General.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

"(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

"(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.".

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting "written" before "request" in paragraph (1)(A), and

(ii) by striking "shall prescribe" in paragraph (2) and inserting "may prescribe".

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6112. Material advisors of reportable transactions must keep lists of advisees.".

(3)(A) The heading for section 6708 is amended to read as follows:

"SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS.".

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

"Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions.".

(c) Required Disclosure Not Subject to Claim of Confidentiality.—Subparagraph (A) of section 6112(b)(1), as redesignated by subsection (b)(2)(B), is amended by adding at the end the following new flush sentence:

"For purposes of this section, the identity of any person on such list shall not be privileged.".

(d) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

(2) No claim of confidentiality against disclosure.—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 142 of the Deficit Reduction Act of 1984.

SEC. 408. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) In General.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

"SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

"(a) In General.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

"(1) fails to file such return on or before the date prescribed therefor, or

"(2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

"(b) Amount of Penalty.—

"(1) In general.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

"(2) Listed transactions.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

"(A) $200,000, or

"(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the listed transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

"(c) Certain Rules To Apply.—The provisions of section 6707A(d) shall apply to any penalty imposed under this section.

"(d) Reportable and Listed Transactions.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).".

(b) Clerical Amendment.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking "tax shelters" and inserting "reportable transactions".

(c) Effective Date.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

SEC. 409. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) In General.—Subsection (a) of section 6708 is amended to read as follows:

"(a) Imposition of Penalty.—

"(1) In general.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

"(2) Reasonable cause exception.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause.".

(b) Effective Date.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 410. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.

(a) In General.—Section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

"(a) Authority To Seek Injunction.—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

"(b) Adjudication and Decree.—In any action under subsection (a), if the court finds—

"(1) that the person has engaged in any specified conduct, and

"(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

"(c) Specified Conduct.—For purposes of this section, the term 'specified conduct' means any action, or failure to take action, subject to penalty under section 6700, 6701, 6707, or 6708.".

(b) Conforming Amendments.—

(1) The heading for section 7408 is amended to read as follows:

"SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.".

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

"Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions.".

(c) Effective Date.—The amendment made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 411. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

(a) Standards Conformed to Taxpayer Standards.—Section 6694(a) (relating to understatements due to unrealistic positions) is amended—

(1) by striking "realistic possibility of being sustained on its merits" in paragraph (1) and inserting "reasonable belief that the tax treatment in such position was more likely than not the proper treatment",

(2) by striking "or was frivolous" in paragraph (3) and inserting "or there was no reasonable basis for the tax treatment of such position", and

(3) by striking "Unrealistic" in the heading and inserting "Improper".

(b) Amount of Penalty.—Section 6694 is amended—

(1) by striking "$250" in subsection (a) and inserting "$1,000", and

(2) by striking "$1,000" in subsection (b) and inserting "$5,000".

(c) Effective Date.—The amendments made by this section shall apply to documents prepared after the date of the enactment of this Act.

SEC. 412. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) In General.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

"(5) Foreign financial agency transaction violation.—

"(A) Penalty authorized.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

"(B) Amount of penalty.—

"(i) In general.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $5,000.

"(ii) Reasonable cause exception.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

"(I) such violation was due to reasonable cause, and

"(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

"(C) Willful violations.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

"(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

"(I) $25,000, or

"(II) the amount (not exceeding $100,000) determined under subparagraph (D), and

"(ii) subparagraph (B)(ii) shall not apply.

"(D) Amount.—The amount determined under this subparagraph is—

"(i) in the case of a violation involving a transaction, the amount of the transaction, or

"(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.".

(b) Effective Date.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

SEC. 413. FRIVOLOUS TAX SUBMISSIONS.

(a) Civil Penalties.—Section 6702 is amended to read as follows:

"SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

"(a) Civil Penalty for Frivolous Tax Returns.—A person shall pay a penalty of $5,000 if—

"(1) such person files what purports to be a return of a tax imposed by this title but which—

"(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

"(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

"(2) the conduct referred to in paragraph (1)—

"(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(B) reflects a desire to delay or impede the administration of Federal tax laws.

"(b) Civil Penalty for Specified Frivolous Submissions.—

"(1) Imposition of penalty.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

"(2) Specified frivolous submission.—For purposes of this section—

"(A) Specified frivolous submission.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

"(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(ii) reflects a desire to delay or impede the administration of Federal tax laws.

"(B) Specified submission.—The term 'specified submission' means—

"(i) a request for a hearing under—

"(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

"(II) section 6330 (relating to notice and opportunity for hearing before levy), and

"(ii) an application under—

"(I) section 6159 (relating to agreements for payment of tax liability in installments),

"(II) section 7122 (relating to compromises), or

"(III) section 7811 (relating to taxpayer assistance orders).

"(3) Opportunity to withdraw submission.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

"(c) Listing of Frivolous Positions.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

"(d) Reduction of Penalty.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

"(e) Penalties in Addition to Other Penalties.—The penalties imposed by this section shall be in addition to any other penalty provided by law.".

(b) Treatment of Frivolous Requests for Hearings Before Levy.—

(1) Frivolous requests disregarded.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

"(g) Frivolous Requests for Hearing, etc.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(2) Preclusion from raising frivolous issues at hearing.—Section 6330(c)(4) is amended—

(A) by striking "(A)" and inserting "(A)(i)";

(B) by striking "(B)" and inserting "(ii)";

(C) by striking the period at the end of the first sentence and inserting "; or"; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

"(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).".

(3) Statement of grounds.—Section 6330(b)(1) is amended by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing".

(c) Treatment of Frivolous Requests for Hearings Upon Filing of Notice of Lien.—Section 6320 is amended—

(1) in subsection (b)(1), by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing", and

(2) in subsection (c), by striking "and (e)" and inserting "(e), and (g)".

(d) Treatment of Frivolous Applications for Offers-in-Compromise and Installment Agreements.—Section 7122 is amended by adding at the end the following new subsection:

"(e) Frivolous Submissions, etc.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(e) Clerical Amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

"Sec. 6702. Frivolous tax submissions.".

(f) Effective Date.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 414. REGULATION OF INDIVIDUALS PRACTICING BEFORE THE DEPARTMENT OF TREASURY.

(a) Censure; Imposition of Penalty.—

(1) In general.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting ", or censure," after "Department", and

(B) by adding at the end the following new flush sentence:

"The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure of the representative.".

(2) Effective date.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) Tax Shelter Opinions, etc.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

"(d) Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary of the Treasury to impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion.".

SEC. 415. PENALTY ON PROMOTERS OF TAX SHELTERS.

(a) Penalty on Promoting Abusive Tax Shelters.—Section 6700(a) is amended by adding at the end the following new sentence: "Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.".

(b) Effective Date.—The amendment made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 416. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH REQUIRED LISTED TRANSACTIONS NOT REPORTED.

(a) In General.—Section 6501(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

"(10) Listed transactions.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a listed transaction (as defined in section 6707A(c)(2)) which is required under section 6011 to be included with such return or statement, the time for assessment of any tax imposed by this title with respect to such transaction shall not expire before the date which is 1 year after the earlier of—

"(A) the date on which the Secretary is furnished the information so required; or

"(B) the date that a material advisor (as defined in section 6111) meets the requirements of section 6112 with respect to a request by the Secretary under section 6112(b) relating to such transaction with respect to such taxpayer.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years with respect to which the period for assessing a deficiency did not expire before the date of the enactment of this Act.

SEC. 417. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONDISCLOSED REPORTABLE AND NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) In General.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) Interest on Unpaid Taxes Attributable To Nondisclosed Reportable Transactions and Noneconomic Substance Transactions.—No deduction shall be allowed under this chapter for any interest paid or accrued under section 6601 on any underpayment of tax which is attributable to—

"(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

"(2) any noneconomic substance transaction understatement (as defined in section 6662B(c)).".

(b) Effective Date.—The amendments made by this section shall apply to transactions in taxable years beginning after the date of the enactment of this Act.

SEC. 418. AUTHORIZATION OF APPROPRIATIONS FOR TAX LAW ENFORCEMENT.

There is authorized to be appropriated $300,000,000 for each fiscal year beginning after September 30, 2003, for the purpose of carrying out tax law enforcement to combat tax avoidance transactions and other tax shelters, including the use of offshore financial accounts to conceal taxable income.

Subtitle B—Other Corporate Governance Provisions

SEC. 421. AFFIRMATION OF CONSOLIDATED RETURN REGULATION AUTHORITY.

(a) In General.—Section 1502 (relating to consolidated return regulations) is amended by adding at the end the following new sentence: "In prescribing such regulations, the Secretary may prescribe rules applicable to corporations filing consolidated returns under section 1501 that are different from other provisions of this title that would apply if such corporations filed separate returns.".

(b) Result Not Overturned.—Notwithstanding subsection (a), the Internal Revenue Code of 1986 shall be construed by treating Treasury regulation §1.1502-20(c)(1)(iii) (as in effect on January 1, 2001) as being inapplicable to the type of factual situation in 255 F.3d 1357 (Fed. Cir. 2001).

(c) Effective Date.—The provisions of this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

SEC. 422. SIGNING OF CORPORATE TAX RETURNS BY CHIEF EXECUTIVE OFFICER.

(a) In General.—Section 6062 (relating to signing of corporation returns) is amended by inserting after the first sentence the following new sentences: "The return of a corporation with respect to income shall also include a declaration signed by the chief executive officer of such corporation (or other such officer of the corporation as the Secretary may designate if the corporation does not have a chief executive officer), under penalties of perjury, that the chief executive officer ensures that such return complies with this title and that the chief executive officer was provided reasonable assurance of the accuracy of all material aspects of such return. The preceding sentence shall not apply to any return of a regulated investment company (within the meaning of section 851).".

(b) Effective Date.—The amendment made by this section shall apply to returns filed after the date of the enactment of this Act.

SEC. 423. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

(a) In General.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows: .

"(f) Fines, Penalties, and Other Amounts.—

"(1) In general.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

"(2) Exception for amounts constituting restitution.—Paragraph (1) shall not apply to any amount which the taxpayer establishes constitutes restitution (including remediation of property) for damage or harm caused by or which may be caused by the violation of any law or the potential violation of any law. This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

"(3) Exception for amounts paid or incurred as the result of certain court orders.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

"(4) Certain nongovernmental regulatory entities.—An entity is described in this paragraph if it is—

"(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

"(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.".

(b) Effective Date.—The amendment made by this section shall apply to amounts paid or incurred after April 27, 2003, except that such amendment shall not apply to amounts paid or incurred under any binding order or agreement entered into on or before April 27, 2003. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained on or before April 27, 2003.

SEC. 424. DISALLOWANCE OF DEDUCTION FOR PUNITIVE DAMAGES.

(a) DISALLOWANCE OF DEDUCTION.—

(1) IN GENERAL.—Section 162(g) (relating to treble damage payments under the antitrust laws) is amended by adding at the end the following new paragraph:

"(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).".

(2) CONFORMING AMENDMENTS.—

(A) Section 162(g) is amended—

(i) by striking "If" and inserting:

"(1) TREBLE DAMAGES.—If", and

(ii) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

(B) The heading for section 162(g) is amended by inserting "OR PUNITIVE DAMAGES" after "LAWS".

(b) INCLUSION IN INCOME OF PUNITIVE DAMAGES PAID BY INSURER OR OTHERWISE.—

(1) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

"SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.

"Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.".

(2) REPORTING REQUIREMENTS.—Section 6041 (relating to information at source) is amended by adding at the end the following new subsection:

"(f) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.".

(3) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end the following new item:

"Sec. 91. Punitive damages compensated by insurance or otherwise.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to damages paid or incurred on or after the date of the enactment of this Act.

SEC. 425. INCREASE IN CRIMINAL MONETARY PENALTY LIMITATION FOR THE UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.

(a) IN GENERAL.—Section 7206 (relating to fraud and false statements) is amended—

(1) by striking "Any person who—" and inserting "(a) IN GENERAL.—Any person who—", and

(2) by adding at the end the following new subsection:

"(b) INCREASE IN MONETARY LIMITATION FOR UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—If any portion of any underpayment (as defined in section 6664(a)) or overpayment (as defined in section 6401(a)) of tax required to be shown on a return is attributable to fraudulent action described in subsection (a), the applicable dollar amount under subsection (a) shall in no event be less than an amount equal to such portion. A rule similar to the rule under section 6663(b) shall apply for purposes of determining the portion so attributable.".

(b) INCREASE IN PENALTIES.—

(1) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 is amended—

(A) by striking "$100,000" and inserting "$250,000",

(B) by striking "$500,000" and inserting "$1,000,000", and

(C) by striking "5 years" and inserting "10 years".

(2) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking "misdemeanor" and inserting "felony", and

(ii) by striking "1 year" and inserting "10 years", and

(B) by striking the third sentence.

(3) FRAUD AND FALSE STATEMENTS.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking "$100,000" and inserting "$250,000",

(B) by striking "$500,000" and inserting "$1,000,000", and

(C) by striking '3 years" and inserting "5 years".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to underpayments and overpayments attributable to actions occurring after the date of the enactment of this Act.

Subtitle C—Enron-Related Tax Shelter Provisions

SEC. 431. LIMITATION ON TRANSFER OR IMPORTATION OF BUILT-IN LOSSES.

(a) IN GENERAL.—Section 362 (relating to basis to corporations) is amended by adding at the end the following new subsection:

"(e) LIMITATIONS ON BUILT-IN LOSSES.—

"(1) LIMITATION ON IMPORTATION OF BUILT-IN LOSSES.—

"(A) IN GENERAL.—If in any transaction described in subsection (a) or (b) there would (but for this subsection) be an importation of a net built-in loss, the basis of each property described in subparagraph (B) which is acquired in such transaction shall (notwithstanding subsections (a) and (b)) be its fair market value immediately after such transaction.

"(B) PROPERTY DESCRIBED.—For purposes of subparagraph (A), property is described in this subparagraph if—

"(i) gain or loss with respect to such property is not subject to tax under this subtitle in the hands of the transferor immediately before the transfer, and

"(ii) gain or loss with respect to such property is subject to such tax in the hands of the transferee immediately after such transfer.

In any case in which the transferor is a partnership, the preceding sentence shall be applied by treating each partner in such partnership as holding such partner's proportionate share of the property of such partnership.

"(C) IMPORTATION OF NET BUILT-IN LOSS.—For purposes of subparagraph (A), there is an importation of a net built-in loss in a transaction if the transferee's aggregate adjusted bases of property described in subparagraph (B) which is transferred in such transaction would (but for this paragraph) exceed the fair market value of such property immediately after such transaction.".

"(2) LIMITATION ON TRANSFER OF BUILT-IN LOSSES IN SECTION 351 TRANSACTIONS.—

"(A) IN GENERAL.—If—

"(i) property is transferred by a transferor in any transaction which is described in subsection (a) and which is not described in paragraph (1) of this subsection, and

"(ii) the transferee's aggregate adjusted bases of such property so transferred would (but for this paragraph) exceed the fair market value of such property immediately after such transaction,

then, notwithstanding subsection (a), the transferee's aggregate adjusted bases of the property so transferred shall not exceed the fair market value of such property immediately after such transaction.

"(B) ALLOCATION OF BASIS REDUCTION.—The aggregate reduction in basis by reason of subparagraph (A) shall be allocated among the property so transferred in proportion to their respective built-in losses immediately before the transaction.

"(C) EXCEPTION FOR TRANSFERS WITHIN AFFILIATED GROUP.—Subparagraph (A) shall not apply to any transaction if the transferor owns stock in the transferee meeting the requirements of section 1504(a)(2). In the case of property to which subparagraph (A) does not apply by reason of the preceding sentence, the transferor's basis in the stock received for such property shall not exceed its fair market value immediately after the transfer.".

(b) COMPARABLE TREATMENT WHERE LIQUIDATION.—Paragraph (1) of section 334(b) (relating to liquidation of subsidiary) is amended to read as follows:

"(1) IN GENERAL.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332 applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution—

"(A) in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, or

"(B) in any case in which the liquidating corporation is a foreign corporation, the corporate distributee is a domestic corporation, and the corporate distributee's aggregate adjusted bases of property described in section 362(e)(1)(B) which is distributed in such liquidation would (but for this subparagraph) exceed the fair market value of such property immediately after such liquidation.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after February 13, 2003.

SEC. 432. NO REDUCTION OF BASIS UNDER SECTION 734 IN STOCK HELD BY PARTNERSHIP IN CORPORATE PARTNER.

(a) IN GENERAL.—Section 755 is amended by adding at the end the following new subsection:

"(c) NO ALLOCATION OF BASIS DECREASE TO STOCK OF CORPORATE PARTNER.—In making an allocation under subsection (a) of any decrease in the adjusted basis of partnership property under section 734(b)—

"(1) no allocation may be made to stock in a corporation (or any person which is related (within the meaning of section 267(b) or 707(b)(1)) to such corporation) which is a partner in the partnership, and

"(2) any amount not allocable to stock by reason of paragraph (1) shall be allocated under subsection (a) to other partnership property in such manner as the Secretary may prescribe.

Gain shall be recognized to the partnership to the extent that the amount required to be allocated under paragraph (2) to other partnership property exceeds the aggregate adjusted basis of such other property immediately before the allocation required by paragraph (2).".

(b) Effective Date.—The amendment made by this section shall apply to distributions after February 13, 2003.

SEC. 433. REPEAL OF SPECIAL RULES FOR FASITS.

(a) In General.—Part V of subchapter M of chapter 1 (relating to financial asset securitization investment trusts) is hereby repealed.

(b) Conforming Amendments.—

(1) Paragraph (6) of section 56(g) is amended by striking "REMIC, or FASIT" and inserting "or REMIC".

(2) Clause (ii) of section 382(l)(4)(B) is amended by striking "a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies," and inserting "or a REMIC to which part IV of subchapter M applies,".

(3) Paragraph (1) of section 582(c) is amended by striking ", and any regular interest in a FASIT,".

(4) Subparagraph (E) of section 856(c)(5) is amended by striking the last sentence.

(5)(A) Section 860G(a)(1) is amended by adding at the end the following new sentence: "An interest shall not fail to qualify as a regular interest solely because the specified principal amount of the regular interest (or the amount of interest accrued on the regular interest) can be reduced as a result of the nonoccurrence of 1 or more contingent payments with respect to any reverse mortgage loan held by the REMIC if, on the startup day for the REMIC, the sponsor reasonably believes that all principal and interest due under the regular interest will be paid at or prior to the liquidation of the REMIC.".

(B) The last sentence of section 860G(a)(3) is amended by inserting ", and any reverse mortgage loan (and each balance increase on such loan meeting the requirements of subparagraph (A)(iii)) shall be treated as an obligation secured by an interest in real property" before the period at the end.

(6) Paragraph (3) of section 860G(a) is amended by adding "and" at the end of subparagraph (B), by striking ", and" at the end of subparagraph (C) and inserting a period, and by striking subparagraph (D).

(7) Section 860G(a)(3), as amended by paragraph (6), is amended by adding at the end the following new sentence: "For purposes of subparagraph (A), if more than 50 percent of the obligations transferred to, or purchased by, the REMIC are originated by the United States or any State (or any political subdivision, agency, or instrumentality of the United States or any State) and are principally secured by an interest in real property, then each obligation transferred to, or purchased by, the REMIC shall be treated as secured by an interest in real property.".

(8)(A) Section 860G(a)(3)(A) is amended by striking "or" at the end of clause (i), by inserting "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) represents an increase in the principal amount under the original terms of an obligation described in clause (i) or (ii) if such increase—

"(I) is attributable to an advance made to the obligor pursuant to the original terms of the obligation,

"(II) occurs after the startup day, and

"(III) is purchased by the REMIC pursuant to a fixed price contract in effect on the startup day.".

(B) Section 860G(a)(7)(B) is amended to read as follows:

"(B) Qualified reserve fund.—For purposes of subparagraph (A), the term 'qualified reserve fund' means any reasonably required reserve to—

"(i) provide for full payment of expenses of the REMIC or amounts due on regular interests in the event of defaults on qualified mortgages or lower than expected returns on cash flow investments, or

"(ii) provide a source of funds for the purchase of obligations described in clause (ii) or (iii) of paragraph (3)(A).

The aggregate fair market value of the assets held in any such reserve shall not exceed 50 percent of the aggregate fair market value of all of the assets of the REMIC on the startup day, and the amount of any such reserve shall be promptly and appropriately reduced to the extent the amount held in such reserve is no longer reasonably required for purposes specified in clause (i) or (ii) of paragraph (3)(A).".

(9) Subparagraph (C) of section 1202(e)(4) is amended by striking "REMIC, or FASIT" and inserting "or REMIC".

(10) Clause (xi) of section 7701(a)(19)(C) is amended—

(A) by striking "and any regular interest in a FASIT,", and

(B) by striking "or FASIT" each place it appears.

(11) Subparagraph (A) of section 7701(i)(2) is amended by striking "or a FASIT".

(12) The table of parts for subchapter M of chapter 1 is amended by striking the item relating to part V.

(c) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall take effect on February 14, 2003.

(2) Exception for existing fasits.—Paragraph (1) shall not apply to any FASIT in existence on the date of the enactment of this Act to the extent that regular interests issued by the FASIT before such date continue to remain outstanding in accordance with the original terms of issuance.

SEC. 434. EXPANDED DISALLOWANCE OF DEDUCTION FOR INTEREST ON CONVERTIBLE DEBT.

(a) In General.—Paragraph (2) of section 163(l) is amended by striking "or a related party" and inserting "or equity held by the issuer (or any related party) in any other person".

(b) Capitalization Allowed With Respect to Equity of Persons Other Than Issuer and Related Parties.—Section 163(l) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6) and by inserting after paragraph (3) the following new paragraph:

"(4) Capitalization allowed with respect to equity of persons other than issuer and related parties.—If the disqualified debt instrument of a corporation is payable in equity held by the issuer (or any related party) in any other person (other than a related party), the basis of such equity shall be increased by the amount not allowed as a deduction by reason of paragraph (1) with respect to the instrument.".

(c) Exception for Certain Instruments Issued by Dealers in Securities.—Section 163(l), as amended by subsection (b), is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7) and by inserting after paragraph (4) the following new paragraph:

"(5) Exception for certain instruments issued by dealers in securities.—For purposes of this subsection, the term 'disqualified debt instrument' does not include indebtedness issued by a dealer in securities (or a related party) which is payable in, or by reference to, equity (other than equity of the issuer or a related party) held by such dealer in its capacity as a dealer in securities. For purposes of this paragraph, the term 'dealer in securities' has the meaning given such term by section 475.".

(c) Conforming Amendments.—Paragraph (3) of section 163(l) is amended—

(1) by striking "or a related party" in the material preceding subparagraph (A) and inserting "or any other person", and

(2) by striking "or interest" each place it appears.

(d) Effective Date.—The amendments made by this section shall apply to debt instruments issued after February 13, 2003.

SEC. 435. EXPANDED AUTHORITY TO DISALLOW TAX BENEFITS UNDER SECTION 269.

(a) In General.—Subsection (a) of section 269 (relating to acquisitions made to evade or avoid income tax) is amended to read as follows:

"(a) In General.—If—

"(1)(A) any person or persons acquire, directly or indirectly, control of a corporation, or

"(B) any corporation acquires, directly or indirectly, property of another corporation and the basis of such property, in the hands of the acquiring corporation, is determined by reference to the basis in the hands of the transferor corporation, and

"(2) the principal purpose for which such acquisition was made is evasion or avoidance of Federal income tax,

then the Secretary may disallow such deduction, credit, or other allowance. For purposes of paragraph (1)(A), control means the ownership of stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of all shares of all classes of stock of the corporation.".

(b) Effective Date.—The amendment made by this section shall apply to stock and property acquired after February 13, 2003.

SEC. 436. MODIFICATION OF INTERACTION BETWEEN SUBPART F AND PASSIVE FOREIGN INVESTMENT COMPANY RULES.

(a) Limitation on Exception From PFIC Rules for United States Shareholders of Controlled Foreign Corporations.—Paragraph (2) of section 1297(e) (relating to passive foreign investment company) is amended by adding at the end the following flush sentence:

"Such term shall not include any period if the earning of subpart F income by such corporation during such period would result in only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i).".

(b) Effective Date.—The amendment made by this section shall apply to taxable years of controlled foreign corporations beginning after February 13, 2003, and to taxable years of United States shareholders with or within which such taxable years of controlled foreign corporations end.

Subtitle D—Provisions to Discourage Expatriation

SEC. 441. TAX TREATMENT OF INVERTED CORPORATE ENTITIES

(a) In General.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle) is amended by adding at the end the following new section:

"SEC. 7874. RULES RELATING TO INVERTED CORPORATE ENTITIES

"(a) Inverted Corporations Treated as Domestic Corporations.—

“(1) IN GENERAL.—If a foreign incorporated entity is treated as an inverted domestic corporation, then, notwithstanding section 7701(a)(4), such entity shall be treated for purposes of this title as a domestic corporation.

“(2) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

“(A) the entity completes after March 20, 2002, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

“(B) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

“(i) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

“(ii) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

“(C) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (A) if none of the corporation's stock was readily tradeable on an established securities market at any time during the 4-year period ending on the date of the acquisition.

“(b) PRESERVATION OF DOMESTIC TAX BASE IN CERTAIN INVERSION TRANSACTIONS TO WHICH SUBSECTION (a) DOES NOT APPLY.—

“(1) IN GENERAL.—If a foreign incorporated entity would be treated as an inverted domestic corporation with respect to an acquired entity if either—

“(A) subsection (a)(2)(A) were applied by substituting ‘after December 31, 1996, and on or before March 20, 2002’ for ‘after March 20, 2002’ and subsection (a)(2)(B) were applied by substituting ‘more than 50 percent’ for ‘at least 80 percent’, or

“(B) subsection (a)(2)(B) were applied by substituting ‘more than 50 percent’ for ‘at least 80 percent’,

then the rules of subsection (c) shall apply to any inversion gain of the acquired entity during the applicable period and the rules of subsection (d) shall apply to any related party transaction of the acquired entity during the applicable period. This subsection shall not apply for any taxable year if subsection (a) applies to such foreign incorporated entity for such taxable year.

“(2) ACQUIRED ENTITY.—For purposes of this section—

“(A) IN GENERAL.—The term ‘acquired entity’ means the domestic corporation or partnership substantially all of the properties of which are directly or indirectly acquired in an acquisition described in subsection (a)(2)(A) to which this subsection applies.

“(B) AGGREGATION RULES.—Any domestic person bearing a relationship described in section 267(b) or 707(b) to an acquired entity shall be treated as an acquired entity with respect to the acquisition described in subparagraph (A).

“(3) APPLICABLE PERIOD.—For purposes of this section—

“(A) IN GENERAL.—The term ‘applicable period’ means the period—

“(i) beginning on the first date properties are acquired as part of the acquisition described in subsection (a)(2)(A) to which this subsection applies, and

“(ii) ending on the date which is 10 years after the last date properties are acquired as part of such acquisition.

“(B) SPECIAL RULE FOR INVERSIONS OCCURRING BEFORE MARCH 21, 2002.—In the case of any acquired entity to which paragraph (1)(A) applies, the applicable period shall be the 10-year period beginning on January 1, 2003.

“(c) TAX ON INVERSION GAINS MAY NOT BE OFFSET.—If subsection (b) applies—

“(1) IN GENERAL.—The taxable income of an acquired entity (or any expanded affiliated group which includes such entity) for any taxable year which includes any portion of the applicable period shall in no event be less than the inversion gain of the entity for the taxable year.

“(2) CREDITS NOT ALLOWED AGAINST TAX ON INVERSION GAIN.—Credits shall be allowed against the tax imposed by this chapter on an acquired entity for any taxable year described in paragraph (1) only to the extent such tax exceeds the product of—

“(A) the amount of the inversion gain for the taxable year, and

“(B) the highest rate of tax specified in section 11(b)(1).

For purposes of determining the credit allowed by section 901 inversion gain shall be treated as from sources within the United States.

“(3) SPECIAL RULES FOR PARTNERSHIPS.—In the case of an acquired entity which is a partnership—

“(A) the limitations of this subsection shall apply at the partner rather than the partnership level,

“(B) the inversion gain of any partner for any taxable year shall be equal to the sum of—

“(i) the partner's distributive share of inversion gain of the partnership for such taxable year, plus

“(ii) income or gain required to be recognized for the taxable year by the partner under section 367(a), 741, or 1001, or under any other provision of chapter 1, by reason of the transfer during the applicable period of any partnership interest of the partner in such partnership to the foreign incorporated entity, and

“(C) the highest rate of tax specified in the rate schedule applicable to the partner under chapter 1 shall be substituted for the rate of tax under paragraph (2)(B).

“(4) INVERSION GAIN.—For purposes of this section, the term ‘inversion gain’ means any income or gain required to be recognized under section 304, 311(b), 367, 1001, or 1248, or under any other provision of chapter 1, by reason of the transfer during the applicable period of stock or other properties by an acquired entity—

“(A) as part of the acquisition described in subsection (a)(2)(A) to which subsection (b) applies, or

“(B) after such acquisition to a foreign related person.

The Secretary may provide that income or gain from the sale of inventories or other transactions in the ordinary course of a trade or business shall not be treated as inversion gain under subparagraph (B) to the extent the Secretary determines such treatment would not be inconsistent with the purposes of this section.

“(5) COORDINATION WITH SECTION 172 AND MINIMUM TAX.—Rules similar to the rules of paragraphs (3) and (4) of section 860E(a) shall apply, for purposes of this section.

“(6) STATUTE OF LIMITATIONS.—

“(A) IN GENERAL.—The statutory period for the assessment of any deficiency attributable to the inversion gain of any taxpayer for any pre-inversion year shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of the acquisition described in subsection (a)(2)(A) to which such gain relates and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

“(B) PRE-INVERSION YEAR.—For purposes of subparagraph (A), the term ‘pre-inversion year’ means any taxable year if—

“(i) any portion of the applicable period is included in such taxable year, and

“(ii) such year ends before the taxable year in which the acquisition described in subsection (a)(2)(A) is completed.

“(d) SPECIAL RULES APPLICABLE TO ACQUIRED ENTITIES TO WHICH SUBSECTION (b) APPLIES.—

“(1) INCREASES IN ACCURACY-RELATED PENALTIES.—In the case of any underpayment of tax of an acquired entity to which subsection (b) applies—

“(A) section 6662(a) shall be applied with respect to such underpayment by substituting ‘30 percent’ for ‘20 percent’, and

“(B) if such underpayment is attributable to one or more gross valuation understatements, the increase in the rate of penalty under section 6662(h) shall be to 50 percent rather than 40 percent.

“(2) MODIFICATIONS OF LIMITATION ON INTEREST DEDUCTION.—In the case of an acquired entity to which subsection (b) applies, section 163(j) shall be applied—

“(A) without regard to paragraph (2)(A)(ii) thereof, and

“(B) by substituting ‘25 percent’ for ‘50 percent’ each place it appears in paragraph (2)(B) thereof.

“(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) RULES FOR APPLICATION OF SUBSECTION (a)(2).—In applying subsection (a)(2) for purposes of subsections (a) and (b), the following rules shall apply:

“(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (a)(2)(B)—

“(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

“(ii) stock of such entity which is sold in a public offering or private placement related to the acquisition described in subsection (a)(2)(A).

“(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (a)(2)(B) are met with respect to such domestic corporation or partnership, such actions shall be treated as pursuant to a plan.

“(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

"(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (a)(2) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482) shall be treated as 1 partnership.

"(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary—

"(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

"(ii) to treat stock as not stock.

"(2) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a) but without regard to section 1504(b)(3), except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

"(3) FOREIGN INCORPORATED ENTITY.—The term 'foreign incorporated entity' means any entity which is, or but for subsection (a)(1) would be, treated as a foreign corporation for purposes of this title.

"(4) FOREIGN RELATED PERSON.—The term 'foreign related person' means, with respect to any acquired entity, a foreign person which—

"(A) bears a relationship to such entity described in section 267(b) or 707(b), or

"(B) is under the same common control (within the meaning of section 482) as such entity.

"(5) SUBSEQUENT ACQUISITIONS BY UNRELATED DOMESTIC CORPORATIONS.—

"(A) IN GENERAL.—Subject to such conditions, limitations, and exceptions as the Secretary may prescribe, if, after an acquisition described in subsection (a)(2)(A) to which subsection (b) applies, a domestic corporation stock of which is traded on an established securities market acquires directly or indirectly any properties of one or more acquired entities in a transaction with respect to which the requirements of subparagraph (B) are met, this section shall cease to apply to any such acquired entity with respect to which such requirements are met.

"(B) REQUIREMENTS.—The requirements of the subparagraph are met with respect to a transaction involving any acquisition described in subparagraph (A) if—

"(i) before such transaction the domestic corporation did not have a relationship described in section 267(b) or 707(b), and was not under common control (within the meaning of section 482), with the acquired entity, or any member of an expanded affiliated group including such entity, and

"(ii) after such transaction, such acquired entity—

"(I) is a member of the same expanded affiliated group which includes the domestic corporation or has such a relationship or is under such common control with any member of such group, and

"(II) is not a member of, and does not have such a relationship and is not under such common control with any member of, the expanded affiliated group which before such acquisition included such entity.

"(f) REGULATIONS.—The Secretary shall provide such regulations as are necessary to carry out this section, including regulations providing for such adjustments to the application of this section as are necessary to prevent the avoidance of the purposes of this section, including the avoidance of such purposes through—

"(1) the use of related persons, pass-thru or other noncorporate entities, or other intermediaries, or

"(2) transactions designed to have persons cease to be (or not become) members of expanded affiliated groups or related persons.".

(b) INFORMATION REPORTING.—The Secretary of the Treasury shall exercise the Secretary's authority under the Internal Revenue Code of 1986 to require entities involved in transactions to which section 7874 of such Code (as added by subsection (a)) applies to report to the Secretary, shareholders, partners, and such other persons as the Secretary may prescribe such information as is necessary to ensure the proper tax treatment of such transactions.

(c) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 80 is amended by adding at the end the following new item:

"Sec. 7874. Rules relating to inverted corporate entities.".

(d) TRANSITION RULE FOR CERTAIN REGULATED INVESTMENT COMPANIES AND UNIT INVESTMENT TRUSTS.—Notwithstanding section 7874 of the Internal Revenue Code of 1986 (as added by subsection (a)), a regulated investment company, or other pooled fund or trust specified by the Secretary of the Treasury, may elect to recognize gain by reason of section 367(a) of such Code with respect to a transaction under which a foreign incorporated entity is treated as an inverted domestic corporation under section 7874(a) of such Code by reason of an acquisition completed after March 20, 2002, and before January 1, 2004.

SEC. 442. IMPOSITION OF MARK-TO-MARKET TAX ON INDIVIDUALS WHO EXPATRIATE.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

"SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

"(a) GENERAL RULES.—For purposes of this subtitle—

"(1) MARK TO MARKET.—Except as provided in subsections (d) and (f), all property of a covered expatriate to whom this section applies shall be treated as sold on the day before the expatriation date for its fair market value.

"(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

"(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

"(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

"(3) EXCLUSION FOR CERTAIN GAIN.—

"(A) IN GENERAL.—The amount which, but for this paragraph, would be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

"(B) COST-OF-LIVING ADJUSTMENT.—

"(i) IN GENERAL.—In the case of an expatriation date occurring in any calendar year after 2004, the $600,000 amount under subparagraph (A) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 2003' for 'calendar year 1992' in subparagraph (B) thereof.

"(ii) ROUNDING RULES.—If any amount after adjustment under clause (i) is not a multiple of $1,000, such amount shall be rounded to the next lower multiple of $1,000.

"(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

"(A) IN GENERAL.—If a covered expatriate elects the application of this paragraph—

"(i) this section (other than this paragraph and subsection (i)) shall not apply to the expatriate, but

"(ii) in the case of property to which this section would apply but for such election, the expatriate shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

"(B) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

"(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

"(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

"(iii) complies with such other requirements as the Secretary may prescribe.

"(C) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

"(b) ELECTION TO DEFER TAX.—

"(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the payment of the additional tax attributable to such property shall be postponed until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

"(2) DETERMINATION OF TAX WITH RESPECT TO PROPERTY.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

"(3) TERMINATION OF POSTPONEMENT.—No tax may be postponed under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), unless the taxpayer corrects such failure within the time specified by the Secretary).

"(4) SECURITY.—

"(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided to the Secretary with respect to such property.

“(B) Adequate security.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

“(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2) for the property, or

“(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

“(5) Waiver of certain rights.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

“(6) Elections.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be made under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

“(7) Interest.—For purposes of section 6601—

“(A) the last date for the payment of tax shall be determined without regard to the election under this subsection, and

“(B) section 6621(a)(2) shall be applied by substituting ‘5 percentage points’ for ‘3 percentage points’ in subparagraph (B) thereof.

“(c) Covered Expatriate.—For purposes of this section—

“(1) In general.—Except as provided in paragraph (2), the term ‘covered expatriate’ means an expatriate.

“(2) Exceptions.—An individual shall not be treated as a covered expatriate if—

“(A) the individual—

“(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

“(ii) has not been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) during the 5 taxable years ending with the taxable year during which the expatriation date occurs, or

“(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

“(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

“(d) Exempt Property; Special Rules for Pension Plans.—

“(1) Exempt property.—This section shall not apply to the following:

“(A) United states real property interests.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the day before the expatriation date, meet the requirements of section 897(c)(2).

“(B) Specified property.—Any property or interest in property not described in subparagraph (A) which the Secretary specifies in regulations.

“(2) Special rules for certain retirement plans.—

“(A) In general.—If a covered expatriate holds on the day before the expatriation date any interest in a retirement plan to which this paragraph applies—

“(i) such interest shall not be treated as sold for purposes of subsection (a)(1), but

“(ii) an amount equal to the present value of the expatriate's nonforfeitable accrued benefit shall be treated as having been received by such individual on such date as a distribution under the plan.

“(B) Treatment of subsequent distributions.—In the case of any distribution on or after the expatriation date to or on behalf of the covered expatriate from a plan from which the expatriate was treated as receiving a distribution under subparagraph (A), the amount otherwise includible in gross income by reason of the subsequent distribution shall be reduced by the excess of the amount includible in gross income under subparagraph (A) over any portion of such amount to which this subparagraph previously applied.

“(C) Treatment of subsequent distributions by plan.—For purposes of this title, a retirement plan to which this paragraph applies, and any person acting on the plan's behalf, shall treat any subsequent distribution described in subparagraph (B) in the same manner as such distribution would be treated without regard to this paragraph.

“(D) Applicable plans.—This paragraph shall apply to—

“(i) any qualified retirement plan (as defined in section 4974(c)),

“(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

“(iii) to the extent provided in regulations, any foreign pension plan or similar retirement arrangements or programs.

“(e) Definitions.—For purposes of this section—

“(1) Expatriate.—The term ‘expatriate’ means—

“(A) any United States citizen who relinquishes citizenship, and

“(B) any long-term resident of the United States who—

“(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

“(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

“(2) Expatriation date.—The term ‘expatriation date’ means—

“(A) the date an individual relinquishes United States citizenship, or

“(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

“(3) Relinquishment of citizenship.—A citizen shall be treated as relinquishing United States citizenship on the earliest of—

“(A) the date the individual renounces such individual's United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

“(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

“(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

“(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

“(4) Long-term resident.—The term ‘long-term resident’ has the meaning given to such term by section 877(e)(2).

“(f) Special Rules Applicable to Beneficiaries' Interests in Trust.—

“(1) In general.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust on the day before the expatriation date—

“(A) the individual shall not be treated as having sold such interest,

“(B) such interest shall be treated as a separate share in the trust, and

“(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

“(ii) the separate trust shall be treated as having sold its assets on the day before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

“(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii). In determining the amount of such distribution, proper adjustments shall be made for liabilities of the trust allocable to an individual's share in the trust.

“(2) Special rules for interests in qualified trusts.—

“(A) In general.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

“(i) paragraph (1) and subsection (a) shall not apply, and

“(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

“(B) Amount of tax.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

“(i) the highest rate of tax imposed by section 1(e) for the taxable year which includes the day before the expatriation date, multiplied by the amount of the distribution, or

“(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

“(C) Deferred tax account.—For purposes of subparagraph (B)(ii)—

“(i) Opening balance.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

“(ii) Increase for interest.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods, except that section 6621(a)(2) shall be applied by substituting ‘5 percentage points’ for ‘3 percentage points’ in subparagraph (B) thereof.

“(iii) Decrease for taxes previously paid.—The balance in the tax deferred account shall be reduced—

"(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

"(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

"(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

"(E) TAX DEDUCTED AND WITHHELD.—

"(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

"(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

"(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

"(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

"(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

"(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

"(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

"(G) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

"(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust which is described in section 7701(a)(30)(E).

"(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the day before the expatriation date, is vested in the beneficiary.

"(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

"(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

"(v) COORDINATION WITH RETIREMENT PLAN RULES.—This subsection shall not apply to an interest in a trust which is part of a retirement plan to which subsection (d)(2) applies.

"(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

"(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar adviser.

"(B) OTHER DETERMINATIONS.—For purposes of this section—

"(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

"(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

"(I) the methodology used to determine that taxpayer's trust interest under this section, and

"(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

"(g) TERMINATION OF DEFERRALS, ETC.—In the case of any covered expatriate, notwithstanding any other provision of this title—

"(1) any period during which recognition of income or gain is deferred shall terminate on the day before the expatriation date, and

"(2) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

"(h) IMPOSITION OF TENTATIVE TAX.—

"(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

"(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

"(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

"(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

"(i) SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.—

"(1) IMPOSITION OF LIEN.—

"(A) IN GENERAL.—If a covered expatriate makes an election under subsection (a)(4) or (b) which results in the deferral of any tax imposed by reason of subsection (a), the deferred amount (including any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on all property of the expatriate located in the United States (without regard to whether this section applies to the property).

"(B) DEFERRED AMOUNT.—For purposes of this subsection, the deferred amount is the amount of the increase in the covered expatriate's income tax which, but for the election under subsection (a)(4) or (b), would have occurred by reason of this section for the taxable year including the expatriation date.

"(2) PERIOD OF LIEN.—The lien imposed by this subsection shall arise on the expatriation date and continue until—

"(A) the liability for tax by reason of this section is satisfied or has become unenforceable by reason of lapse of time, or

"(B) it is established to the satisfaction of the Secretary that no further tax liability may arise by reason of this section.

"(3) CERTAIN RULES APPLY.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this subsection as if it were a lien imposed by section 6324A.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS FROM EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

"(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—

"(1) IN GENERAL.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.

"(2) EXCEPTIONS FOR TRANSFERS OTHERWISE SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1) shall not apply to any property if either—

"(A) the gift, bequest, devise, or inheritance is—

"(i) shown on a timely filed return of tax imposed by chapter 12 as a taxable gift by the covered expatriate, or

"(ii) included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate, or

"(B) no such return was timely filed but no such return would have been required to be filed even if the covered expatriate were a citizen or long-term resident of the United States.".

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

"(48) TERMINATION OF UNITED STATES CITIZENSHIP.—

"(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

"(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.".

(d) INELIGIBILITY FOR VISA OR ADMISSION TO UNITED STATES.—

(1) IN GENERAL.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

"(E) FORMER CITIZENS NOT IN COMPLIANCE WITH EXPATRIATION REVENUE PROVISIONS.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation).".

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

"(19) DISCLOSURE TO DENY VISA OR ADMISSION TO CERTAIN EXPATRIATES.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).".

(B) SAFEGUARDS.—

(i) TECHNICAL AMENDMENTS.—Paragraph (4) of section 6103(p) of the Internal Revenue Code of 1986, as amended by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107-210; 116 Stat. 961), is amended by striking "or (17)" after "any other person described in subsection (l)(16)" each place it appears and inserting "or (18)".

(ii) CONFORMING AMENDMENTS.—Section 6103(p)(4) (relating to safeguards), as amended by clause (i), is amended by striking "or (18)" after "any other person described in subsection (l)(16)" each place it appears and inserting "(18), or (19)".

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(B) TECHNICAL AMENDMENTS.—The amendments made by paragraph (2)(B)(i) shall take effect as if included in the amendments made by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107-210; 116 Stat. 961).

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

"(g) APPLICATION.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after January 1, 2004.".

(2) Section 2107 is amended by adding at the end the following new subsection:

"(f) APPLICATION.—This section shall not apply to any expatriate subject to section 877A.".

(3) Section 2501(a)(3) is amended by adding at the end the following new subparagraph:

"(F) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.".

(4)(A) Paragraph (1) of section 6039G(d) is amended by inserting "or 877A" after "section 877".

(B) The second sentence of section 6039G(e) is amended by inserting "or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))" after "877(a))".

(C) Section 6039G(f) is amended by inserting "or 877A(e)(2)(B)" after "877(e)(1)".

(f) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

"Sec. 877A. Tax responsibilities of expatriation.".

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after January 1, 2004.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to gifts and bequests received on or after January 1, 2004, from an individual or the estate of an individual whose expatriation date (as so defined) occurs after such date.

(3) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of the Internal Revenue Code of 1986, as added by this section, shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 443. EXCISE TAX ON STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

(a) IN GENERAL.—Subtitle D is amended by adding at the end the following new chapter:

"CHAPTER 48—STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS

"Sec. 5000A. Stock compensation of insiders in inverted corporations entities.

"SEC. 5000A. STOCK COMPENSATION OF INSIDERS IN INVERTED CORPORATIONS.

"(a) IMPOSITION OF TAX.—In the case of an individual who is a disqualified individual with respect to any inverted corporation, there is hereby imposed on such person a tax equal to 20 percent of the value (determined under subsection (b)) of the specified stock compensation held (directly or indirectly) by or for the benefit of such individual or a member of such individual's family (as defined in section 267) at any time during the 12-month period beginning on the date which is 6 months before the inversion date.

"(b) VALUE.—For purposes of subsection (a)—

"(1) IN GENERAL.—The value of specified stock compensation shall be—

"(A) in the case of a stock option (or other similar right) or any stock appreciation right, the fair value of such option or right, and

"(B) in any other case, the fair market value of such compensation.

"(2) DATE FOR DETERMINING VALUE.—The determination of value shall be made—

"(A) in the case of specified stock compensation held on the inversion date, on such date,

"(B) in the case of such compensation which is canceled during the 6 months before the inversion date, on the day before such cancellation, and

"(C) in the case of such compensation which is granted after the inversion date, on the date such compensation is granted.

"(c) TAX TO APPLY ONLY IF SHAREHOLDER GAIN RECOGNIZED.—Subsection (a) shall apply to any disqualified individual with respect to an inverted corporation only if gain (if any) on any stock in such corporation is recognized in whole or part by any shareholder by reason of the acquisition referred to in section 7874(a)(2)(A) (determined by substituting 'July 10, 2002' for 'March 20, 2002') with respect to such corporation.

"(d) EXCEPTION WHERE GAIN RECOGNIZED ON COMPENSATION.—Subsection (a) shall not apply to—

"(1) any stock option which is exercised on the inversion date or during the 6-month period before such date and to the stock acquired in such exercise, if income is recognized under section 83 on or before the inversion date with respect to the stock acquired pursuant to such exercise, and

"(2) any specified stock compensation which is exercised, sold, exchanged, distributed, cashed out, or otherwise paid during such period in a transaction in which gain or loss is recognized in full.

"(e) DEFINITIONS.—For purposes of this section—.

"(1) DISQUALIFIED INDIVIDUAL.—The term 'disqualified individual' means, with respect to a corporation, any individual who, at any time during the 12-month period beginning on the date which is 6 months before the inversion date—

"(A) is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 with respect to such corporation, or

"(B) would be subject to such requirements if such corporation were an issuer of equity securities referred to in such section.

"(2) INVERTED CORPORATION; INVERSION DATE.—

"(A) INVERTED CORPORATION.—The term 'inverted corporation' means any corporation to which subsection (a) or (b) of section 7874 applies determined—

"(i) by substituting 'July 10, 2002' for 'March 20, 2002' in section 7874(a)(2)(A), and

"(ii) without regard to subsection (b)(1)(A).

Such term includes any predecessor or successor of such a corporation.

"(B) INVERSION DATE.—The term 'inversion date' means, with respect to a corporation, the date on which the corporation first becomes an inverted corporation.

"(3) SPECIFIED STOCK COMPENSATION.—

"(A) IN GENERAL.—The term 'specified stock compensation' means payment (or right to payment) granted by the inverted corporation (or by any member of the expanded affiliated group which includes such corporation) to any person in connection with the performance of services by a disqualified individual for such corporation or member if the value of such payment or right is based on (or determined by reference to) the value (or change in value) of stock in such corporation (or any such member).

"(B) EXCEPTIONS.—Such term shall not include—

"(i) any option to which part II of subchapter D of chapter 1 applies, or

"(ii) any payment or right to payment from a plan referred to in section 280G(b)(6).

"(4) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)(3)); except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

"(f) SPECIAL RULES.—For purposes of this section—

"(1) CANCELLATION OF RESTRICTION.—The cancellation of a restriction which by its terms will never lapse shall be treated as a grant.

"(2) PAYMENT OR REIMBURSEMENT OF TAX BY CORPORATION TREATED AS SPECIFIED STOCK COMPENSATION.—Any payment of the tax imposed by this section directly or indirectly by the inverted corporation or by any member of the expanded affiliated group which includes such corporation—

"(A) shall be treated as specified stock compensation, and

"(B) shall not be allowed as a deduction under any provision of chapter 1.

"(3) CERTAIN RESTRICTIONS IGNORED.—Whether there is specified stock compensation, and the value thereof, shall be determined without regard to any restriction other than a restriction which by its terms will never lapse.

"(4) PROPERTY TRANSFERS.—Any transfer of property shall be treated as a payment and any right to a transfer of property shall be treated as a right to a payment.

"(5) OTHER ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) DENIAL OF DEDUCTION.—

(1) IN GENERAL.—Paragraph (6) of section 275(a) is amended by inserting "48," after "46,".

(2) $1,000,000 LIMIT ON DEDUCTIBLE COMPENSATION REDUCED BY PAYMENT OF EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—Paragraph (4) of section 162(m) is amended by adding at the end the following new subparagraph:

"(G) COORDINATION WITH EXCISE TAX ON SPECIFIED STOCK COMPENSATION.—The dollar limitation contained in paragraph (1) with respect to any covered employee shall be reduced (but not below zero) by the amount of any payment (with respect to such employee) of the tax imposed by section 5000A directly or indirectly by the inverted corporation (as defined in such section) or by any member of the expanded affiliated group (as defined in such section) which includes such corporation.".

(c) CONFORMING AMENDMENTS.—

(1) The last sentence of section 3121(v)(2)(A) is amended by inserting before the period "or to any specified stock compensation (as defined in section 5000A) on which tax is imposed by section 5000A".

(2) The table of chapters for subtitle D is amended by adding at the end the following new item:

"Chapter 48. Stock compensation of insiders in inverted corporations.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 11, 2002; except that periods before such date shall not be taken into account in applying the periods in subsections (a) and (e)(1) of section 5000A of the Internal Revenue Code of 1986, as added by this section.

SEC. 444. REINSURANCE OF UNITED STATES RISKS IN FOREIGN JURISDICTIONS.

(a) IN GENERAL.—Section 845(a) (relating to allocation in case of reinsurance agreement involving tax avoidance or evasion) is amended by striking "source and character" and inserting "amount, source, or character".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any risk reinsured after April 11, 2002.

SEC. 445. REPORTING OF TAXABLE MERGERS AND ACQUISITIONS.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6043 the following new section:

"SEC. 6043A. TAXABLE MERGERS AND ACQUISITIONS.

"(a) IN GENERAL.—The acquiring corporation in any taxable acquisition shall make a return (according to the forms or regulations prescribed by the Secretary) setting forth—

"(1) a description of the acquisition,

"(2) the name and address of each shareholder of the acquired corporation who is required to recognize gain (if any) as a result of the acquisition,

"(3) the amount of money and the fair market value of other property transferred to each such shareholder as part of such acquisition, and

"(4) such other information as the Secretary may prescribe.

To the extent provided by the Secretary, the requirements of this section applicable to the acquiring corporation shall be applicable to the acquired corporation and not to the acquiring corporation.

"(b) NOMINEE REPORTING.—Any person who holds stock as a nominee for another person shall furnish in the manner prescribed by the Secretary to such other person the information provided by the corporation under subsection (d).

"(c) TAXABLE ACQUISITION.—For purposes of this section, the term 'taxable acquisition' means any acquisition by a corporation of stock in or property of another corporation if any shareholder of the acquired corporation is required to recognize gain (if any) as a result of such acquisition.

"(d) STATEMENTS TO BE FURNISHED TO SHAREHOLDERS.—Every person required to make a return under subsection (a) shall furnish to each shareholder whose name is required to be set forth in such return a written statement showing—

"(1) the name, address, and phone number of the information contact of the person required to make such return,

"(2) the information required to be shown on such return with respect to such shareholder, and

"(3) such other information as the Secretary may prescribe.

The written statement required under the preceding sentence shall be furnished to the shareholder on or before January 31 of the year following the calendar year during which the taxable acquisition occurred.".

(b) ASSESSABLE PENALTIES.—

(1) Subparagraph (B) of section 6724(d)(1) (relating to definitions) is amended by redesignating clauses (ii) through (xvii) as clauses (iii) through (xviii), respectively, and by inserting after clause (i) the following new clause:

"(ii) section 6043A(a) (relating to returns relating to taxable mergers and acquisitions),".

(2) Paragraph (2) of section 6724(d) is amended by redesignating subparagraphs (F) through (AA) as subparagraphs (G) through (BB), respectively, and by inserting after subparagraph (E) the following new subparagraph:

"(F) subsections (b) and (d) of section 6043A (relating to returns relating to taxable mergers and acquisitions).".

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6043 the following new item:

"Sec. 6043A. Returns relating to taxable mergers and acquisitions.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to acquisitions after the date of the enactment of this Act.

Subtitle E—International Tax

SEC. 451. CLARIFICATION OF BANKING BUSINESS FOR PURPOSES OF DETERMINING INVESTMENT OF EARNINGS IN UNITED STATES PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 956(c)(2) is amended to read as follows:

"(A) obligations of the United States, money, or deposits with—

"(i) any bank (as defined by section 2(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)), without regard to subparagraphs (C) and (G) of paragraph (2) of such section), or

"(ii) any corporation not described in clause (i) with respect to which a bank holding company (as defined by section 2(a) of such Act) or financial holding company (as defined by section 2(p) of such Act) owns directly or indirectly more than 80 percent by vote or value of the stock of such corporation;".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 452. PROHIBITION ON NONRECOGNITION OF GAIN THROUGH COMPLETE LIQUIDATION OF HOLDING COMPANY.

(a) IN GENERAL.—Section 332 is amended by adding at the end the following new subsection:

"(d) RECOGNITION OF GAIN ON LIQUIDATION OF CERTAIN HOLDING COMPANIES.—

"(1) IN GENERAL.—In the case of any distribution to a foreign corporation in complete liquidation of an applicable holding company—

"(A) subsection (a) and section 331 shall not apply to such distribution, and

"(B) such distribution shall be treated as a distribution to which section 301 applies.

"(2) APPLICABLE HOLDING COMPANY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable holding company' means any domestic corporation—

"(i) which is a common parent of an affiliated group,

"(ii) stock of which is directly owned by the distributee foreign corporation,

"(iii) substantially all of the assets of which consist of stock in other members of such affiliated group, and

"(iv) which has not been in existence at all times during the 5 years immediately preceding the date of the liquidation.

"(B) AFFILIATED GROUP.—For purposes of this subsection, the term 'affiliated group' has the meaning given such term by section 1504(a) (without regard to paragraphs (2) and (4) of section 1504(b)).

"(3) COORDINATION WITH SUBPART F.—If the distributee of a distribution described in paragraph (1) is a controlled foreign corporation (as defined in section 957), then notwithstanding paragraph (1) or subsection (a), such distribution shall be treated as a distribution to which section 331 applies.

"(4) REGULATIONS.—The Secretary shall provide such regulations as appropriate to prevent the abuse of this subsection, including regulations which provide, for the purposes of clause (iv) of paragraph (2)(A), that a corporation is not in existence for any period unless it is engaged in the active conduct of a trade or business or owns a significant ownership interest in another corporation so engaged.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions in complete liquidation occurring on or after the date of the enactment of this Act.

SEC. 453. PREVENTION OF MISMATCHING OF INTEREST AND ORIGINAL ISSUE DISCOUNT DEDUCTIONS AND INCOME INCLUSIONS IN TRANSACTIONS WITH RELATED FOREIGN PERSONS.

(a) ORIGINAL ISSUE DISCOUNT.—Section 163(e)(3) (relating to special rule for original issue discount on obligation held by related foreign person) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) SPECIAL RULE FOR CERTAIN FOREIGN ENTITIES.—

"(i) IN GENERAL.—In the case of any debt instrument having original issue discount which is held by a related foreign person which is a foreign personal holding company (as defined in section 552), a controlled foreign corporation (as defined in section 957), or a passive foreign investment company (as defined in section 1297), a deduction shall be allowable to the issuer with respect to such original issue discount for any taxable year before the taxable year in which paid only to the extent such original issue discount is included during such prior taxable year in the gross income of a United States person who owns (within the meaning of section 958(a)) stock in such corporation.

"(ii) Secretarial authority.—The Secretary may by regulation exempt transactions from the application of clause (i), including any transaction which is entered into by a payor in the ordinary course of a trade or business in which the payor is predominantly engaged.".

(b) Interest and Other Deductible Amounts.—Section 267(a)(3) is amended—

(1) by striking "The Secretary" and inserting:

"(A) In general.—The Secretary", and

(2) by adding at the end the following new subparagraph:

"(B) Special rule for certain foreign entities.—

"(i) In general.—Notwithstanding subparagraph (A), in the case of any amount payable to a foreign personal holding company (as defined in section 552), a controlled foreign corporation (as defined in section 957), or a passive foreign investment company (as defined in section 1297), a deduction shall be allowable to the payor with respect to such amount for any taxable year before the taxable year in which paid only to the extent such amount is included during such prior taxable year in the gross income of a United States person who owns (within the meaning of section 958(a)) stock in such corporation.

"(ii) Secretarial authority.—The Secretary may by regulation exempt transactions from the application of clause (i), including any transaction which is entered into by a payor in the ordinary course of a trade or business in which the payor is predominantly engaged and in which the payment of the accrued amounts occurs within 8½ months after accrual or within such other period as the Secretary may prescribe.".

(c) Effective Date.—The amendments made by this section shall apply to payments accrued on or after the date of the enactment of this Act.

SEC. 454. EFFECTIVELY CONNECTED INCOME TO INCLUDE CERTAIN FOREIGN SOURCE INCOME.

(a) In General.—Section 864(c)(4)(B) (relating to treatment of income from sources without the United States as effectively connected income) is amended by adding at the end the following new flush sentence:

"Any income or gain which is equivalent to any item of income or gain described in clause (i), (ii), or (iii) shall be treated in the same manner as such item for purposes of this subparagraph.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 455. RECAPTURE OF OVERALL FOREIGN LOSSES ON SALE OF CONTROLLED FOREIGN CORPORATION.

(a) In General.—Section 904(f)(3) (relating to dispositions) is amending by adding at the end the following new subparagraph:

"(D) Application to dispositions of stock in controlled foreign corporations.—In the case of any disposition by a taxpayer of any share of stock in a controlled foreign corporation (as defined in section 957), this paragraph shall apply to such disposition in the same manner as if it were a disposition of property described in subparagraph (A), except that the exception contained in subparagraph (C)(i) shall not apply.".

(b) Effective Date.—The amendment made by this section shall apply to dispositions after the date of the enactment of this Act.

SEC. 456. MINIMUM HOLDING PERIOD FOR FOREIGN TAX CREDIT ON WITHHOLDING TAXES ON INCOME OTHER THAN DIVIDENDS.

(a) In General.—Section 901 is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) Minimum Holding Period for Withholding Taxes on Gain and Income Other Than Dividends etc.—

"(1) In general.—In no event shall a credit be allowed under subsection (a) for any withholding tax (as defined in subsection (k)) on any item of income or gain with respect to any property if—

"(A) such property is held by the recipient of the item for 15 days or less during the 30-day period beginning on the date which is 15 days before the date on which the right to receive payment of such item arises, or

"(B) to the extent that the recipient of the item is under an obligation (whether pursuant to a short sale or otherwise) to make related payments with respect to positions in substantially similar or related property.

This paragraph shall not apply to any dividend to which subsection (k) applies.

"(2) Exception for taxes paid by dealers.—

"(A) In general.—Paragraph (1) shall not apply to any qualified tax with respect to any property held in the active conduct in a foreign country of a business as a dealer in such property.

"(B) Qualified tax.—For purposes of subparagraph (A), the term 'qualified tax' means a tax paid to a foreign country (other than the foreign country referred to in subparagraph (A)) if—

"(i) the item to which such tax is attributable is subject to taxation on a net basis by the country referred to in subparagraph (A), and

"(ii) such country allows a credit against its net basis tax for the full amount of the tax paid to such other foreign country.

"(C) Dealer.—For purposes of subparagraph (A), the term 'dealer' means—

"(i) with respect to a security, any person to whom paragraphs (1) and (2) of subsection (k) would not apply by reason of paragraph (4) thereof if such security were stock, and

"(ii) with respect to any other property, any person with respect to whom such property is described in section 1221(a)(1).

"(D) Regulations.—The Secretary may prescribe such regulations as may be appropriate to carry out this paragraph, including regulations to prevent the abuse of the exception provided by this paragraph and to treat other taxes as qualified taxes.

"(3) Exceptions.—The Secretary may by regulation provide that paragraph (1) shall not apply to property where the Secretary determines that the application of paragraph (1) to such property is not necessary to carry out the purposes of this subsection.

"(4) Certain rules to apply.—Rules similar to the rules of paragraphs (5), (6), and (7) of subsection (k) shall apply for purposes of this subsection.

"(5) Determination of holding period.—Holding periods shall be determined for purposes of this subsection without regard to section 1235 or any similar rule.".

(b) Conforming Amendment.—The heading of subsection (k) of section 901 is amended by inserting "on Dividends" after "Taxes".

(c) Effective Date.—The amendments made by this section shall apply to amounts paid or accrued more than 30 days after the date of the enactment of this Act.

Subtitle F—Other Revenue Provisions

PART I—FINANCIAL INSTRUMENTS

SEC. 461. TREATMENT OF STRIPPED INTERESTS IN BOND AND PREFERRED STOCK FUNDS, ETC.

(a) In General.—Section 1286 (relating to tax treatment of stripped bonds) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) Treatment of Stripped Interests in Bond and Preferred Stock Funds, etc.—In the case of an account or entity substantially all of the assets of which consist of bonds, preferred stock, or a combination thereof, the Secretary may by regulations provide that rules similar to the rules of this section and 305(e), as appropriate, shall apply to interests in such account or entity to which (but for this subsection) this section or section 305(e), as the case may be, would not apply.".

(b) Cross Reference.—Subsection (e) of section 305 is amended by adding at the end the following new paragraph:

"(7) Cross reference.—

"For treatment of stripped interests in certain accounts or entities holding preferred stock, see section 1286(f).".

(c) Effective Date.—The amendments made by this section shall apply to purchases and dispositions after the date of the enactment of this Act.

SEC. 462. APPLICATION OF EARNINGS STRIPPING RULES TO PARTNERSHIPS AND S CORPORATIONS.

(a) In General.—Section 168(j) (relating to limitation on deduction for interest on certain indebtedness) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) Application to partnerships and S corporations.—

"(A) In general.—This subsection shall apply to partnerships and S corporations in the same manner as it applies to C corporations.

"(B) Allocations to certain corporate partners.—If a C corporation is a partner in a partnership—

"(i) the corporation's allocable share of indebtedness and interest income of the partnership shall be taken into account in applying this subsection to the corporation, and

"(ii) if a deduction is not disallowed under this subsection with respect to any interest expense of the partnership, this subsection shall be applied separately in determining whether a deduction is allowable to the corporation with respect to the corporation's allocable share of such interest expense.".

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 463. RECOGNITION OF CANCELLATION OF INDEBTEDNESS INCOME REALIZED ON SATISFACTION OF DEBT WITH PARTNERSHIP INTEREST.

(a) In General.—Paragraph (8) of section 108(e) (relating to general rules for discharge of indebtedness (including discharges not in title 11 cases or insolvency)) is amended to read as follows:

"(8) INDEBTEDNESS SATISFIED BY CORPORATE STOCK OR PARTNERSHIP INTEREST.—For purposes of determining income of a debtor from discharge of indebtedness, if—

"(A) a debtor corporation transfers stock, or

"(B) a debtor partnership transfers a capital or profits interest in such partnership,

to a creditor in satisfaction of its recourse or nonrecourse indebtedness, such corporation or partnership shall be treated as having satisfied the indebtedness with an amount of money equal to the fair market value of the stock or interest. In the case of any partnership, any discharge of indebtedness income recognized under this paragraph shall be included in the distributive shares of taxpayers which were the partners in the partnership immediately before such discharge.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to cancellations of indebtedness occurring on or after the date of the enactment of this Act.

SEC. 464. MODIFICATION OF STRADDLE RULES.

(a) RULES RELATING TO IDENTIFIED STRADDLES.—

(1) IN GENERAL.—Subparagraph (A) of section 1092(a)(2) (relating to special rule for identified straddles) is amended to read as follows:

"(A) IN GENERAL.—In the case of any straddle which is an identified straddle—

"(i) paragraph (1) shall not apply with respect to identified positions comprising the identified straddle,

"(ii) if there is any loss with respect to any identified position of the identified straddle, the basis of each of the identified offsetting positions in the identified straddle shall be increased by an amount which bears the same ratio to the loss as the unrecognized gain with respect to such offsetting position bears to the aggregate unrecognized gain with respect to all such offsetting positions, and

"(iii) any loss described in clause (ii) shall not otherwise be taken into account for purposes of this title.".

(2) IDENTIFIED STRADDLE.—Section 1092(a)(2)(B) (defining identified straddle) is amended—

(A) by striking clause (ii) and inserting the following:

"(ii) to the extent provided by regulations, the value of each position of which (in the hands of the taxpayer immediately before the creation of the straddle) is not less than the basis of such position in the hands of the taxpayer at the time the straddle is created, and", and

(B) by adding at the end the following new flush sentence:

"The Secretary shall prescribe regulations which specify the proper methods for clearly identifying a straddle as an identified straddle (and the positions comprising such straddle), which specify the rules for the application of this section for a taxpayer which fails to properly identify the positions of an identified straddle, and which specify the ordering rules in cases where a taxpayer disposes of less than an entire position which is part of an identified straddle.".

(3) UNRECOGNIZED GAIN.—Section 1092(a)(3) (defining unrecognized gain) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) SPECIAL RULE FOR IDENTIFIED STRADDLES.—For purposes of paragraph (2)(A)(ii), the unrecognized gain with respect to any identified offsetting position shall be the excess of the fair market value of the position at the time of the determination over the fair market value of the position at the time the taxpayer identified the position as a position in an identified straddle."

(4) CONFORMING AMENDMENT.—Section 1092(c)(2) is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(b) PHYSICALLY SETTLED POSITIONS.—Section 1092(d) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(8) SPECIAL RULES FOR PHYSICALLY SETTLED POSITIONS.—For purposes of subsection (a), if a taxpayer settles a position which is part of a straddle by delivering property to which the position relates (and such position, if terminated, would result in a realization of a loss), then such taxpayer shall be treated as if such taxpayer—

"(A) terminated the position for its fair market value immediately before the settlement, and

"(B) sold the property so delivered by the taxpayer at its fair market value.".

(c) REPEAL OF STOCK EXCEPTION.—

(1) IN GENERAL.—Section 1092(d)(3) is repealed.

(2) CONFORMING AMENDMENT.—Section 1258(d)(1) is amended by striking "; except that the term 'personal property' shall include stock".

(d) REPEAL OF QUALIFIED COVERED CALL EXCEPTION.—Section 1092(c)(4) is amended by adding at the end the following new subparagraph:

"(I) TERMINATION.—This paragraph shall not apply to any position established on or after the date of the enactment of this subparagraph.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to positions established on or after the date of the enactment of this Act.

SEC. 465. DENIAL OF INSTALLMENT SALE TREATMENT FOR ALL READILY TRADEABLE DEBT.

(a) IN GENERAL.—Section 453(f)(4)(B) (relating to purchaser evidences of indebtedness payable on demand or readily tradeable) is amended by striking "is issued by a corporation or a government or political subdivision thereof and".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales occurring on or after the date of the enactment of this Act.

PART II—CORPORATIONS AND PARTNERSHIPS

SEC. 466. MODIFICATION OF TREATMENT OF TRANSFERS TO CREDITORS IN DIVISIVE REORGANIZATIONS.

(a) IN GENERAL.—Section 361(b)(3) (relating to treatment of transfers to creditors) is amended by adding at the end the following new sentence: "In the case of a reorganization described in section 368(a)(1)(D) with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355, this paragraph shall apply only to the extent that the sum of the money and the fair market value of other property transferred to such creditors does not exceed the adjusted bases of such assets transferred.".

(b) LIABILITIES IN EXCESS OF BASIS.—Section 357(c)(1)(B) is amended by inserting "with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355" after "section 368(a)(1)(D)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of money or other property, or liabilities assumed, in connection with a reorganization occurring on or after the date of the enactment of this Act.

SEC. 467. CLARIFICATION OF DEFINITION OF NONQUALIFIED PREFERRED STOCK.

(a) IN GENERAL.—Section 351(g)(3)(A) is amended by adding at the end the following: "Stock shall not be treated as participating in corporate growth to any significant extent unless there is a real and meaningful likelihood of the shareholder actually participating in the earnings and growth of the corporation.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions after May 14, 2003.

SEC. 468. MODIFICATION OF DEFINITION OF CONTROLLED GROUP OF CORPORATIONS.

(a) IN GENERAL.—Section 1563(a)(2) (relating to brother-sister controlled group) is amended by striking "possessing—" and all that follows through "(B)" and inserting "possessing".

(b) APPLICATION OF EXISTING RULES TO OTHER CODE PROVISIONS.—Section 1563(f) (relating to other definitions and rules) is amended by adding at the end the following new paragraph:

"(5) BROTHER-SISTER CONTROLLED GROUP DEFINITION FOR PROVISIONS OTHER THAN THIS PART.—

"(A) IN GENERAL.—Except as specifically provided in an applicable provision, subsection (a)(2) shall be applied to an applicable provision as if it read as follows:

'(2) BROTHER-SISTER CONTROLLED GROUP.—Two or more corporations if 5 or fewer persons who are individuals, estates, or trusts own (within the meaning of subsection (d)(2) stock possessing—

'(A) at least 80 percent of the total combined voting power of all classes of stock entitled to vote, or at least 80 percent of the total value of shares of all classes of stock, of each corporation, and

'(B) more than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.'

"(B) APPLICABLE PROVISION.—For purposes of this paragraph, an applicable provision is any provision of law (other than this part) which incorporates the definition of controlled group of corporations under subsection (a).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 469. MANDATORY BASIS ADJUSTMENTS IN CONNECTION WITH PARTNERSHIP DISTRIBUTIONS AND TRANSFERS OF PARTNERSHIP INTERESTS.

(a) IN GENERAL.—Section 754 is repealed.

(b) ADJUSTMENT TO BASIS OF UNDISTRIBUTED PARTNERSHIP PROPERTY.—Section 734 is amended—

(1) by striking ", with respect to which the election provided in section 754 is in effect," in the matter preceding paragraph (1) of subsection (b),

(2) by striking "(as adjusted by section 732(d))" both places it appears in subsection (b),

(3) by striking the last sentence of subsection (b),

(4) by striking subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively, and

(5) by striking “optional” in the heading.

(c) ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY.—Section 743 is amended—

(1) by striking “with respect to which the election provided in section 754 is in effect” in the matter preceding paragraph (1) of subsection (b),

(2) by striking subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively,

(3) by adding at the end the following new subsection:

“(c) ELECTION TO ADJUST BASIS FOR TRANSFERS UPON DEATH OF PARTNER.—Subsection (a) shall not apply and no adjustments shall be made in the case of any transfer of an interest in a partnership upon the death of a partner unless an election to do so is made by the partnership. Such an election shall apply with respect to all such transfers of interests in the partnership. Any election under section 754 in effect on the date of the enactment of this section shall constitute an election made under this subsection. Such election may be revoked by the partnership, subject to such limitations as may be provided by regulations prescribed by the Secretary.”, and

(4) by striking “optional” in the heading.

(d) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 732 is repealed.

(2) Section 755(a) is amended—

(A) by striking “section 734(b) (relating to the optional adjustment” and inserting “section 734(a) (relating to the adjustment”, and

(B) by striking “section 743(b) (relating to the optional adjustment” and inserting “section 743(a) (relating to the adjustment”.

(3) Section 755(c), as added by this Act, is amended by striking “section 734(b)” and inserting “section 734(a)”.

(4) Section 761(e)(2) is amended by striking “optional”.

(5) Section 774(a) is amended by striking “743(b)” both places it appears and inserting “743(a)”.

(6) The item relating to section 734 in the table of sections for subpart B of part II of subchapter K of chapter 1 is amended by striking “Optional”.

(7) The item relating to section 743 in the table of sections for subpart C of part II of subchapter K of chapter 1 is amended by striking “Optional”.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transfers and distributions made after the date of the enactment of this Act.

(2) REPEAL OF SECTION 732(d).—The amendments made by subsections (b)(2) and (d)(1) shall apply to—

(A) except as provided in subparagraph (B), transfers made after the date of the enactment of this Act, and

(B) in the case of any transfer made on or before such date to which section 732(d) applies, distributions made after the date which is 2 years after such date of enactment.

PART III—DEPRECIATION AND AMORTIZATION

SEC. 471. EXTENSION OF AMORTIZATION OF INTANGIBLES TO SPORTS FRANCHISES.

(a) IN GENERAL.—Section 197(e) (relating to exceptions to definition of section 197 intangible) is amended by striking paragraph (6) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(b) CONFORMING AMENDMENTS.—

(1)(A) Section 1056 (relating to basis limitation for player contracts transferred in connection with the sale of a franchise) is repealed.

(B) The table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1056.

(2) Section 1245(a) (relating to gain from disposition of certain depreciable property) is amended by striking paragraph (4).

(3) Section 1253 (relating to transfers of franchises, trademarks, and trade names) is amended by striking subsection (e).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property acquired after the date of the enactment of this Act.

(2) SECTION 1245.—The amendment made by subsection (b)(2) shall apply to franchises acquired after the date of the enactment of this Act.

SEC. 472. SERVICE CONTRACTS TREATED IN SAME MANNER AS LEASES FOR RULES RELATING TO TAX-EXEMPT USE PROPERTY.

(a) IN GENERAL.—Section 168(h)(7) (defining lease) is amended by adding at the end the following: “Such term shall also include any service contract or other similar arrangement.”.

(b) LEASE TERM.—Section 168(i)(3) (relating to lease term) is amended by adding at the end the following new subparagraph:

“(C) SPECIAL RULE FOR SERVICE CONTRACTS.—In the case of any service contract or other similar arrangement treated as a lease under subsection (h)(7), the lease term shall be determined in the same manner as a lease.”.

(c) CONFORMING AMENDMENTS.—Section 168(g)(3)(A) is amended—

(1) by inserting “(as defined in subsection (h)(7)” after “lease” the first place it appears, and

(2) by inserting “(as determined under subsection (i)(3))” after “term”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to leases and service contracts or other similar arrangements entered into after the date of the enactment of this Act.

SEC. 473. CLASS LIVES FOR UTILITY GRADING COSTS.

(a) GAS UTILITY PROPERTY.—Section 168(e)(3)(E) (defining 15-year property) is amended by striking “and” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “, and”, and by adding at the end the following new clause:

“(iv) initial clearing and grading land improvements with respect to gas utility property.”.

(b) ELECTRIC UTILITY PROPERTY.—Section 168(e)(3) is amended by adding at the end the following new subparagraph:

“(F) 20-YEAR PROPERTY.—The term ‘20-year property’ means initial clearing and grading land improvements with respect to any electric utility transmission and distribution plant.”.

(c) CONFORMING AMENDMENTS.—The table contained in section 168(g)(3)(B) is amended—

(1) by inserting “or (E)(iv)” after “(E)(iii)”, and

(2) by adding at the end the following new item:

“(F) .... 25”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 474. EXPANSION OF LIMITATION ON DEPRECIATION OF CERTAIN PASSENGER AUTOMOBILES.

(a) IN GENERAL.—Section 179(b) (relating to limitations) is amended by adding at the end the following new paragraph:

“(6) LIMITATION ON COST TAKEN INTO ACCOUNT FOR CERTAIN PASSENGER VEHICLES.—

“(A) IN GENERAL.—The cost of any sport utility vehicle for any taxable year which may be taken into account under this section shall not exceed $25,000.

“(B) SPORT UTILITY VEHICLE.—For purposes of subparagraph (A)—

“(i) IN GENERAL.—The term ‘sport utility vehicle’ means any 4-wheeled vehicle which—

“(I) is manufactured primarily for use on public streets, roads, and highways,

“(II) is not subject to section 280F, and

“(III) is rated at not more than 14,000 pounds gross vehicle weight.

“(ii) CERTAIN VEHICLES EXCLUDED.—Such term does not include any vehicle which—

“(I) does not have the primary load carrying device or container attached,

“(II) has a seating capacity of more than 12 individuals,

“(III) is designed for more than 9 individuals in seating rearward of the driver’s seat,

“(IV) is equipped with an open cargo area, or a covered box not readily accessible from the passenger compartment, of at least 72.0 inches in interior length, or

“(V) has an integral enclosure, fully enclosing the driver compartment and load carrying device, does not have seating rearward of the driver’s seat, and has no body section protruding more than 30 inches ahead of the leading edge of the windshield.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 475. CONSISTENT AMORTIZATION OF PERIODS FOR INTANGIBLES.

(a) START-UP EXPENDITURES.—

(1) ALLOWANCE OF DEDUCTION.—Paragraph (1) of section 195(b) (relating to start-up expenditures) is amended to read as follows:

“(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection with respect to any start-up expenditures—

“(A) the taxpayer shall be allowed a deduction for the taxable year in which the active trade or business begins in an amount equal to the lesser of—

“(i) the amount of start-up expenditures with respect to the active trade or business, or

“(ii) $5,000, reduced (but not below zero) by the amount by which such start-up expenditures exceed $50,000, and

“(B) the remainder of such start-up expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the active trade or business begins.”.

(2) CONFORMING AMENDMENT.—Subsection (b) of section 195 is amended by striking “AMORTIZE” and inserting “DEDUCT” in the heading.

(b) ORGANIZATIONAL EXPENDITURES.—Subsection (a) of section 248 (relating to organizational expenditures) is amended to read as follows:

“(a) ELECTION TO DEDUCT.—If a corporation elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenditures—

“(1) the corporation shall be allowed a deduction for the taxable year in which the corporation begins business in an amount equal to the lesser of—

"(A) the amount of organizational expenditures with respect to the taxpayer, or

"(B) $5,000, reduced (but not below zero) by the amount by which such organizational expenditures exceed $50,000, and

"(2) the remainder of such organizational expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the corporation begins business.".

(c) TREATMENT OF ORGANIZATIONAL AND SYNDICATION FEES OR PARTNERSHIPS.—

(1) IN GENERAL.—Section 709(b) (relating to amortization of organization fees) is amended by redesignating paragraph (2) as paragraph (3) and by amending paragraph (1) to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenses—

"(A) the taxpayer shall be allowed a deduction for the taxable year in which the partnership begins business in an amount equal to the lesser of—

"(i) the amount of organizational expenses with respect to the partnership, or

"(ii) $5,000, reduced (but not below zero) by the amount by which such organizational expenses exceed $50,000, and

"(B) the remainder of such organizational expenses shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the partnership begins business.

"(2) DISPOSITIONS BEFORE CLOSE OF AMORTIZATION PERIOD.—In any case in which a partnership is liquidated before the end of the period to which paragraph (1)(B) applies, any deferred expenses attributable to the partnership which were not allowed as a deduction by reason of this section may be deducted to the extent allowable under section 165.".

(2) CONFORMING AMENDMENT.—Subsection (b) of section 709 is amended by striking "AMORTIZATION" and inserting "DEDUCTION" in the heading.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SEC. 476. LIMITATION ON DEDUCTIONS ALLOCABLE TO PROPERTY USED BY GOVERNMENTS OR OTHER TAX-EXEMPT ENTITIES.

(a) IN GENERAL.—Subpart C of part II of subchapter E of chapter 1 (relating to taxable year for which deductions taken) is amended by adding at the end the following new section:

"SEC. 470. DEDUCTIONS ALLOCABLE TO PROPERTY USED BY GOVERNMENTS OR OTHER TAX-EXEMPT ENTITIES.

"(a) GENERAL RULE.—The aggregate amount of deductions otherwise allowable to the taxpayer with respect to tax-exempt use property for any taxable year shall not exceed the aggregate amount of income includible in gross income of the taxpayer for the taxable year with respect to such property.

"(b) DISALLOWED DEDUCTION CARRIED TO NEXT YEAR.—Except as otherwise provided in this section, any deduction with respect to any tax-exempt use property which is disallowed under subsection (a) shall, subject to the limitation under subsection (a), be treated as a deduction with respect to such property in the next taxable year.

"(c) TAX-EXEMPT USE PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—The term 'tax-exempt use property' has the meaning given such term by section 168(h), except that such section shall be applied without regard to paragraphs (2)(C)(ii) and (3).

"(2) SPECIAL RULES FOR SERVICE CONTRACTS AND SIMILAR ARRANGEMENTS.—If tangible property is subject to a service contract or other similar arrangement between a taxpayer (or any related person) and any tax-exempt entity, such contract or arrangement shall be treated in the same manner as if it were a lease for purposes of determining whether such property is tax-exempt use property under paragraph (1).

"(d) SPECIAL RULES.—

"(1) ALLOCABLE DEDUCTIONS.—Subsection (a) shall apply to—

"(A) any deduction directly allocable to any tax-exempt use property, and

"(B) a proper share of other deductions that are not directly allocable to such property.

"(2) PROPERTY CEASING TO BE TAX-EXEMPT USE PROPERTY.—If property of a taxpayer ceases to be tax-exempt use property in the hands of the taxpayer—

"(A) any unused deduction allocable to such property under subsection (b) shall only be allowable as a deduction for any taxable year to the extent of any net income of the taxpayer allocable to such property, and

"(B) any portion of such unused deduction remaining after application of subparagraph (A) shall, subject to the limitation of subparagraph (A), be treated as a deduction allocable to such property in the next taxable year.

"(3) DISPOSITION OF ENTIRE INTEREST IN PROPERTY.—If during the taxable year a taxpayer disposes of the taxpayer's entire interest in tax-exempt use property, rules similar to the rules of section 469(g) shall apply for purposes of this section.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the provisions of this section.".

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by adding at the end the following new item:

"Sec. 470. Deductions allocable to property used by governments or other tax-exempt entities.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to leases and service contracts or similar arrangements entered into after the date of the enactment of this Act.

PART IV—ADMINISTRATIVE PROVISIONS

SEC. 481. CLARIFICATION OF RULES FOR PAYMENT OF ESTIMATED TAX FOR CERTAIN DEEMED ASSET SALES.

(a) IN GENERAL.—Paragraph (13) of section 338(h) (relating to tax on deemed sale not taken into account for estimated tax purposes) is amended by adding at the end the following: "The preceding sentence shall not apply with respect to a qualified stock purchase for which an election is made under paragraph (10).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transactions occurring after the date of the enactment of this Act.

SEC. 482. EXTENSION OF IRS USER FEES.

(a) IN GENERAL.—Section 7528(c) (relating to termination) is amended by striking "December 31, 2004" and inserting "September 30, 2013".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests after the date of the enactment of this Act.

SEC. 483. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENT.

(a) GENERAL RULE.—If—

(1) a taxpayer eligible to participate in—

(A) the Department of the Treasury's Offshore Voluntary Compliance Initiative, or

(B) the Department of the Treasury's voluntary disclosure initiative which applies to the taxpayer by reason of the taxpayer's underreporting of United States income tax liability through financial arrangements which rely on the use of offshore arrangements which were the subject of the initiative described in subparagraph (A), and

(2) any interest or applicable penalty is imposed with respect to any arrangement to which any initiative described in paragraph (1) applied or to any underpayment of Federal income tax attributable to items arising in connection with any arrangement described in paragraph (1),

then, notwithstanding any other provision of law, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(b) DEFINITIONS AND RULES.—For purposes of this section—

(1) APPLICABLE PENALTY.—The term "applicable penalty" means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(2) VOLUNTARY OFFSHORE COMPLIANCE INITIATIVE.—The term "Voluntary Offshore Compliance Initiative" means the program established by the Department of the Treasury in January of 2003 under which any taxpayer was eligible to voluntarily disclose previously undisclosed income on assets placed in offshore accounts and accessed through credit card and other financial arrangements.

(3) PARTICIPATION.—A taxpayer shall be treated as having participated in the Voluntary Offshore Compliance Initiative if the taxpayer submitted the request in a timely manner and all information requested by the Secretary of the Treasury or his delegate within a reasonable period of time following the request.

(c) EFFECTIVE DATE.—The provisions of this section shall apply to interest, penalties, additions to tax, and fines with respect to any taxable year if as of the date of the enactment of this Act, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

SEC. 484. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—

(1) Section 6159(a) (relating to authorization of agreements) is amended—

(A) by striking "satisfy liability for payment of" and inserting "make payment on", and

(B) by inserting "full or partial" after "facilitate".

(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting "full" before "payment".

(b) REQUIREMENT TO REVIEW PARTIAL PAYMENT AGREEMENTS EVERY TWO YEARS.—Section 6159, as amended by this Act, is amended by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively, and inserting after subsection (c) the following new subsection:

"(d) SECRETARY REQUIRED TO REVIEW INSTALLMENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO YEARS.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.”.

(c) Effective Date.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

SEC. 485. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking “March 31, 2004” and inserting “September 30, 2013”.

SEC. 486. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS.

(a) In General.—Subchapter A of chapter 67 (relating to interest on underpayments) is amended by adding at the end the following new section:

“SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS, ETC.

“(a) Authority To Make Deposits Other Than As Payment of Tax.—A taxpayer may make a cash deposit with the Secretary which may be used by the Secretary to pay any tax imposed under subtitle A or B or chapter 41, 42, 43, or 44 which has not been assessed at the time of the deposit. Such a deposit shall be made in such manner as the Secretary shall prescribe.

“(b) No Interest Imposed.—To the extent that such deposit is used by the Secretary to pay tax, for purposes of section 6601 (relating to interest on underpayments), the tax shall be treated as paid when the deposit is made.

“(c) Return of Deposit.—Except in a case where the Secretary determines that collection of tax is in jeopardy, the Secretary shall return to the taxpayer any amount of the deposit (to the extent not used for a payment of tax) which the taxpayer requests in writing.

“(d) Payment of Interest.—

“(1) In general.—For purposes of section 6611 (relating to interest on overpayments), a deposit which is returned to a taxpayer shall be treated as a payment of tax for any period to the extent (and only to the extent) attributable to a disputable tax for such period. Under regulations prescribed by the Secretary, rules similar to the rules of section 6611(b)(2) shall apply.

“(2) Disputable tax.—

“(A) In general.—For purposes of this section, the term ‘disputable tax’ means the amount of tax specified at the time of the deposit as the taxpayer's reasonable estimate of the maximum amount of any tax attributable to disputable items.

“(B) Safe harbor based on 30-day letter.—In the case of a taxpayer who has been issued a 30-day letter, the maximum amount of tax under subparagraph (A) shall not be less than the amount of the proposed deficiency specified in such letter.

“(3) Other definitions.—For purposes of paragraph (2)—

“(A) Disputable item.—The term ‘disputable item’ means any item of income, gain, loss, deduction, or credit if the taxpayer—

“(i) has a reasonable basis for its treatment of such item, and

“(ii) reasonably believes that the Secretary also has a reasonable basis for disallowing the taxpayer's treatment of such item.

“(B) 30-day letter.—The term ‘30-day letter’ means the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.

“(4) Rate of interest.—The rate of interest allowable under this subsection shall be the Federal short-term rate determined under section 6621(b), compounded daily.

“(e) Use of Deposits.—

“(1) Payment of tax.—Except as otherwise provided by the taxpayer, deposits shall be treated as used for the payment of tax in the order deposited.

“(2) Returns of deposits.—Deposits shall be treated as returned to the taxpayer on a last-in, first-out basis.”.

(b) Clerical Amendment.—The table of sections for subchapter A of chapter 67 is amended by adding at the end the following new item:

“Sec. 6603. Deposits made to suspend running of interest on potential underpayments, etc.”.

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to deposits made after the date of the enactment of this Act.

(2) Coordination with deposits made under revenue procedure 84–58.—In the case of an amount held by the Secretary of the Treasury or his delegate on the date of the enactment of this Act as a deposit in the nature of a cash bond deposit pursuant to Revenue Procedure 84–58, the date that the taxpayer identifies such amount as a deposit made pursuant to section 6603 of the Internal Revenue Code (as added by this Act) shall be treated as the date such amount is deposited for purposes of such section 6603.

SEC. 487. QUALIFIED TAX COLLECTION CONTRACTS.

(a) Contract Requirements.—

(1) In general.—Subchapter A of chapter 64 (relating to collection) is amended by adding at the end the following new section:

“SEC. 6306. QUALIFIED TAX COLLECTION CONTRACTS.

“(a) In General.—Nothing in any provision of law shall be construed to prevent the Secretary from entering into a qualified tax collection contract.

“(b) Qualified Tax Collection Contract.—For purposes of this section, the term ‘qualified tax collection contract’ means any contract which—

“(1) is for the services of any person (other than an officer or employee of the Treasury Department)—

“(A) to locate and contact any taxpayer specified by the Secretary,

“(B) to request full payment from such taxpayer of an amount of Federal tax specified by the Secretary and, if such request cannot be met by the taxpayer, to offer the taxpayer an installment agreement providing for full payment of such amount during a period not to exceed 3 years, and

“(C) to obtain financial information specified by the Secretary with respect to such taxpayer,

“(2) prohibits each person providing such services under such contract from committing any act or omission which employees of the Internal Revenue Service are prohibited from committing in the performance of similar services,

“(3) prohibits subcontractors from—

“(A) having contacts with taxpayers,

“(B) providing quality assurance services, and

“(C) composing debt collection notices, and

“(4) permits subcontractors to perform other services only with the approval of the Secretary.

“(c) Fees.—The Secretary may retain and use an amount not in excess of 25 percent of the amount collected under any qualified tax collection contract for the costs of services performed under such contract. The Secretary shall keep adequate records regarding amounts so retained and used. The amount credited as paid by any taxpayer shall be determined without regard to this subsection.

“(d) No Federal Liability.—The United States shall not be liable for any act or omission of any person performing services under a qualified tax collection contract.

“(e) Application of Fair Debt Collection Practices Act.—The provisions of the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) shall apply to any qualified tax collection contract, except to the extent superseded by section 6304, section 7602(c), or by any other provision of this title.

“(f) Cross References.—

“(1) For damages for certain unauthorized collection actions by persons performing services under a qualified tax collection contract, see section 7433A.

“(2) For application of Taxpayer Assistance Orders to persons performing services under a qualified tax collection contract, see section 7811(a)(4).”.

(2) Conforming amendments.—

(A) Section 7809(a) is amended by inserting “6306,” before “7651”.

(B) The table of sections for subchapter A of chapter 64 is amended by adding at the end the following new item:

“Sec. 6306. Qualified Tax Collection Contracts.”.

(b) Civil Damages for Certain Unauthorized Collection Actions by Persons Performing Services Under Qualified Tax Collection Contracts.—

(1) In general.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by inserting after section 7433 the following new section:

“SEC. 7433A. CIVIL DAMAGES FOR CERTAIN UNAUTHORIZED COLLECTION ACTIONS BY PERSONS PERFORMING SERVICES UNDER QUALIFIED TAX COLLECTION CONTRACTS.

“(a) In General.—Subject to the modifications provided by subsection (b), section 7433 shall apply to the acts and omissions of any person performing services under a qualified tax collection contract (as defined in section 6306(b)) to the same extent and in the same manner as if such person were an employee of the Internal Revenue Service.

“(b) Modifications.—For purposes of subsection (a)—

“(1) Any civil action brought under section 7433 by reason of this section shall be brought against the person who entered into the qualified tax collection contract with the Secretary and shall not be brought against the United States.

“(2) Such person and not the United States shall be liable for any damages and costs determined in such civil action.

“(3) Such civil action shall not be an exclusive remedy with respect to such person.

“(4) Subsections (c), (d)(1), and (e) of section 7433 shall not apply.”.

(2) Clerical amendment.—The table of sections for subchapter B of chapter 76 is amended by inserting after the item relating to section 7433 the following new item:

“Sec. 7433A. Civil damages for certain unauthorized collection actions by persons performing services under a qualified tax collection contract.”.

(c) Application of Taxpayer Assistance Orders to Persons Performing Services Under a Qualified Tax Collection Contract.—Section 7811 (relating to taxpayer assistance orders) is amended by adding at the end the following new subsection:

"(g) APPLICATION TO PERSONS PERFORMING SERVICES UNDER A QUALIFIED TAX COLLECTION CONTRACT.—Any order issued or action taken by the National Taxpayer Advocate pursuant to this section shall apply to persons performing services under a qualified tax collection contract (as defined in section 6306(b)) to the same extent and in the same manner as such order or action applies to the Secretary.".

(d) INELIGIBILITY OF INDIVIDUALS WHO COMMIT MISCONDUCT TO PERFORM UNDER CONTRACT.—Section 1203 of the Internal Revenue Service Restructuring Act of 1998 (relating to termination of employment for misconduct) is amended by adding at the end the following new subsection:

"(e) INDIVIDUALS PERFORMING SERVICES UNDER A QUALIFIED TAX COLLECTION CONTRACT.— An individual shall cease to be permitted to perform any services under any qualified tax collection contract (as defined in section 6306(b) of the Internal Revenue Code of 1986) if there is a final determination by the Secretary of the Treasury under such contract that such individual committed any act or omission described under subsection (b) in connection with the performance of such services.".

(e) EFFECTIVE DATE.—The amendments made to this section shall take effect on the date of the enactment of this Act.

PART V—MISCELLANEOUS PROVISIONS

SEC. 491. ADDITION OF VACCINES AGAINST HEPATITIS A TO LIST OF TAXABLE VACCINES.

(a) IN GENERAL.—Section 4132(a)(1) (defining taxable vaccine) is amended by redesignating subparagraphs (I), (J), (K), and (L) as subparagraphs (J), (K), (L), and (M), respectively, and by inserting after subparagraph (H) the following new subparagraph:

"(I) Any vaccine against hepatitis A.".

(b) CONFORMING AMENDMENT.—Section 9510(c)(1)(A) is amended by striking "October 18, 2000" and inserting "May 8, 2003".

(c) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendments made by this section shall apply to sales and uses on or after the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act.

(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 492. RECOGNITION OF GAIN FROM THE SALE OF A PRINCIPAL RESIDENCE ACQUIRED IN A LIKE-KIND EXCHANGE WITHIN 5 YEARS OF SALE.

(a) IN GENERAL.—Section 121(d) (relating to special rules for exclusion of gain from sale of principal residence) is amended by adding at the end the following new paragraph:

"(10) PROPERTY ACQUIRED IN LIKE-KIND EXCHANGE.—If a taxpayer acquired property in an exchange to which section 1031 applied, subsection (a) shall not apply to the sale or exchange of such property if it occurs during the 5-year period beginning with the date of the acquisition of such property.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales or exchanges after the date of the enactment of this Act.

SEC. 493. CLARIFICATION OF EXEMPTION FROM TAX FOR SMALL PROPERTY AND CASUALTY INSURANCE COMPANIES.

(a) IN GENERAL.—Section 501(c)(15)(A) is amended to read as follows:

"(A) Insurance companies (as defined in section 816(a)) other than life (including interinsurers and reciprocal underwriters) if—

"(i) the gross receipts for the taxable year do not exceed $600,000, and

"(ii) more than 50 percent of such gross receipts consist of premiums.".

(b) CONTROLLED GROUP RULE.—Section 501(c)(15)(C) is amended by inserting ", except that in applying section 1563 for purposes of section 831(b)(2)(B)(ii), subparagraphs (B) and (C) of section 1563(b)(2) shall be disregarded" before the period at the end.

(c) CONFORMING AMENDMENT.—Clause (i) of section 831(b)(2)(A) is amended by striking "exceed $350,000 but".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 494. DEFINITION OF INSURANCE COMPANY FOR SECTION 831.

(a) IN GENERAL.—Section 831 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) INSURANCE COMPANY DEFINED.—For purposes of this section, the term 'insurance company' has the meaning given to such term by section 816(a)).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 495. LIMITATIONS ON DEDUCTION FOR CHARITABLE CONTRIBUTIONS OF PATENTS AND SIMILAR PROPERTY.

(a) DEDUCTION ALLOWED ONLY TO THE EXTENT OF BASIS.—Section 170(e)(1)(B) (relating to certain contributions of ordinary income and capital gain property) is amended by striking "or" at the end of clause (i), by adding "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) of any patent, copyright, trademark, trade name, trade secret, know-how, software, or similar property, or applications or registrations of such property,".

(b) TREATMENT OF CONTRIBUTIONS WHERE DONOR RECEIVES INTEREST.—Section 170(e) is amended by adding at the end the following new paragraph:

"(7) SPECIAL RULES FOR CONTRIBUTIONS OF PATENTS AND SIMILAR PROPERTY WHERE DONOR RECEIVES INTEREST.—

"(A) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed under this section with respect to a contribution of property described in paragraph (1)(B)(iii) if the taxpayer after the contribution has any interest in the property other than a qualified interest.

"(B) CONTRIBUTIONS WITH QUALIFIED INTEREST.—If a taxpayer after a contribution of property described in paragraph (1)(B)(iii) has a qualified interest in the property—

"(i) any payment pursuant to the qualified interest shall be treated as ordinary income and shall be includible in gross income of the taxpayer for the taxable year in which the payment is received by the taxpayer, and

"(ii) subsection (f)(3) and section 1011(b) shall not apply to the transfer of the property from the taxpayer to the donee.

"(C) QUALIFIED INTEREST.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'qualified interest' means, with respect to any taxpayer, a right to receive from the donee a percentage (not greater than 50 percent) of any royalty payment received by the donee with respect to property described in paragraph (1)(B)(iii) (other than copyrights which are described in section 1221(a)(3) or 1231(b)(1)(C)) contributed by the taxpayer to the donee.

"(ii) SECRETARIAL AUTHORITY.—

"(I) IN GENERAL.—Except as provided in subclause (II), the Secretary may by regulation or other administrative guidance treat as a qualified interest the right to receive other payments from the donee, but only if the donee does not possess a right to receive any payment (whether royalties or otherwise) from a third party with respect to the contributed property.

"(II) EXCEPTIONS.—The Secretary may not treat as a qualified interest the right to receive any payment which provides a benefit to the donor which is greater than the benefit retained by the donee or the right to receive any portion of the proceeds from the sale of the property contributed.

"(iii) LIMITATION.—An interest shall be treated as a qualified interest under this subparagraph only if the taxpayer has no right to receive any payment described in clause (i) or (ii)(I) after the earlier of the date on which the legal life of the contributed property expires or the date which is 20 years after the date of the contribution.".

(c) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Section 6050L(a) (relating to returns regarding certain dispositions of donated property) is amended—

(A) by striking "If" and inserting:

"(1) DISPOSITIONS OF DONATED PROPERTY.—If",

(B) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively, and

(C) by adding at the end the following new paragraph:

"(2) PAYMENTS OF QUALIFIED INTERESTS.—Each donee of property described in section 170(e)(1)(B)(iii) which makes a payment to a donor pursuant to a qualified interest (as defined in section 170(e)(7)) during any calendar year shall make a return (in accordance with forms and regulations prescribed by the Secretary) showing—

"(A) the name, address, and TIN of the payor and the payee with respect to such a payment,

"(B) a description, and date of contribution, of the property to which the qualified interest relates,

"(C) the dates and amounts of any royalty payments received by the donee with respect to such property,

"(D) the date and the amount of the payment pursuant to the qualified interest, and

"(E) a description of the terms of the qualified interest.".

(2) CONFORMING AMENDMENTS.—

(A) The heading for section 6050L is amended by striking "certain dispositions of".

(B) The item relating to section 6050L in the table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking "certain dispositions of".

(d) ANTI-ABUSE RULES.—The Secretary of the Treasury may prescribe such regulations or other administrative guidance as may be necessary or appropriate to prevent the avoidance of the purposes of section 170(e)(1)(B)(iii) of the Internal Revenue Code of 1986 (as added by subsection (a)), including preventing—

(1) the circumvention of the reduction of the charitable deduction by embedding or bundling the patent or similar property as part of a charitable contribution of property that includes the patent or similar property,

(2) the manipulation of the basis of the property to increase the amount of the charitable deduction through the use of related persons, pass-thru entities, or other intermediaries, or through the use of any provision of law or regulation (including the consolidated return regulations), and

(3) a donor from changing the form of the patent or similar property to property of a form for which different deduction rules would apply.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after October 1, 2003.

SEC. 496. REPEAL OF 10-PERCENT REHABILITATION TAX CREDIT.

Section 47 is amended by adding at the end the following new subsection:

"(e) TERMINATION.—This section shall not apply to expenditures described in subsection (a)(1) incurred in taxable years beginning after December 31, 2003.".

SEC. 497. INCREASE IN AGE OF MINOR CHILDREN WHOSE UNEARNED INCOME IS TAXED AS IF PARENT'S INCOME.

(a) IN GENERAL.—Section 1(g)(2)(A) (relating to child to whom subsection applies) is amended by striking "age 14" and inserting "age 18".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SA 2646. Mr. GRASSLEY (for himself and Mr. BAUCUS) proposed an amendment to amendment SA 2645 proposed by Mr. GRASSLEY (for himself and Mr. BAUCUS) to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; as follows:

Strike sections 472 through 476 and insert:

SEC. 472. CLASS LIVES FOR UTILITY GRADING COSTS.

(a) GAS UTILITY PROPERTY.—Section 168(e)(3)(E) (defining 15-year property) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) initial clearing and grading land improvements with respect to gas utility property.".

(b) ELECTRIC UTILITY PROPERTY.—Section 168(e)(3) is amended by adding at the end the following new subparagraph:

"(F) 20-YEAR PROPERTY.—The term '20-year property' means initial clearing and grading land improvements with respect to any electric utility transmission and distribution plant.".

(c) CONFORMING AMENDMENTS.—The table contained in section 168(g)(3)(B) is amended—

(1) by inserting "or (E)(iv)" after "(E)(iii)", and

(2) by adding at the end the following new item:

"(F) .... 25".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 473. EXPANSION OF LIMITATION ON DEPRECIATION OF CERTAIN PASSENGER AUTOMOBILES.

(a) IN GENERAL.—Section 179(b) (relating to limitations) is amended by adding at the end the following new paragraph:

"(6) LIMITATION ON COST TAKEN INTO ACCOUNT FOR CERTAIN PASSENGER VEHICLES.—

"(A) IN GENERAL.—The cost of any sport utility vehicle for any taxable year which may be taken into account under this section shall not exceed $25,000.

"(B) SPORT UTILITY VEHICLE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The term 'sport utility vehicle' means any 4-wheeled vehicle which—

"(I) is manufactured primarily for use on public streets, roads, and highways,

"(II) is not subject to section 280F, and

"(III) is rated at not more than 14,000 pounds gross vehicle weight.

"(ii) CERTAIN VEHICLES EXCLUDED.—Such term does not include any vehicle which—

"(I) does not have the primary load carrying device or container attached,

"(II) has a seating capacity of more than 12 individuals,

"(III) is designed for more than 9 individuals in seating rearward of the driver's seat,

"(IV) is equipped with an open cargo area, or a covered box not readily accessible from the passenger compartment, of at least 72.0 inches in interior length, or

"(V) has an integral enclosure, fully enclosing the driver compartment and load carrying device, does not have seating rearward of the driver's seat, and has no body section protruding more than 30 inches ahead of the leading edge of the windshield.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 474. CONSISTENT AMORTIZATION OF PERIODS FOR INTANGIBLES.

(a) START-UP EXPENDITURES.—

(1) ALLOWANCE OF DEDUCTION.—Paragraph (1) of section 195(b) (relating to start-up expenditures) is amended to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection with respect to any start-up expenditures—

"(A) the taxpayer shall be allowed a deduction for the taxable year in which the active trade or business begins in an amount equal to the lesser of—

"(i) the amount of start-up expenditures with respect to the active trade or business, or

"(ii) $5,000, reduced (but not below zero) by the amount by which such start-up expenditures exceed $50,000, and

"(B) the remainder of such start-up expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the active trade or business begins.".

(2) CONFORMING AMENDMENT.—Subsection (b) of section 195 is amended by striking "AMORTIZE" and inserting "DEDUCT" in the heading.

(b) ORGANIZATIONAL EXPENDITURES.—Subsection (a) of section 248 (relating to organizational expenditures) is amended to read as follows:

"(a) ELECTION TO DEDUCT.—If a corporation elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenditures—

"(1) the corporation shall be allowed a deduction for the taxable year in which the corporation begins business in an amount equal to the lesser of—

"(A) the amount of organizational expenditures with respect to the taxpayer, or

"(B) $5,000, reduced (but not below zero) by the amount by which such organizational expenditures exceed $50,000, and

"(2) the remainder of such organizational expenditures shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the corporation begins business.".

(c) TREATMENT OF ORGANIZATIONAL AND SYNDICATION FEES OR PARTNERSHIPS.—

(1) IN GENERAL.—Section 709(b) (relating to amortization of organization fees) is amended by redesignating paragraph (2) as paragraph (3) and by amending paragraph (1) to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection (in accordance with regulations prescribed by the Secretary) with respect to any organizational expenses—

"(A) the taxpayer shall be allowed a deduction for the taxable year in which the partnership begins business in an amount equal to the lesser of—

"(i) the amount of organizational expenses with respect to the partnership, or

"(ii) $5,000, reduced (but not below zero) by the amount by which such organizational expenses exceed $50,000, and

"(B) the remainder of such organizational expenses shall be allowed as a deduction ratably over the 180-month period beginning with the month in which the partnership begins business.

"(2) DISPOSITIONS BEFORE CLOSE OF AMORTIZATION PERIOD.—In any case in which a partnership is liquidated before the end of the period to which paragraph (1)(B) applies, any deferred expenses attributable to the partnership which were not allowed as a deduction by reason of this section may be deducted to the extent allowable under section 165.".

(2) CONFORMING AMENDMENT.—Subsection (b) of section 709 is amended by striking "AMORTIZATION" and inserting "DEDUCTION" in the heading.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SEC. 475. REFORM OF TAX TREATMENT OF LEASING OPERATIONS.

(a) CLARIFICATION OF RECOVERY PERIOD FOR TAX-EXEMPT USE PROPERTY SUBJECT TO LEASE.—Subparagraph (A) of section 168(g)(3) (relating to special rules for determining class life) is amended by inserting "(notwithstanding any other subparagraph of this paragraph)" after "shall".

(b) LIMITATION ON DEPRECIATION PERIOD FOR SOFTWARE LEASED TO TAX-EXEMPT ENTITY.—Paragraph (1) of section 167(f) is amended by adding at the end the following new subparagraph:

"(C) TAX-EXEMPT USE PROPERTY SUBJECT TO LEASE.—In the case of computer software which would be tax-exempt use property as defined in subsection (h) of section 168 if such section applied to computer software, the useful life under subparagraph (A) shall not be less than 125 percent of the lease term (within the meaning of section 168(i)(3))."

(c) LEASE TERM TO INCLUDE RELATED SERVICE CONTRACTS.—Subparagraph (A) of section 168(i)(3) (relating to lease term) is amended by striking "and" at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

"(ii) the term of a lease shall include the term of any service contract or similar arrangement (whether or not treated as a lease under section 7701(e))—

"(I) which is part of the same transaction (or series of related transactions) which includes the lease, and

"(II) which is with respect to the property subject to the lease or substantially similar property, and".

(d) Effective Date.—The amendments made by this section shall apply to leases entered into after December 31, 2003.

SEC. 476. LIMITATION ON DEDUCTIONS ALLOCABLE TO PROPERTY USED BY GOVERNMENTS OR OTHER TAX-EXEMPT ENTITIES.

(a) In General.—Subpart C of part II of subchapter E of chapter 1 (relating to taxable year for which deductions taken) is amended by adding at the end the following new section:

"SEC. 470. LIMITATIONS ON LOSSES FROM TAX-EXEMPT USE PROPERTY.

"(a) Limitation on Losses.—Except as otherwise provided in this section, a tax-exempt use loss for any taxable year shall not be allowed.

"(b) Disallowed Loss Carried to Next Year.—Any tax-exempt use loss with respect to any tax-exempt use property which is disallowed under subsection (a) for any taxable year shall be treated as a deduction with respect to such property in the next taxable year.

"(c) Definitions.—For purposes of this section—

"(1) Tax-exempt use loss.—The term 'tax-exempt use loss' means, with respect to any taxable year, the amount (if any) by which—

"(A) the sum of—

"(i) the aggregate deductions (other than interest) directly allocable to a tax-exempt use property, plus

"(ii) the aggregate deductions for interest properly allocable to such property, exceed

"(B) the aggregate income from such property.

"(2) Tax-exempt use property.—The term 'tax-exempt use property' has the meaning given to such term by section 168(h) (without regard to paragraph (1)(C) or (3)(C) thereof and determined as if property described in section 167(f)(1)(B) were tangible property).

"(d) Exception for Certain Leases.—This section shall not apply to any lease of property which meets the requirements of all of the following paragraphs:

"(1) Property not financed with tax-exempt bonds.—A lease of property meets the requirements of this paragraph if no part of the property was financed (directly or indirectly) from the proceeds of an obligation the interest on which is exempt from tax under section 103(a) and which (or any refunding bond of which) is outstanding when the lease is entered into. The Secretary may by regulations provide for a de minimis exception from this paragraph.

"(2) Availability of funds.—

"(A) In general.—A lease of property meets the requirements of this paragraph if (at any time during the lease term) not more than an allowable amount of funds are—

"(i) subject to any arrangement referred to in subparagraph (B), or

"(ii) otherwise reasonably expected to remain available,

to or for the benefit of the lessor or any lender, or to or for the benefit of the lessee to satisfy the lessee's obligations or options under the lease.

"(B) Arrangements.—The arrangements referred to in this subparagraph are—

"(i) a defeasance arrangement, a loan by the lessee to the lessor or any lender, a deposit arrangement, a letter of credit collateralized with cash or cash equivalents, a payment undertaking agreement, a lease prepayment, a sinking fund arrangement, or any similar arrangement (whether or not such arrangement provides credit support), and

"(ii) any other arrangement identified by the Secretary in regulations.

"(C) Allowable amount.—

"(i) In general.—Except as otherwise provided in this subparagraph, the term 'allowable amount' means an amount equal to 20 percent of the lessor's adjusted basis in the property at the time the lease is entered into.

"(ii) Higher amount permitted in certain cases.—To the extent provided in regulations, a higher percentage shall be permitted under clause (i) where necessary because of the credit-worthiness of the lessee. In no event may such regulations permit a percentage of more than 50 percent.

"(iii) Option to purchase.—If under the lease the lessee has the option to purchase the property for other than the fair market value of the property (determined at the time of exercise), the allowable amount at the time such option may be exercised may not exceed 50 percent of the price at which such option may be exercised.

"(3) Lessor must make substantial equity investment.—A lease of property meets the requirements of this paragraph if—

"(A) the lessor—

"(i) has at the time the lease is entered into an unconditional at-risk equity investment (as determined by the Secretary) in the property of at least 20 percent of the lessor's adjusted basis in the property as of that time, and

"(ii) maintains such investment throughout the term of the lease, and

"(B) the fair market value of the property at the end of the lease term is reasonably expected to be equal to at least 20 percent of such basis.

"(4) Lessee may not bear more than minimal risk of loss.—

"(A) In general.—A lease of property meets the requirements of this paragraph if there is no arrangement under which more than a minimal risk of loss (as determined under regulations) in the value of the property is borne by the lessee.

"(B) Certain arrangements fail requirement.—In no event will the requirements of this paragraph be met if there is any arrangement under which the lessee bears—

"(i) any portion of the loss that would occur if the fair market value of the leased property at the time the lease is terminated were 25 percent less than its projected fair market value at the end of the lease term, or

"(ii) more than 50 percent of the loss that would occur if the fair market value of the leased property at the time the lease is terminated were zero.

"(5) Regulatory requirements.—A lease of property meets the requirements of this paragraph if such lease of property meets such requirements as the Secretary may prescribe by regulations.

"(e) Special Rules.—

"(1) Treatment of former tax-exempt use property.—

"(A) In general.—In the case of any former tax-exempt use property—

"(i) any deduction allowable under subsection (b) with respect to such property for any taxable year shall be allowed only to the extent of any net income (without regard to such deduction) from such property for such taxable year, and

"(ii) any portion of such unused deduction remaining after application of clause (i) shall be treated as a deduction allocable to such property in the next taxable year.

"(B) Former tax-exempt use property.—For purposes of this subsection, the term 'former tax-exempt use property' means any property which—

"(i) is not tax-exempt use property for the taxable year, but

"(ii) was tax-exempt use property for any prior taxable year.

"(2) Disposition of entire interest in property.—If during the taxable year a taxpayer disposes of the taxpayer's entire interest in tax-exempt use property (or former tax-exempt use property), rules similar to the rules of section 469(g) shall apply for purposes of this section.

"(3) Coordination with section 469.—This section shall be applied before the application of section 469.

"(f) Other Definitions.—For purposes of this section—

"(1) Related parties.—The terms 'lessor', 'lessee', and 'lender' include any related party (within the meaning of section 197(f)(9)(C)(i)).

"(2) Lease term.—The term 'lease term' has the meaning given to such term by section 168(i)(3).

"(3) Lender.—The term 'lender' means, with respect to any lease, a person that makes a loan to the lessor which is secured (or economically similar to being secured) by the lease or the leased property.

"(4) Loan.—The term 'loan' includes any similar arrangement.

"(g) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the provisions of this section, including regulation which—

"(1) allow in appropriate cases the aggregation of property subject to the same lease, and

"(2) provide for the determination of the allocation of interest expense for purposes of this section."

(b) Conforming Amendment.—The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by adding at the end the following new item:

"Sec. 470. Limitations on losses from tax-exempt use property."

(c) Effective Date.—The amendments made by this section shall apply to leases entered into after December 31, 2003.

SA 2647. Mr. HATCH (for himself, Mrs. Murray, Mr. Baucus, Ms. Cantwell, Mr. Smith, Mr. Bunning, and Mr. Grassley) proposed an amendment to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; as follows:

At the end of subtitle A of title III add the following:

SEC. ___. EXTENSION AND MODIFICATION OF RESEARCH CREDIT.

(a) Extension.—

(1) In general.—Section 41(h)(1)(B) (relating to termination) is amended by striking "June 30, 2004" and inserting "December 31, 2005".

(2) Conforming amendment.—Section 45C(b)(1)(D) is amended by striking "June 30, 2004" and inserting "December 31, 2005".

(b) Increase in Rates of Alternative Incremental Credit.—Subparagraph (A) of section 41(c)(4) (relating to election of alternative incremental credit) is amended—

(1) by striking "2.65 percent" and inserting "3 percent",

(2) by striking "3.2 percent" and inserting "4 percent", and

(3) by striking "3.75 percent" and inserting "5 percent".

(c) Alternative Simplified Credit for Qualified Research Expenses.—

(1) In general.—Subsection (c) of section 41 (relating to base amount) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) Election of alternative simplified credit.—

"(A) In general.—At the election of the taxpayer, the credit determined under subsection (a)(1) shall be equal to 12 percent of so much of the qualified research expenses for the taxable year as exceeds 50 percent of the average qualified research expenses for the 3 taxable years preceding the taxable year for which the credit is being determined.

"(B) Special rule in case of no qualified research expenses in any of 3 preceding taxable years.—

"(i) Taxpayers to which subparagraph applies.—The credit under this paragraph shall be determined under this subparagraph if the taxpayer has no qualified research expenses in any 1 of the 3 taxable years preceding the taxable year for which the credit is being determined.

"(ii) Credit rate.—The credit determined under this subparagraph shall be equal to 6 percent of the qualified research expenses for the taxable year.

"(C) Election.—An election under this paragraph shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary. An election under this paragraph may not be made for any taxable year to which an election under paragraph (4) applies."

(2) Coordination with election of alternative incremental credit.—

(A) In general.—Section 41(c)(4)(B) (relating to election) is amended by adding at the end the following: "An election under this paragraph may not be made for any taxable year to which an election under paragraph (5) applies."

(B) Transition rule.—In the case of an election under section 41(c)(4) of the Internal Revenue Code of 1986 which applies to the taxable year which includes the date of the enactment of this Act, such election shall be treated as revoked with the consent of the Secretary of the Treasury if the taxpayer makes an election under section 41(c)(5) of such Code (as added by paragraph (1)) for such year.

(f) Effective Dates.—

(1) Subsection (a).—The amendments made by subsection (a) shall apply to amounts paid or incurred after the date of the enactment of this Act.

(2) Subsections (b) and (c).—The amendments made by subsections (b) and (c) shall apply to taxable years beginning after December 31, 2004.

SA 2648. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE —UNEMPLOYMENT COMPENSATION

SEC. 01. EXTENSION OF THE TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 2002.

(a) In General.—Section 208 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30), as amended by Public Law 108–1 (117 Stat. 3) and the Unemployment Compensation Amendments of 2003 (Public Law 108–26; 117 Stat. 751), is amended—

(1) in subsection (a)(2), by striking "December 31, 2003" and inserting "June 30, 2004";

(2) in subsection (b)(1), by striking "December 31, 2003" and inserting "June 30, 2004";

(3) in subsection (b)(2)—

(A) in the heading, by striking "DECEMBER 31, 2003" and inserting "JUNE 30, 2004"; and

(B) by striking "December 31, 2003" and inserting "June 30, 2004"; and

(4) in subsection (b)(3), by striking "March 31, 2004" and inserting "September 30, 2004".

(b) Effective Date.—The amendments made by this section shall take effect as if included in the enactment of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 21).

SEC. 02. ADDITIONAL REVISION TO CURRENT TEUC-X TRIGGER.

(a) In General.—Section 203(c)(2)(B) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30) is amended to read as follows:

"(B) such a period would then be in effect for such State under such Act if—

"(i) section 203(d) of such Act were applied as if it had been amended by striking '5' each place it appears and inserting '4'; and

"(ii) with respect to weeks of unemployment beginning after December 27, 2003—

"(I) paragraph (1)(A) of such section 203(d) did not apply; and

"(II) clause (ii) of section 203(f)(1)(A) of such Act did not apply.".

(b) Application.—Section 203(c)(2)(B)(ii) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30), as added by subsection (a), shall apply with respect to payments for weeks of unemployment beginning on or after the date of enactment this Act.

SEC. 03. TEMPORARY STATE AUTHORITY TO WAIVE APPLICATION OF LOOKBACKS UNDER THE FEDERAL-STATE EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 1970.

For purposes of conforming with the provisions of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note), a State may, during the period beginning on the date of enactment of this Act and ending on June 30, 2004, waive the application of either subsection (d)(1)(A) of section 203 of such Act or subsection (f)(1)(A)(ii) of such section, or both.

SA 2649. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. APPLICATION OF COUNTERVAILING DUTY LAWS TO NONMARKET ECONOMIES.

(a) In General.—Section 701(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1671(a)(1)) is amended by inserting "(including a nonmarket economy country)" after "country" each place it appears.

(b) Definitions.—Section 771(5)(C) of the Tariff Act of 1930 (19 U.S.C. 1677(5)(C)) is amended—

(1) by striking "owned and" and inserting "owned,"; and

(2) by striking "merchandise." and inserting "merchandise, and without regard to whether the country is a nonmarket economy country.".

(c) Effective Date.—The amendments made by this section apply to petitions filed under section 702 of the Tariff Act of 1930 on or after the date of the enactment of this Act.

SA 2650. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —IMPROVEMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS

SEC. 01. IMPROVEMENT OF THE AFFORDABILITY OF THE CREDIT.

(a) In General.—Section 35(a) of the Internal Revenue Code of 1986 (relating to credit for health insurance costs of eligible individuals) is amended by striking "65" and inserting "75".

(b) Conforming Amendment.—Section 7527(b) of such Code (relating to advance payment of credit for health insurance costs of eligible individuals) is amended by striking "65" and inserting "75".

(c) Effective Date.—The amendments made by this section apply to taxable years beginning after December 31, 2004.

SEC. 02. ELIGIBILITY OF SPOUSE OF CERTAIN INDIVIDUALS ENTITLED TO MEDICARE.

(a) In General.—Subsection (b) of section 35 of the Internal Revenue Code of 1986 (defining eligible coverage month) is amended by adding at the end the following:

"(3) Special rule for spouse of individual entitled to medicare.—Any month which would be an eligible coverage month with respect to a taxpayer (determined without regard to subsection (f)(2)(A)) shall be an eligible coverage month for any spouse of such taxpayer.".

(b) Conforming Amendment.—Section 173(f)(5)(A)(i) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(5)(A)(i)) is amended by inserting "(including with respect to any month for which the eligible individual would have been treated as such but for the application of paragraph (7)(B)(i))" before the comma.

(c) Effective Date.—The amendments made by this section take effect on the date of enactment of this Act.

SEC. ___03. CLARIFICATION OF 3-MONTH REQUIREMENT OF EXISTING COVERAGE.

(a) IN GENERAL.—Clause (i) of section 35(e)(2)(B) of the Internal Revenue Code of 1986 (defining qualifying individual) is amended by inserting "(prior to the employment separation necessary to attain the status of an eligible individual)" after "9801(c)".

(b) CONFORMING AMENDMENT.—Section 173(f)(2)(B)(ii)(I) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(2)(B)(ii)(I)) is amended by inserting "(prior to the employment separation necessary to attain the status of an eligible individual)" after "1986".

(c) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act.

SEC. ___04. DECREASE IN PGBC PENSION RECIPIENT AGE ELIGIBILITY REQUIREMENT.

(a) IN GENERAL.—Subparagraph (A) of section 35(c)(4) of the Internal Revenue Code of 1986 (defining eligible PBGC pension recipient) is amended by striking "age 55" and inserting "age 50".

(b) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 2004.

SA 2651. Mr. BINGAMAN (for himself and Mr. DOMENICI) proposed an amendment to SA 2647 proposed by Mr. HATCH (for himself, Mrs. MURRAY, Mr. BAUCUS, Ms. CANTWELL, Mr. SMITH, Mr. BUNNING, and Mr. GRASSLEY) to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; as follows:

At the end of the amendment add the following:

SEC. ___. EXPANSION OF RESEARCH CREDIT.

(a) CREDIT FOR EXPENSES ATTRIBUTABLE TO CERTAIN COLLABORATIVE RESEARCH CONSORTIA.—

(1) IN GENERAL.—Section 41(a) (relating to credit for increasing research activities) is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end the following new paragraph:

"(3) 20 percent of the amounts paid or incurred by the taxpayer in carrying on any trade or business of the taxpayer during the taxable year (including as contributions) to a research consortium.".

(2) RESEARCH CONSORTIUM DEFINED.—Section 41(f) (relating to special rules) is amended by adding at the end the following new paragraph:

"(6) RESEARCH CONSORTIUM.—

"(A) IN GENERAL.—The term 'research consortium' means any organization—

"(i) which is—

"(I) described in section 501(c)(3) and is exempt from tax under section 501(a) and is organized and operated primarily to conduct energy research, or

"(II) organized and operated primarily to conduct research in the public interest (within the meaning of section 501(c)(3)),

"(ii) which is not a private foundation,

"(iii) to which at least 5 unrelated persons paid or incurred during the calendar year in which the taxable year of the organization begins amounts (including as contributions) to such organization for research, and

"(iv) to which no single person paid or incurred (including as contributions) during such calendar year an amount equal to more than 50 percent of the total amounts received by such organization during such calendar year for research.

"(B) TREATMENT OF PERSONS.—All persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as related persons for purposes of subparagraph (A)(iii) and as a single person for purposes of subparagraph (A)(iv).".

(3) CONFORMING AMENDMENT.—Section 41(b)(3)(C) is amended by inserting "(other than a research consortium)" after "organization".

(b) REPEAL OF LIMITATION ON CONTRACT RESEARCH EXPENSES PAID TO SMALL BUSINESSES, UNIVERSITIES, AND FEDERAL LABORATORIES.—Section 41(b)(3) (relating to contract research expenses) is amended by adding at the end the following new subparagraph:

"(D) AMOUNTS PAID TO ELIGIBLE SMALL BUSINESSES, UNIVERSITIES, AND FEDERAL LABORATORIES.—

"(i) IN GENERAL.—In the case of amounts paid by the taxpayer to—

"(I) an eligible small business,

"(II) an institution of higher education (as defined in section 3304(f)), or

"(III) an organization which is a Federal laboratory,

for qualified research which is energy research, subparagraph (A) shall be applied by substituting '100 percent' for '65 percent'.

"(ii) ELIGIBLE SMALL BUSINESS.—For purposes of this subparagraph, the term 'eligible small business' means a small business with respect to which the taxpayer does not own (within the meaning of section 318) 50 percent or more of—

"(I) in the case of a corporation, the outstanding stock of the corporation (either by vote or value), and

"(II) in the case of a small business which is not a corporation, the capital and profits interests of the small business.

"(iii) SMALL BUSINESS.—For purposes of this subparagraph—

"(I) IN GENERAL.—The term 'small business' means, with respect to any calendar year, any person if the annual average number of employees employed by such person during either of the 2 preceding calendar years was 500 or fewer. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the person was in existence throughout the year.

"(II) STARTUPS, CONTROLLED GROUPS, AND PREDECESSORS.—Rules similar to the rules of subparagraphs (B) and (D) of section 220(c)(4) shall apply for purposes of this clause.

"(iv) FEDERAL LABORATORY.—For purposes of this subparagraph, the term 'Federal laboratory' has the meaning given such term by section 4(6) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(6)), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2003.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2004.

SA 2652. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, after line 25, add the following:

SEC. ___. MODIFICATION OF DEPRECIATION ALLOWANCE FOR AIRCRAFT.

(a) AIRCRAFT TREATED AS QUALIFIED PROPERTY.—

(1) IN GENERAL.—Paragraph (2) of section 168(k) is amended by redesignating subparagraphs (C) through (F) as subparagraphs (D) through (G), respectively, and by inserting after subparagraph (B) the following new subparagraph:

"(C) CERTAIN AIRCRAFT.—

"(i) IN GENERAL.—The term 'qualified property' includes property—

"(I) which meets the requirements of clauses (i), (ii), and (iii) of subparagraph (A),

"(II) which is an aircraft,

"(III) which is purchased and on which such purchaser, at the time of the contract for purchase, has made a nonrefundable deposit of the lesser of 10 percent of the cost or $100,000, and

"(III) which meets the requirements of clause (ii).

"(ii) PRODUCTION PERIOD AND COST.—The requirements of this clause are met if the property would be subject to section 263A by reason of clause (iii) of subsection (f)(1)(B) thereof if such clause were applied—

"(I) by substituting '6 months' for '1 year', and

"(II) by substituting '$250,000' for '$1,000,000'.".

(2) PLACED IN SERVICE DATE.—Clause (iv) of section 168(k)(2)(A) is amended by striking "subparagraph (B)" and inserting "subparagraphs (B) and (C)".

(b) CONFORMING AMENDMENTS.—

(1) Section 168(k)(2)(B)(iii) is amended by inserting at the end the following: "Such term shall not include aircraft.".

(2) Section 168(k)(4)(A)(ii) is amended by striking "paragraph (2)(C)" and inserting "paragraph (2)(D)".

(3) Section 168(k)(4)(B)(iii) is amended by inserting "and paragraph (2)(C)" after "of this paragraph)".

(4) Section 168(k)(4)(C) is amended by striking "subparagraphs (B) and (D)" and inserting "subparagraphs (B), (C), and (E)".

(5) Section 168(k)(4)(D) is amended by striking "Paragraph (2)(E)" and inserting "Paragraph (2)(F)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SA 2653. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

SEC. ___. CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES TO INCLUDE GEOTHERMAL AND SOLAR ENERGY FACILITIES.

(a) In General.—Section 45(c)(1) (defining qualified energy resources) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting a comma, and by adding at the end the following new subparagraphs:

"(D) geothermal energy, and

"(E) solar energy.".

(b) Facilities Described.—Section 45(c)(3) (defining qualified facility) is amended by adding at the end the following new subparagraph:

"(D) Geothermal energy or solar energy facility.—In the case of a facility using geothermal energy or solar energy to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of this subparagraph, and before January 1, 2006.".

(c) Geothermal Energy Defined.—Section 45(c) (relating to definitions) is amended by adding at the end the following new paragraph:

"(5) Geothermal energy.—The term 'geothermal energy' means energy derived from a geothermal deposit (within the meaning of section 613(e)(2)).".

(d) Effective Date.—The amendments made by this section shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

SA 2654. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, after line 25, add the following:

SEC. ___. PERMANENT DEDUCTION FOR CERTAIN EXPENSES OF SCHOOL TEACHERS.

(a) In General.—Section 62(a)(2)(D) (relating to certain expenses of elementary and secondary school teachers) is amended by striking "In the case of taxable years beginning during 2002 or 2003, the deductions" and inserting "The deductions".

(b) Effective Date.—The amendment made by this section shall apply to expenses paid or incurred after December 31, 2003.

SA 2655. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, after line 25, insert the following:

SEC. ___. REDUCTION OF HOLDING PERIOD TO 12 MONTHS FOR PURPOSES OF DETERMINING WHETHER HORSES ARE SECTION 1231 ASSETS.

(a) In General.—Subparagraph (A) of section 1231(b)(3) (relating to definition of property used in the trade or business) is amended by striking "and horses".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SA 2656. Mr. BUNNING (for himself and Mr. Bond) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, after line 25, insert the following:

SEC. ___. INCOME TAX CREDIT FOR DISTILLED SPIRITS WHOLESALERS AND FOR DISTILLED SPIRITS IN CONTROL STATE BAILMENT WAREHOUSES FOR COSTS OF CARRYING FEDERAL EXCISE TAXES ON BOTTLED DISTILLED SPIRITS.

(a) In General.—Subpart A of part I of subchapter A of chapter 51 (relating to gallonage and occupational taxes) is amended by adding at the end the following new section:

"SEC. 5011. INCOME TAX CREDIT FOR AVERAGE COST OF CARRYING EXCISE TAX.

"(a) In General.—For purposes of section 38, the amount of the distilled spirits credit for any taxable year is the amount equal to the product of—

"(1) in the case of—

"(A) any eligible wholesaler—

"(i) the number of cases of bottled distilled spirits—

"(I) which were bottled in the United States, and

"(II) which are purchased by such wholesaler during the taxable year directly from the bottler of such spirits, or

"(B) any person which is subject to section 5005 and which is not an eligible wholesaler, the number of cases of bottled distilled spirits which are stored in a warehouse operated by, or on behalf of, a State, or agency or political subdivision thereof, on which title has not passed on an unconditional sale basis, and

"(2) the average tax-financing cost per case for the most recent calendar year ending before the beginning of such taxable year.

"(b) Eligible Wholesaler.—For purposes of this section, the term 'eligible wholesaler' means any person which holds a permit under the Federal Alcohol Administration Act as a wholesaler of distilled spirits which is not a State, or agency or political subdivision thereof.

"(c) Average Tax-Financing Cost.—

"(1) In general.—For purposes of this section, the average tax-financing cost per case for any calendar year is the amount of interest which would accrue at the deemed financing rate during a 60-day period on an amount equal to the deemed Federal excise tax per case.

"(2) Deemed financing rate.—For purposes of paragraph (1), the deemed financing rate for any calendar year is the average of the corporate overpayment rates under paragraph (1) of section 6621(a) (determined without regard to the last sentence of such paragraph) for calendar quarters of such year.

"(3) Deemed federal excise tax per case.—For purposes of paragraph (1), the deemed Federal excise tax per case is $25.68.

"(d) Other Definitions and Special Rules.—For purposes of this section—

"(1) Case.—The term 'case' means 12 80-proof 750 milliliter bottles.

"(2) Number of cases in lot.—The number of cases in any lot of distilled spirits shall be determined by dividing the number of liters in such lot by 9.".

(b) Credit Treated as Part of General Business Credit.—Section 38(b) (relating to current year business credit), as amended by section 5103 of this Act, is amended by striking "plus" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting ", plus", and by adding at the end the following new paragraph:

"(17) the distilled spirits credit determined under section 5011(a).".

(c) Conforming Amendments.—

(1) Section 39(d), as amended by section 5103 of this Act, is amended by adding at the end the following new paragraph:

"(12) No carryback of section 5011 credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 5011(a) may be carried back to a taxable year beginning before the date of the enactment of section 5011.".

(2) The table of sections for subpart A of part I of subchapter A of chapter 51. is amended by adding at the end the following new item:

"Sec. 5011. Income tax credit for average cost of carrying excise tax.".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SA 2657. Mr. BUNNING (for himself, Mr. Graham of Florida, and Mr. Nelson of Florida) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, after line 25, add the following:

SEC. ___. TREATMENT OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE AS BUSINESS CREDIT.

(a) In General.—

(1) Credit moved to subpart relating to business related credits.—The Internal Revenue Code of 1986 is amended by redesignating section 29 as section 45G and by moving section 45G (as so redesignated) from subpart B of part IV of subchapter A of chapter 1 to the end of subpart D of part IV of subchapter A of chapter 1.

(2) Credit Treated as Business Credit.—Section 38(b) is amended by striking "plus" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ", plus", and by adding at the end the following:

"(16) the nonconventional source production credit determined under section 45G(a).".

(3) CONFORMING AMENDMENTS.—

(A) Section 30(b)(3)(A) is amended by striking "sections 27 and 29" and inserting "section 27".

(B) Sections 43(b)(2) and 613A(c)(6)(C) are each amended by striking "section 29(d)(2)(C)" and inserting "section 45G(d)(2)(C)".

(C) Section 45G(a), as redesignated by paragraph (1), is amended by striking "At the election of the taxpayer, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year" and inserting "For purposes of section 38, if the taxpayer elects to have this section apply, the nonconventional source production credit determined under this section for the taxable year is".

(D) Section 45G(b), as so redesignated, is amended by striking paragraph (6).

(E) Section 53(d)(1)(B)(iii) is amended by striking "under section 29" and all that follows through "or not allowed".

(F) Section 55(c)(2) is amended by striking "29(b)(6),".

(G) Subsection (a) of section 772 is amended by inserting "and" at the end of paragraph (9), by striking paragraph (10), and by redesignating paragraph (11) as paragraph (10).

(H) Paragraph (5) of section 772(d) is amended by striking "the foreign tax credit, and the credit allowable under section 29" and inserting "and the foreign tax credit".

(I) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 29.

(J) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 45F the following new item:

"Sec. 45G. Credit for producing fuel from a nonconventional source.".

(b) DETERMINATIONS UNDER NATURAL GAS POLICY ACT OF 1978.—Subparagraph (A) of section 45G(c)(2), as redesignated by subsection (a)(1), is amended—

(1) by inserting "by the Secretary, after consultation with the Federal Energy Regulatory Commission," after "shall be made", and

(2) by inserting "(as in effect before the repeal of such section)" after "1978".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to fuel produced and sold after December 31, 2003, in taxable years ending after such date.

(2) DETERMINATIONS UNDER NATURAL GAS POLICY ACT OF 1978.—The amendments made by subsection (b) shall apply as if included in the provisions repealing section 503 of the Natural Gas Policy Act of 1978.

SA 2658. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, after line 25, add the following:

SEC. ___. EXEMPTION OF QUALIFIED 501(c)(3) BONDS FOR NURSING HOMES FROM FEDERAL GUARANTEE PROHIBITIONS.

(a) IN GENERAL.—For purposes of section 149(b)(1) of the Internal Revenue Code of 1986, any qualified 501(c)(3) bond (as defined in section 145 of such Code) shall not be treated as federally guaranteed solely because such bond is part of an issue supported by a letter of credit, if such bond—

(1) is issued after December 31, 2003, and before the date which is 1 year after the date of the enactment of this Act, and

(2) is part of an issue 95 percent or more of the net proceeds of which are to be used to finance 1 or more of the following facilities primarily for the benefit of the elderly:

(A) Licensed nursing home facility.

(B) Licensed or certified assisted living facility.

(C) Licensed personal care facility.

(D) Continuing care retirement community.

(b) LIMITATION ON ISSUER.—Subsection (a) shall not apply to any bond described in such subsection if the aggregate authorized face amount of the issue of which such bond is a part, when increased by the outstanding amount of such bonds issued by the issuer during the period described in subsection (a)(1) exceeds $15,000,000.

(c) LIMITATION ON BENEFICIARY.—Rules similar to the rules of section 144(a)(10) of the Internal Revenue Code of 1986 shall apply for purposes of this section, except that—

(1) "$15,000,000" shall be substituted for "$40,000,000" in subparagraph (A) thereof, and

(2) such rules shall be applied—

(A) only with respect to bonds described in this section, and

(B) with respect to the aggregate authorized face amount of all issues of such bonds which are allocable to the beneficiary.

(d) CONTINUING CARE RETIREMENT COMMUNITY.—For purposes of this section, the term "continuing care retirement community" means a community which provides, on the same campus, a consortium of residential living options and support services to persons at least 60 years of age under a written agreement. For purposes of the preceding sentence, the residential living options shall include independent living units, nursing home beds, and either assisted living units or personal care beds.

SA 2659. Mr. BUNNING (for himself and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, after line 25, insert the following:

SEC. ___. EXPANSION OF DESIGNATED RENEWAL COMMUNITY AREA BASED ON 2000 CENSUS DATA.

(a) RENEWAL COMMUNITIES.—Section 1400E (relating to designation of renewal communities) is amended by adding at the end the following new subsection:

"(g) EXPANSION OF DESIGNATED AREAS.—

"(1) EXPANSION BASED ON 2000 CENSUS.—At the request of the nominating entity with respect to a renewal community, the Secretary of Housing and Urban Development may expand the area of a renewal community to include any census tract—

"(A) which, at the time such community was nominated, met the requirements of this section for inclusion in such community but for the failure of such tract to meet 1 or more of the population and poverty rate requirements of this section using 1990 census data, and

"(B) which meets all failed population and poverty rate requirements of this section using 2000 census data.

"(2) EXPANSION TO CERTAIN AREAS WHICH DO NOT MEET POPULATION REQUIREMENTS.—

"(A) IN GENERAL.—At the request of 1 or more local governments and the State or States in which an area described in subparagraph (B) is located, the Secretary of Housing and Urban Development may expand a designated area to include such area.

"(B) AREA.—An area is described in this subparagraph if—

"(i) the area is adjacent to at least 1 other area designated as a renewal community,

"(ii) the area has a population less than the population required under subsection (c)(2)(C), and

"(iii)(I) the area meets the requirements of subparagraphs (A) and (B) of subsection (c)(2) and subparagraph (A) of subsection (c)(3), or

"(II) the area contains a population of less than 100 people.

"(3) APPLICABILITY.—Any expansion of a renewal community under this section shall take effect as provided in subsection (b).".

(b) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the amendments made by section 101 of the Community Renewal Tax Relief Act of 2000.

SEC. ___. RENEWAL COMMUNITY EMPLOYERS MAY QUALIFY FOR EMPLOYMENT CREDIT BY EMPLOYING RESIDENTS OF CERTAIN OTHER RENEWAL COMMUNITIES.

(a) IN GENERAL.—Section 1400H(b)(2) (relating to modification) is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end the following new paragraph:

"(3) subsection (d)(1)(B) thereof shall be applied by substituting 'such renewal community, an adjacent renewal community within the same State as such renewal community, or a renewal community within such State which is within 5 miles of any border of such renewal community' for 'such empowerment zone'.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the amendment made by section 101(a) of the Community Renewal Tax Relief Act of 2000.

SA 2660. Mr. DODD (for himself, Mr. COLEMAN, Mr. KENNEDY, Mr. CORZINE, Ms. MIKULSKI, and Mr. FEINGOLD) proposed an amendment to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; as follows:

At the end of the bill, add the following:

TITLE V—PROTECTION OF UNITED STATES WORKERS FROM COMPETITION OF FOREIGN WORKFORCES

SEC. 501. LIMITATIONS ON OFF-SHORE PERFORMANCE OF CONTRACTS.

(a) LIMITATIONS.—

(1) IN GENERAL.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by adding at the end the following new section:

"SEC. 42. LIMITATIONS ON OFF-SHORE PERFORMANCE OF CONTRACTS.

"(a) CONVERSIONS TO CONTRACTOR PERFORMANCE OF FEDERAL ACTIVITIES.—An activity or function of an executive agency that is converted to contractor performance under Office of Management and Budget Circular A–76 may not be performed by the contractor or any subcontractor at a location outside the United States except to the extent that such activity or function was previously performed by Federal Government employees outside the United States.

"(b) OTHER FEDERAL CONTRACTS.—(1) A contract that is entered into by the head of an executive agency may not be performed outside the United States except to meet a requirement of the executive agency for the contract to be performed specifically at a location outside the United States.

"(2) The prohibition in paragraph (1) does not apply in the case of a contract of an executive agency if—

"(A) the President determines in writing that it is necessary in the national security interests of the United States for the contract to be performed outside the United States; or

"(B) the head of such executive agency makes a determination and reports such determination on a timely basis to the Director of the Office of Management and Budget that—

"(i) the property or services needed by the executive agency are available only by means of performance of the contract outside the United States; and

"(ii) no property or services available by means of performance of the contract inside the United States would satisfy the executive agency's need.

"(3) Paragraph (1) does not apply to the performance of a contract outside the United States under the exception provided in subsection (a).

"(c) STATE CONTRACTS.—(1) Except as provided in paragraph (2), funds appropriated for financial assistance for a State may not be disbursed to or for such State during a fiscal year unless the chief executive of that State has transmitted to the Administrator for Federal Procurement Policy, not later than April 1 of the preceding fiscal year, a written certification that none of such funds will be expended for the performance outside the United States of contracts entered into by such State.

"(2) The prohibition on disbursement of funds to or for a State under paragraph (1) does not apply with respect to the performance of a State contract outside the United States if—

"(A) the chief executive of such State—

"(i) determines that the property or services needed by the State are available only by means of performance of the contract outside the United States and no property or services available by means of performance of the contract inside the United States would satisfy the State's need; and

"(ii) transmits a notification of such determination to the head of the executive agency of the United States that administers the authority under which such funds are disbursed to or for the State; and

"(B) the head of the executive agency receiving the notification of such determination—

"(i) confirms that the facts warrant the determination;

"(ii) approves the determination; and

"(iii) transmits a notification of the approval of the determination to the Director of the Office of Management and Budget.

"(3) In this subsection, the term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"(d) Subsection (b) and (c) shall not apply to procurement covered by the WTO Government Procurement Agreement.

"(e) RESPONSIBILITIES OF OMB.—The Director of the Office of Management and Budget shall—

"(1) maintain—

"(A) the waivers granted under subsection (b)(2), together with the determinations and certifications on which such waivers were based; and

"(B) the notifications received under subsection (c)(2)(B)(iii); and

"(2) submit to Congress promptly after the end of each quarter of each fiscal year a report that sets forth—

"(A) the waivers that were granted under subsection (b)(2) during such quarter; and

"(B) the notifications that were received under subsection (c)(2)(B)(iii) during such quarter.

"(f) ANNUAL GAO REVIEW.—The Comptroller General shall—

"(1) review, each fiscal year, the waivers granted during such fiscal year under subsection (b)(2) and the disbursements of funds authorized pursuant to the exception in subsection (c)(2); and

"(2) promptly after the end of such fiscal year, transmit to Congress a report containing a list of the contracts covered by such waivers and exception together with a brief description of the performance of each such contract outside the United States.".

(2) CLERICAL AMENDMENT.—The table of sections in section 1(b) of such Act is amended by adding at the end the following new item:

"Sec. 42. Limitations on off-shore performance of contracts.".

(b) INAPPLICABILITY TO STATES DURING FIRST TWO FISCAL YEARS.—Section 42(c) of the Office of Federal Procurement Policy Act (as added by subsection (a)) shall not apply to disbursements of funds to a State during the fiscal year in which this Act is enacted and the next fiscal year.

SEC. 502. REPEAL OF SUPERSEDED LAW.

Section 647 of the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004 (division F of Public Law 108–199) is amended by striking subsection (e).

SEC. 503. EFFECTIVE DATE AND APPLICABILITY.

This title and the amendments made by this title shall take effect 30 days after the date of the enactment of this Act and, subject to subsection (b) of section 501, shall apply with respect to new contracts entered into on or after such date.

SA 2661. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 89, between lines 2 and 3 of Amendment No. 2645, as agreed to, insert the following:

(e) DISCLOSURE OF CORPORATE EXPATRIATION TRANSACTIONS.—

(1) IN GENERAL.—Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end the following new subsection:

"(i) PROXY SOLICITATIONS IN CONNECTION WITH CORPORATE EXPATRIATION TRANSACTIONS.—

"(1) DISCLOSURE TO SHAREHOLDERS OF EFFECTS OF CORPORATE EXPATRIATION TRANSACTION.—The Commission shall, by rule, require that each domestic issuer shall prominently disclose, not later than 5 business days before any shareholder vote relating to a corporate expatriation transaction, as a separate and distinct document accompanying each proxy statement relating to the transaction—

"(A) the number of employees of the domestic issuer that would be located in the new foreign jurisdiction of incorporation or organization of that issuer upon completion of the corporate expatriation transaction;

"(B) how the rights of holders of the securities of the domestic issuer would be impacted by a completed corporate expatriation transaction, and any differences in such rights before and after a completed corporate expatriation transaction; and

"(C) that, as a result of a completed corporate expatriation transaction, any taxable holder of the securities of the domestic issuer shall be subject to the taxation of any capital gains realized with respect to such securities, and the amount of any such capital gains tax that would apply as a result of the transaction.

"(2) DEFINITIONS.—In this subsection, the following definitions shall apply:

"(A) CORPORATE EXPATRIATION TRANSACTION.—The term 'corporate expatriation transaction' means any transaction, or series of related transactions, in which an entity organized under the laws of a foreign country acquires, directly or indirectly, substantially all of the voting securities in, or substantially all of the assets of, a domestic issuer, and—

"(i) immediately after completion of the transaction, more than 80 percent of the securities (by vote or value) of the acquiring foreign entity will be held by persons that were security holders of the domestic issuer immediately prior to the transaction; or

"(ii) immediately after completion of the transaction, more than 50 percent of the securities (by vote or value) of the acquiring foreign entity will be held by persons that were security holders of the domestic issuer immediately prior to the transaction, and—

"(I) such foreign entity will not have substantial business activities in the foreign country in which it is organized; and

"(II) the securities of the foreign entity will be publicly traded, and the principal market for the public trading of such securities will be in the United States.

"(B) DOMESTIC ISSUER.—The term 'domestic issuer' means an issuer created or organized in the United States or under the law of the United States or of any State.".

(2) EFFECTIVE DATE.—Section 14(i) of the Securities Exchange Act of 1934 (as added by

this subsection) shall apply with respect to corporate expatriation transactions (as defined in that section 14(i)) proposed on and after the date of enactment of this Act.

SA 2662. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. ___. TERMINATION OF THE DEBT INDICATOR PROGRAM.

The Secretary of the Treasury shall terminate the Debt Indicator program announced in Internal Revenue Service Notice 99-58.

SA 2663. Ms. CANTWELL (for herself, Mr. THOMAS, Mr. DURBIN, and Mr. LEAHY) submitted an amendment intended to be proposed by her to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. EXCLUSION FOR PAYMENTS TO INDIVIDUALS UNDER NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENT PROGRAM AND CERTAIN STATE LOAN REPAYMENT PROGRAMS.

(a) In General.—Section 108(f) of the Internal Revenue Code of 1986 (relating to student loans) is amended by adding at the end the following new paragraph:

"(4) Payments under national health service corps loan repayment program and certain state loan repayment programs.—In the case of an individual, gross income shall not include any amount received under section 338B(g) of the Public Health Service Act or under a State program described in section 338I of such Act.".

(b) Treatment for Purposes of Employment Taxes.—Each of the following provisions of the Internal Revenue Code of 1986 is amended by inserting "108(f)(4)," after "74(c),":

(1) Section 3121(a)(20).

(2) Section 3231(e)(5).

(3) Section 3306(b)(16).

(4) Section 3401(a)(19).

(5) Section 209(a)(17) of the Social Security Act.

(c) Effective Date.—The amendments made by this section shall apply to amounts received by an individual in taxable years beginning after December 31, 2003.

SA 2664. Ms. LANDRIEU (for herself and Ms. CANTWELL) submitted an amendment intended to be proposed by her to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, after line 25, add the following:

SEC. ___. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT ADDED TO GENERAL BUSINESS CREDIT.

(a) Ready Reserve-National Guard Credit.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following:

"SEC. 45G. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT.

"(a) General Rule.—For purposes of section 38, the Ready Reserve-National Guard employee credit determined under this section for any taxable year is an amount equal to 50 percent of the actual compensation amount for such taxable year.

"(b) Definition of Actual Compensation Amount.—For purposes of this section, the term 'actual compensation amount' means the amount of compensation paid or incurred by an employer with respect to a Ready Reserve-National Guard employee on any day when the employee was absent from employment for the purpose of performing qualified active duty.

"(c) Limitations.—

"(1) Maximum period for credit per employee.—The maximum period with respect to which the credit may be allowed with respect to any Ready Reserve-National Guard employee shall not exceed the 12-month period beginning on the first day such credit is so allowed with respect to such employee.

"(2) Days other than work days.—No credit shall be allowed with respect to a Ready Reserve-National Guard employee who performs qualified active duty on any day on which the employee was not scheduled to work (for reason other than to participate in qualified active duty).

"(d) Definitions and Special Rules.—For purposes of this section—

"(1) Qualified active duty.—The term 'qualified active duty' means—

"(A) active duty, other than the training duty specified in section 10147 of title 10, United States Code (relating to training requirements for the Ready Reserve), or section 502(a) of title 32, United States Code (relating to required drills and field exercises for the National Guard), in connection with which an employee is entitled to reemployment rights and other benefits or to a leave of absence from employment under chapter 43 of title 38, United States Code, and

"(B) hospitalization incident to such duty.

"(2) Compensation.—The term 'compensation' means any remuneration for employment, whether in cash or in kind, which is paid or incurred by a taxpayer and which is deductible from the taxpayer's gross income under section 162(a)(1).

"(3) Ready reserve-national guard employee.—The term 'Ready Reserve-National Guard employee' means an employee who is a member of the Ready Reserve or of the National Guard.

"(4) National guard.—The term 'National Guard' has the meaning given such term by section 101(c)(1) of title 10, United States Code.

"(5) Ready reserve.—The term 'Ready Reserve' has the meaning given such term by section 10142 of title 10, United States Code.

"(6) Certain rules to apply.—Rules similar to the rules of section 52 shall apply.".

(b) Credit To Be Part of General Business Credit.—Subsection (b) of section 38 (relating to general business credit) is amended by striking "plus" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ", plus", and by adding at the end the following:

"(16) the Ready Reserve-National Guard employee credit determined under section 45G(a).".

(c) Conforming Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 45F the following:

"Sec. 45G. Ready Reserve-National Guard employee credit.".

(d) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred after October 6, 2001, in taxable years ending after such date.

SA 2665. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 85, strike line 22 and all that follows through page 86, line 23.

SA 2666. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill insert the following new title:

SECTION 1. SHORT TITLE.

This title may be cited as the "Fundamental Tax Reform" Commission Act of 2004".

SEC. 2. ESTABLISHMENT OF COMMISSION.

(a) Establishment.—There is established the "Blue Ribbon Commission on Comprehensive Tax Reform" (in this Act referred to as the "Commission").

(b) Membership.

(1) Composition.—The Commission shall be composed of 15 members of whom—

(A) 3 shall be appointed by the majority leader of the Senate;

(B) 2 shall be appointed by the minority leader of the Senate;

(C) 3 shall be appointed by the Speaker of the House of Representatives;

(D) 2 shall be appointed by the minority leader of the House of Representatives; and

(E) 5 shall be appointed by the President, of which—

(i) no more than 3 shall be of the same party as the President.

(2) Federal employees.—The members of the Commission may be employees or former employees of the Federal Government.

(3) Date.—The appointments of the members of the Commission shall be made not

later than 45 days subsequent to enactment of this provision.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairman.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRMAN AND VICE CHAIRMAN.—The President shall select a Chairman and Vice Chairman from among its members.

SEC. 3. DUTIES OF THE COMMISSION.

(a) STUDY.—The Commission shall conduct a thorough study of all matters relating to a comprehensive reform of the Federal tax system, including the reform of the Internal Revenue Code of 1986 and the implementation (if appropriate) of other types of tax systems.

(b) RECOMMENDATIONS.—The Commission shall develop recommendations on how to comprehensively reform the Federal tax system in a manner which produces a fair, simple, honest code that generates appropriate revenue for the Federal Government.

(c) REPORT.—Not later than 18 months after the date on which all initial members of the Commission have been appointed pursuant to section 2(b), the Commission shall submit a report to the President and Congress which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

SEC. 4. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 5. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee, including employees of the Legislative Branch, may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 6. TERMINATION OF THE COMMISSION.

The Commission shall terminate 90 days after the date on which the Commission submits its reports under section 3.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to the Commission to carry out this Act.

SA 2667. Mr. SMITH (for himself, Mr. LAUTENBERG, and Ms. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . INCOME AVERAGING FOR FARMERS AND FISHERMEN NOT TO INCREASE ALTERNATIVE MINIMUM TAX LIABILITY.

(a) IN GENERAL.—Section 55(c) (defining regular tax) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) COORDINATION WITH INCOME AVERAGING FOR FARMERS AND FISHERMEN.—Solely for purposes of this section, section 1301 (relating to averaging of farm and fishing income) shall not apply in computing the regular tax.".

(b) ALLOWING INCOME AVERAGING FOR FISHERMEN.—

(1) IN GENERAL.—Section 1301(a) is amended by striking "farming business" and inserting "farming business or fishing business".

(2) DEFINITION OF ELECTED FARM INCOME.—

(A) IN GENERAL.—Clause (i) of section 1301(b)(1)(A) is amended by inserting "or fishing business" before the semicolon.

(B) CONFORMING AMENDMENT.—Subparagraph (B) of section 1301(b)(1) is amended by inserting "or fishing business" after "farming business" both places it occurs.

(3) DEFINITION OF FISHING BUSINESS.—Section 1301(b) is amended by adding at the end the following new paragraph:

"(4) FISHING BUSINESS.—The term 'fishing business' means the conduct of commercial fishing as defined in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SA 2668. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. CERTAIN STEAM GENERATORS OR OTHER GENERATING BOILERS USED IN NUCLEAR FACILITIES AND CERTAIN REACTOR VESSEL HEADS USED IN SUCH FACILITIES.

(a) IN GENERAL.—

(1) Subheading 9902.84.02 of the Harmonized Tariff Schedule of the United States is amended by striking "12/31/2006" and inserting "12/31/2012".

(2) Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"	9902.84.03	Reactor vessel heads for nuclear reactors (provided for in subheading 8401.40.00)	Free	No change	No change	On or before 12/31/2012	".

(b) EFFECTIVE DATE.—The amendments made by subsection (a)(2) shall apply to goods entered, or withdrawn from warehouse, for consumption on or after January 1, 2005.

SA 2669. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the

Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 71, beginning with line 12, strike through line 23 on page 146 and insert the following:

“(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction an amount equal to 9 percent of the qualified production activities income of the taxpayer for the taxable year.

“(b) DEDUCTION LIMITED TO WAGES PAID.—

“(1) IN GENERAL.—The amount of the deduction allowable under subsection (a) for any taxable year shall not exceed 50 percent of the W–2 wages of the employer for the taxable year.

“(2) W–2 WAGES.—For purposes of paragraph (1), the term ‘W–2 wages’ means the sum of the aggregate amounts the taxpayer is required to include on statements under paragraphs (3) and (8) of section 6051(a) with respect to employment of employees of the taxpayer during the taxpayer's taxable year.

“(3) SPECIAL RULES.—

“(A) PASS-THRU ENTITIES.—In the case of an S corporation, partnership, estate or trust, or other pass-thru entity, the limitation under this subsection shall apply at the entity level.

“(B) ACQUISITIONS AND DISPOSITIONS.—

The Secretary shall provide for the application of this subsection in cases where the taxpayer acquires, or disposes of, the major portion of a trade or business or the major portion of a separate unit of a trade or business during the taxable year.

“(c) QUALIFIED PRODUCTION ACTIVITIES INCOME.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified production activities income’ means an amount equal to the portion of the modified taxable income of the taxpayer which is attributable to domestic production activities.

“(2) REDUCTION FOR TAXABLE YEARS BEGINNING BEFORE 2013.—The amount otherwise determined under paragraph (1) (the ‘unreduced amount’) shall not exceed—

“(A) in the case of taxable years beginning before 2010, the product of the unreduced amount and the domestic/worldwide fraction, and

“(B) in the case of taxable years beginning in 2010, 2011, or 2012, an amount equal to the sum of—

“(i) the product of the unreduced amount and the domestic/worldwide fraction, plus

“(ii) the applicable percentage of an amount equal to the unreduced amount minus the amount determined under clause (i).

For purposes of subparagraph (B)(ii), the applicable percentage is 25 percent for 2010, 50 percent for 2011, and 75 percent for 2012.

“(d) DETERMINATION OF INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES.—For purposes of this section—

“(1) IN GENERAL.—The portion of the modified taxable income which is attributable to domestic production activities is so much of the modified taxable income for the taxable year as does not exceed—

“(A) the taxpayer's domestic production gross receipts for such taxable year, reduced by

“(B) the sum of—

“(i) the costs of goods sold that are allocable to such receipts,

“(ii) other deductions, expenses, or losses directly allocable to such receipts, and

“(iii) a proper share of other deductions, expenses, and losses that are not directly allocable to such receipts or another class of income.

“(2) ALLOCATION METHOD—The Secretary shall prescribe rules for the proper allocation of items of income, deduction, expense, and loss for purposes of determining income attributable to domestic production activities.

“(3) SPECIAL RULES FOR DETERMINING COSTS.—

“(A) IN GENERAL.—For purposes of determining costs under clause (1) of paragraph (1)(B), any item or service brought into the United States shall be treated as acquired by purchase, and its cost shall be treated as not less than its fair market value immediately after it entered the United States. A similar rule shall apply in determining the adjusted basis of leased or rented property where the lease or rental gives rise to domestic production gross receipts.

“(B) EXPORTS FOR FURTHER MANUFACTURE.—In the case of any property described in subparagraph (A) that had been exported by the taxpayer for further manufacture, the increase in cost or adjusted basis under subparagraph (A) shall not exceed the difference between the value of the property when exported and the value of the property when brought back into the United States after the further manufacture.

“(4) MODIFIED TAXABLE INCOME.—The term ‘modified taxable income’ means taxable income computed without regard to the deduction allowable under this section.

“(e) DOMESTIC PRODUCTION GROSS RECEIPTS.—For purposes of this section—

“(1) IN GENERAL.—The term ‘domestic production gross receipts’ means the gross receipts of the taxpayer which are derived from—

“(A) any sale, exchange, or other disposition of, or

“(B) any lease, rental, or license of,

qualifying production property which was manufactured, produced, grown, or extracted in whole or in significant part by the taxpayer within the United States.

“(2) SPECIAL RULES FOR CERTAIN PROPERTY.—In the case of any qualifying production property described in subsection (f)(1)(C)—

“(A) such property shall be treated for purposes of paragraph (1) as produced in significant part by the taxpayer within the United States if more than 50 percent of the aggregate development and production costs are incurred by the taxpayer within the United States, and

“(B) if a taxpayer acquires such property before such property begins to generate substantial gross receipts, any development or production costs incurred before the acquisition shall be treated as incurred by the taxpayer for purposes of subparagraph (A) and paragraph (1).

“(f) QUALIFYING PRODUCTION PROPERTY.—For purposes of this section—

“(1) IN GENERAL.—Except as otherwise provided in this paragraph, the term ‘qualifying production property’ means—

“(A) any tangible personal property,

“(B) any computer software, and

“(C) any property described in section 168(f) (3) or (4), including any underlying copyright or trademark.

“(2) EXCLUSIONS FROM QUALIFYING PRODUCTION PROPERTY.—The term ‘qualifying production property’ shall not include—

“(A) consumable property that is sold, leased, or licensed by the taxpayer as an integral part of the provision of services,

“(B) oil or gas,

“(C) electricity,

“(D) water supplied by pipeline to the consumer,

“(E) utility services, or

“(F) any film, tape, recording, book, magazine, newspaper, or similar property the market for which is primarily topical or otherwise essentially transitory in nature.

“(g) DOMESTIC/WORLDWIDE FRACTION.—For purposes of this section—

“(1) IN GENERAL.—The term ‘domestic/worldwide fraction’ means a fraction (not greater than 1)—

“(A) the numerator of which is the value of the domestic production of the taxpayer, and

“(B) the denominator of which is the value of the worldwide production of the taxpayer.

“(2) VALUE OF DOMESTIC PRODUCTION.—The value of domestic production is the excess (if any) of—

“(A) the domestic production gross receipts, over

“(B) the cost of purchased inputs allocable to such receipts that are deductible under this chapter for the taxable year.

“(3) PURCHASED INPUTS.—

“(A) IN GENERAL.—Purchased inputs are any of the following items acquired by purchase:

“(i) Services (other than services of employees) used in manufacture, production, growth, or extraction activities.

“(ii) Items consumed in connection with such activities.

“(iii) Items incorporated as part of the property being manufactured, produced, grown, or extracted.

“(B) SPECIAL RULE.—Rules similar to the rules of subsection (d)(3) shall apply for purposes of this subsection.

“(4) VALUE OF WORLDWIDE PRODUCTION.—

“(A) IN GENERAL.—The value of worldwide production shall be determined under the principles of paragraph (2), except that—

“(i) worldwide production gross receipts shall be taken into account, and

“(ii) paragraph (3)(B) shall not apply.

“(B) WORLDWIDE PRODUCTION GROSS RECEIPTS.—The worldwide production gross receipts is the amount that would be determined under subsection (e) if such subsection were applied without any reference to the United States.

“(h) DEFINITIONS AND SPECIAL RULES.—

“(1) APPLICATION OF SECTION TO PASS-THRU ENTITIES.—In the case of an S corporation, partnership, estate or trust, or other pass-thru entity—

“(A) subject to the provisions of paragraph (2) and subsection (b)(3)(A), this section shall be applied at the shareholder, partner, or similar level, and

“(B) the Secretary shall prescribe rules for the application of this section, including rules relating to—

“(i) restrictions on the allocation of the deduction to taxpayers at the partner or similar level, and

“(ii) additional reporting requirements.

“(2) EXCLUSION FOR PATRONS OF AGRICULTURAL AND HORTICULTURAL COOPERATIVES.—

“(A) IN GENERAL.—If any amount described in paragraph (1) or (3) of section 1385(a)—

“(i) is received by a person from an organization to which part I of subchapter T applies which is engaged in the marketing of agricultural or horticultural products, and

“(ii) is allocable to the portion of the qualified production activities income of the organization which is deductible under subsection (a) and designated as such by the organization in a written notice mailed to its patrons during the payment period described in section 1382(d), then such person shall be allowed an exclusion from gross income with respect to such amount. The taxable income of the organization shall not be reduced under section 1382 by the portion of any such amount with respect to which an exclusion is allowable to a person by reason of this paragraph.

"(B) SPECIAL RULES.—For purposes of applying subparagraph (A), in determining the qualified production activities income of the organization under this section—

"(i) there shall not be taken into account in computing the organization's modified taxable income any deduction allowable under subsection (b) or (c) of section 1382 (relating to patronage dividends, per-unit retain allocations, and nonpatronage distributions), and

"(ii) the organization shall be treated as having manufactured, produced, grown, or extracted in whole or significant part any qualifying production property marketed by the organization which its patrons have so manufactured, produced, grown, or extracted.

"(3) SPECIAL RULE FOR AFFILIATED GROUPS.—

"(A) IN GENERAL.—All members of an expanded affiliated group shall be treated as a single corporation for purposes of this section.

"(B) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a), determined—

"(i) by substituting '50 percent' for '80 percent' each place it appears, and

"(ii) without regard to paragraphs (2) and (4) of section 1504(b).

For purposes of determining the domestic/worldwide fraction under subsection (g), clause (ii) shall be applied by also disregarding paragraphs (3) and (8) of section 1504(b).

"(4) COORDINATION WITH MINIMUM TAX.—The deduction under this section shall be allowed for purposes of the tax imposed by section 55; except that for purposes of section 55, alternative minimum taxable income shall be taken into account in determining the deduction under this section.

"(5) ORDERING RULE.—The amount of any other deduction allowable under this chapter shall be determined as if this section had not been enacted.

"(6) TRADE OR BUSINESS REQUIREMENT.—This section shall be applied by only taking into account items which are attributable to the actual conduct of a trade or business.

"(7) POSSESSIONS, ETC.—

"(A) IN GENERAL.—For purposes of subsection (d) and (e), the term 'United States' includes the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands of the United States.

"(B) SPECIAL RULES FOR APPLYING WAGE LIMITATION.—For purposes of applying the limitation under subsection (b) for any taxable year—

"(i) the determination of W–2 wages of a taxpayer shall be made without regard to any exclusion under section 3401(a)(8) for remuneration paid for services performed in a jurisdiction described in subparagraph (A), and

"(ii) in determining the amount of any credit allowable under section 30A or 936 for the taxable year, there shall not be taken into account any wages which are taken into account in applying such limitation.

"(8) COORDINATION WITH TRANSITION RULES.—For purposes of this section—

"(A) domestic production gross receipts shall not include gross receipts from any transaction if the binding contract transition relief of section 101(c)(2) of the Jumpstart Our Business Strength (JOBS) Act applies to such transaction, and

"(B) any deduction allowed under section 101(e) of such Act shall be disregarded in determining the portion of the taxable income which is attributable to domestic production gross receipts.".

(b) MINIMUM TAX.—Section 56(g)(4)(C) (relating to disallowance of items not deductible in computing earnings and profits) is amended by adding at the end the following new clause:

"(v) DEDUCTION FOR DOMESTIC PRODUCTION.—Clause (i) shall not apply to any amount allowable as a deduction under section 199.".

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end the following new item:

"Sec. 199. Income attributable to domestic production activities.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(2) APPLICATION OF SECTION 15.—Section 15 of the Internal Revenue Code of 1986 shall apply to the amendments made by this section as if they were changes in a rate of tax.

SEC. 103. MODIFICATION TO CORPORATE ESTIMATED TAX REQUIREMENTS.

(a) REQUIREMENTS FOR 2005.—The amount of any required installment of corporate estimated income tax which is otherwise due under section 6655 of the Internal Revenue Code of 1986 after June 30, 2005, and before October 1, 2005, shall be 110 percent of such amount.

(b) REQUIREMENTS FOR 2009.—The amount of any required installment of corporate estimated income tax which is otherwise due under section 6655 of the Internal Revenue Code of 1986 after June 30, 2009, and before October 1, 2009, shall be 119 percent of such amount.

SA 2670. Mr. SANTORUM (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

DIVISION B—CARE ACT

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This division may be cited as the "CARE Act of 2004".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this division is as follows:

Sec. 1. Short title; etc.

TITLE I—CHARITABLE GIVING INCENTIVES

Sec. 101. Deduction for portion of charitable contributions to be allowed to individuals who do not itemize deductions.
Sec. 102. Tax-free distributions from individual retirement accounts for charitable purposes.
Sec. 103. Charitable deduction for contributions of food inventories.
Sec. 104. Charitable deduction for contributions of book inventories.
Sec. 105. Expansion of charitable contribution allowed for scientific property used for research and for computer technology and equipment used for educational purposes.
Sec. 106. Modifications to encourage contributions of capital gain real property made for conservation purposes.
Sec. 107. Exclusion of 25 percent of gain on sales or exchanges of land or water interests to eligible entities for conservation purposes.
Sec. 108. Tax exclusion for cost-sharing payments under Partners for Fish and Wildlife Program.
Sec. 109. Adjustment to basis of S corporation stock for certain charitable contributions.
Sec. 110. Enhanced deduction for charitable contribution of literary, musical, artistic, and scholarly compositions.
Sec. 111. Mileage reimbursements to charitable volunteers excluded from gross income.
Sec. 112. Extension of enhanced deduction for inventory to include public schools.
Sec. 113. 10-year divestiture period for certain excess business holdings of private foundations

TITLE II—PROPOSALS IMPROVING THE OVERSIGHT OF TAX-EXEMPT ORGANIZATIONS

Sec. 201. Disclosure of written determinations.
Sec. 202. Disclosure of Internet web site and name under which organization does business.
Sec. 203. Modification to reporting capital transactions.
Sec. 204. Disclosure that Form 990 is publicly available.
Sec. 205. Disclosure to State officials of proposed actions related to section 501(c) organizations.
Sec. 206. Expansion of penalties to preparers of Form 990.
Sec. 207. Notification requirement for entities not currently required to file.
Sec. 208. Suspension of tax-exempt status of terrorist organizations.

TITLE III—OTHER CHARITABLE AND EXEMPT ORGANIZATION PROVISIONS

Sec. 301. Modification of excise tax on unrelated business taxable income of charitable remainder trusts.
Sec. 302. Modifications to section 512(b)(13).
Sec. 303. Simplification of lobbying expenditure limitation.
Sec. 304. Expedited review process for certain tax-exemption applications.
Sec. 305. Clarification of definition of church tax inquiry.
Sec. 306. Expansion of declaratory judgment remedy to tax-exempt organizations.

Sec. 307. Definition of convention or association of churches.
Sec. 308. Payments by charitable organizations to victims of war on terrorism and families of astronauts killed in the line of duty.
Sec. 309. Modification of scholarship foundation rules.
Sec. 310. Treatment of certain hospital support organizations as qualified organizations for purposes of determining acquisition indebtedness.
Sec. 311. Charitable contribution deduction for certain expenses incurred in support of Native Alaskan subsistence whaling.
Sec. 312. Matching grants to low-income taxpayer clinics for return preparation.
Sec. 313. Exemption of qualified 501(c)(3) bonds for nursing homes from Federal guarantee prohibitions.
Sec. 314. Excise taxes exemption for blood collector organizations.
Sec. 315. Pilot project for forest conservation activities.
Sec. 316. Clarification of treatment of Johnny Micheal Spann Patriot Trusts.

TITLE IV—SOCIAL SERVICES BLOCK GRANT

Sec. 401. Restoration of funds for the Social Services Block Grant.
Sec. 402. Restoration of authority to transfer up to 10 percent of TANF funds to the Social Services Block Grant.
Sec. 403. Requirement to submit annual report on State activities.

TITLE V—INDIVIDUAL DEVELOPMENT ACCOUNTS

Sec. 501. Short title.
Sec. 502. Purposes.
Sec. 503. Definitions.
Sec. 504. Structure and administration of qualified individual development account programs.
Sec. 505. Procedures for opening and maintaining an individual development account and qualifying for matching funds.
Sec. 506. Deposits by qualified individual development account programs.
Sec. 507. Withdrawal procedures.
Sec. 508. Certification and termination of qualified individual development account programs.
Sec. 509. Reporting, monitoring, and evaluation.
Sec. 510. Authorization of appropriations.
Sec. 511. Matching funds for individual development accounts provided through a tax credit for qualified financial institutions.
Sec. 512. Account funds disregarded for purposes of certain means-tested Federal programs.

TITLE VI—MANAGEMENT OF EXEMPT ORGANIZATIONS

Sec. 601. Authorization of appropriations.

TITLE VII—REVENUE PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

Sec. 701. Clarification of economic substance doctrine.
Sec. 702. Penalty for failing to disclose reportable transaction.
Sec. 703. Accuracy-related penalty for listed transactions and other reportable transactions having a significant tax avoidance purpose.
Sec. 704. Penalty for understatements attributable to transactions lacking economic substance, etc.
Sec. 705. Modifications of substantial understatement penalty for nonreportable transactions.
Sec. 706. Tax shelter exception to confidentiality privileges relating to taxpayer communications.
Sec. 707. Disclosure of reportable transactions.
Sec. 708. Modifications to penalty for failure to register tax shelters.
Sec. 709. Modification of penalty for failure to maintain lists of investors.
Sec. 710. Modification of actions to enjoin certain conduct related to tax shelters and reportable transactions.
Sec. 711. Understatement of taxpayer's liability by income tax return preparer.
Sec. 712. Penalty on failure to report interests in foreign financial accounts.
Sec. 713. Frivolous tax submissions.
Sec. 714. Regulation of individuals practicing before the Department of Treasury.
Sec. 715. Penalty on promoters of tax shelters.
Sec. 716. Statute of limitations for taxable years for which listed transactions not reported.
Sec. 717. Denial of deduction for interest on underpayments attributable to nondisclosed reportable and noneconomic substance transactions.
Sec. 718. Authorization of appropriations for tax law enforcement.

Subtitle B—Other Provisions

Sec. 721. Affirmation of consolidated return regulation authority.
Sec. 722. Signing of corporate tax returns by chief executive officer.
Sec. 723. Securities civil enforcement provisions.
Sec. 724. Review of State agency blindness and disability determinations.

TITLE VIII—COMPASSION CAPITAL FUND

Sec. 801. Support for nonprofit community-based organizations; Department of Health and Human Services.
Sec. 802. Support for nonprofit community-based organizations; Corporation for National and Community Service.
Sec. 803. Support for nonprofit community-based organizations; Department of Justice.
Sec. 804. Support for nonprofit community-based organizations; Department of Housing and Urban Development.
Sec. 805. Coordination.

TITLE IX—MATERNITY GROUP HOMES

Sec. 901. Maternity group homes.

TITLE I—CHARITABLE GIVING INCENTIVES

SEC. 101. DEDUCTION FOR PORTION OF CHARITABLE CONTRIBUTIONS TO BE ALLOWED TO INDIVIDUALS WHO DO NOT ITEMIZE DEDUCTIONS.

(a) In General.—Section 170 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) Deduction for Individuals Not Itemizing Deductions.—In the case of an individual who does not itemize deductions for any taxable year, there shall be taken into account as a direct charitable deduction under section 63 an amount equal to the amount allowable under subsection (a) for the taxable year for cash contributions, to the extent that such contributions exceed $250 ($500 in the case of a joint return) but do not exceed $500 ($1,000 in the case of a joint return).".

(b) Direct Charitable Deduction.—

(1) In general.—Subsection (b) of section 63 (defining taxable income) is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end the following new paragraph:

"(3) the direct charitable deduction.".

(2) Definition.—Section 63 is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) Direct Charitable Deduction.—For purposes of this section, the term 'direct charitable deduction' means that portion of the amount allowable under section 170(a) which is taken as a direct charitable deduction for the taxable year under section 170(m).".

(3) Conforming amendment.—Subsection (d) of section 63 is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end the following new paragraph:

"(3) the direct charitable deduction.".

(c) Study.—

(1) In general.—The Secretary of the Treasury shall study the effect of the amendments made by this section on increased charitable giving and taxpayer compliance, including a comparison of taxpayer compliance between taxpayers who itemize their charitable contributions and taxpayers who claim a direct charitable deduction.

(2) Report.—By not later than December 31, 2004, the Secretary of the Treasury shall report on the study required under paragraph (1) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002, and before January 1, 2005.

SEC. 102. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT ACCOUNTS FOR CHARITABLE PURPOSES.

(a) In General.—Subsection (d) of section 408 (relating to individual retirement accounts) is amended by adding at the end the following new paragraph:

"(8) Distributions for charitable purposes.—

"(A) In general.—No amount shall be includible in gross income by reason of a qualified charitable distribution.

"(B) Qualified charitable distribution.—For purposes of this paragraph, the term 'qualified charitable distribution' means any distribution from an individual retirement account—

"(i) which is made directly by the trustee—

"(I) to an organization described in section 170(c), or

"(II) to a split-interest entity, and

"(ii) which is made on or after—

"(I) in the case of any distribution described in clause (i)(I), the date that the individual for whose benefit the account is maintained has attained age 70½, and

"(II) in the case of any distribution described in clause (i)(II), the the date that such individual has attained age 59½.

A distribution shall be treated as a qualified charitable distribution only to the extent that the distribution would be includible in gross income without regard to subparagraph (A) and, in the case of a distribution to a split-interest entity, only if no person holds an income interest in the amounts in the split-interest entity attributable to such distribution other than one or more of the following: the individual for whose benefit such account is maintained, the spouse of such individual, or any organization described in section 170(c).

"(C) Contributions must be otherwise deductible.—For purposes of this paragraph—

"(i) Direct contributions.—A distribution to an organization described in section 170(c) shall be treated as a qualified charitable distribution only if a deduction for the entire distribution would be allowable under section 170 (determined without regard to subsection (b) thereof and this paragraph).

"(ii) Split-interest gifts.—A distribution to a split-interest entity shall be treated as a qualified charitable distribution only if a deduction for the entire value of the interest in the distribution for the use of an organization described in section 170(c) would be allowable under section 170 (determined without regard to subsection (b) thereof and this paragraph).

"(D) Application of section 72.—Notwithstanding section 72, in determining the extent to which a distribution is a qualified charitable distribution, the entire amount of the distribution shall be treated as includible in gross income without regard to subparagraph (A) to the extent that such amount does not exceed the aggregate amount which would have been so includible if all amounts were distributed from all individual retirement accounts treated as 1 contract under paragraph (2)(A) for purposes of determining the inclusion on such distribution under section 72. Proper adjustments shall be made in applying section 72 to other distributions in such taxable year and subsequent taxable years.

"(E) Special rules for split-interest entities.—

"(i) Charitable remainder trusts.—Notwithstanding section 664(b), distributions made from a trust described in subparagraph (G)(i) shall be treated as ordinary income in the hands of the beneficiary to whom is paid the annuity described in section 664(d)(1)(A) or the payment described in section 664(d)(2)(A).

"(ii) Pooled income funds.—No amount shall be includible in the gross income of a pooled income fund (as defined in subparagraph (G)(ii)) by reason of a qualified charitable distribution to such fund, and all distributions from the fund which are attributable to qualified charitable distributions shall be treated as ordinary income to the beneficiary.

"(iii) Charitable gift annuities.—Qualified charitable distributions made for a charitable gift annuity shall not be treated as an investment in the contract.

"(F) Denial of deduction.—Qualified charitable distributions shall not be taken into account in determining the deduction under section 170.

"(G) Split-interest entity defined.—For purposes of this paragraph, the term 'split-interest entity' means—

"(i) a charitable remainder annuity trust or a charitable remainder unitrust (as such terms are defined in section 664(d)) which must be funded exclusively by qualified charitable distributions,

"(ii) a pooled income fund (as defined in section 642(c)(5)), but only if the fund accounts separately for amounts attributable to qualified charitable distributions, and

"(iii) a charitable gift annuity (as defined in section 501(m)(5)).".

(b) Modifications Relating to Information Returns by Certain Trusts.—

(1) Returns.—Section 6034 (relating to returns by trusts described in section 4947(a)(2) or claiming charitable deductions under section 642(c)) is amended to read as follows:

"SEC. 6034. RETURNS BY TRUSTS DESCRIBED IN SECTION 4947(a)(2) OR CLAIMING CHARITABLE DEDUCTIONS UNDER SECTION 642(c).

"(a) Trusts Described in Section 4947(a)(2).—Every trust described in section 4947(a)(2) shall furnish such information with respect to the taxable year as the Secretary may by forms or regulations require.

"(b) Trusts Claiming a Charitable Deduction Under Section 642(c).—

"(1) In general.—Every trust not required to file a return under subsection (a) but claiming a deduction under section 642(c) for the taxable year shall furnish such information with respect to such taxable year as the Secretary may by forms or regulations prescribe, including—

"(A) the amount of the deduction taken under section 642(c) within such year,

"(B) the amount paid out within such year which represents amounts for which deductions under section 642(c) have been taken in prior years,

"(C) the amount for which such deductions have been taken in prior years but which has not been paid out at the beginning of such year,

"(D) the amount paid out of principal in the current and prior years for the purposes described in section 642(c),

"(E) the total income of the trust within such year and the expenses attributable thereto, and

"(F) a balance sheet showing the assets, liabilities, and net worth of the trust as of the beginning of such year.

"(2) Exceptions.—Paragraph (1) shall not apply to a trust for any taxable year if—

"(A) all the net income for such year, determined under the applicable principles of the law of trusts, is required to be distributed currently to the beneficiaries, or

"(B) the trust is described in section 4947(a)(1).".

(2) Increase in penalty relating to filing of information return by split-interest trusts.—Paragraph (2) of section 6652(c) (relating to returns by exempt organizations and by certain trusts) is amended by adding at the end the following new subparagraph:

"(C) Split-interest trusts.—In the case of a trust which is required to file a return under section 6034(a), subparagraphs (A) and (B) of this paragraph shall not apply and paragraph (1) shall apply in the same manner as if such return were required under section 6033, except that—

"(i) the 5 percent limitation in the second sentence of paragraph (1)(A) shall not apply,

"(ii) in the case of any trust with gross income in excess of $250,000, the first sentence of paragraph (1)(A) shall be applied by substituting '$100' for '$20', and the second sentence thereof shall be applied by substituting '$50,000' for '$10,000', and

"(iii) the third sentence of paragraph (1)(A) shall be disregarded.

In addition to any penalty imposed on the trust pursuant to this subparagraph, if the person required to file such return knowingly fails to file the return, such penalty shall also be imposed on such person who shall be personally liable for such penalty.".

(3) Confidentiality of noncharitable beneficiaries.—Subsection (b) of section 6104 (relating to inspection of annual information returns) is amended by adding at the end the following new sentence: "In the case of a trust which is required to file a return under section 6034(a), this subsection shall not apply to information regarding beneficiaries which are not organizations described in section 170(c).".

(c) Effective Dates.—

(1) Subsection (a).—The amendment made by subsection (a) shall apply to distributions—

(A) described in section 408(d)(8)(B)(i)(I) of the Internal Revenue Code of 1986, as added by this section, made after the date of the enactment of this Act, and

(B) described in section 408(d)(8)(B)(i)(II) of such Code, as so added, made after December 31, 2003.

(2) Subsection (b).—The amendments made by subsection (b) shall apply to returns for taxable years beginning after December 31, 2003.

SEC. 103. CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORIES.

(a) In General.—Subsection (e) of section 170 (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end the following new paragraph:

"(7) Application of paragraph (3) to certain contributions of food inventory.—For purposes of this section—

"(A) Extension to individuals.—In the case of a charitable contribution of apparently wholesome food—

"(i) paragraph (3)(A) shall be applied without regard to whether the contribution is made by a C corporation, and

"(ii) in the case of a taxpayer other than a C corporation, the aggregate amount of such contributions from any trade or business (or interest therein) of the taxpayer for any taxable year which may be taken into account under this section shall not exceed 10 percent of the taxpayer's net income from any such trade or business, computed without regard to this section, for such taxable year.

"(B) Limitation on reduction.—In the case of a charitable contribution of apparently wholesome food, notwithstanding paragraph (3)(B), the amount of the reduction determined under paragraph (1)(A) shall not exceed the amount by which the fair market value of such property exceeds twice the basis of such property.

"(C) Determination of basis.—If a taxpayer—

"(i) does not account for inventories under section 471, and

"(ii) is not required to capitalize indirect costs under section 263A,

the taxpayer may elect, solely for purposes of paragraph (3)(B), to treat the basis of any apparently wholesome food as being equal to 25 percent of the fair market value of such food.

"(D) Determination of fair market value.—In the case of a charitable contribution of apparently wholesome food which is a qualified contribution (within the meaning of paragraph (3), as modified by subparagraph (A) of this paragraph) and which, solely by reason of internal standards of the taxpayer or lack of market, cannot or will not be sold, the fair market value of such contribution shall be determined—

"(i) without regard to such internal standards or such lack of market and

"(ii) by taking into account the price at which the same or substantially the same food items (as to both type and quality) are sold by the taxpayer at the time of the contribution (or, if not so sold at such time, in the recent past).

"(E) APPARENTLY WHOLESOME FOOD.—For purposes of this paragraph, the term 'apparently wholesome food' has the meaning given such term by section 22(b)(2) of the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791(b)(2)), as in effect on the date of the enactment of this paragraph.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after the date of the enactment of this Act.

SEC. 104. CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF BOOK INVENTORIES.

(a) IN GENERAL.—Section 170(e)(3) (relating to certain contributions of ordinary income and capital gain property) is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) SPECIAL RULE FOR CONTRIBUTIONS OF BOOK INVENTORY FOR EDUCATIONAL PURPOSES.—

"(i) CONTRIBUTIONS OF BOOK INVENTORY.—In determining whether a qualified book contribution is a qualified contribution, subparagraph (A) shall be applied without regard to whether—

"(I) the donee is an organization described in the matter preceding clause (i) of subparagraph (A), and

"(II) the property is to be used by the donee solely for the care of the ill, the needy, or infants.

"(ii) AMOUNT OF REDUCTION.—Notwithstanding subparagraph (B), the amount of the reduction determined under paragraph (1)(A) shall not exceed the amount by which the fair market value of the contributed property (as determined by the taxpayer using a bona fide published market price for such book) exceeds twice the basis of such property.

"(iii) QUALIFIED BOOK CONTRIBUTION.—For purposes of this paragraph, the term 'qualified book contribution' means a charitable contribution of books, but only if the requirements of clauses (iv) and (v) are met.

"(iv) IDENTITY OF DONEE.—The requirement of this clause is met if the contribution is to an organization—

"(I) described in subclause (I) or (III) of paragraph (6)(B)(i), or

"(II) described in section 501(c)(3) and exempt from tax under section 501(a) (other than a private foundation, as defined in section 509(a), which is not an operating foundation, as defined in section 4942(j)(3)), which is organized primarily to make books available to the general public at no cost or to operate a literacy program.

"(v) CERTIFICATION BY DONEE.—The requirement of this clause is met if, in addition to the certifications required by subparagraph (A) (as modified by this subparagraph), the donee certifies in writing that—

"(I) the books are suitable, in terms of currency, content, and quantity, for use in the donee's educational programs, and

"(II) the donee will use the books in its educational programs.

"(vi) BONA FIDE PUBLISHED MARKET PRICE.—For purposes of this subparagraph, the term 'bona fide published market price' means, with respect to any book, a price—

"(I) determined using the same printing and edition,

"(II) determined in the usual market in which such a book has been customarily sold by the taxpayer, and

"(III) for which the taxpayer can demonstrate to the satisfaction of the Secretary that the taxpayer customarily sold such books in arm's length transactions within 7 years preceding the contribution of such a book.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after the date of the enactment of this Act

SEC. 105. EXPANSION OF CHARITABLE CONTRIBUTION ALLOWED FOR SCIENTIFIC PROPERTY USED FOR RESEARCH AND FOR COMPUTER TECHNOLOGY AND EQUIPMENT USED FOR EDUCATIONAL PURPOSES.

(a) SCIENTIFIC PROPERTY USED FOR RESEARCH.—

(1) IN GENERAL.—Clause (ii) of section 170(e)(4)(B) (defining qualified research contributions) is amended by inserting "or assembled" after "constructed".

(2) CONFORMING AMENDMENT.—Clause (iii) of section 170(e)(4)(B) is amended by inserting "or assembling" after "construction".

(b) COMPUTER TECHNOLOGY AND EQUIPMENT FOR EDUCATIONAL PURPOSES.—

(1) IN GENERAL.—Clause (ii) of section 170(e)(6)(B) is amended by inserting "or assembled" after "constructed" and "or assembling" after "construction".

(2) SPECIAL RULE EXTENDED.—Section 170(e)(6)(G) is amended by striking "2003" and inserting "2005".

(3) CONFORMING AMENDMENTS.—Subparagraph (D) of section 170(e)(6) is amended by inserting "or assembled" after "constructed" and "or assembling" after "construction".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 106. MODIFICATIONS TO ENCOURAGE CONTRIBUTIONS OF CAPITAL GAIN REAL PROPERTY MADE FOR CONSERVATION PURPOSES.

(a) IN GENERAL.—Section 170(h) (relating to qualified conservation contribution) is amended by adding at the end the following new paragraph:

"(7) ADDITIONAL INCENTIVES FOR QUALIFIED CONSERVATION CONTRIBUTIONS.—

"(A) IN GENERAL.—In the case of any qualified conservation contribution (as defined in paragraph (1)) made by an individual—

"(i) subparagraph (C) of subsection (b)(1) shall not apply,

"(ii) except as provided in subparagraph (B)(i), subsections (b)(1)(A) and (d)(1) shall be applied separately with respect to such contributions by treating references to 50 percent of the taxpayer's contribution base as references to the amount of such base reduced by the amount of other contributions allowable under subsection (b)(1)(A), and

"(iii) subparagraph (A) of subsection (d)(1) shall be applied—

"(I) by substituting '15 succeeding taxable years' for '5 succeeding taxable years', and

"(II) by applying clause (ii) to each of the 15 succeeding taxable years.

"(B) SPECIAL RULES FOR ELIGIBLE FARMERS AND RANCHERS.—

"(i) IN GENERAL.—In the case of any such contributions by a taxpayer who is an eligible farmer or rancher for the taxable year in which such contributions are made—

"(I) if the taxpayer is an individual, subsections (b)(1)(A) and (d)(1) shall be applied separately with respect to such contributions by substituting 'the taxpayer's contribution base reduced by the amount of other contributions allowable under subsection (b)(1)(A)' for '50 percent of the taxpayer's contribution base' each place it appears, and

"(II) if the taxpayer is a corporation, subsections (b)(2) and (d)(2) shall be applied separately with respect to such contributions, subsection (b)(2) shall be applied with respect to such contributions as if such subsection did not contain the words '10 percent of' and as if subparagraph (A) thereof read 'the deduction under this section for qualified conservation contributions', and rules similar to the rules of subparagraph (A)(iii) shall apply for purposes of subsection (d)(2).

"(ii) DEFINITION.—For purposes of clause (i), the term 'eligible farmer or rancher' means a taxpayer whose gross income from the trade or business of farming (within the meaning of section 2032A(e)(5)) is at least 51 percent of the taxpayer's gross income for the taxable year, and, in the case of a C corporation, the stock of which is not publicly traded on a recognized exchange.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after the date of the enactment of this Act.

SEC. 107. EXCLUSION OF 25 PERCENT OF GAIN ON SALES OR EXCHANGES OF LAND OR WATER INTERESTS TO ELIGIBLE ENTITIES FOR CONSERVATION PURPOSES.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by inserting after section 121 the following new section:

"SEC. 121A. 25-PERCENT EXCLUSION OF GAIN ON SALES OR EXCHANGES OF LAND OR WATER INTERESTS TO ELIGIBLE ENTITIES FOR CONSERVATION PURPOSES.

"(a) EXCLUSION.—Gross income shall not include 25 percent of the qualifying gain from a conservation sale of a long-held qualifying land or water interest. .

"(b) QUALIFYING GAIN.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualifying gain' means any gain which would be recognized as long-term capital gain, reduced by the amount of any long-term capital gain attributable to disqualified improvements.

"(2) DISQUALIFIED IMPROVEMENT.—For purposes of paragraph (1), the term 'disqualified improvement' means any building, structure, or other improvement, other than—

"(A) any improvement which is described in section 175(c)(1), determined—

"(i) without regard to the requirements that the taxpayer be engaged in farming, and

"(ii) without taking into account subparagraphs (A) and (B) thereof, or

"(B) any improvement which the Secretary determines directly furthers conservation purposes.

"(3) SPECIAL RULE FOR SALES OF STOCK.—If the long-held qualifying land or water interest is 1 or more shares of stock in a qualifying land or water corporation, the qualifying gain is equal to the lesser of—

"(A) the qualifying gain determined under paragraph (1), or

"(B) the product of—

"(i) the percentage of such corporation's stock which is transferred by the taxpayer, times

"(ii) the amount which would have been the qualifying gain (determined under paragraph (1)) if there had been a conservation sale by such corporation of all of its interests in the land and water for a price equal to the product of the fair market value of such interests times the ratio of—

"(I) the proceeds of the conservation sale of the stock, to

"(II) the fair market value of the stock which was the subject of the conservation sale.

"(c) CONSERVATION SALE.—For purposes of this section, the term 'conservation sale' means a sale or exchange which meets the following requirements:

"(1) Transferee is an eligible entity.—The transferee of the long-held qualifying land or water interest is an eligible entity.

"(2) Qualifying letter of intent required.—At the time of the sale or exchange, such transferee provides the taxpayer with a qualifying letter of intent.

"(3) Nonapplication to certain sales.—The sale or exchange is not made pursuant to an order of condemnation or eminent domain.

"(4) Controlling interest in stock sale required.—In the case of the sale or exchange of stock in a qualifying land or water corporation, at the end of the taxpayer's taxable year in which such sale or exchange occurs, the transferee's ownership of stock in such corporation meets the requirements of section 1504(a)(2) (determined by substituting '90 percent' for '80 percent' each place it appears).

"(d) Long-Held Qualifying Land or Water Interest.—For purposes of this section—

"(1) In general.—The term 'long-held qualifying land or water interest' means any qualifying land or water interest owned by the taxpayer or a member of the taxpayer's family (as defined in section 2032A(e)(2)) at all times during the 5-year period ending on the date of the sale.

"(2) Qualifying land or water interest.—

"(A) In general.—The term 'qualifying land or water interest' means a real property interest which constitutes—

"(i) a taxpayer's entire interest in land,

"(ii) a taxpayer's entire interest in water rights,

"(iii) a qualified real property interest (as defined in section 170(h)(2)), or

"(iv) stock in a qualifying land or water corporation.

"(B) Entire interest.—For purposes of clause (i) or (ii) of subparagraph (A)—

"(i) a partial interest in land or water is not a taxpayer's entire interest if an interest in land or water was divided in order to create such partial interest in order to avoid the requirements of such clause or section 170(f)(3)(A), and

"(ii) a taxpayer's entire interest in certain land does not fail to satisfy subparagraph (A)(i) solely because the taxpayer has retained an interest in other land, even if the other land is contiguous with such certain land and was acquired by the taxpayer along with such certain land in a single conveyance.

"(e) Other Definitions.—For purposes of this section—

"(1) Eligible entity.—The term 'eligible entity' means—

"(A) a governmental unit referred to in section 170(c)(1), or an agency or department thereof operated primarily for 1 or more of the conservation purposes specified in clause (i), (ii), or (iii) of section 170(h)(4)(A), or

"(B) an entity which is—

"(i) described in section 170(b)(1)(A)(vi) or section 170(h)(3)(B), and

"(ii) organized and at all times operated primarily for 1 or more of the conservation purposes specified in clause (i), (ii), or (iii) of section 170(h)(4)(A).

"(2) Qualifying letter of intent.—The term 'qualifying letter of intent' means a written letter of intent which includes the following statement: 'The transferee's intent is that this acquisition will serve 1 or more of the conservation purposes specified in clause (i), (ii), or (iii) of section 170(h)(4)(A) of the Internal Revenue Code of 1986, that the transferee's use of the property so acquired will be consistent with section 170(h)(5) of such Code, and that the use of the property will continue to be consistent with such section, even if ownership or possession of such property is subsequently transferred to another person.'

"(3) Qualifying land or water corporation.—The term 'qualifying land or water corporation' means a C corporation (as defined in section 1361(a)(2)) if, as of the date of the conservation sale—

"(A) the fair market value of the corporation's interests in land or water held by the corporation at all times during the preceding 5 years equals or exceeds 90 percent of the fair market value of all of such corporation's assets, and

"(B) not more than 50 percent of the total fair market value of such corporation's assets consists of water rights or infrastructure related to the delivery of water, or both.

"(f) Tax on Subsequent Transfers or Removals of Conservation Restrictions.—

"(1) In general.—A tax is hereby imposed on any subsequent—

"(A) transfer by an eligible entity of ownership or possession, whether by sale, exchange, or lease, of property acquired directly or indirectly in—

"(i) a conservation sale described in subsection (a), or

"(ii) a transfer described in clause (i), (ii), or (iii) of paragraph (4)(A), or

"(B) removal of a conservation restriction contained in an instrument of conveyance of such property.

"(2) Amount of tax.—The amount of tax imposed by paragraph (1) on any transfer or removal shall be equal to the sum of—

"(A) either—

"(i) 20 percent of the fair market value (determined at the time of the transfer) of the property the ownership or possession of which is transferred, or

"(ii) 20 percent of the fair market value (determined at the time immediately after the removal) of the property upon which the conservation restriction was removed, plus

"(B) the product of—

"(i) the highest rate of tax specified in section 11, times

"(ii) any gain or income realized by the transferor or person removing such restriction as a result of the transfer or removal.

"(3) Liability.—The tax imposed by paragraph (1) shall be paid—

"(A) on any transfer, by the transferor, and

"(B) on any removal of a conservation restriction contained in an instrument of conveyance, by the person removing such restriction.

"(4) Relief from liability.—The person (otherwise liable for any tax imposed by paragraph (1)) shall be relieved of liability for the tax imposed by paragraph (1)—

"(A) with respect to any transfer if—

"(i) the transferee is an eligible entity which provides such person, at the time of transfer, a qualifying letter of intent,

"(ii) in any case where the transferee is not an eligible entity, it is established to the satisfaction of the Secretary, that the transfer of ownership or possession, as the case may be, will be consistent with section 170(h)(5), and the transferee provides such person, at the time of transfer, a qualifying letter of intent, or

"(iii) tax has previously been paid under this subsection as a result of a prior transfer of ownership or possession of the same property, or

"(B) with respect to any removal of a conservation restriction contained in an instrument of conveyance, if it is established to the satisfaction of the Secretary that the retention of the restriction was impracticable or impossible and the proceeds continue to be used in a manner consistent with 1 or more of the conservation purposes specified in clause (i), (ii), or (iii) of section 170(h)(4)(A).

"(5) Administrative provisions.—For purposes of subtitle F, the taxes imposed by this subsection shall be treated as excise taxes with respect to which the deficiency procedures of such subtitle apply.

"(6) Reporting.—The Secretary may require such reporting as may be necessary or appropriate to further the purpose under this section that any conservation use be in perpetuity.".

(b) Clerical Amendment.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 121 the following new item:

"Sec. 121A. 25-percent exclusion of gain on sales or exchanges of land or water interests to eligible entities for conservation purposes.".

(c) Effective Date.—The amendments made by this section shall apply to sales or exchanges occurring after the date of the enactment of this Act.

SEC. 108. TAX EXCLUSION FOR COST-SHARING PAYMENTS UNDER PARTNERS FOR FISH AND WILDLIFE PROGRAM.

(a) In General.—Section 126(a) (relating to certain cost-sharing payments) is amended by redesignating paragraph (10) as paragraph (11) and by inserting after paragraph (9) the following:

"(10) The Partners for Fish and Wildlife Program authorized by the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.).".

(b) Effective Date.—The amendments made by this section shall apply to payments received after the date of the enactment of this Act.

SEC. 109. ADJUSTMENT TO BASIS OF S CORPORATION STOCK FOR CERTAIN CHARITABLE CONTRIBUTIONS.

(a) In General.—Paragraph (2) of section 1367(a) (relating to adjustments to basis of stock of shareholders, etc.) is amended by adding at the end the following new flush sentence:

"The decrease under subparagraph (B) by reason of a charitable contribution (as defined in section 170(c)) of property shall be the amount equal to the shareholder's pro rata share of the adjusted basis of such property.".

(b) Effective Date.—The amendment made by this section shall apply to contributions made after the date of the enactment of this Act.

SEC. 110. ENHANCED DEDUCTION FOR CHARITABLE CONTRIBUTION OF LITERARY, MUSICAL, ARTISTIC, AND SCHOLARLY COMPOSITIONS.

(a) In General.—Subsection (e) of section 170 (relating to certain contributions of ordinary income and capital gain property), as amended by this Act, is amended by adding at the end the following new paragraph:

"(8) Special rule for certain contributions of literary, musical, artistic, or scholarly compositions.—

"(A) In general.—In the case of a qualified artistic charitable contribution—

"(i) the amount of such contribution taken into account under this section shall be the fair market value of the property contributed (determined at the time of such contribution), and "(ii) no reduction in the amount of such contribution shall be made under paragraph (1).

"(B) QUALIFIED ARTISTIC CHARITABLE CONTRIBUTION.—For purposes of this paragraph, the term 'qualified artistic charitable contribution' means a charitable contribution of any literary, musical, artistic, or scholarly composition, or similar property, or the copyright thereon (or both), but only if—

"(i) such property was created by the personal efforts of the taxpayer making such contribution no less than 18 months prior to such contribution,

"(ii) the taxpayer—

"(I) has received a qualified appraisal of the fair market value of such property in accordance with the regulations under this section, and

"(II) attaches to the taxpayer's income tax return for the taxable year in which such contribution was made a copy of such appraisal,

"(iii) the donee is an organization described in subsection (b)(1)(A),

"(iv) the use of such property by the donee is related to the purpose or function constituting the basis for the donee's exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described under section 501(c)),

"(v) the taxpayer receives from the donee a written statement representing that the donee's use of the property will be in accordance with the provisions of clause (iv), and

"(vi) the written appraisal referred to in clause (ii) includes evidence of the extent (if any) to which property created by the personal efforts of the taxpayer and of the same type as the donated property is or has been—

"(I) owned, maintained, and displayed by organizations described in subsection (b)(1)(A), and

"(II) sold to or exchanged by persons other than the taxpayer, donee, or any related person (as defined in section 465(b)(3)(C)).

"(C) MAXIMUM DOLLAR LIMITATION; NO CARRYOVER OF INCREASED DEDUCTION.—The increase in the deduction under this section by reason of this paragraph for any taxable year—

"(i) shall not exceed the artistic adjusted gross income of the taxpayer for such taxable year, and

"(ii) shall not be taken into account in determining the amount which may be carried from such taxable year under subsection (d).

"(D) ARTISTIC ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term 'artistic adjusted gross income' means that portion of the adjusted gross income of the taxpayer for the taxable year attributable to—

"(i) income from the sale or use of property created by the personal efforts of the taxpayer which is of the same type as the donated property, and

"(ii) income from teaching, lecturing, performing, or similar activity with respect to property described in clause (i).

"(E) PARAGRAPH NOT TO APPLY TO CERTAIN CONTRIBUTIONS.—Subparagraph (A) shall not apply to any charitable contribution of any letter, memorandum, or similar property which was written, prepared, or produced by or for an individual while the individual is an officer or employee of any person (including any government agency or instrumentality) unless such letter, memorandum, or similar property is entirely personal.

"(F) COPYRIGHT TREATED AS SEPARATE PROPERTY FOR PARTIAL INTEREST RULE.—In the case of a qualified artistic charitable contribution, the tangible literary, musical, artistic, or scholarly composition, or similar property and the copyright on such work shall be treated as separate properties for purposes of this paragraph and subsection (f)(3).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after the date of the enactment of this Act.

SEC. 111. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 is amended by inserting after section 139 the following new section:

"SEC. 139A. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS.

"(a) IN GENERAL.—Gross income of an individual does not include amounts received, from an organization described in section 170(c), as reimbursement of operating expenses with respect to use of a passenger automobile for the benefit of such organization. The preceding sentence shall apply only to the extent that the expenses which are reimbursed would be deductible under this chapter if section 274(d) were applied—

"(1) by using the standard business mileage rate established under such section, and

"(2) as if the individual were an employee of an organization not described in section 170(c).

"(b) APPLICATION TO VOLUNTEER SERVICES ONLY.—Subsection (a) shall not apply with respect to any expenses relating to the performance of services for compensation.

"(c) NO DOUBLE BENEFIT.—A taxpayer may not claim a deduction or credit under any other provision of this title with respect to the expenses under subsection (a).

"(d) EXEMPTION FROM REPORTING REQUIREMENTS.—Section 6041 shall not apply with respect to reimbursements excluded from income under subsection (a).".

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 139 the following new item:

"Sec. 139A. Mileage reimbursements to charitable volunteers.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 112. EXTENSION OF ENHANCED DEDUCTION FOR INVENTORY TO INCLUDE PUBLIC SCHOOLS.

(a) IN GENERAL.—Subparagraph (A) of section 170(e)(3) (relating to special rule for certain contributions of inventory and other property) is amended by striking "to an organization which is described in" and all that follows through the end of clause (i) and inserting "to a qualified organization, but only if—

"(i) the property is to be used by the donee solely for the care of the ill, the needy, or infants and, in the case of—

"(I) an organization described in section 501(c)(3) (other than an organization described in subclause (II)), the use of the property by the donee is related to the purpose or function constituting the basis for its exemption under section 501, and

"(II) an organization described in subsection (b)(1)(A)(ii), the use of the property by the donee is related to educational purposes and such property is not computer technology or equipment (as defined in paragraph (6)(F)(i));".

(b) QUALIFIED ORGANIZATION.—Paragraph (3) of section 170(e) of such Code is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) QUALIFIED ORGANIZATION.—For purposes of this paragraph, the term 'qualified organization' means—

"(i) an organization which is described in section 501(c)(3) and is exempt under section 501(a) (other than a private foundation, as defined in section 509(a), which is not an operating foundation, as defined in section 4942(j)(3)), and

"(ii) an educational organization described in subsection (b)(1)(A)(ii).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after December 31, 2003.

SEC. 113. 10-YEAR DIVESTITURE PERIOD FOR CERTAIN EXCESS BUSINESS HOLDINGS OF PRIVATE FOUNDATIONS.

(a) IN GENERAL.—Section 4943(c) (relating to excess business holdings) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) 10-YEAR PERIOD TO DISPOSE OF CERTAIN LARGE GIFTS AND BEQUESTS.—

"(A) IN GENERAL.—Paragraph (6) shall be applied by substituting '10-year period' for '5-year period' if—

"(i) upon the election of a private foundation, it is established to the satisfaction of the Secretary that—

"(I) the excess business holdings (or increase in excess business holdings) in a business enterprise by the private foundation in an amount which is not less than $1,000,000,000 is the result of a gift or bequest the fair market value of which is not less than $1,000,000,000, and

"(II) after such gift or bequest, the private foundation does not have effective control of such business enterprise to which such gift or bequest relates,

"(ii) subject to subparagraph (C), the private foundation submits to the Secretary with such election a reasonable plan for disposing of all of the excess business holdings related to such gift or bequest, and

"(iii) the private foundation certifies annually to the Secretary that the private foundation is complying with the plan submitted under this paragraph, the requirement under clause (i)(II), and the rules under subparagraph (D).

"(B) ELECTION.—Any election under subparagraph (A)(i) shall be made not later than 6 months after the date of such gift or bequest and shall—

"(i) establish the fair market value of such gift or bequest, and

"(ii) include a certification that the requirement of subparagraph (A)(i)(II) is met.

"(C) REASONABLENESS OF PLAN.—

"(i) IN GENERAL.—Any plan submitted under subparagraph (A)(ii) shall be presumed reasonable unless the Secretary notifies the private foundation to the contrary not later than 6 months after the submission of such plan.

"(ii) RESUBMISSION.—Upon notice by the Secretary under clause (i), the private foundation may resubmit a plan and shall have the burden of establishing the reasonableness of such plan to the Secretary.

"(D) SPECIAL RULES.—During any period in which an election under this paragraph is in effect—

"(i) section 4941(d)(2) (other than subparagraph (A) thereof) shall apply only with respect to any disqualified person described in section 4941(a)(1)(B),

"(ii) section 4942(a) shall be applied by substituting 'third' for 'second' both places it appears, "(iii) section 4942(e)(1) shall be applied by substituting '12 percent' for '5 percent', and

"(iv) section 4942(g)(1)(A) shall be applied without regard to any portion of reasonable and necessary administrative expenses.

"(E) Inflation adjustment.—In the case of any taxable year beginning in a calendar year after 2003, the $1,000,000,000 amount under subparagraph (A)(i)(I) shall be increased by an amount equal to such dollar amount, multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting '2002' for '1992' in subparagraph (B) thereof. If the $1,000,000,000 amount as increased under this subparagraph is not a multiple of $100,000,000, such amount shall be rounded to the next lowest multiple of $100,000,000.".

(b) Effective Date.—The amendments made by this section shall apply to gifts and bequests made after the date of the enactment of this Act.

TITLE II—PROPOSALS IMPROVING THE OVERSIGHT OF TAX-EXEMPT ORGANIZATIONS

SEC. 201. DISCLOSURE OF WRITTEN DETERMINATIONS.

(a) In General.—Section 6110(l) (relating to section not to apply) is amended by striking all matter before subparagraph (A) of paragraph (2) and inserting the following:

"(l) Section Not To Apply.—

"(1) In general.—This section shall not apply to any matter to which section 6104 or 6105 applies, except that this section shall apply to any written determination and related background file document relating to an organization described under subsection (c) or (d) of section 501 (including any written determination denying an organization tax-exempt status under such subsection) or a political organization described in section 527 which is not required to be disclosed by section 6104(a)(1)(A).

"(2) Additional matters.—This section shall not apply to any—".

(b) Effective Date.—The amendment made by this section shall apply to written determinations issued after the date of the enactment of this Act.

SEC. 202. DISCLOSURE OF INTERNET WEB SITE AND NAME UNDER WHICH ORGANIZATION DOES BUSINESS.

(a) In General.—Section 6033 (relating to returns by exempt organizations) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) Disclosure of Name Under Which Organization Does Business and Its Internet Web Site.—Any organization which is subject to the requirements of subsection (a) shall include on the return required under subsection (a)—

"(1) any name under which such organization operates or does business, and

"(2) the Internet web site address (if any) of such organization.".

(b) Effective Date.—The amendments made by this section shall apply to returns filed after December 31, 2003.

SEC. 203. MODIFICATION TO REPORTING CAPITAL TRANSACTIONS.

(a) Requirement of Summary Report.—Section 6033(c) (relating to additional provisions relating to private foundations) is amended by adding at the end the following new sentence: "Any information included in an annual return regarding the gain or loss from the sale or other disposition of stock or securities which are listed on an established securities market which is required to be furnished in order to calculate the tax on net investment income shall also be reported in summary form with a notice that detailed information is available upon request by the public.".

(b) Disclosure Requirement.—Section 6104(b) (relating to inspection of annual information returns), as amended by this Act, is amended by adding at the end the following new sentence: "With respect to any private foundation (as defined in section 509(a)), any information regarding the gain or loss from the sale or other disposition of stock or securities which are listed on an established securities market which is required to be furnished in order to calculate the tax on net investment income but which is not in summary form is not required to be made available to the public under this subsection except upon the explicit request by a member of the public to the Secretary.".

(c) Public Inspection Requirement.—Section 6104(d) (relating to public inspection of certain annual returns, applications for exemptions, and notices of status) is amended by adding at the end the following new paragraph:

"(9) Application to private foundation capital transaction information.—With respect to any private foundation (as defined in section 509(a)), any information regarding the gain or loss from the sale or other disposition of stock or securities which are listed on an established securities market which is required to be furnished in order to calculate the tax on net investment income but which is not in summary form is not required to be made available to the public under this subsection except upon the explicit request by a member of the public to the private foundation in the form and manner of a request described in paragraph (1)(B).".

(d) Effective Date.—The amendments made by this section shall apply to returns filed after December 31, 2003.

SEC. 204. DISCLOSURE THAT FORM 990 IS PUBLICLY AVAILABLE.

(a) In General.—The Commissioner of the Internal Revenue shall notify the public in appropriate publications or other materials of the extent to which an exempt organization's Form 990, Form 990–EZ, or Form 990–PF is publicly available.

(b) Effective Date.—The amendments made by this section shall apply to publications or other materials issued or revised after the date of the enactment of this Act.

SEC. 205. DISCLOSURE TO STATE OFFICIALS OF PROPOSED ACTIONS RELATED TO SECTION 501(c) ORGANIZATIONS.

(a) In General.—Subsection (c) of section 6104 is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) Disclosure of proposed actions related to charitable organizations.—

"(A) Specific notifications.—In the case of an organization to which paragraph (1) applies, the Secretary may disclose to the appropriate State officer—

"(i) a notice of proposed refusal to recognize such organization as an organization described in section 501(c)(3) or a notice of proposed revocation of such organization's recognition as an organization exempt from taxation,

"(ii) the issuance of a letter of proposed deficiency of tax imposed under section 507 or chapter 41 or 42, and

"(iii) the names, addresses, and taxpayer identification numbers of organizations which have applied for recognition as organizations described in section 501(c)(3).

"(B) Additional disclosures.—Returns and return information of organizations with respect to which information is disclosed under subparagraph (A) may be made available for inspection by or disclosed to an appropriate State officer.

"(C) Procedures for disclosure.—Information may be inspected or disclosed under subparagraph (A) or (B) only—

"(i) upon written request by an appropriate State officer, and

"(ii) for the purpose of, and only to the extent necessary in, the administration of State laws regulating such organizations.

Such information may only be inspected by or disclosed to representatives of the appropriate State officer designated as the individuals who are to inspect or to receive the returns or return information under this paragraph on behalf of such officer. Such representatives shall not include any contractor or agent.

"(D) Disclosures other than by request.—The Secretary may make available for inspection or disclose returns and return information of an organization to which paragraph (1) applies to an appropriate State officer of any State if the Secretary determines that such inspection or disclosure may facilitate the resolution of Federal or State issues relating to the tax-exempt status of such organization.

"(3) Disclosure with respect to certain other exempt organizations.—Upon written request by an appropriate State officer, the Secretary may make available for inspection or disclosure returns and return information of an organization described in paragraph (2), (4), (6), (7), (8), (10), or (13) of section 501(c) for the purpose of, and to the extent necessary in, the administration of State laws regulating the solicitation or administration of the charitable funds or charitable assets of such organizations. Such information may be inspected only by or disclosed only to representatives of the appropriate State officer designated as the individuals who are to inspect or to receive the returns or return information under this paragraph on behalf of such officer. Such representatives shall not include any contractor or agent.

"(4) Use in civil judicial and administrative proceedings.—Returns and return information disclosed pursuant to this subsection may be disclosed in civil administrative and civil judicial proceedings pertaining to the enforcement of State laws regulating such organizations in a manner prescribed by the Secretary similar to that for tax administration proceedings under section 6103(h)(4).

"(5) No disclosure if impairment.—Returns and return information shall not be disclosed under this subsection, or in any proceeding described in paragraph (4), to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration.

"(6) Definitions.—For purposes of this subsection—

"(A) Return and return information.—The terms 'return' and 'return information' have the respective meanings given to such terms by section 6103(b).

"(B) Appropriate State officer.—The term 'appropriate State officer' means—

"(i) the State attorney general,

"(ii) in the case of an organization to which paragraph (1) applies, any other State official charged with overseeing organizations of the type described in section 501(c)(3), and

"(iii) in the case of an organization to which paragraph (3) applies, the head of an agency designated by the State attorney general as having primary responsibility for overseeing the solicitation of funds for charitable purposes.".

(b) Conforming Amendments.—

(1) Subsection (a) of section 6103 is amended—

(A) by inserting "or any appropriate State officer who has or had access to returns or return information under section 6104(c)" after "this section" in paragraph (2), and

(B) by striking "or subsection (n)" in paragraph (3) and inserting "subsection (n), or section 6104(c)".

(2) Subparagraph (A) of section 6103(p)(3) is amended by inserting "and section 6104(c)" after "section" in the first sentence.

(3) Paragraph (4) of section 6103(p), as amended by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961), is amended by striking "or (17)" after "any other person described in subsection (l)(16)" each place it appears and inserting "or (18) or any appropriate State officer (as defined in section 6104(c))".

(4) The heading for paragraph (1) of section 6104(c) is amended by inserting "FOR CHARITABLE ORGANIZATIONS".

(5) Paragraph (2) of section 7213(a) is amended by inserting "or under section 6104(c)" after "6103".

(6) Paragraph (2) of section 7213A(a) is amended by inserting "or 6104(c)" after "6103".

(7) Paragraph (2) of section 7431(a) is amended by inserting "(including any disclosure in violation of section 6104(c))" after "6103".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act but shall not apply to requests made before such date.

SEC. 206. EXPANSION OF PENALTIES TO PREPARERS OF FORM 990.

(a) In General.—Section 6695 (relating to other assessable penalties with respect to the preparation of income tax returns for other persons) is amended by adding at the end the following new subsections:

"(h) Certain Omissions and Misrepresentations.—

"(1) In general.—Any person who prepares for compensation any return under section 6033 who omits or misrepresents any information with respect to such return which was known or should have been known by such person shall pay a penalty of $250 with respect to such return.

"(2) Exception for minor, inadvertent omissions.—Paragraph (1) shall not apply to minor, inadvertent omissions.

"(3) Rules for determining return preparer.—For purposes of this subsection and subsection (i), any reference to a person who prepares for compensation a return under section 6033—

"(A) shall include any person who employs 1 or more persons to prepare for compensation a return under section 6033, and

"(B) shall not include any person who would be described in clause (i), (ii), (iii), or (iv) of section 7701(a)(36)(B) if such section referred to a return under section 6033.

"(i) Willful or Reckless Conduct.—

"(1) In general.—Any person who prepares for compensation any return under section 6033 who recklessly or intentionally misrepresents any information or recklessly or intentionally disregards any rule or regulation with respect to such return shall pay a penalty of $1,000 with respect to such return.

"(2) Coordination with other penalties.—With respect to any return, the amount of the penalty payable by any person by reason of paragraph (1) shall be reduced by the amount of the penalty paid by such person by reason of subsection (h) or section 6694.".

(b) Conforming Amendments.—

(1) The heading for section 6695 is amended by inserting "**AND OTHER**" after "**INCOME TAX**".

(2) The item relating to section 6695 in the table of sections for part I of subchapter B of chapter 68 is amended by inserting "and other" after "income tax".

(c) Effective Date.—The amendments made by this section shall apply with respect to documents prepared after the date of the enactment of this Act.

SEC. 207. NOTIFICATION REQUIREMENT FOR ENTITIES NOT CURRENTLY REQUIRED TO FILE.

(a) In General.—Section 6033 (relating to returns by exempt organizations), as amended by this Act, is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) Additional Notification Requirements.—Any organization the gross receipts of which in any taxable year result in such organization being referred to in subsection (a)(2)(A)(ii) or (a)(2)(B)—

"(1) shall furnish annually, at such time and in such manner as the Secretary may by forms or regulations prescribe, information setting forth—

"(A) the legal name of the organization,

"(B) any name under which such organization operates or does business,

"(C) the organization's mailing address and Internet web site address (if any),

"(D) the organization's taxpayer identification number,

"(E) the name and address of a principal officer, and

"(F) evidence of the continuing basis for the organization's exemption from the filing requirements under subsection (a)(1), and

"(2) upon the termination of the existence of the organization, shall furnish notice of such termination.".

(b) Loss of Exempt Status for Failure To File Return or Notice.—Section 6033 (relating to returns by exempt organizations), as amended by subsection (a), is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) Loss of Exempt Status for Failure To File Return or Notice.—

"(1) In general.—If an organization described in subsection (a)(1) or (i) fails to file an annual return or notice required under either subsection for 3 consecutive years, such organization's status as an organization exempt from tax under section 501(a) shall be considered revoked on and after the date set by the Secretary for the filing of the third annual return or notice. The Secretary shall publish and maintain a list of any organization the status of which is so revoked.

"(2) Application necessary for reinstatement.—Any organization the tax-exempt status of which is revoked under paragraph (1) must apply in order to obtain reinstatement of such status regardless of whether such organization was originally required to make such an application.

"(3) Retroactive reinstatement if reasonable cause shown for failure.—If upon application for reinstatement of status as an organization exempt from tax under section 501(a), an organization described in paragraph (1) can show to the satisfaction of the Secretary evidence of reasonable cause for the failure described in such paragraph, the organization's exempt status may, in the discretion of the Secretary, be reinstated effective from the date of the revocation under such paragraph.".

(c) No Declaratory Judgment Relief.—Section 7428(b) (relating to limitations) is amended by adding at the end the following new paragraph:

"(4) Nonapplication for certain revocations.—No action may be brought under this section with respect to any revocation of status described in section 6033(j)(1).".

(d) No Inspection Requirement.—Section 6104(b) (relating to inspection of annual information returns) is amended by inserting "(other than subsection (i) thereof)" after "6033".

(e) No Disclosure Requirement.—Section 6104(d)(3) (relating to exceptions from disclosure requirements) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) Nondisclosure of annual notices.—Paragraph (1) shall not require the disclosure of any notice required under section 6033(i).".

(f) No Monetary Penalty for Failure To Notify.—Section 6652(c)(1) (relating to annual returns under section 6033 or 6012(a)(6)) is amended by adding at the end the following new subparagraph:

"(E) No penalty for certain annual notices.—This paragraph shall not apply with respect to any notice required under section 6033(i).".

(g) Secretarial Outreach Requirements.—

(1) Notice requirement.—The Secretary of the Treasury shall notify in a timely manner every organization described in section 6033(i) of the Internal Revenue Code of 1986 (as added by this section) of the requirement under such section 6033(i) and of the penalty established under section 6033(j)—

(A) by mail, in the case of any organization the identity and address of which is included in the list of exempt organizations maintained by the Secretary, and

(B) by Internet or other means of outreach, in the case of any other organization.

(2) Loss of status penalty for failure to file return.—The Secretary of the Treasury shall publicize in a timely manner in appropriate forms and instructions and through other appropriate means, the penalty established under section 6033(j) of such Code for the failure to file a return under section 6033(a)(1) of such Code.

(h) Effective Date.—The amendments made by this section shall apply to notices and returns with respect to annual periods beginning after 2003.

SEC. 208. SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.

(a) In General.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) Suspension of Tax-Exempt Status of Terrorist Organizations.—

"(1) In general.—The exemption from tax under subsection (a) with respect to any organization described in paragraph (2), and the eligibility of any organization described in paragraph (2) to apply for recognition of exemption under subsection (a), shall be suspended during the period described in paragraph (3).

"(2) Terrorist organizations.—An organization is described in this paragraph if such organization is designated or otherwise individually identified—

"(A) under section 212(a)(3)(B)(vi)(II) or 219 of the Immigration and Nationality Act as a terrorist organization or foreign terrorist organization, "(B) in or pursuant to an Executive order which is related to terrorism and issued under the authority of the International Emergency Economic Powers Act or section 5 of the United Nations Participation Act of 1945 for the purpose of imposing on such organization an economic or other sanction, or

"(C) in or pursuant to an Executive order issued under the authority of any Federal law if—

"(i) the organization is designated or otherwise individually identified in or pursuant to such Executive order as supporting or engaging in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or supporting terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989); and

"(ii) such Executive order refers to this subsection.

"(3) Period of suspension.—With respect to any organization described in paragraph (2), the period of suspension—

"(A) begins on the later of—

"(i) the date of the first publication of a designation or identification described in paragraph (2) with respect to such organization, or

"(ii) the date of the enactment of this subsection, and

"(B) ends on the first date that all designations and identifications described in paragraph (2) with respect to such organization are rescinded pursuant to the law or Executive order under which such designation or identification was made.

"(4) Denial of deduction.—No deduction shall be allowed under any provision of this title, including sections 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), and 2522, with respect to any contribution to an organization described in paragraph (2) during the period described in paragraph (3).

"(5) Denial of administrative or judicial challenge of suspension or denial of deduction.—Notwithstanding section 7428 or any other provision of law, no organization or other person may challenge a suspension under paragraph (1), a designation or identification described in paragraph (2), the period of suspension described in paragraph (3), or a denial of a deduction under paragraph (4) in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person.

"(6) Erroneous designation.—

"(A) In general.—If—

"(i) the tax exemption of any organization described in paragraph (2) is suspended under paragraph (1),

"(ii) each designation and identification described in paragraph (2) which has been made with respect to such organization is determined to be erroneous pursuant to the law or Executive order under which such designation or identification was made, and

"(iii) the erroneous designations and identifications result in an overpayment of income tax for any taxable year by such organization,

credit or refund (with interest) with respect to such overpayment shall be made.

"(B) Waiver of limitations.—If the credit or refund of any overpayment of tax described in subparagraph (A)(iii) is prevented at any time by the operation of any law or rule of law (including res judicata), such credit or refund may nevertheless be allowed or made if the claim therefor is filed before the close of the 1-year period beginning on the date of the last determination described in subparagraph (A)(ii).

"(7) Notice of suspensions.—If the tax exemption of any organization is suspended under this subsection, the Internal Revenue Service shall update the listings of tax-exempt organizations and shall publish appropriate notice to taxpayers of such suspension and of the fact that contributions to such organization are not deductible during the period of such suspension.".

(b) Effective Date.—The amendments made by this section shall apply to designations made before, on, or after the date of the enactment of this Act.

TITLE III—OTHER CHARITABLE AND EXEMPT ORGANIZATION PROVISIONS

SEC. 301. MODIFICATION OF EXCISE TAX ON UNRELATED BUSINESS TAXABLE INCOME OF CHARITABLE REMAINDER TRUSTS.

(a) In General.—Subsection (c) of section 664 (relating to exemption from income taxes) is amended to read as follows:

"(c) Taxation of Trusts.—

"(1) Income tax.—A charitable remainder annuity trust and a charitable remainder unitrust shall, for any taxable year, not be subject to any tax imposed by this subtitle.

"(2) Excise tax.—

"(A) In general.—In the case of a charitable remainder annuity trust or a charitable remainder unitrust which has unrelated business taxable income (within the meaning of section 512, determined as if part III of subchapter F applied to such trust) for a taxable year, there is hereby imposed on such trust or unitrust an excise tax equal to the amount of such unrelated business taxable income.

"(B) Certain rules to apply.—The tax imposed by subparagraph (A) shall be treated as imposed by chapter 42 for purposes of this title other than subchapter E of chapter 42.

"(C) Tax court proceedings.—For purposes of this paragraph, the references in section 6212(c)(1) to section 4940 shall be deemed to include references to this paragraph.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 302. MODIFICATIONS TO SECTION 512(b)(13).

(a) In General.—Paragraph (13) of section 512(b) (relating to special rules for certain amounts received from controlled entities) is amended by redesignating subparagraph (E) as subparagraph (F) and by inserting after subparagraph (D) the following new subparagraph:

"(E) Paragraph to apply only to excess payments.—

"(i) In general.—Subparagraph (A) shall apply only to the portion of a specified payment received or accrued by the controlling organization that exceeds the amount which would have been paid or accrued if such payment met the requirements prescribed under section 482.

"(ii) Addition to tax for valuation misstatements.—The tax imposed by this chapter on the controlling organization shall be increased by an amount equal to 20 percent of the larger of—

"(I) such excess determined without regard to any amendment or supplement to a return of tax, or

"(II) such excess determined with regard to all such amendments and supplements.".

(b) Effective Date.—

(1) In general.—The amendment made by this section shall apply to payments received or accrued after December 31, 2000.

(2) Payments subject to binding contract transition rule.—If the amendments made by section 1041 of the Taxpayer Relief Act of 1997 did not apply to any amount received or accrued in the first 2 taxable years beginning on or after the date of the enactment of the Taxpayer Relief Act of 1997 under any contract described in subsection (b)(2) of such section, such amendments also shall not apply to amounts received or accrued under such contract before January 1, 2001.

SEC. 303. SIMPLIFICATION OF LOBBYING EXPENDITURE LIMITATION.

(a) Repeal of Grassroots Expenditure Limit.—Paragraph (1) of section 501(h) (relating to expenditures by public charities to influence legislation) is amended to read as follows:

"(1) General rule.—In the case of an organization to which this subsection applies, exemption from taxation under subsection (a) shall be denied because a substantial part of the activities of such organization consists of carrying on propaganda, or otherwise attempting, to influence legislation, but only if such organization normally makes lobbying expenditures in excess of the lobbying ceiling amount for such organization for each taxable year.".

(b) Excess Lobbying Expenditures.—Section 4911(b) is amended to read as follows:

"(b) Excess Lobbying Expenditures.—For purposes of this section, the term 'excess lobbying expenditures' means, for a taxable year, the amount by which the lobbying expenditures made by the organization during the taxable year exceed the lobbying nontaxable amount for such organization for such taxable year.".

(c) Conforming Amendments.—

(1) Section 501(h)(2) is amended by striking subparagraphs (C) and (D).

(2) Section 4911(c) is amended by striking paragraphs (3) and (4).

(3) Paragraph (1)(A) of section 4911(f) is amended by striking "limits of section 501(h)(1) have" and inserting "limit of section 501(h)(1) has".

(4) Paragraph (1)(C) of section 4911(f) is amended by striking "limits of section 501(h)(1) are" and inserting "limit of section 501(h)(1) is".

(5) Paragraphs (4)(A) and (4)(B) of section 4911(f) are each amended by striking "limits of section 501(h)(1)" and inserting "limit of section 501(h)(1)".

(6) Paragraph (8) of section 6033(b) (relating to certain organizations described in section 501(c)(3)) is amended by inserting "and" at the end of subparagraph (A) and by striking subparagraphs (C) and (D).

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 304. EXPEDITED REVIEW PROCESS FOR CERTAIN TAX-EXEMPTION APPLICATIONS.

(a) In General.—The Secretary of the Treasury or the Secretary's delegate (in this section, referred to as the "Secretary") shall adopt procedures to expedite the consideration of applications for exempt status under section 501(c)(3) of the Internal Revenue Code of 1986 filed after December 31, 2003, by any organization that—

(1) is organized and operated for the primary purpose of providing social services;

(2) is seeking a contract or grant under a Federal, State, or local program that provides funding for social services programs;

(3) establishes that, under the terms and conditions of the contract or grant program, an organization is required to obtain such exempt status before the organization is eligible to apply for a contract or grant;

(4) includes with its exemption application a copy of its completed Federal, State, or local contract or grant application; and

(5) meets such other criteria as the Secretary deems appropriate for expedited consideration.

The Secretary may prescribe other similar circumstances in which such organizations may be entitled to expedited consideration.

(b) Waiver of Application Fee for Exempt Status.—Any organization that meets the conditions described in subsection (a) (without regard to paragraph (3) of that subsection) is entitled to a waiver of any fee for an application for exempt status under section 501(c)(3) of the Internal Revenue Code of 1986 if the organization certifies that the organization has had (or expects to have) average annual gross receipts of not more than $50,000 during the preceding 4 years (or, in the case of an organization not in existence throughout the preceding 4 years, during such organization's first 4 years).

(c) Social Services Defined.—For purposes of this section—

(1) In general.—The term "social services" means services directed at helping people in need, reducing poverty, improving outcomes of low-income children, revitalizing low-income communities, and empowering low-income families and low-income individuals to become self-sufficient, including—

(A) child care services, protective services for children and adults, services for children and adults in foster care, adoption services, services related to the management and maintenance of the home, day care services for adults, and services to meet the special needs of children, older individuals, and individuals with disabilities (including physical, mental, or emotional disabilities);

(B) transportation services;

(C) job training and related services, and employment services;

(D) information, referral, and counseling services;

(E) the preparation and delivery of meals, and services related to soup kitchens or food banks;

(F) health support services;

(G) literacy and mentoring programs;

(H) services for the prevention and treatment of juvenile delinquency and substance abuse, services for the prevention of crime and the provision of assistance to the victims and the families of criminal offenders, and services related to the intervention in, and prevention of, domestic violence; and

(I) services related to the provision of assistance for housing under Federal law.

(2) Exclusions.—The term does not include a program having the purpose of delivering educational assistance under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) or under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

SEC. 305. CLARIFICATION OF DEFINITION OF CHURCH TAX INQUIRY.

Subsection (i) of section 7611 (relating to section not to apply to criminal investigations, etc.) is amended by striking "or" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", or", and by inserting after paragraph (5) the following:

"(6) information provided by the Secretary related to the standards for exemption from tax under this title and the requirements under this title relating to unrelated business taxable income.".

SEC. 306. EXPANSION OF DECLARATORY JUDGMENT REMEDY TO TAX-EXEMPT ORGANIZATIONS.

(a) In General.—Paragraph (1) of section 7428(a) (relating to creation of remedy) is amended—

(1) in subparagraph (B) by inserting after "509(a))" the following: "or as a private operating foundation (as defined in section 4942(j)(3))"; and

(2) by amending subparagraph (C) to read as follows:

"(C) with respect to the initial qualification or continuing qualification of an organization as an organization described in section 501(c) (other than paragraph (3)) or 501(d) which is exempt from tax under section 501(a), or".

(b) Court Jurisdiction.—Subsection (a) of section 7428 is amended in the material following paragraph (2) by striking "United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia" and inserting the following: "United States Tax Court (in the case of any such determination or failure) or the United States Claims Court or the district court of the United States for the District of Columbia (in the case of a determination or failure with respect to an issue referred to in subparagraph (A) or (B) of paragraph (1)),".

(c) Effective Date.—The amendments made by this section shall apply to pleadings filed with respect to determinations (or requests for determinations) made after December 31, 2002.

SEC. 307. DEFINITION OF CONVENTION OR ASSOCIATION OF CHURCHES.

Section 7701 (relating to definitions) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) Convention or Association of Churches.—For purposes of this title, any organization which is otherwise a convention or association of churches shall not fail to so qualify merely because the membership of such organization includes individuals as well as churches or because individuals have voting rights in such organization.".

SEC. 308. PAYMENTS BY CHARITABLE ORGANIZATIONS TO VICTIMS OF WAR ON TERRORISM AND FAMILIES OF ASTRONAUTS KILLED IN THE LINE OF DUTY.

(a) In General.—For purposes of the Internal Revenue Code of 1986—

(1) any payment made by an organization described in section 501(c)(3) of such Code to—

(A) a member of the Armed Forces of the United States, or to an individual of such member's immediate family, by reason of the death, injury, wounding, or illness of such member incurred as the result of the military response of the United States to the terrorist attacks against the United States on September 11, 2001, or

(B) an individual of an astronaut's immediate family by reason of the death of such astronaut occurring in the line of duty after December 31, 2002,

shall be treated as related to the purpose or function constituting the basis for such organization's exemption under section 501 of such Code if such payment is made using an objective formula which is consistently applied, and

(2) in the case of a private foundation (as defined in section 509 of such Code), any payment described in paragraph (1) shall not be treated as made to a disqualified person for purposes of section 4941 of such Code.

(b) Effective Dates.—This section shall apply to—

(1) payments described in subsection (a)(1)(A) made after the date of the enactment of this Act and before September 11, 2004, and

(2) payments described in subsection (a)(1)(B) made after December 31, 2002.

SEC. 309. MODIFICATION OF SCHOLARSHIP FOUNDATION RULES.

In applying the limitations on the percentage of scholarship grants which may be awarded after the date of the enactment of this Act, to children of current or former employees under Revenue Procedure 76-47, such percentage shall be increased to 35 percent of the eligible applicants to be considered by the selection committee and to 20 percent of individuals eligible for the grants, but only if the foundation awarding the grants demonstrates that, in addition to meeting the other requirements of Revenue Procedure 76-47, it provides a comparable number and aggregate amount of grants during the same program year to individuals who are not such employees, children or dependents of such employees, or affiliated with the employer of such employees.

SEC. 310. TREATMENT OF CERTAIN HOSPITAL SUPPORT ORGANIZATIONS AS QUALIFIED ORGANIZATIONS FOR PURPOSES OF DETERMINING ACQUISITION INDEBTEDNESS.

(a) In General.—Subparagraph (C) of section 514(c)(9) (relating to real property acquired by a qualified organization) is amended by striking "or" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting "; or", and by adding at the end the following new clause:

"(iv) a qualified hospital support organization (as defined in subparagraph (I)).".

(b) Qualified Hospital Support Organizations.—Paragraph (9) of section 514(c) is amended by adding at the end the following new subparagraph:

"(I) Qualified hospital support organizations.—For purposes of subparagraph (C)(iv), the term 'qualified hospital support organization' means, with respect to any eligible indebtedness (including any qualified refinancing of such eligible indebtedness), a support organization (as defined in section 509(a)(3)) which supports a hospital described in section 119(d)(4)(B) and with respect to which—

"(i) more than half of the organization's assets (by value) at any time since its organization—

"(I) were acquired, directly or indirectly, by testamentary gift or devise, and

"(II) consisted of real property, and

"(ii) the fair market value of the organization's real estate acquired, directly or indirectly, by gift or devise, exceeded 25 percent of the fair market value of all investment assets held by the organization immediately prior to the time that the eligible indebtedness was incurred.

For purposes of this subparagraph, the term 'eligible indebtedness' means indebtedness secured by real property acquired by the organization, directly or indirectly, by gift or devise, the proceeds of which are used exclusively to acquire any leasehold interest in such real property or for improvements on, or repairs to, such real property. A determination under clauses (i) and (ii) of this subparagraph shall be made each time such an eligible indebtedness (or the qualified refinancing of such an eligible indebtedness) is incurred. For purposes of this subparagraph, a refinancing of such an eligible indebtedness shall be considered qualified if such refinancing does not exceed the amount of the refinanced eligible indebtedness immediately before the refinancing.".

(c) Effective Date.—The amendments made by this section shall apply to indebtedness incurred after December 31, 2003.

SEC. 311. CHARITABLE CONTRIBUTION DEDUCTION FOR CERTAIN EXPENSES INCURRED IN SUPPORT OF NATIVE ALASKAN SUBSISTENCE WHALING.

(a) In General.—Section 170 (relating to charitable, etc., contributions and gifts), as amended by this Act, is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) Expenses Paid by Certain Whaling Captains in Support of Native Alaskan Subsistence Whaling.—

"(1) In general.—In the case of an individual who is recognized by the Alaska Eskimo Whaling Commission as a whaling captain charged with the responsibility of maintaining and carrying out sanctioned whaling activities and who engages in such activities during the taxable year, the amount described in paragraph (2) (to the extent such amount does not exceed $10,000 for the taxable year) shall be treated for purposes of this section as a charitable contribution.

"(2) Amount described.—

"(A) In general.—The amount described in this paragraph is the aggregate of the reasonable and necessary whaling expenses paid by the taxpayer during the taxable year in carrying out sanctioned whaling activities.

"(B) Whaling expenses.—For purposes of subparagraph (A), the term 'whaling expenses' includes expenses for—

"(i) the acquisition and maintenance of whaling boats, weapons, and gear used in sanctioned whaling activities,

"(ii) the supplying of food for the crew and other provisions for carrying out such activities, and

"(iii) storage and distribution of the catch from such activities.

"(3) Sanctioned whaling activities.—For purposes of this subsection, the term 'sanctioned whaling activities' means subsistence bowhead whale hunting activities conducted pursuant to the management plan of the Alaska Eskimo Whaling Commission.".

(b) Effective Date.—The amendments made by subsection (a) shall apply to contributions made after December 31, 2003.

SEC. 312. MATCHING GRANTS TO LOW-INCOME TAXPAYER CLINICS FOR RETURN PREPARATION.

(a) In General.—Chapter 77 (relating to miscellaneous provisions) is amended by inserting after section 7526 the following new section:

"SEC. 7526A. RETURN PREPARATION CLINICS FOR LOW-INCOME TAXPAYERS.

"(a) In General.—The Secretary may, subject to the availability of appropriated funds, make grants to provide matching funds for the development, expansion, or continuation of qualified return preparation clinics.

"(b) Definitions.—For purposes of this section—

"(1) Qualified return preparation clinic.—

"(A) In general.—The term 'qualified return preparation clinic' means a clinic which—

"(i) does not charge more than a nominal fee for its services (except for reimbursement of actual costs incurred), and

"(ii) operates programs which assist low-income taxpayers in preparing and filing their Federal income tax returns, including schedules reporting sole proprietorship or farm income.

"(B) Assistance to low-income taxpayers.—A clinic is treated as assisting low-income taxpayers under subparagraph (A)(ii) if at least 90 percent of the taxpayers assisted by the clinic have incomes which do not exceed 250 percent of the poverty level, as determined in accordance with criteria established by the Director of the Office of Management and Budget.

"(2) Clinic.—The term 'clinic' includes—

"(A) a clinical program at an eligible educational institution (as defined in section 529(e)(5)) which satisfies the requirements of paragraph (1) through student assistance of taxpayers in return preparation and filing, and

"(B) an organization described in section 501(c) and exempt from tax under section 501(a) which satisfies the requirements of paragraph (1).

"(c) Special Rules and Limitations.—

"(1) Aggregate limitation.—Unless otherwise provided by specific appropriation, the Secretary shall not allocate more than $10,000,000 per year (exclusive of costs of administering the program) to grants under this section.

"(2) Other applicable rules.—Rules similar to the rules under paragraphs (2) through (5) of section 7526(c) shall apply with respect to the awarding of grants to qualified return preparation clinics.".

(b) Clerical Amendment.—The table of sections for chapter 77 is amended by inserting after the item relating to section 7526 the following new item:

"Sec. 7526A. Return preparation clinics for low-income taxpayers.".

(c) Effective Date.—The amendments made by this section shall apply to grants made after the date of the enactment of this Act.

SEC. 313. EXEMPTION OF QUALIFIED 501(c)(3) BONDS FOR NURSING HOMES FROM FEDERAL GUARANTEE PROHIBITIONS.

(a) In General.—Section 149(b)(3) (relating to exceptions) is amended by adding at the end the following new subparagraph:

"(E) Exception for qualified 501(c)(3) bonds for nursing homes.—

"(i) In general.—Paragraph (1) shall not apply to any qualified 501(c)(3) bond issued before the date which is 1 year after the date of the enactment of this subparagraph for the benefit of an organization described in section 501(c)(3), if such bond is part of an issue the proceeds of which are used to finance 1 or more of the following facilities primarily for the benefit of the elderly:

"(I) Licensed nursing home facility.

"(II) Licensed or certified assisted living facility.

"(III) Licensed personal care facility.

"(IV) Continuing care retirement community.

"(ii) Limitation.—With respect to any calendar year, clause (i) shall not apply to any bond described in such clause if the aggregate authorized face amount of the issue of which such bond is a part when increased by the outstanding amount of such bonds issued by the issuer for such calendar year exceeds $15,000,000.

"(iii) Continuing care retirement community.—For purposes of this subparagraph, the term 'continuing care retirement community' means a community which provides, on the same campus, a continuum of residential living options and support services to persons at least 60 years of age under a written agreement. For purposes of the preceding sentence, the residential living options shall include independent living units, nursing home beds, and either assisted living units or personal care beds.".

(b) Effective Date.—The amendment made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 314. EXCISE TAXES EXEMPTION FOR BLOOD COLLECTOR ORGANIZATIONS.

(a) Exemption from Imposition of Special Fuels Tax.—Section 4041(g) (relating to other exemptions) is amended by striking "and" at the end of paragraph (3), by striking the period in paragraph (4) and inserting "; and", and by inserting after paragraph (4) the following new paragraph:

"(5) with respect to the sale of any liquid to a qualified blood collector organization (as defined in section 7701(a)(48)) for such organization's exclusive use, or with respect to the use by a qualified blood collector organization of any liquid as a fuel.".

(b) Exemption from Manufacturers Excise Tax.—

(1) In general.—Section 4221(a) (relating to certain tax-free sales) is amended by striking "or" at the end of paragraph (4), by adding "or" at the end of paragraph (5), and by inserting after paragraph (5) the following new paragraph:

"(6) to a qualified blood collector organization (as defined in section 7701(a)(48)) for such organization's exclusive use,".

(2) Conforming amendments.—

(A) The second sentence of section 4221(a) is amended by striking "Paragraphs (4) and (5)" and inserting "Paragraphs (4), (5), and (6)".

(B) Section 6421(c) is amended by striking "or (5)" and inserting "(5), or (6)".

(c) Exemption from Communication Excise Tax.—

(1) In general.—Section 4253 (relating to exemptions) is amended by redesignating subsection (k) as subsection (l) and inserting after subsection (j) the following new subsection:

"(k) Exemption for Qualified Blood Collector Organizations.—Under regulations provided by the Secretary, no tax shall be imposed under section 4251 on any amount paid by a qualified blood collector organization (as defined in section 7701(a)) for services or facilities furnished to such organization.".

(2) Conforming amendment.—Section 4253(l), as redesignated by paragraph (1), is amended by striking "or (j)" and inserting "(j), or (k)".

(d) Credit for Refund for Certain Taxes on Sales and Services.—

(1) Deemed overpayment.—

(A) In general.—Section 6416(b)(2) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and by inserting after subparagraph (D) the following new subparagraph:

"(E) sold to a qualified blood collector organization's (as defined in section 7701(a)(48)) for such organization's exclusive use;".

(B) Conforming amendments.—Section 6416(b)(2) is amended—

(i) by striking "Subparagraphs (C) and (D)" and inserting "Subparagraphs (C), (D), and (E)", and

(ii) by striking "(C), and (D)" and inserting "(C), (D), and (E)".

(2) Sales of tires.—Clause (ii) of section 6416(b)(4)(B) is amended by inserting "sold to a qualified blood collector organization (as defined in section 7701(a)(48))," after "for its exclusive use,".

(e) Definition of Qualified Blood Collector Organization.—Section 7701(a) is amended by inserting at the end the following new paragraph:

"(48) Qualified blood collector organization.—For purposes of this title, the term 'qualified blood collector organization' means an organization which is—

"(A) described in section 501(c)(3) and exempt from tax under section 501(a), "(B) registered by the Food and Drug Administration to collect blood, and

"(C) primarily engaged in the activity of the collection of blood.".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to excise taxes imposed on sales or uses occurring on or after October 1, 2003.

(2) REFUND OF GASOLINE TAX.—For purposes of section 6421(c) of the Internal Revenue Code of 1986 and any other provision that allows for a refund or a payment in respect of an excise tax payable at a level before the sale to a qualified blood collector organization, the amendments made by this section shall apply with respect to sales to a qualified collector organization on or after October 1, 2003.

SEC. 315. PILOT PROJECT FOR FOREST CONSERVATION ACTIVITIES.

(a) TAX-EXEMPT BOND FINANCING.—

(1) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, any qualified forest conservation bond shall be treated as an exempt facility bond under section 142 of such Code.

(2) QUALIFIED FOREST CONSERVATION BOND.—For purposes of this section, the term "qualified forest conservation bond" means any bond issued as part of an issue if—

(A) 95 percent or more of the net proceeds (as defined in section 150(a)(3) of such Code) of such issue are to be used for qualified project costs,

(B) such bond is issued for a qualified organization, and

(C) such bond is issued before December 31, 2006.

(3) LIMITATION ON AGGREGATE AMOUNT ISSUED.—

(A) IN GENERAL.—The maximum aggregate face amount of bonds which may be issued under this subsection shall not exceed $2,000,000,000 for all projects (excluding refunding bonds).

(B) ALLOCATION OF LIMITATION.—The limitation described in subparagraph (A) shall be allocated by the Secretary of the Treasury among qualified organizations based on criteria established by the Secretary not later than 180 days after the date of the enactment of this section, after consultation with the Chief of the Forest Service.

(4) QUALIFIED PROJECT COSTS.—For purposes of this subsection, the term "qualified project costs" means the sum of—

(A) the cost of acquisition by the qualified organization from an unrelated person of forests and forest land which at the time of acquisition or immediately thereafter are subject to a conservation restriction described in subsection (c)(2),

(B) capitalized interest on the qualified forest conservation bonds for the 3-year period beginning on the date of issuance of such bonds, and

(C) credit enhancement fees which constitute qualified guarantee fees (within the meaning of section 148 of such Code).

(5) SPECIAL RULES.—In applying the Internal Revenue Code of 1986 to any qualified forest conservation bond, the following modifications shall apply:

(A) Section 146 of such Code (relating to volume cap) shall not apply.

(B) For purposes of section 147(b) of such Code (relating to maturity may not exceed 120 percent of economic life), the land and standing timber acquired with proceeds of qualified forest conservation bonds shall have an economic life of 35 years.

(C) Subsections (c) and (d) of section 147 of such Code (relating to limitations on acquisition of land and existing property) shall not apply.

(D) Section 57(a)(5) of such Code (relating to tax-exempt interest) shall not apply to interest on qualified forest conservation bonds.

(6) TREATMENT OF CURRENT REFUNDING BONDS.—Paragraphs (2)(C) and (3) shall not apply to any bond (or series of bonds) issued to refund a qualified forest conservation bond issued before December 31, 2006, if—

(A) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,

(B) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

(C) the net proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond.

For purposes of subparagraph (A), average maturity shall be determined in accordance with section 147(b)(2)(A) of such Code.

(7) EFFECTIVE DATE.—This subsection shall apply to obligations issued on or after the date which is 180 days after the enactment of this Act.

(b) ITEMS FROM QUALIFIED HARVESTING ACTIVITIES NOT SUBJECT TO TAX OR TAKEN INTO ACCOUNT.—

(1) IN GENERAL.—Income, gains, deductions, losses, or credits from a qualified harvesting activity conducted by a qualified organization shall not be subject to tax or taken into account under subtitle A of the Internal Revenue Code of 1986.

(2) LIMITATION.—The amount of income excluded from gross income under paragraph (1) for any taxable year shall not exceed the amount used by the qualified organization to make debt service payments during such taxable year for qualified forest conservation bonds.

(3) QUALIFIED HARVESTING ACTIVITY.—For purposes of paragraph (1)—

(A) IN GENERAL.—The term "qualified harvesting activity" means the sale, lease, or harvesting, of standing timber—

(i) on land owned by a qualified organization which was acquired with proceeds of qualified forest conservation bonds,

(ii) with respect to which a written acknowledgement has been obtained by the qualified organization from the State or local governments with jurisdiction over such land that the acquisition lessens the burdens of such government with respect to such land, and

(iii) pursuant to a qualified conservation plan adopted by the qualified organization.

(B) EXCEPTIONS.—

(i) CESSATION AS QUALIFIED ORGANIZATION.—The term "qualified harvesting activity" shall not include any sale, lease, or harvesting for any period during which the organization ceases to qualify as a qualified organization.

(ii) EXCEEDING LIMITS ON HARVESTING.—The term "qualified harvesting activity" shall not include any sale, lease, or harvesting of standing timber on land acquired with proceeds of qualified forest conservation bonds to the extent that—

(I) the average annual area of timber harvested from such land exceeds 2.5 percent of the total area of such land or,

(II) the quantity of timber removed from such land exceeds the quantity which can be removed from such land annually in perpetuity on a sustained-yield basis with respect to such land.

The limitations under subclauses (I) and (II) shall not apply to post-fire restoration and rehabilitation or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow, or other catastrophes, or which are in imminent danger from insect or disease attack.

(4) TERMINATION.—This subsection shall not apply to any qualified harvesting activity of a qualified organization occurring after the date on which there is no outstanding qualified forest conservation bond with respect to such qualified organization or any such bond ceases to be a tax-exempt bond.

(5) PARTIAL RECAPTURE OF BENEFITS IF HARVESTING LIMIT EXCEEDED.—If, as of the date that this subsection ceases to apply under paragraph (3), the average annual area of timber harvested from the land exceeds the requirement of paragraph (3)(B)(ii)(I), the tax imposed by chapter 1 of the Internal Revenue Code of 1986 shall be increased, under rules prescribed by the Secretary of the Treasury, by the sum of the tax benefits attributable to such excess and interest at the underpayment rate under section 6621 of such Code for the period of the underpayment.

(c) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED CONSERVATION PLAN.—The term "qualified conservation plan" means a multiple land use program or plan which—

(A) is designed and administered primarily for the purposes of protecting and enhancing wildlife and fish, timber, scenic attributes, recreation, and soil and water quality of the forest and forest land,

(B) mandates that conservation of forest and forest land is the single-most significant use of the forest and forest land, and

(C) requires that timber harvesting be consistent with—

(i) restoring and maintaining reference conditions for the region's ecotype,

(ii) restoring and maintaining a representative sample of young, mid, and late successional forest age classes,

(iii) maintaining or restoring the resources' ecological health for purposes of preventing damage from fire, insect, or disease,

(iv) maintaining or enhancing wildlife or fish habitat, or

(v) enhancing research opportunities in sustainable renewable resource uses.

(2) CONSERVATION RESTRICTION.—The conservation restriction described in this paragraph is a restriction which—

(A) is granted in perpetuity to an unrelated person which is described in section 170(h)(3) of such Code and which, in the case of a nongovernmental unit, is organized and operated for conservation purposes,

(B) meets the requirements of clause (ii) or (iii)(II) of section 170(h)(4)(A) of such Code,

(C) obligates the qualified organization to pay the costs incurred by the holder of the conservation restriction in monitoring compliance with such restriction, and

(D) requires an increasing level of conservation benefits to be provided whenever circumstances allow it.

(3) QUALIFIED ORGANIZATION.—The term "qualified organization" means an organization—

(A) which is a nonprofit organization substantially all the activities of which are charitable, scientific, or educational, including acquiring, protecting, restoring, managing, and developing forest lands and other renewable resources for the long-term charitable, educational, scientific and public benefit,

(B) more than half of the value of the property of which consists of forests and forest land acquired with the proceeds from qualified forest conservation bonds,

(C) which periodically conducts educational programs designed to inform the public of environmentally sensitive forestry management and conservation techniques,

(D) which has at all times a board of directors—

(i) at least 20 percent of the members of which represent the holders of the conservation restriction described in paragraph (2),

(ii) at least 20 percent of the members of which are public officials, and

(iii) not more than one-third of the members of which are individuals who are or were at any time within 5 years before the beginning of a term of membership on the board, an employee of, independent contractor with respect to, officer of, director of, or held a material financial interest in, a commercial forest products enterprise with which the qualified organization has a contractual or other financial arrangement,

(E) the bylaws of which require at least two-thirds of the members of the board of directors to vote affirmatively to approve the qualified conservation plan and any change thereto, and

(F) upon dissolution, is required to dedicate its assets to—

(i) an organization described in section 501(c)(3) of such Code which is organized and operated for conservation purposes, or

(ii) a governmental unit described in section 170(c)(1) of such Code.

(4) UNRELATED PERSON.—The term "unrelated person" means a person who is not a related person.

(5) RELATED PERSON.—A person shall be treated as related to another person if—

(A) such person bears a relationship to such other person described in section 267(b) (determined without regard to paragraph (9) thereof), or 707(b)(1), of such Code, determined by substituting "25 percent" for "50 percent" each place it appears therein, and

(B) in the case such other person is a nonprofit organization, if such person controls directly or indirectly more than 25 percent of the governing body of such organization.

SEC. 316. CLARIFICATION OF TREATMENT OF JOHNNY MICHEAL SPANN PATRIOT TRUSTS.

(a) CLARIFICATION OF TAX-EXEMPT STATUS OF TRUSTS.—

(1) IN GENERAL.—Subsection (b) of section 601 of the Homeland Security Act of 2002 is amended to read as follows:

"(b) DESIGNATION OF JOHNNY MICHEAL SPANN PATRIOT TRUSTS.—Any charitable corporation, fund, foundation, or trust (or separate fund or account thereof) which is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code and meets the requirements described in subsection (c) shall be eligible to designate itself as a 'Johnny Micheal Spann Patriot trust'.".

(2) CONFORMING AMENDMENT.—Section 601(c)(3) of such Act is amended by striking "based" and all that follows through "Trust".

(b) PUBLICLY AVAILABLE AUDITS.—Section 601(c)(7) of the Homeland Security Act of 2002 is amended by striking "shall be filed with the Internal Revenue Service, and shall be open to public inspection" and inserting "shall be open to public inspection consistent with section 6104(d)(1) of the Internal Revenue Code of 1986".

(c) CLARIFICATION OF REQUIRED DISTRIBUTIONS TO PRIVATE FOUNDATION.—

(1) IN GENERAL.—Section 601(c)(8) of the Homeland Security Act of 2002 is amended by striking "not placed" and all that follows and inserting "not so distributed shall be contributed to a private foundation which is described in section 509(a) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code and which is dedicated to such beneficiaries not later than 36 months after the end of the fiscal year in which such funds, donations, or earnings are received.".

(2) CONFORMING AMENDMENTS.—Section 601(c) of such Act is amended—

(A) by striking "(or, if placed in a private foundation, held in trust for)" in paragraph (1) and inserting "(or contributed to a private foundation described in paragraph (8) for the benefit of)", and

(B) by striking "invested in a private foundation" in paragraph (2) and inserting "contributed to a private foundation described in paragraph (8)".

(d) REQUIREMENTS FOR DISTRIBUTIONS FROM TRUSTS.—Section 601(c)(9)(A) of the Homeland Security Act of 2002 is amended by striking "should" and inserting "shall".

(e) REGULATIONS REGARDING NOTIFICATION OF TRUST BENEFICIARIES.—Section 601(f) of the Homeland Security Act of 2002 is amended by striking "this section" and inserting "subsection (e)".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 601 of the Homeland Security Act of 2002.

TITLE IV—SOCIAL SERVICES BLOCK GRANT

SEC. 401. RESTORATION OF FUNDS FOR THE SOCIAL SERVICES BLOCK GRANT.

(a) FINDINGS.—Congress makes the following findings:

(1) On August 22, 1996, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193; 110 Stat. 2105) was signed into law.

(2) In enacting that law, Congress authorized $2,800,000,000 for fiscal year 2003 and each fiscal year thereafter to carry out the Social Services Block Grant program established under title XX of the Social Security Act (42 U.S.C. 1397 et seq.).

(b) RESTORATION OF FUNDS.—Section 2003(c)(11) of the Social Security Act (42 U.S.C. 1397b(c)(11)) is amended by inserting ", except that, with respect to fiscal year 2004, the amount shall be $1,975,000,000, and with respect to fiscal year 2005, the amount shall be $2,800,000,000" after "thereafter.".

SEC. 402. RESTORATION OF AUTHORITY TO TRANSFER UP TO 10 PERCENT OF TANF FUNDS TO THE SOCIAL SERVICES BLOCK GRANT.

(a) IN GENERAL.—Section 404(d)(2) of the Social Security Act (42 U.S.C. 604(d)(2)) is amended to read as follows:

"(2) LIMITATION ON AMOUNT TRANSFERABLE TO TITLE XX PROGRAMS.—A State may use not more than 10 percent of the amount of any grant made to the State under section 403(a) for a fiscal year to carry out State programs pursuant to title XX.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to amounts made available for fiscal year 2004 and each fiscal year thereafter.

SEC. 403. REQUIREMENT TO SUBMIT ANNUAL REPORT ON STATE ACTIVITIES.

(a) IN GENERAL.—Section 2006(c) of the Social Security Act (42 U.S.C. 1397e(c)) is amended by adding at the end the following: "The Secretary shall compile the information submitted by the States and submit that information to Congress on an annual basis.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to information submitted by States under section 2006 of the Social Security Act (42 U.S.C. 1397e) with respect to fiscal year 2003 and each fiscal year thereafter.

TITLE V—INDIVIDUAL DEVELOPMENT ACCOUNTS

SEC. 501. SHORT TITLE.

This title may be cited as the "Savings for Working Families Act of 2004".

SEC. 502. PURPOSES.

The purposes of this title are to provide for the establishment of individual development account programs that will—

(1) provide individuals and families with limited means an opportunity to accumulate assets and to enter the financial mainstream,

(2) promote education, homeownership, and the development of small businesses,

(3) stabilize families and build communities, and

(4) support continued United States economic expansion.

SEC. 503. DEFINITIONS.

As used in this title:

(1) ELIGIBLE INDIVIDUAL.—

(A) IN GENERAL.—The term "eligible individual" means, with respect to any taxable year, an individual who—

(i) has attained the age of 18 but not the age of 61 as of the last day of such taxable year,

(ii) is a citizen or lawful permanent resident (within the meaning of section 7701(b)(6) of the Internal Revenue Code of 1986) of the United States as of the last day of such taxable year,

(iii) was not a student (as defined in section 151(c)(4) of such Code) for the immediately preceding taxable year,

(iv) is not an individual with respect to whom a deduction under section 151 of such Code is allowable to another taxpayer for a taxable year of the other taxpayer ending during the immediately preceding taxable year of the individual,

(v) is not a taxpayer described in subsection (c), (d), or (e) of section 6402 of such Code for the immediately preceding taxable year,

(vi) is not a taxpayer described in section 1(d) of such Code for the immediately preceding taxable year, and

(vii) is a taxpayer the modified adjusted gross income of whom for the immediately preceding taxable year does not exceed—

(I) $18,000, in the case of a taxpayer described in section 1(c) of such Code,

(II) $30,000, in the case of a taxpayer described in section 1(b) of such Code, and

(III) $38,000, in the case of a taxpayer described in section 1(a) of such Code.

(B) INFLATION ADJUSTMENT.—

(i) IN GENERAL.—In the case of any taxable year beginning after 2004, each dollar amount referred to in subparagraph (A)(vii) shall be increased by an amount equal to—

(I) such dollar amount, multiplied by

(II) the cost-of-living adjustment determined under section (1)(f)(3) of the Internal Revenue Code of 1986 for the calendar year in which the taxable year begins, by substituting "2003" for "1992".

(ii) ROUNDING.—If any amount as adjusted under clause (i) is not a multiple of $50, such amount shall be rounded to the nearest multiple of $50.

(C) MODIFIED ADJUSTED GROSS INCOME.—For purposes of subparagraph (A)(v), the term "modified adjusted gross income" means adjusted gross income—

(i) determined without regard to sections 86, 893, 911, 931, and 933 of the Internal Revenue Code of 1986, and

(ii) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax.

(2) INDIVIDUAL DEVELOPMENT ACCOUNT.—The term "Individual Development Account" means an account established for an eligible individual as part of a qualified individual development account program, but only if the written governing instrument creating the account meets the following requirements:

(A) The owner of the account is the individual for whom the account was established.

(B) No contribution will be accepted unless it is in cash, and, except in the case of any qualified rollover, contributions will not be accepted for the taxable year in excess of $1,500 on behalf of any individual.

(C) The trustee of the account is a qualified financial institution.

(D) The assets of the account will not be commingled with other property except in a common trust fund or common investment fund.

(E) Except as provided in section 507(b), any amount in the account may be paid out only for the purpose of paying the qualified expenses of the account owner.

(3) PARALLEL ACCOUNT.—The term "parallel account" means a separate, parallel individual or pooled account for all matching funds and earnings dedicated to an Individual Development Account owner as part of a qualified individual development account program, the trustee of which is a qualified financial institution.

(4) QUALIFIED FINANCIAL INSTITUTION.—The term "qualified financial institution" means any person authorized to be a trustee of any individual retirement account under section 408(a)(2) of the Internal Revenue Code of 1986.

(5) QUALIFIED INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAM.—The term "qualified individual development account program" means a program established upon approval of the Secretary under section 504 after December 31, 2002, under which—

(A) Individual Development Accounts and parallel accounts are held in trust by a qualified financial institution, and

(B) additional activities determined by the Secretary, in consultation with the Secretary of Health and Human Services, as necessary to responsibly develop and administer accounts, including recruiting, providing financial education and other training to Account owners, and regular program monitoring, are carried out by the qualified financial institution.

(6) QUALIFIED EXPENSE DISTRIBUTION.—

(A) IN GENERAL.—The term "qualified expense distribution" means any amount paid (including through electronic payments) or distributed out of an Individual Development Account or a parallel account established for an eligible individual if such amount—

(i) is used exclusively to pay the qualified expenses of the Individual Development Account owner or such owner's spouse or dependents,

(ii) is paid by the qualified financial institution—

(I) except as otherwise provided in this clause, directly to the unrelated third party to whom the amount is due,

(II) in the case of any qualified rollover, directly to another Individual Development Account and parallel account, or

(III) in the case of a qualified final distribution, directly to the spouse, dependent, or other named beneficiary of the deceased Account owner, and

(iii) is paid after the Account owner has completed a financial education course if required under section 505(b).

(B) QUALIFIED EXPENSES.—

(i) IN GENERAL.—The term "qualified expenses" means any of the following expenses approved by the qualified financial institution:

(I) Qualified higher education expenses.

(II) Qualified first-time homebuyer costs.

(III) Qualified business capitalization or expansion costs.

(IV) Qualified rollovers.

(V) Qualified final distribution.

(ii) QUALIFIED HIGHER EDUCATION EXPENSES.—

(I) IN GENERAL.—The term "qualified higher education expenses" has the meaning given such term by section 529(e)(3) of the Internal Revenue Code of 1986, determined by treating the Account owner, the owner's spouse, or one or more of the owner's dependents as a designated beneficiary, and reduced as provided in section 25A(g)(2) of such Code.

(II) COORDINATION WITH OTHER BENEFITS.—The amount of expenses which may be taken into account for purposes of section 135, 529, or 530 of such Code for any taxable year shall be reduced by the amount of any qualified higher education expenses taken into account as qualified expense distributions during such taxable year.

(iii) QUALIFIED FIRST-TIME HOMEBUYER COSTS.—The term "qualified first-time homebuyer costs" means qualified acquisition costs (as defined in section 72(t)(8)(C) of the Internal Revenue Code of 1986) with respect to a principal residence (within the meaning of section 121 of such Code) for a qualified first-time homebuyer (as defined in section 72(t)(8)(D)(i) of such Code).

(iv) QUALIFIED BUSINESS CAPITALIZATION OR EXPANSION COSTS.—

(I) IN GENERAL.—The term "qualified business capitalization or expansion costs" means qualified expenditures for the capitalization or expansion of a qualified business pursuant to a qualified business plan.

(II) QUALIFIED EXPENDITURES.—The term "qualified expenditures" means expenditures normally associated with starting or expanding a business and included in a qualified business plan, including costs for capital, plant, and equipment, inventory expenses, and attorney and accounting fees.

(III) QUALIFIED BUSINESS.—The term "qualified business" means any business that does not contravene any law.

(IV) QUALIFIED BUSINESS PLAN.—The term "qualified business plan" means a business plan which has been approved by the qualified financial institution and which meets such requirements as the Secretary may specify.

(v) QUALIFIED ROLLOVERS.—The term "qualified rollover" means the complete distribution of the amounts in an Individual Development Account and parallel account to another Individual Development Account and parallel account established in another qualified financial institution for the benefit of the Account owner.

(vi) QUALIFIED FINAL DISTRIBUTION.—The term "qualified final distribution" means, in the case of a deceased Account owner, the complete distribution of the amounts in the Individual Development Account and parallel account directly to the spouse, any dependent, or other named beneficiary of the deceased.

(7) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

SEC. 504. STRUCTURE AND ADMINISTRATION OF QUALIFIED INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAMS.

(a) ESTABLISHMENT OF QUALIFIED INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAMS.—Any qualified financial institution may apply to the Secretary for approval to establish 1 or more qualified individual development account programs which meet the requirements of this title and for an allocation of the Individual Development Account limitation under section 45G(i)(3) of the Internal Revenue Code of 1986 with respect to such programs.

(b) BASIC PROGRAM STRUCTURE.—

(1) IN GENERAL.—All qualified individual development account programs shall consist of the following 2 components for each participant:

(A) An Individual Development Account to which an eligible individual may contribute cash in accordance with section 505.

(B) A parallel account to which all matching funds shall be deposited in accordance with section 506.

(2) TAILORED IDA PROGRAMS.—A qualified financial institution may tailor its qualified individual development account program to allow matching funds to be spent on 1 or more of the categories of qualified expenses.

(3) NO FEES MAY BE CHARGED TO IDAS.—A qualified financial institution may not charge any fees to any Individual Development Account or parallel account under a qualified individual development account program.

(c) COORDINATION WITH PUBLIC HOUSING AGENCY INDIVIDUAL SAVINGS ACCOUNTS.—Section 3(e)(2) of the United State's Housing Act of 1937 (42 U.S.C. 1437a(e)(2)) is amended by inserting "or in any Individual Development Account established under the Savings for Working Families Act of 2004" after "subsection".

(d) TAX TREATMENT OF PARALLEL ACCOUNTS.—

(1) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7528. TAX INCENTIVES FOR INDIVIDUAL DEVELOPMENT PARALLEL ACCOUNTS.

"For purposes of this title—

"(1) any account described in section 504(b)(1)(B) of the Savings for Working Families Act of 2004 shall be exempt from taxation,

"(2) except as provided in section 45G, no item of income, expense, basis, gain, or loss with respect to such an account may be taken into account, and

"(3) any amount withdrawn from such an account shall not be includible in gross income.".

(2) CONFORMING AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

"Sec. 7528. Tax incentives for individual development parallel accounts.".

(e) COORDINATION OF CERTAIN EXPENSES.—Section 25A(g)(2) is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by adding at the end the following new subparagraph:

"(D) a qualified expense distribution with respect to qualified higher education expenses from an Individual Development Account or a parallel account under section 507(a) of the Savings for Working Families Act of 2004.".

SEC. 505. PROCEDURES FOR OPENING AND MAINTAINING AN INDIVIDUAL DEVELOPMENT ACCOUNT AND QUALIFYING FOR MATCHING FUNDS.

(a) Opening an Account.—An eligible individual may open an Individual Development Account with a qualified financial institution upon certification that such individual has never maintained any other Individual Development Account (other than an Individual Development Account to be terminated by a qualified rollover).

(b) Required Completion of Financial Education Course.—

(1) In general.—Before becoming eligible to withdraw funds to pay for qualified expenses, owners of Individual Development Accounts must complete 1 or more financial education courses specified in the qualified individual development account program.

(2) Standard and applicability of course.—The Secretary, in consultation with representatives of qualified individual development account programs and financial educators, shall not later than January 1, 2004, establish minimum quality standards for the contents of financial education courses and providers of such courses described in paragraph (1) and a protocol to exempt individuals from the requirement under paragraph (1) in the case of hardship, lack of need, the attainment of age 65, or a qualified final distribution.

(c) Proof of Status as an Eligible Individual.—Federal income tax forms for the immediately preceding taxable year and any other evidence of eligibility which may be required by a qualified financial institution shall be presented to such institution at the time of the establishment of the Individual Development Account and in any taxable year in which contributions are made to the Account to qualify for matching funds under section 506(b)(1)(A).

(d) Special Rule in the Case of Married Individuals.—For purposes of this title, if, with respect to any taxable year, 2 married individuals file a Federal joint income tax return, then not more than 1 of such individuals may be treated as an eligible individual with respect to the succeeding taxable year.

SEC. 506. DEPOSITS BY QUALIFIED INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAMS.

(a) Parallel Accounts.—The qualified financial institution shall deposit all matching funds for each Individual Development Account into a parallel account at a qualified financial institution.

(b) Regular Deposits of Matching Funds.—

(1) In general.—Subject to paragraph (2), the qualified financial institution shall deposit into the parallel account with respect to each eligible individual the following amounts:

(A) A dollar-for-dollar match for the first $500 contributed by the eligible individual into an Individual Development Account with respect to any taxable year of such individual.

(B) Any matching funds provided by State, local, or private sources in accordance with the matching ratio set by those sources.

(2) Timing of deposits.—A deposit of the amounts described in paragraph (1) shall be made into a parallel account—

(A) in the case of amounts described in paragraph (1)(A), not later than 30 days after the end of the calendar quarter during which the contribution described in such paragraph was made, and

(B) in the case of amounts described in paragraph (1)(B), not later than 2 business days after such amounts were provided.

(3) Cross reference.—

For allowance of tax credit for Individual Development Account subsidies, including matching funds, see section 45G of the Internal Revenue Code of 1986.

(c) Deposit of Matching Funds Into Individual Development Account of Individual Who Has Attained Age 65.—In the case of an Individual Development Account owner who attains the age of 65, the qualified financial institution shall deposit the funds in the parallel account with respect to such individual into the Individual Development Account of such individual on the later of—

(1) the day which is the 1-year anniversary of the deposit of such funds in the parallel account, or

(2) the first business day of the taxable year of such individual following the taxable year in which such individual attained age 65.

(d) Uniform Accounting Regulations.—To ensure proper recordkeeping and determination of the tax credit under section 45G of the Internal Revenue Code of 1986, the Secretary shall prescribe regulations with respect to accounting for matching funds in the parallel accounts.

(e) Regular Reporting of Accounts.—Any qualified financial institution shall report the balances in any Individual Development Account and parallel account of an individual on not less than an annual basis to such individual.

SEC. 507. WITHDRAWAL PROCEDURES.

(a) Withdrawals for Qualified Expenses.—

(1) In general.—An Individual Development Account owner may withdraw funds in order to pay qualified expense distributions from such individual's—

(A) Individual Development Account, but only from funds which have been on deposit in such Account for at least 1 year, and

(B) parallel account, but only—

(i) from matching funds which have been on deposit in such parallel account for at least 1 year,

(ii) from earnings in such parallel account, after all matching funds described in clause (i) have been withdrawn, and

(iii) to the extent such withdrawal does not result in a remaining balance in such parallel account which is less than the remaining balance in the Individual Development Account after such withdrawal.

(2) Procedure.—Upon receipt of a withdrawal request which meets the requirements of paragraph (1), the qualified financial institution shall directly transfer the funds electronically to the distributees described in section 503(6)(A)(ii). If a distributee is not equipped to receive funds electronically, the qualified financial institution may issue such funds by paper check to the distributee.

(b) Withdrawals for Nonqualified Expenses.—An Individual Development Account owner may withdraw any amount of funds from the Individual Development Account for purposes other than to pay qualified expense distributions, but if, after such withdrawal, the amount in the parallel account of such owner (excluding earnings on matching funds) exceeds the amount remaining in such Individual Development Account, then such owner shall forfeit from the parallel account the lesser of such excess or the amount withdrawn.

(c) Withdrawals From Accounts of Noneligible Individuals.—If the individual for whose benefit an Individual Development Account is established ceases to be an eligible individual, such account shall remain an Individual Development Account, but such individual shall not be eligible for any further matching funds under section 506(b)(1)(A) for contributions which are made to the Account during any taxable year when such individual is not an eligible individual.

(d) Effect of Pledging Account as Security.—If, during any taxable year of the individual for whose benefit an Individual Development Account is established, that individual uses the Account, the individual's parallel account, or any portion thereof as security for a loan, the portion so used shall be treated as a withdrawal of such portion from the Individual Development Account for purposes other than to pay qualified expenses.

SEC. 508. CERTIFICATION AND TERMINATION OF QUALIFIED INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAMS.

(a) Certification Procedures.—Upon establishing a qualified individual development account program under section 504, a qualified financial institution shall certify to the Secretary at such time and in such manner as may be prescribed by the Secretary and accompanied by any documentation required by the Secretary, that—

(1) the accounts described in subparagraphs (A) and (B) of section 504(b)(1) are operating pursuant to all the provisions of this title, and

(2) the qualified financial institution agrees to implement an information system necessary to monitor the cost and outcomes of the qualified individual development account program.

(b) Authority To Terminate Qualified IDA Program.—If the Secretary determines that a qualified financial institution under this title is not operating a qualified individual development account program in accordance with the requirements of this title (and has not implemented any corrective recommendations directed by the Secretary), the Secretary shall terminate such institution's authority to conduct the program. If the Secretary is unable to identify a qualified financial institution to assume the authority to conduct such program, then any funds in a parallel account established for the benefit of any individual under such program shall be deposited into the Individual Development Account of such individual as of the first day of such termination.

SEC. 509. REPORTING, MONITORING, AND EVALUATION.

(a) Responsibilities of Qualified Financial Institutions.—

(1) In general.—Each qualified financial institution that operates a qualified individual development account program under section 504 shall report annually to the Secretary within 90 days after the end of each calendar year on—

(A) the number of individuals making contributions into Individual Development Accounts and the amounts contributed,

(B) the amounts contributed into Individual Development Accounts by eligible individuals and the amounts deposited into parallel accounts for matching funds,

(C) the amounts withdrawn from Individual Development Accounts and parallel accounts, and the purposes for which such amounts were withdrawn,

(D) the balances remaining in Individual Development Accounts and parallel accounts, and

(E) such other information needed to help the Secretary monitor the effectiveness of the qualified individual development account program (provided in a non-individually-identifiable manner).

(2) ADDITIONAL REPORTING REQUIREMENTS.—Each qualified financial institution that operates a qualified individual development account program under section 504 shall report at such time and in such manner as the Secretary may prescribe any additional information that the Secretary requires to be provided for purposes of administering and supervising the qualified individual development account program. This additional data may include, without limitation, identifying information about Individual Development Account owners, their Accounts, additions to the Accounts, and withdrawals from the Accounts.

(b) RESPONSIBILITIES OF THE SECRETARY.—

(1) MONITORING PROTOCOL.—Not later than 12 months after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of Health and Human Services, shall develop and implement a protocol and process to monitor the cost and outcomes of the qualified individual development account programs established under section 504.

(2) ANNUAL REPORTS.—For each year after 2004, the Secretary shall submit a progress report to Congress on the status of such qualified individual development account programs. Such report shall, to the extent data are available, include from a representative sample of qualified individual development account programs information on—

(A) the characteristics of participants, including age, gender, race or ethnicity, marital status, number of children, employment status, and monthly income,

(B) deposits, withdrawals, balances, uses of Individual Development Accounts, and participant characteristics,

(C) the characteristics of qualified individual development account programs, including match rate, economic education requirements, permissible uses of accounts, staffing of programs in full time employees, and the total costs of programs, and

(D) process information on program implementation and administration, especially on problems encountered and how problems were solved.

(3) REAUTHORIZATION REPORT ON COST AND OUTCOMES OF IDAS.—

(A) IN GENERAL.—Not later than July 1, 2008, the Secretary of the Treasury shall submit a report to Congress and the chairmen and ranking members of the Committee on Finance, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Ways and Means, the Committee on Banking and Financial Services, and the Committee on Education and the Workforce of the House of Representatives, in which the Secretary shall—

(i) summarize the previously submitted annual reports required under paragraph (2),

(ii) from a representative sample of qualified individual development account programs, include an analysis of—

(I) the economic, social, and behavioral outcomes,

(II) the changes in savings rates, asset holdings, and household debt, and overall changes in economic stability,

(III) the changes in outlooks, attitudes, and behavior regarding savings strategies, investment, education, and family,

(IV) the integration into the financial mainstream, including decreased reliance on alternative financial services, and increase in acquisition of mainstream financial products, and

(V) the involvement in civic affairs, including neighborhood schools and associations, associated with participation in qualified individual development account programs,

(iii) from a representative sample of qualified individual development account programs, include a comparison of outcomes associated with such programs with outcomes associated with other Federal Government social and economic development programs, including asset building programs, and

(iv) make recommendations regarding the reauthorization of the qualified individual development account programs, including—

(I) recommendations regarding reforms that will improve the cost and outcomes of the such programs, including the ability to help low income families save and accumulate productive assets,

(II) recommendations regarding the appropriate levels of subsidies to provide effective incentives to financial institutions and Account owners under such programs, and

(III) recommendations regarding how such programs should be integrated into other Federal poverty reduction, asset building, and community development policies and programs.

(B) AUTHORIZATION.—There is authorized to be appropriated $2,500,000, for carrying out the purposes of this paragraph.

(4) USE OF ACCOUNTS IN RURAL AREAS ENCOURAGED.—The Secretary shall develop methods to encourage the use of Individual Development Accounts in rural areas.

SEC. 510. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary $1,000,000 for fiscal year 2004 and for each fiscal year through 2012, for the purposes of implementing this title, including the reporting, monitoring, and evaluation required under section 509, to remain available until expended.

SEC. 511. MATCHING FUNDS FOR INDIVIDUAL DEVELOPMENT ACCOUNTS PROVIDED THROUGH A TAX CREDIT FOR QUALIFIED FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45G. INDIVIDUAL DEVELOPMENT ACCOUNT INVESTMENT CREDIT.

"(a) DETERMINATION OF AMOUNT.—For purposes of section 38, the individual development account investment credit determined under this section with respect to any eligible entity for any taxable year is an amount equal to the individual development account investment provided by such eligible entity during the taxable year under an individual development account program established under section 504 of the Savings for Working Families Act of 2004.

"(b) APPLICABLE TAX.—For the purposes of this section, the term 'applicable tax' means the excess (if any) of—

"(1) the tax imposed under this chapter (other than the taxes imposed under the provisions described in subparagraphs (C) through (Q) of section 26(b)(2)), over

"(2) the credits allowable under subpart B (other than this section) and subpart D of this part.

"(c) INDIVIDUAL DEVELOPMENT ACCOUNT INVESTMENT.—For purposes of this section, the term 'individual development account investment' means, with respect to an individual development account program in any taxable year, an amount equal to the sum of—

"(1) the aggregate amount of dollar-for-dollar matches under such program under section 506(b)(1)(A) of the Savings for Working Families Act of 2004 for such taxable year, plus

"(2) $50 with respect to each Individual Development Account maintained—

"(A) as of the end of such taxable year, but only if such taxable year is within the 7-taxable-year period beginning with the taxable year in which such Account is opened, and

"(B) with a balance of not less than $100 (other than the taxable year in which such Account is opened).

"(d) ELIGIBLE ENTITY.—For purposes of this section, except as provided in regulations, the term 'eligible entity' means a qualified financial institution.

"(e) OTHER DEFINITIONS.—For purposes of this section, any term used in this section and also in the Savings for Working Families Act of 2004 shall have the meaning given such term by such Act.

"(f) DENIAL OF DOUBLE BENEFIT.—

"(1) IN GENERAL.—No deduction or credit (other than under this section) shall be allowed under this chapter with respect to any expense which—

"(A) is taken into account under subsection (c)(1)(A) in determining the credit under this section, or

"(B) is attributable to the maintenance of an Individual Development Account.

"(2) DETERMINATION OF AMOUNT.—Solely for purposes of paragraph (1)(B), the amount attributable to the maintenance of an Individual Development Account shall be deemed to be the dollar amount of the credit allowed under subsection (c)(1)(B) for each taxable year such Individual Development Account is maintained.

"(g) CREDIT MAY BE TRANSFERRED.—

"(1) IN GENERAL.—An eligible entity may transfer any credit allowable to the eligible entity under subsection (a) to any person other than to another eligible entity which is exempt from tax under this title. The determination as to whether a credit is allowable shall be made without regard to the tax-exempt status of the eligible entity.

"(2) CONSENT REQUIRED FOR REVOCATION.—Any transfer under paragraph (1) may be revoked only with the consent of the Secretary.

"(h) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including

"(1) such regulations as necessary to insure that any credit described in subsection (g)(1) is claimed once and not retransferred by a transferee, and

"(2) regulations providing for a recapture of the credit allowed under this section (notwithstanding any termination date described in subsection (i)) in cases where there is a forfeiture under section 507(b) of the Savings for Working Families Act of 2004 in a subsequent taxable year of any amount which was taken into account in determining the amount of such credit.

"(i) APPLICATION OF SECTION.—

"(1) IN GENERAL.—This section shall apply to any expenditure made in any taxable year ending after December 31, 2004, and beginning on or before January 1, 2012, with respect to any Individual Development Account which—

"(A) is opened before January 1, 2012, and

"(B) as determined by the Secretary, when added to all of the previously opened Individual Development Accounts, does not exceed—

"(i) 100,000 Accounts if opened after December 31, 2004, and before January 1, 2007,

"(ii) an additional 100,000 Accounts if opened after December 31, 2006, and before January 1, 2009, but only if, except as provided in paragraph (4), the total number of

Accounts described in clause (i) are opened and the Secretary determines that such Accounts are being reasonably and responsibly administered, and

"(iii) an additional 100,000 Accounts if opened after December 31, 2008, and before January 1, 2012, but only if the total number of Accounts described in clauses (i) and (ii) are opened and the Secretary makes a determination described in paragraph (2).

Notwithstanding the preceding sentence, this section shall apply to amounts which are described in subsection (c)(1)(A) and which are timely deposited into a parallel account during the 30-day period following the end of last taxable year beginning before January 1, 2012.

"(2) DETERMINATION WITH RESPECT TO THIRD GROUP OF ACCOUNTS.—A determination is described in this paragraph if the Secretary determines that—

"(A) substantially all of the previously opened Accounts have been reasonably and responsibly administered prior to the date of the determination,

"(B) the individual development account programs have increased net savings of participants in the programs,

"(C) participants in the individual development account programs have increased Federal income tax liability and decreased utilization of Federal assistance programs relative to similarly situated individuals that did not participate in the individual development account programs, and

"(D) the sum of the estimated increased Federal tax liability and reduction of Federal assistance program benefits to participants in the individual development account programs is greater than the cost of the individual development account programs to the Federal government.

"(3) DETERMINATION OF LIMITATION.—The limitation on the number of Individual Development Accounts under paragraph (1)(B) shall be allocated by the Secretary among qualified individual development account programs selected by the Secretary and, in the case of the limitation under clause (iii) of such paragraph, shall be equally divided among the States.

"(4) SPECIAL RULE IF SMALLER NUMBER OF ACCOUNTS ARE OPENED.—For purposes of paragraph (1)(B)(ii)—

"(i) IN GENERAL.—If less than 100,000 Accounts are opened before January 1, 2007, such paragraph shall be applied by substituting "applicable number of Accounts' for '100,000 Accounts'.

"(ii) APPLICABLE NUMBER.—For purposes of clause (i), the applicable number equals the lesser of—

"(I) 75,000, or

"(II) 3 times the number of Accounts opened before January 1, 2007.".

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking "plus" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ", plus", and by adding at the end the following new paragraph:

"(16) the individual development account investment credit determined under section 45G(a).".

(c) NO CARRYBACKS.—Subsection (d) of section 39 (relating to carryback and carryforward of unused credits) is amended by adding at the end the following:

"(11) NO CARRYBACK OF SECTION 45G CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the individual development account investment credit determined under section 45G may be carried back to a taxable year ending before January 1, 2004.".

(d) CONFORMING AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45G. Individual development account investment credit.".

(e) REPORT REGARDING ACCOUNT MAINTENANCE FEES.—The Secretary of the Treasury shall study the adequacy of the amount specified in section 45G(c)(2) of the Internal Revenue Code of 1986 (as added by this section). Not later than December 31, 2009, the Secretary of the Treasury shall report the findings of the study described in the preceding sentence to Congress.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 2004.

SEC. 512. ACCOUNT FUNDS DISREGARDED FOR PURPOSES OF CERTAIN MEANS-TESTED FEDERAL PROGRAMS.

Notwithstanding any other provision of Federal law (other than the Internal Revenue Code of 1986) that requires consideration of 1 or more financial circumstances of an individual, for the purpose of determining eligibility to receive, or the amount of, any assistance or benefit authorized by such provision to be provided to or for the benefit of such individual, any amount (including earnings thereon) in any Individual Development Account of such individual and any matching deposit made on behalf of such individual (including earnings thereon) in any parallel account shall be disregarded for such purpose with respect to any period during which such individual maintains or makes contributions into such Individual Development Account.

TITLE VI—MANAGEMENT OF EXEMPT ORGANIZATIONS

SEC. 601. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to the Secretary of the Treasury $80,000,000 for each fiscal year to carry out the administration of exempt organizations by the Internal Revenue Service.

(b) IMPLEMENTATION OF SECTION 527.—There is authorized to be appropriated to the Secretary of the Treasury $3,000,000 to carry out the provisions of Public Laws 106–230 and 107–276 relating to section 527 of the Internal Revenue Code of 1986.

TITLE VII—REVENUE PROVISIONS

Subtitle A—Provisions Designed To Curtail Tax Shelters

SEC. 701. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701, as amended by this Act, is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

"(1) GENERAL RULES.—

"(A) IN GENERAL.—In applying the economic substance doctrine, the determination of whether a transaction has economic substance shall be made as provided in this paragraph.

"(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—A transaction has economic substance only if—

"(I) the transaction changes in a meaningful way (apart from Federal tax effects and, if there is any Federal tax effects, also apart from any foreign, State, or local tax effects) the taxpayer's economic position, and

"(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

"(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

"(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

"(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

"(C) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

"(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

"(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

"(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

"(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

"(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

"(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

"(C) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

"(D) TREATMENT OF LESSORS.—In applying subclause (I) of paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease, the expected net tax benefits shall not include the benefits of depreciation, or any tax credit, with respect to the leased property and subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

"(4) Other common law doctrines not affected.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

"(5) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.".

(b) Effective Date.—The amendments made by this section shall apply to transactions entered into after February 15, 2004.

SEC. 702. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) In General.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

"SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.

"(a) Imposition of Penalty.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

"(b) Amount of Penalty.—

"(1) In general.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

"(2) Listed transaction.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

"(3) Increase in penalty for large entities and high net worth individuals.—

"(A) In general.—In the case of a failure under subsection (a) by—

"(i) a large entity, or

"(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

"(B) Large entity.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

"(C) High net worth individual.—The term 'high net worth individual' means, with respect to a transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

"(c) Definitions.—For purposes of this section—

"(1) Reportable transaction.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

"(2) Listed transaction.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

"(d) Authority To Rescind Penalty.—

"(1) In general.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

"(A) the violation is with respect to a reportable transaction other than a listed transaction,

"(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

"(C) it is shown that the violation is due to an unintentional mistake of fact;

"(D) imposing the penalty would be against equity and good conscience, and

"(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

"(2) Discretion.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

"(3) No appeal.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

"(4) Records.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

"(A) the facts and circumstances of the transaction,

"(B) the reasons for the rescission, and

"(C) the amount of the penalty rescinded.

"(5) Report.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

"(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

"(B) a description of each penalty rescinded under this subsection and the reasons therefor.

"(e) Penalty Reported to SEC.—In the case of a person—

"(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

"(2) which—

"(A) is required to pay a penalty under this section with respect to a listed transaction,

"(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c), or

"(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

"(f) Coordination With Other Penalties.—The penalty imposed by this section is in addition to any penalty imposed under this title.".

(b) Conforming Amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

"Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.".

(c) Effective Date.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 703. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) In General.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

"SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.

"(a) Imposition of Penalty.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

"(b) Reportable Transaction Understatement.—For purposes of this section—

"(1) In general.—The term 'reportable transaction understatement' means the sum of—

"(A) the product of—

"(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

"(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

"(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

"(2) Items to which section applies.—This section shall apply to any item which is attributable to—

"(A) any listed transaction, and

"(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

"(c) Higher Penalty for Nondisclosed Listed and Other Avoidance Transactions.—

"(1) In general.—Subsection (a) shall be applied by substituting '30 percent' for '20 percent' with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

"(2) Rules applicable to compromise of penalty.—

"(A) In general.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which paragraph (1) applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(B) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

"(d) DEFINITIONS OF REPORTABLE AND LISTED TRANSACTIONS.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

"(e) SPECIAL RULES.—

"(1) COORDINATION WITH PENALTIES, ETC., ON OTHER UNDERSTATEMENTS.—In the case of an understatement (as defined in section 6662(d)(2))—

"(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

"(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements.

"(2) COORDINATION WITH OTHER PENALTIES.—

"(A) APPLICATION OF FRAUD PENALTY.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement and a noneconomic substance transaction understatement.

"(B) NO DOUBLE PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662B or 6663.

"(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement or noneconomic substance transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

"(4) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).

"(5) CROSS REFERENCE.—

"For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).".

(b) DETERMINATION OF OTHER UNDERSTATEMENTS.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

"The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies and without regard to items with respect to which a penalty is imposed by section 6662B.".

(c) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.—Section 6664 is amended by adding at the end the following new subsection:

"(d) REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.—

"(1) IN GENERAL.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

"(2) SPECIAL RULES.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

"(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

"(B) there is or was substantial authority for such treatment, and

"(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

"(3) RULES RELATING TO REASONABLE BELIEF.—For purposes of paragraph (2)(C)—

"(A) IN GENERAL.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

"(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

"(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

"(B) CERTAIN OPINIONS MAY NOT BE RELIED UPON.—

"(i) IN GENERAL.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

"(I) the tax advisor is described in clause (ii), or

"(II) the opinion is described in clause (iii).

"(ii) DISQUALIFIED TAX ADVISORS.—A tax advisor is described in this clause if the tax advisor—

"(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

"(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

"(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

"(IV) as determined under regulations prescribed by the Secretary, has a continuing financial interest with respect to the transaction.

"(iii) DISQUALIFIED OPINIONS.—For purposes of clause (i), an opinion is disqualified if the opinion—

"(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

"(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

"(III) does not identify and consider all relevant facts, or

"(IV) fails to meet any other requirement as the Secretary may prescribe.".

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 6664 is amended by inserting "FOR UNDERPAYMENTS" after "EXCEPTION".

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking "(as defined in section 6662(d)(2)(C)(iii))" in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

"(C) TAX SHELTER.—For purposes of subparagraph (B), the term 'tax shelter' means—

"(i) a partnership or other entity,

"(ii) any investment plan or arrangement, or

"(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.".

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking "this part" and inserting "section 6662 or 6663".

(5) Subsection (b) of section 7525 is amended by striking "section 6662(d)(2)(C)(iii)" and inserting "section 1274(b)(3)(C)".

(6)(A) The heading for section 6662 is amended to read as follows:

"SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS.".

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

"Sec. 6662. Imposition of accuracy-related penalty on underpayments.

"Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 704. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

"SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

"(a) IMPOSITION OF PENALTY.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

"(b) REDUCTION OF PENALTY FOR DISCLOSED TRANSACTIONS.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

"(c) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A applies.

"(2) NONECONOMIC SUBSTANCE TRANSACTION.—The term 'noneconomic substance transaction' means any transaction if—

"(A) there is a lack of economic substance (within the meaning of section 7701(o)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(o)(2), or

"(B) the transaction fails to meet the requirements of any similar rule of law.

"(d) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

"(1) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(2) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of paragraph (1).

"(e) COORDINATION WITH OTHER PENALTIES.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

"(f) CROSS REFERENCES.—

"(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e).

"(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e).".

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

"Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after February 15, 2004.

SEC. 705. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NONREPORTABLE TRANSACTIONS.

(a) SUBSTANTIAL UNDERSTATEMENT OF CORPORATIONS.—Section 6662(d)(1)(B) (relating to special rule for corporations) is amended to read as follows:

"(B) SPECIAL RULE FOR CORPORATIONS.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

"(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000), or

"(ii) $10,000,000.".

(b) REDUCTION FOR UNDERSTATEMENT OF TAXPAYER DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.—

(1) IN GENERAL.—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

"(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or".

(2) CONFORMING AMENDMENT.—Section 6662(d) is amended by adding at the end the following new paragraph:

"(3) SECRETARIAL LIST.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 706. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) IN GENERAL.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

"(b) SECTION NOT TO APPLY TO COMMUNICATIONS REGARDING TAX SHELTERS.—The privilege under subsection (a) shall not apply to any written communication which is—

"(1) between a federally authorized tax practitioner and—

"(A) any person,

"(B) any director, officer, employee, agent, or representative of the person, or

"(C) any other person holding a capital or profits interest in the person, and

"(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C)).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 707. DISCLOSURE OF REPORTABLE TRANSACTIONS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

"SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.

"(a) IN GENERAL.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

"(1) information identifying and describing the transaction,

"(2) information describing any potential tax benefits expected to result from the transaction, and

"(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

"(b) DEFINITIONS.—For purposes of this section—

"(1) MATERIAL ADVISOR.—

"(A) IN GENERAL.—The term 'material advisor' means any person—

"(i) who provides any material aid, assistance, or advice with respect to organizing, promoting, selling, implementing, or carrying out any reportable transaction, and

"(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

"(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the threshold amount is—

"(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

"(ii) $250,000 in any other case.

"(2) REPORTABLE TRANSACTION.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

"(c) REGULATIONS.—The Secretary may prescribe regulations which provide—

"(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

"(2) exemptions from the requirements of this section, and

"(3) such rules as may be necessary or appropriate to carry out the purposes of this section.".

(b) CONFORMING AMENDMENTS.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6111. Disclosure of reportable transactions.".

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

"SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.

"(a) IN GENERAL.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

"(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

"(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.".

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting "written" before "request" in paragraph (1)(A), and

(ii) by striking "shall prescribe" in paragraph (2) and inserting "may prescribe".

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

"Sec. 6112. Material advisors of reportable transactions must keep lists of advisees.".

(3)(A) The heading for section 6708 is amended to read as follows:

"SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS.".

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

"Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

SEC. 708. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) IN GENERAL.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

"SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.

"(a) IN GENERAL.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

"(1) fails to file such return on or before the date prescribed therefor, or

"(2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

"(b) Amount of Penalty.—

"(1) In general.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

"(2) Listed transactions.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

"(A) $200,000, or

"(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the reportable transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

"(c) Rescission Authority.—The provisions of section 6707A(d) (relating to authority of Commissioner to rescind penalty) shall apply to any penalty imposed under this section.

"(d) Reportable and Listed Transactions.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).".

(b) Clerical Amendment.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking "tax shelters" and inserting "reportable transactions".

(c) Effective Date.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

SEC. 709. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.

(a) In General.—Subsection (a) of section 6708 is amended to read as follows:

"(a) Imposition of Penalty.—

"(1) In general.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

"(2) Reasonable cause exception.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause.".

(b) Effective Date.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 710. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.

(a) In General.—Section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

"(a) Authority To Seek Injunction.—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

"(b) Adjudication and Decree.—In any action under subsection (a), if the court finds—

"(1) that the person has engaged in any specified conduct, and

"(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

"(c) Specified Conduct.—For purposes of this section, the term 'specified conduct' means any action, or failure to take action, subject to penalty under section 6700, 6701, 6707, or 6708.".

(b) Conforming Amendments.—

(1) The heading for section 7408 is amended to read as follows:

"SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.".

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

"Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions.".

(c) Effective Date.—The amendment made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 711. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.

(a) Standards Conformed to Taxpayer Standards.—Section 6694(a) (relating to understatements due to unrealistic positions) is amended—

(1) by striking "realistic possibility of being sustained on its merits" in paragraph (1) and inserting "reasonable belief that the tax treatment in such position was more likely than not the proper treatment",

(2) by striking "or was frivolous" in paragraph (3) and inserting "or there was no reasonable basis for the tax treatment of such position", and

(3) by striking "Unrealistic" in the heading and inserting "Improper".

(b) Amount of Penalty.—Section 6694 is amended—

(1) by striking "$250" in subsection (a) and inserting "$1,000", and

(2) by striking "$1,000" in subsection (b) and inserting "$5,000".

(c) Effective Date.—The amendments made by this section shall apply to documents prepared after the date of the enactment of this Act.

SEC. 712. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) In General.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

"(5) Foreign financial agency transaction violation.—

"(A) Penalty authorized.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

"(B) Amount of penalty.—

"(i) In general.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $5,000.

"(ii) Reasonable cause exception.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

"(I) such violation was due to reasonable cause, and

"(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

"(C) Willful violations.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

"(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

"(I) $25,000, or

"(II) the amount (not exceeding $100,000) determined under subparagraph (D), and

"(ii) subparagraph (B)(ii) shall not apply.

"(D) Amount.—The amount determined under this subparagraph is—

"(i) in the case of a violation involving a transaction, the amount of the transaction, or

"(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.".

(b) Effective Date.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

SEC. 713. FRIVOLOUS TAX SUBMISSIONS.

(a) Civil Penalties.—Section 6702 is amended to read as follows:

"SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

"(a) Civil Penalty for Frivolous Tax Returns.—A person shall pay a penalty of $5,000 if—

"(1) such person files what purports to be a return of a tax imposed by this title but which—

"(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

"(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

"(2) the conduct referred to in paragraph (1)—

"(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(B) reflects a desire to delay or impede the administration of Federal tax laws.

"(b) Civil Penalty for Specified Frivolous Submissions.—

"(1) Imposition of penalty.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

"(2) Specified frivolous submission.—For purposes of this section—

"(A) Specified frivolous submission.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

"(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(ii) reflects a desire to delay or impede the administration of Federal tax laws.

"(B) Specified submission.—The term 'specified submission' means—

"(i) a request for a hearing under—

"(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

"(II) section 6330 (relating to notice and opportunity for hearing before levy), and

"(ii) an application under—

"(I) section 6159 (relating to agreements for payment of tax liability in installments),

"(II) section 7122 (relating to compromises), or

"(III) section 7811 (relating to taxpayer assistance orders).

"(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

"(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

"(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

"(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.".

(b) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS BEFORE LEVY.—

(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

"(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

(A) by striking "(A)" and inserting "(A)(i)";

(B) by striking "(B)" and inserting "(ii)";

(C) by striking the period at the end of the first sentence and inserting "; or"; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

"(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).".

(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing".

(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—

(1) in subsection (b)(1), by striking "under subsection (a)(3)(B)" and inserting "in writing under subsection (a)(3)(B) and states the grounds for the requested hearing", and

(2) in subsection (c), by striking "and (e)" and inserting "(e), and (g)".

(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended by adding at the end the following new subsection:

"(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.".

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

"Sec. 6702. Frivolous tax submissions.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 714. REGULATION OF INDIVIDUALS PRACTICING BEFORE THE DEPARTMENT OF TREASURY.

(a) CENSURE; IMPOSITION OF PENALTY.—

(1) IN GENERAL.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting ", or censure," after "Department", and

(B) by adding at the end the following new flush sentence:

"The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) TAX SHELTER OPINIONS, ETC.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

"(d) Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary of the Treasury to impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion.".

SEC. 715. PENALTY ON PROMOTERS OF TAX SHELTERS.

(a) PENALTY ON PROMOTING ABUSIVE TAX SHELTERS.—Section 6700(a) is amended by adding at the end the following new sentence: "Notwithstanding the first sentence, if an activity with respect to which a penalty imposed under this subsection involves a statement described in paragraph (2)(A), the amount of the penalty shall be equal to 50 percent of the gross income derived (or to be derived) from such activity by the person on which the penalty is imposed.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 716. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH LISTED TRANSACTIONS NOT REPORTED.

(a) IN GENERAL.—Section 6501(e)(1) (relating to substantial omission of items for income taxes) is amended by adding at the end the following new subparagraph:

"(C) LISTED TRANSACTIONS.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a listed transaction (as defined in section 6707A(c)(2)) which is required under section 6011 to be included with such return or statement, the tax for such taxable year may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time within 6 years after the time the return is filed. This subparagraph shall not apply to any taxable year if the time for assessment or beginning the proceeding in court has expired before the time a transaction is treated as a listed transaction under section 6011.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions in taxable years beginning after the date of the enactment of this Act.

SEC. 717. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONDISCLOSED REPORTABLE AND NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) IN GENERAL.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) INTEREST ON UNPAID TAXES ATTRIBUTABLE TO NONDISCLOSED REPORTABLE TRANSACTIONS AND NONECONOMIC SUBSTANCE TRANSACTIONS.—No deduction shall be allowed under this chapter for any interest paid or accrued under section 6601 on any underpayment of tax which is attributable to—

"(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

"(2) any noneconomic substance transaction understatement (as defined in section 6662B(c)).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions in taxable years beginning after the date of the enactment of this Act.

SEC. 718. AUTHORIZATION OF APPROPRIATIONS FOR TAX LAW ENFORCEMENT.

There is authorized to be appropriated $300,000,000 for each fiscal year beginning after September 30, 2002, for the purpose of carrying out tax law enforcement to combat tax avoidance transactions and other tax shelters, including the use of offshore financial accounts to conceal taxable income.

Subtitle B—Other Provisions

SEC. 721. AFFIRMATION OF CONSOLIDATED RETURN REGULATION AUTHORITY.

(a) IN GENERAL.—Section 1502 (relating to consolidated return regulations) is amended by adding at the end the following new sentence: "In prescribing such regulations, the Secretary may prescribe rules applicable to corporations filing consolidated returns under section 1501 that are different from other provisions of this title that would apply if such corporations filed separate returns.".

(b) RESULT NOT OVERTURNED.—Notwithstanding subsection (a), the Internal Revenue Code of 1986 shall be construed by treating Treasury regulation §1.1502–20(c)(1)(iii) (as in effect on January 1, 2001) as being inapplicable to the type of factual situation in 255 F.3d 1357 (Fed. Cir. 2001).

(c) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

SEC. 722. SIGNING OF CORPORATE TAX RETURNS BY CHIEF EXECUTIVE OFFICER.

(a) IN GENERAL.—Section 6062 (relating to signing of corporation returns) is amended by striking the first sentence and inserting the following new sentence: "The return of a corporation with respect to income shall be signed by the chief executive officer of such corporation (or other such officer of the corporation as the Secretary may designate if the corporation does not have a chief executive officer). The preceding sentence shall not apply to any return of a regulated investment company (within the meaning of section 851).".

(b) Effective Date.—The amendment made by this section shall apply to returns filed after the date of the enactment of this Act.

SEC. 723. SECURITIES CIVIL ENFORCEMENT PROVISIONS.

(a) Authority To Assess Civil Money Penalties.—

(1) Securities act of 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h–1) is amended by adding at the end the following new subsection:

"(g) Authority of the Commission To Assess Money Penalty.—

"(1) In general.—In any cease-and-desist proceeding under subsection (a), the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that a person is violating, has violated, or is or was a cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.

"(2) Maximum amount of penalty.—

"(A) First tier.—The maximum amount of penalty for each act or omission described in paragraph (1) shall be $100,000 for a natural person or $250,000 for any other person.

"(B) Second tier.—Notwithstanding subparagraph (A), the maximum amount of penalty for such act or omission described in paragraph (1) shall be $500,000 for a natural person or $1,000,000 for any other person, if the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a statutory or regulatory requirement.

"(C) Third tier.—Notwithstanding subparagraphs (A) and (B), the maximum amount of penalty for each act or omission described in paragraph (1) shall be $1,000,000 for a natural person or $2,000,000 for any other person, if—

"(i) the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a statutory or regulatory requirement; and

"(ii) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.

"(3) Evidence concerning ability to pay.—In any proceeding in which the Commission or the appropriate regulatory agency may impose a penalty under this section, a respondent may present evidence of the ability of the respondent to pay such penalty. The Commission or the appropriate regulatory agency may, in its discretion, consider such evidence in determining whether the penalty is in the public interest. Such evidence may relate to the extent of the person's ability to continue in business and the collectability of a penalty, taking into account any other claims of the United States or third parties upon the assets of that person and the amount of the assets of that person.".

(2) Securities exchange act of 1934.—Section 21B(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–2(a)) is amended—

(A) in paragraph (4), by striking "supervision;" and all that follows through the end of the subsection and inserting "supervision.";

(B) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and moving the margins 2 ems to the right;

(C) by inserting "that such penalty is in the public interest and" after "hearing,";

(D) by striking "In any proceeding" and inserting the following:

"(1) In general.—In any proceeding"; and

(E) by adding at the end the following:

"(2) Other money penalties.—In any proceeding under section 21C against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, or is or was a cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.".

(3) Investment company act of 1940.—Section 9(d)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a–9(d)(1)) is amended—

(A) in subparagraph (C), by striking "therein;" and all that follows through the end of the paragraph and inserting "supervision.";

(B) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and moving the margins 2 ems to the right;

(C) by inserting "that such penalty is in the public interest and" after "hearing,";

(D) by striking "In any proceeding" and inserting the following:

"(A) In general.—In any proceeding"; and

(E) by adding at the end the following:

"(B) Other money penalties.—In any proceeding under subsection (f) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, or is or was a cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.".

(4) Investment advisers act of 1940.—Section 203(i)(1) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(i)(1)) is amended—

(A) in subparagraph (D), by striking "supervision;" and all that follows through the end of the paragraph and inserting "supervision.";

(B) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and moving the margins 2 ems to the right;

(C) by inserting "that such penalty is in the public interest and" after "hearing,";

(D) by striking "In any proceeding" and inserting the following:

"(A) In general.—In any proceeding"; and

(E) by adding at the end the following:

"(B) Other money penalties.—In any proceeding under subsection (k) against any person, the Commission may impose a civil monetary penalty if it finds, on the record after notice and opportunity for hearing, that such person is violating, has violated, or is or was a cause of the violation of, any provision of this title or any rule or regulation thereunder, and that such penalty is in the public interest.".

(b) Increased Maximum Civil Money Penalties.—

(1) Securities act of 1933.—Section 20(d)(2) of the Securities Act of 1933 (15 U.S.C. 77t(d)(2)) is amended—

(A) in subparagraph (A)(i)—

(i) by striking "$5,000" and inserting "$100,000"; and

(ii) by striking "$50,000" and inserting "$250,000";

(B) in subparagraph (B)(i)—

(i) by striking "$50,000" and inserting "$500,000"; and

(ii) by striking "$250,000" and inserting "$1,000,000"; and

(C) in subparagraph (C)(i)—

(i) by striking "$100,000" and inserting "$1,000,000"; and

(ii), by striking "$500,000" and inserting "$2,000,000".

(2) Securities exchange act of 1934.—

(A) Penalties.—Section 32 of the Securities Exchange Act of 1934 (15 U.S.C. 78ff) is amended—

(i) in subsection (b), by striking "$100" and inserting "$10,000"; and

(ii) in subsection (c)—

(I) in paragraph (1)(B), by striking "$10,000" and inserting "$500,000"; and

(II) in paragraph (2)(B), by striking "$10,000" and inserting "$500,000".

(B) Insider trading.—Section 21A(a)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–1(a)(3)) is amended by striking "$1,000,000" and inserting "$2,000,000".

(C) Administrative proceedings.—Section 21B(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–2(b)) is amended—

(i) in paragraph (1)—

(I) by striking "$5,000" and inserting "$100,000"; and

(II) by striking "$50,000" and inserting "$250,000";

(ii) in paragraph (2)—

(I) by striking "$50,000" and inserting "$500,000"; and

(II) by striking "$250,000" and inserting "$1,000,000"; and

(iii) in paragraph (3)—

(I) by striking "$100,000" and inserting "$1,000,000"; and

(II) by striking "$500,000" and inserting "$2,000,000".

(D) Civil actions.—Section 21(d)(3)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(3)(B)) is amended—

(i) in clause (i)—

(I) by striking "$5,000" and inserting "$100,000"; and

(II) by striking "$50,000" and inserting "$250,000";

(ii) in clause (ii)—

(I) by striking "$50,000" and inserting "$500,000"; and

(II) by striking "$250,000" and inserting "$1,000,000"; and

(iii) in clause (iii)—

(I) by striking "$100,000" and inserting "$1,000,000"; and

(II) by striking "$500,000" and inserting "$2,000,000".

(3) Investment company act of 1940.—

(A) Ineligibility.—Section 9(d)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–9(d)(2)) is amended—

(i) in subparagraph (A)—

(I) by striking "$5,000" and inserting "$100,000"; and

(II) by striking "$50,000" and inserting "$250,000";

(ii) in subparagraph (B)—

(I) by striking "$50,000" and inserting "$500,000"; and

(II) by striking "$250,000" and inserting "$1,000,000"; and

(iii) in subparagraph (C)—

(I) by striking "$100,000" and inserting "$1,000,000"; and

(II) by striking "$500,000" and inserting "$2,000,000".

(B) Enforcement of investment company act.—Section 42(e)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a–41(e)(2)) is amended—

(i) in subparagraph (A)—

(I) by striking "$5,000" and inserting "$100,000"; and

(II) by striking "$50,000" and inserting "$250,000";

(ii) in subparagraph (B)—

(I) by striking "$50,000" and inserting "$500,000"; and

(II) by striking "$250,000" and inserting "$1,000,000"; and

(iii) in subparagraph (C)—

(I) by striking "$100,000" and inserting "$1,000,000"; and

(II) by striking "$500,000" and inserting "$2,000,000".

(4) INVESTMENT ADVISERS ACT OF 1940.—

(A) REGISTRATION.—Section 203(i)(2) of the Investment advisers Act of 1940 (15 U.S.C. 80b–3(i)(2)) is amended—

(i) in subparagraph (A)—

(I) by striking "$5,000" and inserting "$100,000"; and

(II) by striking "$50,000" and inserting "$250,000";

(ii) in subparagraph (B)—

(I) by striking "$50,000" and inserting "$500,000"; and

(II) by striking "$250,000" and inserting "$1,000,000"; and

(iii) in subparagraph (C)—

(I) by striking "$100,000" and inserting "$1,000,000"; and

(II) by striking "$500,000" and inserting "$2,000,000".

(B) ENFORCEMENT OF INVESTMENT ADVISERS ACT.—Section 209(e)(2) of the Investment advisers Act of 1940 (15 U.S.C. 80b–9(e)(2)) is amended—

(i) in subparagraph (A)—

(I) by striking "$5,000" and inserting "$100,000"; and

(II) by striking "$50,000" and inserting "$250,000";

(ii) in subparagraph (B)—

(I) by striking "$50,000" and inserting "$500,000"; and

(II) by striking "$250,000" and inserting "$1,000,000"; and

(iii) in subparagraph (C)—

(I) by striking "$100,000" and inserting "$1,000,000"; and

(II) by striking "$500,000" and inserting "$2,000,000".

(c) AUTHORITY TO OBTAIN FINANCIAL RECORDS.—Section 21(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(h)) is amended—

(1) by striking paragraphs (2) through (8);

(2) in paragraph (9), by striking "(9)(A)" and all that follows through "(B) The" and inserting "(3) The";

(3) by inserting after paragraph (1), the following:

"(2) ACCESS TO FINANCIAL RECORDS.—

"(A) IN GENERAL.—Notwithstanding section 1105 or 1107 of the Right to Financial Privacy Act of 1978, the Commission may obtain access to and copies of, or the information contained in, financial records of any person held by a financial institution, including the financial records of a customer, without notice to that person, when it acts pursuant to a subpoena authorized by a formal order of investigation of the Commission and issued under the securities laws or pursuant to an administrative or judicial subpoena issued in a proceeding or action to enforce the securities laws.

"(B) NONDISCLOSURE OF REQUESTS.—If the Commission so directs in its subpoena, no financial institution, or officer, director, partner, employee, shareholder, representative or agent of such financial institution, shall, directly or indirectly, disclose that records have been requested or provided in accordance with subparagraph (A), if the Commission finds reason to believe that such disclosure may—

"(i) result in the transfer of assets or records outside the territorial limits of the United States;

"(ii) result in improper conversion of investor assets;

"(iii) impede the ability of the Commission to identify, trace, or freeze funds involved in any securities transaction;

"(iv) endanger the life or physical safety of an individual;

"(v) result in flight from prosecution;

"(vi) result in destruction of or tampering with evidence;

"(vii) result in intimidation of potential witnesses; or

"(viii) otherwise seriously jeopardize an investigation or unduly delay a trial.

"(C) TRANSFER OF RECORDS TO GOVERNMENT AUTHORITIES.—The Commission may transfer financial records or the information contained therein to any government authority, if the Commission proceeds as a transferring agency in accordance with section 1112 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412), except that a customer notice shall not be required under subsection (b) or (c) of that section 1112, if the Commission determines that there is reason to believe that such notification may result in or lead to any of the factors identified under clauses (i) through (viii) of subparagraph (B) of this paragraph.";

(4) by striking paragraph (10); and

(5) by redesignating paragraphs (11), (12), and (13) as paragraphs (4), (5), and (6), respectively.

SEC. 724. REVIEW OF STATE AGENCY BLINDNESS AND DISABILITY DETERMINATIONS.

Section 1633 of the Social Security Act (42 U.S.C. 1383b) is amended by adding at the end the following:

"(e)(1) The Commissioner of Social Security shall review determinations, made by State agencies pursuant to subsection (a) in connection with applications for benefits under this title on the basis of blindness or disability, that individuals who have attained 18 years of age are blind or disabled as of a specified onset date. The Commissioner of Social Security shall review such a determination before any action is taken to implement the determination.

"(2)(A) In carrying out paragraph (1), the Commissioner of Social Security shall review—

"(i) at least 25 percent of all determinations referred to in paragraph (1) that are made in fiscal year 2004; and

"(ii) at least 50 percent of all such determinations that are made in fiscal year 2005 or thereafter.

"(B) In carrying out subparagraph (A), the Commissioner of Social Security shall, to the extent feasible, select for review the determinations which the Commissioner of Social Security identifies as being the most likely to be incorrect.".

TITLE VIII—COMPASSION CAPITAL FUND

SEC. 801. SUPPORT FOR NONPROFIT COMMUNITY-BASED ORGANIZATIONS; DEPARTMENT OF HEALTH AND HUMAN SERVICES.

(a) SUPPORT FOR NONGOVERNMENTAL ORGANIZATIONS.—The Secretary of Health and Human Services (referred to in this section as "the Secretary") may award grants to and enter into cooperative agreements with nongovernmental organizations, to—

(1) provide technical assistance for community-based organizations, which may include—

(A) grant writing and grant management assistance, which may include assistance provided through workshops and other guidance;

(B) legal assistance with incorporation;

(C) legal assistance to obtain tax-exempt status; and

(D) information on, and referrals to, other nongovernmental organizations that provide expertise in accounting, on legal issues, on tax issues, in program development, and on a variety of other organizational topics;

(2) provide information and assistance for community-based organizations on capacity building;

(3) provide for community-based organizations information on and assistance in identifying and using best practices for delivering assistance to persons, families, and communities in need;

(4) provide information on and assistance in utilizing regional intermediary organizations to increase and strengthen the capabilities of nonprofit community-based organizations;

(5) assist community-based organizations in replicating social service programs of demonstrated effectiveness; and

(6) encourage research on the best practices of social service organizations.

(b) SUPPORT FOR STATES.—The Secretary—

(1) may award grants to and enter into cooperative agreements with States and political subdivisions of States to provide seed money to establish State and local offices of faith-based and community initiatives; and

(2) shall provide technical assistance to States and political subdivisions of States in administering the provisions of this Act.

(c) APPLICATIONS.—To be eligible to receive a grant or enter into a cooperative agreement under this section, a nongovernmental organization, State, or political subdivision shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(d) LIMITATION.—In order to widely disburse limited resources, no community-based organization (other than a direct recipient of a grant or cooperative agreement from the Secretary) may receive more than 1 grant or cooperative agreement under this section for the same purpose.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $85,000,000 for fiscal year 2003, and such sums as may be necessary for each of fiscal years 2004 through 2007.

(f) DEFINITION.—In this section, the term "community-based organization" means a nonprofit corporation or association that has—

(1) not more than 6 full-time equivalent employees who are engaged in the provision of social services; or

(2) a current annual budget (current as of the date the entity seeks assistance under this section) for the provision of social services, compiled and adopted in good faith, of less than $450,000.

SEC. 802. SUPPORT FOR NONPROFIT COMMUNITY-BASED ORGANIZATIONS; CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.

(a) SUPPORT FOR NONGOVERNMENTAL ORGANIZATIONS.—The Corporation for National and Community Service (referred to in this section as "the Corporation") may award grants to and enter into cooperative agreements with nongovernmental organizations and State Commissions on National and Community Service established under section 178 of the National and Community Service Act of 1990 (42 U.S.C. 12638), to—

(1) provide technical assistance for community-based organizations, which may include—

(A) grant writing and grant management assistance, which may include assistance provided through workshops and other guidance;

(B) legal assistance with incorporation;

(C) legal assistance to obtain tax-exempt status; and

(D) information on, and referrals to, other nongovernmental organizations that provide expertise in accounting, on legal issues, on tax issues, in program development, and on a variety of other organizational topics;

(2) provide information and assistance for community-based organizations on capacity building;

(3) provide for community-based organizations information on and assistance in identifying and using best practices for delivering assistance to persons, families, and communities in need;

(4) provide information on and assistance in utilizing regional intermediary organizations to increase and strengthen the capabilities of community-based organizations;

(5) assist community-based organizations in replicating social service programs of demonstrated effectiveness; and

(6) encourage research on the best practices of social service organizations.

(b) Applications.—To be eligible to receive a grant or enter into a cooperative agreement under this section, a nongovernmental organization, State Commission, State, or political subdivision shall submit an application to the Corporation at such time, in such manner, and containing such information as the Corporation may require.

(c) Limitation.—In order to widely disburse limited resources, no community-based organization (other than a direct recipient of a grant or cooperative agreement from the Secretary) may receive more than 1 grant or cooperative agreement under this section for the same purpose.

(d) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $15,000,000 for fiscal year 2003, and such sums as may be necessary for each of fiscal years 2004 through 2007.

(e) Definition.—In this section, the term "community-based organization" means a nonprofit corporation or association that has—

(1) not more than 6 full-time equivalent employees who are engaged in the provision of social services; or

(2) a current annual budget (current as of the date the entity seeks assistance under this section) for the provision of social services, compiled and adopted in good faith, of less than $450,000.

SEC. 803. SUPPORT FOR NONPROFIT COMMUNITY-BASED ORGANIZATIONS; DEPARTMENT OF JUSTICE.

(a) Support for Nongovernmental Organizations.—The Attorney General may award grants to and enter into cooperative agreements with nongovernmental organizations, to—

(1) provide technical assistance for community-based organizations, which may include—

(A) grant writing and grant management assistance, which may include assistance provided through workshops and other guidance;

(B) legal assistance with incorporation;

(C) legal assistance to obtain tax-exempt status; and

(D) information on, and referrals to, other nongovernmental organizations that provide expertise in accounting, on legal issues, on tax issues, in program development, and on a variety of other organizational topics;

(2) provide information and assistance for community-based organizations on capacity building;

(3) provide for community-based organizations information on and assistance in identifying and using best practices for delivering assistance to persons, families, and communities in need;

(4) provide information on and assistance in utilizing regional intermediary organizations to increase and strengthen the capabilities of community-based organizations;

(5) assist community-based organizations in replicating social service programs of demonstrated effectiveness; and

(6) encourage research on the best practices of social service organizations.

(b) Applications.—To be eligible to receive a grant or enter into a cooperative agreement under this section, a nongovernmental organization, State, or political subdivision shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may require.

(c) Limitation.—In order to widely disburse limited resources, no community-based organization (other than a direct recipient of a grant or cooperative agreement from the Attorney General) may receive more than 1 grant or cooperative agreement under this section for the same purpose.

(d) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $35,000,000 for fiscal year 2003, and such sums as may be necessary for each of fiscal years 2004 through 2007.

(e) Definition.—In this section, the term "community-based organization" means a nonprofit corporation or association that has—

(1) not more than 6 full-time equivalent employees who are engaged in the provision of social services; or

(2) a current annual budget (current as of the date the entity seeks assistance under this section) for the provision of social services, compiled and adopted in good faith, of less than $450,000.

SEC. 804. SUPPORT FOR NONPROFIT COMMUNITY-BASED ORGANIZATIONS; DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

(a) Support for Nongovernmental Organizations.—The Secretary of Housing and Urban Development (referred to in this section "the Secretary") may award grants to and enter into cooperative agreements with nongovernmental organizations, to—

(1) provide technical assistance for community-based organizations, which may include—

(A) grant writing and grant management assistance, which may include assistance provided through workshops and other guidance;

(B) legal assistance with incorporation;

(C) legal assistance to obtain tax-exempt status; and

(D) information on, and referrals to, other nongovernmental organizations that provide expertise in accounting, on legal issues, on tax issues, in program development, and on a variety of other organizational topics;

(2) provide information and assistance for community-based organizations on capacity building;

(3) provide for community-based organizations information on and assistance in identifying and using best practices for delivering assistance to persons, families, and communities in need;

(4) provide information on and assistance in utilizing regional intermediary organizations to increase and strengthen the capabilities of community-based organizations;

(5) assist community-based organizations in replicating social service programs of demonstrated effectiveness; and

(6) encourage research on the best practices of social service organizations.

(b) Applications.—To be eligible to receive a grant or enter into a cooperative agreement under this section, a nongovernmental organization, State, or political subdivision shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(c) Limitation.—In order to widely disburse limited resources, no community-based organization (other than a direct recipient of a grant or cooperative agreement from the Secretary) may receive more than 1 grant or cooperative agreement under this section for the same purpose.

(d) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $15,000,000 for fiscal year 2003, and such sums as may be necessary for each of fiscal years 2004 through 2007.

(e) Definition.—In this section, the term "community-based organization" means a nonprofit corporation or association that has—

(1) not more than 6 full-time equivalent employees who are engaged in the provision of social services; or

(2) a current annual budget (current as of the date the entity seeks assistance under this section) for the provision of social services, compiled and adopted in good faith, of less than $450,000.

SEC. 805. COORDINATION.

The Secretary of Health and Human Services, the Corporation for National and Community Service, the Attorney General, and the Secretary of Housing and Urban Development shall coordinate their activities under this title to ensure—

(1) nonduplication of activities under this title; and

(2) an equitable distribution of resources under this title.

TITLE IX—MATERNITY GROUP HOMES

SEC. 901. MATERNITY GROUP HOMES.

(a) Permissible Use of Funds.—Section 322 of the Runaway and Homeless Youth Act (42 U.S.C. 5714–2) is amended—

(1) in subsection (a)(1), by inserting "(including maternity group homes)" after "group homes"; and

(2) by adding at the end the following:

"(c) Maternity Group Home.—In this part, the term 'maternity group home' means a community-based, adult-supervised group home that provides young mothers and their children with a supportive and supervised living arrangement in which such mothers are required to learn parenting skills, including child development, family budgeting, health and nutrition, and other skills to promote their long-term economic independence and the well-being of their children.".

(b) Contract for Evaluation.—Part B of the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.) is amended by adding at the end the following:

"SEC. 323. CONTRACT FOR EVALUATION.

"(a) In General.—The Secretary shall enter into a contract with a public or private entity for an evaluation of the maternity group homes that are supported by grant funds under this Act.

"(b) Information.—The evaluation described in subsection (a) shall include the collection of information about the relevant characteristics of individuals who benefit from maternity group homes such as those that are supported by grant funds under this Act and what services provided by those maternity group homes are most beneficial to such individuals.

"(c) REPORT.—Not later than 2 years after the date on which the Secretary enters into a contract for an evaluation under subsection (a), and biennially thereafter, the entity conducting the evaluation under this section shall submit to Congress a report on the status, activities, and accomplishments of maternity group homes that are supported by grant funds under this Act.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 388 of the Runaway and Homeless Youth Act (42 U.S.C. 5751) is amended—

(1) in subsection (a)(1)—

(A) by striking "There" and inserting the following:

"(A) IN GENERAL.—There";

(B) in subparagraph (A), as redesignated, by inserting "and the purpose described in subparagraph (B)" after "other than part E"; and

(C) by adding at the end the following:

"(B) MATERNITY GROUP HOMES.—There is authorized to be appropriated, for maternity group homes eligible for assistance under section 322(a)(1)—

"(i) $33,000,000 for fiscal year 2003; and

"(ii) such sums as may be necessary for fiscal year 2004."; and

(2) in subsection (a)(2)(A), by striking "paragraph (1)" and inserting "paragraph (1)(A)".

SA 2671. Mr. SMITH (for himself and Mr. BREAUX) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 71, strike line 10 through page 84, line 22, and insert the following:

"SEC. 199. INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES.

"(a) ALLOWANCE OF DEDUCTION.—

"(1) IN GENERAL.—There shall be allowed as a deduction an amount equal to 9 percent of the qualified production activities income of the taxpayer for the taxable year.

"(2) PHASEIN.—In the case of taxable years beginning in 2003, 2004, 2005, 2006, 2007, or 2008, paragraph (1) shall be applied by substituting for the percentage contained therein the transition percentage determined under the following table:

"Taxable years beginning in:	The transition percentage is:
2003 or 2004	1
2005	2
2006	3
2007 or 2008	6.

"(b) DEDUCTION LIMITED TO WAGES PAID.—

"(1) IN GENERAL.—The amount of the deduction allowable under subsection (a) for any taxable year shall not exceed 50 percent of the W–2 wages of the employer for the taxable year.

"(2) W–2 WAGES.—For purposes of paragraph (1), the term 'W–2 wages' means the sum of the aggregate amounts the taxpayer is required to include on statements under paragraphs (3) and (8) of section 6051(a) with respect to employment of employees of the taxpayer during the taxpayer's taxable year.

"(3) SPECIAL RULES.—

"(A) PASS-THRU ENTITIES.—In the case of an S corporation, partnership, estate or trust, or other pass-thru entity, the limitation under this subsection shall apply at the entity level.

"(B) ACQUISITIONS AND DISPOSITIONS.—The Secretary shall provide for the application of this subsection in cases where the taxpayer acquires, or disposes of, the major portion of a trade or business or the major portion of a separate unit of a trade or business during the taxable year.

"(c) QUALIFIED PRODUCTION ACTIVITIES INCOME.—For purposes of this section, the term 'qualified production activities income' means an amount equal to the portion of the modified taxable income of the taxpayer which is attributable to domestic production activities.

"(d) DETERMINATION OF INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES.—For purposes of this section—

"(1) IN GENERAL.—The portion of the modified taxable income which is attributable to domestic production activities is so much of the modified taxable income for the taxable year as does not exceed—

"(A) the taxpayer's domestic production gross receipts for such taxable year, reduced by

"(B) the sum of—

"(i) the costs of goods sold that are allocable to such receipts,

"(ii) other deductions, expenses, or losses directly allocable to such receipts, and

"(iii) a proper share of other deductions, expenses, and losses that are not directly allocable to such receipts or another class of income.

"(2) ALLOCATION METHOD.—The Secretary shall prescribe rules for the proper allocation of items of income, deduction, expense, and loss for purposes of determining income attributable to domestic production activities.

"(3) SPECIAL RULES FOR DETERMINING COSTS.—

"(A) IN GENERAL.—For purposes of determining costs under clause (i) of paragraph (1)(B), any item or service brought into the United States shall be treated as acquired by purchase, and its cost shall be treated as not less than its fair market value immediately after it entered the United States. A similar rule shall apply in determining the adjusted basis of leased or rented property where the lease or rental gives rise to domestic production gross receipts.

"(B) EXPORTS FOR FURTHER MANUFACTURE.—In the case of any property described in subparagraph (A) that had been exported by the taxpayer for further manufacture, the increase in cost or adjusted basis under subparagraph (A) shall not exceed the difference between the value of the property when exported and the value of the property when brought back into the United States after the further manufacture.

"(4) MODIFIED TAXABLE INCOME.—The term 'modified taxable income' means taxable income computed without regard to the deduction allowable under this section.

"(e) DOMESTIC PRODUCTION GROSS RECEIPTS.—For purposes of this section—

"(1) IN GENERAL.—The term 'domestic production gross receipts' means the gross receipts of the taxpayer which are derived from—

"(A) any sale, exchange, or other disposition of, or

"(B) any lease, rental, or license of,

qualifying production property which was manufactured, produced, grown, or extracted in whole or in significant part by the taxpayer within the United States.

"(2) SPECIAL RULES FOR CERTAIN PROPERTY.—In the case of any qualifying production property described in subsection (f)(1)(C)—

"(A) such property shall be treated for purposes of paragraph (1) as produced in significant part by the taxpayer within the United States if more than 50 percent of the aggregate development and production costs are incurred by the taxpayer within the United States, and

"(B) if a taxpayer acquires such property before such property begins to generate substantial gross receipts, any development or production costs incurred before the acquisition shall be treated as incurred by the taxpayer for purposes of subparagraph (A) and paragraph (1).

"(f) QUALIFYING PRODUCTION PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'qualifying production property' means—

"(A) any tangible personal property,

"(B) any computer software, and

"(C) any property described in section 168(f) (3) or (4), including any underlying copyright or trademark.

"(2) EXCLUSIONS FROM QUALIFYING PRODUCTION PROPERTY.—The term 'qualifying production property' shall not include—

"(A) consumable property that is sold, leased, or licensed by the taxpayer as an integral part of the provision of services,

"(B) oil or gas,

"(C) electricity,

"(D) water supplied by pipeline to the consumer,

"(E) utility services, or

"(F) any film, tape, recording, book, magazine, newspaper, or similar property the market for which is primarily topical or otherwise essentially transitory in nature.

"(g) DEFINITIONS AND SPECIAL RULES.—

"(1) APPLICATION OF SECTION TO PASS-THRU ENTITIES.—In the case of an S corporation, partnership, estate or trust, or other pass-thru entity—

"(A) subject to the provisions of paragraph (2) and subsection (b)(3)(A), this section shall be applied at the shareholder, partner, or similar level, and

"(B) the Secretary shall prescribe rules for the application of this section, including rules relating to—

"(i) restrictions on the allocation of the deduction to taxpayers at the partner or similar level, and

"(ii) additional reporting requirements.

"(2) EXCLUSION FOR PATRONS OF AGRICULTURAL AND HORTICULTURAL COOPERATIVES.—

"(A) IN GENERAL.—If any amount described in paragraph (1) or (3) of section 1385(a)—

"(i) is received by a person from an organization to which part I of subchapter T applies which is engaged in the marketing of agricultural or horticultural products, and

"(ii) is allocable to the portion of the qualified production activities income of the organization which is deductible under subsection (a) and designated as such by the organization in a written notice mailed to its patrons during the payment period described in section 1382(d),

then such person shall be allowed an exclusion from gross income with respect to such amount. The taxable income of the organization shall not be reduced under section 1382 by the portion of any such amount with respect to which an exclusion is allowable to a person by reason of this paragraph.

"(B) SPECIAL RULES.—For purposes of applying subparagraph (A), in determining the qualified production activities income of the organization under this section—

"(i) there shall not be taken into account in computing the organization's modified taxable income any deduction allowable under subsection (b) or (c) of section 1382 (relating to patronage dividends, per-unit retain allocations, and nonpatronage distributions), and

"(ii) the organization shall be treated as having manufactured, produced, grown, or extracted in whole or significant part any qualifying production property marketed by the organization which its patrons have so manufactured, produced, grown, or extracted.

"(3) SPECIAL RULE FOR AFFILIATED GROUPS.—

"(A) IN GENERAL.—All members of an expanded affiliated group shall be treated as a single corporation for purposes of this section.

"(B) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a), determined—

"(i) by substituting '50 percent' for '80 percent' each place it appears, and

"(ii) without regard to paragraphs (2) and (4) of section 1504(b).

"(4) COORDINATION WITH MINIMUM TAX.—The deduction under this section shall be allowed for purposes of the tax imposed by section 55; except that for purposes of section 55, alternative minimum taxable income shall be taken into account in determining the deduction under this section.

"(5) ORDERING RULE.—The amount of any other deduction allowable under this chapter shall be determined as if this section had not been enacted.

"(6) TRADE OR BUSINESS REQUIREMENT.—This section shall be applied by only taking into account items which are attributable to the actual conduct of a trade or business.

"(7) POSSESSIONS, ETC.—

"(A) IN GENERAL.—For purposes of subsections (d) and (e), the term 'United States' includes the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands of the United States.

"(B) SPECIAL RULES FOR APPLYING WAGE LIMITATION.—For purposes of applying the limitation under subsection (b) for any taxable year—

"(i) the determination of W–2 wages of a taxpayer shall be made without regard to any exclusion under section 3401(a)(8) for remuneration paid for services performed in a jurisdiction described in subparagraph (A), and

"(ii) in determining the amount of any credit allowable under section 30A or 936 for the taxable year, there shall not be taken into account any wages which are taken into account in applying such limitation.

"(8) COORDINATION WITH TRANSITION RULES.—For purposes of this section—

"(A) domestic production gross receipts shall not include gross receipts from any transaction if the binding contract transition relief of section 101(c)(2) of the Jumpstart Our Business Strength (JOBS) Act applies to such transaction, and

"(B) any deduction allowed under section 101(e) of such Act shall be disregarded in determining the portion of the taxable income which is attributable to domestic production gross receipts.".

SA 2672. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ___. WAIVER OF 10 PERCENT EARLY WITHDRAWAL PENALTY TAX ON CERTAIN DISTRIBUTIONS OF PENSION PLANS FOR PUBLIC SAFETY EMPLOYEES.

(a) IN GENERAL.—Section 72(t) (relating to subsection not to apply to certain distributions) is amended by adding at the end the following new paragraph:

"(10) DISTRIBUTIONS TO QUALIFIED PUBLIC SAFETY EMPLOYEES IN GOVERNMENTAL PLANS.—

"(A) IN GENERAL.—In the case of a distribution to a qualified public safety employee from a governmental plan (within the meaning of section 414(d)) which is a defined benefit plan, paragraph (2)(A)(v) shall be applied by substituting 'age 50' for 'age 55'.

"(B) QUALIFIED PUBLIC SAFETY EMPLOYEE.—For purposes of this paragraph, the term 'qualified public safety employee' means any employee of any police department or fire department organized and operated by a State or political subdivision of a State who provides police protection, firefighting services, or emergency medical services for any area within the jurisdiction of such State or political subdivision.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after the date of the enactment of this Act.

SA 2673. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 378, after line 12, add the following:

SEC. ___. DEDUCTION FOR HEALTH INSURANCE COSTS IN COMPUTING SELF-EMPLOYMENT TAXES.

(a) IN GENERAL.—Section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(b) MAINTENANCE OF TRUST FUNDS.—There are hereby appropriated to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund established under section 201 of the Social Security Act (42 U.S.C. 401) and the Federal Hospital Insurance Trust Fund established under section 1817 of such Act (42 U.S.C. 1395i) amounts equal to the reduction in revenues to the Treasury by reason of the enactment of this Act. Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Trust Funds had this Act not been enacted.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SA 2674. Mr. BINGAMAN (for himself and Mr. ALLEN) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 146, after line 23, insert the following:

SECTION . INTEREST PAYMENTS DEDUCTIBLE WHERE DISQUALIFIED GUARANTEE HAS NO ECONOMIC EFFECT.

(a) IN GENERAL.—Section 163(j)(6)(D)(ii) (relating to exceptions to disqualified guarantee) is amended—

(1) by striking "or" at the end of subclause (I),

(2) by striking the period at the end of subclause (II) and inserting ", or",

(3) by inserting after subclause (II) the following new subclause:

"(III) in the case of a guarantee by a foreign person, to the extent of the amount that the taxpayer establishes to the satisfaction of the Secretary that the taxpayer could have borrowed from an unrelated person without the guarantee.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to guarantees issued on and after the date of the enactment of this Act.

SEC. ___. INTEREST PAID TO CERTAIN LENDERS NOT DISQUALIFIED INTEREST.

(a) IN GENERAL.—Section 163(j)(3)(B) (defining disqualified interest) is amended by striking "and" at the end of clause (i) and by inserting after clause (ii) the following new clause:

"(iii) the interest is not paid or accrued to a qualified lender, and".

(b) QUALIFIED LENDER.—Section 163(j)(6) (relating to other definitions and special rules) is amended by adding at the end the following new subparagraphs:

"(F) QUALIFIED LENDER.—A holder of debt shall be a qualified lender with respect to such debt if such person is—

"(i) a United States person subject to the income tax imposed by this chapter (determined without regard to section 511) and—

"(I) such person is a financial institution, or

"(II) such debt is publicly issued debt, or

"(ii) a foreign person which is subject to either net basis or gross basis taxation and—

"(I) such person is a financial institution required to include the interest on such debt in taxable income under section 882, or

"(II) such debt is publicly issued debt.

"(G) FINANCIAL INSTITUTION.—The term 'financial institution' means a person which is—

"(i) predominantly engaged in the active conduct of a banking, financing, or similar business within the meaning of section 954(h), "(ii) a corporation described in section 581 or 591 (relating to banks and other savings institutions), or

"(iii) an insurance company subject to tax under subchapter L or which would be subject to tax under subchapter L if it were a domestic corporation.

"(H) Publicly issued debt.—The term 'publicly issued debt' means—

"(i) commercial paper described in section 3(a)(3) or 4(2) of the Securities Act of 1933,

"(ii) a debt instrument which is—

"(I) part of an issue of debt instruments meeting the requirements of section 871(h) or 881(c) (relating to the exemptions from withholding tax for certain portfolio debt investments) without regard to section 871(h)(2)(B)(ii) and section 881(c)(2)(B)(ii), and

"(II) readily tradable on an established securities market, or

"(iii) a debt instrument which is part of an issue of debt instruments the initial offering of which is registered with the Securities and Exchange Commission or would be required to be registered under the Securities Act of 1933 but for an exemption from registration—

"(I) under section 3 of the Securities Act of 1933,

"(II) under any law (other than the Securities Act of 1933) because of the identity of the issuer or the nature of the security,

"(III) because the issue is intended for distribution to persons who are not United States persons, or

"(IV) pursuant to section 230.144A of title 17, Code of Federal Regulations (relating to securities placed with qualified institutional buyers) or any successor rule or regulation.".

(c) Effective Date.—The amendments made by this section shall apply to debt issued on or after the date of the enactment of this Act.

SA 2675. Mr. DURBIN (for himself, Mr. Graham of South Carolina, Mr. Reid, and Mrs. Murray) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, after line 25, insert the following:

SEC. . CREDIT FOR QUALIFIED EXPENDITURES FOR MEDICAL PROFESSIONAL MALPRACTICE INSURANCE.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business tax credits) is amended by adding at the end the following:

"SEC. 45G. CREDIT FOR EXPENDITURES FOR MEDICAL PROFESSIONAL MALPRACTICE INSURANCE.

"(a) General Rule.—For purposes of section 38, in the case of a taxpayer which is an eligible person, the medical malpractice insurance expenditure tax credit determined under this section for a covered year shall equal the applicable percentage of the qualified medical malpractice insurance expenditures incurred by an eligible person during the covered year.

"(b) Applicable Percentage.—For purposes of subsection (a), the applicable percentage is—

"(1) in the case of an eligible person described in subsection (c)(2)(A), 20 percent,

"(2) in the case of an eligible person described in subsection (c)(2)(B), 10 percent, and

"(3) in the case of an eligible person described in subsection (c)(2)(C), 15 percent.

"(c) Definitions.—In this section:

"(1) Covered year.—The term 'covered year' means taxable years beginning in 2004 and 2005.

"(2) Eligible person.—The term 'eligible person' means—

"(A) any physician (as defined in section 213(d)(4)) who practices in any surgical specialty or subspecialty, emergency medicine, obstetrics, anesthesiology or who does intervention work which is reflected in medical malpractice insurance expenditures,

"(B) any physician (as so defined) who practices in general medicine, allergy, dermatology, pathology, or any other specialty not otherwise described in this section, and

"(C) any hospital or clinic,

which meets applicable legal requirements to provide the health care services involved.

"(3) Qualified medical malpractice insurance expenditure.—The term 'qualified medical malpractice insurance expenditure' means so much of any professional insurance premium, surcharge, payment or other cost or expense required as a condition of State licensure which is incurred by an eligible person in a covered year for the sole purpose of providing or furnishing general medical malpractice liability insurance for such eligible person as does not exceed twice the Statewide average of such costs for similarly situated eligible persons.

"(d) Special Rules.—

"(1) In general.—Except as provided in paragraph (2), the credit determined under this section shall be claimed by the eligible person incurring the qualified medical malpractice insurance expenditure.

"(2) Certification.—Each State, through its board of medical licensure and State board (or agency) regulating insurance, annually shall provide such information to the Secretary of Health and Human Services as is necessary to permit the Secretary to calculate average costs for purposes of subsection (c)(3) and to certify such average costs (rounded to the nearest whole dollar) to the Secretary of the Treasury on or before the 15th day of November of each year.

"(e) Effective Date.—This section shall apply to qualified medical malpractice expenditures incurred after December 31, 2003.".

(b) Credit Made Part of General Business Credit.—Section 38(b) (relating to current year business credit) is amended by striking "plus" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ", plus", and by adding at the end the following new paragraph:

"(16) the medical malpractice insurance expenditure tax credit determined under section 45G(a).".

(c) Limitation on Carryback.—Section 39(d) (relating to transition rules) is amended by adding at the end the following new paragraph:

"(11) No carryback of medical malpractice insurance expenditure tax credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45G may be carried back to any taxable year beginning before 2004.".

(d) Denial of Double Benefit.—Section 280C (relating to certain expenses for which credits are allowable) is amended by adding at the end the following new subsection:

"(d) Credit for Medical Malpractice Liability Insurance Premiums.—

"(1) In general.—No deduction shall be allowed for that portion of the qualified medical malpractice insurance expenditures otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit allowable for the taxable year under section 45G (determined without regard to section 38(c)).

"(2) Controlled groups.—In the case of a corporation which is a member of a controlled group of corporations (within the meaning of section 41(f)(5)) or a trade or business which is treated as being under common control with other trades or business (within the meaning of section 41(f)(1)(B)), this subsection shall be applied under rules prescribed by the Secretary similar to the rules applicable under subparagraphs (A) and (B) of section 41(f)(1).".

(e) Grants to Non-Profit Hospitals and Clinics.—

(1) In general.—The Secretary of Health and Human Services, acting through the Administrator of the Health Resources and Services Administration, shall award grants to eligible non-profit hospitals and clinics to assist such hospitals and clinics in defraying qualified medical malpractice insurance expenditures.

(2) Eligible non-profit hospital or clinic.—To be eligible to receive a grant under paragraph (1) an entity shall—

(A) be a non-profit hospital or clinic;

(B) be unable to claim the tax credit described in section 45G for the year for which an application is submitted under subparagraph (C); and

(C) prepare and submit to the Secretary of Health and Human Services an application at such time, in such manner, and containing such information as the Secretary may require.

(3) Amount of grant.—The amount of a grant to a non-profit hospital or clinic under paragraph (1) shall equal 15 percent of the amount of the qualified medical malpractice insurance expenditures of the hospital or clinic for the year involved.

(4) Qualified medical malpractice insurance expenditure.—In this subsection, the term "qualified medical malpractice insurance expenditure" means so much of any professional insurance premium, surcharge, payment or other cost or expense required as a condition of State licensure which is incurred by a non-profit hospital or clinic in a year for the sole purpose of providing or furnishing general medical malpractice liability insurance for such hospital or clinic as does not exceed twice the Statewide average of such costs for similarly situated hospitals or clinics.

(5) Authorization of appropriations.—There are authorized to be appropriated to carry out this subsection, such sums as may be necessary for each of fiscal years 2005 and 2006.

(f) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45G. Credit for expenditures for medical professional malpractice insurance.".

(g) Effective Date.—The amendments made by this section shall apply to expenditures incurred after December 31, 2003.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. HATCH. Mr. President. I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, March 3, 2004, at 9:30 a.m. on Impact of Climate Change, in SR–253.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Wednesday, March 3, 2004, at 9:30 a.m. to conduct an oversight hearing regarding grants management within the U.S. Environmental Protection Agency. The hearing will be held in SD–406.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday; March 3, 2004, at 9:30 a.m., to hear testimony on Health Insurance Challenges: "Buyer Beware."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 3, 2004, at 9:30 a.m. to hold a Hearing on Building Operational Readiness in Foreign Affairs Agencies.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, March 3, 2004, at 10 a.m. in Room 485 of the Russell Senate Office Building to conduct a business meeting on the Committees Views and Estimate Letter on the President's FY/05 Budget Request for Indian Programs, to be followed immediately by an oversight hearing on the Status of the Completion of the National Museum of the American Indian.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON THE CONSTITUTION

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on the Constitution, Civil Rights and Property Rights be authorized to meet to conduct a hearing on "Judicial Activism vs. Democracy: What are the National Implications of the Massachusetts Goodridge Decision and the Judicial Invalidation of Traditional Marriage Laws?," on Wednesday, March 3, 2004, at 10 a.m., in SD226.

Panel I: Reverend Richard Richardson, Assistant Pastor, St. Paul African Methodist Episcopal (AME) Church, Director of Political Affairs, The Black Ministerial Alliance of Greater Boston, President/CEO, Children's Services of Roxbury, Boston, MA; Pastor Daniel de Leon, Sr., Alianza de Ministerios Evangélicos Nacionales (AMEN), Pastor, Templo Calvario, General Presbyter, Assemblies of God, Santa Ana, CA; the Hon. Jon Bruning, Attorney General of Nebraska, Lincoln, NE; and Mrs. Maggie Gallagher, President, Institute for Marriage and Public Policy, New York, NY.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EMERGING THREATS AND CAPABILITIES

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on Emerging Threats and Capabilities of the Committee on Armed Services be authorized to meet during the session of the Senate on March 3, 2004, at 9:30 a.m., in open session to receive testimony on the role of defense science and technology in the global war on terrorism and in preparing for emerging threats in review of the Defense authorization request for fiscal year 2005.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FORESTS AND PUBLIC LANDS

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Lands of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, March 3, at 2:30 p.m. The purpose of the hearing is to receive testimony on S. 1420, a bill to establish terms and conditions for use of certain Federal land by outfitters and to facilitate public opportunities for the recreational use and enjoyment of such land.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space be authorized to meet on Wednesday, March 3, 2004, at 2:30 p.m., on impact on abortion on women in SR–253.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SEAPOWER

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on Seapower of the Committee on Armed Services be authorized to meet during the session of the Senate on March 3, 2004, at 2 p.m., in open session to receive testimony on future Navy and Marine Corps capabilities and requirements, in review of the Defense authorization request for fiscal year 2005 and the future years Defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. BAUCUS. Mr. President, I ask unanimous consent that the following interns and fellows of the Finance Committee be granted the privileges of the floor for the remainder of the debate on S. 1637, the JOBS Act: Shannon Augare, Jane Bergeson, Simon Chabel, Tyson Hill, Jeremy Seidlitz, Trace Thaxton, Steve Beasley, Justin Bonsey, Jodi George, Scott Landes, Pascal Niedermann, Matt Stokes, and Chris Knopes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, I ask unanimous consent Sara Hagigh of Senator LIEBERMAN's staff have privilege of the floor during debate of S. 1637.

The PRESIDING OFFICER. Without objection, it is so ordered.

TROOP TRAVEL REIMBURSEMENT

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Armed Services Committee be discharged from further consideration of S. 2057 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant journal clerk read as follows:

> A bill (S. 2057) to require the Secretary of Defense to reimburse members of the United States Armed Forces for certain transportation expenses incurred by the members in connection with leave under the Central Command Rest and Recuperation Leave Program before the program was expanded to include domestic travel.

There being no objection, the Senate proceeded to consider the bill.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the bill be read the third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2057) was read the third time and passed, as follows:

S. 2057

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REIMBURSEMENT OF CERTAIN TRANSPORTATION COSTS INCURRED BY MEMBERS OF THE UNITED STATES ARMED FORCES ON REST AND RECUPERATION LEAVE.

The Secretary of Defense shall reimburse a member of the United States Armed Forces for transportation expenses incurred by such member for one round trip by such member between two locations within the United States in connection with leave taken under the Central Command Rest and Recuperation Leave Program during the period beginning on September 25, 2003, and ending on December 18, 2003.

ORDERS FOR THURSDAY, MARCH 4, 2004

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. Thursday, March 4. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period for the transaction of morning business until 10:30 a.m., with the time equally divided in the usual form, with the first half of the time under the control of the Democratic leader or his designee and the second half of the time under the control of the majority leader or his designee; provided, that at 10:30 a.m., the Senate resume consideration of S. 1637, the FSC/ETI bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. McCONNELL. Mr. President, following morning business, the Senate will resume consideration of S. 1637. When the Senate resumes the bill in the morning, the Dodd amendment on outsourcing will be the pending business. It is my expectation that a second-degree amendment will be offered to the Dodd amendment tomorrow morning.

For the remainder of the day, we will continue to work through amendments to the bill. Under the previous order, following the disposition of the Dodd amendment, the Senate will take up an amendment by Senator BUNNING which would accelerate manufacturing sector tax cuts. Senators will be notified when the first vote is scheduled.

ORDER FOR ADJOURNMENT

Mr. McCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order following the remarks of Senator DODD for up to 20 minutes and Senator HATCH for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. I express my gratitude to my friend from Kentucky for his eloquent description of my less than eloquent remarks. I appreciate that.

The PRESIDING OFFICER. The Senator from Connecticut.

OUTSOURCING OF AMERICAN JOBS

Mr. DODD. Mr. President, I may not use all of my 20 minutes. I have been talking at some length this afternoon, although it is my custom to do so. I might point out, for those who are interested, this is not a filibuster. I am prepared to vote on this amendment right now. I was prepared to vote on it an hour and a half ago, but there are those who want to analyze what I am proposing.

I suppose it is more than analysis that is occurring. They are trying to figure out how to defeat it, and I regret that because I do not think it is complicated. I think it is straightforward. I think it makes sense.

I would not be offering this if this was not a problem sweeping across the country. Concerns are being expressed everywhere by Americans of varying incomes and positions. I know in my own State I have had meetings with people I could not put in the same town or county together a year ago who are coming to us now and saying, would you please do something here. I am talking about my chambers of commerce.

I had a meeting last week at a Teamsters Local that included the chambers of commerce, the Manufacturers Association, the International Association of Machinists and Teamsters. I do not need to remind the Chair what a unique circumstance that is when a crowd like that gets together—by the way, all asking me to do the same thing.

They were not just asking me but asking us what we were going to do, because they have watched the alarming decline of manufacturing jobs in the country, and it seems to be accelerating at a dramatic pace.

Also the problem they foresee, and I agree with them on this outsourcing of jobs, which is very appealing, and I understand it from a corporate standpoint, when one sees their competitors, neighbors, and businesses are outsourcing and cutting their budgets by huge amounts because they can hire someone for $7 a day or $2 an hour, as opposed to paying them $40,000, $50,000 or $60,000 a year, then the lure is remarkable.

As we know, in fact, the Indian government is providing tremendous incentives to lure call centers, providing corporations with tax exemptions and building western-style technology parks fitted with telecom infrastructures.

What are we doing? Are we doing anything to try and compete with that or are we just saying that is the way the world is and we better get used to it because that is what is going to happen for the foreseeable future, and maybe something will come along that will all of a sudden fill this vacuum, that will restore these manufacturing jobs or information technology and the like?

I can only hope that would be the case because in the absence of doing anything else, we are going to find a continuing decline in this area.

I worry about this from the standpoint of national security. In my State, I have over 5,000 small manufacturers. I have major corporations as well. I probably have more large Fortune 500 corporations in my State than any other State in the country on a per-capita basis, given the size of my State. My State is the home of major corporations. Many of them are major defense contractors, and those 5,000 small manufacturers in many cases are suppliers of very sophisticated technologies for my defense contractors and others who produce sophisticated products.

I do not need to tell the Presiding Officer, we have lost 35,000 jobs now in 36 months in this area. When those are lost, they are not reconstituted. Once they are gone offshore, the idea that you are going to rebuild that, my experience is—and I am prepared to listen to others who want to contradict me—I think it is unlikely.

So the question I have to ask, as we stand here and receive this news almost on a daily basis, is there not some danger in losing this manufacturing capability for a time in the 21st century when we may find ourselves confronted with the fact these jobs we gave away are now being held by people in countries that do not agree with us on certain matters, and all of a sudden they do not want to supply us with certain component parts that may be necessary to build jet engines, submarines, Black Hawk helicopters or something else my State or the State of Tennessee or some other part of the country produces?

We are watching this tremendous outflow occurring. The Presiding Officer was the former Secretary of Education, as I pointed out earlier, and again I understand the budget constraints. This is a very difficult time. Putting aside whether one agrees or disagrees on how we got to this situation, we have a terrible fiscal situation on our hands and yet even in the area of job training and assistance we are wiping out the manufacturing extension partnerships; we are cutting the SBA by millions of dollars; we are cutting vocational education by $316 million; we are cutting the Workforce Investment Act by $448 million.

We are not only not trying to compete with what India is doing on its creation of call centers, by offering tax incentives for businesses to stay here, we are even cutting back in the area that might offer some hope to someone in this area who is losing their job because it has been outsourced some place.

On every front, we seem to have nothing to say to this issue right now, except this is the way life is; get over it, America. You just have to live with this. This is the way the world is going to be.

I do not think it has to be that way. I think we can do better. I think that is what the American people ask us when we come here—try to do better.

I have to look in the eyes of my own child, an infant, and I wonder what kind of a century she is going to grow up in. She will look back someday and ask herself, or hopefully me, what did you do back at the turn of this century when you knew this was going on, when you saw thousands of jobs leaving our country, when you saw manufacturing declining, what did you do? This was not some sneak attack. You were all aware of it. Your local papers wrote about it every day. Did you offer any ideas and suggestions on how we might compete in a global marketplace—because we should, we must—while simultaneously not losing the human investments, the human capital, that are critical for any successful society to succeed? What did you do?

I am afraid if we go back and she looks at what we are doing at the outset of this century, then she would be startled to learn we are cutting back in the areas that might provide some educational opportunity for people in vocational areas, that we had nothing really to say to a hemorrhaging of jobs going out of the country, and that we were basically silent except to bemoan the fact that 2.8 million manufacturing jobs in 36 months disappeared in the country. And there is every indication those numbers are going to increase, and the impact on other sectors of our economy will be very profoundly affected.

I mentioned already we are now being told the outsourcing of American jobs will probably exceed 3 million, close to 4 million over the next decade, unabated. That is a loss of $136 billion to $140 billion in salaries and wages in the United States, not to mention the human and societal impact.

So I do not apologize to my colleagues for feeling as strongly as I do about this. I am a free trader. I voted for NAFTA. I thought it was the right thing to do. I voted to give fast track authority. I voted for the Jordanian agreements and others. I have opposed some as well. I have not been exclusively for them, but I believe in free and fair trade. I also believe a self-respecting nation cannot allow its human capital intelligence to be lost without standing up and trying to do something about it.

The subject matter of this amendment very simply says at this juncture, look, let's stop. At least when it comes to the expenditure of Federal taxpayer money, those dollars ought not to be used to pay for outsourcing jobs until we figure out a better way to answer this problem. I do not think that is complicated.

Now, I gather K Street in town is going ballistic at this very hour because obviously major corporations, 400 out of 1,000 top ones in the country, are doing it. Forty of fifty States are doing it right now. So they want to continue doing it because it is a great saver of money if you are focused on quarterly reports.

That is their job on K Street and that is their job in the corporate board rooms, to worry quarter by quarter by quarter. I don't think that is right, but that is what they do. Thank the Lord there are many corporations who do think longer than that.

Our job is not to think in quarters, not to be unmindful that corporations should and must. But our obligation is to have a broader, deeper vision; to think about longer term effects of decisions we make, no matter how attractive and how appealing they may be to someone who has to explain to a group of shareholders why it is that they have or have not exceeded last quarter's profit margins—bottom line.

Certainly outsourcing will help do that on any given day. If you can hire someone for a couple of bucks and lay off that person in Connecticut, Tennessee, California, Ohio, Pennsylvania, you are going to save money, I promise you. Quarterly reports are going to look great.

But my question is, What does America look like? What does our Nation look like in the coming generation? In fact, if we lose these jobs, which are critical to our own well-being and success, if we lose manufacturing that we cannot replace, if we squander the ability to produce vital components and parts that are essential to contribute to our national defense structure, what does my country look like in 5 years, 10 years, 20 years down the line?

That is the question I am asking. That is why I am offering this amendment, to see if we cannot at least step up and say when it comes to the taxpayer's dime, that we should not be taking your tax dollar and subsidizing this outsourcing of jobs. If a private company, with its own money, wants to do it, that is their business. I regret it, but if they want to do it they have a right to do it. I think we ought to have tax incentives to discourage them one way or the other, but at the end of the day if they want to do it, they ought to be given the right to do it. I can't stop that. That is their dime.

But on the taxpayer's dime, I think we ought to say something else. What my amendment does is say you cannot use that dime. You cannot use that dime to lay off somebody and hire someone 14 time zones away to do a job that a hard-working American ought to be able to hold and do in order to provide for their family.

I don't think that is outrageous. I don't think that is isolationist or protectionist. I think that is standing up for the people of this country who expect nothing less from those of us who represent them in this Chamber. That is why I am offering this amendment. My hope is tomorrow morning we can get to it and vote on it and dispose of it one way or the other. If you want to vote against it, vote against it. But I ask you to join with my colleague from Minnesota, Senator COLEMAN, and others who have been a part of this effort, to say this is our way of saying to people out there we hear you.

We are not suggesting this amendment is perfect. I would be the last person to say that. I am sure it is not perfect. But at least it says to voters and to constituents out there who are worrying every day whether they are going to become one of those statistics, that we are going to try to do something about this, so you need to know your Government, your Congress is doing what it can to stop this.

Our obligation is not exclusively to them. We have obligations to others as well, including those who serve and work in these corporations. I am not against them at all, but they are making their decisions in what they determine is in their best interests and the best interests of their shareholders. I respect that.

But I have a higher obligation. I have an obligation, not only to that shareholder but to the people who work for them as well. I respect those who only have to worry about the narrow constituency, but I wasn't elected by the people of Connecticut to come here and merely worry about that narrow constituency. I have another obligation. I serve in the Senate, not just a State legislature. When I am here and I vote and I cast ballots, they don't just affect the people who live in my State, that I represent; they are part of the 280 or 290 million people across this country.

I look at the 2.8 million who have lost their jobs in manufacturing, the close to 3 million who will lose their jobs to outsourcing in the coming days, maybe as many as 14 million, we are being told, over the next couple of years. I didn't dwell on this particular chart at this moment, but 14 million additional jobs are in danger of being shipped overseas. Those people want to know whether or not we have anything to say to them.

So I urge my colleagues to support this amendment. I don't know of another issue that is more important to the American public at this hour than this one. We have seen it all across the country in the last number of days. National news programs talk about it every single night and report nightly about corporations that are outsourcing more and more jobs.

The American people want to know what we have to say to them. So I regret we have not been able to vote on this earlier. I didn't intend to take this time. I was prepared to vote 2 hours ago, 3 hours ago, but there are those who do not want to vote on this amendment right now. My hope is we will be able to do so first thing in the morning and say with a very loud, clear, and my hope is a unanimous voice that we stand with those who worry about whether America is squandering its wealth and its treasury, not just the treasury of dollars and cents but a far more important treasury, the human capital that is the American workforce.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I respect the distinguished Senator from Connecticut, as he knows. I will certainly look at this amendment. But throughout this day I have seen others on the other side continually talk about jobs and loss of jobs like we are not doing anything about it. Nothing could be farther from the truth. This very bill, FSC/ETI, is a very important bill. We call it the Jumpstart Our Business Strength on Jobs bill because it will help us to increase the number of jobs in this country by huge dimensions. It also is a smart thing to do. It also saves us $4 billion in assessed costs with the E.U. in international trade, if we get this done. That is very important.

Some of the comments I have heard today, not those of the distinguished Senator from Connecticut—in fact, I exclude his comments—some of the comments I have heard today would have you believe the only way you are going to get jobs is more of the same: More Government, more Government support, more and more controls, more and more approaches towards unionizing America.

I am one of the few Members of this body who ever held a union journeyman's card. I worked 10 years in the building construction trade unions and earned my journeyman lather's card. The laths trade was one of the most interesting trades. In the early days it was wood lathing, little partitions of woods that you put on partitions and ceilings that you would plaster over. In my day it was metal lath, which was a much more high-tech approach towards putting up partitions and ceilings and elliptical arches and Gothic arches, and it was a very skilled trade and I was fortunate that I was able to do that and I am proud I was able to do that.

Today, the lathing trade is no longer in existence because we priced ourselves out of the marketplace. Today, all of the lathers who used to work in this very skilled trade had to transition into the carpenters' union because their trade no longer could pay for itself.

As a matter of fact, you don't see many buildings plastered today. The reason you don't, it is just too expensive. So drywall has become the norm. I am not criticizing anybody. What I am saying is, we can price ourselves out of the marketplace.

I can remember time after time, my fellow union lathers would say: Hey, kid, slow down. We are not going to have any work if you keep working so fast.

My father was one of the best lathers in the world and taught me the trade.

He said: Look, you give an honest day's work for an honest day's dollar and you work as hard as you can.

It was anathema to me to slow down so we could have more work. That is what happened. They slowed down and the work dissipated and, of course, the trade no longer exists.

I think we are worse off because we don't have lath and plaster in a lot of our buildings today. I am not blaming my fellow union members, but sometimes we have to acknowledge that there are gives and takes in the business world. The fact that some businesses do their business offshore is not necessarily bad because in many cases we get even more jobs onshore. Sometimes we don't. Sometimes it is bad. But by and large, business in this country has always worked because we believe in the free market system. We believe in competition. We believe in high productivity.

My feeling is that this country cannot be beat in productivity. If we really work hard and we continue to do the best we can, we are always going to be able to compete.

But where we cannot compete because of low wages and government subsidization and violations of international trade laws, then, my gosh, let's not quit. Let's go and find new jobs.

This administration inherited some terrifically bad times. The whole last year of the Clinton administration was headed into recession, and everybody knows it. Anybody who says otherwise is not telling the truth. Everybody knows that. So this President inherited that.

I don't particularly blame the Clinton administration. We do have cycles. But I have to say I think they could have done some things to have prevented it. But that is probably true of everything. He then inherited this recession, and on top of that comes September 11, which created magnificent problems for all of us. It was very costly and expensive and put pressure on the budget. It cost us in so many ways, even from a productivity and jobs standpoint.

But economic growth for the third quarter of last year was up over 8 percent. In the fourth quarter, it was 4.1 percent. I know years here when we would have killed for 4.1 percent. Frankly, I believe the first quarter of this year is going to be all right too, even though normally it is a slow quarter.

I think all we have to do is do our best to work together as Democrats and Republicans without all the screaming and shouting like one side has all the answers and the other side doesn't, which I have heard a lot of today, and put aside the politics and do what is best for our country. Unfortunately, some just can't seem to do that.

I believe the President is doing a great job. I believe his various Cabinet-level officials are doing great work. In fact, I have never seen better in my 28 years in the Senate. I believe it is time to be fair, decent, and honorable.

THE FAIRNESS IN ASBESTOS INJURY RESOLUTION ACT

Mr. HATCH. Mr. President, I rise today to support the comments from the distinguished majority leader of last Friday with respect to the asbestos legislation. This is an absolutely vital issue for this country's civil justice system and, most importantly, to our economy.

If you want to have jobs, then let us get this asbestos reform bill through and we will get hundreds of thousands, if not millions, of jobs back, and perhaps the 70 large companies which have gone into bankruptcy will be able to resurrect themselves and be able to employ more people.

We now have the opportunity with S. 1125, the Fairness In Asbestos Injury Resolution Act, to correct what has become a gross injustice against asbestos victims and the defendants who are relentlessly hauled into court despite having never manufactured or ever sold a shred of asbestos fiber.

It has been a long road for this legislation so far. But I concur with Senator FRIST, our distinguished majority leader, that we are finally in a position where we can enact this legislation.

We went through a grueling markup of this bill last year, and since then have engaged in focused discussions over remaining differences under the stewardship of my friend from Pennsylvania, Senator SPECTER, and Judge Becker of the third circuit court of appeals. The stakeholders and Members involved in these discussions all agree that this process has proved to be quite successful, not only in clarifying areas of disagreement but in proposing workable solutions to these areas. As a result, there now remains a mere handful of issues left to consider. But given the timeframe set forth by the leader last Friday, I believe more needs to be done to help bridge the gap on the remaining issues. Therefore, I propose that we get the primary stakeholders and interested Members together for a 2-day-long negotiating session sometime in mid- to late-March with this type of focus on the last handful of these issues. I believe we can resolve the remaining differences in this bill. There is nothing we can't solve, if we will work together. This issue is too important, and we are too close not to give this one last effort through an extended 2-day-long meeting. I know Judge Becker and the stakeholders and the key Republican Members have all expressed their desire to participate in this 2-day meeting. I hope my Democratic colleagues who have been working on this issue will join us in the final push toward reaching consensus.

Let me give some background for those who have not been as steeped in this legislation over the past year or so. For more than 20 years, compensation to legitimate victims of asbestos exposure has been unacceptably diminished and delayed. It has become quite evident to the committee that tens of thousands of true asbestos victims are faced with agonizing pain and suffering with uncertain prospects of a meaningful recovery in our existing tort system. These victims are left with little to nothing because precious resources are being diverted to unimpaired plaintiffs and a handful of creative trial lawyers who are looking to make a quick buck.

I am a member of the American Trial Lawyers Association, having been a trial lawyer in my former non-Senate life, since we Mormons believe in a premortal existence. I have to say that my fellow ATLA members are embarrassed by this small cadre of personal injury lawyers who are thinking only of themselves and the huge fees they make, with the approximately 50 to 60 percent of the moneys that go to attorneys. They are embarrassed by it. They won't say that because they don't want to cut up their fellow personal injury lawyers. But that is what is going on here.

In up to 90 percent of the cases that have been filed, the person has never had a sick day in his life with regard to asbestos. In most of those cases, they have been sent to doctors who will find injury no matter what. It borders on fraud and in some cases it is fraudulent. It is wrecking the country. Seventy major companies are now in bankruptcy, and there are over 8,400 or more, going up to 15,000, that possibly will be thrown into bankruptcy that never had anything to do with asbestos or made anybody ill from asbestos.

At the same time, scores of companies with almost no connection to the problem have had to file for bankruptcy, as I have said, and hundreds of others live under the constant threat of insolvency from this litigation. What this translates into is lost jobs, depleted pensions, and weaker financial markets.

If my friends on the other side of the aisle want to do something about jobs, let us get serious about asbestos reform. Let us get serious about doing what is right for those who are truly ill and who won't get very much at all. Those who were employed by 70 companies are getting 5 cents on the dollar. We take care of them with this trust fund.

We have heard the statistics but they bear repeating. The RAND Institute for Civil Justice tells us, to date, 70 companies have been forced into bankruptcy—at least 3 with operations in my home State of Utah.

The number of claims continues to rise as does the number of companies pulled into the web of this abusive litigation, often with little, if any, culpability. More than 600,000 people have filed claims, and more than 8,400 companies have been named as defendants in asbestos litigation.

This has become such a gravy train for some abusive personal injury lawyers that over 2,400 additional companies were named in the last year alone. RAND, this great research institution, also notes in its bipartisan research that about "two-thirds of the claims are now filed by the unimpaired, while in the past they were filed only by the manifestly ill."

That is a low number. It is really up to 90 percent. But let us take their number. Two-thirds of them are filed by people who really are not impaired.

Former Attorney General Griffin Bell, amongst many others, has denounced this type of "jackpot justice."

To address this national problem, I introduced a bipartisan bill with my friends, Senators Ben Nelson, Mike DeWine, Zell Miller, George Voinovich, George Allen, Saxby Chambliss, and Chuck Hagel. This bill creates a trust fund which provides expedited no-fault compensation to victims while reducing the wasteful transaction costs. Attorney's fees and transactions costs have been as high as 60 percent of the amounts recovered.

After weeks of marking up the bill, we passed this legislation favorably from the committee with bipartisan support last July. No one can accuse us of being unwilling to compromise. When I look at where our bill started—and it was a good start—and where it is now, our willingness to compromise is abundantly clear.

Let me show you this chart. In total, we have made 53 changes to this bill to accommodate concerns raised by our friends on the other side, the Democrats.

Let me review a brief history of these changes. In May, we circulated a bipartisan draft measure, and my staff met then with Democratic staff to listen to their concerns. As a result of these discussions, we incorporated many of their requests even before introduction.

We then embarked on several weeks of markups that saw dozens of Democratic-initiated amendments adopted into this legislation. I didn't agree with all of these amendments, but it can't be said that there hasn't been strong participation with Democrats on this bill.

By the way, I met for a couple of hours with the head of the AFL–CIO to explain this bill to him. I know deep in my soul that he knows I am doing everything in my power to do what is right. I know he knows that we have done what is right. I respect and appreciate the fact that he sat down with me and talked with me about it.

This chart behind me summarizes some of the major changes we made at the behest of the Democrats.

Raising the level of mandatory contributions to well over $100 billion; 111 different changes to increase the value of awards to victims; 22 changes to make it easier for asbestos victims to be eligible for compensation; a historic, bipartisan agreement on eligibility criteria where the unions and everyone came together; reimbursement for medical monitoring—now they will pay for medical monitoring of people who are not sick and especially those who are; five additional provisions to guarantee payment of mandatory contributions; relief for asbestos victims in Libby, MT, where asbestos was mined; a Federal ban on asbestos and "bad actor" protections.

Look at this chart. "To build bipartisan support, more than 53 changes to S. 1125 have already been made at the urging of the Democrats. These occurred prior to the bill's introduction, during negotiations between introduction and committee consideration, and throughout the four committee markups devoted to the legislation."

I ask unanimous consent all of these changes be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Building a Consensus on Asbestos

To build bipartisan support, more than 53 changes to S. 1125 have already been made at the urging of the Democrats. These occurred prior to the bill's introduction, during negotiations between introduction and Committee consideration, and throughout the four Committee mark-ups devoted to the legislation. The changes include:

Raising the Level of Mandatory Contributions to well over $100 Billion;

11 Different Changes to Increase the Value of Awards to Victims;

22 Changes to Make It Easier for Asbestos Victims to be Eligible for Compensation;

An Historic, Bipartisan Agreement on Eligibility Criteria;

Reimbursement for Medical Monitoring;

5 Additional Provisions to Guarantee Payment of Mandatory Contributions;

Relief for Asbestos Victims in Libby, Montana;

A Federal Ban on Asbestos and "Bad Actor" Protections;

Raising the compensation value for eligible mesothelioma claims to $1,000,000;

Limiting the offset of collateral sources to judgments and settlements, thus increasing the value of awards to claimants;

Indexing the scheduled award values for future inflation;

Specifying that awards should be paid over 3 years, but in no event over more than 4 years;

Moving the Asbestos Court established under S. 1125 to the United States Court of Federal Claims;

Changing the two-year statute of limitations to four years;

Eliminating the rule of construction on the statute of limitations in favor of the Fund;

Striking language requiring a claimant to submit evidence of product identification as a factor in proving asbestos exposure;

Reducing the latency period to 10 years for all disease categories;

Eliminating the requirement that the diagnosing physician be the "treating" physician;

Increasing the compensation level for the most severe asbestosis claims to $750,000;

Providing alternatives to the physical examination diagnostic requirement for claimants who are decreased;

Eliminating language requiring that the diagnosing physician independently verify the claimant's exposure;

Dropping language that would have stipulated that an attorney retention agreement not be required as a prerequisite to a medical examination or medical screening for purposes of obtaining a medical diagnosis or other medical information;

Raising the compensation level available for eligible lung cancer claims with underlying pleural disease (Level VIII) to a maximum of $1,000,000 (depending on smoking history);

Expending eligibility to include U.S. citizens exposed while serving on U.S. flagships and U.S. citizens exposed while employed overseas by a U.S. company;

Allowing take-home exposures to meet the exposure requirements under the Act;

Eliminating a requirement of at least 6 months of occupational exposure to asbestos prior to December 31, 1982;

Creating an entirely new eligibility category to compensate claimants who fail the test for restrictive disease;

Raising the compensation value for eligible asbestos claims (Level III) to $75,000;

Adding bilateral pleural calcification to the definition of bilateral asbestos-related nonmalignant disease;

Removing the requirement of a grade B2 or greater for pleural conditions, including thickening and plagues, to show underlying bilateral asbestos-related non-malignant disease;

Replacing the definition of "significant occupational exposure" with a definition of "substantial occupational exposure," including the clarification that "on a regular basis" means "on a frequent or recurring basis";

Providing an exception to the year and industry weighting of the occupational exposure requirements for claimants whose exposures were above applicable OSHA standards;

Establishing a scheduled value of compensation for Level II claims (mixed disease with impairment) at $20,000;

Expanding the class of claimants eligible for compensation under Level III to include anyone showing a 20% reduction in pulmonary function, even if their overall pulmonary function is still within normal limits;

Creating an additional category of non-malignant disease to reflect an intermiate level of impairment (Level IV);

Reducing the ILO requirement from 2/1 to 1/1 for severe asbestosis;

Creating standards for moderate and severe asbestosis categories based on the AMA Guide to the Evaluation of Permanent Impairment;

Allowing alternative tests to show impairment based on DLCO and PO2 for Level V;

Increasing the compensation level for intermediate (Level IV) asbestosis claims to $300,000;

Providing eligibility for compensation for colorectal cancer claims;

Providing three scheduled value ranges for smokers, former smokers and non-smokers for each of the lung cancer categories;

Creating a separate category of eligible lung cancer claims for current smokers with no evidence of underlying asbestos-related non-malignant disease;

Establishing a compensation range for eligible lung cancer claims without underlying asbestos-related non-malignant disease to a maximum of $600,000 (depending on smoking history);

Creating an exceptional medical claims panel to address those claims that might not meet the medical criteria in the bill (e.g. no pulmonary function test);

Providing that CT scans may be submitted (with an x-ray) to review exceptional medical claims;

Strengthening the enforcement authority of the Administrator with respect to payment of mandatory contributions;

Amending Title 18 of the United States Code to prohibit fraud on the Asbestos Insurers Commission and Office of Asbestos Injury Claims Resolution;

Limiting the time period in which an inequity adjustment will be in effect;

Providing that the adjustments may be reinstated in the event there is a material change in the defendant participant's conditions;

Doubling the amount of the hardship and inequity adjustments available under the Act;

Providing for inequity adjustments when the defendant's prior asbestos expenditures primarily consist of defense costs where settlements were entered into or where no adverse judgments were found;

Providing for inequity adjustments where the amount of contribution is exceptionally inequitable when compared with the defendant's likely future liability and with the liability of the other defendant participants in the same tier;

Establishing that a successor in-interest of any participant would be liable under the Act;

Revising federal sentencing guidelines for environment crimes to prevent "bad actors" from recklessly exposing individuals to asbestos health risks;

Requiring an annual report by the Administrator as to the status of the Fund;

Making the Freedom of Information Act applicable to the Asbestos Insurers Commission; and

Increasing the compensation levels available for eligible lung cancer claims with underlying asbestosis a maximum of $1,000,000 (depending on smoking history).

Mr. HATCH. That chart is amazing. I don't agree with all those changes, but we made them to accommodate our friends on the other side. Just look at all these changes. No one can tell us we are not doing everything we can to make this bill a consensus bill and to be fair to everybody.

We know there are a lot of people who will be compensated under this bill who have never suffered a bit from asbestos, but we have given the benefit of the doubt. Many of them are union workers who have smoked all their lives and got cancer from smoking but have had something to do with asbestos at one time or another in their career but probably have shown no feasible asbestos.

Literally thousands and thousands, hundreds of thousands, will be compensated. There comes a point where you have to say, Let's do what is right here. Let's not just keep loading this bill up so you can beat your breast and claim you get more money, more blood out of these companies.

Moreover, even though our original claim values would have on average provided more money to legitimate claimants, we increased the values even more and we removed most collateral source offsets to ensure more of the award goes directly to the claimant. That means even though they received moneys, we removed those as offsets.

These changes listed on the chart behind me do not even include other changes we have offered since the bill was reported out of committee. Through the leadership of the majority leader, we got contributors to add an additional $6 billion in overall funding along with significant increases in claims values in many categories. We started at $94 billion in mandatory funding because this amount would give more money to claimants on average than they received in the current tort system. Nonetheless, through the markup in the Frist financing agreement, we increased the fund to have the capacity to pay out $114 billion to claimants. It is not just money, either. The Frist financing deal adds more flexible borrowing authority as yet another safeguard for solvency. Senator FRIST has my cooperation and support in doing this.

Our willingness to resolve the Democratic concerns speaks for itself by virtue of where this bill stands today. I again thank Senators FRIST and SPECTER for their willingness to help resolve some of the difficult issues on this legislation and, of course, the cosponsors as well.

Let me talk about the final issues. Even though we made all of these changes that show up here, I understand some want to make further changes, including streamlining the claims process even more. I have said I am willing to look at such proposals, but the time has come and the time is past to wrap up this process. It passed out of the committee last summer and we need to stop talking and do something. With all of this whining about jobs that all of us want to get in this country, this bill would do more to create jobs and solidify our economy than any other bill we can pass this year. This bill makes sense except for how costly it is, but even then we are willing to do that. This is why we need to continue working for the next several weeks on the issues and sit down in a 2-day meeting sometime in the last half of March to see if we can finally get agreement on all of the issues.

I thank Senator SPECTER and Judge Becker for their valuable assistance. I was not really happy because we had gone through so much and I had commitments from so many people if we got to $108 billion, this bill would go and they would support it. I got it to $108 billion—and I think they thought we could not do it—and they said we have to have more and more and more. We are giving them more, even.

I also appreciate the willingness of Senator SPECTER and Judge Becker to help finally resolve these issues in a 2-day session. My friends, Senators LEAHY, DODD, and DASCHLE, have been graciously willing to sit down with us at a staff level to narrow the differences and I am confident they will be willing to join in this 2-day meeting as well. We are willing to accommodate schedules to get full participation in this meeting within a reasonable fashion.

We simply cannot delay any longer. We need to ensure the truly sick get paid and paid in a timely manner. We need to provide stability to our economy by stemming the rampant litigation that resulted in a tidal wave of bankruptcies and stop endangering jobs and pensions through the current broken system. This crisis reaches far and wide and it hurts everyone.

What is happening with these bad acting personal injury lawyers who have been handling some of these cases, they forum-shop the cases into jurisdictions where juries go wild and judges support them and judges are in the pocket of the plaintiffs' lawyers. In one case, if I recall it correctly, five people, not one of whom experienced a sick day up to that time, got $125 million, while thousands and thousands of very sick people get nothing. That is wrong.

For anybody to keep supporting that process the way some have done is wrong. That is why I am here on the floor to challenge all of our colleagues to work together in good faith, put our differences aside and let's get this bill done in the best interests of our country and the best interests of jobs. If that is not done, I would not listen to one "mouthing" word from people on jobs because they are playing politics rather than doing the art of the doable, doing what needs to be done, what must be done in the interests of the sick people, the truly sick people and, I might add, many others who did not get their sickness from asbestos, but we give them the benefit of the doubt.

This bill really will work even though I have to admit it is very tough on the companies that have to come up with this $114 billion.

I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m. tomorrow.

Thereupon, the Senate, at 6:36 p.m., adjourned until Thursday, March 4, 2004, at 9:30 a.m.

NOMINATIONS

Executive nomination received by the Senate March 3, 2004:

ENVIRONMENTAL PROTECTION AGENCY

BENJAMIN GRUMBLES, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE GEORGE TRACY MEHAN, III, RESIGNED.

HOUSE OF REPRESENTATIVES—*Wednesday, March 3, 2004*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. SHAW).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 3, 2004.

I hereby appoint the Honorable E. CLAY SHAW, JR., to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

How blessed is the just one. Truly happy and free is the one who fears the Lord. All the demands of life and love are embraced with ease.

The dawn of a new day fills the just with energy to do what is right and to risk everything in the cause of justice. Wealth and power seem throwaway items to the generous heart concerned for others.

The details of a job well done are worth remembering for the one whose heart is steadfast. There is no fear of an evil report or the manipulation of others in the heart of the one committed to the Lord.

For the just, communion in the Lord is real every day and lasts forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Arkansas (Mr. BOOZMAN) come forward and lead the House in the Pledge of Allegiance.

Mr. BOOZMAN led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 2136. An act to extend the final report date and termination date of the National Commission on Terrorist Attacks Upon the United States, to provide additional funding for the Commission, and for other purposes.

The message also announced that pursuant to Public Law 93–642, the Chair, on behalf of the Vice President, appoints the Senator from Montana (Mr. BAUCUS) to be a member of the Harry S Truman Scholarship Foundation Board of Trustees, vice the Senator from Washington (Mrs. MURRAY).

The message also announced that pursuant to section 104(c)(1)(A), of Public Law 108–199, the Chair, on behalf of the Majority Leader, appoints the following individual to serve as a member of the Abraham Lincoln Study Abroad Fellowship Program:

Dr. Steven Trooboff of Portland, Maine.

DAVID KAY AND WEAPONS OF MASS DESTRUCTION

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, Dr. David Kay, former Iraqi weapons inspector, gave an interview on the Today Show on January 27. Let me quote from what he said:

"Iraq was a country that had the capabilities in weapons of mass destruction areas and in which terrorists, like ants to honey, were going after it. We found that the Iraqi government, particularly Saddam Hussein and his senior leadership, had an intention to continue to pursue their WMD activities; that they, in fact, had a large number of weapons of mass destruction program-related activities."

Some in this body must have a hearing problem. To say that the President and the administration have misled the American people in building the case for the war with Iraq is wrong. Dr. Kay, like many others, is confident that Iraq possessed weapons of mass destruction and the ability to produce weapons of mass destruction. In fact, Saddam Hussein even used these weapons of mass destruction on his own people.

I hope the American voters see through the false charges against the President of the United States.

URGING MEMBERS TO JOIN BIKE-PARTISAN BICYCLE CAUCUS

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute.)

Mr. BLUMENAUER. Mr. Speaker, the general election for President is basically starting this week. The Democrats have selected their nominee. The President is out campaigning. But I hope that we will be able this week to take a pause before the action gets too heated to deal with the hundreds of volunteers who are visiting Capitol Hill who are advocates for bicycling.

These are people from all over the country, small businesspeople, community activists, all here with a message of how activity dealing with cycling in America can make our communities healthier, cycling can be a dramatic opportunity for economic development for thousands of small businesses, and it is, after all, the most efficient form of urban transportation ever devised.

It is an opportunity for us, in a small but important way, to reduce our energy dependence on foreign oil from unstable regions, to improve air quality, and to reduce the traffic congestion that is costing American families dozens of extra hours that they cannot afford every month.

I urge my colleagues to join our bike-partisan Bicycle Caucus; to support robust transportation funding that includes things like safe routes to school and enhancements; and integrate cycling into your life and your community. We will be healthier, happier and the country will be better off.

BROADCAST INDECENCY

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, families are tired of having to cover their children's eyes and ears every time they turn on the television. Many parents' standards of common decency are repeatedly offended and their parenting is undermined by the onslaught of indecent material on television and radio. Frankly they have been outraged recently by the examples of filth permitted on the airwaves by the FCC. Just as the majority leader said yesterday, if the industry cannot police itself, Congress must step in.

The FCC has been entrusted with enforcing our Federal decency laws and should be expected to do so. There are

□This symbol represents the time of day during the House proceedings, e.g., □1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

plenty of laws on the books regarding this matter and the FCC just needs to enforce them. Today the Committee on Energy and Commerce will mark up a bill which allows the FCC to enforce tougher penalties on broadcasters for violations of the law. The privilege of conducting business over the airwaves should always be conditional on their willingness to adhere to standards of common decency.

Broadcast airwaves belong to the American people, not to the networks. It is time for Congress to defend and protect America's parents and children and pass a tough bill to ensure decency on the airwaves.

THE PRESIDENT'S CREDIBILITY DEFICIT

(Mr. EMANUEL asked and was given permission to address the House for 1 minute.)

Mr. EMANUEL. Mr. Speaker, President Bush has decided to make credibility an election year issue. Yesterday the Vice President announced if the Democratic policies had been pursued over the last 2 or 3 years, we would not have had the kind of job growth that this economy experienced.

Really? What a fascinating take. In the last 3 years, $3 trillion have been added to the Nation's debt and 3 million Americans have lost their jobs. And they want to make credibility an issue. Since 5 months when he announced the creation of a manufacturing czar, which has not been appointed, 250,000 additional manufacturing jobs have been lost. And they want to make credibility an issue.

They have an economic report that says outsourcing is good for American workers. And they want to make credibility an issue. It is a fascinating take on the economy. Today we have a jobless economy with a wage recession in America. In fact, flipping hamburgers is now a manufacturing job in America. And they want to make credibility an issue.

Mr. Speaker, the President and the Vice President think everything is just fine in America. What we need is a new direction to put American workers, American families and their values at the center of our agenda and for somebody to wake up every morning thinking about their jobs, their children and their future.

EXPRESSING OUTRAGE AT CALIFORNIA COURT RULING REQUIRING CATHOLIC CHARITY TO COVER BIRTH CONTROL IN EMPLOYEE HEALTH INSURANCE PLANS

(Mr. MURPHY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MURPHY. Mr. Speaker, I rise to express my outrage at a recent decision by the California Supreme Court. This decision requires a Catholic charity to cover birth control in its employees' health insurance plans despite the church's position on contraception. This decision infringes on the principles of any faith-based charity choosing to help all the needy and not just those of a similar faith. As a result of this decision, society as a whole suffers. Faith-affiliated charities frequently provide help and hope to the least among us without religious discrimination, but this decision is a step backward. We are left to wonder what effect it will have on the social ministry of these organizations. Some may be forced to choose between adhering to their beliefs and serving those in need.

This decision represents an intentional, purposeful intrusion into a religious organization's practice of its religious tenets and sense of mission and it could reach far beyond Catholic charities and affect other faith-based hospitals and charities throughout the country.

PRESIDENT BUSH'S POLICIES ARE CREATING JOBS AND SPURRING THE ECONOMY

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, President Bush took office 3 years ago facing the challenge of managing a recession that began under the prior administration. Soon other factors bogged down our economy, including the attacks of September 11, corporate scandals and the ensuing stock market decline. Despite all of these negative events, President Bush and the Republican Congress have worked together to strengthen the economy in America. Due to the President's policies of tax relief, we have seen an increase of 366,000 jobs. And, according to the American Shareholders Association, the stock market is on pace to generate an astonishing $6.3 trillion of new resources since October 2002 for America's families. Additionally, unemployment has fallen below the average of each of the last three decades.

However, more work is needed which the President has outlined. We must make tax relief for all taxpayers permanent, reduce regulation, ensure affordable health care for families and small businesses, and enact a sound national energy policy.

In conclusion, may God bless our troops and we will never forget September 11.

THE NOBLE MISSION OF THE 39TH BRIGADE COMBAT TEAM

(Mr. BOOZMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOOZMAN. Mr. Speaker, I rise today to express my support for the brave men and women of the 39th Brigade combat team as they deploy to Iraq. The 39th Brigade includes National Guardsmen from 10 States but is mostly made up of Arkansas National Guardsmen, including the Russellville-based 206th Field Artillery Unit.

Last weekend I had an opportunity to visit with many of the soldiers of the 39th Brigade during their colors casing ceremony at Fort Polk. They are some of America's finest. They are a diverse group, including doctors, teachers, lawyers, people from all walks of life, men and women who are ready to put their Guard training and professional skills to work establishing democracy in a country where oppression was once the norm.

Mr. Speaker, their mission is noble and of great importance. I ask my colleagues to remember them and their families in their thoughts and prayers as we continue to support our troops and their efforts to fight terror and bring back democracy to Iraq.

THANKING THE PRESIDENT FOR IDENTIFYING AMERICA'S PRIORITIES IN HIS BUDGET

(Mr. BARRETT of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARRETT of South Carolina. Mr. Speaker, I rise today to thank the President for clearly identifying America's priorities in his fiscal year 2005 budget. There is no doubt that we are in a time of war and I am pleased President Bush's budget sent a clear signal that our Nation's defense and homeland security must remain the top priority of the Federal Government. However, I believe we can and must do more.

That is why last week I introduced an updated version of legislation that I introduced last year, the Common Sense Spending Act. This legislation will continue to fund nondefense, nonhomeland security and hold discretionary spending at fiscal year 2004 levels for the next year, then increase at the rate of inflation over the next 4 years. It is all common sense. The spending act will slow the growth of mandatory spending by 1 percent, holding Social Security harmless, and reauthorizes PAYGO requiring offsets for direct spending. It also tightens the definition of emergency spending. Again, it is all common sense.

Mr. Speaker, if Members are serious about getting control of Federal spending, then I ask them to join me in support of the Common Sense Spending Act. It is time to limit our spending to reflect the priorities we have set.

HONORING COLONEL JESSE THOMAS, COMMANDER, 167TH AIRLIFT WING, WEST VIRGINIA AIR NATIONAL GUARD, ON HIS RETIREMENT FROM THE MILITARY

(Mrs. CAPITO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CAPITO. Mr. Speaker, I rise today in honor of Colonel Jesse A. Thomas, the Commander of the 167th Airlift Wing of the West Virginia Air National Guard based in Martinsburg, West Virginia.

□ 1015

Colonel Thomas is retiring after 33 years in our Armed Forces. Colonel Thomas began his military service as a T–37 instructor pilot in 1971. He then joined the West Virginia Air National Guard when he became a C–130 aircraft commander. Colonel Thomas has logged approximately 11,000 flight hours as a command pilot, including 5,000 hours as an instructor.

During Operation Desert Shield, Thomas deployed to Europe as an aircrew member and unit commander. He also flew airdrop and air defense missions in Yugoslavia and Central America and Southwest Asia.

Mr. Speaker, in our current war on terror, the National Guard has been called upon to fight in Iraq and Afghanistan, and thousands of brave men and women have answered that call. I thank all of the men and women of the National Guard who give so much in service to our Nation. Colonel Jesse Thomas, who has dedicated 34 years to the defense of freedom, deserves the respect of all of us in the House, and I thank him for his devoted service to the people of West Virginia and his country.

THE PROSPECT OF PEACE IN CYPRUS

(Mr. KIRK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KIRK. Mr. Speaker, after decades of intercommunal violence between Turkey and Greece, there is now hope for peace on Cyprus.

On February 3, President Bush met with U.N. Secretary-General Annan to restart the peace process. Following talks between the Greek and Turkish Cypriot leaders on February 13, Annan announced the resumption of negotiations, saying, "I really believe that, after 40 years, a settlement is at last in reach."

Since February 19, the two sides have been discussing a U.N. peace plan in Cyprus. Despite predictably difficult negotiations, the Annan blueprint is secure. If there is no agreement by the two parties by March 22, Turkey and Greece will join the negotiations to broker a deal. If there is still no agreement by March 29, Annan will "fill in the blanks," and Greek and Turkish Cypriots will then vote on this plan in separate referenda in April. If all goes well, a reunited Cyprus will enter the European Union on May 1.

Having long supported peace efforts in Cyprus, the United States must now extend a helping hand to the Cypriots as they confront the difficulties of implementing an agreement. In 1984, Congress authorized President Reagan's $250 million Cyprus Peace and Reconstruction Fund. The money was not provided because we did not reach a settlement. Europe is home to the last "Berlin-style" wall in Cyprus. Let us make this the year that it comes down forever.

THE "H.L. HUNLEY"

(Mr. BROWN of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of South Carolina. Mr. Speaker, this year marks the 140th anniversary of the final voyage of the *H.L. Hunley*. On February 17, 1864, the *Hunley* embarked on a dangerous mission when Lieutenant George Dixon led his crew to do what no other submarine had ever done before, successfully sink another ship in combat. That night in Charleston Harbor, the *Hunley* rammed her spar torpedo into the hull of the USS *Housatonic*. The ship sunk shortly thereafter, forever securing the *Hunley*'s place in history.

The crew, however, never returned and vanished into the harbor. The location of the crew and ship remained a mystery for over 130 years until 1995 when the submarine was found. It was placed under the care of the Warren Lasch Conservation Center in North Charleston in my district. Through the efforts of the Hunley Commission and the Friends of the Hunley, the vessel will be preserved for generations to come. All eight crew members' bodies have been recovered and will receive a military burial on April 17, 2004, at Magnolia Cemetery in Charleston. I welcome all Americans to take the opportunity to marvel at this archeological wonder.

HAITI

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, yesterday was Texas Independence Day, March 2. This Nation and our people value both independence and democracy. But it is sad to note that a small nation by the name of Haiti has not received the same amount of respect, collegiality, and assistance that this country could be called to do. It is shameful that we have in the dark of night the question of whether or not a duly elected democratic President, President Aristide, was taken away from his home without his free will.

People are dying in the streets of Haiti. The question becomes what happened to President Aristide and why he was removed against his will. The question becomes whether or not this Nation will engage with insurgents and thugs and drug dealers, as the opposition represents; whether or not we will tolerate the continued pillaging and the loss of life; whether or not we will grant temporary protective status for Haitians who are here in fear of their life; and whether or not we respect those who are fleeing from persecution by granting individual asylum hearings.

Mr. Speaker, this Nation can do better. We can do better with our allies and friends. Why are we not doing better for Haiti?

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SHAW). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

CHARLES "PETE" CONRAD ASTRONOMY AWARDS ACT

Mr. ROHRABACHER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 912) to authorize the Administrator of the National Aeronautics and Space Administration to establish an awards program in honor of Charles "Pete" Conrad, astronaut and space scientist, for recognizing the discoveries made by amateur astronomers of asteroids with near-Earth orbit trajectories, as amended.

The Clerk read as follows:

H.R. 912

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Charles 'Pete' Conrad Astronomy Awards Act".

SEC. 2. DEFINITIONS.

For the purposes of this Act—

(1) the term "Administrator" means the Administrator of the National Aeronautics and Space Administration;

(2) the term "amateur astronomer" means an individual whose employer does not provide any funding, payment, or compensation to the individual for the observation of asteroids and other celestial bodies, and does not include any individual employed as a professional astronomer;

(3) the term "Minor Planet Center" means the Minor Planet Center of the Smithsonian Astrophysical Observatory;

(4) the term "near-Earth asteroid" means an asteroid with a perihelion distance of less than 1.3 Astronomical Units from the Sun; and

(5) the term "Program" means the Charles "Pete" Conrad Astronomy Awards Program established under section 3.

SEC. 3. PETE CONRAD ASTRONOMY AWARD PROGRAM.

(a) IN GENERAL.—The Administrator shall establish the Charles "Pete" Conrad Astronomy Awards Program.

(b) AWARDS.—The Administrator shall make awards under the Program based on the recommendations of the Minor Planet Center.

(c) AWARD CATEGORIES.—The Administrator shall make one annual award, unless there are no eligible discoveries or contributions, for each of the following categories:

(1) The amateur astronomer or group of amateur astronomers who in the preceding calendar year discovered the intrinsically brightest near-Earth asteroid among the near-Earth asteroids that were discovered during that year by amateur astronomers or groups of amateur astronomers.

(2) The amateur astronomer or group of amateur astronomers who made the greatest contribution to the Minor Planet Center's mission of cataloguing near-Earth asteroids during the preceding year.

(d) AWARD AMOUNT.—An award under the Program shall be in the amount of $3,000.

(e) GUIDELINES.—(1) No individual who is not a citizen or permanent resident of the United States at the time of his discovery or contribution may receive an award under this Act.

(2) The decisions of the Administrator in making awards under this Act are final.

(f) AUTHORIZATION OF APPROPRIATIONS.—From sums otherwise authorized to be appropriated, there are authorized to be appropriated such sums as may be necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. ROHRABACHER) and the gentleman from Tennessee (Mr. GORDON) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. ROHRABACHER).

GENERAL LEAVE

Mr. ROHRABACHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 912, as amended, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ROHRABACHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as chairman of the Subcommittee on Space and Aeronautics of the Committee on Science, I have made the threat posed by near-Earth objects one of my top priorities. The hearings of our subcommittee have revealed that monitoring and tracking near-Earth objects, that is, NEOs, such as comets and asteroids, not only advance astronomy, but are critical in identifying the near-Earth objects that may threaten the Earth.

Mr. Speaker, recent press accounts of asteroids passing close to Earth have raised public awareness of the possibility that one day one of these objects could hit the Earth with potential catastrophic consequences. Given the vast number of asteroids and comets that inhabit the Earth's neighborhood, greater efforts for tracking and monitoring these objects are critical.

This is why I rise in support of the amendment to H.R. 912, the Charles "Pete" Conrad Astronomy Awards Act. This amendment does not alter the intent of the original bill, but clarifies what the awards program is and the role and responsibility of NASA and the Smithsonian's Minor Planet Center. We have worked with NASA, the Smithsonian Institution, and our colleagues across the aisle to make these improvements; and I thank them for all their help and support. H.R. 912 authorizes the NASA administrator to give one award each year to the amateur astronomer or to the group of amateur astronomers who discovered the intrinsically brightest near-Earth asteroid among the near-Earth asteroids discovered during that preceding year by amateur astronomers and another award to the amateur astronomer or group of amateur astronomers who made the greatest contribution during the preceding year to the Minor Planet Center's catalogue of known asteroids. The recipients of the awards in the amount of $3,000 are limited to U.S. citizens and, yes, also permanent residents.

This bill is a tribute to Pete Conrad for his tremendous contributions to our country, to the world, and to the aerospace community over the last 4 decades. Pete Conrad was a pilot, an explorer, and an entrepreneur of the highest caliber. He commanded Apollo XII, and during that mission he became the third man to walk on the Moon. He saw space as a place to get to, to explore, and to do business. Space exploration and commercialization is what he did. It was his job to explore the Moon. He then worked to develop new spacecraft and space transportation systems. An interesting aside, analysis of an orbiting object identified by an amateur astronomer suggests that it is the remains of a Saturn V rocket, third stage, which most likely came from Pete Conrad's Apollo mission.

So I find no better way to honor Pete Conrad than to establish an annual astronomers award for future asteroid discoveries in his name. He always wanted people to be looking up. He was a positive "can-do" American. He exemplified the American spirit, and he was often remembered, of course, for not only his own walk on the Moon but his historic description of the landing on the Moon.

Of course, the threat of an asteroid hitting the world is a serious matter, and the idea of a catastrophic asteroid or comet impacting on the Earth has, of course, gained the attention of the media and the popular culture in films like "Armageddon" and "Deep Impact" of a few years ago, but it is vital for all of us to realize this is not just for the movies. This is not science fiction. We all know that the Earth's moon and many other planetary bodies in our solar system are covered with impact craters. Most people have heard of the dinosaur extinction theory or perhaps seen pictures of the meteor crater in Arizona. However remote the possibility of a near-Earth object striking the Earth and causing a worldwide calamity, no matter how obscure or how remote that is, there is a threat, a calculable threat.

And while the asteroid that killed the dinosaurs is estimated to occur only once every 100 million years, smaller, yet still hazardous, asteroids impact the Earth much more frequently. For example, the destructive force of the 1908 asteroid strike in Siberia was roughly equal to a 10-megaton blast of TNT. The asteroid that hit South America in the 1930s was of similar magnitude. The asteroid that struck Central Asia in the 1940s was a large impact. In 1996, satellites detected a high-altitude burst over Greenland involving an asteroid which would have had the destructive force measuring 100 kilotons of TNT.

Ironically, if we look at asteroids from the perspective of our national goals in space, they also offer us not just a threat but also unique opportunities. In terms of pure science, asteroids are geological time capsules from the era when our solar system was formed. Even better, they are orbiting mines of metals, of minerals, and other resources that can be possibly used to build large structures in space without having to carry up the material to build those structures from Earth. So far NASA has surveyed 600 asteroids, but this is a fraction of the projected total population of asteroids and near-Earth objects. What needs to be done now is to fully understand near-Earth objects and the potential threat and, yes, the potential use that they could pose to the world.

In closing, asteroids deserve a lot more attention from the scientific community and from the American people. The first step is through tracking all sizable near-Earth objects, and H.R. 912 is a modest step toward this goal.

I urge my colleagues to vote for H.R. 912, which will encourage young people in particular to start looking into the stars and get involved personally in America's space program.

Mr. Speaker, I reserve the balance of my time.

□ 1030

Mr. GORDON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to express my support for the bill presented by the gentleman from California (Chairman ROHRABACHER), H.R. 912.

I know that my good friend the gentleman from California (Mr. ROHRABACHER) has had a long interest in Near Earth Objects and the potential threat they could pose to our civilization at some point in the future. Moreover, the Committee on Science has been active on a bipartisan basis since at least the early 1990s in trying to draw attention to this issue. At that time, former Chairman George Brown, Jr., held a series of hearings and drafted legislation to establish a NEO detection and cataloging within NASA.

H.R. 912 recognizes that amateur astronomers also can play a significant role in the detection of Earth orbit crossing asteroids and comets and provides a constructive way to reward their efforts.

A previous version of the bill passed the House last Congress, so I do not believe this legislation should be at all controversial. I urge the adoption by the House, and look forward to its speedy enactment.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in strong support of the Pete Conrad Astronomy Act, and commend the Chairman of the Space Subcommittee for his creativity and leadership in promoting space exploration.

This Act will reward individuals who through their hard work and dedication have made fundamental contributions to our knowledge of the universe. This Act will stimulate interest in space exploration—a field that helps keep this nation on the cutting edge of technology and captivates young minds. Discoveries made by amateur astronomers have helped with the enormous task of cataloguing the many asteroids and small bodies that share the solar system with us. Those amateur astronomers deserve to be rewarded. It is a valuable service to this nation and to the world, and should be encouraged. This Act will do both.

I would like to thank Chairman ROHRABACHER for working with me to address one small concern that I had when this bill went through markup in the Science Committee. People come from around the world to study at our great colleges and universities. They are often some of the best and brightest from their home countries. They pay high tuitions as international students. They often bring money into our communities. But the most important reason they are invited is because they bring diverse viewpoints and perspectives. They enrich the experience of our own students.

As the bill is written, only U.S. citizens and permanent residents are eligible for an award. This is fair, since we are trying to encourage Americans to get interested in space and science. However, these awards also offer an opportunity to foster collaborations and international partnerships that will be valuable for all parties in the future. We have therefore agreed on report language for this bill that will foster collaborative efforts.

If a group of amateur astronomers makes a great discovery, deemed worthy of a Pete Conrad Award, and if that group has international students in it—the Administrator of NASA will be able to give those foreign students a certificate or other token of appreciation. Although the monetary reward will be reserved for the Americans in the group, at least the foreign students will be recognized for their contributions. This seems only fair.

Again, I thank the Chairman for working with me on this issue. I support the bill and urge my colleagues to do the same.

Mr. GORDON. Mr. Speaker, I yield back the balance of my time.

Mr. ROHRABACHER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ROHRABACHER) that the House suspend the rules and pass the bill, H.R. 912, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. ROHRABACHER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

PERMITTING MALCOLM BALDRIGE NATIONAL QUALITY AWARDS TO NONPROFIT ORGANIZATIONS

Ms. HART. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3389) to amend the Stevenson-Wydler Technology Innovation Act of 1980 to permit the Malcolm Baldrige National Quality Awards to be made to nonprofit organizations.

The Clerk read as follows:

H.R. 3389

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT.

Section 17(c)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a(c)(1)) is amended by adding at the end the following:

"(F) Nonprofit organizations.".

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Pennsylvania (Ms. HART) and the gentleman from North Carolina (Mr. MILLER) each will control 20 minutes.

The Chair recognizes the gentlewoman from Pennsylvania (Ms. HART).

GENERAL LEAVE

Ms. HART. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3389.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Pennsylvania?

There was no objection.

Ms. HART. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Malcolm Baldrige National Quality Award was established by Congress and signed into law in August of 1987. The first awards were presented in 1988.

This award was established because many industry and government leaders saw that a renewed emphasis was a necessity for doing business in an expanding, competitive world market. But many American businesses either did not believe quality mattered for them or did not know where to begin. The Baldrige Award was envisioned as a standard of excellence that would help United States organizations achieve world class quality.

Mr. Speaker, the award is named after Malcolm Baldrige, who was Secretary of Commerce to President Ronald Reagan from 1981 until his tragic death in July of 1987. Malcolm Baldrige thought the keys to this country's prosperity and long-term strength was quality management. He was involved with the creation of the act and his name was added after his death.

The Baldrige Award is given by the President of the United States to businesses, manufacturing and service businesses, both small and large, and to education and health care organizations. Applicants prepare detailed assessments of their management systems. The criteria are built upon a set of 11 interrelated core values and concepts. The seven criteria categories provide a system essential to achieving performance excellence, leadership, strategic planning, customer and market focus, information and analysis, human resource focus, process management and business results.

Baldrige applicants receive detailed written feedback about their strengths and opportunities for improvement from a team of independent Baldrige examiners. A panel of judges determines which organizations will be finalists for the award and those organizations receive site visits to verify and clarify their applications.

Two such businesses in my district have been recipients of the Malcolm Baldrige Award. This year's awardee, the 2003 manufacturing recipient, was Medrad, Inc., of Indianola, Pennsylvania. They are a leading provider of medical devices that enhance medical imaging procedures of the human body and also of injector systems.

The first manufacturing recipient in 1988 was also in my district, Westinghouse Electric Corporation's Commercial Nuclear Fuel Division.

Our amendment today will make one simple change to the Malcolm Baldrige Awards. It will adds the words "nonprofit organization" to those who are eligible to receive the award. Currently only manufacturers, service businesses, small businesses, education organizations and health care organizations are eligible for the Baldrige Award. Baldrige-based State award programs, however, have added additional categories that include nonprofits and government agencies.

However, there are three types of nonprofit organizations that are not eligible to apply for the Baldrige Award. These organizations account for a significant portion of the U.S. economy, and cannot benefit from the assessment and feedback process of the Baldrige Award. They are public agencies of the Federal, State and local government; independent, private not-for-profit organizations; for example, human service organizations, religious organizations, cultural or professional organizations; and also quasi-public organizations created by legislative authority are also not eligible; for example, public utilities, mutual insurance companies or credit unions.

In 1999, it was recognized that the Baldrige Award's performance standards can help stimulate improvement efforts in other sectors vital to the U.S. economy and the areas of education and health care were added to that criteria. Since then, a total of 66 applications have been submitted in the education category and 61 in the health care category, obviously giving these organizations an opportunity to improve their systems.

As it has for current eligible U.S. businesses, the Baldrige Award program can help nonprofit organizations improve their performance and also to foster communications, sharing of "best practices" and partnerships among schools, health care organizations and businesses.

Mr. Speaker, I reserve the balance of my time.

Mr. MILLER of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also rise in support of H.R. 3389. Since 1987, the Malcolm Baldrige National Quality Awards have recognized excellence for quality in management. The Baldrige Awards quickly became America's highest honor for excellence and performance, and the benefits of the award exceeded any expectation.

To recognize excellence, the Department of Commerce first had to decide what excellence in management was and then how to achieve it. That required that businesses see their performance through the eyes of their customers and their employees. The criteria for excellence that developed as a result have transformed American business and the businesses that have competed for the awards, including the businesses that have not won the award, have achieved higher productivity, greater customer satisfaction, better employee relations, increased market share and improved profitability. The awards have made quality a national priority and have disseminated nationally the best practices for achieving it.

A recent study of the Baldrige Awards by Professor Albert Link of the University of North Carolina at Greensboro, one of my district's outstanding academic institutions, and by Professor John Scott of Dartmouth College, a college in New England, estimated the benefits of the award and the competition for the award at $24.65 billion. That is an astounding sum.

The Baldrige Awards now have five categories: Manufacturing, service, small business, and, since 1999, health care and education. But many other organizations cannot participate: Not-for-profit, service organizations, government agencies at the Federal, State and local level, independent sector organizations, such as human services, religious, cultural or trade and professional organizations, and private quasi-public organizations created by legislative authority, such as public utilities, cooperatives, mutual insurance companies and credit unions.

These organizations represent a significant part of the American economy, but they are now unable to benefit from the assessment and the feedback that are a vital part of the Baldrige Awards and the award process.

Let me say a special word about government agencies. The gentlewoman from Pennsylvania and I may disagree about what government should do, but there should be no disagreement about how government should do it. There should be no disagreement how government should be managed. Government agencies should be managed as well as the best managed private businesses. Managers in government must respect the people they serve and they must respect the taxpayers who pay for what they do. Managers in government should be consumed with achieving excellence in performance and in achieving efficiency.

I fervently hope that government agencies will focus on what constitutes excellence and how to achieve it, and that we will save billions as a result, just as private businesses have saved billions, as a result of competing for the Baldrige Awards.

In my district in North Carolina, there are many important organizations that are left out of the Baldrige experience. Let me tell you about just a couple of them.

Our State Treasurer's Office and Department of Revenue have made great strides in applying sound management quality practices by increasing accuracy and by cutting telephone hold times, freeing my State's citizens from voice mail jail.

Likewise, our crime control and public safety agencies are demonstrating the value of a systematic quality and performance excellence approach grounded in Baldrige criteria.

The North Carolina State Highway Patrol, a recipient of our State Quality Award, has achieved important improvements in all of its key performance effectiveness measures. The Commander of the Highway Patrol, Chief R. W. Holden, said that our State Baldrige-based award process allowed us to direct our self-improvement efforts to the most effective areas of our organization.

The Carolina Blood Services Region of the American Red Cross is another State Quality Award winner that has achieved stellar results.

These public agencies are demonstrating excellence in management every day. The keys to their continued improvement are the ability to be recognized for their good work and the ability to measure their performance against proven standards in order to become even better.

These worthy organizations affect our daily lives and our communities' well-being, and, like so many other not-for-profit service organizations, they cannot benefit from the Baldrige Award process today.

It is time to remedy this, and this bill proposes that the Baldrige Awards be opened up to allow participation by not-for-profit organizations, including government agencies. Support for this proposed expansion is widespread. The Foundation for the Malcolm Baldrige Award, the Baldrige Board of Overseers, the Secretary of Commerce and the President have endorsed expansion to include not-for-profit service organizations.

The Baldrige National Quality Program is a public-private partnership. It is managed by the National Institute for Standards and Technologies, NIST, an agency of the Commerce Department, and is supported by the private sector Baldrige Foundation. These organizations raise funds to support Baldrige's many activities so that the Federal investment in this program is leveraged many times over, not only by this private sector funding, but also by the efforts of hundreds of largely private sector volunteers and voluntary sector organizations, such as the American Red Cross.

I would be very proud to tell the folks in North Carolina, in the North Carolina Treasurer's Office, in the State Patrol and in the Blood Bank, that they too will be eligible to receive the recognition that goes with the Baldrige Awards, and to share their best practices with other organizations across the country.

Mr. Speaker, I reserve the balance of my time.

Ms. HART. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also would like to commend the gentleman from North Carolina (Mr. MILLER) for his sponsorship of the legislation.

Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. EHLERS).

□ 1045

Mr. EHLERS. Mr. Speaker, today I rise in support of H.R. 3389, which amends the Malcolm Baldrige National Quality Awards to include a category for nonprofit organizations. On the Committee on Science I serve as chairman of the Subcommittee on Environment, Technology and Standards, with jurisdiction over the National Institute of Standards Technology, which administers the Baldrige Awards program. In that role I am most pleased to support this bill.

When the Baldrige award was first announced many years ago, my first thought was, well, what is another award? But this has turned out to be a very outstanding action on the part of the Congress and by the Department of Commerce. It has become one of the most important awards in America. It is highly sought after, and it is a tremendous honor to receive the Baldrige Award.

However, the Baldrige Award program is much more than an honor. The criteria of the award are used by companies and organizations nationwide to evaluate their own performance. Also, many State quality awards programs use a national Baldrige criteria. For example, in my district last year, the Michigan Quality Council using Baldrige criteria for evaluation recognized the Grand Rapids Community College for its vision and service to the community.

I am pleased to support this change to the Malcolm Baldrige National Quality Award. Including nonprofit organizations will open the competition to groups that have expressed strong support for the opportunity to be recognized for their efforts at the national level. Many States already include nonprofits as a category, and including them in the national program will help strengthen the Baldrige quality criteria.

I thank the gentlewoman from Pennsylvania (Ms. HART) and the gentleman from North Carolina (Mr. MILLER) for their work in bringing this bill to the floor today, and I urge all of my colleagues to support it.

Mr. MILLER of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also want to acknowledge the gentlewoman from Pennsylvania's (Ms. HART) work and thank her for working so well on this and for her leadership on this issue. After hearing the strongly partisan 1-minutes this morning, I am very glad we found some common ground between the parties.

Mr. Speaker, I yield 4 minutes to the gentleman from Tennessee (Mr. GORDON).

Mr. GORDON. Mr. Speaker, I thank the gentleman for yielding me time.

Beginning in 1987, the Baldrige Award process has defined what it means to be a world-class manufacturing or service company, has honored companies that attained that status, and has helped other companies understand the most important steps they must take if they are to improve their quality.

The financial results, customer and supplier relations, and the labor relations of winning companies have been quite impressive.

In the late 1990s, Congress extended the Baldrige Award categories to include education and health care fields. I am very proud that Caterpillar Financial Services Corporation located in Nashville, Tennessee, won in the service category. I also want to congratulate Stoner Inc., located in Quarryville, Pennsylvania, for winning the small business category. This is a small manufacturer of more than 300 specialized cleaners, lubricants, and coatings. It has 45 full-time and five part-time employees. Stoner proves that small manufacturers can successfully compete in the face of world competition.

This year's Baldrige Award also shows the importance of the Department of Commerce MEP program. Stoner used services of the Mid-Pennsylvania Manufacturing Extension Partnership in this modernization effort. I mention this because up until the FY 2005 request, the administration has always proposed eliminating the MEP program. This year the administration has requested funding but at only a one-third level, which essentially guts this very important program. This is short-sighted and a wrong budget decision.

Companies all across the organization like Stoner show that small manufacturers can compete in the global marketplace. They also use MEP services to meet the competitive challenges and to be successful.

I want to use this example to remind my colleagues of the importance of MEP to our small- and medium-sized manufacturing community. I want to urge all Members in joining me in restoring funding for the Manufacturing Extension Partnership.

I also want to congratulate the gentlewoman from Pennsylvania (Ms. HART) for the work she has done on this excellent legislation. And I want to congratulate the gentleman from North Carolina (Mr. MILLER) on his effort to extend the Baldrige Award to the nonprofit sector including government. This is the last sector of our economy that is not currently covered by the Baldrige Award. The gentleman from North Carolina (Mr. MILLER) has become a leader on the Committee on Science on a variety of economic issues, including technology transfer and quality.

I also want to thank, finally, the gentleman from New York (Mr. BOEHLERT) for seeing that this bill moved quickly to the floor.

Ms. HART. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also would like to thank the gentleman from New York (Mr. BOEHLERT) for his involvement and support for the Baldrige Awards, as I understand he was involved with the Baldrige Awards at their inception. I also would like to thank former ranking member of the Committee on Science, the gentleman from Texas (Mr. HALL), for his support for this legislation and for the Baldrige Awards, and also our current ranking member, the gentleman from Tennessee (Mr. GORDON), for his hard work and bipartisanship in working to grow the Baldrige Awards and give others the opportunity to participate in that wonderful process.

Mr. Speaker, I reserve the balance of my time.

Mr. MILLER of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also want to thank the gentleman from Tennessee (Mr. GORDON), who is now the ranking member of the Committee on Science for his work on this and for his support as well as his kind words just a few minutes ago.

Mr. BOEHLERT. Mr. Speaker, I rise today in support of H.R. 3389, and I want to thank Ms. HART and Mr. MILLER for bringing it before the Science Committee.

I'm especially pleased to be able to support this bill because I was co-author of the law that created the Baldrige National Quality Award, and that measure has succeeded beyond our wildest dreams.

The Baldrige National Quality Program is so much more than an award. It is an entire philosophy that has helped—and continues to help make our companies and our nation more productive and competitive.

The Baldrige Program has been described by CEOs as "the most important catalyst for transforming American business," and the publication containing the Baldrige criteria has been hailed as "probably the single most influential document in the modern history of American business."

Opening the Malcolm Baldrige Quality Award to non-profits will not only enable them to compete against for the coveted Quality Award, but it will allow non-profits to participate in the Baldrige Quality process. This will help all of the non-profits that compete for the award assess themselves scientifically, become more innovative, make the best use of their employees, serve their customers better, and hold their enterprises to a higher standard.

Non-profits play a significant role in American society. When they improve, we are all better off. I'm pleased to note that my own state of New York has already instituted a non-profit category in its Governor's Award for Excellence. The Empire State Advantage, which runs the state-level quality program, strongly supports this bill.

It gives me great pleasure to join with my colleagues Ms. HART and Mr. MILLER in opening up the competitive process to non-profits. I urge passage of this bill.

Mr. MILLER of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. HART. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHAW). The question is on the motion offered by the gentlewoman from Pennsylvania (Ms. HART) that the House suspend the rules and pass the bill, H.R. 3389.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Ms. HART. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

COPYRIGHT ROYALTY AND DISTRIBUTION REFORM ACT OF 2004

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1417) to amend title 17, United States Code, to replace copyright arbitration royalty panels with a Copyright Royalty Judge, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1417

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Copyright Royalty and Distribution Reform Act of 2004".

SEC. 2. REFERENCE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 17, United States Code.

SEC. 3. COPYRIGHT ROYALTY JUDGE AND STAFF.

(a) IN GENERAL.—Chapter 8 is amended to read as follows:

"CHAPTER 8—PROCEEDINGS BY COPYRIGHT ROYALTY JUDGES

"Sec.
"801. Copyright Royalty Judges; appointment and functions.
"802. Copyright Royalty Judgeships; staff.
"803. Proceedings of Copyright Royalty Judges.
"804. Institution of proceedings.
"805. General rule for voluntarily negotiated agreements.

"§801. Copyright Royalty Judges; appointment and functions

"(a) APPOINTMENT.—The Librarian of Congress shall appoint 3 full-time Copyright Royalty Judges, and shall appoint one of the three as the Chief Copyright Royalty Judge. In making such appointments, the Librarian shall consult with the Register of Copyrights.

"(b) FUNCTIONS.—Subject to the provisions of this chapter, the functions of the Copyright Royalty Judges shall be as follows:

"(1) To make determinations and adjustments of reasonable terms and rates of royalty payments as provided in sections 112(e), 114, 115, 116, 118, 119 and 1004. The rates applicable under sections 114(f)(1)(B), 115, and 116 shall be calculated to achieve the following objectives:

"(A) To maximize the availability of creative works to the public.

"(B) To afford the copyright owner a fair return for his or her creative work and the copyright user a fair income under existing economic conditions.

"(C) To reflect the relative roles of the copyright owner and the copyright user in the product made available to the public with respect to relative creative contribution, technological contribution, capital investment, cost, risk, and contribution to the opening of new markets for creative expression and media for their communication.

"(D) To minimize any disruptive impact on the structure of the industries involved and on generally prevailing industry practices.

"(2) To make determinations concerning the adjustment of the copyright royalty rates under section 111 solely in accordance with the following provisions:

"(A) The rates established by section 111(d)(1)(B) may be adjusted to reflect—

"(i) national monetary inflation or deflation; or

"(ii) changes in the average rates charged cable subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar level of the royalty fee per subscriber which existed as of the date of October 19, 1976,

except that—

"(I) if the average rates charged cable system subscribers for the basic service of providing secondary transmissions are changed so that the average rates exceed national monetary inflation, no change in the rates established by section 111(d)(1)(B) shall be permitted; and

"(II) no increase in the royalty fee shall be permitted based on any reduction in the average number of distant signal equivalents per subscriber.

The Copyright Royalty Judges may consider all factors relating to the maintenance of such level of payments, including, as an extenuating factor, whether the industry has been restrained by subscriber rate regulating authorities from increasing the rates for the basic service of providing secondary transmissions.

"(B) In the event that the rules and regulations of the Federal Communications Commission are amended at any time after April 8, 1976, to permit the carriage by cable systems of additional television broadcast signals beyond the local service area of the primary transmitters of such signals, the royalty rates established by section 111(d)(1)(B) may be adjusted to insure that the rates for the additional distant signal equivalents resulting from such carriage are reasonable in the light of the changes effected by the amendment to such rules and regulations. In determining the reasonableness of rates proposed following an amendment of Federal Communications Commission rules and regulations, the Copyright Royalty Judges shall consider, among other factors, the economic impact on copyright owners and users; except that no adjustment in royalty rates shall be made under this subparagraph with respect to any distant signal equivalent or fraction thereof represented by—

"(i) carriage of any signal permitted under the rules and regulations of the Federal Communications Commission in effect on April 15, 1976, or the carriage of a signal of the same type (that is, independent, network, or noncommercial educational) substituted for such permitted signal; or

"(ii) a television broadcast signal first carried after April 15, 1976, pursuant to an individual waiver of the rules and regulations of the Federal Communications Commission, as such rules and regulations were in effect on April 15, 1976.

"(C) In the event of any change in the rules and regulations of the Federal Communications Commission with respect to syndicated and sports program exclusivity after April 15, 1976, the rates established by section 111(d)(1)(B) may be adjusted to assure that such rates are reasonable in light of the changes to such rules and regulations, but any such adjustment shall apply only to the affected television broadcast signals carried on those systems affected by the change.

"(D) The gross receipts limitations established by section 111(d)(1)(C) and (D) shall be adjusted to reflect national monetary inflation or deflation or changes in the average rates charged cable system subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar value of the exemption provided by such section, and the royalty rate specified therein shall not be subject to adjustment.

"(3)(A) To authorize the distribution, under sections 111, 119, and 1007, of those royalty fees collected under sections 111, 119, and 1005, as the case may be, to the extent that the Copyright Royalty Judges have found that the distribution of such fees is not subject to controversy.

"(B) In cases where the Copyright Royalty Judges determine that controversy exists, the Copyright Royalty Judges shall determine the distribution of such fees, including partial distributions, in accordance with section 111, 119, or 1007, as the case may be.

"(C) the Copyright Royalty Judges shall make a partial distribution of such fees during the pendency of the proceeding under subparagraph (B) if all participants under section 803(b)(2) in the proceeding that are entitled to receive those fees that are to be partially distributed—

"(i) agree to such partial distribution;

"(ii) sign an agreement obligating them to return any excess amounts to the extent necessary to comply with the final determination on the distribution of the fees made under subparagraph (B); and

"(iii) file the agreement with the Copyright Royalty Judges.

"(D) The Copyright Royalty Judges and any other officer or employee acting in good faith in distributing funds under subparagraph (C) shall not be held liable for the payment of any excess fees under subparagraph (C). The Copyright Royalty Judges shall, at the time the final determination is made, calculate any such excess amounts.

"(4) To accept or reject royalty claims filed under section 111, 119, and 1007, on the basis of timeliness or the failure to establish the basis for a claim.

"(5) To accept or reject rate adjustment petitions as provided in section 804 and petitions to participate as provided in section 803(b)(1) and (2).

"(6) To determine the status of a digital audio recording device or a digital audio interface device under sections 1002 and 1003, as provided in section 1010.

"(7)(A) To adopt as the basis for statutory terms and rates or as a basis for the distribution of statutory royalty payments, an agreement concerning such matters reached among some or all of the participants in a proceeding at any time during the proceeding, except that—

"(i) the Copyright Royalty Judges shall provide to the other participants in the proceeding under section 803(b)(2) that would be bound by the terms, rates, distribution, or other determination set by the agreement an opportunity to comment on the agreement and object to its adoption as the basis for statutory terms and rates or as a basis for the distribution of statutory royalty payments, as the case may be; and

"(ii) the Copyright Royalty Judges may decline to adopt the agreement as the basis for statutory terms and rates or as the basis for the distribution of statutory royalty payments, as the case may be, if any other participant described in subparagraph (A) objects to the agreement and the Copyright Royalty Judges find, based on the record before them, that the agreement is not likely to meet the statutory standard for setting the terms and rates, or for distributing the royalty payments, as the case may be.

"(B) License agreements voluntarily negotiated pursuant to section 112(e)(5), 114(f)(3), 115(c)(3)(E)(i), 116(c), or 118(b)(2) that do not result in statutory terms and rates shall not be subject to clauses (i) and (ii) of subparagraph (A).

"(c) RULINGS.—The Copyright Royalty Judges may make any necessary procedural or evidentiary rulings in any proceeding under this chapter and may, before commencing a proceeding under this chapter, make any such rulings that would apply to the proceedings conducted by the Copyright Royalty Judges. The Copyright Royalty Judges may consult with the Register of Copyrights in making any rulings under section 802(f)(1).

"(d) ADMINISTRATIVE SUPPORT.—The Librarian of Congress shall provide the Copyright Royalty Judges with the necessary administrative services related to proceedings under this chapter.

"(e) LOCATION IN LIBRARY OF CONGRESS.—The offices of the Copyright Royalty Judges and staff shall be in the Library of Congress.

"§ 802. Copyright Royalty Judgeships; staff

"(a) QUALIFICATIONS OF COPYRIGHT ROYALTY JUDGES.—Each Copyright Royalty Judge shall be an attorney who has at least 7 years of legal experience. The Chief Copyright Royalty Judge shall have at least 5 years of experience in adjudications, arbitrations, or court trials. Of the other two Copyright Royalty Judges, one shall have significant knowledge of copyright law, and the other shall have significant knowledge of economics. An individual may serve as a Copyright Royalty Judge only if the individual is free of any financial conflict of interest under subsection (h). In this subsection, 'adjudication' has the meaning given that term in section 551 of title 5, but does not include mediation.

"(b) STAFF.—The Chief Copyright Royalty Judge shall hire 3 full-time staff members to assist the Copyright Royalty Judges in performing their functions.

"(c) TERMS.—The terms of the Copyright Royalty Judges shall each be 6 years, except of the individuals first appointed, the Chief Copyright Royalty Judge shall be appointed to a term of 6 years, and of the remaining Copyright Royalty Judges, one shall be appointed to a term of 2 years, and the other shall be appointed to a term of 4 years. An individual serving as a Copyright Royalty Judge may be reappointed to subsequent terms. The term of a Copyright Royalty Judge shall begin when the term of the predecessor of that Copyright Royalty Judge ends. When the term of office of a Copyright Royalty Judge ends, the individual serving that term may continue to serve until a successor is selected.

"(d) VACANCIES OR INCAPACITY.—

"(1) VACANCIES.—If a vacancy should occur in the position of Copyright Royalty Judge, the Librarian of Congress shall act expeditiously to fill the vacancy, and may appoint an interim Copyright Royalty Judge to serve until another Copyright Royalty Judge is appointed under this section. An individual appointed to fill the vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed shall be appointed for the remainder of that term.

"(2) INCAPACITY.—In the case in which a Copyright Royalty Judge is temporarily unable to perform his or her duties, the Librarian of Congress may appoint an interim Copyright Royalty Judge to perform such duties during the period of such incapacity.

"(e) COMPENSATION.—

"(1) JUDGES.—The Chief Copyright Royalty Judge shall receive compensation at the rate of basic pay payable for level AL–1 for administrative law judges pursuant to section 5372(b) of title 5, and each of the other two Copyright Royalty Judges shall receive compensation at the rate of basic pay payable for level AL–2 for administrative law judges pursuant to such section. The compensation of the Copyright Royalty Judges shall not be subject to any regulations adopted by the Office of Personnel Management pursuant to its authority under section 5376(b)(1) of title 5.

"(2) STAFF MEMBERS.—Of the staff members appointed under subsection (b)—

"(A) the rate of pay of one staff member shall be not more than the basic rate of pay payable for GS–15 of the General Schedule;

"(B) the rate of pay of one staff member shall be not less than the basic rate of pay payable for GS–13 of the General Schedule and not more than the basic rate of pay payable for GS–14 of such Schedule; and

"(C) the rate of pay for the third staff member shall be not less than the basic rate of pay payable for GS–8 of the General Schedule and not more than the basic rate of pay payable for GS–11 of such Schedule.

"(f) INDEPENDENCE OF COPYRIGHT ROYALTY JUDGE.—

"(1) IN MAKING DETERMINATIONS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Copyright Royalty Judges shall have full independence in making determinations concerning adjustments and determinations of copyright royalty rates and terms, the distribution of copyright royalties, the acceptance or rejection of royalty claims, rate adjustment petitions, and petitions to participate, and in issuing other rulings under this title, except that the Copyright Royalty Judges may consult with the Register of Copyrights on any matter other than a question of fact. Any such consultations between the Copyright Royalty Judges and the Register of Copyright on any question of law shall be in writing or on the record.

"(B) NOVEL QUESTIONS.—(i) Notwithstanding the provisions of subparagraph (A), in any case in which the Copyright Royalty Judges in a proceeding under this title are presented with a novel question of law concerning an interpretation of those provisions of this title that are the subject of the proceeding, the Copyright Royalty Judges shall request the Register of Copyrights, in writing, to submit a written opinion on the resolution of such novel question. The Register shall submit and make public that opinion within such time period as the Copyright Royalty Judges may prescribe. Any consultations under this subparagraph between the Copyright Royalty Judges and the Register of Copyrights shall be in writing or on the record. The opinion of the Register shall not be binding on the Copyright Royalty Judges, but the Copyright Royalty Judges shall take the opinion of the Register into account in making the judges' determination on the question concerned.

"(ii) In clause (i), a 'novel question of law' is a question of law that has not been determined in prior decisions, determinations, and rulings described in section 803(a).

"(2) PERFORMANCE APPRAISALS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law or any regulation of the Library of Congress, and subject to subparagraph (B), the Copyright Royalty Judges shall not receive performance appraisals.

"(B) RELATING TO SANCTION OR REMOVAL.—To the extent that the Librarian of Congress adopts regulations under subsection (h) relating to the sanction or removal of a Copyright Royalty Judge and such regulations require documentation to establish the cause of such sanction or removal, the Copyright Royalty Judge may receive an appraisal related specifically to the cause of the sanction or removal.

"(g) INCONSISTENT DUTIES BARRED.—No Copyright Royalty Judge may undertake duties inconsistent with his or her duties and responsibilities as Copyright Royalty Judge.

"(h) STANDARDS OF CONDUCT.—The Librarian of Congress shall adopt regulations regarding the standards of conduct, including financial conflict of interest and restrictions against ex parte communications, which shall govern the Copyright Royalty Judges and the proceedings under this chapter.

"(i) REMOVAL OR SANCTION.—The Librarian of Congress may sanction or remove a Copyright Royalty Judge for violation of the standards of conduct adopted under subsection (h), misconduct, neglect of duty, or any disqualifying physical or mental disability. Any such sanction or removal may be made only after notice and opportunity for a hearing, but the Librarian of Congress may suspend the Copyright Royalty Judge during the pendency of such hearing. The Librarian shall appoint an interim Copyright Royalty Judge during the period of any such suspension.

"§ 803. Proceedings of Copyright Royalty Judges

"(a) PROCEEDINGS.—

"(1) IN GENERAL.—The Copyright Royalty Judges shall act in accordance with this title, and to the extent not inconsistent with this title, in accordance with subchapter II of chapter 5 of title 5, in carrying out the purposes set forth in section 801. The Copyright Royalty Judges shall act in accordance with regulations issued by the Copyright Royalty Judges and on the basis of a fully documented written record, prior decisions of the Copyright Royalty Tribunal, prior copyright arbitration royalty panel determinations, rulings by the Librarian of Congress before the effective date of the Copyright Royalty and Distribution Reform Act of 2004, prior determinations of Copyright Royalty Judges under this chapter, and decisions of the court in appeals under this chapter before, on, or after such effective date. Any participant in a proceeding under subsection (b)(2) may submit relevant information and proposals to the Copyright Royalty Judges.

"(2) JUDGES ACTING AS PANEL AND INDIVIDUALLY.—The Copyright Royalty Judges shall preside over hearings in proceedings under this chapter en banc. The Chief Copyright Royalty Judge may designate a Copyright Royalty Judge to preside individually over such collateral and administrative proceedings, and over such proceedings under paragraphs (1) through (5) of subsection (b), as the Chief Judge considers appropriate.

"(3) DETERMINATIONS.—Final determinations of the Copyright Royalty Judges in proceedings under this chapter shall be made by majority vote. A Copyright Royalty Judge dissenting from the majority on any determination under this chapter may issue his or her dissenting opinion, which shall be included with the determination.

"(b) PROCEDURES.—

"(1) INITIATION.—

"(A) CALL FOR PETITIONS TO PARTICIPATE.—(i) Promptly upon the filing of a petition for a rate adjustment or determination under section 804(a) or 804(b)(8), or by no later than January 5 of a year specified in section 804 for the commencement of a proceeding if a petition has not been filed by that date, the Copyright Royalty Judges shall cause to be published in the Federal Register notice of commencement of proceedings under this chapter calling for the filing of petitions to participate in a proceeding under this chapter for the purpose of making the relevant determination under section 111, 112, 114, 115, 116, 118, 119, 1004 or 1007, as the case may be.

"(ii) Petitions to participate shall be filed by no later than 30 days after publication of notice of commencement of a proceeding, under clause (i), except that the Copyright Royalty Judges may, for substantial good cause shown and if there is no prejudice to the participants that have already filed petitions, accept late petitions to participate at any time up to the date that is 90 days before the date on which participants in the proceeding are to file their written direct statements.

"(B) PETITIONS TO PARTICIPATE.—Each petition to participate in a proceeding shall describe the petitioner's interest in the subject matter of the proceeding. Parties with similar interests may file a single petition to participate.

"(2) PARTICIPATION IN GENERAL.—Subject to paragraph (4), a person may participate in a proceeding under this chapter, including through the submission of briefs or other information, only if—

"(A) that person has filed a petition to participate in accordance with paragraph (1) (either individually or as a group under paragraph (1)(B)), together with a filing fee of $150;

"(B) the Copyright Royalty Judges have not determined that the petition to participate is facially invalid; and

"(C) the Copyright Royalty Judges have not determined, sua sponte or on the motion of another participant in the proceeding, that the person lacks a significant interest in the proceeding.

"(3) VOLUNTARY NEGOTIATION PERIOD.—

"(A) IN GENERAL.—Promptly after the date for filing of petitions to participate in a proceeding, the Copyright Royalty Judges shall make available to all participants in the proceeding a list of such participants and shall initiate a voluntary negotiation period among the participants.

"(B) LENGTH OF PROCEEDINGS.—The voluntary negotiation period initiated under subparagraph (A) shall be 3 months.

"(C) DETERMINATION OF SUBSEQUENT PROCEEDINGS.—At the close of the voluntary negotiation proceedings, the Copyright Royalty Judges shall, if further proceedings under this chapter are necessary, determine whether and to what extent paragraphs (4) and (5) will apply to the parties.

"(4) SMALL CLAIMS PROCEDURE IN DISTRIBUTION PROCEEDINGS.—

"(A) IN GENERAL.—If, in a proceeding under this chapter to determine the distribution of royalties, a participant in the proceeding asserts that the contested amount of the claim is $10,000 or less, the Copyright Royalty Judges shall decide the controversy on the basis of the filing in writing of the initial claim, the initial response by any opposing participant, and one additional response by each such party. The participant asserting the claim shall not be required to pay the filing fee under paragraph (2).

"(B) BAD FAITH INFLATION OF CLAIM.—If the Copyright Royalty Judges determine that a participant asserts in bad faith an amount in controversy in excess of $10,000 for the purpose of avoiding a determination under the procedure set forth in subparagraph (A), the Copyright Royalty Judges shall impose a fine on that participant in an amount not to exceed the difference between the actual amount distributed and the amount asserted by the participant.

"(5) PAPER PROCEEDINGS IN RATEMAKING PROCEEDINGS.—The Copyright Royalty Judges in proceedings under this chapter to determine royalty rates may decide, sua sponte or upon motion of a participant, to determine issues on the basis of initial filings in writing, initial responses by any opposing participant, and one additional response by each such participant. Prior to making such decision to proceed on such a paper record only, the Copyright Royalty Judges shall offer to all parties to the proceeding the opportunity to comment on the decision. The procedure under this paragraph—

"(A) shall be applied in cases in which there is no genuine issue of material fact, there is no need for evidentiary hearings, and all participants in the proceeding agree in writing to the procedure; and

"(B) may be applied under such other circumstances as the Copyright Royalty Judges consider appropriate.

"(6) REGULATIONS.—

"(A) IN GENERAL.—The Copyright Royalty Judges may issue regulations to carry out their functions under this title. Not later than 120 days after Copyright Royalty Judges or interim Copyright Royalty Judges, as the case may be, are first appointed after the enactment of the Copyright Royalty and Distribution Reform Act of 2004, such judges shall issue regulations to govern proceedings under this chapter.

"(B) INTERIM REGULATIONS.—Until regulations are adopted under subparagraph (A), the Copyright Royalty Judges shall apply the regulations in effect under this chapter on the day before the effective date of the Copyright Royalty and Distribution Reform Act of 2004, to the extent such regulations are not inconsistent with this chapter, except that functions carried out under such regulations by the Librarian of Congress, the Register of Copyrights, or copyright arbitration royalty panels that, as of such date of enactment, are to be carried out by the Copyright Royalty Judges under this chapter, shall be carried out by the Copyright Royalty Judges under such regulations.

"(C) REQUIREMENTS.—Regulations issued under subparagraph (A) shall include the following:

"(i) The written direct statements of all participants in a proceeding under paragraph (2) shall be filed by a date specified by the Copyright Royalty Judges, which may be no earlier than four months, and no later than five months, after the end of the voluntary negotiation period under paragraph (3). Notwithstanding the preceding sentence, a participant in a proceeding may, within 15 days after the end of the discovery period specified in clause (iii), file an amended written direct statement based on new information received during the discovery process.

"(ii)(I) Following the submission to the Copyright Royalty Judges of written direct statements by the participants in a proceeding under paragraph (2), the judges shall meet with the participants for the purpose of setting a schedule for conducting and completing discovery. Such schedule shall be determined by the Copyright Royalty Judges.

"(II) In this chapter, the term 'written direct statements' means witness statements, testimony, and exhibits to be presented in the proceedings, and such other information that is necessary to establish terms and rates, or the distribution of royalty payments, as the case may be, as set forth in regulations issued by the Copyright Royalty Judges.

"(iii) Hearsay may be admitted in proceedings under this chapter to the extent deemed appropriate by the Copyright Royalty Judges.

"(iv) Discovery in such proceedings shall be permitted for a period of 60 days, except for discovery ordered by the Copyright Royalty Judges in connection with the resolution of motions, orders and disputes pending at the end of such period.

"(v) Any participant under paragraph (2) in a proceeding under this chapter to determine royalty rates may, upon written notice, seek discovery of information and materials relevant and material to the proceeding. Any objection to any such discovery request shall be resolved by a motion or request to compel discovery made to the Copyright Royalty Judges. Each motion or request to compel discovery shall be determined by the Copyright Royalty Judges, or by a Copyright Royalty Judge when permitted under subsection (a)(2), who may approve the request only if the evidence that would be produced is relevant and material. A Copyright Royalty Judge may refuse a request to compel discovery of evidence that has been found to be relevant and material, only upon good cause shown. For purposes of the preceding sentence, the basis for 'good cause' may only be that—

"(I) the discovery sought is unreasonably cumulative or duplicative, or is obtainable from another source that is more convenient, less burdensome, or less expensive;

"(II) the participant seeking discovery has had ample opportunity by discovery in the action to obtain the information sought; or

"(III) the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs and resources of the participants, the importance of the issues at stake, and the importance of the proposed discovery in resolving the issues.

"(vi) The rules in effect on the day before the effective date of the Copyright Royalty and Distribution Reform Act of 2004, relating to discovery in proceedings under this title to determine the distribution of royalty fees, shall continue to apply to such proceedings on and after such effective date.

"(vii) The Copyright Royalty Judges may issue subpoenas requiring the production of evidence or witnesses, but only if the evidence requested to be produced or that would be proffered by the witness is relevant and material.

"(viii) The Copyright Royalty Judges shall order a settlement conference among the participants in the proceeding to facilitate the presentation of offers of settlement among the participants. The settlement conference shall be held during a 21-day period following the end of the discovery period.

"(c) Determination of Copyright Royalty Judges.—

"(1) Timing.—The Copyright Royalty Judges shall issue their determination in a proceeding not later than 11 months after the conclusion of the 21-day settlement conference period under subsection (b)(3)(C)(vi), but, in the case of a proceeding to determine successors to rates or terms that expire on a specified date, in no event later than 15 days before the expiration of the then current statutory rates and terms.

"(2) Rehearings.—

"(A) In general.—The Copyright Royalty Judges may, in exceptional cases, upon motion of a participant under subsection (b)(2), order a rehearing, after the determination in a proceeding is issued under paragraph (1), on such matters as the Copyright Royalty Judges determine to be appropriate.

"(B) Timing for filing motion.—Any motion for a rehearing under subparagraph (A) may only be filed within 15 days after the date on which the Copyright Royalty Judges deliver their initial determination concerning rates and terms to the participants in the proceeding.

"(C) Participation by opposing party not required.—In any case in which a rehearing is ordered, any opposing party shall not be required to participate in the rehearing.

"(D) No negative inference.—No negative inference shall be drawn from lack of participation in a rehearing.

"(E) Continuity of rates and terms.—(i) If the decision of the Copyright Royalty Judges on any motion for a rehearing is not rendered before the expiration of the statutory rates and terms that were previously in effect, in the case of a proceeding to determine successors to rates and terms that expire on a specified date, then—

"(I) the initial determination of the Copyright Royalty Judges that is the subject of the rehearing motion shall be effective as of the day following the date on which the rates and terms that were previously in effect expire; and

"(II) in the case of a proceeding under section 114(f)(1)(C) or 114(f)(2)(C), royalty rates and terms shall, for purposes of section 114(f)(4)(B), be deemed to have been set at those rates and terms contained in the initial determination of the Copyright Royalty Judges that is the subject of the rehearing motion, as of the date of that determination.

"(ii) The pendency of a motion for a rehearing under this paragraph shall not relieve persons obligated to make royalty payments who would be affected by the determination on that motion from providing the statements of account and any reports of use, to the extent required, and paying the royalties required under the relevant determination or regulations.

"(iii) Notwithstanding clause (ii), whenever royalties described in clause (ii) are paid to a person other than the Copyright Office, the entity designated by the Copyright Royalty Judges to which such royalties are paid by the copyright user (and any successor thereto) shall, within 60 days after the motion for rehearing is resolved or, if the motion is granted, within 60 days after the rehearing is concluded, return any excess amounts previously paid to the extent necessary to comply with the final determination of royalty rates by the Copyright Royalty Judges.

"(3) Contents of determination.—A determination of the Copyright Royalty Judges shall be accompanied by the written record, and shall set forth the facts that the Copyright Royalty Judges found relevant to their determination. Among other terms adopted in a determination, the Copyright Royalty Judges may specify notice and recordkeeping requirements of users of the copyrights at issue that apply in lieu of those that would otherwise apply under regulations.

"(4) Continuing jurisdiction.—The Copyright Royalty Judges may amend the determination or the regulations issued pursuant to the determination in order to correct any technical errors in the determination or to respond to unforeseen circumstances that preclude the proper effectuation of the determination.

"(5) Protective order.—The Copyright Royalty Judges may issue such orders as may be appropriate to protect confidential information, including orders excluding confidential information from the record of the determination that is published or made available to the public, except that any terms or rates of royalty payments or distributions may not be excluded.

"(6) Publication of determination.—The Librarian of Congress shall cause the determination, and any corrections thereto, to be published in the Federal Register. The Librarian of Congress shall also publicize the determination and corrections in such other manner as the Librarian considers appropriate, including, but not limited to, publication on the Internet. The Librarian of Congress shall also make the determination, corrections, and the accompanying record available for public inspection and copying.

"(d) Judicial Review.—

"(1) Appeal.—Any determination of the Copyright Royalty Judges under subsection (c) may, within 30 days after the publication of the determination in the Federal Register, be appealed, to the United States Court of Appeals for the District of Columbia Circuit, by any aggrieved participant in the proceeding under subsection (b)(2) who fully participated in the proceeding and who would be bound by the determination. If no appeal is brought within that 30-day period, the determination of the Copyright Royalty Judges shall be final, and the royalty fee or determination with respect to the distribution of fees, as the case may be, shall take effect as set forth in paragraph (2).

"(2) Effect of rates.—

"(A) Expiration on specified date.—When this title provides that the royalty rates and terms that were previously in effect are to expire on a specified date, any adjustment or determination by the Copyright Royalty Judges of successor rates and terms for an ensuing statutory license period shall be effective as of the day following the date of expiration of the rates and terms that were previously in effect, even if the determination of the Copyright Royalty Judges is rendered on a later date.

"(B) Other cases.—In cases where rates and terms do not expire on a specified date or have not yet been established, successor or new rates or terms shall take effect on the first day of the second month that begins after the publication of the determination of the Copyright Royalty Judges in the Federal Register, except as otherwise provided in this title, and the rates and terms previously in effect, to the extent applicable, shall remain in effect until such successor rates and terms become effective.

"(C) Obligation to make payments.—(i) The pendency of an appeal under this subsection shall not relieve persons obligated to make royalty payments under section 111, 112, 114, 115, 116, 118, 119, or 1003, who would be affected by the determination on appeal, from providing the statements of account (and any report of use, to the extent required) and paying the royalties required under the relevant determination or regulations.

"(ii) Notwithstanding clause (i), whenever royalties described in clause (i) are paid to a person other than the Copyright Office, the entity designated by the Copyright Royalty Judges to which such royalties are paid by the copyright user (and any successor thereto) shall, within 60 days after the final resolution of the appeal, return any excess amounts previously paid (and interest thereon, if ordered pursuant to paragraph (3)) to the extent necessary to comply with the final determination of royalty rates on appeal.

"(3) Jurisdiction of court.—If the court, pursuant to section 706 of title 5, modifies or vacates a determination of the Copyright Royalty Judges, the court may enter its own determination with respect to the amount or distribution of royalty fees and costs, and order the repayment of any excess fees, the payment of any underpaid fees, and the payment of interest pertaining respectively thereto, in accordance with its final judgment. The court may also vacate the determination of the Copyright Royalty Judges and remand the case to the Copyright Royalty Judges for further proceedings in accordance with subsection (a).

"(e) Administrative Matters.—

"(1) Deduction of costs of library of congress and copyright office from filing fees.—

"(A) Deduction from filing fees.—The Librarian of Congress may, to the extent not otherwise provided under this title, deduct from the filing fees collected under subsection (b) for a particular proceeding under this chapter the reasonable costs incurred by the Librarian of Congress, the Copyright Office, and the Copyright Royalty Judges in conducting that proceeding, other than the salaries of the Copyright Royalty Judges and the 3 staff members appointed under section 802(b).

"(B) Authorization of appropriations.—There are authorized to be appropriated such sums as may be necessary to pay the costs of proceedings under this chapter not covered by the filing fees collected under subsection (b). All funds made available pursuant to this subparagraph shall remain available until expended.

"(2) Positions required for administration of compulsory licensing.—Section 307 of the Legislative Branch Appropriations Act, 1994, shall not apply to employee positions in the Library of Congress that are required to be filled in order to carry out section 111, 112, 114, 115, 116, 118, or 119 or chapter 10.

"§ 804. Institution of proceedings

"(a) Filing of Petition.—With respect to proceedings referred to in paragraphs (1) and (2) of section 801(b) concerning the determination or adjustment of royalty rates as provided in sections 111, 112, 114, 115, 116, 118, and 1004, during the calendar years specified in the schedule set forth in subsection (b), any owner or user of a copyrighted work whose royalty rates are specified by this title, or are established under this chapter before or after the enactment of the Copyright Royalty and Distribution Reform Act of 2004, may file a petition with the Copyright Royalty Judges declaring that the petitioner requests a determination or adjustment of the rate. The Copyright Royalty Judges shall make a determination as to whether the petitioner has such a significant interest in the royalty rate in which a determination or adjustment is requested. If the Copyright Royalty Judges determine that the petitioner has such a significant interest, the Copyright Royalty Judges shall cause notice of this determination, with the reasons therefor, to be published in the Federal Register, together with the notice of commencement of proceedings under this chapter. With respect to proceedings under paragraph (1) of section 801(b) concerning the determination or adjustment of royalty rates as provided in sections 112 and 114, during the calendar years specified in the schedule set forth in subsection (b), the Copyright Royalty Judges shall cause notice of commencement of proceedings under this chapter to be published in the Federal Register as provided in section 803(b)(1)(A).

"(b) Timing of Proceedings.—

"(1) Section 111 proceedings.—(A) A petition described in subsection (a) to initiate proceedings under section 801(b)(2) concerning the adjustment of royalty rates under section 111 to which subparagraph (A) or (D) of section 801(b)(2) applies may be filed during the year 2005 and in each subsequent fifth calendar year.

"(B) In order to initiate proceedings under section 801(b)(2) concerning the adjustment of royalty rates under section 111 to which subparagraph (B) or (C) of section 801(b)(2) applies, within 12 months after an event described in either of those subsections, any owner or user of a copyrighted work whose royalty rates are specified by section 111, or by a rate established under this chapter before or after the enactment of the Copyright Royalty and Distribution Reform Act of 2004, may file a petition with the Copyright Royalty Judges declaring that the petitioner requests an adjustment of the rate. The Copyright Royalty Judges shall then proceed as set forth in subsection (a) of this section. Any change in royalty rates made under this chapter pursuant to this subparagraph may be reconsidered in the year 2005, and each fifth calendar year thereafter, in accordance with the provisions in section 801(b)(3)(B) or (C), as the case may be. A petition for adjustment of rates under section 11(d)(1)(B) as a result of a change is the rules and regulations of the Federal Communications Commission shall set forth the change on which the petition is based.

"(C) Any adjustment of royalty rates under section 111 shall take effect as of the first accounting period commencing after the publication of the determination of the Copyright Royalty Judges in the Federal Register, or on such other date as is specified in that determination.

"(2) Certain section 112 proceedings.—Proceedings under this chapter shall be commenced in the year 2007 to determine reasonable terms and rates of royalty payments for the activities described in section 112(e)(1) relating to the limitation on exclusive rights specified by section 114(d)(1)(C)(iv), to become effective on January 1, 2009. Such proceedings shall be repeated in each subsequent fifth calendar year.

"(3) Section 114 and corresponding 112 proceedings.—

"(A) For eligible nonsubscription services and new subscription services.—Proceedings under this chapter shall be commenced as soon as practicable after the effective date of the Copyright Royalty and Distribution Reform Act of 2004 to determine reasonable terms and rates of royalty payments under sections 114 and 112 for the activities of eligible nonsubscription transmission services and new subscription services, to be effective for the period beginning on January 1, 2006, and ending on December 31, 2010. Such proceedings shall next be commenced in January 2009 to determine reasonable terms and rates of royalty payments, to become effective on January 1, 2011. Thereafter, such proceedings shall be repeated in each subsequent fifth calendar year.

"(B) For preexisting subscription and satellite digital audio radio services.—Proceedings under this chapter shall be commenced in January 2006 to determine reasonable terms and rates of royalty payments under sections 114 and 112 for the activities of preexisting subscription services, to be effective during the period beginning on January 1, 2008, and ending on December 31, 2012, and preexisting satellite digital audio radio services, to be effective during the period beginning on January 1, 2007, and ending on December 31, 2012. Such proceedings shall next be commenced in 2011 to determine reasonable terms and rates of royalty payments, to become effective on January 1, 2013. Thereafter, such proceedings shall be repeated in each subsequent fifth calendar year.

"(C)(i) Notwithstanding any other provision of this chapter, this subparagraph shall govern proceedings commenced pursuant to sections 114(f)(1)(C) and 114(f)(2)(C) concerning new types of services.

"(ii) Not later than 30 days after a petition to determine rates and terms for a new type of service that is filed by any copyright owner of sound recordings, or such new type of service, indicating that such new type of service is or is about to become operational, the Copyright Royalty Judges shall issue a notice for a proceeding to determine rates and terms for such service.

"(iii) The proceeding shall follow the schedule set forth in such subsections (b), (c), and (d) of section 803, except that—

"(I) the determination shall be issued by not later than 24 months after the publication of the notice under clause (ii); and

"(II) the decision shall take effect as provided in subsections (c)(2) and (d)(2) of section 803 and section 114(f)(4)(B)(ii) and (C).

"(iv) The rates and terms shall remain in effect for the period set forth in section 114(f)(1)(C) or 114(f)(2)(C), as the case may be.

"(4) Section 115 proceedings.—A petition described in subsection (a) to initiate proceedings under section 801(b)(1) concerning the adjustment or determination of royalty rates as provided in section 115 may be filed in the year 2006 and in each subsequent fifth calendar year, or at such other times as the parties have agreed under section 115(c)(3)(B) and (C).

"(5) Section 116 proceedings.—(A) A petition described in subsection (a) to initiate proceedings under section 801(b) concerning the determination of royalty rates and terms as provided in section 116 may be filed at any time within 1 year after negotiated licenses authorized by section 116 are terminated or expire and are not replaced by subsequent agreements.

"(B) If a negotiated license authorized by section 116 is terminated or expires and is not replaced by another such license agreement which provides permission to use a quantity of musical works not substantially smaller than the quantity of such works performed on coin-operated phonorecord players during the 1-year period ending March 1, 1989, the Copyright Royalty Judges shall, upon petition filed under paragraph (1) within 1 year after such termination or expiration, commence a proceeding to promptly establish an interim royalty rate or rates for the public performance by means of a coin-operated phonorecord player of nondramatic musical works embodied in phonorecords which had been subject to the terminated or expired negotiated license agreement. Such rate or rates shall be the same as the last such rate or rates and shall remain in force until the conclusion of proceedings by the Copyright Royalty Judges, in accordance with section 803, to adjust the royalty rates applicable to such works, or until superseded by a new negotiated license agreement, as provided in section 116(b).

"(6) Section 118 proceedings.—A petition described in subsection (a) to initiate proceedings under section 801(b)(1) concerning the determination of reasonable terms and rates of royalty payments as provided in section 118 may be filed in the year 2006 and in each subsequent fifth calendar year.

"(7) Section 1004 proceedings.—A petition described in subsection (a) to initiate proceedings under section 801(b)(1) concerning the adjustment of reasonable royalty rates under section 1004 may be filed as provided in section 1004(a)(3).

"(8) Proceedings concerning distribution of royalty fees.—With respect to proceedings under section 801(b)(3) concerning the distribution of royalty fees in certain circumstances under section 111, 116, 119, or 1007, the Copyright Royalty Judges shall, upon a determination that a controversy exists concerning such distribution, cause to be published in the Federal Register notice of commencement of proceedings under this chapter.

"§ 805. General rule for voluntarily negotiated agreements

"Any rates or terms under this title that—

"(1) are agreed to by participants to a proceeding under section 803(b)(2),

"(2) are adopted by the Copyright Royalty Judges as part of a determination under this chapter, and

"(3) are in effect for a period shorter than would otherwise apply under a determination pursuant to this chapter,

shall remain in effect for such period of time as would otherwise apply under such determination, except that the Copyright Royalty Judges shall adjust the rates pursuant to the voluntary negotiations to reflect national monetary inflation during the additional period the rates remain in effect.".

(b) Conforming Amendment.—The table of chapters for title 17, United States Code, is amended by striking the item relating to chapter 8 and inserting the following:

"8. Proceedings by Copyright Royalty Judges .... 801".

SEC. 4. DEFINITION.

Section 101 is amended by inserting after the definition of "copies" the following:

"A 'Copyright Royalty Judge' is a Copyright Royalty Judge appointed under section 802 of this title, and includes any individual serving as an interim Copyright Royalty Judge under such section.".

SEC. 5. TECHNICAL AMENDMENTS.

(a) Cable Rates.—Section 111(d) is amended—

(1) in paragraph (2), in the second sentence, by striking "a copyright arbitration royalty panel" and inserting "the Copyright Royalty Judges."; and

(2) in paragraph (4)—

(A) in subparagraph (A), by striking "Librarian of Congress" each place it appears and inserting "Copyright Royalty Judges";

(B) in subparagraph (B)—

(i) in the first sentence, by striking "Librarian of Congress shall, upon the recommendation of the Register of Copyrights," and inserting "Copyright Royalty Judges shall";

(ii) in the second sentence, by striking "Librarian determines" and inserting "Copyright Royalty Judges determine"; and

(iii) in the third sentence—

(I) by striking "Librarian" each place it appears and inserting "Copyright Royalty Judges"; and

(II) by striking "convene a copyright arbitration royalty panel" and inserting "conduct a proceeding"; and

(C) in subparagraph (C), by striking "Librarian of Congress" and inserting "Copyright Royalty Judges".

(b) Ephemeral Recordings.—Section 112(e) is amended—

(1) in paragraph (3)—

(A) by amending the first sentence to read as follows: "Voluntary negotiation proceedings initiated pursuant to section 804(a) for the purpose of determining reasonable terms and rates of royalty payments for the activities specified by paragraph (1) shall cover the 5-year period beginning on January 1 of the second year following the year in which the proceedings are commenced, or such other period as the parties may agree."; and

(B) in the third sentence, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges";

(2) in paragraph (4)—

(A) by amending the first sentence to read as follows: "In the absence of license agreements negotiated under paragraphs (2) and (3), the Copyright Royalty Judges shall commence a proceeding pursuant to chapter 8 to determine and publish in the Federal Register a schedule of reasonable rates and terms which, subject to paragraph (5), shall be binding on all copyright owners of sound recordings and transmitting organizations entitled to a statutory license under this subsection during the 5-year period specified in paragraph (3), or such other period as the parties may agree.";

(B) by striking "copyright arbitration royalty panel" each subsequent place it appears and inserting "Copyright Royalty Judges";

(C) in the fourth sentence, by striking "its decision" and inserting "their decision"; and

(D) in the last sentence, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges";

(3) in paragraph (5), by striking "or decision by the Librarian of Congress" and inserting ", decision by the Librarian of Congress, or determination by the Copyright Royalty Judges";

(4) by striking paragraph (6) and redesignating paragraphs (7), (8), and (9), as paragraphs (6), (7), and (8), respectively; and

(5) in paragraph (6)(A), as so redesignated, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges".

(c) Scope of Exclusive Rights in Sound Recordings.—Section 114(f) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by amending the first sentence to read as follows: "Voluntary negotiation proceedings initiated pursuant to section 804(a) for the purpose of determining reasonable terms and rates of royalty payments for subscription transmissions by preexisting subscription services and transmissions by preexisting satellite digital audio radio services shall cover the 5-year period beginning on January 1 of the year following the second year in which the proceedings are commenced, except where differential transitional periods are provided in section 804(b)(3), or such other period as the parties may agree."; and

(ii) in the third sentence, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges";

(B) in subparagraph (B)—

(i) by amending the first sentence to read as follows: "In the absence of license agreements negotiated under subparagraph (A), the Copyright Royalty Judges shall commence a proceeding pursuant to chapter 8 to determine and publish in the Federal Register a schedule of rates and terms which, subject to paragraph (3), shall be binding on all copyright owners of sound recordings and entities performing sound recordings affected by this paragraph during the 5-year period specified in subparagraph (A), or such other date as the parties may agree."; and

(ii) in the second sentence, by striking "copyright arbitration royalty panel" and inserting "Copyright Royalty Judges"; and

(C) by amending subparagraph (C) to read as follows:

"(C) The procedures under subparagraphs (A) and (B) also shall be initiated pursuant to a petition filed by any copyright owners of sound recordings, any preexisting subscription services, or any preexisting satellite digital audio radio services indicating that a new type of subscription digital audio transmission service on which sound recordings are performed is or is about to become operational, for the purpose of determining reasonable terms and rates of royalty payments with respect to such new type of transmission service for the period beginning with the inception of such new type of service and ending on the date on which the royalty rates and terms for subscription digital audio transmission services most recently determined under subparagraph (A) or (B) and chapter 8 expire, or such other period as the parties may agree.";

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) by amending the first sentence to read as follows: "Voluntary negotiation proceedings initiated pursuant to section 804(a) for the purpose of determining reasonable terms and rates of royalty payments for public performances of sound recordings by means of eligible nonsubscription transmissions and transmissions by new subscription services specified by subsection (d)(2) shall cover the 5-year period beginning on January 1 of the second year following the year in which the proceedings are commenced, except where different transitional periods are provided in section 804(b)(3)(A), or such other period as the parties may agree."; and

(ii) in the third sentence, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges";

(B) in subparagraph (B)—

(i) by amending the first sentence to read as follows: "In the absence of license agreements negotiated under subparagraph (A), the Copyright Royalty Judges shall commence a proceeding pursuant to chapter 8 to determine and publish in the Federal Register a schedule of rates and terms which, subject to paragraph (3), shall be binding on all copyright owners of sound recordings and entities performing sound recordings affected by this paragraph during the period specified in subparagraph (A), or such other period as the parties may agree."; and

(ii) by striking "copyright arbitration royalty panel" each subsequent place it appears and inserting "Copyright Royalty Judges"; and

(C) by amending subparagraph (C) to read as follows:

"(C) The procedures under subparagraphs (A) and (B) shall also be initiated pursuant to a petition filed by any copyright owners of sound recordings or any eligible nonsubscription service or new subscription service indicating that a new type of eligible nonsubscription service or new subscription service on which sound recordings are performed is or is about to become operational, for the purpose of determining reasonable terms and rates of royalty payments with respect to such new type of service for the period beginning with the inception of such new type of service and ending on the date on which the royalty rates and terms for preexisting subscription digital audio transmission services or preexisting satellite digital radio audio services, as the case may be, most recently determined under subparagraph (A) or (B) and chapter 8 expire, or such other period as the parties may agree.";

(3) in paragraph (3), by striking "or decision by the Librarian of Congress" and inserting ", decision by the Librarian of Congress, or determination by the Copyright Royalty Judges"; and

(4) in paragraph (4), by striking "Librarian of Congress" each place it appears and inserting "Copyright Royalty Judges".

(d) Phonorecords of Nondramatic Musical Works.—Section 115(c)(3) is amended—

(1) in subparagraph (A)(ii), by striking "(F)" and inserting "(E)";

(2) in subparagraph (B)—

(A) by striking "under this paragraph" and inserting "under this section"; and

(B) by striking "subparagraphs (B) through (F)" and inserting "this subparagraph and subparagraphs (B) through (E)";

(3) in subparagraph (C)—

(A) by amending the first sentence to read as follows: "Voluntary negotiation proceedings initiated pursuant to a petition filed under section 804(a) for the purpose of determining reasonable terms and rates of royalty payments for the activities specified by this section shall cover the period beginning with the effective date of such terms and rates, but not earlier than January 1 of the second year following the year in which the petition is filed, and ending on the effective date of successor terms and rates, or such other period as the parties may agree."; and

(B) in the third sentence, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges";

(4) in subparagraph (D)—

(A) by amending the first sentence to read as follows: "In the absence of license agreements negotiated under subparagraphs (B) and (C), the Copyright Royalty Judges shall commence proceedings pursuant to chapter 8 to determine and publish in the Federal Register a schedule of rates and terms which, subject to subparagraph (E), shall be binding on all copyright owners of nondramatic musical works and persons entitled to obtain a compulsory license under subsection (a)(1) during the period specified in subparagraph (C) or such other period as may be determined pursuant to subparagraphs (B) and (C), or such other period as the parties may agree.";

(B) in the third sentence, by striking "copyright arbitration royalty panel" and inserting "Copyright Royalty Judges"; and

(C) in the last sentence, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges";

(5) in subparagraph (E)—

(A) in clause (i)—

(i) in the first sentence, by striking "the Librarian of Congress" and inserting "a copyright arbitration royalty panel, the Librarian of Congress, or the Copyright Royalty Judges"; and

(ii) in the second sentence, by striking "(C), (D) or (F) shall be given effect" and inserting "(C) or (D) shall be given effect as to digital phonorecord deliveries"; and

(B) in clause (ii)(I), by striking "(C), (D) or (F)" each place it appears and inserting "(C) or (D)"; and

(6) by striking subparagraph (F) and redesignating subparagraphs (G) through (L) as subparagraphs (F) through (K), respectively.

(e) Coin-Operated Phonorecord Players.—Section 116 is amended—

(1) in subsection (b), by amending paragraph (2) to read as follows:

"(2) Chapter 8 proceeding.—Parties not subject to such a negotiation may have the terms and rates and the division of fees described in paragraph (1) determined in a proceeding in accordance with the provisions of chapter 8."; and

(2) in subsection (c)—

(A) in the subsection heading, by striking "Copyright Arbitration Royalty Panel Determinations" and inserting "Determinations by Copyright Royalty Judges"; and

(B) by striking "a copyright arbitration royalty panel" and inserting "the Copyright Royalty Judges".

(f) Use of Certain Works in Connection With Noncommercial Broadcasting.—Section 118 is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) in the first sentence, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges"; and

(ii) by striking the second and third sentences;

(B) in paragraph (2), by striking "the Librarian of Congress:" and all that follows through the end of the sentence and inserting "a copyright arbitration royalty panel, the Librarian of Congress, or the Copyright Royalty Judge, if copies of such agreements are filed with the Copyright Royalty Judges within 30 days of execution in accordance with regulations that the Copyright Royalty Judges shall issue."; and

(C) in paragraph (3)—

(i) in the second sentence—

(I) by striking "copyright arbitration royalty panel" and inserting "Copyright Royalty Judges"; and

(II) by striking "paragraph (2)." and inserting "paragraph (2) or (3).";

(ii) in the last sentence, by striking "'Librarian of Congress" and inserting "Copyright Royalty Judges"; and

(iii) by striking "(3) In" and all that follows through the end of the first sentence and inserting the following:

"(3) Voluntary negotiation proceedings initiated pursuant to a petition filed under section 804(a) for the purpose of determining a schedule of terms and rates of royalty payments by public broadcasting entities to copyright owners in works specified by this subsection and the proportionate division of fees paid among various copyright owners shall cover the 5-year period beginning on January 1 of the second year following the year in which the petition is filed. The parties to each negotiation proceeding shall bear their own costs.

"(4) In the absence of license agreements negotiated under paragraph (2) or (3), the Copyright Royalty Judges shall, pursuant to chapter 8, conduct a proceeding to determine and publish in the Federal Register a schedule of rates and terms which, subject to paragraph (2), shall be binding on all owners of copyright in works specified by this subsection and public broadcasting entities, regardless of whether such copyright owners have submitted proposals to the Copyright Royalty Judges.";

(2) by striking subsection (c) and redesignating subsections (d) through (g) as subsections (c) through (f), respectively;

(3) in subsection (c), as so redesignated, in the matter preceding paragraph (1)—

(A) by striking "(b)(2)" and inserting "(b)(2) or (3)";

(B) by striking "(b)(3)" and inserting "(b)(4)"; and

(C) by striking "a copyright arbitration royalty panel" and inserting "the Copyright Royalty Judges";

(4) in subsection (d), as so redesignated—

(A) by striking "in the Copyright Office" and inserting "with the Copyright Royalty Judges"; and

(B) by striking "Register of Copyrights" and inserting "Copyright Royalty Judges"; and

(5) in subsection (f), as so redesignated, by striking "(d)" and inserting "(c)".

(g) Secondary Transmissions by Satellite Carriers.—Section 119(b) is amended—

(1) in paragraph (3), by striking "Librarian of Congress" and inserting "Copyright Royalty Judges"; and

(2) in paragraph (4)—

(A) in subparagraph (A), by striking "Librarian of Congress" each place it appears and inserting "Copyright Royalty Judges"; and

(B) by amending subparagraphs (B) and (C) to read as follows:

"(B) Determination of controversy; distributions.—After the first day of August of each year, the Copyright Royalty Judges shall determine whether there exists a controversy concerning the distribution of royalty fees. If the Copyright Royalty Judges determine that no such controversy exists, the Librarian of Congress shall, after deducting reasonable administrative costs under this paragraph, distribute such fees to the copyright owners entitled to receive them, or to their designated agents. If the Copyright Royalty Judges find the existence of a controversy, the Copyright Royalty Judges shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty fees.

"(C) Withholding of fees during controversy.—During the pendency of any proceeding under this subsection, the Copyright Royalty Judges shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, subject to any distributions made under section 801(b)(3).".

(h) Digital Audio Recording Devices.—

(1) Royalty payments.—Section 1004(a)(3) is amended by striking "Librarian of Congress" each place it appears and inserting "Copyright Royalty Judges".

(2) Entitlement to royalty payments.—Section 1006(c) is amended by striking "Librarian of Congress shall convene a copyright arbitration royalty panel which" and inserting "Copyright Royalty Judges".

(3) Procedures for distributing royalty payments.—Section 1007 is amended—

(A) in subsection (a), by amending paragraph (1) to read as follows:

"(1) Filing of claims.—During the first 2 months of each calendar year, every interested copyright party seeking to receive royalty payments to which such party is entitled under section 1006 shall file with the Copyright Royalty Judges a claim for payments collected during the preceding year in such form and manner as the Copyright Royalty Judges shall prescribe by regulation."; and

(B) by amending subsections (b) and (c) to read as follows:

"(b) Distribution of Payments in the Absence of a Dispute.—After the period established for the filing of claims under subsection (a), in each year, the Copyright Royalty Judges shall determine whether there exists a controversy concerning the distribution of royalty payments under section 1006(c). If the Copyright Royalty Judges determine that no such controversy exists, the Librarian of Congress shall, within 30 days after such determination, authorize the distribution of the royalty payments as set forth in the agreements regarding the distribution of royalty payments entered into pursuant to subsection (a). The Librarian of Congress shall, before such royalty payments are distributed, deduct the reasonable administrative costs incurred by the Librarian under this section.

"(c) Resolution of Disputes.—If the Copyright Royalty Judges find the existence of a controversy, the Copyright Royalty Judges shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty payments. During the pendency of such a proceeding, the Copyright Royalty Judges shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall, to the extent feasible, authorize the distribution of any amounts that are not in controversy. The Librarian of Congress shall, before such royalty payments are distributed, deduct the reasonable administrative costs incurred by the Librarian under this section.".

(4) Determination of certain disputes.—(A) Section 1010 is amended to read as follows:

"§ 1010. Determination of certain disputes

"(a) Scope of Determination.—Before the date of first distribution in the United States of a digital audio recording device or a digital audio interface device, any party manufacturing, importing, or distributing such device, and any interested copyright party may mutually agree to petition the Copyright Royalty Judges to determine whether such device is subject to section 1002, or the basis on which royalty payments for such device are to be made under section 1003.

"(b) Initiation of Proceedings.—The parties under subsection (a) shall file the petition with the Copyright Royalty Judges requesting the commencement of a proceeding. Within 2 weeks after receiving such a petition, the Chief Copyright Royalty Judge shall cause notice to be published in the Federal Register of the initiation of the proceeding.

"(c) Stay of Judicial Proceedings.—Any civil action brought under section 1009 against a party to a proceeding under this section shall, on application of one of the parties to the proceeding, be stayed until completion of the proceeding.

"(d) Proceeding.—The Copyright Royalty Judges shall conduct a proceeding with respect to the matter concerned, in accordance with such procedures as the Copyright Royalty Judges may adopt. The Copyright Royalty Judges shall act on the basis of a fully documented written record. Any party to the proceeding may submit relevant information and proposals to the Copyright Royalty Judges. The parties to the proceeding shall each bear their respective costs of participation.

"(e) JUDICIAL REVIEW.—Any determination of the Copyright Royalty Judges under subsection (d) may be appealed, by a party to the proceeding, in accordance with section 803(d) of this title. The pendency of an appeal under this subsection shall not stay the determination of the Copyright Royalty Judges. If the court modifies the determination of the Copyright Royalty Judges, the court shall have jurisdiction to enter its own decision in accordance with its final judgment. The court may further vacate the determination of the Copyright Royalty Judges and remand the case for proceedings as provided in this section.".

(B) The item relating to section 1010 in the table of sections for chapter 10 is amended to read as follows:

"1010. Determination of certain disputes.".

SEC. 6. EFFECTIVE DATE AND TRANSITION PROVISIONS.

(a) EFFECTIVE DATE.—This Act and the amendments made by this Act shall take effect 6 months after the date of the enactment of this Act, except that the Librarian of Congress shall appoint interim Copyright Royalty Judges under section 802(d) of title 17, United States Code, as amended by this Act, within 90 days after such date of enactment to carry out the functions of the Copyright Royalty Judges under title 17, United States Code, to the extent that Copyright Royalty Judges provided for in section 801(a) of title 17, United States Code, as amended by this Act, have not been appointed before the end of that 90-day period.

(b) TRANSITION PROVISIONS.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by this Act shall not affect any proceedings commenced, petitions filed, or voluntary agreements entered into before the enactment of this Act under the provisions of title 17, United States Code, amended by this Act, and pending on such date of enactment. Such proceedings shall continue, determinations made in such proceedings, and appeals taken therefrom, as if this Act had not been enacted, and shall continue in effect until modified under title 17, United States Code, as amended by this Act. Such petitions filed and voluntary agreements entered into shall remain in effect as if this Act had not been enacted.

(2) EFFECTIVE PERIODS FOR CERTAIN RATEMAKING PROCEEDINGS.—Notwithstanding paragraph (1), terms and rates in effect under section 114(f)(2) or 112(e) of title 17, United States Code, for new subscription services, eligible nonsubscription services, and services exempt under section 114(d)(1)(C)(iv) of such title for the period 2003 through 2004, and any rates published in the Federal Register under the authority of the Small Webcaster Settlement Act of 2002 for the years 2003 through 2004, shall be effective until the first applicable effective date for successor terms and rates specified in section 804(b)(2) or (3)(A) of title 17, United States Code, or until such later date as the parties may agree. Any proceeding commenced before the enactment of this Act pursuant to section 114(f)(2) and chapter 8 of title 17, United States Code, to adjust or determine such rates and terms for periods following 2004 shall be terminated upon the enactment of this Act and shall be null and void.

(c) EXISTING APPROPRIATIONS.—Any funds made available in an appropriations Act before the date of the enactment of this Act to carry out chapter 8 of title 17, United States Code, shall be available to the extent necessary to carry out this section.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. BERMAN) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1417.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 1417, legislation to reform the rate-making and royalty distribution system for compulsory and statutory licenses.

Mr. Speaker, I would like to take this time to thank the ranking member of the Committee on the Judiciary, the gentleman from Michigan (Mr. CONYERS), as well as the gentleman from Texas (Mr. SMITH) and the gentleman from California (Mr. BERMAN), the chairman and ranking minority member of the Subcommittee on the Courts, the Internet and Intellectual Property, for their support in making CARP reform a priority.

By way of background, with the creation of three copyright compulsory licenses in 1976, Congress contemplated the need for an administrative body that would be responsible for adjusting the rates of the statutory licenses from time to time, as well as acting as the distributors of the royalties subject to these licenses.

The resulting entity was the Copyright Royalty Tribunal or the CRT. In 1993, in response to criticisms voiced against the CRT, Congress reassessed the rate-making and royalty distribution system and created the current system, the Copyright Royalty Arbitration Panel, otherwise known as CARPs.

Among other things, H.R. 1417 addresses the uniform complaints that the CARP decisions are unpredictable and inconsistent by changing the structure from ad hoc arbitration panels to three permanent copyright royalty judges. To justify the need for these full-time judges, as well as to alleviate the overwhelming workloads at given periods of time, the bill staggers the timing at which the three various statutory licenses can be heard.

The bill also addresses the complaint that the process is unnecessarily expensive by eliminating the costs of arbitration upon private parties. It does so by creating a specific process designed to give small claimants a more balanced ability to participate. The bill discourages persons or entities from disrupting the process at the 11th hour by requiring potential participants to show that they have a significant interest in the proceedings. In furtherance of marketplace negotiations, the measure establishes a cooling-off period during which time parties are to focus on reaching their own agreements.

Finally, Mr. Speaker, the substitute before us incorporates certain noncontroversial amendments written to accommodate legitimate concerns that evolve after our committee reported the bill out.

Mr. Speaker, H.R. 1417 was painstakingly negotiated among the various congressional, executive, and industry stakeholders. We worked in a bipartisan manner and developed a consensus product that will effectively address an arcane, but important, manner. I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 1417, and I ask all of my colleagues to support what I think is fundamentally noncontroversial legislation.

H.R. 1417 has been subjected to an exhaustive review process. It emerged from a hearing before the Subcommittee on the Courts, the Internet, and Intellectual Property during the 107th Congress and from a series of open roundtable discussions convened at the U.S. Copyright Office. Early drafts were shaped by several rounds of written comments from all affected stakeholders.

After introduction of H.R. 1417 early this Congress, the subcommittee held another hearing. The subcommittee then reported by voice vote a substantially refined amendment, and the full Committee on the Judiciary made further significant revisions before also reporting its amendment by voice vote. Thus, the version of H.R. 1417 before us today has been forged through an extensive and open process.

Both the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), and the chairman of the Subcommittee on the Courts, the Internet, and Intellectual Property, the gentleman from Texas (Mr. SMITH), are to be commended for pushing H.R. 1417 forward. They have devoted significant time and energy to crafting both the substance of this bill and organizing the widespread support behind it. I thank both of them for working so closely with me and my staff, Alec French, in drafting this bill and its various iterations.

The chairmen are also to be commended for ensuring that the bill remedies the procedural effects of the CARP process without straining into substantive copyright law issues that would surely doom its prospects for passage.

H.R. 1417 focuses on a narrow, but complex, goal. It significantly reforms the system for copyright arbitration royalty panels. The U.S. copyright law contains a half dozen statutory licenses that require copyright owners to make their works available to certain users under government-set rates and terms. For instance, the section 114 statutory license allows Webcasters to perform sound recordings under government-set rates and terms. The royalty rates and terms are established by CARPs, which also determine the appropriate distribution of royalties among copyright owners.

There is widespread agreement among copyright owners and users alike that the CARP process is broken. The costs involved are often so high that parties cannot either afford to participate or find that the costs outweigh any potential royalties or efficiencies. The decisions often take too long to issue and thus create uncertainty and confusion among licensers and licensees alike. Finally, even when decisions do issue, they are often overturned or modified, are inconsistent with precedents, and cannot be effectively implemented until corresponding rule-makings are completed.

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H.R. 1417 will go a long way to remedying the defects of the CARP process. While the changes are too copious to list in total, I would like to highlight a few of the improvements made by the bill.

The primary flaw of the CARPs is they are conducted by private arbitrators who often have no prior experience in conducting a statutory license rate-setting or distribution, much less any prior familiarity with the substantive law or industry economics involved. Because the CARP arbitrators have neither the experience nor authority to do so, the Copyright Office is often called on to issue regulations resolving substantive legal issues that arise during CARPs, and all too often, as we saw in the 2002 webcasting CARP, the Copyright Office is called upon to overturn a CARP decision.

H.R. 1417 replaces the part-time arbitrators with a panel of three full-time copyright royalty judges. These three CRJs will be appointed by the Librarian of Congress to serve staggered 6-year terms. Each panel will bring at least 6 years of experience to every rate-setting and distribution proceeding. Further, the Librarian is required to appoint CRJs with a breadth of experience in copyright law, economics and adjudications.

Mr. Speaker, rather than list a number of the key changes in this bill, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. SMITH), the chairman of the subcommittee.

Mr. SMITH of Texas. Mr. Speaker, I thank the gentleman from Wisconsin, the chairman of the Committee on the Judiciary, for yielding time.

Mr. Speaker, our country has long worked to support and protect copyright holders to ensure they receive fair compensation for their creative works.

Over the last 20 years, Congress has attempted to develop the appropriate mechanism to govern royalties; that is, how to distribute royalties to those who create and how to adjust royalties when necessary. In other words, we have tried to find a compromise that allows for the fair distribution of royalties when two parties cannot agree on the value of a creative work.

When I say "fair distribution of royalties" that could mean many things to different parties, particularly the creators of copyrighted works themselves. It is a major reason why this issue is again before Congress.

Congress established the first entity to deal with this in 1976. Ten years ago, that system was abolished to create the current Copyright Arbitration Royalty Panel, or CARP, system.

This legislation that I authored addresses the main problem: frivolous royalty claims, which is a growing trend, as well as decisions made by the copyright panel that are unpredictable and inconsistent.

Much like another intellectual property rights bill that reforms the Patent and Trademark Office, this legislation is critical to the entertainment industry and a growing economy. It is of great importance to artists, songwriters, music publishers and webcasters.

For example, take the case of a songwriter and a webcaster. If a songwriter cannot reach an agreement with a webcaster about the value of a song in the marketplace, the matter is brought to the copyright royalty and distribution system. The private parties involved, of course, pay for the process.

What happens now is the songwriter or the webcaster, or both, often are not left with much of a royalty payment because the process is too lengthy and too costly. If the songwriter cannot make enough on his creations to support himself, then he will no longer be able to create, and our economy and our society will be the loser.

This is the central reason why we are here today: to ensure that the songwriter has the incentive to create and the webcaster has the benefit of distributing enjoyable musical creations.

Unfortunately, American songwriters and webcasters today are caught up in a royalty system that is anything but fair. The current proceedings to establish royalty rates are long, laborious and costly. They harm our economy and take a tremendous toll on the businesses and persons involved. Congress must reform this broken system, which is exactly what this bill does.

I urge my colleagues to support a balanced and fair process that will, for example, help songwriters and bring a little more melody into the lives of the American people.

Mr. BERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am not going to detail all the different provisions contained in this bill. There are many and they are important. They deal with a problem in the past of setting rates retroactively and how under these reforms rates will be set prospectively, and they deal with the integration of the Copyright Office and its role in providing advice and opinions on matters of law into the process.

They create mechanisms for small participants to participate at much less cost than they now participate through all paper rate-setting proceedings, make some changes in evidentiary rules and discovery rules, and at the same time, they enable the copyright owners to negotiate voluntary agreements rather than go through the whole full blown rate-setting and distribution proceedings.

I do want to call the attention of the body to one particular provision which I think is very important. We rationalize in this bill, H.R. 1417, the ability of the parties to engage in voluntary negotiations in the context of the Section 115 statutory license for reproductions of musical compositions. The Section 115 license currently provides copyright owners and users a limited antitrust exemption to collectively negotiate rates and terms for Digital Phonorecord Deliveries of musical compositions. With the acquiescence of the Justice Department, H.R. 1417 extends this narrow antitrust exemption to all of Section 115, so that it now covers similar negotiations for mechanical reproductions of musical compositions, as well as the digital deliveries.

Mr. Speaker, I rise in strong support of H.R. 1417. I ask all my colleagues to support this non-controversial legislation.

H.R. 1417 has received exhaustive process. It emerged from a hearing before the Intellectual Property Subcommittee during the 107th Congress, and from series of open roundtable discussions convened at the U.S. Copyright Office. Early drafts were shaped by several rounds of written comments from all affected stakeholders. After introduction of H.R. 1417 early this Congress, the subcommittee held another hearing. The subcommittee then reported by voice vote a substantially refined amendment, and the full Judiciary Committee made further significant revisions before also reporting its amendment by voice vote. Thus, the version of H.R. 1417 before us today has been forged through an extensive and open process.

Both the chairman of the Judiciary Committee and the chairman of the Intellectual Property Subcommittee are to be commended for pushing H.R. 1417 forward. They have devoted significant time and energy to crafting both the substance of this bill and the widespread support behind it. I thank them both for working so closely with me in drafting this bill and its various iterations.

The chairmen are also to be commended for ensuring that the bill remedies the procedural defects of the CARP process without straying into substantive copyright law issues that would surely doom its prospects for passage.

H.R. 1417 focuses on a narrow but complex goal: It significantly reforms the system for Copyright Arbitration Royalty Panels—or CARP.

U.S. copyright law contains a half-dozen statutory licenses that require copyright owners to make their works available to certain users under Government-set rates and terms. For instance, the section 114 statutory license allows webcasters to perform sound recordings under Government-set rates and terms. The royalty rates and terms are established by CARPs, which also determine the appropriate distribution of royalties among copyright owners.

There is widespread agreement among copyright owners and users alike that the CARP process is broken. The costs involved are often so high that parties either cannot afford to participate, or find that the costs outweigh any potential royalties or efficiencies. The decisions often take too long to issue, and thus create uncertainty and confusion among licensors and licensees alike. Finally, even when decisions do issue, they are often overturned or modified, are inconsistent with precedents, and cannot be effectively implemented until corresponding rule-makings are completed.

H.R. 1417 will go a long way to remedying the defects of the CARP process. While the changes are too copious to list in total, I would like to highlight a few of the improvements made by this bill.

The primary flaw with CARPs is that they are conducted by private arbitrators who often have no prior experience in conducting a statutory license rate-setting or distribution, much less any prior familiarity with the substantive law or industry economics involved. Because the CARP arbitrators have neither the expertise nor authority to do so, the Copyright Office is often called on to issue regulations resolving substantive legal issue that arise during CARPs. And all too often, as we saw in the 2002 webcasting CARP, the Copyright Office is called upon to overturn a CARP decision.

H.R. 1417 replaces the part-time arbitrators with a panel of three full-time Copyright Royalty Judges. These three CRJs will be appointed by the Librarian of Congress to serve staggered 6-year terms. Thus, each panel will bring at least 6 years of collective experience to every rate-setting and distribution proceeding. Further, the Librarian is required to appoint CRJs with a breadth of experience in copyright law, economics, and adjudications.

The bill contains a number of other provisions that further consolidate and strength the authority of the CRJs. For instance, the bill gives CRJs continuing jurisdiction to ensure that they have the ability "to respond to unforeseen circumstances that preclude the proper effectuation of the determination."

The continuity, experience, and enhanced authority of the CRJs should lead to decisions that are quicker, more consistent, more likely to withstand appeal, and in the long run, far less expensive to secure.

While the new CRJs will have requisite authority and expertise to make good decisions, H.R. 1417 ensures they will be able to draw on, and benefit from, from the substantial expertise of the Copyright Office in this area. H.R. 1417 requires that the Librarian consult with the Register of Copyrights when appointing CRJs. Furthermore, the bill requires the CRJs to solicit the written opinion of the Copyright Office on novel questions of law, and allows the CRJs to consult—on the record—with the Register of Copyrights on all matters other than questions of fact.

H.R. 1417 addresses another major flaw of the current CARP process—the fact that the rates for several statutory licenses are set retroactively. The webcasting CARP concluded in 2002 demonstrates the problems with retroactive rate-setting. When rates were set in 2002 for webcasting that occurred between 1998 and 2002, many small webcasters found their viability threatened because they had not set aside enough money to defray the royalty obligations they had already incurred.

H.R. 1417 addresses this problem through a series of interrelated changes to the various statutory licenses. H.R. 1417 ensures that all rates and terms for statutory licenses will be set prospectively, and eliminates the possibility that a time period covered by a statutory license will commence before the establishment of rates and terms.

H.R. 1417 also addresses a variety of concerns about how CARPs gather evidence, conduct hearings, determine participation, requires parties to present their cases, and treat negotiated settlements. In addressing these concerns, H.R. 1417 hews closely to the overall objective of promoting expeditious, well-reasoned, and widely-supported outcomes.

The bill substantially improves the CARP process from the perspective of small participants. H.R. 1417 allows CRJs to conduct an all-paper, rate-setting proceeding, which in many circumstances, should substantially reduce the barriers to participation for small copyright owners and users. H.R. 1417 also creates an expedited small-claims process to facilitate the distribution of royalties to small claimants.

The bill substantially alters some evidentiary rules, while retaining others used by previous CARPs. It allows admission of hearsay "to the extent deemed appropriate" by the CRJs, rather than according to the Federal Rules of Evidence, and allows CRJs to issue subpoenas for relevant and material information. It directs the CRJs to conduct discovery conferences for the purpose of setting a schedule for completing discovery.

The bill retains the discovery rules currently used in CARP distribution proceedings because distribution participants expressed general satisfaction with those rules. In rate-setting proceedings, the amendment limits discovery to relevant and material information, and allows the CRJs to deny discovery for good cause. The circumstances that constitute "good cause" include where the discovery requests are unreasonably cumulative or duplicative, easily obtainable from another source, the burden or expense outweighs its likely benefit, and other circumstances.

H.R. 1417 clarifies the rules regarding participation on CARP proceedings. It also ensures that only parties who have fully participated in the proceeding, and are bound by its determination, will have the right to appeal that determination.

H.R. 1417 also retains the ability of copyright owners and users, under a number of statutory licenses, to negotiate voluntary agreements rather than suffer through full-blown rate-setting and distribution proceedings. While H.R. 1417 maintains the ability of various statutory licensors and licensees to agree to out-of-cycle rate determinations through voluntary agreements adopted by the CRJs, it allows the CRJs to reject such out-of-cycle determinations if workload concerns so merit.

H.R. 1417 also rationalizes the ability to engage in voluntary negotiations in the context of the section 115 statutory license for reproductions of musical compositions. The section 115 license currently provides copyright owners and users a limited antitrust exemption to collectively negotiate rates and terms for Digital Phonorecord Deliveries of musical compositions. With the acquiescence of the Justice Department, H.R. 1417 extends this narrow antitrust exemption to all of section 115, so that it now covers similar negotiations for mechanical reproductions of musical compositions.

A comprehensive description of this seventy-page bill would take more time than I am allotted, so I will leave off there. However, I will note that adoption of the CARP reform bill is not the end of the story for reforming the CARP system.

Unlike the current CARP system, the bill requires appropriated funds to pay for the new CRJ process. Since Congress has decided the public interest is served by the creation of compulsory licenses in certain instances, it is entirely appropriate that Congress should provide the funds necessary to make the licenses work. CARP costs should not dissipate the meager Government-set royalties received by copyright owners, nor make participation by licensees uneconomical. However, if adequate appropriations are not secured, this legislation will only create further chaos. In this time of record budget deficits, it will take a concerted effort by all interested parties to ensure sufficient appropriations are forthcoming.

In conclusion, Mr. Speaker, I think H.R. 1417 will substantially improve the CARP process, and I ask my colleagues to support it.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of this legislation, H.R. 1417, the Copyright Royalty and Distribution Reform Act. In September 2003, I offered my support during a full Judiciary Committee markup hearing. Mr. SMITH, Mr. BERMAN, and Ranking Member CONYERS are to be commended for their hard work in crafting this legislation.

The bill would replace the existing administrative procedures within the U.S. Copyright Office that determine copyright royalty rates and the distribution of related royalties under various compulsory licenses.

Under the Copyright Royalty Tribunal Reform Act of 1993, the Librarian of Congress has the authority to convene Copyright Arbitration Royalty Panels, or "CARPs," to resolve failed private negotiations between parties that fail to establish rates or to distribute royalties regarding the commercial use of movies, music and other specified copyrighted works.

For years, the CARP system has been criticized for rendering unpredictable and inconsistent decisions, employing arbitrators lacking the expertise to render sound decisions, and for being unnecessarily expensive.

H.R. 1417 is a reasonable bill to cure these concerns and is based on the input and recommendations of Government and industry experts.

H.R. 1417 addresses the problem of lack of arbitrator expertise by appointing a "Copyright Judge" to preside over the new process. The Copyright Judge will be appointed by the Librarian of Congress, have full adjudicatory responsibility, and have the authority to make rulings on both the law and rates. The Copyright Judge will select two professional staff members with knowledge of economics, business, and finance. These staff qualifications will also improve the quality of the decisions rendered.

H.R. 1417 redefines the role of the Copyright Office. Presently, acts as an intake agency answering initial case intake questions, as well as an appellate court for CARP decisions by advising the Librarian on cases. This dual role forces the Copyright Office to often decline to answer threshold intake questions for fear of having to review its own decisions at the appellate stage. Under H.R. 1417, the Copyright Office's appellate responsibilities will be removed and the Office will only act in an administrative and advisory capacity by counseling the Copyright Judge on substantive issues as requested.

For small claimants who participate in the CARP process, the substantial expenses are practically preclusive. H.R. 1417 contains provisions to make the process more accessible. First, claimants must declare an "amount in controversy" during a distribution determination phase of the proceedings. If the dollar figure is $500 or less, the claimant will be assigned to the small claims process which is a less expensive, "all-paper" claim resolution method.

Another provision of H.R. 1417, that benefits both large and small claimants requires the filing of a "notice of intent to participate" in either a rate-making or distribution proceeding. This notice requirement will discourage entities from disrupting the process by participating at the last minute. If a party failure to file in a timely manner or fails to pay the required fee, they will be an exclusion of either written or oral participation in that determination. Those exempted as small claimants would not be affected by this requirement.

H.R. contains several procedural changes to make the claim resolution process more convenient for the parties. H.R. 1417 expands the duration of the discovery phase from 45 to 60 days to give parties more time to file their claims. Additionally, the 180-day time-frame for completing the CARP hearing process is amended to require parties complete the hearing phase of a rate-making or distribution determination in six months. The Copyright Judge, at their discretion, could extend this period up to a maximum of 6 additional months.

Mr. Speaker, H.R. 1417 will make changes to the CARP system that promise to benefit the parties as well as the agents of the copyright adjudication system. I support H.R. 1417, and I urge my colleagues to do likewise.

Mr. CONYERS. Mr. Speaker, I rise in support of this legislation. In the past 2 years, the Committee has held two hearings on concerns with the CARP, the system that sets royalty rates for copyrighted content. People on both sides, the owners and buyers, agree that the current system needs changes. Based on that, subcommittee Chairman SMITH, subcommittee Ranking Member BERMAN, and I introduced legislation, H.R. 1417, that would make substantial procedural changes.

We heard the current system is costly because the copyright owners and users have to pay for the arbitrators. Because copyright law subjects copyright owners and users to a compulsory process, we believe the law should not place this additional financial burden on them. Our bill creates three Copyright Royalty Judges who would be paid from appropriated funds to set royalty rates and distribute royalty fees.

Another complaint was that the CARP does not have adequate rules on how to address hearsay evidence. This bill explicitly requires that the Judges treat hearsay evidence in the same manner that it is treated in Federal court. This will bring uniformity to the proceedings for parties on both sides of royalty disputes.

This bill also alters the terms for which certain royalty rates are in effect. Rates that are determined by the Judges will be in effect for 5 years. This should create some predictability and uniformity for those who rely on the Judges' determinations.

Finally, parties on both sides argued that the substantive standards that the CARP uses to set royalty rates should be changed somehow. In an effort to reach a compromise and pass a bill that does not alter any substantive rights, this bill changes only the procedure for rate settings and distributions.

There will be a substitute amendment to the bill that was worked out by the majority, minority, and all groups interested in the CARP process. I hope we can continue to work on resolving any outstanding issues and moving this bill through the other body.

I urge my colleagues to vote "yes" on this bill as amended.

Mr. BERMAN. Mr. Speaker, seeing no other speakers seeking recognition on my side of the aisle, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time as well.

The SPEAKER pro tempore (Mr. SHAW). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 1417, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Wanda Evans, one of his secretaries.

HONORING THE MEN AND WOMEN OF THE DRUG ENFORCEMENT ADMINISTRATION ON ITS 30TH ANNIVERSARY

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 412) honoring the men and women of the Drug Enforcement Administration on the occasion of its 30th anniversary.

The Clerk read as follows:

H. RES. 412

Whereas the Drug Enforcement Administration (DEA) was first created by executive order on July 6, 1973, merging the previously separate law enforcement and intelligence agencies responsible for narcotics control;

Whereas the first Administrator of the DEA, John R. Bartels, Jr., was confirmed by the Senate on October 4, 1973;

Whereas since 1973 the men and women of the DEA have served our Nation with courage, vision and determination, protecting all Americans from the scourge of drug trafficking, abuse, and related violence;

Whereas between 1986 and 2002 alone, DEA agents seized over 10,000 kilograms of heroin, 900,000 kilograms of cocaine, 4,600,000 kilograms of marijuana, 113,000,000 dosage units of hallucinogens, and 1,500,000,000 dosage units of methamphetamine, and made over 443,000 arrests of drug traffickers;

Whereas DEA agents continue to lead task forces of Federal, State, and local law enforcement officials throughout the Nation, in a cooperative effort to stop drug trafficking and put drug gangs behind bars;

Whereas throughout its history many DEA employees and members of DEA task forces have given their lives in the defense of our Nation, including: Emir Benitez, Gerald Sawyer, Leslie S. Grosso, Nickolas Fragos, Mary M. Keehan, Charles H. Mann, Anna Y. Mounger, Anna J. Pope, Martha D. Skeels, Mary P. Sullivan, Larry D. Wallace, Ralph N. Shaw, James T. Lunn, Octavio Gonzalez, Francis J. Miller, Robert C. Lightfoot, Thomas J. Devine, Larry N. Carwell, Marcellus Ward, Enrique S. Camarena, James A. Avant, Charles M. Bassing, Kevin L. Brosch, Susan M. Hoefler, William Ramos, Raymond J. Stastny, Arthur L. Cash, Terry W. McNett, George M. Montoya, Paul S. Seema, Everett E. Hatcher, Rickie C. Finley, Joseph T. Aversa, Wallie Howard, Jr., Eugene T. McCarthy, Alan H. Winn, George D. Althouse, Becky L. Dwojeski, Stephen J. Strehl, Richard E. Fass, Juan C. Vars, Jay W. Seale, Meredith Thompson, Frank S. Wallace, Jr., Frank Fernandez, Jr., Kenneth G. McCullough, Carrol June Fields, Rona L. Chafey, Shelly D. Bland, Carrie A. Lenz, Shaun E. Curl, Royce D. Tramel, Alice Faye Hall-Walton, and Elton Armstead;

Whereas many other employees and task force officers of the DEA have been wounded or injured in the line of duty; and

Whereas in its 173 domestic offices and 78 foreign offices worldwide the over 8,800 employees of the DEA continue to hunt down and bring to justice the drug trafficking cartels that seek to poison our citizens with dangerous narcotics: Now, therefore, be it

Resolved, That the House of Representatives—

(1) congratulates the DEA on the occasion of its 30th Anniversary;

(2) honors the heroic sacrifice of those of its employees who have given their lives or been wounded or injured in the service of our Nation; and

(3) thanks all the men and women of the DEA for their past and continued efforts to defend the American people from the scourge of illegal drugs.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Virginia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. PAUL. Mr. Speaker, I want to inquire on whether or not the gentleman on the other side is in opposition to the bill.

The SPEAKER pro tempore. The Chair asks the gentleman from Virginia (Mr. SCOTT), is he opposed to the motion?

Mr. SCOTT of Virginia. Mr. Speaker, I am not opposed to the motion.

Mr. PAUL. In that case, Mr. Speaker, I request the time in opposition.

The SPEAKER pro tempore. Under clause 1(c) of rule XV, the Chair recognizes the gentleman from Texas (Mr. PAUL) to control the time in opposition to the motion.

The Chair now recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous materials on H. Res. 412, the resolution currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield 10 minutes, half my time, to the gentleman from Virginia (Mr. SCOTT), and I ask unanimous consent that he be allowed to yield portions of that time as he sees fit.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on July 6, 1973, President Richard Nixon first created the Drug Enforcement Administration. The agency was created to address a growing drug problem in the United States. The DEA was the merger of separate law enforcement and intelligence agencies that shared responsibility for enforcing controlled substance laws. At the time, Congress and the administration recognized an increase in the use and the availability of illegal drugs in this country. According to DEA statistics in 1960, only 4 million Americans had ever tried drugs. That number is currently over 74 million.

The DEA continues to defend our Nation from the scourge of illegal drugs. It not only enforces the controlled substances laws and regulations of the United States, but the agency also recommends and supports nonenforcement programs aimed at reducing the availability of illicit controlled substances on the domestic and international markets.

This mission is as relevant today as it was 30 years ago when the DEA was created. The families and communities affected by drug abuse recognize the important work that the DEA performs. The DEA's steadfast commitment to bringing drug traffickers to justice is crucial to protecting our communities.

The DEA leads task forces of Federal, State and local law enforcement officials throughout the Nation in a cooperative effort to stop drug trafficking. However, these partnerships are not limited to our borders, as evidenced by the more than 70 field offices worldwide.

The efforts of the DEA domestically and abroad are vital to our national security. The war on terrorism is fought on many fronts, including drug trafficking. It is apparent that there have been connections between the drug trade and terrorist activities. The DEA will continue this fight in an effort to remove another avenue of financing for terrorism.

Today, this Congress recognizes the important work of this agency and thanks its employees, both past and present, for their continued efforts to block the flow of drugs into America's cities and towns. This resolution also acknowledges that the war on drugs is not without loss and gives special recognition to those who have lost their life or who have been injured in pursuit of this noble cause.

I urge my colleagues to support this resolution to honor the men and women who have served, and continue to serve, our country as a part of the Drug Enforcement Administration.

Mr. Speaker, I reserve the balance of my time.

Mr. PAUL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to the resolution but obviously not because we should not honor the men who were asked to do their duty and lost their lives. It is for another reason.

I would like to call attention to my colleagues and to the Congress the lack of success on the war on drugs. The war has been going on for 30 years. The success is not there, and I think we are deceiving ourselves if we think that everything is going well and that we have achieved something, because there is really no evidence for that. Not only that, there have been many unintended consequences that we fail to look at, and I want to take this time to make that the point and try to get some of us to think that there may be another way to fight the war on drugs.

I do not know of anybody who likes drugs and advocates the use of drugs. I as a physician am strongly opposed to the use of drugs. It is just that the techniques make a big difference. We are talking about bad habits, and yet we are resorting to the use of force, literally an army of agents and hundreds of billions of dollars over a 30-year period, in an effort to bring about changes in people's habits. Someday we are going to have to decide how successful we have been. Was it a good investment? Have we really accomplished anything?

Another reason why I am taking this time to express an opposition is that the process has been flawed. After World War I, there was a movement in this country that believed that too many Americans had bad habits of drinking too much alcohol, and of course, if we really want to deal with a bad drug, alcohol is it. Many, many more die from alcoholism and drunken driving and all kinds of related illnesses, but the country knew it and they recognized how one dealt with those problems.

The one thing that this country recognized was that the Congress had no authority to march around the country and tell people not to drink beer, and what did they do? They resorted to amending the Constitution, a proper procedure, and of course, it turned out to be a failed experiment. After 12 years, they woke up and the American people changed it.

We have gone 30 years and we have not even reconsidered a new approach to the use of drugs and the problems that we face.

Another thing that is rather astounding to me, is that not only have we lost the respect for the Constitution to say that the Federal Government can be involved in teaching habits, but we literally did this not even through congressional legislation.

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The DEA was created by an executive order. Imagine the size of this program created merely by a President signing an executive order. Of course, the ultimate responsibility falls on the Congress because we acquiesce and we vote for all the funding. The DEA has received over $24 billion in the past 30 years, but the real cost of law enforcement is well over $240 billion when we add up all the costs.

And then if we look at the prison system, we have created a monstrosity. Eighty-four percent, according to one study, 84 percent of all Federal prisoners are nonviolent drug prisoners. They go in and they come out violent. We are still talking about a medical problem. We treat alcoholism as a medical problem, but anybody who smokes a marijuana cigarette or sells something, we want to put them in prison. I think it is time to stop and reevaluate this.

One other point is that as a physician I have come to the firm conclusion that the war on drugs has been very detrimental to the practice of medicine and the care of patients. The drug culture has literally handicapped physicians in caring for the ill and the pain that people suffer with terminal illnesses. I have seen doctors in tears coming to me and saying that all his wife had asked me for was to die not in pain; and even he, as a physician, could not get enough pain medication because they did not want to make her an addict. So we do have a lot of unintended consequences.

We have civil liberty consequences as well. We set the stage for gangsters and terrorists raising money by making weeds and wild plants and flowers illegal. If someone could say and show me all of a sudden that the American people use a lot less drugs and kids are never tempted, it would be a better case; but we do not have the evidence. We have no evidence to show that 30 years of this drug war has done very much good. Matter of fact, all studies of the DARE program show that the DARE program has not encouraged kids to use less illegal drugs. So there is quite a few reasons why we ought not to just glibly say to the DEA it's been a wonderful 30 years and encourage more of it.

The second part of the resolution talks about the sacrifice of these men. To me, it is a tragedy. Why should we ever have a policy where men have to sacrifice themselves? I do not believe it is necessary. We gave up on the prohibition of alcohol. I believe the drug war ought to be fought, but in a much different manner.

Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume, and I thank the gentleman from Wisconsin for the courtesy of yielding me this time.

Mr. Speaker, I rise in support of this resolution and urge my colleagues to support it. House Resolution 412 commemorates the 30th anniversary of the Federal Drug Enforcement Agency and recognizes the contributions and achievements of its current 8,800 employees working in 173 domestic offices and 78 foreign offices worldwide.

The resolution also specifically recognizes the sacrifices of those employees who have given their lives in the line of duty and those who have been wounded or injured.

So I am pleased to join my colleagues in recognizing the dedicated hard work and sacrifice of the men and women of the DEA on this occasion commemorating the 30th anniversary of this agency.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. SOUDER).

Mr. SCOTT of Virginia. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr. Speaker, today we honor the men and women of the Drug Enforcement Administration on the occasion of its 30th anniversary. I would like to thank the House leadership and the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), for bringing this resolution to the floor; and I would particularly like to thank all those who have cosponsored my resolution, especially the gentleman from Maryland (Mr. CUMMINGS), the ranking member of the Subcommittee on Criminal Justice, Drug Policy and Human Resources of the Committee on Government Reform, and the gentleman from Georgia (Mr. DEAL), the vice chairman of that subcommittee. I am pleased we were able to introduce this legislation on a bipartisan basis, emphasizing our shared goal of preventing drug abuse.

If I may just briefly comment on a few of the remarks of my friend, the gentleman from Texas (Mr. PAUL), our libertarian conscience in the House. He is an eloquent spokesman for limited Federal Government and votes against most resolutions here, and he works as our conscience. However, he is deeply wrong on this issue. We have, in fact, made progress on drug abuse this past year, 10 percent reduction. We have had a dramatic reduction. But it is hard to battle addiction across America, just as it is in child abuse, spousal abuse, and other things that the gentleman from Texas would oppose the Federal Government being involved in.

We have a philosophical difference, but the gentleman should not disparage the efforts of the DEA and the hard work so many people do in trying to prevent the 20,000 deaths per year that occur because of drug abuse in America.

Mr. Speaker, in the aftermath of September 11, we have often recognized and honored the men and women responsible for preventing and responding to terrorist attacks on our country, and rightly so; but we should never forget the terrible toll that drug abuse continues to take on America, nor those who bravely seek to stop it. According to the Center for Disease Control, every year 20,000 American lives are lost as a direct consequence of illegal drug use, and much more devastation beyond those 20,000 in indirect loss of life.

The Office of National Drug Control Policy estimates that the annual economic cost of drug abuse to the U.S. in lost productivity, health care costs, and wasted lives is now well over $150 billion. Every year, drug traffickers seek further profit from this misery by importing, manufacturing, and selling these poisons on our streets and in our communities. It is a traffic in death as devastating as anything the more visible terrorists have done. The task of stopping this falls on our law enforcement agencies, and no agency is more dedicated to that struggle than the DEA.

Thirty years ago, on July 6, 1973, President Nixon signed the executive order creating the DEA from several previously separate agencies, more efficient government, including the Justice Department's Bureau of Narcotics and Dangerous Drugs, the Office of Drug Abuse Law Enforcement, the Office of National Narcotics Intelligence, the White House's Narcotics Advanced Research Team, and the Drug Investigations branch of the U.S. Customs Service. On October 4, 1973, the Senate confirmed the first administrator of the DEA, John R. Bartels, Jr., inaugurating a new era in the Nation's fight against drug abuse.

The DEA has carried on that fight on every front: at the borders, in our cities and small towns and rural areas across the country. As the Federal Government's only single-mission agency dedicated to narcotics control, the DEA has taken the lead in breaking the international cartels that bring cocaine, heroin, ecstasy, methamphetamine precursors and marijuana into the U.S. In partnership with other Federal, State, and local law enforcement agencies, the DEA has organized task forces that investigate, penetrate, and bust the street gangs and other distribution networks selling drugs on the streets.

The numbers speak volumes about the DEA's success. But these numbers, impressive as they are, cannot fully convey what the DEA has done for our Nation. We are also here to remember the personal sacrifices of thousands of men and women who have served America as DEA agents and members of DEA task forces. I would like to highlight just a few of these agents.

Special Agent Benitez was shot. He was a Customs officer, and then he worked as one of the first Special Agents in DEA. In 1973, he was fatally shot during an undercover investigation of cocaine dealers. He was only 28 and is survived by his wife and daughter.

Special Agent Ward of Baltimore, Maryland, was assigned to DEA in Baltimore. He was the husband and father of two, and was a 13-year police department veteran who had earned numerous medals and commendations. On December 3, 1984, at the age of 36, he was shot and killed while working on an undercover assignment.

Special Agent Enrique Camarena was a Marine, a husband, and the father of three children. He received two Sustained Superior Performance Awards, a Special Achievement Award, and the Administrator's Award of Honor, the highest award granted by the DEA. On February 7, 1985, he was kidnapped, tortured, and eventually killed by Mexican drug traffickers while working in Mexico.

These people died trying to defend us and our children on the streets of the United States from the scourge of drugs.

This is Police Investigator Wallie Howard of the Syracuse, New York, Police Department. He was a 9-year veteran who worked for DEA's central office in New York and was shot during an undercover operation in Brooklyn when they attempted to rob him. He was only 31.

This is Special Agent Meredith Thompson, who joined DEA in 1985 and was a tireless worker. At the age of 33, she was one of five special agents killed in 1994 in a special reconnaissance mission in Peru.

These people died. And these are just five who have died trying to protect us, our children, and our families from the wreck of cocaine,. of heroin, and of marijuana that does incredible damage. And were they not on the streets and were they not sacrificing their lives, so many more than the 20,000 would have died.

Mr. Speaker, today we honor the men and women of the Drug Enforcement Administration on the occasion of its 30th anniversary. I'd like to thank the House leadership and Chairman SENSENBRENNER of the Judiciary Committee for assisting us in bringing this resolution to the floor; and I'd particularly like to thank all those who co-sponsored the resolution, especially Mr. CUMMINGS, the ranking member of the Drug Policy Subcommittee that I chair, and Mr. DEAL, the vice-chairman. I am very pleased that we were able to introduce this resolution on a bipartisan basis, emphasizing our shared goal of preventing drug abuse.

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The task of stopping this falls on our law enforcement agencies, and no agency has been more dedicated to that struggle than the DEA. Thirty years ago, on July 6, 1973, President Nixon signed the executive order creating the DEA from several previously separated agencies, including the Justice Department's Bureau of Narcotics and Dangerous Drugs, the Office of Drug Abuse Law Enforcement, the Office of National Narcotics Intelligence, the White House's Narcotics Advance Research Team, and the Drug Investigations branch of the U.S. Customs Service. On October 4, 1973, the Senate confirmed the first Administrator of the DEA, John R. Bartels, Jr., inaugurating a new era in our nation's fight against drug abuse.

The DEA has carried on that fight on every front—at the borders, in our cities, and in small towns and rural areas across the country. As the federal government's only single-mission agency dedicated to narcotics control, the DEA has taken the lead in breaking the international cartels that bring cocaine, heroin, ecstasy, methamphetamine precursors and marijuana into the U.S. In partnership with other federal, state and local law enforcement agencies, the DEA has organized task forces that investigate, penetrate and bust the street gangs and other distribution networks selling drugs on the streets. Through entities like the El Paso Intelligence Center (EPIC), DEA also gathers, analyzes and shares drug trafficking intelligence with its law enforcement partners. The numbers speak volumes about DEA's success: between 1986 and 2002 alone, DEA agents seized over 10,000 kilograms of heroin, 900,000 kilograms of cocaine, 4,600,000 kilograms of marijuana, 113,000,000 dosage units of hallucinogens, and 1,500,000,000 dosage units of methamphetamine, and made over 443,000 arrests of drug traffickers.

But these numbers, impressive as they are, cannot fully convey what the DEA has done for our nation. We are also here to remember the personal sacrifices of the thousands of men and women who have served America as DEA agents and members of DEA-led task forces. I'd like to talk about just a few of those men and women who made the ultimate sacrifice in the fight against illegal drug abuse.

Emir Benitez was one of the first Special Agents to serve at the DEA. As a Customs officer, he was so successful at finding marijuana that he received three awards for superior performance. On August 9, 1973, he was fatally shot during an undercover investigation of cocaine dealers in Ft. Lauderdale, Florida. He was only 28 when he died, survived by his wife and his daughter.

Detective Marcellus Ward of the Baltimore, Maryland, Police Department, was assigned to the Drug Enforcement Administration's Baltimore District Office Task Force. A husband and father of two, Detective Ward was a thirteen-year police department veteran, who earned numerous medals and commendations for his work. On December 3, 1984, at the age of 36, he was shot and killed while working on an undercover assignment.

Special Agent Enrique S. Camarena joined DEA in June 1974. During his 11 years with DEA, this former Marine, husband and father of three children received two Sustained Superior Performance Awards, a Special Achievement Award and posthumously, the Administrator's Award of Honor, the highest award granted by DEA. On February 7, 1985, Camarena was kidnapped, tortured and eventually killed by Mexican drug traffickers while he was assigned to the DEA's Guadalajara, Mexico office. He was 37 years old.

Police Investigator Wallie Howard Jr., of the Syracuse, New York Police Department, was a nine-year veteran and the recipient of three bureau commendations for his work on several undercover drug investigations. A husband and father of two, Office Howard was killed on October 30, 1990, while serving on the DEA's Central New York Drug Enforcement Task Force. Officer Howard was shot during an undercover operation when drug traffickers from Brooklyn, New York, attempted to rob him. He was 31 years old.

Special Agent Meredith Thompson joined DEA in 1985. She was characterized as a tireless worker—innovative, motivated and organized. Throughout her career, she received numerous letters of appreciation and commendation from both within and outside DEA. At the age of 33, she was one of five Special Agents killed on August 27, 1994, in a plane crash during a reconnaissance mission near Santa Lucia, Peru. This mission was being flown as part of Operation Snowcap, DEA's cocaine suppression program in Latin America.

Mr. Speaker, these are only five of the names that are listed on the DEA's memorial to its fallen agents and task force officers. They are a permanent reminder of the cost in human life imposed on us by the Drug traffickers and their collaborators. Today, as we thank the DEA and its employees for over 30 years of courage, service, and sacrifice, I hope that we will draw strength from their example and rededicate ourselves to their cause—the fight against drug abuse.

Mr. PAUL. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore (Mr. SHAW). The gentleman from Texas has 14 minutes remaining.

Mr. PAUL. Mr. Speaker, I yield myself such time as I may consume.

Regarding the loss of lives, whether it is 3,000 that some report, or 20,000, many of those would be preventable if we did not have the drug wars going on. The drug wars go on because people are fighting for turf and then the police have to go in and try to stop them because prices are artificially high. We have created the incentive for drug violence. We take something worthless and make it worth billions of dollars. We set the stage for terrorists.

Right now, because of the policies in Afghanistan, 80 percent of Afghanistan now has been returned to the drug lords. If the drugs were worthless, there would be no incentive to promote them. But they are worth a lot of money, so inadvertently our drug war pushes the prices up, and we create the incentive for the Taliban and others to raise the poppies and send the drugs over here. Then they finance the terrorists. So it is an unintended consequence that does not make any sense. It does not have to happen.

The big challenge is will anybody ever be willing to raise the questions and suggest another way. Could we have made a mistake, such as we did with the prohibition of alcohol? This does not mean that everybody has everything they want. Alcohol is legal, but kids get marijuana and other drugs easier on the street than they get their alcohol, because there is such a tremendous incentive.

During prohibition it was very well known that because alcohol was illegal, the more concentrated it is and the higher price it is because you can move it about and because it is contraband. So there is a tremendous incentive to do that. And then, when it is illegal, it becomes more dangerous. That is exactly what happens on drugs.

One hundred years ago, you could buy cocaine in a drugstore. Most Americans would be tremendously surprised to realize that for most of our history drugs were not illegal. The first marijuana law was in 1938. And they got around that on the constitutional aspect by just putting a tax on it. So there is a lack of respect for how we solve our problems, a lack of wisdom on what we ought to do, and a lack of concern; and this is my deep concern as a physician, a lack of concern for seeing people dying and suffering.

Just think of the people who claim and are believable that they get some relief from marijuana, the paraplegics and those who have cancer and receiving chemotherapy. And in our arrogance, we, at the national level, write laws that send the DEA in to cancel out the States that have tried to change the law and show a little bit of compassion for people that are dying.

We are constitutionally wrong, we are medically wrong, we are economically wrong, and we are not achieving anything. We have no faith and confidence in our constitutional system. We have no faith and confidence that we change moral and personal habits through persuasion, not through armed might.

This is a choice. Nobody is for the use of drugs that I know of. But there is a big difference if you casually and carelessly resort to saying, oh, it is good that you do not do drugs, to let us create a drug army to prance around the country, and then lo and behold houses are invaded, mistakes are made, innocent people are killed, and it does not add up.

It is still astounding to me to find out that the DEA was not even created by congressional legislation. It was created by an executive order. We have gone a long way, colleagues, from where the respect for the Constitution existed and that at least the Congress should legislate. Even in the 1920s, when we attacked alcohol, we had enough respect for the Constitution to amend the Constitution.

□ 1130

Mr. Speaker, I think we are deceiving ourselves if we think the war on drugs is being won, and the failure to look at the unintended consequences, the real cost. As a matter of fact, this resolution brings up the real cost, this long list, this long tragic list of individuals who have been killed over this war.

So I am asking once again not so much to be in opposition to this resolution, but this resolution is to praise 30 years of the DEA and to praise an agency that really has no authority because it comes only from the executive branch, but for us to someday seriously think about the problems that have come from the war on drugs.

Let me tell Members, there is a politically popular position in this country that many are not aware of: The tragedy of so many families seeing their loved ones die and suffer without adequate care, 90-year-old people dying of cancer and nurses and doctors intimidated and saying we cannot make them a drug addict. This drug war culture that we live with has done a lot of harm in the practice of medicine. Attacking the physicians who prescribe pain medicine and taking their licenses from them is reprehensible. I ask Members to please reconsider, not so much what we do today, but in the future, maybe we will wake up and decide there is a better way to teach good habits to American citizens.

Mr. SCOTT of Virginia. Mr. Speaker, I yield 4½ minutes to the gentleman from New Jersey (Mr. PASCRELL), a former mayor of Paterson, New Jersey, who worked very closely with the DEA.

Mr. PASCRELL. Mr. Speaker, I thank the gentleman from Virginia (Mr. SCOTT) for yielding me this time, and I want to also congratulate the gentleman from Indiana (Mr. SOUDER) and the gentleman from Wisconsin (Mr. SENSENBRENNER). I think this is an important resolution, and let us get back to the focus of what the resolution says. The Drug Enforcement Agency offers countless examples of heroic action and achievement. I am honored to offer my whole-hearted support and thanks to the men and women of this extraordinarily important Federal agency.

Our Nation is constantly under threat from the scourge of illegal drugs, and with every strata of our social structure victimized in some way by the hazards of narcotics, the work formed by the DEA is absolutely vital. It is many times a thankless, grueling work performed by public servants who oftentimes put themselves in harm's way for the public's good. Throughout its history the Drug Enforcement Agency employees have given their lives in defense of their Nation. Many other employees have been wounded or injured in the line of duty.

My mind flashes back to the late 1980s when an agent from North Jersey, Everett Hatcher, was assassinated in Staten Island in a horrendous, heinous crime defending his country addressing the terror. Talk about terror, let us talk about the terror of drugs. Every American owes these men and women a debt of extreme thanks, especially in light of the success DEA has accomplished.

Between 1986 and 2002 alone, DEA agents seized over 10,000 kilograms of heroin, 900 kilograms of cocaine, 4.6 million kilograms of marijuana, 113 million dosage units of hallucinogens, and 1.5 billion dosage units of methamphetamines, and made over 443,000 arrests of drug traffickers. Of course, where there is no market, there is no sale, I say to the gentleman from Texas. We know that. The war on drugs starts in our homes. The war on drugs starts in our own medicine cabinets and our own liquor cabinets. There is no denying that. It does not start in the offices of my Federal agency.

Law enforcement is only part of the answer. There is not a person in this Chamber who does not agree with that, but that is a given. Solutions are worthy for study of debate, and I salute the gentleman from Texas (Mr. PAUL) for putting this on the floor. Perhaps this is not the time, but when is the time? I appreciate that.

Foreign policy does impact illicit drug use. We know it is coming out of Afghanistan, a lawless country. When the American people find out what is going on in Afghanistan, they are not going to be very happy, are they? We appreciate that. But this is not the time for the debate so much on policy or whether medical marijuana is something that we can consider as a Nation. This is a time that we focus on an agency who has done what we have asked them to do. They have done what we have asked them to do, and they have put themselves in harm's way.

We have heard the word "terror" used many times. We have heard it used in State of the Union addresses by many Presidents, but there is no greater terror than the terror of illicit drug use and sales in this country or any other country. It saps our energy and it saps our will, but it must begin in our homes. I salute the DEA. I wish I could say, Mr. Speaker, the same for many of our homes.

Mr. SCOTT of Virginia. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), a member of the Committee on the Judiciary.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman from Virginia (Mr. SCOTT), the gentleman from Wisconsin (Chairman SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS), the ranking member.

Mr. Speaker, I rise enthusiastically to support and to honor the 30 years of service of the Drug Enforcement Agency, and particularly emphasize those who have worked with me and worked in the south Texas region. I applaud the achievements of 8,800 employees who work in 173 domestic offices and 78 foreign offices worldwide.

I join my colleagues and the gentleman from New Jersey (Mr. PASCRELL) to acknowledge the hard work and the depth of commitment of these men and women. And frankly, as an aside, I might say maybe if we had a few good DEA officers advising us in Haiti, we would not be negotiating with thugs, drug dealers and others who certainly do not have the good intentions of the Haitians in mind.

I particularly want to add my applause to the DEA agents who work in my community who have been monitoring the High Intensity Drug Trafficking Area. Designated in 1990, they have been working throughout Harris, Jefferson, Jim Wells, Kennedy and Liberty Counties, who have been working with the Governor's Office of Public Safety and Drug Policy and working on programs in schools. They have worked with Houston Crackdown, and we have seen a difference in the number of drug users in our area. They have helped Houston Crackdown run a 24-hour bilingual drug information hotline. They have worked with the anti-gang office of the Houston Police Department Gang Task Force established in 1994. They have worked with the After School Achievement Program and Operation Renaissance, a collaborative effort by the police department, other city departments and the DEA in working in the inner city.

We have been gratified by the fact in late 2000 the Houston field division reported two seizures of suspected SA heroin. Nearly 2 kilograms were sized at a bus terminal in Houston from a Colombian female. In the other instance, four Venezuelans, in possession of 1.4 kilograms of heroin, were arrested at a local hotel. We have done well with the DEA in south Texas. We know the trials and tribulations that we are engaged in.

The good news of the DEA is they have put life into the phrase "Just say no." They put their lives on the front line. They are committed to making sure our children do not fall victim to the tribulations of drug, and in particular methamphetamines that are plaguing the rural South. That has been another area where we have seen the DEA working so diligently.

Mr. Speaker, I have more than one reason to come to the floor of the House to thank the DEA and all of its fine personnel across the Nation, its 173 divisions, but I am particularly proud to thank the Houston division for the grand work they have done, arming themselves with their commitment and their vision to protect the Nation's children and to make this Nation drug free.

Mr. Speaker, I rise in strong support of H. Res. 412, honoring the Men and Women of the Drug Enforcement Administration on the Occasion of Its 30th Anniversary. I also supported this bill when it was marked up before the full Judiciary Committee last month.

This resolution commemorates the 30th anniversary of the Federal Drug Enforcement Agency (DEA) and recognizes the contributions and achievements of its 8,800 employees who now work in 173 domestic offices and 78 foreign offices worldwide, and recognizes the sacrifices of those employees who have given their lives in the line of duty and those who have been wounded or injured in the line of duty.

In Houston, particularly, I would like to applaud the DEA on the stellar performance of its initiatives:

Monitoring of the High Intensity Drug Trafficking Area (HIDTA)—Designated in 1990, the Houston HIDTA encompasses the city of Houston and the surrounding areas of Aransas, Brooks, Galveston, Hardin, Harris, Jefferson, Jim Wells, Kennedy, Kleberg, Liberty, Nueces, Orange, Refugio, San Patricio and Victoria counties.

Governor's Office of Public Safety and Drug Policy—This office develops public policy and works to implement prevention, intervention, and suppression strategies to stop gang violence and assist crime victims. The office also coordinates and supports volunteer projects dealing with alcohol and drug abuse.

Examples of programs in Houston include:

Houston Crackdown, which coordinates and supports volunteer projects in the areas of drug prevention, treatment, and law enforcement. Houston Crackdown also runs a 24-hour bilingual Drug Information Hotline that provides access to treatment and recovery resources, drug information for youth and parents, a means to report illegal drug activity, and ideas for getting involved in community efforts.

The Anti Gang Office and the Houston Police Department Gang Task Force, both established in 1994. They provide a balanced approach, combining prevention and suppression tactics focused toward reduction of street gang growth and development.

The After School Achievement Program (ASAP), a community-based program offering youths constructive and positive activities between 3 p.m. and 6 p.m.

Operation Renaissance, a collaborative effort by the police department, other city departments, government agencies, and various community groups to revive the city's inner-city neighborhoods. Operation Renaissance employs a holistic approach and embraces the philosophy of Neighborhood Oriented Government and the Super Neighborhood concept. It is comprised of five pillars: narcotics interdiction, directed patrol, nuisance abatement, trash removal, and graffiti abatement. The community assists the police by reporting known drug dealers and locations while the police utilize a two-phase approach in targeting identified individuals and locations. Phase One calls for a highly visible police presence in areas of known "open-air" markets and Phase Two targets indoor locations.

Although the fruits of this office's impressive performance record are many, I highlight the fact that in late 2000, the DEA Houston Field Division reported two seizures of suspected SA heroin. Nearly 2 kilograms were seized at a bus terminal in Houston from a Colombian female who was traveling from San Antonio to New York City. In the other instance, four Venezuelans, in possession of 1.4 kilograms of heroin, were arrested at a local hotel.

On a per capita basis, the Texas South (Houston) district is one of the four districts with the largest number of DEA referrals in past fiscal years along with New Mexico (Albuquerque), Texas West (San Antonio), and New York South (Manhattan). In terms of the effectiveness and fairness of the government's overall enforcement effort against drugs, the work of the prosecutors and the courts often is as important as that of the investigators. One measure of this joint responsibility is the length of time required from when the DEA refers a matter for prosecution to when the matter is disposed of. Nationally, the median processing time was 272 days. Texas South (Houston) yielded 134 days which was significantly lower than the national median.

Mr. Speaker, therefore, I strongly support this bill. In the very near future this body should deal with this misdirected policy of mandatory sentencing so that the work of the DEA can be directed to the violent drug trafficking that hurts Americans most.

Mr. PAUL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just close with a comment about the prison system and what has happened. As I mentioned before, 84 percent of Federal prisoners are nonviolent drug offenders. Many go into prison, and they come out hardened criminals, and the problem is made much worse. Because of overcrowding, we have the release of violent prisoners because the prisons are too full. Also, the rules on mandatory sentencing of non-violent offenders have not been a good idea and have contributed to the problems that we face.

Another thing which I have not mentioned before but is worth thinking about is the inequity in the enforcement of laws. If one happens to be a wealthy, white-collar worker caught using cocaine, the odds of that individual serving time in prison is very reduced, compared to if you are caught in the inner city. It seems there is less justice for the inner city youth. This, of course, intensifies the problems of the inner city.

Once again, all I ask is that in the future we look at our drug policy because current policy is working so poorly, and also to reconsider the fact that we have gone 30 years with a program where there is no evidence of success, and astoundingly it was all done under an executive order.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, while I respect the arguments of the gentleman from Texas (Mr. PAUL), even though I do not agree with them, I think it is important to look at what the resolved clause of this resolution says in deciding whether or not to support or oppose the resolution.

I will read it. "Resolved, That the House of Representatives: (1) congratulates the DEA on the occasion of its 30th Anniversary;

"(2) honors the heroic sacrifice of those of its employees who have given their lives or have been wounded or injured in the service of our Nation; and

"(3) thanks all the men and women of the DEA for their past and continued efforts to defend the American people from the scourge of illegal drugs."

This resolution has nothing to do with drug policy. It has nothing to do with whether the war on drugs has been successful or not. It has nothing to do with whether or not drugs should be legalized. What it does do is to tell the people who have worked for the DEA for the last 30 years that their service has not been in vain executing a policy in criminalizing certain drug activities and use of certain drugs that this Congress has passed.

It also commemorates the people who have given their lives or been wounded in the service of their country. The DEA is a law enforcement agency. We make the laws, they enforce the laws. This resolution gives them thanks for enforcing the laws and commemorating those who have made the ultimate sacrifice. I support the resolution, and I urge Members to support the resolution.

Mr. CASE. Mr. Speaker, I rise today in strong support of H. Res. 412, which honors the men and women of the Drug Enforcement Administration (DEA) on the occasion of its 30th Anniversary and recognizes the sacrifices of those who have given their lives in the line of duty.

In Hawaii, we are fortunate that such a cohesive law enforcement community exists, with the strong working relationship between the DEA, the United States Attorney's Office, the Federal Bureau of Investigation, our four county police departments, and the 14 Federal, State, and local agencies which support the Hawaii High Intensity Drug Trafficking Area. All work together to pursue and dismantle domestic and international criminal organizations that produce, transport, and distribute illegal substances.

Under the leadership of Briane M. Grey, Assistant Special Agent-in-Charge of the Honolulu District Office, the office advocates the same multi-pronged approach that I firmly believe is the solution to our drug abuse problem: combining strong enforcement, with education, prevention, and treatment efforts. For example, through its partnerships with the Counties of Kauai and Hawaii, the DEA's Demand Reduction Program educates many of our young people on the dangers of drugs.

In my home State, the unfortunate drug of choice today is crystal methamphetamine, also known as ice. High purity ice, ranging from 96 percent to 99 percent, is all too readily available, and commonly abused throughout our State. In Hawaii, ice users have been linked to violent crimes including child abuse, hostage situations, and homicides. The DEA has been a strong and valuable force in our fight against the scourge of ice.

In August 2003, the Honolulu DEA's Operation Jetway Task Force was notified of three parcels suspected of carrying ice. Pursuant to a search warrant, approximately 15.9 pounds of ice, worth more than $1 million were seized from two of the parcels, and approximately $65,000 in cash was seized from the third parcel. Later that same month, the task force seized approximately 674 grams of ice from the inside jacket pocket of an individual traveling from Los Angeles to Honolulu.

I would like to extend a very special mahalo (thank you) to the 15 Special Agents, 17 Task Force Officers, 2 Intelligence Analysts, 2 Diversion Investigators, and 2 Administrative Staff in our DEA Honolulu District Office. The district extends DEA's presence with personnel assigned to offices on the islands of Maui and the Big Island of Hawaii, as well as offices in Guam and Saipan. I know that the Honolulu District Office will continue to initiate drug investigations targeting the highest level traffickers, and for that we are all very grateful.

Again, congratulations to the DEA on its 30th anniversary.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHAW). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and agree to the resolution, H. Res. 412.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1145

SUPPORTING GOALS OF CERTAIN COMMUNITIES IN RECOGNIZING NATIONAL DAY OF REMEMBRANCE

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 56) supporting the goals of the Japanese American, German American, and Italian American communities in recognizing a National Day of Remembrance to increase public awareness of the events surrounding the restriction, exclusion, and internment of individuals and families during World War II.

The Clerk read as follows:

H. RES. 56

Whereas President Franklin Delano Roosevelt signed Executive Order 9066 on February 19, 1942, which authorized the exclusion of 120,000 Japanese Americans and legal resident aliens from the west coast of the United States and the internment of United States citizens and legal permanent residents of Japanese ancestry in internment camps during World War II;

Whereas the freedom of Italian Americans and German Americans was also restricted during World War II by measures that branded them enemy aliens and included required identification cards, travel restrictions, seizure of personal property, and internment;

Whereas President Gerald Ford formally rescinded Executive Order 9066 on February 19, 1976, in his speech, "An American Promise";

Whereas Congress adopted legislation which was signed by President Jimmy Carter on July 31, 1980, establishing the Commission on Wartime Relocation and Internment of Civilians to investigate the claim that the incarceration of Japanese Americans and legal resident aliens during World War II was justified by military necessity;

Whereas the Commission held 20 days of hearings and heard from over 750 witnesses on this matter and published its findings in a report entitled "Personal Justice Denied";

Whereas the conclusion of the Commission was that the promulgation of Executive Order 9066 was not justified by military necessity, and that the decision to issue the order was shaped by "race prejudice, war hysteria, and a failure of political leadership";

Whereas Congress enacted the Civil Liberties Act of 1988, in which it apologized on behalf of the Nation for "fundamental violations of the basic civil liberties and constitutional rights of these individuals of Japanese ancestry";

Whereas President Ronald Reagan signed the Civil Liberties Act of 1988 into law on August 10, 1988, proclaiming that day to be a "great day for America";

Whereas the Civil Liberties Act of 1988 established the Civil Liberties Public Education Fund, the purpose of which is "to sponsor research and public educational activities and to publish and distribute the hearings, findings, and recommendations of the Commission on Wartime Relocation and Internment of Civilians so that the events surrounding the exclusion, forced removal, and internment of civilians and permanent resident aliens of Japanese ancestry will be remembered, and so that the causes and circumstances of this and similar events may be illuminated and understood";

Whereas Congress adopted the Wartime Violation of Italian Americans Civil Liberties Act, which was signed by President Bill Clinton on November 7, 2000, which included provisions which resulted in a report containing detailed information on the types of violations that occurred, as well as lists of individuals of Italian ancestry that were arrested, detained, and interned;

Whereas the Japanese American community recognizes a National Day of Remembrance on February 19th of each year to educate the public about the lessons learned from the internment to ensure that it never happens again; and

Whereas the Day of Remembrance provides an opportunity for all people to reflect on the importance of justice and civil liberties during times of uncertainty and emergency: Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes the historical significance of February 19, 1942, the date Executive Order 9066 was signed by President Roosevelt, restricting the freedom of Japanese Americans, German Americans, and Italian Americans, and legal resident aliens through required identification cards, travel restrictions, seizure of personal property, and internment; and

(2) supports the goals of the Japanese American, German American, and Italian American communities in recognizing a National Day of Remembrance to increase public awareness of these events.

The SPEAKER pro tempore (Mr. SHAW). Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from New York (Mr. NADLER) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on House Resolution 56 currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I rise in favor of House Resolution 56. On February 19, 1942, President Roosevelt signed Executive Order 9066. Shortly afterwards, citizens of Japanese ancestry residing in the United States were prohibited from living, working or traveling on the West Coast of the United States. Executive Order 9066 ultimately led to the detention of 120,000 Japanese Americans and residents, most of whom did not see freedom until the closing days of World War II. Executive Order 9066 also resulted in restrictions upon the civil liberties of Italian and German Americans residing in the United States, including government-imposed curfews, detentions, prohibitions on items considered to be contraband by military authorities, and seizures of personal property.

President Ford formally rescinded Executive Order 9066 in 1976. In his proclamation repealing this executive order, President Ford said:

"I call upon the American people to affirm with me this American promise, that we have learned from the tragedy of that long-ago experience forever to treasure liberty and justice for each individual American, and resolve that this kind of action shall never again be repeated."

Twelve years later, President Reagan signed the Civil Liberties Act of 1988 to formally acknowledge and apologize for "fundamental violations of the basic civil liberties and constitutional rights of individuals of Japanese ancestry." When signing the legislation, President Reagan said:

"Here we admit a wrong. Here we affirm our commitment as a Nation to equal justice under the law."

In the year 2000, President Clinton signed the Wartime Violation of Italian Americans Civil Liberties Act, which formally acknowledged civil liberties violations against Italian Americans committed during World War II. In November of 2001, the Committee on the Judiciary received a comprehensive report prepared by the Department of Justice detailing civil liberties violations committed against persons of Italian American ancestry during this period.

The Japanese American community presently recognizes a National Day of Remembrance on February 19 of each year to educate the public about the internment. House Resolution 56 reaffirms the importance of this day. The resolution also supports the goals of the Japanese American, German American and Italian American communities in recognizing a National Day of Remembrance to increase public awareness of the events surrounding this difficult period of our Nation's history.

I urge my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. NADLER. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I rise in support of this resolution. The World War II internment of American citizens of Japanese, German and Italian ancestry for no reason other than their heritage is a disgraceful blot on the history of this Nation and on our commitment to freedom and equality. Sometimes, in times of panic and insecurity, we have forgotten what is best and most admired about our Nation and we have done things which in retrospect and with cooler heads we have come to realize were both unnecessary and unjust. This unfortunate history includes the Alien and Sedition Acts of 1798, the suspension of the writ of habeas corpus during the Civil War, the Espionage Act of 1917, the Smith Act of 1940, the Japanese, German and Italian internments, the McCarthy depredations of the early Cold War years, the COINTELPRO operations of the FBI, and some of what is going on today.

We are regrettably going through another period of fear and insecurity due to the very real threat of terrorism. We must not give in to fear and we must not repeat the sin of trampling civil liberties in ways that purport to, but do not even, add to our own security. But I fear we are yet again doing just that.

There is no greater way to honor those many loyal Americans who suffered injustices during World War II than to rededicate ourselves to fighting for the principles that this history teaches, to remembering this history, to passing this resolution but to try to avoid repeating this history as I fear we are doing in some of the things that are going on in this time of insecurity today.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. COX)

Mr. COX. Mr. Speaker, I thank the gentleman for bringing this important resolution to the floor. I rise in strong support of House Resolution 56, which calls for a National Day of Remembrance to increase public awareness of the Japanese Americans, German Americans and Italian Americans whose civil rights were violated during World War II. Suffering by the Japanese-American community was particularly acute.

On February 19, 1942, President Franklin D. Roosevelt signed his infamous Executive Order 9066. It ordered the imprisonment of 120,000 Japanese Americans on the West Coast of the United States. For most of the war, these loyal Americans, who had done nothing to deserve such treatment, were forced to live under armed guard in isolated camps hundreds of miles from home. The Japanese Americans subject to Franklin Roosevelt's executive order had as little as 4 days to prepare for being rounded up. They were forced to sell or lease their property often at ruinous losses. They were deprived of income during their imprisonment. Many lost their businesses, their livelihoods and their life savings. So many hardworking Americans were rounded up into camps that the economies of entire States, California, Oregon and Washington, suffered severely.

FDR's wholesale denial of Americans' constitutional rights shamed America but all Americans can be proud of the Japanese Americans he imprisoned. Despite their shameful treatment by the Roosevelt administration, they never wavered in their patriotism and their support for the United States and for the war effort. In fact, the most decorated combat unit of World War II, the 442nd Regimental Combat Team, was composed of Japanese Americans, many of whom themselves had been internees in these camps.

Mr. Speaker, Franklin Roosevelt's executive order was never formally rescinded until President Gerald Ford took action. On February 19, 1976, he rescinded Executive Order 9066 with a proclamation entitled "An American Promise." By President Ford's proclamation, America finally recognized the sacrifices made by Japanese Americans for the United States and called upon all Americans to resolve that such a tragedy would never happen again.

And then on August 10, 1988, President Ronald Reagan signed into law the Civil Liberties Act of 1988 by which the United States Government at long last apologized for, quote, the fundamental violations of the basic civil liberties and constitutional rights of persons of Japanese ancestry. One of my predecessors as policy chairman here in the House, then Representative Dick Cheney, now Vice President DICK CHENEY, cosponsored the bill. My predecessor from Orange County, California, Representative Robert Badham, was one of its strongest advocates. The Civil Liberties Act also established the Civil Liberties Public Education Fund to preserve in the national consciousness of our country the memory of the internment. At the signing ceremony, President Reagan quoted his own words honoring Japanese-American soldiers and all American soldiers who fought in World War II. Here is what President Reagan said:

"Blood that has soaked into the sands of a beach is all of one color. America stands unique in the world, the only country not founded on race but on a way, an ideal. Not in spite of but because of our polyglot background, we have had all the strength in the world. That is the American way."

Six decades later, as President Reagan would say, that is still the American way, and we do great honor to the Congress, to the country, to Japanese Americans and to people who come to America from all parts of the world by passing this resolution.

Mr. Speaker, I urge a "yes" vote on House Resolution 56.

Mr. NADLER. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from California (Mr. HONDA), the sponsor of the resolution.

Mr. HONDA. Mr. Speaker, I rise today in support of House Resolution 56, a resolution I introduced last year on behalf of the Japanese-, Italian- and German-American communities to establish a National Day of Remembrance for the restriction, exclusion and internment of individuals and families during World War II. I thank the House leadership as well as the gentleman from Wisconsin (Mr. SENSENBRENNER), the gentleman from Michigan (Mr. CONYERS) and the gentleman from New York (Mr. NADLER) for their leadership in steering this measure to the floor today. While the resolution addresses events from our past, it does more than honor victims. It reminds us and our constituents that past national mistakes must not be repeated, even during times of great uncertainty.

To achieve these goals, we must first recognize the magnitude and severity of our Nation's injustices during World War II. In 1942, the U.S. Government rounded up and incarcerated approximately 120,000 Americans of Japanese descent, primarily from the West Coast, tearing families apart and forcing these hardworking people to sell their businesses and their personal properties for pennies on the dollar. Many literally lost the fruits of a lifetime of work due to Executive Order 9066 signed by President Roosevelt on February 19, 1942.

I know firsthand the pain inflicted on those families incarcerated because I spent part of my childhood at Amache internment camp in southeast Colorado. My family was uprooted from our home and community and sent hundreds of miles away from our homes and communities for no other reason than our ancestry. There can be no confusion. The decision by America's political leaders in 1942 to intern Japanese Americans was signed, sealed and delivered not out of concern for national security or for the safety and security of Japanese Americans. This executive order was based on neither reason nor evidence but on fear and panic. The U.S. Government acknowledged as much in 1982 under Carter when the Commission on Wartime Relocation and Internment of Civilians concluded that military necessity did not justify the exclusion and detention of these groups. Instead, the government's decision-making was driven by race prejudice, war hysteria and the failure of political leadership.

As the commission's report points out, "A grave personal injustice was done to the American citizens and resident aliens of Japanese ancestry who, without individual review or any probative evidence against them, were excluded, removed and detained by the United States during World War II."

In 1988, Congress finally redressed these wrongs by formally apologizing and providing compensation to those unjustly relocated during World War II. It is a true testament to our Nation's values and democratic process that our Nation has been able to look back and admit errors from its past. I can think of no greater evidence to demonstrate why the United States, with all its flaws, is still looked to worldwide as the nation with the strongest and fairest form of government.

But it is not enough to admit our wrong and compensate those persecuted. It is equally important that today we endeavor to educate the public about the internment of Americans to avert the execution of federally sanctioned discrimination and maltreatment in the future. It is critically important more than ever to speak up against possible unjust policies that may come before this body. It is critical that we educate all Americans of the Japanese-American experience during World War II as well as the experience of other groups like the Japanese Latin Americans.

□ 1200

These people were extricated from Latin America, brought over here, and had their documents taken away from them, thus becoming individuals without a country to be used as pawns in exchange for POWs in the Pacific Theater. As this resolution does, we must also remember the experiences of the German and Italian Americans who were also victimized.

Having recognized this, many members of those communities have suddenly realized that they were wrong, that they were not criminals; and because of the recognition, this awful burden of guilt has been lifted from their shoulders and from the communities.

As a teacher, I feel this point is especially timely and pertinent. In today's war against terrorism, we must be especially cognizant of the adage that those who do not learn from their past mistakes are doomed to repeat them.

Since World War II, our civil liberties have not been as much at risk as they are today. Even while we prosecute the war against terrorism, we must protect all innocent Americans from prejudice and xenophobia.

Today, Mr. Speaker, a person with my face, my background, and being a third-generation American of Japanese descent, standing in the Halls of Congress under the dome of the greatest capitol of this Nation, of this world, I have learned one lesson. And bringing together all of our experiences from our various communities during that time of trauma, the lesson that was learned, and it is an American lesson, is that the Constitution is never tested in times of tranquility. Rather, our Constitution is sorely tested in times of national tension, trauma, tragedy, and terrorism; and that we as Americans, in order to address our future, must internalize the principles of the Constitution and the Bill of Rights.

So I would like to conclude my remarks by honoring all those Americans who suffered on the homefront during World War II, and I hope this resolution will provide additional healing for those of our Nation. It takes enormous maturity for our Nation to admit its wrongs.

Mr. NADLER. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, as has been mentioned, on February of 1942, then-President Franklin Roosevelt issued an executive order which authorized the Secretary of War to define military areas in which "the right of any person to enter, remain in, or leave shall be subject to whatever restrictions" are deemed "necessary" or "desirable."

By the spring of 1942, California, Oregon, Washington, and Arizona were designated as military areas. And in May, Japanese Americans were ordered to "close their affairs promptly and make their own arrangements for disposal of personal and real property."

Official government fliers were posted around California instructing families to report to 12 assembly centers including the Tanforan Racetrack for San Francisco Japanese Americans to the Santa Anita Racetrack for Japanese Americans in the Santa Clara Valley. They could only bring the bare necessities, leaving behind homes, their lives, and most personal belongings. Santa Clara and San Francisco Japanese Americans were forced to live in horse stables for as long as 6 months until a permanent camp was built for them; 110,000 Japanese Americans were evacuated from their homes and incarcerated throughout the duration of the war.

By the fall of 1942, most of the Santa Clara Valley Japanese American internees were transported to a camp far away from home, the Heart Mountain Internment Camp Wyoming; and the San Francisco internees were sent to various camps, some as far away as Utah.

The horror did not end there. At the end of the war when Japanese Americans were finally released and went home, they found that they had no shelter, no food, money, much less a job. Some returned to find homes looted and destroyed. In my district, the San Jose Buddhist Church offered what it could, shelter and hot meals for most families. And a good piece of news, in Santa Clara County, the family of Bob Peckham, later to become Federal District Court Judge Bob Peckham, had taken title to the property of their Japanese American neighbors, and they were able to preserve much of the property and return it at the end of the internment.

All of this happened before I was born, but I remember hearing about it well before it hit the history books because my mother was a young woman in 1942, and she was building airplanes for Douglas Aircraft. My dad was in the Army. And I remember her telling me going past the Tanforan Racetrack and how guilty and ashamed she was and how helpless she felt. She knew that her neighbors had been wrongly locked up in these horse stables. She knew what her government had done was wrong; but as a young girl, she really did not know what to do and how to change that. She was a lifelong Democrat. She cast her first Presidential vote for FDR, but she never agreed with what he did to her neighbors.

What has happened since then? We have adopted legislation to rescind. We have the Civil Liberties Act. We have apologies. And that is important to my neighbors and my parents' neighbors who were incarcerated people like Ed Kawazoe and Jimi Yamaichi and Ted and Raiko and certainly the gentleman from California (Mr. HONDA) and Norm Mineta and others; but this resolution is also important because it allows all of the Americans, not just those whose rights were violated but those who were on the outside, to reflect and to understand that an apology can be given, a country can improve, and we will never allow such a thing to happen again.

Mr. NADLER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, I thank the gentleman from New York for yielding me this time.

Mr. Speaker, I rise today in strong support of the gentleman from California's (Mr. HONDA) resolution and thank the members of the Committee on the Judiciary for bringing it to the floor.

At sometime or another, we have all heard the words of Pastor Martin Niemoller. We know he was commenting on an unspeakable time when throughout Europe the Nazis were rounding up those they did not want in their model society. But do his words ring true for the United States as well?

He said, "First they came for the Jews, and I did not speak out because I was not a Jew. Then they came for the Communists, and I did not speak out because I was not a Communist. Then they came for the trade unionists, and I did not speak out because I was not a trade unionist. Then they came for me, and there was no one left to speak out for me."

Under the Roosevelt-signed Executive Order 9066, American citizens of Japanese descent and Japanese residents of the United States were prohibited from living, working, or traveling on the west coast of the United States. It sounds almost foreign to us in America. EO 9066 ultimately led to the detention of 120,000 Japanese Americans and residents, most of whom did not see freedom until the closing days of World War II. That executive order also resulted in restrictions upon the civil liberties of Italian Americans and German Americans residing in the United States during World War II, including government-imposed curfews, prohibition on items considered to be contraband by military authorities, and seizures of personal property.

In the Korematsu case that challenged Japanese internment camps, even our United States Supreme Court failed our right to freedom, despite those words "Equal Justice Under Law" engraved on the facade.

Thankfully, over the past 62 years, this order has been revoked and the Federal Government has tried to make amends. We owe a debt of gratitude to our Greatest Generation in protecting our freedom and democracy abroad; however, we cannot forget that in some respects democracy failed us at home in 1942. The freedom we fought for was not shared by many Americans during that time.

Today's resolution reaffirms the importance of the National Day of Remembrance on February 19 to educate the public about the internment. But let this resolution also remind us to never repeat the mistakes of the past. We must stand up for freedom for all Americans, regardless of skin color, ethnicity, or religion. It is vital now not only because it is right and the human thing to do, but for self-interest as well.

Mr. NADLER. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Guam (Ms. BORDALLO).

Ms. BORDALLO. Mr. Speaker, I thank the gentleman from New York (Mr. NADLER) for yielding me this time, and I am pleased to join my colleagues in support of House Resolution 56, which seeks to increase awareness and further public understanding of the mistreatment of American citizens during World War II.

I want to thank the gentleman from California (Mr. HONDA) for his compassionate leadership on these issues and in particular for his sponsorship of House Resolution 56.

In the aftermath of the attacks on Pearl Harbor, President Roosevelt signed Executive Order 9066, allowing for thousands of Japanese Americans and Japanese residents, primarily from the west coast, to be removed from their homes, interned, and prohibited from returning until December of 1944.

In addition, Mr. Speaker, many Italian Americans and German Americans were expelled from designated areas under the U.S. Government's Individual Exclusion Program and were subject to arbitrary arrest.

The actions of our government during this period was and remains a source of great pain. The internment of the Japanese Americans, German Americans, and Italian Americans was a grave injustice of their civil rights.

There are lessons to be learned from this experience, and these lessons cannot be learned without discussing and understanding the circumstances surrounding the enactment of Executive Order 9066. We must be cognizant of the fragile nature of our civil rights which have been won on the battlefield and in the Halls of Congress; and we must always be mindful of the threats to our freedom and security; and, likewise, we must be mindful of how our own perceptions of our fellow Americans and our own prejudices affect our freedom.

It is now more important than ever because of the many issues that have arisen concerning security in the aftermath of September 11. As we wage the war on terrorism, the need for awareness and education is especially important. We must ensure that we have an understanding of who among us is the threat, not based on race or color or religion but based on facts that will withstand the scrutiny of our history. As we fight for freedom and security, let us not cast aside our own humanity.

Mr. Speaker, as difficult as it is, we must come to terms with our national mistakes just as we celebrate our national achievements. We must acknowledge our misgivings in the past if we are to strengthen our ability to avoid mistakes in the future. As President Ford said in 1976 when he formally rescinded Executive Order 9066, learning from our mistakes is not pleasant; but we must do so if we want to avoid repeating them.

Supporting the goals of the Japanese American, German American, and Italian American communities in recognizing a National Day of Remembrance will help us learn the lessons, understand the historical significance of these actions, and honor the sacrifice.

Mr. Speaker, I am in support of House Resolution 56.

Mr. NADLER. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman for yielding me this time.

It is with a humble spirit the recognition that we have come this far. We have not yet done and completed our journey.

I rise to support H. Res. 56, supporting the goals of the Japanese American, German American, and Italian American communities in recognizing a National Day of Remembrance to increase public awareness of the events surrounding the restriction, exclusion, and internment of individuals and families during World War II. I thank the gentleman from California (Mr. HONDA) for his persistence in cleaning the slate.

My emphasis is to suggest that no one can feel their pain. We cannot in any way speak to the pain that German Americans and Japanese Americans, Italian Americans felt as their young men were on the front lines in Europe fighting on behalf of our freedom.

□ 1215

Yet their families at home were being mistreated and discriminated against, eliminated from jobs, abused and maybe somewhat violently treated. We know the Japanese Americans were interned. We know the German Americans were accused, and the Italian Americans as well.

This resolution is long overdue. I stand enthusiastically to support it so we as Americans can stand united in freedom without discrimination and with affectionate respect for the heroes in the Japanese American family, the Italian American family and the German American family.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Hawaii.

Mr. CASE. Mr. Speaker, I also rise in very strong support of this resolution, and commend my colleague, the gentleman from California (Mr. HONDA), for introducing it.

I rise as the representative of one of the two districts in our country that contains the largest number of Japanese Americans in our entire country. Some 20 percent of my constituents descended from the people that were directly impacted by the events of the Second World War and themselves impacted, the other district being the First Congressional District of Hawaii.

But in 1941 as the war broke out, 38 percent of Hawaii was composed of Americans of Japanese ancestry; 38 percent of people from Japan whose origins were in Japan, who had lived and worked successfully in Hawaii for almost a century at that point. By the end of the war, about 1,500 of them had been interned, an unconscionable figure, but nothing like what happened proportionately to the population of Japanese Americans on the mainland.

And there were some heroes to be recognized even today. So as we remember today what our country did to those citizens of our country and those of German and Italian descent, we also have to remember there were heroes then, people not from those racial groups, who stood up and were counted.

Robert Shivers, the former Director of the FBI's Honolulu office, who arrived in 1939 and took it upon himself to understand Japanese Americans in Hawaii, he had the power to say who would and would not be interned, and he recognized that most, if not all, of the Japanese American citizens of Honolulu and Hawaii were not to be interned. He was a hero. He remains a hero to my constituency today.

Dr. Charles Hemenway, former President of the U.H. Board of Regents, who took the time as well to work with Agent Shivers to get beyond the hysteria of the war and into the facts, who did have to be interned as a legitimate risk, but who was simply not a risk to their country; Colonel Kendall Fielder, former head of G–2 intelligence operations for the Army in the Pacific, decisions that he made on behalf of our military, for which he took an incredible amount of heat at the time from his national superiors, were vindicated after the war.

These were people that stood up and counted at the time, and as we remember what we did, we need to remember who helped them at that time. We also need to remember simply that our institutions are what prevent this from happening again.

Mr. Speaker, I commend this resolution, and support it fully.

Mr. NADLER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California (Mr. BECERRA).

Mr. BECERRA. Mr. Speaker, let me begin by thanking the gentleman from Wisconsin (Chairman SENSENBRENNER), the gentleman from New York (Mr. NADLER) and certainly the gentleman from California (Mr. HONDA) for their work in bringing this resolution to the floor.

H. Res. 56 deserves the support not just of the Members of this House, but every single American who believes in democracy and freedom. We must remember, because the final chapter on those events back during World War II has not yet closed. That chapter has yet to be fully written, and before we are able to say we can turn the last page and put that book up on the shelf we have to make sure that we remember that there still are Japanese Americans as a result of technicalities who have not received any redress from the 1988 Civil Liberties Act.

We still have many communities, the German American community, the Italian American community, that have not yet had a chance to have their contributions to this country fully appreciated. So I think we have to all come together to agree that it was time for this resolution to come before us and to pass.

I also believe that at some point soon this Congress will be benevolent and the American people will understand that there are Japanese Latin Americans who deserve to be fully recognized and be conveyed some kind of apology, along with redress, to make sure all those who suffered have an opportunity to have redress fully fulfilled.

I thank the gentleman for yielding me time, and I appreciate the resolution that has come before us this evening.

Mr. NADLER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, over 60 years ago, at a time of panic and insecurity, this country committed a great wrong against people of Japanese, Italian and German background. Several years ago, the United States apologized for this, voted monetary compensation, and today we are passing a resolution supporting the goal of recognizing a day of national remembrance to increase public awareness of these events.

It is right and fitting that we should do this, and we should pass this resolution. I hope and I pray that as we increase public awareness of these events, we will learn from it, so that we do not repeat the same kind of actions as we have done in the past at times of insecurity and panic.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, all of those who have spoken during this debate have pointed out very clearly that this resolution is a good resolution and is a necessary resolution. I think that probably the key part of this resolution is that it gives Congressional recognition to the remembrances that occur on February 19 of each year, because we should not forget about the egregious error that President Roosevelt committed against the civil liberties of the Japanese Americans when he signed the executive order that resulted in their internment.

The only way we will not forget is by having a remembrance that occurs, so that from one generation to the next people will see that the United States of America made a bad mistake.

This resolution will come and go and maybe it will be forgotten and maybe it will not be forgotten, but the annual remembrances on February 19 will make sure that the violation of civil liberties will not be forgotten, and that is the preventive to make sure that this never happens again.

Mr. Speaker, I urge adoption of the resolution.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in strong support of this bill, H. Res. 56, which came before the Committee on the Judiciary in January for markup. I supported this bill at that time as well.

It recognizes the historical significance of February 19, 1942, the day that President Roosevelt signed Executive Order 9066 to restrict the freedom of Japanese Americans, and supports efforts of the Japanese, German, and Italian American communities to increase public awareness of these events by way of a National Day of Remembrance. Every year, this day is recognized by the Japanese American community to educate the public about the internment and to prevent such restrictions of civil liberties from happening again.

Our colleague Mr. HONDA is to be commended for his work in drafting this important legislation, and I am pleased that it has 70 cosponsors, 67 of whom are from this side of the aisle.

During World War II, President Roosevelt used his executive authority to authorize the exclusion of 120,000 Japanese Americans and Japanese legal permanent residents from the United States and their internment in camps on the grounds of national security and military necessity. The freedoms of Italian and German Americans were also restricted during this war. These individuals were classified as enemy aliens and were required to carry identifications cards. Their property was seized, their travel was limited, and they were also interned in camps.

Fortunately, President Ford rescinded Executive Order 9066 on February 19, 1976. In 1980, Congress established a Commission on Wartime Relocation and Internment of Civilians that investigated the internment and restriction of civil liberties under Executive Order 9066. The Commission found that the Order was not justified by military necessity but resulted from "race prejudice, war hysteria, and a failure of political leadership." In 1988, Congress enacted the Civil Liberties Act of 1988 apologizing to people of Japanese ancestry for the denial of their civil liberties and for the violations perpetrated against them by the U.S. The Wartime Violation of Italian Americans Civil Liberties Act, which passed in 2000, chronicled violations of the rights of Italian Americans that occurred during that time.

H. Res. 56 had added significance in light of the Bush Administration's expensive detention of Arab and Muslim Americans and resident in the week of 9/11. The Bush Administration consistently uses "national security" and "war powers" to violate the civil liberties of citizens and deport, question, and harass immigrants.

Today, a similar situation is occurring with respect to Haiti and Iraq. In Haiti, hundreds of asylum-seeker are being denied due process in their asylum petition hearings. These people are being denied their civil liberties and the right to live. They, in many cases, are summarily turned back to the shores of Haiti where they will likely suffer or die. In Iraq, under the name of "national security" and "war powers," this Administration has led us into a war and subsequent occupation that has cost us numerous lives and high costs. H. Res. 56 sets a precedent of recognizing that the notion of "national security" and the "war powers" need to be utilized with more foresight, respect, and adherence to the principles of international as well as domestic laws.

For the above reasons, Mr. Speaker, I support this legislation.

Mr. ENGEL. Mr. Speaker, I rise today in support of H. Res. 56 which seeks to recognize a National Day of Remembrance regarding the treatment of Japanese, German and Italian Americans during World War II.

Many Americans are not aware that on February 19th, 1942 Executive Order 9066 was signed by President Roosevelt authorizing restrictions and internment of "enemy aliens." While the intent of this order was to monitor and detain people from countries the United States was fighting in World War II, the result was that thousands of patriotic Americans of foreign descent had their civil liberties revoked—even though they had done nothing wrong.

I am troubled by the fact that the internment of Italian Americans is little known even today. For these reasons I authored H.R. 2442 in the 106th Congress, which called for the United States to acknowledge this terrible chapter in our history and required the Department of Justice to study and report back to Congress on the extent of the Italian American Internment, known in the Italian American Community as "Una Storia Segreta" (the Secret Story).

Mr. Speaker, the Justice Department report confirmed much of what I learned in the years leading up to the enactment of H.R. 2442. Thousands of loyal Italian American patriots, mothers and fathers of U.S. troops, even women and children were suspected of being dangerous and subversive. With this new enemy alien status, Italians were subjected to strict curfew regulations, forced to carry photo ID's, and could not travel further than a 5 mile radius from their homes without prior approval. Furthermore, many Italian fishermen were forbidden from using their boats in prohibited zones. Since fishing was the only means of income for many families, households were torn apart or completely relocated as alternative sources of income were sought.

It is difficult to believe that over 10,000 Italians deemed enemy aliens were forcibly evacuated from their homes and over 52,000 were subject to strict curfew regulations. Ironically, over 500,000 Italians were serving in the United States Armed Forces fighting to protect the liberties of all Americans, while many of their family members had their basic freedoms revoked.

When we first started researching the Italian American Internment we had vague accounts of mostly anonymous Italians who were subjected to these civil liberties abuses. However, throughout the process we came in contact with many Italians who experienced the internment ordeal first hand. Dominic DiMaggio testified at a Judiciary Committee hearing about his dismay when he returned home from the war to find that his mother and father were enemy aliens. Doris Pinza, wife of international opera star Ezio Pinza, also testified at the hearing about her husband who was only weeks away from obtaining U.S. citizenship when he was classified as an enemy alien and detained at Ellis Island. It still saddens me to think that Ellis Island, the world renowned symbol of freedom and democracy, was used as a holding cell for Italians. There is even documented evidence of Italians being interned in camps at Missoula, Montana.

Mr. Speaker, we must ensure that these terrible events will never be perpetrated again. We must safeguard the individual rights of all Americans from arbitrary persecution or no American will ever be secure. While we cannot erase the mistakes of the past, we must learn from them in order to ensure that we never subject anyone to the same injustices. But most important of all, we can never forget what happened during this time or we run the risk of repeating this awful chapter in our history. That is why H. Res. 56 is important to this Congress and all Americans. A National Day of Remembrance will ensure that the treatment of Japanese, German, and Italian Americans will always be remembered, and hopefully, we will never allow the civil liberties of Americans to be jeopardized again.

Ms. PELOSI. Mr. Speaker, I rise today in strong support of House Resolution 56 recognizing the significance of February 19, 1942, the day that President Franklin Roosevelt signed Executive Order 9066, which led to the internment of 120,000 Japanese Americans and residents of Japanese descent and the deprivation of rights of German Americans and Italian Americans.

The Resolution supports the goals of the Japanese American, German American, and Italian American communities in recognizing a national day of remembrance to increase public awareness of the restrictions and internment of individuals during World War II.

I am proud to join my colleague Representative MIKE HONDA, who spent his early childhood in an internment camp, in cosponsoring this Resolution. I appreciate his leadership and diligence in bringing this Resolution.

The West Coast of our country was particularly affected by the forced relocations and unjust internment of thousands of American citizens and residents of Japanese descent during World War II. The failure of our political and judicial system to prevent this injustice still reverberates strongly across our nation.

Only belatedly did this Nation acknowledge and apologize for the bigotry and injustice spurred by Executive Order 9066. The "Civil Liberties Act of 1988" was enacted to formally acknowledge and apologize for fundamental violations of the basic civil liberties and constitutional rights of these individuals of Japanese ancestry." In 2000, President Clinton signed the "Wartime Violation of Italian Americans Civil Liberties Act," which formally acknowledged civil liberties violations against Italian Americans.

It is imperative that our generation and future generations recall the deprivations suffered by the Japanese American, German American and Italian American communities during World War II. The date of February 19, 1942 must serve as a constant reminder that we must never again violate individual rights on the basis of national origin.

The Resolution reaffirms the importance of February 19th, which is recognized as a National Day of Remembrance each year by the Japanese American community. The Japanese American community and its supporters across the Nation have worked hard to educate the public about the internment.

The lessons of that dark chapter in our history are especially relevant today. As we protect and defend the American people against terrorism, we must protect and defend the Constitution and the civil liberties that define our democracy.

I commend the House of Representatives for considering this Resolution. I urge its passage.

Mr. MATSUI. Mr. Speaker, I rise today in support of H. Res. 56 and commend the Japanese American, German American and Italian American communities for their efforts to commemorate and promote a National Day of Remembrance. Although this is a regrettable time in American history, we cannot let this period be forgotten. It is only by increasing public awareness of the events surrounding the restriction, exclusion and internment of individuals and families during World War II that we can guard against such future violations.

Sixty-two years ago, the signing of Executive Order 9066 led to the forced internment of 120,000 Japanese Americans during World War II. They were held without cause and without recourse. These individuals and families suffered needlessly because of rampant fear, prejudice and a lack of political leadership.

These pervasive feelings also imposed limits on the freedoms of German Americans and Italian Americans. The government restricted their travel and seized their property, and the public branded them as the enemy.

In 1988, the Federal government acknowledged the tragic injustice of the internment. Due in large part to the efforts of the Japanese American community, the government issued a formal apology and offered redress to internees. We can never compensate for what was taken away from these families and individuals. But we can honor their struggle and their legacy by understanding the events that lead to their internment.

It takes a strong and confident Nation to look introspectively at its own actions and admit that it made a mistake. Today, it is accepted that the World War II Japanese internment was a grievous error. Not only did these actions disrupt lives and communities, it has left a stain on America's history of freedom, tolerance, and liberty for all of its citizens.

Marking the anniversary of the signing of Executive Order 9066 provides a time for political leaders to reflect on the lessons of the past and on the importance of principled leadership in the future. We must never again sacrifice the core values of our democracy and Constitution, especially in times of uncertainty and emergency.

The National Day of Remembrance honors those who suffered and reminds us to strive toward a better society where such prejudice does not exist. We all have a role in ensuring that such injustices do not happen again.

Once again, I want to join my colleagues in recognizing the very important work the Japanese American, German American and Italian American communities are doing in raising awareness of the National Day of Remembrance. I also want to commend Representative HONDA for his efforts to bring this resolution to the floor. To those personally affected by these events, I especially want to thank you for sharing your stories and for your efforts in educating the American public. Your leadership inspires us all.

Mr. LARSON of Connecticut. Mr. Speaker, I rise today to express my support for House Resolution 56 which was introduced by Mr. Honda of California last month. This resolution would create a National Day of Remembrance in honor of the Japanese-Americans, Italian-Americans, and German-Americans who suffered injustices during the Second World War.

Before I begin, I would like to congratulate Mr. HONDA on his new role as the Chairman of the Caucus of Asian Pacific American Caucus. He has long been a champion of the concerns of Asian Pacific Americans and will undoubtedly serve them well in his new role.

In February of 1942, President Franklin D. Roosevelt signed Executive Order 9066 that paved the way for discriminatory action against American citizens of Japanese, German, and Italian descent. Across the West Coast, Japanese-Americans were evacuated en masse from their homes and relocated to internment camps. German-Americans and Italian-Americans were often the object of discriminatory policies, as well.

The residents in my home State of Connecticut were as deeply affected as the rest of the country by these political actions. A detention center for those considered to be 'alien enemies' was established in a community center in Hartford. Japanese, Italian, and German resident aliens were required to carry their immigration papers at all times and their movement was restricted. In addition, many of the Japanese-Americans who were interned on the West Coast moved to the East Coast, including Connecticut, after their release. The suffering that these communities endured has remained with them and must be addressed.

The apology offered by this government in 1988 is not sufficient. We must not allow the lessons learned from this chapter of our history to be lost, regardless of how painful they may be. It is this very pain that makes them so valuable. We cannot forget the suffering endured by our own citizens. Establishing a National Day of Remembrance is important in ensuring that this does not happen.

The National Day of Remembrance is not simply a matter of honoring the past. The treatment of Japanese-Americans, Italian-Americans, and German-Americans during World War II has significant implications for us today. This country is in a war against terror. Our relations with other nations should not make way for injustice and discrimination toward our own people. The National Day of Remembrance would serve as a reminder that questioning the loyalty of our citizens without just cause is a grave mistake.

I would like to commend Mr. HONDA on his introduction of this resolution and his dedication to this important cause. The Japanese-American, Italian-American, and German-American people have expressed the desire that the experiences of their communities during World War II be remembered to serve as a lesson for future generations. This resolution is a valuable reminder that it is the work of this country to preserve the civil liberties of its people.

It is often said that history tends to repeat itself. However, it does not have to. We have an opportunity to take action to prevent a similar threat to the civil liberties of innocent citizens as took place during World War II from occurring again. I hope that this is something that members on both sides of the aisle will be able to agree to do and I would therefore like to urge all of my colleagues to support this important resolution.

Mr. WU. Mr. Speaker, I rise today in support of H. Res. 56, a resolution recognizing the historical significance of February 19, 1942 and supporting the Japanese American, German American, and Italian American communities in recognizing a National Day of Remembrance.

On February 19, 1942, President Franklin Delano Roosevelt signed Executive Order 9066, under which authority approximately 120,000 Americans of Japanese ancestry were forcibly removed from their homes and incarcerated during World War II. The last of the detainees were released in October 1946, 4½ years after the signing of the Executive Order, and over a year after the end of the war. But this dark chapter in our American history did not end there.

Upon release from the internment camps, Japanese Americans could not return to the lives they had led before the tragic Executive Order. During the period of internment, they lost their homes, their businesses, their livelihoods.

Thirty years passed before the Executive Order was formally rescinded in 1976. And it took the government an additional 12 years before reparations and a Presidential apology were issued in 1988.

Mr. Speaker, it took over 40 years for the government to acknowledge the magnitude of the mistake it had made in interning Japanese Americans. We must now vow to remember the unspeakable injustice perpetrated upon our fellow Americans by our American government so that it may not be repeated. I thank Mr. HONDA for introducing this important resolution which reminds us not to forget the mistakes of our past.

We support the Japanese American, German American, and Italian American communities in recognizing a National Day of Remembrance. This dark period in our history not only devastated the lives of Japanese Americans, but also restricted the freedoms of Italian Americans and German Americans during World War II.

Mr. Speaker, we must recognize that measures such as Executive Order 9066, which was found to be shaped by "race prejudice, war hysteria, and a failure of political leadership," violate not only the rights of those they target, but in fact, attack the basic freedoms of all Americans guaranteed by the Constitution. Let the lessons of the past teach us to be wary of the actions we as a Congress take hastily, based on fear. Let us remember.

Mr. LANTOS. Mr. Speaker, I am proud to join my good friend MIKE HONDA as a cosponsor of H. Res. 56, a bill that commemorates the suffering of the Japanese-American, German-American and Italian-American communities during World War II by recognizing February 19 as a National Day of Remembrance. It is my sincere hope and belief that establishing a National Day of Remembrance will increase public awareness about the loss of civil liberties that were suffered by individuals as well as entire families in this country during World War II.

I recently had the privilege to speak to the San Mateo Chapter of the Japanese American Citizens Leagues (JACL), whose mission is to secure and maintain the civil rights of Americans of Japanese ancestry and others who have been victimized by injustice. Several of the members attending the talk were, in fact, children of parents who had been interned in camps, and some had even been interned themselves. Mr. Speaker, I would like to thank the JACL, and also Former Representative Norm Mineta, whose leadership has been instrumental to ensuring that the American public is educated about this tragedy.

As we are all well aware, following the issuance of Presidential Executive Order No. 9066 on February 19, 1942, tens of thousands of Americans were evicted from their homes, rounded up, and sent to internment camps across the western United states. In San Francisco, this program began in earnest on April 1, 1942, when all persons of Japanese ancestry—whether they were American citizens or not—were notified to report for "relocation." In my own Congressional district, 7,800 people were assembled against their will at the San Bruno Tanforan Racetrack, which was recently portrayed in the movie "Sea Biscuit."

Mr. Speaker, I submit that it is not only in retrospect that the internment of the Japanese appears absurd and unacceptable. As early as 1946 Harold Ickes, President Roosevelt's own secretary of the Interior, characterized the mass detention of Japanese Americans as a "mass hysteria over the Japanese," he noted, "we gave the fancy name of 'relocation centers' to these dust bowls, but they were concentration camps." Mr. Speaker, ultimately the way we treated Japanese Americans was inexcusable. Moreover, the enormous human suffering and violation of civil liberties that this policy caused vastly outweighed any purported national security benefit derived from the government's internment policy.

Mr. Speaker, the internment of Japanese Americans during World War II is one of the most ignominious and repugnant acts that our Nation has committed. Americans of Japanese descent, some of whom had been in our nation for generations, were herded into internment camps, and denied the basic human rights afforded to all other Americans. Although we have taken the first steps toward recognizing the insidiousness of the internment policy, apologies and reparations are not enough by themselves. Indeed, we ought to be reminded on a regular basis of the dangers of fanaticism. Today, as we face a new set of challenges to civil liberties in our Nation, it is imperative that we work together to preserve our basic freedoms. After the September 11th tragedy, Arab, South Asian, Muslim and Sikh Americans faced real threats to their safety. Many immigrant communities were concerned that America's legitimate anger towards the foreign terrorist who masterminded and carried-out September 11th would be turned towards them. We must constantly be vigilant that his does not occur, and establishing a national day of remembrance is a laudable step toward this necessary goal.

As the only Member of this body to have survived the Holocaust I bring a unique perspective to today's debate. As an oft quoted saying goes, "Those who forget history are doomed to repeat it," and this legislation is the first step to ensuring that all Americans learn from the mistakes of our Nation's past mistreatment of Japanese-, German-, and Italian-Americans. I applaud Congressman HONDA for introducing it, the Japanese American Citizens' League for endorsing it, and urge all of my colleagues to vote for it.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and agree to the resolution, H. Res. 56.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

CONTINUATION OF NATIONAL EMERGENCY BLOCKING PROPERTY OF PERSONS UNDERMINING DEMOCRATIC PROCESSES OR INSTITUTIONS IN ZIMBABWE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 108–168)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the Federal Register for publication. It states that the national emergency blocking the property of persons undermining democratic processes or institutions in Zimbabwe is to continue in effect beyond March 6, 2004.

The crisis caused by the actions and policies of certain members of the Government of Zimbabwe and other persons to undermine Zimbabwe's democratic processes or institutions has not been resolved. These actions and policies pose a continuing, unusual, and extraordinary threat to the foreign policy of the United States. For these reasons, I have determined that it is necessary to continue the national emergency declared on March 6, 2003, blocking the property of persons undermining democratic processes or institutions in Zimbabwe and to maintain in force the sanctions to respond to this threat.

GEORGE W. BUSH.

THE WHITE HOUSE, *March 2, 2004.*

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 12 o'clock and 25 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1333

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SIMPSON) at 1 o'clock and 33 minutes p.m.

EXTENSION OF NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

Mr. GOSS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2136) to extend the final report date and termination date of the National Commission on Terrorist Attacks Upon the United States, to provide additional funding for the Commission, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2136

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES.

(a) FINAL REPORT DATE.—Subsection (b) of section 610 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 6 U.S.C. 101 note; 116 Stat. 2413) is amended by striking "18 months" and inserting "20 months".

(b) TERMINATION DATE.—Subsection (c) of that section is amended—

(1) in paragraph (1), by striking "60 days" and inserting "30 days"; and

(2) in paragraph (2), by striking "60-day period" and inserting "30-day period".

(c) ADDITIONAL FUNDING.—Section 611 of that Act (6 U.S.C. 101 note; 116 Stat. 2413) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by inserting after subsection (a) the following new subsection (b):

"(b) ADDITIONAL FUNDING.—In addition to the amounts made available to the Commission under subsection (a) and under chapter 2 of title II of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 591), of the amounts appropriated for the programs and activities of the Federal Government for fiscal year 2004 that remain available for obligation, not more than $1,000,000 shall be available for transfer to the Commission for purposes of the activities of the Commission under this title."; and

(3) in subsection (c), as so redesignated, by striking "subsection (a)" and inserting "this section".

Mrs. MALONEY. Mr. Speaker, I fully support this extension for the 9/11 commission. In fact, I would support giving it any and all time and cooperation it needs to get to the bottom of 9/11.

Sixty days is but a bare minimum—but it is absolutely necessary. This extension is nice, White House cooperation would be better. A thorough final report would bolster our national security and bring a measure of understanding and closure to Americans, New Yorkers, and, most importantly, the victims' loved ones. Unfortunately, that effort has been hampered by an uncooperative White House.

The latest manifestation, as reported in today's New York Times, is severe restrictions on interviews with key 9/11 players.

I ask unanimous consent to put this in the RECORD.

Mr. Speaker we need White House cooperation now. And if they continue to refuse to give it, we should demand to know why.

Mr. Speaker, it's too important for this country, for my city and its people not to get this report done right. This is too important an issue for the White House to play hid and seek with. I hope this extension will trigger full cooperation.

[From the New York Times, Mar. 3, 2004]

9/11 PANEL REJECTS WHITE HOUSE LIMITS ON INTERVIEWS

(By Philip Shenon)

WASHINGTON, Mar. 2.—The independent commission investigating the Sept. 11 attacks is refusing to accept strict conditions from the White House for interviews with President Bush and Vice President Dick Cheney and is renewing its request that Mr. Bush's national security adviser testify in public, commission members said Tuesday.

The panel members, interviewed after a private meeting on Tuesday, said the commission had decided for now to reject a White House request that the interview with Mr. Bush be limited to one hour and that the questioners be only the panel's chairman and vice chairman.

The members said the commission had also decided to continue to press the national security adviser, Condoleezza Rice, to reconsider her refusal to testify at a public hearing. Mr. Bush and Mr. Cheney are expected to be asked about how they had reacted to intelligence reports before Sept. 11, 2001, suggesting that Al Qaeda might be planning a large attack. Panel members want to ask Ms. Rice the same questions in public.

"We have held firm in saying that the conditions set by the president and vice president and Dr. Rice are nog good enough," said Timothy J. Roemer, a former Indiana congressman who is one of five Democrats on the 10-member commission.

Mr. Roemer said that former President Bill Clinton and former Vice President Al Gore had agreed to meet privately with the full bipartisan commission, and that Samuel R. Berger, Ms. Rice's predecessor, would testify in public.

"It's very important that we treat both the Bush and the Clinton administration the same," he said.

The White House has declined to discuss details of the limitations it has sought on the interviews with Mr. Bush and Mr. Cheney but has said the administration wants to cooperate fully with the commission, known formally as the National Commission on Terrorist Attacks Upon the United States.

A spokesman for the National Security Council, Sean McCormack, said Tuesday that the White House believed it would be inappropriate for Ms. Rice to appear at a public hearing as a matter of legal precedent. "White House staff have not testified before legislative bodies," Mr. McCormack said. "This is not a matter of Dr. Rice's preferences."

Even as panel members warned of a possible confrontation with the White House, there was fresh evidence that the commission had averted a showdown on Capitol Hill. Speaker J. Dennis Hastert, Republican of Illinois, said Tuesday that he planned to shepherd a bill granting the panel a 60-day extension for its final report. Mr. Hastert had vowed to block the extension.

Mr. Hastert met Tuesday with the commission's chairman, Thomas H. Kean, a Republican and a former governor of New Jersey, and the vice chairman, Lee H. Hamilton, another former Democratic congressman from Indiana, and said at a news conference later that he would try to secure House approval of the extension, a proposal already accepted in the Senate.

With the extension, the commission would have until July 26 for its final report. The panel had warned that if it was held to its original deadline of May 27, as mandated by Congress, it would be unable to complete a full investigation and would have to curtail public hearings.

Mr. Hastert denied suggestions from Congressional Democrats that he had tried to block the extension as a favor to the White House, given Republican fears that the report might embarrass President Bush during his re-election campaign. Mr. Hastert said he had no direction from the White House.

"I didn't want it to become a political football," Mr. Hastert said of his initial opposition to the extension, adding that he had been chagrined when the White House said in February that it would back the extension.

Referring to the commission, Mr. Hastert said he had changed his mind last week "after it became apparent that they couldn't get their work done."

Commission officials said that if the White House continued to insist on limitations on the interviews with Mr. Bush and Mr. Cheney, there might be little that the panel could do to force the issue and that the commission might have to accept the White House's terms.

And they said that despite internal conversation about the possibility of issuing a subpoena for Ms. Rice's public testimony, that move was unlikely. Ms. Rice provided several hours of private testimony last month and has suggested that she is willing to answer additional questions behind closed doors.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 3752, COMMERCIAL SPACE LAUNCH AMENDMENTS ACT OF 2004

Mr. REYNOLDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 546 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 546

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 3752) to promote the development of the emerging commercial human space flight industry, to extend the liability indemnification regime for the commercial space transportation industry, to authorize appropriations for the Office of the Associate Administrator for Commercial Space Transportation, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 4(a) of rule XIII are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Science. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered as read. No amendment to the bill shall be in order except those printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII and except pro forma amendments for the purpose of debate. Each amendment so printed may be offered only by the Member who caused it to be printed or his designee and shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from New York (Mr. REYNOLDS) is recognized for 1 hour.

Mr. REYNOLDS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 546 is a modified open rule that provides for consideration of H.R. 3752, the Commercial Space Launch Amendments Act of 2004. The rule provides 1 hour of general debate and makes in order under the 5-minute rule any amendments preprinted in the CONGRESSIONAL RECORD. The rule also provides one motion to recommit with or without instructions.

Mr. Speaker, recent discoveries in the space program have reinvigorated our Nation's enthusiasm for space travel and discovery and, while in its infancy, commercial human space flight is becoming a new and exciting industry. As this concept continues to mature, there is hope of regular and safe round trips into space for paying customers. Eventually these trips will also serve as an important tool for investigation into commercial remote sensing and microgravity and atmospheric research. Currently there is no clear, defined structure to preside over this emerging new concept. Failing to provide a precise and consistent form of management will negatively affect the industry's ability to plan for its future, compete with international providers and attract financing from investors.

The underlying bill creates a process for all commercial space flight and grants authority over commercial human space flight to the FAA's Office of the Associate Administrator for Commercial Space Transportation. This will clearly define the structure to allow flights of suborbital rockets carrying human beings. Centrally locating this within the Administrator's office will also expedite the issuance of permits and licenses for commercial space travel. The Administrator will also be charged with drafting a policy for crews relating to training and medical condition prior to space travel.

Mr. Speaker, H.R. 3752 is a noncontroversial bill that moved easily through the committee process and is necessary to support this emerging space industry. I urge my colleagues to support this rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I thank the gentleman from New York for yielding me the customary 30 minutes and I yield myself such time as I may consume.

Mr. Speaker, I want to recognize Chairman BOEHLERT, Ranking Member GORDON and the entire Science Committee's hard work in crafting this legislation. While I am disappointed that the Committee on Rules did not grant an open rule today, it is refreshing to actually consider a truly bipartisan bill in this body.

Mr. Speaker, H.R. 3752 will promote the development of the emerging commercial human space flight, extend the government indemnification until 2007, and allow the FAA to issue experimental launch permits. Mr. Speaker, the idea of space travel is extremely exciting and it holds a special place in the heart of Massachusetts' Third Congressional District. My hometown of Worcester, Massachusetts, is the birthplace of Dr. Robert Goddard, the father of modern rocketry. At the age of 17, Dr. Goddard had a vision of space travel while in his family's backyard that would remain with him the rest of his life. In his autobiography, Goddard wrote:

"On the afternoon of October 19, 1899, I climbed a tall cherry tree. It was one of the quiet, colorful afternoons of sheer beauty which we have in October in New England, and as I looked towards the fields at the east, I imagined how wonderful it would be to make some device which had even the possibility of ascending to Mars. I was a different boy when I descended from the tree from when I ascended for existence at last seemed very purposive."

Mr. Speaker, in 1926 Dr. Goddard, as Director of the physical laboratories at Clark University, went on to launch the first liquid propellant rocket at Auburn, Massachusetts, which was the catalyst for our modern space industry. Throughout his lifetime, Dr. Goddard was at the forefront of science and space research. As a Professor at Clark University and Princeton University, Dr. Goddard devoted his life to the growth of rockets and his research has had lasting effects on our space industry.

During World War II, Dr. Goddard was Director of Research for the Navy Department's Bureau of Aeronautics. In that position he developed jet-assisted takeoff and variable-thrust liquid propellant rockets at Annapolis, Maryland and Roswell, New Mexico. Following his service as a researcher to our Nation in World War II, Dr. Goddard served a year as Director of the American Rocket Society before passing away on August 10, 1945 in Baltimore, Maryland.

As is the case with innovation, many people did not see the potential that Dr. Goddard's research would have on future space travel. Indeed, a New York Times editorial in January 1920 stated that Dr. Goddard's assertions of future space travel lacked the knowledge ladled out daily in high schools. Dr. Goddard countered by saying that every vision is a joke until the first man accomplishes it. Once realized, it becomes commonplace. Of course, 49 years later on the eve of man's first walk on the Moon in 1969, the New York Times printed a correction to their editorial by stating that it is now definitely established that a rocket can function in a vacuum as well as in an atmosphere. The Times regrets the error. That was in their editorial.

Since the start of the space program, we have seen Americans walk on the Moon, we have started to construct an international space station, and we currently have unmanned rovers exploring the surface of Mars. And now, with the passage of this legislation, commercial space travel is one step closer to reality.

Mr. Speaker, while I am disappointed that the Committee on Rules would refer a restrictive rule for this bipartisan bill, I keep hoping that one of these days the rhetoric of my friends on the majority side will be actually matched by their actions, but I guess we are going to have to wait for that day. But having said that, I will not oppose the rule and I support the underlying legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on four motions to suspend the rules previously postponed. Votes will be taken in the following order:

H. Res. 530, by the yeas and nays;

H.R. 912, by the yeas and nays;

H.R. 3389, by the yeas and nays;

H.R. 1417, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

URGING INTRODUCTION OF RESOLUTION CALLING ON CHINA TO END ITS HUMAN RIGHTS VIOLATIONS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, H. Res. 530, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and agree to the resolution, H. Res. 530, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 402, nays 2, not voting 29, as follows:

[Roll No. 34]

YEAS—402

Abercrombie
Ackerman
Alexander
Allen
Andrews
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Chabot
Chandler
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—2

McDermott
Paul

NOT VOTING—29

Aderholt
Akin
Baca
Berry
Calvert
Castle
Chocola
Davis (CA)
Doggett
Dooley (CA)
Filner
Frank (MA)
Hinojosa
Hooley (OR)
Kucinich
Lantos
McCotter
Ortiz
Pence
Reyes
Rodriguez
Royce
Sánchez, Linda T.
Schiff
Smith (MI)
Stearns
Toomey
Weldon (PA)
Woolsey

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1408

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

The title of the resolution was amended so as to read: "Resolution urging the appropriate representative of the United States to the 60th Session of the United Nations Commission on Human Rights to introduce a resolution calling upon the Government of the People's Republic of China to end its human rights violations in China, and for other purposes.".

A motion to reconsider was laid on the table.

Stated for:

Mr. STEARNS: Mr. Speaker, on rollcall No. 34 I was unavoidably detained. Had I been present, I would have voted "yea."

Mr. FILNER. Mr. Speaker, on rollcall No. 34, due to urgent constituent support commitments in my congressional district, I missed the vote. Had I been present, I would have voted "yea."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, the remainder of this series will be conducted as 5-minute votes.

CHARLES "PETE" CONRAD ASTRONOMY AWARDS ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 912, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ROHRABACHER) that the House suspend the rules and pass the bill, H.R. 912, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 404, nays 1, not voting 28, as follows:

[Roll No. 35]

YEAS—404

Abercrombie
Ackerman
Akin
Alexander
Allen
Andrews
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Chabot
Chandler
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest

Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—1

Paul

NOT VOTING—28

Aderholt
Baca
Berry
Calvert
Castle
Chocola
Davis (CA)
Doggett
Dooley (CA)
Filner
Hinojosa
Hooley (OR)
King (IA)
Kucinich
Lantos
McCotter
Ortiz
Pence
Peterson (PA)
Reyes
Rodriguez
Royce
Schiff
Smith (MI)
Toomey
Weldon (FL)
Weldon (PA)
Woolsey

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BASS) (during the vote). Members are advised 2 minutes remain in this vote.

☐ 1416

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. FILNER. Mr. Speaker, on rollcall No. 35, due to urgent constituent support commitments in my Congressional District, I missed the vote. Had I been present, I would have voted "yea."

Mr. WELDON of Florida. Mr. Speaker, on rollcall No. 35, I was unavoidably detained. Had I been present, I would have voted "yea."

PERMITTING MALCOLM BALDRIGE NATIONAL QUALITY AWARDS TO NONPROFIT ORGANIZATIONS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3389.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Ms. HART) that the House suspend the rules and pass the bill, H.R. 3389, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 408, nays 0, not voting 25, as follows:

[Roll No. 36]

YEAS—408

Abercrombie
Ackerman
Akin
Alexander
Allen
Andrews
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Chabot
Chandler
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak

Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—25

Aderholt
Baca
Berry
Calvert
Castle
Chocola
Davis (CA)
Doggett
Dooley (CA)
Filner
Hinojosa
Hooley (OR)
Kucinich
Lantos
McCotter
Ortiz
Pence
Reyes
Rodriguez
Royce
Schiff
Smith (MI)
Toomey
Weldon (PA)
Woolsey

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BASS) (during the vote). Members are reminded that there are 2 minutes remaining in this vote.

☐ 1426

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. FILNER. Mr. Speaker, on rollcall No. 36, due to urgent constituent support commitments in my Congressional District, I missed the vote. Had I been present, I would have voted "yea".

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The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1417, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 1417, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 406, nays 0, not voting 27, as follows:

[Roll No. 37]

YEAS—406

Abercrombie
Ackerman
Akin
Alexander
Allen
Andrews
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Chabot
Chandler
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—27

Aderholt
Baca
Berry
Brown (OH)
Calvert
Castle
Chocola
Davis (CA)
Doggett
Dooley (CA)
Filner
Hinojosa
Hooley (OR)
Kucinich
Lantos
McCotter
Ortiz
Pence
Reyes
Rodriguez
Royce
Schiff
Smith (MI)
Toomey
Weldon (PA)
Weller
Woolsey

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that 2 minutes remain in this vote.

☐ 1434

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to amend title 17, United States Code, to replace copyright arbitration royalty panels with Copyright Royalty Judges, and for other purposes.".

A motion to reconsider was laid on the table.

Stated for:

Mr. FILNER. Mr. Speaker, on rollcall No. 37, due to urgent constituent support commitments in my Congressional District, I missed the vote. Had I been present, I would have voted "yea."

PERSONAL EXPLANATION

Mr. BACA. Mr. Speaker, on rollcall Nos. 34, 35, 36, and 37, for personal reasons, I was unable to be in the chamber when the time elapsed on the vote.

Had I been able to vote, I would have voted "aye" for all four votes.

RECESS

The SPEAKER pro tempore (Mr. BASS). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 2 o'clock and 32 minutes p.m.), the House stood in recess subject to the call of the Chair.

☐ 1608

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. LAHOOD) at 4 o'clock and 8 minutes p.m.

GENERAL LEAVE

Mr. LINDER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 2136.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

MAKING IN ORDER AMENDMENT IN LIEU OF AMENDMENT PRINTED IN HOUSE REPORT 108-431 DURING CONSIDERATION OF H.R. 1561, UNITED STATES PATENT AND TRADEMARK FEE MODERNIZATION ACT OF 2003

Mr. LINDER. Mr. Speaker, I ask unanimous consent that the amendment that I have placed at the desk be considered as the amendment printed in House Report 108-431 and numbered 1 and that the amendment be considered as read for purposes of this unanimous consent request.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The text of the amendment is as follows:

AMENDMENT TO H.R. 1561, AS REPORTED, OFFERED BY MR. SENSENBRENNER OF WISCONSIN

Strike section 5 and insert the following:

SEC. 5. PATENT AND TRADEMARK FUNDING.

Section 42(c) of title 35, United States Code, is amended—

(1) by striking "(c)" and inserting "(c)(1)"; and

(2) by adding at the end the following new paragraph:

"(2) There is established in the Treasury a Patent and Trademark Fee Reserve Fund. If fee collections by the Patent and Trademark Office for a fiscal year exceed the amount appropriated to the Office for that fiscal year, fees collected in excess of the appropriated amount shall be deposited in the Patent and Trademark Fee Reserve Fund. After the end of each fiscal year, the Director shall make a finding as to whether the fees collected for that fiscal year exceed the amount appropriated to the Patent and Trademark Office for that fiscal year. If the amount collected exceeds the amount appropriated, the Director shall, if the Director determines that there are sufficient funds in the Reserve Fund, make payments from the Reserve Fund to persons who paid patent or trademark fees during that fiscal year. The Director shall by regulation determine which persons receive such payments and the amount of such payments, except that such payments in the aggregate shall equal the amount of funds deposited in the Reserve Fund during that fiscal year, less the cost of administering the provisions of this paragraph.".

In section 6(a), strike "Except as" and all that follows through the end of the sentence and insert "Except as otherwise provided in this Act and this section, this Act and the amendments made by this Act shall take effect on October 1, 2004, or on the date of the enactment of this Act, whichever occurs later.".

Page 12, strike lines 17 through 20 and insert the following:

(d) ADJUSTMENTS.—

(1) IN GENERAL.—Section 41(f) of title 35, United States Code, shall apply to the fees established under the amendments made by this section, beginning in fiscal year 2005.

(2) CONFORMING AMENDMENT.—Effective October 1, 2004, section 41(f) of title 35, United States Code, is amended by striking "(a) and (b)" and inserting "(a), (b), and (d)".

Page 11, add the following after line 24:

"(F) The Director shall require that any search by a qualified search authority that is a commercial entity is conducted in the United States by persons that—

"(i) if individuals, are United States citizens; and

"(ii) if business concerns, are organized under the laws of the United States or any State and employ United States citizens to perform the searches.

"(G) A search of an application that is the subject of a secrecy order under section 181 or otherwise involves classified information may only be conducted by Office personnel.

"(H) A qualified search authority that is a commercial entity may not conduct a search of a patent application if the entity has any direct or indirect financial interest in any patent or in any pending or imminent application for patent filed or to be filed in the Patent and Trademark Office.

Page 12, insert the following after line 20 and redesignate the succeeding subsection accordingly:

(e) FEES FOR SMALL ENTITIES.—Section 41(h) of title 35, United States Code, is amended—

(1) in paragraph (1), by striking "Fees charged under subsection (a) or (b)" and inserting "Subject to paragraph (3), fees charged under subsections (a), (b), and (d)(1)"; and

(2) by adding at the end the following new paragraph:

"(3) The fee charged under subsection (a)(1)(A) shall be reduced by 75 percent with respect to its application to any entity to which paragraph (1) applies, if the application is filed by electronic means as prescribed by the Director.".

(f) SIZE STANDARDS FOR SMALL ENTITIES.—

(1) STUDY.—The Director, in conjunction with the Administrator of the Small Business Administration and the Chief Counsel for Advocacy of the Small Business Administration, shall conduct a study on the effect of patent fees on the ability of small entity inventors to file patent applications. Such study shall examine whether a separate category of reduced patent fees is necessary to ensure adequate development of new technology by small entity inventors.

(2) REPORT.—The Director shall, not later than 6 months after the date of the enactment of this Act, submit a report on the results of the study under paragraph (1) to the Committee on the Judiciary and the Committee on Small Business of the House of Representatives and the Committee on the Judiciary and the Committee on Small Business and Entrepreneurship of the Senate.

Page 8, line 3, add the following after the period: "For the 3-year period beginning on October 1, 2004, the fee for a search by a qualified search authority of a patent application described in clause (i), (iv), or (v) of subparagraph (B) may not exceed $500, of a patent application described in clause (ii) of subparagraph (B) may not exceed $100, and of a patent application described in clause (iii) of subparagraph (B) may not exceed $300. The Director may not increase any such fee by more than 20 percent in each of the next 3 1-year periods, and the Director may not increase any such fee thereafter.".

PROVIDING FOR CONSIDERATION OF H.R. 1561, UNITED STATES PATENT AND TRADEMARK FEE MODERNIZATION ACT OF 2003

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 547 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 547

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1561) to amend title 35, United States Code, with respect to patent fees, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, H. Res. 547 is a fair, structured rule that provides for the consideration of H.R. 1561, the U.S. Patent and Trademark Fee Modernization Act. This rule provides for 1 hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary.

H. Res. 547 provides that the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill shall be considered as an original bill for the purpose of amendment, and shall be considered as read. The rule waives all points of order against the Committee amendment in the nature of a substitute.

H. Res. 547 makes in order only those amendments to the Committee amendment in the nature of a substitute which are printed in the Committee on Rules report accompanying the resolution.

The rule provides that the amendments made in order may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole.

H. Res. 547 waives all points of order against the amendments printed in the report and provides one motion to recommit with or without instructions.

With respect to the underlying legislation, H.R. 1561, the U.S. Patent and Trademark Fee Modernization Act, represents the beginning of the implementation of the revised Strategic Business Plan to transform the Patent and Trademark Office's operations by improving patent and trademark quality and reducing application backlogs and delays. The bill incorporates a revised fee schedule previously submitted by the PTO that would generate an additional $201 million in revenue. Specifically, H.R. 1561 amends Federal patent law to lower patent filing and basic national fees; increase appeal, excess claims, disclaimer, extension, revival, and maintenance fees; and add new fees for application examination, patent search, and patent issuance.

As our former colleague and former director of the PTO, Jim Rogan, noted, the implementation of the revised Strategic Plan hinges on the passage of H.R. 1561. He stated, "Without the ability to hire and train new examiners and also improve infrastructure, our hands will be tied . . . The consequences of failing to enact the fee bill and giving the (PTO) access to those fees will mean quality and pendency will continue to suffer. We will be unable to hire needed examiners, and over 140,000 patents will not issue over the next 5 years. The inventory of unexamined patent applications will skyrocket to a backlog of over 1 million applications by 2008, more than double the current amount, and pendency (as measured from the time of filing) will jump to over 40 months average in the next few years. This would represent the highest pendency rates in decades."

I agree with former Director Rogan's account, and I believe that H.R. 1561 will benefit our Nation in the processing of patent and trademark applications. I have always supported the rights of independent inventors to seek protections under Federal patent laws.

Undoubtedly, some of the world's greatest innovations have come from America's great independent inventors, including Thomas Edison and Alexander Graham Bell.

☐ 1615

Nevertheless, it is also necessary to expedite patent applications to help protect small independent inventors.

Mr. Speaker, this rule was approved by the Committee on Rules last night. I urge my colleagues to support the rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume, and I thank the gentleman from Georgia (Mr. LINDER) for yielding me the time.

Mr. Speaker, I rise today in opposition to the U.S. Patent and Trademark Fee Modernization Act of 2003, as well as the rule providing for its consideration.

As the majority member of the committee previously mentioned, I agree that the premise of our patent system lies in its mutual benefit to both the inventor and our country. With the constant evolution of science and technology, spurred by the monetary incentive the U.S. patent system offers to inventors, new inventions have led to new technologies, job creation and improvements to our quality of life. Indeed, Congress should be creating legislation that fosters and nurtures the relationship between the United States Patent Office and the entrepreneur and business communities.

The underlying legislation, however, does nothing of the sort, and the rule which the majority is asking us to approve today stifles debate and limits our ability to improve this legislation.

I really find it outrageous that the bill in its current state hurts aspiring small businesses by inflicting additional fees on their patent and trademark applications. It should be our mission to build an enterprise society in which small firms of all kinds thrive and achieve their potential. We should not allow small businesses to fail before they even get started.

An amendment will be offered later today by our colleague the gentlewoman from Texas (Ms. JACKSON-LEE) that I strongly support. This amendment will aid in the promotion of enterprise across society, particularly in underrepresented and disadvantaged groups. I urge my colleagues to support this amendment.

In examining the underlying legislation, it is becoming increasingly clear that we should not call this bill the U.S. Patent and Trademark Fee Modernization Act. Instead, we should call it what it really is, the Increased Fees on Small Businesses Act of Fiscal Year 2003.

To make a bad bill worse, the majority is once again seeking to outsource the jobs of Federal employees. Simply put, the patent examining and processing are core governmental functions and should be performed by Federal employees. Yet, my friends in the majority are using the bill as another opportunity to fail Federal employees by outsourcing their jobs.

Mr. Speaker, Congress must protect the jobs of Federal employees. Like any workforce, the primary interests of Federal employees lie in opportunities for reward, professional development and job satisfaction. The United States Government trails behind the private sector when it comes to investing in its employees. When I see bills such as the underlying legislation, it seems unrealistic to think that change will occur under this leadership. Perhaps it will take their jobs to be on the line before we institute change.

Mr. Speaker, this bill has many glaring problems, and as I previously mentioned, I oppose the underlying legislation, and I will oppose the rule, and I urge my colleagues to do the same.

Mr. Speaker, I reserve the balance of my time.

Mr. LINDER. Mr. Speaker, I am pleased to yield 4 minutes to the gentleman from North Carolina (Mr. COBLE).

Mr. COBLE. Mr. Speaker, I thank the gentleman from Georgia for yielding me the time. I appreciate that.

Mr. Speaker, this bill implements the revised Strategic Business Plan proposed by Director Rogan when he was at the Patent and Trademark Office to update the services and structure of the office. The Strategic Business Plan will enhance the quality of the patent and trademark examining operations, accelerating the application pendency period, making it more consumer friendly and efficient.

The manager's amendment to the bill addresses the fee diversion problem and prevents the PTO funds from being used to fund general revenue programs throughout the Federal Government.

Under the agreement reached between the gentleman from Wisconsin (Chairman SENSENBRENNER) and the Committee on Appropriations, PTO fees collected in a given fiscal year that exceed the appropriation to PTO for that year would be placed in what will be known as a PTO reserve fund. At the end of that fiscal year, the Director of the Patent and Trademark Office may determine if, and how, these funds should be allocated back to the eligible applicants.

Mr. Speaker, I have been a proponent of modernizing the patent and trademark fee structure and have fought on this floor year after year to protect these dollars from being used to fund non-PTO programs, as have my chairman the gentleman from Wisconsin and other Members of the Committee on the Judiciary. They have fought equally diligently to this end.

A fully funded United States Patent and Trademark Office is vital to sustaining the strength and growth of United States companies, inventors and innovations, and this legislation is integral to preserving the United States' worldwide leadership in the intellectual property industry.

I say to my friend from Georgia, who yielded to me, I was at the PTO office about 5 years ago for an event. I was invited to take part in an event there, and I said to those people, from the Director to all the patent examiners who were there and trademark examiners, I said I want to send a message to Capitol Hill and I want to tell everybody up there to keep their grubby paws out of the PTO coffers. Now that may have been an indelicate way of saying it, but I wanted to make clear to everyone up here that these funds should not be removed from PTO custody and control.

The opponents of such a proposal indicate that some sort of unjust enrichment will ensue if the PTO gets to keep these funds. That is poppycock. That is nonsense. These funds belong to the PTO, and I am confident that with the passage of this legislation, the diversion anathema that has plagued us for so long hopefully will finally be resolved.

I again thank the gentleman from Georgia for yielding me time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 7 minutes to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Speaker, I thank the gentleman from Florida for yielding me time.

Mr. Speaker, I would like to strongly oppose this bill, H.R. 1561, and I do so because it is based on our good old Constitution, which says the Congress shall have power to promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries, and from the very founding of the republic that knowledge has been housed in the U.S. Patent Office where inventors around our country had confidence that those inventions belonged to them, protected by the Constitution of our Nation. So important patents are listed, patents inventors, congressional protection.

Today, we have a bill before us, H.R. 1561, that really is another episode in the outsourcing of American jobs. Yes, the outsourcing craze continues. It is like a virus that cannot be stopped. The American people cannot understand why their officials in Washington do not step in and put an end to this nonsense, but guess what, now the Federal Government is getting into the act and the outsourcing of jobs from our government, in this case the U.S. Patent Office, has infected the heart of American ingenuity.

Mr. Speaker, the bill before us authorizes the Patent and Trademark Office to outsource work. There is some palliative, feel-good language about companies being organized under the laws of the United States in the bill, but under U.S. law Honda is a U.S. company, Toshiba is a U.S. company. Saudi companies, if they operate on U.S. soils, are U.S. companies. That does not give me a lot of comfort. This is an insult to the entrepreneurs and inventors of this country.

As someone who comes from the State of Ohio, home of Thomas Edison and Charles Kettering, the thought of outsourcing patent application reviews from the U.S. Patent and Trademark Office is inconceivable. One might think that with this outsourcing, well, the price is going to go down to inventors. Are they going to get anything out of this? That is the way the free trade fundamentalists try to tell the story, send the work overseas if it can be done, send it out of the government, but guess what. They are going to raise the cost to patent holders. So the same old bankrupt theory is at work.

Patent application reviews will be outsourced, but the price to the small inventor or the small entrepreneur would not decrease. In fact, they put an additional fee, an additional tax on them. Currently, a small entity pays $385. The proposed fee would be $675 with an e-file and $750 without an e-file. Total fees for the life of a patent currently are $4,160, which is a lot of money for a small inventor. The proposed fee with an e-file would raise it to $4,875.

Call it what you want, fee increase, user fee adjustment, search fee. I will tell my colleagues what it really is. It is another tax, and a tough one, on the very people who are trying to invent America's future, the very people on whom we are counting for the intellectual moxie to fuel the information-based economy or knowledge-based economy that the experts say are supposed to lead us out of the doldrums that this economy is in.

The people in this country who tinker with objects and machines and ideas, why should they be taxed and why should we want to outsource anything from the U.S. Patent and Trademark Office?

If my colleagues vote for this bill, they are voting for a tax increase, and a rather large increase at that, on the best and brightest minds of our country. It is bad enough they want to outsource such an important function such as patent application search and examination. This is so important that it still remains right here in the Constitution of our country, and now we are talking about outsourcing constitutional responsibility. That in itself is an outrage, but to raise taxes on our inventors and our bright minds actually, in this environment, verges on insanity.

Where does it stop? Where does it stop? I urge my colleagues to vote against H.R. 1561.

Mr. BERMAN. Mr. Speaker, will the gentlewoman yield?

Ms. KAPTUR. I yield to the gentleman from California.

Mr. BERMAN. Mr. Speaker, I thank the gentlewoman for yielding and appreciate her comments.

At this time I will not get into the issue of the restricted nature under which outsourcing is permitted, but I think the gentlewoman accurately described the base bill. The chairman of the Committee on the Judiciary will be offering an amendment with respect to outsourcing outside the United States that restricts even the limited outsourcing that is allowed under this bill to companies organized under the laws of the United States. As the gentlewoman mentioned, that in and of itself does not protect against international outsourcing, or any State, and employ U.S. citizens to perform the searches.

So there will be an amendment to the base bill at the time that once the rule is adopted, if it is adopted, that will deal with that specific issue very specifically and prohibit that kind of outsourcing that the gentlewoman was concerned about.

Ms. KAPTUR. Mr. Speaker, this is a very important point, and I respect my dear colleague from California (Mr. BERMAN), but the facts are we are outsourcing patent review procedures from the U.S. Patent and Trademark Office. In other words, it is going to go to private companies, not the government of the United States, protected by what the Constitution demands. It is going to be outsourced to companies.

The question is what is a U.S. company? If we look into the law, a U.S. company operating within the boundaries of the United States, even if it is

Honda Motor Corporation, is a U.S. company. Foreign corporations operating within the United States are defined as U.S. corporations because they operate within our soil.

□ 1630

But they are not U.S. corporations, because their profits are booked back to their home country. So I have a real problem with this.

Number one, we should not be outsourcing the jobs from the Patent Office. That is the most important line that we are breaching here. Never before in the history of this country has this been done. It has never been done. And then we are saying, well, you know, it will be a U.S. company. But then look to the law. How do we define what a U.S. company is? Any company operating within the boundaries of the United States? It could be Honda, it could be Toshiba, it could be Daemler, it could be any company.

Mr. BERMAN. Mr. Speaker, will the gentlewoman yield?

Ms. KAPTUR. I yield to the gentleman from California.

Mr. BERMAN. Mr. Speaker, I take the gentlewoman's point about U.S. companies and who might be called a U.S. company. I simply wanted to point out that the chairman of the Committee on the Judiciary has a manager's amendment that will not simply limit this to U.S. companies, but limit it to searches only by companies employing U.S. citizens to perform the searches. So there is that as an additional element.

Ms. KAPTUR. Mr. Speaker, reclaiming my time, and I thank the gentleman from California for those comments, but it is interesting because our submarine technology happened to end up in the hands of the former Soviet Union through a subsidiary of a company operating here and also in Europe. It does not matter if U.S. citizens are in those jobs; what matters is who owns the company. And beyond that, why should we be outsourcing anything from the Patent and Trademark Office?

I totally oppose this bill. At least I want on the record that there was one Member standing to say that the constitutional protections to America's patent holders and inventors should not be breached. It has been working. Why change it?

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). The Chair would appreciate Members' abiding by the time limits.

Mr. HASTINGS of Florida. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LINDER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. All time has expired. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill H.R. 1561, soon to be considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

UNITED STATES PATENT AND TRADEMARK FEE MODERNIZATION ACT OF 2003

The SPEAKER pro tempore (Mr. LINDER). Pursuant to House Resolution 547 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1561.

□ 1633

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1561) to amend title 35, United States Code, with respect to patent fees, and for other purposes, with Mr. LAHOOD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. BERMAN) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 1561 will help implement the Patent and Trademark Office's Strategic Business Plan to transform the agency's operations. The bill incorporates a revised fee schedule previously submitted by the PTO that will generate much-needed additional revenue. The plan also includes a true structural reform of the office, which demonstrates that the PTO is not simply saying give us more money and we will solve the problem. The implementation of the strategic plan is the first step forward toward improving patent and trademark quality while reducing application backlogs and pendency at the agency.

These goals are critical to the health of cutting-edge industries in particular and our economy in general. Americans lead the world in the production and export of intellectual property and related goods and services. Time is money in the intellectual property world. If the PTO cannot issue quality patents and trademarks in a timely manner, then inventors and trademark filers are the losers.

By granting patents and registering trademarks, the PTO affects the vitality of businesses and entrepreneurs, paving the way for investment in research and development. Industries based on intellectual property, like biotechnology and motion pictures, represent the largest single sector of the United States economy. Approximately 50 percent of American exports depend upon some form of IP protection.

While intellectual property protection is increasing in importance, the PTO is collapsing under an increasingly complex and massive workload. Patent pendency, the amount of time of patent application is pending before a patent is issued, now averages over 2 years. Without fundamental changes in the way the PTO operates, average pendency in these areas will likely more than double to 6 to 8 years in the next few years.

I would point out that the patent term is 20 years from the date of filing. So if it takes 6 to 8 years before the PTO can decide whether or not an application is indeed patentable and grants a patent, that will be that much less time that the patent is actually good, and, thus, that much less valuable to the person who has successfully invented a new technology or product and patented it.

Moreover, the backlog of applications awaiting a first review by an examiner will grow from the current level of 475,000 to over a million. These delays pose a grave threat to American businesses and entrepreneurs. The nature of technology and the nature of the marketplace make these delays unacceptable and unsustainable.

And what I would point out to the gentlewoman from Ohio and others who complain about this bill and the fee increases that are contained to modernize the system is that if our competitors in an increasingly globalized economy, in Europe and in Japan and elsewhere, are able to obtain more prompt decisions from their patent offices, that will put American inventors at a disadvantage considerably.

To fund the initiatives set forth in the strategic plan, the administration has proposed in H.R. 1561 an increase in patent and trademark fees. The proposed fee changes accurately reflect the PTO's cost of doing business. They will benefit the PTO's customers by reducing application filing fees and allowing applicants to evaluate the commercial value of their inventions and recover the cost of search and examination as the situation warrants. Most importantly, the new fee structure will enable the PTO to reduce pendency time, improve quality and customer service through electronic processing, and pursue greater enforcement of intellectual property rights abroad.

For example, the additional revenue provided by the fee bill will allow the PTO to hire an additional 2,900 patent examiners, these are Federal employees, not outsourced employees, and move to full electronic processing of patent and trademark applications.

The Committee on the Judiciary unanimously approved this bill on July 9, 2003. The administration and private sector strongly advocated the adoption of the fee bill as a necessary means to address the workload crisis at the PTO. Failure to pass the restructuring contained in H.R. 1561 will result in further degrading of PTO operations and increasing the already unacceptable delays to patent and trademark applicants.

Mr. Chairman, I will soon offer a bipartisan compromise amendment on section 5 of this bill. This portion of the bill, as reported, would essentially have taken the PTO off budget, a result that our friends at the Committee on Appropriations strongly opposed. My amendment, developed with their input, as well as that of the majority leader's office, the Congressional Budget Office, and the Committee on the Budget, would deposit any fees collected in a given fiscal year in excess of that actually appropriated in a Fee Reserve Fund. At the end of the fiscal year, the director would then be empowered to rebate the reserve-fund revenue to users of the agency.

I understand that the CBO and the Committee on the Budget believe this compromise accomplishes the twin goals set forth by the majority leader's office in backing these discussions; that we will have eliminated the incentive to use PTO revenue for non-agency purposes without compromising the ability of the Committee on Appropriations to exercise their oversight prerogatives in providing appropriations for the agency. The mainstream user groups have signaled their intent to support the amendment based on this interpretation.

I appreciate very much the cooperation of the appropriators in working out this compromise, and I would call on them to take this opportunity to fully fund the strategic plan. Full funding will be crucial to achieving the changes that we all want to see at the PTO.

Now, let me say a couple of words of what the consequence will be if this bill is voted down. First, if this bill is voted down, the current fee diversion that occurs, where up to 30 percent of the fees that are collected by the PTO are not spent on PTO activities but instead are diverted into other areas under the jurisdiction of the Subcommittee on Commerce, Justice, State, Judiciary and Related Agencies of the Committee on Appropriations, will continue.

Patent and trademark applicants should no longer be required to fund functions of the Federal Government that have no relationship whatsoever to Patent and Trademark Office operations. This bill, and the amendment that I will be proposing at the conclusion of the general debate, will end the fee diversion and will mean that fees that are collected by the PTO will either be used by the PTO or refunded to the applicants and other users.

Second, if this bill gets voted down, instead of having a 2-year delay between the time of the application and the time that the application is acted upon, within the next several years that will expand to 6 or 8 years. And if it is 8 years, that means that the patent will only be good and effective for 12 years, because the patent term is 20 years from the date of application. That puts our successful patent applicants at a considerable disadvantage over those competitors who choose to patent their inventions overseas, where patent and trademark offices will work in a more expeditious manner.

I would point out that the small- and medium-sized enterprises who apply for patents under the compromise that is worked out will get a significant fee reduction from a large corporation that is applying for a patent. So there still is a break for small inventors. But there are fee increases; and we need these fee increases to be able to prevent unacceptably long backlogs from occurring, because it is anticipated that the business of the PTO will double in the next few years.

If we do not give them more money and we do not make this into a user fee, then the constitutional protection that the gentlewoman from Ohio and others are referring to will end up becoming very much debased in terms of their worth. I do not think that we want to see this happen, and that is why this legislation is essential to maintain the competitiveness of American intellectual property inventions and the inventiveness that has marked American society since the beginning days of our Republic.

The amendment that I offer in this bill is necessary for the improved performance of the PTO, and failure to enact this legislation will truly be a disaster for American innovation. I urge Members to support this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. BERMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 1561 is a wonderful illustration of the principle that something does not have to be interesting to be important.

□ 1645

This bill is of critical importance to the health of our information economy. Intangible property, such as patents, trademarks and copyrights, now constitute well over 50 percent of the assets of U.S. corporations, both large and small. Most of the great advances in pharmaceuticals, telecommunications, biotechnology, and Internet fields began as patented inventions. Patent protection played a critical role in the creation and dissemination of inventions from the telephone to fiberoptics, from injectable insulin to laser eye surgery.

The Patent and Trademark Office, which issues both patents and trademarks, has a critical role to play in creating and securing these assets. By facilitating many needed reforms, H.R. 1561 ensures that the PTO plays a positive role in stimulating our information economy, rather than becoming an obstacle to it.

Furthermore, H.R. 1561 does not saddle the U.S. taxpayer with the cost of these reforms. The PTO is fully funded by fees from the patent and trademark applicants, and this bill raises some of those fees to enable those reforms. H.R. 1561 pays for other reforms by ending the innovation tax. Throughout the last decade, over $650 million in fees paid to PTO by American inventors and small businesses have been diverted to unrelated agencies. H.R. 1561 stops this tax on innovators by ending diversion once and for all.

The PTO is in a crisis that threatens the stability and usefulness of our patent and trademark systems. At congressional urging, the PTO has crafted a 21st-century strategic plan to address this crisis, but it needs this legislation to implement that plan.

H.R. 1561 is necessary because the patent system is coming apart at the seams. A perfect storm of sorts has hit the PTO, which administers the patent system. This storm threatens to make the patent system dysfunctional. This perfect storm involves a tremendous growth in the amount and complexity of PTO workload, matched by a decreasing ability to handle that workload. The number of patent applications received annually by the PTO doubled between 1992 and 2003 to a figure of over 350,000 last year. What is more, the number of applications continued to grow throughout our recent recession and is expected to increase another 5 percent this year. This growth is fed in part by the expanding scope of patentability. Due to a string of court opinions, patentable inventions now include software, business methods, and anything else made under the sun by man.

The technology boom in the United States has also resulted in applications for patents on inventions in areas of technology that did not exist just a few years ago. On a daily basis, PTO is asked to review applications for patents on such things as genetic tests and laser vision technologies.

The numerical growth, and the expanding scope, are matched by a growth in complexity. For instance, some biotechnology patents covering genetic sequences can occupy the equivalent of 10,000 pages. The PTO must hire new examiners with the requisite skills in these areas or fund extensive retraining for current examiners.

The PTO's decreasing ability to deal with this increasing workload is the result of several factors. Most responsible is the cumulative effect of more than a decade of fee diversion. The PTO is entirely funded by user fees. Patent and trademark holders and applicants pay the PTO a variety of fees to obtain and retain their patent and trademark rights. The fees are supposed to reflect the cost of services provided by the PTO; but between 1992 and 2003, Congress denied the PTO the ability to spend $654 million of the fees paid to it. Instead, Congress appropriated these fees for unrelated programs. This will stop as a result of this bill.

As a result of that diversion, the PTO has been forced to gradually cannibalize itself. It has deferred critical information technology upgrades. It has squeezed every ounce of possible productivity out of examiners, and appears now to be asking them to review applications in an unrealistic time frame. It even laid off almost one-third of its trademark examining corps. Despite these drastic measures, the PTO only managed to delay, not avert, a train wreck. By all objective measures, that train wreck is upon us.

I could go through, and my statement in the RECORD will contain a full statistical explanation of the incredible increase in the backlog for patent applications, but in conclusion, it takes more than 2 years now for a patent application to be granted or disposed. In many cases, more than 60 months is the pendency for a patent application.

Why does this pendency matter? Why do we care about these backlogs? It affects both the patent applicants and society at large. Patent ownership enables individual inventors and small businesses to obtain capital. Patent ownership gives prospective financiers, such as venture capitalists and banks, important reassurance that investment in a small entity is sound.

Long patent pendency also negatively affects society at large. Long patent pendency and patent backlogs creates substantial uncertainty in the marketplace and thus makes it difficult for all businesses to operate. A backlog of 500,000 patent applications may cover business methods now common in the financial service business, software contained in every personal computer, or a type of computer chip that will cost billions to manufacture.

As troubling as the lengthy patent pendencies are, they are not the gravest problem facing the PTO. Even greater concern should be given to the quality of the patents granted by PTO. When PTO grants patents in error to things that are not true inventions, many negative side effects occur. Low-quality patents can deter scientific research, create obstacles to legitimate commercial activities, and create opportunities for illegitimate rent-seeking. A bad patent on a pharmaceutical drug means that consumers cannot obtain a cheaper generic version. A bad patent on Web browser technology may force the redesign of every piece of software interoperating with current Web browsers.

Using a random sampling methodology, the PTO estimates its error rate for patents issued in fiscal year 2003 at 4.4 percent. That means more than 7,000 patents were issued in error. That means that at any given time given the 7-year pendency term for patents, there are over 120,000 bad patents in force.

Enactment of this legislation will enable the PTO to substantially improve patent quality. It will also enable the PTO to hire 750 new patent examiners a year between 2004 and 2006, and additional numbers in subsequent years. It will take time to train these new examiners. They will eventually be able to shoulder some of the patent examination workload that threatens to swamp the current examining corps. With an expanded examining corps, the PTO will be able to give patent examiners more flexibility in the amount of time they spend on any one application.

I am convinced that H.R. 1561 is an important part of the solution to the pendency and quality problems. It is a first absolutely necessary step to reforming the PTO. There are other legislative proposals that deal with a number of these issues, but this is the key first step. I urge my colleagues to approve H.R. 1561.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Chairman, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for yielding me this time.

I rise in support of the legislation, H.R. 1561. Congress has been working on this legislation for a number of years, in fact, since before I got here. I know since the 106th Congress, they have attempted to solve the problem that exists in the Patent and Trademark Office, that is, funding problems, structural problems, and approval-time problems.

Passage of this bill is imperative, and it is long overdue. Unfortunately, quality, pendency, and overall efficiency have continued to be a problem throughout these years. In fact, there is a greater threat to the health of American's intellectual property system than ever. The longer we wait to confront these issues and pass this bill, the more costly and time consuming it will be to overcome the problems.

Through working on the legislation, it has become clear to me that a strong patent and trademark system is not only essential for continued growth of the high-tech industry here in this country, but for our entire economy.

H.R. 1561 has fee readjustments that will enable the Patent and Trademark Office to fund its operations as needed to ensure that the long-term goals of enhanced efficiency and proficiency of staff are met by providing a more vibrant, seamless, and cost-effective intellectual property system.

The readjustment of the fees will generate an additional $201 million in revenue for improvements at the Patent and Trademark Office. That means less time to review a patent, better quality staffing, and better quality patents.

While fee readjustment alone is insufficient, the enactment of this bill is a necessary precursor to the implementation of crucial administrative changes, such as quality checks at every stage of the examination process, improvements in patent practitioners in customer service and ability to provide competent analysis of applications, refinement of training and performance assessment programs, testing for and evaluations of these patent examiners to ensure thorough understanding of relevant technology, applicable law, and related internal procedures.

Also of key importance is acceleration of processing time by transitioning from paper to e-government processing, hiring of almost 3,000 examiners, reduction in the pendency of these applications and the backup at the PTO. All of these issues will be addressed under this bill.

Failure to enact the bill will mean that quality and pendency issues will continue to cause harm to American innovators and to American job creators. Without this legislation, the backlog of applications will skyrocket to over 1 million applications by 2008, more than double the current amount. The pendency time will also continue to increase. This cannot be tolerated. We need to pass this bill.

Finally, families in the communities I represent are dependent upon this bill's success. A significant number of the people in my communities are employed in the coatings industry, in the glass industry, plastics, specialty steel, not to mention high-technology communications and technology for health care devices. These products are unique processes and are unique products. We need to have these products patented to keep these jobs in the United States, to keep these people in my community employed.

I know that employers and innovators are at the heart of providing these jobs. We need to protect their innovations and their processes. We need to make sure that our Patent and Trademark Office works for them. I urge my colleagues to support this bill.

Mr. BERMAN. Mr. Chairman, I yield 3 minutes to the gentlewoman from California (Ms. LOFGREN), a member of the Committee on the Judiciary and the first articulator of the principle "no end to diversion, no fee increase."

Ms. LOFGREN. Mr. Chairman, I thank the ranking member of the subcommittee and the chairman. Yes, it is true that we have been objecting to the diversion of fees from the Patent and Trademark Office for some time. In fact, since 1962 some $6 million has been diverted from the PTO and put to other uses; and according to the Patent Public Advisory Committee, this has created a crisis at the PTO. There is inadequate funding, and there is also a significant increase in patent and trademark applications.

The diversion of fees is not the cause of the problems in the Patent Office. It is the cause of the inability to deal with the problem in the Patent Office. We know that we have to spend more to implement the plan that Jim Rogan, our prior colleague, headed up when he was at the Patent Office. We need to upgrade the computer system so we have a priority search that really is worthy of our country. We know that the amount of time that each patent examiner has to examine a patent is insufficient. It is impossible to do the kind of job that we want them to do and they want to do in the time available.

Because of the problems in the act and the diversion of fees, I think we have had some problems with some of the patents that have been generated in recent times. There have been substantial questions generated about some of them. We hear a lot about the business methods patents, but it is not just about those patents; and it is important that we do not grant a patent that cannot withstand a court challenge. It is costly and wastes valuable resources; but more importantly, it grants unwarranted rights of exclusivity that deter otherwise lawful activity and impedes competition and innovation.

□ 1700

Furthermore, the pendency for patents is now averaging 24.7 months, which is an unbelievable delay. When we think about the pace of technological change that a patent should on average take, 24.7 months is really not a good thing for the innovation high-tech economy. To quote a former First Lady, those of us on the Committee on the Judiciary believe we should just say no to patent fee diversion. Patentors and inventors do not object to being taxed on their income just the way other Americans are taxed on their income but to divert patent fees to general purposes is basically a tax on innovation, a special tax on innovation. That is something that we should object to.

I believe that the bill before us with the compromises that have been made is one that I can support. I think in the end it will well serve our country. It will well serve our economy. Because as someone from Silicon Valley, I know as well as anyone that it is innovation that really grows the American economy and by making the Patent Office better, by precluding the diversion of fees, we will help that innovation economy.

I would note further that in all of my dealings with innovators in Silicon Valley and really around the country, not one has objected to the increase in fees. Not a single one. What they object to is the diversion of fees. I recommend this bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I rise today to express my sincere gratitude and appreciation to my good friend, the distinguished chairman of the Subcommittee on Commerce, Justice, State, Judiciary and Related Agencies of the Committee on Appropriations, for his work with me on this bill. Working to reform the PTO to ensure timely and effective intellectual property protection for American inventors and businesses has been a multiyear effort for many of us, authorizers and appropriators, on both sides of the aisle. Today, we see the fruits of these efforts. Thanks to the support of Chairman WOLF and full committee Chairman YOUNG, our committees have come together and reached an agreement on a funding mechanism that will enable the USPTO to fully fund its restructuring and reform activities. It is my understanding that this rebate mechanism would ensure that all revenue from patent and trademark fees would in fact go to the USPTO or would be rebated to those who have paid the fees. As a result, the USPTO, which receives no taxpayer dollars and is fully fee-funded, would now be able to retain its fee revenue and to fully fund their widely supported 5-year strategic plan. Is that the gentleman from Virginia's understanding?

Mr. WOLF. If the gentleman from Wisconsin will yield, I concur with the reading of the intent of this funding mechanism. I would add that an important tool the Committee on Appropriations uses in its oversight of the Patent and Trademark Office as a Federal agency is control over its discretionary appropriation. We will ensure that this new funding mechanism maintains that control and does not give the Patent and Trademark Office a blank check particularly at a time when all discretionary spending is tight.

The USPTO must modernize. The Committee on the Judiciary and USPTO's user groups have developed a comprehensive 5-year blueprint to streamline the operations of the office. Given the significant increase in funding that this bill would provide, I have asked the General Accounting Office and the National Academy of Public Administration to conduct comprehensive reviews to ensure the moneys are spent to reduce pendency and increase the quality of our patent and trademark system.

Particularly in the high-tech sector, a company's competitiveness is directly related to the amount of time it takes to receive a patent for their new product. They are disadvantaged when the life cycle of their products expires before they are able to get a patent. I would also like to thank the chairman for including language to ensure that searches are not outsourced offshore. I think it is important for Members to know under no circumstances should this be outsourced to another country and under no circumstances should these searches be conducted by non-U.S. citizens.

I commend and thank the gentleman from Wisconsin for his work on this measure, and I urge its adoption.

Mr. BERMAN. Mr. Chairman, notwithstanding the difference of view we have on this issue, I yield 3 minutes to the gentlewoman from Ohio (Ms. KAPTUR), a tenacious fighter for that in which she believes.

Ms. KAPTUR. Mr. Chairman, I want to thank the gentleman from California for allowing this institution to function as it should and to allow those who disagree with this bill an opportunity to speak.

Mr. Chairman, across our country we see the dismantling of jobs and business in this country. This particular bill, H.R. 1561, dismantles the Patent and Trademark Office as we have known it. If one reads article 1, section 8, it says, the Congress shall have the power to secure for inventors the exclusive right to their respective writings and discoveries. Throughout the over 200-year history of our country, that has been done through the U.S. Patent and Trademark Office. The bill before us on page 11 reads, the Director can provide that searches be done by commercial entities.

That is not what the Constitution says. That is not the U.S. Patent Office. That is a commercial entity. Yes, searches will be outsourced from the U.S. Patent Office. You could say they would be contracted out. That is not the U.S. Patent Office. We have plenty of examples in this world of copycatting of inventions, of counterfeiting of intellectual property, particularly by the Chinese and by patent thieves and by submarine patents.

There are plenty of things going on in this world that contracting out or outsourcing of the Patent Office does not help because you cannot secure the honesty or the integrity of those instrumentalities. And though the bill says business concerns, it does not say corporations, it says business concerns organized under the laws of the United States that indeed can be a foreign corporation, because a foreign corporation operating inside the United States, be it Chinese, Japanese, Bangladeshi, Indian, whatever, is defined as a U.S. corporation. That is not the Patent and Trademark Office of the United States of America. Patent holders actually will not know if their search is being outsourced or contracted out and they will not know to whom. And in terms of the fees being charged, the additional tax being put on small inventors and small companies, all this bill has, with all due respect to the Committee on Small Business, is a study. It does not stop those fees and taxes from being imposed. It increases them. How in heaven's name does this make America any more secure?

I might point out to my dear friend from Wisconsin, as good a Badger as he is, that indeed the Japanese patent system and the European patent system are not the American system. We have the protections here, which is why other countries want to file their patents here. We do not want to harmonize with systems unlike ours. We want them to be like us. Why are we doing this? And if a patent search takes a while, that is a good thing. It protects my rights, particularly my rights as a small inventor. So I would say with all due respect to the authors of this legislation, changing the U.S. Patent Office, why? Why dismantle it after over two centuries of success?

I deeply thank the gentleman from California for yielding me this time. At least we had the opportunity to put our views on the record. I would ask my colleagues to vote "no" on H.R. 1561.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, one of our jobs in Congress is to make the government work. We have heard ample data that has been presented on both sides of the aisle that the PTO is in crisis and unless we pass legislation, things will get worse rather than better. What this bill does is that it allows the PTO to add an additional 2,900 patent examiners, government employees, so that there will be more people on the government payroll to examine these applications. If the bill goes down, those 2,900 people will not be there.

And we have heard a lot about diversion from the gentleman from California (Mr. BERMAN), the gentlewoman from California (Ms. LOFGREN) and others. This bill ends the diversion. So we will not be using PTO fees for other government programs. If the bill goes down, the diversion will continue. The outsourcing issue, the amendment that has been agreed to will, number one, require that the outsourcing if it is done be done by a U.S. corporation; two, it will be done by American citizens; and, three, it will be done in the United States of America.

If we do not do that, then we are going to further complicate the patent process. I would point out that our patent law is such that if there is an infringement suit the patent holder must prove that the patent is valid. That is not the case under foreign patent laws. So if there is a bad patent that is issued because the PTO is rushed, then it is going to cost the patent holder more when an infringement suit is filed. That does not happen in the case of a patent that is issued by a foreign country. This bill makes the quality of the patents that are issued by the Patent Office better because we have got more people looking at them and they are not as rushed.

Ms. KAPTUR. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. I thank the gentleman very much for yielding and would just wish to ask him this question. If there are additional staff that will be working directly for the U.S. Patent and Trademark Office, then why does this bill permit commercial entities to do the review process, which means you are outsourcing or contracting out work that should legitimately be done by the office?

Mr. SENSENBRENNER. The answer to the question is that it speeds up the process. And with the WTO treaty changing the patent term to 20 years from the date of filing, every day that there is a delay in actually determining whether the application results in the patentable invention means that there is one less day of patent protection before that patent expires. So if it takes 8 years for the PTO to act on an application, that means that somebody who has invented something only has got 12 years left. With software technology increasing at such a rapid rate, by the time the PTO acts if we do not do something about it, the invention is going to be practically useless.

Ms. KAPTUR. If the gentleman could clarify, he has stated then that because of the World Trade Organization, the WTO requirements, this is why we are having to pass this bill?

Mr. SENSENBRENNER. If the gentlewoman from Ohio will refresh her recollection, the WTO treaty was ratified by Congress. It was urged upon us and signed by President Clinton. I joined the gentlewoman from Ohio in opposing the WTO treaty when it came up in 1994 but we lost on that and the extension or the change in the patent term from the previous 17 years of the date of granting of the patent by the Patent Office was changed to 20 years from the date of filing. The gentlewoman and I voted against it but it is the law and we have to face up to the fact that the longer the PTO delays in issuing a patent, the less time of patent protection there is for an applicant for a patent who succeeds.

Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. MANZULLO).

Mr. MANZULLO. Mr. Chairman, I want to thank Chairman SENSENBRENNER and Chairman LAMAR SMITH for their very important changes for small entities and other Patent and Trademark Office users. I also want to thank their dedicated and excellent staffs, Phil Kiko, Steve Pinkos and Blaine Merritt. I also want to thank the majority leader and his staff led by Brett Loper for crafting a very excellent amendment to this bill that as the chairman of the Committee on Small Business I am satisfied that the small inventor is protected.

Mr. BERMAN. Mr. Chairman, I yield myself 30 seconds.

The gentlewoman argued in favor of her position, take more time. There is no problem with taking time. The fact is we want a thorough investigation. We want a good quality patent. But simply taking more time, the argument against that is not simply the one made by the chairman about the patent term and how much of it will be left, it is that in that backlog that is getting longer and longer and longer are lifesaving medical devices, new drugs, new technologies to make America more productive and efficient, fascinating and important inventions that need to be disseminated and distributed and will not be until that patent issues.

□ 1715

That time is costing our economy and our people both in terms of quality of life, health care, and economic efficiency.

Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. WEXLER), a member of the subcommittee.

Mr. WEXLER. Mr. Chairman, as a member of the Subcommittee on Courts, the Internet, and Intellectual Property and as a co-chair of the Congressional IP Caucus, I rise in strong support of H.R. 1561, and I am quite pleased that the House leadership has allowed this compromise to be reached and that we have the debate today.

The Patent and Trademark Office is in severe need of additional resources to ensure the expedience and quality of the patent examination process. Without these valuable changes, an overburdened and slow patent examination system will deter the innovations of American business. Given the importance to our lives and our economy, patent reform is one of the most important issues for increasing the growth and strength of the economy for both small and large businesses. Congress has the opportunity with this bill to give the PTO the flexibility they have been asking for to strengthen and improve America's patent system.

The gentlewoman from Ohio (Ms. KAPTUR) is correct to raise the issue and the concern of loss of jobs in America and the outsourcing of jobs. I would respectfully argue that one of the ways in which to assist American workers in regaining what they have lost over the past 3 years is to allow the Patent and Trademark Office these reforms that are in desperate need and should have been done years ago.

Mr. SENSENBRENNER. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. SMITH), who is the chairman of the subcommittee.

Mr. SMITH of Texas. Mr. Chairman, first of all, I would like to personally thank the gentleman from Wisconsin (Chairman SENSENBRENNER); the gentleman from Illinois (Chairman MANZULLO); the gentleman from Florida (Chairman YOUNG); the gentleman from Virginia (Chairman WOLF); and also the gentleman from California (Mr. BERMAN), ranking member, for their help in pulling this bill together. They helped to iron out the wrinkles. They helped resolve the differences between many parties, and it is much appreciated.

Mr. Chairman, this legislation that I authored modernizes the U.S. Patent and Trademark Office. It was inspired by two principles essential to a democracy: the protection of intellectual property rights and the freedom to exchange goods and services.

The Patent and Trademark Office does not receive the attention of other government agencies such as the Department of State and Department of Justice, but it should. The Patent and Trademark Office is crucial to the health of our economy and to the lives of millions of Americans.

The Patent and Trademark Office protects the rights of all American inventors. From the lone individual working in their garage to the small business owner with a breakthrough idea to the large high-tech company that applies for hundreds of patents, all rely on a responsive Patent and Trademark Office. Without a strong PTO, our economy would be devastated, our quality of life would be diminished, and jobs would be lost or never created in the first place.

Mr. Chairman, this bill prevents the diversion of Patent and Trademark Office fees paid by inventors to fund government programs unconnected to the agency. The diversion of fees to the office is unfair, counterproductive, and an obstacle to sustained economic growth. Approximately $750 million has been diverted from the PTO in the last decade alone. Such a large revenue loss has deprived the Patent and Trademark Office of the resources it must have to serve the patent and trademark holders of the United States. At a time when the office is struggling to pay its examiners enough and to keep up with applications, particularly in high-tech areas, Congress should take an interest in protecting our economy by keeping patents and trademark fees within the Patent and Trademark Office.

This bill enables the Patent and Trademark Office to hire 2,900 new patent examiners. Today the average time to process a patent exceeds 2 years. Without the new examiners, agency delays will soon reach 3 or even 4 years. If this fee bill does not become law, it is estimated that 140,000 patents will not be issued over the next 5 years. That is 140,000 missed opportunities for the American people.

If nothing is done, if the status quo continues, it means new products will not make it to the market, jobs will not be created, and the inventors who came up with new ideas and products will not have their intellectual property protected and so will not market their inventions.

This bill helps small businesses and nonprofit institutions. It provides a 50 percent discount on most services to small businesses, universities, and other nonprofit entities. The benefits of an improved and streamlined PTO will help small businesses and universities and encourage new research and innovation.

Mr. Chairman, I would like to again thank the gentleman from Wisconsin (Mr. SENSENBRENNER), chairman of the Committee on the Judiciary, for making this issue a priority for our committee and working with the appropriators to resolve our differences on PTO funding.

Since U.S. Patent No. 1 was issued in 1837 for traction wheels, the patent system and the creativity, genius, and talent that defined it have benefited all Americans. From the revolutionary electric light bulb to the latest software technology, patents reflect America and contribute to our economic prosperity.

This bipartisan bill is supported by these organizations: the Information Technology Industry Council, Chamber of Commerce, the National Association of Manufacturers, the Intellectual Property Owners, the International Trademark Association, the Association of American Universities, and the Association for Competitive Technology, as well as many others.

Mr. Chairman, this bill is good for innovation, good for the economy, and good for the American people. The PTO has rarely been more important than it is today. It must have the resources it needs to professionally and expeditiously process patent and trademark applications. American jobs, profits, and the future of entrepreneurial capitalism are literally at stake.

Mr. BERMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Chairman, this bill is consistent with an idea expressed by a former Member of this Chamber who did pretty well for himself, Abraham Lincoln. Lincoln said that the Patent Office adds the flame of interest to the light of creativity. And that is why we need to improve the effectiveness of our Patent Office. We need to do so because what we all recognize in this Chamber is one answer to the $64,000 question of how we are going to grow jobs in this country, is we are going to do this by playing to our American unique strength; and the uniquely American strength is we are the best innovators, we are the best technologists, we are the best creators for new devices the world has ever seen. And we need to play to this unique American strength in our strategy on how to deal with the development of the global economy. And this bill, although it will be little noted, it should be long remembered in our ability to play to that strength because we have people in every district in this country who today are working on inventions who will have the added flame of interest to their light of creativity.

Let me give the Members an example. I have got some folks this afternoon who are working on a potential drug in Bothell, Washington, that could potentially actually cure in a meaningful way one type of diabetes. Those folks who are laboring over their computers and bunsen burners today deserve an American Patent Office that will process patents in a timely fashion, which we simply do not have now. We do not want to see the time period move from a horrendous 2-year delay today up to a 4- or 6-year delay in 5 or 6 years.

So I want to show my appreciation for the chairman and the gentleman from California (Mr. BERMAN), who have worked on this to get this bill to the floor. It is one answer to how we are going to really compete in a global economy. Let us play to the American strength. Let us improve the Patent office. Let us grow jobs in this country.

Mr. BERMAN. Mr. Chairman, I yield myself such time as I may consume.

I have no further requests for time, but I do want to address this issue of outsourcing just to get the record straight here. As a general principle, I am opposed. I share the feelings of the gentlewoman from Ohio regarding the general proposition, the farming government responsibilities and jobs out to private entities and particularly when we are dealing with core government functions; and I think searches performed by patent examiners may be such core functions. But in H.R. 1561 what we took was an open-ended proposal from the Patent Office to allow outsourcing of searches, and working with the gentleman from Texas (Chairman SMITH), with other committee members, with the PTO, with PTO employee unions, and with all the various industry groups, we put constraints on the ability to outsource allowed by the bill. Together with the gentleman from Texas (Chairman SMITH), we developed a limiting amendment that was accepted with essentially no opposition in the Committee on the Judiciary; and the bill, as so amended, was reported out with Democrats and Republicans expressing just about unanimous support for the bill.

H.R. 1561 prohibits the PTO from outsourcing until all of the following criteria are met: the PTO conducts a pilot project of limited scope for not more than 18 months to test the efficacy of outsourcing patent searches; secondly, that the pilot program must demonstrate that the searches performed by commercial entities are accurate and at least meet or exceed the standards conducted and used by the PTO; the director, third, must submit a report to Congress detailing the methodology of the pilot and containing a comparative evaluation of outsourced and patent examiner searches, addressing factors such as productivity, costs, and quality; fourth, and very importantly, the Patent Public Advisory Committee, an independent entity consisting of patent union representatives and PTO user groups, has to submit a report to Congress with a detailed analysis of the pilot project.

And even after that, if that independent committee, all that concludes that it makes sense to outsource patent searches, nothing can happen until after 1 year so that Congress has a year to decide whether or not to continue to prohibit search outsourcing despite the results of these reports.

H.R. 1561 prohibits the PTO from outsourcing searches unless all of these criteria are met. The National Treasury Union, every patent user organization that I know of, large companies, small companies, universities, nonprofits, all of them involved in the patent process all think this bill does not destroy the Patent Office. This bill is the most important thing to saving the whole patent process. And the whole point of even entertaining the idea of outsourcing is simply to deal with better quality, better productivity, and more time. I urge that H.R. 1561 be passed.

Mr. GOODLATTE. I rise today in strong support of the U.S. Patent and Trademark Fee Modernization Act.

America's commitment to protecting intellectual property gives America a distinct competitive advantage in the global marketplace. When a country provides an atmosphere that is conducive to innovation and encourages the aggressive enforcement of intellectual property rights, businesses will seek the protection of that country and will make conscious decisions to innovate there. America must continue to be the world leader in protecting intellectual property so that it will continue to be the world leader in innovation.

H.R. 1561, the U.S. Patent and the Trademark Fee Modernization Act, would codify a revised fee schedule that would give the USPTO the resources it needs to increase the quality of issued patents and trademarks, to hire additional examiners, and to reduce the backlog of applications that is currently pending.

In addition, H.R. 1561 represents an important compromise that effectively ends "fee diversion," the current practice of diverting the excess fees collected by the USPTO to the Federal Government. Under the compromise, if the USPTO collects more in fees than it is appropriated, the balance would be rebated back to the users.

Furthermore, the bill protects small businesses by reducing the filing fee for any small entity or independent inventor by 75 percent if those entities file their applications electronically, in addition to other protections for small businesses.

This legislation is an important step in the ongoing effort to enhance the quality and timeliness of patent and trademark processing. Our Nation's investors deserve nothing less than the most efficient and accurate patent and trademark office in the world. I urge each of my colleagues to support this important legislation.

Mr. CANTOR. Mr. Chairman, I rise today in favor of the United States Patent and Trademark Fee Modernization Act (H.R. 1561). This legislation is crucial to America maintaining its role as the world leader in innovative technology.

Intellectual Property is the currency that drives innovation in America's high-tech economy, and the U.S. Patent and Trademark Office (PTO) is charged with granting the important patents and trademarks for these innovations. The PTO serves a critical role in the promotion and development of new products and commercial activity in our country.

The PTO is of vital importance to the technology sector of our economy, and it is vital that this agency have proper funding to execute its mission. This legislation will allow the PTO to accomplish this goal—while allowing small business innovators to compete with larger corporations.

H.R. 1561 will eliminate patent fee diversion and will ensure that all fees paid to the PTO will be used to expedite the time-consuming and costly procedures associated with granting patents and trademarks.

This legislation is the first step toward improving patent and trademark quality while reducing application backlogs. This reform will help eliminate some of the bureaucracy that hinders businesses from success in the marketplace and hinders the advancement of technology in America.

I urge final passage of H.R. 1561.

Mr. LATHAM. Mr. Chairman, I stand in support of H.R. 1561. The legislation is the culmination of years of hard work between the appropriators and the members of the Judiciary Committee. It allows the appropriators to retain oversight of the Patent and Trademark Office, while permanently ending the practice of diverting fees paid by users of the Patent and Trademark Office. In the past, these fees were used for unrelated government programs. I am pleased because these fees will specifically go to improving patent quality, reducing the time it takes to examine a patent and increasing efficiency of the Patent and Trademark Office in total. These are the goals of the 21st Century Strategic Plan that was developed by the Patent Office and reviewed by the Congress.

Finally and most importantly this bill ensures that companies can and will continue to have opportunities to innovate and remain competitive in this global economy.

Mr. MORAN of Virginia. Mr. Chairman, I rise in support of the U.S. Patent and Trademark Fee Modernization Act (H.R. 1561).

This legislation builds upon a strong foundation first established back on April 5, 1790, when the first patent statute was passed by the Congress of the 12 United States. That's right, we had our first patent law before Rhode Island became our 13th State.

At the time, the first law directed the Secretary of State, the Secretary of War and the Attorney General to determine if they, or any two of them thought "the invention or discovery sufficiently useful and important" to merit a patent.

A hefty fee between $4 and $5 was collected to process and approve each patent petition. Interestingly, the payment did not go to the newly created Federal Government but to a government employee, the Chief Clerk of the Department of State. The funds went to support the patent operations and later financed the construction of the first Patent Office, not to support the general funds of the U.S. Treasury.

Today, the U.S. Patent and Trademark Office, an office that I am proud to say resides in my congressional district, is struggling with an increasingly complex and voluminous workload. Last year, the office received more than 330,000 patent applications and more than 260,000 trademark applications.

Patent applications have doubled since 1992. As a result, patent pendency (the amount of time a patent application is pending before a patent is issued) now averages over 2 years and is even longer in more complicated technologies.

Without more examiners, average pendency in areas such as computer-related technologies will double to 6 to 8 years in the next few years. This delay is a drag, holding back our economy's full potential, unfairly punishing American businesses and entrepreneurs at a time when intellectual-property-based industries are essential to economic growth.

As application processing times grow, the incentives for investment diminish, especially for individuals and small entities with limited resources whose inventions are in greater danger of being counterfeited or pirated.

The status quo is a recipe for disaster, and H.R. 1561 represents a well-conceived and bipartisan way out of this dilemma. Without the bill, the backlog of unexamined patents will more than double—from 475,000 today to 1 million by 2008.

This legislation will allow the Patent and Trademark Office to implement its 21st Century Strategic Plan by improving productivity, patent quality, and e-government. It will give the agency the revenue it needs to hire 2,900 needed new patent examiners.

I support the compromise that was brokered between members of the Judiciary and Appropriations Committees that will give the appropriators the deference they need to set the funding levels, but will provide the authorizers and the patent community the assurances they need to make sure that any additional funds raised through the fees will be spent for their designated purpose. Any balance of funds are to be returned to the patent applicants, and not be spent elsewhere by the Federal Government.

Let me also make it clear that while I have some concerns about outsourcing and potential liability issues outsourcing might create, let's recognize that this is just a pilot program with ample opportunity for Congress to exercise appropriate oversight. Whatever civil service jobs might one day be lost by outsourcing will more than be made up by the thousands of jobs this legislation will help create.

The Patent and Trademark Office plans to increase its patent examining staff by about 1,000 annually in fiscal years 2005 and 2006, reaching and maintaining a stable level of about 4,500 examiners after that.

Mr. Chairman, our future is made more secure through a system that protects the rights of inventors.

At the centennial celebration of the U.S. Patent Office in 1890, Commissioner Charles Elliot Mitchell eloquently stated the important decision of our Founding Fathers to provide protections for intellectual property when drafting the Constitution:

> For who is bold enough to say that the Constitution could have overspread a continent if the growth of invention and inventive achievement had not kept pace with territorial expansion. It is invention which brought the Pacific Ocean to the Alleghanies. It is invention which, fostered, by a single sentence in their immortal work, has made it possible for the flag of one republic to carry more than forty symbolic stars.

My colleagues for the sake of this great Nation, modernize the Patent and Trademark Office; support the U.S. Patent and Trademark Fee Modernization Act of 2003.

Mr. BERMAN. Mr. Chairman, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 1561

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States Patent and Trademark Fee Modernization Act of 2003".

SEC. 2. FEES FOR PATENT SERVICES.

(a) GENERAL PATENT FEES.—Section 41(a) of title 35, United States Code, is amended to read as follows:

"(a) GENERAL FEES.—The Director shall charge the following fees:

"(1) FILING AND BASIC NATIONAL FEES.—

"(A) On filing each application for an original patent, except for design, plant, or provisional applications, $300.

"(B) On filing each application for an original design patent, $200.

"(C) On filing each application for an original plant patent, $200.

"(D) On filing each provisional application for an original patent, $200.

"(E) On filing each application for the reissue of a patent, $300.

"(F) The basic national fee for each international application filed under the treaty defined in section 351(a) of this title entering the national stage under section 371 of this title, $300.

"(G) In addition, excluding any sequence listing or computer program listing filed in an electronic medium as prescribed by the Director, for any application the specification and drawings of which exceed 100 sheets of paper (or equivalent as prescribed by the Director if filed in an electronic medium), $250 for each additional 50 sheets of paper (or equivalent as prescribed by the Director if filed in an electronic medium) or fraction thereof.

"(2) EXCESS CLAIMS FEES.—In addition to the fee specified in paragraph (1)—

"(A) on filing or on presentation at any other time, $200 for each claim in independent form in excess of 3;

"(B) on filing or on presentation at any other time, $50 for each claim (whether dependent or independent) in excess of 20; and

"(C) for each application containing a multiple dependent claim, $360.

For the purpose of computing fees under this paragraph, a multiple dependent claim referred to in section 112 of this title or any claim depending therefrom shall be considered as separate dependent claims in accordance with the number of claims to which reference is made. The Director may by regulation provide for a refund of any part of the fee specified in this paragraph for any claim that is canceled before an examination on the merits, as prescribed by the Director, has been made of the application under section 131 of this title. Errors in payment of the additional fees under this paragraph may be rectified in accordance with regulations prescribed by the Director.

"(3) EXAMINATION FEES.—

"(A) For examination of each application for an original patent, except for design, plant, provisional, or international applications, $200.

"(B) For examination of each application for an original design patent, $130.

"(C) For examination of each application for an original plant patent, $160.

"(D) For examination of the national stage of each international application, $200.

"(E) For examination of each application for the reissue of a patent, $600.

The provisions of section 111(a)(3) of this title relating to the payment of the fee for filing the application shall apply to the payment of the fee specified in this paragraph with respect to an application filed under section 111(a) of this title. The provisions of section 371(d) of this title relating to the payment of the national fee shall apply to the payment of the fee specified in this paragraph with respect to an international application. The Director may by regulation provide for a refund of any part of the fee specified in this paragraph for any applicant who files a written declaration of express abandonment as prescribed by the Director before an examination has been made of the application under section 131 of this title, and for any applicant who provides a search report that meets the conditions prescribed by the Director.

"(4) ISSUE FEES.—

"(A) For issuing each original patent, except for design or plant patents, $1,400.

"(B) For issuing each original design patent, $800.

"(C) For issuing each original plant patent, $1,100.

"(D) For issuing each reissue patent, $1,400.

"(5) DISCLAIMER FEE.—On filing each disclaimer, $130.

"(6) APPEAL FEES.—

"(A) On filing an appeal from the examiner to the Board of Patent Appeals and Interferences, $500.

"(B) In addition, on filing a brief in support of the appeal, $500, and on requesting an oral hearing in the appeal before the Board of Patent Appeals and Interferences, $1,000.

"(7) REVIVAL FEES.—On filing each petition for the revival of an unintentionally abandoned application for a patent, for the unintentionally delayed payment of the fee for issuing each patent, or for an unintentionally delayed response by the patent owner in any reexamination proceeding, $1,500, unless the petition is filed under section 133 or 151 of this title, in which case the fee shall be $500.

"(8) EXTENSION FEES.—For petitions for 1-month extensions of time to take actions required by the Director in an application—

"(A) on filing a first petition, $120;

"(B) on filing a second petition, $330; and

"(C) on filing a third or subsequent petition, $570.".

(b) PATENT MAINTENANCE FEES.—Section 41(b) of title 35, United States Code, is amended to read as follows:

"(b) MAINTENANCE FEES.—The Director shall charge the following fees for maintaining in force all patents based on applications filed on or after December 12, 1980:

"(1) 3 years and 6 months after grant, $900.

"(2) 7 years and 6 months after grant, $2,300.

"(3) 11 years and 6 months after grant, $3,800.

Unless payment of the applicable maintenance fee is received in the United States Patent and Trademark Office on or before the date the fee is due or within a grace period of 6 months thereafter, the patent will expire as of the end of such grace period. The Director may require the payment of a surcharge as a condition of accepting within such 6-month grace period the payment of an applicable maintenance fee. No fee may be established for maintaining a design or plant patent in force.".

(c) PATENT SEARCH FEES.—Section 41(d) of title 35, United States Code, is amended to read as follows:

"(d) PATENT SEARCH AND OTHER FEES.—

"(1) PATENT SEARCH FEES.—(A) The Director shall charge a fee for the search of each application for a patent, except for provisional applications. The Director shall establish the fees charged under this paragraph to recover an amount not to exceed the estimated average cost to the Office of searching applications for patent either by acquiring a search report from a qualified search authority, or by causing a search by Office personnel to be made, of each application for patent.

"(B) For purposes of determining the fees to be established under this paragraph, the cost to the Office of causing a search of an application to be made by Office personnel shall be deemed to be—

"(i) $500 for each application for an original patent, except for design, plant, provisional, or international applications;

"(ii) $100 for each application for an original design patent;

"(iii) $300 for each application for an original plant patent;

"(iv) $500 for the national stage of each international application; and

"(v) $500 for each application for the reissue of a patent.

"(C) The provisions of section 111(a)(3) of this title relating to the payment of the fee for filing the application shall apply to the payment of the fee specified in this paragraph with respect to an application filed under section 111(a) of this title. The provisions of section 371(d) of this title relating to the payment of the national fee shall apply to the payment of the fee specified in this paragraph with respect to an international application.

"(D) The Director may by regulation provide for a refund of any part of the fee specified in this paragraph for any applicant who files a written declaration of express abandonment as prescribed by the Director before an examination has been made of the application under section 131 of this title, and for any applicant who provides a search report that meets the conditions prescribed by the Director.

"(E) For purposes of subparagraph (A), a 'qualified search authority' may not include a commercial entity unless—

"(i) the Director conducts a pilot program of limited scope, conducted over a period of not more than 18 months, which demonstrates that searches by commercial entities of the available prior art relating to the subject matter of inventions claimed in patent applications—

"(I) are accurate; and

"(II) meet or exceed the standards of searches conducted by and used by the Patent and Trademark Office during the patent examination process;

"(ii) the Director submits a report on the results of the pilot program to the Congress and the Patent Public Advisory Committee that includes—

"(I) a description of the scope and duration of the pilot program;

"(II) the identity of each commercial entity participating in the pilot program;

"(III) an explanation of the methodology used to evaluate the accuracy and quality of the search reports; and

"(IV) an assessment of the effects that the pilot program, as compared to searches conducted by the Patent and Trademark Office, had and will have on—

"(aa) patentability determinations;

"(bb) productivity of the Patent and Trademark Office;

"(cc) costs to the Patent and Trademark Office;

"(dd) costs to patent applicants; and

"(ee) other relevant factors;

"(iii) the Patent Public Advisory Committee reviews and analyzes the Director's report under clause (ii) and the results of the pilot program and submits a separate report on its analysis to the Director and the Congress that includes—

"(I) an independent evaluation of the effects that the pilot program, as compared to searches conducted by the Patent and Trademark Office, had and will have on the factors set forth in clause (ii)(IV); and

"(II) an analysis of the reasonableness, appropriateness, and effectiveness of the methods used in the pilot program to make the evaluations required under clause (ii)(IV); and

"(iv) the Congress does not, during the 1-year period beginning on the date on which the Patent Public Advisory Committee submits its report to the Congress under clause (iii), enact a law prohibiting searches by commercial entities of the available prior art relating to the subject matter of inventions claimed in patent applications.

"(2) OTHER FEES.—The Director shall establish fees for all other processing, services, or materials relating to patents not specified in this section to recover the estimated average cost to the Office of such processing, services, or materials, except that the Director shall charge the following fees for the following services:

"(A) For recording a document affecting title, $40 per property.

"(B) For each photocopy, $.25 per page.

"(C) For each black and white copy of a patent, $3.

The yearly fee for providing a library specified in section 12 of this title with uncertified printed copies of the specifications and drawings for all patents in that year shall be $50.".

(d) ADJUSTMENTS.—Section 41(f) of title 35, United States Code, shall apply to the fees established under the amendments made by this section, beginning in fiscal year 2005.

(e) CONFORMING AMENDMENTS.—

(1) Section 41 of title 35, United States Code, is amended—

(A) in subsection (c), by striking "(c)(1)" and inserting "(c) LATE PAYMENT OF FEES.—(1)";

(B) in subsection (e), by striking "(e)" and inserting "(e) WAIVERS OF CERTAIN FEES.—";

(C) in subsection (f), by striking "(f)" and inserting "(f) ADJUSTMENTS IN FEES.—";

(D) in subsection (g), by striking "(g)" and inserting "(g) EFFECTIVE DATES OF FEES.—";

(E) in subsection (h), by striking "(h)(1)" and inserting "(h) REDUCTIONS IN FEES FOR CERTAIN ENTITIES.—(1)"; and

(F) in subsection (i), by striking "(i)(1)" and inserting "(i) SEARCH SYSTEMS.—(1)".

(2) Section 119(e)(2) of title 35, United States Code, is amended by striking "subparagraph (A) or (C) of".

SEC. 3. ADJUSTMENT OF TRADEMARK FEES.

(a) FEE FOR FILING APPLICATION.—The fee under section 31(a) of the Trademark Act of 1946 (15 U.S.C. 1113(a)) for filing an electronic application for the registration of a trademark shall be $325. If the trademark application is filed on paper, the fee shall be $375. The Director may reduce the fee for filing an electronic application for the registration of a trademark to $275 for any applicant who prosecutes the application through electronic means under such conditions as may be prescribed by the Director. Beginning in fiscal year 2005, the provisions of the second and third sentences of section 31(a) of the Trademark Act of 1946 shall apply to the fees established under this section.

(b) REFERENCE TO TRADEMARK ACT OF 1946.—For purposes of this section, the "Trademark Act of 1946" refers to the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes.", approved July 5, 1946 (15 U.S.C. 1051 et seq.).

SEC. 4. CORRECTION OF ERRONEOUS NAMING OF OFFICER.

(a) CORRECTION.—Section 13203(a) of the 21st Century Department of Justice Appropriations Authorization Act (Public Law 107–273; 116 Stat. 1902) is amended—

(1) in the subsection heading, by striking "COMMISSIONER" and inserting "DIRECTOR"; and

(2) in paragraphs (1) and (2), by striking "Commissioner" each place it appears and inserting "Director".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective as of the date of the enactment of Public Law 107–273.

SEC. 5. PATENT AND TRADEMARK OFFICE FUNDING.

Section 42 of title 35, United States Code, is amended—

(1) in subsection (b), by striking "Appropriation"; and

(2) in subsection (c), in the first sentence—

(A) by striking "To the extent" and all that follows through "fees" and inserting "Fees"; and

(B) by striking "shall be collected by and shall be available to the Director" and inserting "shall be collected by the Director and shall be available until expended".

SEC. 6. EFFECTIVE DATE, APPLICABILITY, AND TRANSITIONAL PROVISION.

(a) EFFECTIVE DATE.—Except as provided in section 4 and this section, this Act and the amendments made by this Act shall take effect on October 1, 2003, or the date of the enactment of this Act, whichever is later.

(b) APPLICABILITY.—

(1)(A) Except as provided in subparagraphs (B) and (C), the amendments made by section 2 shall apply to all patents, whenever granted, and to all patent applications pending on or filed after the effective date set forth in subsection (a) of this section.

(B)(i) Except as provided in clause (ii), sections 41(a)(1), 41(a)(3), and 41(d)(1) of title 35, United States Code, as amended by this Act, shall apply only to—

(I) applications for patents filed under section 111(a) of title 35, United States Code, on or after the effective date set forth in subsection (a) of this section, and

(II) international applications entering the national stage under section 371 of title 35, United States Code, for which the basic national fee specified in section 41 of title 35, United States Code, was not paid before the effective date set forth in subsection (a) of this section.

(ii) Section 41(a)(1)(D) of title 35, United States Code as amended by this Act, shall apply only to applications for patent filed under section 111(b) of title 35, United States Code, before, on, or after the effective date set forth in subsection (a) of this section in which the filing fee specified in section 41 of title 35, United States Code, was not paid before the effective date set forth in subsection (a) of this section.

(C) Section 41(a)(2) of title 35, United States Code, as amended by this Act, shall apply only to the extent that the number of excess claims, after giving effect to any cancellation of claims, is in excess of the number of claims for which the excess claims fee specified in section 41 of title 35, United States Code, was paid before the effective date set forth in subsection (a) of this section.

(2) The amendments made by section 3 shall apply to all applications for the registration of a trademark filed or amended on or after the effective date set forth in subsection (a) of this section.

(c) TRANSITIONAL PROVISIONS.—

(1) SEARCH FEES.—During the period beginning on the effective date set forth in subsection (a) of this section and ending on the date on which the Director establishes search fees under the authority provided in section 41(d)(1) of title 35, United States Code, the Director shall charge—

(A) for the search of each application for an original patent, except for design, plant, provisional, or international application, $500;

(B) for the search of each application for an original design patent, $100;

(C) for the search of each application for an original plant patent, $300;

(D) for the search of the national stage of each international application, $500; and

(E) for the search of each application for the reissue of a patent, $500.

(2) TIMING OF FEES.—The provisions of section 111(a)(3) of title 35, United States Code, relating to the payment of the fee for filing the application shall apply to the payment of the fee specified in paragraph (1) with respect to an application filed under section 111(a) of title 35, United

States Code. The provisions of section 371(d) of title 35, United States Code, relating to the payment of the national fee shall apply to the payment of the fee specified in paragraph (1) with respect to an international application.

(3) REFUNDS.—The Director may by regulation provide for a refund of any part of the fee specified in paragraph (1) for any applicant who files a written declaration of express abandonment as prescribed by the Director before an examination has been made of the application under section 131 of title 35, United States Code, and for any applicant who provides a search report that meets the conditions prescribed by the Director.

(d) EXISTING APPROPRIATIONS.—The provisions of any appropriation Act that make amounts available pursuant to section 42(c) of title 35, United States Code, and are in effect on the effective date set forth in subsection (a) shall cease to be effective on that effective date.

SEC. 7. DEFINITION.

In this Act, the term "Director" means the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

SEC. 8. CLERICAL AMENDMENT.

Subsection (c) of section 311 of title 35, United States Code, is amended by aligning the text with the text of subsection (a) of such section.

The CHAIRMAN. No amendments to the committee amendment in the nature of a substitute are in order except the amendments printed in House Report 108–431. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1 printed in House Report 108–431 and made in order by the order of the House of earlier today.

AMENDMENT NO. 1 OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment made in order pursuant to the order of the House of today and House Resolution 547 offered by Mr. SENSENBRENNER:

Strike section 5 and insert the following:

SEC. 5. PATENT AND TRADEMARK FUNDING.

Section 42(c) of title 35, United States Code, is amended—

(1) by striking "(c)" and inserting "(c)(1)"; and

(2) by adding at the end the following new paragraph:

"(2) There is established in the Treasury a Patent and Trademark Fee Reserve Fund. If fee collections by the Patent and Trademark Office for a fiscal year exceed the amount appropriated to the Office for that fiscal year, fees collected in excess of the appropriated amount shall be deposited in the Patent and Trademark Fee Reserve Fund. After the end of each fiscal year, the Director shall make a finding as to whether the fees collected for that fiscal year exceed the amount appropriated to the Patent and Trademark Office for that fiscal year. If the amount collected exceeds the amount appropriated, the Director shall, if the Director determines that there are sufficient funds in the Reserve Fund, make payments from the Reserve Fund to persons who paid patent or trademark fees during that fiscal year. The Director shall by regulation determine which persons receive such payments and the amount of such payments, except that such payments in the aggregate shall equal the amount of funds deposited in the Reserve Fund during that fiscal year, less the cost of administering the provisions of this paragraph.".

In section 6(a), strike "Except as" and all that follows through the end of the sentence and insert "Except as otherwise provided in this Act and this section, this Act and the amendments made by this Act shall take effect on October 1, 2004, or on the date of the enactment of this Act, whichever occurs later.".

Page 12, strike lines 17 through 20 and insert the following:

(d) ADJUSTMENTS.—

(1) IN GENERAL.—Section 41(f) of title 35, United States Code, shall apply to the fees established under the amendments made by this section, beginning in fiscal year 2005.

(2) CONFORMING AMENDMENT.—Effective October 1, 2004, section 41(f) of title 35, United States Code, is amended by striking "(a) and (b)" and inserting "(a), (b), and (d)".

Page 11, add the following after line 24:

"(F) The Director shall require that any search by a qualified search authority that is a commercial entity is conducted in the United States by persons that—

"(i) if individuals, are United States citizens; and

"(ii) if business concerns, are organized under the laws of the United States or any State and employ United States citizens to perform the searches.

"(G) A search of an application that is the subject of a secrecy order under section 181 or otherwise involves classified information may only be conducted by Office personnel.

"(H) A qualified search authority that is a commercial entity may not conduct a search of a patent application if the entity has any direct or indirect financial interest in any patent or in any pending or imminent application for patent filed or to be filed in the Patent and Trademark Office.

Page 12, insert the following after line 20 and redesignate the succeeding subsection accordingly:

(e) FEES FOR SMALL ENTITIES.—Section 41(h) of title 35, United States Code, is amended—

(1) in paragraph (1), by striking "Fees charged under subsection (a) or (b)" and inserting "Subject to paragraph (3), fees charged under subsections (a), (b), and (d)(1)"; and

(2) by adding at the end the following new paragraph:

"(3) The fee charged under subsection (a)(1)(A) shall be reduced by 75 percent with respect to its application to any entity to which paragraph (1) applies, if the application is filed by electronic means as prescribed by the Director.".

(f) SIZE STANDARDS FOR SMALL ENTITIES.—

(1) STUDY.—The Director, in conjunction with the Administrator of the Small Business Administration and the Chief Counsel for Advocacy of the Small Business Administration, shall conduct a study on the effect of patent fees on the ability of small entity inventors to file patent applications. Such study shall examine whether a separate category of reduced patent fees is necessary to ensure adequate development of new technology by small entity inventors.

(2) REPORT.—The Director shall, not later than 6 months after the date of the enactment of this Act, submit a report on the results of the study under paragraph (1) to the Committee on the Judiciary and the Committee on Small Business of the House of Representatives and the Committee on the Judiciary and the Committee on Small Business and Entrepreneurship of the Senate.

Page 8, line 3, add the following after the period: "For the 3-year period beginning on October 1, 2004, the fee for a search by a qualified search authority of a patent application described in clause (i), (iv), or (v) of subparagraph (B) may not exceed $500, of a patent application described in clause (ii) of subparagraph (B) may not exceed $100, and of a patent application described in clause (iii) of subparagraph (B) may not exceed $300. The Director may not increase any such fee by more than 20 percent in each of the next 3 1-year periods, and the Director may not increase any such fee thereafter.".

The CHAIRMAN. Pursuant to House Resolution 547, the gentleman from Wisconsin (Mr. SENSENBRENNER) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

I have a lengthy statement that I will not read in full, but will insert in the RECORD. But let me state that a significant part of this amendment deals with the agreement that we have reached with the appropriators that was discussed in the colloquy which I had earlier today with the gentleman from Virginia (Mr. WOLF), the distinguished chairman of the Subcommittee on Commerce, Justice, State, Judiciary and Related Agencies of the Committee on Appropriations.

Let me also state that the amendment contains various provisions that the gentleman from Illinois (Mr. MANZULLO) and I have agreed upon relative to our previous differences over the treatment of small entities under this bill. And pursuant to this agreement, my amendment applies a 50 percent discount to all searches for small entities, prohibits commercial searches that apply to classified matters, prevents commercial entities from performing searches when they have a financial interest or other conflict at stake, caps the search fee after the 6th year, and requires a joint PTO and Small Business Administration study regarding the effects of the fee structure on small entities.

□ 1730

This, I believe, meets the objections that members of the Committee on Small Business had relative to the cost to small business of applying for and hopefully obtaining a patent. I hope that this amendment clears the way for the other body to consider this bill and bring real reform to the PTO.

Mr. Chairman, I am delighted to report that this amendment reflects a thoughtful compromise between myself and Mr. WOLF, chairman of the CJS Appropriations Subcommittee, as well as a fair deal between the Judiciary Committee and the chairman of the Small Business Committee, the gentleman from Illinois, Mr. MANZULLO. I want to thank both of them for working so steadfastly and productively on this important issue.

Mr. Chairman, the heart of my amendment creates a "refund" program to eliminate the potential incentive for diverting PTO revenue to non-PTO programs. Briefly, if fee collections in a given fiscal year exceed the amount appropriated to the agency, the excess or overage shall be deposited in a PTO "Reserve Fund." At the end of the fiscal year the Director determines if there are sufficient funds to make payments to persons who paid fees during that year.

The Director is empowered to determine which recipients qualify and in what amounts, except that the payments in aggregate must equal the amount of revenue in the Reserve Fund during that fiscal year, less the cost of administering the program.

This text is crucial to the bill before us. We have been at loggerheads with the Appropriations committee on this matter for nearly a decade, so I am glad to say that we have struck an acceptable compromise that serves the interests of both committees. I am grateful to the appropriators and the majority leader for working with us on this point. I emphasize that without this language, support for the bill dissipates.

In addition, the bill as reported contains a pilot program to determine the efficacy of allowing commercial entities to perform the search function, thereby relieving the agency of the burden and freeing up examiners to do other work. The amendment specifies that participation in the pilot program will be restricted to American businesses and American citizens. We have worked closely with Chairman WOLF's staff on this point.

Also, in furtherance of the ongoing modernization efforts at PTO, the Director is required to reduce the filing fee for any small entity, independent inventor, or nonprofit organization by 75 percent provided those so qualified file their applications electronically.

As I noted a moment ago, Mr. MANZULLO, and I have resolve dour differences over the treatment of small entities under H.R. 1561. Pursuant to recently agreed-upon changes, my amendment: Applies a 50 percent discount to all searches for small entities; prohibits commercial searches that apply to classified matters; prevents commercial entities from performing searches when they have a financial interest or other conflict at stake; caps the search fee after the sixth year; and requires a joint PTO-SBA study regarding the effects of the fee structure on small entities.

Mr. Chairman, by addressing the fee diversion and other issues, this amendment clears the way for the other body to consider H.R. 1561 and bring real reform to the PTO. I urge its adoption.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I simply want to express my strong support for this amendment. If I were a betting man, I would have bet a lot of money that the chairman would not have been able to deal with the end of diversion in the fashion that he was able to without at least 25 or 30 appropriators on the House floor. I congratulate both him and the subcommittee chairman for their excellent work, and I urge the manager's amendment be adopted.

Mr. SMITH of Texas. Mr. Chairman, I strongly support this amendment, which is the result of careful negotiations between the Judiciary and Appropriations Committees.

The two goals of the underlying bill are to improve PTO operations and to end fee diversion. This amendment makes sure those goals are achieved.

In order to eliminate the incentive to divert fees from the PTO, the amendment establishes a rebate program that will deposit any fee collections that exceed the amount of money appropriated to the PTO in a "reserve fund." At the end of each year, the PTO Director will determine whether there are sufficient funds to make payments to users who paid applicant fees that year. By ending fee diversion and allowing the PTO to keep the fees its users pay each year, the agency will be able to make many much-needed reforms to increase its efficiency and productivity.

This amendment also contains provisions that will ensure the PTO will operate effectively. It establishes a pilot program to allow private entities to perform the search function associated with obtaining a patent. This will free up patent examiners to focus on other work.

Some have mischaracterized this provision as "outsourcing" that will cut American jobs and send work overseas. In fact, this amendment specifies that participation in the pilot program is restricted to American businesses and American citizens. By allowing patent searches to be performed by commercial entities, this pilot program will simply allow the private sector to take some of the load off of an already overburdened patent evaluation system at the PTO.

Twenty-five to thirty percent of the 355,000 patent applications the PTO receives each year come from small businesses. The Sensenbrenner amendment has many provisions to help small businesses obtain patents.

The PTO is one of the most important agencies in the country. It is the agency behind the innovation and invention that drives our economy. We must give it the funding it needs to implement meaningful reform and improve its operations.

This amendment strengthens the underlying bill and I urge my colleagues to support it.

Mr. SENSENBRENNER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Does anyone seek time in opposition?

The question is on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider Amendment No. 2 printed in House Report 108–431.

The gentleman from Illinois apparently is not offering his amendment.

It is now in order to consider Amendment No. 3 printed in House Report 108–431.

PARLIAMENTARY INQUIRY

Ms. KAPTUR. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentlewoman will state it.

Ms. KAPTUR. Mr. Chairman. I just wanted to ask, is this the final amendment in the series, and then will we move to final passage?

The CHAIRMAN. The gentlewoman is correct.

The Chair is ready to proceed. Apparently the gentlewoman from Texas does not offer her amendment.

The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. CUNNINGHAM) having assumed the chair, Mr. LAHOOD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1561) to amend title 35, United States Code, with respect to patent fees, and for other purposes, pursuant to House Resolution 547, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 379, nays 28, not voting 26, as follows:

[Roll No. 38]

YEAS—379

Abercrombie
Ackerman
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Barrett (SC)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carter
Case
Chabot
Chandler
Chocola
Clyburn
Coble
Collins
Conyers
Cooper
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hobson
Hoeffel
Hoekstra
Holden
Honda
Hostettler
Houghton
Hoyer
Hulshof
Hyde
Inslee
Isakson
Israel
Issa
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meeks (NY)
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Loretta
Saxton
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Stupak
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Vitter
Walden (OR)
Walsh
Wamp
Watt
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)

NAYS—28

Bartlett (MD)
Brown (OH)
Carson (IN)
Clay
Costello
Cummings
Evans
Hastings (FL)
Holt
Hunter
Jackson (IL)
Jackson-Lee (TX)
Jones (NC)
Kanjorski
Kaptur
Lewis (GA)
Meek (FL)
Oberstar
Obey
Paul
Ruppersberger
Sanders
Schakowsky
Strickland
Visclosky
Waters
Watson
Wynn

NOT VOTING—26

Aderholt
Ballenger
Berry
Calvert
Carson (OK)
Castle
Cole
Doggett
Dooley (CA)
Hall
Hinojosa
Hooley (OR)
Istook
Kucinich
Lantos
Lucas (OK)
Menendez
Pence
Rodriguez
Sánchez, Linda T.
Sandlin
Sullivan
Toomey
Weldon (PA)
Woolsey
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1802

Messrs. JACKSON of Illinois, OBEY, WYNN and RUPPERSBERGER changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1800

HOUR OF MEETING ON THURSDAY, MARCH 4, 2004

Mr. TOM DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 11:30 a.m. tomorrow.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Virginia?

There was no objection.

SAVE THE HUBBLE

(Mr. MCDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCDERMOTT. Mr. Speaker, 2 years ago today the *Columbia* Space Shuttle, in what turned out to be its last full mission, serviced the Hubble Space Telescope.

Those astronauts knew and children across America know that Hubble is a national treasure. Hubble offers a dramatic view into the cosmos, and it has yielded profound scientific discoveries. Yet for all of Hubble's national acclaim and the inspiration it has given us, NASA has given Hubble a death sentence. It is up to us to commute that sentence.

That is why I have joined with a bipartisan group calling for NASA to convene the best and the brightest minds to reevaluate their decision and look at every reasonable alternative. In the meantime, keep the Hubble going.

In my view, Hubble is one of the best scientific investments we have ever made. Hubble is certainly the best recruiter we have today to inspire our children to excel in science and reach for the stars.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. PEARCE). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

OUR ECONOMIC POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, the President last week delivered the Central American Free Trade Agreement to this Congress as part of his economic plan to grow the economy. What we have seen from the President's economic plan, which consists of two basic solutions, are two things. One is tax cuts for the wealthiest people of our society, the 1 percent wealthiest, the people who need it least, hoping it will trickle down and create jobs. The other part of this program is to push through this Congress more NAFTAs, the Central American Free Trade Agreement, the Free Trade Area of the Americas, trade agreements which have no labor and environmental standards, trade agreements which hemorrhage jobs, which ship jobs overseas.

We have seen that kind of economic policy, except we have seen it not work. We have seen in this administration a loss of almost 3 million jobs. In my State of Ohio, we have lost one out of every six manufacturing jobs. Hundreds of thousand of Ohioans have lost their jobs. We have seen no manufacturing jobs created. In fact, since President Bush took office, we have lost manufacturing jobs not just in Ohio but across the country every single month of the Bush administration.

Now, just recently the President put out his economic report. This Economic Report of the President is put out every year. As my colleagues can see here, the President signed it on page 4, and this economic report makes a lot of promises. As one of his earlier economic reports had made, the President in 2002 promised an increase of 3.4 million jobs. We have actually seen a loss of 1.7 million jobs since then. In this report, he makes another promise of 2.6 million jobs created just this year alone. Already the President's people are backing off that promise.

But you might be interested, and there are some things in this report that the President and his people, his Chief Economic Adviser, have sort of bragged about. One of the things that the President's Economic Adviser said when he said, "When a good or service is produced more cheaply abroad, it makes more sense to import it than to provide it domestically," and then the Chief Economic Adviser to the President said, That is a good thing. If it is made somewhere else cheaper, then good economics says we ought to ship those jobs overseas and make them more cheaply overseas and make them there and displace the jobs in the United States.

That is not good economic policy. It is not good trade policy. It particularly is not good policy for our people. Yes, we want to do trade. Yes, we want that train to move out of the station advancing trade, but we want to do the trade, we want fair trade, not free trade. This administration, unfortunately, is committed to free trade.

In the meantime, the President's Council on Economic Advisers has said in this report, also on page 103, In the long run, a large part of the burden of taxes is likely to be shifted to workers through a reduction in wages. In other words, the President's policy of tax cuts for the wealthy, hoping that it trickles down and provides something for everybody else, and these trade agreements with no labor and environmental standards, these trade agreements that ship jobs overseas, in the meantime, the President's people say what is going to happen is a large part of the burden of taxes is likely to be shifted to workers through a reduction in wages.

That is why even people that have kept their jobs, as most people have during this Bush recession, even then those people's wages have been stagnant or in some cases have gone down. That is because the President's people say that we are going to see tax cuts for the wealthy, and we are going to see loss of wages for workers and for the middle class.

The President's Chief Economic Adviser goes on to say, Analyses that fail to recognize this shift can be misleading, suggesting that higher income groups bear an unrealistically large share of the long run burden. In other words, when the President's people say, well, we have to give a tax cut to the richest people in our society because they are paying the most taxes, the President's own Economic Adviser said that is not the case.

What is happening in our economy, you may applaud that, is these tax cuts shift the burden. As we cut taxes on the wealthy, it shifts the burden to the middle class in the form of lower wages, and we can also see that, Mr. Speaker, with what Alan Greenspan said last week.

He came to this Congress and said I support continuing the tax cuts for the wealthiest Americans, and then he said, but because of that, we have a budget shortfall and we have to cut Social Security. So the President of the United States and Alan Greenspan, his man at the Federal Reserve, are saying to the American people, you have either got the tax cuts for the most privileged and if you take those tax cuts, then it means we have to cut Social Security.

That is really what we are going to talk about in the next 8 months, that if we are going to make these tax cuts, if we are going to continue these tax cuts for the wealthy that the President wants, it means fewer dollars for education, less money for prescription drugs and other health care, and ultimately it means cutting Social Security. That is the choice. That is what the election will be about this year.

That is what this Congress is going to be about in the next 6 months. That is what we are going to hear JOHN KERRY and George Bush debate. If we do the tax cuts and cut the taxes of the wealthiest Americans, it means less money for Social Security beneficiaries. It means less money for environmental enforcement. It means less money for the middle class. It means a stagnation of wages, and it takes this country in the wrong direction.

It is bad economic policy. It is bad for our country. It is bad for our communities. It is bad for our schools. It is bad for the middle class.

THE SITUATION IN AFGHANISTAN AND IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. OSBORNE) is recognized for 5 minutes.

Mr. OSBORNE. Mr. Speaker, as we have listened to debates over the last several days, actually last several weeks, there has been a lot of rhetoric about how poorly things are going in Afghanistan and Iraq, the administration has no plan, et cetera, and along with many other Members of Congress, I visited both countries within about the last 5 or 6 weeks, and it did not seem to me that the information I was getting and seeing squared with what we have been hearing.

In Afghanistan, for instance, the Taliban is out. They were a tremendously oppressive regime. Terrorist training camps, and of course, Afghanistan was the hotbed of terrorist activity, have been shut down. Most of the funding has been dried up. Al Qaeda is on the defense, and of course, the democratic loyal jurga formed a constitution which I think was a tremendous step toward democracy. Women have been given a significant role. Elections have been scheduled this summer, and they have a great leader in Karzai, and I think there is a great chance he will be elected President.

All of this has been accomplished with 13,000 coalition troops controlling this country, very little loss of life. It has been a tremendous military victory and a great victory for those who are opponents of terrorism.

□ 1815

Iraq, of course, is a little behind the time line of Afghanistan, because it came several months later; but the infrastructure has been restored.

The water is running, the electricity is on, and 17,000 reconstruction projects have been completed; 17,000 projects have been completed. The schools are open. They have been given significant aid; 33,000 teachers have received training in just the last few weeks. The hospitals and clinics are open. There is much better health care. There has been a 6,000 percent increase in health care service expenditures in the last few months. The economy is expanding. Shops and businesses are springing up. Consumer demand is good. Wages are between 25 and 30 times higher than they were under Saddam Hussein. So the economy is showing real signs of life. One million more cars in this country than a year ago. Newspaper and television stations are springing up as well.

Insurgent attacks on our troops have decreased dramatically. About all the attacks we are hearing about lately are on Iraqi citizens, mainly because they are the only soft targets that they have left. Weapons and ammunition supplies have been destroyed, and an Iraqi army of 133,000 is being trained and should be in place by next fall. An Iraqi police force is assembled. And all but a handful of Saddam's lieutenants have been captured. I think 45 out of 50 have been captured and, of course, Saddam Hussein himself.

A provisional constitution has been drafted and ratified, just today, I believe, by the Kurds, the Shiites, and the Sunis. This is a tremendous step toward democracy and a tremendous accomplishment. So we are on track to see a viable democracy in a country that has been a major destabilizing influence in the Middle East for the last number of years. We have had no attacks in the U.S. since 9/11.

So again, Mr. Speaker, I would just reiterate the fact that what I and many of my colleagues have witnessed in Afghanistan and Iraq does not seem to square with some of the conversation we have been hearing on the political scene in recent months and recent weeks. So we think that we have been doing a good job over there.

The soldiers, the troops that I met, have a tremendous sense of mission, a great sense of accomplishment; and I think it is important that they get the message that we are solidly behind them and solidly behind this effort that is going on.

THE PRESIDENT'S CREDIBILITY DEFICIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

Mr. EMANUEL. Mr. Speaker, President Bush has announced that his campaign strategy will be to make credibility an issue. Just last night, the Vice President said that if the Democrats had been in charge for the last 2 or 3 years we would have endangered the job creation of the economy.

Really? What a fascinating take, that Democrats would have endangered the job creation and the economy. Under this administration, $3 trillion has been added to the Nation's debt, and nearly 3 million American jobs have disappeared. And they want to make credibility an election year issue?

In the "Meet the Press" interview, the President could have talked about his foreign policy accomplishments and his record, but what does he have to offer but an endless occupation. He could have chosen to talk about the economy and the jobs he created, but then he would have to point to the jobless economy and the wage recession Americans face. And this is a President and an administration that wants to make credibility an issue in this campaign?

The administration announced 5 months ago, on Labor Day, that they were appointing a manufacturing czar. That position remains empty. There is not even a nominee. And they want to make credibility an issue? Interesting.

Since that date, 250,000 Americans have lost their manufacturing jobs. And they want to make credibility an issue? After 5 months, there is not a single person to fill that job.

Now, the President does not take advice from me, but as far as I can see David Kay is available. He did the weapons of mass destruction research. Maybe we can help him find where the 2.7 million American jobs have gone. And they had the gall to announce it under a banner of American jobs and American values. And they want to make credibility an issue?

Every year the President submits a budget, and he has submitted time and again the elimination of the Manufacturing Extension Program, which helps small businesses, small manufacturers in this country. And he wants to make credibility an issue?

Not only is the President not interested in the issue of jobs and job creation in the United States, his own economic report that he submitted the other day to Congress say that "outsourcing of jobs is good for the American economy and good for the middle class," especially the middle class in India, not Indiana. And they want to make credibility an issue?

In that report, they envisioned 2.7 million jobs being created in the United States. Then they had to walk away from it. And they want to make credibility an issue?

They also in that report cited manufacturing would now be defined as flipping hamburgers. And, again, they would like to make credibility an issue.

Since we have decided to make credibility an issue, I would like to say that not only does this administration have a big fiscal deficit; it has a huge credibility deficit.

Let me give some other highlights of the issue of credibility.

One month steel tariffs are on; the next month steel tariffs are off. There was $3.5 billion in new police funding, and yet the President's budget cuts $1 billion from the police funding. Prescription drugs one month cost $400 billion, the next month, with nothing changed, not a single benefit, we send a bill to the taxpayers for $550 billion. And they want to make credibility an issue.

Now, I am not the one to give advice to this administration, or unsolicited advice; but if the President or this administration thinks we are going to cut Social Security to pay for tax cuts for the wealthy, I got a bridge over the Tigress they can buy. Let me say this: the only people that think that is a good economic plan are pioneers and rangers who think cuts in Social Security is what this economy needs so we can pay for tax cuts for the well-off.

What we need is a President who wakes up every day and who rolls up his sleeves as he goes into the Oval Office and thinks about the American workers, their families, and their values, not somebody who, for a press headline, announces a manufacturing czar and 5 months later, 250,000 jobs later that have disappeared, has that position remaining unfilled. That is not an administration that every day sees the American family and its values at the center of what it does in the Oval Office.

I only wish that they would spend as much time thinking about the American family, their values, their children, their jobs, their health care, their security, and their retirement security as the focus they give to those on K Street and the lobbyists in this town.

On policy after policy this administration says one thing and they do another, and yet they have the gall to say credibility will be an issue.

So to quote one Senator: If they would like credibility to be an issue this election year, Democrats say, bring it on.

GREAT WORK BEING DONE BY THE 10TH MOUNTAIN DIVISION OF FORT DRUM, NEW YORK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BURGESS) is recognized for 5 minutes.

Mr. BURGESS. Mr. Speaker, we hear so much information here in this House, and this evening is no exception. I wanted to pick up a little bit on the point that the gentleman from Nebraska (Mr. OSBORNE) made in his remarks here a few moments ago.

Mr. Speaker, of course both sides of the House have not only the right but they have the obligation to speak up when they believe things are not right. And it is an election season, so we are hearing a lot of political discourse and rhetoric. The gentleman from Nebraska (Mr. OSBORNE) got up and spoke very eloquently to that fact, that perhaps what we hear is not always aligned with what in fact is happening on the ground.

The gentleman from Nebraska spoke about his travels to Iraq and Afghanistan. And, indeed, just 2 weeks ago I took a trip to Iraq and Afghanistan. It was my second trip into the country of Iraq, but my first to the country of Afghanistan. And, Mr. Speaker, I want to point out that as far as the talk we hear going on here on the floor of the House, yes, it is our right and indeed our obligation to speak out, but we know or at least we should know that words have consequences. And the words spoken here in this House do resonate around the country; and in fact they resonate around the world, and they are picked up frequently by our troops fighting for our freedom overseas.

Now, Mr. Speaker, I would never question anyone's motives or question anyone's patriotism, but at the same time I just cannot help to point out how a few weeks going to Iraq and Afghanistan I did have the chance to see what was happening there on the ground. The 4th Infantry Division captured Saddam Hussein in December, and in an effort to minimize the importance of that singularly important feat, we will hear people say, well, it is not that important; it, in fact, does not make us any safer here at home. Mr. Speaker, let me say tonight that I firmly believe that that event was important and indeed we are safer here at home because that man is in custody. But, again, in an effort to minimize the importance of that event, we will hear the talk over and over again that it does not really matter.

The other thing we will hear is that we have not finished the job in Afghanistan. Well, Mr. Speaker, just like the gentleman from Nebraska, I want to take a minute tonight and talk about what I saw going on in the country of Afghanistan and the great work that is being done by the 10th Mountain Division out of Fort Drum, New York.

Mr. Speaker, General Austin in Afghanistan, the commander of the 10th Mountain Division, spoke to us there as part of our briefing, and he shared a picture with us. He shared a picture with us that was so dramatic and so impressive that I asked their permission to bring it back and show it on the floor of the House, and we can see it here beside me.

In fact, Mr. Speaker, I was anxious to share this picture with the whole country. This is a picture of what our guys in Afghanistan are doing to end the war on terror in that country, to reclaim that country for its people, and, in the end, make us safer here at home.

Here we see some of our young soldiers and a man that is being escorted into a helicopter. This man, I do not remember whether he was a Taliban or al Qaeda or just a member of one of the warlord tribes there, but he thought he was relatively safe on that house on a steep mountainside. He could see anybody coming up after him, and he was pretty comfortable there in his belief that there was no way he could be apprehended.

So sitting by his campfire one morning and taking his morning meal, he was visited by our troops from the 10th Mountain Division. They were able to encircle him and surprise him. And then to get him back to where he needed to be, they landed half a helicopter on his house. And we see him there being helped into the back of the helicopter to be brought back to face whatever charges awaited him.

Mr. Speaker, this is a dramatic photo, and it shows what lengths our fighting men and women will go to in order to end the conflict in Afghanistan. And I believe they are well on the way to ending that conflict. In fact, Mr. Speaker, I would go so far as to say as soon as the snow melts out of the passes in the mountains on the border between Afghanistan and Pakistan, we are very likely to see the beginning of the end for those groups who mean to harm our troops and harm innocent Afghan citizens and those individuals who want to prevent the return of civil society to Afghanistan.

So, Mr. Speaker, I know it is a little off the point from what we hear here on the floor of the House night after night after night, but in fact there are some good things going on in the world. Our troops are doing a masterful job on the ground both in Iraq and Afghanistan. I am proud of them. I am proud of our country.

Once again, I want to point out the dramatic aspect of this photo. Think of the risk that that pilot is taking to apprehend that individual and bring him to justice, the loadmaster in the back of the aircraft that essentially landed that half a helicopter on that man's roof. I can imagine the surprise of this individual as he was brought into United States custody.

CYPRUS PEACE NEGOTIATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, last week, peace negotiations finally resumed over the 30-year Cyprus conflict. After reaching the end of the road last March, thanks to what was described at the time by officials close to the negotiations as intransigence on the part of Turkish-Cypriot leader Rauf Denktash, the Turkish-Cypriot leader finally agreed to return to the negotiating table with Cyprus President Tassos Papadopoulos. The framework by which the two are now negotiating is a plan written by the U.N. Secretary General Kofi Annan. While the Secretary General's proposal serves as a starting off point, it should by no means serve as the final agreement to finally unify the nation of Cyprus.

Last year, Mr. Speaker, I visited Cyprus for the first time. And while I believe it is critical for a unified Cyprus to join the European Union later this year, I also believe that the framework agreed to between the two sides must lay the foundation for a democratic government to thrive for many years to come.

□ 1830

Unfortunately, there are parts of the Annan plan that makes it virtually impossible for an established government to function. In fact, there are sections of the plan that would make the island country less democratic than it was after an agreement imposed against Greek Cypriots during the Cold War back in 1959.

Mr. Speaker, the Annan plan in my opinion is undemocratic. Under the plan, a parliamentary system would be created with two legislative bodies, a Senate and a Chamber of Deputies. The Senate shall be composed of 48 members with a requirement that half of those Members, 24, come from Cyprus and the other half come from the Turkish Cypriot side. Keep in mind that the Turkish Cypriot minority only makes up 18 percent of the islands. The Annan plan gives that 18 percent equal footing with the 82 percent of the Republic of Cyprus population. How is that democratic?

Then in addition to that in the Chamber of Deputies, the Annan plan says it too shall consist of 48 members elected on a proportional basis, but both the Turkish Cypriot side and the Republic of Cyprus side are guaranteed a minimum of one-fourth of the seats. And the significant advantage for the minority does not end there. The Annan plan states that laws be enacted by a majority vote in each of the houses as long as at least one-fourth of the senators from each of the two component states comprises the majority vote in the Senate. This means that the 18 percent holds a virtual veto over any legislation being passed.

Mr. Speaker, if we compare the Annan plan to our own government here in the United States, let us say that the Democrats and Republicans each held 50 seats in the Senate, something that actually happened a few years ago. You remember how difficult it was for both sides to govern. If fact, it created a position in which one Republican, JIM JEFFORDS, actually left the Republican Party in order to become an Independent. Now, if just being 50–50 is not hard enough, imagine if the U.S. Senate could not pass any legislation without one-fourth of the Republican side agreeing with the Democratic side, or vice versa. There is no way we could govern under those conditions.

How can we expect Cyprus, a country which has been torn apart for almost 30 years, to govern under these same circumstances? I do not mean to be critical of U.N. Secretary Annan. He has done a fantastic job of trying to meet the unrealistic threats of Turkish leader Denktash. Furthermore, the government of Cyprus has consistently agreed to negotiate within the frame of the U.N. proposal.

The Annan plan is a good draft, but that is all it is. It is critical that not only the United Nations but also the Bush administration and the State Department realize that in its current form the Cyprus government would not be able to govern. These concerns, as well as several others, must be addressed before any real peace agreement can be reached.

I want to conclude by saying again, the Annan plan was supposed to be a basis for negotiations and everyone agrees that is certainly the case, but it should not be the final outcome. I am afraid that our own administration, the Bush administration, the State Department, are trying to put pressure on the Cyprus government that they have to agree to the Annan plan just the way it is and that no changes can be made. That is not only unfair, I think it leads to an unworkable situation in the long run. We have to realize that as much as the Annan plan is a good basis for negotiation, it should not be the end result because if it were, I think in the long run it would actually be to the detriment to the future government of a united Cyprus.

GADDAFI DELIVERS HISTORIC 90-MINUTE SPEECH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. WELDON) is recognized for 5 minutes.

Mr. WELDON of Pennsylvania. Mr. Speaker, a group of seven Members of Congress just finished leaving the airplane at Andrews Air Force Base from a 3-day trip to Libya, the second trip that I have led there in 30 days. This trip is one that will go down in history as one of the most historic events that was documented in that country that has been a problem for us over the past 30 years.

Mr. Speaker, I was asked by the chairman of the People's Congress of Libya to give a speech at the opening session 2 days ago, which I did. Senator BIDEN is giving a speech there today. Along with my speech and speeches from the French, the Egyptians, the head of the European Parliament, Colonel Gaddafi rose to the podium and spoke for 90 minutes. He gave what will go down in history, I am convinced, as a speech that will equal the tearing down of the Berlin Wall and the event that had Boris Yeltsin standing alongside the tank outside of the Moscow White House proclaiming that communism was dead because in this 90-minute speech Gaddafi, who has been someone that we have not had any type of relationship with, whose country has admitted to completing the bombing of Pan Am 103, Gaddafi, in front of the 600 people assembled in the auditorium and 100 nations that were in attendance, renounced the actions of Libya over the past 25 years.

He admitted to his people that they had been involved in funding terrorist organizations from the IRA in Ireland to the PLA, to the Sandinistas, to other terrorist groups around the world. He admitted that they were involved in crimes, and they had done things for other groups. He rose to the occasion to tell his people that he had come to the conclusion it was time for Libya to abandon these people who no longer were needing of the support of the Libyan people, and whom the Libyan people only suffered from, becoming isolated from the rest of the world.

He spoke of the United States and the Pan Am 103 bombing. He said it is a part of history that they want to put behind them after I had said in my speech that we were happy that the Libyans had admitted to that bombing and being responsible for it. We told them that we would never forgive nor forget the actions of their country, but here was Moammar Gaddafi changing not for the international community, but in front of his own people saying it was time for Libya to renounce weapons of mass destruction, and calling for complete and total transparency, calling for other terrorist nations to abandon their weapons of mass destruction, telling them that it is no longer a valid position for countries to take, to encourage and support terrorism throughout the world.

Then he said about the United States, the United States does not want to bomb Libya. We are not Libya's enemies. If we wanted to take over their country, we would have done that 27 years ago when they asked us to get out of the military bases we had in their country. He said to his people, America did not fight, they simply left our country as our friends. He said it was only in recent times that we have become an enemy, and he said no longer will Libya be an enemy of the United States; Libya wants to return, to become a friend, they want to attempt as much as possible to join the family of nations and join those multinational groups in Europe and around the world. They want to become a part of arms control regimes. He even agreed, as I met with the Gaddafi Foundation, that they should look to rejoin efforts like the Vienna Conference that oversees the Helsinki final act guaranteeing basic human rights for all citizens. We talked about human rights, and the fact that Libya was now on a course to set out for their people an effort to clean up the human rights records of the Nation.

Mr. Speaker, this speech was not to the world community. The external media was not invited. It was broadcast live throughout Libya. Every television in Libya had this proceeding on for 90 minutes in front of 600 delegates, 100 nations and 7 Members of Congress. Moammar Gaddafi issued the message to the people of the world that Libya had changed dramatically and completely, that Libya was ready now to begin a new chapter.

He was very thankful that our delegation was there because he said it showed the Libyan people that America was ready to respond. Senator BIDEN's speech today will reinforce that. I congratulate my colleagues on both sides of the aisle who traveled to Libya. We will be putting a complete report into every Member's office before the end of this week.

SCIENCE INVESTIGATES HUMAN CONTRIBUTION TO CLIMATE CHANGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. GILCHREST) is recognized for 5 minutes.

Mr. GILCHREST. Mr. Speaker, I would like to make a few comments this evening on an issue that remains somewhat controversial. The issue is climate change. Is the Earth warming, and is there such a thing as global warming?

I would like to present a few findings affirmed by National Academy of Science, at the request of George Bush, and which the American Geophysical Union also agrees with.

Basically the conclusion of the scientific community is that the Earth has been warming for the last 10,000 years. We left the Ice Age, and for the last 10,000 years, the Earth on average has been warming 1 degree centigrade every 1,000 years, and this is detectable through various tree rings, ice cores and a number of other techniques used to determine the kind of climate we have had over the past 400,000 years. But the last 10,000 years, the trend is the natural range of fluctuation, it is a little warmer 1 year, a little colder the next year, but the natural range of fluctuation clearly shows that we have been in a warming trend over the past 10,000 years about 1 degree centigrade every 1,000 years.

What we have seen in the last 100 to 150 years is that natural range of fluctuation appears to have abruptly changed. The question is that abrupt change, which actually is a jump in surface warming, is that a natural fluctuation or is it as a result of mankind burning fossil fuel and adding greenhouse gases to the environment.

What I am going to show tonight is the fluctuation that we have seen, the abrupt fluctuation, is not a natural fluctuation. If it is not a natural fluctuation, the environmental variables from this point on are not going to be predictable as far as the climate and the weather is concerned.

Mr. Speaker, this chart has two parts to this graph. The first part, which is the color gray, deals with the computer models that are telling us something about the climate and how it has changed over the past 100 years. One part of this chart shows the input in the model. The other part of the chart, the color red, shows actual observations on the ground where you go out and you actually take temperatures all around the globe. The first part of the chart, the gray line, is what you put into the computer. The second part is what you actually observe. There are three charts up here.

The first chart deals with the natural fluctuation in the climate over the last 150 years with solar energy, with ocean currents, with volcanoes, with a number of things that have caused the climate to change, the geologic forces which have caused the climate to change over the last thousand years. We see if we just take the variables in the natural forcing, the climate will stay fairly steady. In other words, there would be no increase in the last 150 years. The actual temperature, though, shows that there has been an increase over the last 150 years. So there is a question, where is the increase in temperature coming from?

The next chart shows only measuring human activity, anthropogenic forcing only. That means we only measure the kind of temperature increase we would get from burning fossil fuel or cutting down a forest or a variety of other things. When we do that, we show that the temperature, as we see over here, is the same. There is an abrupt increase in the temperature.

The third chart shows the natural fluctuation or the natural increase in temperature that we have seen over 10,000 years, but it also shows mixed in with that if we add to that natural increase, if we add human activity, we see that the blend shows that there has been about a 1 degree temperature rise in the last 150 years.

□ 1845

You cannot account for the increase in temperature over the last 150 years with just natural forces but you can account for it when you add in human activity.

Those are just a few interesting facts, Mr. Speaker, I thought that the Members would like to know.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair redesignates the time for further proceedings on House Resolution 412 and on House Resolution 56 as tomorrow.

HAITI

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Florida (Mr. MEEK) is recognized for 60 minutes as the designee of the minority leader.

Mr. MEEK of Florida. Mr. Speaker, it is a pleasure to address the House and the American people this evening.

Last night, Mr. Speaker, we were on the floor talking about the recent events in Haiti that has also involved not only our military but our international community, not only as it relates to humanitarian efforts but to the safety of the Haitian people. I just left the Committee on International Relations, the Subcommittee on the Western Hemisphere where we had witnesses, the Assistant Secretary of the Bureau of Western Hemisphere Affairs from the U.S. State Department, Mr. Roger Noriega; and also the Honorable Arthur Dewey, Assistant Secretary of Population, Refugee and Migration of the United States State Department; also other representatives from the State Department. Mr. Speaker, it was quite disturbing hearing some of the testimony that was given to us there on that committee. I am thankful that the chairman, the gentleman from North Carolina, allowed other Members that were concerned about not only the plight of Haiti but also the U.S. involvement in Haiti. I think the events that took place last Saturday evening and early Sunday morning has a lot to do with how we move forward from this point on. Many of us in this Congress feel very strongly about the U.S. involvement in Haiti from this point on, on how safe will it be in Haiti? How safe will it be for the Haitian people? How many months will our U.S. Coast Guard be visually off the coast of Haiti? What kind of commitment will the United States make to Haiti? And also what kind of commitment will the international community put forth as it relates to Haiti?

First of all, I would have to go back. We spoke last night about Mr. Philippe, who has announced himself as the leader of Haiti, the head of the rebel force, using Secretary Noriega's description of him as a thug, that has now taken control of Haiti. He was in Port-au-Prince yesterday, he had a meeting, he talked about him being in charge of Haiti. He said he really looks up to the United States, that he reveres our President, and rightfully so. he should revere our President, because if it was not for a visit by officials from the State Department that will go unnamed at the home of President Aristide and giving him an ultimatum to either leave or be killed, that simple, that he had to make the decision right then and there. Reports say that he made that decision. That decision empowered Mr. Philippe, a known individual not only to Haitians but also a known individual that has carried out terror in Haiti in the past, a 36-year-old young man that is now on the streets of Haiti who has announced that he is going to arrest the prime minister of Haiti. I say that as a backdrop of talking about troop safety.

I think it is important to note in the early 1990s when U.S. troops went into Haiti to not only kick General Cedras out who took Haiti by a coup but to also provide a level of safety to try to build onto democracy, that not one soldier lost his or her life. No one even choked on popcorn. It was that smooth of an operation. I commend Senator Nunn at that time, I commend Mr. Powell at that time, now Secretary Powell, and also the leadership of William Jefferson Clinton.

But now we have a situation that is in question. Some people may say, why are you so concerned? Okay, President Aristide said he felt like he was kidnapped. Some people say, well, he wasn't kidnapped, that's not true. Who's right? Who's wrong? That is not the issue. The issue is that for us to provide the kind of forward progress that we are going to need in Haiti to make sure that Haiti is able to move forth in a democratic way, for us to continue to have the international community willing to be a part of democracy-building in the Caribbean as it relates to other Caribbean islands surrounding Haiti, then we can no longer move forth with a Saturday night policy ultimatum.

This should have not happened, ladies and gentlemen. Mr. Speaker, I must say that it brings into question the very safety of troops and also it brings into question good elections in the future. If Haitians that were pro-Aristide and within the party that he was the head of know and feel that the United States played a strong role in his departure by force, and taken from Mr. Noriega's quote, I might add, that he just gave in responding to the gentleman from New York (Mr. RANGEL) in the committee just a couple of hours ago, the gentleman from New York asked him: Mr. Noriega, is it true that President Aristide was told that he needed to sign a resignation letter before he boarded the plane?

Mr. Noriega responded: It was important to make sure that we have a positive process to a political resolution.

The gentleman from New York asked him again: Is it true that he was asked to sign a resignation letter before he boarded the plane? That answer was: Yes.

And then after that, to give Secretary Noriega some credit, he said that to make sure that we can resolve a good political resolution.

Mr. Speaker, if someone showed up to my house on a Saturday night and shared with me that either I needed to leave with them or I would be killed and my family, I would leave. If they were to ask me, listen, sign your mortgage or your deed over to your property because we are not going to take you unless you do that, I would sign it.

We met with the Secretary-General of the U.N., several Members of this Congress, on Monday. This brings into question, was this an exit of a leader who wanted to leave of his own free will and saying that, hey, come get me, I already have my resignation letter ready and I'm willing to sign it, I want to thank you, America, for helping me and helping my family leave this island? Or was this a resignation under duress? We do not know if the 33rd coup d'etat took place on Saturday night or it was just a misunderstanding.

I must say, I am no fan, and I have said this time after time, Mr. Speaker, of President Aristide. I represent Miami. I represent south Florida. But what I am a fan of is democracy. When these knee-jerk policy decisions are made on a Saturday night, it puts forth a bad light on the United States of America as it relates to how we deal with democracies in South America or in the Americas. This is so very, very important. We are sending the signal to individuals that will arm themselves, known to be outlaws, have been a part of terror groups in the past of Haiti to arm themselves and take cities, if we like it or not. Some may argue, well, the 2000 elections as it relates to Haiti was wrong and it was flawed. I would say that he was recognized and given credentials by the Ambassador of the U.S., President Aristide was. He was recognized by the United Nations as the President of Haiti. So to even talk about the 2000 elections, and I think that we should not even go there as it relates to our own personal situations. And one thing that I do honor. Never once that I have denounced or said that President Bush is not my President. He is my President. Until November, until we all get a chance to be able to cast our ballots as Americans on how we feel, he will be the President until that point. If he is reelected, he will be reelected. That is just something that we have to live with. But what is important as we move forth from this point and making sure that we stop the violence is that we play with a level hand. Guy Philippe is an individual that has said, once again, that he will arrest the prime minister. The prime minister of Haiti's house has been burned down to the ground. It has been looted and burned down to the ground. He has been living in his office protected by U.S. Marines. Can he leave that office? No. I do not think that that is a safe situation.

I have one other thing before I yield to my colleague here. Secretary Dewey said that there has been over 900 Haitians rescued. The Secretary-General of the U.N. had brought a question to the United States policy as it relates to individuals trying to flee Haiti of fear of persecution. Persecution means that if you return, you are fearful of your life or your family's life, women and children. We have repatriated over 900 Haitians even though the road is littered of bloated bodies that the rebel forces left in the path on their way to Port-au-Prince, never once stopped by the United States of America, never once stopped by the international community but kept marching on. It is that same rebel force that did not agree to any of the diplomatic or political solutions we tried to bring about to bring a peaceful resolution to what was going on in Haiti. Nine hundred were repatriated. The Secretary reported since Aristide has left the island only three have been caught and repatriated. Let me just say this. After the 900 that were brought into the Port-au-Prince dock and sent off to the streets because they were leaving from the south end of the island, not from Port-au-Prince, which is like over 100 miles away, they are walking through a populated area where rebel forces and other folks can see them and their families. Some of them are government workers, some of them are individuals that were pro-Aristide or they never would have left the island in the first place. They were not leaving because of President Aristide. They were leaving because of the violence and the violence and the persecution that they were going to receive. So I would not even try to leave if I knew I was going to go through Port-au-Prince and everyone was going to see me and know exactly where I am. They are now in hiding in Haiti.

I think it is important, ladies and gentlemen, that we look at what we are doing and how we are doing it and if we want to see a peaceful resolution in Haiti, it is important that we put forth policy not on slogan but based on making sure that our troops and humanitarian supporters are safe. So it is very, very important that we understand that as this U.S. Congress.

Mr. Speaker, I yield to the gentleman from Michigan, the ranking member of the Committee on the Judiciary.

Mr. CONYERS. I thank the gentleman from Florida for yielding.

Mr. Speaker, I begin by commending my colleague from Florida for the testimony that he has given before the Subcommittee on the Western Hemisphere of the Committee on International Relations. It has been quite a day, quite an afternoon and evening. As a matter of fact, that subcommittee is still going on as we take this special order. I think the gentleman who has perhaps more citizens of Haitian descent than anyone else in the Congress should take this special order in which we can continue to develop the discussion about how we are to deal with this very sensitive foreign policy issue that is made more emphatic because of the fact that it is within the Western hemisphere. This is not thousands of miles away. This is hundreds of miles away from our shore. It is very, very important. I appreciate my colleague's testimony and that of all the members of the Committee on International Relations and the Congressional Black Caucus and others who participated in the proceedings this afternoon in the Committee on International Relations.

□ 1900

Let us begin with the most immediate consideration, that is, the safety of the president of Haiti and his wife, Mildred Aristide. And I want to ask the gentleman from Florida if he can shed any light based on the numerous discussions that went on around this subject this afternoon in terms of where they are and what amount of security is being made available to them at this point.

Mr. MEEK of Florida. Mr. Speaker, from what I understand, I have no firsthand accounts, that they are in a Central African country, that they have French and U.S. guards that are protecting them, including their own private security that President Aristide has had over the last couple of years. So from what I understand, his life is not in jeopardy, and I am glad that the gentleman has brought that up because there are many people not only in the United States but many of my constituents that feel otherwise, and we try to find out that kind of good information and share it with them that all is well so that we can hopefully see some sort of smooth political process in the future.

Mr. CONYERS. Mr. Speaker, I thank the gentleman for his comments. And I would like to put on the record at this point that the Assistant Secretary of State, Mr. Noriega, testified, much to my interest, that at this point the United States, having brought the president and his wife to the Central Republic of Africa, has now taken no responsibility for his security at this point. This is a Francophone country in sub-Saharan Africa that has recently undergone a coup. As a matter of fact, there were two coups, and the last one was successful. It is a very dangerous circumstance because those of us who may have talked to the president or his wife, and I am one of them, they have yet to have met with the president of the country in which they have been brought, that they are apparently under some kind of formal or informal house arrest, that they consider themselves to be in danger.

So I wanted to put everybody on notice in the United States of America, including the President and the Secretary of State of the United States, that they may be in danger even as we speak. We are trying to get phone calls to them to determine what amount of security is being afforded them. It is somewhat disingenuous for the Assistant Secretary of State to tell us that having deposited them in a rather isolated part of Africa of a very small and modest means, this nation, in a country in Africa which is circumscribed by poverty and economic deprivation, which in some reports to me have indicated that there may be elements of civil unrest still going on in the country, that he could testify before a committee of the United States Government that we have no responsibility for the president's or his wife's safety at this point. If this does not set off alarm bells, I do not know what else will.

So if this Special Order convened by the gentleman from Florida does nothing else but preserve the security and safety of the president and his wife in the National Republic of Africa, this will be well worth the time that we have spent here.

It is my position that the United States has every responsibility for the continued security and safety of the president. As a matter of fact, we have been told that the reason that he left

Haiti was because his life and his wife's were in danger. Now to take him thousands of miles out of his country and then tell us that we have no longer any responsibility for his security, it is up to somebody else, is totally unacceptable. And I want to put this government on notice right now that we had better get some security over there if it is not already, and this is what I am going to be working on for the rest of the evening and into the morning.

Mr. MEEK of Florida. Mr. Speaker, I think that is important too. I just want to make sure that I clarify that, from what I understand from the gentleman from New York (Mr. RANGEL), that he spoke with President Aristide this evening or earlier, and he did share that he had French, U.S., and personal security individuals; and he is on a French base in this particular country. Hopefully, that security holds up over time and justifiably so.

Going back to what I was mentioning a little earlier, and I know that the gentleman from New York (Mr. MEEKS) has joined us now for this discussion, but the very safety and how President Aristide was removed speaks to the future security of Haiti. And the gentleman from Michigan is a member of the Committee on the Judiciary. I know that he is fully aware of the temporary protected status that all of us have been fighting for so that we do not put Haitians that are in the U.S. into harm's way just like we have done for other countries that had similar turmoil, be it political or natural disaster. I think it is important that we note that when people are saying why are we worried about how President Aristide left, I am more worried, Mr. Speaker, about the safety of the Haitian people, also worried about our troops that are in Haiti protecting not only U.S. properties but also looking at the issue as it relates to the safety of humanitarian workers; and I think the way that the administration moved on a Saturday night/early Sunday morning with this whole resignation thing or he cannot get on a plane fuels more chaos on the ground in Haiti.

Mr. Speaker, I yield back to the gentleman, as the ranking member of the Committee on the Judiciary, to speak to that.

Mr. CONYERS. Mr. Speaker, let us review the urgency of what the gentleman has described as the designation of a temporary protected status for all Haitians who are fleeing the country. I was not able to raise this personally with Mr. Noriega, the Assistant Secretary of State for Caribbean Affairs; but he said that now that President Aristide has gone, it may be safe for people to return to Haiti. This is probably the most dangerous statement that has been uttered in a congressional hearing certainly this year and maybe all last year as well.

To tell anybody that it is safe to go back to Haiti when there is no government, when the rebel leaders have announced that they are replacing the police and cooperating with the prime minister, people who led the overthrow of the first democratically elected president in the 200-year existence of Haiti, is probably the most incredible utterance of this year or last year. And the gentlewoman from Texas (Ms. JACKSON-LEE), our ranking subcommittee person on the Immigration, Border Security, and Claims Subcommittee on the Committee on the Judiciary, and I and others on the committee have written Secretary Ridge, asking that he designate temporary protected status to the Haitians that are fleeing. To turn them around upon arriving here from hundreds of miles in an ocean always on very fragile craft, that the first miracle is that it even got to our shores, would be inhumane. And yet this is the policy as we speak tonight.

And so I have to ask the President of the United States to review this standard, especially since this is the only group coming to this country, Haitians, that are instantly turned away in violation of the immigration laws of this country and in violation of the humanitarian laws that control all of us in the family of nations and in the United Nations itself.

Mr. MEEK of Florida. Mr. Speaker, I want to thank the gentleman for coming down and his being willing to stay and be a part of this discussion.

I know the gentleman from New York (Mr. MEEKS) left the Committee on International Relations to come here and join us here tonight.

Mr. Speaker, I yield to the gentleman from New York (Mr. MEEKS).

Mr. MEEKS of New York. Mr. Speaker, I want to thank the gentleman from Florida for yielding to me, and I want to thank him for having this important hour. I want to thank the distinguished ranking member of the Committee on the Judiciary and the dean of the Congressional Black Caucus as to all of his insight and his invaluable knowledge.

I just left the hearing; and just piggybacking on the colloquy that was taking place, I just asked one of the witnesses that was brought in who used to be in charge of Haiti University, and I asked him a simple question since I know that part of the administration had brought him here and wanted him to testify since he was their witness, whether or not he thought that individuals in Haiti should receive asylum right now coming into America, whether he thought that the policy that the United States has of turning back Haitians and accepting Cubans was a fair policy. And he quickly and unequivocally said that he thought that that policy should change and it shows absolute discrimination against the Haitian people and that that is something we should be moving in a complete bipartisan manner to make sure that we take care of those individuals, particularly now because of the fact that our hands are virtually tied into what is taking place in Haiti currently.

We need to talk about the security of the people that are on this little island called Haiti, 8 million people. What is going to happen to them? It seems to me that what took place here when we did not compel the individuals to sit down at the table to have a peaceful negotiation, when we knew that the alternative would be that common crooks and criminals would be coming in armed, coming across the border, people who had been banned for life and people who are really Benedict Arnolds because they were traitors to their own country, that they would be coming back to have an insurrection as well as killing innocent men and women on the streets of Haiti, that we should have done something about it. And now with no form of government that is there now, democracy basically we did not uphold, it has crumbled, the people in Haiti are at the mercy of these individuals.

I think that the gentleman from Florida (Mr. MEEK) clearly pointed out at the Committee on International Relations how he brought both The Washington Post and the New York Times showing this Philippe, who is a known criminal, convicted, is now declaring himself to be the leader and people holding him up as if he is ruling the country, and we saw no place in the paper, nor have I heard of anyone else saying, that they were in charge. We have not heard from the prime minister. We have not seen that the chief justice of the supreme court, anywhere in the constitution, when we talk about democracy, says is supposed to be in charge.

□ 1915

Here is this guy demanding and commanding the police force, telling the people if this guy shows his face he is going to have him placed under arrest. So the people of Haiti are under, apparently, unless the papers are lying, and from what I see, are apparently under the jurisdiction of individuals who are convicted criminals. What they did was come, and now they have opened up and destroyed all of the prisons, where people who are under a legal system, we talk about institutions, but under a judicial institution system, that were convicted by law, they are now walking the streets and the people of Haiti are subject to them.

So I say to the gentleman from Florida (Mr. MEEK), we have to really wonder whether or not the people in Haiti are safe now. I hope that the troops on the ground are changing their position, because I know at one time they were only protecting United States property. So the question is, what about the people?

Mr. MEEK of Florida. If I could reclaim my time from the gentleman from New York (Mr. MEEKS), I just wanted to make a quick point. I share with Secretary Noriega and others, you would have individuals in the White House saying that, well, I hope that Members of Congress would watch what they say, because they are putting troops' lives and State Department civilian workers' lives at stake.

I must beg to differ, because we did not make the Saturday night visit. We did not bring about the kind of swiftness that our country brought about. We did not allow rebels, I am going to use Mr. Noriega's term, "thugs and criminals," to go through Haiti, taking over cities, burning police departments, pulling pro-Aristide supporters out and executing them in front of their homes. We did not do that as Members of the Congress. And as it relates to the executive branch, the administration, they did not stop it. All they did was put out a little press release and say "we condemn the actions of this group. Stop doing what you are doing."

Not only did we go to the negotiating table, and I commend Mr. Noriega for going over there, I commend the President for saying we are sending the diplomatic corps over there. President Aristide sat down and said, "Fine, I agree with you. Let us share power." .

The opposition party said no. "Okay. We will give you a deadline of 5 o'clock." Still no. The following day, still no. Then we just kind of walked away.

But then it became a point to where that in this democracy, the biggest democracy on the face of the Earth, the United States of America, went in and told the President of Haiti, as wrong as he may be on several issues, "You have two choices: One, we can have a plane here to save the lives of you and your family, or you will be killed. And, by the way, if you want the plane, you have to sign this letter resigning as president of the country that you were elected to serve."

I would say to the gentleman from New York (Mr. MEEKS) and the gentleman from Michigan (Mr. CONYERS), I hate to keep going back to that point, because I think that is going to be the cornerstone of how we move forth in Haiti.

Now, you listen to Mr. Noriega, you listen to the President, they start saying, "Well, you know, we are restoring order and peace." But that is not what the Washington Post is saying. That is not what the New York Times is saying. That is not what the Miami Herald is saying. That is not what the Associated Press is saying. That is not what CNN is saying. That is not what MSNBC and any other news organizations are saying.

What they are saying is Mr. Guy Philippe is the leader of the army and he is in charge, and he will say, President Alexandre of the Supreme Court, I will yield to him, but at the same time it is him riding through the streets with armed bandits.

Mr. MEEKS of New York. Just quickly, it is not only all of the press, but my constituents who have relatives that live in Haiti, and they are on either side of the fence. Some of them do not like Aristide either. But they do not like these common crooks that are there.

When they call my office, they are telling me they are afraid for their mothers, for their grandmothers, for their uncles, for their aunts who are living there now. The situation is not better than it was before Aristide was forced to get on the plane. In fact, if anything else, it is worse. That is what they are calling my office and saying to me.

Mr. CONYERS. If the gentleman would yield further, I would like to put in the RECORD a communication from Jamaica from Randall White about the meeting of the CARICOM Conference, the more than two dozen nations in the Caribbean, who have sent this communication.

It reads: "The CARICOM prime minister's press conference ended at about 1330 EST today after meetings which began yesterday and about midday.

"Here are the main points of the press conference." This is CARICOM, of which Haiti is a Member.

"A communique is being drafted and will be issued later.

"CARICOM does not accept the removal of Aristide and demands the immediate return of democratic government in Haiti.

"CARICOM leaders have been in almost constant contact with Aristide before his removal and were never given the impression that he wished to resign or to leave Haiti.

"CARICOM demands an impartial transparent investigation by the United Nations into the circumstances surrounding Aristide's removal.

"CARICOM will have no dealings with the so-called government of Haiti."

Mr. Speaker, I include the communication from Randall White for the RECORD:

> The Caricom prime minister's press conference ended at about 1330 EST after meetings which began yesterday and ended about midday today. I must confess pleasure and some surprise at the strength of the response.
>
> Here are the main points of the press conference. A communique is begin drafted and will be issued later.
>
> Caricom does not accept the removal of Aristide and demands the immediate return of democratic government in Haiti.
>
> Caricom leaders had been in almost constant contact with Aristide before his removal and were never given the impression that he wished to resign or leave Haiti.
>
> Caricom demands an impartial transparent investigation, by the UN, into the circumstances surrounding Aristide's removal.
>
> Caricom will have no dealings with the so-called government of Haiti.
>
> Seems like a good strong statement.

That reminds me that in our visit to the United Nations to meet with the esteemed Secretary General, Kofi Annan, it was announced today that they, too, have launched an investigation into this matter.

Mr. MEEK of Florida. Mr. Chairman, I want to thank you for reading that, and I will tell you how important CARICOM is to the economy here in the United States. We have what we call the Free Trade of the Americas, and they are a part of the whole hemisphere and economy and everything. We need the Caribbean with us.

Prime minister Patterson of Jamaica put forth a great effort as a neighbor to Haiti of wanting to see a resolution, a peaceful resolution. It was the Bush administration that rode in on the backs of CARICOM saying that we are going to use the CARICOM agreement. That is what the Secretary of State Noriega went down to Haiti to negotiate. Prime minister P.J. Patterson went to the Security Council on Friday of last week saying we must immediately go into Haiti to secure the situation so that we can resolve the CARICOM agreement, which was the political solution.

To his shock and dismay Saturday evening came about, and I will tell you there is no secret, there have been press accounts, that basically President Aristide was told the following: "One, get on the plane and leave and save the lives of you and your family; or die."

Now, this is the bicentennial, as the gentleman from New York (Mr. MEEKS) knows, of Haiti, 200 years. On this 200th anniversary, or bicentennial, history is going to reflect that the United States played a hand in what possibly could have been the 33rd coup d'etat of Haiti.

I personally did not want our contribution to be that, especially since Haiti made it possible for us to make the Louisiana Purchase by taking out and beating down Napoleon, who was trying to run the whole world. Haiti went to Savannah to help us gain our independence against the British.

We got all upset with France over Iraq, talking about they do not appreciate our contributions of the past. I will say that the way we are going about it, I will not even say "we," because I do not think this Congress would have even moved in this way, if we had the prerogative to have some say in this, in the way the administration moved.

So, Mr. Chairman, I am glad you put that into the RECORD of the Congress, so Americans will have an opportunity to reflect back on this moment to know that there were Members who were willing to bring this issue to the floor to let them know that history should not repeat itself.

Mr. MEEKS of New York. Mr. Speaker, if the gentleman will yield further, I think that CARICOM really should be applauded, because they really stepped up to the plate. They could have sat back and said just let it be. They could have been silent, as we were, up until that point, because we did not push CARICOM or anything.

We are the largest democracy on the planet. Yet we did not go in there to urge any kind of diplomatic or political solution. It took the nations of CARICOM to step up to the plate and say, "Look, we do not want mayhem and violence. We understand the history and significance of Haiti. Therefore, we are going to come up with this plan and try to get two people to the table."

Who dropped the ball? Unfortunately, this administration dropped the ball, because it did absolutely nothing to urge the opposition to come to the table. In fact, by its silence it said, "You do not have to come to the table," which one knew then would lead to a result of what could possibly be the 33rd coup d'etat in the history of Haiti.

When we look at it, the question is, what if anything could have been done by Aristide at that time, because he agreed to everything. First the bishops came with an agreement. Aristide agreed to it. The opposition disagreed. No one compelled them to come to the table. Then CARICOM came. Then there was an international group that came. You would have one side there saying we are willing to talk.

I for one had some problems with what was going on, and I thought having some more people involved in government and making sure there is a balance of power, that is what democracy was all about. As I looked at the CARICOM agreement, I saw there were concessions in there that individuals who may have felt they were locked out of government and not able to participate in a democratic process, that they were given, and that was going to be part of the negotiating peace, where they would be given the opportunity to sit in a floor similar to what we have here in the United States of America, in Haiti, so they could have the political debate to argue one side to the other.

Now, for sure, in my estimation, I do not agree with most of the things that the Republicans in our House do, as far as what they are moving. But we do not get into armed revolt. What we do is talk about it and debate on the floor and I have an opportunity to participate. Sometimes I even question the opportunity to participate because we are limited in our rules. But still it is the democratic process. It is the institution that we have. I think that is how problems should be resolved, and that is what we should urge people to do.

I said for a long time that I disagreed with the results that took place in the year 2000, where I believe that we had a President that was selected by the Supreme Court. I disagreed with that. But I thought that the way that we responded when we said okay, I disagree with it, but the Supreme Court is what our institutions say where there a dispute it is to be resolved. So even the fact that I disagreed with what took place and with the decision, I am going to agree with that.

That would be a lesson, an example, for the rest of the world to see, and thereby we should then also encourage other individuals to establish these kinds of institutions and to support them and not undermine them with common crooks and criminals.

Mr. MEEK of Florida. I have two points and a question for the chairman. Two points: Number one, President Aristide was recognized not only by the U.S. Ambassador, I want to recap, as the duly elected President of Haiti, but also recognized by the United Nations and the international community as being the President of Haiti. So when we hear these arguments about a questionable election, I do not say history speaks to that as it relates to our diplomatic ties with Haiti.

Mr. Ranking Member, whom I refer to as "chairman" constantly, the gentleman from Michigan (Mr. CONYERS), I have a question for you: Let us just play "what if." Let us just reflect back, because I was not in the Congress when William Jefferson Clinton was the President of the United States of America.

If there was a Saturday night visit by the Clinton administration to a democratically elected leader, what kind of Congressional hearings would be taking place right now on the Hill? I just want the gentleman to share that. I want the RECORD to reflect that, because I remember being a member of the State legislature a number of hearings for less.

I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I thank the gentleman for yielding.

Well, first of all, we want to commend the subcommittee chairman, the gentleman from North Carolina (Mr. BALLENGER), for doing what he did today. I think it was very important. We will have a transcript of that record, the media was there, and it is an important beginning. But the gentlewoman from California (Ms. LEE) and myself, who are the co-chairs of the Haiti Committee, will have a resolution circulating tomorrow calling for an independent examination of this over and above the Congress.

□ 1930

The United Nations will be embarking on the same thing. And so it seems to me that the three things I wanted to add as we conclude, and this is what I think has been the import of this 3-way discussion this evening: one, the safety of the President of Haiti and his wife in the Republic of Africa; two, that we have an immediate meeting with Secretary of State Powell and Ridge about the temporary protected status of anybody that flees from Haiti and comes to our shores; and, three, that we continue the introduction of the resolution that will call for, in addition to any congressional activity in the House or the Senate, an independent examination of the circumstances of the United States in terms of this coup d'etat that has occurred in Haiti.

If there are other items to add, I would be pleased to add them to this list.

Mr. MEEK of Florida. Mr. Chairman, I just want to say that it is important that we try not in our democracy to revisit the kind of action as I understand it has taken place over the last 84 hours. While we are speaking into the record, I want to commend not only the Secretary of the U.N. for his forward progress and concern and in appointing a special envoy to deal with this situation in Haiti. But it is going to be upon this Congress to be able to respond in the way that we should. We cannot have it both ways. We cannot say, Haitians, you stay in Haiti and then on the other hand clog up assistance. We cannot say, because it is all wrapped around Haitians leaving, that is the real issue. Haitians, stay in Haiti. Deal with your own issues, but we will hold up the assistance. I say that again because that is what has happened in the past, Mr. Speaker.

I appreciate the gentleman's work as chairman of the working group as it relates to Haiti and its issues. But the gentleman from New York (Mr. MEEKS) and I celebrate representing a large Haitian American population, and I must say that it is important that we do the right thing in Haiti.

Number one, to make sure our troops are not over there for the rest of their lives. Because if we follow the Bush policy that has been followed in Iraq, we do not know when the clock will run out on that. We do not know how long our troops will be there. If you let some of us tell it, we think we are in charge in Iraq. And every day on the news it is different.

So when I look at this administration, it is a say-one-thing-and-do-another administration. And I hope that the American people are paying very close attention. If you care about Haiti or not, you have to care about the moves that we are making that are going to define the very future of our children's and grandchildren's lives based on the knee-jerk decisions that are being made on a Saturday night.

Mr. MEEKS of New York. Mr. Speaker, I want to thank the gentleman, as well as the ranking member, the gentleman from Michigan (Mr. CONYERS), when I think about the whole Haitian task force.

Number one, the record should reflect that this is the gentleman's first term in Congress, and he surely has followed right in the foot steps of his mother, Carrie Meek, who long stood fighting for the rights of Haitians and talking about the injustice that Haitians were receiving. And I think that his stepping forward on behalf of the Haitian people is clearly what he has done.

We talked in the hearing about the wisdom that the gentleman has brought to the hearing today and that he brings every Wednesday to the Congressional Black Caucus meeting because the gentleman has this interdialogue with individuals from his community, the largest Haitian community on or in our country. And what the gentleman brings is a different insight. It is an insight that unless you have that kind of interaction, everybody would not know of. And the gentleman has done it in such an articulate manner, and we appreciate it.

I mean, how the gentleman pointed out today, for example, that our policy, we had a problem talking about getting troops there to stop the common crooks from coming, but we had boats there instantly where you can see them from the shore to stop Haitians from coming here. That is why you only see 900 here. That was just very astute of the gentleman, and we thank him for bringing that forward.

Mr. CONYERS. Mr. Speaker, I would like to join the gentleman from New York (Mr. MEEKS) in that commendation to the gentleman from Florida (Mr. MEEK).

Mr. MEEK of Florida. If the gentleman from Michigan (Mr. CONYERS) could yield while I call my mother so she can watch. Both of the gentlemen are saying these wonderful things about me. Go ahead.

Mr. CONYERS. This has been very important; and, of course, it is very clear that this is the beginning of our inquiries into U.S. activities, conduct, action, in front of and behind the scenes with regard to this poor, distraught, economically strapped nation.

We have a much wider obligation than has been employed so far, and I think the Congressional Black Caucus, the Hispanic Caucus which has joined with us, the Progressive Caucus, the Pacific-Asian caucus, the Native American Caucus, we have all been working together with a number of people. The gentlewoman from Illinois (Ms. SCHAKOWSKY) is in at least one of those caucuses, but there are a number of other people that are coming in to join us because democracy is being tested by what we do and what we say.

It is very important. We met with the CARICOM leaders and its chairman, just before we met in the United Nations; and it was very obvious to them that if this could happen to Haiti, it could happen to them.

Mr. MEEKS of New York. Just on that point, because, I think it is important, on the whole western hemisphere because the first statement that we heard from President Chavez from Venezuela is indicating that Venezuela is not Haiti. Because just in April of 2003, there was an attempted coup there, again, threatening democracy; and we stood idly by. And but for the people of Venezuela who decided that they were not going to allow the coup to stand and put the president back, we were silent on that.

Our hands were kind of caught, the administration's hands I should say, because the gentleman is correct. I do not think the Congress would have acted that way, but the administration's hand was caught in a cookie jar. Here we come just a few months, we move from that, and we have the same kind of coup. There is a lot of similarities in that, whereas we seem to disregard the institution of democracy because of the dislike of who happens to be the democratically elected president. What we should be doing is looking to see how we can strengthen those institutions of democracy, how we can be helpful to strengthen those institutions as opposed to saying that the way you do that is to have a coup d'etat which gets rid of government altogether and causes mayhem.

Mr. MEEK of Florida. Let me just say this, there is a footprint of drug activity in the Caribbean. So that means that you have well-financed individuals that have guns that have now been green-lighted by this administration, that it is okay. And if I were the prime minister of any country in that area, I would be very concerned.

You would assume that the U.S. would help put a stop to this kind of thing. This is the vacation capital of the Caribbean. They are not used to worrying about coups and all these little different things. But if they watch very slowly over a 4-week period, drug dealers, known criminals, thugs going through Haiti and if you notice as they are starting to progress, they are getting body armor, helmets, fully automatic AR-15s, M-16s.

Mr. MEEKS of New York. Where do they come from?

Mr. MEEK of Florida. They say they came from the Dominican Republic. Also, there was a question about the U.S. selling arms to the Dominican Republic, some of those same arms that ended up in Haiti.

So I am not a man with conspiracy theory here. And take it from my good friend, the gentleman from New York (Mr. RANGEL), this is not the Kendrick Meek Report. This is factual. So we have a lot to be worried about. And like I am saying to Americans, what this administration is doing as it relates to putting our armed services and making the job harder, we could have had peacekeeping troops in there. We could have stopped the violence, and we could have come up with a peaceful solution.

Mr. CONYERS. Under the Special Orders that we will be taking tomorrow evening, I will be able to report to you the whereabouts of young Duvalier, who is reported today to be planning to return to Haiti. And there is a young gentleman evicted from Haiti named Constant in New York.

Mr. MEEK of Florida. He is in my district.

Mr. CONYERS. We have to watch where he is at all times. His record is bloody and long and unsavory. And so I am very glad that both of the gentleman, who have enormous Haitian constituents, are here not just because of their numbers, but because American democracy is on trial in Haiti.

Mr. MEEK of Florida. As we close, Mr. Speaker, and I want to thank the Members of the House and the Democratic leader for allowing us to have this moment to address not only Members of the House, but the American people and that we think long and hard about the decisions that the President is making. We think we should not automatically give instant credibility to Saturday-night decisions.

I am pretty sure there is a strong argument to justify the reason why we went in and we told President Aristide what we told him when we told him. I am pretty sure that there is a strong argument when we said you have to sign this letter of resignation not once, but twice, before you board the plane to save your own life. I am pretty sure there is an argument. But I will tell you as we look on the annals of history of this country and how we treat democracies, like it or not, there has to be a better way. For us to make sure that we assure the safety of those peacekeeping troops that are there, some that are Americans, some that are do-gooders at the United Nations, we need to make sure that we do not put them in harm's way.

Mr. Speaker, I pray and I hope that we do not have any harm come to any of the peacekeepers that are there. I pray and hope that the killings stop on both sides of the ball as it relates to Haitian people.

Mr. Speaker, with that I will close. I am proud to be a Member of the U.S. House of Representatives, and I hope in the future that we can change some of the mistakes that have been made in the last 84 hours.

REWRITING AMERICAN HISTORY

The SPEAKER pro tempore (Mr. CARTER). Under the Speaker's announced policy of January 7, 2003, the gentleman from Colorado (Mr. TANCREDO) is recognized for 60 minutes as the designee of the majority leader.

Mr. TANCREDO. Mr. Speaker, as I sit and listen to my colleagues discuss the events in Haiti, I cannot help but think about the fact that although they are quite concerned about the recent events and that Mr. Aristide has been ousted, it is important I think for us all to recognize that it is the people of Haiti that ousted Mr. Aristide; and whether our colleagues in the House of Representatives do not like that or not, it is really irrelevant.

He was, in fact, a socialist and rather incompetent administrator; and it is not surprising that his regime came to an end.

At any rate, let me pose a question, Mr. Speaker. Mr. Speaker, would you believe that in the textbook in a school district in New Mexico, an introduction to that textbook which is, by the way, called "500 Years of Chicano History In Pictures," states that, and remember, this is a textbook in a public school in the United States of America, specifically now in New Mexico. And this is not a question being posed. What I am going to read here is not what somebody just suggests.

□ 1945

This is what the textbook purports to be true. It said that this textbook was written "in response to the bicentennial celebration of the 1776 American Revolution." You think good, nice idea, "and it's lies." Its stated purpose is to "celebrate our resistance." Who are they talking to here? Celebrate our resistance to being colonized and absorbed by racist empire builders?

The book describes defenders of the Alamo as slave owners, land speculators and Indian killers, calls Davey Crockett a cannibal, and it said that the 1857 war on Mexico, not war with Mexico, war on Mexico was an unprovoked U.S. invasion.

Chapters include headings like Death to the Invader. This is the chapter heading: U.S. Conquest and Betrayal. Here is another chapter heading: We Are Now a U.S. Colony in Occupied America, and They Stole the Land.

Now this is a textbook. This is what has been printed. This is what has been adopted. This is what is being used in schools in New Mexico. I do not know how widespread this is. I do not know how many other schools have adopted it. I do not know whether it is on anybody's recommended reading list for children, but I do know that, as bizarre as all of this sounds, it is not unique. This is not an aberration. This kind of revisionist history, this kind of venomous descriptions of the United States is not unique.

That should concern us all, I think, and it is what I want to talk about to some extent this evening: What is happening to the teaching of our history, our culture and the heritage we call Western civilization, and why I think it is important to address this issue in this body.

There was an old chant during the 1970s, I think it was, maybe late 1960s, early 1970s. College campuses in reference to maybe Ho Chi Minh. Students would chant Ho Ho Ho, Western Civ has got to go. I remember that on my campus as a matter of fact, and it has gone by the way. It has gone. Seventy percent of all of the elite institutions of higher education in this country have dumped it from their course list and from the curriculum. They will not teach Western civilization anymore, and quite frankly, if this is a reflection of the way Western civilization is taught to students, not just in high schools but colleges, which of course it is, then I am glad they are not teaching it anymore because they are not teaching Western civilization. They are teaching a hatred for Western civilization and a hatred for everything we are as a Nation because, Mr. Speaker, we are a reflection of that civilization, a Judeo-Christian heritage about which we can be very proud, the story of which we should pass on to the children who come into our schools and the immigrants who come into this country.

Let us go through some other interesting examples of what we have found in the textbooks of America and why today at 10 o'clock across the street I and several other Members gathered to announce that we have introduced a resolution into this body. Simply put, the resolution says that children graduating from schools in this country should be able to articulate an appreciation for Western civilization. That is it. That is it. Does not mandate anything on schools. Does not demand that we change textbooks. Does not do anything. It just says that we think, as a body, that children graduating from our schools should be able to articulate an appreciation for Western civilization.

Would you think, Mr. Speaker, that that is a contentious amendment or resolution? Would you think that that is something where people would respond vitriolically and say how dare you? But they did. But they did.

The National Education Association thinks it is deplorable. By the way, there were similar press conferences held throughout the country today by State legislators or press releases they sent out saying they were introducing similar resolutions in their State legislature. We have probably, I do not know, 10 or 15 State legislatures that have agreed to take on this challenge. We have hundreds of individuals who have gone to our Web site on their own. I mean, it was amazing that even before we announced this today, we had all kinds of folks who had gone to the Web site, www.house.gov/tancredo, pulled up, and when the pop up came up, it is called Our Heritage, Our Hope. They went to that page, and they saw the resolution. They saw the resolution that the State legislature was going to introduce, and they saw a resolution they could bring to their school board, a similar resolution, asking that the board actually prepare students who would be able to articulate an appreciation for Western civilization. There is plenty of opposition to this. It is just amazing but there is.

People ask me why did I do this, why did I find it necessary to actually take this action and introduce a resolution. Well, Mr. Speaker, my colleagues know that I spend a great deal of time on the floor of this House and talking to you and other Members about immigration related issues and my concerns that our country is being divided up, it is being balkanized, that we are not encouraging assimilation, that we are encouraging this fragmentation of America by telling people who come here that they should not become part of the American experience; there is nothing really good about it; that they should keep their own languages. We should teach those languages in the school instead of English. We should encourage them to stay separate. We should encourage them actually to even keep their own political affiliation with the country they came from. We tell them they can become dual citizens. We send all kinds of messages to them that there is nothing good about America. Why would they want to attach themselves to this kind of a country?

We tell them this and we tell their children that when they come to school, and we wonder why we are having a hard time actually creating a homogenous society. We really wonder what is happening to us. This is one reason why I address this issue, because I believe that we are telling our children and the children of immigrants that there is nothing of value in Western civilization or in the United States of America.

I went to a school in my district about 2 or 3 weeks ago when we were on break. It was a high school, brand new high school, good principal, good teachers, as far as I could tell certainly, kids that had been relatively well-schooled in math maybe and reading. I do not know. I cannot tell you that I saw their CSAT scores or anything, but it seemed like a good school. Brand new, all the best accoutrements of education, and all these kids came to talk in an auditorium with me, and we had a really great kind of discussion, and then they started sending questions up to me.

One question that was posed to me was this. They said, what do you think is the most severe problem we face in this country, and I said, let me ask a question here, and then I can tell you what I think that problem is. I said how many people here in this auditorium, 150 I would say, 150 to 200, I am not sure how many, I said how many people here would say that you believe you live in the best country in the world. Simple question. There was a pause. A few hands began to go up. Maybe two dozen eventually raised their hand out of 150 to 200 people. I said, well, let me ask you about Western civilization. Do you realize you are a product of that and do you think by and large it is a good thing? Are you proud of that? Well, of course, no response to that one really. I said, well, then I can answer your question about what I think is the biggest problem we face. This is it.

Now, there were other kids in that room, Mr. Speaker, that I felt wanted to say, yes. You could tell that they were. I have been a teacher, was a teacher for years, and I have seen that look on their face. It is, I put my hand up, he may call on me, and I will be able to actually defend this proposition. That was the feeling I got that held them back, not necessarily that they did not like America, they did not think it was a good country, the best country to live in. It was, they could not defend it, they could not defend that proposition.

You wonder why. You wonder how it could be that by the time a child gets to high school that they would feel uncomfortable with saying, yeah, yeah, man, this is great, it is a country of freedom and we have got the Bill of Rights and just some things that you maybe reel off that you think are pretty good things and the reason why you live here, but they could not.

Not too long thereafter I met with a whole group of teachers. These were teachers from the Cherokee Creek schools. They were all social studies teachers. It was one of those in-service days. They were all supposed to come and hear me speak as part of their in-service. Some of them boycotted, would not come, because I was the speaker, understandable, but I would say again maybe 75 to 100 teachers.

I brought this issue up, and I told them what had happened in the other school. I said, do you believe it? Do you believe it? Again, maybe a couple of dozen, and I thought to myself, no wonder, of course. It is not a surprise then if the teachers in this room do not believe that they live in the best country in the world, why would they teach their children that? Why would they teach students that? But what they teach them is to be critical of everything.

I want to emphasize, Mr. Speaker, I do not want us to tell children that all of our history is of glory and promise and hope. Certainly that is not true. Certainly there are many things we have done wrong, but let me suggest, Mr. Speaker, there is something absolutely unique about this country that deserves to be told, a story that deserves to be told and it is this.

Of all the countries on this planet, one, just one, started on the basis of ideas and ideals back in the 1700s. Every other country came about because somebody carved it up, conquered it, drew the lines or whatever, but we started the whole concept of starting a country with an idea. And where do these ideas come from? They are the ideas of Western civilization. They are the products of literally thousands of years of human development, starting with the Greeks and the Romans.

Certain concepts are uniquely Western. No other civilization can claim them. How about the concept of the rule of law as opposed to the rule of man? Uniquely Western. It is ours. It is good. It is a good thing. We are trying our best to right now plant those seeds in far off lands and are spending treasure, both monetary and human, in pursuit of that goal. The rule of law over the rule of man, not a dictator, not Saddam or Qusay or Uday, but the rule of law. That is what we are trying to do.

It is a noble cause. The men and women who are trying to plant those seeds are being fired on every day, some losing their lives, seems like every day.

□ 2000

But it is for a noble cause, Mr. Speaker. I believe that.

But how long would I believe those things if I had been taught every single day things like this: in a textbook called "Across the Centuries," which is used for seventh grade history, and, boy, I have to put the word history in quotation marks there. That is my editorial comment. The book defines the word jihad as, "To do one's best to resist temptation and overcome evil." So now this is what children are taught the word jihad means.

When this child watches a program on television and this word is used, and it is a word used in conjunction with someone who has just blown himself or herself up, and a lot of other innocent human beings around them, this kid is supposed to think that that is what somebody is doing in order to resist temptation and overcome evil. And if we condemn jihad against the United States, then we are condemning someone who is just simply trying to overcome evil. This is what we tell our children?

In 2002, the "New Guidelines for Teaching History" in New Jersey's public schools failed to even mention America's Founding Fathers, the Pilgrims, or the Mayflower. In the Prentice Hall history textbook, used by students in Palm Beach County high schools, titled "A World Conflict," the first five pages of the World War II chapter focus entirely on topics such as gender roles in the Armed Forces, racial segregation and the war, internment camps, and women and the war effort.

This is the way we introduce World War II to the students. It is all about this stuff, and not about trying to save civilization from a dark age; not about trying to stop a psychopathic killer who would have in fact destroyed the world. No, no, World War II was what do we think about the gender roles in the Armed Forces.

We have this list and many, many others on our Web site; and again I am going to say, Mr. Speaker, that it is www.house.gov/tancredo, and one can go to "Our Heritage, Our Hope." Mr. Speaker, there are people who can help us out there. They can sign up and help us take a resolution to their school board. It is all on there, and we will give them all the help they want.

Now, here is McDougal's textbook. And, by the way, I used a textbook 30 years ago by McDougal that is completely different from this one when I taught seventh, eighth, and ninth grade civics at Drake Junior High in Arvada, Colorado.

Here is what this one says about American history. It teaches that Sitting Bull had strength of character while Custer was a fool and rode to his death. Now I am not saying Sitting Bull did not have strength of character and purpose; but, again, look at the way all these things are presented. It discusses U.S. soldiers killing Indian women and children in Sand Creek and Wounded Knee, but fails to mention the Indian killings and the kidnapping of white women and children the summer before Sand Creek.

It devotes 180 lines of text to discrimination in the United States in the late 1800s and 1900s, 180 lines of text. It notes in the context of the Nazi Holocaust that George Custer used the term "final solution." It devotes 107 lines to the racist internment of Japanese during World War II, but nothing on the Japanese rape of Nanking or the 1942 Bataan death march. Not a word. It claims that anybody who opposes unlimited immigration is influenced by racism; that they were influenced by racism, especially in the 1920s, and were anti-immigrant.

Further, it editorializes that George W. Bush's conservative administration and policies are extreme. This is a textbook. It states that the Reagan-Bush "conservative agenda" limits advances in civil rights for minorities and that the conservatives' bid to dismantle Great Society social programs could be compared to abandoning the Nation.

I am telling you, Mr. Speaker. I mean, yes, I expect that here on the floor of the House. I expect to hear that from our opponents. Understandably, this is the place where this kind of tussle goes on. I expect to see it on the editorial pages of the papers in my district. They are all pretty liberal. I expect to see it by commentators in those newspapers, in the Wall Street Journal, in the New York Times, and The Washington Post. Yes, I expect to see all of this. But in a textbook? In a history textbook?

It also states that communism had potential totalitarian underpinnings. Potential? It contrasts Chiang Kai-Shek's repressive rule in China with Mao Zedong's benevolence toward peasants in the 1940s. It fails to mention the death of about 65 million Chinese after Mao came to power in 1949.

It classes sex roles in marriages with slavery as instances of inequality. It states that sex roles in marriage and in the family foster discrimination and inequality.

The Prentice Hall textbook "America: Pathway to the Present" contains references to Ngo Dinh Diem's repression in South Vietnam, but no references to the purge by Communists in North Vietnam from 1951 to 1956, which killed about 50,000 Vietnamese.

It states that Bush's 1,088 ads attacking Dukakis created a nasty contest, alienating some voters and contributing to low voter turnout.

It discusses the introduction of Old World diseases into the New World in the Colombian Exchange, but it does not discuss American diseases brought back to Europe. In fact, a lethal strain of syphilis, probably from America, killed many Europeans in the early 1500s.

Now, all these things are factual. And I am not suggesting for a moment that we should not talk about the problems that happened when Columbus came and the clash of civilizations. Would it be, I wonder, chauvinistic here and too one-sided to suggest that in the course of world history that whenever two civilizations clash the one with the greater technology is almost always, in fact always is the victor. And in the case of the clash of civilizations here on this continent, the fact is that the greater technology, the civilization with the greater technology, was the victor.

It does not excuse all of the problems that were inherent in that time frame and in that manifest destiny that we were pursuing. It does not excuse it and should not be overlooked. But is it the only story? Is that the only way to project American history and Western Civilization? Is that the only context we can actually think of to discuss this in for students? Is there anything that has happened here worthy of note from a positive standpoint?

The same "Pathways to the Present" argues that traditional sex roles deny women full equality because it does not empower them to perform as men. It fails to mention in the brief reference it has to Thanksgiving that the Pilgrims were thanking God.

Now, there is Holt Rinehart Winston's "American Nation in the Modern Era."

And why I want to go through these, Mr. Speaker, I know it is lengthy, but I want to show the things I have pointed out were not aberrations. They were not just radical examples of this radical multiculturalist philosophy that actually permeates our system and our schools. It is the norm.

I talked yesterday to an editor at the Rocky Mountain News about this issue, and he said, well, you know, I do not know. I look at my kid's textbook and, admittedly, she is in a private school, so I am not sure it is the same thing, but I do not see a lot of this stuff. But he said, I do notice they are just not being taught American history, not any kind. Not this kind, but not any kind.

That certainly may be the case, that the problem here is there is simply a lack of American history or Western Civilization being taught all together. Whatever is the problem, whether it is this kind of revisionist history that is being taught, whether it is these kinds of skewed examples of who we are and what we are, or the fact that there is nothing at all, there is a problem. There is a problem because when we ask children, as I did, if they believed in who we are and what we are, they could not defend it. This is problematic, and it is something we should try to address.

Holt Rinehart Winston's "American Nation in the Modern Era" includes an exercise calling for students to criticize but not to defend nativists' support for immigration restrictions in the 1800s.

Again, could it be possible that some people during that period of time were concerned about things other than the race of the people coming in to the United States? Could it possibly be?

This links anybody who is opposed to immigration reform as racist and discriminating. It associates immigration restrictions with intolerance and discrimination.

I am surprised I did not get a mention in this book, but it is a little too early, I guess, for me.

It contains the theme that the only cause of violence in America, especially in the South in the Reconstruction area, were white racists. No other objection to radical reconstructionism. It devotes 1,456 lines to social protests by ethnic and other groups from the 1950s to the 1970s, but far fewer lines to U.S. involvement in World War I and II.

These things are not unique to just textbooks, by the way. At our colleges and universities there are a lot of awards that are given every year, called the Pollys, and they are for outrageous activities or behaviors or whatever on college campuses. They are as follows:

These are some of the events on college campuses: University of California at Berkeley. Student radicals broke into a Berkeley student office, stole the entire 2,000 press run of a conservative newspaper, the California Patriot, then threatened the editors with death when they filed a police report. It is believed the crime was committed by members of MeChA, a Mexican liberation group at Berkeley.

At Tufts University, hooded leftists assaulted a conservative student. The university let the attackers off with only a warning.

At San Diego State and at the University of North Carolina, campus administrators blame campus patriots and America for the terrorist attacks on September 11.

That was 2002.

The University of Oregon. Elements of the so-called Animal Liberation Movement specializes in "liberating lab animals and destroying private property through vandalism and arson" have an office at the University of Oregon in Eugene. Their newspaper, paid for by student fees, is The Insurgent. The December 8 issue, which contained an 8-page insert titled "The ALF Primer: Your Guide to Economic Sabotage and the Animal Liberation Front". It talks about arson and what else you can do to push this particular idea and agenda. A simple way to burn a vehicle is to place a sheet or blanket on top or underneath and soak it with a flammable liquid.

The university does not go after this group. They let them stay on campus.

□ 2015

The textbooks, of course, and professors at universities, things that are said about America and our involvement in Iraq, it is all absolutely incredible and absolutely one-sided. So that certainly does not help.

What one would hope is that children coming out of high schools in this country would have what is often referred to in the parlance in edu-speak as critical thinking skills. That is what we are supposed to teach children, critical thinking skills, so they are able to look at two sides of an argument and make some intelligent decision about which side is correct. But you can only have critical thinking skills if you are taught both sides of an issue, if you are shown there are two sides to these issues.

When children come out of our high schools and into these kinds of institutions, and we have literally scores of examples of things that happen and are stated on campuses all over the United States, it is no wonder that we see strange and bizarre reactions. For example, Antonin Scalia, a noted jurist speaking recently at an ivy league college almost was not allowed to speak. The students and professors protested the fact that he was allowed to speak on a college campus. They had big demonstrations outside. He is a member of the U.S. Supreme Court, a noted jurist; and we had people in our country at institutions of higher education, and I have to put that in quotes, too, saying that he could not speak because what he said they did not agree with. It did not fit the model, this radical multiculturalist model that they had been force-fed for years. It is intolerance that we are, in fact, promulgating; intolerance for any other kind of idea other than that pushed by the radical left and the cult of multiculturalists out there.

Mr. Speaker, I believe it is problematic, and I believe there are things that we can and should do about it. If nothing else, we should simply start a debate about this. I hope that our resolution today helps generate some discussion and does help generate a debate about what exactly it is we expect from the students that are in our schools and what we expect from people coming into this country.

Mr. Speaker, I had occasion to talk to a bishop, a Catholic bishop in Denver, Colorado, named Bishop Gomez. We had a breakfast meeting awhile back. During the course of the discussion which naturally revolved around the issue of immigration, and I say naturally because that seems to be the issue I find myself discussing more and more often, Bishop Gomez said something to me and the other people at the table that I thought was quite incredible. He said, Congressman, I do not know why you are worried about the Mexicans coming into this country. He said, They do not want to be Americans. That was his comment.

I said, Bishop, that is the problem, of course. That does not make me feel good. If you think I am relieved by the fact that we have people coming into the country by the millions who do not want to be Americans, combined with the fact that everywhere they go in our society we tell them they should not be, if you believed what was in the textbooks that I just quoted, why would you want to connect with this country? You would want to take the benefits of a good job and send money back home, but you would not want to connect with it emotionally or politically. You would say, no, I think I will keep my citizenship in my country of origin. And between 5 and 10 million, huge numbers of people, are claiming dual citizenship in this country, which never happened before.

There are several great books, of course, but one is called "The Clash of Civilizations" by Samuel Huntington. I found it to be quite profound and quite provocative, and I certainly recommend it. But I harken back to another book I read a long time ago. It is called "The Disuniting of America," and the author was a guy by the name of James Schlesinger, Jr. Mr. Schlesinger is not known as a conservative pundit or author, and he is not. He is a liberal. But the book was, I thought, quite compelling. Again, I recommend it to anyone. It is a great book, "The Disuniting of America." He talks in ways far more articulate than I, and he talks about this phenomenon. He talks about dividing this country and what we are doing to ourselves and what is happening to us. Why is it so hard for us to think about America and Western Civilization as a place and a civilization respectively of value? Is it because we are afraid to be patriots or to teach children to be patriots?

There is a fascinating article by Donald Kagan in "The Intercollegiate Review" in the spring 2002 called "Terrorism and the Intellectuals." He says, "Free countries like our own have had even more powerful claim on the patriotism of their citizens than do others, and our country has an even greater need of it than most. Every country requires a high degree of cooperation and unity among its citizens if it is to achieve the internal harmony that every good citizen requires. Unity and cooperation must rest on something shared and valued in common.

"Most countries have relied upon the common ancestry and traditions of their people as the basis of their unity, but the United States of America can rely on no such commonality. We are an enormously diverse and varied people, almost all immigrants or the descendants of immigrants. We come from every country on the face of the Earth. Our forebears spoke, and many of us still speak, many different languages. And all the races and religions of the world are to be found among us. The great strengths provided by this diversity are matched by great dangers. We are always vulnerable to divisions among us that can be exploited, to set one group against another and thus to destroy the unity that enables us to flourish.

"We live in a time when civic devotion has been undermined and national unity is under attack. The individualism that is so crucial a part of our tradition is often used to destroy civic responsibility. The idea of a common American culture, enriched by the diverse elements that compose it but available equally to all, is under assault. Attempts are made to replace our common culture with narrower and politically divisive programs that are certain to set one group of Americans against another."

Mr. Speaker, it is called the textbooks of American public education.

He continues, "The answer to these problems and our only hope for the future must lie in education, which philosophers have rightly put at the center of the propagation of justice and the good society. We rightly look to education to solve the pressing current problems of our economic and technological competition with other nations, but we must not neglect the inescapable political and ethical effects of education. We in the academic community have too often engaged in miseducation. If we encourage separatism, we will get separatism and the terrible conflicts in a society that it brings. If we encourage rampant individualism to trample on the need for a common citizenship, if we ignore civic education, the forging of a single people, the building up of a legitimate patriotism, then we will find ourselves a Nation of selfish individuals heedless of the needs of others. We will have the war of all against all, and we will have no common defense.

"The civic sense America needs can come only from a common educational effort. In telling the story of the American political experience, we must insist on the honest search for truth. We must permit no comfortable self-deception or evasion, no seeking of scapegoats; but the story of this country's vision of a free, democratic republic and of its struggle to achieve it need not fear the most thorough examination. Our country's story can proudly stand in comparison to that of any other land, and that story provides the basis for a civic devotion we so badly need.

"In spite of the shock caused by the attacks on New York and Washington and the discovery of anthrax in the mail, I am not sure we really understand how serious is the challenge that now faces us. We are only at the beginning of a long and deadly war that will inflict much loss and pain, one that will require sacrifice and steady determination during the very dark hours to come. We must be powerfully armed, morally as well as materially, if we are to do what must be done. That will take courage and unity, and these must rest on a justified and informed patriotism to sustain us through the worst times.

"A verse by Edna St. Vincent Millay provides a clear answer to the question of why Americans should love their country:

Not for the flag
Of any land because myself was born there
Will I give up my life.
But will I love that land where man is free,
And that will I defend.

"Ours is such a land.

"Up to now, too many American intellectuals and too many faculty members of our greater universities have been part of the country's problem. If we are to overcome the dangers that face us, we will need them to become part of the solution. My hope is that the natural, admirable, vitally necessary patriotism that is now gaining strength and expression among ordinary people of our land will help to educate those among us who feel intellectually superior to them. We will need that patriotism in the long, dangerous, and difficult struggle that lies before us."

Certainly I cannot say it better than Mr. Kagan. Again, that was Donald Kagan from "The Intercollegiate Review" in the spring of 2002, "Terrorism and the Intellectuals."

My little attempt, Mr. Speaker, to do what Mr. Kagan is suggesting is the resolution I mentioned earlier today. Again, it simply says that all children graduating from schools in this country should be able to articulate an appreciation for Western Civilization. It will be interesting to see and hear the debate. It will be interesting to see and hear people say, no, they should not.

IRAN

The SPEAKER pro tempore (Mr. CARTER). Under the Speaker's announced policy of January 7, 2003, the gentleman from New Jersey (Mr. ANDREWS) is recognized for 60 minutes.

Mr. ANDREWS. Mr. Speaker, I must begin by thanking the staff of the House of Representatives for enduring these long nights so we have a chance to speak our minds about the important subjects of the day. We certainly appreciate the Speaker and the staff who stay here into the wee hours.

I also extend my appreciation to the gentleman from Colorado (Mr. TANCREDO) for the intense causes in which he believes and for his patriotism. I must say, one of the reasons I love my country so much is we have the academic freedom that decisions about what we teach and how we teach it are made by educators and teachers and not by those of us in this Chamber, and I hope that is always the case.

Mr. Speaker, I want to talk about a challenge to the values that I just made reference to, probably the most important challenge to these values that we have faced in many generations in this country.

□ 2030

In the 1970s a young man named Ghollam Nikbin came to the United States from Iran. He came here to study at an American university. While he was here, the fundamentalist revolution in Iran took place and in 1979 his country changed dramatically and he chose not to return to Iran. At the time he came to the United States he was a person who practiced the Islamic faith. While he was in the United States, he met an American citizen who was a member of the Mormon faith and he married this American citizen and he converted. Mr. Nikbin converted to the Mormon faith himself. That marriage subsequently ended in divorce and in 1991, Mr. Nikbin returned to his native Iran to live his life. While there, he met another woman and they decided to get married and he had a wedding. During his wedding, members of the police force in Iran raided the wedding because the men and women at the wedding were engaged in dancing. Men were dancing with women. For this hideous offense, Mr. Nikbin was publicly lashed 40 times with a whip to punish him for his transgression against the prevailing culture.

Things grew worse for Mr. Nikbin in Iran. He was a suspicious person because he had converted to the Mormon faith and then attempted to convert back to his native Islamic faith. So in 1995 he tried to leave the country. As he was at the airport, he was intercepted by Iranian authorities who refused to let him leave the country. He was beaten with an electric cable and he was hung upside down by his ankles for extended periods of time. Today he is 56 years old. He has returned to the United States. His family says he was able to return to the United States because they were able to bribe the appropriate officials in Iran to get him released from the country. His crime was that he converted to a faith other than radical Islam.

A woman named Zahara Kazemi, a woman of both Iranian and Canadian descent, a 54-year-old woman, last June 23 took an assignment. She was a photo journalist. She took an assignment to go to Iran to do her work as a photo journalist. On the 23rd of June of last year, she was taking photographs of a student demonstration outside of the Evin prison in Iran. She was apprehended by authorities for the hideous crime of taking a photograph of a demonstration. After 77 hours of interrogation in an Iranian prison, she took sick. On the 11th of July of last year, 18 days after she arrived in Iran, she died in an Iranian hospital while in the custody of the Iranian authorities. At first, their report is that she had suffered a stroke and died of natural causes. Many in our sister nation of Canada expressed outrage as to the conditions around Ms. Kazemi's death and the Canadian government was persistent and, finally, 5 days after she died, authorities of the Iranian government indicated that it was not a stroke at all, that she had died from beatings that led to a cerebral hemorrhage, a 54-year-old woman beaten to death in an Iranian prison because she dared to take photographs of a peaceful demonstration.

What kind of monstrous spirit would give rise to these atrocities? It is a spirit we have seen before. It is the spirit, the horrible spirit, the horrible poisonous spirit that led 6 million Jews to the gas chambers during the Holocaust. It is the horrifying spirit that sees people strap C4 to their waists and walk into hotels and onto buses and near schools in the Middle East every day. It is the awful animus that led to the bombings in Riyadh, in Ankara within the last year. The victims are of all faiths, Christian, Jew, Muslim, Buddhist, agnostic. They are of all races and all nationalities. What these horrific acts have in common is they are rooted in the poisonous well of an intolerant hatred of anyone who is not like those who practice that intolerant hatred.

This poisonous attitude is contrary to everything that we are as Americans. It is against inclusion of people of other races and cultures. It is an attitude that despises the equal treatment of men and women under the law. It is an attitude that looks at other faiths not as an opportunity to learn how other people might live but as a threat to one's own twisted faith. By no means is this poisonous attitude representative of the Islamic faith. I believe the Islamic faith is a faith of peace, of humanity, of inclusion. By no means is this twisted attitude wholly representative of the Arab culture or the Arab ethnicity. I believe that the vast majority of men and women of Arab descent love peace, respect others and wish that their children would grow up in a world where others share those values. But make no mistake about it, the poisonous well from which these acts spring is an attitude that identifies everything Western, everything modern, everything progressive, everything that America loves and everything that Americans are. It is an attitude that identifies all those things as a threat to be detested, defeated and destroyed. It is an attitude that we saw in the rubble of the World Trade Center on September 11 of 2001. It is an attitude that literally blew a hole in the Pentagon. It is an attitude that led dozens of brave Americans to their death in a field in Shanksville, Pennsylvania.

Many of us believe that September 11, 2001, was not an isolated criminal act. It was an act of war that shocked Americans into a realization that we are in the midst of a great global struggle between those who love and tolerate diversity and those who deplore it and try to destroy it. So the reason we should care about the stories I told you about Ghollam Nikbin, Zahara Kazemi, the stories that I could have told about hundreds of Iranian students who are in Iranian prisons tonight, the reason we should care is that the hateful attitude from which the attacks on them sprung is an attitude that targets us next, an attitude that seeks to destroy us and our way of life.

By no means is it fair or accurate to say that such an attitude is common or characteristic of the Iranian people, by no means is it fair or accurate to say that it is characteristic of the history of their nation, and by no means is it accurate to say that this hatred will mar and define the future of the people of Iran. I aspire to a future where the people of the United States and the people of Iran are partners in peace and freedom, where we celebrate each other's differences and respect each other's values. But that is not the case today.

Mr. Speaker, I would hope that we in this House and we in this country could focus on the very grave and real threat posed to the peace that we enjoy tonight by the presence of the terrorist incubator in Iran. When we consider what our policy should be toward Iran, we should not think about September 11 of 2001 because there frankly is no evidence that I have seen that would suggest that the Iranian government was in any way a sponsor of the atrocious attacks on our country on September 11. In fact, the evidence is rather replete with examples that Osama bin Laden and his al Qaeda organization have been at odds with the radical fundamentalist Iranian leadership.

But the question is not who allied to attack us on September 11. The issue is who wishes to attack us in the future, where the threats exist for our future. To understand why we want to prevent the next 9/11, why we want to limit the next attack on this country so it does not succeed and so we can defeat such an attack, we need to understand where the first 9/11 came from. In order for terrorists to succeed, they need personnel, they need leadership, they need financial and logistical support, and their leaders need sanctuary. Their leaders need a place where they can plan, plot and eventually execute attacks against the people of the United States of America. September 11 happened because Osama bin Laden and his al Qaeda organization had all four of those elements to attack us. They had the personnel, the 19 twisted individuals who hated us more than they loved life to the point that they were able to turn civilian airliners into weapons of mass destruction. They had the leadership, the odious cadre of dark men who surround Osama bin Laden, who conceived of such a horrific plot. They had the finances and the logistics, passing through international financial organizations, in many cases laundered through Saudi Arabia, laundered through other institutions, many of which to this day refuse to disclose their banking records to us. The terrorists were able to gather the logistics they needed to place the hijackers in America, buy their plane tickets, acquire their training, keep their cover and let them prepare to do their horrible deeds.

And, finally, and I think crucially, the September 11 attackers flourished in the terrorist sanctuary of Afghanistan. At the time Afghanistan was run by the Taliban regime, a group that not only tolerated the presence of al Qaeda but actively facilitated the presence of al Qaeda. I think the argument is rather clear. Without a sanctuary in Afghanistan, there would have been no place for Osama bin Laden to plot this attack. Without a place to plot this attack and gather his resources, there would not have been an opportunity to carry out the attack. Without the opportunity to carry out the attack, there certainly would not have been the carnage and pain this country felt and still feels emanating from September 11.

What is the lesson of September 11? There are two lessons. The first is if you give terrorists sanctuary, they will exploit that sanctuary and, like a snake that is coiled in the corner, they will wait till precisely the right moment to strike. And the second lesson of September 11 is if you wait for the snake to strike, it always will. If our strategy in the face of this global struggle is to wait and see if terrorists who enjoy sanctuary will attack us, I do not think, Mr. Speaker, that is a question. I think history is conclusive on this point. If you wait for terrorists to attack you, they will. This is the context in which we must understand what is happening in Iran today and why it is important to the United States of America to rethink the way we approach this problem.

Iran is a place where terrorist organizations who disrupt the Palestinian-Israeli negotiations find refuge, find weaponry, find cash. It is a place where admittedly significant al Qaeda elements are present tonight. There is an argument as to exactly what they are doing. The Iranian authorities would tell us that they are in the custody of the Iranian government. Some would suggest that the Iranian government are using these al Qaeda leaders as pawns to try to facilitate the release of terrorists held by the Israelis and other law-abiding nations of the world. But irrespective of the purpose for which the Iranian government holds al Qaeda terrorists tonight, the fact is they are present in Iran tonight.

□ 2045

They found Iran to be a place that was a willing sanctuary for their activities. There can be no good inured to America's benefit from that sanctuary continuing.

What do terrorists need? They need leadership. They need people who are willing to conceive of these terrible plans that spring from this awful wellspring of intolerance and hatred. They need personnel. They need to recruit young men and young women and, in some cases, children who are willing to put their own lives at stake to manifest that hatred by killing thousands of others. They need money and logistics to carry out their attack. They need weaponry, and they need sanctuary. I think it is indisputable that Iran is such a sanctuary. It is indisputable that if tonight the CIA, the National Security Agency, other U.S. intelligence operatives had information that there were terrorists at loose in Iran and they asked for the cooperation of the Iranian government, I think it is indisputable that at best, at best, we would get noninterference; at worst we would get active resistance.

Mr. Speaker, if those same terrorists were loose in Jordan, the Jordanian government would help us. If those terrorists were loose in Kuwait, the Kuwaiti government would help us. If they were loose in Israel, the Israeli government would not need our help. They would just find them and take care of the problem. If they were loose in the countries of our European allies, I am quite confident that we would have the assistance of those allies, in South America, in the Philippines. Iran is a place where terrorists will find the medium in which their peculiar form of bacteria need to grow.

What logistics might Iran supply to a terrorist who wants to attack the United States of America? Today for every 100 containers that enter the ports of the United States in these huge containers we see out by the ports, for every 100 of those containers that enter the United States, two of them were inspected, 98 were not. It is commonly known that one of the ways that we are at risk is that as the huge influx of trade comes and goes from our country in container ships, that the planting of a small nuclear weapon on a container ship could cause catastrophic results in this country that would dwarf the pain of September 11.

Where might terrorists find such a nuclear bomb? Sadly, there are a number of places. One of those places is from hungry former Soviet scientists who were living relatively well under the old regime in the USSR and then found themselves driving cabs and waiting on tables and very hungry and very anxious in the years that follow. It is one of the great bipartisan failures of this country for which we all should take responsibility, myself included, that we have not been sufficiently vigilant since the waning days of the Soviet Empire in identifying, corralling, and destroying weapons of mass destruction that were held by the Soviet Union. There are too many of them in too many places. They are too cheap and too portable. We owe thanks to the great work of former Senator Nunn and present Senator LUGAR for giving us the legal authority to solve this problem. We are sadly negligent in not using that legal authority to its greatest extent.

Where else might a terrorist find a small nuclear bomb that could be transported in a container ship to the United States? Mr. Speaker, if we would have asked the Iranian government that question 2 years ago, they would have said not here; we are not in the business of trying to make nuclear bombs, not us. For years, for 23 years, since the installation of the present regime in Tehran, the official party line was that the Iranian government was not interested in the manufacture of a nuclear weapon.

In December of 2002, that all changed. Iranian dissidents who were fortunate to escape the country began talking to intelligence leaders around the world, and they talked with specificity. They talked about centrifuges, fissile materials. They talked about the enrichment of uranium. They talked about a program of plutonium separation that could lead to the manufacture of a nuclear bomb. And enough of them talked to enough people, and enough enlightened people paid attention, that in December of 2002, while our country was fixated upon the very grave question of what to do about Saddam Hussein in Iraq, while we were grappling with many other problems in our own country, in December of 2002, the government of Iran acknowledged that reports that it was building facilities capable of producing the fissile materials that would lead to a nuclear weapon were true. The Iranian government admitted this. After 23 years of deception, the Iranian government admitted that facilities at Iraq and Natanz in Iran were, in fact, facilities which were capable of producing the fissile materials necessary to make a nuclear bomb.

On February 21 of last year, 2003, the leader of the International Atomic Energy Agency, Mr. ElBaradei, visited Iran after extreme international pressure following the Iranian disclosure. On June 6 of 2003, Mr. ElBaradei issued a report saying that the facilities that I mentioned, in particular the Natanz facility, was an advanced uranium enrichment facility capable of performing the steps necessary and essential to the creation of a nuclear bomb. On September 12 of 2003, the International Atomic Energy Agency issued an ultimatum to the Iranians which said by October 31 of last year, Iranians were to prove to the world that they were not working on building nuclear bombs. The clock ticked. The world was not very specific as to what we would do if the Iranians failed to provide that proof, reminiscent of how the world was similarly negligent in dealing with Saddam Hussein for 12 long years.

Finally, on October 21 of 2003, the Iranians invited representatives of the French, German, and British governments to Tehran. They began to negotiate and they worked out a joint communique with the governments of France and Germany and the United Kingdom, which said that the Iranians would permit full inspections, they would suspend their uranium enrichment program, that they would sign international agreements that civilized nations follow with respect to the production of nuclear weapons, and that essentially they would stop trying to build a nuclear weapon. The world reacted with cautious optimism.

The Iranians handed over files and files of documents that described what they had been doing over the course of more than 2 decades in the past. Those documents showed that the Iranians had engaged in a secretive uranium enrichment program over at least a 19-year period for which there could be no plausible explanation other than it was leading to the production of a nuclear bomb. The world was divided as to what to do about this, and the consensus on the International Atomic Energy Agency was that we should criticize the Iranians for what they had done and lied about in the past and then warn them not to do it again. Warnings like the ones we gave to the Taliban repeatedly throughout the 1990s not to cooperate with Osama bin Laden, warnings like we gave to Saddam Hussein repeatedly throughout the 1990s that he was to disengage his weapons programs and to leave his neighbors alone. Warnings.

The warnings have not had the intended effect. Two weeks ago, the latest report from the International Atomic Energy Agency released on February 24 of 2004 found some curious evidence, and that is that the Iranians had agreed to stop their program of uranium enrichment, which is one path to build a nuclear bomb; but another path to build a nuclear bomb is called plutonium separation. Obviously, the Iranians who signed this agreement got very good legal advice because they learned how to define their way out of the problem because the Iranians did not breach apparently in the last few months their responsibility not to carry out uranium enrichment programs, but they did evidently step up a program that is involved in the separation of plutonium, yet another path to reach the same horrible result. Mr. ElBaradei said Iran is moving in the right direction with respect to this weapons program, that there is reason for optimism, that there are moderate influences beginning to influence the Iranian government. Well, can we afford to take the chance that he is wrong?

International experts suspected for 2 decades that Iran was pursuing the development of a nuclear bomb, but they never knew for sure; and I know that the annals of intelligence estimates are filled with conclusions that the best judgment was that Iran was not marching toward the creation of a nuclear bomb. Those assessments were wrong. If this new set of assessments is wrong, we will find out to our peril what the consequences of that error are.

Is the present leadership of Iran capable of placing a small nuclear bomb on a cargo ship in a container and floating it into the harbor of a major American city? Some would say, no, they are not capable. It would not be in their interest to do so. There would be massive retaliation against them by the United States. Others would say they are imminently capable of such atrocities. The family of Zahara Kazemi I would assume would agree with that proposition. Mr. Ghollam Nikbin I assume would agree with that proposition. Those who sit tonight in Iranian prisons and those who have been executed in Iranian prisons in recent days and weeks, if they were alive, would agree with that proposition.

Should we wait and see? Should it be our policy to take an educated guess and find out? Many intelligence analysts took an educated guess about the Taliban in Afghanistan 10 years ago, 5 years ago, 3 years ago, and here is what their assessment was: the Taliban are terrible people. Osama bin Laden is an awful force in the world. He was behind the bombing of the World Trade Center in 1993. He was behind the attack of the USS *Cole* in the year 2000. He was involved in the Khobar Towers bombing. Something needs to be done. But the assessment about the Taliban's role in this was that it was ludicrous to think that the Taliban government was a threat to the United States.

□ 2100

It is certainly not an imminent threat to the United States. A government that could barely manage its own affairs, a government that was not a threat to its own neighbors militarily, was certainly not a threat to the United States of America.

There would have been those who would stand on this floor 3 years ago and argue passionately that for us to aggressively pursue a policy of regime change in Afghanistan would be a gross overreaction. Why should we worry about a regime as weak as that one? On September 11, 2001, we got our answer. Regimes that harbor terrorists, regimes that have the capability of arming terrorists with nuclear, biological or chemical weapons, regimes that finance and facilitate terrorism, are a threat to the people of the United States of America. These regimes should not be negotiated with, they should not be heeded, they should not be abided. They should be replaced.

Which American tonight would not agree that we would have prospered from regime change in Afghanistan 3 years ago? There is lots of dispute tonight as to whether we are prospering from regime change in Baghdad tonight. I certainly think we are. I think it is one of the reasons that Mu'ammar Qadhafi voluntarily surrendered his nuclear weapons, so he will not wind up living in a spider hole at the end of this year.

I think it is one of the reasons that President Assad in Syria for the first time in his tenure as president is furtively working behind the scenes to open negotiations with the Israelis, so that maybe some day he will expel Hamas and Hizbollah from his countries. I think it is one of the reasons why the Saudi Arabians, after years of culpability in terrorism, years of a "deal with the devil" in which they looked the other way when terrorists operated within their country, are now more actively cooperating in the crackdown on those terrorists. And I think it is one of the reasons why the Iranians in December of 2002, on the verge of the United States action against Iraq, decided to come clean about 23 years of lying about the development of a nuclear weapon.

Regime change in Iran should be the policy of the United States of America; not negotiation, not cooperation, regime change. Regime change does not mean military action. Military action is the final step. Military action is the last, and, if necessary, essential step, if necessary, to regime change.

Far more effective to the pursuit of this goal are the diplomatic, economic and moral assets of the United States of America. I am not calling for the use of military force against Iran; I am calling for the concerted, coordinated use of this country's diplomatic, economic force to achieve a regime change in Tehran. I believe it is not only in the interests of human rights, of persecuted citizens of that country, it is in the interests of the national security of the United States of America.

What does regime change mean in Iran? Who is the regime? The answer to this question is not self-evident. Iran is a schizophrenic state. On the surface, it is conducting what appears to be a parliamentary government with what appear to be reasonably free elections with what appears to be something resembling democracy.

These appearances are lethally deceptive. The President of Iran got 77 percent of the vote in the popular election, but I think realistically he has zero percent of the power in that country. Instead, a council of elders, 12 men, 12, have effective control over the military, over the economic institutions of that country, over the meaningful ebb and flow of life in Iran. Even though those 12 have such control, they are wary, they are reluctant to even let the appearance of that control stray too far.

In the last month or so in Iran there were elections scheduled for the national legislative body of that country, and most outside analysts saw those elections as a struggle between the so-called more moderate liberalizing forces of the country and the more conservative cultural forces of that country. 3,600 candidates of the moderate persuasion were removed from the ballot by the council of elders. Twelve people, none of whom were elected, each of whom was appointed through the religious oligarchy of Iran, 12 people used their power to remove 3,600 people from the ballot. 1,000 or so were restored after huge public protests.

But I believe that the only conclusion one can draw from this is that the feeble images of democracy in Iran are only a deceptive image, and not a meaningful reality for that country.

These are foreboding and difficult thoughts, but there is great reason to be optimistic that the regime change that would benefit America is very much on the minds of young men and women, and older men and women, who live under the oppressive yoke of the medieval government of Iran.

So many Iranian Americans are engaged in conversations with their brothers and sisters and mothers and fathers back home. Iranian Americans make a magnificent contribution to this country every day, in our hospitals, in our universities, in our corporations, in our governments, in our military, and these loyal and patriotic Americans, who have had a taste of freedom, a taste of what it means to be respected for your religious differences and not reviled, they have spread the word of this intoxicating freedom to their loved ones back in Iran.

Even though Iran is a place where you can be whipped for dancing at a wedding, even though it is a place where you can be beaten to death in prison for taking a photograph of a peaceful demonstration, it is a place where the rulers still cannot stop the flow of technology. The Internet, the fax machine, the cellular phone, these are the most powerful weapons against tyranny in the history of mankind. And even in a place like Iran, the leaders cannot make themselves impervious to the rush of truth that comes into their country in greater torrents with each passing day.

I think that people in Iran are looking for a signal from the United States of America. They are not looking for weakness or ambiguity or vacillation.

We are students of our own history, and we know that at the time the colonies rebelled against the British, there were many naysayers in America. There were many who said that this was a foolish experiment; that it was reckless for people to pledge their lives and their fortunes and their sacred honor to try to do something better. It was suicidal, it was crazy.

Some were active opponents of the revolution. Others, and these others may have been more dangerous, sat on the fence. They were not sure what signal they should send. They were not sure whether they were ready to fight for their freedom or not.

The United States has sent a powerful signal I think to the world by saying that we are willing to take on, with our allies, the difficult work of introducing that sacred gift of freedom to the people of Iraq. We should not be ambiguous in offering that same gift to the people of Iran.

We should not, we should not, be engaged in any overt military acts, unless intelligence would warrant action to the contrary, specific intelligence. I repeat, I am not calling for a policy of military engagement against the Iranian government. But I am absolutely calling for an expression as clear as a bell that the freedom that we enjoy here, the freedom that we aspire to see the people of Iraq enjoy, is the freedom that we wish to see the people of Iran enjoy, and we will not be fooled or deceived by the false front of a faux democratic government. We will not relent in our opposition to that government's effort to build a nuclear bomb. We will not back down in the face of any international criticism as to the purity and import of this evil.

It would be horribly wrong and horribly prejudicial to leave anyone with the impression that any significant portion of the 1 billion Muslims in this world are dedicated to the eradication of us and our way of life. They are not. It would be horribly wrong and horribly false to leave anyone with the impression that people of the Arab culture and descent or the Persian culture and descent are dedicated to the destruction of our way of life. They are most emphatically not.

I believe that the vast majority of people of the Islamic faith, of the Arab and Persian ethnicities, wish to live in freedom and to celebrate diversity and to join the future, rather than wallowing in the past.

But it is irrefutable that there is a force present in the world, a small but malignant force present in the world, that wishes to do us grave harm, that wishes to destroy our way of life and destroy the chance to spread our way of life to those in all corners of the world who would wish to enjoy it, and that force calls itself radical Islam.

It is a perversion of the Islamic faith. It is a hijacking of that faith of peace. But it is what those who practice this poisonous attitude call themselves. And where they find sanctuary and where they find money and where they find weaponry and where they find personnel and where they find leadership, these are the places that will incubate the next September 11.

There are really two views about terrorism in America, and they are not liberal and conservative, or Republican and Democrat, or military and diplomatic. The two views are these:

Some people view terrorism as a series of essentially unrelated crimes; horrible crimes, but crimes that spring from independent criminals. With the exception of the link between the USS *Cole* bombing and the first World Trade Center and the second one, all of which can be attributed to al Qaeda, proponents of this view would argue that we need to react to each one of these isolated incidents by prosecuting those who committed the offense, shoring up our defenses so it cannot happen again.

The other view of terrorism, which I hold and I believe that history teaches us is the correct view, is that these are not a series of isolated incidents; that we are engaged in a struggle between those who would destroy our way of life and those who would stand by us and protect our way of life.

□ 2115

The most horrific example of that struggle was the one that he experienced in September of 2001. Shame on us if we do not learn from that example. If we draw the lesson that September 11 was about one terrorist organization operating out of one country that on one occasion was able to succeed in a massive terrorist attack against this country, we are misreading history to our great peril.

If instead we understand what happened then differently, if instead we say that the lesson that we learn is that when you give terrorists leadership and personnel and money and weaponry and sanctuary, they will attack. It is not in our interest to make lists of countries that we want to attack. It diminishes our strength. It lessens our standing in the world, and we should not do it. But it is most emphatically in our interest to categorize and understand where the next sanctuary might be.

Everyone in this Chamber wishes that he or she had the foresight to know that Afghanistan was such a sanctuary 3 years ago. We could have avoided a calamity of unspeakable proportions in this country. The issue tonight, Mr. Speaker, is where is the next sanctuary.

I believe that the heroic actions accomplished by American troops and allied troops in Iraq has gone a long way toward removing Iraq as such a sanctuary. I am certain that the heroic efforts of our troops in Afghanistan have essentially removed Afghanistan as such a potential sanctuary.

Tonight our attention should very much be focused on Iran as such a sanctuary. It is a state that is capable of imprisoning and beating innocent people for dancing and taking photographs. It is a state that for 23 years lied about its development of nuclear bombs. It is a state that is either trying to put a good-faith effort forward to stop its weapons program or trying to put the best face on an effort that really is not taking place as the weapons program continues.

The lesson of September 11 is do not take chances on estimates. Act and make sure others cannot act against you.

I believe that this country should engage in three steps immediately. First, we should unambiguously announce that the policy of the United States of America is to encourage regime change in Iran, by which I mean the Council of Elders that runs the country; and by which I mean the replacement of that Council of Elders with a truly representative group of people chosen by the Iranian people.

The second thing we should do is fully enforce the Iran Sanctions Act passed by this Congress a few years ago. We should inventory every trade, aid, economic and regulatory tool at our disposal and use those tools. We should broadcast freedom into Iran more aggressively. We should break down the information barriers and tell young Iranians that we will be on their side if they rise up and fight for freedom. We should encourage the patriotic, law abiding citizens of this country who are of Iranian descent to become actively engaged in encouraging their brothers and sisters in their native land to make the regime change that will benefit them and us.

The third step is that we should seek international cooperation on every level for this effort. It will not be easy. There will be those who will say this is yet another American overreaction, that this is a further policy of American unilateralism. We should never be unilateral. We should always seek the cooperation of allies.

We should also understand the attacks that are launched by terrorists will be unilateral. They will have one target. They will start with the Israelis. They always do. But they will eventually get to the United States of America. We should ask for and actively seek the cooperation of our European and Asian friends in meeting these efforts. Frankly, the actions of the International Atomic Energy Agency have been very helpful in this regard. We should continue those efforts, but we should not make the mistake of assuming that their security risk here is the same as our security risk.

When there is a demonstration sponsored by the medieval elements in a country like Iran, it is not the German flag that they burn. They do not shout death to Germany. They do not destroy likenesses of the Eiffel Tower or Big Ben. They burn the American flag. They smash likenesses of the American Capitol, and they clearly let us know that we are the ones who are in their sights. So be it.

If we understand that we are the targets, then we must understand we have a special responsibility to act. I believe that this is a program for peace. I think the best way to achieve peace is to show those who would disrupt peace that you will not tolerate it. It is peace through strength, and after we have been lied to for 23 years about the creation of a nuclear bomb, a nuclear bomb which could be floated into the harbors of this country and used as a weapon of awful destruction against the people of America, after we have seen the torture against innocent people that takes place in Iran every day and is taking place tonight, I think the stakes are clear. If we are true to our conviction of peace through strength, we will make regime change the policy of the United States of America. Not through violence, not through attack, not through aggression, not through war. We should always reserve the right to act in our defense. But we should always understand that the best way to project our power is through our freedom, our economic might, our diplomatic credibility which sadly needs to be rebuilt in many ways.

It is my objective as a Member of the United States Congress that I will never again have another day like September 12, 2001, when I came to this building not sure whether it was safe to be in, after a sleepless night, and asked myself what I had failed to do to prevent the mayhem that had occurred in my country the day before. I asked myself whether any of the $3 trillion of the taxpayers' money I had voted to spend on intelligence and defense of this country had done us any good the previous day. I never want to live another September 12. I never again want to have to think what we could have done to learn the lessons of terrorism and stop another terrorist attack.

If we take decisive action and, among other things, if we pursue the policy of regime change in Iran, I believe that the likelihood of having another September 12, 2001, will diminish; and more importantly, the likelihood of a catastrophic repeat of September 11, 2001, using a nuclear weapon will diminish greatly.

We owe our country nothing less. We owe the decent people of Iran nothing less; and we owe it to our sense of history to get this very important job done.

Mr. Speaker, I would like to thank Mr. Paul Bauer of my staff who was very instrumental in getting the research done for this effort. And, again, I would like to thank the staff of the House of Representatives for being with us so I would have this opportunity to speak.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. JONES of Ohio (at the request of Ms. PELOSI) for March 2 on account of primary election in the district.

Mr. ORTIZ (at the request of Ms. PELOSI) for today on account of official business.

Mr. REYES (at the request of Ms. PELOSI) for today on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. ROTHMAN, for 5 minutes, today.

Mr. GREEN of Texas, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mrs. MALONEY, for 5 minutes, today.

Mr. LYNCH, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Ms. CORRINE BROWN of Florida, for 5 minutes, today.

(The following Members (at the request of Mr. GUTKNECHT) to revise and extend their remarks and include extraneous material:)

Mr. MARIO DIAZ-BALART of Florida, for 5 minutes, today.

Mr. BEREUTER, for 5 minutes, March 10.

Mr. BURGESS, for 5 minutes, today.

Mr. CAMP, for 5 minutes, March 10.

Mr. FOLEY, for 5 minutes, today.

Mr. OSBORNE, for 5 minutes, March 10.

Mr. BILIRAKIS, for 5 minutes, today and March 4.

Ms. HARRIS, for 5 minutes, today.

Mr. LEWIS of Kentucky, for 5 minutes, today and March 4.

Mr. HENSARLING, for 5 minutes, today.

Mr. MCINNIS, for 5 minutes, March 10.

Mr. PETERSON of Pennsylvania, for 5 minutes, March 10.

Mr. OTTER, for 5 minutes, March 10.

Mr. WELDON of Pennsylvania, for 5 minutes, today.

Mr. GILCHREST, for 5 minutes, today.

ADJOURNMENT

Mr. ANDREWS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 25 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, March 4, 2004, at 11:30 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and U.S. dollars utilized for speaker-authorized official travel during the fourth quarter of 2003 and the first quarter of 2004, pursuant to Public Law 95–384 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. BENJAMIN FALLON, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 13 AND JAN. 15, 2004

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Benjamin Fallon	1/3	1/15	Dominican Republic		317.65		1,448.90		33.00		1,799.55
Committee total					317.65		1,448.90		33.00		1,799.55

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BENJAMIN FALLON, Feb. 11, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO BRAZIL, URUGUAY, ARGENTINA AND CHILE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 3 AND JAN. 13, 2004

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Speaker Hastert	1/3	1/6	Brazil		902.00		(3)				
Hon. Pastor	1/3	1/6	Brazil		902.00		(3)				
Hon. Shaw	1/3	1/6	Brazil		902.00		(3)				
Hon. Ballenger	1/3	1/6	Brazil		902.00		(3)				
Hon. Goss	1/3	1/6	Brazil		902.00		(3)				
Hon. Ros-Lehtinen	1/3	1/6	Brazil		902.00		(3)				
Hon. Doolittle	1/3	1/6	Brazil		902.00		(3)				
Hon. Norwood	1/3	1/6	Brazil		902.00		(3)				
Hon. Granger	1/3	1/6	Brazil		902.00		(3)				
Hon. Hart	1/3	1/6	Brazil		902.00		(3)				
Hon. Putnam	1/3	1/6	Brazil		902.00		(3)				
Hon. Wilson Livingood	1/3	1/6	Brazil		902.00		(3)				
RADM Eisold	1/3	1/6	Brazil		902.00		(3)				
Scott Palmer	1/3	1/6	Brazil		902.00		(3)				
Ted Van Der Meid	1/3	1/6	Brazil		902.00		(3)				
Seth Webb	1/3	1/6	Brazil		902.00		(3)				
Chris Walker	1/3	1/6	Brazil		902.00		(3)				
Sam Lancaster	1/3	1/6	Brazil		902.00		(3)				
Margaret Peterlin	1/3	1/6	Brazil		902.00		(3)				
Dwight Comedy	1/3	1/6	Brazil		902.00		(3)				
Speaker Hastert	1/6	1/7	Uruguay		243.00		(3)				
Hon. Pastor	1/6	1/7	Uruguay		243.00		(3)				
Hon. Shaw	1/6	1/7	Uruguay		243.00		(3)				
Hon. Ballenger	1/6	1/7	Uruguay		243.00		(3)				
Hon. Gross	1/6	1/7	Uruguay		243.00		(3)				
Hon. Ros-Lehtinen	1/6	1/7	Uruguay		243.00		3,126.08				
Hon. Doolittle	1/6	1/7	Uruguay		243.00		(3)				
Hon. Norwood	1/6	1/7	Uruguay		243.00		(3)				
Hon. Granger	1/6	1/7	Uruguay		243.00		(3)				
Hon. Hart	1/6	1/7	Uruguay		243.00		(3)				
Hon. Putnam	1/6	1/7	Uruguay		243.00		(3)				
Hon. Wilson Livingood	1/6	1/7	Uruguay		243.00		(3)				
RADM Eisold	1/6	1/7	Uruguay		243.00		(3)				
Scott Palmer	1/6	1/7	Uruguay		243.00		(3)				
Ted Van Der Meid	1/6	1/7	Uruguay		243.00		(3)				
Seth Webb	1/6	1/7	Uruguay		243.00		(3)				
Chris Walker	1/6	1/7	Uruguay		243.00		(3)				
Sam Lancaster	1/6	1/7	Uruguay		243.00		(3)				
Margaret Peterlin	1/6	1/7	Uruguay		243.00		(3)				
Dwight Comedy	1/6	1/7	Uruguay		243.00		(3)				
Speaker Hastert	1/7	1/11	Argentina		413.89		(3)				
Hon. Pastor	1/7	1/11	Argentina		413.89		(3)				
Hon. Shaw	1/7	1/11	Argentina		413.89		(3)				
Hon. Ballenger	1/7	1/11	Argentina		413.89		(3)				
Hon. Goss	1/7	1/11	Argentina		413.89		(3)				
Hon. Doolittle	1/7	1/11	Argentina		413.89		(3)				
Hon. Norwood	1/7	1/11	Argentina		413.89		(3)				
Hon. Granger	1/7	1/11	Argentina		413.89		(3)				
Hon. Hart	1/7	1/11	Argentina		413.89		(3)				
Hon. Putnam	1/7	1/11	Argentina		413.89		(3)				

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO BRAZIL, URUGUAY, ARGENTINA AND CHILE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 3 AND JAN. 13, 2004—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Wilson Livingood	1/7	1/11	Argentina		413.89		(3)				
RADM Eisold	1/7	1/11	Argentina		413.89		(3)				
Hon. Scott Palmer	1/7	1/11	Argentina		413.89		(3)				
Hon. Ted Van Der Meid	1/7	1/11	Argentina		413.89		(3)				
Seth Webb	1/7	1/11	Argentina		413.89		(3)				
Chris Waller	1/7	1/11	Argentina		413.89		(3)				
Sam Lancaster	1/7	1/11	Argentina		413.89		(3)				
Margaret Peterlin	1/7	1/11	Argentina		413.89		(3)				
Dwight Comedy	1/7	1/11	Argentina		413.89		(3)				
Speaker Hastert	1/11	1/13	Chile		548.00		(3)				
Hon. Pastor	1/11	1/13	Chile		548.00		(3)				
Hon. Shaw	1/11	1/13	Chile		548.00		(3)				
Hon. Ballenger	1/11	1/13	Chile		548.00		(3)				
Hon. Goss	1/11	1/13	Chile		548.00		(3)				
Hon. Doolittle	1/11	1/13	Chile		548.00		(3)				
Hon. Norwood	1/11	1/13	Chile		548.00		(3)				
Hon. Granger	1/11	1/13	Chile		548.00		(3)				
Hon. Hart	1/11	1/13	Chile		548.00		(3)				
Hon. Putnam	1/11	1/13	Chile		548.00		(3)				
Hon. Wilson Livingood	1/11	1/13	Chile		548.00		(3)				
RADM Eisold	1/11	1/13	Chile		548.00		(3)				
Scott Palmer	1/11	1/13	Chile		548.00		(3)				
Ted Van Der Meid	1/11	1/13	Chile		548.00		(3)				
Seth Webb	1/11	1/13	Chile		548.00		(3)				
Chris Walker	1/11	1/13	Chile		548.00		(3)				
Sam Lancaster	1/11	1/13	Chile		548.00		(3)				
Margaret Peterlin	1/11	1/13	Chile		548.00		(3)				
Dwight Comedy	1/11	1/13	Chile		548.00		(3)				
Committee total											

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

J. DENNIS HASTERT, Speaker of the House, Feb. 13, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON EDUCATION AND THE WORKFORCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2003

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Michael Castle	10/6	10/12	Iraq		1,167.00		(3)				1,167.00
Hon. Ron Kind	10/6	10/12	Iraq		1,167.00		(3)				1,167.00
Committee total					2,334.00						2,334.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

JOHN BOEHNER, Chairman, Feb. 17, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC 31, 2003

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Fred Upton	12/10	12/13	Italy		537.00		(3)				537.00
	10/6	10/10	Iraq/Kuwait		1,167.00		(3)				1,167.00
Hon. Greg Walden	10/6	10/10	Iraq/Kuwait		1,167.00		(3)				1,167.00
Hon. Jim Davis	10/6	10/10	Iraq/Kuwait		1,167.00		(3)				1,167.00
Hon. James Greenwood	12/10	12/11	Italy		537.00		3,541.04				4,078.04
Robert Rainey	12/6	12/13	Italy		1,253.00		5,431.44				6,684.44
Robert Meyers	12/6	12/14	Italy		1,074.00		5,616.22				6,690.22
Sue Sheridan	12/6	12/13	Italy		1,253.00		5,444.44				6,697.44
Michael Goo	12/6	12/13	Italy		1,253.00		5,444.44				6,697.44
Hon. Cliff Stearns	11/29	12/2	Hong Kong		1,233.00		(3)				1,233.00
	12/2	12/3	Thailand		456.00		(3)				456.00
	12/3	12/6	Korea		417.00		5,748.77				6,165.77
Committee total					11,514.00		31,226.35				42,740.35

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

BILLY TAUZIN, Chairman, Feb. 16, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON GOVERNMENT REFORM, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2003

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Tim Murphy	11/8	11/10	Jordan		476.00						
	11/10	11/11	Syria		262.75						
	11/11	11/12	Germany		241.00						

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON GOVERNMENT REFORM, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2003—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Chris Cannon	12/9	12/12	Italy		712.00						
Alexandria Teitz	12/8	12/13	Italy		1,545.00		662.44				
Greg Dotson	12/8	12/13	Italy		1,525.00		662.44				
Christopher Shays	12/9	12/12	Italy		712.00						
R. Nicholas Palarino	12/1	12/3	Austria		636.00		4,872.70				
	12/3	12/7	Jordan		916.00						
Christopher Shays	12/1	12/3	Austria		636.00		4,872.70				
	12/3	12/7	Jordan		916.00						
Committee total					8,577.75		11,070.28				19,648.03

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

TOM DAVIS, Chairman, Feb. 10, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE JUDICIARY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2003

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Steve King	10/18	10/19	Kuwait/Iraq		389.00						389.00
Hon. F. James Sensenbrenner	12/14	12/17	Mexico		1,014.00		550.89				1,564.89
Philip J. Kiko	12/14	12/17	Mexico		1,014.00		550.89				1,564.89
Committee total					2,417.00		1,101.78				3,518.78

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

F. JAMES SENSENBRENNER, JR., Chairman, Feb. 4, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON RESOURCES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2003

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Steve Pearce	10/30	11/2	Kuwait		1,556.00		(3)				1,556.00
	11/3	11/4	Germany		157.00		(3)				157.00
Chris Foster	11/6	11/18	Palau		1,246.04		6,038.26				7,284.30
Tony Babauta	11/6	11/18	Palau		1,092.39		6,396.26				7,488.65
Bonnie Bruce	11/16	11/22	Ireland		2,170.00		5,231.90				7,401.90
Hon. Wayne Gilchrest	11/16	11/18	Ireland		434.00		5,079.00				5,513.00
Steve Ding	11/16	11/22	Ireland		2,170.00		5,383.77				7,553.77
Todd Willens	11/16	11/22	Ireland		2,170.00		5,388.35				7,558.35
Catherine Ware	11/16	11/24	Ireland		2,604.00		1,451.77				4,055.77
Hon. George Miller	11/24	11/28	France		1,242.00		7,194.74				8,436.74
Committee total											57,005.48

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

RICHARD POMBO, Chairman, Feb. 11, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON RULES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2003

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Martin Frost	12/20	12/22	Kuwait		800.00		(3)				800.00
	12/21	12/22	Iraq				(3)				
	12/22	12/23	Germany		200.00		(3)				200.00
Committee total					1,000.00						1,000.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

DAVID DREIER, Chairman, Feb. 5, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2003

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Kevin Carroll	12/6	12/13	Italy		1,074.00		5,564.94				6,638.94
Kathryn Clay	11/30	12/13	Italy		980.00		1,089.18				2,069.18
Committee total					2,054.00		6,654.12				8,708.12

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

SHERWOOD BOEHLERT, Chairman, Feb. 9, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SMALL BUSINESS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2003

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Bryan Davis	10/22	10/25	Milan, Italy	1,073.00			5,614.83			1,073.00	5,614.83
Hon. W. Todd Akin	10/30	11/2	Iraq		1,556.00	[3]522.00					1,034.00
Hon. Ed Case	10/30	11/2	Iraq		1,556.00	[3]43.00					1,013.00
Hon. Thaddeus McCotter	10/30	11/2	Iraq		1,556.00	[3]494.00					1,062.00
Thomas Bezas	10/30	11/2	Iraq		1,556.00	[3]453.00					1,103.00
Hon. W. Todd Akin	11/3	11/4	Germany		157.00	[3]157.00					
Hon. Ed Case	11/3	11/4	Germany		157.00	[3]134.00					23.00
Hon. Thaddeus McCotter	11/3	11/4	Germany		157.00	[3]157.00					
Thomas Bezas	11/3	11/4	Germany		157.00	[3]157.00					
Hon. Anibal Acevedo-Vila	11/25	11/28	Jordan	674.00	952.00		(4)			674.00	952.00
Matthew Szymanski	12/15	12/22	China		1,346.00	[3]362.00	6,515.47				7,499.47
Ian Deason	12/15	12/22	China		1,346.00	[3]853.00	6,515.47				7,368.47
Thomas Bezas	12/15	12/22	China		1,346.00	[3]574.00	6,515.47				7,282.47
Committee total											32,929.24

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Returned.
[4] Military air transportation.

DONALD A. MANZULLO, Chairman, Feb. 11, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2003

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Wayne Gilchrest	10/6	10/10	Kuwait		1,167.00		(3)				1,167.00
Robert Faber	11/17	11/20	Greece		1,360.00		3,747.45		944.00		6,051.45
Derek Miller	11/17	11/20	Greece		1,360.00		3,661.24		944.00		5,965.24
Anastasia Soumbenistis	11/17	11/20	Greece		1,360.00		3,698.70		944.00		6,002.70
Hon. Mario Diaz-Balart	11/24	11/28	Kuwait		952.00		(3)				952.00
Hon. John Duncan	11/29	12/2	China		1,233.00		5,715.53				7,821.53
	12/2	12/3	Thailand		456.00						
	12/4	12/6	Korea		417.00						
Hon. Jerry Costello	11/29	12/2	China		1,233.00		5,625.27				7,731.27
	12/2	12/3	Thailand		456.00						
	12/4	12/6	Korea		417.00						
Hon. Eddie Bernice Johnson	11/29	12/2	China		1,233.00		5,638.27				7,744.27
	12/2	12/3	Thailand		456.00						
	12/4	12/6	Korea		417.00						
Hon. John Boozman	11/29	12/2	China		1,233.00		6,007.27				8,113.27
	12/2	12/3	Thailand		456.00						
	12/4	12/6	Korea		417.00						
Lloyd Jones	11/29	12/2	China		1,233.00		4,899.27				7,005.27
	12/2	12/3	Thailand		456.00						
	12/4	12/6	Korea		417.00						
David Heymsfeld	11/29	12/2	China		1,233.00		4,899.27				7,005.27
	12/2	12/3	Thailand		456.00						
	12/4	12/6	Korea		417.00						
Jimmy Miller	11/29	12/2	China		1,233.00		4,899.27				7,005.27
	12/2	12/3	Thailand		456.00						
	12/4	12/6	Korea		417.00						
Giles Giovinazzi	12/7	12/10	Belgium		702.00		6,953.52				7,655.52
Adam Tsao	12/7	12/10	Belgium		702.00		6,953.52				7,655.52
Hon. Bill Shuster	12/18	12/20	Germany		482.00		6,385.92				6,867.92
Hon. Tim Holden	12/18	12/20	Germany		482.00		6,385.92				6,867.92
Hon. Jim Gerlach	12/18	12/20	Germany		482.00		6,385.92				6,867.92
Committee total					23,791.00		81,856.34		2,832.00		108,479.34

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

DON YOUNG, Chairman, Feb. 9, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, SELECT COMMITTEE ON HOMELAND SECURITY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2003

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Christopher Cox	12/10	12/11	Spain		357.00		(3)				
	12/11	12/13	Italy		922.00		(3)				
	12/13	12/14	Syria		268.00		(3)				
	12/14	12/15	Israel		362.00		(3)				
	12/10	12/16	Turkey		276.00		1,467.00				3,652.00
Hon. Jennifer Dunn	12/10	12/11	Spain		357.00		(3)				
	12/11	12/13	Italy		922.00		(3)				
	12/13	12/14	Syria		268.00		(3)				
	12/14	12/15	Israel		362.00		(3)				
	12/15	12/16	Turkey		276.00		1,467.00				3,652.00
Hon. Ernest Istook	12/10	12/11	Spain		357.00		(3)				
	12/11	12/13	Italy		922.00		(3)				
	12/13	12/14	Syria		268.00		(3)				
	12/14	12/15	Israel		362.00		(3)				
	12/15	12/16	Turkey		276.00		1,467.00				3,652.00
Hon. Loretta Sanchez	12/10	12/11	Spain		357.00		(3)				
	12/11	12/13	Italy		922.00		(3)				
	12/13	12/14	Syria		268.00		(3)				

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, SELECT COMMITTEE ON HOMELAND SECURITY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2003—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
	12/14	12/15	Israel		362.00		(3)				
	12/15	12/16	Turkey		276.00		1,467.00				3,652.00
Hon. Bob Etheridge	12/10	12/11	Spain		357.00		(3)				
	12/11	12/13	Italy		922.00		(3)				
	12/13	12/14	Syria		268.00		(3)				
	12/14	12/15	Israel		362.00		(3)				
	12/15	12/16	Turkey		276.00		1,467.00				3,652.00
Hon. Ken Lucas	12/10	12/11	Spain		357.00		(3)				
	12/11	12/13	Italy		922.00		(3)				
	12/13	12/14	Syria		268.00		(3)				
	12/14	12/15	Israel		362.00		(3)				
	12/15	12/16	Turkey		276.00		1,467.00				3,652.00
Hon. Sheila Jackson-Lee	12/10	12/11	Spain		357.00		(3)				
	12/11	12/13	Italy		922.00		(3)				
	12/13	12/14	Syria		268.00		(3)				
	12/14	12/15	Israel		362.00		1,194.00				3,103.00
Margaret Peterlin	12/10	12/11	Spain		357.00		(3)				
	12/11	12/13	Italy		922.00		(3)				
	12/13	12/14	Syria		268.00		(3)				
	12/14	12/15	Israel		362.00		(3)				
	12/15	12/16	Turkey		276.00		1,467.00				3,652.00
David Schanzer	12/10	12/11	Spain		357.00		(3)				
	12/11	12/13	Italy		922.00		(3)				
	12/13	12/14	Syria		268.00		(3)				
	12/14	12/15	Israel		362.00		(3)				
	12/15	12/16	Turkey		276.00		1,467.00				3,652.00
Julie Sund	12/10	12/11	Spain		357.00		(3)				
	12/11	12/13	Italy		922.00		(3)				
	12/13	12/14	Syria		268.00		(3)				
	12/14	12/15	Israel		362.00		(3)				
	12/15	12/16	Turkey		276.00		1,467.00				3,652.00
Elizabeth Tobias	12/10	12/11	Spain		357.00		(3)				
	12/11	12/13	Italy		992.00		(3)				
	12/13	12/14	Syria		268.00		(3)				
	12/14	12/15	Israel		362.00		(3)				
	12/15	12/16	Turkey		276.00		1,467.00				3,652.00
John Gannon	12/10	12/11	Spain		357.00		(3)				
	12/11	12/13	Italy		922.00		(3)				
	12/13	12/14	Syria		268.00		(3)				
	12/14	12/15	Israel		362.00		(3)				
	12/15	12/17	Turkey		552.00		499.72				2,960.72
Steve DeVine	12/10	12/11	Spain		357.00		(3)				
	12/11	12/13	Italy		922.00		(3)				
	12/13	12/14	Syria		268.00		(3)				
	12/14	12/15	Israel		362.00		(3)				
	12/15	12/18	Turkey		828.00		(3)				3,045.00
	12/18	12/19	Ireland		308.00		(3)				
Camille Camacho	12/10	12/11	Spain		357.00		(3)				
	12/11	12/13	Italy		922.00		(3)				
	12/13	12/14	Syria		268.00		(3)				
	12/14	12/15	Israel		362.00		(3)				3,045.00
	12/15	12/18	Turkey		828.00		(3)				
	12/18	12/19	Ireland		308.00		(3)				
Hon. Sheila Jackson-Lee	11/15	11/17	Kuwait		804.00		(3)				804.00
Committee total					33,114.00		16,636.72				49,477.72

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

CHRISTOPHER COX, Chairman, Feb. 5, 2004.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

6931. A letter from the Principal Deputy Under Secretary, Department of Defense, transmitting Approval of Brigadier General Lloyd J. Austin III to wear the insignia of major general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

6932. A letter from the Principal Deputy Under Secretary, Department of Defense, transmitting Approval of Major General Thomas L. Baptiste, United States Air Force, to wear the insignia of lieutenant general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

6933. A letter from the Principal Deputy Under Secretary, Department of Defense, transmitting Approval of Major General John M. Curran, United States Army, to wear the insignia of lieutenant general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

6934. A letter from the Secretary, Department of Health and Human Services, transmitting a report on the Fiscal Years 1999-2001 Family Violence Prevention and Services Act Program, pursuant to 42 U.S.C. 10405; to the Committee on Education and the Workforce.

6935. A letter from the Secretary, Department of Health and Human Services, transmitting the 2003 annual report entitled, "Clinical Preventive Services for Older Americans," based on the work of the U.S. Preventive Services Task Force (USPSTF), pursuant to Public Law 106-554, section 126; to the Committee on Energy and Commerce.

6936. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed extension of the license for the export of major defense equipment and defense articles to Russia, Ukraine, and Norway (Transmittal No. DDTC 015-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6937. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed extension of the license for the export of major defense equipment and defense articles to Japan (Transmittal No. DDTC 017-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6938. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed extension of the license for the export of major defense equipment and defense articles to Russia and Kazakhstan (Transmittal No. DDTC 016-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6939. A communication from the President of the United States, transmitting an additional report, consistent with the War Powers Resoultion, to help ensure that the Congress is kept fully informed on U.S. military activities in Haiti, pursuant to Public Law 93-148; (H. Doc. No. 108-167); to the Committee on International Relations and ordered to be printed.

6940. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting a report in accordance with Section 25(a)(6) of the Arms Export Control Act (AECA), describing and analyzing services performed during FY 2003 by full-time USG employees who are performing services for which reimbursement is provided under Section 21(a) or Section 43(b) of the AECA; to the Committee on International Relations.

6941. A letter from the Secretary, Department of the Treasury, transmitting as required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and pursuant to Executive Order 13313 of July 31, 2003, the final six-month periodic report on the national emergency declared with respect to Sierra Leone in Executive Order 13194 of January 18, 2001, and expanded in scope with respect to Liberia by Executive Order 13213 of May 22, 2001; to the Committee on International Relations.

6942. A letter from the U.S. Global AIDS Coordinator, Department of State, transmitting on behalf of the President, the report, "President Bush's Emergency Plan for AIDS Relief: U.S. Five-Year Global HIV/AIDS Strategy," pursuant to Public Law 108-25; to the Committee on International Relations.

6943. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-384, "Tobacco Product Manufacturer Reserve Fund Complementary Procedures Act of 2004," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

6944. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-385, "Consolidated of Financial Services Amendment Act of 2004," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

6945. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-386, "Captive Insurance Company Temporary Amendment Act of 2004," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

6946. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-350, "Owner-Occupant Residential Tax Credit and Exemption Act of 2004," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

6947. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-366, "Revised Closing of a Portion of a Public Alley in Square 209, S.O. 02-1019, Act of 2004," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

6948. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-351, "December Use of the Cash Reserve Funds Temporary Act of 2004," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

6949. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-352, "Real Property Disposition Economic Analysis Temporary Amendment Act of 2004," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

6950. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-353, "District of Columbia Emancipation Day Parade and Fund Temporary Act of 2004," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

6951. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-360, "Kings Court Community Garden Equitable Real Property Tax Relief Temporary Act of 2004," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

6952. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-361, "District of Columbia Public Schools Use of the Budget Reserve Funds Temporary Act of 2004," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

6953. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-367, "District of Columbia Auditor Subpoena and Oath Authority Act of 2004," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

6954. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-362, "Used Car Dealership License Moratorium Temporary Act of 2004," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

6955. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-368, "Metropolitan Police Department Educational Requirement Clarification Temporary Amendment Act of 2004," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

6956. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-363, "Crispis Attucks Development Corporation Real Property Tax Exemption and Equitable Real Property Tax Relief Act of 2004," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

6957. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-370, "Real Property Classification Clarification Act of 2004," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

6958. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-383, "Health Services Planning and Development Amendment Act of 2004," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

6959. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-364, "Sexual Minority Youth Assistance League Equitable Real Property Tax Relief Act of 2004," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

6960. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-365, "Dedication and Designation of Streets and an Alley in Squares 878, S.O.95-251, Act of 2004," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

6961. A letter from the Chairman, Broadcasting Board Of Governors, transmitting the Annual Program Performance Report on the FY 2003 Performance Plan, pursuant to the Government Performance and Results Act of 1993 (GPRA); to the Committee on Government Reform.

6962. A letter from the Secretary, Department of the Treasury, transmitting the Financial Report of the United States Government for Fiscal Year 2003 (Financial Report), pursuant to 31 U.S.C. 331(e)(1); to the Committee on Government Reform.

6963. A letter from the Human Resources Specialist, Department of Labor, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6964. A letter from the Chairman, Federal Election Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act for the calendar year 2003, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform.

6965. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting the Commission's FY 2003 Performance Report, pursuant to Public Law 103-62; to the Committee on Government Reform.

6966. A letter from the Chairman, International Trade Commission, transmitting pursuant to the Government Performance and Results Act (Pub. L. 103-62), the Commission's Performance Report for FY 2003; to the Committee on Government Reform.

6967. A letter from the Director, Office of Personnel Management, transmitting a report on the Federal Activities Inventory Reform Act Inventory as of June 30, 2003; to the Committee on Government Reform.

6968. A letter from the Architect of the Capitol, transmitting a report discussing the AOC's activities to improve worker safety during the fourth quarter of FY03, pursuant to the directives issued in the 107th Congress First Session, House of Representatives Report Number 107-169; to the Committee on House Administration.

6969. A letter from the Secretary, Department of the Interior, transmitting a draft bill entitled "To redesignate Fort Clatsop National Memorial as the Lewis and Clark National Park, to include sites in the State of Washington as well as the State of Oregon, and for other purposes"; to the Committee on Resources.

6970. A letter from the Commissioner, Financial Management Service, Department of the Treasury, transmitting FY 2003 Report to the Congress entitled "U.S. Government Receivables and Debt Collection Activities of Federal Agencies," pursuant to 31 U.S.C. 3716(c)(3)(B); to the Committee on the Judiciary.

6971. A letter from the Chief Scout Executive and President, Boy Scouts of America, transmitting the Boy Scouts of America's 2003 Report to the Nation, pursuant to 36 U.S.C. 28; to the Committee on the Judiciary.

6972. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Calverton, NY [Docket No. FAA-2003-16415; Airspace Docket No. 03-AEA-16] received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6973. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Mapleton, IA. [Docket No. FAA-2003-16496; Airspace Docket No. 03-ACE-80] received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6974. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Amendment of Class E5 Airspace; Augusta, GA [Docket No. FAA-2003-15124; Airspace Docket No. 03-ASO-5] received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the

Committee on Transportation and Infrastructure.

6975. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Maryville, MO. [Docket No. FAA-2003-15720; Airspace Docket No. 03-ACE-62] received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6976. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Milford, IA. [Docket No. FAA-2003-16497; Airspace Docket No. 03-ACE-81] received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6977. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Mapleton, IA. [Docket No. FAA-2003-16496; Airspace Docket No. 03-ACE-80] received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6978. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class D Airspace; Columbus, MS [Docket No. FFAA-2003-15532; Airspace Docket No. 03-ASO-10] received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6979. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Prohibition Against Certain Flights Within the Territory and Airspace of Iraq [Docket No. FAA-2003-14766; SFAR No. 77] received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6980. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Specialist Federal Aviation Regulation No. 36, Development of Major Repair Data [Docket No. FAA-2003-16527; Amendment No. SFAR 36-8] (RIN: 2120-AI09) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6981. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Repair Stations: Service Difficulty Reporting [Docket No. FAA-2003-16772; Amendment No. 22] (RIN: 2120-AI07) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6982. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A300 B2, A300 B4, A300 B4-600, A300 B4-600R, A300 F4-600R, A310, A330, and A340 Series Airplanes [Docket No. 2001-NM-154-AD; Amendment 39-13220; AD 2003-14-01] (RIN: 2120-AA64) received Febuary 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6983. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model CL-600-2C10 (Regional Jet Series 700 & 701) and CL-600-2D24 (Regional Jet Series 900) Series Airplanes [Docket No. 2003-NM-209-AD; Amendment 39-13353; AD 2003-19-51] (RIN: 1220-AA64) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6984. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model AS332C, L, L1, and L2 Helicopters [Docket No. 2001-SW-07-AD; Amendment 39-13371; AD 2003-24-02] (RIN: 2120-AA64) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6985. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnel Douglas Model MD-11 Airplanes [Docket No. 2001-NM-57-AD; Amendment 39-13340; AD 2003-21-05] (RIN: 2120-AA64) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6986. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pratt and Whitney PW4000 Series Turbofan Engines [Docket No. 2002-NE-15-AD; Amendment 39-13131; AD 2003-09-02] (RIN: 2120-AA64) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6987. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model SA-365N, N1, AS-365N2, and AS 365 N3 Helicopters [Docket No. 2003-SW-09-AD; Amendment 39-13363; AD 2003-22-15] (RIN: 2120-AA64) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6988. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce plc (RR) RB211–22B, RB211-524, and RB211-535 Series Turbofan Engines [Docket No. 2001-NE-13-AD; Amendment 39-13435; AD 2004-01-21] (RIN: 2120-AA64) received Febuary 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6989. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model 717-200 Airplanes [Docket No. 2003-NM-55-AD; Amendment 39-13429; AD 2004-01-15] (RIN: 2120-AA64) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6990. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Cessna Aircraft Company Models 441 and F406 Airplanes [Docket No. 2002-CE-18-AD; Amendment 39-13406; AD 2003-09-09 R1] (RIN: 2120-AA64) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6991. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Independance, IA. [Docket No. FAA-2003-16746; Airspace Docket No. 03-ACE-90] received February 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6992. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Hutchinson, KS. [Docket No. FAA-2003-16410; Airspace Docket No. 03-ACE-79] received February 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6993. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Clay Center, KS. [Docket No. FAA-2003-16759; Airspace Docket No. 03-ACE-96] received February 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6994. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Colby, KS. [Docket No. FAA-2003-16760; Airspace Docket No. 03-ACE-97] received February 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6995. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Chanute, KS. [Docket No. FAA-2003-16757; Airspace Docket No. 03-ACE-95] received February 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6996. A letter from the Administrator, Office of Management and Budget, transmitting the annual report on the Federal Government's use of voluntary consensus standards, pursuant to Public Law 104-113, section 12(d)(3) (110 Stat. 783); to the Committee on Science.

6997. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's Federal Equal Opportunity Recruitment Program (FEORP) Accomplishment Report and the Disabled Veteran's Affirmative Action Program (DVAAP) Report for the period of September 30, 2002 to September 30, 2003, pursuant to 22 U.S.C. 3905(d)(2); jointly to the Committees on International Relations and Government Reform.

6998. A letter from the Administrator, FAA, Department of Transportation, transmitting an additional copy of the "Federal Aviation Administration and National Air Traffic Controllers Association Collective Bargaining Impasse Submission to Congress," pursuant to 49 U.S.C. 40122(a); jointly to the Committees on Transportation and Infrastructure and Government Reform.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

[Omitted from the Record of March 2, 2004]

H.R. 2802. Referral to the Committee on Government Reform extended for a period ending not later than March 8, 2004.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. YOUNG of Alaska:

H.R. 3879. A bill to authorize appropriations for the Coast Guard for fiscal year 2005, to amend various laws administered by the Coast Guard, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. TOM DAVIS of Virginia (for himself and Mr. Waxman):

H.R. 3880. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the sale of prescription drugs through the Internet; to the Committee on Energy and Commerce.

By Mr. SMITH of Washington (for himself, Mr. Holden, Mr. Inslee, Mr. Rangel, Mr. Levin, Mr. Matsui, Mr. Stark, Mr. Cardin, Mr. McDermott, Mr. McNulty, Mr. Becerra, Mrs. Jones of Ohio, Mr. Spratt, Mr. George Miller of California, Mr. Dicks, Mr. Baird, Mr. Larsen of Washington, and Ms. Slaughter):

H.R. 3881. A bill to amend the Trade Act of 1974 to extend the trade adjustment assistance program to the service sector, and for other purposes; to the Committee on Ways and Means.

By Mr. ENGLISH:

H.R. 3882. A bill to amend the Internal Revenue Code of 1986 to exempt from the harbor maintenance tax certain truck cargo on a ferry operating between two ports for the sole purpose of bypassing traffic congestion on the nearest international bridge serving the area in which such ports are located; to the Committee on Ways and Means.

By Mr. GILCHREST:

H.R. 3883. A bill to reauthorize the Atlantic Striped Bass Conservation Act; to the Committee on Resources.

By Mr. GONZALEZ:

H.R. 3884. A bill to designate the Federal building and United States courthouse located at 615 East Houston Street in San Antonio, Texas, as the "Hipolito F. Garcia Federal Building and United States Courthouse"; to the Committee on Transportation and Infrastructure.

By Mr. HOEKSTRA:

H.R. 3885. A bill to direct the Commandant of the Coast Guard to convey a Coast Guard 44-foot Motor Life Boat to the city of Ludington, Michigan; to the Committee on Transportation and Infrastructure.

By Mr. NEUGEBAUER:

H.R. 3886. A bill to amend the Food Security Act of 1985 to expand the pilot program for the enrollment of certain wetlands and its buffer acreage in the conservation reserve program to include the enrollment of certain playas and its buffer acreage, and for other purposes; to the Committee on Agriculture.

By Mr. RODRIGUEZ (for himself, Ms. Roybal-Allard, Ms. Jackson-Lee of Texas, Ms. Lofgren, Mrs. Tauscher, Mrs. Christensen, Mr. Engel, Mr. Abercrombie, Mr. Doggett, Mr. Holden, Mr. Waxman, Mr. Greenwood, Mr. Davis of Illinois, Mrs. McCarthy of New York, Mrs. Napolitano, Mr. Green of Texas, Mr. Frost, Mr. McNulty, Mr. Ortiz, Mr. Kildee, Mr. Towns, and Ms. Norton):

H.R. 3887. A bill to amend the Public Health Service Act to provide for the establishment of a National Center for Social Work Research; to the Committee on Energy and Commerce.

By Mr. SANDERS (for himself, Mr. Mica, Mr. Taylor of Mississippi, Mr. Paul, Ms. Kaptur, Mr. Goode, Mr. DeFazio, Mr. Michaud, Mr. Owens, Mr. Serrano, Mr. Grijalva, Ms. Kilpatrick, Ms. Woolsey, Mr. Holden, Mr. Boucher, Mr. Kucinich, Mr. Stupak, Ms. Slaughter, Mr. McIntyre, Mr. Brown of Ohio, Mr. Olver, Mr. Stark, Mr. Pallone, Mr. Brady of Pennsylvania, Ms. Carson of Indiana, Mr. Nadler, Mr. Evans, Mr. Wexler, Mr. Green of Texas, Ms. Millender-McDonald, Ms. Corrine Brown of Florida, Ms. Norton, Mr. Lipinski, Mr. Peterson of Minnesota, Mr. Abercrombie, Mr. Kildee, Mr. Conyers, Mr. Payne, Ms. Schakowsky, Mr. Gutierrez, Mr. Ryan of Ohio, Mr. McGovern, Mr. Bishop of Georgia, Mr. Strickland, Mr. Wynn, Mr. Tierney, Mr. Hastings of Florida, Ms. Lee, Ms. Solis, Mr. Udall of New Mexico, Mr. Visclosky, and Mr. Pascrell):

H.R. 3888. A bill to prohibit business enterprises that lay-off a greater percentage of their United States workers than workers in other countries from receiving any Federal assistance, and for other purposes; to the Committee on Government Reform.

By Mr. WOLF:

H.R. 3889. A bill to transfer certain functions from the United States Trade Representative to the Secretary of Commerce; to the Committee on Ways and Means.

By Mr. UDALL of Colorado (for himself, Mr. Bartlett of Maryland, Mr. Gordon, Mr. McDermott, Mr. Hoyer, Mr. Akin, Mr. Lampson, and Mr. Ruppersberger):

H. Res. 550. A resolution expressing the sense of the House of Representatives relating to the extraordinary contributions resulting from the Hubble Space Telescope to scientific research and education, and to the need to reconsider future service missions to the Hubble Space Telescope; to the Committee on Science.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 284: Mr. Bishop of Utah, Mrs. Kelly, and Mr. LaHood.

H.R. 290: Mrs. Napolitano.

H.R. 339: Mr. Terry.

H.R. 432: Mr. Engel.

H.R. 545: Mr. Isakson.

H.R. 577: Mr. Bishop of Georgia and Mr. Strickland.

H.R. 594: Mr. Murtha and Mr. Wolf.

H.R. 677: Mr. Thompson of California

H.R. 685: Mrs. Napolitano.

H.R. 716: Mr. Cunningham and Mr. McDermott.

H.R. 717: Mr. Wu.

H.R. 727: Mr. Gonzalez.

H.R. 745: Mr. Blumenauer.

H.R. 857: Mr. Moore.

H.R. 918: Mr. Hall and Mr. Marshall.

H.R. 973: Mr. English and Mr. Walsh.

H.R. 976: Mr. Gonzalez.

H.R. 1064: Mr. Towns, Mr. Owens, and Mr. Andrews.

H.R. 1160: Mr. Ackerman.

H.R. 1179: Mr. Green of Wisconsin.

H.R. 1214: Mr. Ackerman and Ms. Hart.

H.R. 1336: Mr. Wynn, Mr. Brown of South Carolina, Mr. Hoeffel, Mr. Bell, Mr. Cooper, and Mr. Matheson.

H.R. 1372: Mr. Bachus.

H.R. 1532: Ms. McCarthy of Missouri and Mr. Clyburn.

H.R. 1563: Mr. Etheridge.

H.R. 1582: Mr. Turner of Texas.

H.R. 1613: Mr. Lipinski, Mr. Hinojosa, and Mr. Wexler.

H.R. 1655: Mr. Deal of Georgia.

H.R. 1676: Mr. Baird and Mr. Boucher.

H.R. 1716: Mr. Renzi.

H.R. 1738: Mr. Engel.

H.R. 1755: Mr. Rogers of Kentucky.

H.R. 1769: Mr. Tierney, Mr. McGovern, Mr. Stupak, Mr. Kucinich, Mr. Israel, Mr. Rush, Mr. Strickland, Mr. Oberstar, Mr. Allen, and Ms. Woolsey.

H.R. 1863: Mr. Ruppersberger and Mr. McGovern.

H.R. 1873: Ms. Kaptur.

H.R. 1874: Mr. Cooper.

H.R. 1930: Mr. Lynch.

H.R. 2011: Mr. Bishop of Georgia.

H.R. 2037: Mr. Conyers.

H.R. 2068: Mr. Pallone, Ms. McCarthy of Missouri, Mr. Dicks, Mr. Lampson, Ms. Slaughter, Mr. Pascrell, and Mr. Serrano.

H.R. 2173: Mr. Clay, Mr. Fattah, and Ms. Corrine Brown of Florida.

H.R. 2176: Mr. Green of Texas.

H.R. 2201: Mr. Kind, Mr. Jackson of Illinois, Mr. DeFazio, Mr. Baca, Mr. Frost, Mr. Rodriguez, Ms. Lee, Mr. Rangel, Mr. McGovern, Mr. Faleomavaega, and Mr. Case.

H.R. 2215: Mr. Nadler, Ms. Linda T. Sánchez of California, Ms. Schakowsky, Mr. DeFazio, Mr. Andrews, and Mr. Frost.

H.R. 2233: Mr. McGovern.

H.R. 2298: Mr. Gonzalez.

H.R. 2318: Ms. Majette.

H.R. 2426: Mr. Brady of Pennsylvania.

H.R. 2437: Ms. Schakowsky.

H.R. 2490: Mr. Serrano.

H.R. 2625: Mr. Turner of Texas.

H.R. 2743: Mr. Forbes, Mr. Putnam, Mrs. Capito, and Mr. Gillmor.

H.R. 2768: Mr. Bass.

H.R. 2821: Mrs. Napolitano and Ms. McCollum.

H.R. 2823: Mr. Boucher and Mr. Hostettler.

H.R. 2824: Mr. Miller of Florida and Mr. Waxman.

H.R. 2863: Mr. Payne.

H.R. 2864: Mr. Hensarling.

H.R. 2900: Mrs. Bono.

H.R. 2928: Mr. Hoekstra, Mr. Filner, and Mr. Chocola.

H.R. 2932: Mr. Hinchey and Ms. Roybal-Allard.

H.R. 2967: Mr. Saxton and Mr. Whitfield.

H.R. 2997: Mr. Brady of Pennsylvania, Ms. Kaptur, and Mr. Cramer.

H.R. 3042: Mr. Sam Johnson of Texas.

H.R. 3049: Mr. Kucinich and Mr. Rush.

H.R. 3103: Mr. McIntyre and Ms. DeLauro.

H.R. 3115: Mr. Bereuter.

H.R. 3204: Mr. Wexler and Mr. Palone.

H.R. 3213: Mr. Calvert, Mr. Culberson, and Mr. Bonner.

H.R. 3243: Mr. Boehlert and Mr. Snyder.

H.R. 3355: Mr. Payne.

H.R. 3361: Mr. Waxman, Mr. Olver, and Mr. Platts.

H.R. 3362: Mr. Bishop of Georgia.

H.R. 3370: Mr. Andrews, Mr. Pallone, Mr. Langevin, Mr. Israel, Mr. Boehlert, Mr. Ackerman, Mr. Nadler, Mr. Houghton, and Mr. Oberstar.

H.R. 3403: Mr. Isakson.

H.R. 3416: Mr. Pastor, Mr. Israel, Mr. Jefferson, and Mrs. Napolitano.

H.R. 3425: Mr. Stark.

H.R. 3441: Mr. Israel, Mr. Bachus, Ms. Ros-Lehtinen, Ms. Eddie Bernice Johnson of Texas, Mr. Sandlin, Mr. Simmons, Mr. Rohrabacher, Ms. Jackson-Lee of Texas, Mr. Jefferson, Mr. Visclosky, Mr. Frost, and Mr. Leach.

H.R. 3473: Ms. McCarthy of Missouri, Mr. Hayworth, Mr. McDermott, Mr. Cardoza, and Mr. Fattah.

H.R. 3482: Mr. GORDON.

H.R. 3507: Mrs. TAUSCHER, Ms. LINDA T. SÁNCHEZ of California, and Ms. ESHOO.

H.R. 3519: Mr. BROWN of Ohio, Mr. NADLER, Ms. SCHAKOWSKY, Mr. MARKEY, and Mr. LANTOS.

H.R. 3574: Mr. CRANE, Mr. ISRAEL, Mr. RYUN of Kansas, Mr. ISSA, Ms. GINNY BROWN-WAITE of Florida, Ms. MCCARTHY of Missouri, and Mr. MEEHAN.

H.R. 3658: Mr. SPRATT and Mrs. KELLY.

H.R. 3676: Mr. PALLONE and Mr. WYNN.

H.R. 3678: Mr. DAVIS of Illinois and Mrs. DAVIS of California.

H.R. 3707: Ms. GINNY BROWN-WAITE of Florida, Mr. EDWARDS, Mrs. NAPOLITANO, Mr. SANDLIN, Mr. GOODLATTE, Mr. RUPPERSBERGER, Mr. CHANDLER, Mr. NEAL of Massachusetts, and Ms. SCHAKOWSKY.

H.R. 3712: Mr. MCNULTY, Mr. WEXLER, Mr. NADLER, Ms. ROYBAL-ALLARD, Mr. TOWNS, Mrs. MCCARTHY of New York, and Ms. NORTON.

H.R. 3737: Mr. VITTER and Mr. BAKER.

H.R. 3743: Mr. HOUGHTON.

H.R. 3791: Mr. BURR.

H.R. 3795: Mr. PALLONE.

H.R. 3800: Mr. PAUL, Mr. BAKER, Mr. JONES of North Carolina, Mr. LINDER, Mr. FORBES, Mr. MANZULLO, and Mr. HOSTETTLER.

H.R. 3815: Mr. HASTINGS of Florida and Ms. NORTON.

H.R. 3839: Mr. CASE.

H.R. 3853: Mr. MILLER of Florida.

H.R. 3865: Ms. SLAUGHTER, Mr. MCGOVERN, Mr. CASE, Mr. FILNER, Mr. HINCHEY, Ms. NORTON, Mr. MCDERMOTT, and Mr. BERRY.

H.R. 3866: Mr. SCOTT of Virginia.

H.R. 3867: Mr. OLVER.

H. Con. Res. 173: Mr. VISCLOSKY.

H. Con. Res. 257: Mr. MILLER of Florida.

H. Con. Res. 298: Mr. CRAMER.

H. Con. Res. 310: Mr. DEAL of Georgia.

H. Con. Res. 332: Mr. GERLACH, Mr. FORD, Mr. MCCRERY, Mr. FRANKS of Arizona, Mr. SESSIONS, Mr. HILL, and Mrs. MALONEY.

H. Con. Res. 352: Mr. DAVIS of Florida, Mr. HONDA, Ms. CARSON of Indiana, Mr. WEXLER, Mr. MEEKS of New York, and Mr. STARK.

H. Con. Res. 356: Mr. SCHIFF, Mr. BISHOP of Georgia, Mr. MCGOVERN, Ms. MILLENDER-MCDONALD, Ms. WATSON, Mr. FATTAH, Mr. MATHESON, Mr. OLVER, Ms. ESHOO, Mr. GREEN of Texas, and Mr. CONYERS.

H. Con. Res. 363: Mr. SAXTON.

H. Con. Res. 367: Mr. KIRK, Mr. HOSTETTLER, Mr. HUNTER, and Mr. SKELTON.

H. Res. 60: Mr. GREENWOOD.

H. Res. 446: Mr. FEENEY.

H. Res. 466: Ms. BERKLEY, Mr. KILDEE, Mrs. BIGGERT, and Mr. KENNEDY of Rhode Island.

H. Res. 514: Mr. GORDON.

H. Res. 524: Mrs. LOWEY, Mr. GRIJALVA, Mr. MCGOVERN, Mr. TOWNS, Mr. LEVIN, and Mr. SANDERS.

H. Res. 540: Mr. BEREUTER, Mr. BLUNT, Ms. LEE, Mr. TANCREDO, and Mr. MCCOTTER.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 3752

OFFERED BY: MR. FLAKE

AMENDMENT NO. 2: In section 3(c)(22), in each of the proposed paragraphs (1), (2), and (3), strike "such sums as may be necessary" and insert "$11,776,000".

EXTENSIONS OF REMARKS

ANNOUNCEMENT OF THE 2004 CONGRESS–BUNDESTAG/BUNDESRAT EXCHANGE

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mr. HASTERT. Mr. Speaker, since 1983, the U.S. Congress and the German Bundestag and Bundesrat have conducted an annual exchange program for staff members from both countries. The program gives professional staff the opportunity to observe and learn about each other's political institutions and interact on issues of mutual interest.

A staff delegation from the U.S. Congress will be selected to visit Germany from May 16–29 of this year. During this two-week exchange, the delegation will attend meetings with Bundestag/Bundesrat Members, Bundestag and Bundesrat party staff members, and representatives of numerous political, business, academic, and media agencies. Participants also will be hosted by a Bundestag Member during a district visit.

A comparable delegation of German staff members will visit the United States for two weeks in July. They will attend similar meetings here in Washington and visit the districts of Members of Congress. The U.S. delegation is expected to facilitate these meetings.

The Congress-Bundestag/Bundesrat Exchange is highly regarded in Germany and the United States, and is one of several exchange programs sponsored by public and private institutions in the United States and Germany to foster better understanding of the politics and policies of both countries. This exchange is funded by the U.S. Department of State's Bureau of Educational and Cultural Affairs.

The U.S. delegation should consist of experienced and accomplished Hill staff who can contribute to the success of the exchange on both sides of the Atlantic. The Bundestag reciprocates by sending senior staff professionals to the United States.

Applicants should have a demonstrable interest in events in Europe. Applicants need not be working in the field of foreign affairs, although such a background can be helpful. The composite U.S. delegation should exhibit a range of expertise in issues of mutual concern to the United States and Germany such as, but not limited to, trade, security, the environment, economic development, health care, and other social policy issues. This year's delegation should be familiar with transatlantic relations within the context of recent world events.

In addition, U.S. participants are expected to help plan and implement the program for the Bundestag/Bundesrat staff members when they visit the United States. Participants are expected to assist in planning topical meetings in Washington, and are encouraged to host one or two staffers in their Member's district in July, or to arrange for such a visit to another Member's district.

Participants are selected by a committee composed of personnel from the Bureau of Educational and Cultural Affairs of the Department of State and past participants of the exchange.

Senators and Representatives who would like a member of their staff to apply for participation in this year's program should direct them to submit a resume and cover letter in which they state their qualifications, the contributions they can make to a successful program and some assurances of their ability to participate during the time stated.

Applications may be sent to the Office of Interparliamentary Affairs, HB–28, the Capitol, by 5 p.m. on Wednesday, March 31.

TRIBUTE TO THE SLOVENE NATIONAL BENEFIT SOCIETY

HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Ms. HART. Mr. Speaker, I would like to take this opportunity to congratulate the Slovene National Benefit Society (SNPJ) in honor of their 100th anniversary celebration on April 6, 2004. As a U.S. Representative of Western Pennsylvania, I am proud of its rich Slovenian heritage and SNPJ's efforts to preserve it.

The Slovene National Benefit Society was founded on April 6, 1904 to provide affordable life protection to immigrant Slovenian families. Today the Slovene National Benefit Society still provides affordable life insurance to Slovenian immigrants; however, it has grown to include members from all ethnic backgrounds and has developed into a diverse fraternal society which today can boast $100 million in assets. SNPJ also continues to offer a full package of social, athletic and cultural opportunities, along with college scholarships and community service projects. SPNJ's social and fraternal events provide a way for people from all backgrounds to preserve a culture of a homeland while building new long lasting friendships in America.

I ask my colleagues to join with me in commemorating this fine organization and the members that maintain its excellence. It is my pleasure to recognize that efforts of the Slovene National Benefit Society to preserve the rich Slovenian heritage and foster new friendships in America.

LEAVE NO MISSISSIPPI CHILD BEHIND

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mr. THOMPSON of Mississippi. Mr. Speaker, I submit the following speech, dated January 7, 2004, given by Joyia Smith, Student Body President at Greenville-Weston High School in Greenville, MS, at a No Child Left Behind Forum.

The No Child Left Behind Act is a landmark in education reform, "designed" to improve student achievement and change the culture of America's schools. The name alone has we uninformed students thinking that test scores would fly up and there would really be "no child left behind". When this legislation first appeared, I was just an incoming sophomore. Our school individually had a lot of concerns. At the same time NCLB was introduced, our students were trying to adopt an unneeded merger. It was like a "double improvement" for us. Our school administration had us under the impression that we would no longer be "trapped in the dead end of low performing schools". In addition to strong accountability, NCLB puts a special emphasis on implementing educational programs. The whole idea was so parents would know their children's strengths and weaknesses, parents would know how well schools were performing, and parents would know the schools have quality teacher training and resources. This is a good plan. I as a student leader just don't feel it was carried out as it should have been. Everything that seems good is not good for you. We must be able to admit when we've made a mistake and move on. "When dreams turn into dust, you should vacuum." Like Thomas Jefferson, "I too like the dreams of the future better than the history of the past."

I admire Joyia for her attentiveness and the detail in which she expresses her analysis of federal legislation. Her comments truly speak bounds. Her outstanding scholarship is a positive reflection on her personal dedication, family, and school district. May Joyia Smith continue to excel in her endeavors.

RECOGNIZING AND HONORING THE WORK OF THE LEAGUE OF UNITED LATIN AMERICAN CITIZENS ON THEIR 75TH ANNIVERSARY

HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I am very pleased to join my colleagues in recognizing and honoring the work of the League of United Latin American Citizens, LULAC, on their 75th anniversary.

Serving as the nation's oldest and largest Hispanic organization, LULAC has improved the lives of millions of Latinos across our nation, by never wavering from its commitment to advance "the economic condition, educational attainment, political influence, health and civil rights" of our country's Hispanic population.

During LULAC's early years, they faced great opposition from those who did not wish to see the status and well-being of Hispanics improve. Many members were harassed and threatened. yet the dedication and determination of LULAC's founding members persevered.

Today, this organization has become one of the greatest Hispanic civil rights organizations in America, with an all-volunteer membership and a glowing list of accomplishments.

Representing Latinos from all over the nation including, Guam and Puerto Rico, LULAC has taken the lead toward groundbreaking accomplishments for the Hispanic community.

One of these is particularly dear to me.

In 1945, LULAC took an active role in the fight against segregation in my home County of Orange in California. The Orange County School System kept its schools segregated on the grounds that Mexican children were "poorly clothed and mentally inferior to white children."

Eventually, LULAC was successful in their lawsuit to integrate this school system.

The following year, LULAC, along with Gonzalo and Felicitas Mendez, filed the Mendez v. Westminister lawsuit that ended 100 years of segregation in the California public school system.

Thanks to this suit, I, the child of Mexican immigrants, was able to benefit from a great public education in Orange County.

Many don't realize that the Mendez case laid the foundation for the watershed case of Brown vs. Board of Education eight years later.

Mr. Speaker, one cannot deny the great impact this lawsuit had on bringing greater educational opportunities not just to Hispanic children, but to all children across the nation.

Yet, this is just one example of the great work LULAC has done since their founding in 1929!

This organization has fought for voting rights and the inclusion of Hispanics in the political process.

It has provided access to educational mentoring and tutoring, and has helped fund millions of dollars in scholarships.

And LULAC continues to fight for the betterment of Hispanic workers, especially in the area of Hispanic health issues.

I am very honored to be standing here today to express my appreciation for all of LULAC's accomplishments.

I wish them continued success in the future as they continue their work for improving the lives of Americans in the Hispanic community.

TRIBUTE TO MINE SAFETY APPLIANCES CO.

HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Ms. HART. Mr. Speaker, I would like to take this opportunity to congratulate Mine Safety Appliances Co. and their Modular Integrated Communications Helmet/Advanced Combat Helmet for being recognized by the U.S. Army's Materiel Command Unit for "one of the Greatest Inventions of 2002."

The Modular Integrated Communications Helmet/Advanced Combat Helmet has been credited with saving the lives of many soldiers in Afghanistan and Iraq. It provides the soldier with protection from 9mm handgun rounds and fragmentation in any environment and allows maximum sensory awareness for the user. Further, it allows for night-vision devices to be integrated with respiratory protective equipment. According to Mine Safety Appliance Co., the helmet provides maximum balance, stability and comfort, while providing the proper size, fit and ventilation.

I ask my colleagues in the House of Representatives to join me in commemorating this valuable invention. Mine Safety Appliance Co. and their helmet have not only improved the lives of soldiers on the battle front but also the lives of the men and women on the home front in Western Pennsylvania.

HONORING FREEDOM RIDES

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mr. THOMPSON of Mississippi. Mr. Speaker, I would like to honor the Freedom Ride efforts sought to accelerate changes in the South, which had been so inadequately brought about in the courts. As a 13-year-old boy in Bolton, MS, I can recall the surmounted tension in the State of Mississippi in 1961. In tribute to the freedom riders, I would like to submit the following excerpt from Juan Williams' Eyes on the Prize.

In 1947, the Congress of Racial Equality (CORE) planned a "Journey of Reconciliation," designed to test the Supreme Court's 1946 decision in the Irene Morgan case, which declared segregated seating of interstate passengers unconstitutional. An interracial group of passengers met with heavy resistance in the upper South. Some members of the group served on a chain gang after their arrest in North Carolina. The Journey of Reconciliation quickly broke down. Clearly the South, even the more moderate upper South, was not ready for integration.

Nearly a decade and a half later, John F. Kennedy was elected president, in large part due to widespread support among blacks who believed that Kennedy was more sympathetic to the civil rights movement than his opponent, Richard Nixon. Once in office, however, Kennedy proved less committed to the movement than he had appeared during the campaign. To test the president's commitment to civil rights, CORE proposed a new Journey of Reconciliation, dubbed the "Freedom Ride." The strategy was the same: an interracial group would board buses destined for the South. The whites would sit in the back and the blacks in the front. At rest stops, the whites would go into blacks-only areas and vice versa. "This was not civil disobedience, really," explained CORE director James Farmer, "because we [were] merely doing what the Supreme Court said we had a right to do." But the Freedom Riders expected to meet resistance. "We felt we could count on the racists of the South to create a crisis so that the federal government would be compelled to enforce the law," said Farmer. "When we began the ride I think all of us were prepared for as much violence as could be thrown at us. We were prepared for the possibility of death."

The Freedom Ride left Washington DC on May 4, 1961. It was scheduled to arrive in New Orleans on May 17, the seventh anniversary of the Brown decision. Unlike the original Journey of Reconciliation, the Freedom Ride met little resistance in the upper South.

On Mother's Day, May 14, the Freedom Riders split up into two groups to travel through Alabama. The first group was met by a mob of about 200 angry people in Anniston. The mob stoned the bus and slashed the tires. The bus managed to get away, but when it stopped about six miles out of town to change the tires, it was firebombed. The other group did not fare any better. It was greeted by a mob in Birmingham, and the Riders were severely beaten. Birmingham's Public Safety Commissioner, Bull Conner, claimed he posted no officers at the bus depot because of the holiday; however, it was later discovered that the FBI knew of the planned attack and that the city police stayed away on purpose. Alabama governor John Patterson offered no apologies, explaining, "When you go somewhere looking for trouble, you usually find it . . . . You just can't guarantee the safety of a fool and that's what these folks are, just fools."

Despite the violence, the Freedom Riders were determined to continue. Jim Peck, a white who had fifty stitches from the beatings he received, insisted, "I think it is particularly important at this time when it has become national news that we continue and show that nonviolence can prevail over violence." The bus company, however, did not want to risk losing another bus to a bombing, and its drivers, who were all white, did not want to risk their lives. After two days of unsuccessful negotiations, the Freedom Riders, fearing for their safety, flew to New Orleans. It appeared that the Freedom Ride was over.

At that point, however, a group of Nashville sit-in students decided to go to Birmingham and continue the Freedom Ride. Diane Nash, who helped organize the group, later explained, "If the Freedom Riders had been stopped as a result of violence, I strongly felt that the future of the movement was going to be cut short. The impression would have been that whenever a movement starts, all [you have to do] is attack it with massive violence and the blacks [will] stop." The Nashville students traveled to Birmingham and asked the bus company to let them use their buses. Attorney general Kennedy also leaned on the bus company and the Birmingham police. He was determined to enforce the Supreme Court's decision that called for integration of interstate travel, and he worried that if the Nashville students remained in Birmingham much longer, violence might erupt. On May 17, the Birmingham police arrested the Nashville Freedom Riders and placed them in protective custody. At 2 AM on Friday, the police drove the Riders back to Tennessee, dumping them by the side of the highway at the state line. After they got a ride back to Nashville, 100 miles away, they went right back to Birmingham.

Meanwhile, Governor Patterson agreed to meet with John Seigenthaler, a Justice Department aide and a native of Tennessee. In the meeting, Floyd Mann, head of the state highway patrol, agreed to protect the Freedom Riders in between Birmingham. Attorney General Robert Kennedy then pressured the Greyhound bus company, which finally agreed to carry the Riders. The Freedom Riders left Birmingham on Saturday, May 20. State police promised "that a private plane would fly over the bus, and there would be a state patrol car every fifteen or twenty miles along the highway between Birmingham and Montgomery—about ninety miles," recalled Freedom Rider John Lewis. Police protection, however, disappeared as the Freedom Riders entered the Montgomery city limits. The bus terminal was quiet. "And then, all of a sudden, just like magic, white people everywhere," said Freedom Rider Frederick Leonard. The Riders considered leaving by the back of the bus in hopes that the mob would not be quite as vicious. But Jim Zwerg, a white rider, bravely marched off the bus first. The other riders slipped off while the mob focused on pummeling Zwerg. Floyd Mann tried to stop the mob, but it continued to beat the Riders and those who came to their aid, such as Justice Department official John Seigenthaler, who was beaten unconscious and left in the street for nearly a half an hour after he stopped to help two Freedom Riders. Mann finally ordered in state troopers, but the damage was already done. When news of the Montgomery attack reached Washington, Robert Kennedy was not happy. He decided to send federal marshals to the city.

Martin Luther King, Jr., flew to Montgomery and held a mass meeting, surrounded by federal marshals, in support of the Freedom Riders. As night fell, a mob of several thousand whites surrounded the church. The blacks could not leave safely. At 3 AM, King called Robert Kennedy and Kennedy called Governor Patterson. Patterson declared martial law and sent in state police and the National Guard. The mob dispersed and the blacks left safely.

After the violence at the church, Robert Kennedy asked for a cooling-off period. The Freedom Riders, however, were intent on continuing. James Farmer explained, "[W]e'd been cooling off for 350 years, and . . . if we cooled off any more, we'd be in a deep freeze." The Riders decided to continue on to Mississippi. They were given good protection as they entered the state, and no mob greeted them at the Jackson bus terminal. "As we walked through, the police just said, 'Keep moving' and let us go through the white side," recalled Frederick Leonard. "We never got stopped. They just said 'Keep moving,' and they passed us right on through the white terminal into the paddy wagon and into jail." Robert Kennedy and Mississippi Senator James O. Eastland had reached a compromise. Kennedy promised not to use federal troops if there was no mob violence. Both men kept up their end of the bargain. Unfortunately, the Freedom Riders were now at the mercy of the local courts. On May 25, they were tried. As their attorney defended them, the judge turned his back. Once the attorney finished, he turned around and sentenced them to 60 days in the state penitentiary.

More Freedom Riders arrived in Jackson to continue the Freedom Ride, and they were arrested too. Freedom Riders continued to arrive in the South, and by the end of the summer, more than 300 had been arrested.

The Freedom Riders never made it to New Orleans. Many spent their summer in jail. Some were scarred for life from the beatings they received. But their efforts were not in vain. They forced the Kennedy administration to take a stand on civil rights, which was the intent of the Freedom Ride in the first place. In addition, the Interstate Commerce Commission, at the request of Robert Kennedy, outlawed segregation in interstate bus travel in a ruling, more specific than the original Supreme Court mandate, that took effect in September, 1961. The Freedom Riders may not have finished their trip, but they made an important and lasting contribution to the civil rights movement.

The Freedom Rides mark one of the most despicable chapters in our history on the part of the Democratic administration at every level of government. They mark one of the most courageous and uplifting periods of time, as evidenced by the courage and determination of those who put their bodies and their lives on the line to end racial segregation and win social justice in this country.

The Freedom Rides and sit-ins showed the potential that human beings have. It was a time when ordinary people did extraordinary things, and the number of heroes was too great to be counted!

TRIBUTE IN HONOR OF ORVIL JONES' RETIREMENT FROM HIGHLAND PARK HIGH SCHOOL

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mr. SESSIONS. Mr. Speaker, I rise to make my tribute to Orvil Jones of Highland Park High School on the occasion of his retirement. I have the pleasure of representing Highland Park High School in Congress, and I am proud to have four alums from Highland Park High School on my staff, and two of them that played football under Coach Jones.

Coach Jones has been a fixture at Highland Park High School for 36 years, and he will be leaving behind a great legacy of service to his students and players. Jones started his career with the Highland Park Independent School District (HPISD) in 1968 as a mathematics teacher and coach at Highland Park Junior High. When ninth grade was moved into the high school within the HPISD, Coach Jones joined the faculty of Highland Park High School in 1970 and has been coaching and teaching there ever since.

During his tenure with Highland Park High School, Coach Jones worked under seven head coaches, eleven principals, and four school superintendents. His day in and day out work ethic will be greatly missed by his fellow coaches and the players that he instructs.

Highland Park's football team has historically been one of the best programs in the State. Highland Park ranks fourth in the State for all-time victories with 637 and is fifth in all-time playoff victories with 62.

Most recently, Coach Jones coached the defensive secondary for Highland Park's varsity football team, and his players considered him to be the hardest working coach on the staff. Coach Jones taught his players that, whether or not they are blessed with the most natural talent, they can succeed by working harder than their competition. Coach Jones provided the perfect example of hard work by always being the first coach to have his players in the film room or on the field and by working with his players on the field even after the other coaches and players had retired to the locker room.

While Coach Jones has made a lasting impact on thousands of students and players, his family has been the center of his attention. I congratulate the Jones family, his loving wife Elaine and their three children and two grandchildren, on this momentous occasion.

I commend Coach Jones on his proud career of service that spans five decades within HPISD, and I wish him and his family all the best for a nice start to a well-deserved retirement.

HONORING PGA PLAYER KIRK TRIPLETT, ADOPTION ADVOCATE

HON. DEBORAH PRYCE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Ms. PRYCE of Ohio. Mr. Speaker, I rise today to honor pro golfer Kirk Triplett for introducing a winning cause to his professional golf game: helping find permanent homes for foster children as he competes on the 2004 PGA Tour.

Working with the Dave Thomas Foundation for Adoption, Triplett, at each tournament, will prominently display a photo of a local child on his golf bag. The public stage provided by the Tour will enable Triplett to portray each child's story to the media, spectators, and viewers at home.

In addition to his support for the Dave Thomas Foundation for Adoption, Kirk and his wife, Cathi, have organized their own foundation, known as Fore Adoption, which provides funding for financially challenged parents seeking to adopt. Kirk will also host the Dave Thomas Desert Classic this month, an event which will help to raise money to support the Dave Thomas Foundation for Adoption.

Having adopted two children themselves, Kirk and Cathi take a personal interest in helping to connect foster children with quality parents across America. No experience is more rewarding than providing a child with a set of loving arms and giving them the opportunity to fulfill their dreams. I commend Kirk for his dedication and commitment to foster children in this country, and wish him the best of luck this year on the PGA Tour.

A TRIBUTE TO BISHOP VINTON RANDOLPH ANDERSON

HON. WM. LACY CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mr. CLAY. Mr. Speaker, I rise today to pay tribute to the Honorable Bishop Vinton Randolph Anderson. Bishop Anderson's devotion to the ministry is exhibited by his history of preaching and lecturing internationally, including the Caribbean, Canada, Taiwan, India and Australia. In addition to his commitment to ministering, Bishop Anderson has been an effective and vocal advocate of civil rights and ecumenical issues.

Bishop Anderson was born in 1947 in Somerset, Bermuda. He graduated with honors from Wilberforce University and earned his Master of Divinity Degree from Payne Theological Seminary. Later he earned his Master of Arts Degree in philosophy from Kansas University. Bishop Anderson has also received honorary doctorate degrees from Paul Quinn College, Wilberforce University, Payne Theological Seminary, Temple Bible College, Morris Brown College, Interdenominational Theological Center and Eden Theological Seminary. Bishop Anderson's pastoral experience encompasses Kansas and Missouri.

Bishop Anderson has demonstrated his unwavering dedication to community development by creating adult education programs, summer youth programs, promoting the first black owned supermarket in St. Louis, and developing 162 units of low income housing in St. Louis County. Bishop Anderson's extraordinary leadership is exemplified through his participation as chairman of several boards of directors, membership with many committees and by the numerous honors that have been bestowed upon him.

Mr. Speaker, it is with great privilege that I recognize Bishop Anderson today before Congress. He is well-deserved of our respect, and I urge my colleagues to join me in honoring Bishop Vinton Randolph Anderson.

PERSONAL EXPLANATION

HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Ms. LORETTA SANCHEZ of California. Mr. Speaker, on Tuesday, March 2, 2004, I was unavoidably detained due to a prior obligation. I request that the CONGRESSIONAL RECORD reflect that had I been present and voting, I would have voted as follows:

Rollcall No. 32, "yes" (on H.R. 3796).

Rollcall No. 33, "yes" (on H. Res. 526).

HONORING THE 50TH ANNIVERSARY OF THE BELLE AIRE BAPTIST CHURCH

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mr. GORDON. Mr. Speaker, I rise to recognize the 50th year of existence of the Belle Aire Baptist Church of Murfreesboro, Tennessee. The congregation will celebrate the church's 50th anniversary on Sunday, March 7, 2004, with a special homecoming and luncheon.

Belle Aire Baptist Church has grown from its original 27 members to more than 2,000 members today. The church has served the community and its congregation well for half a century, a time of tremendous growth and prosperity in the Murfreesboro area.

The church has worked hard to foster relationships with Middle Tennessee State University students. Currently, Belle Aire Baptist Church is helping to start a church near Rutgers University to continue its ministry to students on that campus. Belle Aire Baptist Church also supports missions around the world.

Murfreesboro is a better place because of the work of Belle Aire Baptist Church and its congregation. I am sure the church will continue to make a positive difference in the community for the next 50 years and congratulate the congregation and Pastor Dean Sisk for all the good they have done.

HONORING THE STUDENTS OF ST. FRANCOIS COUNTY, MISSOURI

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mrs. EMERSON. Mr. Speaker, I rise today to honor the students of St. Francois County in the Eighth Congressional District of Missouri for their outstanding efforts in gathering items to donate to U.S. troops serving overseas.

As a school project in cooperation with the Leadington VFW Post No. 5741, students in the West County and Central school districts have collected personal hygiene products, writing supplies, games, food, and magazines for the men and women of National Guard Unit 1140 Company A, serving right now in Iraq. Many students have also added personal cards to their contributions.

The patriotism of these young students is very moving. I am extremely proud of their selfless efforts. They are providing an example to our communities and our Nation that we must unite behind our men and women in uniform to give our support to their mission and to show our appreciation for their hard work. It is especially heartening to find that spirit in our youngest fellow Americans.

At an early age, these students have learned the value of standing with their fellow Americans for a noble and just cause. They are taking the first steps in good citizenship and community service. Their goodwill is circling the globe and brightening the day of our brave soldiers of the 1140th who have taken on a great task in Iraq.

The 1140th is a combat engineering battalion, but its mission is symbolic for our Nation as well. These men and women from southern Missouri are not going to Iraq with the sword in hand. They are going with the plowshare and the builder's square. Others before them have liberated the Iraqi people from Saddam Hussein, from terror, and from oppression. Their work in Iraq serves a new mission: to liberate the same people from poverty, from fear, and from hopelessness.

Back home, the children in the West County and Central school districts are learning the value of their sacrifices. They are an important link in the supply chain for the 1140th in Iraq. The efforts of these students is connecting our loved ones with their homes in Missouri, and that is a very important mission all of us should undertake.

I would also like to express my appreciation for the sponsors and coordinators from the Veterans of Foreign Wars and the community for their help in this project.

TRIBUTE TO RETIRING CHIEF JIMMY LUSTER

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mr. SKELTON. Mr. Speaker, it has come to my attention that my good friend, Jimmy Luster, will retire as chief of police of El Dorado Springs, Missouri, after a lifetime of service to the various communities in which he has lived.

In 1970, Jimmy accepted the position of chief of police for Fairview Height, Illinois, where he established a completely operational police department for the newly incorporated city. By writing the rules, regulations and operational procedures, he laid a solid foundation for the department.

In 1976, Chief Luster left Illinois for Rogers, Arkansas, taking the position of chief of police in that community. He remained until 1978, when he moved to Missouri to serve the people of Cass County in the sheriff's department, supervising night operations.

From 1979 to 1988, Jimmy served as chief of police for the town of Belton, Missouri. During his time there, he proved instrumental in getting a new state-of-the-art police facility built.

Since 1992, the people of El Dorado Springs have had the good fortune to have Jimmy as their chief of police. His retirement brings to a close the career of a graduate of the FBI National Academy, the president of the Southwest Missouri Major Case Squad, a member of the International Association of Chiefs of Police and a fine and dedicated man.

Mr. Speaker, I am sure the Members of the House will join me in honoring Chief Luster for his years of service and in wishing him all the best in the days ahead.

HONORING HATFIELD VOLUNTEER FIRE COMPANY

HON. JOSEPH M. HOEFFEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mr. HOEFFEL. Mr. Speaker, I rise today to recognize and honor the Hatfield Volunteer Fire Company and two of its outstanding volunteer fire fighters, who have each contributed in excess of 50 years of dedicated service to the community.

The Hatfield Volunteer Fire Company was founded on March 10, 1910 after a fire destroyed a local business. The Hatfield Volunteer Fire Company had modest beginnings with 24 charter members and equipment that included a single horse drawn chemical truck. Presently the company has 68 active members and a ladies auxiliary. The current fleet consists of two fully equipped 1,500 gallon per minute engines, a Rescue/Cascade truck, and a 2,000 GPM pump with a special service six wheel pickup truck. The company serves the Hatfield Borough and Hatfield Township and provides mutual assistance across Montgomery and Bucks Counties in Pennsylvania.

Robert Nolen is a lifetime member of the Hatfield Volunteer Fire Company, who at age 70 still drives trucks to active fire calls. Isaac Feusner, another lifetime member now 93, has devoted countless hours to his duties as a fire fighter. The dedicated volunteers of the Hatfield Volunteer Fire Company have provided critical services to citizens in need, oftentimes endangering their own lives in the process.

I congratulate the Hatfield Volunteer Fire Company, specifically Robert Nolen and Isaac Feusner, for embodying the spirit of volunteerism in America through proactive service in the community.

HONORING CHARLES L. HORN

HON. MARK R. KENNEDY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mr. KENNEDY of Minnesota. Mr. Speaker, rise today to call attention to the accomplishments of a great man and a great Minnesotan, Charles L. Horn.

As a businessman, he set standards. As a philanthropist, he transformed a community. Indeed, it is safe to say rarely has one man made himself so singularly important and particularly indispensable as Charles L. Horn made himself to the city of Anoka, and the state of Minnesota as a whole.

In 1922, despite the fact that he "knew nothing of ammunition," Charles Horn had built up such an impressive record as the young President of the American Ball Company that he was asked to come to Anoka to run the defunct Federal Cartridge Corporation. He accepted this opportunity with characteristic eagerness.

Through his innovative marketing and distribution techniques, ambitious agenda for growth, and his revolutionary "dealership network," Horn guided F.C. Corp from a startup straining for market-share among such goliaths as Remington and Winchester, to a leadership role in the industry. In doing so, he helped bring hundreds of jobs and stimulate the economic growth of an entire community.

Perhaps more impressive than his storied successes in business are his wonderfully generous philanthropic efforts through which he established himself as a pillar of the community in the city of Anoka and beyond. As the chairman of the Olin Foundation, Horn directed donations in excess of $425,000 for college scholarships and educational buildings, a feat impressive enough to lead 12 different colleges and universities to award him with honorary doctorates. In 1951, Horn began a long relationship establishing himself as one of the most important benefactors in community history by donating funds on the behalf of F.C. Corp to help pay for lighting a recreational field. Thereafter he established the George Green Scholarship award for deserving seniors from Anoka High, created two Charles L. Horn Math Scholarships at St Cloud University, donated $50,000 to the Mercy Hospital fund drive, and sponsored a yearly Christmas party for the children of the community. Finally, further cementing his invaluable role in community life, Horn authorized $635,000 to complete a new City Hall for Anoka.

Mr. Speaker, Charles L. Horn was a true American icon. A successful businessman who gave generously to his community, Horn will long be remembered in Anoka and throughout our state as an innovator and a dedicated philanthropist who truly embodied the values Minnesota holds so dear.

IN RECOGNITION OF THE PANCYPRIAN ASSOCIATION WOMEN'S ISSUES NETWORK AND THELMA PIERI WOMAN OF THE YEAR HONOREE

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mrs. MALONEY. Mr. Speaker, I rise to honor the Pancyprian Association Women's Issues Network (WIN) on the evening of its annual Dinner Dance, and to recognize WIN's 2004 Woman of the Year Award honoree, Ms. Thelma Pieri.

WIN was founded in 1997 to serve the Cyprian-American community, promote the Hellenic Cypriot culture and provide opportunities for future generations of Cyprian women. The organization sponsors health lectures, health fairs, cultural events and breast and cervical cancer screening for women with no health insurance. Additionally, WIN has worked against the Turkish occupation of Cyprus since 1974.

Thelma Pieri was born in Galata, Cyprus on September 28, 1936; she is the daughter of Emilio and Theophanis Michalides. Thelma was educated in Cyprus and graduated from high school in 1954. As a young adult, she fell in love with and married Andreas Pieri. Mr. and Ms. Pieri have three children and nine grandchildren.

In 1967, Andreas and Thelma immigrated to the United States and made their home in Queens, New York. For the Pieri family, the United States has truly been a land of opportunity: with her husband, Thelma owned and operated two successful beauty salons.

Thelma's dedication to community service and the liberation of Cyprus is amply demonstrated by her tireless work for the American Hellenic Educational Progressive Association (AHEPA) and the Pancyprian Organization. She served as the chairperson of the Pancyprian Organization's Cultural Division and president of its athletic committee. Furthermore, she has received awards for her community service efforts from, among others, AHEPA, the Queens Borough President, the Pancyprian Organization and the Panhellenic Federation. She has truly given selflessly of her time and talent so as to improve the quality of life in her community. She is one of those rare individuals who can always find the time and energy to do more and give more.

In 1986, Mr. and Ms. Pieri moved to Newport Ritchie, Florida, where Thelma founded the Pancyprian Association of Florida and the Greek School at the St. George Church of Newport Ritchie.

Thelma continues to be a passionate spokesperson for the liberation of Cyprus. "I wish to return to Greece, where my children live, and participate in their lives and that of my grandchildren," Thelma recently remarked. "I work for the freedom of Cyprus and my heart is bleeding when I see my beautiful island under Turkish occupation. I will continue to work and fight until I see the sun set on a free, united Cyprus."

Thelma Pieri truly exemplifies the tradition of community involvement that makes America the greatest nation in the world. On behalf of the residents of the Fourteenth Congressional District of New York, I would like to extend to Ms. Pieri and the Women's Issues Network my continuing respect, admiration and support.

Mr. Speaker, I request that my colleagues join me in paying tribute to this wonderful organization and its honoree, Thelma Pieri.

COMMEMORATING PEACE CORPS' 43RD ANNIVERSARY AND THE CONTRIBUTION OF SAN MATEO VOLUNTEERS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mr. LANTOS. Mr. Speaker, I rise today in celebration of the Peace Corps' 43rd anniversary. Since 1961, over 170,000 Peace Corps volunteers in 137 countries have taught English as a second language in dimly lit classrooms, planted rice seedlings in water-covered fields, shared accounting practices with women cooperatives of local markets, conducted workshops under palm trees on the benefits of long-term nursing, and successfully accomplished many other worthy development projects.

Among this legion of volunteers are seventeen residents of my district in San Mateo County, California. They are Corrine Basanez, Qamrul Bhuiyan, Martha Cheng, Sonya Chi, James Choy, Emily Doan, Joann Gaasland, Michael Henley, Jonathan Kahn, Angela Lee, Celina Lee, Andrew Lind, Eileen McCarthy, Michelle Pena, Doreen Peterson, Peter Rabover, and Shona Simpson. I applaud all of them for the dedication and commitment.

Mr. Speaker, Peace Corps volunteers promote American values and world understanding, and, thus, are our country's best ambassadors in the villages and towns in which they live and work. Upon their return to the United States, Peace Corps volunteers share their experiences with family, friends, and the community at large, thereby exposing Main Streets across America to foreign cultures and customs. As a result, the Peace Corps experience enriches not only foreign countries, but also the volunteers and our nation. In fact, the State Department, USAID, and Congress have benefitted from the experiences of Returned Peace Corps volunteers within their ranks.

Mr. Speaker, in the last session, Chairman HYDE and I, in collaboration with other Members, crafted the Peace Corps Expansion Act of 2003 to better equip the Peace Corps to recruit, train, and support current and future volunteers during the next four years. The Act also facilitates the work of Returned Peace Corps volunteers as they carry out the mission of the Peace Corps—helping people in developing countries meet basic needs, promoting understanding abroad of U.S. values and ideals, and promoting a better understanding by our citizens of other cultures and societies. Significantly, the Act also encourages greater diversity within the Peace Corps and among volunteers to ensure better that all the faces of America are reflected in the faces of Peace Corps volunteers and staff, as the agency seeks to double the number of volunteers by 2007. I am pleased to say that this House passed the Peace Corps Expansion Act of 2003 with overwhelming bipartisan support.

Mr. Speaker, in closing, I want again to salute the many thousands of Peace Corps volunteers across the globe who are currently serving their country and the many more who have returned home to continue contributing to their communities. They are the reason for National Peace Corps Week.

INTRODUCTION OF LEGISLATION REGARDING TRADE LAW ENFORCEMENT

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mr. WOLF. Mr. Speaker, I am introducing legislation today to change the process for enforcing U.S. trade laws. This bill will shift the authority to bring cases of unfair trade practices before the World Trade Organization (WTO) from the Office of the United States Trade Representative (USTR) to the Department of Commerce.

I believe this change is critical in the face of the new world trade dynamic of the 21st century. In 2003, the U.S. registered a record $484.9 billion trade deficit, of more than 17 percent above the previous record shortfall of $418 billion in 2002. Some analysts predict that the trade deficit could soon top $600 billion. Since 1991, our trade deficit has grown nearly 620 percent—620 percent! Some say such a trade imbalance is not a bad thing. Others aren't so sure. I, for one, am deeply concerned that there has not been a sufficient amount of attention focused on the long-term impacts of the trade imbalance to our country.

Just as important, I believe this change is necessary because of the entry of the People's Republic of China into the WTO in December 2001 and the growing allegations from U.S. businesses that China, now our fourth largest trading partner, is not living up to its trade agreements. That concern multiplies when you consider that the U.S. trade deficit with China in 2003 was $124 billion—almost a quarter of the entire U.S. trade deficit last year.

Last year I started to hear from a number of small and medium-sized businesses about the unfair trading practices of Chinese companies. There were charges that U.S. trade agencies were unfairly favoring Chinese corporations at the expense of American companies in trade dumping cases. The Commerce-Justice-State appropriations subcommittee, which I chair and which oversees the funding for most U.S. trade-related agencies, held a hearing to look into this matter. My subcommittee heard from representatives of hard-hit furniture, pharmaceutical and agriculture industries. Their testimony was alarming.

America's manufacturers contend that China is deliberately undervaluing its currency—the yuan—by as much as 40 percent, giving China a trade advantage when competing with U.S. companies and contributing to the loss of U.S. factory jobs. During a visit to China last September, U.S. Treasury Secretary John Snow called on China to adopt a more flexible exchange rate system. The Chinese government has not made any such changes.

When it comes to trade with China, the list is long with promises made and promises broken. China has broken its promise:

To remove agricultural and industrial quotas and tariff rate quotas;

To stop requiring American companies to pay exorbitant rates to partner with Chinese companies so our companies can have access to the Chinese markets; and

To stop using its tax policies on U.S. imports into China, therefore discriminating against the import of our goods. For example, our semiconductor companies and our fertilizer producers state that China's practice of rebating more than 80 percent of its value-added tax (VAT) to domestic firms puts foreign suppliers, our companies, at a huge disadvantage in the Chinese market.

China also has a complete disregard for U.S. intellectual property rights. The Chinese market also continues to be dominated by piracy of copyrighted material. Some U.S. sources charge that American businesses have lost billions in revenue due to China's copyright piracy and other intellectual property rights violations. We have heard that they have even copied an entire car!

Estimates are that 93 percent of the business software applications in China are pirated and 88 percent of the motion pictures and the music seen or heard in the country are stolen. Pirated copies of new software being released in America often ends up for sale on the streets of Beijing before we can buy the real thing in northern Virginia.

But the United States has not brought an intellectual property rights case against China since Beijing's entry into the WTO. Not one case.

How can U.S. manufacturers, especially the small and medium-sized businesses, compete with Chinese-based factories operating with the most advanced technologies, the most modern equipment, and virtually free Chinese labor?

We have had many debates on the importance of intellectual property rights on this floor and later on in the week, we may have another. Innovation is the cornerstone of the American economic engine. We cannot continue to trust the Chinese when they promise to enforce their intellectual property laws.

I ask one question: when has the People's Republic of China closed down a market with the most egregious cases of counterfeit goods?

Not one of the markets selling counterfeit pharmaceuticals, health and safety goods, and automobile parts has been shut down. Not a single one. Yet, the USTR believes the People's Republic of China is keeping its promise to enforce intellectual property rights.

I know the Office of the USTR has hard-working people whose goal is to give U.S. businesses the opportunity to flourish in the global economy. But I believe it is being stretched too thin under its current operation of having the same people who negotiate trade agreements be the same people who determine whether or not countries are living up to their obligations.

Enforcement is being shortchanged and U.S. companies are not being well served. I believe our nation's business community and our trade policy would be better served by having the Department of Commerce as the trade law enforcer.

The Department of Commerce has the budget and the resources to address the issues of small and medium-sized companies. The Commerce Department works daily with American companies to promote competitiveness and increase productivity. The Commerce Department is on the ground floor with these companies. They understand how Chinese imports and trade barriers are hurting American companies.

By comparison, the Office of the USTR has 202 federal employees to do all this work. The USTR is in the Executive Office of the President and regardless of the administration, this office's budget requests are tightly controlled. Within the past two years alone, the budget request was woefully inadequate to just maintain ongoing operations of the office.

The FY 2004 request also was insufficient to continue the operations of the USTR and at the urging of the trade community, the Appropriations committees provided additional funding for the USTR. This effort was supported by the Senate Finance and House Ways and Means committees.

Astonishingly, the FY 2005 USTR budget request released in early February includes less money than was provided this year. Less money. Yet the office says it will begin seven more free trade agreements. And they hope to accomplish this extra work with less money than the year before? It is preposterous that such a level of work would require less money. And what happens to the mounting allegations of unfair trade practices under trade agreements already signed while the USTR negotiates new deals—with fewer resources than the year before when no unfair trade cases were brought before the WTO?

I have not yet touched on what I believe is the overriding issue involving trade with China—China's egregious human rights record. For the record, I did not support granting China permanent normal trade relations (PNTR), a term recently changed from what I believe was a more appropriate "most-favored-nation trade status" designation. I know there were good and reasonable people on both sides of this issue, but for me, trade agreements must come with a price and that price is respect for the universal declaration of human rights.

As we have seen with its trade obligations, China also has a long list of broken promises when it comes to improving the rights of its people. Last year, I requested that the U.S. support a resolution condemning the human rights abuses in China in the context of the U.N. Commission on Human Rights. The State Department explained to me that the department was encouraged by promises made by the Chinese. Therefore, the U.S. refused to put forth condemning resolutions.

Last week, the State Department released the 2003 Human Rights Report on China. This report showed that not only did China fail to live up to its promises, but its human rights record actually grew worse. The people of China do not enjoy the freedoms that we have as American citizens. Imagine a country where factory workers have no workplace safety, labor or environmental protections and are required to work 80 hour-weeks for no more than $110 per month to produce goods for export.

Many CEO's of U.S. companies supported PNTR with China hoping for new markets for their products and services. We are now seeing some of these same business leaders questioning whether or not it was the right decision for their businesses and their communities in the long term. Many of these companies today who trade with China do so with the hope that the Chinese don't copy their products before they can make a profit.

That's not the way free and fair trade should work. If the U.S. has made trade agreements with China and with other countries, we need to make sure those agreements are enforced. The Office of the USTR has had many opportunities to bring unfair trading cases against China. Meanwhile, U.S. factories continue to close, American workers continue to lose jobs to foreign companies, and the U.S. trade deficit continues to soar.

Free trade must be our strategy and not just a goal. If trading partners don't play by the rules, then U.S. firms are at a disadvantage and American workers and families are hurt. The U.S. must enforce trade laws, and we need to give the Commerce Department the opportunity to take on that responsibility.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSFER OF FUNCTIONS.

(a) IDENTIFICATION OF CERTAIN COUNTRIES.—Section 182 of the Trade Act of 1974 (19 U.S.C. 2242) is amended—

(1) in subsection (a)—

(A) by striking "United States Trade Representative" and inserting "Secretary of Commerce"; and

(B) by striking "Trade Representative" each subsequent place it appears and inserting "Secretary"; and

(2) in subsections (b) through (g), by striking "Trade Representative" each place it appears and inserting "Secretary".

(b) ENFORCEMENT OF UNITED STATES RIGHTS UNDER TRADE AGREEMENTS AND RESPONSE TO CERTAIN FOREIGN TRADE PRACTICES.—Chapter 1 of title III of the Trade Act of 1974 (19 U.S.C. 2411 et seq.) is amended as follows:

(1) Section 301(a)(1) is amended by striking "United States Trade Representative" and inserting "Secretary of Commerce".

(2) Section 303(b)(1)(A) is amended by striking "United States Trade Representative" and inserting "Secretary of Commerce."

(3) Section 301(d)(8) is amended to read as follows:

"(8) The term 'Secretary' means the Secretary of Commerce.".

(4) Sections 301 through 310 are amended by striking "Trade Representative" each place it appears and inserting "Secretary".

SEC. 2. APPLICABILITY.

(a) IN GENERAL.—Subject to subsection (b), the amendments made by section 1 shall take effect 90 days after the date of the enactment of this Act.

(b) PENDING PETITIONS, INVESTIGATIONS, AND DETERMINATIONS.—The amendments made by section 1 shall not affect any petition filed before, or investigation pending on, the effective date set forth in subsection (a), under chapter 1 of title III of the Trade Act of 1974. Such petitions and investigations shall proceed as if section 1 had not been enacted. The amendments made by section 1 shall not affect any determination made or action taken under chapter 1 of title III of the Trade Act of 1974 before the effective date set forth in subsection (a).

SEC. 3. URUGUAY ROUND AGREEMENTS ACT.

(a) TRANSFER OF CERTAIN FUNCTIONS.—Those functions of the United States Trade Representative under the following provisions of the Uruguay Round Agreements Act are transferred to the Secretary of Commerce, effective 90 days after the date of the enactment of this Act:

(1) Section 123.

(2) Paragraphs (5), (6), and (7) of section 124.

(3) Section 127.

(4) Subsections (e) and (f) of section 281.

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS.—Section 129 of the Uruguay Round Agreements Act (19 U.S.C. 3538) is amended—

(A) by striking "Trade Representative" each place it appears and inserting "Secretary of Commerce";

(B) in subsection (a)(6), by striking "direct the administering authority to";

(C) in subsection (b)—

(i) in paragraph (1), by striking "the administering authority and";

(ii) in paragraph (2), by striking "shall," and all that follows through "issue a determination" and inserting "may issue a determination";

(iii) in paragraph (3), by striking "the administering authority and"; and

(iv) in paragraph (4)—

(I) by striking "the administering authority and"; and

(II) by striking "direct the administering authority to"; and

(D) in subsection (c)(1)—

(i) in subparagraph (A), by striking "the date on which" and all that follows through "determination," and inserting "the date on which the Secretary of Commerce revokes an order pursuant to that determination,"; and

(ii) in subparagraph (B), by striking "the date on which" and all that follows through the end of the sentence and inserting "the date on which the Secretary of Commerce implements that determination".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect 90 days after the date of the enactment of this Act.

FCC MUST COMPLY WITH FEDERAL COURT DECISIONS

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mr. RADANOVICH. Mr. Speaker, I rise in support of the decision made by the United States Court of Appeals for the District of Columbia Circuit on March 2, 2004 with regard to the United States Telecom Association's challenge to the Federal Communications Commission's (FCC) Triennial Review Order. This is a decisive victory for consumers, for innovation and for free markets. The decision in the case of USTA v. FCCII has once again, as it did previously in 2002 in USTA v. FCC I, correctly interpreted the intent of Congress regarding the unbundling requirements of Section 251 of the Telecommunications Act of 1996. The FCC, on the other hand, has for 8 years now rejected that intent, even after two previous Federal court decisions rejecting their unbundling rules decisions. The FCC must comply with the decisions of the Federal Courts without delay.

PERSONAL EXPLANATION

HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mrs. JONES of Ohio. Mr. Speaker, I missed votes on Tuesday, March 2, 2004 due to the Ohio Primary. I respectfully request an excused absence for this date. Had I been present, the record would reflect that I would have voted: "Yea," on Roll 33, H. Res. 526 on the Motion to Suspend the Rules and Agree, Expressing the sympathy of the House of Representatives for the victims of the devastating earthquake that occurred on December 26, 2003, in Bam, Iran, and "Yea," on Roll 32, H.R. 3769 on the Motion to Suspend the Rules and Pass, Ben Atchley Post Office Building.

HONORING THE MEMORY OF CHICAGO SUN-TIMES COLUMNIST STEVE NEAL

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mr. EMANUEL. Mr. Speaker, I rise today to remember a respected journalist and good friend, Steve Neal. Steve was a strong and intelligent voice in Illinois politics for over two decades as a writer for the Chicago Sun-Times and the Chicago Tribune. We lost that voice when he died on February 17th at the age of 54.

Politics was fun to Steve. He enjoyed the game more than anyone I ever met. He enjoyed taking a story and finding an angle that had not yet been reported on. And, I for one can tell you that he knew how to praise as well as criticize. But, Steve was always willing to look at an issue or a person and give you his honest opinion.

I will always remember Steve as the toastmaster of the greatest political discussions in Chicago, hosted over a great plate of food at Gene and Georgetti. It was at these Friday lunches, where scholars, historians, and elected officials of all backgrounds discussed everything from our thoughts on an upcoming election, to a discussion of a new book on philosophy.

Steve's table did not discriminate along party lines and neither did his column. His weekly analysis addressed all sides of the political spectrum and every level of government with the same uncompromising objectivity and directness.

Steve was born and raised in Oregon. He began his career covering sports for local papers, and after earning a graduate degree in journalism at Columbia University he moved to Chicago to work as a general assignment reporter for the Chicago Tribune.

After six months, he was sent to Washington, DC to cover politics at the national level. Many journalists come to this town and never look back, but when the Tribune offered him a chance to return to his adopted home to write a column covering local politics, he took the opportunity and Chicago has benefited from his insight ever since.

The column was always about politics, but the focus could easily be the American Revolution one day, ward level conflicts the next. The late Senator Paul Simon noted that he was one of only a few political writers with a sense of history. He knew the history behind each office, and was even more familiar with each office holder. He always looked for the story behind the story, and his writing reflected this sense of perspective. He also wrote several history books, on topics including Wendell Wilkie, Harry Truman and Dwight Eisenhower. He recently finished writing a book called Happy Days are Here Again, about the early days of the Franklin Roosevelt administration.

Among his last columns was an assertion that James Madison was the most important founding father, and he provided the facts to back it up. Another column provided a historical perspective on the current Presidential primaries by citing specific details about the campaigns of Adlai Stevenson and Thomas Dewey. You always learned something more than his opinion when you read his column. You learned about our city, our state, and our country.

Mr. Speaker, my thoughts are with Steve's wife, his two daughters, and the rest of his family today, and I ask my colleagues to join me in honoring the memory of this important and talented journalist.

IN HONOR OF THE 90TH ANNIVERSARY OF ACTORS' EQUITY ASSOCIATION

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mr. NADLER. Mr. Speaker, I rise today to pay tribute to Actors' Equity Association, in honor of its 90 years of contributions to the American theater.

Since 1913, Actors' Equity Association has fought for better wages, working conditions, and pension and health benefits for actors and stage managers. Equity has fostered and stimulated the art of live theater and contributed to the health of the American theatrical community. In particular, Actors' Equity plays an important role in the Broadway industry, in the heart of my district, which contributes $4 billion annually to the economy of New York City and depends greatly on the talent and professionalism of Equity's members.

Throughout Actors' Equity's distinguished history, it has built a proud tradition of contributing to the overall good of our society and community by: fighting against segregation, blacklisting and discrimination; supporting funding for the arts; and spearheading fundraising for charities such as Broadway Cares/Equity Fights AIDS.

In addition, in the aftermath of the September 11, 2001 attacks on New York City, Equity came together with other theatrical unions to keep Broadway shows up and running, helping New York City recover.

The hard work and talent of the more than 45,000 members of Actors' Equity Association contribute to the arts and to their communities in cities and theaters across the country. Actors' Equity Association is committed to ensuring these members are treated with dignity and respect, and that the art of live theater continues to flourish.

Mr. Speaker, I invite my colleagues to applaud Equity's ongoing efforts to uphold the highest artistic standards of live theater in the United States. I commend Actor's Equity for all of its good work and offer my sincerest congratulations upon reaching this milestone.

A VAST HUMAN TRAGEDY

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mr. STEARNS. Mr. Speaker, I submit the following article for the RECORD. Surely this is evidence of a vast human tragedy.

A VAST HUMAN TRAGEDY

(By Andrew Natsios)

In a decade and a half of humanitarian work I have witnessed the aftermath of much human tragedy, including the Rwandan genocide and the killing fields of Cambodia. In June 2003, I visited Iraq's mass graves, the most recent addition to mankind's legacy of mass murder.

Rows of white bundles containing bones filled room after room. Families filed by, searching for signs of those who had disappeared, some stolen during the night, others taken in daylight. Even small children were not spared the butchery.

The graves that Saddam Hussein's henchmen dug and filled with human beings are a bitter sign that mankind still has a long way to go before every person has the basic human rights promised by all our religions and cultures—the rights of life and liberty.

Iraqi Foreign Minister Hoshyar Zebari told the United Nations that under Saddam Hussein, Iraq was "a murderous tyranny that lasted over 35 years." "Today we are unearthing thousands of victims in horrifying testament," Zebari said.

I walked across the sandy plains of Iraq and saw the mass graves that were just found and are beginning to yield their tragic secrets. The bones tell a story of horror and shame: arms bound together, skulls pierced from behind. Hundreds in one long trench.

Those who survived inside Iraq, and those who watched helplessly from abroad, have joined together to begin the long, painful process of accounting for the dead. British Prime Minister Tony Blair said on November 20, 2003, that as many as 400,000 Iraqis lie in these mass graves.

They are Kurds, killed because of their ethnicity. They are Shiites, killed because of their religion. They are Sunnis, killed for their political views. They are Egyptians, Kuwaitis, and Iranians, killed because their lives meant nothing to Saddam Hussein, his sons, and their followers.

As Saddam's evil regime collapsed in April and May, 2003, and his Baath Party mass murderers retreated into the shadows, Iraqis began to act on their formerly hidden grief. They searched for their loved ones rounded up over the years in campaigns of terror. They had heard rumors about shots in the night, mass burials, and vanished prisoners. Now they followed those bloody trails to the mounds of earth they suspected entombed their beloved children and parents.

The new leaders in Al Hillah, Karbala, Najaf, and a dozen other cities and towns around Iraq worked with U.S. and British forces to try and protect some of the mass graves. We hope to preserve the evidence of these crimes against humanity.

Human rights groups have formed, assisted by USAID and working with the Coalition Provisional Authority, to urge people to record the names of those being exhumed and describe the circumstances under which they were seized and slain.

Yes—people want to find the remains of their loved ones and give them a proper burial in consecrated ground. But the Iraqi people also want justice—to punish those who callously killed their fellow citizens by the busload, day after day, year after year.

Above all, if people in Iraq and around the world hope to learn from the crimes of the past, the mass graves of Iraq must be documented, reported, and never forgotten or denied.

This booklet is a small, early marker on that path.

THE 125TH ANNIVERSARY OF THE ESTABLISHMENT OF THE UNITED STATES GEOLOGICAL SURVEY

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mr. MORAN of Virginia. Mr. Speaker, today I am introducing a resolution to acknowledge 125 years of reliable, timely, and objective science that illustrates and enhances our understanding of the Earth, and serves the important needs of individuals and communities across this great land.

The United States Geological Survey has an outstanding history of public service and scientific breakthroughs. It has been at the forefront of advances in our understanding of the Earth, its processes, and its resources. Scientists from the U.S. Geological Survey pioneered hydrologic techniques for gauging the impact of floods and modeling the flow of complex ground-water systems. The astronauts who landed on the Moon in 1969 were trained in geology by the USGS.

Innovative ventures with the private sector have given the world access to digital images of neighborhoods and communities in one of the largest data sets ever made available online. Modern-day understanding of the formation and location of energy and mineral resource deposits is rooted in fundamental scientific breakthroughs by USGS scientists. Their biologists revolutionized thinking about managing wildlife resources, providing a sound scientific basis that lets waterfowl conservation and recreational hunting work in tandem as adaptive management, not as conflicting interests. Advances in seismology are making early warnings of earthquakes a reality that will give the needed alert time to save lives. The future of the global community presents infinite opportunities for the science of the USGS to continue to make substantive and life-enhancing contributions to the betterment of the nation and the world.

I congratulate the United States Geological Survey on its 125th anniversary. By commemorating this date, I hope we will come to recognize the crucial services that this institution continues to provide this nation.

The United States Geological Survey is a vital Federal science agency that is headquartered in my District in Northern Virginia; however, Members should know that this agency has an important presence in every state of the union.

How has 125 years of independent science benefitted our nation? It has given us an extensive record of our land and resources, which allows us to realize and track the changes in our land, water, and wildlife. It has provided a wealth of long-term data and research, which continues to serve thousands of government agencies, companies, non-profit organizations, recreational groups, and individual Americans. And it has given us scientific expertise and understanding that we can count on to be accurate and up to date.

Since its inception, the United States Geological Survey has become the premier science organization for the nation, covering all of the natural science disciplines (biology, geography, geology, and hydrology) in every state. This expansive coverage provides us with the comprehensive information we need to tackle many complicated issues in many geographical areas.

As an unbiased science agency, the United States Geological Survey often serves the needs of the nation behind the scenes. Whether it's research on windborne dusts, mercury contamination, or West Nile Virus used to protect public health; or natural hazards assessments used to ensure public safety; or the energy and mineral resources, water and biological information, and geologic mapping and geospatial information used to serve our economy, for 125 years, the United States Geological Survey has provided the science that serves as the basis for our most important decisions.

It's time we congratulated those whose labor provides us with the information we need to manage our resources and safeguard society. I am delighted to have this opportunity to bring attention to the work of the United States Geological Survey and showcase its remarkable history. I urge you to support this resolution, thereby confirming our appreciation for their ongoing work that has served the health, safety, and prosperity of the United States for 125 years.

RESOLUTION

Whereas March 3, 2004 will mark the 125th Anniversary of the establishment of the United States Geological Survey;

Whereas the United States Geological Survey has become the Nation's premiere earth and biological science agency;

Whereas during its 125-year history, the United States Geological Survey has been the birthplace of a number of other Federal agencies, including the Reclamation Service (later renamed the Bureau of Reclamation) in 1902, the Forest Service in 1905, the United States Bureau of Mines in 1910, the Grazing Service (later renamed the Bureau of Land Management) in 1934, and the Minerals Management Service in 1982;

Whereas the United States Geological Survey has been a widely respected source of relevant and objective science to address the Nation's diverse natural resource issues;

Whereas the United States Geological Survey continues to serve the Nation as an independent fact-finding agency that collects, monitors, analyzes, and provides scientific information and understanding about natural resource conditions, issues, and problems;

Whereas a hallmark value of the United States Geological Survey to the Nation is its ability to carry out studies on a national scale and to sustain long-term monitoring and assessment of natural hazards and natural resource conditions;

Whereas the United States Geological Survey is an agency of the Federal Government with no regulatory or land management responsibilities and is thus a trusted entity to provide impartial science that serves the needs of the Nation; and

Whereas the United States Geological Survey has a scientific presence in every State and Territory of the United States and serves the Nation's extensive and diverse needs for objective scientific knowledge and understanding: Now, therefore, be it

Resolved, That the House of Representatives—

(1) congratulates the United States Geological Survey on its 125th anniversary; and

(2) expresses strong support for the United States Geological Survey as it serves the Nation by providing timely, relevant, and objective scientific information which helps to describe and understand the Earth, minimize the loss of life and property from natural disasters, manage water, biological, energy, and mineral resources, and enhance and protect the quality of life of all Americans.

In addition to Congressman JAMES P. MORAN, the following members are original sponsors of the House Resolution Congratulating the United States Geological Survey on its 125th Anniversary: BARBARA CUBIN, TOM DAVIS, NORM DICKS, ANNA G. ESHOO, RON KIND, EDDIE BERNICE JOHNSON, ZOE LOFGREN, RALPH REGULA, NICK SMITH, BILL YOUNG, and SHERWOOD BOEHLERT.

WARM SPRINGS ELEMENTARY SCHOOL CELEBRATES 150 YEARS OF EDUCATION

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mr. LEWIS of California. Mr. Speaker, I would like today to recognize Warm Springs Elementary School, the first permanent school in San Bernardino, California, which is celebrating its 150th year of providing education to the children of ranchers, railroad workers, Air Force personnel and immigrants.

In 1854, ranchers near the small Mormon town of San Bernardino decided seven miles was too far for their children to walk to school. They got together and built an adobe east of downtown, and named it after the nearby Warm Creek. As a one-room school, it provided an education for about 25 children of all ages. This was just four years after California gained statehood, and the same year as the City of San Bernardino was incorporated as the county seat.

Over the next 10 years, the school grew slowly as many of the Mormon settlers returned to Utah. Gold was discovered in the San Bernardino Mountains—bringing thousands of fortune-seekers but few families. The school building was nearly destroyed by an earthquake and a flood, so the adobe was replaced with a log cabin on the same site facing Sterling Avenue. The students were grouped by reading ability rather than age, and boys and girls sat on opposite sides of the room.

The log-cabin school was destroyed by fire in 1974, and a clapboard building replaced it—with an auditorium added in 1887. That school also later burned to the ground and was replaced.

By the 1890s, the railroads had come to San Bernardino and the area was booming. The Santa Fe Railway built a huge repair yard near downtown, and the population grew rapidly. In 1898, Warm Creek School grew to four rooms and had as many as 100 students. That school was torn down in 1926 and replaced with a Spanish-style tile-roofed building that remains the school's core.

Students at Warm Springs School became close witnesses to America's war efforts in the 1940s. The San Bernardino Municipal Airport, just seven blocks south, became the San Bernardino Army Airfield, repairing and servicing hundreds of transport planes moving troops around the country. The airfield became Norton Air Force Base in 1950, and for the next 38 years was one of the most active Air Force fields in the West. Children of the base's civilian repair workers swelled the ranks of students at the school, which added nine classrooms in 1945 and two more in 1947.

By 1954, the city of San Bernardino had grown far beyond the former outpost school, and it was absorbed into the city's unified school district, becoming Warm Springs Elementary School. It continued to grow to 32 classrooms, and today 45 teachers serve 1,000 students in year-round classes, making it one of the largest elementary schools in the district. The student population today is nearly 60 percent Latino, many of them the children of recent immigrants.

Mr. Speaker, Warm Springs Elementary has provided a free education—the foundation of our American success—to thousands of children over the past 150 years. I would be proud to be associated with this school for that fact alone, but I have a special reason to be fond of Warm Springs. It is the alma mater of the Walker girls of San Bernardino—Mary, Darlene, and her twin sister Arlene, who happens to be my bride. Arlene and I will be returning to her old school on March 9 to celebrate the sesquicentennial, and encourage the current students to take advantage of the opportunities their education can provide.

I have always believed, Mr. Speaker, that our education system is a success because of local schools run by wonderful teachers, supported by great principals. Warm Springs Elementary continues the tradition of excellence under Principal Arlan Anderson that it has carried on for the past 150 years. Please join me in congratulating those educators on their continued dedication, and wish their current students well for the future.

HIGH COST OF PRESCRIPTION DRUGS

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mr. DUNCAN. Mr. Speaker, Dean Stone, long-time editor of The Daily Times newspaper in Maryville, TN, has written a really outstanding editorial about prescription drug prices.

Mr. Stone frequently writes very thoughtful and informative editorials about issues of national importance.

He points out in this editorial that we have drug prices that are far too high because the Food and Drug Administration, FDA, seems to be controlled by the giant pharmaceutical companies.

I have consistently supported in committee meetings and in votes on the floor of the House the right of the people to purchase drugs from Canada. Mr. Stone points out that FDA concerns about safety are not supported by any evidence.

i would like to call this fine editorial to the attention of my colleagues and other readers of the RECORD.

WITH MORE THAN 600 LOBBYISTS, THERE'S LITTLE CHANCE ON DRUG PRICES

Know why we Americans will not get reasonable prescription drug prices?

The pharmaceutical industry has more than 600 lobbyists in Washington, more than the total number of representatives and senators.

They have spent $435 million to influence Washington from 1996 to 2003 and handed out $57.9 million in contributions between 1991 and 2002 to buy their way through Congress.

They are well paid (we pay for them with exorbitant drug prices) and they do their job, cutting to pieces any legislation that might tend to lower the price of prescription drugs.

The Feb. 2 issue of Time magazine contains an excellent article about how Americans are being ripped off with high prices from the manufacturers of drugs.

And most of our drugs are manufactured overseas by American companies who moved there because of the tax breaks. And it is illegal for Americans to import these drugs. While the Federal Drug Administration (FDA) inspects these overseas plants when built to certify their products, there is little supervision later.

Ireland is a favorite location and Singapore is getting new plants. This overseas production of drugs was $40.7 billion in 2002, a five-fold increase from 1995. The impact has given us a negative balance of trade in that field.

Pfizer Inc. and Eli Lilly & Co. enjoy huge profit margins compared with other U.S. firms. Pfizer's was 28.4 percent profit in 2002 while Eli Lilly was at 24.4 percent.

Pfizer reported $9.1 billion in profits on $32.4 billion, a return of 28 percent and a rate more than twice that of General Electric, nine times that of Wal-Mart and 31 times that of General Motors.

Our U.S. sales of prescription drugs is the highest in the world at $654 per person with an average life expectancy of 77 years. Japan is second at $421 with a life expectancy of 81 years.

Americans pay on an average 40 percent more for their prescription drugs than do Canadians. And it has been ruled illegal for us to import them from Canada. Drug companies have threatened to cut off supplies to Canadian drug stores that sell to Americans.

Despite all this, the cities of Montgomery, Ala., and Springfield, Mass., have negotiated with Canadian sources. Montgomery alone is saving $34,000 a month with its contract.

Members of Congress, the FDA and all the rest who are in bed with the pharmaceutical industry who use the excuse of safety regarding Canadian drugs are just blowing hot air. So far there have been no reported incidents of any problem. In the U.S., 50,000 to 100,000 people die annually as a result of adverse reactions from FDA-approved drugs.

Drug companies like to talk about the cost of developing new drugs. A report of the Joint Economic Committee of Congress in 2000 dispels some of that. It found that the federal government, mainly through the National Institutes of Health, the National Cancer Institute and other public agencies funds about 36 percent of all U.S. medical research. Of the 21 most important drugs introduced between 1965 and 2002, a total of 15 was developed using knowledge and techniques from federally funded research.

Best current figure we could locate indicates $2.5 billion was spent by the drug industry on advertising in 2001.

There is absolutely no real effort by the President or Congress to take an honest look at the high cost of prescription drugs. We believe in the capitalistic system but not in those extreme profiteers whose huge profit is at the cost of our health. Canada does a good job of regulating prices and would be a good example to follow.

Regulations always take away a little freedom from some segment of the economy but the government has seen fit to regulate the broadcast industry, the airline industry, interstate commerce and through taxes numerous other aspects of the economy. It is time to do something about runaway prescription drug prices.

There is a Republican president, a Republican Congress and this problem lies largely on their shoulders, election or not!

ARTICLE BY RABBI ISRAEL ZOBERMAN

HON. EDWARD L. SCHROCK

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mr. SCHROCK. Mr. Speaker, I am pleased to share the following article written by a constituent, Rabbi Israel Zoberman.

The recent bus #19 suicide bombing in the heart of Jerusalem with its heavy toll found me in Israel's capital during a solidarity mission of my Reform Jewish movement.

I passed by that doomed site, near another past one, only hours before the latest of incredible serial terrorist attacks in the three and a half years of the bloody Second Intifada. Once again violating Jerusalem where Biblical Abraham proclaimed the sanctity of human life in the midst of a paganism now being resurrected by its contemporary messengers of death who should not be allowed by the civilized world to reverse Abraham's victory. Let what just ghastly happened, newly available on Israel's Foreign Ministry website for a reality check not become an added statistic!

Upon arriving in my parents' home in Haifa on that hellish day, I found them anxious, even panicky, already having called hospitals in Jerusalem looking for me . . . I thus experienced a bit the anguish encountered by Israelis, without parallel, with Holocaust survivors like my parents whose constant exposure to trauma may reawaken repressed carnage images.

The timing of the deadly Palestinian violence with both Arafat's forces and Hamas competing to claim responsibility, purposefully coincided with exchanging only four Israelis, three of them in coffins, and promised information on the fate of Israeli navigator Ron Arad, captured 17 years ago, in return for hundreds of Hizballah terrorists. Of the three killed Israeli soldiers, Benny Avraham, Adi Avitan and Omar Suad, whose fate was cynically manipulated by the Hizballah to inflict pain upon their families, the first one was connected to Tidewater Jewry through a joint communal program.

Israel has proved again, with Prime Minister Sharon's guiding input, that for humanitarian values' sake, sorely lacking by its enemy, it is willing to pay a high price though it might be interpreted as a weakness. Is it any wonder that without a credible peace partner and unwilling to respond in kind, Israel is forced to erect a costly security separation fence to save innocent lives? The fence, which our group observed for miles, is not necessarily permanent and can be adjusted. Some resulted Palestinian hardship has to be weighed against penetrating terror. It is the least Israel can do in face of relentless terrorism, experienced by the United States' heroic troops in Iraq as well, while questionably restraining itself to the very limits from using its superior military power. A state's obligation for self-defense is no less incumbent upon Israel whose national morale and very way of life are threatened. In spite of Sharon's uncharacteristic dovishness, at the moving state welcoming ceremony for the fallen soldiers he referred to unspecified options in Israel's arsenal. His announced intent, tantamount to an earthquake, to unilaterally withdraw from the Gaza Strip reflects Sharon's commitment to peace even in the face of painful sacrifices, opposition within his own political camp, expected resistance, and increased threats on his life. Will the Palestinian Authority finally respond by halting terror in compliance of President Bush's Roadmap?

General Shlomo Gazit, former director of Military Intelligence and fellow at the Jaffe Strategic Center at Tel Aviv University, who addressed us, justified the fence as a security need, refusing to call it a wall. He urges economic and demographic separation from the West Bank to safeguard Israel as a Jewish and democratic entity. Both the reserve General and former Minister Michael Melchior who serves in Israel's parliament as chair of Diaspora Affairs, view the American war in Iraq to have a transforming impact on the unstable Middle East, sending a clear moderating message to the Arabs. Gazit was optimistic that the ultimate resolution of Israeli-Palestinian conflict has begun. He and Melchior stressed building bridges to Israel's own Arab minority, attending to its special needs with the hope to draw the two essential partners closer. Otherwise Israel's security is at risk.

I watched Jewish kids purchase with their moms costumes for the joyous Purim holiday and Arab families celebrating the Eid. For the sake of their inevitable shared future and that of their own children, may these parents find a way to each other's hearts. Perhaps, Israeli Arabs will yet be a bridge of shalom to the larger Arab world.

Rabbi Israel Zoberman, spiritual leader of Congregation Beth Chaverim in Virginia Beach, was born in Kazakhstan and grew up in Haifa, Israel.

RESOLUTION RECOGNIZING THE HUBBLE SPACE TELESCOPE'S ACCOMPLISHMENTS AND RECOMMENDING RECONSIDERATION OF FUTURE SERVICING MISSIONS

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mr. UDALL of Colorado. Mr. Speaker, today I am introducing a resolution recognizing the accomplishments of the Hubble Space Telescope and recommending reconsideration of future servicing mission to Hubble. I am very pleased that a number of my colleagues are joining me as original cosponsors of this bill—including Representatives BARTLETT, HOYER, MCDERMOTT, AKIN, GORDON, LAMPSON, and RUPPERSBERGER.

I wish this resolution weren't necessary. I am introducing it in response to NASA's decision made in mid-January to cancel all future space shuttle missions to the Hubble Space Telescope, including SM–4, the next flight that would have installed the new Cosmic Origins Spectrograph and the Wide Field Camera 3 instruments—both largely completed at a cost of about $200 million. Installation of these instruments would have provided over a factor of ten improvement in Hubble's imaging and spectroscopy, and in addition to replacement gyros and batteries, would make Hubble's final years its most scientifically capable and productive. If SM–4 goes forward, Hubble will continue to operate until 2012. Without the mission, Hubble will likely die in orbit sometime in 2007.

My goal in introducing this resolution is simple—I want to call attention to the Hubble Space Telescope's contributions to scientific research and education and ensure that any decision affecting its future is made carefully and seriously and for the right reasons. Precisely because of Hubble's extraordinary contributions in the past and promised contributions in the future, I also believe that the decision to cancel the planned servicing mission to Hubble should be considered by an independent panel of experts.

Finally, I want to try to ensure that the planning for the servicing mission continues at least until the panel comes up with its recommendations and until NASA provides a timetable of compliance with recommendations of the Columbia Accident Investigation Board report, since NASA's compliance will allow both a Hubble servicing mission and a mission to the International Space Station to be carried out safely. Since NASA Administrator O'Keefe cited safety concerns as the main reason for the cancellation of the mission, it seems to me that NASA must state how and when it plans to comply with the CAIB recommendations. Once the shuttles are deemed safe enough to fly, a trip to Hubble will be as safe as a trip to the Station. Indeed, there are some who argue that the Hubble mission will be the safer of the two.

Hubble's scientific contributions continue to amaze us all, year in and year out. A few weeks ago Hubble detected oxygen and carbon in the atmosphere of a distant planet, the first time the elements have been found at a world outside our solar system. Hubble also contributed to the finding of new evidence about recently discovered "dark energy." Hubble measured properties of light from 16 exploding stars, or supernovas, to find that the dark energy that pervades the universe might be what Einstein originally called the "cosmological constant." This discovery supports the theory that instead of ripping apart, the cosmos will continue expanding very slowly for at least the next 30 billion years.

These are just recent discoveries. Hubble remains one of the most productive scientific instruments in history, and certainly NASA's most productive scientific mission, accounting for 35 percent of all its discoveries in the last 20 years. The Hubble has provided proof of black holes, insights into the birth and death of stars, spectacular views of Comet Shoemaker-Levy 9's collision with Jupiter, the age of the universe, and evidence that the expansion of the universe is accelerating.

So to me—and to so many others who have voiced their opposition to NASA's decision—it seems as though canceling the mission is premature at best.

I would rather not cynically believe, as some do, that the Hubble is being abandoned primarily to enable the president's Moon-Mars initiative to get underway. But there doesn't seem to be any other explanation that makes sense.

I have long believed that NASA needs a new vision for the future—but before this Congress and future Congresses commit to the president's expensive plan, NASA must first generate broad public support and scientific backing for it. Today, as the general public and the scientific community alike call for Hubble to be saved, NASA risks undermining its efforts to sell its Moon-Mars initiative to the public—not an auspicious beginning for a vision that will require billions and decades to complete.

I have attached a February 29 editorial from the New York Times calling for the administration to reconsider its decision. The final paragraph concludes, "The gains from extending Hubble's life are real and achievable and should not be sacrificed for a distant exploration program that for now is mostly wishful thinking and can surely be delayed a bit."

The gains from extending Hubble's life are indeed real and achievable. In addition to its past and potentially future scientific discoveries, Hubble provides information used by approximately one million teachers per year across the U.S. The demand for research time on the telescope far exceeds the time available. The scientific imagery and data Hubble provides is integral to the work of researchers in universities across the country and around the world.

Mr. Speaker, this resolution will be welcomed by school children, scientists, and interested citizens around the world who understand that Hubble is a national treasure that we should not prematurely condemn to death. I look forward to working with Members of the House, including my colleagues on the Science Committee, to move forward with this important initiative.

[From the New York Times, Feb. 29, 2004]

PREMATURE DEATH FOR THE HUBBLE

By all accounts the Hubble Space Telescope is one of the most productive scientific instruments in history. Orbiting high above the distorting effects of Earth's atmosphere, it has peered far out into space and back toward the beginnings of time, producing images of startling clarity. It has detected extremely faint objects that can't be seen from the Earth, calibrated the age and expansion rate of the universe, detected supermassive black holes in the cores of galaxies and generally helped revolutionize our understanding of the universe. A distinguished panel of astronomers judged that Hubble "has arguably had a greater impact on astronomy than any instrument since the original astronomical telescope of Galileo."

Yet now, just as Hubble was scheduled for a major rejuvenation, the National Aeronautics and Space Administration has consigned it to slow death. The agency has canceled a planned servicing mission that would have upgraded Hubble's instruments and extended its life past the end of the decade, making it likely that the telescope will run out of battery power and functioning gyroscopes by about 2007. Congress needs to prevent the premature loss of this valuable instrument.

Cancellation of the servicing mission is being justified on safety grounds, but that is not the whole story. Indeed, it looks as if Hubble is being sacrificed primarily to make way for President Bush's grand new plans to send astronauts to the Moon and Mars in future years. Once the shuttles are deemed safe enough to resume flying, probably early next year, a shuttle flight to Hubble will be no more risky—and possibly even less risky—than flights to the space station. The real safety issue comes up if something goes wrong. A shuttle near the station might find safe haven and help in repairs. A shuttle near Hubble could not.

Our guess is that with NASA on high alert after the Columbia tragedy, the next shuttle flights will be the safest ever. Astronauts are paid to take risks, and there would be no shortage of volunteers for a Hubble mission that seems no more risky than other flights and a lot more important scientifically.

The Bush administration argues that Hubble has passed its prime, that its uniqueness is diminishing, that advances in ground-based telescopes enable them to do some of Hubble's work and that future breakthroughs will require telescopes able to search in other wavelengths than those used by Hubble. There is a germ of truth in all those contentions, but a parade of experts have argued that Hubble, if serviced and updated, has years of great work ahead. There seems little doubt that the science still to be done on Hubble is far more important than anything likely to be accomplished on the space station.

The chief reason for Hubble's demise is almost certainly NASA's need to use its shuttles to finish building the space station by 2010 so that the shuttles can be retired and the money used for the president's Moon-Mars exploration initiative. The agency will be lucky to complete the station on time even with all three remaining shuttles devoted to the task. Servicing the Hubble would be a diversion.

The administration essentially argues that the scientific returns from extending Hubble's life are not worth the risk and effort of a servicing flight. Our feeling is just the opposite. The gains from extending Hubble's life are real and achievable and should not be sacrificed for a distant exploration program that for now is mostly wishful thinking and can surely be delayed a bit.

TRIBUTE TO TIMOTHY F. MALONEY

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mr. CARDIN. Mr. Speaker, I rise today to pay special tribute to Timothy F. Maloney who is being honored as Hibernian of the Year. Tim is a partner with the Greenbelt, MD law firm of Joseph Greenwald & Laake, P.A. and is a former member of the Maryland House of Delegates.

He served in the Maryland House of Delegates from 1979 to 1995. When I was Speaker of the Maryland House of Delegates, I came to know and appreciate his many talents and abilities. As a legislator, he chaired subcommittees on higher education, transportation, public safety and capital budgets.

Tim stood out as a gifted legislator who had a great sense of humor. He was known for good fun practical jokes and on more than one occasion I was tempted to call out the Maryland State Police to hunt him down (no comparison to Texas intended). In recent years, he has put these talents to work as the Master of Ceremonies of the annual Hibernian Dinner. This year it is his turn to sit quietly at the head table as his life transgressions are revealed.

Despite certain behavior lapses, he was an extremely able and effective legislator. He was instrumental in the development and funding of numerous capital projects, including the Clarice Smith Performing Arts Center, the Prince George's County Courthouse, the Hyattsville Justice Center and the College Park Airport Museum. His colleagues in the General Assembly voted him as one of the three "most effective" members of the General Assembly in the WJLA-TV poll, although there is some question and poll tampering by the Maloney camp.

For the past 15 years, Mr. Maloney has been heavily involved in significant litigation and administrative matters. These include complex litigation in federal and state courts in the District of Columbia and Maryland, and a significant administrative practice before federal, state and local agencies. Surprisingly, he has never been a defendant. He is a member of the District and Maryland Bar, and also is admitted to practice before the Fourth Circuit Court of Appeals and the U.S. Supreme Court. He serves on the Rules Committee of the Maryland Court of Appeals, and frequently lectures to state and local bar organizations.

Mr. Maloney has worked tirelessly to improve our community and its many institutions. He is a member of the Executive Committee of the University of Maryland Foundation, the Administrative Board of the Maryland Catholic Conference, the Board of Trustees of Villa Julie College and the Board of Trustees of Archbishop Carroll High School.

I hope my colleagues in the U.S. House of Representatives will join me in saluting Tim Maloney as a top litigator who has dedicated much of his life to helping others and improving our community.

CELEBRATING GLOBAL BUSINESS CONTINUITY WEEK

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mr. TOM DAVIS of Virginia. Mr. Speaker, Mr. MORAN and I rise today to celebrate Global Business Continuity Week, which is being held from March 7–12 this year. This international week recognizes the disaster recovery professionals, certified business continuity planners, and business executives who work closely with first responders to protect our nation's economy and the global business community from unexpected disturbances.

This is the fourth year this week has been dedicated to educating the leaders of commerce, industry, and governments on the importance of business continuity management. There will be numerous events across the globe including meetings near Wall Street on March 4–5 and a conference sponsored by the "Disaster Recovery Journal" in Orlando the following week.

Business continuity management serves to protect a wide array of organizations from all types of potential disruptions. We are proud to mention that much of the necessary training and certification which enables businesses worldwide to promptly respond in the face of disaster is provided by DRI International, located in Northern Virginia. This week is essential in raising awareness of the need for business continuity management, while it also recognizes the crucial role business continuity professionals play in our economy.

Mr. Speaker, in closing, Mr. MORAN and I are honored to congratulate all the businesses participating in this commemorative week and are proud to dedicate this acknowledgment to continuity planners worldwide. We call upon our colleagues to join us in applauding their efforts, and thanking them for their daily contributions to the global business continuity.

BEN ATCHLEY POST OFFICE BUILDING

SPEECH OF

HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 2, 2004

Mrs. BLACKBURN. Madam Speaker, today I rise to pay tribute to a great Tennessee leader. State Senator Ben Atchley—better known as Gentle Ben—has served in the Tennessee General Assembly since 1972, where he began his service as Senate Republican leader in 1986.

It is appropriate that today we take time to thank Senator Atchley for his service and provide that the East Young High Pike U.S. Post Office in Ben's hometown of Knoxville, Tennessee be named in his honor. Senator Atchley graduated from Young High School, just down the street from this post office. When Ben and his wonderful wife Sue were first married, their apartment window looked out across the street to this very post office. Later, Ben worked next door to the post office, which will now be named after him. From high school student to Senate Leader, Gentle Ben has given back so much to his community and Tennessee.

I am pleased to recognize Senator Atchley for all of his many accomplishments and his work in the Tennessee General Assembly. The Tennessee congressional delegation and the U.S. House of Representatives proudly designate the facility of the United States Postal Service located at 137 East Young High Pike in Knoxville, Tennessee, most suitably, as the "Ben Atchley Post Office Building".

HONORING THE TARPON SPRINGS HIGH SCHOOL GIRLS' SOCCER TEAM

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mr. BILIRAKIS. Mr. Speaker, I rise today to honor the Tarpon Springs, Florida, High School girls' soccer team, which recently won the class 4A state soccer championship.

I am especially proud of the Spongers, as they are known, because I am a resident of Tarpon Springs. I know how important athletics are to these young student-athletes and how their accomplishments reflect positively on our community. I am fortunate to have been able to attend many athletic events at Tarpon Springs High School over the years and always have been impressed with the spirit, determination, and skill of Sponger teams, both boys and girls.

I also am heartened that these fine young women recognize and acknowledge the importance of faith in their lives. Team members prayed together regularly and wrote the words "faith" and "believe" on their shin guards so that they remembered the importance of their commitment to themselves, each other, and their faith.

I want to congratulate Coach John Freiermuth, and assistant coaches Jaimie Adkins and John Freiermuth, Jr., on leading their charges to victory and teaching such a fine group of young women about competition, sportsmanship, and excellence.

I also want to congratulate each of the team's members on their fine season: Kara Torasso, Brandi Bianco, Whitney Gause, Rebecca Smith, Giana Kase, Valerie Viggiano, Paige Beyer, Savannah Brum, Ashley Jeffris, Jordan Beyer, Katy Conrad, Maria Tagaropoulos, Kristen Freiermuth, Kaitlyn Dassat, Libby Gianeskis, Jessica Miller, Jessica Lukas, Brittany Gomez, Barbara Packard, Lindsey Davis, Alexia Berg, Megan Nowikowski, and Jamie Ouverson.

Mr. Speaker, I hope our colleagues will join me in commending the Tarpon Springs High School girls' soccer team for winning the class 4A state girls' soccer championship and for the outstanding example they have set for us, their peers, and my community.

IN MEMORY OF HAROLD E. DETWILER

HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mr. SHUSTER. Mr. Speaker, I rise today to recognize Harold E. Detwiler who passed away on Saturday, January 31, 2004. He was a wonderful person who contributed so much to his community.

Born on March 3, 1930, in New Enterprise, PA, Mr. Detwiler was taught at a young age the advantages of freedom and democracy that this country offers its citizens. After graduating from Replogle High School in 1948, and marrying his wife, E. Anne Baker, on November 21, 1953, Harold became the personification of patriotism. He served with the military police in the Korean War, rising to the rank of Private First Class before completing his duty. He returned to Pennsylvania to serve as a deacon of St. John's United Church of Christ in Martinsburg, where he later acted as a member for the majority of his life.

Mr. Detwiler found his business niche, however, in the Mutual Insurance Industry. Throughout his life he acted as chairman of the PA Association of Mutual Insurance Companies and the NAMIC Farm Underwriting Committee, in addition to acting as a member of the National Association of Mutual Insurance Companies, the MSO board of directors, the AAIS Advisory Council, the Mutual Inspection Bureau board of directors, the Sparks Club, and the Eastern Mutual Group, among others. In recognition of the time and dedication that he put in to attaining professionalism within the insurance industry, NAMIC honored him with their merit award and the National Service Award. With so much experience and education on the subject, Mr. Detwiler became the President and CEO of Everett Cash Mutual and Evergreene Insurance Companies, eventually retiring from the position in 1998.

Although he was a highly influential businessman throughout central Pennsylvania, Harold's generosity within the community in which he lived far surpassed his fiscal contributions. From 1974 until 1993, he served on the Martinsburg Borough Council, eventually rising to the position of President. As a member of the D. Merle Tipton VFW Post 43 and a leader of the Boy Scouts, he willingly passed down his knowledge to the children who would benefit the most from his teachings.

Harold Detwiler was a man who refused to settle for anything less than the best. He devoted much of his time to the improvement of society, and as a result, Martinsburg is a better place to live. He will be missed, but the legacy of his actions and the influence of his spirit will never be forgotten.

PEACE CORPS WEEK 2004

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mr. McDERMOTT. Mr. Speaker, Ralph Waldo Emerson once said, "Do not go where the path may lead, go instead where there is no path and leave a trail." This week marks the 43rd anniversary of the Peace Corps. An organization that is forging ahead, creating a trail of peace and understanding around the globe with the hope that one day all peoples of the world will follow.

Since its inception in 1961, over 170,000 Volunteers have served 137 countries. Peace Corps Volunteers serve as teachers, business advisors, information technology consultants, health and HIV/AIDS educators, and youth and agriculture workers.

The Peace Corps is expanding and last year entered or re-entered Albania, Azerbaijan, Chad, and Fiji and in 2003 the number of people applying to serve as Volunteers increased by 10 percent. Today there are 7,500 individuals serving in 71 countries. This is the highest number of Volunteers in the field in over 28 years. Of those 7,500 dedicated individuals there are 32 people I would especially like to recognize:

Carrie A. Abendroth, Katherine P. Barnett, Micael D. Bogar, Nathan A. Borgford-Parnel, April R. Brown, John S. Brown, Robert P. Burns, Rosemary S. Burns, Rachel S. Chernin, Alison M. Coady, Kevin D. Cummins, Ross C. Doll, Joy M. Hamilton, Jennie A. Hurt, Tracey A. Lake, Amber L. Lancaster, Mahri S. Leonard-Fleckma, Nathan S. Lubetkin, Susannah M. Malarkey, Luke A. Mattheis, Marin McCutcheon, Alec E. Metz, Joan M. Michaels, Carrie J. Mitchell, Janet D. O'Neil, Teresa L. Peterson, Jean R. Salls, Barbara P. Schlieper, Blaine M. Somerville, Rebecca S. Talbott, Joseph S. Trahan, Karen M. Yantis

To those individuals I have just mentioned, you have made me and the people of the 7th district very proud. We salute your selfless dedication to the empowerment of people in developing countries and throughout the world. As your journey of good-will abroad comes to an end may you return home safe and continue to share your experiences with others so that they will endeavor to blaze their own trail using the Peace Corps as their guide.

HONORING THE CITY OF DELAWARE, OHIO FOR ITS DESIGNATION AS A "PRESERVE AMERICA" COMMUNITY

HON. PATRICK J. TIBERI

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mr. TIBERI. Mr. Speaker, I'm delighted to congratulate the City of Delaware for its designation as a "Preserve America" community. While Mayor Windell Wheeler and City Manager Tom Homan were in Washington recently to receive the designation from First Lady Laura Bush, the entire community is rightly proud of this honor. The city was one of the first eight across the country to gain this title.

The "Preserve America" designation is meant for those cities that have taken special care to preserve their heritage. The city has approved special ordinances to protect the historical integrity of its neighborhoods. A four-year, $5 million "Streetscape" improvement project for the historic downtown area was also recently completed.

The Delaware area is among the fastest growing in the country, but officials are not letting that growth stand in the way of protecting the unique aspects of their city. This award is one more reason why the Delaware area remains a great place to live, work and raise a family.

THE MEDICARE PRESCRIPTION DRUG IMPROVEMENT AND MODERNIZATION ACT

HON. ERIC CANTOR

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mr. CANTOR. Mr. Speaker, I rise today in support of the Medicare Prescription Drug Improvement and Modernization Act, which was signed into law in December by the President.

I spent a lot of time in the district explaining the new law to my seniors. They were excited to learn that this bill is about choices. It gives them the freedom to finally make choices that better fit their own needs.

Medicare once was an outdated, one size fits all program. Well, we know that not every senior is the same. Through this legislation, seniors now have a much better Medicare with lots of options. And if they like what they have now, they can keep it. But if they want to enhance their Medicare coverage, they have that choice.

Some examples of the choices seniors will have include the option of a free welcome to Medicare physical, diabetes screening, heart disease screening, and disease management programs. These options will enhance the health of our nation's seniors.

This law not only gives seniors better access to health care and prescription drugs, it puts seniors back in the driver seat when it comes to their health care.

TRIBUTE TO DOUG DONNELLY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mr. McINNIS. Mr. Speaker, it is with a heavy heart that I rise before you to pay tribute to the life of a remarkable and loved man from my district. Doug Donnelly of Monte Vista, Colorado, passed away recently at the young age of forty-one. Doug will forever be remembered for his kind heart and spirit and I would like to take this opportunity to remember Doug here today.

Doug was my cousin; so I had the privilege to interact with him over the years and watch a young man with challenges grow into a man of accomplishment. Throughout his life, Doug helped us appreciate the surroundings around us that we typically did not see or have time for. From an early age, Doug was diagnosed with a debilitating condition that doctors told his family would cause him never to walk and affect his learning abilities. Doug's determination helped him overcome the odds facing him, eventually learning to walk and graduating from Boulder High School to a standing ovation.

Doug was an accomplished student, a class president, and would later work in the medical industry making medical devices. Another passion of his was designing and constructing tree houses. Doug could be found traveling between lumberyards asking for discarded lumber, and using tree branches as a ladder, climbed up to build elaborate homes in the sky, oh he loved his tree house.

Mr. Speaker, we are all terribly saddened by the loss of Doug Donnelly, but take comfort in the knowledge that our grief is overshadowed only by his legacy of courage and love of all that Doug left with all of us. Doug's overwhelming ability to live life to its fullest is a true testament to the man he was and serves as an inspiration for us all.

THE RECENT DC COURT DECISION ON FCC BROADBAND REGULATION

HON. CHARLES A. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mr. GONZALEZ. Mr. Speaker, I wish to express my support for yesterday's decision by the U.S. Court of Appeals—D.C. Circuit regarding the Triennial Review Order. The ruling sends a clear signal that the intent of Congress in the 1996 Telecommunications Act was to create a fair competitive marketplace which fosters job creation.

Regulatory uncertainty has been devastating to telecommunications workers and their families. The FCC's Triennial Review Order added to this uncertainty by delegating broadband policy-making to the states. In my view it was not the intent of Congress to put fifty individual states in charge of national broadband policy. Rather it expected the FCC to ensure a competitive national market for this critical technology. It is time for the FCC to put America's consumers and small businesses first and use its authority to ensure true broadband competition.

I hope that the FCC follows the D.C. Circuit's lead and uses its authority as intended by Congress to foster an environment that spurs capital investments by telecommunications companies rather than continue down the road of regulatory uncertainty.

IN MEMORY OF BILL SAMBRAILO

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mr. FARR. Mr. Speaker, I rise today to honor the life of Bill Sambrailo, a community leader who dedicated his life to improving the agriculture industry. Mr. Sambrailo passed away on January 31st, 2004, at the age of 76. He is survived by his wife Eileen Bromber Sambrailo and three children, Mark, Judy, and Michael, as well as seven grandchildren.

Bill Sambrailo was born in Watsonville, California to Charles and Henrietta King Sambrailo. He was an avid athlete and played on the football team at Watsonville High School, graduating in 1945. Bill attended Santa Clara University where he played running back on the university football team, including an appearance in the Orange Bowl. He graduated with a degree in business in 1950.

Bill went on to manage his family's business, with the help of his brother Chuck, and quickly became an entrepreneur and inventor. Bill helped the business grow by inventing new corrugated tray designs for containing produce, increasing their shelf life. He also started the Samco Plastic Company which invented and produced the green mesh baskets used for strawberries in the spring. He later invented the clamshell package designed to store many varieties of produce ranging from potatoes, beans, peas, strawberries, blueberries, raspberries, and cherries. Samco Plastic Company also holds a patent on MIXIM packaging which produces extremely efficient packaging materials that condense the produce into smaller areas without damaging them. In addition to his agricultural successes, Bill also became the founding director of the Pajaro Valley Bank, and later the director of the new First National Bank.

Mr. Speaker, I would like to express my deepest sympathy to Bill's family and honor him by celebrating his life and contribution to society. Furthermore, anyone who has purchased strawberries or raspberries can thank Bill for the packaging that keeps them fresh. Bill was admired by all for his dedication to both his business and community, and will be greatly missed.

HONORING LENNEX BURROUGHS

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mr. KILDEE. Mr. Speaker, I rise before you today on behalf of the Flint Community School district, to honor Mr. Lennex Burroughs for 33 years of dedicated service to the children of Flint, Michigan. On Friday, March 12, 2004, the Flint Community School district will honor Mr. Burroughs during a special retirement dinner to be held at the Grace Emmanuel Baptist Church in my hometown of Flint, Michigan.

Mr. Burroughs was born and raised in Inskter, Michigan. He graduated from Inskter High School, where he was noted as an outstanding athlete. He received letters in football, basketball, and baseball. In 1966 he was awarded the esteemed Willie Heston Scholarship-athletic award. Upon graduation from high school he immediately enrolled at the University of Central Michigan on a football scholarship. He graduated from the University holding a Master of Educational Leadership/Administration degree in 1978. In January of 1971 he began his career with the Flint Community School district as the physical education teacher and community school director for Dewey Elementary School. During the span of his career, Lennex held positions at the elementary, middle and high school level. He holds tenure at Dewey, Manley, Cook, Scott, Cummings, Merrill, Washington, Coolidge, Sobey, Civic Park Elementary, Bryant & Whittier Middle Schools and Northwestern High School, and for the past fourteen years he has held the position of Principal of Civic Park Elementary. Lennex is a strong advocate of community education. He is committed to keeping students, parents, and community involved in all aspects of school functions. He strongly believes that where there is community involvement, a student's education is enriched.

Lennex is going to be a hard act to follow. He is a superb role model for the children of Flint. His words are backed by his actions. He believes in the children and they believe in him. Aside from being an outstanding role model and educator he is also a talented Gospel singer. In 1996, he released two musical tapes entitled Motivation and Inspiration. Lennex has received numerous accolades for his community services, but of them all, Lennex considers his most esteemed award to be his recognition by the City of Flint as Father of the Year 1990. Lennex is a faithful family man. His wife of 33 years is Linda. They have two wonderful children named Erica and Sean.

Mr. Speaker, as a Member of Congress, I ask my colleagues in the 108th Congress to please join me in honoring my constituent and friend Mr. Lennex Burroughs and wishing him the very best in his retirement.

FREEDOM FOR JUAN ADOLFO FERNÁNDEZ SAINZ

HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise today to speak about Juan Adolfo Fernández Sainz, a prisoner of conscience in totalitarian Cuba.

Mr. Fernández Sainz worked for about 15 years as an interpreter for government agencies before being dismissed for his support of democracy and the rule of law in 1994. After being forced from his government job, Mr. Fernández Sainz began to expose the repression and corruption of the dictator's regime as an independent journalist. He originally joined the independent news agency Nueva Prensa and a year later became part of the Patria agency where he wrote about all aspects of totalitarian Cuban society. Mr. Fernández Sainz contributed to numerous foreign publications and became a correspondent for Prima, the Russian human rights news agency, in July 2001.

Because Mr. Fernández Sainz wrote the truth about a ruthless, repressive, bankrupt, and broken tyranny, he was arrested as part of the brutal March 2003 crackdown against Cuban pro-democracy activists. After a sham trial, where he was accused of supplying information to the U.S. government and endangering Cuban internal security, Mr. Fernández Sainz was sentenced to 15 years in the totalitarian gulag.

However, Castro's ruthless machinery of repression does not stop after sentencing innocent Cubans to the totalitarian gulag. According to the U.S. State Department's 2003 Country Report on Human Rights Practices:

> On December 6, a common prisoner in Holguin Provincial Prison beat 54-year-old political prisoner Adolfo Fernandez Sainz until Fernandez was unconscious. The prisoner who carried out the beating was authorized by prison guards to exercise control over other inmates. Prison officials told Fernandez the common prisoner should have beaten him harder in order to kill him. In April, Fernandez was sentenced to 15 years imprisonment for his work as an independent journalist.

Mr. Speaker, we cannot allow Mr. Fernández Sainz to languish in a gulag where he is abused and tortured. My Colleagues, we cannot allow Mr. Fernández Sainz to remain in a gulag with totalitarian thugs who want to murder him. We must demand the immediate release of Juan Adolfo Fernández Sainz and every prisoner of conscience languishing in the totalitarian gulags of the nightmare called the Castro regime.

RECOGNIZING A KANSAS CITY PHOTOJOURNALISM EXHIBIT AND CULTURAL EXCHANGE COMMEMORATING THE 35TH ANNIVERSARY OF THE 1968 INVASION OF CZECHOSLOVAKIA

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Ms. MCCARTHY of Missouri. Mr. Speaker, I rise to honor the opening of Ladislav Bielik's photojournalism exhibit at the Art Incubator Gallery in Kansas City, Missouri. Ross P. Marine, Honorary Consul of the Slovak Republic, along with the Czech and Slovak Club of Greater Kansas City have arranged for this outstanding public showing from March 5 to March 31. Mr. Miroslav Wlachovsky of the Embassy of the Slovak Republic will officially welcome guests to the exhibit on March 4. The collection commemorates the 35th anniversary of the 1968 invasion of Czechoslovakia by the Warsaw Pact armies, pictorially recorded through Ladislav Bielik's photographs.

On the evening of August 20, 1968, Warsaw Pact armies comprised of soldiers from the Soviet Union, East Germany, Poland, Hungary and Bulgaria invaded Czechoslovakia with the strength of approximately 200,000 troops and 5,000 tanks to squelch the Czech movement toward democracy. Bielik's photograph of one Czechoslovakian's desperate attempt to halt a tank captured the attention of the world and became Life Magazine's 1968 photograph of the year. This exhibit further pictorially illustrates the haunting images of sacrifice made in pursuit of democracy from the first days of the invasion at Bratislava, Czechoslovakia.

The invasion crushed Secretary Alexander Dubcek's new Action Program that promoted democratic elections and basic liberties. Prior to the invasion, the country had enjoyed a short period referred to as Prague Spring that revitalized their national culture. The impetus that perpetuated the Warsaw Pact wrath was a petition known as Two Thousand Words which called for democracy in Czechoslovakia. The Warsaw Pact invasion in 1968 crushed Czechoslovakia's quest for democracy, seized control of the government and killed hundreds of protesters. In 1993, following the 1989 Velvet Revolution, Czechoslovakia, through peaceful negotiations, evolved into two independent countries, the Slovak Republic and the Czech Republic.

On March 12, 1999, the Czech Republic officially became a member of the North Atlantic Treaty Organization (NATO) at a ceremony I attended at the Harry S Truman Library in Independence, Missouri. The Slovak Republic is expected to become a full member of NATO and the European Union in May of this year, thus completing a long journey for independence and achieving world status with acceptance into NATO.

Mr. Speaker, please join me in congratulating Ross P. Marine, Honorary Consul for the Slovak Republic in Kansas City, Missouri for arranging this significant cultural exchange. Mr. Ladislav Bielik's historic photo exhibit celebrates courage and perseverance and serves as a timely reminder of how important democracy is to free thinking people throughout the world.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, March 4, 2004 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 5

9:30 a.m.

Joint Economic Committee

To hold hearings to examine the employment situation for February.

SD–562

MARCH 8

12:30 p.m.

Foreign Relations

To hold a closed briefing regarding security preparations for 2004 Olympic Games.

S–407, Capitol

2 p.m.

Finance

To hold hearings to examine the nominations of Mark B. McClellan, of the District of Columbia, to be Administrator of the Centers for Medicare and Medicaid Services, Brian Carlton Roseboro, of New Jersey, to be an Under Secretary of the Treasury, Donald Korb, of Ohio, to be Chief Counsel for the Internal Revenue Service and an Assistant General Counsel in the Department of the Treasury, and Mark J. Warshawsky, of Maryland, to be an Assistant Secretary of the Treasury.

SD–215

3 p.m.

Foreign Relations

To hold a closed briefing on counter-terrorism cooperation relating to Saudi Arabia.

S-407, Capitol

MARCH 9

9:30 a.m.

Armed Services

To hold hearings to examine current and future worldwide threats to the national security of the United States; to be followed by a closed session in SH-219.

SD-106

Commerce, Science, and Transportation

Business meeting to consider pending calendar business; to be followed by a hearing to examine the use of scientific information in federal policy.

SR-253

Health, Education, Labor, and Pensions

To hold hearings to examine advantages and impediments in relation to a year round college calendar.

SD-430

10 a.m.

Energy and Natural Resources

To hold oversight hearings to examine water supply issues in the arid West.

SD-366

Finance

To hold hearings to examine the administration's international trade agenda.

SD-215

Governmental Affairs

To hold hearings to examine sustaining the 9 million jobs in the $900 billion mailing industry relating to postal reform.

SD-342

Appropriations

Homeland Security Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2005 for border and transportation security.

SD-124

Appropriations

Transportation, Treasury and General Government Subcommittee

To hold hearings to examine budget and management challenges for the Department of Transportation.

SD-138

Aging

To hold hearings to examine the new Medicare drug discount card.

SD-628

10:30 a.m.

Appropriations

Commerce, Justice, State, and the Judiciary Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2005 for the Department of Justice.

SD-192

2:30 p.m.

Energy and Natural Resources

National Parks Subcommittee

To hold hearings to examine S. 1306, to introduce the efforts of the California Missions Foundation to restore and repair the Spanish colonial and mission-era missions in the State of California and to preserve the artworks and artifacts of these missions, H.R. 1521, to provide for additional lands to be included within the boundary of the Johnstown Flood National Memorial in the State of Pennsylvania, H.R. 1446, to support the efforts of the California Missions Foundation to restore and repair the Spanish colonial and mission-era missions in the State of California and to preserve the artworks and artifacts of these missions, S. 1430, to direct the Secretary of the Interior to conduct a study of the Baranov Museum in Kodiak, Alaska, for potential inclusion in the National Park System, and S. 1687, to direct the Secretary of the Interior to conduct a study on the preservation and interpretation of the historic sites of the Manhattan Project for potential inclusion in the National Park System.

SD-366

Armed Services

Readiness and Management Support Subcommittee

To hold hearings to examine military readiness programs in review of the defense authorization request for fiscal year 2005.

SR-232A

Armed Services

Readiness and Management Support Subcommittee

To hold hearings to examine military readiness programs in review of the defense authorization request for fiscal year 2005.

SR-232A

MARCH 10

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings to examine the use and effects of steroids.

SR-253

Armed Services

Emerging Threats and Capabilities Subcommittee

To hold hearings to examine the defense nuclear nonproliferation programs of the Department of Energy and the Cooperative Threat Reduction programs of the Department of Defense in review of the defense authorization request for fiscal year 2005; to be followed by closed hearings in SR-232A.

SR-222

Environment and Public Works

To hold hearings to examine the President's proposed fiscal year 2005 budget for the Environmental Protection Agency.

SD-406

Foreign Relations

To hold hearings to examine nonproliferation and arms control issues, focusing on strategic choices.

SD-419

Indian Affairs

To hold oversight hearings to examine proposed reorganization of major agencies and functions related to Indian trust reform matters within the Department of the Interior.

SR-485

Rules and Administration

To hold hearings to examine the scope and operation of organizations registered under Section 527 of the Internal Revenue Code.

SR-301

10 a.m.

Appropriations

Defense Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2005 for Navy and Marine Corps programs.

SD-192

Judiciary

To hold hearings to examine the constitutional amendment authorizing congress to prohibit physical desecration of the flag of the United States.

SD-106

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the Veterans of Foreign Wars.

SH-216

Joint Economic Committee

To hold hearings to examine issues relative to helping Americans save.

SD-628

11:30 a.m.

Energy and Natural Resources

Business meeting to consider pending calendar business.

SD-366

1 p.m.

Banking, Housing, and Urban Affairs

International Trade and Finance Subcommittee

To hold hearings to examine Argentina's financial crisis.

SD-538

2 p.m.

Armed Services

SeaPower Subcommittee

To hold hearings to examine the posture of the U.S. Transportation Command in review of the defense authorization request for fiscal year 2005 and the future years defense program.

SR-232A

2:30 p.m.

Judiciary

To hold hearings to examine judicial nominations.

SD-226

Energy and Natural Resources

Public Lands and Forests Subcommittee

To hold hearings to examine S. 1354, to resolve certain conveyances and provide for alternative land selections under the Alaska Native Claims Settlement Act related to Cape Fox Corporation and Sealaska Corporation, S. 1575 and H.R. 1092, both to direct the Secretary of Agriculture to sell certain parcels of Federal land in Carson City and Douglas County, Nevada, S. 1778, to authorize a land conveyance between the United State and the City of Craig, Alaska, S. 1819 and H.R. 272, both to direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use as cemeteries, and H.R. 3249, to extend the term of the Forest Counties Payments Committee.

SD-366

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings to examine NASA/Mars exploration program.

SR-253

MARCH 11

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings to examine lessons learned relating to the 1996 Telecommunications Act.

SR-253

Governmental Affairs

To hold hearings to examine sustaining the 9 million jobs in the $900 billion mailing industry relating to postal reform.

SD-342

10 a.m.
Health, Education, Labor, and Pensions
Children and Families Subcommittee
To hold hearings to examine child and family issues.
SD–430

Energy and Natural Resources
To hold hearings to examine S. 2086, to amend the Surface Mining Control and Reclamation Act of 1977 to improve the reclamation of abandoned mines, and S. 2049, to amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize collection of reclamation fees, revise the abandoned mine reclamation program, promote remining, authorize the Office of Surface Mining to collect the black lung excise tax, and make sundry other changes.
SD–366

2 p.m.
Armed Services
Airland Subcommittee
To hold hearings to examine Army Transformation in review of the defense authorization request for fiscal year 2005 and the future years defense program.
SR–232A

2:30 p.m.
Energy and Natural Resources
To hold hearings to examine the nomination of Sue Ellen Wooldridge, of Virginia, to be Solicitor of the Department of the Interior.
SD–366

MARCH 18

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentations of the Air Force Sergeants Association, the Retired Enlisted Association, Gold Star Wives of America, and the Fleet Reserve Association.
345 CHOB

MARCH 23

9:30 a.m.
Armed Services
To hold hearings to examine atomic energy defense activities of the Department of Energy relating to the Defense Authorization request for fiscal year 2005.
SD–106

10 a.m.
Health, Education, Labor, and Pensions
Substance Abuse and Mental Health Services Subcommittee
To hold hearings to examine mental health services.
SD–430

MARCH 24

9:30 a.m.
Indian Affairs
To hold hearings to examine S. 1529, to amend the Indian Gaming Regulatory Act to include provisions relating to the payment and administration of gaming fees.
SR–485

MARCH 25

9:30 a.m.
Armed Services
To hold hearings to examine the role of the U.S. Northern Command and U.S. Special Operations Command in defending the homeland and in the global war on terrorism, in review of the defense authorization request for fiscal year 2005; to be followed by a closed session in SH–219.
SH–216

10 a.m.
Health, Education, Labor, and Pensions
Employment, Safety, and Training Subcommittee
To hold hearings to examine MSDS and OSHA hazardous commission.
SD–430

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentations of the National Association of State Directors of Veterans Affairs, AMVETS, American Ex-Prisoners of War, the Vietnam Veterans of America, and the Military Officers Association of America.
345 CHOB

2:30 p.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings to examine S. 1085, to provide for a Bureau of Reclamation program to assist states and local communities in evaluating and developing rural and small community water supply systems, and S. 1732, to direct the Secretary of the Interior to establish a rural water supply program in the Reclamation States to provide a clean, safe, affordable, and reliable water supply to rural residents.
SD–366

MARCH 31

10 a.m.
Health, Education, Labor, and Pensions
Business meeting to consider pending calendar business.
SD–430

SEPTEMBER 21

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the American Legion.
345 CHOB

CANCELLATIONS

MARCH 10

10 a.m.
Health, Education, Labor, and Pensions
Business meeting to consider pending calendar business.
SD–430

HOUSE OF REPRESENTATIVES—*Thursday, March 4, 2004*

The House met at 11:30 a.m.

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord our God, Your reluctant profit Jonah called out to You from the depths. Hear our prayer today for the Members and the staffs who assist them here in the House of Representatives. Unlike Jonah, we will not run away from Your presence nor avoid the task You set before us.

Make us steadfast in faith that this generation may seek the wisdom which reveals the sign of Jonah. May the new life still hidden in winter's wrap come forth. May the promise of deeper relationships emerge from confessed limitations, apologies, and efforts of reconciliation. May death to selfishness give rise to the ability to love.

With Jonah we are always surprised to find You, as "a loving and merciful God, always patient, always kind, and always ready to change Your mind and not punish."

This we believe now and forever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from Minnesota (Ms. McCOLLUM) come forward and lead the House in the Pledge of Allegiance.

Ms. McCOLLUM led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

> S. 2057. An act to require the Secretary of Defense to reimburse members of the United States Armed Forces for certain transportation expenses incurred by the members in connection with leave under the Central Command Rest and Recuperation Leave Program before the program was expanded to include domestic travel.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain ten 1-minute speeches on each side.

CALLING FOR CHANGES IN EUROPEAN UNION'S AGRICULTURAL SUBSIDY PROGRAMS

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, it is high time for the European Union to face the reality that it must eliminate its destructive agricultural export subsidies. This Member commends U.S. Trade Representative Robert Zoellick for emphasizing this message during his recent visit to Geneva. As Ambassador Zoellick correctly noted, such action is one of the keys to reaching an international ag trade agreement.

The EU's outrageous use of export subsidies hurts U.S. farmers, distorts international trade, and harms developing countries. If the EU would end its export subsidies, this Member is confident that the U.S. would be more than willing to eliminate its much smaller export subsidies. It should be noted that the American export subsidies are only used occasionally as a shot across the bow of the EU for the third country export markets.

This Member believes the American agriculture community is willing to make certain changes in the current domestic subsidy program as well, as long as it is accompanied by meaningful subsidy reforms in the EU as well as in Japan and Korea.

Mr. Speaker, real change in the European Union's agriculture export subsidy programs, and especially its elimination of their ag export subsidies, would be of great benefit to farmers and consumers around the world.

HAPPY BIRTHDAY TO ST. PAUL, MINNESOTA

(Ms. McCOLLUM asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. McCOLLUM. Mr. Speaker, today I would like to wish a very happy 150th birthday to the city I live in and represent, St. Paul, Minnesota. St. Paul is Minnesota's capital city, and it is 2 years more "mature" than Minneapolis, our twin sister city.

Originally called Pig's Eye by Mississippi River travelers who would stop for a belt of whiskey, St. Paul was incorporated on March 4, 1854. For 150 years St. Paul's special character has been shaped by the people and cultures of the world. For our first 100 years, Native Americans, Europeans, African Americans settled and built St. Paul. More recently, new immigrants from Asia, Latin America, and Africa continue to transform and strengthen St. Paul.

It is no secret to St. Paul residents. We live in a great city.

Happy birthday to St. Paul. It is 150 years old, and we are just getting started.

FIGHTING FOR AMERICA'S VETERANS: CONCURRENT RECEIPT

(Mr. MILLER of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of Florida. Mr. Speaker, I rise this morning to talk about how President Bush and this Republican Congress have fought to honor America's veterans. As Florida's First Congressional District is home to more veterans than anywhere else in the Nation, keeping the promises to veterans is certainly my priority and it has been one for this Republican Congress as well.

I think it is safe to say that all of our colleagues, Republicans and Democrats, tell their constituents that they support veterans and will keep the many promises we have made to them throughout the years. The difference is that President Bush and our Republican colleagues have kept those promises. It is the Democrats who have not.

Republicans have increased to record levels spending on veterans' health care and benefit programs. We have enacted countless measures to enhance and expand compensation, retirement, health, and medical programs for America's 25 million veterans and their families since becoming the majority party in this Congress.

We have also provided more than $22 billion to allow disabled veterans to receive both their disability compensation and retirement pay, a practice which a 100-year-old law previously prohibited. In fact, Republicans are the only ones who have provided any, any, concurrent receipt benefits for disabled military retirees. Democrats had 40 years to do so as the majority party, and they did not.

President Roosevelt said "A man good enough to shed blood for his country is good enough to be given a square deal afterwards." We should be proud of what President Bush and our Republican colleagues have done.

PEACE CORPS WEEK

(Mr. FARR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FARR. Mr. Speaker, I rise today because March 1 through March 7 is National Peace Corps Week. One hundred and seventy thousand volunteers have served in 137 countries over the past 43 years to make an impact on this world, and I would just like to congratulate all of those who are in the field right now, who are in foreign countries all over the word, and send a special congratulations to each of them during this National Peace Corps Week for their service and contribution to the developing countries throughout the world.

And I would like to also remind them that what we heard yesterday in testimony by the leading generals in Iraq was that the military understands that until we cross the cultural divide, until the United States crosses the cultural divide, we will not have peace in this world. And the people that are being able to cross that cultural divide and bring the best of what is in America to the best of what is outside America together is the National Peace Corps.

And I would just like to say on this week of anniversary that the Peace Corps volunteers do not give handouts. They instead share their knowledge, experiences, technical skills with locals who in turn learn valuable lessons from them, the host country nationals, as well as the host country nationals learning from us. I am especially proud to be a return Peace Corps volunteer from Colombia, where I served in the 1960s, and the friendship and understanding and compassion that developed between myself and the Colombians is forever with me and with them.

And there are other Members, the gentleman from California (Mr. HONDA), the gentleman from Wisconsin (Mr. PETRI), the gentleman from New York (Mr. WALSH), and the gentleman from Connecticut (Mr. SHAYS) who are also return Peace Corps volunteers, and I, with them, we extend congratulations to all those who are serving and to all those who applied to serve in the United States Peace Corps. I thank them very much on this week of the anniversary of the Peace Corps.

FIGHTING FOR AMERICA'S VETERANS

(Ms. GINNY BROWN-WAITE of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I cannot agree more with the gentleman from North Florida about all of the gains that veterans have made during the Republican administration. There have been so many legislative accomplishments on behalf of veterans that have been made since 2000.

The issue of concurrent receipt stands out actually as the primary example of Republican achievement versus Democrat rhetoric. The injustice of concurrent receipt actually existed for well over 100 years. The gentleman from Florida (Mr. BILIRAKIS) introduced the bill every session of Congress, and it has been here for about 15 years.

Veterans need to know that Democrats never led on this issue because under their control it never saw the light of day. It took a Republican President and a Republican Congress to end this unfair penalty on disabled veterans. The battle over concurrent receipt is well over 100 years old. We finally began to respond to the need and address every disabled veteran so that they will now be able to receive benefits for 50 percent or greater disability, that there will no longer be that offset. Veterans deserve no less than this, and, in fact, they actually deserve more.

As history has demonstrated, America's veterans can count on the Republican majority to support them and to honor them when they return home.

THE PEOPLE'S HOUSE

(Mr. EMANUEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMANUEL. Mr. Speaker, what is known around here as business as usual would make a Chicago alderman blush. In Chicago we have a pretty high standard. If we look at today's Washington Post and New York Times editorial page, they talk about the relationship between two lobbyists and the Republican majority. Roll Call's headline: "Revolving Door Snags Hill Aide: Staffer Negotiated Lobby Contract While on House Payroll."

The pharmaceutical industry was working the halls, working on the pharmaceutical prescription drug legislation. The energy lobbyist got an energy bill.

Let me do a case in point. Four Indian tribes paid $45 million in 3 years to buy access.

Mr. Speaker, there are good people on both sides of the House with good values. It is unfortunate the conduct of a few brings shame on this institution. The Speaker's gavel is intended to open the People's House, not to close the Auction House.

MEDICARE'S PRESCRIPTION DRUG BENEFIT

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, in 1965 if one asked a group of people how many in their family have to take five, six, seven pills a day just to survive, how many hands would be raised? Probably not many because in 1965 we did not have the miracle drugs that we have today. But today in almost any given audience if one asks that question, how many who have somebody in their family who have to take three or four or five pills a day, 80 percent of the hands go up.

□ 1145

That is why the Republican Party has added a prescription drug benefit to Medicare. It is a choice; it is an option. If you are in Medicare now and you love it as is, you do not have to do this, because this is voluntary. But if you want a 50 percent reduction in the cost of your prescription drugs, this is a plan that you should take a careful look at.

The volunteer plan starts in 2006. To bridge the gap in the meantime, all seniors this summer, if they want to, again, voluntarily, can buy a $30 discount card that will reduce the cost of drugs about 20 to 25 percent.

This is a significant step for better health care for our seniors and a major Medicare reform.

APPLAUDING DECISION ORDERING NEW WHOLESALE AND UNBUNDLING RULES

(Mr. MEEKS of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MEEKS of New York. Mr. Speaker, I rise this morning to applaud the D.C. Circuit Court's decision on Tuesday ordering the FCC to come up with new wholesale and unbundling rules that can pass legal approval. This decision sets U.S. telecom policy on the correct path as envisioned by both Chambers of Congress when we passed the Telecom Act of 1996.

This requirement that the regulated local phone companies lease their phone lines to competitors at below-cost rates, ensuring constant financial losses, as witnessed over the past 3 years, has severely hindered investment and service quality to many communities, both large and small.

The time for the FCC to act is now, and with the same sense of urgency the agency displayed after the Super Bowl half-time show. Quick action by Chairman Powell will help spur investment and job creation at a time when our Nation and this sluggish economy certainly need a boost.

APPOINTMENT OF CONFEREES ON H.R. 3108, PENSION FUNDING EQUITY ACT OF 2003

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3108) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes, with House amendments to the Senate amendment thereto, insist on the House amendments to the Senate amendment, and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. LATOURETTE). Is there objection to the request of the gentleman from Ohio? The Chair hears none and, without objection, appoints the following conferees: From the Committee on Education and the Workforce for consideration of the House bill and the Senate amendment and modifications committed to conference: Messrs. BOEHNER, MCKEON, JOHNSON of Texas, TIBERI, GEORGE MILLER of California and Mr. ANDREWS; from the Committee on Ways and Means for consideration of the House bill and Senate amendment and modifications committed to conference: Messrs. THOMAS, PORTMAN and RANGEL.

There was no objection.

POSITIVE IMPACT OF NO CHILD LEFT BEHIND ON SPECIAL EDUCATION STUDENTS

(Mr. BOEHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHNER. Mr. Speaker, yesterday in the Committee on Education and the Workforce, we were pleased to have a hearing on No Child Left Behind and its impact on special education students. For the first time in history, those students in special education will be judged based on results and the fact that we know that children with disabilities can, in fact, learn.

We had four distinguished witnesses from around the country talking about how special education is changing as a result of No Child Left Behind. School districts now must focus in on results for our special needs children. These four witnesses, a parent, a school superintendent and two education experts, talked about how special education students are in fact learning more and improving their capability.

For most children with special needs, there really is no excuse that they cannot read and write and become literate like all other children. Many children in special education can do far more than that; and by focusing in on results for children with special needs, we can in fact meet our goal with No Child Left Behind, which is just that: let us leave no child in America behind.

GENERAL LEAVE

Mr. BOEHLERT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3752.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

COMMERCIAL SPACE LAUNCH AMENDMENTS ACT OF 2004

The SPEAKER pro tempore (Mr. BOEHNER). Pursuant to House Resolution 546 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3752.

☐ 1155

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3752) to promote the development of the emerging commercial human space-flight industry, to extend the liability indemnification regime for the commercial space transportation industry, to authorize appropriations for the Office of the Associate Administrator for Commercial Space Transportation, and for other purposes, with Mr. LATOURETTE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from New York (Mr. BOEHLERT) and the gentleman from Tennessee (Mr. GORDON) each will control 30 minutes.

The Chair recognizes the gentleman from New York (Mr. BOEHLERT).

Mr. BOEHLERT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me begin by thanking the gentleman from California (Mr. ROHRABACHER), the chairman of our Subcommittee on Space and Aeronautics, for introducing this measure, for continually pressing for its passage, and for working so cooperatively with us while crafting it. He has single-handedly made this a priority issue for the entire committee.

I have to admit, when the gentleman from California (Mr. ROHRABACHER) first came forward with the idea for this bill, I thought the notion was, well, a little flighty. But through our hearings and other work on this bill, I have come to see this as one of the most important measures this committee will move this year. Let me tell you why. This is about a lot more than joyrides in space, although there is nothing wrong with such an enterprise. This is about the future of the U.S. aerospace industry.

As in most areas of American enterprise, the greatest innovations in aerospace are most likely to come from small entrepreneurs. This is true whether we are talking about launching humans or cargo. The goal of this bill is to promote robust experimentation, to make sure that entrepreneurs and inventors have the incentives and the capabilities they need to pursue their ideas. That is important to our Nation's future.

Those entrepreneurs, the kinds of folks who are inventing new rockets for cargo and who are endowing and competing for the X Prize, are doing our Nation a tremendous service; and, I should add, they also seem to be enjoying themselves. That is a winning combination.

So what do these people need from us? The simplistic answer is they just need government to get out of the way. But, as usual, the truth is a little more complex. The innovators need and are seeking a government regulatory regime that will provide predictability, a regime that can offer stability and support to help them attract private capital; and the general public needs such a regime as well to ensure that the public at large faces no undo health or safety risk from any flights. In short, this industry requires government regulation, but not so much regulation as to stifle it.

This bill, which has been painstakingly negotiated with all interested parties, strikes the proper balance. It recognizes the industry's need to experiment. Indeed, it creates a new regulatory instrument to encourage that experimentation, while recognizing the obligation to protect the crew and the general public.

I should add, since I know that the gentleman from Arizona (Mr. FLAKE) will bring this issue up a little later, that this regulation can be provided without any increase in the budget of the Federal Aviation Administration. That bears repeating: without any increase in the budget of the Federal Aviation Administration.

We will be accepting the amendment of the gentleman from Arizona (Mr. FLAKE). I would note that the Congressional Budget Office reached the same conclusion, that no additional funding is needed to carry out this bill.

I should also add that under this bill the government will go beyond creating a stable environment for these entrepreneurs. The bill extends the existing provision of law under which the government indemnifies the companies undertaking these flights for set amounts and purposes. In keeping with past congressional practice, we are extending indemnification temporarily for 3 years, in this case; and we are also asking for a study to determine how to end indemnification without harming the industry. I do not think the government should be taking on the risk of this enterprise forever.

So this is a very fair, balanced, carefully crafted bill that will help a budding industry and protect the public. The result, over time, should be the development of new ideas and ways to take humans into space on sub-orbital rockets.

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We are still a long way off from making rockets common carriers like airplanes, but we need to promote the experimental work. I want to thank the gentleman from Alaska (Mr. YOUNG) of the Committee on Transportation and Infrastructure for working with us on the jurisdictional issues that the bill presented. I also want to thank the staff who worked on this bill, particularly one of our new staffers, Tim Hughes, who has become an expert in this area of law. I wish to thank both sides of the aisle, Democrats under the gentleman from Tennessee (Mr. GORDON), my fellow Republicans under me, for working so cooperatively for so long to bring forward a product that results in encouragement for a budding industry and gives optimism as we look to the future. I urge my colleagues to support this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. GORDON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to speak in support of H.R. 3752, the Commercial Space Launch Amendment Act of 2004. The gentleman from California (Mr. ROHRABACHER) is to be congratulated for his efforts on this bill and I am pleased to be an original cosponsor.

The main provisions of the bill have already been described so I will not take time to discuss them further at this point. Instead, I would just like to make the following observations:

First, the basic purpose of the bill is to establish a framework for regulating the commercial human space flight industry. We have ample testimony that such a framework is needed if the companies are to make their plans and attract needed capital. I believe that this bill addresses that need in a practical and balanced manner.

Second, we are talking about an emerging industry. No one has yet flown a private passenger-carrying space vehicle, and we are far from knowing how the market for such a launch service will develop. As a result, we may need to revisit some of the issues covered by this legislation after we have accumulated some actual experience with commercial operations. Yet that reality should not prevent us from taking the steps that are included in this bill to provide at least an initial regulatory framework.

Third, while I believe this is a good bill, I think there are still some areas that could be improved. The gentleman from New York (Mr. BOEHLERT) and I intend to offer a joint managers' amendment that will deal with several of them, and I hope that Members will join us in supporting that amendment.

Other issues will warrant further discussion over the coming weeks. For example, I do not believe that the testimony and studies received by the Committee on Science over the last several years agree with the bill's bias towards eliminating the existing liability indemnification regime, and I hope that we will revisit that issue when we are in conference on this legislation with the Senate.

Mr. Chairman, H.R. 3752 was reported out of the Committee on Science on a bipartisan basis. I urge my colleagues to support my bill when it comes up for a vote.

Mr. Chairman, I reserve the balance of my time.

Mr. BOEHLERT. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. ROHRABACHER), the distinguished chairman of the Subcommittee on Space and Aeronautics, the driver behind this legislation.

Mr. ROHRABACHER. Mr. Chairman, I would like to thank the gentleman from New York (Mr. BOEHLERT) for all his help and energy and creativity and that of his staff as well. We have worked long and hard on this and I am very happy that it is coming to fruition today. I would also like to thank my colleagues on the other side of the aisle who have been working on this with us in a great spirit of bipartisanship and love of country and love of technology and innovation.

Mr. Chairman, the Commercial Space Launch Amendment Act of 2004 represents the fruit of a long and thorough analysis of the commercial human space flight industry beginning in July with a joint House-Senate hearing on this subject, a Subcommittee on Space and Aeronautics markup, a policy roundtable with experts in the commercial space transportation industry late last year, and a full committee markup early in February. So we have been through the rings on this particular piece of legislation.

The bill before us today, H.R. 3752, creates a clear and balanced regulatory regime to govern the emerging commercial human space flight industry. It is my sincere hope that this bill will encourage individuals like Burt Rutan and others to continue leading the way in pushing the boundaries of technology and safety by building and flight testing hardware, something NASA has yet to do.

This fine piece of legislation carries forward my goal of promoting this new industry and cutting back bureaucratic red tape while protecting public health and safety.

H.R. 3752 eliminates confusion as to who regulates reusable suborbital rockets by directing a regulatory regime for licensing commercial human space flight activities to be established under the jurisdiction of the FAA's Office of Commercial Space Transportation.

The bill makes it easier for entrepreneurs to launch new types of reusable suborbital rockets by directing the Secretary of Transportation to create experimental flight permits, which are separate and distinct from existing commercial launch licenses.

H.R. 3752 also extends the existing commercial space transportation indemnification regime by 3 years, as the chairman noted, through December 31, 2007, and calls for a study in determining how best to gradually eliminate the indemnification regime for the commercial space transportation industry by 2008. Overall, the bill will help get this new industry on its way and on its feet and give the existing space launch industry more time to grow.

Let me note that in the past we have seen spin-offs from the Department of Defense helping people in the private sector and the commercial sector do their business, whether it is GPS satellites or whatever type of technology that was developed over with the DOD in order to help our national security meet those needs. We have seen those spin-offs come to the private sector and help us commercially. I think today that this piece of legislation will launch a new industry where we will see the commercial industry developing technologies that will have spin-offs for the Department of Defense. The spin-offs are going to start going in the other direction where our great space entrepreneurs like Rutan and others are going to be developing aerospace technologies that can be put to use in our national security while they are developing them originally for use in the commercial and private sector.

It is this type of cooperation that should be going on and we should be encouraging it in both directions. That is what this bill does. I would like to thank the gentleman from New York (Mr. BOEHLERT) again and the industry, my colleagues on the other side of the aisle, the ranking member, the gentleman from Tennessee (Mr. GORDON) and the FAA for their help in developing the bill. Their tremendous efforts will ensure that the regulatory barriers do not hinder the promises and potential of commercial human space flight and all the potential it holds for our Nation.

I urge my colleagues to vote for H.R. 3752.

Mr. BOEHLERT. Mr. Chairman, I yield such time as he may consume to the gentleman from Oklahoma (Mr. LUCAS) for the purposes of a colloquy.

Mr. LUCAS of Oklahoma. Mr. Chairman, I appreciate the gentleman from New York (Mr. BOEHLERT) and the gentleman from Tennessee (Mr. GORDON) bringing this important bill to the floor, because the emerging commercial human space flight industry presents tremendous opportunities for my State of Oklahoma and our Nation as a whole. I am particularly appreciative of this bill's intent to ease the regulatory burdens for entrepreneurs who are developing new suborbital reusable launch vehicles.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. LUCAS of Oklahoma. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I thank the gentleman for his kind words. He is correct in stating that this legislation seeks to put in place sufficient Federal regulation to protect the general public while also promoting this important new industry.

Mr. LUCAS of Oklahoma. As you know, Mr. Chairman, some suborbital reusable launch vehicles that will be used in commercial human space flight activities may have some attributes normally associated with airplanes as well as many attributes of rockets. My hope is that such hybrid vehicles would not have to be regulated under two separate regimes. What are the chairman's views on this matter?

Mr. BOEHLERT. I thank the gentleman for that question.

This is a very important issue on which we have worked extensively with industry and the executive branch in developing this bill. As currently drafted, H.R. 3752 incorporates definitions promulgated by the Federal Aviation Administration to distinguish between suborbital rockets, which are under the jurisdiction of FAA's Associate Administrator for Commercial Space Transport, and other aerospace vehicles which are regulated by another part of the FAA. That said, I would be happy to keep working with the gentleman from Oklahoma (Mr. LUCAS) and other interested parties as the bill moves forward to revisit the important issue of how best to regulate hybrid vehicles that are engaged in commercial human space flight.

Mr. LUCAS of Oklahoma. I thank the chairman and I look forward to continuing to work with him and our colleagues in the other body to see if we can create a single regime for hybrid commercial space flight vehicles.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in support of the Commercial Space Launch Amendments Act. I would like to commend my colleague from California for his leadership, encouraging interest and activity in space exploration. I also commend Ranking Member BART GORDON and the new Ranking Member of the Space Subcommittee NICK LAMPSON of Houston, for helping make this important bill much better.

Commercial space flight is at a crossroads—as is our federal space exploration mission at NASA. Space tourism could revolutionize the human experience and could potentially become billion-dollar industry, creating numerous jobs in high-tech manufacturing and design. I believe that that will indeed happen someday, although I would not go out on a limb and predict whether it will be in two decades, or two centuries. But I do believe that mankind's natural curiosity and hunger for excitement will ultimately enable us to break through the gravitational bond that holds us to the surface of this planet. And I am confident that the American spirit will allow United States companies and scientists and explorers to be on the forefront of that great endeavor.

As those companies develop, they may also come to play a more integral role in complementing the NASA mission—allowing NASA to focus on cutting edge exploration, while they fulfill the more-mundane heavy lifting and transport functions. This could be extremely valuable and cost-effective.

The question before us though, is "What should be the role of the federal government in the development of commercial space flight?" I have always been a great supporter of the NASA mission, and its non-commercial manned and unmanned exploration of space. I feel the search for knowledge and understanding in this universe is noble and worthwhile. I believe that the NASA mission inspires our children to excel in the sciences and math, and thus helps stimulate the development of American leaders in technology. And NASA is a source of discovery and innovation that drives our economy and development. All of these things make NASA well worth strong federal investment.

Commercial space activity is often associated with space tourism—a potential thrill for the multi-millionaires of this world. I have no problem with that. But if that is all that industry is, an expensive amusement ride, then perhaps the federal government should limit its role to issuing safety guidelines and regulations for liability insurance requirements and waivers and then let the private sector do the rest.

But if this industry has the potential to be a huge source of jobs and revenues in the United States, or if there can be some fruitful collaboration with NASA, helping in education and science, or training of astronauts, or tech development—perhaps more federal financial investment would be appropriate.

These are the questions we have been grappling with in the Science Committee over the past year. Regardless of the answer, the fact is that this industry is at a crossroads, and it is time that we in Congress make it clear what the federal role shall be, whether we will obstruct their development, help drive this industry, or simply get out of the way.

H.R. 3752 makes great progress in defining the federal role for commercial space launch, and encouraging this industry to get off the ground, if you'll pardon the expression.

This Act will establish a framework for regulating the emerging commercial human space flight industry, giving the responsibility to FAA's Office of Commercial Space Transportation, which currently licenses unmanned expendable launch vehicles that put commercial satellites into orbit. It also creates a "permit" system to facilitate experimental test flights of new vehicles, while retaining a full licensing system for operational systems. H.R. 3752 will also extend the existing liability indemnification regime for the commercial space transportation industry for another three years and require a study of how to ultimately phase out that temporary regime.

These are prudent steps, worked out in a bipartisan way in the Space Subcommittee and the whole Committee. I support this approach, and will vote for this bill.

However, space flight is intrinsically risky, and we must make safety our primary consideration. We do not want a burgeoning space industry to follow the example NASA has set of late—and make safety an afterthought. I have been calling for a change in the culture at NASA, to one of openness and commitment to the well being of our spacecraft and crews. We must ensure that such a philosophy is adhered to in the private space sector as well.

I have authored two bills that I will introduce soon, to make NASA safer. One will protect employees from retaliation by managers when they come forward and bring to light safety problems that could lead to the loss of a NASA spacecraft or the lives of crewmembers. These worker protections would also extent to contractors for NASA. I hope in the future to work with the FAA, to ensure that such protections are in place in the commercial space industry.

First, we will need to pass this bill, and start putting the regulatory structure in place. I support the bill and urge my colleagues to do the same.

Mr. GORDON. Mr. Chairman, I have no further speakers, and I yield back the balance of my time.

Mr. BOEHLERT. Mr. Chairman, I have no further speakers, and I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill is considered read for amendment under the 5-minute rule.

The text of H.R. 3752 is as follows:

H.R. 3752

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commercial Space Launch Amendments Act of 2004".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the goal of opening space to the American people and their private commercial, scientific, and cultural enterprises should guide Federal space investments, policies, and regulations;

(2) private industry has begun to develop commercial launch vehicles capable of carrying human beings into space, and greater private investment in these efforts will stimulate the Nation's commercial space transportation industry as a whole;

(3) space transportation is inherently risky;

(4) a critical area of responsibility for the Office of the Associate Administrator for Commercial Space Transportation is to regulate the emerging commercial human space flight industry; and

(5) the public interest is served by creating a clear legal and regulatory regime for commercial human space flight.

SEC. 3. AMENDMENTS.

(a) FINDINGS AND PURPOSES.—Section 70101 of title 49, United States Code, is amended—

(1) in subsection (a)(3), by inserting "human space flight," after "microgravity research,"; and

(2) in subsection (a)(4)—

(A) by striking "satellite"; and

(B) by striking "services now available from" and inserting "capabilities of".

(b) DEFINITIONS.—Section 70102 of title 49, United States Code, is amended—

(1) by redesignating paragraphs (2) through (17) as paragraphs (3), (4), (5), (6), (7), (8), (9), (10), (12), (13), (14), (15), (16), (18), (21), and (22), respectively;

(2) by inserting after paragraph (1) the following new paragraph:

"(2) 'crew' means any employee of a licensee or transferee, or of a contractor or subcontractor of a licensee or transferee, who performs activities in the course of that employment directly relating to the launch, reentry, or other operation of or in a launch vehicle or reentry vehicle that carries human beings.";

(3) in paragraph (4), as so redesignated by paragraph (1) of this subsection, by inserting ", crew, or space flight participant" after "any payload";

(4) in paragraph (6)(A), as so redesignated by paragraph (1) of this subsection, by striking "and payload" and inserting ", payload, crew (including crew training), or space flight participant";

(5) in paragraph (8)(A), as so redesignated by paragraph (1) of this subsection, by inserting "or human beings" after "place a payload";

(6) by inserting after paragraph (10), as so redesignated by paragraph (1) of this subsection, the following new paragraph:

"(11) 'permit' means an experimental permit issued under section 70105.".

(7) in paragraph (13), as so redesignated by paragraph (1) of this subsection, by inserting "crew, or space flight participants," after "and its payload,";

(8) in paragraph (14)(A), as so redesignated by paragraph (1) of this subsection, by striking "and its payload" inserting "and payload, crew (including crew training), or space flight participant";

(9) by inserting after paragraph (16), as so redesignated by paragraph (1) of this subsection, the following new paragraph:

"(17) 'space flight participant' means an individual, who is not crew, carried within a launch vehicle or reentry vehicle.";

(10) by inserting after paragraph (18), as so redesignated by paragraph (1) of this subsection, the following new paragraphs:

"(19) 'suborbital rocket' means a rocket-propelled vehicle intended for flight on a suborbital trajectory whose thrust is greater than its lift for the majority of the powered portion of its flight.

"(20) 'suborbital trajectory' means the intentional flight path of a launch vehicle, reentry vehicle, or any portion thereof, whose vacuum instantaneous impact point does not leave the surface of the Earth."; and

(11) in paragraph (21), as so redesignated by paragraph (1) of this subsection—

(A) by striking "or" at the end of subparagraph (C);

(B) by striking the period at the end of subparagraph (D) and inserting "; or"; and

(C) by adding at the end the following new subparagraph:

"(E) crew or space flight participants.".

(c) COMMERCIAL HUMAN SPACE FLIGHT.—(1) Section 70103(a) of title 49, United States Code, is amended by inserting ", through the Associate Administrator for Commercial Space Transportation," after "Secretary of Transportation".

(2) Section 70103(b)(1) of title 49, United States Code, is amended by inserting ", including those involving space flight participants" after "private sector".

(3) Section 70104(a) of title 49, United States Code, is amended—

(A) by striking "LICENSE REQUIREMENT.—A license issued or transferred under this chapter" and inserting "REQUIREMENT.—A license issued or transferred under this chapter, or a permit,"; and

(B) by inserting after paragraph (4) the following:

"Notwithstanding this subsection, a permit shall not authorize a person to operate a launch site or reentry site.".

(4) Section 70104(b) of title 49, United States Code, is amended by inserting "or permit" after "holder of a license".

(5) The section heading of section 70105 of title 49, United States Code, is amended by striking "LICENSE APPLICATIONS" and inserting "APPLICATIONS", and the item relating to that section in the table of sections for chapter 701 of title 49, United States Code, is amended accordingly.

(6) Section 70105(a) of title 49, United States Code, is amended—

(A) by striking "APPLICATIONS.— " and inserting "LICENSES.—";

(B) in paragraph (1), by striking "subsection (b)(2)(D)" both places it appears and inserting "subsection (c)(2)(D)"; and

(C) in paragraph (2), by inserting ", including crews," after "or personnel".

(7) Section 70105 of title 49, United States Code, is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

"(b) EXPERIMENTAL PERMITS.—(1) A person may apply to the Secretary of Transportation for an experimental permit under this subsection in the form and manner the Secretary prescribes. Consistent with the public health and safety, safety of property, and national security and foreign policy interests of the United States, the Secretary, not later than 90 days after receiving an application pursuant to this subsection, shall issue a permit if the Secretary decides in writing that the applicant complies, and will continue to comply, with this chapter and regulations prescribed under this chapter. The Secretary shall inform the applicant of any pending issue and action required to resolve the issue if the Secretary has not made a decision not later than 60 days after receiving an application. The Secretary shall transmit to the Committee on Science of the House of Representatives and Committee on Commerce, Science, and Transportation of the Senate a written notice not later than 15 days after any occurrence when a permit is not issued within the deadline established by this subsection.

"(2) In carrying out paragraph (1), the Secretary may establish procedures for safety approvals of launch vehicles, reentry vehicles, safety systems, processes, services, or personnel, including crews, that may be used in conducting commercial space launch or reentry activities pursuant to a permit.

"(3) In order to encourage the development of a commercial space flight industry, the Secretary, to the greatest extent practicable, shall when issuing permits use the authority granted under subsection (c)(2)(C).

"(4) The Secretary may issue a permit only for reusable suborbital rockets that will be launched or reentered solely for—

"(A) research and development to test new design concepts, new equipment, or new operating techniques;

"(B) showing compliance with requirements as part of the process for obtaining a license under this chapter; or

"(C) crew training prior to obtaining a license for a launch or reentry using the design of the rocket for which the permit would be issued.

"(5) Permits issued under this subsection shall—

"(A) authorize an unlimited number of launches and reentries for a particular suborbital rocket design for the uses described in paragraph (4); and

"(B) specify the modifications that may be made to the suborbital rocket without changing the design to an extent that would invalidate the permit.

"(6) Permits shall not be transferable.

"(7) A permit may not be issued for, and a permit that has already been issued shall cease to be valid for, a particular design for a reusable suborbital rocket after a license has been issued for the launch or reentry of a rocket of that design.

"(8) No person may operate a reusable suborbital rocket under a permit for carrying any property or human being for compensation or hire.

"(9) For the purposes of sections 70106, 70107, 70108, 70109, 70110, 70112, 70115, 70116, 70117, and 70121 of this chapter—

"(A) a permit shall be considered a license;

"(B) the holder of a permit shall be considered a licensee;

"(C) a vehicle operating under a permit shall be considered to be licensed; and

"(D) the issuance of a permit shall be considered licensing.

This paragraph shall not be construed to allow the transfer of a permit.".

(8) Section 70105(c)(1) of title 49, United States Code, as so redesignated by paragraph (7) of this subsection, is amended by inserting "or permit" after "for a license".

(9) Section 70105(c)(2)(B) of title 49, United States Code, as so redesignated by paragraph (7) of this subsection, is amended by striking "an additional requirement" and inserting "any additional requirement".

(10) Section 70105(c)(2)(C) of title 49, United States Code, as so redesignated by paragraph (7) of this subsection, is amended by inserting "or permit" after "for a license".

(11) Section 70105(c)(2)(D) of title 49, United States Code, as so redesignated by paragraph (7) of this subsection, is amended by inserting "or permit" after "for a license".

(12) Section 70105(c)(3) of title 49, United States Code, as so redesignated by paragraph (7) of this subsection, is amended—

(A) by striking ", including the requirement to obtain a license,"; and

(B) by adding at the end the following: "Nothing in this paragraph shall be construed to allow the launch or reentry of a launch vehicle or a reentry vehicle without a license or permit if a human being will be on board.".

(13) Section 70105(c) of title 49, United States Code, as so redesignated by paragraph (7) of this subsection, is amended by adding at the end the following new paragraphs:

"(4) The holder of a license or a permit under this chapter may launch or reenter crew only if—

"(A) the crew has received training and has satisfied medical or other standards specified in the license or permit in accordance with regulations promulgated by the Secretary; and

"(B) the holder of the license or permit and crew have complied with all requirements of the laws of the United States that apply to crew.

"(5) The holder of a license or a permit under this chapter may launch or reenter a space flight participant only if—

"(A) in accordance with regulations promulgated by the Secretary, the holder of the license or permit has informed the space flight participant in writing about the risks of the launch or reentry, including the safety record of the launch or reentry vehicle type, and the space flight participant has provided written informed consent to participation in the launch or reentry; and

"(B) the holder of the license or permit and space flight participant have complied with all requirements of the laws of the United States related to launching or reentering a space flight participant.".

(14) Section 70105(d) of title 49, United States Code, as so redesignated by paragraph (7) of this subsection, is amended by inserting "or permit" after "of a license".

(15) Section 70106(a) of title 49, United States Code, is amended—

(A) by inserting "at a site used for crew training," after "assemble a launch vehicle or reentry vehicle,"; and

(B) by striking "section 70104(c)" and inserting "sections 70104(c) and 70105(c)(4)".

(16) Section 70110(a)(1) of title 49, United States Code, is amended by striking "70105(a)" and inserting "70105".

(17) Section 70112(b)(1) of title 49, United States Code, is amended—

(A) by inserting "crew, space flight participants," after "its contractors, subcontractors,"; and

(B) by inserting "or by space flight participants," after "its own employees,".

(18) Section 70112(b)(2) of title 49, United States Code, is amended—

(A) by inserting "crew, space flight participants," after "transferee, contractors, subcontractors,"; and

(B) by inserting "or by space flight participants," after "its own employees,".

(19) Section 70113(a) of title 49, United States Code, is amended by inserting ", but not against a space flight participant," after "subcontractor of a customer,".

(20) Section 70113(f) of title 49, United States Code, is amended by striking "December 31, 2004." and inserting "December 31, 2007. This section does not apply to permits.".

(21) Section 70115(b)(1)(D)(i) of title 49, United States Code, is amended by inserting "crew training site," after "site of a launch vehicle or reentry vehicle,".

(22) Section 70119 of title 49, United States Code, is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) such sums as may be necessary for fiscal year 2005;

"(2) such sums as may be necessary for fiscal year 2006; and

"(3) such sums as may be necessary for fiscal year 2007.".

(23) Section 70120 of title 49, United States Code, is amended by adding at the end the following new subsections:

"(c) Amendments.—Not later than 12 months after the date of enactment of the Commercial Space Launch Amendments Act of 2004, the Secretary shall publish proposed regulations to carry out that Act, including regulations relating to crew, space flight participants, and permits for launch or reentry of reusable suborbital rockets. Not later than 18 months after such date of enactment, the Secretary shall issue final regulations.

"(d) Effective Date.—(1) Licenses for the launch or reentry of launch vehicles or reentry vehicles with human beings on board and permits may be issued by the Secretary prior to the issuance of the regulations described in subsection (c).

"(2) As soon as practicable after the date of enactment of the Commercial Space Launch Amendments Act of 2004, the Secretary shall issue guidelines or advisory circulars to guide the implementation of that Act until regulations are issued.

"(3) Notwithstanding paragraphs (1) and (2), no licenses for the launch or reentry of launch vehicles or reentry vehicles with human beings on board or permits may be issued starting three years after the date of enactment of the Commercial Space Launch Amendments Act of 2004 unless the final regulations described in subsection (c) have been issued.".

SEC. 4. STUDY ON THE GRADUAL ELIMINATION OF COMMERCIAL SPACE TRANSPORTATION LIABILITY RISK SHARING REGIME.

Not later than 60 days after the date of enactment of this Act, the Secretary of Transportation shall enter into an appropriate arrangement with the National Academy of Public Administration to conduct a study of how best to gradually eliminate the liability risk sharing regime in the United States for commercial space transportation under section 70113 of title 49, United States Code. The study shall assess methods by which the liability risk sharing regime could be eliminated by 2008 or as soon as possible thereafter and the impact those methods would be likely to have on the commercial space transportation industry. The methods examined shall include incremental approaches.

SEC. 5. TECHNICAL AMENDMENT.

Section 102(c) of the Commercial Space Act of 1998 is repealed.

The CHAIRMAN. No amendment to the bill shall be in order except those printed in the designated place in the Congressional Record and pro forma amendments for the purpose of debate. Amendments printed in the Record may be offered only by the Member who caused it to be printed or his designee and shall be considered read.

Are there any amendments to the bill?

AMENDMENT NO. 1 OFFERED BY MR. BOEHLERT

Mr. BOEHLERT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. Boehlert:

In section 3(c)(5), strike "by striking" and all that follows through ", and the item" and insert "by striking '**License applications**' and inserting '**Applications**', and the item".

In section 3(c)(12), strike "is amended" and all that follows through "by adding" and insert "is amended by adding".

In section 3(c)(17)—

(1) in subparagraph (A)—

(A) strike "crew,"; and

(B) strike "and";

(2) in subparagraph (B), strike "employees,'." and insert "employees'; and"; and

(3) add at the end the following new subparagraph:

(C) by adding at the end the following: "The requirement for space flight participants to make a reciprocal waiver of claims with the licensee or transferee shall expire 3 years after the first licensed launch of a launch vehicle carrying a space flight participant.".

In section 3(c)(18)(B), strike "employees," and insert "employees".

In section 3(c)(19)—

(1) insert "(1)" after "70113(a)"; and

(2) strike ", but not" and insert "but not".

Mr. BOEHLERT. Mr. Chairman, I rise to support my amendment. I am offering this amendment on behalf of myself and the gentleman from Tennessee (Mr. Gordon). This is a straightforward managers' amendment.

The amendment makes technical changes to the bill. It also creates one inadvertent but substantive drafting error. Correcting the bill will make it clear that the Federal Aviation Administration retains its current authority to waive the requirements to obtain a license, while also making it clear that that authority does not extend to flights that carry humans.

Finally, the amendment removes the requirement that crews sign reciprocal waivers of liability. This amendment is not controversial. It is bipartisan, and I urge its adoption.

Mr. GORDON. Mr. Chairman, I rise in support of the amendment.

The gentleman from New York (Mr. Boehlert) has already described the amendment so I will not repeat his explanation. I will simply say that I believe our amendment makes a good bill better. It makes certain necessary technical corrections. However, more importantly, it ensures that employee rights will be protected in the case of an accident or other major incident, and it provides a sunset on the bill's treatment of the passengers of these new commercial spacecraft looking towards the day when such flights will become relatively routine.

Mr. Chairman, I believe that our amendment is noncontroversial, and I urge my colleagues to support it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Boehlert).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MR. FLAKE

Mr. FLAKE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. Flake:

In section 3(c)(22), in each of the proposed paragraphs (1), (2), and (3), strike "such sums as may be necessary" and insert "$11,776,000".

Mr. FLAKE. Mr. Chairman, I rise today to offer an amendment to H.R. 3752. My amendment holds current funding for commercial space activities within FAA for the next 3 years. Current language of the bill authorizes such sums as necessary for the next 3 years. My amendment specifies $11.8 million authorization level each year for the next 3 years. This is the same level appropriated for 2004.

I believe that by holding funding at current levels Congress will be able to monitor space tourism and other commercial space activities. If demand for these activities does in fact rise over the next couple of years, Congress will be able to revisit the issue as needed.

In a time of large deficits this amendment will show that Congress is getting serious about holding the line on nondefense, nonhomeland security spending.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. FLAKE. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I am pleased to accept the amendment. We accept the rationale and the intent and we are pleased to accept this amendment.

Mr. FLAKE. I thank the Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona (Mr. FLAKE).

The amendment was agreed to.

The CHAIRMAN. There being no further amendments in order, under the rule, the Committee rises.

☐ 1215

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LATHAM) having assumed the chair, Mr. LATOURETTE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3752) to promote the development of the emerging commercial human spaceflight industry, to extend the liability indemnification regime for the commercial space transportation industry, to authorize appropriations for the Office of the Associate Administrator for Commercial Space Transportation, and for other purposes, pursuant to House Resolution 546, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BOEHLERT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

This will be a 15-minute vote followed by two 5-minute votes on motions to suspend the rules.

The vote was taken by electronic device, and there were—yeas 402, nays 1, not voting 30, as follows:

[Roll No. 39]

YEAS—402

Abercrombie
Ackerman
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bereuter
Berkley
Berman
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick
Kind
King (IA)
Kingston
Kirk
Kline
Knollenberg
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Wicker
Wilson (NM)
Wilson (SC)
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—1

Paul

NOT VOTING—30

Aderholt
Bell
Berry
Blunt
Calvert
Culberson
Cummings
Davis (IL)
Doggett
Dooley (CA)
Engel
Gerlach
Hinojosa
Hooley (OR)
Houghton
Isakson
Kennedy (RI)
King (NY)
Kleczka
Kolbe
Kucinich
Lantos
Pence
Rodriguez
Rush
Sessions
Toomey
Weller
Whitfield
Wolf

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE) (during the vote). There are 2 minutes remaining in this vote.

☐ 1239

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. KENNEDY of Rhode Island. Mr. Chairman, on rollcall No. 39, passage of H.R. 3752, had I been present, I would have voted "yea."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed. Votes will be taken in the following order:

H. Res. 412, by the yeas and nays; and

H. Res. 56, by the yeas and nays.

These will be 5-minute votes.

HONORING THE MEN AND WOMEN OF THE DRUG ENFORCEMENT ADMINISTRATION ON ITS 30TH ANNIVERSARY

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, H. Res. 412.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and agree to the resolution, H. Res. 412, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 402, nays 1, not voting 30, as follows:

[Roll No. 40]

YEAS—402

Abercrombie
Ackerman
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bereuter
Berkley
Berman
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
English
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Wicker
Wilson (NM)
Wilson (SC)
Woolsey
Wu
Wynn
Young (AK)
Young (FL)
Sessions
Toomey
Walsh
Weller
Whitfield
Wolf

NAYS—1

Paul

NOT VOTING—30

Aderholt
Bell
Berry
Blunt
Calvert
Culberson
Doggett
Dooley (CA)
Engel
Fattah
Gerlach
Hinojosa
Hooley (OR)
Houghton
Isakson
King (NY)
Kleczka
Kucinich
Lantos
Manzullo
Pence
Rodriguez
Rush
Schrock

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

☐ 1248

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SUPPORTING GOALS OF CERTAIN COMMUNITIES IN RECOGNIZING NATIONAL DAY OF REMEMBRANCE

The SPEAKER pro tempore (Mr. LATOURETTE). The unfinished business is the question of suspending the rules and agreeing to the resolution, H. Res. 56.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and agree to the resolution, H. Res. 56, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 404, nays 0, not voting 29, as follows:

[Roll No. 41]

YEAS—404

Abercrombie
Ackerman
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bereuter
Berkley
Berman
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Emanuel
Emerson
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Fossella
Frank (MA)
Franks (AZ)

Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Wicker
Wilson (NM)
Wilson (SC)
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—29

Aderholt
Bell
Berry
Blunt
Calvert
Culberson
Doggett
Dooley (CA)
Edwards
Engel
Ford
Green (TX)
Hinojosa
Hooley (OR)
Houghton
Isakson
King (NY)
Kucinich
Lantos
Manzullo
Marshall
Pence
Rodriguez
Rush
Sessions
Toomey
Weller
Whitfield
Wolf

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

□ 1259

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GERLACH. Mr. Speaker, on rollcall Nos. 39 and 40, I was inadvertently detained. Had I been present, I would have voted "yea."

LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, I rise for the purpose of inquiring of the majority leader the schedule for the week to come.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, the House will convene on Tuesday at 12:30 for morning hour debates and 2 p.m. for legislative business. We will consider several measures under suspension of the rules, and a final list of those bills will be sent to Members' offices by the end of the week. Any votes called on these measures will be rolled until 6:30 p.m.

On Wednesday, the House will convene at 10 a.m. We plan to consider H.R. 339, the Personal Responsibility in Food Consumption Act. In addition, we plan to consider H.R. 3717, the Broadcast Decency Enforcement Act.

Finally, I would like to remind all Members that we do not plan to have votes next Friday, March 12. I will be happy to answer any questions that the gentleman from Maryland has.

Mr. HOYER. Mr. Speaker, I thank the gentleman for that information, and also for planning purposes that assurance for March 12.

We talked last week and we know that the highway reauthorization extension for 2 months was worked out. When can we expect the committees to mark up the reauthorization bill, and when do you expect to see it on the floor.

Mr. DELAY. Mr. Speaker, if the gentleman will continue to yield, I believe the gentleman from Alaska (Mr. YOUNG) is in the process of working with the gentleman from Minnesota (Mr. OBERSTAR), the ranking member, and members of the Committee on Transportation and Infrastructure to develop a product that can move through this House before the Easter recess and be signed into law as quickly as possible. So if we back away from our Easter recess, I would hope that the committee would, within the next couple of weeks, be marking up a bill so we can get it to the floor before the Easter recess.

□ 1300

Mr. HOYER. I thank the gentleman for that answer. Can the leader tell me whether or not there is an expectation that this will be, as we have had in the past, a 6-year reauthorization, or is it possible that there would be a shorter reauthorization, say, of 2 years, obviously focused on trying to build jobs and create jobs in the country?

Mr. DELAY. It is a jobs bill, a very important jobs bill to all of us here in the House. We want to do what we can to create these jobs and get them going as fast as possible. To answer the gentleman's question about whether it is a 2-year bill, a 6-year bill, what is the amount here or there, I am not advised, quite frankly. There are discussions about all of that. I do not think any decision has been made along those lines. The gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Alaska (Mr. YOUNG) are still discussing that, but I am sure they soon will come to some sort of understanding as to how we will proceed.

Mr. HOYER. I thank the gentleman. As we, as well, also discussed last week, can the leader bring us up to date on the progress of the budget resolution and when he expects it to be marked up in committee and when we can expect to have that bill on the floor?

Mr. DELAY. It is my understanding after a lot of discussion that Chairman NUSSLE and his Budget Committee members are working furiously to complete all their hearings and be prepared to mark it up possibly as early as next week. I would imagine moving the budget resolution to the floor the week after the committee reports its resolution out of the committee.

Mr. HOYER. I know this is preliminary and it is early, but my presumption would be that as we did in years past, that the minority would have its rights to submit such substitutes as it deemed appropriate?

Mr. DELAY. I am encouraging the minority to present substitutes so that we can have a very healthy debate about the future of this country and how we would as a House decide that the importance of the budget is such that we can come to some sort of agreement as a House to move a budget along.

Mr. HOYER. Reclaiming my time, if I may say, somewhat, I know, facetiously, but we are pleased that the leader is encouraging us to do so. As a matter of fact, we are as pleased about that as we were last year when the gentleman from Texas urged everybody to support our motion to instruct, that we follow the House Democratic substitute as opposed to the one that we actually passed. So we are encouraged by the gentleman's encouragement.

Last, if I can, the FSC bill. We talked about this last week. Obviously, the Europeans have started to impose some penalties. Can the gentleman tell us the status of legislation to deal with the FSC issue?

Mr. DELAY. As the gentleman knows, the Committee on Ways and Means has reported a bill out, H.R. 2896, the American Jobs Creation Act. This was reported last year. But we continue to work with the committee and the other body and the administration to bring that bill to the floor in a form that not only meets our obligations to the WTO but also ensures the continued competitive position of all U.S. companies. I anticipate that we will bring such a bill to the floor in the very near future.

Mr. HOYER. I presume, as well, that when and if that is brought to the floor, because there has been some real disagreement on who that bill ought to advantage and focus on as the gentleman knows in terms of domestic manufacturers as opposed to manufacturers who do a lot of work overseas, and hopefully we will be able to offer alternatives to certainly the bill that was reported out last year, if it is the same bill. As the gentleman knows, we would have an alternative to that. Can the leader give us assurance that we will have that option?

Mr. DELAY. The gentleman knows that it is the tradition of the House to keep Ways and Means tax bills very tight. We have always as a tradition discouraged amendments, but we have encouraged substitutes. I cannot speak for the Committee on Rules; but if there are alternatives in the form of substitutes, then they will be taken into consideration.

Mr. HOYER. I thank the gentleman for that observation. One additional observation. That is obviously an important option. I think the gentleman states correctly the practice of the House under both Democrats and Republicans.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. If I could ask the gentleman from Texas, I like to keep up with new trends in the House. I was struck when the gentleman from Texas, the majority leader, said he could not speak for the Rules Committee.

Is that a new development we had not previously known about?

Mr. DELAY. That tradition remains the same, I would say to my friend from Massachusetts.

Mr. HOYER. I thought of that question, Mr. Leader, but I thought it was probably not worth asking because I knew the answer. But to the other question, with respect to offering substitutes, very frankly, what happens is you can offer a substitute, but if it is not germane and you do not receive a waiver when you are granted the right to offer the substitute, obviously on the one hand you have the ability to offer a substitute, but you do not really have the ability to offer an alternative. There is a very substantial difference.

I do not necessarily expect an answer today, but I really would hope, because we are talking about very significant, important issues, where there are differences in a bipartisan fashion on either alternative, that alternatives should be allowed that are consistent with the objective, although, as the leader well knows, from time to time because of what is or is not included in the committee product may or may not be germane even though it is pointed to the subject. I offer that as food for thought because I think it is fair and I think it would be good for the American public to have a broader spectrum of options than is sometimes allowed to us, notwithstanding the fact that theoretically a substitute is made available.

I think the gentleman understands my point, and I thank the gentleman for the information.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO HAVE UNTIL MIDNIGHT, FRIDAY, MARCH 5, 2004, TO FILE A REPORT ON H.R. 339, PERSONAL RESPONSIBILITY IN FOOD CONSUMPTION ACT

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have until midnight on Friday, March 5, 2004, to file a report to accompany H.R. 339.

The SPEAKER pro tempore (Mr. LATOURETTE). Is there objection to the request of the gentleman from Texas?

There was no objection.

ADJOURNMENT TO MONDAY, MARCH 8, 2004

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday, March 8, 2004.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

HOUR OF MEETING ON TUESDAY, MARCH 9, 2004

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, March 8, 2004, it adjourn to meet at 12:30 p.m. on Tuesday, March 9, for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

COURT RULING UPHOLDS INTENT OF CONGRESS IN PASSING TELECOMMUNICATIONS ACT OF 1996

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, like many of my colleagues, I was delighted to see that the U.S. Court of Appeals for the District of Columbia issued a ruling yesterday that upholds the intent of Congress in passing the Telecommunications Act of 1996. The court found that the FCC did not comply with the Telecom Act when it voted 3 to 2 last year to adopt its highly controversial Triennial Review Order. This marks the third time since 1996 that the FCC's rules have been rejected by U.S. courts.

In its ruling, the appeals court pointed to the commission's failure, after 8 years, to develop lawful unbundling rules and its apparent unwillingness to adhere to prior judicial rulings. FCC Chairman Michael Powell, who was one of the two commissioners to oppose the Triennial Review Order, has voiced his opposition to any appeal of the court's decision and has said, appropriately, that the FCC should expeditiously get to work to produce a set of judicially sound rules once and for all. I fully support the position taken by Chairman Powell and urge the commission to prepare rules to provide the needed clarity and guidance to restore the health and economic vitality of our Nation's telecommunications sector.

SPECIAL ORDERS

The SPEAKER pro tempore (Mrs. BLACKBURN). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

ORDER OF BUSINESS

Mr. McGOVERN. Madam Speaker, I ask unanimous consent that I may proceed out of order and do my 5 minutes now.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

CATHOLIC RELIEF SERVICES BRINGS FOOD AND EDUCATION TO THE CHILDREN OF BENIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. McGOVERN) is recognized for 5 minutes.

Mr. McGOVERN. Madam Speaker, right now there are more than 300 million chronically hungry children in the world. 130 million, mainly girls, do not attend schools. The other 170 million go to school on an empty stomach, stunting their ability to learn. I want to describe how one U.S. organization, Catholic Relief Services, is making a difference in the lives of such children in the African nation of Benin.

We can all be proud of the work that Catholic Relief Services does in our name around the world. CRS is known for its integrated approach to development, weaving together programs that help poor nations address the challenges of hunger, malnutrition, illiteracy, and poverty. At the same time, CRS promotes community participation, empowerment, and economic opportunity.

In 2001 and 2002, CRS received funding through the United States Department of Agriculture's McGovern-Dole food for education pilot program to begin school feeding programs in six districts in northwestern Benin. The problems facing Benin are daunting. It ranks extremely low on the United Nations human development index, at number 147 out of 162 countries. In the region where CRS is carrying out this program, families engage mainly in farming and fishing, with annual incomes of around $175. During the long dry season, the food security situation becomes very tight, even by Benin standards. Only about 30 percent of parents send their children to school.

Facing these realities, the CRS-Benin school feeding program began by strengthening or creating parent-teacher associations in order to increase local commitment to education. These PTAs became involved in providing meals to schools, reaching out and encouraging local families to send their children to school, and determining how to meet basic needs regarding the number and quality of teachers. In 61 schools, the CRS-Benin program provided daily school breakfasts and lunches to nearly 9,000 children each day. It also targeted 3,500 female students for take-home rations as an incentive to increase school attendance by girls. Additional rice and soybean oil were awarded to girls who achieved at least an 85 percent attendance rate each quarter. Summer school and other programs were initiated to meet the needs of displaced or otherwise crisis-affected children.

As part of its integrated approach to development, the CRS-Benin program monetized USDA-provided soybeans to fund a number of other critical interventions for these students, including micronutrient supplements to improve student health; hygiene, health and nutrition education for parents and teachers; school latrines and other sanitation infrastructure; training for teachers and school directors in improved teaching and school management methods; and community awareness campaigns on the importance of education for girls.

□ 1315

The CRS-Benin program also works with the World Health Organization and other NGOs to administer deworming pills to the students in these schools.

In just 2 years, the program has achieved increased student attendance and enrollment, especially for girls; decreased dropout rates; and increased community participation in the schools, including contributions of local foods by families to supplement the U.S.-provided commodities. Some schools have started school gardens or farms in support of the school kitchens. And parents have showed new and improved problem-solving skills tackling such matters as teacher recruitment, improving school classrooms and buildings, and lobbying local Education Ministry officials for more teachers.

Last year the CRS-Benin program received 2 more years of funding through the McGovern-Dole program. CRS-Benin received approximately $4.1 million in rice, lentils, and sunflower oil from farmers in Colorado, Texas, Tennessee, and Kansas. The program now reaches 12,500 school children, and its achievement can only expand and solidify.

Under the McGovern-Dole pilot program, CRS once carried out similar programs in Albania, Bosnia, Guatemala, and Honduras. Deep funding cuts in the McGovern-Dole program, however, resulted in the survival of only the Benin program. Sadly, more than 95,000 children in the other four countries are now cut off from these vital food, education and health services.

I want to express my admiration and respect for the national and field staff of the Catholic Relief Services and their partners, who carry out these important programs in Benin and elsewhere. They deserve our support and they require more funding.

Madam Speaker, there is no better investment we can make for a more stable world than in the education and well-being of our children, both here at home and around the globe. I urge the congressional leadership of this House to significantly increase the fiscal year 2005 funding for the USDA McGovern-Dole program and for other USDA and USAID food programs.

ORDER OF BUSINESS

Mr. BILIRAKIS. Madam Speaker, I ask unanimous consent to take my special order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

FIGHTING FOR AMERICA'S VETERANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. BILIRAKIS) is recognized for 5 minutes.

Mr. BILIRAKIS. Madam Speaker, some military retirees, individuals who are eligible for military retirement benefits as a result of a full-service career, are also eligible for disability compensation from the VA based on a medical problem they incurred while in the service. Due to a 19th Century law, these service-disabled retirees must surrender a portion of their retired pay if they want to receive the disability compensation to which they are entitled.

Nationwide more than 550,000 disabled military retirees have been required to give up their retired pay in order to receive their VA disability compensation. For nearly 2 decades, Madam Speaker, I have introduced legislation to correct this longstanding problem, commonly known as concurrent receipt, in the House of Representatives.

Last year our Republican Congress and President George W. Bush reached an historic agreement that changes the 100-year-old practice of having disabled veterans pay for their VA disability out of their military retirement. The new law greatly expands the Combat-Related Special Compensation Program, which we refer to as CRSC, by repealing the 60 percent minimum disability requirement which was set forth in the 2003 Defense Authorization Act. Effective January 1, 2004, earlier this year, CRSC is payable to any military retiree, including personnel who qualify for reserve retirement, who has at least 20 years of service, a Purple Heart and/or injuries sustained while performing military duty in a combat situation or with military equipment or during military training. Retirees must apply to their military service for

CRSC payments, but there is no phase-in period for the CRSC benefit.

The new law also phases in full concurrent receipt benefits over the next 10 years for those who have service-connected disabilities rated 50 percent or higher. In addition, the law extends concurrent receipt and CRSC coverage to Reserve and National Guard retirees who were inadvertently excluded from the CRSC program when it was originally enacted. I am pleased to report that on February 1 approximately 150,000 disabled retirees began receiving their new benefits.

Unfortunately, Madam Speaker, the issue of concurrent receipt has become something of a "political football." Some of my Democratic colleagues have been working hard to convince our Nation's veterans that they are truly dedicated to keeping America's promise to them. I find it highly ironic that these Members are now commending themselves for their recent leadership on an issue that I have been pursuing for 18 years and I have a simple question for them: "Where have you been all of these years?"

For the 40 years that the Democrats had nearly exclusive control of Congress, they never sent a bill, never sent a bill, to end this unfair practice to either a Republican or Democratic President. Moreover, the House Democrats have never included one penny for concurrent receipt in any of their annual budget proposals. For the first 9 years that I worked on this issue, I was stymied at every turn by the party who controlled Congress. My 1993 Discharge Petition was signed by a small fraction of those who last year expressed a sudden interest in the issue by signing the Democrat Discharge Petition. Not a single disabled retiree, Madam Speaker, received any concurrent receipt benefits under the Democratically controlled Congress.

However, Democrats are now shamelessly attempting to hijack this issue in an effort to portray themselves as friends of disabled military veterans. It was not until the Republican Party took control of Congress in 1995 that we have made significant progress, a step-by-step advance towards full concurrent receipt. The Republican-controlled Congress has acted on five separate occasions to address the concurrent receipt issue.

Republicans also fulfilled the pledge given to millions of military retirees that they would receive lifetime medical coverage in exchange for their selfless military service to the Nation with the enactment of the TRICARE-for-Life program. Moreover, spending for veterans' health care programs has grown by 49 percent over the past 5 years, grown by 49 percent over the past 5 years. So I ask which political party has been the true, underline "true," friend of our Nation's military retirees and veterans?

Despite this breakthrough, full concurrent receipt does remain a priority goal for all of us who have been involved in the campaign to provide equity to America's disabled military retirees. In the interim, Madam Speaker, of reaching our ultimate goal, I would say that I am very proud of our accomplishments on behalf of the brave men and women who have sacrificed so much for our great Nation.

CONGRESSIONAL TRIBUTE TO BERTHA WOODARD JOHNSON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. TOWNS) is recognized for 5 minutes.

Mr. TOWNS. Madam Speaker, I rise today to pay tribute to Bertha Woodard Johnson. Bertha Woodard Johnson is the daughter of the late Sadie Woodard and Richard Wallace. She was born in Chester, South Carolina and reared by her mother and grandmother. Mrs. Johnson spent a life providing services for the needy, with a particular vocation of serving children and the elderly. She has worked tirelessly to improve the quality of life through active participation and personal generous donations of her time and talent. This passion to help people led her to become a care giver and nurse for over 45 years. Before retiring, she received numerous awards and accolades for her dedicated service including "Nurse of the Year."

In a recent celebration in my district, where people came together to pay tribute to Bertha Johnson, they came from all over. They came from Tampa, Florida. Pastor Giles, of course his wife, Deacon Jackson, her daughter Mary and of course Natalie and Ramona. They just came from everywhere to celebrate the life of Bertha Johnson. She is a person that had done so much to improve the quality of life for so many. There were people there who said "I would not be able to be where I am if it had not been for Bertha Johnson." Not her children but people that she influenced, people that she encouraged to do positive things this life. It was the most moving experience I think I have ever encountered.

And I would like to take this opportunity to salute Bertha Johnson; her husband, Charlie Johnson; and all of the Johnson family for the outstanding job that they have done in terms of improving the quality of life for people down through the years and to listen to folks call her Mother that were not even her children but they came and were supportive of her because of the fact that she made such a difference in their lives. There are not too many people around that have the influence and have been able to give the kind of support that Bertha Woodard Johnson has given to so many but recognizing that she could not have done that without the support of her husband, Charlie Johnson, who has been right there by her side and she was able to go out and do things on behalf of people.

I would like to say to the House here today we take the time now to salute Bertha Woodard Johnson for the outstanding work that she has done down through the years and say to those that came to encourage her we salute them as well because we can say without any reservation that Bertha Johnson has made a difference and it is a life well lived. We continue to support her and we know that she will continue to do great things on behalf of the people not only in the area where she lives but throughout this Nation. We salute Bertha Johnson on this day.

JUDICIAL ACTIVISM, A GRAVE AND GROWING PROBLEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky (Mr. LEWIS) is recognized for 5 minutes.

Mr. LEWIS of Kentucky. Madam Speaker, I would like to take this opportunity to speak about judicial activism, a grave and growing problem in our current national discourse that is threatening our democratic principles, eroding the consent of the governed, and radically altering the social fabric of our American society.

It should be of little surprise that the impetus of this debate, and the modest solutions I intend to set forth, stem from the November ruling by the Massachusetts Supreme Court to allow same-sex marriages and the subsequent rulings on the constitutionality of the Defense of Marriage Act that have followed.

I am a strong supporter of numerous legislative measures currently being considered by this Congress, aiming to define marriage as an exclusive union between one man and one woman. However, I believe a more comprehensive solution is necessary to address the broader, troubling trend toward judicial activism, a development with definitive implications beyond just the issue of marriage.

America's judicial branch has become increasingly overreaching and disconnected from the values of everyday Americans, many of whom I represent in the Second District of Kentucky. The recent actions taken by courts in Massachusetts and elsewhere are demonstrative of a single branch of government taking upon itself the singular ability to legislate. I believe these actions usurp the will of the governed, circumvent representative government by allowing tribunals of a select few, not elected or otherwise politically responsible, to conclusively rule on issues that are radically reshaping the societal traditions of our great Nation.

Clearly, this issue is one about power, not in the raw political sense but in terms of the allocation of government authority between each branch of government, specifically between Congress and the Judiciary, in a federal system that relies on checks and balances to protect our liberty. This is a debate that has been taking place since our founding.

At no point is the tension between Congress and the courts greater than in the realm of constitutional interpretation. The Constitution does not expressly provide for judicial review. Instead, the right of judicial review is a practice with origins from the bench itself, established in 1803 when Chief Justice John Marshall ruled, "It is emphatically the province and duty of the Judicial Branch to say what the law is."

The Marbury v. Madison case decision provides an extraordinary recognition of judicial power in a constitutional form of government. The exercise of such broad authority, expanded over time through political tradition, clearly has a growing adverse effect on the relationship between coequal arms of our national government. As judicial power expands, congressional power contracts. This is especially true when the power to interpret the Constitution rests in the hands of activist judges anxious to find the latest "right" hiding between the lines of our founding document.

Our Founding Fathers created three separate branches of government, each with equal checks and balances on the other. Our founders also ensured that each branch, including Congress, play a role in constitutional interpretation, requiring officials in each branch to take an oath to support and defend the Constitution.

The framers did not give authority to one branch over the other. Certainly each branch has its separate functions, but debating, defending, and upholding the tenets of the Constitution involve the decision and duties of each branch. As a Congress, we must change our thinking and reaffirm our authority to interpret constitutional issues in concert with, and independent from, the courts.

The framers of the Constitution were advocates of serious debate who believed that the deliberation of the political process should always be open to the people. If the courts continue their dramatic move toward self-proclaimed interpretive power, I believe Congress, as the people's branch of representative government, should take steps to ensure equal balance and authority to check the final results.

□ 1330

I am introducing legislation today to address these serious, pressing issues in a direct and forceful manner. The bill that I have authored, if enacted, will allow Congress, by a two-thirds majority of each House, to reverse a judgment of the Supreme Court. This additional check may only be enforced on rulings concerning the constitutionality of an act of Congress following the enactment of this bill.

In his first Inaugural Address, Abraham Lincoln warned, "The candid citizen must confess that if the policy of the government upon vital questions affecting the whole people is to irrevocably fixed by decisions of the Supreme Court, the instant they are made, the people will have ceased to be their own rulers, having practically resigned their government into the hands of that eminent tribunal."

It is my hope that the people and the courts will see my position and recognize the serious problems arising from this growing imbalance of constitutional authority. I urge my colleagues from both sides of the aisle to redress judicial activism, protect the equal dignity of this governing body, and preserve the majority will of the governed by supporting this legislation.

HONORING THOMAS RUTECKI

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Illinois (Mrs. BIGGERT) is recognized for 5 minutes.

Mrs. BIGGERT. Madam Speaker, I rise today to honor one of our fellow citizens, Thomas Rutecki, who displayed an act of great courage when he put himself in harm's way to save the life of another.

His story reads like a scene from a movie. From a distance, a passerby sees a woman in a motorized scooter. One wheel has become lodged in the train tracks. He walks on to the tracks to help her, when, all of a sudden, the warning lights at the train crossing begin to flash.

Seeing the lights from an Amtrak train barreling down on them, he frantically tries to dislodge the wheel of the scooter. Unable to free the motorized scooter from the tracks, he picks her up and shields her with his leather coat, only inches from the track, leaving only 5 seconds until the train shatters the motorized vehicle.

A daring scene from a movie? No, it was just what occurred on Tuesday, March 2, in my district in downtown Downers Grove, Illinois. Thomas Rutecki, a Navy veteran, risked his own life to save the life of Rosetta Wiedemann, a wheelchair-bound blind woman on her way to a local deli to buy a loaf of bread.

Not concerned with his own safety, he placed his life in the path of a high-speed train to save the life of another. It was an act of utter selflessness and heroism.

I would like to honor this hero today. He may be retired from the Navy, but he continues to honor all of us with his kind and selfless act of bravery. Our hats are off to you, Thomas Rutecki.

UNEMPLOYMENT: A SERIOUS ECONOMIC AND SOCIAL PROBLEM FACING THE COUNTRY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Massachusetts (Mr. FRANK) is recognized for 60 minutes as the designee of the minority leader.

Mr. FRANK of Massachusetts. Madam Speaker, I am here to talk about a very serious economic and, therefore, social problem facing the country. We talk about the unemployment statistics, we talk about the ebb and flow in the job market, and the particulars are important. But by now we have enough evidence over the past several years so that we should be focusing not on month-by-month figures, but on what appears to be a very significant change in the nature of our economy. Indeed, I think we may be at a major inflection point.

I hope I am too pessimistic. I hope tomorrow there are going to be figures that show much greater growth in employment than we have seen. But even a good one month is not going to undo the problem we are facing.

Here is the problem: we have had a recovery from a recession over the past couple of years. In 2003 in particular, in the third quarter we had very significant growth, aided by a series of government programs and the natural cyclical rebound from a period of slowdown, and we had growth in the fourth quarter. What we have not seen is the growth in employment that ordinarily accompanies this degree of economic recovery.

In short, it appears from a variety of indicia that we are at a point where the ability of the private sector in this country to create wealth is now outstripping its ability to create jobs. The normal rule of thumb by which a certain increase in the gross domestic product would produce a concomitant increase in jobs, it does not appear to apply.

By the way, among those who were misled by the assumption that the normal rules would apply are the leading economic officials of the Bush administration. For example, in October of last year, Secretary of Treasury Snow said, "I am confident that this economic recovery will now be sustained and will produce loads of new jobs. Everything we know about economics indicates that the sort of economic growth expected for next year, 3.8 to 4 percent, will translate into 2 million new jobs from the third quarter of this year to the third quarter of next year. That is an average of 200,000 new jobs a month."

Well, we have had 4 months of experience since the Secretary told us we would get 200,000 new jobs a month. We have gotten less than 40 percent of that. In a period in which his reading of the rule of thumb said there would be 800,000 new jobs, we have gotten 300,000.

Similarly, interestingly, we then got from the Council of Economic Advisors and the President's economic report a projection that we would get in this calendar year 2.6 million new jobs, more than 200,000 a month. Shortly after that projection was made, it was repudiated by, guess who? The very same Secretary of the Treasury who had predicted the 200,000 a year. He and the Secretary of Commerce were sent out to do that. Then the President distanced himself from it. We use that word in Washington a lot, you "distance" yourself from it. That means you deny it.

Then the chairman of the Council of Economic Advisors, Mr. Mankiw, himself repudiated his own estimate. Here is what is significant. People make mistakes, but his explanation was interesting. On February 17 at the National Economists Club, asked about the job forecast of 2.6 million jobs, which had by then been abandoned by everybody, including himself, his response was, "That particular forecast was made in early December, and we have seen more data since then."

Now, he went on to say he still hoped for more jobs, but his explanation of why the 2.6 was now inoperative is very simple: that forecast was made in early December; we have seen more data since then.

In other words, last fall both the Secretary of the Treasury and the Chairman of the Council of Economic Advisors were going under the old rule that said a certain amount of increase in the GDP, you will get a certain number of jobs. And that turns out, sadly, to have been wrong.

We are in a situation in which the ability of the private sector to create wealth is now leaving behind its ability to create jobs.

By the way, we got further confirmation of that from Alan Greenspan. On February 11, testifying before the House Committee on Financial Services, he was asked what we could expect with regard to unemployment. Our colleague, the gentlewoman from New York (Mrs. MALONEY), asked him, what about unemployment going down? His answer in effect was only if productivity drops.

To quote specifically, asked if the 2.6 million jobs, which, of course, had already been abandoned by the administration, was credible, he said, "It is a credible forecast, if the rate of productivity slows down to a more historical average." He later said he did not expect productivity to slow down.

In other words, he joins the Secretary of Treasury and the Chairman of the Council of Economic Advisors in telling us we are not going to get the job growth they had earlier predicted, hoped, wished for, et cetera. But understand the explanation: we will only get a significant drop in unemployment, we will only get the historic drop that we can expect in unemployment, if productivity goes down.

What an unfortunate situation. After all, an increase in productivity is good news. In the economic sphere, it is one of the goals of civilization, to be able to produce more with less; more leisure, less effort. Increased productivity ought to be a good thing. But people who are now unemployed listening to Mr. Greenspan are forced to root against productivity. He tells them that if productivity continues to rise at a higher than historically average rate, that the chances of their getting jobs goes down.

That is where we are today. For a variety of reasons, we have a situation in which increased wealth has been somewhat disconnected from increased jobs; not entirely, but the connection has been loosened.

Another way to put that is this: a disproportionately large share of the increased wealth in this society is now going to the owners of capital. Our usual rules of shared increases in wealth have broken down, and people who work for others are getting a smaller share compared to those who own capital.

By the way, we see this not just in unemployment. Partly because of the increase in unemployment and what that does to the labor market, et cetera, we have a situation in which not only has unemployment stayed higher than historically we had hoped, but wage growth has been below the norm.

The Economic Policy Institute has a very interesting chart which shows the real growth in wages and salaries in the past six recessions, 2 years after the recession ended. Here are the increases in real growth in wages and salaries: 10 percent; 12 percent; 9 percent; 11 percent; 3.6 percent; and, in the current period, in the period since this recession was officially declared over by the National Bureau of Economic Research, 0.4 percent. In other words, virtually no growth in real wages.

Last year, in fact, in another calculation that is presented by the Economic Policy Institute, although it is not controversial, these are basic figures, last year, the year in which we had some real growth, 6 months of last year, after all, were great in terms of overall growth, real wages dropped, median earnings went up 2 percent; but inflation went up 2.3 percent.

In other words, during that period of great growth, not only did our unemployment stay higher than it should have been; real wages did not go up. In fact they went marginally down for people employed. In fact, over the last 2 years, the total increase in median wages here is 3.8 percent. Inflation is 3.9 percent and wage growth is 3.8 percent. So over a 2-year period, 2002 and 2003, there was marginal erosion in real wages.

It is not simply that unemployment has stayed up and real wages have lagged. Health insurance is another area where we have serious problems. In the period from 2000 to 2002, the number of people who were receiving health insurance from private employers dropped by 2.8 million. The number of people with health insurance went up, but it went up because the government sector, Medicare and Medicaid, made up for the erosion in the private sector.

The private sector's profits have gone way up. They are very high. Compensation at the upper levels, the top 1 percent, they are very good. But unemployment, employer-covered health benefits, real wages, are all lagging badly. And while I do not have the statistics on this right in front of me, what we know about health insurance is not only are more people losing privately paid for health insurance; many of those who keep it, keep it by paying a larger percentage of it. Health costs go up, and to the working person it is a double whammy, because they pay, in many cases, a higher percentage of a higher overall cost.

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This is the problem then. We are at a situation in which as growth goes forward, and that is a good thing that growth is going forward. It was to be expected and hoped for. We were in a recession. We also have had conscious government policy promoting growth. We have the largest budget deficit, and as we know now, the Republican administration has implicitly become cagey in this regard and they argue that this kind of stimulus that comes from a very large deficit is a good idea, although they continue deficits long after we hope we will need stimulus. You have the lowest real interest rates in memory by the feds.

So everything the Federal Government can do in monetary and fiscal policy to stimulate the economy has been done. Not surprising that given that we start in the recession and you have maximum fiscal and monetary stimulus you get some growth. It is disappointing we have not gotten more. It is a little bit like buying a new car, jumping on the accelerator, and getting it up to 50. It is good for your staying in the speed limit, but it does not say a lot for the engine.

But the discouraging thing is that with maximum stimulus, fiscal and monetary, from the Federal Government, we are seeing no growth in real wages over 2 years, a slight erosion last year, people losing health care on the whole from private employers and paying more for what they get, and unemployment staying too high.

What do we do about it? First of all, we have to analyze the causes. Some of the causes are inherent in the nature of the economy. Productivity does have the effect of allowing us to do more with less, particularly when you are coming out of a recession and people are reluctant to hire. There are also international trends which no matter what we try to do will be somewhat erosive of the position of some workers in this country. But this situation in which almost all of the benefits of growth are going to the owners of capital would not exist without conscious public policies that promote it.

Public policy in my view, and I will get to specifics, ought to be leaning against the increased inequality that the private sector is creating.

Madam Speaker, let me give you my philosophy. I am a capitalist. I believe the free enterprize system is the best way to create wealth. That means I welcome some inequality in the system. If you do not have inequality, if people are not unequally rewarded for their skills, for their energy, for their correct guesses or intuitions about what the public will want, then the system does not work. But I also believe that left entirely to its own, as I thought we had decided as a country with Franklin Roosevelt, more inequality will be generated than is either socially healthy or economically necessary.

I know there are some conservatives that say, well, that is just the politics of envy. Inequality is unimportant. The only thing that counts is the absolute level. Let me quote what they feel may be an unlikely source in the defense of my argument. It is Mr. Greenspan on the same day he testified February 11. He volunteered that he agreed that, well, let me read it exactly.

I had spoken earlier about my concern about increased inequality and he volunteered, "I happen to agree with Congressman Frank that it is very important in this country not only to have an equitable society but to have it perceived as being equitable because no democratic system can function unless the people believe it is equitable. And I think that it is crucially important for us to reduce the income inequality in this country."

Now, he goes on to say that he thinks a major way to do that is through community colleges. I am a strong supporter of community colleges, which do a wonderful job. I think Chairman Greenspan imposes on them too much of the burden. But regardless of our disagreement about how you deal with inequality, I welcome his statement. Let me quote it again.

"It is crucially important for us to reduce the income inequality in this country."

The problem is public policy has gone the other way. It has exacerbated it. How has it done that? First by changes in the Tax Code.

When President Clinton asked this Congress in 1993 to increase taxes it was predominantly, overwhelmingly on people making incomes of $100,000 and above and that was 10 years ago. Mostly on people making more than $150,000. For the first time, according to the Congressional Budget Office, that tax bill made the tax system somewhat more progressive. It meant that wealthier people paid more than they have been paying and lower income people less in terms of shares given their income.

President Bush has succeeded in persuading this Congress on several occasions to reduce taxes predominantly, overwhelmingly on wealthy people. The administration has said the goal is to reduce virtually all taxes on capital.

Ownership will pay no taxes. Ownership will get the benefits of the increased wealth but pay none of the taxes. So the Tax Code is one of the reasons we have increased inequality. Another is the systematic attack that has been made on labor unions.

Labor unions have played a very important part in this country in helping middle income, moderate income working people gain some share of income. There has been a consistent assault on them from this Congress and from the President.

Madam Speaker, I would not have thought that so many years, 70 years almost, after the passage of the Fair Labor Standards Act in the New Deal that overtime for people who work by the hour would be a controversial situation. But this administration, with the acquiescence of the Congressional leadership, is allowing overtime to be cut back. So we weaken what instruments are out there to help working people. We change the Tax Code in ways that promote inequality. We pursue an international economic policy which maximizes the extent to which globalization undermines income shares in this country.

I was pleased to be at Davos, Switzerland, at the economic conference. One of the moderators of a panel I was at on inequality, because the people who run that conference agree with Chairman Greenspan and myself that inequality is in and of itself a bad thing. It needs to be addressed. The moderator made a good point. He said, there are two kinds of inequality we have to address. There is inequality between countries and then there is inequality within countries.

The defense that we have heard of international trade, much of which I agree with, has focused exclusively on diminishing inequality between countries. That is a good thing. I want to help poor people elsewhere. But this administration has in a determined way pursued that international economic policy and justified it as helping to deal with poverty elsewhere. But they have done it in ways that have exacerbated inequality within countries, within our own country and within others.

International trade that basically says, you know what, labor regulations and occupational safety and health regulations and environmental regulations, they are an interference with the function of capital. Therefore, let us tell other countries that we will put no pressure on them to deal with any of those things, and then let us use the absence of those things as a lever to reduce them in our own country.

Understand, it is not as the conservatives here believe that there is no comparative impact of differential environmental policies. Indeed, when President Bush explains why he is against doing anything about global warming, certainly against the Kyoto Treaty, explicitly he and members of the administration say we cannot join that treaty with global warming because China and India are exempt from it and that will make a competitive disadvantage for our people.

Of course, his Chairman of Economic Advisers will tell him that you go over that by outsourcing to China and India. That is a good thing. And he should not have to worry. But the President does not go quite that far.

Some of us say, you are right. The fact that they have no environmental rules and we have some does exacerbate our competitive disadvantage. Let us try to get them to do some environmental things.

No one I know of says that the wage level, the minimum wages or the working conditions ought to be the same in the poorest countries of the world as in the U.S. No one is arguing that. That is a straw man.

What we are saying is they should not go standardless. There should be the core labor principles of the International Labor Organization: The right to bargain collectively, the right to form unions, the right to begin to organize as American workers did. Had there never been unions and Franklin Roosevelt had not gotten passed the National Labor Relations Act, we would not have had the kind of middle class that we had in America of which we now boast. They did not do it all by themselves. They were an integral part of it.

At any rate, what this administration wants to do is follow an international economic policy that is further erosive of the ability of working people in this country to maintain some gains because they subject them to maximum competition from others who do not have that. Obviously, there are different wage levels. There are jobs that will go overseas purely economically. That should not be enhanced by an undeserved advantage because there are no unions, because there is child labor, because there are no environmental rules, because there is no concern for occupational safety. That is, yes, comparative advantage in economic terms has a lot to be said for it, but adding to that differential public policies, not only is it in itself bad but it becomes the premise then to come back home and try and dismantle it.

American workers are told two things by this administration. One, we are not going to try to encourage other countries to require them if they want access to our markets. The American markets are the greatest thing in the history of the world. People want our capital. They want access to our markets. We have a right to condition that on reasonable legislation and regulation that meets minimum standards of civility.

Instead, what we are told is you come here and we will not require of you anything that is protective of those basic human rights. And then American workers will be told by their workers, you know, I am competing with people who do not have unions. I am competing with people who do not have to put up with this occupational stuff so I have got to cut you back. And let us throw in here the very serious problem of health care.

I note on the floor my colleague from the State of Washington (Mr. McDERMOTT), who has been one of the leaders in this Congress in trying to get a sensible health care system in, one of the things that has contributed to the difficulties that American workers face is our system of tying your health care to your place of employment. That has serious negative consequences. And today as the forces I have been talking about have eroded the ability of working people to defend themselves, we are seeing this in the health care area.

Remember, fewer people today, in the millions, have employer-generated health care and many of those who do have health care that costs them more. Fewer people, and they are paying more for it.

So those are some of the ways in which public policy makes the situation worse. As I said, I accept the fact of inequality. I just do not accept that it is a good thing. It makes the system work. But the role of government ought to be to contain inequality, not promote it, and that is what we have.

Let me talk about why I think inequality is a bad thing. It is nice to be able to cite Chairman Greenspan, but to be honest I do not agree with him on cutting Social Security or a few other things so I should not just rely on that citation.

I think it is a moral issue, a situation in which people receive millions, tens of millions of dollars in bonuses, a situation in which profits go higher and higher and the market is now doing well and we are all glad to see that, a situation in which the owners of capital find their wealth enhanced, but working people lose their health care, people are unemployed, children do not have adequate housing and other necessities. That is morally unacceptable to me.

But I understand, Madam Speaker, particularly in this particular Congress, the moral argument will only take you so far. When I argue that we should deal with inequality because it is immoral I am reminded of what Adlai Stevenson once said when someone said to him, Governor, you have got the votes of all the thinking people. And he said, well, yes, but the problem is that I need a majority.

Of course it was his penchant for making remarks like that that hurt him in getting a majority. But I think there is a strong moral argument here, but I need a majority so I will not rely only on that.

There are two other reasons for helping us reduce inequality, helping us reverse it. Let me just repeat this because I think we have not fully focused on that. We talk about unemployment in a kind of isolation. We talk about other things in isolation. There is an overall picture here. The overall picture is that the private sector is creating wealth and exacerbating inequality at the same time. It is creating wealth without creating an adequate number of jobs. It is eroding health care. It is preventing real wages from going up so that profits are going up much more rapidly than real wages.

Essentially, we have a combination of economic factors and technological factors and public policies, which mean that a disproportionately large share, nearly all of the increased wealth we are producing, goes to the owners of capital and virtually none to the people who do not own a huge amount of capital and get their compensation from the work they do every day.

Now, as I said, I think that is morally flawed. That is why I am in politics, to try and reduce inequality without reducing it to the point where it interferes with inefficiency. And we are, of course, nowhere remotely near that.

But let me give two other self-interested reasons. First is a political one. I read recently that the Republican leadership has decided that they probably better not put the Central American Free Trade Treaty up.

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I have disagreed with the trade treaties that have come forward for reasons that I have said. I think globalization is a necessary thing. It is a fact of life, and it can be a good thing if it is done well. It is important for us to try to reduce poverty elsewhere: good morally, good politically, good practically.

I never liked the particular trade treaties. So I am talking now to the people who do. There are people out there who think that getting more trade treaties through is, in fact, important for the economy. There are people who believe that continuing to allow businesses to rationalize their workforces, rationalize means cut, that that is a good thing.

What do you see today? You see great opposition to the trade treaties. They are afraid to bring any up here, for good reasons. They would probably lose. They have Republicans saying to them, please, I have enough problems that you have created for me; I do not need to vote for trade treaties when there is this terrible problem about unemployment.

You are going to see legislation adopted, you do not have to be a genius to predict this, which says if you are going to get government money in this contract, you cannot outsource, because outsourcing has bothered people. Ten or 15 years ago, I was representing an area that had a large textile and trade employment base, and we were told, well, stop worrying about that, these people should understand. That is not a good job for an American. We will retrain them.

Well, first of all, the extent to which you were going to retrain some 49- or 53-year-old with a high school education was limited in terms of its appeal to them; but even to the extent that you were retraining, let us note that the jobs that I was being told 15 years ago, for which we would retrain people, we would not only now have to retrain them, we would have to buy them airplane tickets because they are going out of the country. The jobs being outsourced today are the jobs for which we had been told we should retrain people.

I do not think the answer is just to stop this. I do not think you can say, all right, we do not want any more of this going on in the economy. I understand the importance of economic transition, although I believe that we are failing in our responsibility to manage that transition.

What I will point out now is this: precisely because of the public policies that have exacerbated inequality, what you have done, those of you who have promulgated those policies in the administration and the congressional leadership, in the business community, in the intellectual circles that reinforce them, you are increasingly persuading the American people that they have no skin in this game of economics, that they will not benefit from this increased wealth. So when you say to them, do this, it is in your long-term interest, they turn against you.

So precisely out of self-interest, those who believe that increased trade and the ability to outsource and flexibility in the labor market, if you believe those things, understand that the policies that you have supported in the short-term and the consequences of that have built up a resistance you cannot overcome. Those people who believe in increasing the ability of capital to find its own level are going to find they are going to have the worst year they have had this year than they have had in a very long time because they have convinced most Americans that it is not in their interests.

I talk about this with Mr. Greenspan when he testifies. He will cite in his speeches and elsewhere a very eminent deceased economist, Joseph Schumpeter. In his great book, "Capitalism, Socialism and Democracy," he talked about creative destruction. He said, you know, he did not say you know. He was an historian, much more formal than me. Than I. He would not say than me either. Joseph Schumpeter said, when you destroy old economic entities because they are outdated, new ones will be created out of the resources freed up. That is what he means by creative destruction, Mr. Greenspan. As old economic activity is outdated, that frees up people and resources for new economic activity; and Mr. Greenspan is prone to say to people, I understand you are losing your job and that is a problem, but in the long run this will be good because out of this will come this new stuff.

Well, as I have told Mr. Greenspan, there is another economist whom people believe much more instinctively, John Maynard Keynes, because if you listen closely to the Bush administration and some of the conservatives here, a lot of Keynes-ism has sneaked in as they tried to justify the world's largest deficits by short-term budget terms.

Keynes also said something very smart politically: in the long run we shall all be dead. People understand that. Telling some 45-year-old worker with a couple of children that he or she should not despair at losing the job that he or she has had for 20 years because out of the loss of his or her job new jobs will be created at some point in the future, which he or she probably will not get, does not help them. They are resistant.

So people should understand, one of the prices they are paying for enhancing inequality, encouraging it, is that you have persuaded most Americans, an increasing number of Americans, it may not yet be most, but it is certainly a lot, they are immune to your argument that this is good for the economy and the country. I do not think that is healthy. I do not agree with necessarily every one of those specific policies, but I do not think we ought to have this angry public resistance to overall growth; but you have built it up, and we need to tell you how you can undo it.

Now, there is another reason why this is not good economically. One of the private sector economists, Stephen Roach, who has done a good job of documenting the fact that we are at an inflection point, that we are in a situation in which we simply are not getting the job growth we thought historically we would get, well, let me just quote him: "In my view, the income leakages of imported productivity" that is, when you send the jobs overseas, et cetera, that is imported productivity "the income leakages of imported productivity raise serious questions about the sustainability of this recovery from an economic point of view."

What you are saying is this, the economy is sustained to some extent by its own momentum. One of the things that helps you grow is the income that is generated by that growth. There is a beneficial cycle that we call it. You are not getting that now because as the profits grow and wealth grows, but real incomes of most of the people do not grow, there is a missing element in the economy. Short term, we are not hurting; but there is a very real prospect that this increased inequality will stunt our economic growth. In other words, the situation in which growth is great but all of the benefits of growth go to a handful is not long-term sustainable. So, once again, even those who do not mind the increased inequality do not understand they are building in a difficult situation.

Wage and salary disbursements, Mr. Roach points out, "are basically unchanged in real terms fully 21 months into this recovery. By contrast, at this juncture in the past six upturns, real-wage income has been up on average by about 9 percent. Absent other sources of support, this shortfall of internally driven income generation could end up spelling serious trouble for the overly indebted, saving-short American consumer." Let me read that a little more sensibly, "for the overly indebted, saving-short American consumer. In short, there is a good reason to doubt the sustainability of a recovery built on a foundation of imported productivity."

In other words, when you create wealth and some of it goes, most of it, to the owners of capital and some of it goes to people outside our economy, you are not doing the kind of self-sustaining recycling of economic activity that you need. So that is where we are.

We are at a situation, as I said, which seems to me an inflection point. The normal rules by which a certain amount of economic activity in the country will produce a certain amount of jobs, that has been eroded; and as we have seen high profits, we have seen a fall-off in real wages. We have seen a fall-off in the private sector provision of health insurance which is supposedly the major way we do it. We have seen unemployment staying above where it should be. We have seen profits do very well. We have seen the market go up. We have seen upper income compensation stay up. We have seen the Tax Code change in ways that unfortunately reinforced that.

Well, it is fair to say at this point, okay, what do you do about it, because conclusions are not always easy. Some things we can do. When it comes to inequality in the society, there is, of course, the story about a man who goes to the doctor and says, Doctor, when I hold my arm this way it hurts, and the doctor looks and looks and cannot find anything wrong, and he says, okay, I know what to do. He says what? Do not hold your arm that way.

I mean, to a certain extent, you can remedy something by simply not continuing to do it. We can stop changing the Tax Code in ways that exacerbate inequality. We can stop encouraging owners of capital to find ways, with tax help in some cases, to export jobs and import productivity. We can stop weakening labor unions, stop eroding the ability of working men and women to stand up for themselves; but we can go beyond that.

First, with regard to international trade, and I do not want to stop it, not anybody does, but we have a group here, one of the leaders intellectually is the gentleman from Michigan (Mr. LEVIN), who is the senior Democrat on the Subcommittee on Trade, and a lot of us have worked with him, we do not want to block trade, but we want to deal both with income inequality between countries and income inequality within countries. We do not want the one to be exacerbating the other.

We do not expect other countries to have the same wages and environmental and occupational health policies we do, but we do not think they should have none either. We think they ought to be encouraged to level up some, and it will not stop trade; but it will diminish the depths of the comparative disadvantage and make it a more legitimate one.

We can, as I said, even change the Tax Code to make it even more progressive. I think it is entirely legitimate for this government to say, by the way, where the government, where the people, through their taxes, are paying for jobs, we do not want you outsourcing them. Even if it costs us a little bit more, we believe that the value to this society of not having that source of income in jobs lost is worth it. So I think restrictions in outsourcing will help.

But there is one other thing I want to address in particular here. It is one that I think I and many Democrats have not been sufficiently explicit about.

One of the important sources of relief here is government. I know it is very fashionable to bash government. From the platform just behind me, President Clinton, with whom I was usually in agreement, made a big thing of saying the era of Big Government is over. Well, in worldwide comparative terms, the era of Big Government never really got started here, and our problem today is too little government. Of course, we want government to be sensible. We do not want excessive regulation. I have supported many of the deregulations, but there is a role for government today that we are ignoring.

I mentioned as an example health care, and I pointed out that health insurance coming from private employers has dropped. The only reason that health insurance in the country as a whole has not dropped is we have taken up that slack through government, through Medicaid, through Medicare. People tell us, well, government medicine is terrible.

In my experience, the most popular form of medicine in America is that which is delivered through the Veterans Affairs Department; and anybody who tells World War II veterans, average age of 80 or so, that they are not going to get their VA medicine anymore better be ready for World War IIA because they are going to be very angry at you.

In fact, we have relied on government to plug part of the gap that is increasingly left in the provision of health care by the private sector, and I am for those as stopgaps; but we would be much better off following the lead of my colleague who I have referred to earlier from Seattle, the gentleman from Washington (Mr. MCDERMOTT), and let us do this in a systematic way.

We need more of a government role in health care, and breaking the nexus between your private job and health care makes sense from every perspective. It would remove a disadvantage from some American businesses, and I would say this to Mr. Greenspan and others who preach patience to those who are losing their jobs to these trends. It is one thing to lose your job, get unemployment for a while. We will get to that in a minute, maybe get another job. Increasingly, though, the jobs you lose had some health benefits and the jobs you get do not.

One of the things that people who kind of blithely tell people do not worry about it, creative destruction, you will be okay in the long run, maybe not blithely, maybe that is unfair, but who tell people just buck up, they do not understand the terror and horrors of losing health care. As long as Americans who lose their jobs are told they are also losing their health care, they are resistant to what is euphemistically called labor flexibility and will understandably and legitimately be very tough.

Let us begin by providing health care to every American whether or not he or she is employed and regardless of where he or she is employed, and you will reduce a lot of the resistance and a lot of the pain that comes from these transitions.

I do not think we should try to stop economic transitions, and I do not think we can; but it is our responsibility as public sector people, as the private sector undergoes these transitions, to manage them better, to ease the pain of the victims of the transition, to use some of the wealth generated by this increased productivity, by this labor flexibility, by this rationization and globalization. Let us use some of the wealth not simply to go to the pockets of those who own but to deal with the social problems generated by that very transition.

Government also has a major role here in the job area. People then say, okay, what are you going to do about the jobs? Here is the way I would conceptualize it.

We are now, as I said, in a situation where the private sector produces more wealth than jobs. I believe we should take a percentage of that increased wealth, a fairly small percentage, certainly nothing that is going to interfere with incentive, and use it together, the people coming together to employ people on socially useful purposes. Yes, we got some boosts from tax cuts last year during the recession. I think we would have gotten a better boost economically and socially if we had given more to the cities and States and municipal governments. They added to the unemployment problem, not willfully. They hated to do.

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But for a variety of reasons, as we were trying to get the private sector to add jobs, we were involved in policies that cost jobs at the local level. Had we instead given tens of billions more to the local governments and State governments, we would have had better economic stimulus.

You know, nobody will have a propensity to spend, in economic terms, as high as a city government that is stressed and needs to provide services. That is especially the case when we talk about homeland security. There are things in our society which are partly public and some that are largely private. Some are entirely private in terms of what we want done. Homeland security is pretty much a public sector activity. It does not make any sense to talk about how we are enhancing homeland security and then beat up government and boast about reducing government. Police officers, firefighters, ambulance drivers, public health workers, and public works people, who are going to have to repair damages, these are public sector people.

The point is this: One of the ways we can deal with the inability of the private sector to produce the level of jobs we had hoped it would produce, and again I want to note John Snow and Gregory Mankiw, leaders of this administration's economic policy, in effect both admitted that last year they predicted many, many more jobs than are being created in the private sector because they thought the old rules applied, and it is now clear the old rules do not apply. So, what do we do? Well, one of the things we can do is to recognize that the public sector can in fact take up some of that slack, that some of the wealth we create through our increased productivity, et cetera, can usefully be sent to cities and States, and to others as well.

We are now underfunding the Environmental Protection Administration. We have Superfund sites, the worst environmentally blighted sites in this country, that are going to go untended because there is not enough money in the Federal Government to take care of them.

The Bush administration finds itself being criticized by veterans through an inadequacy of the government. Secretary Principi, a man of great courage, acknowledged he got $1.8 billion less in the budget this year than he thought he needed. I do not believe the President dislikes veterans. I do not believe this administration set out to say, I have a good idea, in an election year let us really aggravate the veterans. They are driven to it because, thanks to their policies, there is not enough money to meet our basic needs.

If we were to take some part of the private sector wealth that is now going almost exclusively to the owners of capital and put it in the hands of government, Federal, State, and local, we would have more police officers, we would have more Environmental Protection Administration cleanups, we would have better public transportation and trains, we would have more medical care, we could deal with the terrible housing crisis that we have. And I know to the Republican leadership this might sound like a revolutionary bill, but we might even pass a highway bill. That seems to be beyond their means. Why? Because there is not enough money.

I just wrote an article for one of my papers, and I said I know you hear a lot of discussions in the abstract about the size of government, but let me make it concrete for you, and I mean literally concrete. I am not a big fan of metaphors. Under the proposed public works bill that the chairman of the Committee on Transportation and Infrastructure wanted, I would have gotten so much money for a major highway project important both to the public safety and the public convenience and the economic development of a major city in my district, the City of Taunton. Under the Bush plan we would get one-third less. Now, this is highway money that is, I am told by the business community, important to the economic future of the area.

This is a clear point here. We now have the acknowledgment of the Chairman of the Council on Economic Advisers and the Secretary of the Treasury and the President that the private sector cannot produce enough by way of jobs to meet our needs. Wages are eroding in part because as there is higher unemployment, the pressure on wages is higher. Medical care gets cut back to the extent that we rely on the private sector.

We will remain a private sector economy. We should welcome productivity. We are in a situation, just to sum up, in which the good becomes the bad. Greenspan tells us we are not going to get a reduction in unemployment unless you see a slowdown in productivity. What a topsy-turvy world in which people have to root for less productivity. That is the result of bad public policy. This is not a force of nature. It is not the case that good productivity ought to mean bad social policy. It is because we have a bad set of public arrangements.

One way to change that is to take some of the wealth which is being created by this wonderful thing, this increased productivity, this new technology and the ways of using it, and all this innovation, and let us use it for our own undisputed public purposes. Let us give cities and States more money so they can have more people policing, fighting fires, cleaning up the environment, repairing facilities that need to be repaired, enhancing train transportation, building highways, helping construct affordable housing in places where that is a crisis, helping pay for higher education for students.

Chairman Greenspan said it is education, but we have a situation now where if you are not wealthy then you cannot pay for the kind of public education that maybe you ought to be getting. You have to sacrifice too much for it. Let us use some of this wealth.

And, again, the choice is this: We are talking about more wealth going to the wealthiest. And I know there are two aspects of the administration's justification for its tax bill, a supply side and a demand side. The demand side says we are in a recession, we need to spend our way out of it to some extent or we need to create a deficit so the Federal Government is spending more than it is taking in. Good Keynesian economics. Good for Keynes in the 1930s, good for Bush in the year 2003. That is what we did.

But that was only a small part of the tax relief. A very small percentage of the tax relief came in the form of that demand stimulus. The great bulk of the tax relief, some of which is yet to come, some of which has begun to happen, is a supply side tax cut. Supply side tax cuts do not try to increase money in people's hands to spend. They say if we will tax rich people less, they will do us the favor of working more. And that is what we have got. If we tell people when they die and they have $8 billion the people who inherited from them will not have to pay a penny of taxes on it, then they will accumulate more. That is their argument.

I do not think there is much to the supply side argument at all. It is certainly unproven. And certainly it is the case that trying to justify a very large chunk of supply side justified taxes by the success of a smaller amount of demand side taxes has a total disconnect there. I think if we were to take some of the revenue that is now set aside to persuade the rich, the very rich to work harder to the benefit of all of us, though we have not yet seen that benefit, if we were instead to make that available for undisputed, noncontroversial public purposes, public safety, environmental cleanup, highway construction, public health, if we were to do that, it is a situation of multiple benefit. The public purposes are accomplished and there are people employed.

We are talking now to some extent about the New Deal philosophy. But we are not talking about leaf raking. We are talking about very real needs. And, of course, it was not just leaf raking in the New Deal. A lot of very important things were built by the Works Progress Administration and even the Public Works Administration. But we are talking now about unmet needs in this society. In virtually every area where we come together: In education, where we underfund the No Child Left Behind Act; in the environment, where we are leaving Superfund sites untended; in veterans affairs, where the veterans legitimately complain about cutbacks; in highways, where the chairman of the committee is told, no, you cannot have the money you think we need for this; in housing, which comes within the jurisdiction of my committee, where not only are we not building any new affordable housing, we face a crisis where nearly a million units over the next 10 or 12 years will be lost to us if we do not reverse policies.

Using some of the money that now goes overwhelmingly to the owners of capital, only some of it, leaving them still very well off, and making that available to the government, to the public, is economically and socially better. So there is a case now for taking some of that wealth and for more government. Sensible government? Yes. There are indisputable cases where this country believes, understands that we need more public spending. We now have an ability.

And that takes me finally, Mr. Speaker, obviously, to the question of the tax cuts. This is the issue before us. Do you, as the President wants, make permanent all those tax cuts, which exacerbate inequality, which enhance the situation where the owners of capital get almost all the wealth, and which does not appear to be generating the kinds of jobs and other benefits we had hoped for; or do you take a part of it and make it available to the public sector so that undeniable public needs can be met and people can be better employed?

I would just say in closing to my conservative friends, who are currently and I hope temporarily in control, you have the ability to say no to all these things. You can keep wealth-enhancing tax cuts in place, you can continue to cut back on overtime, you can continue to undermine labor unions, you can continue to pursue a trade policy that gives leverage on people to bring down rather than up any kind of protections, and you may win these battles in the short run. But you are every day increasing public resistance to what you think is necessary for overall economic policies.

So if equity is not enough, self-interest ought to persuade those at the top of the private sector, and those who represent them politically, that the time has come to recognize that we have a changed economy and to adopt public policies and reverse the trends of making inequality worse and instead diminishing so that we get both more jobs and a healthier society and a more sustainable economic recovery.

Madam Speaker, I submit for the RECORD documents supporting and relating to my special order speech.

The Evidence on Job Creation, Wages, and Health Insurance

Non-farm payroll employment increased by 88,000 in October 2003, by 83,000 in November 2003, by 16,000 in December 2003, and by 112,000 in February 2004. (Source: Bureau of Labor Statistics.)

Real wages has grown by 0.4% since the end of the recession in November 2001. In the five previous recessions, real wages grew by 10.7%, 12.4%, 9.2%, 11.3%, and 3.6%, by the same point in the recovery (25 months). (Source: Economic Policy Institute based on Bureau of Economic Analysis data.)

Growth in median wages in 2002 was 1.8%, compared to inflation of 1.6%. In 2003, median wage growth was 2.0%, compared to inflation of 2.3%, resulting in a decline in real median wages of 0.3%. (Source: Economic Policy Institute based on Bureau of Labor Statistics data.)

Between 2000 and 2002, employer-provided health insurance declined by 2.8 million people. (Source: Urban Institute based on Current Population Survey.)

During the past five years, health insurance premiums have increased annually by 5.3%, 8.2%, 10.9%, 12.9%, and 13.9%. (Source: Urban Institute based on KFF/HRET Survey of Employer-sponsored Health Benefits.)

House Committee on Financial Services Holds a Hearing on Federal Reserve's Semi-annual Monetary Policy Report, February 11, 2004

GREENSPAN. The pointed issue here is that we are ending up with an inadequate ability to move skills up sufficiently quickly and this, as you point out has created a problem of excess supply versus demand amongst our lower skills and the reverse in the top. And that is something we have to address.

And I happen to agree with Congressman Frank that it is very important in this country not only to have an equitable society, but to have it perceived as being equitable, because no democratic system can function unless the people believe it is equitable.

And I think that it is crucially important for us to reduce the income inequality in this county. And I think the way that one has to do that, by any means that I can see, is through education. And I must say to you, the community colleges in this country have been in the forefront of a major change in the quality of what we are doing with respect to re-establishing skills.

MALONEY. So given what you've said today in your testimony and given the fact that you have accommodated this with a very low federal funds rate, a historically low one, and is it safe to say that you disagree with the report that came out yesterday from the Bush administration's economic policy advisers that next year, we will create 2.6 million jobs? That's what this report says. That's what the report came out.

GREENSPAN. I haven't read the specific . . .

MALONEY. Well, it says we're going to create 2.6 million jobs.

GREENSPAN. Yes. I haven't read the specific details of their forecast. My impression is that they have a significant decline in the rate of productivity advance from where it has been recently. And if you get . . .

MALONEY. Do you agree or disagree?

OXLEY. The gentlelady's time has expired.

GREENSPAN. I haven't read it. I've said to one of your colleagues earlier, it's not—it is a credible forecast if the rate of productivity slows down to a more historical average.

TRANSCRIPT, GREGORY MANKIW, NATIONAL ECONOMIST CLUB, FEBRUARY 17, 2004

Question. Can you comment on the job forecast?

MANKIW. The economic report of the president is forecasting a strong labor market in 2004, as many private forecasters are. That particular forecast was made in early December, and we've seen more data since then.

[From the Times Online, Oct. 20, 2003]

SNOW BOASTS SPRING HAS SPRUNG FOR US ECONOMY

(By Anatole Kaletsky)

This July, when I first interviewed John Snow in London, the world economy was just beginning to emerge from the trauma of the Iraq war but the US Treasury Secretary was in ebullient form. The US economy, he insisted, was on the verge of a spectacular recovery from the three-year malaise that began with the collapse of technology stocks on Wall Street and was aggravated by the horror of September 11.

The American economy, he maintained, was "coiled like a spring and ready to go".

This remark was widely quoted in the media and greeted with skepticism, bordering on derision. Three months later, as I met Mr. Snow again in his Washington office, he was entitled to gloat.

"The spring has now sprung," he declared as our conversation started. "I am confident that this economic recovery will now be sustained and will produce loads of new jobs. Everything we know about economics indicates that the sort of economic growth expected for next year, 3.8 to 4 per cent, will translate into two million new jobs from the third quarter of this year to the third quarter of next year. That's an average of about 200,000 new jobs a month."

With a US election approaching, the figures he mentioned were significant in political as well as economic terms. Two million is the number of jobs the Bush Administration is accused of "destroying" since it took over the White House and the rule of thumb among US economists is that 200,000 new jobs a month are needed for the unemployment rate to show a sustained decline.

"What gives me confidence? Everything we know about economics and history.

"Consumption and housing remain strong. Now capital spending is clearly coming back and inventories are at astonishingly low levels. Jobs are always a lagging indicator which follows economic growth. I would stake my reputation on employment growth happening before Christmas. I'd bet dollars to doughnuts that we are going to see a pick-up in employment in 2004."

But surely there is a serious qualification to this optimism? If economic growth does take off as suggested, then surely interest rates will start to rise?

Recent statistics on consumption and industrial production suggest that the US economy grew by 7 percent in the third quarter. In such an environment, the Federal Reserve might well consider raising interest rates. On Wall Street, however, the futures markets imply that interest rates will rise by no more than one quarter or half a per cent before the summer and several leading banks expect no tightening at all until 2005. Surely, markets may be in for a nasty surprise? Mr. Snow seemed totally unperturbed.

"Economic growth is a process of constant adjustments. If you've got productivity running at very high levels, you will get higher real wages and profits. Rates of return are up and as long as the expected return on capital is higher than the cost of capital, businesses will expand and the adjustment process kicks in.

"The price of capital is interest rates and there is going to be a need for a capital rationing process. Higher interest rates are an indicia of a strengthening economy. I'd be frustrated and concerned if there were not some upward movement in rates."

But what about politics? Next year will see a fiercely contested presidential election. Wouldn't an increase in interest rates at such a time interfere with the political process?

Mr. Snow was completely dismissive of this argument. It may be an article of faith on Wall Street that the Fed tries to avoid raising interest rates before elections, but this is factually untrue. The idea that the Fed doesn't move in election years is just "an amazing sort of mythology", Mr. Snow insists. After our interview, I check the historical record and discover that he is right. The Fed has raised interest rates sharply in three out of the past five election years, most recently in 2000. Moreover, while Wall Street mythology contends that the Fed lost President Bush's father the 1992 election, the record shows the opposite. The Fed cut interest rates by 2 percentage points in 1992. In the 1988 polls, by contrast, interest rates were lifted from 6.5 to 8.5 per cent, yet that was the election won by the first President Bush.

Turning to questions on the dollar, Mr. Snow indicated that the US policy had been misunderstood by many commentators, though not by the markets themselves. The dollar has fallen sharply in the four weeks since a statement issued in Dubai by G7 ministers, which called for "greater flexibility" in exchange rates. Mr. Show had hailed this statement as "a milestone" and this comment was widely interpreted as a hint the US wanted to see the dollar decline. Mr. Snow insisted, however, that the real milestone he referred to was the commitment of all the G7 countries to pursue policies to stimulate domestically led growth.

The US had never intended to talk the dollar down. Although Mr. Snow did not express any views on individual exchange rates, another senior Treasury official noted that the comments in Dubai were directed solely at countries that attempted to manage or control their currencies, not at market-based exchange rates such as the dollar-euro rate.

The US was not trying to persuade China to float its exchange rate in the short term, but rather to make the financial changes needed for a market-driven currency to be set one day. Moving to a floating rate would be "ill-advised" before the financial reforms were in place. "They are not going to get there overnight and we recognise that," he said. In Japan, too, Mr. Snow welcomed the economic reforms undertaken by Junichiro Koizumi, the Prime Minister. He refused to be drawn on whether he was satisfied with the strengthening of the yen since Dubai.

But another Treasury official noted that Japan had reduced the scale of its currency intervention and no longer seemed to be defending arbitrary exchange-rate levels, as it had been before Dubai.

UNIVERSAL HEALTH CARE

The SPEAKER pro tempore (Mrs. BLACKBURN). Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. MCDERMOTT. Madam Speaker, I want to reassure my colleague from Massachusetts that there is hope after all. The Bush administration has endorsed and even funded universal health insurance. The thing is, the President's universal health insurance program is for the people of Iraq, not anything for the 44 million Americans.

Madam Speaker, we already pay enough for universal health care in this country, but we are not getting it. The administration misleads the American people by having the Secretary of Health and Human Services say, and I quote, "You are still taken care of in America. That certainly could be defined as universal coverage." The truth is that every other industrialized nation in the world has a universal health system except the United States. Half the bankruptcies in this country are due to health care costs.

The United States spent $1.6 trillion on health care in 2003. That is an average of $4,900 per person for the entire country. The average of the next 29 industrialized countries is less than half that amount, about $2,100 per person. Switzerland, at number two, spends $3,106. That is $1,800 less per year per person than the United States. Every one of these countries has universal health insurance except us.

We have 44 million uninsured and 40 million underinsured, and premiums are going up. At the same time, employers are shifting more of their health care costs on to their employees. Every strike has as the number one issue of contention their health care benefits. They just settled a grocery strike in California that has been going on for 6 months and it was all about that.

Seventy-two percent of the uninsured are in families where there is a full-time worker. Sixteen percent have two full-time workers. Only 62 percent of all employers even offer health insurance, and only 60 percent of employees can take advantage of it. How bad does it have to get before we begin to do what is necessary?

Not many years ago opponents and an army of lobbyists turned back the last great hope for real reform. We were told managed care in the marketplace would save the health care system. It never happened. All through the 1990s when the economy was hot, the number of Americans without health insurance went up. When the economy tanked under President Bush, the number of Americans without health care kept going down. How bad does it have to get?

A long time ago we made some decisions in this country: Police, fire protection, national defense, education, and highways would be issues of the common good. We would do them together. It is time for health care to be done as a common good. We have the power and ability to take care of everyone, from patient to physician to provider.

National health care does not mean government medicine.

□ 1430

It means a guaranteed revenue stream to give a stable set of benefits for everyone that cannot be taken away.

At the present time, government at all levels already finances 60 percent of all the health care spending in this country. That is over $2,600 per person. Remember, the international average is $2,100 per person so we are already spending enough. If we were tightfisted, we could have that kind of a system.

The fact is that we simply do not have the political will to establish the common good. If our costs were in line with other industrialized nations who have a national health care system, government spending in this country alone would cover our costs. I can hear the chorus already. Do not let anyone tell you that health care in England or Germany or Sweden or Norway or France or Japan is not as good as ours. Ours is good if you are lucky with the right piece of plastic in your pocket when you get sick. But if you do not have insurance, it is a real crapshoot. It is a real roll of the dice.

Americans deserve universal health care, just like everybody else from the industrialized nations, all of the way to Iraq. Yes, most people would actually save money, according to the Congressional Budget Office, because if we tightened up the system and got rid of the millions of forms, the hundred billion dollars' worth of paper that we put in every year, we would have a cheaper system than we presently do with guaranteed benefits and guaranteed revenue.

The President has said, "These problems will not be solved with a nationalized health care system that dictates coverage and rations care." He said it right here in the well. Every health insurer in the United States dictates coverage. That is how they do business, and America is rationing care. The time has come to change that. We will talk more about that later.

We need a solution.

I have introduced H.R. 1200, the American Health Security Act. I also support other plans to reform our health care system.

Reform will not change how health care is delivered, only how it's paid for.

Health care providers will continue to do business as they already do, competing with one another, striving to be the best.

Under my plan people can choose their doctor and hospital, an incentive for innovation and a reward for excellence.

For health care providers, national health insurance means a guaranteed revenue stream.

For Americans, national health insurance means coverage for everyone.

America was founded on the premise of working together for the common good. Our society recognizes this responsibility every time a fire truck responds to a fire or a police car responds to a call for help.

Today, there is an urgent call for help from voices across America.

We have it in our power to respond. Come on Mr. President. We are already paying for universal health care. Let us make sure Americans get it.

WAR ON TERRORISM

The SPEAKER pro tempore (Mr. GINGREY). Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. HOEKSTRA) is recognized for 60 minutes as the designee of the majority leader.

Mr. HOEKSTRA. Mr. Speaker, today I want to spend a little bit of time talking about the war on terrorism, and I believe it is a war, tracing the history of the previous administrations and the Bush administration in recognizing the threat that al Qaeda, Iraq, and others pose to the United States as evidenced most dramatically on the events of September 11, 2001.

Back in February 1998, then-President Clinton talked about the threat of Iraq: "They have harassed the inspectors, lied to them, disabled monitoring cameras, literally spirited evidence out of the back doors."

Another quote: "They," predators of the 21st century, "will be all the more lethal if we allow them to build arsenals of nuclear, chemical and biological weapons, and the missiles to deliver them. We simply cannot allow that to happen. There should be no doubt, Saddam's ability to produce and deliver weapons of mass destruction poses a grave threat to the peace of that region and the security of the world. There is no more clear example of this threat than Saddam Hussein's Iraq. His regime threatens the safety of the people, the stability of his region, and the security of all the rest of us. In the next century, the community of nations may see more and more of the very kind of threat Iraq poses, a rogue state with weapons of mass destruction, ready to use them, to provide them to terrorists who travel the world. If we fail to respond today, Saddam Hussein will be emboldened tomorrow by the knowledge that they can act with impunity."

Another quote from President Clinton in 1998: "I have no doubt he would use them again if permitted to develop them."

So back in 1998, President Clinton was highlighting the threat as he saw it, in this case talking about Iraq specifically, but also laying out the possibility of what might happen in the future. Again the quote: "A rogue state with weapons of mass destruction, ready to use them or provide them to terrorists."

On September 11, 2001, we found out in the United States about the willingness of terrorist organizations to use airplanes as a weapon of mass destruction and to inflict death and destruction to an extent we had never seen before.

Another quote, and this is from President Clinton, I believe: "Some day, some way, I guarantee you he will use the arsenal; and I think everyone of you who has worked on this for any length of time believes that, too." Again, not President Bush in 2001, 2002 or 2003, but a consistent message beginning in the late 1990s from President Clinton and his administration outlining the threat of Iraq; and, more importantly, the threat of a linkage of the capabilities that Iraq might have and their willingness to give those capabilities and share them with terrorist organizations.

Again, the same speech: "Saddam Hussein's Iraq reminds us of what we learned in the 20th century and warns us what we must know about the 21st century. In this century, we learned through harsh experience that the only answer to aggression and illegal behavior is firmness, determination and, when necessary, action. In the next century, the community of nations may see more and more the very kind of threat Iraq poses now, a rogue state with weapons of mass destruction ready to use them or provide them to terrorists, drug traffickers or organized criminals who travel the world among us unnoticed."

Through the window of 9/11, we can see how prophetic President Clinton was in 1998. Let me read that again: "In this century, we learned through harsh experience that the only answer to aggression and illegal behavior is firmness, determination and, when necessary, action. In the next century, the community of nations may see more and more the very kind of threat Iraq poses now," or paraphrasing, that I believe terrorist organizations will pose in the 21st century.

December 17, 1998, President Clinton said: "I am convinced that the decision I made to order this military action, though difficult, was absolutely the right thing to do. It is in our interest and in the interest of the people around the world. Saddam Hussein has used weapons of mass destruction and ballistic missiles before. I have no doubt he would use them again if permitted to develop them."

So back in the 1990s, the late 1990s, President Clinton was highlighting the threat of Iraq and also outlining the threats of terrorist organizations in the 21st century.

Another quote, and this is from the White House, a White House briefing. It is a speech by Senator Al Gore. This is way back in 1992. So even in the early 1990s, key officials in what would become the Clinton administration had identified the challenges that we would face as a Nation in the 21st century. Here is what Senator Al Gore said: "He had already launched poison gas attacks repeatedly," and this is what he says about the President at that time, "and Bush looked the other way. He had already conducted extensive terrorist activities, and Bush looked the other way. He was already deeply involved in the effort to acquire nuclear weapons and other weapons of mass destruction, and Bush knew it, but he looked the other way."

Then Senator Al Gore in 1992 said: "Well, in my view, the Bush administration was acting in a manner directly opposite to what you would expect. With all of the evidence that it had available to it at the time, Saddam Hussein's nature and intentions were perfectly visible."

In other remarks made by Vice President Al Gore, May 23, 2000, talking about the threat of Saddam Hussein: "Despite our swift victory in every sense, there is no doubt in my mind that Saddam Hussein still seeks to amass weapons of mass destruction. You know as well as I do that as long as Saddam Hussein stays in power, there can be no comprehensive peace for the people of Israel or the people of the Middle East. We have made it clear," and this is Vice President Al Gore on May 23, 2000, "we have made it clear that it is our policy to see Saddam Hussein gone." In parentheses, applause. "We have sought coalitions of opponents to challenge his power. I have met with the Iraqi opposition, and invite them to meet with me again next month when I will encourage them to further unite in their efforts against Saddam."

The threat to peace in the civilized world was well identified through the Clinton administration through the 1990s.

Here is another article talking about folks and their views of Saddam Hussein dated November 1997: "The stakes are very real, and they are enormous," said Richard Haass, Middle East expert on the National Security Council during the Bush administration. "This is someone who has used weapons of mass destruction twice against his own people and against Iran. He does not have qualms. Based on U.N. inspection reports and Western intelligence assessments, Washington's allies are convinced that Saddam Hussein possesses the resources and technical skill to begin cranking out menacing new supplies of exotic weaponry and delivery systems with even a brief absence of foreign watch dogs."

That is the same thing that David Kay said when he came back, saying at this point in time the Iraqi survey group may not have found stockpiled weapons of mass destruction, and David Kay believes that maybe they did not exist after meeting with the new folks over there. He said we may or may not find the stockpiles, but the key thing here, and this is what David Kay said, which was reported already in 1997: "Washington and its allies are convinced that Hussein possesses the resources and technical skill to begin cranking out menacing new supplies of exotic weaponry and delivery systems with even a brief absence of foreign watch dogs."

So the real question was after the war and after we went in and took a look at what they had, what did David Kay find? He found exactly what was identified in 1997, that if the stockpiles are not there, what Saddam Hussein has done is he has developed the capability, the weaponry, to crank out menacing new supplies during a brief absence of foreign watch dogs. The intent was clear. Saddam Hussein used weapons of mass destruction at one time, may have had stockpiles, but clearly was building the technical infrastructure to be able to produce significant quantities of weapons of mass destruction in a relatively short period of time once the inspectors were gone and once sanctions were lifted.

□ 1445

September 9, 1998, Madeleine Albright:

"In this struggle our adversaries are likely to avoid traditional battlefield situations because there American dominance is well established. We must be concerned instead by weapons of mass destruction and by the cowardly instruments of sabotage and hidden bombs. These unconventional threats endanger not only our Armed Forces but all Americans and America's friends everywhere. We must understand that this confrontation is long-term. It doesn't lend itself to a quick victory."

For those of us who believe that September 11 was the culmination of our war with al Qaeda and with terrorist organizations, listen to Madeleine Albright, 1998, who recognized that this war was already going on in the 1990s because of the length and the number of attacks that had taken place during the 1990s. Remember, early in the 1990s was the first time that the World Trade Center was hit, and she recognized in her quote: "We must understand that this confrontation is long-term. It doesn't lend itself to quick victory."

She goes on to say: "Force for peace, freedom, progress and law in the world. But no threat, no bomb, no terrorist can diminish America's determination to lead."

She then also goes on: "A second major threat to America's security also has entered a new phase and that is weapons of mass destruction and the systems that deliver them. For decades, we viewed this threat primarily through a narrow Cold War lens and now our concerns have broadened. We are deeply concerned by regional tensions in South Asia where both India and Pakistan have conducted nuclear tests."

Going on: "Chemical or biological warheads and they are devilishly difficult to shoot down."

So the threat of weapons of mass destruction was well understood during the Clinton administration by President Clinton, by Vice President Gore, by Senator Gore in 1992, by Secretary of State Madeleine Albright when we used force against Saddam in December of 1998. Secretary of State Madeleine Albright:

"This is a moment of grave determination. We have decided to use force because other means simply have not worked. Saddam's capacity to develop and brandish such armaments poses a threat to international security and peace that cannot be ignored. Month after month we have given Iraq chance after chance to move from confrontation to cooperation and we have explored and exhausted every diplomatic action. We will see now whether force can persuade Iraq's misguided leaders to reverse course and to accept at long last the need to abide by the rule of law and the will of the world."

October 16, 1998, National Security Adviser Samuel Berger, an op-ed piece in the Washington Times:

"Indeed we have information that Iraq has assisted in the chemical weapons activity in Sudan. We had information linking bin Laden to the Sudanese regime and the Al Shifa plant.

"One senior administration official, who asked not to be quoted by name, said the administration had compelling evidence tying Al Shifa to the Sudanese military and to Iraq's chemical weapons program, none of which have ties to bin Laden."

So there were questions about whether bin Laden was involved or not with the Al Shifa plant, but there was no question here back in 1998 by a number of folks within the Clinton administration that Iraq was involved with chemical weapons activity in Sudan.

A dangerous world. Why do I talk about the events of the 1990s up until 2000, the Clinton administration? It is because for a long time leaders in this country have been identifying Iraq and terrorism as the new threat to the security of America and Americans and the free world.

An interesting quote, Secretary Albright, Time Magazine, November 23, 1998:

"Up to now, we've had diplomacy backed by force. Now we need to shift to force backed up by diplomacy." In that same article, she is quoted as saying: "We'll be prepared to act alone if we have to."

Secretary of State Madeleine Albright:

"Month after month we have given Iraq chance after chance to move from confrontation to cooperation. We have explored and exhausted every diplomatic action. We will see now whether force can persuade Iraq's misguided leaders to reverse course and to accept at long last the need to abide by the rule of law and the will of the world."

President Clinton in the State of the Union speech on January 20, 1999:

"For nearly a decade, Iraq has defied its obligation to destroy its weapons of terror and the missiles to deliver them. America will continue to contain Saddam, and we will work for the day when Iraq has a government worthy of its people." Remember that by that time, the policy of regime change for Iraq had already become the accepted policy of the United States and the accepted policy of the Clinton administration.

Why do we talk about it now? Because the threat in 2004 is still very, very real. But let us go back and document that what happened on 9/11 was not an isolated event. It was the most significant event of a series of attacks on U.S. interests.

In 1993 was when the World Trade Center was bombed for the first time. 1996 was when the U.S. military barracks were bombed in Saudi Arabia. In 2000 there was the attack on the USS *Cole*. Of course we also had the attacks on our embassies in Africa during the late 1990s. In 1995, two unidentified gunmen killed two U.S. diplomats and wounded a third in Karachi, Pakistan. In 1997 a Palestinian sniper opened fire on tourists atop the Empire State Building. A bomb exploded across the street from the U.S. embassy in Manila, injuring nine people. The list goes on. What had happened during much of the 1990s, there was compelling evidence that there were individuals who had declared war on the United States, but we never recognized the threat in terms of the actions that we took.

I am sure that that will be a debate much like there is a debate as to whether going to war in Iraq was the appropriate activity. There should also be, and there will be, a debate as to whether doing very little during the 1990s was the appropriate action. But what we do have in the 1990s is a clear record of factual events that America was a target. We have the clear statements from a President, a Vice President, a National Security Adviser, a Secretary of State that identified the changing shifts and the challenges to the security of the United States, moving out of the Cold War mentality of the period from 1945 to the early 1990s to a new threat of rogue states, but also rogue organizations that were not tied to a single country but that were loose gatherings of individuals, scattered throughout parts of the world that in many cases were willing to operate on their own. They are still out there, and in many ways we have damaged their capabilities to effectively attack us; but they are still out there organizing, recruiting, raising funds and training with the hope and expectation that they will hit us and that they will hit others again in the future. Is that a new threat? Here is what we said about Iraq in 1999:

"Iraq continued to plan and sponsor international terrorism in 1999. Although Baghdad focused primarily on the anti-regime opposition both at home and abroad, it continued to provide safe haven and support to various terrorist organizations."

Going on, the "Global Terrorism Overview of State-Sponsored Terrorism" says:

"Iraq continued to provide safe haven to a variety of Palestinian rejectionist groups, including the Abu Nidal organization, the Arab Liberation Front, and the former head of the now defunct 15 May Organization, Abu Ibrahim, who masterminded several bombings of U.S. aircraft. Iraq provided bases, weapons and protections to the MEK, an Iranian terrorist group that opposes the current Iranian regime."

The "Pattern of Global Terrorism" report in 2001 said about Iraq:

"In addition, the regime continued to provide training and political encouragement to numerous terrorist groups, although its main focus was again on dissident Iraqi activity overseas. Iraq provided bases to several terrorist groups including the Mujahedin-e-Khalq (MEK), the Kurdistan Workers' Party, the Palestine Liberation Front, and the Abu Nidal organization. In 2001, the Popular Front for the Liberation of Palestine raised its profile in the West Bank and Gaza Strip by carrying out successful terrorist attacks against Israeli targets. In recognition of the PFLP's growing role, an Iraqi vice president met with former PFLP Secretary General Habbash in Baghdad in January 2001 and expressed continued Iraq support for the intifada. Also in mid-September a senior delegation from the PFLP met with an Iraqi deputy prime minister. Baghdad also continued to host other Palestinian rejectionist groups including the Arab Liberation Front and the 15 May Organization." Iraq continued to support terrorism organizations.

2002, the "Patterns of Global Terrorism":

"Iraq planned and sponsored international terrorism in 2002. Throughout the year, the Iraqi Intelligence Services laid the groundwork for possible attacks against civilian and military targets in the United States and other Western countries. The Iraqi Intelligence Services reportedly instructed its agents in early 2001 that their main mission was to obtain information about the U.S. and Israeli targets. The IIS, Iraqi Intelligence Services, also threatened dissidents in the Near East and Europe and stole records and computer files detailing anti-regime activity. In December 2002, the press claimed Iraqi intelligence killed Walid al-Mayahi, a Shia Iraqi refugee in Lebanon and member of the Iraqi National Congress. Iraq was a safe haven, transit point, and operational base for groups and individuals who direct violence against the United States, Israel and other countries. Baghdad overtly assisted two categories of Iraqi-based terrorist organizations, Iranian dissidents devoted to toppling the Iranian government and a variety of Palestinian groups opposed to peace with Israel."

It goes on to list the groups that I have talked about before. Again, provided material assistance to the Palestinian terrorist groups that are in the forefront of the intifada.

"Saddam paid the families of Palestinian suicide bombers to encourage Palestinian terrorism, channeling $25,000 since March through the ALF alone to families of suicide bombers in Gaza and the West Bank. Public testimonials by Palestinian civilians and officials and canceled checks captured by Israel in the West Bank verify the transfer of a considerable amount of Iraqi money."

The threat is real. Back a few weeks ago, I had the opportunity to be at a meeting where the Under Secretary of Defense for Intelligence, Steve Cambone, spoke. I think he wrapped it up quite well, because I think if you go through this and later on when you take a look at what the Director of the CIA said, Mr. Tenet, who served in both the Clinton and the current Bush administrations, you go through and you take a look at everything or much of what was said during the 1990s by a number of officials within the Clinton administration, what was said by the Bush administration, what was said earlier on in the 1990s by Senator Al Gore, outlining the threat to the United States. And then imagine taking a look at that threat through the window of 9/11. Here is what Mr. Cambone said:

"We are a nation at war. We do not know how long it will last, but it is unlikely to be short. We cannot know where or against whom all of its battles will be fought. There are multiple fronts in this war. There is no single theater of operation.

□ 1500

"We do know that we are all at risk, at home and abroad, civilians and military alike. We do know that battles and campaigns will be both conventional and unconventional in their conduct. Some of those battles and campaigns will be fought in the open, and others will be fought in secret, where our victories will be known to only a few."

Think back on the last few years and the attacks that we have been the victims of. We do know, as Dr. Cambone says again, that we are all at risk, at home and abroad. On 9/11, the attack on the World Trade Center, the Pentagon, the crash in the field in Pennsylvania, civilians were victims, civilians here in our homeland. But our embassies have been attacked in Africa. Our military folks have been attacked aboard the USS *Cole*. Our barracks have been attacked in Saudi Arabia and the World Trade Center was attacked in 1993. Dr. Cambone identified, "We do know that we are all at risk, at home and abroad, civilians and military alike," and we know now with the ongoing activities in Iraq that over 500 young men and women have lost their lives in Iraq. There have been countless numbers of our folks who have been wounded, many of them rather severely. I had the opportunity to meet with one of the families this week of someone who was badly injured in Iraq, and it was their prayer and their request that we, as Americans, not forget about those who have been injured in Iraq, that with these improvised explosive devices that are targeting our military vehicles or that suicide bombers with very deadly bombs, that there are other American families who are hurting. They are the ones whose loved ones are in a hospital in Iraq, in Germany or here in Washington, D.C. at Walter Reed Hospital. So let us not forget our military individuals who have been injured in and their families.

Dr. Cambone goes on to say "We are facing a turbulent and volatile world populated by a number of highly adaptive state and nonstate actors. Some of these are weighing whether, to what extent, or how, they might oppose the interests of the United States and its friends. Others, such as the terrorist organizations responsible for attacks on the United States, Turkey, Indonesia, Morocco, Saudi Arabia, Israel, Kenya, the Philippines, Afghanistan, Pakistan, Iraq, and other places have committed themselves to war."

I think that is what we have to recognize. This is what Dr. Cambone says. These individuals have committed themselves to war with the United States. Whether we want to be engaged in this war or not is no longer our decision. They have committed themselves and declared war on the United States. We now need to respond to protect and provide for the security of the United States.

". . . It is impossible to predict with confidence what nation or entity will pose a threat, in 5, 10, or 20 years, to the United States or to our friends and allies."

Dr. Cambone goes on to say: "But not everything that unfolds in the coming years should be a surprise."

If we take a look at history the last 12, 13 years, what can we expect? He goes on: "We can expect that an adversary will continuously search for effective means to attack our people; our economy, military, and political power; and the people in power of our friends and allies.

"We can also expect that an adversary will have access to a range of modern technologies and will be prepared to use them to magnify the destructiveness of their attacks, using truck bombs and improvised explosives, cyber intrusions to attack the computer systems upon which we rely, radio transmitters to jam our space assets, small laboratories to develop new biological and genetically altered agents, and chemical and nuclear technology and materials delivered by missile, plane, boat, or backpack to poison our environment and destroy human lives.

"In this era of surprise, lack of preparation is a harbinger of catastrophe. Being prepared, by which I mean taking measures to avoid surprise, if possible to mitigate its effect when it occurs, and to bring appropriate force to bear to defeat those who would surprise us, is essential."

This is a very complicated and a very difficult environment in which we work today. We need to convince ourselves that there is a real threat to the United States. We need to educate ourselves as to what the threat looks like. It is very difficult to predict exactly what it is going to look like, and then to have the dialogue and the discussion as to how we respond. I think part of the problem that we have in 2004 is that the debate and the discussion that could have taken place 4 or 5 years ago never took place. Even though there was mounting evidence and even though the Clinton administration in many ways was trying to raise the profile of this issue, we did not have the national debate about how we respond to an emerging threat to the United States. We had that discussion and that debate and we understood the threat of the Cold War. I am not sure how long it took America and our allies to come together to recognize the threat and to respond to the threat, but we did. America responded after World War II immediately recognizing the threat, helping to rebuild a free Europe, a democratic Europe, being the focal point for creating NATO to stand as the barrier to expansion of the former Soviet Union, and we did it incredibly well, and in many ways, as we describe the effort against the former Soviet Union, it kind of matches the threat that we face today. We knew there was a threat. We did not know exactly how it would manifest itself. We did not know exactly if there would ever be an attack against the United States. But we figured it would be a long and difficult struggle. There were no easy answers but that we would come together and that we would be engaged in what we called the Cold War. And the Cold War lasted 45 years. And then finally the wall came down and we were able to declare victory. But as that wall was coming down, another threat began to emerge, and that was the threat of terrorist organizations. So after 1945, it probably took us a period of time to identify the threat, to have the discussion and the dialogue within the country as to how we should respond to the threat, but once we identified the threat, once we had the national dialogue about the threat, there was a lot of consensus about how we should respond, and the response was one of we are going to be forceful and we are going to be in a position to defend ourselves and we are going to stand strong. And after 45 years we were able to defeat and win the Cold War. There are lessons that we can learn from that but we need to now go through the process.

Hopefully Americans, as they take a look at the events of the 1990s, as they then take a look at what happened on 9/11, and as they take a look at what is going on in Iraq and what we have found in Iraq, they will begin to understand the nature of the threat to the United States. A very uncomfortable threat. With the former Soviet Union and the Cold War, we could identify the buildings, we could identify the people, we could identify the borders and the boundaries most of the time. But here we do not know the players. We do not know their strength. We do not know where they are. But we do know a few things. We do know that they are very willing to use unconventional weapons in unconventional ways, that they will attack civilians and military personnel. They will attack our friends, they will attack us in places around the world in very deadly ways. We know that they come back and revisit their same targets on a regular basis until they are successful. So we know quite a bit about them.

Here is what Director Tenet of the CIA said, who is very familiar with this because he is the one person who was carried through as the Director of the Central Intelligence Agency from the

Clinton administration through the Bush administration, recognizing that the Clinton administration saw terrorism and Iraq as a threat and carried that message and that understanding into the Bush administration. What does he say in a speech that he gave on February 24? I would encourage my colleagues to read the speech in detail because it gives a lot of framework and context to the challenges that we face in 2004. As a matter of fact, it is entitled The Worldwide Threat 2004: Challenges in a Changing Global Context. What does he say about terrorism? "I'll begin today on terrorism, with a stark bottom line: The al Qaeda leadership structure we charted after September 11 is seriously damaged, but the group remains as committed as ever to attacking the U.S. homeland. But as we continue the battle against al Qaeda, we must overcome a movement, a global movement infected by al Qaeda's radical agenda. In this battle we are moving forward in our knowledge of the enemy, his plans, capabilities, and intentions. And what we've learned continues to validate my deepest concern: that this enemy remains intent on obtaining, and using, catastrophic weapons."

Going on: "Military and intelligence operations by the United States and its allies overseas have degraded the group. Local al Qaeda cells are forced to make their own decisions because of disarray in the central leadership."

"We are creating large and growing gaps in the al Qaeda hierarchy.

"And we are receiving a broad array of help from our coalition partners, who have been central to our effort against al Qaeda."

In a little while, I am going to talk about the changes in Libya. But the amazing thing is that more and more countries are coming to the realization that we are involved in a war on terrorism and that they are involved in a war on terrorism and that in many cases the terrorists do not distinguish between America or America and its friends.

Whom are we getting help from?

"Since the May 12 bombings, the Saudi government has shown an important commitment to fighting al Qaeda in the Kingdom, and Saudi officers have paid with their lives. Elsewhere in the Arab world we're receiving valuable cooperation from Jordan, Morocco, Egypt, Algeria, the UAE, Oman, and many others. President Musharraf of Pakistan remains a courageous and indispensable ally who has become the target of assassins for the help he's given us."

It is always interesting to hear people say we do not have any friends in this. We have got lots of friends in this whose countries are paying with the lives of their citizens and their security personnel.

□ 1515

Partners in Southeast Asia have been instrumental in the roundup of key regional associates of al Qaeda. Our European partners worked closely together to unravel and disrupt a continent-wide network of terrorists planning chemical, biological, and conventional attacks in Europe. So we have made notable strides. But do not misunderstand me, again quoting Director Tenet. Do not misunderstand me. I am not suggesting al Qaeda is defeated. It is not. We are still at war. This is a learning organization that remains committed to attacking the United States, its friends and allies.

Successive blows to al Qaeda's central leadership have transformed the organization into a loose collection of regional networks that operate more autohomously. These regional components have demonstrated their operational prowess in the past years. The sites of their attacks span the entire reach of al Qaeda: Morocco, Kenya, Turkey, Jordan, Saudi Arabia, Kuwait, Afghanistan, Pakistan and Indonesia. And al Qaeda seeks to influence the regional networks with operational training consultations and money. Khalid Sheik Mohamad sent Hambali $50,000 for operations in Southeast Asia. You should not take the fact that these attacks occurred abroad to mean that the threat to the United States homeland has waned. As al Qaeda and its associated groups undertook these attacks overseas, detainees consistently talk about the importance the group still attaches to striking the main enemy, the United States.

Across the operational spectrum, air, maritime, special weapons, we have time and again uncovered plots that are chilling. On aircraft plots alone, we have uncovered new plans to recruit pilots and to evade new security measures in Southeast Asia, the Middle East, and Europe. Even catastrophic attacks on the scale of 11 September remain within al Qaeda's reach. Make no mistake, these plots are hatched abroad; but they target U.S. soil or that of our allies.

Remember, I am quoting from a speech that is available to all my colleagues on the Central Intelligence Agency Web page, and I encourage them to read this.

So far I have been talking only about al Qaeda, but al Qaeda is not the limit of terrorist threats worldwide. Al Qaeda has infected others with its ideology, which depicts the United States as Islam's greatest foe. The steady growth of Osama bin Laden's anti-U.S. sentiment through the wider Sunni extremist movement and the broad dissemination of al Qaeda's destructive expertise ensure that a serious threat will remain for the foreseeable future, with or without al Qaeda in the picture. If we take care of al Qaeda and capture bin Laden, it is not over. There is still a tremendous amount of work to do.

A decade ago, bin Laden had a vision of rousing Islamic terrorists worldwide to attack the United States. He created al Qaeda to indoctrinate a worldwide movement and global jihad with America as the enemy, an enemy to be attacked with every means at hand. In the minds of bin Laden and his cohorts, September 11 was the shining moment, their shot heard round the world; and they want to capitalize on it. That was not the culmination; that was the kickoff of their campaign. And so even as al Qaeda reels from our blows, other extremist groups within the movement, it influences to become the next wave of the terrorist threat.

Let me just kind of summarize the terrorism and the threat that we face, quoting Mr. Tenet from his speech: "For the growing number of jihadists interested in attacking the United States, a spectacular attack on the U.S. homeland is the brass ring that many strive for, with or without the encouragement by al Qaeda's central leadership." A spectacular attack on the U.S. homeland is the brass ring that many strive for, with or without encouragement by al Qaeda's central leadership.

I want to talk a little bit about the rebuilding efforts that are going on in Iraq and Afghanistan. It was a couple of weeks ago that I and some of my colleagues had the opportunity to visit Iraq and to take a look at exactly what was happening. There is tremendous progress being made in Iraq, there is tremendous progress being made in Afghanistan, but I think we have to put this in the context of how much work actually has to happen.

Saddam Hussein ruled Iraq for over 30 years. There was no rule of law. There were no effective police agencies. There were no judicial processes in place. It was a mess.

If we go back and take a look at the rebuilding process, as Americans we should not underestimate the amount of work that needs to take place. In Iraq, Saddam Hussein ruled this country ruthlessly for 30 years, killing, executing somewhere in the neighborhood of 300,000 to 500,000 of his own people, brutally attacking the Shiites after the 1991 Gulf War, attacking the Kurds in the north of Iraq, breaking down the rule of law, breaking down a civil society, no police, no law enforcement, no judiciary, no transparent government, you know, totally destroying what we would call a civil society.

That is the same thing we see in Afghanistan after 12 years of rule by the Taliban or the Russians. Again, the rule of law is gone, no police, no effective security forces, no framework, and no rules by which society can live together in a civil way.

We are now trying to help the Iraqis and the people in Afghanistan to build a civil society, with a tremendous amount of focus on developing policing organizations, a law enforcement process, a judicial process, a constitution that will enable the folks in Iraq and Afghanistan to create a civil society. In both countries we are also working on trying to help them rebuild infrastructure, roads, hospitals, schools, other health care facilities, make sure that they have got water and food, the basic necessities of life.

It is going take tremendous amounts of time and energy for the people in these countries to identify the rules by which they want to live together, to then structure the security and the police and the law enforcement and the judicial branch to make it happen, to establish institutions of government that are transparent so that the people who are served by these government institutions actually recognize and believe that these government institutions are working for them, rather than being an organization that they should fear, that might imprison them.

They are experimenting with the opportunity of free speech, and in both countries they are beginning the process of constitutional and representative government by which they will have elections and have the individuals that they elect begin to govern them.

So it is a very, very difficult process that, at the same time, is being hindered by the continuing violence in both Iraq and Afghanistan. So as we try to help them rebuild a civil society, there is tremendous challenge that they face because of the violence.

There is a letter that we got the other day that was picked up in Iraq that outlined the strategy. Here is one of the terrorists talking about their strategy:

"After study and examination, we can narrow our enemy down to four groups. The Americans. These, as you know, are the most cowardly of God's creatures. They are an easy quarry, praise be to God. We ask God to enable us to kill them and capture them to sow panic among those behind them and to trade them for our detained Shiites and brothers.

"The Kurds. These are a lump in the throat and a thorn, whose time to be clipped is yet to come. They are last on the list, even though we are making efforts to harm some of their symbolic figures, God willing.

"Soldiers, police and agents. These are the eyes, ears and hands of the occupier through which he sees, hears and delivers violent blows. God willing, we are determined to target them strong in the coming period before the situation is consolidated and they control."

I will get on to the fourth in a minute. When we were in Iraq, we had the opportunity to go visit the police academy, 500, 600 young people who were committed to helping rebuild Iraq and rebuilding a civil society. They know that when they come out of their 4 to 6 weeks of training and they go on the streets of Baghdad, Basra and the other cities in Iraq, they walk out on their streets with a target on their back, because the last thing the terrorists want to see, of those opposed to us in Iraq, the last thing that they want to see is an effective law enforcement and security apparatus in Iraq, because they know that that is the beginning of the end.

We went there, we laid a wreath in recognition of the over 100 police cadets, policemen and women and potential recruits who were killed in the 8 to 10 days before we came there through suicide bombings. We then had the opportunity to shake hands and to meet many of these recruits. Their enthusiasm for their work, their enthusiasm for building a new Iraq, their enthusiasm that Saddam Hussein was gone and that they had their country back was very, very clear. They knew that it was the Americans that had given them their country back; and they were very, very appreciative and thankful. They knew that the future of Iraq was in their hands, and not in the hands of the Americans or the coalition forces, but that what we provided them was the framework to take back their country and to move in the future.

You could see it in their eyes when you looked at them, you could feel it in the vigor and the strength of their handshake, you could hear it in their voices; and as you left, they took their hand and put it on their heart and moved it away to express the deepness and the sincerity in the comments that they were making to us.

The Shia, how do our terrorists feel about the Shia? These, in our opinion, are the key to change. I mean, the key to change? What kind of change are they looking for? I mean that targeting and hitting them in their religious, political and military depth will provoke them to show the Sunnis their rabies and bear the teeth of the hidden rancor hidden in their breast. If we succeed in dragging them into the arena of sectarian war, it will become possible to awaken the inattentive Sunnis as they feel imminent danger and annihilating death at the hands of these Sabians. Despite their weakness and fragmentation, the Sunnis are the sharpest blades, the most determined and most loyal when they meet those Batinies, who are a people of treachery and cowardice. They are arrogant only with the weak and attack only the broken wing. Most of the Sunnis are aware of the danger of these people, watch their sides and fear the consequences of empowering them. Were it not for the enfeebled Sufi sheiks and the Muslim brothers, people would have told a different tale.

It is very clear what the folks who are opposed to us are going to do. They are going to kill the police and they are going to fight and drive sectarian violence.

I want to talk just briefly about Libya, because some have said showing strength is a problem. Take a look at what has happened with the Libyans. I was there a couple of weeks ago as well. At the end of the December visit, the Libyans admitted having a nuclear weapons program and having bought uranium feed material for gas centrifuge enrichment, admitted having nuclear weapons design documents, acknowledged having made about 25 tons of sulfur mustard chemical weapons agents, aerial bombs for the mustard and small amounts of nerve agent, provided access to their deployed Skud-B forces and revealed the details of indigenous missile design work and of cooperation with North Korea on the 800 kilometer range Scuds-CSs.

□ 1530

What a change in Libya. The headlines in today's paper. "Ghadafi Vows No More Terror." He seeks a new era with the United States, seeks better relationships with the United States.

One of our colleagues who was there this weekend is quoted as saying, "The incredible thing about being here is to hear a former antagonist of our country say, 'What in the world was I thinking when I took on a superpower,' says SILVESTRE REYES, Texas, Democrat. 'I thought it was an incredible, historic moment. This could potentially redefine our relationships with Africa and potential with the most conflicted part of the world, which is the Middle East. If I had not been here and had Chairman WELDON or Congressman ORTIZ tell me about it, I would not have believed it,' he said."

So what a dramatic change we are seeing, I think, in many reasons because we have displayed strength and the determination in dealing with the types of threats that President Clinton and his administration identified throughout the 1990s, that President Bush and his administration identified during their administration, and because of the strong action we are seeing a change in behavior in Libya, with a possibility and hope for progress in Iran and North Korea.

ANNOUNCEMENT REGARDING AMENDMENT PROCESS FOR H.R. 3717, BROADCAST DECENCY ENFORCEMENT ACT OF 2004

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. (during the Special Order of Mr. HOEKSTRA) Madam Speaker, the Committee on Rules may meet the week of March 8 to grant a rule which could limit the amendment process for floor consideration of H.R. 3717, the Broadcast Decency Enforcement Act of 2004. The Committee on Energy and Commerce ordered the bill reported yesterday, March 3, 2004, and is expected to file its report in the House on Tuesday, March 9, 2004.

Any Member wishing to offer an amendment should submit 55 copies of the amendment and one copy of a brief explanation of the amendment to the Committee on Rules in Room H-312 of the Capitol by 10 a.m. on Wednesday, March 10.

Members should draft their amendments to the text of the bill as reported by the Committee on Energy and Commerce which will be available tomorrow for their review on the Web sites of both the Committee on Energy and Commerce and the Committee on Rules.

Members should use the Office of Legislative Counsel to ensure that their amendments are drafted in the most appropriate format. Members are also advised to check with the Office of the Parliamentarian to be certain that their amendments comply with the rules of the House.

VICE PRESIDENT CHENEY'S ABUSES OF POWER

The SPEAKER pro tempore (Mrs. BLACKBURN). Under the Speaker's announced policy of January 7, 2003, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes.

Mr. PALLONE. Madam Speaker, I come to the floor this afternoon to urge Supreme Court Justice Antonin Scalia to recuse himself from a case that the Supreme Court will hear this year regarding Vice President CHENEY.

I am also here this evening to voice my concern over another example of Vice President CHENEY abusing his power as Vice President to continue to keep secret documents that would significantly impact our Nation's future energy policy.

Madam Speaker, for 3 years now the Vice President has done everything he can to keep the record of his energy task force secret. This secret task force developed President Bush's energy policy, a policy that was then made into legislation here in Congress, legislation that is now stalled in the other body. Nevertheless, the end result of this task force and of that legislation was bad energy policy. There is no doubt that the energy industry succeeded with its influence during these secret closed door meetings in crafting an energy policy that benefited them rather than benefitting Americans who at the time desperately needed relief from high energy prices.

For 3 years now the Vice President has refused to let the American people know who made up this White House energy task force. For 3 years now the Vice President has refused to let the American people know how and why the task force came to the conclusions it did about energy policy. And finally, after 3 years of hiding the information, it appeared that we would finally get some of the information CHENEY was fighting so hard to keep secret, thanks to the Sierra Club and another conservative group called Judicial Watch who jointly sued the Vice President and the energy task force, seeking an accounting of energy participation in crafting the Bush administration's destructive energy policy.

There was a Federal district court order that said that the administration as a result of this suit had to provide information about participation from these industries, which the Bush administration refused to do. The Bush administration claimed constitutional immunity from such inquiries. But the Federal court rejected the Bush administration's contentions and pointed out that the administration was attempting to "cloak what is tantamount to an aggrandizement of executive power with the legitimacy of precedent where none exists."

So what happened is that the district court basically at the request of the Sierra Club and Judicial Watch insisted that the members of the energy task force had to be made public.

Now, you would think under normal circumstances that the Bush administration or the Vice President would say okay, the court has now ruled on this. They have said that this secret energy task force has to be made public effectively and at that point would simply say, okay, we will make the information public. But no. Refusing to give in, Vice President CHENEY then appealed the court decision, asking the D.C. District Court to make new law that would effectively shield the Bush administration from any scrutiny.

In my opinion that is the height of arrogance. Here we have a district court saying that information about this task force should be made public. What is the real harm? I cannot imagine that there would be any harm in making it public, but he nonetheless insisted that he will not go along with the district court's opinion. And the Bush administration actually went to court and asked the court to shield President Bush, Vice President CHENEY, and the rest of the administration from any scrutiny from opening up this energy task force.

Now, what happened, of course, is that the court denied the Bush administration's request. And so what did Vice President CHENEY then do? Well, he appealed the decision to the United States Supreme Court. And on December 15 of last year, the Court agreed to take the case and the Supreme Court is expected to hear arguments next month in April.

An interesting phenomenon though is that 3 weeks after the Supreme Court agreed to hear this case on December 15, just 3 weeks later Justice Scalia, a member of the Supreme Court, and one of his children accompanied Vice President CHENEY on an Air Force II flight from Washington, D.C. to Morgan City, Louisiana.

There, according to news reports, Justice Scalia and the Vice President were guests of a Wallace Carline, president of an energy services company, and they went on a duck hunting vacation. Neither the Vice President nor Justice Scalia made this duck hunting vacation public. Had it not been for the investigative work of the Los Angeles Times we might still not know that these two spent several days together hunting duck in Louisiana.

After the vacation made national headlines, Justice Scalia offered the following response. He said, "Social contacts with high level executive officials, including Cabinet officers, have never been thought improper for judges who may have before them cases in which those people are involved in their official capacity. For example, Supreme Court Justices are regularly invited to dine at the White House, whether or not a suit seeking to compel or prevent certain presidential action is pending. I expect that all of the justices were invited to Vice President CHENEY's annual Christmas party. The invitation was not improper, nor was the attendance."

That was Justice Scalia's response.

Madam Speaker, let me say I do not think this response by Justice Scalia is acceptable. I do not think, Madam Speaker, you would expect the American people to believe that a social dinner in which hundreds of people are gathered at the White House is the same as spending one-on-one time with the Vice President on his jet, on the American taxpayers' dime. You spent days of quality one-on-one time with the Vice President, and that is certainly difficult than quickly exchanging a hello at a White House social gathering with hundreds of other people.

In case you think or someone thinks it is my own prejudice because I happen to be a Democrat, you do not have to take my word for it. The media and the American public are also not buying Justice Scalia's explanation for this duck hunting vacation. And I just wanted to quote several comments from editorials in newspapers around the country commenting on this conflict of interest or potential conflict of interest.

The San Diego Union Tribune said, "As legal experts point out, a private hunting trip is not a simple social event. It is extremely personal access by a litigant to a judge hearing his case."

The Charlotte Observer in North Carolina made the following observation in their editorial comments. "When a judge goes on a 3-day hunting trip in Louisiana as the guest of a man who is at the center of a case before the Supreme Court, that is hardly the kind of casual social contact that most people would consider innocuous."

Then we have a New York Times editorial, "Vacationing with a litigant in a small group outside the public eye raises a far greater appearance of impropriety than attending a White House dinner."

I could give you other examples, Madam Speaker, as well. I think the New York Times went on to say or I would like to go on to say that I think it is quite ironic that the man hosting the two men, Wallace Carline, made his fortune in the energy sector. He was the one that hosted the Vice President and Justice Scalia, and he of course is an energy corporate executive. And some of the newspapers commented on that as well.

The Salt Lake Tribune editorial page noted, "Perhaps the businessman, Wallace Carline, of Diamond Services Corporation, was a member of the secret advisory committee that CHENEY convened to draft the administration's pro-oil energy policy. Perhaps he was not. Whether the public ever knows that is up in part to Mr. Hunting Buddy Scalia."

The point is we do not know what the conflicts are in terms of Mr. Carline because we do not know whether he is on the energy task force. If we found out that he was on the energy task force, which is one of the things that this suit is trying to determine, then that would indicate even more strongly the nature of the conflict of interest.

But I do not think there is any doubt that this vacation serves as a conflict of interest, and because of that Justice Scalia should recuse himself from hearing the Cheney case.

One has to understand that the issue here is not just the actual conflict but the appearance of it. Those of us who went to law school know that when you talk about ethics and the issue of whether a judge should recuse himself from a case, it is an issue not only of a potential conflict but also the appearance of conflict. And I do not think there is any question that the appearance of conflict is here because of the fact that this case involving the Vice President was imminent before the Supreme Court and that Justice Scalia would have to make a ruling and a decision on the case.

I want to point out that it is not just Justice Scalia who is responsible for the conflict of interest. Vice President CHENEY should have realized that vacationing with a Supreme Court Justice not even 3 weeks after the court agreed to hear his appeal had the appearance and was a conflict of interest. I think the Vice President, unfortunately, seems to be willing to do anything to ensure that the records of this energy task force are never made public.

I do not really understand, Madam Speaker, what the Vice President is trying to hide. Would it be embarrassing to the administration to have to admit that every member of the task force was an oil or gas executive? Probably. But thinking about it, that really would not be anything new. I do not know that anybody would really be surprised by that. So I am beginning to think that there is something else that is being hidden here.

What could be so damaging in these documents that the Vice President and the Bush administration do not want them released? We could speculate that somewhere within these documents there is proof that the Bush administration was looking at taking out Iraqi leader Saddam Hussein in order to take control of that nation's rich oil reserves.

Well, interestingly enough former Treasury Secretary Paul O'Neill stated in his recent book that Vice President CHENEY strongly suggested U.S. intervention in Iraq well before the terrorist attacks of September 11. Additional evidence exists that CHENEY played an early planning role in the war in a national security document dated February 3, 2001, months before September 11.

According to a report in the New Yorker Magazine, the top secret document written by a high National Security Council staffer, "directed the NSC staff to cooperate fully with the energy task force as it considered the melding of two seemingly unrelated areas of policy, the review of operational policies towards rogue states such as Iraq and actions regarding the capture of new and existing oil and gas fields."

Now, I am just speculating here and I know others have speculated in this same manner, but really that is all we can do right now because the Vice President refuses to allow the American public to see these documents from his energy task force.

I would like to point out incidentally, Madam Speaker, that I do not understand why congressional Republicans are not demanding that these documents be released by the administration. Of course, some of my colleagues on the Democratic side have been asking for it. My colleague, the gentleman from California (Mr. WAXMAN), who tried for months to get the administration to turn over these documents from the energy task force, he said it best in my opinion during a floor speech last week after the General Accounting Office refused to force the Vice President to turn over the documents. And this is what the gentleman from California (Mr. WAXMAN) said. He said, "The hypocrisy about this issue on the Republican side is simply breathtaking. During the 1990s it was Republicans in Congress who embarked on a concerted effort to undermine the authority of then-President Clinton.

□ 1545

Congressional committees spent over $15 million investigating the White House. They demanded and received information on the innermost workings of the White House. They subpoenaed top White House officials to testify about the advice they gave the President. They forced the White House to disclose internal White House documents, memos, e-mails, phone records, even lists of guests at White House movie showings; and they launched countless GAO investigations into everything from President Clinton's health care task force to his working group on China permanent normal trade relations.

Yet we do not see anybody on the Republican side insisting, even after the court has said that it should be, that any of the documents be released from this energy task force. How different is that in any way from President Clinton's health care task force or his working group on China permanent normal trade relations? We do not see any difference.

The gentleman from California (Mr. WAXMAN) continued in this speech when he said, "And if the White House resisted, these same leaders insisted that Congress and the public's right to know was paramount."

Defending his numerous demands for White House records, for example, one of my colleagues, who I respect a great deal, the gentleman from Indiana (Mr. BURTON), insisted on the House floor that public disclosure of the facts is the essence and, in large part, the purpose of congressional oversight. The American people have a right to know the facts. Other Republican leaders reiterated this message over and over again on countless television shows.

So when President Clinton was President and he had task forces on health care, on China, on other issues, the Republicans insisted that this was a right-to-know issue and that the records of the White House task forces, such as the health care one, had to be made public, that this somehow was a fundamental issue that went to the public's right to know; but now we do not hear our colleagues on the other side of the aisle, the Republicans here in Congress, saying that the energy task force records should be made available, the document, the members of the energy task force should be made available.

Frankly, I do not see the difference. It seems to me the same right-to-know issue exists with regard to the energy task force under President Bush and Vice President CHENEY that existed with regard to similar-type task forces under President Clinton.

The bottom line is that on the Republican side oversight does not seem to be a priority anymore, not when it comes to a President who is of their own party or a Vice President who is of their own party.

Normally, I would not restate one of my colleague's statements, but the gentleman from California (Mr. WAXMAN) was right in what he was stating about access to these documents; and I think that he, being the ranking Democrat on the Committee on Government Reform, is frustrated because Republicans here in Congress no longer seem to care or play any role to oversee the actions of this Republican administration, and I think that is a very dangerous precedent for the future of our country.

Now that the Republican majority has given up its oversight ability, the only ones who can now force Vice President CHENEY to hand over these documents is the Supreme Court, and I do not know exactly, Madam Speaker, how we can effectuate that; but I do think that we need to speak out. We need to speak out and say that under the circumstances, Justice Scalia must recuse himself from this case; Vice President CHENEY must be forced essentially to turn over these documents. I would hope that the Justice would take this action on his own. I would hope that the Vice President would take this action on his own, and we would not have to have these lawsuits occur. But until such time as they agree to do so, I also think it is important for us as Members of the Congress to come down on the floor and speak out because this is just another example, in my opinion, of the Republican Party's abuse of power and a very bad example because it basically nullifies our ability to know what happened in this White House energy task force which was essentially instrumental in putting together the legislation that is now pending in the other body, that passed this House, that is the basis for our national energy policy.

I see one of my colleague from Washington is here, and I appreciate his coming down; and I yield to the gentleman.

Mr. INSLEE. Madam Speaker, I thank the gentleman from New Jersey (Mr. PALLONE) for yielding. I appreciate him bringing this important matter up for discussion because I think it strikes at the very heart of American democracy, which is a fundamental tenet that people have to trust the system, to have confidence in the ultimate results of what has happened here in Washington, DC.

Unfortunately, due to ignoring some basic tenets that people have to trust the cards and who is dealing the cards before they are going to trust the outcome of the game, people have doubts about what is going on in Washington, DC right now; and my colleague has brought up two reasons why those doubts have been fanned, and those reasons have to do with being centered around this secretive energy task force which has been shielded from public attention, that has been cloaked by secrecy all the way now to the U.S. Supreme Court, which is now involved in a situation which I believe can diminish people's trust, not only in the executive branch in government but in the judicial branch in government. I would like to address those concerns if I can.

First, I want to talk about the judicial branch of government and why I believe right now it is at risk of undergoing some loss of trust in the American people associated with this energy task force situation. Perhaps my colleague has spoken about this already, but let me address what my understanding of the situation is, and what I know about this comes from the newspapers, so I am going to relay what I have read about this situation.

As we know, the Vice President convened a task force to develop the administration policy, official policy of the executive authority of the United States of America, and he asked people to come in secretly and who came in was secret. When they met was secret. What they talked about was secret. What policies were developed as a result of that input was secret. Who got the tax breaks as a result of those discussions is secret. Who got the public subsidies from American taxpayers was secret. What deals were cut to give American taxpayers' money away to multi-million dollar corporations was secret. It was secret then, it is secret now, and apparently the executive branch wants to keep that secret to infinity, to eternity.

Now, this has caused extreme angst and concern of my constituents, and I hear about this problem frequently. So what has happened as a result of that abnormal, unusual, unjustified secrecy is some citizens have challenged that, rightfully so, I believe, in court. At least one significant court, a court of appeals, has ruled that this veil of secrecy should be lifted.

Appropriately, that matter is now pending before the U.S. Supreme Court. The executive branch has appealed. They have the right to appeal that, and we respect their right to appeal that so that the Supreme Court can decide the legal issue, and it is important for the Supreme Court to decide this legal issue, and we have no problem with the executive branch making whatever arguments they believe are appropriate to have this matter dealt with.

However, when it is dealt with, it has to be done in a manner that is consistent with American jurisprudence and consistent with Americans' expectation that the carving in the marble over the Supreme Court is going to be more than a carving because the carving says, "Equal Justice Under Law," and Americans expect equal justice under law; and when they expect equal justice under law, they expect that everyone will be treated equally, that there will not be personal relationships that could possibly influence the decision of the highest court, the bastion of liberty, the single most important court in the world that has been the bastion of preserving our personal individual liberties since the beginning of this country.

Now, I am going to display a little bit of pride in the American judicial system for a minute. I am an old lawyer, a small-town practicing lawyer; and I really, truly believe that the American independent judicial system is one of, if not the principal, the reasons we have personal liberties in America today, because the Supreme Court of the United States historically has been a guardian of personal liberty, has protected the first amendment. It has protected our rights of freedom of speech. It has protected our rights of freedom of religion. It has protected our rights that we enjoy in reality, not just in paper, because you know what? The Soviet Union had the same bill of rights we do. They just did not have the courts to enforce them.

We have a judicial system that is independent, and rightfully, from the political winds that blow, as much as we can make it, so that it will make decisions based on freedom rather than politics. So I believe very strongly in how important a clean, even-handed, fair, independent judiciary is to American democracy; and I believe right now that is at risk, that Americans' trust in that system is at risk.

Now, I will not mention one decision that had a little controversy associated with it at the beginning of this administration. That is history. We do not want to talk about that, but today we have a situation where the Vice President, whose name is attached to this specific litigation, to decide whether or not his secret plan will remain secret, rather his cabal of people he got into the room, who he will not tell us about, will always remain secret and Americans will never know about it. Clearly, he has an interest in the resolution politically and a great sense personally in the resolution of this issue, and I respect the Vice President's right and the executive branch's right to have this matter heard on a fair basis by the U.S. Supreme Court.

But we know that what has happened is in a fairly short time, before this matter will be heard before the U.S. Supreme Court, we are told in press reports that the Vice President of the United States invited one of the nine people, the only nine people in the world that can affect his secret task force or the secrecy of his task force, of only nine people in the world who can help him win his victory to keep this information from the American public, he invited one of them to come down to a duck hunting club in the South, I believe it was Louisiana, invited him, gave him free, I believe, I am told, a flight down on a jet to this duck hunting club where they could hobnob in secrecy for several days, where the American public was not invited into their discussions, where they did whatever people rightfully do in duck blinds across the world, which I respect and admire and am somewhat jealous of, which is great, and we admire collegiality.

We admire people enjoying each other's company, but we cannot allow Americans to doubt the integrity of the United States Supreme Court, and when a Vice President of the United States, whose name is attached to the very litigation that we are associated with, whose political fate is somewhat tied up ultimately in the outcome of this litigation, who has the entire country focusing on the energy policy rightfully of this country, that is going to be decided by his duck hunting buddy, Americans are not wholly confident about that situation.

We have a concept in the law called "an appearance of fairness," and I do not mean any personal disrespect for the particular Justice involved here. I do not mean to demean his stature in any way, but under the circumstances of this case, it is not up to the standards of the American judicial system to have that situation exist while one of the nine people involved, where there is no further appeal, this is not just the district court where you can say well if the one district court makes a mistake later on, some appellate judge is going to clean it up. There is no more cleaning up after the U.S. Supreme Court. This is it.

That is why I believe that it was a mistake of significant order for the Vice President of the United States to invite someone who will be deciding his case on this vacation shortly before this decision is going to be decided, and I can tell you that this has not helped restore the integrity and maintain the integrity of the U.S. Supreme Court on the high levels of expectations that we should have, and this is not a personal issue. It is a matter of integrity of the American judicial system.

Now, this is all tied up and it kind of flows from the concept of secrecy. I mean, what we found is that in public life openness and sunshine is the antivirus agent and the best antivirus agent for things that are not healthy in American democracy; and what the Vice President has found is his insistence of not allowing public disclosure of this information has resulted in this controversy, which is most unfortunate.

We have legitimate policy disagreements with this administration, about energy policy. We believe that the administration's energy policy is a tremendous energy policy for 2 centuries ago, in that it was very successful in handing out tremendous special interest breaks to large corporations, many in the fossil fuel business, that are not sufficiently visionary to deal with what we need to really break our addiction to Saudi Arabian oil, to stop global warming, and to grow new jobs in this country.

□ 1600

And we have a better policy, we believe.

But before we get to the policy, this administration needs to come clean with the American people about what type of back-door, closed-room dealing went on to create this proposal by them. And this administration should not infect the judicial system. The executive branch here should not infect the judicial system here by carrying this secret policy all the way to the U.S. Supreme Court and thereby reducing not only the respect for the executive branch but for the judicial branch as well.

I think at this point it would be well advised for the Supreme Court to consider this as a court, not as an individual judge or justice to resolve what its policies should be. I have heard the justification by the particular justice involved here. He has suggested that social interaction of one nature or another is to be expected in Washington, D.C. People are going to bump into each other at charity banquets, receptions and galas, and he is entirely correct. Those things will happen and they are expected, and I have never heard that anybody would gripe if this particular justice would have bumped into the Vice President at the former Members of Congress reception I was at the other night. I do not think anybody would have been raising a hue and cry about that issue.

The fact of the matter here is that we are talking about a very visible, important, and national public policy decision by the U.S. Supreme Court, and the gentleman who is the very person whose conduct is in question in this litigation spent several days, with very few other people, in a duck blind in Louisiana before this major national decision will be made by this sitting justice, based on discussions he has had with this Vice President, with no public disclosure whatsoever. And I am here to say that is wrong.

Republicans believe that is wrong, Independents believe that is wrong, Democrats believe that is wrong, and most importantly those who believe in the integrity of the American judicial system believe that is wrong. And I am one of them. I walk by the U.S. Supreme Court every day on my way to work. It is a beautiful white building. And the reason it is beautiful is it has maintained the trust of the American people that they will get a fair deal ultimately in the U.S. Supreme Court. The minute that they cannot believe that we have got big problems in American democracy.

I am encouraging the executive to rethink this entire secrecy policy and the U.S. Supreme Court to consider it as well, and I appreciate the gentleman bringing this to our attention.

Mr. PALLONE. Madam Speaker, I want to thank my colleague for the various points he made, but if I could develop a couple of them because I think some of them were particularly incisive.

First of all, the gentleman started off by talking about the reputation of the Supreme Court being at stake here. I think that is true. I have to say that I came to this issue initially because of my concern over the policy aspects. In other words, we have this energy task force which made recommendations and became the basis for legislation that moved in the Congress. And, frankly, I feel that most of that work should have been done here in the Congress.

In other words, we have committees, we have hearings, we introduce bills, and we move forward with legislation on something as important as this. But as the gentleman and I both know, in this case, almost everything that was in the legislation that was moved here by the Republican majority came out of this task force. So unlike the normal circumstance where somebody introduces a bill, we have a committee hearing, we have witnesses, we develop the legislation, it comes to the floor, and there is all this public input, which there was public input, that did happen in this case, but the seeds of this were developed in this secret task force.

We do not come to the floor and complain about these problems with the abuse of power by the Republicans just because we are Democrats. We worry about the impact on public policy and whether or not it is good public policy in terms of our energy independence, for example, because of maybe who was involved in putting this legislation together.

So I did not come to this, is what I am trying to say, by reference to the Supreme Court and the reputation of the Supreme Court, but I think the gentleman justly brings up the fact that that is a very important part of this; the trust and the ability of us to believe that the Supreme Court is going to make a very fair decision. That is probably just as important here as what the energy policy is that came out of this task force.

When the gentleman mentioned that, I was looking at this New York Times editorial from last Saturday, which I had quoted earlier before the gentleman came down to speak, and I am not going to read the whole thing, but it is right on point in the last two paragraphs as to what the gentleman said. The New York Times editorial from February 28, last Saturday, reads: "The law says a Federal judge must recuse himself from proceedings where his impartiality might be questioned. What matters, the Supreme Court has held, is not the reality of bias but its appearance. By vacationing in a small group with Mr. CHENEY and taking things of value, Justice Scalia indicated an appearance of bias in Mr. CHENEY's favor. It raises an appearance of partiality and should have been avoided."

Then they go on to say, "the recusal rules protect not only litigants but also the court itself. Justice Scalia's actions have again made the court fodder for late night comedy, as it was after the 2000 election. If Justice Scalia stays on the case and votes in Mr. CHENEY's favor the Court will no doubt face more criticism. Justice Scalia should recuse himself either of his own volition or with the encouragement of his colleagues."

Of course, they are referencing back to the Presidential election and the Court's decision in the Presidential election. But the point is it is the Supreme Court itself whose reputation is at stake, as the gentleman pointed out. And they have had problems in the last few years, so they do not need another problem. Also, it is not really the issue of whether or not they actually discussed this litigation, because we do not know that, but the appearance of it, which is really what this is all about.

Madam Speaker, I yield to the gentleman once again.

Mr. INSLEE. And let me say why I think this is so important. This is not important to Democrats, this is important to all Americans, Republicans, Independents, Green Party, you name it. Again, the reason is this is the people's House, the House of Representatives. We like to believe we do a good, and we do a good job some of the time at least, when we win our battles anyway, but we have to understand that the way people set up this country is that they had a peculiar genius and they understood to protect individual liberty they were going to need a separate entity that could stand alone and could even stand against sometimes very passionate emotional issues for individual liberty. That in our system of justice has been, I believe, a major tenet of the success of American democracy.

Brown vs. Board of Education came from the Supreme Court. It did not come from the House of Representatives. The protection of people's civil liberties and their religious expression came from the Supreme Court. The Supreme Court has enforced the Bill of Rights in a lot of ways. And unless the Supreme Court remains inviolate and enjoys the popular support of the American people to understand they are going to get a fair shake, then those individual liberties are in danger.

So I think this is much bigger than the energy task force. Although this is important, the issue of secrecy, but what is more important is the basic trust of the American people in that white marble building there that I believe is at risk in this very, very high profile decision. That is why I believe the Supreme Court should make a decision as a group on this, not as individual justices, because they as a group have a stake in this particular controversy.

Again, I do not blame the Supreme Court. I think this was a mistake by the Vice President to initiate this controversy both in the secrecy aspect of it and the effort to have these out of court contacts with the person who will be deciding the case. So we hope that those things are remedied.

Mr. PALLONE. Madam Speaker, I know my colleague mentioned the fact that the Supreme Court should act on this collectively. My understanding is that on Tuesday of this week, March 2, the Supreme Court issued its first collective statement related to the controversy surrounding Justice Scalia, and basically said they would let Justice Scalia decide by himself whether he should sit in on this case in which the Vice President is the named plaintiff.

Again, I think that is unfortunate, because I do think that since Justice Scalia has been so reluctant to recuse himself, the likelihood that he would do it on his own is probably less than if the Court as a whole made that decision. But, nonetheless, we can still hope that if we continue to talk about this and bring it up that maybe he will recuse himself.

I have some statistics about the current justices recusing themselves from cases, and the fact is many have recused themselves in many cases. Chief Justice Rehnquist, for example, has recused himself 299 times since he joined the Court and Justice Clarence Thomas has recused himself 199 times. So it is not unusual for that to happen. I still, for the life of me, do not understand why in this situation, which is so high profile, that Justice Scalia does not simply say, look, I will stay out of this one. I will recuse myself and I will not allow myself to participate.

It seems like it is a very simple thing that could be done, and I do think it is important for us to continue to bring it up. Because the bottom line, Madam Speaker, is that this energy task force has played a very important part in energy legislation that was developed here. And the whole concept of the appearance of impropriety on behalf of both the Vice President and the Supreme Court is at stake.

So we are bringing this up tonight, myself and the gentleman from Washington, but we are going to have to come back here again and bring it up because this case will be heard in April and there is still the opportunity for Justice Scalia to heed the advice of the litigants, the Sierra Club and the other public advocates who have asked he recuse himself in this case.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Williams, one of his secretaries.

SOCIAL SECURITY

The SPEAKER pro tempore (Mrs. BLACKBURN). Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. SMITH) is recognized for 60 minutes.

Mr. SMITH of Michigan. Madam Speaker, I am going to give a short tutorial on Social Security tonight, and this is going to be somewhat bipartisan because I am going to criticize both parties a little bit for not acting on one of the most serious problems I think is facing our country, and that is unfunded liabilities. In other words, the kind of promises that Congress has made to make themselves more popular back home and yet not having any way to pay for it.

The estimated unfunded liabilities in today's dollars of the promises that we have made that we do not know where the money is coming from is estimated now at $53 trillion. In other words, we would have to come up with $53 trillion and put it in a savings account that is going to return at least inflation and the time value of money in order to pay for these kind of future benefits. Even at this time, when Republicans are talking about the diligence that we must have in reducing spending, and my guess is we are going to reduce spending even less than what the President has suggested, there still is the problem of dealing with Social Security.

I asked the pages a little earlier to listen up to my comments tonight on Social Security because our pages, who are 16- and 17-year-olds and in high school, are the generation at risk that are going to have to put up with our nonaction to solve this serious problem. And as long as the pages are listening, let me just say it is a tremendous service that they provide to America, giving up their time, getting up at 5:30 in the morning, eating quickly and doing all the work we put before them.

Okay, here goes the roughly 30, 35-minute tutorial on Social Security. First, I am going to start out with how we divide up government spending. If you look at this pie chart, we see that the expense for Social Security is the largest piece of this pie.

□ 1615

Let me remind everyone that Social Security is a pay-as-you-go program where the taxes, FICA taxes that come out of your paycheck immediately, once it gets to the Department of Treasury, is either sent out in benefits to current retirees, or where there is a surplus it is spent for other government programs. Social Security even exceeds the 20 percent increase in cost of defense. Interest is 14 percent, but to continue to borrow this money and pretend that our problems today are so serious that it justifies taking money away from our kids and grandkids that cannot defend themselves I think is unconscionable.

Here is briefly how Social Security works. Benefits are highly progressive and based on earnings. Some people have said if the economy improves it will satisfy the problems that we are facing with Social Security. That is not true because as the economy improves and wages go up, that means future benefits, because they are directly related to the wages that you are making, future benefits are also going to go up. It might solve the problem in the short run, but in the long run it does not solve the problem.

The second is at retirement all of a worker's wages up to the tax ceiling are indexed to present value using wage inflation. In other words, if you made $20,000 a year 15 to 18 years ago, the wage inflation would credit you on the way your benefits are calculated up to what that $20,000 is worth today. In other words, it would be written down someplace around $40,000. The third blip, the best 35 years of earnings are averaged. So if you only work 20 years, 15 years go as a zero for your average earnings in terms of defining your benefits.

The annual benefit for those retiring in 2004 equals, and this is how it is progressive, it equals 90 percent of the earnings up to 7 percent. These are the benefits you are going to get or are getting. It equals 90 percent up to the first $73,440; 32 percent of the earnings between that figure $73,440 and $44,000; and 15 percent of the earnings above the $44,286. In other words, if you are a very low-income person, you can receive back on our average Social Security check 90 percent of what you averaged during the 35 years. If you are a very high income recipient, you are going to get 15 percent of the earnings up to the maximum of what is now $89,000. We have capped your earnings in terms of defining Social Security benefits up to $89,000, and that is geared to inflation in future earnings.

Early retirees receive adjusted benefits. If you retire at 62, they figure out how long you are going to live and reduce your benefits accordingly. However, if you decide to put off retirement, maybe until you are 70, then your retirement benefits are indexed to a higher calculation in your monthly payment. So if you are in good health, keep exercising and eat right, sometimes it is going to be to your advantage to put off receiving those Social Security benefits for a few years.

What a lot of people come to me and ask, what about all this cheating on SSI? These people are getting my Social Security benefits. That is not true. SSI comes out of the general fund. It does not come out of Social Security.

Well, Social Security started in 1934 with President Franklin Roosevelt. When President Roosevelt created the Social Security program over 6 decades ago, he wanted it to feature a private sector component to build retirement income. Social Security was supposed to be one leg of a three-legged stool to support retirees. It was supposed to go hand-in-hand with personal savings accounts.

Researching the archives, and if you have never looked at the archives and the history of this country, it is very interesting. Looking at the archives when Social Security was passed, the Senate actually said there should be personal retirement savings accounts owned by the individual worker. The House said no, let us have government take all of the money and the government can invest it. That way we can be sure no snake oil salesman comes in and tries to convince individuals to invest their money some place where it might be risky.

In conference committee the House won out, the government won, and from then on every time Social Security gets into a little trouble in terms of income, enough income coming in to pay benefits, it does one of three things: It increases taxes; it reduces benefits; or a combination of those two. Most often it is a combination of the two.

Social Security is, what I wrote on this chart, is a system stretched to its limit. There are 78 million baby boomers that begin retiring in 4 years in 2008. This is part of the problem. With a pay-as-you-go program with more and more retirees and a lower birth rate, you end up with fewer and fewer workers paying for the benefits of that increasing number of retirees. Social Security spending exceeds tax revenue in 2017. That is the current estimate. Later this month the Social Security Administration is going to come out with their new projections of how big a problem we have for Social Security.

Chairman Greenspan at a House Budget Committee hearing said a couple weeks ago that Congress has got to do something about Social Security. It is going broke. He suggested that we have a few changes in Social Security that slows down the increase in benefits over and above inflation. We had both Republicans and Democrats saying well, boy, we do not want to touch Social Security. As most people know, Social Security is easy to demagogue. We have so many people that are so dependent on Social Security, when somebody says this other guy running for Congress, he wants to ruin your Social Security, and if you do not understand how Social Security works, if you do not understand how great the predicament is going to be and how underfunded Social Security is going to be in the future if we do not make some changes, it is easy to say I better vote for the person that says my Social Security is never going to be touched.

There are only three ways to fix Social Security: You either reduce benefits; you increase taxes; or you make a change in the program to get a better return on the money that is being sent in by American workers. What I am suggesting and I put into my bill 10 years ago, and I was the first to say that we should consider private savings accounts in order to get a better return than the 1.7 percent that the average retiree gets from the money that is paid in, that they pay into Social Security.

The third bullet on this chart, Social Security trust funds go broke in 2037. But in 2017 or 2018 is when there is not enough money coming in from taxes to pay benefits, and so then you have to increase taxes on somebody else. What Congress has done in the past, they say let us just reduce benefits a little bit.

When I introduced my first bill over 10 years, and I have introduced a bill scored by the administration every session of Congress that I have been here since 1992, it was easy to fix the program because there were a lot of surpluses coming in. The point I am trying to make is that those surpluses are going to go away every year.

Back to the pie chart, guess how much we take in from Social Security now? We take in from Social Security taxes $540 billion a year, and what we pay out is $450 billion a year. So right now because of the huge tax increase on Social Security that we imposed with a Greenspan commission in 1983, for a short time period at least we are bringing in more revenues than we need. And part of the problem is that this Congress, both sides of the aisle, have said here is some free money so we are going to spend that Social Security extra money and then we are going to write out an IOU to the Social Security Trust Fund.

Very briefly, solvency is certain. We know how many people there are, and we know when they are going to retire. We know people will live longer in retirement, we know how much they will pay in and how much they will take out, and we know that payroll taxes will not cover the benefits starting in 2017. What do we do? And the shortfalls are going to add up to $120 trillion between 2017 and 2075. That is in future dollars. So if you count how many dollars every year between 2017 and 2075, $120 trillion, compare that to our $2 trillion, a little over, we are running maybe $2.4 trillion this year, that is our annual budget, a little over $2 trillion, $120 trillion we have to come up with in future dollars. If we had $12 trillion in today's dollars and put it into that savings account, we could accommodate benefits; but that is $12 trillion. Where is it going to come from?

This chart represents the demographic problems. The pay-as-you-go retirement system is not going to meet the challenges of a reduced birth rate and an increased longevity for people to live. Back in 1940 there were 37 workers paying in their Social Security tax for every one retiree. By the year 2000, it got down to three workers paying in their Social Security tax for every retiree. Of course we are estimating in 2025 it is going to be down to two.

In addition to those demographic considerations, what we are also facing is the fact that we have increased benefits along the way. And so the fewer workers you have to pay that increased benefit, the greater the burden is on those individuals. But more than that, what is it going to do to our economy? Do you know what is happening in France? France has a payroll tax to accommodate their senior population of over 50 percent. No wonder France has such a high unemployment rate. No wonder France is having a difficult time competing with world trade in their production, because a business only has two chances when they have that kind of increased tax: You either have to pay the employees less or you have to charge more for your product. And if charging more for your product makes you less competitive, then your economy is weakened.

Guess what the payroll tax in Germany is? Now the payroll tax in Germany is 42 percent. Ours is 15.2 percent, but if we do not do something and we say look, we will deal with this problem later, then the consequences are increasing taxes on American workers. That is a problem for those individual workers, and it is a problem for our economy if we start having to charge business the extra tax to pay those kinds of benefits.

That means that the United States Government, Federal Government, has to start considering doing something that almost every State in the Nation has done now, and that is instead of having a fixed-benefit program, you have a fixed-contribution program, and it is going to take 20–30 years to make the transition to that kind of a program. But look, the longer we put it off, the more drastic the solution is going to be.

I know I get a little emotional about this issue. Many of us have shouted and pulled our hair and got on our soapbox saying these are real problems, the unfunded liability of our promises. And of course it has been the tendency that politicians that take home pork projects, that start new programs, that make promises, and the needs out there are unlimited, but those kinds of extra promises that are put into law tend to increase the chance that that individual politician is going to be elected to office.

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They get on the front page of the newspapers, their picture is on television cutting the ribbon, and they end up increasing the likelihood that they will be reelected. Part of that is because now over 50 percent of the adult population gets much more from government services than they pay in in taxes. With 50 percent of the people now paying about 1 percent of the total income tax in this country, it is easy to understand why some say, look, I've got problems, give me a little more government, give me a Representative that's willing to spend a little more money. But for the sake of our kids and our grandkids, we have got to face up, I think, to the real problems that we have today in the unfunded liabilities and the overspending.

This is simply a chart that says, starting in 2017, we go from the surpluses of the high taxes that we passed back in 1983 and we go into a future of huge deficit spending.

What I think it is good to remind people about is there is no Social Security account. That is the same as saying it is a pay-as-you-go program. The Supreme Court on two decisions now has said just because you pay Social Security taxes all your life there is no obligation on the part of the Federal Government to pay Social Security benefits. That is what the Supreme Court has said. They said Social Security taxes are a law that has been passed by Congress and signed by the President for increased taxes and that benefits are simply a benefit provision passed by Congress and they are not connected as far as an entitlement.

These so-called trust fund balances in Social Security are available to finance future benefit payments and other trust fund expenditures, but only in a bookkeeping sense. This was the Office of Management and Budget that said this, just to hopefully emphasize the fact that there is no entitlement program. I am introducing legislation to say that in future budgets of both the OMB, that is the President's budget people and CBO, the Congressional Budget Office, which is the congressional budget office, they have got to include projections on unfunded liabilities; and I think maybe it will help us better realize the predicament that we are facing. Generally, it is a little easier to put off the solutions until the disaster is right there upon you. It is easier in terms of politics. It is not easier in terms of finding a good solution to keep Social Security solvent.

As I go around, since it was used against me in my first three reelections that Nick Smith is trying to ruin Social Security, I have probably given maybe between 250 and 300 speeches in my district to my constituents presenting the problem of the dilemma of Social Security. My district is starting to understand better that something needs to be done. Luckily, I have been reelected in spite of the demagoguery. But what a lot of the people say, if government would just keep their cotton-picking hands off of the extra Social Security money coming into the trust fund, it would be okay. This chart represents that it would not be okay. What government has borrowed and spent because of the annual surpluses is now in IOUs down in Virginia and it amounts to $1.4 trillion. The unfunded liability is $12.2 trillion in today's dollars, $120 trillion if you include the future dollar cost of what is going to be unfunded if we stay with the current tax structure.

I think I mentioned a little bit, so just briefly, economic growth will not fix Social Security. Social Security benefits are indexed to wage growth. When the economy grows, workers pay more in taxes but also will earn more in benefits when they retire. And so growth makes the numbers better now, but worse in the future.

The biggest risk is doing nothing at all. Social Security has a total unfunded liability, this is an old figure, of $9 trillion. It is closer to $12 trillion. The Social Security trust fund contains nothing but IOUs. To keep paying promised Social Security benefits, the payroll tax will have to be increased by nearly 50 percent, or benefits will have to be cut by 30 percent. Let us make sure we do not make that happen.

This is a chart that shows what the average retiree gets on the money they send in for Social Security taxes from their paycheck. The real return on Social Security is less than 2 percent for most workers and shows a negative return for some, compared to over 7 percent for the market. If you happen to be a minority whose life span is less, you actually are a loser and you do not get the money that you send in in Social Security taxes. If you are an average, you end up at about 1.7 percent return on your Social Security benefits. I just put this number down in terms of what has happened to the 5,000 stocks in the Wilshire 5,000, the index fund. This is what it has earned after inflation over the decade ending January 31, 2004. So it includes the down years, the low-income years. That is 11.86 percent. If we had government invest it and say, look, you cannot spend it anyplace else, but you have got to invest it, if we were to have individuals own it and say, look, government is going to say that you cannot take it out until you retire, government is going to limit the investment funds that you are allowed to invest in, in safe investments, the possibilities are that you could double, triple, quadruple and even more what you are getting now in terms of returns on the money you pay in for Social Security.

This is another way of saying it in my little bar chart, that if you retired in 1940 when there were so many workers and the program was just starting, it took 2 months to get back everything you and your employer had paid in. If you retire in 2005, it is going to take you 23 years after retirement to break even. And as you see, in 2015 it goes up to 26 years that you are going to have to live after you retire to break even on the money that was sent in for Social Security.

This chart shows what Congress and the President have done in the past to solve the Social Security problem, as there are more retirees and fewer workers. We have increased taxes, this chart does not show how we have reduced benefits, but what we did in 1983 is we increased the age that you receive the maximum benefits. So we are now indexing that age upward from 65, but it only goes up to 67 and then levels off again. Probably what we should do is somehow instead of indexing it to inflation, maybe index that retirement age for maximum benefits to the mortality tables.

I chaired the bipartisan task force on Social Security, Democrats and Republicans. After we spent about a year, both Republicans and Democrats on that task force agreed that something has to be done and the sooner the better. We had testimony from futurists, medical futurists that suggested that within 20 years, anybody that wanted to live to be 100 years old would have that opportunity. Within 30 to 35 years, probably, with our medical technology, anybody that had the desire and the money could live to be 120 years old. So medical technology is making the life span greater. Just let me give Members a short comparison. When we started Social Security back in 1935, the average age of death was 62. That meant most people paid into Social Security most of their lives but died before they were eligible for those retirement benefits. Now the average age of death for a male is 78 and the average age of death for a female in America is about 81½, almost 82 years old.

Very briefly, what we have done on tax increases, in 1940 our rate was 2 percent of the first $3,000. In 1960 we raised it threefold, 6 percent of the first $4,800. In 1980 we raised it to 10.16 percent of the first $25,900. In 2000 we raised it to 12.4 percent of the first $76,200. Now in 2004, because it is indexed for inflation, it is 12.4 percent of the first $87,900. The danger again is increasing taxes or reducing benefits.

Let us deal with some structural changes to Social Security, and I am just going to get into what I think is reasonable as far as some suggestions. I think it is important that we have raised Social Security taxes so much that now 78 percent of working families in the United States pay more in the Social Security tax than they do the income tax.

There are six principles of Social Security that I think are important: protect current and near-term retirees, allow freedom of choice, preserve the safety net, make Americans better off. On the principle of preserving the safety net, nobody's proposal for Social Security makes any change to the insurance part of that program, the disability part. If you get hurt on the job, you are going to be covered under Social Security for some payments. Nobody is suggesting any change in the government running that disability insurance part of the program. Make Americans better off and not worse off, and hopefully the economy in America better off; create a fully funded system; and no tax increases. Those are what I think should be our six guiding principles.

The U.S. trails other countries saving its retirement system. In the 18 years since Chile offered personal retirement accounts, 95 percent of the Chilean workers have created accounts and their average rate of return has been 11.3 percent. Of course, there is Australia, Britain, Switzerland, other countries. Even England allows 50 percent of their FICA tax, so-called, to go into personal retirement accounts.

Here are some of the highlights of my proposal. People choosing to participate in the voluntary account program would continue to receive benefits directly from the government. In other words, they have the option of going into a personal retirement savings account as part of the money that they pay in in Social Security taxes, or they can stay in the current system. Those benefits would be offset based on the amount of money deposited into their accounts, not on the amount of money earned in their accounts. In other words, if you earn more money, then you are better off than if you would be sticking with Social Security. If you can find a rate of return that is better than Social Security, you end up with higher retirement incomes.

In our Social Security legislation that we passed back in 1934, we said that municipalities did not have to go into this program; they could devise their own program as long as they had required saving investments. That is what a lot of counties in the United States have done. Some Texas counties are now paying $40,000 a year in retirement benefits compared to a much lower rate in Social Security. Those benefits would be offset based on the amount of money in accounts. This means that workers could expect to earn more for their account than the offset. What we do in our legislation, because it is so absolute, because we can have some companies that will guarantee a better return than Social Security, we have guaranteed in my bill that your retirement income will be at least as high if you stayed in the Social Security system. We start out, into Social Security you pay 6.2 percent, your employer pays 6.2 percent. In reality it all comes out of the worker's pocket. But we are saying that out of that 12.4 percent, we are going to start letting you set aside 2.5 percent of your earnings in your own personal retirement savings account.

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And there are several provisions where we divide it.

All worker accounts would be owned by the worker and invested through pools supervised by the government. Regulations would be instituted to prevent people from taking undue risks. I know this is all coming hard and strong, but if I give this special order maybe 100 times, people can tune in to pick up some of the leftover pieces.

Until an account balance reaches $2,500 in their personal retirement account, we restrict what they can invest in. It would be limited to choosing one of three funds: an 80 percent bond, a 20 percent index stock or a 60/40 fund or a 40/60 fund. So what we are saying is until one reaches that minimum, that they are going to be limited on the kind of investments they can make. But we also say when one can buy an annuity account that will give them as much money as Social Security would in their retirement, then they can do anything they want to with their money. After the balance reaches $2,500, workers would have access to additional safe funds.

The bill would increase contribution limits for IRAs, 401(k)s, and pension plans because we need to increase our savings in this country. The United States has one of the lowest savings rates in the world right now. That means it is tougher for our business and industry to come up with the funds that they use for research and growth and eventually jobs. It would create a 33 percent tax credit for the purchase of long-term care insurance up to $1,000, $2,000 for a couple. The long-term care insurance is one of the highest costs for Medicaid, a little bit different but still dealing with the huge problem of unfunded liabilities that we are facing with the Medicaid program. The Medicare program is the health care program for seniors. The Medicaid program is the health care program for low income.

It would create a tax credit to make it easier for low-income seniors to live at home or with a family rather than going to retirement care. Low-income seniors would be eligible for $1,000 for expense related to living in their own home, and households caring for dependent parents would also be eligible for a $1,000 credit for expenses.

Here is an issue that has bothered me in Social Security, and I call it "fairness to women." Sometimes it would be the man that is the spouse, but in my proposal I say for married couples, account contributions would be pooled and then divided equally between husband and wife. In other words, if one spouse was making twice as much as the other spouse, they pool what they are making together in terms of what can go into their personally owned private investment account and divide it in two so each husband and wife would have the identical amount of money in their savings account. Certainly, it is going to simplify divorce settlements. It would increase surviving spouse benefits for up to 110 percent of the higher earning spouse's benefit. And stay-at-home mothers with kids under 5 would receive retirement credit. My wife has got me convinced, my daughters have me convinced that stay-at-home moms really work hard, and we should not discourage it. We should encourage it. So I am suggesting in my bill for a mom staying home with those young kids, they can get extra credit in terms of assigning an average earning for those later years of what they might have made if they had been in the working environment. So it averages their highest income for those years they stay at home with those young kids up to 5 years.

Briefly, and let me wind this up pretty quickly, the Social Security Solvency Retirement Security Act has been scored by the Social Security actuaries to restore long-term solvency to Social Security. There would be no increases in the retirement age, changes in benefits for seniors or near seniors or changes in the Social Security COLA. The COLA is the cost of living index that is calculated every year to increase Social Security benefits. Solvency would be achieved by recouping a portion of the higher returns from workers' accounts and slowing the increase in benefits for the highest-earning retirees. Remember that chart back a while ago, if people have been watching this whole show, where the progressivity of the Social Security system ends up with receiving 5 percent if one is of very high income? I add one more bend point, is what I call it, what economists call it, and say if one is of very high income, it is going down to be 5 percent of that very high-income earning. What this does in effect is it slows down the increase in benefits, slows down the increase in benefits for very high-income retirees. That is where we make up some of the money.

The bill would also call for a loan of $900 billion from the general fund to Social Security to help ease the transition. The loan would be repaid when the program regains solvency. My early bills that I introduced in 1993, 1995, 1997 in other sessions did not require that loan to help make the transition, and the transition is a problem because if we are going to have personal retirement savings accounts, somehow we have got to come up with that extra money because of the consideration that it is a pay-as-you-go. As soon as the money comes in, we are paying it out. And in 2017, the current estimate, that we are not going to have enough money to pay benefits. So starting in 2017, we need more money to continue those personal savings accounts.

I think I am down to my last chart, Madam Speaker. The trust fund continues; so I do not deplete the trust fund. I leave at least half of the trust fund in place in case of contingencies, emergencies, or anything else. The Retirement Security Act would allow workers to create, on a voluntary basis, accounts funded from their payroll taxes. The accounts would start at 2.5 percent of income and would reach 8 percent of income by 2075, a very gradual process, but, again, the longer we put it out, the more drastic the solution it is going to be. So we need to do it quickly. We need to quit demagoging. If one is a Republican, do not demagogue the Democrats' suggestions. If one is a Democrat, do not demagogue the Republicans' suggestions on how to fix Social Security. If one is a voter in the United States, then I think they should be asking everybody running for office what is their solution to make sure that Social Security stays solvent? Are they going to simply borrow more money and let our grandkids pay for it? Are they going to increase taxes? Are they going to reduce benefits? What is their proposal? And do not let them give some fast talk and say, "Boy, I am not going to let anybody touch your Social Security benefits." That is what has been done too long. Pin them down. What bills have they introduced? What bills are they signing on to and cosponsoring to make sure we save Social Security?

The Retirement Social Security Act accounts start at 2.5 percent. They go up. Workers would own the money in their accounts. And that means right now if one dies at an early age, they might get burial expense but the money is not theirs; so that is how the Social Security system has gained some money with people that die before they are eligible for retirement benefits. In their personal retirement account the money is theirs. It goes to their heirs if they die before they reach age 65.

Investments would be limited, widely diversified, and investment providers would be subject to government oversight. The government would supplement the accounts of low-income workers making less than $35.000 a year to ensure that they build up significant savings. Actually, I sort of stole this idea from President Clinton. That was one of his proposals that was just part of a proposal that we have an American savings account. But let us make sure, to the best we can, that every worker ends up better in their retirement, that the system helps the economy by having the kind of savings account that, rather than being spent by government for more government programs, ends up being invested in equities, in bonds, in stocks, in the kinds of investments and savings that are going to help our country.

In conclusion let me just say that I was in Libya yesterday meeting with Colonel Khadafi. We have a system and a Constitution in the United States that provided that those people that work hard and save, that study and learn and use it, end up better off than those who do not, the kind of motivation that has helped us have the strongest economy in the world. It was interesting that Khadafi told us that what he thinks is they need less government in Libya, that if they work 4 hours, they get paid for 4 hours; if they work 8 hours, they should get paid for 8 hours, and if they do not like what their employer is doing, changes jobs, and they do not want somebody speaking for them. In fact, also, and I made a decision early on not to take special interest PAC money for my campaigns, he said we do not want political parties in Libya because with political parties they are both going to be trying to get a majority. To get a majority, they spend money. And the first thing one knows, countries like Egypt would be coming in, financing one political party. Somebody else might be coming in with a different interest, financing another political party. And they would be tending to push laws that were good for their interests and not good for the country of Libya. That is a very interesting change of mood for an individual that has supported terrorist regimes in the past in how he thinks the future of Libya should be restructured.

ANNOUNCEMENT REGARDING AMENDMENT PROCESS FOR CONSIDERATION OF H.R. 339, PERSONAL RESPONSIBILITY IN FOOD CONSUMPTION ACT

(Mr. GOSS asked and was given permission to address the House for 1 minute.)

Mr. GOSS (during Special Order of Mr. SMITH of Michigan). Madam Speaker, the Committee on Rules may meet the week of March 8 to grant a rule for the consideration of H.R. 339, the Personal Responsibility in Food Consumption Act, which may require that amendments be printed in the CONGRESSIONAL RECORD prior to their consideration on the floor.

The Committee on the Judiciary ordered the bill reported on January 28, 2004, and is expected to file its report with the House by Friday, March 5, 2004. Members should draft their amendments to the bill as reported by the Committee on the Judiciary, which will be available tomorrow for their review on the Web sites of both the Committee on Rules and the Committee on the Judiciary.

Members should use the Office of Legislative Counsel to ensure that their amendments are drafted in the most appropriate format. Members are also advised to check with the Office of the Parliamentarian to be certain their amendments comply with the rules of the House.

PROTOCOL AMENDING AGREEMENT FOR COOPERATION BETWEEN UNITED STATES AND REPUBLIC OF INDONESIA CONCERNING PEACEFUL USES OF NUCLEAR ENERGY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 108–169)

The SPEAKER pro tempore (Mrs. BLACKBURN) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

I am pleased to transmit to the Congress, consistent with sections 123 b. and 123 d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(b), (d)) (the "Act"), the text of a proposed Protocol Amending the Agreement for Cooperation Between the Government of the United States of America and the Government of the Republic of Indonesia Concerning Peaceful Uses of Nuclear Energy, signed at Washington on June 30, 1980. I also transmit my written approval, authorization, and determination concerning the Protocol, and an unclassified Nuclear Proliferation Assessment Statement (NPAS) concerning the Protocol. (Consistent with section 123 of the Act, as amended by title XII of the Foreign Affairs Reform and Restructuring Act of 1998 (Public Law 105–277), a classified Annex to the NPAS, prepared by the Secretary of State in consultation with the Director of Central Intelligence, summarizing relevant classified information, will be submitted to the Congress separately.) the joint memorandum submitted to me by the Secretary of State and the Secretary of Energy and a letter from the Chairman of the Nuclear Regulatory Commission stating the views of the Commission are also enclosed.

I am advised that the proposed Protocol has been negotiated consistent with the Act and other applicable law and that it meets all statutory requirements. This Protocol will advance the nonproliferation and other foreign policy interests of the United States.

The Protocol amends the Agreement for Cooperation between the Government of the United States of America and the Government of the Republic of Indonesia Concerning Peaceful Uses of Nuclear Energy in two respects:

1. It extends the Agreement, which expired by its terms on December 30, 2001, until December 30, 2031, with effect from the former date; and

2. It updates certain provisions of the Agreement relating to the physical protection of nuclear material subject to the Agreement.

As amended by the proposed Protocol, the Agreement will continue to meet all requirements of U.S. law.

Indonesia is a party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and has an agreement to its nuclear program. It was also among the early sponsors of, and is a current party to the Southeast Asia Nuclear Weapons Free Zone. The United States and Indonesia have had a long and positive history of cooperation in the peaceful uses of nuclear energy, with our earliest agreement for this purpose dating back to 1960.

I have considered the views and recommendations of the interested agencies in reviewing the proposed Protocol and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the Protocol and authorized its execution and urge that the Congress give it favorable consideration.

This transmission shall constitute a submittal for purposes of both sections 123 b. and 123 d. of the Atomic Energy Act. My Administration is prepared to begin immediately the consultations with the Senate Foreign Relations Committee and House International Relations Committee consistent with section 123 b. Upon completion of the 30-day continuous session period provided for in section 123 b., the 60-day continuous session period provided for in section 123 d. shall commence.

GEORGE W. BUSH.

THE WHITE HOUSE, *March 4, 2004.*

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ISAKSON (at the request of Mr. DELAY) for today on account of attending his daughter's wedding.

Mr. KING of New York (at the request of Mr. DELAY) for today on account of medical reasons.

Mr. WOLF (at the request of Mr. DELAY) for today on account of attending the funeral of the president of Macedonia.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCGOVERN) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. TOWNS, for 5 minutes, today.

Mr. MCGOVERN, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

(The following Members (at the request of Mr. LEWIS of Kentucky) to revise and extend their remarks and include extraneous material:)

Mrs. BIGGERT, for 5 minutes, today.

Mr. GILCHREST, for 5 minutes, March 10.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2057. An act to require the Secretary of Defense to reimburse members of the United States Armed Forces for certain transportation expenses incurred by the members in connection with leave under the Central Command Rest and Recuperation Leave Program before the program was expanded to include domestic travel; to the Committee on Armed Services.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2136. An act to extend the final report date and termination date of the National Commission on Terrorist Attacks Upon the United States, to provide additional funding for the Commission, and for other purposes.

ADJOURNMENT

Mr. SMITH of Michigan. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 58 minutes p.m.), under its previous order, the House adjourned until Monday, March 8, 2004, at noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

6999. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — Cold Treatment of Fruits [Docket No. 02-071-2] received February 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7000. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — Irradiation of Sweetpotatoes From Hawaii [Docket No. 03-062-2] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7001. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Gellan Gum; Exemption from the Requirement of a Tolerance [OPP-2004-0003; FRL-7344-1] received March 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7002. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Pyriproxyfen; Pesticide Tolerance for Emergency Exemption [OPP-2004-0028; FRL-7345-3] received March 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7003. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Yeast Extract Hydrolysate from Saccharomyces cerevisiae; Exemption from the Requirement of a Tolerance [OPP-2003-0403; FRL-7343-9] received March 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7004. A letter from the Assistant General Counsel for Regulatory Services, Department of Education, transmitting the Department's final rule — Magnet Schools Assistance Program (RIN: 1885-AA01) received February 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

7005. A letter from the Director, Regulations Policy and Management Staff, FDA, Department of Health and Human Services, transmitting the Department's final rule — Medical Devices: Classification of the Dental Sonography Device and Jaw Tracking Device [Docket No. 2002N-0305] received December 18, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7006. A letter from the Attorney Advisor, NHTSA, Department of Transportation, transmitting the Department's final rule — Federal Motor Vehicle Safety Standards: Occupant crash protection [Docket No. 03-16476; Notice 2] (RIN: 2127-AJ30) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7007. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Implementation Plans; Designation of Areas for Air Quality Planning Purposes; State of Arizona; Tuscan Area; Technical Correction [AZ 114-CORR; FRL-7632-1] received March 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7008. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Arizona — Maricopa County Ozone; PM-10 and CO Nonattainment Areas; Approval of Revisions to Maricopa County Area Cleaner Burning Gasoline Program [AZ-082-0072; FRL-7626-1] received March 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7009. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Air Quality Plans for Designated Facilites and Pollutants; Commomwealth of Pennsylvania; Control of Emissions from Existing Small Municipal Waste Combustion Units [PA190-7008a; FRL-7631-7] received March 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7010. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Louisiana; Plan for COntrolling Emissions From Existing Commercial and Industrial Solid Waste Incinerators [FRL-7624-6-LA-66-1-7598a] received March 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7011. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Delaware: Final Authorization of State Hazardous Waste Management Program Revisions [FRL-7631-4] received February 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7012. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines [OAR-2002-0059; FRL-7630-8] (RIN: 2060-AG-63) received March 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7013. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants; Surface Coating of Automobiles and Light-Duty Trucks [OAR-2002-0093; FRL-7630-9] (RIN: 2060-AG99) received March 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7014. A letter from the Deputy Chief, WCB/TAPD, Federal Communications Commission, transmitting the Commission's final rule — Rural Health Care Support Mechanism [WC Docket No. 02-60] received February 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7015. A letter from the Senior Legal Advisor to Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.606(b), Table of Allotments, Television Broadcast Stations (Tupelo, Mississippi) [MB Docket No. 03-221; RM-10796] received February 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7016. A letter from the Senior Legal Advisor to Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Fargo, North Dakota) [MB Docket No. 03-234; RM-10699] received February 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7017. A letter from the Senior Legal Advisor, International Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Parts 2 and 25 to Implement the Global Mobile Personal Communications by Satellite (GMPCS) Memorandum of Understanding and Arrangements [IB Docket No. 99-67]; Petition of the National Telecommunications and Information Administration to Amend Part 25 of the Commission's Rules to Establish Emission Limits for Mobile and Portable Earth Stations Operating in the 1610-1660.5 MHz Band [RM No. 9165] received February 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7018. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule — Passport Procedures--Amendment to Passport Regulations (RIN: 1400-ZA05) received February 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

7019. A letter from the Counsel for Rulemaking and Regulations, Department of Homeland Security, transmitting the Department's final rule — Department of Homeland Security Human Resources Management System (RIN: 3206-AK31/1601-AA19) received February 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

7020. A letter from the Chairman, Federal Election Commission, transmitting the Commission's final rule — Extension of Administrative Fines Program [Notice 2004-5] received February 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on House Administration.

7021. A letter from the Assistant Secretary of the Interior, Department of the Interior, transmitting the Department's final rule — Permits for Recreation on Public Lands [WO-250-1220-PA-24 1A] (RIN: 1004-AD45) received February 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7022. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Catching Pacific Cod for Processing by the Offshore Component in the Central Regulatory Area of the Gulf of Alaska [Docket No. 031126297-3297-01; I.D. 013004B] received March 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7023. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackeral in the Bering Sea and Aleutian Islands [Docket No. 031126295-3295-01; I.D. 012904C] received March 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7024. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific cod by Vessels Catching Pacific cod for Processing by the Inshore Component in the Central Regulatory Area of the Gulf of Alaska [Docket No. 031126297-01; I.D. 013004A] received March 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7025. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Trip Limit Increase [Docket No. 001005281-036902; I.D. 012904D] received March 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7026. A letter from the Director, Faith Based and Community Initiatives Task Force, OAG, Department of Justice, transmitting the Department's final rule — Participating in Justice Department Programs by Religious Organizations; Providing for Equal Treatment of All Justice Department Program Participants [Docket No. OAG 106; AG Order No. 2703-2004] (RIN: 1105-AA83) received February 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

7027. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Chemical Testing [USCG-2003-16414] (RIN: 1625-AA80) received February 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7028. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zones; San Francisco Bay, California [COTP San Francisco Bay 03-002] (RIN: 1625-AA00) received February 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7029. A letter from the Attorney Advisor, FHA, Department of Transportation, transmitting the Department's final rule — Federal Lands Highway Program; Management Systems Pertaining to the Fish and Wildlife Service and the Refuge Roads Program [FHWA Docket No. FHWA-99-4970] (FHWA RIN: 2125-AE54) received March 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7030. A letter from the Attorney Advisor, FHA, Department of Transportation, transmitting the Department's final rule — Federal Lands Highway Program; Management Systems Pertaining to the Forest Service and the Forest Highway Program [FHWA Docket No. FHWA-99-4969] (FHWA RIN: 2125-AE55) received March 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7031. A letter from the Paralegal Specialist, Faa, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 727, 727-100C, 727-200F, and 727C Series Airplanes [Docket No. 2003-NM-191-AD; Amendment 39-13475; AD 2004-03-31] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7032. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pacific Aerospace Corporation, Ltd. Models FU24-954 and FU24A-954 Airplanes [Docket No. 2003-CE-38-AD; Amendment 39-13473; AD 2004-03-29] (RIN: 2120-AA64) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7033. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model 717-200 Airplanes [Docket No. 2002-NM-213-AD; Amendment 39-13465; AD 2004-03-21] (RIN: 2120-AA64) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7034. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 Series Airplanes [Docket No. 2001-NM-333-AD; Amendment 39-13464; AD 2004-03-20] (RIN: 2120-AA64) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7035. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Dornier Model 328-300 Series Airplanes [Docket No. 2002-NM-267-AD; Amendment 39-13460; AD 2004-03-16] (RIN: 2120-AA64) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7036. A letter from the Attorney Advisor, Federal Highway Administration, Department of Transportation, transmitting the Department's final rule — Contract Administration; Removal of Miscellaneous Obsolete or Redundant Regulations (RIN: 2125-AF01) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7037. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Dassault Model Falcon 2000 and 900EX, and Dassault Model Mystere-Falcon 900 Series Airplanes [Docket No. 2002-NM-231-AD; Amendment 39-13419; AD 2004-01-05] (RIN: 2120-AA64) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7038. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model 717-200 Airplanes [Docket No. 2003-NM-55-AD; Amendment 39-13429; AD 2004-01-15] (RIN: 2120-AA64) received February 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7039. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Effluent Limitations Guidelines and New Source Performance Standards for the Meat and Poultry Products Point Source Category [FRL-7631-2] (RIN: 2040-AD56) received March 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7040. A letter from the Regulations Coordinator, CMS, Department of Health and Human Services, transmitting the Department's final rule — Medicare Program; Revisions to the One-Time Appeal Process for Hospital Wage Index Classification [CMS-1373-N2] (RIN: 0938-AN00) received February 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7041. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Property Transferred in Connection with Performance of Services (Rev. Rul. 2004-37) received February 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7042. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Proposed Revenue Procedure Regarding Services that Qualify For the Student FICA Exception [Notice 2004-12] received February 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7043. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Annuities; Certain Proceeds of Endowment and Life Insurance Contracts [Notice 2004-15] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7044. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Electronic Payee Statements [TD 9114] (RIN: 1545-AY50) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7045. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Weighted Average Interest Rate Update [Notice 2004-14] received February 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7046. A letter from the Board Members, Railroad Retirement Board, transmitting the Board's Congressional Justification of Budget Estimates for Fiscal Year 2005, pursuant to 45 U.S.C. 231f(f); jointly to the Committees on Appropriations, Transportation and Infrastructure, and Ways and Means.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Ms. HART (for herself, Mr. MURPHY, and Mr. ENGLISH):

H.R. 3890. A bill to reauthorize the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988; to the Committee on Science.

By Ms. HART:

H.R. 3891. A bill to amend the Internal Revenue Code of 1986 to provide for the use of redevelopment bonds for environmental remediation; to the Committee on Ways and Means.

By Ms. HART:

H.R. 3892. A bill to amend the Internal Revenue Code of 1986 to encourage businesses to establish hazardous waste remediation reserves, and for other purposes; to the Committee on Ways and Means.

By Mr. PAUL (for himself and Mr. BARTLETT of Maryland):

H.R. 3893. A bill to limit the jurisdiction of the Federal courts, and for other purposes; to the Committee on the Judiciary.

By Mr. BURNS (for himself, Mr. KELLER, Mr. BOEHNER, Mr. MCKEON, Mr. ISAKSON, Mr. NORWOOD, Mr. WILSON of South Carolina, Mr. CARTER, Mr. FORBES, Ms. GINNY BROWN-WAITE of Florida, and Mrs. NORTHUP):

H.R. 3894. A bill to provide enhanced Pell Grants for State Scholars; to the Committee on Education and the Workforce.

By Mr. ISSA (for himself, Mr. HUNTER, Mr. CUNNINGHAM, Mr. TERRY, Mr. BEREUTER, Mr. FILNER, and Mrs. DAVIS of California):

H.R. 3895. A bill to amend title XIX of the Social Security Act to permit local public agencies to act as Medicaid enrollment brokers; to the Committee on Energy and Commerce.

By Mr. DEMINT (for himself, Mr. AKIN, Mr. BLUNT, Mr. OBERSTAR, Mr. PAUL, Mr. PENCE, Mr. POMEROY, Mr. SHIMKUS, Mr. STEARNS, Mr. WEXLER, and Mr. VAN HOLLEN):

H.R. 3896. A bill to establish an Office of Intercountry Adoptions within the Department of State, and to reform United States laws governing intercountry adoptions; to the Committee on International Relations, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HERGER:

H.R. 3897. A bill to reauthorize the Temporary Assistance for Needy Families block grant program through June 30, 2004, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ACEVEDO-VILÁ (for himself, Mr. Gutierrez, Mr. Serrano, Ms. Velázquez, and Mr. Filner):

H.R. 3898. A bill to authorize construction of a new (replacement) medical center for the Department of Veterans Affairs in the Commonwealth of Puerto Rico at a site to be selected pursuant to a study by the Secretary of Veterans Affairs and Secretary of Defense as suitable for a new Federal medical center in the Commonwealth of Puerto Rico that would best serve the needs of both veterans and Department of Defense medical beneficiaries in Puerto Rico; to the Committee on Veterans' Affairs.

By Mr. BOSWELL:

H.R. 3899. A bill to require agencies to submit to Congress any contracts in amounts greater than $1,000,000 that are proposed to be awarded using noncompetitive procedures; to the Committee on Government Reform, and in addition to the Committees on Armed Services, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. CAPPS:

H.R. 3900. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of permanent facilities for the GREAT project to reclaim, reuse, and treat impaired waters water in the area of Oxnard, California; to the Committee on Resources.

By Mr. CRANE (for himself, Mr. Sam Johnson of Texas, Mr. Cantor, Mr. Ramstad, Mr. Hostettler, Mr. Ryan of Wisconsin, Mr. Brady of Texas, Ms. Dunn, Mrs. Johnson of Connecticut, Mr. Hayworth, Mr. McInnis, Mr. Herger, Mr. English, Mr. Gutknecht, Mr. Wilson of South Carolina, Mr. Ballenger, Mr. Paul, Mr. Ryun of Kansas, Mr. Green of Wisconsin, Mr. Burgess, Mr. Peterson of Pennsylvania, Mrs. Blackburn, Mr. Cannon, Ms. Harris, Mrs. Musgrave, Mr. Bass, Mr. Hunter, Mr. Kline, Mr. Beauprez, Mr. Hensarling, Mr. Barrett of South Carolina, Mr. Weldon of Florida, Mrs. Myrick, Mr. King of Iowa, Mr. Franks of Arizona, Mr. Bartlett of Maryland, Mr. Gingrey, Mr. Istook, Mr. Miller of Florida, Mr. Pitts, Mr. Flake, Mr. Jones of North Carolina, Mr. Goode, and Mr. Feeney):

H.R. 3901. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums for high deductible health plans required with respect to health savings accounts; to the Committee on Ways and Means.

By Mr. GARRETT of New Jersey (for himself, Mr. Frelinghuysen, and Mr. Ferguson):

H.R. 3902. A bill to amend the Wild and Scenic Rivers Act to designate portions of the Musconetcong River in the State of New Jersey as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Resources.

By Mr. GILLMOR (for himself, Mr. Ross, Mr. Pitts, Mr. Hall, Mr. Latham, Mr. Oxley, Mr. Goode, Mr. Souder, Mr. Regula, Mr. Lipinski, Mrs. Maloney, Mr. Davis of Tennessee, Mr. Towns, Mr. Israel, Mr. Berry, Mr. Wolf, and Mr. Jenkins):

H.R. 3903. A bill to establish a program to award grants to improve and maintain sites honoring Presidents of the United States; to the Committee on Resources.

By Mr. KIND (for himself, Mrs. Emerson, Mr. Schiff, and Mr. Petri):

H.R. 3904. A bill to amend the Richard B. Russell National School Lunch Act to establish pilot projects to support and evaluate the provision of before-school activities that advance student academic achievement and encourage the establishment of, and increase participation in, school breakfast programs; to the Committee on Education and the Workforce.

By Mr. LARSON of Connecticut (for himself and Ms. DeLauro):

H.R. 3905. A bill to amend part C of title XVIII of the Social Security Act to prohibit the operation of the Medicare comparative cost adjustment (CCA) program in Connecticut; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MILLER of Michigan (for herself and Mr. Knollenberg):

H.R. 3906. A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Ukraine; to the Committee on Ways and Means.

By Mr. PORTER:

H.R. 3907. A bill to authorize the Secretary of Transportation to transfer to the Administrator of the National Highway Traffic Safety Administration a certain percentage of apportionments of funds made available from the Highway Trust Fund from States that do not enact laws to prohibit driving under the influence of an illegal drug, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RYAN of Ohio:

H.R. 3908. A bill to provide for the conveyance of the real property located at 1081 West Main Street in Ravenna, Ohio; to the Committee on Education and the Workforce.

By Mr. RYUN of Kansas (for himself, Mr. Tiahrt, Mr. Moran of Kansas, and Mr. Moore):

H.R. 3909. A bill to establish the Bleeding Kansas and the Enduring Struggle for Freedom National Heritage Area, and for other purposes; to the Committee on Resources.

By Mr. STUPAK:

H.R. 3910. A bill to amend the Transportation Equity Act for the 21st Century to modify a high priority project in the State of Michigan; to the Committee on Transportation and Infrastructure.

By Ms. WATERS:

H.R. 3911. A bill to make certain companies that have outsourced jobs during the previous five years ineligible for the receipt of Federal grants, Federal contracts, Federal loan guarantees, and other Federal funding, and for other purposes; to the Committee on Government Reform.

By Mr. SMITH of New Jersey (for himself, Ms. Loretta Sanchez of California, Mr. Tom Davis of Virginia, Ms. Lofgren, Mr. Rohrabacher, Mr. Royce, Mr. Cox, Mr. Burton of Indiana, Ms. Ros-Lehtinen, Mr. Green of Wisconsin, Mr. Akin, Mr. Pitts, Mr. Shimkus, Mr. Franks of Arizona, Mr. Kennedy of Rhode Island, Mr. Frank of Massachusetts, Mr. McGovern, Mr. Van Hollen, Mr. Moran of Virginia, Mr. Langevin, Ms. Jackson-Lee of Texas, Mr. Berman, Ms. McCarthy of Missouri, and Mr. Wexler):

H. Con. Res. 378. Concurrent resolution calling on the Government of the Socialist Republic of Vietnam to immediately and unconditionally release Father Thaddeus Nguyen Van Ly, and for other purposes; to the Committee on International Relations.

By Mr. PETRI (for himself, Mr. Obey, Mr. Sensenbrenner, Mr. Kleczka, Mr. Kind, Ms. Baldwin, Mr. Green of Wisconsin, and Mr. Ryan of Wisconsin):

H. Con. Res. 379. Concurrent resolution commemorating the 150th anniversary of the first meeting of the Republican Party in Ripon, Wisconsin; to the Committee on Government Reform.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Ms. WATERS introduced a bill (H.R. 3912) for the relief of Rafael Camacho, Rosa B. Camacho, and Rosa Camacho; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 104: Mr. Wexler.

H.R. 173: Mr. Boehlert, Mr. Sabo, and Mr. Gephardt.

H.R. 218: Mr. Akin.

H.R. 331: Mrs. Jo Ann Davis of Virginia.

H.R. 339: Mr. Cardoza and Mr. Stenholm.

H.R. 391: Mr. Pearce and Mr. Bradley of New Hampshire.

H.R. 463: Mr. Turner of Ohio.

H.R. 525: Mr. Acevedo-Vilá, Mr. Andrews, Ms. Bordallo, Mr. Boucher, Mr. Dingell, Mr. Engel, Mr. Faleomavaega, Mr. Gephardt, Ms. Eddie Bernice Johnson of Texas, Mr. Kleczka, Mr. Larsen of Washington, Mr. Lynch, Mr. Miller of North Carolina, Mr. Mollohan, Mr. Murtha, Ms. Norton, Mr. Pastor, Ms. Solis, Mr. Stark, Ms. Velázquez, Mr. Visclosky, Mr. Aderholt, Mr. Akin, Mr. Bachus, Mr. Baker, Mr. Ballenger, Mr. Barrett of South Carolina, Mr. Bass, Mr. Beauprez, Mr. Bereuter, Mr. Bishop of Utah, Mrs. Blackburn, Mr. Blunt, Mr. Boehlert, Mr. Boehner, Mr. Bonner, Mrs. Bono, Mr. Boozman, Mr. Bradley of New Hampshire, Mr. Brown of South Carolina, Mr. Burgess, Mr. Burns, and Mr. Burr.

H.R. 584: Mr. Lampson, Mr. Hall, and Mr. Johnson of Illinois.

H.R. 588: Mr. Markey.

H.R. 736: Mr. Sherman.

H.R. 839: Mrs. Kelly, Mrs. Davis of California, Mr. Smith of New Jersey, Mr. Blumenauer, and Mr. Hyde.

H.R. 857: Mr. Forbes.

H.R. 876: Mr. Watt and Mr. Brady of Pennsylvania.

H.R. 962: Mr. Lynch.

H.R. 1005: Mr. English.

H.R. 1051: Mr. George Miller of California.

H.R. 1052: Ms. Ros-Lehtinen.

H.R. 1083: Mr. Meehan and Mr. McGovern.

H.R. 1084: Mr. Wamp.

H.R. 1097: Mr. Rush and Mr. Hastings of Florida.

H.R. 1336: Mr. Price of North Carolina, Mr. Watt, Mr. Mica, and Mr. Udall of New Mexico.

H.R. 1482: Ms. Lee.

H.R. 1534: Mr. Honda.

H.R. 1776: Mr. Terry.

H.R. 1991: Ms. Slaughter.

H.R. 2096: Mr. Wolf, Mr. Lipinski, and Mrs. Bono.

H.R. 2154: Mr. Sanders.

H.R. 2182: Mr. Goode.

H.R. 2346: Mrs. Musgrave, Mr. King of Iowa, Mr. Feeney, and Mr. Akin.

H.R. 2394: Mr. Moran of Virginia, Mr. Larsen of Washington, Mr. Ballance, and Mr. Ramstad.

H.R. 2671: Mr. Hall.

H.R. 2797: Mr. Goodlatte.

H.R. 2824: Mr. Hall, Mr. Turner of Texas, and Mr. Holden.

H.R. 2839: Mrs. Johnson of Connecticut and Mr. Michaud.

H.R. 2850: Mr. Smith of Washington.

H.R. 2890: Mr. Simpson.

H.R. 2915: Mr. Norwood.

H.R. 2928: Mr. Moran of Kansas.

H.R. 2932: Mr. Evans and Mr. Stark.

H.R. 2949: Mr. McDermott.

H.R. 2983: Mr. Matheson.

H.R. 3115: Mr. Terry.

H.R. 3173: Mr. McDermott.

H.R. 3194: Mr. Price of North Carolina.

H.R. 3213: Mr. Crenshaw, Mr. Deal of Georgia, Mr. Green of Wisconsin, and Mr. Barrett of South Carolina.

H.R. 3215: Mr. Ballenger, Mr. Otter, Mr. Rehberg, Mr. Simpson, and Mr. Young of Alaska.

H.R. 3246: Mr. Kingston.

H.R. 3307: Mr. McInnis.

H.R. 3329: Mr. Cox.

H.R. 3416: Ms. Carson of Indiana.

H.R. 3446: Mr. Kleczka, Mr. Levin, Mr. Abercrombie, Ms. Woolsey, Mr. Costello, and Mr. Stark.

H.R. 3545: Mr. Honda.

H.R. 3550: Ms. Roybal-Allard.

H.R. 3598: Mr. Shimkus.

H.R. 3658: Mr. Lincoln Diaz-Balart of Florida.

H.R. 3661: Mr. Burr, Mr. Ballenger, Mrs. Myrick, Mr. Hunter, Mr. Coble, Mr. Jones of North Carolina, Mr. Goode, Mr. Wilson of South Carolina, Mr. Sherwood, and Mr. Etheridge.

H.R. 3687: Mr. Boyd, Mr. Stenholm, Mr. Ramstad, and Mr. Hall.

H.R. 3711: Mr. McDermott.

H.R. 3717: Mr. Kline, Mr. Stenholm, and Mr. King of Iowa.

H.R. 3719: Mr. Moran of Virginia, Mrs. Capps, Mrs. Napolitano, Mr. Berman, Mr. Stark, and Ms. Norton.

H.R. 3763: Mr. Mario Diaz-Balart of Florida, Mr. Pascrell, and Ms. Baldwin.

H.R. 3793: Mr. Gonzalez and Mr. Bilirakis.

H.R. 3796: Mr. Rogers of Kentucky, Mr. Whitfield, Mr. Lewis of Kentucky, Mrs. Northup, Mr. Lucas of Kentucky, and Mr. Chandler.

H.R. 3833: Mr. Delahunt.

H.R. 3854: Mr. Paul and Mr. Duncan.

H.R. 3857: Mr. Akin, Mr. Kennedy of Minnesota, and Mr. Hensarling.

H.R. 3858: Mr. Doggett, Ms. Jackson-Lee of Texas, Mr. Ruppersberger, Mr. Costello, Mr. Abercrombie, Mr. Turner of Texas, Mr. Waxman, Mr. McDermott, Mr. Kildee, Mr. Hinojosa, Mr. Pallone, Mr. Meehan, Mr. Markey, Mr. Quinn, Mr. Lampson, Mrs. Jo Ann Davis of Virginia, Mr. Wolf, Mr. Walsh, Ms. Ros-Lehtinen, Ms. Schakowsky, Mr. Ackerman, Mr. Ross, Mr. Hinchey, Mr. Foley, Mr. Jenkins, Mr. Leach, Mr. Holt, Mr. Pascrell, Mrs. Napolitano, Mr. Moran of Virginia, Mr. Vitter, Ms. Berkley, Mr. Clay, Mr. Hill, Mr. Emanuel, Mr. Chabot, Mr. Hoeffel, Mr. Bachus, Mr. Tiberi, Mr. Kennedy of Rhode Island, Mr. Paul, and Mr. Murphy.

H.R. 3881: Mr. Honda, Mr. Ford, Mr. Davis of Florida, Mr. Kind, and Ms. Baldwin.

H. Con. Res. 3: Ms. Watson, Mr. Hall, Mr. Hastings of Florida, Mr. Ballance, and Ms. Corrine Brown of Florida.

H. Con. Res. 15: Mr. Feeney and Mr. Manzullo.

H. Con. Res. 111: Ms. Slaughter and Mr. Sanders.

H. Con Res. 119: Ms. Berkley.

H. Con. Res. 332: Mr. Langevin, Mr. Crane, Mr. Jackson of Illinois, Ms. Pelosi, and Mr. Sherwood.

H. Con. Res. 364: Mrs. Miller of Michigan and Mr. Rehberg.

H. Con. Res. 371: Mr. Forbes, Mr. Andrews, and Mr. Bradley of New Hampshire.

H. Con. Res. 372: Ms. Corrine Brown of Florida, Ms. Jackson-Lee of Texas, Mr. Wynn, Mr. Wexler, and Mrs. Jones of Ohio.

H. Con. Res. 374: Mr. Hayes, Mr. Snyder, Mr. Bartlett of Maryland, Mr. Bradley of New Hampshire, Mr. Gutknecht, Mr. Goode, Mr. Hostettler, Mrs. Myrick, Mr. Franks of Arizona, Mr. Wilson of South Carolina, and Mr. Gingrey.

H. Con. Res. 375: Mr. Sherwood and Mr. Davis of Tennessee.

H. Res. 402: Mr. Ryun of Kansas and Mr. Moran of Kansas.

H. Res. 516: Mr. Green of Wisconsin, Mr. Sherwood, and Mr. Upton.

H. Res. 528: Mr. Shimkus, Mr. Bell, Mr. Ney, Mr. Stark, Mr. Meeks of New York, Mr. Towns, Mr. Crowley, Mr. Evans, Ms. Jackson-Lee of Texas, Mr. Pastor, Mr. Abercrombie, Ms. Lee, Mr. Rohrabacher, Mr. Payne, and Mr. Cardoza.

H. Res. 543: Ms. Roybal-Allard, Mr. Berman, Mr. Tanner, Mr. Lampson, and Mr. Gordon.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 2, by Mr. JIM MARSHALL on House Resolution 251: Ben Chandler.

SENATE—*Thursday, March 4, 2004*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Infinite Spirit, generous giver of life's joys, from Your vantage point of eternity look afresh into our time. Teach us to serve You as we should. Forgive us for our waste of time and opportunity. Forgive us, also, when we fail to see Your glorious image in humanity or the opportunities to please You by empowering those on life's margins. Thank You for showing us that in setting the captives free we do Heaven's work on Earth. Remind us that it is in giving that we receive, and through dying to self that we are born to eternal life.

Today, use Your Senators as servants of Your kingdom. Help each of us to be honest with ourselves and with one another. We pray this in Your sovereign Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. SUNUNU. Mr. President, this morning the Senate will conduct a period of morning business until 10:30 a.m., with the first half of the time under the control of the Democratic leader or his designee and the second half allotted to the majority leader or his designee.

At 10:30, the Senate will resume consideration of S. 1637, the FSC/ETI bill. When the Senate resumes the bill, the Dodd amendment on outsourcing will be the pending business. A number of Senators have expressed an interest in speaking on the amendment, and it is the leader's expectation that a second-degree amendment will be offered to the Dodd amendment this morning.

For the remainder of the day, we will continue to work through amendments to the bill. Under the previous order, following the disposition of the Dodd amendment, the Senate will take up an amendment by Senator BUNNING which would accelerate manufacturing-sector tax cuts. Rollcall votes are possible during today's session, and Senators will be notified when the first vote is scheduled.

Mr. President, I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

CHALLENGES FACING THE UNITED STATES IN THE WESTERN HEMISPHERE

Mr. DASCHLE. Mr. President, later this week, President Bush will host Mexican President Vicente Fox for 2 days of meetings in Texas.

Three years ago, in the months after President Fox's historic election ended seven decades of one-party rule, we were all very hopeful that the United States and Mexico were prepared to move beyond decades of mistrust and miscommunication.

In the aftermath of 9/11, the Bush administration chose to relegate improved relations with our neighbor to the bottom of its priority list, unfortunately.

The meeting this week represents a long overdue but welcome step toward regaining the lost momentum in United States-Mexico relations.

I hope the President will use the renewed public focus on Mexico this week not just for a photo opportunity but also to revive the administration's efforts to address many of the pressing challenges throughout this hemisphere.

The need for such a revival is clear. Early last month Secretary Powell told a House committee that the United States "had higher priorities" than Latin America. The fact that the United States has important priorities in the rest of the world is indisputable.

Hundreds of thousands of our young men and women are deployed throughout the Middle East. North Korea is adding to its nuclear capability, and the proliferation of weapons of mass destruction presents us with a chilling specter that terrorist groups could get their hands on the world's worst weapons.

But the sad truth is that we do not have the luxury of worrying only about the crises of the day. If we fail to attend to emerging threats today, they will quickly become tomorrow's crises. Rather than relying on diplomatic means, we will be forced into a situation so dire that only the deployment of U.S. troops—already stretched far too thinly—can stabilize the situation. For an example of this phenomenon, we need look no further than recent events in our own hemisphere.

Statements from administration officials leave the impression that the administration was caught off guard and unprepared to respond to the evolving crisis in Haiti, just 600 miles off the coast of Florida.

On February 17, Secretary Powell had this to say about Haiti:

> We cannot buy into a proposition that says the elected president must be forced out of office by thugs and those who do not respect law.

But just over a week later, the White House released a statement that said:

> This long-simmering crisis is largely Mr. Aristide's making. . . . We urge him to examine his position carefully, to accept responsibility, and to act in the best interests of the people of Haiti.

The administration's initial lack of attention and subsequent response left us with no policy levers to pull and no Haitian institutions to call upon to quell the crisis. In that situation—faced with violence and instability that threatened to lead to a refugee crisis—we deployed American Marines.

Emerging crises in the rest of the hemisphere are potentially as dire, but the administration still appears no more engaged.

Take, for example, Venezuela. Political turmoil and mismanagement have had a serious and adverse impact on economic growth in that country. In 2003, real GDP shrank by nearly 10 percent—after contracting 9 percent the year before—and inflation was the region's highest at 27.1 percent. All of this in a country that has the largest oil reserves outside the Middle East—providing the United States 14 percent of its oil—and increasingly sizable natural gas stores.

Moreover, slow economic growth may be the least of Venezuela's problems. The country is caught in a political crisis over a recall referendum that could bring the Chavez government to an abrupt end.

The situation was exacerbated by clear missteps on the part of the administration in April of 2002, when the administration overturned decades of American policy in the hemisphere by seeming to endorse, however briefly, an unconstitutional change of government. Former President Carter has done us proud by stepping in to pick up the pieces in order to ensure that the problems of this democracy can be resolved democratically.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

But with deepening polarization and new developments in Venezuela each day, there is no substitute for official American leadership in pushing for the respect of democratic institutions over personalities and power.

As in Haiti, if we wait for others to take the lead in Venezuela, we will have waited too long.

There are other emerging threats to stability and democracy in the region—from Peru to Bolivia to Argentina. Economic growth is down, poverty and drug trafficking are increasing, and corruption is rampant.

Perhaps most alarming are observations from recent public surveys that anti-Americanism is approaching all-time highs while respect for democracy is reaching an all-time low.

Such a precarious time demands engagement and leadership from America. Instead, the administration has decided to limit American investments in the region this year, arguing, as I noted, that we have other priorities.

As one leading expert pointed out:

> Relations between the United States and Latin America have acquired a rawness and a level of indecorum that recall previous eras of inter-America strain and discord.

It is not too late, and I hope the meeting tomorrow in Texas marks the administration's renewed interest in the hemisphere. If it does, we are prepared to work with the President and our friends in Mexico and in Argentina and in Venezuela and in Peru and in Bolivia, and in Colombia to build the institutions needed for peace, prosperity, and stability.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SUNUNU). The clerk will call the roll.

Mr. REID. Will the Senator withhold?

Mr. DASCHLE. I will.

The PRESIDING OFFICER. The assistant minority leader.

ORDER OF PROCEDURE

Mr. REID. Mr. President, on our side, we have requests for 15 minutes and 20 minutes for morning business. I checked with the majority. There would be no objections so long as they have equal time. So I ask unanimous consent that both sides have 35 minutes for morning business this morning.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, on the minority side, we yield 20 minutes to the Senator from Connecticut, Mr. LIEBERMAN; and then, following that, 15 minutes to the Senator from Iowa, Mr. HARKIN.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business with 35 minutes for each side equally divided, the first half of the time under the control of the Democratic leader or his designee, the second half of the time under the control of the majority leader or his designee.

Under the request of the assistant minority leader, the Senator from Connecticut is recognized.

REFLECTIONS FROM CAMPAIGN EXPERIENCE

Mr. LIEBERMAN. I thank my friend and colleague from Nevada.

Mr. President, it is now more than a month since I ended my quest for the Democratic nomination for President. It was a thrilling, demanding, purposive journey across this great country. I am deeply grateful for the opportunity I had. I learned a lot. In fact, I would recommend anyone who has the opportunity try it at least once in a lifetime. But today I want to share with my colleagues a few serious reflections from my campaign experience about the current state of our politics and the way they may affect our work here in this election year on the great questions of our economy and our security, particularly in Iraq.

It is now clear who the Presidential nominees of the major parties will be: President Bush and Senator KERRY. Therefore, it is time for members of both parties to start thinking and talking about how we want the national campaign to be conducted at this uniquely difficult and dangerous moment in American history.

For the United States, this is a very good time, but it is also a very difficult time. We have the largest economy and the strongest military in the world. Our core values of freedom and opportunity are ascendent around the globe. In so many ways here at home we live better than any people ever have because of the truly amazing advances in medical science, telecommunications, information technology, and transportation. However, these advances and the globalization they have facilitated have also brought painful changes for millions of Americans in lost jobs, declining income, skyrocketing health care costs, and a fear of what the future may bring.

On top of that, we face an unprecedented new challenge to our security and our freedom from fanatical Islamic terrorists who brutally attacked us and our homeland on September 11, 2001.

These two new realities have made the American people more anxious about their future, as I met them during this last year, than I have ever seen them before. Our confidence and our optimism must be restored. How best to do that and who can best do that is ultimately what this year's Presidential campaign is all about. Ideally, the campaign will raise our hopes, not deepen our insecurities; it will unite us, not divide us; it will strengthen us, not weaken us; it will create an environment in which our Government, including this Congress, will produce relief for some of what ails America, hopefully this year. But I can't say I am optimistic that any of these ideals will be achieved because of the rigid and reflexive partisanship that has come to dominate so much of our politics.

Warnings about factionalism are, of course, as old as our Republic, but they seem especially relevant and necessary today, when strategists from both major parties seem poised to seek electoral victory by inflaming their inner constituencies with ideological tinder and brutal personal attacks on the other party's candidates. That will only divide us more deeply and make it more difficult for us to overcome the enormous threats to our security and our prosperity.

Our political parties and Presidential candidates must find ways to differ without being destructive, to debate without demonizing, to put our national interests ahead of special interests, to take the long view rather than the most politically expedient short view, to rise above partisan politics, to put America first.

I know the conventional wisdom is that in an election year, the breakthrough in our politics and Government I am calling for is unlikely to occur. But I also know there have been many times in our history when the proximity of an election has induced exactly the kind of leadership and consensus building that produce progress in our democracy. Congress passed and previous Presidents signed the Federal Highway Aid Act in 1956, the Civil Rights Act in 1964, the Equal Employment Opportunity Act in 1972, and welfare reform in 1996. These were all landmark pieces of legislation that required and received bipartisan cooperation in an election year.

Let us hope we can produce similar progress this year. Let us work together to lower the crushing price of health care, to develop and implement a plan to stop the bleeding of American manufacturing and service jobs, to restore fiscal responsibility to the Federal budget, to reduce the growing number of poor people in our country, to address the real threat of global warming, and to reassure the American people that we understand their anger at the contemporary culture which too often undercuts their traditional values of faith and family, of right and wrong. Let us hope we can work effectively toward those goals.

There is one area of challenge that demands more than hope, where we simply cannot afford to allow campaign-year politics to take over until after election day. That is the current crisis in Iraq.

We are at war. The lives of more than 100,000 American troops are on the line in Iraq. So, too, is the fulcrum of our present and future national security. Yes, there is violence and bloodshed, sadly, elsewhere in the world, but the impact Iraq will have on our future security and our prospects for victory in the wider war against terrorism is of the greatest magnitude. It has no equal in the world today. Our politics must catch up with that reality.

I recognize the differences of opinion about why and how we went to war in Iraq. I know they run deep and they run wide. As for myself, I remain a strong supporter of the war that removed Saddam Hussein. Yes, I have criticized the administration for some of its policies, both before and immediately after the war. But I believe deeply we cannot allow arguments about past policy to stop us from finding common ground to face the present threats in Iraq. We cannot refight the last war in Iraq against Saddam with such ferocity that we falter in fighting the terrorist insurgents that threaten Iraq and us right now.

The days between now and our election day in November will be critical days for Iraq, as sovereignty is returned to the Iraqi people and they prepare for what we hope will be their own historic election day in December. Unless the security situation in Iraq improves dramatically, that election day may not come. The fact is, as the newspapers and media have told us in the last 2 days, there is danger in Iraq. One hundred and eighty-five people were killed on Tuesday by suicide bombings. These are threats not just to the lives and security of the Iraqi people, but they present the staggering prospect of civil war in Iraq. Together with the Iraqi people and our coalition partners, we are going to need to make critical decisions and take strong, difficult, tough actions in the upcoming weeks and months to maintain security in that country.

To do so, we here at home must transcend the partisan reflex rancor that has become the norm in American politics.

The consequences of failure in Iraq are staggering. The fact that the battle has been joined in Iraq—the historic battle between security and terror, between freedom and tyranny.

Iraq is a critical battleground now in our larger war against terrorism because the fact is that members of the same Jihadist movements that killed nearly 3,000 Americans on September 11, 2001, are now fighting alongside Saddam loyalists, systematically targeting and murdering Americans and Iraqis for working so hard to build a secure, new civil society in that country.

If we fail to stop these insurgents and lose the peace in Iraq, the Iraqi people will be condemned to chaos and relentless violence. The Middle East will be destabilized. The forces of worldwide terrorism will gain new confidence, energy, and resources to attack us.

On the other hand, establishing a stable democratizing, modernizing Iraq would be a major victory in our battle with the terrorists and our struggle to bring hope to the majority of Muslims in the world, who clearly desire peace, not war. It will show them a better way to a better future than the hatred and death that the fanatics of al-Qaida and their ilk preach. It will bring about much greater stability and opportunity throughout the Middle East.

In the weeks ahead, I intend to speak in more detail about how together we can accomplish these critical American goals. But for today, I want to concentrate on how best we can separate the challenges to us in Iraq from this Presidential campaign.

There are significant differences of opinion, clearly, between the Presidential candidates, President Bush and Senator KERRY, about our past policies in Iraq. But I don't see significant differences between them about the need to successfully finish what we have started there. Both have asserted that we must not cut and run from Iraq. We cannot allow the politics of this campaign to obscure or block that agreement, that commitment to finish our mission.

We must recapture the spirit of bipartisanship and national purpose we achieved following the September 11 attacks. It is that important. For Democrats, that doesn't mean that all debate about the war must stop. But I believe it does mean we must focus on how best to win the war we are engaged in now against terrorist insurgents. Only questioning how and why we got into the last war against Saddam is simply not enough. Doing only that is not acceptable anymore.

For the President, his party, it means not politicizing the conduct of the war in any way. As Commander in Chief, the President has a special responsibility to focus on winning the war, even in this election year—perhaps most particularly at this time.

In the months ahead, the President must make tough decisions necessary to bring security to Iraq and a better life to Iraqis, regardless of the political consequences at home because that is what will best serve America's values and security.

The fact is, both parties and our leaders must reach out to each other—difficult as that is in an election year, but it is necessary at this moment—to find a common ground that will secure our common future.

Mr. President, it is reassuring to look back across American history and find that at some of our most difficult times our predecessors in positions of power in the American Government have made sure that partisan politics ended at our Nation's borders.

Following the Second World War, for example, leaders in Congress and the White House forged a bipartisan foreign policy to combat communism. It lasted half a century and brought us to victory in the cold war. During that time, the best of our elected officials no longer saw themselves just as Democrats or Republicans. They saw themselves as Americans fighting a common enemy.

Our times demand from us that same spirit of surpassing bipartisanship in the war against terrorism, for obviously the terrorists do not distinguish among us based on our party affiliations. Each of us is their enemy because we are all Americans, so we Democrats and Republicans must, therefore, in this campaign year, see beyond the red States and the blue States to a larger cause that is as critical to the red, white, and blue as any America has ever fought for.

It is the cause of defeating Jihadist terrorists who hate us and our free and tolerant ways of life more than they love life itself, and who would, if we allow them, plunge this modern world into a primitive global religious war. For the sake of our children's futures, for the sake of America's core values, for the sake of world peace, we cannot allow that to happen.

I am a proud member of the Democratic Party and, as such, I will work for a Democratic victory in the elections this fall. I know my Republican colleagues in this Chamber will work just as hard for a Republican victory. But during this time of war, we each must make certain that our party loyalties do not prevail over our national responsibilities.

As important as a partisan victory is to each of us, it cannot be more important than a victory over terrorism for all of us, a victory that will enable the American people to feel secure again at home, that will enable our soldiers to return from Iraq, that will enable the Iraqi people to enjoy the blessings of liberty, which it is America's historic mission to advance and defend.

A final word. On November 2 of last year, PFC Anthony D'Agostino of Waterbury, CT, was killed in Iraq. A few weeks later, I received a note from Anthony's father, Steven. I read this paragraph from it:

> Please continue to support all our men and women in uniform. Please support our Commander in Chief in his resolve to obtain his objectives. Please keep America the true leader of peace in the world. Tony was our only son, our only legacy. Although this was a great loss to our family, we wish you godspeed in making the world a safer place.

The quiet, selfless strength and patriotism of the D'Agostino family have been echoed for me in other voices I have met throughout America during the last year. We must hear those voices through the sound and fury of the coming national campaign. We must assure them by our words and our deeds that we have our priorities right, that we will come together in this election year across party lines to protect their sons and daughters, to make certain that America will remain the true leader of peace and freedom in the world, and to achieve a better life for all of our people at home.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Iowa is recognized, under the time controlled by the Democratic leader or his designee, 17 minutes.

THE SITUATION IN HAITI

Mr. HARKIN. Mr. President, I want to take a few minutes this morning to address the issue of Haiti and the events that occurred there over the last few weeks. Haiti, a country, as colleagues know, is just off the coast of Florida. Sunday morning, the democratically elected president of Haiti, Jean-Bertrand Aristide, was forced to leave office and his country on a U.S. aircraft. The armed rebellion, led by former members of the Haitian army, which I point out to colleagues was disbanded by President Aristide in 1994, and members of the paramilitary right-wing group called FRAPH, made it impossible for the Aristide government to maintain law and order.

Unfortunately, President Aristide had little choice but to leave office, as the U.S. and international community made it very clear to him they would do nothing to protect him from the armed thugs and convicted murderers who had taken over most of the major cities in Haiti and terrorized and killed many people.

I point out to my colleagues that President Aristide's departure is hardly a voluntary decision to leave. I had several communications with President Aristide, high-ranking members of our administration, and other Members of Congress over the weekend.

On Monday, I had a very lengthy conversation with President Aristide, who had called me from the Central African Republic. I was very disturbed about reports that were circulating that he had been forcibly removed from the President's palace, put on an aircraft, and flown out of Haiti. Some of this now has been talked about in terms of whether or not he was at gunpoint or how was he forced out.

The administration is taking the position that he voluntarily resigned and got on the aircraft and they flew him out of the country. There are others who are saying that perhaps he was forced out at gunpoint.

After my long conversation with President Aristide on Monday afternoon, I am convinced of at least three things. One, President Aristide was not put in handcuffs. He was not marched at the end of a rifle and told to get on the airplane or they would shoot him. No, that did not occur. So in that contextual framework he was not "forced," "abducted," or "kidnapped" out of the country.

On the other hand, during the late afternoon of Saturday, after I had spoken with him, in the evening hours of that same Saturday, he was contacted by our ambassador in Haiti who, according to Mr. Aristide, told him he had basically three options: He could stay in Haiti and be killed and thus precipitate a bloodshed that might cost thousands of lives because we would do nothing to protect him from the armed thugs and the killers; secondly, he could leave with bloodshed, that is, he could leave after precipitating a crisis that might cost thousands of lives; or he could leave without bloodshed.

Confronted with those options, if a President such as Aristide, who is democratically elected, leaves, is that voluntary? As Congressman RANGEL said yesterday in a hearing: Under a threat to his life, Mr. Aristide had little choice but to sign a resignation letter. I would have signed one, too, Congressman RANGEL said.

That is the essence of what happened. Our Government basically left Mr. Aristide, a democratically elected President, with no options. Either leave with bloodshed or leave without bloodshed, but in either case he was leaving.

As President Aristide told me, he had an obligation to the Haitian people. He did not want to see bloodshed. He did not want to see thousands of innocent people killed. So, therefore, under that kind of duress he was forced to leave.

I was asked why the United States did not honor the Santiago treaty in 1991 signed by the United States, which clearly states that any government democratically elected in the Western Hemisphere that seeks the support of other Organization of American States member nations, when threatened with an overthrow, will be assisted? That agreement was signed by the first President Bush in 1991.

I point out a couple of things. When President Aristide was first elected in 1990, he served for a total of about 8 months, from about January through August of 1991, and then was overthrown by a military coup.

What did the first President Bush administration do? Absolutely nothing. They let the military take over and throw out a democratically elected President, at the same time that the first President Bush was signing the Santiago Resolution saying we would come to the assistance of a democratically elected government in our hemisphere if they were threatened with an overthrow.

Then President Clinton came to office the following year and we restored President Aristide to office. He had about 1 year left, because he agreed that the 3 years he spent in exile would count toward his 5-year tenure. Under the Constitution of Haiti, a President cannot succeed himself. Mr. Aristide agreed that he would abide by the constitution.

So when he came back to Haiti, he served about 1 more year and then elections were held in 1995 and he did not run, of course, because the Constitution would not let him do so. During the year he was back in Haiti, he did one significant thing. He disbanded the Haitian Army, the army that had been used for probably as much as 100 years to repress and suppress the people of Haiti. The Army had been used by one dictator after another to suppress the legitimate aspirations of the Haitian people.

After he had done that, he called me up. I remember that phone call very well when President Aristide called and said he was soon to leave office and had decided to disband the Haitian Army. I remember him telling me he did it for a couple of reasons.

President Aristide told me that Haiti did not need a military. The military had been used to repress the people. No one is going to invade us. He said they wanted to be like Costa Rica, that did not have an army and they did not need one.

Secondly, he said the military in Haiti did nothing but repress people. The military had been using up about half of the GDP of Haiti to pay for these military thugs.

Well, guess who is leading the insurgency against Aristide now? Former leaders of the old Haitian military, many of whom had left the country, at least one of whom had been Chamblain. He had been convicted in absentia because he fled the country. He had been convicted of at least two murders, one of Guy Malary, who was a Justice Minister assassinated on the steps of the justice building in broad daylight by Mr. Chamblain and his thugs.

Mr. Chamblain, who was convicted in absentia of murder, is now one of the rebel leaders in Haiti. Guy Philippe who we keep seeing on television, is also a rebel leader. Amnesty International said he had turned a blind eye to many extrajudicial killings and murders committed by police under his command.

Well, I hope and trust that we do not support these people. I noticed in the hearing the other day in the House, Mr. Noriega, the Assistant Secretary of State for Western Hemisphere, said we did not support the violent overthrow of that man, referring to Mr. Aristide.

Well, I am sorry, Mr. Noriega, you are wrong. The United States aided and abetted, in more ways than one, the overthrow of a democratically elected government. We need some investigations.

What happened to all of the arms that we sent to the Dominican Republic in the last couple of years to patrol the border between the Dominican Republic and Haiti for drug smuggling? Reports are coming out that many of these arms we sent down there are now in Haiti in the hands of these killers and thugs: flack jackets, helmets, rifles, night vision goggles.

I don't know if it is true or not, but I am saying there are many reports that these arms we sent down there are in the hands of the armed insurgents, former members of the former Haitian military. How did they get their hands on these arms?

As Richard Holbrooke, our former Ambassador to the United Nations, said on a Sunday morning talk show, these individuals have a long history of murder and terror when they were members of the Haitian military. He said they have a long history of involvement with our intelligence services in the United States.

This needs to be investigated.

The New York Times today reported that the political crisis in Haiti is deepening. Prime Minister Neptune has declared a state of emergency and has suspended many of the rights to the Haitian people guaranteed by their constitution.

The Bush administration withdrew its support from the Aristide government because it said it was a "government of failed leadership."

I guess we get to decide whether a democractically elected government is failing or not. And if we don't like them, we have the right to go ahead and let armed thugs take over that government.

I tell you, the Bush administration has a lot to answer for, and will have a lot to answer for because of what has happened and what is happening in Haiti today.

President Aristide is gone, forced out of office, and the Bush administration continues to sit on the sidelines and wring its hands while innocent people in Haiti continue to be killed.

I call on the administration to truly make a commitment to stabilize the security situation in Haiti by first instructing the Multinational Interim Force to collect the weapons used by the rebels who said they would disarm. If this vital step is not taken now, we are only setting ourselves and the Haitian people up for another disaster. The mandate is clear. The Multinational Interim Force should immediately disarm and arrest these thugs.

The failure to disarm the disbanded Haitian military and the paramilitary forces called FRAPH in 1994 after President Aristide had come back to office has been one of the root causes of ongoing political violence in Haiti.

We know who these thugs are and we have the mandate to arrest and turn them over to the Haitian authorities. We have arrested Baathists members of Saddam Hussein's party. We have arrested them and turned them over to the Iraqi courts. We also did this in the Balkans. Why can't we do it in Haiti? We cannot go out and arrest Mr. Chamblain, convicted of two murders? Why don't we go out and arrest him and turn him over to the Haitian courts to stand trial?

Let us show the Haitian people we are committed to ensuring that the democratic process works—not just in Iraq, not just in the Balkans, but also in Haiti as well.

The Bush administration can no longer sit on the sidelines. It is my hope the Bush administration shows the same dedication and commitment to supporting the new interim government as it did to stand by and actively destroy President Aristide's duly elected democratic government.

What has happened in Haiti should be a blight on the American conscience—the poorest country in this hemisphere, the poorest of the poor, struggling decade after decade under brutal dictatorships, repressive military regimes, finally becoming free in 1990, only to have its President overthrown in a coup. What signal are we sending to the Haitians? I guess if you are poor and you don't have oil and you are not strategically important, we don't care what happens to you. We will let the thugs take over. We will let the few wealthy elite rearm the military to protect them and to keep them in power.

I saw a newspaper article late last week which pointed out that this Congress had appropriated $18 billion for reconstruction in Iraq. It went on to say how $4 billion of the money that was appropriated for Iraq was for clean water and sanitation—$4 billion of our taxpayers' money going to one of the wealthiest countries in the world, Iraq. Iraq is not a poor country. This is a very rich country with oil reserves. It is either the first or second in the world in oil reserves. Yet we are taking $4 billion in taxpayer money to build a water and sanitation system. Why can't we build clean water and sanitation systems, roads, hospitals and schools in Haiti? To me, that is the moral imperative of what we should be doing in our hemisphere—not trying to destroy democratically elected governments.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Missouri.

OUTSOURCING U.S. JOBS

Mr. BOND. Madam President, yesterday we began our discussion on outsourcing—a subject well worth discussing because it is of great concern.

I am sorry I didn't have a chance to hear all of the discussions because I think we need to address all of the issues related to the needless outsourcing of U.S. jobs abroad. It is a problem in my State as it is in many others. I imagine I am not the only Member of this body who has been confronted with workers who have lost their jobs, and many more who feel that the loss of their job is likely. They raise these concerns about outsourcing and jobs going abroad.

Yesterday I heard a lot of strong rhetoric about how bad it was, but I didn't hear a discussion of the many complicated issues that go into outsourcing. I did not hear a thorough discussion of how effectively we can remedy the problem.

As a matter of fact, the chairman of the Finance Committee raised the question that perhaps one of the remedies being proposed might put us in violation of the World Trade Organization rules with the possible imposition of much broader penalties on other U.S. workers not directly affected.

I think it is time we begin a discussion of this complicated issue. I hope we have hearings on it. I hope we have discussions on it because I think the people of America need to understand what it is like as we live in a true world economy.

I want to look first at what I consider to be a real problem of outsourcing; that is, governmentally enforced outsourcing. You say, What? The Federal Government and State governments are threatening to drive jobs out of the United States? Do we realize that?

In this body last year, I led a debate in which there were strong opinions on both sides. I don't think I need to remind my colleagues of the debate over the regulation proposed by the California Air Resources Board that proposed to require all small engines—the engines we have in weed trimmers, in lawnmowers, leaf blowers and chainsaws—would have to have catalytic converters. This was a very contentious debate. I thank my colleagues who supported me and who helped us prevent the imposition of this rule nationally outside of California.

We talked about some of the dangers—the danger that 1,100-degree catalytic converters would start fires. Grass burns at 500 degrees. The danger of a small engine with a 1,100-degree catalytic converter is great. But there was a more direct danger. If that California regulation had gone nationwide, then the companies set up to manufacture small engines would not have been able to manufacture them in their existing facilities. They told us—and outside experts agreed—that they would have to rebuild these facilities. Where would they rebuild the facilities? They would rebuild the facilities in China because they could do it so much more cheaply and use less expensive labor in China to turn out the engines. Some of them are now produced in China, and they would have moved all of the small engine production to China.

I was in Poplar Bluff, MO, last Saturday night. I was thanked by the 1,100 employees of Briggs & Stratton in Poplar Bluff. I was thanked, and my colleagues in this body and in the House were thanked, because we took steps to stop the California Air Resources Board from sending a regulation nationwide that would have cost them their jobs. Not just 1,100 jobs at Poplar Bluff in Missouri, a total of 5,000 jobs in Missouri would have moved offshore. They would have been outsourced.

Nationally, more jobs in Wisconsin, almost as many jobs in Kentucky, jobs in Alabama, jobs all across the Midwest, a total of 22,000 American jobs would have been outsourced by that governmental regulation if this body, at my request, and the other body at the request of Congresswoman EMERSON, had not been able to say you are not going to impose those restrictions outside the State of California. I thank my colleagues on behalf of the workers in Missouri and around the Nation whose jobs were not outsourced.

But then we have another problem. Do you know what is driving jobs offshore now? A shortage of natural gas. Natural gas prices have run way up because of governmentally enforced provisions. The natural gas crisis we have in the United States is a governmentally enforced shortage, a governmentally enforced hike. Many low-income families find their natural gas bills going through the ceiling. All of us who heat with natural gas see our natural gas bills going up.

Worse, men and women who work in industries that use natural gas—chemical and related industries—are seeing their jobs move offshore because the producers of those goods have to go to other countries where they have abundant natural gas supplies, where the natural gas supply has not been constrained by governmental action and not been enhanced by governmental mandate. We have been sitting around here and we cannot get an energy bill through that would tap the absolutely essential natural gas resources in the Presiding Officer's State of Alaska—and, I might add, ANWR, too.

We have natural gas, but we cannot use it. Why? Because governmental regulations say we cannot drill here or there; we have not been able to build a pipeline.

Why have natural gas prices gone up? We have mandated electric utilities not to use abundant coal but to use natural gas. Natural gas should not be used to fire electric generating boilers. It has too many other uses.

There was an article last week in the Wall Street Journal by Russell Gold talking about how natural gas costs hurt United States firms:

> The root of higher natural-gas prices is a federal policy that promotes use of the relatively cleaner-burning fuel without providing incentives or means for natural-gas companies to increase production. So while demand soared in recent years, especially from a raft of new gas-fired power plants, producers have struggled with supply. Most North American gas fields are years past their prime, and environmental restrictions prevent drilling on many of the most promising areas.

He has summed it up well. We have a crisis in natural gas prices and natural gas supply and in outsourcing of natural gas-using industries because of government policy. The farmers in my State have to use fertilizer. The "n" in the three-numbered fertilizer most farmers use or the anhydrous ammonia comes from natural gas, and they see tremendously high prices. I believe in a little bit of 13/13/13 and the prices jumped in that small sack I buy. When you are buying tons and tons of this, it cuts into farmers' profits and raises their costs.

Do you know what I think. We have all these impact statements, environmental impact statements, but maybe what we need is a jobs impact statement. Before we pass one of these good ideas or before some agency of government comes up with a new regulation, maybe they ought to have to do an impact on the jobs it would cost or create.

I would like to have some of my colleagues who have been so vocal and persuasive and vociferous in arguing against outsourcing to have a chance to vote on whether we ought to have a jobs impact statement. That seems to make a lot of sense to me. Maybe we can do something. I will be working on that. I may offer that for this body's consideration.

But I tell you something else that is causing outsourcing and that we have not done anything about. We cannot move forward on asbestos litigation reform. There are 3,000 or 4,000 people who are tragically sick because of asbestos, but the asbestos trial lawyers have filed class action suits with 700,000 plaintiffs.

That struck home for me because I live in northeast Missouri. My hometown of Mexico, MO, used to call itself the saddle horse and fire clay center of the world. Saddle horses are three- and five-gaited horses. Rex McDonald, trained by Tom Bass, is one of the leaders. Unfortunately, we are no longer the fire clay or refractory center of the Nation. We had thousands and thousands of people employed in making high-temperature and abrasive-resistant bricks that line steel furnaces and petroleum-cracking furnaces that line the Navy boilers. That used to be the major industry.

But it turns out that some time ago there was some asbestos used in the mortar that held the refractory's products together. So all of those companies have 700,000 lawsuits filed against them. Most, if not all of them, have been forced into bankruptcy because of asbestos litigation. Their buyers have come in and picked up the customer lists and the recipes and moved the production to Canada to supply our basic industry needs. The most basic industry, basic for steel, for aluminum, for petroleum products, has been driven largely to Canada to get away from asbestos litigation.

We are not taking the steps we need to allow us to bring back into the United States the production of one of the most basic elements of heavy industry. That is one thing maybe we can work on. Maybe we can pass an asbestos bill—we should have done so a long time ago—to care for those who are really sick, but also to cut off frivolous claims that do nothing but line trial lawyers' pockets. Tort reform is another thing we need to address to keep businesses productive so they can hire workers.

I tell you one other thing. I have a particular interest because the Senator from Maryland and I chair the appropriations subcommittee that appropriates funds for the National Science Foundation. We are seeing a tremendous shortage of scientists and engineers. We are just not finding enough United States students who want to follow a science or engineering curriculum. With the increasing developments in science and technology and engineering, we have to be turning out more scientists. We need more money. I make a plea for more money for the National Science Foundation budget so we can increase the incentives the National Science Foundation is using, along with science centers and educational institutions through the country, to train more scientists and engineers and technicians.

Yes, we need to train more people in community colleges. That is very important because if we do not train them, other countries, such as India, with tremendous reservoirs of engineers are turning out top quality engineers. If we do not have the engineers to do the work that is needed, that work is going to go to India. We need to do something about it. And we ought to begin moving.

In a growing competitive and interdependent global economy, as any economist will explain, there are increasingly greater flows of trade, capital, and labor.

Outsourcing apparently has been occurring wherever freedom has existed because private businesses will seek to increase efficiency and provide better products at a lower cost by focusing resources on what they do better than everyone else. This has occurred in the United States in the previous half century, as the United States employment grew from 45 million to 130 million jobs.

I was one who thought I would always buy an American car. I thought I had been doing so. But do you know something. More and more American cars have foreign-made parts and foreign-made components. At the same time, more foreign companies are coming into the United States. You have to do a lot of research to find out which car has more and which car has less U.S. components.

The auto industries are employing people at good wages in the United States at high-tech jobs, while lower-tech jobs are done overseas. But the American consuming public has demanded the best quality automobiles. So it is difficult, when you go out and try to buy American, to find out what is truly American. Those eggs have been scrambled, and it is difficult to unscramble them.

But as much a problem as outsourcing and foreign trade is, I want to give you some good news. There are some in this body who voted for the North American Free Trade Agreement and have now roundly condemned it. But on Monday of this week, the Governor of Missouri proudly announced—and I congratulate the State—that Missouri exports grew by 6.5 percent in 2003. From his release, it says Canada and Mexico were top importers of Missouri products. Canada imported $3 billion of products; Mexico imported $748 million of products. Not bad. Those are two countries I believe are in NAFTA.

But more interestingly, the Governor goes on to say:

> More than 75,000 jobs in the state were directly tied to industries that export to other countries. . . . Also, the top 10 exporting industries paid higher average annual wages, at $41,894, than the statewide average wage of $33,600.

Madam President, I ask unanimous consent that release be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MISSOURI EXPORTS GROW 6.5 PERCENT IN 2003

Missouri's exports increased by 6.5 percent in 2003, reaching $7.23 billion, the state's Department of Economic Development said.

Missouri's exports totaled $6.79 billion in 2002. Transportation equipment was Missouri's top export in 2003 with nearly $2.2 billion in sales. Other strong exports were chemicals, plastics and rubber, leather products and electrical equipment, appliances and components, and food and similar products.

Canada and Mexico were the top importers of Missouri products. Canada imported $3.08 billion of products, and Mexico imported $748 million of products. The other top importers of Missouri products were Japan, the United Kingdom, China, Germany, Italy, Hong Kong, Belgium and Australia.

Nationally, Missouri ranked No. 26 for export sales, but its international sales grew faster than the nation's, which grew an average of 4.4 percent.

More than 75,000 jobs in the state were directly tied to industries that export to other countries, the department said in a written release. Also, the top 10 exporting industries paid higher average annual wages, at $41,894, than the statewide average wage of $33,600.

Kelvin Simmons, director of the department, said Missouri's exports seem to be returning to the level they were at before the recession.

"Increased sales of Missouri products abroad is another important indicator that Missouri's economy has turned the corner on the national recession," Simmons said in the release.

Mr. BOND. Madam President, as businesses and our economy restructure—a natural occurrence of the business cycle—workers in our country have done better overall. "Overall," however, does not mean everyone has done better. Many have not, and those are the people for whom the overall benefits of restructuring or even the so-called temporary nature of the unemployment is of little comfort because they want to work and provide for their families but they do not have a job.

Yesterday afternoon, the Senator from New Jersey was very loudly and strongly decrying the outsourcing of jobs, and he made, I believe—I did not hear all of his statement—a very compelling case. At the same time, the firm he was associated with announced last fall it intended to establish an Indian unit with 250 employees working on operations in technology. Now, how does that square with not outsourcing? That is something perhaps we should discuss in a hearing or further debates.

But I just came across an interesting article from Tom Friedman, certainly not with a Republican base, but I think a very good New York Times international analyst. He was talking about interviews he had with an Indian who was a founder of 24/7's customer call center. He said:

> How can it be good for America to have all these Indians doing our white-collar jobs?

The reply was:

> All the computers are from Compaq. The basic software is from Microsoft. The phones are from Lucent. The air-conditioning is by Carrier, and even the bottled water is by Coke, because when it comes to drinking water in India, people want a trusted brand. On top of all this . . . 90 percent of the shares . . . are owned by U.S. investors [including U.S. pension funds]. This explains why, although the U.S. has lost some service jobs to India, total exports from U.S. companies to India have grown from $2.5 billion in 1990 to $4.1 billion in 2002. What goes around comes around, and also benefits Americans.

Mr. Friedman concludes his article quoting the Indian gentleman saying:

> It's unfair that you want all your products marketed globally, but you don't want any jobs to go.

And Mr. Friedman replies:

> He's right. Which is why we must design the right public policies to keep America competitive in an increasingly networked world, where every company—Indian or American—will seek to assemble the best skills from around the globe. And we must cushion those Americans hurt by the outsourcing of their jobs. But let's not be stupid and just start throwing up protectionist walls, in reaction to what seems to be happening on the surface. Because beneath the surface, what's going around is also coming around. Even an Indian cartoon company isn't just taking American jobs, it's also making them.

Those are Mr. Friedman's comments.

Madam President, I ask unanimous consent that op-ed be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 26, 2004]

WHAT GOES AROUND . . .

(By Thomas L. Friedman)

BANGALORE, India—I've been in India for only a few days and I am already thinking about reincarnation. In my next life, I want to be a demagogue

Yes, I want to be able to huff and puff about complex issues—like outsourcing of jobs to India—without any reference to reality. Unfortunately, in this life, I'm stuck in the body of a reporter/columnist. So when I came to the 24/7 Customer call center in Bangalore to observe hundreds of Indian young people doing service jobs via long distance—answering the phones for U.S. firms, providing technical support for U.S. computer giants or selling credit cards for global banks—I was prepared to denounce the whole thing. "How can it be good for America to have all these Indians doing our white-collar jobs?" I asked 24/7's founder, S. Nagarajan.

Well, he answered patiently, "look around this office." All the computers are from Compaq. The basic software is from Microsoft. The phones are from Lucent. The air-conditioning is by Carrier, and even the bottled water is by Coke, because when it comes to drinking water in India, people want a trusted brand. On top of all this, says Mr. Nagarajan, 90 percent of the shares in 24/7 are owned by U.S. investors. This explains why, although the U.S. has lost some service jobs to India, total exports from U.S. companies to India have grown from $2.5 billion in 1990 to $4.1 billion in 2002. What goes around comes around, and also benefits Americans.

Consider one of the newest products to be outsourced to India: animation. Yes, a lot of your Saturday morning cartoons are drawn by Indian animators like Jadoo Works, founded three years ago here in Bangalore. India, though, did not take these basic animation jobs from Americans. For 20 years they had been outsourced by U.S. movie companies, first to Japan and then to the Philippines, Korea, Hong Kong and Taiwan. The sophisticated, and more lucrative, preproduction, finishing and marketing of the animated films, though, always remained in America. Indian animation companies took the business away from the other Asians by proving to be more adept at both the hand-drawing of characters and the digital painting of each frame by computer—at a lower price.

Indian artists had two advantages, explained Ashish Kulkarni, C.O.O. of Jadoo Works. "They spoke English, so they could take instruction from the American directors easily, and they were comfortable doing coloring digitally." India has an abundance of traditional artists, who were able to make the transition easily to computerized digital painting. Most of these artists are the children of Hindu temple sculptors and painters.

Explained Mr. Kulkarni: "We train them to transform their traditional skills to animation in a digital format." But to keep up their traditional Indian painting skills, Jadoo Works has a room set aside—because the two skills reinforce each other. In short, thanks to globalization, a whole new generation of Indian traditional artists can keep up their craft rather than drive taxis to earn a living.

But here's where the story really gets interesting. Jadoo Works has decided to produce its own animated epic about the childhood of Krishna. To write the script, though, it wanted the best storyteller it could find and outsourced the project to an Emmy Award-winning U.S. animation writer, Jeffrey Scott—for an Indian epic!

"We are also doing all the voices with American actors in Los Angeles," says Mr. Kulkarni. And the music is being written in London. Jadoo Works also creates computer games for the global market but outsources all the design concepts to U.S. and British game designers. All the computers and animation software at Jadoo Works have also been imported from America (H.P. and I.B.M.) or Canada, and half the staff walk around In American-branded clothing.

"It's unfair that you want all your products marketed globally," argues Mr. Kulkarni, "but you don't want any jobs to go."

He's right. Which is why we must design the right public policies to keep America competitive in an increasingly networked world, where every company—Indian or American—will seek to assemble the best skills from around the globe. And we must cushion those Americans hurt by the outsourcing of their jobs. But let's not be stupid and just start throwing up protectionist walls, in reaction to what seems to be happening on the surface. Because beneath the surface, what's going around is also coming around. Even an Indian cartoon company isn't just taking American jobs, it's also making them.

Mr. BOND. Madam President, there are many ways to address the needless outsourcing of jobs. One of the things we could do is to have the Government impose even more restrictions on the private sector. However, in many cases that is not the solution; it is the problem. According to the Congressional Research Service, there is a relationship between high employment restrictions and high unemployment. CRS says:

> . . . the four largest countries with the most protection (Germany, France, Italy, and Spain) had the highest unemployment rates of any country.

CRS cites the "unintended effect of making firms reluctant to take on new workers" is the result of the protectionist policies.

Interesting comments on this came from former Labor Secretary Robert Reich, who was President Clinton's Secretary of Labor. On November 2, 2003, in the Washington Post, he said, in a headline: "High-Tech Jobs Are Going Abroad! But That's Okay." What is he talking about? How did he say that? Man, that sounds bad. That sounds as bad as some of the statements we have heard out of economists in this administration. I will submit the whole thing for the RECORD, but at the end of it he said:

> So why don't I believe the outsourcing of high-tech work is something to lose sleep over?

He says:

> First, the number of high-tech jobs outsourced abroad still accounts for a tiny proportion of America's 10-million-strong IT workforce. . . .
>
> Second, even as the number of outsourced jobs increases, the overall percent of high-tech jobs going abroad is likely to remain relatively small.

Next:

> Outsourcing also poses quality-control problems.

Next:

> As smart U.S. companies outsource their more standard high-tech work, they're simultaneously shifting their in-house IT employees to more innovative, higher value-added functions, such as invention, creation, integration, key R&D and basic architecture. . . .
>
> There's no necessary limit to the number of high-tech jobs around the world. . . .

In conclusion, this former Secretary of Labor says:

> . . . it makes no sense for us to try to protect or preserve high-tech jobs in America or block efforts by American companies to outsource. Our economic future is wedded to technological change, and most of the jobs of the future are still ours to invent.

Madam President, I ask unanimous consent that the article by Robert Reich be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 2, 2003]

HIGH-TECH JOBS ARE GOING ABROAD! BUT THAT'S OKAY

(By Robert B. Reich)

There's good news and not-so-good news in the American workplace. The good news is that the economy is growing and businesses are spending once again, on high technology. The Commerce Department reported last Thursday a sharp pickup in spending on equipment and software in the third quarter. Not so good is the news that high-tech jobs have not come back, at least not so far.

Jobs in America's sprawling information-technology (or IT, as is known in the info world) sector—including everything from software research, design and development to computer engineering—are down 20 percent from late 2000. Salaries are down, too. In 2000, senior software engineers earned $130,000. The same job now pays no more than $100,000. Meanwhile, a lot of high-tech jobs are moving offshore. Is that a cause for concern?

When I was labor secretary, I fought to preserve U.S. jobs. So you might assume that I would see the number of high-tech jobs moving offshore as a troubling trend. And yet, I do not. I'll explain why in a moment.

But lots of people are worried about it. Indeed, those anxieties seem to be increasing:

On Sept. 30, Congress let the cap on H–1B visas issued to foreign high-tech workers to shrink from 195,000 to its old level of 65,000. The ostensible reason: to make sure more high-tech jobs go to Americans.

Bills are pending in several state legislatures barring state government projects from using offshore high-tech workers.

High-tech workers are organizing against foreign outsourcing. One group of them—the Organization for the Rights of American Workers—has demonstrated outside conferences on "strategic outsourcing" in New York and Boston.

The fear is understandable.

More than half of all Fortune 500 companies say they're outsourcing software development or expanding their own development centers outside the United States. Sixty-eight percent of more than 100 IT executives who responded to a survey last spring by CIO magazine said their offshore contracts will increase this year. By the end of 2004, 10 percent of all information-technology jobs at American IT companies and 5 percent in non-IT companies will move offshore, according to Gartner Co., a research and analysis firm that specializes in high-technology trends. And by 2015, according to a study by Forrester Research in Cambridge, an estimated 3.3 million more American white-collar jobs will shift to low-cost countries, mostly to India.

The trend isn't surprising. American companies are under intense pressure to reduce costs, and foreigners can do a lot of high-tech jobs more cheaply than they can be done here. Already India has more than half a million IT professionals. It's adding 2 million college graduates a year, many of whom are attracted to the burgeoning IT sector. The starting salary of a software engineer in India is around $5,000. Experienced engineers get between $10,000 to $15,000. Top IT professionals there might earn up to $20,000.

Meanwhile, it's become far easier to coordinate such work from headquarters back in America. Overseas cable costs have fallen as much as 80 percent since 1999. With digitization and high-speed data networks, an Indian office park can seem right next door. Matthew Slaughter, associate professor of business administration at Dartmouth College, says information-technology work "will move faster [than manufacturing] because it's easier to ship work across phone lines and put consultants on airplanes than it is to ship bulky raw materials across borders and build factories and deal with tariffs and transportation."

With such ease of communicating, the squeeze on H1–B visas will do little to keep IT jobs out of the hands of non-Americans. "It doesn't make a difference for firms whose business model has people largely working offshore," Moksha Technologies Chairman Pawan Kumar told the Press Trust of India. "It . . . will make firms drive business where the technology workers are." Guatam Sinha, head of the Indian human-resource firm TVA Infotech, agrees. "In fact, lots of techies are coming back to India." India exported $9.6 billion worth of software last year. Such exports are expected to grow 26 percent this fiscal year.

So why don't I believe the outsourcing of high-tech work is something to lose sleep over?

First, the number of high-tech jobs outsourced abroad still accounts for a tiny proportion of America's 10-million-strong IT workforce. When the U.S. economy fully bounces back from recession (as it almost surely will within the next 18 months), a large portion of high-tech jobs that were lost after 2000 will come back in some form.

Second, even as the number of outsourced jobs increases, the overall percent of high-tech jobs going abroad is likely to remain relatively small. That's because outsourcing increases the possibilities of loss or theft of intellectual property, as well as sabotage, cyberterrorism, abuse by hackers, and organized crime. Granted, not much of this has happened yet. But as more IT is shipped abroad, the risks escalate. Smart companies will continue to keep their core IT functions in-house, and at home.

Outsourcing also poses quality-control problems. The more complex the job order and specs, the more difficult it is to get it exactly right over large distances with subcontractors from a different culture. In a Gartner survey of 900 big U.S. companies that outsource IT work offshore, a majority complained of difficulty in communicating and meeting deadlines. So it's unlikely that very complex engineering and design can be done more efficiently abroad.

As smart U.S. companies outsource their more standard high-tech work, they're simultaneously shifting their in-house IT employees to more innovative, higher value-added functions, such as invention, creation, integration, key R&D and basic architecture. These core creative activities are at the heart of these companies' competitive futures. They know they have to nourish them.

The third and most basic reason why high-tech work won't shift abroad is that high technology isn't a sector like manufacturing or an industry like telecommunications. High-tech work entails the process of innovating. It's about discovering and solving problems. There's no necessary limit to the number of high-tech jobs around the world because there's no finite limit to the ingenuity of the human mind. And there's no limit to human needs that can be satisfied.

Hence, even as the supply of workers around the world capable of high-tech innovation increases, the demand for innovative people is increasing at an even faster pace. Recessions temporarily slow such demand, of course, but the long-term trend is toward greater rewards to people who are at or near the frontiers of information technology—as well as biotechnology, nanotechnology and new-materials technologies. Bigger pay packages are also in store for the professionals (lawyers, bankers, venture capitalists, advertisers, marketers and managers) who cluster around high-tech workers and who support innovative enterprises.

In the future, some of America's high-tech workers will be found in laboratories but many more will act like management consultants, strategists and troubleshooters. They'll have intimate understandings of particular businesses so they can devise new solutions that meet those businesses' needs. They'll help decide which high-tech work can most efficiently be outsourced, and they'll coordinate work that goes offshore with work done in-house.

Don't get me wrong. None of this is an argument for complacency. It's crucial that America continues to be the world's leader in innovation. Our universities are the best in the world, but they can't remain that way when so many are starved for cash. Federal and state support for higher education must keep up with rising demand for people who are creative and adaptive.

Federal government investments in basic research and development are also vital. We need to guard against what is already a drift away from basic research toward applied research and development—that is, from the creation of new knowledge that can be put to many different uses versus R&D that's related to the commercialization of specific products, especially military-related aerospace, telecommunications and weapons.

And just as with laid-off manufacturing workers, we need to ensure that high-tech workers are adaptive and flexible. They should be able to move quickly and get the retraining they need. Pensions and health insurance should be more portable across jobs. High-tech workers who want to polish their skills or gain new ones should have access to tax credits that make it easy for them to go back to college for a time.

But it makes no sense for us to try to protect or preserve high-tech jobs in America or block efforts by American companies to outsource. Our economic future is wedded to technological changes, and most of the jobs of the future are still ours to invent.

Mr. BOND. Madam President, as we have this debate, it is impossible to observe one nearly ignored reality. Despite whether we often or always disapprove of corporate decisionmakers, it is impossible to be for employees while being against employers. We cannot be unrestrained in our desire to impose additional costs on employers and expect there not to be harmful consequences to employees.

One would not know it by listening to some of the Presidential wannabes, but when you put more burdens on employers, they respond. They respond to punitive taxation, regulation, and litigation. They will outsource. They will move away. They will respond positively to incentives. We hope the incentives of the underlying subject of the bill before us today to provide tax relief for exports will help us get more jobs in this country.

In my State, governmental regulations, State and Federal, are being used by some to try to prevent a foreign firm from investing $400 million in a plant that will employ 200 high-paid workers in a poor area.

They are trying to stop insourcing. We are in year 3 of environmental assessments to see if the plant can meet all the EPA, Corps of Engineers, and State standards. If we keep piling on burdens, this firm can conduct operations in Thailand. I am afraid that option may be becoming more attractive every day.

As I said, the trial lawyers have litigated the refractory business out of Missouri. According to the National Association of Manufacturers, we have the most expensive legal system in the world, yet filibuster after filibuster keeps us from reforming the system. Tort taxes, for which America is famous, are estimated to have been over $230 billion in 2002, 13 percent higher even than the costs in 2001. Who pays for these skyrocketing costs? The tort lawyers pocket their 40 percent, but employers, employees, and consumers contend with those costs.

We are not upgrading the locks and dams on the Mississippi River that are the vital lifeline to make sure we can use the farm productivity of the Midwest to ship grain to export markets around the world, export markets that are bringing up prices and restoring economic well-being to the agricultural sector. We need to invest in our infrastructure.

Let me add highways. Highways are very important to growing jobs. I wouldn't want to leave the Chamber without saying that. There is much work to be done.

Some apparently think that highways are too expensive: ignoring the greater expense of decay and inefficiency. A good highway bill has passed the Senate, but is bogged down and may not emerge from the House.

We spend $60 million over 12 years studying whether our 70-year-old dilapidated locks on the Mississippi River should be modernized—a study that has resulted in nothing but red tape, congestion, and delay, without resolution. While failing to respond to the obsolescence of our Nation's most important inland waterway and artery to the world's markets, we are at risk of outsourcing corn and bean production to other countries.

This quagmire has been excellent news for South American farmers who are winning market share as fast as we are losing it.

On the Missouri River, another key waterway, the U.S. Department of Interior proposed in 2000 to end water transportation and increase flood risk for downstream businesses and landowners so they could experiment with pallid sturgeon habitat. Our farmers and other shippers who are struggling to compete look to government for more efficient transportation options. Instead, government uses it regulatory power to consign farmers and other employers to the mercy of a higher-cost transportation monopoly. More good news for foreign farmers courtesy of the U.S. Federal Government.

Farmers and businesses in my State routinely raise issues related to high energy costs. We need to be encouraging domestic production of energy. Instead we discourage it. Rather than safely developing renewable resources at home and oil in Alaska, we import oil from the Middle East. We had an energy bill that promoted all forms of domestic energy production but could not overcome a filibuster. So we are outsourcing midwestern farm jobs and Alaskan energy jobs to Saudi Arabia by Congressional obstruction. The Wall Street Journal featured an article recently noting how some firms were "off-shoring" in response to dramatic increases in natural gas necessary to fuel their operations.

Then there is the tax burden on U.S. businesses. According to some estimates, the U.S. has the second highest corporate tax burden in the world—second only to Japan. Most small businesses are taxed as individuals and are subject to the top marginal rates. Consequently, according to election-year Democrat rhetoric, these small businesses and corporations are "the rich" and next week we will see numerous attempts to raise their taxes.

Again, Congress can't stick it to the employers and claim to be deeply concerned about employees. We don't always like what corporations do—and I troubled by what seems like a herd mentality when it comes to outsourcing of many jobs—but businesses exist because Americans voluntarily purchase their products, Americans own them, Americans run them, Americans work for them.

No one advocates a business environment free of regulation, but we cannot continue to be oblivious to the costs that we, little-by-little, heap upon our employers.

If we want them to hire people and do so in the U.S.—and I certainly do—why don't we prove it. Why don't we resist raising their taxes next week? Why don't we end the filibuster on legal reform or "tort tax" reform? Why don't we end the filibuster on an energy bill? Why don't we modernize our infrastructure? Why don't we recognize that by working with businesses, we can reduce pollution rather than reduce American jobs.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, it is my understanding there are two additional requests for time. Do we have time left on the Democratic side?

The PRESIDING OFFICER. There is no time remaining on the Democratic side.

Mr. REID. I ask unanimous consent that there be an additional 10 minutes equally divided and that our 5 minutes go to the Senator from Delaware, Mr. CARPER, following the statement of the Senator from Minnesota.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COLEMAN. Madam President, I yield to my friend, the Senator from Delaware.

Mr. CARPER. I thank the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Delaware.

AMERICAN LEGACY FOUNDATION

Mr. CARPER. Today is March 4. Five years ago today something called the American Legacy Foundation was created. Over the past 5 years, Legacy Foundation has helped us to make great strides in the improvement of health for all kinds of Americans, not only today but in the years to come. They have helped us to begin building a world where young people reject tobacco and where just about anyone can quit smoking. But as we celebrate the work of the foundation today, a lot more work needs to be done.

The foundation was established in March of 1999 as a result of something called the Master Settlement Agreement between a coalition of attorneys general in 46 States and 5 U.S. territories and the tobacco industry. The foundation remains primarily today funded by payments designated by the settlement.

The foundation develops national programs that address the health effects of tobacco use. They do it through grants, technical training and assistance, and youth activism, strategic partnerships, countermarketing and grassroots marketing campaigns, public relations, and community outreach to populations disproportionately affected by the toll of tobacco.

The foundation has two goals that guide its work toward creating tobacco-free generations. One of those is to arm all young people with the knowledge and tools to reject tobacco. The other is to eliminate the disparities in access to tobacco prevention and cessation services.

The truth campaign is one effort to curb tobacco use among teens. Truth is the foundation's comprehensive counter-marketing campaign to prevent and reduce youth smoking. The truth campaign was credited by the National Institute on Drug Abuse as one of the major programs which contributed to the steady reduction in teen cigarette smoking.

In addition to celebrating this achievement today, I also want to share with my colleagues the very real threats faced by the American Legacy Foundation. This year the foundation received its last payment from the Master Settlement Agreement. Because of this drastic reduction in resources, all of the successes that have been achieved to date are suddenly jeopardized. I don't believe we can afford to lose any of the ground we have gained on tobacco control.

I ask my colleagues to consider these facts: Tobacco is the leading cause of preventable death in this country. Tobacco kills some 440,000 people per year—more than alcohol, AIDS, car accidents, illegal drugs, murders, and suicides combined. Twenty-four percent of high school students in my State still smoke. That is down from where it was a couple years ago, but still almost one out of four. Every day some 2,000 teenagers begin smoking. Their average age is actually about 13. Of those who become hooked on smoking, one of three will end up dying from their use of tobacco.

Each year in my State of Delaware, some 1,100 adults die from cigarette smoking. I am told over 900 kids in my State have lost at least one parent through smoking-caused death. I would also say smoking is having a financial impact. Annual health care expenditures in my State caused by tobacco use total $221 million and over $62 million in State Medicaid payments are related to tobacco use.

I had the privilege of being the founding cochairman of the American Legacy Foundation. Our founding chairman was Chris Gregoire, the Attorney General of Washington State. I was succeeded and joined on the foundation board by former Governor Mike Leavitt of Utah, now head of EPA, and by Parris Glendenning, former Governor of Maryland. I am proud of the association I had with the foundation at its beginning and the great work we did, especially with young people who themselves helped to design, to craft, and to deliver the truth campaign. In no small part because of their efforts, especially the young people, the incidence of smoking has dropped significantly over the last half dozen years, and it is important that that work and that trend continue.

I thank the Chair for the time and I thank my colleague from Nevada and my colleague from Minnesota for allowing me to speak.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. COLEMAN. Madam President, are we still in morning business?

The PRESIDING OFFICER. That is correct.

THE ECONOMY

Mr. COLEMAN. I would like to spend the little time remaining to talk about the economy. I was mayor of St. Paul, MN, for 8 years, and I learned as mayor that the best welfare program is a job; the best housing program is a job. Access to health care quite often came through a job. I also learned nobody jumps on a sinking ship; that hope and confidence yield investment.

As we look at the data, look at what is happening in the economy, it is very clear the economy is moving forward. This Nation has come a long way from the terrible day of September 11 and the impact that had both on the infrastructure in New York and in Washington, but also on the psyche of the American public, the confidence.

Look at the scandals on Wall Street, the WorldComs and the Enrons. Undermining the trust and confidence in the American system, the way we do business, that has an impact. The reality is we have come so far. In the third quarter of last year we had the greatest GDP growth in nearly 2 decades. The fourth quarter exceeded expectations contributing to 6.1 percent annual growth rate in the last half of the year, the strongest 6 months gain since 1984. It is expected the 2004 economic growth will be between 4.6 and 4.8 percent.

We sound like statisticians here. I am not sure the average man or woman worried about their economic future and feeding their family understands the impact of that, but that is the fastest annual growth in this country since 1984.

When you try to turn around an economy that has suffered so much, when we try to do the things with the President's leadership—to cut taxes, put more money in the pockets of moms and dads, to allow business to increase expensing that, to generate bonus depreciation—it then results in more economic investment, which results in more jobs, more jobs.

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Those are the things we have done, and the result is that the economy is moving forward. The statistics show that.

I understand that capital expenditures are on the rise. The Department of Commerce reported earlier this week that capital goods orders are rising and are 3.6 percent higher in January than in the final quarter of 2003. We have nearly 660,000 less unemployment claims than we had at our peak figure last summer and, I think, over 336,000 new jobs according to the payroll survey, the most narrow reading—and the household survey shows much more of an increase. If you do something out of your home, if you are individually employed, it doesn't count that. I learned from my 17-year-old that people do business out of eBay, and they are not listed in the payroll survey. But the household survey is significant.

Millions of jobs have been created in this country. So we are moving forward. In my State, the last report of the State budget showed very good news. The terrible deficits and gaps we were facing, the fiscal crisis, may be over. The National Conference of State Legislatures recently said that. So we have a lot of good news. Over the last 6 months, in the course of a Presidential campaign, all you heard is the negative, telling people again and again how bad it is. Ultimately, common sense tells you if you tell somebody something often enough and put enough money behind it, they may actually believe it. The problem is, if they believe it, it impacts their confidence and we all suffer. That is a bad thing. Instead of criticizing, we need to work together to get things done to move this economy forward at a faster pace.

The Senator from Missouri recently talked about a highway bill, a jobs bill, a transportation bill that would create 1.7 million jobs while improving the Nation's infrastructure. We need to invest in improving locks and dams so farmers can get products to market and continue to grow a farm economy that is doing a lot better. We need to pass an energy bill to create between 500,000 and 700,000 new jobs—a bill that has been subject to a filibuster. That has to end and we need to stop criticizing and pledge to work together to get something done.

We need legal reform. We came within a vote of class action reform. Talk to the folks who create jobs in this country, to the manufacturers. They will tell you the biggest impediments they have are the cost of class actions, the cost of litigation, the cost of regulation and taxation—those things that we impose and that we can fix if we simply came together with a positive vision and commitment to work in a bipartisan way to get something done.

If you really care about moms and dads and their ability to put food on the table and to work, then figure out a way to pass an energy bill, a highway bill, class action reform, and deal with asbestos reform, which is a critical issue—pay for those who are hurt, but make sure the lack of reform doesn't drive companies under and hurt jobs, hurt the ability for mom and dad to take care of their family. I found out when I was a mayor that the best thing I could do for kids was to do those things to make sure mom and dad had a job. What we are working on today is another jobs bill. It is going to take working in a bipartisan way, putting aside some of the negative, why we cannot do it, how terrible things are. Let's focus on those things we can do to improve—and they are very clear—the opportunity for mom and dad to get a job. The way to change an economy this size is not like a race car ripping around the corner. It is more like one of those big boats that travel on Lake Superior. You just get it moving in the right direction.

I suggest that we are moving in the right direction. There is more work to be done. Let's get about the business of doing that.

With that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ENSIGN). Without objection, it is so ordered.

MISCELLANEOUS TRADE AND TECHNICAL CORRECTIONS ACT OF 2003

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 43, S. 671.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

> A bill (S. 671) to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. GRASSLEY. Mr. President, I would like to comment on a bill that has traveled a long and difficult journey to get to the floor today; S. 671, the Miscellaneous Trade and Technical Corrections Act of 2003, commonly called the miscellaneous tariff bill.

In fact, this bill's journey began nearly 2 years ago. The Senate historically passes a miscellaneous tariff bill at the end of every Congress. The bill under consideration today was supposed to have been passed at the end of the 107th Congress. However, a markup scheduled for September 26, 2002 was cancelled, leaving the bill as unfinished business for the current Congress. Upon resuming the chairmanship of the Finance Committee, my intention was to complete unfinished business from the 107th Congress as quickly as possible. To that end we passed the bill out of the Senate Finance Committee by voice vote on February 27, 2003. It was hoped that early passage of this bill would pave the way for consideration of another miscellaneous tariff bill in the 108th Congress. But that was not meant to be.

Traditionally, miscellaneous tariffs bills are non-controversial and pass the Senate by unanimous consent. Sometimes there are attempts to load the bill down with costly and controversial items, which is why we didn't produce a bill in the 107th Congress. That's also the reason this bill was delayed this Congress. Contrary to traditional practice, a few Senators insisted on adding unrelated and controversial provisions. Unless we agreed to add these controversial provisions, these Senators would not allow the full Senate to consider the bill. In effect, a few Senators have held this legislation hostage for months for their own parochial purposes. And that is truly sad and disappointing. I hope these members know that they have all but guaranteed the end to this process.

This package contains many trade provisions, primarily duty suspensions, reductions and extensions, for products that are not produced domestically. This bill supports American factories and workers by allowing manufacturers to save money when they import these products. At this stage in America's economic recovery, we must give every opportunity to our manufacturers to reduce costs and pass the savings on to consumers.

A product generally must meet three tests to be eligible for inclusion in a miscellaneous trade bill: first, it must be non-controversial and non-competitive, that is there can be no domestic producer who objects to inclusion of the provisions. Second, the product should be intended to benefit U.S. downstream producers, that is someone who utilizes the product in manufacturing. Third, the volume of imports and corresponding revenue loss should be relatively small. To ensure that the provisions in this bill met that this test, each provision went through an extensive vetting process including a public notice and comment period to ensure that they were eligible for inclusion in the bill. This process began during the first session of the 107th Congress.

The bill also contains a number of liquidations or reliquidations for certain entries. The general rule for inclusion here is that the product entered the country under an incorrect duty rate due to Customs or other administrative error. These provisions allow those entries to enter the country at the correct duty rate.

We also included in this bill a provision that extends preferences under the Generalized System of Preferences (GSP) to allow duty-free treatment for hand-knotted and hand-woven carpets. This provision is designed primarily to help the citizens of Afghanistan and Pakistan. I believe that allowing these products to be considered as eligible articles under GSP, will help beneficiary countries that have joined the United States in the fight against global terrorism. With respect to Afghanistan, which is rebuilding and looking for opportunities for its people, this provision is needed now more than ever.

Another important provision in this bill corrects a mistake in the Trade Act of 2002, P.L. 107-210, that inadvertently and temporarily raised duties on Andean originating handbags, luggage, flat goods, work gloves and leather wearing apparel under the Andean Trade and Preferences and Drug Eradication Act, ATPDEA. This provision retroactively reinstates the reduced duty treatment for eligible products that entered the United States from August 6, 2002, the date ATPDEA was signed, and the time in which these products met the import sensitivity test, several months later. It provides for continued duty-free treatment for these eligible products, which was the intent of the Trade Act.

I am also pleased that the bill includes the Emergency Protection for Iraqi Cultural Antiquities Act of 2003. I introduced the EPIC Antiquities Act of 2003 to authorize the President to impose immediate emergency import restrictions on the archaeological and ethnological materials of Iraq. The purpose of this bill is simple—to close a legal loophole which could allow looted Iraqi antiquities to be brought into the United States.

If Congress does not act to provide the means for establishing an interim ban on trade, the door may be opened to imports of looted Iraqi antiquities into the United States. Already the press has reported allegations that European auction houses have traded in looted Iraqi antiquities. The last thing that we in Congress want to do is to fail to act to prevent trade in looted artifacts here in the United States.

Also included in the package is a provision that simplifies the U.S. Customs Service's ability to process commercial importations, thereby resulting in increased efficiency and productivity for both Customs and the trade community.

I want to point out that the provisions I have covered are not the only important provisions contained in this bill. This bill makes a number of other technical yet meaningful changes to our trade laws.

While I am very disappointed some members have delayed the passage of this bill, and even tried to kill this bill with controversial provisions, I would like to thank my colleagues who respected the traditional rules governing this important legislation. I appreciate their support.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Grassley-Baucus amendment at the desk be agreed to and that the bill, as amended, be read the third time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2678) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The bill (S. 671), as amended, was read the third time.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 51, H.R. 1047, the House companion bill.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 1047) to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that all after the enacting clause be stricken and that the text of S. 671, as amended, be inserted. I further ask unanimous consent that H.R. 1047, as amended, be read the third time and passed; that the motion to reconsider be laid upon the table en bloc; and that S. 671 be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H. R. 1047), as amended, was read the third time and passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

JUMPSTART OUR BUSINESS STRENGTH (JOBS) ACT

The PRESIDING OFFICER. Under the previous order, the hour of 10:30 a.m. having arrived, the Senate will resume consideration of S. 1637, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1637) to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

Pending:

Dodd amendment No. 2660, to protect United States workers from competition of foreign workforces for performance of Federal and State contracts.

Mr. GRASSLEY. I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 2660

Mr. KENNEDY. Mr. President, first, I thank the Finance Committee and the leadership for getting this measure before us. This is important legislation. What is extremely important is the Dodd amendment.

As we approach early March, we have to ask ourselves in this body what we are doing about the general challenges we are facing all across this country, with very few exceptions. I will come back later to the state of our economy.

This legislation provides some resolution to some of the challenges we are facing. I think the Dodd amendment is enormously important and one that I strongly support and hope the Senate will take action on. I know there is consideration that we go off this bill and on to the budget, but it does seem to me, in terms of the timetable because of the strict limitations of time on the budget, we ought to continue the debate on the issues of jobs and the economy which is of central importance and consequence to people all over this Nation.

This debate should go on. I certainly join with those who believe the institution is ill served if we refuse to give the Dodd amendment the opportunity for a clear vote in the Senate. What the American people are looking for is action. They want accountability. They want responsibility. This amendment is a thoughtful amendment. It will be one that will make a difference in terms of the state of our economy in a very key area of economic policy, and that is the utilization of taxpayers' resources to effectively subsidize jobs going overseas.

We ought to be able to make a judgment about that in the Senate. So I applaud the Senator from Connecticut for this amendment.

I will take a moment or two to try to put it into some kind of perspective because, as he and others have pointed out, we are facing a serious economic challenge across this Nation. It is virtually uniform. In 48 out of the 50 States, new jobs pay 21 percent less than the old jobs they replace, with the exceptions of Nevada and Nebraska.

In the State I have had a chance to visit over the period of the last week, the State of New York, the new jobs are paying 38 percent less than the jobs they replaced. That is happening across this Nation, and I will get into the greater detail of it.

That is a national challenge and a national problem, and yet our Republican leadership refuses to permit us to deal with some of these issues. We can deal with a number of the issues. We can deal with the issue of the increase in the minimum wage where a majority of the Members of this body favor an increase. It would take about half an hour to debate that issue. We all know what that is about.

We could extend the unemployment compensation. Fifty-eight Members of the Senate want to extend unemployment compensation but our Republican leadership says no and this President says no. We could also defeat the Bush proposal to deny overtime from some 8 million of our workers in this country. This is the first time since the Fair Labor Standards Act has been enacted in this country, which recognizes a 40-hour workweek, that we have an administration proposing the elimination of overtime, and we will come back to that. This all starts down in the White House, make no mistake about it.

We have to have a President who wakes up every morning and says, we have a challenge and we can do something about it. Presidential leadership makes an important difference in terms of the state of our economy. We saw it in the early 1960s where we had the longest period of economic growth and price stability up until the time of the dramatic expansion of the Vietnam War, all during which we had Democratic leadership. We saw it with President Clinton, when Republicans refused to give us a single vote for an economic policy that produced 22 million jobs.

I remember my good friend on the other side, Phil Gramm, who said: This proposal makes no sense. Interest rates will go as high as the ceiling of the Senate and we will have the unemployed who will circle the Capitol.

I remember those words. How wrong he was, and how wrong this administration is and this President is about the state of our economy.

We have to have a President who wakes up in the morning and understands that the economy needs focus and attention. This President does not, and I will demonstrate why he does not.

I have the State of the Union speech: The pace of economic growth was the fastest in nearly 20 years. This is the state of the Union. This is the President's view of where we are nationwide, when 48 States out of 50 find new jobs are paying 21 percent less than the old jobs.

This is what he says: The pace of economic growth in the third quarter was the fastest in 20 years. Productivity is high and jobs are on the rise. This is the state of the Union.

Just a few days later he is speaking about the state of the Union when the President meets with the workers on his travels to Springfield, MO: We have overcome a lot. That is because we are growing. The growth is good. New jobs are being created. Interest rates are low. A lot of it had to do with the fact we cut your taxes. The economy is growing, growing, growing.

The President of the United States says that about the state of the economy.

Here he is just a week ago at the National Governors Association: The economy and jobs are on my mind. I am pleased the economy is growing.

Tell that to the more than 2 million Americans who have lost their jobs under this administration, who are waiting for jobs. Tell them the economy is just going hunky-dory.

Now what is happening? This is the projection the President has made about job growth since the time he became President of the United States. The difference between his projection and the reality is 5.2 million jobs short of his promise when he became President of the United States. That is the reality.

Take a look at what he said each year and where these promises have come out. When we take a look at the year 2002 promise by the purple line, these are the projections of growth. Well, then he comes back to 2003. That is not going to happen. We are going to come back to 2003. This is the millions of jobs that are going to grow in the United States. It is going to be that green line. No, no, that is not right; 2002 was not right. I am going to tell you what is going to happen in 2003. It is going to be this level.

The fact is, this is the red line and it is constantly down. Why does the President constantly misrepresent what is happening in terms of jobs across this country? The fact is, people are hurting.

We can look at the restored economy. The President refers to the state of the economy and how the recession is over. Look at the state of comparing the current recovery to the recoveries over the period of the last 40 or 50 years. Let's look at job growth recoveries even before 1991. The recoveries from 1991 to 1993 under the Democratic administration, look at the job growth going up. Look at where the jobs are occurring under the current recovery, and this President says everything is hunky-dory?

Talk about jobs, look at the record. The record speaks for itself. Look at what is happening to the average wage of jobs lost in 2001 and the average wage of jobs created today. This is the Bureau of Labor Statistics. The average wage in 2001 of jobs lost was $44,570. The average wage of jobs gained is $35,000. That is a 21-percent reduction in the average wage between 2001 and today.

This President says in the State of the Union that everything is fine. Economic growth is at the fastest rate in 20 years, jobs are on the rise.

This is what is happening out in real America. This is happening out across this country. It is happening not only in the Northeast, it is happening in South Carolina, which has lost more manufacturing jobs per population than any other State in the country, let alone what is happening in the Midwest and the Southwest.

Look at this chart, which is an indicator of what happens to wages when coming out of a recession. The President said we had inherited a recession but now everything is going well.

We have had these series of recessions from the 1990s all the way up to 2000. In the fourth quarter, that is what the uniform measurement is to indicate, whether one is coming out of a recession.

Look at the increase in wages from $16 to $18, all during the 1990s, up to the year 2000. Look at the current recovery from 2001 to 2003: old jobs $16, new ones $15. There it is again. This Bush economy creates new low-paying jobs, and it is reflecting itself across this country.

This chart shows the States with jobs shifting to lower paying industries. The darker green are all the States where that has happened. There are two States, Nebraska and Nevada, in the country where the new jobs are paying more than the old jobs. They are the only two States. In the other 48 States, new jobs are paying an average 21 percent less.

That is happening. Not only are we over 2 million jobs below where we were when this President took office, but even the new jobs that are being created under this administration are tragically low paying.

In terms of what they are doing to the families, the result of this is very clear. This is just a very quick picture of what is happening to families under this administration. You have 13 million children, now, who are going hungry. You have 8 million Americans who are unemployed, and 8 million Americans who fear they are going to lose overtime. This isn't bad enough about what is happening to wages, but now the administration says it is going to take overtime pay away from workers. We might have a lot of economic problems in this country, but the idea that firefighters, policemen, and nurses are getting paid too much doesn't appear to me to be one of them. It does to the administration.

Look what has happened. We have 7 million workers waiting 7 years for a raise in the minimum wage. Where are the Members in the Republican leadership? When is this President going to say 7 years at $5.15 is too little in this country? We have a majority of the Members of this body who will vote for an increase in the minimum wage. Why are you stifling that? Why do you block it, year after year after year? That is the record, 7 million.

The recipients of the minimum wage are mostly women, 62 percent women. It is a women's issue. It is a children's issue because one-third of the women have children. It is a children's issue and a women's issue. We don't want to hear from the other side about family values anymore. These are families, single women, trying to bring up their children. It is a civil rights issue. Most of those who earn the minimum wage are men and women of color. And it is a fairness issue. All Americans understand fairness. They say if you work 40 hours a week, 52 weeks a year, you should not live in poverty.

But, no, we can't even get a vote. We can't even get accountability. Everything is going fine. That is what the President said in the State of the Union. That is what he just told the Nation's Governors. Everything is fine. Everything is good.

Now the Senator from Connecticut has a concrete proposal to do something about it, and he is denied the opportunity to get a vote up or down. What is with this Republican leadership?

These are some of the challenges we are facing. I will just give an example of what has happened in recent times, in terms of our recovery. We hear how well things are going on Wall Street. We have heard that time in and time out. Look at this chart. This is "The Corporate Profits Ballooned Compared to Workers' Wages."

Look at what happens, the difference between wages and corporate profits for the economic recoveries during the 1990s: 60 percent of the expansion of the economy went to wages; 39 percent went to corporate profits. Now, in the year 2002, look at today's recovery: 86 percent is going to profits and 13 percent to wages.

You wonder why workers aren't getting paid as much? There it is, it is as clear as can be. There may be a chart here you might be able to explain, but you can't explain them all. You can't explain the number of children in poverty, the number of children who are hungry. You can't explain the allocation of wages and what is happening in real wages. You can't explain the fact that 48 out of the 50 States are losing good-paying jobs that are being replaced with jobs that don't pay as much. This economy needs focus, it needs attention, and it needs action.

The proposal of the Senator from Connecticut is action. We have debated it, discussed it, but somehow we have a sense we get a slow walk around here, a slow walk. We are being denied the opportunity to get a chance to address some of these issues. Why aren't we getting a chance to address some of these issues on unemployment? We have 58 Members of this body, Republican and Democrat alike, who want to extend the unemployment compensation to workers who have worked hard and paid into that fund. The fund is $15 billion in surplus which these workers paid in. The total cost of the proposal of the Senator from Washington is $5.5 billion. It will still be in surplus.

We have 90,000 workers a week—listen to this. Mr. President, 90,000 workers a week across this country are losing their unemployment compensation; 90,000 a week. That is per week. That is happening all across this country. These are men and women who have paid into the unemployment compensation fund. Generally, when we have had these kinds of economic crisis, we have extended the unemployment compensation to workers when we have a decline in the economy. Does anyone in the world believe that workers in 48 out of 50 States who are losing their jobs, who are seeing a decline in their income, that it is their fault? Of course it is not their fault. It is the failed economic policies.

You know, it would be one thing if we had an administration and President who said: Oh, yes, that is right. But here we just have statements after statements about how well it is all going for workers across this country, and that just is not so. That is of central concern to families all across this Nation.

We have an opportunity this morning to make a small downpayment with the Dodd amendment. It demands action. It makes sense. It will do something—not everything, but it will be a strong indication to workers in this country that we are taking their plight seriously and that we want action on their behalf. That is what the Dodd amendment is. It would be absolutely irresponsible if this body refused to give us a chance to get a vote on this kind of amendment. It is so important for workers, for families in this country. It would send such a message to families across this country that this institution hears what is happening to their children, to the young people, to the families who can no longer afford the college tuition that has been exploding; to the families who can't afford the prescription drugs because the costs escalated so dramatically over this period of time.

To all of those families and the families who are losing their unemployment compensation, who are going to have difficulty paying the mortgage and putting food on the table and looking out for their children, this is a family issue, a fairness issue, and the Dodd amendment moves us in the right direction.

Mr. DODD. Will my colleague yield?

Mr. KENNEDY. I yield.

Mr. DODD. I raise an issue, because it has been raised in the last 24 hours or so, that one of the things the administration is doing is putting resources into vocational education, education and job training. I know my colleague, from his extensive work in this area, and knowing the committees we serve on together deal with some of these issues, but you might just recount what the proposals are in vocational education, job training, all of these programs that would put more resources out there to make it possible when people lose their jobs to find additional work. Isn't it a fact we are cutting back in these budgets?

Mr. KENNEDY. The Senator is quite correct. The Senator probably remembers the State of the Union speech where the President announced a new program in association with community colleges—$250 million. Then he went out the next couple of days and went to community colleges and worked with local workforce groups about this issue.

At the same time, they have cut $800 million from the identical training programs in the last two budgets. That is the record. We can go back. I haven't got the appropriations here, but I know it. I am familiar with it because we resisted it and we had amendments here. Again, there was an amendment from the Senator from the State of Washington to restore the training programs. Nonetheless, those programs were cut.

You talk one way one day and another way another day. We saw the classic example of it in the State of the Union. We were talking about: Oh, yes, we are going to have a workforce community-based community college program to upgrade the skills. But in the previous year, and the year before, cutting those work training programs. People aren't stupid on this. They know it. I am sure they know it in Connecticut. I know they know in my State, on these workforce investment boards, what is happening and its devastating impact.

We had a strong bipartisan effort, when Senator Kassebaum and Senator JEFFORDS chaired, as the Senator from Connecticut remembers. First we had the JTPA, a program we worked out in a bipartisan way in the committee that was chaired by Senator Dan Quayle. People differ about Senator Quayle. He was a stalwart on job training. It was the only social program that passed, as the Senator remembers, during the first 4 years of President Reagan and it took a lot of courage for Dan Quayle.

Then we went beyond that. Because we had over 125 different job training programs in 12 different agencies, we wanted to get these pulled together, so we had a Kassebaum-Kennedy commitment to get workforce training in one place. It was bipartisan. We began to fund it and then what happens? As soon as we begin to get life in that, this administration effectively guts this program.

Mr. DODD. I remind my colleague, and I am sure he knows these numbers, this year's budget proposal reduces worker investment programs by $400 million. So here you have 2.8 million jobs being lost in manufacturing. Those people who cannot find work are getting jobs at far less wages and salaries than they had in their previous job. Yet we find when it comes to worker education and investment issues the budget actually reduces the amount we are going to commit to those programs by almost a half a billion dollars. I wonder if my colleague has something to say about that.

Mr. KENNEDY. The Senator is absolutely correct.

I answer the Senator in this way. The Senator's amendment is so timely. We have three—I believe we have seven, and I have others back at my office—national or international magazines. This is February 21, The Economist, "New Job Migration." Here is BusinessWeek, "Will Outsourcing Hurt America's Supremacy?" Here is Time magazine, March 1, "Are Too Many Jobs Going Abroad?"

These are national publications—national magazines. That is what the debate is about. The Senator from Connecticut has an amendment dealing with these very issues. Nothing could be more current.

Why aren't we getting an opportunity to debate these issues which just about every publication in the country understands is a major issue, and certainly every working family in this country understands. The Senator has proposed an approach on this that can make a major difference. I am troubled, as he must be, that he is not able to get a clear-cut judgment decision.

Mr. DODD. I thank my colleague. I was prepared to vote. We offered the amendment at about 3:30 yesterday afternoon. This is a very simple proposal.

There are those who are for outsourcing. The administration has indicated that it is a good thing for the economy to outsource jobs. I presume there are people in the Chamber who share that view. Why not vote up or down instead of going through the gyration of trying to find some cute way of avoiding having to vote on this issue or coming up with some phony alternative believing that outsourcing is good for the economy? I think shipping jobs away, destroying the manufacturing base and human capital investment that makes it possible in the 21st century for us to be competitive in a global economy is the wrong way to proceed.

I understand there are those who disagree with me on that. If they do, come down and vote no. It is that simple, and the Senate can speak on this issue.

Mr. KENNEDY. The Senator has put the case well. The other part goes beyond the question about whether you favor that or not—the tax provisions which have been included in the proposal which are basically subsidizing. You have workers who are basically subsidizing the export of other jobs, which is being addressed by the Senator. You ask, What in the world? This is a matter of public policy. Does that make sense? Several enormously important public policy issues and questions are included in the Dodd amendment. They deserve debate and they deserve action on the floor of the Senate.

I conclude and remind our colleagues about what is happening across the world. That is on this chart. American workers are working longer. American workers are working harder. American workers saw their incomes go down over the period of the last 2½ years.

These are all of the other industrialized nations in the world.

It isn't only these workers. Women in our society, women are working longer and harder.

Our challenge isn't about American workers, it is about the policies. The Dodd amendment gets to those policies. The American workers are entitled to accountability on it.

He has an excellent amendment, one that I support and which hopefully we will have an opportunity to get to.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I have sat here and listened to my two distinguished colleagues on the other side of the aisle. I have to admit I believe the distinguished Senator from Massachusetts is one of our most colorful Senators in the Senate. He is a person I respect, and with whom I have a personal friendship. But that doesn't mean we agree on a lot of the things he says. In fact, we don't.

I don't think President Bush has been saying the economy is hunky-dory, to paraphrase what the distinguished Senator from Massachusetts characterized the President as saying. I think the President realizes there have been lots of problems that have arisen, as each President has had to face problems. He has faced them in large measure in a whole variety of ways, but in large measure by cutting taxes, which now happens to be paying off because we have gotten great benefits from the cuts in taxes. Frankly, 125,000 jobs a month are coming back. That is not something to sneer at.

I might also mention we get nothing but screams on the other side of the aisle that unemployment compensation isn't being continued. But I remember back in the Clinton administration when unemployment was, I believe, at 9 percent—certainly higher than it is today—and they discontinued unemployment compensation, and they controlled the Senate floor. Today, we have a 5.6-percent unemployment rate, which is one of the lowest we have had in years. If you look at it from the other survey, which I think is probably more accurate, it is probably lower than that.

For anybody to say we don't have problems in this society today would be wrong. But we had problems in our society through all of the Clinton years as well.

By the way, when President Clinton came into office, we were definitely coming out of a recession, and he reaped the benefits of many of the things that President Bush 1 actually did. He had a number of very good years. I don't believe it was because they increased taxes the way they did. It was because we were already starting to come out of the recession and one of those cyclical periods.

Let me just say this: When President Clinton left office, I don't think anybody could deny that in the last year of his term in office we were starting into a recession again, which President Bush inherited.

To stand there and blame President Bush for everything that has gone on is wrong, and it shouldn't be done. And to indicate that President Bush says everything is hunky-dory, that there are no problems in our society, is to ignore many of the statements President Bush has made and that his administration has made.

If we had listened to our friends on the other side, over the last year alone we would have spent $1 trillion more. Our budget would have been so out of whack we would never get it back.

Yet they are trying to tell the American people they are the fiscally responsible party? We can't bring up a spending bill that they don't want to double. They think that is good for the economy.

On the minimum wage, look, I suspect minimum wage will be increased this year. I remember only one time when the Senate voted down the minimum wage, and that was because the distinguished Senator from Massachusetts and others tried to overdo it just a short time after the last raise.

We are talking about jobs, too. Just remember that every time the minimum wage rate goes up, all kinds of kids—mainly young African-American kids who can't get those starter jobs—wind up being on the unemployment rolls, many of them for the rest of their lives. Some estimate it as high as 600,000 of them every time the minimum wage is increased.

I think it is a great argument to argue about the minimum wage and how we want to get people more money, and then turn around and say we are losing jobs in North Carolina and South Carolina without acknowledging the fact that the reason we are is because China is paying people 39 cents an hour for textile work.

We are either going to have to have the Federal Government pay to resolve these problems in every way, which would cost billions and billions of dollars more, boosting up one aspect of our economy that basically we have lost because of competition—or, we will all have to begin to understand competition. This country is the most competitive country in the world. We are the most productive country in the world. However, we need to recognize and focus on our strengths.

In all honesty, if our friends on the other side are really sincere about creating jobs, why did they refuse to go to conference on the Workforce Investment Act? That bill has been put back light years because of the refusal to go to conference and resolve this matter. This has offended the House and now we may or may not get that bill. That would be a helpful bill with regard to jobs.

We should be wary of retaliation. I respect my friend from Connecticut, as well. But sometimes we do not think it through when we do these broad, oversweeping things like preventing government outsourcing. We should be wary of retaliation against United States companies that get awarded foreign government contracts. Let me give a few examples.

Entrust is a perfect example. Internet security company Entrust Inc. was awarded a $17.6 million contract by BCE Nexxia for enhanced Internet security software and services for the Canadian Government's Secure Channel project.

By the way, you could name dozens of companies that are doing the same.

"The contract is the largest in Entrust's history and reflects how we are collaborating with service providers to deliver solutions tailored to the government, financial and Global 100 enterprise market sectors we announced in early June," CEO Bill Conner said in a statement.

BCE Nexxia, leading a consortium including BCE Emergis and CGI, was awarded a $37.6 million contract to build and manage a technology infrastructure for the Canadian Government. The company, a division of Bell Canada, provides communications services and operates an IP-broadband network. Bell Canada is 80-percent owned by BCE Inc. of Montreal and 20 percent by SBC Communications Inc. of San Antonio.

I could go on and on about this.

Computer Sciences Corp. of El Segundo, CA, won a contract to replace Human Resources Development, Canada's network operating system, with new hardware and software, the company announced November 15.

Human Resources Development Canada provides Canadians with employment insurance, income security, employment programs, corporate services, and homelessness and labor services using several means, including walk-in services, automated telephone systems, and self-service kiosks. About 26,000 agency employees use the network. The contract includes IT architecture, software license arrangements, server hardware, and services for transition, migration, implementation, support, and maintenance.

My gosh, one reason we are trying to do the FSC/ETI-JOBS bill is to jump-start our economy and because we are being assessed $4 billion in trade sanctions if we do not resolve some of these conflicts in our relationship with the E.U.

Want to lose jobs? Don't support this bill or keep gumming it up. And we are gumming it up with legislation that literally will cause even more angst and will probably cost us $4 billion in the end. And that means jobs.

"This is an important contract for CSC in the Canadian federal government information technology market and further expands our presence in Ottawa region," said Tony Canning, president of CSC's Canadian operations. "We look forward to serving HRDC in implementing and supporting the state-of-the-art networking system."

In support of CSC, Compaq Canada Inc., Richmond Hill, Ontario, subsidiary of Houston-based Compaq Computer Corporation, will provide server technology and CDI Corporate Education Services Corporation of Toronto will offer training services.

Digimarc ID Systems, a wholly owned subsidiary of Portland-based Digimarc Corporation, has extended an agreement with the Brazilian Government.

The Bedford, MA, based—that is a Massachusetts company, by the way—based subsidiary announced Tuesday the Brazil Federal Police has contracted with Digimarc ID Systems to continue producing the country's alien ID cards. Since 1997, the Brazil Federal Police has issued more than 1.5 million of the cards to people who live in Brazil under work or immigration visas. Digimarc ID Systems provides hardware, software, maintenance, and operations support to the Brazil Federal Police.

What are we going to do, have countries all over the world retaliate against us because we are going to have a bill here that is filled up with this type of stuff?

Harris Corporation, an international communications equipment company, and RAYLEX S.A, Harris's representative in Chile, announced today the signing of a contract valued at $11 million with the Chilean Government. The contract includes the complete supply and buildout of the world's largest microwave network. The network will cover a total of 4,500 kilometers, interconnecting phone services, data, video conferencing, and other multimedia services for the customer. Extending from Arica in northern Chile to Puerto Mont in the southern part of the country, the network is expected to benefit both cities' metropolitan regions as well as all major cities between Arica and Puerto Mont.

We are all concerned about preserving American jobs, but we need to make sure the cure is not worse than the disease.

I am getting tired of cheap shots being made against President Bush. I got tired of some that were made against President Clinton and against President Carter, because I was here. It is time to work together and this bill is one of the most important bills in recent history because it will create jobs. It will jump-start the economy. It will save us $4 billion in trade sanctions. It will help us.

We should not be debating this for days and days. We ought to pass this bill. We ought to pass this bill and get it going. We have to resolve the conflicts between the House and the Senate. That is always difficult, but we have been able to do it in some of the major bills of the past.

It is misleading for people to come to this floor and just chop up the President, who is doing the best he can, and who is a great sponsor and supporter of this particular piece of legislation, which is one of the most important pieces of legislation with regard to jump-starting this economy and jump-starting jobs in this economy.

It is time to work together and quit trying to make political points and get something done. I suggest we do a little less screaming on the floor and a little more work and get this bill passed as soon as we possibly can.

AMENDMENT NO. 2680 TO AMENDMENT NO. 2660

Mr. McCONNELL. On behalf of myself and Senator FRIST, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. McCONNELL] for himself and Mr. FRIST, proposes an amendment numbered 2680 to amendment 2660.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To protect the jobs of American workers)

On page 7, strike lines 10 through 14 and insert the following:

This title and the amendments made by this title shall take effect 30 days after the Secretary of Commerce certifies that the amendments made by this title will not result in the loss of more jobs than it will protect and will not cause harm to the U.S. economy. Such certification must be renewed on or before January 1 of each year in order for the amendments made by this title to be in effect for that year.

Mr. McCONNELL. I rise today to offer on behalf of the majority leader and myself a second-degree amendment on behalf of the 6.4 million Americans who earn their livelihood in our country while working for foreign corporations.

This amendment is very simple. It delays the effective date of the outsourcing provisions until the Secretary of Commerce certifies the amendment made by this title will not result in the loss of more jobs than it will protect and will not cause harm to the United States economy. In short, it is a do-no-harm provision. Remember, 6.4 million Americans have their jobs in the United States as a result of foreign companies doing business here.

Senator DODD's fundamental goal of encouraging and protecting American jobs is certainly a sound one. No one can argue with that. However, it may jeopardize many more jobs in the process of trying to achieve a laudable goal. These 6.4 million Americans depend on salaries from foreign corporations to feed their children, provide them shelter, education, and health care.

If America erects a global jobs barrier, nations around this world may retaliate in kind. This would put at risk those 6.4 million jobs I have been talking about. These are real numbers, real jobs, and real families put at risk.

Yesterday, the Senator from Connecticut stated he was told over the next decade over 3 million American jobs may be outsourced. Unfortunately, with American jobs at stake we cannot risk what is or what may be. What is, right now, is the existence of 6.4 million American jobs, not over the next decade but right now, real numbers calculated by the Census Bureau.

Let's just take Kentucky, for example. We have 104,100 people in my State employed by foreign companies or their affiliates. That is a lot of jobs in a State of 4 million people. It is a huge number of jobs.

In Connecticut, 116,000—even more than in Kentucky—jobs are held by citizens of Connecticut who are working for foreign corporations doing business in Connecticut. These pale in comparison to what is at stake in the State of Massachusetts—223,300 jobs—Massachusetts citizens working in Massachusetts for foreign corporations—an astonishing number, indeed. Again, in Massachusetts, nearly a quarter of a million workers, their families and their children, are put at risk potentially by the amendment of the Senator from Connecticut—real jobs and real families facing real unemployment and real hardship.

For the sake of these jobs, I strongly urge my colleagues to adopt the amendment I have just offered. The underlying legislation is the JOBS bill. That is what this underlying bill is all about: American jobs.

It is counter to this legislation and our duties here as Members of this body to take action which puts 6.4 million American workers' jobs at risk. That is not what we ought to be doing on the floor of the Senate.

Finally, let's just drive the point home by looking on a State-by-State basis at how many jobs are in the United States as a result of foreign corporations doing business in our various States.

Let's start at the top of the alphabet: Alabama,76,800 jobs; Alaska, 11,600 jobs; Arizona, 75,200 jobs; Arkansas, 40,400 jobs; California, 737,600 jobs—the number of people in California in jobs as a result of foreign corporations doing work in California; in Colorado, 101,000 jobs; in Connecticut, as I mentioned earlier, 116,000 jobs; in Delaware, 33,400 jobs; in the District of Columbia, 17,100 jobs; in Florida, 306,900 jobs—Floridians working for foreign corporations; in Georgia, 223,900 jobs; in Hawaii, 43,300 jobs; in Idaho, 14,200 jobs; in Illinois, 317,100 jobs; in Indiana, 165,900 jobs; in Iowa, 40,300 jobs; in Kansas, 60,600 jobs; as I mentioned earlier, in the Commonwealth of Kentucky, 104,100 jobs; in Louisiana, 61,100 jobs; in Maine, 33,400 jobs; in Maryland, 110,400 jobs; as I mentioned earlier, in Massachusetts, 223,300 jobs; in Michigan, 246,500 jobs; in Minnesota, 103,100 jobs; in Mississippi, 23,900 jobs; in Missouri, 105,100 jobs; in Montana, 6,800 jobs; in Nebraska, 21,800 jobs; in Nevada, 35,700 jobs; in New Hampshire, 45,900 jobs; in New Jersey, 269,100 jobs; in New Mexico, 16,300 jobs; in New York, 471,600 jobs; in North Carolina, 261,600 jobs; in North Dakota, 8,600 jobs; in Ohio, 259,400 jobs; in Oklahoma, 41,800 jobs; in Oregon, 62,300 jobs; in Pennsylvania, 280,800 jobs; in Rhode Island, 24,400 jobs; in South Carolina, 137,600 jobs; in South Dakota, 6,900 jobs; in Tennessee, 148,600 jobs; in Texas almost a half million—437,900—jobs; in Utah, 37,400 jobs; in Vermont, 11,600 jobs; in Virginia, 179,200 jobs; in Washington, 104,200 jobs; in West Virginia, 27,600 jobs; in Wisconsin, 106,800 jobs; in Wyoming, 7,800 jobs.

There is an enormous number of Americans—6.4 million Americans—working in America, working in our country, employed by foreign corporations. We do not want to gamble with that. Outsourcing is a matter of concern, but we are proud of the insourcing that is going on, too, and the fact there is an enormous number of foreign corporations that have come into our country because they think it has a good business environment, because they want to employ Americans to produce products here in our country.

Mr. President, I hope this amendment on behalf of the majority leader and myself will be adopted.

Mr. GREGG. Mr. President, will the Senator yield for a question?

Mr. McCONNELL. I will.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I think the Senator has made an extraordinarily strong point. I noticed when he got to New Hampshire, he said 45,000 jobs in New Hampshire are tied to businesses which are non-American owned. Is the Senator aware the largest employer in the State of New Hampshire is not an American company?

Mr. McCONNELL. I did not know that, and I think that is a very interesting point to be made.

Mr. GREGG. Literally thousands of people's lives would be affected if that country, which happens to be England—our closest ally, closest friend, one of our largest trading partners, after Canada—if that country were to take the view that is being taken by the Senator from Connecticut, that they should deny their companies creating jobs in the United States. That company would be closed down in Nashua, NH, our second largest city and our largest employer. Is the Senator aware of that?

Mr. McCONNELL. I was not aware of that, but it certainly illustrates the point the Senator from Kentucky was trying to make.

Mr. DODD. Will the Senator yield on that very point just made?

Mr. GREGG. I do not have the time.

Mr. McCONNELL. I have the floor. I yielded to the Senator from New Hampshire.

Mr. DODD. I would just like to point out——

The PRESIDING OFFICER. The Senator from Kentucky has the floor.

Mr. McCONNELL. If we could have one at a time, Mr. President. I yielded to the Senator from New Hampshire for a question.

Mr. GREGG. Mr. President, I was wondering if this does not also flow into the issue of our ability to access other markets. If we are in the business of trade, where 30 percent of the jobs in New Hampshire are tied not to being owned by a foreign country but being able to sell products to a foreign country—30 percent of our jobs; for one in three workers in the State of New Hampshire, their job is directly related to the fact that the product they make is sold overseas—is it not logical that if we begin to close down our borders, we are basically opening a trade war, and that we could potentially close down those jobs, too, because some nation may retaliate in some other way other than not allowing outsourcing?

Mr. McCONNELL. I say to my friend from New Hampshire, that is precisely the point. I think retaliation would be the order of the day. I will give you an example in my State. The Japanese corporation Toyota chose to outsource from Japan to the United States over 8,000 jobs to Georgetown, KY, to build the Toyota Camry. Eight thousand Kentuckians are employed at that particular site as a result of the outsourcing from Japan of those jobs into my State. They are high-paying jobs. We are extremely pleased they are there, and we would not want to do anything to jeopardize the existence of Toyota or the 50 or 60 supplier plants that have come into my State as a result of the Toyota company being there to send parts to the Toyota plant. Under their "just in time" supplier strategy, they send parts up there every day to be installed in those cars, employing a dramatic number of Kentuckians in addition to the 8,000 who are there at that site.

So the Senator from New Hampshire is exactly on point. I thank him for his contribution.

Mr. GREGG. Mr. President, I appreciate the Senator pointing those out in specific terms as to what the potential effect of this language might be. It is using a club to address an issue which is an issue, a concern, which is, obviously, our competitiveness as a society. But isn't the key to our competitiveness not to shut down markets, but to open markets, and to allow products which we make better than other countries to be sold into those countries?

Wouldn't this amendment in the end probably lead to a loss of jobs in the United States, not only from nations such as Japan saying they were not going to outsource their jobs, but our people who are employed in selling products overseas potentially losing their jobs?

Wouldn't it fundamentally undermine the whole concept of opening barriers for trade, creating more opportunities for trade and, as a result, lead to potentially a chilling environment which would have a huge impact on our economy, the largest in the world?

Mr. MCCONNELL. I think the Senator from New Hampshire is precisely correct. It has been the policy of the leaders of both political parties in recent decades to break down barriers overseas, to expand trade, to move us into the global economy in a more and more dramatic fashion, the feeling being that America in the global economy can be a winner and is a winner.

I think the Senator from New Hampshire is precisely on target, and I thank him for his question.

Mr. GREGG. If I may ask an additional question, this is such a crucial issue. We hear now, from the patter of the national campaign on the other side of the aisle, that maybe we should move back toward protectionism. This amendment to me is a stalking dog for that sort of an attitude. It is colored by fairness and reasonableness. But as a practical matter, its effect will be to create retaliation, as we have discussed.

I guess my question is this: Are we a nation that believes we can compete in the world or aren't we? Are we a nation that believes our people are smarter, brighter, and more productive than anybody else in the world or aren't we?

I look at New Hampshire and I know our people are smarter, brighter, and more competitive. I look at Connecticut, a neighboring State which I know quite well. Every time I drive through Connecticut I am impressed. I know it is built on smart, bright people. I suspect that is the case in Kentucky, too.

My question is, Are we so fearful of our capacity to compete as a nation that we must put forward this new concept which we hear pattering from the other side of the aisle toward us of protectionism or should we follow what the great leaders of our Nation—Truman, Roosevelt, Franklin by the way, not Theodore, Kennedy, Johnson, Clinton—stood for, which is that we are a nation that competes and competes well?

Mr. MCCONNELL. We absolutely should stand for competition and be confident that our own people have the intelligence and the ingenuity and the energy to compete in the global economy.

I don't think we should be afraid of this at all. I think the Senator from New Hampshire is precisely on target. This is why the voting record of, say, for example, the Democratic nominee for President reflects a belief in free trade, a consistent pattern of voting for free trade agreements.

I hope this bipartisan support we have had for breaking down barriers and competing in the word market and moving in the direction of free trade will not be jeopardized in this Presidential election year.

Mr. GREGG. I appreciate the Senator's courtesy.

Mr. MCCONNELL. I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from Iowa.

Mr. GRASSLEY. Mr. President, these Senators speaking remind me that "made in America" has always been a badge of honor, a badge of distinction—"made in America." It shows that America can compete. America has competed and America has won over the long, long haul.

We have been hearing from the defeatist wing of the Democratic Party, not from the wing of the Democratic Party that says the United States can compete and win and can even do it from a position of leadership. I am not prepared to be a defeatist in international trade. I intend to wear that badge "made in America" with honor, as it has been for decades and decades.

I think we need to remind the Senate now, after 24 hours on this legislation, what we are facing. It looks as if we have from here until hell freezes over to get this legislation passed. Already we are in a situation where the United States is suffering as a result of inaction by Congress. People need to remember that Senator BAUCUS and I worked very carefully to put together a bill that would go through this body very easily, and now we are seeing it stalled with things that may be legitimate issues. But while people are complaining about jobs going overseas, this bill that was voted out of committee 19 to 2 is being stalled.

In the process of stalling, U.S. manufacturing is already facing a 5-percent surcharge by Europe, to the point where it is not a case of just paying 5 percent more.

It is probably the case with a lot of our products that our products might not even be competitive and we are not selling. When you can't sell, people are laid off. So I think instead of worrying about situations that you want to help for the future, we have an opportunity to keep jobs that we know exist today, will continue to exist, and are only in jeopardy because of sanctions being put on our products by Europe.

We might be facing an amendment on overtime coming up shortly. It is one thing to worry about people getting overtime, but if you don't have a job, you can't even get overtime. So we have to get back to the basics. The basics are what this legislation is all about—maintaining the competitiveness of our industry, not going backwards.

While this bill is being stalled by other issues that are very legitimate—and I have talked to the Senator from Connecticut about the legitimacy of his issue and also about some modifications he made to get this through—it is holding up a bill that came out of committee 19 to 2. Those two votes were not cast by Democrats against the bill. They were cast by Republicans.

This bill should go forward to get rid of that 5-percent surcharge that we have on our products. In April it is going to be 6 percent, and in May it is going to be 7 percent. By the election it is going to be 12 percent. That is the basic issue before us.

I also wish to address some of the things that Senator KENNEDY said. I don't want to address them from my point of view. I wish to address them from the point of view of the intellectual wing of the Democratic Party. We heard from the political wing of the Democratic Party by Senator KENNEDY. So I would like to refer to an article written by Robert B. Reich, Secretary of Labor in the Clinton administration, a Secretary of Labor concerned about the rights of labor, concerned about jobs. He also is an adviser to the Democratic candidate for President. He ought to be listened to. This is what former Secretary Reich had to say in an article, printed December 26:

> It's hard to listen to a politician or pundit these days without hearing that America is "losing jobs" to poorer nations—manufacturing jobs to China, back-office work to India, just about every job to Latin America. This lament distracts our attention from the larger challenge of preparing more Americans for better jobs.

It seems to me that what Secretary Reich is saying to the political wing of the Democratic Party from the intellectual wing of the Democratic Party is we ought to be looking to the future, there are big challenges out there, and you should not spend all of your time haranguing about stuff that maybe you can't do a whole lot about.

"Most jobs losses over the last 3 years," Professor Reich says, "haven't been due to American jobs moving anywhere."

I will start that over again:

> Most jobs losses over the last 3 years haven't been due to American jobs moving anywhere. They have resulted from an unusually long job recession. Hopefully, that is coming to an end.

It is, and that is my parenthetical comment.

> We can debate whether the Bush administration has done a good job, or the right things to accelerate a job recovery, but job growth eventually will resume—

Parenthetically, we know it is resuming—

> as aggregate demand bounces back.

Continuing to quote:

> It is true that U.S. manufacturing employment has been dropping for many years, but that's not primarily due to foreigners taking these jobs.

Let me stop there. Senator KENNEDY, do you realize the intellectual wing of your party says manufacturing employment dropping hasn't been primarily due to foreigners taking these jobs? Then I quote:

> Factory jobs are vanishing all over the world. Economists at Alliance Capital Management took a look at employment trends in 20 large economies and found that between 1995 and 2002, 22 million factory jobs had disappeared. The United States wasn't even the biggest loser. We lost about 11 percent of our manufacturing jobs in that period—

Wasn't most of that 5 years during the Clinton administration?

> [B]ut the Japanese lost 16 percent of theirs. Even developing nations lost factory jobs: Brazil suffered a 20 percent decline, China a 15 percent drop. What happened to factory jobs? In two words, higher productivity.

Parenthetically, that is exactly what we have seen in the U.S.—higher productivity over the last year and a half. Last month was the highest productivity in 50 years. You have to go back to July 1950 to have the productivity gains that we have had.

Professor Reich goes on to say:

> I recently toured a U.S. factory containing two employees and 400 computerized robots. The two live people sat in front of computer screens and instructed the robots. In a few years, this factory won't have a single employee on site, except for an occasional visiting technician who repairs and upgrades the robots, like the gas man changing your meter.

I suppose I could quote the whole long article, but there is one other thing I ought to say. The intellectual wing of the Democratic Party is advising everybody, but it is good advice for the political wing of the Democratic Party as well:

> We should stop pining after the days when millions of Americans stood along assembly lines and continuously bolted, fit, soldered, or clamped whatever went by. Those days are over. And stop blaming poor nations whose workers get very low wages.

Professor Reich asks the question: "Want to blame something?"

If the political wing of the Democratic Party wants to blame something for loss of these assembly line jobs, he says: "Blame new knowledge."

Well, isn't that something we expect in the evolving world—new knowledge and making use of new knowledge?

He says here:

> The Internet has taken over the routine tasks of travel agents, real estate brokers, stockbrokers, and accountants. With digitization, high-speed data networks and improved global band width, a lot of back-office work can now be done more cheaply abroad. Last year, companies headquartered in the U.S. paid workers in India, China and the Philippines almost $10 billion to handle customer service and paperwork.

Well, this article is probably summed up in a subheadline in the middle of the article, which says: "Remember the elevator operator? Jobs become extinct."

Isn't that true? But in the Senate we still have elevator operators running automatic elevators, pushing buttons that somehow a Senator doesn't have time to push or something.

What does the political wing of the Democratic Party want? Do they still want people making buggy whips when we don't have buggies anymore? Times change, but the defeatist wing of the Democratic Party has lost confidence in America. They don't think "made in America" is a badge of distinction anymore.

There is one other reference I would like to make. When this issue was talked about on ABC News on February 22, we had these exchanges between George Stephanopolous, Senator JOHN EDWARDS, and Senator JOHN KERRY. I don't hear this complaining that I hear from the political wing of the Democratic Party from these three Democrats. I don't hear their suggestions for solving this problem having anything to do with the amendment of the Senator from Connecticut. So I am going to quote George Stephanopolous, as he has a short interview with these two candidates:

> Another big jobs issue has come up in the last couple of weeks, the issue of outsourcing.

The very issue of this amendment.

> The chairman of the Council of Economic Advisers for President Bush got into a lot of trouble when he said that outsourcing is a plus for the American economy.

We have been over that 100 times.

> But when you look at this issue—

He is asking Senator EDWARDS—

> what can you do about it?

Senator EDWARDS:

> This is a very complicated issue.

OK, can we agree that it is a very complicated issue? If it is a complicated issue, I doubt if just President Bush is responsible for it or just President Bush is going to do anything about it. Anyway, he says:

> This is a very complicated issue. It has caused a whole group of things. One is—the thing that actually concerns me the most is that I worry that we are starting to lose our edge in science, math, and technology. China graduated about half a million engineers last year. We graduated 60,000 to 65,000. And since we are going to have the standard of living we have in this country, in fact we want to improve it, not make it worse. We always—it is going to be critical for the American worker to be more productive than other workers around the world.

Then he goes on, after a short comment by George Stephanopolous, to say:

> We—training, education. We need better and stronger science and math curriculums, particularly in our early grades. We need to strengthen our graduate programs in this area. The other thing that we can—where we can have a real image is we ought to build broadband high-speed Internet out in every community in the next four years, because there are lots of parts of America where it is easier for these companies to do business in India and China because they have access, and they don't have that access in rural communities in a lot of America.

Every one of us ought to be able to buy into that, but it seems that Senator EDWARDS is speaking for the intellectual wing of the Democratic Party, looking to the long view, education and training, not some short solution that probably won't work and might even do more harm than good.

And then George Stephanopolous asks this question to JOHN KERRY:

> Senator Edwards says the most important thing to do is to improve math and science education. Do you agree with that?

Senator KERRY:

> It's one of the most important things to do. If you don't give the American worker a fair playing field to compete on, we're going to continue to be disadvantaged. I'll give you an example. China manipulates the currency. China does not enforce intellectual property laws. China and other countries have not allowed us to have fair access to the marketplace.

Skipping down:

> Education, I mean that's not new. Education was the centerpiece of Bill Clinton's Presidency. It's the centerpiece of my proposals. There are a whole series of things that we can do.

Here again the person who is following the advice of Robert Reich representing the intellectual wing of the Democratic Party is looking ahead. I do not see these people offering any of the political sound-bite type solutions that have to be used if we are going to solve this problem, which I would put in the category of the political wing of the Democratic Party that we have heard from this morning.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, in Illinois, and I would say in Iowa, in North

Dakota, in Connecticut, in Nevada—you pick the town, you pick the spot on Main Street, and you pick the first person walking by and ask them the following question: Is it a good thing for America that good-paying jobs are now going overseas, that businesses are outsourcing their jobs to foreign countries and taking jobs away from Americans?

You pick it, and I will stand by the results of that informal poll anywhere in America. You know the answer.

True or false: Is it good or bad for American companies to be eliminating jobs in the United States and outsourcing them overseas? That is what is before us. That is the question.

If you think the answer is obvious, it is not obvious to the President, nor to his economic advisers because the President's economic adviser, Mr. Mankiw, reported to Congress on his behalf a few weeks ago that it was, indeed, a good thing we are now outsourcing jobs to other countries.

I am sure you are saying: I expect to hear that from DURBIN because he sits on the other side of the aisle, and he is bound to misrepresent what the President's Council of Economic Advisers says to Congress, so allow me to read:

> One facet of increased service trade is the increased use of offshore outsourcing in which a company relocates labor intensive service industry functions to another country.

He goes on to say:

> The basic economic forces behind the transactions are the same, however, when a good or service is produced more cheaply abroad, it makes more sense to import it than to make or provide it domestically.

The commonsense answer to the question about whether American jobs outsourced overseas are good for America that you are going to get on the streets in any city of America is not the same conclusion reached by the Bush administration in their economic report.

What was the reaction on Capitol Hill to Mr. Mankiw's statement that outsourcing jobs to foreign producers would be a good thing?

The Republican leaders, including the Republican Speaker of the House, ran from this report like a scalded cat. They disavowed it and said he was wrong. He put out 2 or 3 days' worth of corrections about it.

But the bottom line is, if you look at what has happened in America, Senator DODD's amendment addresses the reality. More and more service jobs—good-paying service jobs—are going overseas.

In my apartment in Chicago Saturday afternoon at 4 o'clock, the phone rings. It happened to me twice, two different Saturdays. I do not know why 4 o'clock is the right time, but maybe as I tell the story you will understand why it is.

Mr. DURBIN?

Yes.

This is Nancy. I wanted to call and tell you that your Discover card is on the way.

Nancy, I didn't order a Discover card.

Well, we are going to send you one anyway.

Nancy, where are you calling from?

And Nancy says to me: I'm calling from Delaware.

Really, what city in Delaware, Nancy?

Pause.

I said New Delhi.

She said: No, Bangalore.

She was calling from India. She honestly acknowledged that, as did a caller a few weeks later. So major credit card companies, such as Visa and Discover, are starting to use callers in India and other countries in Asia to call into the United States. Those are jobs lost in America.

I visited India 2 weeks ago. I ran into a delightful woman in New Delhi who said she had a Ph.D. in mathematics, and she was working for an American brokerage company, Fidelity. I know Fidelity. I do business there. She handles their information technology in India. Is this good? Is it good for us to lose computer programmers, software engineers, good-paying high-tech jobs to India and China? I don't think it is such a good thing. But, frankly, the President's economic adviser says it is a healthy thing.

Senator DODD comes in and with a very modest amendment says: Perhaps when it comes to our own Government work, we should draw the line on whether or not the Federal Government will give money to an entity which turns around and outsources jobs overseas. He makes exceptions. Senator DODD, in his amendment, says if it is necessary for national security, then we will waive it, or if the service to be performed is not capable of being performed in the United States, we will waive it. I believe there is also a waiver if the country where the jobs are going to be placed allows the United States to contract for services there so there is some reciprocity.

This is an extremely reasonable and sensible amendment. But if you will listen to my colleagues on the Republican side of the aisle, they are scared to death of this amendment. They do not want to vote on it. In their heart of hearts, they obviously agree with Mr. Mankiw. They think the outsourcing of jobs overseas is a healthy thing. I do not. But I would defy any of my colleagues to go home to Main Street—you pick the town—and defend it. Say to the people that the 4,000 jobs that leave IBM and go to India is a good thing for America. I don't believe it is.

Senator DODD has made a modest proposal that says let's stop the bleeding. Let's start talking about jobs in America. Let's try to go beyond the obvious, and that is this economy is in recession and struggling to recover, and start talking about focusing on jobs in America.

I voted for free trade. I believe in trade. I believe globalization is as inevitable as gravity. It is happening. It is going to happen. But I continue to be concerned that when it comes to these trade agreements, the first thing our negotiators do, after we pass them into law, is to wave the white flag and say: We surrender; come take advantage of the United States. And people do.

It has happened to us time and again. It has happened to us in the manufacturing of durable goods. Steel is a good illustration. Japan, Brazil, and Russia dumped steel in the United States for years and ran companies out of business. It cost thousands of steelworker jobs. And the Clinton administration at that time sadly did little or nothing about it. The Bush administration imposed a tariff for a short time and recently removed it.

Frankly, our steel industry is, once again, not only weak but vulnerable because we are not taking a tough position in enforcing the trade agreements for which we voted.

I am for expanding trade but under rules that will be enforced so when people engage in unfair trade practices against the United States, we stand up immediately for the workers and businesses that are disadvantaged.

Look at the situation in China. My friend and colleague, Senator SCHUMER of New York, is coming forward with a bill, which I support, and I know the Presiding Officer is involved in it as well, which says the Chinese currency valuation gives them a 15- to 40-percent advantage over American manufacturers. What does it mean?

Companies in China are running American manufacturers out of business because they manipulate their currency. That is an unfair trade practice, and they are killing us with it.

They now enjoy a huge surplus of trade with the United States. The Senator from North Dakota said there was over $100 billion in Chinese trade surplus with the United States?

Mr. DORGAN. One hundred thirty billion dollars.

Mr. DURBIN. One hundred thirty billion dollars. Let me give a footnote to this conversation. Ten percent of all of the Chinese exports to the United States, $13 billion worth of Chinese goods, go to one company in the United States: Wal-Mart. So when a person goes into Wal-Mart and they see "made in China," do not be surprised. This is no longer a U.S.-flag-waving company. This is a company which sells Chinese goods that are cheap because they manipulate currency to the disadvantage of American producers.

Senator DODD makes a proposal. He says when it comes to spending Government money, taxpayer money, we are going to ask a question: If someone is receiving this money, are they going to create jobs in the United States with it or jobs overseas? If they are going to create jobs overseas, no thanks, unless they meet one of the exceptions: National security, Presidential waiver, that sort of thing.

I say to the Senator from Connecticut, I will take this proposition to any town in Illinois, and I know what the answer is going to be. They are going to say to me: Senator, it is my taxpayer dollars, and it is not unreasonable for you to say that American workers should be employed with those dollars. That, I think, is a reasonable approach.

What did the Republican side and the administration come back with? Picture this: They have an amendment which says—and Senator DODD can correct me if I do not represent this correctly—that the Secretary of Commerce, Mr. EVANS, a member of the President's Cabinet, will have the power to certify whether such an amendment, as Senator DODD's amendment, will harm the American economy. If he so certifies that it "will harm the American economy," it will not go into effect.

Frankly, the amendment does not even say when he makes the certification. So the amendment guts the Dodd proposal. The President's Cabinet will certify exactly what they told us. They believe in outsourcing. They think it is healthy to have outsourcing of jobs overseas. So do my colleagues expect the President and the Secretary of the Commerce to defy his economic advisers? No way. They are going to say that the Dodd amendment is a bad thing, that it keeps jobs in America that should be going overseas where the companies would have to pay a lot less for the same services and goods.

I want to vote on the Dodd amendment. I want to defeat this attempt to give the Secretary of Commerce the power to gut it. I want to vote on it. I want my colleagues on both sides of the aisle to stand up and be counted, and I want them to go home and explain their vote. If they think it is unreasonable, as the Senator from Connecticut suggests, that taxpayer dollars be spent to encourage American jobs in America, I think they are going to find that the reception at home is not very positive. We have lost too many jobs in America, more jobs under this administration than any President since Herbert Hoover. I do not think that is a positive thing. I think it is a negative thing.

Senator DODD makes a small but valiant and important effort to make certain that our jobs in America and our workers have a fighting chance, and I stand in support of his amendment.

Mr. DODD. If my colleague will yield, I want to thank my colleague from Illinois for his eloquent comments. He made an opening comment and proposed that we go to any Main Street anywhere in the country and ask the simple question: Should your tax dollars be used to subsidize the exportation of an American job? To equate the outsourcing of a person's job with that of a service or a product—as if somehow someone losing a job and knowing what that means, that that individual and their family will have an inability to have the kind of health care coverage, if they had it, that they need, and it is going to be difficult to find another job, we now know—and I am sure my colleague can comment on this—that that person who loses their job as a result of outsourcing and then seeks another job, except for two States, in Nebraska and Nevada, the salaries or wages they are getting are on average some 25-percent less than the job they lost.

What we are asking to do is what any self-respecting government would do, and that is to stand up and defend people's jobs in this country. I think the question the Senator posed is an excellent one. I would point out, the Senator has the amendment correct.

I find the second-degree amendment rather amusing. It says the administration—none of this language will go into effect unless the Secretary of Commerce certifies that there is some harm occurring to the economy. So if he never certifies anything, this entire amendment falls. It is kind of a phony amendment when talking about what to do.

I appreciate immensely the Senator's comments. I wonder if he might share some additional thoughts on just what happens when people look for second jobs and how difficult that is.

Mr. DURBIN. I say to the Senator from Connecticut, we have trade adjustment assistance, which was enacted years ago, which says if a person loses their manufacturing job, a job that produces goods, to trade overseas, they will have an extra advantage in that we provide unemployment benefits and give an opportunity for retraining.

We are in a new world now, and the new world includes not just losing jobs producing goods but jobs involving services, and trade adjustment assistance does not apply. So the 4,000 computer programmers at IBM who gave their jobs to India and China cannot qualify for trade adjustment assistance. The Senator from Connecticut is right; they then get into fierce competition for the limited jobs available in America.

I have met with the men and women who are in the ranks of the unemployed, and they are finding it extremely difficult to find any job that pays nearly what they made before. The first casualty of unemployment is their health insurance, and then, of course, their home and their savings. All of these things are casualties as Congress not only is insensitive to this loss of jobs overseas, this outsourcing of jobs, but even fails to include unemployment insurance for these workers.

I say to the Senator from Connecticut—I will yield the floor because I see another colleague—if the election in November is a referendum on this report as to whether or not it is healthy for America to see jobs outsourced and sent overseas, bring it on.

If my colleagues think they can rationalize the sending of these jobs overseas because Mr. Mankiw and President Bush's Council of Economic Advisers happen to have some theoretical model behind them, they ought to take these wonderful Wall Street models to Main Street in America.

I hope before the end of the day we will count noses in the Senate on the Dodd amendment. Let us find out how many people buy the Mankiw vision of the world and how many people buy the reality of this world.

Mr. DODD. I thank my colleague from Illinois very much.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I have listened to my colleagues from Illinois and Connecticut discuss this issue. It is interesting to me that the amendment that is offered by the Senator from Connecticut is portrayed by some as some very substantial, potentially devastating piece of public policy that could bring down the roof and undermine this economy. It is, of course, nothing of the sort. It is a relatively modest amendment, as a matter of fact.

My colleague from Illinois, Senator DURBIN, said he wants a vote on it. I want a vote on this amendment. They can second-degree it until the cows come home, but in the end we will get a vote on this amendment. If we have this kind of bill on the Senate floor, we have a right to vote on this amendment.

The central question that is asked by my colleague from Connecticut is this: Should tax dollars be used to send jobs overseas? I am going to have this followed up with another amendment asking, should we provide tax breaks to send jobs overseas?

My colleague, Senator DODD, says—and I agree with him wholeheartedly—we ought not to have the American people pay tax dollars into our Government and then have various functions of Government decide where we are going to do the essential functions that we have to perform and then make a decision: let's do them in Bangladesh; let's do them in Indonesia; let's do them in India. That is not something we want to have happen with the dollars the American taxpayers pay into their Government. Senator DODD says let's stop that, with some exemptions and some exceptions.

It makes good sense to me. It is absolutely the right thing to do.

I am going to offer an amendment which I will describe briefly. Senator DODD talks about the use of tax dollars. Let me describe my amendment, which is the use of tax breaks. If one is an American company doing business in this country and they decide they want to set up a wholly owned foreign subsidiary and they move their American jobs to this foreign subsidiary, make the same product and then ship the product back into this marketplace, they lose what is called tax deferral.

We actually now provide a tax benefit if you do that. We say if you do—shut down your American plant, produce the same product overseas and ship it back into this country—we will give you a tax break. You don't have to repatriate your income. You don't have to pay taxes on that income.

So here are two companies. Both produce garage door openers, both are located in the same American city. One moves to Asia. Guess what. The one that moves has a tax advantage over the one that stayed. I am going to offer an amendment that shuts that down for products that are shipped back into this marketplace by companies that move their American jobs overseas. We ought not provide a tax break for that. That is another amendment we will vote on.

Again, when we bring this bill to the floor, which is a tax bill, we have every right to offer these amendments and expect we will vote on them.

The second degree that has been offered just moments ago represents a desire to prevent a vote on the amendment. Certification—this is an opportunity for an escape hatch, to allow governments, in this case in the Dodd amendment, to keep doing what they have done in some cases, and that is to outsource jobs overseas.

This obviously plays right to the question of the larger issue. Senator DURBIN said we have globalized. Indeed we have. Globalization has moved very quickly, very rapidly. I don't suggest we can in some way bring it back. This economy is now a global economy.

What I do suggest is this: The rules for this global economy have not kept pace with the pace of globalization. We fought for 100 years over some very important issues. Should workers have a right to organize? Should they have the right to expect they are working in a safe workplace? Should they have a right to expect someone is not going to hire 12-year-olds to engage in labor that will be undercutting workers in this country? Do they have a right to expect they are not working in a plant that is dumping chemicals into the air and the water?

We fought for 100 years over these issues and resolved them. Now, if a company, or a government can pole-vault over all of those issues and say: You know something, let's just do our business in Bangladesh or Indonesia or India; we don't have to worry about all that; we can hire 12-year-olds and work them 12 hours a day 7 days a week and pay them 12 cents an hour and ship the product to Fargo or Los Angeles or Chicago, in my judgment there has to be some basic admission price to the American economy, to the marketplace in this country. The rules of trade have not kept pace with globalization, and that is what is at the foundation of this great debate of ours about moving jobs overseas.

I understand why people move jobs overseas, why corporations move jobs overseas, why some governments do. I don't like it. I want to stop it. But I understand why they do it.

It is about money. Huffy bicycles is the best example I know. They were 20 percent of the American marketplace. You could buy them at Sears, K-Mart, Wal-Mart. Huffy bicycles were made by proud people in this country making $11 an hour in plants in Ohio. They used to have between the handlebars and the fender a little decal that was the American flag.

Now that is gone. The last job performed in Ohio by the workers at the Huffy bicycle plant was to take that decal off and replace it with a decal of the globe. The American flag is gone, the globe is there. Why? Because Huffy bicycle is now made in China. Not for $11 an hour. Those folks lost their jobs in Ohio because they were too expensive. Those jobs don't exist here anymore. Those workers were fired. Now Huffy bicycles are made in China by people working 12 to 14 hours a day, 7 days a week for 33 cents an hour. They come to this country, not with an American flag on the front but with a picture of the globe. In my judgment, this is an appropriate way to describe what has happened here.

Huffy bicycles, if they had human qualities, would have to have citizenship, and they would be American. But somehow they decided they didn't want to be American anymore; they wanted to be Chinese. But they want to be sold in America because there is no marketplace quite like this on the face of the Earth.

This is a big issue. This is a really big issue and a set of big questions with which this Congress needs to grapple. We grapple with part of it in the context of international trade agreements. We have a mess. We have the biggest trade deficit in the history of humankind. This is not about Republicans or Democrats; it is about bad trade agreements for long periods of time that undercut the productive capability of this country to decimate our manufacturing base. The reason I care about that is no country will long remain a world economic power without a good manufacturing base.

Just one piece of this the Senator from Connecticut attempts to deal with is the increasing likelihood, these days, of companies such as EarthLink—they announced: We are moving our outsourcing overseas. Our servicing is gone. We are going overseas. Companies such as IBM: We are going to outsource and do our servicing overseas. And we also know that governments in some cases have done the same thing.

The Senator from Connecticut takes that small piece and says let's stop that. Let's at least stop that as we work on the rest of it. If we can't do this, we are not serious about any of this. Don't come ever to the floor of the Senate and talk about jobs if you are not willing to do this.

I don't know of one politician who has ever lost his or her job because they were outsourced—not one. For that matter, no economists have ever lost their job because they were outsourced. It is not necessarily the case they would recognize it if it happened, but no politicians or economists have lost their jobs because they were outsourced. If that were to happen, you would hear a different mantra coming out of economists. If that were happening, what you would have is this Chamber full of people wanting to speak in support not just of this amendment but of the bigger bites that are necessary to fix what is wrong with our strategy with respect to trade and the outsourcing of American jobs.

Senator DURBIN indicated that the President's chief economic adviser said to us: This is good. Outsourcing is good. I am assuming this comes from the doctrine of comparative advantage, the old Ricardo strategy of saying you do what you do best, then trade with someone who does what they do best, and that is the way the world works best.

Of course, Ricardo has been long dead and he described a world that doesn't exist. He described trade between countries, not corporations. What is happening is the comparative advantage, as a doctrine, is not any longer comparative advantage with respect to natural resources. It is a comparative advantage with respect to politics, and the politics is this: If you happen to be in a country in which your government says, "Oh, by the way, if you try to organize as a worker you are fired or you are put in prison," that is a political decision by a country that says we won't allow people to organize.

It is a political decision for a country to say we don't care about pollution; we are going to pollute the air and the water. It is a political decision for a government to decide we are going to hire 12-year-old kids in our plants, and we are going to let them work 12 hours a day and pay them 12 cents an hour. That is not the doctrine of comparative advantage Ricardo described. These are political issues and governments decide the conditions of production in their country.

Then we have economists who somehow say: Gosh, Ricardo described this comparative advantage, so why shouldn't we access lower cost labor? A country that pollutes the air and hires kids and puts them in unsafe plants and pays them pennies an hour? That doesn't need an answer. We all understand the answer to that question. That should not continue.

I am going to conclude because I am going in a broader discussion than Senator DODD's amendment. But my point is this: If we can't even do this small piece, how on Earth can we deal with the broader issues? I held a hearing recently about some young women who were working in manufacturing plants in Honduras.

They were actually making clothing for Puff Daddy, whose name, I believe, now is P. Diddy. I get confused now sometimes when people change their names, but Puff Daddy changed to P. Diddy. Apparently, he has a clothing line and that clothing is made in some plant in Honduras.

A couple of young women in that plant came to talk to us about the conditions in that plant. It was exactly as you would expect. There were circumstances where they had no capability to affect their destiny. You are put in that plant; you work in that plant; and if you try to organize, you are fired; you are out. The conditions were terribly unsatisfactory. Since that hearing, I understand that there have been improvements in the Honduras factory I described. But that is just one factory out of many. Conditions there are bleak.

Is that what we want? Is that really the global economy that advantages the American people? Or jobs that move from here to there and then we say but that is all right because, if you have young kids producing this product being paid 20 cents an hour, think of how cheap it is going to be for us on the shelf.

I am sorry, with what income will the Americans who lost their jobs purchase those products? With what income will they purchase those products when their jobs are gone?

One of the interesting things about this U.S. economic engine is that it is the only economic engine on Earth that is as strong. But like every engine, it requires some maintenance. What we have is people hanging around who don't want to maintain this engine.

Jobs are at the root of success in this country. There is no social program that is as important as a good job that pays well—none. Jobs are important.

When we have the Chairman of the Council of Economic Advisers—the President's chief economist—saying it is just fine that jobs go overseas, it is fine and you don't understand, that it will all work out—John Manard Keynes said: In the long run we are all dead. If it all works out, 100 years from now—as we struggle through and this all works out—I guess none of us will experience that.

I am right now very interested in making sure that the rules of trade keep pace with the pace of globalization. They have not. It is our job to bring them to present day policies and to debate them and discuss them. That is what Senator DODD is doing with one small piece.

Should your tax dollar pay for sending jobs overseas through government contracts? The answer is, of course, not. Are you kidding. This isn't rocket science. I suggest that my colleagues go to Main Street someplace and ask the question, Is it good that your manufacturing plants in your town should be required to compete and your workers should be required to compete with someone in Shrilanka where they are going to be paid pennies and they do not conform to environmental laws and fire people if they try to organize workers? We know the answer to that. This doesn't take a lot of depth in thought.

This amendment is a first. Senator MIKULSKI and I have one that deals directly on taxation. We are anxious to offer it. I suspect we will not be able to do that until after the budget debate on the floor. This is the first step of addressing the question about jobs. Anybody who dismisses this question of jobs fundamentally misunderstands the role of jobs in this economy. It is the enabler that enables everything else to happen. It enables people to provide for their families and to do the other things.

One final point, if I might: I have mentioned this before, but I think it bears repeating. It is just one example of so many towns, so many workers, and so many manufacturing plants. When those folks came home from their plant one night and said to their spouse and to their children, "I lost my job today," that is a hard thing to do. The family wonders if they weren't good workers. Was there something wrong with what dad or mom did while they worked during the day? Couldn't they keep up?

It wasn't that at all. They have to come home and say, "I lost my job today," not because I was making $11 an hour trying to provide for my family but that someone else was willing to work for 33 cents an hour, and that job has now gone 10,000 miles from here. The rules don't exist by which we describe whether there is fair trade, whether that is fair for this country and why that is in this country's interest.

When the chief economic adviser to the President says this movement of jobs overseas is really a good thing because in the long run it all works out, I say no, it is not a good thing if you lost your job. I think if economists and politicians lost a few jobs from outsourcing they might understand that a bit.

I will vote for the Dodd amendment. I want to cosponsor the amendment. I am just one voice, but I hope Senator DODD will say it as well. If they try to second-degree this to death thinking that somehow they will avoid a vote on the underlying amendment, as long as this bill is on the Senate floor, this is coming back and back and back. We deserve a vote on the underlying amendment. Let us find out where people stand. Stand up and vote on this rather than try to vote on some diversionary second-degree amendment.

I know my colleague is waiting for the floor. I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, I simply, first, wanted to thank my colleague from North Dakota, and to stand in support of everything he has said. Tomorrow, our friend from North Dakota will be chairing an important hearing. I will have two individuals from Michigan from a small town called Greenville. I appreciate the fact that we have someone who will be sharing their story tomorrow.

But just to reinforce what they said, this is a town of 9,000 people in rural west Michigan. They make refrigerators. They make Frigidaire refrigerators, and they work for Electrolux. Of the 9,000 people in town, 2,700 people work making refrigerators. They have added a third shift. They make a profit. Electrolux indicated that they make a profit in the United States. But they decided they could make a bigger profit if they moved to Mexico and paid $2.50 an hour with no health benefits. So that is what they have decided to do.

We see a community now that is losing 2,700 jobs. When you count the businesses in the surrounding area that are affected, it is 8,000 jobs.

I agree with the Senator's conclusion. I said to the folks at Electrolux: At $2.50 an hour with no health benefits, who is going to afford to buy your refrigerators making $2.50 an hour?

Mr. DORGAN. As the Senator from Michigan indicated, at 10 o'clock tomorrow morning the Democratic Policy Committee is going to hold a hearing on the outsourcing of jobs to other countries. I appreciate that the Senator from Michigan will be there and will be a significant part of that with constituents from Michigan.

It occurred to me as the Senator talked about refrigerators, the next time you go to eat at a Mexican restaurant, remember that Fig Newtons are now made in Mexico. Why? They used to be made in the United States. But Fig Newtons jobs have left and gone to Mexico. Why? Lower wages, I am guessing. Levis, Fruit of the Loom underwear, you name it. We could have a hearing that would last for years if we wanted to talk to the people who had good jobs in this country but whose jobs are now gone because even Fig Newtons went to Mexico.

I am anxious for the hearing tomorrow, and I appreciate the Senator from Michigan mentioning it.

Ms. STABENOW. Mr. President, I support the amendment of the Senator from Connecticut. I think it is the least we can do on this issue. We need to set an example. If we can't as a Federal Government set an example for our own country through our own contracts and our own outsourcing policies, then how can we ask others to do the same thing?

As I indicated, we have one community losing 2,700 jobs to Mexico. We lost more jobs last year than any other State. We have lost over 167,000 jobs in Michigan in the last 3 years. As I look at the paper every day—literally I can go to papers throughout Michigan, from the Upper Peninsula to Detroit to west Michigan to southern Michigan—there will be stories of plant closings, of job outsourcing or exporting of jobs, and layoffs.

This is the most critical issue facing the people of our country. Therefore, it needs to be the most serious issue facing us in the Senate. We need to spend whatever time is necessary, take whatever actions are necessary and put in place a set of policies that stops the exporting of jobs, that creates a level playing field for our businesses and our workers. If we give them a level playing field, they will compete and they will win. But we don't have that now.

We don't have that when it comes to the issue of manipulating currency, which China and Japan are doing. When it costs a Michigan business up to a 40-percent tax to sell into China, and when Chinese products come back and are sold at artificially lower prices, and our government doesn't do anything about it when we could, there is something wrong.

Why does China do that? They want us to move the plants to China. They want to make it as difficult as possible to sell goods in China because they want the plants there. We don't want the plants there. We want to be able to take advantage of smart trade policies and sell goods and services to China, Mexico, Japan, and all around the world. That is what trade is all about, and that is how we make it positive for us. But right now we have a situation where instead of having smart trade policies, instead of addressing those issues to create a level playing field, we are seeing a set of policies that actually encourages a race to the bottom by saying to folks in Greenville, MI: The only way we are going to stay here is if you make $2.50 an hour with no health benefits.

What does that say for the future of our country? What does that say, if any business could say that? The Federal Government could say that. We will not have a middle class and we will not have middle-income families. We will not have what has made us great as a country in terms of opportunity and small business growth, if we don't stop this.

That is why I am very pleased to be supporting the amendment of the Senator from Connecticut. We need to lead by example, and that is what this amendment does. It says while we are asking that businesses in the private sector change policies, and we are asking others not to export, we ought not to be exporting jobs either. We need policies that will stop that and invest in our own workers and in our own people.

I hope that rather than secondary amendments and other possibilities of slowing this amendment down or killing this amendment, we would be joining together—all 100 Members—in saying we do not support the report of the President's Council of Economic Advisers. We do not support Mr. Mankiw's comments that exporting jobs is good for our families, for our businesses. We reject that.

We come together saying the Federal Government needs to lead by example. If we do the right thing and put the right incentives in place, we can then turn to others and ask them to do the same thing. This is about jobs. It is about the future of our country and our quality of life. I hope we will join in supporting the Dodd amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SMITH). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I thank my colleague from Michigan for her support of this amendment and also commend her for her comments and her eloquent testimony about the 2,700 people in the small town of western Michigan of 9,000 people who are about to watch the economic vitality and livelihood of their community move on.

This has gone on, of course, across the country and is one of the problems we face every single day, too often in too many communities across our Nation. One of the aspects is the outsourcing that is going on.

Again, we can offer tax incentives to try to discourage people from making those decisions, but in the final analysis they can reject the tax incentive and decide they will outsource jobs.

We are saying with this amendment—and I appreciate the Senator's strong endorsement—you may be able to do that with your own money, but the question is, Should you be able to do it with taxpayers' money? We don't think so.

We have created all sorts of waivers and exceptions for national security. If there is no other source that would allow this work to be done except by outsourcing, I have made provisions throughout the amendment where the head of an agency—it does not require the President of the United States—can check the box. I assume someone will say this will undercut our national security because we outsource a lot of jobs in the defense contract area. Just check the box. If the Joint Strike Fighter is in trouble, check the box.

I don't want you to begin the day by saying it does not make any difference if I outsource. It does make a difference. That is what my colleague from Michigan is saying. It makes a difference. If there is a reason and rationale for purposes of national security, or because you cannot get the product anyplace else other than through outsourcing, we accept that.

We are not being difficult about this but at least draw that conclusion, not just the bottom line conclusion, that I can make a bigger profit off it because I outsource the job.

I am deeply grateful to the Senator for her comments about the underlying motivations.

I can offer incentives and disincentives which someone can take or not take, but when it comes to the taxpayers' dime, the money the taxpayers, out of their hard-earned dollars, send to this city to support various activities, the fact we are using taxpayer money to ship someone's job overseas, that I object to. I don't think that is an outrageous request at a time when we are watching the acceleration of outsourcing going on day after day after day. That is what my colleague and I object to.

I have been on the floor with my amendment for 24 hours and all I want is a vote. If you think outsourcing is a good thing, and many people do; the administration clearly does—their month-old economic report, which the Senator from Illinois again referenced a few minutes ago; I talked about it yesterday; here it is; it is not my comments, not the comments of the Senator from Michigan; this is their authority in which they conclude that outsourcing of jobs is good for the economy—then vote against my amendment.

I am not trying to be difficult. If I am defeated, I am defeated. I have offered amendments and lost before. I am not shocked when I bring up an amendment and lose, but if you think I am on the right track, vote for it. But vote.

Ms. STABENOW. Will the Senator yield?

Mr. DODD. I am happy to yield.

Ms. STABENOW. Would the Senator agree on its face that it would appear his amendment is about whether folks support that report and if, in fact, they believe, as the Senator said, that exporting jobs is a good idea, folks can vote against your amendment. This is really a time to stand up and say yes or no.

Mr. DODD. That is exactly the case.

Let me address the amendment offered by the Senator from Kentucky, Mr. MCCONNELL, and some comments made at the time of the introduction of that amendment which are worthy of note.

First, my friend from Kentucky went on and recited the 6 million jobs that exist in this country where people work for foreign corporations that are located in the United States and he went down each State and identified the jobs. About 90 or 95 percent of those corporations come from the 27 or 28 nations that are exempted under this amendment.

My friend from New Hampshire talked about a large employer in New Hampshire from the United Kingdom. The United Kingdom is not covered by this amendment. Someone else talked about Japan. Japan is not covered by this amendment. As a result of an inquiry made by my friend from Montana to make sure we exempted those countries with which we have joint procurement policies under the World Trade Organization, the language of this amendment excludes those nations.

The idea somehow that these jobs in America will be in jeopardy is not based on any fact whatever. I will be happy to list them for my colleagues: Austria, Belgium, Canada, Denmark, European Community, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Korea, Liechtenstein, the Netherlands, Aruba, Norway, Portugal, Singapore, Spain, Sweden, Spain, Switzerland, and the United Kingdom. There may be others. That is about 90 to 95 percent, as best we can tell, of the so-called jobs that might be in jeopardy.

I suggest if we cannot have equal access to government procurement in various other countries, then we do have a problem. Of those countries where there is not a level playing field, for those that are for fair and free trade, as I listened to my colleague from Iowa talk about it earlier, the United States cannot compete for government procurement contracts in India. We cannot compete in China. We cannot compete in those other countries. If they are willing to say we can compete for their government procurement contracts, this Senator has a different point of view. But we are being told we cannot do it. Do not tell me that is fair or free trade. It is not—by any estimation.

I will not take a backseat to anyone when it comes to trading policies. I supported many. I believe that is where we must be if we will succeed in the 21st century.

I have waivers in here on national security. I understand there is outsourcing that goes on when national security issues are involved.

I have written a specific provision, just check the box. You tell me this will jeopardize national security, the Secretary of Defense checks the box. That is it. You can go ahead and outsource.

I am not trying to make it difficult for anyone. I don't want to make it more bureaucratic. But when I hear the Pentagon talk about bureaucracy and I look at some of the requirements for even purchasing a personal computer, 38 pages, the idea is there of making a determination that something is in the national security interests and therefore you do not have to do it.

Let me offer to my colleague from Kentucky an alternative to his amendment which, if he is willing to accept, I am willing to take. I want to get answers out of these issues.

Instead of his amendment as it reads, virtually nothing has to happen, and nothing happens with this bill because he says the title of this amendment shall take effect 30 days after the Secretary of Commerce certifies that the provisions of this title will not result in the loss of more jobs or be harmful to the U.S. economy. If the Secretary never certifies then, of course, none of the provisions go into law. This amendment, if adopted, would virtually gut everything we have tried to talk about over these last 24 hours. That amendment is unacceptable.

If you are willing to say the initial certification shall be made by the Secretary of Commerce no later than 30 days after the enactment of this act, then I am willing to consider that because that requires an affirmative action for saying that outsourcing is what we want to continue doing.

I do not like amending my amendment with this kind of a provision. But if you want to go that route, I am willing to listen, even though the Secretary of Commerce is the President's campaign manager and so forth, and the administration is already on record saying they think it is a good thing.

I am willing to admit there are many good people who think outsourcing is a good thing. I am not disparaging people who believe that. All I am saying is, there are a lot of us who do not think we ought to be promoting it with U.S. taxpayer money. For those of us who do not think it is a great idea—I suspect a lot of our fellow Americans agree with that conclusion—we would like to vote up or down. If you think it is a bad idea, as apparently the Senator from Kentucky does and the Senator from New Hampshire—and I respect them immensely—then, very simply, vote against the amendment and shoot it down. Then we will move on to the next subject matter.

But to clutter it up with amendments, suggesting somehow that you agree with what I am suggesting, or at least implicitly do, because you are not challenging the underlying amendment but, rather, offering something that, if adopted, would make it impossible—unless the Secretary of Commerce decided to change political parties and contradict his President and decided he was going to certify something—this amendment requires nothing, no action on his part at all and, thus, obviously the entire provision dealing with outsourcing would fall.

It is kind of a cute way of not having to vote on my amendment but, in effect, killing it with the adoption of the second-degree amendment.

So I have sent over, through staff, some alternative language which I am asking them to consider as a way, instead, of wrapping this up. As I say, I was prepared to vote on this at 4:30 yesterday afternoon, or at 5:30, whenever people wanted to, but there is obviously another game going on. There is the old New England expression: I was born at night but not last night.

I think I understand the game. We are not going to deal with this issue. We are not going to vote on this, or at least we are going to try to avoid voting on it through every possible maneuver. I regret that, but I guess that is the way things are. I think it is unfortunate. I think we should be speaking. The American people care about this issue. They care about trade. I think most people believe trade is in the best interest of the United States. I agree with them on that.

I also think it is in our interest not to squander our human capital. I think we need to do everything possible to see to it that we are in a position to continue to defend ourselves by trying to do what we can to preserve the jobs that are necessary and the underlying industries for which they work so we will have the capacity to be able to build the infrastructures that we need both for our domestic products as well as our national security structure.

I have 5,400 small manufacturers in my State. They are worried they are going to be cut out because there is always a better deal someplace else. I think the short-term quarterly analysis that fails to take into consideration the long-term implications for our country are dangerous. That is one Senator's point of view. That is one of the reasons I offered this amendment, again, not because I am a protectionist, an isolationist—my 24 years here deny that kind of a label categorically—but because I honestly believe this is something we better address now. If we do not, I think we will look back and deeply regret that we did not.

Let me stop. I know the Senator from Arizona has some thoughts he would like to share. I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, first, I would like to begin my remarks with my respect and appreciation for the knowledge and expertise that the Senator from Connecticut has on foreign policy and national security issues. I believe he is unequaled or he has few peers in this body as to his knowledge and experience on foreign policy issues. For many years, the Senator and I have worked together on issues that are of importance to our Nation as far as the conduct of policy and national security is concerned. I have the highest regard and respect for him.

I hope I can work with the Senator from Connecticut to remove some unintended consequences of the Dodd amendment; that is, the Dodd amendment as it relates to defense/national security.

The Senator from Connecticut knows, as well or better than I do, the interrelationships of the North Atlantic Treaty Organization, the commonality of equipment, the fact that many times we build an aircraft, the F–16, a country buys it, and a lot of that aircraft is built in the country that purchases it. That is part of the deal that goes on. For example, significant parts of the F–16 aircraft that are bought by European countries are constructed there. That is also true with a broad array of defense equipment.

The Senator from Connecticut is also aware there is a huge imbalance as far as the purchasing of military equipment. In other words, our European friends—and I will freely admit, because they do not spend the money on research and development that the United States does, the United States builds superior equipment—buy a tremendous amount—by a factor of 15 or 20 in dollars—of U.S. equipment versus equipment that the United States buys from our European allies. We build the best defense equipment there is. We continue to maintain that lead, and we are all proud of it.

What I worry about, in the Dodd amendment, is that this would upset the relationship I just described.

Second, there are many times, many occasions when our troops overseas, our ships overseas, our deployments have to purchase from the local economy equipment, food, supplies, whatever it is.

So I could not certify that it is a national security requirement when the USS *Enterprise* pulls into a port and has to buy some equipment or machinery from the local economy which is manufactured there but fits their needs because there is a tremendous amount of interoperability amongst ourselves and our European allies.

I am sure the Senator from Connecticut is well aware of everything I am saying, and I do not mean to insult his intelligence by saying so.

What I am trying to do—look, straight talk. I do not support the amendment offered by the Senator from Connecticut. But what I would hope we could do is work out some language which would ensure, one, that at no time would our military be prevented from purchasing goods, services, or equipment on a needed basis, and, second, to preserve the relationship we have amongst our allies as far as the purchase of defense equipment is concerned, maintaining interoperability, and, very frankly, the jobs which are the object of his amendment, the jobs which are maintained in the United States of America because of the production of a great deal of defense equipment which is bought by other nations.

Now, the reason why I say that is important is because, if we do not allow the purchase of foreign-manufactured defense equipment, then sooner or later they will retaliate by not purchasing ours. That could have significant effect.

I have a rather interesting letter from Mr. Wynne, who is the Acting Under Secretary of Defense, saying "this provision"—talking about the Dodd amendment—"would impact our ability to sustain our troops stationed overseas and the refueling and restocking of our naval vessels as they carry out their missions. Often times, the support of these activities comes from foreign sources. . . ." It goes on.

I know my friend from Connecticut does not want to impair this. It is clearly not the object of his amendment. So I have an amendment which would make clear that there are exemptions for national security.

Perhaps better than forcing a vote on it, perhaps the Senator from Connecticut and I can work out an agreement to amend his amendment or change the language of his amendment so it does meet these concerns, which I know he shares. If not, then I would be proposing an amendment, after the McConnell amendment is disposed of, to try to ensure that.

I am talking now about national defense and national security. I have concerns about the impact of the Dodd amendment which has been debated ad nauseam. But I hope we can work out an agreement at least on the national security/national defense side of this issue.

Mr. President, I yield the floor.

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I commend my distinguished colleague from Arizona, Senator MCCAIN, who has been working on an amendment with me, and I will be his principal cosponsor on the amendment.

Senator MCCAIN and I and other members of the Armed Services Committee, in the course of last year's authorization bill, had extensive deliberations on the core issue with regard to how such legislation, as proposed by the distinguished Senator from Connecticut, would impair our ability to work with so many of our allies on defense contracts, and the high dependence today that we have on that working relationship between a number of individual allies.

For example, the Joint Strike Fighter, which is to hopefully be the plane that will be utilized in the cause of fighting freedom by so many nations that are working on it, nine different nations are on that particular contract. Great Britain has already put down $2 billion toward that contract. At some point, I will put in the RECORD a printed letter written by the Ambassador of Great Britain in the context of the debate we had on last year's authorization bill, which is directly apropos of the matter before us.

Furthermore, I am going to hand to the Senator from Arizona a letter that arrived from the Under Secretary of Defense.

Mr. MCCAIN. Will the Senator yield for a question?

Mr. WARNER. Yes.

Mr. MCCAIN. The distinguished chairman of the Armed Services Committee, as he mentioned, and I worked hard last year, with the President and Secretary of Defense, to exclude some very onerous "buy American" measures. It took an entire year before the authorizing bill was passed, which is always very unfortunate. I want to ask the distinguished chairman about another aspect of this.

Last time I checked, we have allied forces in Bosnia, Kosovo, Afghanistan, and Iraq from as many as 30 countries who have contributed troops to our efforts in all of those countries, including the fact that a number of those allied countries have sacrificed the lives of their young soldiers in the cause of freedom, particularly in Afghanistan and Iraq.

Mr. WARNER. The Senator is correct, Mr. President.

Mr. MCCAIN. In fact, in Afghanistan we have a significantly expanded NATO operation. I say this with the greatest respect to our friend from Connecticut, Senator DODD. My question is—suppose we tell the government of a tiny country that lost soldiers in Iraq that we want your young men and women there, and we want them to be ready to sacrifice and die but, by the way, we are not going to buy anything from you. If you produce something that is a quality product, we are not going to buy it from you because we are going to protect American jobs in the United States of America.

My question to the distinguished chairman is, What effect does that have on their willingness and desire to help us bring peace and freedom to the people of Bosnia, Kosovo, Afghanistan, and Iraq?

Mr. WARNER. Mr. President, my distinguished colleague, a distinguished military professional in his own right, knows the answer full well. It was given to us this morning by General Jones, the NATO commander. The Senator was sitting next to me. It was given to us by General Abizaid, Director of Central Command, which has jurisdiction over Afghanistan and Iraq. They are fighting in both of those areas with coalition forces—again, troops being lost, life and limb—of nations that would be affected by this amendment as presently drawn.

I just observed where the distinguished Senator from Connecticut and yourself had a colloquy, which I followed off the floor. I think you are making progress toward the amendment that the Senator has, to which I have affixed my cosponsorship, which will resolve this problem. But it is important that we come to the floor—the Senator from Arizona and myself, and perhaps others—to alert colleagues. You have men and women in the Armed Forces from each of your States engaged in the very conflicts that the Senator from Arizona has recounted.

Mr. McCAIN. I have one more question. The Senator and I, both in our declining years, have spent a lot of time traveling around the world. One of the things that took me a long time to appreciate is the effect of what we do in the world. It is astonishing——

Mr. WARNER. Right here in the Senate on this floor, Mr. President.

Mr. McCAIN. Yes. We have passed sense-of-the-Senate resolutions that neither you nor I have paid any attention to, and all of a sudden it is headlines in the country it has affected.

My question to the Senator from Virginia is this: All of those countries that have contributed troops—Bosnia, Kosovo, Afghanistan, and Iraq—they see a headline tomorrow that says the Congress of the United States bars purchase of any military equipment from the manufacturers in these countries. How do you think that affects an already fragile public opinion in these countries?

Mr. WARNER. Mr. President, the Senator is quite observant in his long experience. It is a very negative effect. I also bring to the Senator's attention that we heard this morning that we are thinking of reducing some of our very large bases in Europe and putting a smaller U.S. presence in a number of countries—I mean, actually going in, spending MILCON, and putting our troops in more forward positions in this most uncertain war on terrorism. So it affects that, as well as the ability of that country to engage with us in military alliances.

Mr. McCAIN. I thank the Senator.

Mr. WARNER. Mr. President, I rise in opposition to the Dodd amendment and support of the McCain second degree amendment. The Dodd amendment would prohibit any portion of work covered under a Federal contract for goods or services from being performed at locations outside the United States. This will do incalculable damage to our national security, undermine our relationship with our allies, and violate many of our trade agreements with respect to defense procurement. The Dodd amendment will spark a trade war in aerospace and defense trade—one of the few remaining areas that the United States has a manufacturing trade surplus. It will lead to the destruction of the U.S. aerospace industry and the loss of thousands of jobs that will migrate overseas.

How can I be so sure of the impact of this legislation? It is because, last year, the Senate Armed Services Committee fought off on a bipartisan basis similar legislation from the House of Representatives. For 6 months, this issue was debated in the National Defense Authorization Conference. In the end, we narrowly averted a national catastrophe that would have put every soldier, sailor, airman and Marine in harms way. This legislation, like the legislation from the House on last year's defense bill, marks a return to the days of Smoot-Hawley and the Buy American Act of 1933, which were passed at the height of the depression and extended the misery for so many Americans during that decade.

The Dodd legislation would significantly change the Defense Department's industrial base policy and have a devastating effect on the health of the U.S. aerospace industry. The Dodd amendment, if passed, would erase decades of procurement reforms designed to integrate the civilian and military industrial bases that support DOD, destroy our global aviation trade surplus, increase program costs, and substantially delay the transformation our forces.

One might ask how would such a well meaning amendment do such harm? First, one has to understand what has happened in the defense market in the last 15 years. After the first Gulf War, it was realized that DOD no longer dominated many of the most dynamic industries such as the computer and telecommunications industries. To maintain and transform the force, DOD needed to tap into this commercial market, but none of these industries wanted to sell to DOD because of the extraordinary red tape involved with Government contracting. The Clinton administration and the Congress passed far-reaching acquisition reform measures to allow DOD to tap into the commercial marketplace. The Dodd amendment places this progress in jeopardy.

Under the Dodd amendment, the Defense Department would no longer realize the efficiencies of using commercial buying practices, as many commercial companies with a relatively small portion of their business base devoted to defense would stop selling to the Defense Department. Why? Because commercial companies will be required to identify every microchip, every part, all of its raw materials to ensure that they were produced in the United States. As was the case before the 1994 and 1996 acquisition reforms very few commercial companies will want to do this.

As a result, the Defense Department will have to pay more for its products and will not have access to the most advanced electronics and information technologies from the commercial marketplace. Every weapon system in the U.S. inventory uses information technologies and electronics systems no longer being made in the United States. DOD will have to recreate a DOD specific supply chain with contractors that only support the Defense Department at a cost of hundreds of billions of dollars.

To conform with the Dodd amendment, the Defense Department would need to require companies to comply with a substantial data gathering exercise, merely for the right to bid on a program. It is likely that DOD would have to impose burdensome compliance and certification requirements which would expose bidders to significant liabilities, even in cases where a contract is awarded to another bidder. A commercial contractor who may do less than 1 percent of its business with the DOD is not going to expend this kind of effort for so little return.

To comply with the Dodd amendment, defense and nondefense business segments would have to be separated, slowing the development of next-generation war fighting systems and increasing program costs. For example, the aircraft engine business supports both civilian and military requirements and is only competitive because of the economies of scale inherent in producing for both markets. To conform with this language, U.S. engine manufactures would have to establish two sources of supply and two different production lines—one for the military and one for the civilian marketplace. Military and civilian engines costs would skyrocket and, most likely, the commercial engine market will be lost to overseas competitors because it will be cheaper to buy European engines. Thus, these jobs will be "off-shored," something that the authors of this legislation are trying to prevent.

The international considerations of the Dodd amendment are immense. this isolationist, go-it-alone approach will have serious consequences on our relationship with our allies. Currently, our allies purchase over 26 percent of their defense needs from the United States compared to less than 1 percent that the United States buys from our allies. We don't need protectionist measures to protect our aerospace industry. However, if we pass this legislation, our allies will retaliate and the ability to sell U.S. equipment as a means to greater interoperability with NATO and non-NATO allies would be seriously undercut. Critical international programs, such as the Joint Strike Fighter and missile defense, would likely be terminated as our allies reassess our defense cooperative trading relationship.

As a result, U.S. aerospace trade and the jobs and benefits that it brings to the U.S. economy will be jeopardized. Aerospace exports 40 percent of its products. In 2002, the U.S. aerospace industry delivered a $30 billion export surplus, the largest of any sector of the U.S. economy.

What will the Dodd amendment mean for the budget? The cost of defense programs would skyrocket putting even greater pressure on domestic programs. Since companies would have to separate their defense and commercial businesses, overhead and program costs will increase. Because the number of companies willing to sell to the Government would also decrease, there would be less competition, less innovation, and fewer new technologies in defense products. With international programs jeopardized, there would be little or no cost-sharing by our allies such as the $4 billion invested by our allies in the Joint Strike Fighter program, further adding to the costs that the U.S. taxpayer will have to bear.

Overall program cost increases would force a scaling back of procurement and R&D programs. Operational costs would rise as older legacy systems would remain in use for longer periods. The safety of our men and women in the Armed Forces will be put at risk with this older equipment.

Defense transformation and the acquisition of new technologies would be drastically slowed or curtailed. The electronics and information technology building blocks would no longer be available from American commercial sources for our weapon systems. This would disrupt existing programs such as the *Virginia* class submarine, the Future Combat System and the F–22. An inefficient technology base serving only defense will have to be constituted at great expense in funding and time. The long-term result would be less equipment and technology in the hands of our warfighters.

Finally, the aerospace and defense industry competes with other industry sectors for investment based on a number of economic factors such as projected rate of return. The investment community would likely be concerned about investing in an industry that would be cut off from commercial sources of advanced technology, forcibly disengaged from the global marketplace and forced to rely on a single customer's requirements.

Now the supporters of this amendment will state that they have provided for a national security exemption. Unfortunately, this exemption is unworkable as it needs to be made at either the Presidential or the Secretary of defense level for each contract. The Department of Defense has over 500,000 contracts and many more individual task orders on these contracts. This is an impossible and unnecessary waiver to implement.

Mr. President, again, supporters will also state that the requirements of the Dodd amendment do not apply to procurement covered by the WTO's agreement on Government procurement. That is helpful for the rest of Government, but most defense contracts are not covered by the WTO, World Trade Organization. DOD has separate trade agreements that cover defense cooperation. These include so-called memorandums of understanding with 21 of our closest allies, additional agreements with Canada, and seven declarations of principal countries, over 60 acquisition and cross-servicing agreements, and additional provisions in NAFTA and those that apply to the Caribbean Basin countries. All of these agreements would be overridden by the proposed Dodd amendment.

The sponsors of the amendment have tried to limit the damage by only applying those restrictions to "new" contracts. This would be of limited help, for example, on the Joint Strike Fighter. In essence, the sponsors would welcome foreign nations' participation and money on the current development contract, but these nations would not be allowed to participate on any follow-on production contract. Under these conditions, the Joint Strike Fighter partner countries will leave the program and JSF will be terminated. It is simply that. And we desperately need it in this country. We may have to foot the entire bill of the JSF out of our own military budget if this type of legislation were to pass.

So my conclusion is that this amendment is not in the best interest of the security efforts of our Nation. It would jeopardize, as the Senator from Arizona has said, the efforts of our men and women in the Armed Forces as they work, fighting along with coalition partners in many parts of the world. So I strongly join with Senator McCAIN on the second-degree amendment to exempt DOD contracts from the restrictions contained in the Dodd amendment.

I urge the support of my colleagues. Please contact your own defense contractors if there is any doubt in your mind. You each have them.

Mr. President, at this point, I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, we are at a stage where we are hoping to get some action on some amendments. This is an extremely important bill. This bill will provide a very significant break to all companies manufacturing products in America. It is about a 9-percent deduction on the costs of manufacturing products in States. That translates to about a 3-percentage point reduction in their income tax returns. To a corporation paying the top rate of 35 percent, that means they are going to have a tax rate on that production of 32 percent. It is a very important bill.

There are lots of different ideas about how this bill can be improved. We have already adopted an amendment by the Senator from Utah, Mr. HATCH, cosponsored by myself. In fact, this is a bill that Senator HATCH and I have introduced for many years. It will increase the research and development tax credit for at least 18 months and also modify it in a way to make it more attractive to more companies.

We all know the real pursuit is how do we get more jobs in America, how do we create more jobs in America, how do we keep those jobs in America, and how do we train people who lose jobs in America.

We are a wonderful and wealthy country. We are very lucky to be Americans. People from all over the world want to live in America. I will not say they all do but there are certainly an awful lot of people who want to live in the United States. That is why we have so many immigrants coming to our country.

We do not see very many people heading for the door. Not very many people living in America want to go live in other countries. There is a real reason for that. I think the basic reason is because we are a country of great opportunity. We are a country of great mobility. We are a country where a person can pretty much do what he or she wants to do.

Sure, there are some limitations that some people face, depending upon where they are born or where they grew up in America, but still, compared with any other country in the world, there are opportunities in the United States of America that are just wonderful. We are incredibly lucky to be Americans.

We are now faced with a question, though, of jobs and job loss in America, particularly manufacturing job loss, and even some service industry job loss. We have lost close to 3 million jobs in the last several years. Those are manufacturing jobs. Those are good-paying jobs.

It is also true that virtually every other country in the world is losing jobs, too. We are not the only country that is losing manufacturing jobs. I will not be callous about it, but those are problems that those countries face, and we wish them very well. We wish more people in the world had better incomes; that people who are not the most wealthy would be doing pretty well by themselves. But our goal is here in the United States. How are we going to get more job creation in the United States? How are we going to get more job retention in the United States? How are we going to retrain people? There is no silver bullet, no panacea, no magic answers that are going to solve this problem.

There are lots of reasons why we are facing this, if we are totally honest with ourselves, and clearly we must be if we are going to solve it. One reason, frankly, is just the dramatic increase, to use a fancy word the economists use, in productivity in the last several years. That is, with ingenuity and with research and development and technology improvements, companies are able now to produce more widgets, more products, more cars, whatever it is, with fewer people. It is easier, then, for that company to sell products and make money, but unfortunately a byproduct of that is it is with fewer people, fewer jobs, so people are laid off. It is a huge problem. It is not only the shock of a person who loses his job, it is lost benefits, lost wages.

But some of this is due to productivity increases. It is a fact. We just have to recognize it. But having recognized it doesn't mean we should look the other way. It means we should find some other way to deal with it.

The job displacement that has occurred in America over the last several years has happened all over the world, in all developed countries, not just the United States. It is because of the general nature of economies moving a little more to services compared with manufacturing. Service industry jobs just don't pay as much.

This movement to services—it is like health care services. It is professional services. It is doctors, lawyers, accountants. They are all great professions, and they are services. But by and large, service jobs don't pay quite as much as manufacturing jobs. Again, that is a worldwide phenomenon.

I might say, too, one of the reasons for job loss is foreign competition. It is true in many countries that because of the lower wages it is cheaper to make a product than it is in the United States. There is no doubt about that. Benefits are a lot lower in other countries. There is no doubt about that either. It is true, American companies, as the case with companies in other countries, have to be competitive. They have to be competitive; otherwise, they go out of business.

Having said that, there are other reasons, too, for the phenomenon we are facing. We have to find answers and, as I said, honest answers, not just glib answers.

Frankly, I believe we have to focus on three major areas and be very positive. One is, How do we create new jobs. I would put a lot more effort into research and development than we now do. We should have more basic research in universities and companies than we now have. We have to figure out ways to develop new products. This is a bit corny and a bit dramatic, but it wasn't too many years ago—in the year 1900 nobody even dreamed of automobiles or airplanes. Yet somebody developed an automobile, somebody developed an airplane, and lately it is the Internet, it is broadband, it is fiber optics, it is a lot of new technologies nobody knew about.

A lot of that is because of the dollars devoted to research and development. It is ingenuity and opportunity. Persons knew if they spent time developing those products they could sell them in the United States and overseas and they could make a go of it. They could make something happen. Just think of the joy of maybe inventing something and making it work and selling it. That is one way. We have to figure out ways to create new jobs.

Another way is we have to keep the jobs we have. That is complex. Part of it is the much more vigorous enforcement of our trade laws. I have said it before and I will say it again: we hear of all these call centers going to India, Bangalore, other places in India. You pick up a telephone and try to order something, a credit card company or something, and find the call center is in India or someplace else. But we don't hear of American companies selling products to India. You don't hear of sales to India. Why is that? It is because India is a closed country. It is a very closed country. It is very hard for United States business people to sell their goods and their services and their products to India because India is a closed country.

They also pirate intellectual property. Billions of dollars of intellectual property created by Americans is pirated by people overseas. Various countries either do not have intellectual property legislation or they don't enforce it. It is very difficult. So a way to keep jobs in America is to be much more vigorous as we enforce our trade laws, and this country is not enforcing our trade laws. We are not opening up markets overseas the way we should. It is more laissez faire, let things happen. If some country wants to close its market, fine. That is basically the attitude of this administration as I see it. I have spent a lot of years in trade policy and I cannot remember a time when an administration was so laissez faire, so "who cares" when it comes to whether a country opens up its market to American products.

India is a good example. China is another example. There are so many examples. Rather, what does this administration do? I am not being critical here; I am just calling it as I see it. I am being objective in how I see this administration's trade policy to be operating.

Still, we reach trade agreements with minuscule economies: Bahrain, Morocco. Those are wonderful countries. But why are we spending the limited resources we have in the United States Trade Representative Office reaching free trade agreements with countries that would have virtually no or very little commercial value to the United States? Why? Because it is easy.

We should be taking the extra effort and going to countries, as I mentioned earlier, that are closed and have huge potential markets. We sell to India, a country of 1 billion people, half of what we Americans sell to Switzerland, a country of 7 million people.

Wait a minute. I know the per-capita income in India is lower than it is in Switzerland, but not that much lower, not by such huge orders of magnitude. One way to keep jobs, again, is to enforce our trade laws.

We have to tackle health care costs in the United States, which are much higher than they are in other countries. There are lots of efforts we could undertake.

I will now focus on one aspect of this bill I think is very important. I think most Members of the Senate agree with me. It is further reason why we should move expeditiously and bring up amendments so we can pass this legislation. We will be doing a great disservice to the people of our country if we don't quickly pass this legislation.

Already the World Trade Organization penalties levied on the United States amount to 5 percent of the $4 billion the WTO has said can be levied against the United States now because the United States has not repealed certain legislation which is the underlying part of this bill. WTO said that is illegal so we have to repeal a lot of it. That is $4 billion in penalties levied against the United States products we are trying to export to Europe. That is $200 million in this month alone, March, and there is going to be a 1-percent increase in each of the succeeding months. Why in the world aren't we passing legislation so we don't have to pay those penalties, so we don't have to penalize American companies, and therefore penalize American workers?

One way to send jobs overseas is to not pass this bill. Every day we don't pass this bill means additional costs of doing business in America on products manufactured in America and exported to Europe. If we repeal this penalty, then that cost to American businesspeople will be much less, and that would help them keep producing and keep their employees.

In drafting this bill which provides for a 9-percent deduction on domestic manufacturing, we believed it made good sense for that 9-percent deduction to apply not just to C corporations—

that is the standard garden variety corporation—but also to virtually every other company in the United States, small partnerships, proprietorships, passthrough entities, and smaller companies that do not pay a corporate income tax.

I would like to show a couple of charts to give us a little sense of how U.S. companies organize themselves and why that is important to this legislation.

As this chart to my left demonstrates, about a quarter of American companies are C corporations. The other three-quarters of American companies are partnerships, sole proprietorships, somebody in business for themselves. Another entity called S corporations essentially means that the owners of the corporation are liable themselves and pay taxes themselves on the income of the organization.

About one-quarter are corporations. They are the big guys.

Going to the next chart, I point out that 99 percent of U.S. firms are actually small businesses. If you look at all the companies in America and you organize them according to whether they are a big or a small business, 99 percent are small businesses. By small business, we mean 500 or fewer employees. Virtually every company in the U.S. is not a big corporation but, rather, a small business.

That is important because the legislation we were repealing gives a tax break only to big C corporations. We believed that if we repealed that—and we have to repeal it because WTO says we must—we must be sure we replace it with something much more broad-based. So not only the larger C corporations but the other, smaller, American companies also get the benefit of the provisions of this bill.

I mentioned earlier that about a quarter of American companies are large companies, so-called C corporations. They have at lot of people working for them. About half of the employees in America work for small business; about half work for big business. It is an interesting statistic. Ninety-nine percent of all companies are small businesses. Still a full half of all employees in America work for small businesses.

Why do I say that? Because basically most new jobs are created by small business.

This chart shows that. Small businesses create jobs much more than big businesses. Even though half of all employees are in the category of small business, still three-quarters of the new jobs—this is a historical fact over the years with small business. Small business is more flexible; they can move more quickly; they see more opportunity right away; they can hire more, whereas big business takes time with all the decisions that have to be made going through all the various levels of hierarchy. But small business is where the job creation is.

That is relevant because if you look at private sector jobs in America, you will see the United States since 1994 has had a huge creation of jobs, until the year roughly 2000. Since the year 2000, about 3 million jobs have been lost in America. That is a net figure. That is not gross.

I mentioned earlier that half of those are small businesses. I mentioned earlier that job creation is generally through small business, not big business.

I also mentioned before, to repeat myself, this bill says: OK. We don't care whether you are a big or small business; you can still get that 9-percent deduction.

That is why I think this is a very good bill. I say that in part because there are other versions of this legislation in Washington that do not extend the same treatment to small business but essentially only to larger businesses.

I hope when we move on this bill and pass it and take it to the next stages that we keep in mind the importance of small business and keep in mind that we must retain the small business provisions in this bill.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

Mr. THOMAS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

Mr. THOMAS. On behalf of the leader, I ask unanimous consent that Senator DODD be recognized to modify his amendment; provided further that the McConnell second-degree amendment be modified further with the changes that are at the desk, and it then be agreed to; provided further that I be recognized in order to call up a further second-degree amendment on behalf of Senator MCCAIN, and that following the reporting of the amendment it be agreed to.

I further ask consent that the time until 4 today be equally divided for debate; that at 4 the Senate proceed to a vote on the adoption of the Dodd amendment, as amended, without further intervening action or debate.

Mr. REID. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, a lot of work has gone into this arrangement that we are now going to approve shortly. Everyone is to be commended. Senator DODD spent the last 24 hours or more on this floor. Senator BAUCUS has been very patient, waiting to have this bill move forward. He and Senator GRASSLEY feel so strongly about and I think the majority of the Senate feel strongly about this.

I don't mean to burden the acting majority leader but I do want to say very simply, we have tried to be as upfront as we can be with what we want to accomplish with this most important legislation. We have an amendment that we want to get to. We agreed on the Dodd amendment to take 1 hour evenly divided. We understand the next amendment to be the amendment offered by the Senator from Kentucky and the Senator from Michigan, Senators BUNNING and STABENOW. Senator STABENOW—it was her amendment and it has not changed at all; it is just who has their name on it first—was willing to take an hour evenly divided. We could finish this vote at 4:20, go to that, finish at 5:20, and go to our next amendment in order, which, as everyone knows, is the overtime amendment which the Democratic leader will offer for Senator HARKIN, or Senator HARKIN will offer for himself.

I don't understand why so much effort is being made to avoid a vote on that amendment. We have been told on the Bunning amendment what will happen. Rather than filling the tree with amendments that are good and will improve this legislation, tax extenders and things of that nature, there is going to be an amendment offered by the majority to fill the tree so there can be no amendments offered, or, in fact, the Harkin amendment could be offered to speed this up.

I think we need to get this matter finished. We, on our side, believe this is very important legislation. Yes, we want to talk about outsourcing, and we have done that. Yes, we want to talk about overtime. We have not been able to have a vote on that because of the parliamentary barriers thrown up by the majority.

I hope we can get past that, move on, and get this most important legislation passed. I have no objection.

The PRESIDING OFFICER. Without objection.

The Senator from Connecticut.

AMENDMENT NO. 2660, AS MODIFIED

Mr. DODD. I send a modification to the Dodd amendment to the desk and ask it be so modified.

The PRESIDING OFFICER. The amendment is modified.

The amendment (No. 2660), as modified, is as follows:

At the end of the bill, add the following:

TITLE V—PROTECTION OF UNITED STATES WORKERS FROM COMPETITION OF FOREIGN WORKFORCES

SEC. 501. LIMITATIONS ON OFF-SHORE PERFORMANCE OF CONTRACTS.

(a) LIMITATIONS.—

(1) IN GENERAL.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by adding at the end the following new section:

"SEC. 42. LIMITATIONS ON OFF-SHORE PERFORMANCE OF CONTRACTS.

"(a) Conversions to Contractor Performance of Federal Activities.—An activity or function of an executive agency that is converted to contractor performance under Office of Management and Budget Circular A–76 may not be performed by the contractor or any subcontractor at a location outside the United States except to the extent that such activity or function was previously performed by Federal Government employees outside the United States.

"(b) Other Federal Contracts.—(1) A contract that is entered into by the head of an executive agency may not be performed outside the United States except to meet a requirement of the executive agency for the contract to be performed specifically at a location outside the United States.

"(2) The prohibition in paragraph (1) does not apply in the case of a contract of an executive agency if—

"(A) the President determines in writing that it is necessary in the national security interests of the United States for the contract to be performed outside the United States; or

"(B) the head of such executive agency makes a determination and reports such determination on a timely basis to the Director of the Office of Management and Budget that—

"(i) the property or services needed by the executive agency are available only by means of performance of the contract outside the United States; and

"(ii) no property or services available by means of performance of the contract inside the United States would satisfy the executive agency's need.

"(3) Paragraph (1) does not apply to the performance of a contract outside the United States under the exception provided in subsection (a).

"(c) State Contracts.—(1) Except as provided in paragraph (2), funds appropriated for financial assistance for a State may not be disbursed to or for such State during a fiscal year unless the chief executive of that State has transmitted to the Administrator for Federal Procurement Policy, not later than April 1 of the preceding fiscal year, a written certification that none of such funds will be expended for the performance outside the United States of contracts entered into by such State.

"(2) The prohibition on disbursement of funds to or for a State under paragraph (1) does not apply with respect to the performance of a State contract outside the United States if—

"(A) the chief executive of such State—

"(i) determines that the property or services needed by the State are available only by means of performance of the contract outside the United States and no property or services available by means of performance of the contract inside the United States would satisfy the State's need; and

"(ii) transmits a notification of such determination to the head of the executive agency of the United States that administers the authority under which such funds are disbursed to or for the State; and

"(B) the head of the executive agency receiving the notification of such determination—

"(i) confirms that the facts warrant the determination;

"(ii) approves the determination; and

"(iii) transmits a notification of the approval of the determination to the Director of the Office of Management and Budget.

"(3) In this subsection, the term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"(d) subsections (b) and (c) shall not apply to procurement covered by the WTO Government Procurement Agreement.

"(e) Responsibilities of OMB.—The Director of the Office of Management and Budget shall—

"(1) maintain—

"(A) the waivers granted under subsection (b)(2), together with the determinations and certifications on which such waivers were based; and

"(B) the notifications received under subsection (c)(2)(B)(iii); and

"(2) submit to Congress promptly after the end of each quarter of each fiscal year a report that sets forth—

"(A) the waivers that were granted under subsection (b)(2) during such quarter; and

"(B) the notifications that were received under subsection (c)(2)(B)(iii) during such quarter.

"(f) Annual GAO Review.—The Comptroller General shall—

"(1) review, each fiscal year, the waivers granted during such fiscal year under subsection (b)(2) and the disbursements of funds authorized pursuant to the exceptions in subsections (c)(2) and (e) and

"(2) promptly after the end of such fiscal year, transmit to Congress a report containing a list of the contracts covered by such waivers and exception together with a brief description of the performance of each such contract to the maximum extent feasible outside the United States.".

(2) Clerical Amendment.—The table of sections in section 1(b) of such Act is amended by adding at the end the following new item:

"Sec. 42. Limitations on off-shore performance of contracts.".

(b) Inapplicability to States During First Two Fiscal Years.—Section 42(c) of the Office of Federal Procurement Policy Act (as added by subsection (a)) shall not apply to disbursements of funds to a State during the fiscal year in which this Act is enacted and the next fiscal year.

SEC. 502. REPEAL OF SUPERSEDED LAW.

Section 647 of the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004 (division F of Public Law 108–199) is amended by striking subsection (e).

SEC. 503. EFFECTIVE DATE AND APPLICABILITY.

This title and the amendments made by this title shall take effect 30 days after the date of the enactment of this Act and, subject to subsection (b) of section 501, shall apply with respect to new contracts entered into on or after such date.

AMENDMENT NO. 2680, AS MODIFIED, TO AMENDMENT NO. 2660

The PRESIDING OFFICER. Under the previous order, the McConnell second-degree amendment is modified with the changes at the desk, and it is agreed to.

The amendment (No. 2680), as modified, was agreed to, as follows:

On page 7, strike lines 10 through 14 and insert the following:

(a) This title and the amendments made by this title shall take effect 30 days after the Secretary of Commerce certifies that the amendments made by this title will not result in the loss of more jobs than it will protect and will not cause harm to the U.S. economy. The initial certification shall be made by the Secretary of Commerce no later than 90 (ninety) days after the enactment of this Act. Such certification must be renewed on or before January 1 of each year in order for the amendments made by this title to be in effect for that year.

(b) Consistency with International Agreements: The provisions of this title shall not apply to the extent that they may be inconsistent with obligations under international agreements. Within 90 days of this legislation, OMB, in consultation with the office of the USTR, shall develop guidelines for the implementation of this provision.

The PRESIDING OFFICER. The Senator from Wyoming.

AMENDMENT NO. 2685 TO AMENDMENT NO. 2660, AS MODIFIED AND AMENDED

Mr. THOMAS. I send an amendment to the desk on behalf of Senator McCain.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. Thomas], for Mr. McCain, for himself and Mr. Warner, proposes an amendment numbered 2685 to amendment No. 2660, as modified and amended.

The amendment is as follows:

(Purpose: To protect United States workers from competition of foreign workforces for performance of Federal and State contracts)

On page 5, insert after line 16 the following:

(e) National Security Exemption.—Subsection (b) shall not apply to any procurement for national security purposes entered into by:

(1) the Department of Defense or any agency or entity thereof;

(2) the Department of the Army, the Department of the Navy, the Department of the Air Force, or any agency or entity of any of the military departments;

(3) the Department of Homeland Security;

(4) the Department of Energy or any agency or entity thereof, with respect to the national security programs of that Department; or

(5) any element of the intelligence community.

The PRESIDING OFFICER. Under the order, the amendment is agreed to.

The amendment (No. 2685) was agreed to.

Mr. DODD. Madam President, what is the order now?

Mr. THOMAS. The time will be equally divided now, as I understand.

Mr. DODD. How much time do we have?

Mr. THOMAS. Until 4 o'clock.

The PRESIDING OFFICER. The time is evenly divided until 4 o'clock.

Mr. DODD. Let me take a couple of minutes and, first, explain what has transpired in the last number of seconds. It is rather a quick action on a number of hours of discussion.

First, let me thank Senator McCain and Senator McConnell for their willingness to work on some language. I thank the leader, Senator Daschle. Senator Baucus, of course, has worked tirelessly, and Senator Grassley, the chairman of the Finance Committee, and many others have been involved in their comments.

This is a significant breakthrough occurring with the adoption, I hope we will have now, of my amendment. It says you should not be using Federal taxpayer money to subsidize the outsourcing of jobs.

The McCain amendment is something we fundamentally agreed to in the underlying amendment, but it reinforces the notion that certainly, when national security issues are involved and there is a conclusion that we, in effect, have a waiver or have an exception with that being involved, certainly we are not suggesting there should not be the outsourcing of a job if national security is in jeopardy. That was not the intention. The adoption of the McCain amendment reinforces that idea. We incorporated it anyway.

I am grateful to Senator MCCAIN and Senator WARNER who talked about that issue. There was no disagreement, even with the initial proposal I made on that issue. So we accept. It strengthens the issue for those who were concerned this may have been a vulnerability. We welcome that addition.

The language with Senator MCCONNELL, which we worked on as well, invites the Secretary of Commerce, within 90 days of the passage of the legislation, to certify that in fact there are no job losses in the country occurring as a result of outsourcing.

So we look forward to their involvement in furthering discussion.

But we have for the first time established at least one principle and that is we believe, generally speaking with some exceptions, we ought not, with Federal taxpayer money, be subsidizing the outsourcing of jobs that could be done here at home. This is a significant accomplishment if it is adopted in the coming minutes before the conclusion of this debate.

I welcome the participation of all. I think all of us are concerned. We read about a continuing flow, accelerated flow of jobs going offshore, particularly nations that do not recognize our right to compete for government procurement. We exempted 28 countries with which we have reciprocal arrangements. So when the argument was made earlier in the day by one of our colleagues that this amendment was somehow going to jeopardize American jobs in the United States for people who are working for foreign corporations located here, the fact is, most of those foreign corporations, the overwhelming majority of them, come from the 28 countries, many of which are among the European nations and Pacific rim countries, to the exclusion of Japan, with which we have reciprocal arrangements on procurement. So those nations were excluded.

We are focusing our attention on where some of the major outsourcing is going where you don't have those kinds of protections, where the level playing field does not exist in our country for our ability to compete for jobs.

For those of us who support fair and free trade, we want those options to exist. They don't today in too many places. This legislation is designed to try to address part of that.

There are other issues we need to talk about, but this is one significant piece, we think, of that puzzle. With that in mind, I am happy to yield the floor and listen to others who may want to discuss this before we actually vote on the Dodd amendment in a few minutes.

But I, again, thank all of those involved who made it possible for us to achieve what I think is a good result and one that will invite further involvement. Needless to say, in the months ahead if we find out there has been a lot more erosion in this area, we may have other ideas to address this issue, but for the time being we think this is a major step forward.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Madam President, let me say, first, I am pleased we are able to move forward. We are working on a bill that has to do with trade, one in which we are under the pressure from the WTO to get finished in a certain length of time or it is going to be very expensive. So I am glad we are moving forward. I thank the Senator from Connecticut for working to find an agreement to get this moving forward.

We all care about lost jobs. Certainly the administration cares deeply about jobs, despite some of the remarks that have been made on the floor. Losing a job is painful. It is an awful experience. Jobs are the foundation of the American dream. Jobs give people dignity and the hope of a better tomorrow.

It is true jobs are how people provide for their families and for their children, for education, and the well-being of their loved ones. This President cares deeply about jobs.

Economic growth is, of course, the answer. The question is, How do we create more jobs? The answer is clear. We need a growing economy. A growing and expanding economy is the key to more jobs. That is why the President's tax cuts are so important. They have made the American economy much stronger. The economy is now growing and expanding. We have had a GDP growth rate of 8.2 in the third quarter of last year, 4.1 in the fourth quarter, and 3.1 for 2003.

Job training and job skills are key. We are living in a dynamic economy, and that is good. It creates higher wages and higher standards of living. But it also requires us to make sure people have the opportunity to learn new skills and upgrade existing skills.

The key to a good job is training and skill. The President is focused on that. He understands the linkage between job training, job skills, and jobs of the future. That is why he has proposed his jobs for the 21st century initiative and focused so much attention on community colleges and education in general, because training and skill development are the pathway to jobs in the future.

That is also why the President supported the expansion of the Trade Adjustment Assistance in 2002; the trade act tripled the levels of before.

Americans can compete with anyone when we have a level playing field. Despite what some of our critics are saying, economic isolation is not the answer. Only 5 percent of the global population lives in the U.S. That means that 95 percent of our potential market is outside the U.S.

We need to stay engaged with the rest of the world. We need those markets opened to our farmers, our service industry and our manufacturers. We have the best workforce in the world, the most innovative businesses and the most competitive companies. We can compete with anybody when markets are opened and we have a level playing field. In the service industry alone, more than 108 million Americans have good-paying jobs. The service industry's share of GDP has grown to about 64 percent. The service sector employs 80 percent of Americans, and, over the past two decades, has added almost 40 million employees across the full range of services. On average, these service jobs pay wages on par with those in the manufacturing sector, and wages for service jobs have increased at a faster rate than wages for manufacturing jobs. Many of those services are exported. We have a big services trade surplus. We sell to the world our movies, our music, our software, the products of our architects and our engineers, our consulting services, our insurance products, our teachers and trainers, and our telecommunications services.

We will only grow our economy by expanding the opportunities of our world-class service workers to sell their services to the world. We must say "no" to economic isolation.

What goes around comes around. We should be concerned about retaliation. Foreign investors employed 6.4 million Americans in 2001, including one in eight U.S. manufacturing workers. Thousands of auto workers in Ohio and South Carolina, or financial services workers in New York or California, or the guy repairing your car at the BP Amoco station, have jobs that depend on our market being open to foreign investors. Most of these workers earn considerably above the average U.S. manufacturing wage. We need to be deeply concerned about those Americans who lose a job, any job. But if our answer is to put up walls around America, we run the risk that tens of millions of Americans will be hurt.

We are moving forward by strengthening this amendment and strengthening this bill. It is one that we need to finish. We need to understand there is a movement of billions of dollars a day around this world. Sometimes it is difficult, but it is the way it is. We can compete. We have the most effective economy in the world. We have the most efficient workers in the world.

I am pleased we can now go forward and get on with this task that is before us so we can begin to do the things we need to do in terms of fair trade.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

ASBESTOS LITIGATION

Mr. INHOFE. Madam President, I applaud the Senator from Wyoming for recognizing what we need to do for jobs in this country. That is the very thing that turns this economy around.

I say to my good friend from Connecticut that it was not a Republican idea; it was a Democratic idea when John Kennedy said the way to increase revenues is to reduce marginal tax rates. That works. That is what is happening now. With this President having inherited a recession which started back in March of 2000, we are now pulling out of it, and we are going to see a dramatic improvement.

I have been listening to this talk on job loss and sending jobs overseas. I know my colleagues, Senators HATCH and BOND have spoken about the impact of asbestos litigation on our economy and the need to pass S. 1125 this year.

I want to reiterate the enormous loss of jobs our country will suffer and the impact on economic growth if something is not done to resolve this problem.

I also want to note a press release from the EPA that says on February 25, several members of Topor Contracting, a demolition and asbestos abatement business in Buffalo, NY, along with the owner of Payco, a predemolition asbestos firm in New York, pled guilty to State charges after their firms were involved in the demolition of two buildings in Buffalo, NY. They were charged with falsely stating that asbestos had been removed from the work area.

If asbestos is not removed before demolition begins, those working in the area are susceptible to asbestos exposure. We know, when inhaled, asbestos can cause such fatal illnesses as lung cancer and mesothelioma.

In another, related civil case, the owners of Topor and Payco were permanently barred from conducting asbestos abatement work in New York State.

The New York Area Office of EPA's Criminal Investigation Division, the State of New York and the FBI are appropriately investigating this case.

This example shows that asbestos can be controlled appropriately under reasonable law and legal procedures—making excessive lawsuits all the more outrageous.

The U.S. Supreme Court has called asbestos litigation an "elephantine mass . . . that defies customary judicial administration and calls for national legislation."

Senior U.S. District Judge Jack Weinstein has cautioned:

> If the acceleration of asbestos lawsuits continues unaddressed, it is not impossible that every company with even a remote connection to asbestos may be driven into bankruptcy.

Many newspapers and publications have also commented on this crisis and its affects.

The Hartford Courant has said:

> Congress must not let this opportunity pass. The alternative is more chaos, in which additional companies are driven into bankruptcy, thousands of workers lose their jobs and those who suffer from asbestos-related illnesses often wait many years for payments.

Georgia Pacific is a company headquartered in Atlanta, and is one of the world's leading manufacturers of tissue, packaging, paper, building products, pulp, and related chemicals. It sells more than $23 billion in products annually and employs about 61,000 people at 400 locations in North America and Europe. It operates three facilities in Oklahoma, including a building products distribution center in Tulsa and a tissue and a paper production plant in Muskogee. It employs more than 1,600 people in Oklahoma. Its operations generate about $76 million in taxable wages each year in Oklahoma alone.

Before 1977, the company manufactured gypsum products, which contained asbestos fibers. Since that year, it has not used asbestos in any of its products.

Over time, the company as a whole has paid about $629 million to settle over 313,000 asbestos claims. A large portion of these payouts goes to attorneys and to many who aren't actually sick. In fact, about 60 percent of its asbestos claims have been paid to lawyers. Another 20 percent has been paid to people who were not sick. The remaining 20 percent was actually paid to sick people. At the end of 2003, it had over 64,000 pending claims nationally and its payments extended into 2013.

Just yesterday I met with another nationwide company, McDermott International, whose power generation division, Babcock and Wilcox has filed for Chapter 11 bankruptcy. In the end, the company and its insurers will pay over $1.6 billion to claimants and lawyers.

Other companies affected by asbestos litigation include Weyerhauser—a national paper product manufacturing company with facilities in Oklahoma, Bethlehem Steel, Harbison Walker, North American Refractories, Owens Corning, W.R. Grace & Co., U.S. Gypsum Co., Kaiser Aluminum, and Halliburton's DII Industries unit.

Overall, asbestos litigation has already forced at least 70 companies into bankruptcy—causing the loss of many jobs. According to a report by Joseph Stiglitz in 2002, as many as 60,000 jobs have been lost due to asbestos-related bankruptcies. Employees of these bankrupt companies have seen their 401k's drop by an average of 25 percent.

According to a 2002 report from the RAND Institute for Civil Justice—a bipartisan group—in 1982, litigation cost American businesses $1 billion; in 2000, the total cost of litigation rose to $54 billion; in 2002, litigation costs jumped to over $70 billion.

Forty-seven States—Hawaii, Rhode Island and North Dakota are the only States that do not have a facility affected by asbestos bankruptcy—have at least one facility affected by asbestos bankruptcy.

Workers displaced by asbestos bankruptcies have lost $25,000 to $50,000 in wages.

For every 10 jobs lost in asbestos bankruptcy, a community will lose as many as eight additional jobs. If we do not enact legislation this year, economic growth could be reduced by $2.4 billion per year which could prevent 800,000 jobs from being created and a loss of $64 billion in economic growth over a 27-year period. It could cost businesses up to $210 billion to respond to 500,000 to 2.4 million asbestos claims.

This legislation will guarantee a fair and generous compensation for victims—those are the ones who are really hurt—and will replace the unpredictable court costs with certainty for victims and businesses. It will provide contingent money if the fund runs short or provide money upfront to get the fund running. It protects the claims if the fund runs dry, and it uses no taxpayers' money.

I am not optimistic we will get it passed. There will have to be a wake-up call. Look at what happened a week or so ago. We had the Health for Mothers and Babies Access to Care Act. It was supposed to help get the money to the mothers and babies who need it so much. Trial lawyers won that in the Senate. They got amendments in there that totally destroyed what we were trying to do.

The gun liability bill last week. Standing right next to me was the Senator from Idaho, Senator LARRY CRAIG, who has been a hero in this area trying to do something to protect the second amendment rights and to have some type of legislation that would have an effect on reducing the magnitude of lawsuits against gun manufacturers or distributors and in many other areas. With the amendments the trial lawyers were able to get in to protect trial lawyers, it ended up being killed by the very people who introduced it.

I am hoping there has been a wake-up call and this will not happen in the case of S. 1125 and we will be able to get this thing passed this year. Every month that goes by, every week that goes by, there are more and more lawsuits. Keep in mind, 60 percent of the money has gone to lawyers and 20 percent has gone to people who have not sustained any types of injuries themselves.

With that, I encourage my colleagues to pass S. 1125 as soon as possible.

I yield the floor.

Mr. DODD. Madam President, I comment briefly again on the pending matter while he is still in the Senate. I say to the Senator from Oklahoma regarding the asbestos legislation, something I have been involved in for a number of years, as late as last evening I met with asbestos study group people. The insurance industry is deeply involved, as is organized labor, relating to a large extent to some of the victims of exposure to asbestos. I am very hopeful, still hopeful we can reach a conclusion.

There are some 700,000 pending cases. I don't know if the Senator mentioned that number specifically, but it is a staggering number of cases. Some 60,000 or 70,000 new cases are being filed each year of people claiming harm and injury as a result of exposure to asbestos. There have been at least 70 bankruptcies declared by businesses directly related to the exposure of people who have been exposed to asbestos, and claims filed against them. There is a danger of many more occurring.

This is a matter that does cry out for solution. We think we have a potential solution, not that anything is perfect, but there have been a lot of people working on this over the last number of months, most intensely the last year or so. I thank Senator FRIST, the majority leader of the Senate, and his staff, for working very hard along with Senator HATCH. Senator LEAHY has been terrific. TOM DASCHLE, the Democratic leader, has made strong commitments and is interested in seeing a bill we can support.

It is almost like a three-legged stool. We will have to reach an agreement between the manufacturers, the insurance industry, which will end up paying the lion's share of this, and the victims themselves or groups that represent them. No one wants a situation where we try to come up with a solution that would take the matter out of the courts, having medical criteria established so people who are really sick will get the help, and those who are not sick obviously would not be able to take advantage of this. But we do not want, at the end of the day, a Johns Manville situation, a resolution of people who have been exposed to products of Johns Manville Corporation where ultimately the amount of money set aside results in 5 cents on the dollar for victims. No one wants to see that happen at the end of the day.

The medical criteria question has been resolved. Thanks to Senator SPECTER of Pennsylvania and work he has done, the administration of how this would work has largely been agreed to by all the major three groups, the people involved. We are still some distance apart on what the final amount of money ought to be to put in a fund that would adequately provide for those who would meet the medical criteria laid out in the legislation.

If people are committed to this, we can get this done. While there may be a lot of bills around here people want to take credit for, as being major accomplishments, I cannot think of anything more important as an economic message than to come up with a good resolution of the asbestos problem.

I commend my colleague from Oklahoma for coming to the Senate and talking about this.

Mr. INHOFE. Let me respond briefly. I did mention the Hartford Courier newspaper that has been aggressive. I knew the Senator was aware of this and actively concerned because his State of Connecticut, which probably is suffering, is in the top three or four States in the United States with problems.

I suggest there is a fourth leg of the stool and that is for trial lawyers to get this work out.

Mr. DODD. Obviously, they have a strong interest in this.

We will try to take something out of the court system and come up with an answer that would not involve—although we would not necessarily eliminate that, at the end of the day if the fund was inadequate, you could go back. But the idea would be to get compensation to victims, give some finality and certainty to everyone.

The danger for businesses and the industry is they want certainty. Tell me what I owe, what we have to do so we can move on.

My hope is in the coming weeks we can solve that matter.

I thank the Senator from Oklahoma.

AMENDMENT NO. 2660

If I can come back to the matter before us, I thank Senator DASCHLE, the Democratic leader, on the asbestos issue, and Senator LEAHY, among others, along with Senator FRIST and Senator HATCH, who really have been doing a tremendous job in keeping everyone at the table to work at that issue. I thank several other people for their work on this proposal dealing with the outsourcing of American jobs.

Again, this is a major achievement. We never have done something like this before, but this Congress and this body is stepping to the plate and saying this continuing erosion of jobs in this country is something the Federal Government, anyway, will be far more diligent about than we have been.

I thank Senator BAUCUS and Senator GRASSLEY, the floor leaders of the Finance Committee, which has jurisdiction of the underlying bill. I particularly thank Senator BAUCUS for his support of the underlying Dodd amendment yesterday. I am very grateful to him for expressing that support and Senator GRASSLEY indicating, as well, his support. I thank Senator COLEMAN, who wanted to be a cosponsor of the bill very early. I thank him for that. I thank Senator HARRY REID of Nevada, who is tireless in his participation on these matters all the time. He has been very helpful over the last several days, along with his staff, in getting this resolved. Senator CORZINE of New Jersey spoke yesterday about this bill; Senator KENNEDY of Massachusetts, who spoke with such great passion about the issue of jobs and what is happening to American workers and their families; Senator DURBIN of Illinois, who is always eloquent on these matters; Senator STABENOW, from Michigan, who spoke very directly about conditions in her own State and what happens with job loss. Senator BOXER of California spent some time here yesterday talking about conditions in California and specifically in the agricultural sector which she cares deeply about, in watching Federal tax dollars being used to purchase agricultural products outside of the United States, thus causing job loss. She made that point very strongly yesterday and I commend her for it; Senator DORGAN of North Dakota, as well, for his remarks in support of this proposal; others who were cosponsors, including Senator MIKULSKI, who supported the legislation. I thank her for backing this proposal, as well.

Again, this was a very positive step. I am hoping the bill will be adopted. We will have a vote on it.

For those who think outsourcing is a good thing, then you ought to vote against this amendment. I would like your vote, but if you think outsourcing jobs in the United States with Federal taxpayer money is something we ought to continue to pursue, then you will have an opportunity to vote against this amendment. If that is an honest reflection of your views, then you ought to express them accordingly. If you feel as I and others do that we ought to be sending a message using ourselves as an example and a model and saying we ought to be trying to do better, and that is when it comes to Federal dollars here, we ought to be doing everything we can to encourage the employment of people in the United States, for a lot of reasons, not the least of which is that you cannot continually erode the human capital in this country and expect to reconstitute it during moments of crisis or need.

If we continually erode the human capital elements and destroy, in the process, a manufacturing base, which is occurring at an incredible rate of speed—as I pointed out earlier yesterday and today, some 2.8 million jobs have been lost in the last 36 months in the manufacturing sector alone—as those jobs leave, the ability to come back and reconstitute them in a way that we may find absolutely necessary, not only for the production of domestic products for sale at home and globally, but also in the manufacture of critical components of our defense structures—very shortly we could find ourselves in this century ill-prepared to meet new challenges.

So there are a lot of good reasons we ought to be concerned, not the least of which is what happens to these families when they painfully discover their job has been lost, and someone, at a fraction of their wage or salary, has been hired merely because it looks better, because it increases profitability on a quarter-to-quarter basis. We ought to be thinking in the longer term. In my view, we ought to be thinking about the coming generation and what kind of country we will leave.

So while I respect the business decisions that are made to outsource—although I disagree with many of them, I understand them—I hope business understands, for those of us in the public sector who have a broader responsibility—not just to those who are engaged in the business and their bottom line but to those who work for them as well—that we are going to try to do what we can to discourage the outsourcing of jobs where it is not necessary either for the national security needs of the Nation or because you cannot acquire these products anywhere in the United States. Certainly, we provide for exceptions in the legislation to cover those circumstances.

So, again, I think this is a major step forward. And I will be looking forward to how the administration reacts.

Let me also point out I will come back to another item in a minute as to a comment made by Senator INHOFE, but I hope the Dodd amendment will be voted on favorably.

Madam President, I do not know if the yeas and nays have been asked for on the Dodd amendment.

The PRESIDING OFFICER. They have not.

Mr. DODD. I ask for the yeas and nays on the Dodd amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. DODD. I thank the Chair.

Madam President, let me just say, if I may—and I will be glad to yield the floor after this—according to the official arbiters of the economy, the National Bureau of Economic Research, the recession that we are still in, to some extent—although we seem to be coming out of it—began in March of 2001, not in the first quarter of 2000. And I know my friend from Oklahoma made the point that the recession began in the last year of the Clinton administration, when, in fact, the objective observers about when the recession actually began say it was in March of 2001, a year later.

With that, Madam President, I am happy to yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THOMAS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to amendment No. 2660, as modified, as amended.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Louisiana (Mr. BREAUX), the Senator from North Carolina (Mr. EDWARDS), the Senator from South Dakota (Mr. JOHNSON), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 70, nays 26, as follows:

[Rollcall Vote No. 32 Leg.]

YEAS—70

Akaka
Allen
Baucus
Bayh
Biden
Bingaman
Bond
Boxer
Bunning
Byrd
Cantwell
Carper
Chafee
Clinton
Coleman
Collins
Conrad
Corzine
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Feingold
Feinstein
Frist
Graham (FL)
Graham (SC)
Grassley
Harkin
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Talent
Voinovich
Wyden

NAYS—26

Alexander
Allard
Bennett
Brownback
Burns
Campbell
Chambliss
Cochran
Cornyn
Craig
Crapo
Enzi
Fitzgerald
Gregg
Hagel
Hatch
Kyl
Lott
Lugar
McCain
Nickles
Roberts
Stevens
Sununu
Thomas
Warner

NOT VOTING—4

Breaux
Edwards
Johnson
Kerry

The amendment (No. 2660) was agreed to.

Mr. GRASSLEY. Madam President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONGRATULATIONS TO SENATOR INOUYE

Mr. STEVENS. Madam President, I would like the Senate to join my good friend from Hawaii in celebrating this day. Today is Senator INOUYE's 15,036th day in the Senate. That makes him the fifth longest serving Senator in the history of the United States. He has passed the record set by Senator John Stennis, who was previously the fifth longest serving Senator.

Senator INOUYE was sworn in as a U.S. Senator on January 3, 1963. Since that time he has cast 13,844 votes. Only four Members in history have cast more votes.

During his Senate career, he has served with 355 of the 1,875 Senators who have been Members of this body. This means he has served with approximately 20 percent of all Senators in U.S. history. I count myself lucky to be one of the many Senators who continue to have the privilege to work alongside my good friend from Hawaii, Senator INOUYE.

Congratulations, Senator.

(Applause, Senators rising.)

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Madam President, I join my colleague from Alaska and all of our colleagues in congratulating our special colleague, Senator INOUYE. It is not just the quantity of days he has served that makes him unique and special; it is the quality of the days he has served.

Over these years, he has provided remarkable leadership not only for his State but for his country. He has inspired us and he has provided remarkable demonstrations of commitment to his country and commitments to his people in Hawaii.

I was in ninth grade when Senator INOUYE was elected to the Senate. I look back at all of those years since being in ninth grade, and I can only imagine what it must seem to him having served this number of years in the Senate. We wish him many more.

I always admire Senators with longevity, but it is no secret why Senator INOUYE has experienced his longevity. It is his respect, amazing dedication, and the extraordinary and remarkable way with which he conducts himself in public life that has earned him respect on both sides of the aisle. Senator INOUYE, we congratulate you, we thank you, and we are honored to serve with you.

I yield the floor.

Mr. AKAKA. Madam President, I wish to join my colleagues in offering my congratulations to my friend and colleague, Hawaii's senior Senator and statesman, DAN INOUYE, as he marks his 15,036th day of service in the Senate and becomes the fifth longest serving Senator in the history of our Republic.

I am proud to serve alongside a true patriot and American hero, and to offer a few words recognizing his many contributions and commitment to public service. The people of Hawaii and our great Nation appreciate the leadership and direction he has provided, leadership which has bettered and strengthened our country. The scope of his contributions is matched only by his continued strong and effective leadership on behalf of our State, on behalf of our men and women in uniform, on behalf of Native Americans, and on so many other matters, in the Senate.

I am certain I speak for all the people of Hawaii when I say thank you, DAN INOUYE, son of Hawaii, for over four decades of exemplary service and commitment to our State and our Nation. We are very proud of our senior Senator. Thank you, Mr. President.

Mr. BYRD. Madam President, on January 3, 1963, DANIEL INOUYE became a U.S. Senator. Today, 15,036 days later, he has become the fifth longest serving Senator in American history.

This is yet another accomplishment in the life and career of a remarkable man and outstanding American.

I must point out, however, that his has not been an easy or comfortable life. It has involved overcoming the trials and tribulations of immigration and discrimination.

Still, his has been a life of service to our country. During World War II, he served our country in the famed 442d Infantry Regimental Combat Team of World War II, the most decorated Army unit in U.S. history. He was awarded the Distinguished Service Cross, the Bronze Star, the Purple Heart, and the Congressional Medal of Honor, making him one of only seven Senators to have been awarded our Nation's highest military honor. His war-time heroics have now been documented in the film, "Daniel K. Inouye: An American Story."

His service to our country continued in the U.S. Senate where he became the first Japanese American ever to serve in the U.S. Congress, and served on the Senate Watergate Committee, the Congressional Iran Contra Committee, the Senate Appropriations Committee, and as Secretary of the Democratic Conference. I am pleased to point out that Senator INOUYE will soon cast his 14,000th vote.

Personally, I have always appreciated and respected his deep loyalty to the Senate and everything for which it stands. I will never forget his loyalty to me when I was the Senate Democratic leader. Whenever I needed his assistance, he was there. Whenever I needed his vote, he was there. Whenever I needed his friendship, he was there. In an address to the Senate last July, I referred to Senator INOUYE as "my hero in the Senate." I am confident that he always will be.

Senator INOUYE is a dear colleague and a remarkable man. Therefore, I take great delight in congratulating him on achieving this momentous occasion.

I congratulate the Senator. His colleagues are proud of him as are the people of Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Madam President, I shall long remember this day. I just hope my constituents will not consider me too old to be running for reelection. I thank my brother from Alaska and my leader from South Dakota. Those words will be cherished.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

JUMPSTART OUR BUSINESS STRENGTH (JOBS) ACT—Continued

Mr. BUNNING. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2686

Mr. BUNNING. Madam President, I send amendment 2686 to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. BUNNING], for himself, Ms. STABENOW, Mrs. FEINSTEIN, Mr. LEVIN, Mr. KOHL, and Mr. ROCKEFELLER, proposes an amendment numbered 2686.

Mr. BUNNING. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To accelerate the phasein of the deduction relating to income attributable to domestic production activities)

On page 71, strike lines 17 through 21, and the matter before line 22, and insert the following:

"(2) PHASEIN.—In the case of taxable years beginning in 2004, 2005, 2006, 2007, or 2008, paragraph (1) shall be applied by substituting for the percentage contained therein the transition percentage determined under the following table:

"Taxable years beginning in:	The transition percentage is:
2004, 2005, or 2006	5
2007	6
2008	7.

AMENDMENT NO. 2687 TO AMENDMENT NO. 2686

(Purpose: To provide for the extension of certain expiring provisions, and for other purposes)

Mr. GRASSLEY. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

Mr. HARKIN. Madam President, point of order.

The PRESIDING OFFICER. The clerk will report the amendment by number.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for Mr. BAYH, Mr. SANTORUM, Mr. BUNNING, Mr. GRASSLEY, Mr. BAUCUS and Mr. DORGAN, proposes an amendment numbered 2687 to amendment No. 2686.

Mr. GRASSLEY. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

Mr. HARKIN. I object.

The PRESIDING OFFICER. The clerk will report.

(The assistant legislative clerk continued with the reading of the amendment.)

Mr. REID. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Text of Amendments.")

Mr. REID. I ask unanimous consent that the Senator from Iowa, Mr. HARKIN, be recognized to speak for up to 7 minutes before we return to Senator BUNNING.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Iowa.

Mr. HARKIN. Madam President, I thank the Senator. I wanted to alert fellow Senators what is going on. It is obvious that the Republican side of the aisle does not want to vote on the overtime bill. For some reason, they are afraid to confront this issue. I don't want to take a lot of time. I would agree to a half hour evenly divided. We have debated this issue before. But make no mistake about it, the Department of Labor is about to issue regulations that will strip overtime pay protections from 8 million workers in this country.

This Senate, last year, on a bipartisan vote, passed my amendment to disallow those regulations. The House of Representatives also, on a bipartisan vote, voted to uphold what we did in the Senate. And the administration stripped it out on the Omnibus appropriations conference report.

They say this is a jobs bill. How about the jobs of people who are working overtime in America? How about the men and women who have given up their premium time with their families and with their kids, after work, on weekends, to work overtime? What about them? These are jobs, also. How about the people unemployed right now who would be employed but, if employers can work people over 40 hours a week and not pay them a cent more, why would they hire anybody else?

Last, as I said the other day and I pointed out, this is a dagger pointed at our veterans. You can look in the old regulations. There is nothing in there about training in the military causing you to be exempt from overtime pay protection.

Here, I blew it up on this chart. I am not going to read the whole thing, but basically it puts in these words: "training in the Armed Forces." What does that mean? It means if you get specialized training as a veteran and you come out and go to work, you can be exempt from overtime pay protection simply because you got that training in the Armed Forces. You aren't called a "learned professional" without a four-year specialized degree otherwise. But not if you are a veteran. The regulations would substitute veterans' training for university education, at least to take their overtime away.

What it does is it makes a veteran who got specialized training in the Armed Forces less eligible for overtime pay than his or her counterpart who never served in the military who otherwise has the same education. That is why we feel so strongly about disallowing the proposed regulations of the Bush administration that will strip these overtime pay protections from 8 million workers.

Make no mistake about it, the Department of Labor is about to issue these regulations. They say they are going to issue them this month. Perhaps that is why the Republican side doesn't want to vote on them. They want the Department to issue the regulations, get them in force and effect. Then they know it is harder to overturn them, once those rules and regulations are out there.

I hope the working men and women around America are paying attention to what is happening on the floor of the Senate right now. The other side has known full well; they were told earlier on if they were going to call this a jobs bill, we ought to be allowed to offer our amendment for an up-or-down vote on whether the administration ought to be allowed to issue these regulations stripping overtime pay, regulations on which they have never had one public hearing, not one. Yet the other side is not letting us even vote on it. Not even vote on it. That is the charade. That is the game that is going on around here.

Are we stopping this bill? We are not stopping this bill. I heard someone say if the Harkin amendment on overtime pay is adopted it will kill the bill. Why, I ask, would it kill the bill? This is a jobs bill. We are trying to protect jobs in America.

At some point we will vote on this amendment. Maybe not on this bill, because I can see the writing on the wall now. They are going to keep second-degreeing this amendment to death. Then they are going to go off the bill and go onto the budget.

But I will be back. I don't want to quote the Governor of California, but, "I'll be back." I will be back and I will be back and I will be back. Whenever there is an opportunity for this Senator to offer this amendment to stop the taking away, the stripping of the rights of our working people in this country to overtime pay, I will be here. If there is an opportunity on this bill, I will do it, but I can see what is happening. The other side does not want this brought up for a vote, and they will do everything they can to preclude me from bringing it up.

I say to the other side: I will be back.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I ask unanimous consent, without the Senator from Kentucky losing his right to the floor, if I could have 60 seconds to say where we are right now.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. The obvious thing going on here is that my colleague from Iowa wants to go out of turn and jump ahead of the line. We have an agreement lining up amendments. We did this yesterday morning. The overtime amendment is in that line, and it is just a matter of waiting until that sequence comes and that opportunity is going to be there. That is the fair way of doing business around here. As the manager of the bill, I am going to make sure we do this in a fair way.

I did offer an amendment to the Bunning amendment. That one part of the amendment that was just read is something that is very important to Iowa. We are going to have the largest wind energy generating project in mid-America in Iowa, if we can get the wind energy tax credit extended.

This is an amendment that extends a lot of the provisions that have run out. Wind energy is one of those. This gives an extension to all of these extenders that have run out. One of those is for wind energy, which affects the entire country, of course. But one of the largest wind energy projects ever is going to be in Iowa. If we can get this wind energy tax credit extended——

Mr. HARKIN. Will my colleague from Iowa yield for a question?

Mr. GRASSLEY. If it is OK with the Senator from Kentucky, yes, I will yield.

Mr. HARKIN. I wanted to ask if the other side would be willing to have a time agreement on the Bunning amendment and the Grassley amendment that was added thereto. Then maybe we can get to the overtime amendment.

Mr. GRASSLEY. Those are things that are being discussed. I think it is fair to say it ought to be OK if I don't have an answer to that right now for the simple reason that yesterday, and even earlier today, we tried to get agreements from the other side on some votes, and we weren't able to get them. But those are things that are eventually negotiated, as the vote we just had, and the same thing may happen on other amendments.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. BUNNING. Thank you, Madam President.

I rise today to offer an amendment which is cosponsored by the Senator from Michigan and the Senator from Wyoming, Mr. THOMAS.

I first want to compliment my chairman and ranking member for putting together the very good bill that we have before us today.

While no piece of legislation is ever perfect, the current situation in which we find ourselves as a result of the WTO decisions in the FSC and ETI cases presents this Congress with quite a challenge.

I supported this bill in the Finance Committee, and I think it does an admirable job in balancing the variety of interests at hand. However, I think the amendment at hand makes a good bill better.

Job creation and the economy is the top priority for Americans today. I think we have turned the corner and the economy is recovering, but we still lag in creating jobs.

We have an opportunity today to get behind manufacturing and make sure that high-paying American jobs stay in America for American workers. We can make "Made in the USA" mean something again.

Because we are forced to repeal the ETI, we are taking away an important export incentive from our country's manufacturers. The effect is to raise their taxes just as our recovery is gathering steam.

We have a responsibility to protect our domestic manufacturers and give them the ability to compete in the global marketplace. The manufacturing tax deduction contained in the bill before us today is designed to foster job creation and reverse the declines in the manufacturing sector employment levels.

It will reduce the tax burden on all domestic manufacturers, small and large.

As currently drafted, the bill before us phases in this important manufacturing tax provision over a number of years so that companies do not receive the full tax break—the equivalent of a 3-percent tax rate reduction on income generated by manufacturing inside the United States until 2009.

This amendment will phase in this rate reduction at an accelerated pace. As a result of the amendment by myself and the Senator from Michigan, U.S. manufacturers will have a tax rate decrease of 1½ percent in 2004, compared to the one-third of 1 percent provided in the underlying bill for 2004.

Due to the repeal of the ETI, American manufacturers are being asked to shoulder a tax burden that could stifle the recent job growth we have seen.

Our manufacturers shouldn't be saving for a tax increase. They should be hiring American workers and expanding their business.

In my State alone, manufacturing contributes $31 billion to the State economy, and manufacturing firms employ 293,000 Kentuckians.

The workers of our States demand our support. This amendment and this bill are aimed at strengthening this important sector of our economy.

My amendment reaffirms our commitment to American manufacturing and will attract jobs to the United States.

I urge my colleagues to support this important amendment.

I yield to my friend from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Madam President, I appreciate the opportunity to join my colleague from Kentucky on a very important amendment. I also appreciate Chairman GRASSLEY and our ranking member, Senator BAUCUS, as well, for their leadership and their support in working with us on this important amendment.

Our amendment, as my colleague indicated, speeds up the tax cut for all U.S. manufacturers to address the current manufacturing crisis.

This particular amendment would increase the tax relief in 2004—five times more than in the underlying bill—and, in fact, would provide about $6.5 billion in relief to manufacturers and small businesses over the next 5 years.

My colleague has gone into the specifics of a lot of this amendment. What I would like to do is spend my time talking about why this is so critical.

We have a crisis in manufacturing in this country. Nowhere is that more evident than in my home State of Michigan where last year we had the largest number of jobs lost in the country and the highest unemployment rate. This is an issue that is my top priority.

When we look at what has happened in terms of manufacturing jobs over the last number of decades, we see that we are back now to the lowest point since the Depression and when Herbert Hoover was President of the United States.

We have seen huge drops in jobs. My great concern is that even though we are seeing an increase as it relates to the stock market and positive indications, we have not yet seen that translate into jobs. I believe that is for many factors that relate to the pressures on manufacturers in a global economy.

When we look at the fact that the United States has lost over 2.8 million manufacturing jobs in the last 3 years, this is a crisis.

Let me speak specifically to a couple of examples I have talked about.

When we look at this number in Michigan compared to other States, there is a 19-percent job loss. We have seen literally, every single day, headlines in the papers about people losing their jobs, plants closing and going to other countries, the exporting of jobs, and layoffs occurring all around Michigan; not only in manufacturing, I might add, but when we look at the outsourcing issue, we are looking to white-collar jobs, technology jobs, engineers, health care workers, a wide variety of jobs. But we know in our country—and I believe very strongly coming from Michigan—that we have to have a foundation, a manufacturing base to have a strong economy and a strong middle class.

In Michigan, I am very proud of the fact that we make products and we grow products. That is the basis of our economy. Frankly, it has been the basis of the U.S. economy since the beginning of our country.

We are seeing a huge drop—on down to 2003—in what has happened in terms of jobs in Michigan.

One example I talked about earlier today is a plant called Electrolux in Greenville, MI, a community of 9,000 people in the western rural part of the State, where 2,700 people are employed to make refrigerators, Frigidaire, in fact, through Electrolux. They have added a third shift and the company says they are making a profit. But they have also indicated they could make a bigger profit if they moved to Mexico and paid $2.50 an hour and no health benefits. So they are closing. We have Michigan residents here today to speak at a hearing tomorrow about the devastation this loss of jobs will create.

We have to do everything possible to provide incentives and support for manufacturers to remain in the United States and keep our jobs here.

There are a lot of factors, when we look at what is happening with Electrolux and when we look at what is happening in Steelcase in Grand Rapids, MI, cutting 77 of its skilled workers.

Wohlert, in Lansing, MI, has laid off 245 workers because of the bad economy and overseas competition; Easton, in Marshall, MI, indicates they would be cutting 185 of their 285 jobs and moving plants to Mexico; Federal Mogul in St. Johns and Greenville, MI, Lear Corporation in Traverse City, Gidding & Lewis in Menominee, Straits Steel in Ludington. The stories go on and on.

There are many reasons for that. We know we need to be smart about trade policies where we are encouraging the creation of a middle class and raising the standards around the world, raising standards in Mexico and in China and other places, where we are competing and finding our jobs are moving, and by raising that standard of living. Instead of losing or exporting our jobs, we can export our product and they will have a middle class so they can buy our products.

I indicated to the folks that Electrolux may be able to move the plant to Mexico and pay $2.50 an hour with no health benefits, but the question I had was, who was going to buy the refrigerators? Certainly not citizens if they make $2.50 an hour with no health benefits.

We have to be doing everything possible to create a race up instead of a race down. This amendment is a very important part of the equation to do that. We need to make sure we are providing incentives and tax relief for manufacturers which create jobs in the United States. This amendment, in fact, will do that.

We also know we need to tackle issues such as currency manipulation, where China, Japan, and other countries basically create a tax for our manufacturers. When a Michigan manufacturer sells a product into China they have to sell it at a higher price. It can be up to 40 percent equivalent of a tax into China. When Chinese businesses sell in the United States, they can artificially lower their prices. Why do they do that? They want us to move the plant to China instead of selling our goods to China. We need to tackle that. If the Secretary of the Treasury would simply certify that, in fact, currency manipulation is occurring, there are actions we can take to level the playing field. That needs to happen as well.

Senator SCHUMER has a bill—in fact, I am a cosponsor—and I hope in addition to the amendment today and the legislation before the Senate, we would pass that very important legislation to level the playing field for our businesses and our workers in America.

We also need to address health care costs. We need to do it in a way that addresses the fact that our manufacturers have health care costs tied to employment in this country as part of doing business and in other countries they do not. We need to tackle that in a way that does not cost our workers in terms of their health care coverage or increase their costs. We can do that.

We also need to be addressing a number of issues that deal with trade.

The reality is, the place to start right now is with this bill. This amendment provides $6.5 billion more in tax relief and assistance to manufacturers who create American jobs.

I have another amendment I will offer that will add to what I believe is a very important part of the picture. That is, this tax deduction phases out over the next 10 years and is then available to all manufacturers, not just domestic manufacturers. I believe that is a mistake and we ought to make sure it remains only for those creating jobs in America. I look forward to debating that even further.

I am pleased today to be sponsoring this amendment with my colleague. I should also indicate I have legislation I had introduced last fall with my colleague from South Carolina, Senator GRAHAM, on this very subject that included both the manufacturing tax credit and eliminated the phaseout so that those dollars and the tax credit would be focused on our domestic manufacturers.

What we see today is not only an issue that affects major employers. It is important to say this is a small business issue as well. The majority of manufacturing establishments are small businesses. The vast majority of them have 20 employees or less. This is not only an issue for our major manufacturers—and certainly in Michigan we are very proud of our large manufacturers; they are part of our auto industry and our high-tech industry, and we are very proud of our furniture industry and all of the other industries we have in Michigan—but this is very much a small business issue, as well.

Let me finally say as we help manufacturers, we are also helping our economy and our families in terms of standard of living. When we look at the average service-sector salary and a manufacturing-sector salary, we see a major difference. Within our families, our workers are able to have a good manufacturing job, they are able to have dollars in their pocket to care for their families, to buy that house, to send the kids to college, to be able, in Michigan, to buy that snowmobile or the cottage up north and able to have the quality of life we all want for ourselves and our families.

The way to stimulate this economy, the way to keep consumer confidence moving and to keep all of the economic indicators moving in the right direction is to support our manufacturing sector in our country. That is what the bill does; that is what this amendment does.

I hope my colleagues will join together in a bipartisan way to support this particular amendment which will add significant support for our manufacturers. It will do it immediately this year because they need help now.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Montana.

Mr. BAUCUS. Madam President, I give my compliments to the yeoman efforts of the Senator from Michigan. She has done a wonderful job. She has many times come to me and asked: MAX, can't we do more? I have an amendment to accelerate the deduction and many times it will be explained how important it is, particularly for her people in the State of Michigan.

I compliment the Senator very much for her terrific work. Those in Michigan ought to know, she is persistent and steady in coming to this Senator and saying we have to do more; let's do this. And the same with the Senator from Kentucky, Senator BUNNING. I have heard from him. But I must be honest and seek a full disclosure and say the Senator from Michigan has been very consistent and done a superb job. I also compliment her on the charts. They are good charts, explaining the situation very well.

I thank the Senator for her statement. She is on target. Most Members in the Senate will vote for this amendment offered by the Senator from Kentucky and the Senator from Michigan. It is very important to do what we can to create and to retain jobs in America.

The underlying bill goes a long way to accomplish that objective, but this amendment goes further; and that is, I think it costs about $6-point-some billion and accelerates the deduction, meaning that companies can get that deduction earlier. They can plan earlier. And it is for all size companies, not just big business, but all size business.

We all know, as the Senator from Michigan pointed out, half of all employees in America work for small businesses, and three-quarters of all new jobs in America are created by small businesses.

We often say small business is the backbone of America. Why do we say that? Because it is true. Small business is the backbone of America. A lot of these big companies can go offshore—and it is one of the problems we are trying to address—but the small business cannot go offshore in the main. If a big business goes offshore and takes contracts away, often small business bears the brunt of it. So it is very important we do what we can to keep jobs in America.

This clearly is a complex problem; that is, offshoring, outsourcing. It requires a very dedicated, concentrated effort to solve it. It is quite complex. There are various ramifications, various parts of this. The Senator from Michigan mentioned a good number of them, including the high cost of health care in this country.

One of the problems we are facing, too, is currency manipulation by various countries, including China and Japan, countries with huge reserves in currencies and having a great effect on the American economy; and it is not always good.

In addition to that, it is trade policy. We are reaching trade agreements with minuscule economies—Morocco, Bahrain. Well, that is fine. Morocco is a great country, as is Bahrain, but the point being, those are small economies. Rather, there are huge economies where we are not enforcing trade agreements already reached. One is China, this WTO, another is India.

We hear all the time about call centers moving to India. We do not hear about American companies selling to India, for a very good reason. India is a very closed country. It is very difficult to sell in India.

If we, as a country, were to use much more of our efforts to enforce trade agreements and open up huge markets—that is India and China—rather than using our efforts to reach trade agreements with smaller countries, we would be doing a much better job to help keep jobs in America. That is just one of the various things we can and should be doing.

Ms. STABENOW. Will my friend yield?

Mr. BAUCUS. I am happy to yield. I yield the floor, Madam President, so my good colleague can have the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Madam President, I want to take a moment, first, to thank my colleague for his kind words and for his leadership. Secondly, I do want to indicate cosponsors on our side of the aisle to the amendment: Senators LEVIN, FEINSTEIN, KOHL, and ROCKEFELLER. I very much appreciate their support.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, I am just saying, we have a huge challenge here to help create jobs and to keep jobs in America and to retrain people who lose jobs.

This phenomenon of job loss is huge. As the chart by the Senator from Michigan shows, we have lost about 3 million jobs since 2001; that is net loss. Those are manufacturing jobs; a net loss of 3 million manufacturing jobs in America. We have also lost a good number of service jobs, but on a net basis, not near as many service jobs lost as manufacturing jobs. Manufacturing just pays significantly more than service.

I might also say, this is not just an American phenomenon. It is happening in countries worldwide. It is happening in virtually every country. The one country where it is not happening as much is Japan, interestingly. But it is happening in every other country. Why? I daresay part of the reason is due to just natural phenomena—not natural, but phenomena that are occurring worldwide, due largely to globalization, advances in technologies, communications technologies, which are forcing countries worldwide to compete even more aggressively, to cut their costs as much as they can, and producing wherever they can to get the best rate of return they possibly can.

That is why it is happening worldwide, not just in America. It is happening worldwide. Part of that is because of increases in productivity. Obviously, as productivity increases, more products are produced with fewer employees per product.

Just to state the problem does not mean we stop right there. We have to start finding answers to the problem; that is, how to get more employees, more workers, more Americans working in more good-paying jobs. One way is with this bill. This bill will help reduce the cost of production; that is, by deduction. This bill actually creates a 9-percent deduction for the cost of domestic manufacturing. That is important.

For example, take a small business whose income tax would be $200,000 on domestic manufacturing, the 9-percent deduction calculates to roughly about a 3-percent reduction in the rate, so that is a $6,000 reduction in that company's income taxes. That helps. That is not a small matter to reduce one's income taxes by that amount. So that is one partial solution to job loss in America this bill addresses.

Second, we adopted an amendment to this bill already. It is the Hatch-Murray amendment. Senator MURRAY very much knows, as does Senator HATCH from Utah, that Washington State is a State that a few years ago was called the "Silicone Forest" with all the sort of higher-tech companies developing in Washington State. The Washington Seattle Port trades a lot. Salt Lake City is not a huge seaport, by any stretch of the imagination, although they have the great salt lake—it is not small—but the point is, Senator HATCH from Utah also knows the importance of extending the research and development tax credit. It is a measure, frankly, he and I have introduced jointly many times over the years. But that provision now is also adopted as an amendment in this bill.

The more we can encourage research and development, the more we are going to create jobs and keep jobs. We know, too, that where the research is, is where the jobs tend to be; that is, where the products develop is where the jobs tend to be. This is a research tax credit for American research and development. It is not overseas, but it is in America. So that, too, is going to help.

Now we come with this amendment, the amendment offered by the Senators from Kentucky and Michigan. It is an additional stimulus because it accelerates the deduction very significantly. That is going to help. It is going to go a long way.

There are lots of other things we need to do. I am not going to spend all night talking about them, but one is to adopt the second-degree amendment offered by the chairman of the committee; that is, the extenders provision. That is very important.

Madam President, you know, as well as anyone in this body about the importance of predictability, the importance of certainty, as much as possible, that any businessperson may have or may not have—or, to state it differently, the uncertainty they may have. Every businessperson abhors uncertainty. You almost don't care what the problem is so long as the problem is pretty certain. If you know what the problem is, you can work around it. If the problem is always changing, it is pretty hard to work around it.

We have had something called tax extenders, and they have been for very good purposes, as the Senator from Maine well knows. I think the Senator from Maine, as I recall, has one on education for teachers. It is to help teachers get their deduction for the supplies they purchase to help their students. That has expired.

Well, if I am a teacher with very low pay—it would be a great job, actually, in many respects; that is, to be a teacher—I would want to know if that deduction is still available or not. So far, it is not available. It has expired. But in the extenders package we are adopting here, we are going to extend that deduction so teachers will know, at least until the end of 2005—18 months roughly; they are going to have that.

There are a lot of other extenders, too. Senator BAYH, for example, is interested in the work opportunity tax credit and other similar tax credits which enable employers to get people off of welfare and hire people so they are doing work, so they can earn a living for themselves and their families. That tax credit has expired. Senator SANTORUM is also interested in extending that tax credit. We have that here in the extenders.

There are a good number of others. For example, Senators CLINTON and SCHUMER are very concerned about the liberty bonds for the development of New York City. That has expired. That is jobs. The more we can continue these extenders and get them back in the law, the more it enables those people in New York and others related to it to know whether or not they can depend upon those bonds and continue the reconstruction from the damage caused by 9/11.

In addition, there are some provisions that help the District of Columbia. We don't have any Senators here representing the District of Columbia. We all are, in a certain sense. But those, too, are going to be available.

I mentioned the one the Presiding Officer is interested in. What about computers in schools? We have a provision for companies to donate computers to schools. That has expired. I would think we would want to extend that. That is going to help kids, help companies. It is going to help America. It provides jobs.

After that, there are a few others. I won't go into great detail. There are incentives for jobs, for health care, to clean up pollution and more.

Essentially, we have a responsibility to pass these extenders. We have been derelict over the years. Everybody likes these provisions. Everybody wants them. They last maybe a year, a year and a half, then they expire. We let them lapse sometimes for 6 months, sometimes 7, sometimes 8. Sometimes we go back and reenact them retroactively. Sometimes we don't. It is just nuts. They are yo-yo extenders. How in the world are people going to be able to plan if we are yo-yos?

We as Senators should put them permanently in the law because we always reenact them. My hope is over the not too distant future we will be able to do that.

Another temporary extension is in the bill. That is going to help address some of the job loss this country is facing.

I yield the floor.

Mrs. FEINSTEIN. Madam President, I come to the floor today to support the Bunning-Stabenow-Feinstein amendment which will immediately implement a manufacturing tax deduction that offers much needed assistance to our ever diminishing manufacturing base in this Nation.

I applaud the leadership of Senators BUNNING and STABENOW in reaching out to a bipartisan group of Senators and urge my colleagues to support this amendment.

Simply, this amendment would adjust the underlying bill to require an immediate implementation of the new manufacturing deduction and would result in an immediate benefit to our Nation's manufacturers by beginning the process of cutting their tax rate by 3 percentage points.

So if you produce manufactured goods in the United States, you will see a phased-in reduction of your tax rate from 35 percent to 32 percent by 2009.

This provides a competitive incentive for manufacturers to produce jobs by reducing their tax burden immediately.

Critically, this amendment not only includes heavy manufacturing, which is so important to our State and national economies, but also the production of software, film, video, and sound recordings. I do not have to tell anyone in this Chamber how important this is for California and the Nation.

The movie, television and home video industries, which are based in California, are a tremendous economic engine of growth. The industry accounts for nearly 5 percent of the U.S. gross domestic product and is one of the largest employers in the country, having doubled its workforce over the last 25 years to a total workforce today of over 4.7 million workers.

I am working with Senators GRASSLEY and BAUCUS to make sure that these industries are able to take full advantage of the tax benefits that we are proposing here and I am confident that we will come to an agreement to do that.

But why single out manufacturing? Why not offer a tax cut to all businesses equally? The answer is clear. We have seen a dramatic decrease in our Nation's manufacturing base and a stimulus directed at this sector of our economy is long overdue.

Since January 2001 this Nation has lost 2.8 million manufacturing jobs. My home State of California, has lost more than 300,000 manufacturing jobs over that same period. That is a 16 percent decrease in California's manufacturing employment base in just 3 years.

It is time to stop the bleeding and this amendment will give manufacturers important tax relief so they may grow jobs here at home.

As has been pointed out by the National Association of Manufacturing: manufacturing accounts for nearly one fifth of the Nation's GDP; provides 15 million high paying jobs; supports another eight million jobs in other sectors; and is the seedbed of innovation in our economy, accounting for 62 percent of all research and development.

It is far and away our pacesetter in productivity gains, and accounts for the bulk of U.S. exports.

Manufacturing in the State of California contributed more than 26 percent to our State's domestic product—more than one quarter of my State's economic base.

But, the overhead costs of taxes, health and pension benefits, and rising energy prices add 22 percent to the price of U.S. production relative to our foreign competitors.

The erosion of high paying manufacturing jobs has continued unabated for years and we now see the phenomenon exacerbated by so many other factors, including outsourcing.

This amendment will help on both counts. It will reduce taxes on manufacturers and foster an environment for job growth in this important sector.

I urge my colleagues to support this amendment and bring an immediate pro-growth stimulus to an important part of our economy.

Mr. SMITH. Madam President, I rise today in strong support of the deductibility of private and government mortgage insurance premiums. Last year, my Finance Committee Colleague Senator LINCOLN and I introduced the Mortgage Insurance Fairness Act, S. 846. Today 19 of my Senate colleagues join me in supporting this proposal. We are introducing this important legislation as an amendment to the JOBS Act, S. 1637. More than 12 million homeowners currently pay private or government mortgage insurance. This amendment will allow these homeowners an immediate tax savings and will allow an estimated 300,000 additional families per year to more easily qualify to buy a home. The vast majority of these new homeowners will be lower-income, minority and veteran households who need mortgage insurance the most.

The JOB Act is the perfect opportunity to allow hundreds of thousands of low-income Americans to qualify for homeownership. Mortgage insurance allows moderate income households to buy homes often with a down payment of as little as 3 percent. In 2001, mortgage insurance and guaranty programs covered 57 percent of mortgage purchase loans made to African-American and Hispanic borrowers as well as 54 percent of the mortgage purchase loans made to borrowers with incomes below the median. Unfortunately, unlike many other costs associated with homeownership, mortgage insurance premiums currently are not tax deductible. We want to permanently change this fact for taxpayers earning less than $100,000 per year.

If we are successful in adding this amendment, we will have seized a unique opportunity to help millions of families receive immediate tax relief and hundreds of thousands more realize the American dream of homeownership. With supporters like the American Federation of Teachers, Americans for Tax Reform, the Mortgage Bankers Association and the National Urban League, this amendment brings diverse groups together in the common cause of homeownership.

I am proud to sponsor this amendment and I urge my colleagues to join this bipartisan effort to make the American dream of homeownership come true.

Ms. CANTWELL. Madam President. I rise today to express my support for amendment No. 2647 that, just yesterday, passed the U.S. Senate unanimously. I also thank every one of my colleagues for their support for what I believe is one of the greatest mechanisms for job creation and industry innovation. The amendment, of course, extends the research and development tax credit for 2 years.

The research tax credit, I believe, has demonstrated that it is a powerful incentive for companies to increase research spending. The tax credit lowers the cost of doing research in the United States, so it encourages companies to continue to make investments in critical R&D. And the bottom-line benefit is that research and development creates new jobs in the United States—something that is so vital right now for our Nation and for my State.

The current R&D tax credit is set to expire on June 30, 2004. Many of my colleagues, here, know we play this annual game of saying the R&D tax credit is important, but then not renewing it on a permanent basis, thereby denying companies and organizations the certainty they need to make these investments. The major investments in nanotechnology and biotechnology, in software, and in the computer sciences take several years of investments. Without a planning horizon of at lest several years, companies just won't put the money into R&D.

I am fully aware of the budget situation we are confronting, as Senator HATCH described yesterday. But, as my friend from Utah, stated, "[i]ronically . . . a permanent credit costs no more than one that is regularly extended." And while I am a cosponsor of this amendment with a short term, 2-year extension because I fundamentally believe that the R&D tax credit is so imperative, I must also say that permanency of the tax credit remains a high priority for me. It is only in the permanency of the R&D tax credit that businesses can truly create a strategic business plan. As it stands, companies have to take into account the fact that Congress could allow the credit to lapse for a few months. That causes companies to hedge their bets, spending a little less on R&D, and our economy suffers as a result. By contract, permanency helps planning; and the sooner we make this permanent, the sooner companies can begin to enlarge and expand their research and development units, and the sooner their innovations will strengthen economic growth.

Who has created jobs in the last decade? Who has stimulated our economy to move forward? It is a lot of companies that have invested in R&D. It is the Microsofts. It is the Amazons. It is the variety of biotechnology companies from my state and others making investments that have increased the productivity of their workforce, allowing them to hire new people as new products and services are delivered.

The research credit creates jobs. More than 90 percent of the costs eligible for the credit are salaries and wages paid to researchers. The only way for a company to increase its credit is to increase its R&D payroll in the U.S.

First authorized in 1982, the credit has been reauthorized eight times, with a gap from June 1995 to June 1996. As I mentioned, the current credit expires in June 2004. However, its effectiveness is limited because businesses cannot rely on it in their long-term planning, and most R&D projects are long-term. In order to provide stability and broaden the reach of this proven incentive, Congress needs to make the credit permanent.

I cannot stress enough how important private investment in R&D is. R&D is the engine that brings us new medicines, new medical technologies, cleaner manufacturing technologies, advanced weapon systems and other tools in the war on terror. Furthermore, growth in our high tech economy depends on solid R&D, and there is no good reason to delay making the credit permanent. A permanent tax credit will go a long way to providing the planners and investors the certainty that they need.

This amendment, having passed unanimously, shows the Senate's strong support for R&D. We have taken this one step forward; but let us not force these companies that serve as the engine for job creation to come back year after year for an extension of the R&D credit. Toward that end, I ask that we take this amendment one step further and make the research and development tax credit permanent.

Mr. ALEXANDER. Madam President, today I voted against the Dodd amendment for two important reasons. First, it is the wrong policy for growing jobs. And second, it tramples on the principle of federalism.

Nearly 150,000 Tennesseans are employed by foreign companies conducting business in Tennessee. As Governor, I helped attract some of those jobs and companies to our State—companies such as Nissan, Sharp, Bridgestone, Panasonic, and many others. The Dodd amendment could have denied them the ability to compete for government contracts. That's not right. If the Dodd amendment becomes law, it will discourage these foreign companies from investing in our country. In these times when we are trying so hard to grow new, high-paying jobs, the Dodd amendment is exactly the wrong policy.

Further, the Dodd amendment ignores the principle of federalism by limiting the States' options on granting contracts using Federal funds. The whole point in sending money to the States is that they know better than the Federal Government how to spend it to meet the needs of their citizens. As a former Governor, I know how frustrating it is to have the Federal Government tell you how you can or can't spend your money. Neither Tennessee nor any other State should have new burdens placed on how it spends federally granted funds.

Mr. SANTORUM. Madam President, I will offer an amendment to extend for 2 years the work opportunity and welfare to work tax credits, and to make certain improvements to these programs that will make them even more effective in helping Americans' transition from welfare to work along with other tax extenders. These credits clearly belong in a bill whose name is JOBS; I can think of few programs that have created jobs and provided basic workplace skills to a segment of the population that is badly in need of these resources with the efficiency and low cost of WOTC and W-t-W. I can also think of few jobs programs that have as positive an impact as these have on scarce state welfare resources. I am also pleased that Senator BAYH is joining me as a cosponsor of this bipartisan amendment. I would also like to thank Chairman GRASSLEY and Senator BAUCUS for their support of this important initiative.

WOTC and W-t-W are also key elements of welfare reform. Employers in the retail, health care, hotel, financial services, and food industries have incorporated this program into their hiring practices and through these programs, more than 2,700,000 previously dependent persons have found work.

A recent report issued by the New York State Department of Labor bears this out in economic terms. Comparing the cost of WOTC credits taken by New York State employers during the period 1996–2003, for a total of $192.59 million, with savings achieved through closed welfare cases and reductions in vocational rehabilitation programs and jail spending, for a total of $199.89 million, the State of New York concluded that WOTC provided net benefits to the taxpayers even without taking into account the additional economic benefits resulting from the addition of new wage to the GDP or reductions in other social spending such as Medicaid.

In that regard, the New York State analysis concluded that the roughly $90 million in wages paid to WOTC workers since 1996 generated roughly $225 million in increased economic activity. Perhaps even more importantly, the study found that roughly 58 percent of the TANF recipients who entered private sector employment with the assistance of WOTC stayed off welfare.

I mentioned the New York State study because it is the first of its kind; however, I am certain that similar conclusions would be reached in the Commonwealth of Pennsylvania or any of the other 48 states and the District of Columbia. These programs work and do so at a net savings to taxpayers. In fact, over a 7-year period there were more than 110,000 certifications for both WOTC and W-t-W in Pennsylvania alone enabling many to leave welfare and find private sector work. The legislation is supported by hundreds of employers throughout Pennsylvania and around the country.

WOTC and W-t-W have received high praise as well from the Federal Government. A 2001 GAO study concluded that employers have significantly changed their hiring practice because of WOTC by providing job mentors, longer training periods, and significant recruiting outreach efforts.

Mr. President, WOTC and W-t-W are not traditional government jobs programs. Instead, they are precisely the type of program that we should champion in a time when we need to be fiscally responsible. These are efficient and low cost public-private partnerships that have as their goal to provide a means by which individuals can transition from welfare to a lifetime of work and dignity.

Under present law, WOTC provides a 40 percent tax credit on the first $6,000 of wages for those working at least 400 hours, or a partial credit of 25 percent for those working 120–399 hours. W-t-W provides a 35 percent tax credit on the first $10,000 of wages for those working 400 hours in the first year. In the second year, the W-t-W credit is 50 percent of the first $10,000 of wages earned. WOTC and W-t-W are key elements of welfare reform. A growing number of employers use these programs in the retail, health care, hotel, financial services, food, and other industries. These programs have helped over 2,200,000 previously dependent persons to find jobs.

Eligibility for WOTC is currently limited to: (1) recipients of Temporary Assistance to Needy Families, TANF, in 9 of the 18 months ending on the hiring date; (2) individuals receiving Supplemental Security Income (SSI) benefits; (3) disabled individuals with vocational rehabilitation referrals; (4) veterans on food stamps; (5) individuals aged 18–24 in households receiving food stamp benefits; (6) qualified summer youth employees; (7) low-income ex-felons; and (8) individuals ages 18–24 living in empowerment zones or renewal communities. Eligibility for W-t-W is limited to individuals receiving welfare benefits for 18 consecutive months ending on the hiring date. More than 80 percent of WOTC and W-t-W hires were previously depending on public assistance programs. These credits are both a hiring incentive, offsetting some of the higher costs of recruiting, hiring, and retaining public assistance recipients and other low-skilled individuals, and retention incentive, providing a higher reward for those who stay longer on the job.

Program Renewal and Improvement. Despite the considerable success of WOTC and W-t-W many vulnerable individuals still need a boost in finding employment. This is particularly true during periods of high unemployment. There are several legislative changes that would strengthen these programs, expand employment opportunities for needy individuals, and make the programs more attractive to employers. These changes are reflected in legislation which I introduced along with Senator BAUCUS, S. 1180, and these changes are as follows: one combine WOTC and W-t-W. The administration's budget proposes to simplify these important employment incentives by combining them into one credit and making the rules for computing the combined credits simpler. The credits would be combined by creating a new welfare-to-work target group under WOTC. The minimum employment periods and credit rates for the first year of employment under the present work opportunity tax credit would apply to W-t-W employees. The maximum amount of eligible wages would continue to be $10,000 for W-t-W employees and $6,000 for other target groups $3,000 for summer youth. I addition, the second year 50-percent credit under W-t-W would continue to be available for W-t-W employees under the modified WOTC; two, eliminate requirement to determine family income for ex-felons. Under current law, only those ex-felons whose annual family income is 70 percent or less than the Bureau of Labor Statistics lower living standard during the six months preceding the hiring date are eligible for WOTC. The administration's budget also proposes to eliminate the family income attribution rule; three, raise the WOTC age eligibility ceiling from 24 to 39 years of age for members of food stamp households and "high-risk youth" living in enterprise zones for renewal communities. Current WOTC eligibility rules heavily favor the hiring of women because single mothers are much more likely to be on welfare or food stamps. Women constitute about 80 percent of those hired under the WOTC program, but men from welfare households face the same or even greater barriers to finding work. Increasing the age ceiling in the "food stamp category" would greatly improve the job prospects for many absentee fathers and other "at risk" males. This change would be completely consistent with program objectives because many food stamp households include adults who are not working, and more than 90 percent of those on food stamps live below the poverty line.

I am very pleased that President Bush proposed a 2-year extension for these programs in his budget, as well as some useful modifications and improvements. The administration along with all of us in Congress are eager to continue our efforts to create jobs in America. The amendment would provide for a 1-year extension of current law to facilitate a transition period and then in the second year implement these important changes. I would prefer a permanent extension which would provide these important programs with greater stability, thereby encouraging more employers to participate, make investments in expanding outreach to identify potential workers from the targeted groups, and avoid the wasteful disruption of termination and renewal. A permanent extension would also encourage the state job services to invest the resources needed to make the certification process more efficient and employer-friendly. Yet the cost is a significant consideration in the current budget environment even though this is an excellent use of tax incentives which ultimately saves government resources while expanding opportunity for Americans.

Finally, I would urge the Senate to act quickly on this amendment and on the underlying vehicle. WOTC and W-t-W expired at the end of last year, and even though the extension we propose is retroactive, these programs will not be fully effective until they become law. The individuals who enter the workforce under these programs, and our states, that benefit greatly from the reduction in welfare that these programs generate, deserve quick action by the Senate on this amendment. I urge all of my colleagues to support this amendment.

MORNING BUSINESS

Mr. THOMAS. Madam President, I ask unanimous consent that the Senate now proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

EULOGY FOR DANIEL BOORSTIN

Mr. STEVENS. Madam President, I ask unanimous consent that the attached eulogy be printed in the RECORD today. Dr. James H. Billington, Librarian of Congress, delivered this eulogy on Tuesday, March 2, 2004 at the funeral of Daniel Boorstin, who served as Librarian of Congress from 1975 to 1987. It also appeared in Rollcall yesterday.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HON. JAMES H. BILLINGTON, LIBRARIAN OF CONGRESS—EULOGY FOR LIBRARIAN OF CONGRESS EMERITUS DANIEL J. BOORSTIN, MARCH 2, 2004

Dan Boorstin was a great American: the inspirational head of two important national institutions; a key figure—along with his friends Dillon Ripley and Roger Stevens—in the cultural coming of age of our Nation's Capital; and a matchless chronicler of the uniqueness, the innovative spirit and the everyday practicality of our shared American experience.

He was an exuberant humanist who brought high literary style to a wide popular audience. He put things together when others were taking them apart. He kept history alive by telling it as his story at a time when many were dehumanizing it, first with ideological prejudice and then with methodological pomposity. He was an optimist but also a critic—providing us an early warning of the difference between real and pseudo events, between people who actually do things and manufactured celebrities who are simply well-known for being well-known.

He created in his two great trilogies an original American version of the tradition of sweeping, multivolume histories that flourished in England from Gibbon to Toynbee. His longtime friend and colleague Jaroslav Pelikan told me yesterday that Dan had given him crucial early advice and encouragement as Jary was embarking on his own monumental multivolume history.

It was fun to be with Dan in person and through his writings. He mixed erudition with epigrammatic wit and colorful vignettes. He could be contentious and even temperamental, but almost always in defense of someone or some institution to which he was loyal at a time when it was being unfairly maligned.

As Librarian of Congress he exemplified as well as encouraged the highest scholarly standards. At the same time, he threw open the big bronze doors to let in the widest possible readership. From the time of my own arrival in Washington to run the Wilson Center until the time I was chosen to succeed him at the Library, he was a very special example, helpmate and friend.

Plato said that immortality lies in one's children and one's books. Dan and his incomparable wife and effervescent editorial collaborator, Ruth, have opened both of those pathways to an undying legacy. His outstanding children have spoken today; and a great extended family of readers yet unborn will be benefitting from his books in the years to come.

He was a man of the book, a gift to America from the people of the book. His bibliography itself fills a book. He founded and was a benefactor to the Center for the Book within the world's greatest collection of books at the Library of Congress; and it now has—thanks to John Cole, whom he appointed to head it—affiliated Centers for the Book in all 50 states and the District of Columbia. Dan was concerned not just about illiteracy but also about alliteracy—a term he coined to describe those people who can read but have lost the will to do so. And he launched the plan and gained the congressional support to restore the Thomas Jefferson Building to its true glory as America's temple of the book.

When he was sworn in in November 1975 as the 12th Librarian of Congress in the Great Hall of that magnificent building, he spoke these prophetic words: "The computer can help us find what we know is there. But the book remains our symbol and our resource for the unimagined question and the unwelcome answer."

In his last years he crafted a second trilogy of books largely out of what he was fond of calling the "multimedia encyclopedia" that was and is the Library of Congress. He ended up in his personal note to readers in the last volume, The Seekers, asking a question that lay beyond all the unwelcome answers. Has Western man, he asked, emptied meaning from life by moving from seeking purposes to seeking causes—from deeply wondering why to simply asking how? Books and family gave meaning and purpose to the rich life of this man—as they do to the American culture that he loved and ennobled.

Marjorie and I—like so many of his fond admirers—will miss him and the infectious enthusiasm for learning that he miraculously sustained for nearly nine decades. We will always be grateful for the friendship and support that he and Ruth so generously and warmly extended to us and to the amazing institution in which we have been privileged to succeed him.

HONORING OUR ARMED FORCES

ADAM MOONEY AND PATRICK DORFF

Mrs. LINCOLN. Madam President, today I rise to pay tribute and to honor a young man who was recently killed in action in Iraq—1LT Adam G. Mooney, a soldier in the U.S. Army who was killed during a search and rescue mission on January 25. First Lieutenant Mooney was 28 years old.

Adam Mooney was a native of Cambridge, MD, assigned to the 3rd Squadron, 17th Cavalry, 10th Mountain Division of the U.S. Army, stationed at Fort Drum, NY. After graduating from high school in Dorchester County, MD, in 1993, Adam attended the University of Maryland Eastern Shore. He left college to enlist in the Army, but returned to the university soon after to complete his degree in aviation management science. Adam was a lifelong enthusiast of aviation and flying—in fact, he earned his pilot's license at about the same time he earned his driver's license. In the Army, Adam was able to further pursue the challenges of aviation while flying the OH-58 Kiowa Warrior helicopter. His unit was deployed to Iraq late last year, where Adam flew helicopter missions to provide support, security, and intelligence to ground troops.

On January 25, 1LT Adam Mooney was flying a rescue mission near Mosul, Iraq, in search of soldiers whose boat had capsized on the Tigris River. According to witnesses, Mooney's helicopter hit a power line and plummeted into the river. The bodies of both Mooney and his co-pilot, CWO Patrick Dorff, were missing in the aftermath of the crash—Dorff's body was found 4 days later, and Mooney's 3 weeks later. We extend our deepest sympathies to their families, who certainly suffered under great strain and emotional stress while they awaited news of their loved ones' welfare.

Adam Mooney's wife, Katie, lives with her parents in Conway, AR, where she moved to work on her nursing degree while her husband was serving overseas. Our deepest condolences and prayers go out to her, as well as to Adam's parents, friends, and loved ones, in this time of great loss for their family. Adam was a courageous young man, lost to us far too soon, but we remain confident that his sacrifice was in a noble and honorable cause.

Thank you, Madam President.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Madam President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

A terrible crime occurred in Upland, CA, in December 1999. There, a man died after being hit in the head with a pool cue by an attacker who accused him of being gay.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

HAITI

Mr. LEAHY. Madam President, over the past week, we have all watched the images of killings, chaos, and looting in Haiti. I am sad for the Haitian people. Once again, their leaders and the international community have failed them, and the poorest and the most vulnerable are enduring the greatest suffering.

I am also deeply disappointed with the Bush administration. Over the past several years, this administration ignored the simmering problems in Haiti and hoped they would somehow resolve themselves. That approach obviously backfired. Things have spiraled out of control. We now have a full-blown crisis on our hands, accusations that the administration helped to engineer a coup of President Aristide, and the deployment of thousands of U.S. Marines into a difficult situation. Bringing change to Haiti will now be a far more dangerous and costly undertaking. Moreover, the U.N. or some other impartial organization will have to conduct an investigation to answer nagging questions about Aristide's departure.

I recognize that many administration officials did not support President Aristide. I can understand that view, as I also lost confidence in him. There is no question that serious allegations of corruption and abuse surround President Aristide and his associates and that these issues should have been dealt with. President Aristide and other Haitian leaders should be held accountable for their actions. Having said that, we should not forget the courage that President Aristide displayed when he first spoke out against the excesses of the brutal and corrupt dictatorship of Jean-Claude Duvalier.

But this administration did not want to make the effort to help clean up the Haitian Government, build a reform-minded opposition, and restructure the economy.

Instead, the Bush administration simply disengaged. During his first year in office, President Bush reduced aid to Haiti by about 25 percent. Concerned with the growing problems in Haiti, Senator DODD and I sent a letter to USAID Administrator Andrew Natsios in February 2002, urging an overhaul of our foreign aid program to Haiti. The response to our letter was essentially: "Thanks for writing. We have a limited budget, but we will remain 'flexible' in our approach." The results of this flexible approach speak for themselves.

To be fair, USAID was under heady pressure to absorb activities that the State Department should have funded. USAID does not deserve the blame for an administration-wide policy failure.

During the last month, United States policy toward Haiti crystallized around the goal of getting rid of President Aristide. For all the administration's tough talk aimed at President Aristide, this White House has embraced corrupt leaders with far less democratic credentials than President Aristide when it has suited its purpose. This episode is yet another reminder of how the contradictory policies and rhetoric of this administration are damaging U.S. credibility around the world.

In some respects, President Aristide's departure begins a new chapter for Haiti. In other ways, it is not clear just how new it is. For the third time in 20 years, a Haitian leader has been forced into exile, and at least for the third time in 90 years, the U.S. military has intervened in Haiti.

What is to show for years of interventions and hundreds of millions of dollars in U.S. assistance? Haiti remains one of the poorest and most corrupt countries on Earth, facing a myriad of complex problems. Removing President Aristide will not solve these entrenched problems, but it may provide a way forward.

The United States has compelling reasons to help. Haiti is just a few hundred miles away from our shores, and the social turmoil there could easily spread to the Dominican Republic, the Bahamas, and elsewhere in our neighborhood. The United States has a long relationship with Haiti and many Haitian Americans live in the United States. Perhaps most importantly, we have a moral responsibility to help a nation where so many have been suffering for so long.

The United States, France, and others must work with the United Nations, the Organization of American States to help fill the power vacuum in Port-au-Prince. The international community must also come up with a substantial aid package to help the Haitian people get back on their feet.

This will be a long, slow process. If we are to succeed in meeting the challenge of recovery and rebuilding in Haiti, the United States and the international community must stay engaged. Most of all, the Haitians themselves must take responsibility, especially the religious and political leaders. But we must take care not to overlook a key group that must be involved in this process—middle-class Haitians who have left the country over the past few decades.

As Garry Pierre-Pierre, editor in chief of the Haitian Times, points out in Monday's Wall Street Journal, involving Haiti's middle class is essential. He writes:

> The international community has to bring the country's middle class not merely to the table, but back to Haiti. This middle class has been fleeing Haiti for the U.S., where it has consolidated itself, for the last 30 years. We should look to that group, the Haitian diaspora, educated at the best schools in the U.S. and Canada, to help lead the country out of its perpetual cycle of violence and misery.

I agree with Mr. Pierre-Pierre, and believe that the administration should heed his advice.

We have missed one opportunity after another in Haiti. It is time for us to make the most of this unfortunate situation.

I ask unanimous consent to print the above-referenced letters in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, February 15, 2002.
Hon. ANDREW NATSIOS,
Administrator, U.S. Agency for International Development, Washington, DC.

DEAR MR. NATSIOS: We are deeply concerned with the deteriorating humanitarian situation in Haiti. The political impasse between the Haitian Government and the political opposition has only made a serious situation more dire. As a matter of U.S. policy Haiti is being denied access to monies from the multilateral development banks until the government and opposition resolve their differences. For that reason, the humanitarian needs of Haiti must be met solely from bilateral donations through non-governmental organizations such as CARE, Catholic Relief Services and World Vision.

Violence, poverty, and disease are rampant throughout Haiti. Since the United States is opposing access for Haiti to multilateral monies to address these problems, we believe the U.S. has a moral obligation to ensure, to the maximum extent feasible, that U.S. bilateral humanitarian assistance allocations be maintained at adequate levels. However, that does not appear to be the case. As you know annual USAID/Haiti allocations have been cut in half since FY1999 to $50 million for the current fiscal year. Moreover, the Administration's FY 2003 request is only $45 million. At these levels we are very skeptical that USAID will be able to continue many critical programs, including school feeding programs, public health programs for Haitian children ages 0 to 5, and AIDS treatment and prevention programs.

We strongly urge you to review the overall FY 2003 USAID budget to determine whether additional funds can be found for USAID FY 2003 programs in Haiti. Moreover, we do not support efforts to obligate FY 2002 Haiti monies for purposes other than humanitarian assistance programs.

Thank you for your attention to our concerns. We look forward to working with you in addressing the humanitarian needs of Haiti's seven million people.

Sincerely yours,
PATRICK J. LEAHY,
CHRISTOPHER J. DODD,
U.S. Senators.

U.S. AGENCY FOR
INTERNATIONAL DEVELOPMENT,
Washington, DC, April 2, 2002.
Hon. PATRICK J. LEAHY,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEAHY: Mr. Natsios has asked me to respond to your letter of February 15, 2002, concerning the current situation in Haiti and declining U.S. assistance levels. We regret the delay in responding.

We share your concern about deteriorating conditions in Haiti, and are doing our best to help ease the situation within the constraints of current budget realities. Since September 11, 2001, worldwide pressures on overall resources limit our ability to maintain prior year levels for Haiti. We have made up most of the difference using Development Assistance and the Child Survival and Health Programs fund; however, these accounts are heavily subscribed.

Our programs will continue to have a meaningful impact in Haiti through the provision of primarily humanitarian assistance. Approximately 80 percent of the FY 2002 budget and FY 2003 request will go toward health, food aid, and education activities. These programs will still provide health and family planning services to approximately 2.7 million Haitians—mostly women and children—including HIV/AIDS prevention. They will also target food resources in Haiti to children under five and pregnant/lactating women, and will continue to make marked improvements in math and reading achievement test scores for 150,000 Haitian children.

In closing, we are watching the situation very closely and remain flexible on funding options for FY 2002. We welcome a continuing dialogue with Congress on appropriate assistance levels for Haiti as events unfold.

Thank you for bringing this matter to our attention. Please let us know when this office can be of further assistance.

Sincerely,
J. EDWARD FOX,
Assistant Administrator,
Bureau for Legislative and Public Affairs.

ARKANSAS BLACK ON BLACK CRIME COALITION

Mrs. LINCOLN. Madam President, I rise today to pay tribute to a group of Arkansas who are demonstrating true leadership and commitment in facing down one of the gravest problems facing African-American communities today—black on black crime.

Many people are unaware of the extent of black on black crime. Consider: African-Americans constitute 12 percent of the U.S. population. But in 2002, 45 percent of all murder victims nationwide were black. Of those murders, fully 91 percent were incidents of black on black crime. For young black men, homicide is the leading cause of death; for young black women, the second leading cause of death.

It's clear that we need to address this epidemic. The good news is that, in Arkansas, we're trying to do just that. Last year, a group of community leaders, business leaders, government officials, and religious leaders banded together to form the "Black On Black Crime Coalition," dedicated to raising public awareness of this important issue and developing solutions to mitigate this epidemic of crime and violence that is destroying lives, families, and communities every day. The coalition is just over one year old, and I'm proud to say that they are making great progress in developing new solutions, programs and plans to reduce the incidence of violent crime in the black community. These range from community workshops to neighborhood associations, from youth programs to public awareness campaigns.

The coalition is working with government leaders and law enforcement officials to develop fresh, innovative solutions to the problem of black on black crime. I've worked with the coalition as a partner, and I've been impressed with the energy, seriousness, and dedication that members of the coalition display. Given the commitment I've seen so far, I'm confident that we will see outstanding results from this vital organization. Even if we can't completely eliminate black on black crime, we can significantly reduce their frequency. That will be good news for all of our communities.

We recently observed "Black On Black Crime Prevention Month" to mark the coalition's founding in Arkansas and to continue raising public awareness about this epidemic of violent crime. I thank them for their commitment, and I ask that my colleagues join me in recognizing their leadership. It's been a great year, and I look forward to working with the Black On Black Crime Coalition for many years to come.

NATIONAL PEACE CORPS WEEK—MARCH 1–7, 2004

Mr. COLEMAN. Madam President, this week is National Peace Corps Week. It is with great pleasure that I send my congratulations to the Peace Corps volunteers serving throughout the world as we celebrate the Peace Corps' 43 years of service.

Forty-three years ago, President John F. Kennedy mobilized a generation to work in emerging nations around the world in education, community development, agriculture, health care, and public works.

Since 1961, over 170,000 Americans have volunteered their expertise, time, and energy to foster development and progress in 136 countries. There is no greater symbol of America's generosity than American volunteers living and working in partnership with the people of developing nations to encourage education and opportunity.

Currently, over 7,500 volunteers are serving in 71 countries around the world—the highest number of volunteers in the field in 28 years—and applications have risen by 10 percent. Last year, Peace Corps entered or re-entered Albania, Azerbaijan, Chad, and Fiji, and many other countries have expressed interest in establishing a partnership with Peace Corps. I strongly support Peace Corps entry into Mexico for the first time.

It is my deepest hope that we continue to recognize and support the Peace Corps' important work. By honoring the Peace Corps, we reaffirm our Nation's commitment to strengthen freedom and create opportunities around the world.

President Bush has announced a goal of doubling the number of Peace Corps volunteers over 5 years. I support this effort and the President's budget request for the Peace Corps. As chairman of the Subcommittee on Western Hemisphere, Peace Corps, and Narcotics Affairs, it is my objective to help the Peace Corps become not only bigger, but also better and safer. The well-being of the volunteer must remain the top priority of the Corps. I believe the Peace Corps must have the resources it needs to ensure volunteer safety. I also believe the Peace Corps should continue efforts to diversify its volunteers. We need to bring into the Corps more older volunteers, and more minorities. Only then can be the Peace Corps truly represent the face of America's melting pot.

The Peace Corps is part of Minnesota's heritage—over 5,000 Minnesotans have served as volunteers. And while the Peace Corps has been rightly associated with John F. Kennedy, it was Minnesota Senator Hubert Humphrey who proposed the idea in the 1950s.

I am very happy to join with Peace Corps volunteers, past and present, to celebrate National Peace Corps Week—March 1–7, 2004.

TRIBUTE TO CAPTAIN HENRY "HANK" W. PUTEK, SR., USNR

Mr. WARNER. Madam President, today at Arlington National Cemetery we laid to rest a great patriot to whom I am proud to pay tribute. Captain Henry "Hank" W. Putek, Sr., USN, was a naval aviator whose lifelong love of flying led to a 27 year Navy career that spanned the cold war and included service in Korea and Vietnam. It is my solemn honor today to recall his selfless commitment to this great Nation.

A pilot from the age of 14, Captain Putek obtained a commission in the U.S. Navy in 1953 through the Naval Aviation Cadet program. His distinguished career in naval aviation began with flight training in Pensacola, FL where he earned the coveted "wings of gold" of a naval aviator. He went on to fly combat jets in Korea and Vietnam, including the F–9 Fury, Douglas Skyraider, and F–4 Phantom. He served in numerous aircraft carriers with such storied names as *Lexington*, *Wasp*, *Yorktown*, *Hornet*, and *Saratoga*. In the race for space, Captain Putek was a project engineer for various research and development efforts and piloted tracking aircraft during the Gemini program. Captain Putek was a Navy test pilot who accumulated an astonishing 7,600 hours in 22 types of military aircraft throughout his career.

In 1977, Captain Putek retired from the United States Navy but continued to pursue his love for aviation as a training director with Piper Aircraft Corporation. He qualified in 22 Piper models and types. He was well known in his hometown as the owner of a bright orange "Davis" single engine aircraft, his pride and joy, which he built by hand.

Captain Putek is survived by his wife of 47 years, Mary Louis Putek, his sons, Hank and Jon, his daughters, Gwen and Janet, his sister, Dolores, and his brother, James. He was a loving husband and father, a passionate aviator, and a true gentleman.

ADDITIONAL STATEMENTS

MARCH ON FRANKFORT, KY

• Mr. BUNNING. Madam President I would like to take the opportunity to recognize Rev. Thurmond Coleman and 200 others who participated in the commemorative 1964 march to the Kentucky State Capital in Frankfort, KY.

Forty years ago, Reverend Coleman drove from Louisville to Frankfort with his five children to join the 1964 civil rights march of 10,000 people led by Dr. Martin Luther King, Jr. and the great baseball star, Jackie Robinson. That march helped push Kentucky to become the first southern State to pass civil rights legislation.

The march and ceremony marked those early efforts and celebrated how far Kentucky has come in the last 40 years. Coleman was among those present yesterday who participated in the commemorative 1964 march and recalled the advances that were made in ensuing years. He is also a member of the Kentucky Commission on Human Rights, and has been an advocate for Kentucky's civil rights for many years.

I commend the efforts of Reverend Coleman and the other Kentuckians who coordinated the march on Frankfort, and hope that Kentucky continues to strive for equal rights for all of its citizens.•

RECOGNITION OF MORIAH KATHERINE NACHBAUR

• Mrs. BOXER. Madam President, I bring to the Senate's attention an exception and talented student, Moriah Katherine Nachbaur, 17, of Crystal Springs Uplands School in Redwood City, CA. Moriah is the daughter of Dr. Thomas and Susan Nachbaur.

Moriah Nachbaur was recently named a California finalist in the 2004 Intel Science Talent Search for her botany project. The Intel Science Board Talent Search recognizes and rewards America's brightest young minds for their achievements in science and math. Over 1,600 students applied nationwide for the 2004 Intel Science Talent Search, and the field has been narrowed to 40 finalists. A grand prize winner will be selected on March 16th in Washington, DC. I am proud that my State of California has three finalists.

At Crystal Springs Uplands School, Moriah plays varsity badminton. She is a classical pianist and an award winning photographer and poet. Moriah is an outstanding student who was earned many science honors.

California is proud of Moriah Nachbaur and I am pleased to recognize her outstanding accomplishment. I wish her the best of luck at the final awards event and continued success in her education.•

HONORING SANDY ASHWORTH AND THE BOUNDARY COUNTY LIBRARY

• Mr. CRAPO. Madam President, I rise today to honor Sandy Ashworth who was recently nominated by President Bush to serve on the National Commission on Libraries and Information Science, NCLIS, and confirmed by the Senate on January 26, 2004. In her capacity as a Commissioner, Sandy will provide advice to the President, Congress, and other policy makers on the library and information needs of the nation and the policies and plans necessary to meet those needs. Sandy's skills and experience will serve her well as she helps to shape the policy of the nation in this important area.

As 1 of only 12 appointees, Sandy's confirmation to the Commission is quite an honor. I know from first-hand experience that this recognition is well deserved. Sandy runs the Boundary County Library in Bonners Ferry, a facility I was pleased to visit recently. Each of the four full time and six part-time staff members are bringing neighbors and families together, promoting literacy, and providing educational and cultural resources to many who might not have them otherwise. Sandy has created a model library that provides an impressive range of services to several rural communities. Her excellence is well-known, and recognition of her work has preceded this nomination. In 2002, First Lady Laura Bush presented the library with one of the prestigious Institute of Museum and Library Services' National Awards for Museum and Library Service. In 2003, Sandy was also named one of "Idaho's Brightest Stars," an award given to those who make a difference in the lives of children and families.

Truly, Sandy is one who has made a difference. She has worked diligently and with great effect for the citizens of Boundary County. I am certain she will bring the same energy to her new post and continue to have a positive impact as she represents Idaho in the NCLIS. Today, I join with her coworkers, family, and friends in honoring her contributions to the State of Idaho.•

RECOGNITION OF ARJUN ANAND SURI

• Mrs. Boxer. Madam President, today I bring to the Senate's attention an exceptional and talented student, Arjun Anand Suri, 17, of Clovis West High School in Fresno, CA. Arjun is the son of Doctors Madhav and Anuradha Suri.

Arjun Suri was recently named a California finalist in the 2004 Intel

Science Talent Search for his biochemistry project. The Intel Science Talent search recognizes and rewards America's brightest young minds for their achievements in science and math. Over 1,600 students applied nationwide for the 2004 Intel Science Talent Search, and the filed has been narrowed to 40 finalists. A grand prize winner will be selected on March 16 in Washington, DC. I am proud that my State of California has three finalists.

At Clovis West High School, Arjun is on the varsity tennis team, is captain of the academic decathlon team, vice president of his class and president of the Indian-Pakistani Club. Arjun is an excellent student who has earned perfect SAT scores and has many awards in science, math, history and writing. Arjun also finds time to volunteer in his community as an emergency room volunteer. I applaud his dedication to his studies and to his community.

California is proud of Arjun Suri, and I am pleased to recognize his outstanding accomplishment. I wish him the best of luck at the final awards event and continued success in his education.•

RECOGNIZING THE WORK OF DR. LANDRUM R. BOLLING

• Mr. LUGAR. Madam President, I rise today to share with my colleagues a few highlights from the remarkable lifetime of leadership and humanitarianism displayed by Dr. Landrum Bolling, former president of Earlham College.

From 1958 to 1973, Dr. Bolling led both the students and the faculty of Earlham College in numerous interdisciplinary programs grounded in peace, justice, equality, simplicity, and consensus decisionmaking. His vast personal experience with foreign cultures and religions facilitates his teaching of international studies and humanitarianism.

Currently, at the age of 90, Dr. Bolling serves as director-at-large of Mercy Corps, a not-for-profit organization that exists to alleviate suffering, poverty, and oppression by helping people build secure, productive, and just communities. Through his active involvement with Mercy Corps, he has once again joined forces with Earlham College to form the Landrum Bolling Fellowships in International Service program. The Landrum Bolling Fellowships provide qualified Earlham graduates with the opportunity to participate, on many levels, with Mercy Corps' tremendous humanitarian relief and development programs. It is certainly an opportunity for the students to apply, internationally, the concepts they have previously studied at Earlham College.

Dr. Bolling has dedicated his life to both academia and public service, and I am pleased to have this opportunity to congratulate him on his many worthwhile accomplishments.•

RECOGNITION OF PHILLIP THOMAS DEUTSCH

• Mrs. BOXER. Madam President, today I bring to the Senate's attention an exceptional and talented student, Phillip Thomas Deutsch, 17, of La Canada High School in La Canada, CA. Phillip is the son of Doctors Andrew Deutsch and Jeanne Wallace.

Phillip Deutsch was recently named a California finalist in the 2004 Intel Science Talent Search for his chemistry project. The Intel Science Talent Search recognizes and rewards America's brightest young minds for their achievements in science and math. Over 1,600 students applied nationwide for the 2004 Intel Science Talent Search, and the field has been narrowed to 40 finalists. A grant prize winner will be selected on March 16 in Washington, DC. I am proud that my state of California has three finalists.

At La Canada High School, Phillip is an outstanding student. He plays in the flute choir and the concert and marching bands. Phillip was also a semi-finalist for both the U.S. Chemistry and Physics Olympiad Teams in 2003.

Californians are proud of Phillip Deutsch, and I am pleased to recognize his outstanding accomplishment. I wish him the best of luck at the final awards event and continued success in his education.•

TEXT OF A PROPOSED PROTOCOL AMENDING THE AGREEMENT FOR COOPERATION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF INDONESIA CONCERNING PEACEFUL USES OF NUCLEAR ENERGY—PM 70

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

I am pleased to transmit to the Congress, consistent with sections 123 b. and 123 d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(b), (d)) (the "Act"), the text of a proposed Protocol Amending the Agreement for Cooperation Between the Government of the United States of America and the Government of the Republic of Indonesia Concerning Peaceful Uses of Nuclear Energy, signed at Washington on June 30, 1980. I also transmit my written approval, authorization, and determination concerning the Protocol, and an unclassified Nuclear Proliferation Assessment Statement (NPAS) concerning the Protocol. (Consistent with section 123 of the Act, as amended by title XII of the Foreign Affairs Reform and Restructuring Act of 1998 (Public Law 105-277), a classified Annex to the NPAS, prepared by the Secretary of State in consultation with the Director of Central Intelligence, summarizing relevant classified information, will be submitted to the Congress separately.) The joint memorandum submitted to me by the Secretary of State and the Secretary of Energy and a letter from the Chairman of the Nuclear Regulatory Commission stating the views of the Commission are also enclosed.

I am advised that the proposed Protocol has been negotiated consistent with the Act and other applicable law and that it meets all statutory requirements. This Protocol will advance the nonproliferation and other foreign policy interests of the United States.

The Protocol amends the Agreement for Cooperation Between the Government of the United States of America and the Government of the Republic of Indonesia Concerning Peaceful Uses of Nuclear Energy in two respects:

1. It extends the Agreement, which expired by its terms on December 30, 2001, until December 30, 2031, with effect from the former date; and

2. It updates certain provisions of the Agreement relating to the physical protection of nuclear material subject to the Agreement.

As amended by the proposed Protocol, the Agreement will continue to meet all requirements of U.S. law.

Indonesia is a party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and has an agreement with the IAEA for the application of full-scope safeguards to its nuclear program. It was also among the early sponsors of, and is a current party to, the Southeast Asia Nuclear Weapons Free Zone. The United States and Indonesia have had a long and positive history of cooperation in the peaceful uses of nuclear energy, with our earliest agreement for this purpose dating back to 1960.

I have considered the views and recommendations of the interested agencies in reviewing the proposed Protocol and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the Protocol and authorized its execution and urge that the Congress give it favorable consideration.

This transmission shall constitute a submittal for purposes of both sections 123 b. and 123 d. of the Atomic Energy Act. My Administration is prepared to begin immediately the consultations with the Senate Foreign Relations Committee and House International Relations Committee consistent with section 123 b. Upon completion of the

30-day continuous session period provided for in section 123 b., the 60-day continuous session period provided for in section 123 d. shall commence.

GEORGE W. BUSH.

THE WHITE HOUSE, *March 4, 2004.*

MESSAGE FROM THE HOUSE

At 11:01 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 912. An act to authorize the Administrator of the National Aeronautics and Space Administration to establish an awards program in honor of Charles "Pete" Conrad, astronaut and space scientist, for recognizing the discoveries made by amateur astronomers of asteroids with near-Earth orbit trajectories.

H.R. 1417. An act to amend title 17, United States Code, to replace copyright arbitration royalty panels with a Copyright Royalty Judge, and for other purposes.

H.R. 1561. An act to amend title 35, United States Code, with respect to patent fees, and for other purposes.

H.R. 3389. An act to amend the Stevenson-Wydler Technology Innovation Act of 1980 to permit Malcolm Baldrige National Quality Awards to be made to nonprofit organizations.

The message also announced that the House has passed the following bill, without amendment:

S. 2136. An act to extend the final report date and termination date of the National Commission on Terrorist Attacks Upon the United States, to provide additional funding for the Commission, and for other purposes.

ENROLLED BILL SIGNED

At 5:03 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 2136. An act to extend the final report date and termination date of the National Commission on Terrorist Attacks Upon the United States, to provide additional funding for the Commission, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. STEVENS).

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 912. An act to authorize the Administrator of the National Aeronautics and Space Administration to establish an awards program in honor of Charles "Pete" Conrad, astronaut and space scientists, for recognizing the discoveries made by amateur astronomers of asteroids with near-Earth orbit trajectories; to the Committee on Commerce, Science, and Transportation.

H.R. 1417. To amend title 17, United States Code, to replace copyright arbitration royalty panels with Copyright Royalty Judges; to the Committee on the Judiciary.

H.R. 1561. An act to amend title 35, United States Code, with respect to patent fees, and for other purposes; to the Committee on the Judiciary.

H.R. 3389. An act to amend the Stevenson-Wydler Technology Innovation Act of 1980 to permit Malcolm Baldrige National Quality Awards to be made to nonprofit organizations; to the Committee on Commerce, Science, and Transportation.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH for the Committee on the Judiciary.

Raymond W. Gruender, of Missouri, to be United States Circuit Judge for the Eighth Circuit.

Franklin S. Van Antwerpen, of Pennsylvania, to be United States Circuit Judge for the Third Circuit.

F. Dennis Saylor IV, of Massachusetts, to be United States District Judge for the District of Massachusetts.

Sandra L. Townes, of New York, to be United States District Judge for the Eastern District of New York.

Kenneth M. Karas, of New York, to be United States District Judge for the Southern District of New York.

Judith C. Herrera, of New Mexico, to be United States District Judge for the District of New Mexico.

Louis Guirola, Jr., of Mississippi, to be United States District Judge for the Southern District of Mississippi.

Virginia E. Hopkins, of Alabama, to be United States District Judge for the Northern District of Alabama.

Ricardo S. Martinez, of Washington, to be United States District Judge for the Western District of Washington.

Neil Vincent Wake, of Arizona, to be United States District Judge for the District of Arizona.

Gene E. K. Pratter, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania.

William S. Duffey, Jr., of Georgia, to be United States District Judge for the Northern District of Georgia.

Michele M. Leonhart, of California, to be Deputy Administrator of Drug Enforcement.

Domingo S. Herraiz, of Ohio, to be Director of the Bureau of Justice Assistance.

LaFayette Collins, of Texas, to be United States Marshal for the Western District of Texas for the term of four years.

Ronald J. Tenpas, of Illinois, to be United States Attorney for the Southern District of Illinois for a term of four years.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DURBIN (for himself, Mrs. LINCOLN, Mr. CARPER, and Mr. PRYOR):

S. 2163. A bill to establish a national health program administered by the Office of Personnel Management to offer health benefits plans to individuals who are not Federal employees, and for other purposes; to the Committee on Finance.

By Mr. REID:

S. 2164. A bill to amend the Elementary and Secondary Education Act of 1965 to authorize local educational agencies in rural areas to obtain a limited waiver of certain requirements relating to the employment of highly qualified teachers; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REED (for himself, Mr. HAGEL, Mr. MCCAIN, Mr. AKAKA, Mr. NELSON of Florida, and Mrs. CLINTON):

S. 2165. A bill to specify the end strength for active duty personnel of the Army as of September 30, 2005; to the Committee on Armed Services.

By Mrs. BOXER (for herself, Ms. SNOWE, Mrs. MURRAY, Ms. COLLINS, Mrs. CLINTON, Mrs. FEINSTEIN, and Ms. CANTWELL):

S. 2166. A bill to amend title 10, United States Code, to exempt abortions of pregnancies in cases of rape and incest from a limitation on use of Department of Defense funds; to the Committee on Armed Services.

By Ms. CANTWELL (for herself, Mr. SMITH, Mrs. MURRAY, and Mr. WYDEN):

S. 2167. A bill to establish the Lewis and Clark National Historical Park in the States of Washington and Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. REED (for himself, Mr. CORNYN, and Mr. LEAHY):

S. 2168. A bill to extend the same Federal benefits to law enforcement officers serving private institutions of higher education and rail carriers, that apply to law enforcement officers serving units of State and local government; to the Committee on the Judiciary.

By Mr. GRAHAM of Florida (for himself and Mr. NELSON of Florida):

S. 2169. A bill to modify certain water resources projects for the Apalachicola, Chattahoochee, and Flint Rivers, Georgia, Florida, and Alabama; to the Committee on Environment and Public Works.

By Mrs. HUTCHISON:

S. 2170. A bill to establish the Weather Modification Operations and Research Board and outline its duties and responsibilities; to the Committee on Commerce, Science, and Transportation.

By Mrs. BOXER:

S. 2171. A bill to establish a first responder and terrorism preparedness grant information hotline, and for other purposes; to the Committee on Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CAMPBELL (for himself, Mr. LEAHY, Mr. HATCH, and Mr. ALLARD):

S. Res. 310. A resolution commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers; to the Committee on the Judiciary.

By Mr. BROWNBACK:

S. Res. 311. A resolution calling on the Government of the Socialist Republic of Vietnam to immediately and unconditionally release Father Thadeus Nguyen Van Ly, and for other purposes; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 161

At the request of Mr. HOLLINGS, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 161, a bill to amend the Communications Act of 1934 to require that violent video programming is limited to broadcast after the hours when children are reasonably likely to comprise a substantial portion of the audience, unless it is specifically rated on the basis of its violent content so that it is blockable by electronic means specifically on the basis of that content.

S. 473

At the request of Mr. FEINGOLD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 473, a bill to amend the Federal Water Pollution Control Act to clarify the jurisdiction of the United States over waters of the United States.

S. 480

At the request of Mr. HARKIN, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 480, a bill to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 683

At the request of Mr. FEINGOLD, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 683, a bill to amend the Family and Medical Leave Act of 1993 to provide entitlement to leave to eligible employees whose spouse, son, daughter, or parent is a member of the Armed Forces serving on active duty in support of a contingency operation or notified of an impending call or order to active duty in support of a contingency operation.

S. 784

At the request of Mr. MCCAIN, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 784, a bill to revise the boundary of the Petrified Forest National Park in the State of Arizona, and for other purposes.

S. 874

At the request of Mr. TALENT, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 874, a bill to amend title XIX of the Social Security Act to include primary and secondary preventative medical strategies for children and adults with Sickle Cell Disease as medical assistance under the medicaid program, and for other purposes.

S. 1180

At the request of Mr. SANTORUM, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1180, a bill to amend the Internal Revenue Code of 1986 to modify the work opportunity credit and the welfare-to-work credit.

S. 1452

At the request of Mr. DODD, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 1452, a bill to amend the Immigration and Nationality Act with respect to the H–1B and L–1 visa programs to prevent unintended United States job losses, to increase the monitoring and enforcement authority of the Secretary of Labor over such programs, and for other purposes.

S. 1630

At the request of Mrs. DOLE, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 1630, a bill to facilitate nationwide availability of 2–1–1 telephone service for information and referral services, and for other purposes.

S. 1645

At the request of Mr. CRAIG, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 1645, a bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H–2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes.

S. 1949

At the request of Mr. BIDEN, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. 1949, a bill to establish The Return of Talent Program to allow aliens who are legally present in the United States to return temporarily to the country of citizenship of the alien if that country is engaged in post-conflict reconstruction, and for other purposes.

S. 2088

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 2088, a bill to restore, reaffirm, and reconcile legal rights and remedies under civil rights statutes.

S. 2099

At the request of Mr. MILLER, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2099, a bill to amend title 38, United States Code, to provide entitlement to educational assistance under the Montgomery GI Bill for members of the Selected Reserve who aggregate more than 2 years of active duty service in any five year period, and for other purposes.

S. 2100

At the request of Mr. MILLER, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2100, a bill to amend title 10, United States Code, to increase the amounts of educational assistance for members of the Selected Reserve, and for other purposes.

S. 2157

At the request of Mr. BAUCUS, the names of the Senator from South Dakota (Mr. DASCHLE) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 2157, a bill to amend the Trade Act of 1974 to extend the trade adjustment assistance program to the services sector, and for other purposes.

S. 2158

At the request of Ms. COLLINS, the names of the Senator from Oregon (Mr. WYDEN) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. 2158, a bill to amend the Public Health Service Act to increase the supply of pancreatic islet cells for research, and to provide for better coordination of Federal efforts and information on islet cell transplantation.

S.J. RES. 28

At the request of Mr. CAMPBELL, the names of the Senator from Rhode Island (Mr. CHAFEE), the Senator from Minnesota (Mr. COLEMAN), the Senator from New Mexico (Mr. DOMENICI), the Senator from New Hampshire (Mr. GREGG) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S.J. Res. 28, a joint resolution recognizing the 60th anniversary of the Allied landing at Normandy during World War II.

S. CON. RES. 8

At the request of Ms. COLLINS, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. Con. Res. 8, a concurrent resolution designating the second week in May each year as "National Visiting Nurse Association Week".

S. CON. RES. 81

At the request of Mrs. FEINSTEIN, the names of the Senator from Oregon (Mr. WYDEN), the Senator from New York (Mr. SCHUMER), the Senator from New York (Mrs. CLINTON) and the Senator from New Hampshire (Mr. GREGG) were added as cosponsors of S. Con. Res. 81, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

S. RES. 299

At the request of Mr. CAMPBELL, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. Res. 299, a resolution recognizing, and supporting efforts to enhance the public awareness of, the social problem of child abuse and neglect.

AMENDMENT NO. 2642

At the request of Mrs. LINCOLN, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from

Louisiana (Mr. BREAUX) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of amendment No. 2642 intended to be proposed to S. 1637, a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

AMENDMENT NO. 2643

At the request of Mrs. LINCOLN, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of amendment No. 2643 intended to be proposed to S. 1637, a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

AMENDMENT NO. 2663

At the request of Ms. CANTWELL, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of amendment No. 2663 intended to be proposed to S. 1637, a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

AMENDMENT NO. 2671

At the request of Mr. SMITH, the names of the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Missouri (Mr. BOND) were added as cosponsors of amendment No. 2671 intended to be proposed to S. 1637, a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

STATEMENTS OF INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURBIN (for himself, Mrs. LINCOLN, Mr. CARPER, and Mr. PRYOR):

S. 2163. A bill to establish a national health program administered by the Office of Personnel Management to offer health benefits plans to individuals who are not Federal employees, and for other purposes; to the Committee on Finance.

Mr. DURBIN. Mr. President, today I am introducing legislation along with my colleague, Senator BLANCHE LINCOLN, which will help small businesses struggling to make health insurance available to their employees.

Health insurance premiums have risen as much as six times the rate of inflation in the past decade. Last year they rose by 13.9 percent, the fourth consecutive year of double-digit increases. Some small businesses in Illinois are facing increases as high as 40 percent annually.

According to a survey conducted by Mercer Consulting, worker health care costs have overtaken taxes as the biggest concern among small business owners; and two-thirds of them are shopping for a new health plan every year in an effort to save money.

The Conference Board, an executive research firm, conducts an annual survey of 120 CEOs. One of the questions they ask is how big an obstacle health care costs are in hiring new workers. This year, 78 percent said it was an obstacle, 35 percent said it was a major obstacle.

Health care costs are hurting small businesses, workers and the economy; and fixing this problem should be a national priority.

There are two main problems for small businesses in obtaining affordable insurance. First, there aren't many insurers offering affordable products to small groups. Many small businesses only have access to one insurer in their area, which make it hard to comparison shop. The second problem is that because of their limited size, small business don't have the purchasing or negotiating power of a big company.

The Small Employers Health Benefits Program Act of 2004 (SEHBP) will address both of these problems while maintaining insurance solvency and benefit standards.

Our bill will create a program based on the successful Federal Employees Health Benefits Program or "FEHBP," which offers Federal employees a range of private sector options at affordable prices. This new program would draw from FEHBP's strengths: plan choice, group purchasing savings, comprehensive benefits, low administrative costs and nationwide availability.

The Office of Personnel Management (OPM), which has forty years of experience running FEHBP, would set up a separate SEHBP national purchasing pool open to businesses with 100 employees or less. OPM would annually negotiate benefit packages with private health insurers interested in offering an insurance plan through the SEHBP program. OPM would send out summaries of health plans available to all participating and interested employers during an annual open enrollment season. Plan guides would include a description of each plan offered and the associated costs, as well as results of a customer satisfaction survey of the plans.

Each employee would choose a plan right for them and enroll directly with the health insurer. To help defray costs for the employers and encourage them to offer insurance to low-income employees, employers would receive an annual refundable tax credit if they agree to pay at least 60 percent of the insurance premium. The tax credit would be equal to 25 percent of the employer contribution for self-only policies, 30 percent for policies covering married couples with no dependents, and 35 percent for family policies, for workers making up to $25,000 per year.

There would also be a refundable 10 percent bonus tax credit for those employers who enroll in the first year and an additional bonus to employers who cover more than 60 percent of the premium. The bonus would be equivalent to a 5 percent add-on per additional 10 percent of premium covered. So, if an employer covers 70 percent, the employer would receive an additional 5 percent tax credit. If they cover 80 percent of the premium, they would get an additional 10 percent tax credit.

All self-employed persons and employees in small businesses of 100 employees or less would be eligible to enroll in SEHBP health plans. OPM would have the authority to grant waivers to businesses with more than 100 employees.

One of the few differences from FEHBP is that SEHBP plans would be allowed to vary premiums by age, so that younger enrollees would be more likely to enroll. The more young healthy people join the program, the lower the premiums will be for everyone.

SEHBP health plans would not be allowed to impose any preexisting condition exclusions on new SEHBP enrollees who have at least one year of health insurance coverage immediately prior to enrollment in an SEHBP plan. However, to prevent people from waiting until they get sick to enroll, health plans would be allowed to exclude coverage for known preexisting conditions for up to one year for people without coverage immediately prior to enrollment, while covering costs associated with new conditions.

Mr. President, Secretary Tommy Thompson of the Department of Health and Human Services said yesterday that people without health insurance in this country get health care. I disagree. There are millions of Americans forgoing care because they don't have access to affordable health care. Additionally, small businesses are forgoing hiring because of the cost of offering health care to new employees. These problems can and should be solved and I believe this legislation could open the door for many Americans to obtain good health insurance coverage.

SEHBP would provide small employers a way to offer their workers an array of health insurance options at a group discounted rate. With a limited administrative effort and a refundable tax credit, employers would be able to participate in a health insurance program that offers greater affordability, access and choice without compromising benefit and solvency standards.

I yield the floor.

Mrs. LINCOLN. Madam President, I rise today with my colleague, Senator DURBIN, to introduce the Small Employer Health Benefits Program Act of 2004.

This legislation seeks to address an enormous problem facing small businesses in Arkansas and all across the country: accessibility and affordability of health insurance. I have talked with many small business owners in Arkansas who have been forced to drop or dramatically reduce health insurance for their employees even though they desperately want to offer it. Small employers say that offering health insurance has a positive impact on recruitment, retention, employee attitude, performance, health status, and the overall success of the business. What better way to get our economy going again than to help small businesses succeed?

Small businesses are the number one source for jobs in Arkansas. And the smaller the businesses, the less likely they will offer health insurance. Nationally, 58 percent of all private sector employers offer health insurance. Only three States fall below this average: my home State of Arkansas, Mississippi, and Montana. Arkansas, rate for private coverage is 43 percent.

That is why I am proud to introduce legislation today that will offer small employers a real solution to the problem of accessing affordable, comprehensive health insurance for their employees. Our legislation calls for the creation of a new Small Employers Health Benefits Program which will offer small employers affordable choices among private health insurance plans by giving them access to a large purchasing pool and negotiated rates. Our bill combines the best of what government-run health care, but harnesses the power of market competition to bring down health insurance costs by using a proven government negotiator.

Under our bill, small businesses across America would be able to pool their risk and purchasing power together to offer affordable health insurance options for their employees. Based on the successful Federal Employees Health Benefits program, which has provided quality benefit choices to Federal employees for decades, our program would offer small businesses a range of benefit packages from a variety of insurance companies, ensuring them a choice of affordable products.

All small employers with under 100 employees could voluntarily participate in the new SEHBP. Why only 100 employees or less? We target help to those who need it the most. Take Arkansas as an example. 87 percent of the businesses in Arkansas with 100 to 200 employees do offer health insurance. However, most businesses in Arkansas, 76 percent to be exact, have less than 50 employees and less than one-third of them are able to offer health insurance to their employees.

Also under our bill, if employers agree to pay a minimum percentage of the premium for workers making under $25,000, they would receive a refundable tax credit in return. Why only low-wage workers? Studies show that more than half of workers in firms under 100 people make less than $25,000. And firms with a high proportion of low-wage workers are much less likely to offer insurance.

Further, current health tax-credits are not targeted to those who need help the most. A recent study shows that only 28 percent of current health benefit tax expenditures will go to families with incomes below $50,000 this year. This is bad considering that these families account for more than half of all families in our country. In contrast, families with incomes of $100,000 or more comprise 14 percent of the population but will account for 26 percent of all health benefit tax expenditures.

By giving small employers a refundable tax credit to defray part of the employer contribution for low-income workers, we provide help to those struggling families who need it the most.

One of the best aspects of our program is that every person working for a small business anywhere in the country—rural or urban—would have access to a choice of plans. And workers who move from one SEHBP-participating company to another anywhere in the Nation would be able to maintain their same health coverage.

For example, a florist working in Helena, AR, who is enrolled in an SEHBP nationwide plan could move to Carbondale, IL, without changing her health insurance. It's that easy.

Consumers are protected because plans in SEHBP will be subject to the same strict regulatory and solvency standards applied to plans in FEHBP. And small employers would be relieved of the burden of comparing insurers, benefit packages, costs and negotiating contracts.

I hope that our colleagues will take a careful look at our legislation and present it to the small businesses in their States. I hope they will ask them about their struggle to find affordable health insurance in today's market and see if they'd view this as a better alternative.

The number of uninsured in our country is alarming and should be a national priority. It is apparent by the statements of HHS Secretary Tommy Thompson yesterday that President Bush's administration doesn't recognize the severity of this crisis. Secretary Thompson said: "Even if you don't have health insurance in America, you get taken care of. That could be defined as universal health care."

With all due respect to Secretary Thompson, I don't know where he's getting his information. Just look at the facts:

Twenty percent of the working-aged adults in Arkansas (who are between 19 and 64 years of age) are uninsured. Forty-four million Americans nationwide don't have health insurance.

Uninsured families have less access to important screenings, state-of-the art technology, and prescription drugs. We just passed a Medicare prescription drug benefit because we know how important access to prescription drugs are in improving health.

Uninsured adults have a 25 percent greater mortality risk than adults with coverage. About 18,000 deaths among people younger than 65 are attributed to lack of health insurance coverage every year.

Uninsured adults with chronic conditions like diabetes, cardiovascular disease, HIV infection and mental illness have less access to preventive care and have worse clinical outcomes than insured patients. They try to buy insurance, but it is virtually impossible to get in the individual market.

Uninsured adults negatively affect our health care providers and local economies too. A community's high rate of uninsurance can adversely affect the overall health status of the community, the financial stability of its health care institutions and providers, and access to emergency departments and trauma centers. My hospitals in Arkansas will tell you how expensive uncompensated care can be.

These facts make it clear: people without health insurance don't "get taken care of" as Thompson said. Those who lack health insurance don't get access to timely and appropriate health care. The facts are that Americans without health insurance—children and adults—suffer worse health and die sooner than those who do have health insurance.

In Arkansas, the number one cause of bankruptcy is high medical bills. These working families need help with this problem.

The fact is that people who lack health insurance are sicker and die sooner. You "don't get taken care of" if you have no health insurance. You fend for yourself.

That's why our small businesses employers—who make up most of the businesses in Arkansas—want to offer health insurance to their employees. And that is why our bill that Senator DURBIN and I are introducing today is good for America.

By Mr. REID:

S. 2164. A bill to amend the Elementary and Secondary Education Act of 1965 to authorize local educational agencies in rural areas to obtain a limited waiver of certain requirements relating to the employment of highly qualified teachers; to the Committee on Health, Education, Labor, and Pensions.

Mr. REID. Mr. President, I am introducing a bill today that I hope will be a useful tool for America's rural schools. The "Assisting America's Rural Schools Act" will address the concerns of rural Local Education Agencies (LEAs) that are trying to comply with the teacher quality standards set by the "No Child Left Behind Act of 2001."

Every day, rural communities are confronted by a shortage of resources. It may surprise some people to know there are still small towns in rural America where the citizens wait for a doctor to make his rounds, a mail truck to drop off the mail. These families have elected to stay in their communities despite all the obstacles, and they deserve an opportunity to enjoy a good quality of life.

It should come as no shock that there aren't many teachers who want to move to the remotest areas of a State, and teach in the few scattered schools in those areas. Furthermore, rural school districts' salaries and benefits are usually dwarfed by what urban school districts can offer, which presents another barrier to attracting teachers to rural areas.

Imagine the community's sigh of relief when a rural school does acquire a teacher. Now imagine the look on the teacher's face when she realizes she is expected to be "highly qualified" to instruct in multiple subjects.

The small town of Austin in Lander County, NV is one such community. Austin boasts a grand total of 63 students in grades K–12. For grades 6–12, there are only three teachers for all subjects. Yes, only three teachers.

These teachers are considered "highly qualified" in the areas of science, English, math, and physical education. In order for Austin to acquire a teacher who is "highly qualified" in the subject of history, the LEA must either find and recruit another teacher, or send one of its three current teachers back to school to get accredited in history via distance learning. Unfortunately, Lander County doesn't have the money to do either of these things.

Another quandary is presented in the event that one of these three teachers retires, quits, or leaves the school system. Again, it is incumbent upon the LEA to decide how to spend its limited funds.

Make no mistake about it: The issue is not whether teachers in rural areas should be qualified to teach multiple subjects—they should. However, requiring them to attain "highly qualified" status in all subjects simultaneously is unreasonable.

The "Assisting America's Rural Schools Act" provides rural LEAs with some flexibility in meeting the definition of a "highly qualified teacher" without diminishing the accountability standards for such teachers. Once the Department of Education deems a rural school district eligible, it will be allowed to exempt for 1 year any teacher already highly qualified in at least one core academic subject from the Federal requirement to be "highly qualified" in every subject taught. A highly qualified teacher who is working toward that certification in another subject can still teach both subjects.

Nevada is not alone in facing this dilemma. While 13 out of 17 counties in my state would qualify as rural LEA's under the bill, it would also provide relief for rural school systems in 48 other states.

There is no question that every child deserves a quality education regardless of whether he or she lives in urban rural America. We have the responsibility in Congress of making sure the door of opportunity is open to all our children.

The "highly qualified" teacher provision in the "No Child Left Behind Act" is having the unintended consequence of depleting the already scarce supply of teachers in rural areas. To correct this situation, Congress should pass the "Assisting America's Rural Teachers Act" in the near future.

This bill was authored by Representative JIM GIBBONS of Nevada and has been introduced in the House. I am proud to author the Senate Companion and urge my colleagues to support this bipartisan legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2164

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Assisting America's Rural Schools Act".

SEC. 2. RURAL WAIVER OF CERTAIN QUALIFICATIONS FOR TEACHERS.

(a) IN GENERAL.—Section 1119(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6319(a)) is amended by adding at the end the following:

"(4) AVAILABILITY OF WAIVER FOR RURAL LOCAL EDUCATIONAL AGENCIES.—

"(A) NEW HIRES.—Upon application by a rural local educational agency, the Secretary may grant the agency the authority to defer, for a 1-year period beginning on the date any teacher who is new to the profession first begins employment with the agency as a middle or secondary school teacher, the application to such teacher of the requirement in section 9101(23)(B)(ii) regarding demonstration of a high level of competency in each of the academic subjects in which the teacher teaches. During the deferral period, the teacher shall be considered to have satisfied such requirement if the teacher has demonstrated a high level of competency, in accordance with such section, in 1 of the academic subjects in which the teacher teaches.

"(B) EXISTING EMPLOYEES.—Upon application by a rural local educational agency, the Secretary may grant the agency the authority to defer, for a 1-year period beginning on the date any middle or secondary school teacher who is not new to the profession first begins teaching an academic subject that the teacher has not previously taught, the application to such teacher of the requirement in section 9101(23)(C)(ii) regarding demonstration of competence in all of the academic subjects in which the teacher teaches. During the deferral period, the teacher shall be considered to have satisfied such requirement if the teacher has demonstrated competence, in accordance with such section, in 1 of the academic subjects in which the teacher teaches.

"(C) TERMS AND CONDITIONS.—The Secretary may, in the Secretary's discretion, establish such terms and conditions on the authority granted to a rural local educational agency under this paragraph as the Secretary determines to be appropriate.

"(D) DEFINITION.—For purposes of this paragraph, the term 'rural local educational agency' means a local educational agency with respect to which—

"(i) each county in which a school served by the agency is located has a total population density of fewer than 10 persons per square mile; or

"(ii) all schools served by the agency are designated with a school locale code of 7 or 8, as determined by the Secretary.".

(b) REGULATIONS.—

(1) DEADLINE.—The Secretary of Education shall promulgate regulations to carry out the amendment made by subsection (a) not later than 180 days after the date of enactment of this Act.

(2) APPLICATION PROCEDURES.—The regulations promulgated pursuant to paragraph (1) shall specify procedures to be used by rural local educational agencies in submitting applications under section 1119(a)(4) of the Elementary and Secondary Education Act of 1965 (as added by subsection (a)).

(3) ELIGIBILITY.—The regulations promulgated pursuant to paragraph (1) shall specify the criteria the Secretary of Education will use in—

(A) determining whether to grant a waiver under subparagraph (A) or (B) of section 1119(a)(4) of the Elementary and Secondary Education Act of 1965 (as added by subsection (a)); and

(B) establishing terms and conditions under subparagraph (C) of such section.

By Mr. REED (for himself, Mr. HAGEL, Mr. MCCAIN, Mr. AKAKA, Mr. NELSON of Florida, and Mrs. CLINTON):

S. 2165. A bill to specify the end strength for active duty personnel of the Army as of September 30, 2005; to the Committee on Armed Services.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Madam President, we are on a very important piece of legislation. We also, on a daily basis, are confronted with a very important situation internationally, and that is our continued struggle in Iraq and Afghanistan. Today Senator HAGEL and I have announced legislation that would increase the end strength of the U.S. Army by 30,000 soldiers to meet these responsibilities worldwide.

This legislation will address a serious shortcoming in our Nation's defense policy, ensuring that we have sufficient forces to carry out all of our missions around the globe, in Iraq and in Afghanistan. This legislation would increase and authorize the end strength of the U.S. Army from its present total of 482,400, to a total of 512,400.

I am introducing this legislation today not only with Senator HAGEL, but also with Senator MCCAIN, Senator AKAKA, Senator BILL NELSON, and Senator CLINTON.

End strength is the number of personnel permitted to serve in the military. Retired GEN Gordon R. Sullivan once stated that the objective of end strength is:

> To have enough soldiers to execute Army missions at the right time and the right place, have enough in the total to have both tactical and operational flexibility and to have adequate depth in numbers to support leader development, required force structure manning and the requisite balance needed across the ranks.

Each year in the Defense authorization bill, Congress authorizes the end strength of each branch of the military service, including the National Guard and Reserves.

The importance of the authorized end strength is that it is the number of soldiers the budget funds. On average, each soldier costs $329 a day or about $120,000 a year to fully house, pay, train, and equip.

Last October, when we were debating the emergency supplemental for operations in Iraq and Afghanistan, Senator HAGEL and I offered an amendment to increase the active-duty end strength of the Army by 10,000 soldiers and to pay for that increase out of the supplemental.

At that time, the administration vehemently opposed the amendment. The Pentagon argued that an increase was not necessary, that it was too expensive, and using funds from the supplemental would disrupt current plans to win the war in Iraq. The Army stated in its message, "Increasing end strength is a last resort to fix the challenge" of balancing forces properly to win the war in Iraq and the global war on terrorism.

Yet on January 28 of this year, a mere 3 months later, Army Chief of Staff General Peter Schoomaker announced he had received emergency authority to add 30,000 soldiers over the next 4 years to help "rebalance the force." Moreover, the Army would pay for these additional troops with funds from the fiscal year 2004 supplemental.

Needless to say, I am happy the Department of Defense has adopted the position Senator HAGEL and I had last October. Indeed, they have raised our request of 10,000 up to 30,000. But it is one thing to have the soldiers—it is an important thing—but, unfortunately, the Department of Defense is using the supplemental process to avoid putting these troops in the budget, and I think that is the appropriate way to pay for it.

Our Army is the finest fighting force in the world, but it is in danger of being overextended and, in the process of that overextension, degraded in its quality and its effectiveness.

Despite the heroic efforts of soldiers every day—men and women—who sacrifice themselves for our benefit, without the assistance, the resources, the support they need, they will find it more and more difficult to do the job.

In January 2004, the National Journal summed up the serious situation facing our Army:

> The occupation of Iraq, the largest single deployment since the Vietnam war, is lasting longer than expected, and comes on top of major deployments elsewhere around the globe. Tens of thousands of reservists have been sent away on lengthy tours that they never expected. Emergency "stop loss" orders have prevented soldiers from leaving the services once their enlistments are up. . . . [and] demoralized families are demanding relief.

The legislation we propose will address the major portion of that relief. On January 21 of this year, LT GEN John Riggs, the director of the Objective Force Task Force, or the Army of the future, told the Baltimore Sun:

> You probably are looking at substantially more than 10,000—

Meaning 10,000 personnel.

> I have been in the Army 39 years, and I've never seen the Army as stretched in that 39 years as I have today. . . .It's not my intent to be provocative but to be intellectually honest with my feelings on the strategy and commitment of the Army.

It is not Senator HAGEL's and my intent to be provocative but to be intellectually honest.

In a November 23, 2003, article in the Wall Street Journal, retired GEN Barry McCaffrey stated:

> The U.S. Army is stretched to the breaking point. We do not need more U.S. troops in Iraq. We do need to increase active-duty strength of the U.S. Army in order to sustain the current effort in both Iraq and Afghanistan—while remaining prepared to counter North Korea. Many of us are concerned that we won't be able to carry out the strategy we've embarked on in Iraq because we won't be able to sustain it. Next summer, we could be saying that we're breaking the U.S. Army, and that we can't do a third rotation.

I would disagree with General McCaffrey on the need for additional troops in Iraq. This week's experience of almost 200 civilian casualties and suicide attacks on Shi'a pilgrims suggests there is perhaps a need for more U.S. security, as well as better Iraqi security.

The major point he makes is the point we are making: We have to increase the overall size of the Army if we want to carry out the strategy we embarked upon.

Jeffrey Record of the Army's Strategic Studies Institute stated in a report published in December of 2003 that the "groundforce requirements in Iraq have forced the U.S. Army to the breaking point." He goes on to say that:

> The Army appeared incapable of sustaining a commitment of 16 of its 33 active-duty combat brigades in Iraq absent a reduction in commitments elsewhere or an expansion of its force structure.

Since 1989, the Army's military end strength has been cut by more than 34 percent and civilian end strength by more than 45 percent while undergoing a 300-percent increase in mission rate. Their force structure is going down both in terms of military and civilian personnel, but their operations tempo has increased dramatically, and they are being stretched and stretched to the breaking point.

Today the Army presently has 492,242 soldiers serving on active duty. This has been the average rate for the past few weeks. This means that on the average, the Army needs 8,000 more soldiers each day to accomplish its mission than Congress has authorized and budgeted for.

We already know there is a shortfall in troops, and unless we adopt increases as we have proposed, this shortfall will become a huge chasm between the missions and capabilities to carry out those missions.

The situation in Iraq remains uncertain, but what is certain is the Army is already planning to have a force of slightly more than 100,000 troops in Iraq through 2006. This is not just a quick spike, a month or two that you can carry out through some emergency funding mechanisms, something temporary; this is several years. Indeed, I would suggest many years to complete the missions.

In order to address the stresses caused by Iraq, the Army is intent on rebalancing its force, or transforming it. The transformation is what General Schoomaker says requires the additional forces.

The Army is caught in a very difficult situation. They have to modernize and transform themselves into a more agile, more technologically sophisticated units, but still they have responsibilities of nation building in Iraq and Afghanistan. Those responsibilities are not amenable to high-tech solutions. They require the old-fashioned solutions: troops on the ground, troops talking to civilians in Iraq and Afghanistan, gathering intelligence, analyzing intelligence and having the force, both the perception of that force and the reality of that force, to ensure our adversaries are in check.

I am glad that today the Department of Defense now agrees with the proposal that was offered last fall by Senator HAGEL and myself and 51 of our colleagues who supported us that the Army needs more soldiers. What we disagree on is the way in which we should pay for these forces.

As I stated previously, every U.S. soldier costs the taxpayers approximately $120,000 per year. Therefore, an additional 30,000 troops would cost approximately $3.6 billion annually. There are two possible ways to authorize and fund an increase in end strength with its accompanying costs. One way is to put the end strength increase in the budget, raise the authorization levels in the Defense authorization bill, and find the funds in the $401 billion Defense budget to pay for the troops. That is a method used in the bill we are introducing today.

The Defense Department, however, has chosen a different route. It intends to increase end strength by using the emergency authority granted under 10 U.S. Code section 123a which waives the end strength restrictions for a fiscal year if there is a war or national emergency.

When this authority is used, the $3.6 billion cost of additional 30,000 troops is paid through supplemental or deficit funding.

This year, the extra troops will be paid for out of the fiscal year 2004 supplemental, but that supplemental will be depleted on September 30, 2004, if not earlier. So by my calculation, on October 1, 2004, there will be no funding and those 30,000 additional soldiers, or a significant portion of those troops, will still be in the field as they are recruited, trained, and deployed. That means the Defense Department will have to quickly request the Congress to provide another emergency funding for these troops, troops they know full well will be in the service or be recruited to the service or trained for the service by September 30, 2004.

Moreover, if the Pentagon persists in using this waiver, then they will repeat the scenario year after year. Pretend these troops do not exist when they send the regular budget up and then suddenly come to us with a supplemental at a convenient time and ask for additional money. That is not a way to budget for our forces.

I also point out that I am very concerned because I am hearing reports that the budget sent to us by the Budget Committee will include cuts to the overall defense line. How can the defense line overall be cut at the same time our military leaders are saying they need more troops?

There are those who are talking about the situation of abandoning Iraq. That is absolutely foolish. We are committed. Not only do we have to stay, we have to win. The only way to do that, in my view, is to maintain and provide the real resources for the troops to do their job. It is ironic to me, to say the least, that we would be contemplating a budget that cuts defense spending right now when we literally have so many unmet defense needs directly associated with Iraq and Afghanistan.

There is another problem with this supplemental approach. First, the definition of what is an emergency, the fiscal year 2000 budget resolution states that emergency funding must meet the following criteria: necessity; second, sudden, quickly coming into being, and not building up over time; third, urgent; four, unforeseen, unpredictable, and unanticipated; and five, temporary in nature.

These troops will not be temporary. The need is for several years. Certainly we know already what is coming before us. So this is not something quickly coming into being, something that is being built up suddenly.

The cost of 30,000 additional troops is now predictable and anticipated for at least the next 4 years. It does not qualify as an emergency. This device is simply hiding the true cost of ongoing operations and transformation.

As I said before, there are some who say this is a spike. It is not a spike. It is a plateau, or at least an ascending hill and a very slow decline.

This chart was presented to the Armed Services Committee staff by the Army on February 12, 2004. It shows the transformation plan. It shows the increase in the present end strength of 482,400 up to an end strength of roughly 512,400, from about 33 brigades to about 48 brigades. Then it shows the gradual decline.

I note this decline gets us back to current end strength around fiscal year 2010 or 2011. That is 7 years from now. That is not a spike. That is a tough hike up a steep hill and then a slow decline from that hill.

Also, this scenario assumes there are no other major contingencies such as North Korea; that there can be a successful transfer of military duties to more civilians; that we can reduce the time our soldiers are in training, in transit, in hospitals, and other nondeployed or nondeployable categories. These are all assumptions that might not be met.

The most prudent action today is to increase the forces that we suggest in our legislation. It is much easier to bring a force down than to build it up. When it is brought down, it saves money. When it is brought down, stop-loss orders do not have to be relied upon. These are orders which basically tell soldiers they have reached their enlistment termination date but we are not letting them go. They are no longer a volunteer, in some respects. They are with us until we tell them they can go. So that is something of which we have to be very conscious.

We have to also be concerned that these 30,000 troops might not come online at one moment. Obviously, it takes time to recruit and train. The Army may not need or be able to handle all of these troops. That does not argue against authorizing this increased end strength. What it does is argue for flexibility in the way the Army brings the troops on, and that is something I am sure we can talk about in the conduct of our discussions this year on the defense authorization legislation.

We have a point now where our Army is stretched. It is under tremendous stress, and to a degree this also applies to the Marine Corps, our land forces. We can do the responsible thing, which is to stand up and in the clear light of day increase the end strength of our military forces and pay for that end strength, or we can employ budgetary gimmicks.

We can avoid the reality. Through smoke and mirrors we can try to somehow persuade ourselves and maybe the American public that we do not have to pay for these operations in Iraq or Afghanistan. That would be wrong in terms of our responsibility to the American public and our responsibility, just as importantly, to the troops who are in the field. They have to know we are not playing budget games with our military forces. They have to know we support them, that we just cannot talk about a generational struggle against terrorism if we have to fund that struggle.

We also have to be particularly cognizant that so many of our National Guard and Reserve forces are engaged in this conflict. Of the 100,000-plus troops who will be in Iraq in the next several weeks after this rotation, 40 percent will be Reserve and National Guard forces, the largest deployment of Reserve and National Guard forces since World War II in a combat area of operations.

What is the message we are sending to them? If we do not increase the size of our Active Forces, the message is simple: When you serve well—and they are—and honorably, and you return home, do not unpack your bags because you are going back before you know it.

We just do not have the Active Forces to carry out the missions.

I hope in the process of our deliberations on the Defense authorization bill we can include the Hagel-Reed amendment. I thank my colleagues who supported this amendment. Certainly, I think we want to do all we can for our forces in the field.

I yield the floor.

Mr. HAGEL. Mr. President, I rise today to join my colleague Senator JACK REED in introducing legislation to increase the endstrength of the U.S. Army by 30,000 additional troops.

Last month, the Army Chief of Staff, General Peter Schoomaker informed the Congress that the administration had approved an additional 30,000 Army troops on a "temporary" basis for the next 4 years.

Over the last year the Congress has been expressing grave concern that our Armed Forces are too small to meet the extraordinary demands being placed on them today. Demands that will likely continue to be with us well into the future.

The United States has over 125,000 troops in Iraq. Global commitments of our Armed Forces have soared since September 11, 2001. In order to prevent back-to-back deployments of our Active-Duty soldiers the Army National Guard and Army Reserve will comprise about 40 percent of the current troop rotation in Iraq.

In addition to dealing with the extraordinary demands being placed on the U.S. Army, the Secretary of defense has tasked General Schoomaker to transform the Army.

By some accounts this transformation will be the most significant and complex undertaking to face the Army in half a century. It will not only directly affect the Active-Duty Army, it will also change the nature of the Army National Guard and the Army Reserve.

Secretary Ramsfeld stated before the Senate Armed Services Committee that the Army must "move away from the Napoleonic division structure designed for the 19th century, focusing instead on creating a 21st century 'Modular Army' made up of self-contained, more self-sustaining brigades that are available to work with any division commander."

Transformation of the Armed Forces has been a mantra of the Department of Defense. To show unwavering commitment to transformation the Secretary has created the Office of Force Transformation and a Supreme Allied Commander Transformation at NATO. Using the Quadrennial Defense Review as a compass Secretary Rumsfeld has been "transforming" almost everything the Pentagon does . . . including senior officer lunch rooms in the Pentagon.

The transformation of the Army's Total Force will affect about 1½ million people in uniform and a significant number of DOD civilians, employers, and families.

So, why will the transformation of the U.S. Army be done off budget using the emergency supplemental appropriations process? Why will some of the additional manpower that General Schoomaker needs to transform the Army and rebalance the National Guard and Army Reserve come from preventing soldiers from leaving the Army at the end of their enlistments or delaying their retirement? An action referred to by the Pentagon as "stop loss."

The Constitution tasks the Congress with significant responsibility regarding our national security.

Article 1, Section 8 of the United States Constitution gives Congress the power "to provide the common defense . . . to raise and support Armies . . . to provide and maintain a navy . . . and to make laws which shall be necessary and proper for carrying out the foregoing powers."

In executing this responsibility Senator REED and I are introducing legislation to permanently increase the endstrength of the U.S. Army by 30,000 troops. This legislation will give the Army Chief of Staff additional help he needs to fight the war on terrorism, stabilize Iraq and Afghanistan, and meet the global demands being placed on the total force today. Our legislation also gives General Schoomaker the manpower "headroom" he has testified he needs to transform the total force . . . the Active-Duty Army, the Army Reserve, and the Army National Guard.

This legislation will set the U.S. Army's endstrength at 512,400, 30,000 soldiers higher than it is currently set.

It is not our intention to put the Army in a position that to fund the additional troops they must deplete critical recapitalization, modernization, research, and MILCON accounts. The Department of Defense should be required to better rationalize the department budget to make U.S. Army, Army National Guard, and Army Reserve transformation one of the highest, fully funded, priorities of our Armed Forces.

By Mrs. BOXER (for herself, Ms. SNOWE, Mrs. MURRAY, Ms. COLLINS, Mrs. CLINTON, Mrs. FEINSTEIN, and Ms. CANTWELL):

S. 2166. A bill to amend title 10, United States Code, to exempt abortions of pregnancies in cases of rape and incest from a limitation on use of Department of Defense funds; to the Committee on Armed Services.

Mrs. BOXER. Madam President, over the past several months, we have heard about tragic incidents in which female cadets at the Air Force Academy and military service women in Iraq have been the victims of rape and sexual assault. This is deplorable. There are 200,000 women in uniform, yet while they are protecting our Nation, our Nation is failing to protect them from rape and sexual assault.

It is an even greater insult that we are telling our service women that the Department of Defense will not pay if they choose to terminate a pregnancy that is the result of rape.

Current law states that DoD funds may not be used to perform abortions except where the life of the mother would be endangered. It does not provide any exception for cases of rape and incest—such as is the case in the Medicaid program. The Boxer-Snowe bill would add rape and incest to the life exception that is now law.

While current law allows service members to use military treatment facilities for abortions resulting from rape and incest, the service woman must pay for the procedure out of her own pocket. This is an insult.

According to a study by the Iowa Veterans Affairs Medical Center, 30 percent of female U.S. military veterans report having been raped or having been the victim of an attempted rape during their military service. This legislation will provide help for our female troops in cases of such horrific crimes.

I ask unanimous consent that two letters of support for this bill be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

POPULATION CONNECTION,
Washington, DC, February 25, 2004.

Hon. Senator BARBARA BOXER,
U.S. Senate, Senate Hart Office Building, Washington, DC.

DEAR SENATOR BOXER: I am writing on behalf of 90,000 members and supporters of Population Connection to express our support for your bill providing that women who are victims of rape or incest and serving in the U.S. military—or are the dependents of members of the armed forces—have access to government funded abortions. The legislation is a critical first step in bringing to an end the appalling policy that denies military women the basic freedom of choice that all Americans are guaranteed.

Every individual has the fundamental right to freely decide the number and spacing of her children and reproductive choice is basic to the principle of individual liberty cherished by all Americans and most people worldwide. Far too many American women have been denied the full range of reproductive choices for too long. We strongly support efforts to expand choices for all those women denied them, and that includes the women serving in our armed forces. Your bill is an important first step in bringing constitutionally guaranteed health services to women making huge sacrifices on behalf of all of us.

We applaud your efforts to ensure reproductive freedom by ending irrational and harmful barriers to the health and well being of women. Please let us know what we can do to assist you in your efforts.

Sincerely,

BRIAN E. DIXON,
Director of Government Relations.

NARAL PRO-CHOICE AMERICA,
March 2, 2004.

Hon. BARBARA BOXER,
U.S. Senate, Washington, DC.

DEAR SENATOR BOXER: I write to express NARAL Pro-Choice America's strong support for your legislation to allow federal funding for abortions in military facilities in cases of rape or incest. This legislation is needed to support our female troops and military dependents who have been the victims of such unspeakable crimes.

Current law only allows federal funding for abortions at military hospitals in cases of life endangerment. However, recent reports of sexual assault from female service members returning from duty in Iraq and other overseas stations demonstrate, sadly, that this policy fails to acknowledge the reality some servicewomen face. In addition, a 2003 study conducted by Dr. Anne Sadler with the Iowa City Veterans Affairs Medical Center found that 30 percent of female U.S. military veterans report having been raped or suffered a rape attempt during their military service.

More than 100,000 women live on military bases overseas and rely on military hospitals for their health care—not to mention those posted stateside. The current-law ban on publicly funded abortions in cases of rape and incest may make some women reluctant to seek these medical services or force them to delay the procedure for several weeks. For each week an abortion is delayed, the risk to the woman's health increases. This ban further harms the women and families who have volunteered to serve their country, placing yet another obstacle in front of those who have already suffered an unspeakable assault and may wish to exercise their constitutionally protected right to choose.

Secretary of Defense Donald Rumsfeld recently directed the department's undersecretary for personnel and readiness to review the military's procedures for medical care for sexual-assault victims. A policy of allowing federal funding for abortion services in overseas military hospitals for victims of rape and incest is an important and common-sense first step.

We commend your courageous leadership on this important issue, and hope to work with you closely toward your legislation's enactment. It is vital that Congress pass critical measures such as this to support our troops and ensure that they are able to receive the health care the need.

Warm regards,

KATE MICHELMAN,
President.

By Mr. REED (for himself, Mr. CORNYN, and Mr. LEAHY):

S. 2168. A bill to extend the same Federal benefits to law enforcement officers serving private institutions of higher education and rail carriers, that apply to law enforcement officers serving units of State and local government; to the Committee on the Judiciary.

Mr. REED. Madam President, I rise today to introduce the Equity in Law Enforcement Act, to extend to sworn, licensed, or certified police officers serving private institutions of higher education and rail carriers, the same Federal benefits that apply to law enforcement officers serving units of State and local government.

Each day, thousands of law enforcement officers put their lives on the line to protect the public's safety on our Nation's university and college campuses and our railways.

The attacks of September 11, 2001, marked a significant change in the way the United States regarded the threat of terrorism against our homeland. These events also highlighted the important role of the nation's law enforcement officers in the security of our country.

Sworn officers on private university campuses protect the public's safety and secure assets similar to those that are found on public university campuses, including nuclear laboratories and critical research and development infrastructure. Events such as last year's bombing at Yale University have highlighted the risks facing our nation's college and university campuses.

In addition, the protection of our transportation systems, such as our railways, is now more important than ever. Railroad police officers are charged with enforcing State and local laws in any jurisdiction in which the rail carrier owns property. They attend the same police academies as State and local police in the state in which they are domiciled, and most come from law enforcement backgrounds.

The Public Safety Officers' Benefits (PSOB) Act of 1976 was enacted to aid in the recruitment and retention of law enforcement officers and firefighters, by providing a one-time financial benefit to the eligible survivors of public safety officers whose deaths are the direct result of traumatic injury sustained in the line of duty. Specifically, Congress enacted this legislation to address concerns that the hazards inherent in law enforcement and fire suppression, and the low level of State and local death benefits, might discourage qualified individuals from seeking careers in these fields.

The same risks also apply to police officers protecting our private universities and railways. Indeed, names of 59 railway officers are inscribed on the National Law Enforcement Officers Memorial in Washington, D.C. Of these 59 officers, 44 of them were shot to death, and the rest were killed in the line of duty. Since 1878, the Union Pacific Railroad has suffered the loss of 16 police officers, 10 of those killed by gunfire, and the Norfolk Southern Railroad has lost another 14 officers in the line of duty. All but one of these 14 officers were killed by gunfire. These sobering facts are evidence of the dangers faced by these officers every day.

Similar dangers face many police officers serving private institutions of higher education. Take the case of Tulane University Police Sergeant Gilbert J. Mast. On January 20, 1996, Sergeant Mast was killed while on patrol, when he was struck by a hit-and-run vehicle. The driver surrendered to officers of the New Orleans Police Department several days later. Although Sergeant Mast had bravely served as a law enforcement officer on Tulane's campus, and the Director of Public Safety at Tulane had filed the required paperwork for survivor benefits, his family was denied because he was not employed by the public sector.

Sergeant Mast is just one example of the many brave police officers who protect our railways and college and university campuses every day, yet who are not covered under the Public Safety Officers' Benefits Act, and are thus excluded from receiving the same Federal death benefits as law enforcement officers serving units of State and local governments.

I am pleased that Senators LEAHY and CORNYN have joined me in introducing the Equity in Law Enforcement Act, to help remedy this discrepancy in death benefit payments for law enforcement officers.

This bi-partisan legislation will extend Federal benefits to law enforcement officers who serve private institutions of higher education and rail carriers, including line-of-duty death benefits under the Public Safety Officers' Benefits Program, and eligibility for Bulletproof Vest Partnership Grants through the Department of Justice. The bill would ensure that these public safety officers have access to the protective equipment they need, and that they and their families receive benefits if an officer is killed or seriously injured.

The bill would apply only to sworn peace officers who receive State certification or licensing, and is supported by the International Association of Chiefs of Police (IACP) and the International Association of Campus Law Enforcement Administrators (IACLEA).

Indeed, the benefits of this legislation far outweigh the costs. A recent analysis by the Congressional Budget Office has found that there would be no significant budget impact by its enactment.

The importance of police officers on our campuses and railways is more apparent than ever. I believe that it is necessary that these brave men and women are able to receive the same benefits as their counterparts in State and local law enforcement units, and I am pleased that this legislation has also been introduced in the House of Representatives by Congressman CHRIS BELL, along with 3 bi-partisan cosponsors.

I urge my colleagues to join me, and Senators LEAHY and CORNYN, in cosponsoring and passing the Equity in Law enforcement Act, to ensure that the brave officers that serve our private college and university campuses and railways receive the benefits that they deserve. I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2168

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Equity in Law Enforcement Act".

SEC. 2. LINE-OF-DUTY DEATH AND DISABILITY BENEFITS.

Section 1204(8) of part L of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b(8)) is amended—

(1) in subparagraph (B), by striking "or" at the end;

(2) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(D) an individual who is—

"(i) serving a private institution of higher education in an official capacity, with or without compensation, as a law enforcement officer; and

"(ii) sworn, licensed, or certified under the laws of a State for the purposes of law enforcement (and trained to meet the training standards for law enforcement officers established by the relevant governmental appointing authority); or

"(E) a rail police officer who is—

"(i) employed by a rail carrier; and

"(ii) sworn, licensed, or certified under the laws of a State for the purposes of law enforcement (and trained to meet the training standards for law enforcement officers established by the relevant governmental appointing authority).".

SEC. 3. LAW ENFORCEMENT ARMOR VESTS.

(a) GRANT PROGRAM.—Section 2501 of part Y of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 379611) is amended—

(1) in subsection (a)—

(A) by striking "and Indian tribes" and inserting "Indian tribes, private institutions of higher education, and rail carriers"; and

(B) by inserting before the period the following: "and law enforcement officers serving private institutions of higher education and rail carriers who are sworn, licensed, or certified under the laws of a State for the purposes of law enforcement (and trained to meet the training standards for law enforcement officers established by the relevant governmental appointing authority)";

(2) in subsection (b)(1), by striking "or Indian tribe" and inserting "Indian tribe, private institution of higher education, or rail carrier"; and

(3) in subsection (e), by striking "or Indian tribe" and inserting "Indian tribe, private institution of higher education, or rail carrier".

(b) APPLICATIONS.—Section 2502 of part Y of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 379611–1) is amended—

(1) in subsection (a), by striking "or Indian tribe" and inserting "Indian tribe, private institution of higher education, or rail carrier"; and

(2) in subsection (b), by striking "and Indian tribes" and inserting "Indian tribes, private institutions of higher education, and rail carriers".

(c) DEFINITIONS.—Section 2503(6) of part Y of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 379611–2(6)) is amended by striking "or Indian tribe" and inserting "Indian tribe, private institution of higher education, or rail carrier".

SEC. 4. OTHER GRANTS.

Section 510(a)(2) of chapter A of subpart 2 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3760(a)(2)) is amended by striking "and local units of government" and inserting ", units of local government, private institutions of higher education, and rail carriers".

By Mr. GRAHAM of Florida (for himself and Mr. NELSON of Florida):

S. 2169. A bill to modify certain water resources projects for the Apalachicola, Chattahoochee, and Flint Rivers, Georgia, Florida, and Alabama; to the Committee on Environment and Public Works.

Mr. GRAHAM of Florida. Madam President, the locals call it "God's country." The Apalachicola River, beginning at the confluence of the Chattachoochee and Flint River, near the borders of Alabama, Florida, and Georgia, was and remains an important waterway in the southeast. The river's purpose as a waterway, however, has changed since its colonial fame.

The Apalachicola is the largest river east of the Mississippi. In its heyday, the Apalachicola was an important tributary that served as the largest port of the Gulf of Mexico—harboring ships carrying cotton to Europe and New England.

In the 21st century, while no longer an essential route of transport, the Apalachicola River is an important environmental and commercial asset. The history of the Apalachicola River as an Army Corps of Engineers project began in 1945 and the Rivers and Harbors Act, which authorized dredging of navigation channels. Over the past 59 years, millions of taxpayer dollars have been swept down the river in an effort to dredge and maintain the 9-foot-deep channel.

The Corps has had difficulty maintaining the channel, and combines dredging with water releases in order to raise water levels and provide navigation windows. This system is hopelessly flawed. Dredging is unmanageable and navigation windows are unreliable, making the process a fiscal waste.

Add to this fact that over the last few years, commercial barge traffic has slowed from an intermittent stream to a virtually non-existent trickle. River traffic dropped dramatically in the late 1990s, with fewer than 200 barges a year using the river system. By 2001, only 30 barges used the entire tri-river system with the cost of dredging the channel exceeding $30,000 per barge. Most recently, in 2004 the only company that used barges to carry cargo on the upper reaches of the river ceased operations.

Furthermore, the Congressional Budget Office estimates that the average cost per ton-mile from 1995–98 at 14.1 cents, almost 24 times more than the cost of the Upper Mississippi River at .597 cents. In light of these circumstances, continued dredging of Florida's largest river is not just wasteful, it is foolish.

Ending the dredging is not just about how wasteful this project is—it is also about the environmental destruction that is being inflicted on the Apalachicola River and Bay. There are beaches of sand where there were once river banks. There are walls of dredged spoil—some towering like buildings four stories high—where the river waters used to meander. To date, dredged sand has resulted in the destruction of approximately one-quarter of the banks of the Apalachicola. The large amounts of sand have choked sloughs and cut off the water supply to surrounding habitat, ultimately threatening the local economy.

Navigation windows remain a imperil threatened and endangered species like the Gulf Sturgeon, the Fat Three-Ridge and the Purple Bank Climber. The April 2000 navigation window resulted in an almost complete failure of sportfish spawn along the entire Apalachicola River and reservoirs upstream. Sportfish population have been in rapid decline along the river since 1990. This time frame corresponds with the Corps' continued reliance on water releases to provide adequate water for navigation.

The constant and gross interruptions of the natural system have degraded the environment of the Apalachicola River and quality of life of those who depend upon it. It comes as no surprise that the Apalachicola has repeatedly earned the designation by American Rivers as one of our Nation's Most Endangered Rivers. The Apalachicola has also been included in the 2000 Troubled Waters Report and the 2001 and 2002 Green Scissors Report.

Manipulation of the Apalachicola poses a serious risk to the local economy. Important businesses, such as farmers who produce Tupelo honey and the fishermen who harvest oysters and shrimp in Apalachicola Bay, are dependent on the river's overall health. Additionally, commercial fishing operations along the Gulf Coast also rely on the Bay for their livelihood.

The negative impacts of dredging and the low commercial use of the Apalachicola River led former Secretary of the Army for Civil Works, Joe Westphal, to describe the project as not "economically justified or environmentally defensible."

Dredging the Apalachicola exacts too high a price from both taxpayers and the environment. Clearly it is time to rethink this expensive and ecologically devastating practice.

The bill I offer today, the Restore the Apalachicola River Ecosystem (RARE) Act, was originally introduced in 2002 and subsequently passed by the Committee on Environment and Public Works. It authorizes the actions necessary to reform the Apalachicola River project. It is my hope that this legislation will again be approved by the committee and then by the full Senate.

The first thing my bill does is put an end to the navigational dredging on the river.

Second, it instructs the Corps to submit to Congress a comprehensive restoration plan that corrects the past harms done to the Apalachicola.

The only way to restore the Apalachicola River to its former greatness is to cease navigational dredging. The designation of the Apalachicola as one of the nation's most endangered rivers should be a wake-up call to Congress and the Army Corps of Engineers to permanently end the dredging of the Apalachicola and allow the river to return to its natural state free of man's manipulation.

I urge my colleagues to support this legislation, which is both fiscally sound and environmentally responsible.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2169

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Restore the Apalachicola River Ecosystem Act" or the "RARE Act".

SEC. 2. APALACHICOLA, CHATTAHOOCHEE, AND FLINT RIVERS, GEORGIA, FLORIDA, AND ALABAMA.

(a) IN GENERAL.—The project for navigation, Apalachicola, Chattahoochee, and Flint Rivers, Georgia, Florida, and Alabama, authorized by section 2 of the Act of March 2, 1945 (59 Stat. 17, chapter 19), and modified by the first section of the Act of July 24, 1946 (60 Stat. 635, chapter 595), and the project for the West Point Reservoir, Chattahoochee River, Georgia, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1182), are modified—

(1) to deauthorize the 9-foot by 100-foot channel between the Gulf Intracoastal Waterway near Apalachicola, Florida, to Jim Woodruff Dam near Chattahoochee, Florida; and

(2) to authorize the Secretary of the Army, in consultation with the State of Florida, to develop the plan described in subsection (b).

(b) PLAN FOR RESTORATION OF APALACHICOLA RIVER.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act and before commencement of any restoration activity under subsection (a), the Secretary of the Army, in coordination with the State of Florida, the United States Fish and Wildlife Service, and the United States Geological Survey, shall—

(A) develop a comprehensive plan to restore the Apalachicola River basin; and

(B) submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives the plan developed under subparagraph (A).

(2) REQUIRED ELEMENTS.—The plan under paragraph (1) shall—

(A) have as its sole goal the reestablishment of the ecological integrity of the Apalachicola River basin ecosystem (including restoration of bendways, interconnecting waterways, sloughs, watersheds, associated land areas, and fish and wildlife habitat);

(B) reestablish an ecosystem that supports and sustains a balanced, integrated, adaptive community of organisms having species composition, diversity, and functional organization comparable to those of the natural habitat of the Apalachicola River; and

(C) include a method of monitoring and assessing the biota, habitats, and water quality of the Apalachicola River basin for use in assessing restoration activities and impacts of restoration activities.

(3) FUNDING.—The plan under paragraph (1) shall be developed at a total cost of $4,000,000.

(c) PUBLIC OUTREACH.—In carrying out this section, the Secretary of the Army shall engage in significant public outreach.

(d) RELATIONSHIP TO OTHER ACTIVITIES.—The Secretary of the Army shall ensure that activities conducted under this section do not interfere with water compact activities and negotiations being carried out as of the date of enactment of this Act with respect to the Apalachicola, Chattahoochee, and Flint Rivers, Georgia, Florida, and Alabama.

(e) OPERATION OF LOCKS AND DAMS.—Nothing in this section affects the authority under which locks and dams on the Apalachicola, Chattahoochee, and Flint Rivers, Georgia, Florida, and Alabama, are operated as of the date of enactment of this Act.

(f) EFFECT ON OTHER LAW.—Nothing in this section limits the authority of any agency under any other provision of law to require compliance with any applicable statutory or regulatory requirement.

By Mrs. HUTCHISON:

S. 2170. A bill to establish the Weather Modification Operations and Research Board and outline its duties and responsibilities; to the Committee on Commerce, Science, and Transportation.

Mrs. HUTCHISON. Mr. President, I rise to introduce legislation to recognize the importance and need for increased weather modification research. Weather modification is the general term that refers to any human attempt to alter the weather. While we may not be able to stop Mother Nature entirely, we can sometimes alter her course, changing the weather in small, yet significant ways. These efforts have been used in the U.S. for more than 50 years to reduce crop and property damage, optimize useable precipitation during growing seasons and lessen the impact of periodic, often severe droughts.

The weather modification projects in Texas and other States in the U.S. are much more than well considered responses to drought. They are trying to use the latest technological developments in the science to chemically squeeze more precipitation out of clouds. Moisture that is needed to replenish fresh-water supplies in aquifers and reservoirs. Political subdivisions like water conservation districts and county commissions have embraced the technology of rain enhancement as one element of a long-term, water-management strategy. This is critical to ensure growing populations have enough water to meet future needs.

This bill will develop a comprehensive and coordinated national weather modification policy through federal and state research and development programs. It will also establish a Weather Modification Advisory and Research Board within the Department of Commerce to promote and expand the practical knowledge of weather modification. Further, it recognizes the significance of state and federal collaboration in this endeavor.

I am proud to offer this legislation to bring attention to this important research and I would urge my colleagues to support the Weather Modification Research and Technology Transfer Authorization Act. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2170

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Weather Modification Research and Technology Transfer Authorization Act".

SEC. 2. PURPOSE.

It is the purpose of this Act to develop and implement a comprehensive and coordinated national weather modification policy and a national cooperative Federal and State program of weather modification research and development.

SEC. 3. DEFINITIONS.

In this Act:

(1) BOARD.—The term "board" means the Weather Modification Advisory and Research Board.

(2) EXECUTIVE DIRECTOR.—The term "executive director" means the executive director of the Weather Modification Advisory and Research Board.

(3) RESEARCH AND DEVELOPMENT.—The term "research and development" means theoretical analysis, explorations, experimentation, and the extension of investigative findings and theories of scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.

(4) WEATHER MODIFICATION.—The term "weather modification" means changing or controlling, or attempting to change or control, by artificial methods the natural development of atmospheric cloud forms or precipitation forms which occur in the troposphere.

SEC. 4. WEATHER MODIFICATION ADVISORY AND RESEARCH BOARD ESTABLISHED.

(a) IN GENERAL.—There is established in the Department of Commerce the Weather Modification Advisory and Research Board.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The board shall consist of 11 members appointed by the Secretary of Commerce, of whom—

(A) at least 1 shall be a representative of the American Meteorological Society;

(B) at least 1 shall be a representative of the American Society of Civil Engineers;

(C) at least 1 shall be a representative of the National Academy of Sciences;

(D) at least 1 shall be a representative of the National Center for Atmospheric Research of the National Science Foundation;

(E) at least 2 shall be representatives of the National Oceanic and Atmospheric Administration of the Department of Commerce;

(F) at least 1 shall be a representative of institutions of higher education or research institutes; and

(G) at least 1 shall be a representative of a State that is currently supporting operational weather modification projects.

(2) SERVICE AS MEMBERS.—A member of the board shall serve at the pleasure of the Secretary of Commerce.

(3) VACANCIES.—Any vacancy on the board shall be filled in the same manner as the original appointment.

(b) ADVISORY COMMITTEES.—The board may establish advisory committees to advise the board and to make recommendations to the board concerning legislation, policies, administration, research, and other matters.

(c) INITIAL MEETING.—Not later than 30 days after the date on which all members of the board have been appointed, the board shall hold its first meeting.

(d) MEETINGS.—The board shall meet at the call of the Chair.

(e) QUORUM.—A majority of the members of the board shall constitute a quorum, but a lesser number of members may hold hearings.

(f) CHAIR AND VICE CHAIR.—The board shall select a Chair and Vice Chair from among its members.

SEC. 5. DUTIES OF THE BOARD.

(a) PROMOTION OF RESEARCH AND DEVELOPMENT.—In order to assist in expanding the theoretical and practical knowledge of weather modification, the board shall promote and fund research and development, studies, and investigations with respect to—

(1) improved forecast and decision-making technologies for weather modification operations, including tailored computer workstations and software and new observation systems with remote sensors; and

(2) assessments and evaluations of the efficacy of weather modification, both purposeful (including cloud-seeding operations) and inadvertent (including downwind effects and anthropogenic effects).

(b) FINANCIAL ASSISTANCE.—Unless the use of the money is restricted or subject to any limitations provided by law, the board shall use amounts in the Weather Modification Research and Development Fund—

(1) to pay its expenses in the administration of this Act, and

(2) to provide for research and development with respect to weather modifications by grants to, or contracts or cooperative arrangements, with public or private agencies.

(c) REPORT.—The board shall provide the Secretary with a report of its findings and research results biennially.

SEC. 6. POWERS OF THE BOARD.

(a) STUDIES, INVESTIGATIONS AND HEARINGS.—The board may make any studies or investigations, obtain any information, and hold any hearings necessary or proper to administer or enforce this Act or any rules or orders issued under this Act.

(b) PERSONNEL.—The board may hire an executive director and other support staff, as provided by the appropriations act, necessary to perform duties and functions under this Act.

(c) COOPERATION WITH OTHER AGENCIES.—The board may cooperate with public or private agencies to promote the purposes of this Act.

(d) COOPERATIVE AGREEMENTS.—The board may enter into cooperative agreements with the agencies of the United States, States of the United States and their counties and cities, or with any private or public agencies or organizations for conducting weather modification activities or cloud-seeding operations.

(e) CONDUCT AND CONTRACTS FOR RESEARCH AND DEVELOPMENT.—The executive director, with approval of the board, may conduct and may contract for research and development activities relating to the purposes of this section.

SEC. 7. COOPERATION WITH THE WEATHER MODIFICATION OPERATIONS AND RESEARCH BOARD.

Agencies of the United States and other public or private agencies and institutions that receive research funds from the United States are directed to the extent possible to give full support and cooperation to the board and to initiate independent research and development programs that address weather modifications.

SEC. 8. FUNDING.

(a) IN GENERAL.—There is established within the Treasury of the United States the Weather Modification Research and Development Fund, which shall consist of amounts appropriated pursuant to subsection (b) or received by the board under subsection (c).

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the board for the purposes of carrying out the provisions of this Act $10,000,000 for each of fiscal years 2004 through 2013. Any sums appropriated under this subsection shall remain available, without fiscal year limitation, until expended.

(c) GIFTS.—The board may accept, use, and dispose of gifts or donations of services or property.

SEC. 9. EFFECTIVE DATE.

The provisions of this Act shall apply on and after October 1, 2003.

By Mrs. BOXER:

S. 2171. A bill to establish a first responder and terrorism preparedness grant information hotline, and for other purposes; to the Committee on Governmental Affairs.

Mrs. BOXER. I am pleased to introduce the First Responders Homeland Defense Act of 2004. This bill would help alleviate funding shortages that our Nation's first responders are experiencing, and would help alleviate confusion about Federal grant programs.

The first provision of the First Responders Homeland Defense Act is a grant assistance hotline. When the Department of Homeland Security was created, many local emergency responder agencies were hopeful that a one-stop shop for homeland security resources would be available. Unfortunately, an easily accessible and understandable resource does not yet exist.

In addition to grants from the Department of Homeland Security, there are many grant programs available to first responders from other federal departments. For example, as part of the Department of Health and Human Services, the Centers of Disease Control and Prevention assists state and local public health officials improve hospital preparedness. The Bureau of Justice Assistance at the Department of Justice distributes funding for law enforcement agencies to prepare for terrorist events.

For a local law enforcement agency or fire department, determining eligibility for the wide range of grant programs in a number of different Federal agencies—not to mention even knowing the full range of funding that is available—could be a confusing and daunting task. In order to help make it easier for first responders, my bill would establish a grant assistance hotline at the Department of Homeland Security that would provide local first responders with information on available grants and how to apply for them.

The First Responders Homeland Defense Act also creates a new grant program for tax-exempt non-profit organizations that provide first responder training. Many public and private agencies are creating projects and training programs that involve the business community in defending the homeland. Organizations with non-profit, tax exempt status should be eligible for Federal grant funds when working on community-wide terrorism preparedness. The Department of Homeland Security should fulfill the goal of community-wide preparation by providing Federal assistance to non-profit organizations that operate training programs in conjunction with a local agency.

Finally, the First Responders Homeland Defense Act creates a grant program for another important purpose: interoperable communications systems. Many homeland security experts recognize that while there are many Federal funding opportunities for anti-terrorism activities, there is very little money dedicated to interoperable communications systems. These are systems that allow different local and State agencies to communicate directly with one another—something that is vital to terrorism prevention and response. Yet these systems are all too rare. This bill establishes a grant program at the Department of Homeland Security for the specific purpose of assisting local agencies improve existing communications systems or purchase new systems.

Making the Department of Homeland Security more accessible to local communities and making more resources available to first responders should be a top priority. Many law enforcement officials and other first responders have reviewed this legislation, and I am pleased to introduce the First Responders Homeland Defense Act in response to many of their concerns.

This bill is an important step in fulfilling the Federal responsibility to protect the homeland. I urge my colleagues to support it.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 310—COMMEMORATING AND ACKNOWLEDGING THE DEDICATION AND SACRIFICE MADE BY THE MEN AND WOMEN WHO HAVE LOST THEIR LIVES WHILE SERVING AS LAW ENFORCEMENT OFFICERS

Mr. CAMPBELL (for himself, Mr. LEAHY, Mr. HATCH, and Mr. ALLARD) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 310

Whereas the well-being of all citizens of the United States is preserved and enhanced as a direct result of the vigilance and dedication of law enforcement personnel;

Whereas more than 850,000 men and women, at great risk to their personal safety, presently serve their fellow citizens as guardians of peace;

Whereas peace officers are on the front line in preserving the right of the children of the United States to receive an education in a crime-free environment, a right that is all too often threatened by the insidious fear caused by violence in schools;

Whereas nearly 150 peace officers across the United States were killed in the line of duty during 2003, well below the decade-long average of 166 deaths annually;

Whereas a number of factors contributed to this reduction in deaths, including better equipment and the increased use of bullet-resistant vests, improved training, longer prison terms for violent offenders, and advanced emergency medical care;

Whereas every other day, 1 out of every 9 peace officers is assaulted, 1 out of every 25 peace officers is injured, and 1 out of every 6,000 peace officers is killed in the line of duty somewhere in the United States; and

Whereas on May 15, 2004, more than 20,000 peace officers are expected to gather in Washington, D.C. to join with the families of their recently fallen comrades to honor those comrades and all others who went before them: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes May 15, 2004, as Peace Officers Memorial Day, in honor of Federal, State, and local officers killed or disabled in the line of duty; and

(2) calls upon the people of the United States to observe this day with appropriate ceremonies and respect.

Mr. CAMPBELL. Madam President, today I am joined by the chairman and ranking member of the Senate Judiciary Committee, Senators HATCH and LEAHY and Senator ALLARD in introducing this resolution to keep alive in the memory of all Americans the sacrifice and commitment of those law enforcement officers who lost their lives serving their communities. Specifically, this resolution would designate May 15, 2004, as National Peace Officers Memorial Day.

As a former deputy sheriff, I know first-hand the risks which law enforcement officers face every day on the frontlines protecting our communities. Currently, more than 850,000 men and women who serve this Nation as our guardians of law and order do so at a great risk. Every year, about 1 in 9 officers is assaulted, 1 in 25 officers is injured, and 1 in 6,000 officers is killed in the line of duty somewhere in America every other day. There are few communities in this country that have not been impacted by the words "officer down."

On September 11, 2001, 72 peace officers died as a result of a cowardly act of terrorism. This single act of terrorism resulted in the highest number of peace officers ever killed in a single incident in the history of this country. Before this event, the greatest loss of law enforcement in a single incident occurred in 1917, when nine Milwaukee police officers were killed in a bomb blast at their police station.

In 2003, nearly 150 Federal, State, tribal and local law enforcement officers gave their lives in the line of duty, well below the decade-long average of 166 deaths annually, and a major drop from 2001 when a total of 230 officers were killed. A number of factors contributed to this reduction including better equipment and the increased use of bullet-resistant vests, improved training, longer prison terms for violent offenders, and advanced emergency medical care. And, in total, more than 16,000 men and women have made the supreme sacrifice.

The chairman of the National Law Enforcement Officers Memorial Fund, Craig W. Floyd, reminds us that

> a police officer is killed in the line of duty somewhere in America nearly every other day. More than 850,000 officers put their lives at risk each and every day for our safety and protection. National Police Week and Peace Officers Memorial Day provide our Nation with an important opportunity to recognize and honor that extraordinary service and sacrifice.

On May 15, 2004, more than 20,000 peace officers are expected to gather in our Nation's Capital to join with the families of their fallen comrades who by their faithful and loyal devotion to their responsibilities have rendered a dedicated service to their communities. In doing so, these heroes have established for themselves an enviable and enduring reputation for preserving the rights and security of all citizens. This resolution is a fitting tribute for this special and solemn occasion.

I urge my colleagues to join us in supporting passage of this important resolution.

Mr. LEAHY. Madam President, I proudly rise today to join my colleagues Senators CAMPBELL, HATCH and ALLARD to introduce a resolution to designate May 15, 2004, as National Peace Officers Memorial Day. We submit this resolution to keep alive in the memory of all Americans the sacrifice and commitment of those law enforcement officers who lost their lives serving their communities.

I commend Senator CAMPBELL for his leadership in this issue. This marks the eighth year running, I believe, that he and I have joined forces to introduce the resolution to commemorate National Peace Officers Memorial Day. As a former deputy sheriff, Senator CAMPBELL has experienced first-hand the risks faced by law enforcement officers every day while they protect our communities. His knowledge in this area is a true asset to the U.S. people.

I also want to thank each of our Nation's brave law enforcement officers for their unwavering commitment to the safety and protection of their fellow citizens. They are real-life heroes, too many of whom too often give the ultimate sacrifice, and they remind us of how important it is to support and respect our State and local police.

Currently, more than 850,000 men and women who guard our communities do so at great risk. Each year, 1 in 15 officers is assaulted, 1 in 46 officers is injured,and 1 in 5,255 officers is killed in the line of duty in the United States every other day. After the hijacked planes hit the World Trade Center in New York City on September 11, 2001, 72 peace officers died while trying to ensure that their fellow citizens in those buildings got to safety. That act of terrorism resulted in the highest number of peace officers ever killed in a single incident in the history of this country.

In 2003, 146 enforcement officers died while serving in the line of duty, well below the decade-long average of 165 deaths annually, and a major drop from 2001 when a total of 237 officers were killed. A number of factors contributed to this reduction including better equipment and the increased use of bullet-resistant vests, improved training, longer prison terms for violent offenders, and advanced emergency medical care. And, in total, more than 17,100 men and women have made the ultimate sacrifice.

During the 108th Congress, we have improved the Department of Justice's Public Safety Officers Benefits (PSOB) program by making law the Hometown Heroes Survivors Benefits Act (Public Law 108–182), which allows survivors of public safety officers who suffer fatal heart attacks or strokes while participating in nonroutine stressful or strenuous physical activities to qualify for Federal survivor benefits. The Senate also passed the Campbell-Leahy Bulletproof Vest Partnership Grant Act (S. 764), which will extend through FY 2007 the authorization of appropriations for the Bulletproof Vest Partnership Grant Program that helps State, tribal and local jurisdictions purchase armor vests for use by law enforcement officers. The House has yet to act on this important measure that will continue our efforts to ensure that every police officer who needs a bulletproof vest gets one. This week, the Senate added to the gun liability bill by a vote of 91-8 the Campbell-Leahy Law Enforcement Officers Safety Act (S. 253). This measure would establish national measures of uniformity and consistency to permit trained and certified on-duty, off-duty or retired law enforcement officers to carry concealed firearms in most situations so that they may respond immediately to crimes across State and other jurisdictional lines, as well as to protect themselves and their families from vindictive criminals. The support for such bills that will keep our law enforcement officers is there, but we need to do more.

We Vermonters this National Peace Officers Memorial Day will remember our brave State Police Officer, SGT Michael Johnson, who was killed last Father's Day while trying to stop a suspect leading two other State troopers on a high-speed chase. Sergeant Johnson was not even on duty, but he went out nonetheless to help his fellow troopers that Sunday afternoon after hearing their trouble on his radio. He had just deployed a set of tire spikes across the interstate when the suspect swerved to avoid the spikes and struck him. Johnson left behind a beloved wife and three children, as well as hundreds of police officers who called him "brother." Words seem insufficient to acclaim the brave sacrifice of the man who was so admired by his family, community and the Vermont State Police force.

National Peace Officers Memorial Day will provide the people of the United States with the opportunity to honor the extraordinary service and sacrifice given year after year by our police forces. More than 15,000 peace officers are expected to gather in Washington to join with the families of their fallen comrades who, by their last full measure of devotion to their responsibilities and the right and security of their fellow citizens, have rendered a dedicated service to our Nation. I look forward to passage of this important resolution, a fitting tribute for this special and solemn occasion.

SENATE RESOLUTION 311—CALLING ON THE GOVERNMENT OF THE SOCIALIST REPUBLIC OF VIETNAM TO IMMEDIATELY AND UNCONDITIONALLY RELEASE FATHER THADEUS NGUYEN VAN LY, AND FOR OTHER PURPOSES

Mr. BROWNBACK submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. Res. 311

Whereas, in February 2001, Father Thadeus Nguyen Van Ly, a Roman Catholic priest, was formally invited to testify before the United States Commission on International Religious Freedom but was denied permission to leave the Socialist Republic of Vietnam and thus, instead, submitted written testimony critical of the Government of Vietnam, which was read into the Commission record on February 13, 2001;

Whereas Father Ly's testimony before the Commission documents numerous specific actions of the Government of Vietnam against religious freedom that he classified as collectively being "extremely cruel" and requiring a "non-violent and persistent campaign" to achieve full religious freedom for all people in Vietnam;

Whereas Father Ly has been detained by the Government of Vietnam since February 2001, when the Government placed him under administrative detention, and, as a direct response to his testimony, branded him a traitor for "slandering" the Communist party and "distorting" the religious policy of the government;

Whereas the Government of Vietnam issued a second decree suspending Father Ly's ability to "carry on any religious responsibility and functions" and later formally removed Father Ly from his church, detained him, and denied him access to legal counsel;

Whereas, on October 19 2001, the Thua Thien Hue Provincial People's Court convicted Father Ly of all charges after a one-day, closed trial without the benefit of counsel and sentenced him to 2 years in prison for violating the terms of his administrative detention, 13 years in prison for, "damaging the Government's unity policy," and 5 years of administrative probation upon release from prison;

Whereas, after pleas from United States Government officials and the world community, Father Ly's sentence was reduced by 5 years;

Whereas, in June 2001, Father Ly's nephews Nguyen Vu Viet, age 27, and Nguyen Truc Cuong, age 36, and his niece Nguyen Thi Hoa, age 44, were arrested for allegedly being in contact and receiving support from "reactionary" organizations in the United States concerning the religious situation in Vietnam and disseminating information concerning the detention of Father Ly;

Whereas after their cases generated much concern in Congress, Nguyen Thi Hoa, Nguyen Vu Viet, and Nguyen Truc Cuong all have been released;

Whereas, on November 27, 2003, the United Nations Working Group on Arbitrary Detention issued Opinion No. 20/2003 stating that "the Group is convinced that [Father Ly] has been arrested and detained only for his opinions . . . [and] the deprivation of the liberty of Father Thadeus Nguyen Van Ly is arbitrary, as being in contravention of Article 19 of the Universal Declaration of Human Rights and of Article 19 of the International Covenant on Civil and Political Rights";

Whereas Father Ly has been deprived of his basic human rights by being denied his ability to exercise freedom of opinion and expression; and

Whereas the arbitrary imprisonment and the violation of the human rights of citizens of Vietnam are sources of continuing, grave concern to the Congress: Now, therefore, be it

Resolved, That—

(1) the Senate—

(A) condemns and deplores the arbitrary detention of Father Thadeus Nguyen Van Ly by the Government of the Socialist Republic of Vietnam and calls for his immediate and unconditional release;

(B) condemns and deplores the violations of freedom of speech, religion, movement, association, and the lack of due process afforded to individuals in the Socialist Republic of Vietnam;

(C) strongly urges the Government of Vietnam to consider the implications of its actions for the broader relationship between the United States and Vietnam; and

(D) strongly urges the Government of Vietnam to consider the implications of its actions in the context of the United States-Vietnam Bilateral Trade Agreement, under which Vietnam currently receives Normal Trade Relations (NTR) status subject to chapter 1 of title IV of the Trade Act of 1974 (commonly known as the "Jackson-Vanik Amendment"); and

(2) it is the sense of the Senate that the United States should—

(A) make the immediate release of Father Thadeus Nguyen Van Ly a top concern;

(B) make it clear to the Government of Vietnam that it is not in the Government's interest to detain Father Ly and others like him for political or religious reasons or to inflict human rights violations on such people or groups because such actions create obstacles to improved bilateral relations and cooperation with the United States; and

(C) reiterate the deep concern of the United States regarding the continued imprisonment of Father Ly and other persons whose human rights are being violated and discuss the legal status and immediate humanitarian needs of such people with the Government of Vietnam.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2676. Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table.

SA 2677. Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2678. Mr. GRASSLEY (for himself and Mr. BAUCUS) proposed an amendment to the bill S. 671, to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes.

SA 2679. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table.

SA 2680. Mr. MCCONNELL (for himself and Mr. FRIST) proposed an amendment to amendment SA 2660 proposed by Mr. DODD (for himself, Mr. COLEMAN, Mr. KENNEDY, Mr. CORZINE, Ms. MIKULSKI, and Mr. FEINGOLD) to the bill S. 1637, supra.

SA 2681. Mr. LEVIN (for himself and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2682. Mr. SMITH (for himself, Mrs. LINCOLN, Mr. BUNNING, Mr. WYDEN, Mr. SPECTER, Mr. BREAUX, and Mr. KOHL) submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2683. Mr. SANTORUM (for himself, Mr. NELSON of Florida, and Mr. KYL) submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2684. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2685. Mr. THOMAS (for Mr. MCCAIN (for himself and Mr. WARNER)) proposed an amendment to amendment SA 2660 proposed by Mr. DODD (for himself, Mr. COLEMAN, Mr. KENNEDY, Mr. CORZINE, Ms. MIKULSKI, and Mr. FEINGOLD) to the bill S. 1637, supra.

SA 2686. Mr. BUNNING (for himself, Ms. STABENOW, Mrs. FEINSTEIN, Mr. LEVIN, Mr. KOHL, and Mr. ROCKEFELLER) proposed an amendment to the bill S. 1637, supra.

SA 2687. Mr. GRASSLEY (for Mr. BAYH (for himself, Mr. SANTORUM, Mr. BUNNING, Mr. GRASSLEY, Mr. BAUCUS, and Mr. DORGAN)) proposed an amendment to amendment SA 2686 proposed by Mr. BUNNING (for himself, Ms. STABENOW, Mrs. FEINSTEIN, Mr. LEVIN, Mr. KOHL, and Mr. ROCKEFELLER) to the bill S. 1637, supra.

SA 2688. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2689. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2690. Mrs. FEINSTEIN (for herself, Mr. Conrad, and Mrs. Boxer) submitted an amendment intended to be proposed by her to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2691. Ms. SNOWE (for herself, Mr. Lott, Mr. Breaux, Mr. Allen, Mr. Warner, Mrs. Boxer, Mr. Bunning, Mr. Cochran, Ms. Collins, Mr. Chafee, Mr. Dodd, Mrs. Dole, Mrs. Feinstein, Ms. Landrieu, and Mr. Kohl) submitted an amendment intended to be proposed by her to the bill S. 1637, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2676. Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, after line 25, add the following:

SEC. ___. INCREASE IN HISTORIC REHABILITATION CREDIT FOR CERTAIN LOW-INCOME HOUSING FOR THE ELDERLY.

(a) In General.—Section 47 (relating to rehabilitation credit) is amended by adding at the end the following new subsection:

“(e) Special Rule Regarding Certain Historic Structures.—In the case of any qualified rehabilitation expenditure with respect to any certified historic structure—

“(1) which is placed in service after the date of the enactment of this subsection,

“(2) which is part of a qualified low-income building with respect to which a credit under section 42 is allowed, and

“(3) substantially all of the residential rental units of which are used for tenants who have attained the age of 65,

subsection (a)(2) shall be applied by substituting ‘25 percent’ for ‘20 percent’.”.

(b) Application of MACRS.—The Internal Revenue Code of 1986 shall be applied and administered as if paragraph (4)(X) of section 251(d) of the Tax Reform Act of 1986 as applied to the amendments made by section 201 of such Act had not been enacted with respect to any property described in such paragraph and placed in service after the date of the enactment of this Act.

(c) Effective Date.—The amendment made by subsection (a) shall apply to property placed in service after the date of the enactment of this Act.

SA 2677. Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, after line 25, insert the following:

SEC. . NEW MARKETS TAX CREDIT FOR NATIVE AMERICAN RESERVATIONS.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by redesignating sections 45E and 45F as sections 45F and 45G, respectively, and by inserting after section 45E the following new section:

“SEC. 45D. NEW MARKETS TAX CREDIT FOR NATIVE AMERICAN RESERVATIONS.

“(a) Allowance of Credit.—

“(1) In general.—For purposes of section 38, in the case of a taxpayer who holds a qualified equity investment on a credit allowance date of such investment which occurs during the taxable year, the Native American new markets tax credit determined under this section for such taxable year is an amount equal to the applicable percentage of the amount paid to the reservation development entity for such investment at its original issue.

“(2) Applicable percentage.—For purposes of paragraph (1), the applicable percentage is—

“(A) 5 percent with respect to the first 3 credit allowance dates, and

“(B) 6 percent with respect to the remainder of the credit allowance dates.

“(3) Credit allowance date.—For purposes of paragraph (1), the term ‘credit allowance date’ means, with respect to any qualified equity investment—

“(A) the date on which such investment is initially made, and

“(B) each of the 6 anniversary dates of such date thereafter.

“(b) Qualified Equity Investment.—For purposes of this section—

“(1) In general.—The term ‘qualified equity investment’ means any equity investment in a reservation development entity if—

“(A) such investment is acquired by the taxpayer at its original issue (directly or through an underwriter) solely in exchange for cash,

“(B) substantially all of such cash is used by the reservation development entity to make qualified low-income reservation investments, and

“(C) such investment is designated for purposes of this section by the reservation development entity.

Such term shall not include any equity investment issued by a reservation development entity more than 5 years after the date that such entity receives an allocation under subsection (f). Any allocation not used within such 5-year period may be reallocated by the Secretary under subsection (f).

“(2) Limitation.—The maximum amount of equity investments issued by a reservation development entity which may be designated under paragraph (1)(C) by such entity shall not exceed the portion of the limitation amount allocated under subsection (f) to such entity.

“(3) Safe harbor for determining use of cash.—The requirement of paragraph (1)(B) shall be treated as met if at least 85 percent of the aggregate gross assets of the reservation development entity are invested in qualified low-income reservation investments.

“(4) Treatment of subsequent purchasers.—The term ‘qualified equity investment’ includes any equity investment which would (but for paragraph (1)(A)) be a qualified equity investment in the hands of the taxpayer if such investment was a qualified equity investment in the hands of a prior holder.

“(5) Redemptions.—A rule similar to the rule of section 1202(c)(3) shall apply for purposes of this subsection.

“(6) Equity investment.—The term ‘equity investment’ means—

“(A) any stock (other than nonqualified preferred stock as defined in section 351(g)(2)) in an entity which is a corporation, and

“(B) any capital interest in an entity which is a partnership.

“(c) Reservation Development Entity.—For purposes of this section—

“(1) In general.—The term ‘reservation development entity’ means any domestic corporation or partnership if—

“(A) the primary mission of the entity is serving, or providing investment capital for, low-income reservations,

“(B) the entity maintains accountability to residents of low-income reservations through their representation on any governing board of the entity or on any advisory board to the entity, and

“(C) the entity is certified by the Secretary for purposes of this section as being a reservation development entity.

“(2) Exception.—For purposes of subparagraph (C) of paragraph (1), the Secretary shall not certify an entity as a reservation development entity if such entity is also certified as a qualified community development entity under section 45D(c).

“(d) Qualified Low-Income Reservation Investments.—For purposes of this section—

“(1) In general.—The term ‘qualified low-income reservation investment’ means—

“(A) any capital or equity investment in, or loan to, any qualified active low-income reservation business,

“(B) the purchase from another reservation development entity of any loan made by such entity which is a qualified low-income reservation investment,

“(C) financial counseling and other services specified in regulations prescribed by the Secretary to businesses located in, and residents of, low-income reservations, and

“(D) any equity investment in, or loan to, any reservation development entity.

“(2) Qualified active low-income reservation business.—

“(A) In general.—For purposes of paragraph (1), the term ‘qualified active low-income reservation business’ means, with respect to any taxable year, any corporation (including a nonprofit corporation) or partnership if for such year—

“(i) at least 50 percent of the total gross income of such entity is derived from the active conduct of a qualified business within any low-income reservation,

“(ii) a substantial portion of the use of the tangible property of such entity (whether owned or leased) is within any low-income reservation,

“(iii) a substantial portion of the services performed for such entity by its employees are performed in any low-income reservation,

“(iv) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to collectibles (as defined in section 408(m)(2)) other than collectibles that are held primarily for sale to customers in the ordinary course of such business, and

“(v) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to nonqualified financial property (as defined in section 1397C(e)).

“(B) Proprietorship.—Such term shall include any business carried on by an individual as a proprietor if such business would meet the requirements of subparagraph (A) were it incorporated.

"(C) PORTIONS OF BUSINESS MAY BE QUALIFIED ACTIVE LOW-INCOME RESERVATION BUSINESS.—The term 'qualified active low-income reservation business' includes any trades or businesses which would qualify as a qualified active low-income reservation business if such trades or businesses were separately incorporated.

"(3) QUALIFIED BUSINESS.—For purposes of this subsection, the term 'qualified business' has the meaning given to such term by section 45D(d)(3).

"(e) LOW-INCOME RESERVATION.—For purposes of this section, the term 'low-income reservation' means any Indian reservation (as defined in section 168(j)(6)) which has a poverty rate of at least 40 percent.

"(f) NATIONAL LIMITATION ON AMOUNT OF INVESTMENTS DESIGNATED.—

"(1) IN GENERAL.—There is a Native American new markets tax credit limitation of $50,000,000 for each of calendar years 2004 through 2007.

"(2) ALLOCATION OF LIMITATION.—The limitation under paragraph (1) shall be allocated by the Secretary among reservation development entities selected by the Secretary. In making allocations under the preceding sentence, the Secretary shall give priority to any entity—

"(A) with a record of having successfully provided capital or technical assistance to disadvantaged businesses or communities, or

"(B) which intends to satisfy the requirement under subsection (b)(1)(B) by making qualified low-income reservation investments in 1 or more businesses in which persons unrelated to such entity (within the meaning of section 267(b) or 707(b)(1)) hold the majority equity interest.

"(3) CARRYOVER OF UNUSED LIMITATION.—If the Native American new markets tax credit limitation for any calendar year exceeds the aggregate amount allocated under paragraph (2) for such year, such limitation for the succeeding calendar year shall be increased by the amount of such excess. No amount may be carried under the preceding sentence to any calendar year after 2014.

"(g) RECAPTURE OF CREDIT IN CERTAIN CASES.—

"(1) IN GENERAL.—If, at any time during the 7-year period beginning on the date of the original issue of a qualified equity investment in a reservation development entity, there is a recapture event with respect to such investment, then the tax imposed by this chapter for the taxable year in which such event occurs shall be increased by the credit recapture amount.

"(2) CREDIT RECAPTURE AMOUNT.—For purposes of paragraph (1), the credit recapture amount is an amount equal to the sum of—

"(A) the aggregate decrease in the credits allowed to the taxpayer under section 38 for all prior taxable years which would have resulted if no credit had been determined under this section with respect to such investment, plus

"(B) interest at the underpayment rate established under section 6621 on the amount determined under subparagraph (A) for each prior taxable year for the period beginning on the due date for filing the return for the prior taxable year involved.

No deduction shall be allowed under this chapter for interest described in subparagraph (B).

"(3) RECAPTURE EVENT.—For purposes of paragraph (1), there is a recapture event with respect to an equity investment in a reservation development entity if—

"(A) such entity ceases to be a reservation development entity,

"(B) the proceeds of the investment cease to be used as required of subsection (b)(1)(B), or

"(C) such investment is redeemed by such entity.

"(4) SPECIAL RULES.—

"(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.

"(h) BASIS REDUCTION.—The basis of any qualified equity investment shall be reduced by the amount of any credit determined under this section with respect to such investment. This subsection shall not apply for purposes of sections 1202, 1400B, and 1400F.

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section, including regulations—

"(1) which limit the credit for investments which are directly or indirectly subsidized by other Federal tax benefits (including the credit under section 42 and the exclusion from gross income under section 103),

"(2) which prevent the abuse of the purposes of this section,

"(3) which provide rules for determining whether the requirement of subsection (b)(1)(B) is treated as met,

"(4) which impose appropriate reporting requirements, and

"(5) which apply the provisions of this section to newly formed entities.".

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—

(1) IN GENERAL.—Subsection (b) of section 38 is amended by redesignating paragraphs (14) and (15) as paragraphs (15) and (16), respectively, and by inserting after paragraph (13) the following new paragraph:

"(14) the Native American new markets tax credit determined under section 45E(a),".

(2) LIMITATION ON CARRYBACK.—Subsection (d) of section 39 is amended by redesignating paragraph (10) as paragraph (11) and by inserting after paragraph (9) the following new paragraph:

"(10) NO CARRYBACK OF NATIVE AMERICAN NEW MARKETS TAX CREDIT BEFORE JANUARY 1, 2004.—No portion of the unused business credit for any taxable year which is attributable to the credit under section 45E may be carried back to a taxable year ending before January 1, 2004.".

(c) DEDUCTION FOR UNUSED CREDIT.—Subsection (c) of section 196 is amended by redesignating paragraph (10) as paragraph (11), by striking "and" at the end of paragraph (9), and by inserting after paragraph (9) the following new paragraph:

"(10) the Native American new markets tax credit determined under section 45E(a), and".

(d) CONFORMING AMENDMENTS.—

(1) Section 38(b)(15), as redesignated by subsection (b)(1), is amended—

(A) by striking "45E(c)" and inserting "45F(c)", and

(B) by striking "45E(a)" and inserting "45F(a)".

(2) Section 38(b)(16), as redesignated by subsection (b)(1), is amended by striking "45F(a)" and inserting "45G(a)".

(3) Section 39(d)(11), as redesignated by subsection (b)(2), is amended by striking "section 45E" and inserting "section 45F".

(4) Section 196(c)(11), as redesignated by subsection (c), is amended by striking "45E(a)" and inserting "45F(a)".

(5) Section 1016(a)(28) is amended—

(A) by striking "under section 45F" and inserting "under section 45G", and

(B) by striking "section 45F(f)(1)" and inserting "section 45G(f)(1)".

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by striking the items relating to sections 45E and 45F and inserting the following:

"Sec. 45E. Native American new markets tax credit.
"Sec. 45F. Small employer pension plan startup costs.
"Sec. 45G. Employer-provided child care credit.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to investments made after December 31, 2003.

(f) GUIDANCE ON ALLOCATION OF NATIONAL LIMITATION.—Not later than 120 days after the date of the enactment of this Act, the Secretary of the Treasury or the Secretary's delegate shall issue guidance which specifies—

(1) how entities shall apply for an allocation under section 45E(f)(2) of the Internal Revenue Code of 1986, as added by this section;

(2) the competitive procedure through which such allocations are made; and

(3) the actions that such Secretary or delegate shall take to ensure that such allocations are properly made to appropriate entities.

(g) AUDIT AND REPORT.—Not later than January 31 of 2007 and 2010, the Comptroller General of the United States shall, pursuant to an audit of the Native American new markets tax credit program established under section 45E of the Internal Revenue Code of 1986 (as added by subsection (a)), report to Congress on such program, including all reservation development entities that receive an allocation under the Native American new markets credit under such section.

(f) GRANTS IN COORDINATION WITH CREDIT.—

(1) IN GENERAL.—The Secretary of the Treasury is authorized to award a grant of not more than $1,000,000 to the First Nations Oweesta Corporation.

(2) USE OF FUNDS.—The grant awarded under paragraph (1) may be used—

(A) to enhance the capacity of people living on low-income reservations (within the meaning of section 45E(e) of the Internal Revenue Code of 1986, as added by this section) to access, apply, control, create, leverage, utilize, and retain the financial benefits to such low-income reservations which are attributable to qualified low-income reservation investments (within the meaning of section 45E(d) of such Code), and

(B) to provide access to appropriate financial capital for the development of such low-income reservations.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for fiscal years 2004 through 2014 to carry out the provisions of this subsection.

SA 2678. Mr. GRASSLEY (for himself and Mr. BAUCUS) proposed an amendment to the bill S. 671, to amend the

Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes; as follows:

In the table following section 1001(b), strike the following headings:

9902.30.90
9902.29.46
9902.30.31
9902.32.14
9902.32.30
9902.32.16
9902.31.14
9902.31.13
9902.30.16
9902.29.23

Strike section 1111 and insert the following:

SEC. 1111. REACTIVE ORANGE 132.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.11	Reactive orange 132 (benzenesulfonic acid, 2,2′-[(1-methyl-1,2-ethanediyl)-bis[imino(6-fluoro-1,3,5-triazine-4,2-diyl)imino[2-[(aminocarbon-yl)-amino)]-4,1-phenylene]azo]]bis[5-[(4-sulfophenyl)azo]-, sodium salt) (CAS No. 149850-31-7) (provided for in subheading 3204.16.30)	Free	No change	No change	On or before 12/31/2005	”.

Strike section 1121 and insert the following:

SEC. 1121. PYRACLOSTROBIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.21	Methyl N-(2-[[1-(4-chlorophenyl)-1H-pyrazol-3-yl]oxymethyl]-phenyl)-N-methoxycarbanate (pyra-clostrobin) (CAS No. 175013-18-0) (provided for in subheading 2933.19.23)	Free	No change	No change	On or before 12/31/2005	”.

Strike section 1124.

Strike section 1131 and insert the following:

SEC. 1131. MIXTURES OF TRIBENURON METHYL AND APPLICATION ADJUVANTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.31	Mixtures of tribenuron methyl (methyl 2-[[[[(4- methoxy-6- methyl-1,3,5- triazin- 2-yl)methyl- amino]- carbonyl] amino]-sulfonyl]ben-zoate) (CAS No. 101200-48-0) and application adjuvants (provided for in subheading 3808.30.15).	Free	No change	No change	On or before 12/31/2005	”.

Strike section 1146 and insert the following:

SEC. 1146. AVAUNT AND STEWARD.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.0i.46	Mixtures of indoxacarb ((S)-methyl 7-chloro-2,5-dihydro-2-[[(methoxycarbonyl)[4-(trifluoromethoxy)-phenyl]amino]carbonyl]indeno- [1,2-e][1,3,4]- oxadiazine-4a- (3H)carboxylate) (CAS No. 173584-44-6) and application adjuvants (provided for in subheading 3808.10.25)	Free	No change	No change	On or before 12/31/2005	”.

Strike section 1154 and insert the following:

SEC. 1154. (Z)-(1RS, 3RS)-3-(2-CHLORO-3,3,3 TRIFLOURO-1-PROPENYL)-2,2-DIMETHYL-CYCLOPROPANE CARBOXYLIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.55	(Z)-(1RS,3RS)-3-(2-Chloro-3,3,3-trifluro-1-propenyl)-2,2-dimethyl-cyclopropanecarboxylic acid (CAS No. 68127-59-3) (provided for in subheading 2916.20.50)	Free	No change	No change	On or before 12/31/2005	”.

Strike section 1164 and insert the following:

SEC. 1164. P-CRESIDINESULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.65	p-Cresidinesulfonic acid (4-amino-5-methoxy-2-methylbenzene- sulfonic acid) (CAS No. 6471-78-9) (provided for in subheading 2922.29.80)	Free	No change	No change	On or before 12/31/2005	”.

Strike section 1167 and insert the following:

SEC. 1167. N-ETHYL-N-(3-SULFOBENZYL)ANILINE, BENZENESULFONIC ACID, 3[(ETHYLPHENYLAMINO)METHYL].

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.68	N-Ethyl-N-(3-sulfobenzyl)aniline (benzenesulfonic acid, 3-[(ethyl- phenylamino)-methyl]-) (CAS No. 101-11-1) (provided for in subheading 2921.42.90)	Free	No change	No change	On or before 12/31/2005	”.

Strike section 1174 and insert the following:

SEC. 1174. ACID BLACK 172.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.75	Acid black 172 (chromate(3-), bis[3-(hydroxy-.kappa.O)-4-[[2-(hydroxy.kappa.O)-1-naphthalenyl-azo- .kappa.N1]-7-nitro-1- naphthalenesulfonato(3-)]-, trisodium) (CAS No. 57693-14-8) (provided for in subheading 3204.12.45)	Free	No change	No change	On or before 12/31/2005	”.

Strike section 1213 and insert the following:

SEC. 1213. CERTAIN RUBBER RIDING BOOTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.17	Boots with outer soles and uppers of rubber, such boots extending above the ankle but below the knee, specifically designed for horseback riding, and having a spur rest on the heel counter (provided for in subheading 6401.92.90)	Free	No change	No change	On or before 12/31/2005	”.

Strike section 1215 and insert the following:

SEC. 1215. CHEMICAL NR ETHANOL-BASED.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.19	Chemical NR ethanol-based (iron toluene sulfonate) (comprising 60 percent ethanol (CAS No. 64-17-5), 33 percent p-toluenesulfonic acid (CAS No. 6192-52-5), and 7 percent ferric oxide (CAS No. 1309-37-1)) (provided for in subheading 2912.12.00 or 3824.90.28)	Free	No change	No change	On or before 12/31/2005	”.

Strike section 1222 and insert the following:

SEC. 1222. THERMAL RELEASE PLASTIC FILM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.26	Thermal release plastic film (with a substrate of polyolefin-based PET/conductive acrylic polymer, release liner of polyethylene terephthalate PET/polysiloxane, pressure sensitive adhesive of acrylic ester-based copolymer, and core of acrylonitrile-butadiene-styrene copolymer) (provided for in subheading 3919.10.20)	Free	No change	No change	On or before 12/31/2005	”.

Strike section 1225 and insert the following:

SEC. 1225. OBPA.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.29	10,10′- Oxybisphenoxarsine (CAS No. 58-36-6) (provided for in subheading 2934.99.18)	Free	No change	No change	On or before 12/31/2005	”.

Strike section 1231 and insert the following:

SEC. 1231. 3-[(4 AMINO-3-METHOXYPHENYL) AZO]-BENZENE SULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.35	3-[(Amino-3-methoxyphenyl)-azo]-benzenesulfonic acid (CAS No. 138-28-3) (provided for in subheading 2927.00.50)	Free	No change	No change	On or before 12/31/2005	”.

Strike section 1247 and insert the following:

SEC. 1247. IMIDACLOPRID PESTICIDES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.52	Mixtures of imidacloprid (1-[(6-Chloro-3-pyridinyl)-methyl]-*N*-nitro-2-imidazolidini- mine) (CAS No. 138261-41-3) with application adjuvants (provided for in subheading 3808.10.25)	5.7%	No change	No change	On or before 12/31/2005	”.

Strike section 1290 and insert the following:

SEC. 1290. NECKS USED IN CATHODE RAY TUBES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.97	Necks of a kind used in cathode ray tubes (provided for in subheading 7011.20.80)	Free	No change	No change	On or before 12/31/2005	”.

Strike section 1302 and insert the following:

SEC. 1302. MAGENTA 364.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.03.10	5-[4-(4,5-Dimethyl-2-sulfo-phenylamino)-6-hydroxy-[1,3,5]triazin-2-ylamino]-4-hydroxy-3-(1-sulfonaphthalen-2-ylazo)naph- thalene-2,7-disulfonic acid, sodium salt (provided for in subheading 3204.14.30)	Free	No change	No change	On or before 12/31/2005	”.

Strike section 1303 and insert the following:

SEC. 1303. THIAMETHOXAM TECHNICAL.

(a) CALENDAR YEAR 2004.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.03.11	Thiamethoxam (3-[(2-chloro-5-thiazolyl)methyl)-tetrahydro-5-methyl-N-nitro-1,3,5-oxadiazin-4-imine) (CAS No. 153719-23-4) (provided for in subheading 2934.10.90)	2.6%	No change	No change	On or before 12/31/2004	”.

(b) CALENDAR YEAR 2005.—

(1) IN GENERAL.—Heading 9902.03.11, as added by subsection (a), is amended—

(A) by striking “2.6%” and inserting “2.54%”; and

(B) by striking “On or before 12/31/2004” and inserting “On or before 12/31/2005”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2005.

(c) CALENDAR YEAR 2006.—

(1) IN GENERAL.—Heading 9902.03.11, as added by subsection (a) and amended by this section, is further amended—

(A) by striking “2.54%” and inserting “3.2%”; and

(B) by striking “On or before 12/31/2005” and inserting “On or before 12/31/2006”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2006.

Strike section 1309 and insert the following:

SEC. 1309. PRODIAMINE TECHNICAL.

(a) CALENDAR YEAR 2004.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.03.19	Prodiamine (2,6-dinitro-N1,N1-dipropyl-4-(trifluoromethyl)-1,3-benzene-diamine (CAS No. 29091-21-2) (provided for in subheading 2921.59.80)	0.53%	No change	No change	On or before 12/31/2004	”.

(b) CALENDAR YEARS 2005 AND 2006.—

(1) IN GENERAL.—Heading 9902.03.19, as added by subsection (a), is amended—

(A) by striking "0.53%" and inserting "Free"; and

(B) by striking "On or before 12/31/2004" and inserting "On or before 12/31/2006".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2005.

The article description for heading 9902.03.19, as added by section 1311, is amended by striking "(provided for in subheading 3824.90.28)" and inserting "(provided for in subheading 3824.90.40)".

Strike section 1327 and insert the following:

SEC. 1327. MAGENTA 364 LIQUID FEED.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.39	5-[4-(4,5-Dimethyl-2-sulfo- phenylamino)-6-hydroxy-[1,3,5]triazin-2-ylamino]-4-hydroxy-3-(1-sulfonaphthalen-2-ylazo)naph- thalene-2,7-disulfonic acid, sodium ammonium salt (provided for in subheading 3204.14.30)	Free	No change	No change	On or before 12/31/2005	".

Strike section 1334 and insert the following:

SEC. 1334. DIRECT BLACK 175.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.56	Cuprate(4-), [m-[5-[(4,5-dihydro-3-methyl-5-oxo- 1-phenyl-1H-pyrazol-4-yl)azo]-3-[[4′-[[3,6-disulfo-2-hydroxy.kappa.O-1-naphthal- enyl]azo-.kappa.N1]-3,3′-di(hydroxy-.kappa.O)[1,1′-biphenyl]-4-yl]azo-.kappa.N1]-4-(hydroxy-.kappa.O)-2,7-naphtha- lenedisulf-onato(8-)]]di-, tetrasodium (direct black 175) (CAS No. 66256–76–6) (provided for in subheading 3204.12.50)	Free	No change	No change	On or before 12/31/2005	".

Strike section 1336 and insert the following:

SEC. 1336. ACID BLACK 132.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.59	[3-(Hydroxy-.kappa.O)-4-[[2-(hydroxy-.kappa.O)-1-naphthalenyl]azo-.kappa.N1]-1-naphthal-enesulfonato (3-)]-[1-[[2-(hydroxy-.kappa.O)-5-[(2-methoxyphenyl]-azophenyl]-azo-.kappa.N1]-2-naphthalenolato (2-).kappa.O]-, disodium (acid black 132) (CAS No. 27425–58–7) (provided for in subheading 3204.12.20)	Free	No change	No change	On or before 12/31/2005	".

Strike section 1337 and insert the following:

SEC. 1337. ACID BLACK 107.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.61	Chromate(2-), [1-[[2-(hydroxy.kappa.O)-3,5-dinitro- phenyl]azo-.kappa.N1]-2-naphthal-enolato(2-)-.kappa.O][3-(hydroxy-.kappa.O)4-[[2 (hydroxy-.kappa.O)-1-naphthalenyl]-azo.kappa.N1]-7- nitro-1-naphthalenesulfonato(3-)]-, sodium hydrogen (acid black 107) (CAS No. 12218–96–1) (provided for in subheading 3204.12.45)	Free	No change	No change	On or before 12/31/2005	".

Strike section 1338 and insert the following:

SEC. 1338. ACID YELLOW 219, ACID ORANGE 152, ACID RED 278, ACID ORANGE 116, ACID ORANGE 156, AND ACID BLUE 113.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"	9902.03.62	Benzenesulfonic acid, 3-[[3-methoxy-4-[(4-methoxyphenyl)- azo]phenyl]azo]-, sodium salt (acid yellow 219) (CAS No. 71819–57–3) (provided for in subheading 3204.12.50)	Free	No change	No change	On or before 12/31/2005	
	9902.03.63	Benzenesulfonic acid, 3-[[4-[[4-(2-hydroxybut-oxy)phenyl]azo]-5-methoxy-2-methyl- phenyl]azo]-, monolithium salt (acid orange 152) (CAS No. 71838–37–4) (provided for in subheading 3204.12.50)	Free	No change	No change	On or before 12/31/2005	
	9902.03.64	Chromate(1-), bis[3-[4-[[5-chloro-2-(hydroxy.kappa.O)- phenyl]azo-.kappa.N1]-4,5-dihydro-3-methyl-5-(oxo-.kappa.O)-1H-pyrazol-1-yl]benzenesul- fonamidato(2-)]-, sodium (acid red 278) (CAS No. 71819–56–2) (provided for in subheading 3204.12.50)	Free	No change	No change	On or before 12/31/2005	
	9902.03.65	Benzenesulfonic acid, 3-[[4-[(2-ethoxy-5-methylphenyl)- azo]-1-naphthal- enyl]azo]-, sodium salt (acid orange 116) (CAS No. 12220–10–9) (provided for in subheading 3204.12.50)	Free	No change	No change	On or before 12/31/2005	
	9902.03.66	Benzenesulfonic acid, 4-[[5-meth- oxy-4-[(4-methoxy- phenyl)azo]-2-methyl- phenyl]azo]-, sodium salt (acid orange 156) (CAS No. 68555–86–2) (provided for in subheading 3204.12.50) ...	Free	No change	No change	On or before 12/31/2005	
	9902.03.67	1-Naphthalene- sulfonic acid, 8-(phenylamino)-5-[[4-[(3- sulfophenyl)- azo]-1- naphthalenyl]-azo]-, disodium salt (acid blue 113) (CAS No. 3351–05–1) (provided for in subheading 3204.12.50)	Free	No change	No change	On or before 12/31/2005	".

Strike section 1339.

Strike section 1344 and insert the following:

SEC. 1344. C 12–18 ALKENES, POLYMERS WITH 4-METHYL-1-PENTENE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.86	C 12–18 alkenes, polymers with 4-methyl-1-pentene (CAS No. 68413–03–6) (provided for in subheading 3902.90.00)	Free	No change	No change	On or before 12/31/2005	".

Strike section 1370 and insert the following:

SEC. 1370. FAST YELLOW 2 STAGE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.04.19	1,3-Benzenedicarboxylic acid, 5,5′- [[6-(4-morpholinyl)-1,3,5-triazine-2,4-diyl]bis(imino-4,1-phenyleneazo)]bis-, ammonium/sodium/hydrogen salt (direct yellow 173) (provided for in subheading 3204.14.30.).	Free	No change	No change	On or before 12/31/2005	”

Strike section 1373 and insert the following:

SEC. 1373. YELLOW 746 STAGE.

Subchapter II of chapter 99 of is amended by inserting in numerical sequence the following new heading:

“	9902.04.26	1,3-Bipyridirium, 3-carboxy-5′-[(2-carboxy-4-sulfophenyl)azo]-1′,2′-dihydro-6′-hydroxy-4′-methyl-2′-oxo-, inner salt, lithium/sodium salt (provided for in subheading 3204.14.30)	Free	No change	No change	On or before 12/31/2005	”.

Strike section 1377 and insert the following:

SEC. 1377. CYAN 485/4 STAGE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.04.30	Copper, [29H,31H-phthalo-cyaninato(2-)-xN29,xN30,xN31,xN32]-aminosulfonyl-[(2-hydroxy-ethyl)amino]-sulfonylsulfo derivatives, sodium salt (provided for in subheading 3204.14.30)	Free	No change	No change	On or before 12/31/2005	”.

Strike section 1380 and insert the following:

SEC. 1380. TRIFLUSULFURON METHYL FORMULATED PRODUCT.

(a) CALENDAR YEARS 2004 AND 2005.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.05.01	Mixtures of methyl 2-[[[[[4-(dimethylamino)- 6-(2,2,2-trifluoroethoxy)-1,3,5-triazin-2-yl]-amino]carbonyl]- amino]sulfonyl]-3-methylbenzoate (CAS No. 126535-15-7) and application adjuvants (provided for in subheading 3808.30.15)	1%	No change	No change	On or before 12/31/2005	”.

(b) CALENDAR YEAR 2006.—

(1) IN GENERAL.—Heading 9902.05.01, as added by subsection (a), is amended—

(A) by striking “1%” and inserting “Free”; and

(B) by striking “On or before 12/31/2005” and inserting “On or before 12/31/2006”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2006.

Strike section 1388 and insert the following:

SEC. 1388. DICHLOROBENZIDINE DIHYDROCHLORIDE.

(a) CALENDAR YEAR 2004.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.03.28	3,3′-Dichlorobenzi-dine dihydrochloride (CAS No. 612-83-9) (provided for in subheading 2921.59.80)	6.3% + 0.2 cents/kg	No change	No change	On or before 12/31/2004	”.

(b) CALENDAR YEARS 2005 AND 2006.—

(1) IN GENERAL.—Heading 9902.03.28, as added by subsection (a), is amended—

(A) by striking “6.3% + 0.2 cents/kg” and inserting “5.1%”; and

(B) by striking “On or before 12/31/2004” and inserting “On or before 12/31/2006”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2005.

Strike section 1389 and insert the following:

SEC. 1389. KRESOXIM-METHYL.

(a) CALENDAR YEAR 2004.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.03.78	Methyl (E)- methoxyimino- [alpha-(o-tolyloxy)-o-tolyl]- acetate (kresoxim methyl) (CAS No. 143390-89-0) (provided for in subheading 2925.20.60)	3.3%	No change	Free	On or before 12/31/2004	”.

(b) CALENDAR YEARS 2005 AND 2006.—

(1) IN GENERAL.—Heading 9902.03.78, as added by subsection (a), is amended—

(A) by striking “3.3%” and inserting “2.4%”; and

(B) by striking “On or before 12/31/2004” and inserting “On or before 12/31/2006”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2005.

Strike sections 1392, 1393, and 1394 and insert the following:

SEC. 1392. BENZENEPROPANAL, 4-(1,1-DIMETHYLETHYL)-ALPHA-METHYL.

(a) CALENDAR YEAR 2004.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.05.08	Benzenepropanal, 4-(1,1-dimethylethyl)-alpha-methyl- (CAS No. 80-54-6) (provided for in subheading 2912.29.60)	2.3%	No change	Free	On or before 12/31/2004	”.

(b) CALENDAR YEARS 2005 AND 2006.—

(1) IN GENERAL.—Heading 9902.05.08, as added by subsection (a), is amended—

(A) by striking “2.3%” and inserting “1.7%”; and

(B) by striking “On or before 12/31/2004” and inserting “On or before 12/31/2006”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2005.

SEC. 1393. 3,7-DICHLORO-8-QUINOLINE CARBOXYLIC ACID.

(a) CALENDAR YEAR 2004.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.05.09	3,7-Dichloro-8-quinolinecarb-oxylic acid (quinclorac) (CAS No. 84087-01-4) (provided for in subheading 2933.49.30)	3.9%	No change	Free	On or before 12/31/2004	”.

(b) CALENDAR YEARS 2005 AND 2006.—

(1) IN GENERAL.—Heading 9902.05.09, as added by subsection (a), is amended—

(A) by striking “3.9%” and inserting “3.3%”; and

(B) by striking “On or before 12/31/2004” and inserting “On or before 12/31/2006”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2005.

SEC. 1394. 3-(1-METHYLETHYL)-1H-2,1,3-BENZOTHIADIAZIN-4(3H)-ONE 2,2 DIOXIDE, SODIUM SALT.

(a) CALENDAR YEAR 2004.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.05.10	3-(1-Methyl- ethyl)-1H-2,1,3-benzothiadiazin-4(3H)-one-2,2-dioxide, sodium salt (bentazon, sodium salt) (CAS No. 50723–80–3) (provided for in subheading 2934.99.15)	1.8%	No change	Free	On or before 12/31/2004	".

(b) CALENDAR YEARS 2005 AND 2006.—

(1) IN GENERAL.—Heading 9902.05.10, as added by subsection (a), is amended—

(A) by striking "1.8%" and inserting "2.6%"; and

(B) by striking "On or before 12/31/2004" and inserting "On or before 12/31/2006".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2005.

Strike section 1396 and insert the following:

SEC. 1396. ORYZALIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.05.16	Oryzalin (benzenesulfonamide, 4-(dipropylamino)-3,5-dinitro-) (CAS No. 19044–88–3) (provided for in subheading 2935.00.95)	Free	No change	No change	On or before 12/31/2005	".

Strike section 1409 and insert the following:

SEC. 1409. CERTAIN R-CORE TRANSFORMERS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.85.04	120 volt/60 Hz electrical transformers (the foregoing and parts thereof provided for in subheading 8504.31.40 or 8504.90.95), with dimensions not exceeding 88 mm by 88 mm by 72 mm but at least 82 mm by 69 mm by 43 mm and each containing a layered and uncut round core with two balanced bobbins, the foregoing rated as less than 40 VA but greater than 32.2 VA with a rating number of R25	Free	No change	No change	On or before 12/31/2005	".

Strike section 1411 and insert the following:

SEC. 1411. BISPYRIBAC SODIUM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.05.20	Sodium 2,6-bis[(4,6-dimethoxypyrimidin-2-yl)oxy]benzoate (Bispyribac-sodium) (CAS No. 125401–92–5) (provided for in subheading 2933.59.10)	Free	No change	No change	On or before 12/31/2005	".

Strike section 1414 and insert the following:

SEC. 1414. UNICONAZOLE-P.

Subchapter II is amended by inserting in numerical sequence the following new heading:

"	9902.05.23	(E)-(+)-(S)-1-(4-Chlorophenyl)-4,4-dimethyl-2-(1,2,4-triazol-1-yl)-pent-1-ene-3-ol (Uniconazole) (CAS No. 83657–22–1), mixed with application adjuvants (provided for in subheading 3808.30.15)	Free	No change	No change	On or before 12/31/2005	".

Strike section 1417 and insert the following:

SEC. 1417. 2,4-XYLIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.05.26	2,4-Xylidine (CAS No. 95–68–1) (provided for in subheading 2921.49.10)	Free	No change	No change	On or before 12/31/2005	".

Strike sections 1419 and 1420, and insert the following:

SEC. 1419. NMSBA.

(a) CALENDAR YEAR 2004.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.29.82	4-(Methylsulfonyl)-2-nitrobenzoic acid (CAS No. 110964–79–9) (provided for in subheading 2916.39.45)	0.28%	No change	No change	On or before 12/31/2004	".

(b) CALENDAR YEAR 2005.—

(1) IN GENERAL.—Heading 9902.29.82, as added by subsection (a), is amended—

(A) by striking "0.28%" and inserting "0.16%"; and

(B) by striking "On or before 12/31/2004" and inserting "On or before 12/31/2005".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2005.

(c) CALENDAR YEARS 2006 THROUGH 2008.—

(1) IN GENERAL.—Heading 9902.29.82, as added by subsection (a) and amended by subsection (b), is further amended—

(A) by striking "0.16%" and inserting "1.1%"; and

(B) by striking "On or before 12/31/2005" and inserting "On or before 12/31/2008".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2006.

SEC. 1420. CERTAIN SATELLITE RADIO BROADCASTING APPARATUS.

(a) CALENDAR YEAR 2004.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.04.35	Reception apparatus for satellite radio broadcasting, other than satellite radio broadcast receivers described in subheading 8527.21.40 (provided in subheading 8527.90.95)	5.2%	No change	No change	On or before 12/31/2004	".

(b) CALENDAR YEAR 2005.—

(1) IN GENERAL.—Heading 9902.04.35, as added by subsection (a), is amended—

(A) by striking "5.2%" and inserting "5.4%"; and

(B) by striking "On or before 12/31/2004" and inserting "On or before 12/31/2005".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2005.

(c) CALENDAR YEAR 2006.—

(1) IN GENERAL.—Heading 9902.04.35, as added by subsection (a) and amended by this section, is further amended—

(A) by striking "5.4%" and inserting "5.5%"; and

(B) by striking "On or before 12/31/2005" and inserting "On or before 12/31/2006".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2006.

On page 137, between lines 3 and 4, insert the following:

SEC. 1421. ACEPHATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.60	O,S-Dimethyl acetylphosphoramidothioate (Acephate) (CAS No. 30560-19-1) (provided for in subheading 2930.90.44)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1422. BAGS FOR CERTAIN TOYS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.78	Bags (provided for in subheading 4202.92.45) for transporting, storing, or protecting goods of headings 9502-9504, inclusive, imported and sold with such articles therein	Free	No change	No change	On or before 12/31/2005	".

On page 137, line 10, strike "12/31/05" and insert "12/31/06".

On page 144, strike lines 3 through 4.

On page 144, strike lines 5 through 7.

On page 144, line 8, strike "(81)" and insert "(79)".

On page 144, between lines 9 and 10, insert the following:

(80) Heading 9902.32.49 (relating to 11-aminoundecanoic acid).

On page 144, line 17, strike "12/21/05" and insert "12/31/06".

On page 144, line 24, strike "12/21/05" and insert "12/31/06".

On page 145, line 7, strike "12/21/05" and insert "12/31/06".

On page 145, line 19, strike "12/21/05" and insert "12/31/06".

On page 146, line 17, strike "12/21/05" and insert "12/31/06".

On page 146, line 24, strike "12/21/05" and insert "12/31/06".

On page 147, line 6, strike "12/21/05" and insert "12/31/06".

On page 147, between lines 14 and 15, insert the following:

(11) CERTAIN RAILWAY CARS.—Heading 9902.86.07 is amended—

(A) in the article description, by striking "138" and inserting "up to 150 passengers,"; and

(B) in the effective period column, by striking the date contained therein and inserting "12/31/2006".

(12) OTHER RAILWAY CARS.—Heading 9902.86.08 is amended—

(A) in the article description, by striking "148" and inserting "140"; and

(B) in the effective period column, by striking the date and inserting "12/31/2006".

Strike section 1401.

On page 147, line 19, strike "2003" and insert "2004".

On page 224, before line 1, insert the following:

SEC. 1636. CERTAIN RAILWAY PASSENGER COACHES.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request filed with the United States Customs Service within 180 days after the date of enactment of this Act, the Customs Service shall liquidate or reliquidate the entry described in subsection (c) as free of duty.

(b) REFUND OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to a request for a liquidation or reliquidation of the entry under subsection (a) shall be refunded with interest within 180 days after the date on which request is made.

(c) AFFECTED ENTRY.—The entry referred to in subsection (a) is the entry on July 12, 2002, of railway passenger coaches (provided for in subheading 8605.00.00) (Entry number 2210888343-4).

Strike section 2002 and insert the following:

SEC. 2002. ARTICLES ELIGIBLE FOR PREFERENTIAL TREATMENT UNDER THE ANDEAN TRADE PREFERENCE ACT.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, and subject to subsection (c)—

(1) the entry of any article described in section 204(b)(1)(D) of the Andean Trade Preference Act (as amended by section 3103(a)(2) of the Trade Act of 2002) for which the President proclaims duty free treatment pursuant to section 204(b)(1) of such Act shall be subject to the rate of duty applicable on August 5, 2002, until such time as the President proclaims duty free treatment for such article; and

(2) such entries shall be liquidated or reliquidated as if the reduced duty preferential treatment applied, and the Secretary of the Treasury shall refund any excess duties paid with respect to such entry.

(b) ENTRY.—As used in this subsection, the term "entry" includes a withdrawal from warehouse for consumption.

(c) REQUESTS.—Liquidation or reliquidation may be made under paragraph (1) with respect to an entry only if a request therefore is filed with the Customs Service, within 180 days after the date of enactment of this Act, and such request contains sufficient information to enable the Customs Service—

(1) to locate the entry; or

(2) to reconstruct the entry if it cannot be located.

On page 257, strike lines 18 through 21 and insert the following:

(d) TARIFF ACT OF 1930.—Section 505(a) of the Tariff Act of 1930 is amended—

(1) in the first sentence—

(A) by inserting "referred to in this subsection" after "periodic payment"; and

(B) by striking "10 working days" and inserting "12 working days"; and

(2) in the second sentence, by striking "a participating" and all that follows through the end of the sentence and inserting the following: "the Secretary shall promulgate regulations permitting a participating importer of record to deposit estimated duties and fees for entries of merchandise, other than merchandise entered for warehouse, transportation, or under bond, no later than the 15 working days following the month in which the merchandise is entered or released, whichever comes first.".

On page 258, between lines 20 and 21, insert the following:

(g) LIMITATION ON CUSTOMS USER FEES.

(1) Section 13031(b)(9)(A) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)(A)) is amended by striking "less than $2,000" and inserting "$2,000 or less".

(2) Section 13031(b)(9)(A)(ii) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)(A)(ii)) is amended to read as follows:

"(ii) Notwithstanding subsection (e)(6) and subject to the provisions of subparagraph (B), in the case of an express consignment carrier facility or centralized hub facility—

"(I) $.66 per individual airway bill or bill of lading; and

"(II) if the merchandise is formally entered, the fee provided for in subsection (a)(9), if applicable.".

(3) Section 13031(b)(9)(B)(ii) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)(B)(ii)) is amended by striking "subparagraph (A)(ii)" and inserting "subparagraph (A)(ii) (I) or (II)".

(h) DEFINITION OF FABRIC.—Section 112(e) of the African Growth and Opportunity Act (19 U.S.C. 3721(e)) is amended by adding at the end the following:

"(4) FABRIC.—The term 'fabric' includes knit fabric components formed as components other than components considered as major parts.".

(i) LABELING REQUIREMENTS.—

(1) IN GENERAL.—Section 4(b) of the Textile Fiber Identification Act (15 U.S.C. 70b) is amended by adding at the end the following new subsection:

"(k) MARKING OF CERTAIN SOCK PRODUCTS.—

"(1) Notwithstanding any other provision of law, socks provided for in subheading 6115.92.90, 6115.93.90, 6115.99.18, 6111.20.60, 6111.30.50, or 6111.90.50 of the Harmonized Tariff Schedule of the United States, as in effect on September 1, 2003, shall be marked as legibly, indelibly, and permanently as the nature of the article or package will permit in such a manner as to indicate to the ultimate consumer in the United States the English name of the country of origin of the article. The marking required by this subsection shall be on the front of the package, adjacent to the size designation of the product, and shall be set forth in such a manner as to be clearly legible, conspicuous, and readily accessible to the ultimate consumer.

"(2) EXCEPTIONS.—Any package that contains several different types of goods and includes socks classified under subheading 6115.92.90, 6115.93.90, 6115.99.18, 6111.20.60, 6111.30.50, or 6111.90.50 of the Harmonized Tariff Schedule of the United States, as in effect on September 1, 2003, shall not be subject to the requirements of paragraph (1).".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date that is 15 months after the date of

enactment of this Act, and on and after the date that is 15 months after such date of enactment, any provision of part 303 of title 16 of the Code of Federal Regulation that is inconsistent with such amendment shall not apply.

(j) Entries of Certain Apparel Articles Pursuant to the Caribbean Basin Economic Recovery Act or the African Growth and Opportunity Act.—

(1) In general.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, the Customs Service shall liquidate or reliquidate as free of duty and free of any quantitative restrictions, limitations, or consultation levels entries of articles described in paragraph (4) made on or after October 1, 2000.

(2) Requests.—Liquidation or reliquidation may be made under paragraph (1) with respect to an entry described in paragraph (4) only if a request therefor is filed with the Customs Service within 90 days after the date of the enactment of this Act and the request contains sufficient information to enable the Customs Service to locate the entry or reconstruct the entry if it cannot be located.

(3) Payment of amounts owed.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of any entry under paragraph (1) shall be paid not later than 180 days after the date of such liquidation or reliquidation.

(4) Entries.—The entries referred to in paragraph (1) are—

(A) entries of apparel articles (other than socks classifiable under heading 6111 or 6115 of the Harmonized Tariff Schedule of the United States) that meet the requirements of section 213(b)(2)(A) of the Caribbean Basin Economic Recovery Act (as amended by section 3107(a) of the Trade Act of 2002 and section 2004(c) of this Act); and

(B) entries of apparel articles that meet the requirements of section 112(b) of the African Growth and Opportunity Act (as amended by section 3108 of the Trade Act of 2002 and section 2004(b) of this Act).

(k) Extension of Industry Trade Advisory Committees.—

(1) In general.—Section 135(f)(2) of the Trade Act of 1974 (19 U.S.C. 2155(f)(2)) is amended to read as follows:

"(2) to all other advisory committees which may be established under subsection (c) of this section, except that—

"(A) the meetings of advisory committees established under subsections (b) and (c) of this section shall be exempt from the requirements of subsections (a) and (b) of sections 10 and 11 of the Federal Advisory Committee Act (relating to open meetings, public notice, public participation, and public availability of documents), whenever and to the extent it is determined by the President or the President's designee that such meetings will be concerned with matters the disclosure of which would seriously compromise the development by the United States Government of trade policy, priorities, negotiating objectives, or bargaining positions with respect to matters referred to in subsection (a) of this section, and that meetings may be called of such special task forces, plenary meetings of chairmen, or other such groups made up of members of the committees established under subsections (b) and (c) of this section; and

"(B) notwithstanding subsection (a)(2) of section 14 of the Federal Advisory Committee Act, any committee established under subsection (b) or (c) may, in the discretion of the President or the President's designee, terminate not later than the expiration of the 4-year period beginning on the date of their establishment.".

(2) Conforming amendment.—Section 135(b)(1) of the Trade Act of 1974 (19 U.S.C. 2155(b)(1)) is amended by striking "2 years" and inserting "4 years or until the committee is scheduled to expire".

(3) Effective date.—The amendments made by this subsection shall take effect on February 1, 2006.

On page 259, strike lines 6 through 8, and insert "amounts authorized to be transferred from funds in the general fund of the Treasury not to exceed $32,000,000."

On page 259, line 11, strike "in the" and insert "authorized to the".

On page 259, begining on line 23, strike "close of" and all that follows through line 25, and insert "date of enactment of the appropriations authorized under this section."

On page 260, line 3, strike "$16,000,000" and insert "an amount not to exceed $16,000,000".

On page 260, line 14, strike "$16,000,000" and insert "an amount not to exceed $16,000,000".

On page 261, lines 5 through 7, strike ", and is appropriated out of amounts in the general fund of the Treasury not otherwise appropriated,".

On page 268, after line 5, insert the following:

TITLE IV—IRAQI CULTURAL ANTIQUITIES

SEC. 4001. SHORT TITLE.

This title may be cited as the "Emergency Protection for Iraqi Cultural Antiquities Act of 2003".

SEC. 4002. EMERGENCY IMPLEMENTATION OF IMPORT RESTRICTIONS.

(a) Authority.—The President may exercise the authority of the President under section 304 of the Convention on Cultural Property Implementation Act (19 U.S.C. 2603) with respect to any archaeological or ethnological material of Iraq as if Iraq were a State Party under that Act, except that, in exercising such authority, subsection (c) of such section shall not apply.

(b) Definition.—In this section, the term "archaeological or ethnological material of Iraq" means cultural property of Iraq and other items of archaeological, historical, cultural, rare scientific, or religious importance illegally removed from the Iraq National Museum, the National Library of Iraq, and other locations in Iraq, since the adoption of United Nations Security Council Resolution 661 of 1990.

SEC. 4003. TERMINATION OF AUTHORITY.

The authority of the President under section 4002 shall terminate upon the earlier of—

(1) the date that is 5 years after the date on which the President certifies to Congress that normalization of relations between the United States and the Government of Iraq has been established; or

(2) September 30, 2009.

TITLE V—COTTON FABRICS

SEC. 5001. TEMPORARY DUTY REDUCTIONS FOR CERTAIN COTTON SHIRTING FABRIC.

(a) Certain Cotton Shirting Fabrics.—

(1) In general.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"	9902.52.08	Woven fabrics of cotton, all the foregoing certified by the importer as suitable for use in making men's and boys' shirts and as imported by or for the benefit of a manufacturer of men's and boys' shirts, subject to the quantity limitations contained in general note 18 of this subchapter (provided for in section 204(b)(3)(B)(i)(III) of the Andean Trade Preference Act (19 U.S.C. 3203))	Free	No change	No change	On or before 12/31/2006	
	9902.52.09	Woven fabrics of cotton, all the foregoing certified by the importer as containing 100 percent pima cotton grown in the United States, as suitable for use in making men's and boys' shirts, and as imported by or for the benefit of a manufacturer of men's and boys' shirts (provided for in section 204(b)(3)(B)(i)(III) of the Andean Trade Preference Act (19 U.S.C. 3203))	Free	No change	No change	On or before 12/31/2006	".

(2) Definitions and limitation on quantity of imports.—The U.S. Notes to chapter 99 are amended by adding at the end the following:

"17. For purposes of subheadings 9902.52.08 and 9902.52.09, the term 'making' means cutting and sewing in the United States, and the term 'manufacturer' means a person or entity that cuts and sews in the United States.

"18. The aggregate quantity of cotton fabrics entered under subheading 9902.52.08 from January 1 to December 31 of each year, inclusive, by or on behalf of each manufacturer of men's and boys' shirts shall be limited to 85 percent of the total square meter equivalents of all imported cotton woven fabric used by such manufacturer in cutting and sewing men's and boys' cotton shirts in the United States and purchased by such manufacturer during calendar year 2000.".

(b) Determination of Tariff-Rate Quotas.—

(1) Authority to issue licenses and license use.—To implement the limitation on the quantity of imports of cotton woven fabrics under subheading 9902.52.08 of the Harmonized Tariff Schedule of the United States, as required by U.S. Note 18 to subchapter II of chapter 99 of such Schedule, for the entry, or withdrawal from warehouse for consumption, the Secretary of Commerce shall issue licenses designating eligible manufacturers and the annual quantity restrictions under each such license. A licensee may assign the authority (in whole or in part) to import fabric under subheading 9902.52.08 of such Schedule.

(2) Licenses under U.S. note 18.—For purposes of U.S. Note 18 to subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States, as added by subsection (a)(2), a license shall be issued within 60 days of an application containing a notarized affidavit from an officer of the manufacturer that the manufacturer is eligible to receive a license and stating the quantity of imported cotton woven fabric purchased during calendar year 2000 for use in the cutting and sewing men's and boys' shirts in the United States.

(3) AFFIDAVITS.—For purposes of an affidavit described in this subsection, the date of purchase shall be—

(A) the invoice date if the manufacturer is not the importer of record; and

(B) the date of entry if the manufacturer is the importer of record.

SEC. 5002. COTTON TRUST FUND.

(a) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the "Pima Cotton Trust Fund", consisting of amounts authorized to be transferred from funds in the general fund of the Treasury not to exceed $32,000,000.

(b) GRANTS.—

(1) GENERAL PURPOSE.—From amounts authorized to the Pima Cotton Trust Fund, the Secretary of Commerce is authorized to provide grants to spinners of United States grown pima cotton, manufacturers of men's and boys' cotton shirting, and a nationally recognized association that promotes the use of pima cotton grown in the United States, to assist such spinners and manufacturers in maximizing United States employment in the production of textile or apparel products and to increase the promotion of the use of United States grown pima cotton respectively.

(2) TIMING FOR GRANT AWARDS.—The Secretary of the Treasury shall, not later than 180 days after the date of enactment of this section, establish guidelines for the application and awarding of the grants described in paragraph (1), and shall award such grants to qualified applicants not later than 90 days after the date of enactment of the appropriations authorized under this section. Each grant awarded under this section shall be distributed to the qualified applicant in 2 equal annual installments.

(3) DISTRIBUTION OF FUNDS.—Of the amounts in the Pima Cotton Trust Fund—

(A) an amount not to exceed $8,000,000 shall be made available to a nationally recognized association established for the promotion of pima cotton grown in the United States for the use in textile and apparel goods;

(B) an amount not to exceed $8,000,000 shall be made available to yarn spinners of pima cotton grown in the United States, and shall be allocated to each spinner based on the percentage of the spinner's production of ring spun cotton yarns, measuring less than 83.33 decitex (exceeding 120 metric number), from pima cotton grown in the United States in single and plied form during calendar year 2002 (as evidenced by an affidavit provided by the spinner), compared to the production of such yarns for all spinners who qualify under this subparagraph; and

(C) an amount not to exceed $16,000,000 shall be made available to manufacturers who cut and sew cotton shirts in the United States and that certify that they used imported cotton fabric during the period January 1, 1998, through July 1, 2003, and shall be allocated to each manufacturer on the bases of the dollar value (excluding duty, shipping, and related costs) of imported woven cotton shirting fabric of 80s or higher count and 2-ply in warp purchased by the manufacturer during calendar year 2002 (as evidenced by an affidavit from the manufacturer) used in the manufacturing of men's and boys' cotton shirts, compared to the dollar value (excluding duty, shipping, and related costs) of such fabric for all manufacturers who qualify under this subparagraph.

(4) AFFIDAVIT OF SHIRTING MANUFACTURERS.—For purposes of paragraph (3)(C), an officer of the manufacturer of men's and boys' shirts shall provide a notarized affidavit affirming—

(A) that the manufacturer used imported cotton fabric during the period January 1, 1998, through July 1, 2003, to cut and sew men's and boys' woven cotton shirts in the United States;

(B) the dollar value of imported woven cotton shirting fabric of 80s or higher count and 2-ply in warp purchased during calendar year 2002;

(C) that the manufacturer maintains invoices along with other supporting documentation (such as price lists and other technical descriptions of the fabric qualities) showing the dollar value of such fabric purchased, the date of purchase, and evidencing the fabric as woven cotton fabric of 80s or higher count and 2-ply in warp; and

(D) that the fabric was suitable for use in the manufacturing of men's and boys' cotton shirts.

(5) DATE OF PURCHASE.—For purposes of the affidavit required by paragraph (4), the date of purchase shall be the invoice date, and the dollar value shall be determined excluding duty, shipping, and related costs.

(6) AFFIDAVIT OF YARN SPINNERS.—For purposes of paragraph (3)(B), an officer of a company that produces ringspun yarns shall provide a notarized affidavit affirming—

(A) that the manufacturer used pima cotton grown in the United States during the period January 1, 2002, through December 31, 2002, to produce ring spun cotton yarns, measuring less than 83.33 decitex (exceeding 120 metric number), in single and plied form during 2002;

(B) the quantity, measured in pounds, of ring spun cotton yarns, measuring less than 83.33 decitex (exceeding 120 metric number), in single and plied form during calendar year 2002; and

(C) that the manufacturer maintains supporting documentation showing the quantity of such yarns produced, and evidencing the yarns as ring spun cotton yarns, measuring less than 83.33 decitex (exceeding 120 metric number), in single and plied form during calendar year 2002.

(7) NO APPEAL.—Any grant awarded by the Secretary under this section shall be final and not subject to appeal or protest.

(c) AUTHORIZATION.—There is authorized to be appropriated such sums as are necessary to carry out the provisions of this section, including funds necessary for the administration and oversight of the grants provided for in this section.

TITLE VI—Technical Amendments Relating to Entry and Protest

SEC. 6001. ENTRY OF MERCHANDISE.

(a) IN GENERAL.—Section 484(a) of the Tariff Act of 1930 (19 U.S.C. 1484) is amended—

(1) by amending paragraph (1)(A) to read as follows:

"(A) make entry therefor by filing with the Customs Service—

"(i) such documentation; or

"(ii) pursuant to an electronic data interchange system, such information as is necessary to enable the Customs Service to determine whether the merchandise may be released from customs custody; and";

(2) in paragraph (1)(B), by inserting after "entry" the following: ", or substitute 1 or more reconfigured entries on an import activity summary statement,"; and

(3) in paragraph (2)(A)—

(A) by inserting after "statements" the following: "and permit the filing of reconfigured entries,"; and

(B) by adding at the end the following: "Entries filed under paragraph (1)(A) shall not be liquidated if covered by an import activity summary statement, but instead each reconfigured entry in the import activity summary statement shall be subject to liquidation or reliquidation pursuant to section 500, 501, or 504.".

(b) RECONCILIATION.—Section 484(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1484(b)(1)) is amended by striking "15 months" and inserting "21 months".

SEC. 6002. LIMITATION ON LIQUIDATIONS.

Section 504 of the Tariff Act of 1930 (19 U.S.C. 1504) is amended—

(1) in subsection (a)—

(A) by striking "or" at the end of paragraph (3);

(B) in paragraph (4), by striking "filed;" and inserting "filed, whichever is earlier; or"; and

(C) by inserting after paragraph (4) the following:

"(5) if a reconfigured entry is filed under an import activity summary statement, the date the import activity summary statement is filed or should have been filed, whichever is earlier;"; and

(2) by striking "at the time of entry" each place it appears.

SEC. 6003. PROTESTS.

Section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "(relating to refunds and errors) of this Act" and inserting "(relating to refunds), any clerical error, mistake of fact, or other inadvertence, whether or not resulting from or contained in an electronic transmission, adverse to the importer, in any entry, liquidation, or reliquidation, and";

(B) in paragraph (5), by inserting ", including the liquidation of an entry, pursuant to either section 500 or section 504;" after "thereof"; and

(C) in paragraph (7), by striking "(c) or"; and

(2) in subsection (c)—

(A) in paragraph (1), in the sixth sentence, by striking "A protest may be amended," and inserting "Unless a request for accelerated disposition is filed under section 515(b), a protest may be amended,";

(B) in paragraph (3)(A), by striking "notice of" and inserting "date of"; and

(C) in paragraph (3)—

(i) by striking "ninety days" and inserting "180 days"; and

(ii) by striking "90 days" and inserting "180 days".

SEC. 6004. REVIEW OF PROTESTS.

Section 515(b) of the Tariff Act of 1930 (19 U.S.C 1515(b)) is amended by striking "after ninety days" and inserting "concurrent with or".

SEC. 6005. REFUNDS AND ERRORS.

Section 520(c) of the Tariff Act of 1930 (19 U.S.C 1520(c)) is repealed.

SEC. 6006. DEFINITIONS AND MISCELLANEOUS PROVISIONS.

Section 401 of the Tariff Act of 1930 (19 U.S.C 1401) is amended by adding at the end the following:

"(t) RECONFIGURED ENTRY.—The term 'reconfigured entry' means an entry filed on an import activity summary statement which substitutes for all or part of 1 or more entries filed under section 484(a)(1)(A) or filed on a reconciliation entry that aggregates the entry elements to be reconciled under section 484(b) for purposes of liquidation, reliquidation, or protest.".

SEC. 6007. VOLUNTARY RELIQUIDATIONS.

Section 501 of the Tariff Act of 1930 (19 U.S.C 1501) is amended by inserting "or 504" after "section 500".

SEC. 6008. EFFECTIVE DATE.

The amendments made by this title shall apply to merchandise entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

TITLE VII—EXTENSION OF SUSPENSIONS

SEC. 7001. EXTENSION OF DUTY SUSPENSIONS.

Except as provided in sections 1303, 1309, 1380, 1388, 1389, 1392, 1393, 1394, 1419, and 1420, each of the headings of the Harmonized Tariff Schedule added by chapter 1 of subtitle A of title I is amended by striking the date in the effective period column and inserting "12/31/2006".

SA 2679. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. SENSE OF THE SENATE.

(a) FINDINGS.—The Senate makes the following findings:

(1) Manufacturing is critical to the health of the United States economy, generating high quality products, personal opportunity, careers, wealth, high standards of living, and economic growth.

(2) In July 2000 the manufacturing sector slipped into recession and since has lost 2,700,000 high paying manufacturing jobs, while the rest of the economy has added 623,000 jobs.

(3) The manufacturing sector faces intense global competition, making it difficult for many firms to operate profitably and earn a sufficient return on capital invested.

(4) The manufacturing sector in the United States seeks a global level playing field for competition and markets.

(5) China entered the World Trade Organization (WTO) in December 2001 and agreed to abide by the commitments ascribed in its accession.

(6) United States investors and exporters recognize the opportunity of doing business with China but have raised serious concerns that many of the commitments China made upon joining the WTO have not yet been implemented or implementation has been inadequate.

(7) A clear example of injury committed by China to a United States industry can be found in the United States candle industry, where between 1997 and 2002, imports of wax candles from China increased from 46,000,000 pounds to 174,000,000 pounds and where in 2002 alone, the United States candle industry lost 128,000,000 pounds in sales to the Chinese.

(8) Market barriers and unfair trade practices continue to exist in China, including high tariffs, subsidies, technical trade restrictions, counterfeiting, violations of intellectual property rights, and nonmarket-based industrial, economic, and financial policies that limit United States exports.

(9) United States manufacturers will not be able to achieve a fair and level playing field with their Chinese counterparts because of the costs associated with the United States regulatory framework, e.g., compliance with labor and environmental regulations, as well as healthcare costs, which are non-existent costs for Chinese companies.

(10) The currency of China, the yuan, has been fixed relative to the United States dollar since 1994.

(11) A systemically misvalued currency by any large country can have damaging trade-distorting effects on both that country and its trading partners by decreasing the price of exports of products of that country and increasing the price of imports to that country.

(12) The market-based valuation of currencies is a key component to resilient global trading systems by enabling smoother transitions to reflect underlying economic fundamentals in a country.

(13) The President's Chairman of the Council of Economic Advisors recently described the outsourcing of American jobs overseas "as a good thing" and said, "outsourcing is just a new way of doing international trade".

(14) Job retention and creation are essential to the economic stability of the United States and the administration should pursue policies that serve as an engine for economic growth, higher wage jobs, and increased productivity.

(15) A salient example of the trade barriers faced by United States manufacturers is the lack of adequate intellectual property protection and enforcement in the markets of some of America's major trading partners.

(16) For United States manufacturers, protection of intellectual property is not an abstract concept. America's competitive edge ensues directly from innovation and rising productivity. Intellectual property protection is the best means for ensuring that American manufacturers enjoy the benefits of their investments in research and development and of their efforts to raise productivity.

(17) To the extent that United States investment in research and development provides a competitive edge in the marketplace, the protection of the intellectual property developed by United States manufacturers, which embodies the product of that research, becomes critical to the future of the manufacturing sector.

(18) It is estimated that counterfeits account for 15 to 20 percent of all products made in China and accounts for about 8 percent of China's Gross Domestic Product.

(19) Industry analysts estimate that intellectual property rights piracy in China cost United States firms $1,850,000,000 in lost sales in 2002.

(20) Under the terms of China's WTO accession, China agreed to immediately bring its intellectual property rights laws in compliance with the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS).

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) the United States Trade Representative should continue to actively encourage China's compliance with its WTO commitments, specifically with regard to intellectual property rights violations;

(2) the Secretary of the Treasury should encourage the Chinese to make the significant structural reforms, particularly in the banking sector, to ensure that China can effectively adopt a more flexible exchange rate regime;

(3) the Senate urges the President, the Secretary of the Treasury, and the United States Trade Representative to continue their strong dialogue with China, and if these discussions fail to produce immediate, meaningful results, the Senate urges the United States Trade Representative to commence a review under section 301 of the Trade Act of 1974;

(4) the Senate should oppose any efforts to encourage the outsourcing of American jobs overseas;

(5) the Senate should adopt legislation providing for a manufacturing tax incentive to encourage job creation in the United States and oppose efforts to make it cheaper to send jobs overseas;

(6) the Secretary of Commerce should aggressively pursue those foreign producers and importers who have violated United States trade law and when violations have resulted in the injury of United States industry, the Secretary of Commerce should impose the maximum penalty within the confines of our trade laws;

(7) the United States Trade Representative should promote the protection of United States intellectual property abroad by expanding cooperative efforts with developing country trading partners to encourage the full implementation of their obligations under the WTO's Agreement on Trade Related Aspects of Intellectual Property (TRIPS);

(8) the administration should pursue a policy of aggressive investigation of allegations of theft of intellectual property, particularly allegations in which American manufacturers are compelled to divulge intellectual property as a condition of market access or investment; and

(9) the administration should pursue a policy of aggressive enforcement of our existing intellectual property laws, and in so doing, shall continue to work hand in hand with business and industry to identify and prosecute counterfeiters.

SA 2680. Mr. MCCONNELL (for himself and Mr. FRIST) proposed an amendment to amendment SA 2660 proposed by Mr. DODD (for himself, Mr. COLEMAN, Mr. KENNEDY, Mr. CORZINE, Ms. MIKULSKI, and Mr. FEINGOLD) to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; as follows:

On page 7, strike lines 10 through 14 and insert the following:

This title and the amendments made by this title shall take effect 30 days after the Secretary of Commerce certifies that the amendments made by this title will not result in the loss of more jobs than it will protect and will not cause harm to the U.S. economy. Such certification must be renewed on or before January 1 of each year in order for the amendments made by this title to be in effect for that year.

SA 2681. Mr. LEVIN (for himself and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. SENSE OF CONGRESS REGARDING NEGOTIATING, IN THE UNITED STATES-THAILAND FREE TRADE AGREEMENT, ACCESS TO THE UNITED STATES AUTOMOBILE INDUSTRY.

(a) Findings.—Congress makes the following findings:

(1) The United States Trade Representative recently announced an intention to negotiate a free trade agreement (FTA) with Thailand.

(2) Properly structured FTAs may have important benefits for the United States, and a bilateral free trade agreement program pursued under a coherent policy and strategy may play an important role in United States trade policy.

(3) The global automobile market is subject to inherently multilateral problems that need to be addressed on a multilateral basis, including numerous, widespread, and complex nontariff barriers maintained by major producing countries.

(4) Providing Thailand privileged access to critical segments of the United States automobile market would significantly erode United States leverage to negotiate reductions to global automobile market distortions in multilateral negotiations, because producers from third countries would be able to benefit from the privileged access of Thailand under the FTA.

(5) Thailand is the second largest source of pick-up truck production in the world, with many major automobile manufacturers from outside of Thailand producing pick-up trucks there.

(6) Thailand's Board of Investment has actively been recruiting automobile producers from outside of Thailand, including Japan, South Korea, and India, to produce automobiles in Thailand, and some of these producers have cited Thailand's privileged access to foreign markets through FTAs as a rationale for setting up production in Thailand.

(7) Many of these producers from outside of Thailand have moved their pick-up truck production out of their home countries and into Thailand in order to make Thailand their global pick-up truck production and export bases.

(8) As a result of this activity by automobile producers from outside of Thailand, pick-up truck production in Thailand will soon approach 1,000,000 units annually, and could grow even larger.

(9) Given these facts, if Thailand were given privileged access to critical segments of the United States automobile market in an FTA, it could be used by third-country automobile producers as a backdoor into the United States market; however, Japan, South Korea, India, and other major producing countries would not be required to reduce their tariff and nontariff barriers to United States automobile producers, and in fact the tariff and nontariff barriers maintained by those countries would continue to distort global markets and restrict the access of United States exports to markets in those countries.

(10) Given that these third-country producers would already have privileged access to the United States market through the United States-Thailand FTA, their home countries would have less incentive to address the inherently multilateral problems in the global automobile market through negotiations on a multilateral basis.

(11) The United States automobile industry is a major driver of the United States economy—accounting annually for between 3 and 4 percent of the gross domestic product (GDP) of the United States, leading all United States industries in annual research and development spending, directly employing over 500,000 highly skilled and efficient workers in jobs that pay on average 60 percent higher than the average United States job, and supporting the jobs of over 7,000,000 other workers—and it has played a critical role in efforts to revive the United States economy.

(b) Sense of Congress.—It is the sense of Congress that negotiations on access to critical segments of the United States automobile market should not take place on a piecemeal basis, but only—

(1) as part of negotiations that include all major automobile producing nations; and

(2) as part of comprehensive negotiations that address both tariff and nontariff barriers specific to the automobile industry, with progress on eliminating tariff barriers explicitly linked to concrete progress on eliminating nontariff barriers.

SA 2682. Mr. SMITH (for himself, Mrs. Lincoln, Mr. Bunning, Mr. Wyden, Mr. Specter, Mr. Breaux, and Mr. Kohl) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, after line 25, insert the following:

SEC. ___. PREMIUMS FOR MORTGAGE INSURANCE.

(a) In General.—Paragraph (3) of section 163(h) (relating to qualified residence interest) is amended by adding after subparagraph (D) the following new subparagraph:

"(E) Mortgage insurance premiums treated as interest.—

"(i) In general.—Premiums paid or accrued for qualified mortgage insurance by a taxpayer during the taxable year in connection with acquisition indebtedness with respect to a qualified residence of the taxpayer shall be treated for purposes of this subsection as qualified residence interest.

"(ii) Phaseout.—The amount otherwise allowable as a deduction under clause (i) shall be reduced (but not below zero) by 10 percent of such amount for each $1,000 ($500 in the case of a married individual filing a separate return) (or fraction thereof) that the taxpayer's adjusted gross income for the taxable year exceeds $100,000 ($50,000 in the case of a married individual filing a separate return).".

(b) Definition and Special Rules.—Paragraph (4) of section 163(h) (relating to other definitions and special rules) is amended by adding at the end the following new subparagraphs:

"(E) Qualified mortgage insurance.—The term 'qualified mortgage insurance' means—

"(i) mortgage insurance provided by the Home Loan Guaranty Program of the Department of Veterans Affairs, the Federal Housing Administration, or the Rural Housing Administration, and

"(ii) private mortgage insurance (as defined by section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901), as in effect on the date of the enactment of this subparagraph).

"(F) Special rules for prepaid qualified mortgage insurance.—Any amount paid by the taxpayer for qualified mortgage insurance that is properly allocable to any mortgage the payment of which extends to periods that are after the close of the taxable year in which such amount is paid shall be chargeable to capital account and shall be treated as paid in such periods to which so allocated. No deduction shall be allowed for the unamortized balance of such account if such mortgage is satisfied before the end of its term. The preceding sentences shall not apply to amounts paid for qualified mortgage insurance provided by the Department of Veterans Affairs or the Rural Housing Administration.".

(c) Information Returns Relating to Mortgage Insurance.—Section 6050H (relating to returns relating to mortgage interest received in trade or business from individuals) is amended by adding at the end the following new subsection:

"(h) Returns Relating to Mortgage Insurance Premiums.—

"(1) In general.—The Secretary may prescribe, by regulations, that any person who, in the course of a trade or business, receives from any individual premiums for mortgage insurance aggregating $600 or more for any calendar year, shall make a return with respect to each such individual. Such return shall be in such form, shall be made at such time, and shall contain such information as the Secretary may prescribe.

"(2) Statement to be furnished to individuals with respect to whom information is required.—Every person required to make a return under paragraph (1) shall furnish to each individual with respect to whom a return is made a written statement showing such information as the Secretary may prescribe. Such written statement shall be furnished on or before January 31 of the year following the calendar year for which the return under paragraph (1) was required to be made.

"(3) Special rules.—For purposes of this subsection—

"(A) rules similar to the rules of subsection (c) shall apply, and

"(B) the term 'mortgage insurance' means—

"(i) the Home Loan Guaranty Program of the Department of Veterans Affairs, and mortgage insurance provided by the Federal Housing Administration or the Rural Housing Administration, and

"(ii) private mortgage insurance (as defined by section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901), as in effect on the date of the enactment of this subparagraph).".

(d) Effective Date.—The amendments made by this section shall apply to amounts paid or accrued after the date of enactment of this Act in taxable years ending after such date.

SA 2683. Mr. SANTORUM (for himself, Mr. Nelson of Florida, and Mr. Kyl) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 166 of amendment number 2645, as agreed to, between lines 15 and 16, insert the following:

SEC. ___. 7-YEAR RECOVERY PERIOD FOR MOTORSPORTS ENTERTAINMENT COMPLEXES.

(a) 7-YEAR PROPERTY.—Subparagraph (C) of section 168(e)(3) of the Internal Revenue Code of 1986 (relating to classification of certain property) is amended by redesignating clause (ii) as clause (iii) and by inserting after clause (i) the following new clause:

"(ii) any motorsports entertainment complex, and".

(b) DEFINITION.—Section 168(i) of such Code (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(15) MOTORSPORTS ENTERTAINMENT COMPLEX.—

"(A) IN GENERAL.—The term 'motorsports entertainment complex' means a racing track facility that is permanently situated on land and which during the applicable period is scheduled to host one or more racing events for automobiles (of any type), trucks, or motorcycles that are open to the public for the price of admission.

"(B) ANCILLARY AND SUPPORT FACILITIES.—Such term shall include, if owned by the complex and provided for the benefit of patrons of the complex—

"(i) ancillary grounds and facilities and land improvements in support of the complex's activities (including parking lots, sidewalks, waterways, bridges, fences, and landscaping),

"(ii) support facilities (including food and beverage retailing, souvenir vending, and other nonlodging accommodations), and

"(iii) appurtenances associated with such facilities and related attractions and amusements (including ticket booths, race track surfaces, suites and hospitality facilities, grandstands and viewing structures, props, walls, facilities that support the delivery of entertainment services, other special purpose structures, facades, shop interiors, and buildings).

"(C) EXCEPTION.—Such term shall not include any transportation equipment, administrative services assets, warehouses, administrative buildings, hotels, or motels.

"(D) APPLICABLE PERIOD.—For purposes of subparagraph (A), the term 'applicable period' means the period ending the later of the last day of—

"(i) the 24 month period following the first day of the month in which the asset is or was placed in service, or

"(ii) the 24 month period ending December 31, 2003, to the extent that the asset remains in service during such period.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to any property placed in service before, on, or after the date of the enactment of this Act.

(2) TRANSITION RULE FOR PROPERTY PLACED IN SERVICE ON OR BEFORE ENACTMENT.—In the case of property placed in service on or before the date of the enactment of this Act, the taxpayer may elect (in such form and manner as the Secretary may prescribe), not to apply section 168 of the Internal Revenue Code of 1986 (as amended by this section) to such property.

SA 2684. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE ___—UNEMPLOYMENT COMPENSATION

SEC. ___01. EXTENSION OF THE TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 2002.

(a) IN GENERAL.—Section 208 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30), as amended by Public Law 108–1 (117 Stat. 3) and the Unemployment Compensation Amendments of 2003 (Public Law 108–26; 117 Stat. 751), is amended—

(1) in subsection (a)(2), by striking "December 31, 2003" and inserting "June 30, 2004";

(2) in subsection (b)(1), by striking "December 31, 2003" and inserting "June 30, 2004";

(3) in subsection (b)(2)—

(A) in the heading, by striking "DECEMBER 31, 2003" and inserting "JUNE 30, 2004"; and

(B) by striking "December 31, 2003" and inserting "June 30, 2004"; and

(4) in subsection (b)(3), by striking "March 31, 2004" and inserting "September 30, 2004".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 21).

SEC. ___02. ADDITIONAL REVISION TO CURRENT TEUC–X TRIGGER.

(a) IN GENERAL.—Section 203(c)(2)(B) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30) is amended to read as follows:

"(B) such a period would then be in effect for such State under such Act if—

"(i) section 203(d) of such Act were applied as if it had been amended by striking '5' each place it appears and inserting '4'; and

"(ii) with respect to weeks of unemployment beginning after December 27, 2003—

"(I) paragraph (1)(A) of such section 203(d) did not apply; and

"(II) clause (ii) of section 203(f)(1)(A) of such Act did not apply.".

(b) APPLICATION.—Section 203(c)(2)(B)(ii) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 30), as added by subsection (a), shall apply with respect to payments for weeks of unemployment beginning on or after the date of enactment this Act.

SEC. ___03. TEMPORARY STATE AUTHORITY TO WAIVE APPLICATION OF LOOKBACKS UNDER THE FEDERAL-STATE EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 1970.

For purposes of conforming with the provisions of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note), a State may, during the period beginning on the date of enactment of this Act and ending on June 30, 2004, waive the application of either subsection (d)(1)(A) of section 203 of such Act or subsection (f)(1)(A)(ii) of such section, or both.

SA 2685. Mr. THOMAS (for Mr. MCCAIN (for himself and Mr. WARNER)) proposed an amendment to amendment SA 2660 proposed by Mr. DODD (for himself, Mr. COLEMAN, Mr. KENNEDY, Mr. CORZINE, Ms. MIKULSKI, and Mr. FEINGOLD) to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; as follows:

On page 5, insert after line 16 the following:

(e) NATIONAL SECURITY EXEMPTION.—Subsection (b) shall not apply to any procurement for national security purposes entered into by:

(1) the Department of Defense or any agency or entity thereof;

(2) the Department of the Army, the Department of the Navy, the Department of the Air Force, or any agency or entity of any of the military departments;

(3) the Department of Homeland Security;

(4) the Department of Energy or any agency or entity thereof, with respect to the national security programs of that Department; or

(5) any element of the intelligence community.

SA 2686. Mr. BUNNING (for himself, Ms. STABENOW, Mrs. FEINSTEIN, Mr. LEVIN, Mr. KOHL, and Mr. ROCKEFELLER) proposed an amendment to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; as follows:

On page 71, strike lines 17 through 21, and the matter before line 22, and insert the following:

"(2) PHASEIN.—In the case of taxable years beginning in 2004, 2005, 2006, 2007, or 2008, paragraph (1) shall be applied by substituting for the percentage contained therein the transition percentage determined under the following table:

"Taxable years beginning in:	The transition percentage is:
2004, 2005, or 2006	5
2007	6
2008	7.

SA 2687. Mr. GRASSLEY (for Mr. BAYH (for himself, Mr. SANTORUM, Mr. BUNNING, Mr. GRASSLEY, Mr. BAUCUS, and Mr. DORGAN)) proposed an amendment to amendment SA 2686 proposed by Mr. BUNNING (for himself, Ms. STABENOW, Mrs. FEINSTEIN, Mr. LEVIN, Mr. KOHL, and Mr. ROCKEFELLER) to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; as follows:

At the end of the amendment add the following:

TITLE V—EXTENSIONS OF CERTAIN EXPIRING PROVISIONS

Subtitle A—Extensions

SEC. 501. PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.

(a) In General.—Section 9812(f) is amended—

(1) by striking "and" at the end of paragraph (1), and

(2) by striking paragraph (2) and inserting the following new paragraphs:

"(2) on or after January 1, 2004, and before the date of the enactment of the Jumpstart Our Business Strength (JOBS) Act, and

"(3) after December 31, 2005.".

(b) ERISA.—Section 712(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185a(f)) is amended by striking "on or after December 31, 2004" and inserting "after December 31, 2005".

(c) PHSA.—Section 2705(f) of the Public Health Service Act (42 U.S.C. 300gg-5(f)) is amended by striking "on or after December 31, 2004" and inserting "after December 31, 2005".

(d) Effective Dates.—

(1) Subsection (a).—The amendments made by subsection (a) shall apply to benefits for services furnished on or after December 31, 2003.

(2) Subsections (b) and (c).—The amendments made by subsections (b) and (c) shall apply to benefits for services furnished on or after December 31, 2004.

SEC. 502. MODIFICATIONS TO WORK OPPORTUNITY CREDIT AND WELFARE-TO-WORK CREDIT.

(a) Extension of Credit.—

(1) Subparagraph (B) of section 51(c)(4) is amended by striking "December 31, 2003" and inserting "December 31, 2005".

(2) Subsection (f) of section 51A is amended by striking by striking "December 31, 2003" and inserting "December 31, 2005".

(b) Eligibility of Ex-Felons Determined Without Regard to Family Income.—Paragraph (4) of section 51(d) is amended by adding "and" at the end of subparagraph (A), by striking ", and" at the end of subparagraph (B) and inserting a period, and by striking all that follows subparagraph (B).

(c) Increase in Maximum Age for Eligibility of Food Stamp Recipients.—Clause (i) of section 51(d)(8)(A) is amended by striking "25" and inserting "40".

(d) Increase in Maximum Age for Designated Community Residents.—

(1) In general.—Paragraph (5) of section 51(d) is amended to read as follows:

"(5) Designated community residents.—

"(A) In general.—The term 'designated community resident' means any individual who is certified by the designated local agency—

"(i) as having attained age 18 but not age 40 on the hiring date, and

"(ii) as having his principal place of abode within an empowerment zone, enterprise community, or renewal community.

"(B) Individual must continue to reside in zone or community.—In the case of a designated community resident, the term 'qualified wages' shall not include wages paid or incurred for services performed while the individual's principal place of abode is outside an empowerment zone, enterprise community, or renewal community."

(2) Conforming amendment.—Subparagraph (D) of section 51(d)(1) is amended to read as follows:

"(D) a designated community resident,".

(e) Clarification of Treatment of Individuals Under Individual Work Plans.—Subparagraph (B) of section 51(d)(6) (relating to vocational rehabilitation referral) is amended by striking "or" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", or", and by adding at the end the following new clause:

"(iii) an individual work plan developed and implemented by an employment network pursuant to subsection (g) of section 1148 of the Social Security Act with respect to which the requirements of such subsection are met."

(f) Effective Dates.—

(1) Extension of credits.—The amendments made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2003.

(2) Modifications.—The amendments made by subsections (b), (c), (d), and (e) shall apply to individuals who begin work for the employer after December 31, 2004.

SEC. 503. CONSOLIDATION OF WORK OPPORTUNITY CREDIT WITH WELFARE-TO-WORK CREDIT.

(a) In General.—Paragraph (1) of section 51(d) is amended by striking "or" at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting ", or", and by adding at the end the following new subparagraph:

"(I) a long-term family assistance recipient."

(b) Long-Term Family Assistance Recipient.—Subsection (d) of section 51 is amended by redesignating paragraphs (10) through (12) as paragraphs (11) through (13), respectively, and by inserting after paragraph (9) the following new paragraph:

"(10) Long-term family assistance recipient.—The term 'long-term family assistance recipient' means any individual who is certified by the designated local agency—

"(A) as being a member of a family receiving assistance under a IV–A program (as defined in paragraph (2)(B)) for at least the 18-month period ending on the hiring date,

"(B)(i) as being a member of a family receiving such assistance for 18 months beginning after August 5, 1997, and

"(ii) as having a hiring date which is not more than 2 years after the end of the earliest such 18-month period, or

"(C)(i) as being a member of a family which ceased to be eligible for such assistance by reason of any limitation imposed by Federal or State law on the maximum period such assistance is payable to a family, and

"(ii) as having a hiring date which is not more than 2 years after the date of such cessation."

(c) Increased Credit for Employment of Long-Term Family Assistance Recipients.—Section 51 is amended by inserting after subsection (d) the following new subsection:

"(e) Credit for Second-Year Wages for Employment of Long-Term Family Assistance Recipients.—

"(1) In general.—With respect to the employment of a long-term family assistance recipient—

"(A) the amount of the work opportunity credit determined under this section for the taxable year shall include 50 percent of the qualified second-year wages for such year, and

"(B) in lieu of applying subsection (b)(3), the amount of the qualified first-year wages, and the amount of qualified second-year wages, which may be taken into account with respect to such a recipient shall not exceed $10,000 per year.

"(2) Qualified second-year wages.—For purposes of this subsection, the term 'qualified second-year wages' means qualified wages—

"(A) which are paid to a long-term family assistance recipient, and

"(B) which are attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such recipient determined under subsection (b)(2).

"(3) Special rules for agricultural and railway labor.—If such recipient is an employee to whom subparagraph (A) or (B) of subsection (h)(1) applies, rules similar to the rules of such subparagraphs shall apply except that—

"(A) such subparagraph (A) shall be applied by substituting '$10,000' for '$6,000', and

"(B) such subparagraph (B) shall be applied by substituting '$833.33' for '$500'."

(d) Repeal of Separate Welfare-to-Work Credit.—

(1) In general.—Section 51A is hereby repealed.

(2) Clerical amendment.—The table of sections for subpart F of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 51A.

(e) Effective Date.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 2004.

SEC. 504. QUALIFIED ZONE ACADEMY BONDS.

(a) In General.—Paragraph (1) of section 1397E(e) is amended by striking "and 2003" and inserting "2003, 2004, and 2005".

(b) Effective Date.—The amendment made by subsection (a) shall apply to obligations issued after December 31, 2003.

SEC. 505. COVER OVER OF TAX ON DISTILLED SPIRITS.

(a) In General.—Paragraph (1) of section 7652(f) is amended by striking "January 1, 2004" and inserting "January 1, 2006".

(b) Effective Date.—The amendment made by subsection (a) shall apply to articles brought into the United States after December 31, 2003.

SEC. 506. DEDUCTION FOR CORPORATE DONATIONS OF SCIENTIFIC PROPERTY AND COMPUTER TECHNOLOGY.

(a) Scientific Property Used for Research.—

(1) In general.—Clause (ii) of section 170(e)(4)(B) (defining qualified research contributions) is amended by inserting "or assembled" after "constructed".

(2) Conforming amendment.—Clause (iii) of section 170(e)(4)(B) is amended by inserting "or assembling" after "construction".

(b) Computer Technology and Equipment for Educational Purposes.—

(1) In general.—Clause (ii) of section 170(e)(6)(B) is amended by inserting "or assembled" after "constructed" and "or assembling" after "construction".

(2) Special rule extended.—Section 170(e)(6)(G) is amended by striking "2003" and inserting "2005".

(3) Conforming amendments.—Subparagraph (D) of section 170(e)(6) is amended by inserting "or assembled" after "constructed" and "or assembling" after "construction".

(c) Effective Date.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2003.

SEC. 507. DEDUCTION FOR CERTAIN EXPENSES OF SCHOOL TEACHERS.

(a) In General.—Subparagraph (D) of section 62(a)(2) is amended by striking "or 2003" and inserting ", 2003, 2004, or 2005".

(b) Effective Date.—The amendment made by subsection (a) shall apply to expenses paid or incurred in taxable years beginning after December 31, 2003.

SEC. 508. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) Extension of Termination Date.—Subsection (h) of section 198 is amended by striking "December 31, 2003" and inserting "December 31, 2005".

(b) Effective Date.—The amendment made by subsection (a) shall apply to expenditures paid or incurred after December 31, 2003.

SEC. 509. EXPANSION OF CERTAIN NEW YORK LIBERTY ZONE BENEFITS.

(a) Extension of Tax-Exempt Bond Financing.—Subparagraph (D) of section 1400L(d)(2) is amended by striking "2005" and inserting "2006".

(b) Clarification of Bonds Eligible for Advance Refunding.—Section 1400L(e)(2)(B) (relating to bonds described) is amended by striking ", or" and inserting "or the Municipal Assistance Corporation, or".

(c) Election Out Technical Amendment.—Subsection (c) of section 1400L is amended by adding at the end the following new paragraph:

"(5) Election out.—For purposes of this subsection, rules similar to the rules of section 168(k)(2)(C)(iii) shall apply.".

(d) Effective date.—The amendments made by subsections (b) and (c) shall take effect as if included in the amendments made by section 301 of the Job Creation and Worker Assistance Act of 2002.

SEC. 510. TEMPORARY SPECIAL RULES FOR TAXATION OF LIFE INSURANCE COMPANIES.

(a) In General.—Subsection (j) of section 809 is amended by striking "or 2003" and inserting "2003, 2004, or 2005".

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2003.

SEC. 511. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA.

(a) Designation of Zone.—Subsection (f) of section 1400 is amended by striking "December 31, 2003" both places it appears and inserting "December 31, 2005".

(b) Tax-Exempt Economic Development Bonds.—Subsection (b) of section 1400A is amended by striking "December 31, 2003" and inserting "December 31; 2005".

(c) Zero Percent Capital Gains Rate.—

(1) In general.—Subsection (b) of section 1400B is amended by striking "January 1, 2004" each place it appears and inserting "January 1, 2006".

(2) Conforming amendments.—

(A) Section 1400B(e)(2) is amended—

(i) by striking "December 31, 2008" and inserting "December 31, 2010", and

(ii) by striking "2008" in the heading and inserting "2010".

(B) Section 1400B(g)(2) is amended by striking "December 31, 2008" and inserting "December 31, 2010".

(C) Section 1400F(d) is amended by striking "December 31, 2008" and inserting "December 31, 2010".

(d) First-Time Homebuyer Credit.—Subsection (i) of section 1400C is amended by striking "January 1, 2004" and inserting "January 1, 2006".

(e) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall take effect on January 1, 2004.

(2) Tax-exempt economic development bonds.—The amendment made by subsection (b) shall apply to obligations issued after the date of the enactment of this Act.

SEC. 512. COMBINED EMPLOYMENT TAX REPORTING PROGRAM.

(a) In General.—Paragraph (1) of section 976(b) of the Taxpayer Relief Act of 1997 is amended by striking "the State of Montana for a period ending with the date which is 5 years after the date of the enactment of this Act" and inserting "any State".

(b) Effective Date.—The amendment made by subsection (a) shall apply to disclosures on or after the date of the enactment of this Act.

SEC. 513. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND MINIMUM TAX LIABILITY.

(a) In General.—Paragraph (2) of section 26(a) is amended—

(1) by striking "Rule for 2000, 2001, 2002, and 2003.—" and inserting "Rule for taxable years 2000 through 2004.—", and

(2) by striking "or 2003" and inserting "2003, or 2004".

(b) Conforming Provisions.—

(1) Section 904(h) is amended by striking "or 2003" and inserting "2003, or 2004".

(2) The amendments made by sections 201(b), 202(f), and 618(b) of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to taxable years beginning during 2004.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 514. CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

(a) In General.—Subparagraphs (A), (B), and (C) of section 45(c)(3) are each amended by striking "January 1, 2004" and inserting "January 1, 2005".

(b) Effective Date.—The amendments made by subsection (a) shall apply to facilities placed in service after December 31, 2003.

SEC. 515. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.

(a) In General.—Subparagraph (H) of section 613A(c)(6) is amended by striking "January 1, 2004" and inserting "January 1, 2005".

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2003.

SEC. 516. INDIAN EMPLOYMENT TAX CREDIT.

Section 45A(f) (relating to termination) is amended by striking "December 31, 2004" and inserting "December 31, 2005".

SEC. 517. ACCELERATED DEPRECIATION FOR BUSINESS PROPERTY ON INDIAN RESERVATION.

Section 168(j)(8) (relating to termination) is amended by striking "December 31, 2004" and inserting "December 31, 2005".

SEC. 518. DISCLOSURE OF RETURN INFORMATION RELATING TO STUDENT LOANS.

Section 6103(l)(13)(D) (relating to termination) is amended by striking "December 31, 2004" and inserting "December 31, 2005".

SEC. 519. EXTENSION OF TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) Amendment of Internal Revenue Code of 1986.—Paragraph (5) of section 420(b) (relating to expiration) is amended by striking "December 31, 2005" and inserting "December 31, 2013".

(b) Amendments of ERISA.—

(1) Section 101(e)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)(3)) is amended by striking "Tax Relief Extension Act of 1999" and inserting "Jumpstart Our Business Strength (JOBS) Act".

(2) Section 403(c)(1) of such Act (29 U.S.C. 1103(c)(1)) is amended by striking "Tax Relief Extension Act of 1999" and inserting "Jumpstart Our Business Strength (JOBS) Act".

(3) Paragraph (13) of section 408(b) of such Act (29 U.S.C. 1108(b)(3)) is amended—

(A) by striking "January 1, 2006" and inserting "January 1, 2014", and

(B) by striking "Tax Relief Extension Act of 1999" and inserting "Jumpstart Our Business Strength (JOBS) Act".

(c) Minimum Cost Requirements.—

(1) In general.—Section 420(c)(3)(E) is amended by adding at the end the following new clause:

"(ii) Insignificant cost reductions permitted.—

"(I) In general.—An eligible employer shall not be treated as failing to meet the requirements of this paragraph for any taxable year if, in lieu of any reduction of retiree health coverage permitted under the regulations prescribed under clause (i), the employer reduces applicable employer cost by an amount not in excess of the reduction in costs which would have occurred if the employer had made the maximum permissible reduction in retiree health coverage under such regulations. In applying such regulations to any subsequent taxable year, any reduction in applicable employer cost under this clause shall be treated as if it were an equivalent reduction in retiree health coverage.

"(II) Eligible employer.—For purposes of subclause (I), an employer shall be treated as an eligible employer for any taxable year if, for the preceding taxable year, the qualified current retiree health liabilities of the employer were at least 5 percent of the gross receipts of the employer. For purposes of this subclause, the rules of paragraphs (2), (3)(B), and (3)(C) of section 448(c) shall apply in determining the amount of an employer's gross receipts."

(2) Conforming amendment.—Section 420(c)(3)(E) is amended by striking "The Secretary" and inserting:

"(i) In general.—The Secretary".

(3) Effective date.—The amendments made by this subsection shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 520. ELIMINATION OF PHASEOUT OF CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) In General.—Section 30(b) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(b) Conforming Amendments.—

(1) Section 53(d)(1)(B)(iii) is amended by striking "section 30(b)(3)(B)" and inserting "section 30(b)(2)(B)".

(2) Section 55(c)(2) is amended by striking "30(b)(3)" and inserting "30(b)(2)".

(c) Effective Date.—The amendments made by this section shall apply to property placed in service after December 31, 2003.

SEC. 521. ELIMINATION OF PHASEOUT FOR DEDUCTION FOR CLEAN-FUEL VEHICLE PROPERTY.

(a) In General.—Paragraph (1) of section 179A(b) is amended to read as follows:

"(1) Qualified clean-fuel vehicle property.—The cost which may be taken into account under subsection (a)(1)(A) with respect to any motor vehicle shall not exceed—

"(A) in the case of a motor vehicle not described in subparagraph (B) or (C), $2,000,

"(B) in the case of any truck or van with a gross vehicle weight rating greater than 10,000 pounds but not greater than 26,000 pounds, $5,000, or

"(C) $50,000 in the case of—

"(i) a truck or van with a gross vehicle weight rating greater than 26,000 pounds, or

"(ii) any bus which has a seating capacity of at least 20 adults (not including the driver).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property placed in service after December 31, 2003.

Subtitle B—Revenue Provisions

SEC. 531. DONATIONS OF MOTOR VEHICLES, BOATS, AND AIRPLANES.

(a) IN GENERAL.—Subsection (f) of section 170 (relating to disallowance of deduction in certain cases and special rules) is amended by adding at the end the following new paragraph:

"(11) CONTRIBUTIONS OF USED MOTOR VEHICLES, BOATS, AND AIRPLANES.—

"(A) IN GENERAL.—In the case of a contribution of a qualified vehicle in excess of $500—

"(i) paragraph (8) shall not apply and no deduction shall be allowed under subsection (a) for such contribution unless the taxpayer substantiates the contribution by a contemporaneous written acknowledgement of the contribution by the donee organization that meets the requirements of subparagraph (B) and includes the acknowledgement with the taxpayer's return of tax which includes the deduction, and

"(ii) if the organization sells the vehicle without any significant intervening use or material improvement of such vehicle by the organization, the amount of the deduction allowed under subsection (a) shall not exceed the gross proceeds received from such sale.

"(B) CONTENT OF ACKNOWLEDGEMENT.—An acknowledgement meets the requirements of this subparagraph if it includes the following information:

"(i) The name and taxpayer identification number of the donor.

"(ii) The vehicle identification number or similar number.

"(iii) In the case of a qualified vehicle sold by the donee organization—

"(I) a certification that the vehicle was sold in an arm's length transaction between unrelated parties,

"(II) the gross proceeds from the sale, and

"(III) the amount of such gross proceeds is the deductible amount.

"(iv) In the case of a qualified vehicle to which subparagraph (A)(ii) does not apply—

"(I) a certification of the intended use or material improvement of the vehicle and the intended duration of such use, and

"(II) a certification that the vehicle would not be transferred in exchange for money, other property, or services before completion of such use or improvement.

"(C) CONTEMPORANEOUS.—For purposes of subparagraph (A), an acknowledgement shall be considered to be contemporaneous if the donee organization provides it within 30 days of—

"(i) the sale of the qualified vehicle, or

"(ii) in the case of an acknowledgement including a certification described in subparagraph (B)(iv), the contribution of the qualified vehicle.

"(D) INFORMATION TO SECRETARY.—A donee organization required to provide an acknowledgement under this paragraph shall provide to the Secretary the information contained in the acknowledgement. Such information shall be provided at such time and in such manner as the Secretary may prescribe.

"(E) QUALIFIED VEHICLE.—For purposes of this paragraph, the term 'qualified vehicle' means any—

"(i) self-propelled vehicle manufactured primarily for use on public streets, roads, and highways,

"(ii) boat, or

"(iii) airplane.

Such term shall not include any property which is described in section 1221(a)(1).

"(F) REGULATIONS OR OTHER GUIDANCE.—The Secretary shall prescribe such regulations or other guidance as may be necessary to carry out the purposes of this paragraph.".

(b) PENALTY FOR FRAUDULENT ACKNOWLEDGMENTS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended adding at the end the following new section:

"SEC. 6717. FRAUDULENT ACKNOWLEDGMENTS WITH RESPECT TO DONATIONS OF MOTOR VEHICLES, BOATS, AND AIRPLANES.

"Any donee organization required under section 170(f)(11)(A) to furnish a contemporaneous written acknowledgment to a donor which knowingly furnishes a false or fraudulent acknowledgment, or which knowingly fails to furnish such acknowledgment in the manner, at the time, and showing the information required under section 170(f)(11), or regulations prescribed thereunder, shall for each such act, or for each such failure, be subject to a penalty equal to—

"(1) in the case of an acknowledgment with respect to a qualified vehicle to which section 170(f)(11)(A)(ii) applies, the greater of the value of the tax benefit to the donor or the gross proceeds from the sale of such vehicle, and

"(2) in the case of an acknowledgment with respect to any other qualified vehicle to which section 170(f)(11) applies, the greater of the value of the tax benefit to the donor or $5,000.".

(2) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by adding at the end the following new item:

"Sec. 6717. Fraudulent acknowledgments with respect to donations of motor vehicles, boats, and airplanes.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions after June 30, 2004.

SEC. 532. CHANGE IN EFFECTIVE DATE.

Section 476(c) of this Act is amended by striking "December 31, 2003" and inserting "November 18, 2003".

SEC. 533. ADDITION OF VACCINES AGAINST INFLUENZA TO LIST OF TAXABLE VACCINES.

(a) IN GENERAL.—Section 4132(a)(1) (defining taxable vaccine) is amended adding at the end the following new subparagraph:

"(M) Any trivalent vaccine against influenza.".

(b) CONFORMING AMENDMENT.—Section 9510(c)(1)(A) is amended by striking "October 18, 2000" and inserting "the date of the enactment of the Jumpstart Our Business Strength (JOBS) Act".

(b) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendment made by this section shall apply to sales and uses on or after the later of—

(A) the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act, or

(B) the date on which the Secretary of Health and Human Services lists any vaccine against influenza for purposes of compensation for any vaccine-related injury or death through the Vaccine Injury Compensation Trust Fund.

(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 534. TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT INSTRUMENTS.

(a) IN GENERAL.—Section 1275(d) (relating to regulation authority) is amended—

(1) by striking "The Secretary" and inserting the following:

"(1) IN GENERAL.—The Secretary", and

(2) by adding at the end the following new paragraph:

"(2) TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT.—

"(A) IN GENERAL.—In the case of a debt instrument which—

"(i) is convertible into stock of the issuing corporation, or a corporation in control of, or controlled by, the issuing corporation, and

"(ii) provides for contingent payments,

any regulations which require original issue discount to be determined by reference to the comparable yield of a noncontingent debt instrument also shall require that such comparable yield be determined by reference to a noncontingent debt instrument which is convertible into stock.

"(B) SPECIAL RULES.— For purposes of subparagraph (A)—

"(i) the comparable yield shall be determined without taking into account the yield resulting from the conversion of a debt instrument into stock, and

"(ii) the term 'control' has the meaning given such term by section 368(c).".

(b) CROSS REFERENCE.—Section 163(e)(6) (relating to cross references) is amended by adding at the end the following:

"For the treatment of contingent payment convertible debt, see section 175(d)(2).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued after the date of the enactment of this Act.

SEC. 535. MODIFICATION OF CONTINUING LEVY ON PAYMENTS TO FEDERAL VENDERS.

(a) IN GENERAL.—Section 6331(h) (relating to continuing levy on certain payments) is amended by adding at the end the following new paragraph:

"(3) INCREASE IN LEVY FOR CERTAIN PAYMENTS.—Paragraph (1) shall be applied by substituting '100 percent' for '15 percent' in the case of any specified payment due to a vendor of goods or services sold or leased to the Federal Government.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SA 2688. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, after line 25, add the following:

SEC. ___. RESTORATION OF DEDUCTION FOR TRAVEL EXPENSES OF SPOUSE, ETC. ACCOMPANYING TAXPAYER ON BUSINESS TRAVEL.

(a) IN GENERAL.—Subsection (m) of section 274 (relating to additional limitations on travel expenses) is amended by striking paragraph (3).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SA 2689. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title III, insert:

SEC. ___. DEDUCTION FOR CERTAIN EXPENSES INCURRED IN SUPPORT OF NATIVE ALASKAN SUBSISTENCE WHALING.

(a) IN GENERAL.—Section 170 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) EXPENSES PAID BY CERTAIN WHALING CAPTAINS IN SUPPORT OF NATIVE ALASKAN SUBSISTENCE WHALING.—

"(1) IN GENERAL.—In the case of an individual who is recognized by the Alaska Eskimo Whaling Commission as a whaling captain charged with the responsibility of maintaining and carrying out sanctioned whaling activities and who engages in such activities during the taxable year, the amount described in paragraph (2) (to the extent such amount does not exceed $10,000 for the taxable year) shall be treated for purposes of this section as a charitable contribution.

"(2) AMOUNT DESCRIBED.—

"(A) IN GENERAL.—The amount described in this paragraph is the aggregate of the reasonable and necessary whaling expenses paid by the taxpayer during the taxable year in carrying out sanctioned whaling activities.

"(B) WHALING EXPENSES.—For purposes of subparagraph (A), the term 'whaling expenses' includes expenses for—

"(i) the acquisition and maintenance of whaling boats, weapons, and gear used in sanctioned whaling activities,

"(ii) the supplying of food for the crew and other provisions for carrying out such activities, and

"(iii) storage and distribution of the catch from such activities.

"(3) SANCTIONED WHALING ACTIVITIES.—For purposes of this subsection, the term 'sanctioned whaling activities' means subsistence bowhead whale hunting activities conducted pursuant to the management plan of the Alaska Eskimo Whaling Commission.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to contributions made after December 31, 2003.

SA 2690. Mrs. FEINSTEIN (for herself, Mr. CONRAD, and Mrs. BOXER) submitted an amendment intended to be proposed by her to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 71, between lines 2 and 3, insert the following:

(f) EXCEPTION FOR AUDIOVISUAL SERVICES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall not apply to extraterritorial income derived from audiovisual services.

(2) COORDINATION WITH DEDUCTION FOR INCOME ATTRIBUTABLE TO UNITED STATES PRODUCTION ACTIVITIES.—The deduction under section 199 of the Internal Revenue Code of 1986, as added by section 102 of this Act, shall not apply to any income described in paragraph (1).

(3) COORDINATION WITH TRANSITION RULES.—The base period amount under subsection (e)(4) shall not take into account extraterritorial income derived from audiovisual services.

(4) AUDIOVISUAL SERVICES.—For purposes of this subsection, the term "audiovisual services" means such activities as are treated as audiovisual services for purposes of the General Agreement on Trade in Services referred to in section 101(d)(14) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(14)).

SA 2691. Ms. SNOWE (for herself, Mr. LOTT, Mr. BREAUX, Mr. ALLEN, Mr. WARNER, Mrs. BOXER, Mr. BUNNING, Mr. COCHRAN, Ms. COLLINS, Mr. CHAFEE, Mr. DODD, Mrs. DOLE, Mrs. FEINSTEIN, Ms. LANDRIEU, and Mr. KOHL) submitted an amendment intended to be proposed by her to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title III, add the following:

SEC. ___. METHOD OF ACCOUNTING FOR NAVAL SHIPBUILDERS.

(a) IN GENERAL.—Notwithstanding section 10203(b)(2)(B)(i) of the Revenue Act of 1987, in the case of a qualified naval ship contract, the taxable income of such contract shall be determined under a method identical to the method used in the case of a qualified ship contract (as defined in section 10203 of the Revenue Act of 1987).

(b) QUALIFIED NAVAL SHIP CONTRACT.—For purposes of this section—

(1) IN GENERAL.—The term "qualified naval ship contract" means any contract or portion thereof that is for the construction in the United States of 1 ship or submarine for the Federal Government if the taxpayer reasonably expects the delivery date or the warranty expiration date will occur no later than 8 years after the construction commencement date.

(2) DELIVERY DATE.—The term "delivery date" means the date on which the Federal Government issues a letter of acceptance or other similar document for the ship or submarine.

(3) WARRANTY EXPIRATION DATE.—The term "warranty expiration date" means the date on which the construction contractor's responsibility to perform work or service on the ship or submarine under the contract is terminated.

(4) CONSTRUCTION COMMENCEMENT DATE.—The term "construction commencement date" means the date on which the physical fabrication of any section or component of the ship or submarine begins.

(c) EFFECTIVE DATE.—This section shall apply to contracts for ships or submarines for which the Federal Government has issued a letter of acceptance or other similar document after the date of the enactment of this Act.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. HATCH. Madam President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on March 4, 2004, at 9:30 a.m., in open and closed session to receive testimony on Military Strategy and Operational Requirements, in review of the Defense Authorization Request for fiscal year 2005.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. HATCH. Madam President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, March 4, 2004, at 2:30 p.m., on the nominations of Rhonda Keenum, to be Assistant Secretary and Director General of the U.S. and Foreign Commercial Service for the Department of Commerce, Linda Combs, to be Assistant Secretary for Budget and Programs and Chief Financial Officer for the Department of Transportation, Douglas Buttrey and Francis Mulvey, to be Members of the Surface Transportation Board, in SR–253.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. HATCH. Madam President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, March 4th at 10 a.m.

The purpose of the hearing is to review the Energy Information Administration (EIA) Annual Energy Outlook 2004 Report regarding the supply, demand and price projections for oil, natural gas, nuclear, coal and renewable resources, focusing on oil and natural gas. In addition, commercial and market perspectives on the state of oil and natural gas markets will be considered.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. HATCH. Madam President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the

Senate on Thursday, March 4, 2004, at 9:30 a.m. to hold a Business Meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. HATCH. Madam President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 4, 2004, at 2:30 p.m. to hold a Subcommittee hearing on Hong Kong.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. HATCH. Madam President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on Higher Education and the Workforce: Issues for Reauthorization of the Higher Education Act during the session of the Senate on Thursday, March 4, 2004, at 10 a.m. in SD–430.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. HATCH. Madam President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, March 4, 2004, at 9:30 a.m., in Dirksen Senate Building Room 226

Agenda

I. Nominations: Henry W. Saad to be U.S. Circuit Judge for the Sixth Circuit; William James Haynes II to be U.S. Circuit Judge for the Fourth Circuit; Raymond W. Gruender to be U.S. Circuit Judge for the Eighth Circuit; Franklin S. Van Antwerpen to be U.S. Circuit Judge for the Third Circuit; Diane S. Sykes to be U.S. Circuit Judge for the Seventh Circuit; Louis Guirola, Jr., to be U.S. Circuit Judge for the Southern District of Mississippi; Judith C. Herrera to be U.S. District Judge for the District of New Mexico; Virginia E. Hopkins to be U.S. District Judge for the Northern District of Alabama; Kenneth M. Karas to be U.S. District Judge for the Southern District of New York; F. Dennis Saylor to be U.S. District Judge for the District of Massachusetts; Sandra L. Townes to be U.S. District Judge for the Eastern District of New York; Ricardo S. Martinez to be U.S. District Judge for the Western District of Washington; Gene E.K. Pratter to be U.S. District Judge for the Eastern District of Pennsylvania; Neil Vincent Wake to be U.S. District Judge for the District of Arizona; William S. Duffey, Jr., to be U.S. District Judge for the Northern District of Georgia; James L. Robart to be U.S. District Judge for the Western District of Washington; Juan R. Sanchez to be U.S. District Judge for the Eastern District of Pennsylvania; Lawrence F. Stengel to be U.S. District Judge for the Eastern District of Pennsylvania; Michele M. Leonhart to be Deputy Administrator of Drug Enforcement; Domingo S. Herraiz to be Director of the Bureau of Justice Assistance Department of Justice; LaFayette Collins to be U.S. Marshal for the Western District of Texas, and Ronald J. Tenpas to be U.S. Attorney for the Southern District of Illinois.

II. Executive Session.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. HATCH. Madam President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, March 4, 2004, for a joint hearing with the House of Representatives Committee on Veterans' Affairs, to hear the legislative presentations of the Non-Commissioned Officers Association, the Military Order of the Purple Heart, the Paralyzed Veterans of America, Jewish War Veterans, and Blinded Veterans Association. The hearing will take place in room 345 of the Cannon House Office Building at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. HATCH. Madam President, I ask unanimous consent that the Select Committee on intelligence be authorized to meet during the session of the Senate on March 4, 2004, at 2:30 p.m., to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY

Mr. HATCH. Madam President, I ask unanimous consent that the Subcommittee Energy of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, March 4, at 2:30 p.m., to receive testimony regarding new nuclear power generation in the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON MARKETING, INSPECTION, AND PRODUCT PROMOTION

Mr. HATCH. Madam President, I ask unanimous consent that the Subcommittee on Marketing, Inspection, and Product Promotion of the Committee on Agriculture, Nutrition, and Forestry be allowed to conduct a hearing during the session of the Senate on Thursday, March 4, 2004. The purpose of this hearing will be to discuss the development of a national animal identification plan.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PERSONNEL

Mr. HATCH. Madam President, I ask unanimous consent that the Subcommittee on Personnel of the Committee on Armed Services be authorized to meet during the session of the Senate on March 4, 2004, at 2:30 p.m., in open session to receive testimony on compensation, benefits and health care for active and reserve military personnel and their families, in review of the defense authorization request for fiscal year 2005.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. HARKIN. Madam President, I ask unanimous consent that the privilege of the floor be granted to Rob Sand of my staff for the duration of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMAS. Madam President, I ask unanimous consent that Cathleen West, a fellow on the Finance Committee staff, be granted the privileges of the floor for the remainder of the debate on S. 1637.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—BUDGET RESOLUTION

Mr. MCCONNELL. Mr. President, I ask unanimous consent that on Monday, March 8, at noon, the Senate proceed to the budget resolution, if available and qualified.

The PRESIDING OFFICER. Without objection, it is so ordered.

GALISTEO BASIN ARCHAEOLOGICAL SITES PROTECTION ACT

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 368, H.R. 506.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 506) to provide for the protection of archaeological sites and the Galisteo Basin in New Mexico, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the bill be read the third time, passed, that the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD as if read, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 506) was read the third time and passed.

FORT BAYARD NATIONAL HISTORIC LANDMARK ACT

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 286, H.R. 2059.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2059) to designate Fort Bayard Historic District in the State of New Mexico as a National Historic Landmark, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the bill be read the third time, passed, and the motion to reconsider be laid upon the table; that any statements relating thereto be printed in the RECORD as if read, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2059) was read the third time and passed.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Democratic Leader pursuant to Public Law 108–176, appoints the following individual to serve as a member of the National Commission of Small Community Air Service: Robb B. Sexauer of South Dakota.

The Chair, on behalf of the Democratic Leader, pursuant to Public Law, 108–199, appoints the following individuals to serve as members of the Abraham Lincoln Study Abroad Fellowship Program: the Senator from Illinois, RICHARD J. DURBIN and Brad R. Heegel of South Dakota .

ORDERS FOR MONDAY, MARCH 8, 2004

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 12 noon, Monday, March 8. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin consideration of the fiscal year 2005 budget resolution, if available, as provided under the previous order. I further ask unanimous consent that notwithstanding the Senate's adjournment, it be in order for the Foreign Relations and Budget Committees to file legislation from 10 a.m. to 12 noon tomorrow.

Mr. REID. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, this has been a difficult week from many perspectives. We had two contentious pieces of legislation, and we certainly understand that on this side. As far as the legislation now before the Senate, it should not be such. I think there is no question that the majority of the Senate by far wants to pass the legislation that has been before the Senate today and yesterday.

The issue that is now holding up this legislation is whether the Senate is going to vote on an overtime amendment that is being offered by Senator HARKIN. It is an issue that we feel strongly about on this side. We want to vote on whether the President should go forward with these regulations. We want to vote. We will take a half hour evenly divided, we will take 20 minutes evenly divided to get a vote on this amendment. We are not stalling for time.

This is something that will have to be dealt with sometime during the next month or so in this legislature. We are willing to work in any way to cooperate and get this bill done, but one of the things we can't do is not have a vote on this overtime issue. Senator DASCHLE and I have talked with Senator HARKIN on four occasions at my last count. We said: Senator HARKIN, don't offer this amendment; this legislation is important; we are trying to get it passed. He has reluctantly agreed every time not to move forward with this legislation.

That is no longer part of what we are able to do. We talked with Senator HARKIN. He has been such a gentleman as to how we proceeded on this. He will continue to be a gentleman, but he is not going to relent offering this legislation because we do not think he should anymore.

I say that with the full knowledge that on this very important piece of legislation we are willing to vote, we are willing to discuss the amendments that Senators GRASSLEY and BAUCUS have. They want to improve the legislation. I think they can do that, and I think their amendments will be supported.

The second-degree amendment now before the Senate is not a bad amendment. I think the tax credit should be extended to sun and geothermal, but this extends it to wind. That is certainly a small bite of the apple that needs to be done.

I know the obligations and the burdens of the majority are difficult. We, not too long ago, were in the majority, and it is very hard to move legislation through this body. We need a vote on this overtime issue, and we hope and we are going to press as hard as we can to get a vote on it sometime in the near future.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, there is no objection then?

Mr. REID. No objection whatsoever.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, let me say to my friend from Nevada, we fully understand the minority or, for that matter, any Member of the Senate has a right to offer a nongermane amendment to an underlying piece of legislation, but we had an unfortunate experience earlier this very week in which the offering and the adoption of amendments unrelated to the underlying bill ended up killing the bill that both the Senator from Nevada and myself had hoped would pass.

We already had one vote on the overtime issue late last year. I do not know how many times the minority would like for us to repeat that vote.

It is the belief of this Senator that on a bipartisan basis Senator GRASSLEY and Senator BAUCUS would like to pass the FSC/ETI bill without any unrelated amendments on it. There is some resistance on this side of the aisle to repeatedly voting over and over again on amendments upon which we have already had a vote.

That having been said, I fully understand what the Senator is saying, that they would like to have a vote on the overtime issue. I don't think that is necessarily the view of everyone on that side of the aisle but may well be the view of the majority on that side of the aisle.

PROGRAM

Mr. McCONNELL. Mr. President, on Monday, the Senate will begin consideration of the budget resolution. Senator NICKLES and Senator CONRAD will be here on Monday morning to kick off the debate on that important matter and receive any amendments that may be offered on Monday.

It is the intention of the managers to have a full day of debate on the resolution during Monday's session. At this time, I will say that rollcall votes are possible Monday evening. A vote or votes may occur in relation to amendments on the budget resolution or judicial nominations. We will alert Members when a vote becomes locked in for a certain time.

I remind my colleagues that under budget procedures, there will be up to 50 hours of debate on the resolution, and we will complete action on the budget prior to adjourning for the March recess. Therefore, our colleagues should expect a very busy week next week with late night sessions and votes throughout the week. I encourage all Members to arrange their schedules accordingly.

ADJOURNMENT UNTIL MONDAY, MARCH 8, 2004

Mr. McCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:02 p.m. adjourned until Monday, March 8, 2004, at 12 noon.

EXTENSIONS OF REMARKS

TRIBUTE TO JOHN J. BOYLE

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. NEY. Mr. Speaker, today in Arlington National Cemetery, John J. Boyle, a veteran of World War II who was the first employee of the U.S. Government Printing Office (GPO) to rise through the ranks to become Public Printer of the United States, was laid to rest. Jack Boyle, as he was known to his friends at the GPO, on Capitol Hill, and throughout the American printing industry and library community, had an impressive career that deserves our recognition.

Boyle came to the GPO in 1952 as a proofreader following an apprenticeship in his native Pennsylvania. In 1954, he became a reviser and in 1960, he was named principal technical assistant in the GPO's Office of the Superintendent of Composing.

Boyle was an early and vigorous advocate of applying electronic printing technologies at the GPO to meet Congress's printing needs more efficiently and effectively. With the support of the Joint Committee on Printing, electronic printing was introduced at the GPO in 1963 and Boyle was selected to develop and coordinate all phases of its operation. The following year, he was appointed Special Assistant to the GPO's Production Manager for Electronic Printing. Subsequently, Boyle worked to establish the GPO's Electronic Photocomposition Division, which over the ensuing decade evolved into the largest and one of the most modern photo typesetting facilities in the entire printing industry.

For his leadership capabilities, Boyle was promoted to Deputy Production Manager for Electronics in 1971. In 1972, he was detailed as Production Manager and a year later Public Printer Thomas McCormick named him Deputy Public Printer. He served in that capacity until 1977, when he was nominated and confirmed by the Senate as the 19th Public Printer of the United States, the first of the GPO's own employees ever to attain that position. As Public Printer, he continued modernizing the GPO's operations, gaining widespread respect in Congress, federal agencies, throughout the printing and paper industries, the library community, and from the GPO's employees. He retired from the GPO in 1980.

Well known throughout the commercial printing industry, Boyle lectured in the United States and in England on new processes in printing. He was an original member of the federal Electronic Printing Committee that was created in 1962 as an advisory committee to the Joint Committee on Printing.

Boyle was a member of the Washington Club of Printing House Craftsmen, the Washington Litho Club, and the Franklin Technical Society. He served as a member of the Graphic Arts Advisory Committee of the Rochester Institute of Technology's College of Graphic Arts and Photography, and the Advisory Committee of the University of the District of Columbia. He was on the Board of Directors of the Graphic Arts Technical Foundation and the Washington School of Printing.

In 1977, Boyle received the Horace Hart Award of the Education Council of the Graphic Arts Industry in recognition of distinguished public service in the field of printing and publishing. He was elected to membership in the Walter E. Soderstrom Society of the National Association of Printers and Lithographers and was an honorary life-time member of the International Printers Supply Salesman's Guild. In 1979, Boyle received the Gold Key Award from Gamma Epsilon Tau in New York City and was made an honorary member of that printing fraternity. In 1980, he received the Joint Graphic Communication "Man of the Year" Award from the organization of seven Washington, DC, graphic arts associations. In addition to work with these organizations, he devoted much of his personal time to speaking at meetings of craftsmen's clubs, litho clubs, and printing industry associations throughout the country on the need for retraining of personnel and for increasing management skills.

A veteran of World War II, Boyle served in the U.S. Army from 1941 to 1945 and was with the First Armored Division in the North African Campaign. He was a prisoner of war for two and a half years in Italy and Germany.

Boyle is survived by his wife Jeanne; two children, Sarah Sundstrom of Baltimore, MD, and Robert Boyle of Charlottesville, VA; a brother; and five grandchildren.

Boyle's pioneering leadership in helping to bring electronic printing technologies to the GPO resulted in improvements that continue to benefit Congress, federal agencies, and the public to this day. He gave many years of dedicated service to the public through his work at the GPO, and later, through his distinguished leadership of that agency. On behalf of the Joint Committee on Printing, we sincerely appreciate his contributions and offer our heartfelt condolences to Mrs. Boyle and her family.

HONORING THE MEN AND WOMEN OF THE DRUG ENFORCEMENT ADMINISTRATION ON ITS 30TH ANNIVERSARY

SPEECH OF

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mr. HASTINGS of Florida. Mr. Speaker, I rise today in support of H. Res. 412, a resolution honoring the men and women of the Drug Enforcement Administration on the occasion of its 30th anniversary.

The illegal drug market in the United States is among the most lucrative in the world. The market is fueled by diverse groups of people within and outside the borders of our nation. The work done by the men and women of the DEA is rarely amply recognized despite the integral role they play in curbing the illegal drug market and its harmful repercussions to our communities across the country.

The South Florida district which I represent, has in the past been faced with a formidable threat from drug trafficking. It was then, as it is now, the men and women of the DEA who tackled that threat. With their active and relentless efforts, they have drastically decreased it. However, they do this often at a great sacrifice.

We should never take for granted that there are individuals who risk their lives on a daily basis with the work that they do in order to create a safer environment for us all. That numerous DEA employees have died in service reflects the dangerous conditions in which these individuals have chosen to work and their admirable dedication to safeguarding our nation from the threat posed by the illegal drug market.

Thus, I urge all of my colleagues to vote favorably for the passage of H. Res. 412 and in so doing join me in congratulating the DEA for its 30th anniversary, and honoring and thanking all of the employees of the DEA for the invaluable work that they do in protecting this nation.

TRIBUTE TO THE LAWRENCE PUBLIC LIBRARY ON ITS 100TH ANNIVERSARY

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. MOORE. Mr. Speaker, I wish to extend my sincere congratulations to the Lawrence Public Library of Lawrence, KS, which is located in my congressional district. For 100 years, this important and valuable local institution has provided public service, access to books and other informational materials, cultural enhancement and contributions to community development in Lawrence. It is a remarkable achievement to celebrate a century of service and the staff and supporters of the Lawrence Public Library over the past 100 years are to be congratulated.

An enlightened citizenry is the cornerstone of our American democracy. Access to information is an important right of all citizens, and our public libraries play a key role in assuring free and equal access to information. In this and many other regards, a public library is an example of democracy at its finest.

Thank you for your outstanding, vital service to the community of Lawrence and the northeast region of the State of Kansas. It will be

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

exciting to see what the coming decades bring in terms of public library service; I am certain that the fine staff and board of the Lawrence Public Library will be equal to the task of ever adapting, and continually expanding technologies, collections and services. I know I join with all Lawrence residents in offering my best wishes for your future success.

RECOGNIZING THE 20TH ANNIVERSARY OF CLEAN OCEAN ACTION

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. HOLT. Mr. Speaker, Clean Ocean Action, an organization dedicated to the protection of the coast of New Jersey and Long Island, celebrated its 20th anniversary on February 26th.

When COA was formed, there were eight ocean dumping sites off the coast of New Jersey and Long Island where all kinds of pollutants were dumped—sewage, dredge spoils, industrial waste, even toxic waste.

COA made it their primary goals to close these sites and find environmentally-friendly alternatives to ocean dumping. This was the time when New Jerseyans were first becoming aware of the serious consequences of ocean dumping—the impacts on marine life, the fishing industry, tourism, and the health and safety of the countless residents and visitors who enjoy the Jersey shore every summer.

Thirteen years later, COA achieved these goals when then-Vice-President Gore announced an agreement closing the dumping sites and creating the Historic Area Remediation Site to remediate the effects of the dumping.

COA, under the noteworthy leadership of Cindy Zipf, has not rested on its laurels, however. Today, they continue to take steps to protect the shore from leading beach cleanup efforts to lobbying Congress. I worked closely with them to fight against provisions slipped into the energy bill that would reverse the progress made towards keeping our shores clean.

COA marked its 20th anniversary by announcing an effort to create a Clean Ocean Zone off the coasts of New Jersey and Long Island, permanently protecting the ocean that is so valuable to New Jersey residents.

I salute COA for 20 years of hard work and effective work, and I would like to take this opportunity to bring to the attention of my colleagues this success towards cleaning up our shore areas. Now is not the time to reverse the progress of the last two decades.

IN HONOR OF JOHN O'DONNELL

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. MENENDEZ. Mr. Speaker, I rise today to honor John O'Donnell for his years of service and appointment as Grand Marshall of the 23rd Annual St. Patrick's Day Parade on March 21, 2004. Mr. O'Donnell was honored by the Bayonne Saint Patrick's Parade Committee at the annual Grand Marshall Brunch at 11 a.m. on Sunday, February 22, 2004, at the Chandelier Restaurant in Bayonne, New Jersey.

Mr. O'Donnell has been an active member of the Bayonne Saint Patrick's Parade Committee since 1988. For 15 years Mr. O'Donnell has been a hard working, dedicated, and true proponent for the promotion of Irish culture through the annual parade. Mr. O'Donnell is a member of Ireland's 32 of Bayonne since 1984, serving as Secretary from 1990 to 1991 and as President from 1994 to 1996.

John O'Donnell displayed his leadership and commitment to promoting Irish culture by helping to save the annual post-parade party in 1993. His innovative idea of seeking financial support from local businesses helped preserve the tradition. Mr. O'Donnell is an active member of the Ancient Order of Hibernians Division #8 of Hudson County, serving as Vice President from 1998 to 1999 and President from 1999 to 2003.

Mr. O'Donnell is currently Sergeant with the Port Authority Police of New York and New Jersey. He is also the Offensive Coordinator for Saint Peter's High School Freshman Football team. Previously, Mr. O'Donnell was an English instructor at Marist High School from 1986 to 1988.

Mr. O'Donnell received his bachelor's degree and Master's Degree in Education from Seton Hall University. Mr. O'Donnell is a loving husband to his wife, Kathleen O'Donnell, and dedicated father to his six children, John Richard, Kelsey Marie, Shannon Kathleen, Tara Mary, Meghan Elizabeth, and Liam Charles.

Today, I ask my colleagues to join me in honoring John O'Donnell for his distinguished public service, his dedication to promoting Irish culture in the City of Bayonne, and his outstanding leadership and devotion to his community.

COMMEMORATING NATIONAL PEACE CORPS WEEK

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Ms. WOOLSEY. Mr. Speaker, I rise today to commemorate National Peace Corps Week, which runs from March lst through the 7th.

In our currently expanding global community, it is important to recognize the integral role that the Peace Corps has played in our past, as well the vital role it will continue to play in our future. As our interaction and interdependence on many foreign countries continues to show its relevance to our own welfare, it is important that the United States have a network of ambassadors like the Peace Corps Volunteers to connect on a local level with citizens of other nations.

With a history dating back to 1961, and a portfolio serving 137 countries, the Peace Corps can boast over 170,000 Peace Corps Volunteers Alumni, who have worked around the globe promoting world peace and friendship. There are currently over 7,500 Volunteers serving in 71 countries, which represents the highest number of Volunteers in the past 28 years.

I am proud to say that the 6th Congressional District of California currently has 39 of its own as Peace Corps Volunteers. They are, in alphabetical order and followed by the countries in which they serve: Emily A. Alden, Tanzania; Nicole M. Arnone, Madagascar; Marion Basel, Ghana; Laura Brinkoetter, Bangladesh; Christine Callinan, Micronesia; Jenifer Clover, Uzbekistan; Ryan E. Crew, Swaziland; Janice M. Crowe, Bulgaria; Lindsay C. Culp, Philippines; Kathryn E. Davis, Namibia; Katie M. Delahunty, Nicaragua; Charles S. Dietrich, Paraguay; Keith B. Ebright, Zambia; Jacob E. Fleming, Kyrgyzstan; Jennifer C. Galvin, Samoa; Alexandra, Geary-Stock, Swaziland; Tamara M. Gelvin, Morocco; Marcus A. Hawkins, Ukraine; Andrew B. Huston, Nepal; Joy Jacobs, Dominican Republic; Michael Y. Lee, Samoa; Laura J. Leones, Eastern Caribbean; Nickolette D. Patrick, Ukraine; Andrea R. Rask, Eastern Caribbean; Sara B. Riese, Burkina Faso; Leslie A. Schafer, Kenya; Sarah E. Schumacher, Macedonia; Mairead J. Schwab, Ghana; Jeremy B. Smith, Paraguay; Suzanne D. Smith, Philippines; Visalia T. Stanley, Haiti; Jill M. Talmage, Bulgaria; Eric J. Tawney, Vanuatu; Jenny K. Tegelvik, Honduras; Brian C. Vaughn, Nicaragua; Sarah F. Wiens, Kyrgyzstan; Tami M. Williams, Nicaragua; Heather J. Windom, Macedonia; Kenji A. Wright, Panama.

Mr. Speaker, I ask my colleagues to join me in commemorating National Peace Corps Week and honoring the men and women who have committed years of their lives to make our world a better place. It is with this sustained dedication, that lives will be changed, terminal diseases defeated, and poverty eradicated for citizens in every corner of the globe. I commend these brave and unselfish Volunteers and the spirit with which they are affecting change.

HONORING OHIO'S 21ST CENTURY LEARNING CENTERS

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. NEY. Mr. Speaker, on behalf of the Ohio delegation, I rise today to acknowledge and commend the accomplishments of the Ohio Department of Education and Dr. Mary Lou Rush for their work implementing Ohio's 21st Century Community Learning Centers.

Ohio's 21st Century Community Learning Centers offer programs and services that benefit the educational and related health, social services, cultural, and recreational needs of our communities. These centers provide academic enrichment opportunities to help students and to meet state and local student performance standards. In addition, they offer students a broad array of additional programs and activities, such as youth development activities, drug and violence prevention programs, counseling programs, art, music and recreation programs, technology education programs, and character education programs.

Dr. Rush, and those like her throughout the State of Ohio, are ensuring that all children, regardless of ethnicity, income, disability, or geographic location will meet with academic success. I am including in the RECORD a recent letter to Dr. Rush signed by members of the Ohio delegation to honor her accomplishments.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, February 27, 2004.

Dr. MARY LOU RUSH,
Ohio Department of Education,
Columbus, Ohio.

DEAR DR. RUSH: We are pleased to recognize Ohio's 21st Century Community Learning Centers and their commitment to excellence in education.

It is with great pleasure that we acknowledge and commend the Ohio Department of Education as the national leader in 21st Century Community Learning Center program implementation. In particular, we want to commend you for your exemplary leadership in developing Ohio's network of safe and supportive learning environments for all children, both during and outside the traditional school day. A tireless and committed advocate, your singular ability to focus Ohio's diverse communities on the educational needs of all children is assuring that Ohio's education system is the best in the nation.

On behalf of the Ohio delegation, we extend our thanks to the Ohio Department of Education for supporting a program that has impacted the lives of so many children. We congratulate the individuals behind the 21st Century Community Learning Center program and wish them continued success in their efforts to create appropriate educational opportunities for the children of Ohio.

Sincerely,

Members of Congress: Bob Ney, Marcy Kaptur, Sherrod Brown, Steve Chabot, Paul E. Gillmor, Stephanie Tubbs-Jones, Dennis Kucinich, Steven C. LaTourette, Robert Portman, Timothy J. Ryan, Ted Strickland, Patrick J. Tiberi, and Michael R. Turner.

SUPPORTING GOALS OF CERTAIN COMMUNITIES IN RECOGNIZING NATIONAL DAY OF REMEMBRANCE

SPEECH OF

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. HASTINGS of Florida. Mr. Speaker, I rise today in support of House Resolution 56. This bill supports the creation of a Day of Remembrance for persons of German, Italian, and Japanese descent who had their civil liberties egregiously curtailed by the United States Government during World War II.

This bill has important implications not only for these communities but also for all of us in this country. When our Nation was gripped by the fear of war coming to our shores, we made an unconscionable mistake in the form of Executive Order 9066. Signed on February 19, 1942, this order restricted the freedom of Japanese-, German-, and Italian-Americans along the west coast. Members of these communities were forced to carry identification cards, had travel restrictions, and found their personal property seized with little pretense and no due process. Families of citizens and legal residents alike were forced to leave their homes and live in deprivation behind barbed wires and guard towers in internment camps.

History has taught us that the United States was wrong to utterly obliterate civil liberties during World War II. The fear of spies and saboteurs was unfounded. It turns out that, though gripped by the most destructive and most divisive war of the 20th century, the United States had little to fear from American citizens of ethnic backgrounds. The infringement of constitutional rights for the stated purpose of homeland security was based more on racial discrimination than a credible security threat.

Japanese-, German-, and Italian-Americans deserve, at the very least, a Day of Remembrance, not only to ensure that the memory of this terrible time period lives on in their respective communities, but also to ensure that all Americans are aware of the grievous mistakes committed in the name of security. We all have important lessons to learn from the internment camps.

Mr. Speaker, the internment camps were one of the worst travesties this Nation has ever committed. We must learn from this shameful episode and apply these lessons for the future. Today we face our own war on terrorism and phrases like "homeland security," "terrorist cells," and "imminent threat" have become commonplace. The security of this great Nation can only be safeguarded if America's basic values are also defended. In pursuit of security, we must never threaten the rights of liberty and freedom that are guaranteed by the Constitution. We must not hold an entire culture or society responsible for the actions of a few members. We must not restrict the rights of everyone for fear of a few. Above all, we must make every effort to ensure the stability of our Constitution even during the difficult times of war and terror.

TRIBUTE TO GERRY GETTY

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. MOORE. Mr. Speaker, I want to take a moment to recognize the recent passing of Gerry Getty, a noted elementary school teacher and community leader in Franklin County, Kansas, which is located just to the south of the Third Congressional District of Kansas.

Gerry Getty taught elementary school for 32 years, was active in the National Education Association, and founded the Franklin County Literature Festival. I am saddened by her death at the young age of 53 and want to bring to the attention of our membership an article about her that ran in the Ottawa Herald on February 12th and her obituary from the Topeka Capital-Journal of February 13th. Dedicated educators like Gerry Getty are essential to the success of our children and grandchildren. Through their selfless work on behalf of their students they foster a love of learning within our local communities. I commend Gerry Getty to my colleagues in the House and I hope we all will be inspired by her efforts to make life better for her students and for her neighbors in Franklin County.

[From the Ottawa Herald, Feb. 12, 2004]

LITERATURE FESTIVAL FOUNDER DIES

(By Andy Gassaway)

Gerry Getty, a retired elementary teacher and founder of the annual Franklin County Literature Festival, died Wednesday after a long illness. She was 53. She spent 22 of her 32 years as an educator teaching elementary students in the Central Heights school district, instituting the district's Parent-Teacher Organization and its Reading Is Fundamental program, in which students received free books to take home each year.

"When she saw something she thought would be good for kids, she went for it," Vickie Hall, Lincoln Elementary fifth grade teacher, said. "She has left quite a legacy of the love of literature."

She graduated from Kansas State Teaching College in Emporia in 1971. In 1992, she received a master's degree from Kansas State University. Before coming to Franklin County, Getty taught in Overbrook, and Tipton. During her tenure at Central Heights, she also taught adult classes at Neosho County Community College's Ottawa campus.

Beginning in 1994, Getty organized a literature festival at Central Heights that brought children's authors to the area to meet with students. In 2002, the event was transplanted to Ottawa University and included students from all of Franklin County.

"She had a passion for reading," Steve Getty, her husband, said. "Her dream was for every student to be able to read. She wanted to bring it home to Franklin County, and wanted all students to see the wonderful world of literature, meet authors and bring a little culture to their lives."

Last year, the event brought together more than 1,500 students on the OU campus to visit with 13 authors, illustrators and storytellers who took the day to discuss their craft with the young readers. Steve Getty said his wife enjoyed reading the same books she read to her students. Her favorite authors included Mary Downing Hahn and Vicki Grove, he said.

Getty led the way in affiliating the local teachers' association with Kansas National Education Association and National Education Association in 1990. She served several years as president of the association and its negotiating team, and was a delegate to the state convention and three national conventions during her tenure. Her efforts earned her the Viking of the Year award, as voted upon by her fellow teachers at Central Heights. Other honors included being recognized in Who's Who Among America's Teachers, the 2001 Outstanding Reading Educator award from the Franklin County Reading Council and the 2002 Kansas Reading Association Professional Literacy Award.

"She's a very well-respected teacher," Central Heights elementary principal Mary Bogart said. "She may have led a short life, but she was a real doer."

Funeral Mass will be at 10 a.m. Monday at Sacred Heart Catholic Church, Ottawa.

Getty has been cremated. A Rosary will be said at 2 p.m. Sunday at Dengel & Son Mortuary, Ottawa, followed by a family visitation.

[From the Topeka Capital-Journal, Feb. 13, 2004]

GERRY ANN GETTY

Gerry Ann Getty, 53, Ottawa, died Wednesday, Feb. 11, 2004, at the University of Kansas Hospital, Kansas City. Funeral mass will be 10 a.m. Monday at Sacred Heart Catholic Church with the Rev. Tod Ziegler officiating.

She was born July 21, 1950, to Mathias and Marie (Haug) Roeder in Seneca. She grew up on a dairy farm in Nemaha County. She graduated from Baileyville-Benedict High School in 1968. She graduated from Kansas State Teachers College, Emporia, in 1971. In 1992, she received a master's degree from Kansas State.

She married Steven Getty on Oct. 3, 1970, at Seneca. He survives.

She was an elementary school teacher for 32 years. She taught in Overbrook, McDonald, Tipton and Central Heights. She also taught adult classes at Neosho County Community College's Ottawa campus.

She was a member of Sacred Heart Catholic Church. She founded the Franklin County Reading Festival in 2000. She was president and chief negotiator for her local chapter of the National Education Association and served as a national delegate. She received several education awards, including Who's Who Among America's Teachers, 1995 Viking of the Year, 2001 Outstanding Reading Educator from the Franklin County Reading Council, and the 2002 Kansas Reading Association Professional Literacy Award.

Her survivors also include two sons, Brent Getty, Lawrence, and Marc Getty, Kansas City, Mo.; three brothers, Larry Roeder, Hiawatha, Dan Roeder, Overland Park, and Dave Roeder, Washington, D.C.; and two sisters, Kathryn Roeder, Pittsburgh, Pa., and Karen Underwood, Los Angeles.

Her body was cremated. Rosary will be recited at 2 p.m. Sunday at Dengel & Son Mortuary, where the family will meet friends immediately following. Family inurnment will be later.

A memorial has been established with the Franklin County Literature Festival. Condolences may be e-mailed to the family through dengelmortuary@sbcglobal.net.

UNITED STATES PATENT AND TRADEMARK FEE MODERNIZATION ACT OF 2003

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. HOLT. Mr. Speaker, yesterday this body passed the United States Patent and Trademark Fee Modernization Act (H.R. 1561).

H.R. 1561 will begin outsourcing the U.S. Patent and Trademark Office's patent search function and it will increase the fees for inventors to obtain a patent or trademark. Yesterday's passage of H.R. 1561 will also lead to decreased efficiency and accountability in the process of granting patents and trademarks.

Article I, Section 8 of the U.S. Constitution grants the federal government the responsibility to "promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." H.R. 1561 increasingly shifts this function out of the hands of the federal government and delegates more of it to private commercial entities. What's more, due to the ambiguous language of the bill, these jobs could end up overseas. Congress should defend the integrity of the U.S. Constitution and the employment prospects of American workers.

As my colleagues may know, I hold a patent for a system to generate solar energy. That experience sensitized me to the reality that many of the most ground-breaking ideas and products that need patent or trademark protection come from small inventors or college or university laboratories. Therefore, it is vital that the financial hurdles for application and receipt of patents do not exceed the means of these inventors. H.R. 1561 would increase the fees that small entities must pay in order to obtain a patent or trademark, and the impending outsourcing will force the fees up again in the future. That burden will slow innovation. I recognize the need to pass meaningful legislation that will help the USPTO to alleviate their backlog of pending patent and trademark applications, in order to efficiently serve the innovators that keep this nation moving forward. Rather than achieving this worthy goal, this bill will make it more difficult for American inventors to obtain the legal protection that they and their products deserve. As much as I would like to see the work of the USPTO improved, I could not support H.R. 1561.

IN HONOR OF ALAN APFELBAUM

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Alan Apfelbaum for his years of service and dedication to the Jewish community. Mr. Apfelbaum was honored at the 51st Annual Sustaining Dinner Dance on Saturday, November 1, 2003, at the Bayonne Jewish Community Center in Bayonne, New Jersey.

Mr. Apfelbaum has been an active member of the Bayonne Jewish Community Center for over thirty years. He is a past president and a prior honoree at the Annual Dinner. Mr. Apfelbaum chaired the Nominating, Day Camp, Policy, and Scholarship committees, as well as the Louis Greenberg Lecture Series for the Bayonne Jewish Community Center.

Mr. Apfelbaum's commitment to the Jewish community led him to serve as president of the Bayonne Zionist District and the South Hudson Lodge of B'Nai B'rith. He served as chairman of the United Jewish Appeal Campaign, and is also a dedicated member of the Jewish War Veterans and the Holocaust Remembrance Day Committee.

Mr. Apfelbaum is a veteran of the Vietnam War, serving one tour of duty. After his service, Mr. Apfelbaum joined the Army Reserves in 1976 until his retirement in 1998 with the rank of Sergeant Major. Mr. Apfelbaum has received several commendations for his bravery and service to his country, such as the Army Good Conduct Medal, United States Army Commendation Medal, Bronze Medal, Air Medal, and Vietnam Service and Campaign Medals.

Mr. Apfelbaum is currently the supervisor of the Social Services Department at the Hudson County Correctional Facility in Kearny. Previously, he was the owner of Bargain Bin, a small business in Bayonne from 1987–1994.

Mr. Apfelbaum graduated from his native Bayonne High School, and received his bachelor's degree in Hebraic Studies from Rutgers University. Mr. Apfelbaum also holds a Master's Degree from New Jersey City University in Student Personnel Services.

Today, I ask my colleagues to join me in honoring Alan Apfelbaum for his dedicated service to his country and his outstanding contributions to the Jewish community in Bayonne.

HONORING REVEREND GLENDA HOPE

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Ms. WOOLSEY. Mr. Speaker, I rise today to honor Reverend Glenda Hope who is receiving the TenderChamp Award from the Central City Hospitality House in San Francisco. Rev. Hope has been a tireless advocate for the poor and homeless and is deservedly being recognized for her unwavering leadership, inspiration, vision and energy.

Central City Hospitality House is an organization that serves the homeless community in San Francisco's Tenderloin district. The TenderChamp award has been given out to organizations and individuals for their work in the Tenderloin community since 1986.

Glenda is the Executive Director of San Francisco Network Ministries. She, with seven others, founded Network Ministries in 1972 and under her leadership the organization reaches thousands of poor and homeless people through programs that address a wide array of issues related to poverty. San Francisco Network Ministries received the TenderChamp award in 1989 for "nourishing the spirit of the poor and being their advocate of change." It is fitting that Glenda is being individually recognized for the depth and longevity of her work.

Rev. Hope attended San Francisco Theological Seminary and after graduating in 1969 she was ordained at Old First Presbyterian Church in San Francisco. She served as their Assistant Pastor from 1969–1972, then as Pastor to Seventh Avenue Presbyterian Church from 1978–1989.

Glenda has had a long career in community service, working with Northern California Committee Against More Prisons, Tenderloin AIDS Network, the San Francisco Homeless Task Force and as the Chairperson to the General Assembly's Task Force to Persons in the Armed Forces.

Mr. Speaker, Rev. Glenda Hope has been an active and outspoken community leader for her entire life. Her efforts on behalf of the community's less fortunate reflect the heartfelt compassion that infuses her life and her work. I am proud of her and I am honored to be her friend.

PAYING TRIBUTE TO PETE DAGUERRE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. McINNIS. Mr. Speaker, it is truly a privilege to take this opportunity to pay tribute to Pete Daguerre, a remarkable woman who has overcome great obstacles in her life to serve her community. Pete, a resident of Montrose, Colorado, was diagnosed with Multiple Sclerosis over forty years ago, but despite the effects of this debilitating disease, she has thrived as a successful writer and public servant. I would like to take this opportunity to recognize her accomplishments and her strength to overcome difficult obstacles before this body of Congress and this nation today.

Pete was already an accomplished writer before she was diagnosed with MS. Refusing to remain idle as the effects of the disease began to set in, she instead concentrated on her writing as a means of coping with the disease. Pete has spent over twenty years writing columns for the Montrose Daily Press that serve to inform its readership of activities in not only her nursing home but in other homes around the community. In addition to her writing, she has remained active in public service, and continues to volunteer her time for the greater good of her community. Pete served as the Ouray County public treasurer for six years, and is now vice-president of the residency council at the San Juan Living Center.

Mr. Speaker, it is quite clear that Pete Daguerre is a person of unparalleled dedication and commitment to her life-long pursuit of writing and serving her community as a public servant. Pete's love of writing and positive attitude throughout her life serves as an inspiration to all, and it is my special honor to thank her for her service to her community before this body of Congress and this nation today.

GOP FIGHTING FOR AMERICA'S VETERANS

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. BURGESS. Mr. Speaker, I want to discuss how President Bush and this Republican Congress have fought to honor America's veterans.

After 18 years, that's nine legislative sessions, I am proud to say under the leadership of Congressman MICHAEL BILIRAKIS the Republicans are the only ones who can claim credit for allowing disabled military retirees to concurrently receive their full disability compensation and retirement benefits. We corrected the flaw in a 100-year-old law.

For the first time, because of Republicans, our country's wounded warriors, those who were injured in combat, while training for combat, or who are 50 percent or more disabled as a result of service-connected causes, will receive both the disability compensation and retirement pay they have earned.

According to the most recent Congressional Budget Office (CBO) estimates, full concurrent receipt would cost approximately $41 billion over the 10-year period between 2004 and 2013. Almost 700,000 retirees will be eligible in FY 2004 alone.

Mr. Speaker, I am proud that our Republican colleagues in the House and Senate have fought to ensure that America's veterans get what they deserve.

TRIBUTE TO RADNOR GIRL SCOUTS

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. WELDON of Pennsylvania. Mr. Speaker, I want to pay tribute to the Radnor Girl Scouts during their visit to our Nation's capital today. The girls and teens, ages 8 to 16, representing 10 girl scout troops and 11 schools, will participate in a program called Tomorrow's Leaders. In addition, the Radnor Girl Scouts have worked with the White House Project, Ms. President Patch for Girl Scouts, an organization that is changing the way people think about women in leadership roles. Girl Scouts of the USA started this new program, a nonpartisan organization dedicated to advancing women's leadership in government at all levels.

Girl Scouting was introduced in 1912 as a way to introduce new experiences and adventure to young girls, while helping them develop a positive self-image and important leadership skills. More than ever before, our country needs the support of organizations like the Girl Scouts of America to help build stronger families, neighborhoods, and communities. Those of us in the Seventh Congressional District of Pennsylvania are proud of the example and dedication of the Radnor Girl Scouts and congratulate them on the outstanding work they are doing. During their visit to our Nation's capital, they will learn vital lessons of leadership and service to prepare them to make significant contributions in all aspects of the life of our Nation.

Our great Nation will continue to grow and prosper as we uphold and encourage young people, such as the Radnor Girl Scouts, as symbols of hope, possibility, and personal excellence.

I ask my colleagues to join me in congratulating the Radnor Girl Scouts for their excellent work.

IN RECOGNITION OF NATIONAL PEACE CORPS WEEK

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. STARK. Mr. Speaker, today I rise to recognize the numerous achievements of the Peace Corps during National Peace Corps Week from March 1–7, 2004.

I commend the Peace Corps for its 43 years of attentive humanitarian service and contributions around the world. Since its inception in 1961, the Peace Corps has served to promote a mission of world peace throughout the 137 countries where its volunteers have diligently served. The work of these volunteers has become more vital today than ever before, with many Americans interested in humanitarian service, and a multitude of host countries eagerly awaiting their arrival.

Currently, more than 75,000 volunteers are serving in 71 countries around the world. This number includes five volunteers from California's 13th District: Julie Chang (Mali), Sarah Knueven Brett (Haiti), Rosalind Lwin (Kenya), Brian Stanke (Romania), and Judy Wong (Ukraine). These volunteers share their time and talents as teachers, advisers, agriculture and youth workers, and health educators in the countries where they serve.

During National Peace Corps Week, I am proud to honor the American men and women who are selflessly eager to serve our Nation by fulfilling the mission of the Peace Corps. The noble actions of these volunteers have empowered people in developing countries through their grassroots development efforts.

I urge my colleagues to join me in commending the Peace Corps on its 43rd anniversary for its continuing humanitarian efforts throughout the world.

FCC COURT RULING ON PRICING OF PHONE LINES

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. FROST. Mr. Speaker, I applaud the decision of the U.S. Court of Appeals for the D.C. Circuit on "UNE–P" pricing of wholesale phone lines.

Mr. Speaker, telecommunications companies are set to invest billions of dollars in network infrastructure—investment that will help the weak economy and create and preserve jobs—but the current regulatory environment restricts growth and investment in the telecom sector.

With this decision, the FCC should play a major role, as envisioned by Congress in passing the 1996 Telecom Act, of stimulating technological innovation, preserving quality universal service, and creating new jobs in a vital, growing, competitive industry.

PAYING TRIBUTE TO NEIL McDONALD

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Neil McDonald for the extraordinary patriotism and valor that he demonstrated in the service of his nation. Neil was a gunner in a Navy helicopter crew in Vietnam and in recognition of his actions, was recently inducted into the Navy Enlisted Combat Aircrew Roll of Honor.

This incredible honor is a testament to Neil's courage, and I would like to take this opportunity to recognize him before this body of Congress and this nation today.

This amazing honor is the manifestation of his many selfless and brave actions during the time he spent flying in combat overseas. The distinction of being inducted in to the Navy Enlisted Combat Aircrew Roll of Honor is one of the highest honors that can be bestowed for those enlisted Navy, Marine, and Coast Guard aircrewmen who flew in combat in all wars and served with distinction. Neil McDonald now joins only six hundred and fifty fellow patriots that have been selected for this honor. During the eighteen months he spent abroad, Neil flew in over five hundred combat missions and earned many combat decorations which include the Purple Heart, single action Air Medal, the Silver Star, and many personal and unit citations.

Mr. Speaker, it is quite clear that Neil McDonald is a man who possesses unparalleled dedication and commitment to serving his country. His life is the very embodiment of what makes this country great, and it is my distinct pleasure to honor Neil before this body of Congress. Thanks for your service to this country.

HONORING WILLIAM McGEE OF SANTA ROSA, CALIFORNIA

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Ms. WOOLSEY. Mr. Speaker, I rise today to honor William McGee of Santa Rosa, California, who died Sunday at the age of 79 of injuries suffered in a bicycle accident. Bill was an experienced and avid bicyclist as well as long-distance runner, bread baker, counselor, poet, photographer, philosopher, and retired junior college instructor.

This list does not begin to describe the warm, wise, and caring person that Bill was to his wife, Alice Waco, and to all of us who knew him. Friends will long remember the twinkle in his eye and the special comfort brought by the delivery of his own home-baked bread and a few lines of poetry in time of need.

Born in Marquette, Michigan, in 1925, Bill, whose father died when he was four, took a bakery job six years later to help support his family. His interest in spiritual matters drew him to attend a Catholic seminary in Milwaukee, Wisconsin. He was ordained a Catholic priest in 1956, and spent most of his priesthood at the University of Michigan in Houghton. There he founded the Newman Center to serve Catholic students.

Later Bill attended UC Berkeley on a Fulbright theology fellowship, eventually joining St. Benedict's Deaf Center in San Francisco. Bill's life changed dramatically when he met Alice Waco, then a nun at the center. They soon discovered that they were soulmates and both seeking answers outside the church. They married in 1974. That same year, Bill began teaching Latin at Santa Rosa Junior College where he was known for singing Latin chants to his classes. He also earned a master's degree in alcohol studies and coordinated a DUI counseling program at the school until his retirement in 1992.

Bill also worked as a substance abuse counselor at the Orenda Center in Santa Rosa, and with his wife Alice, was active in the Sonoma County Peace and Justice Center.

Bill used his photography, and especially his poetry, to express his feelings about life. Cards to his friends combined both arts with his own unique humor and spiritual philosophy. One of Bill's poems, To Be An American, exemplifies his view that love and hope help us meet the complexities and challenges of life. It reads in part:

> To be an American is a place beyond boundaries beyond vision, but a dream a possible dream:
> when boundaries are dissolved
> where perfect is growth
> where imperfection is ours sometimes in a most perfect way.
>
> To be an American is a place where everything and everyone is not yet, yet even though our brightest victories applaud sciences of war and peace in the echoes of machinery still making bombs and guns.
>
> We are peoples mixed, melted and split with differences that make pork in government, doves and hawks outside of it, and truth come late.
>
> To be an American is to grow in confusion of a world inside part of a world called these United States . . . in a milieu of men, women and children.
>
> Where differences are different and similarities are never different; that each and everyone needs very little in life; a place to eat, a place to sleep, a place to die, and a lot of loving in between.

Bill is survived by his wife Alice Waco, brothers Jim and Chuck McGee, and sisters Alice Tyler and Pat Ley.

Mr. Speaker, I am proud to rise today to honor William McGee. He was a man whose spirituality was matched by his compassion. He was a unique individual whose life brimmed with kindness and creativity. I join with Bill's family and many friends in grief over his loss and happiness in having known him.

IN HONOR OF SISTER JUNE FAVATA

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Sister June Favata for her years of service and dedication to the young women of Saint Vincent Academy in Newark, New Jersey. Sister Favata was honored at the Celebration of the Life of Monsignor Geno Charles Baroni luncheon on Tuesday, November 25, 2003, at the North Ward Center in Newark.

Sister June Favata has been a Sister of Charity of Saint Elizabeth for 42 years, dedicating most of her time and focus to the education of young women at Saint Vincent Academy. Sister Favata began her career at Saint Vincent Academy as an English teacher in 1969. After years of hard work and innovative thinking, she became program director of the Administrative team in 1978, and assumed the position of administrative director in 1985.

For over 30 years, Sister Favata has helped to establish several interdisciplinary programs at Saint Vincent Academy, focused on preparing students for the rigors of college by promoting self-discipline, personal responsibility, and enhancing academic skills and work ethic. Sister Favata, along with other colleagues, spearheaded the Students-in Community Program, a tool used to integrate social responsibility with formal education. It is an opportunity for students to learn of the underlying causes of social issues, while volunteering and helping out their respective communities.

Sister June Favata has received several awards for her dedicated service to the City of Newark and Saint Vincent Academy, such as the Distinguished Secondary School Teacher Award in the State of New Jersey from Princeton University; Community Leadership and Service Award from Saint Benedicts Preparatory School; and the Miracle Maker Award from the United Way of Essex and West Hudson.

Sister Favata is a life-long New Jersey resident, and received her bachelor's degree in English from the College of Saint Elizabeth and her master's degree in Communication Art from the University of Notre Dame.

Today, I ask my colleagues to join me in honoring Sister June Favata for her dedicated and tireless service to her community and for 34 years of outstanding leadership to the students of Saint Vincent Academy of Newark.

PAYING TRIBUTE TO TERRY WINDNAGEL

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. McINNIS. Mr. Speaker, I am privileged to take this opportunity to pay tribute to Terry Windnagel for his extraordinary patriotism and valor during his service to this nation. Terry was a helicopter door gunner with the Navy Seawolves of Helicopter Attack Squadron Three, and as a result of his heroic efforts was recently inducted into the Navy Enlisted Combat Aircrew Roll of Honor. This special honor is a testament to Terry's patriotism, and I would like to take this opportunity to recognize him before this body of Congress and this nation today.

The distinction of being inducted into the Navy Enlisted Combat Aircrew Roll of Honor is one of the highest honors that can be bestowed on an enlisted member of the military who served as an aircrewmen, flew in combat, and served with distinction. As a result of his many selfless and brave actions during the time spent in combat, Terry Windnagel now joins a select group of only six hundred and fifty fellow patriots that have been selected for this honor. While serving abroad, Terry flew in over five hundred combat missions, and earned many combat decorations, including the Purple Heart, single action Air Medal, combat action ribbons, and many personal and unit citations.

Mr. Speaker, it is quite clear that Terry Windnagel is a man who possesses unparalleled dedication and commitment to serving his country. His life is the very embodiment of what makes this country great, and it is my distinct pleasure to honor Terry before this body of Congress and this nation today. Thanks for your service to this country.

CONGRATULATING THE ELK RIVER ELKS ON THEIR VICTORY IN THE MINNESOTA STATE HIGH SCHOOL CLASS DOUBLE-A GIRLS HOCKEY TOURNAMENT

HON. MARK R. KENNEDY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. KENNEDY of Minnesota. Mr. Speaker, I rise today to congratulate the Elk River Elks on their victory in the Minnesota State High School Class Double-A Girls Hockey Tournament. The championship game on Saturday, February 28th, capped the 10th year that girls hockey has held a state tournament.

The Elks finished a 29–2 season with a thrilling 3–2 overtime victory over North Saint Paul, before a crowd of almost 2,500 fans from across Minnesota. This was the first trip to the state championship game for both teams.

Coached by Barry Hohlen, the Elks came from behind to tie the game in the 3rd period on a goal by Erin Olson, her second of the game. 59 seconds into overtime, senior Anya Miller, a Ms. Hockey finalist, scored on a slapshot to give Elk River the title. Both Olson and Miller were named to the all-tournament team.

Mr. Speaker, I congratulate the students, coaches and fans from Elk River High School on their championship season. It's a great tribute to their hard work, dedication and overall team effort. I know that everyone in the State of Hockey is proud of their accomplishments.

HONORING HELEN M. HIESTAND FOR HER EXTRAORDINARY SERVICE TO THE SECOND AND SIXTH DISTRICT OF OHIO

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. PORTMAN. Mr. Speaker, I rise today to recognize my friend Helen Hiestand for her years of able and dedicated public service to the people of Ohio's Second and Sixth Congressiona1 Districts.

Helen served as my District Field Representative for over 6 years. In this role, she served as Service Academy Director; Caseworker; and my representative in the local communities.

Helen's hallmark is professionalism. Throughout her service, Helen not only became a vital member of our office team, she was known for her dedication and commitment to solving problems for people. Helen earned a reputation for keeping in close touch with our local communities and building bridges between people and the Federal Government. She met the highest standards for efficiency and responsiveness in completing casework; served as liaison with local, State and Federal agencies and liaison with local elected officials; and represented me at local events when Congressional business prevented me from attending.

Prior to her service to the Second District, she served former Congressman Bob McEwen as District Office Manager and former Congressman Frank Cremeans as District Representative and Office Manager in Ohio's Sixth Congressional District. We were fortunate to have her join my office in 1997 as District Field Representative.

Helen is also devoted to her family. Her husband, Ed; daughter, Janis; and son, Joe, are pleased that she now has more time to spend with them. Also very active in her church, Helen has served in the United Methodist Women organization; as a Circle Leader; with the Chancel Choir and as a soloist. She has also been active in Emmaus Community, an ecumenical organization.

Helen attended Riverside City College in Riverside, CA, and the University of Texas at Austin.

Although we miss her greatly, we are privileged to have worked with Helen. Her ethical and professional standards, commitment, and dedication have served the Second and Sixth Districts well. We wish her good health and much success in her retirement and whatever she chooses to do next.

CELEBRATING NATIONAL PEANUT MONTH

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to recognize National Peanut Month—a time to celebrate one of America's favorite snacks and an important sector of our agricultural economy. Roasted in the shell for a ballpark snack, ground into peanut butter or tossed in a salad or stir-fry, peanuts find their way into everything from breakfast to dessert.

National Peanut Month had its beginnings as National Peanut Week in 1941. It was expanded to a month-long celebration in 1974.

It is believed that peanuts originated as a food source in Brazil or Peru in about 950 B.C. The demand for peanuts increased in the United States during the Civil War, when soldiers used them as food. Today, Americans eat 2.4 billion pounds of peanuts each year.

Because peanuts are not nuts but legumes, they grow in the ground and not on trees. The peanut plant grows above the ground, but the actual peanuts grow below the ground. Depending on the variety, peanuts can be ready to harvest in about 4 to 5 months after planting.

George Washington Carver is considered by many to be the father of the peanut industry. He began his peanut research in 1903. He suggested to farmers that they rotate their cotton plants and cultivate peanuts.

According to the U.S. Department of Agriculture, nine states produce peanuts: New Mexico, Alabama, Florida, Georgia, North Carolina, Oklahoma, South Carolina, Texas and Virginia.

Valencia peanuts are an economic mainstay of the High Plains. Peanuts arrived in New Mexico in the early 1900s. The first Valencia peanut grown in the state was the Tennessee Red, named for its red seed coat. Valencias may derive their name from a connection to Valencia, Spain. Today, the primary varieties grown in New Mexico include Valencia A and Valencia C.

Until last year, my home state of New Mexico grew more than 80 percent of the Nation's Valencia peanuts. Valencias, sometimes called ballpark nuts, account for less than 1 percent of U.S. peanut production, but they have been a financial mainstay for many farmers in New Mexico for more than five decades.

Known for their sweetness, Valencias usually have three or more kernels per pod. Well suited to the eastern New Mexico region, the red-skinned peanuts have a shorter growing season than the three other market types: runner, Virginia and Spanish peanuts.

Valencia peanuts have been an almost perfect crop for eastern New Mexico, particularly Roosevelt, Curry and Lea counties. Valencias do so well in the Clovis-Portales area because they face much less disease pressure than in other states. Valencias also thrive in the area's sandy soils.

Many of our peanut farmers in New Mexico have struggled in recent years with a devastating drought. Nonetheless, in 2002, New Mexico's peanut producers still farmed 18,000 acres of peanuts valued at more than $10 million.

Because of the importance of the peanut sector to my state's economy and traditions, I have worked to see that our interests have a place at the table. The 2002 farm bill established an 18-member board to provide consultation to the U.S. Department of Agriculture on implementing the peanut provisions contained in that law.

I wrote a letter to President Bush urging him to appoint Wayne Hardin and Jimmie Shearer to the board. I made this recommendation after both gentlemen were recommended to me by the New Mexico Peanut Growers Association and the New Mexico Peanut Research Board. I was delighted when the President accepted my counsel. Wayne and Jimmie are to be commended for their service.

Coincidentally, March is also National Nutrition Month—a great time to recognize the nutritional value of peanuts. Peanuts contain mainly unsaturated fat and are low in saturated fat. They contain fiber and magnesium. Peanuts have more plant protein than any other nut. They are also rich in vitamin E, folate, potassium, zinc, phyosterols and antioxidants. Additionally, diets high in nut consumption have also been shown to have a beneficial effect on lowering cholesterol. With the embrace of low-carbohydrate dieting, peanuts are enjoying an amazing revival.

As my colleagues well know, I am very interested in preventive health care. I was pleased by a 2002 study conducted by researchers at the Harvard School of Public Health that concluded women who eat peanuts or peanut butter five times a week can reduce their risk of developing type 2 diabetes by almost 20 percent. Of course, peanuts alone are not a panacea for good health. Physical activity, losing weight and changing dietary habits are key to helping stay healthy.

Mr. Speaker, National Peanut Month provides us the opportunity to recognize the benefits of peanuts as well as the hard work of all the people in the peanut industry. I ask my colleagues to join with me in this celebration.

IN HONOR OF HARRISON POST 282 AMERICAN LEGION

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Harrison Post 282 American Legion on its 65th Anniversary. An anniversary celebration was held on Saturday, January 17, 2004, at Post 282 Headquarters, 8 Patterson Street, Harrison, New Jersey. The ceremony was presided over by Commander Edwin Marshman, Sr.

On September 16, 1919, the United States Congress chartered the American Legion. The purpose of the American Legion is to serve as a community organization sworn to uphold the Constitution of the United States of America, to foster and promote the ideals of patriotism, and to preserve the memories of wars and battles fought by our courageous men and women in uniform. The American Legion is vital to the preservation and celebration of American heritage. It understands the power and value of our history. Yesterday, these brave soldiers served in the Armed Services to preserve America; today, they serve in our communities to preserve our heritage.

Although the majority of the service provided by the American Legion is geared towards veterans' issues, its service does not stop there. The American Legion is heavily involved in children and youth and community service activities. Since its inception in 1919, the American Legion has been a supporter of the Boy Scouts of America. Today, the Legion is the chartering agency for more than 1,700 scouting units involving more then 64,000 youths.

Harrison Post 282 was formed in 1939 by a group of dedicated Harrison veterans who wished to foster the goals of the American Legion in their community. Harrison Post 282 received its permanent charter from the American Legion in 1941. In its 65 years, Harrison Post 282 has continuously upheld the goals of the American Legion, helping countless veterans and serving as a pillar of the Harrison community in a variety of activities.

Today, I ask my colleagues to join me in celebrating the 65th Anniversary of the Harrison Post 282 American Legion and in honoring its outstanding commitment to veterans and their community.

PAYING TRIBUTE TO EAST HOLBROOK, ROCKY FORD, AND EMMANUEL MENNONITE CHURCHES

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to three Mennonite churches that have enriched the Southeastern Colorado community for 100 years. The East Holbrook, Rocky Ford, and Emmanuel Mennonite churches in Colorado have been instrumental in educating citizens about religion and providing healthcare to the Pueblo community. I would like to join my colleagues here today in recognizing these institutions tremendous service to their Colorado community.

In 1903, the Mennonites settled in East Holbrook and the Fairmount area in my state. Over the years, the group has established a school, a tuberculosis sanitarium, and a hospital. The Mennonites have been outstanding members of the community who have met the increasing needs of their community by adding a School of Nursing and a new congregation for Spanish-speaking residents in Cheraw and La Junta, Colorado.

Mr. Speaker, East Holbrook, Rocky Ford, and Emmanuel Mennonite churches are composed of dedicated individuals who use their resources to improve the lives of many Puebloans. The Mennonites have demonstrated a love for humanity that resonates with their compassionate and selfless service to their town. The Mennonite enthusiasm and commitment certainly deserve the recognition of this body of Congress.

UNITED STATES PATENT AND TRADEMARK FEE MODERNIZATION ACT OF 2003

SPEECH OF

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mr. CONYERS. Mr. Chairman, the PTO is in the midst of a crisis. Funded by user fees instead of taxpayers, the PTO generates $1 billion in revenues each year. This success has been an Achilles' heel—the Administration treats the PTO as a cash cow and diverts hundreds of millions of dollars every year for other programs. This is making it difficult for the PTO to hire or even retain qualified examiners to review patent applications. Our technological advancement and our economy can only suffer if Congress sits idly by while this happens.

This bill remedies this by ensuring the PTO can spend all of the fees it collects. I believe ending fee diversion is one of the most important signals we can send to spur innovation and encourage new technologies and new drugs.

The bill also incorporates a proposal of mine and Representative KAPTUR's to maintain a fee deduction for small businesses. Small businesses are important to this country's economy, and we should give them every incentive to innovate and seek protection for those innovations.

Having said that, I still have concerns about outsourcing. The bill would give the PTO the ability to hire private contractors to do patent searches. This is problematic for a variety of reasons. First, searching old patents and journals is one of the core functions of the PTO, giving that job to private companies would be like shutting down the FBI and having someone else conduct criminal investigations for the Justice Department. Second, no one questions the accuracy and integrity of the work of PTO employees, so the need for contractors is questionable. Also, there could be conflicts of interest if the employee of a contractor doing searches has his or her own patent applications pending.

While the bill will be improved to prevent outsourcing to foreign companies and to limit conflicts of interest, some of my concerns remain.

RECOGNIZING COLONEL H. WILLIAM CARD FOR HIS LEADERSHIP

HON. RUBÉN HINOJOSA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. HINOJOSA. Mr. Speaker, I rise today to invite my colleagues to join the Harlingen Hispanic Chamber of Commerce in saluting the extraordinary life and service of Colonel William "Bill" Card. Colonel Card is a modern day "Renaissance man". He has been a citizen, soldier, educator, entrepreneur, community leader, and mayor, and is an example of what is best in America.

Bill Card was born into a military family where dedication to service and country were deeply ingrained. At the age of 17, he enlisted in the U.S. Marine Corps and was sworn in by his father, Brigadier General Horace W. Card. While still in college, he was called to duty aboard the USS *Pennsylvania* berthed at Pearl Harbor, Hawaii. It was on Sunday, December 7, 1941 that Bill was first tested in battle as he manned the guns to defend his ship against enemy aircraft. In 1942, Bill was commissioned as a second lieutenant and by 1944 was a captain and took part in the campaign of Saipan Island.

After the war, Bill continued to serve in the Marines as an artillery instructor. When the Korean War broke out, Captain Card took part in the landing at Inchon and the liberation of Seoul. By 1954, Bill was a Lieutenant Colonel and served as Battalion Commander, Training and Test Regiment at Quantico, Virginia. In 1962, he was deployed to Cuba during the missile crisis and was subsequently promoted to full colonel.

In 1968, Colonel Card came to Harlingen, Texas as director of Development of the Marine Military Academy. As an instructor, he was always willing to share his knowledge and the values of integrity, honor, courage, dedication and perseverance with the young cadets. Upon his retirement from the Marine Corps, he began a new career as a businessman and community leader in Harlingen.

Bill Card jumped right in to community affairs. He served as the Mayor of Harlingen from 1987 to 1998. He has served as the President of the Rio Grande Valley Chamber of Commerce, the Harlingen Rotary Club, the United Fund, and the Lower Rio Grande Valley Development Council. He has been an officer in numerous organizations including the Easter Seal Chapter of Cameron County, the American Heart Association, the Lower Rio Grande Valley YWCA, the Muscular Dystrophy Association, the Marine Military Academy and the Harlingen Community Care Emergency Foundation. He currently serves on the Rio Grande Valley Health Services District Board, a new entity seeking to resolve the border region's indigent health care crisis. This list goes on and on.

He has deservedly received numerous awards including Citizen of the Year of the Rio Grande Council of the Boy Scouts, the 1973 "Boss of the Year" by the National Secretaries Association and the 1980 "Banker of the Year" for Small Business Administration Region VI. He even received the "Road Hand Award" from the Texas Department of Transportation for proving his ability and stamina in toiling long, strenuous hours for Texas roads. He has also never forgotten his first love, the Marines, and spearheaded the capital campaign that raised $14 million for new barracks, classrooms, student services and athletic facilities for the Marine Military Academy.

Bill Card never does anything half-heartedly. The discipline and focus he learned in the Marines has been carried with him in civilian life. The people of Harlingen and the Rio Grande Valley are deeply indebted to him for his commitment to improving life for every resident. As a result of his leadership, Harlingen completed a new air terminal at Valley International Airport. The city has a new public library, a new public museum and an expanded municipal auditorium. His vision of thinking of the Rio Grande Valley as one economic entity has brought economic growth and increased cooperation to the whole region.

Despite accomplishing enough for two lifetimes, Bill and his wife Garrison have found the time to raise four beautiful children and are the proud grandparents of six grandchildren. I am very proud to call him my friend. I urge my colleagues to join me in commending Colonel Card and expressing our gratitude for his distinguished service to South Texas and to this great Nation.

D.C. CIRCUIT COURT RULING CONCERNING TELECOMMUNICATIONS REGULATIONS

HON. DEVIN NUNES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. NUNES. Mr. Speaker, two days ago the D.C. Circuit Court ordered the Federal Communications Commission (FCC) to design new unbundling and wholesale rules within 60 days. According to the Court, "This deadline is appropriate in light of the commission's failure, after eight years, to develop lawful unbundling rules, and its apparent unwillingness to adhere to prior judicial rulings." Given the situation and the impact that it has on my rural district and consumers across the country, I fully support this decision.

The time has come for the FCC to stop playing games and adopt a set of rules that adheres to the guidelines set forth by the 1996 Telecommumcations Act. I support free market principles and feel as though Congress painted a clear pro-competition, pro-growth picture for the FCC. I also echo the sentiments of many other members of the House who feel that it is time to put some legitimacy and continuity in telecommunications regulations.

For the sake of growth, development, and the rule of free market principles in the telecommunications industry, I would like to see each and every member of the House support this ruling.

IN HONOR OF MR. AND MRS. RICHARD A. RUTKOWSKI

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Richard A. Rutkowski and Regina J. Rutkowski for their years of service and dedication to their community. Mr. and Mrs. Rutkowski were honored by the Richard A. Rutkowski Association at the 25th Anniversary Gala Dinner-Dance on Saturday, January 17, 2004, at the Hi-Hat Caterers in Bayonne, New Jersey.

Richard A. Rutkowski is former mayor and two-term council member-at-large for the City of Bayonne. In 1992 and 1993, Mr. Rutkowski was elected by fellow mayors to the 25 member executive board of the New Jersey State League of Municipalities. Mr. Rutkowski is currently a director of the Bayonne Chapter of the National Conference for Community and Justice, an active member of the American Polish Veterans, Assumption Catholic War Veterans Post no. 1612, and Bayonne Elks Lodge #434.

Mr. Rutkowski has served on a number of boards of directors for committees, civic, religious, professional and ethnic organizations He is a former member of the Parish Council and school board member at Our Lady of Mount Carmel, where he served as the chairman of the Parish Centennial Committee. Mr. Rutkowski has also served as assistant cubmaster of Pack 19.

For all his remarkable accomplishments, dedication to his community, and leadership, Mr. Rutkowski has received numerous awards, including the YMCA Award, Citizen of the Year Award from the Bayonne Kiwanis Club in 1990, and National Conference for Community and Justice Humanitarian Award in 2001.

Born and raised in Bayonne, Mr. Rutkowski attended Saint Peter's Prep and received his bachelor's degree from Saint Peter's College. Mr. Rutkowski received a master's degree from Stevens Institute of Technology.

Regina J. Rutkowski was born in Poland, and is a survivor of the Nazi occupation. After years of suffering, her family relocated to England and then to the United States. Mrs. Rutkowski attended New Jersey City University where she graduated Summa Cum Laude, and received her bachelor's degree in History.

Mrs. Rutkowski has been involved in a variety of charitable, social and civic organizations in which she has held several positions, such as Bayonne's marshall of the Pulaski Day Parade in 1997, trustee of the Bayonne Historical Society, and honorary chair on the 25th Anniversary of the Pro Arte League of the Kosciuszko Foundation.

Mrs. Rutkowski is an active member in numerous organizations, including the Bayonne Pulaski Memorial Committee, Polish-American Heritage Committee of Bayonne, Polish-American Citizens Club, and Royal Arcanum.

Mrs. Rutkowski is a member of the Our Lady of Mount Carmel Church, where she serves on the Parish Council. She is an usherette and former member of the parish's Centennial Committee. She currently serves as treasurer of the Mount Carmel Guild.

Mr. and Mrs. Richard A. Rutkowski are the proud parents of three sons, Richard Jr., Stephen, and Robert, and grandparents of three wonderful children, Stephen, Alexa and Robert.

Today, I ask my colleagues to join me in honoring Richard A. Rutkowski and Regina J. Rutkowski for their outstanding leadership, tireless work and service in the community, and commitment to their fellow man.

WE THE PEOPLE ACT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. PAUL. Mr. Speaker, I rise to introduce the We the People Act. The We the People Act forbids federal courts, including the Supreme Court, from adjudicating cases concerning state laws and policies relating to religious liberties or "privacy," including cases involving sexual practices, sexual orientation or reproduction. The We the People Act also protects the traditional definition of marriage from judicial activism by ensuring the Supreme Court cannot abuse the equal protection clause to redefine marriage. In order to hold federal judges accountable for abusing their powers, the act also provides that a judge who violates the act's limitations on judicial power shall either be impeached by Congress or removed by the president, according to rules established by the Congress.

The United States Constitution gives Congress the authority to establish and limit the jurisdiction of the lower federal courts and limit the jurisdiction of the Supreme Court. The Founders intended Congress to use this authority to correct abuses of power by the federal judiciary.

Some may claim that an activist judiciary that strikes down state laws at will expands individual liberty. Proponents of this claim overlook the fact that the best guarantor of true liberty is decentralized political institutions, while the greatest threat to liberty is concentrated power. This is why the Constitution carefully limits the power of the federal government over the states.

In recent years, we have seen numerous abuses of power by federal courts. Federal judges regularly strike down state and local laws on subjects such as religious liberty, sexual orientation, family relations, education, and abortion. This government by federal judiciary causes a virtual nullification of the Tenth Amendment's limitations on federal power. Furthermore, when federal judges impose their preferred policies on state and local governments, instead of respecting the policies adopted by those elected by, and thus accountable to, the people, republican government is threatened. Article IV, section 4 of the United States Constitution guarantees each state a republican form of government. Thus, Congress must act when the executive or judicial branch threatens the republican governments of the individual states. Therefore, Congress has a responsibility to stop federal judges from running roughshod over state and local laws. The Founders would certainly have supported congressional action to reign in federal judges who tell citizens where they can and can't place manger scenes at Christmas.

Mr. Speaker, even some supporters of liberalized abortion laws have admitted that the Supreme Court's Roe v. Wade decision, which overturned the abortion laws of all fifty states, is flawed. The Supreme Court's Establishment Clause jurisdiction has also drawn criticism from across the political spectrum. Perhaps more importantly, attempts to resolve, by judicial fiat, important issues like abortion and the expression of religious belief in the public square increase social strife and conflict. The only way to resolve controversial social issues like abortion and school prayer is to restore respect for the right of state and local governments to adopt policies that reflect the beliefs of the citizens of those jurisdictions. I would remind my colleagues and the federal judiciary that, under our Constitutional system, there is no reason why the people of New York and the people of Texas should have the same policies regarding issues such as marriage and school prayer.

Unless Congress acts, a state's authority to define and regulate marriage may be the next victim of activist judges. After all, such a decision would simply take the Supreme Court's decision in the Lawrence case, which overturned all state sodomy laws, to its logical conclusion. Congress must launch a preemptive strike against any further federal usurpation of the states' authority to regulate marriage by removing issues concerning the definition of marriage from the jurisdiction of federal courts.

Although marriage is licensed and otherwise regulated by the states, government did not create the institution of marriage. Government regulation of marriage is based on state recognition of the practices and customs formulated by private individuals interacting in civil institutions, such as churches and synagogues. Having federal officials, whether judges, bureaucrats, or congressmen, impose a new definition of marriage on the people is an act of social engineering profoundly hostile to liberty.

It is long past time that Congress exercises its authority to protect the republican government of the states from out-of-control federal judges. Therefore, I urge my colleagues to cosponsor the We the People Act.

IN RECOGNITION OF A.E. "BEAN" BACKUS

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. SHAW. Mr. Speaker, today, I rise to recognize one of America's greatest artists, A.E. (Bean) Backus, who I'm proud to say was a native and lifelong South Floridian. On canvas, he captured the very essence of our State's natural beauty.

I count myself among Bean Backus' admirers for portraying Florida as it was and as it should be.

From his earliest days on the Indian River, when he was given a set of watercolors at the age of eight to a lifetime body of work of over 6,000 paintings, Bean has left his indelible mark on all who have followed in the Backus style.

His works are collected and exhibited in Florida and around the world, each telling a story of South Florida's unique natural heritage. Most of it has disappeared from daily public view, left only to preserves and weekend nature trips, but through Bean it is kept alive in the homes of those fortunate to own a Backus or visit one in a museum.

If you squint your eyes and use your imagination, you can see Florida the way Bean Backus saw it. Today, the land where shopping centers and housing developments stand surrounded by traffic was once a place where roseate spoonbills fed and the only sound was the rustling of the Everglades' grasses. Wetlands have become parking lots, and marshes became mansions along our once pristine waterways. Thanks to Bean's visual legacy, their memory is kept intact for our children, grandchildren and great grandchildren.

Recognized as the "Dean of Florida Landscape Painting", he is the standard to which other Florida landscape artists aspire. His subtle mastery of light and color are copied by many but equaled by none. His Fort Pierce studio was always alive and open, with 50 students, children's art classes, the curious, those who just wanted to debate the news of the day or perhaps wanted to pick up a brush and try painting.

Bean Backus is the inspiration behind the much acclaimed African-American artists known as The Highwaymen, and counted them among his friends. His compatriot, the legendary author Marjorie Stoneman Douglas, was also a close friend. Though a frequent dining companion of Ian Fleming of James Bond fame, he was most comfortable sharing a sunrise breakfast with the fishermen, workers and tall tale tellers in his hometown.

Today, we can best appreciate Bean Backus at the gallery named in his honor in Fort Pierce that receives tens of thousands of visitors each year. It boasts the largest permanent collection of Backus paintings and annually each spring showcases a large selection of additional Backus paintings from private collections. According to Bean's wishes, admittance has remained free and is supported solely by private donations.

Mr. Speaker, occasionally when the light is right, in the early hours you can almost see Bean at his easel near a window in the gallery recreating the best of Florida for the world to enjoy. Thank you Bean Backus for keeping alive the real Florida, forever.

HONORING THE MEN AND WOMEN OF THE DRUG ENFORCEMENT ADMINISTRATION ON ITS 30TH ANNIVERSARY

SPEECH OF

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mr. REYES. Mr. Speaker, I rise today in support of this resolution honoring the men and women of the Drug Enforcement Administration (DEA) on its 30th Anniversary. The DEA has played a vital role in the battle against the drug epidemic in our country.

Before being elected to Congress, I was a federal law enforcement officer in the Immigration and Naturalization Service (INS) for 26½ years. Twelve of those years were spent as El Paso Sector Chief of the United States Border Patrol. One of the most important and most dangerous missions I had in the Border Patrol was the interdiction of illegal narcotics. I had the opportunity to work closely with the DEA in that mission, and can personally attest to the hard work, dedication and professionalism of DEA personnel.

Mr. Speaker, I have the pleasure to represent the city of El Paso, Texas, a border town in the western-most tip of Texas. This area plays a critical role in our country's war on drugs. Last April my colleague Mr. SOUDER of Indiana, who is the sponsor of the resolution before us today, held a field hearing in my district to highlight the impact of drug trade in our area. Mr. Sandy Gonzalez, DEA Special Agent in Charge in El Paso, was a witness at this hearing.

As one might imagine, DEA has a significant presence in my district. The DEA-led El Paso Intelligence Center, or EPIC, was established by the Department of Justice in 1974 as an intelligence service center to be staffed by representatives of the Immigration and Naturalization Service (INS), U.S. Customs Service and DEA. Initially, EPIC focused on the U.S.-Mexico border and its primary interest was drug movement and immigration violations. Today, EPIC has the same mission, but has broadened its scope to include all of the United States and the entire Western Hemisphere.

Mr. Speaker, I can personally attest to the value of the DEA in El Paso. I urge every Member of this House to join me in congratulating the DEA for 30 years of service in our country.

PAYING TRIBUTE TO PETE AND POLLY CONLON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to two people responsible for continuing a great tradition of entertainment in Beulah, Colorado. Pete and Polly Conlon's Flag Mountain Grill is a family-oriented attraction center that has been a source of entertainment for the citizens of Colorado for over a century. The Flag Mountain Grill is an incredible asset to the city because it engages the community members in such a dynamic way, and I would like to join my colleagues here today in recognizing the Conlon's tremendous service to the Beulah community.

Pete and Polly Conlon are the owners of the Flag Mountain Grill, formerly known as Gayway Park. Currently, the Flag Mountain Grill serves as a restaurant but it began as a small boating pond that was carved out of a mountain valley. Over time, it expanded to include numerous baseball fields, the valley rodeo, and many other community events. During its heyday in the 1950's, Gayway Park was the weekend destination for the Pueblo community as a vibrant music and dance hall.

Mr. Speaker, the Flag Mountain Grill continues a long tradition, dedicated in bringing the people of Colorado together. Pete and Polly Conlon have enjoyed taking on the task of running this landmark institution in Beulah, and their enthusiasm and commitment certainly deserve the recognition of this body of Congress.

PERSONAL EXPLANATION

HON. ROBERT MENENDEZ

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. MENENDEZ. Mr. Speaker, I regret that an International Relations Committee hearing on Haiti yesterday caused me to miss Rollcall vote 38, on final passage of H.R. 1561, the United States Patent and Trademark Fee Modernization Act. Had I been present, I would have voted "yea" on Rollcall vote 38.

RECOGNITION OF COLORADO NONPROFIT WEEK

HON. DIANA DeGETTE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Ms. DEGETTE. Mr. Speaker, I rise to commemorate Colorado Nonprofit Week, an annual event organized by the Colorado Association of Nonprofit Organizations (CANPO) and volunteer committees around the state. The purpose is to recognize and celebrate the vital impact Colorado's nonprofits have on our economy and quality of life.

In Colorado, there are over 16,000 nonprofits and nationwide there are over 850,000 charitable nonprofits. One-third of charitable nonprofits work in the area of human services, helping to meet the needs of all of our citizens through food banks, job counseling, shelters, domestic violence just to mention a few essential areas.

The other two-thirds of the nonprofit sector serve an even broader constituency—all of those who attend cultural performances, view exhibitions, visit galleries, take their children to museums, provide educational programming, work with animals and protect the environment, and many other vital, day-today parts of our lives.

The Colorado Association of Nonprofit Organizations has worked hard to make Colorado Nonprofit Week a success. Their goals have been to increase the visibility of nonprofits and their important contributions throughout the state; to strengthen relationships between nonprofit leaders and public officials; and to encourage individual nonprofit leaders to see themselves as part of the greater nonprofit sector.

In 2001 (the last year data was analyzed) nonprofit expenditures totaled more than $9 billion in Colorado for the 5,400 largest nonprofits and $822 billion in the United States for the nearly 267,000 largest nonprofits.

The Colorado Association of Nonprofit Organizations represents organizations across the state that provide hope for thousands of Coloradoans. They educate youth, help the disabled, protect children, provide needed services to adults and promote culture and the arts. From bettering the lives of individuals to improving the overall economy of our entire state, there is almost no aspect of society that nonprofits do not touch. One thing is for sure; our state would not be the incredible place it is today if these crucial organizations did not exist.

Mr. Speaker, nonprofits in Colorado and across the country are an essential piece of the fabric of this country. I am pleased and proud to have this opportunity to salute them today.

EXTENSION OF NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

SPEECH OF

HON. MARK E. SOUDER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 3, 2004

Mr. SOUDER. Mr. Speaker, I come before you in opposition to the extension of the 9/11 Commission. From the outset, I've been opposed to the creation of this blue ribbon panel. A year and a half ago I voted against the Roemer Amendment which created this panel because I felt the panels work would be duplicative to an already established blue ribbon panel, the Select Committee on Intelligence.

Aside from its duplicative nature I was also concerned over the political intent behind the creation of the blue ribbon commission. I feel that if the panel generates any type of report that focuses on the Bush Administration ignoring key pieces of intelligence it can only be construed as being political. Given the fact that there were tens of thousands of intelligence memos regarding terrorist threats, if this panel criticizes a particular Administration for failing to react to one briefing memo then their report can only be seen as seen as politically driven.

The panel's recent request for an extension to its pre-established May 27th deadline only reinforces my pre-held belief that the panel is going to be used as a political vehicle and not serve its original intent which was to provide recommendations for guarding against future attacks. In my opinion, the panel should have either produced a report within the original time constraints or extend the deadline till after the November elections so that the findings don't get bogged down in election year politics.

The way in which the House passed the extension yesterday on voice vote with no advance notice is also troubling to me. Had the House conducted a recorded vote on the extension, I would have voted "no."

PERSONAL EXPLANATION

HON. DOUG OSE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. OSE. Mr. Speaker, on Tuesday, March 2, 2004, I missed rollcall votes 32, 33. Had I been here, I would have voted "aye" on rollcall 32; and "aye" on rollcall 33. I request that my comments be placed in the CONGRESSIONAL RECORD at the appropriate section.

TRIBUTE TO KURT DOUGLAS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. MCINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to a talented and dedicated athletics coach from Rangely, Colorado who is retiring after many years of service. Kurt Douglas uses his creative guidance to inspire people to achieve their best and make the most of their talents and abilities. His enthusiasm spirals through the community as he passes his love for sports on to his student-athletes. I would like to join my colleagues here today in recognizing Kurt's tremendous service to the Rangely community.

Kurt Douglas has been coaching for over twenty-seven years. He started his coaching career in Crowley County in 1975, where he served as an assistant baseball coach for six years and assisted with the boy's basketball team for two more years before becoming head coach. After Crowley County, Kurt went on to coach at Rocky Ford, working with the Meloneer's baseball team for 13 seasons, which included two trips to the state finals. He also coached the girl's basketball program and assisted the football team for a combined 12 years.

Kurt has led three basketball teams to the state tournament and participated in four all-state games, two in basketball and two in baseball. His favorite aspect of coaching has been the opportunity to guide his three daughters through their own basketball careers. In the midst of all this, Kurt has found the time to work as a full time teacher, while serving as the activities director for the high school.

Mr. Speaker, Kurt Douglas is a truly dedicated individual who uses his talents to enrich the lives of the students in his Rangely community. Kurt has demonstrated a love for sports that resonates in his compassionate and selfless service to many athletic programs and the student-athletes who participate. He has given up countless hours of his free time in order to give kids a chance to pursue their dreams, and I commend him for his service to our youth. Thanks for all your hard work, Kurt, and I wish you the best of luck in all your future endeavors.

COMMEMORATION OF THE 5TH ANNIVERSARY OF THE AMERICAN LEGACY FOUNDATION

HON. TODD RUSSELL PLATTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. PLATTS. Mr. Speaker, I rise today to recognize and congratulate an organization that has dedicated its efforts to the education and prevention of tobacco use among our Nation's young people. Founded on March 4, 1999, as a result of the historic Tobacco Master Settlement Agreement (MSA), the American Legacy Foundation celebrates its 5th anniversary this week.

Over the past 5 years, the American Legacy Foundation has made great strides in improving health for all Americans by creating an environment which allows young people to reject tobacco products and assists others to quit.

The American Legacy Council is best known for their award-winning truth youth counter market campaign. Truth advertisements provide a blunt and frank approach to the negatives of smoking and tobacco usage. These advertisements are credited as one of the reasons for the recent declines in youth tobacco usage. Additionally, the foundation's programs extend well beyond targeting youth. Through their cessation programs, the Circle of Friends creates circles of support around women who wish to quit, the Great Start Program helps to provide counseling for pregnant women regarding the risks of tobacco usage during pregnancy, and the Priority Populations Program focuses on those groups disproportionately harmed by tobacco use.

In addition to celebrating the American Legacy's Foundation wonderful achievements, I wish to take this opportunity to share with my colleagues the very real threat to the financial existence of programs such as truth, and the existence of the Foundation itself. This year the American Legacy Foundation has received its last payment from the MSA. Because of the dramatic reduction in resources, all of the successes that the Foundation has achieved are in jeopardy. Already, the Foundation is cutting programs. It is imperative that members of Congress join together to not only congratulate the American Legacy Foundation on their great success over the past 5 years, but also join together to ensure that the American Legacy Foundation will be able to continue on their path for years to come.

TRIBUTE TO JEANNE YOSHIDA HONDA

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Ms. ESHOO. Mr. Speaker, I rise today to place into our Nation's RECORD the tribute which was given by Art Honda at the memorial service for his sister-in-law, Jeanne Yoshida Honda, beloved wife of Congressman MIKE HONDA, on February 21, 2004.

"Jeanne would really be blown away with all of you being here (especially in this weather). She would also be a little embarrassed but pleased all the same. Thank you for being here to share this time with MIKE and the family.

I have strict instructions from MIKE to keep this brief since he wants to reserve as much time as possible in order to share a moment or two with each of you personally. That might be difficult, but MIKE always thinks big.

In remembering Jeanne I'm sure my thoughts will mirror many of yours since Jeanne was pretty much the same person no matter who she was with. She was comfortable in her own skin, so to speak, and never tried to be anyone but herself . . . and although MIKE casts a big shadow, both literally and figuratively, Jeanne was never overshadowed. She had her own life plan, developed her own career and went about it in her own unassuming but resolute manner.

I remember Jeanne as one of those rare individuals who knew early on what she wanted in life and set about achieving them in her own quiet and measured way . . . I think that all she really wanted was to marry MIKE, teach little kids and have a comfortable home where she could raise a family. She achieved all that, and I don't think she ever needed nor wanted anything more.

I first got to know Jeanne when she began dating MIKE over 40 years ago. We were all young then if that could be imagined. She was a 19-year-old freshman at SJS majoring in teaching.

She adored MIKE. As a brother, I couldn't see it, but, eventually, even I had to admit that Jeanne was a good judge of character. They were well suited to each other. They had a loving and playful relationship, they filled each other's voids, and their separate strengths—she being introverted, disciplined and structured and MIKE being extroverted, spontaneous and hardly a slave to the clock—rather than being incompatible, they dovetailed perfectly and like fine joinery their union was strong and enduring.

Now I have to say here that I'm younger than MIKE—I try to point this out every chance I get—being the more youthful is one of the few things I have over him. He's got me in most every other area—especially in that full head of hair. Anyway, I got married first—I don't know if that had anything to do with it, but one evening shortly after I got married, Jeanne visited Yoshiko and me at our little duplex apartment, and being MIKE's brother, she wondered if I had any insights into his intentions as far as their future was concerned. Well, hoping to reassure her but not wanting to commit MIKE to anything that he wasn't ready for, I told Jeanne that when MIKE was ready to settle down, it wouldn't be with anyone but her. I told her that I thought it might be soon. She seemed OK with this, but a couple of months later there goes MIKE, along with my credibility, joining the Peace Corps, and off to the jungles of El Salvador he went for the next 2 years.

So things didn't always come easy for Jeanne, but resolute as always, she simply turned her full attention to her studies, finished school and got a job teaching kindergarten in the little town of Agnew and waited for MIKE to come home. Two years passed and MIKE, or someone that looked vaguely like MIKE, finally came home—all 130 pounds of him—imagine a dark-skinned pumpkin-on-a-stick and you'll get the picture. He also morphed into an Asian Desi Arnaz speaking fluent Spanish and singing Latin love songs to his fiancee. But of course to Jeanne he was the same MIKE and they married that following June of 1967; and with her home cooking and TLC, Jeanne got MIKE back up to his fighting weight and then some. I think, though, that she deferred to MIKE when it came to making the menudo. I'll let MIKE tell you about their belated honeymoon when he took Jeanne to visit El Salvador, deep in the heart of Central America—by the way, they didn't fly . . . they drove round-trip . . . in his Volkswagen beetle. Talk about a tough lady.

So just a month shy of turning 25, Jeanne had her man and she had her career. In a few short years she and MIKE moved into their first and only home where she raised two kids and a German shepherd named Orejas. Jeanne was a full-time Mom by then and under her ever present guidance, Mark and Michelle grew into adulthood, graduated from college, married and embarked on successful careers of their own—and to Jeanne's delight—one grandchild on its way. Once the heavy-lifting part of motherhood was completed, Jeanne returned to her other kids, this time at Baldwin School in the Oakgrove School District. I think she achingly missed her school kids as well as her colleagues this past year—the obvious became clear to me that school was a very big part of Jeanne's life.

Just a brief mention about Jeanne's values . . . Anyone who knows her would agree that she had solid June Cleaver values and a kind of childlike innocence, but she also possessed common sense wisdom and carried a kind of moral authority about her that was both subtle and understated—and not at all preachy or controlling. It was evident in her conduct and sometimes, as I've experienced on occasion, in just a look or a well-timed comment or two.

I think MIKE would be the first to agree that he owes much of his success to Jeanne. The constancy and stability she provided helped him stay the course in a hectic public life that often overlapped into their private lives, something that Jeanne had long ago adapted to and accommodated with grace. But the title of Honorable didn't exist at home. Over the years, Jeanne kept MIKE grounded in her gently assertive way. Her moral compass always pointed north and whenever MIKE needed to check his bearings he never needed to look any further than his partner. Jeanne will always remain in his thoughts—one could be certain of that.

Although Jeanne was very much a part of our family for all these years, she never stopped being a Yoshida. She continued to be a source of strength and a source of support to her mother, Rose Yoshida, who had been so extremely proud of her eldest and only daughter . . . and she never stopped being a big sister to her brothers, Stanley and Dick, whom she remained devoted to.

Brother Dick and daughter Michelle were Jeanne's primary care givers over this past year—joined of course by MIKE, who rushed home when she took a turn for the worse, and son Mark and his bride Mekar who both made repeated trips from LA, and not least of all Jeanne's son-in-law, Travis Phillips, who shuttled back and forth from Seattle.

In the end Jeanne was surrounded by her family and by an abiding love that had its genesis in that 19 year-old freshman who began dating MIKE over 42 years ago. In a very real sense Jeanne's life had come full circle. She wanted to go on of course and she fought the good fight, devoid of self-pity and with extraordinary courage and a stubborn optimism. But Jeanne prevailed long before the events of the past year, because she had attained the only things that were important to her. Those life accomplishments, and the values that she instilled, will live on.

You did good, Jeanne. I know I speak for everyone here, family and friends, when I say thank you, Jeanne. Thank you for being part of our lives. We're all the better for it."

Mr. Speaker, I ask my colleagues to join me in honoring the extraordinary life of Jeanne Yoshida Honda and in extending our deepest sympathies to her beloved husband, our colleague, Congressman MIKE HONDA, their children and their entire family.

TRIBUTE TO THE AMERICAN LEGACY FOUNDATION

HON. MARTIN T. MEEHAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. MEEHAN. Mr. Speaker, I rise today to pay tribute to the American Legacy Foundation as they celebrate their 5th Anniversary. Founded on March 4, 1999 as a result of the historic Master Settlement Agreement between the attorneys general of 40 states and the tobacco industry, the foundation is committed to building a world where young people reject tobacco and anyone can quit.

Thanks to the American Legacy Foundation and other life-saving organizations that work every day to prevent our young people from starting to smoke and help those already addicted to successfully quit, youth smoking prevalence in the U.S. has hit its lowest level in nearly three decades.

The American Legacy Foundation is best known for its award winning truth® youth counter marketing campaign. With its blunt messaging and frank approach, truth® has been cited as one of the reasons behind sharp declines in youth tobacco use. The foundation's programs also extend beyond youth. Circle of Friends creates circles of support around women who want to quit; Great Start helps provide information and counseling to pregnant women about the risks of tobacco use during pregnancy and the earliest days of a baby's life; and the foundation's Priority Populations Program focuses on minorities and other groups that are disproportionately harmed by tobacco use.

I urge my colleagues to join me today in celebrating five years of accomplishment by the American Legacy Foundation and hope that you will work with me to ensure that organizations like the Legacy Foundation are able to continue their critical work to protect our nation from tobacco's deadly toll.

TRIBUTE TO GLORIA AND BAUDELIO FLORES

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. McINNIS. Mr. Speaker, it is a great pleasure to rise and pay tribute to Baudelio and Gloria Flores, who for over fifty years have provided a valued service to their Salt Creek, Colorado, community. The Flores are the proud owners of Flores Grocery and Gift Shop, a business they started in the late 1950's that is well known for providing authentic Mexican products in their region.

The Flores invested their entire life savings to start their Mexican-style grocery, with the hope that the profits from the business would one day send their four sons to college. Due to their hard work, the store has grown into a thriving business and is considered a staple of the local business community. Today, people drive from all over the region to purchase authentic Mexican products and sample Gloria's delicious baked goods.

Mr. Speaker, Gloria and Baudelio Flores are two wonderful people living the American Dream. Through their business acumen, hard work, and dedication to excellence, all four of the Flores children were provided the opportunity to graduate from college and today enjoy successful careers. I would like to take this opportunity to thank Gloria and Baudelio for their service to their community and congratulate them on remaining dedicated to achieving their goals and dreams. Their efforts have enriched the lives of their children and the Salt Creek community.

CONTRIBUTIONS OF THE CIVIL AIR PATROL

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. SMITH of Michigan. Mr. Speaker, I rise to express my support and appreciation for the Civil Air Patrol. In December 1, 1941, just before the attack on Pearl Harbor, in the great tradition of American volunteering and patriotism, civilian aviators and watchers organized the Civil Air Patrol to help protect our borders. During World War II, they attacked 57 submarines and sunk 2 in addition to diligent reporting of suspicious sightings. In recognition of their contribution to the war effort, President Roosevelt declared the Civil Air Patrol an auxiliary of the Air Force.

The Civil Air Patrol represents what is great about America. Volunteers come together to assist each other in defending our homeland. The government did not direct them, but they cooperated with the government to help all Americans.

The Civil Air Patrol has three missions. It assists with Emergency Response throughout the country. The Michigan Wing flew more mission hours than any other Great Lakes wing. Second, it works with students to teach aerospace science and aviation. The Michigan Wing was given an award by the National Civil Air Patrol headquarters for the best aerospace education program in the Great Lakes.

And third, it trains Cadets. Today, I met with Lt. Col. Tim Neill and three Michigan Cadets, Cadet Lt. Sean Croff, Cadet 2nd Lt. Holly Growe, and Cadet Captain Teresa Olson, who impressed me with their intelligence and dedication. Like many young people they have a desire to serve their country and understand how they can contribute to our country and to our armed services. And they are learning about aerospace science and aviation. Additionally, learning discipline and hands on technical experience is excellent.

I applaud these young men and women, and I understand their contributions. When I was in graduate school in Delaware, I was the squadron Commander in the Civil Air Patrol. As one of the pilots, I flew search and rescue missions and understand the real contribution that Civil Air Patrol makes to our "Homeland Security".

Mr. Speaker, we all thank the leaders and students that give their time for the Civil Air Patrol. They represent the best traditions of America.

NATIONAL PEACE CORPS WEEK

HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. KIRK. Mr. Speaker, I would like to recognize National Peace Corps Week which is being celebrated March 1–7 around the country. National Peace Corps Week recognizes the important role the Peace Corps has played over the last 43 years and reaffirms our country's commitment to the mission of the Peace Corps, as vital today as it was over 40 years ago.

The first Peace Corps volunteers were sent to Ghana in 1961. Since then, over 170,000 Peace Corps Volunteers have served in 137 countries to promote the Peace Corps' mission of world peace and friendship.

Last year, the number of individuals applying to serve in the Peace Corps rose by 10 percent. These Americans are eager to serve their nation by acting as teachers, business advisors, information technology consultants, and youth and agriculture workers. These Volunteers transfer life-changing knowledge and skills that are valued by the people of other nations.

Currently, more than 7,500 Volunteers are serving in 71 countries around the world—this is the highest number of Volunteers in the field in 28 years. Today's Peace Corps is more vital than ever, stepping into new countries like East Timor, working in emerging and essential areas and committing more than 1,000 new Volunteers as a part of President Bush's HIV/AIDS Act of 2003. Peace Corps Volunteers continue to help countless individuals who want to build a better life for themselves, their children, and their communities.

National Peace Corps Week recognizes all Peace Corps Volunteers, past and present. I would specifically like to recognize the forty volunteers from my congressional district who are currently serving around the globe. These people and all Peace Corps Volunteers have my gratitude for committing two years of their life to their country and to the spread of democracy through the goals of the Peace Corps.

FREEDOM IN HONG KONG

HON. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. COX. Mr. Speaker, the House Policy Committee met today with a distinguished delegation of Hong Kong legislators and advocates of democracy. I would like to briefly report on this meeting.

Last year, the Policy Committee met twice with representatives from Hong Kong:

First, on January 28, 2003, we met with Hong Kong representatives, including journalists, who briefed us on the PRC's efforts to restrict media and intellectual freedoms. Second, on June 5, 2003, we met with a delegation of legislators and human rights advocates. Today's was our third meeting on Hong Kong in the 108th Congress.

The Policy Committee has held approximately 30 meetings in the 108th Congress. The policy-setting organization for the House Majority has devoted fully 10 percent of our meeting time to the cause of freedom for seven million people on the other side of the earth for several reasons:

First, we are the policy-setting organization for the Republican majority. Our party was founded 150 years ago—more accurately, 149 years, 11 months, and two weeks ago—on the simple idea of individual freedom. Republican presidents helped secure freedom for millions of Americans in the Civil War and for millions more around the world in the Cold War. Today, President Bush has naturally made freedom around the world the primary means of securing victory in the war on terrorism. The basis of our party is freedom, and Hong Kong, today, is on freedom's frontier.

Second, the seven million people of Hong Kong represent the best hope for more than a billion others in Asia. It is vitally important to the world that China becomes more like Hong Kong, and not the other way around. Accomplishing that goal would be in the interests of the people of Hong Kong and all of China, and it would be in the interests of the United States and the rest of the world, as a free, democratic, and prosperous China would be a more stable and friendly neighbor and member of the international community.

One month after our previous meeting, the Hong Kong legislature was scheduled to vote on a PRC-backed law to severely limit free speech and civil liberties in Hong Kong, in the name of punishing "subversion." We and the House International Relations Committee proposed, and the House approved, a resolution in support of freedom in Hong Kong, and against the proposed anti-subversion law. Unprecedented demonstrations by over one-half million people in Hong Kong followed a few days later. The PRC withdrew the so-called anti-subversion legislation it was backing.

While the withdrawal of the so-called anti-subversion bill was good news, the more recent PRC freeze on the consultative process to provide for the popular election of Hong Kong's chief executive in 2007, and of its legislature in 2008, is of grave concern. It is vital to commence this process immediately. China will host the Olympics in 2008. Will the world discover that China has broken its promise? Only if the free world holds China to its commitment, and elections are held in 2007 and 2008, will this global shame be avoided.

Likewise, all the people of Hong Kong—including those who speak out for democracy—must be allowed the freedom to return to travel within China. The refusal of Beijing to grant permission for Chinese patriots in Hong Kong, including many who were born on the mainland, to travel to Beijing is an affront to freedom and to the Olympic spirit.

Mr. Speaker, much work remains to be done for freedom and democracy in Hong Kong and in China. The United States Congress must continue this work.

TRIBUTE TO BOB DIEDRICH

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. McINNIS. Mr. Speaker, I stand before you today to pay recognition to a man of my district that has diligently served his community for years. The city of Cortez has honored Mr. Bob Diedrich by selecting him as the 2003 Citizen of the Year. I am honored to rise today and acknowledge his contributions that have prompted this well-deserved award.

Bob's service to his community has included his election to the City Council in 1992, and being selected to serve as the Mayor Pro-Tem of Cortez in 1995. On the city council, Bob facilitated projects to increase the size of the city's park as well as the building of a new police station. Sitting as chairman on the Sanitation Board, Bob worked hard to see the completion of the city's new sewage treatment facility plant. In addition to all of his outstanding work on the City Council, Bob has dedicated himself to working with numerous charitable and civic organizations in his Cortez community.

Mr. Speaker, it is an honor to rise before this body of Congress and this nation to pay tribute to a dedicated citizen of Colorado. The time and effort Bob puts into serving his community is admirable and worthy of this recognition.

HONORING JAMES WESLEY "WILLIE" YORK

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. PRICE of North Carolina. Mr. Speaker, I rise today to pay tribute to James Wesley "Willie" York. Mr. York was a builder, developer, realtor and philanthropist whose creativity and generosity have shaped Raleigh and the State of North Carolina in ways we will appreciate and honor for years to come. He died in Raleigh on March 2, at the age of 91, after an outstanding career that spanned the 20th century.

Long before shopping malls and urban planning became the norm in America, Mr. York took the bold step of developing land that combined multifamily housing and shopping facilities in a community setting. When it opened in 1949, Raleigh's Cameron Village was the first shopping center in the Southeast, and it has flourished through multiple changes in the years since. From that visionary development, Mr. York completed numerous other construction projects that have become landmarks in Raleigh. They include York Industrial Park, the Raleigh Farmers' Market, the Velvet Cloak Inn, Mission Valley Inn and Shopping Center, and Northgate Shopping Center in Durham.

Mr. York was also a public servant and made numerous contributions in this arena to enhance the public good. As a member of the Raleigh School Board, he became a leader in the peaceful desegregation of the school system. J. W. York Elementary School was named for him in 1965 in recognition of his efforts. From 1976 to 1985, Mr. York brought visionary leadership to the Raleigh-Durham Airport Authority to ensure that it would continue to meet the demands of a growing region. By organizing major bond campaigns, he raised over $163 million to finance construction of a major runway, additional terminals, and ground transportation. A 1933 graduate of North Carolina State University, Mr. York was also a life-long Wolfpack fan and devoted supporter of that institution. His leadership and generous contributions shaped development of the campus and gave life to the J. C. Raulston Arboretum.

Mr. York is survived by seven children, 13 grandchildren, and four great-grandchildren. I particularly want to acknowledge the leadership of his son Smedes, who has continued his father's development and philanthropic work. Smedes' tenure as mayor of Raleigh from 1979–83 was a progressive era for our capital city, and he has been a respected voice in many projects before and since.

The Fourth Congressional District and all of North Carolina are more livable places because of Mr. York's vision and gutsy determination to enhance the character of our infrastructure and the life of our communities. His legacy is much more than the bricks and mortar of his buildings; they are visible symbols of his strength and imagination. They will continue to be welcome reminders of his leadership in the years ahead.

HONORING THE LIFE OF THE LATE RAUL JULIA

SPEECH OF

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 25, 2004

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today as a supporter of H. Con. Res. 287 which honors and recognizes the life of the late Raul Julia. This is an honor that is well deserved for a man who dedicated his life not only to the performing arts but also to his community. I want to thank my distinguished colleague Representative GUTIERREZ for bringing this bill to the floor and giving appreciation for a truly outstanding human being.

As an actor alone Raul Julia has made an outstanding contribution to this country. In New York City he obtained roles in Shakespearean plays that were often not given to Hispanic actors. In his 10 years on the Broadway stage he was nominated for four different Tony Awards. We all remember his role as Rafael the fix it man on Sesame Street. His performances were not only memorable but they made a lasting impression on those who watched him. His success made it possible for Hispanic actors to gain greater recognition.

However, to say that Raul Julia was a great actor is only telling half his story. He was a tremendous activist for the elimination of hunger. It is fitting that after his death in 1994, the Hunger Project for which he had been a spokesman changed its name to the Raúl Juliá Ending Hunger Fund. It was his hope that so many Americans and people worldwide who were downtrodden would have a way to bring themselves up. His life and the efforts he made are an example to us all that success is not merely measured in the number of accolades you receive but in the number of people you touch. Raul Julia touched lives around the world, he was not merely content with success on the stage, he wanted to have the kind of success that was truly felt by people.

The Hispanic community is the fastest growing community in America and with role models like Raul Julia the future for these proud people is bright. There are those who might say that a career in the arts is superfluous, but I have to strongly disagree with them. The arts are what inspire us, what allows us to believe that the impossible is possible. Raul Julia fulfilled that vision and more, his work allowed Hispanic actors to gain greater access to the stage. His work for the hungry and in his birth country of Puerto Rico lifted the spirits of so many. While his life was too brief, it was one that was well spent. Our nation needs more men and women of conscience and determination like Raul Julia, I feel confident that this nation's burgeoning Hispanic community will help produce them.

TRIBUTE TO DON ROBINSON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 4, 2004

Mr. McINNIS. Mr. Speaker, it is with a heavy heart that I rise to pay tribute to the memory of Don Robinson today. To anyone who has skied the beautiful slopes in Aspen, Colorado, they probably have Don Robinson to thank, and it is his contributions to Colorado skiing that I would like to recognize here today.

Don Robinson was a pioneer in his field, creating many of the ski trails on the Aspen Highlands. For over forty-five years, Don worked on the popular mountain, creating most of the original runs. One of the mountain's hardest trails is his namesake, which is fitting considering the amount of hard work and dedication Don put in to making Aspen's ski slopes some of the best in the world. In addition to creating so many trails, Don was an active member of his church where he enjoyed singing with the Church Choir.

Mr. Speaker, it is an honor to rise before this body of Congress and this nation to pay tribute to Don Johnson. Don helped turn a little known town into one of the greatest ski destinations in the world. The Aspen community, the State of Colorado and skiers around the world mourn his passing. My heart goes out to his wife Janet and his family during this difficult time of bereavement.

HOUSE OF REPRESENTATIVES—*Monday, March 8, 2004*

The House met at noon and was called to order by the Speaker pro tempore (Mr. COLE).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 8, 2004.

I hereby appoint the Honorable TOM COLE to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, Your living Word exhorts us: "Be compassionate as Your heavenly Father is compassionate."

Lord, help us to unmask the illusion of our deep competitive nature.

Maturity in faith takes us beyond our childish games of winners and losers.

The high drama of sports and the profits of markets leave us only with empty consequences that take us to the next turnstile or video game of self-absorption.

Lift us out of our competitiveness with one another into Your divine wholeness. By our union with You, Lord, may we enter into new relationships with one another.

There, freed from greed and the fear of suffering, may we enter the truth of all those who like ourselves share in the experience of brokenness, confusion, and anguish.

We become vulnerable with the vulnerable, powerless with the powerless, humbly one with You, the God of compassion, and we find new life, which satisfies forever.

Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair will lead the House in the Pledge of Allegiance.

The SPEAKER pro tempore led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1047. An act to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 5, 2004.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on March 5, 2004 at 9:40 a.m:

That the Senate passed without amendment H.R. 506.

That the Senate passed without amendment H.R. 2059.

Appointments:

National Commission on Small Community Air Service.

Abraham Lincoln Study Abroad Fellowship Program.

With best wishes, I am
Sincerely,

JEFF TRANDAHL,
Clerk.

COMMUNICATION FROM STAFF MEMBER OF COMMITTEE ON EDUCATION AND THE WORKFORCE

The SPEAKER pro tempore laid before the House the following communication from James A. Paretti, Jr., Workforce Policy Counsel of the Committee on Education and the Workforce:

COMMITTEE ON EDUCATION AND THE WORKFORCE, HOUSE OF REPRESENTATIVES,
Washington, DC, March 4, 2004.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a subpoena for testimony issued by the U.S. District Court for the District of Columbia.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely yours,

JAMES A. PARETTI, Jr.,
Workforce Policy Counsel.

ADJOURNMENT

The SPEAKER pro tempore. Without objection, the House stands adjourned until 12:30 p.m. tomorrow for morning hour debates.

There was no objection.

Accordingly (at 12 o'clock and 5 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, March 9, 2004, at 12:30 p.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

7047. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule — Ports of Entry for Certain Plants and Plant Products [Docket No. 03-067-2] received February 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7048. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Olives Grown in California; Decreased Assessment Rate [Docket No. FV04-932-1 IFR] received February 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7049. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule — Tart Cherries Grown in the States of Michigan, et al.; Final Free and Restricted Percentages for the 2003-2004 Crop Year for Tart Cherries [Docket No. FV04-930-1 FR] received February 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7050. A communication from the President of the United States, transmitting requests for FY 2005 budget amendments for the Department of Defense; (H. Doc. No. 108—170); to the Committee on Appropriations and ordered to be printed.

7051. A letter from the Attorney Advisor, Maritime Administration, Department of Transportation, transmitting the Department's final rule — Amended Service Obligation Reporting Requirements for U.S. Merchant Marine Academy and State Maritime Academy Graduates [Docket Number: MARAD-2004-17185] (RIN: 2133-AB57) received

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

March 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

7052. A letter from the Deputy Secretary, Securities and Exchange Commission, transmitting the Commission's final rule — Shareholder Reports and Quarterly Portfolio Disclosure of Registered Management Investment Companies [Release Nos. 33-8393; 34-49333; IC-26372; File No. S7-51-02] (RIN: 3235-AG64) received March 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7053. A letter from the Deputy Under Secretary, Department of Education, transmitting the Department's final rule — Magnet Schools Assistance Program (RIN: 1855-AA01) received March 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

7054. A letter from the Regulations Coordinator, FDA, Department of Health and Human Services, transmitting the Department's "Major" final rule — Final Rule Declaring Dietary Supplements Containing Ephedrine Alkaloids Adulterated Because They Present an Unreasonable Risk [Docket No. 1995N-0304] (RIN: 0910-AA59) received February 13, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7055. A letter from the Regulations Coordinator, FDA, Department of Health and Human Services, transmitting the Department's "Major" final rule — Bar Code Label Requirement for Human Drug Products and Biological Products [Docket No. 2002N-0204] received March 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7056. A letter from the Attorney, NHTSA, Department of Transportation, transmitting the Department's final rule — Federal Motor Vehicle Safety Standards; Head Impact Protection [Docket No. 00-7145; Notice 2] (RIN: 2127-AH61) received March 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7057. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Montgomery and Marmet, West Virginia) [MB Docket No. 03-164; RM-10737] received February 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7058. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Ketchum, Jerome and Rupert, Idaho, and Coalville, Naples, Huntsville, South Jordan, Tooele, Wellington, Castle Dale, Salina, Parowan, and Payson, Utah) [MB Docket No. 02-14; RM-10358; RM-10767] received February 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7059. A letter from the Deputy Chief, WCB/TAPD, Federal Communications Commission, transmitting the Commission's final rule — Jurisdictional Separations Reform and Referral to the Federal-State Joint Board [CC Docket No. 80-286] received February 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7060. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting an annual report required by section 655 of the Foreign Assistance Act of 1961, pursuant to Public Law 104—164, section 655(a) (110 Stat. 1435); to the Committee on International Relations.

7061. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting an annual report required by section 655 of the Foreign Assistance Act of 1961, pursuant to Public Law 104—164, section 655(a) (110 Stat. 1435); to the Committee on International Relations.

7062. A letter from the Under Secretary of Commerce for Industry and Security, Department of Commerce, transmitting the Department's final rule — Export Administration Regulations: Penalty Guidance in the Settlement of Administrative Enforcement Cases [Docket No. 030909226-4048-02] (RIN: 0694-AC92) received February 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

7063. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-199, "Government Employer-assisted Housing Program Teacher, Police Officer, Firefighter, and Emergency Medical Technician Incentive Amendment Act of 2003," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

7064. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 15-369, "Emmaus Rehabilitation Project Real Property Exemption Act of 2004," pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

7065. A letter from the Director, Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule — Endangered and Threatened Wildlife and Plants; Removing the Mariana Mallard and the Guam Broadbill From the Federal Listof Endangered and Threatened Wildlife (RIN: 1018-AH50) received February 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7066. A letter from the Director, Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule — Endangered and Threatened Wildlife and Plants; Listing the San Miguel Island Fox, Santa Rosa Island Fox, Santa Cruz Island Fox, and Santa Catalina Island Fox as Endangered (RIN: 1018-AI28) received March 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7067. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Milford, IA. [Docket No. FAA-2003-16497; Airspace Docket No. 03-ACE-81] received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7068. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Springfield, MO. [Docket No. FAA-2003-16763; Airspace Docket No. 03-ACE-100] received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7069. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30374; Amdt. No. 3063] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7070. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30404; Amdt. No. 3089] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7071. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Calverton, NY [Docket No. FAA-2003-16415; Airspace Docket No. 03-ACE-16] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7072. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Revision of Restricted Area 2202C, and the Establishment of Restricted Area 2202D; Big Delta, AK [Docket No. FAA-2003-15086; Airspace Docket No. 03-AAl-07] (RIN: 2120-AA66) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7073. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Lawrenceville, VA [Docket No. FAA-2003-15979; Airspace Docket No. 03-AEA-10] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7074. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Aging Airpane Safety; Correction [Docket No. FAA-1999-5401; Amdt. Nos. 119-6, 121-296, 129-34, 135-87, and 183-11] (RIN: 2120-AE42) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7075. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Digital Flight Data Recorder Requirements — Changes to Recording Specifications and Additional Exceptions; Correction [Docket No. FAA-2003-15682; Amendment Nos. 121-300 125-42, 135-89] (RIN: 2120-AH89) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7076. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Regulation of fractional Ownership Programs and On-Demand; Correction [Docket, FAA-2001-10047; Amdt. Nos. 21-84, 61-109, 91-280, 119-7, 125-44, 135-91, 142-5] (RIN: 2120-AH06) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7077. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Extension of Compliance Times for Fuel Tank System Safety Assessments, Correction; Correction [Docket No. FAA-1999-6411; Amendment Nos. 21-83, 91-277, 121-295, 125-40, 129-35, Special Federal Aviation Regulation No. 88] (RIN: 2120-AG62) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7078. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Enhanced Flight Vision Systems; Correction [Docket No. FAA-2003-14449; Amendment Nos. 1-52; 91-281; 121-303; 125-45; 135-93] (RIN: 2120-AH78) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7079. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Special Air Traffic Rules; Flight Restriction in the Vicinity o Niagara Falls; Correction [Docket No. FAA-2002-13235; Amendment Nos. 91-278, 93-82] (RIN: 2120-AH57) received Feburary 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7080. A letter from the Senior Attorney, RSPA, Department of Transportation, transmitting the Department's final rule — Hazardous Materials: Enhancing Hazardous Materials Transportation Security [Docket No. RSPA-03-14982 (HM-232C)] (RIN: 2137-AD79) received February 13, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7081. A letter from the Attorney Advisor, FHA, Department of Transportation, transmitting the Department's final rule — Federal Lands Highway Program; Management Systems Pertaining to the Bureau of Indian Affairs and the Indian Reservation Roads Program [FHWA Docket No. FHWA-99-4968] (FHWA RIN: 2125-AE53) received March 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7082. A letter from the Attorney Advisor, FHA, Department of Transportation, transmitting the Department's final rule — Federal Lands Highway Program; Management Systems Pertaining to the National Park Service and the Park Roads and Parkways Program [FHWA Docket No. FHWA-99-4967] (FHWA RIN: 2125-AE52) received March 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7083. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Empresa Brasiliera de Aeronautica S.A. (EMBRAER) Model EMB-135 and -145 Series Airplanes [Docket No. 2002-NM-330-AD; Amendment 39-13437; AD 2004-02-02] (RIN:2120-AA64) received Feburary 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7084. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Saab Model SAAB 2000 Series Airplanes [Docket No. 2001-NM-365-AD; Amendment 39-13482; AD 2004-04-02] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7085. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pilatus Aircraft Ltd. Models PC-7, PC-12, and PC-12/45 Airplanes [Docket No. 2003-CE-45-AD; Amendment 39-13481; AD 2004-04-01] (RIN: 2120-AA64) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7086. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Raytheon Model Beech 400A and 400T Series Airplanes [Docket No. 2002-NM-225-AD; Amendment 39-13479; AD 2004-03-35] (RIN: 2120-AA64) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7087. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; The New Piper Aircraft, Inc. Model PA-46-500TP Airplanes [Docket No. 2003-CE-32-AD; Amendment 39-13476; AD 2004-03-32] (RIN: 2120-AA64) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7088. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135 and -145 Series Airplanes [Docket No. 2004-NM-14-AD; Amendment 39-13484; AD 2004-02-51] (RIN: 2120-AA64) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7089. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Dornier Model 328-100 Series Airplanes [Docket No. 2002-NM-226-AD; Amendment 39-13480; AD 2004-03-36] (RIN: 2120-AA64) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7090. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 737-300, -400, and -500 Series Airplanes [Docket No. 2002-NM-174-AD; Amendment 39-13483; AD 2004-04-03] (RIN: 2120-AA64) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7091. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747-100, 747-100B, 747-100B SUD, 747-200B, 747-200F, 747-200C, 747-300, 747SR, and 747SP Series Airplanes [Docket No. 2001-NM-238-AD; Amendment 39-13453; AD 2004-03-09] (RIN: 2120-AA64) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7092. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 727, 727C, 727-100, and 727-100C Series Airplanes [Docket No. 2003-NM-205-AD; Amendment 39-13474; AD 2004-03-30] (RIN: 2120-AA64) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7093. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model CL-215-1A10 and CL-215-6B11 Series Airplanes [Docket No. 2003-NM-139-AD; Amendment 39-13457; AD 2004-03-13] (RIN: 2120-AA64) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7094. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model AS332C, L, and L1 Helicopters [Docket No. 2002-SW-45-AD; Amendment 39-13471; AD 2004-03-27] (RIN: 2120-AA64) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7095. A letter from the Deputy General Counsel, Small Business Administration, transmitting the Administration's final rule — Small Business Size Standards; Testing Laboratories (RIN: 3245-AE78) received March 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

7096. A letter from the Deputy General Counsel, Small Business Administration, transmitting the Administration's final rule — Small Business Size Standards; Information Technology Value Added Reseller (RIN: 3245-AE80) received March 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

7097. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Last-in, First-out Inventories (Rev. Rul. 2004-19) received February 13, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7098. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Electronic Filing of Duplicate Forms 5472 [TD 9113] (RIN: 1545-BD02) received February 13, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7099. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Computation of Tax Where Taxpayer Restores Substantial Amount Held Under Claim of Right (Rev. Rul. 2004-17) received February 13, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7100. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Capitalization and Inclusion in Inventory Costs of Certain Expenses (Rev. Rul. 2004-18) received February 13, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7101. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Rulings and determination letters (Rev. Proc. 2004-18) received February 13, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on March 4, 2004 the following report was filed on March 5, 2004]

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 339. A bill to prevent frivolous lawsuits against the manufacturers, distributors, or sellers of food or non-alcoholic beverage products that comply with applicable statutory and regulatory requirements; with amendments (Rept. 108–432). Referred to the Committee of the Whole House on the State of the Union.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committee on Government Reform discharged from further consideration. H.R. 2802 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII,

Mr. EMANUEL (for himself, Mr. BURTON of Indiana, Mr. HOYER, Mr. ANDREWS, Mr.

CARDOZA, Mr. CHANDLER, Mr. MILLER of Florida, Mr. ENGLISH, Ms. MCCARTHY of Missouri, Mr. SANDLIN, and Mr. FROST) introduced a bill (H.R. 3913) to provide the penalty of death for kingpins of child sex slave trafficking enterprises; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 3548: Mr. ALLEN.

H.R. 3558: Mr. WELDON of Florida.

H.R. 3771: Mr. PRICE of North Carolina.

H.R. 3879: Mr. LOBIONDO, Mr. OBERSTAR, and Mr. FILNER.

H.R. 3888: Mr. HINCHEY, Mr. CUMMINGS, and Mr. CARSON of Oklahoma.

H. Con. Res. 363: Mr. SOUDER, Mr. WYNN, Mr. FROST, and Mr. MCNULTY.

SENATE—*Monday, March 8, 2004*

The Senate met at 12 noon and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Spirit who dwells in contrite hearts, we marvel that You care for our small planet. Your gifts come generously each morning and Your providence encourages us. Make this a week when we cheer downtrodden spirits and bring a sense of community to lonely hearts. Help us during this week to do Your will on Earth and to glorify You by our words and actions.

Give heaven's peace to our Senators, who must labor with turbulent forces surrounding them. Deliver them from ungodly pride and ungenerous judgments. As they grapple with complex issues, shower them with Your wisdom and give them a determination to do what is right. Use each of us to advance Your kingdom of goodwill on Earth. We pray this in Your precious Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today the Senate will begin debate on the first concurrent budget resolution for fiscal year 2005. Chairman NICKLES and Senator CONRAD are prepared to begin the debate under the statutory 50-hour time limitation. Given the nature of the budget resolution and the lengthy debate, on Friday I announced that no rollcall votes would occur today. This afternoon Senators will come to the floor to speak in relation to the budget or the two managers may have amendments to consider over the course of the day. However, any votes ordered today will be delayed until tomorrow.

As we begin the week, I do want to put all of our Members on notice that this week will include lengthy sessions each day and into the evening. We have the 50-hour time limit. There will be references made to that time limit during the course of this afternoon and, indeed, every day. It is my hope we will be able to yield back some of the 50-hour time limit. I will be talking to the two managers to see if that will be possible.

In any event, the debate will be lengthy; it will be throughout the day and likely, as I mentioned, go into the evening.

We have a recess next week. We will finish this bill this week. I have already heard about a number of scheduling conflicts over the course of the week, into Saturday and Friday, and I will do everything possible to accommodate the request, but I need to make it absolutely clear, as I did last week, that we are going to finish the budget resolution this week. Therefore, I ask for all Members to adjust their schedules accordingly, especially on Friday.

I do want to comment on the process, the so-called vote-arama, that we come to at this point each and every year. As Members are aware, even after the 50 hours expire, Senators can offer amendments with no debate and they can demand votes, but I think if we look back at past experience almost all Senators will agree that this vote-arama, which in more recent times has come to characterize what follows the 50 hours, is absolutely not the best process for consideration of their amendments.

Thus, I encourage, in fact plead, with Members to approach the two managers of the resolution and see if they can limit the excessive number of votes needed at the end of the process.

I thank Senators NICKLES and CONRAD for their hard work in getting this budget resolution ready for floor action.

SENATOR BEN NIGHTHORSE CAMPBELL

Mr. FRIST. Mr. President, I want to spend 2 minutes on the service of Senator BEN NIGHTHORSE CAMPBELL and his announcement that he is not going to be running for election. For more than 20 years, he has been a tireless advocate and a faithful champion for the people of Colorado. Although I have had the opportunity to discuss with him at length his reasons and understand his reasons, I am saddened by his decision to retire from his well-earned and well-deserved post. The Senate will miss his plain-spoken humor, his astute and keen perspective, and his uncommon drive to improve the lives of those he represents.

He has a frank and straightforward approach to the job, and that has helped us and it has helped me as leader walk through some very difficult and contentious issues in a very quiet and dispassionate manner.

He is an American original. He served in the Air Force in Korea, was captain of the 1964 U.S. Olympic judo team. He has been a rancher, a jewelry designer, a horse trainer, and a public official. He is the only American Indian serving in the Senate. He carries the distinction of being 1 of 44 chiefs of the Northern Cheyenne Tribe.

Senator NIGHTHORSE CAMPBELL's broad experience and background has been invaluable to this body. His direct and honest presence will be greatly missed in the Senate. He has been a very good friend and a great Senator, and I wish the Senator from Colorado and his family all the best in the years ahead.

THE IRAQ INTERIM CONSTITUTION

Mr. FRIST. Mr. President, we are now on the resolution and the two managers are gathering now to start that debate. In the interim period, I wish to make another comment that has to do with a truly historic occurrence in Iraq.

Today is a historic day for the Iraqi people. Today, the Iraq Governing Council will formally sign an interim constitution that represents one of the most liberal and democratic governing documents in the Arab world. It is a historic day for the entire Arab world.

The new Iraqi Constitution is a monumental achievement. I applaud the courage and the foresight of Iraq's leaders to seize this historic opportunity before them and to work together to forge a framework for freedom that reflects the aspirations and God-given rights of every single Iraqi citizen.

After 35 years of torment and oppression by an evil and dictatorial regime, Iraq is finally emerging from the shadows and becoming a democratic nation by and for the people. Remember, the people of Iraq just 1 year ago were ruled by a tyrant who worshipped Hitler and Stalin, two of the 20th century's most prolific mass murderers—just a year ago.

Iraq is emerging from a terrible history, and the Iraqi people deserve our highest praise for their ability to set aside recriminations and to set aside old ethnic conflicts, to confront their fears and overcome mistrust in order to embrace the future. It is my sincere hope that others in the region and around the world will take heart at Iraq's extraordinary progress and that

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

this fledgling nation will one day soon become a beacon of freedom for all.

The new interim constitution is rightly a document of principles. It guarantees freedom of expression, freedom of assembly, privacy, thought, conscience, religious belief, and due process. It protects women, ethnic and religious minorities, and strives to balance regional and national imperatives.

No longer will the Iraqi people have to fear secret police, government abductions, torture, or arbitrary imprisonment. No more mass graves, no more child prisons, no more forced confessions or mass executions.

I have great hopes for Iraq. Like President Bush, I believe all people are capable and deserving of a democratic government. That is because I believe, like President Bush, freedom is an inherent right, not a privilege to be dispensed by pundits or politicians. Securing freedom in Iraq, as we all know, will be hard. The continuing vicious bombings against innocent Iraqis demonstrate that we are up against determined and evil forces. My heart goes out to those victims and to those families.

We know from our own 9/11 how truly devastating these acts of evil are to the immediate victims and to the nation that is forced to watch, helpless, in horror. But I have faith that the Iraqi people will persevere. We will not allow our enemies to divide us. We will stand together as two free nations. We will defeat the forces of terror and the Iraqi people will live in peace and freedom.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

CONGRESSIONAL BUDGET FOR THE UNITED STATES GOVERNMENT FOR FISCAL YEAR 2005

The PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of S. Con. Res. 95, which the clerk will report.

The assistant legislative clerk read as follows:

> A concurrent resolution (S. Con. Res. 95) setting forth for the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009.

The Senate proceeded to consider the concurrent resolution.

The PRESIDENT pro tempore. The chairman of the committee, the Senator from Oklahoma, is recognized.

Mr. NICKLES. Mr. President, I ask unanimous consent that the presence and use of small electronic calculators be permitted on the floor during Senate consideration of the fiscal year 2005 concurrent resolution on the budget.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. NICKLES. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, as we begin consideration of the budget resolution, I want to urge our colleagues to be prepared for a long, busy week. Under the rules of budget law, we have 50 hours on the resolution. Last year I am not sure how many hours we had, but it was a lot more than 50. I believe we had 81 rollcall votes. It was a very difficult and long week. It was actually longer than a week. It spilled over into 2 weeks.

It is our intention to finish this week. That is going to take the cooperation of all Members. The majority leader already announced for Members to expect long nights, long days, and a lot of votes. I urge our colleagues to be prepared for a long week. Please don't come up and say, I have a plane reservation at 3 o'clock. I don't think you can count on that. I think you have to assume you are going to be here for very long evenings during long days—especially on Wednesday, Thursday, and Friday—until we conclude this resolution. I want to make sure that is known.

Saying that, I urge colleagues to work with my friend and colleague, Senator CONRAD, and myself. If you have amendments, please present them to us. Give us time to consider them. Maybe we can accept them; maybe we can't; maybe they will have to be objected to. But at least give us a chance to review the amendments.

Last year we ended up in a very demeaning process. We called it a vote-arama. But we had a lot of votes that were on sincere issues that were considered with very little debate. I would like to—one of the little legacy things—change the way we manage Senate budget resolutions. By saying that, I would like to avoid the vote-arama, or at least minimize it, and maybe have a certain number of votes on each side. Sometimes last year we voted on the same thing several times. I don't think that helps the Senate. I want us to represent the Senate very well.

I want to warn our colleagues to expect a long week. Hopefully we will conclude. I would love to have it concluded Thursday night. I doubt that will happen. But we will work aggressively with all of our colleagues. And when we get into votes, we are going to be very pushy on trying to limit the time on those votes.

I am just making mention of a couple of those things to let colleagues know they should expect a long week and late nights. It may be that Senator CONRAD and those who are proposing amendments will work late and we will stack votes for the next morning. That might be my preference. But I will work with Senator CONRAD, who is a very good friend and manager on the minority side, on this difficult challenge of passing a budget.

Again, we have the budget resolution before us. I will be talking about that momentarily. It cuts the deficit in half. Actually, we cut it in half over 3 years. The deficits are far too high. Having $500 billion deficits is not acceptable to this Senator, nor do I think it is acceptable to anybody. We charted a path to bring it down and bring it down rather abruptly. It will take the cooperation of all people to conclude this week, and also to make that happen. That is not easy easily done.

Again, I urge the cooperation of all of our colleagues and look forward to working with my colleague, Senator CONRAD, for the remainder of this week.

I yield the floor.

The PRESIDING OFFICER (Mrs. DOLE). The Senator from North Dakota.

Mr. CONRAD. Thank you, Madam President.

I join the chairman of the committee in reminding our colleagues that this will be a long week with many amendments. I am very hopeful that we on our side can find a way to get more amendments considered on the front end more quickly—the chairman and I discussed this and I think we are of like minds on this—rather than having a big crush at the end. Maybe if we spent less time on amendments on the front end and more votes on the front end we could eliminate some of that gridlock at the end. I think the chairman is entirely correct. That would be good for the Senate. It would be good for the disposition of these amendments and a better way to reach a conclusion.

The President has sent us a budget. I want to talk about that in part and then later on to talk about the chairman's mark.

First of all, I want to discus the budget the President sent to the Congress. In the President's budget, it spends $991,000 a minute more than it takes in. That is truly a stunning statistic. Every minute, under the President's plan, this country spends $991,000 more than it takes in.

In 2001, the President told us:

> Tax relief is central to my plan to encourage economic growth, and we can proceed with tax relief without fear of budget deficits, even if the economy softens.

That is what he told us in 2001.

Let us look at the result. We have seen the deficits absolutely skyrocketing. Here we are back in 2001, and we are still in the black. But look at where we have gone. So the President was wrong when he asserted that.

A year after the President's first budget, he said to us:

> . . . [O]ur budget will run a deficit that will be small and short term.

This is after we saw a return of deficits which the President said would not happen.

In the second year, he told us:

> . . . [O]ur budget will run a deficit that will be small and short term.

That proved to be wrong as well. We don't see deficits that are small and short term. We see deficits that are large and long term. In fact, this chart shows the operating deficits under the President's plan from this year going to the end of the budget period. You can see these are massive deficits, by far the biggest we have had in our country's history.

In the third year, the President told us:

> [O]ur budget gap is small by historical standards.

Let us look at in fact what has occurred with respect to that claim. You can see this goes back to 1969. It shows the deficits in dollar terms. It shows these are record budget deficits, the biggest we have ever had. So the President was wrong again.

The President said at the end of last year:

> Now, we've laid out a plan that shows the deficit will be cut in half over the next five years, and that's good progress toward deficit reduction.

We have to ask, Is the President going to be wrong again?

This chart speaks to that. It shows, I believe, that the President will be absolutely wrong again, and wrong by a big margin. The President says in the fifth year the deficit will be $237 billion. But that is only the case if you leave out lots of items. If you leave out the $30 billion of additional war cost the Congressional Budget Office tells us we will still be facing in that fifth year; if you leave out the money needed to fix the alternative minimum tax, which was, as you know when it began, a millionaire's tax. Now it is rapidly becoming a middle-class tax. In fact, about 3 million people are now affected by the alternative minimum tax. By the end of this period, we will have 30 million to 40 million people affected by the alternative minimum tax.

In addition, the President is not talking about the money he will be taking from the Medicare trust fund, or the Social Security trust fund. In that fifth year alone, the President will be taking $235 billion from the Social Security trust fund. That is much bigger than his entire projected deficit for that year. Every penny of this has to be paid back, and the President has no plan to pay it back.

The same is true with the Medicare surplus—$22 billion he is borrowing from the Medicare trust fund, again with no plan to pay it back.

Of course, we have the Congressional Budget Office reestimate. They have looked at the President's numbers and made a change. They think the number will be bigger than the President anticipated.

If you add all of this up, instead of adding $237 billion to the debt in that fifth year, we believe under the President's plan he will be adding $600 billion to the debt.

What we have, I believe, is a consistent pattern by the President to hide from the American people the full story of our fiscal condition. Here is just a few of the ways he is hiding the full effect of his plan.

The first way he does it is he provides no new funding for ongoing operations in Iraq, Afghanistan, and the continuing war on terror, no new money past September 30 of this year.

Does anybody seriously believe the war in Iraq, the war in Afghanistan, and the war on terror are going to end on September 30, which happens to be the end of the fiscal year? Does anybody believe that? That is what is in the President's budget. When we ask the President's representatives, they say: Well, it is hard for us to know what the cost will be.

We can understand that. But the right answer is not zero, and the President is telling us there is no cost for the war on terror, no cost for the war in Afghanistan, no cost for the war in Iraq past September 30 of this year.

The Congressional Budget Office tells us that, instead of a zero, we ought to be putting in $280 billion for these costs for the period 2005 to 2014. That is what they say the war cost will be going forward: $280 billion. The President has nothing.

But that is not the only place the President is failing to tell the American people what we really face. The Bush budget also hides the full story on the cost of extending the tax cuts. The President has come before us and said: Make all the tax cuts permanent. I wish we could do that. But look at what happens. This dotted line shown on the chart is the first 5 years. The Bush budget only covers the first 5 years. But look what happens to the cost of the tax cut right beyond the 5-year budget window. The cost of the tax cut explodes.

This is being hidden, in effect, from the American people. I think if they have a chance to see this information, they will realize the President has us on a fiscal course that simply does not add up. The deficits and debt absolutely skyrocket as we approach the retirement of the baby boom generation.

It is not just the war cost or the cost of the tax cuts, but we also see the same pattern with the alternative minimum tax. The alternative minimum tax was the tax that was designed to catch millionaires, catch people who were filing and paying no taxes. Remember, back in the 1980s, we had that circumstance where Congress found there were a number of people making, at that time, $200,000 a year, and there were 22 of them who did not pay a penny of tax.

In response to that, Congress put in place the alternative minimum tax. It affected a very small number of taxpayers. But it has not been adjusted since the time it was put in place, and now we have between 2 and 3 million people caught up in the alternative minimum tax.

But we have not seen anything yet because by the end of this 10-year period, they are telling us 40 million people will be caught up in the alternative minimum tax. The old millionaires' tax is swiftly becoming a middle-class tax trap. The President deals with the problem only for the first year in his budget. He does not deal with the soaring cost over the 10 years, again hiding the full story from the American people.

But perhaps the biggest place—the biggest place—the President is hiding the full effect of his budget policies is with respect to Social Security. The President, after pledging not to use Social Security to pay for tax cuts or other expenditures of Government, is now using, over the next 10 years, every penny of Social Security surplus. And remember, the word "surplus" is not accurate because the money is not extra. This is money that is needed when the baby boomers retire. It is surplus for the moment. That is money that should be used to pay down the debt or prepay the liability.

Instead, the President is taking it to pay for tax cuts and other things. He is taking every penny of Social Security surplus, not just this year, not just next year, not just for the next 5 years, but for the next 10 years under the President's plan—and all of that at the worst possible time, right before the baby boomers begin to retire. Those funds will be needed to keep the promise made to them.

Remember, in 2001, the President told us he was going to have maximum paydown of the debt. He said he would virtually eliminate the debt. Well, he was wrong again. Because we see the debt exploded. The gross debt of the United States was $5.8 trillion in 2001 when he took office. We now project—using his tax cuts, the alternative minimum tax reform that will be required, and the ongoing war costs; just making those three corrections—the gross debt of the United States will skyrocket to $14.8 trillion in 2014.

You wonder, where is all that money coming from. We are running up this huge debt. Where is this money coming from? Well, we have already seen the President is borrowing $2.4 trillion from the Social Security trust fund—$2.4 trillion; every penny of the Social Security surplus. He is taking every penny available to borrow, and using it to pay for tax cuts and other things.

But that is not the only place from which he is borrowing. He has borrowed already $545 billion from Japan, $149 billion from China; he has borrowed $69 billion from the so-called Caribbean banking centers; he has borrowed $58 billion from Hong Kong; he has even borrowed $43 billion from South Korea. I do not think this makes us stronger. I think this makes us weaker. And that is what has happened.

The President is very fond of saying it is the people's money; we have to give it back to them.

Well, that may have made more sense when there was a surplus, but now that you are in deficit, it is the people's money, certainly, but it is also the people's debt. Where is the money coming from to finance this debt? It is coming from borrowing. We are borrowing from ourselves. We are borrowing from the Social Security trust fund, the Medicare trust fund, under the President's plan, and we are borrowing from countries all around the globe, money that will ultimately have to be paid back, and the President has no plan to do it.

Here are the implications of this policy. This is from a story that was in the Washington Post on January 26 of this year: "Economists Worry About Long-Term Effects of Weak Dollar and Heavy U.S. Borrowing." Here is what it said in the article:

> Currency traders fretting over that dependency—

The dependency they are talking about is our need to borrow all this money, borrow from the budget deficit, now approaching $500 billion this year. We are also, in effect, borrowing from the rest of the world to finance our trade deficit, which is also about $500 billion a year.

> Currency traders fretting over that dependency have been selling dollars fast and buying euros furiously. The fear is that foreigners will tire of financing America's appetites. Foreign investors will dump U.S. assets, especially stocks and bonds, sending financial markets plummeting. Interest rates will shoot up to entice them back. Heavily indebted Americans will not be able to keep up with rising interest payments. Inflation, bankruptcies and economic malaise will follow.

That is the risk the President is running with these enormous deficits as far as the eye can see. We have a circumstance where we have run deficits in the short term. That is more understandable. We have been wracked by an attack on September 11. We have had an economic slowdown. We have a war in Afghanistan and Iraq. I think we can all understand that we would expect to run deficits in that circumstance.

The problem I see is the President's plan going forward. Because even when he sees economic recovery continuing, we are running deficits that are larger than anything we have seen in our country's history—not just for the next few years but the next 5 years and the next 10 years.

When they said in the article that economists are worried about the long-term effect of the drop in the value of the dollar, here is what they are talking about.

The dollar has declined more than 30 percent against the euro just since 2002. In other words, our currency has lost 30 percent of its value against the European currency in the last 2 years. That has enormous implications, both short term and long term.

In the short term, it helps us celebrate abroad. If our dollar is worth less, it makes it easier for us to sell abroad. It makes it harder for us to buy from other countries, so that gives a boost in the short term to our economy.

The problem is, if it continues for an extended period, then people who are investing in the United States in dollar-denominated securities may decide it is no longer advantageous to invest in dollar-denominated investments. They may decide it is time to diversify out of dollar-denominated investments. That could have a very serious and negative consequence on the American economy.

From the Washington Post this morning, I urge my colleagues to look at the story about Warren Buffett—Warren Buffett, the second richest man in the world, somebody who is a patriotic American—indicating that he is betting against the value of the U.S. dollar. He has bet $12 billion against the value of the American dollar.

I was just with a financial adviser, one of the most prominent financial advisers in America, who had a strategy meeting with one of America's wealthiest families. For the first time at their meeting, they decided to begin to invest in other than dollar-denominated investments because they believe the threat to the value of the American dollar to long-term American economic strength is being so undercut by these budget and trade deficits.

We have to get serious about the long-term economic security of our country. Do not take my word for it. This is from the President's own budget document. It is the long-term budget outlook. If we adopt the President's spending plan and if we adopt the President's tax plan, this is what it shows. This is a very sobering chart. It tells us that right now we are in the budget sweet spot. Even though this represents a record budget deficit, the biggest we ever had, it shows things getting somewhat better on a so-called unified basis when Social Security money is being used to pay our bills.

Look what happens in the long term as the baby boomers start to retire and the cost of the President's tax cuts explode: The deficits go right off the cliff, deficits that are utterly unsustainable and that fundamentally threaten the economic strength of the country. That is from the President's own budget document. That is their outlook of where this is all headed. This is a policy that cannot be justified over the long term. It is utterly unsustainable.

If you do not want to trust the President's numbers—and I understand that after we have looked at the previous claims of what would happen—this is what the Congressional Budget Office shows. It is exactly the same thing. This is their long-term budget outlook—again, a percentage of GDP so the effect of inflation has been taken out.

They show, with the President's tax cuts, the need for alternative minimum tax reform, maintaining current spending policies, and, of course, the President is really increasing current spending because of the increases in defense and homeland security. Look what happens. The long-term deficits absolutely skyrocket.

All of this is happening at the worst possible time, as this chart shows. This chart shows the tax cuts explode as the trust fund cash surpluses become deficits. This chart shows, in green, the Social Security trust fund. The blue is the Medicare trust fund. The red are the tax cuts, both those already passed and those proposed by the President.

What this chart shows is right now the surpluses in the Social Security and Medicare trust funds are offsetting the cost of the tax cuts. Look what happens when the trust funds go cash negative in 2016 and 2017. At the very time the cost of the tax cuts explode, that combination drives us right over the fiscal cliff. This sets up a very difficult set of choices for the future.

This is a joint statement by the Council on Economic Development, the Concord Coalition, and the Council on Budget and Policy Priorities. In the fall of last year, trying to help people understand what we will face in the future as a result of digging the hole so deep now, this is what they said:

> To get a sense of the magnitude of the deficits the nation is likely to face without a change in policies, consider that even with the full economic recovery that CBO forecasts and a decade of economic growth, balancing the budget by the end of the coming decade would entail such radical steps as:
>
> Raising individual and corporate income taxes by 27 percent; or eliminating Medicare entirely;

We have had tough choices in the past. Wait and see what is to come. Three very serious groups are warning where we are heading.

Continuing:

> Raising individual and corporate income taxes by 27 percent; or eliminating Medicare entirely; or cutting Social Security benefits by 60 percent.

We have just had the head of the Federal Reserve, Chairman Greenspan, say we are overcommitted. He said we ought to consider cutting Social Security benefits. But he has not said cut Social Security benefits by 60 percent. That is what these three organizations are saying would be the options facing a future President and a future Congress if we stay on this current course.

> Or shutting down three-fourths of the Defense Department; or cutting all expenditures other than Social Security, Medicare, defense, homeland security, and interest payments on the debt including expenditure on the debt—including expenditures for education, transportation, housing, the environment, law enforcement, National Parks, research on diseases, and the rest—by 40 percent.

I hope our colleagues are listening. I hope they are paying attention. We are on a course that is a reckless course. It is not a conservative course. It is a radical course. It is a course that is utterly unsustainable and will lead us into very serious trouble.

If we look at what has happened to spending, it is important to know, again, if we look at total Federal spending, a share of GDP, and we go from 1981, we reached a peak in 1983 of 23.5 percent of gross domestic product going to the Federal Government and then it zigzagged.

In 1991, we put in place a 5-year budget plan that took spending down each and every year as a share of gross domestic production. Then, in 1997, we passed a bipartisan plan that took us down even further, so that in 2001 we were down to 18.4 percent of gross domestic production.

The Federal Government spending had come down very sharply in that 20-year period. Now we have had this tick-up, and this tick-up primarily has been for defense, homeland security, and the response to the September 11 attack, rebuilding New York, and bailing out the airlines. Even with that tick-up, we see we are still well below the spending levels of the 1980s and 1990s in terms of what the Federal Government is spending.

If we turn to the revenue side, we see quite a different picture. On the revenue side, we can see the revenue side of the equation has just collapsed. In 2004, we now expect revenue to be 15.8 percent of gross domestic production. The revenue has just collapsed. We will have the lowest revenue as a share of gross domestic production since 1950.

Spending is down substantially from where it was in the eighties and nineties, however up from where it was in 2001 because of the increases for defense. Ninety-one percent of the increases have been for defense, homeland security, and the response to the attacks of September 11.

Look what has happened on the revenue side of the equation. The revenue side of the equation has collapsed. About half this is due to the tax cuts. The other half is due to the economic slowdown. Again, we have a real problem on the revenue side of this equation.

The President said last month in a speech in Louisville:

> We've got plenty of money in Washington, DC, by the way.

We do not have plenty of money to pay the bills. There is a lot of money here, there is no question about that, but we cannot pay our bills and we cannot come anywhere close to paying our bills. So when the President says we have plenty of money here, he certainly is right, these are very big numbers with which we are dealing, but we do not have enough money to pay the bills.

We are going to hear from the other side that the President has done a good job with his budgets getting the economy growing again. If we look at the economic record of this President, what we see is, in terms of creating private sector jobs, this administration is the first one in 70 years to lose private sector jobs. It is pretty stunning. If you look back, every single President—President Roosevelt, President Truman, President Eisenhower, President Kennedy, President Johnson, President Nixon, President Ford, President Carter, President Reagan, President Bush 41, and President Clinton all had positive job creation in the private sector. We have to go all the way back to Herbert Hoover to see a President who has lost private sector jobs. That does not tell the full story because as we look at what has happened and compare it to history, what we see should be of concern to all of us.

I asked my staff to go back and look at what has happened in the previous times when we had an economic slowdown. I asked them to look at the last nine recessions we have had since World War II and compare job recovery out of those recessions to what is happening now because I think this should alert all of us. Something is wrong, and we have to diagnose what it is. I have some ideas. I am sure my colleagues will have some ideas, but there is something very wrong happening.

This is a chart of a fit line looking at what happened in the last nine recessions. We have a dotted red line, the average of nine recessions since World War II coming out of recessions. The bottom of the chart is the months after the business cycle peak. What we see is about 17 months after the peak, there is typically a strong job recovery. That is about 17 months after the business peak.

Look at what has happened this time. We are now 35 months or 36 months past the business cycle peak, and still we see no substantial job recovery. In fact, we are now 5.4 million jobs short of the typical recovery.

If we were comparing to just one time, I would be less concerned, but this is every recession since World War II, nine recessions, and if we compare what has happened in each of those to what is happening this time, something is wrong. Something is radically wrong. Typically in these other cases, 17 or 18 months past the business cycle peak, we started to see very strong job recovery. Here we are 37 months past the business cycle peak and we still do not see job recovery. As I indicated, we are 5.4 million jobs short of the typical recovery. In fact, it is not just of a typical recovery; it is of every other recovery since World War II. In the nine previous recessions, every other time, by this time, we would have been strongly recovering. It has not happened.

Again, we are going to hear from the other side that things are pretty good. What we see here is the smallest share of the population is at work since 1994. Again, this is a warning signal to us. Madam President, 62.2 percent of the population is employed now. We see the percentage of the population employed down very sharply from 2000 to now—down very sharply. Only 62.2 percent of the population is employed. We have to go all the way back to 1994 to see a number that weak.

It is not just that statistic which ought to concern us. We also see the longest average duration of unemployment in over 20 years—that is, if we look at how long people are unemployed, we find they are staying unemployed for a longer period than any time in the last 20 years. In other words, people are not finding jobs quickly when they become unemployed. When they are laid off, they are not finding jobs for extended periods of time.

This side of the graph is over 20 weeks people have been waiting to find a new job. Again, that takes you all the way back to 1984 to see people having to wait so long to find other work.

I also asked my staff to look at what has happened to real wages during the Bush administration and compare it to the previous administration. Here is what we found.

If we go back to 1996, the average wages in the country were $485. By the end of the Clinton administration, it got up to $530. During the Bush administration, average wages have only gone up $8 a week. That is very weak in historical comparison. Again, it is another warning sign that the set of policies which are in place are not working appropriately.

I know we will hear the other side talk about the stock market recovery that has taken place, and that certainly has been welcomed. It is much better than where we were. We need to remind ourselves where we are now compared to where we were.

As this chart shows, the market recovery still leaves stock prices at 1998 levels. We have to go back 6 years to find the stock market at this level.

Another point we have heard from the other side—and I am sure we will hear again—is don't worry, it is the surveys that are at fault; that is what is misleading us as to what is going on in terms of employment. They will say over and over that the household survey—we heard this in the Budget Committee debate—the household survey is the one to which we ought to be paying attention, but that contradicts their Commissioner of the Bureau of Labor Statistics in testimony before the Joint Economic Committee. The Commissioner said:

> The payroll survey is the best indicator of current job trends.

That is what we have used here in these statistics. I am sure we will hear the other side argue, as they have in the Budget Committee, that the household survey is better. But the person who is in charge of the Bureau of Labor Statistics contradicts that and says the payroll survey is the best indicator of current job trends.

If we look at the President's economic report that was issued on February 9, just a month ago, they said in that report:

> [W]e expect sort of an average jobs in 2004 to be 2.6 million more than jobs in 2003.

This is the President's economic report. This is his prediction of what is going to happen, that there are going to be 2.6 million more jobs this year than last year. From here going forward, that would require the creation of 520,000 jobs a month.

Let's do a little reality test. Here is what happened in February: The increase in jobs was not 520,000 for that month. It was 21,000. In the private sector, there were no new jobs. Every one of these jobs was a Government job. Of the 21,000 jobs created in February, every single one of them was a Government job. There were no private sector jobs created.

The President's report says there are going to be 520,000 jobs created if we are going to meet their claim that there are going to be 2.6 million more jobs by the third quarter of 2004 compared to the third quarter of 2003. For that to come true, they would have to generate 520,000 jobs a month. In February, it was 21,000 jobs and not a single one of them was in the private sector. Every single one of these new jobs in February was in the Government.

So the President's plan is not working. He told us in 2001 this plan would not create deficits. It has created the biggest deficits in our country's history. He told us it would create jobs. Here we are 3 years later. Where are the jobs?

This is what consumers believe is happening. Consumers believe jobs are hard to get. Eighty-eight percent believe jobs are not plentiful or are hard to get. Only 12 percent believe jobs are plentiful. It is not just with respect to recovery. It is not just with respect to job creation. It is not just with respect to people having an opportunity to find a new place if they lose their old job. We are also seeing the wage growth of production workers starting to fall behind inflation.

This green line shows the average hourly earnings of production of nonsupervisory workers. Let's look at this because it goes back to 2001. This is the 12-month percentage change. Back in 2001, we saw an average hour of earning increasing at a rate of over 4 percent. Since that time, it has been almost a steady downward pattern. We see now average wages are going up between 1.5 percent and 2 percent. The red line shows consumer prices, and this year we have now seen the lines cross, so that hourly average earnings are not keeping up with inflation. We are not seeing them keep pace with the increases in consumer prices, another warning sign this is a policy that is not working.

This is our initial take on the President's budget. We think it is taking us in the wrong direction. Let me be clear. When the President came into office in 2001, on our side we proposed a much larger tax reduction in the near term than did the President. I know many people will be surprised by that, but it is a fact. We proposed a budget that had much bigger tax cuts in the short term, to give lift to the economy, than did the President. But we had much less in tax cuts over the 10-year period, about half as many, to avoid going into this deficit swamp.

In retrospect, we were right. It was right to have tax cuts on the front end to give lift to the economy. The economy clearly needed it. It was a mistake for the President to propose these massive tax cuts going out for years into the future when we had the baby boom generation about to begin retiring. It is the combination of policies the President has pursued that we believe is a mistake. We believe, yes, we should have had tax cuts in the short term to give lift to the economy, although we would have chosen a different mix of tax cuts than the President did.

Interestingly enough, the President adopted some of our suggestions, the 10-percent rate, the child care credit, reducing the marriage penalty, and we salute him for that. Those are policies many of us on this side agreed with. But the President also adopted dramatic cuts in capital gains and dividend taxation. These are taxation policies the Congressional Budget Office told us would give us very little bang for the buck in terms of job creation and economic growth. I think the Congressional Budget Office was right. I think that particular mix of tax cuts the President chose was not the right mix to give maximal lift to the economy in the short term.

As we see going forward, the President's tax cuts are so large they fundamentally threaten our long-term economic security. That is where we have the significant difference.

I am pleased to see members of the Budget Committee in the Senate and the House have not adopted the President's full tax cut proposal going forward. Now maybe it will occur in later years, past the 5 years. None of us can know that now, but at least in this budget cycle they are not endorsing the President's plan to have another trillion and a half dollars of tax cuts when we already have the largest deficits in the history of our country and we are about to have the baby boomers begin to retire, which will dramatically increase the expenditures of the Federal Government, because that is one thing we know. The baby boomers are not a projection; they are out there. They have been born. They are alive. They are eligible for Social Security and Medicare, and we are faced with a circumstance in which we have to start making very tough decisions.

My own belief is we have to be tough on the spending side of the equation and we have to be tough on the revenue side of the equation. We have to slow the growth of Federal spending. On the other side of the equation, we have to do something about the revenue mess because the revenue this year is the lowest as a percentage of gross domestic product since 1950. When the revenue was high as the share of gross domestic product, the President said we needed tax cuts. Now that it is the lowest it has been since 1950, the President's answer is, more tax cuts.

It does not matter what the problem is, this President comes up with the same answer: Tax cuts, tax cuts, and tax cuts that primarily go to the wealthiest among us.

I have a chart with me which I will use later on that shows 33 percent of the tax cuts this President has proposed and those that have been enacted have gone to the wealthiest 1 percent, those earning over $337,000 a year. That is not a fair distribution of the tax cuts in this country. It is one reason we have a very weak job recovery, because the tax cuts that were selected were tax cuts that primarily went to the wealthiest among us rather than being targeted at middle-income people who would spend the money. So much of this money has gone to high-end people who save it.

As meritorious as it is to save money, and I try to remind my daughter of this from time to time, that saving is a good thing, but when talking about getting an economy moving we need that money to be spent, we need that money to be moving in the economy. If we look at this economic recovery that has occurred, to the extent it has occurred, there are many factors. One of the biggest factors is the monetary policy of this Nation.

The Federal Reserve has the most accommodative monetary policy in 40 years. It is a key reason this economy has recovered. We have combined debt in this country of over $20 trillion.

So an accommodative monitoring policy, the lowering of short-term interest rates from 6.5 percent down to 1 percent, has been a key reason for the lift of this economy. The second key reason for the lift of this economy has been the stimulus both on the tax side and the spending side. The two of them are about equal over this 3-year period.

If we look at the increased spending that has occurred—and it has been substantial since 2001—from 2001 to 2003, the Federal Government has increased expenditures by 20 percent. Of course, the tax cuts—especially those geared to the middle class—have helped give lift to this economy.

A third factor helping economic recovery has been the decline in the value of the dollar. That can have negative long-term consequences; but in the short term, a decline in the value of the dollar makes it easier for us to sell abroad, which helps our manufacturing industry and all those that export. It holds down imports because imports become more expensive. So that has helped give lift to the economy in the short term as well.

Madam President, the bottom line is that I believe the fiscal course the President is taking us on—not so much in the short term, although that is of increasing concern, but the longer term proposals by the President are truly dangerous to the economic security of our country. The deficits are too large. They are too long lasting. They explode as the baby boomers retire and the full cost of the President's tax cuts become clear.

I believe we have a responsibility to alter that course. I believe it will become more and more clear in the months ahead that the course we are on is utterly unsustainable and fundamentally reckless. That is why we simply must change course.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NICKLES. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Madam President, I ask unanimous consent that the time during quorum calls be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CONRAD. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Madam President, the chairman has indicated to me he will return in a few minutes and begin his presentation at that time. Rather than have the time be lost, I will say a few words now.

In addition to being concerned about the President's plan to explode the deficits and the debt, as I look at the President's plan I also see what I believe are misplaced priorities. Let me discuss just a few.

As this chart shows, the Bush plan cuts No Child Left Behind, but that cut saves very little in comparison to the cost of the tax cuts for that same year going to the most wealthy 1 percent. Let me just be very clear. The President's plan shorts No Child Left Behind by $9.4 billion in this fiscal year, 2005. We passed legislation here that gave increased responsibility to the States, increased the expenses of the States, and in exchange we said we would cover the costs. The President's budget fails to do that. It fails to do it by $9.4 billion for 2005.

But in that same year the cost of the President's tax cuts for the most wealthy 1 percent, those who earn over $337,000 a year, are $45 billion, five times as much as the money needed to keep the promise of No Child Left Behind.

I must say I am in this category. My wife and I are in the top 1 percent. I would be happy to give up part of my tax cut. I would be happy to have it reduced by 20 percent to keep the promise for No Child Left Behind.

The same is true in other categories—veterans medical funding, for example. The President's budget is $521 million short of providing funding for veterans medical care in 2005 that should be in place to fund it at the same level as last year. It would take $521 million to bring it up to what we did last year for veterans medical care.

In that same year, the President's tax cuts cost $45 billion for the wealthiest 1 percent, those earning over $337,000. That is 90 times as much as the money necessary to restore the funding for veterans medical care. I must say I don't understand these priorities. It doesn't stop there.

This is President Bush's plan for cutting firefighting funds. It would cost $246 million to restore the money. Again, in 2005, in comparison, the President has $45 billion in tax cuts going to the wealthiest 1 percent, those earning over $337,000 a year. That is almost 200 times as much as the money necessary to restore the cuts to the firefighters.

We talked a lot about homeland security. Firefighters who are the first responders, the police who are first responders, ought to be high up on the list of our priorities, and certainly veterans health care. We have just sent thousands of men and women half a world a way to defend this country. Then we cut their medical care. I don't think these are the priorities of the American people.

It doesn't stop there. The President plans to cut COPS funding to put police on the streets. The COPS program has put 100,000 police on the streets in this country. The President proposes deeply cutting COPS funding. It would cost about $700 million to restore that funding for 2005. Instead, the President says it is more important to have $45 billion of tax cuts for the wealthiest 1 percent. I do not think that is the priority of the American people.

When we look at these programs individually, we can see the Bush budget cuts the COPS program by 94 percent. This is the amount of money we provided in 2004. We provided $742 million to put these police on the streets. The President proposes cutting that down to $44 million. He is cutting it by almost $700 million at the same time, saying, No, it is more important to have $45 billion of tax cuts for the wealthiest 1 percent, those earning over $337,000 a year.

My own belief is the COPS program ought to be funded. I believe we are safer because there are 100,000 more police on the streets. The President, with these deep cuts—cutting the COPS program 94 percent—is going to take police off the streets. When we have a terrorist threat in this country, as we do, why would you take police off the streets? Why would you take police off the beat? It makes no sense to me.

As I say, it doesn't stop there. Here is the President's plan for firefighters. He cuts that program 33 percent. Again, firefighters are first responders.

I can remember well September 11 when the Pentagon was attacked. I remember watching the television. I remember seeing all those first responders. Who was it we asked to respond to the disaster? Firefighters, police, and EMTs. Those are the people who were there to help those who had been hurt.

The President's answer is cut the COPS program 94 percent, cut the firefighters 33 percent, and cut port security 63 percent. We provided $125 million last year for port security. The President wants to cut that by almost two-thirds, down to $46 million. We know we are only inspecting about 4 percent of the containers that come into our ports. We know we need to do more. We know we need to do more to secure the ports. In fact, those who are involved with the ports of the country say we ought to have $5 billion for port security. Obviously, we can't afford $5 billion. But on the other hand, does it make any sense to cut what we are doing now by 63 percent? I don't think that makes much sense in the light of what we face in terms of a terrorist threat to the country.

Earlier I was talking about the tax cuts the President put in place and the distribution of those tax cuts. Again, I want to make clear I proposed in 2001 much bigger tax cuts on the front end than the President proposed. You will recall the President's initial two proposals would have very small tax cuts in the initial years, and much more in the outyears. I thought he had it upside down and backwards. I thought we should have more tax cuts on the front end to give life to the economy and much less in the long term so we could prepare for the retirement of the baby boom generation and not undermine Social Security and Medicare and national defense. The President largely got his way, with some exceptions.

Here is what we see as beneficiaries of those income tax cuts. Of the income tax cuts, 68.7 percent of the benefit goes to the top 20 percent, and 33 percent of the benefits—almost a third—go to the top 1 percent. Those are people earning over $337,000 a year.

I believe one of the reasons we are not seeing the kind of job creation we might have otherwise seen is the President shows the wrong mix of tax cuts. He has it much too weighted to the top end and not enough to the middle class who are the ones who would spend the money and really fuel the economy.

This next chart shows in a little different way who benefited from the 2003 tax cut. Net tax cuts under the tax act passed in 2003 for upper-income individuals was 67 percent of the benefit, according to the Joint Committee on Taxation. Low- and middle-income people got 29 percent, and businesses 3 percent. Again, I think the President chose the wrong mix of tax cuts.

There is no question that stimulus is what the economy needs when you have that kind of slowdown. Stimulus can be either spending or tax cuts. I believe we ought to do both. We have economic weakness and we spend more money—a 20-percent increase from 2001 to 2003 in Federal spending, most of it for defense and homeland security and responding to the effects of September 11, but we also cut taxes. That is a strategy that makes sense at a time of economic weakness. The problem with what was put in place is the taxes were so directed to tax reduction, so directed at the wealthiest among us, the highest income, that we didn't get the same bang for the buck in terms of economic growth and job creation we would have gotten had we targeted more to middle-income individuals and lower-middle-income individuals who would more likely have spent the money.

This is a very interesting chart. I hope my colleagues will have a chance to see a lot of this chart in the coming days. This is how the tax benefits stack up—the average tax cut in 2006. Middle-income people got an average $566. This is the combined effect of the 2001 and 2003 tax cuts. Middle-income people got an average of $566.

But look at what happened. Those earning over $1 million a year got $140,000 on average in tax cuts. If these bars were proportionate, the bar showing what the people earning over $1 million get would have to go 35 feet higher. I don't know how high the Chamber is here, but 35 feet would be a long way up in the air to show the comparable tax cuts going to those earning over $1 million compared to what the middle-income people get. Middle-income people got $566. People earning over $1 million got $140,000 in tax cuts on average in 1 year.

If we were going to have the comparison done in a proportional way, the bar showing what those earning over $1 million are receiving for the year would have to go 35 feet high compared to this little bit at the middle income.

Again, I believe one of the reasons we are not seeing the job recovery all of us would like to see is the President simply has the wrong mix of tax cuts.

This chart shows it a different way. A typical taxpayer, one right in the middle of the income distribution in the country, under this scenario got $685. This is from the Center on Tax Policy, the average tax cut in 2004. In 2004, those earning over $1 million got $127,000 in tax cuts. That is a stunning difference. The Bush income tax cuts give three times as much benefit to the top 1 percent as the middle 20 percent.

Looking at the middle 20 percent of the people in the income distribution in this country, they have 11 percent of the benefit of the President's tax cuts. The top 1 percent got almost three times as much. In fact, they did get three times as much for those earning over $337,000 a year.

I asked my staff to go back and look at how the top 1 percent of our country has done compared to the rest of the American people. Here is what we found looking at increases in average aftertax income from 1979 to 2000. Those in the top 1 percent improved their condition by $576,000, the middle 20 percent, $5,500. That is 100 to 1.

The people who have benefited by the economic growth are the top 1 percent. That is fine. I am all for that. We all want people to be able to succeed. That is what opportunity is about. That is what freedom is about, the ability to do better, do better for your family, do better for yourself. Great. But when we come along and make tax policy and we look at those people having been the greatest beneficiaries of what has occurred on a basis of 100 to 1 and we in this tax policy say that is not good enough of a difference, we want to turn around and give those earning over $1 million a year a $140,000 tax cut on top of it in 1 year and the middle-class people get $500.

How is that fair? It eludes me how that is fair. I don't think it is fair. Not only is it not fair, but it is not good economic policy. Why not? Because the middle-income people are the ones who spend the money. We need people to spend money to get the economy moving. People in the higher income categories are the least likely to spend it. They are much more likely to save and invest, which is good to do, but that is not what primes the pump. That is not what gets the economy moving.

When I look at who got the biggest benefit, many times friends on the other side of the aisle say, Hey, wait a minute, the wealthiest folks pay most of the taxes. That is exactly right. That is true. The wealthy people do pay more of the taxes. We have a progressive tax system, so higher income people pay a greater proportion of taxes, but they do not pay the same share. They do not pay as much more as we gave in the tax cut side of the ledger. As I indicated, they got 33 percent of the President's tax cuts, but they paid 23 percent of the income and payroll taxes. This is the wealthiest 1 percent. They got 33 percent of the benefit, but they paid 23 percent of the taxes. I don't think it is fair on any basis what the President chose as the mix of tax cuts and I don't think it is good economic policy either.

It is stark when we look at the top 1 percent, those earning over $337,000 a year. They got 33 percent of the benefit of the tax cuts. The bottom 60 percent in this country got 15 percent of the benefit.

Our friends on the other side will say, Hey, wait a minute, the higher income people pay more. Yes, they do, but they do not pay 33 percent of the taxes. Our friends on the other side want to talk about income taxes. They forget that people do not only pay income taxes; they pay income taxes; they pay payroll taxes. The fact is, three-fourths of the American people pay more in payroll taxes than they pay in income taxes. Yet all of the relief has been to income tax payers and done in a way that gives an overwhelming benefit to the highest income tax payer, those earning over $337,000 a year.

The disparity is even bigger when we look at those who earn over $1 million a year. As I showed, those earning over $1 million a year got the cake. We talk about the crumbs and the cake. Here is the cake. Those earning over $1 million a year, for 2006, will get a $140,000 tax cut in that year alone. Here is what the middle-income folks in the country are going to get: $566. There is something wrong with this plan.

Again, when we look at what has happened from 1979 to 2000, the change in share of pretax income, this chart is quite stunning. It is the reason there is a lot of anger in the country, I believe. There is much more anger in the country than I think is generally understood by people in Washington. The reason is middle-income people in this 20-year period have actually lost ground. They are worse off in their share than they were in their pretax income shares in that 20-year period. The middle-income people have actually lost share, 15 percent. Their pretax incomes have gone down. Look what has happened to the top 1 percent. Their pretax income has gone up 91 percent.

We heard Senator EDWARDS from North Carolina in his Presidential campaign talking about two Americas. The reason that got such a tremendous response is because there is a lot of truth in what he is saying. There are two Americas developing: those who are well-to-do, those who are secure, those who are fully competitive in this global environment; and then middle-income people, who all of a sudden are finding themselves in competition with people who are earning 25 cents an hour in some other part of the world. We are faced with a circumstance that is changing very dramatically.

I met a man who is involved with one of the major industries in the country at a breakfast I attended several weeks ago. He said, Senator, something is changing structurally in this country. Something is happening that is very dramatic. In the business I am in—he is in the machine tool business—at this stage of an economic recovery, we should find our order books filled. We should see dramatic increases in orders. Senator, that is not what we are finding. Yes, economic growth has improved. We saw 4 percent the last quarter, 8 percent the quarter before that. But, he said, our order books are not filling up in the machine tool business. Something structurally is changing here.

There are jobs being created, but not jobs in this country. There is business being created, but it is not business in this country. The jobs are being created in China. The jobs are being created in Mexico. Jobs are being created in India. Business is being created to some extent in this country because we see strong economic growth here, but it is not as it should be in this stage of recovery.

I believe part of it is we have adopted a flawed policy. We have helped with tax policy the very people who have already done extremely well in the last 20 years. Those who are the most educated, the best trained, are doing extremely well. That is great. I am all for that. I hope very much everybody gets into that category. That is what opportunity is about. Through our policies, we are helping the very people who have already done the best, and we are not doing much for the people who are falling behind.

Chairman Greenspan says we ought to focus on education because if we are going to compete in this global environment, we must have the best trained, best educated workforce. Yet in this budget, the President cuts No Child Left Behind $9 billion.

Does that make sense for our country? Does it make sense to cut education for what was promised by $9 billion when in that same year we are giving the top 1 percent a $45 billion tax cut? Does that make sense? Is that good judgment to strengthen our country for the future? I do not think so.

If we look at what has happened, again, from 1979 to 2000, to those in the middle 20 percent, their share of pretax income has dropped. Look at what has happened to the top 20 percent. Their share has almost tripled.

If people are not paying attention, they are going to get swamped. There is anger in this country because when Senator EDWARDS talks about two Americas, he is exactly right. Those at the top are doing better and better. I am delighted they are doing better. But those in the middle, they are falling behind.

Why? Because this global economy is great for the people who are the best educated and the best trained. That is why we, as a society, ought to make certain we are doing everything we can to make Americans the best educated and the best trained because if you are not, you are not going to be able to compete. You are not going to do well in this global competition, and your share of the national income pie is going to get cut. Those who are well educated and well trained are going to prosper. They are going to soar. We have to somehow fashion a policy that gives all Americans a chance to compete and to do well and to be winners.

We hear a lot from the other side that the biggest beneficiaries of the top rate cut are the 23 million small businesses; that is where most of the jobs are generated. I agree, most of the new jobs are generated by small business. But I do not agree that the top rate cut benefits most businesses. In fact, only 2 percent of businesses qualify for that top rate. Ninety-eight percent got no benefit from the top rate cut.

I hope very much as this debate goes forward that we think very carefully about what we are doing because it is abundantly clear, while there is economic recovery underway, it is an uneven economic recovery. It is a recovery that is not generating jobs in the same way we have seen in the nine previous recessions. We are 5.4 million jobs behind where we typically have been in other recoveries since World War II.

Something is wrong. Something is not going right. I believe one part of that is the tax policies that have been put in place that have benefited primarily the top 1 percent. The top 1 percent got a third of the benefit—those earning over $337,000 a year. Those are the very people who have done the best in the last 20 years on every scale. They have increased their incomes by over half a million dollars. They have seen their pretax income go up 91 percent, while those in the middle have seen theirs shrink.

I think that is right at the heart of why we see a jobless recovery underway. The people who are the very ones who would spend the money are not getting the money. The people who are getting the money, under the President's plan, are the wealthiest among us. They are the least likely to spend it. They are the most likely to put it in the bank. And while savings is a good thing, and I am delighted to always see people save because that helps investment for the future—and we need to have more savings in order to have more investment, to have more growth for the future—in the short term, to get people back to work and to fuel the economy, you need people spending money. The people most likely to spend money are the people in the middle class.

Of course, we have also seen somebody else spend money. That is Uncle Sam. Uncle Sam has been spending a lot more money. From 2001 to 2003, Federal spending went up 20 percent. From 2001 to 2004, Federal spending has gone up almost 30 percent.

Where is the increased spending going? Ninety-one percent of the increased spending is going in just three areas. Most of it is defense. The next biggest is homeland security. The third biggest was a response to the attacks of September 11—rebuilding New York, bailing out the airlines, and the international programs that have been adopted to deal with the crisis in Afghanistan and Iraq. That is where the increased spending has occurred.

We will hear a lot from the other side that spending is out of control. It really is not. We have seen a big bump up in the 3 years of this President, but where has it been? The increases have been for defense, homeland security, and the response to the September 11 attack.

The place where the deficits have really opened is on the revenue side. It is the revenue side of the equation that has collapsed. We are going to have the least revenues as a share of gross domestic product since 1950. So if we are going to be honest and straight with the American people about diagnosing the problems we have, we have to address the circumstances as we know them, as we face them.

Let me just quickly say, on the revenue side of the equation, I know a lot of people's impulse is, well, if you are talking more revenue, you are talking tax increases. That would not be the first place I would look for more revenue. The first place I would look for more revenue would be the tax gap, the difference between what is owed and what is being paid.

I met with the head of the Revenue Service in the last 2 weeks, and he told me the tax gap, as of 2001—the difference between what is owed and what is paid—was $255 billion in that year alone. We ought to have a concerted effort to go after those who are not paying what they legitimately owe under this Tax Code—those companies, those individuals who are dodging what they legitimately owe, to the tune of $255 billion in 2001 alone. It is totally unfair to the rest of us who pay what we legitimately owe to let others—a small percentage—escape what they owe.

A previous Revenue Commissioner did an analysis and said the rest of us paid 15 percent more because of that small group of companies and individuals who are not paying what they legitimately owe.

I hope we shine a bright light on this tax gap because I believe it is the first place we ought to look to start to fill in this revenue hole that has been created. Instead of going to a tax increase, the first thing we ought to do is close the tax gap so everybody can be assured everyone else is paying what they fairly owe under the law.

I thank the Chair and yield the floor.

I ask the Senator, are you ready to proceed or should I put in a quorum call?

The PRESIDING OFFICER (Mr. ENZI). The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank my friend and colleague, Senator CONRAD, for his remarks. I agree with some of them, not necessarily all of them. Let me make a few comments on the budget. And I, again, appreciate his patience in waiting for me so I could have a bite to eat and also get prepared for this presentation.

The budget is a difficult challenge. To write a budget for the United States of America, the largest government in the world, the largest economy in the world, is not easy.

President Bush has written a budget. We produced a budget out of the Budget Committee. I hear a lot of complaints about how bad the President's budget is or how bad the resolution on which we will be voting on the floor is, but I have not seen alternatives. I would urge people, show me your alternative. Show me how much money you would spend, how much money you would tax. That is basically what a budget outline is: how much money we are going to spend and how much money we are going to tax. What is our objective? How are we going to achieve it?

We use assumptions. A lot of times the assumptions are wrong. I have heard a lot of complaints: Well, President Bush missed the assumptions big time. In 2001, we projected enormous surpluses, and now we have enormous deficits—trillions of dollars of difference. What happened? We don't understand.

Well, a lot of things happened. Let me just say there have been a lot of inaccurate assessments made. And I go back to the year 2001. In January 2001, everybody missed—everybody missed—big time, not just President Bush. President Clinton, the Congressional Budget Office, the Office of Management and Budget all missed more than you can imagine.

I will just make a couple comments on a little history.

The NASDAQ collapsed in the year 2001, and it continued to decline a little bit in 2002. But a big collapse was really in the year 2000.

I might mention that President Clinton was still President. Yet I will show you the next thing. His forecast for 2001—this was given in January of 2001—estimated about an additional employment of almost 2 million jobs.

Frankly, the economy was already falling into recession, which was shown by the fact that NASDAQ went down by almost 50 percent in 2000. Yet the budget experts, Democrats and Republicans, CBO and OMB—CBO is the Congressional Budget Office and OMB is the Office of Management and Budget—projected that revenues would continue to climb, employment would continue to climb, as President Clinton did. They all missed it. They missed it by an enormous amount. They were forecasting trillions of dollars in surpluses. They were way wrong. Of course, they also didn't know, and could not have expected, the hit we had in September of 2001. But there were enormous mistakes that were made.

The market collapse, or the crash of the market and NASDAQ declining by that much was missed. They didn't estimate what the impact would be on revenues and to the economy.

We had trillions of dollars in market value that was lost in the collapse. If you look at the NASDAQ chart again, in March, that collapse started in March of 2000. Individuals, investors know that. They remember that is when the bubble popped. NASDAQ was almost 5,000. Then all of a sudden it was going down to 4,000, 3,000, and it ended up that year at 2,500. So there was an enormous decline of market value. A lot of it was inflated. Chairman Greenspan called it "irrational exuberance," and he was probably right. It flowed through as a real loss and decline of revenue coming into the Federal Government.

In the year 2000, we had over $2 trillion of revenue. That declined to last year's $1.78 trillion in revenues. Part of that was tax cuts, but the bigger part of it was the recession.

Look at this chart. Where did the deficits come from? Most of the deficits came from economic and technical changes. That is 40 percent, from the assumptions made in 2001. New spending comprised 37 percent. So you had economic and technical changes of 40 percent; new spending, 37 percent; tax cuts, 23 percent.

Again, this is comparing 2001 to the forecast of today. My point is, I want to give people a perspective of what happened. The new spending—we had big supplemental changes—changes were made as a result of the war. We had two very large supplementals to fight the wars in Afghanistan and Iraq, and a big supplemental to help New York City and Virginia. That totaled almost $250 billion in new spending just to take care of those who were injured and to rebuild New York City and fight the war on terrorism.

That is kind of what we inherited last year. Last year, the previous year, we didn't have a budget. Last year we had to pass a budget, and the economy was still rather flat. Besides, Democrats and Republicans said we needed a stimulus package, we needed to grow the economy. We had different ideas of how to do it. I think some of what we did last year helped a lot.

I have heard criticism. I will make a couple of comments. I think the changes we made last year did grow the economy, did make a difference. If you look at the GDP, gross domestic product, you can see what we were looking at last year. It was rather stagnant. The economy started dropping in 2000, a negative quarter in 2000, and in 2001 it was still pretty negative.

Then we started to have a growing economy. When we passed the tax bill last year—when we started talking about it, we started to notice the GDP started rising dramatically.

The last three quarters were very positive. The third quarter of last year is the largest economic growth period we have had in any quarter in decades—not in years but decades. So the tax bill changes we made were positive.

Some people say I think we want to make changes to grow the economy. We did. We basically accelerated the tax cuts that were already in progress and moved the rates to the rates they are today. That was positive, in my opinion, and very beneficial. We cut in half the tax on dividends. Chairman Greenspan and others said we should go to zero.

The Senate passed a bill that would take the tax on dividends to zero, i.e., they should only be taxed once. We found out then in comparing it that we taxed the contribution distributions from corporations higher in the U.S. than in any other country in the world. We tied with Japan for the highest tax rate on taxing proceeds from corporations, higher than anybody else in the world. We cut that tax in half, to 15 percent.

We cut the capital gains rate from 20 percent to 15 percent. It has made a big difference. You see these economic growth figures—GDP going up by 4, 5, 8 percent. Those are very positive and good numbers.

If you look at what was done in the stock market, there was over a $4.5 trillion increase, almost on a straight line basis, since the tax bill we passed last year. That is astronomical—great, good news. That is good news for all Americans.

Some people say, well, that only benefits the Warren Buffetts or the wealthy people who invest. That is not correct. It benefits the entire economy. That means the wealth of these companies is growing. These companies are owned by, frankly, almost all Americans. I think over 50 percent of the households have direct ownership, if you looked at the investments they have, such as the teachers public employee trust funds, all kinds of retirement plans, 401(k)s, almost all of which have investments in the stock market. That means instead of having declining market value in their retirement accounts, they have increasing ones, escalating amounts. That is all good news. We want to continue that good news.

The point is, very seldom can you say—we passed a budget last year and, if we had not done that, we would not have had a growth package, we would not have cut the tax on dividends to 15 percent, or reduced the tax rate on capital gains 25 percent, from 20 to 15 percent. That would not have happened. But we passed a budget and it made it possible for that to happen. As a result, I think we have good news to share.

When people think about whether budgets make a difference, they make a world of difference. Can you impact the economy? Yes. We proved that and we did.

If you look at the unemployment rate, for example—and we have heard a lot of discussion on it—it is now 5.6 percent. It was up to 6.3 percent. It has been declining ever since we passed the bill. We made some good progress. We have not had the increase in employment certainly that I would like to see, but it is moving in the right direction.

As far as the employment rates or the number of people employed, we are making progress. I think one of the reasons it has not been as good as we would like in many cases is because productivity has escalated rather dramatically. That is good for consumers, certainly good for our economy. That keeps us competitive. That means we produce more goods per hour and that is all positive. We will see a rise, hopefully, in the employment rates as we continue.

The unemployment rate is down and employment rates are up. If you look at the number of people employed, it is an all-time high. It all happened because we passed a budget last year. So I encourage people who are very critical of this budget to come up with their own. This is not an easy job. So I welcome the discussion.

I also wish to talk a little bit about tax rates. I have heard a lot of complaints about the wealthy benefitting so much from these tax cuts, and how terrible it is that they were disproportionately benefiting from this proposal—either the tax cut of 2001—and there is a lot of discussion and confusion about the 2001 tax cut and the 2003 tax cut. I was one of the principal authors of both. Primarily, I was very involved with it. Let me defend it.

One, for those people who say it didn't benefit the low-income people, that is not correct. In the 2001 tax cut, we accelerated the tax reduction for low-income people and made it effectively retroactive. Maybe some people forgot that, but we did that.

Again, we passed the tax cut in 2001, and we reduced every tax bracket—every tax bracket, not just the tax brackets for the higher brackets. We reduced every tax bracket, and we reduced the lower tax bracket more than any other bracket.

The lowest tax bracket at that time, other than zero, was 15 percent. We made it 10 percent, and we did it retroactive to January. So we took the lowest bracket, cut that tax rate by 50 percent, and we made it retroactive.

We took the maximum rate, which was 39.6 percent, and we reduced it by 1 point to 38.6 percent for 2 years. Last year we finally got it down to 35 percent. It took us from 2001 to the middle of 2003 before we got it down to the 35-percent tax bracket. It was 39.6 percent under President Clinton. We took it to 35 percent. It is still much higher than it was under President Bush 1 at 31 percent. Thirty-five percent over 31 percent, it is almost 20 percent higher than it was under President Bush 1. But we made the lower income tax bracket reduction effective immediately and we did it all in 1 year. We did not phase it in over 3 years.

We also did some other things. We made the tax cut more refundable. I don't happen to agree with that, but we did, so we write a check to people who do not even pay taxes. In many cases, we write them a check much greater than their payroll taxes.

I hear some people say: You need to include payroll taxes. I understand there are income taxes and payroll taxes combined, but for low-income people, in many cases we would write a check to them that greatly exceeded their 2001 tax bill. Maybe some people forgot that point.

Then we also increased the $500 per child tax credit to $1,000. Last year, we took it from $700 to $1,000. That is a $1,000 tax credit per child. If we do not extend it this year, it will go back to $700. We assume in our budget that we are going to extend it.

When people say we did not do anything for low-income people, if you have 4 kids, that is $4,000—4 times the $1,000 tax credit on which you do not have to pay taxes.

The net impact of that is a lot of people do not pay income taxes because if you look at the child tax credit and you look at the earned income tax credit and so on, we have a lot of programs for low-income people, so maybe they do not pay taxes.

Then we hear the argument of distribution, the class argument: The wealthier are the ones who are benefiting. Frankly, people in the upper 5 percent of income pay half the income tax. Think of that. The upper 5 percent of the American people pay half the income tax. Sure, if you are going to cut income taxes, they are going to benefit. The point being, how much should the rate be? What is the right level? I happen to think when we talk about a 35-percent rate—that is over a third, if my math is somewhat accurate—that is a lot. Why should the Federal Government take over a third of anybody's income for any reason? Why is the Government entitled to take half?

When I was first elected, the rate was all the way up to 70 percent. The Government could take 70 percent of any additional dollar you earned. I think that is wrong. We have gradually reduced it to 28 percent, and it went up to 39.6 percent. Frankly, it is even higher than 39.6 percent because there is a tax on all income of 2.9 percent to pay Medicare. So you actually add 2.9 percent for these income tax figures. Add 2.9 percent, so the maximum percent is 37.9 percent today. Maybe people don't realize that. How much money should the Federal Government take? The power to tax is the power to destroy. Where do you destroy an individual's or company's incentive to produce more? At some point, I can tell you from my experience in the private sector—I used to be in the private sector; I will be returning before too long—at some point, when you work more for the Government than you work for yourself, you lose a lot of your incentive to grow, build, and expand, and when I say expand, I am talking about hiring more people.

I found out earlier when I had a janitor service that I was almost in a 40-percent tax bracket. Why in the world should I get up early every morning or work late at night if Uncle Sam and the State—combined between the two—are going to take about half? It is a real disincentive to grow. I had several employees and could have had several more. I had the same situation when I ran a manufacturing company in Oklahoma. Marginal tax makes a difference.

I mentioned the top rate today is 35 percent. If you add the 2.9 percent because of Medicare, that is 37.9 percent, and you have not yet paid any State income tax. A lot of States have 6 or 7 percent, so you add that. Now you are at 45 percent. Some cities have an income tax. You add that and you are at the 50-percent rate.

Why does someone want to continue building and growing and expanding? Expanding is where jobs are created.

Mr. SARBANES. Will the Senator yield for a question?

Mr. NICKLES. No, I will not yield. I am going to make a fairly significant statement.

Mr. SARBANES. I want to clarify one point.

Mr. NICKLES. Not at this point.

Some people say that is a big benefit for the wealthy. I say why in the world should the Government take half? I don't think they should. Maybe some people believe they should. I disagree.

What we have assumed in the budget is we are going to continue present law; that we are not going to have a tax increase. Some people don't want that to be in there. We assume we are going to continue present law, where we have several provisions that are due to expire at the end of this year. Some of those, frankly, are targeted toward low- or middle-income people. They would expand the child tax credit. As I mentioned, if we do not extend it, the child tax credit will go from $1,000 to $700. There is a $1,000 tax credit today. If we do not extend it, as assumed in the budget, it goes to $700. So they will lose. If they have 4 kids, they are going to have to pay $1,200 more in taxes next year than they pay this year.

What about the marriage tax penalty? We assume we are going to extend the marriage penalty relief we put in last year's bill. That is very significant for middle-income tax relief.

I heard my good friend Senator CONRAD talk about the middle-income class does not get anything. That is not accurate, in my opinion. The middle-income class people do very well. If you have a taxable income of $58,000, your tax bracket is 15 percent. We want to keep it at 15 percent. If we do not pass the extension, it is going to revert down and people will be paying 25 percent if they make $58,000. As a matter of fact, the savings on that income category is about $900. So if a married couple and their combined, joint taxable income is $58,000, the marriage penalty relief we passed last year which we want to extend is $900. So you have $900 there. If they have 4 kids, that is another $1,200 difference. That is $2,100 of tax relief for a couple with 4 kids. That is a rather typical American family. I happen to have four kids. I don't qualify for this, but most American families have taxable incomes of $58,000 and would qualify for it. My kids are too old. My point being, this is real tax relief for American families.

We also expand the 10-percent bracket, and we continue that expansion, or we assume that will be continued under our resolution. That is another $100.

If you look at the savings, we have $900 on marriage penalty relief we would extend; we have $1,200 for the child tax credit we would extend; another $100 for the 10-percent expansion. We expand the amount of income that would be taxed at 10 percent. By continuing those provisions, we save the American family which has $58,000 in taxable income and 4 kids about $2,200. That is real relief. Percentage-wise, on the amount of taxes they pay, it is probably a greater percentage relief than anyone. It is very significant. So I want to put some of the tax equity arguments in perspective.

I will make just a couple of other comments about the budget. I mentioned what we assume on the tax side. I tell my colleagues if they are bent out of shape, we have a reconciliation package instruction that would make all of those things I just mentioned be extended throughout the 5-year window of this bill.

This is a 5-year budget. I am assuming all those things would be made permanent, or at least be extended through this resolution. Things cannot be made permanent in budget resolutions. A lot of people say we want to make those tax cuts permanent. I said fine. We just have to do a tax bill outside of reconciliation.

I am happy to do the tax bill, I tell my friend and colleague. I think he knows that. I have the pleasure of serving with him on the Finance Committee. This Senate has done many tax bills, many inside reconciliation and many outside. By definition, if they are inside a reconciliation they are terminated. I do not like that. Frankly, I want to do something this year on the death tax or the estate tax. If we are going to do something on the death tax, it ought to be done outside of reconciliation so it is not temporary, so it is permanent, so tax planners and others can figure out what they want to do and they can count on it. So maybe we will have the opportunity to do that if we do bills outside of reconciliation.

I have looked at it more or less as a fallback, and I told Senator GRASSLEY, who is the very able chairman of the Finance Committee, that we might have this as a fallback but hopefully we could do these things outside of reconciliation. That would be a couple of options.

That is $81 billion that we are assuming in reconciliation. We assume about $12 trillion in the next 5 years in revenues. So the amount of money we are trying to direct through the reconciliation process is very small in proportion to the total amount of money that is expected to be raised under current law. So I just mention those things on the revenue side.

What about on the spending side? I showed the chart where spending has gone up and revenues have gone down, mostly because of the economy, somewhat because of the tax cut. Expenditures have gone up rather dramatically.

We believe it is time to be responsible. We think it is time to make some reductions, to at least cap the growth on spending. So the resolution we have makes some tough choices. In many cases we have not made tough choices in the past.

I am sure I am going to hear from my colleagues: Well, too much is cut, too much is assumed. Basically, we still assume spending will grow, but it is going to grow by less. In some cases, for the assumptions we have that defense would grow about 5 percent, I have already heard—very strongly I might add from Chairman STEVENS and Chairman WARNER—that they want 7 percent. The President requested a 7-percent growth in defense. We have assumed 5.1 percent, and I expect there will be efforts to—I might even say I know there will be efforts that will be coming to increase that level.

We assume the President's number in homeland defense. I have heard people say that is not enough; he did not do enough on first responders; he did not do enough for port security, and so on. But we assumed a 15-percent increase in homeland security, according to CBO. If we take out the bioshield, which was actually funded last year, it is about a 10-percent growth. Again, 10 percent when looking at the rest of the budget, nondefense, nonhomeland security grows by basically a freeze. We could say .5 percent or a freeze. The President's budget said it would grow by about .5 percent. Our budget is very close to a freeze.

These programs are not used to a freeze. I can show program after program, going all the way back since 1990, that has been growing in annual expenditures in double digits continually. They are addicted to that kind of spending growth.

If we try to say, I am sorry, you may have to live with a freeze, that is not going to be easy. I know a lot of the appropriators are looking at it and saying: Whoa, we are used to having a lot more money than that. I know this will not be easy. I tell my friend and colleague from North Dakota, it will not be easy because I know there is a lot of demand to spend somebody else's money. Frankly, I do not think $500 billion deficits are acceptable.

The administration estimated the deficit for this year at $521 billion. I hope they are incorrect. We use the Congressional Budget Office. There are differences and they are legitimate. There are professionals both at the Congressional Budget Office and OMB, and I respect them all. They have different estimates, for different reasons. We can spend a lot of time on that, but the Congressional Budget Office estimates that this year the deficit will be about $477 billion.

The President said he wanted to get the deficit down by half over 5 years. That is very significant. The President is estimating $521 billion. To try and get that in half over 5 years is a very significant deficit reduction, not easily obtained.

Since we use the Congressional Budget Office, we start at $477 billion. Under our budget resolution, next year the total deficit will be $338 billion. That is a reduction of about $140 billion—actually $139 billion in 1 year. That is a very significant decline. The next year goes down again about $80 billion, a very significant deficit reduction, not easily done.

If we are successful in doing that, we will be very close to the halfway mark in 2006. We will be there in 2007. So we are bringing it down.

Looking at it as a percentage of gross domestic product, the estimate today of the deficit is 4.6 percent of GDP. In past years, even in the early 1980s or 1990s, we had deficit figures of as much as 6 percent of GDP. We are bringing it down in a couple of years to 2 percent, which is much more sustainable. In the year 2007, it will be 1.7 percent of GDP. So we are making significant progress in deficit reduction. We would meet this target either nominally through dollars or through a percentage of GDP in 3 years.

I know there are going to be a lot of amendments that say we are cutting too much too fast. Frankly, we are not cutting. We are saying we should allow defense spending to grow as much as necessary, but other than that we need to tighten our belts. We have not done that in the past. As a result, I know people are going to say we need more money, and we will be happy to look at the requests. In many cases we can fund more money, but we may have to cut other places to do it.

I have heard some people say, well, we need money for veterans, for education, for first responders, for defense, or the COPS Program, or whatever. Fine. They can have more money, but between us on the Budget Committee and the appropriators, we are going to have to reduce some money or spending in other areas to pay for it. That is making tough choices. We have not done that.

I remind our colleagues, and I think Senator CONRAD would join me, in this budget we do not micromanage where the money is going to be spent. We can assume that money will be spent in education or it might be spent for the COPS Program, but, frankly, we give a number to the appropriating committees and they have to live with that number.

They can change the number. So we might assume one thing for education—actually, we have assumptions in this bill for significant increases in several areas in education. We assume fairly significant increases in veterans programs. Somebody else could assume it differently, or they could say well, we want more money for veterans. Fine. They may have to make some reductions in housing or make reductions elsewhere in the budget to make it equal that total number.

I mention this for our colleagues' information. Doing this budget will not be easy. I am sure we will have lots of amendments. I concur with Senator CONRAD, I would prefer to manage it in a way that we would be more direct in handling the amendments, trying to have more amendments throughout the course of the budget debate and not have so many stacked up at the end. I do not think that speaks well for the Senate and our management of this challenge.

This is a challenge. This is not easy.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, the very able chairman of the Budget Committee has just given his review of his proposal on both the revenue and the spending side. Let me put up this chart which shows a bit of a different perspective.

The chairman put up a chart which shows the deficit being cut in half over the next several years. This is the problem I have with that chart. I think it fundamentally misleads the American people about the fiscal condition of the country.

The chairman's chart is entirely accurate about the unified deficit. What does that mean? That is when you put all the money in the same pot, all the income tax collections and all the payroll tax collections to support Social Security, Medicare, and then you take all the spending out of that same pot. That is how we have done the budget here for years.

The problem now is we are in a different situation. The different situation is Social Security, in the 1980s, was changed to run large surpluses during this period in preparation for the retirement of the baby boom generation. So when you put all the money in the same pot, it gives a misleading result. It misleads you as to your true fiscal condition.

Let me take this chart from the chairman's own budget. It shows, for 2004, that the overall debt is going to increase by $612 billion between 2004 and 2005. It is going to increase by $612 billion.

Let's go out. Under the chairman's mark, I think he is saying that the deficit will be cut in half in—Mr. Chairman, 4 years or 3 years? The deficit will be cut in half in 3 years.

But look at this. When you look at the total picture, you see a different result. You see, between 2004 and 2005, the debt being increased by $612 billion; in the next year, $569 billion; in the next year, $553 billion; and in what was supposed to be the third year, where it is supposed to be cut in half, the debt is increasing by $563 billion. There is almost no difference here in how much the debt is increasing. In fact, in the 5 years the debt is increasing $2.86 trillion under the chairman's mark.

The chairman is putting the most positive complexion on this budget he can, and I understand that. But when you look at what he is proposing, he is talking about the unified deficit, he is talking about jackpoting all the money, he is talking about the so-called unified deficit being cut in half. To me, that does not give an accurate picture of the fiscal condition of the country.

Mr. SARBANES. Will the Senator yield for a question?

Mr. CONRAD. I will be happy to yield.

Mr. SARBANES. I understand this point the Senator is making is compounded by the fact that what we are looking at with this budget is just a 5-year projection.

Mr. CONRAD. That is correct.

Mr. SARBANES. It is my understanding it includes within it the idea of making these tax cuts that were passed permanent instead of temporary. Of course, the people who put the tax cuts in place were the ones who made them temporary. Now they are coming back, seeking a change in the law to make them permanent. They, in effect, are changing the tax structure. Otherwise, they would expire.

But they are only projecting a 5-year period. As I understand it, if you do the 5-year period, this is the increase in the deficit here, just this amount. But the full brunt of this doesn't hit home until the subsequent period. So if you take a 10-year period, which we have done in the past—we have used 10-year projections rather than 5—if you take the 10-year period, look what happens to the cost. There is a deficit explosion. It is just staggering.

Of course, we are only being shown this part of the picture instead of being shown all of the picture, which shows a $1.6 trillion 10-year cost. There is a $1.6 trillion 10-year cost to extending the tax cuts over this next 10-year period.

So the Senator is making one point about the understatement of the situation we are moving in, but this also dramatizes another very important point. We are being set on a fiscal course that spells disaster for the country, and we need to recognize that. It is one of the reasons I joined with the Senator in the Budget Committee in voting against this budget. This is not a sound, solid, steady course to be on, in terms of the Nation's fiscal policy.

Mr. CONRAD. The Senator makes a very powerful point. As you can see just on the tax side of the ledger, the President's tax cut proposal explodes right beyond the 5-year window.

Mr. SARBANES. That is right. Exactly.

Mr. CONRAD. If the Senator will put the chart up again, what that shows——

Mr. SARBANES. You see it runs along here like this. This is as far as the chairman's budget projects it, right to there. Then it stays on that line a little bit and then look what happens to it—it is incredible. It is the shooting star deficit, the way this thing is going.

Mr. CONRAD. It is truly stunning. It is not just the tax cuts that have that same pattern. Fixing the alternative minimum tax, which was the original millionaire's tax, is rapidly becoming a middle-class tax increase that has that same pattern.

In addition, they are hiding the cost of the war. The war, they say, has no additional cost. The war in Iraq, the war in Afghanistan, and the war on terrorism has no additional cost past September 30. Who believes that? We know right now they are preparing a request for additional funding, a vote to be held after the election in which they are going to ask for another $50 billion.

Mr. SARBANES. At least.

Mr. CONRAD. At least. The Congressional Budget Office tells us the true ongoing cost of the war over the 10-year period will be $280 billion. There is not a dime of it in the President's budget.

The Senator is quite right. It is this pattern of hiding from the American people the full cost of these budget proposals that is a great concern.

Mr. SARBANES. Will the Senator yield further?

Mr. CONRAD. I am happy to yield.

Mr. SARBANES. I would like to pick up on the Senator's point about the cost of adjusting the alternative minimum tax. Of course, the alternative minimum tax was put in place in order to tax wealthy people who are using various deductions and exemptions, and so forth, not to pay taxes. The idea was, at a minimum you ought to pay a certain amount of tax. There was a huge public outcry about that—justifiably so in my opinion. So we put it into place. Of course, as the economy evolves, you have inflation and so forth and so on, and you have to keep adjusting it; otherwise, it is going to work its way down further into the middle class. It was never intended to do that. So it has been adjusted from time to time.

In fact, the President is proposing in his budget, as I understand it, a 1-year adjustment—not projecting it out. Of course, that raises the question immediately in your mind: Why a 1-year adjustment? I think it is obvious why, if you do this, because it shows if you really adjust it as it ought to be adjusted, you are projecting out $658 billion in a 10-year cost to reform the alternative minimum tax. There is a $658 billion 10-year cost to reform the alternative minimum tax. Here you have $1.6 trillion to extend and make permanent the existing tax cuts, the sum total of which is $2.2 trillion.

Mr. CONRAD. Real money.

Mr. SARBANES. You are telling me it is real money. Absolutely. The Senator is absolutely right. This budget is kind of you see this, but you do not see what is behind the scenes, what is coming. We cut off the picture and look at a certain point. It works pretty good. You cut it off here before this line takes off. You see what we are showing—this part. It is an exercise in prudence to come along and say: Wait a second; let us see how that works in the outyears. All of a sudden, you see it just takes off like that.

The Senator is absolutely right.

Mr. CONRAD. You have the same pattern on the alternative minimum tax, as the Senator showed. Interestingly enough, that costs $658 billion over the 10 years. The President only provides for 1 year in his budget—$23 billion. He shows the $23 billion necessary to keep this thing from cutting more and more into the middle class. In fact, we have 2 million or 3 million people affected by the alternative minimum tax. By the end of that 10-year period, 40 million people are going to be caught up in the alternative minimum tax. Boy, are they in for a big surprise. They thought they were getting tax cuts. They are going to get a whooping tax increase. What the President's budget does, and the budget from the Republican side in the Budget Committee, is just deal with this problem for 1 year.

Mr. SARBANES. Will the Senator yield?

Mr. CONRAD. Yes.

Mr. SARBANES. It is interesting. If you deal with the first year of the 10-year period, it is $23 billion, as I understand it. But you can't assume, well, we will just project that out at $23 billion a year, each year. So the cost over 10 years would be $230 billion, which is what someone just coming to it at first blush might assume. The fact is that the cost escalates rapidly. So over the 10-year period, it is not 10 times $23 billion, or $230 billion; it is $658 billion, almost triple what you might suppose it would be.

Mr. CONRAD. The reason for that is, as the Senator knows, more and more people are getting sucked into this alternative minimum tax designed to catch millionaires. Now it is going to be catching middle-class people. In fact, there was an excellent article in the Washington Post this weekend by a young journalist whose family just got sucked into the alternative minimum tax. It cost his family over $2,000 in this year alone to get sucked into this alternative minimum tax problem.

Our friends on the other side are saying they have tax cuts for the middle class which they want to continue. I support continuing those middle-class tax cuts. But they are not dealing with the alternative minimum tax that used to be the millionaires' tax and rapidly becoming a middle-class tax trap. They only deal with that for 1 year.

They have tax increases, as well, built into this budget that are very disguised. It is going to affect millions and millions and millions of people.

Mr. SARBANES. Will the Senator yield for a further question?

Mr. CONRAD. Yes.

Mr. SARBANES. The Senator enumerated the three concerns: a 10-year projection of the cost of the tax cut, the alternative minimum tax; the Senator mentioned the failure to reflect in the budget any cost for our involvement in Iraq or Afghanistan. I want to be clear on this point. Am I correct in understanding that the budget which the President sent to the Congress for the next fiscal year beginning on October 1 of this year, 2004—the budget he submitted to the Congress, the spending blueprint—has zero for the cost of Iraq and Afghanistan? Is that correct?

Mr. CONRAD. Yes. It is hard to believe, but it is true. The President is telling us he has put nothing in the budget because he says it is hard to estimate how much it will be. I have said to these representatives, the thing we know is the right answer is not zero. That is the thing we know for sure. Zero is not the right answer.

Mr. SARBANES. Absolutely. Yes.

Mr. CONRAD. The Congressional Budget Office tells us that the 10-year effect of the war in Iraq, the war in Afghanistan, the war on terror is $280 billion. But the President's budget has nothing for it.

That is part of the reason I have said this budget doesn't reveal to the American people our true financial condition. You have the exploding cost of the tax cuts beyond a 5-year window, you have the cost of fixing the alternative minimum tax to prevent it from sucking in more and more middle-class taxpayers, you have the cost of the war that is not in the President's budget, then the biggest one of all, the President is going to take over the next 10 years $2.4 trillion from Social Security. He is borrowing it from Social Security with no plan to pay it back. If you were running any other enterprise, if you were running a private company, you could not take the retirement funds of your employees and use it to pay the other expenses of the enterprise. You would be in violation of Federal law if you did that.

That is what this chart shows under the President's budget and under the chairman's mark. Here is a chart that shows it very well. This is what is entirely hidden from people's view with respect to what is happening to our fiscal condition. This shows the Social Security surpluses by year. You can see the surpluses are exploding. The reason for that is to get ready for the retirement of the baby boom generation. But what our friends on the other side of the aisle are doing with their plans is taking all of this money and using it to pay for tax cuts and other expenditures now, leaving the cupboard bare for the future. How are they going to pay back this money?

Mr. SARBANES. They are already talking about that around town. The other day, the Chairman of the Federal Reserve himself talked about cutting back on the benefits under Social Security.

Here is what has happened. It needs to be understood. There is a direct connection.

These large tax cuts that primarily benefit very wealthy people—there is some benefit for others, no question. The chairman talked about that today, but in the total picture of where the benefits are going, that is a relatively small portion. Most of the benefits go right up to the top group in society by income and wealth. They say we are running deficits, so to cover the deficits they have to use up the Social Security surplus. Then they say to correct the using up of the Social Security surplus, we have to cut Social Security benefits.

It must be understood, these things are linked. The reason they have the deficit which now says they must cut Social Security benefits is because they gave the very large tax cuts to the elite, producing the deficit, which resulted in drawing down the Social Security surplus which then leads them to say, we have to cut the Social Security benefits.

These are choices. This administration has made a choice. The choice the administration has made is to put tax cuts for the elite ahead of sustaining Social Security benefits. That is the choice they have made. It needs to be understood.

Does the Senator agree there is a direct connection in this regard?

Mr. CONRAD. Yes. I knew we were going to get into this debate at some point so I asked my staff to see if we could put together some charts and try to explain what is happening. It is the part of this discussion that has received almost no attention, and the Senator is exactly right. Here is what is happening.

We have a dramatic increase in people eligible for Social Security. This chart shows the number of Social Security beneficiaries exploding with retirement of the baby boom generation. This is the increase in people eligible. We will see in short order a doubling of the people eligible for Social Security.

The President told us repeatedly:

> None of the Social Security surplus will be used to fund other spending initiatives or tax relief.

He broke that promise.

He said:

> Every dollar of Social Security and Medicare tax revenue will be reserved for Social Security and Medicare.

He broke that promise.

Then he said:

> We're going to keep the promise of Social Security and keep the government from raiding the Social Security surplus.

He said that in a radio address in March of 2001.

Then he said in 2002:

> None of the Social Security surplus will be used to fund other spending initiatives or tax relief.

I went back and I said, let's add up how much money the President in his budget is taking from the Social Security trust fund. He is borrowing $2.4 trillion. Compare that to the income tax cuts of the same period, $2.5 trillion. Amazing how close these things are.

In effect, what he is doing is taking money from Social Security, raised by payroll taxes paid overwhelmingly by middle-income people. He is using it to fund tax cuts that are income tax cuts for overwhelmingly the wealthiest, and 33 percent of the benefit goes to the top 1 percent, those earning over $337,000.

We have the spectacle of people, through their payroll taxes, funding an income tax reduction that goes primarily to the wealthiest among us and then creating a circumstance in which the Chairman of the Federal Reserve comes in and says, Oops, we are overcommitted; we now have to cut Social Security benefits.

That is really kind of a stunning policy if one thinks about it, if you think about who is adversely affected when you talk about cutting Social Security benefits. Two-thirds of retirees rely on Social Security for more than half of their income; 31 percent get at least 90 percent of their income from Social Security; 50 percent to 89 percent of their income is 33 percent.

Mr. SARBANES. In other words, a third of the Nation's retirees get at least 90 percent of their income from Social Security, another third get from between 50 and 90 percent of their income from Social Security. It demonstrates how dependent retired people are on Social Security to keep them out of poverty so they can lead a reasonable life.

Mr. CONRAD. Chairman Greenspan now says we have to cut these benefits because we are overcommitted, because we have, in part, taken the money, the President has taken the money under his plan from Social Security to finance income tax cuts that have gone overwhelmingly to the wealthiest of the people among us. That is the reality we confront.

Interestingly enough, they say, you have the shortfall in Social Security which is $3.8 trillion over the next 75 years. That is absolutely true. We have a shortfall in Social Security of $3.8 trillion over 75 years. Interestingly enough, the cost of the President's tax cuts over that same period is three times as much: $12.1 trillion.

Mr. SARBANES. Will the Senator yield?

Mr. CONRAD. I am happy to yield.

Mr. SARBANES. Does that chart mean if one-third of the tax cuts that are being proposed to be made permanent, if only one-third of them remain not made permanent, that would more than cover the shortfall in Social Security?

Mr. CONRAD. Yes. If you look at this chart, it goes back to the point the Senator was making about choices. This is all about choices. The choices the President has made are, yes, to have tax cuts in a time of economic weakness. That we could all understand and even support. We would choose a different package of tax relief than he chose. We would have targeted, clearly, more to the middle class because that would have given us more of an economic boost than diverting so much of it to the highest income in the country.

However, the President is digging a very deep hole. More and more debt. More and more deficits. Deficits that explode right beyond the budget window, right at the time the baby boom generation retires.

What happens? A future Congress and a future administration will have to make very tough choices, which I outlined earlier in my presentation. Very deep cuts in spending, very large tax increases, or some combination to fill in these holes. That is where I fault the President for taking us on a course that is reckless and fundamentally not conservative. This is a course that is reckless.

The Senator is right, we are talking about choices. These are the choices that are made in the budget.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I appreciate my distinguished colleague from North Dakota joining with me in this exploration of the implications of this budget.

I will talk about job creation for a moment, and to indicate any budget we deal with, which is the most important Government document we act upon, contains thousands of decisions that are critical to our national life. Those decisions reflect important choices in terms of the priorities for our country.

We have just been engaged in a discussion about tax breaks for the wealthiest among us. Are we more concerned with strengthening Social Security to make sure that people in retirement are adequately covered or making the necessary investments in education, transportation, and the environment? All of those decisions are involved in crafting the budget.

In its composite, the budget is a very important macroeconomic document because it sets the fiscal path for dealing with the overall economy.

We ask the question, Will the budget fund the programs, create jobs, and strengthen our economy? Will the budget have long-run structural deficits? What will be the impact of those deficits on our future economic performance? Will it move us toward full employment or away from it?

We talked about the credibility of the President's budget and the fact that it fails to account fully for what the projections should be. We talked about the budget's failure to project for 10 years to show the full cost of making these tax cuts permanent, the failure to adjust for the alternative minimum tax, and the fact that the budget has zero in it for our involvement in Iraq and Afghanistan.

Who are they kidding? Everyone knows that our involvement in Iraq and Afghanistan is going to cost something. Then they say: Well, we cannot really estimate. They should make a good-faith estimate for inclusion in the budget. We are confronted with these facts, and again and again we are not getting the full picture. It is a little bit like things are under shells. If you lift off the cover, all of a sudden you discover another problem.

When the President proposed his first massive tax cut, he told us, "We can proceed with tax relief without fear of budget deficits." That is what President Bush said when he came into office.

In the first budget he submitted, he predicted, for fiscal year 2004—the year we are now in—that we would have a $262 billion surplus. This was the President's prediction.

The following year, with a budget already in deficit, the President advocated another tax cut. At that time, he said, "Our budget will run a deficit that will be small and short term." And the President's budget at that time—that is, the next year—stated the deficit would be so short term that by fiscal year 2004—the year we are now in—the Government would be back in surplus by $14 billion.

Last year, on the brink of war with Iraq, the President proposed yet another tax cut. He also submitted a budget that did not include the cost of the war. He predicted that the deficit for fiscal year 2004 would be $307 billion.

Now, in 3 years, the President had shifted from predicting a surplus of $262 billion for 2004 to the next year when he predicted a surplus of $14 billion for 2004. Then, when he submitted the 2004 budget, he predicted a deficit of $307 billion. So over the 3-year period, we went from a $262 billion surplus, predicted for the year we are in, to a $307 billion deficit. That is a change of $569 billion.

It is pretty clear that although the President said, when he submitted the 2004 budget, he was predicting a deficit of $307 billion, it looks now as if the 2004 deficit will be about $520 billion. That is $780 billion more than the President predicted in 2001, $535 billion more than he predicted in 2002, and $214 billion more than he predicted when he sent this year's budget—the budget we are in—to the Congress.

So we are told we can do these big tax cuts and that it will not matter because we are not going to have a deficit. And here we are deeply in the hole.

What is the consequence of this? Some might say: Well, he is producing jobs. We had an economic slowdown, and now we are producing jobs. We are putting the country back to work.

Let's look at those predictions and what has actually happened.

In the 2002 Economic Report of the President, the administration forecasted that in 2004 the economy would have 138.3 million jobs. Last year, the President lowered that estimate to 135.2 million jobs. And in his most recent economic report, he lowered it again to 132.7 million jobs. In other words, in just 2 years, the forecast for jobs in the country has been lowered by 6 million.

When the President passed the 2003 tax cut, the administration predicted that by January 2004, the economy would create over 2 million jobs. In the fall of 2003, Secretary Snow predicted the U.S. economy would create 2 million new jobs from the third quarter of 2003 until the third quarter of 2004—an average of over 200,000 jobs a month.

What has happened? We just got the figures on Friday for the month of February. For the month of February, it was reported that the economy created 21,000 new jobs in February—21,000—none of them in the private sector, incidentally; zero private sector jobs were created.

When Secretary Snow made this prediction of just over 2 million new jobs last fall, we would have needed an average of about 200,000 new jobs a month in order to meet his prediction. The performance has been so dismal, we have only averaged 59,000 new jobs per month over the last 2 months. We have to produce jobs 444,000 a month from now until the third quarter of this year for Secretary Snow's prediction to be borne out.

The economy is not creating these jobs. We face a real difficult jobs situation.

Mr. CONRAD. Will the Senator yield on that point?

Mr. SARBANES. Certainly.

Mr. CONRAD. I was looking at this same data, looking at the President's claim that they are going to create 2.6 million new jobs, and looking at where we are since they made that prediction. It is quite stunning.

In February, of these new jobs that were created, some 20,000, as the Senator indicated, not a single one was in the private sector, not one. The whole assertion by the President, on his tax cut plans, has been, if you cut these taxes, you will get more jobs. He was not saying more jobs in Government; he was saying more jobs in the private sector. Yet the only new jobs we got in February were in Government. They were Government jobs. There was not a single new job in the private sector.

So if the President's plan is working, I do not see the evidence for it. The evidence is, it is failing, and it is failing by a big margin.

I believe one of the reasons maybe it is failing is that the tax cuts he chose were tax cuts that were geared to the highest income people, overwhelmingly.

The Senator might be interested to know, I put up a chart that showed, for 2006, the average tax cut going to somebody earning over $1 million a year is $140,000.

Mr. SARBANES. The tax cut alone.

Mr. CONRAD. The tax cut for that year alone. 2006. Under the President's plan, the tax cut for those earning over $1 million a year is $140,000.

The average middle-class individuals, those who are in the middle 20 percent of the income spectrum—you break it down into five 20-percent groupings—the middle 20 percent, they get about $560 of tax benefit in that year. The person earning over $1 million gets $140,000.

If you were going to put it on a graph and have the two related—the tax cut for those in the middle 20 percent and those earning over $1 million a year—the chart would have to be 35 feet tall to make a comparison between what the wealthiest get and what the middle class get.

Maybe that is part of the reason this JOBS program is not working, because it has been so tilted to the highest end that we are not getting money into the hands of middle-income people who would be more likely to spend it, thereby spurring the economy.

Mr. SARBANES. Well, I say to my colleagues it is classic trickle-down theory. It has been discredited before. Yet here it is back before us again, classic trickle-down economics. Every administration since Herbert Hoover, which was, of course, classic trickle-down economics, Democratic and Republican, has had a net creation of jobs over the course of its administration. In other words, over that 4-year period, every administration were able to have a net gain in jobs.

This administration is about 2.3 million jobs below where the Nation was when they came into office—down about 2.3 million jobs. It is the first administration since Herbert Hoover that will not show a net gain in jobs over the course of its 4-year tenure. That fact needs to be laid out before the American people.

This recession we experienced began 35 months ago, the first few months into the Bush administration. The economy today has fewer jobs than it did then. This is the first recession since the Great Depression in which the economy failed, over a 35-month period, to recreate all the jobs that were lost in that recession. In a typical business cycle, we long ago would have recouped those jobs and gone on from there. That has been the case—and this is a long time period—in every recession we have experienced since the Great Depression.

But here we have a situation in which jobs are not being created to close the gap, and there is no real prospect, in the few months remaining, of meeting Treasury Secretary Snow's prediction. To do so, we would have to average about 444,000 jobs per month out into the fall of this year. Over the last 3 months, we averaged only 42,000 new jobs per month, as opposed to 440,000.

This, of course, raises a number of difficult problems. We have seen manufacturing jobs continue to fall and they have now fallen for 43 consecutive months. We see temporary jobs increasing. We see people dropping out of the labor force. Last month, 392,000 people left the labor force. People come in and say, you know the unemployment rate didn't go up. But if people drop out of the labor force and are not looking for work, they are not counted as unemployed. One of the reasons is they become so discouraged they drop out. That helps to keep the unemployment rate flat, but the exodus from the labor market is reflected in the job figures.

Mr. CONRAD. Will the Senator yield on that point?

Mr. SARBANES. Yes.

Mr. CONRAD. I was reading the New Yorker magazine last night and they had two guys talking. One said:

> I have quit looking for work; I understand that will help the economy.

Well, it will help the economy because they quit counting him. That is the point the Senator is making. The Senator wasn't on the floor when I showed this chart. I would like the Senator to see this because it really makes a point he is making. This looks at the last nine recessions since World War II, what happened in terms of job production. The Senator was making the point we are now 35 months into this recession, and that is right here, this line, which shows the job recovery this time compared to the last 9 recessions. You can see, in every recession since World War II, 17 months after the peak of the business cycle, job recovery started in a very healthy way. This time, it has not happened. We are 35, 36 months past the peak of the business cycle. Now we see we are 5.4 million jobs short of the typical recovery.

If that isn't a warning sign to all of us that something is wrong here, something is not working here—after every recession since World War II we saw a healthy job recovery beginning 17 months after the business cycle peak. Now we are at 36, 37 months past the business cycle peak and we still are not seeing job recovery.

Mr. SARBANES. If the Senator will yield, it is not only that we have not been able to get up to here, we have not been able to even get back to the jobs we had at the beginning of the recession. We are still well below, about 2.3 million jobs, where we were when the recession began in the early months of 2001, absolutely.

Mr. CONRAD. The chart says "smallest share of the population at work since 1994." That is really stunning. My colleague, the chairman of the committee, talked about having more people at work than ever before. That is one way of looking at it. Another way of looking at it is, what is the share of our population at work. Of course, more people are at work; we have a much larger population than we have had before but jobs have not grown. If you look at the percentage of the people who are at work, we are at the lowest we have been in 10 years—the smallest share of the population at work since 1994.

I have another chart that shows the duration of unemployment, which is the highest in over 20 years. That is, when people become unemployed, they are taking the longest they have taken in 20 years to find a new job. Something is not right here. Anybody who comes out on the floor and asserts everything is fine, the economy is growing, jobs are being produced—no, no, no, things are not fine. There is something very seriously wrong in this recovery. I just had a gentleman, I said on the floor earlier, in business who told me, "Senator, there is something very different from what we have seen in different recoveries." He is in the machine tool business. He said, "We should see our order books filling up, and they are not." He said, "I suspect that the jobs being created are in China, Mexico, and India, and not here."

That goes right to the heart of the point the Senator was making.

Mr. SARBANES. The last chart my colleague presented is an extremely important one because it shows the percent of long-term unemployed among the unemployed is at record levels, higher than it has been since 1984. In fact, close to 23 percent of the unemployed workers have been unemployed for more than 26 weeks. It has been above 20 percent now for 17 consecutive months. For a year and a half, the percent of unemployed who are long-term unemployed is above 20 percent, which is an important benchmark. The last time we had a period that ran that long was 20 years ago. The Senator's chart showed exactly that. That was back in 1984.

That is why this effort that has been repeatedly made on the floor of the Senate and in the committee just last week to address extending unemployment insurance benefits is so important. That effort has been turned back. I plead with my colleagues on the other side to move ahead on extending unemployment insurance benefits.

We still have a serious labor market weakness. We have not recovered the jobs. It is not as though you could say a lot of job opportunities have opened up and people can go back to work. That has not happened in this instance.

Long-term unemployment is at record levels. Nearly 2 million people have been unemployed for more than 26 weeks. Twenty-six weeks is the period that the traditional unemployment benefits cover. In the past, we have always extended unemployment insurance benefits so people can meet the problem of providing for their families. We have actually provided more benefits in the past than we have in this recession.

In the previous Bush administration, the program was extended and then extended again. We built up the unemployment insurance trust fund for this purpose: to fund these benefits when we encounter an economic downturn. There is over $15 billion in the unemployment insurance trust fund specifically collected for the purpose of paying unemployment insurance benefits in an economic downturn.

I joined with my colleague in the committee the other day to offer an amendment to make a provision within the budget for extending unemployment insurance benefits. Regrettably, it was turned down on a straight party-line vote. I anticipate that amendment will be offered again on the floor, and I hope my colleagues will reflect upon it before that occasion arises.

We need to do something. These are people who were working. You cannot collect unemployment insurance benefits unless you have a work record that entitles you to collect them. These are not, if you want to say, malingerers or people who don't want to work. These are people who had jobs. They lost their jobs through no fault of their own. If it is their fault, they cannot get unemployment insurance benefits. If they are to blame, if they have not performed on the job, they do not get unemployment insurance benefits. These are people who were working, in many instances had a long working career. They are out of a job. They are in a labor market where jobs are not being created, as my colleague dramatically illustrated with the chart he showed. How are they going to provide for their families? What are these responsible, hard-working Americans to do in terms of meeting the needs of their families?

Yet we have been turned back on the effort to extend unemployment insurance benefits, and I very much hope when the issue comes before us that Members will reflect and agree we need to do something about this pressing problem.

I will make a couple more points before I close.

This fiscal situation of the United States in which we find ourselves and the magnitude of it has drawn very sharp comment from objective observers. Listen to what the IMF said only recently:

> U.S. Government finances have experienced a remarkable turnaround in recent years. Within only a few years, hard-won gains of the previous decade have been lost, and instead of budget surpluses, deficits are again projected as far as the eye can see.

Let me repeat that. This is the IMF commenting about U.S. Government finances:

> Within only a few years, hard-won gains of the previous decade have been lost, and instead of budget surpluses, deficits are again projected as far as the eye can see.

The President says he is going to cut the deficit in half by 2009. My colleague pointed out, I think with great perception, that was not in the cards. It is not sustained by the numbers.

If we are going to have a debate, we cannot just play around with the numbers as though they do not mean anything. We have to have some hard facts upon which to work. These structural deficits that are built in this budget are extremely harmful to the economy as we move ahead—a promise to raise interest rates, reduce economic growth, decrease the number of jobs, increase our vulnerability to a sudden economic crisis. A responsible budget would not encompass a structural deficit, and if there is a structural budget deficit, a responsible budget would seek to correct the imbalance.

I could go on at some length about the choices made within the budget with respect to what our priorities ought to be, but I make this fundamental point: In every instance, there is a choice. You do not make one decision, for instance, to cut taxes for very wealthy people which then results in a larger deficit and then turn around and say to educators who say, We cannot carry through on the No Child Left Behind legislation, that there is no funding to address your complaint. That complaint is coming from all over the country. Out in the Rocky Mountain States, we have educational officials telling us they cannot carry through on that program. They are making that point very forcefully.

I was reading about it only today or yesterday in the paper. They said: We can't carry through on it. They are told, We can't carry through on it because we have this deficit to worry about. Why do we have the deficit to worry about? We have this big deficit because we are doing these big tax cuts for wealthy people. So the choice that was made in the President's budget was to do the tax cuts for the elite rather than fund the No Child Left Behind program. That was the choice.

I think that is a bad choice. I think the country thinks it is a bad choice. But there is a need to understand when you put this budget together, whatever you do on the one hand has an impact on the other hand. You cannot avoid that.

If you did not do these extensive tax cuts—which the President wants to make permanent—with those huge costs, the deficit would not run up; you would be able to hold the deficit down and do something about education and health care. But the President has put the Nation in an absolute deficit box.

Mr. CONRAD. Will the Senator yield?

Mr. SARBANES. Certainly.

Mr. CONRAD. As part of my presentation earlier, I showed this tradeoff very directly. If we look at 2005, the cost of the tax cuts for those who are in the top 1 percent, those who earn over $337,000 a year, for the 1 year it is $45 billion. The amount the President is shorting No Child Left Behind for that same year is $9 billion.

In fact, this is the chart. Ask and ye shall receive. This kind of reveals the President's priorities. Mr. President, $45 billion is the cost of the Bush tax cut for those making over $337,000 in 2005.

Mr. SARBANES. I think that is less than 1 percent of the American public; is it not?

Mr. CONRAD. The top 1 percent earns over $337,000. That costs $45 billion. But he does not have the money, he says, to fund No Child Left Behind.

Mr. SARBANES. What that says is he could fund No Child Left Behind and he would still have $36 billion left of the tax cut; is that right?

Mr. CONRAD. That is exactly what it shows. It shows he would only need to reduce the tax cut to the wealthiest 1 percent by 20 percent in order to fund No Child Left Behind.

I said earlier I am in this category. We are very fortunate. My wife and I are in this category. I asked myself, would I be willing to give up 20 percent of my tax reduction to fund No Child Left Behind? I would, because it is the future.

Chairman Greenspan has said if we are looking ahead to the competitive position of our country, the absolute key is education. Our people have to be the best educated and the best trained if they are going to succeed in this highly competitive global environment.

This is about choices. The President is saying it is more important to have all of this $45 billion tax cut for those earning over $337,000 than to take even one-fifth of it to provide for better education in the country. I do not think that is the right priority. I think the Senator is correct.

Mr. SARBANES. There are other examples of this. I offered an amendment in the Budget Committee to fully fund the firefighter grant program. That amount is $900 million—not billions as we are talking here but just $900 million. Two years in a row, the Congress has appropriated $750 million. So we have not appropriated the fully authorized amount but we have gotten up fairly close to it at $750 million.

The President's budget submitted to the Congress had $500 million. In other words, it cut the program by one-third, $250 million, from the level it had been for 2 successive fiscal years. These are grants that go out to firefighters across the country to try to enhance their professionalism, upgrade their equipment, better prepare them to deal with the threats we confront.

One of the things we are very anxious to deal with is that one-third of all the firefighters in the country do not have the equipment, the breathing equipment to protect them in a serious fire, from smoke inhalation. That is one of the things we would like to take care of. Yet the President's budget proposed to the Congress cut the funding for this program by one-third.

The President is now running political ads showing firefighters on 9/11 moving out of the wreckage, and there is a stretcher with a flag on it. We know what the firefighters did. We know the heroism they have shown.

Every year, I go to the National Fallen Firefighters ceremony, which is held at the National Fallen Firefighters Memorial, which is in Emmitsburg, Maryland, the location of the U.S. Fire Academy. Families come from all over the country. There is a weekend of events and ceremonies to mark the memory and the heroism of fallen firefighters. The year after 9/11 we could not do it in Emmitsburg. There were too many people and so the ceremony was held at the MCI Center in Washington because the number jumped so tremendously as a consequence of those deaths in New York.

In money terms, that is not a big item, but in its significance and in what it stands for, I think it is very substantial. We know our first responders place themselves at risk. They are the first called upon.

There were firefighters going up the steps of the World Trade Center in an effort to rescue people when people in the building were coming down the steps in order to escape. In effect, they were placing themselves in further danger in order to save their fellow human beings. They did not know these people. They were all strangers to them but they were responding to their duty. It is extraordinary when we stop and think about it.

The impact of it is obviously recognized by some of the President's people because they are putting it in this political ad. But I would like to see them take the program up to $900 million to do the firefighter grants so we could provide firefighters across the country with the protective equipment which they need as they carry out this very dangerous occupation. That would require only $400 million. The President's tax cuts provide $45 billion for the top 1 percent. Will the top 1 percent, those making over $337,000, who are getting an enormous—what is the tax return they are getting? Does the Senator have that figure in his mind, $120,000 or something?

Mr. CONRAD. That is those earning over $1 million.

Mr. SARBANES. Those earning over $1 million get $127,000 per year. As a category, they get $45 billion. Would they be willing to reduce that to $44,600,000,000 in order that we could fund these firefighter grants at the full authorization level of $900 million instead of the $500 million that is in the President's budget, which itself represented a cut of $250 million from what Congress had appropriated in each of the other 2 years?

Is it unfair, inequitable, unjust to say that in the order of priorities, funding those firefighter grants should come ahead of a small portion of these tax cuts for those making $337,000 a year? I defy anyone to argue the equities of that case.

That is why this is not a good budget. That is why we voted against it in the committee and that is why over the coming days, under the leadership of our very able colleague from North Dakota, we will put before this body—I and others and certainly the Senator from North Dakota himself—amendments that will frame the choice in terms of priorities. Those are the choices we need to face. Let's put the choices out there.

Do my colleagues think it is reasonable to take a small portion of this tax cut and use it for this purpose, or must every single penny of what the President is seeking for the very elite go to the very elite, despite these other pressing needs?

As I understand it, in the coming days this week, opportunities will be presented to offer amendments which will frame those choices. The Senator has framed one. Everyone talks a good game about education, including the President. The question is, will you put the resources there to do the job?

As the Senator points out, fully funding education is more costly than the example that I have been citing. But nevertheless, for just over $9 billion we could fully fund No Child Left Behind, which would address what we are hearing from the States, who are saying now, We can't do this job. You have saddled us with a job without the resources. The $9 billion is one-fifth of this tax cut that is going to those making over $337,000 each and every year.

Those amendments framing those choices need to be put to this body. I look forward to the responses my colleagues will make to them.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAPO. Mr. President, I would like to take a few moments to respond to some of the comments that have been made. I have been listening to the debate for the last 3 or 4 hours. It brought back a lot of memories to me.

I ran for Congress about 12 years ago, to the House of Representatives. I got elected and spent 6 years there before I then ran for the Senate. In my first race for the Congress we had a giant deficit. We had deficits in the hundreds of billions of dollars range for years. I ran on a platform of balancing the Federal budget. This is the debate we had at that time.

First, there were those who said you can't balance the Federal budget or, if you could, it would be bad for the management of the Federal budget and we couldn't run the Federal Government very well if we didn't use deficit spending. That argument was debunked when, after about 6 or 7 years of effort starting in about 1994, we did balance the Federal budget. Frankly, we did very well running the Federal Government, paying down the national debt, and making a lot of fiscal progress.

The other argument that was made back then when I ran for Congress, and which is still being made and is the argument that is being made today, only in a different way, was we had to have higher taxes and higher spending in order to have a successful society in America. We could not stop the tax increasing, we could not stop the increased Federal spending, because it was best for all Americans that we have a large, powerful, centralized Federal Government that had increasingly more control over the economy; that we nationalize our health care system; that we increasingly find Federal solutions to problems as they exist throughout society; and that the private sector simply could not provide the solutions that were needed.

It was the age-old battle of taxing and spending and a centralized, large, powerful Federal Government versus those who believed we should get the tax rates reduced, lower the tax take of this Federal Government from our economy, let the economy have the stimulus that would thereby be generated by letting people and businesses have more control of the individual decisions about the use of their resources, and try to control the deficit and the size of the Federal Government by controlling spending.

Those were two objectives for which many of us fought. I was there in Congress when we fought for and got a balanced budget. The first objective was to balance the Federal budget, to stop spending more than we were raising in revenue. The second objective was to reduce the size of the Federal Government. Many of us felt it had grown too large, that its reach was too far, and that it impeded the ability of the American people to have the kind of choices in their own lives, in their own businesses, they needed in order to achieve the American dream. It was a classic, age-old battle in American politics, and we are hearing it on the floor today.

As I have listened during the last number of hours, I have heard attacks primarily on the President. There has not been a lot of mention of the actual budget that is on the floor today. There has been some, but not a lot. Most of the attacks have been on the President, saying the economy is in bad shape, we don't have as many jobs as we want, we have a terrible circumstance facing us fiscally in this country, the deficit is high and we need to do something about it. It has been posed here that everybody should see we have a problem and, in fact, I think we all do see we have a problem. But as I have been listening to the solutions that have been proposed by those who attack the President, I have seen two solutions. One is they attack the tax cuts in the last 2 or 3 years and apparently would like to see those taxes raised. In other words, increase taxes. That is one of the proposed solutions. The other solution is spend more money.

There are a lot of very important programs that will be brought up. Some have been brought up today. Others will be brought up throughout this week.

As we debate this budget, I think you will see it will come down to that age-old argument I debated when I first ran for Congress 12 years ago and that we have debated virtually every year in one guise or another since that time. There will be those who want to blame every problem we have in this country on the fact we cut taxes a few times in the last 3 years and that we are not spending enough money in the Federal budget, that we need higher taxes and more spending, and that will solve our social and fiscal ills.

There are others of us who will argue that by cutting taxes we are able to stimulate the economy, stimulate investment in capital, give people the ability to consume, and thereby give greater confidence and strength to the economy, and certainly give people more control over what happens with the dollars they earn than they would have had if they were taxed on those dollars and sent those dollars to Washington.

The budget we actually have before us today is one that does maintain our effort to stimulate our investment in capital. It does give and strengthen and protect the tax relief to all taxpayers so we can have stronger consumer spending and stronger consumer confidence. It builds up and focuses on strengthening the infrastructure, especially in our rural areas where we need so much to have a strong investment in the infrastructure so we can have stronger economic development potential. This budget focuses on controlling spending.

Remember, I said there were two objectives we fought for early on. One was to balance the budget, the other was to control the immense growth of the Federal Government. You can actually balance this budget by simply raising taxes. It is a mathematical calculation. You figure out how far you are out of balance, how much spending you have done beyond your means and beyond your revenue, and raise taxes to meet it. You can balance the budget. But by doing so you have totally ignored one of the more important priorities we should have here, and that is to identify the right size of the Federal Government; to recognize the tenth amendment that said there was an important role for the Federal Government, but that those powers not specifically given to the Federal Government were reserved to the States and to the people respectively. That is the kind of debate you will see played out in one context or another throughout the remainder of this week.

It has been said there is no provision for the war against terror in this budget. Actually, the budget we are debating on the floor today provides for a $30 billion threshold for a supplemental appropriation for our spending, if we need it, in the war against terror.

It has been said the tax cuts that were passed by this Congress in the past few years are the problem we are dealing with today. I think that is interesting because I believe most Americans realize the tax cuts that were passed in the last few years all had expiration dates on them because, as a result of some of the procedures here in the Senate, we could not get permanent tax relief. So those tax cuts over the next 10 years are going to start expiring. The first three of those tax cuts to expire, to go away, will happen this year. If this budget is not adopted, then the people who got that tax relief are going to lose it and their taxes are going to go back up.

To listen to the debate you would think the tax relief that was passed by this Congress was solely focused on the wealthy.

As a matter of fact, it has been pointed out that because the wealthy in this country pay so much of the taxes, when there is tax relief they get a large part of the tax relief that comes back to them. But the tax relief we passed was weighted percentagewise more for the lower and middle classes. You can either look at it in terms of dollars or in terms of percentages. But the percentage the wealthy pay of the income tax in this country went up after the last tax cut—not down—because the greater percentage of focus was on the middle and lower classes.

It is three of the taxes that hit and support those middle and lower classes that are coming up for expiration this year. The first is the expansion of the 20-percent income tax bracket by expanding the amount of income tax at the 20-percent level. We gave a broad level of tax relief to those who pay the lowest level of tax in this country. That will expire this year if this budget is not adopted.

The second is the marriage tax penalty. The elimination of the marriage tax penalty will expire this year if this budget is not adopted.

Third, the $1,000 child tax credit.

Those who stand on the floor here and say all the tax relief we passed in the last few years is devastating this economy are going to get a chance to vote this year on whether to let those tax cuts stay in place. I predict the support on both sides of the aisle for maintaining those tax cuts is going to be very broad. Those tax cuts were directed at those in the very middle and lower income classes which the tax relief bills focused on in an effort to reform the code.

But then it is true there were other parts of that tax relief which did benefit those who are in upper income brackets. If you listen to the debate today, I guess you would assume if we went back and eliminated those tax cuts, the economy would be fine, employment would go back, the deficit would be eliminated, and probably all other ills we have heard about today would go away.

What are these tax cuts we are talking about? There are a number of them. But one of the most important, in my mind, was cutting in half the tax rate on dividends, undoubtedly one of the strongest things we could do to encourage investment in the capital structure in our Nation.

Another was the acceleration of depreciation for small businesses so they could get a little bit better handle on growing their small businesses rather than sending their small business revenues to the Government in Washington.

Another was to give those sole proprietorships—those small businesses that were sole proprietorships—the opportunity to have their tax brackets reduced.

I believe if you eliminate those tax relief measures, you are going to reduce the ability of our small businesses in this country to be resilient and you are going to reduce the investment in capital in this economy, and you will see the strength of the economy go down, not up.

But that is the debate we are having over whether we should have more taxes and that is better for the economy or whether we should have reform of our Tax Code and reduce taxes in those areas that discourage proper tax policy.

I would like to talk for a minute about what did happen.

Again, to hear the debate in the last few hours you would think the entire economic difficulty we face today in our Nation is a result of that portion of the tax relief we gave previously which went to those who were not in the lower and middle-class tax categories. What in reality happened was we had a stock bubble growth in this country that popped. The confidence in the stock market dropped precipitously. Following that, there was an attack on 9/11 in which terrorists attacked us on our homeland soil in one of the rare times in the history of our country where that has happened. As a response to that, the economy dipped even further. Consumer confidence waned. Following that, we have had some scandals—some debacles with the WorldCom problem, the Enron problem, and consumer confidence in the marketplace went even further into the tank and the economy started dipping even further.

Frankly, to blame all of the problems we have had on tax relief for the wealthy is a vast oversimplification. What happened as a result of all of these things is the economy went way into the tank, and revenue to the Federal Government went through the floor. As a result of that, we did not have the kind of revenue we had projected we would have.

In addition, our spending went through the roof. We responded to the war against terrorism by rebuilding New York and Washington, DC, giving support to those who had been attacked here on our homeland soil by developing a new Department of Homeland Security, increasing the measures and the support we put into defending our homeland, and we have prosecuted a war against terror across the globe which has involved two wars, not to mention the overall extent of the cost of fighting terrorists on many fronts. As a result, spending has gone through the roof.

There is one other thing, by the way, that made spending go through the roof. About two-thirds of the Federal budget is on autopilot, mandatory spending this budget can't control with much success, and that simply goes on growing regardless of the state of the economy. The entitlement programs of this country have an autopilot status that causes increased growth regardless of what is happening in the economy. That is another one of the big pressures on the spending in Washington.

Those are the things that are really going on here which we ought to be debating. But instead, it is a Presidential election year and everything is the fault of the President because he cut taxes, because he won't support enough new spending. The President would love to support spending on all of the pet projects and all of the very important and valuable items in the budget which because of these deficits we face he has had to control. The President, I am sure, would love on a number of these issues to support additional funding. But he has said that outside of our national defense and outside of our homeland security, he is going to try to hold the growth of the spending at the Federal level to less than one-half of 1 percent on the rest of the budget. He is going to do so because in addition to recognizing we have to deal with our deficit problems through good tax policy and through stimulation of the economy, because it is a strong economy that will help us get out of this, if anything will, he also recognizes the other side of the coin is we have to solve this problem through focusing on the spending side of this budget.

Last year, when we had a similar budget before this Congress and before this Senate, we had something in the neighborhood of 80 amendments to the budget. I would bet there are going to be dozens and dozens of amendments to this budget. Last year we defeated most of those amendments because we had budget points of order and a requirement of 60 votes in order to break this budget. Last year, we defeated almost every one of those 80 or 81 amendments. If my memory serves me correctly, there was something in the neighborhood of $800 billion in new spending over a 10-year cycle in those 80 to 81 amendments which we defeated. Certainly, every one of them had a constituency, every one of them had a valid reason why it was a good proposal for a good cause for some spending to be made. But we had to try to control this deficit. That is what we did. That is what we will do again.

I am sure as these proposals are made and as efforts to attack this budget are made, almost all of them will be couched in the argument that it is the tax cut on the wealthy which has made this problem for us, and simply taxing the wealthy more will solve this problem for us. We can tax the wealthy and spend the money and we will be fine in this country.

You can only pursue that line of thought to a certain point. I am sure it has already been said here on the floor by others, but that top 1 percent and that top 5 percent already pay the vast majority of the income tax in this country. The last tax relief we gave made their percentage share of the taxes in this country grow, not go down. At a certain point, we have to realize we will have a strong economy, and we will have a strong Federal budget if we hold the line on tax increases and hold the line on spending and pay attention to both balancing the budget and trying to maintain the correct size of this Federal Government.

There are many more things that need to be said. I unfortunately have an appointment in just a few minutes to which I have to go. But there will be a lot of debate that will go on during this week as we clash over the proper fiscal policies of this Government.

I encourage everyone in this country who listens to the debate this week to listen to it with an understanding of what is really being debated. It is the age-old fight between those who want higher taxes and higher spending and a more powerful, centralized Federal Government with an increasing reach into the economy, and those who want to keep taxes lower, who believe that is a stimulus to the economy, and who want to downsize and rightsize the Federal Government. In one way or another, virtually all of the debate we will have this week will focus on that issue.

I yield the floor.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from North Dakota.

Mr. CONRAD. Mr. President, my colleague keeps referring to pet projects. We on our side do not believe it is a pet project to educate the children of this country. We on our side do not believe putting cops on the street is a pet project. We do not believe funding our firefighters is a pet project.

But I am very glad the Senator has talked about the record on debt. Here is the Republican record on debt. When the President took office, the projection for the publicly held debt was $36 billion. In the President's 2002 budget, that increased to $1.2 trillion. After his tax cut passed, that increased to $1.6 trillion. In the President's 2003 budget, the debt went up to $3.3 trillion. In the President's 2004 budget, it went up to $5 trillion; with the Senate GOP budget for next year, $5.5 trillion.

If our friends want to have a debate about who is responsible for the growth of the debt, it is squarely on their shoulders. Their budgets have passed. They have shredded this deficit and debt. They can say they are interested in fiscal responsibility. They have not walked the walk and they have not voted the votes.

I wish our colleague had not had to leave because he has come back with this old canard that I heard again in the committee saying that we offered amendments that added to the debt last year, or would have if only the Republicans had not defeated them. The problem with that argument is it is not true.

Here is what happened. Democratic amendments on the Budget Resolution were all paid for last year, and more than paid for, so that we would actually reduce the deficits, reduce the growth of debt. If you took all of the amendments we offered, they did not increase the deficit. No, no. Let's go to the record. What actually happened? Our amendments on the Budget Resolution would have reduced the deficit by $687 billion.

I am so glad the Senator brought this up because I have a list of every Democratic amendment to the Budget Resolution, that I will print in the RECORD, offered last year, what the cost was, and what the offset was. If any Member wants the opportunity to go back and check the record, here is their chance. What they will find is on every amendment, Democrats paid for their amendments, and Democrats also included deficit reduction. At the end of the day, if all of our amendments would have been adopted, we would have reduced the deficit by $687 billion.

In addition, our friends on the other side are trying to rewrite history. They are trying to act as though our amendments last year were a package. They were not a package. They also want to act as though they were amendments for 10 years. Half of them were not. Half of them were 1-year amendments. In each and every case, we not only paid for our amendments on the Budget Resolution, we had additional deficit reduction.

For example, Senator BIDEN offered an amendment to fund the COPS Program, $1 billion in cost, and he provided $2 billion of offset. He paid for the amendment, plus he provided $1 billion of deficit reduction.

I ask unanimous consent to have this printed in the RECORD so hopefully our colleagues will not keep repeating these false claims they have made in the past.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEMOCRATIC SPENDING AMENDMENTS TO 2004 SENATE GOP BUDGET PROVIDED FOR $687 BILLION IN DEFICIT REDUCTION OVER 10 YEARS

[Dollars in billions]

Amendment No.	Sponsor	Purpose	10-year spending	10-year offset
278	Biden	COPS	$1.000	−$2.000
281	Kerry	HIV/Global Aids	0.797	−1.592
284	Murray	Fully Fund NCLB Act	8.900	−14.664
294	Graham	Prescription Drugs	219.000	−395.832
299	Schumer	Homeland Security	79.320	−158.511
300	Lautenberg	Restore Defense Cuts	88.030	−88.030
311	Kennedy	Pell Grants	1.800	−1.800
315	Kennedy	Unemployment Insurance	16.300	−16.635
318	Leahy	First Responders	3.000	−6.000
324	Lincoln	TRICARE	20.279	−20.279

DEMOCRATIC SPENDING AMENDMENTS TO 2004 SENATE GOP BUDGET PROVIDED FOR $687 BILLION IN DEFICIT REDUCTION OVER 10 YEARS—Continued

[Dollars in billions]

Amendment No.	Sponsor	Purpose	10-year spending	10-year offset
328	Wyden	Fire Management	0.500	−0.500
341	Reid	Concurrent Receipt	12.764	−12.764
343	Hollings	Port Security	2.003	−2.003
357	Kennedy	Expanded Health Coverage	38.000	−38.000
361	Daschle	Indian Health Service	2.871	−2.871
372	Levin	Restore Education Cuts	2.668	−4.685
376	Conrad	IDEA	72.880	72.880
381	Clinton	First Responders	3.500	−7.000
382	Cantwell	Job Training	0.678	−0.678
385	Dorgan	Veterans Affairs	1.014	−2.029
387	Byrd	Amtrak	0.912	−0.912
395	Dorgan	Homestead Venture Capital	3.567	−3.567
396	Harkin	Rural Health Care	25.000	−25.000
409	Dayton	IDEA	193.246	−386.554
415	Dodd	Head Start/After School	37.871	−75.742
417	Bingaman	Child Care	8.758	−8.758
418	Clinton	First Responders	4.500	−9.000
419	Dodd	Firefighting Grants	11.866	−23.730
421	Murray	Education	2.00	−2.000
423	Corzine	Environment	10.661	−10.661
424	Clinton	Vocational Education	3.102	−3.103
425	Harkin	Restore Education Cuts	20.660	−20.660
429	Landrieu	Imminent Danger Pay for National Guard	3.00	0

Mr. CONRAD. Every single time I have heard our friends on the other side claim the Democratic amendments to the Budget Resolution would have increased the deficit, it is absolutely false. Go back and read the amendments. The deficits would have been reduced under our amendments because we provided fully the offsets for each of those amendments.

We can go down the list. In fact, I had an amendment to fund IDEA and completely paid for it. Senator LAUTENBERG had an amendment restoring the defense cuts. Members will recall, there were defense cuts last year. Senator LAUTENBERG fully funded defense and provided the money to do so. On homeland security, there were increases offered to better protect the country. It was fully paid for, plus an amount for deficit reduction. Every single amendment was fully paid for. Accumulate the totals, it is $687 billion of deficit reduction.

Our friends on the other side talked about the record on deficit reduction. I am glad he did because here is what has happened to the deficits over time. We can see on this chart going back to 1969, the last time we had record deficits was in the administration of the previous President Bush. President Clinton came in 1992, and we can see the deficit went down each and every year until we were back in surplus. It was only when this new Republican President took office that we again went back into deficits and now have gone into record deficit territory, the biggest deficits in the history of the country.

Here is what has happened to Federal spending. The Senator from Idaho wants to posture this as a question of spending, who is responsible for spending, and that spending is the reason we have deficits.

No, we have deficits because we spend more than our income. Deficits are a function of spending and revenue, not just a factor of spending but a question of spending, the relationship between spending and revenue.

This chart shows going back to 1981 spending as a share of our gross domestic product. Go to 1992 when a Democrat took control, and what happened to spending as a share of our gross domestic product? Spending went down each and every year from about 22 percent of gross domestic production to 18 percent of gross domestic production. Spending has now gone back up with our friends on the other side in charge of the White House. And I don't fault them for the increases; 91 percent of the increases in spending were for defense, homeland security, and responding to the attack on September 11. We all supported that increase in spending, as well we should have. We had to defend this country.

However, I remind my colleagues, when Democrats were in charge in 1993, we put in place a 5-year deficit reduction plan without a single Republican vote, and we reduced spending each and every year of that 5-year plan. In 1997, we had a bipartisan plan. Thankfully, that was a nice moment in time. We had a bipartisan agreement. We continued to take spending down. Spending has now bumped up because of what has happened.

Let's look on the revenue side. On the revenue side, again, President Clinton came in and revenue went up. It was that combination of spending going down under the Democratic plan, and revenue going up that got us back into balance, and stopping the use of Social Security for other purposes. That is the Democratic record on spending and revenue. We lowered spending. We raised revenue so that we balanced the budget, and stopped the raid on Social Security.

Our friends on the other side have raised spending—and I don't fault them for that because it had to be done to respond to the attack on this country—but they also dramatically cut revenue. Here is what has happened to revenue. It has been shredded. We will have the lowest revenue this year as a percentage of GDP since 1950. It is that combination of increased spending and reduced revenue that has mushroomed the deficits.

Let's be honest. I don't think the deficits we are facing at the moment are the basis for our strongest criticism of the President's proposals. Anyone who is honest would acknowledge once we had been attacked, once we had to increase defense spending, increase homeland security spending, the economy took a hit, we would expect budget deficits.

Our criticism of the President and his preliminary is that he is suggesting deficits from now forward as far as the eye can see. He never wants to balance the spending and the revenue. Oh, he wants to keep the spending going. They say he is going to restrain spending.

Please, the spending he is restraining in his budget is 17 percent of Federal spending. He is going to save about $7 or $8 billion when the operating deficit, this year, is $700 billion. That is a 1-percent solution the President has come with. He is solving 1 percent of the problem.

Now, let's get serious. Let's be direct and honest with people. Talking about that restraining spending is going to solve the problem, and you come in here and save $7 billion, when you have a $700 billion problem, and suggesting you are solving the problem? That is not real. That is not serious. That is not credible. That does not stack up.

What the President is proposing is increasing spending and cutting revenue, when we already have record budget deficits. And what does it do? It balloons the deficits and the debt at the worst possible time, right before the baby boomers retire. That is the President's plan: to put us deeper and deeper into the deficit ditch, to take every penny of Social Security surplus over the next 10 years—$2.4 trillion—every penny of which has to be paid back. The President has no plan to do it.

The President says he is cutting the deficit in half over the next 5 years? The only way he is cutting the deficit in half is if he leaves out things, he leaves out that there is a war going on. He says there is no war cost past September 30. That is what his budget says: zero to fund this war past September 30; nothing for Iraq, nothing for Afghanistan, nothing for the war on terror.

He says he is going to fully and aggressively prosecute the war on terror, but he has no money to do it. Zero is not the right answer. That is what is in the President's budget to fight the war in Iraq, to fight the war in Afghanistan, to fight the war on terror. The President has a big goose egg past September 30 of this year.

And tax cuts? The President says: Do not worry. Do not worry, my budget will cut the deficit in half over the next 5 years. What he does not tell people is, beyond the 5-year window, the cost of his tax cuts explode.

He also leaves out the alternative minimum tax. It affects 3 million people now, the old millionaire's tax that is now becoming a middle-class tax trap. The President deals with that crisis for 1 year, does nothing for the next 4 years—a problem that is growing geometrically. It is going to affect 40 million people by the end of this budget period. The President does nothing past the first year.

The President's budget adds $3 trillion to the national debt in the next 5 years. This is the President who told us he was going to have maximum paydown of the debt, and he is increasing the debt by $3 trillion over just the next 5 years, and all of it at the worst possible time—right before the baby boomers retire.

I have shown chart after chart today showing the long-term implications of the President's plan. The long-term implications are to dig this deficit hole deeper and deeper and deeper as you go out into future years. The cost of his tax cuts explode at the very time the trust funds of Social Security and Medicare go cash negative. He is putting us in a situation that will require the most agonizing of decisions in the future.

No, our chief complaint against the President's budget is not the deficits being run now, although they are of record proportion. Our chief criticism of the President's budget is he has us on a course to balloon the deficits and the debt in future years, right before the baby boomers retire, compelling a future Congress and future President to make tough choices.

On the question of the tax choices the President has made, when I hear it said, "Oh, really, the wealthy in the country are paying more," please, the wealthy in the country are paying more? I do not know how anybody can stand on the floor of the Senate and seriously assert the wealthy are paying more. I have just shown that those earning over $1 million a year, under the President's proposal, in 2006, are going to get a $140,000 tax cut, on average, in that year.

The wealthy are paying more? Who are we kidding? In 2005, the top 1 percent, those earning over $337,000, are going to get a $45 billion tax cut. That is the cost of the tax cut going to the wealthiest 1 percent. The cost of the tax cut for those earning over $1 million a year, in 2005, is $27 billion. The President chose a set of tax policies that overwhelmingly go to the wealthiest among us.

I put up a chart earlier that showed the top 1 percent—those earning over $337,000—get 33 percent of the benefit of the tax cut in 2005—33 percent, the top 1 percent.

The President said this is all to get the economy moving. Look, I believe it was important to have tax reductions to get the economy moving. Of course, it is not just the tax reductions, it is also the spending. About half the stimulus in the last 3 years has been spending; about half of it has been tax cuts. Both of those were warranted.

The problem is, the tax cut mix the President chose did not give us the biggest bang for the buck at creating jobs or growing the economy. And that is not just my view, that is the Congressional Budget Office's view. They were asked to look at all of the tax cut proposals and tell us what kind of bang for the buck you would get. Interestingly enough, the tax cut on personal capital gains, they said, would give you a small bang for the buck—small—yet that was singled out as one of the important areas for tax reduction.

The same is true on the dividend tax reduction that our colleague mentioned. He said that was a centerpiece. Well, it was a centerpiece in terms of what it cost. It was not a centerpiece in terms of what most economists would tell you is bang for the buck at getting economic growth and job creation. I believe that is a fundamental reason we are in the circumstance of today.

Yes, we should have stimulated the economy. Yes, we should have had tax cuts. Yes, we should have had increased Government spending to give a lift to the economy. But the tax cuts should have been geared to primarily the middle class. They are the folks who spend the money. Instead, this tax cut proposal has gone primarily to the wealthiest among us, those who are the most likely to save the money rather than spend it. However laudatory it is to save money, the thing that stimulates the economy, at least in the short term, is to spend it. This is a bad set of choices.

In addition to that, going forward, the President's proposal will dig us into a deeper and deeper deficit ditch, creating a circumstance, when the baby boomers start to retire, that will become more and more difficult and require tough choices.

What is going to be needed is not just tax increases, no. We need more revenue. The first place we ought to look is not tax increases but closing the tax gap, the difference between what people owe and what they pay because we know the vast majority of people pay what they owe. But we have a small group of people and companies who do not. We now know that is costing us $255 billion a year. That is not a tax cut. That is somebody cheating on their taxes, cheating all the rest of us, cheating the ability of this country to meet its requirements of national defense and homeland security. That is the first place we ought to go to begin to close this gap.

Yes, we are going to have to be tough on the spending side, too. It is going to take both. We are going to have to restrain the growth of spending, and we are going to have to get more revenue. It is as clear as it can be. Anybody who tells you something other than that is not being straight.

I hope before we are done we will have a healthy debate on the priorities of the country. I believe one of our top priorities is to get our fiscal house in order. Now that we have economic recovery underway, we have to move back to fiscal balance. We have to reduce these deficits that are at record levels, and not just by make believe.

The President says he is cutting the deficit in half in the next 5 years. He says the deficit is only going to be $237 billion in that fifth year. But when we total up the things we know are going to be the costs, including the war and fixing the alternative minimum tax and the money that he is taking from Social Security and Medicare that has to be paid back, what we see in that fifth year is not $237 billion being added to the national debt; it is $600 billion. It is $600 billion the next year and $600 billion the next year and $600 billion the next year. What we see happening is, right before the baby boomers retire, an explosion of the national debt under this President's plan. That cannot be the answer.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. NICKLES. Mr. President, I yield the Senator such time as he may consume.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I express my appreciation to the chairman of the Budget Committee, Senator NICKLES, for his leadership. We will miss him desperately in this Senate. He has chosen not to seek reelection, which he would have handled easily, and we are certainly going to miss him. His handling of this budget process this year was particularly skillful, principled, filled with integrity and good judgment.

I also appreciate the ranking member, Senator CONRAD. He is a skilled man with the numbers of this budget. He can find more bad numbers in this budget than most anybody I know, but a lot of those numbers need to be talked about. He is correct. We have some long-term problems with financial stability. It is great to debate and have people discuss our challenges and have the numbers put out there and not hide anything as we go forward.

I believe we have produced a budget that is responsible, that the American people, if they understand it, could appreciate and would support in general. We will continue to debate it, and it will pass I believe, much as it has been written.

What we had to do is confront the situation of declining revenue to our Government. It has come from a number of different reasons, primarily because the economy has not been as healthy as we would like it, although we have seen some positive rebound. We ought to talk about that and we should consider that as we evaluate how we are going to handle the country's financial situation.

To sum up where we are, President Bush submitted a budget he believed funded the Government's discretionary accounts, including defense and homeland security and all other discretionary accounts, at $818 billion.

We were operating in the Senate under a budget of last year that called for us to stay at $814 billion, $4 billion less. So we decided the right thing for us to do was produce a budget at 814. Then, as we continued to score the proposals in the President's budget, that budget came in at $823 billion. So to go from $823 billion to $814 billion there was $9 billion we had to confront as we worked from the President's budget.

Unfortunately, we had to take a sizable sum from the proposed increase in defense spending. The budget called for an increase of $26 billion for defense, 7 percent, the largest aggregate increase in the budget. We were forced to come in at a $20 billion increase for defense. We made other decisions and reduction changes. Certainly, I hope this Congress will support the President's proposals to eliminate some 50 or 60 programs that need to be eliminated.

Everybody knows that we too seldom confront spending programs that have a certain value on the surface but, if examined carefully and with an eye toward efficiency and productivity and wise use of the taxpayers' dollars, don't meet the test. But we seldom, if ever, eliminate one. The President said it is time to do that. I, too, believe it truly is.

I spoke to the National Association of State Treasurers this morning and shared with them, a story of when I became attorney general of Alabama in 1994. My predecessor had left our office in a colossal, disastrous situation financially. We were forced, because we had a balanced budget constitutional amendment in the State of Alabama, to terminate the employment of one-third of the employees of the attorney general's office. It was a very difficult and painful decision for me. All those terminated were noncivil servants. They were hired under the political system that the attorney general could use at that time. But still many of them were good people, and I hated to terminate their employment.

But we reorganized that office. We worked hard. I believe we thereafter produced as much or more good legal work, even though we lost one-third of the employees.

I say that to illustrate there is a myth in this Senate, in this Congress, that somehow money only tells whether something is being productive, and if you don't give an agency more money, somehow they can't do as much work as they were doing before. That is wrong. It is not so. Every business in America understands they can do more for less work hard to do so. I think that is one reason why so many Americans today are cautious and concerned about how our Government spends their money.

It is because they are at their workplaces every day, working with ingenuity and technology and training and new systems to produce widgets better and cheaper for the consumer so they can stay in business. They expect the same out of Government, and they have every right to.

This budget comes in at 814. I believe we can make that work, but there will be, throughout this process, a host of amendments to spend more for every item you can imagine. Many of them have every resonance of good and worthwhile programs. In fact, some of them will be. But we simply don't have the money we want to spend on all these programs. We need to show discipline. If we show discipline, and we do this for several years, we can bring this budget back into balance again.

Senator NICKLES believes, if we stay at this constrained spending rate, we will cut the deficit in half within 3 years. That is a good goal. I would like to exceed that. Maybe we can exceed that. We will just see. I will share my personal view that economic growth will be a big part of accomplishing our goal.

When President Bush was elected President, the economy was in trouble. In the third quarter of President Clinton's last year in office, negative growth occurred. The first quarter that President Bush was in office—had negative growth. Not good. But, that is what he inherited from his predecessor.

I say that because people say this slowdown was President Bush's fault. The NASDAQ exchange had lost one-half of its value by the time President Bush took office. The bubble had already burst and that value out there, on paper at least, was gone, leaving companies strained and unable to borrow and hurting the economy in a number of different ways. The economy began to come back, and in September 2001 we had the attack on the Trade Towers and the Pentagon. That hurt us, too. So we are bouncing back from that.

The President did not sit around and not do anything. He acted. He had a number of programs. One was to stimulate this economy through allowing the American citizens to keep more of the money they earn. I think that was a good idea. First of all, it is always good policy in this land of freedom and individual responsibility to allow the people who earn their wages to keep as much of it as they possibly can. That is who we are as a people. We are not part of the socialist ideal of Europe, other countries. We have a heritage of freedom and individual responsibility. First, I thought President Bush's actions were good philosophically.

Secondly, it has helped our economy. We have seen continual growth since. The third quarter of this past year, the growth of GDP in America was at 8.2 percent. That is the highest growth in over 20 years in this country. The fourth quarter of last year was over 4 percent. The combined two quarters were higher than any two quarters President Clinton had when he was in office, I have been told. It was a good end to last year.

I think we are going to have good growth this year. The stock market is coming back up. Mr. Greenspan said interest rates are expected to stay low. He expects growth to continue. Jobs have continued to increase for the last three or four quarters. Not as much as we would like; we need to see more growth in the job area. But the household survey numbers look a lot better than the numbers that are most often cited, the wage number. Regardless, we want to see continued growth in jobs. Economists tell us as the economy grows, it takes some time before employers start adding permanent employees. In other words, they will pay overtime and do other things before they hire a permanent employee. But if their business stays healthy and continues to grow, they will hire people over a period of time. Jobs lag behind growth. Despite the fact that we have people running for President who have been going around for months saying how terrible everything is, how unemployment is hurting us so badly, how the economy has been damaged by President Bush, consumer confidence is up there pretty healthy and strong. So we have to be pleased with that.

With regard to the unemployment numbers, in June of last year, the unemployment rate was 6.3 percent. The fourth quarter's unemployment was reported at 5.6 percent—which is a significant drop—is about the average over 20 years for unemployment in America. Do we want it to get better? Absolutely. Do we need to take steps to continue the growth and continue job enhancement in America? Yes. I am willing to consider any good proposals toward that idea.

Mr. President, this economy seems to be coming back on solid footing and trusting the individual American citizens who work hard, manage their money carefully, and businesses to increase productivity. Oddly, increased productivity is not good for jobs. If businesses improve productivity, they can make more widgets with less employees. I think almost every economist who would be consulted on this subject would say that in the long run productivity increases are good because productivity is what will allow us to be competitive in the world marketplace. Without increases in productivity, we will not be able to compete with low-wage nations.

So productivity is a good and bad thing. In the long run, it is going to be good. But I think it has delayed the surge of hiring we would like to see, but I think we will see hiring increase as time goes by. There are a lot of reasons our country had a decline in revenue. A small portion of the decline—maybe a quarter—was the tax cut. But the tax cuts, I am absolutely convinced, were key cause of that 8-percent growth we saw—4 percent in the last quarter—which is surging out there and which will lift us out of this slowdown.

I believe the fundamental problem with the lack of income to America has come about because our taxes in this country are focused on the highest income wage earners. I know my colleague on the other side said we are reducing taxes on the rich. But after all the tax cuts, the highest 1 percent, highest 10 percent will still pay a larger percentage of the total taxes to America than the lower income people will pay—a higher percentage of total tax revenue will still come from the rich. But the deal is this: If you have money invested in the stock market and the market drops by one-half or more, as NASDAQ did, and you sell your stock, what can you do? You take a loss. You don't show a gain and pay a tax on the gain. You show a loss. The loss claim is limited to $3,000. But $3,000 for a lot of people who sell stock means loss of revenue to the Government. For those in the top brackets who are paying 38 percent, that is a large loss in tax revenue to America.

Corporations that were making profits in good times and who are now showing losses are not paying taxes. People who were being paid bonuses because companies were doing fine, they don't get those now, and they are not paying more taxes. So it seems to me that by taxing heavily our highest income people and depending on them substantially for our base revenue from income taxes, we have created a pretty volatile situation in how the income comes in.

If you have 6 months of growth like we are having now, I don't think you will see a lot of bonuses to executives. But if you have a year, 2 years, of growth, and improvement and profits begin to come back in a company, you will see other things happening that will generate profits for the corporation. More people will be hired, more people will be working overtime making that extra money, and they get taxed at the higher bracket rate. All those things, to me, indicate the President is correct to decide to take strong action, to inject an infusion of American ingenuity into the economy by allowing them to keep their wealth, what they have earned.

As a result of that, we will get growth and, as the growth stays out there, I hope our budget numbers are going to look better. Will growth solve all our problems quickly? I don't think so. I think we are going to have to sustain a long period of managing our spending habits, keeping spending growth down. Some areas need to be reduced. Some areas need to be increased modestly. We are going to have to resist starting a whole lot of new programs, and I am indeed troubled by the expansion already of the expected cost of the prescription drug program.

If we do those kind of things, and this economy comes back and we hold the line, we will begin to see the deficit be reduced. That is what we desperately need to do. We simply cannot sustain the size of the deficits we have today, and it is not necessary that we have the kind of deficits we have today. I feel that strongly. I believe we will see progress happen.

I offer as support for my belief the fact that as of June last year, the experts—CBO or OMB—predicted the deficit would be $450 billion for the fiscal year ending September 30 of last year. But when the numbers came in, it was not $450 billion, it was $375 billion, $75 billion less than they were predicting a few months before, and that was because of some containment in spending and because of the economy coming back.

We are not going to see huge, dramatic improvements, but we can believe and hope that if this economy remains strong and we remain firmly in control of spending, we will see some good things happen. This budget does that. It is less than a 4-percent increase overall, about a 3.5-percent increase in spending.

Frankly, we would have done better coming in with lower spending, but most of our spending is entitlement spending that goes up on its own on a trajectory we have not figured out how to control. We are going to need to figure out how to control it as the years go by and bring sanity and wisdom to that process.

I think our President has submitted a good budget that does not go hog wild. I believe our committee, after a long period of intense debate—Republicans and Democrats engaged in offering amendment after amendment and their philosophies and debates—has produced a frugal budget, even more frugal than the one the President submitted; that if we pass this budget and do not lose our discipline with the inevitable proposals for spending that are about to come, then we will be in good shape to chop away at this deficit.

We must not do it, however, at the threat or expense of those marvelous tax cuts that are so important to our economy and to our American family. First, the child tax credit. Instead of $700, we raised it to $1,000 per child. I believe that is important.

The marriage tax penalty. The very idea that this Congress would penalize people who get married by increasing their taxes is just an anathema to me. I cannot believe we would do that. This marriage penalty fix went a long way toward eliminating that problem. It is not a gift to married people; it is simply allowing them to get back on a level playing field. A tax is a penalty. We should not penalize marriage.

The third provision up for renewal is expanding the lowest bracket, the 10-percent bracket, covering a lot of people who were paying 15 percent on their income taxes, the lower income bracket. That bracket will be increased so more people will be paying at 10 percent rather than 15 percent.

All of these provisions are critical. They will strengthen the family. In fact, we need more young couples to have children today. Somebody has to take care of us when we become aged. A lot of people are not having children. One reason is they do not think they have the money to raise children, and the child tax credit and the marriage penalty might well strengthen our families in ways we cannot measure in terms of economics but, in the long run, will be good for this country. I believe that very deeply. That is why I am particularly supportive of those two reductions in taxes.

I thank Senator NICKLES for his leadership. I appreciate this opportunity to share a few words at this time. I see Senator NICKLES, the chairman of the Budget Committee, is back in the Chamber. I, again, congratulate him for the extraordinarily capable way in which he handled this process.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank our colleague, Senator SESSIONS from Alabama, not only for his statement but also for the outstanding work he has done on this committee. It is not easy reporting out a budget resolution. It is not easy defending a budget. I encourage our colleagues who want to throw rocks at it all the time to put one together.

I compliment our colleague from Alabama. He has been an invaluable member of this committee. He has worked very hard. We touch every single dollar in the Federal budget in this committee. We review all those dollars. I compliment the Senator from Alabama for being an outstanding member of a challenging working committee.

Mr. President, I yield to the Senator from Colorado such time as he desires.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I thank the Senator from Oklahoma for yielding. I wish to say how grateful and what an honor it has been to serve with the current budget chairman. He has done a great job. He has been a great leader in the Senate. This is the last budget with which he is going to be involved in the Senate. He is thorough, he is straightforward, meticulous and has put together some good budgets since working with him as chairman on the Budget Committee. We are going to miss him in the Senate. He has done a yeoman's job in putting together this budget.

Like he said, putting together a budget is not simple. It is always easy to criticize a budget, and that is what I pointed out during the Budget Committee hearings. All we are hearing is criticism about this item and that item, but nobody is putting together a total budget, laying it before us and explaining what they are going to do to eliminate deficit spending.

I think back to last year, for example, on the floor of the Senate when we were debating the budget. It was the same situation. The chairman and Budget Committee members had worked hard to put together a budget and bring it to the floor of the Senate. Colleagues were consistently complaining and criticizing the deficits, but the fact is, we had amendment after amendment presented calling for more spending. It totaled up to about $1.6 trillion in amendment after amendment calling for more spending.

Where were they getting a lot of the money? They were getting the money by wanting to increase this tax and increase that tax to pay for it. The rebuttal is: Well, we pay for it by increasing taxes.

I do not think the answer to this economy and the long-term solution to this budget is to increase taxes. I think the long-term solution is we need to hold down spending.

One of the problems we have run into in recent years, since about 2002, since many of the provisions which held spending in check are no longer before us, is we have seen spending increase, and we are continuing to see spending as a problem as we move forward and debate this budget.

We cannot deny the role the recession has had in revenues coming into the Federal Government. Our deficits are a function in any 1 year of the amount of money that is coming in and the amount of money that is being spent. In any 1 year, when spending is greater than the revenue coming in, we end up with a deficit.

Sometimes in our discussions, we interchange the terms "debt" and "deficit." There is a difference. Debt is the accumulation of the deficit spending over the years, so it reflects that. Deficit is when we spend more than what we bring in in revenue.

I have some information. When we look at the economic downturn—and the President in his budget had come up with a figure in the economic downturn—he held 49 percent of the current deficit. I looked at a chart—this is from the President, the Executive—and it comes up with similar figures. This is put out by the Joint Economic Committee. Senator BENNETT is chairman. It is equally balanced between Republicans and Democrats out of the Senate. They point out what has happened to the surplus.

Using our CBO figures and using the figures we use in the legislative branch, we come up with the weak economy could be attributed to greater than 40 percent, and that increased spending was attributed to 36 percent of the loss of the surplus. Then we have our tax cut in 2001, 18 percent. The economic stimulus was 1 percent, and then the tax cut we put in place again was 5 percent. So the total is about 24 percent of the loss of surplus that would be attributed to tax cuts; 36 due to an increase in spending of the Federal Government, and the weak economy another 40 percent. This is by the Joint Economic Committee. This is not me. This is not the President putting that out. This is a bipartisan committee we have which looks at these kinds of figures.

Then we look at what happens year after year with spending as compared to the tax cuts we have put in place. Let's take a look at that. We start in fiscal year 2005. Here is a good example. The tax cuts reduced revenues by $212 billion. Spending increases enacted since 2002 will total $268 billion. We have $212 billion tax expense to the surplus, but spending is $268 billion.

Let's see what happens in 2006 as we move out in time in this budget. The gap we see between spending and tax cuts and its impact on the surplus grows even more. The 2006 tax cut reduces revenues by $163 billion and spending increases enacted since 2001 will total $314 billion. That gap is growing with each year as we move out. Over the next 5 years, 2005 to 2009, revenue decrease due to tax cuts is going to run a total of $979 billion.

What happens during the same time period with our spending as it moves out in time, $1.722 trillion. That is what happens to the growth in spending.

The point I am making is when there is a tax cut and that money is returned to the American people, it does not escalate and grow as an expense against the surplus, but the spending grows considerably.

I happen to believe our budget process is prejudicial against holding down taxes. The way the budget rules work, it is always easier to increase spending than it is to cut taxes. I think one of the most important ways to continue to stimulate this economy is to make sure we hold down our tax burden. I know the other side is advocating that we go ahead and increase taxes, but I think that is wrong. It is the wrong thing to do now, when the economy is starting to come back. We are starting to see very encouraging figures about the economy in response to the stimulus plan we passed in the two previous tax cuts we put in place. They were put there to stimulate the economy.

When this President came into office, he inherited an economy that was starting to go down. Then we went through an unprecedented period of an economic downturn, which we had never seen during modern times, where revenues decreased at least for 3 consecutive years as we looked out. This had a profound impact on the amount of revenues coming into the Federal Government.

If we had not made those tax cuts, my personal judgment is this economy would still be struggling. Those tax cuts stimulated the economy, and now I think once we start getting the revenues in from this year, we are going to see a growth and the budget reflects that. Our economy is going to be on the way. With the recovering economy, we are going to see a regrowth in revenues coming to the Federal Government. The best way to grow revenues to the Federal Government is to stimulate the economy, not to increase taxes. Increasing taxes has a depressing effect on people's willingness to produce because they do not see themselves keeping that money in their pocket. They see it coming back to Washington and being spent. If the citizens of this country can see the money they are earning staying in their own pocket and paying for their needs, meeting their family's needs, meeting the needs of their local economy, they see it as a much more beneficial process and something that would motivate them to be more productive. When they are more productive, they are going to be paying more Federal taxes. Then that return comes back to the Federal Government and is reflected in increased revenues and helps us eliminate deficit spending.

The last parameter to change in our economy is unemployment. Unemployment is going down and we are continuing to see job growth. This last report was not as much as was hoped, but we are continuing to see a growth in jobs. According to the payroll survey, jobs have increased 6 months in a row. The household survey remains higher than prior to the recession and more Americans have jobs than at any other time in our history. This is a result of those tax cuts.

Where do we go from here? We have the economy beginning to grow, and we have a budget before us that begins to eliminate the deficit. I will talk a little bit about that because the President had planned to eliminate the deficit within 5 years of his budget. He said we can cut the deficit in half either as a percent of gross domestic product or in nominal terms—in other words, actual dollars.

We have done better than that in the Budget Committee, thanks to the leadership of the chairman. We are getting out of deficit spending within 3 years, depending on how one wants to talk about it, or even as soon as 2 years. This is in real dollars, and we are doing better than the President. I think this is a phenomenal step in the right direction.

We started taking this deficit seriously in the last budget. In fact, it was important to me, and I know a lot of other members on the Budget Committee, that we start taking an early step in eliminating the deficit, so we started putting this plan in place in the last budget. It is important to me that when I look at today's budget I want to make sure we are staying with that plan, or doing better.

I am happy with what the President has proposed. I am especially happy with what has come out of the Budget Committee. We need to stay with that commitment and move forward. In order to continue to hold down spending, we are going to have to put in place some budget rules in order to have a disciplined approach to deliberating the budget so spending does not get out of hand.

I know the chairman of the Budget Committee is looking at such a plan and giving it some serious thought. We have part of that plan currently in the budget proposal before us, and I think that is something we need to focus on. In fact, from a long-term strategy standpoint the most important thing might be to do something legislatively that would put in place, with the President's signature, some real rock-solid rules on how we can control spending.

There need to be some provisions in case of an emergency, but we cannot be so flexible that we allow the emergency spending to be abused. I have observed in the short time I have been in the Senate that emergency spending bills get abused. Again, with some good, thoughtful provisions, and if we can get this budget passed, I think we will have in place some rules that will help us try to stay on board in order to eliminate the deficit.

I am convinced with the economy starting to grow that we can get back to where we have surpluses. I would like to be back in a position where I was a number of years ago where I could propose amendments on the Senate floor on appropriations bills to pay down the surplus, to pay down the public debt. I am glad we did that, because if we had put some of that money aside toward paying down the public debt, then it gave us some money in reserve.

We got to the point where we had an unprecedented time in our history, which we just experienced when this President came into office. We had an economic downturn that was getting well on its way, we had 9/11, and then we had some major conflicts we had to pay out of this budget.

I would hate to think what our deficits would be like today if we had not made an effort to pay down part of the public debt when we had an opportunity to do that. At first, it was not very easy to get those amendments adopted on the floor, but after staying with them we were able to get those so we could make some significant steps toward paying down the public debt.

I am hoping in the not too distant future we will be in a position again where we can pay down the public debt and eliminate deficit spending so we are back out of the red on an annual basis and then begin to work to pay down that public debt because that gives us sort of the reserve. I am glad we had that there. That is responsible management of the taxpayers' dollars, responsible management of our budget resources we have that come from hard-earned dollars that our taxpayers, American citizens, are earning for the Federal Government and sending back to Washington.

Then, once we are in a position to get this budget passed, I think we also need to look at ways in which we can take care of emergency spending provisions. There are some dollars that are put in this budget to try to take care of some predictable emergency spending that we think we are going to have.

We will have an emergency surplus bill. It will be either the end of this year or in the next fiscal year. It is right and proper and good accounting to begin to take that into consideration.

I hope at some point in time we can begin to develop a pot of money over here for emergency expenses only. Then, once we have developed that, we will not have to come in for emergency supplementals where spending gets out of control and people get around our budget rules. We need to work and modify those, in my view, in order to have long-term responsible budgeting, at least out of the Senate and in the Congress.

I think the solution is no tax increases. I think we could help our economy even more if we would take some of these—in fact I would take all these recent cuts we passed, which were the economic stimulus package and the 2001 tax cut as well as the 2003 tax cut—and make those all permanent. I think that would stimulate our economy to continue growing and we would go through another unprecedented period of economic growth, bringing revenues into the Federal Government, and that would be part of our solution as far as getting out of deficits.

I think the fact that businesses and families, individual taxpayers, could plan ahead with the understanding that those tax cuts were going to stay in there for some time would build confidence in the economy. Then they would be willing to go out and make their investments and, as a result of that, create more revenue. When the tide rises, everything rises and everybody benefits.

I hope at some point in time we can make all these permanent, especially the inheritance tax. The death tax is not part of those we have in here, although I think we extend that out for a year or two in this budget. But we need to permanently eliminate the death tax because it is silly to think people are going to plan for their death. They are not going to do that. The elimination expires toward the end of this decade and then it goes way back to previous levels, which are extremely high. That is not fair. If nothing else, just out of fairness we need to permanently eliminate the death tax.

I see my time is running out. I thank the chairman, again. I see Senator DOMENICI on the floor. He was the chairman of the Budget Committee before Senator NICKLES took over that responsibility. I think both of them have been very responsible and have worked very hard on the budget. I think we have a good piece of legislation. It is a resolution, an agreement between the House and Senate. It doesn't require the President's signature, but it is a commitment of both the House and Senate to eliminate deficit spending and hold down our tax burden and spending. I think we are heading in the right direction. If we can accomplish what is in this budget, I feel good about the future of this country and the future of our economy.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. I thank our colleague from Colorado for not only his statement but the outstanding job he does as a member of the Budget Committee. He works hard. He does his homework. He is one of the more knowledgeable persons on our committee about a lot of issues on the budget. I compliment him for his statement and his contribution in putting this budget resolution together.

I note my predecessor as chairman of this committee, Senator DOMENICI, is seeking the floor. It is always a pleasure to work with him. I yield him such time as he desires.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I have to go to a chairmen's meeting now, so I cannot speak very long. I did not want to let the first day go by without saying a couple of things.

Senator DON NICKLES has done an outstanding job, as have the Members who serve with him, working for our country, joining him in doing the very best possible job they can do.

I think the budget before us, under the circumstances, is as good as we are going to get. I only hope not only do we pass it but at the end of the year we look back and say, with the exception of things that were outside of our control, it truly was enforced; we carried it out. I hope that is the case.

I will come back tomorrow to make a few more remarks. When you get a budget and it is deficit time, and the debts are as big as they are, people generally are too gloomy. There are too many people running around saying how bad things are. I have been there when the deficits were bigger than they are now. I have been there when they were less. I have been there when it was balanced, believe it or not. Frankly, I think what is good to know is that the American economy, the engine of wealth day by day, is in pretty good shape.

We are in a world economy that makes it very tough for America because we are trying to let the whole world get rich right alongside us. America is not looking to try to keep the world poor. It is pretty obvious that whatever globalization means to others, they have it wrong if they think the United States wants everybody else's wealth.

The truth is, we buy from everybody because we want them to grow and prosper. We want their workers to make money. We want their businesses to prosper. That is beginning to happen in a rather phenomenal way. In fact, I have never asked anybody to check carefully what has happened to China in a decade, but I imagine it would be phenomenal what is happening to their people, to their prosperity, and to their opportunity to make the world a better world for everyone.

While all that is going on in poor countries, America has trouble because we have to compete. We have a lot of people thinking we ought to pull out of this world. Not only pull out of wars, a lot of people think we ought to quit negotiating treaties of trade and just come home.

I think we are very lucky we have a cadre of leaders for the most part who do not believe that is the way. I would be very worried if we were going to move in that direction, all of a sudden say we are staying home, we are not selling our goods, and we are not buying theirs; it will just be fortress economic America. If that were the case, it would not take us along until we would have one broken down fortress.

From my standpoint, I will join with those who are trying to help America do a better job of producing goods and wealth cheaply and more competitively, getting our universities, our laboratories, and great scientists to produce out of the research room, out of their laboratory, into the technology room, and then onto the manufacturing floor. What we need is to move those faster. The great research has to turn into production in America. If only we could dream up some way to sensitize that so it would happen better and more rapidly. Researchers like researching but they would like it more if they could produce a product.

If we are not there yet, there are plenty of people who do not feel that way about research. But I submit that we are going to have more and more researchers in every sense of the word who believe they are not successful until they have solved the problem, produced the product, and let America take cutting edge advancement to work at making products.

Having said that, tomorrow I will return and talk a little bit about this specific budget and the deficit we have and the debt we have.

But I want to close by saying I sure hope the average American is not too worried about the future. When you go through a recession for a couple of years, have two wars going on, and terrorists who ripped the heart out of your major city, and you are still in as good a shape as you are today with our economy growing, productivity growing, and more people working than any comparable day in history, you have to feel proud. For those who want to lead our country, the best way to do it is to convince them they have something to be proud of and that the future is bright.

I am down here on a tough budget with a tough chairman who worked hard to get us here, and probably with many people who won't agree with it. But I am here because I also want to let people know we are going to do the best we can. We have cut taxes not only because we like to cut taxes—that is true, we do—but because we think an economy in recession needs to have taxes cut if it is going to get out of recession. We think that happened. We are proud of that. We don't want to do away with the taxes that are about to occur right now because they are the right kinds of taxes. If we are going to do pay-as-you-go, let us at least let those taxes that we cut take effect.

I want to repeat in closing that I am going to start working tomorrow with a bipartisan group of Senators to produce a pay-as-you-go plan. It will include taxes, but it won't include the taxes that we have already passed that are waiting to be enforced but look 4 or 5 years from now, no more free rides for anything—no free rides for taxes, no free rides for defense, no free rides for anything. We are going to increase things. If you cut something, you also pay for it. If we can do that for 4 or 5 years and start the process so that it is credible, what a change it will have. It will be a very positive day for America and for those who invest if we do.

For today, I said about as much as I can. I yield the floor. I thank the chairman for yielding. I thank the Senate for listening. I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank Senator DOMENICI, former chairman and very distinguished member of the committee, and someone to whom we all look for wisdom on budget issues.

Let me pick up on the last point he made, the pay-go provision. What the Senator is talking about are rules that we used to have that were allowed to lapse in 2002 which required if you wanted to add spending or cut taxes, that was fine, but you had to pay for it. You had to pay for it. I think that budget discipline that was lost is unfortunate. We ought to renew those budget disciplines as quickly as possible.

I think it is fine to say there are certain taxes we should cut. In fact, I have indicated publicly that I will vote to extend the 10-percent bracket. I will vote to extend the marriage penalty relief. I will vote to extend the expansion of the child care credit. I will vote to extend the small business expensing. I personally believe—and I think Senator ALLARD and I may agree—those are provisions that we ought to continue. There may be some more that Senator ALLARD wants to continue that I would not without paying for it.

But I would say on any spending that is new and any tax cuts that are new, we ought to pay for them. This deficit ditch is so deep now that I think we ought to impose that discipline on ourselves. We did it before. It helped. I don't think it solved the problem, but it certainly made a contribution. It provided a discipline on both the spending side and the taxing side that was important. That doesn't mean you can't, on an emergency basis, spend more or tax less. It requires a supermajority vote. It requires 60 votes to break that discipline. I think it helped us immeasurably. I think it saved hundreds of billions of dollars.

I was on this floor last year with Senator NICKLES siding with him in stopping some spending by raising budget points of order that apply on the spending side of the ledger.

I think it is very important that we reintroduce those disciplines as soon as possible.

Let me talk a little about this budget. I talked earlier about the President's budget. I also want to talk a little about this budget and why I think it is deficient.

The first thing that concerns me is it adds $2.86 trillion to the debt over the next 5 years. I think one of the things that is being missed in these discussions is something that is flying right below the radar. It is the amount of money that is being taken out of Social Security to pay for other things, money that has to be paid back but that gets lost in this discussion of deficits. The reason for that is they are talking about what is called the unified deficit. That is when you put all the money in the pot and you treat it all the same. All the Social Security revenue goes into the pot along with the income tax revenue and every other kind of revenue. All the spending comes out of that pot. The problem with that approach is at this moment in time, Social Security funds are running big surpluses in preparation, supposedly, for the retirement of the baby boom generation. But we are not using that money to pay down the debt or prepay the liability. We are taking that money and using it to fund tax cuts and other expenditures of Government, and those Social Security surpluses are growing dramatically, by the end of this 5-year budget the Social Security fund surplus just for the fiscal year 2009, is going to be up over $235 billion. I think it is hiding, basically from all of us, and from the American people, our true fiscal condition.

Let me make this point. If we take the chairman's mark—I have high regard for the chairman. I respect him. I have found that he is somebody I can trust. I also like him. This does not have anything to do with personalities. This has to do with the fiscal situation we face as a country. Under the chairman's mark, the total debt of our country at the end of this year is going to be $7.4 trillion. But this year, $612 billion will be added. Next year, we will have $8 trillion of debt. The next year, $569 billion is being added to the debt; the next year, $553 billion; the next year, $563 billion; the next year, $564 billion. Do you notice a certain sameness as to how much is being added to the debt every year? Yet at the same time, the chairman and other Members have said it is cutting the deficits in half. And both statements are true. The deficit—which is calculated on a unified basis with all funds going into the pot, all revenue and all spending coming out of that same pot—is being reduced in half over 3 years by the chairman's mark. The problem is the increases in the debt are not being cut in half. The increases in the debt are virtually unchanged.

The debt is increasing this year by $612 billion under the chairman's mark. By the third year it is going to increase by $563 billion.

The debt increases are not being reduced by this plan in any significant way.

As a result, for the 5 years, the debt is being increased by $2.860 trillion.

This is, in many ways, the good times because the baby boomers have not started to retire yet. They start to retire in 2008. When we couple the increased expenses which flow from the baby boomers retiring with the reduced revenue by making the tax cuts permanent—and, by the way, that cost explodes right outside this 5-year budget window—what we see is under any growth scenario, any reasonable growth scenario, this debt problem, this deficit problem, is going to get much more serious in this next 10-year period. It is not getting better.

Those who say, gee, with some more growth this will all work out—no, it does not work out. That is what the Comptroller General of the United States is warning us about, that is what the International Monetary Fund is warning us about, that is what budget group after budget group is warning us about. We cannot grow our way out of the deficits that are coming because we are stacking up debt at the time that is most favorable. We are stacking up debt when we have the trust funds throwing off huge cash surpluses.

What is going to happen when those trust funds go cash negative? Instead of $160 billion of Social Security surplus, which will happen this year, instead of $235 billion of Social Security surplus which will happen in the fifth year, when those trust funds go cash negative, then what happens, and the baby boomers have retired and the full cost of the President's tax cuts have been phased in? Then these deficits look like child's play. Then we have a real chasm which has to be dealt with.

As I see it, the chairman's budget simply does not do the job. When we look at the chairman's mark and we put back in the war costs CBO says will be there, and we look at addressing the alternative minimum tax, here is what we see the operating deficits looking like over the next 5 years. They are enormous. The operating deficits are enormous. We see very little reduction in them under the chairman's mark. There is $638 billion going down in 2009 to $520 billion, and I don't believe that is an accurate reflection. I believe by the time we get to the fifth year we will add another $600 billion to the debt, based on my own analysis.

Our colleagues on the other side have talked about this proposal reducing the deficit. Actually, this proposal does not reduce the deficit. The deficit is going down on a unified basis, not counting the money that is being taken from Social Security, if we do nothing. The deficit is going down if we do nothing. But if we adjust the baseline for the one-time expenditures that were made last year, when we had a supplemental appropriations bill for over $85 billion last year—that is in the so-called baseline going forward—if we take that out, which the chairman has done—and, by the way, I commend him for doing that because otherwise we build in spending that should not repeat itself. It is one-time spending that should not be added to the base. The chairman has taken it out of the base. He is absolutely right to do so.

Once we have done that and then we look at what is happening with the deficits under the chairman's proposal, what we see is it increases the deficit by $177 billion over the next 5 years. He is adding $177 billion to the deficit over the next 5 years. That is a mistake. We have record deficits now. We have the baby boomers coming. They will retire. We should not be adding to the deficit by the policy decisions we make here. We ought to be reducing it.

The chairman says the deficit in the fifth year under his plan will be $202 billion. That is only true if we leave out certain things. Number one, he is leaving out additional war costs in that fifth year. The Congressional Budget Office says residual war costs in the fifth year will be $30 billion. He leaves out the alternative minimum tax fix, that costs $55 billion in the fifth year. He leaves out the $22 billion he will borrow from the Medicare trust fund that year which he has to pay back. He is leaving out the $235 billion he is borrowing from the Social Security trust fund in that fifth year. In that year alone, he will borrow $235 billion from Social Security. He will borrow another $22 billion from Medicare trust funds so he is borrowing $257 billion in that year and that is being stacked on the debt. So instead of adding $202 billion to the debt in that fifth year, he is adding at least $545 billion to the debt. That is my own conclusion.

What is wrong with, for example, this budget in terms of revealing our full fiscal condition? One of the first problems we have is the war costs. The President has zero for war costs past September 30th. The chairman has put in a reserve fund of $30 billion which is certainly more forthcoming than the President's plan. But the chairman does not include it in his actual budget so he does not add to the deficit calculations by that $30 billion. He just says it is in a reserve fund. It may be spent, but we are not counting on it.

That is not a budget. It is not a budget when you say we may spend this money, and if we do, we will find someplace to get it. I guess we will have to borrow it because he is not providing the funding for it. He is not adding it to the deficit totals for that year. He is not budgeting for it.

The Congressional Budget Office says for the 10 years from 2005 to 2014, the residual war cost is $280 billion. We are not facing up to the real costs we all know are coming.

Then we look at priorities. In 2005, the tax cuts going to the top 1 percent cost $45 billion, those earning over $337,000. If we were to keep the promise of No Child Left Behind in that year according to the chairman's budgets—this is a different number compared to the Bush budget because this budget before the Senate, the chairman's mark, is somewhat more generous in dealing with No Child Left Behind than the President's budget—but looking at this budget, he is $8.6 billion short of meeting the amount committed to No Child Left Behind. That is less than 20 percent of the money that is going in the tax cut to the wealthiest 1 percent.

The same is true as we look at other priorities. Veterans medical funding. If we were to increase veterans medical care funding to meet the 2004 service levels, it would cost $521 million. Instead, we are giving $45 billion of tax cuts to the wealthiest 1 percent.

This is a question of priorities. What is more important? They are saying it is 90 times as important. We will spend 90 times as much providing a tax cut to the wealthiest 1 percent than to restore medical care funding to the 2004 service levels in 2005. If we took a poll of those who are the wealthiest 1 percent in this country and they were asked, Would you be willing to give up 1⅓ percent of your tax cut so we could match the medical care funding of our veterans in 2005 with what we did in 2004, there would be a resounding yes, I would give up 1 percent of my tax cut in order to provide decent medical care for our Nation's veterans.

The COPS program. It would take $700 million to restore the cuts being made in the COPS program. COPS program is the program that has put 100,000 police officers on the street. It costs $700 million to restore those cuts that are in this chairman's mark. Again, I compare it to the $45 billion being provided in tax cuts to the wealthiest 1 percent.

Does it make sense to cut the COPS program, reduce the number of police on the street, when we are threatened by terrorist activity in this country?

I do not think that makes sense. I do not think those are the right priorities for the country.

We look at the firefighters in the same way. It would cost $246 million to restore the cuts to the firefighters that are included in this budget. Again, if one looks at a comparison of the tax cuts provided to the wealthiest 1 percent—those earning over $337,000—it costs $45 billion for that same year.

If you asked the people who are in this category: Gee, would you be willing to give up one-half of 1 percent of your tax cut so we do not cut the firefighters, I think overwhelmingly people in that category would say, yes, that is a priority that we fund the firefighters at last year's levels and not cut them, not cut them dramatically.

This is a debate about choices. It is about choices of what is the future course for our Nation. I believe the deficits and debt that are contained in these budgets are simply too large and we need to take aggressive action to deal with them, and this is all happening at the worst possible time, right before the baby boomers retire.

But I am not focused on this year's deficit. That concerns me, but that is not the focus of my concern. I am much more worried about where this is all headed under the President's plan. I am much more worried about where this is all headed under the chairman's plan than the immediate deficits.

One would expect deficits at a time we have been attacked. One would expect it at a time we have been recovering in the economy. The problem with the President's plan, the problem with the chairman's plan, is they never plan to get out of deficit. Instead, they keep adding to the debt, and by hundreds of billions of dollars a year, not just this year, but next year, and the next year, and the next year, and the next year—every year by over $500 billion of added debt, and every year thereafter, taking every penny of Social Security surplus, borrowing it, using it to fund tax cuts and other expenditures, with no plan to pay it back.

No, this does not add up. This does not add up. This does not come close to adding up. It has enormous implications for our long-term economic strength.

Now I understand this is an election year and things are unlikely to be changed very dramatically this year. I have had probably a dozen of my colleague say to me, what we need is a big plan for next year. I wish we could take more aggressive action this year, but I am realistic and know it is probably true that our best opportunity to deal with this problem in a fundamental way will come next year, and that is when we need to be prepared to act in a serious way and quit just hoping against hope that somehow this all goes away.

It is not going away. It is not going away under the chairman's plan. He is adding $500 billion to the debt every year of this plan. It is not going away under the President's plan. He is adding even more. The President adds $3 trillion to the debt over the next 5 years—$3 trillion. This plan is a little bit better. It adds $2.860 trillion to the debt. None of this is sustainable, especially in light of the retirement of the baby boom generation, which starts in 2008, and of the cost of the President's tax cuts that absolutely explode beyond the 5 years of this budget plan.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, I rise to speak about the budget. I first commend my ranking member, the Senator from North Dakota, for his incredible leadership and the way in which he has presented all of these issues and the challenges facing our country. There is no question that a huge hole has been dug with deficits as far as the eye can see.

I remember coming onto the Budget Committee as a new Member of the Senate in 2001, when the debate was what to do with the largest surplus in the history of the country. I remember when the Senator from North Dakota was talking about the baby boomers retiring and the need to put money aside to meet our obligations under Social Security and Medicare, and the need to look to the future.

Unfortunately, instead, what we saw were very short-term decisions that turned the largest budget surplus in the history of the country into the largest budget deficit in the history of the country, in only 3 years. It is astounding to see what has happened in the last 3 years.

But I thank him for his courage and his willingness to fight for what is important to my family and the people of Michigan and the people of North Dakota and people all across the country, for fighting for the right priorities for the future of our country.

I also want to take a moment to thank our chairman, who convened his last budget hearing and budget resolution markup this year. I appreciate the fact that he conducted a fair markup, as he has done since being chairman. We came to the conclusion and voted on a budget resolution that now is in front of us. He did it in a very fair way.

I also commend him for a couple of tough decisions he made that the administration was not willing to make. Chairman NICKLES, unlike the administration, put funding in the budget for ongoing activities in Iraq. He put in a reserve fund of $30 billion. While I am concerned that is not enough to meet the request that will come back to us, I commend him for his leadership in understanding the number certainly is not zero, that there needs to be an amount that is put aside into a reserve fund.

But this budget is so flawed in the end analysis, I am not sure where to begin in talking about it. It reminds me of Yogi Berra when he said: This is deja vu all over again. Because that is exactly where we are, given the direction we have gone in the last 3 years. Once again, we see a budget that is skewed to a privileged few while leaving middle-income families behind. It fails the credibility test, and it does not reflect our Nation's values and priorities. I hope the Senate will decide to reject it and go back to the drawing board and get it right.

Our Nation's budget is our chief economic tool. This is the fourth time President Bush has submitted a budget to Congress containing his economic plan for the Nation. Unfortunately, the President's last three budgets have led to major job loss, soaring deficits, rising debt, the looting of the Social Security and Medicare trust funds, and have failed to provide the necessary resources for our domestic priorities.

It seems every day we hear more and more economic bad news. Certainly in the State of Michigan every day there are headlines of job loss.

On Friday, the Labor Department said there were only 21,000 jobs created in February. This is anemic, according to many economists, and 285,000 jobs short of what the President said would happen just a couple of months ago. At this rate, it will take 9 years to recover all of the jobs lost under President Bush.

Unfortunately, the people of the State of Michigan can't wait that long. Our people need jobs now. Under the Bush Presidency, we have lost 2.8 million manufacturing jobs, many of them in the State of Michigan. Our manufacturing sector is in crisis. Every day we hear about another company shipping its jobs overseas to China or India or Mexico. In fact, the State of Michigan had the highest number of jobs lost last year.

Just last Friday, our Democratic Policy Committee held a hearing on the topic of shipping jobs overseas. At that hearing we heard testimony from Dave Doolittle who works at the Electrolux Refrigerator plant, Greenville, MI. They announced they were going to close and export 2,700 jobs to Mexico.

Despite major concessions offered by the workers and over $70 million in economic incentives from the State and the community—the community did everything right; the workers did everything right—Electrolux announced it will close next year, and 2,700 workers will be out of a job. That means 2,700 families will be without a breadwinner in a town of 9,000 people; 2,700 people losing their jobs out of 9,000. This type of job loss is devastating to these families.

In addition to that, when we look at the ripple effect and the suppliers involved and others, this can reach as high as 8,000 good-paying jobs with health care and pension plans throughout the entire region. This type of job loss is devastating for our families, and it is devastating to Dave Doolittle.

Mr. Doolittle has worked at the plant for over 23 years. He has a pension. He has health benefits. He has one child in college and two in high school. The plant closing will devastate his family. He asked us, who will pay for his two high school children to go to college? What is he going to do about health care for his family? Will they be able to keep their home?

To add insult to injury, Dave Doolittle and other employees will be working on an assembly line that has just received major investments of $100 million to improve it so the company can see what problems it has so they can then rebuild that and take it to Mexico. This highly productive, highly skilled workforce is working out all the kinks in the equipment that they will then pack up and send to Mexico.

Unfortunately, the President's budget and the budget before us will do nothing for Dave Doolittle and his family. He is a one of a growing number of hard-working families making up a part of another America. The other America includes not only the unemployed but millions of workers who have simply given up trying to find a job. If you include them in the unemployment rate, these discouraged workers push the unemployment numbers up to 9.6 percent, almost 1 in 10 of our workers.

People such as Dave Doolittle are not interested in a handout. This is a hard-working, skilled individual. What he is looking for is a good job and a chance to give his children and his grandchildren-to-be a better future. They want to provide their children with health care and an education so they can live the American dream. Isn't that what we all want for ourselves and for our children? They want the country to be strong and safe from terrorist attacks. They are counting on us to do what is right at home and abroad.

Unfortunately, the Bush economic policies have failed Dave Doolittle and his family on all counts. The President's budget has no plan to create jobs. It does nothing to help the uninsured and make health care more affordable. It contains proposed cuts for our schools, our police officers, our firefighters who are trying to protect us on the front lines against terrorist attacks.

On these priorities and more, Democrats tried to improve this budget in committee but were voted down on a party-line vote every time.

This budget also lacks credibility. For the last 3 years we were told one thing; yet something very different has happened over and over. The first tax cut produced massive deficits and harmed our economy. Despite all that, the President continues to push the same trickle-down economics that have failed. If these tax cuts were done by trial and error, they were an error.

Consider everything that was said and what actually has happened. We were told that the administration's tax cuts in 2001 and 2003 would create jobs, but we have lost jobs, almost 3 million. We were told we would have a surplus, but we now have the largest deficit in the history of the country. We were told we would pay off the national debt, but now our national debt is higher than when President Bush took office. We were told the President's budget would not use Social Security trust funds, but now we are using every penny of the Social Security surplus to pay for tax cuts for the privileged few. We were told we needed to modernize Medicare and add a prescription drug benefit, with which I agree, but now we have a law that will privatize Medicare, hurt one in four seniors on Medicare, and cause them to lose their private insurance. It does little to help seniors purchase prescription drugs and does nothing to lower prices for all Americans.

We were told we would fund Leave No Child Behind and special education, but now we have failed to fully fund them. School districts are making cuts, shortening their school years, and laying off teachers. We were told we would have a new Department of Homeland Security that would help protect us, but in only the second budget cycle for this agency, we are already seeing budget cuts from last year, and we are falling far short of what is needed to protect our country.

We tried to make some changes to this budget in committee to have it better reflect our Nation's values and priorities. Unfortunately, we were unsuccessful. We tried to add fiscal discipline and reduce the deficit, but we lost on a party-line vote. We tried to fully fund Leave No Child Behind, but we lost on a party-line vote. We tried to restore the cuts to our firefighters, but we lost on a party-line vote.

Unfortunately, the Democrats were not the real losers, though. The American people were the losers by those votes.

We are in this budget and economic mess because this administration has valued wealth over work and the privileged few over our children's future. For the privileged few, this administration has given so much: most of the tax breaks, subsidies for insurance companies and HMOs, and $139 billion in profit for the pharmaceutical industry. For working families there has been very little. In fact, working men and women and their families are worse off than they were 3 years ago.

Three million workers have lost their jobs. As of the end of January, we have over 400,000 people who have lost their jobs who have been cut off of unemployment insurance. Eight million will see their pay cut because of new overtime regulations. Seven million people who work for the minimum wage have seen their pay eroded, and 12 million children were too poor to get the child tax credit.

Three years ago, Federal Reserve Chairman Alan Greenspan gave the go-ahead for massive tax cuts for the top 1 percent, and this Congress, in conjunction with the President, enacted them, and now we have the largest deficits in history.

Unfortunately, now Chairman Greenspan is urging Congress and the President to make cuts in Social Security because we have these deficits. This means tax cuts for the privileged few are paving the way for cuts in Social Security for middle-income families. This is wrong.

How can we ask people who have worked their entire lives to have their Social Security cut to pay for tax cuts for our privileged few?

I mentioned earlier that budgets are all about values and priorities, and I truly believe that. We have to decide, do we want more tax cuts for the privileged few or do we want all Americans to be safe by providing full funding for firefighters, police officers, and other first responders?

Do we want more tax cuts for the privileged few or do we want a real comprehensive Medicare prescription drug benefit and lower prescription drug prices for everyone?

Do we want more tax cuts for the privileged few or quality schools with highly educated teachers and small class sizes and state-of-the-art technology for all of our children?

More tax cuts or quality education? More tax cuts or quality health care for our veterans who have served us and continue to serve us today? More tax cuts or hundreds of thousands of new jobs, rebuilding our Nation's highways?

We need a new vision. We need new priorities for America. We need a positive budget that will help all Americans raise their families, get access to health care, and enjoy their lives and their retirement. We need to restore our fiscal discipline, make critical investments to create jobs, and strengthen Medicare and Social Security. In short, we need to make the needs of American families our top priority again.

I will be supporting a number of amendments that will do that in this budget debate. I am hopeful we will be able to get bipartisan support to be able to do those things that American families are asking us to do, so at the end of the day we will have a budget that reflects what is important to the people we represent.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLARD. Mr. President, I want to set the record straight. We have heard a lot of discussion from the other side about the burden or about how these tax cuts are somehow favoring the rich and somehow implying that the rich are getting some sort of an advantage.

I share with my colleagues some facts. This factsheet was put out by the Tax Foundation. It talks about the Federal individual income tax. It takes us up to 2001. The top 1 percent of the earners in this country, the top 1 percent who pay the highest taxes, pay 40 percent of the individual income tax in this country. The top 5 percent pay 53.3 percent. The top 10 percent pay 64.9 percent. The top 25 percent pay 82.9 percent. The top 50 percent of the individual income taxpayers in this country pay 96.1 percent.

That means the bottom 50 percent only pay 4 percent of the total individual income tax that comes in. That is the individual taxes that are filed.

I was looking to see what happens when we look at all income classes and all returns. These are taxable returns, itemized tax liability, at the 2003 rate and the 2003 law and 2003 income levels. If we look at those returns that show $100,000 to $200,000 in taxes, they pay 25 percent, a little over 25 percent. If we look at those who pay over $200,000 in taxes, they pay 49 percent. So if we total all the income classes and all returns—these figures are put out by the Joint Committee on Taxation—and we look at all these returns, and this is a current document—the previous document I referred to was up to 2001—put out by the Tax Foundation—if you take those who are $100,000 or more, they pay over 75 percent of the taxes in this country.

Now, it seems to me those individuals with those tax returns reflect hard work and productivity. They are doing their fair share in supporting the economy of this country. I think this needed to be made part of the record. That is why I wanted to take a little time to talk about the tax burden, because the story we keep hearing from colleagues on the other side is that somehow the rich are getting off easy.

The lowest 50 percent of our individual taxpayers pay 4 percent and the top 50 percent are paying 96 percent of the taxes. That tells you who is paying the taxes.

Then, if we look at all the returns filed in 2003, and then look at who is paying those, all those who paid $100,000 or more are paying over 75 percent of the taxes. That is phenomenal. The producers and earners are paying their fair share.

I might add that a large percentage of these individuals, as well as others, are coming from small business. That is where our economic growth occurs, where our new ideas come from. If we can continue to promote and encourage the growth of small business, then that means our economy is going to do well. That is why I think the tax cut that we put in place was the right solution, and it has worked. I don't think anybody can deny that the tax cuts we put in place have worked. They have worked.

If we increase taxes, which is being encouraged on the other side, supported by the other side, it is the wrong thing to do at the wrong time—particularly when our economy is beginning to show growth. I think it is important, again, that we ought to actually extend these taxes permanently. If we would do that, I think that sends a message to the producers of this country that we are open for business and they will get out and they will produce. When the economy grows, I think it will help work us out of where we are now in deficits. I think it will increase revenues to the Federal Government substantially, and it will be easier for us to work our way out of the deficits we now face.

I yield the floor.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, if I might respond to my colleague's comments, we certainly have heard similar comments before. There are a couple of concerns that I have. Like everything, it depends on how you look at the numbers and how you look at what is happening in terms of tax burden. The debate that has gone on relates to the income tax. It has nothing to do, first, with all of the taxes.

In this debate, there is always a conscious desire not to look at the payroll tax, which everybody pays and, in fact, it is skewed more to lower and middle-income people, because above a certain income you don't pay the payroll tax anymore.

So let's look at who is paying the payroll tax. Let's look at who pays sales tax, which is based on what you buy. It has no relationship to your income specifically, in terms of what the sales tax burden is. We know it falls more on low- and moderate-income individuals.

We can also look at property taxes. We look at a wide array of taxes in this country and we see that low- and middle-income people have a huge burden. When taxes get cut, it is not on the things they are paying; it is on those taxes—in this case, the income tax—which is paid by those who make higher incomes, higher percentages.

When we look at the total tax burden, we see that it is the middle-income people in this country who get squeezed on all sides. We should not add to that by extending a tax cut that continues to do that.

Let us look at the numbers, how the tax breaks stack up. The combined effect of the tax cuts of 2001 and 2003, if you make over $1 million a year—that is in a year and a half—if you make over $1 million a year, your combined tax cut is $140,369. The average middle-income-tax payer will get a tax cut of $566. Look at these numbers. This is more than the majority of people in the country earn working hard every single year for their family. They work hard, they play by the rules, they are struggling with sending their kids to college and making sure they can buy their homes and pay the property taxes, and all of the other pressures on them. They are worried about losing their job now to overseas competition. Instead of selling products overseas, they are worried their jobs are going to go overseas.

We have individuals who work hard every day, play by the rules, and the vast majority of them are earning less per year than what one person is going to get in an income tax cut who earns over $1 million a year. I do not begrudge in any way someone who earns over $1 million a year. That is not the point. The point is we are looking at this kind of a tax cut of $140,000 versus $566. There is a major issue of who is getting the tax benefit and who drives the economy, from where does the economic growth come. We know it is from middle-income-tax payers who are as consumers purchasing in the economy, but more broadly we look at this in terms of choices.

We know if we were to give them two-thirds of their tax cut this year instead of all of it, we could fully fund what has been reported is needed to keep us safe with homeland security—every single penny. It is a large number. We are told by Warren Rudman and the members who came together to look at all of our homeland security needs—not only police and fire and bioterrorism, borders and ports and chemical plants, but all of it—it will cost $15 billion, which is one-third of what those at the top are going to get back this year in a tax cut.

Would folks be willing to take a little bit less to know they are safe, that their family is safe, that the borders are safe, that the ports are safe, that they can call 9–1–1 and know they can get a first responder at their home if there is an emergency, or that the community can respond, that police and firefighters can talk to each other on the radio, have interoperability, which they do not have now?

All across Michigan, we do not have one system where everybody can talk to each other in case of an emergency. I think most of the people who do very well in this country would say, yes, that is important for my family, and that is a tradeoff I am willing to make; that is a choice I am willing to make.

This is about choices. It is not about class warfare. There are huge differences in what people will be getting back. It is not about penalizing or in any way demonizing people who make over $1 million a year. This is about choices. When we see red for as far as the eye can see, when we see that this year's projected deficit, just this year's deficit of $521 billion is more than the entire investments outside defense—take defense away—all of our domestic investments, all of our domestic budget: homeland security, education, health care, law enforcement, protecting the environment, parks—we could wipe out the entire domestic budget, except for defense, and not equal the deficit hole that the administration has put us in just this year.

It is a matter of choices and saying to someone who is doing very well: We need you to help. We need you to be willing to make sacrifices just as every family is, just as our men and women in the armed services are making in Iraq and Afghanistan. It is about choices. If the choice is keeping every American safe, making sure we can protect ourselves from terrorist attacks across this country, and asking those doing very well, who have reaped the benefits of this country, to help share in paying for that, I think the majority of them would say yes. That is something we all are willing to do.

This is always a question of choices. It is a question of priorities. It is a question of values.

As the chart shows, it is also a question of fairness for people. If we look at the difference in the average middle-income-tax payer and the cut they will get in 2006, and those with incomes over $1 million and the cut they will get, we see that in addition to this disparity, this middle-income-tax payer is paying a payroll tax, sales taxes, property taxes, and contributing greatly to the payment of services in their community.

This budget is about what is fair for everybody, what is the right thing to do to keep us strong fiscally, how do we put ourselves on a path of not asking our children to pay the burden of the debt that is being accumulated, how do we make sure we are smart in terms of our investments in the economy to grow jobs, put money in the pockets of middle-income people, small businesses that drive the economy—the majority of new jobs are coming from small business—how do we make sure that is a priority for us, and how do we make sure we are creating a set of priorities and a vision for the future that our families are asking us to do?

Thank you, Mr. President.

The PRESIDING OFFICER (Mr. FITZGERALD). The Senator from Utah.

Mr. BENNETT. Mr. President, I listened to this particular debate for a while. I have a few observations. I am not prepared to make a significant economic statement. I will be doing that at some point during the debate. But I think I will respond to a few comments that have been made.

If I may quote Paul Samuelson in a recent article in Newsweek and the Washington Post, he said most of the debate about jobs that is currently going on is bogus, and he makes the point that if a President could create jobs, the unemployment rate would be permanently at 3.2 percent. If a President could create jobs, every President would. If a Congress could create jobs, every Congress would. No one wants to go home and address his constituents at a time when jobs are difficult.

The fact remains, however, that the Congress or the President cannot, with a wave of the hand or the passage of legislation or the adoption of a political slogan, create jobs. Jobs are created in the economy. Jobs are created because of two things: There first must be accumulated wealth, accumulated capital of some kind, and then there must be someone who holds that capital who is willing to take a risk.

All wealth is created by the combination of accumulated capital and risk taking. When we tax people, we tax their accumulated capital. We have to do that. We should do that. I am not suggesting in any sense that taxes are not appropriate, but if we tax capital too much, capital flees. It goes some place else. If we regulate risk taking too heavily, it goes some place else or it is killed altogether.

As a consequence, if we are going to have jobs, we want an economic situation where accumulated capital is allowed to work and where risk takers are rewarded for their risk and where they receive the incentive necessary to compensate them for the risk they take.

I do not mean to be overly personal, but I hear people talking about two things. One, they talk about small business and how wonderful small business is, and then they talk about millionaires and how millionaires should be willing to sacrifice a little of their money so everybody else can have a job.

It is very interesting that those who talk about let's not make the tax cuts permanent then praise small business in the next breath. Perhaps they do not realize most of the tax returns that show income in excess of a million dollars are, in fact, the tax returns of owners of small business.

Let me give my own personal example to illustrate the point. I have done it before, but I have discovered since I have come to the Senate, there is no such thing as repetition in the Senate. We always give every speech as if it is brand new.

Before I came to the Senate, I was the president of a privately held corporation that filed its taxes under the S section of the Tax Code. Therefore, it was known as an S corporation. It used to be called a subchapter S corporation, but they changed the law a little and it is now just an S corporation.

When that phrase is used, people's eyes glaze over and they say, what does that mean? Well, it is very simple. If the corporation earns $1 million and it has 10 shareholders, instead of the corporation paying taxes on that $1 million, as an S corporation it pays no taxes, but each of its 10 shareholders, assuming their shareholdings are equal, pays taxes on $100,000. Why would any shareholder want to do that? Very simple. It avoids double taxation.

If the corporation made $1 million, had 10 shareholders and it paid taxes, it would pay taxes at 36 percent. The Federal Government would get 36 cents out of every dollar it earned.

At the time I was doing this, the top tax rate was 28 percent. By saying, all right, we are going to register as an S corporation so the corporation does not pay any taxes on the $1 million, it comes to the 10 shareholders and each one of us will pay taxes on our share of the earnings, which in my case was 28 cents, that is a very significant difference—the difference between paying 28 cents on every dollar you earn and 36 cents on every dollar you earn.

During the period of time Bill Clinton was President, that number went up to 42. I had said before if we had started that company at a time when the effective tax rate was 42 percent, we probably would not have survived, but because we started it during the Reagan years when the top individual tax rate was 28 percent, we got to keep 72 cents out of every dollar we earned.

What did we do with that? We put it back into the corporation and we created jobs, real jobs. The company had four full-time employees when I joined it as the chief executive—not a very big company, frankly, not a very big deal. It eventually grew to 4,000 jobs. The reason it had that kind of momentum as a small business is because we only paid 28 cents back to the Federal Government out of every dollar we earned. We put the 72 cents into growing the business and from a base of 4 jobs we created 4,000 jobs. If we add up all of the income taxes that were paid by those 4,000 employees and the corporate taxes that were paid by the company when it finally went public and ceased to be an S corporation, it became a C corporation, and the taxes that were paid by the suppliers of our company and the taxes that were paid by their suppliers and all the rest of it, we come up with a very large number that came into the Federal Government because that company was started.

As I said in the beginning, it was started because of two things: accumulated capital and risk taking. How much accumulated capital did we have? We borrowed $175,000 from the bank. It was the bank's capital. That was our accumulated capital. How big a risk did we take? Every one of us signed away everything we owned in the form of a personal guarantee to make that company go. After about 9 months of operation, I remember the principal shareholder of the company saying to me, BOB, are we going to make it? Are we going to survive?

I said to him, well, it depends on whether we get repeat business. We sold a product that had a year's life and the question was would the people at the end of the year come back and buy the product at the end of the year. I said, if we get 55-percent repeat business, we are going to survive. If we get less than that, your next phone call has to be to a real estate broker because you are going to have to sell your house. The bank is going to show up and take everything you own.

On that pleasant note, we went ahead with the business. It turned out we got more than a 55-percent renewal rate. We got a 95-percent renewal rate and the business doubled. It continued to grow and we funded it with internally generated funds because we were able to keep 72 cents out of every dollar we earned and put every dime of that 72 cents back into the business.

Because we were an S corporation and the profits we were earning showed up on our individual tax returns, I filed tax returns that showed I was earning over $1 million a year. Now, in fact, my salary as the CEO of that company was $140,000, but there was the other million that was added to it as my share of the company's earnings reported on my personal income tax return.

If we go to the chart that was shown by the Senator from Michigan, I would be one of those who would be earning $1 million a year. In fact, my take-home stayed exactly the same at the $140,000 figure. The rest of it was all a bookkeeping entry. We did it because we wanted to avoid double taxation and because we wanted to take advantage of the fact that the effective rate for individuals was lower than the effective rate for corporations. We built the business and we created the jobs because the tax situation was as I have described it.

We hear all of these comments about how wonderful small business is and how small business is the engine that is driving the economy, and they are right. We hear all of these comments about how small business is where the new jobs are, and they are right. It is interesting that almost unanimously those who represent small business are saying to us, keep the President's tax cuts in place. If you do not, you will stifle small business.

On this floor we are seeing our colleagues say, let's let the millionaires pay for the things we want to do, let's take a little off the top from the millionaires and then we can afford all of these wonderful Federal programs we want to fund, all of the time while we are saying, gee, we are spending too much money, but we should spend more money here and we should spend more money there and we should spend more money in the other place. And where are we going to get it? Well, we will let the millionaires pay it.

Then they say, all of this will help small business. The small businesspeople are saying, we are the millionaires and it is not coming to us in personal income, it is showing up on our tax returns in K-1 forms filed to deal with an S corporation, and you are stifling job growth, you are stifling small business if you do it this way.

We do not hear from the real small business man and woman. We hear from those who say, I am speaking for small business while I am saying small business is wonderful, and at the same time I am saying increase the taxes on those small business men and women who have sole proprietorships or S corporations or limited liability corporations.

The other point I want to make in this debate has to do with jobs. We are hearing over and over, where are the jobs? Once again, it is the President's fault. President Bush has presided over the loss of more jobs than anybody since Herbert Hoover. He must have done it deliberately is the implication. As I said at the outset, Paul Samuelson said if a President knew how to create jobs, we would never see the unemployment rate go above 3.2 percent.

What is the basis of the creation of jobs? Let me give a statistic. When economic activity goes up, obviously there is a need for more jobs. There is a need for more people to work at businesses, at firms that are involved in the economic activity growing. So the economic activity has gone up.

We had a great year in 2003. The gross domestic product grew by 4.3 percent, which in historic terms is terrific. The President said we will get good growth if we have these tax cuts, and we have gotten good growth. We have added something like $3 trillion to $4 trillion worth of wealth on the stock market—and that involves over 50 percent of our population.

The stock market is not just for the privileged few at the top now. Teachers' pensions, labor union pensions, veterans' pensions, people who have invested for their children's college funds—over half of Americans are now invested in the stock market. They have seen, since the President's program went into place, an increase in the overall value of the stock market in the multiple trillions of dollars. This is not a small accomplishment.

But where are the jobs if GDP is at 4.3 percent, historically a high position? The stock market has come back, creating a tremendous amount of accumulated wealth, and where are the jobs?

There is another statistic that answers the question we need to pay attention to. In 2003, once again GDP increased by 4.3 percent. Normally that is a time when you would see the creation of many jobs. However, in that same year productivity increased by 4.4 percent: a staggering number in historic terms. But the net effect is that it was higher than GDP.

Whenever productivity grows faster than the economy grows, something we don't like happens and that is we lose jobs. For all of the efforts on this floor and in the White House and in the Federal Reserve to get the economy growing, to get the traction in the recovery growing—and we produced a year of 4.3 percent growth in 2003—with that strong growth, we lost 60,000 jobs. The reason was productivity grew at 4.4 percent while GDP was growing at 4.3 percent.

Some will say the solution to the problem is to get productivity down, to have GDP growing and productivity falling. That, of course, is a prescription for long-term economic disaster. The most significant thing we want to do in our economy is keep it as productive as possible, to have productivity growing rapidly here so we can outgrow the rest of the world. That is what America has done for 100 years or more.

Go back to the middle 1800s and look at the productivity figures for the then leading economy in the world, which was Great Britain, and the productivity figures for the young upcoming country in the world, which was the United States. You see that over the years the United States had a higher productivity than Great Britain by about a half a percent. That was enough, over the decades, and then the century, to see America eclipse Great Britain and see Great Britain ultimately disappear as a major world economic factor. America now stands as the strongest economy in the world. We do not want our productivity to go down.

The thing that has happened in this recession and recovery, something that has not happened before, is that through the quarters of recession and recovery productivity remained strong. Productivity simply means you are getting more value out what the workforce is producing. You are getting more goods; you are getting more services; you are getting more to sell. If you can get more out of the workforce in this fashion, it means ultimately your society has a higher standard of living and your consumers pay less for the goods they use. But if productivity is growing faster than the economy is growing, that means you are getting that result, higher standard of living and lower cost, with fewer people.

This is the real dilemma we are facing that is not being discussed when we talk about economics. The real dilemma we are facing is how do we get the GDP to grow faster than productivity

I believe productivity will come down from the high of 4.4 percent that we saw in 2003. I don't think that is sustainable. I think the GDP will eventually cross over the line so the GDP is growing more rapidly than productivity does, and when that happens the jobs will automatically come into play. They will appear. It will not be because of anything we do or not because of anything President Bush does or of anything that a potential President KERRY might do. It will happen because the economy is strong enough that the GDP will grow faster, that productivity will be passed by the GDP number. Whoever holds office at that time, be he or she, Republican or Democrat, will take full credit for it. They will say, since it happened on my watch, I did it.

But let us, at least for a moment, in the rhetoric of this election year, pause and recognize what is happening. We are in the midst of the information revolution. It is as fundamental to changing the economy as the industrial revolution was in the late 1800s. We have not yet learned quite how to cope with it and deal with it. But the potential for good for our citizens, and for the world, is enormous.

I don't want to peddle fear and pessimism because, in fact, we should be optimistic and excited about the future that this represents to us. It will be filled with challenges, just as the industrial revolution brought enormous challenges. But it will be filled with opportunity and it should be filled with optimism.

I close with this observation. If we had been having this debate 100 years ago, in 1904 instead of 2004, and some economist with a great, clear crystal ball had come before us and told us the following we would all have panicked, but it would have been true if he had said this 100 years ago. He would have said: Sixty-nine percent of America's labor force works on the farm; 69 percent of America's labor force is involved in agriculture, which is civilization's oldest economic activity. One hundred years from now, in 2004, that number will be two. Yes, you heard me, it is now 69 percent; 100 years from now it will be 2 percent.

If that were all he had said, the sense of panic would be enormous. Of course, he would have been accurate because agricultural jobs now have gone from 69 percent of the labor force to 2 percent.

What in the world have we done with all of those people who are out of work? The industrial revolution took hold and their productivity became greater and greater and greater, and today the 2 percent of Americans who are involved in agriculture produce more food and fiber than Americans can possibly eat or wear, even though obesity is our largest health problem. We have to export food to keep the farmers busy and only 2 percent of our working force is in agriculture.

We have enormous productivity.

Here is another statistic and cautionary tale in that same situation. The percentage of workers involved in manufacturing has been going down, just like the percentage of workers involved in agriculture for 50 years—not just in this country but all over the world. As we now see the percentage of workers going down in manufacturing and we get all excited because it is going down in one President's term, or in the 8 years of Bill Clinton, or in the first President Bush's term, or in Jimmy Carter's term, or wherever it might have been going down, it has been going down on a steady basis for over 50 years here and in Europe and in every other industrialized country in the world.

What have we done with those workers? How have we been able to find jobs for them? The son of the steelworker who no longer has a job because about 10 percent of the number of steelworkers is necessary to run a steel mill now compared to the number that was necessary when we had open hearth furnace steel mills, the sons and grandsons of those steelworkers who worked in the open hearth furnaces are now working for Microsoft, or Verizon, or in a startup that will become the next e-Bay, or whatever company you want to speculate. They are earning more money than their grandfather and their father earned, and they are providing for their families better. We are in the midst of the information revolution, as I said, that is transforming the economy as fundamentally as the industrial revolution did.

As we deal with this recession and this recovery and talk about what we need to do, let us understand the environment in which we are operating.

There are many things we don't know about the information revolution. There is much to understand before we can make sound policy. But we come back to a fundamental truth which was true during the agricultural age, which was true during the industrial age, and which is true now during the information age; that is, in order to get economic activity, growth, and wealth creation, you need two things—accumulated capital and the willingness to take a risk.

If we can always remember those two fundamentals—that all growth and all wealth comes from the combination of accumulated capital and taking a risk—we will make wise decisions.

If we fall for the siren song that says the way to deal with our problem is to share the wealth and take the accumulated capital and spread it all around in a way that nobody then has any risk—Karl Marx suggested that and we have seen what has happened to the economies that followed his economic advice—we will kill the goose that has been laying golden eggs in this country for over 240 years.

That is a dramatic condemnation of some of what I have heard on the floor, and it is over the top. But, frankly, much of what I have heard here on the floor is over the top.

Let us stay with the basics. Let us do our tax policy in a way that encourages accumulation of wealth. Let us do our regulatory policy in a way that encourages the taking of risks. Then as the wealth is created by the combination of accumulated capital and risk taking, let us devise a tax system that does not kill the golden goose but that does take out of the economy the money we need to deal with the proper role of government. I am not one who says we shouldn't have taxes. I am not one who says people shouldn't pay their fair share. I am not one who says just because you are successful you should be left alone. But my fundamental goal is a tax system that functions to raise enough money to pay for the legitimate needs of government, not one that picks winners and losers, not one that tries to set social policy by tax incentives. Let social policy be set by Congress. Let the taxes be drawn in a way that produces the greatest efficiency in the economy. Then the gross domestic product will grow more rapidly than productivity, even though the information age will keep productivity high. At that point the jobs will start to come and we will have done our jobs.

We cannot create jobs. The President cannot create jobs. But what we can do is create an economic circumstance where jobs are discouraged and economic activity is dampened. When that happens, we will all pay the price.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I agree with much of what the Senator from Utah has indicated. There are basic fundamentals to the functioning of our economy. Right at the heart of the determination of how successful we are as an economy and the role the Federal Government plays is first on the monetary side with the Federal Reserve Board and on the fiscal policy side what we do with our spending and taxing decisions.

The problem I have with the President's budget and the budget offered by the majority is it contemplates deep additions to the debt even at a time of economic strength leading into the retirement of the baby boom generation which will explode the cost of the Federal Government. When we overlay that with the President's tax proposals, it explodes the cost of revenue lost to the Federal Government at the very time the baby boomers retire, taking us right over a fiscal cliff.

Those are not just my views. Those are the views of many who have studied the President's plan. That is why we have the Comptroller General of the United States warning us we are heading in a direction that is unsustainable. That is why we have the head of the Federal Reserve Board saying to us we are overcommitted and tough choices are going to have to be made. That is why responsible budget group after budget group has said to us you are overcommitted. You have massive deficits—the biggest we have ever had in dollar terms—and you are headed for even more trouble in the future.

Mr. BENNETT. Mr. President, will the Senator yield for a question?

Mr. CONRAD. I would be happy to.

Mr. BENNETT. Mr. President, I agree with the Senator about the size and terrifying nature of what we are facing with retirement of the baby boomers. But I disagree with him about the connection between this budget and that kind of disaster. I feel even as we are running surpluses right now, the disaster that is facing us is exactly the same size regardless of where we are right now.

My question to the Senator is when he references the Chairman of the Federal Reserve Board, with whom he and I both have had this discussion—we know how strongly Chairman Greenspan feels—is the Senator not aware Chairman Greenspan is of the opinion that the President's tax proposals did indeed help produce the recovery in which we now find ourselves, and indeed Chairman Greenspan has endorsed making the President's tax proposals permanent? Is the Senator aware of the fact Chairman Greenspan, even as he warns about the same things the Senator and I agree upon in terms of the problems of the future, says in the present context making the President's tax proposition permanent is a good idea?

Mr. CONRAD. I am fully aware of that. I say to the Senator the Chairman of the Federal Reserve Board has also told the Congress to consider cutting Social Security benefits. That is part of the logic of where it all leads. The 75-year shortfall in Social Security is one-third the 75-year cost of the President's tax cuts. To suggest these two things are not related is to avoid reality—an unpleasant reality, but, nonetheless, a hard fact we have to cope with.

The fundamental problem we have here is our appetite for spending is greater than our appetite to tax ourselves to pay for it. I believe it is going to take an approach on both sides of the equation. I believe we are going to have to restrain our impulse to spend, and I believe we are going to have to be more disciplined on the revenue side of the equation.

The revenue side of the equation is what has really fallen out. We now look at this year and we see revenue will be at the lowest percentage of gross domestic production since 1950. While it is true we have seen an up-tick in spending largely because of the needs for additional money for defense and homeland security and responding to the September 11 attacks, it is still true even with that increase in spending that we are well below the levels of Federal spending in the 1980s and the 1990s as a share of our national income.

As I diagnose this problem, I come to a different conclusion than the Senator from Utah. I share with the Senator the conclusion we have to discipline spending. I also believe we have to work on the revenue side of this equation. I say the first place we ought to look is not to a tax increase but to the tax gap, the difference between what is owed and what is being paid that the revenue commissioner now tells me for 2001 was $255 billion for the 1 year alone. We have not had any serious aggressive effort to go after this tax gap.

I was also told by the former revenue commissioner that he anticipates those in the vast majority who pay what they legitimately owe are paying 15 percent more because we have some—both companies and individuals—who are failing to pay what they legitimately owe. I am confident the Senator from Utah pays what he legitimately owes. I know I do.

Mr. BENNETT. Mr. President, if I could respond, I have no idea if what I pay is what I legitimately owe or not because the Tax Code is so impenetrable I did not get an answer out of two different people as to what the amount is. I pay the amount my tax preparer tells me I owe and so far the IRS has accepted that as legitimate.

Mr. CONRAD. I would be happy to review the Senator's returns and render another judgment.

Mr. BENNETT. Give me a third opinion.

If I could make a quick comment without the Senator losing his right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. I recognize fully the level of revenue currently coming into the Federal Treasury is at a distressingly low historic point. But I go back again to a comment that Chairman Greenspan once made to a group of us. I am not sure whether the Senator from North Dakota was present. It fits in with the area of agreement that we have. He said to us: You can set the level of spending just about wherever you want. You can pass a law and be pretty sure spending will be where the law says it will be. You cannot set the level of income where you want. That is a function of the economy.

If we look at the period which we all look back on with such great satisfaction—that is, the years in which we were in surplus—one of the major reasons we were in surplus was that the economy unexpectedly, according to the computers at CBO, produced far more revenue than CBO scored. This came as a result of the balanced budget agreement, the agreement entered into with the Republican Congress and the Democratic President after the 1996 election, an agreement that the Speaker of the House in 1995 tried to enforce with heavyhanded political methods and got himself in trouble in 1995. But after the election, the leadership of the Senate and the House and the leadership in the White House with President Clinton sat down and we got the balanced budget agreement, the balanced budget proposals, and in that process the Congress insisted, the President resisted but finally agreed to cut the capital gains tax rate.

The CBO scored the amount of revenue we would get from that tax cut. The actual revenue, I believe, was five times as great as CBO scored it. No one had anticipated the rivers of cash that would come in.

Now, rivers of cash came in, in my view, because there was capital tied up in mature investments that wanted to find more entrepreneurial kinds of investment but believed that it could not move it—that is, the owners of capital believed they could not move it with the capital gains rate of 28 percent. When the capital gains rate came down to 20 percent, they figured that was enough to allow moving the capital out of mature investments and into entrepreneurial investments and we saw Federal revenue go above 22 percent of gross domestic production, which I don't think has ever happened before.

Now we are in a recession. There are no capital gains. The revenue has gone down into the teens in percentages of gross domestic production. The recovery, historically, can be depended upon to take care of that and the more the recovery persists, the more Federal revenue as a percentage of gross domestic production will rise.

I thank the Senator for his courtesy and will not continue this dialog because I am intruding on the good will of others, but I appreciate the opportunity to have engaged in this exchange.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. I might say for my part I always enjoy visiting with the Senator from Utah and his questions. He thinks about these subjects in a very careful and disciplined way. I always enjoy these chances to have a serious discussion and a serious debate that is all too lacking in the Senate.

Just momentarily, because I know the Senator from Nevada has a presentation he would like to make, and I know the Senator from Washington also has something, for the record I will provide the other side of the story with respect to something Senator ALLARD presented.

Senator ALLARD was making the argument that those at the highest income levels are actually going to bear a greater proportion of the total tax bill going forward than they did before the tax cuts. The analysis we have seen by others reaches a different conclusion. Let me share that with my colleagues.

This is done by the Tax Policy Center which is run jointly by the Urban Institute and the Brookings Institution. Their conclusion is those with very high incomes will be paying a smaller share of total taxes as a result of the Bush tax cuts.

Let me give three examples. Those with taxable incomes above $1 million who constitute 0.2 of a percent of taxpayers would pay 12 percent of total taxes in 2006 without the Bush tax cuts. With the tax cuts, these same pairs will pay 11.2 percent of total taxes in that year. This includes not only income taxes but payroll taxes.

Second example. Those with taxable incomes above $500,000, who constitute one half of 1 percent of taxpayers, would pay 17.4 percent of total taxes in 2006 without the Bush tax cuts. With the tax cuts, these same taxpayers will pay 16.4 percent of total taxes in that year.

Finally, those with taxable incomes above $200,000, who constitute 2.4 percent of taxpayers, would pay 30.7 percent of total taxes in 2006 without the Bush tax cuts. However, with the tax cuts, these same taxpayers will pay 30.1 percent of total taxes in that year.

The Senator from Colorado was arguing that those who are at the high incomes will pay more of total taxes as a result of the Bush tax cuts. This independent analysis by the Tax Policy Center reaches just the opposite conclusion. When you look at income taxes and payroll taxes, higher income people, those at $1 million, those at $500,000, those at $200,000, all will pay less than they would have paid without the tax cuts.

Finally, looking at it in a different way, under the Bush income tax cuts, the top 20 percent of income earners got 68.7 percent of the benefit. More striking, the top 1 percent of income earners, those earning more than $337,000, got 33 percent of the benefit of the Bush tax cut. That is much more than any other income class.

Finally, looking at 2006, how the tax benefits stack up, in that year, middle-income taxpayers, those who are right in the middle of the income stream, the 20 percent right in the middle, will receive an average tax cut of $566. Those with incomes over $1 million in 2006 will get an average tax cut of $140,369. If these bars were actually proportionate, the bar representing the tax cuts received by those with over $1 million of income would have to be 35 feet tall. It would have to be 35 feet tall in order to compare proportionately with what the middle-income taxpayers will receive in that year.

I thank my colleagues and yield the floor so the Senator from Nevada can speak.

I ask the Senator, will you give us an idea how long you intend to speak?

Mr. ENSIGN. Maybe 10 or 15 minutes.

Mr. CONRAD. Ten or 15 minutes. And then for the information of our colleagues, I ask the Senator from Washington, how much time would she like?

Mrs. MURRAY. Ten minutes.

Mr. CONRAD. After that, we will then probably close down the shop. We do not have any other speakers on our side, I say to my colleague.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Nevada.

Mr. ENSIGN. Mr. President, I want to make a couple of comments about the budget we have before us today.

It was an interesting process, once again, in the Budget Committee last week. We had a lot of amendments that went pretty much down party lines. But one comment I will make about the Budget Committee that is maybe a little more encouraging this year is the rhetoric was not nearly as harsh. And that, in an election year, I think is something positive to take out of the whole discussion in the Budget Committee. While there were differences, I thought it was at a little higher level this year—my second year on the Budget Committee—than my first year. I thought there was a little less rancor and a little more agreeing to disagree type of attitude on the Budget Committee.

There are differences between the two sides, and sometimes even within our own parties, as we look at making policy. The ranking member on the Budget Committee has made a lot of issues about deficits. I echo that. I think it is very important we get the looming deficits in the outyears under control because they are a huge threat to the long-term health of our economy.

Having said that, there are reasons for deficits, and there are acceptable reasons for short periods of time to run deficits. The two biggest reasons would be being in a recession and having a war. Unfortunately for our country, those both hit at the same time.

We had, obviously, the recession which started at the end of the Clinton administration and continued on into the early parts of the Bush administration. Then we had September 11 and the global war on terrorism. We had the huge costs for New York City, the huge cost to our economy 9/11 has had, as well as the cost in increased spending the global war on terrorism has had. Given all of that, it is understandable why we have a $500 billion deficit.

Where I would disagree with my colleague, though, is what are we going to do with it now. How are we going to go into the future to get our hands around this deficit, to bring it down to an acceptable level? I think an acceptable level is to do what we were doing; and that is, to start paying down some of the long-term debt. With the baby boomers out there, we have to have a growing economy. We have to get some of this debt under control so we will be able to afford some of the things people want to be able to afford, as far as our Government spending is concerned.

But we have to look at how do we go forward. What are our priorities? That is what the budget we have before us attempts to set. We have more money for education. We have more money for veterans benefits. We have more money for the defense of our country. We wish we did not have to be spending all this extra money on the defense of our country, but that is the primary role for the Federal Government, according to the Constitution, to defend the United States of America. This budget reflects that primary role of the Federal Government.

Having said that, I want to look at how we have gotten to the present deficit so we can have a document that takes us forward.

This pie chart we have shows the various reasons why we have the deficit we have today. About 40 percent of it, shown on the yellow portion of the chart, the largest chunk, is because of the poor economy. Some of that can be blamed on September 11. Some of it is because of a downturn in the business cycle, and we are coming out of it. But the fact is, that is a big part of the reason we are in this deficit.

Almost 40 percent—37 percent—comes in the red area on this graph, and that is because of new spending. That is everything from the war, education programs, veterans benefits, environmental programs, roads, everything you can think of. That is new spending. That is almost 37 percent.

The tax cuts have reduced revenues—out of a total of 100 percent of the reason for the deficit, it accounts for about 23 percent of the deficit.

You can also make the argument, though, that the economy would be worse without the tax cuts. Therefore, the yellow-shaded portion, which is the 40 percent, would be even higher without the tax cuts. Because what the tax cuts did—and Alan Greenspan has testified to this—is they stimulated the economy so fewer people were on the unemployment rolls and more were working. That is the reason we have a lower unemployment rate today. That includes self-employed people. That is a big part of what people are doing. They are starting their own businesses.

One of the big things we heard from a lot of States is their State budgets are in trouble. We saw a dramatic decline in the value of the stock market. The NASDAQ, toward the end of the Clinton administration, was tanking. Then we had September 11. All of that, with the bad economy, kind of combined and we saw huge losses in the stock market.

Since the tax cuts we passed last year, we have had an increase between the New York Stock Exchange and the NASDAQ of $4.5 trillion in value. We would see an increase in tax revenues at this point except there are so many people who had losses from before when the stock market tanked that we do not have a huge amount of increased revenues. But the fact is, as the stock market continues to go up, we are now poised to start reaping the benefits in new revenues to the Federal Government from the stock markets and capital gains taxes.

By the way, in the State of California, one of their biggest budget problems was the lack of capital gains taxes. The more the stock market goes up and the value of property goes up and the value of a lot of things goes up, the more State budgets are going to be helped, especially States that rely on revenue sources such as that, such as the State of California does.

I wish we could get more of a handle on Federal spending. I believe it is out of control.

I want to run through a few charts to show that when we were in surpluses, people got a pretty strong appetite. The ranking member on the Budget Committee talked about how we all have big appetites around here for spending. It is an easy way to get reelected, to keep giving that money out. It is hard for people to say no. When we were in those surpluses, the appetite increased. Federal spending went up fairly dramatically. You can argue for every one of these programs, it was justifiable. But we have to realize we got to this point.

A couple of examples. These are simple examples: The Low Income Home Energy Assistance Program. You can see in the last several years how it had gone up. Then it went down for a few years. Now it has gone back up.

For the Centers for Disease Control, there have been dramatic increases in the last several years. The increases started in about 2000, and went forward pretty rapidly.

The child nutrition programs, you can see, continued, but with a fairly good uptick in the last few years.

The child care funding in around 2000 had a huge jump compared to what it was during the 1990s. It was fine when the economy was producing a lot of tax revenues.

This is the National Institutes of Health. Their spending, as you can see, has had a very rapid rise.

There are a lot of great programs, but the fact is, we have built a lot of spending into our budget now.

As Ronald Reagan said—and I am paraphrasing him—he discovered, when trying to eliminate Federal programs or Federal spending: The closest thing to eternal life in Washington, DC, is a Federal program.

That was a true statement back then and remains so today.

Both sides of the aisle are going to have to come together and address the problem of Federal spending. The ranking member of the Budget Committee has argued that we need to start looking on the revenue side.

I have a philosophical difference of opinion because I believe increasing tax rates takes away the incentive for businesses to invest. I remember when I was in business as a small businessperson, and I maybe wanted to do an expansion on my animal hospital. As a practicing veterinarian, if the Government was taking more money, I would have less money to be able to make that decision. Maybe I couldn't add that extra employee or I couldn't do the expansion to add on to my building. The more money I had in my pocket because the Government was taking less, the more money I could pump back into the economy by doing an expansion of the building or by hiring another employee. Even if I didn't hire an internal employee, doing an expansion obviously puts other people to work.

That is why there is a philosophical difference between the two sides of the aisle on taxes and tax cuts. I want to put it in the hands of investors and entrepreneurs to stimulate the economy. It can be that low-income tax cuts, child tax credits, things such as that, help the economy because then those folks go out and spend money.

The bottom line is, we have to have a strong economy and have tax revenues going up. We are not going to cut spending around here—we all know that—but at least slow the rate of growth down to the point where the tax revenues start outpacing what we are doing spending-wise so that we can start taking care of these deficits and eliminate them within a few short years.

I am not a person who thinks that 7, 10, 12 years out is acceptable to have deficits where they take a dip down and then they start going back up. I believe we have to take it down as we did in the 1990s, take it all the way down to where we start actually paying off some of the long-term debt so that we leave our children and grandchildren with a smaller Federal debt than we currently have. If we don't, with the retirement of the baby boomers, our children and grandchildren will have to pay higher taxes.

It is important we join together across party lines and work out the differences we can, understanding there are philosophical differences. The one place we both agree is that we need to hold the line on spending. We will have different priorities of where that spending is, but we need to hold the line on Federal spending, especially over the next couple of years until the economy starts becoming robust.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank my colleague from Nevada. He is also a valuable member of the Budget Committee. I enjoy these discussions with him. He is thoughtful. We disagree, but we will have a chance to talk about some of those disagreements as we go through the debate.

I am going to take a moment to talk about some of these issues now, but I believe he does share a fundamental commitment to the notion that we have to get these deficits down. We may have some differences about how to do that. I believe we have to both restrain spending and work the revenue side of this equation. I don't think it is going to work without that.

Let me start with a little different take on what has caused this dramatic flip in where we are with respect to deficits and what we earlier projected to be surpluses. We have had, for the period from 2002 to 2011, a $9 trillion reversal. As we look at the causes, here is what we see. The tax cuts are 33 percent of the difference.

The Senator from Nevada had a chart. I think it showed 23 percent. I don't quite know what the difference is, although I will bet in his chart he did not include the additional debt service as a result of the tax cuts. My recollection is it was 23 percent in his chart. We may also have a different timeframe.

Our analysis from 2002 to 2011 is that 33 percent of the disappearance of the surplus was from tax cuts. The second biggest reason was technical changes, primarily lower revenues—lower revenues that were not caused by the tax cuts; lower revenues that were because the projections were overly optimistic.

The third biggest reason was other legislation. It is spending. Most of the spending went to increased defense spending, increased homeland security spending, and the response to the 9/11 attack, rebuilding New York, the airline bailout, and the rest. Only 8 percent of the disappearance of the surplus for the years 2002 to 2011 is the result of the economic downturn. In our analysis, the biggest reason for the disappearance, the biggest single reason, is the tax cuts.

I am much less concerned about the tax cuts in the short term. I think all of us know you have to run deficits in the short term with an economic downturn, with the attack. It is the longer term policy of continuing to run these deficits that is truly dangerous and reckless.

When we look at where the increase in spending occurred, we can see that 91 percent of it is in these three areas: The increase in defense spending, which is by far the biggest, the increase in homeland security, and the response to the attack.

Here is what has happened to the debt under the President's plan. The debt is taking off like a scalded cat; again, right before the baby boomers retire. The problem I see with the budget the President has put before us is there is no real progress on reducing the increases in the debt. The President says he is going to cut the deficit in half, but that is only because he leaves out whole areas of expenditures. But if you look at increases in the debt, what you see is quite a different picture. The debt keeps getting increased under the President's plan by $600 billion a year, each and every year, for as far as the eye can see. At the end of the budget period it is increasing by $700 billion.

The Senator from Nevada says we have to get back to reducing the deficit so we stop accumulating debt and so we are in a position to start paying down debt. That isn't where the President's plan takes us.

This is from the President's own budget document.

What it shows is record deficits, the biggest deficits in dollar terms we have ever had, a slight improvement in terms of the so-called unified deficit where all the funds are jackpotted, Social Security money is used to pay for tax cuts and other expenditures. But then look what happens. As the baby boomers retire and the President's tax cuts explode in cost, we are taken right over the cliff. That is the problem with the President's plan. It doesn't add up in the long term. It does not add up in the short term, and it takes us in a very reckless direction, one in which we will not be able to meet the long-term obligations of the country.

With that, I yield the floor and thank the Senator from Washington for being here this evening and for her invaluable contributions to the deliberations of the Budget Committee.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I thank my colleague for his tremendous leadership on the Budget Committee over the years and for his leadership in making sure we do the right thing in terms of deficits and also investments for this country.

I have served on the Budget Committee for the past 11 years, through recessions and economic expansions and during periods of surplus and periods of deficit. I know what responsible budgets look like because I have worked with chairmen from both parties.

I believe this Republican budget doesn't do what we must do to create jobs, improve our security, and to meet our country's needs. I think we can do better. That is why I am speaking out on the floor this evening. It is why I offered amendments in committee last week, and it is why I will be offering amendments on the floor this week.

Mr. President, this is a critical time for our country, and we need a Federal budget that meets our needs. We are facing many challenges today, from supporting our soldiers in Iraq and Afghanistan, to improving our security at home, to recovering all the jobs that we have lost, and addressing the growing deficit.

This budget resolution should help us meet those challenges, but instead it offers the wrong priorities. It favors tax cuts over our Nation's security. It favors boardrooms over classrooms. It favors deficits over job creation. Frankly, this budget offers too little help for families in my State of Washington. My State still has the fourth highest unemployment in the Nation. This budget does not give families in my State the support they deserve as they work to turn our economy around and build for the future.

The people of Washington deserve a real Federal commitment because they work to create jobs and provide health care and improve our security and transportation. On the issues important in my State, this budget comes up short. I am particularly disappointed that the President's budget doesn't fulfill the Federal commitment to secure our ports, care for our veterans, to invest in education, to improve health care, or to provide the infrastructure we need to move our communities forward.

Not only is this budget bad for Washington State, but it is also bad for our country's economic future, lining up massive deficits for years to come. I hear many in the majority speak of the need for "fiscal discipline," but the rhetoric in this budget doesn't meet the reality. This budget continues the fiscal policies that have put our Nation's priorities in jeopardy.

Two weeks ago, Americans learned that the majority's policies are threatening America's retirement security in order to pay for their own irresponsible fiscal policies. Rather than backing away from a misguided economic policy that has cost us millions of jobs, the administration now appears ready to cut Social Security benefits for millions of hard-working Americans. I am not willing to tell the people of my State that they must suffer because of the fiscal mistakes of this administration or this majority in the Congress.

I want to turn to a few of my top concerns with this budget: port security, veterans, education, health care, and transportation.

In Washington State, we depend on our ports. One in 4 Washington jobs rely on international trade, and our ports are critical economic engines. Unfortunately, as we all know, in today's world, America's ports are vulnerable. A terrorist attack launched on or through our ports could bring our commerce to a standstill, threatening lives and jobs and really our economic future. We have an obligation to improve the security of our ports.

Unfortunately, this budget tells our communities that the Federal Government will not be a full partner in port security. This budget literally sticks our local ports and communities with unfunded mandates at a time when local and State budgets are already stretched incredibly thin.

The President's budget undermines port security in 4 ways:

First of all, it eliminates Operation Safe Commerce.

Second, it underfunds the Maritime Transportation Security Act by 93 percent.

Third, it doesn't provide the Coast Guard with the funding it needs to meet its growing missions.

Finally, the President's budget cuts port security grants by 63 percent.

Last week in the Budget Committee markup, I offered an amendment to stop the President's cut to port security grants. My amendment failed on a party-line vote. This fight is not over. I will continue to push this White House to pay its share of port security instead of passing those bills on to our local communities.

Mr. President, this budget also shortchanges our veterans. Washington State is home to more than 670,000 veterans today. They rely on services they were promised when they signed up for service to our country. But the President's budget is $2.6 billion below the independent budget recommendation for the VA.

The VFW, in fact, called the President's budget "harmful to veterans." The Disabled American Veterans called it "utterly disgraceful."

This is the wrong message to send at a time when the next generation of combat veterans is today risking their lives in Iraq and Afghanistan.

Last week, I offered an amendment in the Budget Committee to increase the VA construction account by $400 million. Last year, Congress authorized the VA to take money out of its health care budget for these construction projects that will begin in this fiscal year. Unless we can increase that construction account, our veterans are going to face a $400 million cut in their health care services.

The amendment I offered in committee would have protected our veterans from that cut. Unfortunately, the veterans amendment was defeated in the committee on a party-line vote.

Our American veterans deserve better, and I will keep fighting for them.

Let me talk about education. I really believe this budget fails, as we all know, to provide the funding that was promised in the No Child Left Behind Act. This Republican budget comes up $8.6 billion short of what our local schools need to fully fund No Child Left Behind. I represent nearly 28,000 Washington State students who will be denied title I services this year under the President's budget request.

The President's budget falls $84 million short of the title I funding that was promised to my State under the No Child Left Behind Act.

The President's budget also freezes funding for impact aid, dropout prevention, school counseling, afterschool programs, teacher quality, migrant education, and rural education.

How can we expect our students and teachers to succeed when we fail to provide them with the resources they need? That is why I offered an amendment to provide $8.6 billion to help our local schools implement the No Child Left Behind Act.

Once again, in committee my amendment failed on a party-line vote. We cannot expect our schools to do everything we required of them under the No Child Left Behind Act without the support we promised to them.

Let me talk about health care. I believe this budget also seriously jeopardizes health care for many in my home State of Washington. This budget could jeopardize critical support for community health centers, the community access program, NIH, and the CDC.

This budget also reduces our commitment to Medicaid. That is a program we should be expanding and strengthening to address the rising number of uninsured and increasing costs of health care.

Today, Washington State is struggling to keep its commitment to low-income children through the Medicaid and CHIP programs. Medicaid cuts could result in another 74,000 uninsured individuals in my home State alone. We need more help from the Federal Government and, frankly, this budget falls short.

Finally, let me say a word about transportation. Less than a month ago, this Senate passed a strong, bipartisan bill to invest in our Federal highways, transit, and transportation safety programs for the next 6 years. Unfortunately, despite the overwhelming support of the Senate, the budget that we see now before us today cuts $62 billion for investment in our surface transportation needs. That is about jobs and about economic growth.

It is estimated that for every $1 billion we spend on transportation infrastructure, we create over 47,000 good paying family wage jobs.

We know that investing in our transportation priorities today will help us not only improve our quality of life but will provide for our future economic growth. If this Congress truly cares about investing in jobs, we will provide the funding agreed to by the Senate less than 1 month ago today.

As I see it, as this budget is written today, it fails our families in areas such as security, veterans, education, health care, and transportation. I am hopeful that we can improve this resolution through the amendment process this week and really create a budget that makes the right investments, that is fiscally responsible, and reflects the priorities of working families across this country.

I look forward to working with my colleagues throughout this week to address those issues.

I thank the Chair, and I thank the Senator from North Dakota for his work. I see the chairman of the Budget Committee. I know this is the last budget he will shepherd through the Congress. I thank him for his commitment to our country as well.

The PRESIDING OFFICER. Who yields time? The Democratic leader.

Mr. DASCHLE. Mr. President, I wish to speak to the budget resolution for a couple minutes, if I can. I know we are getting closer to the end of the day. This budget, obviously, maps out this Nation's fiscal present and future in great detail, but this budget, as all budgets, is more than about numbers. It is about choices. The choices we make in a budget tell us who we are and what we value as a nation.

Unfortunately, the budget resolution brought to the floor by our Republican colleagues, like the budget proposed by President Bush last month, makes the wrong choices, sets the wrong priorities, and fails to prepare our Nation for the challenges we will face in the future.

Since President Bush took office, 3 million private sector jobs have been lost. Today, 8.2 million Americans are out of work, and the number of long-term unemployed is at the highest point in 20 years. But even with so many Americans looking for work, the Republican budget fails to provide a strategy for creating new jobs.

Nearly 60,000 veterans are on waiting lists for care at veterans hospitals. When our troops fighting in Iraq and Afghanistan return home, the lines could get even longer. But despite the extraordinary sacrifices our soldiers have made for us, the Republican budget offers veterans only longer waits and higher fees.

School districts across the country are facing an early end to classes because they do not have the resources to offer students a full year of learning. Despite the strain on local school budgets and the promises the President made in the No Child Left Behind Act, the Republican budget falls $9.4 billion short of their commitment and leaves millions of children behind in the process.

Al-Qaida and other terrorist groups are still plotting against Americans and still capable of carrying out catastrophic attacks on American soil. Despite CIA Director Tenet's warnings of continuing threats, the Republican budget fails to provide our first responders and port officials the resources they need to make us more secure.

Our Nation is at war, our economy is flagging, our schools are struggling, and our Government is facing record deficits as far as the eye can see. Despite the tremendous challenge our Nation faces, this budget inexplicably proposes a staggering $1.3 trillion in new tax breaks primarily for those at the very top.

When President Bush took office, he inherited record surpluses that ensured a rock solid fiscal foundation for a generation to come. But in 3 years, due to these reckless policies and irresponsible choices, this administration has steered our country toward an unprecedented fiscal meltdown. Rather than try to repair the damage caused by these policies, this budget continues these policies and digs an even deeper hole.

This is not an accident. It is becoming increasingly clear that supporters of these policies have pursued them knowing that—some would say hoping—the record deficits would unravel the Nation's retirement security net.

Three years ago, the administration and Republicans tried to obfuscate this fact with budget gimmickry. During the 2000 campaign and numerous times since then, the President assured us that under his watch none of the Social Security surplus would be used to fund other spending initiatives or tax relief. But late last month, Federal Chairman Alan Greenspan blew the cover off this budget strategy. He, too, said, in 2001, that the President's tax breaks would not endanger Social Security, but now that the deficits caused by the tax breaks are unmistakable, Chairman Greenspan and the Republican leadership say it is Social Security that must be cut rather than the tax cuts that drove us into deficits in the first place.

In the face of the unending flow of red ink, President Bush publicly shifted his position as well. When asked his opinion of Chairman Greenspan's comments, President Bush responded:

> My position on Social Security benefits is this: Those benefits should not be changed for people at or near retirement.

The President appears to be indicating that cutting Social Security benefits for the coming generation of retirees, including the baby boom generation, is an option he is prepared to take. The choice many of our colleagues are making is now apparent for all of us to see. They are choosing tax breaks for the wealthy elite over a strong Social Security system upon which every American can depend.

Democrats have a different set of priorities. In the course of the coming debate, we plan to offer a series of amendments aimed to repair our fiscal problems, keep the promises made to our seniors and veterans, and prepare our country for the challenges of the future. Each amendment will fix a glaring weakness in the Republican budget, and each will be fully paid for. In fact, most will actually reduce deficits that the budgets have created.

First, we will offer an amendment to strengthen Social Security. As I noted earlier, when President Bush was elected, he promised not to touch the trust fund. The administration flip-flopped on that promise, and in the last 3 years has taken $550 billion from Social Security to pay for the tax breaks. But they are not done yet. According to the Congressional Budget Office, the Republican budget spends every penny of the 10-year $2.4 trillion Social Security surplus on tax cuts and other Government programs. In other words, in 3 short years, the Republicans have gone from promising not to touch a penny of the Social Security surplus to proposing that we spend all $2.4 trillion to fund their tax breaks and other Government spending.

We believe the Social Security system represents a solemn promise to our seniors, and we will propose an amendment that protects Social Security for generations to come.

Second, we will offer an amendment to help end the jobs crisis and get more Americans back to work. On average, more than 80,000 private sector jobs have been lost each and every month since this President took office. The manufacturing sector alone has lost 2.8 million jobs. We will offer an amendment that encourages the creation of American jobs, discourages shipping American jobs overseas, and provides dislocated workers the assistance they need.

Third, we will offer an amendment to provide the resources necessary to ensure that our veterans receive the care and treatment they deserve. According to CBO, the President's request is $257 billion below last year's level when adjusted for inflation. With 60,000 veterans already on waiting lists for health care and tens of thousands of military personnel scheduled to return home from Iraq and Afghanistan as the newest generation of veterans, this underfunding will only increase an already unacceptable backlog.

Moreover, just as the administration last year, the budget also contains policies—higher fees and copayments—that will drive 800,000 individuals out of the system and make those who choose to stay pay more. When our soldiers in uniform come home from Iraq and Afghanistan, they will deserve a parade, and they will get it. But our obligation to our veterans does not end with the parade. Our amendment will give all Members of the Senate an opportunity to demonstrate their recognition of and appreciation for all these veterans have done for our country.

Fourth, Democrats will offer an amendment to fully fund the Leave No Child Behind law. This law offered schools a deal. It said, if you hold your students to higher standards, we will guarantee you the funding to meet those standards. Schools are holding up their end of the bargain, but the President has reneged.

In the years since the bill was passed, President Bush has failed to request the funding he committed in this legislation. This year, the President's budget request is $9.4 billion short. The Democratic amendment will keep the promise we made to our children. This budget is a portrait of broken promises, bad choices, and misplaced priorities.

At a time when it is critical that we begin to regain a firm fiscal footing, this budget drives us even deeper in the hole. The White House and Republican leadership have chosen to continue their reckless fiscal policy all in the name of providing massive tax breaks to the privileged few and giveaways to special interests. As a result, their budget fails our veterans, our seniors, our children, and millions of Americans who are looking for work. We could do better. We must.

Our Nation has the resources to fulfill our promises to seniors, our veterans, and our schools. We need to make responsible choices. We need to honor the promises we have made. Our budget should reflect the priorities and choices of the American people. Democrats are ready to make sure it does.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I think we are coming closer to concluding the debate tonight. I urge our colleagues to be aware of the fact that this is going to be a busy week. I want to make a couple of comments. I have heard two or three of our speakers say this budget shortchanges veterans and education.

I will throw out a few facts about what this resolution does. Sometimes people say they are referring to the President's budget, or they are referring to something they read in the paper. I will just throw out a few facts. The total amount of money we anticipate spending in education, mandatory and discretionary, is $68 billion. That is a 9-percent increase over last year, mandatory and discretionary combined. People are acting as if there were significant cuts.

I also refer back to what we were spending in the year 2000. Today, it is at $97 billion. So it has almost doubled since the year 2000, and yet we hear a lot of people saying we are cutting education like crazy. Education has grown, and grown dramatically in the last few years. Those are just a couple of the facts. That includes mandatory and discretionary.

On the discretionary side, we are anticipating a little over $3 billion increase between 2004 and 2005. That is in the resolution, and people should know that.

I have also heard some comments on veterans. I will restate the facts. What we are assuming in our resolution is an increase of 14.3 percent for veterans, mandatory and discretionary, between 2004 and 2005. That is a big increase.

Keep in mind, both in education and nondefense we are assuming very close to a freeze, but we are assuming a big increase for veterans, primarily on the mandatory side.

Congress did a lot of things last year to increase payments to veterans, including current receipts. So when we add all of these things together on the discretionary side, we are assuming over a $1.4 billion increase, most all of that for medical care. Again, medical care has risen dramatically over the last several years. We are looking at programs that have been expanding dramatically. Let me mention a few figures.

In the year 1990, on the discretionary side for veterans, we spent $13 billion. In the year 2000, 10 years later, we spent $20 billion. Today we are forecasting $30.5 billion. So it took 10 years, from 1990 to the year 2000, for discretionary spending for veterans to go up $7.9 billion. Now, from the year 2000 to the year 2005, 5 years, it has gone up another 50 percent.

People say you are shortchanging veterans. Maybe no matter what figure we had in the budget there would be those same complaints. Veterans, if you add discretionary and mandatory, we have a 14.3-percent increase, if you add the two. Combined, discretionary and mandatory, $61.45 billion to $70.2 billion, there is a 14.3-percent increase. Yet I have heard three or four speakers saying we are shortchanging veterans.

I heard one speaker a moment ago say, yes, there are going to be new fees. The budget we have before us did not assume there will be new fees. The President did recommend a proposal increasing the prescription drug copay on priority levels 7 and 8, from $7 to $15. Those are mostly nonservice-connected disabled and high-income veterans. I think a very good argument can be made they should have a higher copay. That is not assumed in our budget.

We also did not include the proposal to establish a $250 deductible, again on levels 7 and 8 nonservice-connected disabled and high-income veterans.

Those two proposals were not included; yet I have heard two or three speakers already allude to them, so I thought we should point that out.

We have significant increases for both education and for veterans. I urge our colleagues to become aware of that before they say they are going to offer amendments to increase funding because we are shortchanging education or shortchanging veterans. I think we are fair. Given the amount of deficit we have, I think we have very generous increases in both functions, and I urge our colleagues to look at that before they say, no matter what that figure is, they are going to be voting for more money. I think that would be a mistake.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO BRAD SEELY

Mr. DASCHLE. Mr. President, Brad Seely is a South Dakota native who was a standout player at my alma mater, South Dakota State University. He has since developed into one of the best special-teams coaches in the National Football League. When another South Dakota native, Adam Vinatieri, kicked the Super Bowl-winning field goal, it was the culmination of a lot of great coaching and coordination under the leadership of Brad Seely.

Brad has long been an outstanding coach, serving with the Indianapolis Colts, New York Jets, and Carolina Panthers. Since 1999, Brad has been a member of the New England Patriots coaching staff and has played an integral role in the organization's two titles in the past 3 years. Prior to his career in the NFL, Brad coached throughout the college ranks at Colorado State, Southern Methodist, North Carolina State, Pacific, and Oklahoma State.

It is my great pleasure to honor Brad today. He has been a key part of the New England Patriot's success and has made his home State proud.

TRIBUTE TO LARRY JOHNSON

Mr. REID. Mr. President, I rise today to comment on a prestigious conservation award that will be bestowed upon Larry Johnson of Reno, NV later this week.

Larry is an environmentalist in the most positive sense of the word. He is a sportsman in the most positive sense of the word. He tirelessly invests his time, energy, money and passion in the protecting, restoring and enhancing Nevada's environment. He knows that the environment is synonymous with wildlife habitat, and that natural ecosystems support the fish and game he values so dearly.

As a trustee of the Eastern Nevada Landscape Coalition, Larry has worked to restore the native habitats of the Great Basin. This involvement also reflects his understanding that Nevadans can work together, through collaboration and innovative partnerships, to make our public lands better for wildlife, better for fish, and better for people.

Larry Johnson is a conservationist. He works hard to ensure that we actively manage Nevada's landscape. He holds public land managers and State wildlife officials accountable, but he also views them as allies. For example, he builds "guzzlers" where big game can find water in the desert, and he serves on resource advisory counsels for the Bureau of Land Management.

Indeed, Larry is famous throughout Nevada for his tireless work on behalf of our desert bighorn sheep. He is a trustee and longtime member of the board of directors of Nevada Bighorns Unlimited. He raises money, he donates money, and he donates his valuable time and expertise to the noble goal of enhancing bighorn sheep habitat, and preserving the wonderful heritage of the American West.

Larry is a man of principle, a man of ideas, a man of action, and a man exceptionally worthy of the Wayne E. Kirch Nevada Wildlife Conservation Award.

He is a great citizen, a great Nevadan, and a great American.

Chief Seattle once said: "we do not inherit the Earth from our parents, we borrow it from our children." Larry Johnson fulfills our responsibility to be good stewards of the planet we will pass along to future generations.

Because of his dedication to conservation, our children will enjoy a richer legacy of wildlife and recreational opportunities.

Today I congratulate Larry Johnson for this much-deserved recognition of his work to preserve Nevada's natural heritage.

UNITED STATES-JAPAN TAX TREATY

Mr. LUGAR. Mr. President, I rise today in strong support of ratification of the United States-Japan Tax Treaty. As chairman of the Foreign Relations Committee, I held a hearing on this treaty on February 25, where the committee heard testimony on the treaty's benefits from the Treasury Department, the National Foreign Trade Council, and the United States-Japan Business Council. Our committee voted to approve the treaty, along with several other items, by a vote of 19 to 0 at a business meeting last week.

The Japan Tax Treaty is particularly significant due to our expansive trade and investment relationship with Japan. The United States and Japan are the two largest economies in the world, and account for approximately 40 percent of the world's gross domestic product. Japan is the fourth largest source of imports to the United States and the third largest export market for United States goods. The treaty, signed on November 6, 2003, by Treasury Secretary Snow and Japanese Ambassador Kato, will improve the ability of United States businesses to expand and prosper in Japan. It also will continue to encourage Japanese investment in the United States that contributes to the growth of our economy.

The original Japan Tax Treaty was signed in March 1971 and went into force in January 1973. Since then, both United States and Japanese domestic tax laws have changed dramatically. Until now, the 1971 treaty has not been amended to reflect those changes or the monumental expansion of the United States-Japanese commercial relationship.

American companies doing business with Japan are eager for this update of the bilateral tax treaty. It will guarantee more equitable treatment for United States corporate investors and relief from double taxation; it will strengthen dispute resolution mechanisms related to tax issues between our countries; and it will eliminate withholding taxes on all royalty income, certain interest income, and dividend income paid to parent companies.

The overall benefit of the treaty is that our companies will become more competitive in the Japanese market. Japan is currently a party to tax agreements with several other nations that reduce double taxation for companies from those nations doing business in Japan. Consequently, without this treaty, United States businesses will continue to face a competitive disadvantage in the area of taxation.

Following transmittal to the Senate this past December, the Foreign Relations Committee engaged in a thorough review and analysis of the treaty. Officials from the Department of Treasury briefed the committee extensively on the impact of the treaty on business relations between the United States and Japan. The committee also consulted with numerous commercial entities with operations in Japan. These entities all have indicated that the treaty will make them even more competitive in a market where they already are successful. In addition, the committee has had meetings with commercial officers from the Japanese Embassy to discuss ratification and implementation of the treaty.

I understand that the timing of enactment of the Japan Tax Treaty is critical. Therefore, I have prioritized it on the Foreign Relations Committee's agenda, and I am grateful to the majority leader for bringing it quickly to the Senate floor. I also have written to the Japanese Finance Minister and leaders of the Diet to encourage them to join us in acting swiftly to bring the treaty into force.

I want to take this opportunity to thank the Treasury Department and its International Tax Counsel Barbara Angus both for their work in producing this agreement and for their cooperation with the Foreign Relations Committee during the treaty's consideration. I would also like to salute the business community, and in particular the National Foreign Trade Council and the United States-Japan Business Council for their leadership and advocacy on behalf of this treaty.

Mr. President, this treaty is good for the United States and good for our relationship with Japan. I urge my colleagues to vote to ratify it.

CIVIL COPYRIGHT ENFORCEMENT

Mr. LEAHY. Mr. President, with the advent of the digital age, we had great hopes that the possibility of distributing music, films, books, and software on the Internet would bring us an unprecedented variety of content online with ever-increasing ease. Unfortunately, those hopes have not yet been realized. The very ease of duplication and distribution that is the hallmark of digital content has meant that piracy of that content is just as easy. The very real—and often realized—threat that creative works will simply be duplicated and distributed freely online has restricted, rather than enhanced, the amount and variety of creative works one can receive over the Internet. Part of combating piracy includes offering a legal alternative to it. Another important part is enforcing the rights of copyright owners. Senator HATCH and I have been working with artists, authors, and software developers to create an environment in which copyright is protected, so that we can all enjoy American creativity, and so that copyright owners can be paid for their work.

In the coming months we will be discussing numerous responses to this problem. One critically important part of the attack on this problem will be to bring the resources and expertise of the United States Attorneys' Offices to bear on wholesale copyright infringers. For too long these attorneys have been hindered in their pursuit of pirates, by the fact that they were limited to bringing criminal charges with high burdens of proof. In the world of copyright, a criminal charge is unusually difficult to prove because the defendant must have known that his conduct was illegal and he must have willfully engaged in the conduct anyway. For this reason prosecutors can rarely justify bringing criminal charges, and copyright owners have been left alone to fend for themselves, defending their rights only where they can afford to do so. In a world in which a computer and an Internet connection are all the tools you need to engage in massive piracy, this was an intolerable predicament.

Some steps have already been taken. The Allen-Leahy amendment to the Foreign Operations Appropriations bill, on Combating Piracy of U.S. Intellectual Property in Foreign Countries, provided $2.5 million for the Department of State to assist foreign countries in combating piracy of U.S. copyrighted works. By providing equipment and training to law enforcement officers, it will help those countries that are not members of OECD, Organization for Economic Cooperation and Development, to enforce intellectual property protections.

Senator HATCH and I are investigating another needed response to this problem that would give the Attorney General the authority to bring a civil action against copyright infringers. This authority would not supplant either the criminal provisions of the Copyright Act, or the remedies available to the copyright owner in a private suit. Rather, it would allow the Government to bring its resources to bear on this immense problem, and to ensure that more creative works are made available online, that those works are more affordable, and that the people who work to bring them to us are paid for their efforts.

We hope to introduce a bill on this matter soon, and we look forward to continuing our efforts to bring our country's law enforcement tools into the 21st century, just as our technologies have advanced.

INTERNATIONAL WOMEN'S DAY

Mrs. FEINSTEIN. Mr. President, I rise today, on International Women's Day, to recognize the contributions that women have made to our world. Today, we commemorate the lives of women, the work that women have done, the sacrifices that women have made, and the progress that women have achieved.

The past year was a very important one for advancing the rights of women. In Iraq, American women in the armed services played an integral part to the war effort and Iraqi women have now been given a much greater role in governing their country.

In Afghanistan, women have rights and liberties not experienced for years. Women and girls are returning to schools and colleges and rejoining the workforce.

Unfortunately, for many women around the world, the past year has not improved their ability to control their own lives. In many countries around the world, women earn less than men for performing the same tasks. In some countries, women are prohibited from owning property or from receiving the same education as men. And many women do not have the same access to health care that men have.

On this day, we must reaffirm our dedication to women's rights; we must strive to ensure that all women and girls have every opportunity to improve their lives and to make their own choices.

On this day, I would like to recognize the accomplishments of one woman in particular.

In December of 2003, Shirin Ebadi, an Iranian defense lawyer, became the first Muslim woman to receive a Nobel Peace Prize. She received this honor for her dedication to democracy and human rights.

In 1975, Mrs. Ebadi was the first woman appointed to be a judge in Iran.

After the Iranian revolution, she was forced to resign her post on the court. Since that time, she has fought for an interpretation of Islamic law that reflects the importance of human rights and democracy, not just for men, but for all Iranians. I wish to recognize Mrs. Ebadi's work on behalf of human rights and I wish to congratulate her on winning the Nobel Peace Prize. She is truly a great woman and a great human being.

I would also like to take some time today to focus on a number of areas where women have made recent progress and some areas that still require significant change.

The liberation of Iraq has been a great step forward for Iraqi women. Today, the Iraqi Governing Council has agreed on an interim constitution. The constitution, also known as the Transitional Administrative Law, has a number of provisions that protect women's rights. For example, the Transitional Administrative Law requires that no less than 25 percent of the members elected to the Transitional National Assembly be women. The new constitution also states that Iraqis are equal without regard to sex, sect or religion.

To ensure that the rights of women in Iraq are not violated, the Coalition Provisional Authority and USAID worked together to establish a women's rights center. This is the first of five centers that will be established throughout Iraq. The center is open to all women and offers a range of opportunities including literacy classes and English-language training, nutrition and health classes, computer skills training, and courses on living in a democracy. The center will also provide assistance for widowed or impoverished women.

While there has been progress, we must remain vigilant in our defense of women's rights in Iraq.

Since President Bush declared major combat operations over, extremist Muslims have tried to suppress women's rights. In December, a group of Shiite members of the Iraqi Governing Council passed Resolution 137, a resolution that would have required the use of Sharia, or Islamic law that limits the rights and opportunities of women. Fortunately, the Iraqi Governing Council cancelled Resolution 137 on February 27, 2004.

With the fall of the Taliban, many people felt that the situation for women in Afghanistan would improve. While Afghanistan's new constitution contains human rights provisions and mandates better political representation of women, new rules on female education in the Afghan province of Herat prevent men from teaching women or girls. The rules also uphold strict gender segregation in all schools.

Repression of women is still commonplace in Afghanistan. Let me quote from a recent report issued by Human Rights Watch. The report says:

> . . . one year after the Taliban's fall, women and girls in Afghanistan still face severe restrictions and violations of their human rights, for in many areas Taliban officials have been replaced by warlords, police officers, and local officials with similar attitudes toward women. In some parts of the country, the same officials who administered the anti-women policies of the Taliban remain in their positions. This has meant the reimposition of extremely repressive social codes that typically have a devastating impact on women.'

So much more needs to be done on behalf of women in Afghanistan.

Another year has gone by and the United States still has not yet ratified the Convention to Eliminate All Forms of Discrimination Against Women. As Americans, we can no longer afford to ignore this important document and put in jeopardy our status as a leader in advancing human rights for women and girls.

Given that it has been over 20 years since President Carter signed the Convention, one might think that the delay in ratification is due to the fact we are dealing with a treaty that requires years of study and consideration.

Yet the Convention simply requires that participating states take all appropriate steps to eliminate discrimination against women in political and public life, law, education, employment, health care, commercial transactions, and domestic relations.

The United States is one of the only leading democracies in the world that has yet to ratify this important treaty. In fact, our partners outside the Convention include Iran, North Korea, and Sudan. Are these countries with whom we share the values of democracy, freedom, and respect for human rights? Are those the countries we can count on in the international arena?

Women and girls around the world who turn to the United States for leadership in advancing their rights are mystified that we do not take the simple step of ratifying the Convention. When we do, the sky will not fall, the sun will rise in the morning, and the Constitution will still be the law of the land.

By ratifying the Convention, the United States will reclaim its leadership status as a champion of the rights of women and girls and send a strong signal to those states who abuse those rights.

On International Women's Day, I call on my colleagues in the Senate to move forward and ratify the Convention.

While women have made great strides internationally in recent years, abuse of women remains a global problem. Worldwide, it is estimated that 1 in 3 women is abused or sexually assaulted in her lifetime. And anywhere from 20 to 50 percent of women worldwide have experienced some type of domestic violence. These numbers are astounding.

Even in the United States, certainly a leader in promoting women's rights, a woman is battered every 15 seconds and battering is the leading cause of injury to women between ages 15 and 44. On average, 3 women are murdered by their husbands every day in the United States. And as many as 750,000 women and children have been trafficked into the United States over the last decade. Certainly, we must do more at home to protect women from domestic and sexual abuse.

On International Women's Day, the United States must also reaffirm its commitment to combating HIV/AIDS, an epidemic that has had devastating effects on women and girls.

Transmission of HIV from men to women is twice as likely as transmission from women to men and the International Center for Research on Women has shown that there is a high correlation between violence against women and HIV infection.

The impact that this disease has had on the lives of women is shocking. In 2002, 2 million women were infected with HIV and 1.2 million women died from AIDS-related illnesses. Young women, ages 15–24, represent 66 percent of people with HIV in the 14 most-afflicted countries designated in the President's Emergency Plan for AIDS Relief. Teenage women in Sub-Saharan Africa are five or six times more likely to contract HIV than teenage males. This is truly a women's issue that must be addressed.

Mr. President, on this day, we honor women. On International Women's Day, the United States and the international community must take a strong stand and issue a clear warning to those who attempt to rob women of basic rights—the world's governments will no longer ignore these important issues.

ADDITIONAL STATEMENTS

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

HONORING DOTTIE POTTER

• Mr. JOHNSON. Mr. President, I wish to recognize the contributions and accomplishments of a dedicated journalist serving readers in my State of South Dakota. For years, Dottie Potter has served as a reporter covering important news impacting South Dakota's Native American population. As a writer for the Indian Country Today and the Lakota Nation Journal, Dottie is truly a credit to her profession.

She has worked hard over the years to educate the general population of the talents, accomplishments and skills of Native Americans in South Dakota. Dottie has helped educate and inform thousands of readers. I have always respected her professionalism and skill as a journalist, and her sensitivity to the issues affecting her readers.

Her tireless efforts to dig for details and to explore all sides of particular issues symbolizes her dedication to the field of journalism. She is a well-respected reporter in South Dakota. But she is also well-known for her empathy and care when writing human interest stories. Dottie has delivered stories to her readers on almost every topic, from those that involved the road to success for a favorite son or daughter to words of wisdom from a tribal elder to the plight of South Dakota Indian families.

Among the many awards she has received over the years, she received the South Dakota Education Association Golden Apple Award in October of 2002, in recognition of outstanding media coverage of public education issues and events in South Dakota.

Dottie now works on a personal story, a fight to overcome cancer. A reporter to the core, Dottie continues to make an impact on her community. With remarkable spirit and bravery, she still works as a reporter with Lakota Nation Journal as she educates, entertains and informs readers. Her fight against cancer serves as an inspiration to others.

I congratulate and commend Dottie Potter on her many years as a journalist. Her body of work serves as a long-standing tribute to her commitment to the Native American populations of South Dakota and the Nation.●

LOCAL LAW ENFORCEMENT ACT OF 2003

● Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On May 6, 1999, in Santa Clarita, CA, two men were charged with suspicion of committing a hate crime after they allegedly burglarized a residence and beat three gay men.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.●

TRIBUTE TO MARY F. DIAZ

● Mr. KENNEDY. Mr. President, last month, this Nation suffered the tragic loss of one of its most effective and most compassionate advocates for women and children throughout the world.

Mary Diaz was only 43 when she died on February 12 in New York after a long battle of cancer. I know she will be profoundly missed by all who knew her and worked with her and were helped by her.

For the last 10 years, Mary was executive director of the Women's Commission for Refugee Women and Children, an affiliate of the International Rescue Committee. She was there whenever she was needed and wherever she was needed—in Serbia or Angola or Rwanda or Pakistan or Nepal or Haiti and in many other places, often putting her own safety at risk to see firsthand the hardships of women and children displaced by war or fleeing persecution.

After each of her travels, Mary would return and eloquently share the stories of those she saw who needed help the most. She met with lawmakers and government agencies to urge them to respond. She worked with President Clinton to create a fund for refugee women in Bosnia. Visiting Tanzania, she worked to change the rules allowing Burundian women to distribute food with the men. Even in the all too short time she had, Mary inspired us all with her dedicated and tireless work on behalf of the disenfranchised.

It is easy to see where Mary learned her passion for helping others. Her father was a doctor and her mother is a nurse. Her two brothers are doctors. One sister is an inner-city teacher and another is a librarian. After studying international relations at Brown University, Mary worked for a television station in Philadelphia and volunteered in her free time to help refugees settle in the city. As her interest in helping refugees grew, she enrolled at Harvard to pursue a master's degree in international education. A few years later, she became director of refugee and immigration services for Catholic Charities in Boston.

She was always there to help. Once, when 112 Haitian children arrived in Boston on a military plane, Mary was there to greet them with a friendly face. The children had lost contact with their families. They were barefoot, in a country they had never seen before. Mary comforted them, and took them to eat at a local restaurant called Buzzy's Fabulous Roast Beef. After that, she took them to a local swimming pool, and then she began the effort to reunite them with their families or place them in foster care. Stories like this about Mary are well known to all her colleagues.

Last year, Mary was honored for her work in protecting the rights of refugee women by Rudd Lubbers, the United Nations High Commissioner on Refugees. When Commissioner Lubbers learned of Mary's death, he spoke for us all when he said that it "left a void in the refugee and humanitarian world, where she touched many lives."

Sadly, Mary died too young. But she made the world a better place, and we will always have our warm memories of her and her inspiring legacy to guide us as we carry on her mission.●

REMEMBERING RICHARD PARSONS

● Mr. COCHRAN. Mr. President, on February 16, 2004, a good friend of mine and a distinguished farm leader from my State was a victim of heart failure. At the age of 56, Richard Lynn "Rick" Parsons died at his home in Vance, MS, where he managed a family farming operation and served in numerous capacities of leadership for his community and the State.

Rick was a native of Water Valley, MS. He was an elder at the Sumner Presbyterian Church and a member of the local Rotary Club. In 2001, he was appointed by President George W. Bush and served with distinction as a member of the State Farm Service Agency Committee, which oversees the implementation of Federal farm programs in Mississippi. Rick was also a leader in Delta Council and the National Cotton Council, in addition to being on the Board of Directors of Delta Wildlife and Delta F.A.R.M., which are local organizations that promote wildlife conservation on the farm.

Additionally, Rick Parsons was selected to represent Mississippi as a finalist in the Southeastern Farmer of Year competition, and he was elected by his peers to serve on the board of directors for the successful Mississippi Boll Weevil Management Program and the Cotton Leadership Program for the National Cotton Council.

Rick was an unselfish and dedicated leader on behalf of agriculture in Mississippi. My office always relied on his sound judgment and good counsel in matters which affected farmers. We extend to his wife Carlisle, his son Scott, and the entire Parsons family our sincerest condolences.●

HONORING THE AMADOR VALLEY HIGH SCHOOL CIVICS TEAM

● Mrs. FEINSTEIN. Mr. President, on May 1–3, 2004, more than a 1,000 students from across the United States will converge on Washington, DC to compete in the national finals of the We the People: The Citizen and the Constitution program. Administered by the Center for Civic Education, the We the People program has a primary goal of promoting civic competence and responsibility among our Nation's elementary and secondary school students. It is the most extensive educational program in the country designed to educate young students about the Constitution and the Bill of Rights, and since its inception in 1987, more than 26 million students and 86,000 educators have participated.

I am very proud to announce that Amador Valley High School in

Pleasanton will represent the State of California in this year's We the People national final. Four years ago I had the honor of recognizing Amador Valley for winning California's contest, and am proud to be able to do so again today. On February 6, this year's class from Amador Valley placed first in California's statewide contest. The school has a rich tradition of excelling in this program, having won California's competition five times from 1992–2000, and even winning the national championship in 1995.

During the national final, the class from Amador Valley will again have to testify as experts before a panel of judges on a wide variety of historical and contemporary constitutional issues. They will also be quizzed by the judges in an effort to illustrate depth of constitutional understanding, and ability to apply that knowledge. The competition is designed to resemble what hearings would be like in the U.S. Congress.

I congratulate the civics class at Amador Valley High School for winning this year's California We the People competition, and wish them best of luck as they conduct research and prepare for the national finals.•

TRIBUTE TO DANIEL L. MIHALKO

• Mr. AKAKA. Mr. President, public service is a long and honored tradition in the United States. Through the dedicated commitment and tireless service of our Nation's Federal workforce, our country is safer and more secure than ever. I wish to take this opportunity to honor one such person, Daniel L. Mihalko, who since January 28, 1978, has served as a postal inspector in the U.S. Postal Inspection Service. After serving as a postal inspector for the past 26 years of his 31-year career with the Postal Service, Inspector Mihalko retired on March 2, 2004.

Inspector Mihalko was known to many in congress as their contact with the Postal Inspection Service in his capacity as the inspector in charge of congressional and public affairs. He was also known to the American public as the face of the Inspection Service when discussing issues such as the anthrax attacks through the U.S. mail in 2001 or pipe bombs in midwestern mailboxes. He professionally represented the Inspection Service in television appearances ranging from shows such as "60 Minutes" and "Larry King Live" to all the major television networks.

In addition to Inspector Mihalko's service as spokesman for the Postal Inspection Service, he was the guiding force behind several high-profile publicity campaigns: Project kNOw Fraud, National Fraud Against Seniors, and Awareness and Operation: Identity Crisis—important educational programs directed at increasing consumer awareness of mail fraud and deceptive mailing practices. His official appearances added to public confidence in the mail, and it is fitting that upon Inspector Mihalko's retirement from the Postal Inspection Service, we take a moment to recognize the Federal agency he promoted so well.

The United States Postal Inspection Service protects the integrity of our Nation's postal system and is one of the country's oldest law enforcement agencies. Founded in 1772 by the first Postmaster General, Benjamin Franklin, the Postal Inspection Service is the primary law enforcement arm of the U.S. Postal Service. Initially the Inspection Service helped regulate and audit postal functions, but in 1830, these functions were expanded and its auditors became special agents. By the late 1800s, special agents were renamed postal inspectors, and, in 1916, solved the last known stage-coach robbery in the United States. The modern Postal Inspection Service enforces more than 200 Federal laws relating to the U.S. mail, including identify fraud, mail bombs, child pornography, controlled substances, counterfeit stamps, money laundering, robbery, and mail theft. Because of overlapping jurisdictions, postal inspectors work closely with U.S. Attorneys, other law enforcement agencies, and local prosecutors to investigate postal cases and prepare them for court. Inspectors are aided in their work through five regional forensic crime labs strategically located throughout the United States which support field office operations.

As the former chairman of the Senate Postal Subcommittee, I have had the privilege of supporting this distinguished Department and have had to postal inspectors/attorneys as detailees on my staff. Inspector Mihalko is a fine example of the men and women who make up the Postal Inspection Service, and I wish Mr. Mihalko and his family well.•

THE DAUGHTERS OF SUNSET OF SOUTHEAST MISSOURI

• Mr. BOND. Mr. President, I today join with my constituents in recognizing the 20th Anniversary of Daughters of Sunset.

For the last 20 years, the Daughters of Sunset have been instrumental in mini-outreach initiatives in and around the Sikeston, MO area. The membership is a unique group of women dedicated to maintaining a clean and safe community for all. The organization has been successful in its school and summer lunch programs for needy children, community cleanup and revitalization efforts, fire and natural disaster assistance, and transportation programs to aid the sick and elderly. The Daughters of Sunset have also been responsible for assisting the homeless and destitute as well as convey sympathy to bereaved families.

The Daughters of Sunset also have provided 41 academic scholarships, and have publically recognized the efforts of outstanding community leaders in and around Southeastern Missouri. Today, past participants of the organization carry on the tradition of the Daughters of Sunset and continue to participate in communities throughout Missouri, and all over the country.

It is my great honor to recognize the community participants that comprise the Southeast Missouri Daughters of Sunset on this, the twentieth anniversary of the organization. On behalf of the people of State of Missouri, I look forward to 20 more years of leadership and outstanding civic participation from the Daughters of Sunset.•

RECOGNITION OF JIM WANAMAKER

• Mr. COCHRAN. Mr. President, I am pleased to have the opportunity to commend Mr. Jim Wanamaker of Greenville, MS, for his distinguished public service as the chief engineer for the Board of Mississippi Levee Commissioners. Jim graduated from Mississippi State University in 1963 and moved to the Mississippi Delta after serving in the Navy for 2 years. For the past 40 years, he has been a key advocate and one of the most knowledgeable experts in flood control in the Yazoo basin.

Flood control in the Mississippi Delta is fundamental to the quality of life and economic viability of the region. The Mississippi Levee Board has been the local sponsor and a leader in bringing improved flood protection to the citizens, property owners, and communities throughout the region. The Mississippi River Levee Enlargement Project, the Upper Steele Bayou Project, the Big Sunflower River Maintenance Project, and the Yazoo Backwater Project have all benefited from the professional and wise counsel of Jim Wanamaker in his capacity as chief engineer of the Mississippi Levee Board.

Jim has set an excellent example for future generations who aspire to excel in public service. I ask my colleagues to join me in congratulating Jim Wanamaker upon his retirement, which is scheduled later this year, and to thank him for the valuable contributions which he has made toward the quality of life of the citizens in this very important part of our Nation.•

REPORT ON THE INTENT TO ENTER INTO A FREE TRADE AGREEMENT (FTA) WITH THE GOVERNMENT OF MOROCCO—PM 71

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

To the Congress of the United States:

Consistent with section 2105(a)(1)(A) of the Trade Act of 2002 (Public Law 107–210; the "Trade Act"), I am pleased to notify the Congress of my intent to enter into a free trade agreement (FTA) with the Kingdom of Morocco.

This agreement will create new opportunities for America's workers, farmers, businesses, and consumers by eliminating barriers in trade with Morocco. Morocco is one of the United States strongest friends in the Middle East. Increased trade will benefit Americans and help strengthen a tolerant, open, and more prosperous Morocco. Entering into an FTA with Morocco will not only strengthen our bilateral ties with this important ally, it will also advance my goal of a Middle East free trade area (MEFTA) within a decade.

Consistent with the Trade Act, I am sending this notification at least 90 days in advance of signing the United States-Morocco FTA. My Administration looks forward to working with the Congress in developing appropriate legislation to approve and implement this free trade agreement.

GEORGE W. BUSH.
THE WHITE HOUSE, *March 8, 2004.*

REPORT TO THE CONGRESS ON IMPLEMENTATION OF PUBLIC LAW 107–228 AUTHORITY FOR RUSSIAN FEDERATION DEBT REDUCTION FOR NONPROLIFERATION—PM 72

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

Consistent with section 1321 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228), I transmit herewith a report prepared by my Administration on implementation of the debt reduction authority conferred by title XIII, subtitle B of Public Law 107–228.

GEORGE W. BUSH.
THE WHITE HOUSE, *March 8, 2004.*

MESSAGE FROM THE HOUSE

At 12:21 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3752. An act to promote the development of the emerging commercial human space flight industry, to extend the liability indemnification regime for the commercial space transportation industry, to authorize appropriations for the Office of the Associate Administrator for Commercial Space Transportation, and for other purposes.

The message also announced that the House disagree to the amendment of the Senate to the bill (H.R. 3108) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes, and agree to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House:

From the Committee on Education and the Workforce, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Mr. BOEHNER, Mr. MCKEON, Mr. SAM JOHNSON of Texas, Mr. GEORGE MILLER of California, and Mr. ANDREWS.

From the Committee on Ways and Means, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Mr. THOMAS, Mr. PORTMAN, and Mr. RANGEL.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3752. An act to promote the development of the emerging commercial human space flight industry, to extend the liability indemnification regime for the commercial space transportation industry, to authorize appropriations for the Office of the Associate Administrator for Commercial Space Transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

ENROLLED BILL PRESENTED DURING ADJOURNMENT

The Secretary of the Senate reported that on March 5, 2004, she had presented to the President of the United States the following enrolled bill:

S. 2136. An act to extend the final report date and termination date of the National Commission on Terrorist Attacks Upon the United States, to provide additional funding for the Commission, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–6605. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Brucellosis in Cattle; State and Area Classifications; Missouri" (Doc. No. 01–015–1) received on March 4, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6606. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Cattle From Mexico" (Doc. No. 00–112–2) received on March 4, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6607. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Unshu Oranges from Honshu Island, Japan" (Doc. No. 02–128–2) received on March 4, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6608. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Blood and Tissue Collection at Slaughtering Establishments" (Doc. No. 99–017–3) received on March 4, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6609. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Pyripoxyfen; Pesticide Tolerance for Emergency Exemption" (FRL#7345–3) received on March 4, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6610. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Yeast Extract Hydrosate From Saccharomyces cerevisiae; Exemption from the Requirement of a Tolerance" (FRL#7343–9) received on March 4, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6611. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Gellan Gum; Exemption from the Requirement of a Tolerance" (FRL#7344–1) received on March 4, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6612. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, a proposal to amend the Federal Insecticide, Fungicide, and Rodenticide Act; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6613. A communication from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled "Regulation T (Credit by Brokers and Dealers)—List of Foreign Margin Stocks" received on March 3, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–6614. A communication from the Secretary of the Commission, Bureau of Consumer Protection, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled "Prohibition Against Circumventing Treatment as a Nationwide Consumer Reporting Agency, 16 CFR Part 603" (RIN3084–AA94) received on March 2, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6615. A communication from the Acting Assistant Secretary, Land and Minerals Management, Minerals Management Service, transmitting, pursuant to law, the report of a rule entitled "Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Revision of Requirements Governing Outer Continental Shelf Rights-of-Use and Easements and Pipeline Rights-of-Way"

(RIN1010–AC91) received on March 4, 2004; to the Committee on Energy and Natural Resources.

EC–6616. A communication from the Acting Assistant Secretary, Land and Minerals Management, Minerals Management Service, transmitting, pursuant to law, the report of a rule entitled "Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Relief or Reduction in Royalty Rates—Deep Gas Provisions" (RIN1010–AD01) received on March 4, 2004; to the Committee on Energy and Natural Resources.

EC–6617. A communication from the Secretary of the Interior, transmitting, a draft of proposed legislation to direct the Secretary of the Interior to establish a rural water supply program in the Reclamation States for the purpose of providing a clean, safe, affordable, and reliable water supply to rural residents and for other purposes; to the Committee on Energy and Natural Resources.

EC–6618. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Implementation Plans; Designation of Areas for Air Quality Planning Purposes; State of Arizona; Tucson Area; Technical Correction" (FRL#7632–1) received on March 4, 2004; to the Committee on Environment and Public Works.

EC–6619. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Arizona—Maricopa County Ozone, PM–10 and CO Nonattainment Areas; Approval of Revisions to Maricopa County Area Cleaner Burning Gasoline Program" (FRL#7626–1) received on March 4, 2004; to the Committee on Environment and Public Works.

EC–6620. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Commonwealth of Pennsylvania; Control of Emissions from Existing Small Municipal Waste Combustion Units" (FRL#7631–7) received on March 4, 2004; to the Committee on Environment and Public Works.

EC–6621. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Louisiana; Plan for Controlling Emissions From Existing Commercial and Industrial Solid Waste Incinerators" (FRL#7629–6) received on March 4, 2004; to the Committee on Environment and Public Works.

EC–6622. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Delaware: Final Authorization of State Hazardous Waste Management Program Revision" (FRL#7631–4) received on March 4, 2004; to the Committee on Environment and Public Works.

EC–6623. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Effluent Limitations Guidelines and New Source Performance Standards for the Meat and Poultry Products Point Source Category" (FRL#7631–2) received on March 4, 2004; to the Committee on Environment and Public Works.

EC–6624. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines" (FRL#7630–8) received on March 4, 2004; to the Committee on Environment and Public Works.

EC–6625. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks" (FRL#7630–9) received on March 4, 2004; to the Committee on Environment and Public Works.

EC–6626. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–367, "District of Columbia Auditor Subpoena and Oath Authority Act of 2004"; to the Committee on Governmental Affairs.

EC–6627. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–366, "Revised Closing of a Portion of a Public Alley in Square 209, S.O. 02–1019, Act of 2004"; to the Committee on Governmental Affairs.

EC–6628. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–364, "Sexual Minority Youth Assistance League Equitable Real Property Tax Relief Act of 2004"; to the Committee on Governmental Affairs.

EC–6629. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–363, "Crispus Attuks Development Corporation Real Property Tax Exemption and Equitable Real Property Tax Relief Act of 2004"; to the Committee on Governmental Affairs.

EC–6630. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–362, "Used Car Dealership License Moratorium Temporary Act of 2004"; to the Committee on Governmental Affairs.

EC–6631. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–361, "District of Columbia Public Schools Use of the Budget Reserve Funds Temporary Act of 2004"; to the Committee on Governmental Affairs.

EC–6632. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–386, "Captive Insurance Company Temporary Amendment Act of 2004"; to the Committee on Governmental Affairs.

EC–6633. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–360, "Kings Court Community Garden Equitable Real Property Tax Relief Temporary Act of 2004"; to the Committee on Governmental Affairs.

EC–6634. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–385, "Consolidation of Financial Services Amendment Act of 2004"; to the Committee on Governmental Affairs.

EC–6635. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–384, "Tobacco Product Manufacturer Reserve Fund Complementary Procedures Act of 2004"; to the Committee on Governmental Affairs.

EC–6636. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–383, "Health Services Planning and Development Amendment Act of 2004"; to the Committee on Governmental Affairs.

EC–6637. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–370, "Real Property Classification Clarification Act of 2004"; to the Committee on Governmental Affairs.

EC–6638. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–368, "Metropolitan Police Department Educational Requirement Clarification Temporary Amendment Act of 2004"; to the Committee on Governmental Affairs.

EC–6639. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of a D.C. Act 15–351, "December Use of the Cash Reserve Funds Temporary Act of 2004"; to the Committee on Governmental Affairs.

EC–6640. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of a D.C. Act 15–353, "District of Columbia Emancipation Day Parade and Fund Temporary Act of 2004"; to the Committee on Governmental Affairs.

EC–6641. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of a D.C. Act 15–352, "Real Property Disposition Economic Analysis Temporary Amendment Act of 2004"; to the Committee on Governmental Affairs.

EC–6642. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of a D.C. Act 15–350, "Owner-Occupant Residential Tax Credit and Exemption Act of 2004"; to the Committee on Governmental Affairs.

EC–6643. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of a D.C. Act 15–365, "Dedication and Designation of Streets and an Alley in Square 878, S.O. 95–251, Act of 2004"; to the Committee on Governmental Affairs.

EC–6644. A communication from the Deputy Director for Management, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report relative to agency IT security; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate on March 4, 2004, the following reports of committees were submitted on March 5, 2004:

By Mr. NICKLES, from the Committee on the Budget, without amendment:

S. Con. Res. 95. An original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LUGAR for the Committee on Foreign Relations.

*Glyn T. Davies, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador during his tenure of service as the Political Director for the United States Presidency of the G–8.

*Richard S. Williamson, of Illinois, for the rank of Ambassador during his tenure of service as Representative of the United States of America on the Human Rights Commission of the Economic and Social Council of the United Nations.

*Edward E. Kaufman, of Delaware, to be a Member of the Broadcasting Board of Governors for a term expiring August 13, 2006.

*Steven J. Simmons, of Connecticut, to be a Member of the Broadcasting Board of Governors for a term expiring August 13, 2006.

*Feliciano Foyo, of Florida, to be a Member of the Advisory Board for Cuba Broadcasting for a term expiring August 12, 2004.

*Robert Hurley McKinney, of Indiana, to be a Member of the Advisory Board for Cuba Broadcasting for a term expiring October 27, 2004.

*Sanford Gottesman, of Texas, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2005.

*Diane M. Ruebling, of California, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2005.

*C. William Swank, of Ohio, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2005.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

By Mr. LUGAR, from the Committee on Foreign Relations:

[Treaty Doc. 108–14 Taxation Convention with Japan (Exec. Rept. No. 108–9)]

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the Government of the United States of America and the Government of Japan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, together with a Protocol and an Exchange of Notes, signed at Washington on November 6, 2003 (Treaty Doc. 108–14).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CAMPBELL:

S. 2172. A bill to make technical amendments to the provisions of the Indian Self Determination and Education Assistance Act relating to contract support costs, and for other purposes; to the Committee on Indian Affairs.

By Mr. CAMPBELL:

S. 2173. A bill to further the purposes of the Sand Creek Massacre National Historic Site Establishment Act of 2000; to the Committee on Energy and Natural Resources.

By Mr. BUNNING (for himself and Ms. MIKULSKI):

S. 2174. A bill to amend title XIX of the Social Security Act to include podiatrists as physicians for purposes of covering physicians services under the medicaid program; to the Committee on Finance.

By Mr. DODD (for himself, Mr. DEWINE, Mr. SMITH, and Mr. REID):

S. 2175. A bill to amend the Public Health Service Act to support the planning, implementation, and evaluation of organized activities involving statewide youth suicide early intervention and prevention strategies, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BINGAMAN (for himself and Mr. ALEXANDER):

S. 2176. A bill to require the Secretary of Energy to carry out a program of research and development to advance high-end computing; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FEINGOLD (for himself and Mr. KOHL):

S. Con. Res. 96. A concurrent resolution commemorating the 150th anniversary of the first meeting of the Republican Party in Ripon, Wisconsin; considered and agreed to.

ADDITIONAL COSPONSORS

S. 333

At the request of Mr. BREAUX, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 333, a bill to promote elder justice, and for other purposes.

S. 349

At the request of Mrs. FEINSTEIN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 349, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 427

At the request of Mr. AKAKA, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 427, a bill to amend the Homeland Security Act of 2002 to assist States and communities in preparing for and responding to threats to the agriculture of the United States.

S. 430

At the request of Mr. AKAKA, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 430, a bill to amend the Homeland Security Act of 2002 to enhance agricultural biosecurity in the United States through increased prevention, preparation, and response planning.

S. 606

At the request of Mr. GREGG, the names of the Senator from Alaska (Ms. MURKOWSKI) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 606, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

S. 1180

At the request of Mr. SANTORUM, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 1180, a bill to amend the Internal Revenue Code of 1986 to modify the work opportunity credit and the welfare-to-work credit.

S. 1212

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1212, a bill to identify certain sites as key resources for protection by the Directorate for Information Analysis and Infrastructure Protection of the Department of Homeland Security, and for other purposes.

S. 1369

At the request of Mr. AKAKA, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1369, a bill to ensure that prescription drug benefits offered to medicare eligible enrollees in the Federal Employees Health Benefits Program are at least equal to the actuarial value of the prescription drug benefits offered to enrollees under the plan generally.

S. 1487

At the request of Mr. SPECTER, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1487, a bill to require the Secretary of the Army to award the Combat Medical Badge or another combat badge for Army helicopter medical evacuation ambulance (Medevac) pilots and crews.

S. 1523

At the request of Mr. SMITH, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1523 , a bill to amend part A of title IV of the Social Security Act to allow a State to treat an individual with a disability, including a substance abuse problem, who is participating in rehabilitation services and who is increasing participation in core work activities as being engaged in work for purposes of the temporary assistance for needy families program, and to allow a State to count as a work activity under that program care provided to a child with a physical or mental impairment or an adult dependent for care with a physical or mental impairment.

S. 1687

At the request of Mr. BINGAMAN, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 1687, a bill to direct the Secretary of the Interior to conduct a study on the preservation and interpretation of the historic sites of the Manhattan Project for potential inclusion in the National Park System.

S. 1717

At the request of Mr. HATCH, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1717, a bill to amend the Public Health Service Act to establish a National Cord Blood Stem Cell Bank Network to prepare, store, and distribute human umbilical cord blood stems cells for the treatment of patients and to support peer-reviewed research using such cells.

S. 1733

At the request of Mr. KOHL, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1733, a bill to authorize the Attorney General to award grants to States to develop and implement State court interpreter programs.

S. 1755

At the request of Mr. LEAHY, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1755, a bill to amend the Richard B. Russell National School Lunch Act to provide grants to support farm-to-cafeteria projects.

S. 1780

At the request of Mr. BIDEN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1780, a bill to amend the Controlled Substances Act to clarify the definition of anabolic steroids and to provide for research and education activities relating to steroids and steroid precursors.

S. 1813

At the request of Mr. LEAHY, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 1813, a bill to prohibit profiteering and fraud relating to military action, relief, and reconstruction efforts in Iraq, and for other purposes.

S. 2011

At the request of Mr. HAGEL, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 2011, a bill to convert certain temporary Federal district judgeships to permanent judgeships, and for other purposes.

S. 2076

At the request of Mr. BAUCUS, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 2076, a bill to amend title XI of the Social Security Act to provide direct congressional access to the office of the Chief Actuary in the Centers for Medicare & Medicaid Services.

S. 2096

At the request of Mr. LUGAR, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 2096, a bill to promote a free press and open media through the National Endowment for Democracy and for other purposes.

S. 2100

At the request of Mr. MILLER, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 2100, a bill to amend title 10 United States Code, to increase the amounts of educational assistance for members of the Selected Reserve, and for other purposes.

S. 2109

At the request of Mrs. FEINSTEIN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2109, a bill to provide for a 10-year extension of the assault weapons ban.

S. 2134

At the request of Mrs. FEINSTEIN, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2134, a bill to authorize the Secretary of Agriculture and the Secretary of the Interior to enter into an agreement or contract with Indian tribes meeting certain criteria to carry out projects to protect Indian forest land.

S. 2157

At the request of Mr. BAUCUS, the names of the Senator from Connecticut (Mr. DODD) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 2157, a bill to amend the Trade Act of 1974 to extend the trade adjustment assistance program to the services sector, and for other purposes.

S. 2158

At the request of Ms. COLLINS, the names of the Senator from New Mexico (Mr. DOMENICI) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 2158, a bill to amend the Public Health Service Act to increase the supply of pancreatic islet cells for research, and to provide for better coordination of Federal efforts and information on islet cell transplantation.

S.J. RES. 28

At the request of Mr. CAMPBELL, the names of the Senator from Kentucky (Mr. BUNNING), the Senator from Mississippi (Mr. LOTT), the Senator from Hawaii (Mr. AKAKA), the Senator from Virginia (Mr. WARNER) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S.J. Res. 28, a joint resolution recognizing the 60th anniversary of the Allied landing at Normandy during World War II.

S. CON. RES. 8

At the request of Ms. COLLINS, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. Con. Res. 8, a concurrent resolution designating the second week in May each year as "National Visiting Nurse Association Week."

S. CON. RES. 90

At the request of Mr. LEVIN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. Con. Res. 90, a concurrent resolution expressing the Sense of the Congress regarding negotiating, in the United States-Thailand Free Trade Agreement, access to the United States automobile industry.

S. CON. RES. 91

At the request of Mr. BROWNBACK, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. Con. Res. 91, a concurrent resolution designating the month of April 2005 as "American Religious History Month."

S. RES. 299

At the request of Mr. CAMPBELL, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. Res. 299, a resolution recognizing, and supporting efforts to enhance the public awareness of, the social problem of child abuse and neglect.

AMENDMENT NO. 2659

At the request of Mr. BUNNING, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of amendment No. 2659 intended to be proposed to S. 1637, a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

AMENDMENT NO. 2661

At the request of Mr. BAYH, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 2661 intended to be proposed to S. 1637, a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

AMENDMENT NO. 2686

At the request of Mr. BUNNING, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of amendment No. 2686 proposed to S. 1637, a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

AMENDMENT NO. 2690

At the request of Mrs. FEINSTEIN, the names of the Senator from Utah (Mr. HATCH), the Senator from Alaska (Mr. STEVENS) and the Senator from Oregon (Mr. SMITH) were added as cosponsors of amendment No. 2690 intended to be proposed to S. 1637, a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CAMPBELL:

S. 2172. A bill to make technical amendments to the provisions of the Indian Self Determination and Education Assistance Act relating to contract support costs, and for other purposes; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, today I am pleased to introduce the Tribal Contract Support Cost Technical Amendments of 2004, a much-needed bill that strengthens the highly successful policy of tribal contracting and compacting under the Indian Self Determination and Education Assistance Act of 1975, Public Law 93-638.

Beginning in 1970, with President Nixon's now-famous Special Message to Congress on Indian Affairs and the 1975 enactment of the Indian Self Determination and Education Assistance Act of 1975, Public Law 93-638, Congress has systematically devolved to Indian tribes the authority and responsibility to manage Federal programs and reassume control over their own affairs.

For good reason, tribal contracting and compacting has been embraced and expanded by Congress and the Executive by repeatedly amending the 1975 Act in 1984, 1988, 1994 and 2000.

Contracting and compacting has resulted in a reduction in the Federal bureaucracy and an improvement in the quality of services delivered to tribal members. Instead of Federal micromanagement, the tribes can tailor programs to unique local conditions and better serve their members.

Unfortunately, the ability of Indian tribes to continue to contract programs and services is severely hampered by the chronic under-funding of contract support costs.

Without such funding, tribes are forced to cut back on services to pay for their administrative costs.

The bill I am introducing today will require the Indian Health Service and the Bureau of Indian Affairs to provide the funds for contract support costs which those agencies negotiated and contracted to pay to their tribal contractors.

I urge my colleagues to join me in supporting this important bill.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2172

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tribal Contract Support Cost Technical Amendments of 2004".

SEC. 2. AMENDMENT DETAILING CALCULATION AND PAYMENT OF CONTRACT SUPPORT COSTS.

The Indian Self-Determination and Education Assistance Act is amended by inserting after section 106 (25 U.S.C. 450j-1) the following:

"SEC. 106A. CONTRACT SUPPORT COSTS.

"(a) Other Federal Agencies.—

"(1) In general.—Except as otherwise provided by law, an Indian tribe or tribal organization administering a contract or compact under this Act shall be entitled to recover its full indirect costs associated with any other Federal funding received by the Indian tribe or tribal organization in accordance with an indirect cost rate agreement between the Indian tribe or tribal organization and the appropriate Federal agency.

"(2) No entitlement.—The right of recovery under paragraph (1) does not confer on an Indian tribe or tribal organization an entitlement to be paid additional amounts associated with other Federal funding described in that paragraph.

"(b) Allowable Uses of Funds.—

"(1) Definition of secretary.—In this subsection, the term 'Secretary' means the Secretary or head of any Federal agency providing funds to an Indian tribe or tribal organization.

"(2) Use of funds.—Notwithstanding any other provision of law (including a regulation), an Indian tribe or tribal organization that is administering a contract or compact under this Act and that employs an indirect cost pool that includes funds paid under this Act and other Federal funds shall be entitled to use or expend all Federal funds in the indirect cost pool of the Indian tribe or tribal organization without the approval of the Secretary in the same manner as is permitted under section 106(j).".

SEC. 3. AMENDMENTS CLARIFYING CONTRACT SUPPORT COST ENTITLEMENT.

(a) Amount of Contracts.—Section 105(c)(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(c)(1)) is amended by striking the second sentence.

(b) Reductions and Increases.—Section 106(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j-1(b)) is amended in the matter following paragraph (5)—

(1) by striking "the provision of funds under this Act is subject to the availability of appropriations and"; and

(2) by adding at the end the following: "In any case in which contract support costs are not provided for, there are authorized to be appropriated such sums as are necessary to pay those costs.".

(c) Contract Model.—Subsection (c) of section 108 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450*l*(c)) is amended in section 1(b)(4) of the model contract set forth in that subsection by striking "Subject to the availability of appropriations, the" and inserting "The".

(d) Applicability to Agreements With the Secretary of the Interior.—Section 408 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458hh) is amended by inserting before the period at the end the following: "(including such sums as are necessary to pay contract support costs, when not otherwise provided for)".

(e) Applicability to Agreements With the Secretary of Health and Human Services.—Section 519 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aaa-18) is amended—

(1) in subsection (b), by striking "the provision of funds under this title shall be subject to the availability of appropriations" and inserting "the provision of funds under this title (excluding contract support costs) shall be subject to the availability of appropriations"; and

(2) by adding at the end the following:

"(c) Necessary Contract Support Costs.—In any case in which contract support costs are not provided for, there are authorized to be appropriated such sums as are necessary to pay those costs.".

SEC. 4. EFFECT ON OTHER LAW.

(a) In General.—Except as provided in subsection (b), this Act and the amendments made by this Act supersede any conflicting provisions of law (including any conflicting regulations) in effect on the day before the date of enactment of this Act.

(b) Exception.— Nothing in this Act shall be construed to alter in any manner the ruling of the United States Court of Appeals for the Federal Circuit rendered on July 2, 2003, in Thompson v. Cherokee Nation, 334 F.3d. 1075 (July 3, 2003).

By Mr. CAMPBELL:

S. 2173. A bill to further the purposes of the Sand Creek Massacre National Historic Site Establishment Act of 2000; to the Committee on Energy and Natural Resources.

Mr. CAMPBELL. Mr. President, today I take great pride in introducing the Sand Creek Massacre National Historic Site Trust Act of 2004, a bill to establish the Sand Creek National Historic Site in Kiowa County, CO.

The bill I am introducing today follows the Sand Creek National Historic Site Establishment Act of 2000, Public Law 106-465, which recognized the tragic events of November 28, 1868 and made it clear that America has the strength and resolve to face its past and learn the painful lessons that come with intolerance.

Much has been written about the horrors visited upon the plains Indians in the territories of the Western United States in the latter half of the 19th century. However, what has been lost for more than a century is a comprehensive understanding of the events of that day in a grove of cottonwood trees along Sand Creek.

This bill I am introducing today builds upon the Act of 2000 and authorizes the Cheyenne and Arapaho tribes of Oklahoma to take the land on which these tragic events took place into trust for traditional, cultural, and historical purposes only.

The indisputable facts are these: 700 members of the Colorado Militia, commanded by Colonel John Chivington struck at dawn that November day, attacking an encampment of Cheyenne and Arapho Indians settled under the U.S. flag and a white flag which the Indian Chiefs Black Kettle and White Antelope were told by the U.S. would protect them from military attack.

By day's end, almost 150 Indians, many of them women, children and the elderly, lay dead. Chivington's men reportedly desecrated the bodies of the dead after the massacre, and newspaper reports from Denver at the time told of the troops displaying Indian body parts in a gruesome display as they rode through the streets of Colorado's largest city following the attack.

The 2000 legislation authorized the National Park Service to enter into negotiations with willing sellers only in an attempt to secure property inside a boundary which encompasses approximately 12,470 acres as identified by the National Park Service for a lasting memorial to events of that fateful day.

The Sand Creek Massacre National Historic Site has come into being because all of those involved have exhibited an extraordinary ability to put aside their differences, look with equal measure at the scientific evidence and the oral traditions of the Tribes, and come up with a plan that equally honors the memory of those killed and the rights of the private property owners who have been faithful and responsible stewards of this site.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2173

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sand Creek Massacre National Historic Site Trust Act of 2004".

SEC. 2. DECLARATION OF POLICY.

To further the purposes of the Sand Creek Massacre National Historic Site Establishment Act of 2000 (16 U.S.C. 461 note; Public Law 106–465), this Act authorizes the United States to take certain land in Kiowa County, Colorado, owned by the Cheyenne and Arapaho Tribes of Oklahoma, into trust.

SEC. 3. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(2) TRIBE.—The term "Tribe" means the Cheyenne and Arapaho Tribes of Oklahoma, a federally recognized Indian tribe.

(3) TRUST PROPERTY.—The term "trust property" means the property described in section 4(b).

SEC. 4. TRANSFER OF LAND HELD IN TRUST FOR THE CHEYENNE AND ARAPAHO TRIBES OF OKLAHOMA.

(a) LAND HELD IN TRUST FOR THE CHEYENNE AND ARAPAHO TRIBES OF OKLAHOMA.—

(1) CONVEYANCE.—Not later than 180 days after the date of enactment of this Act, the Tribe shall convey title to the trust property to the United States.

(2) TRUST.—All right, title, and interest of the United States in and to the trust property, including all improvement on the trust property and appurtenances to the trust property and rights to all minerals, are declared to be held by the United States in trust for the Tribe.

(b) LAND DESCRIPTION.—The trust property is the property formerly known as the "Dawson Ranch", consisting of approximately 1,465 total acres presently under the jurisdiction of the Tribe, situated within Kiowa County, Colorado, and more particularly described as follows:

(1) The portion of sec. 24, T. 17 S., R. 46 W., Colorado Principal Meridian, that is the Eastern half of the NW quarter, the SW quarter of the NE quarter, the NW quarter of the SE quarter, Colorado Principal Meridian.

(2) All of sec. 25, T. 17 S., R. 46 W., Colorado Principal Meridian.

(3) All of sec. 30, T. 17 S., R. 45 W., Colorado Principal Meridian.

SEC. 5. SURVEY OF BOUNDARY LINE; PUBLICATION OF DESCRIPTION.

(a) SURVEY OF BOUNDARY LINE.—To accurately establish the boundary of the trust property, the Secretary shall, not later than 180 days after the date of enactment of this Act, cause a survey to be conducted by the Office of Cadastral Survey of the Bureau of Land Management of the boundary lines described in section 4(b).

(b) PUBLICATION OF LAND DESCRIPTION.—

(1) IN GENERAL.—On completion of the survey under subsection (a), and acceptance of the survey by the representatives of the Tribe, the Secretary shall cause the full metes- and bounds description of the lines, with a full and accurate description of the trust property, to be published in the Federal Register.

(2) EFFECT.—The descriptions shall, on publication, constitute the official descriptions of the trust property.

SEC. 6. ADMINISTRATION OF TRUST PROPERTY.

(a) IN GENERAL.—The trust property is declared to be part of the Indian reservation of the Tribe.

(b) ADMINISTRATION.—The trust property shall be administered in perpetuity by the Secretary in accordance with the law generally applicable to property held in trust by the United States for the benefit of Indian tribes and in accordance with the Sand Creek Massacre National Historic Site Establishment Act of 2000 (16 U.S.C. 461 note; Public Law 106–465).

SEC. 7. RELIGIOUS AND CULTURAL USES.

(a) IN GENERAL.—The trust property shall be used only for historic, religious, or cultural uses that are compatible with the use of the land as a national historic site.

(b) DUTY OF THE SECRETARY.—The Secretary shall take such action as is necessary to ensure that the trust property is used only in accordance with this section.

By Mr. BUNNING (for himself and Ms. MIKULSKI):

S. 2174. A bill to amend title XIX of the Social Security Act to include podiatrists as physicians for purposes of covering physicians services under the medicaid program; to the Committee on Finance.

Mr. BUNNING. Mr. President, I rise today to introduce a very important piece of legislation with Senator MIKULSKI from Maryland. Our bill will ensure that Medicaid beneficiaries in all States have access to the services of top-quality podiatric physicians.

Podiatrists play a vital roll in keeping feet and ankles healthy. This is critical to keeping people mobile and productive, which is a key to good long-term health.

Proper foot care is particularly important for individuals with diabetes, which is a severe problem in my State. According to the Centers for Disease Control and Prevention (CDC), 18.2 million people—or 6.3 percent of the population—have diabetes in this country, and it is the sixth leading cause of death. If not managed properly, diabetes can cause several severe health problems, including blindness, kidney disease and heart disease. Too often, diabetes can lead to foot complications, including foot ulcers and even amputations.

In fact, the CDC estimate that "more than 60 percent of nontraumatic lower-limb amputations occur among people with diabetes," which equals about 82,000 amputations a year.

These numbers are startling.

Podiatrists, however, can play a vital role in recognizing and correcting foot problems among diabetics to help avoid amputations and other complications.

Our bill is fairly simple. It amends the Medicaid's definition of "physicians" to include podiatric physicians. This will ensure that Medicaid beneficiaries have access to foot care from those most qualified to provide it.

Under Medicaid, podiatry is considered an optional benefit. However, just because it is optional, doesn't mean that the need for these services is eliminated or that the services aren't performed by other providers. Instead, Medicaid beneficiaries will have to receive foot care from other providers who may not be as well trained as a podiatrist in treating lower extremities.

According to the American Podiatric Medical Association, 43 States currently recognize and reimburse podiatrists under their Medicaid problems. Also, podiatrists are considered physicians under the Medicare program, which allows seniors and disabled individuals to receive appropriate care.

I urge my colleagues to give careful consideration to this important bill and to support it. It will help many Medicaid beneficiaries across the country have the guaranteed access to podiatrists that they need.

Finally, I want to thank the Senator from Maryland for helping me introduce this legislation today. I hope that by working together we can see this important change made.

Ms. MIKULSKI. Mr. President, I rise to join Senator BUNNING to introduce this important bill to make sure that Medicaid patients have access to care provided by podiatrists.

This bill ensures that Medicaid patients across the country can get services provided by podiatrists. This is a simple, common sense bill. This legislation includes podiatric physicians in Medicaid's definition of physician. This means that the services of podiatrists will be covered by Medicaid, just like they are in Medicare. Podiatrists are considered physicians under Medicare. They should be under Medicaid. Medicaid covers necessary foot and ankle care services. Medicaid should allow podiatrists who are trained specifically in foot and ankle care to provide these services and be reimbursed for them.

Currently, the services of podiatrists are considered optional under Medicaid. The Medicaid programs in 43

States, including Maryland, recognize and reimburse podiatrists for providing foot and ankle care to their beneficiaries. During times of tight budgets, States may cut back on these optional services. Last year Connecticut, Michigan, Utah and Texas discontinued podiatric services. Even though podiatrist services are considered optional, Medicaid patients need foot and ankle care regardless. If podiatrists do not provide the care, patients will see providers who may not be as well trained in the care of the lower extremities as podiatrists. I want the over 560,000 Medicaid patients in Maryland to have access to the services provided by over 400 podiatrists in Maryland.

Podiatrists receive special training on the foot, ankle and lower leg. They play an important role in the recognition of systemic diseases like diabetes, and in the recognition and treatment of peripheral neuropathy, a frequent cause of diabetic foot wounds that can often lead to preventable lower extremity amputations. Over 18 million people in this country have diabetes, but an estimated more than 5 million of these people are not aware that they have the disease.

Ensuring Medicaid patient access to podiatrists could save Medicaid funds in the long term. According to the American Podiatric Medical Association, 75 percent of Americans will experience some type of foot health problem during their lives. Foot disease is the most common complication of diabetes leading to hospitalization. About 82,000 people have diabetes-related leg, foot or toe amputations each year. Foot care programs with regular examinations and patient education could prevent up to 85 percent of these amputations. Podiatrists are important providers of this care.

This bill will make sure that Medicaid patients across the country have access to care provided by podiatrists. It has the support the American Podiatric Medical Association. I urge my colleagues to cosponsor this important legislation.

By Mr. DODD (for himself, Mr. DEWINE, Mr. SMITH, and Mr. REID):

S. 2175. A bill to amend the Public Health Service Act to support the planning, implementation, and evaluation of organized activities involving statewide youth suicide early intervention and prevention strategies, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today to speak on an important issue that holds great meaning to me—the issue of youth suicide in our country.

Youth suicide is both a public and mental health tragedy—an acute crisis that knows no geographic, racial, ethnic, cultural, or socioeconomic boundaries. According to the Centers for Disease Control and Prevention (CDC), over 3,000 young people take their lives each year, making suicide the third overall cause of death between the ages of 10 and 24. Young people under the age of 25 accounted for 15 percent of all suicides completed in 2000. In fact, more children and young adults died from their own hand than from cancer, heart disease, AIDS, birth defects, stroke and chronic lung disease combined.

Equally alarming are the numbers of young people who consider taking or attempt to take their lives. Recent CDC figures estimate that almost three million high school students, or twenty percent of young adults between the ages of 15 and 19, consider suicide every year. And over two million children and young adults actually attempt suicide. I find these figures to be staggering and simply unacceptable.

And, sadly, we rarely find these facts disseminated widely amongst public audiences. We rarely read them in newspapers or hear them on television. We know that youth suicide is intricately linked to mental health issues like depression and substance abuse. Yet, we also know all too well that both youth suicide and children's mental health continue to carry an unfortunate stigma—a stigma that all too often keeps these crucial issues unspoken and discourages children and young adults from seeking the help they so desperately need.

We have a societal obligation to break through the stigma attached to youth suicide and children's mental health. We have an obligation to reach out to our young people—to help them understand that whatever difficulties or illnesses they might be experiencing are only temporary and treatable in a comfortable setting. And, most importantly, we have an obligation to instill in our young people a sense of value, self-worth, and resilience. All too often, children and young adults considering suicide lose sight of themselves, their talents, and their potential in life. All too often they lose sight of the love their families, friends, and communities have for them.

I am pleased that our Nation has already taken several positive steps toward better understanding the tragedy of youth suicide and its emotional and behavioral risk factors. Several recent reports like the President's New Freedom Commission on Mental Health, the National Strategy for Suicide Prevention, and the Surgeon General's Call to Action To Prevent Suicide have made youth suicide a top national public and mental health priority. Today, hundreds of community-based programs across the country offer a variety of early intervention and prevention services to thousands of children and young adults—services that include comprehensive screening, assessment, and individualized counseling. Nearly thirty states, including my home State of Connecticut, have developed or already implemented statewide youth suicide early intervention and prevention strategies that coordinate appropriate services in schools, juvenile justice systems, foster care systems, mental health programs, substance abuse programs, and other youth-oriented settings. Furthermore, the Federal Government has stepped up its role in both supporting these community-based activities and conducting relevant research and data collection. Several mental and public health agencies have shown a growing interest in youth suicide, including the Substance Abuse and Mental Health Services Administration, the Health Resources Services Administration, the Centers for Disease Control and Prevention, and the National Institute of Mental Health.

However, despite these important gains, we still face significant challenges. Today, a large number of states and localities are finding themselves with unprecedented budget deficits—making the establishment of new services and the retention of existing services increasingly more difficult. Statewide strategies are often underfunded or understaffed to be properly effective. And while a number of Federal agencies have supported youth suicide activities, there has been no comprehensive inter-agency strategy implemented to share data, disseminate research, or evaluate the efficacy of youth suicide early intervention and prevention programs.

Today, I am introducing bipartisan legislation with my colleagues Senator DEWINE and Senator SMITH. The Youth Suicide Early Intervention and Prevention Act of 2004 will further support the good work being done on the community level, the State level, and the Federal level with regards to youth suicide. This legislation will support, through new grant initiatives, the further development and expansion of statewide youth suicide early intervention and prevention strategies and the community-based services they seek to coordinate. It will encourage greater Federal support in the planning, implementation, and evaluation of these strategies and services. And it will create a new inter-agency collaboration that will focus on research, policy development, and the dissemination of data specifically pertaining to youth suicide.

Finding concrete, comprehensive and effective remedies to the epidemic of youth suicide cannot be done by lawmakers on Capitol Hill alone. Those remedies must also come from individuals—doctors, psychiatrists, psychologists, counselors, nurses, teachers, advocates, survivors, and affected families—who are dedicated to this issue or spend each day with children and young adults that suffer from illnesses related to suicide. I feel that we have made an important first step with this legislation today. However, I also know that our work is not done. I hope that, as a society, we can continue working collectively to both better understand the tragedy of youth suicide and develop innovative and effective public and mental health initiatives that reach every child and young adult in this country—compassionate initiatives that give them encouragement, hope, and above all, life.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2175

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Youth Suicide Early Intervention and Prevention Expansion Act of 2004".

SEC. 2. FINDINGS.

Congress finds the following:

(1) More children and young adults die from suicide each year than from cancer, heart disease, AIDS, birth defects, stroke, and chronic lung disease combined.

(2) Over 4,000 children and young adults tragically take their lives every year, making suicide the third overall cause of death between the ages of 10 and 24. According to the Centers for Disease Control and Prevention suicide is the third overall cause of death among college-age students.

(3) According to the National Center for Injury Prevention and Control of the Centers for Disease Control and Prevention, children and young adults accounted for 15 percent of all suicides completed in 2000.

(4) From 1952 to 1995, the rate of suicide in children and young adults has tripled.

(5) From 1980 to 1997, the rate of suicide among young adults ages 15 to 19 increased 11 percent.

(6) From 1980 to 1997, the rate of suicide among children ages 10 to 14 increased 109 percent.

(7) According to the National Center of Health Statistics, suicide rates among Native Americans range from 1.5 to 3 times the national average for other groups, with young people ages 15 to 34 making up 64 percent of all suicides.

(8) Congress has recognized that youth suicide is a public health tragedy linked to underlying mental health problems and that youth suicide early intervention and prevention activities are national priorities.

(9) Youth suicide early intervention and prevention have been listed as urgent public health priorities by the President's New Freedom Commission in Mental Health (2002), the Institute of Medicine's Reducing Suicide: A National Imperative (2002), the National Strategy for Suicide Prevention: Goals and Objectives for Action (2001), and the Surgeon General's Call to Action To Prevent Suicide (1999).

(10) Many States have already developed comprehensive youth suicide early intervention and prevention strategies that seek to provide effective early intervention and prevention services.

SEC. 3. AMENDMENT TO THE PUBLIC HEALTH SERVICES ACT.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by adding at the end the following:

"SEC. 399O. SUICIDE PREVENTION FOR CHILDREN AND ADOLESCENTS.

"(a) YOUTH SUICIDE EARLY INTERVENTION AND PREVENTION STRATEGIES.—

"(1) IN GENERAL.—The Secretary shall award grants or cooperative agreements to eligible entities to—

"(A) develop and implement statewide youth suicide early intervention and prevention strategies in schools, educational institutions, juvenile justice systems, substance abuse programs, mental health programs, foster care systems, and other child and youth support organizations;

"(B) collect and analyze data on statewide youth suicide early intervention and prevention services that can be used to monitor the effectiveness of such services and for research, technical assistance, and policy development; and

"(C) assist States, through statewide youth suicide early intervention and prevention strategies, in achieving their targets for youth suicide reductions under title V of the Social Security Act (42 U.S.C. 701 et seq.).

"(2) ELIGIBLE ENTITY DEFINED.—In this subsection, the term 'eligible entity' means a State, political subdivision of a State, Federally-recognized Indian tribe, tribal organization, public organization, or private nonprofit organization actively involved in youth suicide early intervention and prevention activities and in the development and continuation of statewide youth suicide early intervention and prevention strategies.

"(3) PREFERENCE.—The Secretary shall give preference to eligible entities that—

"(A) provide early intervention services to youth in, and that are integrated with, school systems, educational institutions, juvenile justice systems, substance abuse programs, mental health programs, foster care systems, and other child and youth support organizations;

"(B) demonstrate collaboration among early intervention and prevention services or certify that entities will engage in future collaboration;

"(C) employ or include in their applications a commitment to engage in an evaluative process the best evidence-based or promising youth suicide early intervention and prevention practices and strategies adapted to the local community;

"(D) provide for the timely assessment of youth who are at risk for emotional disorders which may lead to suicide attempts;

"(E) provide timely referrals for appropriate community-based mental health care and treatment of youth in all child-serving settings and agencies who are at risk for suicide;

"(F) provide immediate support and information resources to families of youth who are at risk for emotional behavioral disorders which may lead to suicide attempts;

"(G) offer equal access to services and care to youth with diverse linguistic and cultural backgrounds;

"(H) offer appropriate postvention services, care, and information to families, friends, schools, educational institutions, juvenile justice systems, substance abuse programs, mental health programs, foster care systems, and other child and youth support organizations of youth who recently completed suicide;

"(I) offer continuous and up-to-date information and awareness campaigns that target parents, family members, child care professionals, community care providers, and the general public and highlight the risk factors associated with youth suicide and the life-saving help and care available from early intervention and prevention services;

"(J) ensure that information and awareness campaigns on youth suicide risk factors, and early intervention and prevention services, use effective communication mechanisms that are targeted to and reach youth, families, schools, educational institutions, and youth organizations;

"(K) provide a timely response system to ensure that child-serving professionals and providers are properly trained in youth suicide early intervention and prevention strategies and that child-serving professionals and providers involved in early intervention and prevention services are properly trained in effectively identifying youth who are at risk for suicide;

"(L) provide continuous training activities for child care professionals and community care providers on the latest best evidence-based youth suicide early intervention and prevention services practices and strategies; and

"(M) work with interested families and advocacy organizations to conduct annual self-evaluations of outcomes and activities on the State level, according to standards established by the Secretary.

"(b) TECHNICAL ASSISTANCE, DATA MANAGEMENT, AND RESEARCH.—

"(1) TECHNICAL ASSISTANCE AND DATA MANAGEMENT.—

"(A) IN GENERAL.—The Secretary shall award technical assistance grants and cooperative agreements to State agencies to conduct assessments independently or in collaboration with educational institutions related to the development of statewide youth suicide early intervention and prevention strategies.

"(B) AUTHORIZED ACTIVITIES.—Grants awarded under subparagraph (A) shall be used to establish programs for the development of standardized procedures for data management, such as—

"(i) ensuring the quality surveillance of youth suicide early intervention and prevention strategies;

"(ii) providing technical assistance on data collection and management;

"(iii) studying the costs and effectiveness of statewide youth suicide early intervention and prevention strategies in order to answer relevant issues of importance to State and national policymakers;

"(iv) further identifying and understanding causes of and associated risk factors for youth suicide;

"(v) ensuring the quality surveillance of suicidal behaviors and nonfatal suicidal attempts;

"(vi) studying the effectiveness of statewide youth suicide early intervention and prevention strategies on the overall wellness and health promotion strategies related to suicide attempts; and

"(vii) promoting the sharing of data regarding youth suicide with Federal agencies involved with youth suicide early intervention and prevention, and statewide youth suicide early intervention and prevention strategies for the purpose of identifying previously unknown mental health causes and associated risk-factors for suicide in youth.

"(2) RESEARCH.—

"(A) IN GENERAL.—The Secretary shall conduct a program of research and development on the efficacy of new and existing youth suicide early intervention techniques and technology, including clinical studies and evaluations of early intervention methods, and related research aimed at reducing youth suicide and offering support for emotional and behavioral disorders which may lead to suicide attempts.

"(B) DISSEMINATING RESEARCH.—The Secretary shall promote the sharing of research and development data developed pursuant to subparagraph (A) with the Federal agencies involved in youth suicide early intervention and prevention, and entities involved in statewide youth suicide early intervention and prevention strategies for the purpose of applying and integrating new techniques and technology into existing statewide youth suicide early intervention and strategies systems.

"(c) COORDINATION AND COLLABORATION.—

"(1) IN GENERAL.—In carrying out this section, the Secretary shall collaborate and consult with—

"(A) other Federal agencies and State and local agencies, including agencies responsible for early intervention and prevention services under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), the State Children's Health Insurance Program under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.), programs funded by grants under title V of the Social Security Act (42 U.S.C. 701 et seq.), and programs under part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.), and the National Strategy for Suicide Prevention Federal Steering Group;

"(B) local and national organizations that serve youth at risk for suicide and their families;

"(C) relevant national medical and other health and education specialty organizations;

"(D) youth who are at risk for suicide, who have survived suicide attempts, or who are currently receiving care from early intervention services;

"(E) families and friends of youth who are at risk for suicide, who have survived suicide attempts, who are currently receiving care from early intervention and prevention services, or who have completed suicide;

"(F) qualified professionals who possess the specialized knowledge, skills, experience, and relevant attributes needed to serve youth at risk for suicide and their families; and

"(G) third-party payers, managed care organizations, and related commercial industries.

"(2) POLICY DEVELOPMENT.—The Secretary shall coordinate and collaborate on policy development at the Federal and State levels and with the private sector, including consumer, medical, suicide prevention advocacy groups, and other health and education professional-based organizations, with respect to statewide youth suicide early intervention and prevention strategies.

"(e) RULE OF CONSTRUCTION; RELIGIOUS ACCOMMODATION.—Nothing in this section shall be construed to preempt any State law, including any State law that does not require the suicide early intervention for youth whose parents or legal guardians object to such early intervention based on the parents' or legal guardians' religious beliefs.

"(f) EVALUATION.—

"(1) IN GENERAL.—The Secretary shall conduct an evaluation to analyze the effectiveness and efficacy of the activities conducted with grants under this section.

"(2) REPORT.—Not later than 2 years after the date of enactment of this section, the Secretary shall submit to the appropriate committees of Congress a report concerning the results of the evaluation conducted under paragraph (1).

"(g) DEFINITIONS.—In this section:

"(1) BEST EVIDENCE-BASED.—The term 'best evidence-based' with respect to programs, means programs that have undergone scientific evaluation and have proven to be effective.

"(2) EARLY INTERVENTION.—The term 'early intervention' means a strategy or approach that is intended to prevent an outcome or to alter the course of an existing condition.

"(3) EDUCATIONAL INSTITUTION.—The term 'educational institution' means a high school, vocational school, or an institution of higher education.

"(4) PREVENTION.—The term 'prevention' means a strategy or approach that reduces the likelihood or risk of onset, or delays the onset, of adverse health problems or reduces the harm resulting from conditions or behaviors.

"(5) SCHOOL.—The term 'school' means a nonprofit institutional day or residential school that provides an elementary, middle, or secondary education, as determined under applicable State law, except that such term does not include any education beyond the 12th grade.

"(6) YOUTH.—The term 'youth' means individuals who are between 6 and 24 years of age.

"(h) AUTHORIZATION OF APPROPRIATIONS.—

"(1) STATEWIDE YOUTH SUICIDE EARLY INTERVENTION AND PREVENTION STRATEGIES.—For the purpose of carrying out subsection (a), there are authorized to be appropriated $25,000,000 for fiscal year 2004, $25,000,000 for fiscal year 2005, $25,000,000 for fiscal year 2006, and such sums as may be necessary for each subsequent fiscal year.

"(2) TECHNICAL ASSISTANCE, DATA MANAGEMENT, AND RESEARCH.—For the purpose of carrying out subsection (b), there are authorized to be appropriated $5,000,000 for fiscal year 2003, $5,000,000 for fiscal year 2004, $5,000,000 for fiscal year 2005, and such sums as may be necessary for each subsequent fiscal year.".

Mr. DEWINE. Mr. President, today I join my good friends and colleagues Senator CHRIS DODD and Senator GORDON SMITH in introducing the Youth Suicide Early Intervention and Prevention Expansion Act of 2004. As Chairman of the Subcommittee on Substance Abuse and Mental Health Services, I recently held a hearing on youth suicide. At that hearing, it became painfully clear that we need thorough and actionable plans to deal with this tragic issue.

Statistics tell us that approximately every 2 hours a person under the age of 25 commits suicide. We also know that from 1952 to 1995, the rate of suicide in children and young adults has tripled and that between 1980 and 1997, alone, the rate of suicide in 15 to 19 year olds increased by 11 percent. According to the National Institute of Mental Health, suicide was the 11th leading cause overall for death in the United States in 2001. However, it was the 3rd leading cause of death for youth ages 15 to 24. We also know that more boys are killing themselves than girls at a ratio of 5 to 1 in the 15 to 19 year old age group and at a ratio of 7 to 1 in the 20 to 24 year old age group. However, while boys are dying at a higher rate, girls in these age groups are attempting at a much higher rate. Estimates suggest that there may be from 8 to 25 attempts made for every suicide death.

These alarming numbers emphasize the need for early intervention and prevention efforts. Too often, the signs may be subtle or hidden until it is too late. While research has created improved medications and methods for helping those with mental health problems to recover, there is still much work to be done in the identifying those who need help.

A great deal of study has focused on identifying and categorizing the risk factors related to suicide. In children and youth, these risk factors include depression, alcohol or drug use, physical or sexual abuse, and disruptive behavior. Of people who die from and who attempt suicide, many suffer from co-occurring mental health and substance abuse disorders. Children with these risk factors, as well as children who are know to be in situations at risk for acquiring them, should be included in comprehensive state plans. Children and youth specifically addressed in State plans should include those who attend school, including colleges and universities, those already receiving substance abuse or mental health services, those involved in the juvenile justice system, and foster children.

As a result of the need for increased attention to the problem of suicide and access to help, I am pleased to join Senators DODD and SMITH in introducing the Youth Suicide Early Intervention and Prevention Expansion Act of 2004. With the establishment of a $25 million grant initiative, this bill would encourage the development of statewide youth suicide early intervention and prevention strategies that coordinate agencies and non-profits in providing mental health services to and screening of youth in a variety of settings. The settings would include schools, substance abuse and mental health service programs, the juvenile justice system, and foster care programs. The bill would also provide $5 million for relevant technical assistance and research.

Candidly, State plans for suicide intervention and prevention need to be created and expanded to help stop these heartbreaking losses. We commend the States that already have created such plans and encourage all states to take this important step. I thank Senators DODD and SMITH for their leadership on this issue, as well as others like Senator JACK REED, who is dedicated to helping increase and improve much-needed mental health services for our Nation's youth.

By Mr. BINGAMAN (for himself and Mr. ALEXANDER):

S. 2176. A bill to require the Secretary of Energy to carry out a program of research and development to advance high-end computing; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, I am pleased to introduce, along with Senator Alexander, the High-End Computing Revitalization Act of 2004. High-end computing, also known as high performance computing or supercomputing, is a critical component to the scientific advances, defense capabilities, and commercial competitiveness of the United States in the 21st century. Several recent developments in high-end computing have stimulated a re-examination of current U.S. policies and approaches. These developments include: 1. the deployment of Japan's Earth System Simulator, which now occupies the number one position on the Top 500 list of the world's fastest computers; 2. concerns about the difficulty in achieving substantial fractions of peak hardware computational performance on high-end systems; and 3. the ongoing complexity of developing, debugging, and optimizing applications for high-end systems. In addition, there is growing recognition that a new set of scientific and engineering discoveries could be catalyzed by access to very-large-scale computer systems—those in the 100-teraflop to petaflop range. Lastly, the National Academies of Sciences and Engineering, the Office of Science and Technology Policy's High End Computing Revitalization Task Force, and the national security community have each released interim or final comprehensive reports expressing serious concern over the current U.S. position in high-end computing research. Without government support, market forces are unlikely to drive sufficient innovation in high-end computing, because the private sector would not capture the full value of its innovations on a short enough time scale.

In supercomputing, innovation is important in architecture, in software, and in application strategies and solution methods. The coupling of these aspects is equally important. Major architecture challenges stem from the uneven performance scaling of different components. In particular, as the gap between processor speeds, memory bandwidth, and memory and network latency increases, new ideas are needed to increase bandwith and mitigate latency. Additionally, as new mechanisms are introduced to address those issues, there is a need for ways to supply a stable software interface that facilitates exploiting hardware performance improvements while the changes in mechanism. A new large-scale computer system exceeding the capability of Japan's Earth Simulator would provide an excellent test-bed for promising new advancements in these areas as well as provide science, industry, and defense with an extraordinarily powerful new tool for advancing the interests of the United States.

The need for software innovation is motivated by its role as an intermediary between the application, the problem being addressed, and the architectural platform. Innovation is needed in the ways that system software manages the use of hardware resources, such as network communication. New approaches are needed for ways in which the applications programmer can express parallelism at a level high enough to reflect the application solution and without platform-specific details. Novel tools are needed to help application-level software designers development their solutions at a more abstract and problem-specific level. Software technology is also needed to lessen future dependence on legacy codes. Enough must be invested in the creation of advanced tool and environment support for new language approaches so that users can more readily adopt new software technology.

Importantly, advances in algorithms can sometimes improve performance much more than architectural and other software advances do. A center for high-end computing software would aid immensely in spurring innovation in this underdeveloped research area, an aid in coordinating the federal government's efforts with industry, academia, and between its national laboratories.

The department of Energy (DOE) and its Office of Science research programs are uniquely qualified to lead research in these fields. They have played an important role in the development of high-end computing, networking, and information technology. These capabilities have been readily accessible to the U.S. scientific community for a diverse set of grand challenge scientific computational problems. Contributions by the DOE include pioneering the concept of remote, interactive access to supercomputers (developing the first interactive operating system for supercomputers, establishing the first national supercomputer center); developing the mathematical foundations for high performance computing with numerical linear algebra libraries used worldwide; leading the transition to massively parallel supercomputing by developing software to allow processors to communicate with each other; and contributing to the development of the Internet with software that dramatically speeds up the transmission of messages.

Many challenges are associated with modeling complex physical, chemical, and biological phenomena, especially on massively parallel computers with peak speeds in hundreds of teraflops. These challenges include the management and analysis of petabyte-scale data sets. A program to address these challenges will require multi-disciplinary collaborations between theoretical and computational scientists, computer scientists, and applied mathematicians at universities, national laboratories, and industry. Such a program will enhance the ability of the DOE to meet its mission goals and advance the state of the art for the U.S. economic and industrial base in the fields of energy, genetics, pharmaceuticals, nanotechnology, chemical processing, electronics, geology, and transportation. This bill will be a major step toward addressing today's greatest needs and, to creating the high-wage jobs of the future.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2176

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "High-End Computing Revitalization Act of 2004".

SEC. 2. FINDINGS.

Congress finds that—

(1) high-end computing is a critical component of the scientific advances, defense capabilities, and commercial competitiveness of the United States in the 21st century;

(2) with the deployment of the Earth System Simulator in Japan, the United States no longer has a clear lead in high-end computing worldwide;

(3)(A) promising new architectures should be developed that increase memory and network bandwidth, minimize latency, and coordinate the architectures' various components to maximize application performance; and

(B) it is recognized that different architectures may be better suited to different applications;

(4)(A) software that improves efficiency on and accessibility to high-end systems should be developed; and

(B) this development effort should include research in optimal algorithms, programming environments, tools, languages, and operating systems for high-end computing, in collaboration with architecture development efforts;

(5) without government support, market forces are unlikely to drive sufficient innovation in high-end computing, because the private sector would not capture the full value of its innovations on a short enough time frame; and

(6) having played an important role in the development of high-end computing, networking, and information technology, the Department of Energy, and the research programs of the Office of Science of the Department, are particularly qualified to lead research in those fields.

SEC. 3. DEFINITIONS.

In this Act:

(1) HIGH-END COMPUTING SYSTEM.—

(A) IN GENERAL.—The term "high-end computing system" means a computing system with performance that substantially exceeds commonly available systems.

(B) INCLUSIONS.—The term "high-end computing system" includes a system described in subparagraph (A) that is based on a variety of architectures, including vector, reconfigurable logic, streaming, processor-in-memory, and multithreading architectures.

(2) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(3) SECRETARY.—The term "Secretary" means the Secretary of Energy, acting through the Director of the Office of Science of the Department of Energy.

(4) ULTRASCALE SCIENTIFIC COMPUTING CAPABILITY.—The term "ultrascale scientific computing capability" means a computing capability supporting open scientific research in the United States that is at least 100 times such computing capability in existence on the date of enactment of this Act.

SEC. 4. HIGH-END COMPUTING SYSTEMS PROGRAM.

(a) IN GENERAL.—In addition to any other authority provided by law, the Secretary shall carry out a program of research and development (involving software and hardware) to advance high-end computing systems.

(b) DUTIES.—In carrying out the program, the Secretary shall—

(1) support both individual investigators and multidisciplinary teams of investigators;

(2) conduct research in multiple architectures, including vector, reconfigurable logic, streaming, processor-in-memory, and multithreading architectures;

(3) conduct research in software development on optimal algorithms, programming environments, tools, languages, and operating systems for high-end computing systems, in collaboration with architecture development efforts;

(4) in accordance with subsection (c), develop, plan, construct, acquire, or operate equipment or facilities for the use of investigators conducting research and development on an ultrascale scientific computing capability;

(5) support technology transfer to the private sector and others in accordance with applicable law; and

(6) ensure that the program is coordinated with relevant activities in industry and other Federal agencies, including the National Nuclear Security Administration, the National Science Foundation, the Defense Advanced Research Projects Agency, and the National Security Agency.

(c) ULTRASCALE SCIENTIFIC COMPUTING CAPABILITY.—

(1) IN GENERAL.—As part of the program carried out under this Act, the Secretary shall develop, plan, construct, acquire, or operate a coordinated set of facilities for investigators to develop an ultrascale scientific computing capability for—

(A) scientific research and development using high-end computing systems; and

(B) developing potential advancements in high-end computing system architecture and software.

(2) ADMINISTRATION.—In carrying out this subsection, the Secretary shall—

(A) support multiple high-end computing system architectures; and

(B) conduct research on the basis of proposals (including proposals that are submitted by industry, institutions of higher education, national laboratories, or any Federal agency) for research on problems that would particularly benefit from large computing power, even as the reliability of new hardware and software components are being evaluated.

(d) HIGH-END SOFTWARE DEVELOPMENT CENTER.—

(1) IN GENERAL.—As part of the program carried out under this Act, the Secretary shall develop, plan, construct, acquire, or operate at least 1 High-End Software Development Center.

(2) DUTIES.—A Center shall concentrate efforts to develop, test, maintain, and support optimal algorithms, programming environments, tools, languages, and operating systems for high-end computing systems.

(3) STAFF.—A Center shall include—

(A) a regular research staff, to create a centralized knowledge-base for high-end software development; and

(B) a rotating staff of researchers from other institutions and industry to assist in the coordination of research efforts and promote technology transfer to the private sector.

(4) USE OF EXPERTISE.—The Secretary shall use the expertise of a Center to assess research and development in high-end computing system architecture.

(5) LOCATION.—The location of a Center shall be determined by a competitive proposal process administered by the Secretary.

(e) PEER REVIEW.—Each grant, contract, cooperative agreement, and financial assistance awarded under this section shall be made only after independent peer review.

(f) CLASSIFIED RESEARCH OR FACILITIES.—No funds under this section may be used to directly support classified research or facilities.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—In addition to amounts made available for high-end computing systems under other provisions of law, there are authorized to be appropriated to the Secretary to carry out this Act—

(1) $150,000,000 for fiscal year 2005;

(2) $155,000,000 for fiscal year 2006;

(3) $160,000,000 for fiscal year 2007;

(4) $165,000,000 for fiscal year 2008; and

(5) $170,000,000 for fiscal year 2009.

(b) ULTRASCALE SCIENTIFIC COMPUTING CAPABILITY.—Of the funds made available under subsection (a), $100,000,000 is authorized to be appropriated for each fiscal year to carry out section 4(c).

(c) HIGH-END SOFTWARE DEVELOPMENT CENTER.—Of the funds made available under subsection (a), $10,000,000 is authorized to be appropriated for each fiscal year to carry out section 4(d).

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 96—COMMEMORATING THE 150TH ANNIVERSARY OF THE FIRST MEETING OF THE REPUBLICAN PARTY IN RIPON, WISCONSIN

Mr. FEINGOLD (for himself and Mr. KOHL) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 96

Whereas on March 20, 1854, 50 men, 3 women, and 1 child assembled in a simple frame schoolhouse, now known as the Little White Schoolhouse, in Ripon, Wisconsin, to advocate the creation of a new political party under the name "Republican";

Whereas this March 20, 1854, meeting in Ripon, Wisconsin was the first of many grassroots meetings that led to the formal founding of the Republican Party;

Whereas the city of Ripon is commemorating the 150th anniversary of the first meeting of the Republican Party with a celebration entitled "From Schoolhouse to White House; a Celebration of Active Citizenship," which includes a series of civic and educational events;

Whereas the Little White Schoolhouse is listed on the National Registry of Historic Places, was designated by the Department of the Interior as a National Historic Landmark on May 30, 1974, and attracts visitors from around the world; and

Whereas the Little White Schoolhouse serves as a symbol of civic responsibility and grassroots political activism: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress commemorates the 150th anniversary of the first meeting of the Republican Party in Ripon, Wisconsin.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2692. Mrs. HUTCHISON (for herself, Mr. BROWNBACK, Mr. BUNNING, Mr. CHAMBLISS, and Mr. FITZGERALD) submitted an amendment intended to be proposed by her to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table.

SA 2693. Mr. KENNEDY submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table.

SA 2694. Mr. KENNEDY submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2695. Mr. KENNEDY submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2696. Mr. KENNEDY submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2697. Mr. DEWINE (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2698. Mrs. FEINSTEIN (for herself and Mr. GRAHAM of Florida) submitted an amendment intended to be proposed by her to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table.

SA 2699. Mr. KENNEDY (for himself and Mr. ROCKEFELLER) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table.

SA 2700. Mr. LAUTENBERG (for himself, Mr. CHAFEE, Mrs. DOLE, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table.

SA 2701. Mr. WARNER (for himself, Mr. STEVENS, Mr. INHOFE, Mr. ROBERTS, Ms. COLLINS, Mr. CHAMBLISS, Mr. GRAHAM of South Carolina, and Mr. TALENT) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table.

SA 2702. Mrs. DOLE submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2692. Mrs. HUTCHISON (for herself, Mr. BROWNBACK, Mr. BUNNING, Mr. CHAMBLISS, and Mr. FITZGERALD) submitted an amendment intended to be proposed by her to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . FULL ELIMINATION OF THE MARRIAGE PENALTY FOR 2005.

(a) STANDARD DEDUCTION.—Paragraph (7) of section 63(c) of the Internal Revenue Code of 1986 (relating to applicable percentage) is amended by striking "174" and inserting "200".

(b) 15-PERCENT BRACKET.—Subparagraph (B) of section 1(f)(8) of the Internal Revenue Code of 1986 (relating to applicable percentage) is amended by striking "180" and inserting "200".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

(d) APPLICATION OF EGTRRA SUNSET TO THIS SECTION.—Each amendment made by this section shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

SA 2693. Mr. KENNEDY submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $2,352,000,000.

On page 3, line 10, increase the amount by $7,253,000,000.

On page 3, line 11, increase the amount by $196,000,000.

On page 3, line 17, increase the amount by $2,352,000,000.

On page 3, line 18, increase the amount by $7,253,000,000.

On page 3, line 19, increase the amount by $196,000,000.

On page 4, line 4, increase the amount by $4,901,000,000.

On page 4, line 12, increase the amount by $1,176,000,000.

On page 4, line 13, increase the amount by $3,627,000,000.

On page 4, line 14, increase the amount by $98,000,000.

On page 4, line 20, increase the amount by $1,176,000,000.

On page 4, line 21, increase the amount by $3,627,000,000.

On page 4, line 22, increase the amount by $98,000,000.

On page 5, line 3, decrease the amount by $1,176,000,000.

On page 5, line 4, decrease the amount by $4,803,000,000.

On page 5, line 5, decrease the amount by $4,901,000,000.

On page 5, line 6, decrease the amount by $4,901,000,000.

On page 5, line 7, decrease the amount by $4,901,000,000.

On page 5, line 11, decrease the amount by $1,176,000,000.

On page 5, line 12, decrease the amount by $4,803,000,000.

On page 5, line 13, decrease the amount by $4,901,000,000.

On page 5, line 14, decrease the amount by $4,901,000,000.

On page 5, line 15, decrease the amount by $4,901,000,000.

On page 15, line 16, increase the amount by $4,901,000,000.

On page 15, line 17, increase the amount by $1,176,000,000.

On page 15, line 21, increase the amount by $3,627,000,000.

On page 15, line 25, increase the amount by $98,000,000.

On page 39, line 18, increase the amount by $4,901,000,000.

On page 39, line 19, increase the amount by $1,176,000,000.

On page 40, line 2, increase the amount by $3,627,000,000.

SA 2694. Mr. KENNEDY submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . SENATE OF THE SENATE CONCERNING AN INCREASE IN THE MINIMUM WAGE.

(a) IN GENERAL.—It is the sense of the Senate that this resolution assumes that legislation increasing the Federal minimum wage will be enacted that will contain the provisions described in subsection (b).

(b) MINIMUM WAGE.—The provisions described in this subsection are the following:

(1) IN GENERAL.—Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than—

"(A) $5.85 an hour, beginning on the 60th day after the date of enactment of the Fair Minimum Wage Act of 2003;

"(B) $6.45 an hour, beginning 12 months after that 60th day; and

"(C) $7.00 an hour, beginning 24 months after that 60th day;".

(2) APPLICABILITY OF MINIMUM WAGE TO THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.—

(A) IN GENERAL.—Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) shall apply to the Commonwealth of the Northern Mariana Islands.

(B) TRANSITION.—Notwithstanding subparagraph (A), the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) shall be—

(i) $3.55 an hour, beginning on the 60th day after the date of enactment of the legislation involved; and

(ii) increased by $0.50 an hour (or such lesser amount as may be necessary to equal the minimum wage under section 6(a)(1) of such Act), beginning 6 months after the date of enactment of this Act and every 6 months thereafter until the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under this subsection is equal to the minimum wage set forth in such section.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect 60 days after the date of enactment of the legislation involved.

SA 2695. Mr. KENNEDY submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 28, after line 7, insert the following:

SEC. . RESERVE FUND TO ELIMINATE OVERPAYMENTS TO REGIONAL PPOs AND OTHER MEDICARE ADVANTAGE PLANS IN ORDER TO ASSURE A LEVEL PLAYING FIELD BETWEEN CONVENTIONAL MEDICARE AND PRIVATE SECTOR ALTERNATIVE, PRESERVE MEDICARE BENEFICIARIES' RIGHT TO CHOOSE THEIR DOCTOR, IMPROVE THE FINANCIAL STATUS OF MEDICARE TRUST FUNDS, AND REDUCE THE DEFICIT.

If the Committee on Finance of the Senate reports a bill or a joint resolution, or an amendment thereto is offered, or a conference report thereon is submitted, that eliminates the stabilization fund for Medicare regional PPOs or other provisions of law that raise Medicare expenditures by providing excess payments to Medicare Advantage Plans, and applies the savings from such payment changes to reducing the Medicare prescription drug coverage gap, improving the financial status of the Medicare trust funds, or reducing the deficit, the chairman of the Committee on the Budget may revise committee allocations and other appropriate aggregates in this resolution for this purpose.

SA 2696. Mr. KENNEDY submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $1,332,000,000.

On page 3, line 10, increase the amount by $4,560,000,000.

On page 3, line 11, increase the amount by $220,000,000.

On page 3, line 12, increase the amount by $52,000,000.

On page 3, line 17, increase the amount by $1,332,000,000.

On page 3, line 18, increase the amount by $4,560,000,000.

On page 3, line 19, increase the amount by $220,000,000.

On page 3, line 20, increase the amount by $52,000,000.

On page 4, line 4, increase the amount by $3,082,000,000.

On page 4, line 12, increase the amount by $666,000,000.

On page 4, line 13, increase the amount by $2,280,000,000.

On page 4, line 14, increase the amount by $110,000,000.

On page 4, line 15, increase the amount by $26,000,000.

On page 4, line 20, increase the amount by $666,000,000.

On page 4, line 21, increase the amount by $2,280,000,000.

On page 4, line 22, increase the amount by $110,000,000.

On page 4, line 23, increase the amount by $26,000,000.

On page 5, line 3, decrease the amount by $666,000,000.

On page 5, line 4, decrease the amount by $2,946,000,000.

On page 5, line 5, decrease the amount by $3,056,000,000.

On page 5, line 6, decrease the amount by $3,082,000,000.

On page 5, line 7, decrease the amount by $3,082,000,000.

On page 5, line 11, decrease the amount by $666,000,000.

On page 5, line 12, decrease the amount by $2,946,000,000.

On page 5, line 13, decrease the amount by $3,056,000,000.

On page 5, line 14, decrease the amount by $3,082,000,000.

On page 5, line 15, decrease the amount by $3,082,000,000.

On page 15, line 16, increase the amount by $3,082,000,000.

On page 15, line 17, increase the amount by $666,000,000.

On page 15, line 21, increase the amount by $2,280,000,000.

On page 15, line 25, increase the amount by $110,000,000.

On page 16, line 4, increase the amount by $26,000,000.

On page 39, line 18, increase the amount by $3,082,000,000.

On page 39, line 19, increase the amount by $666,000,000.

On page 40, line 2, increase the amount by $2,280,000,000.

SA 2697. Mr. DEWINE (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 8, line 21, strike "$30,140,000,000" and insert "$30,470,000,000".

On page 23, line 5, strike "−$100,000,000" and insert "−$430,000,000".

SA 2698. Mrs. FEINSTEIN (for herself and Mr. GRAHAM of Florida) submitted an amendment intended to be proposed by her to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

SEC. ___. CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES TO INCLUDE OPEN-LOOP BIOMASS FACILITIES.

(a) In General.—Section 45(c)(1) (defining qualified energy resources) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by adding at the end the following new subparagraph:

"(D) open-loop biomass.".

(b) Facilities Described.—Section 45(c)(3) (defining qualified facility) is amended by adding at the end the following new subparagraph:

"(D) Open-loop biomass facility.—

"(i) In general.—In the case of a facility using open-loop biomass to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service before January 1, 2006.

"(ii) Special rules for preeffective date facilities.—In the case of any facility described in clause (i) which is placed in service before the date of the enactment of this subparagraph—

"(I) subsection (a)(1) shall be applied by substituting '1 cent' for '1.5 cents', and

"(II) the 5-year period beginning on such date of enactment shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

"(iii) Credit eligibility.—In the case of any facility described in clause (i), if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) shall be the lessee or the operator of such facility.

"(iv) Limit on reductions for tax-exempt bond financing, etc.—If the amount of the credit determined under subsection (a) with respect to any facility described in clause (i) is required to be reduced under paragraph (3) of subsection (b), the fraction under such paragraph shall in no event be greater than ½.".

(c) Open-Loop Biomass Defined.—Section 45(c) (relating to definitions) is amended by adding at the end the following new paragraph:

"(5) Open-loop biomass.—

"(A) In general.—The term 'open-loop biomass' means any solid, nonhazardous, cellulosic waste material which is segregated from other waste materials and which is derived from—

"(i) any of the following forest-related resources: mill and harvesting residues, precommercial thinnings, slash, and brush,

"(ii) solid wood waste materials, including waste pallets, crates, dunnage, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings, but not including municipal solid waste, gas derived from the biodegradation of solid waste, or paper which is commonly recycled, or

"(iii) agriculture sources, including orchard tree crops, vineyard, grain, legumes, sugar, and other crop by-products or residues.

"(B) Exceptions.—Such term does not include—

"(i) closed-loop biomass, or

"(ii) any agricultural livestock waste nutrients.".

(d) Effective Date.—The amendments made by this section shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

SA 2699. Mr. KENNEDY (for himself and Mr. ROCKEFELLER) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 26, line 4, after "measures" insert "and including legislation to reallocate and maintain expiring SCHIP funds rather than allowing such funds to revert to the Treasury".

SA 2700. Mr. LAUTENBERG (for himself, Mr. CHAFEE, Mrs. DOLE, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, after line 25, add the following:

SEC. ___. EXCLUSION OF GAIN OR LOSS ON SALE OR EXCHANGE OF CERTAIN BROWNFIELD SITES FROM UNRELATED BUSINESS TAXABLE INCOME.

(a) In General.—Subsection (b) of section 512 (relating to unrelated business taxable income) is amended by adding at the end the following new paragraph:

"(18) Treatment of gain or loss on sale or exchange of certain brownfield sites.—

"(A) In general.—Notwithstanding paragraph (5)(B), there shall be excluded any gain or loss from the qualified sale, exchange, or other disposition of any qualifying brownfield property by an eligible taxpayer.

"(B) Eligible taxpayer.—For purposes of this paragraph—

"(i) In general.—The term 'eligible taxpayer' means, with respect to a property, any organization exempt from tax under section 501(a) which—

"(I) acquires from an unrelated person a qualifying brownfield property, and

"(II) pays or incurs eligible remediation expenditures with respect to such property in an amount which exceeds the greater of $550,000 or 12 percent of the fair market value of the property at the time such property was acquired by the eligible taxpayer, determined as if there was not a presence of a hazardous substance, pollutant, or contaminant on the property which is complicating the expansion, redevelopment, or reuse of the property.

"(ii) EXCEPTION.—Such term shall not include any organization which is—

"(I) potentially liable under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 with respect to the qualifying brownfield property,

"(II) affiliated with any other person which is so potentially liable through any direct or indirect familial relationship or any contractual, corporate, or financial relationship (other than a contractual, corporate, or financial relationship which is created by the instruments by which title to any qualifying brownfield property is conveyed or financed or by a contract of sale of goods or services), or

"(III) the result of a reorganization of a business entity which was so potentially liable.

"(C) QUALIFYING BROWNFIELD PROPERTY.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'qualifying brownfield property' means any real property which is certified, before the taxpayer incurs any eligible remediation expenditures (other than to obtain a Phase I environmental site assessment), by an appropriate State agency (within the meaning of section 198(c)(4)) in the State in which such property is located as a brownfield site within the meaning of section 101(39) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as in effect on the date of the enactment of this paragraph).

"(ii) REQUEST FOR CERTIFICATION.—Any request by an eligible taxpayer for a certification described in clause (i) shall include a sworn statement by the eligible taxpayer and supporting documentation of the presence of a hazardous substance, pollutant, or contaminant on the property which is complicating the expansion, redevelopment, or reuse of the property given the property's reasonably anticipated future land uses or capacity for uses of the property (including a Phase I environmental site assessment and, if applicable, evidence of the property's presence on a local, State, or Federal list of brownfields or contaminated property) and other environmental assessments prepared or obtained by the taxpayer.

"(D) QUALIFIED SALE, EXCHANGE, OR OTHER DISPOSITION.—For purposes of this paragraph—

"(i) IN GENERAL.—A sale, exchange, or other disposition of property shall be considered as qualified if—

"(I) such property is transferred by the eligible taxpayer to an unrelated person, and

"(II) within 1 year of such transfer the eligible taxpayer has received a certification from the Environmental Protection Agency or an appropriate State agency (within the meaning of section 198(c)(4)) in the State in which such property is located that, as a result of the eligible taxpayer's remediation actions, such property would not be treated as a qualifying brownfield property in the hands of the transferee.

"(ii) REQUEST FOR CERTIFICATION.—Any request by an eligible taxpayer for a certification described in clause (i) shall be made not later than the date of the transfer and shall include a sworn statement by the eligible taxpayer certifying the following:

"(I) Remedial actions which comply with all applicable or relevant and appropriate requirements (consistent with section 121(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980) have been substantially completed, such that there are no hazardous substances, pollutants, or contaminants which complicate the expansion, redevelopment, or reuse of the property given the property's reasonably anticipated future land uses or capacity for uses of the property.

"(II) The reasonably anticipated future land uses or capacity for uses of the property are more economically productive or environmentally beneficial than the uses of the property in existence on the date of the certification described in subparagraph (C)(i). For purposes of the preceding sentence, use of property as a landfill or other hazardous waste facility shall not be considered more economically productive or environmentally beneficial.

"(III) A remediation plan has been implemented to bring the property into compliance with all applicable local, State, and Federal environmental laws, regulations, and standards and to ensure that the remediation protects human health and the environment.

"(IV) The remediation plan described in subclause (III), including any physical improvements required to remediate the property, is either complete or substantially complete, and, if substantially complete, sufficient monitoring, funding, institutional controls, and financial assurances have been put in place to ensure the complete remediation of the property in accordance with the remediation plan as soon as is reasonably practicable after the sale, exchange, or other disposition of such property.

"(V) Public notice that such request for certification would be made was completed before the date of such request. Such notice shall be in the same form and manner as required for public participation required under section 117(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as in effect on the date of the enactment of this paragraph).

"(iii) ATTACHMENT TO TAX RETURNS.—A copy of each of the requests for certification described in clause (ii) of subparagraph (C) and this subparagraph shall be included in the tax return of the eligible taxpayer (and, where applicable, of the qualifying partnership) for the taxable year during which the transfer occurs.

"(E) ELIGIBLE REMEDIATION EXPENDITURES.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'eligible remediation expenditures' means, with respect to any qualifying brownfield property, any amount paid or incurred by the eligible taxpayer to an unrelated third person to obtain a Phase I environmental site assessment of the property, and any amount so paid or incurred after the date of the certification described in subparagraph (C)(i) for goods and services necessary to obtain a certification described in subparagraph (D)(i) with respect to such property, including expenditures—

"(I) to manage, remove, control, contain, abate, or otherwise remediate a hazardous substance, pollutant, or contaminant on the property,

"(II) to obtain a Phase II environmental site assessment of the property, including any expenditure to monitor, sample, study, assess, or otherwise evaluate the release, threat of release, or presence of a hazardous substance, pollutant, or contaminant on the property,

"(III) to obtain environmental regulatory certifications and approvals required to manage the remediation and monitoring of the hazardous substance, pollutant, or contaminant on the property, and

"(IV) regardless of whether it is necessary to obtain a certification described in subparagraph (D)(i)(II), to obtain remediation cost-cap or stop-loss coverage, re-opener or regulatory action coverage, or similar coverage under environmental insurance policies, or financial guarantees required to manage such remediation and monitoring.

"(ii) EXCEPTIONS.—Such term shall not include—

"(I) any portion of the purchase price paid or incurred by the eligible taxpayer to acquire the qualifying brownfield property,

"(II) environmental insurance costs paid or incurred to obtain legal defense coverage, owner/operator liability coverage, lender liability coverage, professional liability coverage, or similar types of coverage,

"(III) any amount paid or incurred to the extent such amount is reimbursed, funded, or otherwise subsidized by grants provided by the United States, a State, or a political subdivision of a State for use in connection with the property, proceeds of an issue of State or local government obligations used to provide financing for the property the interest of which is exempt from tax under section 103, or subsidized financing provided (directly or indirectly) under a Federal, State, or local program provided in connection with the property, or

"(IV) any expenditure paid or incurred before the date of the enactment of this paragraph.

For purposes of subclause (III), the Secretary may issue guidance regarding the treatment of government-provided funds for purposes of determining eligible remediation expenditures.

"(F) DETERMINATION OF GAIN OR LOSS.—For purposes of this paragraph, the determination of gain or loss shall not include an amount treated as gain which is ordinary income with respect to section 1245 or section 1250 property, including amounts deducted as section 198 expenses which are subject to the recapture rules of section 198(e), if the taxpayer had deducted such amounts in the computation of its unrelated business taxable income.

"(G) SPECIAL RULES FOR PARTNERSHIPS.—

"(i) IN GENERAL.—In the case of an eligible taxpayer which is a partner of a qualifying partnership which acquires, remediates, and sells, exchanges, or otherwise disposes of a qualifying brownfield property, this paragraph shall apply to the eligible taxpayer's distributive share of the qualifying partnership's gain or loss from the sale, exchange, or other disposition of such property.

"(ii) QUALIFYING PARTNERSHIP.—The term 'qualifying partnership' means a partnership which—

"(I) has a partnership agreement which satisfies the requirements of section 514(c)(9)(B)(vi) at all times beginning on the date of the first certification received by the partnership under subparagraph (C)(i),

"(II) satisfies the requirements of subparagraphs (B)(i), (C), (D), and (E), if 'qualified partnership' is substituted for 'eligible taxpayer' each place it appears therein (except subparagraph (D)(iii)), and

"(III) is not an organization which would be prevented from constituting an eligible taxpayer by reason of subparagraph (B)(ii).

"(iii) REQUIREMENT THAT TAX-EXEMPT PARTNER BE A PARTNER SINCE FIRST CERTIFICATION.—This paragraph shall apply with respect to any eligible taxpayer which is a partner of a partnership which acquires, remediates, and sells, exchanges, or otherwise disposes of a qualifying brownfield property only if such eligible taxpayer was a partner of the qualifying partnership at all times beginning on the date of the first certification received by the partnership under subparagraph (C)(i) and ending on the date of the sale, exchange, or other disposition of the property by the partnership.

"(iv) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to prevent abuse of the requirements of this subparagraph, including abuse through—

"(I) the use of special allocations of gains or losses, or

"(II) changes in ownership of partnership interests held by eligible taxpayers.

"(H) SPECIAL RULES FOR MULTIPLE PROPERTIES.—

"(i) IN GENERAL.—An eligible taxpayer or a qualifying partnership of which the eligible taxpayer is a partner may make a 1-time election to apply this paragraph to more than 1 qualifying brownfield property by averaging the eligible remediation expenditures for all such properties acquired during the election period. If the eligible taxpayer or qualifying partnership makes such an election, the election shall apply to all qualified sales, exchanges, or other dispositions of qualifying brownfield properties the acquisition and transfer of which occur during the period for which the election remains in effect.

"(ii) ELECTION.—An election under clause (i) shall be made with the eligible taxpayer's or qualifying partnership's timely filed tax return (including extensions) for the first taxable year for which the taxpayer or qualifying partnership intends to have the election apply. An election under clause (i) is effective for the period—

"(I) beginning on the date which is the first day of the taxable year of the return in which the election is included or a later day in such taxable year selected by the eligible taxpayer or qualifying partnership, and

"(II) ending on the date which is the earliest of a date of revocation selected by the eligible taxpayer or qualifying partnership, the date which is 8 years after the date described in subclause (I), or, in the case of an election by a qualifying partnership of which the eligible taxpayer is a partner, the date of the termination of the qualifying partnership.

"(iii) REVOCATION.—An eligible taxpayer or qualifying partnership may revoke an election under clause (i)(II) by filing a statement of revocation with a timely filed tax return (including extensions). A revocation is effective as of the first day of the taxable year of the return in which the revocation is included or a later day in such taxable year selected by the eligible taxpayer or qualifying partnership. Once an eligible taxpayer or qualifying partnership revokes the election, the eligible taxpayer or qualifying partnership is ineligible to make another election under clause (i) with respect to any qualifying brownfield property subject to the revoked election.

"(I) RECAPTURE.—If an eligible taxpayer excludes gain or loss from a sale, exchange, or other disposition of property to which an election under subparagraph (H) applies, and such property fails to satisfy the requirements of this paragraph, the unrelated business taxable income of the eligible taxpayer for the taxable year in which such failure occurs shall be determined by including any previously excluded gain or loss from such sale, exchange, or other disposition allocable to such taxpayer, and interest shall be determined at the overpayment rate established under section 6621 on any resulting tax for the period beginning with the due date of the return for the taxable year during which such sale, exchange, or other disposition occurred, and ending on the date of payment of the tax.

"(J) RELATED PERSONS.—For purposes of this paragraph, a person shall be treated as related to another person if—

"(i) such person bears a relationship to such other person described in section 267(b) (determined without regard to paragraph (9) thereof), or section 707(b)(1), determined by substituting '25 percent' for '50 percent' each place it appears therein, and

"(ii) in the case such other person is a nonprofit organization, if such person controls directly or indirectly more than 25 percent of the governing body of such organization."

(b) EXCLUSION FROM DEFINITION OF DEBT-FINANCED PROPERTY.—Section 514(b)(1) (defining debt-financed property) is amended by striking "or" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting "; or", and by inserting after subparagraph (D) the following new subparagraph:

"(E) any property the gain or loss from the sale, exchange, or other disposition of which would be excluded by reason of the provisions of section 512(b)(18) in computing the gross income of any unrelated trade or business.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any gain or loss on the sale, exchange, or other disposition of any property acquired by the taxpayer after the date of the enactment of this Act.

SA 2701. Mr. WARNER (for himself, Mr. STEVENS, Mr. INHOFE, Mr. ROBERTS, Ms. COLLINS, Mr. CHAMBLISS, Mr. GRAHAM of South Carolina, and Mr. TALENT) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 4, line 4, increase the amount by $699,700,000.

On page 4, line 5, increase the amount by $262,000,000.

On page 4, line 6, increase the amount by $358,000,000.

On page 4, line 7, increase the amount by $405,000,000.

On page 4, line 8, increase the amount by $432,000,000.

On page 4, line 12, increase the amount by $5,506,000,000.

On page 4, line 13, increase the amount by $1,855,000,000.

On page 4, line 14, increase the amount by $799,000,000.

On page 4, line 15, increase the amount by $550,000,000.

On page 4, line 16, increase the amount by $480,000,000.

On page 4, line 20, decrease the amount by $5,506,000,000.

On page 4, line 21, decrease the amount by $1,855,000,000.

On page 4, line 22, decrease the amount by $799,000,000.

On page 4, line 23, decrease the amount by $550,000,000.

On page 4, line 24, decrease the amount by $480,000,000.

On page 5, line 3, increase the amount by $5,506,000,000.

On page 5, line 4, increase the amount by $7,362,000,000.

On page 5, line 5, increase the amount by $8,161,000,000.

On page 5, line 6, increase the amount by $8,711,000,000.

On page 5, line 7, increase the amount by $9,191,000,000.

On page 5, line 11, increase the amount by $5,506,000,000.

On page 5, line 12, increase the amount by $7,362,000,000.

On page 5, line 13, increase the amount by $8,161,000,000.

On page 5, line 14, increase the amount by $8,711,000,000.

On page 5, line 15, increase the amount by $9,191,000,000.

On page 7, line 25, increase the amount by $6,900,000,000.

On page 8, line 1, increase the amount by $5,409,000,000.

On page 8, line 5, increase the amount by $1,594,000,000.

On page 8, line 9, increase the amount by $442,000,000.

On page 8, line 13, increase the amount by $145,000,000.

On page 8, line 17, increase the amount by $48,000,000.

On page 22, line 9, increase the amount by $97,000,000.

On page 22, line 10, increase the amount by $97,000,000.

On page 22, line 13, increase the amount by $262,000,000.

On page 22, line 14, increase the amount by $262,000,000.

On page 22, line 17, increase the amount by $358,000,000.

On page 22, line 18, increase the amount by $358,000,000.

On page 22, line 21, increase the amount by $405,000,000.

On page 22, line 22, increase the amount by $405,000,000.

On page 22, line 25, increase the amount by $432,000,000.

On page 23, line 1, increase the amount by $432,000,000.

On page 39, line 18, increase the amount by $6,900,000,000.

On page 39, line 19, increase the amount by $5,409,000,000.

On page 40, line 2, increase the amount by $1,594,000,000.

SA 2702. Mrs. DOLE submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 18, line 4, increase the amount by $156,000,000.

On page 18, line 5, increase the amount by $135,000,000.

On page 18, line 8, increase the amount by $162,000,000.

On page 18, line 9, increase the amount by $160,000,000.

On page 18, line 12, increase the amount by $169,000,000.

On page 18, line 13, increase the amount by $170,000,000.

On page 18, line 16, increase the amount by $175,000,000.

On page 18, line 17, increase the amount by $175,000,000.

On page 18, line 20, increase the amount by $180,000,000.

On page 18, line 21, increase the amount by $180,000,000.

On page 23, line 5, decrease the amount by $156,000,000.

On page 23, line 6, decrease the amount by $135,000,000.

On page 23, line 9, decrease the amount by $162,000,000.

On page 23, line 10, decrease the amount by $160,000,000.

On page 23, line 13, decrease the amount by $169,000,000.

On page 23, line 14, decrease the amount by $170,000,000.

On page 23, line 17, decrease the amount by $175,000,000.

On page 23, line 18, decrease the amount by $175,000,000.

On page 23, line 21, decrease the amount by $180,000,000.

On page 23, line 22, decrease the amount by $180,000,000.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. ALLARD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Monday, March 8, 2004, at 2 p.m., to consider the nomination of Mark B. McClellen to be Administrator of the Center for Medicare and Medicaid Services; Brian Rosoboro to be Under Secretary of the Department; Donald Korb, to be Chief Counsel for the Internal Revenue Service and Assistant General Counsel in the Department of the Treasury; and Mark J. Warshawsky, to be Assistant Secretary, U.S. Department of Treasury.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. NICKLES. Mr. President, I ask unanimous consent that privilege of the floor be granted to Amy Angelier, Katy Barr, Dan Brandt, Don Dempsey, Cara Duckworth, Beth Smerko Felder, Jim Hearn, Jody Hernandez, Stacey Hughes, Rachel Jones, Marshall Hazen, David Myers, Maureen O'Neill, David Ortega, Gayle Osterberg, Anne Oswalt, David Pappone, Roy Phillips, Cheri Reidy, Margaret Stewart, Bob Taylor, Lee Greenwood, Letitia Fletcher, Tim Nolan, Lynne Seymour, George Woodall, Shelley Amdur, Steve Bailey, Rock Cheung, Jim Esquea, Tim Galvin, Lawrence Hershon, Jim Horney, Cliff Isenberg, Mike Jones, Erin Keogh, Jim Klumpner, Lisa Konwinski, Sarah Kuehl, Jessie LaVine, Jamie Morin, Stu Nagurka, Mary Naylor, Sue Nelson, Kobye Noel, Anne Page, Steven Posner, John Righter, Barry Strumpf, and David Vandivier during consideration of S. Con. Res. 95, the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I ask unanimous consent that an additional four staff members, Stacey Hughes and Jody Hernandez from the Republican staff, and Jim Horney and Sue Nelson of the Democrat staff, be granted the privilege of the floor during debate on S. Con. Res 95.

The PRESIDING OFFICER. Without objection, it is so ordered.

MISCELLANEOUS TRADE AND TECHNICAL CORRECTIONS ACT OF 2003

On Thursday, March 4, 2004, the Senate passed H.R. 1047, as follows:

Resolved, That the bill from the House of Representatives (H.R. 1047) entitled "An Act to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes.", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Miscellaneous Trade and Technical Corrections Act of 2004".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—TARIFF PROVISIONS

Sec. 1001. Reference; expired provisions.

Subtitle A—Temporary Duty Suspensions and Reductions

CHAPTER 1—NEW DUTY SUSPENSIONS AND REDUCTIONS

Sec. 1101. Bitolylene diisocyanate (TODI).
Sec. 1102. 2-Methylimidazole.
Sec. 1103. Hydroxylamine free base.
Sec. 1104. Prenol.
Sec. 1105. 1-Methylimadazole.
Sec. 1106. Formamide.
Sec. 1107. Michler's ethyl ketone.
Sec. 1108. Vinyl imidazole.
Sec. 1109. Disperse blue 27.
Sec. 1110. Acid black 244.
Sec. 1111. Reactive orange 132.
Sec. 1112. Mixtures of acid red 337, acid red 266, and acid red 361.
Sec. 1113. Vat red 13.
Sec. 1114. 5-Methylpyridine-2,3-dicarboxylic acid.
Sec. 1115. 5-Methylpyridine-2,3-dicarboxylic acid diethylester.
Sec. 1116. 5-Ethylpyridine dicarboxylic acid.
Sec. 1117. (E)-O(2,5-Dimethylphenoxy methyl)-2-methoxy-imino-N-methylphenylacetamide.
Sec. 1118. 2-Chloro-N-(4'chlorobiphenyl-2-yl) nicotinamide.
Sec. 1119. Vinclozolin.
Sec. 1120. Dazomet.
Sec. 1121. Pyraclostrobin.
Sec. 1122. 1,3-Benzenedicarboxylic acid, 5-sulfo-1,3-dimethyl ester sodium salt.
Sec. 1123. Saccharose.
Sec. 1124. (2-Benzothiazolythio) butanedioic acid.
Sec. 1125. 60–70 Percent amine salt of 2-benzothiazolythio succinic acid in solvent.
Sec. 1126. 4-Methyl-g-oxo-benzenebutanoic acid compounded with 4-ethylmorpholine (2:1).
Sec. 1127. Mixtures of rimsulfuron, nicosulfuron, and application adjuvants.
Sec. 1128. Mixtures of thifensulfuron methyl, tribenuron methyl and application adjuvants.
Sec. 1129. Mixtures of thifensulfuron methyl and application adjuvants.
Sec. 1130. Mixtures of tribenuron methyl and application adjuvants.
Sec. 1131. Mixtures of rimsulfuron, thifensulfuron methyl and application adjuvants.
Sec. 1132. Vat black 25.
Sec. 1133. Cyclohexanepropanoic acid, 2-propenyl ester.
Sec. 1134. Neoheliopan hydro (2-phenylbenzimidazole-5-sulfonic acid).
Sec. 1135. Sodium methylate powder (Na methylate powder).
Sec. 1136. Globanone (cyclohexadec-8-en-1-one) (CHD).
Sec. 1137. Methyl acetophenone-para (melilot).
Sec. 1138. Majantol (2,2-dimethyl-3-(3-methylphenyl)propanol).
Sec. 1139. NeoHeliopan MA (menthyl anthranilate).
Sec. 1140. Allyl isosulfocyanate.
Sec. 1141. Frescolat.
Sec. 1142. Thymol (alpha-cymophenol).
Sec. 1143. Benzyl carbazate.
Sec. 1144. Esfenvalerate technical.
Sec. 1145. Avaunt and steward.
Sec. 1146. Helium.
Sec. 1147. Ethyl pyruvate.
Sec. 1148. Deltamethrin.
Sec. 1149. Asulam sodium salt.
Sec. 1150. Tralomethrin.
Sec. 1151. N-Phenyl-N'-(1,2,3-thiadiazol-5-yl)-urea.
Sec. 1152. Benzenepropanoic acid, alpha-2-dichloro-5-{4 (difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1H-1,2,4-triazol-1-ylγ-4-fluoro-ethyl ester.
Sec. 1153. (Z)-(1RS, 3RS)-3-(2-Chloro-3,3,3 triflouro-1-propenyl)-2,2-dimethylcyclopropane carboxylic acid.
Sec. 1154. 2-Chlorobenzyl chloride.
Sec. 1155. (S)-Alpha-hydroxy-3-phenoxybenzeneacetonitrile.
Sec. 1156. 4-Pentenoic acid, 3,3-dimethyl-, methyl ester.
Sec. 1157. Terrazole.
Sec. 1158. 2-Mercaptoethanol.
Sec. 1159. Bifenazate.
Sec. 1160. A certain polymer.
Sec. 1161. Para ethylphenol.
Sec. 1162. Ezetimibe.
Sec. 1163. p-Cresidine sulfonic acid.
Sec. 1164. 2,4 Disulfobenzaldehyde.
Sec. 1165. m-Hydroxybenzaldehyde.
Sec. 1166. N-Ethyl-N-(3-sulfobenzyl)aniline, benzenesulfonic acid, 3[(ethylphenylamino)methyl].
Sec. 1167. Acrylic fiber tow.
Sec. 1168. Yttrium oxides.
Sec. 1169. Europium oxides.
Sec. 1170. Hexanedioic acid, polymer with 1,3-benzenedimethanamine.
Sec. 1171. N1-[(6-Chloro-3-pyridyl)methyl]-N2-cyano-N1-methylacetamidine.
Sec. 1172. Aluminum tris (O-ethyl phosphonate).
Sec. 1173. Mixture of disperse blue 77 and disperse blue 56.
Sec. 1174. Acid black 172.
Sec. 1175. Mixture of 9,10-anthracenedione, 1,5-dihydroxy-4-nitro-8-(phenylamino)-and disperse blue 77.

Sec. 1176. Certain children's products.
Sec. 1177. Certain optical instruments used in children's products.
Sec. 1178. Cases for certain children's products.
Sec. 1179. 2,4-Dichloroaniline.
Sec. 1180. Ethoprop.
Sec. 1181. Foramsulfuron.
Sec. 1182. Certain epoxy molding compounds.
Sec. 1183. Dimethyldicyane.
Sec. 1184. Triacetone diamine.
Sec. 1185. Triethylene glycol bis[3-(3-tert-butyl-4-hydroxy-5-methylphenyl) propionate].
Sec. 1186. Certain power weaving textile machinery.
Sec. 1187. Certain filament yarns.
Sec. 1188. Certain other filament yarns.
Sec. 1189. Certain ink-jet textile printing machinery.
Sec. 1190. Certain other textile printing machinery.
Sec. 1191. D-Mannose.
Sec. 1192. Benzamide, N-methyl-2-[[3-[(1E)-2-(2-pyridinyl)-ethenyl]-1H-indazol-6-yl)thio]-.
Sec. 1193. 1(2H)-Quinolinecarboxylic acid, 4-[[[3,5-bis-(trifluoromethyl)phenyl] methyl](methoxycarbonyl)amino]-2-ethyl- 3,4-dihydro-6-(trifluoromethyl)-, ethyl ester, (2R,4S)-(9CI).
Sec. 1194. Disulfide,bis(3,5-dichlorophenyl)(9C1).
Sec. 1195. Pyridine,4-[[4-(1-methylethyl)-2-[(phenylmethoxy)methyl]-1H-midazol-1-yl] methyl]-ethanedioate (1:2).
Sec. 1196. Paclobutrazole technical.
Sec. 1197. Paclobutrazole 2SC.
Sec. 1198. Methidathion technical.
Sec. 1199. Vanguard 75 WDG.
Sec. 1200. Wakil XL.
Sec. 1201. Mucochioric acid.
Sec. 1202. Azoxystrobin technical.
Sec. 1203. Flumetralin technical.
Sec. 1204. Cyprodinil technical.
Sec. 1205. Mixtures of lambda-cyhalothrin.
Sec. 1206. Primisulfuron methyl.
Sec. 1207. 1,2-Cyclohexanedione.
Sec. 1208. Difenoconazole.
Sec. 1209. Certain refracting and reflecting telescopes.
Sec. 1210. Phenylisocyanate.
Sec. 1211. Bayowet FT-248.
Sec. 1212. p-Phenylphenol.
Sec. 1213. Certain rubber riding boots.
Sec. 1214. Chemical RH water-based.
Sec. 1215. Chemical NR ethanol-based.
Sec. 1216. Tantalum capacitor ink.
Sec. 1217. Certain sawing machines.
Sec. 1218. Certain sector mold press manufacturing equipment.
Sec. 1219. Certain manufacturing equipment used for molding.
Sec. 1220. Certain extruders.
Sec. 1221. Certain shearing machines.
Sec. 1222. Thermal release plastic film.
Sec. 1223. Certain silver paints and pastes.
Sec. 1224. Polymer masking material for aluminum capacitors (UPICOAT).
Sec. 1225. OBPA.
Sec. 1226. Macroporous ion-exchange resin.
Sec. 1227. Copper 8-quinolinolate.
Sec. 1228. Ion-exchange resin.
Sec. 1229. Ion-exchange resin crosslinked with ethenylbenzene, aminophosponic acid.
Sec. 1230. Ion-exchange resin crosslinked with divinylbenzene, sulphonic acid.
Sec. 1231. 3-[(4 Amino-3-methoxyphenyl) azo]-benzene sulfonic acid.
Sec. 1232. 2-Methyl-5-nitrobenzenesulfonic acid.
Sec. 1233. 2-Amino-6-nitro-phenol-4-sulfonic acid.
Sec. 1234. 2-Amino-5-sulfobenzoic acid.
Sec. 1235. 2,5 Bis [(1,3 dioxobutyl) amino] benzene sulfonic acid.
Sec. 1236. p-Aminoazobenzene 4 sulfonic acid, monosodium salt.
Sec. 1237. p-Aminoazobenzene 4 sulfonic acid.
Sec. 1238. 3-[(4 Amino-3-methoxyphenyl) azo]-benzene sulfonic acid, monosodium salt.
Sec. 1239. ET-743 (Ecteinascidin).
Sec. 1240. 2,7-Naphthalenedisulfonic acid, 5-[[4-chloro-6-[[2-[[4-fluoro-6-[[5-hydroxy-6-[(4-methoxy-2-sulfophenyl)azo]-7-sulfo-2-naphthalenyl]amino]-1,3,5-triazin-2-yl] amino]-1-methylethyl]amino]-1,3,5-triazin-2-yl]amino]-3-[[4-(ethenylsulfonyl)phenyl]azo]-4-hydrox'-, sodium salt.
Sec. 1241. 1,5-Naphthalenedisulfonic acid, 3-[[2-(acetylamino)-4-[[4-[[2-[2-(ethenylsulfonyl)ethoxy]ethyl] amino]-6-fluoro-1,3,5-triazin-2-yl]amino]phenyl]azo]-, disodium salt.
Sec. 1242. 7,7'-[1.3-Propanediylbis[imino(6-fluoro-1,3,5-triazine-4,2-diyl)imino[2-[(aminocarbonyl)amino]-4,1-phenylene]azo]]bis-, sodium salt.
Sec. 1243. Cuprate(3-),[2-[[[[3-[[4-[[2-[2-(ethenylsulfonyl)ethoxy]ethyl]amino]-6-fluoro-1,3,5-triazin-2-yl]amino]-2-(hydroxy-.kappa.O)-5-sulfophenyl]azo-.kappa.N2]phenylmethyl]azo-.kappa.N1]-4-sulfobenzoato(5-)-.kappa.O], trisodium.
Sec. 1244. 1,5-Naphthalenedisulfonic acid, 2-[[8-[[4-[[3-[[[2-(ethenylsulfonyl) ethyl]amino]carbonyl] phenyl]amino]-6-fluoro-1,3,5-triazin-2-yl]amino]-1-hydrosy-3,6-disulfo-2-naphthalenyl]azo]-, tetrasodium salt.
Sec. 1245. PTFMBA.
Sec. 1246. Benzoic acid, 2-amino-4-[[(2,5-dichlorophenyl)amino]carbonyl]-, methyl ester.
Sec. 1247. Imidacloprid pesticides.
Sec. 1248. Beta-cyfluthrin.
Sec. 1249. Imidacloprid technical.
Sec. 1250. Bayleton technical.
Sec. 1251. Propoxur technical.
Sec. 1252. MKH 6561 isocyanate.
Sec. 1253. Propoxy methyl triazolone.
Sec. 1254. Nemacur VL.
Sec. 1255. Methoxy methyl triazolone.
Sec. 1256. Levafix golden yellow E-G.
Sec. 1257. Levafix blue CA/Remazol blue CA.
Sec. 1258. Remazol yellow RR gran.
Sec. 1259. Indanthren blue CLF.
Sec. 1260. Indanthren yellow F3GC.
Sec. 1261. Acetyl chloride.
Sec. 1262. 4-Methoxy-phenacychloride.
Sec. 1263. 3-Methoxy-thiophenol.
Sec. 1264. Levafix brilliant red E-6BA.
Sec. 1265. Remazol BR. blue BB 133 percent.
Sec. 1266. Fast navy salt RA.
Sec. 1267. Levafix royal blue E-FR.
Sec. 1268. p-Chloro aniline.
Sec. 1269. Esters and sodium esters of parahydroxybenzoic acid.
Sec. 1270. Santolink EP 560.
Sec. 1271. Phenodur VPW 1942.
Sec. 1272. Phenodur PR 612.
Sec. 1273. Phenodur PR 263.
Sec. 1274. Macrynal SM 510 and 516.
Sec. 1275. Alftalat AN 725.
Sec. 1276. RWJ 241947.
Sec. 1277. RWJ 394718.
Sec. 1278. RWJ 394720.
Sec. 1279. 3,4-DCBN.
Sec. 1280. Cyhalofop.
Sec. 1281. Asulam.
Sec. 1282. Florasulam.
Sec. 1283. Propanil.
Sec. 1284. Halofenozide.
Sec. 1285. Ortho-phthalaldehyde.
Sec. 1286. Trans 1,3-dichloropentene.
Sec. 1287. Methacrylamide.
Sec. 1288. Cation exchange resin.
Sec. 1289. Gallery.
Sec. 1290. Necks used in cathode ray tubes.
Sec. 1291. Polytetramethylene ether glycol.
Sec. 1292. Leaf alcohol.
Sec. 1293. Combed cashmere and camel hair yarn.
Sec. 1294. Certain carded cashmere yarn.
Sec. 1295. Sulfur black 1.
Sec. 1296. Reduced vat blue 43.
Sec. 1297. Fluorobenzene.
Sec. 1298. Certain rayon filament yarn.
Sec. 1299. Certain tire cord fabric.
Sec. 1300. Direct black 184.
Sec. 1301. Black 263 stage.
Sec. 1302. Magenta 364.
Sec. 1303. Thiamethoxam technical.
Sec. 1304. Cyan 485 stage.
Sec. 1305. Direct blue 307.
Sec. 1306. Direct violet 107.
Sec. 1307. Fast black 286 stage.
Sec. 1308. Mixtures of fluazinam.
Sec. 1309. Prodiamine technical.
Sec. 1310. Carbon dioxide cartridges.
Sec. 1311. 12-Hydroxyoctadecanoic acid, reaction product with N,N-dimethyl, 1,3-propanediamine, dimethyl sulfate, quaternized.
Sec. 1312. 40 Percent polymer acid salt/polymer amide, 60 percent butyl acetate.
Sec. 1313. 12-Hydroxyoctadecanoic acid, reaction product with N,N-dimethyl-1,3-propanediamine, dimethyl sulfate, quaternized, 60 percent solution in toluene.
Sec. 1314. Polymer acid salt/polymer amide.
Sec. 1315. 50 Percent amine neutralized phosphated polyester polymer, 50 percent solvesso 100.
Sec. 1316. 1-Octadecanaminium, N,N-di-methyl-N-octadecyl-, (Sp-4-2)-[29H,31H-phtha- locyanine-2- sulfonato(3-)-.kappa.N29,.kappa.N30,.kappa.N31,.kappa.N32]cuprate(1-).
Sec. 1317. Chromate(1-) - bis-{1-{(5-chloro–2-hydroxyphenyl)azoγ – 2-napthal enolato(2-)γ-,hydrogen.
Sec. 1318. Bronate advanced.
Sec. 1319. N-Cyclohexylthiophthalimide.
Sec. 1320. Certain high-performance loudspeakers.
Sec. 1321. Bio-set injection RCC.
Sec. 1322. Penta amino aceto nitrate cobalt III (coflake 2).
Sec. 1323. Oxasulfuron technical.
Sec. 1324. Certain manufacturing equipment.
Sec. 1325. 4-Aminobenzamide.
Sec. 1326. Foe hydroxy.
Sec. 1327. Magenta 364 liquid feed.
Sec. 1328. Tetrakis.
Sec. 1329. Palmitic acid.
Sec. 1330. Phytol.
Sec. 1331. Chloridazon.
Sec. 1332. Disperse orange 30, disperse blue 79:1, disperse red 167:1, disperse yellow 64, disperse red 60, disperse blue 60, disperse blue 77, disperse yellow 42, disperse red 86, and disperse red 86:1.
Sec. 1333. Disperse blue 321.
Sec. 1334. Direct black 175.
Sec. 1335. Disperse red 73 and disperse blue 56.
Sec. 1336. Acid black 132.
Sec. 1337. Acid black 107.

Sec. 1338. Acid yellow 219, acid orange 152, acid red 278, acid orange 116, acid orange 156, and acid blue 113.
Sec. 1339. Luganil brown NGT powder.
Sec. 1340. Thiophanate-methyl.
Sec. 1341. Mixtures of thiophanate-methyl and application adjuvants.
Sec. 1342. Hydrated hydroxypropyl methylcellulose.
Sec. 1343. C 12–18 Alkenes, polymers with 4-methyl-1-pentene.
Sec. 1344. Certain 12-volt batteries.
Sec. 1345. Certain prepared or preserved artichokes.
Sec. 1346. Certain other prepared or preserved artichokes.
Sec. 1347. Ethylene/tetrafluoroethylene copolymer (ETFE).
Sec. 1348. Acetamiprid.
Sec. 1349. Certain manufacturing equipment.
Sec. 1350. Triticonazole.
Sec. 1351. Certain textile machinery.
Sec. 1352. 3-Sulfinobenzoic acid.
Sec. 1353. Polydimethylsiloxane.
Sec. 1354. Baysilone fluid.
Sec. 1355. Ethanediamide, N- (2-ethoxyphenyl) - N′ - (4-isodecylphenyl)-.
Sec. 1356. 1-Acetyl-4-(3-dodecyl-2, 5-dioxo-1-pyrrolidinyl) - 2,2,6,6-tetramethylpiperidine.
Sec. 1357. Aryl phosphonite.
Sec. 1358. Mono octyl malionate.
Sec. 1359. 3,6,9-trioxaundecanedioic acid.
Sec. 1360. Crotonic acid.
Sec. 1361. 1,3-Benzenedicarboxamide, N, N′-bis-(2,2,6,6-tetramethyl-4-piperidinyl)-.
Sec. 1362. 3-Dodecyl-1-(2,2,6,6-tetramethyl-4-piperidinyl)-2,5-pyrrolidinedione.
Sec. 1363. Oxalic anilide.
Sec. 1364. N-Methyl diisopropanolamine.
Sec. 1365. 50 Percent homopolymer, 3-(dimethylamino) propyl amide, dimethyl sulfate-quaternized 50 percent polyricinoleic acid.
Sec. 1366. Black CPW stage.
Sec. 1367. Fast black 287 NA paste.
Sec. 1368. Fast black 287 NA liquid feed.
Sec. 1369. Fast yellow 2 stage.
Sec. 1370. Cyan 1 stage.
Sec. 1371. Yellow 1 stage.
Sec. 1372. Yellow 746 stage.
Sec. 1373. Black SCR stage.
Sec. 1374. Magenta 3B-OA stage.
Sec. 1375. Yellow 577 stage.
Sec. 1376. Cyan 485/4 stage.
Sec. 1377. Low expansion laboratory glass.
Sec. 1378. Stoppers, lids, and other closures.
Sec. 1379. Triflusulfuron methyl formulated product.
Sec. 1380. Agrumex (o-t-butyl cyclohexanol).
Sec. 1381. Trimethyl cyclo hexanol (1-methyl-3,3-dimethylcyclohexanol-5).
Sec. 1382. Myclobutanil.
Sec. 1383. Methyl cinnamate (methyl-3-phenylpropenoate).
Sec. 1384. Acetanisole (anisyl methyl ketone).
Sec. 1385. Alkylketone.
Sec. 1386. Iprodione 3-(3-5, dicholorophenyl)-N-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide.
Sec. 1387. Dichlorobenzidine dihydrochloride.
Sec. 1388. Kresoxim-methyl.
Sec. 1389. MKH 6562 isocyanate.
Sec. 1390. Certain rayon filament yarn.
Sec. 1391. Benzenepropanal, 4-(1,1-dimethylethyl)-alpha-methyl.
Sec. 1392. 3,7-Dichloro-8-quinoline carboxylic acid.
Sec. 1393. 3-(1-Methylethyl)-1H-2,1,3-benzothiadiazin-4(3H)-one 2,2 dioxide, sodium salt.
Sec. 1394. 3,3′,4-4′-Biphenyltetracarboxylic dianhydride, ODA, ODPA, PMDA, and 1,3-bis(4-aminophenoxy)benzene.
Sec. 1395. Oryzalin.
Sec. 1396. Tebufenozide.
Sec. 1397. Endosulfan.
Sec. 1398. Ethofumesate.
Sec. 1399. Railway car body shells for EMU's.
Sec. 1400. Railway electric multiple unit (EMU) gallery commuter coaches of stainless steel.
Sec. 1401. Snowboard boots.
Sec. 1402. Hand-held radio scanners.
Sec. 1403. Mobile and base radio scanners that are combined with a clock.
Sec. 1404. Mobile and base radio scanners that are not combined with a clock.
Sec. 1405. Certain fine animal hair of Kashmir (cashmere) goats not processed.
Sec. 1406. Certain fine animal hair of Kashmir (cashmere) goats.
Sec. 1407. Certain R-Core transformers.
Sec. 1408. Decorative plates.
Sec. 1409. Bispyribac sodium.
Sec. 1410. Fenpropathrin.
Sec. 1411. Pyriproxyfen.
Sec. 1412. Uniconazole-P.
Sec. 1413. Flumioxazin.
Sec. 1414. Night vision monoculars.
Sec. 1415. 2,4-Xylidine.
Sec. 1416. R118118 Salt.
Sec. 1417. NMSBA.
Sec. 1418. Certain satellite radio broadcasting apparatus.
Sec. 1419. Acephate.
Sec. 1420. Bags for certain toys.

CHAPTER 2—EXISTING DUTY SUSPENSIONS AND REDUCTIONS

Sec. 1501. Extension of certain existing duty suspensions.
Sec. 1502. Effective date.

Subtitle B—Other Tariff Provisions

CHAPTER 1—LIQUIDATION OR RELIQUIDATION OF CERTAIN ENTRIES

Sec. 1601. Certain tramway cars.
Sec. 1602. Liberty Bell replica.
Sec. 1603. Certain entries of cotton gloves.
Sec. 1604. Certain entries of posters.
Sec. 1605. Certain entries of posters entered in 1999 and 2000.
Sec. 1606. Certain entries of 13-inch televisions.
Sec. 1607. Reliquidation of certain entries of vanadium carbides and vanadium carbonitride.
Sec. 1608. Reliquidation of certain entries of televisions subject to dumping.
Sec. 1609. Liquidation of certain entries of roller chain.
Sec. 1610. Reliquidation of drawback claim relating to juices entered in April 1993.
Sec. 1611. Reliquidation of drawback claim relating to juices entered in March 1994.
Sec. 1612. Steel wire rope entries.
Sec. 1613. Liquidation or reliquidation of certain tomato sauce preparation entered in April 10, 1989, through August 20, 1993.
Sec. 1614. Liquidation or reliquidation of certain tomato sauce preparation entered in April 5, 1991, through May 9, 1992.
Sec. 1615. Liquidation or reliquidation of certain tomato sauce preparation entered in May 9, 1992, through September 18, 1993.
Sec. 1616. Liquidation or reliquidation of certain tomato sauce preparation entered in September 18, 1993, through July 25, 1994.
Sec. 1617. Certain entries prematurely liquidated in error.
Sec. 1618. Certain posters entered during 2000 and 2001.
Sec. 1619. Liquidation or reliquidation of certain entries.
Sec. 1620. Reliquidation of certain tomato sauce preparation entered between November 22, 1989, and March 7, 1990.
Sec. 1621. Reliquidation of certain tomato sauce preparation entered between March 14, 1990, and September 29, 1990.
Sec. 1622. Reliquidation of certain tomato sauce preparation entered between October 6, 1990, and November 1, 1990.
Sec. 1623. Reliquidation of certain tomato sauce preparation entered between November 3, 1990, and December 15, 1990.
Sec. 1624. Reliquidation of certain tomato sauce preparation entered between December 28, 1990, and February 9, 1991.
Sec. 1625. Reliquidation of certain tomato sauce preparation entered between February 14, 1991, and April 24, 1991.
Sec. 1626. Reliquidation of certain tomato sauce preparation entered between April 26, 1991, and June 16, 1991.
Sec. 1627. Reliquidation of certain tomato sauce preparation entered between October 7, 1991, and November 24, 1991.
Sec. 1628. Reliquidation of certain tomato sauce preparation entered between November 30, 1991, and November 26, 1992.
Sec. 1629. Reliquidation of certain tomato sauce preparation entered between December 9, 1992, and May 9, 1993.
Sec. 1630. Reliquidation of certain tomato sauce preparation entered between May 14, 1993, and October 23, 1993.
Sec. 1631. Reliquidation of certain tomato sauce preparation entered between May 16, 1990, and April 20, 1996.
Sec. 1632. Reliquidation of certain tomato sauce preparation entered between August 28, 1991, and July 8, 1996.
Sec. 1633. Reliquidation of certain tomato sauce preparation entered in April 4, 1995, and July 22, 1996.
Sec. 1634. Reliquidation of certain tomato sauce preparation entered between October 11, 1994, and May 16, 1995.
Sec. 1635. Reliquidation of certain tomato sauce preparation entered between June 17, 1991, and October 3, 1991.
Sec. 1636. Certain railway passenger coaches.

CHAPTER 2—MISCELLANEOUS PROVISIONS

Sec. 1701. Hair clippers.
Sec. 1702. Tractor body parts.
Sec. 1703. Flexible magnets and composite goods containing flexible magnets.
Sec. 1704. Vessel repair duties.
Sec. 1705. Duty-free treatment for hand-knotted or hand-woven carpets.
Sec. 1706. Duty drawback for certain articles.
Sec. 1707. Modification of provisions relating to drawback claims.
Sec. 1708. Unused merchandise drawback.
Sec. 1709. Treatment of certain footwear under Caribbean Basin Economic Recovery Act.
Sec. 1710. Designation of San Antonio International Airport for customs processing of certain private aircraft arriving in the United States.
Sec. 1711. Certain footwear.

Subtitle C—Effective Date

Sec. 1801. Effective date.

TITLE II—OTHER TRADE PROVISIONS

Sec. 2001. Extension of nondiscriminatory treatment to Serbia and Montenegro.
Sec. 2002. Articles eligible for preferential treatment under the Andean Trade Preference Act.

Sec. 2003. Amendments to United States Insular Possession Program.
Sec. 2004. Technical amendments.
Sec. 2005. Wool trust fund.
Sec. 2006. Sense of the Senate regarding WTO agriculture negotiations.

TITLE III—PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

Sec. 3001. USTR determinations in TRIPS Agreement investigations.
Sec. 3002. Petitions for review under ATPA and CBERA.
Sec. 3003. Adequate and effective protection of intellectual property rights under GSP.
Sec. 3004. Adequate and effective protection of intellectual property rights under CBI.
Sec. 3005. Adequate and effective protection of intellectual property rights under the ATPA.

TITLE IV—IRAQI CULTURAL ANTIQUITIES

Sec. 4001. Short title.
Sec. 4002. Emergency implementation of import restrictions.
Sec. 4003. Termination of authority.

TITLE V—COTTON FABRICS

Sec. 5001. Temporary duty reductions for certain cotton shirting fabric.
Sec. 5002. Cotton trust fund.

TITLE VI—TECHNICAL AMENDMENTS RELATING TO ENTRY AND PROTEST

Sec. 6001. Entry of merchandise.
Sec. 6002. Limitation on liquidations.
Sec. 6003. Protests.
Sec. 6004. Review of protests.
Sec. 6005. Refunds and errors.
Sec. 6006. Definitions and miscellaneous provisions.
Sec. 6007. Voluntary reliquidations.
Sec. 6008. Effective date.

TITLE VII—EXTENSION OF SUSPENSIONS

Sec. 7001. Extension of duty suspensions.

TITLE I—TARIFF PROVISIONS

SEC. 1001. REFERENCE; EXPIRED PROVISIONS.

(a) REFERENCE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a chapter, subchapter, note, additional U.S. note, heading, subheading, or other provision, the reference shall be considered to be made to a chapter, subchapter, note, additional U.S. note, heading, subheading, or other provision of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007).

(b) EXPIRED PROVISIONS.—Subchapter II of chapter 99 is amended by striking the following headings:

9902.29.06
9902.29.09
9902.29.11
9902.29.12
9902.29.15
9902.29.18
9902.29.19
9902.29.20
9902.29.21
9902.29.24
9902.29.28
9902.29.29
9902.29.32
9902.29.36
9902.29.43
9902.29.44
9902.29.45
9902.29.50
9902.29.51
9902.29.52
9902.29.53
9902.29.54
9902.29.57
9902.29.60
9902.29.65
9902.29.66
9902.29.67
9902.29.72
9902.29.74
9902.29.95
9902.30.04
9902.30.17
9902.30.18
9902.30.19
9902.30.58
9902.30.63
9902.30.64
9902.30.65
9902.30.91
9902.30.92
9902.31.12
9902.31.21
9902.32.01
9902.32.08
9902.32.11
9902.32.13
9902.32.29
9902.32.31
9902.32.33
9902.32.34
9902.32.35
9902.32.36
9902.32.37
9902.32.38
9902.32.39
9902.32.40
9902.32.41
9902.32.42
9902.32.43
9902.32.45
9902.32.51
9902.32.54
9902.32.56
9902.32.70
9902.32.94
9902.32.95
9902.33.01
9902.33.02
9902.33.03
9902.33.04
9902.33.05
9902.33.06
9902.33.07
9902.33.08
9902.33.09
9902.33.10
9902.33.11
9902.33.12
9902.33.16
9902.33.19
9902.33.66
9902.33.90
9902.34.02
9902.38.08
9902.38.11
9902.38.12
9902.38.25
9902.38.26
9902.38.28
9902.39.04
9902.39.12
9902.61.00
9902.64.04
9902.64.05
9902.84.10
9902.84.12
9902.84.20
9902.84.43
9902.84.46
9902.84.77
9902.84.79
9902.84.81
9902.84.83
9902.84.85
9902.84.87
9902.84.89
9902.84.91
9902.85.20
9902.85.21
9902.98.03
9902.98.04
9902.98.05
9902.98.08

Subtitle A—Temporary Duty Suspensions and Reductions

CHAPTER 1—NEW DUTY SUSPENSIONS AND REDUCTIONS

SEC. 1101. BITOLYLENE DIISOCYANATE (TODI).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.01	Bitolylene diisocyanate (TODI) (CAS No. 91-97-4) (provided for in subheading 2929.10.20)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1102. 2-METHYLIMIDAZOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.02	2-Methylimidazole (CAS No. 693-98-1) (provided for in subheading 2933.29.90)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1103. HYDROXYLAMINE FREE BASE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.03	Hydroxylamine (CAS No. 7803-49-8) (provided for in subheading 2825.10.00)	0.6%	No change	No change	On or before 12/31/2005	".

SEC. 1104. PRENOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.04	3-Methyl-2-buten-1-ol (CAS No. 556-82-1) (provided for in subheading 2905.29.90)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1105. 1-METHYLIMADAZOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.05	1-Methylimidazole (CAS No. 616-47-7) (provided for in subheading 2933.29.90)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1106. FORMAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.06	Formamide (CAS No. 75-12-7) (provided for in subheading 2924.19.10)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1107. MICHLER'S ETHYL KETONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.07	4,4′-Bis-(diethylamino)-benzophenone (CAS No. 90-93-7) (provided for in subheading 2922.39.45)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1108. VINYL IMIDAZOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.08	1-Ethenyl-1H-imidazole (CAS No. 1072-63-5) (provided for in subheading 2933.29.90)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1109. DISPERSE BLUE 27.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.09	Disperse blue 27 (9,10-anthracenedione, 1.8-dihydroxy-4-[[4-(2-hydroxyethyl)phenyl]amino]-5-nitro-) (CAS No. 15791-78-3) (provided for in subheading 3204.11.50)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1110. ACID BLACK 244.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.10	Acid black 244 (chromate(2-). [3-(hydroxy-.kappa.O)-4-[[2-(hydroxy-.kappa.O)-1-naphthalenyl]azo-.kappa.N2]-1-naphthalenesulfonato(3-)] [1-[[2-(hydroxy-.kappa.O)-5-[4-methoxyphenyl)-azo]phenyl]azo-.kappa.N2]-2-naphthalene-sulfonato(2-)-.kappa.O]-, disodium) (CAS No. 30785-74-1) (provided for in subheading 3204.12.45)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1111. REACTIVE ORANGE 132.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.11	Reactive orange 132 (benzenesulfonic acid, 2,2′-[(1-methyl-1,2-ethanediyl)-bis[imino(6-fluoro-1,3,5-triazine-4,2-diyl)imino[2-[(aminocarbon-yl)-amino)]-4,1-phenylene]azo]]bis[5-[(4-sulfophenyl)azo]-, sodium salt) (CAS No. 149850-31-7) (provided for in subheading 3204.16.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1112. MIXTURES OF ACID RED 337, ACID RED 266, AND ACID RED 361.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.12	Mixtures of acid red 337 (2-naphthalenesulfonic acid, 6-amino-5-[[2-[(cyclohexylmethylamino)-sulfonyl]phenyl]azo]-4-hydroxy-, monosodium salt) (CAS No. 32846-21-2), acid red 266 (2-naphthalenesulfonic acid, 6-amino-5-[[4-chloro-2-(trifluoromethyl)phenyl]azo]-4-hydroxy-, monosodium salt) (CAS No. 57741-47-6), and acid red 361 (2-naphthalenesulfonic acid, 6-amino-4-hydroxy-5-[[2-(trifluoromethyl)phenyl]azo]-, monosodium salt) (CAS No. 67786-14-5) (provided for in subheading 3204.12.45)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1113. VAT RED 13.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.13	Vat red 13 ([3,3′-bianthra[1,9-cd]pyrazole]-6,6′(1H,1′H)-dione, 1,1′-diethyl-) (CAS No. 4203-77-4) (provided for in subheading 3204.15.80)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1114. 5-METHYLPYRIDINE-2,3-DICARBOXYLIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.14	5-Methylpyridine-2,3-dicarboxylic acid (CAS No. 53636-65-0) (provided for in subheading 2933.39.61)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1115. 5-METHYLPYRIDINE-2,3-DICARBOXYLIC ACID DIETHYLESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.15	5-Methylpyridine-2,3-dicarboxylic acid, diethyl ester (CAS No. 112110-16-4) (provided for in subheading 2933.39.61)	1.8%	No change	No change	On or before 12/31/2005	".

SEC. 1116. 5-ETHYLPYRIDINE DICARBOXYLIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.16	5-Ethylpyridine-2,3-dicarboxylic acid (CAS No. 102268-15-5) (provided for in subheading 2933.39.61)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1117. (E)-O(2,5-DIMETHYLPHENOXY METHYL)-2-METHOXY-IMINO-N-METHYLPHENYLACETAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.17	(E)-O-(2,5-Dimethylphenoxy- methyl)-2-methoxyimino-N-methylphenylacet-amide (dimoxystrobin) (CAS No. 145451-07-6) (provided for in subheading 2928.00.25)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1118. 2-CHLORO-N-(4′CHLOROBIPHENYL-2-YL) NICOTINAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.18	2-Chloro-N-(4′-chloro-[1,1′-biphenyl]-2-yl)- nicotinamide (nicobifen) (CAS No. 188425-85-6) (provided for in subheading 2933.39.21)	4.4%	No change	No change	On or before 12/31/2005	".

SEC. 1119. VINCLOZOLIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.19	3-(3,5-Dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione (vinclozolin) (CAS No. 50471–44–8) (provided for in subheading 2934.99.12)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1120. DAZOMET.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.20	Tetrahydro-3,5-dimethyl-2H-1,3,5-thiadiazine-2-thione (CAS No. 533–74–4) (dazomet) (provided for in subheading 2934.99.90)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1121. PYRACLOSTROBIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.21	Methyl N-(2-[[1-(4-chlorophenyl)-1H-pyrazol-3-yl]oxymethyl]-phenyl)-N-methoxycarba-nate (pyra-clostrobin) (CAS No. 175013–18–0) (provided for in subheading 2933.19.23)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1122. 1,3-BENZENEDICARBOXYLIC ACID, 5-SULFO-1,3-DIMETHYL ESTER SODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.22	1,3-Benzenedicarboxylic acid, 5-sulfo-1,3-dimethyl ester, sodium salt (CAS No. 3965–55–7) (provided for in subheading 2917.39.30)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1123. SACCHAROSE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.23	Saccharose to be used other than in food for human consumption and not for nutritional purposes (provided for in subheading 1701.99.50)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1124. (2-BENZOTHIAZOLYTHIO) BUTANEDIOIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:heading:

“	9902.01.25	(Benzothiazol-2-ylthio)succinic acid (CAS No. 95154–01–1) (provided for in subheading 2934.20.40)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1125. 60–70 PERCENT AMINE SALT OF 2-BENZO-THIAZOLYTHIO SUCCINIC ACID IN SOLVENT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.26	(Benzothiazol-2-ylthio)succinic acid (60–70 percent) in solvent (provided for in subheading 3824.90.28)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1126. 4-METHYL-G-OXO-BENZENEBUTANOIC ACID COMPOUNDED WITH 4-ETHYLMORPHOLINE (2:1).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.27	4-Methyl-g-oxo-benzenebutanoic acid compounded with 4-ethylmorpholine (2:1) (CAS No. 171054–89–0) (provided for in subheading 3824.90.28)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1127. MIXTURES OF RIMSULFURON, NICOSULFURON, AND APPLICATION ADJUVANTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.28	Mixtures of rimsulfuron (N-[[(4,6-dimethoxypyrimidin-2-yl)- amino]carbonyl]-3-(ethylsulfonyl)-2-pyridinesulfonamide (CAS No. 122931–48–0), nicosulfuron (2-(((((4,6-dimethoxypyrimidin-2-yl)- amino)carbonyl)-amino)sulfonyl)-N,N-dimethyl-3-pyridinecarboxamide (CAS No. 111991–09–4), and application adjuvants (provided for in subheading 3808.30.15)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1128. MIXTURES OF THIFENSULFURON METHYL, TRIBENURON METHYL AND APPLICATION ADJUVANTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.29	Mixtures of thifensulfuron methyl (methyl 3-[[[[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)-amino]carbonyl]- amino]sulfonyl]- 2-thiophenecar- boxylate (CAS No. 79277–27–3), tribenuron methyl (methyl 2-[[[[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)- methylamino]-carbonyl]-amino]sulfonyl]- benzoate) (CAS No. 101200–48–0) and application adjuvants (provided for in subheading 3808.30.15)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1129. MIXTURES OF THIFENSULFURON METHYL AND APPLICATION ADJUVANTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.30	Mixtures of thifensulfuron methyl (methyl 3-[[[[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)-amino]carbonyl]- amino]sulfonyl]-2-thiophenecarboxylate) (CAS No. 79277–27–3) and application adjuvants (provided for in subheading 3808.30.15)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1130. MIXTURES OF TRIBENURON METHYL AND APPLICATION ADJUVANTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.31	*Mixtures of tribenuron methyl (methyl 2-[[[[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)methylamino]- carbonyl]amino]-sulfonyl]ben-zoate) (CAS No. 101200–48–0) and application adjuvants (provided for in subheading 3808.30.15)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1131. MIXTURES OF RIMSULFURON, THIFENSULFURON METHYL AND APPLICATION ADJUVANTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.32	*Mixtures of rimsulfuron (N-[(4,6-dimethoxypyrimidin-2-yl)- aminocarbonyl]-3-(ethylsulfonyl)-2-pyridinesulfonamide) (CAS No. 122931–48–0); thifensulfuron methyl (methyl 3-[[[[(4-methoxy-6-methyl-1,3,5- triazin-2-yl)- amino]carbonyl]- amino]sulfonyl]-2-thiophenecarboxylate) (CAS No. 79277–27–3); and application adjuvants (provided for in subheading 3808.30.15)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1132. VAT BLACK 25.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.33	*Anthra[2,1,9-mna]naphth[2,3-h]acridine-5,10,15(16H)-trione, 3-[(9,10-dihydro-9,10-dioxo-1-anthracenyl)- amino]- (Vat black 25) (CAS No. 4395–53–3) (provided for in subheading 3204.15.80)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1133. CYCLOHEXANEPROPANOIC ACID, 2-PROPENYL ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.34	*Cyclohexanepro-panoic acid, 2-propenyl ester (CAS No. 2705–87–5) (provided for in subheading 2916.20.50)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1134. NEOHELIOPAN HYDRO (2-PHENYLBENZIMIDAZOLE-5-SULFONIC ACID).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.35	*2-Phenylbenzimidazole-5-sulfonic acid) (CAS No. 27503–81–7) (provided for in subheading 2933.99.79)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1135. SODIUM METHYLATE POWDER (NA METHYLATE POWDER).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.36	*Methanol, sodium salt (CAS No. 124-41-4) (provided for in subheading 2905.19.00)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1136. GLOBANONE (CYCLOHEXADEC-8-EN-1-ONE) (CHD).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.37	*Cyclohexadec-8-en-1-one (CAS No. 3100–36–5) (provided for in subheading 2914.29.50)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1137. METHYL ACETOPHENONE-PARA (MELILOT).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.38	*p-Methyl acetophenone (CAS No. 122–00–9) (provided for in subheading 2914.39.90)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1138. MAJANTOL (2,2-DIMETHYL-3-(3-METHYLPHENYL)PROPANOL).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.39	*2,2-Dimethyl-3-(3-methylphenyl)- propanol (CAS No. 103694–68–4) (provided for in subheading 2906.29.20)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1139. NEOHELIOPAN MA (MENTHYL ANTHRANILATE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.40	*Menthyl anthranilate (CAS No. 134–09–8) (provided for in subheading 2922.49.37)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1140. ALLYL ISOSULFOCYANATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.41	*Allyl isothiocyanate (CAS No. 57–06–7) (provided for in subheading 2930.90.90)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1141. FRESCOLAT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.42	*5-Methyl-2-(1-methylethyl)-cyclohexyl-2-hydroxypropanoate (lactic acid, menthyl ester) (Frescolat) (CAS No. 59259–38–0) (provided for in subheading 2918.11.50)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1142. THYMOL (ALPHA-CYMOPHENOL).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.43	*Thymol (CAS No. 89–83–8) (provided for in subheading 2907.19.40)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	”.

SEC. 1143. BENZYL CARBAZATE.

Subchapter II of chapter 99 is amended by inserting in the numerical sequence the following new heading:

“	9902.01.44	*Benzyl carbazate (Hydrazine- carboxylic acid, phenylmethyl ester (CAS No. 5331–43–1) (provided for in subheading 2928.00.25)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	”.

SEC. 1144. ESFENVALERATE TECHNICAL.

Subchapter II of chapter 99 is amended by inserting in the numerical sequence the following new heading:

“	9902.01.45	*(S)-Cyano(3-phenoxyphenyl)- methyl (S)-4-chloro-α-(1-methylethyl- benzeneacetate (Esfenvalerate) (CAS No. 66230–04–4) (provided for in subheading 2926.90.30)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	”.

SEC. 1145. AVAUNT AND STEWARD.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.46	*Mixtures of indoxacarb ((S)-methyl 7-chloro-2,5-dihydro-2-[[(methoxycarbonyl)[4-(trifluoromethoxy)-phenyl]amino]car- bonyl]indeno- [1,2-e][1,3,4]- oxadiazine-4a-(3H)carboxylate) (CAS No. 173584–44–6) and application adjuvants (provided for in subheading 3808.10.25)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	”.

SEC. 1146. HELIUM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.47	*Helium (provided for in subheading 2804.29.00)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	”.

SEC. 1147. ETHYL PYRUVATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.48	*Ethyl pyruvate (CAS No. 617–35–6) (provided for in subheading 2918.30.90)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	”.

SEC. 1148. DELTAMETHRIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.49	*(S)-α-Cyano-3-phenoxybenzyl (1R,3R)-3-(2,2-dibromovinyl)-2,2-dimethylcyclo- propanecarboxylate (Deltamethrin) (CAS No. 52918–63–5) in bulk or unmixed in forms or packings for retail sale (provided for in subheading 2926.90.30 or 3808.10.25)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	”.

SEC. 1149. ASULAM SODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.50	*Mixtures of methyl sulfanilycarbam- ate. sodium salt (Asulam sodium salt) (CAS No. 2302–17–2) and application adjuvants (provided for in subheading 3808.30.15)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	”.

SEC. 1150. TRALOMETHRIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.52	*Tralomethrin (1R,3S)3[(1′RS)- (1′,2′,2′,2′-tetrabromoethyl)]-2,2-dimethylcyclopropanecarboxylic acid, (S)-alpha-cyano-3-phenoxybenzyl ester (CAS No. 66841–25–6) in bulk or in forms or packages for retail sale (provided for in subheading 2926.90.30 or 3808.10.25)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	”.

SEC. 1151. N-PHENYL-N′-(1,2,3-THIADIAZOL-5-YL)-UREA.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.53	*N-Phenyl-N′-1,2,3-thiadiazol-5-ylurea (thidiazuron) in bulk or in forms or packages for retail sale (CAS No. 51707–55–2) (provided for in subheading 2934.99.15 or 3808.30.15)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	”.

SEC. 1152. BENZENEPROPANOIC ACID, ALPHA-2-DICHLORO-5-[4 (DIFLUOROMETHYL)-4,5-DIHYDRO-3-METHYL-5-OXO-1H-1,2,4-TRIAZOL-1-YL]-4-FLUORO-ETHYL ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.54	*alpha-2- Dichloro-5-[4- (difluoromethyl)- 4,5-dihydro-3-methyl-5-oxo-1H-1,2,4-triazol-1-yl]-4-fluorobenzenepropanoic acid, ethyl ester (carfentazone-ethyl) (CAS No. 128639–02–1) (provided for in subheading 2933.99.22)*	*4.9%*	*No change*	*No change*	*On or before 12/31/2005*	”.

SEC. 1153. (Z)-(1RS, 3RS)-3-(2-CHLORO-3,3,3 TRIFLOURO-1-PROPENYL)-2,2-DIMETHYL-CYCLOPROPANE CARBOXYLIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.55	*(Z)-(1RS,3RS)-3-(2-Chloro-3,3,3-trifluro-1-pro- penyl)-2,2-dimethyl-cyclopropanecarboxylic acid (CAS No. 68127–59–3) (provided for in subheading 2916.20.50)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	”.

SEC. 1154. 2-CHLOROBENZYL CHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.56	2-Chlorobenzyl chloride (CAS No. 611-19-8) (provided for in subheading 2903.69.70)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1155. (S)-ALPHA-HYDROXY-3-PHENOXYBENZENEACETONITRILE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.57	(S)-alpha-Hydroxy-3-phenoxybenzeneacetonitrile (CAS No. 61826-76-4) (provided for in subheading 2926.90.43)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1156. 4-PENTENOIC ACID, 3,3-DIMETHYL-, METHYL ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.58	4-Pentenoic acid, 3,3-dimethyl-, methyl ester (CAS No. 63721-05-1) (provided for in subheading 2916.19.50)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1157. TERRAZOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.59	Etridiazole [5-ethoxy-3- (trichloromethyl)-1,2,4-thiadiazole] (CAS No. 2593-15-9) (provided for in subheading 2934.99.90) and any mixtures (preparations) containing Etridiazole as the active ingredient (provided for in subheading 3808.20.50)	Free	Free	No change	On or before 12/31/2005	”.

SEC. 1158. 2-MERCAPTOETHANOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.60	2-Mercaptoethanol (CAS No. 60-24-2) (provided for in subheading 2930.90.90)	Free	Free	No change	On or before 12/31/2005	”.

SEC. 1159. BIFENAZATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.61	Bifenazate (Hydrazinecarb- oxylic acid, 2-(4-methoxy-[1,1'- biphenyl]-3-yl)-1-methylethyl ester (CAS No. 149877-41-8) (provided for in subheading 2928.00.25)	Free	Free	No change	On or before 12/31/2005	”.

SEC. 1160. A CERTAIN POLYMER.

(a) IN GENERAL.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.62	Fluoropolymers containing 95 percent or more by weight of the monomer units tetrafluoroethylene, hexafluoropropylene, and vinylidene fluoride (provided for in subheading 3904.69.50)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1161. PARA ETHYLPHENOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.63	p-Ethylphenol (CAS No. 123-07-9) (provided for in subheading 2907.19.20)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1162. EZETIMIBE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.64	2-Azetidinone, 1-(4-fluorophenyl)-3-[(3S)-3-(4-fluorophenyl)-3-hydroxypropyl]-4-(4-hydroxyphenyl)-, (3R,4S)-(Ezetimibe) (CAS No. 163222-33-1) (provided for in subheading 2933.79.08)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1163. P-CRESIDINESULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.65	p-Cresidinesulfonic acid (4-amino-5-methoxy-2-methylbenzene- sulfonic acid) (CAS No. 6471-78-9) (provided for in subheading 2922.29.80)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1164. 2,4 DISULFOBENZALDEHYDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.66	2,4- Disulfobenzaldehyde (CAS No. 88-39-1) (provided for in subheading 2913.00.40)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1165. M-HYDROXYBENZALDEHYDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.67	m-Hydroxybenzal- dehyde (CAS No. 100-83-4) (provided for in subheading 2912.49.25)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1166. N-ETHYL-N-(3-SULFOBENZYL)ANILINE, BENZENESULFONIC ACID, 3[(ETHYLPHENYLAMINO)METHYL].

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.68	N-Ethyl-N-(3-sulfobenzyl)ani- line (benzenesulfonic acid, 3-[(ethyl- phenylamino)-methyl]-) (CAS No. 101–11–1) (provided for in subheading 2921.42.90)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1167. ACRYLIC FIBER TOW.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.69	Acrylic fiber tow (polyacrylonitrile tow) consisting of 6 sub-bundles crimped together, each containing 45,000 filaments (plus or minus 0.06) and 2–8 percent water, such acrylic fiber containing by weight a minimum of 92 percent acrylonitrile, not more than 0.1 percent zinc and average filament denier of either 1.48 decitex (plus or minus 0.08) or 1.32 decitex (plus or minus 0.089) (provided for in subheading 5501.30.00)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1168. YTTRIUM OXIDES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.21	Yttrium oxides having a purity of at least 99.9 percent (CAS No. 1314–36–9) (provided for in subheading 2846.90.80)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1169. EUROPIUM OXIDES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.22	Europium oxides having a purity of at least 99.99 percent (CAS No. 1308–96–7) (provided for in subheading 2846.90.80)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1170. HEXANEDIOIC ACID, POLYMER WITH 1,3-BENZENEDIMETHANAMINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.71	Hexanedioic acid, polymer with 1,3-benzene-dimethanamine (CAS No. 25718–70–1) (provided for in subheading 3908.10.00)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1171. N1-[(6-CHLORO-3-PYRIDYL)METHYL]-N2-CYANO-N1-METHYLACETAMIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.72	(E)-N1-[(6-Chloro-3-pyridyl)methyl]-N2-cyano-N1-methylacetamidine (Acetamiprid) (CAS No. 135410–20–7) whether or not mixed with application adjuvants (provided for in subheading 2933.39.27 or 3808.10.25)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1172. ALUMINUM TRIS (O-ETHYL PHOSPHONATE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.73	Aluminum tris- (O-ethylphosphon- ate) (CAS No. 39148–24–8) (provided for in subheading 2920.90.50)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1173. MIXTURE OF DISPERSE BLUE 77 AND DISPERSE BLUE 56.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.74	Mixtures of disperse blue 77 (9,10-anthracenedione, 1,8-dihydroxy-4-nitro-5-(phenylamino)-) (CAS No. 20241–76–3) and disperse blue 56 (9,10-anthracenedione, 1,5-diaminochloro-4,8-dihydroxy-) (CAS No. 12217–79–7) (provided for in subheading 3204.11.35)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1174. ACID BLACK 172.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.75	Acid black 172 (chromate(3-), bis[3-(hydroxy-.kappa.O)-4-[[2-(hydroxy.kappa.O)-1-naphthalenyl-azo- .kappa.N1]-7-nitro-1- naphthalenesulfonato(3-)]-, trisodium) (CAS No. 57693–14–8) (provided for in subheading 3204.12.45)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1175. MIXTURE OF 9,10-ANTHRACENEDIONE, 1,5-DIHYDROXY-4-NITRO-8-(PHENYLAMINO)-AND DISPERSE BLUE 77.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.76	Mixtures of 9,10-anthracenedione, 1,5-dihydroxy-4-nitro-8-(phenylamino)- (CAS No. 3065–87–0) and 9,10-anthracenedione, 1,8-dihydroxy-4-nitro-5-(phenylamino)- (Disperse blue 77) (CAS No. 20241–76–3) (provided for in subheading 3204.11.35)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1176. CERTAIN CHILDREN'S PRODUCTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.79	Image projectors (provided for in subheading 9008.30.00) capable of projecting images from circular mounted sets of stereoscopic photographic transparencies, such mounts measuring approximately 8.99 cm in diameter	Free	No change	No change	On or before 12/31/2005	".

SEC. 1177. CERTAIN OPTICAL INSTRUMENTS USED IN CHILDREN'S PRODUCTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.80	*Optical instruments (provided for in subheading 9013.80.90) designed for the viewing of circular mounted sets of stereoscopic photographic transparencies, such mounts measuring approximately 8.99 cm in diameter*	Free	No change	No change	On or before 12/31/2005	".

SEC. 1178. CASES FOR CERTAIN CHILDREN'S PRODUCTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.81	*Cases or containers (provided for in subheading 4202.92.90) specially designed or fitted for circular mounts for sets of stereoscopic photographic transparencies, such mounts measuring approximately 8.99 cm in diameter the foregoing imported and sold with such articles therein*	Free	No change	No change	On or before 12/31/2005	".

SEC. 1179. 2,4-DICHLOROANILINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.82	*2,4-Dichloroaniline (CAS No. 554–00–7) (provided for in subheading 2921.42.18)*	Free	No change	No change	On or before 12/31/2005	".

SEC. 1180. ETHOPROP.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.83	*O-Ethyl S,S-dipropyl- phosphorodithioate (Ethoprop) (CAS No. 13194-48-4) (provided for in subheading 2930.90.44)*	Free	No change	No change	On or before 12/31/2005	".

SEC. 1181. FORAMSULFURON.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.84	*Mixtures of benzamide, 2-[[[[(4,6-dimethoxy-2-pyrimidinyl)- amino]carbonyl]- amino]sulfonyl]-4-(formylamino)- N,N-methyl- (foramsulfuron) (CAS No. 173159–57–4) and application adjuvants (provided for in subheading 3808.30.15)*	3%	No change	No change	On or before 12/31/2005	".

SEC. 1182. CERTAIN EPOXY MOLDING COMPOUNDS.

(a) IN GENERAL.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.85	*Epoxy molding compounds, of a kind used for encapsulating integrated circuits (provided for in subheading 3907.30.00)*	Free	No change	No change	On or before 12/31/2005	".

SEC. 1183. DIMETHYLDICYANE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.86	*Dimethyldicyane (2,2′-dimethyl-4,4′-methylenebis- (cyclohexylamine)) (CAS No. 6864–37–5) (provided for in subheading 2921.30.30)*	Free	Free	No change	On or before 12/31/2005	".

SEC. 1184. TRIACETONE DIAMINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.87	*2,2,6,6-Tetra-methyl-4-pip-eridinamine (Triacetone diamine) (CAS No. 36768–62–4) (provided for in subheading 2933.39.61)*	Free	Free	No change	On or before 12/31/2005	".

SEC. 1185. TRIETHYLENE GLYCOL BIS[3-(3-TERT-BUTYL-4-HYDROXY-5-METHYLPHENYL) PROPIONATE].

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new subheading:

"	9902.01.88	*Triethylene glycol bis[3-(3-tert-butyl-4-hydroxy-5-methylphenyl)propionate] (CAS No. 36443-68-2) (provided for in subheading 2918.90.43)*	Free	No change	No change	On or before 12/31/2005	".

SEC. 1186. CERTAIN POWER WEAVING TEXTILE MACHINERY.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.89	*Power weaving machines (looms), shuttle type, for weaving fabrics of a width exceeding 30 cm but not exceeding 4.9 m, entered without off-loom or large loom take-ups, drop wires, heddles, reeds, harness frames, or beams (provided for in subheading 8446.21.50)*	Free	No change	No change	On or before 12/31/2005	".

SEC. 1187. CERTAIN FILAMENT YARNS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.90	*Synthetic filament yarn (other than sewing thread) not put up for retail sale, single, of decitex sizes of 23 to 850, with between 4 and 68 filaments, with a twist of 100 to 300 turns/m, of nylon or other polyamides, containing 10 percent or more by weight of nylon 12 (provided for in subheading 5402.51.00)*	Free	Free	No change	On or before 12/31/2005	".

SEC. 1188. CERTAIN OTHER FILAMENT YARNS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.91	Synthetic filament yarn (other than sewing thread) not put up for retail sale, single, of deciter sizes of 23 to 850, with between 4 and 68 filaments, untwisted, of nylon or other polyamides, containing 10 percent or more by weight of nylon 12 (provided for in subheading 5402.41.90)	Free	Free	No change	On or before 12/31/2005	”.

SEC. 1189. CERTAIN INK-JET TEXTILE PRINTING MACHINERY.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.92	Ink-jet textile printing machinery (provided for in subheading 8443.51.10)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1190. CERTAIN OTHER TEXTILE PRINTING MACHINERY.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.93	Textile printing machinery (provided for in subheading 8443.59.10)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1191. D-MANNOSE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following heading:

“	9902.01.94	D-Mannose (CAS No. 3458–28–4) (provided for in subheading 2940.00.60)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1192. BENZAMIDE, N-METHYL-2-[[3-[(1E)-2-(2-PYRIDINYL)-ETHENYL]-1H-INDAZOL-6-YL)THIO]-.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.95	Benzamide, N-methyl-2-[[3-[(1E)-2-(2-pyridinyl)-ethenyl]-1H-indazol-6-yl)thio]- (CAS No. 319460–85–0) (provided for in subheading 2933.99.79)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1193. 1(2H)-QUINOLINECARBOXYLIC ACID, 4-[[[3,5-BIS-(TRIFLUOROMETHYL)PHENYL] METHYL](METHOXYCARBONYL)AMINO]-2-ETHYL- 3,4-DIHYDRO-6-(TRIFLUOROMETHYL)-, ETHYL ESTER, (2R,4S)-(9CI).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.96	1(2H)-Quinolinecarboxylic acid, 4-[[[3,5-bis-(trifluoromethyl)- phenyl]methyl]- (methoxycarbonyl)amino]-2-ethyl-3,4-dihydro-6-(trifluoromethyl)- ethyl ester, (2R,4S)- (CAS No. 262352–17–0) (provided for in subheading 2933.49.26)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1194. DISULFIDE,BIS(3,5-DICHLOROPHENYL)(9C1).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.97	Bis(3,5-dichlorophenyl) disulfide (CAS No. 137897–99–5) (provided for in subheading 2930.90.29)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1195. PYRIDINE,4-[[4-(1-METHYLETHYL)-2-[(PHENYLMETHOXY)METHYL]-1H- MIDAZOL-1-YL] METHYL]- ETHANEDIOATE (1:2).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.98	Pyridine, 4-[[4-(1-methylethyl)-2-[(phenylmethoxy)- methyl]-1H-imidazol-1-yl]- methyl]-ethanedioate (1:2) (CAS No. 280129–82–0) (provided for in subheading 2933.39.61)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1196. PACLOBUTRAZOLE TECHNICAL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.01.99	(RS,3RS)-1-(4-Chlorophenyl)-4,4-dimethyl-2-(1H-1,2,4-triazol-1-yl)pentan-3-ol (paclobutrazol) (CAS No. 76738–62–0) (provided for in subheading 2933.99.22)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1197. PACLOBUTRAZOLE 2SC.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.01	Mixtures of (RS,3RS)-1-(4-chlorophenyl)-4,4-dimethyl-2-(lH-1,2,4-triazol-1-yl)pentan-3-ol (paclobutrazol) (CAS No. 76738–62–0) and application adjuvants (provided for in subheading 3808.30.15)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1198. METHIDATHION TECHNICAL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.02	S-[(5-Methoxy-2-oxo-1,3,4-thiadiazol-3(2H)-yl)methyl] O,O-dimethyl phosphorodithioate (CAS No. 950–37–8) (provided for in subheading 2934.99.90)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1199. VANGUARD 75 WDG.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.03	Mixtures of 2-pyrimidinamine, 4-cyclopropyl-6-methyl-N-phenyl- (cyprodinil) (CAS No. 121552–61–2) and application adjuvants (provided for in subheading 3808.20.15)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1200. WAKIL XL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.04	*Mixtures of (R)-2-[(2,6-dimethylphenyl-methoxy)acetyl-amino]propionic acid, methyl ester (mefenoxam) (CAS No. 70630-17-0), 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1H-pyrrole-3-carbonitrile (fludioxonil) (CAS No. 131341-86-1), and 2-cyano-2-methoxyimino-N-(ethylcarbam-oyl)acetamide (cymoxanil) (CAS No. 57966-95-7) with application adjuvants (the foregoing mixtures provided for in subheading 3808.20.15)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	”.

SEC. 1201. MUCOCHLORIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.05	*2-Butenoic acid, 2,3-dichloro-4-oxo- (mucochloric acid) (CAS No. 87-56-9) (provided for in subheading 2918.30.90)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	”.

SEC. 1202. AZOXYSTROBIN TECHNICAL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.06	*Benzeneacetic acid, (E)-2-[[6-(2-cyanophenoxy)-4-pyrimidinyl]oxy]-alpha-(methoxymethylene)-, methyl ester (pyroxystrobin) (CAS No. 131860-33-8) (provided for in subheading 2933.59.15)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	”.

SEC. 1203. FLUMETRALIN TECHNICAL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.07	*2-Chloro-N-[2,6-dinitro-4-(tri-fluoromethyl)-phenyl]-N-ethyl-6-fluorobenzene-methanamine (flumetralin) (CAS No. 62924-70-3) (provided for in subheading 2921.49.45)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	”.

SEC. 1204. CYPRODINIL TECHNICAL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.08	*2-Pyrimidinamine, 4-cyclopropyl-6-methyl-N-phenyl- (cyprodinil) (CAS No. 121552-61-2) (provided for in subheading 2933.59.15)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	”.

SEC. 1205. MIXTURES OF LAMBDA-CYHALOTHRIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.09	*Mixtures of cyhalothrin (cyclopropanecarboxylic acid, 3-(2-chloro-3,3,3-trifluoro-1-propenyl)-2,2-dimethyl-, cyano(3-phenoxyphenyl)-methyl ester, [1.alpha. (S*),3.alpha. (Z)]-(.+-.)-) (CAS No. 91465-08-6) and application adjuvants (provided for in subheading 3808.10.25)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	”.

SEC. 1206. PRIMISULFURON METHYL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.10	*Benzoic acid, 2-[[[[[4,6-bis- (difluoromethoxy)-2-pyrimidinyl]- amino]carbonyl]-amino]sulfonyl]-, methyl ester (primisulfuron methyl) (CAS No. 86209-51-0) (provided for in subheading 2935.00.75)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	”.

SEC. 1207. 1,2-CYCLOHEXANEDIONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.11	*1,2- Cyclohexanedione (CAS No. 765-87-7) (provided for in subheading 2914.29.50)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	”.

SEC. 1208. DIFENOCONAZOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.12	*1H-1,2,4-Triazole, 1-[[2-[2-chloro-4-(4-chlorophenoxy)-phenyl]-4-methyl-1,3-dioxolan-2-yl]methyl]- (difenoconazole) (CAS No. 119446-68-3) (provided for in subheading 2934.99.12)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	”.

SEC. 1209. CERTAIN REFRACTING AND REFLECTING TELESCOPES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.13	*Refracting telescopes with 50 mm or smaller lenses and reflecting telescopes with 76 mm or smaller lenses (provided for in subheading 9005.80.40)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	”.

SEC. 1210. PHENYLISOCYANATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.14	*Phenylisocyanate (CAS No. 103-71-9) (provided for in subheading 2929.10.80)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	”.

SEC. 1211. BAYOWET FT-248.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.15	*Tetraethylammonium perfluoroctane- sulfonate (CAS No. 56773-42-3) (provided for in subheading 2923.90.00)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	”.

SEC. 1212. P-PHENYLPHENOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	*9902.02.16*	*p-Phenylphenol (CAS No. 92–69–3) (provided for in subheading 2907.19.80)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1213. CERTAIN RUBBER RIDING BOOTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	*9902.02.17*	*Boots with outer soles and uppers of rubber, such boots extending above the ankle but below the knee, specifically designed for horseback riding, and having a spur rest on the heel counter (provided for in subheading 6401.92.90)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1214. CHEMICAL RH WATER-BASED.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	*9902.02.18*	*Chemical RH water-based (iron toluene sulfonate) (comprising 75 percent water, 25 percent p-toluenesulfonic acid (CAS No. 6192–52–5) and 5 percent ferric oxide (CAS No. 1309–37–1)) (provided for in subheading 2904.10.10)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1215. CHEMICAL NR ETHANOL-BASED.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	*9902.02.19*	*Chemical NR ethanol-based (iron toluene sulfonate) (comprising 60 percent ethanol (CAS No. 64–17–5), 33 percent p-toluenesulfonic acid (CAS No. 6192–52–5), and 7 percent ferric oxide (CAS No. 1309–37–1)) (provided for in subheading 2912.12.00 or 3824.90.28)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1216. TANTALUM CAPACITOR INK.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	*9902.02.20*	*Tantalum capacitor ink: graphite ink P7300 of 85 percent butyl acetate, 8 percent graphite, and the remaining balance of non-hazardous resins; and graphite paste P5900 of 92-96 percent water, 1-3 percent graphite (CAS No. 7782–42–5), 0.5-2 percent ammonia (CAS No. 7664–41–7), and less than 1 percent acrylic resin (CAS No. 9003–32–1) (provided for in subheading 3207.30.00)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1217. CERTAIN SAWING MACHINES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	*9902.84.91*	*Sawing machines, certified for use in production of radial tires designed for off-the-highway use and for use on a rim measuring 63.5 cm or more in diameter (provided for in subheading 4011.20.10, 4011.61.00, 4011.63.00, 4011.69.00, 4011.92.00, 4011.94.40, or 4011.99.45), numerically controlled, or parts thereof (provided for in subheading 8465.91.00 or 8466.92.50)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1218. CERTAIN SECTOR MOLD PRESS MANUFACTURING EQUIPMENT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	*9902.84.89*	*Sector mold press machines to be used in production of radial tires designed for off-the highway use with a rim measuring 63.5 cm or more in diameter (provided for in subheading 4011.20.10, 4011.61.00, 4011.63.00, 4011.69.00, 4011.92.00, 4011.94.40, or 4011.99.45), numerically controlled, or parts thereof (provided for in subheading 8477.51.00 or 8477.90.85)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1219. CERTAIN MANUFACTURING EQUIPMENT USED FOR MOLDING.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	*9902.84.87*	*Machinery for molding, retreading, or otherwise forming uncured, unvulcanized rubber to be used in production of radial tires designed for off-the-highway use with a rim measuring 63.5 cm or more in diameter (provided for in subheading 4011.20.10, 4011.61.00, 4011.63.00, 4011.69.00, 4011.92.00, 4011.94.40, or 4011.99.45), numerically controlled, or parts thereof (provided for in subheading 8477.51.00 or 8477.90.85)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1220. CERTAIN EXTRUDERS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	*9902.84.85*	*Extruders to be used in production of radial tires designed for off-the-highway use with a rim measuring 63.5 cm or more in diameter (provided for in subheading 4011.20.10, 4011.61.00, 4011.63.00, 4011.69.00, 4011.92.00, 4011.94.40, or 4011.99.45), numerically controlled, or parts thereof (provided for in subheading 8477.20.00 or 8477.90.85)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1221. CERTAIN SHEARING MACHINES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	*9902.84.81*	*Shearing machines used to cut metallic tissue certified for use in production of radial tires designed for off-the highway use with a rim measuring 63.5 cm or more in diameter (provided for in subheading 4011.20.10, 4011.61.00, 4011.63.00, 4011.69.00, 4011.92.00, 4011.94.40, or 4011.99.45), numerically controlled, or parts thereof (provided for in subheading 8462.31.00 or 8466.94.85)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1222. THERMAL RELEASE PLASTIC FILM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.26	Thermal release plastic film (with a substrate of polyolefin-based PET/conductive acrylic polymer, release liner of polyethylene terephthalate PET/polysiloxane, pressure sensitive adhesive of acrylic ester-based copolymer, and core of acrylonitrile-butadiene-styrene copolymer) (provided for in subheading 3919.10.20)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1223. CERTAIN SILVER PAINTS AND PASTES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.27	Mixtures comprising 42 to 52 percent by weight of silver metal, 7.5 to 15 percent by weight of epoxy resin, and solvent (butyl 2-ethoxyethanol acetate); mixtures comprising 53 percent by weight of silver metal, 7 percent by weight of viton resin, and solvent (isoamyl acetate); and paste adhesive preparations comprising 62 percent by weight of silver metal, 8.4 percent by weight of viton resin, and solvent (composed of 1 part butyl 2-ethoxyethanol acetate and 9 parts isoamyl acetate); (all the foregoing provided for in subheading 7115.90.40)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1224. POLYMER MASKING MATERIAL FOR ALUMINUM CAPACITORS (UPICOAT).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.28	Dispersions (60 percent) of polymide resins in 2,2′-oxydiethanol, dimethyl ether (provided for in subheading 3911.90.35 or 3911.90.90)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1225. OBPA.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.29	10,10′-Oxybisphenoxarsine (CAS No. 58–36–6) (provided for in subheading 2934.99.18)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1226. MACROPOROUS ION-EXCHANGE RESIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.30	Macroporous ion-exchange resin comprising a copolymer of styrene crosslinked with divinylbenzene, thiol functionalized (CAS No. 113834–91–6) (provided for in subheading 3914.00.60)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1227. COPPER 8-QUINOLINOLATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.31	Copper 8-quinolinolate (oxine-copper) (CAS No. 10380–28–6) (provided for in subheading 2933.49.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1228. ION-EXCHANGE RESIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.32	Ion-exchange resin comprising a copolymer of styrene crosslinked with divinylbenzene, iminodiacetic acid, sodium form (CAS No. 244203–30–3) (provided for in subheading 3914.00.60)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1229. ION-EXCHANGE RESIN CROSSLINKED WITH ETHENYLBENZENE, AMINOPHOSPONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.33	Ion-exchange resin comprising a copolymer of styrene crosslinked with ethenylbenzene, aminophosphonic acid, sodium form (CAS No. 125935–42–4) (provided for in subheading 3914.00.60)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1230. ION-EXCHANGE RESIN CROSSLINKED WITH DIVINYLBENZENE, SULPHONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.34	Ion-exchange resin comprising a copolymer of styrene crosslinked with divinylbenzene, sulfonic acid, sodium form (CAS No. 63182–08–1) (provided for in subheading 3914.00.60)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1231. 3-[(4 AMINO-3-METHOXYPHENYL) AZO]-BENZENE SULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.35	3-[(Amino-3-methoxyphenyl)-azo]-benzenesulfonic acid (CAS No. 138–28–3) (provided for in subheading 2927.00.50)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1232. 2-METHYL-5-NITROBENZENESULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.36	2-Methyl-5-nitrobenzenesulfonic acid (CAS No. 121–03–9) (provided for in subheading 2904.90.20)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1233. 2-AMINO-6-NITRO-PHENOL-4-SULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.37	*2-Amino-6-nitro- phenol-4-sulfonic acid (CAS No. 96–93–5) (provided for in subheading 2922.29.60) ....*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1234. 2-AMINO-5-SULFOBENZOIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.38	*2-Amino-5- sulfobenzoic acid (CAS No. 3577–63–7) (provided for in subheading 2922.49.30) ....*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1235. 2,5 BIS [(1,3 DIOXOBUTYL) AMINO] BENZENE SULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.39	*2,5-Bis[(1,3- dioxobutyl)- amino]benzene- sulfonic acid (CAS No. 70185–87–4) (provided for in subheading 2924.29.71) ....*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1236. P-AMINOAZOBENZENE 4 SULFONIC ACID, MONOSODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.40	*4-[(4-Amino- phenyl)azo]- benezenesulfonic acid, monosodium salt (CAS No. 2491–71–6) (provided for in subheading 2927.00.50) ....*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1237. P-AMINOAZOBENZENE 4 SULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.41	*4-[(4-Amino- phenyl)azo]- benzenesulfonic acid (CAS No. 104–23–4) (provided for in subheading 2927.00.50) ....*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1238. 3-[(4 AMINO-3-METHOXYPHENYL) AZO]-BENZENE SULFONIC ACID, MONOSODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.42	*3-[(4-Amino-3- methoxyphenyl)- azo]benzenesul- fonic acid, monosodium salt (CAS No. 6300–07–8) (provided for in subheading 2927.00.50) ....*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1239. ET-743 (ECTEINASCIDIN).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.43	*[6R-(6a,6ab,7b, 13b,14b,16a, 20R*)]-5- Acetyloxy-3',4', 6,6a,7,13,14,16-octahydro-6',8,14-trihydroxy-7',9-dimethoxy- 4,10,23-trimethylspiro[6, 16-b][3]benzazocine-20,1'(2H)-isoquinolin-19-one (ecteinascidin) (CAS No. 114899–77–3) (provided for in subheading 2934.99.30) ....*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1240. 2,7-NAPHTHALENEDISULFONIC ACID, 5-[[4-CHLORO-6-[[2-[[4-FLUORO-6-[[5-HYDROXY-6-[(4-METHOXY-2-SULFOPHENYL)AZO]-7-SULFO-2-NAPHTHALENYL]AMINO]-1,3,5-TRIAZIN-2-YL] AMINO]-1-METHYLETHYL]AMINO]-1,3,5-TRIAZIN-2-YL]AMINO]-3-[[4-(ETHENYLSULFONYL)PHENYL]AZO]-4-HYDROXY-, SODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.44	*2,7-Naphthalene-disulfonic acid, 5-[[4-chloro-6-[[2-[[4-fluoro-6-[[5-hydroxy-6-[(4-methoxy-2-sulfophenyl)azo]-7-sulfo-2-naphthalenyl]-amino]-1,3,5-triazin- 2-yl]-amino]-1-methylethyl]-amino]-1,3,5-triazin-2-yl]-amino]-3-[[4-(ethenylsulfonyl)-phenyl]azo]-4-hydroxy, sodium salt (CAS No. 168113–78–8) (provided for in subheading 3204.16.30) ....*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1241. 1,5-NAPHTHALENEDISULFONIC ACID, 3-[[2-(ACETYLAMINO)-4-[[4-[[2-[2- (ETHENYLSULFONYL) ETHOXY] ETHYL] AMINO]-6- FLUORO-1,3,5- TRIAZIN-2-YL]AMINO] PHENYL]AZO]-, DISODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.45	*1,5-Naphthalenedi- sulfonic acid, 3-[[2-(acetylamino)-4-[[4-[[2-[2-(ethenylsulfonyl)- ethoxy]-ethyl]amino]-6-fluoro-1,3,5-triazin-2-yl]- amino]-phenyl]azo]-, disodium salt (CAS No. 98635–31–5) (provided for in subheading 3204.16.30) ....*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1242. 7,7-[1.3-PROPANEDIYLBIS[IMINO(6-FLUORO-1,3,5-TRIAZINE-4,2-DIYL)IMINO[2-[(AMINOCARBONYL)AMINO]-4,1-PHENYLENE]AZO]]BIS-, SODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.46	*7,7'-[1,3-Propanediylbis- [imino(6-fluoro-1,3,5-triazine-4,2-diyl)imino[2-[(aminocarbonyl)-amino]-4,1-phenylene]azo]]bis-, sodium salt (CAS No. 143683–24–3) (provided for in subheading 3204.16.30) ....*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1243. CUPRATE(3-), [2-[[[[3-[[4-[[2-[2- (ETHENYLSULFONYL)ETHOXY] ETHYL]AMINO]-6-FLUORO-1,3,5- TRIAZIN-2-YL]AMINO]-2-(HYDROXY-.KAPPA.O)- 5-SULFOPHENYL]AZO-.KAPPA. N2]PHENYLMETHYL]AZO-. KAPPA.N1]-4-SULFOBENZOATO(5-)-.KAPPA.O], TRISODIUM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.47	*Cuprate(3-), [2-[[[[3-[[4-[[2-[2- (ethenylsulfonyl)-ethoxy]-ethyl]amino]- 6-fluoro-1,3,5-triazin-2-yl]-amino]-2-(hydroxy-.kappa.O)-5-sulfophenyl]azo-.kappa.N2]-phenylmethyl]azo-.kappa.N1]-4-sulfobenzoato(5-)-.kappa.O], trisodium (CAS No. 106404–06–2) (provided for in subheading 3204.16.30) ....*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1244. 1,5-NAPHTHALENEDISULFONIC ACID, 2-[[8-[[4-[[3-[[[2-(ETHENYLSULFONYL) ETHYL]AMINO]CARBONYL] PHENYL]AMINO]-6-FLUORO-1,3,5- TRIAZIN-2-YL]AMINO]-1-HYDROSY-3, 6-DISULFO-2-NAPHTHALENYL]AZO]-, TETRASODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.48	1,5-Naphthalenedi- sulfonic acid, 2-[[8-[[4-[[3-[[[2- (ethenylsulfonyl)- ethyl]-amino]carbonyl]- phenyl]amino]-6-fluoro-1,3,5-triazin-2-yl]amino]-1-hydroxy-3,6-disulfo-2-naphthalenyl]-azo]-, tetrasodium salt (CAS No. 116912-36-8) (provided for in subheading 3204.16.30)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1245. PTFMBA.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.49	p-(Trifluoro-methyl)benzaldehyde (CAS No. 455–19–6) (provided for in subheading 2913.00.40)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1246. BENZOIC ACID, 2-AMINO-4-[[(2,5-DICHLOROPHENYL)AMINO CARBONYL]-, METHYL ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.51	Benzoic acid, 2-amino-4-[[(2,5- dichlorophenyl)- amino]carbonyl]-, methyl ester (CAS No. 59673–82–4) (provided for in subheading 2924.29.71)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1247. IMIDACLOPRID PESTICIDES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.52	Mixtures of imidacloprid (1-[(6-Chloro-3-pyridinyl)-methyl]-N- nitro-2-imidazolidini- mine) (CAS No. 138261–41–3) with application adjuvants (provided for in subheading 3808.10.25)	5.7%	No change	No change	On or before 12/31/2005	”.

SEC. 1248. BETA-CYFLUTHRIN.

(a) In General.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.54	beta-Cyfluthrin (CAS No. 68359–37–5) (provided for in subheading 2926.90.30)	4.3%	No change	No change	On or before 12/31/2005	”.

SEC. 1249. IMIDACLOPRID TECHNICAL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.55	Imidacloprid (1-[(6-Chloro-3-pyridinyl)methyl]-N-nitro-2-imidazolidini- mine) (CAS No. 138261–41–3) (provided for in subheading 2933.39.27)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1250. BAYLETON TECHNICAL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.56	Triadimefon (1-(4-chlorophenoxy)-3,3-dimethyl-1-(1H-1,2,4-triazol-1-yl)-2-butanone) (CAS No. 43121–43–3) (provided for in subheading 2933.99.22)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1251. PROPOXUR TECHNICAL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.57	Propoxur (2-(1-methylethoxy)-phenol methyl-carbamate) (CAS No. 114–26–1) (provided for in subheading 2924.29.47)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1252. MKH 6561 ISOCYANATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.58	A mixture of 30 percent 2-(carbomethoxy)- benzenesulfonyl isocyanate (CAS No. 13330–20–7) and 70 percent xylenes (provided for in subheading 3824.90.28)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1253. PROPOXY METHYL TRIAZOLONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.59	A mixture of 20 percent propoxy- methyltriazolone (3H-1,2,4-triazol-3-one, 2,4-dihydro-4-methyl-5-propoxy-) (CAS No. 1330–20–7) and triazolone (3H-1,2,4-triazol-3-one, 2,4- dihydro-4-methyl-5-propoxy-) (CAS No. 1330–2–7) (provided for in subheading 3824.90.28)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1254. NEMACUR VL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.60	Fenamiphos (ethyl 4-(methylthio)-m-tolyl- isospropylphos- phoramidate) (CAS No. 22224–92–6) (provided for in subheading 2930.90.10)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1255. METHOXY METHYL TRIAZOLONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.61	2,4-Dihydro-5-methoxy-4-methyl-3H-1,2,4-triazol-3-one (CAS No. 135302–13–5) (provided for in subheading 2933.99.97)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1256. LEVAFIX GOLDEN YELLOW E-G.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.62	Reactive yellow 27 (1H-Pyrazole-3-carboxylic acid, 4-[[4-[[(2,3-dichloro-6-quinoxalinyl)car-bonyl]amino]-2- sulfophenyl]- azo]-4,5- dihydro-5-oxo-1- (4-sulfophenyl)-, trisodium salt) (CAS No. 75199–00–7) (provided for in subheading 3204.16.20)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1257. LEVAFIX BLUE CA/REMAZOL BLUE CA.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	*9902.02.63*	*Cuprate(4-), [2-[[3-[[sub-stituted]-1,3,5-triazin-2-yl]amino]-2-hy-droxy-5-sulfophenyl]- (substituted)azo], sodium salt (CAS No. 156830–72–7) (provided for in subheading 3204.16.30)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	”.

SEC. 1258. REMAZOL YELLOW RR GRAN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	*9902.02.64*	*Benzenesulfonic- acid, 2-amino-4- (cyanoamino)-6-[(3-sulfo- phenyl)amino]- 1,3,5-triazin-2-yl]amino]-5-[[4-[[2-(sulfoxy)- ethyl]sulfonyl]- phenyl]azo]-, lithium/sodium salt (CAS No. 189574–45–6) (provided for in subheading 3204.16.30)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	”.

SEC. 1259. INDANTHREN BLUE CLF.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	*9902.02.65*	*Vat blue 66 (9,10-Anthra- cenedione, 1,1′-[(6-phenyl-1,3,5- triazine-2,4-diyl)diimino]- bis[3-acetyl-4- amino-) (CAS No. 32220–82–9) (provided for in subheading 3204.15.30)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	”.

SEC. 1260. INDANTHREN YELLOW F3GC.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	*9902.02.66*	*Vat yellow 33 ([1,1′-Biphenyl]- 4-carboxamide, 4′,4‴-azobis[N- (9,10-dihydro- 9,10-dioxo-1- anthracenyl)-) (CAS No. 12227–50–8) (provided for in subheading 3204.15.80)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	”.

SEC. 1261. ACETYL CHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	*9902.02.67*	*Acetyl chloride (CAS No. 75–36–5) (provided for in subheading 2915.90.50)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	”.

SEC. 1262. 4-METHOXY-PHENACYCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	*9902.02.68*	*4-Methoxyphena- cyl chloride (CAS No. 2196–99–8) (provided for in subheading 2914.70.40)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	”.

SEC. 1263. 3-METHOXY-THIOPHENOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	*9902.02.69*	*3-Methoxy-thiophenol (CAS No. 15570–12–4) (provided for in subheading 2930.90.90)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	”.

SEC. 1264. LEVAFIX BRILLIANT RED E-6BA.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	*9902.02.70*	*Reactive red 159 (2,7-naphthalenedisulfonic acid, 5-(benzoylamino)- 3-[[5-[[(5-chloro-2,6-difluoro-4-pyrimidinyl)- amino]methyl]- 1-sulfo-2- naphthalenyl]- azo]-4-hydroxy-, lithium sodium salt) (CAS No. 83400–12–8) (provided for in subheading 3204.16.20)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	”.

SEC. 1265. REMAZOL BR. BLUE BB 133 PERCENT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	*9902.02.71*	*Reactive blue 220 (cuprate(4-), [4.5-dihydro-4- [[8-hydroxy-7- [[2-hydroxy-5-methoxy-4-[[2- (sulfoxy)ethyl]- sulfonyl]- phenyl]azo]-6- sulfo-2-naphthalenyl]azo]-5-oxo- 1-(4-sulfophenyl)-1H-pyrazole-3- carboxylato(6-)]-, sodium) (CAS No. 90341–71–2) (provided for in subheading 3204.16.30)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	”.

SEC. 1266. FAST NAVY SALT RA.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	*9902.02.72*	*Benzenediazonium, 4-[(2,6- dichloro-4- nitrophenyl)azo]- 2,5-dimethoxy-, (T-4)-tetra- chlorozincate(2-) (2:1) (CAS No. 63224–47–5) (provided for in subheading 2927.00.30)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	”.

SEC. 1267. LEVAFIX ROYAL BLUE E-FR.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	*9902.02.73*	*Reactive blue 224 (ethanol, 2,2′-[[6,13-dichloro-3,10- bis[[2-(sulfoxy)- ethyl]amino]-triphenodioxaz-inediyl]bis(sul- fonyl)]bis-, bis(hydrogen sulfate) ester, potassium sodium salt (CAS No. 108692–09–7) (provided for in subheading 3204.16.30)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	”.

SEC. 1268. P-CHLORO ANILINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	*9902.02.74*	*p-Chloroaniline (CAS No. 106–47–8) (provided for in subheading 2921.42.90)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	”.

SEC. 1269. ESTERS AND SODIUM ESTERS OF PARAHYDROXYBENZOIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.75	Methyl 4-hydroxybenzoate (CAS No. 99–76–3); propyl 4-hydroxybenzoate (CAS No. 94–13–3); ethyl 4-hydroxybenzoate (CAS No. 120–47–8); butyl 4-hydroxybenzoate (CAS No. 94–26–8); benzyl 4-hydroxybenzoate (CAS No. 94–18–8); methyl 4-hydroxybenzoate, sodium salt (CAS No. 5026–62–0); propyl 4-hydroxybenzoate, sodium salt (CAS No. 35285–69–9); ethyl 4-hydroxybenzoate, sodium salt (CAS No. 35285–68–8); and butyl 4-hydroxybenzoate, sodium salt (CAS No. 36457–20–2) (all the foregoing provided for in subheading 2918.29.65 or 2918.29.75)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1270. SANTOLINK EP 560.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.76	Phenol-formaldehyde polymer, butylated (CAS No. 96446–41–2) (provided for in subheading 3909.40.00)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1271. PHENODUR VPW 1942.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.77	Phenol, 4,4'-(1-methylethyl-idene)bis-, polymer with (chloromethyl)-oxirane and phenol polymer with formaldehyde modified with chloroacetic acid (provided for in subheading 3909.40.00)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1272. PHENODUR PR 612.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.78	Formaldehyde, polymer with 2-methylphenol, butylated (CAS No. 118685–25–9) (provided for in subheading 3909.40.00)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1273. PHENODUR PR 263.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.79	Phenol, polymer with formaldehyde (CAS No. 126191–57–9) and urea, polymer with formaldehyde (CAS No. 68002–18–6) dissolved in a mixture of isobutanol and n-butanol (provided for in subheading 3909.40.00)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1274. MACRYNAL SM 510 AND 516.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.80	Neodecanoic acid, oxiranylmethyl ester, polymer with ethenylbenzene, 2-hydroxyethyl 2-methyl-2-propenoate, methyl 2-methyl-2-propenoate and 2-propenoic acid (CAS No. 98613–27–5) (provided for in subheading 3906.90.50)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1275. ALFTALAT AN 725.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.81	1,3-Benzenedicarboxylic acid, polymer with 1,4-benzenedicarboxylic acid and 2,2-dimethyl-1,3-propanediol (CAS No. 25214–38–4) (provided for in subheading 3907.99.00)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1276. RWJ 241947.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.82	(+)-5-[[6-[(2-Fluorophenyl)- methoxy]-2-naphthalenyl]-methyl]-2,4-thiazolidinedione (CAS No. 161600–01–7) (provided for in subheading 2934.10.10)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1277. RWJ 394718.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.83	1-Propanone, 3-(5-benzofuranyl)-1-[2-hydroxy-6-[[6-O-(methoxycarbonyl-beta-D-glucopyranosyl]-oxy]-4-methylphenyl- (CAS No. 209746–59–8) (provided for in subheading 2932.99.61)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1278. RWJ 394720.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.84	3-(5-Benzofuranyl)-1-[2-β-D-glucopyranosyloxy- 6-hydroxy-4-methylphenyl]-1-propanone (CAS No. 209746–56–5) (provided for in subheading 2932.99.61)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1279. 3,4-DCBN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.85	3,4-Dichlorobenzonitrile (CAS No. 6574–99–8) (provided for in subheading 2926.90.12)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1280. CYHALOFOP.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.86	Propanoic acid, 2-[4-(cyano-2-fluorophenoxy)-phenoxy]butyl ester(2R) (CAS No. 122008–85–9) (provided for in subheading 2926.90.25)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1281. ASULAM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.87	Methyl sulf-anilylcarbamate, sodium salt (asulam sodium salt) (CAS No. 2302–17–2) imported in bulk form (provided for in subheading 2935.00.75), or imported in forms or packings for retail sale or mixed with application adjuvants (provided for in subheading 3808.30.15)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1282. FLORASULAM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.88	Mixtures of florasulam ([1,2,4]- triazolo[1,5-c]- pyrimidine-2-sulfonamide, N-(2,6-difluorophenyl)-8-fluoro-5-methoxy-) (CAS No. 145701–23–1) and application adjuvants (provided for in subheading 3808.30.15)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1283. PROPANIL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.89	Propanamide, N-(3,4-dichlorophenyl)- (CAS No. 709–98–8) (provided for in subheading 2924.29.47)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1284. HALOFENOZIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.90	Benzoic acid, 4-chloro-2-benzoyl-2-(1,1-dimethylethyl)- hydrazide (halofenozide) (CAS No. 112226–61–6) (provided for in subheading 2928.00.25)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1285. ORTHO-PHTHALALDEHYDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.92	1,2-Benzenedicarboxaldehyde (CAS No. 643–79–8) (provided for in subheading 2912.29.60)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1286. TRANS 1,3-DICHLOROPENTENE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new subheading:

“	9902.02.93	Mixed cis and trans isomers of 1,3-dichloro-propene (CAS No. 10061–02–6) (provided for in subheading 2903.29.00)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1287. METHACRYLAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.94	Methacrylamide (CAS No. 79–39–0) (provided for in subheading 2924.19.10)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1288. CATION EXCHANGE RESIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.95	2-Propenoic acid, polymer with diethenylbenzene (CAS No. 9052–45–3) (provided for in subheading 3914.00.60)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1289. GALLERY.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.96	N-[3-(1-Ethyl-1-methylpropyl)-5-isoxazolyl]-2,6-dimethoxybenz-amide (isoxaben) (CAS No. 82558–50–7) (provided for in subheading 2934.99.15)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1290. NECKS USED IN CATHODE RAY TUBES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.02.97	Necks of a kind used in cathode ray tubes (provided for in subheading 7011.20.80)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1291. POLYTETRAMETHYLENE ETHER GLYCOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new subheading:

“	9902.02.98	Polytetramethylene ether glycol (tetrahydro-3-methylfuran, polymer with tetrahydrofuran) (CAS No. 38640–26–5) (provided for in subheading 3907.20.00)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1292. LEAF ALCOHOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new subheading:

“	9902.02.99	cis-3-Hexen-1-ol (CAS No. 928-96-1) (provided for in subheading 2905.29.90)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1293. COMBED CASHMERE AND CAMEL HAIR YARN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.03.01	Yarn of combed cashmere or yarn of camel hair (provided for in subheading 5108.20.60)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1294. CERTAIN CARDED CASHMERE YARN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.02	Yarn of carded cashmere of 6 run or finer (equivalent to 19.35 metric yarn system) (provided for in subheading 5108.10.60)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1295. SULFUR BLACK 1.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.03	Sulfur black 1 (CAS No. 1326–82–5) (provided for in subheading 3204.19.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1296. REDUCED VAT BLUE 43.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.04	Reduced vat blue 43 (CAS No. 85737–02–6) (provided for in subheading 3204.15.40)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1297. FLUOROBENZENE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.05	Fluorobenzene (CAS No. 462–06–6) (provided for in subheading 2903.69.70)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1298. CERTAIN RAYON FILAMENT YARN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.06	High tenacity multiple (folded) or cabled yarn of viscose rayon (provided for in subheading 5403.10.60)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1299. CERTAIN TIRE CORD FABRIC.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.07	Tire cord fabric of high tenacity yarn of viscose rayon (provided for in subheading 5902.90.00)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1300. DIRECT BLACK 184.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.08	Direct black 184 (provided for in subheading 3204.14.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1301. BLACK 263 STAGE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.09	5-[4-(7-Amino-1-hydroxy-3-sulfo-naphthalen-2-ylazo)-2,5-bis(2-hydroxyethoxy)-phenylazo]isophthalic acid, lithium salt (provided for in subheading 3204.14.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1302. MAGENTA 364.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.10	5-[4-(4,5-Dimethyl-2-sulfo-phenylamino)-6-hydroxy-[1,3,5]triazin-2-ylamino]-4-hydroxy-3-(1-sulfonaphthalen-2-ylazo)naph- thalene-2,7-disulfonic acid, sodium salt (provided for in subheading 3204.14.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1303. THIAMETHOXAM TECHNICAL.

(a) Calendar Year 2004.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.11	Thiamethoxam (3-[(2-chloro-5-thiazolyl)methyl)-tetrahydro-5-methyl-N-nitro-1,3,5-oxadiazin-4-imine) (CAS No. 153719–23–4) (provided for in subheading 2934.10.90)	2.6%	No change	No change	On or before 12/31/2004	".

(b) Calendar Year 2005.—

(1) In general.—Heading 9902.03.11, as added by subsection (a), is amended—

(A) by striking "2.6%" and inserting "2.54%"; and

(B) by striking "On or before 12/31/2004" and inserting "On or before 12/31/2005".

(2) Effective date.—The amendments made by paragraph (1) shall take effect on January 1, 2005.

(c) Calendar Year 2006.—

(1) In general.—Heading 9902.03.11, as added by subsection (a) and amended by this section, is further amended—

(A) by striking "2.54%" and inserting "3.2%"; and

(B) by striking "On or before 12/31/2005" and inserting "On or before 12/31/2006".

(2) Effective date.—The amendments made by paragraph (1) shall take effect on January 1, 2006.

SEC. 1304. CYAN 485 STAGE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.12	2-[(Hydroxyethyl- sulfamoyl)-sulfophthalo- cyaninato] copper (II), mixed isomers (provided for in subheading 3204.14.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1305. DIRECT BLUE 307.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.14	Direct blue 307 (provided for in subheading 3204.14.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1306. DIRECT VIOLET 107.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.03.16	Direct violet 107 (provided for in subheading 3204.14.30)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1307. FAST BLACK 286 STAGE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.03.17	1,3-Benzenedicarboxylic acid, 5-[[4-[(7-amino-1-hydroxy-3-sulfo-2- naphthalenyl)-azo]-6-sulfo-1-naphthalenyl]-azo]-, sodium salt (CAS No. 201932–24–3) (provided for in subheading 3204:14.30)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1308. MIXTURES OF FLUAZINAM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.03.18	Mixtures of fluazinam (3-chloro-N-(3-chloro-2,6- dinitro-4-(trifluoromethyl)-phenyl-5-(trifluoromethyl)-2-pyridinamine) (CAS No. 79622–59–6) and application adjuvants (provided for in subheading 3808.20.15)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1309. PRODIAMINE TECHNICAL.

(a) CALENDAR YEAR 2004.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.03.19	Prodiamine (2,6-dinitro-N1,N1-dipropyl-4-(trifluoromethyl)-1,3-benzene-diamine (CAS No. 29091–21–2) (provided for in subheading 2921.59.80)	0.53%	No change	No change	On or before 12/31/2004	”.

(b) CALENDAR YEARS 2005 AND 2006.—

(1) IN GENERAL.—Heading 9902.03.19, as added by subsection (a), is amended—

(A) by striking “0.53%” and inserting “Free”; and

(B) by striking “On or before 12/31/2004” and inserting “On or before 12/31/2006”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2005.

SEC. 1310. CARBON DIOXIDE CARTRIDGES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.03.20	Carbon dioxide in threaded 12-, 16-, or 25-gram non-refillable cartridges (provided for in subheading 2811.21.00)	Free	Free	No change	On or before 12/31/2005	”.

SEC. 1311. 12-HYDROXYOCTADECANOIC ACID, REACTION PRODUCT WITH N,N-DIMETHYL, 1,3-PROPANEDIAMINE, DIMETHYL SULFATE, QUATERNIZED.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.03.21	12-Hydroxyoctadecanoic acid, reaction product with N,N-dimethyl- 1,3-propanediamine, dimethyl sulfate, quaternized (CAS No. 70879–66–2) (provided for in subheading 3824.90.40)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1312. 40 PERCENT POLYMER ACID SALT/POLYMER AMIDE, 60 PERCENT BUTYL ACETATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.03.22	2-Oxepanone, polymer with aziridine and tetrahydro-2H-pyran-2-one, dodecanoate ester, 40 percent solution in N-butyl acetate (provided for in subheading 3208.90.00)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1313. 12-HYDROXYOCTADECANOIC ACID, REACTION PRODUCT WITH N,N-DIMETHYL- 1,3-PROPANEDIAMINE, DIMETHYL SULFATE, QUATERNIZED, 60 PERCENT SOLUTION IN TOLUENE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.03.23	12-Hydroxyoctadecanoic acid, reaction product with N,N-dimethyl- 1,3-propanediamine, dimethyl sulfate, quaternized (CAS No. 70879–66–2), 60 percent solution in toluene (provided for in subheading 3824.90.28)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1314. POLYMER ACID SALT/POLYMER AMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.03.24	2-Oxepanone, polymer with aziridine and tetrahydro-2H-pyran-2-one, dodecanoate ester (provided for in subheading 3824.90.91)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1315. 50 PERCENT AMINE NEUTRALIZED PHOSPHATED POLYESTER POLYMER, 50 PERCENT SOLVESSO 100.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.03.25	50 Percent amine neutralized phosphated polyester polymer, 50 percent solvesso 100 (CAS Nos. P–99–1218, 64742–95–6, 95–63–6, 108–67–8, 98–82–8, and 1330–20–7) (provided for in subheading 3907.99.00)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1316. 1-OCTADECANAMINIUM, N,N-DI-METHYL-N-OCTADECYL-, (SP-4-2)-[29H,31H-PHTHA- LOCYANINE-2- SULFONATO(3-)-.KAPPA.N29,.KAPPA.N30,.KAPPA.N31,.KAPPA.N32]CUPRATE(1-).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.03.26	1-Octa- decanaminium, N,N-dimethyl-N-octadecyl-, (Sp-4-2)-[29H,31H-phthalocyanine-2-sulfonato(3-)-.kappa.N29, .kappa.N30, .kappa.N31, .kappa.N32] cuprate(1-) (CAS No. 70750-63-9) (provided for in subheading 3824.90.28)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1317. CHROMATE(1-)-BIS[1-[(5-CHLORO[–2-HYDROXYPHENYL)AZO])–2-NAPTHAL ENOLATO(2-)]-,HYDROGEN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.27	Chromate(1-)-bis[1-[(5-chloro-2-hydroxy-phenyl)azo]-2-naphthalenolato- (2-)]-, hydrogen (CAS No. 31714-55-3) (provided for in subheading 2942.00.10)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1318. BRONATE ADVANCED.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.29	Mixtures of bromoxynil octanoate (3,5-dibromo-4-hydroxybenzo-nitrile octanoate (CAS No. 1689–99–2) with application adjuvants (provided for in subheading 3808.30.15)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1319. N-CYCLOHEXYLTHIOPHTHALIMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.30	N-Cyclohexylthiophthalimide (CAS No. 17796–82–6) (provided for in subheading 2930.90.24)	3%	No change	No change	On or before 12/31/2005	".

SEC. 1320. CERTAIN HIGH-PERFORMANCE LOUDSPEAKERS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.85.20	Loudspeakers not mounted in their enclosures (provided for in subheading 8518.29.80), the foregoing which meet a performance standard of not more than 1.5 dB for the average level of 3 or more octave bands, when such loudspeakers are tested in a reverberant chamber	Free	No change	No change	On or before 12/31/2005	".

SEC. 1321. BIO-SET INJECTION RCC.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following heading:

"	9902.03.33	Polymeric apparatus, comprising a removable cap, an injection port attached to an air vent filter and a fixed needle of plastics and a base for attaching the whole to a vial with a 13 mm or 20 mm flange, of a kind used for transferring diluent from a prefilled syringe (without needle) to a vial containing a powdered or lyophilized medicament and, after mixing, transferring the medicament back to the syringe for subsequent administration to the patient (provided for in subheading 3923.50.00)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1322. PENTA AMINO ACETO NITRATE COBALT III (COFLAKE 2).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.34	Mixtures of (acetato)pent-ammine cobalt dinitrate (CAS No. 14854-63-8) with a polymeric or paraffinic carrier (provided for in subheading 3815.90.50)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1323. OXASULFURON TECHNICAL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.35	Benzoic acid, 2-[[[[(4,6-dimethyl-2-pyrimidinyl)- amino]carbonyl]-amino]sulfonyl]-, 3-oxetanyl ester (CAS No. 144651-06–9) (provided for in subheading 2935.00.75)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1324. CERTAIN MANUFACTURING EQUIPMENT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.84.83	Machine tools for working wire of iron or steel, certified for use in production of radial tires designed for off-the-highway use and for use on a rim measuring 63.5 cm or more in diameter (provided for in subheading 4011.20.10. 4011.61.00, 4011.63.00, 4011.69.00, 4011.92.00, 4011.94.40, or 4011.99.45), numerically controlled, or parts thereof (provided for in subheading 8463.30.00 or 8466.94.85)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1325. 4-AMINOBENZAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.37	4-Aminobenzamide (CAS No. 2835–68–9) (provided for in subheading 2924.29.76) ...	Free	No change	No change	On or before 12/31/2005	".

SEC. 1326. FOE HYDROXY.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.38	N-(4-Fluorophenyl)-2-hydroxy-N-(1-methylethyl)-acetamide (CAS No. 54041-17-7) (provided for in subheading 2924.29.71)	5.2%	No change	No change	On or before 12/31/2005	".

SEC. 1327. MAGENTA 364 LIQUID FEED.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.39	5-[4-(4,5-Dimethyl-2-sulfo- phenylamino)-6-hydroxy-[1,3,5]triazin-2-ylamino]-4-hydroxy-3-(1-sulfonaphthalen-2-ylazo)naph- thalene-2,7-disulfonic acid, sodium ammonium salt (provided for in subheading 3204.14.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1328. TETRAKIS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.40	Tetrakis ((2,4-di-tert-butylphenyl)-4,4-biphenylene diphosphonite) (CAS No. 38613–77–3) (provided for in subheading 2835.29.50)	Free	Free	No change	On or before 12/31/2005	".

SEC. 1329. PALMITIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.03.41	Palmitic acid, with a purity of 90 percent or more (CAS No. 57–10–3) (provided for in subheading 2915.70.00)	Free	Free	No change	On or before 12/31/2005	”.

SEC. 1330. PHYTOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.03.42	3,7,11,15-Tetramethylhexadec-2-en-1-ol (CAS No. 7541–49–3) (provided for in subheading 2905.22.50)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1331. CHLORIDAZON.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.03.43	Chloridazon (5-Amino-4-chloro-2-phenyl-3(2H)-pyridazinone) (CAS No. 1698–60–8) put up in forms or packings for retail sale or mixed with application adjuvants (provided for in subheading 3808.30.15)	Free	Free	No change	On or before 12/31/2005	”.

SEC. 1332. DISPERSE ORANGE 30, DISPERSE BLUE 79:1, DISPERSE RED 167:1, DISPERSE YELLOW 64, DISPERSE RED 60, DISPERSE BLUE 60, DISPERSE BLUE 77, DISPERSE YELLOW 42, DISPERSE RED 86, AND DISPERSE RED 86:1.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.03.45	Propanenitrile, 3-[[2-(acetyloxy)-ethyl]-[4-[(2,6-dichloro-4-nitro- phenyl)azo]-phenyl]amino]- (disperse orange 30) (CAS No. 5261–31–4) (provided for in subheading 3204.11.50)	Free	No change	No change	On or before 12/31/2005	
“	9902.03.46	Acetamide, N-[5-[bis[2-(acetyloxy)-ethyl]amino]-2-[(2-bromo-4,6-dinitrophenyl)-azo]-4-methoxyphenyl]- (disperse blue 79:1) (CAS No. 3618–72–2) (provided for in subheading 3204.11.50)	Free	No change	No change	On or before 12/31/2005	
“	9902.03.47	Acetamide, N-[5-[bis[2-(acetyloxy)- ethyl]amino]-2-[(2-chloro-4-nitrophenyl)-azo]phenyl]- (disperse red 167:1) (CAS No. 1533–78–4) (provided for in subheading 3204.11.50)	Free	No change	No change	On or before 12/31/2005	
“	9902.03.48	1H-Indene-1,3(2H)-dione, 2-(4-bromo-3-hydroxy-2-quinol-inyl)- (disperse yellow 64) (CAS No. 10319–14–9) (provided for in subheading 3204.11.50)	Free	No change	No change	On or before 12/31/2005	
“	9902.03.49	9,10-Anthra- cenedione, 1-amino-4-hydroxy-2-phenoxy- (disperse red 60) (CAS No. 17418–58–5) (provided for in subheading 3204.11.50)	Free	No change	No change	On or before 12/31/2005	
“	9902.03.50	1H-Naphth[2,3-f]isoindole-1,3,5,10(2H)-tetrone, 4,11-diamino-2-(3-methoxypropyl)-(disperse blue 60) (CAS No. 12217–80–0) (provided for in subheading 3204.11.50)	Free	No change	No change	On or before 12/31/2005	
“	9902.03.51	9,10-Anthracenedione, 1,8-dihydroxy-4-nitro-5-(phenylamino)- (disperse blue 77) (CAS No. 20241–76–3) (provided for in subheading 3204.11.50)	Free	No change	No change	On or before 12/31/2005	
“	9902.03.52	Benzenesulfonamide, 3-nitro-N-phenyl-4-(phenylamino)- (disperse yellow 42) (CAS No. 5124–25–4) (provided for in subheading 3204.11.50)	Free	No change	No change	On or before 12/31/2005	
“	9902.03.53	Benzenesulfonamide, N-(4-amino-9,10-dihydro-3-methoxy-9,10-dioxo-1-anthracenyl)-4-methyl- (disperse red 86) (CAS No. 81–68–5) (provided for in subheading 3204.11.50)	Free	No change	No change	On or before 12/31/2005	
“	9902.03.54	Benzenesulfonamide, N-(4-amino-9,10-dihydro-3-methoxy-9,10-dioxo-1-anthracenyl)- (disperse red 86:1) (CAS No. 69563–51–5) (provided for in subheading 3204.11.50)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1333. DISPERSE BLUE 321.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.03.55	1-Naphthalenamine, 4-[(2-bromo-4,6- dinitrophenyl)- azo]-N-(3-meth- oxypropyl)-(disperse blue 321) (CAS No. 70660–55–8) (provided for in subheading 3204.11.35)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1334. DIRECT BLACK 175.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.03.56	Cuprate(4-), [m-[5-[(4,5-dihydro-3-methyl-5-oxo- 1-phenyl-1H-pyrazol-4-yl)azo]-3-[[4′-[[3,6-disulfo-2-hydroxy.kappa.O-1-naphthal- enyl]azo-.kappa.N1]-3,3′-di(hydroxy-.kappa.O)[1,1′-biphenyl]-4-yl]azo-.kappa.N1]-4-(hydroxy-.kappa.O)-2,7-naphtha- lenedisulf-onato(8-)]]di-, tetrasodium (direct black 175) (CAS No. 66256–76–6) (provided for in subheading 3204.12.50)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1335. DISPERSE RED 73 AND DISPERSE BLUE 56.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

“	9902.03.57	Benzonitrile, 2-[[4-[(2-cyanoethyl)- ethylamino]- phenyl]azo]-5-nitro- (disperse red 73) (CAS No. 16889–10–4) (provided for in subheading 3204.11.10)	Free	No change	No change	On or before 12/31/2005	”.
“	9902.03.58	9,10-Anthra- cenedione, 1,5-diaminochloro-4,8-dihydroxy- (disperse blue 56) (CAS No. 12217–79–7) (provided for in subheading 3204.11.10)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1336. ACID BLACK 132.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.03.59	[3-(Hydroxy-.kappa.O)-4-[[2-(hydroxy-.kappa.O)-1-naphthalenyl]azo-.kappa.N1]-1-naphthal-enesulfonato (3-)]-[1-[[2-(hydroxy-.kappa.O)-5-[(2-methoxyphenyl]-azophenyl]-azo-.kappa.N1]-2-naphthalenolato (2-).kappa.O]-, disodium (acid black 132) (CAS No. 27425–58–7) (provided for in subheading 3204.12.20)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1337. ACID BLACK 107.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.61	Chromate(2-), [1-[[2-(hydroxy.kappa.O)-3,5-dinitro- phenyl]azo-.kappa.N1]-2-naphthal- enolato(2-)-.kappa.O][3-(hydroxy-.kappa.O)4-[[2 (hydroxy-.kappa.O)-1-naphthalenyl]-azo.kappa.N1]-7- nitro-1-naphthalenesulfonato(3-)]-, sodium hydrogen (acid black 107) (CAS No. 12218–96–1) (provided for in subheading 3204.12.45)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1338. ACID YELLOW 219, ACID ORANGE 152, ACID RED 278, ACID ORANGE 116, ACID ORANGE 156, AND ACID BLUE 113.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"	9902.03.62	Benzenesulfonic acid, 3-[[3-methoxy-4-[(4-methoxyphenyl)- azo]phenyl]azo]-, sodium salt (acid yellow 219) (CAS No. 71819–57–3) (provided for in subheading 3204.12.50)	Free	No change	No change	On or before 12/31/2005	
	9902.03.63	Benzenesulfonic acid, 3-[[4-[[4-(2-hydroxybut-oxy)phenyl]azo]-5-methoxy-2-methyl- phenyl]azo]-, monolithium salt (acid orange 152) (CAS No. 71838–37–4) (provided for in subheading 3204.12.50)	Free	No change	No change	On or before 12/31/2005	
	9902.03.64	Chromate(1-), bis[3-[4-[[5-chloro-2-(hydroxy.kappa.O)- phenyl]azo-.kappa.N1]-4,5-dihydro-3-methyl-5-(oxo-.kappa.O)-1H-pyrazol-1-yl]benzenesul- fonamidato(2-)]-, sodium (acid red 278) (CAS No. 71819–56–2) (provided for in subheading 3204.12.50)	Free	No change	No change	On or before 12/31/2005	
	9902.03.65	Benzenesulfonic acid, 3-[[4-[(2-ethoxy-5-methylphenyl)- azo]-1-naphthalenyl]azo]-, sodium salt (acid orange 116) (CAS No. 12220–10–9) (provided for in subheading 3204.12.50)	Free	No change	No change	On or before 12/31/2005	
	9902.03.66	Benzenesulfonic acid, 4-[[5-meth- oxy-4-[(4-methoxy- phenyl)azo]-2-methylphenyl]azo]-, sodium salt (acid orange 156) (CAS No. 68555–86–2) (provided for in subheading 3204.12.50)	Free	No change	No change	On or before 12/31/2005	
	9902.03.67	1-Naphthalene- sulfonic acid, 8-(phenylamino)-5-[[4-[(3- sulfophenyl)- azo]-1-naphthalenyl]-azo]-, disodium salt (acid blue 113) (CAS No. 3351–05–1) (provided for in subheading 3204.12.50)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1339. LUGANIL BROWN NGT POWDER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.76	Acid brown 290 (CAS No. 12234–74–1) (provided for in subheading 3204.12.20)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1340. THIOPHANATE-METHYL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.77	4,4′-o-Phenylenebis-(3-thioallophanic acid), dimethyl ester (thiophanate-methyl) (CAS No. 23564–05–8) (provided for in subheading 2930.90:10)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1341. MIXTURES OF THIOPHANATE-METHYL AND APPLICATION ADJUVANTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new subheading:

"	9902.03.79	Mixtures of 4,4′-o-Phenylenebis-(3-thioallophanic acid), dimethyl ester (Thiophanate-methyl) (CAS No. 23564–05–8) and application adjuvants (provided for in subheading 3808.20.15)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1342. HYDRATED HYDROXYPROPYL METHYLCELLULOSE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.80	2-Hydroxypropyl methyl cellulose (CAS No. 9004–65–3)(provided for in subheading 3912.39.00)	0.4%	No change	No change	On or before 12/31/2005	".

SEC. 1343. C 12–18 ALKENES, POLYMERS WITH 4-METHYL-1-PENTENE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.86	C 12-18 alkenes, polymers with 4-methyl-1-pentene (CAS No. 68413–03–6) (provided for in subheading 3902.90.00)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1344. CERTAIN 12-VOLT BATTERIES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.87	12V Lead-acid storage batteries, of a kind used for the auxiliary source of power for burglar or fire alarms and similar apparatus of subheading 8531.10.00 (provided for in subheading 8507.20.80)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1345. CERTAIN PREPARED OR PRESERVED ARTICHOKES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.89	Artichokes, prepared or preserved otherwise than by vinegar or acetic acid, not frozen (provided for in subheading 2005.90.80)	13.8%	No change	No change	On or before 12/31/2005	".

SEC. 1346. CERTAIN OTHER PREPARED OR PRESERVED ARTICHOKES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.90	Artichokes, prepared or preserved by vinegar or acetic acid (provided for in subheading 2001.90.25)	7.5%	No change	No change	On or before 12/31/2005	".

SEC. 1347. ETHYLENE/TETRAFLUOROETHYLENE COPOLYMER (ETFE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.91	*Ethylene-tetra- fluoroethylene copolymers (ETFE) (provided for in subheading 3904.69.50)*	*4.9%*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1348. ACETAMIPRID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.92	*N1-[(6-Chloro-3-pyridyl)methyl]-N2-cyano-N1-methylacetamidine (CAS No. 135410-20-7) (provided for in subheading 2933.39.27)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1349. CERTAIN MANUFACTURING EQUIPMENT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"	9902.84.94	*Extruders, screw type, suitable for processing polyester thermoplastics in a cast film production line (provided for in subheading 8477.20.00)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	
	9902.84.95	*Casting machinery suitable for processing polyester thermoplastics into a sheet in a cast film production line (provided for in subheading 8477.80.00)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	
	9902.84.96	*Transverse direction orientation tenter machinery, suitable for processing polyester film in a cast film production line (provided for in subheading 8477.80.00)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	
	9902.84.97	*Winder machinery suitable for processing polyester film in a cast film production line (provided for in subheading 8477.80.00)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	
	9902.84.98	*Slitting machinery suitable for processing polyester film in a cast film production line (provided for in subheading 8477.80.00)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1350. TRITICONAZOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.99	*E-5-(4-Chlorobenzylidene)-2,2-dimethyl-1-(1H-1,2,4-triazol-1-ylmethyl)cyclopentanol. (CAS No.131983-72-7) (provided for in subheading 2933.99.12)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1351. CERTAIN TEXTILE MACHINERY.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.88	*Weaving machines (looms), shuttleless type, for weaving fabrics of a width exceeding 30 cm but not exceeding 4.9 m, entered without off-loom or large loom take-ups, drop wires, heddles, reeds, harness frames, or beams (provided for in subheading 8446.30.50)*	*2.7%*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1352. 3-SULFINOBENZOIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.04.01	*3-Sulfinobenzoic acid (CAS No. 15451-00-0) (provided for in subheading 2930.90.29)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1353. POLYDIMETHYLSILOXANE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.04.02	*Polydimethylsiloxane (CAS No. 63148-62-9) (provided for in subheading 3910.00.00)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1354. BAYSILONE FLUID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.04.03	*An alkyl modified polydimethylsiloxane (CAS No. 102782-93-4) (provided for in subheading 3910.00.00)*	*Free*	*No change*	*No change*	*On or before 12/31/2005*	".

SEC. 1355. ETHANEDIAMIDE, N- (2-ETHOXYPHENYL)-N'- (4-ISODECYLPHENYL)-.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.04.05	*Preparations based on ethanediamide, N-(2-ethoxyphenyl)-N'-(4-isodecylphenyl)- (CAS No. 82493-14-9) (provided for in subheading 3812.30.60)*	*Free*	*Free*	*No change*	*On or before 12/31/2005*	".

SEC. 1356. 1-ACETYL-4-(3-DODECYL-2, 5-DIOXO-1-PYRROLIDINYL)-2,2,6,6-TETRAMETHYL-PIPERIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.04.06	*1-Acetyl-4-(3-dodecyl-2,5-dioxo-1-pyrrolidinyl)-2,2,6,6-tetramethylpiperidine (CAS No. 106917-31-1) (provided for in subheading 2933.39.61)*	*Free*	*Free*	*No change*	*On or before 12/31/2005*	".

SEC. 1357. ARYL PHOSPHONITE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.04.07	Reaction products of phosphorus trichloride with 1,1′-biphenyl and 2,4-bis(1,1-dimethylethyl)phenol (CAS No. 119345–01–6) (provided for in subheading 3812.30.60)	Free	Free	No change	On or before 12/31/2005	".

SEC. 1358. MONO OCTYL MALIONATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.04.08	mono-2-Ethylhexyl maleate (CAS No. 7423–42–9) (provided for in subheading 2917.19.20)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1359. 3,6,9-TRIOXAUNDECANEDIOIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.04.09	3,6,9-Trioxaundecanedioic acid (CAS No..13887–98–4) (provided for in subheading 2918.90.50) ..	Free	No change	No change	On or before 12/31/2005	".

SEC. 1360. CROTONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.04.10	(E)-2-Butenoic acid (Crotonic acid) (CAS No. 107–93–7) (provided for in subheading 2916.19.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1361. 1,3-BENZENEDICARBOXAMIDE, N, N′-BIS-(2,2,6,6-TETRAMETHYL-4-PIPERIDINYL)-.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.04.11	1,3-Benzenedicarboxamide, N,N′-bis-(2,2,6,6-tetramethyl-4-piperidinyl)- (CAS No. 42774–15–2) (provided for in subheading 2933.39.61)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1362. 3-DODECYL-1-(2,2,6,6-TETRAMETHYL-4-PIPERIDINYL)-2,5-PYRROLIDINEDIONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.04.12	3-Dodecyl-1-(2,2,6,6-tetramethyl-4-piperidinyl)-2,5-pyrrolidinedione (CAS No. 79720–19–7) (provided for in subheading 2933.39.61)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1363. OXALIC ANILIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.04.13	Ethanediamide, N-(2-ethoxyphenyl)-N′-(2-ethylphenyl)- (CAS No. 23949–66–8) (provided for in subheading 2924.29.76)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1364. N-METHYL DIISOPROPANOLAMINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.04.14	1,1′-(Methylamino)dipropan-2-ol (CAS No. 4402–30–6) (provided for in subheading 2922.19.95)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1365. 50 PERCENT HOMOPOLYMER, 3-(DIMETHYLAMINO) PROPYL AMIDE, DIMETHYL SULFATE-QUATERNIZED 50 PERCENT POLYRICINOLEIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.04.15	Mixture (1:1) of polyricinoleic acid homopolymer, 3-(dimethylamino) propylamide, dimethyl sulfate, quaternized and polyricinoleic acid (provided for in subheading 3824.90.40)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1366. BLACK CPW STAGE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.04.16	2,7-Naphthalenedisulfonic acid, 4-amino-3-[[4-[[-4-[(2- or 4-amino-4 or 2-hydroxyphenyl)azo]phenyl]amino]-3-sulfophenyl]azo]-5-hydroxy-6-(phenylazo), trisodium salt) (CAS No. 85631–88–5) (provided for in subheading 3204.14.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1367. FAST BLACK 287 NA PASTE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.04.17	1,3-Benzenedicarboxylic acid, 5-[[4-[(7-amino-1-hydroxy-3-sulfo-2-naphthalenyl)azo]-1-naphthalenyl]azo]-, trisodium salt, in paste form (provided for in subheading 3204.14.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1368. FAST BLACK 287 NA LIQUID FEED.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.04.18	1,3-Benzenedicarboxylic acid, 5-[[4-[(7-amino-1-hydroxy-3-sulfo-2-naphthalenyl)azo]-1-naphthalenyl]azo]-, trisodium salt, in liquid form (provided for in subheading 3204.14.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1369. FAST YELLOW 2 STAGE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.04.19	1,3-Benzenedicarboxylic acid, 5,5′- [[6-(4-morpholinyl)-1,3,5-triazine-2,4-diyl]bis(imino-4,1-phenyleneazo)]bis-, ammonium/sodium/hydrogen salt (direct yellow 173) (provided for in subheading 3204.14.30.)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1370. CYAN 1 STAGE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.04.21	Copper [29H,31H-phthalo- cyaninato(2-)-N29,N30,N31,N32]-, aminosulfonylsulfo derivatives, tetramethylammonium salts (provided for in subheading 3204.14.30)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1371. YELLOW 1 STAGE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.04.24	1,5-Naphthalenedisulfonic acid, 3,3′- [[6-[(2-hydroxyethyl)amino]-1,3,5-triazine-2,4-diyl]bis[imino(2-methyl-4,1-phenylene)azo]]bis-, tetrasodium salt (CAS No. 50925–42–3) (provided for in subheading 3204.14.30)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1372. YELLOW 746 STAGE.

Subchapter II of chapter 99 of is amended by inserting in numerical sequence the following new heading:

“	9902.04.26	1,3-Bipyridirium, 3-carboxy-5′-[(2-carboxy-4-sulfophenyl)azo]-1′,2′-dihydro-6′-hydroxy-4′-methyl-2′-oxo-, inner salt, lithium/sodium salt (provided for in subheading 3204.14.30)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1373. BLACK SCR STAGE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.04.27	2,7-Naphthalenedi- sulfonic acid, 4-amino-3-[[4-[[-4-[(2 or 4-amino-4 or 2-hydroxyphenyl)-azo]- phenyl]amino]-3-sulfophenyl]- azo]-5-hydroxy-6-(phenylazo)-, trisodium salt (CAS No. 85631–88–5) (provided for in subheading 3204.14.30)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1374. MAGENTA 3B-OA STAGE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.04.28	2-[[4-Chloro-6-[[8-hydroxy-3,6-disulfonate-7-[(1-sulpho-2-naphthalenyl)azo]-1-naphthalenyl]amino]-1,3,5-triazin-2-yl]amino]-5-sulfobenzoic acid, sodium/lithium salts (CAS No. 12237–00–2) (provided for in subheading 3204.16.30)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1375. YELLOW 577 STAGE.

(a) Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.04.29	5-[4-[4-[4-(4,8-Disulfonaphthalen-2-ylazo)-phenylamino]-6-(2-sulfoethylamino)-1,3,5-triazin-2-ylamino]-phenylazo]iso-phthalic acid, sodium salt (provided for in subheading 3204.14.30)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1376. CYAN 485/4 STAGE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.04.30	Copper, [29H,31H-phthalo-cyaninato(2-)-xN29,xN30,xN31,xN32]-aminosulfonyl-[(2-hydroxyethyl)amino]-sulfonylsulfo derivatives, sodium salt (provided for in subheading 3204.14.30)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1377. LOW EXPANSION LABORATORY GLASS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.04.32	Laboratory, hygienic, or pharmaceutical glassware, whether or not graduated or calibrated, of low expansion borosilicate glass or alumino-borosilicate glass, having a linear coefficient of expansion not exceeding 3.3 x 10^{-7} per Kelvin within a temperature range of 0 to 300½C (provided for in subheadings 7017.20.00 and 7020.00.60).	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1378. STOPPERS, LIDS, AND OTHER CLOSURES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.04.33	Stoppers, lids, and other closures of low expansion borosilicate glass or alumino-borosilicate glass, having a linear coefficient of expansion not exceeding 3.3 x 10^{-7} per Kelvin within a temperature range of 0 to 300½C, produced by automatic machine (provided for in subheading 7010.20.20) or produced by hand (provided for in subheading 7010.20.30).	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1379. TRIFLUSULFURON METHYL FORMULATED PRODUCT.

(a) CALENDAR YEARS 2004 AND 2005.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.05.01	Mixtures of methyl 2-[[[[[4-(dimethylamino)- 6-(2,2,2-trifluoroethoxy)-1,3,5-triazin-2-yl]-amino]carbonyl]- amino]sulfonyl]-3-methylbenzoate (CAS No. 126535–15–7) and application adjuvants (provided for in subheading 3808.30.15)	1%	No change	No change	On or before 12/31/2005	”.

(b) CALENDAR YEAR 2006.—

(1) IN GENERAL.—Heading 9902.05.01, as added by subsection (a), is amended—

(A) by striking "1%" and inserting "Free"; and
(B) by striking "On or before 12/31/2005" and inserting "On or before 12/31/2006".
(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2006.

SEC. 1380. AGRUMEX (O-T-BUTYL CYCLOHEXANOL).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.05.02	o-tert-Butyl-cyclohexanol (CAS No. 13491–79–7) (provided for in subheading 2915.39.45)	Free	No change	No change	On or before 12/31/ 2005	".

SEC. 1381. TRIMETHYL CYCLO HEXANOL (1-METHYL-3,3-DIMETHYLCYCLOHEXANOL-5).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.05.03	3,3,5-Trimethyl-cyclohexan-1-ol (CAS No. 116–02–9) (provided for in subheading 2906.19.50)	Free	No change	No change	On or before 12/31/ 2005	".

SEC. 1382. MYCLOBUTANIL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.91	alpha-Butyl-alpha-(4-chlorophenyl)-1H-1,2,4-triazole-1-propanenitrile (myclobutanil) (CAS No. 88671–89–0) (provided for in subheading 2933.99.06)	1.9%	No change	No change	On or before 12/31/ 2005	".

SEC. 1383. METHYL CINNAMATE (METHYL-3-PHENYLPROPENOATE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.05.04	Methyl cinnamate (methyl-3-phenylpropenoate) (CAS No. 103–26–4) (provided for in subheading 2916.39.20)	Free	No change	No change	On or before 12/31/ 2005	".

SEC. 1384. ACETANISOLE (ANISYL METHYL KETONE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.05.05	p-Acetanisole (CAS No. 100-06–1) (provided for in subheading 2914.50.30)	Free	No change	No change	On or before 12/31/ 2005	".

SEC. 1385. ALKYLKETONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.53	1-(4-Chlorophenyl)- 4,4-dimethyl-3-pentanone (CAS No. 66346–01–8) (provided for in subheading 2914.70.40)	3.5%	No change	No change	On or before 12/31/ 2005	".

SEC. 1386. IPRODIONE 3-(3-5, DICHOLOROPHENYL)-N-(1-METHYLETHYL)-2,4-DIOXO-1-IMIDAZOLIDINECARBOXAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.51	Iprodione (3-(3,5-dicholorophenyl)-N-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide) (CAS No. 36734–19–7) (provided for in subheading 2933.21.00)	4.1%	No change	No change	On or before 12/31/ 2005	".

SEC. 1387. DICHLOROBENZIDINE DIHYDROCHLORIDE.

(a) CALENDAR YEAR 2004.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.28	3,3'-Dichlorobenzi-dine dihydrochloride (CAS No. 612–83–9) (provided for in subheading 2921.59.80)	6.3% + 0.2 cents/kg	No change	No change	On or before 12/31/ 2004	".

(b) CALENDAR YEARS 2005 AND 2006.—
(1) IN GENERAL.—Heading 9902.03.28, as added by subsection (a), is amended—
(A) by striking "6.3% + 0.2 cents/kg" and inserting "5.1%"; and
(B) by striking "On or before 12/31/2004" and inserting "On or before 12/31/2006".
(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2005.

SEC. 1388. KRESOXIM-METHYL.

(a) CALENDAR YEAR 2004.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.03.78	Methyl (E)- methoxyimino- [alpha-(o-tolyloxy)-o-tolyl]- acetate (kresoxim methyl) (CAS No. 143390–89–0) (provided for in subheading 2925.20.60)	3.3%	No change	Free	On or before 12/31/ 2004	".

(b) CALENDAR YEARS 2005 AND 2006.—
(1) IN GENERAL.—Heading 9902.03.78, as added by subsection (a), is amended—
(A) by striking "3.3%" and inserting "2.4%"; and
(B) by striking "On or before 12/31/2004" and inserting "On or before 12/31/2006".
(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2005.

SEC. 1389. MKH 6562 ISOCYANATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.05.06	2-(Trifluoro- methoxy)-benzenesulfonyl isocyanate (CAS No. 99722–81–3) (provided for in subheading 2930.90.29)	0.7%	No change	No change	On or before 12/31/ 2005	".

SEC. 1390. CERTAIN RAYON FILAMENT YARN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.05.07	High tenacity single yarn of viscose rayon (provided for in subheading 5403.10.30) with a decitex equal to or greater than 1,000	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1391. BENZENEPROPANAL, 4-(1,1-DIMETHYLETHYL)-ALPHA-METHYL.

(a) CALENDAR YEAR 2004.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.05.08	Benzenepropanal, 4-(1,1-dimethylethyl)-alpha-methyl- (CAS No. 80–54–6) (provided for in subheading 2912.29.60)	2.3%	No change	Free	On or before 12/31/2004	”.

(b) CALENDAR YEARS 2005 AND 2006.—

(1) IN GENERAL.—Heading 9902.05.08, as added by subsection (a), is amended—

(A) by striking “2.3%” and inserting “1.7%”; and

(B) by striking “On or before 12/31/2004” and inserting “On or before 12/31/2006”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2005.

SEC. 1392. 3,7-DICHLORO-8-QUINOLINE CARBOXYLIC ACID.

(a) CALENDAR YEAR 2004.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.05.09	3,7-Dichloro-8-quinolinecarb-oxylic acid (quinclorac) (CAS No. 84087–01–4) (provided for in subheading 2933.49.30)	3.9%	No change	Free	On or before 12/31/2004	”.

(b) CALENDAR YEARS 2005 AND 2006.—

(1) IN GENERAL.—Heading 9902.05.09, as added by subsection (a), is amended—

(A) by striking “3.9%” and inserting “3.3%”; and

(B) by striking “On or before 12/31/2004” and inserting “On or before 12/31/2006”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2005.

SEC. 1393. 3-(1-METHYLETHYL)-1H-2,1,3-BENZOTHIADIAZIN-4(3H)-ONE 2,2 DIOXIDE, SODIUM SALT.

(a) CALENDAR YEAR 2004.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.05.10	3-(1-Methyl- ethyl)-1H-2,1,3-benzothiadiazin-4(3H)-one-2,2-dioxide, sodium salt (bentazon, sodium salt) (CAS No. 50723–80–3) (provided for in subheading 2934.99.15)	1.8%	No change	Free	On or before 12/31/2004	”.

(b) CALENDAR YEARS 2005 AND 2006.—

(1) IN GENERAL.—Heading 9902.05.10, as added by subsection (a), is amended—

(A) by striking “1.8%” and inserting “2.6%”; and

(B) by striking “On or before 12/31/2004” and inserting “On or before 12/31/2006”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2005.

SEC. 1394. 3,3′,4-4′-BIPHENYLTETRACARBOXYLIC DIANHYDRIDE, ODA, ODPA, PMDA, AND 1,3-BIS(4-AMINOPHENOXY)BENZENE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

“	9902.05.11	3,3′,4,4′-Biphenyltetracarboxylic dianhydride (CAS No. 2420–87–3) (provided for in subheading 2917.39.30)	Free	No change	No change	On or before 12/31/2005	
“	9902.05.12	4,4′-Oxydianiline (CAS No. 101–80–4) (provided for in subheading 2922.29.80)	1.5%	No change	No change	On or before 12/31/2005	
“	9902.05.13	4,4′-Oxydiphthalic anhydride (CAS No. 1823–59–2) (provided for in subheading 2918.90.43)	Free	No change	No change	On or before 12/31/2005	
“	9902.05.14	Pyromellitic dianhydride (CAS No. 89–32–7) (provided for in subheading 2917.39.70)	Free	No change	No change	On or before 12/31/2005	
“	9902.05.15	1,3-Bis(4-aminophenoxy)- benzene (CAS No. 2479–46–1) (provided for in subheading 2922.29.29 or 2922.29.60)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1395. ORYZALIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.05.16	Oryzalin (benzenesulfonamide, 4-(dipropylamino)-3,5-dinitro-) (CAS No. 19044–88–3) (provided for in subheading 2935.00.95)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1396. TEBUFENOZIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.05.17	N-tert-Butyl-N′-(4-ethylbenzoyl)-3,5- dimethylbenzoylhydrazide (tebufenozide) (CAS No. 112410–23–8) (provided for in subheading 2928.00.25)	Free	No change	No change	On or before 12/31/2005	”.

SEC. 1397. ENDOSULFAN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.05.18	6,7,8,9,10,10-Hexachloro-1,5,5a,6,9,9a-hexahydro-6,9-methano-2,4,3-benzodioxathiepin-3-oxide (thiosulfan) (CAS No. 115–29–7) (provided for in subheading 2920.90.10)	Free	Free	No change	On or before 12/31/2005	".

SEC. 1398. ETHOFUMESATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.05.19	2-Ethoxy-2.3-dihydro-3,3-di-methyl-5-benzofuranyl-methanesulfonate (ethofumesate) (CAS No. 26225–79–6) in bulk or mixed with application adjuvants (provided for in subheading 2932.99.08 or 3808.30.15)	Free	Free	No change	On or before 12/31/2005	".

SEC. 1399. RAILWAY CAR BODY SHELLS FOR EMU'S.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following heading:

"	9902.86.09	Railway car body shells for electric multiple unit (EMU) commuter coaches of stainless steel, the foregoing which are designed for passenger coaches each having an aggregate passenger seating capacity up to 156 (including flip-up seating and wheelchair spaces) on two levels (provided for in subheading 8607.99.50)	Free	No change	No change	On or before 12/31/05	".

SEC. 1400. RAILWAY ELECTRIC MULTIPLE UNIT (EMU) GALLERY COMMUTER COACHES OF STAINLESS STEEL.

Subchapter II of chapter 99 is amended by inserting in the numerical sequence the following new heading:

"	9902.86.11	Railway electric multiple unit (EMU) commuter coaches of stainless steel; the foregoing consisting of two finished EMU gallery-type coaches manufactured to contract specifications each, having an aggregate seating capacity of up to 156 seats (including flip-up seats and wheelchair spaces) on two levels. (provided for in subheading 8603.10.00)	Free	No change	No change	On or before 12/31/05	".

SEC. 1401. SNOWBOARD BOOTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following subheading:

"	9902.64.04	Snowboard boots with uppers of textile materials (provided for in subheading 6404.11.90)	4%	No change	No change	On or before 12/31/05	".

SEC. 1402. HAND-HELD RADIO SCANNERS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.23	Electrical radiobroadcast receivers. intended to be hand-held, valued over $40 each, the foregoing designed to receive and monitor publicly transmitted radio communications (provided for in subheading 8527.19.50)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1403. MOBILE AND BASE RADIO SCANNERS THAT ARE COMBINED WITH A CLOCK.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.24	Electrical radiobroadcast receivers designed to receive and monitor publicly transmitted radio communications, valued at over $40 each, that are combined with a clock, and that are either mounted on a base or designed for use in an automobile or boat (provided for in subheading 8527.32.50)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1404. MOBILE AND BASE RADIO SCANNERS THAT ARE NOT COMBINED WITH A CLOCK.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.02.25	Electrical radiobroadcast receivers designed to receive and monitor publicly transmitted radio communications, valued at over $40 each, that are not combined with a clock, and that are either mounted on a base or designed for use in an automobile or boat (provided for in subheading 8527.39.00)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1405. CERTAIN FINE ANIMAL HAIR OF KASHMIR (CASHMERE) GOATS NOT PROCESSED.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.51.15	Fine animal hair of Kashmir (cashmere) goats: not processed in any manner beyond the degreased or carbonized condition (provided for in subheading 5102.11.10)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1406. CERTAIN FINE ANIMAL HAIR OF KASHMIR (CASHMERE) GOATS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.51.16	Fine animal hair of Kashmir (cashmere) goats (provided for in subheading 5102.11.90)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1407. CERTAIN R-CORE TRANSFORMERS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.85.04	120 volt/60 Hz electrical transformers (the foregoing and parts thereof provided for in subheading 8504.31.40 or 8504.90.95), with dimensions not exceeding 88 mm by 88 mm by 72 mm but at least 82 mm by 69 mm by 43 mm and each containing a layered and uncut round core with two balanced bobbins, the foregoing rated as less than 40 VA but greater than 32.2 VA with a rating number of R25	Free	No change	No change	On or before 12/31/2005	".

SEC. 1408. DECORATIVE PLATES.

(a) IN GENERAL.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.04.99	Decorative plates, whether or not with decorative rim or attached sculpture; decorative sculptures, each with plate or plaque attached; decorative plaques each not over 7.65 cm in thickness; architectural miniatures, whether or not put up in sets; all the foregoing of resin materials and containing agglomerated stone, put up for mail order retail sale, whether for wall or tabletop display and each weighing not over 1.36 kg together with their retail packaging (provided for in subheading 3926.40.00)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1409. BISPYRIBAC SODIUM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.05.20	Sodium 2,6-bis[(4,6-dimethoxypyrimidin-2-yl)oxy]benzoate (Bispyribac-sodium) (CAS No. 125401–92–5) (provided for in subheading 2933.59.10)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1410. FENPROPATHRIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.05.21	α-Cyano-3-phenoxybenzyl 2,2,3,3-tetra- methylcycloprop- anecarboxylate (fenpropathrin) (CAS No. 39515–41–8) (provided for in subheading 2926.90.30)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1411. PYRIPROXYFEN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.05.22	2-[1-Methyl-2-(4-phenoxyphenoxy)ethoxy]pyridine (Pyriproxyfen) (CAS No. 95737–68–1) (provided for in subheading 2933.39.27)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1412. UNICONAZOLE-P.

Subchapter II is amended by inserting in numerical sequence the following new heading:

"	9902.05.23	(E)-(+)-(S)-1-(4-Chlorophenyl)-4,4-dimethyl-2-(1,2,4-triazol-1-yl)-pent-1-ene-3-ol (Uniconazole) (CAS No. 83657–22–1), mixed with application adjuvants (provided for in subheading 3808.30.15)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1413. FLUMIOXAZIN.

Subchapter II is amended by inserting in numerical sequence the following new heading:

"	9902.05.24	2-[7-fluoro-3,4-dihydro-3-oxo-4-(2-propynl)-2H-1,4-benzoxazin-6-yl]-4,5,6,7-tetrahydro-1H-isoindole-1,3-(2H)-dione (Flumioxazin) (CAS No. 103361–09–7) (provided for in subheading 2934.99.15)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1414. NIGHT VISION MONOCULARS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.05.25	Hand-held night vision monoculars, other than those containing a micro-channel plate to amplify electrons or having a photocathode containing gallium arsenide (provided for in subheading 9005.80.40)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1415. 2,4-XYLIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.05.26	2,4-Xylidine (CAS No. 95–68–1) (provided for in subheading 2921.49.10)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1416. R118118 SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.39.35	R118118 Salt - benzoic acid, 3-[2-chloro-4-(trifluoromethyl) phenoxy]-(CAS No. 63734–62–3) (provided in subheading 2918.90.20)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1417. NMSBA.

(a) CALENDAR YEAR 2004.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.29.82	4-(Methylsulfonyl)-2-nitrobenzoic acid (CAS No. 110964–79–9) (provided for in subheading 2916.39.45)	0.28%	No change	No change	On or before 12/31/2004	".

(b) CALENDAR YEAR 2005.—

(1) In general.—Heading 9902.29.82, as added by subsection (a), is amended—

(A) by striking "0.28%" and inserting "0.16%"; and

(B) by striking "On or before 12/31/2004" and inserting "On or before 12/31/2005".

(2) Effective date.—The amendments made by paragraph (1) shall take effect on January 1, 2005.

(c) Calendar Years 2006 Through 2008.—

(1) In general.—Heading 9902.29.82, as added by subsection (a) and amended by subsection (b), is further amended—

(A) by striking "0.16%" and inserting "1.1%"; and

(B) by striking "On or before 12/31/2005" and inserting "On or before 12/31/2008".

(2) Effective date.—The amendments made by paragraph (1) shall take effect on January 1, 2006.

SEC. 1418. CERTAIN SATELLITE RADIO BROADCASTING APPARATUS.

(a) Calendar Year 2004.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.04.35	Reception apparatus for satellite radio broadcasting, other than satellite radio broadcast receivers described in subheading 8527.21.40 (provided in subheading 8527.90.95)	5.2%	No change	No change	On or before 12/31/2004	".

(b) Calendar Year 2005.—

(1) In general.—Heading 9902.04.35, as added by subsection (a), is amended—

(A) by striking "5.2%" and inserting "5.4%"; and

(B) by striking "On or before 12/31/2004" and inserting "On or before 12/31/2005".

(2) Effective date.—The amendments made by paragraph (1) shall take effect on January 1, 2005.

(c) Calendar Year 2006.—

(1) In general.—Heading 9902.04.35, as added by subsection (a) and amended by this section, is further amended—

(A) by striking "5.4%" and inserting "5.5%"; and

(B) by striking "On or before 12/31/2005" and inserting "On or before 12/31/2006".

(2) Effective date.—The amendments made by paragraph (1) shall take effect on January 1, 2006.

SEC. 1419. ACEPHATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.60	O,S-Dimethyl acetylphosphoramidothioate (Acephate) (CAS No. 30560–19–1) (provided for in subheading 2930.90.44)	Free	No change	No change	On or before 12/31/2005	".

SEC. 1420. BAGS FOR CERTAIN TOYS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.01.78	Bags (provided for in subheading 4202.92.45) for transporting, storing, or protecting goods of headings 9502–9504, inclusive, imported and sold with such articles therein	Free	No change	No change	On or before 12/31/2005	".

CHAPTER 2—EXISTING DUTY SUSPENSIONS AND REDUCTIONS

SEC. 1501. EXTENSION OF CERTAIN EXISTING DUTY SUSPENSIONS.

(a) Existing Duty Suspensions.—Each of the following headings is amended by striking out the date in the effective period column and inserting "12/31/2006":

(1) Heading 9902.30.90 (relating to 3-amino-2'-(sulfato-ethyl sulfonyl) ethyl benzamide).

(2) Heading 9902.32.91 (relating to MUB 738 INT).

(3) Heading 9902.30.31 (relating to 5-amino-N-(2-hydroxyethyl)-2,3-xylenesulfonamide).

(4) Heading 9902.29.46 (relating to 2-amino-5-nitrothiazole).

(5) Heading 9902.32.14 (relating to 2-methyl-4,6-bis[(octylthio) methyl]phenol).

(6) Heading 9902.32.30 (relating to 4-[[4,6-bis(octylthio)-1,3,5-triazin-2-yl]amino]-2,6-bis(1,1-dimethylethyl)phenol).

(7) Heading 9902.32.16 (relating to calcium bis[monoethyl(3,5-di-tert-butyl-4-hydroxybenzyl) phosphonate]).

(8) Heading 9902.38.69 (relating to nicosulfuron formulated product ("Accent")).

(9) Heading 9902.33.63 (relating to DPX–E9260).

(10) Heading 9902.33.59 (relating to DPX–E6758).

(11) Heading 9902.33.61 (relating to carbamic acid (U-9069)).

(12) Heading 9902.29.35 (relating to 1N–N5297).

(13) Heading 9902.28.19 (relating to an ultraviolet dye).

(14) Heading 9902.32.07 (relating to certain organic pigments and dyes).

(15) Heading 9902.29.07 (relating to 4-hexylresorcinol).

(16) Heading 9902.29.37 (relating to certain sensitizing dyes).

(17) Heading 9902.85.42 (relating to certain cathode-ray tubes).

(18) Heading 9902.30.14 (relating to a fluorinated compound).

(19) Heading 9902.29.55 (relating to a certain light absorbing photo dye).

(20) Heading 9902.32.55 (relating to methyl thioglycolate).

(21) Heading 9902.29.62 (relating to chloro amino toluene).

(22) Headings 9902.28.08, 9902.28.09, and 9902.28.10 (relating to bromine-containing compounds).

(23) Heading 9902.32.62 (relating to filter blue green photo dye).

(24) Heading 9902.32.99 (relating to 5-[(3,5-dichlorophenyl)-thio]-4-(1-methylethyl-1)-(4-pyridin lmethyl)-1H-imidazole-2-methanol carbamate).

(25) Heading 9902.32.97 (relating to (2E,4S)-4-(((2R,5S)-2-((4-fluorophenyl)-methyl)-6-methyl-5-((5-methyl-3-isoxazolyl)-carbonyl y)amino)-1,4-dioxoheptyl)-amino)-5-((3S)-2-oxo-3-pyrrolidinyl)-2-pentenoic acid, ethyl ester).

(26) Heading 9902.29.87 (relating to Baytron M).

(27) Heading 9902.39.15 (relating to Baytron P).

(28) Heading 9902.39.30 (relating to certain ion-exchange resins).

(29) Heading 9902.28.01 (relating to thionyl chloride).

(30) Heading 9902.32.12 (relating to DEMT).

(31) Heading 9902.29.03 (relating to p-hydroxybenzoic acid).

(32) Headings 9902.29.83 and 9902.38.10 (relating to iminodisuccinate).

(33) Heading 9902.38.14 (relating to mesamoll).

(34) Heading 9902.38.15 (relating to Baytron C-R).

(35) Heading 9902.29.25 (relating to ortho-phenylphenol (OPP)).

(36) Heading 9902.38.31 (relating to Vulkalent E/C).

(37) Heading 9902.31.14 (relating to desmedipham).

(38) Heading 9902.31.13 (relating to phenmedipham).

(39) Heading 9902.30.16 (relating to diclofop methyl).

(40) Heading 9902.33.40 (relating to R115777).

(41) Heading 9902.29.10 (relating to imazalil).

(42) Heading 9902.29.22 (relating to Norbloc 7966).

(43) Heading 9902.38.09 (relating to Fungaflor 500 EC).

(44) Heading 9902.32.73 (relating to Solvent Blue 124).

(45) Heading 9902.29.73 (relating to 4-amino-2,5-dimethoxy-N-phenylbenzene sulfonamide).

(46) Heading 9902.32.72 (relating to Solvent Blue 104).

(47) Heading 9902.34.01 (relating to sodium petroleum sulfonate).

(48) Heading 9902.29.71 (relating to isobornyl acetate).

(49) Heading 9902.29.70 (relating to certain TAED chemicals).

(50) Heading 9902.29.58 (relating to diethyl phosphorochidothioate).

(51) Heading 9902.29.17 (relating to 2,6-dichloroaniline).

(52) Heading 9902.29.59 (relating to benfluralin).

(53) Heading 9902.29.26 (relating to 1,3-diethyl-2-imidazolidinone).

(54) Heading 9902.29.06 (relating to diphenyl sulfide).

(55) Heading 9902.32.93 (relating to methoxyfenozide).

(56) Heading 9902.32.89 (relating to triazamate).

(57) Heading 9902.29.80 (relating to propiconazole).

(58) Heading 9902.32.92 (relating to β-Bromo-β-nitrostyrene).

(59) Heading 9902.29.61 (relating to quinoline).

(60) Heading 9902.29.25 (relating to 2-phenylphenol).

(61) Heading 9902.29.08 (relating to 3-amino-5-mercapto-1,2,4-triazole).

(62) Heading 9902.29.16 (relating to 4,4-dimethoxy-2-butanone).

(63) Heading 9902.32.87 (relating to fenbuconazole).

(64) Heading 9902.32.90 (relating to diiodomethyl-p-tolylsulfone).

(65) Heading 9902.28.16 (relating to propiophenone).

(66) Heading 9902.28.17 (relating to meta-chlorobenzaldehyde).

(67) Heading 9902.28.15 (relating to 4-bromo-2-fluoroacetanilide).

(68) Heading 9902.32.82 (relating to 2,6, dichlorotoluene).

(69) Heading 9902.80.05 (relating to cobalt boron).

(70) Heading 9902.72.02 (relating to ferroboron).

(71) Heading 9902.32.85 (relating to 4,4′ difluorobenzophenone).

(72) Heading 9902.29.34 (relating to certain light absorbing photo dyes).

(73) Heading 9902.29.38 (relating to certain imaging chemicals).

(74) Heading 9902.28.18 (relating to 3,5-dibromo-4-hydoxybenzonitril).

(75) Heading 9902.29.64 (relating to cyclanilide technical).

(76) Heading 9902.29.98 (relating to fipronil technical).

(77) Heading 9902.38.04 (relating to 3,5-dibromo-4-hydoxybenzonitril ester and inerts).

(78) Heading 9902.29.23 (relating to P-nitro toluene-o-sulfonic acid).

(79) Heading 9902.28.20 (relating to ammonium bifluoride).

(80) Heading 9902.32.49 (relating to 11-aminoundecanoic acid).

(b) OTHER MODIFICATIONS.—

(1) CERTAIN CATHODE-RAY TUBES.—Heading 9902.85.41 is amended—

(A) by striking "1%" and inserting "Free"; and

(B) in the effective period column, by striking the date contained therein and inserting "12/31/2006".

(2) ETHALFLURALIN.—Heading 9902.30.49 is amended—

(A) by striking "3.5%" and inserting "Free"; and

(B) in the effective period column, by striking the date contained therein and inserting "12/31/2006".

(3) DMDS.—Heading 9902.33.92 is amended—

(A) by striking "2933.59.80" and inserting "2933.59.95"; and

(B) in the effective period column, by striking the date contained therein and inserting "12/31/2006".

(4) CERTAIN POLYAMIDES.—Heading 9902.39.08 is amended—

(A) by striking "forms of polyamide-6, polyamide-12, and polyamide-6,12 powders (CAS Nos. 25038–54–4, 25038–74–8, and 25191–04–1) (provided for in subheading 3908.10.00)" and inserting "ORGASOL® polyamide powders (provided for in subheading 3908.10.00 or 3908.90.70)"; and

(B) in the effective period column, by striking the date contained therein and inserting "12/31/2006".

(5) BUTRALIN.—Heading 9902.38.00 is amended by striking "3808.31.15" and inserting "3808.30.15".

(6) PRO-JET CYAN 1 RO FEED; PRO-JET FAST BLACK 287 NA PASTE/LIQUID FEED.—

(A) IN GENERAL.—Paragraph (2) in each of sections 1222(c) and 1223(c) of the Tariff Suspension and Trade Act of 2000 are amended by striking "January 1, 2001" and inserting "January 1, 2002".

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall take effect as if such amendments had been enacted immediately after the enactment of the Tariff Suspension and Trade Act of 2000.

(7) 2-METHYL-4-CHLOROPHENOXYACETIC ACID.—Heading 9902.29.81 is amended—

(A) in the general rate of duty column, by striking "2.6%" and inserting "1.8%"; and

(B) in the effective period column, by striking the date contained therein and inserting "12/31/2006".

(8) STARANE F.—Heading 9902.29.77 is amended—

(A) in the general rate of duty column, by striking "Free" and inserting "1.5%"; and

(B) in the effective period column, by striking the date contained therein and inserting "12/31/2006".

(9) TRIFLURALIN.—Heading 9902.29.02 is amended—

(A) by striking "3.3%" and inserting "Free"; and

(B) in the effective period column, by striking the date contained therein and inserting "12/31/2006".

(10) CERTAIN REDESIGNATIONS.—(A) The second heading 9902.29.02 (as added by section 1143 of the Tariff Suspension and Trade Act of 2000) is redesignated as heading 9902.05.30.

(B) The second heading 9902.39.07 (as added by section 1248 of the Tariff Suspension and Trade Act of 2000) is redesignated as heading 9902.05.31.

(11) CERTAIN RAILWAY CARS.—Heading 9902.86.07 is amended—

(A) in the article description, by striking "138" and inserting "up to 150 passengers,"; and

(B) in the effective period column, by striking the date contained therein and inserting "12/31/2006".

(12) OTHER RAILWAY CARS.—Heading 9902.86.08 is amended—

(A) in the article description, by striking "148" and inserting "140"; and

(B) in the effective period column, by striking the date and inserting "12/31/2006".

SEC. 1502. EFFECTIVE DATE.

Except as otherwise provided in this chapter, the amendments made by this chapter apply to goods entered, or withdrawn from warehouse for consumption, on or after January 1, 2004.

Subtitle B—Other Tariff Provisions

CHAPTER 1—LIQUIDATION OR RELIQUIDATION OF CERTAIN ENTRIES

SEC. 1601. CERTAIN TRAMWAY CARS.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request filed with the United States Customs Service within 180 days after the date of enactment of this Act, the Customs Service shall liquidate or reliquidate the entry described in subsection (c) as free of duty.

(b) REFUND OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to a request for a liquidation or reliquidation of the entry under subsection (a) shall be refunded with interest within 180 days after the date on which request is made.

(c) AFFECTED ENTRY.—The entry referred to in subsection (a) is the entry on July 5, 2002, of 2 tramway cars (provided for in subheading 8603.10.00) manufactured in Plzen, Czech Republic, for the use of the city of Portland, Oregon (Entry number 529–0032191–1).

SEC. 1602. LIBERTY BELL REPLICA.

The Secretary of the Treasury shall admit free of duty a replica of the Liberty Bell imported from the Whitechapel Bell Foundry of London, England, by the Liberty Memorial Association of Green Bay and Brown County, Wisconsin, for use by the city of Green Bay, Wisconsin and Brown County, Wisconsin.

SEC. 1603. CERTAIN ENTRIES OF COTTON GLOVES.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request filed with the United States Customs Service within 180 days after the date of the enactment of this Act, the Customs Service—

(1) shall reliquidate each entry described in subsection (c) containing any merchandise which, at the time of original liquidation, had been classified under subheading 6116.92.64 or subheading 6116.92.74; and

(2) shall reliquidate such merchandise under subheading 6116.92.88 at the rate of duty then applicable under such subheading.

(b) REFUND OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to a request for the reliquidation of an entry under subsection (a) shall be refunded with interest within 180 days after the date on which request is made.

(c) AFFECTED ENTRIES.—The entries referred to in subsection (a) are as follows:

Entry number	Date of entry
0397329–2	02/02/00
0395844–2	12/15/99
0394509–2	09/27/99
0393293–4	08/11/99
0391942–8	06/21/99
0389842–4	04/01/99
0387094–4	12/21/98
0386845–0	12/16/98
0385488–0	10/28/98
0384053–3	09/01/98
0382090–7	06/04/98
0381125–5	04/11/98
0289673–4	01/26/98
0288778–2	12/10/97
0288085–2	11/07/97
0386624–0	08/02/97
0284468–4	04/29/97
0283060–0	03/10/97
0281394–5	11/27/96
0274823–2	01/10/96
0274523–8	12/22/95
0274113–8	11/30/95
0273038–8	10/13/95
0272524–8	09/14/95
0272128–8	08/23/95
0271540–5	07/27/95
0270995–2	07/03/95
0270695–8	06/09/95
0269959–1	05/09/95
0269276–0	04/04/95
0265832–4	11/02/94
0264841–6	09/08/94

SEC. 1604. CERTAIN ENTRIES OF POSTERS.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law and subject to the provisions of subsection (b), the United States Customs Service shall, not later than 90 days after the receipt of the request described in subsection (b), liquidate or reliquidate each entry described in subsection (d) containing any merchandise which, at the time of the original liquidation, was classified under subheading 4911.91.20 at the rate of duty that would have been applicable to such merchandise if the merchandise had been liquidated or reliquidated under subheading 4911.91.40 on the date of entry.

(b) REQUESTS.—Reliquidation may be made under subsection (a) with respect to an entry described in subsection (c) only if a request therefor is filed with the Customs Service within 90 days after the date of the enactment of this Act.

(c) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid not later than 90 days after the date of such liquidation or reliquidation.

(d) AFFECTED ENTRIES.—The entries referred to in subsection (a) are as follows:

Entry number	*Date of entry*
F1126496605	*09/24/00*
F1117735656	*10/18/00*
90100999235	*02/14/01*
90101010321	*04/23/01*
90101001700	*02/28/01*
28100674408	*04/25/01*
28100671081	*04/09/01*
28100670398	*04/06/01*
F1126187352	*06/19/00*
F1126530833	*10/05/00*
28100678433	*05/18/01*
90100999235	*04/14/01*
90101001700	*02/28/01*

SEC. 1605. CERTAIN ENTRIES OF POSTERS ENTERED IN 1999 AND 2000.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law and subject to the provisions of subsection (b), the United States Customs Service shall—

(1) not later than 90 days after the receipt of the request described in subsection (b), liquidate or reliquidate each entry described in subsection (c) containing any merchandise which, at the time of the original liquidation, was classified under subheading 4911.91.20 at the rate of duty that would have been applicable to such merchandise if the merchandise had been liquidated or reliquidated under subheading 4911.91.40 on the date of entry; and

(2) within 90 days after such liquidation or reliquidation—

(A) refund any excess duties paid with respect to such entries, including interest from the date of entry; or

(B) relieve the importer of record of any excess duties, penalties, or fines associated with the excess duties.

(b) REQUESTS.—Reliquidation may be made under subsection (a) with respect to any entry described in subsection (c) only if a request therefor is filed with the Customs Service within 90 days after the date of the enactment of this Act.

(c) ENTRIES.—The entries referred to in subsection (a) are as follows:

Entry number	*Date of entry*
582-0002495-7	*September 2, 1999*
582-00938479	*November 19, 1999*
582-8905213-4	*March 8, 1999*
582-2250697-3	*February 21, 2000*
582-0197509-0	*February 18, 2000*
582-1296965-2	*February 20, 2000*
582-0212609-9	*March 1, 2000*
582-0215607-0	*March 3, 2000*
582-0242091-4	*March 24, 2000*
582-0046610-9	*October 12, 1999*
582-0251198-5	*March 31, 2000*
582-0002495-7	*September 2, 1999*
528-0088559-7	*November 16, 1999*
582-0093847-9	*November 19, 1999*
582-0068164-0	*October 29, 1999*
582-0163876-3	*January 20, 2000*
582-0136646-4	*December 22, 1999*
582-0126598-9	*December 15, 1999*
582-0111417-9	*December 3, 1999*
445-2163068-9	*November 14, 1999*
445-2161190-3	*September 6, 1999*
445-2163176-0	*November 18, 1999*
445-2164563-8	*January 13, 2000*
445-2166869-7	*April 12, 2000*
445-2162118-3	*October 10, 1999*
U16-0101858-7	*May 2, 2000*
182-0167758-2	*November 1, 2000*
445-21574465	*April 8, 1999*
445-21576098	*April 19, 1999*
445-21570216	*March 22, 1999*
445-21612422	*September 7, 1999*
445-21622611	*October 17, 1999*
445-21637700	*December 12, 1999*
445-21687804	*June 22, 2000*
445-21596443	*July 6, 1999*
ma704011174	*February 21, 2001*
ma704011232	*February 20, 2001*
ma704014616	*March 13, 2001*
ma704025497	*May 11, 2001*
445-03667865	*June 23, 2000*
445-03668798	*June 28, 2000*

SEC. 1606. CERTAIN ENTRIES OF 13-INCH TELEVISIONS.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law and subject to the provisions of subsection (b), the United States Customs Service shall, not later than 180 days after the receipt of the request described in subsection (b), liquidate or reliquidate each entry described in subsection (d) containing any merchandise which, at the time of the original liquidation, was classified under the following subheadings with respect to which there would have been no duty or a lesser duty if the amendments made by section 1003 of the Miscellaneous Trade and Technical Corrections Act of 1999 had applied to such entry or withdrawal:

(1) Subheading 8528.12.12.
(2) Subheading 8528.12.20.
(3) Subheading 8528.12.62.
(4) Subheading 8528.12.68.
(5) Subheading 8528.12.76.
(6) Subheading 8528.12.84.
(7) Subheading 8528.21.16.
(8) Subheading 8528.21.24.
(9) Subheading 8528.21.55.
(10) Subheading 8528.21.65.
(11) Subheading 8528.21.75.
(12) Subheading 8528.21.85.
(13) Subheading 8528.30.62.
(14) Subheading 8528.30.66.
(15) Subheading 8540.11.24.
(16) Subheading 8540.11.44.

(b) REQUESTS.—Reliquidation may be made under subsection (a) with respect to an entry described in subsection (d) only if a request therefore is filed with the Customs Service within 90 days after the date of the enactment of this Act, and the request contains sufficient information to enable the Customs Service to locate the entry or reconstruct the entry if it cannot be located.

(c) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid not later than 180 days after the date of such liquidation or reliquidation.

(d) AFFECTED ENTRIES.—The entries referred to in subsection (a), are as follows:

Entry number	**Date of entry**	**Date of liquidation**
110-17072538	11/03/98	09/17/99
110-17091314	11/23/98	10/08/99
110-17091322	11/23/98	10/08/99
110-17216804	12/31/98	11/12/99
110-20748215	04/20/99	03/03/00
110-20762802	04/28/99	03/10/00
110-20848544	05/12/99	03/31/00
110-20848569	05/18/99	03/31/00
110-20988456	06/22/99	05/04/00
110-20993563	06/22/99	05/15/00
110-20997705	06/22/99	05/05/00
110-63822017	06/09/97	05/05/00
110-63822041	06/09/97	
110-63822082	06/09/97	
110-68575370	07/11/97	05/22/98
110-68575610	07/11/97	05/22/98
110-15093163	10/05/98	08/20/99
110-15173551	11/02/98	09/17/99
110-17091132	11/07/98	09/24/99
110-17217265	12/05/98	10/15/99
110-20762364	04/12/99	02/18/00
110-63822025	06/09/97	
110-75485118	02/12/98	12/28/98
110-75492643	02/12/98	12/28/98
110-75793447	07/07/98	05/21/99
110-20993704	06/20/99	05/05/00
110-66600972	06/07/97	04/17/98
110-66603414	06/14/97	
110-66603448	06/07/97	04/17/98
110-66617810	06/21/97	05/01/98
110-66618099	06/23/97	05/08/98
110-68156429	07/12/97	05/22/98
110-68165818	07/19/97	05/29/98
110-68165826	07/19/97	05/29/98
110-68171576	07/26/97	06/05/98
110-68175767	08/02/97	06/12/98
110-68177029	08/02/97	06/12/98
110-68217833	08/16/97	06/26/98
110-68220167	08/16/97	07/06/98
110-68220183	08/19/97	07/06/98
110-68233418	08/24/97	07/10/98
110-68234424	08/25/97	07/10/98
110-70008550	09/20/97	07/31/98
110-70014707	09/20/97	07/31/98
110-70014723	09/20/97	07/31/98
110-70014731	09/30/97	07/31/98
110-70014756	09/20/97	07/31/98
110-70014798	09/20/97	07/31/98
110-70100464	10/11/97	08/21/98
110-70106651	10/19/97	09/04/98
110-70106669	10/19/97	09/04/98
110-70112584	10/25/97	09/04/98
110-70113970	10/25/97	09/04/98
110-70113996	10/25/97	09/04/98
110-70115199	10/25/97	09/04/98
110-70190978	11/08/97	09/18/98
110-70192990	11/08/97	09/18/98
110-70198906	11/15/97	09/25/98
110-70198914	11/15/97	09/25/98
110-70204233	11/29/97	10/09/98
110-70204266	11/22/97	10/02/98
110-75399046	12/19/97	10/30/98
110-75399103	01/04/98	11/20/98
110-75481455	01/24/98	12/04/98
110-75485563	01/24/98	12/04/98
110-75494953	02/07/98	12/18/98
110-04901383	07/11/97	05/22/98
110-33326985	07/07/97	05/22/98
110-63019333	07/11/97	05/22/98
110-63821993	06/07/97	04/17/98
110-66600378	06/20/97	05/01/98
110-66601004	06/20/97	05/01/98
110-66603380	06/20/97	05/01/98
110-66625441	07/07/97	05/22/98
110-66626951	07/07/97	05/22/98
110-68175825	08/04/97	06/19/98
110-68182938	08/11/97	06/26/98
110-68184140	08/11/97	06/26/98
110-68184918	08/11/97	06/26/98
110-68184926	08/11/97	06/26/98
110-68184934	08/11/97	06/26/98
110-68184942	08/11/97	06/26/98
110-68229994	09/08/97	07/24/98
110-68230000	09/08/97	07/24/98
110-68230232	09/03/97	07/17/98
110-70009715	09/22/97	08/07/98
110-70024698	10/07/98	08/21/98
110-70028764	10/13/97	08/28/98
110-70028772	10/13/97	08/28/98
110-70103625	10/30/98	09/11/98
110-70186810	11/13/97	09/25/98
110-70190937	11/26/97	10/09/98
110-70192362	11/19/97	10/02/98
110-70199151	11/26/97	10/09/98
110-70204555	12/04/97	10/16/98
110-70204563	12/04/97	10/16/98
110-70206360	12/06/97	10/23/98
110-75399079	01/07/98	11/20/98
110-75492627	02/11/98	12/28/98
110-75492635	02/11/98	12/28/98
110-14975204	09/15/98	07/30/99
110-20848643	05/19/99	05/31/00
110-20988472	06/20/99	05/05/00
110-20993589	06/20/99	05/05/00
110-75485126	02/11/98	12/28/98
110-75793405	07/16/98	05/28/99
110-75793611	08/04/98	06/18/99
110-75931278	08/16/98	07/02/99
110-75938893	08/16/98	07/23/99

SEC. 1607. RELIQUIDATION OF CERTAIN ENTRIES OF VANADIUM CARBIDES AND VANADIUM CARBONITRIDE.

(a) IN GENERAL.—Notwithstanding sections 514 and 520 of the Tariff Act of 1930 (19 U.S.C. 1514 and 1520) or any other provision of law and subject to the provisions of subsection (b), the United States Customs Service, shall, not later than 180 days after receipt of the request described in subsection (b), liquidate or reliquidate each entry described in subsection (d) containing any merchandise which, at the time of its entry or release from warehouse for consumption, was classified under subheading 2849.90.50 of the Harmonized Tariff Schedule of

the United States, at the rate of duty that would have been applicable to such merchandise if the merchandise had been liquidated or reliquidated at the Special rate of duty for such subheading 2849.90.50 on the date of entry without regard to the country of origin of such merchandise.

(b) REQUESTS.—Liquidation or reliquidation may be made under subsection (a) with respect to an entry described in subsection (d) only if a request therefor is filed with the Customs Service within 90 days after the date of enactment of this Act and the request contains sufficient information to enable the Customs Service to locate the entry or reconstruct the entry if it cannot be located.

(c) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of any entry under subsection (a) shall be paid not later than 90 days after the date of such liquidation or reliquidation.

(d) AFFECTED ENTRIES.—The entries referred to in subsection (a), filed at the port of Baltimore, are as follows:

Entry date	Entry number	Estimated liquidation date
08/07/98	788–3827590–3	06/20/99
08/07/98	788–3827650–5	06/20/99
08/21/98	788–3830120–4	07/01/99
09/18/98	788–3838000–0	07/25/99
09/26/98	788–3842300–8	08/08/99
10/02/98	788–3842310–7	08/16/99
09/26/98	788–3842320–6	08/08/99
10/08/98	788–3844370–9	08/16/99
10/22/98	788–3850440–1	09/01/99
10/22/98	788–3850450–0	09/01/99
11/06/98	788–3853680–9	09/22/99
11/06/98	788–3853690–8	09/22/99
11/13/98	788–3853730–2	10/02/99
11/12/98	788–3855290–5	09/22/99
11/19/98	788–3855300–2	09/27/99
12/27/98	788–3868050–8	11/09/99
02/09/99	788–3877120–8	11/09/99
02/09/99	788–3877130–7	11/09/99
03/05/99	788–3883260–4	12/09/99
03/02/99	788–3883270–3	11/22/99
03/26/99	788–3888540–4	11/26/99
04/01/99	788–3888550–3	12/06/99
04/11/99	788–3889130–3	12/16/99
04/16/99	788–3896360–7	12/26/99
04/30/99	788–3897150–1	01/10/00
04/30/99	788–3897160–0	01/10/00
04/25/99	788–3897170–9	01/18/00
06/11/99	788–3913450–5	02/20/00
06/18/99	788–3915060–0	02/22/00
07/09/99	788–3921190–7	03/08/00
07/12/99	788–3923420–6	03/08/00
07/23/99	788–3925480–8	03/18/00
07/30/99	788–3929180–0	03/28/00
07/30/99	788–3929190–9	03/28/00
08/06/99	788–3929200–6	04/10/00
08/06/99	788–3929210–5	04/10/00
08/13/99	788–3931300–0	04/20/00
08/13/99	788–3931310–9	04/20/00
08/28/99	788–3936980–4	04/28/00
08/20/99	788–3936990–3	04/28/00
09/10/99	788–3938010–5	05/06/00
10/08/99	788–3948100–5	05/22/00
10/08/99	788–3948110–4	05/22/00
10/08/99	788–3948120–3	05/22/00
10/15/99	788–3951910–1	05/28/00
10/15/99	788–3951920–0	05/28/00
10/15/99	788–3951930–9	05/28/00
10/29/99	788–3957960–1	06/01/00
10/29/99	788–3957950–0	06/01/00
11/10/99	788–3959830–3	06/15/00
11/13/99	788–3961730–1	06/18/00
11/13/99	788–3961740–0	06/18/00
12/02/99	788–3966670–4	07/05/00
12/02/99	788–3966680–3	07/05/00
12/13/99	788–3971200–3	07/12/00
12/13/99	788–3971210–2	07/12/00

SEC. 1608. RELIQUIDATION OF CERTAIN ENTRIES OF TELEVISIONS SUBJECT TO DUMPING.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law and subject to the provisions of subsection (b), the United States Customs Service shall, not later than 90 days after the receipt of the request described in subsection (b), liquidate or reliquidate each entry described in subsection (d) at the rate of duty that would have been applicable to such merchandise on the date of entry and the amount of the antidumping duty described in such subsection.

(b) REQUESTS.—Reliquidation may be made under subsection (a) with respect to an entry described in subsection (d) only if a request therefor is filed with the Customs Service within 90 days after the date of enactment of this Act and the request contains sufficient information to enable the Customs Service to locate the entry or reconstruct the entry if it cannot be located.

(c) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid not later than 90 days after the date of such liquidation or reliquidation.

(d) ENTRIES DESCRIBED.—

(1) ANTIDUMPING DUTY OF 2.2 PERCENT.—The entries described in this paragraph shall be reliquidated at an antidumping rate of duty of 2.2 percent:

Entry number	Port of entry	Date of entry
8390 41175	2704	09/23/83
8343 01399	2704	08/17/83
8412 70594	2704	10/05/83
8412 76857	2704	10/18/83
8412 80568	2704	10/20/83
8412 82016	2704	10/25/83
8412 85084	2704	11/02/83
8412 90765	2704	11/18/83
8413 01832	2704	12/09/83
8413 01858	2704	12/13/83
8413 01861	2704	12/11/83
8413 03924	2704	12/21/83
8413 03937	2704	12/21/83
8413 06853	2704	12/27/83
8413 07742	2704	01/02/84
8413 09944	2704	01/07/84
8413 13642	2704	01/20/84
8413 15802	2704	01/27/84
8413 24071	2704	01/31/84
8413 27201	2704	02/08/84
8413 35028	2704	02/27/84
8413 35031	2704	02/27/84
8413 37343	2704	03/06/84
8365 73387	3901	05/23/83
8365 74250	3901	06/02/83
8365 75437	3901	06/14/83
8365 77118	3901	07/01/83
8365 78120	3901	07/13/83
8365 79080	3901	07/27/83
8365 81094	3901	08/17/83
8365 83144	3901	09/08/83
8365 83429	3901	09/09/83
8365 84839	3901	10/05/83
8413 01845	2704	12/09/83
8413 09863	2704	01/06/84
8467 42386	3901	10/05/83
8467 51843	3901	12/30/83

(2) ANTIDUMPING DUTY OF 1.75 PERCENT.—The entries described in this paragraph shall be reliquidated at an antidumping rate of duty of 1.75 percent:

Entry number	Port of entry	Date of entry
8413 58513	2704	05/09/84
8413 58526	2704	05/09/84
8413 58539	2704	05/14/84
8413 58542	2704	05/14/84
8413 58555	2704	05/11/84
8413 58568	2704	05/09/84
8413 64031	2704	05/23/84
8413 65797	2704	06/06/84
8413 65852	2704	06/06/84
8413 66152	2704	06/11/84
8413 66181	2704	06/13/84
8413 66194	2704	06/07/84
8413 66482	2704	06/26/84
8467 67772	3901	08/01/84
8467 69026	3901	06/13/84
8479 77684	3901	09/25/84
8491 45401	2704	06/21/84
8491 45414	2704	06/21/84
8491 45427	2704	06/25/84
8491 45430	2704	06/25/84
8491 50580	2704	07/12/84
8491 50593	2704	07/13/84
8491 52795	2704	07/12/84
8491 54298	2704	07/17/84
8491 57350	2704	07/24/84
8491 57389	2704	07/21/84
8491 57392	2704	07/26/84
8491 68750	2704	08/06/84
8491 70544	2704	08/07/84
8491 70748	2704	08/14/84
8491 74414	2704	08/23/84
8491 75633	2704	08/17/84
8491 75659	2704	08/15/84
8491 75662	2704	08/15/84
8491 77903	2704	08/21/84
8491 77916	2704	08/23/84
8491 77929	2704	09/11/84
8491 78504	2704	08/28/84
8491 79383	2704	09/02/84
8491 79930	2704	09/02/84
8491 84954	2704	09/21/84
8491 84967	2704	09/21/84
8491 87197	2704	09/29/84
8538 51914	2704	11/13/84
8538 55224	2704	11/08/84
8538 58836	2704	11/05/84
8538 60060	2704	10/29/84
8538 60073	2704	10/29/84
8538 60086	2704	10/26/84
8538 64655	2704	11/27/84
8538 65939	2704	11/19/84
8538 68965	2704	10/17/84
8538 68978	2704	10/17/84
8538 70047	2704	10/08/84
8538 71347	2704	10/11/84
8538 71486	2704	10/14/84
8538 73989	2704	10/04/84
8538 76290	2704	12/03/84
8538 78337	2704	12/14/84
8538 79954	2704	12/17/84
8538 80697	2704	12/18/84
8538 82789	2704	12/26/84
8538 84279	2704	01/09/85
8538 85809	2704	01/08/85
8538 85812	2704	01/14/85
8538 85825	2704	01/08/85
8538 93406	2704	01/29/85
8538 94337	2704	02/04/85
8538 96270	2704	02/19/85
8538 96283	2704	02/21/85
8538 97266	2704	02/27/85

(3) ANTIDUMPING DUTY OF 2.55 PERCENT.—The entry described in this paragraph shall be reliquidated at an antidumping rate of duty of 2.55 percent:

Entry number	Port of entry	Date of entry
8641 98116	2704	02/13/86

SEC. 1609. LIQUIDATION OF CERTAIN ENTRIES OF ROLLER CHAIN.

(a) LIQUIDATION OR RELIQUIDATION OF ENTRIES.—Notwithstanding sections 514 and 520 of the Tariff Act of 1930 (19 U.S.C. 1514 and 1520) or any other provision of law, the United States Customs Service shall, not later than 90 days after the date of enactment of this Act, liquidate or reliquidate the entries listed in subsection (b) without assessment of antidumping duties or interest and shall refund any antidumping duties or interest which were previously paid.

(b) AFFECTED ENTRIES.—The entries referred to in subsections (a) and (b) are the following:

Entry number	**Date of entry**	**Port**
12606577	05/04/89	Columbia-Snake River (Portland, Oregon)
12606593	05/08/89	Columbia-Snake River (Portland, Oregon)
12607492	05/30/89	Columbia-Snake River (Portland, Oregon)

Entry number	Date of entry	Port
12608680	06/09/89	Columbia-Snake River (Portland, Oregon)
00054863	07/28/89	Columbia-Snake River (Portland, Oregon)
00056181	08/21/89	Columbia-Snake River (Portland, Oregon)
00057973	09/25/89	Columbia-Snake River (Portland, Oregon)
25761120	11/20/89	Columbia-Snake River (Portland, Oregon)
25767150	03/12/90	Columbia-Snake River (Portland, Oregon)
25767762	03/22/90	Columbia-Snake River (Portland, Oregon)
85-4232312	04/09/85	Columbia-Snake River (Portland, Oregon)
85-4237582	07/18/85	Columbia-Snake River (Portland, Oregon)
85-4238086	07/25/85	Columbia-Snake River (Portland, Oregon)
85-4238976	08/19/85	Columbia-Snake River (Portland, Oregon)
85-4464818	09/11/85	Columbia-Snake River (Portland, Oregon)
85-4466722	09/27/85	Columbia-Snake River (Portland, Oregon)
86-4307787	10/30/85	Columbia-Snake River (Portland, Oregon)
86-4310389	11/21/85	Columbia-Snake River (Portland, Oregon)
86-4311715	12/31/85	Columbia-Snake River (Portland, Oregon)
86-4312109	01/10/86	Columbia-Snake River (Portland, Oregon)
86-4317078	02/28/86	Columbia-Snake River (Portland, Oregon)
86-4318349	03/17/86	Columbia-Snake River (Portland, Oregon)
85-4235937	06/15/85	Columbia-Snake River (Portland, Oregon)
36074057	09/12/96	Columbia-Snake River (Portland, Oregon)
36071137	05/08/96	Columbia-Snake River (Portland, Oregon)
36078074	03/26/97	Columbia-Snake River (Portland, Oregon)
85-4464177	08/26/85	Columbia-Snake River (Portland, Oregon)
36077688	03/11/97	Columbia-Snake River (Portland, Oregon)
36072788	07/18/96	Columbia-Snake River (Portland, Oregon)
36074990	11/06/96	Columbia-Snake River (Portland, Oregon)
81-4139170	06/30/81	Columbia-Snake River (Portland, Oregon)
81-4139992	07/23/81	Columbia-Snake River (Portland, Oregon)
81-4140868	08/06/81	Columbia-Snake River (Portland, Oregon)
81-4140871	08/07/81	Columbia-Snake River (Portland, Oregon)
81-4141469	08/28/81	Columbia-Snake River (Portland, Oregon)
81-4142219	09/23/81	Columbia-Snake River (Portland, Oregon)
82-4139364	11/03/81	Columbia-Snake River (Portland, Oregon)
82-4140939	12/02/81	Columbia-Snake River (Portland, Oregon)
82-4141598	12/15/81	Columbia-Snake River (Portland, Oregon)
82-4142571	01/14/82	Columbia-Snake River (Portland, Oregon)
82-4143499	03/02/82	Columbia-Snake River (Portland, Oregon)
82-4145390	04/01/82	Columbia-Snake River (Portland, Oregon)
82-4146179	04/22/82	Columbia-Snake River (Portland, Oregon)
82-4147932	06/02/82	Columbia-Snake River (Portland, Oregon)
82-4148601	06/22/82	Columbia-Snake River (Portland, Oregon)
82-4149626	07/29/82	Columbia-Snake River (Portland, Oregon)
82-4150291	08/10/82	Columbia-Snake River (Portland, Oregon)
82-4151203	09/14/82	Columbia-Snake River (Portland, Oregon)
83-4124149	10/07/82	Columbia-Snake River (Portland, Oregon)
83-4124547	10/14/82	Columbia-Snake River (Portland, Oregon)
83-4125342	11/08/82	Columbia-Snake River (Portland, Oregon)
83-4125407	11/15/82	Columbia-Snake River (Portland, Oregon)
83-4126011	12/08/82	Columbia-Snake River (Portland, Oregon)
83-4126448	12/21/82	Columbia-Snake River (Portland, Oregon)
83-4126927	12/29/82	Columbia-Snake River (Portland, Oregon)
83-4127191	01/10/83	Columbia-Snake River (Portland, Oregon)
83-4129050	02/28/83	Columbia-Snake River (Portland, Oregon)
83-4129678	03/17/83	Columbia-Snake River (Portland, Oregon)
83-4129937	03/30/83	Columbia-Snake River (Portland, Oregon)
83-4131491	04/29/83	Columbia-Snake River (Portland, Oregon)
83-4133460	06/15/83	Columbia-Snake River (Portland, Oregon)
84-4154743	11/29/83	Columbia-Snake River (Portland, Oregon)
84-4161972	04/18/84	Columbia-Snake River (Portland, Oregon)
84-4163543	05/22/84	Columbia-Snake River (Portland, Oregon)
84-4164568	06/13/84	Columbia-Snake River (Portland, Oregon)
84-4161972	06/18/84	Columbia-Snake River (Portland, Oregon)
84-4165758	07/06/84	Columbia-Snake River (Portland, Oregon)
84-4421214	07/30/84	Columbia-Snake River (Portland, Oregon)
84-4421366	08/06/84	Columbia-Snake River (Portland, Oregon)
84-4421418	08/22/84	Columbia-Snake River (Portland, Oregon)
84-4424389	09/21/84	Columbia-Snake River (Portland, Oregon)
85-4220094	10/03/84	Columbia-Snake River (Portland, Oregon)
85-4220816	10/11/84	Columbia-Snake River (Portland, Oregon)
85-4221527	10/25/84	Columbia-Snake River (Portland, Oregon)
85-4222199	11/07/84	Columbia-Snake River (Portland, Oregon)
85-4222856	11/15/84	Columbia-Snake River (Portland, Oregon)
85-4224126	12/10/84	Columbia-Snake River (Portland, Oregon)
85-4225413	01/15/85	Columbia-Snake River (Portland, Oregon)
85-4230071	02/28/85	Columbia-Snake River (Portland, Oregon)
85-4231070	03/18/85	Columbia-Snake River (Portland, Oregon)
85-4234828	05/21/85	Columbia-Snake River (Portland, Oregon)
85-4237524	07/15/85	Columbia-Snake River (Portland, Oregon)
12561053	05/13/87	Columbia-Snake River (Portland, Oregon)
12563349	06/20/87	Columbia-Snake River (Portland, Oregon)
12564826	07/19/87	Columbia-Snake River (Portland, Oregon)
12567126	08/20/87	Columbia-Snake River (Portland, Oregon)
12568835	09/18/87	Columbia-Snake River (Portland, Oregon)
12570963	10/21/87	Columbia-Snake River (Portland, Oregon)
12574346	12/15/87	Columbia-Snake River (Portland, Oregon)
12574619	12/23/87	Columbia-Snake River (Portland, Oregon)
12577752	02/03/88	Columbia-Snake River (Portland, Oregon)
25768422	04/09/90	Columbia-Snake River (Portland, Oregon)
25768752	04/16/90	Columbia-Snake River (Portland, Oregon)
25770750	05/15/90	Columbia-Snake River (Portland, Oregon)
25770758	05/22/90	Columbia-Snake River (Portland, Oregon)
25772333	06/26/90	Columbia-Snake River (Portland, Oregon)
25773828	07/25/90	Columbia-Snake River (Portland, Oregon)
20281783	08/22/90	Columbia-Snake River (Portland, Oregon)
20281809	08/24/90	Columbia-Snake River (Portland, Oregon)
20288762	10/08/90	Columbia-Snake River (Portland, Oregon)
20291360	11/01/90	Columbia-Snake River (Portland, Oregon)
20296245	11/29/90	Columbia-Snake River (Portland, Oregon)
20300369	01/04/91	Columbia-Snake River (Portland, Oregon)
20305772	02/19/91	Columbia-Snake River (Portland, Oregon)
83-4130751	04/18/83	Columbia-Snake River (Portland, Oregon)
83-4131365	05/04/83	Columbia-Snake River (Portland, Oregon)
83-4132649	06/02/83	Columbia-Snake River (Portland, Oregon)
83-4133486	06/23/83	Columbia-Snake River (Portland, Oregon)
83-4134935	07/27/83	Columbia-Snake River (Portland, Oregon)
83-4135617	08/15/83	Columbia-Snake River (Portland, Oregon)
83-4136056	08/30/83	Columbia-Snake River (Portland, Oregon)
83-4137178	09/23/83	Columbia-Snake River (Portland, Oregon)
84-4152253	10/12/83	Columbia-Snake River (Portland, Oregon)
84-4153689	11/04/83	Columbia-Snake River (Portland, Oregon)
84-4154662	11/29/83	Columbia-Snake River (Portland, Oregon)
84-4156110	12/29/83	Columbia-Snake River (Portland, Oregon)
84-4156709	01/13/84	Columbia-Snake River (Portland, Oregon)
84-4157245	01/25/84	Columbia-Snake River (Portland, Oregon)
84-4158419	02/13/84	Columbia-Snake River (Portland, Oregon)
84-4158956	02/27/84	Columbia-Snake River (Portland, Oregon)
84-4160672	03/29/84	Columbia-Snake River (Portland, Oregon)
85-4236596	06/28/85	Columbia-Snake River (Portland, Oregon)
12581978	04/06/88	Columbia-Snake River (Portland, Oregon)
12586944	06/22/88	Columbia-Snake River (Portland, Oregon)
12588411	07/14/88	Columbia-Snake River (Portland, Oregon)
12590052	08/10/88	Columbia-Snake River (Portland, Oregon)
12591464	08/31/88	Columbia-Snake River (Portland, Oregon)
12592843	09/21/88	Columbia-Snake River (Portland, Oregon)
12594153	10/06/88	Columbia-Snake River (Portland, Oregon)
12594526	10/12/88	Columbia-Snake River (Portland, Oregon)
12595051	10/21/88	Columbia-Snake River (Portland, Oregon)
12600166	01/11/89	Columbia-Snake River (Portland, Oregon)
12604259	03/25/89	Columbia-Snake River (Portland, Oregon)
85-4221705	10/29/84	Columbia-Snake River (Portland, Oregon)
85-4422876	05/25/85	Los Angeles, California
81-1328861	09/28/81	Honolulu, Hawaii
85-1340139	11/19/84	Honolulu, Hawaii
83-1310040	10/21/82	Honolulu, Hawaii
84-1326082	11/16/83	Honolulu, Hawaii
86-1129340	10/17/85	Honolulu, Hawaii
86-1135525	03/11/86	Honolulu, Hawaii
85-2326987	04/22/85	San Francisco, California
31585289	04/02/96	San Francisco, California
31594950	12/02/96	San Francisco, California
82-1627918	04/27/82	San Francisco, California
83-1668145	10/19/82	San Francisco, California
83-1671640	11/05/82	San Francisco, California
83-1689496	12/23/82	San Francisco, California
07202257	05/23/90	San Francisco, California
07204287	09/05/90	San Francisco, California
84-2390622	07/12/84	Seattle, Washington

SEC. 1610. RELIQUIDATION OF DRAWBACK CLAIM RELATING TO JUICES ENTERED IN APRIL 1993.

(a) In General.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, the United States Customs Service shall, not later than 90 days after the date of the enactment of this Act, reliquidate the entry described in subsection (c) at the full amount claimed in such entry.

(b) Payment of Amounts Owed.—Any amounts owed by the United States pursuant to the reliquidation under subsection (a) shall be paid by the Customs Service within 90 days after such reliquidation.

(c) Affected Entry.—The entry referred to in subsection (a) is as follows:

Entry Number	Date of Entry	Date of Liquidation
032-0001141-3	04/28/93	06/25/99

SEC. 1611. RELIQUIDATION OF DRAWBACK CLAIM RELATING TO JUICES ENTERED IN MARCH 1994.

(a) In General.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, the United States Customs Service shall, not later than 90 days after the date of the enactment of this Act, reliquidate the entry described in subsection (c) at the full amount claimed in such entry.

(b) Payment of Amounts Owed.—Any amounts owed by the United States pursuant to the reliquidation under subsection (a) shall be paid by the Customs Service within 90 days after such reliquidation.

(c) Affected Entry.—The entry referred to in subsection (a) is as follows:

Entry Number	Date of Entry	Date of Liquidation
032-0001138-9	03/30/94	06/25/99

SEC. 1612. STEEL WIRE ROPE ENTRIES.

(a) In General.—Notwithstanding sections 514 and 520 of the Tariff Act of 1930 (19 U.S.C. 1514 and 1520), or any other provision of law, the United States Customs Service shall, not later than 90 days after the date of the enactment of this Act, liquidate or reliquidate the entries made at various ports, which are listed in subsection (c) in accordance with the final results of the administrative reviews covering the period from March 1, 1996, through February 29, 1997, undertaken by the International Trade Administration of the Department of Commerce with respect to such entries (Case Number A–580–811).

(b) Payment of Amounts Owed.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a), with interest provided for by law on the liquidation or reliquidation of the entries, shall be paid by the Customs Service not later than 90 days after such liquidation or reliquidation.

(c) Entries.—The entries referred to in subsection (a) are the following:

Entry Number	Entry Date
FB30161863–0	08/04/98
FB30162418–2	08/24/98
FB30163470–2	09/15/98
AK50021515–2	11/09/98
GL50600293–7	11/19/98
K800849688–8	09/18/98
AK50022148–1	01/25/99
AK50022311–5	02/08/99

SEC. 1613. LIQUIDATION OR RELIQUIDATION OF CERTAIN TOMATO SAUCE PREPARATION ENTERED IN APRIL 10, 1989, THROUGH AUGUST 20, 1993.

(a) In General.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law and subject to the provisions of subsection (b), the United States Customs Service shall, not later than 180 days after the receipt of the request described in subsection (b), liquidate or reliquidate each entry described in subsection (d) containing any merchandise which, at the time of the original liquidation, was classified under subheading 2002.10.00 of the Harmonized Tariff Schedule of the United States (relating to tomatoes, prepared or preserved) at the rate of duty that would have been applicable to such merchandise if the merchandise had been liquidated or reliquidated under subheading 2103.90.60 of the Harmonized Tariff Schedule of the United States (relating to tomato sauce preparation) on the date of entry.

(b) Requests.—Reliquidation may be made under subsection (a) with respect to an entry described in subsection (d) only if a request therefor is filed with the Customs Service within 90 days after the date of the enactment of this Act and the request contains sufficient information to enable the Customs Service to locate the entry or reconstruct the entry if it cannot be located and to confirm that the entry consists of tomato sauce preparations properly classifiable under subheading 2103.90.60 of the Harmonized Tariff Schedule of the United States.

(c) Payment of Amounts Owed.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid not later than 180 days after the date of such liquidation or reliquidation.

(d) Affected Entries.—The entries referred to in subsection (a) are as follows:

Entry number	Date of entry
084-0520091-9	04-10-89
084-0520094-3	04-10-89
084-052031-2	11-27-89
084-0520681-7	05-25-89
084-0520983-7	06-12-89
084-0520984-5	06-12-89
084-0521156-9	07-04-89
084-0521157-7	07-04-89
084-0521401-9	07-31-89
084-0521935-6	09-29-89
084-0521937-2	09-12-89
084-0521938-0	10-05-89
084-0522166-7	10-17-89
084-0522167-5	10-17-89
084-0522169-1	10-17-89
084-0522292-1	10-25-89
084-0522293-9	10-25-89
084-0522405-9	11-08-89
084-0522406-7	11-08-89
084-0522407-5	11-08-89
084-0522456-2	11-08-89
084-0522457-0	11-16-89
084-0522458-8	11-16-89
084-0522567-6	11-13-89
084-0522568-4	11-13-89
084-0522644-3	11-16-89
084-0523018-9	11-16-89
084-0523029-6	11-27-89
084-0523030-4	11-27-89
084-0523031-2	11-27-89
084-0522931-4	12-07-89
084-0522932-2	12-07-89
084-0522933-0	12-07-89
614-2718812-5	01-10-90
614-2718814-1	01-16-90
614-2119422-2	01-18-90
614-2718813-3	01-22-90
614-2718811-7	01-23-90
614-2719578-1	01-29-90
614-2719579-9	03-01-90
602-0147021-2	03-02-90
602-0147023-8	03-02-90
602-0147277-0	03-12-90
602-0147116-0	03-20-90
084-0524420-6	03-21-90
084-0524687-0	04-19-90
084-0524689-6	04-19-90
084-0524690-4	04-10-90
084-0528252-9	04-05-91
084-0521688-8	04-19-90
084-0532277-0	04-15-92
084-0532278-8	04-15-92
084-0532279-6	04-15-92
084-0532280-4	04-15-92
084-0532281-2	04-15-92
084-0528346-9	04-18-91
084-0537712-1	08-20-93
084-0537713-9	08-20-93
084-0537714-7	08-20-93

SEC. 1614. LIQUIDATION OR RELIQUIDATION OF CERTAIN TOMATO SAUCE PREPARATION ENTERED IN APRIL 5, 1991, THROUGH MAY 9, 1992.

(a) In General.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law and subject to the provisions of subsection (b), the United States Customs Service shall, not later than 180 days after the receipt of the request described in subsection (b), liquidate or reliquidate each entry described in subsection (d) containing any merchandise which, at the time of the original liquidation, was classified under subheading 2002.10.00 of the Harmonized Tariff Schedule of the United States (relating to tomatoes, prepared or preserved) at the rate of duty that would have been applicable to such merchandise if the merchandise had been liquidated or reliquidated under subheading 2103.90.60 of the Harmonized Tariff Schedule of the United States (relating to tomato sauce preparation) on the date of entry.

(b) Requests.—Reliquidation may be made under subsection (a) with respect to an entry described in subsection (d) only if a request therefor is filed with the Customs Service within 90 days after the date of enactment of this Act and the request contains sufficient information to enable the Customs Service to locate the entry or reconstruct the entry if it cannot be located and to confirm that the entry consists of tomato sauce preparations properly classifiable under subheading 2103.90.60 of the Harmonized Tariff Schedule of the United States.

(c) Payment of Amounts Owed.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid not later than 180 days after the date of such liquidation or reliquidation.

(d) Affected Entries.—The entries referred to in subsection (a) are as follows:

Entry number	Date of entry
084-0528252-9	04-05-91
084-0528511-8	05-03-91
084-0528512-6	05-03-91
084-0528682-7	05-22-91
084-0528767-6	05-22-91
084-0528906-0	06-05-91
084-0529135-5	07-05-91
084-0529343-5	07-21-91
084-0529344-3	07-21-91
084-0529345-0	07-21-91
084-0529490-4	08-08-91
084-0529491-2	08-08-91
084-0529694-1	08-29-91
084-0529724-6	08-23-91
084-0529725-3	08-23-91
084-0529894-7	09-24-91
084-0529939-0	09-24-91
084-0529940-8	09-24-91
084-0530235-0	10-15-91
084-0530236-8	10-15-91
084-0530380-4	10-29-91
084-0530381-2	10-29-91
084-0530525-4	11-08-91
084-0530526-2	11-08-91
084-0530642-7	11-15-91
084-0530643-5	11-15-91
084-0531008-0	12-10-91
084-0531009-8	12-10-91
084-0531193-0	12-30-91
084-0531194-8	12-30-91
084-0531570-9	02-06-92
084-0531571-7	02-06-92
084-0531696-2	02-12-92
084-0531697-0	02-12-92
084-0531698-8	02-12-92
084-0531699-6	02-12-92
084-0531781-2	02-22-92

Entry number	Date of entry
084-0531782-0	02-22-92
084-0531927-1	03-11-92
084-0531928-9	03-11-92
084-0531961-0	03-11-92
084-0531962-8	03-11-92
084-0532034-5	03-18-92
084-0532035-2	03-18-92
084-0532036-0	03-18-92
084-0532037-8	03-18-92
084-0532211-9	04-04-92
084-0532212-7	04-04-92
084-0532213-5	04-04-92
084-0532215-0	04-04-92
084-0537004-3	06-18-93
084-0537413-6	07-17-93
084-0537414-4	07-17-93
084-0532432-1	05-02-92
084-0532433-9	05-02-92
084-0532434-7	05-02-92
084-0532435-4	05-02-92
084-0532436-2	05-02-92
084-0532526-0	05-09-92

SEC. 1615. LIQUIDATION OR RELIQUIDATION OF CERTAIN TOMATO SAUCE PREPARATION ENTERED IN MAY 9, 1992, THROUGH SEPTEMBER 18, 1993.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law and subject to the provisions of subsection (b), the United States Customs Service shall, not later than 180 days after the receipt of the request described in subsection (b), liquidate or reliquidate each entry described in subsection (d) containing any merchandise which, at the time of the original liquidation, was classified under subheading 2002.10.00 of the Harmonized Tariff Schedule of the United States (relating to tomatoes, prepared or preserved) at the rate of duty that would have been applicable to such merchandise if the merchandise had been liquidated or reliquidated under subheading 2103.90.60 of the Harmonized Tariff Schedule of the United States (relating to tomato sauce preparation) on the date of entry.

(b) REQUESTS.—Reliquidation may be made under subsection (a) with respect to an entry described in subsection (d) only if a request therefor is filed with the Customs Service within 90 days after the date of enactment of this Act and the request contains sufficient information to enable the Customs Service to locate the entry or reconstruct the entry if it cannot be located and to confirm that the entry consists of tomato sauce preparations properly classifiable under subheading 2103.90.60 of the Harmonized Tariff Schedule of the United States.

(c) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid not later than 180 days after the date of such liquidation or reliquidation.

(d) AFFECTED ENTRIES.—The entries referred to in subsection (a) are as follows:

Entry number	Date of entry
084-0532527-8	05-09-92
084-0532938-7	06-13-92
084-0532939-5	06-13-92
084-0533381-9	07-29-92
084-0533382-7	07-29-92
084-0533383-5	07-29-92
084-0533384-3	07-29-92
084-0533732-3	09-01-92
084-0533823-0	09-01-92
084-0533824-8	09-01-92
084-0534010-3	09-19-92
084-0534052-5	09-26-92
084-0534199-4	10-06-92
084-0534205-9	10-14-92
084-0534206-7	10-14-92
084-0534207-5	10-14-92
084-0534669-6	11-18-92
084-0534670-4	11-18-92
084-0534930-2	11-28-92
084-0535157-1	12-23-92
084-0535311-4	01-09-93
084-0535312-2	01-02-93
084-0535441-9	01-09-93
084-0535578-8	01-27-93
084-0535694-3	02-07-93
084-0535695-0	02-07-93
084-0535854-3	02-24-93
084-0535855-0	02-24-93
084-0535857-6	02-24-93
084-0535858-4	02-24-93
084-0535859-2	02-24-93
084-0536160-4	03-28-93
084-0536291-7	04-07-93
084-0536292-5	04-07-93
084-0536357-6	04-11-93
084-0536361-8	04-11-93
084-0536362-6	04-11-93
084-0536424-4	05-02-93
084-0536518-3	05-02-93
084-0536519-1	05-02-93
084-0536727-0	05-23-93
084-0536839-3	05-29-93
084-0536840-1	05-29-93
084-0536841-9	05-29-93
084-0536842-7	05-29-93
084-0537443-3	07-31-93
084-0537444-1	07-31-93
084-0538038-0	09-18-93
084-0538039-8	09-18-93
084-0538040-6	09-18-93

SEC. 1616. LIQUIDATION OR RELIQUIDATION OF CERTAIN TOMATO SAUCE PREPARATION ENTERED IN SEPTEMBER 18, 1993, THROUGH JULY 25, 1994.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law and subject to the provisions of subsection (b), the United States Customs Service shall, not later than 180 days after the receipt of the request described in subsection (b), liquidate or reliquidate each entry described in subsection (d) containing any merchandise which, at the time of the original liquidation, was classified under subheading 2002.10.00 of the Harmonized Tariff Schedule of the United States (relating to tomatoes, prepared or preserved) at the rate of duty that would have been applicable to such merchandise if the merchandise had been liquidated or reliquidated under subheading 2103.90.60 of the Harmonized Tariff Schedule of the United States (relating to tomato sauce preparation) on the date of entry.

(b) REQUESTS.—Reliquidation may be made under subsection (a) with respect to an entry described in subsection (d) only if a request therefor is filed with the Customs Service within 90 days after the date of enactment of this Act and the request contains sufficient information to enable the Customs Service to locate the entry or reconstruct the entry if it cannot be located and to confirm that the entry consists of tomato sauce preparations properly classifiable under subheading 2103.90.60 of the Harmonized Tariff Schedule of the United States.

(c) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid not later than 180 days after the date of such liquidation or reliquidation.

(d) AFFECTED ENTRIES.—The entries referred to in subsection (a) are as follows:

Entry number	Date of entry
084-0538041-4	09-18-93
084-0538311-1	10-17-93
084-0538312-9	10-17-93
084-0538314-5	10-17-93
084-0538345-9	10-23-93
084-0538346-7	10-23-93
084-0538347-5	10-23-93
084-0538628-8	11-06-93
084-0538797-1	11-27-93
084-0538798-9	11-27-93
084-0538800-3	12-05-93
084-0538801-1	11-27-93
084-0538818-5	12-05-93
084-0538979-5	12-11-93
084-0539185-8	01-02-94
084-0539310-2	01-16-94
084-0539554-5	02-06-94
084-0539555-2	02-06-94
084-0539556-0	02-06-94
084-0539557-8	02-06-94
084-0539599-0	02-11-94
084-0539600-6	02-11-94
084-0539664-2	02-22-94
084-0539665-9	02-22-94
084-0539666-7	02-22-94
084-0539791-3	03-06-94
084-0539793-9	03-06-94
084-0539794-7	03-06-94
084-0539876-2	03-13-94
084-0540033-7	03-27-94
084-0540034-5	03-28-94
084-0540142-6	04-11-94
084-0540143-4	04-11-94
084-0540144-2	04-11-94
084-0540145-9	04-11-94
084-0540224-2	04-17-94
084-0540368-7	05-01-94
084-0540369-5	05-01-94
084-0540370-3	05-01-94
084-0540372-9	05-01-94
084-0540737-3	06-05-94
084-0540966-8	06-26-94
084-0541257-1	07-25-94
084-0541258-9	07-25-94

SEC. 1617. CERTAIN ENTRIES PREMATURELY LIQUIDATED IN ERROR.

(a) IN GENERAL.—Notwithstanding sections 514 and 520 of the Tariff Act of 1930 (19 U.S.C. 1514 and 1520), or any other provision of law, the United States Customs Service shall, not later than 90 days after the date of the enactment of this Act, reliquidate those entries described in subsection (c), in accordance with the final decision of the International Trade Administration of the Department of Commerce, and the final results of the administrative reviews, for entries made on or after December 1, 1993 and before April 1, 2001.

(b) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid by the Customs Service within 90 days after such liquidation or reliquidation.

(c) ENTRY LIST.—The entries referred to in subsection (a), are as follows:

Entry number	Date of entry	Date of liquidation
669-26046013	02/09/94	07/12/96
112-62707166	02/12/94	05/14/99
669-26046716	03/05/94	07/12/96
669-26046997	03/16/94	07/12/96
669-26047094	03/22/94	07/12/96
669-26047508	04/03/94	07/12/96
225-41000430	04/11/94	07/29/94
669-26047862	04/19/94	07/12/96
669-26048027	04/22/94	07/12/96
669-26048050	04/22/94	07/12/96
669-26048068	04/22/94	07/12/96
669-26049199	06/05/94	07/12/96
051-01380045	06/14/94	06/21/96
225-21019541	07/02/94	Unknown
669-26050742	07/20/94	07/12/96
669-26051294	08/16/94	07/19/96
669-26051377	08/17/94	07/12/96
669-26051401	08/23/94	07/19/96
051-01378452	09/01/94	08/16/96
669-26051906	09/06/94	07/19/96
669-26052714	10/05/94	07/19/96
669-26054629	01/02/95	07/12/96
669-26054918	01/21/95	07/12/96
669-00985582	02/17/95	09/17/99
225-41030148	05/01/95	01/20/95
112-85106669	06/07/95	02/25/00
112-80968196	08/03/95	11/17/95
669-26059347	09/02/95	07/12/96
112-79650961	09/27/95	12/29/95
669-28017335	10/06/95	06/14/96
112-05038720	05/01/96	08/02/96
112-17629326	01/06/97	04/18/97
112-17629326	03/12/97	04/18/97
669-01225053	06/12/97	10/15/99

Entry number	*Date of entry*	*Date of liquidation*
669-01223637	06/25/97	10/08/99
669-01225418	06/25/97	10/08/99
669-01225913	06/27/97	10/08/99
669-01227380	07/03/97	10/08/99
669-01232166	07/07/97	10/08/99
669-01230533	07/09/97	10/08/99
669-01236357	07/30/97	10/08/99
100-47966294	08/08/97	08/26/99
669-01241811	08/13/97	10/08/99
669-01245838	08/27/97	10/08/99
669-01247933	09/04/97	10/15/99
669-01251448	09/21/97	10/08/99
669-01254020	09/24/97	10/08/99
669-01256801	10/01/97	10/08/99
669-01259466	10/15/97	10/08/99
669-01260753	10/15/97	10/08/99
669-01261363	10/16/97	10/08/99
669-01262650	10/22/97	10/08/99
669-01263856	10/24/97	10/08/99
669-01267337	11/06/97	10/08/99
669-01269200	11/12/97	10/08/99
669-01271784	11/20/97	10/08/99
669-01271800	11/23/97	10/08/99
669-01272907	11/30/97	10/08/99
669-01273673	11/30/97	10/08/99
669-01274119	11/30/97	10/08/99
669-01276585	12/04/97	10/08/99
669-01278763	12/14/97	10/15/99
669-01283441	12/30/97	10/08/99
669-01296948	01/09/98	10/08/99
669-01292186	01/22/98	10/08/99
669-04201964	01/23/98	10/08/99
112-14206987	01/23/98	02/22/99
669-01295130	02/01/98	10/08/99
669-01296955	02/05/98	10/08/99
669-01297649	02/12/98	10/08/99
669-01298530	02/12/98	10/08/99
669-01302126	02/21/98	10/08/99
669-01302134	02/21/98	10/08/99
669-01302530	02/21/98	10/08/99
669-01303546	02/21/98	10/08/99
669-01304569	02/27/98	10/08/99
669-01305947	03/05/98	10/08/99
669-01306978	03/07/98	10/08/99
669-01306986	03/07/98	10/08/99
669-01307554	03/12/98	10/08/99
669-01312711	03/14/98	10/08/99
669-28050047	03/20/98	04/02/99
669-01312703	03/21/98	10/08/99
669-01318072	04/07/98	10/08/99
669-01324781	04/24/98	10/08/99
669-01325218	04/25/98	10/08/99
669-01327586	04/30/98	10/08/99
669-01330283	May-98	10/08/99
669-01332081	May-98	10/08/99
112-35098876	05/08/98	04/02/99
669-01332081	05/16/98	10/08/99
669-01335357	05/26/98	10/08/99
700-07050910	05/30/98	03/24/00
110-54366892	06/03/98	04/16/99
112-38590861	09/09/98	07/23/99
112-01742119	04/20/99	08/09/96
110-64694523	10/07/99	10/01/99

SEC. 1618. CERTAIN POSTERS ENTERED DURING 2000 AND 2001.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law and subject to the provisions of subsection (b), the United States Customs Service shall, not later than 90 days after the receipt of the request described in subsection (b), liquidate or reliquidate each entry described in subsection (d) containing any merchandise which, at the time of the original liquidation, was classified under subheading 4911.91.20 of the Harmonized Tariff Schedule of the United States at the rate of duty that would have been applicable to such merchandise if the merchandise had been liquidated or reliquidated under subheading 4911.91.40 of the Harmonized Tariff Schedule of the United States on the date of entry.

(b) REQUESTS.—Reliquidation may be made under subsection (a) with respect to an entry described in subsection (d) only if a request therefor is filed with the Customs Service within 90 days after the date of enactment of this Act.

(c) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid not later than 90 days after the date of such liquidation or reliquidation.

(d) AFFECTED ENTRIES.—The entries referred to in subsection (a) are as follows:

Entry number	*Date of entry*
F1126496605	09-24-00
F1117735656	10-18-00
90100999235	02-14-01
90101010321	04-23-01
90101001700	02-28-01
28100674408	04-25-01
28100671081	04-09-01
28100670398	04-06-01
F1126187352	06-19-00
F1126530833	10-05-00
28100678433	05-18-01
90100999235	04-14-01
90101001700	02-28-01

SEC. 1619. LIQUIDATION OR RELIQUIDATION OF CERTAIN ENTRIES.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, and subject to subsection (b), the United States Customs Service shall, not later than 180 days after the receipt of the request described in subsection (b), liquidate or reliquidate each entry described in subsection (d) by applying the column 1 general rate of duty of the Harmonized Tariff Schedule of the United States to each entry that is liquidated or reliquidated, regardless of whether the entry was made under the column 1 special rate of duty of such schedule.

(b) REQUESTS.—Liquidation or reliquidation may be made under subsection (a) with respect to an entry described in subsection (d) only upon a request therefor is filed with the Customs Service.

(c) PAYMENT OF AMOUNTS DUE.—Any amounts due to the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid not later than 180 days after the date of such liquidation or reliquidation.

(d) AFFECTED ENTRIES.—The entries referred to in subsection (a), filed at the ports of Laredo, Texas (designated as port of entry 2304), Hidalgo, Texas (designated as port of entry 2305), and Wilmington, Delaware (designated as port of entry 1103), are as follows:

Entry number	*Port of Entry*	*Date of Entry*
95300618568	2305	02/22/95
95300618576	2305	02/22/95
95300619236	2305	02/27/95
95300619277	2305	02/27/95
95300619806	2305	03/02/95
95300619871	2305	03/02/95
95300620142	2305	03/07/95
95300620176	2305	03/03/95
95300620184	2305	03/03/95
95300620911	2305	03/07/95
95300635133	2305	04/07/95
95300635141	2305	04/07/95
95300635950	2305	04/12/95
95300635968	2305	04/12/95
95300636370	2305	04/14/95
95300636388	2305	04/14/95
95300640554	2305	05/09/95
95300640653	2305	05/10/95
95300656592	2304	11/05/95
95300657665	2304	11/29/95
95300657756	2304	12/02/95
95300658358	2304	12/16/95
95300658408	2304	12/17/95
95300658572	2304	12/19/95
95300658648	2304	12/22/95
95300658754	2304	12/22/95
95300658945	2304	12/27/95
95300659018	2304	12/28/95
95300659117	2304	12/29/95
95300659208	2304	01/02/96
95300659398	2304	01/05/96
95300659513	2304	01/08/96
95300659547	2304	01/09/96
95300659679	2304	01/11/96
95300659737	2304	01/14/96
95300659794	2304	01/13/96
95300659810	2304	01/14/96
95300659844	2304	01/15/96
95300659851	2304	01/15/96
95300659901	2304	01/16/96
95300659919	2304	01/16/96
95300659935	2304	01/17/96
95300660065	2304	01/18/96
95300660107	2304	01/19/96
95300660172	2304	01/22/96
95300660180	2304	01/22/96
95300660248	2304	01/22/96
95300660362	2304	01/23/96
95300660388	2304	01/24/96
95300660560	2304	01/25/96
95300660743	2304	01/27/96
95300660818	2304	01/29/96
95300660826	2304	01/29/96
95300704053	2305	05/16/95
95300704061	2305	05/16/95
95300704889	2305	05/22/95
95300704897	2305	05/22/95
95300705886	2305	05/31/95
95300705969	2305	05/30/95
95300706900	2305	06/09/95
95300706926	2305	06/09/95
95300752656	2305	02/02/96
95300752698	2305	02/04/96
95300752805	2305	02/05/96
95300752813	2305	02/05/96
95300752870	2305	02/06/96
95300752904	2305	02/06/96
95300753001	2305	02/07/96
95300753076	2305	02/09/96
R7410350736	1103	11/29/95
R7410350769	1103	11/29/95
R7410350801	1103	11/29/95
R7410350835	1103	11/29/95
T8500081575	2305	06/16/95
T8500081591	2305	06/16/95
T8500081716	2305	06/20/95
T8500081724	2305	06/20/95
T8500081815	2305	06/27/95
T8500081823	2305	06/28/95
T8500081922	2305	06/27/95
T8500081930	2305	06/27/95
T8500082052	2305	07/01/95
T8500082060	2305	07/01/95
T8500082326	2305	07/14/95
T8500082342	2305	07/14/95
T8500082458	2305	07/22/95
T8500082482	2305	07/22/95
T8500082508	2305	07/24/95
T8500082516	2305	07/24/95
T8500082581	2305	07/30/95
T8500082599	2305	07/30/95
T8500082656	2305	08/03/95
T8500082664	2305	08/03/95
T8500082748	2305	08/09/95
T8500082797	2305	08/10/95
T8500082839	2305	08/14/95
T8500082847	2305	08/14/95
T8500084462	2305	10/22/95

SEC. 1620. RELIQUIDATION OF CERTAIN TOMATO SAUCE PREPARATION ENTERED BETWEEN NOVEMBER 22, 1989, AND MARCH 7, 1990.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law and subject to the provisions of subsection (b), the United States Customs Service shall, not later than 90 days after the receipt of the request described in subsection (b), liquidate or reliquidate each entry described in subsection (d) containing any merchandise which, at the time of the original liquidation, was classified under subheading 2002.10.00 of the Harmonized Tariff Schedule of the United States (relating to tomatoes, prepared or preserved) at the rate of duty that would have been applicable to such merchandise if the merchandise had been liquidated or reliquidated under subheading 2103.90.60 or 2103.90.90 of the Harmonized Tariff Schedule of the United States, whichever is applicable, on the date of entry.

(b) REQUESTS.—Reliquidation may be made under subsection (a) with respect to an entry

described in subsection (d) only if a request therefore is filed with the Customs Service within 90 days after the date of enactment of this Act.

(c) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid not later than 90 days after the date of such liquidation or reliquidation.

(d) AFFECTED ENTRIES.—The entries referred to in subsection (a) are as follows:

Entry Number	***Entry Date***
01401–788–1003829–5	*11/22/89*
01401–788–1004108–3	*02/01/90*
01401–788–1004162–0	*02/15/90*
01401–788–1004246–1	*03/07/90*

SEC. 1621. RELIQUIDATION OF CERTAIN TOMATO SAUCE PREPARATION ENTERED BETWEEN MARCH 14, 1990, AND SEPTEMBER 29, 1990.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law and subject to the provisions of subsection (b), the United States Customs Service shall, not later than 90 days after the receipt of the request described in subsection (b), liquidate or reliquidate each entry described in subsection (d) containing any merchandise which, at the time of the original liquidation, was classified under subheading 2002.10.00 of the Harmonized Tariff Schedule of the United States (relating to tomatoes, prepared or preserved) at the rate of duty that would have been applicable to such merchandise if the merchandise had been liquidated or reliquidated under subheading 2103.90.60 or 2103.90.90 of the Harmonized Tariff Schedule of the United States, whichever is applicable, on the date of entry.

(b) REQUESTS.—Reliquidation may be made under subsection (a) with respect to an entry described in subsection (d) only if a request therefore is filed with the Customs Service within 90 days after the date of enactment of this Act.

(c) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid not later than 90 days after the date of such liquidation or reliquidation.

(d) AFFECTED ENTRIES.—The entries referred to in subsection (a) are as follows:

Entry Number	***Entry Date***
01401–788–1004263–6	*3/14/90*
01401–788–1004300–6	*3/19/90*
24601–237–0043486–5	*9/04/90*
24601–237–0043490–7	*9/06/90*
24601–237–0043489–9	*9/06/90*
24601–237–0043532–6	*9/09/90*
24601–237–0043533–4	*9/09/90*
24601–237–0043534–2	*9/09/90*
24601–237–0043535–9	*9/09/90*
24601–237–0043536–7	*9/09/90*
24601–237–0043537–5	*9/09/90*
24601–237–0043538–3	*9/09/90*
24601–237–0043539–1	*9/09/90*
24601–237–0043531–8	*9/10/90*
24601–237–0043557–3	*9/13/90*
24601–237–0043558–1	*9/13/90*
24601–237–0043559–9	*9/13/90*
24601–237–0043562–3	*9/13/90*
24601–237–0043563–1	*9/13/90*
24601–237–0043565–6	*9/13/90*
24601–237–0043566–4	*9/13/90*
24601–237–0043567–2	*9/13/90*
24601–237–0043564–9	*9/13/90*
24601–237–0043573–0	*9/18/90*
24601–237–0043581–3	*9/18/90*
24601–237–0043582–1	*9/18/90*
24601–237–0043583–9	*9/18/90*
24601–237–0043584–7	*9/18/90*
24601–237–0043585–4	*9/18/90*
24601–237–0043629–0	*9/27/90*
24601–237–0043630–8	*9/27/90*
24601–237–0043631–6	*9/27/90*
24601–237–0043632–4	*9/27/90*
24601–237–0043633–2	*9/27/90*
24601–237–0043634–0	*9/27/90*
24601–237–0043635–7	*9/27/90*
24601–237–0043636–5	*9/27/90*
24601–237–0043637–3	*9/27/90*
24601–237–0043638–1	*9/29/90*
24601–237–0043639–9	*9/29/90*
24601–237–0043640–7	*9/29/90*
24601–237–0043648–0	*9/29/90*
24601–237–0043641–5	*9/29/90*

SEC. 1622. RELIQUIDATION OF CERTAIN TOMATO SAUCE PREPARATION ENTERED BETWEEN OCTOBER 6, 1990, AND NOVEMBER 1, 1990.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law and subject to the provisions of subsection (b), the United States Customs Service shall, not later than 90 days after the receipt of the request described in subsection (b), liquidate or reliquidate each entry described in subsection (d) containing any merchandise which, at the time of the original liquidation, was classified under subheading 2002.10.00 of the Harmonized Tariff Schedule of the United States (relating to tomatoes, prepared or preserved) at the rate of duty that would have been applicable to such merchandise if the merchandise had been liquidated or reliquidated under subheading 2103.90.60 or 2103.90.90 of the Harmonized Tariff Schedule of the United States, whichever is applicable, on the date of entry.

(b) REQUESTS.—Reliquidation may be made under subsection (a) with respect to an entry described in subsection (d) only if a request therefore is filed with the Customs Service within 90 days after the date of enactment of this Act.

(c) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid not later than 90 days after the date of such liquidation or reliquidation.

(d) AFFECTED ENTRIES.—The entries referred to in subsection (a) are as follows:

Entry Number	***Entry Date***
24601–237–0043690–2	*10/06/90*
24601–237–0043691–0	*10/06/90*
24601–237–0043692–8	*10/06/90*
24601–237–0043693–6	*10/06/90*
24601–237–0043694–4	*10/06/90*
24601–237–0043695–1	*10/06/90*
24601–237–0043696–9	*10/06/90*
24601–237–0043698–5	*10/06/90*
72809–442–0321942–1	*10/10/90*
72809–442–0322201–1	*10/12/90*
24601–237–0043751–2	*10/13/90*
24601–237–0043756–1	*10/13/90*
24601–237–0043772–8	*10/13/90*
24601–237–0043754–6	*10/13/90*
24601–237–0043762–9	*10/13/90*
24601–237–0043755–3	*10/13/90*
24601–237–0043709–0	*10/14/90*
24601–237–0043710–8	*10/14/90*
24601–237–0043711–6	*10/14/90*
24601–237–0043712–4	*10/14/90*
24601–237–0043713–2	*10/14/90*
45201–815–0141984–0	*10/18/90*
24601–237–0043796–7	*10/19/90*
24601–237–0043798–3	*10/19/90*
24601–237–0043800–7	*10/19/90*
24601–237–0043801–5	*10/19/90*
24601–237–0043802–3	*10/19/90*
24601–237–0043797–5	*10/19/90*
24601–237–0043799–1	*10/19/90*
72704–442–1163101–3	*10/22/90*
24601–237–0043818–9	*10/24/90*
24601–237–0043834–6	*10/25/90*
24601–237–0043835–3	*10/25/90*
24601–237–0043836–1	*10/25/90*
24601–237–0043841–1	*10/25/90*
24601–237–0043842–9	*10/25/90*
24601–237–0043843–7	*10/25/90*
24601–237–0043838–7	*10/25/90*
24601–237–0043839–5	*10/25/90*
24601–237–0043837–9	*10/25/90*
24601–237–0043840–3	*10/25/90*
72704–442–1164274–7	*11/01/90*

SEC. 1623. RELIQUIDATION OF CERTAIN TOMATO SAUCE PREPARATION ENTERED BETWEEN NOVEMBER 3, 1990, AND DECEMBER 15, 1990.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law and subject to the provisions of subsection (b), the United States Customs Service shall, not later than 90 days after the receipt of the request described in subsection (b), liquidate or reliquidate each entry described in subsection (d) containing any merchandise which, at the time of the original liquidation, was classified under subheading 2002.10.00 of the Harmonized Tariff Schedule of the United States (relating to tomatoes, prepared or preserved) at the rate of duty that would have been applicable to such merchandise if the merchandise had been liquidated or reliquidated under subheading 2103.90.60 or 2103.90.90 of the Harmonized Tariff Schedule of the United States, whichever is applicable, on the date of entry.

(b) REQUESTS.—Reliquidation may be made under subsection (a) with respect to an entry described in subsection (d) only if a request therefore is filed with the Customs Service within 90 days after the date of enactment of this Act.

(c) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid not later than 90 days after the date of such liquidation or reliquidation.

(d) AFFECTED ENTRIES.—The entries referred to in subsection (a) are as follows:

Entry Number	***Entry Date***
24601–237–0043907–0	*11/03/90*
24601–237–0043914–6	*11/03/90*
24601–237–0043916–1	*11/03/90*
24601–237–0043917–9	*11/03/90*
24601–237–0043918–7	*11/03/90*
24601–237–0043905–4	*11/03/90*
24601–237–0043906–2	*11/03/90*
24601–237–0043915–3	*11/03/90*
24601–237–0043950–0	*11/11/90*
24601–237–0043951–8	*11/11/90*
24601–237–0043957–5	*11/11/90*
24601–237–0043952–6	*11/11/90*
72704–442–1166912–0	*11/11/90*
72704–442–1166913–8	*11/14/90*
24601–237–0044003–7	*11/17/90*
24601–237–0044005–2	*11/17/90*
24601–237–0044007–8	*11/17/90*
24601–237–0044002–9	*11/17/90*
24601–237–0044006–0	*11/17/90*
24601–237–0043991–4	*11/18/90*
24601–237–0043993–0	*11/18/90*
24601–237–0043995–5	*11/18/90*
24601–237–0043994–8	*11/18/90*
72809–442–0322517–0	*11/19/90*
24601–237–0043992–2	*11/27/90*
24601–237–0044119–1	*11/29/90*
24601–237–0044145–6	*12/02/90*
24601–237–0044144–9	*12/02/90*
24601–237–0044146–4	*12/02/90*
24601–237–0044147–2	*12/02/90*
24601–237–0044170–4	*12/04/90*
24601–237–0044171–2	*12/04/90*
24601–237–0044172–0	*12/04/90*
24601–237–0044173–8	*12/04/90*
24601–237–0044169–6	*12/04/90*
24601–237–0044168–8	*12/04/90*
24601–237–0044221–5	*12/08/90*
24601–237–0044222–3	*12/08/90*
24601–237–0044223–1	*12/08/90*

24601-237-0044224-9	12/08/90
24601-237-0044220-7	12/08/90
24601-237-0044205-8	12/09/90
24601-237-0044207-4	12/09/90
24601-237-0044206-6	12/09/90
41703-815-0044549-9	12/13/90
24601-237-0044256-1	12/15/90
24601-237-0044260-3	12/15/90
24601-237-0044261-1	12/15/90
24601-237-0044262-9	12/15/90
24601-237-0044257-9	12/15/90

SEC. 1624. RELIQUIDATION OF CERTAIN TOMATO SAUCE PREPARATION ENTERED BETWEEN DECEMBER 28, 1990, AND FEBRUARY 9, 1991.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law and subject to the provisions of subsection (b), the United States Customs Service shall, not later than 90 days after the receipt of the request described in subsection (b), liquidate or reliquidate each entry described in subsection (d) containing any merchandise which, at the time of the original liquidation, was classified under subheading 2002.10.00 of the Harmonized Tariff Schedule of the United States (relating to tomatoes, prepared or preserved) at the rate of duty that would have been applicable to such merchandise if the merchandise had been liquidated or reliquidated under subheading 2103.90.60 or 2103.90.90 of the Harmonized Tariff Schedule of the United States, whichever is applicable, on the date of entry.

(b) REQUESTS.—Reliquidation may be made under subsection (a) with respect to an entry described in subsection (d) only if a request therefore is filed with the Customs Service within 90 days after the date of enactment of this Act.

(c) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid not later than 90 days after the date of such liquidation or reliquidation.

(d) AFFECTED ENTRIES.—The entries referred to in subsection (a) are as follows:

Entry Number	**Entry Date**
24601-237-0044368-4	12/28/90
24601-237-0044367-6	12/28/90
24601-237-0044369-2	12/29/90
24601-237-0044370-0	12/29/90
24601-237-0044371-8	12/29/90
24601-237-0044372-6	12/29/90
24601-237-0044373-4	12/29/90
24601-237-0044374-2	12/29/90
24601-237-0044375-9	12/29/90
24601-237-0044366-8	12/29/90
24601-237-0044411-2	01/03/91
24601-237-0044412-0	01/03/91
24601-237-0044414-6	01/03/91
24601-237-0044415-3	01/03/91
24601-237-0044416-1	01/03/91
24601-237-0044417-9	01/03/91
24601-237-0044413-8	01/03/91
24601-237-0044410-4	01/03/91
72704-442-1173199-5	01/15/91
24601-237-0044513-5	01/18/91
24601-237-0044512-7	01/18/91
24601-237-0044514-3	01/19/91
24601-237-0044515-0	01/19/91
24601-237-0044518-4	01/19/91
24601-237-0044519-2	01/19/91
24601-237-0044524-2	01/19/91
24601-237-0044533-3	01/19/91
24601-237-0044523-4	01/19/91
24601-237-0044522-6	01/19/91
24601-237-0044516-8	01/19/91
24601-237-0044520-0	01/19/91
24601-237-0044521-8	01/19/91
24601-237-0044517-6	01/19/91
24601-237-0044525-9	01/19/91
24601-237-0044564-8	02/01/91
24601-237-0044665-3	02/08/91
24601-237-0044672-9	02/08/91
24601-237-0044673-7	02/08/91
24601-237-0044674-5	02/08/91
24601-237-0044677-8	02/08/91
24601-237-0044660-4	02/08/91
24601-237-0044682-8	02/08/91
24601-237-0044669-5	02/09/91
24601-237-0044676-0	02/09/91
24601-237-0044678-6	02/09/91
24601-237-0044681-0	02/09/91
24601-237-0044683-6	02/09/91
24601-237-0044668-7	02/09/91
24601-237-0044680-2	02/09/91

SEC. 1625. RELIQUIDATION OF CERTAIN TOMATO SAUCE PREPARATION ENTERED BETWEEN FEBRUARY 14, 1991, AND APRIL 24, 1991.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law and subject to the provisions of subsection (b), the United States Customs Service shall, not later than 90 days after the receipt of the request described in subsection (b), liquidate or reliquidate each entry described in subsection (d) containing any merchandise which, at the time of the original liquidation, was classified under subheading 2002.10.00 of the Harmonized Tariff Schedule of the United States (relating to tomatoes, prepared or preserved) at the rate of duty that would have been applicable to such merchandise if the merchandise had been liquidated or reliquidated under subheading 2103.90.60 or 2103.90.90 of the Harmonized Tariff Schedule of the United States, whichever is applicable, on the date of entry.

(b) REQUESTS.—Reliquidation may be made under subsection (a) with respect to an entry described in subsection (d) only if a request therefore is filed with the Customs Service within 90 days after the date of enactment of this Act.

(c) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid not later than 90 days after the date of such liquidation or reliquidation.

(d) AFFECTED ENTRIES.—The entries referred to in subsection (a) are as follows:

Entry Number	**Entry Date**
24601-237-0044710-7	02/14/91
24601-237-0044715-6	02/14/91
24601-237-0044780-0	02/25/91
24601-237-0044775-0	02/25/91
24601-237-0044776-8	02/25/91
24601-237-0044778-4	02/25/91
24601-237-0044779-2	02/25/91
24601-237-0044777-6	02/25/91
24601-237-0044774-3	02/25/91
45201-815-1070377-0	02/27/91
72704-442-1177395-5	03/03/91
24601-237-0044818-8	03/08/91
24601-237-0044852-7	03/09/91
24601-237-0044853-5	03/09/91
24601-237-0044879-0	03/12/91
24601-237-0044880-8	03/12/91
72704-442-1178551-2	03/12/91
24601-237-0044892-3	03/12/91
24601-237-0044958-2	03/23/91
24601-237-0044993-9	03/23/91
24601-237-0044981-4	03/23/91
24601-237-0044982-2	03/23/91
24601-237-0044983-0	03/23/91
24601-237-0044957-4	03/23/91
24601-237-0044992-1	03/23/91
24601-237-0044959-0	03/23/91
24601-237-0045073-9	04/01/91
24601-237-0045095-2	04/03/91
24601-237-0045094-5	04/03/91
24601-237-0045108-3	04/06/91
24601-237-0045109-1	04/06/91
24601-237-0045111-7	04/06/91
24601-237-0045110-9	04/06/91
24601-237-0045107-5	04/06/91
45201-815-1070614-6	04/08/91
24601-237-0045176-0	04/16/91
24601-237-0045177-8	04/16/91
24601-237-0045175-2	04/16/91
24601-237-0045178-6	04/18/91
24601-237-0045181-0	04/18/91
24601-237-0045179-4	04/18/91
24601-237-0045180-2	04/18/91
24601-237-0045250-3	04/22/91
24601-237-0045252-9	04/22/91
24601-237-0045253-7	04/22/91
24601-237-0045255-2	04/22/91
24601-237-0045260-2	04/23/91
24601-237-0045285-9	04/24/91

SEC. 1626. RELIQUIDATION OF CERTAIN TOMATO SAUCE PREPARATION ENTERED BETWEEN APRIL 26, 1991, AND JUNE 16, 1991.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law and subject to the provisions of subsection (b), the United States Customs Service shall, not later than 90 days after the receipt of the request described in subsection (b), liquidate or reliquidate each entry described in subsection (d) containing any merchandise which, at the time of the original liquidation, was classified under subheading 2002.10.00 of the Harmonized Tariff Schedule of the United States (relating to tomatoes, prepared or preserved) at the rate of duty that would have been applicable to such merchandise if the merchandise had been liquidated or reliquidated under subheading 2103.90.60 or 2103.90.90 of the Harmonized Tariff Schedule of the United States, whichever is applicable, on the date of entry.

(b) REQUESTS.—Reliquidation may be made under subsection (a) with respect to an entry described in subsection (d) only if a request therefore is filed with the Customs Service within 90 days after the date of enactment of this Act.

(c) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid not later than 90 days after the date of such liquidation or reliquidation.

(d) AFFECTED ENTRIES.—The entries referred to in subsection (a) are as follows:

Entry Number	**Entry Date**
24601-237-0045286-7	04/26/91
24601-237-0045340-2	05/02/91
24601-237-0045342-8	05/02/91
24601-237-0045344-4	05/02/91
24601-237-0045343-6	05/02/91
24601-237-0045345-1	05/02/91
24601-237-0045341-0	05/02/91
24601-237-0045305-5	05/02/91
24601-237-0045357-6	05/04/91
24601-237-0045358-4	05/04/91
24601-237-0045354-3	05/04/91
24601-237-0045356-8	05/04/91
24601-237-0045359-2	05/04/91
24601-237-0045353-5	05/04/91
24601-237-0045355-0	05/08/91
24601-237-0045352-7	05/09/91
24601-237-0045384-0	05/10/91
24601-237-0045385-7	05/10/91
72809-442-0326878-2	05/11/91
24601-237-0045462-4	05/18/91
24601-237-0045464-0	05/18/91
24601-237-0045465-7	05/18/91
24601-237-0045466-5	05/18/91
24601-237-0045467-3	05/18/91
24601-237-0045468-1	05/18/91
24601-237-0045469-9	05/18/91
24601-237-0045463-2	05/18/91
24601-237-0045459-0	05/22/91
24601-237-0045479-8	05/22/91
24601-237-0045480-6	05/22/91
24601-237-0045555-5	05/30/91
24601-237-0045556-3	05/30/91
24601-237-0045558-9	05/30/91

24601–237–0045559–7	05/30/91
24601–237–0045561–3	05/30/91
24601–237–0045557–1	05/30/91
24601–237–0045610–8	06/01/91
24601–237–0045611–6	06/01/91
24601–237–0045612–4	06/01/91
24601–237–0045613–2	06/01/91
24601–237–0045615–7	06/01/91
24601–237–0045616–5	06/01/91
24601–237–0045617–3	06/01/91
24601–237–0045618–1	06/01/91
24601–237–0045614–0	06/01/91
24601–237–0045562–1	06/04/91
24601–237–0045580–3	06/04/91
24601–237–0045581–1	06/04/91
24601–237–0045662–9	06/08/91
24601–237–0045675–1	06/08/91
45201–815–1071138–5	06/12/91
24601–237–0045703–1	06/15/91
24601–237–0045702–3	06/15/91
24601–237–0045704–9	06/15/91
24601–237–0045705–6	06/15/91
24601–237–0045701–5	06/15/91
24601–237–0045706–4	06/16/91
24601–237–0045732–0	06/16/91

SEC. 1627. RELIQUIDATION OF CERTAIN TOMATO SAUCE PREPARATION ENTERED BETWEEN OCTOBER 7, 1991, AND NOVEMBER 24, 1991.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law and subject to the provisions of subsection (b), the United States Customs Service shall, not later than 90 days after the receipt of the request described in subsection (b), liquidate or reliquidate each entry described in subsection (d) containing any merchandise which, at the time of the original liquidation, was classified under subheading 2002.10.00 of the Harmonized Tariff Schedule of the United States (relating to tomatoes, prepared or preserved) at the rate of duty that would have been applicable to such merchandise if the merchandise had been liquidated or reliquidated under subheading 2103.90.60 or 2103.90.90 of the Harmonized Tariff Schedule of the United States, whichever is applicable, on the date of entry.

(b) REQUESTS.—Reliquidation may be made under subsection (a) with respect to an entry described in subsection (d) only if a request therefore is filed with the Customs Service within 90 days after the date of enactment of this Act.

(c) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid not later than 90 days after the date of such liquidation or reliquidation.

(d) AFFECTED ENTRIES.—The entries referred to in subsection (a) are as follows:

Entry Number	Entry Date
10901–551–2400823–0	10/07/91
10901–551–2400824–8	10/07/91
10901–551–2400825–5	10/07/91
10901–551–2400827–1	10/07/91
10901–551–2401490–7	10/07/91
33802–551–1986406–8	10/08/91
33802–551–1986407–6	10/08/91
10901–551–2400867–7	10/10/91
10901–551–2400871–9	10/10/91
10901–551–2400875–0	10/10/91
10901–551–2401642–3	10/10/91
10901–551–2400869–3	10/10/91
10901–551–2400872–7	10/10/91
10901–551–2400873–5	10/10/91
10901–551–2400870–1	10/10/91
10901–551–2400874–3	10/10/91
10901–551–2401609–2	10/10/91
10901–551–2401623–3	10/10/91
10901–551–2401639–9	10/10/91
10901–551–2401640–7	10/10/91
10901–551–2401641–5	10/10/91
10901–551–2400896–6	10/15/91
10901–551–2400915–4	10/15/91
24601–237–0046718–8	10/16/91
24601–237–0046719–6	10/16/91
24601–237–0046720–4	10/16/91
24601–237–0046722–0	10/16/91
24601–237–0046723–8	10/16/91
24601–237–0046724–6	10/16/91
24601–237–0046721–2	10/16/91
24601–237–0046752–7	10/18/91
24601–237–0046754–3	10/18/91
24601–237–0046755–0	10/18/91
24601–237–0046756–8	10/18/91
24601–237–0046757–6	10/18/91
24601–237–0046758–4	10/18/91
24601–237–0046759–2	10/18/91
24601–237–0046760–0	10/18/91
24601–237–0046775–8	10/22/91
24601–237–0046776–6	10/22/91
24601–237–0046745–1	10/22/91
10901–551–2400895–8	10/22/91
10901–551–2400958–4	10/22/91
10901–551–2400959–2	10/22/91
24601–237–0046791–5	10/23/91
24601–237–0046813–7	11/02/91
24601–237–0046814–5	11/02/91
24601–237–0046815–2	11/02/91
24601–237–0046817–8	11/02/91
24601–237–0046818–6	11/02/91
24601–237–0046819–4	11/02/91
24601–237–0046816–0	11/02/91
24601–237–0046860–8	11/04/91
24601–237–0046862–4	11/04/91
24601–237–0046922–6	11/11/91
24601–237–0046923–4	11/11/91
24601–237–0046924–2	11/11/91
24601–237–0046925–9	11/11/91
24601–237–0046960–6	11/16/91
24601–237–0046961–4	11/16/91
24601–237–0046962–2	11/16/91
24601–237–0046965–5	11/16/91
24601–237–0046966–3	11/16/91
24601–237–0046967–1	11/16/91
24601–237–0046968–9	11/16/91
24601–237–0046969–7	11/16/91
24601–237–0046970–5	11/16/91
41803–922–0022870–5	11/18/91
24601–237–0046964–8	11/19/91
24601–237–0047038–0	11/22/91
24601–237–0047039–8	11/22/91
24601–237–0047040–6	11/22/91
24601–237–0047013–3	11/24/91
24601–237–0047014–1	11/24/91
24601–237–0047015–8	11/24/91
24601–237–0047016–6	11/24/91
24601–237–0047017–4	11/24/91
24601–237–0047018–2	11/24/91
24601–237–0047020–8	11/24/91
24601–237–0047021–6	11/24/91
24601–237–0047022–4	11/24/91

SEC. 1628. RELIQUIDATION OF CERTAIN TOMATO SAUCE PREPARATION ENTERED BETWEEN NOVEMBER 30, 1991, AND NOVEMBER 26, 1992.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law and subject to the provisions of subsection (b), the United States Customs Service shall, not later than 90 days after the receipt of the request described in subsection (b), liquidate or reliquidate each entry described in subsection (d) containing any merchandise which, at the time of the original liquidation, was classified under subheading 2002.10.00 of the Harmonized Tariff Schedule of the United States (relating to tomatoes, prepared or preserved) at the rate of duty that would have been applicable to such merchandise if the merchandise had been liquidated or reliquidated under subheading 2103.90.60 or 2103.90.90 of the Harmonized Tariff Schedule of the United States, whichever is applicable, on the date of entry.

(b) REQUESTS.—Reliquidation may be made under subsection (a) with respect to an entry described in subsection (d) only if a request therefore is filed with the Customs Service within 90 days after the date of enactment of this Act.

(c) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid not later than 90 days after the date of such liquidation or reliquidation.

(d) AFFECTED ENTRIES.—The entries referred to in subsection (a) are as follows:

Entry Number	Entry Date
24601–237–0047081–0	11/30/91
24601–237–0047083–6	11/30/91
24601–237–0047084–4	11/30/91
24601–237–0047085–1	11/30/91
24601–237–0047086–9	11/30/91
24601–237–0047087–7	11/30/91
24601–237–0047088–5	11/30/91
24601–237–0047089–3	11/30/91
24601–237–0047090–1	11/30/91
24601–237–0047091–9	11/30/91
24601–237–0047092–7	11/30/91
24601–237–0047093–5	11/30/91
24601–237–0047094–3	11/30/91
24601–237–0047095–0	11/30/91
24601–237–0047082–8	11/30/91
24601–237–0047131–3	12/04/91
24601–237–0047133–9	12/04/91
24601–237–0047135–4	12/04/91
24601–237–0047143–8	12/05/91
24601–237–0047142–0	12/06/91
24601–237–0047198–2	12/11/91
24601–237–0047200–6	12/11/91
24601–237–0047201–4	12/11/91
24601–237–0047202–2	12/11/91
24601–237–0047199–0	12/11/91
24601–237–0047209–7	12/13/91
24601–237–0047210–5	12/13/91
24601–237–0047211–3	12/13/91
24601–237–0047213–9	12/13/91
24601–237–0047215–4	12/13/91
24601–237–0047216–2	12/13/91
24601–237–0047217–0	12/13/91
24601–237–0047218–8	12/13/91
24601–237–0047219–6	12/13/91
24601–237–0047220–4	12/13/91
24601–237–0047221–2	12/13/91
24601–237–0047222–0	12/13/91
24601–237–0047224–6	12/13/91
24601–237–0047225–3	12/13/91
24601–237–0047226–1	12/13/91
24601–237–0047227–9	12/13/91
24601–237–0047228–7	12/13/91
24601–237–0047229–5	12/13/91
24601–237–0047214–7	12/13/91
24601–237–0047212–1	12/13/91
45201–57–0017369–2	12/26/91
24601–237–0047258–4	01/22/92
24601–237–0047259–2	01/22/92
24601–237–0047260–0	01/22/92
24601–237–0047261–8	01/22/92
24601–237–0047262–6	01/22/92
24601–237–0047263–4	01/22/92
24601–237–0047264–2	01/22/92
24601–237–0047265–9	01/22/92
24601–237–0047266–7	01/22/92
24601–237–0049136–0	08/14/92
24601–237–0049137–8	08/14/92
24601–237–0049226–9	08/22/92
24601–237–0049329–1	09/22/92
24601–237–0049330–9	09/22/92
24601–237–0049443–0	10/05/92
24601–938–0009748–2	10/26/92
24601–938–0009749–0	10/26/92
24601–938–0009750–8	10/26/92
24601–938–0009813–4	11/08/92
24601–938–0009815–9	11/08/92
24601–938–0009816–7	11/08/92
24601–938–0009838–1	11/14/92
24601–938–0009839–9	11/14/92
24601–938–0009868–8	11/21/92
24601–938–0009869–6	11/21/92
24601–938–0009870–4	11/21/92
24601–938–0009871–2	11/26/92

24601–938–0009872–0	*11/26/92*
24601–938–0009873–8	*11/26/92*
24601–938–0009874–6	*11/26/92*
24601–938–0009875–3	*11/26/92*

SEC. 1629. RELIQUIDATION OF CERTAIN TOMATO SAUCE PREPARATION ENTERED BETWEEN DECEMBER 9, 1992, AND MAY 9, 1993.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law and subject to the provisions of subsection (b), the United States Customs Service shall, not later than 90 days after the receipt of the request described in subsection (b), liquidate or reliquidate each entry described in subsection (d) containing any merchandise which, at the time of the original liquidation, was classified under subheading 2002.10.00 of the Harmonized Tariff Schedule of the United States (relating to tomatoes, prepared or preserved) at the rate of duty that would have been applicable to such merchandise if the merchandise had been liquidated or reliquidated under subheading 2103.90.60 or 2103.90.90 of the Harmonized Tariff Schedule of the United States, whichever is applicable, on the date of entry.

(b) REQUESTS.—Reliquidation may be made under subsection (a) with respect to an entry described in subsection (d) only if a request therefore is filed with the Customs Service within 90 days after the date of enactment of this Act.

(c) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid not later than 90 days after the date of such liquidation or reliquidation.

(d) AFFECTED ENTRIES.—The entries referred to in subsection (a) are as follows:

Entry Number	***Entry Date***
24601–938–0009935–5	*12/09/92*
24601–938–0009936–3	*12/09/92*
24601–938–0009937–1	*12/09/92*
24601–938–0009938–9	*12/09/92*
24601–938–0009939–7	*12/09/92*
24601–938–0009940–5	*12/09/92*
24601–938–0009989–2	*12/20/92*
24601–938–0009992–6	*12/20/92*
24601–938–0009995–9	*12/20/92*
24601–938–0009991–8	*12/20/92*
24601–938–0009993–4	*12/20/92*
24601–938–0009994–2	*12/20/92*
24601–938–0009990–0	*12/20/92*
24601–938–0010002–1	*12/21/92*
24601–938–0010003–9	*12/21/92*
24601–938–0010004–7	*12/21/92*
24601–938–0010005–4	*12/21/92*
24601–938–0010006–2	*12/21/92*
24601–938–0010007–0	*12/21/92*
24601–938–0010029–4	*12/29/92*
24601–938–0010030–2	*12/29/92*
24601–938–0010031–0	*12/29/92*
24601–938–0010098–9	*01/22/93*
24601–938–0010099–7	*01/22/93*
24601–938–0010100–3	*01/22/93*
24601–938–0010101–1	*01/22/93*
24601–938–0010102–9	*01/22/93*
24601–938–0010103–7	*01/22/93*
24601–938–0010105–2	*01/24/93*
24601–938–0010129–2	*01/29/93*
24601–938–0010130–0	*01/29/93*
24601–938–0010131–8	*01/29/93*
24601–938–0010132–6	*01/29/93*
24601–938–0010133–4	*01/29/93*
24601–938–0010134–2	*01/29/93*
24601–938–0010135–9	*01/29/93*
24601–938–0010136–7	*01/29/93*
24601–938–0010137–5	*01/29/93*
24601–938–0010138–3	*01/29/93*
24601–938–0010159–9	*02/05/93*
24601–938–0010160–7	*02/05/93*
24601–938–0010162–3	*02/05/93*
24601–938–0010163–1	*02/05/93*
24601–938–0010164–9	*02/05/93*
24601–938–0010165–6	*02/05/93*
24601–938–0010166–4	*02/05/93*
24601–938–0010167–2	*02/05/93*
24601–938–0010161–5	*02/05/93*
24601–938–0010179–7	*02/06/93*
24601–938–0010180–5	*02/06/93*
24601–938–0010181–3	*02/06/93*
24601–938–0010182–1	*02/06/93*
24601–938–0010183–9	*02/06/93*
24601–938–0010184–7	*02/06/93*
24601–938–0010185–4	*02/06/93*
24601–938–0010186–2	*02/06/93*
24601–938–0010235–7	*02/22/93*
24601–938–0010236–5	*02/22/93*
24601–938–0010237–3	*02/22/93*
24601–938–0010238–1	*02/22/93*
24601–938–0010252–2	*02/24/93*
24601–938–0010253–0	*02/24/93*
24601–938–0010254–8	*02/24/93*
24601–938–0010255–5	*02/24/93*
24601–938–0010256–3	*02/24/93*
24601–938–0010257–1	*02/24/93*
24601–938–0010258–9	*02/24/93*
24601–938–0010260–5	*02/24/93*
24601–938–0010261–3	*02/24/93*
24601–938–0010262–1	*02/24/93*
24601–938–0010259–7	*02/24/93*
24601–938–0010316–5	*03/05/93*
24601–938–0010318–1	*03/05/93*
24601–938–0010316–5	*03/05/93*
24601–938–0010317–3	*03/05/93*
24601–938–0010317–3	*03/05/93*
24601–938–0010332–2	*03/13/93*
24601–938–0010333–0	*03/13/93*
24601–938–0010334–8	*03/13/93*
24601–938–0010373–6	*03/20/93*
24601–938–0010374–4	*03/20/93*
24601–938–0010375–1	*03/20/93*
24601–938–0010376–9	*03/20/93*
24601–938–0010377–7	*03/20/93*
24601–938–0010378–5	*03/20/93*
24601–938–0010422–1	*03/30/93*
24601–938–0010450–2	*04/02/93*
24601–938–0010451–0	*04/02/93*
24601–938–0010452–8	*04/02/93*
24601–938–0010453–6	*04/02/93*
24601–938–0010454–4	*04/02/93*
24601–938–0010455–1	*04/02/93*
24601–938–0010517–8	*04/17/93*
24601–938–0010518–6	*04/17/93*
24601–938–0010519–4	*04/17/93*
24601–938–0010520–2	*04/17/93*
24601–938–0010549–1	*04/24/93*
24601–938–0010550–9	*04/24/93*
24601–938–0010619–2	*05/09/93*

SEC. 1630. RELIQUIDATION OF CERTAIN TOMATO SAUCE PREPARATION ENTERED BETWEEN MAY 14, 1993, AND OCTOBER 23, 1993.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law and subject to the provisions of subsection (b), the United States Customs Service shall, not later than 90 days after the receipt of the request described in subsection (b), liquidate or reliquidate each entry described in subsection (d) containing any merchandise which, at the time of the original liquidation, was classified under subheading 2002.10.00 of the Harmonized Tariff Schedule of the United States (relating to tomatoes, prepared or preserved) at the rate of duty that would have been applicable to such merchandise if the merchandise had been liquidated or reliquidated under subheading 2103.90.60 or 2103.90.90 of the Harmonized Tariff Schedule of the United States, whichever is applicable, on the date of entry.

(b) REQUESTS.—Reliquidation may be made under subsection (a) with respect to an entry described in subsection (d) only if a request therefore is filed with the Customs Service within 90 days after the date of enactment of this Act.

(c) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid not later than 90 days after the date of such liquidation or reliquidation.

(d) AFFECTED ENTRIES.—The entries referred to in subsection (a) are as follows:

Entry Number	***Entry Date***
24601–938–0010645–7	*05/14/93*
24601–938–0010646–5	*05/14/93*
24601–938–0010647–3	*05/14/93*
24601–938–0010648–1	*05/14/93*
24601–938–0010649–9	*05/14/93*
24601–938–0010605–1	*05/21/93*
24601–938–0010604–4	
/24/93	
24601–938–0010720–8	*06/07/93*
24601–938–0010735–6	*06/11/93*
24601–938–0010772–9	*06/17/93*
24601–938–0010800–8	*06/25/93*
24601–938–0010801–6	*06/25/93*
24601–938–0010802–4	*06/25/93*
45201–438–0919317–0	*06/28/93*
45201–438–0919412–9	*09/05/93*
24601–938–0011256–2	*10/23/93*

SEC. 1631. RELIQUIDATION OF CERTAIN TOMATO SAUCE PREPARATION ENTERED BETWEEN MAY 16, 1990, AND APRIL 20, 1996.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law and subject to the provisions of subsection (b), the United States Customs Service shall, not later than 90 days after the receipt of the request described in subsection (b), liquidate or reliquidate each entry described in subsection (d) containing any merchandise which, at the time of the original liquidation, was classified under subheading 2002.10.00 of the Harmonized Tariff Schedule of the United States (relating to tomatoes, prepared or preserved) at the rate of duty that would have been applicable to such merchandise if the merchandise had been liquidated or reliquidated under subheading 2103.90.60 or 2103.90.90 of the Harmonized Tariff Schedule of the United States, whichever is applicable, on the date of entry.

(b) REQUESTS.—Reliquidation may be made under subsection (a) with respect to an entry described in subsection (d) only if a request therefore is filed with the Customs Service within 90 days after the date of enactment of this Act.

(c) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid not later than 90 days after the date of such liquidation or reliquidation.

(d) AFFECTED ENTRIES.—The entries referred to in subsection (a) are as follows:

Entry Number	***Entry Date***
4601–237–0042701–8	*05/16/90*
4601–237–0042702–6	*05/16/90*
4601–237–0042730–7	*05/17/90*
4601–237–0042731–5	*05/17/90*
4601–237–0042863–6	*06/01/90*
4601–237–0042877–6	*06/15/90*
4601–237–0043039–2	*06/20/90*
4601–237–0043195–2	*07/18/90*
4601–237–0043253–9	*07/27/90*
4601–237–0045041–6	*03/27/91*
4601–237–0045288–3	*04/30/91*
4601–237–0045648–8	*06/08/91*
4601–237–0045814–6	*06/29/91*
4601–237–0045956–5	*07/15/91*
4601–241–3054400–0	*10/22/92*
4601–241–3063782–0	*09/24/93*
4601–241–3065196–1	*11/10/93*
4601–241–3066943–5	*01/25/94*
4601–241–3069703–0	*04/20/94*
4601–241–3073069–0	*08/04/94*
4601–241–3073130–0	*08/05/94*
4601–241–3073131–8	*08/05/94*
4601–241–3073478–3	*08/17/94*

4601–241–3074656–3	09/21/94
4601–241–3076657–9	11/21/94
4601–241–3076659–5	11/21/94
4601–241–3076660–3	11/21/94
4601–241–3076675–1	11/24/94
4601–241–3076736–1	11/25/94
4601–241–3078296–4	01/12/95
4601–241–3078297–2	01/12/95
0901–112–7829964–6	01/24/95
0901–112–7829965–3	01/25/95
0901–112–7831096–3	01/30/95
4601–241–3078964–7	02/07/95
4601–241–3079146–0	02/14/95
4601–241–3079621–2	03/04/95
4601–241–3080014–7	03/15/95
4601–241–3080151–7	03/23/95
4601–241–3080153–3	03/23/95
4601–241–3080310–9	03/23/95
4601–241–3080798–5	04/05/95
4601–241–3080937–9	04/07/95
4601–241–3080957–7	04/10/95
4601–241–3080963–5	04/10/95
4601–241–3080863–7	04/13/95
4601–241–3081214–2	04/18/95
4601–241–3081215–9	04/18/95
4601–241–3082436–0	05/30/95
4601–241–3082437–8	05/31/95
4601–241–3083317–1	06/27/95
4601–241–3083318–9	06/27/95
4601–241–3083320–5	06/27/95
4601–241–3083321–3	06/27/95
4601–241–3084427–7	07/29/95
4601–241–3084428–5	07/29/95
4601–241–3084429–3	07/29/95
4601–241–3084430–1	07/29/95
4601–241–3084431–9	07/29/95
4601–241–3084432–7	07/29/95
4601–241–3085734–5	09/08/95
4601–241–3085735–2	09/08/95
4601–241–3085736–0	09/08/95
4601–241–3085737–8	09/08/95
4601–241–3085738–6	09/08/95
4601–241–3085739–4	09/08/95
4601–241–3085740–2	09/08/95
4601–241–3086662–7	10/05/95
4601–241–3086663–5	10/05/95
4601–241–3087492–8	11/02/95
4601–241–3087499–3	11/02/95
4601–241–3087500–8	11/02/95
4601–241–3087501–6	11/02/95
4601–241–3088399–4	12/01/95
4601–241–3088400–0	12/01/95
4601–241–3088398–6	12/02/95
4601–241–3088770–6	12/15/95
4601–241–3088771–4	12/15/95
4601–241–3088772–2	12/15/95
4601–241–3088773–0	12/15/95
4601–241–1189193–3	12/29/95
4601–241–1189194–1	12/29/95
4601–241–1189195–8	12/29/95
4601–241–1190103–9	01/31/96
4601–241–1190242–5	02/17/96
4601–241–1190741–6	03/07/96
4601–241–1191920–5	04/20/96
4601–241–1191921–3	04/20/96
4601–241–1191922–1	04/20/96
4601–241–1191923–9	04/20/96

SEC. 1632. RELIQUIDATION OF CERTAIN TOMATO SAUCE PREPARATION ENTERED BETWEEN AUGUST 28, 1991, AND JULY 8, 1996.

(a) In General.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law and subject to the provisions of subsection (b), the United States Customs Service shall, not later than 90 days after the receipt of the request described in subsection (b), liquidate or reliquidate each entry described in subsection (d) containing any merchandise which, at the time of the original liquidation, was classified under subheading 2002.10.00 of the Harmonized Tariff Schedule of the United States (relating to tomatoes, prepared or preserved) at the rate of duty that would have been applicable to such merchandise if the merchandise had been liquidated or reliquidated under subheading 2103.90.60 or 2103.90.90 of the Harmonized Tariff Schedule of the United States, whichever is applicable, on the date of entry.

(b) Requests.—Reliquidation may be made under subsection (a) with respect to an entry described in subsection (d) only if a request therefore is filed with the Customs Service within 90 days after the date of enactment of this Act.

(c) Payment of Amounts Owed.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid not later than 90 days after the date of such liquidation or reliquidation.

(d) Affected Entries.—The entries referred to in subsection (a) are as follows:

Entry Number	Entry Date
4601–241–3043101–8	08/28/91
4601–237–0046898–8	11/12/91
4601–237–0046899–6	11/12/91
4601–237–0047037–2	11/22/91
4601–237–0047080–2	11/30/91
4601–241–3045837–5	12/03/91
4601–241–3046070–2	12/11/91
4601–241–3046234–4	12/18/91
4601–241–3046903–4	01/17/92
4601–241–1192827–1	05/30/96
4601–241–1192828–9	05/30/96
4601–241–1192829–7	05/30/96
4601–241–1192826–3	05/30/96
4601–241–1193242–2	06/11/96
4601–241–1193243–0	06/11/96
4601–241–1193244–8	06/11/96
4601–241–1193245–5	06/11/96
4601–241–1193246–3	06/11/96
4601–241–1193939–3	07/08/96
4601–241–1193940–1	07/08/96
4601–241–1193942–7	07/08/96
4601–241–1193943–5	07/08/96

SEC. 1633. RELIQUIDATION OF CERTAIN TOMATO SAUCE PREPARATION ENTERED IN APRIL 4, 1995, AND JULY 22, 1996.

(a) In General.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law and subject to the provisions of subsection (b), the United States Customs Service shall, not later than 90 days after the receipt of the request described in subsection (b), liquidate or reliquidate each entry described in subsection (d) containing any merchandise which, at the time of the original liquidation, was classified under subheading 2002.10.00 of the Harmonized Tariff Schedule of the United States (relating to tomatoes, prepared or preserved) at the rate of duty that would have been applicable to such merchandise if the merchandise had been liquidated or reliquidated under subheading 2103.90.60 or 2103.90.90 of the Harmonized Tariff Schedule of the United States, whichever is applicable, on the date of entry.

(b) Requests.—Reliquidation may be made under subsection (a) with respect to an entry described in subsection (d) with respect to an entry described in subsection (c) only if a request therefore is filed with the Customs Service within 90 days after the date of enactment of this Act.

(c) Payment of Amounts Owed.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid not later than 90 days after the date of such liquidation or reliquidation.

(d) Affected Entries.—The entries referred to in subsection (a) are as follows:

Entry Number	Entry Date
4601–076–0264618–9	04/04/95
5201–406–0209309–4	04/04/95
4601–076–0143541–0	04/07/95
4601–076–0143550–1	04/10/95
5201–406–0210067–5	04/13/95
4601–076–0143671–5	04/24/95
4601–076–0143667–3	04/25/95
4601–076–0143668–1	04/25/95
4601–076–0143669–9	04/25/95
4601–076–0143670–7	04/25/95
4601–076–0143688–9	04/26/95
4601–076–0143689–7	04/26/95
4601–076–0143737–4	05/01/95
4601–076–0143746–5	05/02/95
4601–076–0143747–3	05/02/95
4601–076–0143748–1	05/02/95
4601–076–0143751–5	05/02/95
4601–076–0143759–8	05/03/95
4601–076–0143791–1	05/08/95
4601–076–0143796–0	05/08/95
4601–076–0143815–8	05/10/95
4601–076–0143819–0	05/10/95
4601–076–0143821–6	05/10/95
4601–076–0143862–0	05/15/95
4601–076–0144059–2	06/06/95
4601–076–0144060–0	06/06/95
4601–076–0144061–8	06/06/95
4601–076–0143916–4	06/19/95
4601–076–0144194–7	06/21/95
4601–076–0144298–6	06/29/95
4601–076–0144366–1	07/07/95
4601–076–0144367–9	07/07/95
4601–076–0144612–8	07/31/95
4601–076–0144626–8	07/31/95
4601–076–0144628–4	07/31/95
4601–076–0144629–2	08/01/95
4601–076–0144681–3	08/04/95
3901–551–3493444–1	08/09/95
4601–076–0144968–4	09/06/95
4601–076–0144969–2	09/06/95
4601–076–0145018–7	09/11/95
4601–076–0145027–8	09/12/95
4601–076–0145023–7	09/13/95
4601–076–0145074–0	09/15/95
4601–076–0145075–7	09/15/95
5201–406–0215201–5	09/15/95
4601–076–0145113–6	09/21/95
4601–076–0145213–4	10/02/95
4601–076–0145215–9	10/03/95
4601–076–0145310–8	10/17/95
4601–076–0145336–3	10/19/95
4601–076–0145370–2	10/24/95
4601–076–0145403–1	10/27/95
4601–076–0145451–0	11/03/95
4601–076–0145487–4	11/07/95
4601–076–0145521–0	11/09/95
4601–076–0145612–7	11/21/95
4601–076–0145711–7	12/01/95
4601–076–0145734–9	12/06/95
4601–076–0145737–2	12/06/95
4601–076–0145763–8	12/07/95
4601–076–0145764–6	12/07/95
4601–076–0146032–7	01/10/96
4601–076–0146033–5	01/10/96
4601–076–0146217–4	02/05/96
4601–076–0146367–7	02/27/96
4601–076–0146464–2	03/11/96
4601–076–0146469–1	03/12/96
4601–076–0146520–1	03/20/96
4601–076–0146562–3	03/26/96
4601–076–0146612–6	04/04/96
4601–076–0146614–2	04/08/96
4601–076–0146683–7	04/15/96
4601–076–0146722–3	04/22/96
4601–076–0146766–0	04/25/96
4601–076–0147059–9	06/04/96
4601–076–0147248–8	07/01/96
4601–076–0147377–5	07/22/96

SEC. 1634. RELIQUIDATION OF CERTAIN TOMATO SAUCE PREPARATION ENTERED BETWEEN OCTOBER 11, 1994, AND MAY 16, 1995.

(a) In General.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law and subject to the provisions of subsection (b), the United States Customs Service shall, not later than 90 days after the receipt of the request described in subsection (b), liquidate or reliquidate each entry described in subsection (d) containing any merchandise which, at the time of the original liquidation,

was classified under subheading 2002.10.00 of the Harmonized Tariff Schedule of the United States (relating to tomatoes, prepared or preserved) at the rate of duty that would have been applicable to such merchandise if the merchandise had been liquidated or reliquidated under subheading 2103.90.60 or 2103.90.90 of the Harmonized Tariff Schedule of the United States, whichever is applicable, on the date of entry.

(b) REQUESTS.—Reliquidation may be made under subsection (a) with respect to an entry described in subsection (d) with respect to an entry described in subsection (c) only if a request therefore is filed with the Customs Service within 90 days after the date of enactment of this Act.

(c) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid not later than 90 days after the date of such liquidation or reliquidation.

(d) AFFECTED ENTRIES.—The entries referred to in subsection (a) are as follows:

Entry Number	***Entry Date***
0712-112-6947293-9	*10/11/94*
0712-112-6947294-7	*10/14/94*
0712-112-6947295-4	*10/14/94*
0712-112-7277897-5	*10/14/94*
0712-112-7278028-6	*10/14/94*
0712-112-7279272-9	*11/07/94*
0712-112-7292558-4	*11/22/94*
0712-112-7292647-5	*11/22/94*
0712-112-7292648-3	*11/28/94*
0712-112-7293042-8	*11/28/94*
0712-112-7293140-0	*12/06/94*
0712-112-7293435-4	*12/07/94*
0712-112-7293436-2	*12/07/94*
0712-112-7293515-3	*12/07/94*
0712-112-7293619-3	*12/07/94*
0712-112-7293620-1	*12/07/94*
0712-112-7293521-1	*12/13/94*
0712-112-7294412-2	*12/21/94*
0712-112-7294142-5	*12/22/94*
0712-112-7294143-3	*12/22/94*
0712-112-7294144-1	*12/22/94*
0712-112-7295546-6	*01/18/95*
0712-112-7295994-8	*01/27/95*
0712-112-7295998-9	*01/27/95*
0712-112-7296581-2	*01/27/95*
0712-112-7296677-8	*02/01/95*
0712-112-7298503-4	*03/06/95*
0712-112-7324623-8	*05/08/95*
0712-112-7325069-3	*05/16/95*

SEC. 1635. RELIQUIDATION OF CERTAIN TOMATO SAUCE PREPARATION ENTERED BETWEEN JUNE 17, 1991, AND OCTOBER 3, 1991.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law and subject to the provisions of subsection (b), the United States Customs Service shall, not later than 90 days after the receipt of the request described in subsection (b), liquidate or reliquidate each entry described in subsection (d) containing any merchandise which, at the time of the original liquidation, was classified under subheading 2002.10.00 of the Harmonized Tariff Schedule of the United States (relating to tomatoes, prepared or preserved) at the rate of duty that would have been applicable to such merchandise if the merchandise had been liquidated or reliquidated under subheading 2103.90.60 of the Harmonized Tariff Schedule of the United States (relating to tomato sauce preparation) on the date of entry.

(b) REQUESTS.—Reliquidation may be made under subsection (a) with respect to an entry described in subsection (d) only if a request therefore is filed with the Customs Service within 90 days after the date of enactment of this Act.

(c) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid not later than 90 days after the date of such liquidation or reliquidation.

(d) AFFECTED ENTRIES.—The entries referred to in subsection (a) are as follows:

Entry Number	***Entry Date***
72704-442-1186614-8	*06/17/91*
72704-442-1186615-5	*06/17/91*
24601-237-0045741-1	*06/25/91*
24601-237-0045787-4	*06/25/91*
24601-237-0045740-3	*06/25/91*
24601-237-0045791-6	*06/29/91*
24601-237-0045850-0	*06/29/91*
24601-237-0045852-6	*06/29/91*
24601-237-0045853-4	*06/29/91*
24601-237-0045855-9	*06/29/91*
24601-237-0045856-7	*06/29/91*
24601-237-0045857-5	*06/29/91*
24601-237-0045858-3	*06/29/91*
24601-237-0045851-8	*07/01/91*
24601-237-0045854-2	*07/02/91*
24601-237-0045888-0	*07/05/91*
24601-237-0045945-8	*07/13/91*
24601-237-0045955-7	*07/13/91*
24601-237-0045953-2	*07/15/91*
24601-237-0045954-0	*07/15/91*
24601-237-0045952-4	*07/15/91*
24601-237-0046033-2	*07/27/91*
24601-237-0046055-5	*07/27/91*
24601-237-0046056-3	*07/27/91*
24601-237-0046059-7	*07/27/91*
24601-237-0046061-3	*07/27/91*
24601-237-0046060-5	*07/27/91*
24601-237-0046058-9	*07/27/91*
24601-237-0046054-8	*07/27/91*
24601-237-0046057-1	*07/27/91*
24601-237-0046062-1	*07/27/91*
24601-237-0046196-7	*08/10/91*
24601-237-0046197-5	*08/10/91*
24601-237-0046198-3	*08/12/91*
24601-237-0046194-2	*08/12/91*
24601-237-0046195-9	*08/12/91*
24601-237-0046369-0	*08/27/91*
24601-237-0046420-1	*09/07/91*
24601-237-0046421-9	*09/07/91*
24601-237-0046423-5	*09/07/91*
24601-237-0046424-3	*09/07/91*
24601-237-0046425-0	*09/07/91*
24601-237-0046426-8	*09/07/91*
24601-237-0046427-6	*09/07/91*
24601-237-0046429-2	*09/07/91*
10901-551-2401127-5	*09/19/91*
10901-551-2401128-3	*09/19/91*
24601-237-0046467-2	*09/21/91*
10901-551-2401210-9	*09/25/91*
10901-551-2401400-6	*09/30/91*
10901-551-2400795-0	*10/02/91*
10901-551-2400796-8	*10/02/91*
10901-551-2400797-6	*10/02/91*
10901-551-2400800-8	*10/02/91*
10901-551-2400809-9	*10/02/91*
10901-551-2400810-7	*10/02/91*
10901-551-2400811-5	*10/02/91*
10901-551-2401366-9	*10/02/91*
10901-551-2401364-4	*10/02/91*
10901-551-1819256-0	*10/03/91*

SEC. 1636. CERTAIN RAILWAY PASSENGER COACHES.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request filed with the United States Customs Service within 180 days after the date of enactment of this Act, the Customs Service shall liquidate or reliquidate the entry described in subsection (c) as free of duty.

(b) REFUND OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to a request for a liquidation or reliquidation of the entry under subsection (a) shall be refunded with interest within 180 days after the date on which request is made.

(c) AFFECTED ENTRY.—The entry referred to in subsection (a) is the entry on July 12, 2002, of railway passenger coaches (provided for in subheading 8605.00.00) (Entry number 2210888343-4).

CHAPTER 2—MISCELLANEOUS PROVISIONS

SEC. 1701. HAIR CLIPPERS.

(a) IN GENERAL.—Heading 8510 of chapter 85 is amended—

(1) by striking subheading 8510.20.00 and inserting the following, with the article description for subheading 8510.20 having the same degree of indentation as the article description for subheading 8510.10.00, and with the article descriptions for subheadings 8510.20.10 and 8510.20.90 having the same degree of indentation as the article description for subheading 8510.90.55:

“*8510.20*	*Hair clippers:*			
8510.20.10	*Hair clippers for use on a farm ......*	*4%*	*Free (A, CA, E, IL, J, MX)*	*45%*
8510.20.90	*Other ......*	*4%*	*Free (A, CA, E, IL, J, MX)*	*45%*”;

and

(2) by striking subheading 8510.90.30 and inserting the following subheadings and superior text thereto, with such superior text having the same degree of indentation as the article description for subheading 8510.90.55:

“	*Parts of hair clippers:*			
8510.90.30	*Parts of hair clippers to be used for agricultural or horticultural purposes ......*	*4%*	*Free (A,CA,E, IL,J,MX)*	*45%*
8510.90.40	*Other parts of hair clippers ......*	*4%*	*Free (A,CA,E, IL,J,MX)*	*45%*”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of this Act.

SEC. 1702. TRACTOR BODY PARTS.

(a) Certain Tractor Parts.—Heading 8708 is amended by striking subheading 8708.29.20 and inserting the following new subheadings in numerical sequence, with the superior text for subheadings 8708.29.21 and 8708.29.25 having the same degree of indentation as the article description for subheading 8708.29.15:

"		Body stampings:				
	8708.29.21	For tractors suitable for agricultural use	Free		Free	
	8708.29.25	Other	2.5%	Free (A, B, CA, E, IL, J, JO, MX)	25%	".

(b) Staged Rate Reductions.—Any staged reduction of a rate of duty proclaimed by the President before the date of the enactment of this Act, that—

(1) would take effect on or after such date of enactment; and

(2) would, but for the amendment made by subsection (a), apply to subheading 8708.29.20 of the Harmonized Tariff Schedule of the United States, applies to the corresponding rate of duty set forth in subheading 8708.29.25 of such Schedule (as added by subsection (a)).

SEC. 1703. FLEXIBLE MAGNETS AND COMPOSITE GOODS CONTAINING FLEXIBLE MAGNETS.

Heading 8505 of chapter 85 is amended by striking subheading 8505.19.00 and inserting the following new subheadings, with the article description for subheadings 8505.19.10, 8505.19.20, and 8505.19.30 having the same degree of indentation as the article description for subheading 8505.11.00:

"	8505.19.10	Flexible magnets	4.9%	Free (A,CA,E,IL,J,MX)	45%	
	8505.19.30	Other	4.9%	Free (A,CA,E,IL,J,MX)	45%	".

SEC. 1704. VESSEL REPAIR DUTIES.

(a) Exemption.—Section 466(h) of the Tariff Act of 1930 (19 U.S.C. 1466(h)) is amended—

(1) in paragraph (1), by striking the comma at the end and inserting a semicolon;

(2) in paragraph (2), by striking ", or" at the end and inserting a semicolon;

(3) in paragraph (3), by striking the period at the end and inserting "; or"; and

(4) by adding at the end the following:

"(4) the cost of equipment, repair parts, and materials that are installed on a vessel documented under the laws of the United States and engaged in the foreign or coasting trade, if the installation is done by members of the regular crew of such vessel while the vessel is on the high seas.

Declaration and entry shall not be required with respect to the installation, equipment, parts, and materials described in paragraph (4).".

(b) Amendment to HTS.—Subchapter XVIII of chapter 98 of the Harmonized Tariff Schedule of the United States is amended by striking "U.S. Note" and inserting "U.S. Notes" and by adding after U.S. note 1, the following new note:

"2. Notwithstanding the provisions of subheadings 9818.00.03 through 9818.00.07, no duty shall apply to the cost of equipment, repair parts, and materials that are installed in a vessel documented under the laws of the United States and engaged in the foreign or coasting trade, if the installation is done by members of the regular crew of such vessel while the vessel is on the high seas, and declaration and entry shall not be required with respect to such installation, equipment, parts, and materials.".

(c) Effective Date.—The amendments made by this section apply to vessel equipment, repair parts, and materials installed on or after April 25, 2001.

SEC. 1705. DUTY-FREE TREATMENT FOR HAND-KNOTTED OR HAND-WOVEN CARPETS.

(a) Amendment of the Trade Act of 1974.—Section 503(b) of the Trade Act of 1974 (19 U.S.C. 2463(b)) is amended by adding at the end the following new paragraph:

"(4) Certain hand-knotted or hand-woven carpets.—Notwithstanding paragraph (1)(A), the President may designate as an eligible article or articles under subsection (a) carpets or rugs which are hand-loomed, hand-woven, hand-hooked, hand-tufted, or hand-knotted, and classifiable under subheadings 5701.10.16, 5701.10.40, 5701.90.10, 5701.90.20, 5702.10.90, 5702.42.20, 5702.49.10, 5702.51.20, 5702.91.30, 5702.92.00, 5702.99.10, 5703.10.00, 5703.20.10, or 5703.30.00 of the Harmonized Tariff Schedule of the United States.".

(b) Conforming Amendment.—Section 503(b)(4)(A) of the Trade Act of 1974 (19 U.S.C. 2463(b)(1)(A)) is amended by striking "Textile" and inserting "Except as provided in paragraph (4), textile".

(c) Effective Date.—The amendments made by subsections (a) and (b) shall apply to any article entered, or withdrawn from warehouse for consumption, on or after the date of enactment of this Act.

SEC. 1706. DUTY DRAWBACK FOR CERTAIN ARTICLES.

Section 313 of the Tariff Act of 1930 (19 U.S.C. 1313) is amended by adding at the end the following new subsection:

"(y) Articles Shipped to the United States Insular Possessions.—For purposes of subsection (j)(1), an article, other than an article classified in chapters 50 through 63 of the Harmonized Tariff Schedule of the United States, shall be eligible for drawback under this section if duty was paid on the article upon importation into the United States and the person claiming drawback demonstrates that the article has entered the customs territory of the United States Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Guam, Canton Island, Enderbury Island, Johnston Island, or Palmyra Island.".

SEC. 1707. MODIFICATION OF PROVISIONS RELATING TO DRAWBACK CLAIMS.

(a) Merchandise Not Conforming to Sample or Specifications.—Section 313(c) of the Tariff Act of 1930 (19 U.S.C. 1313(c)), is amended to read as follows:

"(c) Merchandise Not Conforming to Sample or Specifications.—

"(1) Conditions for drawback.—Upon the exportation or destruction under the supervision of the Customs Service of articles or merchandise—

"(A) upon which the duties have been paid,

"(B) which has been entered or withdrawn for consumption,

"(C) which is—

"(i) not conforming to sample or specifications, shipped without the consent of the consignee, or determined to be defective as of the time of importation, or

"(ii) ultimately sold at retail by the importer, or the person who received the merchandise from the importer under a certificate of delivery, and for any reason returned to and accepted by the importer, or the person who received the merchandise from the importer under a certificate of delivery, and

"(D) which, within 3 years after the date of importation or withdrawal, as applicable, has been exported or destroyed under the supervision of the Customs Service, the full amount of the duties paid upon such merchandise, less 1 percent, shall be refunded as drawback.

"(2) Designation of import entries.—For purposes of paragraph (1)(C)(ii), drawback may be claimed by designating an entry of merchandise that was imported within 1 year before the date of exportation or destruction of the merchandise described in paragraph (1) (A) and (B) under the supervision of the Customs Service. The merchandise designated for drawback must be identified in the import documentation with the same eight-digit classification number and specific product identifier (such as part number, SKU, or product code) as the returned merchandise.

"(3) When drawback certificates not required.—For purposes of this subsection, drawback certificates are not required if the drawback claimant and the importer are the same party, or if the drawback claimant is a drawback successor to the importer as defined in subsection (s)(3).".

(b) Time Limitation on Exportation or Destruction.—Section 313(i) of the Tariff Act of 1930 (19 U.S.C. 1313(i)), is amended—

(1) by striking "No" and inserting "Unless otherwise provided for in this section, no"; and

(2) by inserting ", or destroyed under the supervision of the Customs Service," after "exported".

(c) Use of Domestic Merchandise Acquired in Exchange for Imported Merchandise of Same Kind and Quality.—Section 313(k) of the Tariff Act of 1930 (19 U.S.C. 1313(k)), is amended—

(1) by striking "(k)" and inserting "(k)(1)"; and

(2) by adding at the end the following new paragraph:

"(2) For purposes of subsections (a) and (b), the use of any domestic merchandise acquired in exchange for a drawback product of the same kind and quality shall be treated as the use of such drawback product if no certificate of delivery or certificate of manufacture and delivery pertaining to such drawback product is issued, other than that which documents the product's manufacture and delivery. As used in this paragraph, the term 'drawback product' means any domestically produced product, manufactured with imported merchandise or any other merchandise (whether imported or domestic) of the same kind and quality, that is subject to drawback.".

(d) Packaging Material.—Section 313(q) of the Tariff Act of 1930 (19 U.S.C. 1313(q)), is amended to read as follows:

"(q) Packaging Material.—

"(1) Packaging material under subsections (c) and (j).—Packaging material, whether imported and duty paid, and claimed for drawback under either subsection (c) or (j)(1), or imported and duty paid, or substituted, and claimed for drawback under subsection (j)(2), shall be eligible for drawback, upon exportation, of 99 percent of any duty, tax, or fee imposed under Federal law on such imported material.

"(2) PACKAGING MATERIAL UNDER SUBSECTIONS (a) AND (b).—Packaging material that is manufactured or produced under subsection (a) or (b) shall be eligible for drawback, upon exportation, of 99 percent of any duty, tax, or fee imposed under Federal law on the imported or substituted merchandise used to manufacture or produce such material.

"(3) CONTENTS.—Packaging material described in paragraphs (1) and (2) shall be eligible for drawback whether or not it contains articles or merchandise, and whether or not any articles or merchandise it contains are eligible for drawback.

"(4) EMPLOYING PACKAGING MATERIAL FOR ITS INTENDED PURPOSE PRIOR TO EXPORTATION.—The use of any packaging material for its intended purpose prior to exportation shall not be treated as a use of such material prior to exportation for purposes of applying subsection (a), (b), or (c), or paragraph (1)(B) or (2)(C)(i) of subsection (j).

"(5) APPORTIONMENT.—When imported packaging material is classifiable along with its contents, the duty on the packaging material eligible for drawback shall be apportioned in accordance with regulations issued by the Secretary of the Treasury.".

(e) LIMITATION ON LIQUIDATION.—Section 504 of the Tariff Act of 1930 (19 U.S.C. 1504) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) LIQUIDATION.—

"(1) ENTRIES FOR CONSUMPTION.—Unless an entry of merchandise for consumption is extended under subsection (b) of this section or suspended as required by statute or court order, except as provided in section 751(a)(3), an entry of merchandise for consumption not liquidated within 1 year from—

"(A) the date of entry of such merchandise,

"(B) the date of the final withdrawal of all such merchandise covered by a warehouse entry,

"(C) the date of withdrawal from warehouse of such merchandise for consumption if, pursuant to regulations issued under section 505(a), duties may be deposited after the filing of an entry or withdrawal from warehouse, or

"(D) if a reconciliation is filed, or should have been filed, the date of the filing under section 484 or the date the reconciliation should have been filed, shall be deemed liquidated at the rate of duty, value, quantity, and amount of duties asserted at the time of entry by the importer of record.

Notwithstanding section 500(e), notice of liquidation need not be given of an entry deemed liquidated.

"(2) ENTRIES OR CLAIMS FOR DRAWBACK.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) or (C), unless an entry or claim for drawback is extended under subsection (b) or suspended as required by statute or court order, an entry or claim for drawback not liquidated within 1 year from the date of entry or claim shall be deemed liquidated at the drawback amount asserted by the claimant at the time of entry or claim. Notwithstanding section 500(e), notice of liquidation need not be given of an entry deemed liquidated.

"(B) UNLIQUIDATED IMPORTS.—An entry or claim for drawback whose designated or identified import entries have not been liquidated and become final within the 1-year period described in subparagraph (A), or within the 1-year period described in subparagraph (C), shall be deemed liquidated upon the deposit of estimated duties on the unliquidated imported merchandise, and upon the filing with the Customs Service of a written request for the liquidation of the drawback entry or claim. Such a request must include a waiver of any right to payment or refund under other provisions of law. The Secretary of the Treasury shall prescribe any necessary regulations for the purpose of administering this provision.

"(C) EXCEPTION.—An entry or claim for drawback filed before the date of the enactment of this paragraph, the liquidation of which is not final as of the date of the enactment of this paragraph, shall be deemed liquidated on the date that is 1 year after the date of the enactment of this paragraph at the drawback amount asserted by the claimant at the time of the entry or claim.

"(3) PAYMENTS OR REFUNDS.—Payment or refund of duties owed pursuant to paragraph (1) or (2) shall be made to the importer of record or drawback claimant, as the case may be, not later than 90 days after liquidation.

"(b) EXTENSION.—The Secretary may extend the period in which to liquidate an entry if—

"(1) the information needed for the proper appraisement or classification of the imported or withdrawn merchandise, or for determining the correct drawback amount, or for ensuring compliance with applicable law, is not available to the Customs Service; or

"(2) the importer of record or drawback claimant, as the case may be, requests such extension and shows good cause therefor.

The Secretary shall give notice of an extension under this subsection to the importer of record or drawback claimant, as the case may be, and the surety of such importer of record or drawback claimant. Notice shall be in such form and manner (which may include electronic transmittal) as the Secretary shall by regulation prescribe. An entry the liquidation of which is extended under this subsection shall be treated as having been liquidated at the rate of duty, value, quantity, and amount of duty asserted at the time of entry by the importer of record, or the drawback amount asserted at the time of entry by the drawback claimant, at the expiration of 4 years from the applicable date specified in subsection (a).";

(2) in subsection (c)—

(A) by inserting "or drawback claimant, as the case may be," after "to the importer of record"; and

(B) by inserting "or drawback claimant" after "of such importer of record"; and

(3) in subsection (d), by striking the period at the end and inserting "or (in the case of a drawback entry or claim) at the drawback amount asserted at the time of entry by the drawback claimant.".

(f) PENALTIES FOR FALSE DRAWBACK CLAIMS.—Section 593A(h) of the Tariff Act of 1930 (19 U.S.C. 1593a(h)) is amended by striking "subsection (g)" and inserting "subsections (c) and (g)".

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), (c), (d), and (f) shall take effect on the date of enactment of this Act, and shall apply to—

(A) any drawback entry filed on and after such date of enactment; and

(B) any drawback entry filed before such date of enactment if the liquidation of the entry is not final on such date of enactment.

(2) SUBSECTION (e).—The amendments made by subsection (e) shall take effect on the date of enactment of this Act, and shall apply to—

(A) any entry of merchandise for consumption or entry or claim for drawback filed on and after such date of enactment; and

(B) any entry or claim for drawback filed before such date of enactment if the liquidation of the entry or claim is not final on such date of enactment.

SEC. 1708. UNUSED MERCHANDISE DRAWBACK.

(a) IN GENERAL.—Section 313(j) of the Tariff Act of 1930 (19 U.S.C. 1313(j)) is amended—

(1) in paragraph (1), by striking "because of its" and inserting "upon entry or"; and

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking "because of its" and inserting "upon entry or"; and

(B) in subparagraph (C)(ii)(II)—

(i) by striking "then upon" and inserting "then, notwithstanding any other provision of law, upon"; and

(ii) by striking "shall be refunded as drawback" and inserting "shall be refunded as drawback hereunder".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act, and shall apply to any drawback claim filed on or after that date and to any drawback entry filed before that date if the liquidation of the entry is not final on that date.

SEC. 1709. TREATMENT OF CERTAIN FOOTWEAR UNDER CARIBBEAN BASIN ECONOMIC RECOVERY ACT.

Section 213(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)) is amended as follows:

(1) In paragraph (1)(B), to read as follows:

"(B) footwear provided for in any subheadings 6401.10.00, 6401.91.00, 6401.92.90, 6401.99.30, 6401.99.60, 6401.99.90, 6402.30.50, 6402.30.70, 6402.30.80, 6402.91.50, 6402.91.80, 6402.91.90, 6402.99.20, 6402.99.80, 6402.99.90, 6403.59.60, 6403.91.30, 6403.99.60, 6403.99.90, 6404.11.90, and 6404.19.20 of the HTS of the United States that was not designated at the time of the effective date of this title as eligible articles for the purpose of the generalized system of preferences under title V of the Trade Act of 1974;".

(2) In paragraph (3)(A)—

(A) in clause (i), by striking "Subject to clause (ii)" and inserting "Subject to clauses (ii) and (iii)"; and

(B) by adding at the end the following:

"(iii) CERTAIN FOOTWEAR.—Notwithstanding paragraph (1)(B) and clause (i) of this subparagraph, footwear provided for in subheadings 6403.59.60, 6403.91.30, 6403.99.60, and 6403.99.90 of the HTS shall be eligible for the duty-free treatment provided for under this title if—

"(I) the article of footwear is the growth, product, or manufacture of a CBTPA beneficiary country; and

"(II) the article otherwise meets the requirements of subsection (a), except that in applying such subsection, 'CBTPA beneficiary country' shall be substituted for 'beneficiary country' each place it appears.".

SEC. 1710. DESIGNATION OF SAN ANTONIO INTERNATIONAL AIRPORT FOR CUSTOMS PROCESSING OF CERTAIN PRIVATE AIRCRAFT ARRIVING IN THE UNITED STATES.

(a) IN GENERAL.—Section 1453(a) of the Tariff Suspension and Trade Act of 2000 is amended by striking "2-year period" and inserting "4-year period".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on November 9, 2002.

SEC. 1711. CERTAIN FOOTWEAR.

(a) IN GENERAL.—Chapter 64 is amended by striking subheadings 6401.99.30 and 6401.99.60 and inserting in numerical sequence the following new subheadings, with the article description for subheading 6401.99.15 having the same degree of indentation as the article description for subheading 6401.92.90:

" 6401.99.15	Footwear consisting of an outer sole affixed to an incomplete or unfinished upper to which additional upper parts or material must be affixed to permit the footwear to be held to the foot, such footwear having a bottom of vulcanized rubber and produced by the hand-laid assembly process or hand made, the foregoing footwear of a type that is not designed to be worn over other footwear	Free		75%	
	Other:				
6401.99.30	Designed for use without closures	25%	Free (CA,D,IL) 10% (MX,R) 20% (JO)	50%	
6401.99.65	Other	37.5%	Free (CA,D,IL) 15% (MX,R) 30% (JO)	75%	".

(b) STAGED RATE REDUCTIONS.—Any staged reduction of a rate of duty proclaimed by the President before the date of the enactment of this Act, that—

(1) would take effect on or after such date of enactment; and

(2) would, but for the amendment made by subsection (a), apply to subheading 6401.99.60 of the Harmonized Tariff Schedule of the United States,

applies to the corresponding rate of duty set forth in subheading 6401.99.65 of such Schedule (as added by subsection (a)).

Subtitle C—Effective Date

SEC. 1801. EFFECTIVE DATE.

Except as otherwise provided in this title, the amendments made by this title shall apply with respect to goods entered, or withdrawn from warehouse, for consumption, on or after the 15th day after the date of the enactment of this Act.

TITLE II—OTHER TRADE PROVISIONS

SEC. 2001. EXTENSION OF NONDISCRIMINATORY TREATMENT TO SERBIA AND MONTENEGRO.

Notwithstanding Public Law 102–420 (19 U.S.C. 2434 note), the President may proclaim the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Serbia and Montenegro (formerly the Federal Republic of Yugoslavia).

SEC. 2002. ARTICLES ELIGIBLE FOR PREFERENTIAL TREATMENT UNDER THE ANDEAN TRADE PREFERENCE ACT.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, and subject to subsection (c)—

(1) the entry of any article described in section 204(b)(1)(D) of the Andean Trade Preference Act (as amended by section 3103(a)(2) of the Trade Act of 2002) for which the President proclaims duty free treatment pursuant to section 204(b)(1) of such Act shall be subject to the rate of duty applicable on August 5, 2002, until such time as the President proclaims duty free treatment for such article; and

(2) such entries shall be liquidated or reliquidated as if the reduced duty preferential treatment applied, and the Secretary of the Treasury shall refund any excess duties paid with respect to such entry.

(b) ENTRY.—As used in this subsection, the term "entry" includes a withdrawal from warehouse for consumption.

(c) REQUESTS.—Liquidation or reliquidation may be made under paragraph (1) with respect to an entry only if a request therefore is filed with the Customs Service, within 180 days after the date of enactment of this Act, and such request contains sufficient information to enable the Customs Service—

(1) to locate the entry; or

(2) to reconstruct the entry if it cannot be located.

SEC. 2003. AMENDMENTS TO UNITED STATES INSULAR POSSESSION PROGRAM.

(a) PRODUCTION CERTIFICATES.—Additional U.S. note 5(h) to chapter 91 of the Harmonized Tariff Schedule of the United States is amended—

(1) by amending subparagraphs (i) and (ii) to read as follows:

"(i) In the case of each of calendar years 2002 through 2015, the Secretaries jointly, shall—

"(A) verify—

"(1) the wages paid by each producer to permanent residents of the insular possessions during the preceding calendar year (including the value of usual and customary health insurance, life insurance, and pension benefits); and

"(2) the total quantity and value of watches and watch movements produced in the insular possessions by that producer and imported free of duty into the customs territory of the United States; and

"(B) issue to each producer (not later than 60 days after the end of the preceding calendar year) a certificate for the applicable amount.

"(ii) For purposes of subparagraph (i), except as provided in subparagraphs (iii) and (iv), the term 'applicable amount' means an amount equal to the sum of—

"(A) 90 percent of the producer's creditable wages (including the value of usual and customary health insurance, life insurance, and pension benefits) on the assembly during the preceding calendar year of the first 300,000 units; plus

"(B) the applicable graduated declining percentage (determined each year by the Secretaries) of the producer's creditable wages (including the value of usual and customary health insurance, life insurance, and pension benefits) on the assembly during the preceding calendar year of units in excess of 300,000 but not in excess of 750,000; plus

"(C) the difference between the duties that would have been due on each producer's watches and watch movements (excluding digital watches and excluding units in excess of the 750,000 limitation of this subparagraph) imported into the customs territory of the United States free of duty during the preceding calendar year if the watches and watch movements had been subject to duty at the rates set forth in column 1 under this chapter that were in effect on January 1, 2001, and the duties that would have been due on the watches and watch movements if the watches and watch movements had been subject to duty at the rates set forth in column 1 under this chapter that were in effect for such preceding calendar year."; and

(2) by amending subparagraph (v) to read as follows:

"(v) Any certificate issued under subparagraph (i) shall entitle the certificate holder to secure a refund of duties equal to the face value of the certificate on any articles that are imported into the customs territory of the United States by the certificate holder. Such refunds shall be made under regulations issued by the Treasury Department. Not more than 5 percent of such refunds may be retained as a reimbursement to the Customs Service for the administrative costs of making the refunds.".

(b) JEWELRY.—Additional U.S note 3 to chapter 71 of the Harmonized Tariff Schedule of the United States is amended—

(1) by redesignating paragraphs (b), (c), (d), and (e) as paragraphs (c), (d), (e), and (f), respectively;

(2) by inserting after paragraph (a) the following new paragraph:

"(b) Notwithstanding additional U.S. note 5(h)(ii)(B) to chapter 91, articles of jewelry subject to this note shall be subject to a limitation of 10,000,000 units;"; and

(3) by striking paragraph (f), as redesignated, and inserting the following:

"(f) Notwithstanding any other provision of law, any article of jewelry provided for in heading 7113 that is assembled in the Virgin Islands, Guam, or American Samoa by a jewelry manufacturer or jewelry assembler that commenced jewelry manufacturing or jewelry assembly operations in the Virgin Islands, Guam, or American Samoa after August 9, 2001, shall be treated as a product of the Virgin Islands, Guam, or American Samoa for purposes of this note and General Note 3(a)(iv) of this Schedule if such article is entered no later than 18 months after such jewelry manufacturer or jewelry assembler commenced jewelry manufacturing or jewelry assembly operations in the Virgin Islands, Guam, or American Samoa.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to goods imported into the customs territory of the United States on or after January 1, 2003.

SEC. 2004. TECHNICAL AMENDMENTS.

(a) TRADE ACT of 2002.—(1) Section 2(a)(4) of the Trade Act of 2002 is amended by striking "and Other Provisions".

(2) The table of contents of the Trade Act of 2002 is amended—

(A) in the item relating to section 342, by striking "customs service" and inserting "Customs Service"; and

(B) by amending the item relating to section 3107 to read as follows:

"3107. Trade benefits under the Caribbean Basin Economic Recovery Act.".

(3) The amendment made by section 111(b) of the Trade Act of 2002 shall be deemed never to have been enacted.

(4) Section 221(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2271(a)(2)(A)) is amended by striking "assistance, and appropriate" and inserting "assistance and appropriate".

(5) Section 222(b) of the Trade Act of 1974 (19 U.S.C. 2272(b)) is amended—

(A) by striking the subsection heading and inserting the following: "ADVERSELY AFFECTED SECONDARY WORKERS"; and

(B) in the matter preceding paragraph (1), by inserting "pursuant to a petition filed under section 221" after "under this chapter".

(6) Section 238(b)(1) of the Trade Act of 1974 is amended by striking "Secretary," and inserting "Secretary)".

(7) Section 246 of the Trade Act of 1974 is amended—

(A) in subsection (a)(3)(B)(iii), by striking "and" after the semicolon;

(B) in subsection (a)(5), by striking "section 238(a)(2)(B)" and inserting "paragraph (2)(B)"; and

(C) in subsection (b)(2), by striking "provided that" and inserting "if".

(8) Section 124(b) of the Trade Act of 2002 is amended by striking "by inserting after the item relating to section 245 the following new item" and inserting "by amending the item relating to section 246 to read as follows".

(9) Section 296 of the Trade Act of 1974 is amended—

(A) in subsection (a)(1)—

(i) in the matter preceding subparagraph (A)—

(I) by striking "trade adjustment allowance" and inserting "adjustment assistance under this chapter"; and

(II) by striking "such allowance" and inserting "such assistance"; and

(ii) in subparagraph (A), by striking "subsection (a)" and inserting "this subsection"; and

(B) in subsection (b)(2), by striking "paragraph (1) except" and inserting "paragraph (1), except".

(10) Section 141(b) of the Trade Act of 2002 is amended by striking "title" and inserting "subtitle".

(11) Section 142 of the Trade Act of 2002 is amended—

(A) in subsection (a)(1)—

(i) by striking "284(a)" and "2395(a)" and inserting "284" and "2395", respectively; and

(ii) in subparagraph (A), by inserting "in subsection (a)," after "(A)"; and

(B) in subsection (b), by striking ", as amended by subparagraph (A),".

(12) Section 583(c)(1) of the Tariff Act of 1930 (19 U.S.C. 1583(c)(1)) is amended by moving the matter preceding subparagraph (A) and subparagraphs (A) through (K) 2 ems to the right.

(13) Section 371(b) of the Trade Act of 2002 is amended by striking "1330(e)(2)" and inserting "1330(e)".

(14) Section 336 of the Trade Act of 2002 is amended to read as follows:

"SEC. 336. STUDY AND REPORT RELATING TO CUSTOMS USER FEES.

"(a) Study.—The Comptroller General shall conduct a study on the extent to which the amount of each customs user fee imposed under section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)) approximates the cost of services provided by the Customs Service relating to the fee so imposed.

"(b) Report.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report containing—

"(1) the results of the study conducted under subsection (a); and

"(2) recommendations for the appropriate amount of the customs user fees if such results indicate that the fees are not commensurate with the level of services provided by the Customs Service.

Notwithstanding any other provision of law, the report or its contents may only be disclosed by the Comptroller General to the committees or Members of Congress and the Customs Service and shall not be disclosed to the public.".

(15) Section 141(b)(2) of the Trade Act of 1974 (19 U.S.C. 2171(b)(2)) is amended by moving the paragraph 2 ems to the left.

(16) Section 2102(c) of the Trade Act of 2002 is amended—

(A) in paragraph (8), by striking "this Act" and inserting "this title"; and

(B) in paragraph (12), by striking "government engaged" and inserting "government is engaged".

(17) Section 2103 of the Trade Act of 2002 is amended—

(A) in subsection (a)(1)(A), by striking "June 1" each place it appears and inserting "July 1";

(B) in subsection (b)(1)(C), by striking "June 1" each place it appears and inserting "July 1" and

(C) in subsection (c)—

(i) in paragraph (1)(B)(ii), by striking "June 1" and inserting "July 1";

(ii) in paragraph (2), by striking "March 1" and inserting "April 1"; and

(iii) in paragraph (3), by striking "May 1" each place it appears and inserting "June 1".

(18) Section 2105(c) of the Trade Act of 2002 is amended by striking "aand" and inserting "and".

(19) Section 2113 of the Trade Act of 2002 is amended—

(A) in the first paragraph designated "(2)", by striking "101(d)(12)" and "3511(d)(12)" and inserting "101(d)(13)" and "3511(d)(13)", respectively; and

(B) in the second paragraph designated "(2)"—

(i) by redesignating such paragraph as paragraph (3); and

(ii) by striking "101(d)(13)" and "3511(d)(13)" and inserting "101(d)(12)" and "3511(d)(12)", respectively.

(20) Section 4101(b)(1) of the Trade Act of 2002 is amended—

(A) in the matter preceding subparagraph (A), by striking "entry—" and inserting "entry of any article—"; and

(B) in subparagraph (A), by striking "of any article".

(21) U.S. Note 15 to subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by striking the comma after "9902.51.11".

(22) U.S. Note 16 to subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by striking the comma after "9902.51.12".

(23) Section 151(a) of the Trade Act of 2002 is amended by striking "and 141(b)" and inserting ", 141(b), 201(d), and 202(e)".

(24) Paragraph (4) of section 6103(p) of the Internal Revenue Code of 1986, as amended by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961), is amended by striking "or (17)" after "any other person described in subsection (l)(16)" each place it appears and inserting "or (18)".

(b) Apparel Articles Under African Growth and Opportunity Act.—(1) Section 112(b)(1) of the African Growth and Opportunity Act (19 U.S.C. 3721(b)(1)) is amended by striking "(including" and inserting "or both (including".

(2) Section 112(b)(3) of the African Growth and Opportunity Act (19 United States Code 3721(b)(3)) is amended in the matter preceding subparagraph (A), by striking "subject to the following:" and inserting "whether or not the apparel articles are also made from any of the fabrics, fabric components formed, or components knit-to-shape described in paragraph (1) or (2) (unless the apparel articles are made exclusively from any of the fabrics, fabric components formed, or components knit-to-shape described in paragraph (1) or (2)), subject to the following:".

(3) Section 112(b)(5)(A) of the African Growth and Opportunity Act (19 U.S.C. 3721(b)(5)(A)) is amended to read as follows:

"(A) In general.—Apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries, to the extent that apparel articles of such fabrics or yarns would be eligible for preferential treatment, without regard to the source of the fabrics or yarns, under Annex 401 to the NAFTA."

(c) Apparel Articles Under Caribbean Basin Economic Recovery Act.—(1) Section 213(b)(2)(A) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)(2)(A)) is amended—

(A) in clause (i), by striking "(including" and inserting "or both (including"; and

(B) in clause (v), by striking ", from fabrics or yarn that is not formed in the United States or in one or more CBTPA beneficiary countries".

(2) Section 3107(a)(1)(B) of the Trade Act of 2002 is amended by striking "(B) by adding at the end the following:" and inserting "(B) by amending the last two sentences to read as follows:".

(d) Tariff Act of 1930.—Section 505(a) of the Tariff Act of 1930 is amended—

(1) in the first sentence—

(A) by inserting "referred to in this subsection" after "periodic payment"; and

(B) by striking "10 working days" and inserting "12 working days"; and

(2) in the second sentence, by striking "a participating" and all that follows through the end of the sentence and inserting the following: "the Secretary shall promulgate regulations permitting a participating importer of record to deposit estimated duties and fees for entries of merchandise, other than merchandise entered for warehouse, transportation, or under bond, no later than the 15 working days following the month in which the merchandise is entered or released, whichever comes first.".

(e) Additional Technical Amendments.—(1) The second and third U.S. notes 6 to subchapter XVII 14 of chapter 98 (as added by sections 1433(b) and 1456(b) of the Tariff Suspension and Trade Act of 2000, respectively) are redesignated as U.S. notes 7 and 8 to subchapter XVII of chapter 98, respectively.

(2) U.S. notes 4 and 12 to subchapter II of chapter 99 are hereby repealed.

(f) United States Vessels.—Section 204(b)(4)(B)(i) of the Andean Trade Preference Act is amended to read as follows:

"(i) United States vessel.—A 'United States vessel' is—

"(I) a vessel that has a certificate of documentation with a fishery endorsement under chapter 121 of title 46, United States Code; or

"(II) in the case of a vessel without a fishery endorsement, a vessel that is documented under the laws of the United States and for which a license has been issued pursuant to section 9 of the South Pacific Tuna Act of 1988 (16 U.S.C. 973g).".

(g) Limitation on Customs User Fees.

(1) Section 13031(b)(9)(A) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)(A)) is amended by striking "less than $2,000" and inserting "$2,000 or less".

(2) Section 13031(b)(9)(A)(ii) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)(A)(ii)) is amended to read as follows:

"(ii) Notwithstanding subsection (e)(6) and subject to the provisions of subparagraph (B), in the case of an express consignment carrier facility or centralized hub facility—

"(I) $.66 per individual airway bill or bill of lading; and

"(II) if the merchandise is formally entered, the fee provided for in subsection (a)(9), if applicable.".

(3) Section 13031(b)(9)(B)(ii) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)(B)(ii)) is amended by striking "subparagraph (A)(ii)" and inserting "subparagraph (A)(ii) (I) or (II)".

(h) Definition of Fabric.—Section 112(e) of the African Growth and Opportunity Act (19

U.S.C. 3721(e)) is amended by adding at the end the following:

"(4) Fabric.—The term 'fabric' includes knit fabric components formed as components other than components considered as major parts.".

(i) Labeling Requirements.—

(1) In general.—Section 4(b) of the Textile Fiber Identification Act (15 U.S.C. 70b) is amended by adding at the end the following new subsection:

"(k) Marking of Certain Sock Products.—

"(1) Notwithstanding any other provision of law, socks provided for in subheading 6115.92.90, 6115.93.90, 6115.99.18, 6111.20.60, 6111.30.50, or 6111.90.50 of the Harmonized Tariff Schedule of the United States, as in effect on September 1, 2003, shall be marked as legibly, indelibly, and permanently as the nature of the article or package will permit in such a manner as to indicate to the ultimate consumer in the United States the English name of the country of origin of the article. The marking required by this subsection shall be on the front of the package, adjacent to the size designation of the product, and shall be set forth in such a manner as to be clearly legible, conspicuous, and readily accessible to the ultimate consumer.

"(2) Exceptions.—Any package that contains several different types of goods and includes socks classified under subheading 6115.92.90, 6115.93.90, 6115.99.18, 6111.20.60, 6111.30.50, or 6111.90.50 of the Harmonized Tariff Schedule of the United States, as in effect on September 1, 2003, shall not be subject to the requirements of paragraph (1).".

(2) Effective date.—The amendment made by paragraph (1) shall take effect on the date that is 15 months after the date of enactment of this Act, and on and after the date that is 15 months after such date of enactment, any provision of part 303 of title 16 of the Code of Federal Regulation that is inconsistent with such amendment shall not apply.

(j) Entries of Certain Apparel Articles Pursuant to the Caribbean Basin Economic Recovery Act or the African Growth and Opportunity Act.—

(1) In general.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, the Customs Service shall liquidate or reliquidate as free of duty and free of any quantitative restrictions, limitations, or consultation levels entries of articles described in paragraph (4) made on or after October 1, 2000.

(2) Requests.—Liquidation or reliquidation may be made under paragraph (1) with respect to an entry described in paragraph (4) only if a request therefor is filed with the Customs Service within 90 days after the date of the enactment of this Act and the request contains sufficient information to enable the Customs Service to locate the entry or reconstruct the entry if it cannot be located.

(3) Payment of amounts owed.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of any entry under paragraph (1) shall be paid not later than 180 days after the date of such liquidation or reliquidation.

(4) Entries.—The entries referred to in paragraph (1) are—

(A) entries of apparel articles (other than socks classifiable under heading 6111 or 6115 of the Harmonized Tariff Schedule of the United States) that meet the requirements of section 213(b)(2)(A) of the Caribbean Basin Economic Recovery Act (as amended by section 3107(a) of the Trade Act of 2002 and section 2004(c) of this Act); and

(B) entries of apparel articles that meet the requirements of section 112(b) of the African Growth and Opportunity Act (as amended by section 3108 of the Trade Act of 2002 and section 2004(b) of this Act).

(k) Extension of Industry Trade Advisory Committees.—

(1) In general.—Section 135(f)(2) of the Trade Act of 1974 (19 U.S.C. 2155(f)(2)) is amended to read as follows:

"(2) to all other advisory committees which may be established under subsection (c) of this section, except that—

"(A) the meetings of advisory committees established under subsections (b) and (c) of this section shall be exempt from the requirements of subsections (a) and (b) of sections 10 and 11 of the Federal Advisory Committee Act (relating to open meetings, public notice, public participation, and public availability of documents), whenever and to the extent it is determined by the President or the President's designee that such meetings will be concerned with matters the disclosure of which would seriously compromise the development by the United States Government of trade policy, priorities, negotiating objectives, or bargaining positions with respect to matters referred to in subsection (a) of this section, and that meetings may be called of such special task forces, plenary meetings of chairmen, or other such groups made up of members of the committees established under subsections (b) and (c) of this section; and

"(B) notwithstanding subsection (a)(2) of section 14 of the Federal Advisory Committee Act, any committee established under subsection (b) or (c) may, in the discretion of the President or the President's designee, terminate not later than the expiration of the 4-year period beginning on the date of their establishment.".

(2) Conforming amendment.—Section 135(b)(1) of the Trade Act of 1974 (19 U.S.C. 2155(b)(1)) is amended by striking "2 years" and inserting "4 years or until the committee is scheduled to expire".

(3) Effective date.—The amendments made by this subsection shall take effect on February 1, 2006.

SEC. 2005. WOOL TRUST FUND.

Section 5102 of the Trade Act of 2002 is amended by inserting at the end, the following:

"(e) Worsted Wool Fabric Manufacturer Trust Fund.—

"(1) In general.—There is established in the Treasury of the United States a trust fund to be known as the 'Worsted Wool Fabric Manufacturer Trust Fund' (in this subsection referred to as the 'Wool Fabric Trust Fund'), consisting of amounts authorized to be transferred from funds in general fund of the Treasury not to exceed $32,000,000.

"(2) Grants.—

"(A) General purpose.—From amounts authorized to the Wool Fabric Trust Fund, the Secretary of Commerce is authorized to provide grants to manufacturers of worsted wool fabric to assist such manufacturers in maximizing United States employment in the production of textile products, and meeting the manufacturers' obligations to their United States workers, former workers, and retirees in the textile sector.

"(B) Application for grants.—The Secretary shall promptly establish guidelines for the application and awarding of such grants, and shall award such grants to qualified applicants no later than 90 days after the date of enactment of the approproations authorized under this section.

"(3) Distribution of funds.—Of the amounts in the Wool Fabric Trust Fund—

"(A) an amount not to exceed $16,000,000 shall be made available to manufacturers of worsted wool fabric of the kind described in heading 9902.51.12 of the Harmonized Tariff Schedule of the United States during calendar years 1999, 2000, and 2001, and shall be allocated based on the percentage of each manufacturer's production of the fabric described in such heading for such 3 years compared to the production of such fabric for all such applicants who qualify under this subparagraph; and

"(B) an amount not to exceed $16,000,000 shall be made available to manufacturers of worsted wool fabric of the kind described in heading 9902.51.11 of the Harmonized Tariff Schedule of the United States during calendar years 1999, 2000, and 2001, and shall be allocated based on the percentage of each manufacturer's production of the fabric described in such heading for such 3 years compared to the production of such fabric for all such applicants who qualify under this subparagraph.

"(4) No appeal.—Any grant awarded by the Secretary under this subsection shall be final and not subject to appeal or protest.

"(5) Authorization.—There is authorized to be appropriated such sums as are necessary to carry out tye provisions of this subsection, including funds necessary for the administration and oversight of grants.".

SEC. 2006. SENSE OF THE SENATE REGARDING WTO AGRICULTURE NEGOTIATIONS.

It is the sense of the Senate that—

(1) the goals of the United States in the Doha Round of the World Trade Organization agriculture negotiations are to achieve significantly increased market access, harmonize allowed levels of trade-distorting domestic support for all countries, and achieve a more level playing field for United States farmers, ranchers, and agricultural producers;

(2) the proposed modalities framework recently released by the Chairman of the World Trade Organization Agriculture Negotiations Committee fails to meet the goals described in paragraph (1) because—

(A) the framework accepts the European formulation of equal percentage reductions from unequal levels of support that locks in place the European Union's current advantage on trade-distorting domestic support levels;

(B) while the framework recognizes that high tariff levels should be reduced more quickly, it nevertheless fails to sufficiently open export markets for United States products by allowing countries to maintain prohibitively high tariffs;

(C) while the framework eliminates trade-disrupting export subsidies, it phases out the elimination of export subsidies over too long a period of time;

(D) the framework contains a potentially unlimited tariff reduction loophole that would disadvantage United States agricultural products exported to developing countries, and would also limit trade between developing countries; and

(E) the framework preserves trade-distorting direct payments under production-limiting programs that are not subject to commitments to reduce domestic support under the Agreement on Agriculture annexed to the World Trade Organization Agreement (as described in section 101(d)) of the Uruguay Round Agreements Act; and

(3) the United States should not agree to the proposed framework unless and until it is significantly improved and will result in significantly greater market access and harmonization of allowed levels of trade-distorting domestic support, and achieve a more level playing field for United States farmers, ranchers, and agricultural producers.

TITLE III—PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

SEC. 3001. USTR DETERMINATIONS IN TRIPS AGREEMENT INVESTIGATIONS.

(a) In General.—Section 304(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2414(a)(2)(A)) is amended by inserting after "agreement," the following: "except an investigation initiated pursuant to section 302(b)(2)(A) involving rights under the Agreement on Trade-Related Aspects

of Intellectual Property Rights (defined in section 101(d)(15) of the Uruguay Round Agreements Act) or the GATT 1994 (referred to in section 101(d)(1) of such Act) relating to products subject to intellectual property protection,".

(b) TIMEFRAME FOR TRIPS AGREEMENT DETERMINATIONS.—Section 304(a)(3)(A) of the Trade Act of 1974 is amended to read as follows:

"(A) If an investigation is initiated under this chapter by reason of section 302(b)(2) and—

"(i) the Trade Representative considers that rights under the Agreement on Trade-Related Aspects of Intellectual Property Rights or the GATT 1994 relating to products subject to intellectual property protection are involved, the Trade Representative shall make the determination required under paragraph (1) not later than 30 days after the date on which the dispute settlement procedure is concluded; or

"(ii) the Trade Representative does not consider that a trade agreement, including the Agreement on Trade-Related Aspects of Intellectual Property Rights), is involved or does not make a determination described in subparagraph (B) with respect to such investigation, the Trade Representative shall make the determinations required under paragraph (1) with respect to such investigation by no later than the date that is 6 months after the date on which such investigation is initiated.".

(c) CONFORMING AMENDMENT.—Section 305(a)(2)(B) of the Trade Act of 1974 is amended by striking "section 304(a)(3)(A)" and inserting "section 304(a)(3)(A)(ii)".

SEC. 3002. PETITIONS FOR REVIEW UNDER ATPA AND CBERA.

(a) ATPA.—Section 203 of the Andean Trade Preference Act (19 U.S.C. 3202) is amended by adding at the end the following new subsection:

"(g) PETITIONS FOR REVIEW.—The United States Trade Representative shall ensure a timely review and disposition of requests received from an interested party that the President reconsider the status of a country as a beneficiary country under this Act.".

(b) CBI.—Section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702) is amended by adding at the end the following new subsection:

"(g) PETITIONS FOR REVIEW.—The United States Trade Representative shall ensure a timely review and disposition of requests received from an interested party that the President reconsider the status of a country as a beneficiary country under this Act.".

SEC. 3003. ADEQUATE AND EFFECTIVE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS UNDER GSP.

Section 502(c) of the Trade Act of 1974 (19 U.S.C. 2462(c)) is amended by striking the semicolon at the end of paragraph (5) and adding the following: "notwithstanding the fact that the foreign country may be in compliance with the specific obligations of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act;".

SEC. 3004. ADEQUATE AND EFFECTIVE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS UNDER CBI.

(a) IN GENERAL.—Section 212(c) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(c)) is amended by striking the semicolon at the end of paragraph (9) and adding the following: "notwithstanding the fact that the foreign country may be in compliance with the specific obligations of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act;".

(b) CBTPA BENEFICIARY COUNTRY.—Section 213(b)(5)(B)(ii) of the Caribbean Basin Económic Recovery Act (19 U.S.C. 2703(b)(5)(B)(ii)) is amended to read as follows:

"(ii) The extent to which the country provides adequate and effective protection of intellectual property rights notwithstanding the fact that the foreign country may be in compliance with the specific obligations of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act;".

SEC. 3005. ADEQUATE AND EFFECTIVE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS UNDER THE ATPA.

(a) IN GENERAL.—Section 203(d) of the Andean Trade Preference Act (19 U.S.C. 3202(d)) is amended by striking the semicolon at the end of paragraph (9) and adding the following: "notwithstanding the fact that the foreign country may be in compliance with the specific obligations of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act;".

(b) ATPDEA BENEFICIARY COUNTRY.—Section 204(b)(6)(B)(ii) of the Andean Trade Preference Act (19 U.S.C. 3203(b)(6)(B)(ii)) is amended to read as follows:

"(ii) The extent to which the country provides adequate and effective protection of intellectual property rights notwithstanding the fact that the foreign country may be in compliance with the specific obligations of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act.".

TITLE IV—IRAQI CULTURAL ANTIQUITIES

SEC. 4001. SHORT TITLE.

This title may be cited as the "Emergency Protection for Iraqi Cultural Antiquities Act of 2004".

SEC. 4002. EMERGENCY IMPLEMENTATION OF IMPORT RESTRICTIONS.

(a) AUTHORITY.—The President may exercise the authority of the President under section 304 of the Convention on Cultural Property Implementation Act (19 U.S.C. 2603) with respect to any archaeological or ethnological material of Iraq as if Iraq were a State Party under that Act, except that, in exercising such authority, subsection (c) of such section shall not apply.

(b) DEFINITION.—In this section, the term "archaeological or ethnological material of Iraq" means cultural property of Iraq and other items of archaeological, historical, cultural, rare scientific, or religious importance illegally removed from the Iraq National Museum, the National Library of Iraq, and other locations in Iraq, since the adoption of United Nations Security Council Resolution 661 of 1990.

SEC. 4003. TERMINATION OF AUTHORITY.

The authority of the President under section 4002 shall terminate upon the earlier of—

(1) the date that is 5 years after the date on which the President certifies to Congress that normalization of relations between the United States and the Government of Iraq has been established; or

(2) September 30, 2009.

TITLE V—COTTON FABRICS

SEC. 5001. TEMPORARY DUTY REDUCTIONS FOR CERTAIN COTTON SHIRTING FABRIC.

(a) CERTAIN COTTON SHIRTING FABRICS.—

(1) IN GENERAL.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"	9902.52.08	Woven fabrics of cotton, all the foregoing certified by the importer as suitable for use in making men's and boys' shirts and as imported by or for the benefit of a manufacturer of men's and boys' shirts, subject to the quantity limitations contained in general note 18 of this subchapter (provided for in section 204(b)(3)(B)(i)(III) of the Andean Trade Preference Act (19 U.S.C. 3203))	Free	No change	No change	On or before 12/31/2006	
	9902.52.09	Woven fabrics of cotton, all the foregoing certified by the importer as containing 100 percent pima cotton grown in the United States, as suitable for use in making men's and boys' shirts, and as imported by or for the benefit of a manufacturer of men's and boys' shirts (provided for in section 204(b)(3)(B)(i)(III) of the Andean Trade Preference Act (19 U.S.C. 3203))	Free	No change	No change	On or before 12/31/2006	".

(2) DEFINITIONS AND LIMITATION ON QUANTITY OF IMPORTS.—The U.S. Notes to chapter 99 are amended by adding at the end the following:

"17. For purposes of subheadings 9902.52.08 and 9902.52.09, the term 'making' means cutting and sewing in the United States, and the term 'manufacturer' means a person or entity that cuts and sews in the United States.

"18. The aggregate quantity of cotton fabrics entered under subheading 9902.52.08 from January 1 to December 31 of each year, inclusive, by or on behalf of each manufacturer of men's and boys' shirts shall be limited to 85 percent of the total square meter equivalents of all imported cotton woven fabric used by such manufacturer in cutting and sewing men's and boys' cotton shirts in the United States and purchased by such manufacturer during calendar year 2000.".

(b) DETERMINATION OF TARIFF-RATE QUOTAS.—

(1) AUTHORITY TO ISSUE LICENSES AND LICENSE USE.—To implement the limitation on the quantity of imports of cotton woven fabrics under subheading 9902.52.08 of the Harmonized Tariff Schedule of the United States, as required by U.S. Note 18 to subchapter II of chapter 99 of such Schedule, for the entry, or withdrawal from warehouse for consumption, the Secretary of Commerce shall issue licenses designating eligible manufacturers and the annual quantity restrictions under each such license. A licensee may assign the authority (in whole or in part) to import fabric under subheading 9902.52.08 of such Schedule.

(2) LICENSES UNDER U.S. NOTE 18.—For purposes of U.S. Note 18 to subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States, as added by subsection (a)(2), a license shall be issued within 60 days of an application containing a notarized affidavit from an officer of the manufacturer that the manufacturer is eligible to receive a license and stating the quantity of imported cotton woven fabric purchased during calendar year 2000 for use in the cutting and sewing men's and boys' shirts in the United States.

(3) AFFIDAVITS.—For purposes of an affidavit described in this subsection, the date of purchase shall be—

(A) the invoice date if the manufacturer is not the importer of record; and

(B) the date of entry if the manufacturer is the importer of record.

SEC. 5002. COTTON TRUST FUND.

(a) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be *known as the "Pima Cotton Trust Fund", consisting of amounts authorized to be transferred from funds in the general fund of the Treasury not to exceed $32,000,000.*

(b) GRANTS.—

(1) GENERAL PURPOSE.—From amounts authorized to the Pima Cotton Trust Fund, the Secretary of Commerce is authorized to provide grants to spinners of United States grown pima cotton, manufacturers of men's and boys' cotton shirting, and a nationally recognized association that promotes the use of pima cotton grown in the United States, to assist such spinners and manufacturers in maximizing United States employment in the production of textile or apparel products and to increase the promotion of the use of United States grown pima cotton respectively.

(2) TIMING FOR GRANT AWARDS.—The Secretary of the Treasury shall, not later than 180 days after the date of enactment of this section, establish guidelines for the application and awarding of the grants described in paragraph (1), and shall award such grants to qualified applicants not later than 90 days after the date of enactment of the appropriations authorized under this section. Each grant awarded under this section shall be distributed to the qualified applicant in 2 equal annual installments.

(3) DISTRIBUTION OF FUNDS.—Of the amounts in the Pima Cotton Trust Fund—

(A) an amount not to exceed $8,000,000 shall be made available to a nationally recognized association established for the promotion of pima cotton grown in the United States for the use in textile and apparel goods;

(B) an amount not to exceed $8,000,000 shall be made available to yarn spinners of pima cotton grown in the United States, and shall be allocated to each spinner based on the percentage of the spinner's production of ring spun cotton yarns, measuring less than 83.33 decitex (exceeding 120 metric number), from pima cotton grown in the United States in single and plied form during calendar year 2002 (as evidenced by an affidavit provided by the spinner), compared to the production of such yarns for all spinners who qualify under this subparagraph; and

(C) an amount not to exceed $16,000,000 shall be made available to manufacturers who cut and sew cotton shirts in the United States and that certify that they used imported cotton fabric during the period January 1, 1998, through July 1, 2003, and shall be allocated to each manufacturer on the bases of the dollar value (excluding duty, shipping, and related costs) of imported woven cotton shirting fabric of 80s or higher count and 2-ply in warp purchased by the manufacturer during calendar year 2002 (as evidenced by an affidavit from the manufacturer) used in the manufacturing of men's and boys' cotton shirts, compared to the dollar value (excluding duty, shipping, and related costs) of such fabric for all manufacturers who qualify under this subparagraph.

(4) AFFIDAVIT OF SHIRTING MANUFACTURERS.—For purposes of paragraph (3)(C), an officer of the manufacturer of men's and boys' shirts shall provide a notarized affidavit affirming—

(A) that the manufacturer used imported cotton fabric during the period January 1, 1998, through July 1, 2003, to cut and sew men's and boys' woven cotton shirts in the United States;

(B) the dollar value of imported woven cotton shirting fabric of 80s or higher count and 2-ply in warp purchased during calendar year 2002;

(C) that the manufacturer maintains invoices along with other supporting documentation (such as price lists and other technical descriptions of the fabric qualities) showing the dollar value of such fabric purchased, the date of purchase, and evidencing the fabric as woven cotton fabric of 80s or higher count and 2-ply in warp; and

(D) that the fabric was suitable for use in the manufacturing of men's and boys' cotton shirts.

(5) DATE OF PURCHASE.—For purposes of the affidavit required by paragraph (4), the date of purchase shall be the invoice date, and the dollar value shall be determined excluding duty, shipping, and related costs.

(6) AFFIDAVIT OF YARN SPINNERS.—For purposes of paragraph (3)(B), an officer of a company that produces ringspun yarns shall provide a notarized affidavit affirming—

(A) that the manufacturer used pima cotton grown in the United States during the period January 1, 2002, through December 31, 2002, to produce ring spun cotton yarns, measuring less than 83.33 decitex (exceeding 120 metric number), in single and plied form during 2002;

(B) the quantity, measured in pounds, of ring spun cotton yarns, measuring less than 83.33 decitex (exceeding 120 metric number), in single and plied form during calendar year 2002; and

(C) that the manufacturer maintains supporting documentation showing the quantity of such yarns produced, and evidencing the yarns as ring spun cotton yarns, measuring less than 83.33 decitex (exceeding 120 metric number), in single and plied form during calendar year 2002.

(7) NO APPEAL.—Any grant awarded by the Secretary under this section shall be final and not subject to appeal or protest.

(c) AUTHORIZATION.—There is authorized to be appropriated such sums as are necessary to carry out the provisions of this section, including funds necessary for the administration and oversight of the grants provided for in this section.

TITLE VI—TECHNICAL AMENDMENTS RELATING TO ENTRY AND PROTEST

SEC. 6001. ENTRY OF MERCHANDISE.

(a) IN GENERAL.—Section 484(a) of the Tariff Act of 1930 (19 U.S.C. 1484) is amended—

(1) by amending paragraph (1)(A) to read as follows:

"(A) make entry therefor by filing with the Customs Service—

"(i) such documentation; or

"(ii) pursuant to an electronic data interchange system, such information as is necessary to enable the Customs Service to determine whether the merchandise may be released from customs custody; and";

(2) in paragraph (1)(B), by inserting after "entry" the following: ", or substitute 1 or more reconfigured entries on an import activity summary statement,"; and

(3) in paragraph (2)(A)—

(A) by inserting after "statements" the following: "and permit the filing of reconfigured entries,"; and

(B) by adding at the end the following: "Entries filed under paragraph (1)(A) shall not be liquidated if covered by an import activity summary statement, but instead each reconfigured entry in the import activity summary statement shall be subject to liquidation or reliquidation pursuant to section 500, 501, or 504.".

(b) RECONCILIATION.—Section 484(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1484(b)(1)) is amended by striking "15 months" and inserting "21 months".

SEC. 6002. LIMITATION ON LIQUIDATIONS.

Section 504 of the Tariff Act of 1930 (19 U.S.C. 1504) is amended—

(1) in subsection (a)—

(A) by striking "or" at the end of paragraph (3);

(B) in paragraph (4), by striking "filed;" and inserting "filed, whichever is earlier; or"; and

(C) by inserting after paragraph (4) the following:

"(5) if a reconfigured entry is filed under an import activity summary statement, the date the import activity summary statement is filed or should have been filed, whichever is earlier;"; and

(2) by striking "at the time of entry" each place it appears.

SEC. 6003. PROTESTS.

Section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "(relating to refunds and errors) of this Act" and inserting "(relating to refunds), any clerical error, mistake of fact, or other inadvertence, whether or not resulting from or contained in an electronic transmission, adverse to the importer, in any entry, liquidation, or reliquidation, and";

(B) in paragraph (5), by inserting ", including the liquidation of an entry, pursuant to either section 500 or section 504;" after "thereof"; and

(C) in paragraph (7), by striking "(c) or"; and

(2) in subsection (c)—

(A) in paragraph (1), in the sixth sentence, by striking "A protest may be amended," and inserting "Unless a request for accelerated disposition is filed under section 515(b), a protest may be amended.";

(B) in paragraph (3)(A), by striking "notice of" and inserting "date of"; and

(C) in paragraph (3)—

(i) by striking "ninety days" and inserting "180 days"; and

(ii) by striking "90 days" and inserting "180 days".

SEC. 6004. REVIEW OF PROTESTS.

Section 515(b) of the Tariff Act of 1930 (19 U.S.C 1515(b)) is amended by striking "after ninety days" and inserting "concurrent with or".

SEC. 6005. REFUNDS AND ERRORS.

Section 520(c) of the Tariff Act of 1930 (19 U.S.C 1520(c)) is repealed.

SEC. 6006. DEFINITIONS AND MISCELLANEOUS PROVISIONS.

Section 401 of the Tariff Act of 1930 (19 U.S.C 1401) is amended by adding at the end the following:

"(t) RECONFIGURED ENTRY.—The term 'reconfigured entry' means an entry filed on an import activity summary statement which substitutes for all or part of 1 or more entries filed under section 484(a)(1)(A) or filed on a reconciliation entry that aggregates the entry elements to be reconciled under section 484(b) for purposes of liquidation, reliquidation, or protest.".

SEC. 6007. VOLUNTARY RELIQUIDATIONS.

Section 501 of the Tariff Act of 1930 (19 U.S.C 1501) is amended by inserting "or 504" after "section 500".

SEC. 6008. EFFECTIVE DATE.

The amendments made by this title shall apply to merchandise entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

TITLE VII—EXTENSION OF SUSPENSIONS

SEC. 7001. EXTENSION OF DUTY SUSPENSIONS.

Except as provided in sections 1303, 1309, 1380, 1388, 1389, 1392, 1393, 1394, 1419, and 1420, each of the headings of the Harmonized Tariff Schedule added by chapter 1 of subtitle A of title I is amended by striking the date in the effective period column and inserting "12/31/2006".

MORNING BUSINESS

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate immediately proceed to Executive session to consider the follow nominations on the Executive Calendar, Calendar Nos. 568, 569, 570, and 571. I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid on the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

DEPARTMENT OF JUSTICE

Michele M. Leonhart, of California, to be Deputy Administrator of Drug Enforcement.

Domingo S. Herraiz, of Ohio, to be Director of the Bureau of Justice Assistance.

LaFayette Collins, of Texas, to be United States Marshal for the Western District of Texas for the term of four years.

Ronald J. Tenpas, of Illinois, to be United States Attorney for the Southern District of Illinois for a term of four years.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

COMMEMORATION OF THE 150TH ANNIVERSARY OF THE FIRST MEETING OF THE REPUBLICAN PARTY

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 96 submitted earlier today by Senator FEINGOLD and Senator KOHL.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 96) commemorating the 150th anniversary of the first meeting of the Republican Party in Ripon, WI.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. NICKLES. Mr. President, I ask unanimous consent that the concurrent resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements related thereto be printed in the RECORD without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 96) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 96

Whereas on March 20, 1854, 50 men, 3 women, and 1 child assembled in a simple frame schoolhouse, now known as the Little White Schoolhouse, in Ripon, Wisconsin, to advocate the creation of a new political party under the name "Republican";

Whereas this March 20, 1854, meeting in Ripon, Wisconsin was the first of many grassroots meetings that led to the formal founding of the Republican Party;

Whereas the city of Ripon is commemorating the 150th anniversary of the first meeting of the Republican Party with a celebration entitled "From Schoolhouse to White House; a Celebration of Active Citizenship," which includes a series of civic and educational events;

Whereas the Little White Schoolhouse is listed on the National Registry of Historic Places, was designated by the Department of the Interior as a National Historic Landmark on May 30, 1974, and attracts visitors from around the world; and

Whereas the Little White Schoolhouse serves as a symbol of civic responsibility and grassroots political activism: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress commemorates the 150th anniversary of the first meeting of the Republican Party in Ripon, Wisconsin.

MINOR USE AND MINOR SPECIES ANIMAL HEALTH ACT OF 2003

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 431, S. 741.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 741) to amend the Federal Food, Drug and Cosmetic Act with regard to new animal drugs, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Health, Education, Labor and Pensions, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 741

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Minor Use and Minor Species Animal Health Act of 2003".

[SEC. 2. FINDINGS.

[Congress makes the following findings:

[(1) There is a severe shortage of approved new animal drugs for use in minor species.

[(2) There is a severe shortage of approved new animal drugs for treating animal diseases and conditions that occur infrequently or in limited geographic areas.

[(3) Because of the small market shares, low-profit margins involved, and capital investment required, it is generally not economically feasible for new animal drug applicants to pursue approvals for these species, diseases, and conditions.

[(4) Because the populations for which such new animal drugs are intended may be small and conditions of animal management may vary widely, it is often difficult to design and conduct studies to establish drug safety and effectiveness under traditional new animal drug approval processes.

[(5) It is in the public interest and in the interest of animal welfare to provide for special procedures to allow the lawful use and marketing of certain new animal drugs for minor species and minor uses that take into account these special circumstances and that ensure that such drugs do not endanger animal or public health.

[(6) Exclusive marketing rights and tax credits for clinical testing expenses have helped encourage the development of "orphan" drugs for human use, and comparable incentives should encourage the development of new animal drugs for minor species and minor uses.

[SEC. 3. AMENDMENTS TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

[(a) DEFINITIONS.—Section 201 of the Federal, Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

["(kk) The term 'major species' means cattle, horses, swine, chickens, turkeys, dogs, and cats, except that the Secretary may revise this definition by regulation.

["(ll) The term 'minor species' means animals other than humans that are not major species.

["(mm) The term 'minor use' means the intended use of a drug in a major species for an indication that occurs infrequently or in limited geographical areas.".

[(b) THREE-YEAR EXCLUSIVITY FOR MINOR USE AND MINOR SPECIES APPROVALS.—Section 512(c)(2)(F) (ii), (iii), and (v) of the Federal Food, Drug, and Cosmetic Act is amended by striking "(other than bioequivalence or residue studies)" and inserting "(other than bioequivalence studies or residue depletion studies, except residue depletion studies for minor uses or minor species)" every place it appears.

[(c) SCOPE OF REVIEW FOR MINOR USE AND MINOR SPECIES APPLICATIONS.—Section 512(d) of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end the following new paragraph:

["(5) In reviewing an application that proposes a change to add an intended use for a minor use or a minor species to an approved new animal drug application, the Secretary shall reevaluate only the relevant information in the approved application to determine whether the application for the minor use or minor species can be approved. A decision to approve the application for the minor use or minor species is not, implicitly or explicitly, a reaffirmation of the approval of the original application.".

[(d) MINOR USE AND MINOR SPECIES NEW ANIMAL DRUGS.—Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by adding at the end the following:

["Subchapter F—New Animal Drugs for Minor Use and Minor Species

["SEC. 571. CONDITIONAL APPROVAL OF NEW ANIMAL DRUGS FOR MINOR USE AND MINOR SPECIES.

["(a)(1) Except as provided in paragraph (3) of this section, any person may file with the Secretary an application for conditional approval of a new animal drug intended for a minor use or a minor species. Such an application may not be a supplement to an application approved under section 512. Such application must comply in all respects with the provisions of section 512 of this Act except sections 512(a)(4), 512(b)(2), 512(c)(1), 512(c)(2), 512(c)(3), 512(d)(1), 512(e), 512(h), and 512(n) unless otherwise stated in this section, and any additional provisions of this section.

[“(2) The applicant shall submit to the Secretary as part of an application for the conditional approval of a new animal drug—

[“(A) all information necessary to meet the requirements of section 512(b)(1) except section 512(b)(1)(A);

[“(B) full reports of investigations which have been made to show whether or not such drug is safe and there is a reasonable expectation of effectiveness for use;

[“(C) data for establishing a conditional dose;

[“(D) projections of expected need and the justification for that expectation based on the best information available;

[“(E) information regarding the quantity of drug expected to be distributed on an annual basis to meet the expected need; and

[“(F) a commitment that the applicant will conduct additional investigations to meet the requirements for the full demonstration of effectiveness under section 512(d)(1)(E) within 5 years.

[“(3) A person may not file an application under paragraph (1) if—

[“(A) the person has previously filed an application for conditional approval under paragraph (1) for the same drug in the same dosage form for the same intended use whether or not subsequently conditionally approved by the Secretary under subsection (b), or

[“(B) the person obtained the application, or data or other information contained therein, directly or indirectly from the person who filed for conditional approval under paragraph (1) for the same drug in the same dosage form for the same intended use whether or not subsequently conditionally approved by the Secretary under subsection (b).

[“(b) Within 180 days after the filing of an application pursuant to subsection (a), or such additional period as may be agreed upon by the Secretary and the applicant, the Secretary shall either—

[“(1) issue an order, effective for one year, conditionally approving the application if the Secretary finds that none of the grounds for denying conditional approval, specified in subsection (c) of this section applies, or

[“(2) give the applicant notice of an opportunity for an informal hearing on the question whether such application can be conditionally approved.

[“(c) If the Secretary finds, after giving the applicant notice and an opportunity for an informal hearing, that—

[“(1) any of the provisions of section 512(d)(1) (A) through (D) or (F) through (I) are applicable;

[“(2) the information submitted to the Secretary as part of the application and any other information before the Secretary with respect to such drug, is insufficient to show that there is a reasonable expectation that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the proposed labeling thereof; or

[“(3) another person has received approval under section 512 for the same drug in the same dosage form for the same intended use, and that person is able to assure the availability of sufficient quantities of the drug to meet the needs for which the drug is intended;

[the Secretary shall issue an order refusing to conditionally approve the application. If, after such notice and opportunity for an informal hearing, the Secretary finds that paragraphs (1) through (3) do not apply, the Secretary shall issue an order conditionally approving the application effective for one year. Any order issued under this subsection refusing to conditionally approve an application shall state the findings upon which it is based.

[“(d) A conditional approval under this section is effective for a 1-year period and is thereafter renewable by the Secretary annually for up to 4 additional 1-year terms. A conditional approval shall be in effect for no more than 5 years from the date of approval under subsection (b)(1) or (c) of this section unless extended as provided for in subsection (h) of this section. The following shall also apply:

[“(1) No later than 90 days from the end of the 1-year period for which the original or renewed conditional approval is effective, the applicant may submit a request to renew a conditional approval for an additional 1-year term.

[“(2) A conditional approval shall be deemed renewed at the end of the 1-year period, or at the end of a 90-day extension that the Secretary may, at the Secretary's discretion, grant by letter in order to complete review of the renewal request, unless the Secretary determines before the expiration of the 1-year period or the 90-day extension that—

[“(A) the applicant failed to submit a timely renewal request;

[“(B) the request fails to contain sufficient information to show that—

[“(i) the applicant is making sufficient progress toward meeting approval requirements under section 512(d)(1)(E), and is likely to be able to fulfill those requirements and obtain an approval under section 512 before the expiration of the 5-year maximum term of the conditional approval;

[“(ii) the quantity of the drug that has been distributed is consistent with the conditionally approved intended use and conditions of use, unless there is adequate explanation that ensures that the drug is only used for its intended purpose; or

[“(iii) the same drug in the same dosage form for the same intended use has not received approval under section 512, or if such a drug has been approved, that the holder of the approved application is unable to assure the availability of sufficient quantities of the drug to meet the needs for which the drug is intended; or

[“(C) any of the provisions of section 512(e)(1) (A) through (B) or (D) through (F) are applicable.

[“(3) If the Secretary determines before the end of the 1-year period or the 90-day extension, if granted, that a conditional approval should not be renewed, the Secretary shall issue an order refusing to renew the conditional approval, and such conditional approval shall be deemed withdrawn and no longer in effect. The Secretary shall thereafter provide an opportunity for an informal hearing to the applicant on the issue whether the conditional approval shall be reinstated.

[“(e)(1) The Secretary shall issue an order withdrawing conditional approval of an application filed pursuant to subsection (a) if the Secretary finds that another person has received approval under section 512 for the same drug in the same dosage form for the same intended use and that person is able to assure the availability of sufficient quantities of the drug to meet the needs for which the drug is intended.

[“(2) The Secretary shall, after due notice and opportunity for an informal hearing to the applicant, issue an order withdrawing conditional approval of an application filed pursuant to subsection (a) if the Secretary finds that—

[“(A) any of the provisions of section 512(e)(1) (A) through (B) or (D) through (F) are applicable; or

[“(B) on the basis of new information before the Secretary with respect to such drug, evaluated together with the evidence available to the Secretary when the application was conditionally approved, that there is not a reasonable expectation that such drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof.

[“(3) The Secretary may also, after due notice and opportunity for an informal hearing to the applicant, issue an order withdrawing conditional approval of an application filed pursuant to subsection (a) if the Secretary finds that any of the provisions of section 512(e)(2) are applicable.

[“(f)(1) The label and labeling of a new animal drug with a conditional approval under this section shall—

[“(A) bear the statement, ‘conditionally approved by FDA pending a full demonstration of effectiveness under application number’; and

[“(B) contain such other information as prescribed by the Secretary.

[“(2) An intended use that is the subject of a conditional approval under this section shall not be included in the same product label with any intended use approved under section 512.

[“(g) A conditionally approved new animal drug application may not be amended or supplemented to add indications for use.

[“(h) 180 days prior to the termination date established under subsection (d)(1) of this section, an applicant shall have submitted all the information necessary to support a complete new animal drug application in accordance with section 512(b)(1) or the conditional approval issued under this section is no longer in effect. Following review of this information, the Secretary shall either—

[“(1) issue an order approving the application under section 512(c) if the Secretary finds that none of the grounds for denying approval specified in section 512(d)(1) applies, or

[“(2) give the applicant an opportunity for a hearing before the Secretary under section 512(d) on the question whether such application can be approved.

[Upon issuance of an order approving the application, product labeling and administrative records of approval shall be modified accordingly. If the Secretary has not issued an order under section 512(c) approving such application prior to the termination date established under subsection (d)(1) of this section, the conditional approval issued under this section is no longer in effect unless the Secretary grants an extension of an additional 180-day period so that the Secretary can complete review of the application. The decision to grant an extension is committed to the discretion of the Secretary and not subject to judicial review.

[“(i) The decision of the Secretary under subsection (c), (d), or (e) of this section refusing or withdrawing conditional approval of an application shall constitute final agency action subject to judicial review.

[“SEC. 572. INDEX OF LEGALLY MARKETED UNAPPROVED NEW ANIMAL DRUGS FOR MINOR SPECIES.

[“(a) The Secretary shall establish an index of unapproved minor species new animal drugs that may be lawfully marketed for use in minor species. The index shall be limited to—

[“(1) new animal drugs intended for use in a minor species for which there is a reasonable certainty that the animal or edible products from the animal will not be consumed by humans or food-producing animals, and

[“(2) new animal drugs intended for use in an early life stage of a food-producing minor species where human food safety can be demonstrated in accordance with the standard of section 512(d) by showing that—

[“(A) there is no significant likelihood that harmful residues will be present in the animal or edible products from the animal presented as food for humans as a result of treatment at the early life stage;

[“(B) there is no significant likelihood that harmful residues will be present in the animal or edible products from the animal presented as food for food-producing animals as a result of treatment at the early life stage; and

[“(C) there are no concerns about the use of the drug at later life stages because a tolerance and regulatory method to test for the drug at later life stages are available or there is no practical use for the drug in later life stages.

[“(b) Any person intending to file a request under this section shall be entitled to one or more conferences to discuss the requirements for indexing a new animal drug.

[“(c)(1) Any person may submit a request to the Secretary for a determination whether a new animal drug may be eligible for inclusion in the index. Such a request shall include—

[“(A) information regarding the need for the new animal drug, the species for which the new animal drug is intended, the proposed intended use and conditions of use, and anticipated annual distribution;

[“(B) information to support the conclusion that the proposed use meets the conditions of subsection (a)(1) or (a)(2) of this section;

[“(C) information regarding the components and composition of the new animal drug;

[“(D) a description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such new animal drug;

[“(E) an environmental assessment or information to support a categorical exclusion from the requirement to prepare an environmental assessment;

[“(F) information sufficient to support the conclusion that the proposed use of the new animal drug does not present a threat to the safety of individuals exposed to the new animal drug through its manufacture or use; and

[“(G) such other information as the Secretary may deem necessary to make this eligibility determination.

[“(2) Within 90 days after the submission of a request for a determination of eligibility for indexing based on subsection (a)(1) of this section, or 180 days for a request submitted based on subsection (a)(2) of this section, the Secretary shall grant or deny the request, and notify the person who requested such determination of the Secretary's decision. The Secretary shall grant the request if the Secretary finds that—

[“(A) the same drug in the same dosage form for the same intended use is not approved or conditionally approved;

[“(B) the proposed use does not raise concerns related to safety; and

[“(C) the person requesting the determination has established appropriate specifications for the manufacture and control of the new animal drug and has demonstrated an understanding of the requirements of current good manufacturing practices.

[If the Secretary denies the request, the Secretary shall thereafter provide due notice and an opportunity for an informal conference. A decision of the Secretary to deny an eligibility request following an informal conference shall constitute final agency action subject to judicial review.

[“(d)(1) With respect to a new animal drug for which the Secretary has made a determination of eligibility under subsection (b), the person who made such a request may ask that the Secretary add the new animal drug to the index established under subsection (a). The request for addition to the index shall include—

[“(A) a copy of the Secretary's determination of eligibility issued under subsection (b);

[“(B) a written report that meets the requirements in subsection (d)(2) of this section;

[“(C) a proposed index entry;

[“(D) facsimile labeling;

[“(E) anticipated annual distribution of the new animal drug;

[“(F) a written commitment to manufacture the new animal drug and animal feeds bearing or containing such new animal drug according to current good manufacturing practices;

[“(G) a written commitment to label, distribute, and promote the new animal drug only in accordance with the index entry;

[“(H) upon specific request of the Secretary, information submitted to the expert panel described in paragraph (3); and

[“(I) any additional requirements that the Secretary may prescribe by general regulation or specific order.

[“(2) The report required in paragraph (1) shall—

[“(A) be authored by a qualified expert panel;

[“(B) include an evaluation of all available target animal safety and effectiveness information, including anecdotal information;

[“(C) state the expert panel's opinion regarding whether the benefits of using the new animal drug for the proposed use in a minor species outweigh its risks, taking into account the harm being caused by the absence of an approved or conditionally approved new animal drug for the minor species in question;

[“(D) include information from which labeling can be written; and

[“(E) include a recommendation regarding whether the new animal drug should be limited to use under the professional supervision of a licensed veterinarian.

[“(3) A qualified expert panel, as used in this section, is a panel that—

[“(A) is composed of experts qualified by scientific training and experience to evaluate the target animal safety and effectiveness of the new animal drug under consideration;

[“(B) operates external to FDA; and

[“(C) is not subject to the Federal Advisory Committee Act, 5 U.S.C. App. 2.

[The Secretary shall define the criteria for selection of a qualified expert panel and the procedures for the operation of the panel by regulation.

[“(4) Within 180 days after the receipt of a request for listing a new animal drug in the index, the Secretary shall grant or deny the request. The Secretary shall grant the request if the request for indexing continues to meet the eligibility criteria in subsection (a) and the Secretary finds, on the basis of the report of the qualified expert panel and other information available to the Secretary, that the benefits of using the new animal drug for the proposed use in a minor species outweigh its risks, taking into account the harm caused by the absence of an approved or conditionally-approved new animal drug for the minor species in question. If the Secretary denies the request, the Secretary shall thereafter provide due notice and the opportunity for an informal conference. The decision of the Secretary following an informal conference shall constitute final agency action subject to judicial review.

[“(e)(1) The index established under subsection (a) shall include the following information for each listed drug—

[“(A) the name and address of the person who holds the index listing;

[“(B) the name of the drug and the intended use and conditions of use for which it is being indexed;

[“(C) product labeling; and

[“(D) conditions and any limitations that the Secretary deems necessary regarding use of the drug.

[“(2) The Secretary shall publish the index, and revise it periodically.

[“(3) The Secretary may establish by regulation a process for reporting changes in the conditions of manufacturing or labeling of indexed products.

[“(f)(1) If the Secretary finds, after due notice to the person who requested the index listing and an opportunity for an informal conference, that—

[“(A) the expert panel failed to meet the requirements as set forth by the Secretary by regulation;

[“(B) on the basis of new information before the Secretary, evaluated together with the evidence available to the Secretary when the new animal drug was listed in the index, the benefits of using the new animal drug for the indexed use do not outweigh its risks;

[“(C) the conditions of subsection (c)(2) of this section are no longer satisfied;

[“(D) the manufacture of the new animal drug is not in accordance with current good manufacturing practices;

[“(E) the labeling, distribution, or promotion of the new animal drug is not in accordance with the index entry;

[“(F) the conditions and limitations of use associated with the index listing have not been followed; or

[“(G) the request for indexing contains any untrue statement of material fact,

the Secretary shall remove the new animal drug from the index. The decision of the Secretary following an informal conference shall constitute final agency action subject to judicial review.

[“(2) If the Secretary finds that there is a reasonable probability that the use of the drug would present a risk to the health of humans or other animals, the Secretary may—

[“(A) suspend the listing of such drug immediately;

[“(B) give the person listed in the index prompt notice of the Secretary's action; and

[“(C) afford that person the opportunity for an informal conference.

[The decision of the Secretary following an informal conference shall constitute final agency action subject to judicial review.

[“(g) For purposes of indexing new animal drugs under this section, to the extent consistent with the public health, the Secretary shall promulgate regulations for exempting from the operation of section 512 minor species new animal drugs and animal feeds bearing or containing new animal drugs intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety and effectiveness of minor species animal drugs. Such regulations may, at the discretion of the Secretary, among other conditions relating to the protection of the public health, provide for conditioning such exemption upon the establishment and maintenance of such records, and the making of such reports to the Secretary, by the manufacturer or the sponsor of the investigation of such article, of data (including but not limited to analytical reports by investigators) obtained as a result of such investigational use of such article, as the Secretary finds will enable the Secretary to evaluate the safety and effectiveness of such article in the event of the filing of a request for an index listing pursuant to this section.

["(h) The labeling of a new animal drug that is the subject of an index listing shall state, prominently and conspicuously—

["(1) 'NOT APPROVED BY FDA.—Legally marketed as an FDA indexed product. Extra-label use is prohibited.';

["(2) except in the case of new animal drugs indexed for use in an early life stage of a food-producing animal, 'This product is not to be used in animals intended for use as food for humans or other animals.'; and

["(3) such other information as may be prescribed by the Secretary in the index listing.

["(i)(1) In the case of any new animal drug for which an index listing pursuant to subsection (a) is in effect, the person who has an index listing shall establish and maintain such records, and make such reports to the Secretary, of data relating to experience, and other data or information, received or otherwise obtained by such person with respect to such drug, or with respect to animal feeds bearing or containing such drug, as the Secretary may by general regulation, or by order with respect to such listing, prescribe on the basis of a finding that such records and reports are necessary in order to enable the Secretary to determine, or facilitate a determination, whether there is or may be ground for invoking subsection (f). Such regulation or order shall provide, where the Secretary deems it to be appropriate, for the examination, upon request, by the persons to whom such regulation or order is applicable, of similar information received or otherwise obtained by the Secretary.

["(2) Every person required under this subsection to maintain records, and every person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

["(j)(1) Safety and effectiveness data and information which has been submitted in support of a request for a new animal drug to be indexed under this section and which has not been previously disclosed to the public shall be made available to the public, upon request, unless extraordinary circumstances are shown—

["(A) if no work is being or will be undertaken to have the drug indexed in accordance with the request,

["(B) if the Secretary has determined that such drug cannot be indexed and all legal appeals have been exhausted,

["(C) if the indexing of such drug is terminated and all legal appeals have been exhausted, or

["(D) if the Secretary has determined that such drug is not a new animal drug.

["(2) Any request for data and information pursuant to paragraph (1) shall include a verified statement by the person making the request that any data or information received under such paragraph shall not be disclosed by such person to any other person—

["(A) for the purpose of, or as part of a plan, scheme, or device for, obtaining the right to make, use, or market, or making, using, or marketing, outside the United States, the drug identified in the request for indexing; and

["(B) without obtaining from any person to whom the data and information are disclosed an identical verified statement, a copy of which is to be provided by such person to the Secretary, which meets the requirements of this paragraph.

["SEC. 573. DESIGNATED NEW ANIMAL DRUGS FOR MINOR USE OR MINOR SPECIES.

["(a) DESIGNATION.—

["(1) The manufacturer or the sponsor of a new animal drug for a minor use or use in a minor species may request that the Secretary declare that drug a 'designated new animal drug'. A request for designation of a new animal drug shall be made before the submission of an application under section 512(b) or section 571 for the new animal drug.

["(2) The Secretary may declare a new animal drug a 'designated new animal drug' for an intended use if—

["(A) it is intended for a minor use or use in a minor species; and

["(B) the same drug in the same dosage form for the same intended use is not approved under section 512 or 571 or designated under this section at the time the request is made.

["(3) Regarding the termination of a designation—

["(A) the sponsor of a new animal drug shall notify the Secretary of any decision to discontinue active pursuit of approval under section 512 or 571 of an application for a designated new animal drug. The Secretary shall terminate the designation upon such notification;

["(B) the Secretary may also terminate designation if the Secretary independently determines that the sponsor is not actively pursuing approval under section 512 or 571 with due diligence;

["(C) the sponsor of an approved designated new animal drug shall notify the Secretary of any discontinuance of the manufacture of such new animal drug at least one year before discontinuance. The Secretary shall terminate the designation upon such notification; and

["(D) the designation shall terminate upon the expiration of any applicable exclusivity period under subsection (c).

["(4) Notice respecting the designation or termination of designation of a new animal drug shall be made available to the public.

["(b) GRANTS AND CONTRACTS FOR DEVELOPMENT OF DESIGNATED NEW ANIMAL DRUGS.—

["(1) The Secretary may make grants to and enter into contracts with public and private entities and individuals to assist in defraying the costs of qualified safety and effectiveness testing expenses and manufacturing expenses incurred in connection with the development of designated new animal drugs.

["(2) For purposes of paragraph (1) of this section—

["(A) The term 'qualified safety and effectiveness testing' means testing—

["(i) which occurs after the date such new animal drug is designated under this section and before the date on which an application with respect to such drug is submitted under section 512; and

["(ii) which is carried out under an investigational exemption under section 512(j).

["(B) The term 'manufacturing expenses' means expenses incurred in developing processes and procedures associated with manufacture of the designated new animal drug which occur after the new animal drug is designated under this section and before the date on which an application with respect to such new animal drug is submitted under section 512 or 571.

["(c) EXCLUSIVITY FOR DESIGNATED NEW ANIMAL DRUGS.—

["(1) Except as provided in subsection (c)(2), if the Secretary—

["(A) approves or conditionally approves an application for a designated new animal drug, and no active ingredient (including any salt or ester of the active ingredient) of that designated new animal drug has been approved or conditionally approved previously, the Secretary may not approve or conditionally approve another application submitted for a new animal drug with the same active ingredient and intended use as the designated new animal drug for another applicant before the expiration of ten years from the date of the approval or conditional approval of the application.

["(B) approves or conditionally approves an application for a designated new animal drug, and an active ingredient (including an ester or salt of the active ingredient) of that designated new animal drug has been approved or conditionally approved previously, the Secretary may not approve or conditionally approve another application submitted for a new animal drug with the same active ingredient and intended use as the designated new animal drug for another applicant before the expiration of seven years from the date of approval or conditional approval of the application.

["(2) If an application filed pursuant to section 512 or section 571 is approved for a designated new animal drug, the Secretary may, during the 10-year or 7-year exclusivity period beginning on the date of the application approval or conditional approval, approve or conditionally approve another application under section 512 or section 571 for such drug for such minor use or minor species for another applicant if—

["(A) the Secretary finds, after providing the holder of such an approved application notice and opportunity for the submission of views, that in the granted exclusivity period the holder of the approved application cannot assure the availability of sufficient quantities of the drug to meet the needs for which the drug was designated; or

["(B) such holder provides written consent to the Secretary for the approval or conditional approval of other applications before the expiration of such exclusivity period.".

[(e) CONFORMING AMENDMENTS.—

[(1) Section 201(u) of the Federal Food, Drug, and Cosmetic Act is amended by striking "512" and inserting "512, 571".

[(2) Section 201(v) of the Federal Food, Drug, and Cosmetic Act is amended by inserting the following after paragraph (2): "Provided that any drug intended for minor use or use in a minor species that is not the subject of a final regulation published by the Secretary through notice and comment rulemaking finding that the criteria of paragraphs (1) and (2) have not been met (or that the exception to the criterion in paragraph (1) has been met) is a new animal drug.".

[(3) Section 301(e) of the Federal Food, Drug, and Cosmetic Act is amended by striking "512(a)(4)(C), 512(j), (l) or (m)" and inserting "512(a)(4)(C), 512 (j), (l) or (m), 572(i)."

[(4) Section 301(j) of the Federal Food, Drug, and Cosmetic Act is amended by deleting "520" and inserting "520, 571, 572, 573."

[(5) Section 502 of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end the following new subsection:

["(u) If it is a new animal drug—

["(1) that is conditionally approved under section 571 and its labeling does not conform with the approved application or section 571(f), or that is not conditionally approved under section 571 and its label bears the statement set forth in section 571(f)(1)(A); or

["(2) that is indexed under section 572 and its labeling does not conform with the index listing under section 572(e) or 572(h), or that has not been indexed under section 572 and its label bears the statement set forth in section 572(h).".

[(6) Section 503(f) of the Federal Food, Drug, and Cosmetic Act is amended by—

[(A) in paragraph (1)(A)(ii) by striking "512" and inserting "512, a conditionally-approved application under section 571, or an index listing under section 572"; and

[(B) in paragraph (3) by striking "section 512" and inserting "section 512, 571, or 572".

[(7) Section 504(a)(1) of the Federal Food, Drug, and Cosmetic Act is amended by striking "512(b)" and inserting "512(b), a conditionally-approved application filed pursuant to section 571, or an index listing pursuant to section 572".

[(8) Sections 504(a)(2)(B) and 504(b) of the Federal Food, Drug, and Cosmetic Act are amended by striking "512(i)" each place it appears and inserting "512(i), or the index listing pursuant to section 572(e)".

[(9) Section 512(a) of the Federal Food, Drug, and Cosmetic Act is amended by striking paragraphs (1) and (2) and inserting the following:

["(1) A new animal drug shall, with respect to any particular use or intended use of such drug, be deemed unsafe for purposes of section 501(a)(5) and section 402(a)(2)(C)(ii) unless—

["(A) there is in effect an approval of an application filed pursuant to subsection (b) with respect to such use or intended use of such drug, and such drug, its labeling, and such use conform to such approved application;

["(B) there is in effect a conditional approval of an application filed pursuant to section 571 with respect to such use or intended use of such drug, and such drug, its labeling, and such use conform to such conditionally approved application; or

["(C) there is in effect an index listing pursuant to section 572 with respect to such use or intended use of such drug in a minor species, and such drug, its labeling, and such use conform to such index listing.

[A new animal drug shall also be deemed unsafe for such purposes in the event of removal from the establishment of a manufacturer, packer, or distributor of such drug for use in the manufacture of animal feed in any State unless at the time of such removal such manufacturer, packer, or distributor has an unrevoked written statement from the consignee of such drug, or notice from the Secretary, to the effect that, with respect to the use of such drug in animal feed, such consignee (i) holds a license issued under subsection (m) and has in its possession current approved labeling for such drug in animal feed; or (ii) will, if the consignee is not a user of the drug, ship such drug only to a holder of a license issued under subsection (m).

["(2) An animal feed bearing or containing a new animal drug shall, with respect to any particular use or intended use of such animal feed be deemed unsafe for purposes of section 501(a)(6) unless—

["(A) there is in effect—

["(i) an approval of an application filed pursuant to subsection (b) with respect to such drug, as used in such animal feed, and such animal feed and its labeling, distribution, holding, and use conform to such approved application;

["(ii) a conditional approval of an application filed pursuant to section 571 with respect to such drug, as used in such animal feed, and such animal feed and its labeling, distribution, holding, and use conform to such conditionally approved application; or

["(iii) an index listing pursuant to section 572 with respect to such drug, as used in such animal feed, and such animal feed and its labeling, distribution, holding, and use conform to such index listing; and

["(B) such animal feed is manufactured at a site for which there is in effect a license issued pursuant to subsection (m)(1) to manufacture such animal feed.".

[(10) Section 512(b)(3) of the Federal Food, Drug, and Cosmetic Act is amended by striking "under paragraph (1) or a request for an investigational exemption under subsection (j)" and inserting "under paragraph (1), section 571, or a request for an investigational exemption under subsection (j)".

[(11) Section 512(d)(4) of the Federal Food, Drug, and Cosmetic Act is amended by striking "have previously been separately approved" and inserting "have previously been separately approved pursuant to an application submitted under section 512(b)(1)".

[(12) Section 512(f) of the Federal Food, Drug, and Cosmetic Act is amended by striking "subsection (d), (e), or (m)" and inserting "subsection (d), (e), or (m), or section 571 (c), (d), or (e)".

[(13) Section 512(g) of the Federal Food, Drug, and Cosmetic Act is amended by striking "this section" and inserting "this section, or section 571".

[(14) Section 512(i) of the Federal Food, Drug, and Cosmetic Act is amended by striking "subsection (b)" and inserting "subsection (b) or section 571" and by inserting "or upon failure to renew a conditional approval under section 571" after "or upon its suspension".

[(15) Section 512(l)(1) of the Federal Food, Drug, and Cosmetic Act is amended by striking "subsection (b)" and inserting "subsection (b) or section 571".

[(16) Section 512(m)(1)(C) of the Federal Food, Drug, and Cosmetic Act is amended by striking "applicable regulations published pursuant to subsection (i)" and inserting "applicable regulations published pursuant to subsection (i) or for indexed new animal drugs in accordance with the index listing published pursuant to section 572(e)(2) and the labeling requirements set forth in section 572(h)".

[(17) Section 512(m)(3) of the Federal Food, Drug, and Cosmetic Act is amended by inserting "or an index listing pursuant to section 572(e)" after "subsection (i)" each place it appears.

[(18) Section 512(p)(1) of the Federal Food, Drug, and Cosmetic Act is amended by striking "subsection (b)(1)" and inserting "subsection (b)(1) or section 571(a)".

[(19) Section 512(p)(2) of the Federal Food, Drug, and Cosmetic Act is amended by striking "subsection (b)(1)" and inserting "subsection (b)(1) or section 571(a)".

[(20) Section 108(b)(3) of Public Law 90–399 is amended by striking "section 201(w) as added by this Act" and inserting "section 201(v) as added by the Minor Use and Minor Species Animal Health Act of 2003".

[(f) REGULATIONS.—The Secretary of Health and Human Services shall implement sections 571 and 573 of the Federal Food, Drug, and Cosmetic Act and subsequently publish implementing regulations. Not later than 12 months after the date of enactment of this Act, the Secretary shall issue proposed regulations to implement section 573 of the Federal Food, Drug, and Cosmetic Act (as added by this Act), and not later than 24 months after the date of enactment of this Act, the Secretary shall issue final regulations implementing section 573 of the Federal Food, Drug, and Cosmetic Act. Not later than 18 months after the date of enactment of this Act, the Secretary shall issue proposed regulations to implement section 572 of the Federal Food, Drug, and Cosmetic Act (as added by this Act), and not later than 36 months after the date of enactment of this Act, the Secretary shall issue final regulations implementing section 572 of the Federal Food, Drug, and Cosmetic Act. Not later than 30 months after the date of enactment of this Act, the Secretary shall issue proposed regulations to implement section 571 of the Federal Food, Drug, and Cosmetic Act (as added by this Act), and not later than 42 months after the date of enactment of this Act, the Secretary shall issue final regulations implementing section 571 of the Federal Food, Drug, and Cosmetic Act. These timeframes shall be extended by 12 months for each fiscal year, in which the funds authorized to be appropriated under subsection (i) are not in fact appropriated.

[(g) OFFICE.—The Secretary of Health and Human Services shall establish within the Center for Veterinary Medicine (of the Food and Drug Administration), an Office of Minor Use and Minor Species Animal Drug Development that reports directly to the Director of the Center for Veterinary Medicine. This office shall be responsible for overseeing the development and legal marketing of new animal drugs for minor uses and minor species. There is authorized to be appropriated to carry out this subsection $1,200,000 for fiscal year 2003 and such sums as may be necessary for each fiscal year thereafter.

[(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out section 573(b) of the Federal Food, Drug, and Cosmetic Act (as added by this Act) $1,000,000 for the fiscal year following publication of final implementing regulations, $2,000,000 for the subsequent fiscal year, and such sums as may be necessary for each fiscal year thereafter.]

TITLE I—MINOR USE AND MINOR SPECIES HEALTH

SECTION 101. SHORT TITLE.

This title may be cited as the "Minor Use and Minor Species Animal Health Act of 2003".

SEC. 102. MINOR USE AND MINOR SPECIES ANIMAL HEALTH.

(a) FINDINGS.—Congress makes the following findings:

(1) There is a severe shortage of approved new animal drugs for use in minor species.

(2) There is a severe shortage of approved new animal drugs for treating animal diseases and conditions that occur infrequently or in limited geographic areas.

(3) Because of the small market shares, low-profit margins involved, and capital investment required, it is generally not economically feasible for new animal drug applicants to pursue approvals for these species, diseases, and conditions.

(4) Because the populations for which such new animal drugs are intended may be small and conditions of animal management may vary widely, it is often difficult to design and conduct studies to establish drug safety and effectiveness under traditional new animal drug approval processes.

(5) It is in the public interest and in the interest of animal welfare to provide for special procedures to allow the lawful use and marketing of certain new animal drugs for minor species and minor uses that take into account these special circumstances and that ensure that such drugs do not endanger animal or public health.

(6) Exclusive marketing rights for clinical testing expenses have helped encourage the development of "orphan" drugs for human use, and comparable incentives should encourage the development of new animal drugs for minor species and minor uses.

(b) AMENDMENTS TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.—

(1) DEFINITIONS.—Section 201 of the Federal, Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

"(nn) The term 'major species' means cattle, horses, swine, chickens, turkeys, dogs, and cats, except that the Secretary may add species to this definition by regulation.

"(oo) The term 'minor species' means animals other than humans that are not major species.

"(pp) The term 'minor use' means the intended use of a drug in a major species for an indication that occurs infrequently and in only a small number of animals or in limited geographical areas and in only a small number of animals annually.".

(2) THREE-YEAR EXCLUSIVITY FOR MINOR USE AND MINOR SPECIES APPROVALS.—Section 512(c)(2)(F) (ii), (iii), and (v) of the Federal Food, Drug, and Cosmetic Act is amended by striking "(other than bioequivalence or residue studies)" and inserting "(other than bioequivalence studies or residue depletion studies, except residue depletion studies for minor uses or minor species)" every place it appears.

(3) SCOPE OF REVIEW FOR MINOR USE AND MINOR SPECIES APPLICATIONS.—Section 512(d) of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end the following new paragraph:

"(5) In reviewing an application that proposes a change to add an intended use for a minor use or a minor species to an approved new animal drug application, the Secretary shall reevaluate only the relevant information in the approved application to determine whether the application for the minor use or minor species can be approved. A decision to approve the application for the minor use or minor species is not, implicitly or explicitly, a reaffirmation of the approval of the original application.".

(4) MINOR USE AND MINOR SPECIES NEW ANIMAL DRUGS.—Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by adding at the end the following:

"Subchapter F—New Animal Drugs for Minor Use and Minor Species

"SEC. 571. CONDITIONAL APPROVAL OF NEW ANIMAL DRUGS FOR MINOR USE AND MINOR SPECIES.

"(a)(1) Except as provided in paragraph (3) of this section, any person may file with the Secretary an application for conditional approval of a new animal drug intended for a minor use or a minor species. Such an application may not be a supplement to an application approved under section 512. Such application must comply in all respects with the provisions of section 512 of this Act except sections 512(a)(4), 512(b)(2), 512(c)(1), 512(c)(2), 512(c)(3), 512(d)(1), 512(e), 512(h), and 512(n) unless otherwise stated in this section, and any additional provisions of this section. New animal drugs are subject to application of the same safety standards that would be applied to such drugs under section 512(d) (including, for antimicrobial new animal drugs, with respect to antimicrobial resistance).

"(2) The applicant shall submit to the Secretary as part of an application for the conditional approval of a new animal drug—

"(A) all information necessary to meet the requirements of section 512(b)(1) except section 512(b)(1)(A);

"(B) full reports of investigations which have been made to show whether or not such drug is safe under section 512(d) (including, for an antimicrobial new animal drug, with respect to antimicrobial resistance) and there is a reasonable expectation of effectiveness for use;

"(C) data for establishing a conditional dose;

"(D) projections of expected need and the justification for that expectation based on the best information available;

"(E) information regarding the quantity of drug expected to be distributed on an annual basis to meet the expected need; and

"(F) a commitment that the applicant will conduct additional investigations to meet the requirements for the full demonstration of effectiveness under section 512(d)(1)(E) within 5 years.

"(3) A person may not file an application under paragraph (1) if—

"(A) the application seeks conditional approval of a new animal drug that is contained in, or is a product of, a transgenic animal.

"(B) the person has previously filed an application for conditional approval under paragraph (1) for the same drug in the same dosage form for the same intended use whether or not subsequently conditionally approved by the Secretary under subsection (b), or

"(C) the person obtained the application, or data or other information contained therein, directly or indirectly from the person who filed for conditional approval under paragraph (1) for the same drug in the same dosage form for the same intended use whether or not subsequently conditionally approved by the Secretary under subsection (b).

"(b) Within 180 days after the filing of an application pursuant to subsection (a), or such additional period as may be agreed upon by the Secretary and the applicant, the Secretary shall either—

"(1) issue an order, effective for one year, conditionally approving the application if the Secretary finds that none of the grounds for denying conditional approval, specified in subsection (c) of this section applies and publish a Federal Register notice of the conditional approval, or

"(2) give the applicant notice of an opportunity for an informal hearing on the question whether such application can be conditionally approved.

"(c) If the Secretary finds, after giving the applicant notice and an opportunity for an informal hearing, that—

"(1) any of the provisions of section 512(d)(1) (A) through (D) or (F) through (I) are applicable;

"(2) the information submitted to the Secretary as part of the application and any other information before the Secretary with respect to such drug, is insufficient to show that there is a reasonable expectation that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the proposed labeling thereof; or

"(3) another person has received approval under section 512 for the same drug in the same dosage form for the same intended use, and that person is able to assure the availability of sufficient quantities of the drug to meet the needs for which the drug is intended;

the Secretary shall issue an order refusing to conditionally approve the application. If, after such notice and opportunity for an informal hearing, the Secretary finds that paragraphs (1) through (3) do not apply, the Secretary shall issue an order conditionally approving the application effective for one year and publish a Federal Register notice of the conditional approval. Any order issued under this subsection refusing to conditionally approve an application shall state the findings upon which it is based.

"(d) A conditional approval under this section is effective for a 1-year period and is thereafter renewable by the Secretary annually for up to 4 addtional 1-year terms. A conditional approval shall be in effect for no more than 5 years from the date of approval under subsection (b)(1) or (c) of this section unless extended as provided for in subsection (h) of this section. The following shall also apply:

"(1) No later than 90 days from the end of the 1-year period for which the original or renewed conditional approval is effective, the applicant may submit a request to renew a conditional approval for an additional 1-year term.

"(2) A conditional approval shall be deemed renewed at the end of the 1-year period, or at the end of a 90-day extension that the Secretary may, at the Secretary's discretion, grant by letter in order to complete review of the renewal request, unless the Secretary determines before the expiration of the 1-year period or the 90-day extension that—

"(A) the applicant failed to submit a timely renewal request;

"(B) the request fails to contain sufficient information to show that—

"(i) the applicant is making sufficient progress toward meeting approval requirements under section 512(d)(1)(E), and is likely to be able to fulfill those requirements and obtain an approval under section 512 before the expiration of the 5-year maximum term of the conditional approval;

"(ii) the quantity of the drug that has been distributed is consistent with the conditionally approved intended use and conditions of use, unless there is adequate explanation that ensures that the drug is only used for its intended purpose; or

"(iii) the same drug in the same dosage form for the same intended use has not received approval under section 512, or if such a drug has been approved, that the holder of the approved application is unable to assure the availability of sufficient quantities of the drug to meet the needs for which the drug is intended; or

"(C) any of the provisions of section 512(e)(1) (A) through (B) or (D) through (F) are applicable.

"(3) If the Secretary determines before the end of the 1-year period or the 90-day extension, if granted, that a conditional approval should not be renewed, the Secretary shall issue an order refusing to renew the conditional approval, and such conditional approval shall be deemed withdrawn and no longer in effect. The Secretary shall thereafter provide an opportunity for an informal hearing to the applicant on the issue whether the conditional approval shall be reinstated.

"(e)(1) The Secretary shall issue an order withdrawing conditional approval of an application filed pursuant to subsection (a) if the Secretary finds that another person has received approval under section 512 for the same drug in the same dosage form for the same intended use and that person is able to assure the availability of sufficient quantities of the drug to meet the needs for which the drug is intended.

"(2) The Secretary shall, after due notice and opportunity for an informal hearing to the applicant, issue an order withdrawing conditional approval of an application filed pursuant to subsection (a) if the Secretary finds that—

"(A) any of the provisions of section 512(e)(1) (A) through (B) or (D) through (F) are applicable; or

"(B) on the basis of new information before the Secretary with respect to such drug, evaluated together with the evidence available to the

Secretary when the application was conditionally approved, that there is not a reasonable expectation that such drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof.

"(3) The Secretary may also, after due notice and opportunity for an informal hearing to the applicant, issue an order withdrawing conditional approval of an application filed pursuant to subsection (a) if the Secretary finds that any of the provisions of section 512(e)(2) are applicable.

"(f)(1) The label and labeling of a new animal drug with a conditional approval under this section shall—

"(A) bear the statement, 'conditionally approved by FDA pending a full demonstration of effectiveness under application number'; and

"(B) contain such other information as prescribed by the Secretary.

"(2) An intended use that is the subject of a conditional approval under this section shall not be included in the same product label with any intended use approved under section 512.

"(g) A conditionally approved new animal drug application may not be amended or supplemented to add indications for use.

"(h) 180 days prior to the termination date established under subsection (d) of this section, an applicant shall have submitted all the information necessary to support a complete new animal drug application in accordance with section 512(b)(1) or the conditional approval issued under this section is no longer in effect. Following review of this information, the Secretary shall either—

"(1) issue an order approving the application under section 512(c) if the Secretary finds that none of the grounds for denying approval specified in section 512(d)(1) applies, or

"(2) give the applicant an opportunity for a hearing before the Secretary under section 512(d) on the question whether such application can be approved.

Upon issuance of an order approving the application, product labeling and administrative records of approval shall be modified accordingly. If the Secretary has not issued an order under section 512(c) approving such application prior to the termination date established under subsection (d) of this section, the conditional approval issued under this section is no longer in effect unless the Secretary grants an extension of an additional 180-day period so that the Secretary can complete review of the application. The decision to grant an extension is committed to the discretion of the Secretary and not subject to judicial review.

"(i) The decision of the Secretary under subsection (c), (d), or (e) of this section refusing or withdrawing conditional approval of an application shall constitute final agency action subject to judicial review.

"(j) In this section and section 572, the term 'transgenic animal' means an animal whose genome contains a nucleotide sequence that has been intentionally modified in vitro, and the progeny of such an animal: Provided that the term 'transgenic animal' does not include an animal of which the nucleotide sequence of the genome has been modified solely by selective breeding.

"SEC. 572. INDEX OF LEGALLY MARKETED UNAPPROVED NEW ANIMAL DRUGS FOR MINOR SPECIES.

"(a)(1) The Secretary shall establish an index limited to—

"(A) new animal drugs intended for use in a minor species for which there is a reasonable certainty that the animal or edible products from the animal will not be consumed by humans or food-producing animals; and

"(B) new animal drugs intended for use only in a hatchery, tank, pond, or other similar contained man-made structure in an early, nonfood life stage of a food-producing minor species, where safety for humans is demonstrated in accordance with the standard of section 512(d) (including, for an antimicrobial new animal drug, with respect to antimicrobial resistance).

"(2) The index shall not include a new animal drug that is contained in or a product of a transgenic animal.

"(b) Any person intending to file a request under this section shall be entitled to one or more conferences to discuss the requirements for indexing a new animal drug.

"(c)(1) Any person may submit a request to the Secretary for a determination whether a new animal drug may be eligible for inclusion in the index. Such a request shall include—

"(A) information regarding the need for the new animal drug, the species for which the new animal drug is intended, the proposed intended use and conditions of use, and anticipated annual distribution;

"(B) information to support the conclusion that the proposed use meets the conditions of subparagraph (A) or (B) of subsection (a)(1) of this section;

"(C) information regarding the components and composition of the new animal drug;

"(D) a description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such new animal drug;

"(E) an environmental assessment that meets the requirements of the National Environmental Policy Act of 1969, as amended, and as defined in 21 CFR Part 25, as it appears on the date of enactment of this provision and amended thereafter or information to support a categorical exclusion from the requirement to prepare an environmental assessment;

"(F) information sufficient to support the conclusion that the proposed use of the new animal drug is safe under section 512(d) with respect to individuals exposed to the new animal drug through its manufacture or use; and

"(G) such other information as the Secretary may deem necessary to make this eligibility determination.

"(2) Within 90 days after the submission of a request for a determination of eligibility for indexing based on subsection (a)(1)(A) of this section, or 180 days for a request submitted based on subsection (a)(1)(B) of this section, the Secretary shall grant or deny the request, and notify the person who requested such determination of the Secretary's decision. The Secretary shall grant the request if the Secretary finds that—

"(A) the same drug in the same dosage form for the same intended use is not approved or conditionally approved;

"(B) the proposed use of the drug meets the conditions of subparagraph (A) or (B) of subsection (a)(1), as appropriate;

"(C) the person requesting the determination has established appropriate specifications for the manufacture and control of the new animal drug and has demonstrated an understanding of the requirements of current good manufacturing practices;

"(D) the new animal drug will not significantly affect the human environment; and

"(E) the new animal drug is safe with respect to individuals exposed to the new animal drug through its manufacture or use.

If the Secretary denies the request, the Secretary shall thereafter provide due notice and an opportunity for an informal conference. A decision of the Secretary to deny an eligibility request following an informal conference shall constitute final agency action subject to judicial review.

"(d)(1) With respect to a new animal drug for which the Secretary has made a determination of eligibility under subsection (c), the person who made such a request may ask that the Secretary add the new animal drug to the index established under subsection (a). The request for addition to the index shall include—

"(A) a copy of the Secretary's determination of eligibility issued under subsection (c);

"(B) a written report that meets the requirements in subsection (d)(2) of this section;

"(C) a proposed index entry;

"(D) facsimile labeling;

"(E) anticipated annual distribution of the new animal drug;

"(F) a written commitment to manufacture the new animal drug and animal feeds bearing or containing such new animal drug according to current good manufacturing practices;

"(G) a written commitment to label, distribute, and promote the new animal drug only in accordance with the index entry;

"(H) upon specific request of the Secretary, information submitted to the expert panel described in paragraph (3); and

"(I) any additional requirements that the Secretary may prescribe by general regulation or specific order.

"(2) The report required in paragraph (1) shall—

"(A) be authored by a qualified expert panel;

"(B) include an evaluation of all available target animal safety and effectiveness information, including anecdotal information;

"(C) state the expert panel's opinion regarding whether the benefits of using the new animal drug for the proposed use in a minor species outweigh its risks to the target animal, taking into account the harm being caused by the absence of an approved or conditionally approved new animal drug for the minor species in question;

"(D) include information from which labeling can be written; and

'''(E) include a recommendation regarding whether the new animal drug should be limited to use under the professional supervision of a licensed veterinarian.

"(3) A qualified expert panel, as used in this section, is a panel that—

"(A) is composed of experts qualified by scientific training and experience to evaluate the target animal safety and effectiveness of the new animal drug under consideration;

"(B) operates external to FDA; and

"(C) is not subject to the Federal Advisory Committee Act, 5 U.S.C. App. 2.

The Secretary shall define the criteria for selection of a qualified expert panel and the procedures for the operation of the panel by regulation.

"(4) Within 180 days after the receipt of a request for listing a new animal drug in the index, the Secretary shall grant or deny the request. The Secretary shall grant the request if the request for indexing continues to meet the eligibility criteria in subsection (a) and the Secretary finds, on the basis of the report of the qualified expert panel and other information available to the Secretary, that the benefits of using the new animal drug for the proposed use in a minor species outweigh its risks to the target animal, taking into account the harm caused by the absence of an approved or conditionally-approved new animal drug for the minor species in question. If the Secretary denies the request, the Secretary shall thereafter provide due notice and the opportunity for an informal conference. The decision of the Secretary following an informal conference shall constitute final agency action subject to judicial review.

"(e)(1) The index established under subsection (a) shall include the following information for each listed drug—

"(A) the name and address of the person who holds the index listing;

"(B) the name of the drug and the intended use and conditions of use for which it is being indexed;

"(C) product labeling; and

"(D) conditions and any limitations that the Secretary deems necessary regarding use of the drug.

"(2) The Secretary shall publish the index, and revise it periodically.

"(3) The Secretary may establish by regulation a process for reporting changes in the conditions of manufacturing or labeling of indexed products.

"(f)(1) If the Secretary finds, after due notice to the person who requested the index listing and an opportunity for an informal conference, that—

"(A) the expert panel failed to meet the requirements as set forth by the Secretary by regulation;

"(B) on the basis of new information before the Secretary, evaluated together with the evidence available to the Secretary when the new animal drug was listed in the index, the benefits of using the new animal drug for the indexed use do not outweigh its risks to the target animal;

"(C) the conditions of subsection (c)(2) of this section are no longer satisfied;

"(D) the manufacture of the new animal drug is not in accordance with current good manufacturing practices;

"(E) the labeling, distribution, or promotion of the new animal drug is not in accordance with the index entry;

"(F) the conditions and limitations of use associated with the index listing have not been followed; or

"(G) the request for indexing contains any untrue statement of material fact,

the Secretary shall remove the new animal drug from the index. The decision of the Secretary following an informal conference shall constitute final agency action subject to judicial review.

"(2) If the Secretary finds that there is a reasonable probability that the use of the drug would present a risk to the health of humans or other animals, the Secretary may—

"(A) suspend the listing of such drug immediately;

"(B) give the person listed in the index prompt notice of the Secretary's action; and

"(C) afford that person the opportunity for an informal conference.

The decision of the Secretary following an informal conference shall constitute final agency action subject to judicial review.

"(g) For purposes of indexing new animal drugs under this section, to the extent consistent with the public health, the Secretary shall promulgate regulations for exempting from the operation of section 512 minor species new animal drugs and animal feeds bearing or containing new animal drugs intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety and effectiveness of minor species animal drugs. Such regulations may, at the discretion of the Secretary, among other conditions relating to the protection of the public health, provide for conditioning such exemption upon the establishment and maintenance of such records, and the making of such reports to the Secretary, by the manufacturer or the sponsor of the investigation of such article, of data (including but not limited to analytical reports by investigators) obtained as a result of such investigational use of such article, as the Secretary finds will enable the Secretary to evaluate the safety and effectiveness of such article in the event of the filing of a request for an index listing pursuant to this section.

"(h) The labeling of a new animal drug that is the subject of an index listing shall state, prominently and conspicuously—

"(1) 'NOT APPROVED BY FDA.—Legally marketed as an FDA indexed product. Extra-label use is prohibited.';

"(2) except in the case of new animal drugs indexed for use in an early life stage of a food-producing animal, 'This product is not to be used in animals intended for use as food for humans or other animals.'; and

"(3) such other information as may be prescribed by the Secretary in the index listing.

"(i)(1) In the case of any new animal drug for which an index listing pursuant to subsection (a) is in effect, the person who has an index listing shall establish and maintain such records, and make such reports to the Secretary, of data relating to experience, and other data or information, received or otherwise obtained by such person with respect to such drug, or with respect to animal feeds bearing or containing such drug, as the Secretary may by general regulation, or by order with respect to such listing, prescribe on the basis of a finding that such records and reports are necessary in order to enable the Secretary to determine, or facilitate a determination, whether there is or may be ground for invoking subsection (f). Such regulation or order shall provide, where the Secretary deems it to be appropriate, for the examination, upon request, by the persons to whom such regulation or order is applicable, of similar information received or otherwise obtained by the Secretary.

"(2) Every person required under this subsection to maintain records, and every person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

"(j)(1) Safety and effectiveness data and information which has been submitted in support of a request for a new animal drug to be indexed under this section and which has not been previously disclosed to the public shall be made available to the public, upon request, unless extraordinary circumstances are shown—

"(A) if no work is being or will be undertaken to have the drug indexed in accordance with the request,

"(B) if the Secretary has determined that such drug cannot be indexed and all legal appeals have been exhausted,

"(C) if the indexing of such drug is terminated and all legal appeals have been exhausted, or

"(D) if the Secretary has determined that such drug is not a new animal drug.

"(2) Any request for data and information pursuant to paragraph (1) shall include a verified statement by the person making the request that any data or information received under such paragraph shall not be disclosed by such person to any other person—

"(A) for the purpose of, or as part of a plan, scheme, or device for, obtaining the right to make, use, or market, or making, using, or marketing, outside the United States, the drug identified in the request for indexing; and

"(B) without obtaining from any person to whom the data and information are disclosed an identical verified statement, a copy of which is to be provided by such person to the Secretary, which meets the requirements of this paragraph.

"SEC. 573. DESIGNATED NEW ANIMAL DRUGS FOR MINOR USE OR MINOR SPECIES.

"(a) DESIGNATION.—

"(1) The manufacturer or the sponsor of a new animal drug for a minor use or use in a minor species may request that the Secretary declare that drug a 'designated new animal drug'. A request for designation of a new animal drug shall be made before the submission of an application under section 512(b) or section 571 for the new animal drug.

"(2) The Secretary may declare a new animal drug a 'designated new animal drug' if—

"(A) it is intended for a minor use or use in a minor species; and

"(B) the same drug in the same dosage form for the same intended use is not approved under section 512 or 571 or designated under this section at the time the request is made.

"(3) Regarding the termination of a designation—

"(A) the sponsor of a new animal drug shall notify the Secretary of any decision to discontinue active pursuit of approval under section 512 or 571 of an application for a designated new animal drug. The Secretary shall terminate the designation upon such notification;

"(B) the Secretary may also terminate designation if the Secretary independently determines that the sponsor is not actively pursuing approval under section 512 or 571 with due diligence;

"(C) the sponsor of an approved designated new animal drug shall notify the Secretary of any discontinuance of the manufacture of such new animal drug at least one year before discontinuance. The Secretary shall terminate the designation upon such notification; and

"(D) the designation shall terminate upon the expiration of any applicable exclusivity period under subsection (c).

"(4) Notice respecting the designation or termination of designation of a new animal drug shall be made available to the public.

"(b) GRANTS AND CONTRACTS FOR DEVELOPMENT OF DESIGNATED NEW ANIMAL DRUGS.—

"(1) The Secretary may make grants to and enter into contracts with public and private entities and individuals to assist in defraying the costs of qualified safety and effectiveness testing expenses and manufacturing expenses incurred in connection with the development of designated new animal drugs.

"(2) For purposes of paragraph (1) of this section—

"(A) The term 'qualified safety and effectiveness testing' means testing—

"(i) which occurs after the date such new animal drug is designated under this section and before the date on which an application with respect to such drug is submitted under section 512; and

"(ii) which is carried out under an investigational exemption under section 512(j).

"(B) The term 'manufacturing expenses' means expenses incurred in developing processes and procedures associated with manufacture of the designated new animal drug which occur after the new animal drug is designated under this section and before the date on which an application with respect to such new animal drug is submitted under section 512 or 571.

"(c) EXCLUSIVITY FOR DESIGNATED NEW ANIMAL DRUGS.—

"(1) Except as provided in subsection (c)(2), if the Secretary approves or conditionally approves an application for a designated new animal drug, the Secretary may not approve or conditionally approve another application submitted for such new animal drug with the same intended use as the designated new animal drug for another applicant before the expiration of seven years from the date of approval or conditional approval of the application.

"(2) If an application filed pursuant to section 512 or section 571 is approved for a designated new animal drug, the Secretary may, during the 7-year exclusivity period beginning on the date of the application approval or conditional approval, approve or conditionally approve another application under section 512 or section 571 for such drug for such minor use or minor species for another applicant if—

"(A) the Secretary finds, after providing the holder of such an approved application notice and opportunity for the submission of views,

that in the granted exclusivity period the holder of the approved application cannot assure the availability of sufficient quantities of the drug to meet the needs for which the drug was designated; or

"(B) such holder provides written consent to the Secretary for the approval or conditional approval of other applications before the expiration of such exclusivity period.".

(5) CONFORMING AMENDMENTS.—

(A) Section 201(u) of the Federal Food, Drug, and Cosmetic Act is amended by striking "512" and inserting "512, 571".

(B) Section 201(v) of the Federal Food, Drug, and Cosmetic Act is amended by inserting the following after paragraph (2): "Provided that any drug intended for minor use or use in a minor species that is not the subject of a final regulation published by the Secretary through notice and comment rulemaking finding that the criteria of paragraphs (1) and (2) have not been met (or that the exception to the criterion in paragraph (1) has been met) is a new animal drug.".

(C) Section 301(e) of the Federal Food, Drug, and Cosmetic Act is amended by striking "512(a)(4)(C), 512(j), (l) or (m)" and inserting "512(a)(4)(C), 512 (j), (l) or (m), 572(i)."

(D) Section 301(j) of the Federal Food, Drug, and Cosmetic Act is amended by striking "520" and inserting "520, 571, 572, 573."

(E) Section 502 of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end the following new subsection:

"(w) If it is a new animal drug—

"(1) that is conditionally approved under section 571 and its labeling does not conform with the approved application or section 571(f), or that is not conditionally approved under section 571 and its label bears the statement set forth in section 571(f)(1)(A); or

"(2) that is indexed under section 572 and its labeling does not conform with the index listing under section 572(e) or 572(h), or that has not been indexed under section 572 and its label bears the statement set forth in section 572(h).".

(F) Section 503(f) of the Federal Food, Drug, and Cosmetic Act is amended—

(i) in paragraph (1)(A)(ii) by striking "512" and inserting "512, a conditionally-approved application under section 571, or an index listing under section 572"; and

(ii) in paragraph (3) by striking "section 512" and inserting "section 512, 571, or 572".

(G) Section 504(a)(1) of the Federal Food, Drug, and Cosmetic Act is amended by striking "512(b)" and inserting "512(b), a conditionally-approved application filed pursuant to section 571, or an index listing pursuant to section 572".

(H) Sections 504(a)(2)(B) and 504(b) of the Federal Food, Drug, and Cosmetic Act are amended by striking "512(i)" each place it appears and inserting "512(i), or the index listing pursuant to section 572(e)".

(I) Section 512(a) of the Federal Food, Drug, and Cosmetic Act is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) A new animal drug shall, with respect to any particular use or intended use of such drug, be deemed unsafe for purposes of section 501(a)(5) and section 402(a)(2)(C)(ii) unless—

"(A) there is in effect an approval of an application filed pursuant to subsection (b) with respect to such use or intended use of such drug, and such drug, its labeling, and such use conform to such approved application;

"(B) there is in effect a conditional approval of an application filed pursuant to section 571 with respect to such use or intended use of such drug, and such drug, its labeling, and such use conform to such conditionally approved application; or

"(C) there is in effect an index listing pursuant to section 572 with respect to such use or intended use of such drug in a minor species, and such drug, its labeling, and such use conform to such index listing.

A new animal drug shall also be deemed unsafe for such purposes in the event of removal from the establishment of a manufacturer, packer, or distributor of such drug for use in the manufacture of animal feed in any State unless at the time of such removal such manufacturer, packer, or distributor has an unrevoked written statement from the consignee of such drug, or notice from the Secretary, to the effect that, with respect to the use of such drug in animal feed, such consignee (i) holds a license issued under subsection (m) and has in its possession current approved labeling for such drug in animal feed; or (ii) will, if the consignee is not a user of the drug, ship such drug only to a holder of a license issued under subsection (m).

"(2) An animal feed bearing or containing a new animal drug shall, with respect to any particular use or intended use of such animal feed be deemed unsafe for purposes of section 501(a)(6) unless—

"(A) there is in effect—

"(i) an approval of an application filed pursuant to subsection (b) with respect to such drug, as used in such animal feed, and such animal feed and its labeling, distribution, holding, and use conform to such approved application;

"(ii) a conditional approval of an application filed pursuant to section 571 with respect to such drug, as used in such animal feed, and such animal feed and its labeling, distribution, holding, and use conform to such conditionally approved application; or

"(iii) an index listing pursuant to section 572 with respect to such drug, as used in such animal feed, and such animal feed and its labeling, distribution, holding, and use conform to such index listing; and

"(B) such animal feed is manufactured at a site for which there is in effect a license issued pursuant to subsection (m)(1) to manufacture such animal feed.".

(J) Section 512(b)(3) of the Federal Food, Drug, and Cosmetic Act is amended by striking "under paragraph (1) or a request for an investigational exemption under subsection (j)" and inserting "under paragraph (1), section 571, or a request for an investigational exemption under subsection (j)".

(K) Section 512(d)(4) of the Federal Food, Drug, and Cosmetic Act is amended by striking "have previously been separately approved" and inserting "have previously been separately approved pursuant to an application submitted under section 512(b)(1)".

(L) Section 512(f) of the Federal Food, Drug, and Cosmetic Act is amended by striking "subsection (d), (e), or (m)" and inserting "subsection (d), (e), or (m), or section 571 (c), (d), or (e)".

(M) Section 512(g) of the Federal Food, Drug, and Cosmetic Act is amended by striking "this section" and inserting "this section, or section 571".

(N) Section 512(i) of the Federal Food, Drug, and Cosmetic Act is amended by striking "subsection (b)" and inserting "subsection (b) or section 571" and by inserting "or upon failure to renew a conditional approval under section 571" after "or upon its suspension".

(O) Section 512(l)(1) of the Federal Food, Drug, and Cosmetic Act is amended by striking "subsection (b)" and inserting "subsection (b) or section 571".

(P) Section 512(m)(1)(C) of the Federal Food, Drug, and Cosmetic Act is amended by striking "applicable regulations published pursuant to subsection (i)" and inserting "applicable regulations published pursuant to subsection (i) or for indexed new animal drugs in accordance with the index listing published pursuant to section 572(e)(2) and the labeling requirements set forth in section 572(h)".

(Q) Section 512(m)(3) of the Federal Food, Drug, and Cosmetic Act is amended by inserting "or an index listing pursuant to section 572(e)" after "subsection (i)" each place it appears.

(R) Section 512(p)(1) of the Federal Food, Drug, and Cosmetic Act is amended by striking "subsection (b)(1)" and inserting "subsection (b)(1) or section 571(a)".

(S) Section 512(p)(2) of the Federal Food, Drug, and Cosmetic Act is amended by striking "subsection (b)(1)" and inserting "subsection (b)(1) or section 571(a)".

(T) Section 108(b)(3) of Public Law 90–399 is amended by striking "section 201(w) as added by this Act" and inserting "section 201(v)".

(6) REGULATIONS.—On the date of enactment of this Act, the Secretary of Health and Human Services shall implement sections 571 and 573 of the Federal Food, Drug, and Cosmetic Act and subsequently publish implementing regulations. Not later than 12 months after the date of enactment of this Act, the Secretary shall issue proposed regulations to implement section 573 of the Federal Food, Drug, and Cosmetic Act (as added by this Act), and not later than 24 months after the date of enactment of this Act, the Secretary shall issue final regulations implementing section 573 of the Federal Food, Drug, and Cosmetic Act. Not later than 18 months after the date of enactment of this Act, the Secretary shall issue proposed regulations to implement section 572 of the Federal Food, Drug, and Cosmetic Act (as added by this Act), and not later than 36 months after the date of enactment of this Act, the Secretary shall issue final regulations implementing section 572 of the Federal Food, Drug, and Cosmetic Act. Not later than 30 months after the date of enactment of this Act, the Secretary shall issue proposed regulations to implement section 571 of the Federal Food, Drug, and Cosmetic Act (as added by this Act), and not later than 42 months after the date of enactment of this Act, the Secretary shall issue final regulations implementing section 571 of the Federal Food, Drug, and Cosmetic Act. These timeframes shall be extended by 12 months for each fiscal year, in which the funds authorized to be appropriated under subsection (i) are not in fact appropriated.

(7) OFFICE.—The Secretary of Health and Human Services shall establish within the Center for Veterinary Medicine (of the Food and Drug Administration), an Office of Minor Use and Minor Species Animal Drug Development that reports directly to the Director of the Center for Veterinary Medicine. This office shall be responsible for overseeing the development and legal marketing of new animal drugs for minor uses and minor species. There is authorized to be appropriated to carry out this subsection $1,200,000 for fiscal year 2004 and such sums as may be necessary for each fiscal year thereafter.

(8) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out section 573(b) of the Federal Food, Drug, and Cosmetic Act (as added by this section) $1,000,000 for the fiscal year following publication of final implementing regulations, $2,000,000 for the subsequent fiscal year, and such sums as may be necessary for each fiscal year thereafter.

TITLE II—FOOD ALLERGEN LABELING AND CONSUMER PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the "Food Allergen Labeling and Consumer Protection Act of 2003".

SEC. 202. FINDINGS.

Congress finds that—

(1) it is estimated that—

(A) approximately 2 percent of adults and about 5 percent of infants and young children in the United States suffer from food allergies; and

(B) each year, roughly 30,000 individuals require emergency room treatment and 150 individuals die because of allergic reactions to food;

(2)(A) eight major foods or food groups—milk, eggs, fish, Crustacean shellfish, tree nuts, peanuts, wheat, and soybeans—account for 90 percent of food allergies;

(B) at present, there is no cure for food allergies; and

(C) a food allergic consumer must avoid the food to which the consumer is allergic;

(3)(A) in a review of the foods of randomly selected manufacturers of baked goods, ice cream, and candy in Minnesota and Wisconsin in 1999, the Food and Drug Administration found that 25 percent of sampled foods failed to list peanuts or eggs as ingredients on the food labels; and

(B) nationally, the number of recalls because of unlabeled allergens rose to 121 in 2000 from about 35 a decade earlier;

(4) a recent study shows that many parents of children with a food allergy were unable to correctly identify in each of several food labels the ingredients derived from major food allergens;

(5)(A) ingredients in foods must be listed by their "common or usual name";

(B) in some cases, the common or usual name of an ingredient may be unfamiliar to consumers, and many consumers may not realize the ingredient is derived from, or contains, a major food allergen; and

(C) in other cases, the ingredients may be declared as a class, including spices, flavorings, and certain colorings, or are exempt from the ingredient labeling requirements, such as incidental additives; and

(6)(A) celiac disease is an immune-mediated disease that causes damage to the gastrointestinal tract, central nervous system, and other organs;

(B) the current recommended treatment is avoidance of glutens in foods that are associated with celiac disease; and

(C) a multicenter, multiyear study estimated that the prevalence of celiac disease in the United States is 0.5 to 1 percent of the general population.

SEC. 203. FOOD LABELING; REQUIREMENT OF INFORMATION REGARDING ALLERGENIC SUBSTANCES.

(a) IN GENERAL.—Section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) is amended by adding at the end the following:

"(w)(1) If it is not a raw agricultural commodity and it is, or it contains an ingredient that bears or contains, a major food allergen, unless either—

"(A) the word 'Contains', followed by the name of the food source from which the major food allergen is derived, is printed immediately after or is adjacent to the list of ingredients (in a type size no smaller than the type size used in the list of ingredients) required under subsections (g) and (i); or

"(B) the common or usual name of the major food allergen in the list of ingredients required under subsections (g) and (i) is followed in parentheses by the name of the food source from which the major food allergen is derived, except that the name of the food source is not required when—

"(i) the common or usual name of the ingredient uses the name of the food source from which the major food allergen is derived; or

"(ii) the name of the food source from which the major food allergen is derived appears elsewhere in the ingredient list, unless the name of the food source that appears elsewhere in the ingredient list appears as part of the name of a food ingredient that is not a major food allergen under section 201(qq)(2)(A) or (B).

"(2) As used in this subsection, the term 'name of the food source from which the major food allergen is derived' means the name described in section 201(qq)(1); provided that in the case of a tree nut, fish, or Crustacean shellfish, the term 'name of the food source from which the major food allergen is derived' means the name of the specific type of nut or species of fish or Crustacean shellfish.

"(3) The information required under this subsection may appear in labeling in lieu of appearing on the label only if the Secretary finds that such other labeling is sufficient to protect the public health. A finding by the Secretary under this paragraph (including any change in an earlier finding under this paragraph) is effective upon publication in the Federal Register as a notice.

"(4) Notwithstanding subsection (g), (i), or (k), or any other law, a flavoring, coloring, or incidental additive that is, or that bears or contains, a major food allergen shall be subject to the labeling requirements of this subsection.

"(5) The Secretary may by regulation modify the requirements of subparagraph (A) or (B) of paragraph (1), or eliminate either the requirement of subparagraph (A) or the requirements of subparagraph (B) of paragraph (1), if the Secretary determines that the modification or elimination of the requirement of subparagraph (A) or the requirements of subparagraph (B) is necessary to protect the public health.

"(6)(A) Any person may petition the Secretary to exempt a food ingredient described in section 201(qq)(2) from the allergen labeling requirements of this subsection.

"(B) The Secretary shall approve or deny such petition within 180 days of receipt of the petition or the petition shall be deemed denied, unless an extension of time is mutually agreed upon by the Secretary and the petitioner.

"(C) The burden shall be on the petitioner to provide scientific evidence (including the analytical method used to produce the evidence) that demonstrates that such food ingredient, as derived by the method specified in the petition, does not cause an allergic response that poses a risk to human health.

"(D) A determination regarding a petition under this paragraph shall constitute final agency action.

"(E) The Secretary shall promptly post to a public site all petitions received under this paragraph within 14 days of receipt and the Secretary shall promptly post the Secretary's response to each.

"(7)(A) A person need not file a petition under paragraph (6) to exempt a food ingredient described in section 201(qq)(2) from the allergen labeling requirements of this subsection, if the person files with the Secretary a notification containing—

"(i) scientific evidence (including the analytical method used) that demonstrates that the food ingredient (as derived by the method specified in the notification, where applicable) does not contain allergenic protein; or

"(ii) a determination by the Secretary that the ingredient does not cause an allergic response that poses a risk to human health under a premarket approval or notification program under section 409.

"(B) The food ingredient may be introduced or delivered for introduction into interstate commerce as a food ingredient that is not a major food allergen 90 days after the date of receipt of the notification by the Secretary, unless the Secretary determines within the 90-day period that the notification does not meet the requirements of this paragraph, or there is insufficient scientific evidence to determine that the food ingredient does not contain allergenic protein or does not cause an allergenic response that poses a risk to human health.

"(C) The Secretary shall promptly post to a public site all notifications received under this subparagraph within 14 days of receipt and promptly post any objections thereto by the Secretary.

"(x) Notwithstanding subsection (g), (i), or (k), or any other law, a spice, flavoring, coloring, or incidental additive that is, or that bears or contains, a food allergen (other than a major food allergen), as determined by the Secretary by regulation, shall be disclosed in a manner specified by the Secretary by regulation.".

(b). EFFECT ON OTHER AUTHORITY.—The amendments made by this section that require a label or labeling for major food allergens do not alter the authority of the Secretary of Health and Human Services under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) to require a label or labeling for other food allergens.

(c) CONFORMING AMENDMENTS.—

(1) Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) (as amended by section 102(b)) is amended by adding at the end the following:

"(qq) The term 'major food allergen' means any of the following:

"(1) Milk, egg, fish (e.g., bass, flounder, or cod), Crustacean shellfish (e.g., crab, lobster, or shrimp), tree nuts (e.g., almonds, pecans, or walnuts), wheat, peanuts, and soybeans.

"(2) A food ingredient that contains protein derived from a food specified in paragraph (1), except the following:

"(A) Any highly refined oil derived from a food specified in paragraph (1) and any ingredient derived from such highly refined oil.

"(B) A food ingredient that is exempt under paragraph (6) or (7) of section 403(w).".

(2) Section 403A(a)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343-1(a)(2)) is amended by striking "or 403(i)(2)" and inserting "403(i)(2), 403(w), or 403(x)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any food that is labeled on or after January 1, 2006.

SEC. 204. REPORT ON FOOD ALLERGENS.

Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that—

(1)(A) analyzes—

(i) the ways in which foods, during manufacturing and processing, are unintentionally contaminated with major food allergens, including contamination caused by the use by manufacturers of the same production line to produce both products for which major food allergens are intentional ingredients and products for which major food allergens are not intentional ingredients; and

(ii) the ways in which foods produced on dedicated production lines are unintentionally contaminated with major food allergens; and

(B) estimates how common the practices described in subparagraph (A) are in the food industry, with breakdowns by food type as appropriate;

(2) advises whether good manufacturing practices or other methods can be used to reduce or eliminate cross-contact of foods with the major food allergens;

(3) describes—

(A) the various types of advisory labeling (such as labeling that uses the words "may contain") used by food producers;

(B) the conditions of manufacture of food that are associated with the various types of advisory labeling; and

(C) the extent to which advisory labels are being used on food products;

(4) describes how consumers with food allergies or the caretakers of consumers would prefer

that information about the risk of cross-contact be communicated on food labels as determined by using appropriate survey mechanisms;

(5) states the number of inspections of food manufacturing and processing facilities conducted in the previous 2 years and describes—

(A) the number of facilities and food labels that were found to be in compliance or out of compliance with respect to cross-contact of foods with residues of major food allergens and the proper labeling of major food allergens;

(B) the nature of the violations found; and

(C) the number of voluntary recalls, and their classifications, of foods containing undeclared major food allergens; and

(6) assesses the extent to which the Secretary and the food industry have effectively addressed cross-contact issues.

SEC. 205. INSPECTIONS RELATING TO FOOD ALLERGENS.

The Secretary of Health and Human Services shall conduct inspections consistent with the authority under section 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 374) of facilities in which foods are manufactured, processed, packed, or held—

(1) to ensure that the entities operating the facilities comply with practices to reduce or eliminate cross-contact of a food with residues of major food allergens that are not intentional ingredients of the food; and

(2) to ensure that major food allergens are properly labeled on foods.

SEC. 206. GLUTEN LABELING.

Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services, in consultation with appropriate experts and stakeholders, shall issue a proposed rule to define, and permit use of, the term "gluten-free" on the labeling of foods. Not later than 4 years after the date of enactment of this Act, the Secretary shall issue a final rule to define, and permit use of, the term "gluten-free" on the labeling of foods.

SEC. 207. IMPROVEMENT AND PUBLICATION OF DATA ON FOOD-RELATED ALLERGIC RESPONSES.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control and Prevention and in consultation with the Commissioner of Food and Drugs, shall improve (including by educating physicians and other health care providers) the collection of, and publish as it becomes available, national data on—

(1) the prevalence of food allergies;

(2) the incidence of clinically significant or serious adverse events related to food allergies; and

(3) the use of different modes of treatment for and prevention of allergic responses to foods.

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary.

SEC. 208. FOOD ALLERGIES RESEARCH.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall convene an ad hoc panel of nationally recognized experts in allergy and immunology to review current basic and clinical research efforts related to food allergies.

(b) RECOMMENDATIONS.—Not later than 1 year after the date of enactment of this Act, the panel shall make recommendations to the Secretary for enhancing and coordinating research activities concerning food allergies, which the Secretary shall make public.

SEC. 209. FOOD ALLERGENS IN THE FOOD CODE.

The Secretary of Health and Human Services shall, in the Conference for Food Protection, as part of its efforts to encourage cooperative activities between the States under section 311 of the Public Health Service Act (42 U.S.C. 243), pursue revision of the Food Code to provide guidelines for preparing allergen-free foods in food establishments, including in restaurants, grocery store delicatessens and bakeries, and elementary and secondary school cafeterias. The Secretary shall consider guidelines and recommendations developed by public and private entities for public and private food establishments for preparing allergen-free foods in pursuing this revision.

SEC. 210. RECOMMENDATIONS REGARDING RESPONDING TO FOOD-RELATED ALLERGIC RESPONSES.

The Secretary of Health and Human Services shall, in providing technical assistance relating to trauma care and emergency medical services to State and local agencies under section 1202(b)(3) of the Public Health Service Act (42 U.S.C. 300d-2(b)(3)), include technical assistance relating to the use of different modes of treatment for and prevention of allergic responses to foods.

Mr. KENNEDY. Mr. President, I support both of the important provisions in this legislation, the Minor Use and Minor Species Animal Health Act and the Food Allergen Labeling and Consumer Protection Act.

Veterinarians now treat many animals with drugs approved for other animals or even for humans. Such use is sometimes illegal, and it is not always guided by the best evidence available on the safe and effective use of the drug in particular species. The animal health legislation will provide new ways for drugs for minor uses and minor species to become available to treat animals for which very few drugs are now approved.

The bill allows conditional approval by the Food and Drug Administration of all minor use drugs and minor species drugs. It also permits the use of unapproved drugs, if they are for use in nonfood producing minor species, and in certain circumstances, even in the early life stages of food-producing minor species. Safeguards are included so that these drugs will be safe for humans, just as any other animal drug must be safe for humans, and will not lead to antibiotic resistance in humans.

The legislation also allows new animal drugs to become "designated new animal drugs," for which research grants and 7 years of market exclusivity will be available if they are approved or conditionally approved by the Food and Drug Administration.

Overall, this title of the bill will help to improve the health of family pets, zoo animals, and farm animals, and I commend Senator GREGG and Senator SESSIONS for their leadership in developing this legislation and enabling the Senate to consider it today.

The second title of the bill will give families greater confidence that the food they eat is safe. Under the Food Allergen Labeling and Consumer Protection Act, 7 million Americans with food allergies will be able to identify a product's ingredients more easily and avoid foods that may harm them. One-hundred and fifty Americans die each year from food allergies, and this legislation will greatly reduce that number.

It requires the labels on food packages to identify ingredients related to one of the eight main food allergens, and to do so in easily understood words. The FDA is required to provide for "gluten-free" labels on foods, to help people with celiac disease avoid the glutens that cause their disease.

The bill also requires the Centers for Disease Control and Prevention to monitor deaths related to food allergies, and directs the National Institutes of Health to develop a plan for research on food alleries.

I commend Senator GREGG and my colleagues on the HELP Committee for their leadership on this title as well, and I urge the Senate to approve this legislation.

Mr. NICKLES. Mr. President, I ask unanimous consent that the committee substitute amendment be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 741), as amended, was read the third time and passed.

ORDERS FOR TUESDAY, MARCH 9, 2004

Mr. NICKLES. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. Tuesday, March 9. I further ask unanimous consent that following the prayer and the pledge the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of S. Con. Res. 95, the budget resolution; provided that when the Senate resumes consideration of the resolution tomorrow morning, there be 40 hours equally divided remaining for debate under the statutory limit.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. NICKLES. Mr. President, tomorrow the Senate will resume consideration of the budget resolution. When the Senate resumes debate, we will have 40 hours remaining of the 50-hour time limit for debate. It is the intention of the bill's managers to begin the amending process tomorrow morning. It is my hope that Members who wish to offer amendments will do so and also contact both myself and the ranking member, Senator CONRAD, in order, if at all possible, to prevent a vote-arama being drawn out at the conclusion of the debate.

I would also like to inform my colleagues that rollcall votes will occur throughout tomorrow. Senators will be notified when those votes are scheduled.

Mr. CONRAD. Mr. President, let me add my voice to the Chairman's voice on the question of amendments. We have gone back and looked over past budget resolutions, and we have seen that there has been substantial duplication in amendments, all of them included in what the chairman calls a vote-arama.

We believe if we all use a little more discipline we can reduce the number of amendments considered and still have a thorough debate on the key issues and the key differences between us. I am urging my colleagues to think if they have an amendment that is on No Child Left Behind, that they group together with other Senators who might be similarly inclined and offer an amendment together rather than three or four different amendments on the same subject.

I ask our colleagues that we have a good, full debate, we use this week well, we express the differences between us in a responsible way, but at the end, that we do not have a whole series of relatively minor amendments or repetitive amendments so we can have the best expression of the Senate's position on the budget.

I yield the floor.

Mr. NICKLES. I concur with my colleague, Senator CONRAD. He is exactly right. The Senate can manage debate on the Senate resolution and conduct itself much better than we have in the past. Senator CONRAD has been very helpful in making that happen. I think the debate we had today was a very good debate. We were expecting to yield back a lot of time. Frankly, we did not yield back much time because there was good, significant debate. We did not have prolonged quorum calls. We had a lot of speakers on both sides to present their views. I thank our colleagues for doing that.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. NICKLES. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:56 p.m., adjourned until Tuesday, March 9, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 8, 2004:

DEPARTMENT OF JUSTICE

MICHELE M. LEONHART, OF CALIFORNIA, TO BE DEPUTY ADMINISTRATOR OF DRUG ENFORCEMENT.

DOMINGO S. HERRAIZ, OF OHIO, TO BE DIRECTOR OF THE BUREAU OF JUSTICE ASSISTANCE.

LAFAYETTE COLLINS, OF TEXAS, TO BE UNITED STATES MARSHAL FOR THE WESTERN DISTRICT OF TEXAS FOR THE TERM OF FOUR YEARS.

RONALD J. TENPAS, OF ILLINOIS, TO BE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF ILLINOIS FOR A TERM OF FOUR YEARS.

EXTENSIONS OF REMARKS

INTRODUCING THE JUVENILE PROTECTION FROM SEX SLAVERY TRAFFICKING ACT OF 2004

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 8, 2004

Mr. EMANUEL. Mr. Speaker, as the world celebrates International Women's Day today, I am proud to rise with Representatives BURTON of Indiana, ANDREWS, CARDOZA, CHANDLER, ENGLISH, FROST, HOYER, MCCARTHY of Missouri, MILLER of Florida, and SANDLIN to introduce the Juvenile Protection from Sex Slavery Trafficking Act of 2004. Today, we recognize the female struggle for equality, justice, peace, and development in the political and economic process. The legislation we introduce today represents a step toward achieving those goals.

This bill takes an important step toward increasing penalties against individuals convicted of trafficking predominantly girls who are bought and sold as sex slaves. This bill treats kingpins of such trafficking networks just like drug kingpins responsible for the destruction of the futures and lives of our children.

The bill allows for capital punishment of kingpins who organize and operate child sex trafficking networks in the United States. These kingpins who engage in the most contemptible behavior often lure underage victims through befriending their families, many of whom reside in the poorest developing countries, and prey on their hopes for a better life. In an effort to kidnap their victims, kingpins convince parents that their children will be taught a useful trade, or they falsely promise marriage to daughters who are ultimately forced into prostitution. These broken promises often result in ruined lives and considerable suffering for the victim and the families.

Mr. Speaker, in response to this despicable behavior, the Juvenile Protection from Sex Slavery Trafficking Act of 2004 makes available the strongest possible punishment against perpetrators of these inhumane crimes against defenseless children. I strongly encourage my colleagues to support this legislation as a powerful step to protect the world's children from this despicable crime.

PERSONAL EXPLANATION

HON. LINDA T. SÁNCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 8, 2004

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, due to illness, I was absent for rollcall vote No. 34 on H. Res. 530 and rollcall vote No. 38 on H.R. 1561.

Had I been present, I would have voted "aye" on each of these rollcall votes.

JOBS AND THE ECONOMY

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 8, 2004

Mr. BACA. Mr. Speaker, the current unemployment rate is too high, especially for Hispanics and African Americans.

President Bush has overseen the disappearance of a record 2.9 million private sector jobs since 2001. The overall unemployment rate has stalled at 5.6 percent. It would be even higher if it included 1.7 million Americans who are no longer searching for employment.

The Hispanic rate rose from 6.6 percent to 7.4 percent. The manufacturing sector shed 2.8 million jobs in 3 years, job losses that disproportionately hurt Hispanics.

Last month, President Bush predicted 2.6 million jobs would be created in 2004. But how can we trust him? His own advisers did not stand by his predictions. The administration later stated that they overestimated the number of jobs the President would create.

The President's predictions are continually wrong. In 2002, he predicted 3 million jobs would be created in 2003. As the residents of the Inland Empire know all too well, those 3 million jobs never materialized.

The administration still does not get it. They claimed that letting manufacturing jobs move to China is good for the economy. They claimed that what is needed are cuts to Social Security and Medicare instead of rescinding the tax cuts to wealthy Americans.

Because of inaction, Hispanics and other minorities are being hit hard. We are out of work at higher rates than ever before. Unemployment benefits are ending. Food banks and hunger organizations report that more people are asking for help.

We are marching towards a jobless recovery. Corporate profits are expected to rise by 17 percent this year, but average wages for those who have jobs have fallen. Hispanics and other minorities are suffering. No one is hiring. Their benefits are gone, and people do not know what to do.

We need to help the unemployed. We need to give them job training, unemployment benefits, and health care. We need to stop the outsourcing of jobs overseas.

Unless Congress and the administration recognize the problems that face the American worker, the unemployment rate will rise and our economy will not recover.

ADMINISTRATION PROPOSAL CUTS HOUSING LIFELINE FOR PEOPLE WITH DISABILITIES

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 8, 2004

Mr. FRANK of Massachusetts. Mr. Speaker, I was unhappy—although not surprised—to see the President's most recent assault on programs that provide housing for people in great need. The administration's 2005 budget proposal calling for deep cuts in the section 8 program will have many harmful effects if it is enacted, and among those who will be most damaged by it are people with disabilities.

Recently, the Consortium for Citizens with Disabilities Housing Task Force documented the great social harm that will result if we adopt the President's approach. This coalition, as Members can see by looking at the list of signatories of the document I am here inserting into the RECORD, broadly represents the major organizations in this country representing the needs of people with disabilities.

To quote from this Consortium's conclusion,

> The CCD Housing Task Force strongly believes that the Administration's Flexible Voucher Program proposal would significantly erode housing assistance for the poorest people with disabilities. We believe this proposal actually undermines stated Administration disability policy goals designed to promote community integration under the New Freedom Initiative an end chronic homelessness.

Mr. Speaker, the deeply flawed proposal the President has made to restrict section 8 housing vouchers will be one of the most important issues we will be debating in this Congress. No group has more to tell us about it than the Consortium for Citizens with Disabilities and I ask that the very important position paper of the Consortium's Housing Task Force be printed here so that Members will have the benefit of it during this debate.

POSITION PAPER ON THE ADMINISTRATION'S FY 2005 HUD BUDGET PROPOSAL, SECTION 8 HOUSING CHOICE VOUCHER PROGRAM

ADMINISTRATION PROPOSAL WOULD CUT HOUSING LIFELINE FOR PEOPLE WITH DISABILITIES

The Bush Administration's FY 2005 HUD Budget proposal calls for deep cuts in the Section 8 Housing Choice Voucher Program. The budget also would radically alter the fundamental design of the program by converting it to a block grant administered by Public Housing Agencies (PHAs) for the benefit of higher income households. The Consortium for Citizens with Disabilities Housing Task Force (CCD Housing Task Force) is strongly opposed to the Administrations budget proposal which would cut more than $1 billion from current funding levels. We are also strongly opposed to the Administration's ill-conceived proposal to convert the program to the Flexible Voucher Program—

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

a block-grant type approach which would eliminate many of the critical protections people with disabilities have under the current Section 8 program.

The CCD Housing Task Force is a coalition of national disability organizations working to promote access to affordable and accessible housing opportunities and community supports for people with disabilities. People with disabilities have the highest level unmet need for housing assistance of any group eligible for federally subsidized housing. In 2002, approximately 3.7 million nonelderly people with disabilities relied solely on federal Supplemental Security Income (SSI) benefits worth $545 per month. Priced Out in 2002 (published by the CCD Housing Task Force and the Technical Assistance Collaborative) found that SSI recipients on average would need to pay 105 percent of their monthly SSI income to rent a modest one bedroom unit. The individuals whom we represent, many of whom depend solely on SSI or other disability benefits, are current participants in the Section 8 Housing Choice Voucher program or on Section 8 waiting lists. The Section 8 voucher program is central to their ability to have an opportunity to find affordable and accessible housing in the community.

ADMINISTRATION PROPOSAL WOULD SERIOUSLY HARM PEOPLE WITH DISABILITIES

The CCD Housing Task Force strongly believes that the Administration's Flexible Voucher Program proposal would significantly erode housing assistance for the poorest people with disabilities. We believe this proposal actually undermines stated Administration disability policy goals designed to promote community integration under the New Freedom Initiative and end chronic homelessness.

The Administration's proposal would cause serious harm to people with disabilities in the following ways:

Proposed reductions in funding of over $1 billion for FY 2005 would mean that at least 250,000 households, including at least 50,000 households with disabilities, would lose their Section 8 assistance within the next year;

The Administration's Flexible Voucher Program proposal would eliminate targeting to the lowest income households. The federal targeting is a current Section 8 program requirement that has helped people with disabilities to live in the community. The new program could be used for households up to 80 percent of median income and dedicated exclusively to homeownership—closing the doors on many people with disabilities.

Under the Administration's Flexible Voucher Program, people with disabilities could be required to pay much higher rents than they can afford. Current rules limiting tenant rents to 30–40 percent of income would be eliminated.

PHAs would be given incentives to assist higher income households, a policy that would result in fewer people with disabilities receiving vouchers.

PHAs could establish time limits on voucher holders. When a person's disability is permanent, their housing assistance should not be time limited. A time limited voucher could force people with disabilities back into nursing homes, institutions and other restrictive settings, and homeless shelters.

Congress would no longer have the authority—as it has for the past seven years—to target Section 8 vouchers for people with disabilities who have lost housing due to elderly-only policies. Over 50,000 people with currently funded disability vouchers would be at-risk.

Over the long term, the Administration's budget projections for 2005–2009 clearly show further erosion in voucher funding—putting more people with disabilities at-risk of losing their Section 8 assistance. By 2009, Section 8 expenditures would be more than $4.6 billion below what the Congressional Budget Office estimates would be needed to maintain the program's current level of funding. The Center for Budget and Policy Priorities (CBPP) projects that cuts of this magnitude would mean that 600,000 vouchers—or 30 percent of the vouchers currently authorized—would be eliminated.

PEOPLE WITH DISABILITIES NEED SECTION 8 VOUCHERS

People with disabilities have the highest level of unmet need for housing assistance of any group eligible for federally subsidized housing. The CCD Housing Task Force estimates that more than 3 million people with disabilities receiving SSI do not currently receive any housing assistance from HUD. The current Section 8 program is literally a "lifeline" for people with disabilities who rely on SSI, as well as other low income people with disabilities who simply cannot afford the cost of rental housing. Section 8 Vouchers are needed by people with disabilities who have been negatively affected by the loss of housing opportunities because of federal "elderly only" housing policies. Over 500,000 units of HUD public and assisted housing have "elderly only" policies, and more units are being designated "elderly only" every day.

THE ADMINISTRATION'S FLAWED RATIONALE

The Administration's proposal and their statements defending it are seriously flawed. The CCD Housing Task Force urges Members of Congress to treat this proposal with the same degree of skepticism and concern as it treated last year's Housing Assistance for Needy Families (HANF) proposal. One senior HUD official's public statement, that the current program's income-targeting requirements should be eliminated because they are not needed, can be rebutted by the fact that over 3 million people with disabilities below 30 percent of median income still do not receive federal housing assistance .

HUD officials state that converting the current voucher program to a block grant is needed to control the programs "upward spiral in costs over the past two years". This statement is also misleading. HUD's failure to produce accurate data and projections on Section 8 program costs cannot be used to imply that Section 8 program spending is "out of control". The rising costs in the Section 8 program during the past few years are due in part to improved PHA voucher utilization—as urged by the Congress—and leasing of new vouchers authorized from 1999–2002. Other cost factors include the escalating rental market of the late 1990s (which has now stabilized) and higher subsidy levels needed by households who have recently lost employment. CBPP's analysis projects that spending for the voucher program for FY 2005 will grow by only 1.6 percent, which is lower than the rate of inflation.

CONCLUSION

The current Section 8 Housing Choice Voucher program is the most important federal housing resource to address the housing needs of those with low incomes. We believe that Congress should maintain its responsibility to protect people with disabilities who receive or need Section 8 assistance. The CCD Housing Task Force urges Congress to fully fund the Section 8 voucher program in FY 2005, which means a $600 million increase over FY 2004 appropriation levels.

We also urge Congress to reject the Administration's Flexible Voucher Program proposal. This proposal is nothing more than another attempt by the Administration to achieve what they could not achieve in Congress last year, when bipartisan opposition to the HANF block grant proposal ensured its failure. We believe that Congress should continue to have the direct authority to ensure adequate funding for the program and to make decisions on how the Section 8 program is utilized.

HUD's role in administering the Section 8 program and monitoring the use of vouchers by PHAs is critically important. HUD should be held responsible for devoting the necessary resources to carry out these responsibilities successfully. Many of the current problems with the Section 8 program can be attributed to HUD's mismanagement—including long-standing mismanagement of over 50,000 vouchers targeted to people with disabilities. Most importantly, the Section 8 program should continue to be targeted to addressing the most critical housing needs in our country today—those of extremely low-income people including people with disabilities.

CCD Housing Task Force

American Association of People with Disabilities
American Association on Mental Retardation
American Network of Community Options and Resources
Association of University Centers on Disabilities
Bazelon Center for Mental Health Law
Brain Injury Association of America
Easter Seals
Epilepsy Foundation
International Association of Psychosocial Rehabilitation Services
National Alliance for the Mentally Ill
National Alliance to End Homelessness
National Association of Protection and Advocacy Systems
National Mental Health Association
Paralyzed Veterans of America
Spina Bifida Association of America
The Arc of the United States
United Cerebral Palsy
United Spinal Association (formerly Eastern Paralyzed Veterans Association)

HONORING THE BAY AREA ORIGINAL TUSKEGEE AIRMEN

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 8, 2004

Ms. LEE. Mr. Speaker, I rise today to honor the 23 original San Francisco Bay Area Tuskegee Airmen. Tomorrow, March 9, 2004, marks the celebration of Tuskegee Airmen Day in Oakland. On behalf of the 9th Congressional District, I would like to thank them for their tireless and devoted service.

The Tuskegee Airmen are a noble and proud group. Their legacy as the first African Americans ever to qualify as fighter pilots is remarkable and worthy of preservation. These efforts helped pave the way for generations of African-American soldiers, officers, pilots, sailors, and Marines. The Tuskegee airmen didn't lose a single bomber they escorted during the World War II.

Further, their story holds many valuable lessons to be shared with future generations. The principles of life, liberty, and democracy that they fought for and strengthened serve us all today. After liberating Europe, they returned to their homes and hearths to pursue the fight for equal rights, for which we are in their debt.

The Bay Area Original Tuskegee Airmen are: Reuben B. Bilbo, Samuel Broadnax, Dr. Richard Caesar, William A. Campbell, Le Roy Gillead, James C. Goodwin, Arthur C. Harmon, Calvin C. Hobbs, Harold Hoskins, George J. Iles, Alvin J. Johnson, Dr. Wendell Lipscomb, Robert A. Matthews, Fred L. McLaurin, Adolph J. Moret, Jr., George W. Porter, Leon Spears, Morris T. Tatum, James A. Walker, James C. Warren, Theodore Wilson, Lester Williams, and Leona F. Woodward.

Finally, as we honor these brave veterans today, I want to honor their contributions as men, fathers, medical doctors, professors, artists, engineers, technicians, and researchers. I take great pride in joining their families and friends to recognize and celebrate the many accomplishments and contributions of the Bay Area Original Tuskegee Airmen. God bless them all.

JEWISH COUNCIL FOR PUBLIC AFFAIRS OPPOSES IRRESPONSIBLE TAX CUTS

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 8, 2004

Mr. FRANK of Massachusetts. Mr. Speaker, two weeks ago I was privileged to be able to speak to the Jewish Council for Public Affairs, at a national convention held in Boston, representing organized Jewish communities across the country. The various Jewish communal organizations are active on a variety of fronts, including efforts to alleviate poverty and social distress. The participants in the organizations that make up the JCPA are themselves individuals who give freely to charity, and understand in part because of this that while private charity is extremely important, it is no substitute for well-funded government programs that meet social needs.

Drawing on their experiences in this regard across the country, the attendees at the Plenum of the Jewish Council for Public Affairs adopted a resolution, which called on the Congress "to reject efforts to make permanent the 2003 tax cuts."

As the resolution notes, "to feed the hungry, clothe the poor, heal the sick, and educate our children, our Federal Government requires the resources that come from tax revenue."

This does not mean that the council opposes all of the tax cuts previously enacted, but this strong statement against the proposal to make permanent all of the 2003 tax cuts deserves very serious attention, given the moral credentials of those who enacted it.

Mr. Speaker, because this is one of the most important questions that will be facing us in this Congress, I ask that the very compelling resolution against making all of the 2003 tax cuts permanent be printed here.

JCPA RESOLUTION IN OPPOSITION TO MAKING PERMANENT THE 2003 FEDERAL TAX CUTS

As Jews and Americans, we are committed to aiding members of our community in need through the work of our synagogues, CRCs and other private organizations, while relying on our Federal Government to ensure that it has the fiscal means to meet the needs of all its citizens. To feed the hungry, clothe the poor, heal the sick, and educate our children, our Federal Government requires the resources that come from tax revenue.

The Bush Administration's proposed Fiscal Year 2005 budget seeks to make permanent the Federal tax cuts passed in 2003. To do so would increase deficits by $2 trillion between 2005–2014, inhibiting Federal investment in both existing and new programs. These tax cuts will affect the lives and well-being of our children, and our children's children, who will struggle in a society weakened by the fiscal decisions our government is now making. The JCPA calls on the Administration and Congress to enact legislation that will allow the Federal Government to meet its responsibilities to its citizens and to reject efforts to make permanent the 2003 tax cuts.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, March 9, 2004 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 10

9:25 a.m.

Environment and Public Works

Business meeting to consider S. 1904, to designate the United States courthouse located at 400 North Miami Avenue in Miami, Florida, as the "Wilkie D. Ferguson, Jr. United States Courthouse", S. 2022, to designate the Federal building located at 250 West Cherry Street in Carbondale, Illinois the "Senator Paul Simon Federal Building", and S. 2043, to designate a Federal building in Harrisburg, Pennsylvania, as the "Ronald Reagan Federal Building"; to be followed by a hearing to examine the President's proposed fiscal year 2005 budget for the Environmental Protection Agency.

SD–406

9:30 a.m.

Armed Services

Emerging Threats and Capabilities Subcommittee

To hold hearings to examine the defense nuclear nonproliferation programs of the Department of Energy and the Cooperative Threat Reduction programs of the Department of Defense in review of the defense authorization request for fiscal year 2005; to be followed by closed hearings in SR–232A.

SR–222

Foreign Relations

To hold hearings to examine nonproliferation and arms control issues, focusing on strategic choices.

SD–419

Indian Affairs

To hold oversight hearings to examine proposed reorganization of major agencies and functions related to Indian trust reform matters within the Department of the Interior.

SR–485

Rules and Administration

To hold hearings to examine the scope and operation of organizations registered under Section 527 of the Internal Revenue Code.

SR–301

10 a.m.

Banking, Housing, and Urban Affairs

To resume hearings to examine current investigations and regulatory actions regarding the mutual fund industry relating to the regulatory landscape.

SD–538

Commerce, Science, and Transportation

To hold hearings to examine the use and effects of steroids.

SR–253

Appropriations

Defense Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2005 for Navy and Marine Corps programs.

SD–192

Judiciary

To hold hearings to examine S.J. Res. 4, proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

SD–106

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the Veterans of Foreign Wars.

SH–216

Joint Economic Committee

To hold hearings to examine issues relative to helping Americans save.

SD–628

11:30 a.m.

Energy and Natural Resources

Business meeting to consider pending calendar business.

SD–366

1 p.m.

Banking, Housing, and Urban Affairs

International Trade and Finance Subcommittee

To hold hearings to examine Argentina's financial crisis.

SD–538

2 p.m.

Finance

To hold hearings to examine United States economic and trade policy in the Middle East.

SD–215

Armed Services

SeaPower Subcommittee

To hold hearings to examine the posture of the U.S. Transportation Command in review of the defense authorization

request for fiscal year 2005 and the future years defense program.
SR–232A

2:30 p.m.
Judiciary
To hold hearings to examine the nominations of Peter W. Hall, of Vermont, to be United States Circuit Judge for the Second Circuit, Jane J. Boyle, to be United States District Judge for the Northern District of Texas, Marcia G. Cooke, to be United States District Judge for the Southern District of Florida, and Walter D. Kelley, Jr., to be United States District Judge for the Eastern District of Virginia.
SD–226

Energy and Natural Resources
Public Lands and Forests Subcommittee
To hold hearings to examine S. 1354, to resolve certain conveyances and provide for alternative land selections under the Alaska Native Claims Settlement Act related to Cape Fox Corporation and Sealaska Corporation, S. 1575 and H.R. 1092, both to direct the Secretary of Agriculture to sell certain parcels of Federal land in Carson City and Douglas County, Nevada, S. 1778, to authorize a land conveyance between the United State and the City of Craig, Alaska, S. 1819 and H.R. 272, both to direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use as cemeteries, and H.R. 3249, to extend the term of the Forest Counties Payments Committee.
SD–366

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to examine NASA/Mars exploration program.
SR–253

Foreign Relations
Western Hemisphere, Peace Corps and Narcotics Affairs Subcommittee
To hold hearings to examine the future of U.S.-Haitian relations.
SD–419

MARCH 11

9:30 a.m.
Armed Services
To hold hearings to examine missile defense in review of the defense authorization request for fiscal year 2005.
SR–325

Governmental Affairs
To resume hearings to examine postal reform issues, focusing on sustaining the 9 million jobs in the $900 billion mailing industry.
SD–342

Appropriations
Interior Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2005 for the Department of Agriculture's Forest Service.
SD–124

Judiciary
Business meeting to consider pending calendar business.
SD–226

10 a.m.
Energy and Natural Resources
To hold hearings to examine S. 2086, to amend the Surface Mining Control and Reclamation Act of 1977 to improve the reclamation of abandoned mines, and S. 2049, to amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize collection of reclamation fees, revise the abandoned mine reclamation program, promote remining, authorize the Office of Surface Mining to collect the black lung excise tax, and make sundry other changes.
SD–366

Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2005 for the National Aeronautics and Space Administration.
SD–106

11 a.m.
Appropriations
Legislative Branch Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2005 for the Library of Congress.
SD–138

2 p.m.
Armed Services
Airland Subcommittee
To hold hearings to examine Army Transformation in review of the defense authorization request for fiscal year 2005 and the future years defense program.
SR–232A

2:30 p.m.
Banking, Housing, and Urban Affairs
Economic Policy Subcommittee
To hold an oversight hearing to examine national flood insurance repetitive losses.
SD–538

Energy and Natural Resources
To hold hearings to examine the nomination of Sue Ellen Wooldridge, of Virginia, to be Solicitor of the Department of the Interior.
SD–366

Intelligence
To hold closed hearings to examine certain intelligence matters.
SH–219

MARCH 18

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentations of the Air Force Sergeants Association, the Retired Enlisted Association, Gold Star Wives of America, and the Fleet Reserve Association.
345CHOB

MARCH 23

9:30 a.m.
Armed Services
To hold hearings to examine atomic energy defense activities of the Department of Energy relating to the defense authorization request for fiscal year 2005.
SD–106

10 a.m.
Health, Education, Labor, and Pensions
Substance Abuse and Mental Health Services Subcommittee
To hold hearings to examine mental health services.
SD–430

MARCH 24

9:30 a.m.
Indian Affairs
To hold hearings to examine S. 1529, to amend the Indian Gaming Regulatory Act to include provisions relating to the payment and administration of gaming fees.
SR–485

MARCH 25

9:30 a.m.
Armed Services
To hold hearings to examine the role of the U.S. Northern Command and U.S. Special Operations Command in defending the homeland and in the global war on terrorism, in review of the defense authorization request for fiscal year 2005; to be followed by a closed session in SH–219.
SH–216

10 a.m.
Health, Education, Labor, and Pensions
Employment, Safety, and Training Subcommittee
To hold hearings to examine MSDS and OSHA hazardous commission.
SD–430

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentations of the National Association of State Directors of Veterans Affairs, AMVETS, American Ex-Prisoners of War, the Vietnam Veterans of America, and the Military Officers Association of America.
345CHOB

2:30 p.m.
Armed Services
Strategic Forces Subcommittee
To hold hearings to examine national security space programs and management in review of the defense authorization request for fiscal year 2005.
SR–232A

Energy and Natural Resources
Water and Power Subcommittee
To hold hearings to examine S. 1085, to provide for a Bureau of Reclamation program to assist states and local communities in evaluating and developing rural and small community water supply systems, and S. 1732, to direct the Secretary of the Interior to establish a rural water supply program in the Reclamation States to provide a clean, safe, affordable, and reliable water supply to rural residents.
SD–366

MARCH 31

10 a.m.
Health, Education, Labor, and Pensions
Business meeting to consider pending calendar business.
SD–430

SEPTEMBER 21

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the American Legion.
345CHOB

CANCELLATIONS

MARCH 10

10 a.m.

Health, Education, Labor, and Pensions

Business meeting to consider pending calendar business.

SD-430

MARCH 11

10 a.m.

Health, Education, Labor, and Pensions

Children and Families Subcommittee

To hold hearings to examine child and family issues.

SD-430

POSTPONEMENTS

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings to examine lessons learned relating to the 1996 Telecommunications Act.

SR-253

2 p.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2005 for the Bureau of Reclamation and the Army Corps of Engineers.

SD-124

SENATE—*Tuesday, March 9, 2004*

The Senate met at 9:30 a.m. and was called to order by the Honorable CHUCK HAGEL, a Senator from the State of Nebraska.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Spirit, who lives and reigns in majesty, thank You for another opportunity to help people see Your power working through human effort. Thank You also for the wonderful law of sowing and reaping that inspires us with the knowledge that no good is ever lost. Thank You for unsung heroes and heroines who work behind the curtains to make this Senate great. As we strive to mend broken hearts and to repair shattered dreams, give us Your favor. Use Your Senators today and all who labor for Your glory as ambassadors of reconciliation and renewal as they glorify Your Name. Teach us to cherish the things that inspire and steady our hands to grasp the torch of freedom and illuminate the darkness of our world. We pray this in Your mighty Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable CHUCK HAGEL led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The assistant legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, March 9, 2004.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHUCK HAGEL, a Senator from the State of Nebraska, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. HAGEL thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The distinguished assistant majority leader.

SCHEDULE

Mr. MCCONNELL. Mr. President, this morning the Senate will resume debate on the budget resolution. Under the order from last night, 40 hours remain for consideration of the resolution. We anticipate the amendment process will begin today and, therefore, Senators can expect rollcall votes throughout today's session.

I remind my colleagues that the majority leader has stated we will finish the budget resolution this week. Therefore, late night sessions, obviously, can be expected, and Senators should make their plans accordingly.

Having said that, I believe we are ready for the resolution to be reported.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

CONGRESSIONAL BUDGET FOR THE UNITED STATES GOVERNMENT FOR FISCAL YEAR 2005

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. Con. Res. 95, which the clerk will now report.

The assistant legislative clerk read as follows:

> A concurrent resolution (S. Con. Res. 95) setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. REID. Mr. President, I would like to ask a question of the distinguished acting majority leader.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Mr. President, I am wondering if a decision has been made as to what we are going to do tonight at 7 o'clock or thereabouts. As the leader knows, we have the Archives dinner. In fact, it will be the last dinner that will ever be held in the Rotunda, for a number of reasons. That is going to be tonight. It is a bipartisan dinner. I wonder if a decision has been made yet as to what is going to be done, whether we are going to stay in session or whether there will be time yielded off the resolution during the time we are there.

Mr. MCCONNELL. Mr. President, I say to my friend from Nevada, the plan will be to stay in session, unless we can reach an agreement to yield back time.

Mr. REID. I would also ask, through the Chair to the distinguished whip, has there been a decision made as to what we are going to do during the normal recess we take on Tuesdays for party caucuses?

Mr. MCCONNELL. I think, at the risk of being redundant, our plan would be, if we could get an agreement to equally yield back time, we would recess for those lunches; otherwise, we would try to press through.

Mr. REID. So there can be some planning, I wonder if the two managers have any objection to having that done as it relates to the noontime recess we normally take on Tuesdays, with that time equally divided.

Mr. CONRAD. Mr. President, I think we should see how the morning goes before we make that decision.

Mr. MCCONNELL. I thank my friend from North Dakota.

Mr. President, I yield myself time on the concurrent resolution.

The ACTING PRESIDENT pro tempore. The Senator has that right.

The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, the Senate has a full agenda of business this session. To give the American people a full year's worth of work, I had hoped the politics of the election this fall would maybe wait at least until some of the leaves had sprouted on the trees late this spring.

Sadly, that is not the case. We see the one thing in full bloom in Washington, DC, right now is all politics, all the time. The most repeated political saw can be summed up by quoting Charles Dickens. We are told today in America: It is the best of times, and it is the worst of times. It is the best of times for some, and the worst of times for others. We are not one nation, indivisible, but two Americas, they say—two Americas.

What are we? Are we staring into painful reality or are we just hearing political spin?

Well, Mr. President, I would like to think of myself as a fair person. So I think we should let the facts themselves do the speaking.

Fact No. 1: To say it is the best of times and the worst of times at the same time is simply political spin. It is spin to say the same fact can be good in one place at one time but bad in another place at another time. Yet many of our colleagues insist on that very twist, that very twist of logic.

So let's look at the unemployment number, for example. When the unemployment rate dropped to 5.6 percent back in 1996—5.6 percent back in 1996—the Senate Democratic leader, our friend, Senator DASCHLE, said:

> The economy is doing extraordinarily well. Extraordinarily well.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

> We have the lowest rate of inflation and unemployment we've had in 27 years.

That is when the unemployment rate was 5.6 percent in 1996.

At the same time, President Clinton was saying:

> I was gratified to hear our partners praise the strength of the economy. . . .. Lower interest rates have helped us slash unemployment to 5.6 percent.

That was President Clinton in June of 1996.

So, in 1996, 5.6-percent unemployment was viewed by our friends on the other side as good news and a healthy economy.

Today, we have 5.6-percent unemployment under President Bush—the very same unemployment figure, a different President. Today our good friend, Senator DASCHLE, says:

> President Bush suggested that the current unemployment rate of 5.6 percent was a good number. Well, I was a little surprised at that. I'm not certain I would agree that it's a good number.

In 1996, under a Democratic President, 5.6 percent was considered a good number; 5.6 percent today under a Republican President is not considered a good number.

Our friend Senator CLINTON from New York says about the 5.6 percent today:

> This Administration refuses on so many fronts to accept the obvious and in this instance it is obvious the economy is not creating jobs.

President Clinton, when unemployment was at 5.6 percent, was praising the healthy economy. Senator CLINTON, when the unemployment rate is at 5.6 percent, says the economy is not very good.

It is difficult to understand how this same 5.6 percent jobless rate back in 1996 can be considered indicative of a healthy economy and today not be so considered. So a 5.6 percent jobless rate was the best of times under President Clinton and now it is the worst of times under President Bush. It's the best of times under President Clinton, worst of times under President Bush. This is spin. That is all it is. How can at one time 5.6 percent be considered the sign of a healthy economy and at other times not?

We see the same kind of spin on policy. Under the previous administration and when the House and Senate were controlled by our friends on the other side of the aisle, temporary unemployment compensation benefits were allowed to expire at 6.4 percent unemployment. Again, temporary jobless benefits expired when the jobless rate was at 6.4 percent and not a word of complaint was heard from our friends on the other side of the aisle in 1994. It was the best policy back in 1994 to allow temporary unemployment to expire at 6.4 percent. That was the policy back then. Now 10 years later, when the same temporary unemployment compensation benefit expired because the unemployment rate is at 5.6 percent, the same policy under a better economy is called an outrageous act.

So the very same decision made under a Republican President is the worst policy. Under a Democratic President, it is the best policy. It makes no sense. Why would it be good policy to let the temporary unemployment policy expire at 6.4 percent under a Democratic President and not be a good policy at 5.6 percent under a Republican President? What can we conclude from all of that? It is political spin. That is what it is—political spin.

Letting temporary jobless benefits expire at a 6.4 percent jobless rate under President Clinton and a Democratic Congress is the best policy, but letting the same benefits expire at a 5.6 percent jobless rate under President Bush and a Republican Congress is the worst policy. It is all Washington spin.

But it is not just the number or policy that gets spun around; it is also the words. Let's look at the much discussed term "outsourcing." The term "outsourcing" has become a lightning rod. When an economic advisor to President Bush discussed the outsourcing of jobs, amendments were offered, strong condemnations were delivered, and heads were supposed to roll. When the former President's Secretary of Labor claimed, in a Washington Post op-ed on November 2, 2003 that high tech jobs are going abroad but that is OK, not a peep was heard about the former Secretary of Labor's writing.

This is Secretary Robert Reich, November of this past year. Headline: "High Tech Jobs Are Going Abroad! But That's Okay." This is the Democratic Secretary of Labor. Again we see the same words as the worst idea by a Bush advisor but a great idea by a Clinton advisor.

Confused? It is just more Washington spin. When the outsourcing issue was discussed by a Bush advisor, it was considered the worst advice. When the same thing was said by a former Clinton Labor adviser, it was considered good advice.

What can you conclude from all of this? Just Washington spin. The whole issue of outsourcing shows how things are spinning out of control. After all, Robert Reich, the former Democratic Labor Secretary, is Senator KERRY's top labor adviser and a member of his steering committee. It says so right on his Web site. Perhaps most amazing is their campaign road show announcement on outsourcing that charges President Bush continues to send jobs overseas. But in the very next sentence they announce the participation of Robert Reich in these road shows.

This is the same Robert Reich who said high tech jobs are going abroad, but that is OK; the same Robert Reich who says he doesn't believe the outsourcing of jobs is something to lose sleep over; the same Robert Reich who says it makes no sense for us to try to protect and preserve high tech jobs or block efforts by American companies to outsource; the same Robert Reich, the top labor adviser to Senator KERRY, who is at political events across the country to bash Bush for his adviser's views on outsourcing.

If this doesn't leave you dizzy, nothing will. Why all the spin? Why is this word acceptable by one speaker but an outrage when uttered by another? Why is policy fine one day but a horror the next? Why is the number applauded one day but the same number condemned the next? Confused? That is what you get in a political year.

The sky-is-falling crowd seems to be spinning the wheel of misfortune hoping to hit the political jackpot this fall. And to win this fall, they must say the sky is falling this spring. They must put the worst possible spin, the worst possible light on our current economic situation.

Opponents claim we have had the greatest job loss since the Great Depression. How many times have we heard that, the greatest job loss since the Great Depression? That was a time when one out of four Americans was jobless. Today we have 138.5 million jobs and growing in the United States. Comparing our economic situation today to the Great Depression is utter nonsense. In the Depression, one out of four Americans was unemployed. Today there are 138.5 million jobs and growing. Close to 95 percent of Americans who want a job are employed. The sky-is-falling crowd says this is the worst number in almost a century.

So the political season is here. Facts don't matter; up is down; left is right; the best is worst, and vice versa. To be sure, the economy is not perfect. As long as someone wants a job and can't find one, we are not going to rest. But let's be honest. If a 5.6 percent unemployment rate was good 8 years ago, then a fair person would have to say it is not so bad now. But we haven't heard that, nor will we hear that. Instead we are told we are in a jobless Armageddon. Why? Because this is an election year and that is just the way the world spins.

Mr. SANTORUM. Will the Senator from Kentucky yield for a question?

Mr. McCONNELL. Yes, I yield to the Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, the Senator from Kentucky makes a very persuasive case about how up is down, right is left, that the other side is doing an incredibly masterful job of trying to spin the economy.

I want him to comment on something that has concerned me. Over the last 7, 8 months we have seen and heard talk about how bad the economy is, how difficult. I want him to recall from 3 years ago the discussion in the Senate. I want to see if the Senator from Kentucky sees what was claimed at that time by Senator CONRAD and others as potentially occurring again in the year 2004.

Senator CONRAD said in March of 2001, almost 3 years ago to this date:

> I don't think there's any question but the President is talking down the economy, and the Vice President has hurt confidence. . . . It hurts the economy because it puts doubt in people's minds about the underlying strength of the American economy. And any economy is in part based on confidence. So when the Vice President was talking about recession back in December, that set off a string of newspaper headlines—

By the way, the newspaper headlines: "Support for Bush Falls on Economy . . . " after a whole day of speeches on the part of Democrats belittling this economy.

It says:

> Newspaper headlines led to a string of additional emphasis on the negative. When you consistently emphasize the negative, you contribute to a climate that loses and lacks confidence.

Mr. President, I ask the Senator from Kentucky, does he think over the last 7 or 8 months Democrats railing on the negative aspects of this economy has hurt economic growth and, in fact, may have caused people to lose their jobs as a result?

Mr. MCCONNELL. There is no question, I say to my friend from Pennsylvania, there has been a concerted, coordinated effort to cause Americans to lose confidence in an economy that is, by all standards, rolling. You cannot find a category that is not heading in the right direction.

As I pointed out, a mere 8 years ago colleagues on the other side of the aisle were cheering for an economy of 5.6 percent unemployment, saying that was terrific. Today they act as if we are in the Great Depression.

I say my friend is right on the mark. There has been a coordinated, concerted, consistent effort over the last 4, 5 months to talk the American people into believing the economy is not heading in the right direction.

Mr. SANTORUM. Will the Senator yield for an additional question?

Mr. MCCONNELL. I yield to the Senator for a question.

Mr. SANTORUM. I ask, when the administration in March of 2001 was talking about their concerns about the economy, does the Senator from Kentucky recall whether the economy was growing in January and February and March of 2001?

Mr. MCCONNELL. It was clearly not growing. They were stating the obvious.

Mr. SANTORUM. In fact, I believe that quarter of 2001 in which the Vice President and the President were talking about their concerns with the economy was, in fact, the first quarter of a recession that was actually in place at the time; correct?

Mr. MCCONNELL. Yes.

Mr. SANTORUM. So what they were doing was reflecting the reality of an economy that was in trouble when they took office.

I just want to, again—Senator CONRAD is here. I don't want to pick him out as being the only one who was accusing the President and Vice President of talking down the economy because Senator DASCHLE was doing the same thing:

> I think we're talking down the economy, and in talking down the economy, I think we're beginning to see the results in the market. The Bush administration has been talking down the economy now for some time . . . but look at what's happened.

I say to the Senator from Kentucky, at the time the administration was "talking down the economy," the economy was, in fact, in trouble. At the time the Democrats are talking down this economy, is this economy in the same shape it was in January, February, and March of 2001?

Mr. MCCONNELL. No, this economy is rolling, and virtually every category by which one can measure the direction in which the economy is going is heading in the right direction—in some cases dramatically in the right direction. Even the unemployment figure, which they want to harp on, is the same unemployment figure they were praising a mere 8 years ago—praising as the best of times. Today it is the worst of times, and the only thing that is different is there is a different President in the White House.

Mr. SANTORUM. So basically the contrast about who is talking up or talking down the economy, which is my point, is the Bush administration was reflecting the reality of what was going on in trying to be honest with the American public as to the state of the economy at the time, and what is going on now, as you have clearly illustrated, is the economy is on an upswing and we have a group of people who are trying to drive that economy back down where we hoped, we thought all of us did not want it to be?

Mr. MCCONNELL. I thank my friend from Pennsylvania for his question. It is pretty obvious the facts illustrate the economy is rolling, it is moving dramatically in the right direction, and even though unemployment is higher than we would like it to be, it is the same figure as a mere 8 years ago when our friends on the other side of the aisle were cheering the healthy economy.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I have been interested to listen to this early morning repartee on the other side about what the status of the economy is and what the status of the job market is. I do not think it is a matter of spin to talk about what the facts are, and the facts are really very clear with respect to this President and what has happened to the job market under this President.

When people say this is the first President to have lost private sector jobs since Herbert Hoover, that is a fact. Nobody is saying, as the Senator from Kentucky represented, the Bush record on the economy is the same as the Herbert Hoover record on the economy. That is not what anybody has said here. The Senator from Kentucky has not been here; perhaps he missed what has been said.

What has been said is the simple fact that this administration is the first administration since Herbert Hoover to lose private sector jobs. In every other administration—Roosevelt, Truman, Eisenhower, Kennedy, Johnson, Nixon, Ford, Carter, Reagan, the first President Bush, President Clinton—there has been in every one of those administrations growth in the private sector job market.

Under President Bush, we have seen a loss of private sector jobs. The last time that was true was in the administration of Herbert Hoover. That is a fact. That is not talking down the economy. It is a fact.

The second fact is this recovery is very different from every other recovery from recession since World War II. That also is a fact.

If we look at the average of the nine recessions since World War II, what we see is, after 17 months, after the business cycle peaked, we start to see substantial job recovery. That has been the pattern of the nine recessions we have had since World War II.

Look what is happening in this recovery. Here we are 36 months past the peak of the business cycle, and still we are not getting job recovery. Something is wrong. If we want to be serious about figuring out how to solve the problem, we first have to diagnose it correctly. We are 5.4 million jobs short of the typical recovery in the nine recessions since World War II. Something is wrong.

Private sector jobs have declined. We have seen 3 million jobs lost since January of 2001. That is not talking down the economy. That is a fact, I say to my friend. It is a fact. If we are going to diagnose what is going wrong here, we have to figure out how is this different from what we have seen previously. I think any objective observer looking will have to conclude this is something dramatically different.

The Chairman of this President's Council of Economic Advisers, in a briefing on the 2004 Economic Report of the President, which was issued just last month, said:

> [W]e expect sort of on average jobs in 2004 to be 2.6 million more than the jobs in 2003.

That was this administration's projection a month ago. For that projection to come true, there would have to be 520,000 jobs created in every month from now to the third quarter of this year.

Look what happened in February. There were not 520,000 jobs created.

There were not 420,000 jobs created. There were not 320,000 jobs created. There were not 120,000 jobs created. There were 21,000 jobs created in February. That is 500,000 jobs short of the monthly totals this administration will need to meet its projection.

Every one of these jobs that was created was a Government job. There were no jobs created in the private sector. Something is wrong.

When we report to the American people on the status of the economy, there is a dramatic difference between what was occurring during the Clinton years—remember, during the Clinton Presidency, 22 million jobs were created. This President has lost 3 million jobs. In the Clinton administration, there were 22 million jobs created in the private sector.

If we look at this current recovery, one of the things we see is that we have the longest average duration of unemployment in over 20 years. In other words, when somebody loses their job, it is taking them longer to find a new job than at any time in 20 years. Now, that is dramatically different than what occurred during the Clinton administration. During the Clinton administration, there was very powerful job creation. In fact, there was not only powerful job creation but the longest economic expansion in our Nation's history.

In addition to that, we had the lowest unemployment in 30 years, the lowest inflation in 30 years, the highest level of business investment in our Nation's history, and record deficits were turned to record surpluses. That is the economic record during the Clinton administration. So if that is what they want to debate, we would be delighted to join in the discussion. We would be delighted to talk about the difference between the economic performance during the Clinton years and the Bush years.

This is just one indication, the longest average duration of unemployment in over 20 years. That is what is happening in this Bush administration. Something is wrong.

When we go further and look at the number of people employed, the Senator from Kentucky said we have over 100 million people employed—I do not remember the exact number he used but I am sure he was accurate in his number—but if we look at it in a different way, we see the smallest share of the population at work since 1994; 62.2 percent of the American people are employed. That is the lowest level in a decade.

Again, it is just a fact. If we are going to analyze what is happening in this economy, we have to diagnose what is happening. To diagnose what is happening, we have to describe accurately what is occurring.

We also look at real wages. I asked my staff to find out for me what has happened to real wages in this country during this administration. We went back to 1996—we probably should have gone back even further—and look what happened in 1996 to 2000, the last term of the Clinton administration. We saw a dramatic growth in weekly wages. Since that time, they have basically stagnated. Real wages are up less than $8 a week in this administration.

If we are interested in public opinion, which I think we all are—the Senator from Kentucky talked about public opinion—consumers believe jobs are hard to get. Eighty-eight percent believe jobs are not plentiful or are hard to get. Only 12 percent believe jobs are plentiful. So this is not just a matter of opinion on the Senate floor. The American people are saying jobs are hard to get. They are saying jobs are scarce.

This is another look at what is happening in the job market. We see that wage growth of production workers is starting to fall behind inflation. Again, we went back to the beginning of this administration. The red line is consumer prices. The green line is average hourly earnings. We can see now for the first time the lines crossing. So wage increases are not keeping pace with inflation. That is putting pressure on people. That is why I think we see this strong concern all across the country. People are worried about what is happening in this economy.

Mr. REID. Will my friend yield for a question?

Mr. CONRAD. I would be happy to yield.

Mr. REID. I say through the Chair to my distinguished friend, the ranking member of the Budget Committee, I listened to the statement of the distinguished Senator from Kentucky and the questions asked by my friend from Pennsylvania. One thing the debate this morning has not touched upon, and I would like to hear the Senator from North Dakota explain a little bit, when this administration came into power there was a huge surplus over a 10-year period. It is my understanding that is gone and we are going to have record deficits as far as the eye can see. Is that a fair statement?

Mr. CONRAD. That is a fair statement.

Mr. REID. A final question, as part of that, do deficits matter?

Mr. CONRAD. Well, let's first talk about what is happening with deficits under this administration. Over the next 5 years, under the President's plan, the debt of the United States will increase by $3 trillion. Now let's think about that. That is an average of $600 billion a year of increased debt.

The President says he is going to cut the deficit in half over the next 5 years, but he only gets that by leaving out things. For example, he leaves out any war cost past September 30 of this year. He says there is no cost of the war in Afghanistan, the war in Iraq, the war on terror, past September 30 of this year. Does anybody believe that?

When we ask his people about it, they say, well, it is hard to predict what the cost will be. Well, we would agree with that, it is hard to predict. The right answer is not zero. The right answer is there is not going to be no cost. The Congressional Budget Office tells us the cost is going to be $280 billion. Yet the President has nothing in his budget.

It does not stop there. If one looks at the cost of the President's proposed tax cuts, what one sees is that in the first 5 years they are relatively modest, but the cost of those tax cuts explode in the second 5 years. It does not end there. The alternative minimum tax, which is going to cost some $600 billion to fix, according to the Congressional Budget Office—my colleagues will remember the alternative minimum tax was designed to catch millionaires. It was put in place back in the 1980s, but it has not been adjusted. The result is, more and more middle-income people are being sucked into the alternative minimum tax. There are about 3 million people affected now. By the end of this decade, 40 million people will be affected.

In his budget, the President provides 1 year of the cost of fixing the alternative minimum tax. He lets the rest of it go, which is writing in a tax increase beyond the first year, and it will be a tax increase increasingly on the middle class.

It does not end there. The biggest thing the President is proposing, in terms of how he finances these massive deficits and debt, is to borrow money. The President is fond of saying it is the people's money, and he is exactly right, it is the people's money. It is also the people's debt.

How is he financing these enormous deficits and debt? First, he is borrowing every penny of the Social Security surplus over the next 10 years, every dime, $2.4 trillion, money that is really not in surplus at all because it is going to be needed when the baby boomers retire.

So the President is really not showing the American people how serious our fiscal condition is. When he says he is going to cut the deficit in half, he says the deficit in the fifth year will be $237 billion, but if we add back all of the things he has just left out, what we find is the debt of the country will actually increase by over $600 billion in that fifth year. All of this is right before the baby boomers retire.

So on the question of do deficits matter, certainly deficits matter. The trade deficit matters. That is running nearly $500 billion a year. The budget deficit matters. That is going to run nearly $500 billion this year. Why does it matter? Deficits matter because when the Government spends more than it takes in, it has to borrow the money. When the Government borrows money, it is in competition with others to borrow money.

In this society, we have over $20 trillion of debt—government debt, Federal Government debt, State and local government debt, corporate debt, private debt—$20 trillion. When the Government has to go borrow money in competition with the private sector, most economists would argue that puts upward pressure on interest rates. When you have $20 trillion in debt in an economy, a 1-percent change in interest rates costs you $200 billion.

I can remember very well when Lloyd Bentsen was Secretary of the Treasury, he called me to lunch one day down at the Treasury Department. I walked in and sat down.

He said: KENT, you probably wondered why I asked you here today.

I said: Yes, I did wonder.

He said: I wanted to share with you because now you are on the Finance Committee, you have my seat on the Finance Committee, something that is very important to remember when you are dealing with the economics of the country; that is, when you look at the debt of the country in all forms—government debt, corporate debt, individual debt—and you look at a change in interest rates, you come to understand how critically important it is to manage this economy in a way that keeps pressure off of interest rates. That means it is critically important to hold down deficits and to hold down debt because that will keep pressure off of interest rates. If you hold down pressure on interest rates, you are giving more lift to the economy than anything you can do on the tax cut side of the ledger. It is so powerful, the difference 1 percent makes in interest rates in this society because of all the debt there is.

It is a lesson I have never forgotten. I don't think any of us should forget it. That is why deficits matter.

Some will say interest rates are at very low levels now. Indeed they are. In fact, one of the reasons we have seen the economy resume growth is because interest rates are at a 40-year low, even though we have these massive deficits. How can it be? How can interest rates be at a 40-year low when we have these massive deficits? It is because right now there is very little competition for money from the private sector because the economy has been weak. As the economy resumes growth, as it has, we will see upward pressure on interest rates. That is something we have to keep in mind as we fashion Federal policy on the budget.

We have the ability in the Senate, the Congress and the President, to influence the fiscal policy of the country. There are two things that contribute and affect the economy. One is fiscal policy, spending and revenue decisions that are made here and in the House of Representatives and by the President. The other aspect of Government policy that affects the economy is monetary policy.

The monetary policy is guided by the Federal Reserve. The Federal Reserve has put in place a very accommodative economic policy, the lowest interest rates in 40 years. It is a key reason for this economic recovery. But that is jeopardized, it is threatened if interest rates are forced up.

What might force them to go up? As we see economic recovery, as we see the private sector borrowing more money to build and expand their businesses, and the Federal Government is also borrowing these record amounts of money, that will put upward pressure on interest rates. That will threaten long-term economic growth and recovery. That is why deficits matter.

Does the Senator from Pennsylvania seek time? I yield the floor.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I will pick up where the Senator from North Dakota left off. I suggest historically the lesson we learn from the conversation he had with Lloyd Bentsen: Lloyd Bentsen was wrong. The bottom line is there are a lot of other factors that go into the calculation of interest rates other than the deficit. That is obvious from the fact that we have a relatively high deficit right now and interest rates remain low.

It is a very complex economy. I think the idea we are going to focus in on one thing or another that is going to create jobs or not create jobs is folly. What we need to do is try to put a grand strategy together, including keeping inflation low, working to keep interest rates low, keeping tax rates low, trying to reduce litigation costs, trying to reduce the costs of regulation. All of those are a complex series of factors, and there are a whole lot of others, frankly, beyond the control of the Senate that we need to look at as to creating an environment in which jobs can be created and wealth can be created.

Our job in the Senate comes down to a few simple things. We have been debating this year trying to reduce the cost of litigation. This side of the aisle, generally speaking, has been on the side of reducing that transaction cost to the economy, and it is a huge cost to this economy. We have a couple of other bills coming up such as asbestos litigation that I am hopeful will be scheduled in the next couple of months so we will get a date certain to have a vote in the Senate. I would argue we can do more to help the manufacturing economy in this country by taking away the burden of asbestos litigation which is crippling dozens upon dozens of large manufacturers who employ hundreds of thousands of people who make this economy go. It is crippling them, having to defend tens of thousands of lawsuits. Most of them are frivolous. Most are filed by people who are not sick. They are filed by lawyers who are looking for big fees and big settlements and tying up enormous resources and clogging up our courts.

We have an opportunity to solve that problem and, more importantly, get the money to the people who are truly sick and injured as a result of exposure to asbestos. We have an opportunity to do that right here. If you want to help the manufacturing economy, if you want to create better jobs, if you want to loosen up the burden of frivolous lawsuits on a whole sector of our society, the manufacturing economy, let's pass this asbestos litigation. I don't hear any of you talking about that.

How about class action reform? That is another abuse of the legal process by a handful of trial lawyers who, again, put together these massive suits, with people getting very little benefit except, of course, the lawyers who are suing on "behalf" of this class of people. We have an opportunity to do something there that will dramatically help this economy, help the manufacturing economy, help the economy in general. So the idea there is just one aspect we need to focus on is false. There are a lot of things we can do in the Senate.

I can tell you another aspect we need to focus on in the Senate, and that is spending. There is a big concern in our markets today, in the economy today, about the appetite for spending in Washington, DC, and the potential impact that will have on our economy because it will lead to further spending. Growing the Government will lead to higher deficits and, as we will see over the next 4 days, calls to increase taxes to pay for more Government spending. What do increased taxes mean? That means less money in the private sector out there creating jobs and more money in Washington—well, maybe creating a few jobs in town.

So the idea of more spending and higher taxes is what the Senate is going to be dealing with in the next few days. That is an important topic to discuss, and one that will have profound consequences on this economy—beyond the talking down of the economy that I illustrated before that has been going on for months during the Democratic primary, and the chorus in the Senate talking about how terrible things are. To pull out a chart, as the Senator from North Dakota pulls out, saying that we have a percentage of the population that is working which is lower now than it has been in 10 years, the percentage—does that matter? The question is, How about the percentage of the people who are looking for work? That is really what we are interested in. The fact that the percentage of seniors has grown in America over the last 10 years will mean by definition that probably fewer people as a percentage of the population are going to be working. That is sort of a natural thing to assume. This idea that we are going to pull out all these incredible sort of arcane statistics to make a point when the overwhelming body of evidence is that this is an economy that is growing, unemployment rates are at historically low levels, and wealth is growing in this country, household income is growing in this country, the idea that this is the worst economy since the Great Depression is folly.

It is the kind of talking down of this economy that the President and the Vice President were accused of 3 years ago when the economy was in bad shape. The idea that somehow or another this administration has lost all these jobs when this administration entered office during a recession, which, I assume, the Democrats at least will admit the President had nothing to do with when he was sworn in in January of 2001—we were in a recession—that somehow or another we are going to blame the President for the resulting job loss of that and the events of 9/11, or the corporate scandals which ran amok during the Clinton administration, which, again, this President had to patch together—this idea that because the economy was in terrible shape when the President rose his hand and said I take this oath is now the President's fault, again, just doesn't, thankfully, make a whole lot of sense to the American public.

The American public isn't buying a lot of this snake oil salesmanship that is going on about how bad things are in America. I think the more we get the information out about what really is happening in this economy, and the things this administration is doing now and which we are trying to do in the Senate to make it better, the better this economy will do—even more than it is doing today.

But our job in the Senate over the next 4 days is to ask whether we want to see this economy grow.

No. 1, how much are we going to resist the call to increase spending? That is a big concern out there in the private sector. Will Washington try to live within its budget?

And, No. 2, how much are we going to try to take from the American public in the form of higher taxes?

I have decided to resurrect a couple of charts I have used over the last year. One is the Democratic spendometer. For every amendment that is offered which increases spending, we will put that amendment here. We will put the number of Democrats who voted for this amendment, the 1-year cost, and the 5-year cost over this budget.

Just to recollect, I heard the Senator from Nevada, who is a very persuasive and articulate spokesman for the other side, talk about this horrible deficit we have. I remind all who are listening that last year at this time the Democrats proposed adding $1.3 trillion in new spending over the next 10 years to last year's budget.

Let me repeat that: $1.3 trillion in new spending not offset by other spending cuts added to this deficit over the next 10 years. Had we done what they wanted to do last year, this deficit would be in much worse shape than what it is today.

That was just in the budget. The first time I brought out this chart was during last January's discussion of the appropriations bills which the Democrats failed to pass when they controlled the Senate in 2002. That was the omnibus bill of January of 2003. During that debate on Democrat appropriations bills that passed out of their committee, they sought to add a half trillion dollars in new spending to the fiscal year 2003 budget—the omnibus spending, the appropriations bill in 2003—and $1.3 trillion over 10 years to last year's budget, which again, thankfully, was defeated. Then, after the budget passed and we had to deal with last year's appropriations bill to which they again attempted to add, the spend o meter was brought out—$800 billion in new spending to those bills.

I just remind everybody who will come to the floor and bemoan budgets and deficits and how irresponsible the President and those of us who are in the majority are, they attempted to add $800 billion to last year's appropriations bills, and $1.3 trillion to last year's budget, all of which was not offset with any other spending reductions.

I will again put up this chart.

There is a clever thing, I suspect, that many on the other side will do this time; that is, they will pay for these amendments. They will say they are concerned about the deficit. Last year, they were not. Last year, we did not offset these expenditures. Last year, they simply ran up the tab. But all of a sudden, we are awash with fiscal conservatism. We have this great concern now about the Federal budget deficit. What is going to happen with a lot of the amendments that will be offered by the other side is that they will be paid for. How will they be paid for?

That brings me to my second chart, the Democrat taxometer. What they are going to do is not only increase spending with more money flowing to the bureaucrats in Washington, DC, but they are going to do so on the backs of taxpayers in America. They will say: Oh, all we want to do is tax the richest of the rich, and our amendments are designed only to go after those wealthy people who can afford to pay taxes. But, of course, we know that is not what their amendments do. What their amendments do is instruct the Finance Committee to come up with revenue raising. That is all this amendment does. It is all it can do. It cannot specify what the Finance Committee will do nor what this Congress will do. So all it will do, and will do repeatedly, is instruct the Finance Committee to raise taxes.

For every amendment that is offered that is "paid for," we will have, again, the amendment, the number of Democrats who voted for this tax increase, the 1-year cost to the taxpayers in increased taxes, and the 5-year cost to taxpayers in increased taxes.

When we hear this debate, what we are back to again is sort of a typical saw that we hear in Washington, DC, tax and spend, tax and spend, all in the name of trying to have fiscal accountability. In reality, it is growing the size of government. It is growing the power and influence of the Federal Government over your life and taking your money so we can have more power over you, and you can have less freedom to do what you believe is in your best interests and the best interests of your family. Of course, we know, if you listen to the other side, that we can spend your money better than you can; that the money we have to spend is for great and wondrous causes which will have a tremendous benefit to the American public; and, of course, if we let you keep this money, you would use it on frivolous things that have no great benefit to you or to your family or to the community and to the country.

The same kind of cynicism that we have seen pervade on the other side of the aisle for decades, nothing has changed. It is the same old saw. We know what to do better with your money than you do, and we are going to prove it time and time again over the next 4 days as hundreds of billions of dollars in tax increases will be voted on on the floor of the Senate. Hundreds of billions of dollars of new taxes will be voted on in the Senate, with hundreds of billions of dollars of wonderful new Government programs that will solve all the problems we have in America that, of course, if that money were left to you, you would not have any idea what to do, that would be of any benefit to the American public or to these great causes we announce in the Senate.

This is the debate. There is lots of talk about deficits and fiscal responsibility, but in the end this comes down to more Government, bigger Government, more Government control, less freedom.

The late Paul Coverdell used to say his basic understanding of taxes was it is an issue of freedom. The more money we take from you, the less free you are to take care of yourself and to provide for yourself and your family. The less money we take, the more freedom you have. So this is an issue of basic freedom, economic freedom in this country.

We will see over the next 4 days what party sides with the American public, what party trusts you, and what party believes they can do better with your money than you can, that they know what is best for America than the millions of Americans across this country whose money will be taken and sent to Washington for new programs that will better solve American problems than leaving the money at home with Americans to solve it for themselves.

I am looking forward to this debate. I could be wrong, but I suspect I will need more than one of these charts. I suspect I will need several of these charts about where the Democrats and how much the Democrats are going to try to increase taxes over the next several days. We will need several charts of how Democrats will try to increase spending and grow the size of Government. It will be hundreds of billions of dollars. It may even be, over 5 years, $1 trillion, and they will do so all by maintaining a straight face that they are the protectors of fiscal discipline in Washington, DC; they are the ones who are for lower deficits, who are for Government control—of controlling Government spending; they are the fiscal watchdogs on guard to the American taxpayer.

Let's see what happens over the next 4 days. Let's see who calls for spending increases. Let's see who calls for tax increases. And let's find out who really is on your side.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I am delighted to follow the Senator from Pennsylvania. I have been looking forward for a long time to this opportunity because the Senator from Pennsylvania makes a lot of aggressive assertions. Unfortunately, he is aggressively wrong, wrong, wrong.

Let's start with the question of when the deficit starts. The Senator from Pennsylvania says it started in the Clinton administration.

Mr. SANTORUM. If the Senator will yield?

Mr. CONRAD. I am happy to yield if I misstated.

Mr. SANTORUM. I did not talk about the deficit starting in the Clinton administration. I am talking about when the recession started.

Mr. CONRAD. I apologize; I meant to say when the recession started. I think the Senator from Pennsylvania said the recession started during the Clinton administration.

Mr. SANTORUM. Again, Mr. President, I think I said it started when the President was taking the oath of office in January of 2001.

Mr. CONRAD. I am happy to have the Senator state his position.

Let me just say the problem with that is the National Bureau of Economic Research, which does the official dating of recessions, says the downturn began in March 2001, early in Bush's Presidency.

But that is not the thing I am most eager to answer in terms of what the Senator from Pennsylvania has said. He has repeatedly used his spend-o-meter chart in the Senate and that chart is just a complete fabrication. I don't know of a nice way to say this. That chart is a complete fabrication.

How is it a fabrication? First of all, all the Democratic amendments to last year's budget resolution were paid for. The Senator from Pennsylvania said they were not paid for. That is factually wrong and he ought to come out here and correct the record because it is wrong. All he has to do is look at the record to know it is wrong. Our amendments were paid for. I will go to a complete list of those amendments next to demonstrate the statements of the Senator from Pennsylvania are false.

In addition, the Democratic amendments were offered individually, not as a package. The Senator from Pennsylvania wants to act as though the Democratic amendments were offered as a big package. False. They were offered individually.

Third, the Senator from Pennsylvania wants to act as though these amendments were all 10-year amendments. False again. Half of these amendments were for 1 year.

What the Senator from Pennsylvania has done is very conveniently taken 1-year amendments and multiplied to make them 10-year amendments and then cumulate them to act as though they were a package. Wrong, wrong, wrong.

What is most wrong, he asserts they were not paid for last year. He ought to have done his homework better before coming out and making an assertion like that because even the least bit of research, even the least bit, would have demonstrated that is a false statement.

Let's go to the amendments that were offered. I have a list of all of the amendments. We can see whether the statement of the Senator from Pennsylvania was correct. He says the amendments were not paid for. Let's go down the list.

An amendment by Senator BIDEN to restore the COPS Program was a 10-year amendment and costs $1 billion. It was fully paid for, plus $1 billion to reduce the deficit.

An amendment by Senator KERRY on HIV/global AIDS cost over 10 years about $800 million. Completely paid for, plus an additional amount to reduce the deficit.

We can go right down the list. Every single one of the Democratic amendments was completely paid for—in most cases, more than paid for—so the deficit would be reduced as well.

The chart of the Senator from Pennsylvania is wrong. Factually wrong. He ought to come out here and correct the record.

As I say, I will put this entire list in the RECORD because it demonstrates all of the Democratic amendments were paid for, countering the assertion of the Senator from Pennsylvania—and more than paid for. So if you did cumulate them, it would reduce the deficit $687 billion. It is not right to cumulate. They were not offered as a package but individually.

There was an amendment by Senator DORGAN for veterans, to give greater budget resources for veterans health care, for $1 billion. But that was completely paid for, plus an additional amount to reduce the deficit. That is the fact of the matter.

These amendments were offered not as a package, they were offered individually. So this amendment was offered. It was defeated.

Then we offered another amendment on rural health care. That amendment was defeated. Then we offered another amendment. The idea you can combine them as a package is false and misleading.

Then the Senator from Pennsylvania has another chart on the appropriations bills. This is my favorite because this is another complete fabrication. The Democratic amendments to the Omnibus appropriations bill were offered individually, not as a package. You cannot accumulate them.

No. 2, the Democratic amendments were for 1 year, not 10 years. They just took 1-year amendments and multiplied them by 10. They were not 10-year amendments. They were 1-year amendments.

No. 3, if you did total them and take out the duplication, they totaled $37 billion, not the $500 billion asserted by the Senator from Pennsylvania. That is an absolute fiction, a concoction. It has absolutely no merit.

What is really interesting is what the Republicans did. Our amendments, if you can total them—which you should not do because they were not offered as a package—but if you did, they were $37 billion.

But do you know what the Republicans did when they recaptured control? They went into a conference committee, locked out the Democrats, and they came back and increased spending by $63 billion.

Let's look at the difference between what they are saying and what they did. Here are the amendments we offered to the Omnibus appropriations bills. Each one of them was offered individually.

We offered improvements in homeland security. It would have cost $5 billion. That was defeated. So that money was still available. We then offered an amendment to improve education. That was defeated. It would have cost $6 billion.

What the Senator from Pennsylvania has done is add up all these. They were not offered as a package. They were offered individually. They were 1-year amendments, and he multiplied them as 10-year amendments. What is interesting is, if you did add them all up, they do not cost $500 billion; they cost $37 billion.

But look what our friends on the Republican side did when they captured control and wrote the final Omnibus appropriations bill. They went into the conference committee and came back with $63 billion of add-on—$63 billion—trumping us almost two to one if you did accumulate our amendments.

Mr. REID. Will the Senator yield for a question?

Mr. CONRAD. I am happy to yield.

Mr. REID. I say to the Senator, will you leave the chart, please?

Mr. CONRAD. Yes.

Mr. REID. It is my understanding that the $37 billion was done in the Senate where there was full debate and recorded votes. Is it true that the $63 billion, which was added on, was done in a secret, closed meeting, with no public able to watch what went on, no one knowing how the votes were cast, and not a single Democrat was in the room?

Mr. CONRAD. That is correct. Rarely have I seen in my time in the Senate—I have been here 17 years—rarely have I seen somebody come out with a more fabricated chart than the one presented by the Senator from Pennsylvania. It is false in its detail. It is false in its assertion. It is a complete fabrication. For him to come and say our amendments on the budget resolution were not offset is absolutely false, and the record shows it as clearly as it can be shown.

On the appropriations bills, to assert we offered $500 billion of amendments is just false. It is not true. We authored, if you totaled them, $37 billion of amendments. But you cannot total them. They were offered one after another. We would offer an amendment. It would be defeated. Then we would take that same money and offer a different amendment. That is the fact of the matter.

But what is most interesting is, if you did total them, we were completely outstripped by what the Republicans did when they went into the conference committee between the House and the Senate to work out the differences and they came back and increased spending $63 billion.

Now, let's talk about who has responsibility here for the explosion of the debt, because that record is very clear. Our friends on the other side are in total control. They control the House. They control the Senate. They have since 2001. They control the White House. This is what has happened to the debt under their stewardship and under their leadership. The debt has exploded.

When President Bush took office, the publicly held debt was projected to be, in 2008, at that amount, $36 billion. In his 2002 budget, it got raised to $1.2 trillion. Then his tax cut passed and it went up to $1.6 trillion. Then the President's 2003 budget came up and he expanded the debt to $3.3 trillion. Then we got his budget for 2004 and it increased the debt to $5 trillion. Then we got the Senate GOP 2005 budget and they increase the debt to almost $5.5 trillion.

These guys are totally in charge. The Republicans control the House. They control the Senate. They control the White House. It is on their watch that the debt has exploded. That is the fact of the matter. It is no wonder they are now trying to distort our record to give themselves cover for what they have done.

AMENDMENT NO. 2704

Mr. President, I am now going to lay down an amendment. I send an amendment to the desk. I might add, I have the agreement of the chairman of the committee that we will proceed with this amendment at this time. I inform the Presiding Officer, I have discussed this with the chairman. I send this amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD] proposes an amendment numbered 2704.

Mr. CONRAD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require Congress to pay for any new tax cut or mandatory spending legislation until the budget is balanced without counting the Social Security surplus, to encourage Congress to work expeditiously to ensure the long-term viability and permanent sustainability of the Social Security program for current and future generations, and to ensure that Social Security benefits are not cut to offset the costs of enacting new tax cuts or extending the President's tax cuts that benefit the wealthiest among us)

At the end of title IV, insert the following:

SEC. . POINT OF ORDER TO PROTECT SOCIAL SECURITY FIRST.

(a) POINT OF ORDER IN THE SENATE.—It shall not be in order in the Senate to consider any direct spending or revenue legislation that would increase the on-budget deficit in any fiscal year until the budget is balanced without Social Security.

(b) SUPERMAJORITY WAIVER AND APPEAL.—This section may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

Mr. CONRAD. Mr. President, the amendment I am offering today is to protect the Social Security trust fund surpluses from additional raids. My amendment would establish a 60-vote point of order against the consideration of any direct spending or revenue legislation that would increase the on-budget deficit in any fiscal year until we have balanced the budget without counting the Social Security surpluses.

Very simply, what this amendment does is to say, no new spending, no new tax cuts, unless they are paid for, until we secure Social Security, until we stop the raid on Social Security trust fund surpluses.

I said from the beginning that President Bush's fiscal plan would ultimately threaten Social Security. I believed it then, and I, unfortunately, believe that events have confirmed how seriously the President's fiscal plan threatens the fundamentals of our economic security.

Now we see the Chairman of the Federal Reserve, Chairman Greenspan, suggesting we are overcommitted. He has said to the Congress of the United States that he recommends we consider reducing Social Security benefits. That is where the President's overall fiscal plan leads. It fundamentally threatens not only Social Security but Medicare as well.

I want to go back to 2001 and what the President told us then. The President told us, in his budget blueprint for the 2002 budget:

> None of the Social Security surplus will be used to fund other spending initiatives or tax relief.

Yet that is precisely what we see happening. Not only is the President using Social Security, he is using $2.4 trillion of Social Security surpluses over the next 10 years. Let me be quick to say they are not surpluses. All of that money is going to be needed to pay for the retirement of the baby boom generation. The President, who pledged not to take the money and use it for other purposes, is doing precisely that. He is using every penny of the Social Security surplus over the next decade to pay for his tax cuts and other expenses of Government.

Interestingly enough, if one looks at the Social Security money that he is borrowing over this next 10 years to pay other bills and compares it to the cost of his tax cuts—both those already passed and those proposed—one finds a very close fit, a very close fit between the money he is borrowing from Social Security, with no plan to pay it back, and the cost of his tax cuts. They are almost identical.

There is $2.4 trillion of Social Security money taken over the next 10 years—all of it financed with payroll taxes, primarily paid by middle-income people—and he is using it to provide income tax cuts that disproportionately go to the wealthiest among us.

It is very interesting to pierce the veil and to see what the President is doing and to see the full effects of his policy: $2.4 trillion taken from Social Security—borrowed, if you will—and then used to finance income tax cuts.

If we look at who the beneficiaries are of those income tax cuts, here it is: We see overwhelmingly they are going to the wealthiest among us. The top 1 percent, those earning over $337,000 a year, get 33 percent of the benefits of these tax cuts. Almost 69 percent of the benefits go to the top 20 percent.

Shown down here on the chart, the bottom 20 percent get virtually nothing. The second 20 percent gets 4.8 percent of the benefits. The middle 20 percent gets 10.6 percent of the benefits.

The fourth 20 percent in terms of income, those with $73,000 or less in income, get 15.8 percent of the benefits. The top 20 percent get 69 percent of the benefits.

If we look on the recipient side, those who get Social Security benefits, that is instructive as well. What this chart shows is almost two-thirds of retirees rely on Social Security for more than half of their income. In fact, 31 percent of Social Security beneficiaries get at least 90 percent of their income from Social Security benefits; 33 percent get 50 to 89 percent of their income from Social Security; and 36 percent get less than 50 percent of their income from Social Security.

What is going on is—again, I like to use the term "pierce the veil"—the President is borrowing from the Social Security trust fund, $2.4 trillion during this next 10 years, using it to finance income tax cuts costing $2.5 trillion. The income tax cuts go overwhelmingly to the wealthiest among us. Thirty-three percent goes to those earning over $337,000 a year, and it is all financed by payroll taxes paid disproportionately by middle-class people. In fact, over 70 percent of Americans pay more in payroll taxes than they pay in income taxes.

This is the greatest shift of wealth that has perhaps ever occurred in our history, from the many to the few. That is the President's plan.

Here we see the difference Social Security has made, before we had Social Security and without it. Nearly 50 percent of beneficiaries would be in poverty. That has been the extraordinary power of Social Security and Medicare. It has lifted people out of poverty. Before we had Social Security and Medicare, almost half of seniors were in poverty. Social Security has reduced that to 9 percent; 9 percent now of our seniors are in poverty. What a remarkable social program this has been, the combination of Social Security and Medicare, to lift people out of poverty.

The President says: Well, we have a big shortfall in Social Security over the next 75 years.

Indeed, we do. The 75-year shortfall in Social Security is $3.8 trillion. That is according to the actuaries. But interestingly enough, if you look at the cost of the President's tax cuts over that same 75-year period, they are three times as much: $12.1 trillion is the 75-year cost of the President's tax cuts.

All of this should inform what we face in the very near future. The President's massive runup of deficits and debt is occurring at the worst possible time, right before the baby boomers begin to retire. This chart shows it very well. It shows the tax cuts explode as the surpluses in the trust funds of Social Security and Medicare become deficits.

The green part of these bars is the Social Security trust fund. The blue part is the Medicare trust fund. The red is the costs of the President's tax cuts. What you can see is right now the surpluses from Social Security and Medicare are larger than the cost of the tax cuts. As I have indicated, over the next 10 years the Social Security surpluses that are being taken to finance the tax cuts are about equivalent to the cost of the tax cuts. That is over the next 10 years. But look what happens when the trust fund goes cash negative. At that very time the cost of the tax cuts explodes, driving us right over the cliff into deeper deficit and debt. This is what is so fundamentally flawed about the President's fiscal plan for this country. We see the same flaw in what has been reported out of the Budget Committee. It is seen most clearly in the President's plans because of his adherence to even more tax cuts when we are running record budget deficits. The President is proposing increasing spending and cutting revenue when we already can't pay our bills. What does that do? We can see what it does as he takes more and more of the Social Security money to finance tax cuts and other expenditures. That string starts to run out when the trust fund goes cash negative.

Unfortunately, the President has made no provision for it. His answer is: Cut the revenue more. Spend more, when you already have record deficits.

This is where it is all headed. It is not just the Congressional Budget Office and it is not just this Senator's calculations. We see these warnings coming from the Comptroller General of the United States. We see them coming from the International Monetary Fund. We see them coming from responsible budget groups warning the President has us on an unsustainable course.

Here is what is going to happen with Social Security. We are going to see a dramatic increase in the number of people who are eligible to receive it. There is going to be a doubling of those eligible for Social Security. We have about 40 million people now who are eligible for Social Security. That is going to double to more than 82 million. The President has no plan to deal with it.

Unfortunately, what he is doing is taking the Social Security surpluses. We can see the pattern on the Social Security surplus. We can see it is at very high levels now. The Social Security surplus for this year will be about $160 billion. That continues to increase dramatically in preparation for the retirement of the baby boom generation. But instead of using this money to pay down the debt or prepay the liability, the President is taking it all to finance current tax cuts and other expenditures, putting us in a more vulnerable position.

My amendment says, let's protect Social Security first. We protect the Social Security trust funds from further raids by preventing the consideration of new revenue or new spending that is not paid for until the budget is balanced without counting the Social Security surplus. This is enforced by a 60-vote point of order.

I want to make clear, the basic idea is if you want new spending, if you want new tax cuts, you can do it, but you either have to pay for it, or you have to get a supermajority vote. We would maintain that discipline until the raid on Social Security is stopped, until we stop the Bush administration from using Social Security funds to pay for tax cuts and other expenditures.

This is a commonsense amendment. I hope very much our colleagues will support it. It is critically important to provide the discipline on both the spending side and the tax side as we go forward.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank my colleague for this amendment. For the information of our colleagues, it is my expectation we will probably vote on this amendment shortly after lunch, unless others wish to speak on it. We are happy to accommodate that.

I rise in opposition to the amendment, but I want to give a little explanation about what, in my opinion, this amendment does and does not do.

First, if we did what my friend and colleague from North Dakota is saying, we would be in violation of the Budget Act.

In the Congressional Budget Act of 1974, section 301, there is a Social Security point of order that says it is against the law to bring any budget concurrent resolution to the floor of the Senate if you do anything detrimental to the so-called trust fund. I will read the point of order:

> It shall not be in order in the Senate to consider any concurrent resolution on the budget or amendment or motion or conference report on the resolution that would decrease the excess Social Security revenues over Social Security outlays in any of the fiscal years covered by the concurrent resolution.

That is strong. That is the law. We comply with the law. If we did not, our entire budget would fall. I make that point.

Senator CONRAD alludes to the fact that we are raiding Social Security. I disagree with that entirely. With great respect, I will say Senator CONRAD's budget, which he wrote in 2002 that passed the committee but did not pass the Senate, did the exact same thing, for at least $866 billion. I understand politics, and I understand the way this is being framed, but it is absolutely wrong. What do we do with a Social Security surplus? Senator CONRAD is correct, there is $166 billion more Social Security taxes coming into the Social Security trust fund than money going out.

What do we do with the excess money? We do exactly what the law says we should do. We take that money and buy Treasury bonds that are supposedly invested in West Virginia. I say "supposedly" because all the money got into one big pot. Social Security, as well as income taxes, all goes into one big pot.

If you are an employee and look at your W–2, you have withholding for Social Security and income taxes that goes out every payroll period. All that money goes into the U.S. Treasury. Half does not go over here and half over there. All of it goes into the Treasury, and Treasury writes the checks.

With Social Security, if they determine there are less outlays than income, they take the balance and buy T bills. That is a commitment by the U.S. Treasury to pay it back with interest. That is the law of the land, and that is exactly what we do. That is exactly what we do under this resolution.

This chart shows exactly what the trust funds will be approximately, with the budget and without the budget. The trust fund is exactly the same because we take every dime of the surplus and we buy T bills with it. I might add, if our colleagues on the other side of the aisle offered a budget, it would be exactly the same or else their budget would fall.

I just make that point. I hope people do not get confused about all the raiding talk. We buy T bills with the Social Security surpluses. That is what has been done for years because that is the law of the land.

There is some discussion that if we had a surplus, maybe we should buy equities or not buy equities. You could buy major corporations, you could buy a very significant portion of the stock exchange, and so on. But we did not do that. We follow the law of the land. Instead of picking out which company or sector might benefit from a Government investment, we said, no, we are going to buy T bills.

With those T bills, we can do one of two things: spend the money or pay off debt. But that is beside the point. The trust fund is basically the same, the obligation to pay. We are not changing the law of the land. The law of the land is we have obligations to pay Social Security benefits based on formulas. We can change those formulas. We can change eligibility. We can change retirement age. We can change the cost-of-living benefits. We can take a lot of different actions. Congress can do that. We cannot do it under a budget resolution, not if it is detrimental to the health of the trust fund.

I want to make sure everybody understands we are not raiding the Social Security trust fund. The Social Security trust fund is going to be exactly the same under this resolution as before because that is the law of the land, and we abide by the law.

I also repeat, Senator CONRAD's budget and, frankly, any budget that I have seen in my years in the Senate—and I have seen 24 of them—we did not pass Senator CONRAD's budget, but the 23 we passed all treated Social Security the same—all did.

What about this point of order he is creating? That sounds pretty good, and I think I hear him correctly when he says no new spending and no new tax cuts unless we have this supermajority. Guess what? We exempt a whole lot of spending. According to CBO, we exempt about $1 trillion of spending under the baseline. They just assume the spending is going to continue, even though, in many cases, the authorizations expire. But the way this is drafted and the way I can tell, we more or less exempt that.

For example, the farm bill. The farm bill expires at the end of 5 or 6 years. Under this amendment, we would not say the new farm bill has to be paid for, at least that is not my interpretation of the amendment. So spending has an advantage compared to tax cuts.

Any tax cuts, because tax cuts are for a definite short term, a limited term, when they expire, they would have to be 100 percent paid for. But a lot of spending programs, over $1 trillion worth of spending programs, would continue even though they are scheduled to expire. They are assumed to continue. Tax cuts are not assumed to continue. There is a big difference.

We also exempt appropriations. We can have big increases in appropriated accounts. Discretionary accounts—the money we spend—in some cases have been growing rather dramatically. We will exempt that. In this fiscal year, fiscal year 2004, we are going to have discretionary spending of about $788 billion, according to the Congressional Budget Office, and we are projecting under the budget resolution $814 billion. It may be higher. CBO scores the President's budget at $823 billion. There is a difference between $823 billion and $788 billion of about $35 billion. Under this amendment, no, you do not have to pay for that.

If we can have lots of increases in discretionary spending, that wouldn't have to be paid for. We basically exempt all the appropriated accounts, about $1 trillion of mandatory spending that is assumed to continue. That does not have to be paid for.

What has to be paid for? What is the real target of this amendment? The real target of this amendment is if you want to continue present law in the Tax Code, you have to have 60 votes. That is what this amendment is really getting at, and it is trying to cloud the issue with Social Security.

We treat Social Security exactly the way Senator CONRAD did in his budget. We treat Social Security the same as every other budget that has been before the Senate. We treat Social Security according to the law. If we have surpluses, we buy T bills—that is an IOU—period.

The real essence of this amendment is, they would like to make sure that if we are going to continue present law, we have to have 60 votes. That is the essence of it.

It means if there is going to be a lot of other legislation—maybe it is the prescription drug bill, maybe it would be the Energy bill, maybe it would be anything else—oh, that has to have 60 votes, too. We basically would be changing the way we do business in the Senate and say we have to have 60 votes for anything.

Some people think that should be the case anyway. I disagree. Some people go in with the idea that we are going to have a filibuster on every bill, have to have 60 votes. That is not the tradition of the Senate. That is not how the Senate historically has worked, and it should not work that way. Filibusters should be very rare and few, and it seems as if everybody wants to pull that trigger every time we turn around. I disagree with that practice, and I hope people will think about that further because it will greatly undermine the workings of the Senate.

Also, this amendment, in my opinion, would encourage spending because a lot of people around here do not like tax cuts. They would realize you could never have a tax cut if we were not in balance, minus Social Security, and, therefore, there is real tendency to increase spending with a majority vote and you have to have a supermajority to get tax cuts. So it is going to be a lot harder to get tax cuts and less harder to get more spending, and the more spending you get, the less likely a tax cut will happen.

Some of our colleagues and many people would love this bias towards spending because you can pass spending increases, discretionary spending increases, with a majority vote. They do not count and, therefore, if you spend more, it would be less likely to have tax cuts. Tax cuts would be out of order.

The more I think about this, the less I like it. I have great respect for my colleague from North Dakota, Senator

CONRAD, but I think this amendment demagogs on the issue of Social Security.

Maybe it tries to inflame people about raiding Social Security. I absolutely think that is false. I told my colleague from North Dakota I look forward to having a hearing in the Budget Committee in the not too distant future on this whole concept of trust funds, what is there, what is not there, what obligations we have, what they really mean, because I think there are a lot of misconceptions about trust funds in general. I look forward to that.

I also will make a couple of comments on a few facts relating to Social Security. I know Senator CONRAD asked, is it not interesting because the Social Security surplus is just about equal, the same amount of money as the tax cuts? Well, I will show Social Security taxes and payroll taxes are just about equal—not quite equal—to the total amount of money that we pay out in Social Security and Medicare.

So one could easily say the Social Security surpluses are used to pay Medicare. That is the point I am making.

As a matter of fact, they do not quite pay for Medicare. It so happens the Medicare beneficiaries are by and large the same beneficiaries of Social Security, and those are just some facts.

To give an example in the year 2004, actually the total benefits for Social Security and Medicare together are $784 billion. The total amount of money coming in from payroll tax is $753 billion. In other words, we pay out $31 billion more than we take in on payroll taxes for Medicare and Social Security.

Somebody says: I am not aware of that. I thought we had big surpluses. We have surpluses in the Social Security trust fund theoretically because 12.4 percent of payroll tax goes in for Social Security; 2.9 percent of payroll tax goes into Medicare. I started to say it is the same payroll tax. If one looks at their W–2, it says FICA tax. A lot of people do not even know what FICA means. That is the Social Security and Medicare tax. It is 15.3 percent, which is 12.2 and 3.9. Do I have that right? I know that did not add up right—I have not given this speech in a while. It is 12.4 and 2.9, which equals 15.3, and that is what individuals pay. Self-employed individuals pay all of it. Individuals who have an employer, they pay half and the employer pays half. It adds up to 15.3 percent of payroll, up to a taxable base of $87,900. Wow.

So my point is, if we add all the payroll taxes up, that is a lot, but it does not quite pay for all of the benefits that are going out in Social Security and Medicare. It is about $30 billion short. Some people can say, well, those Social Security excesses are used to pay for tax cuts. I disagree with that. I think they are being used to pay for Medicare.

We subsidize Medicare. Under the budget, we pay for three-fourths of part B. That is the doctor expense. The beneficiary pays one-fourth and the Government pays three-fourths. The Government pays for it out of general revenues. My point is, this money is all going into one pot. All the money goes into one pot and comes out of one pot.

There is a balance. If there is a balance in Social Security, we credit that to the Social Security trust fund. We do it by the law. We do it the same way Senator CONRAD did when he passed his budget out of the Budget Committee.

So I hope we have a little less talk about we are stealing or raiding because that language is somewhat political or inflammatory. Again, let's stay with the facts and stick by the budget resolution. That is exactly what we do. Let's not create a bias for let's spend more, but if we are going to do more in spending, we are really not going to count that. We are not going to count incremental increases in discretionary. We are not going to count a trillion dollars of entitlements that are assumed to be expanded forever, but if we want to extend present law on the Tax Code, oh, it has to be paid for.

Right now the child tax credit is $1,000 per child. That is present law. Some of us want to extend that. The President of the United States wants to extend that. Some people are saying, oh, no, we think we should have to pay for that. What do they mean? They are trying to say, well, we think there should be higher taxes some place else. In other words, we want to extend entitlements.

I will make an editorial comment. I did not hear this argument raised when we were dealing with greatly expanding the Medicare bill. People said, oh, let's pay for it, let's make sure that is paid for with increased revenues or reduction in spending. No, it was not.

We have a bill that CBO estimates it will be a $395 billion expansion over last year's bill. I think it will be more than that. The OMB said they thought it might be higher than that. They thought it might be $500 billion and something. I would not be a bit surprised if it was higher than both estimates because we put in some very generous benefit increases. I did not hear a hue and cry about that.

Guess what. We did not terminate that law after 5 years or 10 years and say at the end of that 5 years it has been paid for. So it is going to terminate and go to zero unless other offsets or other cuts are found.

There is a real bias the way this would work that would benefit spending and be very much to the detriment of a continuation of tax increases at least, not to mention further tax reduction.

I happen to be proud of the tax reduction that we passed last year. I was very involved in it. I think that was very good tax relief. I think we have seen positive results of the tax bill that we passed last year.

Yes, we cut the tax rate on capital gains, and I think revenues are starting to come in. We cut the tax on dividends. We tax dividends higher than any other country in the world. Chairman Greenspan said we should probably have a zero individual tax on dividends. He said we should only tax dividends once. Now we tax them about one and a half times. We have a 15-percent rate on dividends.

I understand some people want that rate to go up to 35 percent, or maybe they want it to go to 39.6 percent. Maybe they want it to go higher than that. I wonder what the reaction would be for the stock market and what people's 401(k)s would do and what their investment balance would be. Because we made those tax changes last year, there is the best economic growth news we have had in decades in the last two or three quarters. It has been great, positive economic news. That is really good. We have seen the stock market grow by 40 percent from last year at this same point.

Now, some people want to increase those taxes. I do not. I want to continue them. Yet under the Senator's amendment to continue present law, there would have to be 60 votes. A lot of people realize right now 60 votes are very hard to obtain on a lot of issues.

Under Senator CONRAD's amendment, I would think there would have to be 60 votes to do anything. There would have to be 60 votes to pass an Energy bill. There would have to be 60 votes to pass an increase in child nutrition on which Senator DOLE and some others are working. There would have to be 60 votes to pass family tax relief; i.e, the marriage penalty relief that we gave for married couples who have taxable income of $58,000, we are going to tax them at 15 percent. That is present law. Some of us want to continue that.

If we do not continue that, that means instead of paying 15 percent up to $58,000, people start paying 25 percent around $52,000. There is a $900 difference. I do not want to sock it to middle-income families who earn $58,000. Maybe it is a teacher and a spouse with taxable income of $58,000. They are not particularly wealthy. I keep hearing about all of this benefit going to the wealthy. The tax cuts we are trying to extend are very pro-family tax cuts and, frankly, directed towards middle-income Americans. I want to be able to continue that. Senator CONRAD's amendment says there would have to be 60 votes. There would have to be 60 votes for almost anything at least for the next 10 years.

I do not think that is the road we want to go down. I urge our colleagues at the appropriate time to vote no on the amendment.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I think this is a very important debate, and I thank my colleague for the way he has joined the debate. I disagree profoundly with him. He knows that, but that is what a debate is about. I think this is absolutely one of the most critical debates that we can have because of where we are headed.

The Senator from Oklahoma put up a chart that lumps Social Security and Medicare together as though they are one program. They are not. Social Security is completely separate and apart from Medicare, as the Senator knows. The Senator says if we look at all of the payroll taxes, they do not cover Medicare and Social Security. So there is no real surplus. But that isn't the way these programs are funded. Social Security is funded with payroll taxes. If you look at Social Security, the revenue coming in is far in excess of the money going out. This year there is a $160 billion Social Security surplus. For this next year, it will be $172 billion. By 2009, the surplus in Social Security will be $235 billion.

Under the President's plan, and under the chairman's plan, all of these surpluses in Social Security are going to be taken and used to pay for other things. It is very interesting to see that the Social Security surplus being taken over the next 10 years is almost equal to the amount of the income tax cuts proposed by the President. You have what I consider a spectacle of financing income tax cuts that primarily go to the most wealthy in the country out of payroll taxes being paid predominantly by middle-income people. Then you don't have the money to keep the promise in Social Security, so you have the head of the Federal Reserve coming to Congress and saying: Whoops, you are overcommitted, you better cut Social Security benefits.

Look, I don't think it was ever anticipated when Social Security was reformed that those surpluses would be used to pay the operating expenses of the Government. You couldn't do that in the private sector. No private sector employers could take the retirement funds of their employees and use them to pay the operating expenses of the company. You could not do that in the private sector. If you did, you would be on your way to a Federal facility, but it would not be the Congress of the United States. It would not be the White House. You would be on your way to a Federal facility, all right. It would be a Federal prison, because that is a violation of Federal law, to take the retirement funds of employees and use them to pay the operating expenses of a company. That is a violation of Federal law. That is exactly what we are doing here. Let's understand what we are doing.

Mr. NICKLES. Will the Senator yield?

Mr. CONRAD. I will be happy to yield.

Mr. NICKLES. Correct me if I am wrong. What we are doing with the excess money is exactly what the law states. According to the statute, and I will show you the statute, it says you buy T-bills with it, and correct me if I'm wrong, that is exactly what we are doing with the surplus.

Mr. CONRAD. The Senator is exactly right. The problem is this. That is what is being done. How do those T-bills get redeemed? We have borrowed the money under the President's plan, all of us, instead of using it to pay down debt or to prepay the liability. The cash is gone. The cash has been used for something else, leaving an IOU behind.

How does the IOU get paid back? The President has no plan to pay it back. The only way I believe the President intends to pay it back is dramatically reduce Social Security and Medicare payments in the future. I think we have seen a forewarning of where it is headed with the head of the Federal Reserve saying to people you ought to consider cutting Social Security benefits.

The Senator said payroll taxes don't pay for Social Security and Medicare. They were never designed to pay for both. Payroll taxes were designed to pay for Social Security and those funds are in surplus, but they are being used for another purpose. Medicare is a separate program, financed in part by payroll taxes, in part by general fund transfers. So these are not the same programs. They are not funded in the same way. The fact is payroll taxes, in both the part of Medicare they fund and in Social Security, are in surplus, and the surpluses, the funds, are being taken and used to pay the operating expenses of the Federal Government. I think that is a serious mistake.

What is the alternative? I think the alternative is to use the money to either pay down debt or prepay the liability. That is what most people would do in their private lives, getting ready for retirement, and that is what we should have done to prepare for the retirement of the baby boom generation.

The Senator says all the money goes in one pot, and that is exactly right. That is how it works. All the revenues coming in go in one pot. All the expenditures come out of that pot. The problem with that is all these revenues are not the same. Some of them are supposedly for a trust fund for Social Security and Medicare. Those moneys are designed to be in surplus now in preparation for the retirement of the baby boom generation, but they are not being used in a way that will prepare for the retirement of the baby boom generation.

The Senator talked about budgets I have offered, and that they are exactly the same as what is being done here. No, I say respectfully, no, they are not. In 2002 I proposed a budget that had $473 billion less in deficit. Why? Because I wanted to use that money to prepare for the retirement of the baby boom generation. In 2003, my budget had $523 billion less in deficit and added debt. In 2004, my budget proposal had $1.2 trillion less in deficit and debt for the budget period.

The reason was, I wanted to use that money to either pay down debt or prepay the liability we all know is coming.

Mr. NICKLES. Will the Senator yield?

Mr. CONRAD. I would prefer not to yield for the moment. I would like to complete a thought and then I will be happy to yield.

My own belief is that would have been a much better strategy for the country than to run up the credit card. Obviously, once this hole has been dug so deep, any budget one writes for a time will use Social Security money. There is no other way to write one anymore. This hole has been dug so deep, the Senator is correct when he says budgets I offered last year would have used Social Security funds for a time. Absolutely. There is no way to write a budget anymore that does not.

The trick is to get on a glidepath to stop it. We did that successfully in the late 1990s. I was very proud to have been part of the 1993 effort and the 1997 effort. Those two budget plans put us on a course to stop using Social Security money for other purposes, and for 2 years we stopped what I considered to be a raid on Social Security. We stopped it.

The President pledged to continue that policy, not to use Social Security revenues for other purposes. Why did he make that pledge if he didn't think it was important? Why did he make that pledge if he didn't think it was important?

He thought it was important. I think the vast majority of Members in this body pledged to protect Social Security funds. But it is not being done.

On the question of this amendment, whether there is a bias towards spending or tax cuts, I would say there is no intention to have any bias here. When we have put in place budget disciplines, I say to my friend, the chairman of the committee, we have always targeted mandatory spending with respect to pay-go provisions and revenue. That is how we have done it in the past—mandatory spending and revenues. That is what this amendment does.

We have used spending caps to discipline discretionary spending. I support both. I think we need both disciplines. Mandatory spending is now two-thirds of Federal spending. We just saw the biggest increase in mandatory spending ever last year, a program that now they tell us will cost $530 billion over the next 10 years. I think it would have been very healthy to have in place the budget discipline my amendment contemplates. My amendment says no new mandatory spending—and that is two-thirds of Federal spending—and no new tax cuts, unless they are paid for, until we stop using Social Security money, Social Security surpluses to pay other bills of Government, to pay for tax cuts, to pay for other expenditures of Government. I think that would be the right policy to put in place.

The Senator says, Then you would require 60 votes for all these kinds of spending initiatives. Absolutely, I would. I would put in place a requirement for at least a supermajority vote, at least 60 votes for new spending. I would put in place a supermajority requirement for additional tax cuts. And, I say to my colleague, I would be part of the 60 on the middle-class tax cuts. I have stated publicly I am for extending the 10-percent bracket. I am for extending marriage penalty relief. I am for extending the child care credits. I would even vote to extend the expensing for small business. Sign me up. I will work to get the 60 votes. But I think it ought to be paid for. I think any new spending ought to be paid for, until we stop taking the Social Security funds and using them to pay other bills, to pay for the tax cuts, and to pay for other expenditures of Government.

I think at this time with the baby boom generation about to retire we ought to be taking those Social Security surpluses that are being generated now that we all know are going to be needed when the baby boomers retire and we ought to use that money in one of two ways: We either ought to pay down the debt with it to better prepare ourselves for what we all know is to come, or we ought to prepay the liability.

That is what I urged my colleagues to do back in 2001 when we had these supposedly huge surpluses. I urged that we use a third of that money to either pay down the debt more or to prepay the liability that we all know is coming. I think that would be a far wiser course than the one we are embarked on now.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I am reminded of the movie "Show Me The Money."

I say to our friends on the Democrat side, show me this budget because this budget would do exactly the same thing. Senator CONRAD's budget that was written in 2002, which passed the committee and did not pass the floor, used $866.3 billion of the Social Security surplus under his budget. If I wanted to—I am not going to do that because I don't believe in that—I could say you were raiding Social Security and using that spending on other programs. I am not going to do that because I don't think that is correct.

I think what he did was the same thing every other budget did whenever there has been a Social Security surplus, and that is buy securities. I will quote the law. That is the law of the land. If we are breaking the law, let people know. People say you are taking that money and spending it on other things. We are investing that money in T bills. I make the argument that it is an entry and say this is how much the trust fund is, but it is exactly the same under this budget as it would be under Senator CONRAD's budget. If I had an alternative or any other budget that anybody else would offer, it would be exactly the same. You are bound by law to purchase T bills, which are basically Government IOUs saying we will pay this amount of money with those T bills.

The Government receives money. What do they do with it? They use it to either spend money or pay down the debt. By and large, over the last many years, it has been used for other things. The Government has that money. The Government has to buy the T bills. We have a T bill. We take that cash and buy a T bill with a promise for a future obligation. That obligation is paramount. It has always been made by the Federal Government.

That doesn't mean Social Security doesn't have problems in the long term. Demographically there are fewer people writing the checks than people who will be receiving them. People who will be receiving the checks are living longer. We have some demographic problems that need to be addressed.

Incidentally, it is a lot worse in Medicare than it is in Social Security. We need to be talking about it. I am happy to discuss long-term challenges that we have, whether it be Medicare or Social Security.

The Medicare challenge is about five times greater than Social Security. I think some people think they can score political points with Social Security and are maybe trying to scare senior citizens. This is happening. They forget to say they did the same thing. We have always done the same thing but we think maybe we can score some political points. I urge our colleagues not to go down that road.

There is a bias. There is definitely a bias in this amendment towards spending. We don't count discretionary spending. You can increase discretionary spending under this resolution by $100 million per year. You don't have to pay for that. There is a trillion dollars' worth of spending that the Congressional Budget Office has on mandatory programs that expire. Those won't be included. They can expire but we will just assume they continue. You don't have to pay for those. But if a tax cut expires, you have to pay for that. But you don't have to on mandatory programs. I find that argument very inconsistent.

For all the above reasons, I urge our colleagues to vote no on the Conrad amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, this is a very important debate. I know it is probably hard for people at home to follow.

The Senator says we are treating the money exactly the same way, and that we are following the law. To a point, he is exactly right. When the money comes in, the Social Security payroll tax revenue comes in, and the money is used, as he described, to buy what are special issue Treasury bonds with the full faith and credit of the United States.

The Senator made reference to West Virginia. That is where those bonds are in a vault calling on the Federal Government to pay back Social Security for the money that has been borrowed. The difference is, What is used with the receipts? What is used with the actual cash?

I believe the right course would be to use that cash to either pay down the Federal debt or to prepay the liability that we all know is coming in Social Security.

The budget I proposed in 2001 for 2002 did precisely that. Instead of having as big of a tax cut, I had half as big a tax cut and used the rest of that money to pay down the debt or prepay the liability.

There is a fundamental difference here about how to use the cash receipts that are the overage from the money coming in from Social Security payroll taxes that are over and above what is needed to pay the immediate benefit. The Senator says we are following the law. Yes. We are following the law. But it is also true that we are taking the money, and instead of using it to pay down the debt or prepay the liability, we are using it to pay for other tax cuts and to pay other Government expenses.

I believe that is a profound mistake. The only way we get back to some policy that stops that practice is to discipline both the spending side of the equation and the revenue side of the equation to require a 60-vote point of order against new tax cuts or new spending that is not paid for.

I think it would be a tremendous advance for this Congress to say, Let's secure Social Security first. That is the first thing we ought to protect. The way to do it is to provide additional discipline on the spending side of the equation and the revenue side of the equation, to say if it is not paid for, it has to require a 60-vote hurdle, a supermajority vote, for new taxes and for new spending that is not paid for.

I note the Senator from New Jersey is seeking time. How much time does the Senator desire?

Mr. LAUTENBERG. I would like about 20 minutes, if I may.

Mr. CONRAD. Let me yield 20 minutes off the resolution to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I have listened to this debate with interest. Frankly, if this were a theater, which it often is, I would still be looking for the direction that this play is going to take.

When we look at the budget resolution before us, I think what we are seeing is downright deception. I think it is fair to say that those who look at this budget resolution with favor and try to make the case for it are doing it, but I think it has a hollow ring to it.

There are a number of games being played, as our friends on the other side present their picture of this new budget. By way of example, there is 1 year of relief from the AMT, the alternative minimum tax, included in their calculation. This AMT will cost something over $650 billion to fix for a 10-year-period.

There is only $23 billion included for this year. There is only 1 year of funding for continued military operations in the war against terrorism.

All Members know we speculate about where we will be going with our needs in Iraq. It hardly seems reasonable to put out a $30 billion figure that represents a single year when over a 10-year-period it is believed it will cost $280 billion.

The question is, What kind of accounting are we seeing in this budgeting? Is the Bush administration following the practices we are seeing in the corporate world? The practices getting so much criticism, the audit reports on Enron and Tyco and WorldCom, are we following their example? Or perhaps they learned their accounting from the actions of our Government, which is making promises that are so outrageous they will never be kept—cannot be met? If we had a stock issued, I would say they were trying to push the stock price; perhaps they are, but it is called electioneering.

It cannot be done. The people on their way to prosecution, the leadership in Tyco, Enron, or WorldCom, who are now being punished for their deception, have learned you can say all you want but when it comes time to evaluating, it has to be in practical terms.

What happened? I served as the ranking member of the Budget Committee during the period we moved from deficits to surpluses. I and so many others were proud of our accomplishments. That is why it is so disturbing for me to see all of our hard work undone. I tip my hat to our colleague from North Dakota who is now the ranking member of the Budget Committee for his hard work. It is never an easy assignment. It is fair to say that we feel compelled on our side to tell it like it is. What is going on is shameful.

Consideration of this budget resolution also provides a much needed opportunity to review the economic record of this administration. Unfortunately, the report card does not show a passing grade. We see it in the confidence that is lost by the public across this country. Why has the confidence been lost? Because over 2 million jobs have been lost and people feel that.

Last Thursday or Friday we had a hearing at the Democratic Policy Committee where we had unemployed workers talk about what life is like after losing a job. They talked about a small company in Michigan where some 2,700 people were employed in a town of about 9,000. The company, Electrolux, is packing their bags and going to Mexico.

The man who worked there for 23 years described the personal impact it had on him. He said: I have a daughter in college. I have two kids following. I had health care taken care of. I paid my mortgage. I did everything I could for my family, held my head high, walked with dignity. Now my life has retreated into a shameful morass. He could barely talk at one point because he was choking with tears.

He asked: What has happened? He said if a cyclone hit, the damage would not be any less than closing this factory. Everything, the infrastructure, the storekeepers, the gasoline station, everyone is going to feel this impact.

That does not affect what is happening in this administration. President Bush will be the first President to preside over a net job loss since Herbert Hoover was in office during the Depression. Fortunately, or unfortunately, I am one of those people who lived through Herbert Hoover's presidency. You have to live a long time because Herbert Hoover was President at the end of the 1920s. He brought panic and havoc to our society, our country.

It is astonishing, but there are fewer people at work today than when George W. Bush was sworn in. Yet the country has grown substantially; the population has increased.

To make matters worse, President Bush was given a 10-year surplus estimate of $5.6 trillion. Now CBO is projecting—and we do not hear anyone challenging it—CBO is projecting a $3.5 trillion Bush deficit for the same period. That is a reversal of fortune of almost $9 trillion. That change in direction is so gigantic, it cannot be happenstance. It cannot be attributed to carelessness. It can only be due to recklessness or by plan.

The plan is a grand scheme to shift the size of Government—this has been pledged by this administration—and the functioning of our Government while effecting a transfer of wealth hardly seen in contemporary times, in a way often seen in the days of monarchies or revolution, the transfer of wealth from the middle class and the poor to the wealthy.

I saw a statistic the other day in the newspaper that said in 1977, the top 1 percent of the wage earners of this country earned as much as the 49 percent at the lower end of the wage scale. In reverse terms, if you took accumulated earnings of 49 percent of our people and put it in a pot, it would have to be a giant pot, it would equal the 1 percent of the people on the top end, people who had all of the means they needed. Worse, after 22 years, in 1999, that ratio shifted to 1 percent earning what 55 percent of the people earn; 55 percent all lumping their wages all together equals what 1 percent of our population is earning.

Substantial reductions in programs will directly affect people's incomes. If they cannot afford to get the babysitters, if they cannot afford to educate their children, if they cannot afford to take care of their wellness, if they cannot afford to see their health care needs are taken care of, that is a cut in income. It is deliberate. Otherwise, we would not have had a debate on whether overtime ought to be stripped away from people who work hard and who depend on overtime as part of their ordinary compensation. But, no, we lost that debate here because the Republicans in the House did not want to go along with it.

When we look at the budget, we cannot look at this budget out of the context of where we are as a society. Jobs are necessary. It is important we stop outsourcing our opportunity to create more jobs and more income. It is not a happy picture.

Republican irresponsibility with regard to the Federal budget is threatening the long-term solvency of Social Security and Medicare, right as the first cohort of baby boomers gets close to retirement age.

Everybody knows if your expenses are higher than your income, there is only one way to meet your obligations, and that is, to borrow it. That is what we have done. What we are saying to people across the country is: Don't watch your spending. Just go ahead and borrow it. Does that sound like good advice to kids who are growing up and learning? I do not think so. Borrow it. Borrow it from Social Security. Borrow it from Medicare. That is what you do.

The fact that it could totally obliterate the ability of these programs to carry on in future years does not seem to strike home, not as long as we can give tax cuts to "fat cats." I speak as someone who has had the good fortune of having been in business and having had a success. I am going to get a tax break, I am told, of substantial proportion.

I do not want to be a showoff. I do not want that tax cut because that is hardly a legacy that means anything to my children. I have 10 grandchildren, the oldest of whom is 10. So their lives are way out in front of them. What would I want to do, more than anything, for those grandchildren of mine? It is to have a country that is stable, that is harmonious, where people are getting along, where everybody has a chance, where jobs are available, where when they get to retirement age they know Social Security will be there for them, where they know their health care and their children's health care can be taken care of. That, to me, is the legacy I would best and all of us would best leave our children.

For me to take a tax cut, for others here who have been financially successful to take a tax cut, while the country is bleeding financially, while we steal it from Social Security and Medicare and other programs, while only half the 1.6 million kids who are eligible for Head Start are enrolled—I took a minute today to learn a little more about Head Start.

Head Start is for little kids who do not have the chance to understand what learning is about, maybe because they come from poverty-stricken homes, or perhaps they have a single parent, or maybe there is not even a parent in the house, maybe they live with grandparents. It is a program that teaches them there is more ahead in life than they see in their own homes. It teaches them it is good to learn. It teaches them when they get to school—and these are kids who are 3, 4, 5 years old—learning is a good objective. It teaches them something else, that there is a place where they can get some nutrition, get a meal or two, while they are in the care of those who are running the Head Start Program.

It also says something else to them: If you feel sick, you can see a nurse or a doctor. But even as you grow, what else can happen is you can get care for your wellness. We can see things that might attack you physically, diseases that are threatening. You can get injections or inoculations, and you can get a medication that will help the child grow and develop.

Mr. President, hundreds of thousands of those kids are going to lose their programs because "fat cats," people who earn, on average, $1,000,000 a year, or the top asset holders in this country of ours, will get a $100,000 tax cut. And it does not mean anything. When you are worth $10 million, $100,000 is not a difference in your life. So to do that and take away care for hundreds of thousands of children in Head Start is outrageous.

We have other silly things going on. We decided in the budget we would get rid of 2,000 meat inspectors, when we have mad cow running around and chickens dying of disease. Yes, cut down on the number of people who are doing meat inspections. Take 25,000 cops off the street who are now in the COPS Program.

I was in communities in New Jersey talking about what it means for a community with a small police department to lose two, three, five, six cops who are there on the Federal program, to lose them and their law enforcement efforts as we try to fight crime and be on the alert for terrorism.

It says over 20,000 veterans, as a result of that tax cut for that "fat cat"—it almost has a rhyme, but there is no reason to it—it means 20,000-plus veterans will lose their health care.

I had the good fortune to serve in the Army in World War II a long time ago in the European theater, and I know this: The people who count the most on the Government's promises are those who serve us so gallantly in the military.

We had a visit the other night to Walter Reed Hospital and talked to people who have been severely wounded, some with the loss of a limb, or even the loss of two limbs. One young man I spoke to was 23 years old. What is the prospect for his life? He will get a prosthesis that will help him get along, but we have to make sure the Medicare we give him is the best we can possibly do. But in this budget, there are cuts in VA health programs.

The administration will not take responsibility for the problems I have just outlined. They do not even acknowledge these problems exist. The Republican solution is to hide the direction and the cuts in vital programs and hope no one is going to notice or deceive people with sleight-of-hand tricks, like starting a purportedly good——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent, can I have 10 more minutes?

Mr. CONRAD. Mr. President, I give 10 more minutes off the resolution to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I thank my colleague from North Dakota.

We take a program such as the Medicare program that belted its way through this House, that made empty promises to people—but they are going to pay more. Everybody knows it. It is going to cost more, and they are going to get less.

There is a battle about whether the administration can send out circulars that purport to describe the benefits of this health care program. It is an election campaign distribution. We understand 36 million copies of a pretty circular, showing someone healthy and praising Medicare, are going out across the country. But they do not start the program until 2006. Why is 2006 a magic number? Because in 2004, as we all know, there is a big-time election, and we do not want to have an election after the new Medicare program has started because when people see it in action, they are going to be angry, they are going to be sore. They will not want to vote for anybody who is responsible for that program being put in place.

We keep hearing that jobs are coming back. But the cold, hard facts contradict this claim. The President trumpets the fact that 364,000 jobs have been created since August. He says it is great news. But the economy would have had to create over 1 million jobs just to keep pace with new entrants into the labor force.

The President says this trickle of new jobs, which includes just 21,000 in February—by the way, 20,000 of those are Government jobs—is proof that his tax cuts are working. They are not working. In May of 2003, the President's Council of Economic Advisers, the CEA, said the economy would create more than 2 million jobs in the first 7 months after the tax cut was enacted. We happen to be short, just missed a little. We are only 1.7 million jobs short. The tax cuts are not creating jobs. They are creating record budget deficits.

What is the solution? Some of my Republican colleagues wish to recreate reality. They now say we have been using the wrong employment statistics. They want to use the so-called household survey, not the payroll survey, which most economists, including Alan Greenspan, agree is the proper measure. He said:

> Everything we've looked at suggests that it's the payroll data . . . which you have to follow.

As our friend and former colleague, Pat Moynihan, used to say: Everybody is entitled to their own opinions, but not entitled to their own facts.

We all would be better off if this administration and its allies in Congress would stop playing games to make the employment situation seem better than it really is. The bottom line is, 8 million Americans want to work but can't find a job.

Another example of the Republicans' utter inability to look at the facts squarely: Budget deficits. Putting President Bush and fiscal responsibility into the same sentence, frankly, is a challenge. President Bush has broken his father's dubious record by racking up the biggest deficits in our country's history.

Initially he told us in 2001:

> We can proceed with tax relief without fear of budget deficits.

What a statement that is. Then he said in 2002:

> Our budget will run a deficit that will be small and short-term.

Now the President boldly says: Well, we will halve the budget deficit in the next 5 years.

There are not a lot of believers about to support that.

In 2003, he had the audacity to say:

> We will not pass our problems on to future generations.

Boy, if that was coming from a company with listed stock, I wouldn't buy that stock, I will tell you. If we were depending on those kinds of statements to make our way, we would be sitting with Martha Stewart someplace, suffering the same consequence. Not a single forecaster sees a surplus anywhere in our future. In fact, as baby boomers begin to retire, the Bush budget deficit is set to skyrocket to 10 percent of gross domestic product and more over the next few decades. This deficit is huge by any standard, and it is growing by more than $2 billion each and every day, which explains why our outstanding public debt has soared above $7 trillion for the first time in our Nation's history.

Some are saying deficits are due to the war on terror. The only problem with that argument is we could eliminate the entire Defense Department and the entire Homeland Security Department and we still wouldn't get rid of the deficit. Other Republicans are saying the deficit is due to rising discretionary spending. That is wrong. Even if we eliminated every penny of domestic discretionary spending—that is virtually the entire Government—we still would not get rid of the budget deficit.

For the most part, the deficits have been caused by massive tax breaks skewed to the wealthiest Americans, pure and simple.

The most cynical tactic this administration has used is their repeated attempt to blame the economic mess they have created on the previous administration. Again and again and again, we hear them say: President Bush inherited the recession. They say this knowing full well the recession began in March of 2001. That is according to the nonpartisan National Bureau of Economic Research, the official arbiter of when recessions begin and end. As the saying goes: Facts are stubborn things.

The Republicans also argue that 9/11 caused the recession. Of course, claiming that the recession began under President Clinton and that 9/11 caused it are mutually contradictory and flat out wrong. These are some of the strategies of the present President, administration officials, and Republicans in Congress to mislead the American people, to disguise the facts, to distort reality, to pretend they are not responsible for the worst economy in years.

The American people are smarter than to believe the administration's propaganda machine. They know they can't find jobs. They know deficits will hurt the economy. They know their Social Security is in jeopardy.

Here is some truth: America simply cannot afford these ruinous economic and fiscal policies any longer. We need a drastic change of course, and we need it soon. This budget resolution would be a good place to start.

I urge adoption of the amendment offered by my friend from North Dakota. I think we ought to have a 60-vote requirement for any more deficit-increasing tax cuts that are to be made.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I heard part of my colleague's speech, but I will just say that budget resolutions are not easy. When I see people holding up charts that have a picture of President Bush and another one of Herbert Hoover and saying job loss and so on, that is politics.

Enough with politics. Let's do our Nation's business. Let's pass a budget. Some people seem to think this is a political free-for-all. We are going to have an election in November. We have plenty of time to do politics. We have conventions in July, August, and September. That is time enough. This is March. To be having a picture of the President of the United States, and comparing him to Herbert Hoover, I find offensive. I find it so political, it is debasing to the Senate. I guess people have a right to do that, but enough is enough.

Let's stay with the business at hand instead of trying to score political points. I urge our colleagues to do that. I have never been a fan of charts, but my good friend, Senator CONRAD, manufactures them on a daily basis. I compliment him for it. But to have pictures and to use those kinds of things denigrates our President. In my opinion, I am not sure it elevates the caliber of debate that we should have before the Senate.

Mr. SESSIONS. Will the Senator yield for a question?

Mr. NICKLES. I am happy to yield to my colleague from Alabama.

Mr. SESSIONS. I know Senator NICKLES talked about the economy and who is responsible. We can all debate how much the President actually has influence over it. I don't know. But when President Roosevelt took office, there was a high unemployment rate. I think it was 20 percent, or maybe it even increased under his administration initially. He inherited an economy that was in trouble. Is it not a fact that when President Bush took office, contrary to the myth that is out there, that the third quarter of his last year in office was negative growth, and that the first quarter that President Bush inherited, before he had any time to do anything, was negative growth, and that President Bush actually inherited an economy that was in trouble?

That is a big part of some of the difficulties we have had today.

Mr. NICKLES. To respond to my colleague's question, maybe it is an interesting analogy between President Bush and President Hoover. President Hoover was present when the market collapsed on that fateful day in October in 1929.

President Clinton was President when the market collapsed in March of 2000. NASDAQ took a dive. The stock market took a dive and continued to dive throughout 2000.

I do not want to play that game, but I am offended when I see pictures and hear those kinds of aspersions. I do not think it helps the debate.

I agree with my colleague, that market crash was foretelling that we had very significant problems coming, and it resulted in a lot of lost revenue to the Government that no one projected, whether it be the White House or anybody else.

I appreciate my colleague. I want to elevate the caliber of the debate and not be quite so political and quite so partisan so early.

Mr. LAUTENBERG. Will the Senator from Oklahoma yield for a question?

Mr. NICKLES. I will be happy to yield.

Mr. LAUTENBERG. Is the Senator aware of the fact that when President Roosevelt took over, we had a 22-percent unemployment problem in 1933? He succeeded in bringing unemployment down through Government programs, through all kinds of programs. But the fact is, he wanted to get people back to work.

I happen to remember my father was one of those people who had to resort shamefully to a Government program. He was embarrassed by it, but he had to feed his family. That was more important. The fact is, I believe, the Senator would agree, that while the portrayal may not be to the Senator's liking, this is the administration that has lost more jobs since the term of Herbert Hoover. Does the Senator dispute that point?

Mr. NICKLES. I respond to my colleague, I am offended by the political partisan nonsense that is coming up with that picture and the tone of the debate. Let's have a good debate. But to cast aspersions—I am offended.

I am telling my colleague that I do not think we have to go to that level of partisanship. It is March. Why don't we do our Nation's business and play politics in September, October, and November?

The PRESIDING OFFICER. Who yields time? The Senator from Montana.

Mr. BURNS. I thank the Chair.

Mr. President, this is my first time on the floor speaking on this particular subject. I wish to thank the ranking member, Senator CONRAD, from North Dakota.

I agree with my chairman that we should be here solving problems instead of throwing salt on old wounds because we have a great challenge ahead of us. There comes a time when we talk about all kinds of interests, but the national interest is more important right now than at any time in our history.

We do have serious problems and challenges. I think every Senator in this body has the capability and the will to solve some of those problems so we can go home and we can couch the argument any way we want on the political stump. I think we better add something to the debate.

Last year was my first year on the Budget Committee. Of course, this is my second budget. I compliment the leadership of the committee on both sides of the aisle because in committee we talked about some very contentious issues, different ideas on how we approach the budget and how it affects everyday life in the United States of America, knowing there are circumstances that none of us had any control over and probably will have a limited amount of effect on our country unless the American people understand the circumstances in which we find ourselves.

One has to remember the budget is a result of three different entities coming together and producing a document that reflects some of their priorities, some of their do-nots and some of their do-dos, and that is working with the White House and this President and also working with the Senate and the House and both sides of the aisle. That is what this product will reflect.

There are provisions in this resolution that probably do not find favor with everybody, and there are some provisions in this resolution that we do favor. Nonetheless, it will be a product of working with each other on this floor and also with the House of Representatives and with this President that will produce this document, a budget resolution.

Nobody likes deficit spending. We went through that once before. Some of it was self-inflicted. This one was not self-inflicted, as far as our Government is concerned. It was a result of some circumstances that happened to this country at a very inopportune time. No one could have predicted 9/11. Nobody could have predicted what that would cost or what that circumstance taught us.

It taught us one thing: that our economy is very fragile. Catastrophic events tend to shatter all other beliefs about what we do here as far as our economy is concerned.

It also taught us that our freedoms are very fragile; that in times of stress and national emergency, some things are done by Government and by people to cope with the stress of the time.

Mr. President, 9/11 probably had more to do with putting us in this pickle than anything around because of the normal reaction of Government and Americans to that event.

What we have to look at most is that this budget reflects much of the President's proposals, but because of caps that were put in place a year ago, we are looking at some tough choices.

This budget takes steps to reduce Federal deficit spending; in other words, slow it down, much slower than first thought when we started into the process or what you have read in the newspapers or heard on television. We just have to slow it down. It is kind of like the fellow who one day got up and said: My day started off bad, and then it just tapered off.

Sometimes in the budget process—and my good friend from North Dakota has been in this process much longer than I and knows much more about it, the technical parts of it anyway, but nonetheless there are some days you get nothing for your labor.

The resolution cuts the deficit from an estimated, some people say over $500 billion. We had a figure of around $477 billion going into the process. Now looking at the figure, it will be around $477 billion this year, but we are going to get it down much lower than that by the year 2005.

The resolution prevents tax increases that would go into effect if Congress does not act. Those taxes and those tax cuts were very important to this country. How much deficit would we have had we not had them to spur this economy and see the growth not only in the New York Stock Exchange but NASDAQ.

We have seen growth in agriculture. Agricultural products are doing very well now in most sectors. As I go across my State of Montana, we can talk about marriage penalty relief, we can talk about child tax credits, but I will tell you what has helped my State more than anything else, especially my agricultural producers and my small businesspeople—and Montana is made up of small business; small business provides the vast majority of jobs in my State—was accelerated depreciation because there have been capital expenditures to revamp or redo the way they do business and how they do business. Accelerated depreciation was the shot we needed in the State of Montana.

By the way, those recommendations came out of the Small Business Committee of which Senator KIT BOND of Missouri is the chairman. You look for those opportunities when we start talking about small business or business in general.

The economy is growing at a steady pace, and I believe this budget will be reflective of that growth and show the importance to the American people to expand jobs.

If we take a look at the GDP and our national debt and our deficit spending, right now it is something we can handle, but we cannot allow it to continue. So we moved in that direction. I think the resolution will provide important assistance not only to Government through strong fiscal responsibility but also the American people through improved jobs and job environment, and private growth and opportunity.

If we look at the household surveys on unemployment, we are going to find a lot of folks are working out of their homes. We see small businesses perking up everywhere, primarily because of the tax situation. This is a good time to move in and maybe retire from a job and start one's own business.

So we have asked the American people to sacrifice because we are facing an enemy we have never had to face before. We have never had to take on terrorism as have other countries that have been putting up with it for a long time. As a result, we have said to the American people that some sacrifice is needed, and I think the American people have responded to that because we know we have a different kind of enemy that wants to take away our freedoms, not only the economic freedoms we enjoy but also our political freedoms.

They do it by fear. That is the worst kind of enemy, that operates in the shadows and complete surprise. They have no regard for age or who one is, combatants or noncombatants. In other words, they are completely indiscriminate as far as their targets are concerned. That spreads fear among people, and fear rules us.

I made the remark the other day to some visitors in Washington, DC, that I can remember when I first came to Washington, it was a very beautiful place. Right now we are moving into a season where Washington really is very pretty, but we are ugly today because of jersey barriers, security and construction. We are not a very nice place because of what we have to go through in order for this Government and its representatives to operate. So the sacrifices that are made not only here but in the whole country are difficult. We have asked America to sacrifice in these times, and they have responded.

Our young men and women who are still in the field face an unusual type of enemy. They are facing it with great professionalism and great courage. I think we ought to demonstrate the same kind of courage on this floor, to do what we have to do in order to balance this budget, in order to present a budget we can live with so the economy continues to grow and we can grow out of this situation.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I will make the point once again as to the great concern I have about both the President's budget and the budget that has come out of the Budget Committee, and that is it adds dramatically to the national debt right before the baby boom generation starts to retire. I look at the President's budget, and in the 5 years that he has proposed, he will add $3 trillion to the national debt. When I look at the budget proposal from the Budget Committee, it adds almost as much, $2.86 trillion to the national debt over that same 5 years.

I hear the other side saying we are cutting the deficit in half. Well, maybe they are cutting the deficit in half but the increases in the debt are not being reduced hardly at all. If we look at this chart, in 2004 the debt subject to limit, that is the gross debt of the United States, is $7.4 trillion.

Under this budget, they will add over $600 billion to the debt. The next year, they will add nearly $600 billion to the debt, $569 billion. The next year, they will add $552 billion to the debt. The next year, they will add $563 billion to the debt. And out here, in 2008, between 2008 and 2009, they will add another $563 billion to the debt.

How can it be that these two statements are both right? How can it be they say they are going to reduce the deficit, they are going to cut it in half, and on the other hand the increases in the debt are hardly being reduced at all? The biggest reason is the Social Security trust funds that are being taken. Over this 5-year period, hundreds and hundreds of billions of dollars of Social Security trust fund money is being borrowed and is being used to pay for tax cuts and other things. It is, in effect, hiding from us our true fiscal condition.

The hard reality is the increases to the debt are not being reduced by this budget proposal. In fact, the debt is being run up and, as I have said many times, that is at the worst possible time, right before the baby boomers retire. That is why I think the amendment I put before our colleagues is so important, because it adds discipline. It says: Look, we can't do new mandatory spending—and that is two-thirds of Federal spending—and we can't do new tax cuts that are not paid for, without a 60-vote supermajority, until we stop taking the Social Security fund and using it to pay for the operating expenses of the Federal Government.

This reminds me so much of what has happened in the corporate sector when these various companies—Enron most notably, WorldCom the same way—understated how far underwater they really were. They were basically hiding their debt from the shareholders, hiding the debt from investors, hiding the debt maybe even from themselves. I see some of that same pattern occurring here.

The Senator from North Dakota is here. How much time does the Senator require?

Mr. DORGAN. I would like 15 or 20 minutes.

Mr. CONRAD. I yield 20 minutes to the Senator from North Dakota, off the resolution.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, first let me compliment my colleague, Senator CONRAD, for the work he has done. Let me also pay tribute to my colleague from Oklahoma, Senator NICKLES. While we might disagree on a good many issues, Senator NICKLES has been someone who has contributed substantially to this Chamber through his service in the Senate. I note he is leaving the Senate at the end of this year and I want to pay my compliments to Senator NICKLES.

There is a tendency in this Chamber, I think, for us to treat the serious too lightly and the light too seriously. It is very hard to overestimate the importance of this fiscal policy that is completely off track, completely out of sync with reality. We have until recently had a fiscal policy that said: Here is what we will do. We will increase defense spending a great deal, we will increase spending on homeland security a substantial amount, we will cut taxes, cut taxes, cut taxes again, and then we will hope the economy grows enough to cover all of that.

The fact is the economy has not grown to cover all of that and we now have sunk into the largest Federal budget deficits in the history of our country. But some don't want to admit that we are there. They want to ignore it and continue to say this is not a problem, we will just grow out of this.

We have a responsibility now to address these issues. It is irresponsible for us to say, let's just do it all and let the kids worry about this, or let the grandkids worry about it.

We are technically capable of doing so many things. Today, on Tuesday, we have two little vehicles—made in this country—scrounging around the surface of Mars, controlled by some controllers in NASA, and we are picking up rocks and analyzing rocks on the surface of Mars. What a remarkable thing. By the way, I might say just from the pictures I have seen from Mars it looks like a place about 5 miles south of my hometown. But we spent a lot of money to get to Mars, I want them to do well with these experiments, and I think they are wonderful. I think it is quite remarkable, the technology we have to put vehicles on Mars.

Why is it we are technically capable of doing these breathtaking things and then we seem so unable to come to the floor of the Senate and at least admit that there is a giant problem in fiscal policy? We are far off track. Just 3 years ago, we had very large surpluses and Alan Greenspan couldn't even sleep at night because he was worried these surpluses would be too big. He didn't know what we could do with them. Three years later, of course, we now find the largest deficits in the history of this country stretching out as far as the eye can see, stretching out every single year for the next decade.

The budget brought to the floor of the Senate by the majority party says the following: We will take the Federal debt to $10.2 trillion by the year 2009. Let's see if we can ratchet this debt up to $10.2 trillion. It says let's have a deficit this year of $512 billion. Let's have a deficit next year of $445 billion; the year after, let's have a Federal budget deficit of $431 billion; the year following that, let's have a Federal budget deficit of $441 billion; and the year following that, the fifth year, the last year for this budget resolution, let's have a budget deficit of $439 billion. This is not a budget that tackles problems. This retreats from the problems and from the challenge.

There is a circumstance that has occurred in this country that should require all of us to be more serious about this: We ran into a recession. It began in the spring of 2001. Precisely, it began in March 2001. Following that recession we were the victims of a terrorist attack on 9/11. Then we had to fight a war against terrorism. Following that attack against our country the entire aviation industry was grounded. It had a profound impact on our economy. Then we were involved in Afghanistan and a war in Iraq. We have had some pretty tough times and some big challenges.

But the administration has said and the majority party has said we can do all of this. We can and should and will increase defense spending. We can, should and will increase spending on homeland security. And we will cut your taxes again and again and, if the Republicans get their way, again this year. And it will not matter because it will all add up.

This is like the old story in the movies, what are you going to believe, me or your own eyes? Your own eyes will tell you what is in this document. It says let's take this country to $10.2 trillion in debt in 2009. The question is, when will the Congress, and especially when will the President, be serious about these policies?

It is interesting that the budget sent to us by the President this year predicted we would spend zero, no money at all, for Afghanistan and Iraq. We have been spending very close to $5 billion a month in Afghanistan and Iraq. Last year I raised the same question. If we are spending money, why don't we budget for it? The answer is, we don't know how much to budget. We do know what we are spending, we are spending $5 billion a month, $60 billion a year.

Do you know what these documents from the President and the majority say? It says zero, we are not spending anything. What do they mean? They will just hide it by coming up with a supplemental bill later on, I suppose after the election, and we will act as if it doesn't matter.

It does matter. It is saying to the kids, you go ahead and pay this bill because we don't have the courage to do it. We don't want to pay for it. We don't intend to pay for it. We will ask you kids to pay for it when you are old enough to work and pay taxes and inherit this debt.

There are many issues to discuss with respect to the budget. My colleague has offered an amendment that I came to support, dealing with Social Security trust funds. This is certainly the biggest bait-and-switch operation in the history of mankind. The bait and switch that has been going on says the following: When you work, you pay a tax from your paycheck and we will tell you this, we will guarantee you we will put that money in a trust fund called the Social Security trust fund. Then, when you get to the point where you are retiring, we will have sufficient moneys in the trust fund to be able to meet those retirement needs.

The problem is the trust fund at this point is not accepting new money because all the new money being taken from paychecks in the form of Social Security taxes is being used as an offset for other spending.

We had people genuflecting on the floor of the Senate about lockboxes for the last 4 or 5 years. They would come to the floor and have an apoplectic seizure about some lockbox they wanted to create for Social Security. There is no lockbox. The box is open and all the money is gone because budgets like this say we are going to spend all that money. The only priority with this is to preserve the tax cuts that went to upper-income Americans.

I think it is wonderful if you are an upper-income American. Look, if you make $100 million or $10 million or $1 million a year, God bless you, this is a great country and you have a right to do that and I congratulate you on your success. But I would say I expect as an American you would also want to contribute to this country, and part of that contribution is to pay for that which we need—a war on terrorism and money to fund the troops when we send them overseas to protect this country. All of these issues are important issues that we have to provide for. When we also protect these upper income tax cuts, we spend the Social Security trust fund. This makes no sense at all. That is a classic bait and switch.

This reminds me of an old story about elephants. When I was a young kid, I grew up in a very small town. But even though it was a small town of 400 or 500 people, we occasionally had a circus come to town. It was a relatively small circus but they at least had one elephant. I never quite understood as a kid why a very large elephant would stand in one place if they just put a cuff around the elephant's back foot and then a chain with one little steel stake driven into the ground. How on Earth would that keep an elephant from escaping?

Then I read about how they do that. They do it in Thailand where they capture these elephants in the wild and then find a big banyan tree. They put a big steel cuff on the elephant's leg and they chain that big steel cuff to a huge banyan tree. For a week that elephant will struggle and grunt and grown and fight and try to pull away from that banyan tree. But it can't. It doesn't get away from that banyan tree. In a while, it learns it is there permanently as long as that chain is on its leg, as long as that cuff exists. Then they take the other end of the banyan tree and put a stake in the ground and the elephant will never move because the elephant is chained to his habit. The elephant knows it can't move. So it doesn't move.

A big chain to a habit is what I see in this Chamber by the majority party. They say it doesn't matter what the facts are, it doesn't matter what the deficits are, it doesn't matter that we are off the ditch with respect to fiscal policy. We are going to pretend and act as if things are just fine, that things are going along just fine.

Those who will pay the cost of this, in my judgment, will be people 5, 15, 25, and 40 years from now and who will bear the consequences of an irresponsible fiscal policy.

My colleague has offered an amendment that says: Look, let's prohibit the use of Social Security trust funds except for the purpose they were intended to be used. Radical? No. I don't think so. Obviously, there is some common sense to do that.

I don't expect that this amendment will pass the Senate when it is voted on because the majority party has to protect the fiscal policy despite the fact that all the evidence is this fiscal policy doesn't work. We have an economy that is not producing jobs. We have an economy that is not providing the opportunity we expect it to provide and that the administration said it would provide. Why? I have some theories about that.

We held a hearing last Friday on the question of why American jobs are shipped overseas in large quantities. Why do we see all of these announcements about companies that used to make American coats are now producing them overseas? Did you know that the Levis you are wearing are not American pants? If you are wearing Fruit of the Loom, you are not wearing American underwear. Did you know that if you are eating Fig Newtons, you are eating Mexican Fig Newtons? Yes. They are not produced in America—not even Fig Newton cookies.

The question is, Why are we exporting all of these jobs overseas? What kind of economy is it that says we have economic growth in this country but we are not producing new jobs? The new jobs are being created in Bangladesh, Sri Lanka, Indonesia, China, and Mexico.

This is a failed economic strategy, a set of failed economic policies, and all you have to do is go to the budget document.

Page 4 of this document, which comes from the majority party, says the following. Let us increase the Federal debt to $10.2 trillion by the year 2009. They say, let us every year between now and then have a Federal budget deficit over $400 billion. That is over $1.5 billion a day every single day for the next 4 to 5 years. This isn't a budget document; this is a failure.

It is a failure of responsibility to own up to what is happening in this country and to fix it not just on behalf of politicians but on behalf of the American people and their children who aspire to have a country that expands the most opportunity and new jobs and growth once again.

Mr. DURBIN. Mr. President, will the Senator yield for a question?

Mr. DORGAN. Yes.

Mr. DURBIN. I thank the Senator from North Dakota for taking the floor to bring this to our attention. I would like to ask him this question.

Was it not during the last 2 weeks that the Chairman of the Federal Reserve, Alan Greenspan, who has been Chairman under both Democratic and Republican Parties, testified before the House of Representatives, I believe the Budget Committee, suggesting we have now reached a point because of our deficit situation and the debt of America when we have to seriously consider structural changes in Social Security relative to the benefits paid out to senior citizens and their retirement age? Does the Chairman of the Federal Reserve, who had endorsed President Bush's tax cuts for the wealthiest people in America, now say we are in such a desperate situation that we have to turn to Social Security and to cut back in terms of potential benefits for future recipients?

Mr. DORGAN. Mr. President, the Senator from Illinois is absolutely correct. The Chairman of the Federal Reserve, Alan Greenspan, did testify and say that we have to look at cutting Social Security benefits.

I find it interesting that Mr. Greenspan, who was actually shaking the pom-poms in support of the tax cut and this administration's fiscal policy, is now saying part of the cost of the policy should be for us now to consider cutting Social Security for senior citizens.

Look, their fiscal policy has provided the largest rewards in history in the form of tax cuts for upper income Americans. We have one-half of the world's billionaires living in this country. Good for them. I wish I were one of them. I wish my colleague from Illinois was among them, and I wish my colleague from Wyoming was among them. But it seems to me those who have done so well in this country would want to help pay the bill.

Promoting tax cuts for the upper income folks, those at the very top of the ladder—for example, those who have $1 million a year in income—and saying during these tough times you get $80,000 a year in tax cuts makes no sense to me. Yet Chairman Greenspan supported that, and he now comes back and says—he doesn't say it quite this way but the cause and effect are the same—we don't have the money now. We gave money in terms of tax cuts to the folks who make $1 million a year. Now we should ask the folks at the other end of the ladder to take a cut in Social Security benefits. I don't understand that.

In my judgment, when we talk about fuzzy math, this isn't fuzzy; this is vacant math.

Mr. DURBIN. If the Senator would further yield for a question through the Chair, last week Paul Krugman, wrote an article for the New York Times entitled, "Maestro of Chutzpah" directed toward Mr. Alan Greenspan, which addressed this issue.

Mr. Greenspan came before Congress endorsing President Bush's tax cuts for the wealthiest people in America and now that we have rid the world of those tax cuts which have created record deficits that we have never seen in the history of the United States, Mr. Greenspan is now coming back to us saying the way to start resolving these budget problems is to cut Social Security benefits.

I ask the Senator from North Dakota if he would respond to whether Krugman accurately notes that during the 1980s it was the Greenspan commission that persuaded Congress to increase the payroll tax for Social Security which supports the program, a tax which is regressive, falls more heavily on middle- and lower-income families.

In fact, Mr. Krugman goes on to write that Greenspan's suggestion in the 1980s that raised the retirement age in America and raised the payroll taxes in America is generating record surpluses in the Social Security trust fund with the regressive payroll tax. Now that Social Security has generated the money it needs, it is Mr. Greenspan who says now we need to reach into the Social Security trust fund and make certain we pay off our debt, and also we need to cut benefits and raise the retirement age even further.

I ask my friend from North Dakota, the Senator who has come to the Senate to address this issue, is it disingenuous for Mr. Greenspan to, on the one hand, call for higher payroll taxes so the Social Security trust fund grows, and then when it grows to such a point, to allow tax cuts to be funded by Social Security trust fund that go to the wealthiest people in America? The working families are paying into the Social Security trust fund, but it is the wealthy families who are taking the money out from the Bush tax cuts.

I ask the Senator his response.

Mr. DORGAN. As always, the Senator from Illinois creates the calculation exactly the right way. It is true the Chairman of the Federal Reserve Board chaired the commission in the early 1980s that decided to collect more money in the Social Security trust fund than was necessary to meet current expenses. Why? Because when the war babies or the baby boomers retire, we will have the largest crop of babies ever produced in this country who will hit the retirement rolls, and we need to save for that day. In fact, it was the Greenspan commission that recommended that. Congress embraced that.

Now Mr. Greenspan comes back to the Congress and says you are using all that money for tax cuts for upper income Americans and you are increasing defense, increasing homeland security, and telling people you do not have to pay for that. So now why don't we cut Social Security payments for the elderly.

There is an old song in that movie, "Where have you been, Joe DiMaggio?" We ought to ask the question, Where have you been, Alan Greenspan? It seems to me that as the construct of this fiscal policy has become clearer and clearer, I would have expected the Chairman of the Federal Reserve Board perhaps to send some warning signs.

I finished the book "The Price of Loyalty," written by Mr. Suskind. What he says, according to former Treasury Secretary O'Neill, is that the Chairman of the Federal Reserve Board is a critic of this fiscal policy in private while being supportive of this fiscal policy in public. A wrong approach.

Mr. DURBIN. Will the Senator yield?

The PRESIDING OFFICER. The time of the Senator from North Dakota has expired.

Mr. DORGAN. I yield myself an additional 10 minutes on the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. If I might continue, in the same book, it notes Chairman Greenspan and Treasury Secretary O'Neill had several ideas. One of them was a trigger which said there will not be any tax cuts if the surplus disappears. The surplus is long gone. Later Lindsay and other economic advisers, including the President, resisted this idea of trigger.

Second, the book notes it was the plan of Chairman Greenspan to take $1 trillion out of the surplus and frankly make certain Social Security would be stronger for that much longer period of time. Yet we now have this same Chairman of the Federal Reserve who is telling us that absent both of those happening, he now has the solution, and the solution is a later retirement age and cutting the benefits out of Social Security to pay for the Bush deficit created by the Bush tax cuts for wealthy people.

How can it be fair to senior citizens who paid into Social Security their entire lives, who receive rather modest returns for that, to be told they should receive even less so people in the highest income categories can end up receiving these Bush tax cuts?

If I am not mistaken, this warped logic is continued by the Republican budget which is presented in the Senate. I ask the Senator from North Dakota if he could respond to that.

Mr. DORGAN. Mr. President, the budget that is presented in the Senate has on page 5 their estimate of what the debt should be in the year 2009. This is recommended policy. By 2009, we should have a debt of $10.2 trillion, they recommend. Every year getting there we should have budget deficits, each and every year, of over $400 billion a year.

Maybe it is something in the water. Maybe it is the food. One would expect there to be some conservative impulses here to decide that a fiscal policy ought to add up. This simply does not add up.

I mention one additional point. It was not very long ago when the Senate considered a proposal to spend a substantial amount of money, $20 billion—do you know how hard it is to get $20 billion for anything? It is a huge amount of money. The proposal was to spend $20 billion to reconstruct the country of Iraq. We must have it, they said. We won't pay for it; just have to have it.

I said, Iraq has the third largest reserves of oil in the world. The Iraqis can pump their oil and pay for their own reconstruction.

They said, We will not hear any of that. We demand the $20 billion. The majority party, the same folks who have written this budget said, we demand that money. We do not want to pay for it, just borrow it and spend it in the country of Iraq for reconstruction.

It is the kind of thing that if you did not know where the desks were placed in this Chamber you would not recognize who was saying this.

There is no common sense with respect to this kind of a budget document. This fiscal policy is radically off track and the quicker we stop, say wait, this has to somehow add up or this country will bear the consequences—this somehow has to make sense.

Let me conclude by making this point. We have a lot of people who think they know how the economy works and yet the Treasury Secretary said he is mystified. I used to teach economics and I am not sure I know how it works, but I know despite all the judgments about fiscal and monetary policies, this economy moves forward when the American people are confident about the future. If citizens are confident about the future, they do things that manifest that confidence and there is an expansion of the economy. They buy a house, buy a home, take a trip, do the things that expand the economy. If citizens are not confident, they do exactly the opposite and the economy contracts.

The biggest problem we have, in my judgment, is that it is very hard for the American people to take a look at this fiscal policy—deficits as far as the eye can see, the largest in American history, a $10.2 trillion debt—and conclude, yes, that works all right for us. Instead, this looks to them like a bunch of politicians who have their heads in the sand.

I came to the floor to support the amendment my colleague from North Dakota offered dealing with Social Security trust funds. I am happy to do that. After having debates in the Senate for about 5 years on the subject of lockbox, there is not a lockbox in sight. If there was a box, there would be no lock in site. Every single penny of money collected for Social Security is being used to give tax cuts to upper income folks and defend spending in homeland security because this majority party says you can do it all, do not worry, charge it to the kids. That is irresponsible fiscal policy and one we need to change.

I yield the floor.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Colorado.

Mr. ALLARD. Mr. President, I yield myself 20 minutes and ask it be charged against the budget debate itself and not the amendment on the Republican side.

The PRESIDING OFFICER. The Senator is recognized.

Mr. ALLARD. Mr. President, we have heard a lot of discussion about how important eliminating the deficit is. I could not agree more. We do need to eliminate the deficit. The reason we have a deficit today is because this Senate has refused to make tough choices about spending.

I make the point that when President Bush assumed office, he came into office when the economy was starting to move down. I don't think anybody can dispute that. When he took office, he was challenged as much as any President in recent history because not only was the economy turning down—and, I might add, with an unprecedented turndown of 2 to 3 years consecutively—but then on top of that we had the September 11 terrorist attack. We went to conflict in Afghanistan, as well as Iraq. It has been a tough time for this President.

Fortunately, this country has had strong leadership. Without that strong leadership, I would hate to imagine where we might be today.

We look at the combination of all these events as having an impact on revenues coming into the Federal Government. They had an impact on spending. I have been a supporter of a balanced budget amendment to the Constitution, as have many Members of the Senate, but there has always been a provision in times of conflict that there would be an exception to balance the budget. This is one of those exceptions in time caused by the attack on September 11 against the Twin Towers and the Pentagon. Then we lost a plane in the Midwest. Heroic, Americans on that plane tried to take over that particular plane. So I think it is understandable why the Senate and the House would decide we need to appropriate some dollars to take care of this time of conflict.

If we look back, the spending was probably the second most significant thing that contributed to our shortfall as far as eliminating the deficit. The most significant factor was the recession.

An analysis has been made by the Joint Economic Committee that has indicated that at least 40 percent—and there are other estimates of at least 49 percent—of the deficit can be attributed to this unprecedented recession.

Then, second in line is the amount of spending we have had, somewhere around 35 percent, if my memory serves me correctly. I might be off a few percentage points. And then somewhere around 25, 26, 27 percent—in that area—was attributed to the tax cuts we put in place.

The problem has been basically the turndown in the economy and the amount of spending. I think it is all too easy to go ahead and criticize the tax cuts and ignore the major reasons as to why we are having a shortfall in the deficit. I happen to think the tax package we passed when the President was first elected, and then we came back and passed an economic stimulus package, and then last year we passed another package of tax cuts, really did stimulate the economy.

We are going to have amendment after amendment on the floor saying we ought to increase spending and increase taxes. I think it is the wrong way to go. I think if we raise taxes, as our economy is showing signs of recovery, it sends the wrong message, and that later on this year we will find our economy still struggling and trying to work its way out of this economic downturn. But if we can sustain these tax cuts—in fact, even those that are expiring, if we go ahead and renew those, I think it will instill confidence in our economy and that we can expect it to continue to do well for the rest of the year.

I think the American workers need a break. Frankly, they send a lot of money to Washington. The producers of this country send a lot of money to Washington. From our colleagues on the other side, we hear all about how they want to go ahead and tax the wealthy, the upper 10 percent or the upper 1 percent, and then provide some program of sustained spending that is never going to quit. It is going to continue to grow.

If we look at our tax policy, we put taxes in on a temporary period of time—10 years most of them—and then they go away. In our spending programs, we put them in place, and they just seem to go on and on and on.

If we look at what happens to those tax figures as we go out in time in the budget, and we look at what happens to the spending figures as we go out in time from this year, the spending increases at a greater rate than the cost from the tax cuts. In other words, if we were to spend an equal amount of money for tax cuts and an equal amount of money for one of the spending programs, as it moves out over time, there is a discrepancy that develops, and spending increases at a greater rate than what happens with the tax cut.

I think it is something we need to do. I think it would be shameful if we abandoned the President's plan for economic growth, particularly when the economy is starting to recover.

There are those who would argue they do not think the jobs are coming or growing as fast as they would like to see. I agree, we would all like to see the jobs grow faster, but the fact is we are getting job recovery.

If we look at the household survey, for example, for a number of months now—close to 9 months—we have seen some phenomenal growth. Why is the household survey important? Because it measures small business. It measures individuals who are out producing on their own, or a few people are out producing on their own. There is no salary. They are all in together. They decide to start a company or provide a service.

I am a veterinarian. A lot of them are veterinarians. They are a single-person practice. They are going out there and taking care of the needs of the community, and they are working and creating revenue for their family. They pay property taxes. They are supporting their community. But they never get counted, except in the household survey, because they may very well be operating out of their home.

We have a plethora of small businesses that work that way. We have seen this growth. I think a good percentage of that growth has been so phenomenal that they are trying to come up with an explanation for it.

Here is my conclusion. I think when we had the downturn in the high-tech sector of our economy, many of those individuals left their former employers with some kind of bonus when they separated, so they had this pocket full of cash. They did not have a job, so they thought: Here is a great opportunity for me to go into business for myself.

A lot of these businesses are things that can sustain themselves if you have a good computer system and you can run it out of your home. Your costs are minimal. It is a great opportunity for an entrepreneur to take some idea he may have and start a business for himself, with a relatively inexpensive operation, and running it out of his home. That is the American dream.

This is the small business sector. This is where Americans have hope not only of owning their own home, but also of going into business for themselves. A lot of them have this desire.

I think when we saw the downturn and a separation of many employees from high-tech companies, they took the separation bonuses they were getting and took this opportunity to go into business for themselves. I think that is great. That is the strength of America.

Now let's look at the payroll survey. The payroll survey in the last couple months has been showing a growth. That is the last parameter, historically, that you see happen when the economy is recovering. I think that is great.

We saw job growth this month. Maybe it was not as great as some would like to see it. The previous month was a phenomenal figure; in fact, it led to some pretty optimistic projections on job growth this month that did not occur. But I think over time we are going to continue to see this growth in jobs. I think that is very important to the recovery efforts, and our tax cuts have contributed to that. We recognize this in the budget which the Republican Budget Committee has proposed and brought to the floor. I think it is one that recognizes our economy is starting to recover.

This economic growth is going to help us eliminate some of our deficit problems. I am optimistic about that. I think we made some tough decisions in this budget when we made some spending decisions.

Last year, I told the chairman of the Budget Committee that we simply had to have a plan on how we were going to eliminate the deficit. Obviously, we had to limit the spending parameters. So the Budget Committee went ahead, last year, with a plan as to how to pay down the deficit. What I was watching for this year was to make sure we stayed on plan to eliminate that deficit within 10 years. And we are well within the plan.

I was pleased, at the first of this year, when the President endorsed the idea that we needed to have a plan to pay down the deficit. The plan he put forward was a 5-year plan. It said, as a percentage of gross domestic product—which is probably, from an economist point of view, a very realistic way of looking at the impact of our deficit on the economy—that in 5 years we want to eliminate it by one-half.

I looked at those figures and, lo and behold, the nominal rate was also reduced in half. Now, this is the actual dollar figure. The Budget Committee did better than that. They eliminated the plan. They did better than that. They reached about where the President was in about 3 years or so. And both the figures—as a percent of gross domestic product and nominally speaking, where we look at actual dollars—has got us well on the way to eliminating the deficit.

I am proud to support this budget because we are taking a realistic approach.

Spending is a problem. We are going to have to take a serious look at spending. I remember when we passed the budget in 2000, the last year of the Clinton administration, we were trying to adjourn the Congress. In the last few days of that session, we passed over $500 billion in new spending. We had to compromise with then-President Clinton on a lot of his spending priorities. He was moving out of office. We were trying to get out of session so we could move on with the election. That $500 billion in new spending over a 10-year period is now coming home to roost.

We are beginning to see phenomenal growth in spending in programs. It strikes me how many people believe we need to do more spending. If we look out at producers in the country, the taxpayers, they are having to take cuts. Many of them are losing their jobs. Yet the agencies can't afford to take a cut. Even the President's budget, as austere as it is, takes care of defense needs. We are in conflict. It takes care of homeland security to protect the country, and we should put our efforts into that. It is a very small increase in the rest of the budget, about .5 percent.

The fact is, there is still an increase in spending. While the rest of the country is suffering reductions in their household spending, the Government still claims it needs increases year after year, despite what happens to the economy.

There are going to have to be some serious decisions made about spending programs. Some of those decisions are going to be made this year. That is a step in the right direction. We need to look at what it is we can put in place as a policy for the Senate and the Congress to hold down spending. In 2002, a number of provisions we had adopted that would help us restrain spending in the Congress, help us restrain spending on the Senate side, expired. When they expired, we all of a sudden began to see spending increases. We needed to have budget parameters. Thankfully we began to put them in place in the last budget, and we are going to put them in place now with this budget.

I know the chairman committed during our Budget Committee deliberations he would work with the ranking member to see if they cannot put together legislation and send a bill to the President he could sign where we could put in place some of the President's recommendations on how we can restrain spending and some of the recommendations of Members in the Senate. They are giving a lot of serious thought to it. I know Senator CONRAD, as well as Senator NICKLES, is thinking about it. I commend them both for looking at some of these parameters.

We have in this particular budget some provisions to help restrain spending in the future. Hopefully we can keep those in the budget, and hopefully they will be applied in a way that will help hold down spending.

I want to talk a little bit now about who is paying the taxes. About 1 percent of the population, the top 1 percent, pays 34 percent of the individual income taxes. These are 2001 figures. Then if we look at the top 50 percent, they pay about 96 percent. That means the bottom 50 percent of individual income tax filers is paying the balance, is paying only 4 percent of the individual income tax. We keep hearing talk about how the producers of the country, the top 50 percent of the country, are getting off scot-free. They are the ones who are really making a difference. They are the ones who are making our economy move. I made some comments in this regard yesterday.

I also looked at the amount of money. If you take all the income tax filers together, the whole group of them, and you take those paying $100,000 or more in taxes, they pay 75 percent of our total income taxes. So they are paying their fair share.

Today a study was brought to my attention that had been done by the Urban-Brookings Tax Policy Center. Usually I don't pay too much attention because they don't actually end up focusing on tax cuts and the tax issue. But they have come up with some very interesting data, more current than what I was quoting as far as the tax foundation was concerned. The bottom 50 percent of taxpayers is paying minus 3 percent of income taxes. In other words, our earned tax credits are kicking in, and they are showing the bottom 50 percent of the taxpayers is paying a minus 3 percent of income. The earned income tax credit is a cash payment we give to those with lower income. Fourteen percent of the payroll taxes come from that 50 percent.

Yesterday somebody said: You didn't talk about the payroll taxes. This bottom 50 percent makes up about 14 percent of the payroll taxes. That is only 5 percent of all income and payroll taxes. So when we combine those together, we come up with 5 percent. That includes your filers, plus the withholding from their taxes.

What happens to the top 10 percent of the taxpayers? The top 10 percent pay 71 percent of our income. That is based on the Urban-Brookings Tax Policy Center. Thirty-two percent of those are payroll taxes. That is a total of 53 percent of all income and payroll taxes together. So 10 percent of all taxpayers, including income tax plus payroll taxes, are paying 53 percent. The bottom 50 percent is paying 5 percent when you combine them.

The producers of this country, the wealthy, if you want to put them in that category, are the ones who are really making a difference.

It is time we put aside class warfare and talk about meaningful change in the economy that will make a difference.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, as a member of the Budget Committee, I yield myself up to 20 minutes off the resolution.

The PRESIDING OFFICER. The Senator is recognized.

Mr. WYDEN. Mr. President, the distinguished Senator from Colorado was in the Budget Committee and saw our focus on health care issues. He said in particular he was hoping we would have an effort to bring forth ideas that would generate bipartisan support. That is exactly what I hope to do this afternoon. I want to discuss the question of laying the foundation in this budget resolution for containing prescription drug costs.

If you think about what happened in the Budget Committee, there was no topic that generated as much interest and as much concern as the question of health care and particularly Medicare and prescription drugs.

In fact, at one point the distinguished chairman of the Finance Committee, Senator GRASSLEY, said: Well, are we going to relitigate the entire prescription drug bill on the budget? Obviously, the budget resolution does not allow for something like that.

I think Chairman GRASSLEY's comments were indicative of the frustration and concern across this country with respect to the inability to hold down the skyrocketing costs of prescription drugs.

I want to discuss an idea about which I and others on the Budget Committee have been talking. It is also in the legislation I have been able to work on with Senator SNOWE.

What particularly pleased me in the Budget Committee is Senator GREGG, the chairman of the HELP Committee, said he thought this idea had considerable merit. I am hopeful by the time this comes out on the floor, we can do what Senator ALLARD has been talking about, and that is to have ideas that are bipartisan that deal with these important issues, particularly concerns such as health care where we have this demographic tsunami ahead, that really do address what the American people, and especially seniors, are talking about.

What will be offered before too long is an effort to lay the groundwork in the budget resolution for making sure the Secretary of Health and Human Services has the authority to negotiate for our seniors and hold down the costs of prescription drugs.

For the first time, the Congressional Budget Office in a letter to me on March 3 said:

> Giving the Secretary an additional tool—the authority to negotiate prices with manufacturers of such drugs—can put greater pressure on manufacturers and could produce some additional savings.

What I say to the Senate and colleagues is for the first time now, we have the Congressional Budget Office on record stating that giving the Secretary of Health and Human Services the authority to negotiate prices could produce additional savings for some pharmaceuticals that are purchased by our seniors.

I would hope every Member of the Senate would be sympathetic of this desire to contain costs in prescription drugs at this time. There are a couple of reasons for this. The first, in my view, is the fact we have just seen in recent weeks the prescription drug legislation that passed is going to cost $134 billion more than was estimated.

In light of this dramatic increase, which has come up in a matter of weeks, in light of the fact we have this demographic revolution ahead, it seems to me it is critical the Senate act responsibly and search for every way possible to assure access to affordable medicines for seniors and to protect the interests of the taxpayers.

I voted for the Medicare legislation. I still have the welts on my back to prove it. I also believe strongly in making sure the private sector has every opportunity to help in lowering costs and delivering needed pharmaceuticals to seniors.

I have always felt there is considerable merit in the approach used by the Federal Employees Health Benefits Program that uses the private sector to make sure you get a fair shake for Federal employees. But I also think it is important there be backup kinds of tools, that there be additional tools to the private sector approach, and that is why it is so important the Senate, before it completes its business, uses the opportunity to lay the groundwork in this budget resolution to make sure the Secretary of Health and Human Services is in a position to try to wring out the best possible bargain for seniors and for taxpayers on these medicine costs.

Given the fact the Congressional Budget Office has now told us additional savings are possible when we provide the Secretary of Health and Human Services with the authority to negotiate, it seems to me to be derelict to not have the Senate on a bipartisan basis lay the groundwork for giving the Secretary that authority to negotiate.

I was very much encouraged when the distinguished chairman of the HELP Committee, Senator GREGG, said there was considerable merit to this idea.

I see the Senator from Colorado on the floor. He has talked repeatedly about his desire to have bipartisan efforts in the health care area.

In the past, every time in the budget resolution when Senator SNOWE was on the committee, Senator SMITH, and others, we have been able to do it. This year it was not possible, and that is tragic, particularly in light of the increase in the cost of pharmaceuticals and the increase in the prescription drug costs over a matter of a few weeks.

I am very hopeful now we will have a chance to move ahead on this issue. The approach that will be offered is one I think is consistent with the votes of those who supported the legislation and many who were against it. Many who were against the legislation said they had reservations because it did not do enough to contain costs. Now we have the opportunity, because of what the Congressional Budget Office has told us, to actually rein in the costs of this program. We have seen we can do it in some areas that are very significant. Take single-source medicine. The American Academy of Actuaries has found in many instances these drugs comprise a significant portion of the entire expenditure of the program. I think we can do this in a fashion that ensures access for those who need this medicine.

I have worked so closely with those programs—the National Alliance for Mentally Ill and others—that are concerned about those drugs. We can get these cost savings, ensure access for those individuals, and save taxpayers money. It seems to me if the Congress simply lets pass this opportunity to rein in the costs—and we see the costs of the program have skyrocketed more than $100 billion in a matter of months—one has to ask oneself, What is ahead? How much more of this program, a program so desperately needed by the elderly, is going to be eaten up as a result of the Senate not taking the steps to rein in the costs?

The Congressional Budget Office has told us now what is possible, so it really becomes a question of political will. I am very hopeful as the Senate goes about its work over the next few days, we understand here is a chance to build on the legislation that passed. It is not putting in place price controls and some kind of arbitrary "set the prices from Washington, DC" kind of regime. I believe private marketplace forces can work. I have seen that in my hometown where we have many older people in managed care programs. But I also want us to make sure the Secretary of Health and Human Services has every appropriate additional tool to try to wring out price savings for both seniors and taxpayers. With the nonpartisan Congressional Budget Office now telling us for the first time, reversing the position they outlined back in January of this year, I think we ought to make sure we pass legislation that lays the groundwork for the Secretary of Health and Human Services to have the tool, the authority to negotiate prices, that can produce the additional savings for some pharmaceuticals the Congressional Budget Office has outlined.

I want to emphasize to my colleagues this is not price controls. This would not set aside the private sector and the authority of the private sector to negotiate. I happen to think that is constructive. I think we will get some savings. Certainly, the fact some seniors will get their health care medicines and pharmaceuticals through managed care plans and have the kind of buying power that produces will be very useful, and I support that. But I also think on top of that private sector leverage, we ought to give the Secretary the authority to negotiate.

It is, in effect, a fallback tool that can ensure you wring out savings for taxpayers and for older people. I offer in the spirit the Senator from Colorado talked about in the committee—he wanted to see people come forward with ideas, and I say to the Senator from Colorado, I have come forth with an idea.

I have come forth with an idea that the distinguished chairman of the HELP Committee, Senator GREGG, says has considerable merit. When there is that kind of opportunity and one faces these escalating costs we have seen just in a matter of weeks, $134 billion more than was originally envisioned, the Congress ought to act.

A number of colleagues have worked very hard on this issue over the years—Senator KENNEDY, Senator FEINGOLD, Senator STABENOW on this side. I have been so pleased to be able to work with Senator SNOWE and Senator SMITH on many of these issues over the years.

I ask my colleagues to reflect on what the Congressional Budget Office has said on this topic. When there are these kinds of increases in prescription drug costs both for older people who walk into a pharmacy and for the entire Medicare Program, $134 billion increase in a matter of months, let's heed the objective analysis of the Congressional Budget Office and make sure we wring out every possible savings for the taxpayers and seniors of this country.

There was a reason why in the Budget Committee no subject was discussed at such length as health care costs. The reason is medical costs are gobbling up everything in sight. There are no costs going up like medical bills. We see that for every possible group.

I am one who believes the private sector can help contain costs. That is why I have been a supporter of the Federal Employee Health Benefit Plan. I also believe when the Congressional Budget Office tells us there are ways to make additional savings by giving Health and Human Services the authority to negotiate a good deal for senior citizens under the Medicare Program, it would be derelict for the Senate not to make sure that opportunity was not picked up on.

We will have a good debate on this issue. I am very hopeful that the words we heard from the distinguished chairman of the HELP Committee, the idea of giving the Secretary the authority to negotiate prices for seniors has considerable merit and that we can have bipartisan support for the efforts in this budget resolution to lay the groundwork for an approach on prescription drug cost containment.

This is about cost containment. It is not about throwing the whole law in the trash can. It is not about starting over. It is about containing costs. It is about the principal concern older people and taxpayers have all across this country. The Congressional Budget Office has told us we have a chance to contain costs. We ought to lay the groundwork to do that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I yield myself 15 minutes. I ask to have that charged against the time allocated to the budget resolution.

The PRESIDING OFFICER. The Senator is recognized.

Mr. ALLARD. Mr. President, I emphasize that we are moving forward. We just finished a recession. The attack on America and the war on terror have created some unacceptable budget deficits and we are trying to deal with these in the budget.

Since 2001, spending increases and the economy, not tax cuts, have been the biggest contributors to the deficits. The President's economic policies are working. The gross domestic product growth is up, unemployment is down, and the combined value of the New York Stock Exchange and the NASDAQ have increased 40 percent. We are moving forward. We can reduce deficits by slowing spending and preventing economically damaging tax increases.

I will go over just a few things that our budget will do. In 3 years, by 2007, it is going to cut the deficit in half and continue bringing deficits down. It is going to slow the growth of discretionary spending. We are eliminating wasteful mandatory spending. We are attempting to prevent tax increases on families. We are trying to maintain some spending discipline. We are trying to show that as Republicans, we can lead, and that Senator NICKLES from Oklahoma is willing to take and make the tough decisions necessary to eliminate our deficits under this budget.

Our Nation's priorities, as reflected in the budget, are that we fully fund the President's request on homeland security; education, there is a $1 billion increase for both IDEA and title I grants; veterans health care, there is a $1.4 billion increase for veterans health care; international affairs, $3.6 billion increase under the President's proposal, including funding for the global AIDS initiative. The budget also rejects several of the President's proposed cuts for congressional priorities like the Corps of Engineers and the EPA Clean Water Act.

I think this is a very responsible budget. I think it is a very thoughtful budget, and obviously it is a budget that reflects what the American people are trying to tell the Congress. The noise I hear back home and the noise I hear from the American people is, look, these deficits are a problem, but the tax cuts are not what is contributing to the deficit. The tax cuts are actually stimulating our economy.

Even the people who are in our States are beginning to realize that the economy is recovering. They would like to see it recover more, and I do not blame them. I do, too. The fact is the tax cuts are making a difference.

I would like to go back to the discussion I was holding earlier this afternoon on who pays the taxes. I will speak about this chart I have before me. This chart reflects a study made by the Urban-Brookings Tax Policy Center. Under this area of "with tax cuts," the issue is, what is going to happen as far as the income tax rates are concerned?

Well, the bottom 50 percent of the tax cuts is a minus 3 percent. What does that mean? That means that there is actually a cash payout to taxpayers. How does that happen? We have an income tax credit where we actually make a cash payment to individuals who are low income who are working.

The top 10 percent of the taxpayers are 71 percent. The payroll taxes—and yesterday when we were talking about what was happening with tax cuts, I was talking about the income taxes and then they brought up, well, what about the payroll taxes? That is how much one's check comes up short. There is the gross amount and then they take out all the payroll taxes and the bottom line is what a person takes home.

This means the bottom 50 percent of taxpayers pay about 14 percent of the payroll taxes and the top 10 percent of the taxpayers 32 percent. That figure was a little bit of a surprise to me. I thought perhaps that would be closer, but again it is pretty obvious that the higher income taxpayers are paying a considerable amount more than those in the bottom 50 percent. That is the top 10 percent. Then if we combine both of those, if we combine the income taxes that are paid and then combine the payroll taxes, it averages out that the bottom 50 percent of the taxpayers pay about 5 percent of the taxes. The top 10 percent pay 53 percent of the taxes.

What happens without the tax cuts? An interesting phenomenon has happened. Every time we have cut taxes in the Senate, the percentage the high-income taxpayers pay keeps going on. When we cut taxes, they pay a greater percentage of the revenues derived from income tax. This is reflected in the column "without the tax cut."

Here is what we see happening. We see that the bottom 50 percent pay about a minus 1 percent. In other words, they are not getting as much money sent back as we saw with the tax cuts. We see less taxes being paid by the top 10 percent. So here we are with the tax cuts, and their share of the taxes goes from 67 percent up to 71 percent.

We even see that phenomenon happening when we combine both income and payroll taxes. This is significant. When we make our adjustments in our tax cuts, those who are in the higher income pay a higher percentage of taxes as we move forward with our tax cuts. I think that is important.

The upper income pays a greater share of the tax burden with tax cuts than without. This is broken out a little differently, but if we look at the top 1 percent, the red here reflects with the tax cuts and, over here, what happens without tax cuts. We see the top 1 percent ends up paying a greater percentage of the tax cuts. We go here to the 10 percent, we see there is still an increase. Without a tax cut it is a lower percentage than with the tax cut. We are getting a shift automatically to the higher income taxpayer.

On the 50 percent it is close to even, although there is a little, very narrow difference there. Then the bottom half actually is paying fewer taxes as a percentage with the tax cuts as opposed to without.

What happens with this budget when we are talking about the child tax credit, the marriage penalty, and changing the tax bracket? We need to do this if we want to preserve income for the family. Here is how this breaks out as we have it in the bill. If we let all these taxes expire, here is what happens. If we don't take any action on taxes this year, here is what happens. Assume the family tax bill in 2004 for a middle-class family of 4 is $6,000. Then here is what would happen with that family of four. They are going to pay $600 more, because we begin to see a drop in the per-child tax credit. It expires. Then we begin to see the marriage penalty relief expire. We see a drop there—$911. We see the 10-percent bracket expansion expires. That adds $100. So the total tax increase that will hit that family of 4 is $1,611. That means the family tax bill from 2004 to 2005 is going to increase $7,611. That means there is going to be $1,611 less expendable income from that family.

My view is if we can keep that money in the family they are going to create jobs because they are out buying products, they are buying and stimulating the economy, as opposed to the Federal Government, where that does not happen. That phenomenon is not there. That is a 26-percent tax increase that happens if we do not go ahead and implement these tax relief provisions that are in the budget bill. These are very important. They are important to families in America and they are important if we are going to continue to see our economy grow, because it gives the family greater discretionary income so they can meet their needs.

If we can keep the money in the taxpayers' pockets in their own local communities, then that money is available to help those communities. Taxpayers look at the whole tax burden. If it is too high at the Federal level, they don't particularly feel they want to give up their hard-earned taxes for things that are happening in their community. But if they can get tax relief at the Federal level, then they realize some relief from the Federal tax burden and they are more willing to support what needs to be done in their community. Maybe they need to increase the sales tax for open spaces or have a sewer plant replaced or maybe a water treatment plant for the drinking water needs to be improved upon, or maybe the roads and highways need to be taken care of. These are local projects. It means there is more money available at the local level so the local communities can do that.

To me, this makes a lot of sense. We need to move the power from Washington back to our cities and States. That is what this is all about. It is not about whether we are going to tax the wealthy. The wealthy are carrying their fair share. It is about getting the money back down to the States, back down to the individuals, where it will make a difference in people's lives.

This is a well-thought-out budget. I think it moves this country forward. It is a budget that I think will make a difference in American lives. It is something I hope we can pass out of the Senate, get to the conference committee, and we can get it back with minimal change. Obviously there will be a few things that will happen. We will have a number of amendments here on the floor, but this is basically a pretty good plan. We need to get a budget this year. That is the first step. Then once you get the budget passed you can get your appropriations bills.

Without a budget, it is catastrophic. We saw that happen 3 years ago. We didn't get a budget passed from this Senate. We saw spending get out of control. We saw all sorts of budget discipline lost in the budget process and this all contributed to the deficits we are facing today.

I urge my colleagues in the Senate to work with the chairman of the Budget Committee because he has indicated a willingness to work with the Members of the Senate to take care of their concerns. Let's get a budget passed and move forward, a budget that will hold the Senate accountable so we will be well on our way to eliminating the deficits we now face.

I yield the remainder of my time.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself 20 minutes on the underlying resolution.

The PRESIDING OFFICER. The Senator is recognized.

Mr. KENNEDY. I thank the Chair.

Mr. President, we are considering now for the next 3 days the recommended figure that has come from the Budget Committee to allocate the resources of this country in the Federal budget. We know we will have the debate on this. This is a question of choices. It is a question of priorities, even with the scarce resources we have at the present time, how these resources ought to be allocated in the national interest.

The overall issue on the budget is to recognize there are two instruments that guide our economy. One is monetary policy, which is interest rates, and there is fiscal policy, which is about what we spend. Both of those together ultimately decide whether we have a strong economy or a weak economy, those two elements. We are considering the second element here today, what we call the fiscal policy, the resources we have to invest or give in tax breaks or invest in education or health care. That is what this debate is about.

What we do know is this has a major impact. What we do with this budget has a major impact on the state of our economy. When you have Presidential leadership that understands both the fiscal and monetary policy, you can get economic growth, you can get price stability. We have seen it in the past. We only have to be reminded about the recent leadership we had with President Clinton in 1992, 1993, when we had a budget that was the benchmark and the benchpost for the expanded economic growth we had. There were 22 million jobs created over that 8-year period. That is a result of fiscal policy, the budget as well as the monetary policy. They were harmonized in a way that brought economic growth to our country, price stability and economic growth.

Earlier than that, in the early 1960s, we had a similar effort to use economic growth, fiscal policy, and monetary policies. The early 1960s had the longest period of economic growth and price stability we had had up to that time, for this century. So we know this is an extraordinarily important document, in terms of deciding what the state of our economy is, whether there are going to be good jobs, or whether there are going to be investments in education, whether there are going to be investments in training, whether we are going to deal with the challenges of health care.

Anyone who is interested in the issue of jobs has to look over this budget and ask, where is the policy? Where's the beef? Where are the provisions in this budget that are going to reflect itself in expanded job opportunities? You come to the conclusion that they are not there.

For those men and women across this country—the millions who have lost their jobs and the millions more who have gotten new jobs that are not paying what the old jobs were paying—can say as a result of their budget, if it goes through the way it is, help is not on the way. This is not a budget that is going to bring this economy back to a growing and expanding economy. What it is basically doing is just what we have done in the last 3 years. We should have learned our lesson. We have massive tax breaks for the wealthiest individuals in this society, and then we find out that it still hasn't worked in terms of producing jobs. Now we find the administration is going to do the same thing with regard to this budget, and hopefully out there somewhere there will be creation of jobs. They just aren't going to be there.

We should have learned the lesson of that. All we have to do is look at what the administration has said and what has happened over the period of the last 3 years going back to 2001 when we had the administration's proposal on these very extensive tax reductions and breaks for the wealthiest individuals that it was estimated were going to create millions of jobs. That is the purple line right here. What happened is the red line declined with a total loss of 3 million jobs. A million have been recovered. We are still 2 million jobs short of where we were when this President became President.

Do we understand that? After the economic policies of this administration, we are 2 million short.

It is amazing because we keep hearing this Bush administration talking about how we are going to have very extensive job growth, and it never happens. It just doesn't happen. It hasn't happened. Why should we believe it is going to happen with this budget? It isn't going to happen.

Here we see the first estimate. Then last year they said it is going to really happen up here. We will have an increase of another 2 or 3 million jobs. From the point where the Bush administration's estimate of where we are now, we are 5 million jobs off.

We had the most recent report last week, and we had the question about the creation of jobs: Not a single new private job in the country. The 21,000 new jobs are basically in the public sector.

It is amazing to me—it must be to millions of Americans—because they hear from our President an entirely different story. They heard in the State of the Union from the President of the United States:

> The pace of economic growth in the third quarter of 2000 was the fastest in nearly 20 years. Productivity and jobs are on the rise.

On "Meet the Press," February 8, the President said in response to Mr. Russert:

> Well, it's happening. There is good momentum when it comes to the creation of new jobs.

There it is on February 8.

On February 23 at the National Governors Association Conference.

> Obviously the economy and jobs are on my mind. I know they are on yours as well. I am pleased that the economy is growing.

There it is again. The President is saying that everything is hunky-dory.

Just last week in California on March 4:

> A lot of people are feeling confident and optimistic about our future so they can say I am going to hire two more.

They can sit here and tell the President in front of cameras, I will hire 2 more people.

There was a good deal of laughter. He said:

> That's confidence.

He said in Texas on March 6:

> The economy is getting stronger. We have pro-growth and pro-entrepreneurial that is making the economy stronger and stronger.

With all of these statements, the problem is the President just doesn't get it. He doesn't understand what is happening out there across the Main Streets of this country.

It is interesting that we find just today Treasury Secretary Snow spoke in Washington at the National Association of State Treasurers and noted that with the underlying condition of the economy looking unusually sound, the lack of job growth is a mystery.

Now at least you have the Secretary of the Treasury understanding that.

But to say with this budget that everything is just going well in terms of our economy fails to understand what is happening in the Main Streets across this country. We have an opportunity to do something about it. The question is whether we will.

Certainly the budget that has been recommended by our Republican friends doesn't bode terribly well for working families or for the middle class. This legislation extends the tax breaks for wealthy investors while refusing to extend the unemployment benefits, leaving 90,000 more workers each week without benefits. The 90,000 workers who paid into the compensation fund each week are losing those benefits. What do they use that unemployment for? They use that to pay the mortgage, pay the rent, and put the food on the table. That unemployment compensation fund is in surplus.

The proposal of the Senator from Washington was about $5.5 billion. But, no, that wasn't included in this budget. That would be a hand reaching out to workers in this country who have paid into that fund.

The judgment and the choice and the priority of the Republic budgeteers is to say, Look, we are going to provide the continuation of the tax breaks for the wealthy and leave the 90,000 workers behind.

Then they permanently reduce the tax breaks for the top brackets paid by the wealthiest taxpayers but provide no relief for the workers that cannot afford the spiraling cost of health benefits and cuts in health care for low-income families. That will be a $11 billion cut which is directed to working families and low-income families, but we don't address that. Repeal the inheritance tax on multi-millionaire estates while raising taxes on low-income workers by cutting the earned income tax credit.

I heard my friend from Colorado say when he was describing who is paying it on the taxes, Look, some people actually get a rebate. That is true. Those are families that are on the lower rung of the economic ladder. They have the earned income tax credit. It has been enormously successful in making work pay. They have to be working, and they receive those funds. That is being cut back. Imagine that. Some tax help and assistance for low-income working families we are cutting back and at the same time eliminating the taxes for the very wealthiest individuals in this country.

The issue goes on and on.

I want to point out a couple of factors with regard to the issues on education and the issues on health care and what we are finding in regard to this particular budget.

We have passed what we called the No Child Left Behind Act, which was a bipartisan effort. We said that over a 12-year period we would try to bring proficiency to every child in America. It is not easy. It is difficult and complex. We had a variety of different ways to try to do it. Basically it was to get a well-trained teacher in smaller class sizes to try to provide help and assistance to those children who needed help, who are going to be periodically tested, and those who need help are going to get the supplementary services. Involved in supplementary services will be well-trained people who can help those children that have spelling needs. It was going to involve parents. It was going to provide additional help to those schools so they could get up to standard. It was a real contract with parents, children, and the Congress of the United States.

The tragic fact is the children are meeting their responsibilities; the parents are meeting their responsibilities; the teachers are trying to meet their responsibilities; and we are failing in ours.

That is why. Here it is. You can just look at this chart under the Bush budget that we have before us about the number of children who are going to be left behind going from fiscal year 2005 all the way to 2013, still leaving 4 million children out, still leaving 4 million children behind. That is absolutely unacceptable.

We will have the possibility under the Murray amendment to do something about that. It is a responsible amendment. It will pay effectively for itself. It is not going to run up the deficit. It will ensure that all children are included and at end, that "no child is left behind."

We have to make a judgment. This is an issue of priorities. Do we want to invest in our children or do we want to leave those children further and further behind?

I want to point out briefly while I am talking about the No Child Left Behind Act that the Bush administration has been withholding data for 6 weeks now. But the Congressional Research Service tells us that over 7,500 school districts are about to get a cut in No Child Left Behind Act aid. Many of these are the poorest of the poor school districts. East St. Louis, IL, 41-percent poverty, will get a $315,000 cut in July. Canton, MS, 34-percent poverty, will get a cut of $148,000 this July. Camden, NJ, 38-percent poverty, will get a cut of $550,000 this July. East Cleveland, OH, 35-percent poverty, will get a cut of $90,000 in July. Holyoke, MA, 36-percent poverty, will get a cut of $350,000 this July.

Money does not answer all the problems in education, but it is a pretty clear reflection of the kind of priority we in this body are giving to education. We are allowing cutbacks in children's education, while expanding, making permanent, the tax cuts for the wealthiest individuals.

That is not the only issue. We just mentioned the challenges facing K–12. We have other issues on No Child Left Behind, including ensuring we have well-qualified teachers who will work in supplementary services, dealing more effectively with the issues of disability, dealing with limited English proficient students, trying to work with States on a representative size in measuring annual and yearly progress. But you cannot do those issues if you do not have the resources necessary. This budget does not provide them.

Let's look at what has happened in the area of higher education and ask what this budget does in the areas of higher education. This chart reflects the increased costs of college tuition for the public for average tuition for 2- and 4-year public colleges: $3,725 for 2001–2002; 2003 and 2004, $4,700, a 26-percent increase.

On the one hand we have a budget that is not performing in terms of creating jobs in our society, as the most recent results of last week indicate, and not doing the job in terms of our commitment to the children in K–12. What does this 26-percent increase in costs say to those working families, middle-income families trying to put their kids through college?

What has been the reaction of this administration and our Republican friends? College budget: more student debt, less grant aid.

We have seen the increase of the student debt by $4.7 billion in the last 3 years for students under the Bush education program, effectively cutting 171,000 LEAP student grants, which are the State grants, matched by the Federal Government. This budget zeros out any increase in individual student Pell grants in spite of what the President said when he ran for the Presidency. He said we ought to have a Pell grant of $5,000 when he was running for the Presidency. There is not a nickel increase. And zero increase in college work-study programs and campus-based financial aid, which are programs that are basically essential for low- and moderate-income families who need to be able to supplement, besides their scholarships, besides their loans.

I will show what the budget does and what choice is before the Senate. As I mentioned, in this budget we have a question of priorities. These are the priorities. The Bush plan to cut No Child Left Behind saves little compared to the cost of tax cuts for the top 1 percent.

This is the cost of the Bush tax cut for those making over $337,000 in 2005: $45 billion. This is the additional cost to fully fund No Child Left Behind in 2005, $9.4 billion. What is important? There we have it. We will have a chance to vote on it.

What are your priorities? Ensuring that we will be able to fund the programs for the education of the children or are we going to provide the $45 billion?

Let me show the chart for this year. We will hear from the Budget Committee chairman saying we have addressed this higher education. They put in some funding which will be necessary to keep the floor under the Pell grants and then they take them out. The Senate GOP would need to add to its budget to fully fund the No Child Left Behind Act, the $8.6 billion, yet there is virtually no real commitment in there.

I will discuss two items in terms of health care that are not addressed. There is no attempt with this budget to try to deal with the issues of coverage on health care, and there is virtually no effort to try to get a handle on costs of health care. What we have seen over the period of the last 3½ years of the total numbers of individuals who are not covered with health care has been going up, up, up. This is the chart that shows how the numbers have been going up since this administration: 39.8 million, 41 million, and 43 million.

Look at what has happened in the course of a year. Let's take a look at what happens in terms of health care costs. We have the total number of people going up, up, up. This chart shows the premium increase versus the consumer price increase: 10 percent, 12 percent, 13 percent; 2001, 2002 and 2003; a 43-percent cumulative over this administration.

Maybe someone in the Budget Committee can show us where this budget is doing anything about the costs coming out of the pockets of working families in this country. We are not creating jobs, we are not investing in the education of the children, and the issues of health care costs and coverage are out of control. We would think that at least this budget would have addressed those issues and questions. Fortunately, there will be amendments over the next 2 days to address those. I hope our colleagues will support them.

I yield the floor.

Mr. McCAIN. Mr. President, the amendment offered by my friend from North Dakota is playing politics with two very critical issues to our Nation's economic well-being: The skyrocketing deficit and the future of Social Security.

Clearly, there is a lot we need to do to tackle the enormous $500 billion deficit. There is also a critical need to shore up Social Security.

Let me remind my colleagues that, recently, Federal Reserve Chairman Alan Greenspan called for new steps to restrain spending, warning that unless we take action, our lack of fiscal discipline could lead to increased long-term interest rates. He also recently expressed serious concerns about the need to address Social Security, given the impending retirement of 77 million Americans 7 years from now. Unfortunately, this amendment is not a solution.

We need to start making some tough choices around here and in a manner that puts the good of the Nation ahead of partisan politics. I support PAYGO budget enforcement mechanisms, but not when they are tied to a political agenda. I regret that I must vote against the amendment.

The PRESIDING OFFICER. The Senator from Maryland.

COMMENDING THE BRAVERY OF THE INITIAL RESPONDERS IN THE BALTIMORE HARBOR WATER TAXI ACCIDENT OF MARCH 6, 2004

Ms. MIKULSKI. I ask unanimous consent that the Senate proceed to the consideration of S. Res. 312, submitted earlier today by myself and Senator SARBANES, expressing condolences to the people who died in the Baltimore water taxi and our appreciation for the brave rescue efforts.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 312) commending the bravery of the initial responders in the Baltimore Harbor water taxi accident of March 6, 2004.

There being no objection, the Senate proceeded to consider the resolution.

Ms. MIKULSKI. I ask unanimous consent also that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements relating thereto appear in the RECORD as if read without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 312) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 312

Whereas on Saturday, March 6, 2004, a water taxi overturned in Baltimore Harbor during a sudden and vicious storm;

Whereas 25 passengers were thrown into the Harbor, into frigid 43 degree water, with little chance of survival;

Whereas tragically, 1 person died and 3 people are presumed to be dead;

Whereas if not for the immediate action of the initial responders, more lives would certainly have been lost;

Whereas the initial responders demonstrated extraordinary bravery in their heroic response in rescuing the passengers;

Whereas after noticing the accident, the initial responders rushed to the scene, piloting their vessel to the accident site and immediately diving into the frigid waters in their street clothes and boots to help those clinging for their lives;

Whereas the initial responders not only saved those clinging to the boat for survival but used their exceptional skills and ingenuity to elevate the capsized boat to rescue those passengers trapped beneath;

Whereas the team of initial responders worked together to pull the passengers out of the water, identify those who needed immediate medical attention, turn the Fort McHenry Drill Hall into a triage center to identify the victims who were most in need, and provide all with dry clothing and warm blankets;

Whereas it was a team effort to rescue and save those stranded in the freezing Chesapeake waters that involved rescuers in the water, on the pier, and at Fort McHenry;

Whereas we commend the courage and resolution of Maryland's outstanding initial responders whose quick reaction to this terrible accident saved lives; and

Whereas we praise these initial responders—the Navy Reservists, Coast Guard, Maritime Fire Department, Baltimore Fire Department, Bowleys Quarters Search and Rescue Team, and the emergency medical team—who worked together as a team to rescue people and save lives: Now, therefore, be it

Resolved, That the Senate—

(1) pays tribute to the victims of this terrible accident and expresses its condolences to their families;

(2) commends the initial responders in the Baltimore water taxi accident of March 6, 2004, for their bravery, quick thinking, courage, and ingenuity in rescuing the passengers of the water taxi that capsized after a sudden and vicious storm swept over the Baltimore Harbor; and

(3) commends the team of initial responders for this extraordinary demonstration of their ongoing commitment and dedication to saving lives.

Ms. MIKULSKI. Mr. President, I believe we have agreed to the parliamentary aspects of this effort.

I rise to pay tribute to those lost in the Baltimore Harbor water taxi accident, and to express great gratitude to the brave rescuers who saved many of the lives, and, of course, to express condolences to the families.

Let me tell the Senate about what happened, very briefly.

On Saturday, a beautiful, mild afternoon in Baltimore's Harbor became a nightmare. A sudden storm arose. A beloved water taxi capsized in the Baltimore Harbor. Twenty-five people were thrown into the water. They fought for their lives in freezing cold water.

They were families, tourists, Maryland residents, people from across the country, even members of a National Guard unit visiting us.

Two women tragically lost their lives, including a beloved pediatric nurse. One young girl is still fighting for here live.

Three people still remain missing: a couple about to be engaged and a 6-year-old boy on a trip with his father and mother and two other siblings.

I express my heartfelt condolences to those families who are suffering the loss of a loved one. The victims and their families are in our thoughts and our prayers.

But I also want to bring to the Senate's attention what happened with our very brave initial responders.

This accident happened off of Fort McHenry. Stationed there is a Naval Reserve unit. They happened to be on duty as part of their weekend training. At the same time, located there is the Baltimore City Fire Department Maritime Unit.

The minute this boat went over, as this storm hit, a Naval Reserve master chief petty officer saw the boat capsize and sounded the alarm to the Navy Reserve unit. Without hesitation, 20 men got on a boat that was a relic from World War II, that was used as a landing craft, and with great skill they began to proceed out to this capsized boat, exactly as the Baltimore City Maritime Fire Department saw it. And then without even putting wet suits on because there was not time—the water was 44 degrees—the firefighters jumped overboard. The Navy came in as a rescue mission, maneuvering this landing craft, and coming up close. As they lowered its bowel ramp, they used it as a sidewalk into the water. The Navy men walked into that water, forming a human chain, grabbing people, and pulling them out. And then they skillfully negotiated right up to the capsized boat and used the ramp as a crane to lift it up, and out came three people who had been trapped underneath.

Once again, the Navy rescued two and the fire department rescued one. Now two people are dead. Three are missing. Indeed, it is a very melancholy situation, but if the Navy had not responded the way they did, and if the fire department had not been there, the tragic consequences would have been far more significant.

That kind of bravery, jumping into the water, risking hypothermia is something we need to recognize. These initial responders did it quickly, without thinking and without hesitation and without stopping. Their quick thinking and all of their training and all of their ingenuity and all of their bravery and all of their gallantry helped save 20 lives.

Our terrific Baltimore emergency workers back on shore began to take the people to the hospital. On shore, the Navy took their drill room and turned it into a triage center. I am telling you, they provided emergency medical care. They were taking blankets and clothing and even their own shirts and socks and giving it to those who came from the freezing cold water. We could have faced a greater loss had it not been for them.

When I went to visit with them yesterday, I said: I want to go to the Senate to tell your story. As I gathered their names, they said: We don't want to be singled out. We're Navy. We're the fire department.

They wanted to be known for the team they belong to. They told me they were part of a team, that they needed each other, and that they counted on each other, and it was the team effort that saved their lives.

They do that every day. The fire department and the Navy train every day to save lives. They were there when we needed them, and they were best at what we needed them for.

Now Baltimore fire rescue workers continue to recover the bodies of the victims. Indeed, it is a chilling job, but we want to be able to bring those bodies back home.

I salute our initial responders. I salute those who are now engaged in the recovery activity. I thank God for the emergency medical team that whisked them to the hospital to take care of their hypothermia, their cardiac arrest.

It was a tragic day in Baltimore, but the heroism of Baltimore shines as a beckon to deal with their sorrow. That is why I offer this resolution today. I ask that the Senate and my colleagues join in expressing our gratitude for them and our condolences to those families of lost loved ones.

I thank the Chair and thank the Senator from Idaho for his courtesy.

Mr. CRAPO. Mr. President, I thank the Senator from Maryland. In fact, I appreciate the Senator from Maryland coming to the floor today and sharing with us, the Senate, and the country this incredible example of how these first responders can make such an important difference when a tragedy strikes. Those in Maryland are to be commended for this response.

CONGRESSIONAL BUDGET FOR THE UNITED STATES GOVERNMENT FOR FISCAL YEAR 2005—Continued

AMENDMENT NO. 2704

Mr. CRAPO. Mr. President, the amendment that is before the Senate today, and on which I expect we will vote very soon, is an amendment that would change the budget enforcement rules as we proceed forward in considering legislation. This amendment would amend title IV of the budget enforcement provisions of the committee-reported resolution to include a 60-vote point of order against the consideration of any direct spending or tax relief legislation that would increase the on-budget deficit in any fiscal year, in its terms, "until the budget is balanced without Social Security" payroll tax receipts.

The problem this amendment poses, although it sounds very admirable on its face, is that it is based on the faulty premise that either tax relief or spending is raiding the Social Security trust fund.

I will be one of the first to agree we should control spending in this body, such that we do not engage in deficit spending, which makes it more difficult for the Federal Government to pay down its outstanding debt obligations.

In fact, as I said yesterday on the floor, when I ran for Congress, I ran on a principle of a balanced budget, and beginning in about 1994, in this Congress, we were able to exert the kind of fiscal discipline that helped us ultimately, with the assistance of a strong economy, to achieve a balanced budget to start paying for what we were spending in Congress and to be able to pay down significant amounts of the national debt.

I believe that is a very admirable principle. But to argue that either the excess spending or the cuts in taxes are somehow raiding the Social Security trust fund is to create a spin that needs to be clarified.

The first point I believe the public needs to understand is that when proceeds come into the Social Security trust fund, by law, those proceeds are utilized, first, for the purposes of the Social Security benefits that are provided. Then, if there are excesses—and in the past few years there have been excesses; there will be for a number of years until the Social Security trust fund begins to run deficits—those excesses or surpluses are then invested, by law, in Government bond instruments, in other words, Government debt instruments.

Those Government debt instruments, as other debt instruments which the Government issues, are then sold to the public or to buyers around the world, frankly, and then repurchased at the time when they become due by the Federal Government.

It will be necessary for us, when these bonds come due—for any year we issue them—to pay for them. The more deficit spending we engage in, the more debt we incur, and the heavier the debtload for future generations, it is true.

The net effect of the amendment we are now debating is directed specifically at tax relief. There is tax relief that this Congress and the President of the United States have passed, and the President signed into law in the past few years that will expire because of the procedural mechanisms utilized to get it through the Senate. The various provisions of this tax relief that we were able to accomplish in the last few years expire on different dates, depending on the terms of the legislation we passed.

I believe everyone should be very clear about one important fact. Although there has been a lot of debate in the last few days, and will be for the next few, primarily attacking the President for supporting tax relief and primarily saying that this tax relief was for the wealthy and the rich, the fact is the tax relief was provided across the board to Americans from all income categories who pay taxes. In fact, the highest percentage of the tax relief went to those who were in the lower and middle-income categories.

We can debate the value of the tax relief that is claimed to be for the wealthy. Most of it went to small businesses that apparently are categorized as the wealthy. Most of it was that which is providing the incentive to invest in capital that will generate strength in the economy and create more jobs. But setting that debate aside, those provisions of the tax relief that this Congress and previous Congresses enacted over the past few years under President Bush's leadership that expire this year, those that are in jeopardy of going away this year are not these tax increases that everyone has been referring to in the last few days, these so-called tax cuts for the wealthy. They are instead the tax cuts that directly benefit the middle and lower income classes.

What are they? First, we expanded the 10-percent income tax bracket so that more people are covered at the 10-percent level than the higher levels of taxes. That is the lowest level of tax in the income tax structure. The tax bracket of protection for the lowest level of income-tax payers was expanded. It is that tax relief that will expire this year. It is that tax relief which is the target of this amendment. It is that tax relief which this amendment will make more difficult to maintain and which will result in direct tax increases on those who are paying taxes at the first and lowest level of income category in our income-tax code.

The second tax that is going to expire this year is not this so-called tax on the wealthy that is so excoriated in the Senate. No, it is the marriage tax penalty relief. Those who fought us for years to stop elimination of the marriage tax penalty would love to see a procedural roadblock put into the place of this marriage tax penalty relief that is expiring. We don't want to see that happen.

What is the third and the last tax that will expire this year after the expansion of the 10-percent bracket and the elimination of the marriage tax penalty? It is the $1,000-per-child tax credit. I don't believe those who are attacking the President's tax relief are going to claim that everybody who has a child and who can take advantage of the child tax credit is wealthy, according to the standards they have been putting forth. This one doesn't impact across income categories except that it is phased out for those in upper income categories and is a primary benefit specifically to those in the lower and middle-income categories.

So we have three critical tax relief provisions that are going to expire this year which directly benefit the lower and middle-income classes that will be made more difficult to extend if this amendment passes.

When you look at these things on their face, it sounds very nice to say let's put a procedural mechanism in place to make it harder to cut taxes. But let's not make a mistake. The taxes they are going at are the taxes specifically identified in the reconciliation provisions of our budget; that is, the expansion of the 10-percent bracket, the elimination of the marriage tax penalty, and the child tax credit. For those reasons, I believe it is important we recognize this amendment must fail.

There has been a lot of talk about what is going to happen to Social Security. I, for one, will vote to have strong fiscal restraint in this budget and to do what is necessary to stimulate and strengthen our economy, to make sure our economy can start gaining steam again and help us address these budget deficits.

I have a small chart that shows what the Social Security trust fund is going to look like under the current budget or without the current budget, having undone the current budget. The point is, it is the same. The reason it is the same? There will be about $4 trillion in the Social Security trust fund either way. The reason it is the same either way is all surpluses in the Social Security trust fund are by law invested in government bonds and government debt instruments. Those government debt instruments will protect the Social Security trust fund in either case.

Again, I want to make clear, the way to protect the Social Security trust fund is to stop overspending our budget. The way to protect the Social Security trust fund is to stop running deficits and start, once again, as we were in the late 1990s, paying down the national debt, giving greater strength and resiliency to our economy and confidence in our ability to repay these debts as they come due.

Let's not get ourselves caught up in this debate about whether taxes and tax cuts are bad or good. Those who debate this issue on the floor and criticize the President primarily have two messages: The first is, they want to blame the tax relief of the past few years for all of the economic problems our Nation has faced in the last 3 or 4 years, when in reality we saw the stock market bubble pop. We were attacked on 9/11 which drove down consumer confidence and drove spending through the roof in terms of the war on terrorism and the effort to defend attacks on our homeland. And we have seen other problems, mainly the uncontrolled increases in entitlement spending that drive spending in this budget.

Over the next few days we will continue to have this debate over whether it is better to have higher taxes and higher spending and somehow spend ourselves into prosperity or whether it is better to have lower taxes and give an economic stimulus to the private sector and to strengthen consumption and then try to control the deficits, thereby stimulating the economy and controlling spending. That is going to be what we debate in one context or another for the rest of this week.

I say to those who are listening, this amendment will essentially accomplish one thing, and that is to put roadblocks in the way of the kind of tax relief for which we have been fighting for the last 3 or 4 years. It doesn't put roadblocks in the way of discretionary spending proposals. It doesn't put roadblocks in the way of entitlement spending increases. It puts roadblocks in the way of efforts to maintain the tax relief that we have had in the past few years. Again, primarily that tax relief which we are targeting and which we are projecting to the Finance Committee in our reconciliation bill is the tax relief that is intended to expire this year: The expansion of the 10-percent tax bracket for those at the lowest level of income tax payment, the marriage tax penalty elimination, and the $1,000-per-child tax credit.

I encourage all of my colleagues to vote no on this amendment.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I almost don't recognize my amendment when I hear the description of the Senator from Idaho. The amendment he is talking about is not my amendment. My amendment says very simply: No new mandatory spending, and that is two-thirds of Federal spending; no new tax cuts unless they are paid for until we stop using Social Security funds for other purposes. The only way around that is a supermajority vote.

So let me repeat what this amendment does. This amendment says: No increase in mandatory spending, no new tax cuts that are not paid for until we stop the use of Social Security funds for other purposes.

Let me be clear. We have had in the past pay-go provisions, and the pay-go provisions operated in just this way. They were focused on mandatory spending, not on discretionary spending. We disciplined discretionary spending with spending caps. We have a cap in place right now. Mandatory spending we disciplined with a pay-go provision just like mine, and we disciplined the tax cut side of the agenda with a discipline just like mine. But those disciplines were stopped in 2002.

What I am saying is they ought to be put in place. We ought to insist that if somebody wants more spending, new spending on the mandatory side, they ought to come up with a way of paying for it. If they want new tax cuts, they ought to find a way to pay for it until we stop the use of Social Security money for other purposes. We would defend those disciplines with a 60-vote point of order.

Mr. CRAPO. Will the Senator respond to a question?

Mr. CONRAD. I will in a minute. Let me complete my thought, and then I will be happy to yield to the Senator for the purpose of a question.

I believe this is critically important that we put this discipline in place. The Senator has referenced the middle-class tax reductions. I have said publicly that I will support the extension of the 10-percent bracket. I will support the continuing marriage penalty relief. I will support the continuing relief that we see with the expansion of the child tax credit. But to do it, we ought to pay for it, just as we ought to pay for new spending. If we cannot pay for it, then we ought to have a 60-vote hurdle in front of us to discipline the spending-and-tax-cutting process in this body.

Look, we have record budget deficits, and under the budget that is before us by the majority, the increases in the debt are virtually unchanged over the 5-year period. The debt is being increased under this budget by $2.86 trillion. The increases in the debt year by year are never below $550 billion, $560 billion.

I will be happy to yield to the Senator for a question.

Mr. REID. Mr. President, may I ask a parliamentary inquiry—I guess it is not parliamentary inquiry—if the Senator from North Dakota will yield?

The PRESIDING OFFICER. The Senator from Nevada will state his inquiry.

Mr. REID. I apologize to my friend from Idaho. May I ask the ranking member of the committee what the chairman and he have decided on a vote? We have people anxious to know when this vote is going to take place. Can the ranking member or the chairman respond to my question of when the vote will take place on the pending amendment?

Mr. NICKLES. Mr. President, to respond to my colleague from Nevada, we told people to expect a vote at 2:30 p.m. I told my colleague from North Dakota we expected a very short summary and debate by the two of us. It is agreeable with this Senator to vote in the next 6 or 8 minutes, 10 minutes, 4 or 5 minutes to a side.

Mr. REID. Can we set the vote at quarter to 3?

Mr. NICKLES. That will be fine.

Mr. REID. Ten minutes, five minutes on each side.

Mr. NICKLES. Mr. President, I ask unanimous consent that the rollcall vote on the Conrad amendment occur at 2:45 p.m.

Mr. REID. With the time to be equally divided.

Mr. NICKLES. With the time equally divided.

Mr. REID. And no second-degree amendments in order.

Mr. NICKLES. That is not necessary.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time? If no one yields time, time will be charged equally.

The Senator from North Dakota.

Mr. CONRAD. I thank the Chair. I thank my colleagues.

Mr. President, let me be clear. The amendment I am offering says this: No new mandatory spending, no new tax cuts unless they are paid for until we stop using Social Security money for other purposes. It guards that budget discipline with a supermajority point of order. That is how we have worked in the past with the pay-go provision, focused on mandatory spending and on the tax side of the ledger. It is not different from what we have done in the past.

Some have said it does not discipline discretionary spending. We have never disciplined discretionary spending with this kind of mechanism. We have done that with spending caps, and we have in place today a spending cap. I have supported spending caps to discipline the discretionary side of the spending.

Remember, mandatory spending is two-thirds of Federal spending, and we have nothing in place now to protect us on the revenue side or the mandatory spending side. That is what this amendment does.

If we look at the President's budget, it is very interesting what we see. Over the next 10 years, he is taking every penny of the Social Security surplus and using it to pay for other items. What are the other items he is paying for? One is his income tax cuts. There will be a $2.4 trillion Social Security surplus over the next 10 years. By the way, it is not surplus at all. It is a misnomer because we are going to need that money when the baby boomers retire. But he is taking that money that is in surplus for the moment and using it to pay for other programs, including $2.5 trillion of income tax cuts.

Income tax cuts are primarily going to the wealthiest among us. If we look at who benefits from the Bush income tax cuts, what we see is the top 1 percent, those earning over $337,000 a year, get 33 percent of the benefit.

Our friends on the other side will say they pay more taxes. Indeed, they do, but they do not pay 33 percent of the tax burden in this country. They pay about 23 percent of the tax burden in this country. They have gotten a disproportionate benefit.

If we look at who benefits from Social Security, we see that two-thirds of retirees rely on Social Security for more than half their income; 31 percent get at least 90 percent of their income from Social Security; 33 percent get 50 to 89 percent of their income from Social Security; 36 percent get less than 50 percent of their income from Social Security.

The big problem we have is shown on this chart. This shows the Social Security and Medicare trust funds that are now in surplus. Those surpluses are being used to pay for other items. The red bars show the cost of the President's tax cuts. What one can see is, as the trust funds go past negative, the expense of the President's tax cuts explodes, driving us right over a cliff into deeper and deeper deficit and debt.

That is what has led the head of the Federal Reserve to urge cuts in Social Security. The head of the Federal Reserve has come before Congress and has said: You are overcommitted. You are spending way more than you are taking in, and this is going to lead to an incredible crunch. He said to us: One of the things you ought to consider is cutting Social Security benefits.

The President said to us repeatedly that Social Security funds should not be used to fund other expenses of Government.

In his 2002 budget blueprint, the President said:

> None of the Social Security surplus will be used to fund other spending initiatives or tax relief.

That is a broken promise. In 2001, in a radio address, the President said:

> Every dollar of Social Security and Medicare tax revenue will be reserved for Social Security and Medicare.

In a radio address on March 3, 2001, the President said:

> We're going to keep the promise of Social Security and keep the government from raiding the Social Security surplus.

That is exactly what he is doing. That is why this amendment is important. I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I urge our colleagues to vote against this amendment. For those who say we are raiding Social Security, I believe that is absolutely false. We are protecting Social Security just like any other budget, just like the budget Senator CONRAD passed out of the Budget Committee a couple of years ago. He raided Social Security to the tune—if one uses that terminology, and I do not want to use it because I do not believe it—of about $866 billion. He did the same thing that we are doing today.

We knew exactly what the law says. The law says if there are surplus Social Security revenues, they are to be invested in T-bills, and I will quote the law. This is the Social Security Act, Section 201(d):

> It shall be the duty of the Managing Trustee to invest such portion of the Trust Funds as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

That is exactly what we do. I think some are trying to politically scare people into making a mistake. The mistake would be to say 60 votes are needed to do anything in the future, supposedly pay-go for everything.

In reality, they did not cover appropriated amounts. There could be an appropriation increase of $100 billion. Oh, that does not have to be paid for. Maybe there are caps, maybe there are not caps. We have had a year that we did not have a budget resolution and did not have caps. It would be very easy not to have a resolution and not to have caps.

Basically, discretionary spending would be exempt from this very new stringent requirement. Plus, there would be almost an encouragement for more spending. Some people could say let's increase spending because if spending is increased, there will not be a tax cut. Obviously, there are some people who do not want to have a tax cut—not only not have a tax cut, they do not want to see present law extended. That is really what we are talking about. Some people want to have a supermajority or mandate where there cannot be an extension of present law. So this is very important.

I heard my colleague say any increases in mandatory, those are covered just like tax increases. That is not the case. There are billions of dollars of mandatory programs that are sunset, but according to the CBO those are assumed to be extended. They do not have to be paid for after they are sunset, but taxes are sunset and they have to be paid for. So this makes it tough on the taxpayer.

If this amendment passes, there is a big bull's eye on taxpayers. Look out, you are getting ready to be hit. Congress is making it a lot easier to spend money. New spending on the discretionary and lots of mandatory are not covered, but any taxes, even present law extension, those are going to be hit. Taxpayers, look out.

I urge my colleagues to vote no on this resolution. I do not think 60 votes should be required to pass everything in the Senate, and I am afraid that is what this amendment would lead to.

I urge my colleagues to vote no on the amendment. I yield the remainder of our time, and I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from South Dakota (Mr. JOHNSON), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

The PRESIDING OFFICER (Mr. Crapo). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 46, nays 51, as follows:

[Rollcall Vote No. 33 Leg.]

YEAS—46

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carper
Chafee
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Inouye
Jeffords
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

NAYS—51

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NOT VOTING—3

Edwards
Johnson
Kerry

The amendment (No. 2704) was rejected.

Mr. NICKLES. I move to reconsider the vote.

Mr. TALENT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I don't know if any of my colleagues are prepared to offer an amendment at this time. If not, I would like to speak to the budget which is before the Senate.

Mr. REID. I yield to the Senator from Illinois 25 minutes.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 25 minutes.

Mr. DURBIN. Once again, if any colleagues are prepared to offer an amendment, please indicate and I would be happy to give them a chance to do that.

Before beginning, I notice the junior Senator from Michigan is here. I would like to ask, if possible, in a colloquy how much time she would like to use so I don't go over. I know she has waited patiently for a chance to speak.

Ms. STABENOW. Mr. President, I was hoping to have 15 minutes if that is possible.

Mr. DURBIN. If it is all right with the Senator from Michigan, I will take 15 minutes, and if there is no objection, I ask unanimous consent that the floor then be yielded to the junior Senator from Michigan.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, this is an important debate because it is a debate about promises that have been made and promises that have not been kept. Many Members can recall President Bush, when he came to office, said he had a plan for putting America's economy back on its feet.

Now, understand, when President Bush took office we had gone through a period of amazing economic expansion in the United States. Under the 8 years of the previous administration we had created some 27 million new jobs in America. We can remember the feeling of exhilaration and excitement as this economy charged forward. Silicon Valley was leading our technology and our economy, and people across the board were finding their retirement plans and savings were growing to historic levels. There was a great feeling of optimism, creation of more jobs than at any time in our history, lower inflation, a situation where we had more new businesses created than we had seen in any comparable period, and more for women and minorities. It was a dramatic period of economic expansion. It was a period when there was real confidence we were doing the right thing.

Some of that is within the control of the President and some of it is not. Giving credit to the previous administration, I believe President Clinton made an important early decision. When he came to office, he decided his party, the Democratic Party, would do something that surprised many observers. He said, we will seriously and honestly address the deficit.

We remember the deficit. Under President Ronald Reagan and President George Bush 1, we had amassed annual deficits and a national debt emerging from them of record proportion. In fact, there was more debt in that period of time than any time since the beginning of the United States of America. The debts just kept on coming.

In came President Clinton who said: We can do better; but in order to do better, we have to do two things. One, we have to cut spending. Second, we will have to impose some new taxes. There were tax cuts for sure in the package, and I voted for it, but he said those are the things that have to be done. If they are done, President Clinton said in 1993, I believe it will be a signal to the business community in America that the U.S. Government will get its house in order. We will stop running these massive annual deficits. We will stop accumulating this national debt. We will be more responsible. President Clinton brought that proposal to Congress. I was serving in the House at the time. It passed the House of Representatives by one vote, without a single Republican Congressman voting for it. Then it came to the Senate where a vote was cast again on President Clinton's plan to get the economy back on its feet, and what happened here? A tie vote broken by then-Vice President Al Gore, all Democratic votes again, passing the Clinton plan.

Members of the Republican Party came to the floor during the debate and predicted if President Clinton had his way, if his plan were enacted, we would lose jobs, move into a recession, and find our economy permanently damaged. Those speeches were coming at us like rapid fire out of a gun from the other side of the aisle. They did not provide one single vote for the Clinton plan to put this economy on its feet. Fortunately, it passed and, in passing, set us on course for the great economic expansion which I just explained.

Now look where we are today. The first thing to do is to consider where President Bush was when he came to office. This chart is an indication of the deficits in surplus in the United States. Under President Reagan we can see the first deficit he ran into was in the range of $79 billion. Then the annual deficit increased to about $153 billion. In other words, we were overspending that much each year.

Then under President Bush's father, the annual $153 billion deficit grew to $290 billion. That was money we were spending we did not have. We were increasing the mortgage of the United States of America every single year under President Reagan and President Bush's father.

Then came President Clinton and he said, as I described earlier, we need to do the responsible thing. We need to cut spending and we need to increase taxes on those who can afford to pay. As a result, we see the deficit line go from a high of $290 billion under President Bush's father and the annual deficit start plummeting under President Clinton until 1997 when we will start running surpluses. Who would have guessed, after all those years, 12 or 13 years of straight deficits, we started running surpluses in America.

What did a surplus mean? It meant we were putting money into the Social Security fund instead of borrowing it. Why is that important? Because we have a horde of Americans, called baby boomers—and I am just outside that class—who will show up for Social Security and Medicare soon. We said, let's get Social Security and Medicare stronger. We know they are coming. That is what President Clinton did. Because of his decisions, we reached the maximum point in his administration where we had an annual surplus of $236 billion, generating more money than we were spending. What a change. What a dramatic change over this period under President Reagan, President Bush's father, and President Clinton.

Then look what happened when President Bush came into office. He came into office with an economy that was starting to show some recession, it is a natural thing, and came up with a plan for America which called for the most substantial tax cuts in our history, with a substantial part of them going to the highest income, wealthiest Americans. President Bush and his adherents in the House and Senate insisted if you just give a tax break to the wealthiest people in America, they will save it and spend it and invest it in a way that will turn the American economy around.

President Bush carried the day. I didn't vote for it. Some of my Democratic colleagues did. He passed not one but two major tax cuts.

Now look what happened as a result of President Bush's economic policy over the last 3 years and 3 months. Look at this line. We have gone from a $236 billion surplus under President Clinton to a $477 billion deficit we are facing today—an abject failure of President Bush's economic policy.

Every year we continue to give tax cuts we cannot afford to pay for, and we continue to spend money we do not have. How in the world can the Federal Government do that? How can we consistently act like a bankrupt nation and get by with it? Well, the answer is, we reach into the Social Security trust fund.

This trust fund is created every single minute of every day by every worker in America. As they go to work and earn their wage, the Federal Government takes about 7 or 8 percent of it from the employee, the same amount from the employer, and says: We are putting that away for Social Security, so when you are ready to retire it will be there.

All that money accumulates and grows. We pay the current Social Security recipients, and we save the balance for the future. That balance grows. The way we sustain a deficit is by reaching into that Social Security trust fund and spending it, leaving IOUs behind.

The vote that was just taken, for those who are following it, was very basic. It said: Stop reaching into the Social Security trust fund to increase tax cuts for America or to increase mandatory spending. You saw what happened. The vote went down resoundingly. I guess my colleagues are being very honest about this. They know we have deficits we cannot handle, and they know you cannot sustain those deficits without reaching into the Social Security trust fund and taking the money out, and they are perfectly willing to keep doing that. In fact, they are willing to increase the tax cuts at a time when we are in deep deficit and have to rely on the Social Security trust fund to save it.

So what do we have here? We have such a dramatic reversal in such a short period of time. President George W. Bush's economic policy has failed miserably. This red line on this chart, this dramatic increase in our annual debt is a clear indication.

Now take a look at some other economic indicators. There are those who argue the economy is growing; good signs are on the horizon; a reason for optimism. Well, what happened last Friday? Last Friday we had a report from the Department of Commerce about the number of jobs created last month in our economy. The report said 21,000 new jobs were created. Cause for celebration? Hardly. All 21,000 new jobs were created by State and local governments; no net increase in jobs in the private sector in businesses. Businesses are not creating new jobs. The Bush economic policy has failed in that regard as well—21,000 new jobs, all with State and local governments. We need to create about 125,000 new jobs each month just to keep up with the new entries into the workforce, people who are now looking for jobs for the first time. We are not even keeping up with the new entries.

We have an incredible thing happening. Over 400,000 Americans have stopped looking. They have been on unemployment for so long they have given up. They are not even looking any longer. They are not being counted. The number of unemployed people in this economy, unfortunately, is growing dramatically.

Again, the Bush economic policy has failed, with record deficits, higher than any time in our history. Unfortunately, this President has presided over the loss of more jobs during his administration than any President in the history of the United States since President Herbert Hoover in the Great Depression.

Those are the realities of the failed Bush economic policy, and the budget before us today is proof positive of the fact that is likely to continue.

The Bush administration has not been realistic when it comes to job projections. Take a look at this chart. The black line at the bottom shows the actual job situation, how many jobs we have had in America. These red lines that come shooting off, suggesting many more jobs are going to be created, are all predictions by President Bush's administration. The economic reports of 2002, 2003, and 2004 said recovery was on the way, around the corner, and millions—literally millions—of jobs will be created. Each and every time they have been wrong. Their policy has been wrong.

Just several weeks ago, a gentleman by the name of Gregory Mankiw, who is the head of the President's Council of Economic Advisers, sent this Congress a report, signed by President George W. Bush, that took a look at the job situation. Incredibly, Mr. Mankiw reported to us that in fact the outsourcing of jobs, the sending of American jobs overseas, Mr. Mankiw says, is a good thing. It is healthy for us to see American jobs leave our shores to India and China and other countries around the world.

His argument—I suppose among some economists this is credible—was that now jobs that did not used to be "tradeable," in his words, are tradeable. Call center jobs—the next time you get a call at home from somebody who wants you to take a credit card or change a phone service, ask them from where they are calling. I started asking recently. My last two callers were calling from India.

This morning we read about a small town in Virginia that is about to lose Travelocity, which is an agency which books travel for people around the world. Their jobs—several hundred in a small Virginia town—are going over to India. Mr. Mankiw says to Congress: Don't get worried. This is a good thing. This is a healthy thing. Call center jobs in America are tradeable.

Well, I do not think Mr. Mankiw is living in the real world. I defy him to take that argument to any main street in America, in Michigan, in Idaho, or in Illinois, and say to the people there what we are facing in America today is a good thing, with jobs going overseas.

How does that relate to this budget? Sadly, when we look at the job situation, you find that, as Lou Dobbs of CNN estimates, 348 companies in America are now outsourcing work overseas, either sending U.S. jobs overseas or choosing to employ cheap overseas labor instead of American workers.

The President's budget, which we have today, is so deep in red ink he has cut back on what is called domestic discretionary programs, and by doing so, he has no jobs program whatsoever. He does nothing in his budget to end tax breaks for companies that are sending jobs overseas. He does not extend unemployment insurance. During the first 6 months of 2004, that will mean an estimated 2 million unemployed workers receive neither a paycheck nor unemployment insurance. He does not provide the money for these families to keep their basics together, to pay for their mortgage and utilities and food and health insurance.

Time and again, the Republicans in the Congress have refused to offer unemployment benefits to the casualties of the Bush economic policy. Is that compassionate conservatism? I do not think so. I think he is turning his back on hard-working people who have been victimized by his failed economic policy.

Also, this budget shortchanges job retraining. Vocational and adult education programs cut by almost 25 percent, from $2.1 billion to $1.6 billion.

Mr. President, 2.5 million full-time, year-round workers live in poverty in the United States. You can talk about all the tax breaks in the world but, frankly, they never reach these folks. Pennies come to them. Thousands come to those in higher income categories.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DURBIN. Mr. President, I ask unanimous consent for 5 additional minutes, if the Senator from Michigan will bear with me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, take a look at the annual growth rate of private sector jobs under President Bush. You have to go all the way back to President Hoover to see such a low growth rate, which had a negative growth rate of over 4 percent. Under President George W. Bush, we see here something that has not happened in this country for almost 70 years: the loss of private sector jobs because of a failed economic policy.

Then when you take a look at the manufacturing jobs, that is where it is really painful. Manufacturing jobs are the best-paying jobs in Illinois and Michigan. We just had a hearing last Friday. Employees of Electrolux—was it in Greenville, MI?

Ms. STABENOW. Greenville, MI.

Mr. DURBIN. Greenville, MI, a town of about 9,000 people, if I remember correctly, and over 2,000 jobs are going to be lost.

Ms. STABENOW. Twenty-seven hundred jobs.

Mr. DURBIN. So, 2,700 jobs. I am glad Senator STABENOW reminds me. Electrolux makes Frigidaires. They are moving to Mexico. We asked them whether they sold Frigidaires in Mexico. No. They are going to sell them in the United States. More manufacturing jobs heading over the border.

Maytag, in Galesburg, IL—the stories just go on and on and on. It is not like these jobs are leaving and new, good jobs are coming. When we asked an employee of Lucent Technologies from Illinois how much he made an hour for Lucent after almost 30 years on the job, he said $27. When I asked him: What kind of job are you looking for now? He said: I am lucky to get one that pays $8 an hour with no benefits.

For the Bush administration to argue there are job replacements out there is to overlook the obvious. For certain workers there is nothing that can replace a good-paying manufacturing job in a person's lifetime. And that, unfortunately, is the sad reality.

When you look at this budget, you realize the obvious.

The money is not there for health insurance, which is critical for unemployed workers and basically for workers and businesses large and small. There is no money provided here to basically take care of the 43 million Americans who don't have health insurance. Many of them are our neighbors who get up and go to work every morning, many with children who have no health insurance protection.

This budget fails to keep the President's promise on education. President Bush came to office and said: I am an education President and for No Child Left Behind. It was passed with a bipartisan vote. Still he refuses to find the money to pay for the very program he has mandated on State and local school districts. The President's budget for No Child Left Behind falls $9.4 billion short of his promise. At a time when the President says we have to give the wealthiest in America some $45 billion in tax cuts, the President has not kept his word on No Child Left Behind.

The money is not there to deal with health insurance, nor is there money to retrain workers who have lost their jobs. That is the best we can get out of President Bush's budget. Is it any wonder people across America say: It is time for a change.

I yield the floor to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 15 minutes.

Ms. STABENOW. Mr. President, I thank my colleague for his eloquence, as usual. My friend from Illinois has addressed concerns we have in Michigan as well. There is nothing more important to us than making sure everyone has a good-paying job and the health benefits, pensions, and other job security that go along with it.

Last year Michigan lost more jobs than any other State. We understand what needs to happen for our families and how to create real economic security and to create jobs, to support a level playing field in trade, to tackle the rising cost of health care, to invest in education innovation. All of the things that make for the creation of a strong economic policy are what we should be doing. I thank my friend from Illinois for speaking to some very important issues.

One of my concerns as a member of the Budget Committee is in fact this budget does not adequately fund education. It eliminates some important areas of technology innovation. A program called the Advanced Technology Program, which we have used in Michigan with the auto industry and other manufacturing industries, partnering with our universities to create new, cutting-edge technologies that will allow us to compete in the global economy, has been proposed for elimination in this budget, and that is of great concern to me.

Those who don't support tackling the trade issues and creating a level playing field, those who say free trade, anything goes, point to education and innovation and say: That is how we compete. That is how we create jobs. Yet we see in this budget areas of tremendous need to invest in our people and create opportunity, areas that in fact are cut.

I wanted to speak for just a moment on some things that have been said in the debate about the challenge for us in total as it relates to the budget. We are told the problem is domestic spending, that, in fact, if we were to have only a small amount of growth in our domestic programs—education, protecting the environment, family health care, law enforcement, homeland security—somehow that is what we ought to be debating because that will make the biggest difference in reducing the deficit.

Certainly we want to fund programs in a way that provides accountability and efficiency and supports every precious dollar being used as wisely as possible. It is important to look at one comparison in terms of numbers when we look at where to go to focus our time to reduce the massive red ink that has been created in the last 3 years.

First, if you exclude the Department of Defense, all discretionary spending—so we are not talking about Medicare and Medicaid but all discretionary funding, education, Head Start, children's health care, family health care, senior programs, environmental protection, homeland security, the COPS Program, supporting firefighters, the Justice Department, everything we do outside of defense, everything we do outside of defense in the discretionary domestic budget—is costing $445 billion this year.

The deficit projected for this year, 1 year, the deficit during the same time period is $521 billion. We could eliminate every penny of investment in our children, every penny invested in protecting the environment, every penny for law enforcement and firefighters and homeland security, and every penny we provide to protect our parks and all of the other things we do in the domestic budget, we could eliminate every penny and we would still have a debt.

This is extraordinary.

I was fortunate to be in the House of Representatives in 1997 when we balanced the budget for the first time in 30 years. I was very proud of that vote. It was tough because we had to make choices about how to balance the budget. But we did it. We saw at the end of the decade, and as I began my term in the Senate, a debate about the largest budget surpluses in the history of the country; $5.6 trillion in surpluses. In 3 years we have gone to the largest deficit, over $3 trillion in deficit in just 3 years.

There is something else that has been talked about. We could wipe out every penny in domestic spending for the United States and not eliminate this deficit. So surely something else is at play. We have to look at the larger picture of what is going on.

That relates to the number shown on this chart. We have tax cuts that have been voted upon by this body in 2001 and 2003. Both enacted and proposed tax cuts over the next 10 years will take $2.5 trillion of revenue. So we remove that from the Federal ledger, $2.5 trillion. That almost equals—it is pretty darn close—$2.4 trillion in Social Security surpluses. We have surpluses built up here. We take dollars away here.

Now we are being told, because Social Security surpluses are essentially being used to fund these tax cuts, we have a surplus on one side, we have a deficit on the other. They pretty much equal each other. Common sense would say the Social Security surplus is in fact funding these tax cuts.

Another way to look at that is, when we look at the amount of Social Security surplus that is saved in the next 10 years, it is zero. It is another way of saying the same thing. We save zero. It is being used. It is not being saved. It is not being put aside in the infamous lockbox we used to talk about and I still think is a good idea. Instead we save zero, and the amount of Social Security surplus that is spent is in fact the whole amount, $2.4 trillion.

At the same time this is happening, we hear from the Chairman of the Federal Reserve that because of the challenge in Social Security, because of the fact the surplus is being used because of the baby boomers and the long-time obligations that are coming, we should look at raising Social Security taxes or lowering benefits.

There is another option. The other option is don't use this money. Don't use the Social Security trust fund to fund tax cuts primarily for the privileged few.

There are some tax cuts—the child tax credit, the marriage penalty repeal, small business efforts, the lowest income tax bracket being lowered—that are helpful to everyone, and they make sense to help grow the economy. But the vast majority of the tax cuts are geared to the privileged few in this country at a time of war, at a time when we need to ask everyone to be sacrificing together so that we are not leaving mounds of red ink for our children.

When we look long term at the budget cuts as compared to Social Security, other people say, that is not true. Let's look at the reality over 75 years. The actuaries look over a 75-year period at the soundness of Social Security. Let's look over the next 75 years. If all of the tax cuts that have passed are made permanent, with those being proposed by the President, we will see a cost of $12.1 trillion over 75 years; $12.1 trillion of revenues essentially pulled out of the Federal Government.

What is the shortfall in Social Security? Shockingly, a Social Security shortfall over 75 years is $3.8 trillion.

So it is absolutely accurate to say, as we look to the future and plan, as we know the baby boomers are coming, of which I am one, and we know the challenges of having more people in retirement and fewer people working, that we better pay attention to these numbers and understand that, unfortunately, the hole that has been dug as it relates to jeopardizing Social Security is one that was dug consciously.

We, in fact, can stop that. We can reverse it. We can protect Social Security for the future, as our leader on the Budget Committee tried to do in the last amendment where he said we are not going to use Social Security until we can totally protect Social Security; that we are not going to add to that deficit through either spending or tax cuts. That was the right amendment to adopt, and I commend him for it. I am deeply disappointed it was not adopted.

The budget is all about choices. It is all about our values and our priorities. I believe at a time of challenge and national security concerns, a time of war, it is all about being in this together as Americans as well, not asking some to sacrifice greatly and others not to sacrifice at all.

What is great about our country is that we come together and we chip in, and we certainly saw that after 9/11. We saw the wonderful spirit of what it means to be an American: people willing to chip in, be part of the positive solution, be part of helping each other. I believe they want a budget for the United States that reflects the same attitude—all of us chipping in, all of us being willing to be responsible for the future for our children and not leave them trillions of dollars in red ink that they will then have to figure out how to pay for after we are gone.

That is not the legacy I want to leave for my children and grandchildren yet to come. I am very interested in having us put forward a budget that reflects the values and priorities of all Americans, not just a privileged few. That is what this debate will be about every day this week: What choices are we going to make? Are we going to do more tax cuts for the privileged few or are we going to keep everybody safe by fully funding all of the homeland security needs we have? Are we going to give more tax cuts for the privileged few or are we going to protect Social Security for the next 75 years, for the next generation?

We have choices to make, and I am very hopeful that the choices we will make will be ones that will make us proud when we look at the faces of our children in the future.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. I thank the Chair. Mr. President, I thank the Senator from Michigan for an excellent presentation, but much more than that, I thank her for the superb contribution she makes on the Senate Budget Committee. I think she has been one of the strongest members of the Budget Committee in a very long time. She is somebody who has a very strong background in economics and business issues and understands that a budget is about choices, and these choices matter. They matter to the long-term economic security of the country. They matter to whether we are going to have Social Security and Medicare for our seniors in the future or if it is going to be dramatically reduced.

The Senator from Michigan understands this is a matter of choices about national security, whether we are going to have the resources to fund the military in a way that keeps it the most powerful and most dominant military in the world.

She understands that a budget is about choices between those issues that strengthen us as a nation and as a people in terms of providing an outstanding education because that is what it is going to take to be fully competitive in a modern world; whether we are going to be able to expand health care coverage in America to deal with the more than 40 million people in this Nation who do not have health care coverage; whether or not we are going to have homeland security that is something that makes us as safe as we can be in the face of this terrorist threat.

Frankly, we on our side question the choices the President has made to cut the COPS Program. The COPS Program puts 100,000 police on the street. The President says cut it 94 percent. What sense does that make when there is an ongoing terrorist threat? What sense does it make to cut port security by almost two-thirds? That is what the President is saying. What sense does it make to cut the funding for firefighters all across America by a third? Those are the choices the President has made, all of it sacrificed on the altar of tax cuts going primarily to the wealthiest among us. As I indicated earlier today, under the President's plan, the tax cuts he seeks to make permanent would add $1.5 trillion to the debt. The President says it is the people's money. Give it back. There is nothing to give back. The money is gone. This country is in debt. The deficit this year alone is going to be approaching $500 billion, and the truth is, that does not begin to describe how deep the hole is because that counts the $160 billion more he is taking from Social Security, every penny of which he has to pay back and he has no plan to do it.

Now we are talking about an operating deficit in the range of $700 billion in this year alone. And the President comes in and says: Let's just hold down the growth of nondefense, nonhomeland security domestic spending. That sounds as though he is doing something. But when you look at it, that part of Federal spending is just a tiny share of the Federal budget.

The spending he is talking about slowing down is only 17 percent of Federal spending, and his savings are only about $7 billion when you have a $700 billion problem. I call it the 1-percent solution. He is not dealing with the problem in any serious way.

Then the President says: Don't worry; I know we have run up these big deficits, the biggest in the history of the country, and we have a lot more coming. But I am going to cut the deficit in half in the next 5 years. But he is not. The only way he cuts the deficit in half the next 5 years is he just leaves out everything. For example, he leaves out any war cost past September 30. Does anybody believe the war in Afghanistan, Iraq, and the war on terror ends on September 30? The Congressional Budget Office tells us it is going to cost $280 billion more, and the President has nothing to pay for it.

I see the leader in the Chamber and I understand he is ready to offer an amendment, so I will cut short my remarks at this moment.

I conclude by saying it is time we face reality. The President's budget is not going to cut the deficit in half in the next 5 years. If one looks at the additions to the debt, what they see is there is virtually no change over the 5 years of the President's plan. The additions to the debt are going to run $500 billion, $600 billion a year every year.

I yield the floor.

Mr. NICKLES. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2710

Mr. DASCHLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] proposes an amendment numbered 2710.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To create a reserve fund to allow for an increase in Veterans' medical care by $2.7 billion and lower the national debt by reducing the President's tax breaks for taxpayers with incomes in excess of $1 million a year)

On page 3, line 9, increase the amount by $4,860,000,000.

On page 3, line 10, increase the amount by $486,000,000.

On page 3, line 11, increase the amount by $22,000,000.

On page 3, line 12, increase the amount by $5,000,000.

On page 3, line 17, increase the amount by $4,860,000,000.

On page 3, line 18, increase the amount by $486,000,000.

On page 3, line 19, increase the amount by $22,000,000.

On page 3, line 20, increase the amount by $5,000,000.

On page 4, line 20, increase the amount by $4,860,000,000.

On page 4, line 21, increase the amount by $486,000,000.

On page 4, line 22, increase the amount by $22,000,000.

On page 4, line 23, increase the amount by $5,000,000.

On page 5, line 3, decrease the amount by $4,860,000,000.

On page 5, line 4, decrease the amount by $5,346,000,000.

On page 5, line 5, decrease the amount by $5,368,000,000.

On page 5, line 6, decrease the amount by $5,373,000,000.

On page 5, line 7, decrease the amount by $5,373,000,000.

On page 5, line 11, decrease the amount by $4,860,000,000.

On page 5, line 12, decrease the amount by $5,346,000,000.

On page 5, line 13, decrease the amount by $5,368,000,000.

On page 5, line 14, decrease the amount by $5,373,000,000.

On page 5, line 15, decrease the amount by $5,373,000,000.

At the end of Title III, insert the following:

SEC. . RESERVE FUND FOR VETERANS' MEDICAL CARE.

The Chairman of the Committee on the Budget of the Senate shall revise the aggregates, functional totals, allocations to the Committee on Appropriations of the Senate, discretionary spending limits, and other appropriate levels and limits in this resolution by up to $2,700,000,000 in budget authority for fiscal year 2005, and by the amount of outlays flowing therefrom in 2005 and subsequent years, for a bill, joint resolution, motion, amendment, or conference report that provides additional fiscal year 2005 discretionary appropriations, in excess of levels provided in this resolution, for veterans' medical programs, excluding construction projects and a program that provides grants to states to build long-term care facilities, included in this resolution for the Department of Veterans Affairs.

Mr. DASCHLE. Mr. President, given all that the brave men and women in uniform have done for our country, there should not be any disagreement that veterans should be our top budget priority this year. This is especially true now during a time of war when hundreds of thousands of future veterans are on the front lines in Iraq in the war on terrorism sacrificing everything for this country.

Unfortunately, the budget before us does not make veterans a priority. It does not demonstrate that we recognize and respect all that we have asked of them. It does not keep the commitment this Nation made to them when we asked them to lay their lives on the line.

The budget before us proposes a funding level for veterans health care that is more than $200 million below last year's level adjusted for inflation. In other words, veterans do not even receive what they received last year. Despite our best efforts, last year's level was also insufficient. There are 60,000 veterans who are already wait-listed for health care as we speak.

This budget gets worse. The budget proposes a $250 enrollment fee for middle-income veterans to receive health care. The budget seeks to more than double the prescription drug copayment for low-income veterans. It would prevent priority 8 veterans from enrolling in veterans health care.

Despite the fact that the average veteran must now wait for more than 6 months to have his or her disability claim processed and a backlog of 348,000 claims, this budget proposes eliminating 540 claims-processing staff. That is a remarkable development. At a time when we have 348,000 pending claims, this budget proposes we eliminate 540 of the very staff whose responsibility it is to process these claims.

As a result of this increased fee and barriers to access to the veterans health care system, the administration's own budget estimates more than 1 million veterans will drop out of the veterans health care system. My amendment would prevent all of this. It would give the veterans the resources and care they have earned. It would restore funding to the level called for by the Independent Budget, a national coalition of leading veterans organizations that have made an assessment of what veterans need and deserve. My amendment would add $2.7 billion to the veterans health care account and $2.7 billion for additional deficit reduction. The cost of this amendment would be fully offset by reducing the tax breaks for those earning $1 million a year or more.

This chart illustrates how the amendment would be paid for. Taxpayers with incomes in excess of $1 million will receive a tax cut under this budget of $27 billion this year. Coincidentally, that is almost exactly the amount of money that veterans are now given in the health care budget in this year. They will receive a benefit, under these cuts, of about $140,000 a person under the current budget rule. My amendment would reduce that $140,000 to $112,000. Every millionaire in this country would still get a $112,000 tax cut, and we would simply use the difference between $112,000 and $140,000 to pay for the extra $2.7 billion to go first to pay for the veterans health care, and the other to reducing the size of the debt.

Hundreds of thousands of Americans have served their country honorably. Before we prevail in Iraq and the war on terror, hundreds of thousands of other Americans are going to be asked to lay their lives on the line.

In order to demonstrate our appreciation for what so many have already done, and will be asked to do, we have an obligation in this body to do our share. We have an obligation to provide our veterans with the resources and care commensurate with what they have done for us.

The amendment is very simple. It simply restores to the level the independent budget has required in order to ensure that we eliminate the backlog, and provide the veterans with the care they need while we refrain from asking them to pay additional costs. We eliminate that $250 annual fee some veterans will now have to pay. We eliminate the increase in payment for prescription drugs and the per-office visit. We do that simply by reducing the amount of tax cut, only to millionaires, by approximately $28,000 per year. They still will receive $112,000 in a tax cut in the next fiscal year. That, in my view, is a reasonable sacrifice, given the message this amendment and this budget, if it were amended, would send to our veterans and to those soldiers in Iraq who are counting on us to do the right thing, who are counting on us to remember not only to support our troops, but to support our veterans.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CHAFEE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, on behalf of Senator CONRAD, I yield myself such time as I may consume.

Mr. President, the ranking member of the Budget Committee, the distinguished Senator from North Dakota, did a brilliant job today responding to the false statements made by the Senator from Pennsylvania. He did it factually and with enough emotion to make his point well taken. I thought it was a stunning retort to these outlandish statements that have been made by the Senator from Pennsylvania for some time now.

But in addition to those statements that I think need some discussion, there was another statement the Senator from Pennsylvania made about why this country is in deficit, why the President's budgets are so off kilter. He said it is because of, among other things, asbestos litigation. And he talked about how hard it was on business.

I acknowledge that the asbestos litigation has been hard on companies throughout America, but not once during the statement of the Senator from Pennsylvania did he mention the people who are in dire physical condition—not once. The reason there is this litigation going on is because people are dying, and suffering. There are two conditions caused by asbestos that are fatal. One is something called mesothelioma. With mesothelioma, from the time that you are diagnosed with this dread disease until the time you die is an average of 14 months. With asbestosis you can linger a long time and suffer a long time. So we shouldn't make these little passing statements about this asbestos litigation bankrupting companies—it has not happened. Some have filed bankruptcy without losing a single job in the process. The only people who have been hurt, with their bankruptcies, are the people who are sick and dying.

My brother called me a couple of weeks ago and said: Do you remember Harold Hansen?

I said: Yes, I remember Harold Hansen.

My brother is quite a bit older than I am. I idolized my brother. I had two brothers older than I am. They were both wonderful. One passed away. But I remember the Hansens. We lived in Searchlight, far from the nearest high school, and when we went to high school we lived with other people. My brother Dale lived with the Hansen family. I remember Harold and Chuck. They were good athletes in high school. I remember them.

He said: You know, he called me and he has mesothelioma.

I said: Has he ever worked around asbestos?

He said not that he knows of, no.

So I said: We have to make sure he is taken care of because he doesn't have long to live.

And he doesn't. He has about a year left, if he is average.

So the fact is, we have to do something about asbestos litigation. There are some cases that are filed that should not be filed, but we have to make sure the people who are sick are protected. And when people come to this floor and just by chance mention this is causing the deficit of this country—let them recognize that people, while they are speaking, are dying from what big corporate America did to them.

I recommend, for people who want to make statements about how bad asbestos litigation is, that they read a couple of books.

Let them read "Fatal Deception," a brand new book that talks about the deception of big companies that covered up the disastrous consequences of their use of asbestos. Let them read a book called "Libby Montana," also a new book that talks about a little town in Montana which was decimated as a result of this product. They covered up what would happen. For a few hundred thousand dollars, W.R. Grace & Company, which was making billions a year, could have created a clean house for these people which would have protected them from exposure, but they didn't want to waste the money on these people from Libby, MT. It is not just people who worked in the plants who got sick. Workers in those plants would go home with asbestos in the dust on their clothes and the wife would wash their clothes. Now we have wives' dying of this disease. Children would come rushing to meet their father coming home from the plants at Libby, MT, and they would also come in contact with the dust that would come out of their clothes. Now the children are dying.

I hope Members who come to this floor and make statements about asbestos litigation will read those two books. We want to do something with asbestos legislation to make a better approach to the way litigation takes place. But until those people with asbestosis and mesothelioma are taken care of, as long as I have breath I will fight the effort to wipe out those cases.

My friend from Pennsylvania also didn't mention one reason for the deficit. Some of us on this floor think we are in a quagmire in Iraq. We need to spend money to make sure our troops get everything they need. I attended a meeting in the majority leader's office, along with Senator DASCHLE and Senator MCCONNELL, with the Iraqi Governing Council. One of these Iraqi Governing Council people said: People in America think we have the second largest reserves of oil in the world. He said: I want you and them to know that we have the largest oil reserves in the world—not No. 2 but No. 1—and within 2 years we are going to be producing 6 million barrels of oil a day.

That kind of clicked in my head. If that is the case, why don't we, rather than giving them the money, loan them the money and secure that debt with oil?

That is what we tried to do on the floor. We were, as we say in a baseball game, skunked. We were unable to get enough votes to have the country of Iraq loaned the money; no, it was, give it to them—a country producing 6 million barrels of oil a day within a matter of months. We gave them $150 million in supplemental appropriations.

Then the Secretary of Health and Human Services, Tommy Thompson, last week was asked by the press: We are spending billions of dollars on health care for Iraq. Don't you think we should be spending some of that in America? He responded by saying we have universal coverage in America, because if you do not have insurance you get taken care of. Try to explain that to the 44 million people who have no health insurance and who have to go begging if their child has a cold or some illness which they do not know what it is. And he says there is universal coverage. Man, I have trouble accepting that.

My friend from Pennsylvania, in addition to not understanding the situation dealing with asbestos, I think doesn't understand the situation about where money has been going during the 3 years of this Bush administration. We are talking down the economy? He says we are the ones who are creating discomfort with the American people. We are telling the truth. If that is uncomfortable, that is what we have to do.

He talks about arcane statistics, referring to the charts of the Senator from North Dakota. Sometimes statistics are arcane, if you do not agree with them.

We had a situation during the last years of the Clinton administration where we were paying down the national debt. What does that mean? We were spending less money than we were taking in. We were paying down the debt. What do we have now? We have red ink as far as you can see. The surplus we had when he took office is gone. That is what this budget is all about. Whether the programs that this President has pushed forward is bankrupting the country or not, I think simple math says this country is going bankrupt, if it is not already bankrupt.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, on behalf of Senator CONRAD, I yield 10 minutes to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, later on—I do not know if it will be today or tomorrow—I will be offering an amendment to bring the account that deals with veterans health care up by $1.8 billion. This is the amount that was considered and agreed to in a joint bipartisan report in the Senate Committee on Veterans' Affairs as the very minimum that we need over and above the President's request to give the veterans of this country the very basic minimal health care they deserve.

I must say I was shocked when I offered this amendment in the Budget Committee last week that there was a partisan rollcall vote against this increase. I don't think there is one Senator in this body who has not heard the cries and the pleas from our veterans back in our States, or the anguished stories of having to wait months before they could even get an appointment with a doctor in order to be able to get a prescription.

I don't think there is a Senator who hasn't heard the anguished pleas from veterans about why the President's budget starts to shift a lot of the burden to the veterans by increasing the copays and by an enrollment fee, particularly at a time such as this when we are honoring our veterans every day because of the sacrifices we see being carried on by our servicemen and servicewomen around the world. Of all times and places, not to give our veterans the minimum health care which they not only expect but which they certainly deserve is just unconscionable.

Interestingly, there is a double game that is being played. There is a lot of rhetoric going around. But when it comes time to produce, the votes are never there. We are going to give the Senate an opportunity to put their vote where their rhetoric is.

This amendment I will be offering at a time our leadership suggests will, in fact, provide for the offsets for the $1.8 billion to come out of the tax account and out of the tax loopholes that are rampant in the Tax Code and in the President's proposed budget.

I want to take this opportunity. As soon as the leader of the committee gives me the high sign, I will be on the floor offering that so all the Senators will have an opportunity to vote on that amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank our colleague, Senator NELSON from Florida, who has been such a valuable Member of the Senate Budget Committee. He did a superb job of offering the amendment he has just described in the committee.

I am very hopeful that either his amendment or Senator DASCHLE's amendment will pass so we can increase the amount of money going to veterans million dollar care. I held a hearing in my State on this question. I invited all the veterans organizations. It was disappointing to hear what is happening to veterans across the country. We had testimony of people waiting 10 months to get an appointment for specialty care, an appointment to see an orthopaedic surgeon, an appointment to have certain eye care because there is a shortage of specialists in the VA. They testified clearly and compellingly that more money is needed.

We will hear from the other side, we will hear from the chairman of the committee, that there have been significant increases of veterans medical care. There is a chart that shows that is exactly true, going back 10 or 12 years. We would expect just on inflation alone, over that extended period, we would see a doubling of the costs. Remember, when we come to veterans medical care, that upward slope is even sharper because health care expenditures have been advancing faster than the rate of inflation.

In addition, the population that is in need of health care is expanding because we have our World War II, our Korean War veterans, and our Vietnam vets getting to that age when they need more intensive care. The result is tremendous upward pressure on the costs.

That chart shows spending on veterans from I don't know how far back, 1990 perhaps, $15 billion, and we are now approaching $30 billion; but we have to remember over that extended period of time, not only are we dealing with inflation, we are dealing with medical inflation that is running at higher levels than other inflation. The number of veterans who are in an age group that requires more intensive care is exploding.

What was very moving at the hearing I conducted was to hear from veterans all across North Dakota. We heard of the tremendous stress on the veterans population because of an inadequate level of care in our VA facilities. No. 1, an inadequate number of VA facilities, so many people are traveling for specialty care in North Dakota 12 hours one way in a van and then 12 hours back to get a doctor's appointment. We had veterans testify they traveled 12 hours one way in a van, had to go all the way to Minneapolis to get specialty care and got there to be advised their appointment had been canceled and then had to get back in a van and drive 12 hours back to North Dakota. That is not right.

Mr. NELSON of Florida. Will the Senator yield?

Mr. CONRAD. I am happy to yield.

Mr. NELSON of Florida. Mr. President, I thank the Senator for yielding.

Just to add to his comments what he has described in North Dakota, imagine because of our size and particularly during the winter months when so many veterans come to the State of Florida how the problems are compounded. When a veteran has to wait 5 months for an appointment just to see a doctor to get a prescription, that is not health care for our Nation's veterans.

I have had occasion to talk to the Secretary of Veterans Affairs quite frequently recently on problems we have in some of our hospitals in Florida. Listen to what he said in the House Veterans Affairs' Committee on February 4 of this year. Secretary Principi said:

> I asked OMB for $1.2 billion more than I received.

Even the Secretary of the VA is calling for money.

Then is it any wonder our Senate Veterans' Committee in a bipartisan analysis of the VA budget concludes that we should have at least $1.8 billion more? That is the figure I have offered in the amendment I will be offering.

I thank the Senator from North Dakota for yielding.

Mr. CONRAD. I thank the Senator from Florida for making the point. It is an important point. We had testimony at my hearing where people have waited 10 months to see specialists.

While it is absolutely true what the Senator from Colorado shows on his chart, that we have seen substantial increases already in veterans health care funding, veterans medical care funding, it is also true we are still not meeting the need. The reason for that is not only inflation but medical inflation and the sharp increase in the number of veterans being served.

In 2002, 4.7 million were provided health services. That is expected to increase to 5.2 million in 2005. So we have, really, a double whammy. We have inflationary costs, medical inflation running far ahead of regular inflation. On top of that, the number of veterans seeking care and needing care increasing now, of course, with the operation in Iraq and Afghanistan. All who have been to Walter Reed have seen that circumstance firsthand. We have seen the wards literally filled with young soldiers and some not so young who have been grievously injured. They deserve to know they will get the best medical care this country can provide.

That is what the Senator from Florida is saying in the Senate. That is what the Democratic leader is saying in the Senate. We have a commitment here. This is a priority. It is a priority that ought to be met.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. NICKLES. I yield the Senator such time as he desires.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. I thank the Senator from Oklahoma.

Mr. President, there is no doubt the veterans have sacrificed a lot for our freedom in this country. I am looking at this amendment where we have $5.4 billion we take out of tax cuts. I am assuming a lot of that would come out of the child tax credit, for example, and then it is put over in reserve, perhaps, to be used later by the appropriators.

There are several points I will make. No. 1, this administration and the budgeteers in this Senate have been committed to the issue of veterans. This chart shows a picture is worth a thousand words. Look at the year 2000; before that it is very much a flat line. Then after the year 2000, after President Bush has been elected to office, we see a very distinct steady climb in the amount of benefits provided for veterans.

In real figures, in 1997 we were looking at 2.8 percent increase on veterans medical care; in 1998, 4.2 percent; in 1999, .7 percent; in 2001, we had 7.8 percent—and it persists—in 2002, a 7.6 percent increase; in 2003, a 12.3 percent increase; in 2004, an 11.1 percent increase. We do not have the medical cost-of-living increases for 2004, but prior to that most of those were in the 4 percent range, so we were appropriating dollars over and above what the medical cost-of-living figures were showing. We were sensitive to that. We all realize that there are a lot of needs out there for veterans. I see a lot of need for veterans in my State.

Here is what concerns me about the amendment. We have young families right now making a huge sacrifice for us in fighting for freedom in Iraq, Iran. I have a lot of families in Colorado, families all over the State that have young children. They are taking advantage of the child tax credit. Do we take this away, in the way of a tax increase, do we take away that benefit and make it available to the veterans when we have been giving them a double-digit increase for the last several years? There are a lot of different choices they have to make between the balance of our needs. I guess one of the concerns I have is how these tax increases being proposed by the other side are going to impact our active military, and also making the assumption that our veterans do not pay taxes. They do pay taxes.

I hear as much concern from veterans about the effect of taxes on their daily lives as I do from any other population. Of course, we don't hear too much from those who are right now serving over in Iraq who have dependents because they are tied up with that. But to think in this debate that somehow or other these tax increases are not going to have an adverse impact on those already serving in the military and our current veterans of foreign wars—we have to keep this issue in balance.

My point is, in this whole debate, in trying to imply that somehow we have not been sensitive to the needs of the veterans of this country, all one has to do is look at the double-digit increases that have happened in the last several years for the veterans, exceeding the cost of living for medical care, what they call the medical care inflation rate. But, again, we cannot assume that veterans do not pay taxes. They do. We need to balance this out.

I think what the Budget Committee has reported out is responsible. It is a little bit different than what the President proposed. For example, the President proposed a $250 enrollment fee. We took that out. We were sensitive to what impact today's environment is having on veterans. We took that out.

I think this has a good balance. I would hate to upset that balance. I would hate to take away a tax cut that is going to have a beneficial effect for our men overseas. I think it will have a beneficial effect on our veterans as they are trying to save their money to meet their own needs with their own families at home.

I yield the floor.

Ms. MIKULSKI. Mr. President, I rise in strong support of the Daschle amendment to increase funding for VA medical care.

America is at war, and my thoughts are with our troops. Our men and women in uniform have my steadfast support, and so do those men and women who fought before them. We need to get behind our troops and our veterans, and use this budget to support them. We must support the brave men and women who have fought for our country. Our veterans need to know that America is with them and that we owe them a debt of gratitude.

As the ranking member on the VA-HUD Appropriations Subcommittee, my guiding principle for the VA budget is that we keep the promises we made to our veterans. This means no toll charges on veterans to get health care or prescription drugs, and no waiting lines for veterans to get medical care. But the VA's budget request puts new toll charges and means tests on our veterans.

Specifically, the budget proposes four things. First, the budget proposes to keep the VA closed to priority 8 veterans. These are veterans who are not disabled as a result of their service, and who the VA considers to be higher-income. Second, the budget proposes a new $250 membership fee for priority 7 and 8 veterans. Third, the budget assumes that VA will increase outpatient primary care copayments from $15 to $20. And finally, the budget proposes to increase prescription drug copayments from $7 to $15.

We have great respect for VA Secretary Principi. He's a combat decorated Vietnam veteran who continues to serve his country. But he's battling OMB now for adequate VA funding, and I am deeply concerned that the budget OMB gave VA this year leaves VA foraging for funding.

Over a year ago, the VA health care system stopped accepting new priority 8 veterans. Manufacturing is fading and private health insurance is failing. And many of those affected are priority 8 veterans. Many corporations involved in manufacturing had defined benefits plans that included health plans with guaranteed retiree coverage. For these veterans, VA healthcare is their last safety net, until they turn 65 and are eligible for Medicare.

For example, in Maryland, there are 13,000 Bethlehem Steel retirees. Many are Vietnam veterans. They came back from serving their country at war, and they continued to fight for America's national and economic security by working in our steel mills. But now, many have lost their health insurance because of Bethlehem Steel's bankruptcy. They are not eligible for Medicare yet. Under this budget, many will be turned away from VA—the safety net they counted on will not be there because VA will continue to shut-out priority 8 veterans.

Bethlehem Steel's veterans, and other veterans who worked in manufacturing or for other businesses that don't offer health insurance, fought for their country and now they will have to fend for themselves on the open-market for health insurance. I am deeply concerned that this policy and many other potholes in VA's budget leave our veterans paying toll charges, standing in lines, or without any healthcare at all.

In the last 5 years, the VA-HUD Subcommittee has provided large increases for medical care—$1.7 billion in 2000, $1.3 billion in 2001, $1 billion in 2002, $2.4 billion in 2003, and $3 billion in 2004. We did this because we know that the failure of private health insurance companies and high prescription drug costs are really straining our veterans on fixed incomes. At the same time, our veterans' population is growing, and getting older. Today, VA treats 2 million more veterans than in 1996.

Last year, the VA-HUD Subcommittee rejected the proposals that we see in the administration's budget request again this year. Instead, we put $1.6 billion more than the request in the Federal checkbook for VA medical care. Our veterans didn't stand in waiting lines when they were called up or they volunteered to serve our country. So they shouldn't have to stand in line to get medical care.

Veterans who need specialized health care services must not be kept waiting—like spinal cord injury care, blind rehab, and prosthetics. For example, the Blinded Veterans Association tells us that there are over 2,000 veterans waiting up to 2 years for admission into a blind rehab center.

Mr. President, I urge my colleagues to support our veterans in this budget by supporting the Daschle amendment.

The PRESIDING OFFICER. Who yields time?

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator?

Mr. CONRAD. Mr. President, I would be happy to yield time to the Senator from North Dakota.

How much time does the Senator seek?

Mr. DORGAN. Fifteen minutes.

Mr. CONRAD. Mr. President, I yield 15 minutes off the resolution.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, first, I want to respond to the question posed by my colleague from Colorado. The amendment before us does, in fact, propose that we increase spending for veterans by recovering some of the tax cuts. But it does that only for those who are receiving incomes in excess of $1 million a year.

So with respect to the concern that was expressed about those National Guard men and women who are now serving in Iraq being inconvenienced by this amendment, I would venture to guess there are very few of those who are now serving in Iraq who are making $1 million a year or more.

This amendment is not about reducing the child tax credit. It is not about cutting aid for working families. It is not about that at all. It is about trying to ratchet back just a little bit of the tax cut for those earning over $1 million a year in income and using it to invest in health care for veterans.

It is very simple. In the year 2005—that is next year—those with incomes in excess of $1 million a year will have received $27 billion in tax cuts from the President's tax cut proposal. This amendment proposes taking $2.7 billion of that $27 billion and using it to invest in veterans health care.

The other side is saying this amendment will hurt working families, kids, and childcare. Don't believe any of that; just read the amendment. Then you will understand none of that applies to this debate. So the question for this Congress is, Will we ever keep our promise to veterans? Will we ever do that?

We have a kind of tax that we apply for veterans who have a disability. Their military pensions are reduced dollar-for-dollar by the amount they receive in disability from the Department of Veterans Affairs. We tried to get rid of that offset. But the President threatened to the entire Defense Authorization Bill if Congress tried to fix the problem.

Serve our country, we say to our veterans, and you will receive health care benefits. But we do not meet the promise. It is time for this Congress to ask itself the question: Are you going to keep promising? If so, are you ever going to keep the promise? Because you cannot promise veterans you will provide health care and then have them serve their country and then come back to find out we actually did not really mean that.

Many of those who need this health care, these days, are those who Tom Brokaw calls the greatest generation, that group of Americans who, in his book, he describes as laying on Omaha Beach on the D-Day invasion, who were in Guadalcanal, who went across the sands of northern Africa, through France, and into Germany. That greatest generation fought for this country with valor.

At the end of May we are going to dedicate a wonderful memorial to the World War II veterans here on The Mall. But we apparently have decided that we do not have enough money to keep our promise to them for the health care we indicated they would receive.

Many of them are now in their seventies and eighties and are at the maximum need for that health care, and we say we just do not have the money. But we have the money to give those who make $1 million or more in income a year $27 billion in tax cuts next year but we do not have $2.7 billion to invest in health care for veterans. It does not make sense to me.

One day I traveled to a VA hospital on a Sunday morning. A sister of a veteran had asked if I could get the medals for this veteran. I have already told my colleagues this story on another occasion, but it is worth repeating. They were medals he earned in World War II conflicts. So I did.

On a Sunday morning, I went to the VA hospital to present him with his medals. He was an American Indian. His name was Edmond Young Eagle. Edmond was dying of lung cancer. I did not know it at the time but he would die in 7 days.

But on that Sunday morning, at that VA hospital, the doctors came into the room, the nurses came into the room—his sisters were there; some people even drove up from the Old Soldiers Home in Lisbon, ND—and we cranked up the bed so Edmond Young Eagle was in a sitting position. He was sick but he was well aware of what was happening that morning.

I pinned on his pajama top the medals this man had earned in the Second World War. He fought in northern Africa. He fought in Europe. He had been at D-Day, at Normandy. On that day, 7 days before he died of lung cancer, as I pinned the medals on his pajama top, this American Indian said to me: It's the proudest day of my life.

He fought for his country. He came back, lived on the reservation, never had very much, never had a family. He did not have children. He worked odd jobs. But he was enormously proud—enormously proud—as he lay dying in the hospital of the service he had given to his country.

This country can do no less, in my judgment, for all of those veterans than to say to them: We are proud of you. And part of that pride will be registered by our vote in favor of full health care benefits for veterans to whom we have given that promise.

One day I was holding a town meeting in North Dakota. A man came to the meeting, an older fellow with kind of stubbled white whiskers. He had not shaved for some long while. He walked up in front of the entire crowd and he said: Mr. Senator, my teeth don't fit, and they cut my gums and cut my lips. He opened his mouth to show me the cuts in his mouth.

He said: I flew in the Air Corps in the Second World War and they promised me health care. And they gave me teeth a long time go. Now they don't fit. They won't give me new teeth.

He said: I don't have any money.

He was nearly 80 years old, destitute, with no money. He had cuts in his mouth from teeth that didn't fit and a VA that said: We're sorry, no teeth.

That should not happen to veterans in this country. It should not happen. We know better than that. If this country cannot keep its promise and show its gratitude to those who serve America, tell me what is a higher priority—not five, just one? Tell me what is a higher priority?

We have seen people come to this floor breathless about giving millionaires tax cuts, believing if we give more tax cuts to those at the upper income level, somehow American's ship of state should begin sailing once again.

We will spend $27 billion next year to give tax cuts to those whose incomes are $1 million or more a year. The question on this amendment is, will we spend $2.7 billion of that to provide health care for veterans to whom we have promised that health care?

My colleague Senator CONRAD has described the circumstances of the veterans health care delivery system. We have more people reaching that age, Second World War veterans who need health care. They come to the VA system to claim it, only to be told: We are sorry. It is not available. You have cataracts? You can wait a year or, in the case of North Dakota, as my colleague said, you can drive from Fargo to Minneapolis, 225 miles and, by the way, do it three times. Then you get your cataract surgery. You go down for a checkup, then go back for surgery, and then go back and get checked up again. And, by the way, do that after you have waited for 9 to 12 months, and maybe you get all that if you are lucky.

Why? Because there the VA doesn't have enough money. We couldn't afford it. The health care system doesn't have enough money. We have plenty of money for people at the top of their income ladder, calling on their friends around here for tax cuts.

This is about choices. It is always about choices in this Chamber. What do we choose to do? What is our priority. Someone once said, think of the task of writing an obituary for someone you never met but had a check register with which you could judge that person's life. What would you know about and what would you say about their priorities? Such is true of this budget of ours. One hundred years from now we will all be gone. Yet historians can take a look at what we decided was important. What did we describe as valuable? What were our choices? What was our value system? You can tell something about that by looking at these budgets. What did you choose to spend the taxpayers' dollars on? What did you invest in? Did you do things that kept your promise? Did you do things that invested in the future?

That is the choice when we vote on this amendment. I am pleased to have cosponsored the amendment with my colleague Senator DASCHLE. We live in a region of the country where people drive long distances for health care. We are told North Dakota is one of the least well served regions of America with respect to veterans health care, measured by the number of miles veterans have to drive to access the health care system. We need to change that. Senator CONRAD and I and others are working to do so.

One way we would change it is to decide now to make the tough choice and say: This is valuable. This is worth providing funding for, to improve health care for America's veterans.

One final point: We talk a lot about service to country these days. I and many of my colleagues have been to the veterans hospitals in the DC area, visited with many veterans who have been injured in this Iraq war, injured in other circumstances. Many now will return from Iraq. We have the largest rotation of troops going on since the Second World War, 120,000 or 130,000 troops moving from that region of the world, Iraq, Afghanistan, back into this country, and then rotating a similar number into that region.

As these veterans come back to our country, they will be welcomed. Our country will say: A job well done. Thank you for your service. Our communities will have celebrations. Families will open their arms to their loved ones. The question is, will this Congress celebrate their return? Will this Congress open its arms to our veterans by casting votes that say to them: We stand with you and we keep our promise with respect to veterans health care?

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I want to talk a little bit about the facts. Every once in a while we need to get back to facts. I made the statement in our Budget Committee no matter what level we assumed in the budget for veterans, some people would try to offer amendments to increase it. It is almost a habit. It is going to happen. I guess we have to expect it.

Let me throw out a few facts. The budget we have before us increases veterans care, mandatory and discretionary, by 14.5 percent.

I looked at the amendment and I said, how much does this increase outlays for veterans? It is zero. So we have a lot of rhetoric. It increases taxes over present law, certainly over the budget resolution. But then it tries to avoid a budget point of order by creating a reserve fund that says, well, if and when the appropriators spend more money, then we will give them more money.

I don't know that that would pass a budget point of order. I will have to talk to the Parliamentarian about it. But it is life's little game. It doesn't increase benefits for veterans, at least directly.

I think I heard the sponsor of the amendment say, the budget before us has copays on drugs for certain veterans, level 7 and 8 veterans. That was in the President's budget. It is not in our budget resolution. Frankly, when people talk about crowding, level 7 and 8 are for nonservice-connected and high income veterans. People who might be injured playing basketball or something else like that and have high incomes would have to have a higher copay under the administration's proposal. It may be a good proposal. Anyway, we didn't assume it in this budget. We also didn't assume that $250 deductible on the same category of people, high income people, nonservice connected. It was proposed by the administration. We did not assume it in the budget. It was mentioned that we did. Maybe he was referring to the President's budget, not the budget before us.

Let's talk about some of the facts. The facts are, when I look at how the function totals have grown over the years, I look in 1993, total veterans benefits and services was $36 billion. In the year 2001, it was 47. That was an increase of about $9 billion. In 2001, it was 47. Today it is 70, actually 70.34. Last year it was 61. This is mandatory as well as discretionary. Both count, both are real dollars. Both are Uncle Sam writing the check. To go from $61 billion in 2004 to $70.4 billion in 2005, that is a 14.5 percent increase.

Even though we have allocated 14.5 percent, some people say that is not enough, and we would have to have 22 or 25 percent if this amendment was adopted and if this reserve fund was created and if it was released.

I don't know when you say enough is enough. I understand there is demand on veterans care. Senator ALLARD pointed out the amount of money we have spent has risen dramatically. I might mention, it has grown more in the last few years. In just veterans health care services alone, it has risen from $21 billion in 2001 to $29 billion under this resolution. That is a very significant percentage increase. I could go on and on. We have done a lot.

I might mention we have done a lot in other areas. I mentioned mandatory as well as discretionary. Last year we passed concurrent receipts, so starting for the first time this year, veterans who are service-connected disabled with 50 percent or more rating receive both military retirement and VA disability. That affects about 250,000 disabled military retirees. We passed the Montgomery GI bill increasing the benefits of that 52 percent in educational benefits. They can receive benefits equaling up to $35,000 worth of GI benefits.

Veterans buying their first homes, we have increased the VA home loan guarantee by 20 percent up to a maximum mortgage of $240,000. We have done a lot.

Under this budget we increase medical care, which I have heard is being cut, by $1.4 billion over last year. So we have done a lot. We increased medical and prosthetic research by about 25 percent. I could go on and on. A lot has been done. Yet I see this amendment says we haven't done near enough. We want to it grow 20 percent.

How sustainable is that when we are trying to do a budget that holds the growth of spending down close to a freeze in nondefense areas? We didn't hold it to a freeze in VA. VA discretionary and mandatory is 14.5 percent. That is a big increase. Yet it is still not enough.

I want to attack how this is being paid for. I have heard some people say this assumes there is only going to be a tax on millionaires. That is not in the budget resolution or the amendment. The amendment says, let's raise taxes by about $5.4 billion for 2005. One can say, our assumption is that is only going to be on millionaires. It reminds me of Russell Long: Yes, tax someone. Don't tax me, tax somebody behind the tree. Tax somebody else.

Well, what we are assuming in the budget resolution, what we guess we might be successful in getting passed, what I hope and expect we will be successful in getting passed is a continuation of present law.

In present law, most of those benefits go to low-income people, to families. For example, the child tax credit is $2.6 billion. The marriage penalty relief is $5.4 billion. So we almost pay for this if we eliminate the marriage penalty relief that we have given people for 2004 and that some want to give in 2005.

This idea we are just going to tax millionaires, do my colleagues think the President is going to sign a bill that is going to increase marginal rates? I can guarantee you he will not. I know the President very well. I can tell you we will not let that pass. I am not going to let it pass. I happen to be on the Finance Committee. I can talk for a long time. That is not going to happen.

People can say: We are just going to tax these upper income rates. Those happen to be small businesspeople. The real tax debate is: Are we going to extend present law? Are we going to make present law permanent, or are we going to extend permanent law? Those are family-friendly tax cuts—marriage penalty relief, child tax credit, and the 10-percent rate.

Some people are saying we do not want to do those cuts; we do not want to extend those cuts. My point is, if you look particularly in the last few years, since President Bush has been in office, total spending for veterans care has risen dramatically. It has risen more than Bill Clinton's first 8 years—substantially more. The total amount of outlays since 2001 has increased by $23 billion. In President Clinton's 8 years, total outlays, mandatory and discretionary, grew by $11 billion. Yet that is still not enough, according to this amendment.

Then this amendment says let's just increase taxes. They assume it is going to be on those darn millionaires. For one, they cannot make that assumption. If you read the amendment, it doesn't say that. It tells the Finance Committee: Raise more taxes than assumed by this resolution by several billion dollars.

Also, this is interesting: Oh, this just applies to 2005. Sure, if we are going to increase spending by $2.7 billion in 2005, you might as well multiply that by 10 plus an inflater because this is not going to happen for 1 year. We are not going to fund it for 1 year and drop it off, just as I hope we do not give a tax cut to families and then stop it at the end of this year. I hope we don't. So the real cost of this amendment over a 10-year period of time would probably be more like $35 billion, and people should be aware of that fact.

My guess is we will have a lot of amendments where people will want to raise taxes and raise spending. I happen to disagree with that. I disagree and will take issue with this idea of increasing marginal rates from 35 percent. When Bill Clinton was elected, the maximum rate was 31 percent. It went all the way up to 39.6, and we finally have it down to 35 percent. Thirty-five percent happens to be the same rate that corporations pay. Why should individuals who maybe own a business, maybe a restaurant or something, why should they pay more than the corporate rate? That would be bad policy. If you want to slam the door on the economic recovery, that is a good way to do it because about 80 percent of the jobs are created by small business, and they are 80 percent of the beneficiaries of that top percent.

That top percent rate does not fly. There is nothing in this amendment when one reads it that says it only applies to millionaires. That is in rhetoric but not in reality. The reality is it raises taxes by $5.4 billion, and we are going to assume, yes, maybe eventually it is going to come to Veterans Affairs even though there is not an outlay for the VA in this amendment.

At the appropriate time, I will urge my colleagues to vote against this amendment. I advise my colleagues my expectation is we will be voting on this amendment probably in the next 30 minutes.

The PRESIDING OFFICER. Who yields time? The Senator from North Dakota.

Mr. CONRAD. Mr. President, first, I ask unanimous consent that the following Members be added as cosponsors to Senator DASCHLE's amendment: Senator BOXER, Senator FEINGOLD, Senator REID of Nevada, Senator LINCOLN, Senator DORGAN, Senator GRAHAM of Florida, Senator ROCKEFELLER, Senator LEAHY, Senator JOHNSON of South Dakota, and Senator KERRY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, as always, the chairman of the committee has been very articulate in his defense of his budget. The problem is he is defending the indefensible when it comes to the question of funding for veterans medical care.

Yes, there have been increases in funding for veterans medical care. I think the chart the Senator from Colorado had up showed veterans medical care back in 1990 was about $15 billion, and now in that period of time—14 years, actually 15, to 2005—it is almost double, not quite.

Medical inflation in that period of time would lead to a doubling alone—only medical inflation. Is that the only factor forcing up costs for veterans medical care? No.

Let's recall in 1996 this Congress voted to expand eligibility for veterans medical care. In 1996, there were 100,000 in categories 7 and 8, and by 2003, the number eligible increased from 100,000 to 1.3 million. In categories 1 through 6, there were 2.6 million people in 1996. By 2005, that will increase to 3.7 million people. The fact is, the increases for veterans medical care are not keeping pace with the demands.

The chairman of the committee talks about facts. I agree. Let's talk about facts, and the facts are that medical inflation over that period of time has doubled the cost to provide the same coverage to the same number of people. We have not quite doubled the amount of money.

It is not just a matter of medical inflation for the same number of people. The number of people eligible has been dramatically expanded by action of this Congress. Again, in 1996, we dramatically increased eligibility, and the number of those in categories 7 and 8 that was only 100,000 of the workload in 1996, by 2003 had increased to 1.3 million. That is an increase of more than tenfold.

In categories 1 through 6, 2.6 million people were eligible in 1996. By 2005, that is expected to reach 3.7 million people. That is an increase of almost 50 percent.

The reality we are confronting is not just numbers on a page. The reality we are confronting is, Are we providing adequate resources for the medical care of the Nation's veterans? The Nation's veterans have looked at the President's budget and have said it is inadequate. They have said it is inadequate to the tune of about $3 billion.

That is why Senator DASCHLE is on the Senate floor saying we ought to increase veterans medical care by $2.7 billion. He has said we ought to pay for it, and we ought to pay for it by looking to those who are fortunate enough to be earning over $1 million a year and ask them to give up 10 percent of their tax cuts.

Their tax cuts in 2005 are going to cost $27 billion. The Senator from South Dakota is asking our colleagues to go to those who are the wealthiest among us, earning over $1 million a year, and ask them to give up 10 percent of their tax benefits in that year so we can more adequately fund veterans medical care. That is a reasonable request.

I note the Senator from Wisconsin is in the Chamber, and I ask him how much time is he seeking.

Mr. FEINGOLD. Madam President, if I could have 10 minutes.

Mr. CONRAD. I yield 10 minutes off the resolution to the Senator from Wisconsin.

The PRESIDING OFFICER (Mrs. DOLE). The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I thank the Senator from North Dakota for yielding me this time.

I rise in strong support of the amendment offered by the Senator from South Dakota to fully fund health care programs for our Nation's veterans.

America is indebted to our veterans and military personnel and to their families for the extraordinary service and sacrifice that they have so selflessly provided to our country. As we debate this budget resolution, our men and women in uniform put their lives on the line in this country and around the world, from Iraq to Afghanistan to the Balkans to the Korean DMZ and countless other places. We thank those men and women and we hope for their quick and safe return to their families.

At the same time that the current members of our Armed Forces serve us across the globe, we must not forget those who paved the way for the soldiers, sailors, airmen, and marines of today. Our Nation's veterans and their families have given selflessly to the cause of protecting our freedom. Too many have given the ultimate sacrifice for their country, from the battlefields of the Revolutionary War that gave birth to the United States, to the Civil War, which sought to secure for all Americans the freedoms envisioned by the Founding Fathers, to the global fight against Nazism and fascism in World War II.

In the last century, Americans fought and died in two world wars and in conflicts in Korea, Vietnam and the Persian Gulf. They also participated in peacekeeping missions around the globe, some of which are still going on.

We owe it to our veterans to ensure that they have a decent standard of living and access to adequate health care. It is the least that we can do in return for their courageous service to our country. This is especially important as we welcome home a new generation of veterans who are serving in Iraq and in the fight against terrorism. We must ensure that their service and sacrifice, which is much lauded during times of conflict, is not forgotten once the battles have ended and our troops have come home.

The amendment that we are considering will go a long way toward ensuring that the VA health care system can meet the demand for care from the existing veterans population and will help to ensure that the VA is able to care for returning veterans who will require health care services.

For too long our veterans have had to wait months for appointments to see a doctor at a VA facility. Others are unable to access VA care within a reasonable distance from their homes. I cannot tell my colleagues how many times I have heard that comment at the town meetings ended all over Wisconsin. And still others are told by the VA that they are not eligible for care because their priority group level is too low. The amendment before us today would ensure that the Veterans Health Administration is funded at the level recommended by the Independent Budget for Veterans Affairs, which is drafted annually by a coalition of veterans service organizations. By their calculations, the President's budget request falls short by nearly $2.8 billion, and the underlying budget resolution is $2.7 billion below what would be needed to meet demand at VA health care facilities during fiscal year 2005.

The amendment that is before the Senate would increase the amount for veterans' health care in the budget resolution by $2.7 billion. This increase would ensure that all veterans, including those in priority group 8 who are currently barred from enrolling in the VA health care system, receive care at VA facilities. It would also eliminate the need for the proposed prescription drug co-payment increases and new user fees for veterans in priority groups 7 and 8 that have been proposed by the President.

The Secretary of Veterans Affairs said the following about his Department's budget request:

> My top priority in health care is to ensure that resources are available to care for those veterans who are most deserving of VA's medical services. The proposals in this budget will assist us in continuing that focus on our core service population in our health care system.

Let me repeat that. The Secretary said his budget would ensure that resources are available to care for those veterans who are "most deserving of VA's medical services."

In my view and in the view of veterans and their families who I have spoken with around Wisconsin, all veterans are deserving of the VA's medical services. I am troubled that the Secretary's comments seem to pit groups of veterans against each other for health care services. The amendment before the Senate today will enable the VA to serve all veterans who wish to take advantage of their health care benefits.

In order to offset this increase, the amendment would reduce the tax cut for Americans making more than $1 million annually. This is a more than fair exchange that will allow us to provide badly needed health care services to our veterans.

I am deeply concerned that for the last several years funding for veterans health care and other programs for our Nation's veterans has been delayed as Congress and the administration wrangle over the Federal budget. I believe strongly that we should consider and pass a budget resolution and 13 individual appropriations bills each year. I regret that the VA budget has been rolled into omnibus measures, thus delaying this important funding for our Nation's veterans.

I hope that this amendment will be the first step in providing adequate funding to care for our veterans in fiscal year 2005 and beyond. This is the very least that we can do for those who done so much for our country. I strongly urge my colleagues to support this important amendment.

I yield the floor.

Mr. NICKLES. Will the Senator yield for a question?

Mr. FEINGOLD. The Senator yields.

Mr. NICKLES. I believe I heard my good colleague and friend from Wisconsin, a member of the Budget Committee—and I have worked with him on some issues and amendments—say this is only a tax increase on millionaires, but I read the resolution. It says, raise taxes, but it does not say raise it on millionaires.

Would the Senator not agree with me on a budget resolution the Finance Committee can raise revenues, but they cannot be directed how to do it?

Mr. FEINGOLD. I think this amendment offered by Senator DASCHLE clearly attempts to fund this out of the most unjustified aspects of the tax cut that was put into place. It would simply prevent certain tax cuts that are for very high-income people from going forward, and at a minimum level make sure the Veterans Affairs budget is fully funded. I believe this is an appropriate amendment.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Madam President, I appreciate that answer, but the facts are, and my colleague from North Dakota I know will affirm this if pressed, we do not write tax law in the budget resolution. We may assume something. I am assuming we are going to continue law that is presently in effect. We have at least scored enough for reconciliation to make sure low and middle-income families do not get a big tax increase to the tune of, for a family of 4, about $1,600, and for a family of 6 about $2,200 next year. That is basically all we are assuming for next year. And a little AMT relief. In reconciliation, that is all we are assuming.

If last year is any example, we assumed a lot but we only got what we reconciled. Reconciliation assumes continuation of present law. In other words, no tax increase on families, no tax increase on marriage penalty, no tax increase on families that have children. That is what we are assuming.

This amendment says, no, we want $5.5 billion more in taxes. That is just the first year. That might as well be multiplied by 10.

My point is, this assumes a tax increase. The proponents may say they assume it is only for millionaires, but that is not what the amendment says. The amendment says to the Finance Committee, go raise some taxes; increase spending in an account that is already growing by 14.3 percent in the budget we have before us, mandatory and discretionary.

So I just make those points. I am a little disappointed to hear my colleague from Florida say he wants to do an amendment tomorrow that is going to raise the same function by another $1.5 billion without regard to how this amendment comes out. How many times do we have to vote on Veterans Affairs? I guess I will wrestle with that one tomorrow.

I just tell my colleagues, in looking at what this President has done and what this Congress has done since the year 2001, it is a dramatic increase compared with what the previous Congresses did for the last 8 or 10 years; a dramatic increase. Yet some people are still saying that is not enough.

This amendment needs to be defeated for a lot of different reasons. I mentioned we have done a lot for veterans, including expanding the Montgomery Bill of Rights by 52 percent, by expanding concurrent receipt—last year a multibillion dollar expansion for about 250,000 retirees. We added $1.4 billion for VA medical care under this resolution. We did not assume the increase in copays that some people have alleged.

I urge our colleagues, in the not too distant future—my guess is we will be voting on this amendment within the next 20 minutes—to vote no.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, perhaps this would be a good time for us to say what a budget resolution does do and doesn't do. The chairman is entirely correct that when the budget resolution gives an instruction to the Finance Committee to raise a certain amount of revenue, it does not control how they do it. When the Budget Committee gives an allocation to an appropriations committee or an appropriations function, we give them an allocation of funds. We don't tell them how to spend it. That is true.

What is also true is when we offer amendments on the floor we talk about assumptions. In fairness, the chairman has talked about assumptions that he has with respect to his reconciliation instruction. He has said he is assuming that money will be used to extend the 10-percent rate, to extend the child care credit, to extend marriage penalty relief. But the fact is we do not control how the Finance Committee ultimately decides to use those funds any more than we control, with what Senator DASCHLE has done, reducing the tax cuts for those who earn over a million dollars a year by 10 percent in order to fund increased resources for veterans medical care.

The chairman's assumptions are made with respect to reconciliation. He has stated them clearly and directly. The Democratic leader has stated his assumptions clearly and directly. He has indicated he would fund the increased spending for veterans health care by reducing the tax cuts for those who earn over $1 million a year by 10 percent. That is his assumption. Just as the chairman has indicated, the reconciliation instruction that he has provided in this Budget resolution he believes ought to be used to expand, for the most part, middle-class tax cuts.

The fact is, neither of them control what the Finance Committee does with their allocation. But it is an assumption and both sides are using assumptions, so there is really not a difference there between the two sides.

With that, the Senator from Florida is seeking time. Is he asking for 10 minutes?

Mr. GRAHAM of Florida. If possible.

Mr. CONRAD. I yield the distinguished Senator from Florida 10 minutes off the resolution.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM of Florida. Madam President, I appreciate the Senator from North Dakota yielding me 10 minutes. I hope he will not take offense at what I am going to say.

The Senators from Oklahoma and North Dakota have just given us a very accurate and descriptive statement of how certain parts of the budget procedures operate. But let me say, I do not believe this issue is about the arcane features of budget policy; rather, they are first about choices.

When we voted in 2001 and again in 2003 for the most massive tax cuts in American history, targeted primarily at the wealthiest 10 percent of Americans, we were making a choice. One of those choices comes home today, and that is, will we be able to adequately finance our responsibility to the health care of American veterans as well as the health care of those American men and women who have been injured as a result of the ongoing wars in Afghanistan and Iraq?

That comes to the second thing this is about. This is about real people. I take a different job every month, and in November, on Veterans Day, I worked at a VA hospital in Miami, FL. While I was there, I met a returning soldier. I will use the name "John" in order to respect his confidentiality.

John is approximately 24 years old. He was born and lived most of his life in Puerto Rico. The reason he is in the Miami VA hospital is because it has responsibility for certain specialty care that is provided to veterans from most of Florida, Puerto Rico, and the U.S. Virgin Islands.

John was a member of the Puerto Rican National Guard and was called up to duty in Iraq. Prior to his reporting for duty, he married a beautiful young lady who I will call Linda. John was a tanker. He was assigned to a tank unit that led the surge from the Kuwait border into Baghdad. After the conflict ended, his tank crew was given the assignment of taking down some of the buildings Saddam Hussein had constructed in Baghdad, some of them because they were no longer safe by virtue of U.S. military action, some because of their symbolic importance. John's assignment was to stand by the side of the tank as the tank was used as a battering ram to take down these buildings. Unfortunately, in the course of this he was hit by a falling wall from one of these structures and is now a paraplegic. He is in the spinal cord injury program at the Miami VA hospital.

You can imagine the devastation of John and Linda, as their plans for a life together, functioning as a normal couple, have been devastated by this spinal cord injury.

John is who we are talking about here today and John very specifically is who we are talking about here today because this Congress, in the late 1990s, took on for the Veterans Administration the responsibility for 2 years after discharge from active duty for the care for Americans who had been injured in combat. John is one of those veterans.

Last year we asked the VA how much it was going to cost to carry out this responsibility. They did some calculations based on, first, what their experience was in the first Persian war as to what percentage of troops would be injured and become eligible for this VA service, and what is the current per-capita cost of delivering this service.

Do you know what they came up with? The cost would be $350 million. The administration objected to that cost, and after extended negotiation that figure was reduced to $100 million—less than a third of what the VA estimated the cost would be. Then do you know what happened. They didn't spend it on health care. They spent it to improve the processing capability of the VA for a variety of veterans applications. That may be desirable to do, but that is not what even the miserly $100 million was appropriated to do.

John now sits there in his wheelchair facing many years—possibly a lifetime—as a paraplegic, and his country told him last year he wasn't worthy of having that service he had been promised by the Congress. Now we are about to tell him again he is not worthy of having that service financed.

We need to be realistic. This budget for American veterans and the brave fighting men and women who are returning is totally inadequate. It does not provide even enough to cover the cost for medical inflation, including payroll increases for the health care of the current group of U.S. veterans.

This budget, unfortunately, reflects this administration's priority. If enacted, it will have a devastating effect on the men and women who have served this country with honor and those who are currently serving with honor because this administration has said this is all it is willing to do.

Rather than funding these programs as our veterans were promised, the President seeks to fund the shortfall in his request by increasing the out-of-pocket costs to the so-called higher income veterans. That means veterans who have earnings starting at approximately $24,000. We would raise the prescription drug copayment from $7 to $15. But, more importantly, we would charge a $250 enrollment fee which not only has as its goal to generate some additional revenue but, more importantly, it will artificially reduce the demand for VA services by veterans who either cannot or do not feel it would be advantageous to pay that $250 enrollment fee.

Mr. NICKLES. Madam President, will the Senator yield?

Mr. GRAHAM of Florida. If I could just finish. The Senate Committee on Veterans Affairs has reviewed this on a repeated basis. The Presiding Officer is a member of that committee, as am I. All of the members of the committee, Republicans and Democrats, rejected the proposed increases in copayments or in the $250 annual enrollment fee.

All Members agree Congress needs to appropriate sufficient funds to obviate the need for these abhorrent out-of-pocket costs to veterans.

The committee also recognized the need to protect vital specialty services. These were not included in the President's budget.

Can you believe we are not going to fund the long-term care needs of the veteran population which is aging in place and which will have increasing demands for either community-based services or institutional care as they are unable to be fully independent?

It also would substantially reduce mental health services to a population which as it ages encounters increasing and more severe mental health problems.

It is insulting to laud this budget but continue to bar veterans from the VA health care they have earned by their service.

It is unfair to double prescription drug copayments for other veterans so some veterans can have their increased costs paid through that means rather than through the appropriations to the Veterans Administration.

This is nothing short of hypocrisy to deliberately reduce demand for health care services and count that reduction in demand as if it were savings.

The PRESIDING OFFICER. The Senator has used his time.

Mr. CONRAD. Madam President, I would be happy to extend an additional 5 minutes of time to the Senator.

Mr. NICKLES. Madam President, will the Senator yield?

Mr. GRAHAM of Florida. No. I will yield when I complete my remarks, which will be soon.

The amendment my colleagues and I are debating today would provide the VA with the $1.8 million which is necessary to keep the current services in place and would also provide the funds to meet the cost of these wounded returning American service men and women like John so we will be able to honor the commitment we have made to him. It will also provide the funds to continue to meet our long-term care and mental health needs.

These numbers were not derived out of smoke. These numbers were derived by an independent budget committee. This is a committee made up of representatives of all the major veterans organizations looking at what is the realistic cost of providing appropriate service. This consortium of veterans organizations has set the bar as well as to how much VA needs will be to treat their patients.

This administration has made the war in Iraq and Afghanistan a priority, appropriately so. But at the same time, this administration does not want to provide the resources to meet the health care needs of returning combatants. This war will create a new generation of veterans, and this budget fails to take that into account.

This budget has the potential of creating a conflict between generations of veterans. It is asking the current veterans assume a further dilution in their medical services so the newly returning injured combatants will be able to receive the care for which they have been promised.

It is up to us in the Congress to see service members and veterans alike receive the benefits they have earned. We can do no less than to meet our duty to their patriotic service.

Thank you, Madam President. I would be glad to yield to the Senator from Oklahoma.

Mr. NICKLES. Madam President, I wanted to clarify. I heard my colleague say increase in copays. You are aware, I am sure, under the resolution we are not assuming any increase in copay for categories 7 or 8, and we are also not assuming the $250 deductible.

Mr. GRAHAM of Florida. Does that mean the budget is even more out of balance in terms of providing services than the one the President submitted which would have had those increases in out-of-pocket costs?

Mr. NICKLES. I thought I heard my colleague say you were opposed to these increase in copays. I was trying to make sure you are aware we did not assume an increase. We did not have that in our budget. I wanted to make sure you knew that. If you didn't, I will read it to you. It says the committee resolution does not assume the President's proposal to establish a new $250 enrollment fee for priority 7 or 8 veterans or to increase the insurance for prescription drug copayment for priority 7 and 8 veterans from $7 to $15. That is not in our resolution. I wanted to make sure you knew that.

Mr. GRAHAM of Florida. Does the resolution, therefore, contain the funds from appropriate sources to offset that which would have been raised had the President's recommendation of the prescription drug copayment increased and the enrollment fee been enacted?

Mr. NICKLES. Madam President, I want to remind our colleague to go through the Chair. I warned other people. I think I need to do that.

Our resolution, to answer my colleague's question, has a $1.4 billion increase in VA care. It assumes an increase in VA—and it is mandatory—from $61 billion to $70 billion—a 14.3 percent increase, so my colleague will know.

Mr. GRAHAM of Florida. My question was not what the totality is, but since the President assumed a substantial additional revenue source for the VA through these enrollment fees and increased copayments, how does the budget resolution propose to fund those items or to provide the replacement revenue that would come from those two items?

The PRESIDING OFFICER. The time of the Senator from Florida has expired.

Mr. NICKLES. Madam President, I have a couple comments.

We did not have the assumptions; they were not revenue raisers, as I understand from the administration's perspective. What they were trying to do is get high-income nonservice-connected disabled veterans to not clog the system or at least have them pay a little more. If they were not injured by military service—maybe they were playing basketball or whatever and they had high incomes, shouldn't they pay a greater percentage of the prescription drug? That was the assumption. It is more to change behavior than to raise money. We did not make that assumption in our resolution.

I yield the Senator from Texas as much time as he desires. I know there is a reception tonight. If the Senator could keep his remarks to 10 or 15 minutes.

For the information of our colleagues, I suspect we will have a vote probably about 5:45, hopefully not much later than that.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Madam President, I will say a few words about this budget resolution because it is an important document. As in any budget, we identified what our Nation's priorities are, and we have done the tough job that all budget writers have to do, whether it is the Senate, a small business, or a family, in trying to figure out how to live within our means, how do we make sure we are good stewards of the taxpayers' money.

I commend the chairman of the Budget Committee, the Senator from Oklahoma and the ranking member, the Senator from South Dakota, for conducting a very important debate about our Nation's priorities and how they are reflected in this budget and the civility with which that debate has taken place in the Budget Committee and in the Senate.

There is no higher priority in the Federal Government than our national security. Indeed, this budget does fund an increase in national security; it, likewise, funds an increase in homeland security funding—two items which would strike me as no-brainers in a post-September 11 world. Particularly when it comes to military spending with our troops in the field and with the Nation being at war, we have to keep our commitments to those troops in the field that we will give them the resources they need in order to get the job done.

As to the rest of the nondefense, nonhomeland security spending, this discretionary part of the budget is essentially flat. That represents the considered judgment of a lot of people who have this Nation's best interests at heart: How do we deal with this budget deficit and how do we meet this Nation's commitments without killing the burgeoning growth of the recovery of the economy while at the same time recognizing we are a nation at war, a nation that needs to harden its homeland security.

However, what we all need to realize when we hear amendments being proposed from the Senate to this budget, we are talking about spending more of the taxpayers' money, plain and simple. The American people are wise enough to understand when people talk about tax increases on the wealthy, if they begin to look at the numbers, ultimately what we are talking about are tax increases on the middle class and literally on all Americans.

I referred back to some figures and discovered that last year our Democratic colleagues offered budget amendments in the range of $85 billion additional spending to the budget over 1 year and it would have calculated $1.2 trillion over 10 years.

I don't know how anyone can stand in front of this group or anyone else and say those geometric leaps in spending could be accomplished without raising taxes across the board. We cannot do both. We cannot have the kind of huge increases in spending that our colleagues across the aisle would want to have without raising taxes across the board.

I know it is easier to make the class warfare argument, tax millionaires, but when we look at the people who are paying taxes, it includes small businesses that pay not as corporations but pay as an individual taxpayer would if they were a sole proprietor or a partnership or small subchapter S corporation. They essentially pay income taxes as if they were individuals.

What our colleagues on the other side of the aisle are proposing when they talk about raising taxes against the wealthy, they are talking about raising taxes against the very engine that grows jobs in our economy. We have come off of a rough time in our history, the last 2½ years since September 11. Of course, we were starting into a recession when President Bush and Vice President CHENEY took office. We suffered a body blow to our Nation's economy and to our consciousness on September 11. That had a devastating impact on our economy. Of course we saw the stock market plummet as investors lost confidence in corporate America because of some scandals which shook that confidence to its very core.

So we have had what some have called, many have called, the perfect storm. It is as a result of the tax relief and growth package we passed last year in this body, something our colleagues on the other side of the aisle argued mightily against, but it is as a result of allowing the people who earn the money to keep it, to keep more of it, and spend it as they see fit, to save it, and to invest it in their small businesses that we have seen the job growth.

We have seen the roaring back of the economy in a way we have not seen in the last 20 years. It comes to productivity; it comes to growth in the gross domestic production.

I fear if we were to accept this formula offered by our colleagues on the other side of the aisle to tax more and to spend more, it would simply squelch the nascent recovery we are seeing in this economy.

There is a lot of discussion about jobs. Obviously that is a core goal we all share. We do not grow jobs by killing the profits, by taxing the engine of job creation—which our colleagues across the aisle would do by their proposals, including this one. The only way we get more in this economy is by letting people who earn the money keep more of it and invest it, save it, and create more jobs. That is simply the formula that we on this side of the aisle, as well as our President, have said is the philosophy we should approach.

Let the people who earn the money keep more of it. We have seen as a result explosive growth in our economy. We know over time we will reduce unemployment rates to the point that literally anybody and everybody who wants to work can find a job. Indeed, that is our goal.

While we have to make tough choices in writing a budget, just as anyone else does, what our colleagues by this amendment seek to do is to add to an already substantial increase when it comes to veterans benefits and services. I can think of no more sympathetic or deserving cause than our veterans.

My dad was a veteran of World War II. He flew B-17s in the Army Air Corps, was shot down after a bombing mission over Mannheim, Germany, was captured and served for a time in a German prisoner-of-war camp before General Patton and his Army came along and liberated him and his colleagues. As so many in this generation, he came back to this country, married my mom, and helped build this Nation into what is today the envy of the entire world. We owe a debt to all of our veterans to see that we address their needs, whether it is health care or other veterans benefits.

But at a time when this budget resolution proposes giving less money than the Commander in Chief has asked for in terms of current military operations, I am sure all of our veterans would understand why we say a 14.5-percent increase over last year is a reasonable increase in veterans benefits and services, and why they would say—at a time when we are looking at trying to balance the budget under tough times and actually giving the Commander in Chief, our Department of Defense, less than what has been requested because of our attempt to try to balance the budget, to meet our priorities to the soldiers and airmen and sailors and marines in the field and on the waters—that is an appropriate increase at this time.

Particularly for those veterans coming back from their military duty, they would want to make sure there will be, once they leave active duty military service, jobs for them to hold to provide for their families.

I think this is a good budget resolution. I agree with the Senator from Oklahoma the best thing we could do to keep faith with both our troops in the field and our veterans is to make sure we are responsible, that we meet our priorities, that we do not overtax, that we do not overspend, and that we continue to grow this economy so anyone and everyone who wants to work can find a good job.

With that, I yield the floor back to the Senator from Oklahoma.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Madam President, I think we are about to wrap up the debate on this amendment. I know the

Senator from Arkansas wants to be recognized for a couple minutes. Once she finishes, I will have the final comments on the amendment and we will prepare to have a vote.

I yield the floor to accommodate the Senator from Arkansas.

The PRESIDING OFFICER. Does the leader yield to her?

Mr. DASCHLE. Yes. Are we under a time agreement now?

The PRESIDING OFFICER. Yes.

Mr. DASCHLE. Madam President, I yield time off the resolution, 3 minutes, to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Madam President, I thank my colleague, the minority leader.

I stand today to speak in strong support of Senator DASCHLE's amendment to the budget resolution that would ensure the U.S. Veterans Administration has the funding it needs to provide the best services possible to our Nation's veterans.

My father passed away about a year and a half ago. He was an infantryman in the Korean war. Both of my grandfathers served in World War II.

I believe probably one of the most important values those men instilled in me when I was growing up was the need to respect and honor our Nation's veterans, those who had put their lives on the line to ensure our freedoms and this incredible Nation we are a part of could be sustained.

I have always treasured that lesson, and my father's example has guided me throughout my career in public service, as well as the examples of those I have met along the road of the very strong and determined and willing Arkansans who have also served this country.

That lesson has always been important, but it is particularly poignant today. With the war on terrorism and the war in Iraq, a new generation of young people has stepped forward to defend our Nation and the world against threats to our security, peace, and stability. Many have given their lives in this cause. A great many more, who rarely get mentioned, have been wounded in action, and they will need our support in the years to come.

We often hear people talk about the American military's superiority in weapons and technology, which is the most advanced and powerful in the history of the world. I know every Member in this body is proud of that. But there is also no getting around the fact our most important military strength resides in our people, in the men and women who serve, and in the officers who lead them. No weapon and no technology is as valuable to our military as our military personnel.

One of my top priorities has been to ensure our military personnel gets the support they need, whether it is equity in pay, health care, housing, or child care.

With an all-volunteer military, it follows you are going to have more career soldiers, and more of those soldiers are going to be married and have families. We should recognize this and provide for their needs. Particularly with the demands placed on our soldiers in the war on terror and in Iraq, we need to find new ways to better serve them and their families in recognition of their service and their sacrifice to this country. Their sacrifice today reminds of us of the sacrifices of earlier generations. It reminds us of the service and sacrifice of those who are here today. It should remind us we owe our veterans a much greater debt than just gratitude and respect. We also have an obligation to support the health and well-being and dignity of our veterans and their families when they need health care or when death, disability, and economic hardship leave them in distress.

The cornerstone of this commitment is our Veterans Administration, with its numerous support programs for health care, homelessness, and veterans with special needs. But as many of you know all too well, our veterans programs have not always lived up to their promise. While things have improved in many respects, we still have some distance to travel to make our veterans programs the most effective they can be.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. LINCOLN. Madam President, I ask unanimous consent for an additional 2 minutes.

Mr. DASCHLE. Madam President, I yield the Senator 2 additional minutes.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. One of my priorities as a Senator has been to seek ways we can make our Government work better. I believe one important place to begin is with our programs for our veterans. It is particularly true as our population ages, the Veterans Administration must adapt to new demands. Over 45 percent of American veterans are now over the age of 60.

In addition, the largest group of veterans, the Vietnam-era veterans, are nearing retirement. We are going to need innovative approaches to meet the needs of these veterans. A top priority should be to ensure our veterans benefits are more fair and equitable. The amendment Senator DASCHLE and I, as a cosponsor, offer today would increase funding for veterans health care by $2.7 billion. We would accomplish this by reducing tax cuts for people making over $1 million per year, so this measure would not add to the Nation's budget deficit, the budget deficit our children will be paying.

One measure of a nation's greatness is how well it cares for those who have fought and sacrificed to protect its citizens, its values, its freedoms, and its interests.

I urge my colleagues to join me in voting for this amendment to ensure our veterans have health care they so richly deserve, and that we do so without putting an enormous burden on our children.

I would like to also comment on some of the talks we have had, both in the Finance Committee and here, about where those dollars are actually going to come from and who actually gets harmed, and remind our colleagues today these dollars do not come out of the small business arena. We have had information from the IRS which indicates that. We have charts which help us show that.

I hope my colleagues will look at what is most important: The priorities and the choices we have to make today, and the consequences we will see from those choices we make. Let us support our veterans.

Thank you, Madam President.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Madam President, I thank very much the distinguished Senator from Arkansas for her strong statement.

Does the Senator from Iowa seek recognition to speak on this amendment, as well?

Mr. GRASSLEY. Yes, I do want to speak.

Mr. DASCHLE. Madam President, I yield the floor to accommodate the Senator from Iowa.

Mr. NICKLES. Madam President, I yield the Senator from Iowa such time as he desires.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Madam President, what we have to think about when people suggest raising taxes is, I have hardly ever had anybody ever tell me they want to raise taxes. How high do taxes have to be to be high enough to satisfy the people asking to raise the taxes?

Since we hear that more from the other side of the aisle than we do from this side of the aisle, I cannot help but ask anybody on that side of the aisle who is going to be suggesting during this debate on the budget to raise taxes, how high do they have to be to satisfy you?

We have had marginal tax rates of 93 percent in the last 50 years. Was that high enough? We had 70 percent in the last 20 years. Is that high enough? We have had them as low as 28 percent. People felt an awful lot of economic good happened, particularly promoting entrepreneurship, when they were lower.

I think the most important thing for my colleagues to think about during this debate is on the issue of process. Quite frankly, we are being given some direction through this amendment to raise taxes. We are being told the intent is to raise them on the very wealthy, but that is not how the budget resolution works. The budget resolution just says to the Budget Committee, raise X number of dollars based upon what that budget says. We decide where that is going to be raised.

Anybody who believes that by voting for this amendment, they are putting the burden on just the wealthy, for instance, are sadly mistaken. What it takes to get a bill out of the Senate Finance Committee is a bipartisan compromise, and just taxing one class of people is kind of a nonstarter for our committee, if you believe in bipartisanship.

In addition, if the issue of raising taxes just on millionaires is an issue, you need to remember you cannot just tax the wealthy. You confiscate all the income of people over $1 million, and you are going to run the Government for a few days. If you see that as a solution to our budget problems, you don't study the statistics, you don't study the impact taxation can have on the economy.

Also, if it is the millionaires, just think in terms of the top 1 percent, earning about 27 percent of the income, paying 33 percent of all of the income tax coming into the Federal treasury. Once again, how much is enough for the top 1 percent to pay? They make 27 percent of all the income. They pay 33 percent of the taxes. Should they pay 50 percent? Pretty soon it gets to the point where maybe they ought to pay 100 percent of it all. But that is a nonstarter. There is not enough income there to take care of our problems.

What does this high tax philosophy lead us to? It eventually leads us to taxing the common ordinary American to a greater extent than is good for the country, good for economic freedom, and obviously a discouragement to entrepreneurship.

I believe I saw on the chart, the one the Senator from Arkansas had, does taxing higher tax rates or lowering marginal tax rates really help small business? That is probably based on the argument that every small business does not pay the highest marginal tax rate. We are not dealing just with what is the highest marginal tax rate; we are dealing with fairness between self-employed, sole proprietors, and their highest rate of taxation and the highest rate of taxation of corporations. So anybody who is suggesting we ought to raise the marginal tax rate above where it is now at 35 percent is being unfair to sole proprietors, self-employed people, compared to corporations.

We should not have a penalty against small business in America. Regardless of the income of that small business, there should not be a penalty. When you have a 38.6-percent marginal tax rate, that is a 13-percent penalty on small business. It is unfair to sole proprietors. There is no reason individuals paying taxes in America ought to have to pay more than corporations.

I am not arguing raising the corporation tax because we know what that does to our international competitiveness. That hurts our international competitiveness because we have high cost of capital. But I am arguing for fairness between corporations and sole proprietors, self-employed people, people who scrounge to get money to invest. They don't have stockholders. They can't go to the bond market like corporations can. They have to raise their capital. They live relatively moderately and maybe even low income throughout their livelihood to reinvest their earned income, to expand their business, to create jobs. Why do we want to penalize them? That is basically what this business of taxing the wealthy is all about.

There isn't enough wealthy in this country to do everything they want to do on the other side. Eventually it filters down to hurting the middle class.

We have to protect the middle class. What we are doing is talking about lower rates of taxation, protecting working men and women from having their resources confiscated by government.

I urge we defeat the amendment.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Madam President, I have great respect for the Senator from Iowa. He does a terrific job as our chair of the Finance Committee. I would ask him to read the amendment. He gave a great speech on fairness among taxpayers. I am concerned about fairness in this budget between millionaires and veterans. That is the fairness I am looking for.

In this budget, there is a $27 billion tax cut for millionaires alone. What I am asking is the $27 billion we have for veterans for their health care, which is also in this budget, be increased by a mere $2.7 billion. How do I do it? Not by raising taxes. We are not talking about raising taxes. Each millionaire in this budget will get a $140,000 tax cut this year. We are simply suggesting maybe we could reduce that $140,000 to $112,000 so veterans are not going to have to wait in line up to 6 months to get health care today, so veterans who are concerned about whether their VA facility is going to close do not have to be concerned about it, so veterans who are being told today they are going to have to pay $250 to walk in the front door will be told, you don't have to worry about that anymore because now the millionaires only get $112,000 and you are going to be able to walk in the door without having to pay that fee. That is the fairness I am talking about. We don't want to raise taxes, but we certainly want to see some fairness when it comes to veterans.

I have seen countless bumper stickers in South Dakota, across the country that say support our troops. I think we ought to add three words: "and our veterans." If we really are serious about supporting our veterans and our troops, we ought to be willing to say to our veterans: You know the billion dollars you are now being asked to pay for your health care? We are actually going to find a way so you are not going to be asked to pay anymore, that billion dollars can be reduced somewhat.

I actually have had veterans in the last couple weeks ask me about having to pay double for prescription drugs, which is also in this budget. We increased the fee for each prescription drug from $7 to $15, each office visit to $20. We are telling category 7s and 8s they are now going to have to pay $250 to walk in the door. That accumulated amount of money is a billion dollars paid for by veterans after they have fought and defended their country.

Is it fair to simply say: We are going to give the millionaires of this country a $112,000 tax cut so we have an opportunity here to provide some fairness to veterans in a budget as the war in Iraq and the war on terrorism go on?

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Madam President, my colleague and good friend from South Dakota said: This budget increases copays on veterans on drugs from $7.50 to $15. That is not correct. Read the resolution. The resolution has a paragraph that we did not assume either the $250 deductible or the increase in copays for category 7 or 8 veterans. It is not in the budget. I have only said that about three times. Maybe my good friend missed one of my great speeches.

Look what we have done. I venture to say that whatever we do is never enough. Mr. President, I say to Senator BYRD, many times he talked to me about mandatories. Mandatory spending on veterans and discretionary are growing under this budget from $61 billion to $71.4 billion. That is a 14.5-percent increase. Not too many categories in this budget will be growing 14.5 percent.

I want people to know we are doing a lot. We have assumed a $1.4 billion increase in VA health care. So we have a lot already in this assumption that we are already expanding.

I looked at the amendment of my colleague from South Dakota, and where is the increase for outlays for veterans? It is not in this amendment. It assumes maybe there is a trust fund, and if the appropriations bills come in and if they spend a certain amount, then maybe it will be increased and then we will increase the caps. It has a lot of assumptions. The only thing for sure is that it increases taxes.

It is very hypothetical, at the most, to say we think that is only going to be on millionaires for a certain amount.

That is not what the amendment says. The amendment says increase taxes next year by $5.4 billion over the budget resolution.

I also tell my colleagues the taxes that we are assuming for next year will be continued to make sure taxpayers do not have a tax increase are really the marriage penalty relief of $5.4 billion, and the 10-percent tax bracket. That is $4.3 billion for 2005, and the child tax credit is $2.6 billion. That is really what we are assuming.

This idea we are going to rewrite the Tax Code is just not going to happen—I think my colleagues know that—not in this election year, not in this environment.

What we are assuming are some profamily tax credits. It just so happens veterans are also taxpayers. If we do not do some of these things, a lot of veterans are going to have an increase in their taxes, if they have kids, to the tune of maybe $1,200, $1,600, $2,200, depending on how many kids they have. The marriage penalty alone, if they have taxable income of $58,000, a husband and wife, is $900.

The only fact we are sure about in this amendment is we are going to increase taxes and maybe veterans might get some of it if it goes through this process of a reserve fund and then the reserve fund is released and then, depending on appropriations—that is an interesting way to say we are trying to help veterans.

This budget tries to help veterans. It tries to be responsible, to give a significant increase, a $1.4 billion increase for veterans when we have very little increases period in nondefense, nonhomeland.

I urge our colleagues to vote no on the amendment. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. ALEXANDER). Is there a sufficient second?

There appears to be a sufficient second.

All time is yielded back. The question is on agreeing to amendment No. 2710. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Delaware (Mr. CARPER), the Senator from South Dakota (Mr. JOHNSON), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 44, nays 53, as follows:

[Rollcall Vote No. 34 Leg.]

YEAS—44

Akaka
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Inouye
Jeffords
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
McCain
Mikulski
Murray
Nelson (FL)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

NAYS—53

Alexander
Allard
Allen
Baucus
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McConnell
Miller
Murkowski
Nelson (NE)
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NOT VOTING—3

Carper
Johnson
Kerry

The amendment (No. 2710) was rejected.

Mr. NICKLES. Mr. President, I move to reconsider the vote.

Mr. BENNETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NICKLES. Mr. President, for the information of our colleagues, that will be the last rollcall vote tonight. Senator CONRAD and I have indicated we are willing to stay to do additional business tonight, maybe well into the night. That remains to be seen, depending on the amendments that will be offered and/or discussed. If there are rollcalls on the amendments to be offered tonight, we will hold those over for tomorrow at a mutually agreeable time with our leaders.

For the information of our colleagues, I am not sure how late we will work tonight. We will see. I think we are making progress on the resolution and on the amendments. I know Senators LINDSEY GRAHAM and JIM BUNNING have an amendment. I don't believe it is quite ready. I believe Senator MURRAY has an amendment. I also believe Senator BENNETT wants to speak on a report.

We will have additional business probably for some time tonight, for the information of our colleagues. Some of our colleagues have said they would like to speak tonight. That is fine with this Senator. We would like to get as much work done on this resolution as possible so we are not crammed into the last day and a half with a lot of votes.

I do thank our colleagues. We are off to a good start in working through this resolution. I thank our colleagues for their cooperation.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I am happy to yield to the Senator from Kentucky if he wants to lay an amendment down. Does the Senator from Kentucky wish to speak? I have anticipated speaking on behalf of the Joint Economic Committee. The ranking member of the Joint Economic Committee, Senator REED, is also prepared to speak. We are here under the Budget Act to make a presentation to the Senate in the middle of the budget discussion. I don't know if that has ever been done, but we are going to do it. It is for that purpose I sought recognition, but I don't want to hold up the Senator from Kentucky if he has an amendment.

Mr. BUNNING. Will the Senator from Utah yield?

Mr. REID. Mr. President, I object to the Senator yielding to the Senator from Kentucky. It is not appropriate.

The PRESIDING OFFICER. The Senator may yield for a question.

Mr. BENNETT. Mr. President, if the Senator from Kentucky has a question, I will yield for a question.

Mr. BUNNING. Will the Senator yield for a question?

Mr. BENNETT. I am happy to yield for a question.

Mr. BUNNING. The Senator from Kentucky was going to make a general statement on the budget resolution. If the Senator from Utah would like to yield, that is up to him. But I rose to seek recognition to make my general statement on the budget resolution.

Mr. BENNETT. Mr. President, I would be happy to yield to the Senator from Kentucky if he would tell me how long he intends to talk.

Mr. REID. Mr. President, the Senator from Utah has no right to yield to the Senator from Kentucky except for a question.

The PRESIDING OFFICER. Senators may not yield control of the floor to other Senators.

Mr. NICKLES. Mr. President, they can yield for a question.

The PRESIDING OFFICER. Senators may yield for a question.

Mr. BENNETT. Mr. President, under the circumstances, then, having made arrangements with Senator REED for this time, I will proceed and suggest to the Senator from Kentucky he respond when we finish.

The debate has been an interesting one since the beginning of the budget period. There has been a great deal said about the economy and a great deal said about the state of the economy. Much that has been said, in my opinion, has more to do with the fact this is an election year than it does with the situation facing the economy.

In response to the requirement of the act creating the congressional budget process that says the Joint Economic Committee is to make a report to the Senate during the Budget Committee deliberations, I have asked for and received this time for myself and Senator REED to address the Senate.

I do not wish to address the specifics of the budget resolution because I think it is more important we lay down the background of the economy and what is really happening in the economy. I will do my best to keep it out of the realm of politics, keep it out of the realm of the rhetoric of this election, and stay as close as I can to statistics and facts so we can understand exactly what is happening in the economy and where the economy is headed. The basis and sources I have used in this situation have in every case been from outside groups. This is not the Republican Policy Committee or any other partisan group that has come up with these statistics. I will share them with the Senate tonight in the hope it will help the Senate and anyone who is watching understand exactly where the economy is.

We begin, if we can, by reviewing exactly what happened with respect to the recession and the recovery. There has been a lot of rhetoric about this. I have heard on the Senate floor this is the worst recession in 50 years, the worst economy we have ever had.

On this chart, we go back to the year 2000 and through the year 2003. The first quarter of 2004 is not in yet, so this goes back to the beginning of the softening of the economy through the recession and the recovery.

These bars are by quarters. The first quarter of 2000 was a very weak quarter. This is measuring the growth of the economy in terms of the gross domestic product, the GDP. These data come from the government agency that tracks economic performance. These data are always available only after the fact. It is almost impossible to be sure of the data at the time it is happening, but after the fact the Bureau of Economic Analysis goes back and reconstructs what happens and makes whatever changes have to be made in order to make sure the data are correct. This is their current reading of what has happened in the last 4 years.

In 2000, in the first quarter, very weak quarter, only 1 percent growth; second quarter, very high. Some will say that is because of weather. Very often, there is bad weather in the first quarter which causes sales to go down. They are delayed. They show up in the second quarter. But in the third quarter, we spilt into negative territory; that is, instead of expanding, the gross domestic product contracted one-half of 1 percent.

The definition, according to many observers, of a recession is two successive quarters of contraction, and we did not have that. We came up with a relatively weak fourth quarter in 2000.

I will point out in that period of time there were those who were suggesting the economy was in fact weakening. They were attacked as having made partisan political statements trying to talk the economy down for political purposes. We now know in fact they were correct, the economy was in fact weakening. In the first quarter of 2001, once again, the economy contracted rather than expanded. Then in the second quarter, it contracted even more.

The common definition of a recession was therefore met with two successive quarters of contraction, and then you have a third quarter where the economy contracted 1.3 percent. This, of course, was the quarter in which September 11 occurred.

We have the three successive quarters of contraction. There are some who say this quarter, the fourth quarter of 2000, will be revised to show contraction rather than expansion as the data are further reviewed. As of now, these are the data the Bureau of Economic Analysis has given us.

The fourth quarter of 2001 was positive, up 2 percent. Not robust growth, but at least positive. By definition, that is the beginning of the recovery. The first quarter of 2002 was strong and then we went back to anemic growth and kept that pretty much through 2002.

In 2003, the growth starts to pick up and becomes very robust. The entire year showed growth of 4.3 percent which, by historic terms, is higher than the average growth of all of the years of the 1990s. If we can sustain 4.3 percent growth, we can be very happy indeed. We can see the economy is starting to recover, the recovery is getting traction and it is getting hold in 2003.

Let's go back over the same time period and look at some of the spending patterns that came through the same situation. In green, the bars are the same quarters on the previous chart and they show consumer spending. A very unusual thing happened during this period of recession and recovery. Consumer spending remained positive in every single quarter. It got a little weak in the first quarter of 2001, but it remained positive, above the line, in every single quarter. That has never happened before. In recessions consumer spending goes negative, but in this one the consumers had enough confidence they stayed positive all the way through. That is one of the things that kept this recession from being deeper and more long lasting than it might otherwise have been.

The blue bars, however, show a very different story and give us the reasons why this recession occurred. The blue bars are business investment. Business investment in the first and second quarters of 2000 was very strong. A weak third quarter followed, and a very weak fourth quarter, and into negative territory we fell in the first quarter of 2001, staying there for one, two, three, four, five, six, seven, eight, nine successive quarters, with business investment down. It is not until we get to the second quarter of 2003 that business investment becomes positive again and very strong.

This was an investment recession. It was not a consumer recession. It was an investment recession, as businesses felt they were overextended and cut back on their investment. After nine quarters—a long period of time—business investment finally began to be robust again. This again is from the Bureau of Economic Analysis. When this starts to happen, we assume we will start to get jobs because business investment has the biggest impact on jobs, not consumer spending.

From the Department of Labor we have statistics on jobless claims. This shaded period on the chart is the period of the recession—that is, the three quarters when there was negative gross domestic production growth. The jobless claims heading into the recessionary period are going up. They reach their peak during the recessionary period. Then when the recession ends and the recovery takes place, the jobless claims start coming down somewhat, until you get that strong business investment that we saw on the previous chart. Then the jobless claims start coming down much more dramatically, indicating the jobs are on their way back.

We have heard a lot about manufacturing. The Institute for Supply Management provides a composite index on manufacturing activity. In 1999, manufacturing was up. And manufacturing follows the same pattern. It starts down in the second half of 2000 and comes down during the recession and stays down for longer than the recession itself. It is down in negative territory below this line, through all of 2001, gets up a little bit in 2002 but comes back down and again down, finally.

When business investment starts up in 2003, the manufacturing activity comes up strongly. So it goes down, stays down, but when the business investment comes back, the manufacturing activity comes back very strongly.

What about jobs, then? Where are the jobs? If this activity is coming back, why aren't we seeing the jobs? If there is investment activity, why aren't we seeing the jobs? What we are seeing is something we have not seen before, and that is the surveys done by the Bureau of Labor Statistics as to jobs—and there are two of them, one known as the establishment survey or payroll survey and one known as the household survey—have diverged in ways they have never diverged before in history.

Before, they pretty well track each other. The difference is the payroll survey or establishment survey gets its sample entirely from firms and other employers, whereas the household survey does its sample by checking households to see who has jobs and who does not. The household survey picks up agricultural jobs. The household survey picks up self-employed and, to the degree they impact the statistics, the household survey would pick up illegal aliens who for one reason or another do not show up on the payroll survey.

Everyone says the payroll survey is the more reliable. I will stipulate that everyone says that, but I ask this same "everyone," if that is the case, how can you explain the sudden discrepancy between the two, a discrepancy that has come in this recession and this recovery? The discrepancy is not minor. If you take the entire period we are talking about, the payroll survey shows a loss of 2.3 million jobs while the household survey shows a gain of 614,000. That is a discrepancy of three million jobs.

I don't have the answer as to what is causing that discrepancy. We have tried to do studies in the JEC staff to get the answer. I have asked the Commissioner of the Bureau of Labor Statistics if she will do some studies to find the answer. I have discussed this with Chairman Greenspan, and he says the Federal Reserve people are concerned about this and are trying to find the answer.

If we take the period since November of 2001—this is the recovery period, as opposed to the entire period that included the recession—in this recovery period, even while we are in recovery, the payroll survey says we have lost 718,000 jobs; the household survey says during the recovery we have added 1.895 million jobs. That is a very wide margin.

If we look at just the past six months, the period of the strongest recovery, the period when we are getting the strongest activity, the payroll survey says yes, we have finally started to add jobs. In the last 6 months, the payroll survey says 364,000 new jobs, while the household survey says 981,000. I am not saying the household survey is right and the payroll survey is wrong, I want to make clear. I am saying something is happening in the economy that has not happened before for which we do not have an accurate gauge. What is important is that our statistics be accurate so when we throw them around in a political debate, we know we are telling the truth.

It is very clear to me the payroll survey needs to be adjusted upward. How far upward, I do not know. It is probable the household survey needs to be adjusted downward. How far downward, I do not know.

Commissioner Utgoff, the head of the Bureau of Labor Statistics, has said the real number is probably somewhere in between the number shown by both surveys. But she does not know. This is one of the things we are pursuing in the Joint Economic Committee, to do what we can to get accurate data so we can make accurate analysis of what is happening in the economy.

All right. Let's look at the unemployment rate. The unemployment rate is figured on the basis of the household survey.

As shown on this chart, the shaded areas show the recession. In this case I have gone beyond the time period of the first chart. In this case we go back to the recession that occurred during the time Ronald Reagan was President, and you will see two shaded areas because Ronald Reagan suffered the double dip; that is, we went into a recession, had two quarters of negative growth or of contraction of the economy, came out, and went back in for an even longer period of time.

This is the worst recession in memory. Unemployment hit a high of 10.8 percent at that time. When it spiked up and came back down, there were a lot of people, with unemployment at that level, who said: Well, we are in good shape now. The jobs are coming back. Notice that level was about 7 percent unemployment, but it came down further as the prosperity of the late Reagan years took hold, and it was down until the next recession hit. As is always the case—it was the case, as shown on this chart here and here—it happened here. As soon as the recession hit, the unemployment went up and spiked up even during the recovery. This is the period of time when we talked about the jobless recovery. I had just come to the Senate, and I remember everybody saying: Well, if we are in recovery, where are the jobs? Unemployment spiked several quarters after the recession was over at 7.8 percent—not nearly as bad as the 10.8 percent of the previous peak, but still pretty bad.

All right. Then it started coming down slowly. We did not get down to the prerecession level for 4 years. It took 4 years for the economy to generate enough jobs to bring us down to the prerecession level of unemployment, which was just under 6 percent.

Incidentally, that is the level where we are right now, because in this recession we saw exactly the same reaction. The unemployment rate came up dramatically during the recession, just as it did here several quarters after the recovery started. The unemployment rate was still going up. It peaked a little later than this one did, but a lot lower than this one did. The unemployment rate peaked at 6.3 percent and then started coming down, and it is now down to a level which in previous recessions would be considered very good.

In the debate on the floor about the extension of unemployment insurance, we noted that extended benefits were allowed to run out at a level of unemployment that was well below the corresponding level at which such benefits expired during the Clinton administration.

I share all of this information to make this point: This recession is different. It is not different because it happened on George W. Bush's watch or because it happened in a Republican-controlled Congress. As Paul Samuelson has pointed out, if Presidents knew how to create jobs, every President would have a 3.5 percent unemployment number going into his reelection. If Congress could control jobs, every Congress would see to it in every October, as we were running for reelection, the unemployment rate would be at 3.2 percent. But unemployment is a reflection of what is happening in the economy. What this information shows us is what is happening in technology with this recession and this recovery is different from that which has happened in previous recessions.

Let me give you my personal view of what is happening here. I believe the recession we have just gone through and the recovery we are now in represent the first recession and recovery of the information age, as opposed to the previous recessions and recoveries, which were the last recessions and recoveries of the industrial age.

When I took economics, I was told recessions basically were a series of inventory buildups, and recoveries were inventory selloffs.

For example, you got excited about how well things were going in the automobile industry, and you built more cars. Suddenly, the vice president of marketing looks out on the back lot and says: Good heavens, there are 40 acres covered with Chryslers we haven't been able to sell. Send everybody home. Lay them all off until we sell off all the back acres full of cars. And after some time, suddenly he looks out the back window and says: There aren't any cars. Quick, get everybody on the phone and tell them to come back to work so we can build up again. That is the classic, vastly oversimplified definition of an industrial age recession and recovery.

It is clear from the data I have displayed here that this recession was different. This recession was an investment recession. This recession came at a time when productivity, by virtue of the information age and the application of high technology, was higher than it has ever been. This was a recession where productivity stayed positive and in high territory all the way through the recession, and productivity has stayed high during the recovery.

In the hearing we held last Friday, I asked Commissioner Utgoff: What was productivity growth in 2003? She said: 4.4 percent. I asked: What was GDP growth in 2003? She said: 4.3 percent. In other words, productivity grew faster than GDP, even though GDP grew at a rate higher than the average of the 1990s. When productivity goes up faster than economic growth, you lose jobs.

I asked: How many jobs did we lose in 2003, again according to the payroll survey, which is the survey she uses for this kind of calculation. She said: We lost 60,000 jobs in 2003. I asked: Is that about the right number with productivity at 4.4 percent and GDP at 4.3 percent? She said: Yes, that is about the right number. If productivity is growing more than GDP, at that number you would lose about 60,000 jobs statistically.

That is the challenge we have as we look forward. We do not want to do anything in the economy to bring down productivity, because productivity is what gives us a higher standard of living, productivity is what gives us lower prices, productivity is what gives us economic dominance in the rest of the world. Our rate of productivity is higher than any other nation's, and we clearly want to keep it that way.

The challenge is to get GDP growing faster than productivity. That is where the jobs will come from, and that is why we are having a different kind of recovery this time, because it is a different kind of recession, because it is the first recession of the information age when we are finally reaping the rewards of all the investment we have made in technology in the decades leading up to this. It is finally paying off in this very significant productivity.

That is what I believe is happening. As we do our analysis around here, I think, therefore, it is not helpful to be using industrial age assumptions dealing with the first information age recession and recovery.

A few other items, and then I am through.

We have heard a lot on this floor about the size of the deficit and how terribly big it is. In terms of nominal dollars, I will concede—absolutely, I will stipulate—it is the largest deficit in history.

Now let's look at it the way you have to look at it if you are going to understand it intelligently, which is, how big is it with respect to the size of the economy?

Going back over the same period where we have talked about previous recessions, only this time I have gone back and picked up some others, this chart goes back to the recession of 1970—again, the recession period is shaded—the recession of 1975, the double dip of the early Reagan years, the recession in the early 1990s, and now the recession we have just gone through. In every case, when you go into the recession, the deficit comes up.

In this case the deficit is not measured in absolute dollars. It is measured as a percentage of the economy. In 1970, it goes up. When you get into the recovery, it comes back down. In the next recession, the deficit goes up dramatically because this recession lasted longer and becomes a double dip. The deficit goes up tremendously because this was the most serious recession we had. Then in the recovery it comes back down. It goes up. The recovery hits us and it starts coming down. Indeed, we even get into a surplus period. And we were in a surplus but the recession hit us, and once again the same historic pattern occurred as the deficit came back up and is now coming back down.

The blue lines are history. You can see that the highest point of the deficit as a percentage of GDP was during the double dip that occurred in the early Reagan years. Then there was a pretty high point in the recession of the early 1990s, pretty close to the high point of the recession in the mid-1970s. The current point is about equivalent to the size of the deficit in the 1970s, below the deficits of the last two recessions.

The red line and the green line on the chart are the projections of where the deficit is going in the years ahead. The red line is the President's projection. The green line is CBO's projection.

I can't tell you which one of the two is right. I can tell you that both of them are wrong. Because when you try to make projections that far ahead with an $11 trillion economy, you are always going to be wrong. But I can tell you that the trend will be down.

I remember the projections when the deficit was here. This was when I came to the Senate when President Clinton went to the White House. We hoped and prayed—and we signed the balanced budget agreement in the mid-1990s—that it was going to get the deficit down to zero by 2002. We went into surplus in 2 years. We missed it. Everybody missed it. CBO missed it. OMB missed it. Everybody missed it. The economy was so strong that the deficit turned into a surplus.

Then we had the projections of surplus, and we missed it again. I hear the rhetoric on the floor: We were promised this surplus. Well, the only thing I can promise is that these lines are wrong. Even though they are CBO's best guess, they are OMB's best guess, they are wrong. Because the economy responds in different ways than the computers anticipate around here.

Let's go directly to the question of the debt. This is the real issue, because deficits in one year or one business cycle don't matter all that much. It is the accumulation of the deficits, cycle over cycle, that adds up to the national debt that matters. If you have too many of them back to back, you have real problems. If you have one that is not a problem by itself, you can deal with it.

Here is the publicly held debt as a percentage of GDP. That is the measure Chairman Greenspan urges us to use and so that is the measure we have used. People are always a little surprised to find that the highest level of publicly held debt in our history was 1945. We paid for the Second World War with debt. It was over 100 percent of the economy. It started coming down.

Here we have the Korean war, and the debt kept coming down. It bottomed out in the mid-1970s and started to rise again. That is the period of time when we began to get some entitlement programs built into the system, the later years of Richard Nixon and Jimmy Carter. Then it starts going up again, and it goes up again and up again and up again.

As we saw from the statistics in the previous chart, the deficit then fell, even becoming a surplus, and the debt comes down dramatically. Then we hit the latest recession. The debt starts up again. Once again, the blue line is historic debt to GDP. The red line is the President's projection and the green line is CBO's projection.

Once again, the only thing I know about those projections is they are wrong. It will be something different. It always is.

We can see the debt at the present time is in relatively comfortable territory. I know Senator CONRAD will then start talking about, yes, but what happens out here. I agree with him, what happens out here is going to be horrendous if we don't start to fix things. But I don't think that this particular year, in a time of war, in a time of recovery, when the economy is just getting traction, that the size of the deficit—which we don't know what it will be at the end of the year; last year we missed it by $80 billion—is going to determine what is going to happen out here. I think what is going to happen out here in terms of the Social Security and Medicare problem has to do with the way we restructure Social Security and Medicare around the demographic realities rather than what we do in this particular year. I am perfectly willing to vote for this budget as it comes out in this situation.

There are other charts that I shall not burden you with. I will end with this one. We, once again, get to this question of projections. We have a projection of a surplus. No, we have a projection of a huge deficit. We always go back after the fact and the actual figures never match the projections. They are always high or low. Again, last year the fiscal year that came in $81 billion lower than the high projections we got in the middle of the year. You say: Gee, $81 billion is a huge miss.

Not necessarily. Out of an $11 trillion economy, $80 billion is within the margin of error, a phrase that all of us understand.

Here, then, is the analysis of what happened to the surplus. Yes, the blue shows that the surplus went for tax cuts. The 2001 tax cut took 18 percent of the projected surplus. The economic stimulus package that we passed in 2002 took another 1 percent. The tax cuts of 2003 took another 5 percent of the surplus. Thirty-eight percent of the surplus went for increased spending: the war on terror, rebuilding New York, handling the aftermath of 9/11, homeland security, and lack of discipline on the Senate floor for a whole series of issues.

I am a member of the Appropriations Committee. I know what happens in the conferences. I know what happens when people come in and start saying: We have to have this much more and that much more, and you have to hold the line. And the line doesn't get held and the combination is more red, if you will, than blue.

But the biggest part of the chart, the reason we missed the projection, 40 percent was the weak economy. We just missed calculating what the economy would produce because we missed the recession. We didn't see the recession coming and we didn't see how weak the recovery would be.

There are those who insist—and I happen to agree with them—that if we had not passed the tax cut, the economy would have been weaker than it was.

Just about every economist I talk to on Wall Street says: If you had not passed the tax cut, you would not have had the recovery that you have had in the financial markets.

That is not trivial because in the financial markets we have seen the recovery, if you will, in the form of between $3 trillion and $4 trillion worth of wealth. That may very well have funded the increased business investment I showed on an earlier chart. You cannot say this is a sum zero game and if the tax cuts had not occurred, then you would have had that much of the surplus left, because if the tax cut had not occurred, there would have been more weakness in the economy. I don't think it is one-to-one. I think clearly the tax cuts took more out of the economy than came back. But, over time, it may well have been one-to-one. The tax cuts happened at the right time and in the right places to produce a stronger economy and give us the recovery we need.

So, Mr. President, I conclude with this observation once again: I believe that the recession we have just gone through is the first recession of the information age; therefore, this is the first recovery of the information age. It has not behaved like any previous recession, and it has not behaved like any previous recovery. We need to understand it far more than we do—we may have to go through 2 or 3 more before we truly understand it—in order to make the right prescriptions as to what we should do. But we are in recovery. The recovery is now strong.

GDP is now growing almost as fast as productivity, and if GDP can grow faster than productivity, then jobs will come. We don't want to do anything to destroy productivity in the effort to create jobs because it is the growth of productivity that is responsible for our standard of living and for our hope for the future.

Overall, for the next 10 years, the prospects for the U.S. economy are very strong and bright. Hanging out there in the future, there is the baby boom retirement problem and the challenge that we have to deal with that in a structural fashion.

I hope this has been useful to the chair and other Members of the Senate. I appreciate the indulgence and allowing me to go through this in detail.

I yield the floor.

The PRESIDING OFFICER (Mr. TALENT). The Senator from Rhode Island is recognized.

Mr. REED. Mr. President, I yield myself 20 minutes from the time allocated.

The PRESIDING OFFICER. The Chair recognizes the Senator from Rhode Island for 20 minutes.

Mr. REED. Mr. President, first, I thank the chairman of the Joint Economic Committee, Senator BENNETT, for arranging this discussion on the economic aspects of the budget before us. Also, I thank him for his gracious and very thoughtful chairmanship of the committee.

In 1992, it was popular to say, "It is the economy, stupid." I think circa 2004 the saying is, "It is jobs, stupid." I think the economy can be measured in many different ways. It can be measured by GDP, which seems to be moving along at a healthy pace. It can be measured in terms of productivity.

But for most families, the true measure is a very simple one: Do I have a good job? Will I keep this job for the next several years, hopefully until I retire? Will my children, who I have attempted to educate and give advantages to, be able to realize even better job opportunities and be able to hold those jobs in the future? Frankly, for families across this country, those questions are very uncertain at this moment as a result of the record of the last several years in terms of job creation, the record of the administration in terms of its economic stewardship of the most critical factor, and that is jobs for Americans.

There is much discussion about these numbers. For example, this morning, the distinguished Senator from Kentucky, Mr. McCONNELL, pointed out that in 1996 the unemployment rate was the same as it is now, 5.6 percent. He then stated that Democrats at that time argued that achieving that rate of unemployment was good news, but today we seem to be unsatisfied with the 5.6 percent unemployment rate.

First, the Senator from Kentucky is right about that fact. In January 1996, 3 full years into President Clinton's term, the unemployment rate was 5.6 percent. Now, 3 full years into President Bush's term, the unemployment rate is 5.6 percent. But that is where the similarities end.

When President Clinton took office in January 1993, he really did inherit a weak economy. The unemployment rate was 7.3 percent. Three years later, it was 5.6 percent, a drop of 1.7 percentage points. Of course, Democrats regarded that 5.6 percent unemployment rate as a significant improvement, and based on the experience of the Reagan-Bush years when the unemployment rate was always above 5 percent, it was about as good as it seemed to get.

What has been the experience under this President Bush? He inherited an economy that was definitely slowing down from the very strong growth achieved in the late 1990s. But the unemployment rate was 4.2 percent when he took office in January, 2001. The unemployment rate had been below 5 percent for 3½ years prior to his inauguration. So 3 years later, when the unemployment rate was 1.4 percentage points higher than when he took office, a 5.6 unemployment rate doesn't look very good at all. That is because it is a sign of continued weakness in the economy.

The unemployment rate has been above 5.5 percent for over 2 years. Put simply, under President Bush, unemployment went up. Under President Clinton, it went down. Families throughout this country recognize the difference.

Let's look not just at unemployment rates, but at job creation. When the unemployment rate stood at 5.6 percent in 1996, the economy had already created nearly 7 million new jobs under President Clinton. As we all know, the unemployment rate may be the same for President Bush at a comparable point in his Presidency; but instead of presiding over the creation of 7 million jobs, he has presided over the loss of 2.2 million jobs—one of the most significant records of job loss of any President of the United States in our history.

My colleagues on the other side sometimes think it is unfair to compare President Bush's job record with President Hoover's. We are not saying that the economy today is the same as it was in 1930. We are saying what the facts show. This is the most persistent jobless recovery since the 1930s. The unemployment rate is lower now, but we are not creating jobs.

One of the worst aspects of the job slump we are experiencing is a large faction of the unemployed have been unemployed more than 26 weeks and are no longer eligible for regular State unemployment insurance benefits. This morning, Senator McCONNELL argued that the President and our Republican colleagues were justified in not reviewing the Federal temporary extended unemployment compensation program because the unemployment rate was so low. But here again, the numbers tell a different story.

When President Clinton discontinued the temporary Federal extended benefits in 1994, the unemployment rate was 6.4 percent, as Senators McCONNELL and BENNETT said. But the economy was creating jobs at a rapid pace at that time. The situation is starkly different now. The official unemployment rate may be 5.6 percent, but when you include people who want to work but have dropped out of the labor force and people who are working part-time because of the weak economy, you are talking about an unemployment rate that is 9.6 percent, and that is a function of one I think important point that must be made again and again: The way we measure unemployment in the United States is based upon the number of people who are in the workforce who are actively seeking work, either have work or are actively seeking it.

What the number really disguises is the number of people—hundreds of thousands of people—who have given up or are working part time. Let me say this again. If we were looking at all the people who historically, in the last several years, have been in the workforce, and we looked at the number of jobs, the rate of unemployment would be closer to 9.6 percent.

That is the difference between creating jobs in the mid-1990s when the waiting period for a job was much shorter and today when very talented, highly trained individuals are having a very difficult time to find any employment whatsoever.

With respect to the budget resolution at hand, the President's economic policies have failed, and the budget being proposed by the majority will lock us into that failed policy.

What the economy has needed for the past few years is short-term job-creating policies and long-term growth-creating policies. What we have instead are tax cuts that go disproportionately to upper income taxpayers and create a legacy of large budget deficits and mounting debt.

Those tax cuts have provided very little job-creating stimulus relative to their huge costs, and they will depress growth in the long run.

All of the economic analysis I have seen says that when the economy is in a slump with excess unemployment—which is the situation we have been in for several years now—the immediate policy objective is to stimulate job creation. Giving tax cuts to high-income taxpayers who are more likely to save those tax cuts than to spend them is exactly the wrong approach.

If this is an investment recession, then our policies have not been particularly geared to stimulating directed investment. These large income tax cuts to wealthy Americans have not translated into jobs.

If we really were interested in creating jobs, we could have targeted much more of these tax cuts to lower income Americans who would consume and thus drive up demand. We could give specific incentives to industry to provide investments in new plant and equipment. This approach, which would make much more sense if you are trying to deal with a lack of demand and an investment slump, could have been done, but it was not.

Last year, when we debated a similar stimulus package, the President's Council of Economic Advisers estimated that nearly 2 million jobs would be created in the second half of last year, with about half a million of those jobs coming as a direct result of the tax cuts.

Again, these are the projections of the Council of Economic Advisers: 2 million extra jobs and a half million jobs directly related to the tax cut.

In fact, however, in that period, only 124,000 jobs were created. We got the tax cuts—actually most of the tax cuts went to the wealthiest Americans—but we did not get the jobs.

I do not know when we will see a truly sustainable job-creating recovery, but I know it will not erase the legacy of large structural budget deficits that the policies of the past 3 years have produced.

Economic analysis tells us that persistent structural deficits are bad for the economy. They drain national savings and slow down or crowd out private investment. That means our standard of living grows more slowly and becomes more costly.

Analysis by the Congressional Budget Office and the Joint Committee on Taxation has found that tax cuts that add to the budget deficit are, on net, harmful to long-term growth.

Some have tried to distract our attention from the deteriorating long-term budget outlook by talking about cutting the deficit in half in 5 years. Such an approach completely ignores the real story, which is what happens to the budget when the baby boom generation starts to retire in just a few years.

In my opinion, the charts Senator BENNETT showed historically looking back at the highs and lows of deficits miss a very important point. In the mid-sixties, in the mid-seventies, and even in the mid-eighties, we were not on the cusp of a huge number of Americans being entitled to Social Security benefits and Medicare benefits in the foreseeable future. I think failing to recognize the onset of the baby boom generation into these programs and reserving funds to deal with it is a tremendous mistake.

I read, as many did, a book about Secretary of the Treasury Paul O'Neill's tenure in the Bush administration, and I was struck by the fact that he and Chairman Greenspan apparently saw this onslaught of the baby boom generation with respect to Social Security, and they were working very diligently to reserve $1 trillion from our surplus to do the structural reforms about which so many talk. But what happened on the way to structural reforms? That trillion-dollar surplus turned into a trillion-dollar deficit, and our opportunity to deal honestly and in a timely fashion with Social Security, and also Medicare, evaporated along with the evaporating surplus.

The budget before us represents a continuation of the failed policies of the past 3 years. It has no effective programs to provide short-term job-creating stimulus and does nothing to address the problems faced by large numbers of American workers who see their jobs disappearing.

By making the tax cuts permanent, it locks us into a legacy of deficits that could leave us unprepared to deal with the demographic challenge of the baby boomers' retirement.

Those deficits will depress future standards of living by draining national savings, discouraging investment, and adding to our foreign indebtedness.

This is a situation that argues for different policies. I agree, I think, with the Senator from Utah that we are in a different type of economic climate. The information technology has transformed radically what we do in our economy, but the policies and programs espoused by the President and embraced by this budget do not recognize, in my view, this new reality, and certainly I do not think we can content ourselves with the view that in the long run everything will be fine because, as Maynard Keynes pointed out, in the long run we are all dead.

Our constituents expect us to act in the short run prudently and realistically to help them, and I hoped we could be here debating a budget that would invest in our people, would reassure the American people that we are working to help stimulate the creation of private jobs in this economy.

Finally, I point out what was most alarming to me in the last report from the Bureau of Labor Statistics last Friday is that not only was there negligible job growth—21,000 jobs—virtually none of these were in the private sector. They were public sector jobs.

We can do more, and we should do more, to ensure that every family in this country feels confident in their job and in the ability of their children to obtain meaningful work in this country. That should be the first priority of any government. This budget does not represent that type of priority.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island yields the floor. Who seeks recognition?

The Senator from North Dakota.

Mr. CONRAD. Mr. President, maybe I can engage in a colloquy with the chairman for a moment. I am going to speak in response to Senator BENNETT for probably 20 or 25 minutes, and I do not want to unduly take the time of the chairman. Perhaps he wants to stay and listen to this. He has heard much of this before. I want to tell him what my intention is.

If there are arrangements we can make for tomorrow at this point, that would be useful. We have just been talking about that point. Maybe we can talk some more later. I wanted to tell the chairman that I sought recognition for the purpose of speaking for some amount of time giving an alternative view of what we heard from Senator BENNETT. I do not know how the chairman wants to proceed. I do not want him to just have to sit here and listen to what he has heard several times before.

Mr. NICKLES. Mr. President, I appreciate the comments of my very good friend, Senator CONRAD. I will suggest the absence of a quorum and see if he and I can work out an arrangement for finishing tonight.

The PRESIDING OFFICER. Does the Senator from North Dakota, who has the floor, suggest the absence of a quorum?

Mr. CONRAD. I will be happy to suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I want to make a couple of comments. I heard my very good friend, Senator REED from Rhode Island, call President Bush's economic policies failed. I take issue with that.

Last year we passed an economic stimulus package and it happened to work. The proof is in the pudding. We have the results. The last three quarters have been phenomenal growth. The third quarter of last year grew at over 8 percent. That is record growth for the last 20 some years, which is phenomenal growth. A quarter after that, it was 4.4 percent. So if we look at the GDP, we can see real significant growth as a result of the growth package we passed last year.

Look at the stock market. The stock market was a precursor for the decline in the economy that happened in the year 2000–2001. NASDAQ, as I mentioned a few times, declined by almost 50 percent in the year 2000, kind of sending a signal there was a recession coming. Subsequently, we saw two or three quarters of negative growth in 2000–2001.

We made these changes last year in economic policy by accelerating the rate cuts by saying we should not tax individuals more than corporations. I thank my colleagues for their vote on that last amendment saying we really should not tax individuals, doctors, lawyers, entrepreneurs, or self-employed individuals at a rate higher than Exxon. That was one of the things that was voted on just a minute ago, and I thank my colleagues.

I think reducing the tax on dividends has helped the economy. The stock market has now shown significant growth. Dow Jones a little over a year ago was at 7,700. Now it is at 10,500. NASDAQ went up by 50 percent last year. The stock market has sent some good signals and we have seen good economic growth for the last few quarters.

When my good friend, and he is my good friend, my marine buddy, Senator REED from Rhode Island, said President Bush's economic policies are a failure, I beg to disagree. I think we have evidence the changes we made last year have caused very significant, positive economic growth, and I mention that with great respect, but I wanted to give a different viewpoint.

Momentarily, we are going to be locking in an order for tomorrow. We made good progress on the budget today. We worked a lot of the day. Senator CONRAD and I both have been on the floor since 9:30 this morning, and we are really starting to work our way through the budget. I thank all of our colleagues, Democrat and Republican, for their cooperation in doing so.

Tomorrow I believe Senator ENSIGN from Nevada wishes to make a speech, and shortly after that I believe Senator MURRAY will be recognized to offer an education amendment. After that, I believe Senator LINDSEY GRAHAM and Senator BUNNING have an amendment, and we will consider that. There will be a mutually agreeable time to vote on those amendments. We do not expect the debate on those amendments to be too prolonged. That is not in our interest. Our interest is trying to complete this budget and to conduct business in an appropriate, orderly manner so we can avoid the vote-aramas that have happened in the past.

I want to let our colleagues know there will not be any more votes tonight. We will be on the floor for a little while longer. We do have in the queue a couple of the amendments ready. It will be Senator MURRAY's amendment and Senator LINDSEY GRAHAM's amendment tomorrow morning.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Is it the chairman's intention we not ask for a unanimous consent in terms of that basic structure or could we at least have a unanimous consent agreement to the extent Senator ENSIGN would be recognized for up to 30 minutes and then we would turn to Senator MURRAY's amendment, and after the disposition of that amendment we would go to the amendment of Senator GRAHAM of South Carolina?

Mr. NICKLES. I am happy to enter into such an agreement. That would be fine. I can state the agreement. I think the staffs are working on it. Why do we not let staff complete it because we will also yield back some time and complete that. I am happy to agree to such a request.

Mr. CONRAD. I thank the Chair. I think it will help our colleagues understand there is a basic order and structure tomorrow so they can make their plans accordingly in terms of seeking recognition if they understand Senator ENSIGN will first be recognized for a period and then we will turn to the Murray amendment on education and then to the Graham amendment.

Senator WYDEN is here. I yield to Senator WYDEN 5 minutes off the resolution.

The PRESIDING OFFICER. The Senator from Oregon is recognized for up to 5 minutes.

Mr. WYDEN. Mr. President, I thank Senator CONRAD of North Dakota, and also thank Senator NICKLES, whose staff has been working with me.

Many Senators know last year we put a tremendous amount of effort in trying to get a bipartisan bill passed to get our forests healthy again. We have seen much of our country just devastated by staggering forest fires.

A key part of that legislation was to authorize $760 million in hazardous fuels reduction programs. The amendment I have filed—and I will be asking the Senate to vote on it tomorrow—has generated interest among many colleagues of both political parties. It would add $343 million to last year's $417 million for hazardous fuels reductions to reach the $760 million authorization in title I Healthy Forests legislation.

It seems to me what we have seen over the years is essentially a shell game, where various Forest Service programs are robbed in order to fund the hazardous fuels reduction programs and we end up without adequate resources across the board in the forestry area. I am hopeful we will be able to agree with our Republican colleagues on this effort.

Suffice it to say, it was a Herculean task to get Healthy Forest legislation passed last session. I think many thought it was impossible. It seems to me the Senate owes it to the people who are waiting to see improvements in their communities to fully fund this important legislation.

I am going to work with colleagues on both sides of the aisle on this particular piece of legislation. This amendment will ensure we really get some health back into this idea of healthy forests. We are not going to be able to do it if we consistently underfund these programs.

In the past, it seems to me, we played sort of a "rob one fund in order to fund another fund" kind of program. That is not going to do the job responsibly for the long term. We are talking about millions and millions of acres that we are going to have to thin in the days ahead.

After the Senate passes historic legislation, legislation that is going to be good for the environment, good for the economy, promote old growth, involve local communities, protect the rights of citizens—for example, being involved in forestry policy—what we have to do is fund this properly.

There will be interest among colleagues on both sides of the aisle on the legislation. I thank Chairman NICKLES for being willing to work with me on it, and Senator CONRAD as well. On the other side of the aisle, Senators DOMENICI and BURNS are intensely interested in this matter. On our side of the aisle, Senators DASCHLE, FEINSTEIN, BINGAMAN—all of us have cooperated with the ranking member, Senator CONRAD, and the chairman, Senator NICKLES.

My amendment has been filed, and I am hopeful we will be able to pass it without controversy tomorrow.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Oklahoma.

Mr. NICKLES. I thank my colleague from Oregon, Senator WYDEN, for his gracious comments. It is a pleasure working with him on a multitude of issues, this being one, forest fires.

Mr. WYDEN. I thank the Chairman.

MORNING BUSINESS

Mr. NICKLES. I ask unanimous consent the Senate now proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

100 HOURS AS PRESIDING OFFICER

Mr. FRIST. Mr. President, on Thursday, March 4, 2004, Senator SAXBY CHAMBLISS reached his 100th hour of presiding over the U.S. Senate. As a presiding officer, his dedication and dependability are to be commended. It is with sincere appreciation that I announce Senator CHAMBLISS as the most recent recipient of the Golden Gavel Award for the 108th Congress.

HONORING ROSIE WHITE

Mr. CRAPO. Mr. President, I rise today to honor a valued staff member who has recently retired. Rosie White joined my staff in June 1994, shortly after I began my service in the U.S. House of Representatives. She has been vital to the operating of my State offices, by providing stability and organization. She has served as my State scheduler for more than 4 years—ever since I was elected to the Senate, and she has done an outstanding job. She has managed to balance the needs and demands from constituents in the State, other staff members, and my family during that time, and she has my utmost admiration for handling it all so well.

Rosie has been active in local Republican politics for many years, and she was extremely involved in local charities, most particularly the Booth Home in Boise and the Salvation Army. Her contributions to Idaho have been many and varied as well as appreciated. She brought vitality and enthusiasm to nearly ever project she tackled, and it was always fun to hear about her experiences. I enjoyed working with her and know that many others join me to extend their best wishes to her as she retires to spend more time with her husband, Cal. She was an asset to my office and I am pleased to call her my friend.

PEACE CORPS

Mr. FEINGOLD. Mr. President, I am pleased to commemorate the 43rd anniversary of the Peace Corps. Peace Corps volunteers have made a tremendous difference in the lives of so many around the world. I salute these volunteers of all backgrounds and ages who have reached out to people in need beyond our borders and who have presented an image of our country that is compassionate, energetic and approachable. I am especially proud of the 255 people from Wisconsin who are presently volunteering for the Peace Corps in South Africa, Ghana, Nicaragua, Philippines, Turkmenistan, Mongolia and many other countries. Wisconsin is one of the biggest contributors of Peace Corps volunteers in our country, ranked 15 among the 50 States. For the 10th year in a row, University of Wisconsin-Madison has the highest number of alumni serving as Peace Corps volunteers. The selfless service of Wisconsinites must be commended.

In 1960, President Kennedy challenged Americans to serve their country by living and working in developing countries. Americans have been answering this call ever since by joining the Peace Corps. Decades later, I have been struck by the lasting impact that this organization, and the young people who have fueled it, have had around the world.

In 2002 I traveled to visit the sites of the 1998 embassy bombings. Tanzania, a country where about half of the population is Muslim, is no stranger to suspicion and mistrust of the West. Yet as I found myself meeting with a group of Tanzanian legislators, asking for their views about how to strengthen our partnership in combating terrorism and to improve the relationship between our countries, I was overwhelmed by their enthusiasm for the Peace Corps.

These distinguished legislators told me about how their first English language teachers were Peace Corps volunteers, and how those teachers seemed to be opening the whole world to them just by their very presence in the classroom. These legislators said that the best way to strengthen our relations with their country was to foster meaningful people-to-people links by increasing our Peace Corps presence there.

In today's world where our challenges are global in nature, there is an urgent need for Americans to participate in programs like the Peace Corps. Peace Corps volunteers reach across the political and cultural divide, connecting with people as individuals. They treat others with respect by learning about their cultures and their lives, and they put a human face on America, which would otherwise be simply a distant powerful land. They help dissolve resentment against our country that might flourish in their absence.

I congratulate Peace Corps and its volunteers for 43 years of effective service in a mission of world peace and friendship.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

One terrible crime occurred in October 2003 in Providence, RI. There, a woman was grabbed off a street by two men who yelled homophobic slurs and then egged each other on while raping her at knifepoint. The woman was walking to a club around 11:30 p.m. when a large tan vehicle pulled up nearby. The driver asked her for directions, and as she spoke with him, another man grabbed her from behind and forced her into the back seat of the vehicle. The men accused her of being a lesbian and called her names. They then pulled into a lot and took turns raping her at knifepoint. After, they pushed her out of the car and sped off.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement

Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

NOMINATION OF MARK McCLELLAN AS ADMINISTRATOR, CENTERS FOR MEDICARE AND MEDICAID SERVICES

Mr. VOINOVICH. Mr. President, 3 weeks ago President Bush nominated Mark McClellan to be Administrator of the Centers for Medicare and Medicaid Services, CMS. I rise today to express my deep concern over the news that some of my colleagues have threatened to delay his confirmation.

This is happening at a time when CMS has more on its plate than it has had in 39 years—since the creation of the Medicare and Medicaid programs in 1965. Last November, I proudly joined my colleagues in support of a bill to finally provide over 40 million seniors a voluntary prescription drug benefit through Medicare. After years of having to carry the burden of high prescription drug costs without any assistance from Medicare, the bill we passed will provide 1.6 million seniors in my State with access to affordable prescription drugs. This is long overdue.

At CMS, steps are already being taken to implement the provisions in this bill. In fact, 2 months from now, in May 2004, seniors across the Nation will have the opportunity to enroll in a Medicare-endorsed drug discount card that is expected to yield an average 10 to 25 percent savings on all prescription drug purchases. On top of these discounts, the Federal Government will annually purchase the first $600 in prescription drug costs for those seniors below 135 percent of the poverty level.

Five weeks ago, on February 5th, CMS announced that over 100 separate entities had submitted applications to offer Medicare-approved cards to beneficiaries, a response they called a "robust level of interest" from potential card sponsors. While this is encouraging, this level of interest places greater demand on CMS staff as they continue to review applications and move forward in announcing their card endorsements within the next month.

Furthermore, former CMS administrators have been quick to point out that if the new drug benefit is to commence on time in January 2006, rules must be written and finalized no later than October or November of 2005. Vital decisions must be made about the administration of the benefit in the development stage, which is now—decisions that require strong leadership and expertise. Unfortunately, CMS has been without a leader since January, when Tom Scully resigned.

I assure you that the success of Medicare and the prescription drug benefit rests with a capable CMS workforce under strong leadership. CMS already faces an enormous challenge. Approximately one quarter of its workforce will be eligible to retire in the coming years. In fiscal year 2003, 30 percent of individuals serving in career Senior Executive Service positions at CMS were eligible for retirement. In addition, 20 percent of CMS's workforce was eligible to retire. The leadership to move this vital agency forward is lacking without a confirmed administrator.

Gail Wilensky, administrator of CMS's predecessor, the Health Care Financing Administration from 1990 to 1992, describes the task ahead as "the largest challenge an administrator has had." Similarly, her successor, Nancy Ann Min DeParle, who had the demanding task of implementing the Balanced Budget Act throughout her tenure from 1997 to 2000, has correctly stated that implementing the new drug benefit will be even more taxing than previous initiatives and will require the agency to design a "new delivery system that does not now exist even in the commercial market."

I could not agree more. I have concerns about the arduous task ahead for CMS and as a result, will be holding a hearing at my Government Affairs Subcommittee in the coming weeks to examine CMS' capacity to do this job. I expect Dr. McClellan to be at this hearing to discuss his plans for leading CMS in this pursuit.

I cannot think of a more qualified leader for CMS at this critical time than Dr. Mark McClellan. His work at the helm of the FDA over the past 2 years brought innovation and creativity to the agency, which many believe has dismantled bureaucratic barriers and led to quicker reviews of drug and other product applications to speed generic drugs to the marketplace. I am most appreciative of his work in this area, as a few years ago, I was able to secure $400,000 for the FDA to educate our nation's seniors about the safety and cost-effectiveness of generic drugs.

Dr. McClellan earned a medical degree from the Harvard University-Massachusetts Institute of Technology Program in Health Sciences and Technology and a doctorate in economics from MIT. He served under President Clinton between 1998 and 1999 as Deputy Assistant Secretary of the Treasury and served as health policy coordinator and a member of President Bush's Council of Economic Advisers before joining the FDA.

In fact, Dr. McClellan has always enjoyed broad support across party lines, and it was no surprise that just last week, Senator EDWARD KENNEDY described Dr. McClellan as a superb choice for CMS administrator who "brings to the job a powerful intellect, a deep knowledge of the programs and a commitment to public service."

What did come as a surprise was the announcement by several Senators that, despite Dr. McClellan's outstanding qualifications, they are threatening to block his nomination to gain leverage on the issue in Congress of re-importing pharmaceuticals from outside of the United States.

As Chairman of the Governmental Affairs Subcommittee on Oversight of Government Oversight and Management and the Federal Workforce, I am gravely concerned. Delaying this appointment at a time when CMS desperately needs leadership will affect the agency's ability to effectively implement the prescription drug benefit and even more urgently, the drug discount card program.

This is not fair to the 5,000 dedicated CMS employees who are working tirelessly to implement the congressionally mandated prescription drug benefit.'

This is not fair to our Nation's seniors. Every American, and particularly every senior citizen, should be outraged.

Now is not the time to play political games. We must make sure that CMS has the leadership it needs at this juncture to handle the task at hand. I urge my colleagues to reconsider their decision to delay the nomination of Dr. Mark McClellan and confirm his appointment to this important position.

CONGRATULATING SUJEY KALLUMADANDA

Mr. ENZI. Mr. President, today is, and will always be, a special day in the life of one of my staffers, Sujey Kallumadanda. For on this day, Sujey has successfully completed all the requirements, passed all the tests, completed the interviews and officially taken the oath as a new citizen of the United States. I appreciate having this opportunity to congratulate him on his effort and to wish him well on his acceptance of this wonderful new title he will carry with him for the rest of his life, United States Citizen.

Sujey's story is quite a remarkable one. It begins with his emigration from India when he was young and his arrival in the United States with his family. He is the latest of his family to become a citizen of the United States, and he couldn't be more proud of his new status.

The journey that began in India brought him to Texas where he graduated from Texas A&M with a bachelor's degree in Economics. He then graduated from Michigan State University with his law degree, and from there he went on to Georgetown University where he received his Master of Laws in Securities and Financial Regulations.

Sujey is a member of the New York Bar and his background and understanding of banking and financial matters made him an invaluable source of information for my staff. He has also proved to be an important asset as we have worked on and studied issues of importance to the small business community.

My staff and I have greatly enjoyed having Sujey on our team and I would like to think we have taught him some valuable lessons about American life. For instance, thanks to my staff, Sujey has developed an appreciation for the finer things in life like Wyoming Honey Candy. I haven't been able to convince him to read fiction novels or that Wyoming is the center of the sports universe but that will come with time. All in all, I don't think he'll ever be the same. But one thing is for certain, and that is the drive and focus he placed on achieving his dream of life in the United States.

Now his apprenticeship is over, and he has received the greatest honor our Nation has to bestow—American citizenship. I know he will carry it proudly and with purpose in the years to come.

Sujey knows full well that being an American Citizen is not only a great honor, but that it brings with it both great freedoms and rights—and great duties and responsibilities. He will become very familiar with them both as he continues to take part in one of the greatest experiments in government the world has ever known—the American democracy.

Congratulations, Sujey. By your example you have reminded us that we are very fortunate to be American citizens. By your heartfelt dedication and commitment to earning your citizenship you have taught us that citizenship is a great honor and we should never take it for granted. Good luck and God bless.

WOMEN'S HISTORY MONTH

Mr. SARBANES. Mr. President, I rise today in recognition of Women's History Month. As an outgrowth of International Women's Day, the Education Task Force of the Sonoma County Commission on the Status of Women planted the seeds of Women's History Month during the week of March 8, 1978. The task force established an agenda of events and celebrations that included a multicultural perspective recognizing the contributions made by all women. Soon thereafter the idea spread, as many Sonoma area schools began holding similar week-long programs.

In 1979, Molly Murphy MacGregor, Director of the Sonoma County Commission, spoke so eloquently during a Women's History Institute Conference about the importance of this recognition that, by the end of the conference, participants vowed to promote the idea of Women's History Week within their own organizations and to secure a Congressional Resolution declaring the week of March 8, National Women's History Week.

By the end of 1980, Maryland's own Senator BARBARA MIKULSKI, then a Member of Congress, sponsored a joint congressional resolution declaring the week of March 8 as National Women's History Week. That same year, President Jimmy Carter issued a presidential message to encourage recognition and celebration of women's historic accomplishments during the week of March 8.

In 1987, at the request of women's organizations, educators, and others, the National Women's History Project petitioned Congress to expand these celebrations to the entire month of March. Upon bipartisan approval of the National Women's History Month Resolution, National History Month was born, affording us the opportunity to focus each year on areas of accomplishment and inspiration—and to honor the many great women leaders from our past and present who have served our Nation so well.

As scientists, writers, doctors, teachers, and mothers, women have shaped our world and guided us down the road to prosperity and peace. For far too long, however, their contributions to the strength and character of our society went unrecognized and undervalued.

Women have led efforts to secure not only their own rights, but have also been the guiding force behind many of the other major social movements of our time—the abolitionist movement, the industrial labor movement, and the civil rights movement, to name a few. We also have women to thank for the establishment of many of our early charitable, philanthropic, and cultural institutions.

I would like to take this time to single out a few women from the State of Maryland whose work and accomplishments are very much in line with this year's theme "Women Inspiring Hope and Possibility." These individuals are from different professions, different age groups, different backgrounds, but they all represent what it means to inspire.

Edith Houghton Hooker, a member of the Maryland Women's Hall of Fame, truly embodied this year's theme. Ms. Houghton Hooker was convinced that progressive reform would occur much more quickly and completely if women achieved the right to vote. In 1909, in the midst of Maryland's suffrage movement, Hooker organized the Just Government League and affiliated her organization with the National American Woman Suffrage Association, NAWSA. In 1910, the defeat of suffrage in the Maryland General Assembly led Hooker and others to believe that, although they should continue to urge suffrage legislation at the State level, the passage of a national constitutional amendment should be the priority of their organization's efforts. Ms. Houghton Hooker also realized early on that while there were several local and statewide suffrage organizations, these groups would have to present a united front in Annapolis and that activists would have to engage in an effective and collaborative public information campaign.

With that in mind, in 1912, she created the Maryland Suffrage News as the official organ of the Just Government League, which served to address each of those needs: unity, a statewide presence, and public information. The News became the weekly voice, not just for the Just Government League, but for the entire suffrage movement in Maryland. In addition to developments regarding suffrage, the News informed its subscribers, most of whom were from the middle class, of the needs and circumstances of working class women, and the problems associated with education, crime and corruption. And, in 1917, largely because of her work in growing the News, Hooker was named President of the Maryland Suffrage Party of Baltimore. Now, the many bound volumes of the Maryland Suffrage News reside in the Maryland Historical Society, where our generation and future generations can learn about the struggles of the suffrage movement, the dedication of suffragists, and the importance of the result.

The late Rachel Carson, another Maryland woman and scientist, inspired the Nation as pioneer of the modern conservation movement. Carson, a well-known naturalist, wrote Silent Spring, which became a key symbol of the new environmental movement in this country. After World War II, Ms. Carson became concerned about the increased use of synthetic chemical pesticides and took it upon herself to alert a national audience to the environmental and human dangers of haphazard use of these chemicals.

In the tradition of women inspiring and helping others, I would be remiss if I failed to mention Clara Barton, founder and first president of the American Red Cross. While recuperating from illness in Europe, she learned of the Treaty of Geneva, which provided relief to sick and wounded soldiers. Upon her return to the U.S., her crusading ensured the signing of the Geneva Treaty in 1882. Ms. Barton founded the American Red Cross in 1881, where she served as its first president. Several years later, she wrote the American Amendment to the Red Cross Constitution, which provided for disaster relief during peacetime as well as war. As part of her legacy, the American Red Cross continues to provide relief work in times of famines, floods, and earthquakes in the United States and throughout the world.

I also want to mention some of today's heroes from Maryland. Sol de Ande Mendez Eaton serves as an activist for the Maryland Hispanic/Latino community. Ms. Eaton convened the first Maryland Statewide conference on civil rights as co-chair of the Maryland Advisory Committee to the U.S. Commission on Civil Rights. She has worked at the local and State level as a pioneer in the areas of women's health and domestic violence. Every day, she continues to inspire us to work for the rights of others by seeking to reduce discrimination in employment, housing, education and health.

June Bacon-Bercey, another Marylander, the first African American woman to receive a Ph.D. in Atmospheric Sciences, inspires us as well. As a television forecaster, she is also the first African American woman, and indeed the first woman to receive the American Meteorological Service Seal for television-radio weather-casting. In 1979, Ms. Bacon-Bercey became Chief Administrator of Television Activities for the National Oceanic and Atmospheric Agency.

She is a scientist, an international expert on weather and aviation, as well as a wife and mother. Recognizing the difficulties that other women would face in pursuing her profession, she has chosen to go beyond her substantial personal achievement to help other women reach their goals in weather-related professions. In fact, she donated her winnings from a game show to create a scholarship plan for young women wanting to join meteorology. In view of this year's theme, I commend Ms. Bacon-Bercey not only for her example and inspiration to other women, but for her generosity in directly helping others reach their dreams.

Since the first woman received a medical degree from a United States medical school, in 1848, female doctors have helped shape and change the course of medicine. A model physician in the State of Maryland, Dr. Marie Amos Dobyns, has worked in Maryland for over 20 years and served over 3,000 patients. As an Eastern Cherokee Native American, she integrates her heritage into her medical practice and her vision of a partnership between patient and physician has inspired would-be physicians across the country to seek out innovative approaches to offering comprehensive patient-centered care.

I am privileged to speak in honor of the mothers, wives, daughters, friends and neighbors that have inspired and opened up possibilities for us all. We should take this month to redouble our efforts to ensure that their work has not been for naught. In that regard, I ask us all to take Women's History Month as a time to reflect on the contributions of women, but also as a time to refocus on how much needs to be accomplished to achieve full equality.

ADDITIONAL STATEMENTS

TRIBUTE TO MARY F. DIAZ

• Mr. KENNEDY. Mr. President, yesterday I paid tribute to Mary Diaz, who died on February 12 in New York after a long battle with cancer. Mary was executive director of the Women's Commission for Refugee Women and Children, an affiliate of the International Rescue Committee, and one of this Nation's most effective and most compassionate advocates for women and children throughout the world.

I ask to have printed in the RECORD the attached articles, including a tribute to Mary from the Women's Commission for Refugee Women and Children, an article by the International Rescue Committee, as well as articles that appeared in the New York Times and the Boston Globe.

The articles follow.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Women's Commission for Refuge Women and Children]

TRIBUTES TO MARY

I was most saddened to learn of the death of Ms. Mary Diaz, the Executive Director of the Women's Commission. Mary's death touches us at UNHCR profoundly as she was known and admired by many colleagues.

Her death will be a great loss to those who work for the cause of refugees. Ms. Diaz was a tireless and committed advocate for the rights of displaced women and children whose voices are so often unheard. Last year I was pleased to honour Ms. Diaz as a recipient of the UNHCR Gender Equality Award for her work in promoting the equal rights of refugee women. Under her leadership, the Women's Commission made a considerable contribution to UNHCR's policies on refugee women and children, most recently in our efforts to address sexual and gender-based violence. She will be greatly missed.

On behalf of all my colleagues at UNHCR, I offer you and the staff of the Women's Commission for Refugee Women and Children our sincere condolences.

—Ruud Lubbers, UN High Commissioner for Refugees.

I wish to express PRM's sincerest condolences to you and the colleagues and family of Mary Diaz. Mary's dedication, commitment, passion and leadership had a tangible impact on the lives of millions of refugee women and children around the world. Mary was truly admired by many, including by those of us in the bureau that knew her well. She was a shining example of what it means to be a true humanitarian.

Mary has left behind a legacy that will continue to bear fruit for many, many years. We will miss her tireless spirit and everlasting smile. Please know that we share your grief.

—Arthur E. Dewey, Assistant Secretary of State, Bureau of Population, Refugees, and Migration.

On behalf of the staff at Human Rights Watch, we would like to express our deepest sympathy and support for you all at the loss of our wonderful colleague, Mary Diaz.

Mary was one of a kind. She was not only an outstanding champion for the rights of women and children in the most difficult circumstances, but a warm and loving person who brought great humanity and humility to her work. She touched many of us deeply—as colleague, friend and mentor. We drew special inspiration from the courage, dedication and grace with which she faced these last difficult months. Be assured of our support at this difficult time. we will continue to work closely with you on these issues to which Mary gave her life.

—Kenneth Roth, Jo Becker, Widney Brown, Diane Goodman, LaShawn Jefferson, Iain Levine, Rory Mungoven, Alison Parker, Rachael Reilly, Joanna Weschler, Lois Whithman—Human Rights Watch.

[From the International Rescue Committee, Feb. 19, 2004]

MARY DIAZ IS MOURNED AS TIRELESS ADVOCATE FOR REFUGEE WOMEN AND CHILDREN

Mary Diaz, executive director of the Women's Commission for Refugee Women and Children died February 12 in New York after a long illness. She was 43.

During her 10 years as leader of the Women's Commission, an affiliate of the International Rescue Committee, she earned an international reputation as an effective and knowledgeable advocate for refugee women and children.

George Rupp, president of the IRC, said, "Mary was a remarkable person. She cared deeply about the women and children whose cause she served, and on their behalf she used her exceptional advocacy and organizational skills to ensure that their needs were addressed at the highest levels. Under her creative leadership over the last 10 years, the Women's Commission continued to grow in stature and influence.

"Mary enjoyed the respect, admiration and affection of everyone who had the opportunity to work closely with her. It was a pleasure to be in her company. She will be greatly missed."

A tribute published in the New York Times on Feb. 13 by the IRC's board of directors said, "Mary was among the world's most eloquent, devoted, tireless and effective advocates for the protection and empowerment of women and children affected by war and persecution. Her courageous work and vibrant spirit touched the lives of tens of thousands of vulnerable refugee women and children."

[From the New York Times, Feb. 18, 2004]

MARY F. DIAZ, 42, HEAD OF COMMISSION FOR WAR REFUGEES, DIES

(By Wolfgang Saxon)

Mary Frances Diaz, the executive director of the Women's Commission for Refugee Women and Children, died last Thursday at Columbia Presbyterian Center of New York-Presbyterian Hospital. She was 42 and lived on the Upper West Side of Manhattan.

The cause was pancreatic cancer, the commission announced.

Ms. Diaz's organization, a volunteer group that works to provide a voice for women and children in war zones, is a nongovernmental group that advocates for refugees before the United Nations and around the world.

Mary Diaz had led the group since 1994 and continued her work until late last year.

The Commission, working under the auspices of the International Rescue Committee, was founded in 1989 by the actress Liv Ullman. Ms. Diaz became its chief investigator, strategist, watchdog and lobbyist.

She deployed volunteers in Africa, the Middle East, South America and trouble spots like Kosovo and Afghanistan. She often went to the scene herself, visiting refugees in

Bosnia and Burundi fleeing to the relative safety in Tanzania.

Mary Diaz was born in Newport News, Va., and grew up in suburban Pottstown, Pa.

She focused on international relations at Brown, graduating in 1982. She took a job at a Philadelphia television station writing news late in the day, which left her time for volunteer work helping refugees to settle in the city. Her calling gradually shifted from the newsroom to the outside world. She studied administration, planning and social policy at the Harvard Graduate School of Education, receiving a master's degree in international education in 1988. She became director of refugee and immigration services for Catholic Charities in Boston before becoming head of the Women's Commission in New York.

Ms. Diaz is survived by her partner, Tom Ferguson; her mother, Bertha Diaz of Pottstown; two brothers, Dr. Philip Diaz of Columbus, Ohio, and Dr. Joseph Diaz of Barrington, R.I.; and two sisters, Teresa Diaz of Reading, Pa., and Bernadette Diaz of Oak Park, Ill.

[From the Boston Globe, Feb. 20, 2004]

MARY DIAZ, HEADED AGENCY ON WORLD'S REFUGEES

(By Gloria Negri)

For 10 years, Mary F. Diaz traveled to the world's trouble spots, dodging minefields, tsetse flies, lions, and wars on her mission to help refugee women and children reclaim their lives.

As executive director of the New York-based Women's Commission for Refugee Women and Children, Ms. Diaz went on fact-finding missions to places such as Serbia, Angola, Rwanda, Nepal, Pakistan, Haiti, and South America to talk to the displaced women and children firsthand.

On her return to the United States, she would plead their cases before the United Nations and lobby law makers and relief agencies to improve their conditions. When they needed asylum in this country, she fought for that, as well.

Ms. Diaz, 43, who formerly worked in Boston, died Feb. 12 of pancreatic cancer at New York's Columbia Presbyterian Hospital.

"Mary was passionate about her work and was dedicating her life to it," said the commission spokeswoman, Diana Quick.

She often got results, Quick said. After Ms. Diaz's report on her trip to Bosnia, the Clinton administration provided a fund for its women refugees. During a visit to Tanzania, she got the rules changed to allow Burundian women as well as men to distribute food to fellow refugees—and, as a result, many women got food.

After a visit to Afghanistan in 2002, Ms. Diaz initiated a fund for programs for Afghan women.

"Since Mary became executive director," Quick said, "the commission has grown from a small organization with a staff of four and a budget of $425,000 to one with more than 20 staff and a budget of $4 million."

Ms. Diaz's death, said Ruud Lubbers, who heads the United Nations High Commission for Refugees in Geneva, "left a void in the refugee and humanitarian world, where she touched many lives."

In Boston, where Ms. Diaz worked for Catholic Charities from 1984 to 1994, the last six years as its director of refugee and immigration services, Judith Whitmarsh of Catholic Charities described her as "the kindest and most compassionate person I've known."

Whitmarsh, a former program coordinator of the state Office for Refugees and Immigrants, said Ms. Diaz was "particularly concerned with people who were disenfranchised.

"When new immigrants arrived at the airport, Mary would always make sure there was a friendly face to greet them and that there would be some cultural orientation for them. If they had experienced trauma, there would be help. If they didn't know English, she got them into classes so they could find jobs."

Ms. Diaz became executive director of the Women's Commission, a nongovernmental organization, in 1994, five years after it was founded by actress Liv Ullman.

Ms. Diaz also gave eloquent and poignant speeches about the plight of refugee women and children to potential donors. "Mary was very strong in a very quiet way," Quick said.

In an address in Minneapolis in 2002, seeking support for the reproductive health care and rights of adolescents in refugee settings and war zones, Ms. Diaz told the story of Marion, a 14-year-old girl she had met in Sierra Leone.

"Marion was living with her family near Freetown when rebels forced their way into her home and demanded her mother surrender one of the children," Ms. Diaz said in her speech. "When her mother refused, the rebels threatened to kill everyone in the house. Her mother pointed to Marion."

"Marion was gang-raped almost immediately," Ms. Diaz said, "but told she had to walk with the rebels or be shot. She lived with different commanders as a slave for more than two years, escaping one day when she was given permission to go to the market. She gave birth to a baby a year after being abducted."

Marion developed serious health problems that couldn't be addressed in Sierra Leone, Ms. Diaz said. She had a chance to go home, but her mother wouldn't take her back.

Ms. Diaz believed the international community had a responsibility to help children like Marion.

Ms. Diaz was born in Newport News, Va. Tom Ferguson of New York City, her longtime partner, said her desire to serve others came naturally. Her late father, from the Philippines, was a doctor; her mother is a nurse. Two brothers are doctors. One sister is a teacher, another a librarian.

Ms. Diaz grew up in Pottstown, Pa. After high school, she graduated from Brown University in 1982, with a major in international relations. She worked briefly for a Philadelphia television station and then came to Boston, where she studied for a master's degree in international education at Harvard University, which she earned in 1988.

Four years later, while she was at Catholic Charities, a group of 112 Haitian children got separated from their parents en route to refugee camps at Guantanamo Bay. They ended up in Boston, under Ms. Diaz's care. First, she met the children at the airport, Ferguson said, then took them all for lunch at Buzzy's Fabulous Roast Beef and a swim in a pool before reuniting them with their parents.

Ms. Diaz "left her mark wherever she went," Whitmarsh said.

In addition to Ferguson, Ms. Diaz leaves her mother, Bertha of Pottstown, Pa.; two brothers, Philip of Columbus, Ohio, and Joseph of Barrington, R.I.; and two sisters, Theresa of Reading, Pa., and Bernadette of Oak Park, Ill.

A memorial service will be held tomorrow at 2 p.m. in The Church of the Ascension in New York City.●

UNIVERSITY OF NORTHERN IOWA'S MEN'S BASKETBALL TEAM

● Mr. HARKIN. Mr. President, I would like to take a moment to extend my heartfelt congratulations to the University of Northern Iowa's men's basketball team on their Missouri Valley Conference Championship. The Panthers vanquished Southwest Missouri State in double overtime, clinching a berth in the NCAA Tournament. Coach Greg McDermott has proven his mettle in his 3 years as head coach, and now UNI is heading to the Big Dance for the first time in 14 years. I wish them luck there, and will be cheering for them alongside all Iowans.●

TRIBUTE TO IRVINE LEE SHANKS

● Mr. BUNNING. Mr. President, I rise today to pay tribute to Irvine Lee Shanks, who passed away Friday, March 5, 2004, at the age of 73. Mr. Shanks broke the college basketball color barrier in Kentucky when he took the court for Berea College in 1954. On that day in February, at a small basketball stadium in Ohio, he became the first black man to play for a previously all-white college basketball team.

He enrolled at Berea College at the age of 23, likely lured by that institution's goal of educating the underprivileged at no cost. To this day, Berea is one of the few affordable options for the lower-income families of Kentucky and Appalachia.

Just as Berea is not your typical college, Mr. Shanks wasn't your typical student. He was married with two children. He was a veteran of the Korean War, choosing service to his country rather than a basketball scholarship at Tennessee A&I in Nashville.

Returning to college was difficult, but the 6-foot-5 center excelled on the basketball court. He stood out among his teammates for other reasons as well, but there were no major racially-inspired incidents during his games. His team, however, often chose to miss meals or sleep on campuses because they could not find restaurants or hotels that would serve a black man. Despite these difficulties, his team came together in 1955 and upset Georgetown College to win the Kentucky Intercollegiate Athletic Conference Championship.

Mr. Shanks' experience in sports reminds me of my time in Major League Baseball and my good friend Jackie Robinson. Breaking barriers and achieving success seem to be a common link between these two athletes. These pioneers in sports taught our Nation quite a bit and deserve our thanks for setting America on the road to equality. What I have seen in baseball makes me admire Mr. Shanks accomplishments that much more.

He was a role model for all throughout the State and helped change society's attitudes towards race. He will be missed.●

FIFTH ANNIVERSARY OF THE AMERICAN LEGACY FOUNDATION

● Mr. DURBIN. Mr. President, I am pleased to rise today, recognizing the fifth anniversary of the American Legacy Foundation, an organization dedicated to educating Americans on the dangers of tobacco use.

In 1964, the Surgeon General of the U.S. Public Health Service officially recognized that cigarette smoking causes cancer and other serious diseases. However, 40 years later, tobacco use remains the Nation's leading preventable cause of death. Tragically, tobacco use continues to affect the lives of millions of Americans, particularly plaguing our Nation's young people. Each year, smoking kills more than 440,000 people in the United States, and millions more suffer from serious tobacco-related illnesses.

Established in 1999 under the Master Settlement Agreement, the American Legacy Foundation has developed national programs that address the health effects of tobacco use. Tobacco prevention programs play a vital role in decreasing tobacco use among youth, and the Legacy Foundation's innovative antismoking campaigns have had a significant impact in reducing tobacco use, especially among our Nation's youth. As a result of their continuous dedication, millions of Americans are living healthier lives.

Unfortunately, the future of the American Legacy Foundation is in question. This year the foundation received its last payment from the Master Settlement Agreement. Because of this dramatic reduction of resources, all of the successes of the last 5 years are in jeopardy.

I am pleased to stand here, recognizing the achievements of the American Legacy Foundation. I know that my fellow colleagues will join with me in applauding the efforts of the Legacy Foundation and congratulating them on their fifth anniversary. I hope that they will also join with me in pledging continued support for this life-saving cause. Only with such concerted action can we avert millions of premature deaths and prevent future generations of young people from falling victim to the tobacco epidemic.●

MAINE LOBSTERMEN'S ASSOCIATION

● Ms. SNOWE. Mr. President, I rise today to congratulate the Maine Lobstermen's Association on the occasion of its 50th anniversary, Reaching this significant milestone is a testament to the organization's positive message and the strong guidance of its leadership throughout the last half-century.

Lobstermen are symbolic of Maine's unique way of life. Harvesting lobsters is part of the proud heritage of Maine's coasts and the State produces more lobster than any other in the Nation. Each year, over 50 million pounds of lobster are harvested in Maine, adding several hundred million dollars to the State's economy. Lobstering is a traditional occupation which represents the values of Mainers and their deep connection with the abundant natural resources and beautiful coast that surround the State.

Maine's lobster fishery, though well recognized today, had very humble beginnings. According to the Gulf of Maine Aquarium, lobsters were once so plentiful that they were considered a plain, dull food and a cheap source of nutrition for those living near the Northeast coast. Lobstering was done by hand until the mid-19th century, when trapping became more popular and allowed for larger numbers of lobsters to be caught. The fishery also experienced growth due to the advent of new canning practices, which enabled Maine lobsters to reach far and wide across the glove. As Maine's lobster fishery has grown, changing technologies and stronger regulations have put new pressures on lobstermen, while also ensuring the continued success and sustainability of lobstering as an occupation.

Founded in 1954, the MLA has promoted a spirit of cooperation among lobstermen, and it has fought hard to improve their way of life as Maine's lobster fishery evolves. Through the dedication of its membership and the strong leadership of its directors, the Association has been instrumental in keeping the grandest tradition of Maine's coasts both profitable and sustainable. Along the way, it has grown to a considerable size and now counts over 1,200 lobstermen in its ranks. The Association has such a large membership that it currently bills itself as the biggest commercial fishing industry on the East Coast.

As Maine's Senator and as chair of the Senate Subcommittee on Oceans, Fisheries and Coast Guard, I am particularly dedicated to helping fishing communities maintain the quality of life which they deserve. I am extremely grateful to the Association for its tireless dedication to Maine lobstermen, and I thank each and every one of its members for being actively involved in their communities through their membership. I look forward to many more years of working closely with the MLA.

Again, I congratulate the Association on its past successes, and wish it at least another 50 years of growth and achievement.●

PETITIONS AND MEMORIALS

POM–365. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to the National Defense Authorization Act; to the Committee on Armed Services.

HOUSE RESOLUTION NO. 520

Whereas, the United States Department of Defense reports that 37.000 legal permanent residents are now serving in the armed forces, with an additional 13,000 legal permanent residents serving in reserve units; and

Whereas, of the 3,000 legal permanent residents who have served in United States military operations in Iraq, 14 have lost their lives in the line of duty; and

Whereas, the Congress of the United States, in recently passing the National Defense Authorization Act for Fiscal Year 2004, has extended immigration benefits, including citizenship and family protections, to noncitizens serving in the United States military; and

Whereas, this legislation provides for expedited naturalization of lawful permanent residents engaged in active duty and certain reserve service in peacetime, times of war and during hostile military operations and for expedited posthumous citizenship in certain cases; and

Whereas, this legislation further grants or preserves the lawful permanent residence of noncitizen surviving spouses, unmarried children and parents of citizen and noncitizen United States service members killed in the line of duty: Therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania express support for the National Defense Authorization Act for Fiscal Year 2004 (H.R. 1588) and the protections it confers on certain noncitizen military personnel; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM–366. A joint memorial adopted by the Legislature of the State of Washington relative to the Renewable Energy Production Incentive program; to the Committee on Energy and Natural Resources.

SENATE JOINT MEMORIAL 8031

Whereas, the United States Congress established the Renewable Energy Production Incentive (REPI) program in the Energy Policy Act of 1992 to provide direct payments to not-for-profit utilities for energy produced by new renewable energy projects; and

Whereas, REPI is the counterpart to the program authorized in the same act which grants private utilities a federal tax credit for energy produced by new renewable energy projects; and

Whereas, REPI has proved to be a valuable and needed program to encourage public power systems and rural electric cooperatives to pursue development of renewable technologies; and

Whereas, authorization for the current REPI program expires in 2003 and must be renewed by Congress to continue to assist not-for-profit utilities in the development of cost-effective renewable resources and to provide a measure of parity with the incentives provided to private power companies; and

Whereas, the effectiveness and vitality of the REPI program also depend on congressional support for annual appropriations to provide more certainty to utilities considering development of renewable energy projects; and

Whereas, reauthorization and an increase in federal funding for REPI could also benefit the Northwest by encouraging development of energy resources that provide significant environmental benefits; and

Whereas, the volatility in the western electricity market in 1999 and 2000 also demonstrated the need for the Northwest to develop additional generating resources and to broaden the diversity of its resource portfolio and REPI could play an important role in meeting those regional goals; and

Whereas, in calendar year 2001 not-for-profit utilities applied for almost $30 million in incentive payments from the REPI program, but less than $4 million was made available to provide incentives for these renewable energy projects;

Now therefore, your Memorialists respectfully urge the Northwest congressional delegation, the United States Congress, and the Bush Administration to:

(1) Reauthorize REPI for an additional ten years, with such modifications as are needed to provide greater certainty of payment and, therefore, greater incentives to qualified renewable energy projects; and

(2) Provide a level of funding for REPI that will maximize the potential for development of new renewable resources by not-for-profit utilities.

Be it resolved, That copies of this Memorial be immediately transmitted to the Honorable George W. Bush, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington.

POM–367. A resolution adopted by the Senate of the Legislature of the State of Michigan relative to the recovery and stabilization of the manufacturing industry in the United States; to the Committee on Energy and Natural Resources.

SENATE RESOLUTION NO. 190

Whereas, historically, manufacturing has been a base industry for the national economy, steadily comprising approximately 17 percent of the Gross Domestic Product since 1947; and

Whereas, the manufacturing industry has experienced a rapid decline and economic losses over the last three years. After a peak in July 2000 of 17.3 million people employed by the manufacturing sector, employment declined by more than 2.7 million jobs over the next 38 consecutive months; and

Whereas, lowered demand due to troubled economic conditions, coupled with unfair foreign competition, has greatly hindered the economic prosperity of the manufacturing industry. There is substantial concern over the continuation of manufacturing in the United States if the unfair trade practices of other nations on our domestic market are not addressed; and

Whereas, the restoration and revival of the manufacturing sector are vital to the economic recovery of the United States, as manufacturing has consistently led the economic recovery from previous down-turns; and

Whereas, maintaining a strong and vibrant manufacturing industry is crucial to sustaining or enhancing our national security. Recent bankruptcies and other losses in the manufacturing industry could put the United States in the unprecedented position where it must purchase defense technology from other countries, as foreign companies currently produce such items as a key guidance chip for smart bombs. Most recently, a foreign company purchased a bankrupt domestic manufacturer that retained the rights to the sleath fighter technology; and

Whereas, developing a package of economic incentives to help foster additional growth in the manufacturing industry and assist in keeping domestic manufacturers competitive with their foreign counterparts will greatly benefit not only the manufacturing industry, but will also provide great economic benefits to Michigan and the entire country: now, be it therefore

Resolved by the Senate, That we memorialize the Congress of the United States to develop economic incentives and other programs to aid in the recovery and stabilization of the manufacturing industry in the United States; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the United States Secretary of Commerce, and the members of the Michigan congressional delegation.

POM–368. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to the Abandoned Mine Reclamation Fund; to the Committee on Energy and Natural Resources.

HOUSE RESOLUTION NO. 510

Whereas, the Abandoned Mine Reclamation Fund is scheduled to expire in September 2004; and

Whereas, the Abandoned Mine Reclamation Fund has been instrumental in providing the resources to help states reclaim and restore abandoned mine lands; and

Whereas, the Commonwealth of Pennsylvania receives approximately $25 million annually to clean up these areas and to help restore the quality of our waterways that have been impaired by acid mine drainage; and

Whereas, the Commonwealth of Pennsylvania has more than 5,000 abandoned mine sites encompassing more than 189,000 acres; and

Whereas, continuation of the Abandoned Mine Reclamation Fund is critical to Pennsylvania's efforts to improve these lands and the surrounding water quality: Therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania urge the President and Congress of the United States to enact legislation reenacting the Abandoned Mine Reclamation Fund; and be it further

Resolved, That the reenacted legislation would base funding on historical coal production rather than upon current coal production; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM–369. A resolution adopted by the Senate of the General Assembly of the Commonwealth of Pennsylvania relative to steel tariffs; to the Committee on Finance.

SENATE RESOLUTION NO. 163

Whereas, a vibrant and thriving steel industry is a critical segment of the manufacturing industry for the Commonwealth of Pennsylvania and the entire nation, as well as a key component of our national defense; and

Whereas, approximately 47% of the nation's steelworkers are employed in the Commonwealth of Pennsylvania and the states of Ohio and Indiana; and

Whereas, more than nine out of ten steelworkers are employed at establishments with 50 or more employees; and

Whereas, as of 2000, 40.3% of steelworkers were covered by union contracts; and

Whereas, employment in the steel industry is expected to decline by approximately 22% from 2000 through 2010; and

Whereas, employment levels will be influenced greatly by the ability of United States steel producers to compete with imports from foreign countries; and

Whereas, between 1997 and 2002, proliferation of illegally dumped foreign steel in the United States economy has resulted in approximately 35 steel companies filing for bankruptcy and the loss of 54,000 industry jobs; and

Whereas, in June 2001, as a result of the crisis in the domestic steel industry, the Federal Government and the Bush Administration initiated a trade investigation under section 201 of the Trade Act of 1974 (Public Law 93–618, 19 U.S.C. §2101 et seq.), a safeguard clause that allows a domestic industry injured by unfair trade practices to seek relief through the International Trade Commission; and

Whereas, in March 2002, in response to a report by the International Trade Commission that the American steel industry had suffered serious injury based on the surge of steel imports, the Bush Administration imposed three years of declining tariffs ranging from 8% to 30% on imports of 13 finished steel products and a three-year increasing tariff rate quota on certain imports; and

Whereas, the Section 201 steel programs tariffs will decline each year until they expire on March 6, 2005; and

Whereas, based on the Section 201 tariffs, the American steel industry is experiencing its most significant restructuring in decades and has been able to begin a process of consolidation and reorganization; and

Whereas, steel prices are stabilizing, layoffs and bankruptcy filings are slowing, prices are recovering, domestic mills are increasing production and inventories are healthy; and

Whereas, the actions taken by the American steel industry as a result of the Section 201 tariffs will inure to the long-term benefit of American steel-using industries, the United States economy and the Pennsylvania economy; and

Whereas, Section 201 tariffs imposed must undergo a review process at the midpoint of their duration; and

Whereas, the midterm review of the tariffs is designed to help assess the effect of the tariffs and decide whether to extend them for the full three-year term; and

Whereas, President Bush will determine whether the Section 201 tariffs should remain in effect; and

Whereas, the United States International Trade Commission Report of September 19, 2003, which analyzed the preliminary effects of the tariffs noted that, since the imposition of the tariffs, industries producing steel products have undergone major reconstruction and expansion and the assets of several bankrupt steel producers have been acquired by other firms; and

Whereas, since the imposition of the tariffs, steel producers and the United Steelworkers of America, the principal union representing steelworkers in the United States, have negotiated groundbreaking collective bargaining agreements and adopted principles designed to reduce fixed costs, improve productivity and protect retiree welfare; and

Whereas, according to the report, approximately one-half of the steel-consuming firms surveyed shifted some of their purchases to domestically produced steel after the imposition of the tariffs; and

Whereas, according to the report, almost two-thirds of the responding steel-consuming firms reported that they or other firms did not relocate or shift production to foreign plants or facilities after tariff implementation; and

Whereas, it is evident from the report that the Section 201 tariffs are contributing greatly to the revitalization of the steel-producing industries in the Commonwealth of Pennsylvania and the nation; and

Whereas, on three separate occasions prior to the release of the International Trade Commission's report, both Houses of the Pennsylvania General Assembly passed resolutions urging the President to maintain the Section 201 steel tariffs for the full three-year term; and

Whereas, the International Trade Commission's report reveals that the Pennsylvania General Assembly's earlier support for continuing the Section 201 steel tariffs was justified, prudent and in the best interests of the steel-producing industry in the Commonwealth of Pennsylvania: Therefore be it

Resolved, That based on the International Trade Commission's report, the Senate of the Commonwealth of Pennsylvania reaffirm its support for continuing the Section 201 steel tariffs until March 6, 2005, as the tariffs have been instrumental in reshaping and reinvigorating the steel-producing industries in the Commonwealth of Pennsylvania and the nation; and be it further

Resolved, That the Senate of the Commonwealth of Pennsylvania strongly urge the President and Congress of the United States to continue to support the revitalization of the American steel industry for the benefit of the citizens of this nation and for the benefit of the national economy; and be it further

Resolved, That a copy of this resolution be submitted to the President of the United States, to the Vice President of the United States, to all members of the Congress who represent districts in Pennsylvania and to the Governor of the Commonwealth of Pennsylvania.

POM–370. A resolution adopted by the House of Representatives of the Legislature of the State of Michigan relative to legislation to extend the production tax credit for wind power energy development; to the Committee on Finance.

House Resolution No. 88

Whereas, in an effort to foster the development of alternate energy sources for the future, a production tax credit for wind power energy development was established in 1992. In the years since that time, significant progress has been made in the challenging work of developing clean sources of power for our country; and

Whereas, the long-term strategy behind the production tax credit for wind energy development has been impeded by the fact that this federal program faces sunset provisions every two years. Sunset provisions clearly are a productive tool to ensure sound spending policies. However, in an extended effort like developing viable wind energy technology, which has enormous capital expenses, the requirement for renewal every two years has proven to be counterproductive. Over most two-year cycles, the amount of power added through wind technology investment drops considerably in the second year, as developers worry about whether the tax credit incentive will be revived after it expires; and

Whereas, the production tax credit, like other incentives that the government has provided throughout history to encourage various development initiatives, would be far more effective if it could be extended beyond the two-year period. This emerging industry, which may one day be a key part of America's overall energy needs, will make much more significant advances with a consistent, multiple-year approach: Now, therefore, be it

Resolved by the house of representatives, That we memorialize the Congress of the United States to enact legislation to extend the production tax credit for wind power energy development beyond the two-year cycle under which it now operates; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–371. A resolution adopted by the House of Representatives of the Legislature of the State of Michigan relative to a prescription drug benefit; to the Committee on Finance.

House Resolution No. 176

Whereas, in recent years, the rising costs of prescription medications have created a growing burden for America's senior citizens. An increasing number of our people cannot afford the medications they need to live and function. This situation is harmful not only to a large segment of our population, but to our entire health care system; and

Whereas, since prescription medications contribute significantly to public health by minimizing the need for far more costly services, including hospitalization, the current Medicare program is not nearly as effective as it could be in helping our senior citizens protect their health and well-being. The overall ramifications of this problem are amplified by the realization that the first waves of baby boomers are now reaching retirement age; and

Whereas, although health care is a challenge that includes a wide range of factors, it is essential that a prescription drug benefit be established within Medicare. For those men and women currently grappling with the difficulties of paying for medicines they need, adding this benefit will provide immediate relief and help them maintain their health. For their families and our entire country, this is a program that needs to be put in place swiftly Now, therefore, be it

Resolved by the house of representatives, That we memorialize Congress to enact legislation to establish a prescription drug benefit within Medicare; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–372. A resolution adopted by the Senate of the Legislature of the State of Michigan relative to the World Trade Organization and the World Intellectual Property Organization; to the Committee on Finance.

Senate Resolution No. 188

Whereas, since the birth of our nation, the United States has amassed a remarkable record of creativity and discovery. Our history is replete with the development of new goods and production methods to advance the quality of life, and we have developed a strong economy based on these discoveries; and

Whereas, members of the manufacturing industry have cited a number of examples where companies in other nations have been infringing upon intellectual property rights. This has resulted in financial losses and further exacerbated the challenges faced by our manufacturers; and

Whereas, the World Trade Organization and the World Intellectual Property Organization implemented a set of standards and principles outlining how international intellectual property rights should be applied and how to settle disputes between members of the World Trade Organization and the World Intellectual Property Organization; and

Whereas, the United States can defend the intellectual property rights of domestic business through the procedures established by the World Trade Organization and the World Intellectual Property Organization; and

Whereas, to ensure a vibrant economic recovery in Michigan, our businesses and entrepreneurs must be secure in their intellectual property, for it is through these innovations that companies build their economic strength and maintain their competitiveness: Now, therefore, be it

Resolved by the Senate, That we memoralize the Congress of the United States to expand its efforts through the World Trade Organization and the World Intellectual Property Organization to ensure that the intellectual property of domestic businesses and individuals is protected and that actions are taken against those countries that violate the World Trade Organization and World Intellectual Property Organization standards; and be it further

Resolved, That a copy of this resolution be transmitted to the President of the United States of America, the President of the United States Senate, the Speaker of the United States House of Representatives, the United States Secretary of Commerce, and the members of the Michigan congressional delegation.

POM–373. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to steel tariffs; to the Committee on Finance.

House Resolution No. 514

Whereas, A vibrant and thriving steel industry is a critical segment of the manufacturing industry for the Commonwealth of Pennsylvania, the birthplace of the American steel industry and home to United States Steel Corporation and the United Steelworkers of America, and for the entire nation and is a key component of our national defense; and

Whereas, Between 1997 and 2002, proliferation of illegally dumped foreign steel in the United States economy resulted in approximately 35 steel companies filing for bankruptcy and the loss of 54,000 industry jobs; and

Whereas, In June 2001, as a result of the crisis in the domestic steel industry, the Federal Government and the Bush Administration initiated a trade investigation under Section 201 of the Trade Act of 1974 (Public Law 93–618, 19 U.S.C. §2101 et seq.), a safeguard clause that allows a domestic industry injured by unfair trade practices to seek relief through the International Trade Commission; and

Whereas, In March 2002, in response to a report by the International Trade Commission that the American steel industry had suffered serious injury based on the surge of steel imports, the Bush Administration imposed three years of declining tariffs ranging from 8% to 30% on imports of 13 finished steel products and a three-year increasing tariff rate quota on certain imports; and

Whereas, The United States International Trade Commission Report of September 19, 2003, analyzed the preliminary effects of the tariffs and noted that since the imposition of the tariffs, industries producing steel products have undergone major reconstruction and expansion and the assets of several bankrupt steel producers have been acquired by other firms; and

Whereas, It was evident from the report that the Section 201 steel tariffs were contributing greatly to the revitalization of the steel-producing industries in the Commonwealth of Pennsylvania and the nation; and

Whereas, On November 10, 2003, the World Trade Organization Appellate Body ruled that the Section 201 steel tariffs on imported steel are illegal; and

Whereas, The European Union threatened the United States with the imposition of $2.2 billion of sanctions on United States imports if the United States does not repeal the Section 201 steel tariffs by December 10, 2003; and

Whereas, Japan, South Korea, Norway, Switzerland, China, New Zealand and Brazil have joined Europe in welcoming the World Trade Organization's ruling; and

Whereas, The Section 201 steel tariffs have provided the Bush Administration with the leverage to negotiate a resolution to the underlying structural problems of massive global excess steel capacity and foreign government subsidies that caused the import surge and prompted the imposition of the steel safeguard; and

Whereas, Continuation of the Section 201 steel tariffs for the full three-year duration, even in the face of retaliatory sanctions from the European Union and other steel-producing countries, would help restore market forces and level the playing field in the global steel sector; and

Whereas, The World Trade Organization has ruled against every safeguard action instituted by any WTO-member country; and

Whereas, The American steel industry is in the middle of a historic restructuring effort, having invested more than $3 billion to consolidate and having entered into a new agreement with the United Steelworkers of America to further improve productivity; and

Whereas, It is essential that the industry not be subjected to a renewed surge of imported steel because of any early termination or weakening of the safeguard measures; and

Whereas, The steel industry has been doing its part under the Section 201 program and needs the full three-year term if the President's program is to come to a successful conclusion; and

Whereas, the House of Representatives and the Senate of the Commonwealth of Pennsylvania have consistently urged the President through resolutions to pursue enhanced enforcement of United States trade laws, to take steps to rebuild the United States steel industry and to implement tariffs on foreign steel as recommended by the International Trade Commission and are now urging the reinstatement of the tariffs or support to the steel industry for the full three-year duration to ensure the industry's continued recovery; and

Whereas, On three separate occasions prior to the release of the International Trade Commission's report, the House of Representatives and the Senate of the Commonwealth of Pennsylvania have passed resolutions urging the President to maintain the Section 201 steel tariffs for the full three-year term; and

Whereas, The International Trade Commission's report reveals that the Pennsylvania General Assembly's earlier support for continuing the Section 201 steel tariffs was justified, prudent and in the best interests of the steel-producing industry in the Commonwealth of Pennsylvania: Therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania strongly urge the President and the Congress of the United States to continue to support the revitalization of the American steel industry for the benefit of the citizens of this nation and for the benefit of the national economy by reinstating the steel tariffs under Section 201 of the Trade Act of 1974 or providing support to the steel industry for the entire three-year duration regardless of the World Trade Organization's November 10, 2003, ruling: Therefore be it further

Resolved, That a copy of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM–374. A resolution adopted by the Senate of the Legislature of the State of Michigan relative to the International Monetary Fund; to the Committee on Foreign Relations.

SENATE RESOLUTION NO. 189

Whereas, Through international agreements and in the spirit of fair and balanced trade, the United States dollar is allowed to float freely, with little to no market intervention; and

Whereas, Many of the trade partners with the United States, including, but not limited to, the European Union, Canada, and Mexico, operate with a floating exchange rate within the international financial system; and

Whereas, There are nations that are able to sell goods at rates lower than the cost of production in the United States, in part, through a manipulation of their nation's currency. This contributes significantly to creating an unfair trade balance; and

Whereas, Foreign countries that manipulate their currency are able to sell goods in the United States at an artificial price, lower than the cost of domestically produced products. Doing so undercuts American manufactured products, and it may soon eliminate domestic manufacturing; and

Whereas, The loss of the domestic manufacturing industry poses a substantial threat to the nation's security by requiring the United States to depend on other nations to produce critical components for our defense programs.

Whereas, Currency manipulation has contributed to substantial trade deficits with certain nations. The increase in the trade deficit with China alone, one of the countries known for currency manipulation, represents about 15 percent of the decline in United States production since 2000; and

Whereas, Article IV of the International Monetary Fund Articles of Agreement states that members shall avoid manipulating exchange rates or the international monetary system in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage over other members." Under IMF surveillance procedures, a principal indicator of such manipulation is "protracted large scale intervention in one direction in the exchange market." Now, therefore, be it

Resolved by the Senate, That we memorialize the Congress of the United States to take the necessary actions, through the International Monetary Fund or otherwise, to ensure that foreign nations that trade with the United States do so fairly and do not manipulate their currency; and be it further RESOLVED, That a copy of this resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the United States Secretary of Commerce, and the members of the Michigan congressional delegation.

POM–375. A resolution adopted by the Senate of the General Assembly of the Commonwealth of Pennsylvania relative to the Individuals with Disabilities Education Act; to the Committee on Health, Education, Labor, and Pensions.

RESOLUTION

Whereas, In the interest of ensuring that children with disabilities in the United States receive a free appropriate public education, the Individuals with Disabilities Education Act (Public Law 91–230, 20 U.S.C. §1400 et. seq.) encroached upon the states' traditional domain over education and established certain mandates that all state and local governments must observe in the education of children with special needs; and

Whereas, In recognition of the high cost of these Federal mandates, the Individuals with Disabilities Education Act allows the Congress to provide each state with a maximum Federal grant equal to the number of children with disabilities in the state multiplied by 40% of the average per pupil expenditure for all special education students in the United States; and

Whereas, The Federal Government has not provided sufficient funding to pay for the costly mandates imposed by the Individuals with Disabilities Education Act; and

Whereas, The Commonwealth's need for these increased funds is urgent and immediate; and

Whereas, The Federal funding the Commonwealth currently receives for each student with special needs is only the equivalent of 12% of the national average per pupil expenditure; and

Whereas, By this measure, the Federal Government contributes only 12% of the total cost of special education in this Commonwealth even though the Commonwealth and its school districts must comply with 100% of the costly mandates imposed by the Individuals with Disabilities Education Act; and

Whereas, These costs have been increasing rapidly in recent years; and

Whereas, In this Commonwealth, even though the population of students with special needs increased by less than 1% between 1995 and 2000, the number of special education instructors has increased by 14% to 14,547; and

Whereas, In the same period, the Commonwealth's appropriations for special education have increased by over 25% in order to keep pace; and

Whereas, If the Federal Government would provide the level of funding that the Individuals with Disabilities Education Act allows, the Commonwealth would have sufficient resources to meet these growing needs; in fiscal year 2001–2002 it would have received $605,000,000, an increase of $421,544,956, or 229.78%, over the Federal funding the Commonwealth received in fiscal year 2000–2001; and

Whereas, Because the Federal Government has failed to provide the level of funding that the Individuals with Disabilities Education Act allows, it has placed a disproportionate financial burden on the Commonwealth and its school districts; and

Whereas, If the Individuals with Disabilities Education Act is to fully accomplish its mission to provide a free appropriate public education to children with disabilities, the Federal Government must provide State and local governments with the funding they need to successfully implement the act's mandates: Therefore be it

Resolved, That the Senate of Pennsylvania urge the Congress of the United States to fulfill the commitment of the Individuals with Disabilities Education Act by taking immediate action on legislation that would provide resources equal to 40% of the national average per pupil expenditure for special education students for each Pennsylvania student with special needs: And be it further

Resolved, That copies of this resolution be sent to the President and Vice President of the United States, to the presiding officers of each house of Congress, to each member of Congress from Pennsylvania, to the National Conference of State Legislatures, to the National Governor's Association, to the State Board of Education and to the Secretary of Education.

POM–376. A resolution adopted by the House of Representatives of the State of Michigan relative to unopened prescription medications recovered from deceased patients; to the Committee on Health, Education, Labor, and Pensions.

HOUSE RESOLUTION NO. 233

Whereas, there are a host of issues relating to the difficult social, medical, and legal challenges of end-of-life concerns. A significant source of confusion, at times, are the procedures for prescribing and handling medications for terminally ill patients, including drugs that are governed by controlled substance laws; and

Whereas, one aspect of end-of life care that needs to be resolved is how to handle prescription medications for patients who have died. It is a common situation for there to be prescriptions that are written and filled but unused. At the present time, there are no provisions of federal law that offer a means of returning unused and unopened medications in a way that these expensive medicines can be dispensed and used by another terminally ill patient. Each year, thousands of dollars worth of prescription medications are wastefully discarded after a patient dies. In many situations, the medicines could safely be used for the benefit of others; and

Whereas, when medications, including those used by hospice patients in the final stages of life, are still sealed in tamper-evident containers that assure safety, there is little reason to destroy the medication rather than dispensing it again at no cost to a new patient beyond a handling fee. Appropriate changes need to be made to federal laws and regulations, including those that govern controlled substances; now, therefore, be it

Resolved by the house of representatives, That we memorialize the Congress of the United States to amend federal laws and regulations to address the issue of unopened prescription medications recovered from deceased patients; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–377. A resolution adopted by the Senate of the General Assembly of the State of Tennessee relative to funding for the Juvenile Accountability Block Grant; to the Committee on the Judiciary.

SENATE RESOLUTION NO. 110

Whereas, the Juvenile Accountability Block Grant (JABG) was enacted in the 2002 reauthorization of the Juvenile Justice and Delinquency Prevention Act; and

Whereas, this grant provides dollars for use by states and units of local government to promote greater accountability in the juvenile justice system; and

Whereas, between 1998 and 2002, the State of Tennessee received $20,757,000 in JABG funds for accountability-based juvenile justice system programs; and

Whereas, rural counties across the State have received funds to assist with juvenile court services and with decreasing the backlog of juvenile cases; and

Whereas, the types of programs in Tennessee currently being funded by the JABG include: (1) intensive probation services; (2) residential observation and assessment services; (3) intensive after-care services; (4) alternative school and summer adventure-based programs; (5) additional juvenile court officers and referees to handle cases; (6) improved data systems for tracking juvenile cases; and (7) new youth and drug courts for diversion from the regular juvenile justice system; and

Whereas, because of the JABG funds, juvenile courts in rural areas, which normally have minimal resources, now have a greater variety of services to meet more individualized needs; and

Whereas, because of the services enabled by the JABG funds, juvenile offense referrals in Tennessee for crimes such as homicide, robbery, aggravated assault, rape, larceny, and burglary have been reduced by 16 percent between 1997 and 2001; and

Whereas, the JABG funds are providing for seven staff positions and community-based services through OASIS Center, YCAP Positive Beginnings program, Save Our Children and Frank Reed Memorial Tutoring Program, all of which are community-based youth serving non-profit agencies in Nashville, Tennessee; and

Whereas, because of services provided by JABG funds, the Metropolitan Nashville/Davidson County juvenile court's central intake diversion unit was able to divert 1,700 youth out of the juvenile justice system; and

Whereas, JABG funds are being used in Davidson County to support an onsite mental health specialist in the juvenile court, who facilitates intervention with the mental health cooperative and provides the court with information on youth who are acting in ways that warrant evaluation; and

Whereas, it is necessary to maintain JABG funds to continue the success of reducing juvenile crime in Tennessee and providing more individualized, accountability-based interventions for youth involved with the juvenile courts; now, therefore, be it

Resolved by the Senate of the one hundred third general assembly of the State of Tennessee, That the continued success in the reduction of juvenile crime in Tennessee and the increase of vital services provided to children who are in the juvenile criminal system is dependent upon the renewal of Juvenile Accountability Block Grant funds by the federal government. Be it

Further Resolved, That the Senate strongly urges the United States Congress and the President of the United States to restore funding for the Juvenile Accountability Block Grant because of the tremendous value these funds provide for local communities in Tennessee. Be it

Further resolved, That the Chief Clerk of the Senate is directed to transmit enrolled copies of this resolution to each member of the Tennessee Congressional Delegation, to the Honorable George W. Bush, President of the United States, to the Speaker and Clerk of the United States House of Representatives, and to the President and Secretary of the United States Senate.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CAMPBELL, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 1601. A bill to amend the Indian Child Protection and Family Violence Prevention Act to provide for the reporting and reduction of child abuse and family violence incidences on Indian reservations, and for other purposes (Rept. No. 108–228).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment:

S. 213. A bill to clear title to certain real property in New Mexico associated with the Middle Rio Grande Project, and for other purposes (Rept. No. 108–229).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 524. A bill to expand the boundaries of the Fort Donelson National Battlefield to authorize the acquisition and interpretation of lands associated with the campaign that resulted in the capture of the fort in 1862, and for other purposes (Rept. No. 108–230).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 943. A bill to authorize the Secretary of the Interior to enter into 1 or more contracts with the city of Cheyenne, Wyoming, for the storage of water in the Kendrick Project, Wyoming (Rept. No. 108–231).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with amendments:

S. 960. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize certain projects in the State of Hawaii and to amend the Hawaii Water Resources Act of 2000 to modify the water resources study (Rept. No. 108–232).

S. 1107. A bill to enhance the Recreational Fee Demonstration Program for the National Park Service, and for other purposes (Rept. No. 108–233).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 1167. A bill to resolve the boundary conflicts in Barry and Stone Counties in the State of Missouri (Rept. No. 108–234).

S. 1516. A bill to further the purposes of the Reclamation Projects Authorization and Adjustment Act of 1992 by directing the Secretary of the Interior, acting through the commissioner of Reclamation, to carry out an assessment and demonstration program to assess potential increases in water availability for Bureau of Reclamation projects and other uses through control of salt cedar and Russian olive (Rept. No. 108–235).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 1576. A bill to revise the boundary of Harpers Ferry National Historical Park, and for other purposes (Rept. No. 108–236).

S. 1577. A bill to extend the deadline for commencement of construction of a hydroelectric project in the State of Wyoming (Rept. No. 108–237).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1848. A bill to amend the Bend Pine Nursery Land Conveyance Act to direct the Secretary of Agriculture to sell the Bend Pine Nursery Administration Site in the State of Oregon (Rept. No. 108–238).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 2178. An original bill to make technical corrections to laws relating to certain units of the National Park System and to National Park programs (Rept. No. 108–239).

H.R. 408. A bill to provide for expansion of Sleeping Bear Dunes National Lakeshore (Rept. No. 108–240).

H.R. 417. A bill to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California (Rept. No. 108–241).

H.R. 708. A bill to require the conveyance of certain National Forest System lands in Mendocino National Forest, California, to provide for the use of the proceeds from such conveyance for National Forest purposes, and for other purposes (Rept. No. 108–242).

H.R. 856. A bill to authorize the Secretary of the Interior to revise a repayment contract with the Tom Green County Water Control and Improvement District No. 1, San Angelo project, Texas, and for other purposes (Rept. No. 108–243).

H.R. 1598. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in projects within the San Diego Creek Watershed, California, and for other purposes (Rept. No. 108–244).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. McCAIN for the Committee on Commerce, Science, and Transportation.

*Rhonda Keenum, of Mississippi, to be Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Services.

*Linda Morrison Combs, of North Carolina, to be an Assistant Secretary of Transportation.

*Francis Mulvey, of Maryland, to be a Member of the Surface Transportation Board for a term expiring December 31, 2007.

*W. Douglas Buttrey, of Tennessee, to be a Member of the Surface Transportation Board for a term expiring December 31, 2008.

Mr. McCAIN. Mr. President, for the Committee on Commerce, Science, and Transportation I report favorably the following nomination lists which were printed in the Records on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Coast Guard nominations beginning Michael P. Guldin and ending Felicia K. Raybon, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2003.

Coast Guard nomination of Larry L. Jones.

Coast Guard nominations beginning Catherine A Abella and ending Bradly G Winans, which nominations were received by the Senate and appeared in the Congressional Record on February 5, 2004.

Coast Guard nominations beginning Susan J. Blood and ending Heather L. Morrison, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2004.

By Mr. GRASSLEY for the Committee on Finance.

*Brian Carlton Roseboro, of New Jersey, to be an Under Secretary of the Treasury.

*Mark J. Warshawsky, of Maryland, to be an Assistant Secretary of the Treasury.

*Mark B. McClellan, of the District of Columbia, to be Administrator of the Centers for Medicare and Medicaid Services.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CORZINE:

S. 2177. A bill to amend title 10, United States Code, to change the effective date for paid-up coverage under the military Survivor Benefit Plan from October 1, 2008, to October 1, 2004; to the Committee on Armed Services.

By Mr. DOMENICI:

S. 2178. An original bill to make technical corrections to laws relating to certain units of the National Park System and to National Park programs; from the Committee on Energy and Natural Resources; placed on the calendar.

By Mr. BROWNBACK (for himself and Mr. Roberts):

S. 2179. A bill to posthumously award a Congressional Gold Medal to the Reverend Oliver L. Brown; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CAMPBELL:

S. 2180. A bill to direct the Secretary of Agriculture to exchange certain lands in the Arapaho and Roosevelt National Forests in the State of Colorado; to the Committee on Energy and Natural Resources.

By Mr. CAMPBELL:

S. 2181. A bill to adjust the boundary of Rocky Mountain National Park in the State of Colorado; to the Committee on Energy and Natural Resources.

By Mr. NELSON of Nebraska (for himself and Mr. Enzi):

S. 2182. A bill to amend the Farm Security and Rural Investment Act of 2002 to permit the planting of chicory on base acres; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BINGAMAN (for himself, Mr. Lugar, and Mr. Dodd):

S. 2183. A bill to amend the Child Nutrition Act of 1966 to create team nutrition networks to promote the nutritional health of school children; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BUNNING (for himself and Mr. Graham of South Carolina):

S. 2184. A bill to amend title 10 United States Code, to increase the rates of educational assistance for members of the Selected Reserve, and for other purposes; to the Committee on Armed Services.

By Mr. CHAMBLISS:

S. 2185. A bill to simplify the process for admitting temporary alien agricultural workers under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act, to increase access to such workers, and for other purposes; to the Committee on the Judiciary.

By Mr. DASCHLE (for Mr. Kerry):

S. 2186. A bill to temporarily extend the programs under the Small Business Act and the Small Business Investment Act of 1958, through May 15, 2004, and for other purposes; to the Committee on Small Business and Entrepreneurship.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. MIKULSKI (for herself and Mr. Sarbanes):

S. Res. 312. A resolution commending the bravery of the initial responders in the Baltimore Harbor water taxi accident of March 6, 2004; considered and agreed to.

By Mr. FEINGOLD (for himself and Mr. Hagel):

S. Res. 313. A resolution expressing the sense of the Senate encouraging the active engagement of Americans in world affairs and urging the Secretary of State to coordinate with implementing partners in creating an online database of international exchange programs and related opportunities; to the Committee on Foreign Relations.

By Mr. VOINOVICH (for himself, Mr. Lugar, and Mr. Biden):

S. Res. 314. A resolution commemorating and honoring President Boris Trajkovski; considered and agreed to.

By Mr. BIDEN (for himself, Mr. Lugar, Ms. Stabenow, Ms. Cantwell, Mr. Lautenberg, Ms. Mikulski, Mr. Levin, Ms. Murkowski, Mr. Graham of South Carolina, Mr. Kohl, Ms. Landrieu, Mrs. Feinstein, Mr. Bayh, Mrs. Murray, Mr. Jeffords, Mr. Hatch, Mr. Corzine, Mr. Daschle, Mr. Crapo, Mr. Dayton, Mr. Kennedy, Mrs. Clinton, and Mr. Feingold):

S. Res. 315. A resolution designating March 8, 2004, as "International Women's Day"; considered and agreed to.

By Mr. AKAKA (for himself, Mr. Allen, Mr. Sarbanes, Mr. Corzine, Mr. Santorum, Mr. Kohl, Mr. Thomas, Mr. Johnson, Mr. Kennedy, Mr. Schumer, Mr. Levin, Mr. Lautenberg, Mrs. Murray, Ms. Landrieu, Mr. Durbin, Mr. Inouye, and Mr. Crapo):

S. Res. 316. A resolution designating April 2004 as "Financial Literacy Month."; considered and agreed to.

By Mr. SARBANES (for himself and Ms. MIKULSKI):

S. Con. Res. 97. A concurrent resolution recognizing the 91st annual meeting of The Garden Club of America; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 623

At the request of Mr. WARNER, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 623, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 1093

At the request of Ms. SNOWE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1093, a bill to amend the Internal Revenue Code of 1986 to extend the transportation fringe benefit to bicycle commuters.

S. 1222

At the request of Mr. NELSON of Nebraska, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 1222, a bill to amend title XVIII of the Social Security Act to require the Secretary of Health and Human Services, in determining eligibility for payment under the prospective payment system for inpatient rehabilitation facilities, to apply criteria consistent with rehabilitation impairment categories established by the Secretary for purposes of such prospective payment system.

S. 1765

At the request of Mr. LOTT, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1765, a bill to preserve and protect the free choice of individual employees to form, join, or assist labor organizations, or to refrain from such activities.

S. 1888

At the request of Mr. SPECTER, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1888, a bill to halt Saudi support for institutions that fund, train, incite, encourage, or in any other way aid and abet terrorism, and to secure full Saudi cooperation in the investigation of terrorist incidents.

S. 1916

At the request of Ms. LANDRIEU, the names of the Senator from New Jersey (Mr. LAUTENBERG), the Senator from New York (Mr. SCHUMER) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 1916, a bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

S. 2020

At the request of Mrs. BOXER, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 2020, a bill to prohibit, consistent with Roe v. Wade, the interference by the government with a woman's right to choose to bear a child or terminate a pregnancy, and for other purposes.

S. 2049

At the request of Mr. SPECTER, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 2049, a bill to amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize collection of reclamation fees, revise the abandoned mine reclamation program, promote remining, authorize the Office of Surface Mining to collect the black lung excise tax, and make sundry other changes.

S. 2132

At the request of Mr. FEINGOLD, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2132, a bill to prohibit racial profiling.

S. 2143

At the request of Mr. DURBIN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2143, a bill to extend trade adjustment assistance to service workers.

S. 2157

At the request of Mr. BAUCUS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 2157, a bill to amend the Trade Act of 1974 to extend the trade adjustment assistance program to the services sector, and for other purposes.

S. 2158

At the request of Ms. COLLINS, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 2158, a bill to amend the Public Health Service Act to increase the supply of pancreatic islet cells for research, and to provide for better coordination of Federal efforts and information on islet cell transplantation.

S. 2175

At the request of Mr. DODD, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. 2175, a bill to amend the Public Health Service Act to support the planning, implementation, and evaluation of organized activities involving statewide youth suicide early intervention and prevention strategies, and for other purposes.

S.J. RES. 28

At the request of Mrs. MURRAY, her name was added as a cosponsor of S.J. Res. 28, a joint resolution recognizing the 60th anniversary of the Allied landing at Normandy during World War II.

S. CON. RES. 81

At the request of Mrs. FEINSTEIN, the names of the Senator from Louisiana (Mr. BREAUX) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. Con. Res. 81, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

S. RES. 308

At the request of Mr. SPECTER, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. Res. 308, a resolution designating March 25, 2004, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy".

S. RES. 309

At the request of Mr. CRAIG, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Alabama (Mr. SHELBY) were added as cosponsors of S. Res. 309, a resolution designating the week beginning March 14, 2004 as "National Safe Place Week".

S. RES. 311

At the request of Mr. BROWNBACK, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. Res. 311, a resolution calling on the Government of the Socialist Republic of Vietnam to immediately and unconditionally release Father Thadeus Nguyen Van Ly, and for other purposes.

AMENDMENT NO. 2639

At the request of Mr. EDWARDS, his name was added as a cosponsor of amendment No. 2639 intended to be proposed to S. 1637, a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

AMENDMENT NO. 2697

At the request of Mr. DEWINE, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of amendment No. 2697 intended to be proposed to S. Con. Res. 95, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CORZINE:

S. 2177. A bill to amend title 10, United States Code, to change the effective date for paid-up coverage under the military Survivor Benefit Plan from October 1, 2008, to October 1, 2004; to the Committee on Armed Services.

Mr. CORZINE. Mr. President, I rise today to introduce the Military Survivors' Fairness Act of 2004, legislation to eliminate a major inequity that has existed for several years among certain year-groups of military retirees already enrolled in the Survivors' Benefit Plan.

In the interest of a strong national defense, it is critical that we keep faith with the men and women who serve in our military. This applies both while military members are serving, and as they move beyond their working years. Our military retirees and their families have made significant sacrifices in the defense of their country. They deserve benefits commensurate with those sacrifices.

In 1972, Congress created the Survivors' Benefit Plan (SBP), giving career military members the option of taking less retirement pay in their own lifetime in return for the continuation of that pay to the surviving spouse, in the event the retiree pre-deceased his or her spouse.

SBP was a wise and important decision by the Congress; hundreds of thousands of military members have enrolled in SBP since 1972, and the program has given much-deserved security and peace of mind to those spouses who, along with military members, share the burdens of a military career.

Congress expanded the Survivor Benefit Plan (SBP) in 1999, by creating the "Paid-Up Provision." Under that provision, retirees who are at least seventy years old and have already been paying into SBP for at least thirty years are considered "paid up" and do not have to continue paying in to receive benefits.

This change provides a modest but frequently important boost to retirees' income at a stage in their lives, in their 70's, when they may be less able to supplement their retirement income from other employment.

However, there is a major caveat, and a significant inequity here. The "Paid-Up Provision", under the 1999 legislation, does not take effect until October 2008. As a result, those who enrolled before 1978 will continue under the current law to have to pay in as much as six years longer than enrollees from 1978 or after.

The SBP program was created in 1972. An effective date of 2008 for the SBP's "Paid-Up Provision" means that those who enrolled in the first six years of the program, i.e., between 1972 and 1977, must, in order to get the same retirement benefits, pay in longer, as much as six years longer, than those who enrolled in 1978 or later.

In other words, those who signed up before 1978 get the same benefits but have to pay a much higher price. This arrangement is unfair on its face and should be corrected.

My bill, the Military Survivors' Fairness Act of 2004, simply takes the "Paid-Up Provision"—already established by Congress in 1999, and moves its effective date ahead four years, from October 1, 2008 to October 1, 2004. That is the only change it makes.

This bill, if approved, would benefit some ninety-two thousand military retirees nationwide, those who enrolled in SBP between 1974 and 1977. The Military Officers Association of America has estimated that the cost would be $2.7 billion over ten years.

Under my bill, ninety-two thousand military retirees participating in the SBP program, from every State and congressional district, will no longer be forced to pay more for their retirement than military retirees who enrolled in SBP in 1978 or later. This is only fair—the benefits for which these 92,000 are paying are identical, and their service was just as worthy.

The 1999 legislation establishing the "Paid-Up Provision" was a good idea with the wrong effective date—it was given a 2008 effective date because that Congress wanted to defer any budgetary impact. Accounting conventions and budgetary targets, however, should not determine whether we are going to keep faith with our military men and women. Any arrangement that treats them with any trace of unfairness or lack of appreciation for their service is not right, is not in our national interest and should be fixed.

The Military Survivors' Fairness Act of 2004 is such a fix it—corrects a significant inequity among an important group of military retirees, and I urge its adoption.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2177

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Military Survivors' Fairness Act of 2004".

SEC. 2. EFFECTIVE DATE FOR PAID-UP COVERAGE UNDER SURVIVOR BENEFIT PLAN.

Section 1452(j) of title 10, United States Code, is amended by striking "October 1, 2008" and inserting "October 1, 2004".

By Mr. CAMPBELL:

S. 2180. A bill to direct the Secretary of Agriculture to exchange certain lands in the Arapaho and Roosevelt National Forests in the State of Colorado; to the Committee on Energy and Natural Resources.

Mr. CAMPBELL. Mr. President, I am pleased to introduce a bill today that would effect a small land exchange to help the city of Golden, CO in its efforts to augment its water supply, that it might better prepare for a resumption of the drought which has plagued our State in the past several years. The bill I am proposing would direct that the U.S. Forest Service complete a land exchange with the city of Golden at the earliest possible date.

In the land exchange, the city would receive approximately 10 acres of National Forest land near Empire, CO. The city needs this land to complete construction of a 140-foot stretch of water pipeline connecting the West Fork of Clear Creek with a brand new water storage reservoir, known as the Guanella Reservoir, which the city completed in December. The Guanella Reservoir will increase the city's existing water storage capacity by approximately 40 percent, and better enable it to cope with future water shortages.

This legislation is critical, because while the Guanella Reservoir is now completed, as is the diversion dam, penstock, and all but 140 feet of the connecting pipeline, the reservoir remains dry. In short, the pipeline is completed up to the National Forest boundary, and authorization is needed from either the Forest Service or Congress to complete the small remaining stretch of pipeline that must cross National Forest land. Until that authorization is provided, the reservoir is sitting empty, and that is a situation we do not want to see continued into the dry summer months. Unfortunately, the Forest Service has indicated it would take quite some time, possibly several years, to authorize the pipeline, and we have agreed with them that this land exchange is the best approach to meet everyone's needs and time frames.

For this reason, I am introducing this important legislation, and have asked the Committee on Energy and Natural Resources to expedite it in every way possible.

Additionally, I would like to note that while providing the city of Golden the ability to finish a critical water storage project, my proposal is also a beneficial deal for the United States. In return for the 10 acres it will give up, the Forest Service will receive up to 80 acres of land near a popular trail and recreation area in Evergreen, CO, and will also receive 55 acres of land on and near the Continental Divide National Scenic Trail in Clear Creek and Summit Counties. The 55 acres are located along one of the most popular stretches of the Trail, and are one of the ways hikers and other users can access the popular Greys and Torreys Peaks, two of the most heavily-climbed 14,000 foot peaks in our State. Further, my bill provides that all land values will be determined in accordance with Forest Service appraisal procedures, so we will be insuring that the United States will receive full market value for its land. In addition, the City is making a donation of Continental Divide Trail lands above which are required. I believe this is truly a "win-win" situation for all concerned, and commend the City for making the additional donation to the Forest Service.

Finally, I would like to note that my proposal has been endorsed by the County Commissioners of all three counties that have lands involved in the trade, the non-profit Continental Divide Trail Alliance, the City of Blackhawk Public Works Department, the Georgetown Loop Scenic Railroad, and by numerous others.

Again, I would recommend this legislation for my colleagues' quick approval in order that the City of Golden can get on with its urgent needs to supply adequate additional water to its residents this summer.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2180

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Arapaho and Roosevelt National Forests Land Exchange Act of 2004".

SEC. 2. LAND EXCHANGE, ARAPAHO AND ROOSEVELT NATIONAL FORESTS, COLORADO.

(a) Conveyance by the City of Golden.—

(1) Lands described.—The land exchange directed by this section shall proceed if, within 30 days after the date of the enactment of this Act, the City of Golden, Colorado (in the section referred to as the "City"), offers to convey title acceptable to the United States to the following non-Federal lands:

(A) Certain lands located near the community of Evergreen in Park County, Colorado, comprising approximately 80 acres, as generally depicted on a map entitled "Non-Federal Lands—Cub Creek Parcel", dated June, 2003.

(B) Certain lands located near Argentine Pass in Clear Creek and Summit Counties, Colorado, comprising approximately 55.909 acres in 14 patented mining claims, as generally depicted on a map entitled "Argentine Pass/Continental Divide Trail Lands", dated September 2003.

(2) Conditions of conveyance.—The conveyance of lands under paragraph (1)(B) to the United States shall be subject to the absolute right of the City to permanently enter upon, utilize, and occupy so much of the surface and subsurface of the lands as may be reasonably necessary to access, maintain, repair, modify, make improvements in, or otherwise utilize the Vidler Tunnel to the same extent that the City would have had such right if the lands had not been conveyed to the United States and remained in City ownership. The exercise of such right shall not require the City to secure any permit or other advance approval from the United States. Upon acquisition by the United States, such lands are hereby permanently withdrawn from all forms of entry and appropriation under the public land laws, including the mining and mineral leasing laws, and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.).

(b) Conveyance by United States.—Upon receipt of acceptable title to the non-Federal lands identified in subsection (a), the Secretary of Agriculture shall simultaneously convey to the City all right, title and interest of the United States in and to certain Federal lands, comprising approximately 9.84 acres, as generally depicted on a map entitled "Empire Federal Lands—Parcel 12", dated June 2003.

(c) Equal Value Exchange.—

(1) Appraisal.—The values of the Federal lands identified in subsection (b) and the non-Federal lands identified in subsection (a)(1)(A) shall be determined by the Secretary through appraisals performed in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions (December 20, 2000) and the Uniform Standards of Professional Appraisal Practice. Except as provided in paragraph (3), the conveyance of the non-Federal lands identified in subsection (a)(1)(B) shall be considered a donation for all purposes of law.

(2) Surplus of non-federal value.—If the final appraised value, as approved by the Secretary, of the non-Federal lands identified in subsection (a)(1)(A) exceeds the final appraised value, as approved by the Secretary, of the Federal land identified in subsection (b), the values may be equalized—

(A) by reducing the acreage of the non-Federal lands identified in subsection (a) to be conveyed, as determined appropriate and acceptable by the Secretary and the City;

(B) the making of a cash equalization payment to the City, including a cash equalization payment in excess of the amount authorized by section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)); or

(C) a combination of acreage reduction and cash equalization.

(3) Surplus of federal value.—If the final appraised value, as approved by the Secretary, of the Federal land identified in subsection (b) exceeds the final appraised value, as approved by the Secretary, of the non-Federal lands identified in subsection (a)(1)(A), the Secretary shall prepare a statement of value for the non-Federal lands identified in subsection (a)(1)(B) and utilize such value to the extent necessary to equalize the values of the non-Federal lands identified in subsection (a)(1)(A) and the Federal land identified in subsection (b). If the Secretary declines to accept the non-Federal lands identified in subsection (a)(1)(B) for any reason, the City shall make a cash equalization payment to the Secretary as necessary to equalize the values of the non-Federal lands identified in subsection (a)(1)(A) and the Federal land identified in subsection (b).

(d) Exchange Costs.—To expedite the land exchange under this section and save administrative costs to the United States, the City shall be required to pay for—

(1) any necessary land surveys; and

(2) the costs of the appraisals, which shall be performed in accordance with Forest Service policy on approval of the appraiser and the issuance of appraisal instructions.

(e) Timing and Interim Authorization.—It is the intent of Congress that the land exchange directed by this Act shall be completed no later than 120 days after the date of the enactment of this Act. Pending completion of the land exchange, the City is authorized, effective on the date of the enactment of this Act, to construct a water pipeline on or near the existing course of the Lindstrom ditch through the Federal land identified in subsection (b) without further action or authorization by the Secretary, except that, prior to initiating any such construction, the City shall execute and convey to the Secretary a legal document that permanently holds the United States harmless for any and all liability arising from the construction of such water pipeline and indemnifies the United States against all costs arising from the United States' ownership of the Federal land, and any actions, operations or other acts of the City or its licensees, employees, or agents in constructing such water pipeline or engaging in other acts on the Federal land prior to its transfer to the City. Such encumbrance on the Federal land prior to conveyance shall not be considered for purposes of the appraisal.

(f) Alternative Sale Authority.—If the land exchange is not completed for any reason, the Secretary is hereby authorized and directed to sell the Federal land identified in subsection (b) to the City at its final appraised value, as approved by the Secretary. Any money received by the United States in such sale shall be considered money received and deposited pursuant to Public Law 90-171 (16 U.S.C. 484(a); commonly known as the "Sisk Act", and may be used, without further appropriation, for the acquisition of lands for addition to the National Forest System in the State of Colorado.

(g) Incorporation, Management, and Status of Acquired Lands.—Land acquired by the United States under the land exchange shall become part of the Arapaho and Roosevelt National Forests, and the exterior boundary of such forest is hereby modified, without further action by the Secretary, as necessary to incorporate the non-Federal lands identified in subsection (a) and an additional 40 acres as depicted on a map entitled "Arapaho and Roosevelt National Forest Boundary Adjustment—Cub Creek", dated June 2003. Upon their acquisition, lands or interests in land acquired under the authority of this Act shall be administered in accordance with the laws, rules and regulations generally applicable to the National Forest System. For purposes of Section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundaries of the Arapaho and Roosevelt National Forests, as adjusted by this subsection shall be deemed to be the boundaries of such forest as of January 1, 1965.

(h) Technical Corrections.—The Secretary, with the agreement of the City, may make technical corrections or correct clerical errors in the maps referred to in this section or adjust the boundaries of the Federal lands to leave the United States with a manageable post-exchange or sale boundary. In the event of any discrepancy between a map, acreage estimate, or legal description, the map shall prevail unless the Secretary and the City agree otherwise.

(i) Revocation of Orders and Withdrawal.—Any public orders withdrawing any of the Federal lands identified in subsection (b) from appropriation or disposal under the public land laws are hereby revoked to the extent necessary to permit disposal of the Federal lands. Upon the enactment of this Act, if not already withdrawn or segregated from the entry and appropriation under the public land laws, including the mining and mineral leasing laws and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.), the Federal lands are hereby withdrawn until the date of their conveyance to the City.

By Mr. CAMPBELL:

S. 2181. A bill to adjust the boundary of Rocky Mountain National Park in the State of Colorado; to the Committee on Energy and Natural Resources.

Mr. CAMPBELL. Mr. President, I am today introducing legislation that would authorize the exchange of lands between the Muriel MacGregor Trust and the National Park Service, and to amend the boundary of Rocky Mountain National Park to include the newly acquired land.

Rocky Mountain National Park was established by Congress on January 26, 1915, for the benefit and enjoyment of the people of the United States and to protect the natural conditions and scenic beauties of this portion of the Rocky Mountains. The park currently encompasses approximately 266,000 acres and has some of the most beautiful mountain scenery to be found anywhere in our country. Each year the park draws over 3 million visitors.

The MacGregor Ranch, located near Estes Park, CO, was homesteaded in 1873, which predates the establishment of Rocky Mountain National Park. In 1917, shortly after the establishment of the national park, the National Park Service built a residence for park employees just inside the park boundary, with access via a one-lane dirt road which crosses the MacGregor Ranch for about ¾ of a mile. This access was provided with the permission of the MacGregor family, but no easement, right-of-way, or other legal document was ever recorded.

The MacGregor Ranch is listed on the National Register of Historic Places and is owned by the charitable Muriel MacGregor Trust. The mission of the trust is to support youth education through the preservation and interpretation of the historic buildings and educational tours of this working high mountain cattle ranch. In 1980, the boundary of Rocky Mountain National Park was amended to include much of the MacGregor Ranch, and in 1983 the National Park Service purchased a conservation easement covering 1,221 acres of the ranch. While the ranch is located within the authorized boundary of the national park, it remains private property.

In the early 1970s, hikers and rock climbers began using the access road through the MacGregor Ranch to reach a small parking lot located just inside the park boundary. Known as the Twin Owls trailhead, the popularity of the area has grown steadily. In recent years, overflow parking has negatively impacted the ranch, and traffic on the one-lane access road has negatively affected the character of the historic homestead and has diminished the quality of the historic scene that visitors to the ranch come to experience.

For several years, the National Park Service and the MacGregor Ranch have been working to find a solution to the traffic and parking problems. Several environmental assessments have been prepared to examine various alternatives and gather public input. In 2003, based on public input and an Environmental Assessment, the National Park Service decided to relocate the Twin Owls parking lot to the east end of the MacGregor Ranch, some distance away from the historic homestead. A new access road and a larger trailhead parking lot that can accommodate 80 to 100 cars will be built at the new location.

So that the rules and regulations governing Rocky Mountain National Park can be enforced at the new trailhead and along the access road, the land needs to be incorporated into the national park. To accomplish this, the MacGregor Trust and the National Park Service have agreed to a land exchange. The National Park Service will acquire three parcels of land containing 5.9 acres from the MacGregor Trust for the development of the new parking lot and access road. In exchange, the MacGregor Trust will acquire up to 70 acres from the National Park Service that will be used for growing hay and cattle grazing. A conservation easement will be placed on the 70 acres that is transferred to the MacGregor Trust. The conservation easement will ensure that the property is used solely for ranching.

The land exchange is intended to be an equal value exchange. One of the three parcels currently owned by the MacGregor Trust is zoned for residential development and has a high monetary value. A conservation easement will be placed on the 70 acres currently owned by the National Park Service, which will diminish its monetary value. If the lands currently owned by the National Park Service are of higher value, less than 70 acres will be transferred to the MacGregor Ranch. If the three parcels owned by the MacGregor ranch are of higher value, the Ranch is willing to accept the unequal value and will only receive a maximum of 70 acres from the National Park Service.

This legislation is needed to authorize the land exchange, and to amend the park boundary to include the new lands to be added to park.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2181

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rocky Mountain National Park Boundary Adjustment Act of 2004".

SEC. 2. DEFINITIONS.

In this Act:

(1) FEDERAL PARCEL.—The term "Federal parcel" means the parcel of approximately 70 acres of Federal land near MacGregor Ranch, Larimer County, Colorado, as depicted on the map.

(2) MAP.—The term "map" means the map numbered 121/60,467, dated September 12, 2003.

(3) NON-FEDERAL PARCELS.—The term "non-Federal parcels" means the 3 parcels of non-Federal land comprising approximately 5.9 acres that are located near MacGregor Ranch, Larimer County, Colorado, as depicted on the map.

(4) PARK.—The term "Park" means Rocky Mountain National Park in the State of Colorado.

SEC. 3. ROCKY MOUNTAIN NATIONAL PARK BOUNDARY ADJUSTMENT.

(a) EXCHANGE OF LAND.—

(1) IN GENERAL.—The Secretary shall accept an offer to convey all right, title, and interest in and to the non-Federal parcels to the United States in exchange for the Federal parcel.

(2) CONVEYANCE.—Not later than 60 days after the date on which the Secretary receives an offer under paragraph (1), the Secretary shall convey the Federal parcel in exchange for the non-Federal parcels.

(3) CONSERVATION EASEMENT.—As a condition of the exchange of land under paragraph (2), the Secretary shall reserve a perpetual easement to the Federal parcel for the purposes of protecting, preserving, and enhancing the conservation values of the Federal parcel.

(b) BOUNDARY ADJUSTMENT; MANAGEMENT OF LAND.—On acquisition of the non-Federal parcels under subsection (a)(2), the Secretary shall—

(1) adjust the boundary of the Park to reflect the acquisition of the non-Federal parcels; and

(2) manage the non-Federal parcels as part of the Park, in accordance with any laws (including regulations) applicable to the Park.

By Mr. BINGAMAN (for himself, Mr. LUGAR, and Mr. DODD):

S. 2183. A bill to amend the Child Nutrition Act of 1966 to create team nutrition networks to promote the nutritional health of school children; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. BINGAMAN. Mr. President, Federal child nutrition programs have long played a critical role in promoting healthy diets for American children. First conceived over 50 years ago in response to concerns about the impacts of the diets of American youth on their fitness for the armed forces, Federal child nutrition programs have since expanded and evolved to meet the needs of a diverse population.

However, alarming increases in obesity rates for children and adolescents indicate that we are not doing enough in terms of nutrition education. The statistics are truly startling. Heart disease, cancer, stroke, and diabetes are responsible for two out of three deaths in the United States, and the major risk factors for those diseases and conditions are established in childhood through unhealthy eating habits, physical inactivity, obesity, and tobacco use. In the last two decades, obesity rates have doubled in children and tripled in adolescents, and today, one in seven young people are obese, and one in three are overweight. Additionally, three out of four high school students in the United States do not eat the recommended five or more servings of fruits and vegetables each day. Finally, a recent report by the Surgeon General estimated that obesity-related costs in the U.S. are close to $100 billion a year.

Unfortunately, nutrition education programs have been chronically underfunded. We have authorized 50 cents for every child served through Federal child nutrition programs, which is equivalent to over $24 million. This amount refers not to 50 cents per day, per week, or per month—this is 50 cents per year! However, last year, the only nutrition education program specifically directed at our Nation's school children, Team Nutrition, was funded at $10 million. This is equivalent to spending 21 cents a year on each child, a woefully inadequate amount. In addition, no funds were appropriated to nutrition education programs specifically designed to help States implement Team Nutrition materials.

The Early Attention to Nutrition (EATN) Act of 2004, which I am introducing today together with Senators Lugar and Dodd, would raise the total amount dedicated to nutrition education to $50 million a year. The funds would be used by the USDA to develop Team Nutrition materials, and to support Team Nutrition Networks in the States. Currently, only 21 States receive funding through Team Nutrition. This bill would allow all States to obtain Team Nutrition grants, and would fund a Team Nutrition Network in each State, which would be responsible for disseminating and coordinating nutrition education initiatives. The goal of the Team Nutrition Networks is to: instruct students with regard to the nutritional value of foods and the relationship between food and human health; provide assistance to schools in the adoption and implementation of school policies that promote healthy eating; foster community environments that support healthy eating and physical activities; provide training and technical assistance to teachers and school food service professionals consistent with this section; evaluate State and local nutrition education programs; disseminate educational materials statewide through the use of the Internet, mailings, conferences, and other communication channels; provide subgrants to school and school food authorities for carrying out nutrition education activities at the local level; and provide information to parents and caregivers regarding the nutritional value of food and the relationship between food and health.

Now is the time to take action toward improving the health and wellbeing of our Nation's youth. The cost of improving the health of our children will be far less than the cost of the health consequences to come if we do nothing.

I ask unanimous consent that the text of the bill and two letters of support be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2183

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Early Attention To Nutrition (EATN) Act of 2004".

SEC. 2. FINDINGS.

Congress finds that—

(1) heart disease, cancer, stroke, and diabetes are responsible for ⅔ of deaths in the United States;

(2) the major risk factors for those diseases and conditions are established in childhood through unhealthy eating habits, physical inactivity, obesity, and tobacco use;

(3) obesity rates have doubled in children and tripled in adolescents over the last 2 decades;

(4) today, 1 in 7 young people are obese, and 1 in 3 are overweight;

(5) obese children are twice as likely as nonobese children to become obese adults;

(6) an overweight condition and obesity can result in physical, psychological, and social consequences, including heart disease, diabetes, cancer, depression, decreased self-esteem, and discrimination;

(7) only 2 percent of children consume a diet that meets the 5 main recommendations for a healthy diet from the Food Guide Pyramid published by the Secretary of Agriculture;

(8) 3 out of 4 high school students in the United States do not eat the recommended 5 or more servings of fruits and vegetables each day; and

(9) 3 out of 4 children in the United States consume more saturated fat than is recommended in the Dietary Guidelines for Americans published by the Secretary of Agriculture.

SEC. 3. TEAM NUTRITION NETWORK GRANTS.

Section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) is amended to read as follows:

"SEC. 19. TEAM NUTRITION NETWORK GRANTS.

"(a) PURPOSES.—The purposes of this section are—

"(1) to promote the nutritional health of school children through nutrition education and other activities that support healthy lifestyles for children;

"(2) to provide grants to States for the development of statewide, comprehensive, and integrated nutrition education programs; and

"(3) to provide training and technical assistance to States, school and community nutrition programs, and child nutrition food service professionals.

"(b) DEFINITION OF TEAM NUTRITION NETWORK.—In this section, the term 'team nutrition network' means a multidisciplinary program to promote healthy eating to children based on scientifically valid information and sound educational, social, and marketing principles.

"(c) GRANTS.—The Secretary is authorized to make grants to State educational agencies to promote the nutritional health of school children through the establishment of team nutrition networks.

"(d) ALLOCATION.—

"(1) IN GENERAL.—Subject to paragraph (2) and subsections (g) and (h), the Secretary shall allocate funds made available for a fiscal year under subsection (i) to make grants to eligible State educational agencies for a fiscal year in an amount determined by the Secretary, based on the ratio that—

"(A) the number of lunches reimbursed through food service programs under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) in schools, institutions, and service institutions in the State that participate in the food service programs; bears to

"(B) the number of lunches reimbursed through the food service programs in schools, institutions, and service institutions in all States that participate in the food service programs.

"(2) MINIMUM GRANT.—

"(A) IN GENERAL.—The amount of a grant made to a State educational agency for a fiscal year under this section shall not be less than $500,000.

"(B) INSUFFICIENT FUNDS.—If the amount made available for any fiscal year is insufficient to pay the amount to which each eligible State educational agency is entitled under subparagraph (A), the Secretary shall select, on a competitive basis, eligible State educational agencies that will receive, at least, the minimum amount of grants required under subparagraph (A).

"(e) ELIGIBILITY.—To be eligible to receive a grant under this section, a State educational agency shall submit a State plan to the Secretary for approval, in such manner and at such time as the Secretary determines, that includes information regarding how the grant will be used in accordance with this section.

"(f) USES OF GRANT.—Subject to subsection (g), a grant made under this section may be used to—

"(1) instruct students with regard to the nutritional value of foods and the relationship between food and human health;

"(2) promote healthy eating by children;

"(3) provide assistance to schools in the adoption and implementation of school policies that promote healthy eating;

"(4) foster community environments that support healthy eating and physical activities;

"(5) provide training and technical assistance to teachers and school food service professionals consistent with this section;

"(6) evaluate State and local nutrition education programs;

"(7) disseminate educational materials statewide through the use of the Internet, mailings, conferences, and other communication channels;

"(8) provide subgrants to school and school food authorities for carrying out nutrition education activities at the local level; and

"(9) conduct programs and education for parents and caregivers regarding healthy eating for children.

"(g) STATE COORDINATORS.—

"(1) IN GENERAL.—The Secretary shall ensure that at least 10 percent of a grant made to a State educational agency for each fiscal year is used by the State educational agency to appoint a team nutrition network coordinator for the State.

"(2) ROLE OF STATE COORDINATORS.—A team nutrition network coordinator for a State shall—

"(A) develop and administer the team nutrition network in the State; and

"(B) coordinate the team nutrition network of the State with—

"(i) the Secretary (acting through the Food and Nutrition Service);

"(ii) State agencies responsible for children's health programs (including school-based children's health programs); and

"(iii) other appropriate Federal, State, and local agencies.

"(h) NATIONAL ACTIVITIES.—

"(1) IN GENERAL.—The Secretary shall reserve 20 percent of the amount of funds made available for each fiscal year under subsection (i) to promote team nutrition networks nationally in accordance with this subsection.

"(2) ACTIVITIES.—Of the amount of funds that are reserved for a fiscal year under this section, the Secretary shall use—

"(A) 50 percent of the reserved funds for—

"(i) evaluation of activities funded under this section; and

"(ii) development of a clearinghouse for collecting and disseminating information on best practices for promoting healthy eating in school and community child nutrition programs; and

"(B) 50 percent of the reserved funds to carry out national activities to support team nutrition networks through the Secretary, acting through the Undersecretary of Food and Nutrition Services.

"(i) FUNDING.—

"(1) IN GENERAL.—On October 1, 2004, and on each October 1 thereafter through October 1, 2007, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to carry out this section $50,000,000, to remain available until expended.

"(2) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.".

AMERICAN DIETETIC ASSOCIATION,
Washington, DC.

DEAR SENATOR BINGAMAN: Congratulations on developing the Early Attention to Nutrition Bill (EATN Bill) of 2004. ADA believes that when fully funded this bill will provide American children and their families with better nutrition education, physical activity education, and an overall more supportive environment that will help them develop healthy eating and activity patterns for life.

The American Dietetic Association is the world's largest food and professional association, and bases its work on evidence-based science to make recommendations that can promote optimal nutritional health and well-being. With that commitment to the public, our members are particularly pleased that this bill give due focus to nutrition education.

ADA supports the legislation's concept of the team Nutrition Network. Once enacted, Congress will need to assure funding for these programs so that they may genuinely contribute to improved health for American children. Your support for a funding level that would ensure that all 50 states receive at least a minimum level of funding is highly commendable and right on target as to what is needed. The nutrition education programs funded by these grants should be made available to both School lunch and breakfast sites as well as the CACFP programs governed by the Child Nutrition Act. Nutrition education and physical activity are key components to promoting healthy lifestyles and must be addressed across programs.

Thank you for introducing this very important legislation. The ADA is pleased to endorse this important step toward improving the health of our children.

Sincerely,

RONALD E. SMITH,
Director Government Affairs.

CENTER FOR SCIENCE IN THE
PUBLIC INTEREST,
March 8, 2004.

Hon. JEFF BINGAMAN,
Hart Senate Office Building, Washington, DC.

Attention: Dr. Daniela Ligiero.

DEAR SENATOR BINGAMAN: The Center for Science in the Public Interest (CSPI) thanks you for your long-standing record of leadership in promoting healthy eating among children. CSPI is a nonprofit health organization specializing in nutrition that has over 800,000 members and subscribers to its Nutrition Action Healthletter. We are pleased to strongly support your "Early Attention to Nutrition Act."

As obesity rates have doubled in children and tripled in adolescents over the last two decades, the need for effective nutrition education for children has become painfully apparent. Your bill establishes a Team Nutrition Network that would help educate children about the importance of healthy eating to lifelong health. While the U.S. Department of Agriculture's current Team Nutrition education program has been effective in helping states to develop innovative nutrition education programs, it does not provide consistent and reliable funding year-to-year, nor does it include a central mechanism to facilitate information-sharing between states on best practices and innovations. The Team Nutrition Network that your bill would establish is needed as an addition to the existing Team Nutrition program to develop and deliver effective nutrition education programs and activities in schools.

Again, CSPI applauds your efforts to help ensure that schoolchildren are taught valuable skills for lifelong healthy eating. We look forward to continuing to work with you and your staff to promote children's health.

Sincerely,

MARGO G. WOOTAN,
D. Sc., Director, Nutrition Policy.

By Mr. CHAMBLISS:

S. 2185. A bill to simplify the process for admitting temporary alien agricultural workers under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act, to increase access to such workers, and for other purposes; to the Committee on the Judiciary.

Mr. CHAMBLISS. Mr. President, I introduce the Temporary Agriculture Work Reform Act of 2004.

American farmers are the most efficient farmers in the world. Technologies have allowed farmers to produce higher quality products while increasing yields, and at the same time, reducing pesticide use. I applaud our farmers for their important role in our Nation's economy.

One obstacle that agriculture producers continually grapple with is labor. For many years, migrant workers have been the main source of labor for agriculture. In fact, today migrant workers make up about 56 percent of farm labor. A key issue for our American producers is having an efficient program to provide an agriculture workforce.

Reforms to the H2A program are warranted and needed. The program should be user-friendly for both growers and workers with less bureaucratic hassle. The program should operate in such a way to ensure that American producers can have their crops harvested in a timely fashion and that willing workers can get access to job opportunities. We need a program that is easy to use and provides a stable, reliable workforce for America's farmers.

My guest worker legislation reforms the cumbersome and uncompetitive aspects of the H2A temporary agriculture worker program—without providing amnesty to illegal aliens in the U.S. The bill gives farmers and workers a more functional program by simplifying the application process, providing a prevailing wage rate, and ensuring U.S. workers are not displaced.

The Adverse Effect Wage Rate, known by its acronym AEWR, has consistently failed to provide competitive incentives for farmers to become users of the H2A program. Due to the current need for foreign workers and job protections in place for domestic workers, the AEWR is no longer necessary. By replacing the AEWR with a prevailing wage rate, legal workers will maintain a pay scale that is equal with their counterparts.

The bill provides a labor attestation process to ensure that American workers are not displaced. This labor attestation process replaces the burdensome labor certification process currently in effect, which too often causes delays that have a detrimental effect on the seasonal agricultural industry. A similar labor attestation process has worked well for the H1B visa program, and I believe it can be used effectively for the H2A program. The bill also mandates stiff penalties on employers for misrepresentation and U.S. worker displacement. Bottom line, if a U.S. worker wants the job, under my bill he can have it.

But when foreign workers are needed, the bill encourages workers to come to the United States through legal channels. A one-time waiver allows foreign workers to apply for the H2A program from their home country if that person is inadmissible to the U.S. due to prior authorized entry—this will deter the cycle of illegal entry that endangers our national security. My bill does not provide amnesty or a new way for illegal aliens to adjust to legal permanent resident status other than in accordance with current law.

Finally, the bill includes a few narrow provisions, including re-establishing language that Congress has repeatedly passed on appropriations bills, to protect against frivolous lawsuits. Our farmers should be providing for America's dinner table, not defending meritless lawsuits.

There are a number of guest worker bills already introduced in the Senate, and in fact, my Subcommittee held the first hearing several weeks ago on the President's guest worker proposal. The bill I am introducing today is a good first step to the kind of overall reform we need. It meets our economic interests, protects U.S. workers, and respects the rule of law without a broad amnesty for illegal aliens.

This legislation establishes a common sense and competitive H2A program so that these employers can continue to produce the highest quality food supply in the world. I look forward to working with my colleagues to pass a much needed reform to the H2A program this year.

By Mr. DASCHLE (for Mr. KERRY):

S. 2186. A bill to temporarily extend the programs under the Small Business Act and the Small Business Investment Act of 1958, through May 15, 2004, and for other purposes; to the Committee on Small Business and Entrepreneurship.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. KERRY. Mr. President, today I introduce legislation that keeps the Small Business Administration and its financing and counseling assistance available to small businesses. Small businesses need us to act now to keep critical assistance available to our Nation's biggest job creators.

There should not be any objections to this bill. It has broad support in the small business and the lending communities. The lending provisions of the bill have the support of small borrowers that testified before Congress over the past few weeks and the support of a coalition of small business trade associations, including the trade associations of 504 lenders and of 7(a) lenders, the American Bankers Association and the Independent Community Bankers Association, as well as the National Small Business Alliance and the U.S. Chamber of Commerce, and the women's business center provisions have the support of women's trade associations such as Women Impacting Public Policy and the Association of Women's Business Centers.

This bill authorizes the SBA and most of its programs through the May 15, 2004, which will allow time for the House to complete its work on the SBA's 3-year reauthorization bill, passed by the Senate in September 2003. In addition, this bill addresses several urgent issues that are critical to keep SBA programs operating and helping small businesses across the country.

Let me outline these for you. The first provision authorizes the continued operation of the SBA's 504 loan guarantee program for the rest of fiscal year 2004. Unless we act, the authority to operate this program will expire on March 15, next Monday, and small businesses in need of financing for fixed assets will be turned away. These loans are for growing small businesses that need loans with long repayment terms and fixed interest rates to afford a new building or perhaps land to expand their business and their workforce, or equipment to improve or increase production. The lenders who make these loans serve a unique role in our economy—they develop economic opportunities where conventional lenders are not willing to take a risk. They are not a shy group, and care deeply about the communities where they live. I am sure most, if not all, Senators have received numerous calls and communications from them over the past few weeks. It is my hope that extending authorization will provide some stability to the industry so that they continue to fund our growing businesses, and then in the near future, the House will consider our more comprehensive SBA reauthorization legislation, bill number S. 1375, that we passed in September, to enact other important 504 program improvements that are supported by the small business community. This loan program requires no appropriations because it is funded entirely by fees that borrowers and lenders pay.

The second provision keeps open the doors of our most experienced and successful Women's Business Centers, again without added cost to the Treasury. This bill contains a small adjustment to the Women's Business Center program that updates the current funding formula. The adjustment changes the portion of funding allowed for women's business centers in the sustainability part of the program to keep up with the increasing number of centers that will need funding this fiscal year. In short, this change directs the SBA to reserve 48 percent of the appropriated funds for the sustainability centers, instead of 30 percent, which will give the most experienced centers the greatest opportunity to receive sustainability funding, while still allowing for new centers and protecting existing ones.

Currently there are 88 women's business centers. Of these, 35 are in the initial grant program and 53 will have graduated to the sustainability part of the program. These sustainability centers make up more than half of the total women's business centers, but under the current funding formula are only allotted 30 percent of the funds. Without the change to 48 percent, all grants to sustainability centers could be cut in half—or worse, 23 experienced centers could lose funding completely. Cutting funding for these, our most efficient and successful centers, would not only be detrimental to the centers themselves, but also to the women they serve, to their local communities, to their states, and to the national economy.

As the author of the Women's Business Centers Sustainability Act of 1999, I can tell you that when the bill was signed into law, it was Congress's intent to protect the established and successful infrastructure of worth, performing centers. The law was designed to allow all graduating Women's Business Centers that meet certain performance standards to receive continued funding under sustainability grants. This approach allows for new centers to be established—but not by penalizing those that have already demonstrated their worth. It was our intention to continue helping the most productive and well-equipped women's business centers, knowing that demand for such services was rapidly growing.

Today, with women-owned businesses opening at one-and-a-half times the rate of all privately held firms, the demand and need for women's business centers is even greater. Until Congress makes permanent the Women's Business Center Sustainability Pilot program, as intended in Senate-passed legislation, an extension of authority and increase in sustainability funds is vital—not only to the centers themselves, but to the women's business community and to the millions of workers employed by women-owned businesses around the country.

The importance of the women's business centers to small business owners in communities across this country cannot be overstated. Take for instance the story of Melanie Marsden and Shannon Lawler, who recently opened A Better Place to Be Day Spa in Charlestown, MA. While working on a business plan last summer, the two hopeful entrepreneurs happened across the website of the Center for Women and Enterprise (CWE), a women's business center in Boston. Having just signed a lease and with a target opening for their spa quickly approaching, Melanie and Shannon were looking for help, and quick. At first, the process seemed overwhelming, but the experts at CWE were able to guide Melanie and Shannon through the complicated process—from business plan to long-term financing and management. CWE helped Melanie and Shannon open A Better Place to Be Day Spa and already see a steady stream of clients pass through their doors. Without CWE, Melanie and Shannon believe that they would not have opened their business on time, or at all. Last year alone, women's business centers like CWE helped over 100,000 entrepreneurs just like Melanie and Shannon with their small business needs. The majority of these women have few resources and little access to business development assistance, and without the women's business centers, they might have none.

As I have said on more than one occasion, women business owners do not get the recognition they deserve for the contribution to our economy: Eighteen million Americans would be without jobs today if it weren't for these entrepreneurs who had the courage and the vision to strike out on their own. For 19 years, as a member of the Senate Committee on Small Business and Entrepreneurship, I have worked to increase the opportunities for these enterprising women, leading to greater earning power, financial independence and asset accumulation. For these women, in addition to the challenge and experience of running their own business, it means having a bank account, buying a home, sending their children to college, and being in control of their own future.

I want to again express my sincere and continuing support for the growing community of women entrepreneurs across the Nation and for the invaluable programs through which the SBA provides women business owners with the tools they need to succeed. For years, I have fought for increased funding for SBA assistance that helps women entrepreneurs, including measures that have sustained and expanded the Women's Business Centers, and give women entrepreneurs their deserved representation within the Federal procurement process.

The third provision makes temporary changes to the SBA's largest loan program, the so-called 7(a) program, in order to compensate for the administration's budget gimmicks and program mismanagement that caused a substantial shortage in funding. This shortage led to a temporary shutdown of the program in January, followed by lending restrictions that created serious financial hardships for small businesses and reduced access to affordable capital for small businesses in general. For the remainder of fiscal year 2004, a coalition of 7(a) lenders and small business groups have worked with Congress to come up with some limited fees, paid by lenders and not borrowers, that will increase the amount of lending available. That extra funding will increase from $9.5 billion to more than $11 billion the amount of loan guarantees available to small businesses. With more funding, Congress expects the SBA to lift the loan cap size of $750,000 and other restrictions, give priority in processing and approval to eligible small businesses that have been shut out this year, and require the SBA to renew export working capital loans to eligible small businesses.

Of course, these changes would not be necessary if the administration had either requested adequate funding in its budget or used its authority to reprogram money to compensate for the shortfall. It also could have sent up a request for supplemental funding. On three different occasions, I wrote to the administration urging these actions, with the support of Senators LEVIN, HARKIN, LIEBERMAN, LANDRIEU, EDWARDS, CANTWELL, BAYH, and PRYOR, urging any of these solutions, but the administration refused to act. Instead, the insufficient funding was compounded by mismanagement and the program was completely shutdown from January 6 to January 14. When the administration reopened the program, it was with extreme restrictions. The restrictions were aimed at keeping the demand for the loans down without regard to their effect on the small businesses the Agency is intended to serve. Small businesses appealed to the administration and our committees for help because they were caught in the middle. For example, one company in Pennsylvania has a $1 million export working capital loan that needs to be renewed, but it can't because one of SBA's restrictions does not allow loans of more than $750,000. At risk is the home of one of the owners because it is part of the collateral securing the existing loan. This company is qualified; it's just trapped by the SBA's restrictions. With your help in passing this bill immediately, we can do the right thing for these small business owners and others who played by the rules. There is no cost to the Treasury in enacting these provisions.

Last, the fourth provision, addresses an urgent need for some firms in New York needing disaster loan assistance. Many have said we should wait until we address other SBA legislation in the next 60 days. However, hundreds of jobs are at stake and these businesses do not have 2 months. This language is included at the bipartisan request of the House Small Business Committee leadership. Their staffs worked closely with the SBA to develop this language, which is acceptable to all of them. In addition to the support of House Committee Chairman DON MANZULLO and Ranking Member NYDIA VELÁZQUEZ, this provision is also supported by Congresswoman SUE KELLY and Senator CHARLES SCHUMER.

All four provisions address circumstances that require immediate action. Let me remind everyone: Without this legislation, the SBA's loan program for growing businesses, commonly referred to as the 504 Loan Guarantee Program, would shut down next Monday, March 15, 2004. Without this legislation, the future of counseling and training for women starting and growing their businesses, through the most established SBA's Women's Business Centers, would be compromised. Without this legislation, small businesses with their homes and life savings at stake may face financial and personal devastation because of program mismanagement. Without this legislation, small business disaster victims may go out of business.

Mr. President, I ask unanimous consent that two letters relating to programs affected by this legislation and the text of the bill be printed in the RECORD. I thank my colleagues for their support of small businesses and for considering immediate passage of this important small business bill.

There being no objection, the letters and the bill were ordered to be printed in the RECORD, as follows:

A BETTER PLACE TO BE DAY SPA,
Charlestown, MA.

DEAR SENATOR KERRY: This past summer I had the opportunity to work with the Center for Women & Enterprise when I was in the beginning stages of writing a business plan for a small day spa that had long been a dream. My business partner and childhood friend and I were both born to working class families and raised in Charlestown. I was educated in the Boston Public School system and went on to attend Boston University on one of their Boston Scholars full tuition scholarships. While working full time after graduation, I decided to enroll at the Muscular Therapy Institute in Cambridge with the goal in mind of opening my own business someday. My business partner held down a full time job and attended The Elizabeth Grady School of Aesthetics in preparation for our venture. While for many years we talked about our dream, we know that making that dream become the reality it is today, would not have been possible without programs like the Center for Women & Enterprise and the Small Business Administration.

For the last 2 years we had been keeping our eyes and ears open about commercial space in Charlestown, which is not easy to come by and generally not affordable. Our goal was to open by May 2004 (when I will turn 30 and my partner will be 31). We hadn't even begun the business plan writing when the ideal location became available in August. The 1,500 square foot commercial space is located at Mishuwam Park Apartments on Maine Street in Charlestown which is an apartment complex funded through the HUD Section 236 program and is managed by Peabody Properties. We had to move quickly on the space and before we knew it we had signed a lease and incorporated in a matter of days. Our target opening date then became November 1st which didn't leave us much time to pull things together but we didn't even know how overwhelming the whole process might have been if we had not found the Center for Women & Enterprise.

After contacting CWE, I received a call back within minutes from Bea Chiem and she would prove to be an invaluable resource to us during the following months. She took what was very complicated and overwhelming for us and made it so much easier to understand. Every time we would come to a part of the financials that we thought we might never figure out, we knew Bea was only a phone call away. I was most impressed by her response time to each and every question I had. Her patience, knowledge and belief in our vision played a major role in us getting the financing we needed. CWE should be proud to have such a caring and knowledgeable woman on the team.

The closing on our loan with Sovereign finally took place last week and we got a $60,000 term loan and the $40,000 line of credit we requested from Sovereign through an SBA loan. Shannon and I cannot thank the Center for Women & Enterprise enough for all of their help. We have no doubt that without CWE (and Bea) in our corner the financial institutions we approached would not have taken us as seriously.

The way in which the center for Women & Enterprise reaches out to help women in business inspired us to do the same. In selecting suppliers and inventory for our gift shop within the spa, we chose to carry products that were made by women or by women owned businesses with a preference given to Massachusetts or New England based businesses.

A Better Place to Be Day Spa, was received well by the Charlestown community, we had 400 people at our grand opening open house on November 1st and have a steady stream of clients coming through our doors each day. And in the short time we have been open we have seen many repeat clients already. Our business got off to a great start because of the Center for Women & Enterprise and as we continue to grow I will be sure to let our clients know that A Better Place to Be Day Spa is here because of the guidance we received from the Center for Women & Enterprise and the support of the Small Business Administration.

In closing I need you to know that what the Center for Women & Enterprise and the SBA do for women in business is truly incredible. I particularly enjoy the frequent newsletters outlining upcoming events as well as educational opportunities and workshops that I will be sure to take advantage of in the future. A Better Place to Be Day Spa will be represented at the upcoming State House Day and we will continue to look for ways that we can give back to other women in business through CWE.

Thank you.

Melanie Marsden,
Shannon Lawler,
Owners.

National Association of
Women Business Owners,
Kansas City MO, March 9, 2004.

Hon. John Kerry,
Ranking Member, Committee on Small Business and Entrepreneurship.

Dear Senator Kerry: On behalf of the Kansas City chapter of the National Assoc. of Women Business Owners (representing 200 members), I would like to request the following actions be taken regarding the SBA 7(a) program.

Absent the SBA asking congress for additional funding, NAWBO supports increasing fees on lenders as an approach to adequately fund the SBA 7(a) program and to lift restrictions.

Specifically, NAWBO would like the program to:

Allow piggyback loans, but charge a 0.50 percent lender fee for each;

Raise lender fees by 0.10 percent; and

For loans that are under $150,000, have lenders pay the SBA the 0.25 percent fee that lenders currently keep for themselves. This only applies to these small loans.

Thank you.

Elaine Hamilton,
Public Policy Chair.●

S. 2186

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "SBA Emergency Authorization Extension Act of 2004".

SEC. 2. SBA PROGRAM AUTHORIZATIONS.

(a) In General.—Section 1 of Public Law 108–172 (117 Stat. 2065) is amended—

(1) in subsection (a), by striking "March 15" each place that term appears and inserting "May 15"; and

(2) by adding at the end the following:

"(c) Exception for Other Programs.—Notwithstanding subsection (a), title V of the Small Business Investment Act of 1958 (15 U.S.C. 661 et seq.) and section 29 of the Small Business Act (15 U.S.C. 656), including any pilot program, shall remain authorized through September 30, 2004.".

(b) Conforming Amendment.—Section 503(f) of the Small Business Investment Act of 1958 (15 U.S.C. 697(f)) is amended by striking "October 1, 2003" and inserting "October 1, 2004".

SEC. 3. WOMEN'S BUSINESS CENTERS.

(a) In General.—Section 29(k) of the Small Business Act (15 U.S.C. 656(k)) is amended—

(1) in paragraph (2), by adding at the end the following:

"(C) Funding priority.—Subject to available funds, and reservation of funds, the Administration shall, for each fiscal year, allocate—

"(i) $150,000 for each women's business center established under subsection (b), except for any center that requests a lesser amount;

"(ii) from the remaining funds, not more than $125,000, in equal amounts, to each women's business center established under subsection (l), to the extent such funds are reserved under subsection (k)(4)(A), except for any center that requests a lesser amount; and

"(iii) any funds remaining after allocations are made under clauses (i) and (ii) to new eligible women's business centers and eligible women's business centers that did not receive funding in the prior fiscal year under subsection (b)."; and

(2) in paragraph (4)(A), by adding at the end the following:

"(v) For fiscal year 2004, 48 percent.".

(b) Sunset Date.—The amendments made by this section are repealed on October 1, 2004.

SEC. 4. 7(a) LOAN GUARANTEE PROGRAM.

(a) Combination Loans.—

(1) In general.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end the following:

"(31) Combination loans.—

"(A) Defined term.—As used in this paragraph, the term 'combination loan' means a financing comprised of a loan guaranteed under this subsection and a loan not guaranteed by Federal, State, or local government.

"(B) Authority.—

"(i) In general.—A small business concern may combine a loan guaranteed under this subsection with a loan that is not guaranteed by Federal, State, or local government.

"(ii) Lender.—The nonguaranteed loan under clause (i) may be made by—

"(I) the lender that provided the financing under this subsection or a different lender; or

"(II) a lender in the Preferred Lenders Program.

"(iii) Security.—The nonguaranteed loan under clause (i) may be secured by a senior lien and the guaranteed loan under this subsection may be secured by a subordinated lien.

"(iv) Application.—A loan guarantee under this subsection on behalf of a small business concern, which is approved within 120 days of the date on which a nonguaranteed loan is obtained by the same small business concern, shall be subject to the provisions of this paragraph.

"(C) Fee on combination loan.—The lender shall pay a one-time fee of 0.5 percent of the amount of the nonguaranteed loan if the nonguaranteed portion of the loan has a senior credit position to the guaranteed portion of the loan. This fee shall be in addition to any other lender fees and shall not be charged to the borrower.

"(D) Loan size.—

"(i) Preferred lenders program.—If the loan guaranteed under this subsection is processed under delegated authority under the Preferred Lenders Program, the maximum amount of the nonguaranteed loan may not exceed—

"(I) $1,000,000; or

"(II) a combination of $2,000,000 gross loan amount of a loan guaranteed by the Administration and an additional nonguaranteed loan of $1,000,000.

"(ii) Small business administration.—If the loan guaranteed under this subsection is processed and approved by Administration staff, the amount of the nonguaranteed loan may not exceed—

"(I) $2,000,000; or

"(II) a combination of $2,000,000 gross loan amount of a loan guaranteed by the Administration and an additional nonguaranteed loan of $2,000,000.

"(E) Use of proceeds.—All proceeds from the fee collected under this subparagraph shall be used to offset the cost (as defined in section 502 of the Credit Reform Act of 1990) to the Administration of guaranteeing loans under this subsection.".

(b) Termination of Lender Authority to Retain Guarantee Fees.—Section 7(a)(18)(B) of the Small Business Act (15 U.S.C. 636(a)(18)(B)) is amended to read as follows:

"(B) Retention of certain fees.—

"(i) In general.—Except as provided under clause (ii), lenders participating in the programs established under this subsection may retain not more than 25 percent of a fee collected under subparagraph (A)(i).

"(ii) Fiscal year 2004.—Beginning on the date of enactment of this clause and ending on September 30, 2004, the Administration or its agent shall collect all fees under subparagraph (A)(i). All proceeds from fees collected under this paragraph shall be used to offset the cost (as defined in section 502 of the Credit Reform Act of 1990) to the Small Business Administration of guaranteeing loans under this subsection.".

(c) Temporary Modification of Annual Lender Fee.—Section 7(a)(23) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) by striking "0.25 percent" and inserting "0.35 percent"; and

(2) by adding at the end the following: "All proceeds from the fee collected under this paragraph shall be used to offset the cost (as defined in section 502 of the Credit Reform Act of 1990) to the Administration of guaranteeing loans under this subsection.".

(d) Lifting Loan Restrictions and Priority Processing of Rejected Applications.—

(1) In general.—The Small Business Administration shall—

(A) eliminate the program restrictions imposed by policy notices 5000–902 and 0000–1709 to allow for the processing and approval of loan applications cancelled or returned because of the program shutdown or restrictions imposed by policy notices 5000–902, 0000–1707, or 0000–1709;

(B) permit a small business or lender to resubmit any loan application that was not considered or approved because of the program shutdown or restrictions imposed by policy notices 5000–902, 0000–1707, or 0000–1709;

(C) give priority to processing any application submitted before January 8, 2004, that was not considered because of the program shutdown or loan restrictions imposed by policy notices 5000–902, 0000–1707, or 0000–1709;

(D) give priority, to the extent possible, to approving all eligible loans that were cancelled or returned because of the program shutdown or restrictions imposed by policy notices 5000–902, 0000–1707, or 0000–1709, in the order in which the applications were originally submitted; and

(E) give priority to processing all eligible loans to any small business that has received financing under section 7(a)(14) of the Small Business Act (15 U.S.C. 636(a)(14) and requests a renewal of such financing, regardless of temporary restrictions imposed by the Small Business Administration through the policy notices referred to in this paragraph, and approve such loans, if the small business is otherwise eligible for such financing under that section.

(2) PROOF OF APPLICATION.—An application shall not be denied consideration or approval because the Small Business Administration failed to retain a record of receiving an application if the lender or borrower supplies proof that the application was submitted by mail, fax, or electronic means before January 8, 2004.

(3) RESERVATION AND APPLICATION OF FEE PROCEEDS.—All proceeds from fees authorized under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) shall be combined with any amounts appropriated to carry out such section and used—

(A) first, to process and fund loan guarantees approved pursuant to paragraph (d)(1); and

(B) second, to process and fund other loan guarantees under section 7(a) of the Small Business Act.

(4) NOTIFICATION REQUIREMENT.—The Small Business Administration shall not make any significant policy or administrative changes affecting the operation of the loan program authorized under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) unless, not later than 15 business days before such change, the Administrator of the Small Business Administration submits, under the Administrator's signature, a report that specifically describes the proposed changes and the duration of those changes to—

(A) the chairman and ranking member of the Committee on Small Business and Entrepreneurship of the Senate; and

(B) the chairman and ranking member of the Committee on Small Business of the House of Representatives.

(e) SUNSET DATE.—This section and the amendments made by this section are repealed on October 1, 2004.

SEC. 5. RESUBMISSION OF DISASTER LOAN APPLICATIONS FOR CERTAIN BUSINESSES.

(a) RESUBMISSION OF APPLICATIONS.—During the 30-day period beginning on the date of enactment of this Act, a small business concern may resubmit an application for a loan that was not approved under section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)) if the following conditions are met:

(1) ORIGINAL APPLICATION.—The small business concern originally submitted an application before January 1, 2003, in response to the events associated with Small Business Administration Disaster Declaration 3364.

(2) LOCATION.—On the date of the original submission of the application and on the date of the resubmission, the applicant operates a facility in Bronx, Kings, Nassau, New York, Queens, Richmond, or Westchester county in the State of New York.

(3) INABILITY TO OPERATE.—Without regard to physical damage to a facility, the applicant was unable to operate at a facility because of a prohibition on the use of the facility, in whole or in part, by an order or other action of a Federal, State, or local government (or any instrumentality of any of the foregoing) for 20 or more consecutive days, occurring as a result of the events associated with Small Business Administration Disaster Declaration 3364.

(b) STANDARD FOR APPROVAL.—The Administrator shall approve (without regard to any requirements applicable under section 7(b) of the Small Business Act (15 U.S.C. 636(b))), a loan with respect to any application resubmitted under subsection (a) if the applicant has a debt coverage ratio, as attested to by a qualified, independent, third-party auditor, of not less than 1.15 for the applicant's last taxable year ending before the date of the submission of the original application. For purposes of determining the debt coverage ratio under this subsection, the Administrator shall not take into account any Federal or State tax lien or obligation other than a judgment lien.

(c) MINIMUM LOAN AMOUNT.—The Administrator shall not approve a loan under this section for an amount that is less than 80 percent of the documented losses shown on the application submitted under subsection (a).

(d) COORDINATION WITH OTHER LOAN LIMITS.—No loan made under this section shall be taken into account under section 7(b)(3)(E) of the Small Business Act (15 U.S.C. 636(b)(3)(E)).

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 312—COMMENDING THE BRAVERY OF THE INITIAL RESPONDERS IN THE BALTIMORE HARBOR WATER TAXI ACCIDENT OF MARCH 6, 2004

Ms. MIKULSKI (for herself and Mr. SARBANES) submitted the following resolution; which was considered and agreed to:

S. RES. 312

Whereas on Saturday, March 6, 2004, a water taxi overturned in Baltimore Harbor during a sudden and vicious storm;

Whereas 25 passengers were thrown into the Harbor, into frigid 43 degree water, with little chance of survival;

Whereas tragically, 1 person died and 3 people are presumed to be dead;

Whereas if not for the immediate action of the initial responders, more lives would certainly have been lost;

Whereas the initial responders demonstrated extraordinary bravery in their heroic response in rescuing the passengers;

Whereas after noticing the accident, the initial responders rushed to the scene, piloting their vessel to the accident site and immediately diving into the frigid waters in their street clothes and boots to help those clinging for their lives;

Whereas the initial responders not only saved those clinging to the boat for survival but used their exceptional skills and ingenuity to elevate the capsized boat to rescue those passengers trapped beneath;

Whereas the team of initial responders worked together to pull the passengers out of the water, identify those who needed immediate medical attention, turn the Fort McHenry Drill Hall into a triage center to identify the victims who were most in need, and provide all with dry clothing and warm blankets;

Whereas it was a team effort to rescue and save those stranded in the freezing Chesapeake waters that involved rescuers in the water, on the pier, and at Fort McHenry;

Whereas we commend the courage and resolution of Maryland's outstanding initial responders whose quick reaction to this terrible accident saved lives; and

Whereas we praise these initial responders—the Navy Reservists, Coast Guard, Maritime Fire Department, Baltimore Fire Department, Bowleys Quarters Search and Rescue Team, and the emergency medical team—who worked together as a team to rescue people and save lives: Now, therefore, be it

Resolved, That the Senate—

(1) pays tribute to the victims of this terrible accident and expresses its condolences to their families;

(2) commends the initial responders in the Baltimore water taxi accident of March 6, 2004, for their bravery, quick thinking, courage, and ingenuity in rescuing the passengers of the water taxi that capsized after a sudden and vicious storm swept over the Baltimore Harbor; and

(3) commends the team of initial responders for this extraordinary demonstration of their ongoing commitment and dedication to saving lives.

SENATE RESOLUTION 313—EXPRESSING THE SENSE OF THE SENATE ENCOURAGING THE ACTIVE ENGAGEMENT OF AMERICANS IN WORLD AFFAIRS AND URGING THE SECRETARY OF STATE TO COORDINATE WITH IMPLEMENTING PARTNERS IN CREATING AN ONLINE DATABASE OF INTERNATIONAL EXCHANGE PROGRAMS AND RELATED OPPORTUNITIES

Mr. FEINGOLD (for himself and Mr. HAGEL) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 313

Whereas many polls and studies have indicated that the United States needs to do a better job of building personal and institutional relationships with peoples and nations around the world in order to combat anti-American sentiment;

Whereas broad bipartisan consensus in favor of strengthening United States public diplomacy emerged during 2003 in both Houses of Congress and in various reports, including reports of the Council on Foreign Relations, the General Accounting Office, the Advisory Commission on Public Diplomacy, the Heritage Foundation, and the Advisory Group on Public Diplomacy for the Arab and Muslim World;

Whereas in November 2003, NAFSA: Association of International Educators warned that Americans' lack of knowledge of the world represents a national liability in the fight against terrorism;

Whereas international exchange programs, which have assisted in extending American influence in the world by educating the world's leaders, are suffering from a decline in funding and policy priority;

Whereas the number of United States university-level students studying abroad in 2001–2002 was 160,920, representing just over 1 percent of United States students;

Whereas ⅔ of United States students studying abroad study in Western Europe (18.7 percent in the United Kingdom alone), although 95 percent of the world population growth in the next 50 years is expected to occur outside Western Europe;

Whereas the number of scholarships for foreign students studying at United States institutions has dropped from 20,000 a year in the 1980s to 900 in 2003;

Whereas there are 29,400,000 retired workers in the United States as of June 2003, meaning that there are many older Americans who have the talent, maturity, and time to volunteer their services abroad;

Whereas the average American college graduate who has studied 1 of the less commonly taught languages reaches no more than an intermediate level of proficiency in the language, which is insufficient to meet national security requirements; and

Whereas there are hundreds of well-established organizations in the United States that implement educational and professional exchanges, international volunteering, and related programs, and the efforts of those organizations could readily be expanded to reach out to more Americans: Now, therefore, be it

Resolved,

SECTION 1. SHORT TITLE.

This resolution may be cited as the "People-to-People Engagement in World Affairs Resolution".

SEC. 2 SENSE OF SENATE.

It is the sense of the Senate—

(1) to urge the Secretary of State to coordinate with implementing partners in creating an online database that provides information on how Americans can take advantage of—

(A) international exchange programs of the Department of State, the Department of Education, and other Federal Government and non-government entities;

(B) volunteer opportunities with organizations that assist refugees and immigrants in the United States;

(C) opportunities to host international students and professionals in the United States;

(D) sister-city organizations in the United States;

(E) international fairs and cultural events in the United States; and

(F) foreign language learning opportunities;

(2) to challenge Americans to become more engaged in international affairs and more aware of peoples and developments outside the United States; and

(3) to encourage Americans to seize 1 or more opportunities toward this end, by such means as—

(A) participating in a professional or cultural exchange;

(B) studying abroad;

(C) volunteering abroad;

(D) working with an immigrant or refugee group;

(E) hosting a foreign student or professional;

(F) participating in a sister-city program; and

(G) learning a foreign language.

Mr. FEINGOLD. Mr. President, I am pleased to submit the People-to-People Engagement in World Affairs resolution with my esteemed colleague, Senator CHUCK HAGEL.

In the 1960s, during a troubled and divisive time for our country, President John F. Kennedy challenged Americans to "ask not what your country can do for you—ask what you can do for your country." Today, the need is even more urgent for Americans to be active participants both in the United States and abroad.

This People-to-People Engagement in World Affairs resolution is a call to Americans to look beyond our borders to engage with the wider world at an individual, human level. It encourages Americans to seize opportunities to engage in the global arena—through participating in a professional or cultural exchange; studying or volunteering abroad; working with an immigrant or refugee group in the United States; hosting a foreign student or professional; participating in a sister-city program; and/or learning a foreign language.

It also asks the Secretary of State to coordinate with implementing partners in creating an online database that lists these opportunities for Americans.

In today's world, our challenges and opportunities are global in nature. Terrorism, the greatest threat to our national security, crosses all national boundaries and feeds off the gaps in intelligence and communication created by borders. Other important issues, such as the proliferation of WMD, human trafficking, poverty, environmental degradation, and diseases from HIV/AIDS to polio also have little regard for borders. These challenges require international cooperation, and Americans at all levels of society are instrumental in finding and achieving meaningful solutions.

This resolution encourages Americans to forge relationships with people outside of the United States to change not only how Americans view and act in the world, but how others view Americans. Presently, anti-Americanism is growing at a startling rate. According to the Pew Research Center, negative views of the United States among Muslims, which were once limited to the Middle East, have spread to populations in places like Nigeria and Indonesia. A growing percentage of Muslims see serious threats to Islam by the United States. Majorities in seven of eight Muslim populations surveyed express worries that the U.S. might become a military threat to their countries. And these disturbing trends hold strong even beyond the Muslim world.

This is dangerous for a number of reasons. Anti-Americanism undermines our ability to work effectively with other countries on our global problems. In addition, in our fight against terror, anti-Americanism can create a steady supply of recruits for terrorist networks, intent on our destruction. These terrorist networks have unfairly blamed the United States for the unemployment, the poverty and the powerlessness that so many around the world experience on a daily basis. They feed off erroneous perceptions of Americans, distorting our image to achieve their own objectives.

Americans must combat these misperceptions and turn mistrust into understanding. If we don't define ourselves to the people of the world, we run the risk that terrorist will continue to make America a scapegoat for other nation's ills. In order to show the world who Americans really are, diplomacy must occur at all levels of society and not only through U.S. government representatives. Artists, scholars, teachers, nurses, doctors, and business people all have a role in shaping this image and in presenting a different American face to the world.

Many Americans have been engaged for decades. In my own State of Wisconsin, my constituents have demonstrated altruism and curiosity daily. They have worked in the Peace Corps, trained dairy farmers in South America and Eastern Europe, participated in sister-city exchanges with the former Soviet Union, traveled to refugee camps in Thailand and hosted international students. Through these activities, my constituents have fought stereotypes and created openings for greater trust and cooperation. The need is greater now than ever before for more Americans to become involved.

I have been approached by Americans of all ages and all economic backgrounds to ask me how they can become more involved. This resolution is a response to those Americans and a challenge to many more to define our times and to shape our world. The creation of the online database as part of this resolution will assist Americans in finding the best way for them personally to participate. Americans will use their enthusiasm and curiosity to engage in the world where they can—through tutoring children, through assisting refugees who come to our country, through professional training, and through showing concern for the well-being of other outside of the United States.

This resolution is a challenge to Americans to make connections in their own way—to listen and show respect for others and their way of life. Americans can bridge the gap between this powerful nation and people around the world who feel frustrated and powerless. We can change perceptions, change minds, and change the world we live in.

SENATE RESOLUTION 314—COMMEMORATING AND HONORING PRESIDENT BORIS TRAJKOVSKI

Mr. VOINOVICH (for himself, Mr. LUGAR, and Mr. BIDEN) submitted the following resolution which was considered and agreed to:

S. RES. 314

Whereas President Boris Trajkovski of the Former Yugoslav Republic of Macedonia played a vital role in efforts to promote peace, stability, and democratic reform in his country and throughout Southeast Europe;

Whereas President Trajkovski was tragically killed on Thursday, February 26, 2004, when a plane carrying the President and 8 others crashed in southern Bosnia;

Whereas the people elected Boris Trajkovski to serve as President in November 1999, and inaugurated him as the second Macedonian President on December 15, 1999;

Whereas President Trajkovski led the country during a tumultuous period in Southeast Europe, working with the international community to accommodate refugees following the crisis in neighboring Kosovo in 1999, and playing a significant role in the signing of the Ohrid Framework Agreement in 2001;

Whereas President Trajkovski promoted the rule of law and respect for human rights, and encouraged economic, judicial, and military reforms necessary to move the country toward membership in the North Atlantic Treaty Organization and the European Union; and

Whereas the Macedonian government continues to work to join Europe's democratic institutions, and peace and stability in the country is critical to the broader region of Southeast Europe: Now, therefore, be it

Resolved, That the Senate—

(1) offers its condolences and deepest sympathy to the people of the Former Yugoslav Republic of Macedonia, the family of President Boris Trajkovski, and the families of the other crash victims during this difficult period;

(2) recognizes the courageous leadership and the significant role that President Trajkovski played in efforts to promote peace, stability, and reform, including his work to secure the 2001 Ohrid Framework Agreement; and

(3) encourages the Macedonian government to continue efforts to implement the Ohrid Peace Agreement, and to move forward with reforms necessary to join the North Atlantic Treaty Organization and the European Union.

SENATE RESOLUTION 315—DESIGNATING MARCH 8, 2004, AS "INTERNATIONAL WOMEN'S DAY"

Mr. BIDEN (for himself, Mr. LUGAR, Ms. STABENOW, Ms. CANTWELL, Mr. LAUTENBERG, Ms. MIKULSKI, Mr. LEVIN, Ms. MURKOWSKI, Mr. GRAHAM of South Carolina, Mr. KOHL, Ms. LANDRIEU, Mrs. FEINSTEIN, Mr. BAYH, Mrs. MURRAY, Mr. JEFFORDS, Mr. HATCH, Mr. CORZINE, Mr. DASCHLE, Mr. CRAPO, Mr. DAYTON, Mr. KENNEDY, Mrs. CLINTON, and Mr. FEINGOLD) submitted the following resolution; which was considered and agreed to:

S. RES. 315

Whereas all over the world women are contributing to the growth of economies, participating in the world of diplomacy and politics, and improving the quality of the lives of their families, communities, and nations;

Whereas discrimination continues to deny women full political and economic equality and is often the basis for violations of women's basic human rights;

Whereas worldwide, the lives and health of women and girls continue to be endangered by violence that is directed at them simply because of their gender;

Whereas worldwide, violence against women includes rape, genital mutilation, sexual assault, domestic violence, dating violence, honor killings, sexual trafficking in women, dowry-related violence, female infanticide, sex-selection abortion, forced pregnancy, forced sterilization, and forced abortion;

Whereas the World Health Organization asserts that domestic violence causes more deaths and disability among women between ages 15 and 44 than cancer, malaria, traffic accidents, and war;

Whereas 130,000,000 girls and young women have been subjected to female genital mutilation, and it is estimated that 10,000 girls are at risk of being subjected to this practice in the United States and more than 160,000 girls and women in immigrant communities in the United States may have been victims of the traditional practice of female genital mutilation or are at risk of being subjected to it;

Whereas worldwide, at least 1 in 3 women has been beaten or sexually abused in her lifetime;

Whereas 1 in 6 women in the United States has experienced an attempted or completed sexual assault and 1 in 5 women reported she had been raped or physically or sexually assaulted in her lifetime;

Whereas in the United States, a woman is battered, usually by her intimate partner, every 15 seconds;

Whereas over 300,000 women each year experience intimate partner violence during their pregnancy;

Whereas more than 3 women are murdered by their husbands or boyfriends in the United States every day;

Whereas nearly 25 percent of American women report being raped or physically assaulted by a current or former spouse, cohabiting partner, or date at some time in their lifetime;

Whereas in the United States, battering is the leading cause of injury to women between ages 15 and 44;

Whereas it is estimated that 1 in 5 adolescent girls in the United States becomes a victim of physical or sexual abuse, or both, in a dating relationship;

Whereas worldwide, 20 to 50 percent of women experience some degree of domestic violence during marriage;

Whereas worldwide, women account for ½ of all cases of HIV/AIDS, approximately 42,000,000, and in countries with high HIV prevalence, young women are at a higher risk than young men of contracting HIV;

Whereas worldwide, sexual violence, including marital rape, has been announced as a major cause of the rapid spread of HIV/AIDS among women;

Whereas ⅔ of the world's nearly 1,000,000,000 illiterate individuals are women;

Whereas worldwide, girls are less likely to complete school than boys;

Whereas ⅔ of children denied primary education are girls;

Whereas in most countries, women work approximately twice the unpaid time men do;

Whereas about 3 in 10 households are maintained by women with no husband present;

Whereas rural women produce more than 55 percent of all food grown in developing countries;

Whereas women comprise almost 15 percent of the active duty, reserve, and guard units of the United States Armed Forces;

Whereas it is estimated that women and girls make up more than 70 percent of the 1,300,000,000 poorest people in the world;

Whereas women work ⅔ of the world's working hours, and produce ½ of the world's food, yet earn only 1 percent of the world's income, and own less than 1 percent of the world's property;

Whereas worldwide women still earn less, own less property, and have less access to education, employment, and health care than do men;

Whereas between 75 and 80 percent of the world's 27,000,000 refugees are women and children;

Whereas illegal trafficking worldwide for forced labor, domestic servitude, or sexual exploitation involves between 1,000,000 and 2,000,000 women and children each year, of whom 50,000 are transported to the United States;

Whereas as many as 750,000 women and children have been trafficked into the United States over the last decade;

Whereas March 8 has become known as International Women's Day for the last century, and is a day on which people, often divided by ethnicity, language, culture, and income, come together to celebrate a common struggle for women's equality, justice, and peace;

Whereas the dedication and success of those working all over the world to end violence against women and girls and fighting for equality should be recognized; and

Whereas the people of the United States should be encouraged to participate in International Women's Day: Now, therefore, be it

Resolved, That the Senate—

(1) designates March 8, 2004, as International Women's Day;

(2) reaffirms its commitment to—

(A) ending discrimination and violence against women;

(B) ensuring the safety and welfare of women; and

(C) pursuing policies that guarantee the basic rights of women both in the United States and in the world; and

(3) requests that the President issue a proclamation calling upon the people of the United States to observe "International Women's Day" with appropriate programs and activities.

SENATE RESOLUTION 316—DESIGNATING APRIL 2004 AS "FINANCIAL LITERACY MONTH"

Mr. AKAKA (for himself, Mr. ALLEN, Mr. SARBANES, Mr. CORZINE, Mr. SANTORUM, Mr. KOHL, Mr. THOMAS, Mr. JOHNSON, Mr. KENNEDY, Mr. SCHUMER, Mr. LEVIN, Mr. LAUTENBERG, Mrs. MURRAY, Ms. LANDRIEU, Mr. DURBIN, Mr. INOUYE, and Mr. CRAPO) submitted the following resolution; which was considered and agreed to:

S. RES. 316

Whereas only 26 percent of 13- to 21-year olds reported that their parents actively taught them how to manage money;

Whereas a 2002 survey by the National Council on Economic Education found that a decreasing number of States include personal finance in their education standards for students in kindergarten through grade 12;

Whereas a 2002 study by the Jump$tart Coalition for Personal Financial Literacy found that high school seniors know even less about credit cards, retirement funds, insurance, and other personal finance basics than high school seniors did 5 years ago;

Whereas 55 percent of college students acquire their first credit card during their first year in college, and 83 percent of college students have at least 1 credit card;

Whereas personal savings as a percentage of personal income decreased from 7.5 percent in the early 1980s to 2.3 percent in the first 3 quarters of 2003;

Whereas today more than 42,000,000 people in the United States participate in 401(k) plans;

Whereas a 2002 Retirement Confidence Survey found that only 32 percent of workers surveyed have calculated how much money they will need to save for retirement;

Whereas only 30 percent of those surveyed in a 2003 Employee Benefit Trend Study are confident in their ability to make the right financial decisions for themselves and their families, and 25 percent have done no specific financial planning;

Whereas between 25,000,000 and 56,000,000 adults are unbanked, i.e., not using mainstream, insured financial institutions;

Whereas millions of people in the United States derive great benefits from the wide variety of products and services offered by the financial services industry in the United States, and such financial products and services allow individuals and families to build homes, start businesses, finance educations, buy cars, and meet the everyday needs of everyday life;

Whereas expanding access to the mainstream financial system provides individuals with lower cost, safer options for managing their finances and building wealth;

Whereas a greater understanding and familiarity with financial markets and institutions will lead to increased economic activity and growth;

Whereas financial education has been linked to lower delinquency rates for mortgage borrowers, higher participation and contribution rates in retirement plans, improved spending and saving habits, higher net worth, and positive knowledge, attitude, and behavior changes;

Whereas financial literacy empowers individuals to make wise financial decisions and reduces the confusion of an increasingly complex economy;

Whereas personal financial management skills and life-long habits develop during childhood;

Whereas personal financial education is essential to ensure that individuals are prepared to manage money, credit, and debt, and become responsible workers, heads of households, investors, entrepreneurs, business leaders, and citizens; and

Whereas Congress found it important enough to ensure coordination of Federal financial literacy efforts and formulate a national strategy that it established the Financial Literacy and Education Commission in 2003 and designated the Office of Financial Education of the Department of the Treasury to provide support for the Commission: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 2004 as "Financial Literacy Month" to raise public awareness about the importance of financial education in the United States and the serious consequences that may be associated with a lack of understanding about personal finances; and

(2) requests that the President issue a proclamation calling on the Federal Government, States, localities, schools, nonprofit organizations, businesses, other entities, and the people of the United States to observe the month with appropriate programs and activities.

SENATE CONCURRENT RESOLUTION 97—RECOGNIZING THE 91ST ANNUAL MEETING OF THE GARDEN CLUB OF AMERICA

Mr. SARBANES (for himself and Ms. MIKULSKI) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 97

Whereas The Garden Club of America is holding its 91st annual meeting in Washington, D.C. April 24 through 27, 2004;

Whereas The Garden Club of America has 195 member clubs in 40 States and the District of Columbia, representing more than 17,000 members;

Whereas since its founding in 1913, The Garden Club of America has become a recognized leader in the fields of horticulture, conservation, historic preservation, and civic improvement, and an influential organization in the protection of America's environment; and

Whereas in our Nation's Capital, The Garden Club of America was instrumental in the founding of the National Arboretum, the development of the Archives of American Gardens at the Smithsonian Institution, and the creation and installation of the Butterfly Habitat Garden which now graces The National Mall at the National Museum of Natural History: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress commends The Garden Club of America for the many contributions it has made in our Nation's Capital and in communities across the United States, and sends its best wishes on the occasion of its 91st annual meeting in Washington, D.C., April 24 through 27, 2004.

Mr. SARBANES. Mr. President, today I am submitting legislation together with Senator MIKULSKI that would recognize the achievements of The Garden Club of America on the occasion of its 91st annual meeting in Washington, DC, from April 24 through 27, 2004. This meeting in our Nation's Capital is especially significant because it occurs here only once every twenty-five years. This legislation recognizes and honors The Garden Club and the work of its 17,000 members to improve our country.

Since its founding in 1913, The Garden Club of America has grown to include 195 member clubs in 40 States and the District of Columbia. It is a recognized leader in the fields of horticulture, conservation, historic preservation, civic improvement, and has significant influence in the protection of America's environment.

Right here in the District of Columbia we can witness the results of The Garden Club's labor. Indeed it played an instrumental role in the founding of the National Arboretum and the development of the Archives of American Gardens at the Smithsonian Institution.

Perhaps even more importantly, The Garden Club has become a significant impetus for community service across the United States. The scope of The Garden Club of America goes well beyond its numerous publications, its public plant and flower shows, and its national medalists. It is a source for the exchange of ideas and a platform for the betterment of our communities across this great country. The purpose of The Garden Club of America is to stimulate the knowledge and love of gardening, but also to share the advantages of association through educational meetings, conferences, correspondence, and publications, and to improve the quality of the environment through conservation and civic improvement.

As a Marylander I know first hand of the contributions The Garden Club of America has made to our State. Ladew Topiary Gardens is a prime example of the edification and enjoyment that stems from the support of The Garden Club of America. Since 1971, Ladew Gardens has used its 22 acres of gardens to educate children, entertain families, and promote the importance of beautiful landscapes within our communities. Every spring and summer, hundreds of families congregate in the gardens to enjoy the Sunday concerts, afternoon picnics, and self-guided educational nature walks. And every year, hundreds of families leave the gardens with an exhilarated appreciation for America's outdoors, and an enriched desire to conserve that beauty.

The Garden Club of America has asked for very little in return for its dedication to America's beautiful landscapes. I am submitting this legislation today in the hope that we in the Congress can recognize this significant contribution as The Garden Club of America holds its annual meeting here in our Nation's Capital. I urge my colleagues in the Senate to join me in supporting this legislation.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2703. Mr. LAUTENBERG (for himself, Mrs. BOXER, Mr. JEFFORDS, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table.

SA 2704. Mr. CONRAD proposed an amendment to the concurrent resolution S. Con. Res. 95, supra.

SA 2705. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2706. Mr. BIDEN (for himself, Mr. LEAHY, Mrs. FEINSTEIN, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2707. Mr. SANTORUM submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2708. Mr. LUGAR submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2709. Mr. PRYOR submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2710. Mr. DASCHLE (for himself, Mr. ROCKEFELLER, Mr. SARBANES, Mr. BINGAMAN, Mrs. CLINTON, Ms. CANTWELL, Mrs. BOXER, Mr. FEINGOLD, Mr. REID, Mrs. LINCOLN, Mr. DORGAN, Mr. GRAHAM of Florida, Mr. LEAHY, Mr. JOHNSON, Mr. KERRY, Mr. LIEBERMAN, and Mr. CORZINE) proposed an amendment to the concurrent resolution S. Con. Res. 95, supra.

SA 2711. Mr. SMITH (for himself, Mr. ROCKEFELLER, Mrs. LINCOLN, and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table.

SA 2712. Mr. DORGAN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table.

SA 2713. Ms. CANTWELL submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2714. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2715. Mr. DEWINE (for himself, Mr. NELSON of Florida, and Mr. COLEMAN) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2716. Mr. SANTORUM submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2717. Mr. WYDEN (for himself, Mr. JOHNSON, Mrs. FEINSTEIN, Mr. DASCHLE, Mr. BINGAMAN, and Mr. DORGAN) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2718. Mr. SCHUMER (for himself, Mr. GRAHAM of South Carolina, Mr. DURBIN, Mr. SPECTER, Ms. STABENOW, Mr. DASCHLE, Mr. KOHL, Mr. LEVIN, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2703. Mr. LAUTENBERG (for himself, Mrs. BOXER, Mr. JEFFORDS, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $1,501,000,000.

On page 3, line 10, increase the amount by $1,629,000,000.

On page 3, line 11, increase the amount by $1,696,000,000.

On page 3, line 12, increase the amount by $1,735,000,000.

On page 3, line 13, increase the amount by $1,754,000,000.

On page 3, line 17, increase the amount by $1,501,000,000.

On page 3, line 18, increase the amount by $1,629,000,000.

On page 3, line 19, increase the amount by $1,696,000,000.

On page 3, line 20, increase the amount by $1,735,000,000.

On page 3, line 21, increase the amount by $1,754,000,000.

On page 4, line 20, increase the amount by $1,501,000,000.

On page 4, line 21, increase the amount by $1,629,000,000.

On page 4, line 22, increase the amount by $1,696,000,000.

On page 4, line 23, increase the amount by $1,735,000,000.

On page 4, line 24, increase the amount by $1,754,000,000.

On page 5, line 3, decrease the amount by $1,501,000,000.

On page 5, line 4, decrease the amount by $3,130,000,000.

On page 5, line 5, decrease the amount by $4,826,000,000.

On page 5, line 6, decrease the amount by $6,561,000,000.

On page 5, line 7, decrease the amount by $8,315,000,000.

On page 5, line 11, decrease the amount by $1,501,000,000.

On page 5, line 12, decrease the amount by $3,130,000,000.

On page 5, line 13, decrease the amount by $4,826,000,000.

On page 5, line 14, decrease the amount by $6,561,000,000.

On page 5, line 15, decrease the amount by $8,315,000,000.

On page 25, line 8, decrease the amount by $1,501,000,000.

SA 2704. Mr. CONRAD proposed an amendment to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; as follows:

At the end of title IV, insert the following:

SEC. ___. POINT OF ORDER TO PROTECT SOCIAL SECURITY FIRST.

(a) POINT OF ORDER IN THE SENATE.—It shall not be in order in the Senate to consider any direct spending or revenue legislation that would increase the on-budget deficit in any fiscal year until the budget is balanced without Social Security.

(b) SUPERMAJORITY WAIVER AND APPEAL.—This section may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

SA 2705. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . BALANCED BUDGET POINT OF ORDER.

(a) IN GENERAL.—Except as provided in subsection (b), it shall not be in order in the Senate to consider any bill or resolution (or any amendment, motion, or conference report on that bill or resolution) that would result in an on budget deficit larger than—

(1) in fiscal year 2004, $639,000,000,000;
(2) in fiscal year 2005, $575,000,000,000;
(3) in fiscal year 2006, $511,000,000,000;
(4) in fiscal year 2007, $447,000,000,000;
(5) in fiscal year 2008, $383,000,000,000;
(6) in fiscal year 2009, $319,000,000,000;
(7) in fiscal year 2010, $255,000,000,000;
(8) in fiscal year 2011, $191,000,000,000;
(9) in fiscal year 2012, $127,000,000,000;
(10) in fiscal year 2013, $63,000,000,000; and
(11) in fiscal year 2015, $0.

(b) EXCEPTION.—Subsection (a) shall not apply if—(1) the President has declared a state of national emergency; or (2) the economy is in recession, defined as 3 consecutive quarters of negative growth in Gross Domestic Product.

(c) SUPERMAJORITY.—(1) WAIVER.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(2) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(d) EXERCISE OF RULEMAKING POWERS.—Congress adopts the provisions of this section—(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each house, or of that house to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and (2) with full recognition of the constitutional right of either house to change those rules (so far as they relate to that house) at any time, in the same manner, and to the same extent as in the case of any other rule of that house.

SA 2706. Mr. BIDEN (for himself, Mr. LEAHY, Mrs. FEINSTEIN, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $300,000,000.

On page 3, line 10, increase the amount by $572,000,000.

On page 3, line 11, increase the amount by $470,000,000.

On page 3, line 12, increase the amount by $580,000,000.

On page 3, line 13, increase the amount by $78,000,000.

On page 3, line 17, increase the amount by $300,000,000.

On page 3, line 18, increase the amount by $572,000,000.

On page 3, line 19, increase the amount by $470,000,000.

On page 3, line 20, increase the amount by $580,000,000.

On page 3, line 21, increase the amount by $78,000,000.

On page 4, line 4, increase the amount by $1,000,000,000.

On page 4, line 12, increase the amount by $150,000,000.

On page 4, line 13, increase the amount by $286,000,000.

On page 4, line 14, increase the amount by $235,000,000.

On page 4, line 15, increase the amount by $290,000,000.

On page 4, line 16, increase the amount by $39,000,000.

On page 4, line 2, increase the amount by $150,000,000.

On page 4, line 21, increase the amount by $286,000,000.

On page 4, line 22, increase the amount by $235,000,000.

On page 4, line 23, increase the amount by $290,000,000.

On page 4, line 24, increase the amount by $39,000,000.

On page 5, line 3, decrease the amount by $150,000,000.

On page 5, line 4, decrease the amount by $436,000,000.

On page 5, line 5, decrease the amount by $671,000,000.

On page 5, line 6, decrease the amount by $961,000,000.

On page 5, line 7, decrease the amount by $1,000,000,000.

On page 5, line 11, decrease the amount by $150,000,000.

On page 5, line 12, decrease the amount by $436,000,000.

On page 5, line 13, decrease the amount by $671,000,000.

On page 5, line 14, decrease the amount by $961,000,000.

On page 5, line 15, decrease the amount by $1,000,000,000.

On page 20, line 17, increase the amount by $1,000,000,000.

On page 20, line 18, increase the amount by $150,000,000.

On page 20, line 22, increase the amount by $286,000,000.

On page 21, line 1, increase the amount by $235,000,000.

On page 21, line 5, increase the amount by $290,000,000.

On page 21, line 6, increase the amount by $39,000,000.

On page 39, line 18, increase the amount by $1,000,000,000.

On page 39, line 19, increase the amount by $150,000,000.

On page 40, line 2, increase the amount by $286,000,000.

SA 2707. Mr. SANTORUM submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 54, after line 22, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING CONTRIBUTIONS TO GLOBAL FUND TO FIGHT AIDS, TUBERCULOSIS, AND MALARIA.

It is the sense of the Senate that the levels in this concurrent resolution assume that new budget authority and outlays for fiscal year 2005 within the major functional category entitled "International Affairs (150)" have been modified—

(1) by increasing the amount budgeted for the Global Fund to Fight AIDS, Tuberculosis, and Malaria by $300,000,000; and

(2) by decreasing the amount budgeted for bilateral international assistance for HIV/AIDS, tuberculosis, and malaria by $300,000,000.

SA 2708. Mr. LUGAR submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 8, line 21, increase the amount by $1,100,000,000.

On page 8, line 22, increase the amount by $123,000,000.

On page 8, line 25, increase the amount by $97,000,000.

On page 9, line 1, increase the amount by $456,000,000.

On page 9, line 4, increase the amount by $98,000,000.

On page 9, line 5, increase the amount by $302,000,000.

On page 9, line 8, increase the amount by $98,000,000.

On page 9, line 9, increase the amount by $210,000,000.

On page 9, line 12, increase the amount by $98,000,000.

On page 9, line 13, increase the amount by $142,000,000.

On page 23, line 5, decrease the amount by $1,100,000,000.

On page 23, line 6, decrease the amount by $123,000,000.

On page 23, line 9, decrease the amount by $97,000,000.

On page 23, line 10, decrease the amount by $456,000,000.

On page 23, line 13, decrease the amount by $98,000,000.

On page 23, line 14, decrease the amount by $302,000,000.

On page 23, line 17, decrease the amount by $98,000,000.

On page 23, line 18, decrease the amount by $210,000,000.

On page 23, line 21, decrease the amount by $98,000,000.

On page 23, line 22, decrease the amount by $142,000,000.

SA 2709. Mr. PRYOR submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC.   . SENSE OF THE SENATE RELATING TO IRA TAX AND PENALTY HOLIDAY.

It is the sense of the Senate that this resolution assumes that individuals, within 1 year after exhausting unemployment benefits, be allowed to withdraw up to $15,000 from their individual retirement accounts tax free and without penalty.

SA 2710. Mr. DASCHLE (for himself, Mr. ROCKEFELLER, Mr. SARBANES, Mr. BINGAMAN, Mrs. CLINTON, Ms. CANTWELL, Mrs. BOXER, Mr. FEINGOLD, Mr. REID, Mrs. LINCOLN, Mr. DORGAN, Mr. GRAHAM of Florida, Mr. LEAHY, Mr. JOHNSON, Mr. KERRY, Mr. LIEBERMAN, and Mr. CORZINE) proposed an amendment to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; as follows:

On page 3, line 9, increase the amount by $4,860,000,000.

On page 3, line 10, increase the amount by $486,000,000.

On page 3, line 11, increase the amount by $22,000,000.

On page 3, line 12, increase the amount by $5,000,000.

On page 3, line 17, increase the amount by $4,860,000,000.

On page 3, line 18, increase the amount by $486,000,000.

On page 3, line 19, increase the amount by $22,000,000.

On page 3, line 20, increase the amount by $5,000,000.

On page 4, line 20, increase the amount by $4,860,000,000.

On page 4, line 21, increase the amount by $486,000,000.

On page 4, line 22, increase the amount by $22,000,000.

On page 4, line 23, increase the amount by $5,000,000.

On page 5, line 3, decrease the amount by $4,860,000,000.

On page 5, line 4, decrease the amount by $5,346,000,000.

On page 5, line 5, decrease the amount by $5,368,000,000.

On page 5, line 6, decrease the amount by $5,373,000,000.

On page 5, line 7, decrease the amount by $5,373,000,000.

On page 5, line 11, decrease the amount by $4,860,000,000.

On page 5, line 12, decrease the amount by $5,346,000,000.

On page 5, line 13, decrease the amount by $5,368,000,000.

On page 5, line 14, decrease the amount by $5,373,000,000.

On page 5, line 15, decrease the amount by $5,373,000,000.

At the end of title III, insert the following:

SEC.   . Reserve Fund for Veterans' Medical Care. The Chairman of the Committee on the Budget of the Senate shall revise the aggregates, functional totals, allocations to the Committee on Appropriations of the Senate, discretionary spending limits, and other appropriate levels and limits in this resolution by up to $2,700,000,000 in budget authority for fiscal year 2005, and by the amount of outlays flowing therefrom in 2005 and subsequent years, for a bill, joint resolution, motion, amendment, or conference report that provides additional fiscal year 2005 discretionary appropriations, in excess of levels provided in this resolution, for veterans' medical programs, excluding construction projects and a program that provides grants to states to build long-term care facilities, included in this resolution for the Department of Veterans Affairs.

SA 2711. Mr. SMITH (for himself, Mr. ROCKEFELLER, Mrs. LINCOLN, and Mr.

Wyden) submitted an amendment intended to be proposed by him to the bill H.R. 4, to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes; which was ordered to lie on the table; as follows:

On page 230, between lines 22 and 23, insert the following:

(b) Limitation on Penalty for Failure To Satisfy Minimum Participation Rates for Improving States.—Section 409(a)(3) (42 U.S.C. 609(a)(3)), as amended by section 110(a)(2)(B), is amended—

(1) in subparagraph (A), by striking "If the Secretary" and inserting "Subject to subparagraphs (C) and (D), if the Secretary"; and

(2) by adding at the end the following:

"(D) Limitation on application of penalty for failure to satisfy minimum participation rate to an improving state.—Notwithstanding the preceding subparagraphs of this paragraph, in the case of a State that has a minimum participation rate under section 407(a) for the fiscal year that is at least 5 percentage points more than the participation rate determined (taking into account the application of any credit against such rate) under section 407(a) for the State for the preceding fiscal year, the Secretary shall not reduce the grant payable to a State under section 403(a)(1) for the immediately succeeding fiscal year based on the failure of the State to comply with section 407(a).".

SA 2712. Mr. DORGAN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 4 line 4, decrease the amount by $70,000,000

On page 4 line 12, decrease the amount by $74,000,000

On page 4 line 13, decrease the amount by $129,000,000

On page 4 line 14, decrease the amount by $14,000,000

On page 4 line 15, increase the amount by $200,000,000

On page 4 line 16, increase the amount by $17,000,000

On page 4 line 20, increase the amount by $74,000,000

On page 4 line 21, increase the amount by $129,000,000

On page 4 line 22, increase the amount by $14,000,000

On page 4 line 23, decrease the amount by $200,000,000

On page 4 line 24, decrease the amount by $17,000,000

On page 5 line 3, decrease the amount by $74,000,000

On page 5 line 4, decrease the amount by $203,000,000

On page 5 line 5, decrease the amount by $217,000,000

On page 5 line 6, decrease the amount by $17,000,000

On page 5 line 11, decrease the amount by $74,000,000

On page 5 line 12, decrease the amount by $203,000,000

On page 5 line 13, decrease the amount by $217,000,000

On page 5 line 14, decrease the amount by $17,000,000

On page 8 line 21, decrease the amount by $1,170,000,000

On page 8 line 22, decrease the amount by $246,000,000

On page 9 line 1, decrease the amount by $445,000,000

On page 9 line 5, decrease the amount by $269,000,000

On page 9 line 9, decrease the amount by $105,000,000

On page 9 line 13, decrease the amount by $35,000,000

On page 20 line 17, increase the amount by $1,100,000,000

On page 20 line 18, increase the amount by $172,000,000

On page 20 line 22, increase the amount by $316,000,000

On page 21 line 1, increase the amount by $255,000,000

On page 21 line 5, increase the amount by $305,000,000

On page 21 line 6, increase the amount by $52,000,000

On page 39 line 18, increase the amount by $1,100,000,000

On page 39 line 19, increase the amount by $172,000,000

On page 40 line 2, increase the amount by $316,000,000

SA 2713. Ms. CANTWELL submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $192,000,000.

On page 3, line 10, increase the amount by $991,000,000.

On page 3, line 11, increase the amount by $261,000,000.

On page 3, line 12, increase the amount by $31,000,000.

On page 3, line 13, increase the amount by $15,000,000.

On page 3, line 17, increase the amount by $192,000,000.

On page 3, line 18, increase the amount by $991,000,000.

On page 3, line 19, increase the amount by $261,000,000.

On page 3, line 20, increase the amount by $31,000,000.

On page 3, line 21, increase the amount by $15,000,000.

On page 4, line 4, increase the amount by $745,000,000.

On page 4, line 12, increase the amount by $96,000,000.

On page 4, line 13, increase the amount by $495,000,000.

On page 4, line 14, increase the amount by $130,000,000.

On page 4, line 15, increase the amount by $16,000,000.

On page 4, line 16, increase the amount by $7,000,000.

On page 4, line 20, increase the amount by $96,000,000.

On page 4, line 21, increase the amount by $495,000,000.

On page 4, line 22, increase the amount by $130,000,000.

On page 4, line 23, increase the amount by $16,000,000.

On page 4, line 24, increase the amount by $7,000,000.

On page 5, line 3, decrease the amount by $96,000,000.

On page 5, line 4, decrease the amount by $592,000,000.

On page 5, line 5, decrease the amount by $722,000,000.

On page 5, line 6, decrease the amount by $738,000.000.

On page 5, line 7, decrease the amount by $745,000,000.

On page 5, line 11, decrease the amount by $96,000,000.

On page 5, line 12, decrease the amount by $592,000,000.

On page 5, line 13, decrease the amount by $722,000,000.

On page 5, line 14, decrease the amount by $738,000,000.

On page 5, line 15, decrease the amount by $745,000,000.

On page 15, line 16, increase the amount by $745,000,000.

On page 15, line 17, increase the amount by $96,000,000.

On page 15, line 21, increase the amount by $495,000,000.

On page 15, line 25, increase the amount by $130,000,000.

On page 16, line 4, increase the amount by $16,000,000.

On page 16, line 8, increase the amount by $7,000,000.

On page 39, line 18, increase the amount by $745,000,000.

On page 39, line 19, increase the amount by $96,000,000.

On page 40, line 2, increase the amount by $495,000,000.

SA 2714. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC.—. BALANCED BUDGET POINT OF ORDER.

(a) In General.—Except as provided in subsection (b), it shall not be in order in the Senate to consider any bill or resolution (or any amendment, motion, or conference report on that bill or resolution) that would result in an on budget deficit larger than—

(1) in fiscal year 2004, $639,000,000,000;
(2) in fiscal year 2005, $575,000,000,000;
(3) in fiscal year 2006, $511,000,000,000;
(4) in fiscal year 2007, $447,000,000k,000;
(5) in fiscal year 2008, $383,000,000,000;
(6) in fiscal year 2009, $319,000,000,000;

(b) Exception.—Subsection (a) shall not apply if—(1) the President has declared a state of national emergency; or (2) the economy is in recession, defined as 3 consecutive quarters of negative growth in Gross Domestic Product.

(c) Supermajority.—(1) Waiver.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

SA 2715. Mr. DEWINE (for himself, Mr. NELSON of Florida, and Mr. COLEMAN) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 8, line 21, increase the amount by $100,000,000.

On page 8, line 22, increase the amount by $100,000,000.

On page 8, line 25, increase the amount by $100,000,000.

On page 9, line 1, increase the amount by $100,000,000.

On page 9, line 4, increase the amount by $100,000,000.

On page 9, line 5, increase the amount by $100,000,000.

On page 9, line 8, increase the amount by $100,000,000.

On page 9, line 9, increase the amount by $100,000,000.

On page 9, line 12, increase the amount by $100,000,000.

On page 9, line 13, increase the amount by $100,000,000.

On page 23, line 5, decrease the amount by $100,000,000.

On page 23, line 6, decrease the amount by $100,000,000.

On page 23, line 9, decrease the amount by $100,000,000.

On page 23, line 10, decrease the amount by $100,000,000.

On page 23, line 13, decrease the amount by $100,000,000.

On page 23, line 14, decrease the amount by $100,000,000.

On page 23, line 17, decrease the amount by $100,000,000.

On page 23, line 18, decrease the amount by $100,000,000.

On page 23, line 21, decrease the amount by $100,000,000.

On page 23, line 22, decrease the amount by $100,000,000.

SA 2716. Mr. SANTORUM submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

At the end of title V, add the following:

SEC.   . SENSE OF THE SENATE ON THE IMPORTANCE OF FREEING THE CARE ACT OF 2003 IN ORDER TO HELP THOSE IN NEED.

(a) FINDINGS.—The Senate finds that—

(1) the CARE Act of 2003, the Charity Aid, Recovery, and Empowerment Act of 2003 (S. 272/S. 476 of the 108th Congress), will help people in need by encouraging giving, saving, and fairness;

(2) the CARE Act of 2003 is important unfinished business since the charity crisis continues as a result of increased social needs and lower charitable giving;

(3) representing part of the President's Faith-based Initiative, the CARE Act of 2003 will spur charitable giving and assist faith-based organizations which serve the needy;

(4) more than 1,600 small and large organizations from around the country have endorsed the CARE Act of 2003 and 23 bipartisan Senators are cosponsors;

(5) the CARE Act of 2003 passed the Senate on April 9, 2003, by a vote of 95-5;

(6) the House of Representatives passed companion legislation, the Charitable Giving Act (H.R. 7 of the 108th Congress) on September 17, 2003, by a vote of 408-13;

(7) charities around the country have been struggling for several years; and

(8) the CARE Act of 2003 provides—

(A) 86,000,000 Americans who do not itemize deductions on their Federal tax returns (representing more than two-thirds of American taxpayers, mostly lower and middle income taxpayers), the opportunity to deduct a portion of their charitable contributions;

(B) incentives for individuals to give tax free contributions from their Individual Retirement Accounts for charitable purposes, which will help a wide range of charities including educational institutions;

(C) incentives for an estimated $2,000,000,000 worth of food donations from farmers, restaurants, and corporations to help those in need which is estimated to be the equivalent of 878,000,000 meals for hungry Americans over 10 years;

(D) 300,000 low-income, working Americans the opportunity to build assets through matched savings accounts (IDAs) to purchase a home, expand educational opportunity, or start a small business;

(E) $150,000,000 a year for a Compassion Capital Fund to assist small community and faith-based organizations with technical assistance and expand their capacity to serve; and

(F) more than $1,300,000,000 of additional finding for the Social Services Block Grant.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the CARE Act of 2003 has been bipartisan from the very beginning;

(2) it is inexcusable that 11 months have passed since the Senate overwhelmingly passed the CARE Act of 2003 and nearly 5 months have passed without this bipartisan bill being allowed to go to conference; and

(3) the Senate should immediately send the bill to a bipartisan conference in order to help those in need.

SA 2717. Mr. WYDEN (for himself, Mr. JOHNSON, Mrs. FEINSTEIN, Mr. DASCHLE, Mr. BINGAMAN, and Mr. DORGAN) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 11, line 9, increase the amount by $343,000,000.

On page 11, line 10, increase the amount by $84,000,000.

On page 11, line 14, increase the amount by $84,000,000.

On page 11, line 18, increase the amount by $84,000,000.

On page 11, line 22, increase the amount by $53,000,000.

On page 12, line 1, increase the amount by $38,000,000.

On page 23, line 5, decrease the amount by $343,000,000.

On page 23, line 6, decrease the amount by $84,000,000.

On page 23, line 10, decrease the amount by $84,000,000.

On page 23, line 14, decrease the amount by $84,000,000.

On page 23, line 18, decrease the amount by $53,000,000.

On page 23, line 22, decrease the amount by $38,000,000.

SA 2718. Mr. SCHUMER (for himself, Mr. GRAHAM of South Carolina, Mr. DURBIN, Mr. SPECTER, Ms. STABENOW, Mr. DASCHLE, Mr. KOHL, Mr. LEVIN, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. NEGOTIATIONS REGARDING CURRENCY VALUATION.

(a) FINDINGS.—Congress makes the following findings:

(1) The currency of the People's Republic of China, known as the yuan or renminbi, is artificially pegged at a level significantly below its market value. Economists estimate the yuan to be undervalued by between 15 percent and 40 percent or an average of 27.5 percent.

(2) The undervaluation of the yuan provides the People's Republic of China with a significant trade advantage by making exports less expensive for foreign consumers and by making foreign products more expensive for Chinese consumers. The effective result is a significant subsidization of China's exports and a virtual tariff on foreign imports.

(3) The Government of the People's Republic of China has intervened in the foreign exchange markets to hold the value of the yuan within an artificial trading range. China's foreign reserves are estimated to be over $350,000,000,000 as of September 2003, and have increased by over $110,000,000,000 in the last 12 months.

(4) China's undervalued currency, China's trade advantage from that undervaluation, and the Chinese Government's intervention in the value of its currency violates the spirit and letter of the world trading system of which the People's Republic of China is now a member.

(5) The Government of the People's Republic of China has failed to promptly address concerns or to provide a definitive timetable for resolution of these concerns raised by the United States and the international community regarding the value of its currency.

(6) Article XXI of the GATT 1994 (as defined in section 2(1)(B) of the Uruguay Round Agreements Act (19 U.S.C. 3501(1)(B))) allows a member of the World Trade Organization to take any action which it considers necessary for the protection of its essential security interests. Protecting the United States manufacturing sector is essential to the interests of the United States.

(b) NEGOTIATIONS AND CERTIFICATION REGARDING THE CURRENCY VALUATION POLICY OF THE PEOPLE'S REPUBLIC OF CHINA.—

(1) IN GENERAL.—Notwithstanding the provisions of title I of Public Law 106–286 (19

U.S.C. 2431 note), on and after the date that is 180 days after the date of enactment of this Act, unless a certification described in paragraph (2) has been made to Congress, in addition to any other duty, there shall be imposed a rate of duty of 27.5 percent ad valorem on any article that is the growth, product, or manufacture of the People's Republic of China, imported directly or indirectly into the United States.

(2) CERTIFICATION.—The certification described in this paragraph means a certification by the President to Congress that the People's Republic of China is no longer acquiring foreign exchange reserves to prevent the appreciation of the rate of exchange between its currency and the United States dollar for purposes of gaining an unfair competitive advantage in international trade. The certification shall also include a determination that the currency of the People's Republic of China has undergone a substantial upward revaluation placing it at or near its fair market value.

(3) ALTERNATIVE CERTIFICATION.—If the President certifies to Congress 180 days after the date of enactment of this Act that the People's Republic of China has made a good faith effort to revalue its currency upward placing it at or near its fair market value, the President may delay the imposition of the tariffs described in paragraph (1) for an additional 180 days. If at the end of the 180-day period the President determines that China has developed and started actual implementation of a plan to revalue its currency, the President may delay imposition of the tariffs for an additional 12 months, so that the People's Republic of China shall have time to implement the plan.

(4) NEGOTIATIONS.—Beginning on the date of enactment of this Act, the Secretary of the Treasury, in consultation with the United States Trade Representative, shall begin negotiations with the People's Republic of China to ensure that the People's Republic of China adopts a process that leads to a substantial upward currency revaluation within 180 days after the date of enactment of this Act. Because various Asian governments have also been acquiring substantial foreign exchange reserves in an effort to prevent appreciation of their currencies for purposes of gaining an unfair competitive advantage in international trade, and because the People's Republic of China has concerns about the value of those currencies, the Secretary shall also seek to convene a multilateral summit to discuss exchange rates with representatives of various Asian governments and other interested parties, including representatives of other G–7 nations.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. CRAPO. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on March 9, 2004, at 9:30 a.m., in open and closed session to receive testimony on current and future worldwide threats to the national security of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. CRAPO. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, March 9, 2004, at 9:30 a.m., on pending Committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRAPO. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, March 9, 2004, at 10 a.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony regarding water supply issues in the arid west.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. CRAPO. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Tuesday, March 9, 2004, at 10 a.m., in 215 Dirksen Senate Office Building, to hear testimony on "The Administration's International Trade Agenda."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. CRAPO. Mr. President I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, March 9, 2004, at 2:30 p.m. to hold a Members Briefing on Iraq Post Conflict Reconstruction.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. CRAPO. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Tuesday, March 9, 2004, at 10 a.m. for a hearing titled "Postal Reform: Sustaining the 9 Million Jobs in the $900 Billion Mailing Industry (Day One)."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSION

Mr. CRAPO. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on A Year Round College Calendar: Advantages and Impediments during the session of the Senate on Tuesday, March 9, 2004 at 9:30 a.m. in SD–430.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. CRAPO. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Tuesday, March 9, 2004, for a hearing on S. 1509, the "Eric and Brian Simon Act of 2003", to amend title 38, United States Code, to provide a gratuity to veterans, their spouses, and children who contract HIV or AIDS as a result of a blood transfusion relating to a service-connected disability, and for other purposes.

The hearing will take place in room 418 of the Russell Senate Office Building at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. CRAPO. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on March 9, 2004 at 2:30 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. CRAPO. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet Tuesday, March 9, 2004 from 10 a.m.–12 p.m. in Dirksen 628 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NATIONAL PARKS

Mr. CRAPO. Mr. President, I ask unanimous consent that the Subcommittee on National Parks of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, March 9, 2004 at 2:30 p.m.

The purpose of the hearing is to receive testimony on the following bills: H.R. 1446 and S. 1306, to support the efforts of the California Missions Foundation to restore and repair the Spanish colonial and mission-era missions in the State of California and to preserve the artworks and artifacts of these missions, and for other purposes; and H.R. 1521, to provide for additional lands to be included within the boundary of the Johnstown Flood National Memorial in the State of Pennsylvania, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS AND MANAGEMENT

Mr. CRAPO. Mr. President, I ask unanimous consent that the Subcommittee on Readiness and Management Support of the Committee on Armed Services be authorized to meet during the session of the Senate on March 9, 2004, at 2:30 p.m., in open session to receive testimony on military readiness programs in review of the defense authorization request for fiscal year 2005.

The PRESIDING OFFICE. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. McCONNELL. Mr. President, I ask unanimous consent that Trenton

Norman, Jarret Heil, and Jill Gotts from Senator GRASSLEY's office be allowed on the floor for the duration of the debate on S. Con. Res. 95.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I ask unanimous consent Vin Moscardelli, a fellow on my staff, be granted floor privileges for the remainder of this debate and for the 108th Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING PRESIDENT BORIS TRAJKOVSKI

Mr. NICKLES. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of S. Res. 314, submitted by Senator VOINOVICH today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 314) commemorating and honoring President Boris Trajkovski.

There being no objection, the Senate proceeded to consider the resolution.

Mr. VOINOVICH. Mr. President, on Thursday, February 26, 2004, President Boris Trajkovski of Macedonia, whom I have known for many years, was tragically killed when a plane carrying him and eight others crashed in southern Bosnia. His death is a tragic loss not only for his family and those who knew him well, but for the people of Macedonia, the broader region of Southeast Europe, and, I believe the world at large.

I rise today to express my condolences and deep sympathy to the people of Macedonia, the family of President Trajkovski, and the families of the eight others who were killed. I submit a resolution, cosponsored by Senator LUGAR and Senator BIDEN, which honors the memory of President Boris Trajkovski and recognizes the significant contributions he made as President of Macedonia.

President Trajkovski was a principled man, a courageous leader, and someone that I have come to call a friend since I first met him during a visit to Stankovic refugee camp in Macedonia in 1999. His leadership was instrumental following the crisis in Kosovo in 1999, as Macedonia worked with the international community to meet the needs of thousands of refugees fleeing the neighboring province. President Trajkovski's deep respect for human rights and commitment to the rule of law played a significant role in the signing of the Ohrid Framework Agreement in 2001, which successfully secured peace in the country following an outbreak of violence earlier that year. Following the signing of the peace accord, he remained committed to the implementation of the agreement—a process that continues today.

I have had the privilege of visiting with President Trajkovski regularly during the last several years, when I traveled to Macedonia in May 1999, February 2000, and again in May 2002, and on several occasions when he traveled to Washington, DC—often in conjunction with the National Prayer Breakfast. An ordained minister in the Methodist Church, President Trajkovski was a man of faith, principle, and character, and his leadership will be greatly missed as Macedonia continues to move toward membership in Europe's democratic institutions.

I extend my heartfelt condolences to President Trajkovski's wife, Vilma, his children, Sara and Stefan, and the people of Macedonia. While Boris Trajkovski will be sorely missed, he leaves a legacy of courageous and principled leadership, progress, and commitment to democratic reform that put Macedonia on a path toward membership in NATO and the European Union. That legacy lives on.

I urge my colleagues to join me in supporting this resolution, which honors the life of a man deeply committed to working toward a peaceful and prosperous future for the people of Macedonia and Southeast Europe.

Mr. NICKLES. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table en bloc, and any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 314) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 314

Whereas President Boris Trajkovski of the Former Yugoslav Republic of Macedonia played a vital role in efforts to promote peace, stability, and democratic reform in his country and throughout Southeast Europe;

Whereas President Trajkovski was tragically killed on Thursday, February 26, 2004, when a plane carrying the President and 8 others crashed in southern Bosnia;

Whereas the people elected Boris Trajkovski to serve as President in November 1999, and inaugurated him as the second Macedonian President on December 15, 1999;

Whereas President Trajkovski led the country during a tumultuous period in Southeast Europe, working with the international community to accommodate refugees following the crisis in neighboring Kosovo in 1999, and playing a significant role in the signing of the Ohrid Framework Agreement in 2001;

Whereas President Trajkovski promoted the rule of law and respect for human rights, and encouraged economic, judicial, and military reforms necessary to move the country toward membership in the North Atlantic Treaty Organization and the European Union; and

Whereas the Macedonian government continues to work to join Europe's democratic institutions, and peace and stability in the country is critical to the broader region of Southeast Europe: Now, therefore, be it

Resolved, That the Senate—

(1) offers its condolences and deepest sympathy to the people of the Former Yugoslav Republic of Macedonia, the family of President Boris Trajkovski, and the families of the other crash victims during this difficult period;

(2) recognizes the courageous leadership and the significant role that President Trajkovski played in efforts to promote peace, stability, and reform, including his work to secure the 2001 Ohrid Framework Agreement; and

(3) encourages the Macedonian government to continue efforts to implement the Ohrid Peace Agreement, and to move forward with reforms necessary to join the North Atlantic Treaty Organization and the European Union.

INTERNATIONAL WOMEN'S DAY

Mr. NICKLES. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 315, submitted earlier in the day by Senators BIDEN, LUGAR, and others.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 315) designating March 8, 2004, as "International Women's Day."

There being no objection, the Senate proceed to consider the resolution.

Mr. BIDEN. Mr. President, I support this resolution commemorating an extraordinary holiday, International Women's Day; a day that is celebrated around the globe to mark women's achievements and to recognize pressing gender inequities still to be erased.

There is no doubt that women have made tremendous strides toward equality and justice in the last century. International Women's Day provides an important chance to acknowledge women who have pioneered change and paved the way for millions of women and girls to access equal education, employment and opportunity. On the other side of the coin, International Women's Day provides an opportunity for us to make a new "to-do" list and highlight what remains to be done, both at home and abroad.

Women's rights, or lack thereof, in the Middle East and South Asia assumed special prominence in the days and weeks after the tragic events of September 11. Americans became familiar with the Taliban's horrendous repression of Afghan women and girls. Two years after the United States removed the Taliban from power, Americans watched as the Afghan loya jirga, or grand council, met to adopt a new constitution—an opportunity to debate and create enforceable women's rights. Yet it remains to be seen whether the country's constitution establishes tangible improvements to the plight of Afghan women. In a similar vein, the fall of Saddam Hussein has given Iraqi women an opportunity to engage in public life and seek equal rights. Indeed, the interim Iraqi constitution sets aside 25 percent female participation in the interim government. But the challenges to women's rights in that region of the world abound, ranging from engrained religious and cultural norms to poverty from years of strife. I am convinced, however, that lasting stability and representational government depends upon the emancipation and full participation of women in the Middle East and South Asia. International Women's Day is a chance for us to reiterate that message, in those regions and around the world, that empowering women is the key to lasting peace and prosperity. And to that end, the United States should provide critical resources to help support and empower women and girls around the globe—an articulated priority to this administration, but as of yet an unmet goal.

A fitting tribute to International Women's Day would be ratification of the United Nations Convention on the Elimination of Discrimination Against Women, also known as the International Women's Rights treaty. It sets out basic women's rights—such as the right to an equal education and the right to own and inherit property. These rights are well settled in the United States, but unfortunately, they are not the norm in too many places around the globe. The treaty is stalled because of the administration's interminable treaty "review." After first telling the Committee on Foreign Relations that it supported the treaty, it has commenced a review of the treaty that has now lasted nearly 2 years. To date, 174 countries have become party to the treaty. The United States stands with the likes of Iran, Afghanistan, Syria and Sudan as those few countries that have yet to become a party. This is not the company that our country—the place where the women's movement began—should keep. An administration that cares about the promotion of women's human rights should declare its unwavering support for the International Women's Rights treaty.

International Women's Day is also a perfect time for my Senate colleagues to recognize and address the plight of refugee women. I urge them to show their support for the Women and Children in Armed Conflict Protection Act of 2003, the "Protection Act", S. 1001. There are nearly 20 million people homeless today because of war and internal conflict—and the majority of them are women and children. A tragic irony is that women and kids who find their way into refugee camps sometimes face abuse and exploitation in the very place that is supposed to provide security and safety. The Protection Act of 2003 requires the United States government to develop a comprehensive strategy to protect women and children in all stages of conflicts, and sets out specific codes of conduct for agencies running refugee camps. In addition, the bill supports a variety of programs that are providing help to women in war-torn countries, programs that range from tracing lost relatives to providing legal aid for rape survivors. Most importantly, the bill backs up all of its directives with money—$45 million per year—money that can make a real difference to women in such extreme crisis.

According to Government reports, some 800,000 to 900,000 people are trafficked across international borders worldwide to be enslaved as sweatshop workers, prostitutes, agricultural workers, or domestic servants—up to 20,000 of them are trafficked into the United States. A recent New York Times Magazine article profiled the gory details of sex trafficking in America's towns and suburbs. The Trafficking Victims Protection Act is the first Federal legislation that attacked head-on the very serious crime and aftermath of human trafficking. The legislation is wide in scope, tackling among other items, Federal penalties for trafficking, international ramifications for trafficking and the immigration needs of trafficking victims. But there remains much to be done. I want to make sure that we have provided law enforcement all of the legal tools and financial resources they need to go after criminals who engage in trafficking. I want to find out if criminal penalties—both here and abroad—are sufficient to deter traffickers. I want to explore if there are innovative things which can be done with extradition and witness protection to encourage fearful victims and witnesses to come forward to help make these cases. Women and girls are overwhelmingly the victims of trafficking. Stepping up our attention to this crime means speaking up for international women's rights—a perfect endeavor on International Women's day.

I will close my remarks on International Women's Day with a topic that my fellow Senators know animates me—ending violence against women. One in three—that is how many women worldwide are raped, beaten or sexually abused in their lifetime. Violence against women is the quintessential global issue. It strikes in wealthy and poor countries, ravages war-torn countries and peaceful ones alike, and plagues disparate cultures. In a nationwide poll, women in the United States recently named domestic violence as their number one concern—number one. Guaranteeing women safety and immediate accountability for violence is the first step towards creating equal opportunities in the public realm—it is the sock that must go on before the shoes. Our attention and efforts to eradicate violence against women must not wane, and indeed, we need to redouble our efforts. Our International Women's Day and every other day, women all over the world deserve nothing less.

Mrs. MURRAY. Mr. President, this year marks the 95th anniversary of National Women's Day and the 93rd anniversary of International Women's Day. Since the first decades of the 20th century, when women in the United States, Western Europe, and Russia fought for the right to vote, tremendous progress has been made in advancing women's rights. Unfortunately, many women here at home and abroad still suffer.

In the last year, through America's increased involvement in foreign countries, our attention has been drawn to both the gains and shortcomings in the advancement of women's rights. In Afghanistan, although more girls are attending school than ever before in the country's history, tremendous security concerns remain. In rural areas especially, many women and girls choose to remain indoors because they are frequently targeted by armed warlords. This makes it impossible for them to attend school, go to work, or actively participate in the country's reconstruction.

Afghan women are also concerned with the widespread prevalence of forced marriage, and rape. In some cases, girls as young as 8 years old are forced into marriage with much older men. Although I am glad to see that the new Afghan constitution guarantees equal rights for all, I recognize the difference between putting high ideals down on paper and putting them into practice. Women's programs in Afghanistan have not been funded at proposed levels and it is unacceptable.

As a member of the Senate Appropriations Committee, I have been a strong supporter of Afghan aid, especially for women. I worked very hard to include an amendment to provide $60 million for Afghan women's programs in the fiscal year 2004 Iraq/Afghanistan supplemental appropriations bill, because it is of the utmost importance that women play an active role in the country's political and economic reconstruction.

In Iraq as well, we must demand that the promises made to women become a reality. The interim constitution sets a 25 percent quota for women in the transitional assembly, and the preamble of the document makes clear that Iraqis are equal without regard to sex, sect, religion or other considerations. However, this is far removed from what women's groups initially asked for. The 25-member Iraqi Governing Council has only three women members, only one women sits in the Iraqi Cabinet, and of the 18 provincial governors, none are women. This has resulted in a vast shortage of women from all the decision-making bodies in the new Iraq.

In addition to following through with our commitment to women in Iraq and Afghanistan, we must also do a better job of drawing attention to the other millions of women around the globe who suffer from legal and political discrimination, domestic violence, inadequate medical care, illiteracy, and other social injustices.

The worldwide theme for International Women's Day this year is "Women and HIV/AIDS." This is because the disease is having an increasingly devastating impact on females. Throughout the world, girls and young women now make up nearly two thirds of those below the age of 24 living with HIV, and new infections are rising fastest among married women infected by their husbands.

In order to stem this trend, women must be involved in the solution. This will involve providing women with better education and better healthcare. The U.N. properly recognizes that no enduring solution to any of society's social, economic and political ills can be found without the full participation, and the full empowerment of women.

In Africa alone, poor healthcare and poor education among women is one of the greatest challenges to development. Because women are the primary caretakers of children and the elderly, families face an additional burden when mothers are in poor health and poorly educated. Unfortunately, it has taken a global pandemic to remind us how important it is to support education and healthcare improvements for women.

Domestic violence is another enormous problem facing women. Not only abroad, but here at home as well, countless women are the targets of brutality simply because of their gender. The impact of domestic violence toward women is profound and it is often overlooked.

The World Health Organization asserts that domestic violence causes more deaths and disabilities among women between ages 15 and 44 than cancer, malaria, traffic accidents, and war. Every day, thousands of women are made to be victims of rape, genital mutilation, sexual assault, honor killings, sexual trafficking, female infanticide, forced sterilization, and forced abortion. These things are very unpleasant to talk about, and for most of us, their occurrence is hard to comprehend. Many ask, how is it possible that in this age of technology and global communication, so many still suffer from the barbaric practices of the past?

As a global leader, the United States has a responsibility to bring attention to these types of questions, because progress can only be made by recognizing and addressing the unfortunate realities that still exist. In the upcoming year, as the international community seeks to rebuild Iraq and Afghanistan, as well as bring stability to other tenuous parts of the world, let us renew our focus on the importance of advancing the causes of women.

Today, as we recognize International Women's day, I am reminded of the inscription on the Women's Suffrage Monument in the Capital Rotunda. The inscription reads:

> Principle not policy, Justice not Favor, Men, their rights and nothing more. Women, their rights and nothing less.

Mr. NICKLES. I ask unanimous consent the resolution and preamble be agreed to en bloc, the motion to reconsider be laid on the table, and any statements be printed in the RECORD without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 315) was agreed to.

The preamole was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 315

Whereas all over the world women are contributing to the growth of economies, participating in the world of diplomacy and politics, and improving the quality of the lives of their families, communities, and nations;

Whereas discrimination continues to deny women full political and economic equality and is often the basis for violations of women's basic human rights;

Whereas worldwide, the lives and health of women and girls continue to be endangered by violence that is directed at them simply because of their gender;

Whereas worldwide, violence against women includes rape, genital mutilation, sexual assault, domestic violence, dating violence, honor killings, sexual trafficking in women, dowry-related violence, female infanticide, sex-selection abortion, forced pregnancy, forced sterilization, and forced abortion;

Whereas the World Health Organization asserts that domestic violence causes more deaths and disability among women between ages 15 and 44 than cancer, malaria, traffic accidents, and war;

Whereas 130,000,000 girls and young women have been subjected to female genital mutilation, and it is estimated that 10,000 girls are at risk of being subjected to this practice in the United States and more than 160,000 girls and women in immigrant communities in the United States may have been victims of the traditional practice of female genital mutilation or are at risk of being subjected to it;

Whereas worldwide, at least 1 in 3 women has been beaten or sexually abused in her lifetime;

Whereas 1 in 6 women in the United States has experienced an attempted or completed sexual assault and 1 in 5 women reported she had been raped or physically or sexually assaulted in her lifetime;

Whereas in the United States, a woman is battered, usually by her intimate partner, every 15 seconds;

Whereas over 300,000 women each year experience intimate partner violence during their pregnancy;

Whereas more than 3 women are murdered by their husbands or boyfriends in the United States every day;

Whereas nearly 25 percent of American women report being raped or physically assaulted by a current or former spouse, cohabiting partner, or date at some time in their lifetime;

Whereas in the United States, battering is the leading cause of injury to women between ages 15 and 44;

Whereas it is estimated that 1 in 5 adolescent girls in the United States becomes a victim of physical or sexual abuse, or both, in a dating relationship;

Whereas worldwide, 20 to 50 percent of women experience some degree of domestic violence during marriage;

Whereas worldwide, women account for ½ of all cases of HIV/AIDS, approximately 42,000,000, and in countries with high HIV prevalence, young women are at a higher risk than young men of contracting HIV;

Whereas worldwide, sexual violence, including marital rape, has been announced as a major cause of the rapid spread of HIV/AIDS among women;

Whereas ⅔ of the world's nearly 1,000,000,000 illiterate individuals are women;

Whereas worldwide, girls are less likely to complete school than boys;

Whereas ⅔ of children denied primary education are girls;

Whereas in most countries, women work approximately twice the unpaid time men do;

Whereas about 3 in 10 households are maintained by women with no husband present;

Whereas rural women produce more than 55 percent of all food grown in developing countries;

Whereas women comprise almost 15 percent of the active duty, reserve, and guard units of the United States Armed Forces;

Whereas it is estimated that women and girls make up more than 70 percent of the 1,300,000,000 poorest people in the world;

Whereas women work ⅔ of the world's working hours, and produce ½ of the world's food, yet earn only 1 percent of the world's income, and own less than 1 percent of the world's property;

Whereas worldwide women still earn less, own less property, and have less access to education, employment, and health care than do men;

Whereas between 75 and 80 percent of the world's 27,000,000 refugees are women and children;

Whereas illegal trafficking worldwide for forced labor, domestic servitude, or sexual exploitation involves between 1,000,000 and 2,000,000 women and children each year, of whom 50,000 are transported to the United States;

Whereas as many as 750,000 women and children have been trafficked into the United States over the last decade;

Whereas March 8 has become known as International Women's Day for the last century, and is a day on which people, often divided by ethnicity, language, culture, and income, come together to celebrate a common struggle for women's equality, justice, and peace;

Whereas the dedication and success of those working all over the world to end violence against women and girls and fighting for equality should be recognized; and

Whereas the people of the United States should be encouraged to participate in International Women's Day: Now, therefore, be it

Resolved, That the Senate—

(1) designates March 8, 2004, as International Women's Day;

(2) reaffirms its commitment to—

(A) ending discrimination and violence against women;

(B) ensuring the safety and welfare of women; and

(C) pursuing policies that guarantee the basic rights of women both in the United States and in the world; and

(3) requests that the President issue a proclamation calling upon the people of the United States to observe "International Women's Day" with appropriate programs and activities.

FINANCIAL LITERACY MONTH

Mr. NICKLES. I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 316, submitted earlier in the day by Senators AKAKA, ALLEN, SARBANES, CORZINE, and others.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 316) designating April 2004 as "Financial Literacy Month."

There being no objection, the Senate proceeded to consider the resolution.

Mr. AKAKA. Mr. President, I am in support of this resolution designating April, 2004, as Financial Literacy Month, and asking the President to issue a proclamation calling on the Federal Government, States, localities, schools, nonprofit organizations, businesses, other entities, and the American people to observe the month with appropriate programs and activities. I thank Senators ALLEN, SARBANES, CORZINE, SANTORUM, KOHL, THOMAS, JOHNSON, KENNEDY, SCHUMER, LEVIN, LAUTENBERG, MURRAY, LANDRIEU, DURBIN, INOUYE, and CRAPO for standing with me in advancing financial and economic literacy for our entire citizenry.

Last year, the Senate designated April, 2003, as Financial Literacy for Youth Month by adopting my resolution, S.Res. 48, to highlight the need for increased financial and economic literacy and education in our country. Since then, there has been wider recognition that we need to broaden the spotlight to include problems resulting from pervasive financial illiteracy among adults of all ages as well, no matter in which region of the country they live, in which sector of the economy they work, or for which side of the aisle they vote. All of us know at least one person in our lives who has suffered the sometimes tragic and often unavoidable results of not knowing how to create and stick to a budget, not understanding the merits of maintaining good credit history, or not having the analytical skills to make decisions based on factors in the economy.

We are witness to the cumulative results of these individual decisions. Consumer debt rose at a greater rate than was expected in 2003, increasing to nearly $2 trillion in September, 2003, as noted by the Federal Reserve. The rate of foreclosures for FHA loans was the highest ever recorded in the third quarter of 2003, according to the Mortgage Bankers Association National Delinquency Survey. The Congressional Research Service reports that the percentage of income used for household debt payments, including mortgages, credit cards, and student loans, rose to the highest level in more than a decade in 2001 and remained above 13 percent in 2003. Also, that personal savings as a percentage of personal income decreased from 7.5 percent in the early 1980s to 2.3 percent in the first three-quarters of 2003. As reported in the Associated Press, personal bankruptcies nearly doubled in the past decade, including more than 1.6 million people who filed for personal bankruptcy in fiscal year 2003. And a final sign of our times, despite technological advances that make it even more convenient and less costly to manage our money through accounts at banks and credit unions, Fannie Mae reports that between 25 million and 56 million adults are 'unbanked', or not using mainstream, insured financial institutions. All of this tells me that we cannot overlook our adult population and their need for financial literacy and education.

Even so, prevention remains key, and education lies at the heart of prevention. We must continue to work in our schools to convey important and practical lessons personal finance and economics, so that our students may leave secondary and postsecondary, and even elementary education, with age-appropriate tools and skills that they may continue to hone throughout their lives. In addition to learning and practicing the essential basics in reading, writing, and arithmetic, they should understand how they can do their part toward helping their families stick to the budget constructed on the kitchen table, saving toward their college tuition, or helping to identify future opportunities that will benefit everyone in their families in the long run.

As an example, the Hawaii Council on Economic Education, with assistance from the Securities Education Division within the Hawaii Department of Commerce and Consumer Affairs, is sponsoring the Hawaii Stock Market Simulation, which is an interactive tool to help students learn about how the U.S. financial market system works. By gaining an understanding of the securities markets, students in third grade through twelfth grade can learn about the importance of saving and investing to help provide a sound economic and financial base for their own future. Student teams invest a hypothetical $100,000 in stocks, bonds, and mutual funds and compete statewide. Last year, I met with some of the winning teams who, in the short 10-week period, raised the value of their portfolio to as much as $130,273.49—an amount accomplished by a team from Kalani High School. In the Fall 2003 competition, a team from Keaau High School achieved a portfolio value of $129,930.42. Even in the elementary division in the most recent competition, a team from Moanalua Middle School invested successfully for a portfolio of $117,877,73. This is just one example of the types of competitions held around the country that gets kids excited in investing and saving while cautioning them about speculation, pulling their parents and other family members into the exercise, and give them the tools to analyze their own personal finance decisions, well into their adult years.

Support for economic and financial literacy efforts in our schools is a worthwhile investment for our country to make in our future generations. I am highlighting this point in this resolution, as well as working to provide more resources through the Excellence in Economic Education Act for K–12 education—rather than terminating this program as President George W. Bush recommended in his fiscal year 2005 budget, and working with my colleague from Wyoming, Senator ENZI, to strengthen this investment in our students in colleges and universities through our bill, S. 1968, the Financial Literacy in Higher Education Act.

And once again, economic and financial literacy must reach adults in this country, particularly to help those who are heads of households, workers, and business owners plan for short- and long-term investment, savings, and retirement, as well as avoid the grasp of predatory lenders that peddle products such as high-interest Refund Anticipation Loans, high-cost remittances, payday lending, and abusive financial marketing practices. I call to the attention of my colleagues the establishment of the Financial Literacy and Education Commission, and look forward to its development of a national strategy that will coordinate Federal efforts in financial and economic literacy. I also recognize the efforts of organizations such as the Jump$tart Coalition for Personal Financial Literacy, the National Council on Economic Education, and others on the forefront of this movement for their parallel endeavors.

I urge my colleagues in the Senate to join me in commemorating all of these efforts to forward financial and economic literacy in this country by recognizing April 2004 as Financial Literacy Month, and I urge that they support this resolution.

Mr. NICKLES. I ask unanimous consent the resolution and preamble be agreed to en bloc, the motion to reconsider be laid on the table, and any statements be printed in the RECORD without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 316) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 316

Whereas only 26 percent of 13- to 21-year olds reported that their parents actively taught them how to manage money;

Whereas a 2002 survey by the National Council on Economic Education found that a decreasing number of States include personal finance in their education standards for students in kindergarten through grade 12;

Whereas a 2002 study by the Jump$tart Coalition for Personal Financial Literacy found that high school seniors know even less about credit cards, retirement funds, insurance, and other personal finance basics than high school seniors did 5 years ago;

Whereas 55 percent of college students acquire their first credit card during their first year in college, and 83 percent of college students have at least 1 credit card;

Whereas personal savings as a percentage of personal income decreased from 7.5 percent in the early 1980s to 2.3 percent in the first 3 quarters of 2003;

Whereas today more than 42,000,000 people in the United States participate in 401(k) plans;

Whereas a 2002 Retirement Confidence Survey found that only 32 percent of workers surveyed have calculated how much money they will need to save for retirement;

Whereas only 30 percent of those surveyed in a 2003 Employee Benefit Trend Study are confident in their ability to make the right financial decisions for themselves and their families, and 25 percent have done no specific financial planning;

Whereas between 25,000,000 and 56,000,000 adults are unbanked, i.e., not using mainstream, insured financial institutions;

Whereas millions of people in the United States derive great benefits from the wide variety of products and services offered by the financial services industry in the United States, and such financial products and services allow individuals and families to build homes, start businesses, finance educations, buy cars, and meet the everyday needs of everyday life;

Whereas expanding access to the mainstream financial system provides individuals with lower cost, safer options for managing their finances and building wealth;

Whereas a greater understanding and familiarity with financial markets and institutions will lead to increased economic activity and growth;

Whereas financial education has been linked to lower delinquency rates for mortgage borrowers, higher participation and contribution rates in retirement plans, improved spending and saving habits, higher net worth, and positive knowledge, attitude, and behavior changes;

Whereas financial literacy empowers individuals to make wise financial decisions and reduces the confusion of an increasingly complex economy;

Whereas personal financial management skills and life-long habits develop during childhood;

Whereas personal financial education is essential to ensure that individuals are prepared to manage money, credit, and debt, and become responsible workers, heads of households, investors, entrepreneurs, business leaders, and citizens; and

Whereas Congress found it important enough to ensure coordination of Federal financial literacy efforts and formulate a national strategy that it established the Financial Literacy and Education Commission in 2003 and designated the Office of Financial Education of the Department of the Treasury to provide support for the Commission: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 2004 as "Financial Literacy Month" to raise public awareness about the importance of financial education in the United States and the serious consequences that may be associated with a lack of understanding about personal finances; and

(2) requests that the President issue a proclamation calling on the Federal Government, States, localities, schools, nonprofit organizations, businesses, other entities, and the people of the United States to observe the month with appropriate programs and activities.

ENHANCING PUBLIC AWARENESS OF THE SOCIAL PROBLEM OF CHILD ABUSE AND NEGLECT

Mr. NICKLES. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further action on S. Res. 299, and the Senate now proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 299) recognizing, and supporting efforts to enhance the public awareness of the social problem of child abuse and neglect.

There being no objection, the Senate proceeded to consider the resolution.

Mr. NICKLES. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid on the table en bloc, and any statements be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 299) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 299

Whereas each year in the United States approximately 3,000,000 reports of suspected or known child abuse and neglect, involving 5,000,000 children, are made to child protective service agencies;

Whereas 588,000 children are unable to live safely with their families and are placed in foster homes and institutions;

Whereas it is estimated that every year in the United States more than 1,200 children, 85 percent of whom are under the age of 6 years, of whom 44 percent are under the age of 1 year, lose their lives as a direct result of abuse and neglect;

Whereas this tragic social problem results in human and economic costs through crime and delinquency, drug and alcohol abuse, domestic violence, and welfare dependency; and

Whereas Childhelp USA has initiated a Day of Hope to be observed on Wednesday, April 7, 2004, during Child Abuse Prevention Month, to focus public awareness on child abuse and neglect: Now, therefore, be it

Resolved, That—

(1) it is the sense of the Senate that—

(A) all Americans should keep the victims of child abuse and neglect in their thoughts and prayers;

(B) all Americans should seek to break the cycle of child abuse and neglect and to give victimized children hope for the future; and

(C) the faith community, nonprofit organizations, and volunteers across America should recommit themselves and mobilize their resources to assist abused and neglected children; and

(2) the Senate—

(A) supports the goals and ideas of the Day of Hope, which will be observed on April 7, 2004, as part of Child Abuse Prevention Month; and

(B) commends the individuals working on behalf of abused and neglected children throughout the United States.

GREEK INDEPENDENCE DAY

Mr. NICKLES. Mr. President, I ask unanimous consent the Judiciary Committee be discharged from further action on S. Res. 308, and the Senate now proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 308) designating March 25, 2004, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

There being no objection, the Senate proceeded to consider the resolution.

Mr. NICKLES. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid on the table en bloc, and any statements be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 308) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 308

Whereas the ancient Greeks developed the concept of democracy, in which the supreme power to govern was vested in the people;

Whereas the Founding Fathers of the United States drew heavily on the political experience and philosophy of ancient Greece in forming our representative democracy;

Whereas Greek Commander in Chief Petros Mavromichalis, a founder of the modern Greek state, said to the citizens of the United States in 1821, "it is in your land that liberty has fixed her abode and . . . in imitating you, we shall imitate our ancestors and be thought worthy of them if we succeed in resembling you";

Whereas Greece is one of only three nations in the world, beyond the former British Empire, that has been allied with the United States in every major international conflict for more than 100 years;

Whereas Greece played a major role in the World War II struggle to protect freedom and democracy through such bravery as was shown in the historic Battle of Crete that presented the Axis land war with its first major setback, setting off a chain of events that significantly affected the outcome of World War II;

Whereas the price for Greece in holding our common values in their region was high, as hundreds of thousands of civilians were killed in Greece during the World War II period;

Whereas President George W. Bush, in recognizing Greek Independence Day, said, "Greece and America have been firm allies in the great struggles for liberty. Americans will always remember Greek heroism and Greek sacrifice for the sake of freedom . . . [and] as the 21st Century dawns, Greece and America once again stand united; this time in the fight against terrorism. The United States deeply appreciates the role Greece is playing in the war against terror. . . . America and Greece are strong allies, and we're strategic partners.";

Whereas Greece is a stabilizing force by virtue of its political and economic power in the volatile Balkan region and is one of the fastest growing economies in Europe;

Whereas Greece, through excellent work and cooperation with United States and international law enforcement agencies, arrested and convicted key members of the November 17 terrorist organization;

Whereas President Bush stated that Greece's successful "law enforcement operations against a terrorist organization [November 17] responsible for three decades of terrorist attacks underscore the important contributions Greece is making to the global war on terrorism";

Whereas the Olympic Games will be coming home in August 2004 to Athens, Greece, the land of their ancient birthplace 2,500 years ago and the city of their modern revival in 1896;

Whereas the unprecedented Olympic security effort in Greece, including a record-setting expenditure of over $850,000,000 and assignment of over 50,000 security personnel, as well as the utilization of a 7-country Olympic Security Advisory Group which includes the United States, will contribute to a safe and secure environment for staging the 2004 Olympic Games in Athens, Greece;

Whereas Greece, geographically located in a region where Christianity meets Islam and Judaism, maintains excellent relations with Muslim nations and Israel;

Whereas Greece has had extraordinary success in recent years in furthering cross-cultural understanding and reducing tensions between Greece and Turkey;

Whereas Greece and the United States are at the forefront of the effort for freedom, democracy, peace, stability, and human rights;

Whereas those and other ideals have forged a close bond between our two nations and their peoples;

Whereas March 25, 2004, marks the 183d anniversary of the beginning of the revolution that freed the Greek people from the Ottoman Empire; and

Whereas it is proper and desirable to celebrate with the Greek people and to reaffirm the democratic principles from which our two great nations were born: Now, therefore, be it

Resolved, That the Senate—

(1) designates March 25, 2004, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy"; and

(2) requests that the President issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

EXECUTIVE SESSION

TAXATION CONVENTION WITH JAPAN

Mr. NICKLES. Mr. President, I ask unanimous consent the Senate proceed to executive session to consider Calendar No. 12, treaty document 108–14 on today's Executive Calendar. I further ask unanimous consent the treaty be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, that any statements be printed in the RECORD, and the Senate immediately proceed to a vote on the resolution of ratification; further, that when the resolution of ratification is voted upon, the motion to reconsider be laid on the table, the President be notified of the Senate's action, and that following the disposition of the treaty the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution of ratification reads as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the Government of the United States of America and the Government of Japan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, together with a Protocol and an Exchange of Notes, signed at Washington on November 6, 2003 (Treaty Doc. 108–14).

Mr. NICKLES. I ask for consideration of the resolution before the Senate by a division vote.

The PRESIDING OFFICER. A division is requested. Senators in favor of the resolution of ratification will please stand and be counted.

Those opposed will please stand and be counted.

On a division vote, two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

ORDERS FOR WEDNESDAY, MARCH 10, 2004

Mr. NICKLES. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Wednesday, March 10. I further ask unanimous consent that following the prayer and pledge the morning hour be deemed expired and the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of S. Con. Res. 95, the budget resolution; provided that when the Senate resumes consideration of the resolution tomorrow morning there be 27 hours equally divided remaining for debate under the statutory limit.

I further ask unanimous consent that upon proceeding to the resolution, Senator ENSIGN be recognized for up to 30 minutes to make a statement on the resolution; provided that following his remarks Senator MURRAY be recognized to offer an amendment, with the next amendment in order to be an amendment to be offered by Senator GRAHAM of South Carolina or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. NICKLES. Mr. President, tomorrow the Senate will resume consideration of S. Con. Res. 95, the budget resolution. When the Senate resumes debate tomorrow morning, there will be 27 hours remaining under the statutory time limit for debate.

I believe we made good progress today on the resolution. We were able to dispose of two very challenging amendments. The ranking member and I will return to the floor tomorrow morning to continue to work through amendments during the day. It is my hope that Members who wish to offer amendments will do so as early as possible, present their amendments to both my colleague, Senator CONRAD, and myself early so we can have a chance to examine and understand those amendments, and we may be able to dispose of them in a very intelligent and favorable way.

I also would like to inform my colleagues that we expect several rollcall votes throughout the day. Senators will be notified when we jointly agree upon having the first rollcall vote or two.

ORDER FOR ADJOURNMENT

Mr. NICKLES. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order following the remarks of my colleague and friend, Senator CONRAD.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. CONRAD. Mr. President, I would like to clarify that under the unanimous consent agreement Members are limited to 10 minutes under morning business, I believe. I ask unanimous consent that I be permitted to speak until I have completed my response to Senator BENNETT. I am sure it will be somewhat over 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I also thank the chairman for the tone and the demeanor that he has exhibited throughout the day as we have disposed of the two fairly contentious amendments. Certainly, given our colleagues' significant opportunity to express their views on the budget, the economy and the state of the economy, I look forward to working with him again tomorrow. Hopefully we can dispose of many more amendments tomorrow and do our level best to avoid the vote-arama that has typically plagued us in budget resolutions and dispose of this debate in a way that gives the Senate the dignity it deserves.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

VIEWING THE ECONOMY

Mr. CONRAD. Mr. President, Senator BENNETT provided a view of the economy and the status of the jobs recovery. Let me give an alternative view as to what he discussed.

In looking at the jobs record of this President, what I see is that he is the first President who has lost private sector jobs in the last 70 years. I know it disturbs our colleagues to refer to the last President who lost private sector jobs, who was Herbert Hoover.

In making that statement, we are not saying the economy is in the same status as during the Great Depression. Obviously, that is not the case. Joblessness in the Hoover administration was approaching 25 percent of the workforce. That is not the case today. But it is an accurate statement to say this is the first President in 70 years who has lost private sector jobs. It is also true that something is happening in this recovery unlike anything we have seen in recoveries since World War II.

If we look at the average of the nine recessions since World War II, that is the dotted red line on this chart. This chart shows months after business-cycle peak on the bottom. What this shows is on average after 17 months, after the business-cycle peak, you start to see very strong job recovery. Here we are in this recession, 36 months past the business-cycle peak, and we are still not seeing meaningful job recovery. Something very different is happening. In fact, we are 5.4 million jobs short of a typical recovery. Something is wrong. Something is not working.

This shows the private sector job decline, and it shows 3 million jobs have been lost since January of 2001 when this President came into office. That is a fact.

This chart shows that we are also facing the longest average duration of unemployment in over 20 years; that is, when someone loses their job, it is taking them longer to find a new job than at any time in the last 20 years. Again, I think it is telling us this recovery is fundamentally different, and there is something wrong in the economy.

We also see we have the smallest share of the population at work since 1994. It is true we have millions of people at work. It is also true it is the smallest share of the population in a decade. Again, this is a recovery that is very unlike previous recoveries.

When we look at real wages, we go back to 1996, the last 4 years of the Clinton administration. We saw real wages increasing substantially. Since President Bush has taken office, we have seen real wages basically flat.

The President in his economic report in February of this year told us we could expect 2.6 million more jobs in 2004 than in 2003. For that prediction to come true, 520,000 jobs would have to be created per month. In the most recent month of February, only 21,000 were created. That is 500,000 jobs short of meeting the projection that was made on February 9 by the President's Council of Economic Advisers. Again, something is radically wrong.

I might say every one of those 21,000 jobs was in Government. They were Government jobs, and not a single job was created in the private sector in the month of February.

If we look historically—this is from the New York Times of today, "Promises, Promises," an article by Paul Krugman, a noted economist who went back and looked at what the administration has said would happen with jobs—these are administration forecasts. In 2002, the administration said we could expect 138.3 million jobs by 2005. In 2003, they said, whoops, that 138 million jobs is not going to come true. Instead, we are predicting 135.2 million jobs by January of 2005. In this year, they said, whoops again. Forget about not only 138 million jobs but forget about 135 million jobs as well. Instead, we are projecting 132.7 million jobs by January of 2005.

You can see where we are. We are at 130.2 million jobs. That is 8 million jobs below what the administration said would happen. They have been wrong. It is simple fact. They have been wrong, and they have been wrong by a big margin.

Senator BENNETT talked about the deficit. He acknowledged the deficit is now the largest it has been in dollar terms in our history. That is obviously the case. The deficit this year is expected to be $477 billion. That is $100 billion more than last year and last year was a record. He is right, in dollar terms, this is the biggest deficit we have ever had.

But then Senator BENNETT said as a percentage of gross domestic production, this deficit is lower than others we have seen—at least some of the others we have seen. That is where he and I would have a disagreement.

He showed the unified deficit as a share of GDP. That is very misleading. We have to look at the deficit and exclude Social Security from the calculation. When we do that, what we see is this deficit as a share of GDP is nearly equal to what we had in 1983 and it is the biggest deficit we have had going back all the way to World War II as a percentage of GDP.

Why the difference between my interpretation, my analysis of deficit as a share of the economy, and his? Very simply, he includes Social Security; I exclude it. Why? Go back to 1983. There was virtually no Social Security surplus. It was several hundred million dollars. It was between $200 and $300 million—million with an "M." This year, the Social Security surplus is $160 billion. If we are analyzing our fiscal condition, if we are analyzing where we are on an operating basis the way any company would, we do not throw the retirement funds of the employees into the pot. Those are excluded. That gives the real operating deficit. As I say, as a percentage of GDP that is the second biggest since World War II, only exceeded by the very substantial deficits we had in 1983.

Going forward, the President says, yes, these deficits have been very large. But, he said, do not worry; they will get better. He said, we will cut the deficits in half in the next 5 years.

No, we are not. The only way he gets to that conclusion is he leaves out things. He leaves out the cost of the war. He has no cost for the war past September 30 of this year. No cost for the war in Iraq, no cost for the war in Afghanistan, no cost for the war against terror. Does any person believe the right answer to those costs past September 30 of this year, which is the end of the Federal fiscal year, is zero? The Congressional Budget Office says that is not the right answer. They say the right answer is $280 billion, the cost of the war, residual cost over the next 10 years.

When we add ongoing war costs and take out Social Security, we are looking at an operating basis for the Federal Government, and we include the need to fix the alternative minimum tax, the old millionaires' tax that is swiftly becoming a middle-class tax trap, we see virtually no progress, virtually none is being made at reducing the operating deficit of the United States, not only for the next 5 years under the President's plan but over the next 10 years. This is what to me is by far the biggest concern.

Yes, we ought to be worried about the biggest deficit in our history this year. Frankly, deficits after a period of our being attacked, after a period of economic downturn, should not be too surprising. What is alarming, what should worry us, are the massive sustained deficits on an operating basis for as far as the eye can see with no improvement even when the President is forecasting strong economic recovery. All of this is happening at the worst possible time, right before the baby boomers retire.

If we look at the debt of the United States, not just focus on the deficits—

that is the annual difference between what is spent and what is taken in, that is the deficit, the debt is the accumulation of those deficits—what we see with the gross debt of the United States under the President's plans with his tax cuts, with the additional war cost the CBO tells us we will face, and the need to take on this alternative minimum tax crisis because it is becoming a middle-class tax trap, we see what is happening. It is taking off like a scalded cat. This is reality talking. This is facts. This is where this is all headed. It does not add up.

What about the disappearance of that surplus, what is responsible for it? The Senator from Utah put up a chart that said 24 percent or 25 percent of the disappearance of the surplus is tax cuts. That is not what we find. When we look at the period of 2002 to 2011, which is the period when we had the first of the President's tax cuts, for that 10-year-period, 33 percent of the disappearance of the surplus—remember, they were projecting a $5.6 trillion surplus for that period and that has now turned into a $3.5 trillion deficit—there is a turnaround, in a negative sense, of $9.1 trillion. Our fiscal condition deteriorated by $9.1 trillion in the flash of an eye, in 3 years. Thirty-three percent of that disappearance is due to tax cuts.

The difference may be between the chart he showed and the chart I show that I have included the debt service, the effect of the additional interest we will have to pay because of the tax cuts and, appropriately, that cost ought to be assigned to the tax cuts. Obviously, if we have less revenue, we have more debt, and that means we have more interest payments. Mr. President, 30 percent of the disappearance is technical changes. Eight percent is economic downturn. Senator BENNETT put these two categories together and called it weakness in the economy and technical changes and then attributed—in his chart it was 40 percent—it to weakness in the economy.

No, no, no, no. No, no, that is not right. Eight percent of the disappearance of the surplus is weakness in the economy. Thirty percent is technical changes, mostly lower revenue, not as a result of tax cuts but as a result of the mechanical devices that are used to project deficits, that are used to project revenue being wrong.

The various models, the econometric models that are used to predict revenue, have been wrong. They have overestimated revenue, not because of tax cuts but because the models were wrong. That has accounted for 30 percent of the disappearance of the surplus.

Again, Senator BENNETT put up a chart that put these two together—weakness in the economy and technical changes—and then attributed the 40 percent to weakness in the economy. That is five times the result of weakness in the economy. Weakness in the economy only accounted for 8 percent of the downturn.

Other legislation is 29 percent; that is, increased spending. His analysis and ours is pretty close on increased spending.

But where did the increases occur? Ninety-one percent of the increase in spending occurred in three areas: national defense, homeland security, and the response to the attacks of September 11—rebuilding New York, the airline bailout. Those three categories—defense, homeland security, and the response to the attacks of September 11—account for 91 percent of the increase in spending, and the increase in spending accounts for 29 percent of the disappearance of the surplus.

So the fact is, the tax cuts are the biggest single reason, for the 10-year period, for the disappearance of the surplus.

Again, what is most alarming is where this is all headed. This is not my chart. This is from the President's own budget analysis. What it shows is that the next 10 years is really the budget "sweet spot." It is the budget "sweet spot" even though we are running record budget deficits, the biggest in our history. But the President says if you adopt his spending plan and his tax plan, these are the good times, that it is going to get much more serious when the baby boomers start to retire and the full effects of the President's tax cuts are phased in. Then you can see the President's policies are going to take us right over the cliff into massive deficits and debt, unlike anything we have seen before. That is his projection of where his policies are leading.

Well, we do not just have to rely on his projections because they have been wrong repeatedly. The Congressional Budget Office is telling us exactly the same thing. This is their long-term forecast of what happens under the President's policies—his tax cuts, fixing the alternative minimum tax, his spending policies. This is what they say is going to happen.

This is where we are now. These are records: the biggest deficits, in dollar terms, we have ever had. This is where we are headed, according to the Congressional Budget Office, if we adopt his policies—a sea of red ink. That is what we face as a nation under the President's policies.

Now we look at Federal spending and Federal revenue because it is that relationship that determines what happens to deficits.

This chart shows what has happened to Federal spending as a percentage of gross domestic product. Senator BENNETT referred to using a percentage of gross domestic product as an appropriate measure of looking at debt and deficits. I agree because it takes out the effect of inflation so you can see real comparisons over time for Federal spending and Federal revenue.

What this shows us is, by 2001, we had gotten down to 18 percent of gross domestic product going for Federal spending, down sharply from where we were in the 1980s and the 1990s. In fact, you can see, in the Clinton administration, President Clinton came in right here, and every year thereafter spending, as a percentage of GDP, went down. I think this is counterintuitive to many people, but under a Democratic President, Federal spending went down each and every year of his administration measured against the national income.

President Bush came in, and we have had a spike up in spending. Again, 91 percent of that increase has gone for defense, homeland security, and a response to the attacks of September 11. Still, if you project out this level of spending, what you see is we are still well below the spending of the 1980s and 1990s.

But let's look at the revenue side for the other side of this coin. That is where we see a fairly stark picture. You can see that the revenue side is where the whole Federal fiscal condition has collapsed. Revenues, as a percent of GDP for this year, are projected to be at the lowest level since 1950. Now look at that.

When President Bush came into office, we were at a high level of revenue as a share of GDP. In fact, he used that as a reason to cut taxes. He said, revenue is at a record level as a share of GDP, and that told him we ought to cut taxes. But look at where we are now. We are now at a record low, the lowest revenue has been since 1950. And his answer: Cut taxes some more.

It does not matter what the question is, his answer is the same. And I think any rational person, looking at this objectively, would say: What do we have to do to dig out of this? We have to restrain spending. We have to get more revenue to balance this budget. Balancing this budget is critically important before the baby boomers start to retire and increase the spending even more, and, unfortunately, under the President's plan, before the revenue dips even more because he is proposing deep tax cuts that explode in cost at the same time the baby boomers' cost to the Government increases.

Finally, Senator BENNETT talked about the tax cuts as being the reason the economy is in recovery. I don't agree that that is the correct analysis. There are two things Government can do to affect the economy. One is monetary policy. That is money supply, interest rates; that is under the purview of the Federal Reserve. The other element of economic policy that can be affected by the Federal Government is fiscal policy, the taxing and spending decisions by the Congress and the President.

First of all, I would say the biggest reason for the economic comeback is monetary policy. The Federal Reserve Board has adopted a very accommodative monetary policy, the lowest interest rates in 40 years. That gives enormous lift to the economy. That is, I believe, reason No. 1 for the economic comeback.

No. 2 would be the business cycle. We have seen for a very extended period the economic history of the country. When you have a slowdown, you have an automatic recovery as the business cycle proceeds. We have seen typically 17 months after a business cycle peak, when you have a recession, you start to see very strong job growth and recovery. In this particular recovery, we have seen very weak job growth, even though we are 36 months past the business cycle peak. Nonetheless, business cycle is clearly the key reason for the rebound and stimulus.

Certainly, stimulus through tax cuts and Government spending has also given lift to this economy. After all, we have run nearly a trillion dollars in deficits in just the last 2 years. So we are spending more. In fact, spending from 2000 to 2003 was up 20 percent. That is stimulative, that is more money moving in the economy. That is more goods and purchases by the Government. That stimulates the economy. In addition, the tax cuts, without question, also provided stimulus. I would say the rebate checks and the lower rates helped stimulate consumer spending in the short run, but the tax cuts for the affluent were largely saved. So the part of the tax cuts that were especially stimulative were those tax cuts that led people to spend money.

The problem with the President's tax cuts is he weighted them too heavily to the upper income who are the very least likely to spend the money and stimulate the economy.

Finally, there is the sinking dollar. The dollar has gone down now nearly 30 percent against the euro since 2002, making U.S. exports cheaper abroad, making it easier for others to buy our goods.

Those are the factors I believe have contributed to economic recovery, not just the tax cuts. Certainly the tax cuts have played a role, but they are just one factor in the five factors I have mentioned.

With that, I take this opportunity to thank my colleagues for the good day we had today, the productive debate and discussion we had. I welcome this opportunity to respond to Senator BENNETT and his alternative view of what is happening with deficits and debt, what is happening to the job circumstance in our country, and to give my view of what is occurring. I find people across the country are increasingly troubled by a sense that something is wrong, something is amiss, something is not happening as it has happened in the past.

All of us have a responsibility to try to diagnose why that is happening and come up with solutions that will make things better for the future.

I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m., Wednesday, March 10, 2004.

Thereupon, the Senate, at 8:16 p.m., adjourned until Wednesday, March 10, 2004, at 9:30 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, March 9, 2004*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. BURNS).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 9, 2004.

I hereby appoint the Honorable MAX BURNS to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed a bill and a concurrent resolution of the following titles in which the concurrence of the House is requested:

S. 741. An act to amend the Federal Food, Drug, and Cosmetic Act with regard to new animal drugs, and for other purposes.

S. Con. Res. 96. Concurrent resolution commemorating the 150th anniversary of the first meeting of the Republican Party in Ripon, Wisconsin.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

The Chair recognizes the gentlewoman from California (Ms. SOLIS) for 5 minutes.

CURRENT STATE OF OUR ECONOMY

Ms. SOLIS. Mr. Speaker, today I would like to talk about the current state of our economy here in the U.S. Three years and three massive tax cuts later, President Bush keeps telling American working families that our economy is turning the corner and that jobs are going to be coming soon. Well, Mr. President, where are the jobs? Where are those promises you made?

Last Friday brought more disappointing news about our jobless recovery. In fact, only 21,000 new jobs were created last month. Many economists had expected 125,000 new jobs, and the President promised 300,000 new jobs. The disastrous job creation levels are further evidence that the Bush economic policies are not working. However, the President continues to insist that his plan is the right approach.

President Bush was in my home State of California last Friday when the dismal employment numbers were released. He was in Bakersfield, a town with an unemployment rate of 12.8 percent, painting an uplifting and positive picture of our troubled economy. When he learned that a local business there would be creating two new jobs, the President called it really good news. We need far more than two and three new jobs, Mr. President, to put our State back on track.

The Bush economic policies have been a disaster for our State. Rather than create jobs, we have lost 3 million private sector jobs under this administration. If the rest of the year mirrors last month's numbers, it would take 9 years, 9 years, to recover all the jobs lost under this President.

Much of the job loss has been in the manufacturing sector, where job loss is at a 53-year high. Another 3,000 manufacturing jobs disappeared last month because of outsourcing, a policy that the Bush administration says is healthy for our economy. Long-term unemployment also continues to be a very, very serious problem. The average out-of-work American is now unemployed for 5 months, the highest in 20 years.

A report recently released by the Economic Policy Institute and the National Employment Law Project found that college graduates, older workers, and workers in the manufacturing industry disproportionately are likely to experience long-term chronic unemployment in our current economy. To make matters worse, President Bush wants to make it even more difficult for those to find work.

Under his budget proposals this year, worker training and assistance programs for millions of Americans would be cut significantly. He wants to reduce access to worker training, child care support, housing assistance and college tuition relief and public health insurance at a time when most working families need help the most. I think that is wrong.

Those of us that live in my district know how hard it has been. The reality is that in my district we have very high unemployment rates. In the cities that I represent, particularly East Los Angeles where about 70 to 80 percent of the population are Latino families, they are experiencing up to 10 percent and above unemployment rates. It has been that way for the last 3 years.

Where is the relief for the districts that I represent, for the hardworking Americans that contribute to our taxing system here and get nothing in return when they really need it?

I would ask for us to take a strong look at the policies that this administration is advocating and postpone the tax cuts for the wealthy and restore integrity in the health care services and in our education and in our environment.

Our environment is suffering. Latino children in my district suffer higher rates of chronic illnesses, asthma, obesity, and diabetes. If these issues are not contained now, we are going to have to be paying for those tomorrow.

We need to invest in America. We need to stop outsourcing. We need to make sure that our children and our families are taken care of.

I would ask for all Americans to take a second look at this recovery that the President is proposing. I would ask for all of us to join together and make our resources felt here at home.

RESPONSIBILITY WEEK

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from Texas (Mr. DELAY) is recognized during morning hour debates.

Mr. DELAY. Mr. Speaker, this week the House will take up two bills that, in addition to strengthening our economy and improving the quality of American family life, will send a very real message of accountability to two industries not lately known for it.

Opponents of the Personal Responsibility in Food Consumption Act and the Broadcast Decency Enforcement Act may dismiss them as meaningless symbols, but American families know better.

The American families know that the raw greed that fuels both abusive lawsuits and vulgar broadcast programming has punctured the boundaries of reasonable tolerance. People have tired of hearing about yet another loopy scam cooked up by predatory trial lawyers to sue some unsuspecting company for some imaginary offense; and at the same time, people have grown weary of the junk that comes across our television screens.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

For years we have chastised Hollywood, cajoled Hollywood, and begged Hollywood to shape up. Yet in both cases, the entertainment industry and trial lawyers, either out of arrogance or ignorance or both, have chosen to ignore these pleas.

Mr. Speaker, this week the House will send a very clear signal to one and all: enough is enough. Predatory lawsuits undermine our economy; offensive television programming undermines the moral imagination of our children; and both undermine the fundamental human value of personal responsibility.

Lawyers and broadcasters may not care about their moral responsibilities, Mr. Speaker; but under these bills, if they do not at least start to fake it, they are going to pay.

Under the Personal Responsibility in Food Consumption Act, Congress will declare, as if we should have to, that restaurants are not responsible for the tummy aches that their customers suffer when they eat too much.

Under the Broadcast Decency Enforcement Act, television broadcasters who have thumbed their noses at the FEC's maximum obscenity fine of $27,500 per offense will soon have to reassess the actions of their respective thumbs and noses in the face of maximum fines of $500,000 per offense.

So after years of trying the American people's patience, predatory trial lawyers and irresponsible broadcasters are going to be held accountable for their actions. It is Responsibility Week here in the House, Mr. Speaker; and thankfully for the viewers at home watching C-SPAN, there will not be a half-time show.

JOB NUMBERS FOR LAST MONTH

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from New Jersey (Mr. PALLONE) is recognized during morning hour debates for 5 minutes.

Mr. PALLONE. Mr. Speaker, last Friday, we got another reality check as to how, after 3 years in the White House, President Bush still has not figured out how to create jobs for Americans here in the United States. The February job numbers illustrate how the economic policies of President Bush and the Republican Congress still are not creating jobs.

Last month, only 21,000 jobs were created by the American economy. That is 21,000 jobs. The Labor Department also revised its numbers for both December and January, stating that 23,000 less jobs were created during those 2 months than when it was first reported; and this means employers have added an average of 61,000 jobs per month since August, well below the 150,000 new jobs economists said were needed to keep pace with population growth.

If the jobs recession does not end soon and the economy does not create 2.1 million jobs this year, then President Bush will be the first President since Herbert Hoover to preside over an economy in which he did not create one net job; and yet the President continues to say that the best way to create more jobs in the upcoming month is for Congress to make permanent all his tax cuts, the tax cuts that overwhelmingly benefit our Nation's wealthiest Americans.

I would just like to know, Mr. Speaker, when is the President going to learn? Congressional Republicans cut taxes year after year, and the jobs they predicted would be created have never become a reality. Last year, when the President was touting another round of tax cuts benefiting our Nation's wealthiest elite, the White House predicted the cuts would create more than 2.1 million new jobs in the 7 months after its passage. And what actually happened during that period? Only 296,000 jobs were created, 1.8 million short of the President's predictions.

Now President Bush says he is going to create jobs, but he is about as good at predicting job creation as he is in advancing policies that create those jobs. He is not very good at it, Mr. Speaker. Perhaps that is why President Bush and some of his leading economic advisers are now backing away from their own "Economic Report of the President," in which the administration predicted that 2.6 million jobs would be created this year. Just one week after release of that report, Treasury Secretary John W. Snow and Commerce Secretary Donald Evans refused to embrace President Bush's own economic projections.

One would think the Bush administration would be concerned about the job losses, but last month we learned that President Bush and his economic advisers view the movement of American factory jobs and white collar work to other countries as a positive transformation that will, in the end, enrich our economy.

The President's chief economist, Gregory Mankiw, made national headlines when he said, "Outsourcing is just a new way of doing international trade. More things are tradeable than were tradeable in the past, and that's a good thing." President Bush supported this view in his annual economic report in which he wrote: "When a good or service is produced more cheaply abroad, it makes more sense to import it than make or provide it domestically."

Mr. Speaker, how can we have economic success if we send jobs overseas, but do not create enough new jobs with comparable wages here in the United States?

I think it is about time that the Bush administration realizes that shipping jobs overseas and cutting taxes for the wealthiest elite in our country will not create jobs. President Bush and congressional Republicans have had 3 years to turn this jobs recession around. They have totally failed. It is time for Congress to pass measures that will encourage companies to keep jobs here in the United States, and it is time we level the playing field and protect American jobs here rather than exporting them overseas.

EXTENDING OF UNEMPLOYMENT BENEFITS

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the gentleman from Ohio (Mr. BROWN) is recognized during morning hour debates for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, my friend, the gentleman from New Jersey (Mr. PALLONE), just talked about the new economic statistics, that some 21,000 jobs were created last month in this country. The President had predicted 250,000 jobs. The Wall Street Journal had predicted 150,000, something like that; 21,000 were actually created. Of those 21,000, actually every one of those jobs was a government job, many of them in education, productive, important jobs; but actually there was no private sector job creation, period. There was actually a loss of private sector jobs.

This is where it really matters to people. There were 760,000 American workers whose unemployment benefits have expired in December, January, and February. That is 760,000 workers whose unemployment has expired who cannot find jobs. That is 760,000 families, many of whom have children, who have lost their unemployment compensation, have no income, cannot find jobs.

My friend on the other side of the aisle, the President and the Republican leadership, even though a lot of Republicans want to support it but the President and the Republican leadership will not bring it up, have said no to extending unemployment compensation for those 760,000 workers, those 760,000 families.

Last week, I visited a group of about 50 or 60 machine-shop operators in Akron in my district, in the city of Akron, Ohio. Right before I spoke, a man walked forward and put just a plastic bag full of brochures like this in front of me, and what they are is a bag of about five times this size.

□ 1245

He had gotten several hundred of these every month. These are auction notices he receives in his company, his machine shop, where he employs 10, 15 workers, something like that. Most of the companies represented there last week when I talked to them, were small manufacturers, 10, 20, 50, 100, maybe one company was 150. Most of them were very small manufacturers. But they said they were getting these auction notices from companies all over the United States, and they are basically fire sales, get out of business sales.

This is an auction notice from Houston, Texas. Large capacity fabricating and machine shop closing. They are selling their capital equipment to anyone who will buy it. This is from a company in Springfield, Ohio. Surplus to the ongoing operation of this small manufacturing company. They are selling their surplus equipment. They do not have customers so they are laying off workers. This is another one. Plant closed, everything sells. This is another one. This one is from Cincinnati, Ohio, another company which says excess equipment due to corporate outsourcing.

This one is from Medina, Ohio, just south of my district. Fax facility closed. All must go. This is from Anderson, Indiana. Assets no longer required in the continuing operations because of foreign competition and outsourcing. This is one from Portland, Maine. This is from Newfoundland, New Jersey. This is one from Warrington, Pennsylvania, a company going out of business. Willoughby, Ohio. Kent, Ohio.

Companies all over this country, Mr. Speaker, are going out of business, laying off 10 and 20 and 50 and 100 workers. Manufacturing jobs. One out of six manufacturers jobs in my State has been lost since George Bush became president. His answer to every single bad piece of economic news is more tax cuts for the richest people in our country and more trade agreements like NAFTA that will ship jobs overseas; that will hemorrhage jobs to Mexico and China.

Here is the result of the President's economic policy. It is plant closing after machine shop closing after downscaling and downsizing because of outsourcing, because of foreign competition, because of the fact that this President has no manufacturing policy whatsoever. One out of six manufacturing jobs in my State of Ohio has simply gone away in the last 3 years.

As the gentleman from New Jersey (Mr. PALLONE) said, George Bush will be the fist President since Herbert Hoover to have lost jobs during his time in office to the tune of about 3 million jobs, it looks like.

Going back to those 760,000 workers who have seen their unemployment expire. While Members of Congress get paid $3,000 a week, $3,000 a week, this body has absolutely failed, just failed, just ignored, just brazenly, callously been disdainful of those workers who have lost their jobs, cannot find work, and had their unemployment benefits expire.

This is not welfare, this is unemployment. It is called unemployment insurance. It is insurance in case you are laid off. These are 760,000 workers whose unemployment has expired. This Congress is too callous and too hardhearted to help those 760,000 families while our economic policies continue to fail.

TRIBUTE TO THE GIRL SCOUTS OF AMERICA AND THE GIRL SCOUTS OF GUAM

The SPEAKER pro tempore (Mr. BURNS). Pursuant to the order of the House of January 20, 2004, the gentlewoman from Guam (Ms. BORDALLO) is recognized during morning hour debates for 5 minutes.

Ms. BORDALLO. Mr. Speaker, as the Girl Scouts of America celebrate their 92nd anniversary this Friday, March 12, and the Guam Girl Scouts celebrate their 69th anniversary, I would like to take this time to commend the organization for its continuing commitment to improving the lives of young girls in America and abroad.

The Girl Scouts have fostered the individual talents of the young girls they serve through learning activities focusing on education, health, physical fitness, community service, and cultural exchange. The Girl Scouts have helped instill strong leadership and decision-making skills in millions of young girls.

Through its U.S.A. Girl Scouts Overseas, Girl Scouts of the U.S.A. serves approximately 16,000 girls in more than 81 countries. Guam Girl Scouts is one of the longest-serving community organizations on Guam. They have served thousands of young girls, including myself, since 1935.

Last week, representatives from our local Girl Scouts organization, along with Girl Scouts from across the Nation, journeyed to Washington, D.C. to speak to Members of Congress about issues affecting the program and our society today.

I was visited by Monica Pido, President of the Board of Directors of the Guam Girl Scouts, and Vickie Fish, Executive Director of Guam Girl Scouts. I was impressed by the range of programs that they are undertaking to increase girls' safety, promote math and science education, and improve girls' health and fitness. Preventing youth violence in communities and ensuring girls feel emotionally and physically safe is one of the latest proactive efforts of our Girl Scouts.

Their P.A.V.E. the Way youth violence prevention initiative is an innovative way to improve the safety of girls and communities throughout our Nation.

Girl Scouts provide a structure and stability to girls between the ages of 5 and 17 years old, teaching them lessons and building character that will last a lifetime. Girl Scouts really make a difference, one girl at a time.

Today, with more than 50 million women across the Nation having been involved in girl scouting as a child, the difference Girl Scouts make is enormous. As a former girl scout, I can attest to the quality and success of these programs.

I congratulate Girl Scouts as they celebrate their anniversary and hope that they will continue to be a part of many girls' lives in the years to come.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 2 p.m.

Accordingly (at 12 o'clock and 53 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. TERRY) at 2 p.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

We will praise You, Lord, with open hearts. We will recount all Your wonders. We will rejoice in You and be glad, just judge of heaven and Earth.

You are enthroned on high overseeing every nation and all peoples. You hold the just in Your balance and destroy the wicked. You take up the cause and interests of this government as all others. You will guide the course of events here in Congress. In the end, its accomplishments will be measured and its failures will not be overlooked. For You are a stronghold for the oppressed and will judge everyone with truth.

Those who know Your name will place their trust in You always, because You never forsake those who seek You and seek Your ways. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Virginia (Mr. MORAN) come forward and lead the House in the Pledge of Allegiance.

Mr. MORAN of Virginia led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

THANKING INTERNATIONAL REPUBLICAN INSTITUTE FOR ADVANCING THE MARCH OF FREEDOM

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, one of my life goals in public service has been to promote democracy and freedom throughout the world. A leading proponent of this goal is the International Republican Institute, widely revered as IRI. Founded in 1983, this visionary nonprofit organization responded to President Ronald Reagan's call in 1982 that "we must be staunch in our conviction that freedom is not the sole prerogative of a lucky few, but the inalienable and universal right of all human beings."

IRI has advanced the march of freedom by teaching nations recovering from Communist and authoritarian totalitarian regimes how to self-govern through the rule of law. IRI adheres to the fundamental American principles of individual freedom, equal opportunity, and entrepreneurial spirit that foster economic development.

I have seen IRI's success firsthand in Bulgaria, as I joined a delegation to observe their first free elections since victory in the Cold War. They have democracy efforts in 56 countries, including Iraq, Afghanistan, China, Slovakia, and Russia.

I want to personally thank IRI's president, George A. Folsom, for his commitment to bringing the hope of freedom to people all over the world.

In conclusion, may God bless our troops, and we will never forget September 11.

THE BUSH ADMINISTRATION IS OUTSOURCING RESPONSIBILITIES RELATING TO JOBS AND THE ECONOMY

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, when it comes to jobs and the economy, this administration has outsourced its responsibility.

The Department of Labor has just given us proof. February unemployment figures are grim and include a stunning revelation: the private sector actually lost jobs last month. The meager 21,000 jobs, new jobs, all came from local and State government. This is not economic recovery; it is an economic crisis. Long-term unemployment is at its highest level in 20 years. The unemployment rate among teens is a staggering 37 percent. The Community Service Society says in some cities the unemployment rate among black men is 50 percent.

The administration has turned its back on average Americans. We must pass extended unemployment benefits. An administration that does not care about the average American is an administration that has outsourced its leadership. It has gone somewhere. We need to get it back.

ECONOMIC JOBS AND GROWTH PLAN IS WORKING FOR AMERICANS

(Mr. WELLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELLER. Mr. Speaker, we have some great challenges before our country in today's world; and one of them, of course, is moving our economy forward.

I am pleased to report to the House that the Economic Jobs and Growth Plan that was signed into law by President Bush in May of last year is working. We have seen some real benefits as a result of that Jobs and Economic Growth Plan, plans that cut taxes for every American, eliminated the marriage tax penalty, doubled the child tax credit, and also provided incentives for investment.

As a result of the President's plan that was passed into law by this Congress, we have seen a generation of well over 300,000 new jobs just in the last few months. I would also report that as a result of the bonus depreciation, the extra 50 percent that businesses can use for deducting the cost of buying a company car or an office computer or telecommunications equipment, a machine tool that, as a result of that bonus depreciation, we have now seen the highest level ever of investment by the private sector, by business, and capital assets, cars and trucks, machine tools, computers. When we encourage a business to buy a new company car, to buy a machine tool, to buy telecommunications equipment, to buy other types of equipment, that creates jobs.

The President's plan is working.

STOP VIOLENCE AGAINST WOMEN WEEK

(Ms. NORTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. NORTON. Mr. Speaker, I am wearing a Liz Claiborne, very attractive, very glamorous scarf which is being used and is being handed out to Members of Congress, especially women Members of Congress this week, as we call attention to Violence Against Women and Stop Violence Against Women Week. The bipartisan Women's Caucus and the Hispanic Caucus are kicking off this event this week with a reception later on.

The point is to wear something beautiful in order to draw attention to a very ugly phenomenon in our country and around the world, and that is violence against women, very closely related to child abuse. One way to stop child abuse is to focus more on violence against women themselves. We have a bill, the Violence Against Women Act, of course, which means that Congress itself regards this as a major phenomenon in our society.

Mr. Speaker, let us use this entire week to call attention to it and to eliminate it once and for all from the United States of America and from the world.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 8, 2004.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on March 8, 2004 at 3:15 p.m. and said to contain a message from the President whereby he submits a report on implementation of PL 107-228 concerning Russian Debt Reduction for Nonproliferation.

With best wishes, I am
Sincerely,

JEFF TRANDAHL,
Clerk of the House.

REPORT TO THE CONGRESS ON AUTHORITY FOR RUSSIAN FEDERATION DEBT REDUCTION FOR NONPROLIFERATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 108–171)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Consistent with section 1321 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228), I transmit herewith a report prepared by my Administration on implementation of the debt reduction authority conferred by title XIII, subtitle B of Public Law 107–228.

GEORGE W. BUSH.
THE WHITE HOUSE, *March 8, 2004.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 8, 2004.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on March 8, 2004 at 11:55 a.m. and said to contain a message from the President whereby he notifies the Congress of his intention to enter into a free trade agreement with the Kingdom of Morocco.

With best wishes, I am
Sincerely,

JEFF TRANDAHL,
Clerk of the House.

INTENTION TO ENTER INTO FREE TRADE AGREEMENT WITH THE KINGDOM OF MOROCCO—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 108-172)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, without objection, referred to the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

Consistent with section 2105(a)(1)(A) of the Trade Act of 2002 (Public Law 107-210; the "Trade Act"), I am pleased to notify the Congress of my intent to enter into a free trade agreement (FTA) with the Kingdom of Morocco.

This agreement will create new opportunities for America's workers, farmers, businesses, and consumers by eliminating barriers in trade with Morocco. Morocco is one of the United States strongest friends in the Middle East. increased trade will benefit Americans and help strengthen a tolerant, open, and more prosperous Morocco. Entering into an FTA with Morocco will not only strengthen our bilateral ties with this important ally, it will also advance my goal of a Middle East free trade are (MEFTA) within a decade.

Consistent with the Trade Act, I am sending this notification at least 90 days in advance of signing the United States-Morocco FTA. My Administration looks forward to working with the Congress in developing appropriate legislation to approve and implement this free trade agreement.

GEORGE W. BUSH.
THE WHITE HOUSE, *March 8, 2004.*

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken at 6:30 p.m. today.

SENSE OF THE HOUSE WITH RESPECT TO SAN LUIS OBISPO COUNTY, CALIFORNIA, DECEMBER 22, 2003 EARTHQUAKE

Mr. TOM DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 519) expressing the sense of the House of Representatives with respect to the earthquake that occurred in San Luis Obispo County, California, on December 22, 2003.

The Clerk read as follows:

H. RES. 519

Whereas at 11:15 A.M. on Monday, December 22, 2003, an earthquake measuring 6.5 on the Richter Scale occurred in San Luis Obispo County, California, with an epicenter approximately 6 miles northeast of the community of San Simeon and 24 miles northwest of the City of Paso Robles;

Whereas the magnitude of the earthquake was such that it was felt from the City of San Francisco to the Los Angeles Basin, and may have caused the Coastal Range to become up to a foot higher;

Whereas the earthquake caused damage to homes, businesses, and public infrastructure such as buildings, bridges, and roads, that will cost millions of dollars to repair;

Whereas tragically, 2 lives were lost and more than 40 persons sustained injuries;

Whereas local public safety and law enforcement personnel responded immediately, effectively, and courageously to assist victims of the earthquake and otherwise protect the public; and

Whereas a Federal disaster declaration was issued on January 13, 2004: Now, therefore, be it

Resolved, That the House of Representatives—

(1) is saddened by the loss of life and property caused by the earthquake that occurred in San Luis Obispo County, California, on December 22, 2003, and sends its deepest condolences to the victims and their families; and

(2) recognizes and honors those local officials, public safety and law enforcement personnel, and individuals, who in private or public capacity provided assistance to the victims of the earthquake and their families, and commends this dedicated service to the residents of San Luis Obispo and Santa Barbara Counties and the State of California.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. TOM DAVIS) and the gentlewoman from the District of Columbia (Ms. NORTON) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. TOM DAVIS).

GENERAL LEAVE

Mr. TOM DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 519, introduced by the gentleman from California (Mr. THOMAS), honors the victims and affected residents of the earthquake that occurred in San Luis Obispo, California, on December 22, 2003. The earthquake registered a 6.5 on the Richter scale, and it killed two people and injured 50 others. This was the largest quake to hit the counties of San Luis Obispo and Santa Barbara since 1994.

The historic town of Paso Robles was hit the hardest. Many of the buildings in that area were unreinforced masonry structures built over a century ago, and they were unfortunately no match for the earthquake's power. The two deaths occurred in Paso Robles. In addition, the earthquake's tremors were felt in San Francisco to Los Angeles, and more than 30 aftershocks were reported in the following hours. The quake knocked out power to approximately 75,000 residents, and many others were forced to evacuate. This resolution remembers the victims and those who were injured and underscores the heroic sacrifices made by countless disaster relief workers and emergency personnel after the earthquake.

Following the wildfires that scorched hundreds of thousands of acres in October, the December 22 earthquake concluded a difficult fall season for so many California residents. Therefore, I thank the distinguished gentleman from California (Mr. THOMAS) for introducing this resolution. It helps us all remember the victims of this disaster.

The resolution also appropriately recognizes the public safety officials and emergency response personnel who helped limit the earthquake's effects on the region. Many individuals, businesses, and organizations in surrounding areas provided much-needed assistance to victims in the days and the weeks following the tragedy. I commend the gentleman from California for the resolution's important focus in commending these charitable groups as well.

Mr. Speaker, I strongly urge all Members to support House Resolution 519.

Mr. Speaker, I reserve the balance of my time.

□ 1415

Ms. NORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Paso Robles, California, is a small town nestled in the Central California wine country. Since 1892, the clock tower atop the Mastagni Building had kept the pulse of the town, an unceasing progression of hours for 111 years. The ticking stopped at 11:16 a.m. on Monday, December 22, 2003, when the building crumbled underneath it and the clock fell to the street below.

Marilyn Zafuto of Paso Robles and Jennifer Myrick of Atascadero were shopping at a dress shop in the Mastagni Building on that fateful day, and as they attempted to flee to safety, they were killed by falling debris. Their tragic fate made them the only two deaths of a powerful earthquake that shook California from San Francisco to Los Angeles.

With a magnitude of 6.5 on the Richter Scale, the San Luis Obispo County earthquake of 2003 threw lives into upheaval all around the State. In addition to the deaths of Ms. Zafuto and Ms. Myrick, 40 people were injured in the quake and its subsequent aftershocks, which measured as strong as magnitude 4.7. More than 40 buildings were damaged, roads were buckled, gas mains were damaged, water pipes were ruptured. This was the largest earthquake to hit California since 1999 when a magnitude 7.1 quake was measured in the desert near Joshua Tree and the first to cause deaths since the 6.7 magnitude earthquake in Northridge in 1994.

The effects of this earthquake were felt far and wide across California. At the Federal Building in San Francisco, 165 miles northwest of the epicenter, the top floor swayed for 30 seconds and people in downtown Los Angeles reported that the streets were beset with a sustained rolling motion.

As often is the case, from American tragedies come stories of American heroism. The San Luis Obispo earthquake is no exception. The 200 emergency workers who toiled for hours, looking through the rubble for victims and tending to the wounded, deserve the admiration of this House as do the countless local heroes who rose to the occasion when circumstances called for it.

We have not the time to tell all the stories, but I would like to tell you of Nick and Patricia Sherwin. Mr. Sherwin owns a jewelry store in the Mastagni Building in Paso Robles. When the quake hit, Mr. Sherwin took charge, calling for the evacuation of his store. Most of the people made it outside before the roof, including the clock tower, was shorn off the building. But two elderly customers fell before they could get outside. Mr. and Mrs. Sherwin went back and draped themselves over the fallen elderly customers and shielded them and their bodies until the quake subsided. Untold heroic stories like this one unfolded across Central California on that day.

Mr. Speaker, in honor of men and women, Americans like these, I offer my respect for their quiet heroism on a day when the earth made their feet seem poised to betray them. I also extend, along with the rest of the House, my deepest condolences to the victims and families of the San Luis Obispo County earthquake.

Mr. Speaker, I reserve the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. THOMAS), the distinguished sponsor of this resolution.

Mr. THOMAS. Mr. Speaker, I want to thank the chairman, the gentleman from Virginia (Mr. TOM DAVIS) for his willingness to expeditiously move this resolution. Those of us in California experience earthquakes periodically. It is difficult to predict. The usual formula is the longer it has been since the last one, the sooner it is to the next one. When actually, if you will look at newspapers in California on a regular basis, literally on a daily basis there are anywhere from several dozen to several hundred earthquakes that occur, many of them are not felt.

Periodically, we get an earthquake as occurred in Paso Robles on December 22. It was a good size earthquake, 6.5 on the Richter Scale is a good size earthquake. The earthquake that literally leveled downtown Bakersfield in 1952 was only 6.1. The earthquake that produced between 20 and 50,000 lives lost in Bam, Iran, in 2003 was about the same magnitude, 6.5.

This particular earthquake caused about a quarter of a billion dollars worth of damage in homes, businesses and government offices. But only two lives lost. And even then, it was a peculiar set of circumstances that produced the tragedy of the two lives lost. I have a district office in San Luis Obispo County in the 1915 Atascadero City Hall which was shook pretty severely, bricks were falling, and the building itself suffered a number of cracks. And in visiting the site and in the surrounding area, again and again and again it was clear how fortunate we were, how many near misses occurred.

I do want to thank the gentleman from Virginia (Mr. TOM DAVIS) for moving this resolution, and for all of us to remember those individuals who lost their life, those individuals who suffered major business damage downtown, and to the general psyche.

I know that when earthquakes occur, I have seen local television stations go to the airport to interview people, to ask them if they are thinking about returning to California because the earth literally shook. I have told them many times that although it occurs periodically on the east coast, literally, hurricanes and tornados occur everywhere. There are difficulties that you have to put up with wherever you live. California, unfortunately, on the rim of fire, is periodically subjected to these earthquakes.

This one was a difficult one for all of us. My colleagues in the area, Mrs. CAPPS and others responded fairly quickly. I do want to put on the record how magnificently the local elected officials responded, setting up emergency teams, keeping lines of communication open. And I want to compliment the Federal Government in its quick response in providing grants and loans to those who were clearly depressed and destroyed and were given the opportunity very quickly to rebuild.

The spring has come, the rains have come, the grass is green, but the psyche shattering earthquake of last December is still present in downtown areas and in the surrounding communities. And the scar on the earth will be there for a long time.

I thank the chairman for the quick response and especially for the Nation's taxpayers in responding in the hour of need in San Luis Obispo, Paso Robles, Atascadero and the surrounding community. I thank the gentleman for yielding me this time.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I reserve the balance of my time.

Ms. NORTON. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, I thank my colleague, the gentlewoman from the District of Columbia (Ms. NORTON) for yielding to me.

Mr. Speaker, I rise today in strong support of House Resolution 519, a resolution honoring the victims of the December 22, 2003, San Simeon earthquake and paying tribute to the law enforcement, emergency personnel, and many local leaders who provided assistance to citizens throughout San Luis Obispo and Santa Barbara Counties.

I thank my colleague, the gentleman from California (Mr. THOMAS) for introducing this resolution and for bringing it to the floor of the House today. It has been a privilege for me to work with him to help get the central coast back on its feet again.

Mr. Speaker, earthquakes impact all segments of the communities they strike: Individuals, businesses, and public services such as police, fire, hospitals, and schools. In the days following this earthquake I was very moved by the devastation in San Luis Obispo County and in northern Santa Barbara County. The earthquake registered 6.5 on the Richter Scale and was felt from San Francisco all the way to Los Angeles. I know what it was like to feel it strongly in my fourth floor congressional office building as I was meeting with constituents at that very hour.

Even though the earthquake lasted only seconds, it left behind destruction that will take months, if not years, to repair and rebuild. The greatest tragedy, of course, is that time will not undue the loss of life of two people caused by this earthquake. Two women perished when a clock tower collapsed in Paso Robles. Our thoughts and prayers continue to go out to the friends and families of these victims.

More than 50 people were injured as a result of the earthquake. There was extensive damage to residential properties, to historical and public buildings, and to public utility structures. I have received numerous calls and letters from constituents who have suffered major losses to their businesses.

Total costs and damages to the counties of San Luis Obispo and Santa Barbara are expected to exceed $300 million with reports of more damage coming in daily.

Mr. Speaker, residents and local authorities are continuing to rebuild their lives after this earthquake. I was pleased the President heeded calls from Governor Schwarzenegger, the gentleman from California (Mr. THOMAS), and me and declared San Luis Obispo and Santa Barbara Counties Federal disaster areas as a result of the December 22 earthquake. Federal funding and loan assistance is essential to help businesses and individuals rebuild their lives and get their lives back on track following this, such a devastating earthquake.

However, I remain disappointed that the Governor's request that Santa Barbara County's Federal disaster area declaration does not include individual assistance programs. It only limits the support from the Federal Government to the businesses involved.

In northern Santa Barbara County, especially in the cities of Santa Maria and Guadalupe, homeowners are still suffering from the impact of this earthquake and its after shocks. Updated damage assessments have revealed that northern Santa Barbara County residents suffered much more loss than was originally estimated.

My office will continue to work with all businesses and all families affected by the earthquake to ensure that they have access to loans and other assistance that could help them recover as quickly as possible. Work has already begun to make sure that the hundreds of Federal historic properties are preserved and retrofitted to provide safe and accessible work in public spaces.

This is a critical component of creating communities where our families and businesses are safe, healthy, and that the economy is secure. State and Federal agencies, including the Governor's Office of Emergency Services, FEMA and the Small Business Administration all have been working closely with local officials to give them all the support that they need. And I want to extend my heartfelt thanks to them as well as to the first responders, to the rescue workers and to all of the volunteers, so many of them, everyone who took great risk to themselves to search the wreckage for their fellow citizens. They did an extraordinary job.

I also want to commend the city, the county, and State workers and utility crews who worked around the clock to restore power, water, and other important services to our communities. Critical functions such as emergency centers, fire stations, police stations and hospitals were functioning right after the earthquake.

We do not want to think about what would happen in such an event, but when it does, we are all heartened by the way that people pull together and work together from every level, particularly the volunteers who leave whatever they were doing aside and step right up to the plate. They cannot do it without the assistance of local, State, and Federal support.

The San Simeon earthquake was a shocking reminder to people who live just about anywhere in California that we are prone to earthquakes and should do whatever we can to prepare. Preparing for an earthquake can be as simple as making an earthquake preparedness kit with first aid supplies, extra food and water, and clothing. I encourage all Californians to take this step. This may be a lifesaver in the next quake.

Mr. Speaker, as I said, people on the Central Coast are returning to their lives as they once knew them before the earthquake. The earthquake may have shaken our foundations, but it, once again, proves the strength of our communities and our unshakable resolve to help each other out during times of tragedy. I urge immediate adoption of this resolution to pay tribute to the lives we lost that day and to honor all of those who stepped in, stepped up to the plate, to help their neighbors to get through such a difficult time.

Ms. NORTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentleman from Virginia (Mr. TOM DAVIS) that the House suspend the rules and agree to the resolution, H. Res. 519.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. TOM DAVIS of Virginia. Mr. Speaker, on that, I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1430

ARMY STAFF SGT. LINCOLN HOLLINSAID MALDEN POST OFFICE

Mrs. MILLER of Michigan. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3536) to designate the facility of the United States Postal Service located at 210 Main Street in Malden, Illinois, as the "Army Staff Sgt. Lincoln Hollinsaid Malden Post Office".

The Clerk read as follows:

H.R. 3536

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ARMY STAFF SGT. LINCOLN HOLLINSAID MALDEN POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 210 Main Street in Malden, Illinois, shall be known and designated as the "Army Staff Sgt. Lincoln Hollinsaid Malden Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Army Staff Sgt. Lincoln Hollinsaid Malden Post Office.

The SPEAKER pro tempore (Mr. TERRY). Pursuant to the rule, the gentlewoman from Michigan (Mrs. MILLER) and the gentlewoman from the District of Columbia (Ms. NORTON) each will control 20 minutes.

The Chair recognizes the gentlewoman from Michigan (Mrs. MILLER).

GENERAL LEAVE

Mrs. MILLER of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3536.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Michigan?

There was no objection.

Mrs. MILLER of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the next three pieces of legislation that the House will consider today are each tributes to a fallen soldier of the United States Armed Forces who served in Iraq in the past year.

All Americans and all peace-loving people around the world should have rejoiced in the news just yesterday that members of the Iraqi Governing Council signed an interim constitution, a grand step towards the objective of establishing free elections and a permanent self-ruling government in Iraq.

Mr. Speaker, in working to achieve these extraordinary goals, countless American servicemen and women have sacrificed for months since the beginning of Operation Iraqi Freedom nearly one year ago and, indeed, some American soldiers today have paid the ultimate price for our country. Today I am pleased that the House is taking time to consider bills that will honor the lives of three brave men whose service to our Nation and to freedom everywhere must never be forgotten.

Mr. Speaker, the first of the three bills introduced by the gentleman from Illinois (Mr. WELLER) that we will consider is H.R. 3536. This designates a post office in Malden, Illinois as the Army Staff Sgt. Lincoln Hollinsaid Post Office. All members of the Illinois State delegation have co-sponsored this meaningful legislation.

Mr. Speaker, Staff Sergeant Lincoln Hollinsaid left his home in Malden, Illinois, on January 22, 2003 and headed to the Middle East as an engineer with the Army's Third Infantry Division to participate in the liberation of Iraq. He was killed tragically on April 7, 2003 in Iraq when a rocket propelled grenade hit the crane that he was operating. Sergeant Hollinsaid was 27 years old.

Lincoln was a graduate of Princeton High School in Princeton, Illinois, and he was an avid fisher. He enlisted with the Army in 1995 and he had served ever since.

Mr. Speaker, on behalf of the gentleman from Illinois (Mr. WELLER), I extend the heartfelt sympathy of the House of Representatives to the family of Lincoln Hollinsaid, especially his father, Dan, his mother, Nancy, and his two brothers, Adam and Kevin.

I urge all the Members of the House to support H.R. 3536, that will commemorate the life and service of Staff Sergeant Lincoln Hollinsaid.

Mr. Speaker, I reserve the balance of my time.

Ms. NORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am very pleased to join the gentlewoman from Michigan (Mrs. MILLER) in presenting these 3 bills that honor three men who have served us with all they had to give in Iraq. I am particularly honored to do so because the District of Columbia has lost more men already in Iraq than many States all without voting representation in this House or in the Senate. So it is with special pride that I speak for myself and for all whom I represent in honoring these three men who gave their lives for all of us.

As a member of the House Committee on Government Reform, I am pleased to join my colleague in consideration of H.R. 3536, legislation naming a postal facility in Malden, Illinois after Staff Sergeant Lincoln Hollinsaid. This measure was introduced by the gentleman from Illinois (Mr. WELLER) on November 19, 2003 and unanimously reported by our committee on February 12, 2004.

H.R. 3536 enjoys the support and cosponsorship of the entire Illinois delegation.

Army Staff Sergeant Lincoln D. Hollinsaid was a soldier from Malden, Illinois, who was killed on April 7, 2003 in an Iraq grenade attack.

Lincoln Hollinsaid graduated from the local high school in Malden, Princeton High, and worked a short while at a local construction company before enlisting in the U.S. Army. As an Army engineer, Staff Sergeant Hollinsaid served on the Army's Third Infantry Division. He was assigned to the B company, 11th Engineer Battalion, in Fort Stewart, Georgia.

Because of his interest in serving in combat, Hollinsaid transferred from a California training post to the Third Infantry Division in Georgia. Sadly, at age 27, this staff sergeant was killed when the crane he was driving was hit by a rocket propelled grenade. He is survived by his parents, Dan and Nancy, and two brothers, Adam and Kevin.

Mr. Speaker, I commend my colleague for seeking to honor the memory of a fallen soldier. I urge swift passage of this bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. MILLER of Michigan. Mr. Speaker, I yield as much time as he may consume to the gentleman from Illinois (Mr. WELLER), the sponsor of this legislation.

Mr. WELLER. Mr. Speaker, let me first begin by thanking the gentleman from Virginia (Mr. DAVIS) of the Committee on Government Reform, every member of the Committee on Government Reform, and particularly the gentlewoman from Michigan (Mrs. MILLER) and the gentlewoman from the District of Columbia (Ms. NORTON) for joining me here on the floor and their assistance in their effort to honor these three members of the American military.

Mr. Speaker, I rise today to commend the heroic actions of three service members from the 11th Congressional District of Illinois, three service members who gave the ultimate sacrifice of their life to the defense of our Nation and our freedoms. Army Staff Sgt. Lincoln Hollinsaid of Malden, Illinois; Marine Captain Ryan Beaupre of St. Anne, Illinois; and Army Private Shawn Pahnke of Manhattan, Illinois, each served proudly and bravely in the United States military.

Today, Mr. Speaker, the House will honor the memory of these three soldiers with the passage of H.R. 3536, H.R. 3537, and H.R. 3538, bills that will rename the post offices in each of these soldiers' hometowns in their honor. I note and express appreciation to my colleagues in the Illinois delegation, all of whom have co-sponsored this legislation, each and every one of them of the 19 in the Illinois delegation.

Mr. Speaker, I have unfortunately lost three soldiers from my district in the war against terror. In each of these cases the soldiers who gave their lives came from small communities, towns where each of those soldiers are well known, towns that gave one of their own in the defense of freedom, towns that have been there to help give the Hollinsaid, Beaupre and Pahnke families the support they needed and still need in dealing with their loss.

Today this body will bestow a small yet important honor in remembrance of the sacrifices of these three men, soldiers and their families by renaming the only Federal installations in these three small towns, the community gathering place, the local United States Post Office.

H.R. 3536 will rename the Malden, Illinois Post Office after Army Staff Sergeant Lincoln Hollinsaid. Staff Sergeant Hollinsaid was an engineer with the U.S. Army Third Infantry Battalion. He was lost April 7, 2003 while operating a crane to help clear a path along U.S. Army forces to penetrate the grounds of the Baghdad Airport and capture this key facility.

Lincoln loved fishing, four-wheeling in his truck, and was also a self-taught guitar player. Linc, as his father Dan and mother Nancy called him, was proud to serve in the United States Armed Forces and his service has been a great source of pride for the small community of Malden, a town of 380 residents in Bureau County, Illinois.

Lincoln Hollinsaid was more than a source of pride, though. Linc and his family have been a source of strength for other military families dealing with the loss of a loved one. So much so that our own president, President Bush, made mention of Linc in his address at Arlington National Cemetery this past Memorial Day.

The Memorial Day services at Arlington was somber, as tradition would have you expect, but the crowd chuckled as President Bush recalled a letter that Army Staff Sergeant Lincoln Hollinsaid wrote from the Mid East, telling his family that he enjoyed getting mail from them but I wish my truck and boat knew how to write. President Bush said, quoting Hollinsaid, "I sure do miss them."

We miss Lincoln Hollinsaid. I ask for Members' prayers for the Hollinsaid family and Members' unanimous support of H.R. 3536 to rename the Malden, Illinois Post Office after Army Staff Sergeant Lincoln Hollinsaid.

Ms. NORTON. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Mrs. MILLER of Michigan. Mr. Speaker, I urge all members to support H.R. 3536.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Michigan (Mrs. MILLER) that the House suspend the rules and pass the bill, H.R. 3536.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

ARMY PVT. SHAWN PAHNKE MANHATTAN POST OFFICE

Mrs. MILLER of Michigan. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3537) to designate the facility of the United States Postal Service located at 185 State Street in Manhattan, Illinois, as the "Army Pvt. Shawn Pahnke Manhattan Post Office".

The Clerk read as follows:

H.R. 3537

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ARMY PVT. SHAWN PAHNKE MANHATTAN POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 185 State Street in Manhattan, Illinois, shall be known and designated as the "Army Pvt. Shawn Pahnke Manhattan Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Army Pvt. Shawn Pahnke Manhattan Post Office.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Michigan (Mrs. MILLER) and the gentlewoman from the District of Columbia (Ms. NORTON) each will control 20 minutes.

The Chair recognizes the gentlewoman from Michigan (Mrs. MILLER).

GENERAL LEAVE

Mrs. MILLER of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3537.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Michigan?

There was no objection.

Mrs. MILLER of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the second post office designation bill in honor of an Iraq war victim pays tribute to the courage and service of Army Private Shawn Pahnke.

This legislation, H.R. 3537, names a United States Postal Service Facility after Private Shawn Pahnke of Manhattan, Illinois, the town in which Shawn grew up.

Mr. Speaker, Shawn was another hero serving in Iraq to secure the freedom of all Iraqi citizens. Private Pahnke enlisted in October of 2002 right after getting married to his wife, Elisha. He left with the First Armored Division for Freidberg, Germany, four days before the birth of his son, Dean, on March 20, 2003. Sadly, Shawn would never meet his son. While patrolling the streets of Baghdad in a Humvee armored vehicle, a single bullet was fired into the vehicle and struck Private Pahnke in the back, fatally wounding him.

Mr. Speaker, Shawn's lifelong dream was to serve in the military. In the days after his son's death, his father, Tom, told about the letter Shawn had written to his family. These letters described how proud he was to be a soldier. His mother, Linda, said Shawn wanted to show the Iraqi people how wonderful freedom could be.

Mr. Speaker, I commend the gentleman from Illinois (Mr. WELLER) for honoring Army Private Shawn Pahnke. This post office is a deserved and permanent token of appreciation from a grateful Nation.

Mr. Speaker, I reserve the balance of my time.

Ms. NORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a member of the Committee on Government Reform, I am pleased to join my colleague in the consideration of H.R. 3537, legislation naming a postal facility in Manhattan, Illinois after Private Shawn Pahnke. This measure was introduced by the gentleman from Illinois (Mr. WELLER) on November 19, 2003, and unanimously reported by our committee on February 12, 2004.

H.R. 3537 enjoys the support and cosponsorship of the entire Illinois delegation.

Army Private Shawn D. Pahnke was a soldier from Shelbyville, Indiana, who was killed by enemy fire in Baghdad on June 16, 2003. Shawn Pahnke grew up in Manhattan, Illinois and graduated from Lincoln Way High School in New Lenox, Illinois. Continuing his family's tradition of military service, Shawn's father was a Vietnam veteran and his grandfather served in World War II, Shawn enlisted in the U.S. Army. He was assigned to Company C, 1st Battalion, 37th Armored Regiment, 1st Armored Division, Freidberg, Germany.

Sadly, at age 27, Private Pahnke was patrolling in a Humvee with other soldiers from his unit when he was hit by a sniper's bullet. He is survived by his wife, baby son, Dean, his parents and two older brothers. He was buried with honors and received a Bronze Star and Purple Heart.

Mr. Speaker, I commend my colleague for seeking to honor the memory of a fallen soldier. I urge the swift passage of this bill.

Mrs. MILLER of Michigan. Mr. Speaker, I yield as much time as he may consume to the gentleman from the State of Illinois (Mr. WELLER), the sponsor of this legislation, my distinguished colleague.

□ 1445

Mr. WELLER. Mr. Speaker, I rise again today to pay tribute to another fallen brave hero from my home State of Illinois, a brave hero from the war on terror and Operation Iraqi Freedom, Army Private Shawn Pahnke.

Under the legislation I am offering today, H.R. 3537, the Manhattan, Illinois, United States Post Office will be renamed after Army Private Shawn Pahnke. I also wish to thank my colleagues in the Illinois delegation for joining me as original cosponsors of this legislation.

Private Pahnke was a main battle tank crewman with the United States Army 1st Armored Division's First Brigade. He was lost June 16, 2003, while patrolling Baghdad in a Humvee on a security detail. Shawn enjoyed playing baseball and was relatively new to the Armed Forces and had only recently been stationed in Iraq when he was taken from us.

Shawn was the father to a newborn baby son, Dean, whom he never met. On the day of Dean's arrival, Private Pahnke spent most of the day on the phone with his wife, Elisha, talking her through labor and getting to hear the birth of his son and his son's first minutes in the world over the telephone. I have known Private Pahnke's father, Tom, for many years through his work as town administrator with the village of Manhattan, as well as his mother, Linda.

Mr. Speaker, this is a good family, a patriotic family that is very proud of Shawn's service in the United States military. Private Pahnke was much like the other two soldiers we will be honoring today, as he comes from a small town. Shawn's loss was a loss felt by family, by friends, and by the entire community in Manhattan; and while we in this Chamber today can never replace the memory of a lost father, husband or son, by passing H.R. 3537 we can ensure that the memory of this American hero endures in his hometown; and perhaps one day, when he is old enough to understand, baby Dean Pahnke will realize his father was truly loved, not only by his family but by the community and the Nation he served.

Our hearts and prayers go out to the entire Pahnke family.

Mr. Speaker, I ask my colleagues to give H.R. 3537, renaming the Manhattan, Illinois, post office after Army Private Shawn Pahnke, their unanimous support.

Ms. NORTON. Mr. Speaker, I yield back the balance of my time.

Mrs. MILLER of Michigan. Mr. Speaker, I ask that all Members would support the passage of this important legislation, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentlewoman from Michigan (Mrs. MILLER) that the House suspend the rules and pass the bill, H.R. 3537.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

MARINE CAPT. RYAN BEAUPRE SAINT ANNE POST OFFICE

Mrs. MILLER of Michigan. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3538) to designate the facility of the United States Postal Service located at 201 South Chicago Avenue in Saint Anne, Illinois, as the "Marine Capt. Ryan Beaupre Saint Anne Post Office".

The Clerk read as follows:

H.R. 3538

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MARINE CAPT. RYAN BEAUPRE SAINT ANNE POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 201 South Chicago Avenue in Saint Anne, Illinois, shall be known and designated as the "Marine Capt. Ryan Beaupre Saint Anne Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Marine Capt. Ryan Beaupre Saint Anne Post Office.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Michigan (Mrs. MILLER) and the gentlewoman from the District of Columbia (Ms. NORTON) each will control 20 minutes.

The Chair recognizes the gentlewoman from Michigan (Mrs. MILLER).

GENERAL LEAVE

Mrs. MILLER of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3538, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Michigan?

There was no objection.

Mrs. MILLER of Michigan. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, like the last two pieces of legislation, H.R. 3538 names a post office after a courageous young man who died while bravely fighting for our Nation in Iraq. This bill designates a postal service facility in Saint Anne, Illinois, as the Marine Capt. Ryan Beaupre Saint Anne Post Office.

Mr. Speaker, Captain Ryan Beaupre of Saint Anne, Illinois, was a pilot of a CH-46 helicopter that crashed in Kuwait on March 20, 2003, just days after the beginning of Operation Iraqi Freedom. Captain Beaupre died at the age of 30.

Mr. Speaker, prior to serving in the Marine Corps, Ryan Beaupre was a standout student at Bishop McNamara High School and Illinois Wesleyan University. In his spare time in Saint Anne, he enjoyed exercising and he volunteered at a homeless shelter. He is survived by his father, Mark; mother, Nicky; two sisters, Alyse and Kari; and a brother, Cristopher. I want to assure the Beaupre family that the thoughts and the prayers of all Members of this House are with them. With passage of this legislation, the Congress can forever commemorate Ryan Beaupre's sacrifice with a post office that bears his name in his hometown.

Mr. Speaker, serving in our Nation's military is perhaps the greatest contribution one can make for his or her country. Our Armed Forces serve the entire Nation at home and overseas with unparalleled loyalty and selflessness. Undeniably, Ryan Beaupre possessed these admirable characteristics. That is why I urge all Members to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. NORTON. Mr. Speaker, I yield myself such time as I may consume.

As a member of the Committee on Government Reform, I am pleased and proud to join my colleague in the consideration of H.R. 3538, legislation naming a postal facility in Saint Anne, Illinois, after Captain Ryan Beaupre. The measure was introduced by the gentleman from Illinois (Mr. WELLER) on November 19, 2003, and unanimously reported by our committee on February 12, 2004. H.R. 3538 enjoys the support and cosponsorship of the entire Illinois delegation.

Marine Captain Ryan Beaupre was a soldier and a pilot from Saint Anne, Illinois, who was killed in a helicopter crash in Kuwait on March 21, 2003.

Ryan Beaupre grew up in Saint Anne. He graduated from Bishop MacNamara High School in Kankakee, Illinois, and graduated from Illinois Wesleyan University in Bloomington, Illinois, with honors in 1995 and joined the Marine Corps in 1995 and was based at Camp Pendleton, California.

Sadly, at age 30, Captain Beaupre's CH-46 Sea Knight helicopter crashed, killing eight British and four U.S. Marines. He is survived by his parents, a brother, and two sisters.

Mr. Speaker, I note that Illinois Governor Rod Blagojevich, a former Member of Congress and a committee colleague, has commissioned two memorials to honor Illinois servicemembers who have lost their lives during the wars in Afghanistan and Iraq. Captain Beaupre, Staff Sergeant Hollinsaid, and Private Pahnke will be among the servicemembers honored. The memorials will be displayed in the State capitol rotunda in Springfield, Illinois, and the James R. Thompson center in Chicago.

Again, I commend my colleague for seeking to honor the memory of a fallen soldier and urge the swift passage of this bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. MILLER of Michigan. Mr. Speaker, I yield as much time as he may consume to the gentleman from Illinois (Mr. WELLER).

Mr. WELLER. Mr. Speaker, it has been an honor to have been the sponsor of H.R. 3538, as well as the two previous pieces of legislation honoring three fallen war heroes from my State of Illinois.

This legislation, H.R. 3538, the Marine Capt. Ryan Beaupre Saint Anne Post Office Designation Act, is just like the two previous bills considered by the House. Under H.R. 3538, the Saint Anne, Illinois, post office will be named after Marine Captain Ryan Beaupre, another Operation Iraqi Freedom hero from the 11th Congressional District of Illinois; and, again, Mr. Speaker, I wish to express my gratitude for my colleagues in the Illinois delegation for joining me as original cosponsors of this legislation.

Captain Beaupre was a helicopter pilot with the 1st Marine Expeditionary Force. He was lost on March 20, 2003, while piloting a CH-46 Sea Knight helicopter in Kuwait, 9 miles from the border with Iraq.

Ryan enjoyed competing in cross-country and track. He was also a volunteer in the community, volunteering at Home-Sweet-Home mission, a homeless shelter and transitional housing program. He attended Bishop McNamara High School and Illinois Wesleyan University in my congressional district.

I have had the opportunity to meet with Ryan's parents, Mark and Nicky Beaupre; and I can tell my colleagues that the Beaupre family is a very proud family, a very close family, and a very patriotic family.

Ryan Beaupre loved to fly. He enjoyed being a pilot, and he enjoyed being a Marine. Mr. Speaker, the words we speak in this Chamber can never be enough to truly understand what Ryan Beaupre meant to those who knew him. So, Mr. Speaker, I offer these remarks from Ann Harding, assistant director of Career Services at Illinois Wesleyan University, from the school's memorial page to Ryan Beaupre:

"When I got the news about Ryan's death, I immediately went through my many photo albums of IWU students. Suddenly Ryan's face was everywhere. What a great smile! Ryan worked for me in the Career Center. We stayed in touch after he started his job at State Farm. While he worked for me, he talked about his interest in learning how to fly. We even discussed the Officers Training Program. When he accepted the job at State Farm, I figured he put the idea out of his mind. Then a year later he called and said he had given his 2 weeks' notice and was joining the Marines. 'They're going to teach me how to fly,' he said.

"I was happy for him because he always kept his eye on his dream. To think he could have been as safe as I am in Bloomington, Illinois, had he not pursued the real dream. I admire Ryan and any one of you that goes after what you want. I know that until there was no time left, Ryan was doing everything right and to the very best of his ability. He was a smart and innocent man.

"To see so many alumni come back to the service on campus is a testament to a how close you all become in a short 4-year period. I will go to the services on Thursday in Saint Anne and be very proud to have known Ryan Beaupre."

Mr. Speaker, Ryan Beaupre died living a dream, a dream of flying, a dream of serving as a United States Marine, a dream of helping bring freedom and a better life to those in the Middle East.

The prayers of a grateful Nation and a grateful Congress go out to all the families that have lost a loved one in defense of America's freedom. I ask that the House honor the memory of Illinois' lost son, Marine Captain Ryan Beaupre, by passing H.R. 3538, renaming the Saint Anne, Illinois, post office after our fallen hero of the war against terror.

I especially want to thank my two distinguished colleagues, the distinguished gentlewoman from Michigan and the gentlewoman from the District of Columbia, for joining me on the floor today to help with this legislation and also thanks to my colleagues as well as ask unanimous support for this legislation.

Ms. NORTON. Mr. Speaker, I yield back the balance of my time.

Mrs. MILLER of Michigan. Mr. Speaker, I ask that all Members support the passage of this important legislation, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Michigan (Mrs. MILLER) that the House suspend the rules and pass the bill, H.R. 3538.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

CONGRATULATING DETROIT SHOCK FOR WINNING 2003 WOMEN'S NATIONAL BASKETBALL ASSOCIATION CHAMPIONSHIP

Mrs. MILLER of Michigan. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 392) congratulating the Detroit Shock for winning the 2003 Women's National Basketball Association championship.

The Clerk read as follows:

H. RES. 392

Whereas on September 16, 2003, the Detroit Shock won the 2003 Women's National Basketball Association championship, defeating the 2-time defending champion Los Angeles Sparks;

Whereas the Shock finished at the top of the Eastern Conference with an outstanding 25-win season;

Whereas the Shock defeated the Cleveland Rockers 2 games to 1 in the first round of the playoffs;

Whereas the Shock defeated the Connecticut Sun 2 games to none in the Eastern Conference finals;

Whereas in the finals against the Sparks the Shock won 2 straight games after losing the opening game;

Whereas Ruth Riley scored a career-high 27 points in the final game;

Whereas in the final game Deanna Nolan nailed a 3-pointer with 53 seconds remaining, and made 4 out of 4 free throws down the stretch;

Whereas 22,076 attended the final game, setting a new attendance record for the WNBA;

Whereas the Shock made an unprecedented turnaround in the 2003 season under the leadership of their coach, the former Detroit Piston and NBA champion Bill Laimbeer, who was named 2003 WNBA Coach of the Year;

Whereas Coach Laimbeer and his staff of Laurie Byrd, Pamela McGee, and Korie Hlede provided strong leadership and solid coaching, resulting in a basketball team which has been undeniably dominant in regular and postseason play;

Whereas many other individuals have contributed to the Shock's success, including athletic trainer Laura Ramus;

Whereas the Shock's success resulted from contributions from the entire roster of players, including Swin Cash, Allison Curtin, Barbara Farris, Cheryl Ford, Kedra Holland-Corn, Sheila Lambert, Astou Ndiaye-Diatta, Deanna Nolan, Elaine Powell, Ruth Riley, Stacey Thomas, Petra Ujhelyi, and Ayana Walker;

Whereas 3 Shock players, Cheryl Ford, Swin Cash, and Deanna Nolan, were named to the all-WNBA second team;

Whereas Cheryl Ford was named 2003 WNBA rookie of the year, receiving 49 out of 54 possible votes;

Whereas Ruth Riley was named Most Valuable Player of the 2003 WNBA Finals MVP;

Whereas the WNBA and the Shock exemplify the highest standards of sportsmanship and success, and help to encourage the participation of women in professional sports; and

Whereas the Shock have displayed great strength, ability, and perseverance this season, which are all reflective of the hard-working people of the metropolitan Detroit region and the great State of Michigan: Now, therefore, be it

Resolved, That the House of Representatives—

(1) congratulates the Detroit Shock for winning the 2003 Women's National Basketball championship and for their outstanding performance during the entire 2003 season, and congratulates all of the 8 WNBA teams who played in the postseason;

(2) salutes the achievements of all of the players, coaches, and staff of the Shock, who worked hard and who were instrumental in bringing the City of Detroit its first WNBA championship;

(3) commends the Los Angeles Sparks for a valiant performance during the playoff finals and for displaying their strength and skill as a team; and

(4) directs the Clerk of the House of Representatives to transmit an enrolled copy of this resolution to the Shock players, Head Coach Bill Laimbeer, and President and team owner William Davidson.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Michigan (Mrs. MILLER) and the gentlewoman from the District of Columbia (Ms. NORTON) each will control 20 minutes.

The Chair recognizes the gentlewoman from Michigan (Mrs. MILLER).

GENERAL LEAVE

Mrs. MILLER of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 392, the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Michigan?

There was no objection.

Mrs. MILLER of Michigan. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, H. Res. 392 congratulates the Detroit Shock for winning the 2003 Women's National Basketball Association championship; and first of all, I would like to thank the gentleman from Michigan (Mr. CONYERS) for introducing this resolution, and I also want to thank all of my fellow colleagues from the Michigan delegation who have joined me in cosponsoring H. Res. 392.

Mr. Speaker, on September 16, 2003, the Detroit Shock defeated the 2-time defending champion Los Angeles Sparks to win their first WNBA championship. The Shock team is comprised of a wonderful group of women who continue the strong tradition of professional basketball in Michigan. In fact, the Shock are coached by one of the leaders of the 2-time NBA champion Detroit Pistons, the ultimate bad boy, the baddest of the bad boys, Bill Laimbeer.

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Under the leadership of Coach Bill Laimbeer and of his staff of Laurie Byrd, Pamela McGee, and Korie Hlede, the Detroit Shocks made an unbelievable turnaround during the 2003 season to become champions. The team won 25 games last summer, after winning only nine games the year previously.

In an era where some athletes are embroiled in steroid scandals, salary contract negotiations, and legal battles, the women of the Detroit Shocks, and I think the entire WNBA serve as a valuable role model to millions of young girls. I applaud every member of the Shock roster for their dedication and for their hard work, and I thank them for their commitment to our community. Even though they are champions on the court, each member of the team is a champion in her own right off the court as well.

Mr. Speaker, the Detroit Shocks have made the metropolitan Detroit area and the great State of Michigan proud. In fact, 22,076 fans attended the final game of the season, which was a new attendance record for the WNBA. Three of their players, Cheryl Ford, Swin Cash, and Deanna Nolan were named to the all-WNBA second team; and Ruth Riley 2003 WNBA finals MVP. But unlike many professional teams in sports today, there are no individuals on this team. They are simply the Detroit Shocks, and they are champions.

Mr. Speaker, I support House Resolution 392.

Mr. Speaker, I reserve the balance of my time.

Ms. NORTON. Mr. Speaker, I yield myself such time as I may consume.

The Detroit Shocks proved they were the best team in the league last September when they came from behind and knocked out the two-time defending champions the Los Angeles Sparks before the league's largest crowd in history, with a score of 83 to 78.

The Shocks started the game with a 14-point lead, but the Sparks kept coming back. With less than a minute left in the game, Deanna Nolan nailed a three-pointer from the corner and gave the Shocks a 75–73 lead. Then Cheryl Ford hit three free throws and it was a four-point lead with 43 seconds left.

Just when you thought the Shocks had it all wrapped up, the Sparks made a comeback, twice. But the Shocks pulled out a win, and a franchise that was down and out a year before was accepting the Women's National Basketball Association championship.

Head Coach Bill Laimbeer and his staff of Laurie Byrd, Pamela McGee, and Korie Hlede provided strong leadership and solid coaching. This has resulted in a basketball team that is hard working and dominates on the basketball court.

The Women's National Basketball Association and the Detroit Shocks exemplify the highest standards of sportsmanship and success, and as such, have encouraged girls and women across the country to participate in professional sports. I congratulate them on a well-deserved win and urge the passage of this resolution.

Mr. CONYERS. Mr. Speaker, today I rise to honor the women of the Detroit Shock Women's National Basketball Association team. On September 16, 2003, the ladies of the Detroit Shock made history with their first ever Women's National Basketball Association championship, defeating the 2-time defending champion Los Angeles Sparks. Through the leadership of Rookie of the Year Cheryl Ford, Playoff MVP Ruth Riley, and Coach Bill Laimbeer, the Shocks displayed strength, resolve and the highest standard of sportsmanship.

It is fitting that H. Res. 392 will be passed today, just one day after International Women's Day and during National Women's Month. This month we are celebrating the great strides women have made in society, and must recognize and highlight the advancements women have made in professional sports. Since the passage of Title IX, which mandates gender equity in school sports, we have seen women's athletics flourish as a tool for empowering young girls. College basketball programs across the country have produced some of the most dynamic athletes of our time—including Cheryl Ford and Ruth Riley of the Shock, as well as Diana Taurasi of the University of Connecticut. These young women are clear examples to the younger generation of girls that the pursuit of athletic excellence can produce the highest rewards for women and men alike.

The Detroit Shock team has made metropolitan Detroit and greater Michigan proud by displaying the trademark Michigan values of hard work, dedication, and perseverance. We honor these women for their strength and resolve, and for being leaders of the next generation of women in sports. We look forward to another win this year!

Mr. Speaker, I yield back the balance of my time.

Mr. MICHAUD. Mr. Speaker, I have no further requests for time, I urge all Members to support the adoption of H. Res. 392, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentlewoman from Michigan (Mrs. MILLER) that the House suspend the rules and agree to the resolution, H. Res. 392.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mrs. MILLER of Michigan. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

CONGRATULATING THE SAN JOSE EARTHQUAKES FOR WINNING THE 2003 MAJOR LEAGUE SOCCER CUP

Mrs. MILLER of Michigan. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 475) congratulating the San Jose Earthquakes for winning the 2003 Major League Soccer Cup.

The Clerk read as follows:

H. RES. 475

Whereas on November 23, 2003, the San Jose Earthquakes defeated the Chicago Fire to win the 2003 Major League Soccer Cup;

Whereas the Earthquakes achieved a 14–7–9 regular season record to finish 1st in the Major League Soccer Western Conference;

Whereas the San Jose Earthquakes finished an extraordinary season by overcoming injuries, adversity, and multiple-goal deficits to reach the Major League Soccer Cup championship match;

Whereas in the championship match, the San Jose Earthquakes and the Chicago Fire scored 6 goals combined, breaking the Major League Soccer Cup championship match scoring record;

Whereas the Earthquakes' Head Coach Frank Yallop led the team to victory;

Whereas the Earthquakes' team of world-class players, including Jeff Agoos, Arturo Alvarez, Brian Ching, Jon Conway, Ramiro Corrales, Troy Dayak, Dwayne De Rosario, Landon Donovan, Todd Dunivant, Ronnie Ekelund, Rodrigo Faria, Manny Lagos, Roger Levesque, Brain Mullan, Richard Mulrooney, Pat Onstad, Eddie Robinson, Chris Roner, Ian Russell, Josh Saunders, Craig Waibel, and Jamil Walker contributed extraordinary performances throughout the regular season, playoffs and Major League Soccer Cup;

Whereas San Jose midfielder Ronnie Ekelund scored in the 5th minute of play, tying Eduardo Hurtado for the fastest goal scored in a Major League Soccer Cup championship match;

Whereas with the victory, San Jose captain Jeff Agoos won his 2nd Major League Soccer Cup for the San Jose Earthquakes and his 5th Major League Soccer Cup overall;

Whereas San Jose forward Landon Donovan, who has been named United States National Team Player of the Year twice, scored 2 goals on 2 shots in the championship match, earning the Honda Major League Soccer Cup Most Valuable Player Award;

Whereas by winning the 2003 Major League Soccer Cup, the San Jose Earthquakes join DC United to become the 2nd team in Major League Soccer history to win the Major League Soccer Cup more than once;

Whereas the Earthquakes have brought great pride to the City of San Jose and to the State of California;

Whereas Major League Soccer has become extremely popular in only 8 seasons; and

Whereas the success of Major League Soccer has contributed to the growing popularity of soccer in the United States in recent years: Now, therefore, be it

Resolved, That the House of Representatives—

(1) congratulates the San Jose Earthquakes for winning the 2003 Major League Soccer Cup;

(2) recognizes the achievement of the San Jose Earthquakes' players, coaches, staff, and supporters in bringing the 2003 Major League Soccer Cup to San Jose;

(3) commends the San Jose community for its enthusiastic support of the Earthquakes; and

(4) expresses the hope that Major League Soccer will continue to inspire fans and young players in the United States and around the world by producing teams of San Jose's high caliber.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Michigan (Mrs. MILLER) and the gentlewoman from the District of Columbia (Ms. NORTON) each will control 20 minutes.

The Chair recognizes the gentlewoman from Michigan (Mrs. MILLER).

GENERAL LEAVE

Mrs. MILLER of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H. Res. 475.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Michigan?

There was no objection.

Mrs. MILLER of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, last November, in the championship match of the 2003 Major League Soccer season, the San Jose Earthquakes defeated the Chicago Fire 4 to 2. The win clinched the Earthquakes' second MLS title in three seasons. House Resolution 475 deservedly congratulates the San Jose Earthquakes for winning the Major League Soccer Cup. With this championship, San Jose became only the second team in MLS history to win two Cups.

Mr. Speaker, throughout the long soccer season, the steady leadership of Coach Frank Yallop guided the Earthquakes to 14 wins. And after winning the MLS Western Conference crown during the regular season, the Earthquakes rallied from behind in both the Conference Semifinals and the Conference Championship matches to reach the Championship. In the final match, the Earthquakes outlasted the Chicago Fire in the highest scoring MLS Cup final ever, winning 4 to 2.

Mr. Speaker, Coach Yallop earned his second MLS Cup with the victory, and he became the second coach in league history to lead two championship teams. Also noteworthy, the Earthquakes' star forward Landon Donovan became the first player to score two goals in an MLS Cup final match. He earned the MLS Cup's Most Valuable Player award for his performance.

Mr. Speaker, the 2003 season was certainly one to remember for the San Jose Earthquakes' players, for their coaches, for their support staff, and their fans. I thank the gentleman from California (Mr. HONDA) for working to congratulate the champs of Major League Soccer, the San Jose Earthquakes, and I strongly support House Resolution 475.

Mr. Speaker, I reserve the balance of my time.

Ms. NORTON. Mr. Speaker, I yield myself such time as I may consume.

On November 23, 2003, the San Jose Earthquakes thrilled a sellout crowd of soccer fans with a 4 to 2 Major League Soccer victory over the Chicago Fire. The Earthquakes earned their second Major League Soccer Cup in 3 years and became only the second major league team to win multiple titles. My hometown team, D.C. United, has won the Cup three times in its 8-year history.

Major League Soccer could not have asked for a better and more exciting game for its network-televised event. The San Jose Earthquakes and the Chicago Fire scored six goals combined, breaking the Major League Soccer Cup championship match scoring record.

San Jose midfielder Ronnie Ekelund scored in the fifth minute of play, tying Eduardo Hurtado for the fastest goal scored in a Major League Soccer Cup championship. Jeff Agoos won his second Major League Soccer Cup as captain of the San Jose Earthquakes and his fifth Major League Soccer Cup overall. San Jose forward Landon Donovan, who has been named United States National Team Player of the Year twice, scored two goals and two shots in the championship match, earning the Honda Major League Soccer Cup Most Valuable Player Award.

Major league soccer was created in 1996 as a professional American soccer league to build on the base of popularity generated during the World Cup Finals held in the United States in 1994. Major League Soccer has aptly and skillfully filled the void that resulted when the North American League played its last game in 1984, and it has done so with teams like the San Jose Earthquakes that play with zeal and love for the game.

The sellout crowd at The Home Depot Center for the 2003 Major League Soccer Cup is a testament to the growing popularity of soccer and all those who play the game.

Mr. Speaker, I reserve the balance of my time.

Mrs. MILLER of Michigan. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. NORTON. Mr. Speaker, I am very pleased to yield such time as he may consume to the gentleman from the gentleman from California (Mr. HONDA), who is the author of this resolution.

Mr. HONDA. Mr. Speaker, I want to thank the gentlewoman from the District of Columbia and the gentlewoman from Michigan for this opportunity to sort of crow a little here. I rise today to congratulate an extraordinary team on a successful season through H.R. 475.

Mr. Speaker, on Saturday, November 23, 2003, the San Jose Earthquakes became the second team in Major League Soccer history to win the Major League Soccer Cup a second time. The Earthquakes' 4-to-2 victory over the Chicago Fire showcased the team's explosive talent and demonstrated why soccer is one of the fastest growing sports in America today.

The Earthquakes' rise to the MLS championship game provided soccer fans with endless drama and excitement, including a five-goal comeback against the Los Angeles Galaxy, and a 3-to-2 victory over the Kansas City Wizards.

In the championship game the Quakes showed a capacity crowd in Carson, California, four goals, one saved penalty kick, and 90 minutes of world class soccer. Throughout the game and throughout the season, this team played exciting soccer to the delight of San Jose's growing legion of fans.

Soccer is perhaps the world's most beloved sport. From Latin America to East Asia to Europe and Africa, indeed all the world's cultures play this great game. It therefore comes as no surprise that a community of San Jose's multicultural and multinational makeup should produce a soccer team of such prodigious ability.

In Latin America, soccer is called "la pasion de multitudes," and the San Jose Earthquakes have shown us why this is truly the "passion of people."

While the Earthquakes' recent performances have been impressive, their greatest success may be the team's contribution to the sport of soccer here in America. In particular, the sportsmanship and gamesmanship of the Earthquakes have helped make Major League Soccer a hit. Although it is barely 8 years old, Major League Soccer has already captured the hearts and imaginations of fans around the country and around the world. The MLS also has served as a training ground for some of the world's best players. Many of those players were instrumental in bringing the United States to the quarter finals of the 2002 World Cup.

Now approaching its ninth successful year, and bolstered by the inspiring play of teams like the San Jose Earthquakes, Major League Soccer is stronger than ever. The fact that 20 million fans have attended MLS matches during the league's first eight seasons is a testament to the enormous popularity of the beautiful game here in the United States.

In addition to their on-the-field performance, I would like to thank the Earthquakes for their off-the-field dedication to the San Jose community. At a time when there seem to be too few positive role models in professional athletics, the Quakes have proven themselves not only as great athletes, but good people. Players from this team have repeatedly lent their celebrity and talent to numerous local organizations.

In 2003 alone, the Quakes have made appearances at the Muscular Dystrophy Association's summer camp, conducted free soccer clinics for local youth, raised money for numerous local charities, and supplied free tickets to disadvantaged youth through the Kick for Kids Program. It is deeply rewarding to witness this team's commitment to its community, and in particular, to San Jose's youth.

As a member of the San Jose community and a soccer fan, I look forward to watching the Quakes provide us with even greater inspiration in the years to come. The San Jose Earthquakes are the pride not only of the Bay Area in California, but also of America.

Mr. Speaker, I urge my colleagues to join me in recognizing the 2003 Major League Soccer champions, and I congratulate the San Jose Earthquakes on a fantastic season. And to the soccer moms and dads of this country, there is a place for youngsters to go after they play their local teams.

Ms. LOFGREN. Mr. Speaker, I rise today to congratulate the San Jose, CA Earthquakes for defeating the Chicago, IL Fire 4–2 on November 23, 2003 to win the 2003 Major League Soccer (MLS) Cup.

It was eight years ago that San Jose became the proud home of the MLS Earthquakes. In those short years, we have watched with excitement as the Earthquakes have become repeat champions and helped increase the popularity of soccer in our community and throughout the world.

The Earthquakes have many truly talented players. California native Landon Donovan for example is a two-time U.S. National Team Player of the Year and scored two goals in the championship game to earn him the MSL Cup Most Valuable Player Award. Even with individuals like Landon playing for the Earthquakes, their success has come, not as individuals but rather as a team.

It was as a team that the Earthquakes overcame injuries, critics and goal deficits throughout their 14–7–9 regular season and it was as a team that they became Major League Soccer's very best. Since coming to San Jose, the Earthquake's have represented our city with dignity.

Mr. Speaker, the San Jose Earthquakes are the standard to which all MLS teams should be compared. Their commitment to our community, the sport of soccer and to achieving excellence runs much further than any soccer field. Their success and good works are a staple in our city. For these reasons and many others, it is most appropriate that we congratulate the 2003 MLS Cup winning San Jose Earthquakes today.

Ms. NORTON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Michigan (Mrs. MILLER) that the House suspend the rules and agree to the resolution, H. Res. 475.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mrs. MILLER of Michigan. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

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MEDICAL DEVICES TECHNICAL CORRECTIONS ACT

Mr. GREENWOOD. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1881) to amend the Federal Food, Drug, and Cosmetic Act to make technical corrections relating to the amendments made by the Medical Device User Fee and Modernization Act of 2002, and for other purposes, as amended.

The Clerk read as follows:

S. 1881

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Medical Devices Technical Corrections Act”.

SEC. 2. TECHNICAL CORRECTIONS REGARDING PUBLIC LAW 107–250.

(a) TITLE I; FEES RELATING TO MEDICAL DEVICES.—Part 3 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379i et seq.), as added by section 102 of Public Law 107–250 (116 Stat. 1589), is amended—

(1) in section 737—

(A) in paragraph (4)(B), by striking “and for which clinical data are generally necessary to provide a reasonable assurance of safety and effectiveness” and inserting “and for which substantial clinical data are necessary to provide a reasonable assurance of safety and effectiveness”;

(B) in paragraph (4)(D), by striking “manufacturing,”;

(C) in paragraph (5)(J), by striking “a premarket application” and all that follows and inserting “a premarket application or premarket report under section 515 or a premarket application under section 351 of the Public Health Service Act.”; and

(D) in paragraph (8), by striking “The term ‘affiliate’ means a business entity that has a relationship with a second business entity” and inserting “The term ‘affiliate’ means a business entity that has a relationship with a second business entity (whether domestic or international)”; and

(2) in section 738—

(A) in subsection (a)(1)—

(i) in subparagraph (A)—

(I) in the matter preceding clause (i) by striking “subsection (d),” and inserting “subsections (d) and (e),”;

(II) in clause (iv), by striking “clause (i),” and all that follows and inserting “clause (i).”; and

(III) in clause (vii), by striking “clause (i),” and all that follows and inserting “clause (i), subject to any adjustment under subsection (e)(2)(C)(ii).”; and

(ii) in subparagraph (D), in each of clauses (i) and (ii), by striking “application” and inserting “application, report,”;

(B) in subsection (d)(2)(B), beginning in the second sentence, by striking “firms. which show” and inserting “firms, which show”;

(C) in subsection (e)—

(i) in paragraph (1), by striking “Where” and inserting “For fiscal year 2004 and each subsequent fiscal year, where”; and

(ii) in paragraph (2)—

(I) in subparagraph (B), beginning in the second sentence, by striking “firms. which show” and inserting “firms, which show”; and

(II) in subparagraph (C)(i), by striking “Where” and inserting “For fiscal year 2004 and each subsequent fiscal year, where”;

(D) in subsection (f), by striking “for filing”; and

(E) in subsection (h)(2)(B)—

(i) in clause (ii), by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively;

(ii) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(iii) by striking “The Secretary” and inserting the following:

“(i) IN GENERAL.—The Secretary”; and

(iv) by adding at the end the following:

“(ii) MORE THAN 5 PERCENT.—To the extent such costs are more than 5 percent below the specified level in subparagraph (A)(ii), fees may not be collected under this section for that fiscal year.”.

(b) TITLE II; AMENDMENTS REGARDING REGULATION OF MEDICAL DEVICES.—

(1) INSPECTIONS BY ACCREDITED PERSONS.—Section 704(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 374(g)), as added by section 201 of Public Law 107–250 (116 Stat. 1602), is amended—

(A) in paragraph (1), in the first sentence, by striking “conducting inspections” and all that follows and inserting “conducting inspections of establishments that manufacture, prepare, propagate, compound, or process class II or class III devices, which inspections are required under section 510(h) or are inspections of such establishments required to register under section 510(i).”;

(B) in paragraph (5)(B), in the first sentence, by striking “or poses” and all that follows through the period and inserting “poses a threat to public health, fails to act in a manner that is consistent with the purposes of this subsection, or where the Secretary determines that there is a financial conflict of interest in the relationship between the accredited person and the owner or operator of a device establishment that the accredited person has inspected under this subsection.”;

(C) in paragraph (6)(A)—

(i) in clause (i), by striking “of the establishment pursuant to subsection (h) or (i) of section 510” and inserting “described in paragraph (1)”;

(ii) in clause (ii)—

(I) in the matter preceding subclause (I)—

(aa) by striking “each inspection” and inserting “inspections”; and

(bb) by inserting “during a 2-year period” after “person”; and

(II) in subclause (I), by striking “such a person” and inserting “an accredited person”;

(iii) in clause (iii)—

(I) in the matter preceding subclause (I), by striking “and the following additional conditions are met:” and inserting “and 1 or both of the following additional conditions are met:”;

(II) in subclause (I), by striking “accredited” and all that follows through the period and inserting “(accredited under paragraph (2) and identified under clause (ii)(II)) as a person authorized to conduct such inspections of device establishments.”; and

(III) in subclause (II), by inserting “or by a person accredited under paragraph (2)” after “by the Secretary”;

(iv) in clause (iv)(I)—

(I) in the first sentence—

(aa) by striking “the two immediately preceding inspections of the establishment” and inserting “inspections of the establishment during the previous 4 years”; and

(bb) by inserting “section” after “pursuant to”;

(II) in the third sentence—

(aa) by striking “the petition states a commercial reason for the waiver;”; and

(bb) by inserting “not” after “the Secretary has not determined that the public health would”; and

(III) in the fourth sentence, by striking “granted until” and inserting “granted or deemed to be granted until”; and

(v) in clause (iv)(II)—

(I) by inserting “of a device establishment required to register” after “to be conducted”; and

(II) by inserting “section” after “pursuant to”;

(D) in paragraph (6)(B)(iii)—

(i) in the first sentence, by striking “, and data otherwise describing whether the establishment has consistently been in compliance with

sections 501 and 502 and other" and inserting "and with other"; and

(ii) in the second sentence—

(I) by striking "inspections" and inserting "inspectional findings"; and

(II) by inserting "relevant" after "together with all other";

(E) in paragraph (6)(B)(iv)—

(i) by inserting "(I)" after "(iv)"; and

(ii) by adding at the end the following:

"(II) If, during the two-year period following clearance under subparagraph (A), the Secretary determines that the device establishment is substantially not in compliance with this Act, the Secretary may, after notice and a written response, notify the establishment that the eligibility of the establishment for the inspections by accredited persons has been suspended.";

(F) in paragraph (6)(C)(ii), by striking "in accordance with section 510(h), or has not during such period been inspected pursuant to section 510(i), as applicable";

(G) in paragraph (10)(B)(iii), by striking "a reporting" and inserting "a report"; and

(H) in paragraph (12)—

(i) by striking subparagraph (A) and inserting the following:

"(A) the number of inspections conducted by accredited persons pursuant to this subsection and the number of inspections conducted by Federal employees pursuant to section 510(h) and of device establishments required to register under section 510(i);"; and

(ii) in subparagraph (E), by striking "obtained by the Secretary" and all that follows and inserting "obtained by the Secretary pursuant to inspections conducted by Federal employees;".

(2) OTHER CORRECTIONS.—

(A) PROHIBITED ACTS.—Section 301(gg) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(gg)), as amended by section 201(d) of Public Law 107–250 (116 Stat. 1609), is amended to read as follows:

"(gg) The knowing failure to comply with paragraph (7)(E) of section 704(g); the knowing inclusion by a person accredited under paragraph (2) of such section of false information in an inspection report under paragraph (7)(A) of such section; or the knowing failure of such a person to include material facts in such a report.".

(B) ELECTRONIC LABELING.—Section 502(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(f)), as amended by section 206 of Public Law 107–250 (116 Stat. 1613), is amended, in the last sentence—

(i) by inserting "or by a health care professional and required labeling for in vitro diagnostic devices intended for use by health care professionals or in blood establishments" after "in health care facilities";

(ii) by inserting a comma after "means";

(iii) by striking "requirements of law and, that" and inserting "requirements of law, and that";

(iv) by striking "the manufacturer affords health care facilities the opportunity" and inserting "the manufacturer affords such users the opportunity"; and

(v) by striking "the health care facility".

(c) TITLE III; ADDITIONAL AMENDMENTS.—

(1) EFFECTIVE DATE.—Section 301(b) of Public Law 107–250 (116 Stat. 1616), is amended by striking "18 months" and inserting "36 months".

(2) PREMARKET NOTIFICATION.—Section 510(o) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(o)), as added by section 302(b) of Public Law 107–250 (116 Stat. 1616), is amended—

(A) in paragraph (1)(B), by striking ", adulterated" and inserting "or adulterated"; and

(B) in paragraph (2)—

(i) in subparagraph (B), by striking ", adulterated" and inserting "or adulterated"; and

(ii) in subparagraph (E), by striking "semicritical" and inserting "semi-critical".

(d) MISCELLANEOUS CORRECTIONS.—

(1) CERTAIN AMENDMENTS TO SECTION 515.—

(A) IN GENERAL.—

(i) TECHNICAL CORRECTION.—Section 515(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(c)), as amended by sections 209 and 302(c)(2)(A) of Public Law 107–250 (116 Stat. 1613, 1618), is amended by redesignating paragraph (3) (as added by section 209 of such Public Law) as paragraph (4).

(ii) MODULAR REVIEW.—Section 515(c)(4)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(c)(4)(B)) is amended by striking "unless an issue of safety" and inserting "unless a significant issue of safety".

(B) CONFORMING AMENDMENT.—Section 210 of Public Law 107–250 (116 Stat. 1614) is amended by striking ", as amended" and all that follows through "by adding" and inserting "is amended in paragraph (3), as redesignated by section 302(c)(2)(A) of this Act, by adding".

(2) CERTAIN AMENDMENTS TO SECTION 738.—

(A) IN GENERAL.—Section 738(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379j(a)), as amended by subsection (a), is amended—

(i) in the matter preceding paragraph (1)—

(I) by striking "(a) Types of Fees.—Beginning on" and inserting the following:

"(a) TYPES OF FEES.—

"(1) IN GENERAL.—Beginning on"; and

(II) by striking "this section as follows:" and inserting "this section."; and

(ii) by striking "(1) PREMARKET APPLICATION," and inserting the following: "(2) PREMARKET APPLICATION,".

(B) CONFORMING AMENDMENTS.—Section 738 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379j), as amended by subparagraph (A), is amended—

(i) in subsection (d)(1), in the last sentence, by striking "subsection (a)(1)(A)" and inserting "subsection (a)(2)(A)";

(ii) in subsection (e)(1), by striking "subsection (a)(1)(A)(vii)" and inserting "subsection (a)(2)(A)(vii)";

(iii) in subsection (e)(2)(C)—

(I) in each of clauses (i) and (ii), by striking "subsection (a)(1)(A)(vii)" and inserting "subsection (a)(2)(A)(vii)"; and

(II) in clause (ii), by striking "subsection (a)(1)(A)(i)" and inserting "subsection (a)(2)(A)(i)"; and

(iv) in subsection (j), by striking "subsection (a)(1)(D)," and inserting "subsection (a)(2)(D),".

(C) ADDITIONAL CONFORMING AMENDMENT.—Section 102(b)(1) of Public Law 107–250 (116 Stat. 1600) is amended, in the matter preceding subparagraph (A), by striking "section 738(a)(1)(A)(ii)" and inserting "section 738(a)(2)(A)(ii)".

(3) PUBLIC LAW 107–250.—Public Law 107–250 is amended—

(A) in section 102(a) (116 Stat. 1589), by striking "(21 U.S.C. 379F et seq.)" and inserting "(21 U.S.C. 379f et seq.)";

(B) in section 102(b) (116 Stat. 1600)—

(i) by striking paragraph (2);

(ii) in paragraph (1), by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(iii) by striking:

"(b) FEE EXEMPTION FOR CERTAIN ENTITIES SUBMITTING PREMARKET REPORTS.—

"(1) IN GENERAL.—A person submitting a premarket report"and inserting:

"(b) FEE EXEMPTION FOR CERTAIN ENTITIES SUBMITTING PREMARKET REPORTS.—A person submitting a premarket report"; and

(C) in section 212(b)(2) (116 Stat. 1614), by striking ", such as phase IV trials,".

SEC. 3. REPORT ON BARRIERS TO AVAILABILITY OF DEVICES INTENDED FOR CHILDREN.

Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the barriers to the availability of devices intended for the treatment or diagnosis of diseases and conditions that affect children. The report shall include any recommendations of the Secretary of Health and Human Services for changes to existing statutory authority, regulations, or agency policy or practice to encourage the invention and development of such devices.

The SPEAKER pro tempore (Mr. TERRY). Pursuant to the rule, the gentleman from Pennsylvania (Mr. GREENWOOD) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GREENWOOD).

GENERAL LEAVE

Mr. GREENWOOD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 1881.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GREENWOOD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of S. 1881, the Medical Devices Technical Corrections Act. S. 1881 is the companion to H.R. 3493, a bill I introduced with the gentlewoman from California (Ms. ESHOO), which makes technical and clarifying amendments to the Medical Device User Fee and Modernization Act of 2002. That bill was signed into law by President Bush on October 26, 2002, and made sweeping changes to the laws that govern device approvals to establish new programs and streamline processes to accelerate the availability of medical devices to patients.

H.R. 3493 passed the House on January 27 by a vote of 333 to zero and S. 1881 had passed by unanimous consent in the Senate on November 25, 2003. S. 1881 amends the Medical Device User Fee and Modernization Act to ensure that it is being implemented properly.

These two bills differ slightly, and the amended bill we are considering today is the conferenced version of this legislation. Staff have resolved the fairly minor differences between the Senate and House versions of the legislation, and this legislation should ultimately become law.

Some of the changes are truly technical, while others clarify the intentions of Congress in the Medical Device User Fee Act. For example, this legislation ensures that the user fee reductions that apply to small businesses apply for 2004 and years in the future. In addition, S. 1881, as amended, clarifies that as part of the third-party inspection program, companies must submit reports of inspectional findings consistent with current FDA practices. And S. 1881 clarifies which data need to be submitted for a firm to be eligible for third-party consideration.

Medical devices are some of our health care system's most remarkable innovations. The provisions in this technical and clarifying amendments bill will allow the FDA to continue to reduce review times, increase the efficiency of its operations, and allow these wonderful technologies to be delivered to patients more quickly.

I want to thank the gentleman from Texas (Chairman BARTON), the gentleman from Florida (Mr. BILIRAKIS), and the ranking members, the gentleman from Michigan (Mr. DINGELL) and the gentleman from Ohio (Mr. BROWN), as well as the gentleman from California (Mr. WAXMAN) and each of their staff for this legislation. This has been another outstanding example of teamwork and bipartisanship on the Committee on Energy and Commerce. I urge Members to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to support this legislation, which will help ensure that FDA's medical device user fee and third-party review programs operate as intended. The goal of those programs is to promote timely access to medical devices without compromising FDA's ability to evaluate properly the safety and effectiveness of those devices.

Successful bipartisan negotiations produced the authorizing legislation for these programs, and it is the same with this follow-up measure. I commend the gentlewoman from California (Ms. ESHOO) and the gentleman from Pennsylvania (Mr. GREENWOOD) for their work on this successful committee effort.

Unfortunately, the need for noncontroversial technical corrections is not the only obstacle preventing the medical device user program from fulfilling its potential. It is important for colleagues on both sides of the aisle to be aware that continuation of the user fee program, and it is this program that enables patients to receive cutting edge medical devices on a timely basis, the continuation of the user fee program hinges on the appropriations process.

User fees do no incremental good if they supplant rather than supplement Federal spending. As in the successful prescription drug user fee program, the continuation of user fees depends on sufficient annual appropriations. Last year's appropriation for medical device reviews was insufficient to sustain the medical device user fee program. If this year's appropriation does not address this shortfall, the user fee program could very well fold.

Hard work went into establishing that program. The existence of that program enables patients more timely access to medical devices at no additional cost to American taxpayers. We need to make sure the program does not fold.

Mr. Speaker, as this House continues its rush to give more tax cuts to the most affluent people in the country, therefore making a choice to underfund too often health and education, it is important that we focus on this very important, essential program.

Mr. BONILLA. Mr. Speaker, as the Chairman of the appropriations committee that funds the Food and Drug Administration, I feel that I must register my concerns.

We have seen user fees for human drugs, animal drugs, and now medical devices. That is fine—companies are paying for a service, and they have been able to invest in FDA to gain efficiency.

Mr concern arises over requirements in the user fee legislation for certain levels of appropriations for those programs—usually referred to as "triggers". Medical devices is the most extreme example. The authorizing legislation requires tremendous increases in appropriated funding.

I would like to submit for the RECORD a letter that Chairman YOUNG and I sent to Chairman TAUZIN last October outlining these concerns.

OCTOBER 21, 2003.

Hon. W.J. (Billy) TAUZIN,
Chairman, Committee on Energy and Commerce, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN TAUZIN: We are writing to you as our partners in maintaining the viability of the Food and Drug Administration (FDA). We have a very collegial and positive working relationship with your Committee in its role as authorizers for FDA activities, and we appreciate your diligence in providing critical oversight. However, we write to you today with concerns we have as appropriators with the responsibility for setting annual appropriations levels for the FDA.

We see a trend occurring within the authorizing legislation for user fee programs. Prescription drug user fees were first authorized in 1992. That legislation included a "trigger" which required that appropriations for FDA as a whole and for drug review, in particular, meet certain levels in each of the years that the user fees were in effect. The two reauthorizations of those user fees retained the appropriations requirements; in fact, in the last reauthorization in 2002, additional triggers were added. Also in 2002, medical devices user fees were enacted. Again, requirements for FDA appropriations were integral to the user fee legislation. In the case of the medical device legislation, the requirement for appropriated funding of the medical device program included substantial and sustained increases in budget authority. The authorization language stipulates that if the cumulative appropriations trigger is not met, the user fee program will cease at the end of fiscal year 2005. This requirement was included without consultation with the Committee on Appropriations.

Most recently, the House and Senate have passed similar legislation allowing for the collection of animal drug user fees. Again, both the House and Senate versions of the bill contain requirements for certain levels of FDA appropriations. According to some published reports, your Committee had received assurance from the leadership that funding levels for animal drug reviews would be increased in fiscal year 2004. Again, the Committee on Appropriations was not consulted in these negotiations.

In effect, these triggers in user fee legislation earmark FDA funds for human drugs, medical devices, and animal drugs. The Committee on Appropriations has always supported FDA as a whole and has resisted efforts to add budget authority to one program area at the expense of another. If we let user fee triggers drive our decisions, the FDA programs to suffer would be those not covered by fees—blood, vaccines, counter-terrorism activities, food safety, or bovine spongiform encephalopathy (BSE) prevention. We firmly believe that a strong FDA must balance the needs of all its mission areas to best benefit public health. We have serious concerns about the prevalence and scope of appropriations requirements embedded in user fee authorizing legislation for FDA, and about the lack of consultation with our Committee in legislating such requirements.

A larger problem is the fact that your Committee's jurisdiction over the Agriculture Appropriations Bill is limited to the FDA. It is our Committee's task to establish fair allocations of resources among competing interests under the jurisdiction of all authorizing committees. Legislating triggers for individual programs serves to thwart our efforts at fairness by favoring a limited number of programs at the expense of others in our bill—including the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), agriculture research, and conservation activities. These programs are critically important to many members and their constituents.

As always, we are available to discuss the issue with you, and would be glad to do so. We share your dedication to improve the effectiveness and viability of FDA's programs that are crucial to our nation's well being.

Sincerely,

C.W. BILL YOUNG,
Chairman, Committee on Appropriations.
HENRY BONILLA,
Chairman, Subcommittee on Agriculture, Rural Development, FDA and Related Agencies.

Mr. BROWN of Ohio. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GREENWOOD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. GREENWOOD) that the House suspend the rules and pass the Senate bill, S. 1881, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. GREENWOOD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

EXPRESSING SENSE OF CONGRESS THAT KIDS LOVE A MYSTERY IS A PROGRAM THAT PROMOTES LITERACY AND SHOULD BE ENCOURAGED

Mr. GINGREY. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 373) expressing the sense of Congress that Kids Love a Mystery is a program that promotes literacy and should be encouraged.

The Clerk read as follows:

H. CON. RES. 373

Whereas knowledge, wisdom, and children are the greatest assets of a democracy;

Whereas books enable one generation to pass on its knowledge and wisdom to the next;

Whereas learning to read is one of the greatest privileges the Nation extends to its children;

Whereas children most often choose mysteries as their favorite books;

Whereas the Mystery Writers of America sponsors Kids Love a Mystery, an outreach program designed to bring mystery writers and children together to encourage literacy and the love of reading; and

Whereas the Mystery Writers of America recognizes the value in celebrating the importance of reading for children: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that—

(1) Kids Love a Mystery is a program that helps promote literacy and reading and should be supported and encouraged; and

(2) the President should issue a proclamation encouraging the people of the United States and interested groups to promote Kids Love a Mystery with appropriate programs and activities.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. GINGREY) and the gentlewoman from California (Ms. WOOLSEY) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia (Mr. GINGREY).

GENERAL LEAVE

Mr. GINGREY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Con. Res. 373.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. GINGREY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 373, offered by the gentleman from California (Mr. GEORGE MILLER). The concurrent resolution would establish Kids Love a Mystery Month and recognize the importance of encouraging children to read books, and especially mystery stories.

I am pleased that First Lady Laura Bush has agreed to serve as honorary chair of Mystery Writers of America's Kids Love a Mystery Program. Mrs. Bush expressed the appropriate sentiment for us all when she said, "Our love of reading is what makes us tuck a paperback under our arm on the way to work; its bedside tables that include piles of books that we read before we fall asleep, or continue reading when we cannot sleep. Oh, the refuge we find in books and reading, and how mystery, history and intrigue draw us back again and again."

Mr. Speaker, I would dare say there is not one of us who has not had our nose buried in a "whodunit" book, letting our imagination soar in wonderment about what the ending will be. Whether it is Sherlock Holmes or Dick Tracy or Harry Potter, or my childhood favorite, the Hardy Boys mysteries, our support for reading and writing mystery books is a worthy cause. Exciting mystery writers over the years have provided untold hours of enjoyment to child and adult alike. Agatha Christie, Ellery Queen, Alfred Hitchcock, Phyllis Whitney, Mickey Spillane, Mary Higgins Clark, and J.K. Rowling have enriched our lives and stimulated our imaginations.

In the Kids Love a Mystery reading program, participants can earn an Eddie Award Certificate by registering with a local sponsor and reading at least one mystery book. Or participants may write their own mystery story and have a panel selected by an author judge the entry.

I commend the Mystery Writers of America for recognizing the value and importance of reading and for observing October each year as Kids Love a Mystery Month.

Mr. Speaker, it is fitting and appropriate then for Congress to celebrate the reading for children and agree to this concurrent resolution establishing Kids Love a Mystery Month. I urge my colleagues to join me in supporting it.

Mr. Speaker, I reserve the balance of my time.

Ms. WOOLSEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H. Con. Res. 373, the resolution of the gentleman from California (Mr. GEORGE MILLER) which supports and promotes Kids Love a Mystery Program throughout the United States.

Under the sponsorship of the Mystery Writers of America organization, this program brings together authors who write for juvenile and young adult readers with children, parents, teachers, and librarians in a nationwide series of events each October to celebrate mystery writing.

This year, First Lady Laura Bush will serve as the honorary chair of the Kids Love a Mystery program. H. Con. Res. 373 expresses the sense of Congress that Kids Love a Mystery is a good program that promotes literacy through the creative process and should be encouraged. It underscores our belief that learning to read is the greatest gift one generation can bestow on the next.

With this resolution, we encourage the President to issue a proclamation in support of the Kids Love a Mystery Program. This annual program has proven to be a valuable method to encourage literacy, foster deductive reasoning, and enhance critical-thinking skills for our young readers. The Kids Love a Mystery Program was developed by the Mystery Writers of America, a nonprofit entity that serves as the premier organization for mystery writers and other professionals in the mystery field. Through its chapters in all 50 States, the organization has utilized the month of October each year to orchestrate the Kids Love a Mystery Program with particular emphasis on fostering both reading and writing initiatives.

Since its inception in 1998, the Kids Love a Mystery Program has involved more than 15,000 young readers in 31 States plus the District of Columbia. Two of the most popular initiatives within the Kids Love a Mystery Program are the presentation of Eddie Awards, certificates that are given to every child who registers with a local participating library, school, bookstore or even on the Internet and reads at least one mystery book in the month of October.

In addition, young readers are encouraged to write their own mystery stories in October to earn an Eddie Award.

Mr. Speaker, we know that reading is the basis for all learning, and mystery stories have proven to be particularly attractive to young readers. I urge my colleagues to pass this resolution to encourage more young people to read.

Mr. Speaker, I yield back the balance of my time.

Mr. GINGREY. Mr. Speaker, I yield myself such time as I may consume.

In closing, let me say that nothing is more important to the education of our children than the ability to read and read well. We have often heard it said that we learn to read so we can read to learn. The importance of that needs to be accomplished, indeed, as in the context of No Child Left Behind by the third grade. We will continue to have a strong emphasis on reading programs like this resolution in regard to Kids Love a Mystery. I would just encourage all of my colleagues on both sides of the aisle, and it is nice to have an opportunity to have a good bipartisan piece of legislation that we can all support. We are all behind trying to make sure that all our children can read and read well.

Mr. Speaker, I encourage unanimous support for House Concurrent Resolution 373.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentleman from Georgia (Mr. GINGREY) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 373.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. GINGREY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m.

Accordingly (at 3 o'clock and 31 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

□ 1830

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. DUNCAN) at 6 o'clock and 30 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on three motions to suspend the rules previously postponed. Votes will be taken in the following order:

House Resolution 519, by the yeas and nays;

House Resolution 392, by the yeas and nays; and

House Resolution 495, by the yeas and nays.

The votes on S. 1881 and House Concurrent Resolution 373 will be taken tomorrow.

The first and third electronic votes will be conducted as 15-minute votes. The second vote in this series will be a 5-minute vote.

SENSE OF HOUSE WITH RESPECT TO SAN LUIS OBISPO COUNTY, CALIFORNIA, DECEMBER 22, 2003 EARTHQUAKE

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 519.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. TOM DAVIS) that the House suspend the rules and agree to the resolution, H. Res. 519, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 404, nays 0, not voting 29, as follows:

[Roll No. 42]

YEAS—404

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Bass
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutknecht
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hobson
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—29

Barton (TX)
Bell
Bereuter
Carter
Culberson
Davis (IL)
DeMint
Doggett
Gephardt
Gonzalez
Gutierrez
Hall
Hinojosa
Hoeffel
Jackson-Lee (TX)
Johnson, Sam
Kucinich
Miller (FL)
Murtha
Ortiz
Reyes
Rodriguez
Rush
Shadegg
Tauzin
Toomey
Udall (CO)
Weldon (FL)
Wexler

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. DUNCAN) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1856

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONGRATULATING DETROIT SHOCK FOR WINNING 2003 WOMEN'S NATIONAL BASKETBALL ASSOCIATION CHAMPIONSHIP

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 392.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Michigan (Mrs. MILLER) that the House suspend the rules and agree to the resolution, H. Res. 392, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 401, nays 0, not voting 32, as follows:

[Roll No. 43]

YEAS—401

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Bass
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutknecht
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hobson
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—32

Barton (TX)
Bell
Bereuter
Capps
Carter
Culberson
Davis (IL)
DeMint
Doggett
Gephardt
Gonzalez
Gutierrez
Hall
Hinojosa
Hoeffel
Jackson-Lee (TX)
Johnson, Sam
Kucinich
Miller (FL)
Murtha
Ortiz
Reyes
Rodriguez
Ros-Lehtinen
Rush
Shadegg
Tauzin
Tiahrt
Toomey
Udall (CO)
Weldon (FL)
Wexler

□ 1905

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONGRATULATING THE SAN JOSE EARTHQUAKES FOR WINNING THE 2003 MAJOR LEAGUE SOCCER CUP

The SPEAKER pro tempore (Mr. DUNCAN). The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 475.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Michigan (Mrs. MILLER) that the House suspend the rules and agree to the resolution, H. Res. 475, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 399, nays 0, not voting 34, as follows:

[Roll No. 44]

YEAS—399

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Bass
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutknecht
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hobson
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston

Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—34

Barton (TX)
Bell
Bereuter
Buyer
Carter
Culberson
Davis (IL)
DeMint
Doggett
Gephardt
Gonzalez
Gutierrez
Hall
Hinojosa
Hoeffel
Jackson-Lee (TX)
Johnson, Sam
Kucinich
Meehan
Miller (FL)
Murtha
Ortiz
Reyes
Rodriguez
Ros-Lehtinen
Rush
Shadegg
Stupak
Tauzin
Thornberry
Toomey
Udall (CO)
Weldon (FL)
Wexler

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. DUNCAN) (during the vote). Members are advised there are 2 minutes remaining in this vote.

☐ 1922

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. TIAHRT. Mr. Speaker, on rollcall vote No. 44 I was unavoidably detained. Had I been present, I would have voted "yea."

PERSONAL EXPLANATION

Mr. DEMINT. Mr. Speaker, I was absent during rollcall vote Nos. 42, 43, and 44. Had I been present, I would have voted "yea" on each of those votes.

PERSONAL EXPLANATION

Mr. WELDON of Florida. Mr. Speaker, unfortunately, I was unable to be present for today's votes. Had I been present I would have voted "yea" on the following resolutions: H. Res. 519—Expressing the sense of the House of Representatives with respect to the earthquake that occurred in San Luis Obispo County, CA, on December 22, 2003 (Representative THOMAS); H. Res. 392—Congratulating the Detroit Shock for winning the 2003 Women's National Basketball Association championship (Representative CONYERS); and H. Res. 475—Congratulating the San Jose Earthquakes for winning the 2003 Major League Soccer Cup (Representative HONDA).

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 339, PERSONAL RESPONSIBILITY IN FOOD CONSUMPTION ACT

Mr. SESSIONS, from the Committee on Rules, submitted a privileged report (Rept. No. 108–435) on the resolution (H. Res. 552) providing for consideration of the bill (H.R. 339) to prevent frivolous lawsuits against the manufacturers, distributors, or sellers of food or non-alcoholic beverage products that comply with applicable statutory and regulatory requirements, which was referred to the House Calendar and ordered to be printed.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. BONNER). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

MEMBERS OF CONGRESS SHOULD RENEW ASSAULT WEAPONS BAN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. McCARTHY) is recognized for 5 minutes.

Mrs. McCARTHY of New York. Mr. Speaker, assault weapons will go back on American streets in 188 days.

We pay a heavy toll at the hands of criminals, gangs, and terrorists. The average cost of a gunshot wound is more than $16,000 to treat. Treating severe gunshot injuries like wounds to the head or spinal cord can run well over $1 million. The direct medical costs for firearms or related injuries is $4 billion a year; $4 billion a year. Half of that is paid by us as taxpayers.

I know that the police across this Nation want to make sure that we keep assault weapons off the streets. Mr. Speaker, when we see that we are cutting the money for the COPS program and yet allowing assault weapons back on the street, to me it does not make any sense. Since I have been talking about this every Tuesday, we are hearing from people around the Nation. What I am saying to the people of this country is you do have a voice, and you can call Members of Congress and the Senate to make sure that we are allowed to bring the bill up on the floor so we can vote for it.

This is not the time to go backwards. In the last 10 years, we have seen certainly it come down as far as assault weapon killings. We have a report from the FBI. Before the ban went in place, one out of every five cops that were shot were shot with an assault weapon. Why should we go backwards? When we know that there might be a possibility of having terrorists here in this country, when we know that gangs and drug dealers, these are the guns of choice, why would we want assault weapons back on the street?

Mr. Speaker, $4 billion a year in health costs. I can talk about my own son who was shot. He was shot in the head. His medical care has cost over $1 million already, and the total keeps going higher and higher. This is going on with so many people. There are things that we can prevent. We cannot prevent every shooting; we cannot. We cannot see to it that every police officer is being protected. But we can do a better job, and that is by renewing the assault weapons ban by September 13.

Mr. Speaker, 10 years ago, before I came to Congress, I was here lobbying the Members of Congress to make sure we had an assault weapons bill passed. There are some that will say the assault weapons bill has not worked. Well, it has worked; but there are loopholes in it, and those loopholes are where the gun manufacturers are allowed to make copycats of the guns that were banned. One of the guns that everyone is watching on CNN and all of the other stations tonight is the Bushmaster, the guns that were used by the snipers in the D.C. area. That is a copycat. That is a gun that was originally banned. Yet the gun manufacturers allow these to have copycats and put back on our streets.

Do we actually want on September 14 for anyone to be able to go into a gun store and buy an assault weapon? Is this what this Nation is coming to?

Mr. Speaker, I am not for taking away the right of someone to own a gun. I happen to believe that if people want to own a gun, they have a right to own a gun. But assault weapons are made for killing machines. Assault weapons are made for our Army. When we see our police officers and they have to wear protective gear, assault weapons can go through that. One of the other things that a lot of people do not understand is, when we did the ban back 10 years ago, we cut back the amount of bullets in a clip, down to 10. On the Long Island Rail Road, the clips that were used by Collin Ferguson to do his killing and shooting of people had 15 bullets in the clip.

□ 1930

And every one of those bullets made their mark. And he was able to get 30 rounds off and kill six people and injure 19.

Hunters give animals a better chance of survival than we do with these large capacity clips. Our police officers are allowed to have these large capacity clips, our military are allowed to. And that is fine. I do not believe that our hunters need them, I do not believe that our ordinary citizens need those kind of clips.

These are things that we should be doing. Those are good safety laws. Those are good gun safety laws.

I hope that the American people will take up this challenge and demand that we are able to bring this vote up before September 13. It would be a shame to see assault weapons back on the street.

ASSIGNING MEMBERS OF THE ARMED SERVICES TO BORDER PATROL DUTIES

The SPEAKER pro tempore (Mr. BONNER). Under a previous order of the House, the gentleman from Virginia (Mr. GOODE) is recognized for 5 minutes.

Mr. GOODE. Mr. Speaker, I would like to express my gratitude to U.S. Border Control and the thousands of Americans from coast to coast who have taken the time and the trouble to send e-mails, letters, postcards and petitions to Congress urging their Representatives and Senators to support my legislation to authorize the Secretary of Defense to assign members of our Armed Forces to assist the Department of Homeland Security in the performance of border protection duties.

Clearly, the need for such assistance has never been greater. Every year our border crisis worsens. First it was drugs, then disease, then it was illegal aliens crossing by the hundreds, and now by the millions. And now terrorists could be crossing our borders, determined to rain death and destruction upon us.

If there were ever a time for the United States to put troops on the border, this is it. We are fighting enemies who have already brought the battle to our shores and are threatening to do it again. It makes no sense to have thousands of troops guarding borders throughout the world while our own borders are wide open and undefended in a time of war.

According to U.S. Border Control, every recent survey conducted shows the vast majority of Americans support allowing troops on the border. Constituents are beginning to question how we can claim to be serious about combating issues like drug smuggling, people smuggling and terrorism when it was unable to take such a simple and non-intrusive step as putting troops on the border. Last year the House adopted the amendment that would authorize the troops on our borders. Unfortunately, it did not survive conference. I hope this year we will be able to see it survive the entire legislative process.

I urge my colleagues to join in giving the executive branch the authority it needs to assign members of our Armed Forces to assist Homeland Security in securing our borders from these threats to our Nation.

TAX CUTS AND THE LATEST EMPLOYMENT DATA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, on Friday the government announced its latest employment data. Unfortunately, the news for working Americans or Americans trying to find jobs was really bad. 21,000 jobs nationally were created. Now, remember, of course, it was just 2 weeks ago that the President's principal economic advisor Mr. Mankiw, the same person who says it is good to export jobs, it helps the economy, predicted that the Bush tax cuts would produce 200,000 jobs a month. Of course, the President's former economic advisor, who was a little bit too honest about the cost of the war in Iraq, Mr. Lindsey, predicted the same thing last year and the jobs did not materialize.

Well, we are in the same situation now. They predicted 200,000. 21,000 were created. Now, were these jobs created because of tax cuts? Well, actually, no, because the 21,000 jobs that were created were government jobs. They were State and local government jobs. So the tax cuts had absolutely no impact on stimulating those governments to hire more people. That is for certain.

So, we now have 8.2 million unemployed Americans, 4.4 million Americans involuntarily working part-time. They would like to work full-time. They need to work full-time. They cannot find full-time work.

Three million private sector jobs have been lost since the beginning of the Bush 43 administration. That is the worst job creation or destruction record since Herbert Hoover in the 1920s. 3,000 manufacturing jobs lost last month, 2.8 million lost since the beginning of the Bush administration. But just today, the President was saying he is a radical free trader. There is nothing but free trade. The alternative to absolute free trade and exporting our jobs and our industrial and manufacturing base and impoverishing the working people of America is protectionism or isolationism.

Well, there is a pretty big ground between those two things. Some managed trade, something that would bring jobs or keep jobs of value here in America, might maintain our industrial and manufacturing and IT infrastructure, might not be a bad idea. But not to this President. His chief economic advisor says job exports are great. Yeah, they make a few people a lot of money: Corporate CEOs, some stockholders, but they sure do put a lot of Americans out of work and hollow out the wealth of this country long term.

Now, we saw the unemployment rate stay at 5.6 percent. Sounds pretty good except the reason it stayed there is because 392,000 people gave up looking for work. There is no prospect for them out there. So guess what? In the great world of George Bush and Mr. Mankiw, they do not count anymore. Americans who are unemployed who would like to work, but who are totally discouraged and give up looking for work, they do not count as unemployed in their world. This is pretty strange.

But the President says he has a solution to make his tax cuts permanent. That is, these unbelievably expensive tax cuts that would take place after the year 2010, now all the tax cuts he has already had which have put the country into the deepest fiscal hole in our history, are not creating the jobs. His free trade policy is not creating the jobs. He wants more free trade, he wants more tax cuts.

Maybe it is time to think about real investments, investments in infrastructure. You create 47,500 jobs with every billion dollars you spend on roads, bridges, and highways. We have bridges and roads crumbling across America. But what has the President and the White House doing? They are stonewalling the highway bill. The highway bill has expired. And nothing is happening because they will not agree on an adequate bill. They say oh, no, we want a low-ball bill. We do not believe that building roads, bridges, and highways creates jobs.

No, it does not create jobs overseas, like Mr. Mankiw thinks are great, it does not make investors rich. It does not give them tax benefits. But it puts a heck of a lot of the people in the construction industry to work, and a whole lot of small businesses to work and a whole lot of communities with some wealth and money flowing through those communities, that would do something for this country. That would put people back to work.

He will not even extend unemployment benefits for those who cannot find work but want it. He says we cannot afford it. There are $17 billion in the unemployment trust fund, paid in by employers and employees sitting there. He does not even have to borrow the money. He is borrowing the money for tax cuts for rich people. He does not even have to borrow the money to extend unemployment benefits for those Americans who want and cannot find work. He just has to authorize spending down some of the trust fund.

That trust fund this year is actually going to grow. It is going to grow. Of course, the money will be borrowed and given away in tax cuts to wealthy which will put people to work, he says, but it does not.

Now, just one last point on these tax cuts. One of the things he is really pushing for is a permanent extension of estates worth more than $5 million from any taxation. He says that will really put people back to work in this country. That would be after 2010. That costs $80 billion a year. Money drained out of the rest of the economy, drained from other taxpayers and Social Security to benefit a very, very small percentage.

This is voodoo economics at its worst, as his dad would have said.

JOBS, ECONOMY, AND TAXES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. COLE) is recognized for 5 minutes.

Mr. COLE. Mr. Speaker, it has been said by some that the American economy is in chaos and decline. I come to the floor today to counter such nonsense with the facts. After the shocks of the recession and the tragedy of 9/11, the economy has experienced 60 consecutive months of job growth and during that time has added a total of 364,000 new jobs to the economy. In point of fact, the unemployment rate is currently lower, lower than the average unemployment rate during the 1970s, the 1980s and even the 1990s.

Since 2001, the U.S. economy has grown more than twice as fast as the economies of Europe and Japan. Our economy is in better shape and growing faster than any member of the G–7 group of industrialized nations. America is the largest exporter in the world and the main source of economic growth in the world. Productivity growing at 4.1 percent annually over the last 3 years is at an historic high. The economy is expected to grow faster from 2003 to 2004 than any other year in the last 20.

Mr. Speaker, the number of Americans working today stands at 138.3 million, the highest number in the history of this Nation, higher even than the number of Americans who were working in January of 2001. And most Americans are prospering like they never have before, with family net worth hitting a record high of $44.4 trillion. This is in part because the home ownership rate stands at 68.5 percent also an historic high.

I cite these figures not because I believe there is nothing that can or should be done to further promote economic growth and job creation, but instead, to provide some perspective on how the media and the other side of the aisle are misrepresenting and misportraying the facts concerning the state of our economy.

Mr. Speaker, the truth is most Americans are not fond of the pointless debate over when the recent recession began or who was responsible for it. This debate does nothing to lower the unemployment rate. It is an exercise in political histrionics.

We are now experiencing economic recovery and that is something most Americans do care about. What matters to them is how to maintain and sustain and expand that recovery. To sustain this recovery, I believe we need to simplify the Tax Code. We need to reduce the burden of frivolous lawsuits on our economy. We need to pass an energy bill to ensure an affordable and reliable energy supply. We need to streamline regulations and paperwork requirements on small businesses that are the driving force for job creation in this country. And we need to reduce the deficit.

Mr. Speaker, Congress is beginning the effort to tackle the budget deficit, which I believe has been primarily caused by out-of-control spending and should be solved by controlling the growth in spending. We could balance the Federal budget within 5 years if we held increases in Federal spending to 2 percent a year. Inside the Beltway I know, to some that is an unthinkable sacrifice, but how many families, how many businesses had to limit their spending by similar amounts during the last few years? What we must not do is pass legislation that would make this economic recovery come to an abrupt halt.

We should not take the easy way out of our budget problem by raising taxes. The tax cuts for families and small businesses created this economic recovery and raising taxes would put the breaks on this economic recovery.

SAFETY FOR AMERICANS FROM NUCLEAR WEAPONS TESTING ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. MATHESON) is recognized for 5 minutes.

Mr. MATHESON. Mr. Speaker, today I announce the introduction of legislation called the Safety for Americans From Nuclear Weapons Testing Act. Let me describe the history and the events that have led me to the introduction of this legislation.

Our country began open-air testing of nuclear weapons in 1951. Between 1951 and 1992, over 1,000 weapons tests took place, over 100 above ground and over 800 below ground as well.

Now, what is interesting about this is the government told the citizens of this country that the testing was safe. And I, like a lot of people in Utah, have roots in southern Utah, and my relatives live in southern Utah. They said it was safe too.

□ 1945

I remember my dad telling me how people would wake up and watch the sky light up in the morning from the tests.

People in southern Utah take a back seat to no one when it comes to their patriotism and their support of a strong national defense. What is unfortunate in this story is that the government lied. They lied to the people in southern Utah. They lied to anyone who was down wind of the fallout from the nuclear testing. In fact, the government knew they were putting people at risk. They kept that information quiet. It was not until the early 1980s that documents in the Pentagon were declassified that showed that in fact the government only conducted the testing when the wind blew the fallout in the least populated direction, which happened to be southern Utah.

Now, a lot of people say, Wait a minute. We used to have those aboveground tests, but now they are below ground. This is an underground test right here. This was in 1970. This was an underground test. The dust and debris went 10,000 feet into the atmosphere. So the notion that underground testing is in and of itself safe, I think a picture is worth more than a thousand words.

Now, what happened in Utah is rates of cancer are much higher than elsewhere in southern Utah. Ultimately, the government admitted culpability when Congress passed something called the Radiation Exposure Compensation Act, which provided monetary compensation to individuals who happened to be living in certain counties that received high amounts of fallout from nuclear testing. Yes, the government ultimately did admit its culpability.

Why am I talking about introducing this legislation today? Because Congress in the past year has taken some actions that are taking us down the path to renewal of nuclear testing of the Nevada test site. Since 1992 there has been a moratorium on testing. Congress voted in the last year to remove what is called the Spratt First Amendment which prevented development of new nuclear weapons. Congress also in its appropriations process voted to move ahead in funding of the development of a new generation of nuclear weapons. And development of a new generation of nuclear weapons to me means we are going down the path to additional nuclear testing. That is why I have introduced this bill.

Now, you can say that this bill is important just because of its impact in the West and particularly in Utah, but this is not just a Western issue. This is a national issue.

It turns out when we studied one of the significant isotopes from previous testing, Iodine 131, and showed the concentrations in each county; every county in the lower 48 States had concentrations of Iodine 131. Interestingly enough, if you look at this map, you will notice you have some counties up here in New York and Vermont that had higher concentrations than some counties in southern Utah. This once again from the National Cancer Institute demonstrates that fallout from nuclear testing is a national issue. It should be an issue of national concern.

That is why I have introduced today the Safety for Americans From Nuclear Weapons Testing Act. Let me describe what the act does. First of all, it would require before any testing happens that the Federal Government conduct a full national environmental policy act review to assess health, safety and environmental impacts prior to conducting nuclear weapons testing. It requires congressional authorization prior to the possible resumption of nuclear weapons testing as well. If those steps are completed, it would require 1 week's public notice prior to any test, and it is going to require much more extensive monitoring for potential releases of radiation beyond the Nevada test site. It would require the Department of Energy and the Environmental Protection Agency to monitor radiation levels. But it is not just going to be the government that will be doing the monitoring because the legislation also provides for a grant program for universities, particularly across all the hot zones demonstrated by where Iodine 131 had gone, so we will have independent third-party monitoring to look for radiation releases as well throughout the country.

The legislation says that if any radiation travels beyond the Nevada test site, then the U.S. must cease further nuclear weapons testing until Congress would vote to reauthorize such testing.

The legislation creates the National Center for the Study of Radiation and Human Health. It would be a regional consortium of universities that will study the health effect of radiation exposure, radiation-linked illnesses, and other related research illness. Finally, the legislation requires the National Cancer Institute to provide human dose estimates for Americans for all radionuclides and all human organs produced by previous weapons tests. And a report would be provided to Congress and the public within 3 years. In fact, only one isotope has been studied by the National Cancer Institute.

It is an important bill for all this country. I encourage my colleagues to join me for providing safety for Americans from nuclear weapons testing.

RESPONSIBLE BUDGET NEEDED

The SPEAKER pro tempore (Mr. BONNER). Under a previous order of the House, the gentleman from California (Mr. THOMPSON) is recognized for 5 minutes.

Mr. THOMPSON of California. Mr. Speaker, last month the President submitted to us his 2005 budget. This week, later this week, in the Committee on the Budget we are going to have a hearing on and mark-up that budget. Unfortunately, it is a 402-page document with one huge credibility problem. We are in the middle of a war, and yet it includes no war funding. It is a 5-year budget, but almost 80 percent of the cost of the President's new tax plan does not go into effect until after the 5 years after this budget. It finances a $519 million increase to veterans programs by shifting costs on to the veterans that this budget purports to help. It does that through the health insurance enrollment fees and co-pays on prescription drugs to the very veterans that we are supposed to be helping.

It gives homeland security the largest increase of all the agencies, as it should; but it takes $800 million away from our local firefighters and our local police officers at the same time it says it is going to help these first responders. These are the first line of defense. These are the first responders, and we are taking money away from them in order to pay for them to do the job that they are supposed to do.

It discloses that the Medicare prescription drug benefit costs $135 billion more than we were told it would cost just 2 months ago. This unexpected cost of $135 billion totals more than the budgets of Commerce, Energy, Homeland Security, HUD, Interior, State, and EPA combined.

It calls for $1.2 trillion in new tax cuts, $65 billion in health tax credits, and $43 billion in other new spending; but it claims that we can cut the deficit in half by 2009. These are all new costs, new expenditures that this budget does not pay for.

It is not credible, Mr. Speaker, to say we have presented an accurate and honest budget when it includes no funding for a war we are in the middle of fighting. It is not credible to say that cutting domestic spending by $118 billion will pay for a $1.2 trillion tax cut. It is not credible to say that you are strong on budget enforcement, but only apply the PAYGO rules to mandatory spending programs. It is not credible to say that deficits do not matter when you are spending over $349 billion a year just on the interest payments on our $7 trillion national debt.

Democrats keep getting told that we need to be tough on spending and that if we are tough on spending, all the other problems will take care of themselves. Well, that is another example of this great credibility gap. Blue Dog Democrats are tough on spending, as you will hear from a number of us today who are speaking. We voted for budget alternatives that do not exceed the President on spending. We are tough on spending. And as important, we are responsible on revenue. We do not pretend that you can have a tax cut without paying for it. Rather, we work with what we have got: a war that needs to be paid for, a budget that needs to be balanced, and an American public who looks to their leaders for credibility and for truth.

Right now we are faced with a choice. We can continue buying on credit, or we can begin budgeting with credibility. Our constituents want and our constituents deserve a credible budget. It is incredible that this administration has refused to submit one.

EXCHANGE OF SPECIAL ORDER TIME

Mr. BISHOP of Utah. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from Florida (Mr. MARIO DIAZ-BALART).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

MAKING MEDICARE RUN BETTER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. BISHOP) is recognized for 5 minutes.

Mr. BISHOP of Utah. Mr. Speaker, I have a good friend that bought a brand-new Mustang, and he loves that car wonderfully; but every once in a while parts of it will break, and he has to fix it. He tries to improve it every once in a while, not with changing its looks or its purpose. But without servicing that automobile, today it would be simply a rusting hulk. Its glory days evaporated. In fact, quite frankly, it would not run.

That car was built the same year Congress established Medicare. And with Medicare as well, if we did no servicing, if we did not slightly fix those few things that are broken, Medicare today would not run. We are not changing its looks or its purpose. Indeed, people today who are satisfied with Medicare as it is may keep the program as it is. In fact, incentives were put in the bill that we passed on Medicare to ensure just that. But we actually did try to improve the program in its prescription drug component to meet the needs of the most vulnerable of our senior citizens.

Let us face it, if you are over 65 today, it is almost impossible to buy a private health care policy dealing simply with prescription drugs. The most vulnerable segment of our seniors whose income is being dangerously compromised by prescription drug needs has grown over the past decade by 600 percent. In fact, every year almost a 60 percent increase of those personal economies are being endangered simply by prescription drug needs.

This Congress serviced the program for that portion that was not working to make it run better, and they did so free of government price controls, free of government mandates, free of government rationing at the same time. Let us face it, in the 1960s our effort in health care was basically reactive. We were paying for hospital costs.

Today, health care is preventative. Efforts use prescription drug to keep people out of hospitals, hopefully decreasing the overall health care spending that we have. Our medical needs will change. Our desires will also change, and we need to change to meet those particular needs in the government programs.

Sometimes you can tell something about an individual by the company he or she keeps. Those who complain the loudest about changes made to Medicare usually are the status, those who like mandates, the one-size-fits-all government-knows-best approach to the world. Those who are the most supportive are those who truly believe that choice is good and options ennoble the spirit of America.

There are areas of health care today where the price and the cost is actually decreasing, but always in areas where choice is maximum and options are there, and no third party is limiting those options. As part of our health care change in Medicare, we have provided for health savings accounts, allowing for individuals to put pretax dollars into an account that would grow with tax-free interest that would belong with them, would go with them from job to job. Afterwards, when the needs were greatest, there would be an element of money that was there so that truly Americans could finally individualize their needs, make their own priorities without being filtered through a third party, and invite into the American system the opportunity for options that are no longer there in the health care field.

We are not finished with Medicare. It was not the final bill. As our lives change, our life experiences and expectations change; and the government needs to meet to change also, to meet those changing needs. What this bill did is provide an opportunity to fix an area that needed servicing, not to change the program but to simply make that program better.

We move to have more opportunities to have greater flexibility in the system. It is part of a long struggle that will continue on, a struggle to make medical care cheaper in the future, a struggle that will try and make it so that we can work to make modern market-based medicine a reality for all Americans. That is the option that was given to us. We did not change its looks or its purpose. We simply did some servicing to make it run better.

A SERIOUS ECONOMY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. BERRY) is recognized for 5 minutes.

Mr. BERRY. Mr. Speaker, this is very serious business. If this was not so serious, I think it would be easy for us to make jokes about some of the things that have been said on this floor this evening.

As I listened to the gentleman from Oklahoma describe this wonderful economy, I could not help but wonder where in the world he was coming up with this idea. We have lost over 2 million jobs in this country. We may have created some, but we have lost a lot more. It does not do any good to distort things or make these things up or make it look like something that it is not.

Come to the First Congressional District of Arkansas and tell someone that does not have a job and does not have health care and their unemployment has run out that things are great in America and they are going to get better because we are going to cut taxes on the wealthiest people in this country some more.

□ 2000

We may have to reduce Social Security and Medicare benefits to do that, but we are going to do it. Things are great in America. People that do not have a job just do not believe this.

It is time for this country and the leaders of this country and this administration to develop some integrity and credibility.

Back in January of 2001, the Blue Dog Coalition reached out to the new administration; and we said, if you want to cut taxes, we will work with you; we would love to do it. Let us work together and cut spending by an equal amount, and let us not get back in the deficit ditch. They sent Vice-President CHENEY over to see us and he said this: we think you are nice people, but we do not need you. We are in the majority in both Houses, and we are going to do what we want to do, and they did.

That very year they projected that the budget would have a $262 billion surplus in 2004. It has, in fact, a $521 billion deficit. In 2005, they said we will have a $269 billion surplus. Now they say we are going to have a $364 billion deficit. They said the Medicare bill will cost $400 billion, but now it is going to be $535 billion. They said the war is not going to cost that much; it is going to be real quick, and it is going to be over with. Now it is $50 billion now and $50 billion in a few months, and they do not include it in the budget. They do not even really acknowledge that it exists, but we are still borrowing these moneys from our children and grandchildren.

It is time for some integrity. If we are doing so good, why are we broke? Why are we going in debt by the trillions of dollars? Why are we borrowing this money from our children and grandchildren when they face the perfect economic storm? RECORD budget deficits and a national debt exceeding $7 trillion, one more than one-third of our debt held by foreigners and growing every day; a trade deficit of $400 billion that contributes to the exporting of jobs; and the approaching retirement of the baby boomers. This is the perfect economic storm; and yet the administration continues to refuse to sit down in a realistic, rational way with both sides of the aisle and let us face this thing that has been created by the Bush administration.

Let us face what has really happened to our country. Let us face what has really been put on our children and grandchildren. Let us not continue day after day to live in a fantasy land and make up an economy and make up the idea that everything's wonderful, when we know, in fact, there are nearly 9 million people that do not have a job in this country. There are 44 million that do not have health care, and that situation gets worse every day.

Most of all, Mr. Speaker, we must be honest with the American people and tell them what is really happening and not continue to deceive our children and grandchildren and put them in a position where they are going to wake up and inherit this great Nation or what was once a great Nation, and it is going to be so far in debt they cannot even pay the interest; and not only that, but the infrastructure will have crumbled. The education system will have been underfunded so long that they cannot fix it, and then we are going to just dump that on them. What responsible person would do that to their own?

ORDER OF BUSINESS

Mr. KLINE. Mr. Speaker, I ask unanimous consent to give my Special Order at this time.

The SPEAKER pro tempore (Mr. BONNER). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

NATIONAL GUARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. KLINE) is recognized for 5 minutes.

Mr. KLINE. Mr. Speaker, we hear many outrageous claims and public discourse today on the floor of this House and outside of this House, and the integrity of the President of the United States is impugned over and over again, and we simply do not have time to address all of those issues; but today I rise to address an unacceptable offense against the men and women of our National Guard and the Commander in Chief-of-the United States military.

As my colleagues may know, Mr. Speaker, last month the chairman of the Democratic National Committee, Mr. Terry McAuliffe, attacked President Bush by claiming he was AWOL, AWOL from the Alabama National Guard. He also cheapened the service of the men and women of the National Guard by saying that President Bush, as a member of the Guard, never served in our military.

In the time that has passed since Mr. McAuliffe made his unfounded charge, the President has produced military records which reflect his service and honorable discharge in the National Guard.

Mr. Speaker, the President has had the opportunity to exonerate himself; and I believe the men and women who have served their country, our country, as members of the National Guard deserve to be exonerated as well. Mr. McAuliffe's comments discredit, discredit the sacrifices of tens of thousands of National Guardsmen and -women and is a slap in the face to their service, to their families.

I believe the men and women of our National Guard serving this very moment in Afghanistan, Iraq and throughout the globe, including many Minnesotans serving in Bosnia, would disagree with the sentiment that they are not serving their country. More than 193,000 National Guards members and Reservists are currently serving in the war on terror, and over 129,000 are overseas.

While in Iraq last fall, I had the good fortune to spend time with members of the Minnesota National Guard who provided transportation in and out of Baghdad, and I would say it was the best transportation in and out of Baghdad. These men and women are steadfast servants of our military and our country who have given up their own freedom to ensure liberty for others. Whether on the front lines or serving in support roles, these brave Americans are the difference between terrorism and freedom. If that is not service to our country, Mr. Speaker, I do not know what is.

This week, yet another National Guard unit from Minnesota will depart to serve our country, another National Guard unit will depart to serve our country; and I challenge anyone to question the sacrifice of these Guardsmen and -women and the families they are leaving behind.

As a veteran of the United States Marine Corps, I take offense to Mr. McAuliffe's demeaning the characterization of our National Guard. His baseless insinuation diminishes the National Guard as an institution, and he owes an apology to the Guardsmen and -women in uniform serving our country and protecting their fellow Americans.

Mr. McAuliffe's comments represent the worst of election-year politics. It is deplorable for anyone, much less the leader of a national party, to denounce, degrade, and dishonor a fighting force that is at this moment fighting for freedom and democracy around the world.

I would like to take this opportunity to commend the men and women of our National Guard and say thank you. We love you; we are with you.

ADDRESSING THE FISCAL PROBLEMS OF OUR NATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Hawaii (Mr. CASE) is recognized for 5 minutes.

Mr. CASE. Mr. Speaker, good evening and aloha.

Today, I stand here as a proud member of the 37 Member-strong moderate, independent Democrat Blue Dog Coalition. These Members come from all parts of our country and they are dedicated to these three basic propositions: first, the budgetary and fiscal integrity of our country is of paramount importance; second, our country's finances are royally messed up; third, there is a way out of this cesspool if we are honest about why we are here and what we all must do together to fix it.

I have served here for 15 months now, and when I go home I am asked two questions. Number one, what is our biggest challenge in our country? Number two, what is the biggest surprise in my mind from having served here? My answer to both is the same: the financial condition of our country now and well into the next generation.

Why is it our biggest challenge? I think it is pretty straightforward and obvious when we think about it because our very ability to provide what we want to provide for ourselves and our children is reliant on a strong fiscal foundation. Otherwise, it is just talk. Need to protect ourselves here at home and overseas. Where is the money? Need to improve education and health care. Take care of the poor and needy, need to provide the infrastructure, need to honor our commitments to Medicare and Social Security. Yes, where is the money? It is not there right now. We know that.

Let us face up to it. Spending exceeds revenues as far as the eye can see. That is the definition of a deficit, when spending exceeds revenues, and total debt accumulative borrowings to match those deficits has now climbed well through $7 trillion, $7 trillion.

What is my biggest surprise? My biggest surprise is that all of this is happening on the fiscal watch and under the revenue and spending policies of a Republican administration. Do not jump all over that comment and assume that it is simply a partisan shot. I just spent the better part of a decade in my own home State of Hawaii working as an independent, moderate Democrat with Republicans to right the fiscal ship of my own State. The last thing I expected when I got up to Congress here was to arrive here and see the fiscal irresponsibility, on a massive scale, brought on by the national counterparts of those same people that I had worked with successfully in Hawaii.

My surprise does not arise just as a matter of policy disagreements because, after all, we can handle policy disagreements. We can identify choices. We can debate them. We can let the political process yield the result. That is not my surprise.

My surprise is the manner in which we are dealing with this. It is much worse: denial, concealment, misrepresentation. Let me give my colleagues a couple of examples.

First of all, this administration clearly overestimated job and growth recovery from its version of tax cuts. Second, it did not even include huge chunks of spending, spending we know we have to make, in the 2005 budget. What does that say when we do not even include the cost of the intervention in Iraq, do not even put it into the budget? What are my colleagues scared of? Are my colleagues afraid of the debate that will come from it?

Clearly underestimating expenses like Medicare, projecting the Medicare bill at $500 billion and turning around mere weeks later and saying, whoops, we made a mistake, $630 billion after all.

Finally, the one that bothers me the most, this is inexcusable. Bringing to this floor a budget that is only out 5 years into the future. The norm in Washington is 10 years, and I can make a good case to my colleagues that 10 years is not enough. Fifteen, 20, 25 years to account fully for Medicare, Social. Security beyond that, and yet we are only going to talk about 5 years. That is like projecting a family's budget for an adjustable rate mortgage with a balloon at the end, but ending before the balloon is due. That is like projecting a family's budget for education, but stopping in the senior year of high school before their kids go to college. Why do you do that? Because you will not want to face the fact of what happens after that year has happened, and that is exactly what we have.

Do not take my word for it. Here is David Walker, Comptroller General of the United States, on the Nation's growing fiscal imbalance: current fiscal policy is unsustainable; the status quo is not an option; faster economic growth can help but it cannot solve the problem. Finally, the one I particularly agree with: the sooner we get started the better.

There are solutions, and what are they? Because talk is cheap. Here is the deal. They are there, they are tough, and they get tougher. We have to face up to those decisions right now, and we have to get to them right now. I urge my colleagues to be honest with the American people and address the fiscal problems of our country.

EXCHANGE OF SPECIAL ORDER TIME

Ms. KAPTUR. Mr. Speaker, I ask unanimous consent to take the gentleman from Tennessee's (Mr. Cooper) time.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

LACK OF JOB GROWTH IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. Kaptur) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, the lack of job growth in America continues to reverberate, the jobless recovery they call it. That means even as investment increases, new jobs are not created. Now, there might be a recovery for a few in the financial elites that sit in our corporate board rooms, but it is still a recession around the kitchen tables of America's working families.

So where are our jobs? Millions of Americans are asking the Congress and they are asking the President, Where are the jobs?

Toledo Blade reported this weekend: "Unemployment rises across Ohio." Toledo, the major community in my district, Toledo's rate of unemployment hit double digits, over 10 percent; and even rural counties, not accustomed to unemployment rising, those numbers are now increasing across the State of Ohio.

Even America's economists are starting to wonder what is going on.

□ 2015

When the Labor Department released the most recent job data last Friday, showing a mere 21,000 payroll jobs created in February, economists were left dumbfounded, shaking their heads. Alan Blinder, a former member of the Federal Board of Governors, told the Wall Street Journal, and I quote, "From an historical perspective, the lack of job growth is stunning, given what is happening to the gross national product."

Productivity is high, economic activity is up, interest rates are still very low, but even Ohio's Republican governor was forced to admit no job growth. So, where are our jobs? Sales at U.S. retail stores rose by 6.7 percent in February, and the consumer continues to keep our economy afloat. But how long can that last?

Household debt is climbing. The Federal Reserve reported on Friday that consumer credit outstanding grew at an annual rate of 8.6 percent in February. Households in America have refinanced everything and they have maxed out on their credit cards and they have borrowed to keep up their spending levels.

They have been carrying the load up till now, but they simply cannot do it by themselves. We have got to start creating jobs in America, and that starts at 1600 Pennsylvania Avenue.

Last month, President Bush promised that the economy would create 2.6 million jobs by the end of this year. Instead, we have seen almost 3 million jobs disappear since he was installed in office.

Now, America suffers twin deficits that are sucking the lifeblood from our economy. We have a $.5 trillion budget deficit and a $.5 trillion trade deficit. At the same time, these twin deficits total more than $1 trillion sucking life and economic strength out of our economy. That is a $1 trillion in the wrong direction every year under President Bush.

The failed economic policies of the Bush administration are choking any hoped-for economic recovery, destroying wealth and saddling future generations of Americans with more debt than they can possibly afford. How irresponsible.

The failed economic policies of the Bush administration are the reason for the lack of jobs in America. Where are the jobs? They are being outsourced and exported to Mexico and China and other low-wage countries. Some have called this Bush-onomics. But if you are a multinational corporation looking for low-wage workers, they roll out the red carpet for you. They even say outsourcing jobs is a good thing. The Bush administration will even drive down the value of the dollar to help their bottom line.

But if you are a family in Toledo or Cleveland or Akron, you are out of luck. Our workers are sitting around the kitchen table asking a simple question: Where are the jobs? And I hope they are also asking who are they going to elect to the job of the Presidency of our Nation and to this Congress come next November.

NO CHILD LEFT BEHIND

The SPEAKER pro tempore (Mr. Bonner). Under a previous order of the House, the gentleman from Georgia (Mr. Burns) is recognized for 5 minutes.

Mr. BURNS. Mr. Speaker, No Child Left Behind was an Act passed overwhelmingly by a bipartisan majority in the Congress in 2001. It was signed into law by President Bush in January of 2002. While I was not here to vote for this bill, I am a supporter of the goals that this legislation is designed to achieve.

Interestingly, some of those who voted for final passage of the No Child Left Behind bill in the House and for the conference report now have proposed legislation to drastically alter this legislation, and some organizations say that it needs significant modification. What is wrong? What is wrong with asking for higher achievement in our schools? Why should we not provide more information for parents about their child's achievement?

I would like to highlight several facts about the No Child Left Behind legislation. First of all, No Child Left Behind supports learning in the early years, thereby preventing many learning difficulties that arise later.

Children who enter school with language skills and prereading skills are more likely to read well in the early grades and succeed in latter years. In fact, research shows that most reading problems faced by adolescents and adults are the result of problems that could have been prevented through good instruction in early childhood years. No Child Left Behind targets resources for early childhood education so that all youngsters get off to the right start.

Secondly, No Child Left Behind provides more information for parents about their children's achievement.

Under the No Child Left Behind legislation, each State must measure every public school student's achievement in reading and math in grades 3 through 8, and then at least once during grades 10 through 12. By the school year 2007 and 2008, State assessments in science will also be underway. It is important to note that these achievements are based on State academic content and achievement standards. Each State defines its own standards and each State determines what test it will use to measure student achievement.

The third thing I think is important is No Child Left Behind provides parents and taxpayers with important information about the performance of local schools.

No Child Left Behind requires that State and school districts give parents an easy-to-read, detailed report card on schools and school districts, telling them which ones are succeeding and why. Included in the report card are student achievement data broken out by race, by ethnicity, by gender, by English language proficiency, migrant status, disability status, and low-income status, as well as important information about the professional qualifications of our teachers.

With these provisions, No Child Left Behind ensures that parents have important timely information about the schools their children attend, whether they are performing well or not, for all children, regardless of their background.

Fourth, No Child Left Behind gives children and parents a lifeline.

In this new era of education, children are no longer trapped in low-performing schools. Under No Child Left Behind, schools must use Federal funds to make needed improvements. In the event of a school's continued poor performance, parents have an option. They have the option that ensures their child receives the high quality education to which they are entitled. That might mean that a child would transfer to a higher-performing school in an area, or it may mean they may receive supplemental educational services in their community, such as tutoring, after-school programs or remedial classes.

No Child Left Behind improves teaching and learning by providing better information to parents, to teachers, to principals, and to the community.

Annual tests to measure children's achievement provide school officials with independent information about each child's strengths and weaknesses. Teachers, principals, and superintendents across the country are using the data from state assessments to make more effective decisions for students, schools, and districts.

Districts can use information provided from state assessments to determine needs and target resources.

Principals can use information from state assessments to determine the appropriate professional development needs of teachers and to help meet the needs of all subgroups of students.

Teachers can use information from assessments to inform classroom decisions and provide the best possible instruction to ensure that all students are learning.

No Child Left Behind ensures that teacher quality is a high priority. Because of the proven correlation between teacher quality and student academic achievement, No Child Left Behind includes provisions stating that all teachers of core academic areas must be "highly qualified" by the end of the 2005–2006 school year. Each state is responsible for developing its own definition of "highly qualified" and each state has the flexibility to develop its own system to measure teacher qualifications. States are also encouraged to be innovative in finding ways to improve teacher quality, including alternative certification, merit pay, and bonuses for teachers in high-need subject areas like math and science.

No Child Left Behind focuses on what works. No Child Left Behind puts a special emphasis on implementing educational programs and practices that have been clearly demonstrated to be effective through rigorous scientific research. Federal funding is now targeted to support such programs.

For example, the Reading First program makes federal funds available to help reading teachers in the early grades strengthen old skills and gain new ones in instructional techniques that scientifically based research has shown to be effective.

No Child Left Behind provides state and local leaders with unprecedented flexibility as they implement the law. The foundation of No Child Left Behind is a system of state standards and state assessments to ensure accountability. Each state sets its own standards and each state determines what assessment it will use to measure student achievement.

To provide state and local school districts with as much flexibility as possible, No Child Left Behind provides the ability to transfer up to 50 percent of the funding they receive for Teacher Quality, Educational Technology, Innovative Programs, and Safe and Drug-Free Schools, to any one of these programs or to Title I. This ability to transfer federal funds among certain accounts is new under No Child Left Behind and no "permission" is required before transferring funds.

States and local school districts also have the opportunity to apply for demonstration projects providing even more flexibility in how federal resources are used.

Additionally, recent policies announced by the U.S. Department of Education are providing states and local school districts with even more flexibility as they meet the academic needs of students with disabilities and English language learners.

I'm pleased that my home state of Georgia is responsive to such concerns as AYP. The state Department of Education meets weekly to deal with challenges and suggestions on implementation. Tips and strategies are sent out on a monthly basis to help school systems improve with regard to AYP.

No Child Left Behind provides more resources to our schools.

Because reforms implemented by No Child Left Behind, President Bush and the Congress are now investing more in education than at any point in history. In fiscal year 2001, the Federal Government provided $17.4 billion for programs that now constitute No Child Left Behind. The fiscal year 2001 appropriation was signed into law by President Clinton. In January of 2002, President Bush signed the bipartisan No Child Left Behind Act, which reformed many of the Federal Government's educational programs, consolidated several programs to make them more efficient, provided new flexibility for State and local leaders to shift funds between different programs, and to strengthen accountability systems to ensure that taxpayers' money helps increase the achievement of all students.

After signing the No Child Left Behind reforms into law, President Bush approved the funding for Fiscal Year 2002 and dramatically increased the federal government's investment in education.

While the funding level in Fiscal Year 2001 was $17.4 billion (see chart):

Funding for No Child Left Behind programs in Fiscal Year 2002 was $22 billion.

In Fiscal Year 2003, funding rose to $23.6 billion.

In Fiscal Year 2004, funding increased to $24.3 billion.

For Fiscal Year 2005, President Bush has proposed another increase to $24.8 billion.

If President Bush's Fiscal Year 2005 budget is enacted, spending on No Child Left Behind programs will have increased 42.5 percent ($17.4 billion to $24.8 billion) since he took the oath of office. And even more importantly, those increased funds come with a renewed accountability for results.

These are reasons that we should stand behind the law: it provides flexibility, funding, and school and child improvement. Another reason is a personal story.

Cathy Heizman, the Director of the Child Advocacy Center in Cincinnati explains the importance of schools being held accountable for the educational results of students with disabilities:

> All the time (my adult daughter) Cara received special education services, no one was held accountable for her learning. She was in general education classes, but the teachers weren't expected to teach her anything. The special education staff, who were supposed to provide support services, often just chose not to do what was on her IEP. As long as Cara didn't cause trouble and she made it to class on time, they were happy.
>
> My daughter has a good life. She has a job, a steady volunteer opportunity, friends and family who care about her. But, I can't help but wonder what other chances she might have had if someone had actually tried to teach her academics while she was in school.
>
> Now, [because of No Child Left Behind] we are all accountable for every child's educational progress. The percentage of students on IEPs who pass proficiency tests, will be listed separately on district and building report cards. The entire community will understand if the schools have actually taught our kids what they need to know, what all the other kids know. We'll finally have something to hold on to. We will be able to hold someone responsible.
>
> This is a time for all of us to work closely together to make certain that we grab this opportunity to raise the expectations for every child. This could be the last best chance we get. If nothing changes, if our children don't learn, if the schools don't perform, then it will all have been for nothing. It is our obligation to make this moment in time mean something.

Don't we all want what's best for our children? Don't we want to see our children excel with every opportunity given them?

It's our obligation to allow children a high quality education. And it's our responsibility to make sure that the No Child Left Behind law—which passed this chamber with a bipartisan vote of 381 to 41—is implemented fairly and appropriately not simply "fixed" because some organizations find it flawed. As a Congress, we're conducting that implementation oversight. I am pleased to see our Education and Workforce Committee hold oversight hearings on No Child Left Behind law and hope that it will continue.

Mr. Speaker, I urge my colleagues to continue to support a good solid implementation of No Child Left Behind.

THE NATION'S DEBT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. TAYLOR) is recognized for 5 minutes.

Mr. TAYLOR of Mississippi. Mr. Speaker, if you were to look back 400 or 500 years, to the nations that our forefathers left, many of them in Europe, a common practice then was that children would inherit the debts of their parents. If they did not have the money to repay those debts, then they became indentured servants for some lord or king.

Amongst the many decisions our founding fathers made when they wrote America's constitution was they had to wrestle with whether or not one generation should be able to burden the next generation with its debts. They decided they would not; that the debt dies with the estate, and that once an estate's taxes are paid, the children are not responsible for the debts of their parents.

I say this because we have seen a dramatic change in our Nation in the past 25 years, in particular, in the past 3 years. I have a 25-year-old daughter. On the day she was born, our Nation was less than $1 trillion in debt. We had gone all the way from the American Revolution, the War of 1812, the Mexican-American War, the Civil War, the Spanish-American War, World War I, World War II, Korea and Vietnam, escaped the Great Depression, built the intercoastal waterways, and the Golden Gate Bridge and borrowed less than $1 trillion.

It first started with the Reagan administration, a Democratic House and a Republican Senate. In the span of 8 years, they doubled that debt to $2 trillion. Ah, but they were just pikers when it came to the Bush administration. In less than 3 years, since May 9, 2001, when George Bush passed his tax cut saying he could cut taxes, increase spending, balance the budget, and pay off those debts that we had, our Nation's debt has grown by $1,448,675,099,676.

If I were to have one page out here on the House floor, which I have since been prohibited from doing by Speaker HASTERT, each holding up one sign for one digit, it would take 13 young Americans to show just the increase in our Nation's debt.

But it is worse than that. Because if we listen to my Republican colleagues, they say, but we have tax cuts, and we have done a lot of good with that. I would remind my colleagues that through December of this year, they have returned to the American public $431 billion in tax cuts since May 9, 2001. But in order to do that, they borrowed $1.358 trillion.

Now, 7th grade math tells me that for every $1 they have returned to the citizens, they borrowed $3. It is an intergenerational transfer of debt. For the sake of their political coffers going up and their contributions going up, they have now stuck my kids, everyone's kids and every unborn child in America with an additional $1.448 trillion worth of debt.

But it is worse than that. They did not just steal it from future generations, they stole it from today's generation.

Speaker HASTERT, why don't you tell us how much we owe to the Social Security Trust Fund today? Oh, I am sorry, you are out raising money.

Well, the Social Security Trust Fund owes $1.555 trillion. And when my colleagues tell you about the lock box, ask them the name of the bank and the account number. Because there is not one penny in the Social Security Trust Fund.

How about the Medicare Trust Fund? Mr. Speaker, how much is owed to the Medicare Trust Fund? I am sorry, he is out talking about what a great job he has done as Speaker.

We owe $284 billion to the Medicare Trust Fund. That is money taken out of people's taxes that were promised to be set aside for no other purpose than to pay Medicare bills. There is not a penny in that account. Again, if any of my colleagues tell you that there is, ask them for the name of the bank and the account number.

How about the military retirement fund? Those brave people serving us right now in dangerous places like Iraq and Afghanistan, in Colombia and Korea.

Mr. Speaker, how much money do we owe the military retirees trust fund? Gee, could not make it.

It is $185 billion that you have taken from their trust fund and used to spend on your programs.

And lastly, those people who serve us, all the way from the FBI agents to the CIA, border patrol agents, homeland security agents, all those folks who work for our Nation and have a retirement system they have paid into that has been matched by the taxpayers. How much is owed to it, Mr. Speaker? $621 billion.

Mr. Speaker, you have been Speaker now since January 1, 1999, and you have not allowed a vote on a balanced budget amendment. What is it that you are hiding from me? What is it that you are hiding from them?

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ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BONNER). The Chair would remind Members that their remarks are to be addressed to the Chair.

CALLING ON CASTRO TO RELEASE POLITICAL PRISONERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I rise this evening to once again express my concerns regarding the inhumane treatment of political prisoners in Cuban jails.

Almost exactly 1 year ago today, Castro began his devastating crackdown on Cuba's pro-democracy movement. Knowing that his actions would be overshadowed by world events in Iraq, Castro took the opportunity to arrest over 70 nonviolent human rights advocates, pro-democracy leaders and independent journalists. Inside of a month, the detainees were tried, sentenced, and locked away in Cuban prisons.

Mr. Speaker, today I would like to call attention specifically to the plight of 20 of the prisoners arrested in the crackdown last year. These 20 dissidents, many in their 50s and 60s, are suffering from advanced illnesses, and in many cases are being denied medical care. They suffer from a variety of serious health problems, including kidney disease, diabetes, hypertension, heart disease and extreme weight loss; and many of their conditions have worsened.

I would like to relay the account of one specific prisoner, Oscar Espinosa Chepe, a 63-year-old economist sentenced to 20 years in the crackdown. Espinosa is suffering from advanced cirrhosis of the liver and has lost over 40 pounds since being jailed. In a recent interview with The Washington Post, his wife, Miriam Leiva, says of his condition, "They are killing these people. I am convinced he was taken out of our little house for a death sentence which is supposed to be slow and painful. I do not know if I will be able to see him tomorrow or next month, or if they will just come to me and say, 'You may come and visit his grave.' "

Leiva gave her husband's account of a cell, stating that it has no windows or running water and that the lights are left on 24 hours a day. She states that her husband is unable to eat and has a fungal infection covering both of his legs.

Mr. Speaker, this is not an isolated account of one prisoner. Many similar stories of neglect and subhuman conditions have been reported by prisoners themselves and through their families.

Several prisoners who suffered heart attacks before being jailed are now suffering from worsening heart disease because of the lack of medical care. Another prisoner now requires a kidney transplant because prison conditions have further damaged his already weak kidneys.

And chances are, more stories like this are going to continue to come out of Cuba's jails. You see, about half of the 75 jailed in the crackdown last year remain in so-called "punishment cells" that measure only 3 feet by 6 feet, have no ventilation or running water, are subject to the extreme summer heat, and are infested with insects and rats. And even those prisoners who enter jail healthy will likely face health problems in the near future.

Mr. Speaker, as expected, Castro continues to deny the Red Cross and other human rights organizations access to these jails. He remains defiant about the arrests even as Cuba's relationship with friendly nations continues to deteriorate.

I urge my colleagues to join with me in calling on Castro to immediately release the most gravely ill prisoners and to grant the Red Cross immediate access to Cuban jails. It is critical that Congress not stand by and allow these human rights atrocities to continue and allow Castro's mistreatment of his prisoners to go unchecked.

A year ago when this crackdown occurred, there were many of my colleagues, some who actually are sympathetic to Castro, who came down to the floor and expressed outrage over what was going on with these prisoners. I am just afraid that a year passes and now all of a sudden there is not much mention or thought about them because people tend to forget. The bottom line is that the situation is growing worse and Castro has not shown any interest in doing anything to turn the situation around. I think it is important that we continue to speak out and point to the prisoners' plight, lest they be forgotten.

BSE TESTING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. BLUMENAUER) is recognized for 5 minutes.

Mr. BLUMENAUER. Mr. Speaker, the most troubling aspect of the first case of mad cow disease is what it revealed about the cattle industry and the United States Department of Agriculture. It revealed that the USDA is not just protecting the food supply, but it is also actively promoting the cattle and meat packing industry. How well are these competing priorities balanced?

Well, the mad cow episode has exposed holes in the food safety chain. It has revealed that the USDA's policy was not one of comprehensive testing, but rather a limited sampling of a few thousand. Of the over 30 million cattle slaughtered last year, only a few thousand of these 30 million were tested for mad cow disease.

Beef, we found out, quickly disappears into the vast distribution network and is mixed with the remains of thousands of other cattle. These consolidated batches of meat are then distributed far and wide, which makes them difficult to recall, almost impossible to trace.

Currently, there is only one laboratory owned by the U.S. Department of Agriculture located in Ames, Iowa, that performs testing on meat to detect mad cow disease. The techniques used in this laboratory require several days to complete. The public is rightly concerned. Maybe the reason we have not discovered mad cow disease until this past December in the United States is because Americans have been eating the evidence.

There are responsible members of the beef industry that want to test their cattle and many consumers who want to buy this tested beef. The tests exist today that can be done quickly, cheaply, easily, and close to home. The cattlemen are willing to pay for it; customers consider tested beef worth the cost. So what is the problem? Well, our Department of Agriculture and the large beef producers do not want it tested. The $27 billion meat packing industry does not want the possibility that private testing would challenge the Bush administration's position that mad cow disease is not a problem.

An article on the front page of today's Wall Street Journal details many of these responsible cattle producers' frustrations with the current Department of Agriculture policy. It recounted how David Luker, who owns Missouri Valley Natural Beef, wants to pay to test his beef in order to satisfy the demands of his customers. The USDA, however, will not allow it.

The USDA's laboratory refused to test his cattle, insisting that the beef supply is safe, and just take our word for it. When Creekstone Farms Premium Beef said it wanted to build its own laboratory to test for mad cow disease in order to get back into the Japanese market where all cattle are tested, the USDA responded by saying anyone testing without the USDA approval, which they will not give, would face criminal charges. What is wrong with this picture?

President Bush's friend and benefactor, "Kenny Boy" Lay, is walking around free after gross mismanagement of Enron, which devastated workers and cost American investors billions of dollars, yet the Bush administration is now prepared to press criminal charges against people who merely want to test to ensure that the beef they are producing is safe.

There are four testing firms in the United States that make rapid diagnostic kits that can tell in a matter of hours whether a cow is infected. These kits are widely used in both Europe and Japan where testing is pervasive, and as I mentioned in Japan, where it is universal. Yet here, the administration will not allow these tests to be used on American cattle. This is not just an issue about mad cow disease, which is admittedly rare, we think, and we hope will stay that way. It is an issue of consumer choice and consumer protection. This is an issue of treating Americans like grown-ups and supplying them with information they can count on regarding food safety.

If the administration was as concerned with the public interest as it is with special interest, we would have much higher testing standards in place at this point, and we would not be stopping responsible members of the industry from giving what many consumers want.

Mr. Speaker, food safety is a key ingredient for a livable community where our families are safe, healthy, and economically secure. I hope the public will be heard on this important issue as this year progresses.

BUSY TIME IN WASHINGTON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, it has been a busy 14 days here in Washington. We began with the President of the United States, according to the Los Angeles Times, explaining how the export of jobs is beneficial to the economy. Two days later, he was followed up by the chairman of the President's Economic Advisory Council, Mr. Gregory Mankiw, who explained to the other body that we have to face that in a global economy, it is inevitable that there will be a loss and shortage of jobs. I am not able to give the precise details of the reaction of the committee that heard that testimony.

And then thereafter the distinguished chairman of the Federal Reserve Board, Mr. Alan Greenspan, explained that even though we are hemorrhaging money, the deficit is growing, the surplus has disappeared, and we have to do something about it, that this legislative body is going to have to put its foot down.

Where, the question arose, should we end the tax cuts for the upper 1 percent in our American system? No, he said, not only was that probably good, but that it should be made permanent. Then pray tell us, Mr. Greenspan, where would this reduction come from? Well, it would come from looking into Social Security. It is time we realized that perhaps these benefits are excessive and that they are being paid out too early. Well, thank you very much, Chairman Greenspan.

My dear colleague, who is unfortunately not on the floor, the gentleman from Georgia (Mr. BURNS), touted the benefits of the Leave No Child Behind Education Act, a bill that I thought was pretty important. It was explained to me by Members on my side of the aisle in both the Senate and the House, the same provisions that he described that were going to be so excellent. But the problem, we are underfunding the bill by $8 billion a year.

Mr. Speaker, at this point I move to the recent problems in the western hemisphere, and I will include for the RECORD a number of statements about Haiti and what we ought to do about it.

The long and short, of course, is that we have an obligation to support the resolution introduced by the gentlewoman from California (Ms. LEE) to determine what the truth is about Haiti and that we have an independent bipartisan commission on Haiti to find out whether we impeded democracy or indeed contributed to the overthrow of a democratically elected government; what were the circumstances that brought about the alleged resignation and what was the role of the United States Government in bringing about the departure; and to what extent did the United States impede efforts by the international community, and especially the Caribbean community, CARICOM, to prevent the overthrow of an elected government in Haiti.

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What was the role of the United States in influencing decisions regarding Haiti at the United Nations Security Council, and was there U.S. assistance provided in the personnel or weapons for the forces that were used against Haiti?

These are just a few very important questions that kind of coincide with some destabilization efforts going on in Venezuela, where the democratically-elected President is undergoing a very serious set of difficulties, that it looks like, it is said, it is being reported, that the United States, believe this or not, is having a role and something to do with the destabilization.

I yield to the distinguished member of the Committee on International Relations, the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Speaker, I just want to applaud the gentleman for his leadership over the years in terms of issues surrounding Haiti. Let me just conclude by asking a question. I know the gentleman does not have time to respond.

Presumably elections are going to be held in Haiti. Has Secretary of State Powell or the White House communicated to the gentleman when they anticipate those elections to be held? And if so, is there anything in the gentleman's knowledge that would impede President Aristide from returning from wherever he is and running once more for the President of that devastated, poor country with such a tragic history?

Mr. CONYERS. Mr. Speaker, I include for the RECORD the documents I referred to earlier.

MARCH 9, 2004.

TRUTH COMMISSION—THE RESPONSIBILITY TO UNCOVER THE TRUTH ABOUT HAITI

DEAR COLLEAGUES: Today we will introduce a resolution calling for an independent commission to uncover the facts about the Bush Administration's involvement in the recent coup d'etat in Haiti. There are questions that Members of Congress need answered regarding this Administration's involvement:

1. Did the U.S. Government impede democracy and contribute to the overthrow of the Aristide government?
2. Under what circumstances did President Jean-Bertrand Aristide resign and what was the role of the United States Government in bringing about his departure?
3. To what extent did the US impede efforts by the international community, particularly the Caribbean Community (CARICOM) countries, to prevent the overthrow of the democratically-elected Government of Haiti?
4. What was the role of the United States in influencing decisions regarding Haiti at the United Nations Security Council and in discussions between Haiti and other countries that were willing to assist in the preservation of the democratically-elected Government of Haiti by sending security forces to Haiti?
5. Was US assistance provided or were US personnel involved in supporting, directly or indirectly, the forces opposed to the government of President Aristide, and/or United States bilateral assistance channeled through nongovernmental organizations that were directly or indirectly associated with political groups actively involved in fomenting hostilities or violence toward the government of President Aristide?

There are many more questions that must be answered. We believe this Administration has, in essence, carried out a form of "regime change," a different variation than it took in Iraq, but still regime change. Accordingly, we must uncover their actions. The American people and the international community deserves to know the truth, and the people of Haiti deserve a fair shot at democracy.

We call on all of our colleagues to support this resolution calling for a bipartisan independent commission. I apologize for the short notice; however, if you would like to be an original cosponsor of this bill or have any questions, please call Aysha House (Lee) at 225–2661. The deadline for original co-sponsorship will be 7:30 p.m.

Sincerely,

BARBARA LEE,
Member of Congress.
JOHN CONYERS,
Member of Congress.

HAITI: IMMEDIATE DEMANDS

—Freedom of movement and association for Pres. Aristide, and disclosure of the terms obtained by the U.S. for his stay in Bangui.

—Recognition that as Pres. Aristide was forced out through the improper use of force to compel him to leave Haiti, he should be free to return to Haiti as president to implement the OAS/CARICOM agreement he accepted, especially now that peacekeepers are in the country.

—Sanctions should be imposed against the leaders of the coup d'etat against Pres. Aristide, and their arrest should be ordered. Assurances should be obtained by the Congress that the U.S. intelligence community is not providing assistance to the insurgents.

—An investigation should be carried out by the GAO into the use of U.S. funds to train and establish opposition coalitions and opposition media committed to ousting Pres. Aristide from power and to rejection of the constitutionally mandated elections process in Haiti.

A delegation from the United States met twice today with overthrown Haitian President Jean-Bertrand Aristide in Bangui, Central African Republic. Following the first meeting, President Aristide held a news conference at the Ministry of Foreign Affairs, and then conducted a 30-minute phone interview in English with Pacifica Radio's Democracy Now.

The delegation includes Kim Ives from Haiti Progress and the Haiti Support Network, and Johnnie Stevens and Sara Flounders from the International Action Center. Ives, Flounders and Stevens are representing former U.S. Attorney General Ramsey Clark. Also on the delegation are Brian Concannon, acting in the capacity of President Aristide's lawyer; and Katherine Kean, a friend of President Aristide.

Aristide's press conference today and his meeting with the U.S. delegation constituted a remarkable turnabout from the day before when the delegation was barred by the Central African Republic government from meeting with Aristide. Following the refusal to give the delegation access to meet with the ousted Haitian president, a press release entitled "Aristide Under Lock & Key" circulated around the world. Thousands of individual activists and organizations submitted the press release and statement to local media throughout the United States in a high-visibility emergency mobilization to tell the truth. The Central African Republic officials have made it clear that their country is under severe pressure from the United States and France.

The Curtain of Silence that has surrounded President Aristide since the February 28/29 coup has now been significantly opened as a consequence of this political intervention. The world, and especially the Haitian people, has been anxious to hear from President Aristide. It is precisely for this reason that the U.S. State Department and the French Foreign Ministry have applied so much pressure to the Central African Republic to prevent him from having access to the media, and to his attorneys, friends and supporters.

The delegation arranged for President Aristide to be interviewed by Pacifica Radio's Democracy Now. Amy Goodman of Democracy Now introduced today's interview with these words:

"Moments before the Democracy Now! interview, Aristide appeared publicly for the first time since he was forced out of Haiti in what he has called a US-backed coup. The authorities in the Central African Republic allowed Aristide to hold a news conference after a delegation of visiting U.S. activists charged that the Haitian president was being held under lock and key like a prisoner. The delegation included one of Aristide's lawyers, Brian Concannon, as well as activists from the Haiti Support Network and the International Action Center, representatives of former U.S. Attorney General Ramsey Clark. Shortly after they arrived in Bangui on Sunday, the delegation attempted to meet with Aristide at the palace of the Renaissance. The CAR government rebuked them.

"Shortly after, the country's foreign minister held a press conference in Bangui. Armed men threatened journalists in the room, warning them not to record the minister's remarks. Mildred Aristide, the Haitian First lady, was brought into the room, but was not permitted to speak. The CAR foreign minister told the journalists that President Aristide would hold a news conference within 72 hours. Hours later, Aristide was allowed to address journalists.

"In his interview on Democracy Now!, Aristide asserted that he is the legitimate president of Haiti and that he wants to return to the country as soon as possible. He details his last moments in Haiti, describing what he called his 'kidnapping' and the coup d'etat against him."

In his press conference and in the direct meetings with the delegation, "President Aristide was very forceful about the fact that he was kidnapped, and that his government is being replaced by a U.S.-sponsored government of occupation," said Sara Flounders of the International Action Center. President Aristide also said that "only his return to Haiti can bring peace, and he stated that the people who carried out this campaign against his government are internationally recognized criminals.

"President Aristide said that he had been lied to by the U.S. ambassador, who assured him that he was being taken to a press conference to talk with international and Haitian media. He was instead forced onto a plane and taken out of the country in a U.S. coup d'etat," according to Flounders. "President Aristide also pointed out the irony that Haiti, which only has 1.5 doctors for every 11,000 people, now has seen the closing of its primary medical school and that school is now being used to house U.S. Marines and other foreign soldiers."

President Aristide expanded on this point both in the press conference and in his interview on Democracy Now!: "In my country, after 200 years of independence—we are the first Black independent country in the world—but we still have only 1.5 Haitian doctors for every 11,000 Haitians. We created a university, we founded a university with the faculty of medicine that has 247 students. Once U.S. soldiers arrived in Haiti after the kidnapping, what did they do? They closed the faculty of medicine and they are now in the classrooms. This is what they call peace. This is the opposite of peace. Peace means investing in human beings, investing in health care, respect for human rights, not violations of human rights, no violations for the rights of those who voted for an elected President, and this is what it means. . . . How can you imagine that you come to me, you want to be in peace, and you close my university and you send out 247 students of medicine in the country where you don't have hospitals and you don't have enough doctors. God, this is an occupation. When you protect killers, when you protect drug dealers like Guy Philippe, like Chamblain, when you protect the citizens of the United States in violating the law of the United States, Mr. Andy Apaid is a citizen of the United States, violating the Neutral Act, the way with this act will destroy our Democracy, and once we do that, then this is an occupation." (quotation from Democracy Now!)

Kim Ives, who is with the Haiti Support Network and is a journalist with the newspaper Haiti Progres, is a member of the delegation and had an opportunity to speak to President Aristide in Creole during the meeting following today's press conference. Ives states that Aristide's account of the events of February 28–29 stand in sharp contrast to the account given by Colin Powell and other U.S. officials to the Washington Post on March 3. The U.S. "Story" was that Aristide was ready to leave the country and that they simply facilitated his departure at his request. Colin Powell and other U.S. officials later said that Aristide's assertion that he had been the victim of a U.S. coup were "absurd" and "not true."

Ives stated, "The Washington Post and other U.S. media coverage gives the impression that the sequence of events leading to Aristide's departure at 6 a.m. on February 29 began around 4 or 5 a.m. when Aristide allegedly called U.S. officials and asked for their assistance in leaving the country. President Aristide told me that in fact 'armed Americans and diplomats' came to his residence the day before—that is, on the evening of February 28. Aristide reported that U.S. officials told the 19 security guards that have functioned as a presidential security detail that they should abandon their posts. These 19 security guards were on assignment from the Steele Foundation and are mostly former members of the U.S. Special Forces. They were told by U.S. officials that they 'wouldn't be protected, the gig was up.' President Aristide asserts that these Steele Foundation security guards basically obeyed the orders from their former employers (the Pentagon). They were flown by helicopter on Saturday night away from the presidential palace, leaving Aristide with no armed protection."

A recent Miami Herald article on the subject reported that another 25 reinforcement security guards from the Steele Foundation, who were supposed to arrive Saturday, February 28, received a call Friday night telling them that the U.S. would block their deployment.

Mr. Ives also stated that "President Aristide was told by U.S. Ambassador James Foley that the U.S. officials and armed forces would take him to a press conference with the international and Haitian press, where President Aristide could make his case. President Aristide agreed to go on the condition that he could speak to the media, and also that his home would be protected from any attack or looting. The fact is, the press conference never took place and his home was looted almost immediately after he left.

"President Aristide was instead driven to a plane. Upon arriving at approximately 5 a.m. on February 29, he found his 19 security guards already there. They were all flown—including the one-year-old child of one of the guards—to the Central African Republic. After spending 20 hours on a plane flying to a destination unknown to them, the security guards were then flown back to the United States. The trip prevented them from revealing the details of the coup until after Aristide was out of Haiti and in the Central African Republic.

"In the course of the discussions with President Aristide, it became clear that the timing of the coup coincided with several international developments that could have shifted the relationship of forces in the Haitian government's favor. While the U.S. government escalated pressure on Aristide to resign in that last week, the government of South Africa had sent a planeload of weapons that was set to arrive on Sunday, February 29. Venezuela was in discussions about sending troops to support Aristide. There was also gathering international support and solidarity for the maintenance of constitutional democracy in Haiti. African American leaders were receiving increasing media attention as they denounced the efforts towards a coup. Two prominent U.S. delegations, one led by members of the Congressional Black Caucus and another led by former U.S. Attorney General Ramsey Clark, were set to arrive within days. We can see that there were various converging influences of aid about to come. This accounts in large part for the timing of the coup, it explains why the U.S. had to rush in and remove Aristide," concluded Ives.

Johnnie Stevens of the International Action Center stated, "Today, as a consequence of strong international pressure, the people of Haiti and the rest of the world have had a chance to hear President Aristide refute the lies and slanders of the U.S. government and its henchmen from the former Haitian military who are behind the coup. We believe that the U.S. has tried to muzzle or silence President Aristide, not simply to stop one man from speaking out. The goal is to discourage the people of Haiti from continuing the growing struggle demanding President Aristide's return. It is really an effort to muzzle, silence and pacify the people in order to impose U.S. regime change."

Stevens continued, "The people of Haiti have been a source of inspiration for two centuries. Their struggle for freedom, independence and sovereignty is part and parcel of the struggle of oppressed people everywhere. We must continue to do everything in our power to stand up against the racist designs of the Bush administration."

In his interview with Democracy Now! President Aristide was asked if he planned to return to Haiti. His response: "If I can go (to Haiti) today, I would go today. If it's tomorrow, tomorrow. Whenever time comes, I will say yes, because my people, they elected me."

ALL HAT AND NO CATTLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. RYAN) is recognized for 5 minutes.

Mr. RYAN of Ohio. Mr. Speaker, "This economy of ours is strengthening, and that's positive," is what President Bush has said.

"Outsourcing is just a new way of doing international trade, and that is a good thing."

The President says the economy is strengthening, that we are creating the jobs. This is the newspaper headline today from the Youngstown Vindicator. In the City of Youngstown Ohio, the unemployment rate is 16.6 percent. In the City of Warren, the unemployment rate is 14 percent.

This President's economic policies are not working, yet we get rhetoric from this President. The economy is actually getting worse, not better, it is not strengthening, it is struggling.

Just yesterday, we had a field hearing for the No Child Left Behind funding issue. A recent study came out and said the State of Ohio needs an additional $1.5 billion a year in order to get every single child in our State across the finish line and proficient in all the needed areas; $1.5 billion a year to do this.

The President goes on about tax cuts and how these tax cuts are stimulating the economy, which they are not. He is cutting necessary funds for education, Pell Grants, public health, worker retraining, all of the areas that we need funded in order for us to move our economy forward and make the proper investments. Instead of economic politics, we get election year politics.

One of the issues one finds mind-boggling, quite frankly, in a recent article that says "Bush all hat and no cattle when it comes to small business," this President has told us that he is for small business and that these tax cuts are going to help small business. We already talked about how that is not true.

I want to share with the American people some of the cuts that this administration is making in small business assistance. The President's budget entirely eliminates the Micro Loan Program funded within the SBA; reduces government guarantees from 75 percent to 50 percent on the SBA 7(a) loan program; reduces funding for Small Business Development Centers; and slashes the Manufacturing Extension Partnership from $106 million to a paltry $39 million.

Where is this manufacturing czar that we have been promised from Labor Day? I have shared that before. On Labor Day, the President of the United States came to the State of Ohio, and he goes to Richfield, Ohio, one of the wealthiest suburbs in the State. He passes up Cleveland, he passes up Youngstown, he passes up Akron, Steubenville, Toledo, Lima, all the areas that have suffered a complete erosion of manufacturing jobs, where the unemployment rate is 14 to 17 percent.

We are getting no money or very little money for our No Child Left Behind program. And all these investments the President said he wants to make, we are getting a bunch of hot air from this administration.

Quite frankly, something needs to be done, because we get the rhetoric that says his economic policies are working. We are trying to get talked into an economic recovery that is jobless.

All you have to do, Mr. President, is come to Youngstown, Ohio and you will find out your economic policies are not working.

A TALE OF TWO BUDGETS

The SPEAKER pro tempore (Mr. WICKER). Under the Speaker's announced policy of January 7, 2003, the gentleman from Illinois (Mr. EMANUEL) is recognized for 60 minutes as the designee of the minority leader.

Mr. EMANUEL. Mr. Speaker, in 2 days, the House Committee on the Budget will introduce and start to mark up a budget for the United States. This budget is being drafted by the majority, reflective of the President's budget submitted in early February.

I thought it would be an opportune time to discuss and go over the review of this budget and the economic policies that have resulted from the President's past budgets here at home, with also the type of priorities that have been claimed for the people of Iraq, and compare, in my view, the tale of two budgets.

What we have here, which I think would be a rude awakening for the American people, is what has resulted here at home for the people of the United States and their jobs, their healthcare, their education, their housing, versus what we are doing in Iraq. If you really go through it, what you really have is the tale of two budgets, of two economic programs.

I think the American people would be surprised to find out that of the $87 billion we voted on last year for the funding of the war in Iraq and Afghanistan and for rebuilding the communities of Iraq and Afghanistan, that is more than the combined investment in the United States in the areas of education, job training and employment, the money in one shot for Iraq. Remember, that does not count the $70 billion we spent on the first stage of the war with Iraq.

The $87 billion spent in Iraq and Afghanistan for the war part, as well as for the rebuilding of their healthcare system, their job training, their physical infrastructure, roads and bridges and water system and water treatment, that is more than the entire combined investment in the United States for education, job training and employment services.

To me, the reason we have a $3 trillion debt, additional debt on the books, nearly 3 million Americans have lost their jobs, as well as 43 million Americans without health insurance, 2 million more Americans who have gone from the middle-class to poverty, and nearly $1 trillion worth of bankruptcies, both corporate and individual, is we do not have an economic policy and focus coming from the administration.

Mr. DELAHUNT. Mr. Speaker, if I could interrupt my friend for a moment, the gentleman indicated the total amount that we have already expended in terms of our intervention in Iraq. Obviously, that includes supporting our troops, and, at the same time, beginning the reconstruction of Iraq.

Does the gentleman remember the debate that occurred months ago when the supplemental came to this floor?

Mr. EMANUEL. The $87 billion?

Mr. DELAHUNT. The $87 billion. Does the gentleman remember that many of us on this side actually voted against authorizing the President to launch this intervention because we did not believe the evidence for a variety of different reasons that he presented to us and to the American people, but we did understand an obligation to help Iraq get back on its feet?

Does the gentleman remember the debate about whether it would be loans, or whether we would just simply give the money away, give the taxpayer dollars away?

Mr. EMANUEL. The administration came out and said it would be wrong to do it as loans. We needed, because of the international community, to make it a U.S. taxpayer-funded $87 billion investment.

Mr. DELAHUNT. If I can continue to interrupt the gentleman, I made a point of examining the record in terms of other international donors. There was a conference in the capital of Spain, in Madrid, where other international donors came together. Among them, they were willing to contribute some $15 to $16 billion. By the way, very little of which has been seen yet. I can only find one other Nation that did not insist on the money being paid back. That was Japan, for $1.5 billion.

The gentleman mentioned a word that really made me seek to interrupt, and that was "debt." We are never going to see that money.

Mr. EMANUEL. No.

Mr. DELAHUNT. That is gone. I dare say there have been about other speakers on the floor here this evening that have talked about the failure in this budget to be forthright and honest, and we all know, and the American people should know that the money we have already spent is a down payment, and it is not much of a down payment as to what it is going to cost the taxpayers far into the future.

Mr. EMANUEL. If I may, we have voted in this Congress on $160 billion of investment in the war in Iraq and Afghanistan and the rebuilding of those countries, healthcare, housing, jobs, roads, bridges. As the gentleman wanted to remind me of a point in that debate less than a year ago, at that point, Secretary Powell said the $168 billion is a down payment, that they would need an additional $50 billion, which they will probably seek, just for that exceeding the $200 billion in Iraq, which we will never see, or, when I say "we," the U.S. taxpayers will never, ever see. That is $200 billion.

One can argue whether we are better off or not in Iraq, with Saddam Hussein having been deposed from Iraq, but the taxpayers will never see that investment back. Those are all dollars we are being told on a series of fronts, when we do not have the resources here at home.

My purpose here, before we mark up this budget, and spend the next 3 or 2 months discussing the budget is to draw the parallel between what we are investing in Iraq. On housing, we have 7,000 units of housing planned for Iraq, yet only 5,000 for the United States. We have a water irrigation system, well over $800 million for a new irrigation system in Iraq, for water treatment; in America, in the President's budget, a $500 million cut in water and sewer treatment facilities here in the United States. That goes on and on.

Mr. DELAHUNT. Before the gentleman goes any further, he mentioned, I think, an interesting point that those who are watching here this evening and are listening really should take note of. The gentleman mentioned the figure $50 billion. I do not think there is any Member in this House on either side of the aisle that would deny that $50 billion. But it is not part of this budget. When will that $50 billion be revealed to the American people?

Mr. EMANUEL. As the gentleman probably remembers, last year when we voted on our budget for the United States, they projected a deficit at that point of a little north of $300 billion. Then they brought up the investment of $87 billion in Iraq after the fact, so it was not included in the budget, because it would have made the deficit look far worse.

So this year we are going to vote on a budget that has a $500 billion-plus deficit, nearly half a trillion dollars, and then we will get the request for the war in Iraq, an additional $50 billion put on.

□ 2100

It is basically playing real quick with the hands.

Mr. DELAHUNT. When will we get that? When will that come before us?

Mr. EMANUEL. Mr. Speaker, to my colleague from Massachusetts, we do not know when we are going to get that.

Mr. DELAHUNT. Can I just put out here, I want to submit, because maybe we can make this a friendly wager. I bet that that $50 billion will come to the floor of this House in November or December, sometime after the election because, clearly, that $50 billion is going to exacerbate the deficit. It is a debt. But maybe I am wrong. Maybe the White House will insist on doing the right thing and being honest and forthcoming with the American people and tell us the true cost of where we are.

Mr. EMANUEL. Mr. Speaker, the purpose of this evening, because this administration has two books, two sets of values, two priorities, and two budgets, one for Iraq and one for the United States. And the American people, with 43 million Americans without health care, 2.7 million additional Americans without jobs, 9 million Americans without jobs, close to 12 million Americans now living below the poverty line, are being told on a repeated basis that they do not have the money for schools, for police, for health care clinics. Do my colleagues know in the United States that every year the President's budget cuts, cuts health care clinics and community health care services to the United States to the tune of $600 million to $700 million a year? Yet in Iraq, and we will get to the statistic later, in Iraq since the end of the war, 52 new hospitals and clinics have been opened up, 5 million children have been given vaccines. In the United States, cuts in health care services to the tune of $600 million a year, in the President's own budget. He has a vision, a focus, and an agenda for Iraq not matched or paralleled or equal to the vision for the United States. The United States people are very generous.

Mr. DELAHUNT. Can I just ask a question?

Mr. EMANUEL. Yes.

Mr. DELAHUNT. I think the gentleman mentioned two budgets.

Mr. EMANUEL. Two values.

Mr. DELAHUNT. Two values and two budgets, a budget for the United States of America and a budget for Iraq. But the truth is, the reality is that it is the American taxpayer.

Mr. EMANUEL. One source.

Mr. DELAHUNT. Is paying for the budget for the United States of America, with all our responsibilities, all of the issues that we are concerned about here domestically and internationally, and then the American taxpayer is also paying the budget for Iraq. I really hope that we do not find ourselves in a situation where we will be coming to the floor with a third budget.

The gentleman from Michigan earlier talked about what transpired these past several weeks in Haiti. I can imagine that we will have to provide humanitarian assistance, but are we also going to be picking up additional budgets as we go?

Mr. EMANUEL. Mr. Speaker, that is a fair question. I think that the budget that we are submitting, and one of the things I want to talk about and start off with is that it is not just a budget, and it is not just a set of values, and it is not just a set of priorities. But the President's own cabinet, six members out of 15 have been to Iraq to praise and laud the work of our reconstruction in Iraq. I am going to bring up a couple of things that they have said on their trips to Iraq, because I think it highlights not just the type of dollars we are investing, but what we are saying.

My first is in October of 2003, Secretary Evans of Commerce, the Commerce Secretary said, and I quote from October 16, 2003: "Americans need to come here and see the opportunity." This is about Iraq. "This is great economic opportunity."

Three months after that in Ohio, the President of the United States announces that he is going to have a manufacturing czar. Today, 5 months after that, that job goes unfilled; and since that time, 250,000 manufacturing jobs have been lost in the United States. Yet Secretary Evans is over in Iraq praising the economic opportunity in Iraq; and yet here in the United States, a job for a manufacturing czar to oversee what has happened to the 2 million-plus lost manufacturing jobs in the United States has yet to be appointed. In every budget the President of the United States has submitted to this Congress, the manufacturing extension program, which helps small manufacturers in the United States compete in the world market, has been cut.

We had a prior speaker who noted the fact that the budget is supposed to have $130 million; the President submitted $36 million or $10 million, way off the mark. This helps 50 workers or less in manufacturing and in places of employment. We do not have a manufacturing czar. The budget of the United States eliminates manufacturing opportunities, yet the Secretary of Commerce of the United States is in Iraq praising the economic opportunity.

In January of 2004 Labor Secretary Elaine Chao visits Iraq. Quote, on January 28: "Democracy is an essential part of creating a new Iraq, and for democracy to move forward in a positive fashion, finding employment for the people is very important."

It is interesting, because at that point it was one week before the President's budget was submitted to Congress, just a few days after the President's State of the Union; and yet the President's budget for the United States has dislocated adult training and dislocated worker programs, cut by $150 million in the United States, yet opening job training in Iraq.

Mr. DELAHUNT. Mr. Speaker, if I could interrupt very briefly, it sounds like an economic stimulus package.

Mr. EMANUEL. Baghdad is doing well.

Mr. DELAHUNT. Maybe, just maybe we can find the secret so that we can avoid a jobless recovery for Iraq and learn those lessons so that we can replicate them here in the United States.

Mr. EMANUEL. The President's budget also freezes job training. We have a cut, as I said, of $151 million in dislocated worker problems, dislocated from economic trade and globalization. Yet, at that time, with one week to go in the President's budget, the Secretary of Labor is not in her office, is not over in the White House negotiating on behalf of American workers. She is talking about the employment opportunities in Iraq.

Mr. DELAHUNT. In Iraq.

Mr. EMANUEL. In Iraq.

Mr. DELAHUNT. So if you are looking for a job and you want the gentleman from Ohio (Mr. RYAN), who was the last speaker before we took the floor, if you are one of his constituents in Ohio.

Mr. EMANUEL. Where there is 16 percent unemployment rate.

Mr. DELAHUNT. We could recommend that somehow they contact the Department of State or the Department of Commerce and maybe there are jobs in Baghdad or Kirkuk or Basra. There are certainly none in Ohio.

Mr. EMANUEL. Mr. Speaker, I think the gentleman probably knows, right after the war, we were paying hundreds and thousands of Iraqis for no-show jobs, literally paying them; but they did not have to work, just to put money into the economy of Iraq. Now, I am from Chicago. I think we know something about no-show jobs. We think we have written the book on no-show jobs. There are so many no-show jobs in Iraq where people do not have to show up for work, but get paid, you can make an alderman in Chicago pretty jealous; but that is what is going on with U.S. taxpayer dollars.

Let me tell my colleagues another thing. Just recently, less than a month ago, the Secretary of Health and Human Services, Tommy Thompson, visits Iraq, and I quote: "The U.S. aid to provide universal health care to Iraq should not be compared to the efforts in the United States to guarantee the same thing. Even if you don't have health insurance in America, you get taken care of. That can be defined as universal health care."

What a fascinating, insightful take on universal health care. We have 43 million Americans without health insurance; yet we have universal health care provided in Iraq, but not here in the United States.

Mr. DELAHUNT. I guess maybe one would call it socialized medicine is good for Iraq, but universal health care here in the United States is, if the gentleman would help me with the word; it escapes my mind.

Mr. EMANUEL. It would be a government-controlled program.

Mr. DELAHUNT. A government-controlled program.

Mr. EMANUEL. So my colleagues understand, as we have opened 52 hospitals and clinics in Iraq, just a month earlier than the President's budget, he froze the National Institutes of Health's budget; rural health care was cut by $638 million, and $785 million the next year; a 64 percent cut from health professionals training programs. We have 33 million Americans who work full-time without health care, and we have underfunded the Children's Health Insurance Program.

Mr. DELAHUNT. Mr. Speaker, while here in this country, and I am sure this has impacted just about every Member's district throughout the entire United States, while in this country, community hospitals that tend to be the hospital of the first response for that sudden heart attack, for that emergency room treatment, they are being closed; and yet the American taxpayers are building how many hospitals?

Mr. EMANUEL. My last count says in Iraq there have been 52 hospitals and health care clinics that have opened up since the end of the war.

Mr. DELAHUNT. That is a pretty good record, for Iraq.

Mr. EMANUEL. It is very good, a very good record. I am impressed. I am very, very impressed. They have done a great job. There has been in Iraq free training provided to 22 Iraqi health professionals and 8,000 volunteers. Yet a $278 million cut, 68 percent, to the health professionals training program here in the United States.

Now, what is it that Iraq needs about the health care training of doctors and nurses and technicians that is not necessary here in the United States? Any thoughts?

Mr. DELAHUNT. I have none.

Mr. EMANUEL. Mr. Speaker, $793 million for health care facility construction and medical equipment replacement throughout Iraq. Yet there has been a $94 million cut to community access programs here in the United States, a 90 percent cut in that budget. Mr. Speaker, $28 million in Iraq for operation and staffing of 150 clinics for 3 million Iraqis. Yet there has been a 78 percent cut, that is $789 million in all health activities to provide health care access in rural America.

Mr. Speaker, I did not get to it, but let me continue. The agricultural Secretary, Ann Veneman, was in Iraq on November 13, 2003, praising our investment, she calls it how our government can help. Need I remind her, it is our taxpayers, not our government. But yet, in the President's budget, $198 million has been cut from USDA farm loans, crop insurance, disaster relief, and field offices, representing about a 4 to 5 percent cut in the agriculture budget.

There have been a total of 6 cabinet Secretaries who have visited Iraq. Do my colleagues get a feeling that the cabinet Secretaries have been outsourced to Iraq in the many ways that our jobs have been outsourced to India? They are focused. We have the Commerce Secretary there, the Labor Secretary there, the Agriculture Secretary there, the Secretary of Defense is there, the Secretary of Health and Human Services is there, the Secretary of State is there, not counting the deputies. Yet in every area corresponding, and we are going to go through that in a little more detail, we have seen cuts here at home in the President's budget.

Mr. DELAHUNT. But the Government of Iraq is being well financed.

Mr. Speaker, if I can continue for a moment, because the picture that the gentleman is drawing is rather clear to me. I noted in a report from my hometown paper, the Boston Globe, that the Senator from Arizona, Senator McCAIN, in response to a question in a very forthright manner made this statement: "The era of big government is back and Republicans seem to like it." I presume that he was referring to Iraq or maybe he was referring to that deficit that is creating a future Armageddon for our children, our grandchildren, and even our friends in North Carolina.

□ 2115

Mr. EMANUEL. Let me, if I could, to take back a little time here, I have put up another chart dealing on education in Iraq and education in America and job training.

In Iraq, we have renovated a little over 2300 schools in all of Iraq. 1.5 million secondary school student kits have been sent out. 800,000 primary school kits have been sent out. In America, the President's Leave No Child Behind has been underfunded by $8 billion.

Teacher quality impact aid and after school programs have been frozen in his budget. Reading programs are cut by $8 million. And 38 other educational programs in the President's budget have been eliminated.

In Iraq, 2,300 schools nationwide have been either rebuilt and opened since the end of the war. Not that Iraqi children do not need an education, not that they do not need their books and textbooks, but I would hearken, and I would hope others remember in the United States, we have teachers who are paying for school supplies out of their own salaries, because the school budgets, educational system has been cut so bad we do not have resources for our kids. Teachers are paying for it. Not the government taxpayers, which is funded.

Iraqi children are going to have a great future. We should have the same type of future, same commitment to American children.

I want to point, if I could, to a few things we did here on the chart. Job training in Iraq. $60 million for demobilizing and job training for 130,000 enemy combatants. $353 million for American Iraqi enterprise fund and job training.

Mr. DELAHUNT. Mr. Speaker, can my colleague repeat those? How many enemy combatants? Presumably those are former Iraqi soldiers.

Mr. EMANUEL. That is exactly what it is.

Mr. DELAHUNT. In other words, they would be Iraqi veterans of war.

Mr. EMANUEL. The gentleman took the words right out of my mouth. Yes, that is correct, former soldiers.

Mr. DELAHUNT. Former soldiers. I only wish that the American veteran was treated as well.

What I find particularly unacceptable is the budget that was submitted by this White House and this President, as far as it relates to the American veterans. The various veterans service organizations, the American Legion, the VFW, the Disabled American Veterans, Paralyzed American Veterans claim that the White House budget, as submitted to this Congress, one, would only worsen the backlog processing disability claims; secondly, reduce the number of VA nursing home beds just as the number of veterans who need long-term care is swelling, and force some veterans to pay a fee simply to gain access to the VA health care system, despite the promise that this Congress made back in 1996, that if you were an American veteran, you were entitled to health care, provided by the Veterans Administration.

This is a report in the Washington Post dated last week. The commander in chief of the VFW called the President's proposed budget for veterans health care, and this is his quote, "a disgrace and a sham." And, yet, we are supporting health care for 130,000 former Iraqi soldiers, who I am sure are benefiting from the largesse of the American taxpayer. It is time we take care of our own, Mr. Speaker.

Mr. EMANUEL. Mr. Speaker, this is a tale of two budgets. Let me point to one thing: $353 for an American Iraqi enterprise fund and job training. $353 million. Yet, the President's budget cut $316 million in the vocational education program. That represents a 24 percent cut there.

Let me go on. There is a $20 million grant for higher education and development projects creating U.S. Iraqi university partnerships to expand access to higher education for all Iraqis. $100 million cut for the Perkins loan, which represents a 60 percent cut in that program here in the United States for college education, a $327 million cut in Pell Grants for low and moderate income children, closing the door to higher education for those children. We got a grant for Iraqi children going to college.

In Illinois, my home, the average graduate from the University of Illinois gets a diploma and $20,000 in debt because of the cost of higher education in the United States. Yet, in Iraq job training and higher access to universities.

Expanding literacy. We have $40 million dedicated to Iraq for rebuilding 275 schools and training 10,000 teachers for Iraqi schools. Yet, we have cut $8 million from reading programs in the Department of Education for American children.

Another statistic. USAID accelerated learning program provides intensive personal education to low income and at-risk Iraqi children. At-risk Iraqi children and low income Iraqi children. The President's budget, $177 million cut in funding for Head Start, even though Head Start could only serve a 13.5 percent of the eligible children because of funding restrictions. Children who are eligible for Head Start. We do not have the resources for Head Start, yet we have funding for at-risk Iraqi children.

This is just an example of the types of education cuts we are making here at home and the types of investments we are making overseas in Iraq.

These are not the priorities of the American people. These are not the values of the American people. These are not the economic investments the American people called on. And our result, all these cuts in education and here at home, all these cuts at at-risk children here at home, all these job training cuts here at home, as Ronald Reagan once said, facts are a stubborn thing. 2.7 million Americans have lost their jobs since President Bush has been President. Two million more American children have entered the levels of poverty who have left the middle class.

Mr. DELAHUNT. Mr. Speaker, we know that we have a jobless recovery. Clearly it is an issue that has grabbed the attention of the American people. But there is another aspect of our economic picture that I think should disturb all of us on both sides of the aisle, and I hear nothing coming from this White House addressing it. We all agree that there has been a net loss of jobs. In other words, jobs have been created, but millions of more jobs have been lost than have been created. But what is untold here, what has not been said, and I think we all owe an obligation to tell this to the American people and we should start here tonight, is that while we have a jobless recovery, we have a wage recession. We have a wage recession. The new jobs that are replacing the old jobs are at wage scales that are 21 percent less than the jobs that they replaced.

Now, that is like if you are unemployed and you find a job after your unemployment runs out, because we do not count those folks anymore, we call them discouraged workers, but if you are lucky enough to find a job you are taking a 21 percent pay cut. What does that do in terms of the hopes and dreams and the living standards that you have for yourself and your families?

Mr. EMANUEL. Mr. Speaker, if we are going to spend $3 trillion, I would think we would get more than 21,000 jobs out of it. And of the 21,000 jobs that were created last month, not the 200,000, unknown, but it is right there in the statistics, of the 21,000 jobs, 20,000 of those jobs were government jobs. So in the private sector of the United States only created 1,000 jobs last month.

Jay Leno had a funny joke and I must repeat it. He says, "You know why President Bush is in such trouble? He is overseeing more gay marriages than he has jobs created in the United States." And it captures pretty much what is going on. We have a jobless economy and an endless occupation in Iraq. It has resulted in the fact that the American people are calling for a new direction and change in our priorities. And these budgets reflect the problem we have here at home because of what people are seeing is that our future is being promised to Iraq, and the people of Iraq, and that the same commitment is not being held here at home.

The American people have been very generous. They will continue to be generous, but not at the expense of their future and their children's future.

I would like to turn to health care, since we have done job training and education. In the area of health care, as I mentioned just the other day, Secretary Thompson visited Iraq opening hospitals. In Iraq, 52 hospitals have been renovated. Three million children under the age of 5 have been vaccinated in Iraq. And the President's budget, health care centers for the second year in a row have been cut $638 million this year, next year, $785 million.

I want to read a couple numbers. Iraq, free training provided to 2,200 Iraqi doctors and nurses and 8,000 volunteers. In the United States, $278 million cut to the health professionals training program for doctors and nurses and other specialists. Free training in Iraq for 2,200, $278 million cut here in the United States.

In case anybody has missed it, 43 million Americans without health insurance. Inflationary costs rising at 10 to 20 to 20 percent a year. $793 million for health facility construction and medical equipment throughout Iraq. A $94 million cut to community access programs to coordinate health care services to the underinsured here in the United States.

In case you are missing this, kind of one strategy for Iraq, one strategy for the United States. $28 million for operation and staffing of 150 health clinics for 3 million Iraqis, a $78 million cut in all health activities to provide health care access in rural America.

Let me ask a question. Is there one group that works on the budget for the United States in this administration and another group that does the budget for Iraq? I mean, does the right hand not know what the left hand is doing? We have a health care crisis.

Mr. DELAHUNT. I will tell the gentleman presumably there is a stealth OMD somewhere. Maybe it is in the Department of Defense. My colleague knows how they have that office of strategic planning.

Mr. EMANUEL. Mr. Speaker, I know this sounds horribly rude and sarcastic, but could David Kay be appointed to coordinate these two budgets together? I mean, he is available after all.

If one looks at this, $44 million in community development projects including child care centers and youth centers in Iraq. $44 million for child care and youth centers. The President's budget for the United States, a funding freeze for all child care programs for helping parents who want to go to work and put their kids at places that are safe and secure. And it is projected to climb to $53 million in 2006. That is a fascinating way to leave no child behind in Iraq. I wonder what the strategy is behind that.

Mr. DELAHUNT. Mr. Speaker, in terms of the health care, I am convinced that it is some sort of socialized medicine initiative that is surprising, since this administration decries efforts to adopt a universal health care coverage Federal policy here in the United States.

□ 2130

Mr. EMANUEL. Let me add one other thing. Ensuring a nation of healthy children. This is the last point on our health care chart; 4.3 million Iraqi children have been immunized, yet the maternal and child health care block grant has been frozen. Prenatal care in Iraq and food provisions for 240,000 pregnant women, full funding. Yet we have cut WIC here and frozen it and frozen the Healthy Start program. 100 percent of prenatal and infancy needs of all Iraqi citizens, and yet we have frozen, which means a cut of care in the pediatric graduate medical education and Title 10 family planning here in the United States.

Now, why is it that 4.3 million Iraqi children need to be immunized. I assume that is a good idea. Any thoughts?

Mr. DELAHUNT. I think it is an excellent idea.

Mr. EMANUEL. Why would you freeze then the maternal and child health care block grant, which basically does the immunization programs here in the United States? What would make you freeze it here in the United States, but somehow think that 4.3 million Iraqi children deserve that type of aid? I think it is a good idea. My father is a pediatrician. I am the son also of a radiologist nurse. I happen to think these investments are good. Guess what, the administration is right about one thing, the Iraq of tomorrow will be better than the Iraq under Saddam Hussein, because it is being funded by the taxpayers of the United States.

Mr. DELAHUNT. The question is will America of tomorrow be better, given the policies enunciated and the policies we have witnessed over the course of the past 3½ years? That is the question facing the American people as we look towards November of 2004, when probably December of 2004 we will be provided with a supplemental budget that will come as no surprise to those of us that work here in this institution, but that we know will further add to that debt that is outstanding.

Mr. EMANUEL. I want to again remind us of one of the headlines here. Training of health care professionals, 2,200 Iraqi doctors and nurses will get free training, $278 million cut in the United States' budget in this area.

We will go on to the next chart of the area of security and justice and investment in what we call safety of our streets versus what we are doing in Iraq. In that area we basically have, I think, an interesting, very interesting set of priorities. And again, it is a tale of two budgets, two values, two priorities.

In Iraq, we have placed 150,00 police and security personnel on the street. I do not know if you know this and it may come as a surprise to everybody. But in New York City, there are 3,000 less police on the street since 9–11, because the President's budget we have cut a billion dollars in the police program to keep police doing community policing in the United States. Three thousand less police on the streets of New York since 9–11. That is a fascinating way to execute a high school strategy. Yet, in Iraq, 150,000 police and security personnel.

Mr. DELAHUNT. Can I interrupt for a moment? During the 1990s, we saw a profound decline in the rate of violent crime. Many criminologists and others in the criminal justice system attributed the significant portion of that decline in the so-called COPS program, where the Federal Government provided the funding for the training and the hiring of police and other law enforcement agents for State and local and county investigative agencies, highway patrol, local police departments. Clearly it made a difference. It made a difference.

In this budget from this White House, that program has been cut 87 percent. I spent 21 years of my life as the chief prosecutor in a jurisdiction in metropolitan Boston. I fear, and I say this truly, what these cuts are going to do in terms of the next 2 or 3 years as far as the instance of violent crimes all over our country, in our communities. We are losing police officers. Every single community has suffered some reduction in the size of their police forces, their public safety agencies. And yet we hear, coming from the White House, talk of homeland security. There is an inconsistency here. The reality is not matched with facts or, rather, the reality is not matched with the rhetoric.

Mr. EMANUEL. Let me add, as I said, that we have 150,000 police being paid by the United States taxpayers for 150,000 police officers and security personnel in Iraq. I would like that to be noted that in my hometown of Chicago, we do not have an additional bio-terrorist center that we were seeking for fire department.

In veterans, in Iraq, we pay the salaries and benefits for 170,000 Iraqi military and security personnel. In America, 260,000 children of active duty military personnel have been dropped from the earned income tax credits. It is a very interesting strategy. Again, two budgets, one for Iraq. One for the United States. Here, helping the police and fire departments combat terrorism. In Iraq, a $500 million fund to counterterrorism policing program in Iraq; $50 million for emergency global peacekeeping operations; $80 million for disaster assistance. In the United States, a $648 million cut in the Department of Homeland Security for funding of police, firefighter and emergency personnel. In Iraq, you have made an investment close to $630 million. In the United States, a cut of $640 million for the same activities, the same type of strategy.

We have also had a $246 million cut in the firefighter assistance grants.

Protecting ports, we have made $150 million investment for border protection in Iraq. The port of Umkasar has been completely rebuilt. It is a deep-water port in Iraq. Yet, here a $79 million cut to port security upgrades, representing a 64 percent cut in the budget for port security here in the United States.

Supporting law enforcement, police departments, $76 million investment in Iraq's defense corps, training and development, $25 million for counter-drug assistance in Iraqi police, $200 million for Iraqi security for judges, prosecutors and courthouses, a $500 million investment for facility protection and demining in Iraq, $35 million for non-proliferation anti-terrorism demining in Iraq. Yet, a $659 million cut to the Department of Justice programs to assist local communities in hiring, training and equipping police officers for America's streets.

Again, a juxtaposition where one is getting invested in because you need the resources to deliver the types of services of police protection. Here in the United States we are making corresponding cuts in the same areas.

Mr. DELAHUNT. If the gentleman would allow me for just a moment, I think what I find particularly disturbing is, and we discussed this last week, those of us that have come to this floor on a regular basis to discuss Iraq, the monies that are continuing to be paid to Iraqi, so-called Iraqi opposition groups, we talked about an individual by the name of Ahmed Chalabi, who when asked did he feel at all chagrined by the fact that the information that he provided through his organization, the so-called Iraqi National Council, was false. He said no, he did not. I am in Baghdad. Saddam is gone. Well, Saddam having gone, we can all agree is good. But the information that he provided, the defectors which he purportedly coached, gave information which police led eventually the American people in terms of the rationale for all military intervention.

This same Ahmed Chalabi, who was convicted of embezzling some $300 million from a bank that he founded and established in Jordan. He was convicted in Jordan and sentenced to 22 years in prison. He departed rather quickly from Jordan in the middle of the night and he is now serving on the Iraqi Governing Council and has taken the portfolio, the finance portfolio, a convicted felon, a convicted felon who was charged and convicted in a neighboring nation, Jordan, who has historically been a solid ally of the United States, has attempted to foster peace with Israel, and we never consulted that kingdom of Jordan; and we are continuing to pay his group some $350,000 a month. And meanwhile, as the gentleman has pointed out, we cannot build roads. We cannot do school rehabs or reconstruction. We cannot provide veterans services benefits for our own people; and we are paying $350,000 a month.

Mr. EMANUEL. I want to turn to transportation. In Iraq, the President has budgeted $835 million for three new Iraqi airports, $240 million for road and bridge repairs. Last year, the President's budget cut 10 percent of the Corps of Engineers. This year an additional 5 percent. We are struggling beginning with a highway and transportation bill here in the United States, that are investments that everybody knows in this Chamber, in this body, both in a bipartisan consensus, that it is essential to our investment and our economic strategy.

Iraq already has a highway and mass transit bill. They are getting new airports, three of them. Chicago, we are trying to rebuild our O'Hare Airport, which provides 150,000 jobs. They have $240 million for roads and bridges. Yet, the President's budget for the United States cuts $300 million in Federal highway funding, $50 million in essential air service program, $318 million cut in Amtrak, $600 million cut in mass transit funding. These are not the investments that lead to an America ready to seize the 21st century and make it as great as the 20th century. These are not the type of economic strategies.

I know there is bipartisan consensus. The one thing you would think if you produced only 21,000 jobs last month when you need 200,000 a month just to stay even, the economy has lost 3 million jobs since the date the President was sworn in. You would think the one thing this Congress could do is create a transportation and investment bill because you know it will create jobs, and we cannot do that. We are talking about a 1-year extension. Maybe 2-year extension.

We do not have that for Iraq. We have a strategy for Iraq. We have three new airports. We have roads. We have the Umkasar Port so it can move goods. It is an economic strategy. We do not have that for the United States. We cannot get the Republicans in the House and in the other body and the White House to agree on an economic strategy. The one thing we would have is a highway bill for the United States, and the President of the United States threatened to veto it. You would think with 2½ million additional Americans out of work since the time you have been sworn in, you are the only President since Herbert Hoover who will have job losses under your watch, and your only strategy is to veto a bill that would put people back to work.

It takes a unique insight to economic strategy to come up with that strategy for the United States. And to submit a budget that has cuts in mass transit, cuts in Amtrak, cuts in air service, cuts in the Corps of Engineers, so we can invest in our waterways, and yet in every corresponding area in Iraq, they will get a new deport which they got, three new airports, many new roads and bridges so they can move their goods and services, it is a bright future in Iraq, and yet, that same strategy seems to have failed us here at home.

□ 2145

It boggles the mind how one could see how here at home we cannot get an agreement on an investment strategy for the United States. One thing that we know for sure, because you cannot build roads in the United States built by Japanese, Chinese or other people, it would be only to be built by the United States, workers who get paid good wages and we cannot get an agreement, and the only reason is because we are sitting there with Presidential veto over our neck. It is a unique job strategy to threaten to veto a bill that would produce jobs in the United States. It comes from the same strategy that thinks outsourcing is a full employment program; and yet in Iraq, God bless them, they are going to get three new airports and about $250 million in new investments in roads and bridges.

Mr. DELAHUNT. Mr. Speaker, I would just say that I think it is important to try to paint the macropicture, if you will, and that is, in the President's budget, he put forth a package of some $257 billion. The Senate, the Republican Senate, his own party, came through with a figure of some $318 billion. The gentleman from Alaska (Mr. YOUNG), the chairman of the appropriate committee in this House, has valiantly and assiduously attempted to secure more funding because not only do we need our infrastructure updated, but for the very reason that my colleague articulated, it produces jobs, tens of thousands, hundreds of thousands of jobs so that our jobless recovery, with its attendant wage recession, will receive a stimulus that will hopefully lift all boats.

Mr. EMANUEL. Mr. Speaker, I would just like to note that we go back to the fact that for many months we paid Iraqis wages who never showed up for their jobs. Nothing like that has ever been envisioned here at home; and so as my colleague said, we are stuck and we have America stuck in a jobless economy, in an income recession, and what has resulted is it will be the first President in the United States since Herbert Hoover who has a net loss of jobs in the United States under their stewardship, and yet the Secretary of Labor and Secretary of Commerce were sent to Iraq to praise and come up with an economic strategy that would have a better tomorrow than the one they have.

I want to bring up two other areas before our time is up because I think it is important.

In Iraq, we are investing close to $3.5 billion for water and sewage services repair. In the President's budget there is a $500 million cut representing close to 40 percent for a clean water State revolving fund. It provides loans to local communities to rebuild their sewer system and their water treatment facilities. Every community in this country has borrowed from that fund, the revolving fund. It is how we keep our water system and drinking water safe in this country. We have a $500 million cut in that area for the United States and a $3.5 billion investment in Iraq's, in water, drinking water. It is one of the great standards in which you decide whether a country is part of the developed world or developing world, and yet we are making a $3.5 billion investment in Iraq's water system and a $500 million cut here at home for America's drinking water.

It is a fascinating strategy. I have never thought of it. I think it takes unique insight to come up with those two conflicting strategies. Yet the one administration, two sets of taxpayers, two different investment strategies.

On top of that $3.5 billion, there is $153 million invested in Iraq for solid waste management treatment and $775 million for water resources improvement. The United States, we get cut in those programs. $875 million in Iraq for irrigation and wetlands restoration; $2.8 billion for safe drinking water programs. In the United States, we have had many of the programs dealing with our environmental protection cut.

That is not, both the drinking water and environmental protection, what I would consider a consistent and thoughtful strategy. The only place consistency exists is in Iraq and the investment in Iraq's future, not one here at home. That has been the strategy of this administration.

Would my colleague want to add?

Mr. DELAHUNT. No, because I think what my colleague has said is so informative. I think it reveals the flaws in not only the foreign policy but particularly in terms of the economic strategy of this particular White House.

There is another observation I would like to make because the reality is that the median income of the family of four in the United States is declining. If we continue along this path, we are in danger. We are in danger of creating a gap between those that have and those that do not have. While we are attempting to create a middle class in Iraq, because the middle class is absolutely essential for a democracy, we know that, we are seeing our own middle class shrink in the United States. The most recent statistic is that one percent of the American population is now earning 17 percent of our income.

MEDICARE PRESCRIPTION DRUG PLAN

The SPEAKER pro tempore (Mr. BONNER). Under the Speaker's announced policy of January 7, 2003, the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) is recognized for 60 minutes as the designee of the majority leader.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise tonight to dispel the many myths that too many Democrats in this Chamber and Presidential candidate John Kerry have been spreading at the historic progress that this Republican Congress has made and that the President signed making finally the promise that was made to seniors on prescription drugs come true.

The Mediscare that is taking place is shameful. They are trying to frighten seniors into believing that this is not a bill that will help them, help seniors; and that is a shame. When the elderly are watching TV and they see the nasty ads on moveon.org, which are very despicable ads, I think that the record needs to be set straight on exactly the benefits of the Medicare prescription drug improvement bill that was passed and finally signed into law.

I held some town hall meetings in my district, and we discussed the myths that were out there; and when I gave the seniors the facts, every one of them was very happy that this bill passed and is law and will benefit them. Let me give my colleagues an example.

Myth number one is that seniors will be forced into a Medicare prescription drug plan. That is so far from the truth. The Medicare prescription drug plan is entirely voluntary. No one will ever be required to join. If you do not need it or if you do not want prescription drug coverage, you certainly do not have to enroll, not now, not ever, never, if that is what you want.

In addition, you actually are prohibited from joining the prescription drug plan if you already receive coverage from another plan. Many seniors are fortunate because either they or their spouse retired from a company or government entity that offers prescription drug plans.

The second myth that I was very happy to dispel was if they had prescription drug coverage now from their previous employer or their spouse's previous employer that that coverage would automatically be dropped. The fact is that the nonpartisan Employee Benefit Research Institute actually predicts that virtually no employees will lose coverage because of the very lucrative tax-free incentive that employers associations and labor unions will receive through this new law.

It is very interesting that many of the congressional offices had calls that were placed when this bill was under consideration, and they were placed by many former union members who were frightened into believing that this bill would not benefit them. What the unions were not saying is that they would actually receive funding as an incentive to continue the prescription drug plan that they may have for retirees.

When you look at the number of employers and associations and labor unions offering health care benefits, the number actually has declined from 66 percent in 1988 to only 34 percent in 2002. That was because of the rising costs of health care and prescription drug coverage.

This bill allows employers to negotiate better discounts from manufacturers and also provides incentives for them to continue their prescription drug coverage. This is what employers have been waiting for, and that is, some government incentives to continue their prescription drug coverage. For every dollar that the employer or union spends between $250 and $5,000 for the individual's coverage, for every dollar that they spend there they will actually get a 28 cent subsidy, and that is a tax-free subsidy which if you do the math equals about a 40 percent tax-free amount. Never before has government ever offered this kind of an incentive to private enterprise to continue health care coverage.

The third myth which, again, seniors, because of the moveon.org ads and some mailings that went out in many districts where there is a high number of seniors, and that was the myth that the new law would provide them with inadequate health care prescription drug assistance. The truth of the matter is that when a full prescription drug benefit takes effect, seniors could see their senior prescription drug spending reduced 25 to 75 percent, and that would be in exchange for a small premium estimated to be somewhere around $35. If we had not passed the bill last year, most would continue to pay full retail value for prescription drugs and would not see any savings unless you were covered under a private plan.

The fourth myth was that it only provides coverage for drug costs up to $2,250. It does include a donut provision and individuals are being told that there was no coverage for catastrophic expenses. Once armed with the truth, the seniors were very convinced that this was a good bill because the Medicare prescription drug plan pays 95 percent of catastrophic costs of $3,600 or higher and the average senior spends somewhere around $1,450 a year on prescription drugs, and the prescription drug plan included in this bill will actually cover about 75 percent of the cost between $250 and the $2,250. This is $750 more than the average senior spends.

For those expenses between $2,250 and $3,600, which are the "donut," there still is an estimated 25 percent discount that will be available and then the person will only have to pay 5 percent of the drug costs once they reach that $3,600 amount. In other words, the government will be paying 95 percent of the pharmaceutical costs above $3,600.

□ 2200

Unfortunately, one of the other scares that were perpetrated on seniors was that it privatizes Medicare. This bill modernizes Medicare to provide better health care within the existing Medicare program. Medicare will continue to be administered, controlled, and regulated and, lest we not forget, paid for by the Federal Government. Medicare already provides health care from private doctors, hospitals, and even allows participation in private integrated managed health care plans. This bill, which was signed into law, actually gives seniors more of a choice in doctors while providing the benefits that absolutely needed to be guaranteed.

The sixth myth was that there were no price controls in the Medicare prescription drug bill and that the cost of prescription drugs was not addressed. Again, another untruth that was told because some people are just angry because we finally did pass a Medicare prescription drug bill, and that issue will now be this side of the aisle's to brag about and to tell people about back in their district.

The bill does include reforms that will accelerate cheaper generic drugs to the market and it also removes the artificial "S Price" requirement. The Congressional Budget Office estimates that with these changes consumers will achieve billions of dollars in savings.

One of the other savings that we actually will achieve from this bill is that we will be keeping seniors out of hospitals. Let me give a very brief example:

I know of a woman in my district, her name is Fran, and she was on a multitude of medicine. She was 85 years old. Fran was actually cutting the medicine in half because she could not afford the cost of the prescription drugs. With this kind of coverage, she clearly will be not hospitalized as often and she will have the medication that she needs.

In the meantime, she is taking advantage of some of the cards that are out there. She will be very happy when the card comes out in May of this year, the discount card, and also she prevailed upon her family to help her. This prescription drug plan that was finally signed into law, Mr. Speaker, means that she will not feel as if she has to be dependent upon her family.

Another myth is that it does nothing to help Florida with our drug and health care costs. As you know, Florida is a great haven for seniors because of the wonderful weather and low taxes. This bill actually provides billions of dollars to the State for seniors and for those duly eligible Medicare and Medicaid retirees. This proposal provides 650,000 lower-income seniors in Florida, who are not eligible for Medicaid, $10 billion worth of prescription drug benefits. It also provides an additional 490,000 Floridians who are duly eligible for Medicare and Medicaid with over $6.7 billion annually in prescription drug coverage with no gap in that coverage.

Currently, there are a large number of seniors in Florida who are reimporting drugs from Canada, and there was a fear out there that they would no longer be able to continue to import pharmaceutical products from Canada. When I informed them that the truth of the matter is that H.R. 1 requires both HHS and the Federal Trade Commission to study the safety and trade issues surrounding drug reimportation so that their safety would be of paramount concern, and that we are going to resolve the safety issue in an expeditious manner, they felt a great deal of comfort in that.

One of the last myths that happily we dispelled was that it does not address preventive care. The fact is that under H.R. 1, all new enrollees will be eligible for a Welcome to Medicare physical. In addition, all Medicare beneficiaries will receive cholesterol screening and be part of a disease management program.

Senator KERRY and our colleagues on the other side of the aisle should be ashamed. When this monumental bill came before Congress, Senator KERRY did not even take the time to cast his vote or to speak before his colleagues. Yet now he stands in criticism. Moreover, time and time again he voted to cripple America's health care system by opposing curtailments on frivolous lawsuits that drive up the cost of health care for all Americans.

Seniors deserve peace of mind when making health care decisions. For the first time in history, we are protecting seniors by preserving their Medicare benefits while providing them with more choices. And, again, I want to stress, this is a voluntary program.

Mr. Speaker, I am very pleased to have some of my colleagues here this evening, and I want to yield to the gentleman from North Carolina to give him an opportunity to express his views because I know he was very supportive of this bill.

Mr. HAYES. Mr. Speaker, I thank my friend and colleague, the gentlewoman from Florida (Ms. GINNY BROWN-WAITE), for yielding to me.

We have been here a long time tonight, Mr. Speaker, and I cannot believe some of the things that I have heard. My good friend and colleague, the gentleman from Massachusetts (Mr. DELAHUNT) is a liberal, whose views are widely respected. He has been here many years and there is no question about his philosophy. It is admirable that he sticks to his guns.

My colleague from Illinois is the son of a pediatrician, a very noble profession, but he failed to mention that he was integrally involved for 8 years in the "immaculate deception" known as the former administration that brought America's citizens the largest tax increase in history; the administration that brought this country the *Cole*, the bombing of Khobar Towers, virtually looking the other way on terrorism, yet he has the nerve to stand before us and the American people tonight and point to, in a mocking way, a way that mocks our courageous men and women in uniform in Iraq for using money that was taken from the Iraqi people, extorted and stolen by Saddam Hussein, our men and women are taking that money and helping them to build a society that not only puts them on their feet, but takes the feet out from under terrorists in Iraq and around the world.

No, America does not have to ask permission to defend our citizens, our shores and our country from terrorists. I think it is important that we focus on that tonight as we look at one of the many achievements of this majority party and this administration of George W. Bush.

We have cut those taxes, we have put money back in the pockets of Americans so that they grow our economy. We have equipped our men and women in uniform so that they can protect us from terrorists, whether they be from Iraq, Afghanistan, or wherever they might be. And also we have spoken to the needs not only of our senior citizens but health care across the board.

My colleague tonight has chosen to bring forth some important facts about Medicare. And what she has said is true, unlike many of the other things we have heard tonight. Let me personalize for a minute, if I can, the things that my friends, my constituents in North Carolina's Eighth District have said about Medicare reform. And also, I might add, that I was not good in calculus, Mr. Speaker. But in basic math I was okay. Two times zero is zero; ten times zero is zero. Forty years of control by the other party yielded no Medicare reform nor prescription drug benefits, but it has yielded an awful lot of empty rhetoric.

America's seniors know this body is committed to strengthening and sustaining Medicare. We are closely monitoring its implementation and eagerly anticipating the roll-out of the discount card this spring, making the way for the Part D benefit in 2006. Mr. Speaker, America's seniors faced a challenge over the years. Medicine made advances in ways they never imagined as children, but their health care delivery system, Medicare, was stuck in the 1965 mode. Medicine was modern but Medicare was not.

The legislation this body passed closes a huge gap between the Medicare system and the way modern medicine is practiced. My colleagues, the gentleman from Georgia (Mr. GINGREY) and the gentleman from Texas (Mr. BURGESS), I am sure, will speak to that.

Mr. Speaker, my district stretches from the urban center of Charlotte, North Carolina east of Fayetteville, and includes all the beautiful rural communities in between. In January, I made nine stops across my district to talk with folks about the new Medicare reform plan. Overwhelmingly, my constituents told me that they were grateful that finally this body had acknowledged their need for real prescription drug coverage, not some pie-in-the-sky promise that promised but never produced. Over and over again, they told me how grateful they were that finally the help they needed was on the way.

Mr. Speaker, I want to tell you a little more about what the folks are saying at home. Before the passage of this critical legislation, county officials told me that Medicaid was an increasing burden they could not bear much longer. Now county officials tell me with Medicare instead of Medicaid assuming the first payer prescription drug cost of over 235,000 North Carolina beneficiaries who are eligible for both programs, the State will save $882 million over 8 years. Real savings to our counties and our communities.

Before the Medicare Modernization and Prescription Drug Benefit Act, doctors in my district said the reality was they were going to have to stop seeing Medicare patients because the cost was too great and the unfair payment reimbursements were far too low. Now doctors express relief the 4.5 percent cut in 2004 and additional cut in 2005 was blocked. Instead, physicians will receive a 1.5 positive update.

Physicians agree it makes sense that Medicare provides screening tests for early detection of diseases and diabetes, and initial wellness exams for seniors, and it goes on and on.

Let me hasten to add what people actually have said. Greg Wood, President and CEO of Scotland Health Care System, Scotland County's third largest employer, which, I might add, this is a jobs bill, because proper reimbursements adds jobs, particularly in rural communities for health care. This is what Greg Wood said.

"For two consecutive months, we have been operating in a budgetary deficit. With 40 percent of patients participating in Medicare, the program was a critical factor in influencing the economic success of the health care system in Scotland County. With the new legislation, we will be able to get back several hundred thousand dollars of this revenue as well as offer better, more inclusive health care. We believe this is the most significant legislation in decades, maybe even since Medicaid and Medicare were started."

FirstHealth Richmond's CEO John Jackson said, "As the administrator of a small rural hospital, it will certainly help us to be financially viable. The passage of the Medicare prescription drug bill will be a great benefit for seniors in our community."

Another administrator, Bill Leonard, CEO of Sandhills Regional Medical Center in Hamlet, North Carolina, says "The new Medicare bill has provisions that will right some of the inequities that have favored urban hospitals over hospitals like Sandhills Regional that serves small towns across the country. We are pleased with the positive impact this legislation will have on Richmond County."

Roy Hinson, President of Stanley Memorial, says, "This represents the largest expansion of Medicare since it began in 1967 and includes the largest package ever for hospitals in rural areas and small cities."

Finally, Larry Hinsdale, CEO of Northeast Medical Center in my hometown of Concord says, "It is not often legislation can be passed that has such a positive impact for both providers of health care and for its recipients. This bill achieves both an improvement in access to high quality hospital care and access for seniors to a greatly needed prescription drug benefit."

Mr. Speaker, in conclusion, our hospitals and our seniors are grateful for the efforts that have been accomplished here in this Congress, and I appreciate the opportunity to highlight some of the benefits and what people are saying about the efforts of this majority party and this President.

Again, I thank my colleague again and yield back to her so that we might hear more helpful and enlightening information.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I am certain the number of retirees in North Carolina are increasing all of the time, and I think it is important to remember that because women actually outlive men by about 5.4 years that so many times women are left living at the poverty level or just slightly above it.

This certainly will help so many women because, for example, a woman who is a widow, or without her husband's insurance, will now have a prescription benefit available to them that will save approximately 60 percent of all drug costs if they choose to enroll. It is going to be a godsend for so many women, certainly for the retirees in North Carolina, and I know in Florida.

Mr. HAYES. Mr. Speaker, I thank the gentlewoman for her facts, and if I might ask the gentleman from Illinois (Mr. SHIMKUS) to respond to a question.

Mr. SHIMKUS. Mr. Speaker, if the gentlewoman will continue to yield, I would be glad to.

Mr. HAYES. Mr. Speaker, I listened with great interest to the gentleman's colleague from Illinois. Is that not the same gentleman who supported in last year's appropriations bill amendments that would have added some $16 trillion to the deficit that now all of a sudden, he and a few others are concerned with? Is that number, in my mind, somewhat correct?

Mr. SHIMKUS. Mr. Speaker, I have not checked my colleague's voting record, but that is probably a good assumption.

Mr. HAYES. It is a very good number, and I would appreciate it if my colleague could help us rein him in, since he is the gentleman's neighbor.

☐ 2215

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I yield to the gentleman from Illinois (Mr. SHIMKUS).

Mr. SHIMKUS. Mr. Speaker, I am going to speak about a couple of provisions on the Medicare prescription drug bill. I have been to town hall meetings, three hospitals in my community, I have been to some editorial boards. It is an issue that the public needs to hear from us about.

This bill has passed and will become law, and we are going to find out real soon how helpful this bill is. Come June, the discount cards are going to get mailed out, and then the proof is going to be in the pudding. Either they are going to lower costs and people get access to drugs; or they are not. Either way, we are held accountable by the way we vote.

The first provision I would like to mention is it is voluntary. Voluntary means you can do it if you want, you do not have to do it if you do not want to, which is very different in the ideological spectrum of debate. Republicans believe in freedom. Our primary principle that we stand for is freedom; and freedom allows individuals to choose one way or the other. The freedom aspect is whether they want to be a part of a prescription drug system that supports and helps, or seniors do not want to. We trust that seniors will be able to make choices that best fit them. That is laudable, and I would rather be on the side of trusting seniors than saying, no, the Federal Government has to do it for them because our seniors cannot do it themselves.

The other thing I would like to mention is what is on this chart. There is a debate out there that there is not going to be any negotiation for lower costs of drugs. Well, obviously, the prescription drug cards and the program itself is not going to be prohibited from using the market forces and the number of people in the plan to exercise buying leverage on the prescription drug industry. It is pretty clear.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, HMOs have used the PBMs, the pharmacy benefit management, concept for so long because they realize that they are excellent at negotiating the prices of prescription drugs. Several of the HMOs in Florida have done that and have had significant savings that they then could pass on to the seniors who are actually in the Medicare+Choice plan. When you have somebody who knows how to drive those prices down, why reinvent the wheel.

Mr. SHIMKUS. Mr. Speaker, that also brings competition to the negotiation of prices. If we just have the government negotiating, first of all, it is not a for-profit entity. It is not going to have the incentive to drive a hard bargain; it is just going to set prices with no return. But if we have a handful of companies competing to service a senior population in a competitive model, if you believe in freedom and competition and all of those things that we do, we are going to get a better product. I am excited, and I supported the bill. I think it will be helpful for seniors. I wanted to highlight that on the prescription drug issue.

One other aspect of the prescription drug issue is the number one thing that seniors came up to me before the vote that they were concerned about was whether they would lose the coverage that they had that was promised to them in their pension and benefit plans. They would pull me off the parade route or after church, wherever I was, Will I lose it? There are 41 million seniors in the Medicare system, and 13 million are covered by prescription drug plans through their pension and benefit plans. Thirteen million. We could never assume that additional cost, so we have to provide a provision in this to incentivize the pension and benefit plans to keep providing. That is a promise that we provided to these seniors, and that is in the bill. So we met their need.

They did ask us, and because it would be very destructive for us, already trying to be fiscally conscious, to add $13 million more entitlements to a system when they are already receiving benefits.

The Medicare prescription drug bill is not just about prescription drugs, though. It is the best rural health care package ever passed on the floor of this House. Now, I represent southern Illinois; I have 30 counties. They stretch from as many as 250,000 people in one county to 5,000 in another. I border Indiana, Kentucky, and Missouri. The best rural health care package ever passed by the House of Representatives was in this Medicare prescription drug bill for community hospitals, for critical care hospitals, and for rural home health care agencies. That is part of this debate. So people who want to try to change this Medicare prescription drug bill, they really are threatening the great provisions that have already been passed that will help rural health care throughout not just Illinois but throughout the country.

The other thing that I wanted to highlight was the preventive medicine aspects of this Medicare bill. I always talk about modern medicine, and I think the debate when you identify when Medicare was established in the 1960s, what has stayed the same. We do not drive the same cars that were built in the 1960s, we do not live in the same style homes, or use the same type of electrical appliances. We have computers and turbo-charged engines. The only thing that has stayed the same is Medicare. We would pay for reactive measures, not proactive measures. In other words, we would pay to try to fix the blindness, to deal with the amputations, to deal with the effects caused by diabetes; but we would not pay for the drugs needed to treat diabetes, and that is a silly way of doing business. First of all, there is no cost benefit in that. You are a loser financially when you do that.

So the preventive aspect, there is going to be a Welcome to Medicare physical. Seniors will get a physical to establish where they are in the health care continuum, initially to make diagnosis. And, obviously, early diagnosis of major diseases through the application of prescription drugs is cheaper and healthier for all involved.

I have taken enough time, and I have a lot of colleagues on the floor, and I know they are eager to talk about the great benefits of the prescription drug bill. I thank the gentlewoman for yielding me this time.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, one of the other things that we need to point out is that there is a scheduled copay that was supposed to take effect for home health care. That is postponed in the bill, and it is eliminated in the bill.

Additionally, there was a $1,500 therapy cap. I recently broke a bone in my arm, and $1,500 might be okay for a broken bone, but somebody who has a stroke, $1,500 worth of therapy would not even touch their needs. So we eliminated the $1,500 therapy cap, which I know there are many seniors out there that are very grateful for that. That is one of the small parts of this bill which means so much to so many seniors.

Mr. SHIMKUS. Mr. Speaker, this is the beginning of my 8th year here, and that therapy cap issue has been presented to us year after year for 8 years, and I think it is right to bring that up. I am just sorry that the gentlewoman had to break her arm to make a point for that therapy issue.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I yield to the gentleman from Alabama (Mr. ROGERS).

Mr. ROGERS of Alabama. Mr. Speaker, I thank the gentlewoman for yielding me this time.

When I first came to Congress, I made a promise to seniors in Alabama. I told them I would fight for their interests in Congress. I told them I would work to strengthen and secure Medicare for generations to come, and I told them I would fight for a new prescription drug benefit under Medicare.

Mr. Speaker, these days I return to my home State of Alabama having followed through on that promise. Thanks to the leadership of President Bush and a bipartisan group of Members of Congress, the seniors in my home State of Alabama will soon have a prescription drug relief benefit. It comes not a moment too soon.

Alabama seniors all across the Third Congressional District continue facing high drug costs. In fact, drug prices have risen in the few short months since President Bush signed this law. Fortunately for our seniors, relief is on the way. Beginning in May, Alabama seniors will see immediate relief through a voluntary prescription drug discount card. Seniors who choose to enroll in this benefit will see discounts of up to 25 percent with this drug card. This means that on a $100 monthly prescription, seniors will save $25. That is $300 a year. This is a voluntary program. No seniors will be forced into anything. Seniors happy with their current coverage under Medicare will have no changes to their plan. This is a 100 percent voluntary program. Nor will seniors with employer-paid drug plans need to worry about their coverage. The new Medicare law offers substantial incentives for employers to continue to provide prescription drug coverage to employees and retirees, but Congress did not forget about those most needy seniors, either.

Alabama seniors with low incomes will soon receive extra assistance under this law. In the Third Congressional District of Alabama, the area of the country I represent, approximately 21,400 seniors with low incomes will soon qualify for a new $600 annual subsidy. Coupled with the prescription drug card, this $600 annual subsidy will help Alabama seniors with lower incomes decrease their drug bills substantially.

Mr. Speaker, the promises do not end there. In rural areas across the country, like those in my district, seniors, families, and children are losing access to health care. In fact, the discrepancies between rural and urban health care have long been a concern of mine. That is why I am proud that President Bush and a bipartisan group of Members of Congress who supported this bill also included increased support for rural doctors and hospitals. Under the new Medicare law, rural hospitals, doctors, and clinics will receive an unprecedented $25 billion to improve the quality and availability of health care. Of this, nearly $934 million is dedicated to help improve health services all across Alabama. Of that amount, nearly $20 million is dedicated just for the Third Congressional District of Alabama. That is no small amount of money.

This new funding for rural hospitals will not only help improve the health of all our seniors, but it will also help improve the health of every single Alabamian young and old. Rural hospitals and clinics will be strengthened through significant increases in hospital reimbursement rates as well. Because of this law, emergency and primary care will be available to Alabama families in rural areas, just like people living in big cities like Atlanta.

Mr. Speaker, I said a moment ago that this new Medicare law is about promises. Last year President Bush and the Republican leadership promised new prescription drug coverage under Medicare. We kept our promise. We promised new benefits to seniors like preventive screening and diabetes testing. We kept that promise. We fought for rural hospitals, doctors and pharmacies in hopes of improving rural health care for all Alabamians. We kept that promise, too.

Mr. Speaker, the Medicare prescription drug law is about promises made and promises kept. I am proud that we worked so hard to improve seniors' lives. Our challenge now is to ensure that seniors know about the benefits to which they are entitled. We must ensure seniors are not confused by the dangerous political posturing and unnecessary, confusing double talk. Is this a perfect bill? No. But it is a great start, and certainly better than the little or no prescription drug coverage most seniors had before. To quote AARP President James Parker from a recent statement, "The bill represents an historic breakthrough and an important milestone in the Nation's commitment to strengthen and expand health security for current and future beneficiaries."

□ 2230

I agree, Mr. Speaker. On behalf of Alabama seniors, I thank President Bush and the gentleman from Illinois (Speaker HASTERT) for their leadership in passing this historic bill. I pledge to continue doing whatever I can to help strengthen Medicare and to work to improve the health of all our Nation's seniors.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I yield to the gentleman from Texas (Mr. BURGESS). It is good to have two doctors, one on each side of me here.

Mr. BURGESS. Mr. Speaker, I thank the gentlewoman for yielding and bringing this very important issue up before the floor of the House tonight.

I have done several town halls and talked to my medical staffs back in my district, and you do get questions from people back home, why undertake this rather complicated process of trying to modernize Medicare?

The fact is, Mr. Speaker, and I believe the gentleman from North Carolina (Mr. HAYES) pointed it out earlier, that back in 1965, when Medicare was first enacted some 38 or 39 years ago, that the expenses that a senior might face with a medical condition would be those expenses from a long hospitalization, such as treating pneumonia, or surgery.

In fact, Mr. Speaker, I think they only had two medications back then, cortisone and penicillin, and they were pretty much interchangeable. But the world has drastically changed since 1965, and we have so many more medications available to us.

The gentlewoman from Florida mentioned the particular problems with senior women. Mr. Speaker, in my years of practice in obstetrics and gynecology back home in Lewisville, we relied routinely on a medication called Fosamax, Actonel, another medication, to treat osteoporosis, that were not even thought of in 1965.

To not have these medications available to patients after making the diagnosis of low bone density, Mr. Speaker, it made no sense at all that we were going to document the fact they had osteoporosis and then not pay for the treatment.

The sad fact of the matter is, Mr. Speaker, when they came back 1 or 2 years later with a lower number on their bone density score, we said, "Gosh, did you not use the medication I prescribed?" And then we would find out that the medication was not purchased and that is why it was not taken, and losing that time for treating that disease, Mr. Speaker, that is unconscionable.

Individuals with osteoporosis are, of course, at increased risk for hip fracture. Hip fracture, when it occurs, carries a 25 percent mortality within a year after diagnosis, so it is no small issue to that group of senior women.

Mr. Speaker, we also hear some criticism from those on the other side of the aisle as to why we left people uncovered in the Medicare bill that we passed. The truth is, Mr. Speaker, there was an attempt made to cover those people who most needed coverage, and that is people at the bottom end of the income scale and people with catastrophic illnesses.

Yes, it would have been great to cover everyone in between, and several of the Members on the other side of the aisle recommended that the night we had the debate, but the reality is the cost of the Medicare prescription drug program ballooned by over half to up to $1 trillion over 10 years, and, Mr. Speaker, it was thought that this was the prudent way to provide the prescription drug benefit to those who needed it most, seniors at the low income level and seniors who faced catastrophic coverage.

Paying for the prescription drug benefit, and that has become an issue that we have heard a lot about, in fact, Mr. Speaker, when I was back home in my district in December, I picked up an oped article from Ronald Brownstein out at the Los Angeles Times. He said that there are only two ways we pay for healthcare in this program, through either private insurance or government-run programs.

I would like to correct Mr. Brownstein, and I am sure the gentleman from Georgia (Mr. GINGREY) will attest to this. Back in the day I was practicing medicine, I did a lot of uncompensated care, and that was another way that healthcare was paid for, somebody just did not pay their bill.

But another way healthcare is paid for, is people will write their own check for healthcare. One of the things that we did in this Medicare bill that I am so proud of is the institution and the expansion of the old Medical Savings Account into what is now called a Health Savings Account. This is not just for seniors, but this is for anyone.

People now can start to put money away tax deferred that will grow tax deferred to provide for their medical care at whatever point in life that they need it. This is a tremendous advance in being able to pay for medical care, and, Mr. Speaker, it was a big boon and a big part of the bill that we just passed.

Finally, let us just talk for a second about the cost estimates that we have heard on this bill. We talked about the $390 billion over 10 years that the Congressional Budget Office assigned this bill, and then the White House Office of the Budget came up with a somewhat higher figure, and, of course, the folks on the other side said, See, we told you you can't do it for that.

But the reality is both of those are estimates, and, Mr. Speaker, the chairman of the Committee on Ways and Means himself admitted that the Congressional Budget Office did not even try to take into account the fact that we would be treating illnesses on a more timely basis, we would be providing for preventive care in this bill, so there is really no way to adequately assess the cost, and for someone to come out and say it is suddenly 25 percent higher than it was last year, well, those are just numbers. It is smoke and mirrors, because no one actually knows how the cost of care is going to come down by treating illness in a timely fashion.

Finally, I would just like to say about cost, if the other side is so concerned about costs, and I thank the gentlewoman from Florida for bringing this up, because this is so important, Mr. KERRY did not see fit to be in the Chamber when this bill was voted on, but, more importantly, he voted against meaningful liability reform in this country last summer.

Mr. Speaker, a study done at Stanford University back in 1996, so these are 1996 dollars that I am talking about, this study showed that if doctors were not practicing defensive medicine, and we are not talking about the cost of buying malpractice insurance or the cost of a lawsuit, we are talking about the cost of defensive medicine, what lengths doctors go through to prevent them from being sued, if the cost of defensive medicine were subtracted from the system, the Medicare system, $50 billion a year, that would pay for your prescription drug benefit under either CBO estimates or White House Office of the Budget estimates.

That is so important, and America needs to look at the fact that the Senator voted against meaningful liability reform, which would have paid for the prescription drug benefit in the bill that we passed last December.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I want to thank the good gentleman from Texas for being here. He is absolutely right, you cannot have it both ways. Mr. KERRY cannot vote against meaningful tort reform, and then all of a sudden be worried about the high cost of healthcare, when we all know what a very high percentage of it is. Certainly I have known percentages, anywhere from 30 to 40 percent of the cost of healthcare today is because we have become such a litigious society.

I am very happy to yield to the gentleman from my neighbor State of Georgia (Mr. GINGREY), also a freshman Member.

Mr. GINGREY. Mr. Speaker, I thank the gentlewoman from Florida for yielding, and I thank my colleagues for bringing such important information before the Congress tonight on this very, very important issue, the Medicare Modernization Act and Prescription Drug Act of 2003, a promise that was made to seniors a number of years ago and a promise that finally this President, our President, George W. Bush, has delivered on. I am proud, of course, as a physician Member of this Congress to have been very supportive of this Medicare Modernization and Prescription Drug Act.

Mr. Speaker, I think all of us realize, we are in an election year, and not just any election year, but, of course, a presidential election year, and there is a lot of rhetoric going around in these halls and in the respective town halls of districts of Members and a lot of criticism of the administration and this President, and what I like to call MediScare rhetoric, MediScare rhetoric.

In the little bit of time I have tonight, let me try to clarify for the Members one such MediScare subject, and that is this, that the allegation that this prescription drug bill for seniors, for our needy seniors is nothing but a giveaway to the pharmaceutical industry.

Think about that now, nothing but a giveaway to the pharmaceutical industry. One could have said in 1965 when

Medicare was first enacted, some 38 years ago, that Part A, the hospital part of Medicare, was nothing but a giveaway to the hospitals. After all, it is the hospitals that provide the care under Part A.

One could also say that Part B, the physician part, was nothing but a giveaway to the doctors, those doctors who are performing critical surgery, taking care of patients, it is nothing but a giveaway to the physicians, because, after all, they are the ones that provide the care under Part B.

Now, here they come in 2004 saying in their MediScare rhetoric that Medicare Part D, the prescription drug part which our seniors have waited for for years, is nothing but a giveaway to the pharmaceutical industry.

Obviously, the pharmaceutical companies are going to sell more drugs, no question about that. Nobody else can do that. Nobody else is in that business. Nobody else makes the drugs, the wonderful drugs, because of the research and development that has gone into that, that has provided the best pharmaceutical prescriptions of any country in the world. That is the pharmaceutical companies, and, yes, thank God, finally, they are going to be able to sell more drugs because our seniors, at long last, are going to be able to afford to buy those drugs. But this is not a giveaway to the pharmaceutical industry.

What is going to happen is because they sell more prescription medication, then we are going to lower the price. Anybody, Mr. Speaker, any Member of this body, anybody who is paying attention to us here tonight, understands the volume discount you get when you sell more of a product, whether it is a new car dealer selling 100 units a month versus 10 units a month, they can sell them at a lower price. That is what this is all about.

It is nothing but a scare tactic on the other side, not willing to give the credit where credit is due, to this President, this Republican leadership, this Congress, for finally delivering on a promise that others have made when they were in control, but they failed to keep that promise.

I want to just mention, Mr. Speaker, in the few minutes I have got left, about some of the organizations that have been so supportive of this legislation. I do not have enough time to list them all. I could go through every medical sub-specialty, certainly the American Medical Association, my Medical Association of Georgia, in the district that I represent, the senior organizations. The most well-known, of course, which represents some 35 million seniors, including yours truly, Mr. Speaker, the American Association of Retired Persons, the AARP. Listen to what they say. I just want to call your attention to this poster to my left.

"AARP believes that millions of older Americans and their families will be helped by this legislation. This legislation protects poor seniors from future soaring prescription drug costs. The bill will provide prescription drug coverage at little cost to those who need it most. It will provide substantial relief for those with very high drug costs. It also provides a substantial increase in protection for retiree benefits."

Mr. Speaker, what that says is the American Association of Retired Persons endorsed this bill when they made sure that Medicare would do everything in its power to prevent companies from dropping their healthcare coverage, including a prescription drug benefit, for their retirees who had worked sometimes 35, 40 years, for the company. These companies were dropping these plans or cutting the benefits, and this is what is happening even before this Medicare Modernization and Prescription Drug Act was passed. But it was only when we shored up those companies to prevent them from dropping these plans that the American Association of Retired Persons came on board in support of this bill.

I commend them. No, I am not about to tear up my AARP card. I think they represent seniors well, and I am proud of them for their support.

I could go on and on, and I am not going to do that, because some more of my colleagues are here, and I thank the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) for bringing this special hour to the Congress to make sure that the Members understand that we are listening to a lot of rhetoric now during this election season, a lot of scare tactics, but it is unfair to scare our seniors. We are providing a benefit to them that is much needed, and the benefit goes to the very heart and helps those needy seniors the most.

□ 2245

It is an absolute Godsend, Mr. Speaker, for them. I thank the gentlewoman for giving me this opportunity tonight.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, it certainly is much needed and certainly long overdue, and I think any senior who has been out there waiting will tell us that.

Mr. Speaker, I would like to yield to the gentleman from Indiana (Mr. CHOCOLA).

Mr. CHOCOLA. Mr. Speaker, I thank the gentlewoman for bringing us together tonight to talk about a very important subject. Mr. Speaker, it is a bit unfortunate that we are actually here tonight, that we have to talk about the facts, that we have to cut through the rhetoric, cut through the misinformation that has revolved around this very important bill that delivers a very important benefit to our seniors.

The facts are that the Medicare bill is a voluntary bill, and no one has to do anything that they do not want to. They can keep the Medicare exactly the way it is, or they can add a very significant benefit. The facts are that they have a choice, they have a choice that will best fit their individual needs, and they can change that choice as their needs change. They can also save about 50 percent on their prescription drug needs. This bill will lower the cost to the average senior by about 50 percent for their prescription drug needs.

But the facts are, we are here because we have to focus on those facts, as our colleagues are doing tonight. Like my colleagues, I did about 10 to 15 town hall meetings on this issue; and what I found is people came with a sincere interest to learn, a sincere interest to cut through the rhetoric and understand how this Medicare bill impacts them in their daily lives. I appreciate the comments that my colleagues have made to help clarify how this impacts our seniors on a day-to-day basis.

But one of the most difficult questions that I got during those town hall meetings was the question, Why can we not bring cheaper drugs in from Canada? The answer, Mr. Speaker, is that we can bring cheaper drugs in from Canada, so long as the Food and Drug Administration can guarantee their safety. Because what we do not hear, Mr. Speaker, is there is a provision in this Medicare bill that allows Canadian drugs to come into the United States so long as the FDA can guarantee their safety, just like we ask the FDA to guarantee the safety of every single drug that is sold in America.

I asked the question, Why would we ever let a drug come into the United States that does not live up to the same quality and the same safety standards as every drug that is sold inside the United States? I had one lady stand up and she said, Well, do not give me any safety arguments. Do not talk about counterfeit drugs. I asked her, Well, why should I not do that? She said, Because I have a bottle here that says made in the USA. In fact, it says Eli Lilly, made right here in the State of Indiana. I said, Well, ma'am, how do you know that those are not counterfeit drugs? She said, I know because I am smart. And I said, Well, with all due respect, ma'am, it does not have anything to do with how smart you are or how smart I am; it has to do with whether you have a chemical engineering degree, or whether you have a chemical lab in the back seat of your car or your basement, because the only way that you can determine whether those drugs are counterfeit or not are to do the chemical analysis.

Although she did not necessarily agree with that, she wanted to keep talking about it. I said, Well, let me share with you a story. This is a story that happened right here on the floor of the House of Representatives last summer. Last summer I came on the floor and I sat down in the aisle right behind me and I sat down next to the chief of staff of the Committee on Agriculture on which I serve. The chief of staff turned to me and said, You know what? An hour ago we found out that there was a cow in Canada with mad cow disease.

Mr. Speaker, one may ask, What does mad cow disease have to do with counterfeit drugs coming into the United States? The reality is that within 12 hours we had shut down our borders. There was no cow that was going to come in to the United States from Canada because we were concerned about mad cow disease infecting the citizens of this country. Well, Mr. Speaker, the reality is, do my colleagues know how many people have ever suffered from mad cow disease in the history of the world? A little over 100, not one of those people in the United States.

So we have a national outcry. When one cow in Canada is infected with mad cow disease, we will not let one cow cross that border. We will not let one ounce of beef from Canada come into the United States. Yet we will talk about allowing prescription drugs that could be counterfeit coming across those borders.

Mr. Speaker, I think we as Members of Congress have a responsibility to share the facts of the Medicare bill, and we have the responsibility to stand up and not do what is politically popular, but what protects our constituents, protects consumers of the United States, and focus on the real issue, which is the affordability of prescription drugs. And this bill addresses that problem with the high cost of drugs, because it has a discount card that will provide a 10 to 25 percent immediate savings for seniors, it brings market competition into the prescription drug health care marketplace, it has health savings accounts, as my colleagues have talked about tonight.

There are a lot of other things we could discuss about the real issues; but we should not engage in scare tactics, and we should not put the health care at risk of all of the citizens of this country by bringing counterfeit drugs in from anywhere, not just Canada, but anywhere from outside this country.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I have been very fortunate to have been named the chair of the Women's Caucus; and so much of this bill tonight, for my remaining time, I would like to emphasize the importance of the bill to women who are retired.

Mr. Speaker, in Florida alone, there are 167,000 elderly women who live below the poverty level. There are about 750,000 elderly women who are between the poverty level and the 150 percent of the poverty level who will be helped greatly by this bill. When we combine these statistics with the fact that the average woman in Medicare earns about half of the income from Social Security as a man, women are facing a very serious problem: How do they afford their prescription drug coverage?

Congress obviously responded to these problems and created the new voluntary prescription drug bill. Again, I am emphasizing, it is a voluntary prescription drug bill.

Unfortunately, women over the age of 65 suffer more from chronic illnesses than men. Over 14 percent of women suffer from arthritis, and 17 percent more suffer from osteoporosis. Five percent suffer from hypertension. Even more women have cardiac problems that will go undetected. The new benefit that is included in this bill, Mr. Speaker, the Welcome to Medicare physical for the baby boomers who are just coming into the Medicare arena, will be there to help detect many of these problems, including heart problems that very often historically have been misdiagnosed.

Mr. Speaker, I know that the hour is late and I am running out of time, but I did want to say that for the 2.1 million women in my State with no husband present, an astounding 30 percent of those women live below the poverty line. Republicans in Congress passed the bill that will benefit retired women and men; and for that, as more information comes out about the bill, as the truth comes out about the bill, I know that seniors around the Nation from the many States that were represented here tonight will be very grateful and are very grateful that we had the courage to finally pass a Medicare prescription drug bill for seniors.

IRAQ WATCH

The SPEAKER pro tempore (Mr. BONNER). Under the Speaker's announced policy of January 7, 2003, the gentleman from Massachusetts (Mr. DELAHUNT) is recognized for one-half of the time remaining before midnight, which is approximately 34 minutes.

Mr. DELAHUNT. Mr. Speaker, my friend, the gentleman from Hawaii (Mr. ABERCROMBIE), is present here with me tonight; and we anticipate that we will be joined by several of our colleagues to continue our weekly hour where we discuss events in the Mid East, with a particular focus on Iraq and Afghanistan and, hopefully, reveal to the viewing audience some information that they may be unaware of. Mr. Speaker, I yield to the gentleman from Hawaii (Mr. ABERCROMBIE).

Mr. ABERCROMBIE. Mr. Speaker, I thank the gentleman from Massachusetts. Again, Mr. Speaker, as the gentleman indicated, this is Iraq Watch. Several Members, some of whom voted for the resolution with respect to the attack in Iraq and some who did not, have been participating. The reason being that we find ourselves in a situation today where we are arguing about such things as budget, arguments taking place right now, both in the Republican Conference and in the Democratic Caucus. We find ourselves coming up on what might be termed the anniversary of the Iraq invasion. It is the anniversary. The question is before us as to what has been accomplished, what was involved; and I think, Mr. Speaker, I want to set a perspective before my colleagues and hopefully those in the American public who are viewing this evening.

There has been an increase, both in terms of discussion and in terms of reporting about activity on the Pakistan-Afghani border. There is speculation in the press, speculation in our communities across this country as to the whereabouts of Osama bin Laden and his cohorts; a flurry of reporting taking place that there is increased activity, sensors being placed, special forces being brought together, strike forces, including Pakistani troops, American troops, CIA operatives. The question becomes this, Mr. Speaker: Why now? Why has this not been going on since September 11, 2001? Why is it taking place 6, 8 months before an election? Where is the justification for what took place in Iraq as a diversion from going forward on the Afghan-Pakistan border to capture or eliminate Osama bin Laden and his cohorts? What is the justification as we come up on the year anniversary of the invasion of Iraq of not bringing hostilities to a conclusion in Afghanistan and Pakistan with respect to the attack that was made on the United States?

There is a cover here that the gentleman from Massachusetts (Mr. DELAHUNT) has to his immediate right from Time Magazine, with a picture of Mr. Bush facing himself, a mirror image, if you will, that says, believe it or not, Does Bush have a credibility gap? I cite that not because I am interested in what Time Magazine has to say by way of cute phrasing or what they consider to be a provocative title or visual, but, rather, that the question is one that needs to be answered as we approach this anniversary of the attack on Iraq. Why are we involved now in expedited activity and an expedited increase in intense activity on the Afghan-Pakistan border to capture or eliminate Osama bin Laden? What have we been doing for the past 2 years?

Well, I can tell my colleagues what we were doing. We were diverting our attention from those who attacked us on September 11 and instead preparing ourselves and ultimately carrying through an attack on Iraq, which has turned into a disaster, an unmitigated disaster for this country. We have not captured Osama bin Laden, we have not stopped or eliminated the Taliban threat in Afghanistan, we have not come to a conclusion with respect to the stability of Pakistan, and we have created a situation in Iraq which is headed for political, economic, and social disaster.

Mr. DELAHUNT. Mr. Speaker, I thank the gentleman for his comments. I would concur with the gentleman's analysis. He is absolutely correct. We secured a military victory in Afghanistan against those, the Taliban, that allowed, on their territory, in Afghanistan, the training and a safe haven for the real enemy of the United States, the al Qaeda terrorist network. It has been more than 2 years, more than 2 years since we secured that victory. And as the gentleman mentioned, we were distracted, if you will. We were distracted by an ideological conclusion that the defeat of Saddam Hussein would create a new democracy in the Middle East.

□ 2300

Would that it be so. But as my colleague has mentioned, not only has Osama bin Laden not been captured, and I have a sense he will be captured, and the sooner the better, and if he is not captured, may he be killed because he is the enemy of the United States, I think it is important, however, given the distraction, if you will, based on a rationale that was put forth by this President, President Bush, that Saddam Hussein not only was in the possession and had a stockpile of weapons of mass destruction, and it was suggested, if you remember, that the threat of Saddam Hussein's possession of a nuclear weapon was very real, was very real, according to what the administration was saying, in that Saddam Hussein somehow had this murky relationship with these terrorists who had designs directly on the United States, that this information has turned out to be utterly without substance.

Mr. ABERCROMBIE. Mr. Speaker, if the gentleman would yield on that point, quoting from Reuter's Monday, yesterday, story about Jeremy Lovell, quote, "George W. Bush and Tony Blair probably knew that they were exaggerating the threat from Iraq when they were making the case for war, according to former chief U.N. weapons inspector Hans Blix. The U.S. President and the British Prime Minister ignored the few caveats and reports from intelligence services on Iraq's nuclear, chemical or biological weapon programs."

He writes in his account of the months leading up to the U.S. invasion. Blix says it was "Probable that the governments were conscious that they were exaggerating the risks they saw in order to get the political support they would not otherwise have had."

Mr. DELAHUNT. Mr. Speaker, if the gentleman would yield for a moment. We have heard much relative to criticism of the intelligence services of the United States. But when one examines the reporting by the CIA, by the Defense Intelligence Agency, by the appropriate agencies within the Department of State and the Department of Defense, their reporting was characterized by conditionality, by caveats, by suggestions that there was more to it than simply a conclusion. It was described in terms of likelihood, probability, maybe, what have you. But it was presented to the American people and to the people of the world in clear stock terms that would only, only provide an inescapable conclusion that Saddam Hussein had possession of weapons of mass destruction.

You read from a report this week about the analysis by Hans Blix. Well, as my colleague is well aware, the President himself asked an individual by the name of David Kay, who many Americans have seen on a variety of news programs, to lead the post-war effort to find the so-called weapons of mass destruction in Iraq. He was the individual who had the courage to come before the Senate and say unequivocally and clearly we were all wrong.

We have not heard that yet from the President of the United States.

Well, it just happens that David Kay has now been interviewed by a highly respected journal, newspaper, called The Guardian from the United Kingdom. He has called on the Bush administration, and I am reading from a story that appeared in the March 3 edition of The Guardian, he called on the Bush administration to come clean. And these are his words here, not mine, not my colleague's, not anybody from the Republican side of the office, but David Kay's. And they have not received the attention, I dare say, they deserve here in the American media. But it was David Kay in this interview that said, "It is time to come clean with the American people, Mr. President, and admit it was wrong about the existence of the weapons." That is David Kay.

Mr. ABERCROMBIE. Mr. Speaker, if the gentleman would yield, following on that point, quoting Mr. Kay, and, again, quoting Mr. Hans Blix, who was the head of the International Atomic Energy Agency from 1981 until 1997 and later the chief of the United Nations Monitoring Verification and Inspection Commission until 2003, a person without peer, someone who has the background and the professional experience second to none in this area, I quote him: "I am not suggesting that Blair and Bush spoke in bad faith, but I am suggesting that it would not have taken much critical thinking on their own part or on the part of their close advisors to prevent statements that misled the public. It is understood and accepted that governments must simplify complex international matters in explaining them to the public in democratic states. However, they are not vendors of merchandise but leaders of whom some sincerity should be asked when they exercise their responsibility for war or peace in the world."

Mr. DELAHUNT. Well, let me continue with the same report that I had alluded to earlier in The Guardian. And, again, this is Mr. Kay. I would hope that some of the news organizations in this country would contact Mr. Kay and corroborate this report from this highly regarded newspaper in the United Kingdom, because I think it is extremely telling. This administration will not admit they were wrong. We are going to find out what happened whether they intentionally misled or whether the intelligence itself was faulty. That is a question that will be answered during the course of the next 5 or 6 months. But it is about time for the President of the United States to stand up and say we were wrong to the American people.

Mr. Kay said, "The administration's reluctance to make that admission was further undermining its credibility at home and abroad." President Bush, Vice President CHENEY, Secretary Rumsfeld and Secretary Powell owe an obligation to the American people in our role in the world and our claim to moral authority to get this matter disposed of.

The Secretary of Defense will not let it go. Donald Rumsfeld has dismissed Mr. Kay's assertion that there were no weapons of mass destruction at the start of the Iraq war as a theory that was possible but not likely. What is wrong, Mr. Rumsfeld? Do you not get it? It is better for the country. Put aside the fear of embarrassment.

This is more about—this is less about personal embarrassment than it is restoring American credibility as we proceed during the course of this year and years here after dealing in a very, very dangerous world.

Mr. Speaker, with that I yield to the gentleman from Hawaii (Mr. ABERCROMBIE).

□ 2310

Mr. ABERCROMBIE. Mr. Speaker, I wish that I had a bit more faith in the idea that there would be a positive response to the questions the gentleman is posing and the observations that he is making.

The difficulty is we operate in a parallel universe. The Secretary of Defense is going to filter everything through the medium of his own perceptions, his own self-delusions. We are not going to see this. This is going to have to be resolved in the political world in the United States.

Let me offer this example of the parallel universe that I am speaking of. In the March 15 Time magazine, an interview has been conducted with the administrator, Mr. Paul Bremer. Asked, to "whom exactly are you handing over sovereignty" in Iraq? Bremer said, "The spaces are not filled in. We will hand over to a sovereign Iraq government on June 30. The shape and structure of that government is not yet defined. When we get finished with the transitional administrative law, we will turn to a broad dialogue with Iraqi politicians, provincial governors, local councils, ministers, a variety of people to try to figure out the best and most effective way to bring in the government. We do not know what that is yet.''

I submit that is such a startling statement of complete incapacity to understand what it is that is taking place. That is why I say we are living in a parallel universe. How is it possible for the American people to have any confidence when they are sending men and women of the armed services to Iraq, putting them in harm's way as a result of policies of this administration? How is it possible for us to expect anything else but the killing and grievous wounding of those military personnel in such an atmosphere, in which the administrator on behalf of the government of the United States is saying, ``When we get finished with the transitional administrative law, we will turn to a broad dialogue, a variety of people, to try to figure out the best and most effective way to bring in the government. We do not know who that is yet.''

The gentleman from Massachusetts (Mr. DELAHUNT) was not at hearings in the Committee on Armed Services that I attended. I asked the same question within recent weeks. Exactly what is it that we are doing? Who are we turning this government over to? What is the authority? And what is the obligation that we have and our troops have? What authority does this governing entity that we are turning over to have? What authority does it have? What obligations does it have? Do we have a status of forces agreement? And with whom do we have a status of forces agreement? And whom will enforce the status of forces agreement?

We are coming up on June 30, and yet the press having asked these questions, at least Time magazine having asked the question, prints it as if that answer was good and sufficient unto the question. We are about to engage in a situation in which we are going to have a farce take place of a presumed turning over of authority with a president, will he stand up, I do not know if he will get on a carrier, but will he stand up somewhere on a field in Iraq and say, Mission accomplished too, because this government has now come into being?

I know what a government is. I think I know what the obligations and responsibilities of a government are, but I have yet to have a straightforward, clear-cut answer as to what the relationship of the United States military, let alone the United States Government, is going to have with this new governing entity on June 30.

Mr. DELAHUNT. We have been joined by our colleagues, the gentleman from Ohio (Mr. STRICKLAND) and the gentleman from the State of Washington (Mr. INSLEE), regulars on the Tuesday night Iraq Watch.

I yield to the gentleman from Ohio (Mr. STRICKLAND); but before I give the time to him, I just want to repeat what David Kay said, the individual that was put in charge of searching for the weapons of mass destruction by this President, and this is from a report from a British newspaper last week. Mr. Kay said that ``continuing evasion,'' these are his words, ``would create public cynicism about the administration's motives.'' He also said, ``If the administration did not confront the Iraqi intelligence fiasco head on, it would undermine its credibility with allies in future crises for a generation.'' For a generation.

This President with his failure to come clean with the American people, to be forthright, is putting our credibility at risk for a generation. It is time for President Bush to stand up and say the truth and to concur with the statement by David Kay that we were all wrong. You were wrong. Your Secretary of Defense was wrong. Your Vice President has been wrong. Your Under Secretary of Defense, Mr. Wolfowitz, has been wrong. You have been wrong. Then we can proceed again to restore the confidence of the world in the integrity of the United States.

Mr. STRICKLAND. Mr. Speaker, I want to thank the gentleman for yielding to me.

Earlier today I had in my office a large number of members of the different posts of the Ohio American Legion. And we were talking about the fact that we have got so many young Americans and middle-aged Americans in Iraq. And I just want to share with the gentleman something that continues to gnaw at me. It causes me great personal concern because it is a matter that has yet to be recognized, admitted to, and corrected by this administration.

I have talked earlier in recent weeks about the fact that we sent our soldiers into harm's way without providing them with the most basic equipment of the body armor that was capable of giving them the fullest protection possible. As a result, I believe young Americans and some middle-aged Americans have lost their lives in Iraq because of the negligence of this administration and this Pentagon.

I have gone to Walter Reed Hospital and visited with soldiers; and some of the soldiers there have missing arms and legs, and I believe some of those terrible injuries are the result of our failure to provide them with the right kind of protection.

Now, I will talk a minute about the body armor; but I would also like to talk about the vehicles, the Humvees that are not adequately protected as a result of the negligence, the negligence of this Pentagon.

Way back in the early spring, I received a letter from one of my constituents who happens to be a West Point graduate, a young man who is serving this very night in Iraq; and he told me that his men did not have the interceptor vests, this high-quality vest that became available, I believe, in 1998. It costs about $1,500 a piece, capable of stopping an AK-47 round. It is made of Kevlar and it has ceramic plates in both the front and back, designed to protect the core of a soldier's body, the vital organs of a soldier's body.

So I wrote Secretary Rumsfeld and I asked him when he was going to make sure that all of our soldiers were adequately equipped with this vest.

□ 2320

He wrote me back and he said sometime in mid-November. A couple of weeks later, I get a letter from General Myers, and he says, well, it is going to be in December.

Before we left this city for our holiday period, the Christmas period, the Pentagon held a briefing, and they said, well, it is going to be January. Now just last week we were told that there is an assumption that all of our soldiers in Iraq are equipped and perhaps all of our soldiers in Afghanistan, we do not know. There is no definitive statement on that, but certainly our soldiers in Kuwait do not yet have this equipment.

But there is something that bothers me even more because we have a large number of humvees and other vehicles in Iraq that are not sufficiently provided with armor, that when they drive over a bomb that is planted in the road, for example, the soldiers in those vehicles are protected as best they can possibly be protected.

One of the reasons this is of concern to me is because the company that is the sole provider of this armored vehicle, as well as the kits that can be used on the vehicles that are already in the theater and are not yet armored, that company is in Ohio. It is located near Cincinnati, Ohio. The President's going to be in Cleveland tomorrow for his 15th visit to Ohio since being President.

Mr. DELAHUNT. Mr. Speaker, speaking, of course, about the recovery.

Mr. STRICKLAND. That has not happened.

Mr. DELAHUNT. In Ohio.

Mr. STRICKLAND. In Ohio.

Mr. DELAHUNT. And elsewhere in America.

Mr. STRICKLAND. Mr. Speaker, I am going to be here tomorrow. If I was going to be in Ohio tomorrow and could speak to the President, I would ask him why he has not requested a sufficient amount of funding to provide these armored vehicles and the kits that can provide armory to the vehicles that are already over there so that our soldiers will not have their arms and legs blown off when they drive over these explosives.

Many of our soldiers are being killed, but many, many more are sustaining these terrible injuries as a result of the explosions that are occurring in Iraq, and the company officials have been to see me. They tell me that they can produce many more of these vehicles in a more rapid fashion, but the fact is that the President has not requested the money. It is a funding problem.

After this House has passed $87 billion and the President's going to come back later and ask for $50 billion for the effort in Iraq, we have got soldiers who have gone without body armor, and as most Americans are sitting in their homes safe and sound and as we stand here in this chamber, we have soldiers that are in harm's way simply because this administration has failed to provide them with the best protection possible.

I am not the President, but if I were, I would say to those beneath me, those in charge of the Pentagon and military equipment and the like, I would say correct this problem as quickly as possible, I do not care how much it takes; we are going to make sure our soldiers are protected as best we can protect them.

The sad fact is that we cannot protect them from all danger. The sad fact is that there will be continuing loss of life and continuing injuries, but at least we should do everything that we can possibly do within our power to make sure that our troops are adequately protected.

Mr. DELAHUNT. What you are speaking to is competence. It is just sheer incompetence. What the gentleman from Hawaii (Mr. ABERCROMBIE) and I were discussing earlier in our conversation, it is credibility, credibility, and again, when we think of how we are treating our soldiers. I do not for a moment believe that any Member of Congress or the administration is not prepared and willing to do what is needed to be done or what is necessary to be done to protect our soldiers, but it comes down to incompetence.

Mr. STRICKLAND. Mr. Speaker, if my friend will yield, I want to believe what you are saying is true, but I have reason to believe that if the administration was willing to spend the necessary funds that we could provide this protection in a more rapid manner.

We are told that we did not expect the aftermath of the war to go as it has gone. We were told our soldiers are going to be welcomed; they will be throwing rose petals at us; we will be considered liberators and all of that. So obviously there was inadequate planning, and that is a sad fact, but this war has been going on for almost, what, a year or more?

Mr. ABERCROMBIE. Mr. Speaker, if the gentleman would yield, in 10 days time it will be 1 year.

Mr. STRICKLAND. And the fact is that it should not take a year to correct a problem. It should not take months to get body armor to our troops. Do my colleagues know what the Pentagon is saying now? They are saying it will be at least the end of 2005 before the vehicles in Iraq are provided with this armor. That is much too long. How many soldiers are going to be injured between now and the end of 2005?

Mr. DELAHUNT. I agree but I would suggest that that is a by-product of just sheer incompetence by the civilian leadership, by the civilian leadership in the Department of Defense, not the military personnel because they are being sent into combat, but what is intentional, and again, I dare say goes to the credibility of this President, is the way that these men and women are treated when they come back to the United States and hear that this President has underfunded veterans' medical health care to the point where the commander of the Veterans of Foreign Wars in this country described President Bush's budget as a sham, as a sham.

Mr. INSLEE. Mr. Speaker, will the gentleman yield?

Mr. DELAHUNT. I yield to the gentleman from Washington.

Mr. INSLEE. Mr. Speaker, the sad fact is that our proud men and women are not being treated with adequate dignity and respect when they come back, and some do not come back from Iraq. There are a thousand frustrations that we have been hearing across the Districts. Let me just give you one. I think it is typical of what happened, a small instance.

I have been working with the family of a soldier who was killed. He drowned in the Tigris River while trying to save an Iraqi policeman when they were on patrol. He died a hero in the service of his country. We tried to get his brother in from the Philippines to go to his funeral. You would not think that would be too much to ask when a man gave his life for his country and his family lost a husband and a son for their family. We could not even get the State Department to let his brother in for the funeral of this American soldier. Now, this was incompetence of the highest order.

I want to point out two things from my District as I now meet with the families who are now sending their sons and daughters and husbands and wives in the biggest movement of American military since World War II. That is going on right now, and thousands and thousands of Reservists and National Guard personnel are leaving their families and their jobs to go to a multi-year mission that we have no definition how long it will be unfortunately, and what I hear from them is two things.

Number 1, they believe that they deserve an administration that will shoot straight with them when it comes to their duty in this war, and I hear over and over again that they believe they are getting the short end of the stick because they are not getting the straight scoop even today about what is going on in Iraq. I will give you an example.

I had lunch with a proud father whose son is a marine who is I think in Baghdad tonight, just left a few weeks ago, and he is proud of his son, rightfully so. But he told me in no uncertain terms that he has a very high level of anger that his son is going into harm's way on a war that was based and started on a false premise, a false premise about the existence of weapons of mass destruction in Iraq, and he says what he is most mad about is even today, when we know that premise was false, that the President of the United States continues to stonewall an inquiry to find out what happened in this sorry state of affairs.

□ 2330

That is what makes him angry; that when this Commission goes to look for this information, the President says, oh I do not have time, I will only give you an hour. He has time to go to rodeos; he has time to go to Ohio and time to fly to Florida, and he ought to have the time to answer the inquires of that father of that proud Marine who is in Baghdad tonight, and tell us why the Americans did not get the straight scoop when we went to Iraq?

This man told me this, and I thought this was an interesting comment because I would not think he would be thinking about fiscal issues while his son is in Baghdad, but he told me that he is angered that even today, when we are hundreds of billions of dollars into the Iraq expenditure, that even today, when this administration has run up a $500 billion deficit, the largest deficit in American history and that is getting larger by the minute, even when we know we are going to be in Iraq for goodness knows how long, the President of the United States has not been square with the American people as to how much it is going to cost.

We have a $500 billion deficit and we are spending billions of dollars today in Iraq. The President sends up to this Chamber a budget which is supposed to be an honest, forthright, meaningful prediction of the cost associated with running this government and he leaves out one thing, any money for fighting the Iraq war. Now, what does the White House think; that the American people do not know we are going to be spending billions of dollars in Iraq? This administration does not have the courage, I guess, to tell us how much it is going to cost or put $1 in their budget for it.

Mr. DELAHUNT. Mr. Speaker, everybody knows, we all know, on both sides of the aisle, that we will receive a so-called supplemental budget. And those that are watching us this evening should understand that that is in addition to the budget that we pass. And it is going to come in absolutely with hundreds of billions of dollars, not just for Iraq and Afghanistan, but for other needs, right after November 2.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BONNER). The Chair wishes to inform the Chamber that under the Speaker's announced policy of January 7, 2003, the Chair recognizes the gentleman from Massachusetts (Mr. DELAHUNT) for the remainder of the hour, which at this point is approximately 21 minutes.

Mr. DELAHUNT. Mr. Speaker, the gentleman just spoke about the deficit. We had some colleagues here earlier in an effort to defend the so-called prescription drug benefit that was passed on this floor back in December. Does my colleague recall that back in the course of this debate, and I know this is a digression from our focus of the issue of Iraq, but it does go to the credibility of this President, President Bush, does the gentleman remember the discussion and the debate that went on into the wee hours when there was not a single Member of Congress on both sides that did not accept the number $400 billion as the cost of that proposal? And then weeks later, weeks later it was announced by this White House, the Bush White House, that their estimate was some $537 billion? More than 35 percent.

What we discovered subsequently is that this administration, this President, had his Secretary of Health and Human Services over here lobbying, advocating right on the floor of the House, cajoling Members for some 3 hours. And he knew at that point in time that the real number was some $537 billion, and not what we were told. This goes to credibility. This goes to exactly what David Kay told that British newspaper when he called on the Bush administration to come clean with the American people and admit it was wrong about the evidence of weapons of mass destruction. It is about coming clean and it is about credibility and it is about the truth.

Mr. INSLEE. If the gentleman will continue to yield, just for a moment. I would suggest, too, that this is for the administration's own benefit. It is certainly for our citizens' benefit, but it is also for the administration's own benefit. When Lee Iacocca, CEO of Chrysler, found out they were putting rebuilt engines in their Mustangs instead of new ones, he admitted that his organization had made a massive mistake and requested forgiveness of the American people. Frankly, it was granted. But it is difficult for the father of the Marine I had lunch with, whose son is now in harm's way in Baghdad, to grant forgiveness when even yet the President will not shoot straight about, number one, the cost of the Iraq war; or, two, not help us find out why we were given such massively inaccurate information. That just continues to fester a wound in the body public of this democracy. It would be to this administration's benefit to come clean about this information.

And another thing that we want our conservative friends across the aisle to share a belief in is accountability. We hear a lot about accountability and personal responsibility on this floor, but when a war is started based on a false premise, as in this case and only one person has lost his job as a result of that, and that is a radio personality, nobody in this administration has lost their job, nobody has had their hand slapped, nobody has had their pay docked, nobody has had a single word from the President of the United States castigating them for sending our people, many of whom are not coming home from a war based on a falsity, this President needs to demand accountability from this government. As of today, he has given us zero accountability and only marginal help at finding the truth.

Mr. ABERCROMBIE. Mr. Speaker, if the gentleman will yield, that is precisely what a dialogue and discussion of a political nature is about in the United States of America. We will get accountability, and that accountability will be taking place. There is both the request for it and the demand for it. And, in fact, we will have an accounting and that accounting will be taking place in November. That is how we settle things in this country.

Not the way things are going to be settled in Iraq, I am sorry to say. Here is a headline from the Monday Washington Post: "The Iraq council signs interim constitution. Powerful Shiite cleric criticizes new law."

Without going into all the details of the signing of this document by a hand-picked group of people by the United States of America, the observation made in the course of a discussion of what the Shiite council members would seek by way of amendment or an addendum to the interim constitution when that government assumes its sovereignty on June 30, quoting from the article in The Washington Post, "Although the U.S.-led occupation's authority is set to transfer political power that day, i.e. June 30, it is likely to maintain a military presence in Iraq for years to come."

That is what we have to face. This is a question of deliberate policy. This is a question of judgment. And the judgment that is made by the American people in the voting booth is their sentence, is what they pass on that judgment. This is the conclusion that they come to.

Our obligation, it seems to me, here in the House of Representatives, in the time allotted to us and in the arena given to us by these special orders, is to try to lay before the American people what the consequences are of these policies, these judgments that were made, and the consequences of the action taken as a result of those judgments.

□ 2340

Mr. Speaker, the sad part about it for me is that the vehicle we have for this, once you are outside of the political arena per se, is journalism, is the various media, electronic, written and otherwise. They are the ones that are falling down. They are the ones not asking the hard questions and allowing this kind of situation to develop without any kind of adequate inquiry. So it remains for us to do it here.

We have to have an understanding here that what is taking place in Iraq today is the direct result of decisions taken based on judgments made and responsibility that has to be taken for those judgments. The fact that no one has been fired, the fact that no one has been brought to account is something that should not be a shock to anyone. Nobody is going to take responsibility for this unless the American people demand it in the voting booth.

Mr. STRICKLAND. Mr. Speaker, I think the American people realize who ultimately has to be accountable. Harry Truman said it: "The buck stops here." The Oval Office is where the responsibility lies.

I can understand why the American people can be confused. We have talked about several things tonight. We have talked about the body armor and the ill-equipped troops. We have talked about the Medicare bill and the fact it is going to cost more than we were told and will provide an inadequate benefit. I noticed the other side earlier was saying it is not a perfect bill. You can bet your life it is not a perfect bill; it is a terrible bill. It is going to cost much more than we were told it was going to cost. The deficit is going to be well over $500 billion this year, with no end in sight.

If I can mention education, we had a primary in Ohio with well over 200 education ballots that people were called to vote upon. More than half failed. People are wondering why are we not funding the No Child Left Behind bill at an adequate level. And then, we all understand that the President, as the gentleman from Washington (Mr. INSLEE) said, did not ask for a single dime for the Iraq war in the budget he sent us; but we all know as soon as the election is over, the President is going to come to this House and ask for at least an additional $50 billion for Iraq.

I think people are wondering why can we not have affordable drugs for our senior citizens, why can we not adequately fund our schools, why can we not provide the kind of health care that our veterans have been promised and deserve, why can we not adequately equip our troops and start paying down this deficit rather than pushing this burden into the outyears onto the backs of our children. The answer is the President has set out an agenda which is to give massive tax cuts to the richest people in this country, to spend on the building of Iraq and the rebuilding of Iraq.

My people are not selfish along the Ohio River in eastern and southeastern Ohio. They are good, hardworking, honest American citizens. They are wondering why our schools cannot be built and rehabbed and modernized, and we are spending that money in Iraq. We are not going to get a transportation bill unless something happens and there is some kind of an agreement. We are told the President may even veto the transportation funding at the Senate-passed level. My constituents are asking, What about our infrastructure? What about our roads and bridges? What about our sewer and water needs? And yet we are pouring our national resources into Iraq, and as the gentleman from Hawaii (Mr. ABERCROMBIE) said, we have no idea what is going to happen with that government over there.

Mr. ABERCROMBIE. Mr. Speaker, we do know one thing, we have competition in Ohio for who is going to build those highways; but in Iraq we know it is going to be Halliburton and the rest of the hand-picked construction companies which will be pocketing the profits.

Mr. DELAHUNT. Mr. Speaker, we understand and I continue to hear the word "recovery." We know it is a jobless recovery, but it is not a jobless recovery for those who live in Iraq. It is a lot of no-show jobs going on over in Iraq. And as we discussed in our last session, certain individuals are doing very well by the American taxpayers. There is a budget for Iraq, and there is a budget for the United States; and they are both being paid for by the American taxpayer.

Mr. STRICKLAND. Mr. Speaker, if the gentleman would yield, I was watching television over the weekend, and I saw Mr. Richard Pearl being interviewed about why we are trying to provide universal health care for Iraq. He was trying to give the reasons why that was justified. He was asked, What about the American citizen? He said Well, it is a different situation. The problems of health care in Iraq are so terrible, and this is something we ought to pursue.

Mr. Speaker, my constituents are kind, caring, gracious people; but they have a hard time understanding why the steelworkers losing their jobs along the Ohio River, and as a result of bankruptcy of the steel industry, losing their health benefits as retirees, many of them in their mid-fifties with health problems, no insurance company wants them; and even if they could get an insurance company that would sell them a policy, they could not possibly afford it because they have no job, and these people are wondering why we have a double standard when it comes to our willingness to do what this administration, this President says he wants to do for Iraq when the people who built this country worked hard, played by the rules, many of them fought in our wars, are wondering why they are considered to be second priorities instead of first priorities. I think that is a legitimate issue. I wish I was in Cleveland tomorrow and had an opportunity to talk to the President while he was there. I would like to ask him those questions on behalf of my constituents.

Mr. DELAHUNT. Mr. Speaker, I listened to the President's remarks this evening. They were transmitted on CNN. He described those who are concerned about the outsourcing of American jobs, with an implication that somehow those who have a concern about jobs in America are something less than free and fair traders, and that is T-R-A-D-E-R-S, and should be called economic isolationists.

Mr. INSLEE. Mr. Speaker, if the gentleman would yield, I think it is important in this discussion to say we are as hopeful as credibility can allow for the ultimate outcome in Iraq. We are hopeful that this constitution in Iraq will bear benefits, that a stable government will develop in Iraq, that the Kurds will enter a federation and not end up in a civil war. We are hopeful that will happen.

But what we are saying is we need the administration to be honest with us and the American people so we can deal with challenges at home, one of which is this jobs issue. We could be creating thousands of good-paying jobs by creating new infrastructure, but we cannot do that because this administration has not been forthright with us about the true cost of the Iraq war. One of the reasons that we are not growing jobs in this country in transportation infrastructure is because the President has refused to be honest with us about the cost of the Iraq war.

Mr. DELAHUNT. And be honest with us about the cost of the prescription drug benefit proposal put forth by his party and his White House.

Mr. STRICKLAND. And be honest with us about the true cost of the No Child Left Behind education bill. It starts adding up.

Mr. DELAHUNT. Mr. Speaker, it comes down to the question posed here on the cover of Time magazine, Does Bush have a credibility gap? And clearly there is substantial evidence that would lead to the conclusion that there is a profound credibility gap.

Mr. ABERCROMBIE. Mr. Speaker, with respect to the trenchant commentary that the gentleman from Washington (Mr. INSLEE) just presented to us, I too am aware of the designation by Mr. Bush by those who are protesting or are concerned about the outsourcing of jobs overseas, the loss of jobs, the jobless recovery as being economic isolationists.

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I would suggest to Mr. Bush that if you want to see someone who is isolated economically, just take a look at somebody who is unemployed. Then you are going to understand what true isolation is, where you are bereft of any capacity to pay your bills, to meet your obligations, to know that you will have healthcare, to be able to take care of your elderly parents, to have some semblance of dignity. The true economic isolate in this country is the person who is unemployed.

Mr. INSLEE. If the gentleman will yield, I would offer a theory perhaps as to why the administration has in numerous ways expressed kind of a tone deafness to the economic outcry to people going on concerned about their jobs.

You saw the administrative report basically saying that outsourcing was not a problem at all, which the White House then tried to disavow, even though the President signed the report which said that, which I saw in the Washington Post today. You saw various efforts by the administration to teach businesses how not to pay overtime to American employees, which I thought was a little bit not what most people would expect of our government to do and use our taxpayer dollars, to teach people not to pay legally-owed overtime. That is distressing.

So there is a lack of understanding, and I am not sure the administration understands the huge black cloud of doubt and worry out there, because the American people understand that even though there might be some good numbers out there in various economic indicators, the fact of the matter is, for the first time since Herbert Hoover was President, this President has not created one single net job in America, not one single net job in America.

We have lost over 2.5 million jobs. We have got to get 2.5 million jobs back before we can even claim that one new job has been created on a net basis in this country. This has created enormous anxiety, as it should, in our Nation, that then affects the people.

Mr. DELAHUNT. That is only half of the story. I think it is very important that those that are watching us tonight in our hour "hour of conversation" understand that not only have we lost millions of jobs, but, as the gentleman indicated, we create and we lose, and it is netted out to some 2.5 million jobs we have lost. He will be the next Herbert Hoover. But, do you know what is happening? It is not just a jobless recovery, it is a wage recession. That is really important, that those that are unaware be given that information. The jobs that are replacing the jobs that are lost are coming in at a wage level some 22 percent less than the jobs that they replace.

Mr. STRICKLAND. If the gentleman will yield, I am from Ohio, and Ohio probably as much or more than most States has suffered and is continuing to suffer from job loss. 286,000 jobs have been lost in Ohio, 160,000 manufacturing jobs, and the replacement jobs are estimated to pay on average 34 percent less than the jobs that have been lost. That is the cold, hard facts about Ohio.

Mr. ABERCROMBIE. As we conclude then, I might add, however, there are plenty of jobs for those who want to take them up over in Iraq working for Halliburton or working for one of the other companies that got the preferential treatment. So I think when we come to our next "Iraq Watch," we should have well in mind what the consequences have been for the American people, the American taxpayer, the American soldier.

CORRECTION TO THE CONGRESSIONAL RECORD OF TUESDAY, FEBRUARY 24, 2004 AT PAGE H531

(The following removal of name of Member as cosponsor was inadvertently attributed to Ms. CORRINE BROWN of Florida.)

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3473

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 3473.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DAVIS of Illinois (at the request of Ms. PELOSI) for today and the balance of the week on account of official business in the district.

Ms. JACKSON-LEE of Texas (at the request of Ms. PELOSI) for today on account of official business in the district.

Mr. ORTIZ (at the request of Ms. PELOSI) for today on account of business in the district.

Mr. BEREUTER (at the request of Mr. DELAY) for today on account of personal reasons.

Mr. CULBERSON (at the request of Mr. DELAY) for today on account of personal business.

Mr. MILLER of Florida (at the request of Mr. DELAY) for today and the balance of the week on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mrs. MCCARTHY of New York, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. MATHESON, for 5 minutes, today.

Mr. THOMPSON of California, for 5 minutes, today.

Mr. BERRY, for 5 minutes, today.

Mr. CASE, for 5 minutes, today.

Mr. COOPER, for 5 minutes, today.

Mr. TAYLOR of Mississippi, for 5 minutes, today.

Mr. TURNER of Texas, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. RYAN of Ohio, for 5 minutes, today.

Mr. BLUMENAUER, for 5 minutes, today.

(The following Members (at the request of Mr. KLINE) to revise and extend their remarks and include extraneous material:)

Mr. GOODE, for 5 minutes, today and March 10.

Mr. BURTON of Indiana, for 5 minutes, today and March 10 and 11.

Mr. DREIER, for 5 minutes, today and March 10 and 11.

Mr. COLE, for 5 minutes, today.

Ms. GINNY BROWN-WAITE of Florida, for 5 minutes, today.

Mr. MARIO DIAZ-BALART of Florida, for 5 minutes, today.

Mr. BURNS, for 5 minutes, today.

Mr. GINGREY, for 5 minutes, today and March 10 and 11.

Mr. BISHOP of Utah, for 5 minutes, today and March 10 and 11.

Mr. MCCOTTER, for 5 minutes, March 10.

Mr. TURNER of Ohio, for 5 minutes, March 10.

Mrs. MILLER of Michigan, for 5 minutes, March 10.

Mrs. BLACKBURN, for 5 minutes, March 11.

Mr. GERLACH, for 5 minutes, March 11.

Mr. CHOCOLA, for 5 minutes, March 11.

Mr. SOUDER, for 5 minutes, today.

Mr. PAUL, for 5 minutes, today and March 10.

Mr. BURGESS, for 5 minutes, March 10.

Mr. HENSARLING, for 5 minutes, March 10.

Mr. PEARCE, for 5 minutes, March 10.

Mr. KLINE, for 5 minutes, today.

Mr. NEUGEBAUER, for 5 minutes, March 10.

Mr. SMITH of Michigan, for 5 minutes, March 11.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. CONYERS, for 5 minutes, today.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 741. An act to amend the Federal Food, Drug, and Cosmetic Act with regard to new animal drugs, and for other purposes; to the Committee on Energy and Commerce.

S. Con. Res. 96. Concurrent resolution commemorating the 150th anniversary of the first meeting of the Republican Party in Ripon, Wisconsin; to the Committee on Government Reform.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker.

H.R. 506. An act to provide for the protection of archaeological sites in the Galisteo Basin in New Mexico, and for other purposes.

H.R. 2059. An act to designate Fort Bayard Historic District in the State of New Mexico as a National Historic Landmark, and for other purposes.

ADJOURNMENT

Mr. DELAHUNT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 55 minutes p.m.), the House adjourned until tomorrow, Wednesday, March 10, 2004, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

7102. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed issuance of export license to Kazakhstan (Transmittal No. DDTC 131-03), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

7103. A letter from the White House Liaison, Department of the Treasury, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

7104. A letter from the White House Liaison, Department of the Treasury, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

7105. A letter from the White House Liaison, Department of the Treasury, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

7106. A letter from the White House Liaison, Department of the Treasury, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

7107. A letter from the White House Liaison, Department of the Treasury, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

7108. A letter from the White House Liaison, Department of the Treasury, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

7109. A letter from the White House Liaison, Department of the Treasury, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

7110. A letter from the White House Liaison, Department of the Treasury, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

7111. A letter from the White House Liaison, Department of the Treasury, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

7112. A letter from the White House Liaison, Department of the Treasury, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

7113. A letter from the White House Liaison, Department of the Treasury, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

7114. A letter from the White House Liaison, Department of the Treasury, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

7115. A letter from the White House Liaison, Department of the Treasury, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

7116. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pilatus Aircraft Ltd. Model PC-6 Airplanes [Docket No. 2003-CE-01-AD; Amendment 39-13130; AD 2003-09-01] (RIN: 2120-AA64) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7117. A letter from the Paralegal Specailist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model AS 365 N3 and EC 155B Helicopters [Docket No. 2001-SW-61-AD; Amendment 39-13303; AD 2003-19-01] (RIN: 2120-AA64) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7118. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Air Cruisers Company Emergency Evacuation Slide/Raft System [Docket No. 99-NE-31-AD; Amendment 39-13445; AD 2004-03-01] (RIN: 2120-AA64) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7119. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30367; Amdt. No. 3057] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7120. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30368; Amdt. 3058] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7121. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Special Federal Aviation Regulation No. 36, Development of Major Repair Data [Docket No. FAA-2003-16527; Amendment No. SFAR 36-8] (RIN: 2120-AI09) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7122. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30375; Amdt. No. 3064] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7123. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Revision of Restricted Area 2202C, and the establishment of Restricted Area 2202D; Big Delta, AK [Docket No. FAA-2003-15086; Airspace Docket No. 03-AAL-07] (RIN: 2120-AA66) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7124. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Enhanced Flight Vision Systems [Docket No. FAA-2003-14449; Amendment Nos. 1-52; 91-281; 121-303; 125-45; 135-93] (RIN: 2120-AH78) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7125. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 737-100, -200, -200C, -300, -400, and -500 Series Airplanes [Docket No. 2003-NM-249-AD; Amendment 39-13377; AD 2003-24-08] (RIN: 2120-AA64) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BARTON: Committee on Energy and Commerce. S. 1881. An act to amend the Federal Food, Drug, and Cosmetic Act to make technical corrections relating to the amendments by the Medical Device User Fee and Modernization Act of 2002, and for other purposes; with an amendment (Rept. 108–433). Referred to the Committee of the Whole House on the State of the Union.

Mr. BARTON: Committee on Energy and Commerce. H.R. 3717. A bill to increase the penalties for violations by television and radio broadcasters of the prohibitions against transmission of obscene, indecent, and profane language; with amendments (Rept. 108–434). Referred to the Committee of the Whole House on the State of the Union.

Mr. SESSIONS: Committee on Rules. House Resolution 552. Resolution providing for consideration of the bill (H.R. 339) to prevent frivolous lawsuits against the manufacturers, distributors, or sellers of food or nonalcoholic beverage products that comply with applicable statutory and regulatory requirements (Rept. 108–435). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. BACA (for himself, Mr. Osborne, and Mr. Price of North Carolina):

H.R. 3914. A bill to amend the Communications Act of 1934 to require that violent video programming is limited to broadcast after the hours when children are reasonably likely to comprise a substantial portion of the audience, unless it is specifically rated on the basis of its violent content so that it is blockable by electronic means specifically on the basis of that content; to the Committee on Energy and Commerce.

By Mr. MANZULLO:

H.R. 3915. A bill to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through May 21, 2004, and for other purposes; to the Committee on Small Business.

By Mr. CASTLE (for himself and Mrs. Maloney):

H.R. 3916. A bill to improve circulation of the $1 coin, create a new bullion coin, and for other purposes; to the Committee on Financial Services.

By Mr. ISRAEL:

H.R. 3917. A bill to designate the facility of the United States Postal Service located at 695 Marconi Boulevard in Copiague, New York, as the "Maxine S. Postal United States Post Office"; to the Committee on Government Reform.

By Ms. JACKSON-LEE of Texas (for herself and Mr. Conyers):

H.R. 3918. A bill to amend the Immigration and Nationality Act to reunify families, permit earned access to permanent resident status, provide protection against unfair immigration-related employment practices, reform the diversity visa program, provide adjustment of status for Haitians and Liberian nationals, and for other purposes; to the Committee on the Judiciary.

By Ms. LEE (for herself, Mr. Conyers, Mr. Rangel, Mr. Grijalva, Mr. Thompson of Mississippi, Mr. Cummings, Mr. Hinchey, Ms. Woolsey, Mr. Owens, Mr. George Miller of California, Ms. Corrine Brown of Florida, Ms. Schakowsky, Ms. Solis, Mr. McGovern, Mr. Serrano, Mr. Payne, Ms. Velázquez, Ms. Roybal-Allard, Mrs. Jones of Ohio, Ms. Waters, Mr. Farr, Mrs. Napolitano, and Mrs. Christensen):

H.R. 3919. A bill to establish the Independent Commission on the 2004 Coup d'Etat in the Republic of Haiti; to the Committee on International Relations.

By Mr. LEWIS of Kentucky (for himself, Mr. DeMint, Mr. Everett, Mr. Pombo, Mr. Coble, Mr. Collins, Mr. Goode, Mr. Pitts, Mr. Franks of Arizona, Mr. Hefley, Mr. Doolittle, and Mr. Kingston):

H.R. 3920. A bill to allow Congress to reverse the judgments of the United States Supreme Court; to the Committee on the Judiciary, and in addition to the Committee on

Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MATHESON:

H.R. 3921. A bill to protect public health and safety, should the testing of nuclear weapons by the United States be resumed; to the Committee on Armed Services, and in addition to the Committees on Energy and Commerce, and Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PORTMAN (for himself, Mr. Levin, Mr. LaTourette, Mr. Souder, and Mr. Ramstad):

H.R. 3922. A bill to amend title 23, United States Code, relating to improving safety and enforcement with respect to individuals operating motor vehicles while under the influence of, or having used, drugs; to the Committee on Transportation and Infrastructure, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHUSTER:

H.R. 3923. A bill to designate the Federal building located at 228 Walnut Street, in Harrisburg, Pennsylvania, as the "Ronald Reagan Federal Building"; to the Committee on Transportation and Infrastructure.

By Mr. STRICKLAND:

H.R. 3924. A bill to authorize an annual appropriation of $10,000,000 for mental health courts through fiscal year 2009; to the Committee on the Judiciary.

By Mr. NEY (for himself, Mr. Larson of Connecticut, Mr. Wilson of South Carolina, Mr. Ehlers, Mr. Cunningham, Mr. Feeney, Ms. Ros-Lehtinen, Mr. Chabot, Ms. Baldwin, Mr. Oberstar, Mr. Reynolds, Mr. Stupak, Mr. Doolittle, Mr. Price of North Carolina, and Mr. Dreier):

H. Res. 551. A resolution thanking C-SPAN for its service to the House of Representatives on the 25th anniversary of its first coverage of the proceedings of the House; to the Committee on House Administration.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 290: Mr. Bass.

H.R. 348: Mr. Frost, Mr. Gordon, and Ms. Hart.

H.R. 391: Mr. Vitter.

H.R. 463: Mr. Burr and Mr. Waxman.

H.R. 548: Mr. Coble.

H.R. 664: Ms. Eshoo.

H.R. 677: Mr. Baca and Mr. Schiff.

H.R. 713: Mrs. Davis of California, Mr. Norwood, and Mr. Dicks.

H.R. 742: Mr. Green of Texas, Mr. Ryan of Wisconsin, and Mr. Turner of Ohio.

H.R. 814: Mr. Larsen of Washington and Mr. Meeks of New York.

H.R. 850: Ms. Hart.

H.R. 857: Mr. Bass and Mr. Quinn.

H.R. 931: Mr. Garrett of New Jersey.

H.R. 997: Mr. Shuster.

H.R. 1105: Mr. Emanuel.

H.R. 1155: Mr. Bereuter, Mr. Sabo, Mr. McGovern, and Mr. Evans.

H.R. 1206: Mr. Souder.

H.R. 1422: Mr. Smith of Washington and Mr. Frank of Massachusetts.

H.R. 1508: Mr. Boswell and Mrs. Christensen.

H.R. 1519: Mr. Gutierrez.

H.R. 1563: Mr. Rothman and Mr. Issa.

H.R. 1592: Mr. Carson of Oklahoma.

H.R. 1673: Ms. Linda T. Sánchez of California.

H.R. 1749: Mr. Wamp.

H.R. 1870: Mr. Vitter.

H.R. 1919: Mr. Gordon and Mr. Langevin.

H.R. 1943: Mr. Gingrey.

H.R. 2022: Mr. Andrews.

H.R. 2023: Ms. Millender-McDonald.

H.R. 2068: Mr. Hinchey, Ms. Baldwin, and Mr. Houghton.

H.R. 2069: Ms. Slaughter.

H.R. 2133: Mr. Israel.

H.R. 2176: Mr. Otter.

H.R. 2227: Mr. Meeks of New York.

H.R. 2239: Mr. Israel and Mr. Kind.

H.R. 2318: Ms. McCarthy of Missouri.

H.R. 2366: Mrs. Davis of California, Mr. Pastor, Mr. Lucas of Kentucky, Mr. McNulty, and Ms. McCollum.

H.R. 2404: Mr. Ballenger.

H.R. 2442: Mr. Reyes, Mr. Bishop of Georgia, Ms. Jackson-Lee of Texas, Mr. Hostettler, Mr. Ackerman, Mr. Holt, Mr. Towns, Mr. Larsen of Washington, Mr. Lipinski, Mr. Bishop of New York, Ms. Lee, and Mr. Menendez.

H.R. 2459: Mr. Bachus.

H.R. 2527: Mr. Schiff.

H.R. 2569: Ms. Jackson-Lee of Texas.

H.R. 2585: Mr. Farr.

H.R. 2592: Mr. Gordon, Mr. English, and Mr. Meeks of New York.

H.R. 2612: Ms. Corrine Brown of Florida, Mr. Langevin, and Mr. Frost.

H.R. 2699: Mr. Bonilla, Mr. Moran of Kansas, Ms. Ginny Brown-Waite of Florida, Mr. Barton of Texas, Mr. Akin, Mr. Souder, Mr. Simpson, and Mr. Burgess.

H.R. 2814: Mr. Ramstad.

H.R. 2852: Mr. Sabo, Mr. Garrett of New Jersey, Mr. Sullivan, and Mr. Shaw.

H.R. 2890: Mrs. Cubin.

H.R. 2891: Mr. Michaud.

H.R. 2911: Mr. Jackson of Illinois, Mr. Grijalva, and Mr. Nadler.

H.R. 2932: Mr. Sherman and Ms. Eddie Bernice Johnson of Texas.

H.R. 2950: Mr. Gordon.

H.R. 2987: Mrs. Davis of California and Mr. McGovern.

H.R. 3004: Mr. Pascrell.

H.R. 3015: Ms. Schakowsky.

H.R. 3111: Mr. Wamp, Mr. Bishop of Georgia, Mr. Souder, Ms. Watson, Mr. Sabo, Mr. Gonzalez, Mr. Murtha, Mr. Moran of Virginia, and Mr. Alexander.

H.R. 3207: Mr. Udall of New Mexico.

H.R. 3213: Mr. Burns.

H.R. 3294: Mr. Pascrell.

H.R. 3352: Mr. Allen, Ms. Pelosi, Mrs. Jones of Ohio, Mr. McDermott, Mr. Thompson of California, Mr. Kildee, Mr. Hoeffel, and Mr. Cummings.

H.R. 3359: Mr. Grijalva, Mr. Stark, Mrs. Napolitano, Ms. Slaughter, and Mr. Rangel.

H.R. 3378: Ms. Ros-Lehtinen.

H.R. 3424: Mr. Boswell.

H.R. 3425: Ms. DeGette.

H.R. 3447: Mr. Meeks of New York, Mr. Sherman, and Mr. Rush.

H.R. 3463: Mr. Rogers of Michigan and Mr. Camp.

H.R. 3474: Mrs. Kelly, Mr. Ruppersberger, Mr. Dicks, Mr. Etheridge, Mr. Jefferson, and Mr. Simmons.

H.R. 3545: Ms. Woolsey.

H.R. 3574: Mr. Farr, Mr. Kind, and Mr. Cunningham.

H.R. 3579: Mrs. Northup, Mr. Pallone, Mr. Simmons, Mr. Gibbons, Ms. Woolsey, Ms. Slaughter, Mr. Rothman, Mr. Ryan of Ohio, Mr. Stupak, and Mr. Grijalva.

H.R. 3619: Mrs. Lowey.

H.R. 3628: Ms. Lee.

H.R. 3657: Mr. Grijalva.

H.R. 3658: Mrs. Davis of California and Mr. Davis of Tennessee.

H.R. 3665: Mr. Sherman.

H.R. 3687: Mr. Davis of Tennessee and Mr. Vitter.

H.R. 3699: Mr. Wynn, Mr. Towns, Mr. Matheson, Mr. Baird, and Mr. Davis of Illinois.

H.R. 3716: Mr. Bishop of Utah.

H.R. 3720: Mr. Norwood and Mr. Case.

H.R. 3728: Mr. Neugebauer and Mr. Hastings of Florida.

H.R. 3729: Ms. Hooley of Oregon, Ms. Lee, Mr. Green of Texas, Mr. Young of Alaska, and Mr. Pastor.

H.R. 3730: Mr. Moore.

H.R. 3734: Mr. Young of Florida.

H.R. 3743: Mr. Ballenger and Mr. Boucher.

H.R. 3763: Mr. Hyde, Mr. Frank of Massachusetts, Mr. Coble, Mr. Ferguson, Mr. Gordon, and Mrs. Emerson.

H.R. 3767: Ms. Carson of Indiana, Ms. Slaughter, Mrs. Capps, and Ms. McCollum.

H.R. 3780: Mr. Grijalva.

H.R. 3781: Mr. Paul, Mr. Bereuter, Mr. Bartlett of Maryland, and Mr. Pomeroy.

H.R. 3793: Mr. Hoeffel, Mrs. Kelly, Mr. Abercrombie, and Mr. Langevin.

H.R. 3795: Mr. Etheridge and Mr. McIntyre.

H.R. 3801: Mr. Barrett of South Carolina, Mr. Pitts, Mr. Schrock, Mr. Stearns, Mr. Culberson, Mr. Wilson of South Carolina, and Mr. Pickering.

H.R. 3802: Mr. Case, Mr. McGovern, Mr. Kind, Mr. Saxton, Mr. Kirk, Mr. Hinchey, Mr. Hoeffel, Mr. Cardoza, Mr. Engel, Ms. Millender-McDonald, Mr. Neal of Massachusetts, Mr. Gilchrest, Mr. Shimkus, Ms. McCollum, and Mr. Sanders.

H.R. 3814: Mr. Flake.

H.R. 3815: Mr. McGovern and Mr. Etheridge.

H.R. 3816: Mr. Dingell.

H.R. 3818: Mr. Hunter, Mr. Filner, Mr. Pence, Mr. Bereuter, Mr. Gillmor, Mr. Weldon of Florida, Mr. Farr, Mr. George Miller of California, Mr. Tancredo, Mr. Wexler, Mr. Delahunt, Mr. Lincoln Diaz-Balart of Florida, Mrs. Napolitano, and Mr. Doggett.

H.R. 3833: Mr. McDermott.

H.R. 3839: Mr. Meeks of New York.

H.R. 3847: Mr. Rahall, Ms. DeGette, Mr. Ackerman, and Mrs. Napolitano.

H.R. 3853: Mr. Garrett of New Jersey.

H.R. 3854: Mr. Garrett of New Jersey.

H.R. 3858: Mr. Goss, Mr. Garrett of New Jersey, Mr. McGovern, Mr. Souder, Mr. Gibbons, Mr. Castle, Mr. Frank of Massachusetts, Ms. Slaughter, Mr. Pastor, Mr. Snyder, Mr. Lucas of Kentucky, Mr. Ramstad, Mr. Scott of Georgia, and Mr. Bishop of New York.

H.R. 3860: Mr. Schiff, Mr. Petri, Mr. Beauprez, and Ms. McCollum.

H.R. 3888: Mr. Berry, Ms. McCollum, and Mr. Rohrabacher.

H.R. 3897: Mr. Weller.

H.J. Res. 45: Mr. Owens.

H.J. Res. 72: Ms. Schakowsky, Mr. Etheridge, and Mr. Platts.

H. Con. Res. 57: Mr. Langevin, Mr. Meehan, Mr. Berman, Ms. Waters, Ms. Ginny Brown-Waite of Florida, Mr. Schiff, Mr. Snyder, Mr. McGovern, Mr. Pallone, Mr.

MICHAUD, Mr. HASTINGS of Florida, Mr. GREENWOOD, Mrs. DAVIS of California, Mrs. NAPOLITANO, Mr. ENGEL, and Mr. WAXMAN.

H. Con. Res. 218: Ms. HARRIS.

H. Con. Res. 276: Ms. MCCOLLUM.

H. Con. Res. 285: Mr. BOUCHER.

H. Con. Res. 301: Mr. HONDA, Mr. UPTON, Mr. PAYNE, Mr. MARKEY, and Ms. BORDALLO.

H. Con. Res. 314: Mr. LOBIONDO and Mr. WAXMAN.

H. Con. Res. 330: Ms. CARSON of Indiana.

H. Con. Res. 332: Mr. MILLER of Florida, Mr. ALLEN, Mr. ENGEL, Mr. WYNN, Mr. GUTIERREZ, Mr. BOEHLERT, Mr. CASTLE, Mr. LAMPSON, Ms. MCCOLLUM, Mrs. KELLY, Ms. DEGETTE, Mr. MATSUI, Mr. PALLONE, and Mr. CHABOT.

H. Con. Res. 350: Mr. BALLENGER.

H. Con. Res. 356: Ms. LINDA T. SÁNCHEZ of California, Ms. CORRINE BROWN of Florida, Mr. FILNER, Mrs. MCCARTHY of New York, Mr. KUCINICH, Mr. LYNCH, Mrs. JONES of Ohio, Ms. WOOLSEY, and Mr. ALLEN.

H. Con. Res. 366: Mr. STARK, Mr. MCNULTY, Mr. FROST, Mr. WALSH, Mr. DINGELL, Mr. GUTIERREZ, Ms. SOLIS, Mr. KLECZKA, Mr. WYNN, Mr. DELAHUNT, Mr. TOWNS, Ms. SCHAKOWSKY, Mr. HOLT, Mr. ENGEL, Mr. GEORGE MILLER of California, Ms. KILPATRICK, and Mr. EVANS.

H. Con. Res. 367: Mr. SPRATT.

H. Con. Res. 371: Mr. GOODLATTE and Mr. CHOCOLA.

H. Con. Res. 378: Mr. PENCE, Mr. KILDEE, and Mr. MCNULTY.

H. Res. 103: Mr. SHUSTER and Mr. GREENWOOD.

H. Res. 402: Mrs. CAPITO and Mr. WAMP.

H. Res. 466: Ms. CARSON of Indiana, Mr. WHITFIELD, Mr. DINGELL, Ms. PELOSI, Mr. ROGERS of Michigan, Mr. CROWLEY, Mr. LYNCH, and Mr. MEEHAN.

H. Res. 475: Ms. WATERS and Mr. SHERMAN.

H. Res. 510: Ms. MCCOLLUM.

H. Res. 542: Ms. WOOLSEY.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 339

OFFERED BY: MR. ACKERMAN

AMENDMENT NO. 1: Section 4(2), insert after the period at the end the following: "However, such term shall not include any slaughtering, packing, meat canning, rendering, or similar establishment that manufactures or distributes for human consumption any cattle, sheep, swine, goats, or horses, mules, or other equines, that, at the point of examination and inspection as required by section 3(a) of the Federal Meat Inspection Act (21 USC 603(a)), are unable to stand or walk unassisted at such establishment.".

Section 4(6), insert after the period at the end the following: "However, such term shall not include any slaughtering, packing, meat canning, rendering, or similar establishment that distributes for human consumption any cattle, sheep, swine, goats, or horses, or mules, or other equines, that, at the point of examination and inspection as required by section 3(a) of the Federal Meat Inspection Act (21 USC 603(a)), are unable to stand or walk unassisted at such establishment.".

H.R. 339

OFFERED BY: MR. ANDREWS

AMENDMENT NO. 2: Section 4(4), insert before the period at the end the following: "", except that a food that contains a genetically engineered material is not a qualified product unless the labeling for such food bears a statement providing that the food contains such material and the labeling indicates which of the ingredients of the food are or contain such material".

H.R. 339

OFFERED BY: MR. INSLEE

AMENDMENT NO. 3: Section 4(5)(A), insert after "knowingly and willfully" the following: "or negligently".

H.R. 339

OFFERED BY: MR. LAMPSON

AMENDMENT NO. 4: At the end of the bill (preceding the amendment to the long title), insert the following new section:

SEC. 5. ACTIONS BY YOUNG CHILDREN AGAINST SELLERS THAT MARKET TO YOUNG CHILDREN.

Notwithstanding any other provision of this Act, this Act shall not apply to an action brought by, or on behalf of, a person injured at or before the age of 8, against a seller that, as part of a chain of outlets at least 20 of which do business under the same trade name (regardless of form of ownership of any outlet), markets qualified products to minors at or under the age of 8.

H.R. 339

OFFERED BY: MR. SENSENBRENNER

AMENDMENT NO. 5: Section 3(c)(1), strike "In any qualified civil liability action," and insert "In any action of the type described in clause (i) or (ii) of section 4(5)(B),".

Section 3(d), strike "section 4(5)(A)" and insert "section 4(5)(B)(i)".

Section 4(5), strike "The term" and insert "(A) Subject to subparagraphs (B) and (C), the term".

Section 4(5), strike "any person, but shall not include—" and insert "any person."

Section 4(5), insert after "any person." (as inserted by the preceding instruction) the following:

(B) Such term shall not include–

Section 4(5), strike "(A) an action" and insert "(i) an action".

Section 4(5), insert "or" after "obesity;".

Section 4(5), strike "(B) an action" and insert "(ii) an action".

Section 4(5), strike "; or" and insert a period.

Section 4(5), strike subparagraph (C) and insert the following:

(C) Such term shall not be construed to include an action brought under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) or the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

H.R. 339

OFFERED BY: MR. WATT

AMENDMENT NO. 6: At the end of the bill (preceding the amendment to the long title), insert the following new section:

SEC. 5. STATE CONSUMER PROTECTION ACTIONS.

Notwithstanding any other provision to the contrary in this Act, this Act does not apply to an action brought by a State agency to enforce a State consumer protection law concerning mislabeling or other unfair and deceptive trade practices.

H.R. 339

OFFERED BY: MR. WATT

AMENDMENT NO. 7: Section 3(a), strike "or State".

H.R. 339

OFFERED BY: MR. WATT

AMENDMENT NO. 8: Strike section 3(b).

H.R. 339

OFFERED BY: MS. JACKSON-LEE OF TEXAS

AMENDMENT NO. 9: Section 4(5), insert after "or a trade association," the following: "or a civil action brought by a manufacturer or seller of a qualified product, or a trade assocation, against any person,".

H.R. 339

OFFERED BY: MS. JACKSON-LEE OF TEXAS

AMENDMENT NO. 10: At the end of the bill (preceding the amendment to the long title), insert the following new section:

SEC. 5. ACTIONS INVOLVING WEIGHT-LOSS PRODUCTS.

Notwithstanding any other provision of this Act, this Act shall not apply to an action alleging that a product claiming to assist in weight loss caused heart disease, heart damage, primary pulmonary hypertension, neuropsychologocal damage, or any other complication which may also be generally associated with a person's weight gain or obesity.

EXTENSIONS OF REMARKS

TRIBUTE TO MS. NORIS COLON

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. SERRANO. Mr. Speaker, it is with great pleasure that I rise during this month of March, which has been designated Woman's History Month, to pay tribute to Ms. Noris Colon, president and chief executive officer of H.O.G.A.R. (Housing Options & Geriatric Association Resources, Inc.), an organization dedicated to improving the lives of homeless, elderly, mentally ill, physically challenged, and HIV/AIDS-infected individuals in the Bronx.

Noris was born in Salinas, PR, and is very proud of her family and heritage. She comes from a family with a long tradition of public service. In her home town of Salinas, there is a street named after her late father, Juan Manzanet, who was the first chief of the fire department.

Mr. Speaker, in 1996, Noris founded H.O.G.A.R. to fill a gap in the social service delivery system in Bronx County. The organization's mission is not only to raise awareness of the housing and health issues facing burdened groups of society, but also to provide ways of remedying these issues. As a result of her strong leadership, H.O.G.A.R. was selected as the "Outstanding Agency of the Year" by the Bronx Psychiatric Center and the State Office of Mental Health.

Noris has an extensive background in social and rehabilitative services and mental health administration. Her experience encompasses personnel management, psychiatric rehabilitation, community relations, and the development of special needs housing programs. She graduated from Nyack College, where she specialized in organizational management.

Mr. Speaker, Noris resume is impressive. She was the first administrator of the Mental Health Program of Hunts Point Multi Service Center. She has also served as director of Community Residences of South Bronx Mental Health Council and has worked at Casa La Esperanza and Harlem Hospital. In addition, Noris has served as chief of staff for City Councilman Federico Perez and was appointed Human Rights Commissioner of New York by Mayor Abraham Beame.

Mr. Speaker, for her immeasurable contributions to those most in need and most overlooked, I ask that my colleagues join me in honoring this incredible woman.

TRIBUTE TO THE NATIONAL ALTERNATIVE FUELS TRAINING CONSORTIUM AND IVY TECH STATE COLLEGE NORTHWEST

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. VISCLOSKY. Mr. Speaker, it is with great honor and pleasure that I stand before you to recognize the National Alternative Fuels Training Consortium and Ivy Tech State College Northwest as they join together for the second National Alternative Fuel Vehicle (AFV) Day Odyssey. They, along with other community leaders, will come together on Friday, April 2, 2004, at the Westfield Shoppingtown in Merrillville, Indiana, to explore alternatives to powering cars and trucks with fuels besides gasoline and diesel throughout many locations all across northwest Indiana.

The National AFV Day Odyssey began in 2002. The first event reached more than 17,000 people at 51 sites nationwide. This event will explore the environmental needs for AFV in our country, and local participants will learn of alternative fuel options to protect the future of not only northwest Indiana but the rest of the Nation as well. The National Alternative Fuels Training Consortium and Ivy Tech State College Northwest will be educating participants on how alternative fuel and advanced-technology vehicles rely on domestic fuels such as propane and natural gas to provide power for vehicles, which in turn help protect our environment.

The mission of the National AFV Day Odyssey is as follows: "To strengthen our Nation's energy security, to preserve our Nation's energy independence, to improve our Nation's air quality, to support our national expertise and technological advancement, to offer wider choices and opportunities for American drivers, and to spread the exciting news that advanced-technology and alternative fuel vehicles are a positive choice for transportation." The mission and goals of National AFV Day are vital to the protection of our environment and for the future generations of our country and the world.

Mr. Speaker, at this time, I ask that you and my other distinguished colleagues join me in recognizing and paying tribute to the National Alternative Fuels Training Consortium and Ivy Tech State College Northwest as they strive to provide the tools and education for protecting our local, as well as national, interests in securing both the future of our environment and our Nation's energy independence.

EXPRESSING SYMPATHY OF HOUSE FOR VICTIMS OF EARTHQUAKE IN IRAN

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. HASTINGS of Florida. Mr. Speaker, I rise in support of House Resolution 526 expressing the sympathy of the House of Representatives for the victims of the devastating earthquake in Bam, Iran, on December 26, 2003.

I was horrified to see a whole city brought to a sudden stop in a few seconds of brutal seismic activity. Approximately 40,000 people died, or two-thirds of the 60,000 deaths worldwide from manmade and natural disasters in 2003; 30,000 people were injured, and up to 75,000 people were made homeless. But these statistics tell nothing of the personal impact of this tragedy on families and individuals. My heartfelt condolences go to them.

The tragedy of so many lives lost, and so many others turned upside down by the earthquake, is worsened by Bam's historic, cultural and architectural significance. Bam flourished as a site of pilgrimage and as a commercial and trading center on the famous Silk Road, which brought the treasures of the ancient Far East into what was then Persia, and on to the Mediterranean. The earthquake destroyed 90 percent of Bam. Now, it appears that much of this heritage may have been lost forever.

In the midst of so much devastation, relief workers from all over the world—including the United States—undoubtedly brought a considerable measure of relief. Their effectiveness was remarkable and exemplary. I thank them for their courageous work.

Mr. Speaker, I take this opportunity to express my deepest sympathy to the Iranian people for this terrible tragedy, and encourage this body to assist with the reconstruction of Bam and the anguish of its citizens. In addition, I call on people to continue to help raise money and send supplies to Bam, where the cost of reconstruction is estimated to be $1 billion.

Mr. Speaker, I strongly support this resolution and urge its passage.

TRIBUTE TO NELLIE M. McKAY

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. SERRANO. Mr. Speaker, it is with great pleasure that I rise during this month of March, which has been designated Women's History Month, to pay tribute to Ms. Nellie McKay, an incredible woman who has dedicated most of her life to the service of others.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Nellie was born in 1929 to two hard-working parents, Polly and Alex Brown. She grew up with 10 brothers and sisters and learned the importance of sharing and support at a young age. Nellie has applied these values throughout her life as a community activist. New York was fortunate enough to become home to Nellie in 1950, when she immediately became a volunteer with the Baby Tracks program at the old Lincoln Hospital in the South Bronx. She also lent her time and energy to the Prosthesis Clinic at St. Luke's Hospital, easing the spirits of patients there. Nellie was a key player in the immunization program at local public schools, which is a crucial initiative for underresourced schools, especially during that era.

Mr. Speaker, Nellie has always been committed to educating and fostering awareness in those around her. Having earned a Bachelor of Arts degree from Norwich University, she champions the importance of education. She has facilitated countless workshops on Black History to empower members of the Black community with knowledge of their history and culture as well as to inform members of other ethnic communities. Her main goal was to bring people together through learning.

Many young people and adults throughout the South Bronx consider Nellie a second mother. She has cared for hundreds of children in her home and coordinated numerous events with young people in the community. The fashion shows she organized with Mott Haven HeadStart children created wonderful memories for many. While Nellie may have a special place in her heart for children, she is also very concerned with general community development and giving everyone, children and adults alike, a sense of pride in their neighborhood. She has spearheaded the reparation of abandoned buildings and vacant lots and the repaving of roads and sidewalks. Knowing that she and her neighbors deserved quality public transportation service, she called for and received improvement of the local bus line. Nellie has also helped empower fellow Bronx residents by participating in a number of voter registration drives, encouraging her neighbors to make their voices heard.

Mr. Speaker, at 74 years of age, Nellie continues to work hard and is currently the chairperson of the Housing Committee of Planning Board I, assistant chairperson of the Patterson Volunteer Committee, a lifetime member of the National Council of Negro Women, and a member of the New York NAACP, as well as many other prestigious organizations.

In a day in age when many people do not pay attention to their neighbor, Nellie's selflessness is refreshing. For that reason, I ask that my colleagues join me honoring the contributions of this remarkable woman.

HONORING ST. SAVA SERBIAN ORTHODOX CHURCH

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. VISCLOSKY. Mr. Speaker, it is with great honor and enthusiasm that I congratulate St. Sava Serbian Orthodox Church as they join together in celebration of their 90th anniversary. They will be celebrating this very momentous and special occasion November 13 and 14, 2004.

St. Sava Serbian Orthodox Church and School is known throughout the northwest Indiana community as "Serbian Gary" because of its continued efforts over the past 90 years to perpetuate the Serbian Orthodox faith and traditions. In 1914, the founders proclaimed their mission of their new church before the Secretary of State in Indianapolis, Indiana. Their mission is as follows: "The purpose of this parish is to preach the Word of God (the Lord Jesus) and take spiritual care of its members; to spread goodness, justice, brotherly love, and respect among its members."

After much debate and discussion on who would be their chosen patron saint, it was unanimously decided that the patron saint of the parish and church would be St. Sava, the First Serbian Archbishop and Enlightener. In 1917, the parishioners, although under tremendous economic hardships, built the first church and school on 20th Avenue and Connecticut Street in Gary. Mr. Michael Pupin, a well-known Serbian scientist, served as Kum at the consecration services. Immediately after the Great Depression, the parish built an even larger church, school, parish hall, and library on 13th Avenue and Connecticut in 1938. Mr. Nikola Tesla, a well-known Serbian inventor and scientist, served as Kum at the consecration services.

In 1969, after Chairman Nick Chabraja purchased 40 acres of property on 49th Avenue in Hobart, the parish built a new parish hall for their summer meetings and family picnics. In February of 1978, during the day of honor to St. Simeon and Ana, the church was completely destroyed by a terrible fire. Under the leadership of President Zivojin Cokic and many volunteers, they built another church in the small hall of the 49th Avenue building. In May of 1991, the parish celebrated a "new beginning" when a brand-new building was constructed. The new building opened in Merrillville, where relics which survived the fire were blessed and installed into the new church.

Mr. Speaker, I ask that you and my other distinguished colleagues join me in honoring and congratulating St. Sava Serbian Orthodox Church on their 90th anniversary. Throughout many hardships and trials, the members of St. Sava have dedicated themselves to providing a spiritual and guiding light through the protection of the Serbian Orthodox faith and traditions for all of northwest Indiana. Their constant dedication and commitment is worthy of the highest commendation.

HONORING LIEUTENANT GENERAL SUNG EUN KIM (RET.)

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. McGOVERN. Mr. Speaker, I ask unanimous consent to insert in the CONGRESSIONAL RECORD the following statement signed by the Massachusetts Congressional Delegation as well as our dear friend and colleague, U.S. Representative CHARLES B. RANGEL of New York.

As you know, Mr. Speaker, Mr. RANGEL served in the U.S. Army from 1948 to 1952, during which time he fought in Korea and was awarded the Purple Heart and Bronze Star.

Mr. Speaker, I would like to personally thank my colleagues for signing this letter to Lieutenant General Sung Eun Kim (Ret.).

CONGRESS OF THE UNITED STATES,
Washington, DC, March 5, 2004.

Lieutenant General Sung Eun Kim (Ret.) served as the 4th Commandant of the Republic of Korea Marines Corps (ROKMC) and as ROK Minister of National Defense from 1963 to 1968. In General Kim, the United States has a true friend.

General Kim is a patriot who cares dearly for freedom and has a strong personal affinity for America. He also is an ardent supporter of the Korean War Memorial of Central Massachusetts, having made a significant contribution toward its construction and then encouraged many other ROKMC Commandants and other military leaders to join him in support of the Memorial, which stands as a symbol of Freedom.

The alliance between the ROK Marine Corps and the U.S. Marine Corps was forged in the fires of the Korean War, where Commandant General Kim and his ROK Marines fought shoulder-to-shoulder with U.S. Marines to repel brutal Communist aggression. According to historian Lieutenant Colonel James Durand, USMC, ". . . in the history of the ROK Marine Corps, General Kim is certainly in a class by himself. General Kim led ROK Marines in more battles than any other commander, including the amphibious landing at Tong Yong, which resulted in the first unit-wide promotions of the Korean War."

In a letter to Korean War Memorial Chairman Francis Carroll of Worcester, Massachusetts, General Kim wrote, "I want to thank the American people for all the sacrifices they have made for Korea. Had the United States not come to our aid 53 years ago, I would surely not be alive today to write this letter . . . I know that South Korea would not be the prosperous, democratic nation it is today without the military, economic, and political assistance America has given us over the past half century."

Thank you General Kim, the ROK Marine Corps, and the people of the Republic of Korea for your friendship. We salute you.

Sincerely,

Charles B. Rangel, Edward J. Markey, James P. McGovern, Barney Frank, Richard E. Neal, Martin T. Meehan, William D. Delahunt, Stephen F. Lynch, John W. Olver, John F. Tierney, Michael E. Capuano.

TRIBUTE TO MS. PALOMA IZQUIRDO-HERNANDEZ

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. SERRANO. Mr. Speaker, it is with great pleasure that I rise during this month of March, which has been designated Women's History Month, to pay tribute to Ms. Paloma Izquirdo-Hernandez, a remarkable woman who has dedicated most of her life to the serving others.

Paloma, who was raised in the Bronx, New York, attended Boston College as an undergraduate and holds two masters degrees, a MS and a MPH from Teachers College, Columbia University and the School of Public Health, Columbia University, respectively. She is currently the President and Chief Executive Officer of Urban Health Plan Inc.

Paloma has been steadily associated with Urban Health Plan since 1980 and has risen to the top of the organization by dedicating over 23 years as the organization's Administrator, Executive Director and currently as its President and Chief Executive Officer. Throughout her tenure with Urban Health Plan, Ms. Hernandez has worked, despite monumental challenges, to deliver care in a culturally and linguistically competent manner while increasing the number of services offered to patients that her agency serves. She takes pride in acknowledging that despite the dramatic changes that she has witnessed both in her community and in the health care environment she has had the will to persist to fulfill the mission that was set before her.

Mr. Speaker, I am proud to say that today over 30,000 community residents are provided with top quality health care and in the past year over 120,000 primary and specialty care visits were rendered at Urban Health Plan. Paloma can also add to her list of achievements the successful relocation of Urban Health Plan's main site, a project she embarked upon over 15 years ago. Through her spearheading efforts, financing was secured through municipal tax free bonds as well as a New York City Council Grant. The new site is a 40,000 square foot state of the art medical facility that will further support Urban Health Plan's ability to continue to provide medical services to its community.

Paloma currently serves on multiple boards and organizations. She is a true example of the consistent and outstanding leadership that exist in our cities' community based organizations. For her service to the people of her community, I ask my colleagues to join me in honoring this remarkable woman.

TRIBUTE TO THE ACTION OF NAVAL RESERVISTS IN BALTIMORE, MARYLAND

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. CARDIN. Mr. Speaker, I rise today to pay special tribute to the brave members of the U.S. Naval Reserve unit stationed at the Naval Reserve Center near Ft. McHenry in Baltimore, Maryland. The quick thinking of these Reservists saved the lives of 21 patrons of a Baltimore water taxi when a freak storm capsized their vessel on the afternoon of Saturday, March 6, 2004.

This tragic accident could have been much worse. Approximately 20 Naval Reservists were at the waterfront Reserve Center for weekend exercises when the storm struck. They saw the water taxi, Lady D, flip over and quickly rushed to their ACUV–27 vessel to help the victims of the overturned craft.

Their quick action saved almost all the victims of this tragedy. Unfortunately, one person died and three others are still missing. The survivors of the accident and Coast Guard officials credit the rescue efforts of the Naval Reservists as critical to saving most of those who were on the overturned water taxi in 44 degree waters.

I know, in some respects, it was pure luck that the water taxi capsized so near the Naval Reserve Center and that the Reservists were on site to carry out the rescue. But it also represents the quick action and outstanding bravery and courage of these Reservists.

I hope my colleagues in the U.S. House of Representatives will join me in saluting the members of the Naval Reserve, who, through quick thinking and action, saved the lives of 21 patrons of the Baltimore water taxi accident. While we honor the courage of these Naval Reservists, our hearts and prayers are with the victims of this tragedy and their families.

THE 125TH ANNIVERSARY OF THE ESTABLISHMENT OF THE UNITED STATES GEOLOGICAL SURVEY

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. MORAN of Virginia. Mr. Speaker, today I am introducing a resolution to acknowledge 125 years of reliable, timely, and objective science that illustrates and enhances our understanding of the Earth, and serves the important needs of individuals and communities across this great land.

The United States Geological Survey has an outstanding history of public service and scientific breakthroughs. It has been at the forefront of advances in our understanding of the Earth, its processes, and its resources. Scientists from the U.S. Geological Survey pioneered hydrologic techniques for gauging the impact of floods and modeling the flow of complex ground-water systems. The astronauts who landed on the Moon in 1969 were trained in geology by the USGS.

Innovative ventures with the private sector have given the world access to digital images of neighborhoods and communities in one of the largest data sets ever made available online. Modern-day understanding of the formation and location of energy and mineral resource deposits is rooted in fundamental scientific breakthroughs by USGS scientists. Their biologists revolutionized thinking about managing wildlife resources, providing a sound scientific basis that lets waterfowl conservation and recreational hunting work in tandem as adaptive management, not as conflicting interests. Advances in seismology are making early warnings of earthquakes a reality that will give the needed alert time to save lives. The future of the global community presents infinite opportunities for the science of the USGS to continue to make substantive and life-enhancing contributions to the betterment of the nation and the world.

I congratulate the United States Geological Survey on its 125th anniversary. By commemorating this date, I hope we will come to recognize the crucial services that this institution continues to provide this nation.

The United States Geological Survey is a vital Federal science agency that is headquartered in my District in Northern Virginia; however, Members should know that this agency has an important presence in every state of the union.

How has 125 years of independent science benefited our nation? It has given us an extensive record of our land and resources, which allows us to realize and track the changes in our land, water, and wildfire. It has provided a wealth of long-term data and research, which continues to serve thousands of government agencies, companies, non-profit organizations, recreational groups, and individual Americans. And it has given us scientific expertise and understanding that we can count on to be accurate and up to date.

Since its inception, the United States Geological Survey has become the premier science organization for the nation, covering all of the natural science disciplines (biology, geography, geology, and hydrology) in every state. This expansive coverage provides us with the comprehensive information we need to tackle many complicated issues in many geographical areas.

As an unbiased science agency, the United States Geological Survey often serves the needs of the nation behind the scenes. Whether it's research on windborne dusts, mercury contamination, or West Nile Virus used to protect public health; or natural hazards assessments used to ensure public safety; or the energy and mineral resources, water and biological information, and geologic mapping and geospatial information used to serve our economy, for 125 years, the United States Geological Survey has provided the science that serves as the basis for our most important decisions.

It's time we congratulated those whose labor provides us with the information we need to manage our resources and safeguard society. I am delighted to have this opportunity to bring attention to the work of the United States Geological Survey and showcase its remarkable history. I urge you to support this resolution, thereby confirming our appreciation for their ongoing work that has served the health, safety, and prosperity of the United States for 125 years.

In addition to Congressman James P. Moran, the following members are original sponsors of the House Resolution Congratulating the United States Geological Survey on its 125th Anniversary: Barbara Cubin, Tom Davis, Norm Dicks, Anna G. Eshoo, Ron Kind, Eddie Bernice Johnson, Zoe Lofgren, Ralph Regula, Nick Smith, Bill Young, and Sherwood Boehlert.

RESOLUTION

Whereas March 3, 2004 will mark the 125th Anniversary of the establishment of the United States Geological Survey;

Whereas the United States Geological Survey has become the Nation's premiere earth and biological science agency;

Whereas during its 125-year history, the United States Geological Survey has been the birthplace of a number of other Federal agencies, including the Reclamation Service (later renamed the Bureau of Reclamation) in 1902, the Forest Service in 1905, the United States Bureau of Mines in 1910, the Grazing Service (later renamed the Bureau of Land Management) in 1934, and the Minerals Management Service in 1982;

Whereas the United States Geological Survey has been a widely respected source of relevant and objective science to address the Nation's diverse natural resource issues;

Whereas the United States Geological Survey continues to serve the Nation as an independent fact-finding agency that collects, monitors, analyzes, and provides scientific information and understanding about natural resource conditions, issues, and problems;

Whereas a hallmark value of the United States Geological Survey to the Nation is its ability to carry out studies on a national scale and to sustain long-term monitoring and assessment of natural hazards and natural resource conditions;

Whereas the United States Geological Survey is an agency of the Federal Government with no regulatory or land management responsibilities and is thus a trusted entity to provide impartial science that serves the needs of the Nation; and

Whereas the United States Geological Survey has a scientific presence in every State and Territory of the United States and serves the Nation's extensive and diverse needs for objective scientific knowledge and understanding: Now, therefore, be it

Resolved, That the House of Representatives—

(1) congratulates the United States Geological Survey on its 125th anniversary; and

(2) expresses strong support for the United States Geological Survey as it serves the Nation by providing timely, relevant, and objective scientific in formation which helps to describe and understand the Earth, minimize the loss of life and property from natural disasters, manage water, biological, energy, and mineral resources, and enhance and protect the quality of life of all Americans.

TRIBUTE TO MS. HEIDI HYNES

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. SERRANO. Mr. Speaker, it is with great pleasure that I rise during this month of March, which has been designated Women's History Month, to pay tribute to Ms. Heidi Hynes, a remarkable woman who has dedicated most of her life to the service of others.

A native of Kansas City, MO, Heidi moved to the Bronx, New York, to attend Fordham University in the fall of 1986. After graduating with a B.A. in philosophy she became an associate of the Friars of the Atonement and subsequently volunteered for a year of service in Jamaica. In Jamaica, Heidi worked at a preschool, distributed food, tutored, provided assistance at a local clinic and did other activities related to the Friars Parish. Upon the completion of a year of volunteer work with the Friars Parish, Heidi returned to New York and worked as a full time volunteer with the Catholic Worker on the lower East Side. In this role, she lived with former homeless men and women, ran a soup-line, assisted with the distribution of their newspaper and was active in peace and justice campaigns.

In 1995, after marrying Bryan Hynes, a man she met while at the Catholic Worker, Heidi began working as a community organizer for the Northwest Bronx Community and Clergy Coalition. In that capacity she organized tenants, homeowners, and park groups in the Fordham Bedford community. In the fall of 1997, Heidi began working as the Executive Director of the Mary Mitchell Family and Youth Center in the Bronx. Through her work providing and developing youth and family programs she has learned a great deal about the Croton Community, non-profit management and youth development.

Mr. Speaker, such selflessness must not go unnoticed. Since graduating from college, Heidi has dedicated herself to uplifting others. For that reason, I ask my colleagues to join me in honoring this remarkable woman.

IN COMMEMORATION OF THE DAY OF REMEMBRANCE AND IN SUPPORT OF THE WARTIME PARITY AND JUSTICE ACT OF 2003

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. BECERRA. Mr. Speaker, I rise today to ask my colleagues to reflect on our past as we pave the way to a brighter future. The Japanese-American community recognizes a National Day of Remembrance each year to educate the public about the lessons learned from the internment camp experience during World War II to ensure that it never happens again. The Day of Remembrance commemorates February 19, 1942, the day on which President Franklin D. Roosevelt signed Executive Order 9066, which eliminated the civil liberties of 120,000 people of Japanese descent and sent our country down a shameful path of race-based discrimination, veiled by the fog of war. I ask for my colleagues' support for House Resolution 56 (H. Res. 56); and I commend my friend from California, Congressman MIKE HONDA, for offering it and for his leadership in championing awareness of the Japanese-American internment. H. Res. 56 recognizes the historical significance of February 19 and expresses congressional support for the Japanese-American, German-American, and Italian-American communities in their goals to raise public awareness of Day of Remembrance events.

The force of wartime hysteria darkened the light of justice and reasonable people suddenly embarked on an unreasonable course. Indeed, America was engaged in a monumental struggle as our soldiers engaged the enemy in the European and Pacific Theatre. Here in the United States, many citizens had faces that looked like that of the enemy. Without any evidence, fear was mounting, and the patriotism of these Japanese Americans was questioned. Some worried that they were intent on doing harm against the very flag they saluted. Decades later, history vindicated these loyal Americans as not even a single documented case of sabotage or espionage was committed by an American of Japanese ancestry during that time.

What our Nation found through the disinfectant of time, those who endured internment knew all along. Surrounded by armed guards behind a prison fence, mothers thought of their sons who fought for the freedom of the Nation that denied them of their own liberty.

Indeed today history shows that the Japanese-American soldiers of the 442nd combat regiment fought honorably and bravely for ideals they knew our Nation had not yet afforded to their own families back home. Still, they were worth fighting for. And this regiment would become the most decorated group of soldiers in American history as they proved their devotion to our Nation fighting in both the European and Pacific theatres. It took more than 50 years, but finally in 2000, President Bill Clinton awarded 22 of these heroes with the Medal of Honor.

In 1983, a Presidential Commission concluded that the internment was the result of both racism and wartime hysteria. Five years later, then President Ronald Reagan signed the Civil Liberties Act into law that provided an official apology and redress to most of those confined in U.S. internment camps during World War II. This was the culmination of half a century of struggle to bring justice to those for whom it was denied. I am proud that our Nation did the right thing. But 16 years after the passage of the CLA, we still have unfinished work to be done to rectify and close this regrettable chapter in our Nation's history.

I introduced bipartisan legislation, the Wartime Parity and Justice Act of 2003 (H.R. 779) to finish the remaining work of redress. While most Americans are aware of the internment of Japanese Americans, few know about our government's activities in other countries resulting from prejudice held against people of Japanese ancestry. Recorded thoroughly in government files, the U.S. Government involved itself in the expulsion and internment of an estimated 2,000 people of Japanese descent who lived in various Latin American countries. Uprooted from their homes and forced into the United States, these civilians were robbed of their freedom as they were kidnapped from nations not even directly involved in World War II. These individuals are still waiting for equitable redress, and justice cries out for them to receive it. That is why I introduced H.R. 779, to finally turn the last page in this chapter of our Nation's history, so that we not only remember that our country took away civil rights from innocent people from other countries, but that we now have recognized the wrong of our actions and have taken steps to provide equitable redress.

This bill provides redress to every Japanese Latin American individual forcibly removed and interned in the United States. These people paid a tremendous price during one of our Nation's most trying times. Indeed, America accomplished much during that great struggle. As we celebrate our great achievements as a Nation let us also recognize our errors and join together as a Nation to correct those mistakes. My legislation is the right thing to do to affirm our commitment to democracy and the rule of law.

In addition, the Wartime Parity and Justice Act of 2003 provides relief to Japanese-Americans confined in this country but who never received redress under the Civil Liberties Act of 1988 given technicalities in the original law. Our laws must always establish justice. They should never deny it. That is why these provisions ensure that every American who suffered the same injustices will receive the same justice. Finally, my legislation will reauthorize the educational mandate in the 1988 act, which was never fulfilled. This will etch this chapter of our nation's history into our national conscience for generations to come as a reminder never to repeat it again.

Recently, in Los Angeles I was fortunate to join with about 300 individuals to commemorate the Day of Remembrance in Los Angeles at the historic Japanese American National Museum. Included in the Los Angeles Day of Remembrance program was the screening of a film, "Stand Up for Justice," which tells the story of Ralph Lazo, a Mexican-Irish American student at Belmont High School in downtown Los Angeles. Even in 1941, the school had an ethnically diverse population, and the film depicts Ralph's anger at the pain suffered by his Japanese American friend, Jimmy Matsuoka. Jimmy and his family are forced to sell their belongings and "evacuate" to a remote concentration camp. At the age of 16 Ralph voluntarily accompanied his Japanese American friends to Manzanar Internment Camp, where he spent 2½ years. Ralph remained a dear friend to the Japanese community and his loss was sorely felt in 1992 when friends mourned the death of their loyal friend. He had stood by Japanese Americans during the difficult times at Manzanar and throughout the campaign for redress, and he demonstrated that you don't have to be Japanese American to stand up for what is right.

At the forefront of this fight for justice, there are Members of Congress, the community and individuals like Ralph Lazo, giving a voice to those who were wronged in the past. Let us all remember, that the fight for justice for Japanese internees is one that is being fought by the entire community regardless of their ethnicity. We must all "Stand Up for Justice."

Mr. Speaker, let us renew our resolve to build a better future for our community as we dedicate ourselves to remembering how we compromised liberty in the past. Doing so will help us to guard it more closely in the future. As we commemorate the Day of Remembrance, we must pass H. Res. 56, in support of Japanese-American, German-American, and Italian American communities in their recognizing of this historical day. I also look forward to working with my colleagues to pass the Wartime Parity and Justice Act of 2003.

TRIBUTE TO THE GIRL SCOUTS OF RED RIVER VALLEY

HON. MAX SANDLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. SANDLIN. Mr. Speaker, I rise today to honor the Girl Scout Council of Red River Valley.

With more than 3.8 million members, the Girl Scouts have served as one of the finest organizations dedicated solely to girls. For over 90 years, the Girl Scouts have instilled leadership skills and strong values, while helping girls realize their true potential and self worth.

The Girl Scout Council of Red River Valley comprises 13 counties in northeast Texas and southeast Oklahoma. These include Bryan, Choctaw, McCurtain, and Pushmataha Counties in Oklahoma and Camp, Delta, Fannin, Franklin, Hopkins, Lamar, Morris, Red River, and Titus Counties in Texas.

Over 2,500 girls are able to participate in year-round activities offered by the Red River Valley Council. These activities foster skills in business, communication, the environment, the humanities, science, sports, and personal health. Programs offered during the school year include the Engineering for Girls Club which gives 4th through 8th graders the opportunity to participate in activities relating to science, math, technology, and engineering. During the summer, girls can learn traditional outdoor skills at Camp Gambill, a 54-acre facility located in Sumner, TX.

Mr. Speaker, as the Girl Scout Council of Red River Valley continues to grow and expand, I want to commend the council for its tireless work expanding opportunities for our girls in east Texas.

TRIBUTE TO MS. IRIS FERNANDEZ

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. SERRANO. Mr. Speaker, it is with great pleasure that I rise during this month of March, which has been designated Women's History Month, to pay tribute to Ms. Iris Fernandez, a phenomenal woman who has devoted her life to enhancing the lives of others.

Iris, a native of Puerto Rico moved to New York at the age of 18. While attending college in New York she began serving her community as a youth advocate by helping children with their schoolwork. Later, as a parent, Iris continued advocating for children's education as a school board member. She chaired the District 7 School Boards Facilities where she brought together the Parks Department, the Department of Education Facilities and CPB No. 1 to build speed bumps around the school where speeding cars were a concern. In addition she orchestrated the building of a fence around P.S. 49 which potentially saved the lives of many children as it once prevented a man with a gun from entering the school premises.

Mr. Speaker, Iris has a long history of service to her community. She is the President and Founder of the Community Enhancement Organization which serves to create new initiatives to help families move from welfare to work and serves to help community residents find decent apartments or become home owners. If that is not enough, she also created the Youth Advisory Council to address the issues that the youth in her organization face on a daily basis. Ms. Fernandez has also demonstrated that she is a capable business woman. In 1989 she became a financial officer for a home care agency named P.R.H.A.S., Inc. During her fourteen years of service she was instrumental in moving their revenue from $7 million to an impressive $14 million. The works of this young woman has not gone unnoticed. In 2002, her community elected her to serve as Assembly Female District Leader for the 84th district.

Mr. Speaker, for her willingness to go beyond the call of duty in service to her community, I ask that my colleagues join me in honoring this remarkable woman.

HONORING HERBERT KURZ ON HIS 84TH BIRTHDAY

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Ms. DELAURO. Mr. Speaker, it is with great pleasure that I rise today to join the many family and friends who have gathered to extend my very best wishes to a man whose lifetime of accomplishments are a true reflection of what a business and community leader should be—Herbert Kurz—as he celebrates his 84th birthday.

He has dedicated both his professional and personal life to the betterment of his community and to the promotion of equality for all Americans. Herb once told me his faith was in human beings and he has spent a lifetime honoring that faith. His success, both as a businessman and activist, has been based on this mantra and through his good work he has made a real difference in the lives of many.

Chairman and CEO of Presidential Life Insurance Company of Nyack, New York, Herb has combined a shrewd business sense and responsible business conscience to make his business successful and achieve national renown. Honored at the White House Conference on Corporate Citizenship in 1996, Presidential Life has long been known for its commitment to hiring both women and minorities. When he started his business forty years ago, Herb made it a practice to give the first chance at a position to a qualified minority person. In a time when women and minorities had difficulty in securing a place in the business world, Herb opened the doors of opportunity to hundreds—a practice which he continues today.

In addition to his role in building a business that is open-minded in its employment and conservative in its protection of its shareholders investments, Herb's true passion has been as a community leader and social activist.

It is a passion that began in his teenage years when he helped organize a union of hotel and restaurant workers in the Catskills and was re-invigorated upon his return from his service in the United States Air Force during World War II when a very personal experience changed his life.

Herb's uncle, Frederic Ewen, was a popular professor of English at Brooklyn College. Professor Ewen's commitment to the freedom of thought, as well as his political activism during the 1930s, led to his becoming a victim of the academic witch-hunts of the McCarthy Era. When he refused to cooperate with the House

UnAmerican Activities Committee in 1952, Professor Ewen was forced to resign his position and was subsequently blacklisted. It was his uncle's tragic experience that led Herb to become one of our nation's leading philanthropists in support of civil liberties. In fact, just four years ago, he established the Frederic Ewen Academic Freedom Collection at New York University. The collection, the first of its kind in the United States, focuses on the rights of teachers and research workers to investigate their subjects of expertise without fear of reprimand or dismissal and the right to provide students and the entire academic community with knowledge and information pertaining to any controversial social, economic, or political issue without interference or penalty.

Herb has spent over half his life making a difference in the lives of others. Whether supporting the arts, speaking out against bigotry, enhancing a community hospital for the entire community, or channeling his anger at government corruption into electoral action, Herb's compassion and leadership have left an indelible mark on his community and our nation. For his endless contributions and uncompromising spirit, I am proud to stand today to join his wife, Edythe; his children, Leonard and Ellen; his grandchildren Tommy and Sophie, family and friends to pay tribute to my dear friend, Herbert Kurz. Happy 84th birthday!

HONORING THOMAS PFINGSTEN

HON. DAVID WU

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. WU. Mr. Speaker, I rise today to recognize Thomas Pfingsten, Library Director at Portland State University.

Mr. Pfingsten is retiring after 24 years of dedicated service to Portland State University and to Oregon. I join with his colleagues at PSU, those in the Oregon University System, and his friends in the City of Portland in recognizing him for his leadership, his commitment to providing educational opportunities to students, and his work with PSU to help this important institution grow into a national model of an urban university.

Tom Pfingsten has served at Portland State University since 1980. During that time, the Millar Library has steadily increased its collections holdings from 650,000 volumes in 1980 to the present day 1.3 million volumes.

In addition, during Tom's tenure, there were three major library improvements: (1) an expanded and improved library building that is both functional and architecturally stunning; (2) a major reorganization of the way in which the library internally functions including the creation of a new research and learning center; and (3) a transition from paper systems to electronic media in nearly all aspects of library organization, communication, and presentation to students and faculty. All of these accomplishments have been most impressive due to the fact that his era at Portland State has been one of great financial challenges.

Tom's modest, self-effacing style obscures a canny ability to find money for important projects and to spend it prudently and effectively. He has been a tremendous and tireless advocate for the Millar Library and his efforts, and those of his fine staff, have allowed it to keep pace with Oregon's fastest growing, and now largest, university.

In an atmosphere of constant fiscal challenge, Tom Pfingsten and the Millar Library—like Portland State University itself—have triumphed over adversity and provided high quality service to our students, faculty and community.

Mr. Speaker, I am honored that I have had the opportunity to work with and know Tom Pfingsten. I ask that my colleagues join me in wishing him and his family the best as he enters a much-deserved retirement after a job well done.

TRIBUTE TO MS. MARTHA WATFORD

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. SERRANO. Mr. Speaker, it is with great pleasure that I rise during this month of March, which has been designated Women's History Month, to pay tribute to Ms. Martha Watford, an incredible woman who has dedicated most her life to the service of others.

For 38 years, Martha has been an active member of the community. She has served as parent, staff and currently Executive Director of the La Peninsula Community Organization. Serving over one thousand families annually, it is one of the largest community based organizations in the South Bronx. In her position as Executive Director, she has been responsible for expanding what was once a two room operation to what is now a facility with six centers and 33 classrooms. This new facility is due to open in September 2004 and will aptly be named the Martha Watford Center.

Mr. Speaker, Martha is always eager to incorporate new initiatives into the program in order ensure that the families and children that her organization serves are given every opportunity to achieve all that they possibly can. As a result of her unyielding commitment to her community, Martha was the recipient of the Robin Hood Foundation Heroes Award in 1996. She leads her staff by demonstrating unfailing strength and passion in serving the families of our community.

For her commitment to the families of our community, I ask that my colleagues join me in honoring this remarkable woman.

CONGRATULATING COMMON THREADS AWARD WINNERS

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. RADANOVICH. Mr. Speaker, I rise today to congratulate Susan Cohen, Parry Mead Murray, Margo Souza and Barbara Vineyard, the recipients of the 2004 Sacramento Valley Common Threads Award. This award is presented to women in agriculture who have made a remarkable contribution to their community through volunteer work and philanthropy.

Susan Cohen has been involved in numerous agricultural activities throughout her life. Since 1989, she has held the position of the Solano County Agricultural Commissioner and Sealer of Weights & Measures. She serves as a key part of the regulatory system that promotes and protects California's $28 billion agricultural industry. Susan was Monterey County's Senior Deputy Agricultural Commissioner in the Salinas Valley, where she started out as a Produce Inspector and worked her way up to a wide variety of regulatory inspections. She also administered the county Agricultural Advisory Committee, appointed by the Board of Supervisors, and became a point person for minor crop pesticide regulations.

Parry Mead Murray has been active in the grape industry for over 20 years. She served as Mead Ranch Vineyard Manager for 22 years and assisted with the conservation easement placed on the property. Parry currently sits as board member of the Napa Valley Grape Growers Association. She serves as Vice President of the Giles W. & Elise G. Mead Foundation, whose contributions go toward conservation and resource management issues. Parry is also a committee member of the Archer Taylor Preserve Land Trust of Napa County, a committee that targets the planning and implementation of long-term property management for one of the oldest and largest strands of Redwood trees.

Margo Souza has been dedicated to the dairy industry her entire life. She has spent the past 20 years as a successful manager in all facets of dairy farming. Margo played a key role in securing a $100,000 grant from the Buy California initiative to place milk vending machines in selected high schools. She was chair of the Western United Dairymen's 2003 Convention, the year of their biggest trade show ever. Margo also served as the first woman president for the Growers Harvesting Committee in 1996. In addition, she has had several professional appointments that include the California Agriculture and Water Committee in 1999, the California Milk Advisory Board since 1997, and the Western United Dairymen since 1994, among others.

Barbara Vineyard has been an active leader of 4–H for 47 years. She was on the 4–H County Council serving as president, secretary, and area coordinator. Barbara has chaired many County and Regional events and served on the Regional and State Leaders Councils, as well as director of the California 4–H Foundation. She is chairman of the Mt. Pleasant Hall Committee and assists with fundraisers for the community hall, which is owned by the Placer County Farm Bureau. Barbara also helped form the Placer County Farm Bureau Young People's organization which she remains active in today.

Mr. Speaker, I want to recognize the 2004 Sacramento Valley Common Threads Award winners. These women have shown outstanding involvement, not only in agriculture, but also in strengthening their respective communities. I urge my colleagues to join me in wishing these honorees a bright future and continued success.

REMEMBERING AND HONORING MR. ENZO "TONY" MUSOLINO

HON. JOHN T. DOOLITTLE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. DOOLITTLE. Mr. Speaker, today I wish to remember and honor an outstanding citizen, Mr. Enzo "Tony" Musolino from Granite Bay, California, who passed away on Wednesday, February 25, 2004, after a year-long bout with leukemia. He was 73 years old.

Tony was born in Brooklyn, New York, on July 15, 1930. The only child of Ernesto and Carmela Musolino, he moved to San Francisco with his family in 1940, marking the beginning of his life in Northern California.

In 1952, Tony began a life-long career in the real estate profession. He was a real estate agent, builder, and mortgage broker working throughout the Bay Area, starting in San Francisco and expanding into the Santa Clara and San Jose areas. However, in January 1976, he moved his family to Granite Bay, then a rural community in the beautiful foothills of Placer County. As it turned out, his family was among the first of many people who have migrated from the Bay Area to the greater Sacramento region. Tony's vision for his new home helped transform the community into what it is today.

Tony envisioned the development of custom homes on large lots surrounded by open natural spaces. His residential accomplishments included the development of Hidden Lakes Estates, Shelborne Estates, and the premier neighborhood of Los Lagos. He also succeeded in commercial development ventures in Washington State, the greater Sacramento area, and California's Great Central Valley. Nevertheless, he will likely be best remembered for his exclusive residential developments in Granite Bay.

Mr. Speaker, Tony, who had been semi-retired for several years, turned the management of the family business over to his children to enjoy other aspects of life. He took pleasure in several hobbies, including golf and weight training. As the son of Italian immigrants, he relished his heritage, retaining fluency in the Italian language and passion for authentic Italian cuisine. He even found enjoyment in collecting Italian sports cars, including several Maseratis and a Ferrari.

However, Tony's truest love remained his lovely wife, Barbara, with whom he enjoyed traveling to secondary homes in Kauai and Indian Wells. He is also survived by his daughter, Gina Goldberg; sons Robert and Michael; and seven grandchildren.

Mr. Speaker, today, I join with Tony Musolino's family, friends, and community to commemorate his life of hard work, good citizenship, and family commitment. May he rest in peace.

CONGRATULATING DR. RONALD M. BENSON

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. DINGELL. Mr. Speaker, I would like to congratulate Dr. Ronald M. Benson as he ends his term as chairman of the Board of Professional Standards of the American Psychoanalytic Association.

Born in Detroit, Michigan, Dr. Benson received his medical degree from the University of Michigan Medical School. He also graduated from the Michigan Psychoanalytic Institute and is certified by the American Board of Psychiatry and Neurology in both general and child psychiatry. After completing his residency and fellowship, Dr. Benson served as chief of Child Psychiatry and Outpatient Services and Mental Health Clinic at Sheppard Air Force Base, where he received the U.S. Air Force Commendation Medal. Dr. Benson also held several teaching positions at institutions, including the University of Michigan, Michigan Psychoanalytic Institute, and Wayne State University. He published both his own book and videotapes, and wrote chapters in many other books, as well as articles in numerous distinguished scientific journals.

Dr. Benson contributes immeasurably to his southeast Michigan community. He served as a consultant to programs such as the Boys' Training School, the Child Psychoanalytic Study Program at the University of Michigan, the Detroit Psychiatric Institute, and the State of Michigan Bureau of Health Services. In addition, Dr. Benson served on several committees within the International Psychoanalytic Association, American Psychoanalytic Association, and the Michigan Psychoanalytic Institute. Dr. Benson continues to contribute to his field and community through his private practice, which he has run since 1970, and active participation in both the International and the Michigan Psychoanalytic Institutes.

Dr. Benson is a highly esteemed doctor in the field of psychiatry. He deserves great recognition for his dedicated service to his community and his country. Southeast Michigan should be proud to have Dr. Benson as a member of our community. I hope Dr. Benson and his family will be both happy and prosperous in the years to come.

NAMPA AND MERIDIAN IRRIGATION DISTRICT

HON. C.L. "BUTCH" OTTER

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. OTTER. Mr. Speaker, we in Idaho place a high value on our water, and we understand the critical role that water delivery has played in making the arid West bloom. With that in mind, I am honored to extend my congratulations and best wishes to the Nampa and Meridian Irrigation District on the occasion of its centennial, marking 100 years of service to the Treasure Valley on March 9, 2004.

The Nampa and Meridian Irrigation District is the largest entity of its kind in the Treasure Valley, delivering irrigation water to 64,000 acres of farmland and providing water to pressurized urban irrigation systems serving more that 9,500 parcels of land, including residential lots, parks, and commercial areas. The district supplied 177,000 acre feet of water to water users in its system in 2003. Economists estimate the water brought a direct agricultural economic return to the Treasure Valley of approximately $10 million.

On this historic occasion, it is important to pay tribute to the Nampa and Meridian Irrigation District and the people responsible for its maintenance and operations for their countless contributions to water users. But I also want to express my gratitude to the district for the cultural, social, and economic contributions it makes to the broader community, to the Treasure Valley, and all of Idaho.

COMMEMORATING THE LIFE OF ROSE MERRY MYERS DARDEN

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to commemorate the life of Rose Merry Myers Darden, who died on February 20, 2004. Ms. Darden was a lifelong community activist and defender of less fortunate citizens. She was married to William (Boone) Darden, former police chief of Riviera Beach, Florida. Her husband, the first black man to become police chief of a major Florida city, preceded her in death.

After her husband's passing, Rose threw herself entirely into community work. A caring and compassionate individual, she sold her jewelry and her automobile to raise the necessary funds to open St. Matthew's House, a shelter for homeless veterans. It later became St. Matthew's Safe House for Women, where many former drug abusers sought refuge and respite from their troubles while they worked to turn their lives around.

A person of principle, Rose Darden gave up an opportunity to receive a $250,000 federal grant for expansion of St. Matthew's because she felt the guidelines would restrict her efforts to assist the women. She commented at the time, "If we can't do the job the way it should be done . . . I don't feel we should take the money." I agree wholeheartedly with her sentiment.

I always had the greatest respect for Ms. Darden and her late husband. Her passing leaves us all poorer, and I challenge everyone who knew and loved her and the many whose lives she touched to continue the wonderful work she did.

I offer my sincerest condolences to her family. We can all take comfort in knowing that her spirit will guide us always.

HONORING ROBERT ANGELL

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. RADANOVICH. Mr. Speaker, I rise today to honor and congratulate Robert Angell, who has received the 2003 Volunteer of the Year award for exemplary volunteer service with the Friends of The Sunshine Place. He will be awarded at a reception on April 22nd in Modesto, California.

Mr. Angell is involved in numerous volunteer activities. His most recent activities include facilitating a Dual Diagnosis group, which helps people with substance abuse problems and mental illness. Robert is also a member of the Mental Health Board and the Behavioral Health and Recovery Services Quality Improvement Committee. Amongst his volunteer accomplishments, Mr. Angell has returned to college with the goal of working in the mental health field so that he can continue to assist others.

The Sunshine Place is a socialization/recreational drop-in center that is run under the patronage of the Stanislaus County Behavioral Health and Recovery Services. They offer recreational opportunities for a variety of populations, ranging from chronic mentally ill adults and the physically disabled, to the homeless in their community. They operate with a minimal staff and depend on volunteers for all of their day-to-day functions. The Volunteer of the Year is selected by the people who donate their time to The Sunshine Place, and this year Robert's peers selected him for this honor.

Mr. Speaker, I rise today to congratulate Robert Angell, The Sunshine Place's 2003 Volunteer of the Year honoree. I urge my colleagues to join me in wishing Robert many years of continued success.

CONGRATULATING VAN APPLEGATE

HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mrs. CAPITO. Mr. Speaker, I rise today to congratulate Van Applegate, a senior at Jefferson County High School in my district. Van, this week, will become an Eagle Scout, the highest rank in scouting.

The Eastern Panhandle of West Virginia, which I proudly represent, is home to a great deal of history. Van restored and rededicated the gravesite of Private Luke Quinn, who was killed during John Brown's raid of 1859. Brown's raid was a significant event in our Nation's history, and in the history of eastern West Virginia. Van is to be congratulated for his hard work in restoring this piece of Civil War-era history.

Van cleaned the gravestone and installed a Marine Corps flag as part of his project. He then staged a reenactment of Quinn's funeral, drawing nearly 100 residents to take part in the educational event.

In addition to scouting, Van is editor of his school newspaper, sports editor of the yearbook, executive producer of the student-run television station, and vice-president of the Jefferson County High Student Government Association.

Mr. Speaker, I would like to thank Van Applegate for his commitment to historical preservation in West Virginia and congratulate him on becoming an Eagle Scout.

TRIBUTE TO THE AMERICAN LEGION FAMILY OF HUDSON, NEW HAMPSHIRE

HON. CHARLES F. BASS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. BASS. Mr. Speaker, I rise today to honor the members of the American Legion Family of Hudson post #48 in New Hampshire. The American Legion, American Legion Auxiliary, Junior Auxiliary, and Sons of the American Legion successfully hosted their Sixth Annual Halloween Haunted House to raise money for the community and to collect non-perishable items for local food baskets. Numerous volunteers bonded together over the course of 800 hours in efforts to successfully horrify all of the 787 "victims" who turned out for the event. Those who dared to enter were also able to munch on snacks and sample a taste of the witch's brew.

Proceeds for the Haunted House exceeded $1,500 and will go directly back into the community for a variety of programs, ranging from scholarships for local students to cleaning area highways. They were also able to collect over 200 non-perishable items that will be distributed in food baskets for those less fortunate. Although the evening was cloaked in fright and horror, the kindness and thoughtfulness of a caring community shone through.

I ask my colleagues to join me in honoring the Hudson American Legion Family. Their dedication and devotion to helping their community is an example we can all be proud of.

EXPRESSING SUPPORT FOR H.R. 3213, THE COMMISSION ON THE ACCOUNTABILITY AND REVIEW OF FEDERAL AGENCIES

HON. ANDER CRENSHAW

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. CRENSHAW. Mr. Speaker, I rise today to express my support for H.R. 3213, the Commission on the Accountability and Review of Federal Agencies (CARFA) Act.

The use of hard-earned taxpayer dollars on duplicative, inefficient, and failed federal agencies and programs is a serious problem facing our Nation today. Over and over, we see programs that are authorized by Congress become institutionalized; and then, though no longer necessary, they become a permanent fixture receiving more tax dollars year after year. If we could cut out unnecessary programs, we would make a strong statement that we are serious about controlling government spending.

On October 1, 2003, Congressman TODD TIAHRT introduced the Commission on the Accountability and Review of Federal Agencies Act. This legislation would establish a presidentially-appointed commission to review domestic agencies and programs, making recommendations for the elimination of unnecessary programs. Congress would subsequently take an up-or-down vote on these recommendations.

As a strong supporter of eliminating wasteful spending, today I rise to add my support to this proposal by cosponsoring this important legislation. If enacted, the Act will help to ensure fiscal responsibility and accountability in the federal government. While Congress should always be dedicated to ensuring the maximum benefit of every tax dollar that comes to Washington, now more than ever Congress must take steps to assure taxpayers that their hard-earned money is being well spent.

Mr. Speaker, I urge my colleagues to join me in supporting passage of the Commission on the Accountability and Review of Federal Agencies Act.

RECOGNIZING FRANK DEL OLMO

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Ms. SOLIS. Mr. Speaker, I would like to submit the following on behalf of myself, Ms. LUCILLE ROYBAL-ALLARD, Mr. DENNIS CARDOZA, Ms. GRACE NAPOLITANO, and Ms. LINDA SÁNCHEZ. We stand to recognize the life of Mr. Frank del Olmo, a hero in the Latino community who recently passed away. He was not only a leader for Latinos in the State of California, but also an exceptional human being who exemplified the best in American journalism.

Mr. Del Olmo was an Associate Editor and columnist for the Los Angeles Times. An award-winning and nationally recognized writer, he wrote passionately about Latino issues in California for almost 34 years. More than an Editor and columnist, he was a politically driven activist whose powerful penmanship made him an innovative voice for Latinos, immigrants, and the less fortunate. He paved the way for other journalists and was highly revered by his colleagues for his pioneering work on the Latino community and the City of Los Angeles.

Representing a city with a large but much ignored Latino population, Mr. Del Olmo gained recognition for educating readers throughout the nation about issues affecting Latinos. He was honored with the Pulitzer Prize for Meritorious Public Service in 1984 for the L.A. Times series "Southern California's Latino Community." He was a Nieman fellow at Harvard University in 1987 and was inducted into the National Association of Hispanic Journalists' Hall of Fame in 2002. In 1972, he was a founding member of the California Chicano News Media Association. And in 1975, he won an Emmy Award for writing The Unwanted, a documentary on illegal immigration.

Del Olmo was a bitter opponent of Proposition 187, a controversial California initiative in 1994, which denied basic government benefits to undocumented immigrants. Introduced by then Governor Pete Wilson and widely regarded as a discriminatory initiative, Mr. Del Olmo wrote a strong editorial piece, denouncing Governor Wilson and calling Proposition 187 "the mean-spirited and unconstitutional ballot initiative that would deprive 'apparent illegal aliens' of public health services and immigrant children of public education." He also helped correct injustices in Los Angeles County by uncovering corruption in municipal governments and touched the lives of countless families through his heart-felt columns on his son's battle with autism.

Born in Los Angeles in 1948 and a graduate of California State University, Northridge, Mr. Del Olmo suffered a heart attack and died on February 19, 2004. His wife, Magdalena, a daughter, Valentina, and his son Frankie survive him.

He will always be remembered for both his powerful voice and creative ability in depicting the best and, at times, the worst in today's society. Frank del Olmo will forever live in the hearts of L.A. Times readers, will forever be a hero in the Latino community, and will forever be a role model for future Latino leaders. We will miss Frank dearly and may he rest in peace.

TRIBUTE TO MS. PATRICIA E. CLARK

HON. CHARLES F. BASS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. BASS. Mr. Speaker, I rise to recognize a constituent of mine, Ms. Patricia E. Clark, and commend her on her diligent and faithful 50-year-long service to the Federal Government.

Ms. Clark began her government career with the Department of the Navy, Washington, DC, in April 1954. Nine years later, in April 1963, she transferred to the Federal Aviation Administration and started work at the Boston Air Traffic Control Center, located in Nashua, New Hampshire, on the day it opened. She has worked at Boston Center continuously since that time. Currently she is the lead Aviation Assistant and works directly for the Air Traffic Manager.

Her outstanding work ethic and dedication to the FAA has earned Patty awards from the FAA Administrator, the Director of Air Traffic, and the Regional Air Traffic Division Manager. For the past 41 years, Patricia Clark has been an integral member of the Boston Center team.

I ask my colleagues to join me in honoring Ms. Patricia E. Clark for her devoted service. Her dedication and commitment continues to provide safe and efficient air traffic service to the United States.

THE LIFE OF PHIL ROOS

HON. JIM NUSSLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. NUSSLE. Mr. Speaker, I rise today to pay special tribute to a beloved member of the Dubuque, Iowa community. Phil Roos was truly a special teacher and coach and he was tragically taken from us at the age of 57. Phil leaves not only the lives of his family, but of those many students and athletes whose lives he touched for over 30 years. Mr. Speaker, I wish to recognize Phil and ask that the attached article from the Dubuque Telegraph Herald be placed along with my comments in the RECORD.

ROOS MADE EVERYONE FEEL SPECIAL

(By Bill Speltz)

Phil Roos had a special gift.

Oh sure, he was an excellent math teacher and tennis coach and one of the founding fathers of a strong intramural program at Hempstead. He was also a darn good athlete in his day, especially with a racket in his hand (legend has it he'd play his students in a game of badminton to 50, spot them 49 points and still win).

But there are a lot of good teachers, coaches and athletes out there. The fact Roos was all three is impressive, but it all seems small compared to his finest quality as a human being.

Phil was special because he made you feel good about yourself. He made you feel like you were an extraordinary person, and it motivated you to prove him right.

How do you replace someone like that? How do you make sense of Roos dying of brain cancer Sunday at the age of 57?

You don't.

"He had such a wonderful way of bonding with kids," said Natalie Nemmers, Roos' assistant coach for the boys tennis team the past three seasons. "We kind of built this family, and he would've done anything for the boys, because he was so proud of them.

"He used to get so nervous before meets. But he would never show it. He just wanted so much for the boys, and they knew he loved them."

Roos' Hempstead family stretched far beyond tennis players in his 33 years at the school. Between his teaching and an intramural program that has about 500 participants annually, countless young adults were touched by this upbeat, kind-hearted man.

"What a tremendous loss," Hempstead athletic director Harry Robbins said. "His students and his athletes just loved him, and the reason they loved him is because he was able to connect with them.

"The best way I can describe Phil Roos is he stood for all the right things in life. Great father, husband, role model for young people. Students would seek him out because he always had time to talk about whatever they wanted to talk about, just trying to help."

For all his tennis coaching success, Roos' most admirable moment may have come three years ago, when he ended a 15-year coaching retirement to help revive the Mustangs' struggling boys program. Not many would make the same move, mainly because tennis takes a ton of time and weather conditions in the spring are often cold and windy.

Concerned about all the time he would spend away from his family, Roos made Hempstead tennis a family affair. His son, seventh-grader Andrew, joined the team for practice every day. His "other" sons drank in every bit of advice Phil offered, and the result is a program that's back on the upswing.

"A lot of times, on school (athletic) trips, guys will be fighting for the back seat of the bus because they never want to sit by the coach of the team," Hempstead senior Jason Burkle said. "For me, it was just the opposite with Coach Roos. I wanted to sit up front.

"What I liked most is the way he controlled the team, yet he still knew how to have a lot of fun."

For those who knew him, Roos' kindness was infectious and his calm demeanor admirable. Just ask Craig Olson, Hempstead girls tennis coach and Roos' former rival as leader of the Dubuque Senior boys tennis program in the 1980s.

"With him, there was no screaming or yelling, and he was the same way with his teaching," Olson said. "He'd inspire you.

"I was just tickled he came back to coach again these last few years. I remember when I first started out coaching, I was more of an enthusiastic, 'rah-rah' type of guy. Watching him, I learned patience."

Phil's spirit lives on in all his students, past and present, and all those who knew him. It lives on in his wife, Julie, and his best friend, son Andrew, who is truly a chip off the old block.

By the time Andrew is old enough to play his first high school tennis match, Phil's players are hoping to have the Hempstead courts named in the coach's honor. In the meantime, Phil's extended family will try to make some sense of his death at today's funeral.

That's going to be about as easy as trying to beat Phil in badminton.

"He made people," said Ryan Denman, Hempstead senior tennis player. "He taught us how to live our lives and taught us that it wasn't about winning or losing, but that we always gave 100 percent.

"It's going to be very rough playing tennis this season, from the first day to the last. We'll play the season for him."

PAYING TRIBUTE TO BRENT RITTER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Brent Ritter, and thank him for enriching the lives of his Pueblo, Colorado community. As Pueblo's most distinguished singer, Brent has become a fixture in almost every musical event put on by the city. It is with great satisfaction and pride that I pay tribute to Brent for his many contributions to his community and state.

Brent's passion for singing developed during his youth while participating in his church choir, and has led him to a fulfilling career as a professional singer. His career took off while serving his country in the Air Force where he won local, national, and worldwide military talent shows. After Brent's service with the Air Force, he settled with his family in Pueblo, and soon became a fixture of the community through his performing in church choirs, with the Pueblo Symphony, and with local theater groups. Brent currently serves as Music Director for the Wesley United Methodist Church, and finds his most rewarding work singing at events where he is able to connect with the people in his community.

Mr. Speaker, it is clear Brent Ritter has a musical gift that he has used to greatly enhance his Pueblo community. His energy, big heart, and tremendous voice have become staples in Pueblo, and it is my privilege to recognize him today before this body of Congress and this nation. I would like to extend my thanks to Brent for being such a positive influence in Pueblo, and wish him all the best in his future endeavors.

PERSONAL EXPLANATION

HON. TOM COLE

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. COLE. Mr. Speaker, on March 3, 2004 for rollcall vote 38, I was unavoidably detained. If I had been present, on rollcall vote No. 38, I would have voted "yea."

U.S. COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA RULING CONCERNING THE FCC

HON. SUE WILKINS MYRICK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mrs. MYRICK. Mr. Speaker, I urge my colleagues to take note of the decision recently issued by the U.S. Court of Appeals for the District of Columbia that upholds the intent of Congress in passing the Telecommunications Act of 1996. In the years since the Telecom Act was passed we have seen many important advances in the telecom sector, both technologically and in terms of lower prices for consumers. The Appeals Court found that the FCC did not comply with the Telecom Act when it voted 3–2 last year to adopt its Triennial Review Order. This marks the third time since 1996 that the FCC's rules have been rejected by U.S. Courts. The FCC's failure to get the rules right once again is damaging to consumers, the economy, and the industry. The seemingly never ending intra-industry legal and regulatory battles are resulting in continued uncertainty in the telecommunications and technology sectors. What is at stake is consumer choice, deployment of new and advanced technology, and the livelihood of tens of thousands of workers whose jobs have been lost in this telecommunications recession.

I urge not only the FCC but also the industry itself to end these battles and to devise rules that make sense and which will provide the certainty and incentives needed to free up major investment in the telecommunications sector. Consumers and workers will win only when this happens.

PAYING TRIBUTE TO ROENA FRANK

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise before you to pay tribute to Roena Frank, an extraordinary woman from my district who has devoted her life to helping the citizens of her community. Roena, who hails from Montrose, Colorado, has dedicated the past thirty years to a career in nursing, and volunteers much of her time working with local charitable organizations. Her work serves as a valuable model of public service to us all, and I would like to ask my colleagues to please join me in recognizing her tremendous achievements before this body of Congress and this nation today.

Raising four kids as a single mother, Roena entered the nursing field in order to earn a living for her family. She quickly realized the career she had chosen was her true calling in life. Roena currently serves as a part-time nurse in Delta County, and spends her free time volunteering with local organizations such as the local hospice, a Boy Scout troop, and the Magic Circle Theatre. In addition, Roena, along with her husband Jim, have been very active with the Montrose Christian Church where they have participated in mission trips to Mexico and Chile.

Mr. Speaker, it is an honor to rise before this body of Congress and this nation and pay tribute to the contributions of Roena Frank to her community and state. Throughout three decades of civic and public service, Roena has demonstrated an ardent devotion to her nursing career and charitable work. I would like to thank her today for all the work she has done for her Montrose community and the State of Colorado.

TRIBUTE TO BLAIR CROSS

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. HOYER. Mr. Speaker, today I rise to recognize the life of a dear friend and a great American. Blair Cross was a loving family man, a patriotic veteran, and a dedicated activist.

I was fortunate to have the opportunity to work closely with Blair and witnessed his tireless advocacy on behalf of Korean War veterans across the country. Specifically, Blair and I have been working on legislation that would grant the Korean War Veterans Association a Federal Charter, enabling the Association to expand its mission and further its charitable and benevolent causes.

Blair was the Korean War Veterans Association's top advocate for this issue, and I am grateful for his activism, and the activism he encouraged among his fellow Korean War veterans.

Mr. Cross's distinguished service did not go unnoticed. The Joint Veterans Committee of Maryland selected Blair to receive the honor of Veteran of the Year and he was to be recognized this April. Blair was chosen to receive this award from over 10,000 veterans throughout the State.

Mr. Cross also helped in founding the Maryland Center for Veterans Education and Training. The Baltimore homeless shelter has aided thousands of veterans over the years.

The community, the State, and the country have incurred a tremendous loss with Blair's passing. His advocacy and leadership on behalf of veterans in our State will long be remembered and I send my deepest sympathies to his wife Jane, daughter Sharon and Blair's family and friends.

PERSONAL EXPLANATION

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. WELLER. Mr. Speaker, on Thursday, March 4, 2004 I was unavoidably detained and was absent from the House floor while votes took place. Had I been present, I would have voted "aye" on the consideration of H.R. 3752, the Commercial Space Launch Amendments Act of 2004, as well as "aye" on the consideration of H. Res. 412, and H. Res. 56. I ask that these comments be submitted for the CONGRESSIONAL RECORD.

PAYING TRIBUTE TO FRANK KOENIG

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to honor the philanthropic spirit of Frank Koenig of Montrose, Colorado. Frank responded to a call to community service by founding the Sharing Ministries food bank in Montrose eight years ago. The thriving state of the food bank today is a testament to Frank's tireless efforts, but also to his faith that God will provide and that others will give. Sharing Ministries relies on the contribution of some eighty volunteers, as well as the donations of local food distributors and farmers.

In 1996, Frank Koenig, an ordained Baptist minister and World War II Navy veteran, felt a calling to serve the people of his Montrose community through the establishment of a food bank. He had very little money when he began Sharing Ministries, and was often met with resistance in his efforts to get the charity started. Frank was undeterred and he reached an agreement to lease a vacant freight delivery building from the Rio Grande Railroad, where Sharing Ministries began. During its first month, Sharing Ministries distributed ninety-seven boxes of food to the needy in Montrose. Today, thanks to Frank's efforts, the food bank distributes over three thousand boxes per month, serving those in Montrose and the surrounding communities.

Mr. Speaker, I am honored to bring the service and compassion of Frank Koenig to the attention of this body of Congress and this nation. Frank has shown that one person's effort can really make a difference in their community. I would like to wish him the best and sincerely thank him for his service to Montrose and the State of Colorado.

SUPPORTING KAZAKHSTAN

HON. PHIL ENGLISH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. ENGLISH. Mr. Speaker, I would like to draw the attention of my colleagues to an Op-Ed article published in The Washington Times on March 4 authored by Nursultan Nazarbayev, President of the Republic of Kazakhstan, one of our consistent allies in the fight against international terrorism.

I had the pleasure to meet President Nazarbayev in December 2001 during his official visit to the United States and ever since I closely follow the development of this country. I know that Kazakhstan has achieved significant progress in implementing political, social and economic reforms during the dozen years of their independence. Recent evaluation by The Economist magazine shows Kazakhstan to be among the five most dynamically developing countries in the world with an annual GDP growth of 10.1 percent.

Of course Kazakhstan faces challenges on its path to true democracy, and a lot remains to be done. Nevertheless, Kazakhstan is well on the road to a free market economy and a functioning democracy. Significantly, as a Muslim-majority country, it is also showing the world how to promote a religiously tolerant, and open, society.

It goes without saying that converting from a communist economy to a free-market system in a little more than a decade is, under any circumstances, a formidable challenge.

In the wake of the September 11 attacks on the United States, President Nazarbayev has been one of the first to support us in the fight against the global evil of international terrorism. During Operation Enduring Freedom, his government gave the United States flyover and landing rights as America led the fight for freedom and democracy in Afghanistan. Kazakhstan was the first and still the only Central Asian country to contribute troops to the multinational peacekeeping force in Iraq.

I believe it is in our nation's interest to continue to support Kazakhstan, a country whose actions have demonstrated its commitment to global security, nuclear nonproliferation, stability, and tolerance for ethnic and religious minorities. Mr. Speaker, I am confident that in Kazakhstan we have a crucial ally. I ask unanimous consent that this article be printed in the CONGRESSIONAL RECORD and urge all of my colleagues to read it carefully.

[From The Washington Times, Mar. 4, 2004]

PROGRESS IN KAZAKHSTAN

(By Nursultan Nazarbayev)

There can be few greater challenges than to attempt to complete in little more than a decade a political process that in the West took many decades, if not centuries. But this is what Kazakhstan has been attempting since becoming independent in 1991.

In the United States, markets preceded democracy. In Kazakhstan, however, we have sought to lay the foundations of a market economy, civil society and democracy simultaneously. After the collapse of the Soviet Union, we believed this was the only way to pursue economic growth and raise living standards while maintaining stability. Without all three, there was little realistic expectation that an oil-rich state the size of Western Europe, but with a population smaller than that of Holland, could remain free.

Our actions in the early 1990s, including the decision to remove our arsenal of nuclear weapons inherited from the Soviet Union, laid the foundations of our stability and prosperity. As Secretary of Defense Donald Rumsfeld commented during his visit to my country last week, had Saddam Hussein followed Kazakhstan's example, the war in Iraq never would have been fought. We are now a key ally of the United States in Central Asia and a force for stability and security in the region.

Having set our sights on radical change, we had to rely primarily on our own resources, building new civic institutions from scratch, freeing industry from the shackles of state ownership and fashioning political reform in a way that reflected Kazakhstan's wide religious and ethnic diversity.

Today, 90 percent of the Kazakh economy is in private hands. Growth has averaged 10 percent over the last four years and is projected to continue at comparable levels. Our financial institutions approach Western standards of efficiency. Poverty is steadily being tackled, unemployment is falling, and sound macroeconomic policy has ensured low levels of inflation. Meanwhile, oil exports are rising by 15 percent each year. With the world's energy needs set to double during the present century, there is international recognition that Kazakhstan is emerging as an important and responsible player in international energy markets.

In the longer term, however, we know that oil wealth by itself will not ensure prosperity or guarantee inter-ethnic harmony. Only a broadly based, flexible economy will enable us to address the challenges of rural poverty, provide modern standards of health care, employment and pensions, and tackle the illegal shipment of people, drugs, weapons and extremist ideas from neighboring countries.

Economic reform will, we hope, be further stimulated by Kazakhstan's forthcoming entry into the World Trade Organization. My country's growing participation in international institutions provides an important learning opportunity. But we are not expecting a free lunch. As President Bush wrote in his recent letter to me, the United States is "grateful for Kazakhstan's continued assistance in the war on terror." We have given robust support, allowing our air space to be used and granting emergency landing rights during Operation Enduring Freedom in Afghanistan. Currently, our troops assist in the peaceful reconstruction of Iraq.

After centuries during which the big decisions came from Moscow via a complex bureaucratic chain, freedom and personal responsibility are new concepts to us. But our record should leave no doubt about our intentions.

Democratic reform and measures to enhance human rights must not, however, be introduced in a way that undermines stability. We cannot afford to disturb the atmosphere of religious and inter-ethnic tolerance that every visitor to our country, including his holiness, the pope, and the chief rabbi of Israel, notices immediately.

To those who say the pace of political change is too slow, I offer this personal assurance: We have not given up on reform. This is amply demonstrated by the decision made just a few weeks ago to impose a moratorium on the death penalty and by new legislative proposals to ensure free and fair elections this fall. Indeed, we hope that our twin record of external engagement and internal reform may persuade many countries to support our chairmanship of the Organization for Security and Cooperation in Europe in 2009.

When friends tell me that we are still not moving quickly enough, I am tempted to reply: "Bearing in mind how far and how quickly we have traveled, how much faster would you like us to go? In steering the infant Kazakh democracy, the accelerator has been used far more than the brake. Please remember also just how long your own societies took to complete the processes on which we are now embarked."

CONGRATULATING DR. DEBORAH GERMAN UPON HER RECEIPT OF THE AMWA CHANGING THE FACE OF MEDICINE: LOCAL LEGENDS AWARD

HON. JIM COOPER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. COOPER. Mr. Speaker, I am pleased today to honor one of the nation's leading physicians, Dr. Deborah German, who was recently named by the American Medical Women's Association as a winner of the "Changing the Face of Medicine: Local Legends" award. Dr. German is a highly skilled physician, a noted medical educator, an experienced healthcare administrator, and a supportive colleague who has actively encouraged others to succeed in medicine.

Dr. German is presently the CEO of the nonprofit Saint Thomas Hospital in Nashville, TN, as well as senior vice president and chief academic officer for Saint Thomas Health Services, but her rich career has encompassed clinical practice, research, and academia. After graduating from Boston University and Harvard Medical School, Dr. German completed a fellowship in rheumatic and genetic disease at Duke University Medical Center following her residency. While there, she was a research associate in the Howard Hughes Medical Institute and published and presented work on adenosine metabolism at international meetings. She became director of Duke Gout Clinics and the associate dean of medical education at Duke University Medical School.

An appointment as associate dean of students brought Dr. German in 1998 to Vanderbilt University Medical School, where she was later named senior associate dean of medical education. While at Vanderbilt, she was honored with the Chancellor's Award for Human Rights and Affirmative Action.

In addition to numerous awards, publications and professional leadership positions, Dr. German was granted the 2002 AAMC Women in Medicine Leadership Development Award and held the Louisiana State University School of Medicine "Distinguished Woman in Medicine" Visiting Professorship in 2000. Dr. German is a founder and past president of both Tennessee Women in Medicine and the Society of Executive Leadership in Academic Medicine. She was awarded the 2000 Athena Award, given locally to women who have made significant contributions to the advancement of women in our community, and she was inducted into the YWCA Academy for Women of Achievement.

The AMWA's award is only the latest in a long series of awards and achievements for Dr. German, and the people of the 5th District of Tennessee are fortunate to benefit from her talents and from her dedication to excellence in medicine. On behalf of the 5th District, I congratulate Dr. German.

PAYING TRIBUTE TO SOLLIE RASO

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Sollie Raso, an impressive man whose record of public service and commitment to education in the community of Pueblo, Colorado spans seven decades. Those whose lives Mr. Raso has touched during his distinguished career as an educator know him to be firm, fair, and friendly. He has led by example, never demanding respect, but rather commanding it through his actions. Simply stated, Sollie Raso exemplifies the most sacred of American values: service to the community and dedication to family.

Sollie is the son of Italian immigrants from Calabria, who instilled in him the value of hard work and the love of family. He served his country proudly during the Second World War as a nose-gunner in a B-17, logging many missions over Europe. Upon returning home, he married his high school sweetheart Betty Lou, with whom he raised four children, and moved to Pueblo to begin his teaching and coaching career at Central High School.

In 1956, Sollie was named principal of Central High, even though there were many who did not believe a football coach could succeed as an administrator. Sollie's straightforward administrative style quickly won over his detractors and, after eleven years as a principal, he moved on to become the Pueblo School District Activities Director. After retiring from the school system in 1982, he returned to public service in 1984 for the first of two terms as a Pueblo County Commissioner.

Mr. Speaker, I am honored to bring the service of Sollie Raso to the attention of this body of Congress, and commend him for the manner in which he has served the community of Pueblo, Colorado. His importance to Pueblo cannot be overstated, and he has helped to shape many leaders of the community. Sollie continues to serve his community as a member of the selections committee of the Greater Pueblo Sports Association, nearly sixty years after he first became an educator. I sincerely thank him for his service.

IN HONOR AND IN MEMORY OF SPECIALIST CHRISTOPHER TAYLOR OF DAPHNE, ALABAMA

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. BONNER. Mr. Speaker, I rise today to honor the life of a young man from the First Congressional District of Alabama who recently made the ultimate sacrifice in the defense of freedom abroad.

Specialist Christopher Taylor, a native of Kentwood, Louisiana, and longtime resident of Daphne, Alabama, was assigned to the 1165th Alabama National Guard Military Police Company based in Fairhope. Last year, Christopher's unit was activated and deployed to Iraq following the end of Operation Iraqi Freedom. It was there that on February 16, 2004 he was killed when he was hit by shrapnel from an explosive placed along a road on which he and other members of his unit were traveling.

Christopher set a standard of excellence and displayed the qualities of discipline, devotion, and dedication to country that are hallmarks of men and women throughout the long and distinguished history of the American military. As a result of his hard work, Christopher was advanced to the rank of Specialist, and he was posthumously awarded the Bronze Star and the Purple Heart.

Mr. Speaker, as you can imagine both Daphne and his native Kentwood are truly mourning the loss of this fine young man. I feel certain his many friends in Baldwin County, his coworkers at Golden Stevedoring in Mobile, and his family and friends in Louisiana, while mourning his loss, are also taking this opportunity to remember his many accomplishments during his brief 25 years, and to recall the fine gift they each received simply from knowing him and having him as an integral part of their lives.

I urge my colleagues to take a moment and pay tribute to Specialist Christopher Taylor and his selfless devotion to not only our country and the freedoms we enjoy, but to a people who are but now in the infancy of a new life—a new freedom—in their own land.

We should also remember his parents, Michael and Priscilla Taylor; his brothers David and Nathan; his maternal grandparents, Gerald and Betty Starling; and his paternal grandfather, Ernest Taylor. Our prayer is that God will give them all the strength and courage that only He can provide to sustain them during the difficult days ahead.

It was Joseph Campbell who said, "A hero is someone who has given his or her life to something bigger than oneself." Make no mistake, young Christopher Taylor was not only a dedicated soldier who made the ultimate sacrifice serving in the uniform of his country, but he was also a true American hero.

PERSONAL EXPLANATION

HON. DARLENE HOOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Ms. HOOLEY of Oregon. Mr. Speaker, due to the fact that I was unavoidably detained in my district on the dates of March 2, 3, and 4, I was unable to vote on legislation before the House. I wish to submit for the RECORD how I would have voted on those bills.

On rollcall Vote No. 32, I would have voted "aye"; on rollcall vote No. 33, I would have voted "aye"; on rollcall vote No. 34, I would have voted "aye"; on rollcall vote No. 35, I would have voted "aye"; on rollcall vote No. 36, I would have voted "aye"; on rollcall vote No. 37, I would have voted "aye"; on rollcall vote No. 38, I would have voted "aye"; on rollcall vote No. 39, I would have voted "aye"; on rollcall vote No. 40, I would have voted "aye"; and, on rollcall vote No. 41, I would have voted "aye."

PAYING TRIBUTE TO BOB STORCH

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. MCINNIS. Mr. Speaker, it is a privilege to rise and today pay tribute to Bob Storch and thank him for his leadership and contributions to Colorado as supervisor of the Grand Mesa, Uncompahgre and Gunnison National Forests (GMUG). Only the level of integrity and honesty that he has brought to the position matches his thirty-eight years of service and dedication to the Forest Service. As Bob celebrates his recent retirement, let it be known that the citizens of Colorado and I are eternally grateful for the outstanding work Bob has done in preserving our National Forests.

Bob began working with the Forest Service as a seasonal laborer, and from 1991 until his retirement, oversaw one of the most complex and largest National Forests in the country. His forest system's 1,800 miles of rivers and streams are a primary source of water for western Colorado, as well as four other states, and provide products and income for the residents of forty-two communities. For his exceptional management of the forests, the GMUG Forests have received national awards for Excellence in Range Management and Outstanding National Forest fisheries, as well as numerous other awards for progressive land management.

Mr. Speaker, it is clear that Bob Storch has been an invaluable resource for the State of Colorado and to our National Forest System. His selfless dedication to preserving a priceless part of America's landscape is worthy of acknowledgment before this body of Congress and this nation today. Thanks, Bob, for all your hard work, and I wish you and your wife Nyla all the best in your well-deserved retirement.

THE DECISION OF THE FEDERAL COURT OF APPEALS IN USTA v. FCC

HON. HENRY BONILLA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. BONILLA. Mr. Speaker, I rise today in support of the March 2, 2004, decision of the United States Court of Appeals for the District of Columbia in the case of USTA v. FCC. This decision represents the third consecutive time that many of the FCC's rules for the unbundling of network elements have been judicially reversed. This includes an opinion by the Supreme Court in 1999 in the case of AT&T v. Iowa Utilities Bd. The FCC's attempts to enact unbundling rules continue to be struck down because they fail to apply the Telecommunications Act of 1996's limiting standard.

The Telecommunications Act of 1996 required the FCC to establish unbundling rules pursuant to standards that the Congress legislated. The FCC after 8 years has still to carry out its statutory responsibilities.

It is my hope that the FCC will revise its rules forthwith, and with due attention to the limiting standard required by law.

INTRODUCTION OF THE PRESIDENTIAL $1 COIN ACT OF 2004

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. CASTLE. Mr. Speaker, I rise today to introduce the "Presidential $1 Coin Act of 2004." When it is approved, it will create enormous opportunities to educate both children and adults about the history of this country. This legislation is the type we rarely have the opportunity to pass in Congress, and although it is not the goal of the program, it will likely earn the government as much as five billion dollars.

In many ways, this legislation is modeled after the wildly successful "50-State Quarter Program" which I authored and Congress passed and which at the end of last year reached its halfway point. We all know the story: five quarters a year bear images connected with one of the states, so that over a decade each state will have been honored. We all know how popular the program was: before the state quarter program started, the U.S. Mint was making about 400 million quarters a year, but by the next year it was making about 1.2 billion quarters. The Mint estimates that one person in each household is collecting the quarters and they are collecting a full set. According to the most recent numbers from the Mint, about $4 billion worth of savings has been created for the federal government with an expected $2 billion more through the life of the program.

The program I am introducing today adopts the same model, but uses the one-dollar gold coin introduced in 2000. For a number of reasons, that coin never achieved its promise of being a useful niche product for use in vending machines, transit systems and low-dollar-value transactions. This bill seeks to address each of the ills that befell the one-dollar coin.

Mr. Speaker, this legislation addresses all of the problems to the circulation of the dollar coin that were identified in an exhaustive General Accounting Office study of a year or so ago. Merchants said the coin wasn't available in useful quantities, and collectors and consumers often had a hard time finding the coin—if they could find it at all. Others said they would use it in commerce, but never got it as change.

The cost of counting and handling currency is much higher than the cost of counting and handling change, Mr. Speaker, and for those sectors of the economy that rely on low-dollar-value transactions, or high-volume transactions such as vending machines or transit systems, having a widely available, easily dispensed and accepted one-dollar coin will save money for businesses, which will help keep costs down for consumers.

Mr. Speaker, the legislation directs the Mint and the Federal Reserve to work with all aspects of the economy to eliminate the barriers to circulation that seem to have harmed the current one-dollar coin, ranging from making sure that the coin is accepted by vending machines—and that the machines are "stickered" to say so—to making sure it is conveniently packaged for retailers and is available in rolled form when it re-circulates through the system, which is not now the case.

It is important to note, Mr. Speaker, this program would be accepted by the public. In a 2002 General Accounting Office Report to Congress, it was found 25 percent of respondents would use the dollar coin more for purchases if there was a rotating design similar to the 50 State Quarter Program. Additionally, nearly 50 percent of respondents stated they would collect the new coin if it featured a rotating design. And 69 percent of respondents favored U.S. Presidents as the choice for the new rotating design on the dollar coin.

Under the program, the images on the front and back of the coin temporarily would be replaced beginning in 2006 with images of the United States presidents. Four presidents a year would be honored, in the order of their service, with a likeness of the President, his name and dates of service and a number signifying the order in which he served, on the front of the coin. The image on the reverse would be that of the Statue of Liberty, large enough to be dramatic but not so large as to create a so-called "two-headed" coin. The date, mint mark and other important mottoes on the coin would go on the edge of the coin, leaving room on the faces for more dramatic artwork, harking back to the so-called Golden Age of American coins at the beginning of the last century.

Mr. Speaker, the educational aspects of this program are obvious. We all know George Washington was the first president, but how many can tell the exact dates of his service to the country? How about the dates of service of the famous Civil War general Ulysses S. Grant, who later became president? And how many in this Chamber can name the only President who would end up with two coins in the series because he served twice, in terms separated by another president's term?

The bill specifies that the program would end at the point when the next coin issued would have to be for a sitting President, as our founding fathers wisely thought that no sitting president's image should be carried on a coin. At that point the coin would return to the images now carried on it, with the stigma of inadvertently being associated with a failed coin program washed from the rich legacy of Sacagewea.

Mr. Speaker, this coin program by itself would be hard to argue with. Teachers will, as they have with the state quarter program, devise lesson plans around it. We will all look at the change in our pocket more closely, and learn more about our country in the process.

But that is only half of this legislation. The second title of the bill creates a nearly pure gold investment-grade bullion coin, the same diameter as the dollar coin and of an appropriate weight and thickness, honoring the First Spouses, who have done so much for our country. On the front, as with the Presidential coins, would be the likeness of the spouse, his or her terms of service and the order in which they served. On the reverse would be images emblematic of the spouse's works. In the five instances to date in which Presidents had no spouses while in office—there's the educational part again—the bill calls for the image on the front of the coin to be that of an image of "Liberty" as used on a U.S. coin circulating during that President's term, and the reverse of the coin to carry images related to the President's term.

These investment-grade coins would be struck in gold that is .9999 percent pure, a purity of gold the Mint never before has used to strike coins. Mr. Speaker, I think using pure gold for the spouse coin is appropriate, and I think it is appropriate that the President and spouse coins can be sold or collected in all sorts of combinations. Additionally, the spouse coins could be sold merely for their intrinsic investment value.

Mr. Speaker, this legislation gives the Mint a great opportunity to show off its design and engraving talents and to develop new ones. It gives the Mint the opportunity to package the coins in a variety of ways, and the Mint gets more than a year to prepare to issue the first coin, so they can plan and get it right. As well, it allows for a transitional minting of the current dollar coins, though the demand will mostly be for collectors, so that 2006-dated Sacagewea dollar coins may be sold in large Lewis and Clark-Louisiana Purchase commemorative sets with 2006-dated Thomas Jefferson dollar coins. And with both the increase in dollar coins and the striking of bullion investment-grade coins, it creates jobs in a number of industries.

In short, Mr. Speaker, I don't see any downsides to this bill and believe there are so many upsides that it should pass in short order, giving all of us something good, and fun, to talk about when we go back to our constituents.

Mr. Speaker, so that the new $1 coin may be introduced into circulation in 2006 and that the Mint will be given adequate time to plan this program to ensure it is a logistic as well as an artistic success, I will be seeking to move the legislation quickly. I urge my colleagues to cosponsor this legislation and look forward to working with the Financial Services Committee to bring this bill to the House Floor as soon as possible.

PAYING TRIBUTE TO LT. COL. MIKE CZAJA

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to a devoted and compassionate soldier from Paonia, Colorado, Army Lt. Col. Mike Czaja. Mike has worked to keep our nation safe for over 20 years and I would like to join my colleagues here today in recognizing his tremendous service to our country.

Mike recently returned from service in Iraq where he oversaw the Psychological Operations units. These army units were instrumental in both reducing casualties during the war and continuing to build support for the rebuilding efforts after hostilities had ceased. During the war, units under Mike's command successfully deterred many Iraqi civilians from waging a fight against coalition forces by dropping leaflets that encouraged the opposition forces to defect, desert or surrender, out of consideration for the safety of both themselves and their families. The literature also encouraged Iraqis to not destroy natural resources like oil that would be vital to future economic recovery and prosperity.

After President Bush declared an end to the fighting, Mike and his troops focused their efforts on communicating messages that would help rebuild Iraq such as information about schools, doctors, and social services. With Mike's leadership, American soldiers have begun to earn the trust of ordinary Iraqi citizens through face-to-face contact as the situation in Iraq gradually edges toward democratization. Mike continues to serve in the Army until his retirement in August when he will return to the Western Slope of Colorado to pursue a teaching position.

Mr. Speaker, Mike Czaja is a dedicated, selfless American soldier who has been crucial to the fight against terrorism in Iraq and has aided in securing the safety of America's homeland. His outstanding public service to his fellow countryman is setting an important example for America's future generations. Mike's enthusiasm and commitment certainly deserve the recognition of this body of Congress. Thank you for your service, Mike, and keep up the good work.

IN RECOGNITION OF RHINELANDER, WISCONSIN

HON. MARK GREEN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. GREEN of Wisconsin. Mr. Speaker, today before this House I'd like to recognize Rhinelander, Wisconsin, which recently hosted a collapsed structure training exercise for first responders from across northern Wisconsin.

On September 11, 2001, America learned that the best way to defend ourselves against a terrorist attack is through preparation. We were all caught off guard by the terrible events of that day, but rather than wait around for another terrorist strike, America's first responders rallied to make our Nation safer than ever.

Last December, fire fighters, medical professionals and security officials from my district gathered together in Rhinelander to address a serious issue in our area's emergency response network—structural collapses. These first responders received significant training and instruction on how to secure the scene around a collapsed structure and rescue those trapped inside.

Keeping America safe means preparing to stop terrorists wherever they may strike. To terrorists who target all Americans, small towns and villages are just as vulnerable as big cities, and we cannot ignore their needs for greater security. First responders in northern Wisconsin continue to prepare for the unthinkable, and they are a superb example to small communities around the country.

Mr. Speaker, it is an honor and pleasure to recognize Rhinelander for its leadership in the war on terror, and on behalf of the residents of Wisconsin's 8th Congressional District, we say keep up the great work.

PERSONAL EXPLANATION

HON. THADDEUS G. McCOTTER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. McCOTTER. Mr. Speaker, between Sunday February 29 and Wednesday March 3, 2004, I traveled to Libya as part of a Congressional Delegation led by Representative WELDON and as Member of the House International Relations Committee and the Middle East Subcommittee.

While there, we had the opportunity to meet with Col. Mohammar Qaddafi and members of the Libyan People's Congress to discuss Libya's recent renouncement of state sponsored terror and their development of weapons of mass destruction.

Mr. Speaker, this prospective opening to the West is not a mystical revision, but a practical decision by the Libyan Government. It must be met with an equally practical policy of one very wary step at a time.

While there, it became clear the Libyan possibility for peaceful regime conversion and rehabilitation gravely underscores the inherent stakes of succeeding in the Iraqi regime change and reconstruction. If the latter fails, the former fades, and we are all worse than we were at square one.

Unfortunately, my participation in this trip forced me to miss a few votes.

During this time I missed six recorded votes. If I was present I would have voted the following way:

On H.R. 3769, to designate the facility of the United States Postal Service located at 137 East Young High Pike in Knoxville, Tennessee, as the "Ben Atchley Post Office Building". Roll Number 32, I would have voted "yes."

On H. Res. 526, expressing the sympathy of the House of Representatives for the victims of the devastating earthquake that occurred on December 26, 2003, in Bam, Iran. Roll Number 33, I would have voted "yes."

On H. Res 530, urging the appropriate representative of the United States to the 60th session of the United Nations Commission on Human Rights to introduce a resolution calling upon the Government of the People's Republic of China to end its human rights violations in China, and for other purposes. Roll Number 34, I would have voted "yes."

On H.R. 912, Charles "Pete" Conrad Astronomy Awards Act. Roll Number 35, I would have voted "yes."

On H.R. 3389, to amend the Stevenson-Wydler Technology Innovation Act of 1980 to permit Malcolm Baldrige National Quality Awards to be made to nonprofit organizations. Roll Number 36, I would have voted "yes."

On H.R. 1417, Copyright Royalty and Distribution Reform Act of 2003 Roll Number 37, I would have voted "yes."

PAYING TRIBUTE TO RICK ALLEN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to recognize the contributions of Rick Allen, the founder of the Christians Reach Out Ministries in Grand Junction, Colorado. His actions are all the more remarkable when one considers that he has overcome a crippling disability and his own homelessness, hurdles which he sees as God's way of preparing him for his path of service. His tireless efforts have motivated others in the community to join with him to give hope to those individuals, that society views as hopeless.

In 1992, after nearly 20 years as a successful truck driver, Rick Allen developed debilitating carpel tunnel syndrome. Losing the use of his hands precipitated the loss of his job, home and family within a matter of months. Through the years of surviving under the harshest of conditions, Rick came to see his plight as God's way of educating him for his special mission to the homeless.

In 1997, while still homeless and living in a church basement, he began preparing meals and serving them every Sunday at the park where many homeless spend their days. Soon, church members began to join Rick and the program became the Christians Reach Out Ministries. When Rick was awarded long term disability in 1998, he moved into a modest apartment, which he promptly put into use preparing meals for an ever increasing number of people. Rick is currently working on plans for a larger shelter, giving those in need access to healthcare and employment services, in order to make it possible to climb out of the pit of homelessness, which Rick knows firsthand.

Mr. Speaker, I am honored to bring the service and vision of Rick Allen to the attention of this body of Congress, and to commend him for his outstanding dedication to his community. His mission to serve does not end with simply feeding the homeless, but rather in giving the homeless hope for a better life. I would like to wish him the best and sincerely thank him for his service.

IN HONOR OF CAMP RAMAH IN THE BERKSHIRES

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. NADLER. Mr. Speaker, I rise today to honor Camp Ramah in the Berkshires as the Ramah family celebrates its 40th anniversary.

Camp Ramah provides our community's youngsters a unique opportunity to interweave exposure to the beautiful countryside of the Berkshires with education in Jewish values and practice. The benefit of such experience is precious, and I commend Camp Ramah's continued efforts to extend that benefit to all children, regardless of economic limitations. The future of our community depends upon programs and experiences like those provided by Camp Ramah, which has a long history of cultivating knowledge and leadership in our community's youth.

As Camp Ramah prepares to open its doors for the 40th time, I would like to commend those special honorees, Dr. Charles and Barbara Mann and Rabbi Paul and Martha Resnick, who have done so much for the camp and the values that it embodies. It is from teachers like Mr. Mann and Rabbi Resnick that the leaders of tomorrow gain the encouragement, enrichment, and values that they will need to make our future the best it can be. I send my warmest congratulations to the honorees, and thank them for their years of service.

I wish Camp Ramah's extended family of friends and supporters a wonderful evening of entertainment and celebration, and I join you in wishing for the camp 40 more successful years.

A TRIBUTE OF GRATITUDE TO LIEUTENANT COLONEL DON "BOBO" SCHILPP

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. DICKS. Mr. Speaker, I rise today to salute one of the many brave men and women who serve all of us in our great military. I would especially like to pay tribute today and offer my personal thanks to Lieutenant Colonel Don "BoBo" Schilpp, of the United States Air Force, for a job well done.

Many of us in Congress know Lieutenant Colonel Schilpp because of his dedicated service during the past four years as the Appropriations/Budget Liaison for the Air Force. This is an important role, at a time when many significant national security decisions were being made in the Congress, affecting the Air Force as well as our nation's ability to fulfill our constitutional role of "provid(ing) for the national defense." The Air Force, through Colonel Schilpp's leadership during the past four years, has given us timely and thorough responses to our requests for information, and I want to take this opportunity as he retires from active duty to express our appreciation to him for all of his efforts. I have also had the pleasure of traveling with BoBo on several occasions, and each time his professionalism and personal attention to detail were the keys to a smooth and successful congressional delegation mission.

Before this assignment, Lieutenant Colonel Schilpp was an accomplished leader and combat pilot with more than 3,400 hours in the F–15 and T–37 aircraft. He served overseas during Operations Desert Shield, Desert Storm and Southern Watch accruing more than 260 combat hours.

While I have relied upon Lieutenant Colonel Schilpp's military advice, I have valued his friendship even more, and I know many of my colleagues on defense related committees in the House share in that sentiment. In this regard, I wanted Colonel Schilpp to know that all of us in Congress who have known him and worked with him wish him the very best of luck in all his future endeavors.

PAYING TRIBUTE TO DORIS CHERRY—

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to a warm and generous soul who takes pride in brightening the lives of countless Capitol Hill employees and visitors each and every day. Doris Cherry has worked in the Longworth House Office Building cafeteria for 28 years. Doris is an enthusiastic and friendly face amidst the hectic cafeteria environment. I would like to join my colleagues here today in recognizing her tremendous years of service to the Capitol Hill community.

This year Doris was recognized as Employee of the Year by Guest Services for her longtime dedication to customer service. Doris came to Washington, DC as a child and started work in the Longworth cafeteria as a line server in 1976. She was a grill cook and a deli server for ten years before moving to her current position at the checkout line registers, where she has been a pleasant fixture for Cafeteria patrons over the past 15 years. Doris is a compassionate person who maintains that she is happiest when her customers come in for a break and leave with a smile. Her reputation for kindness and customer care have led patrons to line up 20 people deep to get a chance to speak with Doris.

Mr. Speaker, Doris Cherry is a dedicated individual who genuinely cares about every person she meets. Doris has demonstrated a talent for customer service that resonates in her ability to selflessly enrich the lives of the Capitol Hill Community. Doris's enthusiasm and commitment certainly deserve the recognition of this body of Congress. Congratulations on your award, Doris. I look forward to continuing to see your friendly face in the Longworth cafeteria.

PERSONAL EXPLANATION

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. ORTIZ. Mr. Speaker, due to official business, I was unable to vote during the following rollcall votes. Had I been present, I would have voted as indicated below.

Rollcall No. 32 "yes"; rollcall No. 33 "yes"; rollcall No. 34 "yes"; rollcall No. 35 "yes"; and rollcall No. 36 "yes."

AMERICAN RED CROSS

HON. C.A. DUTCH RUPPERSBERGER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. RUPPERSBERGER. Mr. Speaker, I rise today to celebrate and acknowledge March as American Red Cross Month.

For over 122 years the American Red Cross has helped people through man-made and natural disasters. Last September after my district took a huge hit and was smashed by Hurricane Isabel the American Red Cross was there to help.

Hurricane Isabel will not be forgotten and neither will the good work of the American Red Cross. From broad measures to help entire communities to individualized care, the American Red Cross acted swiftly and without hesitation. By creating temporary shelters and providing food and water and medical care to those who needed it, the American Red Cross made an extremely difficult situation bearable. Thousands of homes and businesses were damaged or destroyed by the hurricane and without the American Red Cross countless people would have suffered.

The American Red Cross saves lives. In addition to disaster relief, the American Red Cross' biomedical services program provides life saving aid through their blood and tissue donation efforts.

The American Red Cross has a long history of serving the people of the United States. Established by Clara Barton in 1881 as a disaster relief and battlefield assistance organization, the American Red Cross carries on the fundamental principles of the International Red Cross and Red Crescent Movement. Humanity, Impartiality, Neutrality, Independence, Voluntary Service, Unity, and Universality are the guiding forces behind the work and service provided by the American Red Cross.

The American Red Cross is truly a blessing to all who benefit from their services. It is impossible to adequately show my appreciation to all of the volunteers and members of the American Red Cross who tirelessly aid people in need. Thank you for this opportunity to honor the American Red Cross and the people who make it a truly wonderful organization.

PAYING TRIBUTE TO FRANK DICAMILLO

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to congratulate Frank Dicamillo on his recent retirement as chief operator of the wastewater treatment plant for the City of Delta, Colorado. For over forty years, Frank helped Delta's sewage and water systems become more ecological and efficient. His service to the community is certainly commendable.

Frank began his career with the City of Delta in 1960, when all the city's wastewater was discharged, untreated into the Uncompahgre River. After serving in the Army from 1963 to 1966, he returned home to find the city building wastewater treatment lagoons. He became responsible for overseeing these lagoons, and in 1968 when the water treatment plant was built, overseeing that as well. One of the most memorable moments in Frank's career came in 1977 when he and his co-workers came to national attention for their success in preventing a water shortage. They solved the problem brought about by a lack of snowfall the previous winter by diverting water from a canal to the water plant. When the new wastewater treatment plant opened in 1985, Frank eagerly accepted the challenge the more complex plant presented and was named Chief Plant Operator.

Mr. Speaker, I am honored to bring the service of Frank Dicamillo to the attention of this body of Congress and this nation, and to congratulate him on an outstanding career. I would like to wish Mr. Dicamillo the best in his retirement. I sincerely thank him for his service.

TRUTH COMMISSION

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Ms. LEE. Mr. Speaker, I rise to introduce legislation calling on the Administration to expose and explain their involvement in Haiti's 33rd coup d'etat.

My legislation will create a TRUTH Commission, which stands for The Responsibility for Uncovering the TRUTH about Haiti. This independent commission will be bipartisan and work to uncover the Bush administration's role in Haiti prior to President Aristide's exile.

I believe the Bush administration undercut the potential for a diplomatic solution for peaceful democratic elections, any potential for a cease-fire and an end to violence.

It bears primary responsibility therefore, for Aristide's unwilling departure as well as for the sacrifice of the democratic process in Haiti.

As Members of Congress find out more about the events leading up to President Aristide's departure, the twilight activities of his alleged resignation, the current unconstitutional government, and the ongoing turmoil, fear, and misinformation that is still flowing out of Haiti.

We want answers, Mr. Speaker and an independent commission is one of many tools that we intend on exercising.

I have several pressing questions that I hope this commission will find the answers for:

1. Did the U.S. Government impede democracy and contribute to the overthrow of the Aristide government?

2. Under what circumstances did President Jean-Bertrand Aristide resign and what was the role of the United States Government in bringing about his departure?

3. To what extent did the U.S. impede efforts by the international community, particularly the Caribbean Community, CARICOM, countries, to prevent the overthrow of the democratically-elected Government of Haiti?

4. What was the role of the United States in influencing decisions regarding Haiti at the United Nations Security Council and in discussions between Haiti and other countries that were willing to assist in the preservation of the democratically-elected Government of Haiti by sending security forces to Haiti?

5. Was U.S. assistance provided or were U.S. personnel involved in supporting, directly or indirectly, the forces and opposed to the government of President Aristide? Was United States bilateral assistance channeled through nongovernmental organizations that were directly or indirectly associated with political groups actively involved in fomenting hostilities or violence toward the government of President Aristide?

6. Was any U.S. bilateral assistance channeled through non-governmental organizations that were directly or indirectly involved in fuming hostilities or violence toward the Aristide government?

And there are more questions about the long-term origins of Haiti's current crisis and the long-term impact on the region as a result of the administration's policies.

This was regime change by other means.

We do not teach people to violently overthrow our U.S. Government, and we must not teach other people in the international community, particularly Haiti, to participate in activities that taint the hope for democracy by use of violence.

I stand here today because the Haitian community stands for democracy and not for political maneuvering by the Bush administration.

This is an issue of democracy.

The United States must stand firm in its support of democracy and not allow a nascent democracy like Haiti, fall victim to regime change and an international "racist" foreign policy.

I commend all of my colleagues to join in support of this commission and ask for its timely passage.

TRIBUTE TO LT COL PAULA S. LORICK

HON. JOHN M. SPRATT, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 2004

Mr. SPRATT. Mr. Speaker, I rise to call attention to the outstanding career of an extraordinary United States Army Reserve officer, Lieutenant Colonel Paula Shaun Lorick. General George C. Marshall once said, "There is no limit to the good you can do if you let someone else take the credit for it." Lt Col Paula Lorick spent here career in the Army proving that principle.

During twenty-five years of exemplary service, Lt Col Lorick embodied the duty, loyalty, and love of country, the selfless service and personal courage that are the core values of the United States Army. Since November 16, 1978, Lt Col Lorick has served in some of the Army's most demanding positions, and served always with distinction. She was a Finance Company Commander, a Postal Company Commander, a key staff member with the Joint Operations Center at US Atlantic Command. In addition to her administrative assignments, Lt Col Lorick was a warfighter, deploying to Dhahran in Saudi Arabia at the height of the Persian Gulf War, and earning the Southwest Asia Service Medal and the Kuwait Liberation Medal.

Lt Col Lorick pulled other demanding duty as Deputy Director, Military Member Support and Ombudsman Services with the Employer Support of the Guard/Reserve Organization for the past three years. She played a key role in helping Guard and Reserve members make the transition from civilian jobs to deployment status in support of Operation Noble Eagle, Operation Enduring Freedom, and Operation Iraqi Freedom.

Today marks the end of Lt Col Lorick's long and distinguished career. Having been diagnosed with cancer, Lt Col Lorick is being medically retired in a ceremony fittingly held in the Pentagon's Hall of Heroes. In a rare event, Lt Col Lorick is being awarded the Legion of Merit medal, a medal typically reserved for higher-ranking officers. It is a well-deserved, parting tribute from a grateful nation.

I offer Lt Col Lorick our gratitude for her service, our congratulations on the honor bestowed upon her today, and our prayers and support in the months ahead.

HOUSE OF REPRESENTATIVES—*Wednesday, March 10, 2004*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. REHBERG).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 10, 2004.

I hereby appoint the Honorable DENNIS R. REHBERG to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Reverend Dr. William J.P. Doubek III, National Chaplain, The American Legion, Washington, DC, offered the following prayer:

Lord God. Holy Scripture teaches us, "Every good and perfect gift is from above, coming down from the Father of the heavenly lights, who does not change like shifting shadows." The men and women who serve this great Nation in this House are gifts to us from You. We thank You and praise You for their labor on behalf of these United States.

As they study and debate various issues, illuminate them with wisdom from above. When they make decisions that affect our lives, cause them to be ever mindful of the trust we place in them. Use them to glorify You by bringing peace to our troubled planet.

Please bless each branch of our government. Protect them in their travels. Watch over their families and loved ones in their absence. Supply them with time for rest and renewal. Make us all responsible citizens and neighbors.

In Jesus' name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. MCNULTY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MCNULTY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Georgia (Mr. BURNS) come forward and lead the House in the Pledge of Allegiance.

Mr. BURNS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RURAL VETERANS

(Mr. BURNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURNS. Mr. Speaker, I rise today to express my support for America's veterans and all military personnel, especially those veterans who live in rural locations throughout the United States.

The 108th Congress is committed to America's veterans. We are providing record funding for veterans programs, including improvements in our veterans health care system.

These funding measures are allowing the Veterans Administration to open community-based outpatient clinics in many areas of our country. A new community-based outpatient clinic is planned for Athens, Georgia, located in Georgia's 12th District. This clinic will provide many needed medical services to groups of proud veterans in Athens and surrounding areas.

We need to ensure that these outpatient clinics are adequately funded and staffed. We need to encourage the establishment of additional clinics in rural areas where they can be beneficial to our population of veterans.

Mr. Speaker, this Congress is committed to those who currently defend this Nation and to those who have served her in the past.

OUR TRADE DEFICIT

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Mr. Speaker, well, congratulations to the Bush economic team. Yet another record under their belt. Last Friday, it was the announcement that no private sector jobs had been created in America and that they are presiding over the largest job loss since Herbert Hoover in the 1920s, but today, they are touting their record on trade, a new record, a $43 billion one month trade deficit, and they say this shows the U.S. economy is recovering.

Why? We are running a large and growing trade deficit. This is recovery at the Bush White House, a jobless recovery because they are engaging in trade practices that are exporting the manufacturing base of this country, now the intellectual technology base of this country. They say it is good to outsource jobs, although they are trying to change the word there, that is, U.S. jobs sent overseas are good for American consumers. The problem is Americans need jobs to be able to consume, and under this administration, those jobs are not available here because they are being shipped to China, but this is good news, says the Bush administration.

WINNING IN THE WAR ON TERROR

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, America was thrust into war on September 11, 2001, when our Nation was viciously attacked by terrorists who seek to destroy American freedoms. Since that event, the U.S. military has been winning the war on terrorism, guided by the courageous leadership of President George W. Bush.

Recognizing the true threat posed by the global network of terrorism who work closely with outlaw regimes, President Bush laid out a bold and decisive plan. America will not wait for another September 11 to occur before we take action to defend the American people.

In the past 2½ years, our men and women in uniform, backed by dozens of coalition allies, have ended the oppressive terrorist supporting regimes of the Taliban in Afghanistan and Saddam Hussein in Iraq. This protects American families.

Americans can be assured that, thanks to the commitment of President Bush and the valor of American military, that we will continue to win the war on terrorism, despite more attacks worldwide.

□This symbol represents the time of day during the House proceedings, e.g., □1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

In conclusion, may God bless our troops, and we will never forget September 11.

ANOTHER RULING FOR MEDICAL PRIVACY

(Mr. EMANUEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMANUEL. Mr. Speaker, last year Congress created a zone of privacy that blacks out the transfer of personal medical information. There should be a sign above one's medical information that reads, "Do not enter." It has been a bipartisan effort.

On Monday, a Federal judge interpreted that law to mean that the Justice Department's demands for medical records from university hospitals, like Northwestern University in Chicago, was an undue intrusion on patients' rights.

Federal and State laws already on the books prevent that kind of intrusive breach. Congressional action last year to black out sharing confidential health records further solidified bipartisan support for medical privacy for all Americans, and I am pleased that in the last 48 hours, the Justice Department has decided to withdraw their subpoena and information request from the hospitals who have stood strong in the face of this intrusion of privacy by the Federal Government.

As William Safire of The New York Times this morning noted, "a balance must be struck between protecting all of us and protecting each one of us."

Mr. Speaker, guaranteeing Americans their medical privacy is a critical first step toward that goal.

NORTH KOREA AND CHINA

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, on the issue of human rights, today there are between 200- and 300,000 North Korean refugees in China. Half are women, and while the men can find jobs as cheap laborers, most of the women are sold into forced labor or the sex trade.

Despite promises, China so far has refused to grant the North Koreans official refugee status, claiming it would invite a flood of new refugees. That is a faulty argument, and China did not make it when Vietnamese refugees sought refuge in their borders.

Refugee protection does not cause refugee crises. Horrifying human rights abuses, mass starvation, prison camps, brutal torture, forced abortion, and a ruler who believes that he is God causes refugee crises.

It is time for China and the UNHCR to live up to their obligations, and it is time for Kim Jong Il to stop brutalizing his people and to step aside.

PERSONAL RESPONSIBILITY IN FOOD CONSUMPTION ACT OF 2003

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute.)

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today in opposition to H.R. 339, the Personal Responsibility in Food Consumption Act of 2003.

According to a report released yesterday by the CDC, poor diet and a lack of physical activity are among the leading causes of death in the United States. In fact, obesity is fast approaching to be the number one cause of death in our country. Unless our families become healthier, the CDC estimates that one in three children, or in the Hispanic community, one in two children, will become diabetic.

This year, California State University at Fullerton is proposing a Center for the Prevention of Childhood Obesity, which would work with schools and other organizations to arm teachers and parents with the tools that they need to prevent obesity in their children.

It is also heartening to see some food companies such as McDonald's and Kellogg making positive changes in the way that they produce food, and I would argue that these changes are due in large part to some of those lawsuits brought against certain food companies regarding nutritional value, content information, or long-term consequences of eating high fatty foods.

REMEMBERING THE LIFE OF LILLIAN R. BARCIO

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, I rise to remember the life of the devoted wife, courageous mother, publisher and journalist Lillian Rose Barcio.

Lillian Barcio died February 29, 2004, in Indianapolis where she was born in July of 1931. She is survived by her loving husband of 31 years, Bernard; her daughters, Marsha Louzon, Sheryl Donnella, Karen Pence, Cyndi Barcio; and her son, Phillip Barcio. In addition, she is survived by eight grandchildren and two great-grandchildren.

Through many hardships, Lillian Barcio kept her faith in Christ and her humor and optimism about life. The Bible says that charm is deceptive and beauty is fleeting but the woman who fears the Lord is to be praised.

Lillian Barcio, my mother-in-law, was such a woman whose life would merit remembrance in this Congress even if she had not raised the most wonderful woman I have ever known. May God rest the soul of Lillian Barcio and bring rest and comfort to her loving husband Bernie and all those who mourn her passing.

THE ECONOMY

(Ms. SOLIS asked and was given permission to address the House for 1 minute.)

Ms. SOLIS. Mr. Speaker, good morning. I rise this morning to talk about the economy. President Bush keeps telling us the economy is turning the corner and that jobs are coming. Well, Mr. President, where are the jobs you keep promising?

Last Friday brought more disappointing news to our country. Twenty-one thousand new jobs were created last month. That is 285,000 fewer jobs than President Bush promised his tax cut would provide. The unemployment rate among Latinos rose by 7.4 percent last month, 28 percent higher than when President Bush took office.

Twenty thousand plus people in my District alone, 8 million nationwide, are out of work. These people are looking for jobs.

This coming weekend we are helping to sponsor a job fair at the Los Angeles Dodgers stadium. Hundreds of out-of-work southern Californians are eager to return to work. They, too, want to know where the jobs are.

The Bush policies have failed. It is time to take a different approach. Let us provide tax incentives for companies to keep jobs in the U.S. and pass the highway bill and create well-paid and meaningful jobs here in the U.S.

THE ADMINISTRATION'S NEW MATH

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, I would like to ask everybody in the House to get a pencil and paper and take down this number. We are getting close to tax time. Ready. Here it is. One, one, two, nine, two, five. That number again one, one, two, nine, two, five.

Now, here is another number, six, seven, six. These are not phone numbers, but six, seven, six ought to be a call for help.

The first number, $112,925, that is the average tax cut that millionaires will see in their 2003 return. The second number is $676. That is the average tax cut for the average American.

This is the administration's new math, obscene tax cuts for the wealthy, crumbs for the average American. This administration did not create a single job in the last month in the private sector. That is not recovery. Where are the unemployment benefits, Mr. Speaker?

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the pending business is the question of the Speaker's approval of the Journal of the last day's proceedings.

The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McNULTY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 8 of rule XX, this 15-minute vote on approving the Journal will be followed by 5-minute votes on the two motions to suspend the rules postponed yesterday.

The vote was taken by electronic device, and there were—yeas 353, nays 41, answered "present" 1, not voting 38, as follows:

[Roll No. 45]

YEAS—353

Abercrombie
Ackerman
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baker
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Bass
Beauprez
Becerra
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chabot
Chandler
Chocola
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Cramer
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Dicks
Dingell
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Goode
Goodlatte
Gordon
Goss
Green (WI)
Grijalva
Gutierrez
Gutknecht
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hill
Hobson
Hoeffel
Hoekstra
Holden
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larson (CT)
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Obey
Osborne
Ose
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Rangel
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Stark
Stearns
Stenholm
Sullivan
Tanner
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Upton
Van Hollen
Vitter
Walden (OR)
Walsh
Wamp
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—41

Aderholt
Baird
Baldwin
Brady (PA)
Capuano
Costello
DeFazio
English
Filner
Gillmor
Graves
Green (TX)
Hefley
Holt
Hulshof
Larsen (WA)
Latham
Lewis (GA)
LoBiondo
McDermott
McNulty
Miller, George
Moran (KS)
Oberstar
Olver
Otter
Peterson (MN)
Ramstad
Sabo
Schakowsky
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Udall (NM)
Velázquez
Visclosky
Waters
Weller

ANSWERED "PRESENT"—1

Tancredo

NOT VOTING—38

Barton (TX)
Bell
Blackburn
Carter
Clay
Cox
Crane
Cummings
Davis (IL)
Diaz-Balart, M.
Doggett
Fossella
Gephardt
Gonzalez
Granger
Greenwood
Hall
Hinchey
Hinojosa
Jackson-Lee (TX)
Johnson, Sam
Kennedy (RI)
Kucinich
LaTourette
Lofgren
Miller (FL)
Moran (VA)
Ortiz
Owens
Reyes
Rodriguez
Schiff
Spratt
Sweeney
Tauzin
Toomey
Udall (CO)
Wicker

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. REHBERG) (during the vote). Members are advised 2 minutes remain in this vote.

☐ 1040

So the Journal was approved.

The result of the vote was announced as above recorded.

MEDICAL DEVICES TECHNICAL CORRECTIONS ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill, S. 1881, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. GREENWOOD) that the House suspend the rules and pass the Senate bill, S. 1881, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 396, nays 0, not voting 37, as follows:

[Roll No. 46]

YEAS—396

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Bass
Beauprez
Becerra
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chabot
Chandler
Chocola
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cramer
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Dicks
Dingell
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Graves
Green (TX)
Green (WI)
Grijalva
Gutierrez
Gutknecht
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hobson

Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—37

Barton (TX)
Bell
Bishop (GA)
Carter
Clay
Cox
Crane
Cummings
Davis (IL)
Diaz-Balart, M.
Doggett
Fossella
Gephardt
Gonzalez
Granger
Greenwood
Hall
Hinchey
Hinojosa
Jackson-Lee (TX)
Johnson, Sam
Kennedy (RI)
Kucinich
LaTourette
Lofgren
Miller (FL)
Moran (VA)
Ortiz
Owens
Reyes
Rodriguez
Schiff
Sweeney
Tauzin
Toomey
Udall (CO)
Wicker

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

□ 1049

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

EXPRESSING SENSE OF CONGRESS THAT KIDS LOVE A MYSTERY IS A PROGRAM THAT PROMOTES LITERACY AND SHOULD BE ENCOURAGED

The SPEAKER pro tempore (Mr. REHBERG). The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 373.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. GINGREY) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 373, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 388, nays 11, answered "present" 1, not voting 33, as follows:

[Roll No. 47]

YEAS—388

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Bass
Beauprez
Becerra
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chabot
Chandler
Chocola
Clyburn
Coble
Cole
Conyers
Cooper
Costello
Cramer
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Feeney
Ferguson
Filner
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goodlatte
Gordon
Goss
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hill
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—11

Burgess
Collins
Everett
Flake
Goode
Hefley
Jones (NC)
Kingston
Paul
Royce
Tancredo

ANSWERED "PRESENT"—1

Souder

NOT VOTING—33

Ackerman
Barton (TX)
Bell
Carter
Clay
Cox
Crane
Cummings
Davis (IL)
Doggett
Gephardt
Gonzalez
Granger
Hall
Hinchey
Hinojosa
Jackson-Lee (TX)
Johnson, Sam
Kennedy (RI)
Kucinich
LaTourette
Lofgren
Miller (FL)
Moran (VA)
Ortiz
Owens
Reyes
Rodriguez
Schiff
Tauzin
Toomey
Udall (CO)
Wicker

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

□ 1059

Mr. HEFLEY and Mr. ROYCE changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. ORTIZ. Mr. Speaker, due to official business, I was unable to vote during the following rollcall votes. Had I been present, I would have voted as indicated below.

Rollcall Vote No. 42 "yea"; rollcall Vote No. 43 "yea"; rollcall Vote No. 44 "yea"; rollcall Vote No. 45 "yea"; rollcall Vote No. 46 "yea"; and rollcall Vote No. 47 "yea."

PERSONAL EXPLANATION

Mr. CARTER. Mr. Speaker, during rollcall Vote Nos. 42, 43, 44, 45, 46 and 47 I was unavoidably detained. If I had been present, I would have voted "yea."

PROVIDING FOR CONSIDERATION OF H.R. 339, PERSONAL RESPONSIBILITY IN FOOD CONSUMPTION ACT

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 552 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 552

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 339) to prevent frivolous lawsuits against the manufacturers, distributors, or sellers of food or non-alcoholic beverage products that comply with applicable statutory and regulatory requirements. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII and except pro forma amendments for the purpose of debate. Each amendment so printed may be offered only by the Member who caused it to be printed or his designee and shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to my friend, the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume.

□ 1100

During consideration of this resolution, all time is yielded for the purposes of debate only.

Mr. Speaker, the resolution before us is a fair and open rule that allowed every single Member of this body to offer any amendment that they wished to debate after simply having it preprinted in the CONGRESSIONAL RECORD. On March 4, the Committee on Rules publicly notified Members of the possibility that it may report a rule to give every Member of Congress an opportunity to have their amendment heard on the House Floor, giving Members ample time to draft and submit their amendments for consideration.

The rule also provides one hour of general debate, equally divided and controlled by the chairman and ranking member of the Committee on the Judiciary, and allows the amendment in the nature of a substitute to be considered an original bill for the purpose of amendment, and that it shall be considered as read.

The rule waives all points of order against the committee amendment in the nature of a substitute and provides that only the authoring Member or a designee may offer a preprinted amendment. Finally, the rule provides the minority with one motion to recommit either with or without instructions.

Mr. Speaker, I rise today to introduce the rule for H.R. 339, the Personal Responsibility and Food Consumption Act. This bill is common sense legislation that requires courts to dismiss frivolous lawsuits seeking damages for injuries resulting from obesity and its attendant health problems that are filed against the manufacturers, distributors, sellers, marketers, and advertisers of any food product by a claimant or their spouse, parent, or child. That is, simply put, what this bill does, and I would like to congratulate our chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the bill's sponsor, the gentleman from Florida (Mr. KELLER) for their hard work in bringing this legislation to the floor for its consideration today.

Despite its opponents' claims to the contrary, what this bill does not do is to relieve manufacturers of their existing Federal and State responsibilities for manufacturing, marketing, distributing, advertising, labeling, or selling their products, nor does it affect existing State laws against deceptive trade practices or lawsuits filed for the relief of claimants who become sick from tainted food products. This bill is a carefully crafted bill to address a specific problem: to put an end to frivolous lawsuits that have been filed against the lawful and productive food services industry, an industry that provides 12 million Americans with jobs and is the Nation's largest private sector employer. And, it accomplishes this while protecting all of the other rights currently given to consumers.

This bill simply codifies the current tort law of every State in America that already has preventive injury claims based on obesity and makes permanent what a recent Gallup poll has shown that 89 percent of Americans already knew: that lawsuits against the food industry are an attempt by the trial bar to make an end-run around our Nation's established democratic process through litigation. H.R. 339 creates a narrow, national solution to the problem of these costly and wasteful lawsuits, and establishes in Federal law the simple concept that consumers, not the plaintiffs' bar or a government agency, shall have the right to choose what they eat.

Every Member of this Chamber understands that obesity and the greater health problems that it causes, such as heart disease and diabetes, is a dangerous and growing problem to America. Over the last 20 years, obesity rates have increased by more than 60 percent among adults, and the rate of increase in obesity among young people has risen even more rapidly. To address this problem, President Bush has demonstrated his leadership by providing funds in his budget for general health promotion activities, including efforts to educate the public on preventing diabetes and obesity. President Bush has also outlined a fitness challenge to all Americans by asking adults all across America to get at least 30 minutes of physical activity each day, for children and teenagers to get at least 60 minutes of physical activity each day, and for parents to commit to family activities that revolve around physical activity.

But the American people understand that fitness, health, and well-being is not something that can be legislated, nor something that lawyers can sue for. A commitment to a healthy lifestyle is something that everyone must make for themselves, and it is a matter of personal responsibility. People all across this country understand that since 2002, trial lawyers have been sizing up the deep pockets of the food industry and are ready to pounce upon them when they see a golden opportunity to reap billions of dollars for themselves by filing these lawsuits against the productive food industry.

John Bahnzaf, one of the lead litigators of these frivolous suits, has publicly announced that his goal is to "open the floodgates" of the litigation against the food industry because, he says, "Somewhere there is going to be a judge and a jury that will buy this, and once we get the first verdict, as we did with tobacco, it will open up the floodgates." All it will take to do irreparable harm to consumers, the economy, and millions of jobs is just one judge making a nonsense opinion by falling victim to what the trial lawyers wish to do. I believe it is Congress's obligation to allow commerce to proceed by preventing these suits from wasting the time of our courts and the resources of a lawful industry.

By passing this legislation today, the House will tell consumers, investors, and countless employees of local Mom and Pop burger joints all across America that we care about them and their jobs, and that we will make sure that we will protect them. We will be telling Americans we think that they are smart enough to decide what they choose to put in their own mouth, and we will be helping those everyday working Americans who rely on fast, affordable nutrition in their hectic lives, not by allowing the courts to increase the price of food that they freely choose to eat.

If the House fails to pass this legislation, where will the madness end? Will sit-down restaurants, which some studies have shown often, serve food with a nutritional and caloric content similar to fast food? Will they be next on the trial lawyers' hit list? Will trial lawyers target chicken producers who supply countless moms across America with the raw materials for homemade fried chicken, or the beef producers who conspire to provide them with raw ingredients for fattening homemade meatloaf? Or will they simply wait for the next fad diet trend to come along and go after whoever is producing the unfashionable food of the moment?

Mr. Speaker, there is a cure to the obesity problem in America. By taking the road to reducing the medical costs associated with obesity is the right way to do it, not in the courtroom. It begins when Americans decide to leave a little bit on their dinner plate and to run that extra mile. It begins when a parent decides to take an active role in their child's life and coaches their son or their daughter's Little League team. It begins the next time you or I step up to the counter and order the salad, not the extra cheese pizza. But that should be our choice as Americans, because we know best that we make better decisions than the government or than trial lawyers can make for us. These are decisions that Americans can and should make for themselves. Unlike the opponents of this bill, I trust the American people and believe that Americans are smart enough to make these decisions for themselves.

Mr. Speaker, I support this rule, and I support the well-crafted underlying bill of the gentleman from Florida (Mr. KELLER).

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I thank the gentleman from Texas (Mr. SESSIONS) for yielding me the customary 30 minutes, and I yield myself 8 minutes.

Mr. Speaker, despite the rhetoric coming from the other side, this is not an open rule. This rule requires that any Member who wants to improve this bill must have already preprinted their amendment in yesterday's CONGRESSIONAL RECORD. Now, it is interesting to note that when they were in the minority, the Republicans condemned preprinting requirements, but now that they are in power, they find this and other procedures to close the process completely acceptable. In fact, even the very distinguished chairman of the Committee on Rules, the gentleman from California (Mr. DREIER) agrees that preprinting requirements are wrong, or at least he used to.

On July 20, 1993, the very distinguished chairman of the Committee on Rules said this about a Democratic rule requiring that all amendments be preprinted: "This rule also requires amendments to be printed in the CONGRESSIONAL RECORD. Now, that might not sound like much, but it is another bad policy that belittles the traditions of House debate. If amendments must be preprinted, then it is impossible to listen to the debate on the floor, come up with a new idea to improve the bill, and then offer an amendment to incorporate that idea. Why do we need this burdensome preprinting process? Shouldn't the committees that report these bills have a grasp of the issues affecting the legislation under their jurisdiction? Again, Mr. Speaker, I think we can do better."

Well, I agree completely with my friend from California. We can do better. Unfortunately, in this Congress, we are actually doing worse. This year, of the nine rules this body considered, only one has been a truly open rule. That is a batting average of 111, which will get you kicked off of my son's T-ball team. According to the Republicans' own definition, eight out of nine rules have been restrictive, and that one open rule brought a bill to the floor that was approved by a voice vote.

Now, Mr. Speaker, as for the underlying bill, this is an unnecessary distraction from the real problems facing the American people. In August 2002, two children brought suit against McDonald's, claiming the corporation bore legal responsibility for their obesity and health problems. The case got a great deal of media attention which is, I am sure, part of why we are doing this thing today. The judge working on the case quickly recognized that this lawsuit was clearly frivolous and dismissed the case.

In other words, Mr. Speaker, the system worked. But that is not good enough for the Republicans. Now they want to radically change the rules, not just so Americans cannot bring forth so-called frivolous lawsuits, but so that almost any case of negligence against these types of companies is banned. This bill is retroactive: any case currently pending before a judge would be subject to the new law. Mr. Speaker, you do not change the rules during the middle of the game, but that is just what this bill does.

This bill has many, many, many problems, and my colleagues on the Committee on the Judiciary will talk more about the merits or lack of merits of the bill during general debate. But there are bigger issues here.

Mr. Speaker, obesity is a problem, and this week we learned that obesity will soon pass smoking as the leading cause of preventable deaths. Americans, especially children, are gaining weight at alarming rates. In fact, according to the National Alliance for Nutrition and Activity, obesity is the Nation's fastest rising public health problem. According to the Department of Health and Human Services, unhealthy eating and inactivity cause about 1,200 deaths every day. That is five times more than the number of people killed by guns, HIV, and drug use combined.

Now, adding to this is the fact that it just does not affect the obese person; it puts a burden on the entire system, from hospitals to the workplace to the home. And, according to the U.S. Department of Agriculture, healthier diets could prevent at least $71 billion per year in medical costs, lost productivity, and lost lives. The Centers for Disease Control estimates that if all physically inactive Americans became active, we would save $77 billion in annual medical costs. And this does not even begin to discuss the issue of hunger in America.

Unfortunately, there are many people in this country who suffer from hunger and yet, paradoxically, are obese because the little food they do get is not nutritious. Low-income families face a real need to stretch their food dollars to maximize the number of calories they consume. We are finding that low-income families may eat foods that may cost less, but that have relatively higher levels of calories per dollar to stave off hunger when they lack the money or other resources like food stamps to purchase a healthier balance of more nutritious foods. Simply put, it becomes a trade-off between food quantity and food quality.

Now, it is obvious to everyone, everyone but the House Republican leadership, apparently, that obesity and hunger are serious public health issues that need to be dealt with in serious ways.

□ 1115

But instead of bringing legislation before this body that will help feed the hungry, provide families with information on how to prepare and eat nutritious meals, encourage the food and restaurant industry to be more responsible and help raise the standard of living, we are here today considering a fake bill that pretends to fix a fake problem.

Now, I would like to tell the American public that we are actually having a real substantive debate about obesity in ways to address this national problem but we are not. And although today's bill would undoubtedly restrict lawsuits against restaurants, food manufacturers, and food distributors, what it really does is highlight the priorities, actually the lack of priorities, of this Republican-controlled Congress.

For example, over 760,000 Americans sit at home, jobless and without any income because the Republicans in Congress will not extend them unemployment benefits. But the majority party all of a sudden can find the time to take up this legislation.

While the European Union adds tariffs to American goods because of a trade dispute, the Republican majority continues to let a bipartisan compromise sit and gather dust; but the leadership can find the time to try to ram another partisan corporate tax cut through the House that will not address any real problem.

And while over 40 million Americans woke up this morning without health insurance, last week the majority took precious time out of their limited legislative schedule to set the rules for commercial space flight, which does not even exist yet.

With all the challenges facing this country, and with the limited schedule set by the Republicans this year, is this the best bill to consider? Is this the best use of the House's time? The answer is no. And, unfortunately, the Republican Party continues to ignore the real issues facing this country.

And it just goes to show you how misguided and out of touch the majority party continues to be.

Mr. Speaker, the United States House of Representatives is supposed to be a serious place. This is where the great issues are supposed to be debated. But under this Republican leadership, this House has become a place where trivial issues are debated passionately and serious ones not at all.

We should have a debate about the problem of obesity. And that debate should include serious discussions about the ways we can effectively deal with that issue. But that is not what we are doing here today. What we are doing here today, quite frankly, is, once again, concocting a way to avoid doing the people's business.

Mr. Speaker, I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, a good number of Members of Congress spend a lot of time trying to promote health and fitness and worthiness, and one of those Members is with us today. He is the chairman of the Committee on Rules, from San Dimas, California.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER).

Mr. DREIER. Mr. Speaker, let me just say in responding to my friend from Massachusetts that this is clearly an open rule in the modern House that we have today. We are criticized over the fact that we have not been able move things; and then, Mr. Speaker, when we proceed with moving legislation forward, we do it under a procedure that does allow every single Member, every single Member who wants to offer a germane amendment the right to do that. That is exactly what this rule does.

Mr. MCGOVERN. Mr. Speaker, would the gentleman yield for a question?

Mr. DREIER. Mr. Speaker, no. The gentlemen spoke for a nice long period of time. When I get done with my statement, I look forward to engaging with the gentleman. I never hesitate to do that.

Let me say that, Mr. Speaker, I have to ask somewhat rhetorically, Was there a power surge last night or was it a full Moon? Someone has awakened the Franken-Food Monster. The amendments that have been filed last night appear to be nothing more than an all-out embrace of Ralph Naderism. Who has been in the sauce too much? Or maybe they need a little Hamburger Helper.

Last night I thought that the minority was very serious when they said to us that they wanted to have an open amendment process for unlimited debate on this bill. I thought we were going to have a serious debate, a debate on how to stop the economically debilitating effect of frivolous lawsuits concerning obesity. But the amendments that were filed last night are making a mockery of what is a serious issue.

Americans, Mr. Speaker, are eating themselves to death and looking for someone to blame. Obesity and weight control are very serious subjects, very, very serious subjects. I am reminded regularly by Arnold Schwarzenegger about that. And, of course, we have the great model of President Bush, who is probably the fittest President we have ever had. They talk about the fact that there are many factors to weight control and food consumption and health. And, obviously, fitness is numero uno, very, very important.

Suing Burger King is not going to improve anyone's health. Personal responsibility and accountability are what are most important. We cannot have a serious debate, Mr. Speaker, on real issues, one about those who can use the court system for political purposes on whether it is right or wrong to force concessions or financial gain through legal harassment. We are clogging the judicial system with frivolous lawsuits, we are hurting business, we are putting American jobs in jeopardy, and at the same time we are clogging our arteries without considering the consequences. These are real issues that affect Americans' everyday lives.

So I have to ask, Why are these frivolous amendments being filed by the minority? The majority is trying to govern and get the people's business done. And I must ask the minority why is there this fraudulent frolic of frivolous fluff. Is it intended to highlight frivolous lawsuits, or is it merely intended to change the subject?

Let us get the people's work done, unburden businesses so they can create more jobs, and stop this bumper-sticker gamesmanship. I believe that we should withdraw the silliness and we should see those amendments, if they are offered, resoundly defeated.

Mr. MCGOVERN. Mr. Speaker, I thought the gentleman from California was going to yield to me.

Mr. DREIER. Mr. Speaker, I would be happy to yield to the gentleman from Massachusetts (Mr. MCGOVERN) if he would like to pose a question to me.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me ask the question to the gentleman from California (Mr. DREIER) that I wanted to ask, which was he says this is an open rule, but if a Member is watching this debate right now, either a Democrat or Republican, and comes up with a great idea for an amendment, will that Member be allowed to offer his or her amendment on the floor right now? It is a simple yes or no answer.

Mr. DREIER. Mr. Speaker, the answer is no, not at this moment. Let me say, if the gentleman would continue to yield, let me say that any Member had the opportunity last night to file an amendment.

Mr. McGOVERN. Mr. Speaker, I reclaim my time.

I also point out again the gentleman (Mr. DREIER) talks about the openness of the Committee on Rules, but let me use his definitions, the definitions of the Republicans when they were in the minority. Under those definitions, this year of the nine rules we have had, one has been open, one has been closed, one was procedural, and there were six restrictive rules. This is hardly any kind of an example.

Mr. DREIER. Mr. Speaker, would the gentleman yield for a question?

Mr. McGOVERN. Mr. Speaker, I will not. Mr. Speaker, I control the time.

The SPEAKER pro tempore (Mr. REHBERG). The gentlemen reclaims his time.

Mr. McGOVERN. Mr. Speaker, I will extend the same courtesy to the gentleman that he extended to me.

Mr. Speaker, I yield 5 minutes to the distinguished gentlewoman from Connecticut (Ms. DELAURO), who has been a champion on the issue of nutrition issues.

Ms. DELAURO. Mr. Speaker, only with this Republican leadership would an effort to promote personal responsibility begin with allowing companies to be irresponsible without accountability. Unless the public be confused that the Republicans are actually concerned with doing something about the obesity epidemic in this country that we have heard so much about, this legislation has little to do with preventing what the Centers for Disease Control yesterday said will be this Nation's leading cause of preventable deaths by next year.

Rather, by shielding manufacturers, distributors, and food sellers from liability, this bill is the next installment in the majority's series of tort reform bills in disguise, attempting to give yet another industry open-ended protection so irresponsible conduct is not punished or held accountable.

But that should not distract us from discussing the very real problem of obesity in this country. Obesity affects nearly 65 percent of adults. The rates are rising. The problem is even more pressing for teens, teenage obesity rates tripling in the last 20 years. All told, obesity costs the Nation $117 billion a year in health care and related costs, the single largest drain or our Nation's health care system.

Obesity leads to diabetes, high blood pressure, coronary heart disease, stroke and arthritis, conditions the CDC says will kill a half million people every year by 2005.

No one here is under the illusion that there is a one-step solution to reducing obesity. With ads encouraging us to eat too much of the wrong kinds of foods, neighborhoods designed for driving and not walking, restaurants serving ever-increasing portion sizes, McDonalds' announcement this week notwithstanding, slowing the obesity epidemic will take a multifaceted effort.

And Congress has an obligation to engage itself in that effort. There are countless other steps we could take that would support Americans' efforts to eat well, maintain a healthy weight, such as getting junk food out of schools, strengthening the Centers for Disease Control nutrition and physical activity division, fully funding CDC's VERB campaign, which promotes physical activity in young people.

With legislation I have introduced, the Meal Education and Labeling Act, we could strike a real blow at frivolous litigation aimed at restaurants and at the same time we can actually do something about obesity. It addresses one of leading causes of the rise in obesity rates and that is the fact that people are eating out more frequently.

Today, we spend about half of our food dollars at restaurants. In 1970, Americans spent just 26 percent of their food dollars on restaurant meals. Children eat almost twice as many calories when they eat at a restaurant as they do when they eat at home.

The Meal Education Labeling Act would extend nutrition labeling beyond packaged foods that you find at your grocery store to include foods at fast-food and other chain restaurants. It would do it by requiring fast-food and chain restaurants, that is, companies with 20 or more restaurants under the same trade name, not mom and pop restaurants, they would have to list calories, saturated plus trans fats, and sodium on printed menus and calories on menu boards. But most importantly, it would give consumers the necessary nutritional information to make healthy choices for themselves.

You might think that Americans do not want to be bothered with additional information they supposedly already know, but the evidence suggests otherwise. Not only do three-quarters of American adults report using the food labels on a regular basis that they find on packaged foods in the grocery stores, but 48 percent say the nutrition information on those labels has caused them to change their minds about what they buy.

Giving people the information that they need to make informed decisions about what they eat is the kind of approach that this body should be taking today in addressing obesity.

We may avoid litigation if we move in this direction. That is a real step toward helping encourage personal responsibility in food consumption. It can be done in a way that protects industry, does not hurt our mom and pop restaurants. Instead, as we have seen countless times before, this majority has chosen again to use a very important public health issue to pursue a narrow and a completely unrelated political agenda.

Mr. Speaker, we should do something about obesity in this country, but this bill is not the way to go about it.

Mr. SESSIONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. NEY), the chairman of the Committee on House Administration.

Mr. NEY. Mr. Speaker, I thank my colleague from Texas (Mr. SESSIONS), who has done such a good job on framing the proper type of debate on this rule today and has done a good job on the rule.

Mr. Speaker, I rise today in strong support of House Resolution 552 and the underlying bill itself, H.R. 339, the Personal Responsibility and Food Consumption Act.

As original cosponsor of H.R. 339, I commend the gentleman from Florida (Mr. KELLER) for introducing, I think, a very important piece of legislation and the distinguished chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), for working towards its passage.

When this situation occurred, I think it was the first time in New York, and as a parent I can relate to this, it clearly pointed to the fact that a parent could not control their child, could not control how many times they went to a restaurant per day or where they went to, no form of responsibility. So they just ended up going with some plaintiffs' lawyers and they filed a lawsuit.

Now, there are serious issues that have been discussed by both sides of the aisle about obesity and what, in fact, should happen, and exercise. And we can get into those issues. But I believe, Mr. Speaker, firmly, and I said it at the time the day those lawyers ran around and started this with the lawsuits, our judicial system that day was hijacked.

□ 1130

It has been hijacked by greedy, blood-sucking, immoral plaintiffs' attorneys. They have made a ridiculous situation, and they have made the ridiculous the reality. What was once thought of as a hilarity on late-night comedy shows has been brought into mainstream media by absurd frivolous lawsuits.

The situation really is not laughable, though it is scary. These actions are clogging our courts, driving our doctors out of practice, and are killing business growth in our great Nation, if we want to talk about jobs today.

What is the purpose, you may ask? Will they promote social justice or make America safer? The answer is no. These suits are to line the pockets of America's trial bar. Contingency fees of 40 percent plus court costs leave lawyers enriched and their clients baffled. In big-time class actions, lawyers are hauling in fees that range as high as $30,000 per hour. I guarantee you that their clients are not receiving awards at that same rate.

Now, Mr. Speaker, the same class-action lawyers that have sued other industries are turning towards our restaurant industry, pure and simple. They have held strategy sessions and seminars to hatch their schemes estimating they could reap hundreds of billions of dollars in settlements from the so-called obesity lawsuits.

The lawsuits charge that children are overweight because of cheap fast food and aggressive food marketing by restaurants. But when you look at the underlying fact, it is clear that the American tort system is being exploited once again, pure and simple. Statistics from the National Bureau of Economic Research show that 60 percent of Americans' weight gain over the past 2 decade is attributable to increases in sedentary life-styles.

The American Academy of Pediatrics has found that only 20 percent of children participated in daily physical education programs in 1999, compared to 80 percent in 1969. Nutritional data shows that teen obesity rose 10 percent in 1980 and the year 2000. Teens' caloric intake rose only 1 percent during that time, while their levels of physical activity dropped by 13 percent.

Mr. Speaker, the judicial system is being used by industrious law firms and plaintiffs' lawyers who sue without repercussion. Their strategy is simple: sue until the defendants concede; once the restaurant company settles, the flood gates will open.

As you can tell, I am not an attorney myself, I am a teacher by degree, but I have been around long enough to know that opening the flood gates of litigation is bad news. It is bad news for our courts. It is bad news for our doctors. It is bad news for business. It is ultimately bad news for America.

The restaurant industry employs more than 12 million Americans. Restaurant companies lose just by being forced to defend these types of crazy lawsuits. They are forced to shift precious resources away from expanding their business and creating jobs and towards defending lawsuits solely filed to satisfy the insatiable appetites of the plaintiffs' bar.

Mr. Speaker, it is the Congress's obligation to give American businesses the tools necessary to defend themselves from this type of litigation. There are proper times for lawsuits; I know that. There is a way to work at this. We have to look at exercise and education and responsibility within the restaurant industry and within the American population, period. But these insane and crazy lawsuits are absolutely not the way. I think the gentleman from Florida (Mr. KELLER) has a responsible approach to this problem.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, all these insane, crazy lawsuits that people are referring to are getting dismissed and the system seems to be working.

We have a real problem and this bill does not address that problem in any way, shape, or form. If anything, this bill says to the restaurant industry and the food industry, you do not have any responsibility, you do not have any responsibility to our kids and the type of products that you try to peddle to them. I think that is the wrong message.

Mr. Speaker, I include in the RECORD an article that appeared in today's Washington Post entitled "Obesity Passing Smoking As Top Avoidable Cause of Death."

[From the Washington Post, Mar. 10, 2004]

OBESITY PASSING SMOKING AS TOP AVOIDABLE CAUSE OF DEATH

(By Rob Stein)

America's weight problem is rapidly overtaking cigarette smoking as the leading cause of preventable deaths, federal health officials reported yesterday.

Although tobacco is still the top cause of avoidable deaths, the widespread pattern of physical inactivity combined with unhealthful diets is poised to become No. 1 because of the resulting epidemic of obesity, officials said.

"Obesity is catching up to tobacco as the leading cause of death in America. If this trend continues it will soon overtake tobacco," said Julie L. Gerberding, director of the federal Centers for Disease Control and Prevention, which conducted the study.

If current trends continue, obesity will become the leading cause by next year, with the toll surpassing 500,000 deaths annually, rivaling the number of annual deaths from cancer, the researchers found.

"This is a tragedy," Gerberding said. "We are looking at this as a wake-up call."

Being overweight or obese makes people much more likely to develop a variety of deadly health problems, including diabetes, heart disease and cancer.

In response, the Bush administration announced a new public education program yesterday, including a humorous advertising campaign that encourages Americans to take small steps to lose weight. In addition, the National Institutes of Health proposed an anti-obesity research agenda. Tomorrow, a special task force will present the Food and Drug Administration with recommendations on what that agency can do to help reverse the cresting public health crisis.

"Americans need to understand that overweight and obesity are literally killing us," said Health and Human Services Secretary Tommy G. Thompson. "To know that poor eating habits and inactivity are on the verge of surpassing tobacco use as the leading cause of preventable death in America should motivate all Americans to take action to protect their health."

Critics, however, immediately denounced the moves as inadequate, saying the administration should take more aggressive steps to encourage more healthful diets, and force the food industry to improve its products and stop advertising junk food to children.

"The government should have been much more aggressive about this much earlier," said Kelly Brownell, director of Yale University's Center for Eating and Weight Disorders. "Even now, the administration defaults to explaining the problem away by individual responsibility and lack of physical activity rather than focusing on the toxic food environment."

The new estimates of the rising toll of obesity come in the first update of a landmark paper that ranked the nation's preventable causes of death in 1990.

Cigarette smoking, which increases the risk of a host of illnesses including lung cancer, emphysema and heart disease, topped that list. But antismoking campaigns have led to a steady decline in the number of Americans who use tobacco, slowing the rise in the resulting toll of illness and death.

In the new analysis, published in today's Journal of the American Medical Association, Gerberding and her colleagues conducted a comprehensive review of the medical literature to calculate the most precise estimate possible of the risk of dying from all the leading causes of preventable death, including being obese or overweight. They then multiplied that risk by the number of Americans known to be overweight or obese, based on long-term, ongoing national surveys used to track the nation's health, which are the most accurate data available. The result, the researchers said, is the most reliable such estimate to date.

Tobacco still ranked No. 1, accounting for about 435,000 deaths, or 18.1 percent of the total. But poor diet and physical inactivity were close behind and rapidly increasing, causing 400,000 deaths, or 16.6 percent. That represented a dramatic change from 10 years earlier, when tobacco killed 400,000 Americans (19 percent) and poor diet and physical inactivity killed 300,000 (14 percent).

"There's been a big narrowing of the gap," said Ali H. Mokdad, who heads the CDC's behavioral research branch. It is particularly striking because the toll of every other leading cause of preventable death—including alcohol, infections, accidents, guns and drugs—steadily decreased over the same period, Mokdad said.

Despite intense public concern, the number of overweight or obese Americans has continued to climb to epidemic proportions. In 1990, about 60 percent of adult Americans were either overweight or obese, including about 20 percent who were obese. By 2000, that number had climbed to 64 percent being obese or overweight, including about 30 percent who were obese.

"Physical inactivity and poor diet is still on the rise. So the mortality will still go up. That's the alarming part—the behavior is still going in the wrong direction," Mokdad said.

Experts praised the government for highlighting the worrisome trend and taking countermeasures. But several said the severity of the problem warrants a much more intensive, innovative response.

"If we just count on the American population to change their eating habits and exercise habits, we're going to continue to have obesity," said Richard L. Atkinson, president of the American Obesity Association. "What we're doing is not working."

The government should consider more innovative strategies than simply encouraging people to eat better and exercise, such as subsidizing the cost of healthful foods such as fresh fruits and vegetables to make it more affordable to eat well.

"Let's start looking at things that make a difference," Atkinson said.

The federal government could take much more dramatic action, said Yale's Brownell. The Department of Agriculture "has the power to get rid of soft drinks and snack foods in the schools, and they're not. The [Federal Trade Commission] could deal with the tidal wave of unhealthy food advertising aimed at children. The government could change agriculture policy to subsidize the industry making healthy foods instead of unhealthy ones," he said.

Officials rejected suggestions that the administration take more dramatic steps, such as requiring food labeling at fast-food restaurants or prohibiting certain sugary, fatty products in schools.

"I don't want to start banning things," Thompson said. "Prohibition has never worked."

Officials have "been elated by the response" of the private sector to promote more healthful lifestyles, Surgeon General Richard H. Carmona said. "Everything we've seen from the industry has been positive."

Thompson urged Congress to pass legislation granting tax credits to people who lose weight, and said he has been lobbying health insurers to cut rates for those who lose weight or exercise.

Mr. Speaker, I yield 3 minutes to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Speaker, I thank the gentleman for yielding me time.

I have been intimidated to follow the chairman to the well since he does have impeccable credentials in the area of nutrition. He is the gentleman responsible for renaming French fries and French toast, although, of course, that did not do much for the caloric content of those food items.

But we do have a serious problem in this country; and, unfortunately, this bill and this debate will not rise to that issue. The statistics show an alarming increase in obesity among adults and, most alarmingly, an extraordinary increase in our youth. This can and will lead to real health problems. Those were talked about previously.

So we have a real problem. This could become a crisis and the question is, Why are we here today? Is there a crisis in litigation? Yes, there have been a few flaky lawsuits filed that have been dismissed, including one being dismissed with prejudice, something judges do not do routinely.

I think the majority is demeaning the intelligence of our juries, of the Americans who will sit there and cast judgment on their peers and say, no, have a little self-control; they did not make you eat that food. That is what the juries and judges have said so far, and I think they will continue to say.

But beyond that, they have said fitness and health cannot be legislated. Well, they might remember a former Republican who had a little more productive idea about this, Dwight David Eisenhower. He brought about the Presidential Fitness Program in the 1950s, mandatory physical education in all the schools in America because of concerns of so many males failing the physical for the draft in World War II and Korea. That was mandated when I was a kid growing up, and then sports were free.

What do we have today? Most States, many States no longer have mandatory physical education. They say they cannot afford it. In my State, kids have to pay to play sports. So many of them do not do it.

What we could do a lot more productively here today on the floor would be to consider legislation to add a little amendment to the so-called No Child Left Behind bill that would help our States, our local school districts reinstate or mandate that they reinstate physical education; but since it will be a Federal mandate, give them some help with the Federal mandate, something that the majority party has failed to do with No Child Left Behind and other mandates here in the Congress.

But let us send down a rule: we will have physical fitness. It will be mandatory. We will have kids able to play sports without having to pay and the Federal Government seeing that being in the national interest to avoid a crisis in health care caused by preventable illness, caused by obesity, we are going to take those steps. But that is not an amendment that would be allowed to this bill; that is not the subject here today. Instead, we will hear little funny speeches on that side where people will link together alliterations, as did the esteemed chairman of the committee, not dealing with the real problem.

Here we are. We will be done early today. Do not have a highway bill. Do not have extended unemployment benefits. We cannot even get labels on our food that are meaningful for country of origin. Congress is being defied by the administration. Do we have time for those real issues? No, but we have time for this little frolic.

This is a pretty sad day in the House of Representatives. Let us deal with this real problem and deal with it seriously and appropriately.

Mr. SESSIONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Orlando, Florida (Mr. KELLER), the original sponsor of the bill.

Mr. KELLER. Mr. Speaker, I thank the gentleman for yielding me time.

I support the rule, and I support the bill as well. I wanted to briefly just touch on three issues. First, a little bit about the bill's substance; second, I want to talk about the process which led up to this fair rule; and, third, just to touch on the childhood obesity issue which recently has been raised by my colleagues on the other side of the aisle.

First, in terms of the bill's substance, the gist of this legislation is that there should be common sense in the food court, not blaming other people in the legal court. We need to get back to the old-fashioned principles of common sense and personal responsibility and get away from this new culture where everybody plays the victim and tries to blame others for their problems.

Now, I have heard from some of the other speakers that this is a frolic; this is just a waste of time. We should be talking about jobs. Well, it is interesting to me because we are talking about protecting the single largest private sector employer in the United States that provides 12 million jobs. Why do these people pretend to love jobs yet hate the employers who create these jobs? It defies common sense as much as their opposition to this bill.

Now, let us talk about the process a little bit. I support this rule, an open modified rule; and let me tell you a little bit about the background here. It is true based on an independent Gallup poll that nearly nine in 10 Americans oppose holding the fast-food industry legally responsible for the diet-related health problems of people who eat that kind of food on a regular basis. Interestingly, overweight people oppose this just like skinny people do; Republicans just like Democrats do. The country overwhelmingly, 89 percent, opposes these types of lawsuits.

Yet, nevertheless, every step of the way we have given this small percent of the people and their representatives who think it is a good idea the opportunity to have their fair say. We had a hearing on this bill and allowed the minority to call witnesses that they wanted. What witness did they call? What guy did they think most helped them? They called a man named John Banzhaf who said, "Somewhere there is going to be a judge and a jury that will buy this, and once we get the first verdict as we did with tobacco, it will open up the flood gates." That is who they called.

So when we talk about opening up the flood gates, that this is a problem, and then they come today and say, it is not a problem, what are we doing here? There is no problem. Yet their own witnesses tell us they want to open up the flood gates. But they had their hearing. We then had a mark-up. We let them offer any amendments they wanted to. The amendments were shot down.

After the mark-up, we then moved it to the floor. I appeared before the Committee on Rules. I did not say I wanted a closed ruled or anything. I said, I trust the Committee on Rules to fashion the appropriate rule, and they gave them this open rule that any Member of 435 can offer something provided it is preprinted in the RECORD. So we have been pretty fair about the process here, especially given the fact that their opposition has so little support among the American people.

Third, let me address the issue of childhood obesity. Childhood obesity is a very serious problem in this country. In the past 30 years the childhood obesity rates have doubled. Why is that? Well, I do not stand before you in the well of Congress and hold myself out as the world's leading expert in fitness and health. But I did have the happy privilege of questioning Dr. Kenneth Cooper on February 12 of this year, who appeared before the Committee on Education and the Workforce who is the father of the aerobics movement, and nobody is more well respected. This is what he said: "Thirty years ago did kids come home from school and eat potato chips and cup cakes and cookies? They absolutely did, just like they do today. The difference is they then went out and rode their bikes and played with their friends and did all other sorts of things." Nowadays, he said, those same kids come home from school and sit on the couch and play video games and watch TV. He told us the average child spends only 900 hours a year in school and 1,023 hours in front of that TV set playing video games or watching TV.

Meanwhile, we now have only one State in the country, Illinois, that mandates physical education programs. I asked Dr. Kenneth Cooper, Do you think these lawsuits against the fast-food companies are going to make anyone skinnier? He said, absolutely not. Is it going to help to put a tax on Twinkies? Is that going to make people skinnier? Absolutely not. What is the answer? He told us the answer is personal responsibility and getting young people involved in daily physical activity. That is the kind of commonsense approach that most people in this country can relate to.

I urge my colleagues to support the rule and support the bill. They are both very fair.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the gentleman's comments, but I would just say that what his bill does is it protects an industry that does not need to be protected at this particular point. We are dealing with a problem that does not exist. The problem that does exist is that we do have a problem with obesity in this country. This bill does nothing to deal with that issue. If anything, what it does is it tells the fast-food industry, you have no responsibility to our kids. You can do whatever you want to do. And that is the wrong message we want to be sending at this particular point.

I also want to correct the gentleman on one other thing. He referred a couple of times to this rule as an open rule. This is not an open rule. This is not an open rule. And by the definition taken by the Republicans when they were in the minority, they said any rule that is not considered under a completely open process is considered restrictive, and this is not a completely open process. They further said that these rules are the rules that limit the number of amendments that can be offered and include the so-called modified open and modified closed, as well as completely closed, rules.

This is not an open rule. The Republican majority when they came into power said they were committed to an open process. They have given us anything but an open process. And the question that I asked the distinguished chairman of the Committee on Rules still stands. If a Member is watching this debate and scratching their head, why are we debating such a trivial matter when we have so many other issues to deal with that really do impact the American people very directly, and they wanted to come down here right now and offer an amendment, they would be unable to under this restrictive process that the Republicans on the Committee on Rules have given us today.

Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Speaker, I thank the distinguished Member from the Committee on Rules for yielding me time.

Mr. Speaker, I rise today urging my colleagues to oppose this rule and reject the Personal Responsibility in Food Consumption Act.

I think this is a trivial bill about obesity lawsuits that have not resulted in a cent in damages against anyone. So this is not about fixing something that is broken. This is pursuing something that, most frankly, does not exist. In something that refers to the food industry, it is an old quote, an old hamburger ad, "Where's the beef?"

There are more pressing issues for us to tackle, particularly regarding food safety.

□ 1145

I want to direct my comments to this area of food safety, and I want to talk about lawsuits that have consequences and very serious consequences.

Meat processors have sued the USDA to block the enforcement of food safety standards that are designed to protect the public from pathogens like e-coli and salmonella. The processors have either won or forced the government to settle these cases, and our food safety system has been terribly weakened. One of the processors failing to meet basic standards on three separate occasions was able to continue to sell meat for use in school lunches.

To fight the impact of these cases, I have introduced a bill called Kevin's Law, named in memory of a 2½-year-old boy named Kevin Kowalcyk who died from e-coli poisoning in 2001.

Kevin's law makes it clear that the USDA can set and enforce food safety standards for deadly pathogens. This is not radical policy. This is something that is supported by the National Academy of Sciences, and this legislation has bipartisan support in both the House and the Senate.

I thank my colleagues the gentleman from Pennsylvania (Mr. ENGLISH) and the gentlewoman from Pennsylvania (Ms. HART) and Senators HARKIN and SPECTER for cosponsoring and supporting this legislation. It is something the Congress should be advancing on.

Mr. Speaker, 5,000 Americans die from food-borne illnesses every year in our country. The lawsuits this bill seeks to stop have not harmed anyone. In fact, as I said earlier and others have mentioned, this is about pursuing something that does not even exist. When we juxtapose what is taking place here on the floor today and what I described that threatens Americans today where 5,000 Americans die from food-borne illnesses, this is what we really should be pursuing.

The American people would support that path to eliminate these pathogens that are actually taking American lives. So if we are talking about ending destructive lawsuits, the House should be debating Kevin's Law to put some teeth into our food safety system.

If there is something that the American people I think have taken for granted are our very, very high standards in terms of food safety, but they do not necessarily exist any longer. So I urge my colleagues to defeat this rule and reject the underlying bill.

Mr. SESSIONS. Mr. Speaker, I would like to notify my colleague that we do not have any further speakers at this time, and I would entertain him to please feel free to run down that time and then I will choose to close.

Mr. McGOVERN. Mr. Speaker, I will close the debate on our side, and I yield myself such time as I may consume.

Mr. Speaker, first, I will enter into the RECORD a letter from the Center for Science in the Public Interest opposing H.R. 339.

CENTER FOR SCIENCE IN THE
PUBLIC INTEREST,
Washington, DC, June 18, 2003.

Re hearing on H.R. 339.

Hon. CHRIS CANNON,
Chairman, Subcommittee on Commercial and Administrative Law Committee on the Judiciary, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN CANNON: On behalf of our 700,000 members in the United States, I request that you make this letter part of the record of the June 19, 2003 hearing on H.R. 339, The Personal Responsibility in Food Consumption Act.

The Center for Science in the Public Interest ("CSPI") strongly opposes H.R. 339. Despite its stated purpose of banning frivolous lawsuits, H.R. 339 bans any lawsuit against a manufacturer, distributor, or seller of a food or a non-alcoholic beverage "unless the plaintiff proves that, at the time of sale, the product was not in compliance with applicable statutory and regulatory requirements."

H.R. 339 ignores the fact that both legislatures and administrative agencies frequently are too busy to enact specific standards dealing with a particular food safety or nutrition problem, and so the victims must turn to the courts for help. Meritorious lawsuits can, of course, spur the food industry to improve its practices.

Both Congress and state legislatures, recognizing their inability to deal with the myriad of food safety and nutrition problems, have delegated regulatory responsibilities to specific agencies. Congress, for example, has delegated regulatory responsibility over food to the Food and Drug Administration ("FDA"), the Department of Agriculture, and the Environmental Protection Agency.

However, these agencies, like their state counterparts, do not have enough resources to promptly address all the new concerns about food safety and nutrition. For example, in February 1994 CSPI petitioned the FDA to require the disclosure of trans fatty acids on packaged foods. More than five years later, in November 1999, the FDA published a proposed regulation in response to our petition. The FDA still has not issued a final rule, although FDA Commissioner Mark McClellan has said that a final rule, requiring the disclosure of the amount of trans in packaged foods, will be announced in the near future.

In conclusion, H.R. 339 should be rejected because lawsuits can play a valuable role in protecting consumers by filling the interstices in legislative and regulatory requirements.

Sincerely,
MICHAEL F. JACOBSON, PH.D.,
Executive Director.

Let me conclude my remarks by again expressing my concern, first of all, over the rule because this is a restrictive rule, and what I have been trying to find out from the chairman of the Committee on Rules, and maybe the gentleman from Texas may be able to enlighten me on this, is the wave of the future, no more completely open rules? Are we now going to be forced to deal with restrictive rules on every bill that we now deal with?

Mr. SESSIONS. Mr. Speaker, will the gentleman yield?

Mr. McGOVERN. I yield to the gentleman from Texas.

Mr. SESSIONS. Mr. Speaker, I believe we had an open rule last week.

Mr. McGOVERN. We have had one open rule out of, I think, nine, but I mean, it seems that now we are being required to preprint all our amendments in advance, which by my colleagues' own definition is a restrictive rule. Is that the wave of the future?

Mr. SESSIONS. I thank the gentleman for allowing me to respond. The Committee on Rules, when we file the rule and when we prepare these documents ahead of time, we notify every Member of Congress of our intent to have a meeting at the Committee on Rules to consider a subject. We ask them to please preprint those things that would be necessary. We ask every Member to please work with legislative staff who would help in preparing those documents to make sure that they are in order, would be made in order under the rule, under the rules of this House, and we believe we are trying to do things to move legislation forward, allow time just as we have done here, notify people ahead of time.

One of the things about this process is that for years and years the House has worked off Jeffersonian rules. We have a Speaker who is up here. We have a parliamentarian. We have people who make decisions about what is right and what is wrong and what is fair and what is not, and we believe what we have done here today from March 4 was said here on the floor of the House, all Members of Congress——

Mr. McGOVERN. Mr. Speaker, reclaiming my time, I appreciate the answer. I guess the question that I asked to the chairman of the Committee on Rules, and I will ask the gentleman from Texas, if a Member of either party is watching this debate and would like to offer an amendment based on something that they have heard here today, do they have the right to come to the floor and offer an amendment at this particular point?

Mr. SESSIONS. Mr. Speaker, if the gentleman would yield, the answer is no.

Mr. McGOVERN. Okay. So, again, it kind of makes my point of the restrictive nature of this process, and I raise this issue because I hope that this is not going to be a trend where Members are going to be restricted.

Again, it is not just something the Democrats feel passionately about. Again, I have been reading quotes from Republicans over the years who feel very passionately about the importance of not having preprinting requirements because they believe that that constitutes a restrictive rule. So I think that there is a bipartisan consensus here that we should move away from restricting debate and restricting what can be offered and opening up this process on controversial bills and on noncontroversial bills. That is the only point I would make to the gentleman.

With regard to the bill that we are talking about here today, I will again say that I regret that we are dealing with this particular bill today because it does not address any real problem. This is a bill that corrects a problem that does not exist. These lawsuits that people are complaining about with regard to obesity and the fast food industry are being routinely dismissed. This is not a problem.

The problem is obesity. The problem we should be talking about here is how to make sure that our kids get more nutritious foods. The issue that we need to be dealing with here is how to make sure that the Federal programs that provide breakfasts and lunches to our children in schools meet proper nutrition guidelines.

The issue we should be talking about is better labeling, informing the public in a better way about what, in fact, they are eating. We should be encouraging more corporate responsibility by the fast food industry, and that is not being debated here. In fact, what we are trying to do is we are sending the exact opposite signal to the fast food industry.

We should be encouraging more physical fitness programs in our schools and so that our young people can take advantage of them, and we should also be having a discussion on this floor about the issue of hunger, which is relevant to this issue of obesity.

As I pointed out in my opening statement, people who have precious little resources tend to buy things that are high in calories, that are not nutritious, and there is a relationship between hunger and obesity, and it is something we never even talk about on the floor of this House.

But then we bring this bill to the floor. We bring this bill to the floor, and we are telling the people who are watching here today that we are addressing a huge problem out there, a problem that does not exist, and we are bringing this bill up today and we are only in for a couple of days, notwithstanding the fact that we are not dealing with the issue of extending unemployment benefits to those workers who are unemployed, which is a national disgrace.

I do not know how people can come here and appear on the House floor with a straight face having not dealt with that issue. I know the gentleman from Texas' (Mr. SESSIONS) district, like my district, includes a number of people who are out of work, who have run out of their unemployment benefits, who are desperately trying to figure out how to make ends meet, put food on their table and pay their bills, and they are looking to us to help them out, to provide them a bridge until they can get a job. We are not doing anything here, and we should be ashamed of that fact.

The gentleman from Oregon mentioned the transportation bill that is kind of languishing in committee. That will put people to work, but we are not dealing with that. We are not dealing with the issue of those who do not have health insurance. We are not dealing with anything that matters to anybody, and here we are again dealing with an issue that really is trivial. This place is becoming a Congress where trivial issues are debated passionately and important ones not at all.

So, for a whole bunch of reasons, I oppose the rule because it is restrictive, and I oppose this bill because it is silly. We should not be dealing with this today. We should be dealing with something important.

Mr. Speaker, I yield back the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this House has, in the 8 years I have served in it had debate after debate, hours on the floor, to make sure that we discuss the issues that are of relevance and important to the American public, but these same things also take place, the debates, in our committee system, and committees hold hearings. Committees go around the country to hear testimony from people about issues like obesity, like prescription drugs, like health care, that are important to the American public and to our health and to our safety.

Mr. Speaker, these issues about obesity and about what the answer would be, we hear from the trial lawyers that they want to open up the floodgates, and we hear from people who are engaged from the nutritional side talking about how better labeling would be good or how food that is served to our children should be leaner and have less fat. We have heard from people like Dr. Kenneth Cooper from Dallas, Texas, talk about how our children need more physical fitness and to be more active. All of these things have contributed to a part of what this bill is about.

Mr. Speaker, I will include in the RECORD at this point the testimony of Dr. Gerard Musante, who is the founder of the Structure House, before the Senate Subcommittee on Administrative Oversight and the Courts on October 16.

TESTIMONY OF DR. GERARD MUSANTE

Good afternoon, Chairman Sessions and Honorable members of the Subcommittee on Administrative Oversight and the Courts. I am Dr. Gerard J. Musante and I appreciate the opportunity to appear before you today. I have been called here to share my expertise and educated opinion on the importance of personal responsibility in food consumption in the United States. This lesson is one I have been learning about and teaching for more than 30 years to those who battle moderate to morbid obesity—a lesson that emphasizes the criticality of taking responsibility for one's own food choices. I am testifying before you today because I am concerned about the direction in which today's obesity discourse is headed. We cannot continue to blame any one industry or any one restaurant for the nation's obesity epidemic. Instead, we must work together as a nation to address this complex issue, and the first step is to put the responsibility back into the hands of individuals.

As a clinical psychologist with training at Duke University Medical Center and The University of Tennessee, I have worked for more than 30 years with thousands of obese patients. I have dedicated my career to helping Americans fight obesity. My personal road, which included the loss and maintenance of 50 of my own pounds, began when I undertook the study of obesity as a faculty member in the Department of Psychiatry at Duke University Medical Center. There, I began developing an evidenced-based, cognitive-behavioral approach to weight loss and lifestyle change. I continue to serve Duke University Medical Center as a Consulting Professor in the Department of Psychiatry. Since the early 1970's, I have published research studies on obesity and have made presentations at conferences regarding obesity and the psychological aspects of weight management. Today, I continue my work at Structure House—a residential weight loss facility in Durham, North Carolina—where participants come from around the country and the world to learn about managing their relationship with food. Participants lose significant amounts of weight while both improving various medical parameters and learning how to control and take responsibility for their own food choices. Our significant experience at Structure House has provided us with a unique understanding of the national obesity epidemic.

Some of the lessons I teach my patients are examples of how we can encourage Americans to take personal responsibility for health and weight maintenance. As I tell my participants, managing a healthy lifestyle and a healthy weight certainly are not easy to do. Controlling an obesity or weight problem takes steadfast dedication, training and self-awareness. Therefore, I give my patients the tools they need to eventually make healthy food choices as we best know it. Nutrition classes, psychological understanding of their relationship with food, physical fitness training and education are tools that Structure House participants learn, enabling them to make sensible food choices. As you know, the obesity rates in this country are alarming. The Centers for Disease Control and Prevention have recognized obesity and general lack of physical fitness as the nation's fastest-growing health threat. Approximately 127 million adults in the United States are overweight, 60 million are obese and 9 million are severely obese. The country's childhood obesity rates are on a similar course to its adult rates, as well as increases in type II diabetes. Fortunately Americans are finally recognizing the problem. Unfortunately, many are taking the wrong approaches to combating this issue.

Lawsuits are pointing fingers at the food industry in an attempt to curb the nation's obesity epidemic. These lawsuits do nothing but enable consumers to feel powerless in a battle for maintaining one's own personal health. The truth is, we as consumers have control over the food choices we make, and we must issue our better judgment when making these decisions. Negative lifestyle choices cause obesity, not a trip to a fast food restaurant or a cookie high in trans fat. Certainly we live in a litigious society. Our understanding of psychological issues tells us that when people feel frustrated and powerless, they lash out and seek reasons for their perceived failure. They feel the victim and look for the deep pockets to pay. Unfortunately, this has become part of our culture, but the issue is far too comprehensive to lay blame on any single food marketer or manufacturer. These industries should not be demonized for providing goods and services demanded by our society.

Rather than assigning blame, we need to work together toward dealing effectively with obesity on a national level. Furthermore, if we were to start with one industry, where would we stop? For example, a recent article in the Harvard Law Review suggests that there is a link between obesity and "preference manipulation," which means advertising. Should we consider suing the field of advertising next? Should we do away with all advertising and all food commercials at half time? We need to understand that this is a multi-faceted problem and there are many influences that play a part. While our parents, our environment, social and psychological factors all impact our food choices, can we blame them for our own poor decisions as it relates to our personal health and weight? For example, a recent study presented at the American Psychological Association conference showed that when parents change how the whole family eats and offer children wholesome rewards for not being couch potatoes, obese children shed pounds quickly. Should we bring lawsuits against parents that don't provide this proper direction? Similarly, Brigham and Women's Hospital in Boston recently reported in "Pediatrics" that children who diet may actually gain weight in the long run, perhaps because of metabolic changes, but also likely because they resort to binge eating as a result of the dieting. Do we sue the parent for permitting their children to diet?

From an environmental standpoint, there are still more outside influences that could be erroneously blamed for the nation's obesity epidemic. The Center for Disease Control has found that there is a direct correlation between television watching and obesity among children. The more TV watched, the more likely the children would be overweight. Should we sue the television industry, the networks, cable, the television manufacturers or the parents that permit this? And now we have internet surfing and computer games. Where does it stop? School systems are eliminating required physical education—are we to also sue the school systems that do not require these courses?

Throw social influences into the mix and we have a whole new set of causes for obesity. Another recent study in "Appetite" indicated that social norms can affect quantitative ratings of internal states such as hunger. This means that other people's hunger levels around us can affect our own eating habits. Are we to blame the individuals who are eating in our presence for our own weight problems? As evidenced in these studies, we cannot blame any one influencing factor for the obesity epidemic that plagues our nation. Through working with obese patients, I have learned that the worst thing one can do is to blame an outside force to get themselves "off the hook," to say it's not their fault, and that they are a victim. To do this can bring about feelings of helplessness and then resignation. Directing blame or causality outside of oneself allows the individual not to accept responsibility and perhaps even to feel helpless and hopeless. "The dog ate my homework" and "the devil made me do it" allows the individual not to take serious steps toward correction because they believe these steps are not within their power. We must take personal responsibility for our choices.

What does it mean to take personal responsibility for food consumption? it means making food choices that are not detrimental to your health, and not blaming others for the choices we make. Ultimately, Americans generally become obese by taking in more calories than they expend. But certainly there are an increasing number of reasons why Americans are doing so producing rising obesity rates. Some individuals lack self-awareness and overindulge in food ever more so because of psychological reasons. Others do not devote enough time to physical activity, which becomes increasingly difficult to do in our society. Others lack education or awareness as it relates to nutrition and/or physical activity particularly in view of lessened exposure to this information. And still others may have a more efficient metabolism or hormonal deficiencies. In short, honorable members of the Subcommittee, there is yet much to learn about this problem.

Congress has rightly recognized the danger of allowing Americans to continue blaming others for the obesity epidemic. It is imperative that we prevent lawsuits from being filed against any industry for answering consumer demands. The fact that we are addressing the issue here today is a step in the right direction. No industry is to blame and should not be charged with solving America's obesity problem.

Rather than pointing fingers, we should be working together on a national level to address the importance of personal responsibility in food consumption. The people who come to Structure House have a unique opportunity to learn these lessons, but they are only a select few. These lessons need to be encouraged on a national level, from an early age—in schools, homes and through national legislation that prevents passing this responsibility onto the food or other related industries. In closing, I'd like to highlight the fact that personal responsibility is one of the key components that I teach my patients in their battle against obesity. This approach has allowed me to empower more than 10,000 Americans to embrace improved health. I urge you to consider how this type of approach could affect the obesity epidemic on a national level. By encouraging Americans to take personal responsibility for their health by limiting frivolous lawsuits against the food industry, we can put the power back into the hands of the consumers. This is a critical first step on the road toward addressing our nation's complex obesity epidemic.

For years, I have seen presidents call for "economic summits." I urge that we consider an "obesity summit." Let me suggest instead of demonizing industries that we bring everyone to the table—representatives in the health care industry, advertising, restaurants, Hollywood, school systems, parent, groups, the soft drink industry, and the bottling industry. Instead of squandering resources in defending needless lawsuits by pointing fingers, let's make everyone part of the solution. Let us encourage a national obesity summit where all the players are asked to come to the table and pledge their considerable resources toward creating a national mind set toward solving this problem. That would be in the interest of the American people.

I feel privileged to be a part of the Subcommittee's efforts. I want to thank you for allowing me to testify here before you today and I will now be glad to answer any questions.

Mr. Speaker, let me tell my colleagues what he said. He is a gentleman who has worked for 30 years on obesity in this country, and he said, "Through working with obese patients, I have learned that the worst thing one can do is to blame an outside force to get themselves 'off the hook,' to say it's not their fault, and that they are a victim. Congress has rightly recognized the danger of allowing Americans to continue blaming others for the obesity epidemic. It is imperative that we prevent lawsuits from being filed against any industry for answering consumer demands. The fact that we are addressing the issue here today is a step in the right direction."

Mr. Speaker, I will tell my colleagues that the Republican House and the Republican Senate are addressing the issues. We are doing those things that not only Members find of interest to people back home, but also in the interest of what is the right thing for America to do.

I feel like what we are doing today is right in line with what all 50 States have and that is a law that says we will not take these fast food restaurants to task, to go and have a lawsuit against them, and the Federal Government, we, as members of Congress, are going to affirm that, to avoid a problem before it becomes one. We have been warned about the problems. We are trying to do aggressive things and the right thing for it.

I support this rule. I support this underlying legislation, and I think that it will win overwhelmingly because this is the best answer.

Mr. HASTINGS of Florida. Mr. Speaker, we are fat. America is the fattest nation on the planet and getting fatter all the time. It is estimated that as many as one in five Americans is obese, a condition defined as being more than 30 percent above the ideal weight based on height.

Being overweight and obese in the United States occurs at higher rates in racial and ethnic minority populations, such as African Americans and Hispanic Americans, compared with White Americans. Persons of low socioeconomic status within minority populations appear to be particularly affected by being overweight and obese. Also, according to the surgeon general, women of lower socioeconomic status are about 50 percent more likely to be obese than their better-off counterparts.

Obesity is fast becoming our most serious public health problem. Indeed, obesity is linked to disease such as type-2 diabetes, heart disease and certain types of cancer. An estimated 300,000 Americans die each year from fat-related causes, and we spent $117 billion in obesity-related economic costs just last year, according to U.S. Surgeon General David Satcher.

Congress should consider comprehensive legislation aimed at America's obesity epidemic. Instead, Mr. Speaker, here I stand debating a closed rule for a bill that pre-determines that in no plausible circumstance do food companies bear responsibility for their acts.

This bill is so overbroad that it provides immunity even where most would think liability is appropriate.

For instance, as an observant Hindu, Mr. Sharma considers cows sacred. Not surprisingly, Brij Sharma did not eat at fast food restaurants. But in 1990, when McDonald's announced that it was switching from beef fat to "100 percent vegetable oil" to cook its French fries, Mr. Sharma began going to the fast food chain to eat what he believed were vegetarian fries.

Imagine Mr. Sharma's terror when he read in a newspaper the following heading, "Where's the beef? It's in your french fries." He was outraged to learn that McDonald's french fries are seasoned in the factory with beef flavoring before they are sent to the restaurants to be cooked in vegetable oil.

McDonald's has apologized, admitted wrongdoing and agreed to pay more than $10 million to charities chosen by vegetarian and Hindus plaintiffs. Is it not preposterous that this bill would bail out the fast food industry from liability for wrongdoing such as this? Of course it is.

In addition, this bill is an unnecessary, premature, overly broad affront to our judicial system and to our system of federalism. Congress is preemptively taking away the ability of judges and jurors to consider the particular facts and evidence of cases, and a plaintiff's ability to have his or her day in court.

Mr. Speaker, regardless of one's position on the merits of lawsuits against the industry, the line drawn between the responsibility of an individual end and society's start should be answered by judges and juries, and not by legislators in the pockets of campaign contributors.

This incredibly large portion of legislative junk food, being served to feed Republican special interests, is as unhealthy as the industry it attempts to protect.

I urge my colleagues to oppose this ill-conceived legislation.

Mr. SESSIONS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. REHBERG). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

RECORD votes on postponed questions will be taken later today.

STATE JUSTICE INSTITUTE REAUTHORIZATION ACT OF 2004

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2714) to reauthorize the State Justice Institute, as amended.

The Clerk read as follows:

H.R. 2714

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "State Justice Institute Reauthorization Act of 2004".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 215 of the State Justice Institute Act of 1984 (42 U.S.C. 10713) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 215. There are authorized to be appropriated to carry out the purposes of this title, $7,000,000 for each of fiscal years 2005, 2006, 2007, and 2008. Amounts appropriated for each such year are to remain available until expended.".

SEC. 3. TECHNICAL AMENDMENTS.

(a) STATUS OF INSTITUTE.—Section 205(c) of the State Justice Institute Act of 1984 (42 U.S.C. 10704(c)) is amended by adding at the end the following new paragraph:

"(3) The Institute may purchase goods and services from the General Services Administration in order to carry out its functions.".

(b) STATUS AS OFFICERS AND EMPLOYEES OF THE UNITED STATES.—Section 205(d)(2) of the State Justice Institute Act of 1984 (42 U.S.C. 10704(d)(2)) is amended by inserting ", notwithstanding section 8914 of such title" after "(relating to health insurance)".

(c) MEETINGS.—Section 204(j) of the State Justice Institute Act of 1984 (42 U.S.C. 10703(j)) is amended by inserting "(on any occasion on which that committee has been delegated the authority to act on behalf of the Board)" after "executive committee of the Board".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. BERMAN) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

☐ 1200

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2714, the bill currently under consideration.

The SPEAKER pro tempore (Mr. CULBERSON). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Congress established the State Justice Institute as a private nonprofit corporation in 1984. Its purpose is to improve judicial administration in the State courts. SJI accomplishes this goal by providing funds to State courts and to other national organizations or nonprofits that support State courts. SJI also fosters cooperation with the Federal judiciary in areas of mutual concern.

Pursuant to oversight legislation passed in the previous Congress, the Attorney General, in consultation with the Federal Judicial Center, conducted review of the SJI operations and reported its findings to Congress late last year. The results are encouraging. The Attorney General noted that the Institute has been effective and has complied with its statutory mission, and observed that support for State court innovation and improvement is a Federal interest.

Mr. Speaker, based upon the beneficial work SJI has done, I believe it should be afforded a congressional reauthorization, and that is the purpose of this bill. More specifically, section 2 of the bill authorizes $7 million annually for SJI operations over a 4-year cycle. Appropriated funds under section 2 are to remain available until expended. The last two bills reauthorizing the Institute contain such language which reflects the reality that no grant agency can fully expend all of its funds in the year of appropriation.

In addition, section 3 of the bill authorized the Institute to purchase goods and services from the General Services Administration. Because SJI is not a Federal agency, it is not legally authorized to procure goods and services from the GSA. In some instances, this exclusion can create unnecessary hardship. To illustrate, SJI was recently denied the ability to purchase GSA storage boxes to transfer its records to the National Archives.

Mr. Speaker, in sum, the bill represents a modest authorization for a small but important organization that assists our State court systems. I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2714, the State Justice Institute Reauthorization Act. As the title indicates, H.R. 2714 reauthorizes the State Justice Institute, SJI. Reauthorization is necessary because Congress last enacted an SJI authorization bill in 1992 for a 4-year authorization period that expired in fiscal year 1996. While the Committee on Appropriations has continued to appropriate $7 million annually for SJI, Congress should also ensure that SJI has the necessary authorization to perform its important work.

Congress created the SJI in 1984 to provide funds to improve the quality of justice in State courts. Congress also directed the SJI to facilitate enhanced coordination between State and Federal courts and develop solutions to common problems faced by all courts. It appears that the SJI has made considerable progress in pursuit of these objectives.

Since becoming operational in 1987, the institute has awarded more than $125 million in grants to support over 1,000 projects. Another $40 million in matching requirements has been generated from other public and private funding sources. SJI is necessary because State court judges and other advocates have historically been weak at restoring resources, especially at the Federal level, from the Department of Justice. Most of the resources they receive at the State level are devoted for personnel and courthouse construction and maintenance, not the educational programs that SJI provides. About one-third of all SJI grants are devoted to educating State judges on how to improve the operations of their courts. The remaining grants are devoted to technology projects such as systems to improve recordkeeping, document imaging, et cetera.

The authorizing statute provides for regular audits of the SJI. The Institute conducts its own oversight of grantees, and the practice of allowing a grantee to draw money for a project only on a monthly or quarterly basis allows SJI to cancel mismanaged projects.

All familiar with the SJI appear to agree it performs worthy work. Federal judges, including Chief Judge Boggs of the 6th Circuit, have contacted me to laud the work of the SJI, and in particular, the educational programs it runs for judges.

The Attorney General gave high marks to the SJI in a November 2002 report which specifically noted that the Institute has been effective, has complied with its statutory mission, and observes that some degree of support for State court innovation and improvement is a Federal interest. It is evident that the SJI deserves reauthorization, H.R. 2714 will do this. I urge my colleagues to support it today.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield the balance of my time to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation will reauthorize the State Justice Institute, which is a nonprofit corporation created in 1994 to provide grants and other funding to help State courts improve their systems.

According to the Institute's mission statement, "Since becoming operational in 1987, SJI has awarded over $120 million to support more than 1,000 projects benefiting the Nation's judicial system and the public it serves. The Institute is unique both in its mission and how it seeks to fulfill it."

The SJI provides funding for programs which help improve access to the courts. It trains and assists courts in child custody, domestic violence, juvenile crime, and sexual assault cases. The SJI also works to create the use of technology in the courtroom, as well as create reforms to reduce the amount of time and money associated with litigation.

By reauthorizing the State Justice Institute, we will provide them with $7 million each year for the next 4 years. This money helps Americans have access to a more effective and efficient court system. The State Justice Institute has been successful in its efforts. We should make sure they are able to continue their good work, and this bill will do just that. I urge my colleagues to support it.

Mr. SCHIFF. Mr. Speaker, I rise today in support of H.R. 2714, the State Justice Institute Reauthorization Act—legislation to reauthorize appropriations for the State Justice Institute through FY 2008.

Founded by Congress more than a decade ago, the State Justice Institute (SJI) was established to support efforts to improve the quality of justice in State courts, facilitate better coordination between State and Federal courts, and foster innovative, efficient solutions to common problems faced by all courts.

About one-third of all SJI grants are devoted to educating state judges on how to improve the operations of their courts. The remaining grants are devoted to technology projects such as efforts to improve recordkeeping.

The Chief Justice of the California Supreme Court, Ronald M. George, has relayed to me the important work done by the State Justice Institute, and I know his views are shared by a great many of the nation's top judges. In a 2002 report, the Attorney General of the United States also noted that the Institute has been effective and has complied with its statutory mission. In addition, he observed that support for state court innovation and improvement is a federal interest.

As a Co-Chair of the bipartisan Congressional Caucus on the Judicial Branch, I recognize the importance of working in Congress to ensure that we maintain a strong and vibrant court system in our country.

The last time that Congress reauthorized the State Justice Institute was in 1992. In the interim, the Appropriations Committee has continued to fund the important work of the Institute, and I have urged appropriators to support such funding to allow the Institute to continue its fine work. It is now time for Congress to act and to reauthorize this important program that will continue to improve the administration of justice in our courts.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of H.R. 2714, the State Justice Institute Reauthorization Act of 2003. I worked with my colleagues on the House Judiciary committee to mark this bill up in September of last year, and I offered my support at that time. This bill will authorize the operations of the State Justice Institute (SJI) for Fiscal Years 2005–08 and proposes to allocate grant money to state courts and other entities that support their operation. I understand that this bill has not been reauthorized since 1996, so this bill is indeed timely, as the need certainly does exist.

Since its inception in 1984 and operation in 1987, the SJI's $125 million in grants and $40 million in private and other public funds have played a role in making the state court system in Houston an efficient engine of the administration of justice of which we Houstonians are quite proud. Given the urgent need for us to allocate energy and resources to our critical infrastructure and to the first responders in the context of Homeland security, the insurgence of funds to improve the overall flow of work through the state court systems is extremely important. For example, during the recent blackouts, those agencies and offices that needed this kind of assistance the most had to suffer until power was restored. In some instances, the blackouts were crippling. If there had been a real threat of terror in those instances, the areas of vulnerability would have translated to disaster. This area of the assessment of threat and vulnerability will be best served by the provision that requires the Attorney General, in consultation with the Federal Judicial Center, to submit a report to the House and Senate Committees on the Judiciary as to the success and effectiveness of the SJI.

Furthermore, the authorization of the Institute to procure goods and services from the General Services Administration (GSA) will be a boon to those administrative areas that are antiquated and non-functioning for want of new equipment and resources. Should this bill pass, I would look forward to conducting a full assessment of need in Houston and make these GSA resources available as soon as possible.

Therefore, Mr. Speaker, for the above reasons, I support H.R. 2714 and I urge my colleagues to do the same.

Mr. SMITH of Texas. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 2714, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

COOPERATIVE RESEARCH AND TECHNOLOGY ENHANCEMENT (CREATE) ACT OF 2004

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2391) to amend title 35, United States Code, to promote research among universities, the public sector, and private enterprise, as amended.

The Clerk read as follows:

H.R. 2391

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cooperative Research and Technology Enhancement (CREATE) Act of 2004".

SEC. 2. COLLABORATIVE EFFORTS ON CLAIMED INVENTIONS.

Section 103(c) of title 35, United States Code, is amended to read as follows:

"(c)(1) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.

"(2) For purposes of this subsection, subject matter developed by another person and a claimed invention shall be deemed to have been owned by the same person or subject to an obligation of assignment to the same person if—

"(A) the claimed invention was made by or on behalf of parties to a joint research agreement that was in effect on or before the date the claimed invention was made;

"(B) the claimed invention was made as a result of activities undertaken within the scope of the joint research agreement; and

"(C) the application for patent for the claimed invention discloses or is amended to disclose the names of the parties to the joint research agreement.

"(3) For purposes of paragraph (2), the term 'joint research agreement' means a written contract, grant, or cooperative agreement entered into by two or more persons or entities for the performance of experimental, developmental, or research work in the field of the claimed invention.".

SEC. 3. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this Act shall apply to any patent granted on or after the date of the enactment of this Act.

(b) SPECIAL RULE.—The amendments made by this Act shall not affect any final decision of a court or the United States Patent and Trademark Office rendered before the date of the enactment of this Act, and shall not affect the right of any party in any action pending before the United States Patent and Trademark Office or a court on the date of the enactment of this Act to have that party's rights determined on the basis of the provisions of title 35, United States Code, in effect on the day before the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. BERMAN) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2391, the bill currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2391 will help spur the development of new technologies by making it easier for collaborative inventors who represent more than one organization to obtain the protection of the U.S. patent system for their inventions.

The bill achieves this goal by limiting the circumstances in which confidential information which is voluntarily exchanged by individual research team members may be asserted to bar the patenting of the team's new inventions.

Today, intellectual property-reliant industries, such as pharmaceuticals, biotechnology and nanotechnology, serve as key catalysts to the U.S. economy, employing tens of thousands of Americans. More often than not, the innovations they develop are not done solely by researchers in-house, but rather, in concert with other researchers who may be located at universities, nonprofit institutions, and other private enterprises.

Carl E. Gulbrandsen, the managing director of the Wisconsin Research Alumni Research Foundation, provided an assessment of the value of university research contributions when he testified before the Subcommittee on Intellectual Property last Congress that, "In 2000, nonprofits and universities spent a record of $28.1 billion on research and development, much of which involved collaborations among private, public, and nonprofit entities."

Sales of products developed from inventions transferred from those research centers resulted in revenues that approached $42 billion that year, a portion of which was then reinvested into additional research. As significant as this research activity is, the tangible benefits of its application are also worth noting. Inventions such as the MRI and the sequencing of human genome technology were both made possible through collaborative research.

In 1984, Congress acted to incentivize innovation by encouraging researchers within organizations to share information. That year, Congress amended the patent law to restrict the use of background scientific or technical information shared among researchers in an effort to deny a patent in instances where the subject matter and the claimed invention were under common ownership or control.

This bill will provide a similar statutory "safe harbor" for inventions that result from collaborative activities of private, public and nonprofit entities. In doing so, the bill responds to the 1997 OddzON Products, Inc. v. Just Toys, Inc., decision of the Federal Circuit Court of Appeals by clarifying that prior inventions of team members will not serve as an absolute bar of the patenting of the team's new invention when the parties conduct themselves in accordance with the terms of the bill.

In the future, research collaborations between academia and industry will be even more critical to the efforts of U.S. industry to maintain our technological preeminence. By enacting this bill, Congress will help foster improved communication between researchers, provide additional certainty and structure for those who engage in collaborative research, reduce patent litigation incentives, and facilitate innovation and investment.

Mr. Speaker, the Committee on the Judiciary unanimously approved H.R. 2391 on January 21, 2004. I understand that the Congressional Budget Office considers the bill to have an insignificant effect on the U.S. Patent and Trademark Office's spending, and has found that the bill contains no intergovernmental or private sector mandates.

The bill itself is a product of the collaborative efforts of a number of individuals and leading professional patent and research organizations. Among those who contributed substantially to the development of the bill are the USPTO, the Wisconsin Alumni Research Foundation, the American Council on Education, the American University Technology Managers, the Biotechnology Industry Organization, and the American Intellectual Property Law Association.

Mr. Speaker, the bill is necessary to ensure that tomorrow's collaborative researchers enjoy a full measure of the benefits of the patent law. I urge Members to support the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2391, the CREATE Act, and ask my colleagues to support it as well. The CREATE Act is a rare legislative achievement: It is a truly noncontroversial patent bill. It has achieved this unique status because it is the product of exhaustive discussion, negotiation, and redrafting at both the intellectual property subcommittee and the full Committee on the Judiciary levels.

The CREATE Act effectively overturns the Federal court's decision in OddzON Products v. Just Toys. The OddzON decision held that certain prior art can be used to dismiss a patent application as obvious, one cannot patent the obvious, even if that prior art was confidential, shared among consenting parties or undocumented.

In layman's terms, the OddzON decision means that research collaborations between different institutions may preclude patents arising from that joint research. As a result of its holding, the OddzON decision threatens to chill informal inter-institutional research collaborations. These are just the sort of research collaborations that are increasingly important in today's complex resource constrained research environment. Even more troubling, these sorts of research collaborations disproportionately involve research universities and nonprofit institutions which do not have the same flexibility as private institutions to engage in other research arrangements.

Research collaborations contribute greatly to the U.S. economy. More importantly, they may be the key to curing many life-threatening diseases. Research collaborations are an important part of the technology transfer between universities, nonprofit institutions, and private companies that result in an estimated $40 billion of economic activity each year and support some 270,000 jobs.

Similarly collaborations between Federal laboratories and other entities have resulted in an estimated 5,000 research agreements signed since 1986.

There is no question that Congress should foster an environment in which researchers have the freedom, opportunity and incentive to collaboratively develop inventions and new ideas. By overturning the OddzON decision, the CREATE Act will remove a substantial roadblock to achieving this goal.

The CREATE Act underwent substantial revisions to adjust relevant concerns. The version before us today constitutes a real improvement over H.R. 2391 as introduced. It has the support of the university community, the patent bar, the biotech industry, patent holders, and all other interested parties of which I am aware, and I want to express my appreciation to the gentleman from Texas (Chairman SMITH) for working so closely with us in drafting and redrafting the CREATE Act. I ask my colleagues to vote in favor of this important bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Mr. Speaker, the CREATE Act, which I introduced along with the gentleman from California (Mr. BERMAN), allows researchers and inventors who work for different organizations and collaborate on inventions to share information without losing the ability to file for a patent.

This legislation removes roadblocks to the patenting of collaborative inventions. It empowers researchers to choose to collaborate when it is in their interest, and to compete for inventions when it is not.

Under current law, individuals who did not work on an invention or project can challenge patent applications. This leads to invalidated patents which harms our economy and the inventors, researchers and entrepreneurs who want to create new products.

Today's biotech, pharmaceutical, and nanotechnology companies conduct much of their research with partners such as universities and other public or private organizations.

In fact, the University of Texas ranks fourth on the list of universities that receive the most patents. Many of these patents result from working with the private sector on research.

America's universities, private companies, public organizations and nonprofit institutions all have a stake in ensuring the U.S. patent system rewards rather than inhibits their innovations, from life-saving therapies to fuel cells.

Yesterday, my subcommittee received a letter from the Biotechnology Industry Organization, which supports this legislation. The organization stated, "The majority of our members routinely engage in collaborative research. We believe that encouraging this type of research will greatly enhance the ability of the biotechnology industry to develop life-saving and life-enhancing products."

The CREATE Act: (1) Promotes communication among team researchers located at multiple organizations; (2) discourages those who would use the discovery process to impede coinventors who voluntarily collaborated on research resulting in patentable inventions; (3) increases public knowledge; and (4) accelerates the commercial availability of new inventions.

The CREATE Act benefits all industries that engage in collaborative and cooperative research involving more than one organization. The classic example is biotechnology, since it has a culture and a business model that is multi-disciplinary.

When a biotechnology company decides to partner with a university, we want to prevent that partnership from being harassed by a third party. Biotech investment dollars dedicated to research should and must be used in an effective way without the possibility of a lawsuit or a grievance filed against it.

The CREATE Act was inspired by two principles essential to a democracy: The protection of intellectual property rights and the freedom to exchange goods and services.

Research collaborations are essential to the discovery of new inventions, the creation of new jobs, and the health of the U.S. economy. Protecting them will provide greater incentives to develop new technologies.

Mr. BERMAN. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, cooperative research among private, public, and nonprofit entities has become a common feature of modern research and development. Many technology start-ups in my home in Silicon Valley rely on university-based researchers to support their basic R&D programs, and the result of these collaborations benefit both the economy and consumers.

However, as has been mentioned by other Members, since the Federal Circuit decision in OddzON Products v. Just Toys, collaboration has become too risky. The OddzON decision created an environment where an otherwise patentable invention can be rendered nonpatentable on the basis of information routinely exchanged between research partners.

Collaborative research is absolutely vital to our economy. A 1988 report by the National Science Foundation found that nonprofits and universities spent a record $23.8 billion on research and development, the majority of which came from collaborations. Congress needs to act to ensure that our patent laws provide the proper incentives for private, public, and nonprofit entities to work together to make all our futures brighter, and I am happy to say that the CREATE Act that is before us today does that.

Mr. Speaker, I would like to thank the gentleman from Texas (Mr. SMITH) and the gentleman from California (Mr. BERMAN), the ranking member, for their hard work on this bill. I support it, and I urge all Members to support it as well.

□ 1215

We often come on the House floor and engage in debates on things that divide us which, when all is said and done, will not necessarily be very important to the American economy or the American public.

This is an item that may be a little bit of a sleeper. I do not see a cast of thousands here on the House floor, and yet passing this bill will be very important for the economy of our Nation and for the advance of science, and it is something we can do together proudly and serve our country quite well. I am happy to be involved in this effort.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of H.R. 2391, the Cooperative Research and Technology Enhancement (CREATE) Act introduced on June 9, 2003. We held a markup hearing for this legislation in January of this year, and I offered my support at that time. To spur innovation and accelerate new technologies, this bill encourages cooperative research efforts that involve the private sector, universities, non-profit institutions and public entities. In a recent decision (*Oddzon Products, Inc.*, v. *Just Toys, Inc., et al.*, 122 F.3d 1396, 43 U.S.P.Q.2d 1641 (Fed. Cir. 1997), or Oddzon), the Federal Circuit Court of Appeals narrowed the scope of a 1984 law that promoted collaborative research. I support H.R. 2391 because it will only result in the overall improvement of the quality of research that is done by collaborating members of the academic community in the areas of science, art and information resourcing.

In Oddzon, the Federal Circuit found that in the case of an inventive collaboration involving researchers from multiple organization, the novelty (§ 102) and non-obvious (§ 103) requirements of the Patent Act could be read to cover prior art so as to invalidate a patent. The court wrote:

> The statutory language provides a clear statement that subject matter that qualifies as prior art under subsection (f) or (g) cannot be combined with other prior art to render a claimed invention obvious and hence inpatentable when the relevant prior art is commonly owned with the claimed invention at the time the invention was made. While the statute does not expressly state . . . that §102(f) creates a type of prior art for purposes of §103, nonetheless that conclusion is inescapable; the language that states that §102(f) subject matter is not prior art under limited circumstances clearly implies that it is prior art otherwise.

In making this ruling, the court states "[t]here is no clearly apparent purpose in Congress's inclusion of § 102(f) in the amendment other than an attempt to ameliorate the problems of patenting the results of team research." Finally, the court added "while there is a basis for an opposite conclusion, principally based on the fact that § 102(f) does not refer to public activity, as do the other provisions that clearly define prior art, nonetheless we cannot escape the import of the 1984 amendment." The holding creates a significant problem due to the way that most public-private sector research and development projects are structured. Since the early 1980s, universities, States and the Federal Government have become much more adept at generating licensing revenue from intellectual property developed by their faculty, staff and students. Many States and the Federal Government now operate under laws and practices under which they cannot or will not assign their rights to inventions to a private-sector collaborative partner. Typically, the university, State or Federal Government retains sole ownership of the invention, while the invention is licensed for commercial exploitation to their research partner.

The Oddzon decision has created a situation where an otherwise patentable invention may be rendered nonpatentable on the basis of information routinely exchanged between research partners. Thus, parties who enter into a clearly defined and structured research relationship, but who do not or cannot elect to define a common ownership interest in or a common assignment of the inventions they jointly develop, can create obstacles to obtaining patent protection by simply exchanging information among them. There is no requirement that the information be publicly disclosed or commonly known; all that is required is that the collaborators exchange the information.

The CREATE Act's purposes are to promote communication among team researchers from multiple organizations, to discourage those who would use the discovery process to harass co-inventors who voluntarily collaborated on research, to increase public knowledge and to accelerate the commercial availability of new inventions. Overall, this bill will serve to create a more technology-friendly environment and encourage continued collaboration and innovation.

Mr. Speaker, I support this bill and hope that my colleagues will do the same.

Mr. BERMAN. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 2391, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend title 35, United States Code, to promote cooperative research involving universities, the public sector, and private enterprises.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 339.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PERSONAL RESPONSIBILITY IN FOOD CONSUMPTION ACT

The SPEAKER pro tempore (Mr. SMITH of Texas). Pursuant to House

Resolution 552 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 339.

□ 1223

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 339) to prevent frivolous lawsuits against the manufacturers, distributors, or sellers of food or non-alcoholic beverage products that comply with applicable statutory and regulatory requirements, with Mr. CULBERSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Virginia (Mr. SCOTT) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the food industry is our Nation's largest private sector employer, providing jobs to some 12 million Americans. Today, that industry is threatened by an array of legal claims alleging that it should be liable to pay damages for the overconsumption of its legal products by others. H.R. 339, the Personal Responsibility in Food Consumption Act, is designed to foreclose frivolous obesity-related lawsuits against the food industry.

From June 20 to the 22nd of last year, personal injury lawyers from across the country gathered at a conference designed to "encourage and support litigation against the food industry." Attendees were required to sign an affidavit in which they agreed to keep the information they learned confidential and to refrain from consulting with or working for the food industry before December 31, 2006, apparently setting a deadline for bringing that vital industry to its knees in a nationally coordinated legal attack.

The hatred of some lawyers for the food industry is stark. Ralph Nader, for example, has compared food companies to terrorists, saying that the double cheeseburger is "a weapon of mass destruction."

H.R. 339 prohibits obesity or weight-gain-related claims against the food industry, with reasonable exceptions, including those in which a State or Federal law was broken and as a result the person gained weight, and those in which a company violates an expressed contract or warranty. Also, because this bill only applies to claims based on "weight gain" or "obesity," lawsuits could go forward under the bill, if, for example, someone gets sick from a tainted hamburger.

The bill also contains essential provisions governing the conduct of legal proceedings. H.R. 339 includes the very same discovery provisions designed to prevent fishing expeditions that are already a part of our Federal securities laws. It also contains provisions that appropriately require that a complaint set out the fact as to why the case should be allowed to proceed.

Some trial lawyers are mounting an attack on personal responsibility against the advice of the Nation's leading weight-loss experts. Listen to the insightful words of Dr. Gerard Musante, a clinical psychologist with training at Duke University Medical Center, who has worked for more than 30 years with thousands of obese patients. He is the founder of Structure House, a residential weight-loss facility in Durham, North Carolina. Dr. Musante said the following at a Senate hearing on this legislation:

"Through working with obese patients, I have learned that the worst thing one can do is to blame an outside force to get themselves 'off the hook,' to say it's not their fault and that they are a victim. Congress has rightly recognized the danger of allowing Americans to continue blaming others for the obesity epidemic. It is imperative that we prevent lawsuits from being filed against any industry for answering consumer demands. The fact that we are addressing the issue here today is a step in the right direction."

The chairman of the American Council for Fitness and Nutrition, Susan Finn, has also written that "if you are obese, you don't need a lawyer; you need to see your doctor, a nutritionist and a physical trainer. Playing the courtroom blame game won't make anyone thinner or healthier."

Even the Los Angeles Times, which rarely agrees with people on this side of the aisle, has editorialized against such lawsuits, stating, "People shouldn't get stuffed, but this line of litigation should."

On the other hand, the lobbying organization for personal injury attorneys, the Association of Trial Lawyers of America, which opposes this legislation, has published a litigation instruction manual that openly belittles jurors who believe in "personal responsibility." According to that instruction manual, "Often a juror with a high need for personal responsibility fixates on the responsibility of the plaintiff. According to these jurors, a plaintiff must be accountable for his or her own conduct. The personal responsibility jurors tend to espouse traditional family values. Often these jurors have strong religious beliefs. The only solution is to identify these jurors and exclude them from the jury."

Besides threatening to erode values of personal responsibility, the legal campaign against the food industry threatens the separation of powers.

□ 1230

Nationally coordinated lawsuits seek to accomplish through litigation that which has not been achieved by legislation and the democratic process. As one mastermind behind lawsuits against the food industry has stated, "If the legislatures won't legislate, then the trial lawyers will litigate." In order to preserve the separation of powers and support the principle of personal responsibility and to protect the largest private sector employer of the United States, let us pass H.R. 339.

Mr. Chairman, at this time, I will insert in the RECORD jurisdictional letters the gentleman from Texas (Chairman BARTON) and I have exchanged regarding this legislation.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 4, 2004.

Hon. F. JAMES SENSENBRENNER, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR CHAIRMAN SENSENBRENNER: On January 28, 2004, the Committee on the Judiciary ordered reported H.R. 339, the Personal Responsibility in Food Consumption Act. As ordered reported by your Committee, this legislation contains a number of provisions that could fall within the jurisdiction of the Committee on Energy and Commerce.

Specifically, I believe that H.R. 339 would impose a new scienter requirement with respect to certain enforcement actions taken by agencies and statutes within our jurisdiction. This requirement could fundamentally alters how agencies, such as the Federal Trade Commission and the Food and Drug Administration, enforce violations of laws they administer.

Recognizing your interest in bringing this legislation before the House expeditiously, the Committee on Energy and Commerce agrees not to seek a sequential referral of the bill. In exchange, you have agreed to eliminate our jurisdictional concerns with a floor amendment that expressly eliminates lawsuits brought under the Federal Trade Commission Act and the Federal Food, Drug, and Cosmetic Act from the definition of "qualified civil liability action" under the legislation.

By agreeing not to seek a sequential referral, the Committee on Energy and Commerce does not waive its jurisdiction over the bill as your committee ordered it reported. In addition, the Committee on Energy and Commerce reserves its right to seek conferees on any provisions within its jurisdiction which are considered in any House-Senate conference.

I request that you include this letter and your response as part of the Congressional Record during consideration of this bill by the House.

Sincerely,

JOE BARTON,
Chairman.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 5, 2004.

Hon. JOE BARTON,
Chairman, Committee on Energy and Commerce, U.S. House of Representatives, Washington, DC 20515

DEAR CHAIRMAN BARTON: Thank you for your letter regarding H.R. 339, the "Personal Responsibility in Food Consumption Act." I appreciate your willingness not to seek a sequential referral of the bill.

I strongly disagree with your assertion of jurisdiction over the bill. I do not believe that H.R. 339, as reported, contains provisions that affect lawsuits by the Federal Trade Commission or the Food and Drug Administration, and the drafters did not intend such suits. Nor do I agree with the description of the bill in the second paragraph of your letter. However, I will include language (a copy of which is attached) in a manager's amendment on the floor to make it clear that such suites are not precluded or otherwise affected by the bill. I will also include language our staffs have discussed in the Committee's report (a copy of which is attached) to further clarify this point.

By agreeing to this resolution of this matter, the Committee on the Judiciary does not acknowledge that the Committee on Energy and Commerce had jurisdiction over provisions of the bill. In addition, the Committee on the Judiciary does not waive any of its jurisdictional claims in these matters.

I will include your letter and this response in the Committee's report on H.R. 339 and in the Congressional Record during the consideration of this bill in the House. I appreciate your cooperation in this matter.

Sincerely,

F. JAMES SENSENBRENNER, Jr.
Chairman.

AMENDMENT LANGUAGE

Strike the current §4(5)(C) (the language that excludes suits relating to adulterated foods) and insert:

"(C) Such term shall not be construed to include an action brought under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) or the Federal Food, Drug, and Cosmetic Act (21 U.S. 301 et seq.)."

REPORT LANGUAGE

After the Committee on the Judiciary's markup of H.R. 339, the Committee on Energy and Commerce expressed concerns that the definition of "qualified civil liability action" might be construed to include actions under the Federal Trade Commission Act or actions under the Federal Food, Drug, and Cosmetic Act. The Committee on the Judiciary did not intend to include such actions in the definition and did not believe that the actions were included within its clear terms. Notwithstanding that, both Committees agree on the policy that such actions should not be precluded by H.R. 339. To make this policy agreement abundantly clear, a manager's amendment to be offered during floor consideration of H.R. 339 will strike the current language in §4(5)(C) excluding adulteration suits and replace it with language stating explicitly that the definition shall not be construed to include actions under the Federal Trade Commission Act or the Federal Food, Drug, and Cosmetic Act. The Committee on the Judiciary believes that this language will resolve the practical concerns of the Committee on Energy and Commerce.

Mr. Chairman, I reserve the balance of my time.

Mr. WATT. Mr. Chairman, I ask unanimous consent to substitute myself for the gentleman from Virginia (Mr. SCOTT) and control the time in opposition to the bill.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. WATT. Mr. Chairman, I yield myself such time as I may consume.

I want to start by putting a couple of things in perspective. First of all, I agree with a lot of what the gentleman from Wisconsin (Chairman SENSENBRENNER) has said about personal responsibility, so I want to go on record as saying that. I personally like fast food on some occasions, but I also take personal responsibility for my own fitness. So I am not here about personal responsibility. People do have personal responsibility. Let me put that on record.

I am here as the ranking member of the Subcommittee on Commercial and Administrative Law, a subcommittee of the Committee on the Judiciary and, for that reason, I have the responsibility to control the disposition of time on this bill. And because I am standing in the middle of it, I suspect there will be a number of things said that I need to clarify in advance to position myself.

First of all, I suspect that my colleagues are going to hear that I am somehow a defender of fat, irresponsible people today. I suspect that at some time during the course of this debate, I am going to be characterized as the defender of irresponsible litigation. I suspect at some point during the course of this debate today I am going to be characterized as the defender of trial lawyers, the hated trial lawyers that many of my Republican colleagues just despise so much.

Let me make it clear at the outset of this debate that I am not here as any of those things. I personally do not think much of these kinds of lawsuits, and I want to go on record as saying that. But that is not the criteria in which I can evaluate this proposed legislation.

As a member of the Committee on the Judiciary, I have some other responsibilities. I have a responsibility to defend the federalist system that has been set up under which we operate and which is a constitutional framework over which States and local governments have certain responsibilities and over which the Federal Government has certain responsibilities. And too often, what we hear in this body is lip service to that federalist system and lip service to the proposition that people support States' rights and, yet, when the rubber meets the road, they walk away from any commitment to it. I think that is what is happening with this legislation that we are debating today, because this has been an area that has been uniquely within the province of States and State judiciaries and State legislatures.

I also want to warn us against this notion that somehow or another, our court system is run amok and that we should take responsibility as Members of Congress in trying to correct every aspect of our court system. Now, I want to tell my colleagues, I suspect that if there was anybody here who ought to be suspicious and concerned about State courts and State courts running amok, it would be me. I grew up in the era of the civil rights movement, and many of the State court judges during that era were not especially sensitive to people who looked like me and had the racial characteristics that I do. But one of the things that I learned during that process is that I do not always like the result that a court comes out with, but the system of justice and judicial responsibility and the division of responsibilities between the legislative branch and the judicial branch, between the Federal, State, and local governments is a pristine, wonderful system that we should honor, and sometimes we have to be patient and let this work itself out in a way over time, and that is exactly what has happened in this case. From the dropping of this bill to the time that we have come to the floor to debate it today, every single lawsuit that has been filed dealing with this issue, every single lawsuit has been dismissed by the courts.

So when I say this is a solution in search of a problem, understand that there is no problem out there. The court system has already addressed this perceived problem that we have. This, I say to my colleagues, is an effort to take this politicized notion of personal responsibility and try to rub people's faces in it without regard to the federalist system in which we are operating.

This bill would insulate an entire industry from liability and would undermine and insult, insult our State judiciaries in the various States around the country, and the State legislatures and the whole concept of Federalism. The growing trend in this body to attempt to preempt by legislation litigation that is deemed "undesirable" or "frivolous" is very troublesome. It gets us to a legislation by anecdote, a legislation by result, rather than any kind of honoring of the process that we should be working within.

I believe it is arrogant and disrespectful of our system of government. This bill and others like it presume that State courts, State legislatures, and the citizens of the States themselves are woefully incompetent to address burdens on their systems of government and that, somehow, we, as Members of Congress, have some great intellectual capacity and responsibility up here to control everything that exists in our country. It is a wrong-headed approach that we have set upon.

There is absolutely no evidence in support of the proposition that our States cannot handle these matters. The details of this bill drafted in haste will be aptly debated throughout the amendment process. But my major concern, and one that I will reflect in the amendments to the bill that I offer, is what we should be doing as national policymakers. I do not believe that overreacting to every headline constitutes responsible legislating. I hope that this body will get back to the business of evaluating the serious problems confronting the American people and developing some solutions to those problems: employment, the economy, deficits, war. And this bill does not do that. Simply put, as I indicated before, this is a solution in search of a problem, and it would not even be on the floor, I think, today if we were dealing with some of the problems that we really ought to be confronting.

Mr. Chairman, with that, having set the framework, I will reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield 5 minutes to the gentleman from Florida (Mr. KELLER), the author of the bill.

Mr. KELLER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, the food industry is the largest private sector employer in the United States, providing jobs for 12 million American citizens. The consequences of these obesity lawsuits against the food industry is that consumers will pay a higher price for food in restaurants. Mom and pop restaurants would face unaffordable insurance rate hikes, and jobs could be cut as a result.

This legislation, in essence, provides that a seller or maker of a lawful food product shall not be subject to civil liability where the claim is premised upon an individual's weight gain relating to the consumption of that food. This is a narrowly-drawn, measured piece of legislation. It does not immunize the food industry. This legislation does not preclude suits from false advertising, mislabeling of food, adulterated foods, or injuries from eating tainted food. The gist of this legislation is that there should be common sense in the food court, not blaming other people in the legal court.

Most people have enough common sense to realize that if they eat an unlimited amount of french fries, milk shakes, and cheeseburgers without exercising, it can possibly lead to obesity. But in a country like the United States where freedom of choice is cherished, nobody is forced to supersize their fast food meals or to choose less healthy options on the menu. Similarly, no one is forced to sit in front of their TV all day and play video games, instead of walking or bike riding.

Richard Simmons, the famous exercise guru, recently said that people who bring these lawsuits against the food industry do not need a lawyer, they need a psychiatrist, and the American public seems to agree. In a recent objective Gallup poll, nearly nine out of 10 Americans, 89 percent, oppose holding the fast food industry legally responsible for the diet-related health problems of people who eat that kind of food. Interestingly, overweight people agreed with skinny people that the fast food industry should not be held responsible for these types of claims.

Which brings me to the subject of lawyers. And, while we are here, some of the same lawyers who went after the tobacco industry now have a goal of suing the food industry for $117 billion, which is the amount the Surgeon General estimates as the public health costs attributable to being overweight.

Now, based on a standard contingency fee of 40 percent, that means these selfless lawyers interested in public good would be recovering $47 billion for themselves in attorneys' fees, and that is, ultimately, what this is about. In fact, in June of 2003, lawyers from all across the United States gathered in Boston for what they called the first annual conference on legal approaches to the obesity epidemic. To attend each work shop, the people had to sign an affidavit to attend the legal work shop in which it said, "This is intended to encourage and support litigation against the food industry."

One of the ringleaders of this litigation conference is a lawyer named John Banzhaf. Mr. Banzhaf freely admits that his goal is to open the floodgates of litigation against our Nation's largest private sector employer: the food industry.

☐ 1245

Specifically, Mr. Banzhaf said this: "Somewhere there is going to be a judge and a jury that will buy this. And once we get the first verdict, as we did with tobacco, it will open the flood gates."

Now, the Democrats could have called anybody they wanted to. We had a hearing on this. But they chose to call this man who says it will open the flood gates. He wants to open the flood gates. That is what they said then. Then they come here today and it is, What do you mean? There is no intent to sue the food industry. Well, indeed, lawsuits have been filed against McDonald's, Burger King, Wendy's, KFC, Kraft/Nabisco with new suits now threatened by Mr. Banzhaf and others against the makers of ice cream.

The New York suits included one with a man named Caesar Barber, who went on "60 Minutes" and told them, "I want compensation for pain and suffering." "60 Minutes" said, "How much money do you want?" Caesar Barber: "Maybe $1 million. That is not a lot of money right now."

We must think of what this is about. The litigation against the food industry is not going to make a single person any skinnier; it is only going to serve to make the trial attorneys' bank accounts a lot fatter.

In summary, we need to make it tougher for lawyers to file frivolous lawsuits. We need to care about each other more and sue each other less. We need to get back to the old-fashioned principles of common sense, of personal responsibility and get away from this new culture where everybody plays the victim and sues others for their problem.

This legislation is a step in the right direction. I urge my colleagues to vote "yes" on H.R. 339.

Mr. WATT. Mr. Chairman, I yield myself 1 minute simply to respond to the prior speaker.

Here we go, exactly what I said was about to happen is happening. 89 percent of the public support does not support these kinds of lawsuits, but that does not mean that we need a Federal statute to deal with this issue. In fact, it probably means exactly the opposite of that.

Second, there have been a number of suits filed and every single one of them has been dismissed up to this point. So the process is working. And you are already beginning to see that this is really about having this opportunity in an official context to beat up on trial lawyers. We ought to be trying to do some serious legislating rather than just politicking with this bill.

Mr. Chairman, I yield 3 minutes to the gentleman from Virginia, Mr. SCOTT.

Mr. SCOTT of Virginia. Mr. Chairman, I thank the gentleman for yielding.

Whatever the merits of the lawsuits which provoke this legislation are, we ought to focus on the fact that lawsuits ought to be tried in court, where evidence can be heard and objective law applied.

Today, we are allowing one industry to have the privilege of trying its lawsuit with politicians who will take politics and polls into consideration instead of being treated the same as other citizens who have to try their cases in court. If the case on behalf of the food industry is strong, then courts will know what to do; they can dismiss the cases.

Furthermore, if based on the evidence and the law the court finds that the law suit is frivolous, the court may assess sanctions against the plaintiffs and lawyers who file the suits. In fact, it is my understanding that all of the lawsuits have in fact been dismissed. So what is wrong with the food industry being treated the same as other industries when it comes to courts deciding whether or not there is responsibility for injuries to others? And what is wrong with trying cases in court with unbiased judges and juries hearing both sides of the case according to rules which allow both sides to produce all relevant witnesses who will be heard and cross-examined?

This process is in stark contrast to the congressional procedure where committee chairmen invite the witnesses they want and cross-examination of witnesses is severely constrained both in time and by the fact that the interested parties are not able to cross-examine anyone.

Mr. Chairman, in a democracy it is fundamentally wrong for some industries to have the privilege of trying their cases in a forum where their political allies will decide the merits of the case while everyone else is relegated to the court system where evidence is heard and the law applied by judges and juries without political considerations. This bill sets a bad precedent. I therefore hope my colleagues will oppose this bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas (Ms. GRANGER).

Ms. GRANGER. Mr. Chairman, on Saturday I handed out awards to some 4,600 kids that participated with me in the Cowtown 5-K running race the weekend before. I was happy to promote an activity that gets kids moving. And I think that getting young people in events like the Cowtown race is a much better way to combat obesity than targeting fast-food restaurants with frivolous lawsuits.

The question before this body today is simply, Should it be just as easy to file a lawsuit against a restaurant for causing obesity as it is to drive through the nearest take-out window for a quick burger and fries? The answer is no.

The issue before us is responsibility, individual and personal responsibility for how we eat and how we exercise. We all know the statistics: two-thirds of Americans are overweight; 15 percent of our children are too heavy; obesity rates among teenagers have tripled in the last 20 years. Blaming the fast-food industry is not the answer to reducing obesity in America.

Americans can sue the McDonald'ses and Burger Kings of the world until these establishments can pay no more, but not one American will lose weight until they eat better and exercise more frequently.

I support this legislation because I do not want Americans to have a crutch for their overweight problem: restaurants and the fast-food industry. Instead, I want to provide Americans a better way, a healthy life-style.

If we really want to address the obesity epidemic, we must focus on educating youngsters about the dangers of being overweight and how eating the wrong foods only packs the pounds on. You could utilize programs such as the CDC's Youth Media Campaign, otherwise known as the VERB program.

VERB is a proven program that encourages kids to get out and walk, bike, run, jog, play basketball, baseball, skateboard, anything but just sitting in the house and watching television.

The net result of lawsuits that blame the fast-food industry for our overweight problems will be higher prices and lost jobs, not healthier Americans. Eating right and increasing physical activity is the answer to a slimmer, trimmer, fitter America, not lawsuits.

Mr. WATT. Mr. Chairman, I yield 5 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Chairman, I thank the gentleman from North Carolina (Mr. WATT), the subcommittee chair, for yielding and for his very sensible approach to this issue.

I do not know if my good friends on the other side of the aisle are trying to change their political identity, but I thought they stood for federalism and local control. They are, however, developing a pattern of coming to the floor in response to interest groups to knock out lawsuits even when they are winning in the courts. What a waste of time.

Fast-food suits can hardly be the American answer to obesity, a public health problem; but they may be part of a revolution that is occurring in the fast-food industry. And I say to the fast-food industry, keep bringing on those changes at McDonald's and all the rest of these fast-food places that are hearing us one way or the other.

We all believe you have to take responsibility for what goes into your own mouth. I come to the floor because I think there is a great audacity in coming to the floor, as the other side is, to talk about personal responsibility when we are talking about a public health problem for which our government has not taken responsibility.

I worked with Chairman Porter, who, a couple years ago, retired from the House, on an appropriation that started at $125 million. He started with children. I had a bill called Lifetime Improvement in Food and Exercise, LIFE; and we joined forces. He came to the Congress to a reception just to press the notion once again last year.

Secretary Thompson had the audacity to go on television yesterday talking about some penny ante things that the administration is going to do. After having reduced this amount from $125 million this year to $5 million, they tried in the last 2 years to get it to zero. This is money that was going into reducing obesity among children.

In today's Washington Times, the front page says, and I quote, "Inactive Americans are Eating Themselves to Death at an Alarming Rate. Their unhealthy habits are approaching tobacco as the top underlying preventable cause of death, a government study found."

What is the government going to do about its government study? I hope it does more than stop the trial litigation in the States, obviously not the answer to this problem when 60 percent of our people are overweight or obese.

An ad campaign as described by the Secretary himself consists of humor when they say you should get off your duff and walk your children around the block. Mr. Chairman, this is far more serious than that. This is the major health problem second only to smoking.

I am grateful to the Committee on Appropriations that instead of zeroing out public health money for the last 2 years, the appropriation has put in money. We are going to be trying to get money again this year so we do more than talk about obesity or try to stop litigation.

When you look at the amount of money that we have put into this problem ourselves, we started with a good Republican Chair of the HHS subcommittee, starting at $125 million. Then he retires and the administration, his administration tries to zero it out.

This Congress says, no, we will not put 125. If the President wants it gone, we will put 68, then the third year 51, last year $35.8 million. Well, we are going down, not up; but people rush to the floor, the Committee on the Judiciary regards it as a priority to stop some lawsuits that are stopping themselves. That is my concern.

My bill, Lifetime Improvement in Food and Exercise, which I joined with Chairman Porter in producing this first, first significant public health money, is now being eroded by the administration. And I now find myself with only $5 million in the administration's budget this time rather than zero; $5 million reduced from $125 million means they want public health money to combat obesity gone.

I am going to ask the Members of this House to help me in restoring money to face this public health problem so that people who are bringing lawsuits out there know that we can do more than try to knock out lawsuits that are knocking themselves out, but that we are taking public health responsibility for a public health crisis, just as we expect them to take personal responsibility for what they eat every day.

Mr. WATT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman and Members, I would just reiterate a couple of points. It strikes me that given what has transpired since this bill was introduced, even if it was originally a good idea and even if you accepted the notion that State courts were going to be irresponsible and not do what they are supposed to be doing, now that we have seen the passage of time and had the proof that State courts will dismiss these lawsuits, even if this bill was a good idea, it seems to me that we have proven with the passage of time that it is now definitely a solution in search of a problem. The lawsuits have been dismissed.

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So, in effect, the system has worked exactly like we would like it to work.

That is the way our system is set up. If an individual believes that he has a cause of action and they believe that they have been wronged, or somebody has failed in meeting a standard that is applicable, they have the right to file a lawsuit, go to court, and have that court make a determination on their lawsuit. And that is exactly what has happened.

Now, quite often people make those judgments in different ways and you end up with lawsuits being filed that get dismissed. And that happens to probably well over 90 percent of the cases that get filed in court—they get dismissed before they come to trial.

Does that mean that they are all frivolous? Well, some of them probably are frivolous. And there are rules in place that allow the courts to sanction people and fine them and charge them attorneys fees of the opposing party when they file frivolous lawsuits. But people still file frivolous lawsuits, and those rules then are triggered and the courts handle that.

Does it mean that even the frivolous lawsuits should not have been dismissed? Well, there is another category of cases where there is not enough law to support filing a lawsuit. Whether you have a good lawsuit is a function of whether you have got the facts and a function of whether you have got the law on your side. But our system is set up to allow courts to make that determination, and I would submit that State courts have as much expertise, probably more expertise, in making these determinations than our Federal judiciary.

The next point I would draw from this is that as these lawsuits have been dismissed, it strikes me that it is less and less and less likely that subsequent lawsuits will be filed because then you have got a backdrop against which people can go into court and say, well, this issue has been determined by a court adversely and so it should not be here. There is an increased possibility, probability that courts will find that subsequent lawsuits are frivolous in this area. But all of those things argue for our staying out of this and not building a whole new Federal framework for dealing with a problem that does not exist because our system is working.

Now, the next point I want to make that I have heard come out of this general debate up to this point is this job loss notion. I have heard some really interesting explanations by this administration about why we are losing jobs in this country. But this about takes all I have heard. Here we are now with some of my colleagues saying, well, if we allow these lawsuits to be filed against McDonalds or whatever the fast food chains are, we are going to result in job loss, and that is what is causing the big job loss in this country.

Give me a break. We ought to know better. And there are a bunch of reasons that I could go into about why we are losing jobs, but this would be about the 999,000th reason that I would get to before I would be identifying a source for job loss in this country. So we are kind of grasping at straws here, from my perspective, on that argument.

Finally, it amazes me how the same people who, over and over and over, had campaigned saying they believe in local control and States' rights. When they do not get the result that they want at the State level or even in this case when they do get the result that they want at the State level because all of these cases have been resolved adversely that have been filed, it is amazing to me why we think in our arrogance in this body that we ought to just take over because we do not like the result or we think State legislators are incompetent or local elected officials are incompetent, we ought to take it over at the Federal level and forget about the constitutional framework that we are operating in. And it is more inexcusable to me when these bills come out of the Committee on the Judiciary, where there should be the highest of respect for the constitutional parameters in which we operate.

This is not something that we should be doing from a number of different perspectives. And I just beg my colleagues, I guess it is a good debate. It is a good way to get us out here on the floor and take up some time when we really ought to be talking about the things that are really causing job loss. We are out here grasping at straws looking for some something to do today. Do we not have something else that we could be doing on the floor today that really honors our constitutional framework? Surely there must be something better.

Mr. Chairman, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I have been listening to this debate since it began and until the gentleman from North Carolina (Mr. WATT) got up and brought in the whole subject of job loss, I did not hear anything about job loss at all.

Well, this bill is about preventing job loss because if a franchisee of a major national fast food chain ends up getting sued, he will be out of business, even if he wins his lawsuits because of all the legal fees and deposition fees and expert witness fees that he is going to have to pay.

So it seems to me that for once, Congress is getting ahead of the curve on this because we do have the evidence that a bunch of plaintiffs lawyers got together and they required everybody who went to this conference to sign an affidavit of confidentiality and a promise that they would not consult with or represent the food industry until the end of 2006.

Now, let us get back to what this bill consists of. This bill consists of imposing personal responsibility. And in my part of the general debate, I quoted Susan Finn, who is the head of the American Council on Fitness and Nutrition. She said, "If you are obese, do not get a lawyer. See your doctor. See a nutritionist and see a personal trainer, because you made yourself obese. It was not the system that did it or the local fast food chain that did it. You did it yourself."

And then I quoted the doctor who runs the residential facility in Durham, North Carolina, and he said, "The worst thing in the world you can do for an obese person is to give them a way out, to let them blame somebody else. They are going to have to look in the mirror if they want to get better and they want to prevent themselves from having all the health problems and lowered life expectancy as a result of eating too much and eating too much of bad stuff."

So, let us talk about saving jobs before they go. Let us talk about not giving people who are in denial a reason to get themselves off the hook. And let us talk about putting some sense in our legal system because it is not the food industry or those who sell a legal product that make people obese. It is people buying too much and consuming too much of that legal product. That is what this bill attempts to address and that is why it ought to pass.

Mr. CANTOR. Mr. Chairman, I rise today in support of legislation to end misguided obesity-related lawsuits. The Personal Responsibility in Food Consumption Act, H.R. 339, would take a strong step forward in accomplishing this goal. I strongly support this common sense legislation and believe it is time to end frivolous lawsuits against our nation's 878,000 restaurants and their 12 million employees.

In recent years, our nation's vast restaurant industry has come under attack from absurd obesity lawsuits. This litigation has bogged down the judicial process and threatens small business owners. A recent poll shows that 89 percent of Americans believe that restaurants should not be held liable for an individual's obesity or weight gain. The National Restaurant Association believes lawsuits attacking food is not the answer to our nation's obesity problem. Emphasis must be placed on education, personal responsibility, moderation, and healthier lifestyles.

This legislation would prevent food companies from being held liable for the condition of obese and overweight consumers. Our public health would remain protected and any establishment distributing food that has a defect or that is improperly prepared will be held accountable.

Mr. Chairman, the time has come to end these lawsuits against our American restaurants and small business owners.

Mr. STARK. Mr. Chairman, I rise in opposition to the so-called Personal Responsibility in Food Consumption Act. This legislation is unnecessary. Lawsuits brought against fast food companies for allegedly causing obesity have been routinely thrown out. The fact is the law has worked in repelling bogus legal claims.

Yet, I suppose just like every other self-serving business lobby in Washington, the fast food industry wants the Republicans to protect them from being responsible. It's as if they're asking the GOP to "super size it" with a massively overreaching bill that grants fast food companies broad and unprecedented liability protection even in instances where they are clearly negligent.

Remember now that this legislation is an unnecessary response to a completely imagined problem. Consider then the impact it will have on ordinary Americans if they are injured by reckless behavior.

Well, to start with, this bill says that if a fast food chain is reckless and causes injury in a manner that is not already prohibited under state or federal law, they can't be held accountable. Second, if a fast food restaurant does break a state or federal law but says they didn't mean to do it, they get off just as easy.

This is a question of responsibility. I don't think most Americans believe anyone ought to get this kind of special treatment, especially when the result might well be more reckless and dangerous behavior.

Finally, let me just say that I find it interesting we would bring up the issue of obesity without a meaningful discussion of ways in which we can promote better health.

There is no discussion in this chamber today about making sure children are learning about and getting better nutrition. There is not a word mentioned about better food labeling so that Americans are better informed about the impact their choice of diet has on their health and longevity. We aren't talking about making sure the fast food industry fully discloses the health risks of high fat food that they have continually marketed and made easily accessible in every corner of this country.

I ask my colleagues to vote down this unneeded and potentially damaging legislation—it's a matter for the courts, not Congress. We ought to focus on bringing Americans to better health, rather than the healthy profits of the fast food industry.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I strongly oppose this bill. It is advertised as a bill that stops frivolous lawsuits. Essentially, it really is frivolous legislation. Fast food lawsuits are extremely rare, and existing court procedures already weed most of them out before they get to trial. This is a manufactured issue, and this bill was created just to get a political score, catering to big corporations. The real problem is that to get that political score, this bill compromises the rights of states, denies citizens their right to be heard in a court of law, and impinges on the judiciary.

Furthermore, this bill will stifle a dialogue that is leading to better information and education about the health effects of various ingredients, and encouraging the food industry to develop more healthful products. This silly bill could cost lives.

Court procedures that have been carefully developed over the centuries already ensure that defendants are treated fairly. It is up to the courts to decide if a case is frivolous. Our legal system has multiple procedural safeguards to ensure defendants' rights. For example, judges monitor filings at every step, and can dismiss cases that lack merit at any time. Sufficient quality evidence must be present for any case to proceed. Attorneys can be punished and, in some cases, may be required to pay monetary penalties if they bring frivolous cases to court, or otherwise abuse the process. Also, the contingency fee system keeps attorneys from taking baseless cases. Usually, they only get paid if a judge or jury determines that the case was not frivolous.

However, just the threat of such cases has made our food supply safer and more healthful. Since the press coverage of obesity lawsuits began, fast food chains and junk food producers have taken more responsibility for their products. Consider the following developments: after publicity over a lawsuit against Kraft Foods regarding the dangerous trans-fat found in Oreo cookies, the FDA issued requirements that food labels reveal exact levels of the artery-clogger. According to the Associated Press; "the FDA has estimated that merely revealing trans-fat content on labels would save between 2,000 and 5,600 lives a year, as people either would choose healthier foods or manufacturers would change their recipes to leave out the damaging ingredient."

The New York Times has reported that Kraft and other major food companies, like McDonalds, Kellogg and PepsiCo, have promised to change how they produce foods and to take health concerns into greater consideration. The New York City public school system banned candy, soda and other sugary snacks from school vending machines to combat obesity among schoolchildren.

Although the most recent lawsuit against McDonalds was dismissed in September, it was still followed by a sudden wave of corporate responsibility. McDonalds will now offer a "Go Active Meal" for adults modeled after the children's Happy Meal. It will contain a healthy salad along with exercise tools. Burger King has joined the effort by creating low fat chicken baguettes for health conscious consumers, and Pizza Hut is offering the Fit 'N Delicious pizza that is only 150 calories per large pizza compared to the 450 calories in just one slice of its Stuffed Crust pizza.

I am against frivolous lawsuits, and hope the courts will continue to exercise restraint and control in protecting the defendants from ridiculous claims. But the few suits that have come up have cost very little overall, and have started a public dialogue that has led to a new level of corporate responsibility and consumer awareness. We should not interfere with that dialogue.

In effort to lessen the frivolous nature of this bill, I offer two amendments and ask that my colleagues join me to save what promises to be an attempted legislative fix to a problem that has already been addressed in the courts. First of all, for the sake of clarification, this bill prohibits suits against food manufacturers, and relies on the definition of "food" under the Food, Drug and Cosmetic Act. In 1994, Congress passed the Dietary Supplement Health and Education Act to clarify that "a dietary supplement shall be deemed to be a food" for all purposes within the Food, Drug and Cosmetic Act (21 USC 301 (ff)). Because this bill relies on this definition of "food," it also applies to dietary supplements.

The first of these amendments, "MJ–004," will ensure that dietary supplement manufacturers don't get away with murder. This bill, as drafted, bans not only so-called "obesity-related suits," but any civil action that "relate[s] to . . . a person's consumption of a qualified product . . . and any health condition that is associated with a person's weight gain." Note that the person with the health condition does not have to be obese, they only have to have a health condition that obese people also have. Heart disease and kidney problems would be some of those diseases, for example. Hidden in this convoluted definition is the fact that this bill will shield the producers of dietary supplements from all liability. I offer this amendment to ensure that makers of these highly dangerous—and highly unregulated—drugs are held accountable for their actions.

Now that ephedra is gone, new diet drugs are already taking its place: bitter orange, aristolochic acid and usnic acid. All three have been associated with kidney and liver problems. While the FDA claims that it will look into the matter, we all saw what happened the last time the FDA began its cumbersome process. How many people will die this time? While the government works through its bureaucratic process, we have to let people have their day in court to stop these tragic events from happening again.

I offered an amendment, "WATT–019," in addition to "MJ–004." This amendment would prohibit the food industry—which enjoys broad immunity under this bill—from initiating lawsuits against any person for damages for other relief due to injury or potential injury based on a person's consumption of a qualified product and weight gain, obesity, or any health condition that is associated with a person's weight gain or obesity.

This amendment is necessary to insure that the public debate on the health and nutritious effects of mass marketed food products is not completely squelched by this bill.

In 1996, Oprah Winfrey was sued under my home state's "food disparagement" laws by the beef industry for comments she made following the first "Mad cow" scare this country witnessed. After years of litigation, transfer of her television show to Texas, and an expenditure of over $1 million, Ms. Winfrey prevailed at trial and on appeal.

My amendment insures that what's good for the geese is good for the gander. Those advancing healthy diets by discouraging the consumption of certain foods because of their adverse effects on a person's health and weight gain should not be subject to litigation from the food industry while it stands immunized from any accountability under this bill.

I will vote against this bill and urge my colleagues to do the same.

Mr. SHUSTER. Mr. Chairman, I rise today in support of H.R. 339, the Personal Responsibility in Food Consumption Act. This common sense legislation would prohibit lawsuits that claim a food manufacturer or seller is responsible for an individual's weight gain or obesity.

The food service industry is our nation's largest private sector employer, providing more than 12 million jobs in this country. Due to the industry's success of selling a legal product and meeting consumer demands, they have become the next target for the personal injury trial lawyers. If we do not pass this legislation, we will clear the way for the next free-for-all and litigation-lottery created to line the pockets of trial lawyers and send the message to Americans that they no longer have to be responsible for their actions. Make no mistake about it, this legislation is about personal responsibility. Each individual must be held accountable for their own personal choices and that includes the choices they make regarding what and how much they eat.

By supporting this legislation, we are not turning our backs on this country's problem with obesity but will in fact take one step closer in addressing the issue in a responsible and reasonable manner. As a nation, we must look for solutions to this public health problem. However, the solutions will not be found in the courtroom. Baseless and frivolous lawsuits are a misguided attempt to correct the poor eating habits of Americans and will not help a single individual in their struggle with obesity. The answers to our nation's struggle with weight and the associated health problems can be found by educating individuals about healthy lifestyle choices. It is doctors, nutritionists, and other health care providers that can offer help to overweight Americans—not personal injury lawyers. If lawsuits that blame the food industry for an individual's weight gain are allowed, we will simply make it easier for individuals to shift the blame to someone else. In a society that values choices and personal freedom, I believe we must take responsibility for our own choices in order to preserve them. We cannot stand by and let trial lawyers attempt to legislate through litigation. I urge my colleagues to vote for common sense and personal responsibility by supporting this important legislation.

Mr. BLUMENAUER. Mr. Chairman, if anyone needed an example of how Congress misses opportunities to make a difference, they need only to look at today's discussion of H.R. 339, a fast food tort reform bill. The very title invites parody. At a time when obesity is the fastest growing health care in America, affecting over one-third of American adults and touching almost every family, and when we have particular concern about an explosion of childhood obesity and related illnesses, there is good reason for Congress to become concerned.

Congress could make a real difference by providing reasonable diet standards including school lunch programs to help remedy this epidemic. Another step would be to have education reform and "leave no child behind," have a provision dealing with children's health. Physical education is not a part of Congress' answer to school reform, and we find today that most of our children do not get regular physical activity as a daily part of the school curriculum. In our transportation bill we could provide major opportunities for safe routes to school so that our children could walk and bike to school on their own. These would be simple, commonsense, cost-effective steps to improve the health of our children and their families, while improving the environment and quality of life.

Instead of dealing substantively with the obesity problem, Congress in its wisdom has seen fit to continue selectively tinkering with the legal system by providing immunity from litigation. Never mind there has never been a jury verdict for a plaintiff in an obesity lawsuit. Corporations like McDonalds are well suited to take care of themselves, but the House leadership is taking a page out of their recent outrageous, unprecedented immunity for gun manufacturers. Not only is this legislation unneeded, but it would immunize defendants for negligent and reckless behavior including mislabeling of food products, something that I find impossible to explain to American consumers.

I find this trivializing a serious issue, undercutting fundamental legal protections, and providing a remedy for a problem that does not, at this point, appear to exist.

Mr. HAYES. Mr. Chairman, I rise today in support of H.R. 339—the Personal Responsibility in Food Consumption Act. This legislation will help to avoid frivolous lawsuits that will serve only to victimize innocent restaurants and make the American consumer pay a price. Frivolous lawsuits are driving up the cost of doing business in this country and it's costing us jobs. The simple fact is that responsibility for obesity here in America rests with the individual choices made by each citizen. And this legislation makes that clear.

Recently, an editor in my district made this point very clear. I would like to quote from his column, which ran in the Richmond County Daily Journal, which I believe represents the spirit of this important legislation.

> McDonald's nor any of its comrades in the fast-food world, doesn't hold a gun to your head and force you to eat Supersize fries. You—and you alone—make that decision; McDonald's is simply following supply-and-demand protocol by offering Supersize fries.
>
> The Big M in the Sky didn't make you obese; you did.

It is past time in this country for all individuals to take responsibility for the choices and freedoms available to us as Americans and cease passing the buck through frivolous lawsuits that blame others for our poor decisions.

I strongly urge my colleagues to support this legislation that will prevent lawsuits based on poor decision-making.

Mr. CONYERS. Mr. Chairman, I rise in strong opposition to this legislation which is both misleading and frivolous.

H.R. 339 goes much further than its stated purpose of banning the small handful of private suits brought against the food industry. It also bans suits for harm caused by dietary supplements and mislabeling which have nothing to do with excess food consumption, and would prevent state law enforcement officials from bringing legal actions to enforce their own consumer protection laws.

If you don't believe me, I implore you to read the bill. Section 4(5) would prevent any legal action relating to "any health condition that is associated with a person's weight gain or obesity" stemming from consumption of a "qualified food product," which in turn is defined to include food and nutritional supplements. There is no requirement whatsoever that the person actually have gained weight as a result of consuming the product. As a result, the bill would prevent persons who develop heart disease and diabetes from dietary supplements such as Ephedra and Phen Phen from being able to obtain redress. Moreover, under the Manager's amendment, private actions for harm caused by adulterated or poisoned products would also be limited.

Even worse, the bill bans these lawsuits on a retroactive basis, so it would throw out dozens of Ephedra and Phen Phen cases currently pending in court. This is a far cry from the concerns that led to this legislation.

H.R. 339 would also prevent state law enforcement officials from enforcing their own laws. Under section 4(3) the bill applies to legal actions brought by any "persons," which in turn is defined to include any "governmental entity." That means state attorneys general will be prevented from pursuing actions for deceptive practices and false advertising against the food industry. Again, this is a vast departure from most of the so-called tort reform bills considered by this Congress, which are drafted to apply to private lawsuits.

The legislation is frivolous because it deals with a non-existent problem. To date every single private lawsuit against the industry—a total of five—have been dismissed. The system is working fine, there is absolutely no crisis. Frivolous suits are thrown out of courts, and lawyers who bring them are subject to fines and other sanctions. It is absurd that this Congress would even consider eliminating liability when today's Washington Post is reporting that obesity is passing smoking as the leading avoidable cause of death in our nation.

Lets not pass a bill which harms the victims of Ephedra and Phen Phen, or handcuffs our state attorneys general from protecting consumers.

I urge a "no" vote.

Mr. PAUL. Mr. Chairman, Congress is once again using abusive litigation at the state level as a justification nationalizing tort law. In this case, the Personal Responsibility in Food Consumption Act (H.R. 339) usurps state jurisdiction over lawsuits related to obesity against food manufactures.

Of course, I share the outrage at the obesity lawsuits. The idea that a fast food restaurant should be held legally liable because some of its customers over indulged in the restaurants products, and thus are suffering from obesity-related health problems, is the latest blow to the ethos of personal responsibility that is fundamental in a free society. After all, McDonalds does not force anyone to eat at its restaurants. Whether to make Big Macs or salads the staple of one's diet is totally up to the individual. Furthermore, it is common knowledge that a diet centering on super-sized cheeseburgers, french fires, and sugar-filled colas is not healthy. Therefore, there is no rational basis for these suits. Some proponents of lawsuits claim that the fast food industry is "preying" on children. But isn't making sure that children limit their consumption of fast foods the responsibility of parents, not trial lawyers? Will trial lawyers next try to blame the manufactures of cars that go above 65 miles per hour for speeding tickets?

Congress bears some responsibility for the decline of personal responsibility that led to the obesity lawsuits. After all, Congress created the welfare state that popularized the notion that people should not bear the costs of their mistakes. Thanks to the welfare state, too many Americans believe they are entitled to pass the costs of their mistakes on to a third party—such as the taxpayers or a corporation with "deep pockets."

While I oppose the idea of holding food manufactures responsible for their customers' misuse of their products, I cannot support addressing this problem by nationalizing tort law. It is long past time for Congress to recognize that not every problem requires a federal solution. This country's founders recognized the genius of separating power among federal, state, and local governments as a means to maximize individual liberty and make government most responsive to those persons who might most responsibly influence it. This separation of powers strictly limits the role of the federal government in dealing with civil liability matters; and reserves jurisdiction over matters of civil tort, such as food related negligence suits, to the state legislatures.

Finally, Mr. Chairman, I would remind the food industry that using unconstitutional federal powers to restrict state lawsuits makes it more likely those same powers will be used to impose additional federal control over the food industry. Despite these lawsuits, the number one threat to business remains a federal government freed of its Constitutional restraints. After all, the federal government imposes numerous taxes and regulations on the food industry, often using the same phony "pro-consumer" justifications used by the trial lawyers. Furthermore, while small businesses, such as fast-food franchises, can move to another state to escape flawed state tax, regulatory, or legal policies, they cannot as easily escape destructive federal regulations. Unconstitutional expansions of federal power, no matter how just the cause may seem, are not in the interests of the food industry or of lovers of liberty.

In conclusion, while I share the concern over the lawsuits against the food industry that inspired H.R. 339, this bill continues the disturbing trend of federalizing tort law. Enhancing the power of the federal government is in no way in the long-term interests of defenders of the free market and Constitutional liberties. Therefore, I must oppose this bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. OSE). All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and is considered read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 339

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Personal Responsibility in Food Consumption Act".

SEC. 2. PURPOSE.

The purpose of this Act is to allow Congress, State legislatures, and regulatory agencies to determine appropriate laws, rules, and regulations to address the problems of weight gain, obesity, and health conditions associated with weight gain or obesity.

SEC. 3. PRESERVATION OF SEPARATION OF POWERS.

(a) In General.—A qualified civil liability action may not be brought in any Federal or State court.

(b) Dismissal of Pending Actions.—A qualified civil liability action that is pending on the date of the enactment of this Act shall be dismissed immediately by the court in which the action was brought or is currently pending.

(c) Discovery.—

(1) Stay.—In any qualified civil liability action, all discovery and other proceedings shall be stayed during the pendency of any motion to dismiss unless the court finds upon motion of any party that particularized discovery is necessary to preserve evidence or to prevent undue prejudice to that party.

(2) Responsibility of parties.—During the pendency of any stay of discovery under paragraph (1), unless otherwise ordered by the court, any party to the action with actual notice of the allegations contained in the complaint shall treat all documents, data compilations (including electronically recorded or stored data), and tangible objects that are in the custody or control of such person and that are relevant to the allegations, as if they were the subject of a continuing request for production of documents from an opposing party under applicable Federal or State rules of civil procedure, as the case may be. A party aggrieved by the willful failure of an opposing party to comply with this paragraph may apply to the court for an order awarding appropriate sanctions.

(d) Pleadings.—In any action of the type described in section 4(5)(A), the complaint initiating such action shall state with particularity the Federal and State statutes that were allegedly violated and the facts that are alleged to have proximately caused the injury claimed.

SEC. 4. DEFINITIONS.

In this Act:

(1) Engaged in the business.—The term "engaged in the business" means a person who manufactures, markets, distributes, advertises, or sells a qualified product in the person's regular course of trade or business.

(2) Manufacturer.—The term "manufacturer" means, with respect to a qualified product, a person who is lawfully engaged in the business of manufacturing the product in interstate or foreign commerce.

(3) Person.—The term "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including any governmental entity.

(4) Qualified product.—The term "qualified product" means a food (as defined in section 201(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(f))).

(5) Qualified civil liability action.—The term "qualified civil liability action" means a civil action brought by any person against a manufacturer or seller of a qualified product, or a trade association, for damages, penalties, declaratory judgment, injunctive or declaratory relief, restitution, or other relief arising out of, related to, or resulting in injury or potential injury resulting from a person's consumption of a qualified product and weight gain, obesity, or any health condition that is associated with a person's weight gain or obesity, including an action brought by a person other than the person on whose weight gain, obesity, or health condition the action is based, and any derivative action brought by or on behalf of any person or any representative, spouse, parent, child, or other relative of any person, but shall not include—

(A) an action in which a manufacturer or seller of a qualified product knowingly and willfully violated a Federal or State statute applicable to the manufacturing, marketing, distribution, advertisement, labeling, or sale of the product, and the violation was a proximate cause of injury related to a person's weight gain, obesity, or any health condition associated with a person's weight gain or obesity;

(B) an action for breach of express contract or express warranty in connection with the purchase of a qualified product; or

(C) an action regarding the sale of a qualified product which is adulterated (as described in section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342)).

(6) Seller.—The term "seller" means, with respect to a qualified product, a person lawfully engaged in the business of marketing, distributing, advertising, or selling a qualified product in interstate or foreign commerce.

(7) State.—The term "State" includes each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States, and any political subdivision of any such place.

(8) Trade association.—The term "trade association" means any association or business organization (whether or not incorporated under Federal or State law) that is not operated for profit, and 2 or more members of which are manufacturers, marketers, distributors, advertisers, or sellers of a qualified product.

The CHAIRMAN pro tempore. No amendment to that amendment shall be in order except those printed in the designated place in the CONGRESSIONAL RECORD and pro forma amendments for the purpose of debate. Amendments printed in the RECORD may be offered only by the Member who caused it to be printed or his designee and shall be considered read.

Are there any amendments?

AMENDMENT NO. 5 OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. SENSENBRENNER:

Section 3(c)(1), strike "In any qualified civil liability action," and insert "In any action of the type described in clause (i) or (ii) of section 4(5)(B),".

Section 3(d), strike "section 4(5)(A)" and insert "section 4(5)(B)(i)".

Section 4(5), strike "The term" and insert "(A) Subject to subparagraphs (B) and (C), the term".

Section 4(5), strike "any person, but shall not include—" and insert "any person."

Section 4(5), insert after "any person." (as inserted by the preceding instruction) the following:

(B) Such term shall not include–

Section 4(5), strike "(A) an action" and insert "(i) an action".

Section 4(5), insert "or" after "obesity;".

Section 4(5), strike "(B) an action" and insert "(ii) an action".

Section 4(5), strike "; or" and insert a period.

Section 4(5), strike subparagraph (C) and insert the following:

(C) Such term shall not be construed to include an action brought under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) or the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

Mr. SENSENBRENNER. Mr. Chairman, my amendment does not alter the substance of the bill, it simply clarifies it further. First, to clarify and ensure consistency in interpretation, it simply amends one phrase in the bill's stay provisions in Sec. 3(c) to track language used in the bill's pleading requirements in Sec. 3(d). Second, it replaces Sec. 4(5)(c) with language making it clear that the term "qualified civil liability action" does not include an action brought under the Federal Trade Commission Act or the Federal Food, Drug and Cosmetic Act.

I believe that this change satisfies the objections that the Committee on Energy and Commerce levied against the bill.

I would urge the Members to support my clarifying amendment.

Mr. DINGELL. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise in support of this amendment. I rise in support of the thesis that we should be considering these matters.

This legislation is a very important part of the administration's program. Just think what it does for this Nation. It says that civility liabilities actions in Federal, State courts against food manufacturers, distributors or sellers that are based on a claim that the person's food consumption resulted in weight gain, obesity or a health condition that is associated with weight gain or obesity is terminated. A very important step.

Now let me give you the history of what we are talking about here, because the administration has an economic program and it is an important economic program and the American people need to know what it is.

First, the Chairman of the Council of Economic Advisors said that the transportation of American jobs abroad or outsourcing is a normal part of trade and he supports it. Second, the administration has come forward with a serious attempt to expand the definition of manufacturing in this country, something which is very important, especially if you are sending manufacturing jobs overseas. And this administration has sent 2.7 million manufacturing jobs overseas. They have also lost 3.3 million jobs in the United States. So there is a serious attempt on the part of this administration to grapple with that problem.

They seek to see to it that we can change the definition of manufacturing jobs now so that they cover fast food handling. Just think of what this means in terms of jobs for the American people. Jobs in manufacturing that paid $27 an hour will now pay minimum wages at McDonalds or Wendy's or Burger King or somebody like that. But just think of the number of new jobs that they can create.

Now, this bill is going to protect those new manufacturing jobs against the prospect of lawsuits which might, in some way, jeopardize the expansion of the American economy and the creation of new jobs in manufacturing.

□ 1315

I think that this tells us many things. First of all, it says they no longer care about autos or steel or aircraft or other important manufacturing concerns and interests that mean jobs, real jobs for the American people, but at least it means that they are paying attention to the fact that we have got to have something done for job creation in this country. It means that they are finally recognizing that we have to protect some portion of the American economy.

The fact that they are beginning with fast food, and food should not be a source of condemnation but rather one of praise, because it means that after a long slumber, they have come alert to a significant problem, the fact that they are not competent to come forward with a real solution, which puts Americans back to work in real jobs, which would enable Americans to have jobs, which will enable them to feed their families, to house them properly, to see to it that they are properly educated or go to college is only a beginning.

We must hope that with the assistance of this body and the passage of this important legislation that perhaps, just perhaps, we will begin down the road towards doing something about protecting American manufacturing, about protecting American manufacturing jobs and about seeing to it that Americans go back to work.

I do not want my colleagues to denigrate the administration. It is not funny. It is sad, and what I want to say to my colleagues is, it is time we do something more than just pass this kind of legislation.

Let us address the problem of the sanctions that the Europeans are getting ready to put on American manufacturers and American industry and the American economy. There is a discharge petition down here at the clerk's desk. My colleagues can sign on it if they want. We can begin to address the fact that this administration does not care about manufacturing, that they have lost millions of manufacturing jobs, that they are not able to be truthful about it.

Last month, we got 22,000 jobs through. In these jobs, 21,000 of them were government jobs, State and local. They were not manufacturing. They were not jobs that put people to work, and they were not jobs that increase productivity for the economy. They were just jobs in the service industry.

If my colleagues look, they will find that there are hundreds of thousands of Americans every month who are falling off the unemployment rolls. If my colleagues look, they will find that there are millions of Americans looking for jobs. They will find that the real unemployment level is around 7.4 million instead of the 5.6 percent that they are talking about. This is a serious problem. It needs to be addressed. This kind of legislation will not do it.

Mr. WATT. Mr. Chairman, I move to strike the last word, and I am going to ask the gentleman from Michigan if I can ask him a question or two, if he will go back to the microphone because he touched on a subject that I talked about in the general debate here, and he at least has tried to put this in perspective for me.

I could not quite figure out what it was that the argument was that this bill was about job creation. Is the gentleman now saying that the production of hamburgers is a manufacturing job?

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. WATT. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, that is what the administration would tell us, but I would say to my friend, that I am as confused on what the administration's policy is as the administration is and as my good friend is, because they do not seem to know what they are doing, what they are standing for or what they are about. They like jobs going overseas. They think that manufacturing jobs should be flipping hamburgers or handling trays or dealing with mopping the floor in a McDonald's. Those, to this administration, are massive manufacturing jobs.

At the same time, they are not giving tax cuts to the people who would buy those hamburgers or who would buy American automobiles or do other things to make the economy really move and go as it should.

Mr. WATT. Mr. Chairman, I appreciate the gentleman giving me that enlightenment because I had been trying to stretch my imagination to figure out how this debate was about jobs, and I think the gentleman has put his finger on it. I do not necessarily agree with him, but at least that gives the argument some plausibility if one is trying to argue that the processing of hamburgers is manufacturing jobs and it is a manufacturing process and that we have got to protect manufacturing jobs in this country, then we want to do everything we can, but I think it is a stretch.

As I said before the gentleman arrived on the floor, I have heard some pretty interesting explanations for job loss in this country, but this would be way, way, way down the list, like 999,000 on my list of the problems that is creating job loss in this country. I am surprised that the sponsors of this bill have couched it in terms of job creation, but the gentleman has certainly, with the years of experience he has been here, given me some framework within which to evaluate that. I am most appreciative to him.

I yield to the gentleman.

Mr. DINGELL. Mr. Chairman, I thank the gentleman. I will observe that the creation of jobs is one of the major functions of government and seeing to it that we have the prosperity that is needed, that people can work, they can raise their families well, that they can heighten expectation of this generation and the next generation for the future of this country.

I would say that sending jobs to India or China is not a function of which the administration could be proud. I would say that the administration's got to start functioning and focusing on those questions. I would say they are not. I would say this body, with this legislation, is not focusing on those questions either.

It is time we get down to the serious business of addressing jobs, manufacturing, opportunities for Americans and stop all of this piddling around with nonsense that accomplishes nothing in the broad public interest.

Mr. WATT. Mr. Chairman, reclaiming my time, I am going to join my colleague from Michigan in supporting the amendment. I am not sure whether it was tongue-in-cheek that he was supporting the whole concept, but I cannot join him in supporting the bill if he is supporting the bill. I doubt that that is what he is doing. I think that was kind of tongue-in-cheek that he was proceeding, but I certainly support this amendment. It makes a terrible bill less terrible. We could not make it any worse, I do not think, and more importantly, from the sponsor's perspective, it keeps the bill from having to go to the Committee on Energy and Commerce.

Mr. DINGELL. Mr. Chairman, if the gentleman would yield, we will receive this bill most kindly in the Committee on Energy and Commerce, and we would have some splendid questions for the sponsors of this legislation about jobs and job creation.

Mr. WATT. But this is such a critical piece of legislation that it must be considered on the floor today and anything that would delay the consideration of it on the floor today, even if it went to the Committee on Energy and Commerce, which has jurisdiction over most food issues and matters of commerce of this kind, would surely be counterproductive.

Mr. DINGELL. Mr. Chairman, it would be helpful, I believe.

The CHAIRMAN pro tempore (Mr. OSE). The question is on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The amendment was agreed to.

AMENDMENT NO. 6 OFFERED BY MR. SCOTT OF VIRGINIA

Mr. SCOTT of Virginia. Mr. Chairman, as the designee of the gentleman from North Carolina (Mr. WATT), I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. SCOTT of Virginia:

At the end of the bill (preceding the amendment to the long title), insert the following new section:

SEC. 5. STATE CONSUMER PROTECTION ACTIONS.

Notwithstanding any other provision to the contrary in this Act, this Act does not apply to an action brought by a State agency to enforce a State consumer protection law concerning mislabeling or other unfair and deceptive trade practices.

Mr. SCOTT of Virginia. Mr. Chairman, this amendment reads simply: "Notwithstanding any other provision to the contrary in this Act, this Act does not apply to an action brought by a State agency to enforce a State consumer protection law concerning mislabeling or other unfair and deceptive trade practices."

Mr. Chairman, if the House is going to decide that we will try some cases instead of letting them be tried in court, we ought to at least limit that to the fast food rhetoric that we have heard on the floor. This bill, in fact, covers not only fast food lawsuits, but also litigation involving consumer protection when obesity may be one of the elements of the case.

Every single State has laws in the books to protect its consumers. Each State has laws to protect its consumers from misleading practices. As written, the bill will prevent States' Attorneys General from enforcing these laws. It will not just stop the fast food suits that my colleagues have discussed, but because a person is defined in section 4(3) of the bill to include governmental entities, it will prevent States from getting injunctions, cease and desist orders, or imposing fines against those who endanger consumers.

The exception for a willful and knowing violation is not just enough. State deceptive practices are just like the Federal Trade Commission Act. They allow civil enforcement actions whether or not the defendant knowingly or willfully violated the law. In fact, food labeling and deceptive practices often have exacted strict liability, that is, that the government can get an injunction whether or not the person was intentionally or knowingly in violation.

Mr. Chairman, my State of Virginia has a Consumer Protection Act which prohibits, and I quote, representing that goods and services have characteristics, ingredients, uses, benefits or qualities that they do not have or any other conduct which similarly creates a likelihood of confusion or misunderstanding. A court may order an injunction or restitution to injured parties, even if the violation was unintentional.

The fact is Virginia is not alone. Twelve States have adopted the Uniform Deceptive Trade Practices Act section 3 which says intentional deception is not necessary to get injunctive relief, and at least 23 other States have similar standards.

So, Mr. Chairman, the amendment I present today will fix the problem. It will ensure that States can still put an end to mislabeling, deceptive practices and false advertising within their borders. Whatever we think of the fast food suits, please do not prevent States Attorneys General from protecting their citizens.

Mr. KELLER. Mr. Chairman, I move to strike the last word.

I am not going to support this amendment, and I would ask all of my colleagues to vote no on this amendment on two grounds.

The first ground is that the bill only precludes lawsuits in which the injury claimed is obesity and weight gain. State consumer protection statutes are not lawsuits in which the injury claimed is obesity or weight gain. Rather, in the State consumer protection cases, the injuries claimed are unfair and deceptive trade practices or misleading labeling.

However, because the amendment implies that the State consumer protection laws somehow do allow lawsuits in which the injury claim is obesity or weight gain, Courts may well read it to grant all State agencies new power to use their State consumer protection laws to seek damages against the food industry for obesity-related claims. In other words, this would essentially gut the bill by allowing State Attorneys General to bring the very same claims that we are trying to get rid of.

I cannot think of a single State consumer protection law right now that allows a State agency to sue because someone got fat from eating too much.

The second ground I object to this amendment on is the gentleman from Virginia (Mr. SCOTT) said he does not like the fact we have the knowing and willful standard. The knowing and willful standard is exactly the same standard used in H.R. 1036, the Protection of Lawful Commerce and Arms Act that overwhelmingly passed this House in a bipartisan fashion. It got 285 votes, and so anyone who voted for H.R. 1036 and who votes for this amendment will literally be voting for stronger protection for gun manufacturers than for the food industry, which is the largest private sector employer, providing jobs to some 12 million Americans.

I urge my colleagues to vote no on this amendment.

Mr. WATT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the gentleman from Virginia's (Mr. SCOTT) amendment. It seems to me to be absolutely consistent with the manager's amendment which said that this legislation was not going to be construed to include an action brought under the Federal Trade Commission Act.

State consumer protection laws are characteristically State counterparts to the Federal Trade Commission Act. They are States' efforts to protect the same kind of things at the State level that the Federal Trade Commission has jurisdiction over at the Federal level.

☐ 1330

Now, this kind of takes me back to the argument before, I had the notion that the reason that they really were striking the Federal Trade Commission Act from the applicability of this proposed law was because they really did not want this legislation to have to go to the Committee on Energy and Commerce, so it was more about them not wanting to delay today's proceedings and not wanting them to let the Committee on Energy and Commerce, for which there has been a long-standing tension on many issues between the Committee on the Judiciary and the Committee on Energy and Commerce, they did not want them to have any jurisdiction over this.

But if we are going to exclude actions brought under the Federal Trade Commission Act at the Federal level, in fairness, unless we are saying to the States that somehow or other they are less attentive to these issues or less intelligent or have less of an interest in protecting your citizens than your big brother Federal Government has, then it seems to me that we ought to be following the same process at the State level, and it is the State consumer protection laws that are the equivalent of the Federal Trade Commission Act on the Federal basis.

So if we are going to be parallel or consistent in our evaluation of these things, it seems to me that the amendment of the gentleman from Virginia (Mr. SCOTT) makes patently good sense. And of course I am not sure that any of this is designed to make patently good sense, but I think it is our obligation in this body to at least try to bring some consistency to it.

Now I am assuming that under the Federal Trade Commission Act, if there are any individual causes of action, those things would be protected also. I do not know that. We have not had any hearings on this to make that kind of determination, but certainly the word "person," as it is defined, would exclude State consumer protection laws that are typically administered by the attorney general for the protection of the citizens in that particular State, and perhaps that is the reason that the State attorneys general are so vigorously opposed to this legislation. They do not view us or the Federal Trade Commission as being their big brothers, and more brilliant, sometimes more arrogant, they would tell you. They think that they serve a pretty valuable role in this Federal system that we have. Again, we are dishonoring that role. I urge support for the gentleman's amendment.

Mr. CANNON. Mr. Chairman, I move to strike the requisite number of words.

I rise in opposition to this amendment. Recently, the food industry has been targeted by a variety of legal claims which allege businesses should pay monetary damages and be subject to equitable remedies based on legal theories of liability for the overconsumption of its legal products.

In our subcommittee hearings last year, we explored the threat the food industry faces from frivolous litigation, the threat to personal responsibility posed by the proliferation of such litigation, and the need for H.R. 339, the Personal Responsibility in Food Consumption Act.

H.R. 339 currently has 119 cosponsors. A similar bill was signed into law by Louisiana Governor Mike Foster on June 2, 2003, with huge bipartisan support. Every Republican in both legislative Chambers voted for the measure, as did 93 percent of Democrats in the Louisiana House and 83 percent of Democrats in the Louisiana Senate.

Recent history shows why similar legislation is necessary at the Federal level. We have seen industries brought to the verge of bankruptcy by frivolous lawsuits seeking billions of dollars. Today we have Ralph Nader comparing fast food companies to terrorists by telling The New York Times that the double cheeseburger is "a weapon of mass destruction." In a hearing before our subcommittee last year, a law professor who helped spearhead lawsuits against the tobacco companies has said of fast food litigation, "If the legislatures won't legislate, then the trial lawyers will litigate."

It is clear that obesity is a problem in America. Equally clear, however, is the simple availability of high-fat food is not a singular or even a primary cause. For example, recent findings drawing on government databases and presented at a scientific conference of the Federation of American Societies for Experimental Biology biological showed that over the past 20 years, teenagers have, on average, increased their caloric intake by 1 percent. During that same time period, the percentage of teenagers who said they engaged in some sort of physical activity for 30 minutes a day dropped by 13 percent. Not surprisingly, teenage obesity over that same 20-year period increased by 10 percent, indicating it is not junk food that is making teenagers overweight, but rather a lack of activity.

In short, it is unlikely that lawsuits against food establishments over their menu offerings will do much, if anything, to make us healthier. On the other hand, such lawsuits will threaten thousands of jobs that are today available to teenagers and other entry-level workers who need those jobs. Further, such lawsuits send the wrong message regarding personal choices and responsibility. Do we want our kids growing up believing it is a restaurant's fault that they are eating too many cheeseburgers?

Besides threatening to erode values of personal responsibility, the legal campaign against the food industry threatens our notion of government. Nationally coordinated lawsuits seek to accomplish through litigation what has not been, and will likely not be, achieved through legislation.

Last year, the House passed H.R. 1036, the Protection of Lawful Commerce in Arms Act by a large, bipartisan vote. That bill bars frivolous lawsuits against the firearms industry for the misuse of legal products by others. H.R. 339 similarly seeks to bar frivolous lawsuits against the food industry for overconsumption of its legal products by others. It is appropriate for Congress to respond to this growing legal assault on the concept of personal responsibility.

Mr. Chairman, it is not only important, but also fundamental that Americans have access to courts to redress legitimate wrongs and the harms they cause. The trial bar serves an invaluable purpose in helping average Americans gain rightful and proportionate compensation when harm is done. However, frivolous lawsuits such as the ones this legislation seeks to prevent serve only to undermine our legal system and those who truly need its protections.

Mr. Chairman, I urge my colleagues to oppose this amendment and support the underlying bill, H.R. 339.

Mr. ANDREWS. Mr. Chairman, I move to strike the requisite number of words.

I would like to speak in favor of the Scott amendment. The wisdom of the common law has evolved and worked for centuries. It is older than the United States of America. It is bizarre that this House created one exception to the common law in the case of gun manufacturers, now it is trying to create another one in the case of certain food purveyors.

If you can sum up the history of the western jurisprudential system, it is that common law is usually right and statutory interferences with common law is usually wrong.

Mr. SCOTT of Virginia. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS. I yield to the gentleman from Virginia.

Mr. SCOTT of Virginia. Mr. Chairman, I think we need to review what the amendment actually is. In section 4.3, they define person who can bring these lawsuits as individuals, corporations, companies, but it includes any governmental entity.

The lawsuits we are talking about are lawsuits arising out of, related to, or resulting in injury or potential injury resulting from person's consumption of a qualified product and weight gain, obesity or any health condition that is associated with a person's weight gain or obesity, including, and it goes on. This is overly broad.

Let us just read what the amendment says. It says that the Act does not apply to an action brought by a State agency to enforce a State consumer protection law concerning mislabeling or other unfair or deceptive trade practice. We do not need protection from State attorneys general enforcing our consumer protection laws. I would hope that we adopt the amendment.

The CHAIRMAN pro tempore (Mr. OSE). The question is on the amendment offered by the gentleman from Virginia (Mr. SCOTT).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. KELLER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Virginia (Mr. SCOTT) will be postponed.

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AMENDMENT NO. 7 OFFERED BY MR. WATT

Mr. WATT. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore (Mr. OSE). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. WATT: Section 3(a), strike "or State".

Mr. WATT. Mr. Chairman, the amendment that is being offered simply strikes two words from the bill. Those words are "or State."

This is an opportunity for those of us who really believe in the Federalist system in which we operate. Those of us who believe truly in the rights of States to control what happens in their States and in their communities, those who believe truly in States' rights to get it right, I am giving you the opportunity.

If there is a rationale for our involvement in this and if there is something that we should be exercising jurisdiction over, it is what comes into the Federal courts, and not what goes into the State courts. So the effect of this amendment is simply to take out the State court component of this.

I want to confess up front that I think this is a bad idea, whether it is in the Federal court or the State court; so I am going to vote against the bill even if this amendment passes. But for those who believe that this is a good bill, that this is a worthy cause, if you have any belief in the Federalist form of government in which we operate, that States and State judiciaries and legislators have certain powers, then you should be supporting this amendment.

State courts and legislatures are perfectly capable of determining which lawsuits are appropriate and which lawsuits constitute an undesired drain on their resources. Right now, 11 State legislatures, including California, Colorado, Florida, Idaho, Louisiana, Missouri, Nebraska, Ohio, South Dakota, Washington and Wisconsin, the chairman's own State, have introduced or passed legislation to ban some form of obesity-related lawsuits. Some of those States have banned a broader range of cases than this proposed legislation would ban.

H.R. 339, this legislation that we are considering, would displace and disrespect the actions of those State legislatures that have acted and impose a ban on those States that have not perceived a need to enact legislation banning obesity suits.

The bill arrogantly presumes that State court judges are incapable; and I am going to keep saying that over, and over and over again. I have said it a million times; I may say it a million more times before this debate is over. It is arrogant for us to assume that State court judges are incapable of carrying out their judicial responsibilities. Should State court judges determine that any lawsuit lacks merit or appropriate proof, they can dismiss it. If they determine that a case is frivolous, they can dismiss it and sanction the attorneys involved.

The proponents of this bill seek to prevent cases that have already gone through the system and have been dismissed. This bill is a solution in search of a problem, believe me.

If there is a rationale for this bill, and I do not believe there is, we at least ought to respect the Federalist form in which we are operating and limit the application of the bill to cases filed in the Federal court. We are not Big Brother here in this body, and my colleagues have reminded us of that many, many times rhetorically. They say they believe in States' rights. If they do, if you do, my colleagues, please support the Watt amendment.

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the gentleman from North Carolina and I have a little bit different view of the role of federalism in our country. All I can say is I am happy that his view did not prevail during the great debates on civil rights that occurred in this Chamber and down the hall in the Senate Chamber during the sixties, seventies and eighties, because the notion of States' rights would not have been agreed to by the gentleman from North Carolina.

I think this amendment must be defeated because it would gut the bill and also fail to protect the decisions of State legislatures regarding food policy. I do not think we want to see a single judge in a single State court deciding to establish national policy. We have seen far too much of that, and the Watt amendment would allow that type of judicial misinterpretation to occur in a State court somewhere in this country.

This bill is also about protecting the separation of powers and the legislative prerogatives of the elected representatives at the State level. The amendment would gut those provisions.

The drive by overeaters' personal injuries attorneys to blame those who serve them food and to collect unlimited monetary damages is an attempt to accomplish through litigation that which has not been achieved by legislation and the democratic process.

John Banzhaf, a law professor at George Washington University who helped spearhead lawsuits against tobacco companies, has said, "If the legislatures won't legislate, then the trial lawyers will litigate." National Public Radio, August 8, 2002.

Various courts have described similar lawsuits against the firearms industry for harm caused by the misuse of its products by others as an attempt to "regulate through the medium of the judiciary" and "improper attempts to have the court substitute its judgment for that of the legislature, something which the court is neither inclined to nor empowered to do." Such lawsuits break down the separation of powers between the branches of government.

Large damage awards and requests for injunctive relief have the potential to force the judiciary to intrude into the decision-making process properly within the sphere of another branch of government, namely, State legislatures. That is the intent behind these fast-food lawsuits, to circumvent legislatures, to circumvent the Congress and the popular will of the people who elect us.

Further, Congress has the clear constitutional authority and the responsibility to enact H.R. 339. The lawsuits against the food industry H.R. 339 addresses directly implicate core federalism principles articulated by the United States Supreme Court, which has made clear that "one State's powers to impose burdens on the interstate market is not only subordinate to the Federal power over interstate commerce, but is also constrained by the need to respect the interests of other States."

Congress can, of course, exercise its authority under the Commerce Clause to prevent a few State courts from bankrupting the food industry.

In fast-food lawsuits, personal injury lawyers seek to obtain through the court stringent limits on the sale and distribution of food beyond the court's jurisdictional boundaries. By virtue of the enormous compensatory and punitive damages sought, and because of the types of injunctive relief requested, these complaints in practical effect would require manufacturers of lawfully produced food to curtail or cease all lawful commercial trade in that food in the jurisdictions within which they reside, almost always outside of the States within which the States are brought, to prevent potentially limitless liability. Insofar as these complaints have the practical effect of halting or burdening interstate commerce in food, they seek remedies in violation of the Constitution.

Such personal injury attorneys' claims directly implicate core federalism principles articulated by the Supreme Court in BMW of North America v. Gore, 1996. The Gore case makes clear that "one State's power to impose burdens on the interstate market is not only subordinate to the Federal power over interstate commerce, but is also constrained by the need to respect the interests of other States."

The CHAIRMAN pro tempore. The time of the gentleman from Wisconsin (Mr. SENSENBRENNER) has expired.

(By unanimous consent, Mr. SENSENBRENNER was allowed to proceed for 1 additional minute.)

Mr. SENSENBRENNER. Mr. Chairman, the Supreme Court in Healy v. Beer Institute, 1989, elaborated on these principles concerning the extraterritorial effects as follows: "The critical inquiry is whether the practical effect of the regulation is to control conduct beyond the boundaries of the State. The practical effect of the statute must be evaluated not only by considering the consequences of the law itself, but also by considering how the challenged law may interact with the legitimate regulatory regimes of other States and what effect would arise if one, but many or every, State adopted similar laws. Generally speaking, the Commerce Clause protects against inconsistent laws arising from the projection of one State regulatory regime into the jurisdiction of another State."

So this bill is supported by sound federalism principles, there is a national interest involved, and that is why the amendment should be defeated.

Mr. ANDREWS. Mr. Chairman, I rise in support of the Watt amendment.

Mr. Chairman, I must say with respect to the issue of federalism and the proper role, I think the comparison of this issue to civil rights is completely inapposite. The principle of civil rights is when State legislation or State action violates a fundamental constitutional right, it cannot stand. There is no fundamental constitutional right involved here. This is the power the 10th amendment expressly meant to be reserved to the States, either through their legislatures or their courts.

Mr. WATT. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS. I yield to the gentleman from North Carolina.

Mr. WATT. Mr. Chairman, I thank the gentleman for yielding. The gentleman puts it a lot milder than I do.

I am not surprised, but I am extremely insulted, that this piece of crap, this bill, would be put on the same level that our civil rights laws in this country have been put on.

Now, I am not surprised. I knew that was coming, because we have had this discussion with my chairman on several occasions on this floor. But I want you to know that the notion that there are basic constitutional rights that the civil rights laws had to enact to enforce was based on rights that were articulated in the Constitution. The right to vote, and it is a shame that we had to have legislation at the Federal level to make it clear that the right to vote applied to all of our citizens in this country, there is no comparison between this bill and that.

The right to travel on a bus and sit where you want, it is a shame that we had to have Federal legislation to tell the States that they had to enforce that basic human constitutional right.

I am insulted that this piece of legislation, and if I went too far in calling it a piece of crap, I apologize to the Chair. I knew he shuddered when I said that, so maybe that is going too far. But it is an abomination for us to be trying to compare this statute to the civil rights laws.

I am really disappointed that this kind of expansive, unprecedented interpretation of the Commerce Clause would be articulated by the chairman of our committee on the floor of the House of Representatives. Under the theory that has just been advanced, to tie it back to the Commerce Clause, to tie this legislation back to the Commerce Clause, anything could be taken over by the Federal Government. There would not be any State legislatures or State courts. Anything in commerce of any kind could be taken over.

That is not what the Commerce Clause says. And with all due respect, I went to law school too. I took my constitutional law under a guy named Robert Bork. I do not think he would say that is what the Commerce Clause says.

I am flabbergasted that we would be told on this floor that this proposed legislation is sanctioned by the Commerce Clause and that it is anywhere in the ball park close to what the civil rights laws were designed to do.

We ought be ashamed of ourselves. And we ought be ashamed of ourselves for destroying the Federal concept that our Founding Fathers made for us. It would be something else if we were doing it about something that is real. There is not a single pending lawsuit now involved that has not already been dismissed. The States are already acting on this. It is not as if they are ignoring it.

If you were in the State legislature, if you want to go vote on stuff like this, go to the State legislature. Many of us came out of the State legislatures. There are people there that are just as smart, just as intelligent as we are here in this body. For us to insult our State legislators and our State judiciary for some political purpose is unforgivable, in my opinion.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. The Chair would urge Members to exercise discipline in vocabulary to preserve the decorum of the House.

Mr. KELLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I appreciate the enthusiasm of the gentleman from North Carolina (Mr. WATT), and as the author of the bill that was described that way, I can assure you that I take no offense. Sometimes in the heat of passion things come out, so there is no need to apologize to me.

Let me just say this with respect to the gentleman from North Carolina (Mr. WATT), he is at least consistent. He offered this same amendment in committee, made the same arguments, it was rejected in committee. I urge my colleagues to reject it once again here on the House floor and for the very same reason.

This amendment would essentially gut the bill and encourage venue shopping among very creative trial lawyers. Let me just give you one example.

The Louisiana legislature, which, by the way, is a Democrat legislature, both the House and the Senate, passed a very similar bill to mine after I filed mine with 94 percent of the legislators voting "yes," broad bipartisan support. So, yes, you cannot bring an obesity lawsuit in Louisiana.

So if you are an ambitious trial lawyer, what about Mississippi? Well, they do not have such a law, and that is exactly where the suit would be filed, or some other State that is a nice haven for tourists.

We do not have to guess about this, because we had a hearing on this matter; and the Democrats could have chosen anyone to appear, and they chose a man named Mr. Banzhaf, who says it is his goal to open the flood gates of litigation against our major employers such as McDonald's.

This is what he said. Keep in mind the potential Mississippi lawsuit: "Somewhere there is going to be a judge and a jury that will buy this, and once we get the first verdict, as we did with tobacco, it will open the flood gates." We do not have to guess what their theories are; they have already told us.

So Congress, of course, can exercise its authority under the Commerce

Clause to prevent a few States from bankrupting the food industry, which is the largest nongovernmental employer in the United States. Congress, of course, has the authority under the Commerce Clause. That is not just the opinion of the gentleman from Wisconsin (Chairman SENSENBRENNER) or myself. The U.S. Supreme Court in Healy v. Beer Institute said, "Generally speaking, the Commerce Clause protects against inconsistent laws arising from the projection of one State regulatory regime into the jurisdiction of another State."

I urge my colleagues to vote "no" on the Watt amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from North Carolina (Mr. WATT).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. WATT. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from North Carolina (Mr. WATT) will be postponed.

AMENDMENT NO. 2 OFFERED BY MR. ANDREWS

Mr. ANDREWS. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. ANDREWS:

Section 4(4), insert before the period at the end the following: "", except that a food that contains a genetically engineered material is not a qualified product unless the labeling for such food bears a statement providing that the food contains such material and the labeling indicates which of the ingredients of the food are or contain such material".

□ 1400

Mr. ANDREWS. Mr. Chairman, the rationale of the underlying bill, with which I disagree, but the rationale of the underlying bill is that educated and knowing consumers who make a choice as to what they eat are responsible for the consequences of what they eat. So that if someone eats a lot of food that is high in saturated fat and suffers heart disease or other health-related problems as a result, that they are responsible for that result, and it should not be the person who sold them the food. Frankly, I think that the judicial system of the country is reaching the same answer and does not need our interference to push them toward that answer, but that is the underlying premise of the bill. Informed consumer choice trumps litigation.

My amendment is designed to provide an informed consumer choice, and here is what it says. It says that if a seller of food is selling genetically-altered food, it can only receive the immunity granted by this bill if the seller of the genetically-altered food fully discloses to the person buying and eating the food the fact that it has been genetically-altered and the nature of the genetic alteration that took place. Let me explain.

We have had instances where, for example, the cornmeal that is used for taco shells has been found to be genetically-altered. People have three objections to this. The first is that they are fearful it will make them sick. The jury is out on this. There are people who will say that these foods are dangerous. There are people who will say that the foods are not dangerous. But there are people who want to make that choice for themselves as to whether or not they eat genetically-altered food.

The second problem is that people may have allergies to genetically-altered food, but if they are not aware of the fact that the food has been altered in such a way, they may be subjecting themselves to the health hazards associated with an allergic reaction.

Thirdly, there are people who, for religious or cultural reasons, do not wish to eat genetically-altered food, particularly if the genes that are used for that genetic alteration come from a food product that they do not ordinarily eat as part of their religious or cultural practices.

So what this bill says is that we offer the food purveyor a choice. If the food purveyor discloses fully to the consumer the fact that the food has been genetically-altered and is precise in disclosing the nature of the genetic alteration, then that food purveyor will enjoy the immunity granted by this bill. But if the food purveyor chooses not to make that disclosure, if it chooses not to disclose the fact that the food has been genetically-altered and chooses not to disclose the nature of the genetic alteration, well then, under those circumstances, that food purveyor would not enjoy the immunities granted by this bill.

Mr. Chairman, between 1987 and 2000, the United States Department of Agriculture authorized 14 field tests of crops engineered with animal or human genes. An example of some of the combinations being done are chicken genes in corn, wheat, and Creeping Bent Grass. Human genes in barley, corn, tobacco, rice, and sugarcane. Mouse genes in corn, along with human genes. Cow genes in tobacco, carp genes in safflower, pig genes in corn, Simian Immunodeficiency Virus, or SIV and Hepatitis B genes in corn.

Now, as I said a minute ago, Mr. Chairman, the jury is out as to whether there are deleterious health effects with respect to genetically-altered food. We are going to have scientific evaluation and come to a conclusion on that question. But I would certainly think the majority, which believes so strongly in informed choice by consumers, would extend that principle to this case and would want consumers to be fully informed that they are choosing genetically-altered food and they would want them to know the nature of the genetic alteration. The idea behind this amendment is to encourage that disclosure, not require it, but to encourage that disclosure by granting the underlying immunity that is granted in the bill to food purveyors who make the disclosure and denying the underlying immunity in the bill to those who fail to make that disclosure.

The argument for this bill, as I understand it, is that personal responsibility should trump litigation. If you know what you are eating and you choose to eat it, and you get sick as a result of eating it, you live with the consequences and you cannot visit those consequences through civil litigation on the person who sold you the food.

Well, if you accept that underlying principle, then you ought to accept the argument that in the case of genetically-altered food, the consumer has the right to know, because if the consumer does not have the right to know, then the consumer is not making a knowing and intelligent choice as to what he or she is eating. That has consequences for potential health risks, it has consequences for exposure to allergic reaction, and it has consequences for the religious and cultural practices that many of our fellow citizens and many other residents of America follow in their dietary practices.

I disagree with the underlying premise of this bill, but I would implore those who disagree with me on that point to embrace this amendment, because if you want to support knowing and voluntary choice in the food you are eating, then let us really make it a knowing and voluntary choice when it comes to the very controversial question of genetically-altered foods.

There are many Members of this Chamber who believe that genetically-altered foods are appropriate. They oppose legislation that would limit or prohibit the use of genetically-altered foods. There are other Members who feel strongly that genetically-altered foods should be limited or prohibited. Irrespective of where one comes down on that debate, it seems to me one ought to embrace the position that the consumer has the right to make that choice.

Mr. Chairman, I urge the adoption of the amendment.

Mr. KELLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am going to ask my colleagues to vote "no" on the Andrews amendment on several grounds. This amendment opposes additional regulations on the food industry, increasing their cost of doing business and threatening additional jobs in the food industry, our Nation's largest private sector employer. But more problematic, the amendment contains no definitions of what would constitute a proper label and, therefore, it would expose even those companies who could afford to comply with the new regulations to lawsuits that would cost yet more jobs.

This amendment is an attempt to regulate an entire industry with one clause, and that is a recipe for confusion and disaster. Even companies who labeled, in an attempt to gain the benefits of the bill, might not get such protections because some judge somewhere will deem their attempt to label inadequate, and the amendment provides no standards to guide either the private sector or judges. Additionally, there is no definition in the amendment of genetically engineered, so people will not even know if their products have to comply with these additional regulations.

Essentially where the gentleman from New Jersey (Mr. ANDREWS) should have his day is trying to amend the Federal Food, Drug and Cosmetic Act and make his changes there, but not here where it is so vague that it does not have those definitions that would be needed.

Also I would point out that if there is some State statute dealing with genetically-altered foods and it requires certain labeling and so on and so forth or advertisement requirements, and if that State statute is violated, under the provisions of this bill, the claims could go forward.

So I would ask my colleagues to vote "no" on the Andrews amendment for the reasons suggested earlier.

Mr. WATT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Andrews amendment, and I would say that this is one of the areas, one of several areas, in fact, that the processing of this bill without really letting it go through the Committee on Commerce or without really a whole heck of a lot of deliberation in the Committee on the Judiciary, and hearings, this is just one of those areas that might have been dealt with if the bill were being considered in a serious legislative process, rather than just a political vehicle.

Mr. ANDREWS. Mr. Chairman, will the gentleman yield?

Mr. WATT. I yield to the gentleman from New Jersey.

Mr. ANDREWS. Mr. Chairman, I thank my friend for yielding, and I would say to my friend, the gentleman from Florida, who just spoke, that I respectfully believe that he is in error in two points in criticizing the amendment. First, he says that my amendment imposes regulation on the food industry; that is not the case. It provides the industry with a choice. If it chooses to reach for the immunity granted by the underlying bill, yes, then it is subject to this disclosure requirement. But if it chooses not to reach for that immunity, then it is not subject to the disclosure requirement.

Second, the gentleman is critical of the lack of definitions in the amendment. I would submit that this amendment will be defined and interpreted in the same way his underlying bill is, which is to say there will be litigation over the meaning of ambiguous terms and the courts will determine what they mean. Unless I am missing something, I notice that the underlying bill does not define the word "obesity," for example, and there could be a spate of litigation as to whether a suit is over a product associated with obesity or not, because you claim it is associated with diabetes or it is associated with heart disease or it is associated with mental illness. I mean, one could make a lot of different claims to work one's way around the bill.

As the gentleman knows, and I know he is a skilled attorney, as the gentleman knows, one of the functions of our judiciary is to provide case law that defines terms not specifically defined in statute. So no one should oppose this amendment if they believe that it imposes regulations on the food industry, because it does not.

I would conclude by saying that when the gentleman says that this subject matter is best dealt with through the Committee on Commerce and the Food and Drug Administration, he is right, which is one of the reasons why we should defeat the underlying bill on the floor.

Mr. WATT. Mr. Chairman, reclaiming my time, I would just say that the gentleman need not worry about whether there is a definition of obesity. If they do not like the definition of "obesity" that the courts give, I guarantee my colleagues we will be back here next year or the year after next with a Federal piece of legislation that is designed to solve that problem. That is the way this bill is being processed and the spirit in which it is being processed. Unfortunately, nobody has any good ideas or can protect their own States, other than this Congress or my colleagues on this committee, and that is the way they proceeded.

Mr. SENSENBRENNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am very supportive of food labeling requirements, including labeling requirements for a genetically-modified food, and would support such legislation if it were coming as an amendment to the Pure Food, Drug and Cosmetic Act. However, the amendment of the gentleman from New Jersey is the wrong way to do it, and here is why.

If the amendment of the gentleman from New Jersey passes and the bill is enacted into law with his amendment, then all someone needs to do to defeat the immunity that is given to the food industry under this bill is to simply allege that there was not the proper notice that was given. This allegation, at least in terms of the preliminary motions in court, is taken as true, and that sets up a question of fact. All of the expenses that are needed in terms of defending a lawsuit, such as depositions and the like, are going to have to be incurred in order to prove that there was the proper notice given or that there were no genetically-modified organisms that were supplied in the food that the plaintiff consumed.

So as a result, in the name of better labeling rather than attacking this issue as an amendment to the Pure Food, Drug and Cosmetic Act, which is where I think it belongs, the gentleman attempts to have what is in the jurisdiction of another committee and which deals with another enactment on the statute books of the United States of America through this method.

I would support the gentleman from New Jersey if he was doing it the proper way through an amendment to the Food, Drug and Cosmetic Act, but this is not the way to do it.

Now, secondly, there is nothing in the gentleman's amendment that says what constitutes an adequate notification. Does an adequate notification consist of the nutritional sign on the wall of a fast food restaurant that talks about ingredients and that nobody stands and stares at unless the line is so long that they have to do it? Does it require that there be this kind of a label on every package that is handed to the customer with the food contained in it? These are the types of things that really should not be left up to the courts to, in their infinite imagination, determine what is adequate and what is not; it should be done in the proper way by the proper committee, and that is why this amendment ought to be rejected.

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Mr. DOOLEY of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I also rise in opposition to this amendment. I do not think this is the proper vehicle for us to be attaching this to. The issue of genetically enhanced products is something that we have spent a lot of time on. I think our existing regulatory structure gives us the opportunity to really get verification in whether or not any of these new approaches do pose any health risk to consumers.

And I think now we can have great confidence that the products that are coming onto the market, that are containing genetically enhanced products are, in fact, determined to be safe for human consumption.

I think when we have an amendment such as this it poses, I think, a situation where we will actually impede the development of an industry and of a technology that has the potential to actually have tremendous benefits in dealing with the obesity problem that we have in this country.

There are a number of genetically enhanced products that are being developed now that are going to result in some of our oils being lowered and some of the trans fats and saturated fats that actually can be incorporated into some of our food products that are going to result in less obesity.

I think we would be running the risk of setting back the industry and setting back some of the developments in new technology that actually could be a benefit in improving the nutrition of a lot of our food products and this amendment would actually pose an impediment, would impose a liability that would deny some of these new developments that actually can be of great benefit in terms of enhancing the nutrition that a lot of our citizens are consuming.

Mr. Chairman, I hope we will oppose this amendment.

Mr. GOODLATTE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of H.R. 339, the Personal Responsibility in Food Consumption Act and in strong opposition to the amendment offered by the gentleman from New Jersey (Mr. ANDREWS).

The food service industry employs some 11.7 million people, making it the Nation's largest employer outside of the government. However, this vital industry has recently come under attack by waves of lawsuits arguing it should be liable for the misuse or overconsumption of its legal products by others.

Frivolous lawsuits require businesses to devote crucial resources to litigate unmerited claims. In order to help ensure that America continues to be an advantageous place to do business, and to help create and maintain American jobs, it is important that we not allow opportunistic trial lawyers to extort money from legitimate companies.

Simply put, businesses in the food industry should not be held responsible for the bad eating habits of consumers. The people of America agree. According to a recent poll, approximately 89 percent of Americans oppose holding the fast-food industry legally responsible for the diet-related health problems of people who eat fast food on a regular basis.

H.R. 339 will help prevent frivolous lawsuits against the foods industry while preserving State and Federal laws. Specifically, the bill would prevent frivolous lawsuits that claim that the consumption of lawful food products cause injuries resulting from obesity or weight gain.

While the bill would prohibit frivolous lawsuits, it would protect legitimate ones. For example, the bill would not protect businesses that knowingly or willfully violate a State or Federal statute when the violation is a proximate cause of an injury. In addition, the bill would not protect those that violate State or Federal food labeling laws or those that offer adulterated food products.

H.R. 339 is a commonsense bill that will protect legitimate businesses from frivolous lawsuits. I urge my colleagues to support this important legislation. But the amendment offered by the gentleman from New Jersey (Mr. ANDREWS) runs the risk, if it is passed, of gutting this legislation.

The reasons set forth by the gentleman from Wisconsin (Mr. SENSENBRENNER), who has done an outstanding job bringing this legislation to this point, are all valid reasons for opposing this amendment; but in addition there are more. There is absolutely no reason why we have to draw a distinction between two different types of perfectly legitimate products that the appropriate regulatory agencies have found to have no ill effect upon consumers. There would be no difference whether it was a natural product or whether it was one that had been changed through hybridization and all the other ways that we have improved food through the decades, in fact through the centuries, or through biotech-enhanced foods either.

And so for that reason, I strongly oppose this. If the amendment were to pass, it is a back-door way to try to impose labeling in this country. We have opposed this for a long time because there is no distinction between foods that contain biotech crops and those that do not. And the issue is very clear that if you will require it, virtually every product produced in this country made with corn, virtually every product made in this country using soy beans, virtually every product grown in this country with any kind of livestock that have been enhanced, and virtually any kind of product that may be developed in the future, there would become a disincentive to produce these improved products, as the gentleman from California (Mr. DOOLEY) just correctly noted.

This is a huge problem. It would effectively gut this important legislation. H.R. 339 generally prohibits obesity or weight-gain-related claims against the foods industry. This amendment would require manufacturers to label genetically engineered material before being afforded the protections of the underlying bill. The irony is that, as the gentleman from California (Mr. DOOLEY) noted, the opportunity exists with genetically modified food to improve the problem for people who have obesity, not to make the problem worse.

So I do not understand how this amendment relates to H.R. 339. Biotech crops do not lead to obesity. In fact, biotech research may lead to food products that help combat the obesity problem in America and nutrition problems in the developing world.

Farmers have been growing hybrid and other genetically engineered crops safely for decades. Biotechnology is as safe as conventionally bred crops, according to numerous studies by the National Academy of Sciences, the American Medical Association, and other scientific bodies.

Furthermore, before biotech foods can be sold to consumers, their safety is reviewed by three government agencies: the U.S. Department of Agriculture, the Environmental Protection Agency, and the Food and Drug Administration.

The Andrews amendment runs counter to long-standing U.S. Government food labels policy which preserves food labels for help safety and nutritional information. This amendment is just another ill considered attempt to discourage consumption of biotech foods, which every American, every American consumes on a daily basis and encourages frivolous lawsuits.

I urge my colleagues to oppose this amendment.

The CHAIRMAN pro tempore (Mr. OSE). The question is on the amendment offered by the gentleman from New Jersey (Mr. ANDREWS).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. ANDREWS. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New Jersey (Mr. ANDREWS) will be postponed.

AMENDMENT NO. 3 OFFERED BY MR. INSLEE

Mr. INSLEE. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. INSLEE:

Section 4(5)(A), insert after "knowingly and willfully" the following: "or negligently".

Mr. INSLEE. Mr. Chairman, I think there is a bipartisan consensus here today that educated and informed consumers regarding what is in their food should not have a claim relating to obesity and that we would all attempt to write a law that will effectuate that goal. But as Mark Twain said, the difference between the right word and almost the right word is the difference between lightening and a lightning bug. And the difference between a well-crafted bill and one that misses the mark a little bit is the difference between a radical restructuring of civil liability law in the United States and a bill that we want to produce. And, unfortunately, this bill lacks two words.

And our amendment would cure that defect.

Mr. Chairman, it is a very well-accepted principle, if I can compare this scenario, it is a very well-accepted principle that in America if a person is inattentive for a few moments and violated a law by going through a stop sign, they are responsible to the injured party for the wreck. It is a very well-accepted principle that if a person who manufactures jet airplanes is inattentive for a moment, and they fail to put a bolt on an engine and the engine falls off and 250 people are killed, they are legally, or their corporation is legally, responsible for that violation of the law.

It is clear at this moment that if an employee of a company is inattentive and puts the wrong information on the box of a food or a bench or a medical product and someone dies as a result, that corporation is liable for their inattention.

But because of the absence of the word "negligence" in this bill, we would have removed liability for that very, very well-accepted principle. Let me tell you why that is important. Take the case of Steve Beckler, former pitcher for the Baltimore Orioles who took a product called Xenadrine RFA-1. It is a dietary supplement, and it appears to be covered under the definition of food of this statute or proposal. It was sold and Mr. Beckler died. It was advertised as having the quality of a rapid fat-loss catalyst. The medical examiner concluded that his death was a proximate result of this medication.

Now, I do not know exactly about the circumstances of the warnings or lack of warning on that product; but under this bill as currently drafted without the Inslee amendment, if the clear testimony was that the label that said do not take this if you have high blood pressure was left off due to inattention, there would not be a responsibility. And the widow of this gentleman would be out of luck.

If, in fact, someone violated the clear mandate of Congress or a State legislative body to give a specific warning that is identified in law, and if that warning did not get on the product, the victim would still be out of luck.

And I want to make sure people understand this. By inserting the word "negligence" into this bill, we will not be giving jurors the right to determine what warnings or information should be on the product. That is not giving jurors that ambit. All this will say is if my good friend, the gentleman from Wisconsin (Mr. SENSENBRENNER), the gentleman from North Carolina (Mr. WATT), and all of us get together and we pass a law that certain information has to be on the box, like do not take this weight loss supplement if you have high blood pressure, or do not take it if you have evidence of stroke or previous history of stroke, and due to someone's inattention or the fact that they were asleep at the switch or they just were not doing their job, the victim will not have a claim under law. And I do not think that is what the majority of us ought to be about if we are imposing this obligation.

I ask the majority party, let me just pose this as a friendly question to my friends, if indeed we pass a bill here that requires, for instance, that a warning be on a weight-loss product that says do not take this weight loss product if you have an evidence of high blood pressure, and if an employee is asleep at the switch or is inattentive at the brief moment and the product goes out without the label and somebody dies, I am asking the majority party why the widow or family of such a victim who died as a result of an obligation we voted to impose in United States Congress, why do you intend to deny that person a remedy? That is an open question to anyone in the majority.

Mr. KELLER. Mr. Chairman, will the gentleman yield?

Mr. INSLEE. I yield to the gentleman from Florida.

Mr. KELLER. Mr. Chairman, that scenario you just posed about someone taking some kind of improperly labeled diet drug has nothing to do with this legislation. That claim would still go forward and be unimpacted.

This legislation specifically is narrowly targeted to claims based on weight-gain or obesity.

Mr. INSLEE. Mr. Chairman, I reclaim my time.

The CHAIRMAN pro tempore. The gentleman's time has expired.

Mr. KELLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, at the committee there was an attempt to strike the knowing and willful standard from the bill. That was unsuccessful. I would ask my colleagues to vote "no" on this amendment as well, which is kind of a new twist there, keeping the knowing and willful, but then they also add "negligently," which in effect does the same thing, strike it. So all you have to do is prove negligence.

This bill already allows a case to go forward any time a Federal or State statute has been knowingly and willfully violated and that violation is a proximate cause of the injury.

□ 1430

Let me tell you why it is important to have this knowing, willful standard and what the precedent is.

The knowing and willful standard is the exact same standard used in H.R. 1036, the Protection of Law Commerce and Arms Act that overwhelmingly passed this House in a bipartisan fashion. In fact, it received 285 votes. Therefore, anyone who voted for H.R. 1036 and who votes for this amendment will be voting for stronger protections for firearms manufacturers than for the food industry, which is the largest private sector employer in the country providing 12 million jobs.

The claim that it is too burdensome to require a person to knowingly violate a law before they can be said to meet the exceptions to this bill, fails to understand the flexible nature of the requirements. Let me give you an example. A typical jury instruction regarding what the so-called mens rea requirement for knowing means states as follows: "Knowledge may be proved by all the facts and circumstances surrounding the case. You, the jury, may infer knowledge from a combination of suspicion and indifference to the truth. If you find a person had a strong suspicion that things were not what they seemed or that someone had withheld important facts yet shut his eyes for fear of what he may learn, you may conclude that he acted knowingly."

Therefore, the knowing standard is certainly flexible enough to produce justice in our courts in all circumstances. There is precedent for it, and it should be used here as well. I also would point out that under the bill, claims can go forward for breach of contract, or breach of warranty as well.

I ask my colleagues to vote "no."

Mr. WATT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the gentleman from Washington's (Mr. INSLEE) amendment; and I want to yield to him, but I want to make one comment before I do so.

My colleague, the sponsor of this bill, has on several occasions told us a persuasive, powerful reason for doing something related to this bill is something that we did related to H.R. 1036. First of all, many of us voted against H.R. 1036. It did pass this body, but then it went to the Senate and the Senate jettisoned the bill. So to use as some powerful reason that something is in a bill that had not even gone through the legislative process, was not even worthy of sending to the President's desk for signature, strikes me as being about as far a stretch as saying that this bill is about employment rather than politics.

Mr. Chairman, I yield to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Chairman, I want to again reiterate I think there is a mutual desire to try to find the right language that will accomplish our mutual end, but this bill does not use the right language to do it.

I want to respond to the gentleman from Florida's (Mr. KELLER) statement that my situation was inappropriate. I think I would refer the gentleman to the language of section 5 which cuts off claims for a whole host of injuries including "any health condition that is associated with a person's weight gain or obesity."

Any health condition that is associated with a person's weight gain or obesity. The fact of the matter is if someone forgets to put the label on that says do not take this if you have high blood pressure, and you gain weight and your high blood pressure goes through the roof, you have a claim associated to your obesity. There is no reason to have to include that language. And if you are going to include that language, you ought to at least include the well-accepted principle of American jurisprudence in 50 States which is this:

If someone refuses to honor the legal mandate for conduct that the U.S. Congress imposed due to inattention or negligence, there is legal responsibility for that. And for the first time as I know it, and I think the gun law is not applicable because that applied to creating an obligation through the obligation of exercising reasonable care, what this amendment does is say if Congress imposes an obligation to say X, Y or Z, it is not the jurors coming up with that obligation to say something on the label. We are simply saying if you do not follow the law, there is a responsibility.

I am asking my colleagues to consider this closely for an additional reason. Yesterday, Julie Gerberding, the director of the Federal Center of Disease Control and Prevention said, "Obesity is catching up to tobacco as the leading cause of death in America. If this trend continues, it will soon overtake tobacco. This is a tragedy," Gerberding said. "We are looking at this as a wake-up call," suggesting that over 500,000 deaths annually will occur due to obesity.

Now, in light of this scientific information, what is the first thing the House of Representatives does? It rushes to immunity for corporations, which may be appropriate in this particular case; but let us show a little care how we define which cases, so the people who die as a result of negligence and people asleep at the switch and their refusal to do what Congress told them to do are not swept up in this bill.

Mr. WATT. Reclaiming my time, I would just reiterate the points that the gentleman from Washington (Mr. INSLEE) has made and suggest to him and the body and the chairman that it is unfortunate that the Committee on the Judiciary in the House has become the repository of everything essentially political. And so two things quite often result from that: number one, just about every vote is a party-line vote because we know that there is a political reason, not a substantive reason that the legislation is being put forward.

The CHAIRMAN pro tempore (Mr. OSE). The time of the gentleman from North Carolina (Mr. WATT) has expired.

(By unanimous consent, Mr. WATT was allowed to proceed for 2 additional minutes.)

Mr. WATT. Number two, it quite often puts us in a position of thinking, well, this legislation is not serious and it is not going anywhere anyway, and as happened with the legislation that has been referred to on several occasions here, well, the United States Senate, the more deliberative body, will bail us out and save us from ourselves.

I think that is a dangerous slippery slope that our committee has gotten on, and I wish there was some way to pull us back from that so that we would in our committee anticipate, have hearings, and deal with the kind of serious problem that has been identified by the gentleman from Washington (Mr. INSLEE) here; and it would not be just a question of whether the sponsor of the bill thinks that this does not apply or may not apply. Maybe under those circumstances the committee and its members would look at what this stuff really says, the bill, look at the drafting of the bill. That is part of our responsibility as legislators, and it is even more a part of our responsibility as members of the Committee on the Judiciary; and I fear that we have failed in that responsibility.

Mr. SENSENBRENNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, listening to the gentleman from Washington (Mr. INSLEE) I think shows the differences between those of us who support this legislation and those of us who oppose this legislation.

First, the example that he used relative to the professional baseball player who unfortunately passed away, this bill does not apply to. It is a complete unrelated argument and the gentleman from Florida (Mr. KELLER) has pointed that out. But the gentleman from Washington (Mr. INSLEE) persists on using this as an example. And then the gentleman from Washington (Mr. INSLEE) quotes the story of the press conference that was held yesterday relative to obesity catching up to tobacco as the number one killer of people in the United States of preventable conditions.

Now, the problem with that attitude is that those who espouse it expect the government to take over personal responsibility. The victim always finds someone else to blame for his or her own behavior. And what this bill does is that it says, do not run off and file a lawsuit if you are too fat and you end up getting the diseases associated with obesity. It says, look in the mirror, because you are the one who is to blame. And I have referred twice to a doctor in North Carolina and to the woman who is the president of the American Council on Fitness and Nutrition in saying that if you are obese, do not get a lawyer. See your doctor. See a nutritionist. See a personal trainer. And what this bill does is it will pin the responsibility of those whose job it is to correct the problem to begin with and that is the person who caused the condition which could have been preventable.

Mr. Chairman, I yield to the gentleman from Florida (Mr. KELLER).

Mr. KELLER. Mr. Chairman, to go back to the gentleman from Washington's (Mr. INSLEE) question about the diet drug, I have explained it does not apply. It talks about "a person's consumption of a qualified product." What is that? That is food under the definition. Food means articles used for food or drink, chewing gum and articles used or components of such article.

The second part of it is of a weight gain, obesity or any health condition that is associated with a person's weight gain. What are the health conditions associated with a person's weight gain? High cholesterol, for example, diabetes, for example, cardiovascular disease. This has nothing to do with diet drugs or labeling of diet drugs or mislabeling. Whatever that person's claim under State law for negligence can go forward and is completely and totally unrelated to this bill.

Mr. TIERNEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Chairman, I want to respond to my friend, the gentleman from Wisconsin's (Mr. SENSENBRENNER) appropriate reference to the idea of accountability because, as I said, we on a bipartisan basis ought to be able to craft a bill that appropriately says if a person has information about their food and they are not personally responsible and become obese due to their own lack of personal responsibility, they should not have a claim. And I am first to say that, or second or third. But there is another personal accountability that the way this bill is drafted ignores. And that is that if the gentleman from Wisconsin (Mr. SENSENBRENNER) and I both voted for a bill that imposed a personal legal responsibility to put on every package of phenadrine or any other product that you can think of that says do not take this if you have history of a stroke, and they do not do this, and this is not a jury-imposed obligation, it is one imposed by the gentleman from Wisconsin (Mr. SENSENBRENNER) and myself, together, and they fail to do it, they ought to be held accountable because accountability and personal responsibility work two ways in our society.

Hold the person who has information about fatty products and they get fat because they are irresponsible, hold them accountable and they have no claim, and this bill should accomplish that end. But for the person who refuses to abide by the mandate of this

Congress what to put on food products, they should be held accountable for their lack of responsibility; and this bill clearly obviates that in the language that says "any health condition that is associated with a person's weight gain or obesity." You are cutting off, perhaps unintentionally, claims for injury due to high blood pressure, stroke, cardiac arrest and a whole other group of diseases associated with weight gain.

Frankly, I do not think you are intending to do that. Because if I think that you think your constituents, if somebody fouls up a label and they die due to a stroke, I do not think you intend to cut that off; but you are doing it. And it is unfortunate, and I wish you would help me fix it.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Washington (Mr. INSLEE).

The amendment was rejected.

AMENDMENT NO. 1 OFFERED BY MR. ACKERMAN

Mr. ACKERMAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. ACKERMAN:

Section 4(2), insert after the period at the end the following: "However, such term shall not include any slaughtering, packing, meat canning, rendering, or similar establishment that manufactures or distributes for human consumption any cattle, sheep, swine, goats, or horses, mules, or other equines, that, at the point of examination and inspection as required by section 3(a) of the Federal Meat Inspection Act (21 USC 603(a)), are unable to stand or walk unassisted at such establishment.".

Section 4(6), insert after the period at the end the following: "However, such term shall not include any slaughtering, packing, meat canning, rendering, or similar establishment that distributes for human consumption any cattle, sheep, swine, goats, or horses, or mules, or other equines, that, at the point of examination and inspection as required by section 3(a) of the Federal Meat Inspection Act (21 USC 603(a)), are unable to stand or walk unassisted at such establishment.".

Mr. ACKERMAN. Mr. Chairman, this amendment has nothing to do with trial lawyers or any other issue that has been basically discussed here today, but it is merely to correct what I think is an inadvertent omission in the bill.

My amendment would expand the definitions in the act to exclude any establishment that manufactures or sells meat from downed animals for human consumption from the protections of the bill.

Mr. Chairman, nearly 3 months have passed since the first mad cow was discovered in the United States and the very first food-related bill has reached the House floor. It is not a bill to protect the American people from mad cow disease and to safeguard the food chain, but it is instead a bill to protect lawsuits against food manufacturers for injuries related to weight gain.

□ 1445

With America's food and meat supply at risk, it is embarrassing that this special interest legislation is our first response to reforming food safety in the United States.

The USDA banned downers from the food supply noting that a non-ambulatory animal was 49 times more likely to have mad cow disease, and they issued a regulation banning it. Those who oppose this amendment will tell us that the amendment is not necessary because the bill before us already says companies that knowingly violate Federal or State law get no protection in the bill and that the USDA banned downers, but the USDA is not the Congress and a USDA ban on downers is not the law. It is merely a regulation.

So this amendment is needed to make it a law, as was, I believe, intended. Otherwise, slaughterers who knowingly violate the regulation, not a law, get protection from legal action for selling diseased meat from mad cows to someone whose brain may rot some 8 years from now.

In the aftermath of our first discovery of mad cow disease, Americans deserve more from Congress than just a bill preventing frivolous lawsuits which have already been successfully defeated in U.S. courts. Instead, we should be working to assure our constituents that the meat they are eating and feeding to their children is safe and free of mad cow disease.

Personal responsibility, yes, add me to the long line of people who have already said that they believe in it, but people should take personal responsibility from acts that they knowingly take and knowingly violate and voluntarily take.

A person cannot know that they are eating the meat of a sick animal because it is not labeled, and that is another issue. What about personal responsibilities of companies that knowingly sell meat from downers, from diseased animals, too sick to walk to the slaughter? We could take personal responsibility if the corporations took personal responsibility and put labels that said the meat we are eating is from a diseased downed cow or that the meat we are about to eat had a 99 percent chance of never being inspected.

According to a Consumers Union poll, seven in 10 Americans who eat meat say they would pay more for beef to support increased testing in the cattle, and in a Zogby poll, three out of four Americans find it unacceptable to have downed animals in our food system. In fact, the USDA tells us that it was a downed animal from Washington State that proved positive for mad cow disease this past December, and early last year in Canada, the infected mad cow was also a downed animal. That is not a coincidence.

The USDA ban on slaughtering downed animals for human consumption is based on sound science and is nearly identical to the Ackerman-LaTourette amendment that failed just three votes short of passage in this House in the past summer, and that was before the discovery of mad cow disease in the United States. Surely there are three more people in this House who now better understand this issue.

Mr. Chairman, we should not be passing bills to protect the irresponsible establishments that may knowingly sell meat from sick and fallen animals. This amendment would ensure that manufacturers and sellers who ignore the proven health risks from downed animals who ignore the USDA ban, not a law, and sell tainted meat from downed animals to the American public, are not protected from lawsuits under this Act. I do not believe that was the intention.

Mr. Chairman, the time is long overdue for this issue. This issue is so ripe it is beginning to get rotten. The American people deserve better than that, Mr. Chairman, and this Congress has the opportunity to act right now to do the right and proper thing to protect all of our constituents from an inadvertency that occurs within this bill.

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this bill provides for a specific exemption for adulterated food, and anybody who eats meat which may have been infected with mad cow disease and comes down with the human variant of mad cow disease under this bill will have a cause of action against those who are responsible.

Secondly, if a person eats an adulterated hamburger and becomes seriously ill or perhaps dies of salmonella infection, this bill does not apply. The survivors will have a cause of action against those who provided the adulterated meat in the food chain.

What this bill does apply to is lawsuits that currently can be filed as a result of people eating too much, becoming obese and coming down with the diseases that are associated with obesity. That has nothing to do with downer cattle. It has nothing to do with mad cow disease. It merely means that people who have eaten too much cannot go back at those who have sold or provided a legal product in legal commerce.

Now, I wish that this debate would concentrate on the issues that are posed in this bill. The issue that the gentleman from New York (Mr. ACKERMAN) has brought up is a very serious issue, but that issue is not presented in this bill, and if the gentleman from New York would look at page 6, lines 9 through 12 inclusive of the bill as reported by the Committee on the Judiciary, he would see that exemption there plain as day.

Mr. WATT. Mr. Chairman, I move to strike the last word.

The chairman of our committee may be correct about that part of the bill, but only if the manager's amendment passes, I think would he be correct in what he has said, and at this point, while all of us are in support of the manager's amendment, I guess until this bill passes, I mean, we are still here.

Mr. ACKERMAN. Mr. Chairman, will the gentleman yield?

Mr. WATT. I yield to the gentleman from New York.

Mr. ACKERMAN. Mr. Chairman, I thank the gentleman for yielding, and then again, the distinguished Chairman of the committee, although very knowledgeable, may very well be wrong.

I am holding the page with the very lines that he asked me to refer to, and what it basically does is it refers to government action, government action against those companies, not individual actions of those people. The government is not getting sick or certainly not getting sicker from eating the meat of diseased animals, but human beings are denied under this, not the government. Human beings who have eaten diseased meat from downed animals have no recourse under the law the way this is written.

Yes, if a person gains weight, and some of us have done that, from eating wrong and indulging a little bit too much, sometimes that evidence is all too evident, but when a person eats the meat of a diseased animal, they have already eaten the evidence, and the case is difficult enough to prove.

People have no protection, no ability to sue, and the gentleman, what he sought to do, if he rereads what he has asked me to do, he will see very, very clearly that they are not exempted from government action, but they are still protected from private citizens bringing private courses of action.

Mr. WATT. Mr. Chairman, reclaiming my time just for a second, because when we are in the middle of a debate and we are trying to figure out the impact of amendments and coordinate them, it becomes a little unclear what is happening.

The original bill did say that an action regarding the sale of a qualified product which is adulterated, as described in section 402 of the Federal Food, Drug and Cosmetic Act was one of the things that was not covered under the base bill. The manager's amendment, however, struck that language and inserted instead, such terms shall not be construed to include an action brought under the Federal Trade Commission Act. It makes no reference to adulterated, I believe. Maybe I am misreading this, but this is one of those things where I think we should take absolutely no chance.

Even if it is redundant in some way, it clearly was not intended and I would hope that my colleagues would just accept the amendment. If it turns out to be redundant, then there are a whole bunch of things in the law that are redundant. That has never been something that we have shied away from. If we want to make something patently clear, we quite often make it redundant. We might say it three, four or five times in the same statute, and this is a point that I think needs to be made patently clear.

I yield back to the gentleman from New York (Mr. ACKERMAN).

Mr. ACKERMAN. Mr. Chairman, the distinguished chairman assured us at the outset of his remarks that private citizens would not be precluded from bringing private actions. It is very clear, to at least some of us who read the language of what is in the actual bill, that that is what happens, but given the chairman's genuine assurance that citizens would not be precluded, I fail to see what harm would be done if we specifically say that people have a right to bring action against those companies that knowingly and willfully sell meat from diseased fallen animals to the consuming public.

Mr. WATT. Reclaiming my time, the gentleman seems to be shaking his head yes. Maybe that means he is going to accede to the argument. If he is, I am happy to yield to him for that purpose.

Mr. KELLER. Mr. Chairman, it is not worth yielding then. I am not going to accede to this.

Mr. WATT. The gentleman is not there yet. In that case, I hope he will get there, because if there is any ambiguity in this, we need to make sure that it is cleared up, and I think it is very ambiguous at this point. I would rather have a redundant provision in the bill than to have an ambiguous or no provision in the bill.

Mr. KELLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am going to ask that my colleagues vote "no" on the Ackerman amendment on three separate grounds.

First, the concept of adulterated food claims are specifically allowed, both under the base bill, where it specifically says adulterated in section 402 of the Federal Food, Drug and Cosmetic Act, and under the manager's amendment, which specifically says that the term "qualified civil liability action" does not include an action brought under the Federal Trade Commission Act or the Federal Food, Drug and Cosmetic Act.

Under the Federal Food, Drug and Cosmetic Act, it specifically defines adulterated food in section 342. A food shall not be deemed to be adulterated if it is considered in whole or part of any filthy, putrid or decomposed substance, which, clearly, mad cow disease or e-coli or anything else would be considered.

The second reason to reject this that it does not apply is the language of this particular bill expressly says that we are talking about claims relating to weight gain, obesity or any health condition that is associated with weight gain or obesity: diabetes, high cholesterol, heart disease. It does not have anything to do with mad cow disease. If a person eats a mad cow burger, their claim goes forward. If a person eats an e-coli burger, their claim goes forward.

□ 1500

A final reason. The gentleman says, well, if that is the case, why does the gentleman care about my amendment? Well, let me address that as well.

This amendment would exclude from the protections of the bill any company that uses particular methods to slaughter perfectly healthy animals. For example, if a company during the slaughtering process places cattle in positions, like in a coral, in which they cannot walk unassisted, then these perfectly law-abiding companies that make meat from perfectly healthy animals would be unfairly excluded from the bill. That is wrong.

Perfectly healthy animals may be unable to stand or walk unassisted during the production process, so this amendment unfairly excludes many law-abiding sellers or perfectly healthy meat from perfectly healthy animals.

For the aforementioned reasons, that it is not needed; and even if it was, it is inappropriate.

Mr. WATT. Mr. Chairman, will the gentleman yield?

Mr. KELLER. I yield to the gentleman from North Carolina.

Mr. WATT. Mr. Chairman, I am just wondering whether we have the right manager's amendment, because I do not for the life of me see any of what the gentleman just described as being in the manager's amendment, or in the amendment that I have. Perhaps I have the wrong one.

The manager's amendment I have substitute language that says nothing about adulteration.

Mr. KELLER. Reclaiming my time, Mr. Chairman. The manager's amendment specifically says, "Such terms shall not be construed to exclude an action brought under the Federal Trade Commission Act or the Federal Food, Drug and Cosmetic Act." I read the gentleman a section under the Federal, Food, Drug and Cosmetic Act dealing with adulterated products.

Mr. WATT. Mr. Chairman, if the gentleman will continue to yield, is it not true that only the government could bring an action there? It would not be an individual action. And would that not be the exact point that the gentleman from New York (Mr. ACKERMAN) is making?

Mr. KELLER. Reclaiming my time once again, Mr. Chairman, I still, on the other grounds I mentioned earlier, it is still not needed because we are not talking about a claim based on weight gain or obesity.

Mr. ACKERMAN. Mr. Chairman, will the gentleman yield?

Mr. KELLER. I yield to the gentleman from New York.

Mr. ACKERMAN. Mr. Chairman, I think the gentleman is overlooking something. The government brings lawsuits for violation of the FDA act. Individuals cannot bring actions under the FDA act. Individuals bring civil cases under the tort laws, and that is what we are talking here.

This bill allows the government to bring a lawsuit. I want Mrs. JONES to be able to bring a lawsuit because her 8-year-old son was just made brain damaged and is going to die in 3 months because he ate a hamburger that somebody knowingly sold him that came from a downed animal that had mad cow disease. They cannot do that under this act because they are not the government.

Mr. KELLER. Mr. Chairman, reclaiming my time, and I respect the gentleman's enthusiasm, but his claim that that would be barred is patently untrue. Brain damage or death as a result of eating meat from an animal with mad cow disease is not a claim for weight gain or obesity. It is just totally not. It has nothing to do with this.

Mr. ACKERMAN. Mr. Chairman, if the gentleman will continue to yield, I would then ask, Why is the gentleman protecting companies that allow that?

Mr. KELLER. Why do people allow mad cow burgers to be sold? I do not know that any company does knowingly allow mad cow burgers to be served.

Mr. ACKERMAN. We do not prevent it.

Mr. KELLER. Well, that is for another day and another forum. It has nothing to do with this particular bill.

Mr. ACKERMAN. It certainly does. That is exactly the point of this amendment the gentleman is speaking on.

Mr. STENHOLM. Mr. Chairman, I move to strike the requisite number of words.

I want to begin by acknowledging the tenacity of my friend from New York in continuing to attempt to pass what is basically an animal rights question. We have had this discussion many times. It is interesting listening to the debate on this, because as a cosponsor of this base legislation today, I am opposed to frivolous lawsuits. But we make a mistake when we leave the impression with our colleagues that there is a connection between a downed animal and a diseased animal. That in itself is grounds for a frivolous lawsuit, because a downed animal is not necessarily a sick animal. And a downed animal is not necessarily a BSE animal. That is what, if this amendment shall pass, is intended to do, is to make a tie between the two.

Now, I am sure the gentleman knows that a lot has transpired since we had this discussion on the floor last summer. USDA has already banned all downer cattle from the human food supply, period. His amendment, though, includes all livestock; and this would provide the grounds for a lawsuit under the general argument I have heard from too many of my colleagues over here today, that any firm that could be accused of slaughtering a hog that could not walk, and if you have ever raised hogs you know that many times something happens to their body physique that will cause them to just drop and you cannot get them up for any other reason other than just pick them up and carry them. Now, what that would have to do with adulterated food, I do not know; but if this legislation should pass with this amendment in it, that would be grounds for a lawsuit.

It is not fair or just to exclude some manufacturers from these legal protections who are processing food legally and in accordance with USDA regulations simply because some folks have an unrelated animal welfare concern about downer animals. That needs to be thoroughly understood by my colleagues on the floor. There is no connection whatsoever between a downed animal and a food safety concern, it is only after examination of a downed animal that shows that it is, in fact, a sick animal and should and must be excluded.

And as I said this last summer, any firm that puts a diseased animal knowingly into our food chain should be hung to the nearest tree. That, as the chairman has explained, is what this legislation is all about. It does not take away the right to sue for those things that are so clear.

I conclude by again saying, please, please do not continue to attempt on this bill or any other bill to associate downed animals with diseased animals with BSE. That is not a fair comparison. It is not. There is plenty of attention being given to the issue of animal health and welfare in other arenas. The House Committee on Agriculture has held one hearing on BSE, a field hearing on animal identification was held last Friday in Houston; and we will be holding more hearings on these issues in the months ahead.

No one is more interested in seeing that our food supply remain as safe as it is today. We are making progress. We will continue to make progress. But it is not in the best interest of anyone to continue to make the tie between downers and food safety.

Mr. KING of Iowa. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I stand here on the floor of this Congress, and I sometimes think I have passed through the looking glass. I wonder what our Founding Fathers would think if 200-some years later we would be standing here with a piece of legislation on the floor debating about someone ordering a supersized order of french fries and not being able to push themselves away from the table soon enough so that that personal responsibility, so ingrained in the American character, is being pushed off across the entire American society. We might have to add on to every order of french fries if we are not able to protect these food suppliers.

I declined to sign onto this bill, although I support it, for that reason, that if we have to go down the path of protecting individuals and individual professions, we will never get done. I would like to see some blanket reform. But I stand in opposition to the Ackerman amendment.

A couple of points I would make. The Department of Agriculture, on balance, even though they have been more aggressive on downer livestock than I would have cared for, has done an excellent job in response to the BSE. The beef supply in the United States of America is the safest in the world, and the credibility that is there with our producers and the quality of that beef has been established by the confidence, as has been demonstrated by our consumers. That is what has held this market up.

The system we have in place does not need to be shaken up, nor does it need to have the safety of our food supply challenged on the floor of Congress when it has got such an outstanding record. I urge my colleagues to vote "no" on the Ackerman amendment. The purpose of H.R. 339 is to protect the food industry from having to defend themselves from frivolous lawsuits. Baseless lawsuits drain away our economic productivity and interfere with economic growth.

It is important to point out that this bill does not change the fact that anyone legitimately injured by substandard food can sue. However, the Ackerman amendment would open the door for countless groundless suits that could potentially bankrupt our agra businesses and our farmers.

I believe this amendment is a schematic way to gut the purpose of the entire bill, allowing Americans to continue to avoid taking responsibility for food choices.

With that said, I am opposed to the amendment that defines a downer animal. I am from western Iowa. In my State, we raise about 25 percent of the pork. This amendment would put market hogs in the same category as older cows that are to be tested for BSE; but as clearly stated by the gentleman from Texas, there is no linkage there between a downer animal and a diseased animal.

Market hogs can suffer unintended injuries on the way to market that cause walking problems and thus subject them to this amendment. But these injuries have nothing to do with the safety and quality of the meat we eat. It is also important to note that hogs are not subject to neurological diseases like BSE. So I urge the body to oppose the Ackerman amendment.

Mr. ANDREWS. Mr. Chairman, I move to strike the requisite number of words.

Mr. WATT. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS. I yield to the gentleman from North Carolina.

Mr. WATT. Mr. Chairman, I just want to respond to one thing that the gentleman just said who just debated. I, obviously, did not know any of our Founding Fathers personally, so it is hard for me to imagine what would make them turn over in their grave or whatever, as he indicated. But I think they would be a lot more distressed that we were here in this body today saying that State legislators are incompetent to handle these issues in our Federalist form of government than they would likely be incensed with us dealing with this mundane issue having to do with french fries and hamburgers. I think that is what would distress our Founding Fathers. And I regret that the gentleman missed that part of the debate earlier here. I think that is the distressing thing about this debate.

Mr. ANDREWS. Reclaiming my time, Mr. Chairman, I would agree with my friend from North Carolina. I think the Founding Fathers would be appalled that we were invading the 10th amendment purview of the States to determine these questions and imposing this standard for reasons that are lost on me.

Mr. ACKERMAN. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS. I yield to the gentleman from New York.

Mr. ACKERMAN. Mr. Chairman, I thank the gentleman from New Jersey for yielding to me.

The gentleman from Iowa took it upon himself to speak for the Founding Fathers, which gives me the initiative to speak for the founding mothers. I think they would be aghast to see that this Congress is looking to protect rather prurient corporate interests at the expense of the health and safety of the American people.

It is not about protecting pigs, my colleague. It is about protecting people. And I say to the gentleman from Iowa, as well as the gentleman from Texas, my good friend, who has had many discussions with me on this issue, that the Ackerman amendment does not take away anybody's right to sue. It does not give anybody, as the gentleman asserted, the right to sue. People have a right to sue now. That is the status quo under the American system of jurisprudence. You can bring a lawsuit.

What the Ackerman amendment attempts to do is to prevent what the opposition is trying to do, and that is to provide an escape clause for those corporations who say it is a regulation, not a law; and, therefore, we are exempt from lawsuits.

The bill before us protects those people who knowingly and willfully sell bad meat to good people and says the public cannot sue them. The government can bring action for violating the FDA law, but people cannot sue under this provision.

It is appalling to think of who we are protecting here. I would have thought that those who represent the States that have cattle and pigs, and so many people make an important living from livestock, would understand the magnitude of the damage that they are doing to their own industry and their own constituencies. The world does not believe what they are saying, that the American food is the safest food in the world. You have lost billions of dollars.

The Japanese will not eat American hamburgers, and they are the ones who have been buying it all over the world. Europeans test every cow before they put it on the market. America, with all our wealth, cannot do that to protect our own people, and my colleagues' constituents are paying the price. Billions of dollars you have cost them. Wake up.

The American people do not want to eat this meat. And it is not because they are just a bunch of animal lovers. They will eat meat if they know that it is safe. And it is your job to protect that industry as well as the public. And the way to do that is to keep the deck honest; to allow people to bring a lawsuit if they think harm was done to them and do not exclude the industry and those who knowingly and willfully sell products that are tainted to the public.

How can one exercise personal responsibility if you do not know the facts? There is no label on your hamburger that says that this hamburger came from a diseased or downed cow. People would not eat it, and you know that. It is a charade that we are playing here. This has nothing to do with trial lawyers. This is a simple amendment that closes an escape clause that I believe, with all due respect, was inadvertently created by an oversight, regardless of your feeling on trial lawyers or anything else.

And I should make it clear, talking about pigs, that my amendment does apply to all livestock, not just cattle.

□ 1515

The gentleman from Texas is right because all livestock, cattle, sheep and pigs can bear the animal form of mad cow that can be passed on.

The CHAIRMAN pro tempore (Mr. BASS). The time of the gentleman from New Jersey (Mr. ANDREWS) has expired.

(On request of Mr. WATT, and by unanimous consent, Mr. ANDREWS was allowed to proceed for 2 additional minutes.)

Mr. ACKERMAN. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS. I yield to the gentleman from New York.

Mr. ACKERMAN. Mr. Chairman, the USDA, which is selectively cited by the gentleman from Texas giving it such great authority, happens to be the authority that says that downed animals are 49 times more likely to have mad cow disease than ambulatory animals. There is the connection. It is not that there is no connection, it is not just that a cow fell and cannot get up and does not have a button to press.

If it is a downed animal, regardless of why it is a downed animal, it is 49 percent more likely to have mad cow disease. Do Members want to play that game of Russian roulette with their children? I do not. I think others really do not, either. If Members want to protect the American people, guarantee that we are playing straight with the American people. It is their interest that we are trying to protect. For the sake of trying to make a few more pennies on the pound, you are jeopardizing the entire industry, as well as the safety of the American public.

Mr. STENHOLM. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS. I yield to the gentleman from Texas.

Mr. STENHOLM. Mr. Chairman, with all due respect, the gentleman from New York keeps talking about BSE and mad cows and downers in the same breath. We are not arguing that today. With all due respect, the argument that the gentleman has just made, we have stock shows going on all over the country. A young boy or girl has raised this calf. They have shown it. Unfortunately, it breaks its leg. Under the gentleman's thinking, that calf immediately goes to the dump. It is unfit for human consumption no matter what because it is a downer and it cannot walk.

Mr. ACKERMAN. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS. I yield to the gentleman from New York.

Mr. ACKERMAN. Under this gentleman's thinking, that beloved animal of that little boy who has shown him all around, if he falls and breaks his leg, that animal should be treated humanely and humanely slaughtered which would prevent it from being sold to the public.

The CHAIRMAN pro tempore. The time of the gentleman from New Jersey (Mr. ANDREWS) has expired.

Mr. ANDREWS. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Jersey?

The CHAIRMAN pro tempore. Objection is heard from the gentleman from North Carolina (Mr. HAYES).

Mr. GOODLATTE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to this amendment. This bill is a good bill and 89 percent of the American people support the concept that somebody should not be able to go to a restaurant, to a food processor or food distributor and be able to sue them because they became obese because of their bad eating habits. Let us get back to the subject at hand.

What is wrong with this amendment is that the gentleman from New York (Mr. ACKERMAN) would completely gut the purpose of the bill. He keeps talking about deliberately and willfully putting into the meat supply diseased animals. We have laws against doing that now. But the gentleman's amendment does not say what he talks about.

The amendment says manufactured or distributed for human consumption. It does not say anything about willfully. It says manufactures or distributes. That means the processing plant, it means the distribution company, it means somebody who imports from another country where we have no control over what their laws are on downed animals. It means the restaurant or cafeteria that distributes the food. It means the grocery store that distributes the food. It does not address the specific concern of one particular instance.

This bill completely covers somebody who may be specifically suing because they ate tainted meat. But all the gentleman from New York is saying is if we have one instance from here on out where meat was sold that came from any downed animal, then that company loses the protection for all time under this bill. That is outrageous. It obviously completely guts the purpose of this legislation.

Mr. ACKERMAN. Mr. Chairman, will the gentleman yield?

Mr. GOODLATTE. I yield to the gentleman from New York.

Mr. ACKERMAN. Mr. Chairman, it seems to me the gentleman would have it both ways. First the claim is that my amendment is redundant, the bill already does what it does. Now the gentleman is saying that it guts the bill. How can it be redundant and gut the bill?

Mr. GOODLATTE. Mr. Chairman, reclaiming my time, I never once said that this is redundant. What I said was there is language in the bill that protects an individual from being sued, a business from being sued by an individual, if they ate tainted meat. But the gentleman's amendment would prohibit a company from having the protection of this bill if at any time they ever sold one single downed animal or bought from a company that had processed one downed animal. That covers every single circumstance of every single company that is engaged in food processing in the country.

So obviously the gentleman's amendment, no matter what his underlying intent is, and his underlying intent has nothing to do with obesity, whatever the gentleman's underlying intent is, the effect of his amendment is to kill this bill because it would remove protection that is desired by 89 percent of the American people that we are coming forward with to do today from every single company in the food process because it does not require a willful and malicious intent; it just says all you had to do was distribute it once in the entire history of your company from this day forward, and you lose that protection under the law.

This is a foolish, ridiculous amendment, and I urge my colleagues to reject it. The purpose of the legislation before us is to protect the food industry from having to defend themselves from frivolous obesity-related lawsuits. No one has ever argued that downed animals caused obesity differently than non-downed animals.

This bill does not in any way relate to the issues of food safety, animal health or animal welfare. Products that do not meet the standards of our laws relating to food safety, animal health or animal welfare will not be protected by this legislation.

Mr. Chairman, the bill before us today is a very carefully thought out effort to address the growing problem of frivolous and costly lawsuits that do nothing but harm American consumers. These lawsuits have the consequence of adding unnecessary cost to the food industry and consumers to the sole benefit of trial lawyers.

The Ackerman amendment has nothing to do with this issue. It simply creates confusion about who should be afforded protection from obesity-related lawsuits. Because it is so loosely drafted, so carelessly drafted, not addressing anything to do with malicious or willful action, but anybody who manufactures or distributes, any restaurant, any grocery store, any wholesale business, any processor who has had any downed animal at any time, that business would, for all time, be denied the protection of this legislation. I urge my colleagues to oppose this outrageous amendment.

Mr. ACKERMAN. Mr. Chairman, will the gentleman yield?

Mr. GOODLATTE. I yield to the gentleman from New York.

Mr. ACKERMAN. Mr. Chairman, I am trying not to be insulted by being accused of having a foolish and ridiculous amendment. I am sure the gentleman is insulting the amendment.

Mr. GOODLATTE. I am referring to a very foolish amendment, the gentleman is correct.

Mr. ACKERMAN. Let me suggest to your very sanctimonious self that it was the chairman of this very committee that said my amendment was redundant. The author of the bill, rather, who said that the amendment was redundant, that what I am trying to do is already in the bill.

Mr. GOODLATTE. Mr. Chairman, I reclaim my time.

The CHAIRMAN pro tempore. The time of the gentleman from Virginia (Mr. GOODLATTE) has expired.

The question is on the amendment offered by the gentleman from New York (Mr. ACKERMAN).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ACKERMAN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York (Mr. ACKERMAN) will be postponed.

The point of no quorum is considered withdrawn.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 6 offered by the gentleman from Virginia (Mr. SCOTT); amendment No. 7 offered by the gentleman from North Carolina (Mr. WATT); amendment No. 2 offered by the gentleman from New Jersey (Mr. ANDREWS); and amendment No. 1 offered by the gentleman from New York (Mr. ACKERMAN).

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

AMENDMENT NO. 6 OFFERED BY MR. SCOTT OF VIRGINIA

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Virginia (Mr. SCOTT) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 177, noes 241, not voting 15, as follows:

[Roll No. 48]

AYES—177

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Filner
Ford
Frost
Gonzalez
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hoeffel
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Marshall
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—241

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cooper
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Matheson
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—15

Ballance
Bell
Berkley
Conyers
Davis (IL)
Fattah
Frank (MA)
Gephardt
Hinojosa
Kucinich
Miller (FL)
Rodriguez
Tauzin
Udall (CO)
Wicker

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. BASS) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1550

Messrs. FORBES, PEARCE, JENKINS, MICA, CANNON, PLATTS and RUPPERSBERGER, and Mrs. MILLER of Michigan and Mrs. BIGGERT changed their vote from "aye" to "no."

Messrs. NEAL of Massachusetts, STUPAK, EVANS, MEEK of Florida, DAVIS of Florida, and Ms. KAPTUR changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 7 OFFERED BY MR. WATT

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from North Carolina (Mr. WATT) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 158, noes 261, not voting 14, as follows:

[Roll No. 49]

AYES—158

Abercrombie
Ackerman
Allen
Andrews
Baca
Baldwin
Becerra
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Carson (IN)
Case
Chandler
Clay
Clyburn
Costello
Crowley
Cummings
Davis (CA)
Davis (FL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Doyle
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frost
Gonzalez
Green (TX)
Grijalva
Gutierrez
Hastings (FL)
Hill
Hinchey
Hoeffel
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Lampson
Langevin
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Price (NC)
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Stark
Strickland
Stupak
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu

NOES—261

Aderholt
Akin
Alexander
Bachus
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Berry
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carson (OK)
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cooper
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (AL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint

Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Holden
Hooley (OR)
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Michaud
Miller (MI)
Miller, Gary
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Spratt
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NOT VOTING—14

Ballance
Bell
Berkley
Conyers
Davis (IL)
Frank (MA)
Gephardt
Hinojosa
Kucinich
Miller (FL)
Rodriguez
Tauzin
Udall (CO)
Wicker

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1557

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 2 OFFERED BY MR. ANDREWS

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New Jersey (Mr. ANDREWS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 129, noes 285, not voting 19, as follows:

[Roll No. 50]

AYES—129

Abercrombie
Ackerman
Allen
Andrews
Baldwin
Ballance
Becerra
Bishop (NY)
Blumenauer
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Carson (IN)
Case
Clyburn
Costello
Crowley
Cummings
Davis (CA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Doyle
Emanuel
Engel
Eshoo
Evans
Farr
Fattah
Filner
Ford
Frost
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hinchey
Hoeffel
Holt
Honda
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Lampson
Langevin
Lantos
Larson (CT)
Lee
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Millender-McDonald
Miller, George
Mollohan
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Rahall
Rangel
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Slaughter
Solis
Stark
Stupak
Thompson (CA)
Thompson (MS)
Tierney
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Weiner
Wexler
Wu

NOES—285

Aderholt
Akin
Alexander
Baca
Bachus
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Castle
Chabot
Chandler
Chocola
Clay
Coble
Cole
Collins
Cooper
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (AL)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Etheridge
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hobson
Hoekstra
Holden
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Issa
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Larsen (WA)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McKeon
Meeks (NY)
Menendez
Mica
Michaud
Miller (MI)
Miller (NC)
Miller, Gary
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Spratt
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Towns
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Waxman
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NOT VOTING—19

Bell
Berkley
Conyers
Davis (IL)
Frank (MA)
Gephardt
Hinojosa
Istook
Jones (NC)
Kucinich
Miller (FL)
Radanovich
Rodriguez
Souder
Strickland
Tauzin
Udall (CO)
Wicker
Woolsey

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. BASS) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1604

Mrs. KELLY changed her vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 1 OFFERED BY MR. ACKERMAN

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. ACKERMAN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 141, noes 276, not voting 16, as follows:

[Roll No. 51]

AYES—141

Abercrombie
Ackerman
Allen
Andrews
Baca
Baldwin
Becerra
Berman
Bishop (NY)
Blumenauer
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Carson (IN)
Case
Clay
Clyburn
Costello
Crowley
Cummings
Davis (CA)
Davis (FL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Engel
Eshoo
Evans
Farr
Fattah
Filner
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hinchey
Hoeffel
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Lampson
Langevin
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Michaud
Millender-McDonald
Miller, George
Mollohan
Moore
Murtha
Nadler
Napolitano
Neal (MA)
Olver
Owens
Pallone
Pascrell
Payne
Pelosi
Price (NC)
Rahall
Rangel
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Slaughter
Snyder
Solis
Stark
Stupak
Tancredo
Tauscher
Taylor (MS)
Thompson (CA)
Tierney
Towns
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu

NOES—276

Aderholt
Akin
Alexander
Bachus
Baird
Baker
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carson (OK)
Carter
Castle
Chabot
Chandler
Chocola
Coble
Cole
Collins
Cooper
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (AL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
English
Etheridge
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Lynch
Majette
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Menendez
Mica
Miller (MI)
Miller (NC)
Miller, Gary
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Ortiz
Osborne
Ose
Otter
Pastor
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Souder
Spratt
Stearns
Stenholm
Strickland
Sullivan
Sweeney
Tanner
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NOT VOTING—16

Bell
Berkley
Conyers
Davis (IL)
Frank (MA)
Gephardt
Hinojosa
Kucinich
Miller (FL)
Oxley
Rodriguez
Simpson
Smith (NJ)
Tauzin
Udall (CO)
Wicker

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1612

Mr. FORD changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 4 OFFERED BY MR. LAMPSON

Mr. LAMPSON. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. LAMPSON:

At the end of the bill (preceding the amendment to the long title), insert the following new section:

SEC. 5. ACTIONS BY YOUNG CHILDREN AGAINST SELLERS THAT MARKET TO YOUNG CHILDREN.

Notwithstanding any other provision of this Act, this Act shall not apply to an action brought by, or on behalf of, a person injured at or before the age of 8, against a seller that, as part of a chain of outlets at least 20 of which do business under the same trade name (regardless of form of ownership of any outlet), markets qualified products to minors at or under the age of 8.

Mr. LAMPSON. Mr. Chairman, today the House is continuing to consider H.R. 339, the Personal Responsibility in Food Consumption Act. I oppose the core of this bill because I believe that the constitutional right to seek redress in our courts as guaranteed by the seventh amendment is inviolate and the right to civil justice is a fundamental element of any stable and just society.

Time and time again, we see measures on the House floor designed to immunize special interests from the only means that citizens have to hold certain companies and corporations accountable. And today's bill is no exception.

So that is why I offer an amendment to the bill to protect children 8 years of age and younger. This very narrow amendment targets only those fast-food chain restaurants who aggressively market their products to the youngest segments of our society.

As the chair of the Missing and Exploited Children's Caucus and, more importantly, as a concerned grandparent, I have always fought to protect our children's interests. And as such, I want to make sure that children learn how to make informed nutritional choices. Part of that process requires us to hold those who treat children as an advertising demographic accountable, especially when children's health is at stake.

Mr. Chairman, today the younger age group faces a litany of health issues that generations before them did not face. Heart disease, high blood pressure, hypertension, joint problems, asthma, diabetes and cancer are on the increase with these children. And a steady diet of fast food is the absolute last thing that they need. Unfortunately, fast-food restaurants are bombarding our children with advertisements that encourage overconsumption of unhealthy eating choices.

The average child views 20,000 television commercials each year. That is about 55 commercials a day. And more disturbingly, the commercials for candies, snacks, sugared cereals and other foods with poor nutritional content far, far outnumber commercials for more healthy food choices.

Every working parent knows how aggressive these marketing campaigns can be, especially when they tie in incentives such as playgrounds and contests and clubs and games and free toys and movies and television and sports league-related merchandise. Well, how can we expect our children freely to say no to fast food when it is, no pun intended, pushed down their throats in this manner day in and day out?

Well, one child in my district who is 8 and who suffers from juvenile diabetes faces a far greater battle to maintain his fragile health than do most children. He already faces a lifetime of increased health and nutritional expenses. And I do not want him and other children like him to fall prey to the marketing practices of the fast-food industry.

□ 1615

Working families have enough to contend with through fighting to keep their jobs and providing a good education for their children, so they should not have to take any even more steps to protect their children from industry and advertizing practices that are running rampant pants. Should this unfortunate set of circumstances become reality our children, must be able to seek redress in our courts and in our justice system.

Mr. Chairman, studies indicate that at age 8 and under, children are more susceptible to such advertising, and even less likely to understand the purpose of this advertising. So that is why so much of this advertising is done during the cartoon hour, and it is no coincidence that major fast food chains routinely run their advertisements during this time. The tragic results of this marketing of fast food is a nation of overweight children who remain vulnerable to a host of medical conditions that they should not have to worry about during their formative years.

It is for these reasons that this amendment to H.R. 339 is necessary. If we totally foreclose any opportunity, any opportunity to hold this industry accountable, especially for our youngest children, we will only see an increase in childhood obesity and other related problems. It is time we demand responsibility on the part of the fast food industry, it is our responsibility as lawmakers to protect those who cannot protect themselves. My amendment offers that safety net for our children. And for these and many other reasons, we should support it today. I ask my colleagues to join me in supporting this amendment.

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment will do exactly the opposite of what the gentleman from Texas (Mr. LAMPSON) says it will do, because what the amendment says is that it tells parents that if they are not responsible, they can become millionaires. The amendments exploit children and it discourages parents from exercising parental responsibility at all times. It is the parents that buy the Happy Meals. It is the parents that take their kids to the fast food chain. And few kids under 8 either have their own money to buy the Happy Meals or can make it to the fast food outlet without their parents taking them down there.

So if this amendment is adopted and little Johnnie or little Mary become big Johnnie and real big Mary before the age of 8, then their parents can sue and hopefully break the bank, according to what their lawyers tell them.

The Los Angeles Times says this is wrong. And one of their editorials they said, in part, "If kids are chowing down to excess on junk food, though, aren't their parents responsible for cracking down?"

The gentleman from Texas' (Mr. LAMPSON) amendment says, no, they are not. And as a matter of fact, we will give those parents the opportunity of monetary enrichment if they buy their kids far too many happy meals and do not just say no when Johnnie and Mary pull on their parents' shirt tails and say, let us go down to McDonalds or the Burger King or one of these other fast food outlets.

Now, even the best obesity doctors realize this amendment is another sad assault on the concept of parental responsibility. Dr. Jana Clauer, a fellow at the New York City Obesity Research Center of St. Luke's Roosevelt Hospital has said, "I just wonder where were the parents when the kids were having those McDonalds breakfasts every morning. Were they incapable of pouring a bowl of cereal and some milk?"

Well, this amendment tells those parents that if they do not pour that bowl of cereal and put some milk on the top of it and ruin their kids health as a result, if those kids are under 8 they can go off to court because it was not their fault. Vote this amendment down.

Mr. WATT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from Texas (Mr. LAMPSON).

Mr. LAMPSON. Mr. Chairman, the words that the gentleman of Wisconsin (Mr. SENSENBRENNER) just spoke indicate that we would give the opportunity for someone to become wealthy in the event that the child became fat. Well, we are only asking that if a person becomes injured from eating the foods that are not healthy for them, and I also know that studies reviewed in a task force report indicate that the product preferences can indeed affect children's product purchase requests and we are bombarded with television ads. I know that those children are not so much with their parents when they are making the decision to go to McDonalds or whatever else, these fast food chains, but they are sitting in front of their television sets and the parents are there with them.

Much like what happened, and I believe the gentleman would probably agree that he does not like what we saw during the Superbowl when part of Janet Jackson's costume came off. Just like the child who was sitting in front of that TV did not have a choice of what he or she saw then, what choice do they have when they are watching cartoons and repeatedly time after time after time after time the same commercial that puts sugar in front of them over and over again continues to happen. Does it have an effect on their requests when they go to a grocery store or to a fast food restaurant? You better believe it does, and that is what this amendment is attempting to do. It gives them the opportunity to protect themselves from those injuries only.

Mr. KELLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I ask my colleagues to vote no on the Lampson amendment for at least three reasons. First, one of the cases involving McDonalds was brought by a 400-pound child. And every single meal, breakfast, lunch and dinner, that parent would take the kid to McDonalds and then shockingly one day wakes up and says, oh, the kid is 400 pounds. I never encouraged him to get any exercise. I never encouraged him to step away from the video games. I never encouraged him to not watch TV all day. I never encouraged him to eat healthy food. I never encouraged him to exercise. Now I want a million dollars.

That is insane.

This amendment tells parents that they are not responsible. And if they are not responsible, they can even profit by becoming millionaires and sue for it.

Now, it was brought up that these companies market to kids as well as adults. I have two kids, 8 years old and younger. I can tell you who else markets to kids. Barney, Bear in the Big Blue House, Dora the Explorer, Blue's Clues, Nickelodeon, the Disney Channel. In fact, one could argue if you take this argument, that, in fact, those programs are so enticing and so addicting and so enjoyable to kids but they have no choice but to sit there and watch them every day, and as a result, they lead a stagnant life-style, so why not sue them for obesity since they are marketing to them?

It puts the incentives in the wrong place totally.

Third, I want to briefly point out that childhood obesity is certainly a serious problem. The childhood obesity rates have doubled in the last 30 years. I do not stand before you today and hold myself out as the world's leading expert on physical fitness, but I can tell you the world leading expert on physical fitness, Dr. Kenneth Cooper, the founder of the aerobics movement, testified before my Committee on Education and the Workforce on February 14 of this year and said to us that these lawsuits against the food industry are putting, or putting a tax on Twinkies is not going to make a single person any skinnier.

He said, 30 years ago did kids come home from school and eat potato chips and cupcakes and cookies? Absolutely, they did. The difference is then they went out and rode their bike and played.

Now, they spend 1,023 hours a year in front of a TV screen watching TV or playing video games versus only 900 at school. Where are the parents? If you are talking about a kid eating fast food 21 times a week, where are the parents?

This amendment says the parents have no responsibility whatsoever. It defies common sense however well meaning the author may be. I urge my colleagues to vote no.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise to strike the requisite number of words.

Mr. Chairman, I am just confounded by the debate on the floor of the House as it relates to the Lampson amendment, and I rise to enthusiastically support it because all that I have been hearing from my colleagues in opposition is this is bash the parents day. The parents should have known. The parent needs to know. The parent ought to know.

The Lampson amendment is simple and it is without complexity. It simply tracks the tragedy that occurred some years ago when a young child was poisoned at one of our fast food locations in the northwestern part of America. I believe it was Whataburger and I believe it was in the State of Washington. All his amendment says is that if a child is injured, then you have a right to pursue the case on behalf of that child.

Now, as reason would have it, we already know that the Congress that we are under, over the last 10 years, has eliminated everyone's right to go into the courthouse for justice. So do not expect that there is going to be a rush to the courthouse with parents who are going to claim that all of their children have been injured because they are not going to be addressed. They will not have an opportunity to have their grievances addressed. All of the doors of the courthouses have been closed to individuals who have been aggrieved, if you will, and who have been injured.

This is a simple statement to provide the protection that the fast food chains want to have. How can we not, under the umbrella of equity, not accept the fairness of what the gentleman from Texas (Mr. LAMPSON) is offering today?

As the Chair of the Congressional Children's Caucus and the gentleman from Texas' (Mr. LAMPSON) leadership daily with exploited children, I cannot imagine that a simple amendment simply asking for fairness would not be accepted by this body. I ask my colleagues to look clearly and squarely at the simplicity of this amendment, and I ask them to vote for the Lampson amendment.

The CHAIRMAN pro tempore (Mr. BASS). The question is on the amendment offered by the gentleman from Texas (Mr. LAMPSON).

The amendment was rejected.

AMENDMENT NO. 9 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Ms. JACKSON-LEE of Texas:

Section 4(5), insert after "or a trade association," the following: "or a civil action brought by a manufacturer or seller of a qualified product, or a trade assocation, against any person,".

Ms. JACKSON-LEE of Texas. Mr. Chairman, it is interesting in listening to the debate on this legislation and seeing, of course, extensive coverage that this legislation is obtaining, it would appear that we are doing serious legislation, providing improvement to the Medicare bill, Medicaid bill, finding ways to quell the violence in Haiti, bring some resolution to the Iraq war, but to my colleagues, we are doing none of that.

We are now spending hours on the floor, and I certainly thank my colleagues for allowing this amendment to be made in order, trying to dash the hopes of those who have been severely injured and are seeking a redress of their grievances in a court of law.

Now, all of us come from constituency that are filled with fast food chains and restaurants. Many of us would disagree with recent statements of the administration that that equals to manufacturing; but we do know that people are employed by this industry.

In my own community, I have been a strong advocate of small businesses and the franchise owners who have received their economic income from this industry. But, Mr. Chairman, we have gone too far.

Now, we want to take up the cause of fast food chains with the likes of McDonalds and Jack in the Box as characters, give them the Constitution and the Bill of Rights and tell Americans where to go. My amendment is simple. You protect the fast food chains from lawsuits, and I simply want to be able to protect those like Oprah Winfrey and others who wish to make statements about the industry or the product and allow them to be immune from lawsuits.

My amendment ensures that what is good for the geese is good for the gander. Those advancing healthy diet by discouraging the consumption of certain food because of their adverse effects on a person's health and weight gain should not be subject to litigation from the food industry while it stands immune from any accountability under this bill.

□ 1630

Simple. There is no sinister, if you will, hide the ball behind this amendment. It simply says that you are protecting the industry; they cannot be sued; they are above reproach; they have the Constitution and are shredding it, so why cannot we?

I do not understand. When Oprah Winfrey was sued, I do not recall any hue and cry in this body during, or in the aftermath of the lawsuit against Ms. Winfrey, millions of dollars, moving her television program to Texas, in order to be able to press her case. The system worked. There was a trial and she was vindicated ultimately, but a long trial, and the industry had its day in court. But if we are to end the public's right to a jury trial on issues of food safety, we cannot end the public's right to freedom of speech by leaving food critics who play an important role in educating the public, stimulating positive change and promoting sound eating habits open to lawsuits from an immunized industry.

This amendment addresses this concern and ensures that every American can engage in or has access to an open and honest debate.

Mr. Chairman, I would simply say that the time we have spent on this bill, I know that our time could have been more well spent. I do not know whether we have documented how many lawsuits have gone against the industry. I do not know how much money we have documented, but I would certainly say to my colleagues that it seems ridiculous that we have legislation that closes the courthouse door. The judicial system has worked well for us in America, and I simply think we should allow it to continue its work.

This amendment simply tries to make this bill minimally slightly better for the poor consumers and the voices of reason that are now opposing some of the extreme in this industry. My support is for the food franchisees and all of those who work in the industry, but even they realize that fairness is something that cannot be eaten up.

I ask my colleagues to support the Jackson-Lee amendment.

Mr. Chairman, I offered an amendment, "WATT_019," in addition to "MJ_004." This amendment would prohibit the food industry—which enjoys broad immunity under this bill—

from initiating lawsuits against any person for damages or other relief due to injury or potential injury based on a person's consumption of a qualified product and weight gain, obesity, or any health condition that is associated with a person's weight gain or obesity.

This amendment is necessary to insure that the public debate on the health and nutritious effects of mass marketed food products is not completely squelched by this bill.

In 1996, Oprah Winfrey was sued under my home state's "food disparagement" laws by the beef industry for comments she made following the first "Mad cow" scare this country witnessed. After years of litigation, transfer of her television show to Texas, and an expenditure of over one million dollars, Ms. Winfrey prevailed at trial and on appeal.

Proponents of this bill assert that the food industry will incur significant cost defending "frivolous" lawsuits by the trial lawyers, but neglect the staggering costs that may be borne by private citizens should they dare question the health effects of any "qualified food product" under this bill.

My amendment insures that what's good for the geese is good for the gander. Those advancing healthy diets by discouraging the consumption of certain foods because of their adverse effects on a person's health and weight gain should not be subject to litigation from the food industry while it stands immunized from any accountability under this bill.

I don't recall any hue and cry in this body during or in the aftermath of the lawsuit against Ms. Winfrey to ban food libel laws. The system worked. But if we are to end the public's right to a jury trial on issues of food safety, we cannot end the public's right to freedom of speech by leaving food critics who play an important role in educating the public, stimulating positive change, and promoting sound eating habits open to lawsuits from an immunized industry.

This amendment addresses this concern and insures that every American can engage in or has access to an open and honest debate on matters of public health.

Once again, Mr. Chairman, I urge my colleagues to support my amendment.

Mr. KELLER. Mr. Chairman, I move to strike the last word.

I ask my colleagues to vote "no" on the Jackson-Lee amendment. The Personal Responsibility in Food Consumption Act, the base bill, pertains to lawsuits people bring because they gained weight and are suing the company that served them the food, claiming it is their fault. This amendment would prevent manufacturers or sellers of food from suing individuals because, and I am not making this up, the company literally got fat. I would like to ask, how is it possible to determine what the body mass index of General Motors is? Did it gain weight over the holidays? This amendment should be defeated solely because it erroneously assumes companies can literally get fat.

The author of the amendment mentioned a little insight into where she was going when she talked about she does not want individuals like Oprah Winfrey getting sued. Well, if my colleagues recall, that did not have anything to do with this. Oprah Winfrey got sued by the Beef Cattlemen's Association because they claimed she allegedly defamed them. They did not, the Beef Cattlemen's Association, that because of her comments, this association got fat.

So this is an erroneously drafted bill, has no application here, however it is intended, and I would ask my colleagues to vote "no."

Mr. WATT. Mr. Chairman, I move to strike the requisite number of words.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. WATT. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished gentleman from North Carolina for yielding, and to my good friend from the great State of Florida, let me try to clarify that this is simply an equity amendment. It is a fairness amendment.

The example of Ms. Winfrey was only because she, as an individual, was sued by a large conglomerate, the association dealing with the beef industry. I respect both of their points of view, in fact. I welcome the opportunity for both of them to press their causes in the courts of law.

What I am simply saying is that if we are going to spend time protecting the fast food industry, using the time of this House, then I would challenge my colleagues to give me a reason, a legitimate explanation for not protecting individual rights, and that means that if an industry is to be protected from suits that are considered frivolous, then individuals for their actions should be as well protected.

I do not understand why we are coming to the floor of the House with a simply one-sided, single-focused bill. No one has described the crisis. Usually this body is conceded to be a problem solver. No one has said that we are overrun with lawsuits. There is no documentation of the amount of money that has been expended, no suggestion that the GNP has been impacted, and so if it is fair to protect the industry, fast foods in particular, if it is fair to bash parents about whether or not their own children, if injured, have a right to go into court because of the food that they are eating, not knowing the particular conditions that the parents operate in, and I would imagine that the court will determine whether those lawsuits are frivolous, if it is all right to come to the floor to do that, then I cannot imagine a simple modifying of this legislation to equalize the rights of both individuals and associations to me seems to be, if you will, hypocritical.

Again, I would ask my colleagues to consider this amendment as an amendment of equity and equality and fairness. It is not necessarily the Oprah Winfrey amendment, but I think if Ms. Winfrey was here, she would acknowledge the pain, as well as the burden, that was put upon her to go as an individual and defend her case in another jurisdiction. At least she was allowed to go into court. In this legislation, the door is slammed shut on the basis of the fact that maybe hamburgers have now taken a greater standard in this country than someone's individual rights. I would like to find the constitution that says all hamburgers are created equal.

Let me ask my colleagues to support this amendment on the basis of fairness.

Mr. SENSENBRENNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, unfortunately, the gentlewoman from Texas' argument has nothing to do with her amendment and the examples that she has used has nothing to do with this bill.

First, what the amendment does is exactly what the gentleman from Florida (Mr. KELLER) has indicated, and that is to say, that a company could sue for getting too fat. Well, a company is a piece of paper that is signed by the Secretary of State of the State of corporation, and has the State seal affixed to it. Companies do not get fat, at least in the physical way that this bill is designed to address.

Secondly, the gentlewoman from Texas brings up the case of the lawsuit that was filed against Oprah Winfrey. That was a defamation suit. This bill has nothing to do with allegations of defamation. Anybody who claims to have a cause of action for defamation is perfectly able to go to court and file their case.

So I do not understand what relevance the gentlewoman's amendment has to the issues that are presented to this bill, and that is why it should be defeated.

Mr. UDALL of New Mexico. Mr. Chairman, I move to strike the requisite number of words.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. UDALL of New Mexico. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I will not take the full 5 minutes, but I am struck by the comments of my distinguished chairman and colleague from Wisconsin, because his interpretation, I believe, is not correct, because someone could claim that a fast food chain, and let me be fair in the calling of them, there are so many, whether it is Whataburger or McDonald's or Jack-In-The-Box or Burger King, that their hamburgers, as I said, it must be the constitutional protection of all hamburgers are created equal, but their hamburger makes one fat, just a simple statement.

Well, on page 5 of this bill, under the qualified civil liability action, it clearly suggests that that person would be apt to be sued, and so what I am saying is if we can put legislation on the floor of the House to protect the entities, the institutions, the businesses from frivolous lawsuits, then we should be able to protect those who are offering their opinion. By way of documentation, by way of research, they have equal rights.

This is an equity amendment, and it seems to me to be quite unusual that my colleagues would not welcome the opportunity to equalize lawsuits, equalize the ban on lawsuits because it is clear that it is in this bill, and I would ask my colleagues to consider the fairness of this because it is going directly to the point that is made in this bill, and I would ask my colleagues to support the Jackson-Lee amendment.

The CHAIRMAN pro tempore (Mr. BASS). The question is the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The amendment was rejected.

AMENDMENT NO. 10 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Ms. JACKSON-LEE of Texas:

At the end of the bill (preceding the amendment to the long title), insert the following new section:

SEC. 5. ACTIONS INVOLVING WEIGHT-LOSS PRODUCTS.

Notwithstanding any other provision of this Act, this Act shall not apply to an action alleging that a product claiming to assist in weight loss caused heart disease, heart damage, primary pulmonary hypertension, neuropsychologocal damage, or any other complication which may also be generally associated with a person's weight gain or obesity.

Ms. JACKSON-LEE of Texas. Mr. Chairman, when we looked at that bill, we tried to find some redeeming value to it because it does say Personal Responsibility in Food Consumption Act, and clearly there are none of us that want to be on the wrong side of personal responsibility, but I want to focus on what the bill actually does.

I think if my colleagues would listen, as the American people will have to fall victim to this particular legislation, they would know that this is going just too far because what H.R. 339 does is it bans suits for harm caused by dietary supplements and mislabeling which have nothing to do with excess food consumption and would prevent State law enforcement officials from bringing legal actions to enforce their own consumer protection law.

Beyond the idea of obesity, and I am going to get fat on whatever food one might be eating, including the very tasty French fries, this goes to the very heart of some tragic incidences that we have had dealing with food and nutritional supplements.

I am aghast, Mr. Chairman, that this bill deals with banning any opportunity to protect ourselves against ephedra and fen-phen and any other thing that has to do with these kinds of supplements.

Already we have seen the pain of various individuals who have lost their loved ones. This is nothing to simplify and/or to make light of. Even in this current year or the last year we have seen terrible tragedies occur because of a utilization of these particular drugs, and now my friends want to have a broad, legislatively written bill, H.R. 339, that slaps the face of those who lost their loved ones, who have been injured by the utilization of these supplements.

So my amendment is very simple. It provides, if you will, the protection against that. Hidden in this convoluted definition of the civil action that relates to a person's consumption of a qualified product and any health condition that is associated with a person's weight gain is the fact that a person is banned from bringing a lawsuit on these kinds of products and that this bill will shield the producer of dietary supplements from all liability.

I offer this amendment to ensure that makers of these highly dangerous and highly unregulated drugs are held accountable for their action. Let me give my colleagues an example, Mr. Chairman.

Under the Food, Drug and Cosmetic Act, all laws that apply to food apply to dietary supplements unless they explicitly exempt them. That means that this bill limits the liability of dietary supplementing manufacturers because it does not specifically exempt. Unlike hamburgers and French fries, dietary supplements often have hidden side effects that often have immediate and dire consequences, but yet we have a bill that is broad based with a broad sweep and no limitation, and unlike drugs, these supplements neither have to test for side effects nor report them to the Federal Government.

Let me tell my colleagues what is worse. This bill is retroactive. So ongoing lawsuits of people already punished, already injured, all suffering, already damaged, already dead are going to be voided by the passage of this lawsuit. How incredulous.

I cannot imagine that my colleagues would have such intent because I would never attribute sinister intent to the drafters of this legislation, and I would only ask my colleagues, let us fix it today on the floor of the House. Let us show America that there is no intent to go back into the courtroom of ongoing litigation where family members are gathered in great, if you will, disadvantage because of what has happened to them or a loved one and ask them to give up a legitimate claim, and then let us not go forward with a bill that takes a broad brush and denies one's right to get into the court on these dietary supplements and nutritional supplements.

□ 1645

The current system is not sufficient to deal with this threat. Consider ephedra, for example, which the FDA started investigating in 1997. It is now 7 years, 18,000 adverse reactions, and at least 155 deaths later; and it is just now being pulled off the shelves. So it is important to note, Mr. Chairman, that this amendment is simply to clarify this bill.

I would ask my colleagues to support this amendment and to recognize that this can help us together clarify the rights of those who are already in court and the rights of those going forward on the nutritional supplements that have brought great damage to many Americans.

Mr. KELLER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I will ask my colleagues to vote "no" on the Jackson-Lee amendment dealing with diet pills on a couple of grounds:

First, the Personal Responsibility in Food Consumption Act applies to weight gain, obesity, or any health condition that is associated with a person's weight gain, such as diabetes, high cholesterol, cardiovascular disease. It has nothing to do with weight loss and nothing to do with diet pills, and this amendment confusingly implies weight loss can be weight gain, which does not make sense.

The second part of the amendment, which is somewhat odd, is the amendment would bizarrely require Members to vote for a provision that states that being fat is "generally associated" with brain dysfunction and neurological disorders. Specifically, it says, "neurological damage or any other complication which may be generally associated with a person's weight gain or obesity."

Not all people who might be overweight are suffering from neurological problems. I can tell you that it is possible to be both fat and happy. So I do not understand the reason for this amendment.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. KELLER. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I would ask the gentleman if Santa Claus is both fat and happy?

Mr. KELLER. Reclaiming my time, Mr. Chairman, I believe he is.

Mr. WATT. Mr. Chairman, I move to strike the last word.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. WATT. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished ranking member very much for yielding to me. I know we can come to a meeting of the minds on this.

Mr. Chairman, I want to take my good friend from Florida somewhat to task because it is inaccurate what he has just represented to this body. It is totally inaccurate. These supplements claim to help prevent weight gain or they claim to help or to prevent obesity. This legislation does apply. Clear and simply, it does apply.

What is going to happen is that we are hiding the ball. This legislation will pass and thousands will be thrown out of the courthouse. I have already cited for my colleagues that there have been 18,000 adverse reactions from ephedra, with 155 deaths.

Let me advise how this bill impacts the problem that I am citing by way of my amendment and why it needs to be fixed. First of all, section 3(a) of the bill bans qualified civil liability action. That already goes to those who have had an adverse reaction or those who are dead and their family members are trying to go into court. Section 4(5) of the bill defines qualified civil liability actions as actions involving a qualified product. Section 4(4) of the bill defines a qualified product as a food under the Food, Drug and Cosmetic Act. Section 32(f)(f) of the Food, Drug and Cosmetic Act says a dietary supplement shall be deemed to be a food within the meaning of this chapter.

This bill is a direct correlation to the Food, Drug and Cosmetic Act; and ephedra, as a dietary supplement, is, therefore, a food, with 18,000 adverse reactions and 155 deaths. You can equate it to those who are allergic to dairy products, for example.

Again, these attempts are not to condemn the food industry globally. We all enjoy and need the nutrients produced by the agricultural industry as well as the food industry, the processing food industry, the fast-food industry that produces meals that sometimes may be the only meals that people have. But what we are saying, Mr. Chairman, and what we are saying to this body, you cannot hide the ball.

We hope that this is not a sinister intent, a back-door intent to have tort reform and to close the courthouse door. If it is not, you cannot argue with the fact that this is a food supplement covered by this bill. And I would say to my colleagues, when they do not want to accept any amendment, we may have a disagreement on this bill; but, frankly, we do not have a disagreement on the fact that people's rights may be denied. They think it is the food industry; I think it is individuals.

If my colleague thinks that the bill does not apply to dietary supplements, then why does he not accept the amendment? It does no harm anyhow. The language of the bill is ambiguous at best, dangerous at worst. But more importantly, I have just run through an explanation why food supplements are included. So I do not think we should take a chance. I think we should protect the American public and provide support for this amendment so in fact we have the opportunity to clarify it.

I do not see where this bill clarifies a distinction between food and the food supplement and the fact as to whether or not someone would make a claim that would subject them to a lawsuit. I am concerned, and I would think my colleagues should be concerned. This does not have to be time spent in frivolity. It can be a serious attempt at legislation. All we have to do is balance it.

If there is some substance to this idea that fast-food chains are being subjected unmercifully to lawsuits, then just imagine those without the kinds of resources that you might think a business would have and individually are sued by this industry. That is unfair. And those who are now in the process of suing because they have actually been harmed.

The very language of this bill that I think is overreaching anyhow, which is clearly retroactive, to me, suggests that we have a real problem. In fact, I would ask the question whether this bill will withstand any sort of court review; and if I can stretch it, whether it will withstand any kind of constitutional muster. Because I know hidden somewhere somebody's rights have been denied.

I would ask my colleagues to again support this equitable amendment that allows for the bill to be modified to protect individual rights and the ideas of food supplements being included.

Mr. SENSENBRENNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first of all, this bill has nothing to do with weight loss products, whether they are food supplements or drugs that require a prescription or drugs that are sold over the counter. It only deals with food that makes people increase their weight so that they become obese and have all of the medical problems related to obesity.

Now, on page 5 of the bill, "Qualified Product" is defined in section 201(f) of the Federal Food, Drug and Cosmetic Act; and this section of the Food, Drug and Cosmetic Act reads as follows: "The term food means when an article is used for food or drink for man or other animals, chewing gum and articles used for components of any such article."

So all of what the gentlewoman from Texas complains about is not covered in this bill because it is not a qualified product as defined by the bill.

And I will not yield to the gentlewoman. She has been up twice to try to explain what she is trying to do. She is just plain wrong.

And, secondly, there is one other thing that I think is very relevant, and this comes from the black and white provisions of her own amendment as in the CONGRESSIONAL RECORD. It talks about neuropsychological damage or other complications which may generally be associated with a person's weight gain or obesity.

Now, to say that someone who is obese has got psychological damage, I think, gets to the point of the gentleman from Florida saying that there are a lot of people who can be both fat and happy.

If the gentlewoman from Texas wants to draft an amendment to aim at the target, this was not it because the gun is shooting in the wrong direction.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I ask unanimous consent to make an inquiry.

The CHAIRMAN pro tempore (Mr. BASS). Is there objection to the request of the gentlewoman from Texas?

Mr. KELLER. Objection.

The CHAIRMAN pro tempore. Objection is heard.

The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) will be postponed.

AMENDMENT NO. 8 OFFERED BY MR. WATT

Mr. WATT. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

> Amendment No. 8 offered by Mr. WATT:
> Strike section 3(b).

Mr. WATT. Mr. Chairman, I will try to be brief, because we have been here for a long time. I do want to compliment all of my colleagues who have really explored the issues related to this bill vigorously, and I think it has been a good discussion.

This final amendment, and I do think it is the final amendment, would strike section 3(b) of the bill. Section 3(b) provides that a qualified civil liability action that is pending on the date of the enactment of this act shall be dismissed immediately by the court in which the action was brought or is currently pending.

The effect of that language is to make this bill retroactive in its application applied to pending lawsuits as of the date the law becomes effective. Now, there are not currently any pending lawsuits, because all of them have been dismissed, as I have indicated previously. But between now and the time that this legislation may be enacted, other lawsuits may be pending or may be filed; and so this amendment is aimed at protecting against retroactive application of this bill because I think it is just unfair and almost un-American to change the rules of a legal process in the middle of the action.

Under this bill, any banned lawsuit would be dismissed by a court whether it has just been filed, a judgment is imminent, or a judgment has been entered and post-judgment proceedings and appeal may even be in process. This requirement is inherently unfair to litigants who may have devoted countless time and resources based upon their legitimate reliance on the laws of the States at the time they initiated their lawsuits.

Whether or not there are pending cases that would be dismissed under the bill, the retroactivity of the bill is bad policy and bad precedent. Our Nation prides itself on a fair, impartial, and open judiciary. This provision, however, undermines the judiciary and erodes public confidence in the system. The American people cannot have faith that any of their rights are secure if we change the rules of the game midway through a legal process. The judicial system, State and Federal, is a vital part of our constitutional framework, and we should not be changing the rules in midstream.

As a litigator, I know how deeply our citizens feel about rights they advance in court. I know the personal stress and financial strain that lawsuits may impose on an entire family, and I know how contrary this provision is to fundamental notions of fairness and fair play. I urge my colleagues to support the amendment to eliminate the retroactivity of this bill.

□ 1700

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment.

This amendment would prevent the application of H.R. 339 to pending lawsuits and must be defeated. The amendment would essentially gut the entire bill by preventing the dismissal of pending lawsuits. If such an amendment passed, all that would happen is that hundreds of additional cases would be filed right before the date of enactment. That is exactly what happened in Texas and Mississippi when those States recently enacted legal reforms that did not preclude pending cases.

Such an amendment, as offered by the gentleman from North Carolina, would therefore make the current situation much worse. The Supreme Court has held that Congress can impose rules that apply retroactively, if it does so, pursuant to an economic policy. Review of retroactive legislation under the due process clause is no more than a variety of judicial regulation of economic activity under the concept of substantive due process.

The general principles the Supreme Court has handed down regarding the constitutionality of retroactive legislation under due process principles were summarized by the court as follows: "The strong deference accorded legislation in the field of national economic policy is no less applicable when that legislation is applied retroactively. Provided that the retroactive application of a statute is supported by a legitimate legislative purpose, furthered by rational means, judgment about the wisdom of such legislation remain within the legislative and exclusive branches. The retroactive legislation does not have to meet a burden not faced by legislation that has only future effects, but that burden is met simply by showing that the retroactive application of the legislation is itself justified by a rational legislative purpose," and that is Pension Benefit Guaranty Corporation v. R.A. Gray & Company decided by the Supreme Court in 1984.

This bill aims to save the national food industry from bankruptcy due to pending lawsuits and is an enactment pursuant to a national economic policy. The Supreme Court also upheld the retroactive application of the liability provisions of the Multiemployer Pension Plan Amendments Act of 1980 against the challenge that the withdrawal liability provisions violated the fifth amendment taking of property clause.

The provision of the Act that required an employer to fund its share of a pension plan was viewed by the court as a law regulating economic activity to promote the common good. Therefore, the law was not an invalid taking of property for which compensation was due. That is Connolly v. Pension Benefit Guaranty Corporation, 1986.

This amendment is a bad one. It is designed to gut the legislation and should be defeated.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I move to strike the last word.

I rise to support of the Watt amendment, and would offer to say to the gentleman from Wisconsin (Mr. SENSENBRENNER), this is a vital amendment. This happens to seek to eliminate the retroactivity of the very point that I previously made regarding the ongoing and pending lawsuits, particularly on the Ephedra issue.

Let me cite an example to show how deadening and devastating this legislation would be passed with the anti or retroactive language in it that would then stop at the courthouse steps; more seriously, stop at the bench of the judge those ongoing litigation matters that are now pending.

I gave some comfort by suggesting that I would not attribute anything misdirected or mean-spirited to this legislation; I assume there is some purpose for it, but I cannot imagine why we would want to close the door on those who have suffered.

Let me cite an example. Earline Cook has filed a wrongful death claim in the United States District Court for Western Missouri against several companies after her husband passed away in July 2001 after taking a product containing Ephedra. Mr. Cook was a decorated military veteran who died after ingesting an Ephedra-based product while playing basketball on a military base. The autopsy and military investigation concluded that death was caused by the Ephedra-based product. The military base recently named the gymnasium after Mr. Cook in recognition of his dedication and service to the Army and his efforts to stay in top physical shape during his military career.

Her case is currently pending, and I will submit the actual lawsuit into the RECORD because, for some reason, my colleagues seem to think we are giving up smoke, and I would tend to think this is to the contrary.

This is so important because dietary supplements are covered by this legislation. Section 321(ff) of the Food, Drug and Cosmetic Act says "a dietary supplement shall be deemed to be a food within the meaning of this chapter," and this language is referred to in this legislation.

So the Watt amendment is an excellent amendment because the gentleman is trying to protect the likes of Ms. Cook who is innocent, and while she has filed in a Federal court, unbeknownst to her, we are on the floor of the House undermining, cancelling her lawsuit. Might I just say, what a tragedy.

I imagine we could name a number of serious incidents that are ongoing that have resulted in lawsuits regarding Ephedra, and maybe we can list a number of other dietary supplements as food supplements as section 321(ff) suggests. It is the height of hypocrisy that the case that is pending is that of a decorated military veteran who was attempting to stay at full measure to serve his country and who was playing basketball on a military base. This lawsuit is ongoing, and I cannot understand why we would want to douse this widow's opportunity to petition in a court of law.

We have already said that the judicial system works, and I cannot imagine why we are here today playing with the lives and the ability to achieve justice of those who are here in this country, and particularly as this particular case suggests, those are willing to give the ultimate measure for this Nation.

This is a straightforward amendment which carries with it the weight of rightness, and that is that you cannot have retroactivity in this bill. That would deny people the right to access their rights in court.

My conclusion is that I beg to differ with anyone who would say that this is not covered, food supplements are not covered in this bill because they need to read section 321(ff). The Food, Drug and Cosmetic Act says "a dietary supplement shall be deemed to be a food within the meaning of this chapter." It is covered, and this amendment should pass. I ask my colleagues to support the Watt amendment.

Mr. Chairman, I urge everyone to vote "yes" to the first of my two amendments, "MJ_004" to ensure that dietary supplement manufacturers don't get away with murder.

This bill bans not only so-called "obesity-related suits," but any civil action that "relate[s] to . . . a person's consumption of a qualified product . . . and any health condition that is associated with a person's weight gain." Note that the person with the health condition does not have to be obese, they only have to have a health condition that obese people also have. Heart disease and kidney problems would be some of those diseases, for example. Hidden in this convoluted definition is the fact that this bill will shield the producers of dietary supplements from all liability. I offer this amendment to ensure that makers of these highly dangerous—and highly unregulated—drugs are held accountable for their actions.

Under the Food, Drug and Cosmetic Act, all laws that apply to "food" apply to dietary supplements unless they explicitly exempt them. That means this bill also limits the liability of dietary supplement manufacturers. Unlike hamburgers and french fries, dietary supplements often have hidden side effects that have immediate and dire consequences. And unlike drugs, these supplements neither have to test for side effects nor report them to the Federal Government.

Our current system isn't sufficient to deal with this threat. Consider ephedra. The FDA started investigating ephedra in 1997. It's now 7 years, 18,000 adverse reactions, and at least 155 deaths later—and it's just now being pulled off the shelves. Despite the reports of strokes, seizures, heart attacks, and sudden death, ephedra was allowed to stay on the market.

Now that ephedra is gone, new diet drugs are already taking its place: bitter orange, aristolochic acid, and usnic acid. All three have been associated with kidney and liver problems. And while the FDA claims that it will look into the matter, we all saw what happened the last time the FDA began its cumbersome process. How many people will die this time? While the government works through its bureaucratic process, we have to let people have their day in court to stop these tragic events from happening again.

Vote "aye" for this amendment and make sure that this bill is limited to what it claims to stop—frivolous obesity cases, and not meritorious claims against dangerous drug manufacturers.

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI, CENTRAL DIVISION

EARLINE COOK, surviving spouse of HENRY L. COOK, deceased, and administrator of the Estate of Henry L. Cook, deceased,

Plaintiff,

v.

CYTODYNE TECHNOLOGIES, INC., a New Jersey corporation, Serve: Robert Chinery, Jr., Cytodyne Technologies, Inc., 2231 Landmark Place, Manasquan, New Jersey 08736,

and

NUTRAQUEST, INC., a New Jersey corporation, Serve: Robert Chinery, Jr., Nutraquest, Inc., 2231 Landmark Place, Manasquan, New Jersey 08736,

and

ROBERT CHINERY, JR., individually,

and

PHOENIX LABORATORIES, INC., a New York corporation, Serve: Mel L. Rich, President and CEO, Phoenix Laboratories, Inc., 140 Lauman Lane, Hicksville, New York 11801,

and

GENERAL NUTRITION CENTER, INC., d/b/a GNC, a Pennsylvania corporation, Serve: General Nutrition Center, Inc., c/o United States Corporation Company, 221 Bolivar, Jefferson City, MO 65101,

and

GENERAL NUTRITION CORPORATION, d/b/a GNC, a Pennsylvania corporation, Serve: Michael K. Meyers, President & CEO, General Nutrition Corporation, Inc., 921 Penn Avenue, Pittsburgh, PA 15222,

and

FICTITIOUS DEFENDANTS A,B,C, and D,

Defendants.

COMPLAINT

COMES NOW, Plaintiff, individually, on behalf of the class of claimants entitled to recover for the wrongful death of Henry L. Cook and as Administrator of the Estate of Henry L. Cook, and for her Complaint states and alleges as follows:

Type of Case

1. This is a wrongful death action brought against Defendants under Missouri law, §537.080 RSMo. for the wrongful death of Henry L. Cook on or about July 17, 2001. This action is brought by Plaintiff, Earline Cook, both individually as the surviving spouse of Henry L. Cook, as representative for the class claimants under §537.080 RSMo. and as the duly appointed administrator of the Estate of Henry L. Cook. Decedent Henry L. Cook used Defendants', Cytodyne Technologies, Inc. (hereinafter "Cytodyne")/Nutraquest, Inc. (hereinafter "Nutraquest") product—Xenadrine RFA–1—preceding his death on or about July 17, 2001. As a direct and proximate result of taking this product decedent Henry L. Cook was caused to suffer physical injury and death by sudden cardiopulmonary arrest. The Xenadrine RFA–1 product is manufactured by Cytodyne/Nutraquest and Defendant Phoenix Laboratories, Inc. (hereinafter "Phoenix"), and was sold and marketed through General Nutrition Center, Inc. and/or Defendant General Nutrition Corporation (hereinafter jointly referred to as "GNC") retail outlets. The events giving rise to Henry L. Cook's death occurred in St. Joseph, Missouri. This action seeks monetary damages for the personal injuries and wrongful death caused by the Xenadrine RFA–1 product, and for Earline Cook's loss of the consortium of her husband and for all the damages allowed by law.

Parties

2. Plaintiff, Earline Cook, is an adult resident of St. Joseph, Buchanan County, Missouri.

3. Defendant, Cytodyne Technologies, Inc. ("Cytodyne") is a corporation organized and existing under the laws of New Jersey. Cytodyne's principal place of business is located at 2231 Landmark Place, Manasquan, New Jersey, 08736. At all times relevant hereto, Cytodyne was in the business of manufacturing, marketing, selling and distributing Xenadrine RFA–1.

4. Defendant Cytodyne is a foreign corporation that is not registered or qualified to do business in the State of Missouri. Cytodyne does not have a registered agent for service of process in Missouri. Cytodyne Technologies may be served through any of its officers at its principal place of business at 2231 Landmark Place, Manasquan, New Jersey, 08736.

5. Defendant, Nutraquest, Inc. ("Nutraquest") is a corporation organized and existing under the laws of New Jersey. Nutraquest's principal place of business is located at 2231 Landmark Place, Manasquan, New Jerseys, 08736. Nutraquest, Inc. was formerly known as Cytodyne Technologies, Inc. At all times relevant hereto, Nutraquest was in the business of manufacturing, marketing, selling and distributing Xenadrine RFA–1.

6. Defendant Nutraquest is a foreign corporation that is not registered or qualified to do business in the State of Missouri. Nutraquest does not have a registered agent for service of process in Missouri. Nutraquest may be served through any of its officers at its principal place of business at 2231 Landmark Place, Manasquan, New Jersey, 08736.

7. Defendant Robert Chinery, Jr. ("Chinery") is an individual residing in New Jersey. At all times relevant hereto, Chinery was the founder, sole shareholder and a corporate officer of Cytodyne/Nutraquest. On information and belief, prior to the formation of Cytodyne/Nutraquest, Chinery created, developed, tested, manufactured, distributed and/or sold Xenadrine RFA–1 (under that name or a different name) individually. Chinery personally had knowledge of and knowingly participated in the actions of Cytodyne/Nutraquest giving rise to liability as set forth within this Complaint. Additionally, upon information and belief, Chinery owns 100% of Cytodyne/Nutraquest's stock and Cytodyne/Nutraquest is so dominated by Chinery that to avoid injustice the corporate form of Cytodyne/Nutraquest should be disregarded and Chinery should be held personally and individually responsible for the actions of Cytodyne/Nutraquest.

8. Defendant, Phoenix Laboratories, Inc. ("Phoenix") is a corporation organized and existing under the laws of the State of New York. Phoenix's principal place of business is located at 140 Lauman Lane, Hicksville, New York, 11801. At all times relevant hereto, Phoenix was in the business of manufacturing, formulating, producing, marketing, selling and distributing Xenadrine RFA–1.

9. Defendant Phoenix is a foreign corporation that is not registered or qualified to do business in the State of Missouri. Phoenix does not have a registered agent for service of process within the State of Missouri. Defendant Phoenix may be served through Mel L. Rich, its President and Chief Executive Officer, at its principal place of business, 140 Lauman Lane, Hicksville, New York 11801.

10. Defendant General Nutrition Center, Inc. d/b/a GNC is a corporation organized and existing under the laws of the State of Pennsylvania. Defendant General Nutrition Center, Inc. is not registered or qualified to do business in the State of Missouri with its principal place of business at 921 Penn Avenue, Pittsburgh, Pennsylvania. Defendant General Nutrition Center, Inc. may be served through its registered agent in Missouri, the

United States Corporation Company, 221 Bolivar, Jefferson City, Missouri 65101.

11. Defendant General Nutrition Corporation d/b/a/ GNC is a corporation organized and existing under the laws of the State of Pennsylvania. Defendant General Nutrition Corporation is not registered or qualified to do business in the State of Missouri. Defendant General Nutrition Corporation does not have a registered agent for service of process within the State of Missouri. Defendant General Nutrition Center, Inc. may be served through Mr. Michael K. Meyers, its President and Chief Executive Officer at its principal place of business, 921 Penn Avenue, Pittsburgh, Pennsylvania 15222.

12. Defendant General Nutrition Center, Inc. and Defendant General Nutrition Corporation are both names under which the same business and/or corporation has operated and may be jointly referred to within this Complaint as GNC.

13. Fictitious Defendants, A, B, C, and D, are those persons, franchisees, sales representatives, district managers, firms or corporations whose actions, inactions, fraud, scheme to defraud, and/or other wrongful conduct caused or contributed to the injuries sustained by Plaintiff and Decedent, whose true and correct names are unknown to Plaintiff at this time, but will be substituted by Amendment when ascertained. At all times relevant hereto, the fictitious defendants were in the business of marketing, formulating, producing, selling and distributing Xenadrine RFA–1.

14. At all times relevant hereto, Defendants were in the business of manufacturing, marketing, producing, formulating, selling and distributing Xenadrine RFA–1.

Jurisdiction and Venue

15. The matter in controversy significantly exceeds, exclusive of interest and costs, the sum of $75,000 and is properly before this Court.

16. This Court has personal jurisdiction over Cytodyne/Nutraquest pursuant to §506.500 RSMo. because this cause of action accrued in Missouri and arises our of (1) the transaction of business within the State of Missouri by Cytodyne/Nutraquest and its employees; and (2) the commission of tortious acts by Cytodyne/Nutraquest and its employees within the State of Missouri.

17. This Court has personal jurisdiction over Chinery pursuant to §506.500 RSMo. because this cause of action accrued in Missouri and arises out of (1) the transaction of business within the State of Missouri by Chinery through his alter ego—Cytodyne/Nutraquest; and (2) the commission of tortuous acts by Chinery through his alter ego—Cytodyne/Nutraquest within the State of Missouri. Additionally, Chinery, as a corporate officer of Cytodyne/Nutraquest, knowingly participated in the actions and conduct of Cytodyne/Nutraquest giving rise to the liability set forth herein and therefore (1) transacted business within the State of Missouri; and (2) committed tortuous acts within the State of Missouri.

18. This Court has personal jurisdiction over Phoenix pursuant to §506.500 RSMo. because this cause of action accrued in Missouri and arises out of (1) the transaction of business within the State of Missouri by Phoenix and its employees; and (2) the commission of tortious acts by Phoenix and its employees within the State of Missouri.

19. This Court has personal jurisdiction over GNC pursuant to §506.500 RSMo. because this cause of action accrued in Missouri and arises out of (1) the transaction of business within the State of Missouri by GNC and its employees; and (2) the commission of tortious acts by GNC and its employees within the State of Missouri.

20. This Court has personal jurisdiction over Fictitious Defendants A, B, C and D pursuant to §506.500 RSMo. because this cause of action accrued in Missouri and arises out of (1) the transaction of business within the State of Missouri by Fictitious Defendants A, B, C and D and their employees; and (2) the commission of tortious acts by Fictitious Defendants A, B, C and D and their employees within the State of Missouri.

21. Plaintiff's claim for wrongful death accrued in Missouri. On information and belief, the Xenadrine RFA–1 was purchased and ingested by decedent in Missouri—specifically in St. Joseph, Missouri within the Western District of Missouri. Decedent resided in St. Joseph, Missouri within the Western District of Missouri at the time of his death. Plaintiff currently resides in St. Joseph, Missouri within the Western District of Missouri. Defendants include an individual non-resident and foreign corporations, one or more of which has been and are currently engaged in business, directly or by authorized agent, in Missouri. Defendants GNC's registered agent is specifically located within this division of the Western District of Missouri in Jefferson City, Missouri.

22. Venue is appropriate before this Court pursuant to §508.010 RSMo as defendants include both individuals and corporations and all defendants are non-residents of Missouri. Furthermore, Defendant GNC's registered agent is located in Jefferson City, Missouri.

General Allegations

23. Decedent Henry Lee Cook was born on June 16, 1953 in Yazoo City, Mississippi. Decedent Henry L. Cook and Plaintiff Earline Cook were married on January 21, 1985.

24. At the time of his death, decedent Henry L. Cook was employed with the United States Army as a military police officer, having attained the rank of Sergeant Major.

25. Prior to his death, decedent Henry L. Cook was in good health and physical condition and regularly engaged in physical activities such as running, playing basketball and other exercise. Mr. Cook regularly worked out at the gym at work approximately four times a week and regularly engaged in physical activities.

26. Upon information and belief, at a point in time relatively shortly before his death, decedent Henry L. Cook purchased Xenadrine RFA–1 from Defendant GNC's store located in St. Joseph, Missouri. Thereafter, up to and including on the date of his death, decedent Henry L. Cook regularly took the Xenadrine RFA–1 product in accordance with the recommended dosages contained on the Xenadrine RFA–1 bottle.

27. On July 17, 2001, decedent Henry L. Cook ingested the recommended dosage of Xenadrine RFA–1 product in St. Joseph, Missouri.

28. At approximately 11:30–11:45 a.m. on July 17, 2001, decedent Henry L. Cook—while playing basketball at Ft. Leavenworth, Kansas—collapsed and was non-responsive. Military personnel on the scene immediately attempted to administer cardio pulmonary resuscitation until emergency personnel arrived. Emergency personnel attempted electronic shock treatment but were unable to revive decedent Henry L. Cook. Henry L. Cook was immediately transported via ambulance to the local hospital where he was pronounced dead at 12:50 p.m.

29. Because of the sudden and unexpected nature of decedent Henry L. Cook's death, the United States Army conducted an investigation into decedent Henry L. Cook's cause of death.

30. During the investigation, military investigators seized a bottle of Xenadrine RFA–1. At the time of decedent Henry L. Cook's death, the bottle of Xenadrine RFA–1 had 52 of the original 120 pills remaining in the bottle.

31. An autopsy was performed on decedent Henry L. Cook on July 18, 2001.

32. Toxicology reports from the autopsy revealed ephedrine and pseudoephedrine in the heart blood (respectively 140 ng/ml and 47.1 ng/ml).

33. Toxicology reports from the autopsy also revealed ephedrine and pseudoephedrine in the femoral blood (respectively 46.6 ng/ml and 18.5 ng/ml).

34. The autopsy results support the conclusion that the ephedrine contained in the Xenadrine RFA–1 ingested by decedent Henry L. Cook prior to his death caused or contributed to cause decedent Henry L. Cook's death.

35. As a direct and proximate result of defendants' acts and omissions, plaintiff's decedent Henry L. Cook was caused to suffer injuries and death. Plaintiff has been caused to suffer damages in the past from the loss of her husband, and will continue to experience this loss in the future. Upon the trial of this case, Plaintiff will request the Jury to determine fair compensation for the amount of loss which Plaintiff and others have incurred in the past and will likely incur in the future as a result of the wrongful death of Henry L. Cook.

Xenadrine RFA–1 and Defendants' Knowledge Concerning its Dangerous Propensities

36. Xenadrine RFA–1 is an ephedra-containing dietary supplement/herbal product.

37. In addition to ephedra, Xenadrine RFA–1 contains other constituent "herbal" products that increase and potentiate the effects of ephedrine. Likewise, Xenadrine RFA–1 contains ephedrine alkaloids other than ephedine.

38. Defendants did manufacture, design, formulate, produce, package, market, sell and/or distribute Xenadrine RFA–1.

Mr. KELLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am asking my colleagues to vote no on the Watt amendment dealing with the pending lawsuits.

This amendment was raised at the Committee on the Judiciary. The gentleman made similar, consistent arguments, and it was shot down at the time.

I would like to give three reasons why my colleagues should vote no. First of all, there is a good policy reason to vote no. Second, the Supreme Court will uphold this; and third, we have done similar language before in other bipartisan bills.

First, with respect to the reason of policy, if such an amendment were passed, all that would happen is we would have hundreds if not more cases filed before the date of enactment, and we know that after this bill passes today, it has to pass the other body where we have Senator MCCONNELL as the chief sponsor, so there would be a time frame where there would be an incentive to find the right jury and the right judge.

We have an idea that is sort of their game plan because the one witness the Democrats called at the Committee on the Judiciary hearing was a man named John Banzhaf who said, "Somewhere there is going to be a judge and a jury that will buy this, and once we get the first verdict, as we did with tobacco, it will open the floodgates." So it does away with that incentive that clearly they want.

Second, the Supreme Court has held that Congress can impose rules retroactively if it does so pursuant to an economic policy. The Pension Benefit Guaranty Corporation v. R.A. Gray is one example. Clearly a bill that aims to save the food industry from potentially bankrupting litigation like that of the tobacco industry is pursuant to a national economic policy, especially since it is the largest private sector employer in the country.

Third, this exact same language appeared in H.R. 1036, the Protection of Lawful Commerce and Arms Act, which enjoyed wide bipartisan support in this House and received 285 votes. I know the gentleman from North Carolina (Mr. WATT) is going to say yes, but that bill was defeated in the Senate. Fair enough, it was defeated in the Senate, but it was because gun control measures were added to it. There were no changes to this particular provision. It has enjoyed broad bipartisan support in the past. I urge my colleagues to vote no on the Watt amendment.

Mr. SCOTT of Virginia. Mr. Speaker, I move to strike the requisite number of words.

Mr. Chairman, just because we made something retroactive in the past does not make it a good idea. It is a bad idea to pass legislation that retroactively affects pending lawsuits.

Mr. WATT. Mr. Chairman, will the gentleman yield?

Mr. SCOTT of Virginia. I yield to the gentleman from North Carolina.

Mr. WATT. Mr. Chairman, I just want to briefly make it clear that my colleagues are trying to make it appear that this is a customary practice of ours. It really is a rare thing to make a piece of legislation retroactive, and even rarer to make it retroactive to pending lawsuits that have already been filed.

I have got a whole list of things that we have filed that one could argue might be better candidates for retroactive application than this particular piece of legislation that our own committee has passed out. And to hang our hats on something that the Senate did not even think was worthy of passing on to the President is a real stretch.

I am going to resist the temptation to start reading the bills that the Committee on the Judiciary has passed without retroactivity but things like the Bill Emerson Good Samaritan Food Donation Act, which limited the liability of those who donate food to a charity, we did not even make that retroactive in its application.

There are a bunch of things that we passed, and I am the first to concede, as the chairman acknowledged in his statement, I am not arguing this is unconstitutional or even unprecedented, I think it is unfair and unnecessary in this case.

The CHAIRMAN pro tempore (Mr. BASS). The question is on the amendment offered by the gentleman from North Carolina (Mr. WATT).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. WATT. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from North Carolina (Mr. WATT) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 10 offered by the gentlewoman from Texas (Ms. JACKSON-LEE); and amendment No. 8 offered by the gentleman from North Carolina (Mr. WATT).

The first electronic vote will be conducted as a 15-minute vote. The remaining electronic vote will be conducted as a 5-minute vote.

AMENDMENT NO. 10 OFFERED BY MS. JACKSON-LEE of texas

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 166, noes 250, not voting 17, as follows:

[Roll No. 52]

AYES—166

Abercrombie
Ackerman
Allen
Andrews
Baca
Baldwin
Ballance
Becerra
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Crowley
Cummings
Davis (AL)
Davis (CA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frost
Gonzalez
Green (TX)
Grijalva
Gutierrez
Hastings (FL)
Hill
Hinchey
Hoeffel
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Lampson
Langevin
Lantos
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Majette
Maloney
Markey
Marshall
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—250

Aderholt
Akin
Alexander
Bachus
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Larsen (WA)
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
Matheson
McCotter
McCrery
McHugh
McInnis
McKeon
Menendez
Mica
Miller (MI)

Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—17

Bell
Berkley
Cardoza
Davis (IL)
Frank (MA)
Gephardt
Gibbons
Goss
Harman
Hinojosa
Kucinich
Miller (FL)
Pelosi
Rodriguez
Tauzin
Udall (CO)
Wicker

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. BASS) (during the vote). Members are advised there are 2 minutes remaining in this vote.

☐ 1738

Mr. YOUNG of Alaska and Mr. BLUNT changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 8 OFFERED BY MR. WATT

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from North Carolina (Mr. WATT) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 164, noes 249, not voting 20, as follows:

[Roll No. 53]

AYES—164

Abercrombie
Ackerman
Allen
Andrews
Baca
Baldwin
Ballance
Becerra
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Coble
Conyers
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Doyle
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frost
Gonzalez
Green (TX)
Grijalva
Gutierrez
Hastings (FL)
Hill
Hinchey
Hoeffel
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Lampson
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Majette
Maloney
Markey
Marshall
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey

NOES—249

Aderholt
Akin
Alexander
Bachus
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Boozman
Boucher
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Cole
Collins
Cooper
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hyde
Isakson
Issa
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Langevin
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
Matheson
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Michaud
Miller (MI)
Miller, Gary
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—20

Bell
Berkley
Bono
Cardoza
Davis (IL)
Frank (MA)
Gephardt
Gibbons
Goss
Harman
Hinojosa
Hunter
Istook
Kucinich
Miller (FL)
Pelosi
Rodriguez
Tauzin
Udall (CO)
Wicker

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

☐ 1745

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SIMPSON) having assumed the chair, Mr. BASS, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 339) to prevent frivolous lawsuits against the manufacturers, distributors, or sellers of food or non-alcoholic beverage products that comply with applicable statutory and regulatory requirements, pursuant to House Resolution 552, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 15-minute vote.

The vote was taken by electronic device, and there were—yeas 276, nays 139, not voting 18, as follows:

[Roll No. 54]

YEAS—276

Aderholt
Akin
Alexander
Bachus
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cooper
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (AL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hobson
Hoekstra
Holden
Hooley (OR)
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Menendez
Mica
Michaud
Miller (MI)
Miller, Gary
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Spratt
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—139

Abercrombie
Ackerman
Allen
Andrews
Baca
Baldwin
Ballance
Becerra
Berman
Bishop (NY)
Blumenauer
Boswell
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Case
Chandler
Clay
Clyburn
Conyers
Costello
Crowley
Cummings
Davis (CA)
Davis (FL)
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frost
Gonzalez
Grijalva
Gutierrez
Hastings (FL)
Hinchey
Hoeffel
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Lantos
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Price (NC)
Rahall
Rangel
Reyes
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Slaughter
Snyder
Solis
Stark
Strickland
Stupak
Thompson (MS)
Tierney
Towns
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey

NOT VOTING—18

Bell
Berkley
Cardoza
Carson (IN)
Davis (IL)
Frank (MA)
Gephardt
Gibbons
Goss
Harman
Hinojosa
Kucinich
Miller (FL)
Pelosi
Rodriguez
Tauzin
Udall (CO)
Wicker

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised that there are 2 minutes remaining in this vote.

☐ 1803

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to prevent legislative and regulatory functions from being usurped by civil liability actions brought or continued against food manufacturers, marketers, distributors, advertisers, sellers, and trade associations for claims of injury relating to a person's weight gain, obesity, or any health condition associated with weight gain or obesity.".

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. CONYERS. Mr. Speaker, I was unavoidably absent during some of the votes on amendments to H.R. 339, the "Personal Responsibility in Food Consumption Act." I would like the Record to reflect that, had I been present, I would have voted in the following manner:

Watt No. 6/ Scott (exempt state agency actions to enforce state consumer protection laws concerning mislabeling or other unfair and deceptive trade practices): "Yes."

Watt No. 7 (preserve the right of state courts to hear cases brought under state law): "Yes."

Andrews No. 2 (exempt manufacturers of genetically modified foods that do not disclose that the food is genetically modified from the legal immunity provided in the bill): "Yes."

Ackerman No. 1 (exempt manufacturers and sellers of foods that have not taken steps to prevent meat from being tainted with mad cow disease from the legal immunity provided in the bill): "Yes."

ELECTION OF MEMBERS TO COMMITTEE ON GOVERNMENT REFORM

Mr. LEACH. Mr. Speaker, I offer a resolution (H. Res. 553) and I ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 553

Resolved, That the following Members be and are hereby elected to the following standing committee of the House of Representatives:

Committee on Government Reform: Mr. Tiberi and Ms. Harris.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on additional motions to suspend the rules on which a record vote or the yeas and nays are ordered or on which a vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken tomorrow.

COMMENDING INDIA ON ITS CELEBRATION OF REPUBLIC DAY

Mr. LEACH. Madam Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 15) commending India on its celebration of Republic Day.

The Clerk read as follows:

H. CON. RES. 15

Whereas the Republic of India is the world's largest democracy;

Whereas on January 26, 1950, India adopted its Constitution, which formalized India as a parliamentary democracy;

Whereas the celebration of India's Republic Day on January 26th is the second most important national holiday after Independence Day;

Whereas the framers of India's Constitution were greatly influenced by the American Founding Fathers James Madison, Alexander Hamilton, and John Adams;

Whereas among the rights and freedoms provided to the people of India under its Constitution is universal suffrage for all men and women over the age of eighteen;

Whereas India's Constitution adopted the American ideals of equality for all citizens, regardless of faith, gender, or ethnicity;

Whereas the basic freedoms we cherish in America such as the freedom of speech, freedom of association, and freedom of religion are also recognized in India;

Whereas Mohandas Mahatma Gandhi is recognized around the world as the father of India's nonviolent struggle for independence;

Whereas people of many faiths, including Hindus, Muslims, Sikhs, and Christians, were united in securing India's freedom from colonial rule and have all served in various capacities in high-ranking government positions;

Whereas the Republic of India has faithfully adhered to the principles of democracy by continuing to hold elections on a regular basis on the local, regional, and national levels;

Whereas the people of the United States and the Republic of India have a common bond of shared values and a strong commitment to democratic principles; and

Whereas President George W. Bush and Prime Minister Atal Bihari Vajpayee are elected leaders of the world's two largest democracies and are actively cultivating strong ties between the United States and India: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress—

(1) commends India on its celebration of Republic Day; and

(2) reiterates its support for continued strong relations between the United States and India.

The SPEAKER pro tempore (Mrs. MILLER of Michigan). Pursuant to the rule, the gentleman from Iowa (Mr. LEACH) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from Iowa (Mr. LEACH).

GENERAL LEAVE

Mr. LEACH. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 15.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. LEACH. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of House Concurrent Resolution 15, a measure commending India on its Republic Day and reiterating congressional support for continued strong relations between India and the United States.

This thoughtful concurrent resolution was introduced by the gentleman from South Carolina (Mr. WILSON), the distinguished head of the Indian Caucus, and our colleague on the Committee on International Relations, the gentleman from New York (Mr. CROWLEY). It was considered and adopted without amendment by the committee on February 25.

As Members are aware, in recent years the relationship between the United States and India has been fundamentally transformed in exceptionally positive ways. Thankfully, the time has long since passed when it could be said that India and America are democracies estranged. Instead, in recognition both of the end of the Cold War and India's embrace of market economics, our two great countries have not only rediscovered each other but developed a remarkable degree of amity and rapport.

The United States/India political relationship is rapidly maturing. We are having regular meetings at the highest levels of government. At the summit in Washington in November 2001, President Bush and Prime Minister Vajpayee articulated their vision of the relationship our countries should enjoy. The prime minister insightfully described it as a natural partnership.

Our deepening government-to-government relationship is complemented by a rich mosaic of expanding people-to-people ties. In many ways, the more than 2 million Indian Americans in the United States have become a living bridge between our two great democracies, bringing together our two peoples, as well as greatly enlarging the United States' understanding of India and Indian understanding of the United States.

In short, this timely resolution appropriately honors the world's largest democracy, a country with which the United States is enjoying increasingly warm ties and a people for whom Americans have a great and enduring affection.

I urge the adoption of this resolution.

Madam Speaker, I reserve the balance of my time.

Mr. LANTOS. Madam Speaker, I yield myself such time as I may consume.

I rise in strong support of this resolution.

Madam Speaker, I first would like to commend the chairman of our committee, the gentleman from Illinois (Mr. HYDE), for moving forward with this legislation so expeditiously.

This important resolution commends India on its celebration of Republic Day which occurs on January 26. While we may be a few weeks late in commemorating this important event, our enthusiasm for reaffirming the strong and unbreakable ties between the United States and India remain strong.

Madam Speaker, a new chapter in the bilateral relationship between the United States and India was opened with President Clinton's historic visit to India 4 years ago. President Clinton and Prime Minister Vajpayee broke decades of ice which covered our relationship and ushered in a new and unprecedented form of cooperation between our two great democratic nations.

The most dramatic demonstration of our new friendship with India was India's immediate offer of full cooperation in the war on terrorism after the September 11 tragedy and its willingness to allow the use of Indian bases for counterterrorism operations. But in so many other ways, the tenor and tempo of our bilateral cooperation has continued to improve remarkably over the past 4 years. Security cooperation between the United States and India has increased significantly, with the United States providing funds for military assistance, counternarcotics aid, and other forms of military training. We are working with the Indian government to rationalize India's economy to promote American investment in India and to accelerate India's economic growth.

We are also working closely with the Indian government to tackle the spread of HIV/AIDS. As the executive branch moves forward with the implementations of the Global HIV/AIDS bill approved by us last year, it is critically important that funding for India be increased. In short, Madam Speaker, the United States and India are developing close partnerships on key security, political and humanitarian matters, partnerships that will further strengthen the already close ties between our two great nations. But there is no stronger relationship between the United States and India than our shared commitment to democracy and civil society. We are truly natural allies.

We must also be mindful at all times of the enormous strides taken by Prime Minister Vajpayee towards peace with Pakistan. Time and again it has been India that has reached out to its neighbor in the cause of peace. I fervently hope that this time the discussions between the two nations will finally bear fruit. India is the world's largest democracy with almost a billion people. Its democratic form of government rests solidly on the Indian constitution. So as we commemorate the day that India formally adopted its constitution, we celebrate the strength of India's democracy, the vitality of the Indian people and U.S.-Indian friendship. I urge all of my colleagues to support H. Con. Res. 15.

Madam Speaker, I reserve the balance of my time.

Mr. LEACH. Madam Speaker, I yield 5 minutes to the gentleman from South Carolina (Mr. WILSON), the chairman of the India Caucus.

Mr. WILSON of South Carolina. Madam Speaker, I am honored to speak today as the co-chair of the Caucus on India and Indian Americans, the largest country caucus on Capitol Hill with 183 members. I am grateful for the leadership of the prior co-chairman, the gentleman from California (Mr. ROYCE). I support this truly historic resolution which praises India's firm commitment to democratic principles.

On January 26, 1950, after a long struggle for freedom led by Mahatma Gandhi, India began its formal existence as a parliamentary democracy. Republic Day is the second most important national holiday in India after Independence Day, which is celebrated on August 15.

India modelled its constitution after America's and both our nations believe that the freedoms enshrined in the constitution are universal for all human beings.

India's national elections occur next month, a historic occasion with more than the 600 million that voted in the last election expected to vote next month. The last national elections in 1999 had the largest voter participation of any election in world history.

India's creation and adherence to a national constitution can serve as an example to newly liberated countries like Iraq of how much can be gained by creating a constitution supported by the people and respected by democratic institutions.

India's struggles and success can be a source of inspiration to the people of Iraq. Since independence, India has struggled with high poverty and illiteracy rates, maintained a socialist economy, endured numerous conflicts with Pakistan, and sometimes even experienced internal conflicts between various religious and ethnic groups in India. Yet India has risen to the challenge every time, showing the rest of the world that a nation of more than a billion people can consistently adhere to elections at the local, state, and national levels and overcome challenges in its path.

India has dramatically reduced its poverty and illiteracy rates and recently opened its economy to the world, experiencing nearly an 8 percent economic growth during the last fiscal year. India and Pakistan have begun a composite dialogue with the prospect of a negotiated agreement to the Kashmir dispute on the horizon. And India continues to make improvements to its economic infrastructure, judicial system, and electoral process to ensure that the freedoms outlined in the constitution are truly protected for all of India's people. India is most deserving of today's congressional recognition of this faithful adherence to democracy for more than 50 years.

America and India have entered into a new era of friendship with victory in the Cold War. India as the world's largest democracy and America as the world's oldest democracy are realizing more every day that we have shared values.

I want to commend President George W. Bush for his leadership in bringing America and India closer together as allies with his vision of a new strategic partnership.

In conclusion, I would like to thank both the gentleman from Iowa (Mr. LEACH), chairman of the Subcommittee on East Asia and the Pacific, and the gentleman from Illinois (Mr. HYDE), chairman of the Committee on International Relations, for allowing the committee to consider and pass this historic and important resolution. I urge my colleagues to support House Concurrent Resolution 15.

Mr. LANTOS. Madam Speaker, I yield 3 minutes to the distinguished gentleman from New York (Mr. ENGEL), an important member of the House Committee on International Relations.

Mr. ENGEL. Madam Speaker, I thank the gentleman for yielding me time.

I rise in strong support of H. Con. Res. 15, which commends India on its celebration of Republic Day and reiterates its support for continued strong relations between the United States and India.

My colleagues have all talked about the importance of this relationship. I for many years in the Congress have always tried to stress this relationship. I am pleased to say that I was one of the founding original members of the Indian Caucus and have remained a member of the Indian Caucus. And as it was pointed out, it is the largest caucus here on Capitol Hill, and with good reason. As my colleagues have mentioned, India and the United States share common values: the oldest democracy, the United States; and the biggest democracy, India.

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It is not easy to be a democracy for as many years as we have been a democracy and for the people of India who have struggled to be a democracy. So we have shared values and shared concerns. We have many, many Indian Americans in this country, and we celebrate our Indian American friends and what they have added to the United States of America, and that also solidifies the ties between India and the United States.

I had the pleasure of visiting India a few years ago, and I was amazed by the warmth I felt by the people who wanted to be close to Americans. During the days of the Cold War sometimes the ties between India and the United States were strained. It never made any sense to me, but since the end of the Cold War, we have moved very closely together to ensure that the ties between India and the United States are strong, remain strong and continue to get strong year by year.

It certainly makes a lot of sense. India's a strategic partner of the United States. India has the same concerns as the United States, fighting terrorism on its borders and inside its country. India stands with the United States as a strong fighter in the war against terrorism, and India also is very concerned by other countries that surround India or near India, and the United States also needs to share those concerns.

So H. Con. Res. 15, in congratulating India, points out the strong bonds between our two Nations, and those of us in Congress on both sides of the aisle will continue to work to strengthen ties between two great democracies, India and the United States.

Mr. LEACH. Madam Speaker, I yield 5 minutes to the distinguished gentleman from California (Mr. ROYCE) who is a member of the Subcommittee on Asia and the Pacific, chairman emeritus of the India Caucus, as well as a leader in Congress on many Asian issues.

Mr. ROYCE. Madam Speaker, I thank the gentleman from Iowa (Mr. LEACH) for yielding me the time, and I am only going to take maybe a minute here to say that I am a cosponsor of this resolution, but I think most of the resolutions that we deal with here in this Chamber that come to this floor rightly focus on what is wrong throughout the world, whether it is the authoritarian regime of Robert Mugabe in Zimbabwe or Kim Jong Il in North Korea. In this context, I think it is proper for the House to recognize positive developments, and in this case, that positive development is the vibrant democracy that is India.

India adopted that Constitution on January 26 of 1950 that formalized her identity as a parliamentary democracy, and the framers of India's constitution were greatly influenced by our Founding Fathers. I had an opportunity to talk to one of those framers, and he made the point that many of the same freedoms that are enshrined in our Constitution are enshrined in theirs for a reason.

So today, yes, India's the world's largest democracy and that is an impressive distinction. It is an incredible commitment when we think of 600 million people going and filing their ballots in a democratic election, but the other point I think that we are focused on tonight is the fact that it is India's growth as a world power that is creating a chance for peace and for stability in south Asia.

Last month, members of the Committee on International Relations had a chance to meet with India's foreign minister to discuss the growing bilateral relationship in the areas of space and of science, and I think this resolution signals Congress' interest in furthering this important relationship.

I would also be remiss if, in closing, I did not mention the growing contribution of the Indian American community here in the United States. I have always been impressed with, when working with that community, their energy, their enthusiasm and indeed their dedication to education. Their upward social mobility through education is unmatched, and I think that that particular community possesses some of our most effective future leaders in this country.

So, with that said, I urge passage of this resolution, and I thank the gentleman for yielding me the time.

Mr. LANTOS. Madam Speaker, we reserve the balance of our time.

Mr. LEACH. Madam Speaker, we have no further requests for time, and I yield myself such time as I may consume.

In conclusion, I would simply like to express my personal appreciation for the gentleman from South Carolina (Mr. WILSON) and the gentleman from California (Mr. ROYCE) for their leadership on so many Indian affairs, and particularly for this bipartisan expression of admiration for India and its achievements, and for the gentleman from California (Mr. LANTOS) and the gentleman from New York (Mr. ENGEL), two leaders of this House on Indian affairs.

Yes, it has been noted that India is the world's largest democracy, but it also should be made clear it is one of the oldest and greatest civilizations on this planet with evidence of civil society dating back many millennium before Christ.

In the years since its modern day independence in 1947, it has produced some of the greatest leaders in modern times: Mr. Gandhi and his doctrine of nonviolence, civil disobedience. The doctrine of Sarjat Hagahoth is a great symbol and inspiration for many citizens of the globe. Mr. Nehru stood for a great international leadership of independence and neutrality, and then in the new era of Mr. Vajpayee we have an India dedicated to economic development and market forces, all of which betokens in terms of history, in terms of longevity of civilization, a modern day society that is one of the greatest on this planet, and we in this body are deeply impressed.

Madam Speaker, I reserve the balance of my time.

Mr. ACKERMAN. Madam Speaker, I rise today in support of H. Con. Res. 15 and congratulate my colleague Mr. WILSON of South Carolina for his sponsorship of the resolution.

Madam Speaker, the resolution before us today commends India on its celebration of Republic Day and urges continued strong bilateral relations between the United States and India. But there is much more to celebrate than simply India's Republic Day. There are the commonalities between the U.S. and India, in particular both are thriving multi-cultural democracies. India is the largest and the U.S. is the oldest. This year both nations are in the midst of the great democratic tradition of elections. India's elections begin later this month and run through the beginning of April.

Beyond our common experiences with democracy, the United States and India have been growing ever closer over the last several years. Beginning with President Clinton's trip to India in 2000, the U.S.-India relationship has truly blossomed over the last several years.

In the immediate aftermath of the horrendous attacks on the World Trade Center and the Pentagon, India was the first nation to step forward and offer unqualified support and assistance to us. Just a few months later, India suffered a devastating attack in the heart of its democracy, the parliament building in New Delhi. These events underscore the fact that both nations have faced, and continue to face, serious threats from global terrorist organizations.

These unfortunate events have led to a significant expansion of the U.S.-India relationship into areas where our two nations had not previously cooperated: defense and counterterrorism. Evidence of the new and intense level of cooperation in these areas can be found in the most recent joint exercises between air force units of the United States and India in central India just last month.

On the other aspects of our relationship, like the newly announced U.S.-India Strategic Partnership and a steady stream of senior level visits in both capitals speak volumes regarding the robust nature of our relationship. So it is only fitting Mr. Speaker, that the Congress, join the chorus of voices in recognizing that the oldest and largest democracies are on a new and welcome path bilaterally.

Madam Speaker, I urge my colleagues to support the resolution.

Mrs. MALONEY. Madam Speaker, I rise in strong support of H. Con. Res. 15, which commends India on its celebration of Republic Day and expresses congressional support for continued strong relations between the United States and India.

As the largest democracy in the world, India has shown a genuine commitment to improving its economic ties to the United States, and the U.S. and India have formally committed to work together to build peace and security in South Asia, increase bilateral trade and investment, meet global environmental challenges, fight disease, and eradicate poverty.

There is no doubt that the close relationship between the U.S. and India is crucial to world stability and to the economic futures of both countries. India's long-term economic potential is tremendous, and the U.S. is already its largest trading and investment partner.

I am hopeful that we will foster an even closer relationship in the coming years by working together to tackle new and existing challenges.

Mr. FALEOMAVAEGA. Madam Speaker, I rise today in support of H. Con. Res. 15, commending India on its celebration of Republic Day. India is the world's largest democracy and Republic Day is India's second most important national holiday.

India became a Republic on January 26, 1950, adopting a written Constitution and electing its first democratic parliament. Prior to independence, India was under British rule.

Today, India stands with the people of the United States. The Republic of India and the United States have a common bond of shared values and a strong commitment to democratic principles.

We are also united in the war against terrorism. As the Ranking Members of the International Relations Subcommittee. I will not rest until Pakistan makes good on its promises to end cross border terrorism, shut down its terrorist training camps, and cease the transfer of nuclear technology to rogue nations and third parties.

I commend India for its continued commitment to peace and for promoting the ideals of equality for all citizens, regardless of faith, gender or ethnicity. I also pay tribute to Mahandas Mahatma Gandhi who is recognized as the father of India's nonviolent struggle for independence.

Finally, I express my appreciation to Prime Minister Atal Bihari Vajpayee for his leadership in cultivating strong ties with the United States and for initiating historic talks with Pakistan in hopes of decreasing tensions in South Asia. I also knowledge the contributions of His Excellency Lalit Mansingh, Ambassador of the Republic of India, who has represented the interests of India before the U.S. Congress in a manner that has strengthened U.S.-India relations.

I also applaud the efforts of Sanjay Puri, founder and Executive Director of an organization working to influence policy on issues of concern to the Indian American community. With a membership of 27,000, this organization is giving more than 2 million Indian Americans a voice in the political process and I believe both India and the United States are fortunate to have more than 27,000 Indian Americans working with us to address important issues like terrorism, trade, HIV/AIDS, and immigration.

Again, I applaud the efforts of so many and I commend India on its celebration of Republic Day.

Mr. HOYER. Madam Speaker, I urge all of my colleagues to support this important Resolution commending the incredibly diverse, democratic nation of India on the celebration of its Republic Day.

This Resolution reiterates the overwhelming Congressional support for continued strong relations between the United States and India. And it notes India's commitment, under the Indian constitution, for universal suffrage; equality for all citizens, regardless of faith, gender, or ethnicity; and protections for freedom of speech, association and religion.

Our two nations are "natural allies," as Prime Minister Vajpayee has stated. For while our alliance is relatively young, it has already begun to flourish based on our shared values and commitment to democratic principles.

In recognition of our growing relationship, the gentleman from New York (Mr. CROWLEY) and I led a delegation of nine members of Congress to India in January.

During our trip, we were privileged to be received by a number of Mr. Vajpayee's Ministers and we engaged key policymakers in thoughtful discussions on issues ranging from Kashmir and Pakistan to this year's national elections in both India and the United States.

While we certainly discussed, and even debated, a number of issues on which our countries have legitimate differences, the lasting impressions were the broad areas of agreement and cooperation, and the strength and dynamism of the growing U.S.-India relationship.

Madam Speaker, the mutual respect demonstrated in these discussions was a clear sign of our maturing relationship and the trust between us.

For example, our armed forces now regularly participate in joint exercises involving all branches of the military, and the sale of U.S. military equipment to India approached $200 million last year.

In the immediate aftermath of the September 11 terrorist attacks, India pledged its full cooperation and offered the use of all its military bases for counterterrorism efforts. And India continues to play a key role in stabilization and reconstruction efforts in Afghanistan.

Our economic cooperation also is noteworthy. In fact, the nearly 60% increase in total trade between the United States and India since 1996 illustrates that.

With more than 1 billion citizens, India still faces many problems. And the increasing engagement with the United States will help India to address them.

Mr. LANTOS. Madam Speaker, I want to commend all of my colleagues who spoke on behalf of this important resolution.

Madam Speaker, we have no further requests for time and we yield back the balance of our time.

Mr. LEACH. Madam Speaker, we yield back the balance of our time.

The SPEAKER pro tempore (Mrs. MILLER of Michigan). The question is on the motion offered by the gentleman from Iowa (Mr. LEACH) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 15.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LANTOS. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

EXPRESSING CONDOLENCES OF HOUSE OF REPRESENTATIVES FOR UNTIMELY DEATH OF MACEDONIAN PRESIDENT BORIS TRAJKOVSKI

Mr. BEREUTER. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 540) expressing the condolences and deepest sympathies of the House of Representatives for the untimely death of Macedonian President Boris Trajkovski, as amended.

The Clerk read as follows:

H. RES. 540

Whereas on February 26, 2004, President Boris Trajkovski of the Republic of Macedonia was tragically killed in a plane crash in Bosnia-Herzegovina while he was on his way to an international investment conference;

Whereas Mr. Trajkovski served Macedonia as Deputy Minister of Foreign Affairs from December 21, 1998 until he was inaugurated as President on December 15, 1999;

Whereas Mr. Trajkovski stood up for what he believed was right and moral, even when he faced opposition within Macedonia;

Whereas under Mr. Trajkovski's leadership, Macedonia was one of the first countries to publicly support Operation Iraqi Freedom and to commit troops to the effort;

Whereas during Macedonia's armed ethnic clashes Mr. Trajkovski demonstrated his willingness to work with all of Macedonia's ethnic groups, which helped to prevent a civil war;

Whereas Mr. Trajkovski was a strong believer in free markets and worked tirelessly to bring development and investment to Macedonia;

Whereas under President Trajkovski's leadership, Macedonia negotiated an agreement with the United States under Article 98 of the Rome Statute of the International Criminal Court, signed the agreement on June 30, 2003, and ratified the agreement on October 16, 2003, thereby helping to ensure United States citizens will not be subject to politically motivated prosecutions;

Whereas Mr. Trajkovski worked to foster peace for the entire Balkan region and to integrate Macedonia into the international community; and

Whereas the death of Mr. Trajkovski is a tragedy for the people of Macedonia: Now, therefore, be it

Resolved, That the House of Representatives—

(1) expresses its deepest sympathies to the people of the Republic of Macedonia, the family of President Boris Trajkovski, and the families of the other crash victims;

(2) expresses its desire for a smooth and orderly transition of power; and

(3) expresses the solidarity of the people of the United States with the people of Macedonia and the Macedonian Government during this tragedy.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nebraska (Mr. BEREUTER) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from Nebraska (Mr. BEREUTER).

GENERAL LEAVE

Mr. BEREUTER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 540, the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. BEREUTER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, this Member rises in support of H. Res. 540, as amended, expressing the condolences and deepest sympathy of the U.S. House of Representatives upon the death of Macedonian President Boris Trajkovski. This resolution was introduced by the distinguished gentleman from Indiana (Mr. SOUDER).

On February 26, 2004, President Boris Trajkovski of the former Yugoslav republic of Macedonia was tragically killed in a plane crash over Bosnia-Herzegovina, while traveling to Moscow to attend a regional economic conference. He and eight other individuals on the aircraft died in this tragic accident. This Member understands the official State funeral was held Friday of last week in Skopje.

President Trajkovski is one of the most important reasons why Macedonia is making the progress it has made in recent years. President Trajkovski was an important leader and voice of reason in resolving the ethnic conflict that was threatening his country 3 years ago and in implementing the Ohrid peace agreement of August 2001. His leadership and moderation between opposing sides have been absolutely essential in creating the conditions for the progress that his government and his country have made since then.

He worked tirelessly to ensure that democratic values and institutions would prevail in his country and to bring his country closer towards full integration in the Euro-Atlantic institutions. In May of last year, his country joined Croatia and Albania in signing the Adriatic Charter, an agreement to commit to reforms and cooperation in order to prepare these countries for accession into NATO. His country has been a strong supporter of the international war against terrorism and has contributed forces to operations in both Afghanistan and Iraq. Tragically, his country was scheduled to formally submit its application to become a candidate for membership in the European Union last week on February 26, tragic only because that was the very day of the tragic accident.

Historically, President Trajkovski will be most known for saving his country from civil war. This resolution recognizes that fact and his leadership and his importance to his country. This resolution is an affirmation that the U.S. House of Representatives supports the reforms that President Trajkovski implemented and the progress that all Macedonians have made. May the government of Macedonia and the people of Macedonia continue to follow his example and continue along his path of reform, progress, peace and democracy.

This Member would like to express his deepest sympathies and condolences to his family, to his country and to all the Macedonian people and urge his colleagues in this House to support passage of the resolution.

Madam Speaker, I reserve the balance of my time.

Mr. LANTOS. Madam Speaker, I yield myself such time as I may consume.

I rise in sad and strong support of this resolution. I want to associate myself with the remarks of my good friend from Nebraska, and I want to join him and all other Members in offering our deepest condolences on the tragic death of President Boris Trajkovski, to the people of Macedonia and to his family. President Trajkovski is survived by his wife and two children, and I want to extend our expressions of sympathy to his entire family and to all the citizens of Macedonia.

The Balkans have seen more than their share of turbulence in the past couple of decades. Macedonia alone has attained independence, wrestled with economic challenges, overcame ethnic tensions between Macedonian Slavs and the Albanian minority. Outside of Macedonia, there are still people in the Balkans who strive to return to their homes to attain international recognition and to secure their statehood. Our involvement in the region must continue to be vigorous and effective.

The leadership of President Trajkovski stands out in the Balkan context. He was a voice for moderation and reason who united his country and led it on the path of integration with the European Union and membership in NATO. I was privileged to meet him a little while ago, with our distinguished chairman, the gentleman from Illinois (Mr. HYDE) to discuss his vision for Macedonia and for the region, and both the gentleman from Illinois (Mr. HYDE) and I were deeply impressed by his passionate commitment to his people and to building a democratic society.

Just on the day of this tragic event, a Macedonian delegation was due to present a Macedonian-EU partnership application to the government of Ireland which currently holds the presidency of the European Union. I was pleased to learn that, although the visit of the Macedonian delegation was cut short by the tragic events, the government of Macedonia followed through and did submit its application to the European Union.

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Last year, Madam Speaker, Macedonia signed the U.S. Adriatic Charter, affirming its commitment to the values and principles of NATO and to joining the alliance at the earliest possible time. Macedonia has been a true friend of the United States. It stands with us in the war on terrorism and has provided troops both in Afghanistan and Iraq.

So today, Madam Speaker, as we honor the memory of President Trajkovski and mourn his tragic death, we reaffirm the close friendship and partnership we have with Macedonia and we express our desire that this relationship grow stronger under the new leadership that the Macedonian people will soon choose. I am confident that Macedonia will stay firmly on the path to democracy and integration with the Euro-Atlantic community, and I urge all of my colleagues to support H. Res. 540.

Madam Speaker, I reserve the balance of my time.

Mr. BEREUTER. Madam Speaker, it is my pleasure to yield such time as he may consume to the gentleman from Indiana (Mr. SOUDER), the sponsor of the resolution.

Mr. SOUDER. Madam Speaker, I wish to thank the chairman of the Subcommittee on Europe, the gentleman from Nebraska (Mr. BEREUTER); the chairman of the Committee on International Relations, the gentleman from Illinois (Mr. HYDE); and the ranking member, the gentleman from California (Mr. LANTOS), for moving this piece of legislation.

Just a few moments ago, we discussed a resolution in support of Republic Day in India, the world's largest democracy, and a country with a rich, long tradition and of great importance to the United States. This resolution addresses a relatively new and small democracy, the Republic of Macedonia, but also of importance to the United States.

Our friend, the Republic of Macedonia, has just lost its leader. Two weeks ago, the man many believed would lead Macedonia was tragically killed in a plane crash. Now, the future of Macedonia is uncertain. The next president of Macedonia may or may not stay on the course charted by Mr. Trajkovski. The next president of Macedonia may or may not work to bring all Macedonians together. The next president may or may not have the esteem Mr. Trajkovski commanded. I certainly hope the next president of Macedonia is able to do all of these things.

As is typical in many new democracies behind the old Iron Curtain, President Trajkovski did not have a long record of public service. In 1997, Mr. Trajkovski became Chief of Office in a local government administration. In 1988, he was appointed to the post of Deputy Minister of Foreign Affairs. In 1999, he was inaugurated president of the Republic of Macedonia. What Mr. Trajkovski's public service lacked in longevity, however, it more than made up for in terms of quality and the impact that his policies and principles will have far into Macedonia's future.

During Macedonia's ethnic troubles, he realized that peace was better than war. He reached out to the Albanians and Macedonians alike. As a Methodist minister in an Orthodox Christian country, establishing trust, even among his own people, was no small feat. Yet Mr. Trajkovski brokered a peaceful solution that avoided the further balkanization of the region. It is a little sea of hope in the midst of much conflict.

In looking forward to the future of his country, President Trajkovski realized that economic development was the key to the success of Macedonia. He encouraged investment, free markets, and great international participation. Indeed, he died on his way to an international investors conference. President Trajkovski's contribution to his country's stability and prosperity will not soon be forgotten.

Macedonia worked with the United States in the conflict in Serbia, letting us base multiple operations there, including camps for those who had fled Kosovo, with no small risk to the stability in their country. They are a great friend of the United States, as we have heard, in Iraq and Afghanistan.

It was my privilege to meet President Trajkovski a number of times, and he was a dynamic man. But while he was a great leader as president, he was much more. He was also a good man and a Godly man. He lived his faith, and it undoubtedly influenced every single decision he made in his life and in his leadership. As a devoted family man with a wife and two children, he worked hard to make sure his children had a better future. I have gotten word that the government of Macedonia is working to support the Trajkovski family's future needs. Given the contribution Mr. Trajkovski made to his country, I am glad his family is not forgotten.

In 1996, Mr. Trajkovski visited the United States in order to study the democratic political process. Judging from his presidency, I would say he learned a great deal. During his time in the United States, he visited my district. The several thousand strong Macedonian community of northeast Indiana maintains close ties with friends and relatives of Macedonia. They are very informed about the political and economic situation there. With the death of Mr. Trajkovski, I am sure they are very concerned what the future holds for the homeland.

In recent days, many people have remembered Boris Trajkovski. One remembrance in particular stands out. In a moving article I am submitting for the RECORD, Jason Miko, an American living in Macedonia, recalls not only President Trajkovski, a powerful leader, but also Boris Trajkovski, a simple man of the people. I would like to read one paragraph in closing.

He writes: "Since thoughts are even now turning to the next president, it is vital to remember the legacy that Boris leaves. More than almost any other figure in the Balkans in modern history, he did the most to bring people together. He was respected by all ethnic groups and had a vision for this country which was 20 years ahead. He often talked about rights, together with individual responsibility, the importance of a civil society together with the need for social communication. But his most important message was one of reconciliation, love, and forgiveness."

Madam Speaker, I submit for the RECORD the complete article from which I just read:

[From the Macedonian Vreme, Mar. 2, 2004].

MY FRIEND BORIS

(By Jason Miko)

My friend Boris Trajkovski passed away last week. I rarely called him "Boris." I usually called him "Mr. President." Sometimes, when we prayed, I referred to him as "my brother, Boris." He wasn't hung up on titles and ceremony and frankly didn't care what people called him though I know he was a little bit hurt when some people in Macedonia referred to him as "citizen Trajkovski" during his first year in office. I think they probably regret that now. They should.

I first met Boris Trajkovski in early 1997. I had moved to Macedonia in the summer of 1996 and got to know him through an American friend of mine who had introduced me to a Macedonian friend of his who knew Boris very well. I honestly cannot remember the very first time we met, but I will never forget the last.

He wasn't my president, but over the past seven years, I came to know Boris as a very dear friend. And while I had the high honor and privilege of seeing him go from international secretary in his party to deputy foreign minister to president, the friendship never changed. We shared a friendship that transcended disagreements, difficult periods, and misunderstandings. Boris was always there for me and he told me about two weeks ago how he loved me. And I know his love was not limited to his family or friends. He loved his fellow citizens and his country as much as his family and friends. He was a big man with a big heart.

When September 11th occurred, his was the third call I received. The first was from a friend telling me of the disaster and the second was from my parents in Arizona. Another time I remember when he asked me to give strong consideration to hiring a friend of his (long before he was president), in my organization. I didn't hire his friend, but that didn't change our friendship.

It is ironic in a way. Since the tragedy last week, Macedonians of all political stripes and colors, all ethnic groups, all social classes and all religious groupings have been in a funk, a state of shock, at the loss. Boris is much more popular now in death, than he ever was in life. The international community, too, is still reeling from the loss, now coming to the full realization of what a treasure we all had and took for granted. That seems to be the way life works though.

We've heard many people over the past week talk about Boris and say he was their friend. I believe most of them are sincere though I also know that there is, even now, some political posturing going on. I know that Boris held no grudges against anyone and even though he could get angry at people for what they said and did to him, he didn't remain angry for very long. He was that sort of a man—forgiving, understanding and loving. It's a shame we are only now realizing that.

Boris was a rare individual. He stood for what he believed in and he fought for the values he held dear. He was real, not phony like some politicians can be. In fact, in many ways, he wasn't even a politician. I clearly remember, in the summer of 1999, as the Kosovo crisis was ending and thoughts were turning to the presidential elections of the fall, the enthusiasm that people had for him as a candidate. And truthfully, he hadn't even thought of running for president himself until ordinary Macedonians started encouraging him to run. Coming from humble roots in rural Macedonia, he was truly a man of the people and for the people.

Over the past four plus years of his mandate, Boris was able to mingle with the highest and mightiest on this earth and with the most humble. And while he was comfortable in both situations—with kings and queens, presidents and prime ministers on the one hand—he enjoyed himself most with villagers and working men and women of his native Macedonia. How many other elected officials do you know who have gone into villages throughout this country speaking with the common man and woman listening to their hopes, fears and dreams? I hope that you, as Macedonian citizens, will demand that of your next president. It is the legacy that Boris would want.

And since thoughts are even now turning to the next President, it is vital to remember the legacy that Boris leaves. More than almost any other figure in the Balkans in modern history, he did the most to bring people together. He was respected by all ethnic groups and had a vision for this country which was 20 years ahead. He often talked about rights, together with individual responsibility, the importance of a civil society together with the need for social communication. But is most important message was one of reconciliation, love and forgiveness.

These values he held came from his deep faith and convictions. And while he was indeed a Methodist, it is not important to focus on his chosen religious denomination, but on the tenants of that faith. His deep love for the Son of God—Jesus Christ—and his recognition that man is sinful and needs salvation—prompted him to talk about and live a life of love for all mankind. I remember him—on many occasions—talking about how he was willing to "sacrifice myself" for Macedonia. And ultimately, Boris did pay the ultimate price for his fellow man and his country—he gave us his life. He gave Macedonia his life that Macedonia might come together and yet live again.

I hope that by giving up his life for his fellow man that something good will come of this. Something good must come of this. It can start here in Macedonia but it can spread throughout the Balkans and the world. And it is this: a life lived for his fellow man, and a deep love for his family, his country and for God. The international community, in the meantime, can help continue Boris' legacy by finally recognizing the name—the Republic of Macedonia. Boris would want this.

I was with Boris last Wednesday, until about 5:30 p.m., about 14 hours before he left us for a better place. We were discussing the future, his plans, upcoming trips and the like. How short life is and how foolish the plans of man indeed! In a blinding instant it all changed, for Macedonia, for the Balkans, for the world, forever. It changed for his family, his friends, his fellow countrymen and for the international community. For people such as myself, and my friend Boris, however, we have a hope of things yet to come. Our faith tells us that one day we will be reunited together along with many others. In the meantime, what life we have left here on earth should be dedicated to spreading his legacy, a legacy of love, forgiveness, reconciliation and friendship. That is what my friend Boris would want.

Mr. LANTOS. Madam Speaker, I am pleased to yield 5 minutes to the gentleman from New York (Mr. ENGEL), a distinguished member of the Committee on International Relations who has a long-standing special interest in this region.

Mr. ENGEL. Madam Speaker, I thank the gentleman from California for yielding me this time, and I rise in strong support of H. Res. 540.

Madam Speaker, being a Member of Congress, we are privileged to meet many international leaders. Particularly serving on the Committee on International Relations, it is our honor to meet visiting dignitaries, and we often go to different countries to meet with them as well. Last week, I had the distinct honor, on Friday, of attending President Boris Trajkovski's funeral in Skopje, Macedonia, as part of the official American delegation, along with my colleague and good friend, the gentleman from Virginia (Mr. WOLF), and also Secretary Principi, who is the Secretary of Veterans Affairs. I know the three of us felt that it was an honor to represent the United States of America at this funeral.

I knew Boris Trajkovski, having met with him on many occasions. It is a tragedy, as my colleagues have pointed out, that a man so young, only 47, with tremendous promise, a very good leader for his country, forward looking, a strong ally of the United States, would be cut down in such a tragic manner.

It is not easy to be a leader in the Balkans. The Balkans has been a very, very volatile area. It takes people with courage to be able to look ahead and to be able to do what is right. Boris Trajkovski was such a person.

I remember a meeting with him in 1999 in Skopje, Macedonia, where he was running for election as president and was courting the votes of the Albanian community in Macedonia. The Albanian community is a very important and large ethnic minority community in Macedonia. And President Trajkovski was looking for the votes and said that he is a Methodist minister; and as a Protestant minister in an Orthodox Christian country, he was a religious minority in his own country. So he said that he would be sensitive to other religious minorities and ethnic minorities in Macedonia. And, indeed, he was.

Madam Speaker, part of the resolution says: "Whereas during Macedonia's armed ethnic clashes, Mr. Trajkovski demonstrated his willingness to work with all of Macedonia's ethnic groups, which helped to prevent a civil war." And even though that was unpopular among some of his own people, he knew it was the right thing to do. He knew that the Albanian ethnic minority was entitled to rights as first-class citizens of Macedonia. And I can tell you, as chairman of the Albanian Issues Caucus here in Washington, I witnessed firsthand the workings of President Trajkovski bringing people together and standing out and speaking out in favor of such an agreement, which worked.

Tensions in Macedonia are at an all-time low, largely because of the work of Boris Trajkovski. Our ambassador, the U.S. ambassador to Macedonia, Ambassador Butler, who does such a wonderful job, told me last week that he met with President Trajkovski regularly. In fact, they prayed together and they often discussed all kinds of issues.

President Trajkovski was unabashedly pro-American. As our colleagues have said, they joined with us in fighting terrorism and joined with us in Afghanistan and Iraq. The Adriatic Charter, Croatia, Macedonia, and Albania, we promoted that in this Congress. My resolution passed both the Senate and the House commending these countries for signing the Adriatic Charter. President Trajkovski was an important part of making that happen.

Yes, he alienated a number of people because he wanted to move forward. Even in his own party there were some times he wondered if he could win reelection because he was so bold in taking these enlightened positions. But, ultimately, I believe that had he lived and stood for reelection, he almost certainly would have been reelected, because people understood that here was a man of vision and a man of greatness and someone who was good for the Macedonian nation.

So I just want to join with my colleagues in paying tribute to President Boris Trajkovski. I met with his wife before the funeral, saw his children; and at the cemetery, I must say it was very, very moving to have thousands of foreign dignitaries there, each representing a different country. I had not seen anything so moving since the funeral of Yitzhak Rabin in Israel several years ago.

Boris Trajkovski was a man who will be missed; and it is very, very important that all people of good will follow in his footsteps and make sure that Macedonia continues to have a thriving democracy and continues to work closely with the United States of America. I strongly support this resolution and urge our colleagues to all vote in the affirmative.

Mr. LANTOS. Madam Speaker, I am pleased to yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Madam Speaker, I thank the distinguished ranking member for yielding me this time.

In my community, I always discuss with my constituents the value of internationalism, recognizing the world family; and so I want to applaud the sponsors of this legislation because, again, it says to the world that America cares. I believe that this very sad occasion, the loss of life and the untimely death of President Trajkovski, should be noted on the floor of this House.

I had the privilege some years ago, during the Bosnian war, to be in that area and to understand the closeness yet the distance and the importance of someone who could be in fact a uniter, and that he was. To recognize the wrongness of ethnic cleansing and ethnic divisiveness was his trait. As I understand it, even as he traveled to his untimely death, he was engaged in efforts of internationalism and peacemaking.

So I rise today to express my condolences and as well my deepest sympathies to the people of Macedonia, and of course to the region, and to thank the Committee on International Relations for always drawing to our attention that we are much stronger when we extend the hand of friendship and we accept each other's pain as well as each other's joy. My deepest sympathy also to those who mourn his death here in the United States and certainly in Macedonia and around the world.

I conclude by saying that in addition to those from that region, I have a great deal of collaboration with those who call and respect India as their place of birth. So I also want to be able to acknowledge the resolution dealing with the commendation and the celebration of the Republic Day of India, and again to thank Indian Americans for their efforts toward peace and reconciliation. Not only do we speak these words, but I hope that we will act upon the international spirit and making sure that all of our friends know that we continue to stand united for world peace, world dignity, and the humanity of all.

Madam Speaker, I rise today in support of this resolution. The issues of India and Indian-Americans are becoming increasingly prominent here in Washington. The role of India, as a large and vibrant democracy in a strategically important part of the world, is quickly coming into focus—as a partner in trade, and as an ally in fighting international terrorism. Indian Americans have contributed immensely to the American culture and to our economy. It is no wonder that in only ten years, the Congressional Indian Caucus has already amassed over 160 Members.

But India is a huge and complex nation, well-known as the world's largest Democracy. Of course, as strong as our relationship is with this large partner, there are also differences—on trade issues, outsourcing, environmental, and labor issues. We need to work on those differences and come to fair resolutions. It is the true bond of friendship between our two nations, so obvious in our cultural exchanges, that makes me confident that we will resolve the differences between us and build on our common values.

It is a true testament to the power of democracy and the spirit of the Indian people, that only 54 years after it adopted its Constitution, that India is such a powerful and respected player on the world stage.

After my two trips to India, and my years of friendship and partnership with the outstanding members of the Indian community in Houston, I know that I have still only scratched the surface of the deep culture and history that Indians have to offer the world. I am glad that the U.S.-Indian relationship is continuing to flourish.

I commend the co-chairs of the Indian Caucus, Representatives WILSON and CROWLEY, for taking the time to put forth this symbolic resolution.

I support this legislation and urge my colleagues to do the same.

□ 1845

Mr. LANTOS. Madam Speaker, I yield myself such time as I may consume.

Macedonia is a deeply divided country ethnically, and President Trajkovski was a powerful force in bringing peace and reconciliation to the Slav and Albanian communities. We shall remember him as a man of peace. I urge all of my colleagues to join us in voting for this resolution.

Madam Speaker, I yield back the balance of my time.

Mr. BEREUTER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I thank all of my colleagues for their appropriate words and sentiments. I urge unanimous support for the resolution.

Mr. WOLF. Madam Speaker, I rise today in support of H. Res. 540, expressing the condolences and deepest sympathies of the House of Representatives for the untimely death of Macedonian President Boris Trajkovski and to pay honor to his life.

I was honored to be a part of the United States delegation to President Trajkovski's funeral led by Veterans Affairs Secretary Anthony Principi. The delegation also included Congressman ELIOT ENGEL, Barry Jackson from the White House and President Trajkovski's good friend, Kent Patton.

President Trajkovski was a great friend of the United States and will be dearly missed. He was a man of great faith and led his country with dignity and respect. He united the citizens of Macedonia and will remembered by all.

Below are statements read at his funeral by H.E. Mr. Branko Crvenkovski, president of the Government of the Republic of Macedonia, and Mr. Romano Prodi, president of the European Commission. Their words illustrate the great impact that Boris Trajkovski had on so many of the lives he touched.

ADDRESS BY H.E. MR. BRANKO CRVENKOVSKI

Dear President, today, Republic of Macedonia is on its feet, united and unified in its pain, dignified in its sorrow, joined in paying the respect.

We are offering our last farewell to you, our President. Our loss is immense; the tragedy, which has befallen us, is immense.

Only 10 days ago, full of life, full of enthusiasm and deeply convinced of the European future of Macedonia, you sent me to Ireland.

Fate has decided that I bid you farewell today to the unforgettable part of the history of our nation and state.

In the last four years, circumstances and the curse of our profession called politics, bestowed us moments when we were both friends and opponents, moments when we cooperated, moments when we criticized each other.

However, I will never doubt the fact that in all key moments whilst making the most difficult decisions for the future of our state, we were always together, we were on the same side, understanding each other even better than with our fellow party members.

You often sailed against the wind, misunderstood, blamed, without sufficient support.

You were the most deserving for the fact that we avoided a disaster in 2001.

It is tragic for us that your death united us more than your commitments as President.

It is tragic for us and a satisfaction for you that today we are aware that you were more respected worldwide than in your own country.

Today, we know that you looked further, thought deeper and believed more.

Our pain is immense; the pain of your family is immeasurable.

Somebody said: "Shared joy, is greater joy. Shared pain is lesser pain." Today, all of us, entire Macedonia and all our friends worldwide share the pain and sorrow of your Vilma, Sara and Stefan.

Your children had a father. From now on, fatherly care becomes the responsibility of all of us.

Standing your ground, you withstood all criticism. You were blamed that you were a traitor, while you made the most patriotic step. You were blamed of cowardice, but you were the most courageous one. You, more than anybody else, stopped the war and returned the peace to us.

In times of insanity you gave us reason. You fought hatred with your words of love, forgiveness, mutual understanding. And you accomplished all of this in your recognizable style: sincerely, simply, from the bottom of the heart, excluding any calculations.

Once you told me: "In 10 years everybody will recognize that I was right".

Boris, it was not necessary to wait 10 years. Already today the entire Macedonia pays its tribute and recognition.

Distinguished President, having learned of the tragic event, many asked themselves what would befall Macedonia after your death. Such people neither know Macedonia, nor knew you.

Your greatness did not lie in leading your people in a direction different from what they considered their options.

Your greatness is embodied in you being a man of the people and for the people.

Macedonia knows its way. Macedonia knows where its future lies.

Dear President, I am honored for having known you and for having the opportunity to work with you.

There are great people next to whom all others feel small. There are greater people next to whom all others feel great, as well.

You, Boris were the latter kind of man.

Rest in peace, great man.

A TRIBUTE TO BORIS TRAJKOVSKI

(By Romano Prodi)

When I learned the news of the tragic crash that cut short Boris Trajkovski's life, an image flashed to my mind—the memory of our meeting in Thessaloniki at the European Council in June last year.

It was an important day for the Balkans. It was an important day for Europe. It was the day we decided together that the European Union's enlargement would not be complete until all the countries of this region were full members of the Union. It was the day we set a joint agenda together to achieve that objective.

When we met, we embraced and rejoiced at the fact we were seated at the same table. It was a foretaste of what the full European family would look like.

I remember thanking Boris for all the enthusiasm and commitment he had shown in bringing the whole region—not just his own country—along the road to European integration. His reply was a smile and an even warmer embrace.

That is the image of Boris Trajkovski that will always stay with me. His passion, his commitment, his love for Europe and for his region. Europe was the guiding star on Boris's journey. The values of tolerance and respect on which our Union is founded were an inspiration to him in the very difficult times this country and all its people have seen.

Pulling together, not apart. Being open, not closed. Including, not excluding. Like our Europe, a Union of minorities, united by the ideals of cooperation and peace.

Those were my thoughts on my recent visit to Skopje, as together we crossed the old bridge over the Vardar—that symbol of union so full of meaning for this city's—and this country's—past and present. This country, this region, all Europe has lost an enlightened, far-sighted leader, a statesman who saw beyond the narrow horizon of everyday politics, a man who put the individual at the center.

As we pay tribute to the memory of Boris Trajkovski today, we all share the pain and grief felt by his beloved wife Vilma, his children Stefan and Sara, his family and friends, and all his fellow Macedonians.

But as we morn his loss—and it is a great loss—we must not lose sight of the deeper meaning of his work, the work he sacrificed his life to accomplish.

Honoring Boris Trajkovski's memory means taking up the challenge—meeting the objectives he believed in and completing the work he started.

Honoring Boris's memory today means thinking of the future of the people of Macedonia—these people he cherished so dearly, who were his foremost concern, with whom he felt utterly at one.

For the country's leaders, it means continuing—resolutely, united in purpose—along the path of European integration. Aware that this is an irreversible process, a process that has the whole country behind it. With all its ethnic and political components fully supporting the choices, shouldering the responsibilities and protecting the rights of each.

For the international community, it means continued backing for the efforts this country has already made. We must support Macedonia's bold reform program to become a full member of the European Union.

So we look forward to receiving your application to join the Union. And if that application were dedicated to anyone, it would be to Boris Trajkovski.

We believe in this country, we believe in its will and determination to become a full member of the European institutions. And we are certain it will succeed.

This will demand patience and, above all, perseverance. And it can only be achieved if it is truly desired, as Boris Trajkovski desired it so passionately.

Today we morn Boris Trajkovski, but we have faith in this country's political future. Any other attitude would fall short of the ideals Boris fought for all his life.

His tragic death is a loss to us all. But his memory gives us heart to work even harder, to keep alive his political heritage and the principles that guided him, and to meet the objectives he set himself.

February 26 will be remembered as a sad day, but also as a day to commemorate Boris Trajkovski's commitment and enthusiasm. So his dream of Macedonia as a full member of a prosperous and peaceful Europe comes true.

Mr. SMITH of Michigan. I join my colleagues in supporting H. Res. 540, which expresses the condolences and deepest sympathies of the House of Representatives for the untimely death of Macedonian President Boris Trajkovaski.

As we know, President Trajkovski died in a February 26 plane crash in Bosnia-Herzegovina, where he was planning to participate in a conference before traveling to Ireland to present his country's formal application to join the European Union.

Boris Trajkovski had been serving as President since 1999. He reached across ethnic divides to hold his country together during the ethnic turmoil and conflict which erupted in Macedonia in 2001. He also represented Macedonia well in working with the international community, both on regional issues and on making Macedonia's case for integration into European and Euro-Atlantic institutions.

Macedonia is a country of concern to the Helsinki Commission, which I chair. As they have had to develop democratic institutions over the last 15 years, Macedonia also had to assert independent statehood as Yugoslavia disintegrated and deal with the economic disruption caused by that disintegration. Macedonia had to bear a refugee burden caused by associated conflicts in Bosnia and Kosovo, and be a part of the enforcement of international sanctions against Milosevic's Servia. Macedonia has had to work out differences with neighboring states on sensitive, national issues which run deep in Balkan history, at the same time to overcome divisions within its own, ethnically diverse population. And, like so many of the countries in southeastern Europe, Macedonia must contend with organized crime and corruption, including trafficking in persons, which threaten its further democratic and economic development.

It is my hope, Madam Speaker, that the same strength and determination upon which the people of Macedonia have relied in the face of these challenges, will serve them again in the face of this latest tragedy. With the passage of this resolution, the United States Congress can show its support for Macedonia and its people, not only as they mourn the loss of their President, but as they continue on the path of peace and prosperity he was leading them at the very moment he died.

In closing, I wish also to express my prayers and personal condolences to family and many friends of Boris Trajkovski.

Madam Speaker, I join my colleague Mr. SOUDER and others in supporting this Resolution and expressing deep sadness over the sudden and tragic death of Boris Trajkovski, the President of Macedonia.

In the 1990s, I served as a Co-Chairman of the Commission on Security and Cooperation in Europe, the Helsinki Commission. During that time, the Commission, the Congress, the American government and indeed the international community viewed the conflicts associated with Yugoslavia's demise as a foreign policy priority. In Croatia, Bosnia and then Kosovo, thousands upon thousands were killed, raped or tortured while millions were displaced in ethnic cleansing campaigns. The violence, of course, would reverberate through the region, replacing trust and cooperation with fear and hatred in ethnically diverse communities.

Macedonia, as a republic of the former Yugoslavia, was caught in the midst of this turmoil, but it held itself together. Even when fighting erupted within its own borders, many of that country's leaders worked to find solutions to underlying grievances and brought peace back to Macedonia. Of course, international involvement was essential, but so was the presence of people like Boris Trajkovski, who would reach across ethnic lines and work to help all the citizens of Macedonia, not just those of their own ethnicity.

Boris Trajkovski, in my view, understood what it meant to be a head of state, to represent the country, all of its people, and all of their aspirations. Since 1999, he moved his country forward.

I hope, Madam Speaker, that the people of Macedonia will find not just sorrow in President Trajkovski's death but also the strength to make his vision of a democratic, tolerant and prosperous Macedonia a reality.

They can count on support of the United States to that end. As Secretary of State Colin Powell said on February 26, the day Trajkovski's plane crashed in Bosnia, the Macedonian President "leaves behind a legacy of U.S.-Macedonian friendship that has never been closer or stronger."

In closing, let me also express my deepest condolences to President Trajkovski's wife, Vilma, his children Sara and Stefan, and other family members and friends.

Poverty is a fact of life for as many as 400 million Indians who survive on less than $1 a day. Illiteracy rates, while decreasing, are still high. And the health, economic and security challenges posed by the HIV/AIDS virus may be the most important issue facing India today.

Madam Speaker, as our delegation conveyed during our recent visit, and I was want to convey today, the United States is India's partner as she works to address these and other challenges on the way to realizing her potential of becoming a true world power.

I returned home with a renewed commitment to ensure that the United States continues to provide economic development assistance for health care and food for the needy, improved energy efficiency and environmental restoration efforts. And we will of course honor our pledge to take the lead in the global effort to combat the scourge of HIV/AIDS, through the provision of medicine, volunteers, and much-needed financial resources.

Above all, we must foster a deeper appreciation for the shared values and beliefs that lie at the heart of our two great democracies, and an understanding of the common principles and interests that bind us together.

This Resolution is a celebration of India's Republic Day, but also a recognition of our strengthening relationship.

I urge all of my colleagues to support it.

Mr. BEREUTER. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. MILLER of Michigan). The question is on the motion offered by the gentleman from Nebraska (Mr. BEREUTER) that the House suspend the rules and agree to the resolution, H. Res. 540, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LANTOS. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3717, BROADCAST DECENCY ENFORCEMENT ACT OF 2004

Mrs. MYRICK (during consideration of H. Res. 540), from the Committee on Rules, submitted a privileged report (Rept. No. 108–436) on the resolution (H. Res. 554) providing for consideration of the bill (H.R. 3717) to increase the penalties for violations by television and radio broadcasters of the prohibitions against transmission of obscene, indecent, and profane language, which was referred to the House Calendar and ordered to be printed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 6 o'clock and 46 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1943

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. GERLACH) at 7 o'clock and 43 minutes p.m.

PROVIDING FOR ADDITIONAL TEMPORARY EXTENSION OF PROGRAMS UNDER THE SMALL BUSINESS ACT AND THE SMALL BUSINESS INVESTMENT ACT

Mr. MANZULLO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3915) to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through May 21, 2004, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3915

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL TEMPORARY EXTENSION OF AUTHORIZATION OF PROGRAMS UNDER THE SMALL BUSINESS ACT AND THE SMALL BUSINESS INVESTMENT ACT OF 1958.

The authorization for any program, authority, or provision, including any pilot program, that was extended through March 15, 2004, by section 1(a) of Public Law 108–172 is further extended through April 2, 2004, under the same terms and conditions.

SEC. 2. EXTENSION OF CERTAIN FEE AUTHORIZATIONS.

Section 503(f) of the Small Business Investment Act of 1958 (15 U.S.C. 697(f)) is amended by striking "October 1, 2003" and inserting "May 21, 2004".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. MANZULLO) and the gentlewoman from New York (Ms. VELÁZQUEZ) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. MANZULLO).

Mr. MANZULLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a short and simple bill. H.R. 3915 authorizes a general extension of all programs under the Small Business Act and the Small Business Investment Act from its current ending date of March 15, 2004, until April 2 of 2004. This will allow SBA programs that expire on Monday to continue to operate.

In particular, these include the surety bond program which enables small businesses to obtain surety bonds in order to bid on government contracts, cosponsorship authority so that the SBA can host events or print publications with the private sector, and procurement of assistance that is provided to certain small businesses.

H.R. 3915 as amended also authorizes the SBA to charge fees for the 504 loan program with a certified development company until May 21 of 2004.

□ 1945

This program operates solely based on the fees charged by the SBA to certified development companies. If such fees are not extended, there will be no way for certified development companies to make the type of long-term loans that small businesses rely on to create new jobs. The 504 program operates totally upon user fees and has not received an appropriation since 1996. Unless H.R. 3915 is signed by the President soon, the 504 program will shut down on Monday.

The ranking minority member and I have been working together on finding a solution to the 7(a) problem. Due to a variety of reasons, unfortunately, that solution is not part of this legislation. I pledge to the gentlewoman from New York (Ms. VELÁZQUEZ) that I will do everything in my power to see to a resolution in the 7(a) problem as soon as possible.

I urge my colleagues to support H.R. 3915.

Mr. Speaker, I reserve the balance of my time.

Ms. VELÁZQUEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is with great reluctance that I agree to the second short extension of the Small Business Administration. We are here today because this body has not been able to get our job done. All we ever hear from this administration and the majority party is how important small businesses are, but when we have a chance to do something as simple as ensuring small business of the capital they need to survive, no one from the other sides of the aisle is willing to step up to the plate.

The administration's lack of commitment in supporting reauthorizing the Small Business Administration clearly demonstrates a disconnect between what they say and what they are willing to do. The administration has no problem depriving thousands of small businesses of the only affordable lending opportunities open to them. They are unconcerned that their decision to cut the 7(a) program jeopardizes over one-third of all 7(a) loans.

This administration could not care less that thousands of small businesses that were guaranteed loans by Small Business Administration had their loans stripped out from under them and may now face bankruptcy. It does not seem to bother them one bit that they are driving lenders out of the 7(a) program, leaving even more small companies with no resources to build their businesses. You would think that job creation might get President Bush's attention, but his administration is denying small businesses access to $3 billion in loans this year alone, which will result in 90,000 lost jobs.

The administration and the Republican leadership may be perfectly comfortable slamming the door shut on small businesses struggling to compete in the weak economy, but I am not. The 7(a) program has been on life support since January. The Small Business Administration flagship lending program was first shut down in early 2004 due to lack of funds. Small business owners, some who have put down their life savings, some who had plans to expand and hire new employees, some who were going to purchase new equipment found themselves left in the lurch. Even though they had played by the rules, submitted their applications on time and were approved for a loan, the Federal Government failed to honor its commitment to them.

Both fairness and accountability flew out the window when the program was shut down and applications were returned to small business borrowers.

Still today these small businesses are waiting for some relief. When it was reopened, the program saw new restrictions that are still in place. In its current state, the 7(a) program fails to serve the very small businesses Congress had in mind when it created this program in the first place. They are causality of this administration's lack of commitment to small businesses. And that is just plain wrong. We must address this crisis immediately.

Our small businesses do not ask for much. Yet, they give so much in return. They create jobs in our local community. They pave the way for individuals to reach the American dream. They train our workers and generate new ideas. We should be given back giving back to them what they have given to us. And what does this bill give them? It gives them nothing. Now more than ever, our Nation needs small companies to succeed. They are the driving force of job creation in our economy. America's hard-working small businesses should be able to count on Congress to improve the Small Business Administration and its critical programs. Unfortunately, we are failing.

Mr. Speaker, I would like to yield to the chairman of the committee for the purpose of entering into a colloquy.

Would the chairman be willing to assure me that he will work to make changes to the 7(a) lending program by April 2, 2004?

Mr. MANZULLO. Mr. Speaker, will the gentlewoman yield?

Ms. VELÁZQUEZ. I yield to the gentleman from Illinois.

Mr. MANZULLO. I thank the ranking member. I will be willing to enter into a colloquy.

I will assure the ranking member that I will work with her to make changes to the 7(a) lending program by April 2, 2004 that will resolve the problems currently affecting the 7(a) program through the end of fiscal year 2004. I make the sincerest assurance that these negotiations will involve all relevant parties, including House leadership and the White House and that the gentlewoman and her staff will be involved in such negotiations. I truly believe that we can solve this problem together.

Ms. VELÁZQUEZ. I thank the chairman. I appreciate his willing to willingness to work this issue out in a timely manner. However, given past experiences with the gentleman and our so-called agreements, I am sure you can understand my need to make this agreement abundantly clear with the gentleman.

Mr. Speaker, small businesses continue to suffer under the current 7(a) program restrictions, and we cannot continue to ignore this issue. It is the most pressing issue that the gentleman have jurisdiction over. I thank the Chairman.

Mr. MANZULLO. I would like to thank the ranking member from New York for entering into this colloquy and resolving this issue amicably.

Ms. VELÁZQUEZ. Mr. Speaker, I yield back the balance of my time.

Mr. MANZULLO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GERLACH). The question is on the motion offered by the gentleman from Illinois (Mr. MANZULLO) that the House suspend the rules and pass the bill, H.R. 3915, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "To provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through April 2, 2004, and for other purposes.".

A motion to reconsider was laid on the table.

APPOINTMENT AS MEMBER TO NATIONAL PRISON RAPE REDUCTION COMMISSION

The SPEAKER pro tempore. Pursuant to section 7(b)(1) of the Prison Rape Elimination Act of 2003 (42 U.S.C. 15606), and the order of the House of December 8, 2003, the Chair announces the Speaker's appointment of the following member on the part of the House to the National Prison Rape Reduction Commission:

Mr. Pat Nolan, Leesburg, Virginia

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

HEALTH SAVINGS ACCOUNTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Mexico (Mr. PEARCE) is recognized for 5 minutes.

Mr. PEARCE. Mr. Speaker, I rise this evening to discuss the inclusion of health savings account in the Medicare legislation. It is one of the most exciting provisions to business owners in my district.

Health savings accounts are going to change the way that our country looks at health care. It is going to change the way that our companies buy health care. Basically a health savings account is simply an IRA. It is a medical IRA. It is a medical IRA where we are allowed to put money in tax free at any age up to $5,500 a year. An employer or the plea can make the contribution.

The nice thing about the health savings account is that it can be taken out at any age if it is used for medical purposes. So unlike other IRAs which have to be deducted or taken out of the savings accounts after you are 62½, health savings accounts can be taken out now at any age. It can be used to pay for premiums, deductibles, co-pays, prescription drugs, medical supplies or any medical treatments.

The value of this is, Mr. Speaker, that we are going to get to about 30 percent more buying power with our dollar because we make tax free contributions into the plan and we can take tax free contributions out if we pay for legitimate medical expenses.

The nice thing also is that it becomes a part of your estate. It travels with you. It is a thing that will go to the next generation if you do not use it. And so it is a way for you to prepare for your medical expenses, but if you do not use the account, then it becomes a way for your children to pay for their medical expenses.

I think that the example of my company is a very good one, Mr. Speaker. We used to have a company with 50 employees. Almost every year we gave bonuses to employees. I would tell you that if we still owned the business, that we would begin to pay those bonuses sometimes 2, 3, 4, and $5,000 a year into the health savings account. That way we could begin to have the employees use tax free money to pay for their premiums in the program, and if they used the medical services to pay for their deductible, so with tax free money.

Now, if I am paying $5,000 a year into an account for every employee, 2 or 3 years down the road, each employee would probably have 10 to $15,000 in their medical savings account, their health savings accounts. At that point, I would begin to shop for $5,000 deductible rather than $500 deductible. The resulting collapse in premiums is something that I will guarantee will be attractive to every single small business owner in America and most large businesses. Each employee is going to want to look at this as a way to begin to prepare for their medical future.

The important aspect of the health savings account is that after we establish these large accounts to be used for medical purposes for our employees, and they know it is a part of their estate, they will begin to look at their medical decisions with regard to the amount of money that is coming out of their health savings account. It is one of the things that we think will depress the demands, the arbitrary demand that sometimes goes along with medical decisions today.

We think that the health savings accounts is one of the most important pieces of legislation passed during the past year. When employers in my district hear about it, they call our office and begin to ask can they buy that now.

□ 2000

Most insurance companies will begin to have plans this year. Most are saying to me that they will have the plans up and running by the mid-year June of 2004. I think that in the future years, as employers and employees alike begin to combine their efforts into the health savings account, we are going to find real changes in the way that medical care is paid for in this country, and that is the beginning point of most of the reforms that are going to make medical insurance available and affordable to all Americans.

Mr. Speaker, I salute this House in passing the prescription drug bill with the Medicare reforms that included the Health Savings Account.

RURAL HEALTH CARE FOR VETERANS

The SPEAKER pro tempore (Mr. GERLACH). Under a previous order of the House, the gentleman from Texas (Mr. STENHOLM) is recognized for 5 minutes.

Mr. STENHOLM. Mr. Speaker, I am proud tonight to stand and take these 5 minutes in support of the Rural Veterans Access to Care Act of 2003 introduced by my good friend the gentleman from Nebraska (Mr. OSBORNE). I am just happy to say I am glad to be in his line-up tonight.

Mr. Speaker, I rise today to speak about an issue that is very important to me, the health care of rural veterans and the challenges that these patriotic Americans who have so proudly served our Nation in times of war today face. I am proud to address their concerns about access to health care and the unique obstacles they face for medical treatment.

Why is this so important? The answer is very simple. We owe these brave men and women who fought for our freedom and defended our liberty, including those who are doing so tonight as I speak. Today's soldiers are tomorrow's veterans, and we have those in Iraq and Afghanistan doing once again their duty in order that we might remain this free and proud Nation.

Mr. Speaker, I come from a very rural district. To say that my district is rural is an understatement. The 17th District of Texas is 33,836 square miles, in fact larger, than six States.

This talk about the size of my district can also give my colleagues an idea of how far it is to drive for a veteran to receive health care, in fact how far it is to get anywhere. In the 17th District, there is no subway to take a person from one end to another. A taxi ride would take a few hours and be outrageously expensive, and bus lines do not run from the bedroom community of Ft. Worth to the outskirts of Lubbock.

So what does all of this size and magnitude have to do with rural veterans? Well, it has a lot to do with them. If anyone here has been to my district, they know how long it takes to get from point A to point B, but to veterans in need of health care in West Texas, a 2-hour drive is not just a jaunt down the road or a time to think and reflect. For these folks, a long drive is a very big challenge.

I am proud to stand by the veterans of my district, and again I say, stand as a cosponsor of the Rural Veterans Access to Care Act of 2003.

The gentleman from Nebraska's (Mr. OSBORNE) bill goes a long way to helping to alleviate some of the difficulties faced by rural veterans. I am glad he is stepping onto the field to fight for rural veterans, and I am proud to be standing with him.

I endorse his idea that no less than 5 percent of appropriations to VA health care should be used to improve access to medical services for highly rural or geographically remote veterans.

Last year, I was deeply disappointed by the leadership's implicit acceptance of using veterans' resources for political expediency. The VA appropriations bill for fiscal year 2004 broke a promise made to our veterans. The measure contained $1.8 billion less in veterans' health care than was promised last year by the Republican leadership in the budget resolution. We all know that the leadership's first priority during the budget negotiations last year was achieving large tax cuts.

Along with several of my colleagues, we warned that the commitments made for increasing funding for veterans' health care, along with large tax cuts, could not be kept. For this reason, I supported a smaller tax cut that would allow the promise to be honored. We were later informed that the commitment would be honored, but when it came time to act, the leadership found they could not keep this promise, along with the large tax cut after all, but that was last year.

I am hopeful that 2004 will bring greater sense to those in power. I pray that 2004 will bring greater loyalty to those who were told that they will be remembered.

I think it is important to remember that today's fighting men and women are tomorrow's veterans.

A recent issue that highlights the challenges facing rural veterans is the CARES Commission's recommendation recently that the West Texas VA health system, the VA hospital in Big Spring, Texas, should be closed.

I represented Big Spring up until the redistricting in 2001 removed it from my district, but now my interest in this issue is just as strong today as it was when I represented Big Spring. Most of the population that uses the Big Spring VA center is to the east, specifically in the population areas around Abilene and San Angelo where two Air Force bases fuel the veteran and retiree residents.

Given this fact, it only takes plain common sense to see that the Big Spring VA is well-positioned to keep the promise made to our veterans and military retirees for health care.

I have had some folks ask me why we are in such the forefront of this challenge. My answer to them was threefold: So many of the veterans in my district are treated in the Big Spring VA hospital; all the veterans and military retirees of this country deserve the best health care and benefits we can give them; and that we are in very much dedicated to seeing that just that happens.

I was pleased to participate in a meeting with VA Secretary Anthony Principi that was called by Senator KAY BAILEY HUTCHISON. The meeting was very productive and allowed me to assert my belief that the Big Spring VA needs to be both kept opened and strengthened for rural veterans of West Texas.

I understand the need for our government agencies to periodically review missions, goals and facilities, but such reviews need to be deeper than number crunching.

Mr. Speaker, I am proud to stand in support of the bill. I believe it goes a long way to getting more people to recognize the importance of health care for rural veterans, as well as all veterans.

INTRODUCTION OF RURAL VETERANS ACCESS TO CARE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. OSBORNE) is recognized for 5 minutes.

Mr. OSBORNE. Mr. Speaker, I would like to thank the gentleman from Texas for his kind words and his support. The gentleman from Texas (Mr. STENHOLM) and I share very similar Districts, very large districts.

My district has 68 counties, 160,000 square miles. It is the third or fourth largest district in the United States. As a result, veterans who need health care must often travel several hours, sometimes hundreds of miles, to access VA health care. Sometimes this is as much as a 3-day trip, a day down, a day at the facility and a day back, and the problem is that usually transportation is very difficult to access. A person has to have a son or a daughter or a friend or somebody who can take off work for 2 days or 3 days to provide that transportation. So it is a tremendous hardship on a number of people.

Often, all a veteran needs is to adjust medication, have a blood pressure test, receive an EKG or take a blood analysis. So these are very simple, routine matters that still take tremendous resources to have attended to. Routine medical care could be handled at the local hospital or clinic where that person resides or near where that individual resides, and this would require minimal travel time, minimal waiting time for an appointment because sometimes these appointments, you have a waiting time of 3, 4, 5, 6 months and also minimal expense.

So I looked at various options to address this problem and developed H.R. 2379, the Rural Veterans Access to Care Act. H.R. 2379 would encourage the VA to use its authority to contract for routine medical care with local providers for geographically remote veterans who are enrolled in the VA. They must be enrolled in the VA previously in order to access the provisions of this bill.

So how will it be funded? The VISN director will use the funding for acute or chronic symptom management, nontherapeutic medical services and other medical services as determined appropriate by the director of the VISN after consultation with the VA physician responsible for primary care for the veteran.

H.R. 2379 sets aside 5 percent of the appropriated VA medical care allocation in each VISN to be used for routine medical care for geographically remote veterans. We are talking about taking just 5 percent of the funding and setting it aside for veterans who live at some significant distance from a VA facility.

H.R. 2379 uses 60 minutes travel time or more as an initial determinant, but there is also an exception to the legislation if the VA finds it is a hardship for a veteran to travel to a VA facility, regardless of how long it will take. It is conceivable that somebody might live only 30 or 40 minutes away but because of age or severity of illness or whatever it may be much more convenient to attend a closer facility that would enhance that person's health.

I want to assure veterans, this legislation is not a voucher program. My legislation allows only enrolled veterans who have been approved by the VA to seek routine care from a local provider.

Reducing demands for routine care could also help with appointment backlogs in VA facilities, which are significant at this time.

According to the CARES Commission report, the benefits of contracting are, it can add capacity and improve access faster than can be accomplished through capital investment. In other words, building new facilities is not nearly as efficient as letting them use preexisting local clinics or hospitals. It provides flexibility to add and discontinue services as needed and allows VA to provide services in areas where the small workload may not support a VA infrastructure, which is very much the case in my district and in the gentleman from Texas' (Mr. STENHOLM), and this was for highly rural veterans.

During the hearings, the CARES Commission received testimony stating that contracted care improves access and that there was little dissatisfaction with contracted care. Therefore, I urge my colleagues to support H.R. 2379 and help our rural veterans as they access VA health care.

IN SUPPORT OF RURAL VETERANS ACCESS TO HEALTH CARE ACT OF 2003

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Hawaii (Mr. CASE) is recognized for 5 minutes.

Mr. CASE. Mr. Speaker, good evening and aloha.

I am very happy to stand on the floor of the House today and join my colleagues the gentleman from Nebraska (Mr. OSBORNE), the gentleman from Texas (Mr. STENHOLM) and many others in introducing the Rural Veterans Access to Health Care Act of 2003.

We are all very well aware of the commitment that we have made, at least in principle, although the practice has been lacking of recent years, but the principle that we will take care of veterans when they come home. The truth, however, is that as we try to honor that principle and the practice, the equality of access to health care throughout our country is inconsistent, and this is most particularly true in the rural areas of our country. In these areas, our veterans simply do not have the same level of access to the veterans' health care as they do in the urban areas.

This is true in Hawaii's 2nd District, which is a rural area of our country, just as others are, but we have a little wrinkle in the 2nd Congressional District that creates a unique complication. The wrinkle is that my district is not contiguous. It is made up of islands. It is not possible for the veterans of my district to hop on the nearest road and get to the nearest clinic. It is not possible for the most part for my veterans to hop on the nearest ferry to get to the nearest clinic. Their access is by air.

There are some VA medical clinics on many of the islands that I represent. Of the seven inhabited islands, four have VA clinics; three do not. The islands of Molokai, Lanai and Niihau do not, and these are the particular problems that this bill seeks to address.

But it is not limited only to those islands. For the islands that do have VA clinics do not have the large specialized hospitals. There is only one of them on the island of Oahu. So for six out of the seven islands, the veterans that live on those islands have a particular difficulty in getting to treatment when they need it, and with airfares rising rapidly, with a round trip now well over $200 in some cases, we can see that the problem is quite evident.

Let me give my colleagues just a real life example, one proud veteran who I have gotten to know over the last couple of years, a gentleman by the name of Patrick Esclito, of the island of Lanai. Pat asked for my office's help last year. He had rheumatoid arthritis and had also suffered a massive heart attack in 2002. His condition required him to drive from Lanai, one of the smallest, most isolated areas, to Oahu where he was abie to be cared for. Every time he went there he had to pay almost $300 in airfare and his wife as well because they did not want him to travel alone.

As my colleagues can understand, he needed assistance in getting the basic health care that was promised to him by our country, and we were successful, in part, by accommodating the possibility that he would be treated instead on the island of Maui, which still requires a boat ride at least, not quite as expensive, but he still has to get there, and I doubt that Pat's case is unique. It is certainly not unique in the remainder of the 2nd District of Hawaii.

I surveyed all of the veterans in my district currently retaining or receiving benefits in the last couple of months and asked them what is on your mind the most. Every single one of them said health care, access to health care. That is what it is all about, and I am sure that this is the case in most of the rural and more isolated areas of our country.

We are going to have a great debate this Congress, as we did last Congress, over the overall adequacy of our treatment of our veterans, over the overall adequacy, both this year and in the next 5 years at least, in terms of the budget, in terms of the projections on many aspects of veterans' care, primarily health care.

□ 2015

And that debate is a debate that we should have. Because, again, it is one thing to express a principle and it is another thing to practice that principle. But as we go through this debate, I am happy to say that on the floor of the House tonight at least we have bipartisan agreement that one area that we have to focus on, and that we are focusing on in this bill, is our rural veterans, recognizing the unique problems that they have in access to basic health care.

Mr. Speaker, I rise today to join 52 of my colleagues in support of this vital bill, a bill that will help keep our Nation's promise to its veterans who live in our more isolated, rural areas.

We are all well aware of the commitment we all, as a great country, have made to our veterans. However, the truth is that our ability to deliver on this commitment varies throughout the United States. Most particularly, in rural areas of the country, our veterans simply do not have reasonable access to veterans' clinics.

The veterans of Hawaii's Second District have this very challenge, but with a unique complication. This is because my district is not contiguous, but composed of seven inhabited islands in the middle of the Pacific Ocean.

There are VA medical facilities on only four of those islands, and it is not possible for those veterans who live on the remaining islands of Molokai, Lanai, or Niihau to drive to a clinic. The same is true of those living on the remaining islands with clinics; they must travel to Honolulu for more advanced treatment.

Currently, the VA will reimburse all veterans for travel to service-related injuries, but it will not reimburse travel for those veterans with less than 30 percent disability rating for non-service-related injuries. This would be the case, for example, of a veteran who has a bad back, a service-related injury, who then has to have dental work.

Let me give you a real-life example of one proud veteran, Patrick Esclito, who lives on the Island of Lanai. Pat requested my help last year; he was afflicted with rheumatoid arthritis and had also suffered a massive heart attack in 2002. His condition required him to travel to the Island of Oahu for treatment at a cost close to $300 per roundtrip. His wife traveled with him—another almost $300—because they were both concerned with his traveling alone. My office assisted him in receiving approval for treatment instead on the Island of Maui. However, he still must pay for travel by boat from Lanai to Maui because his ailments are not service-related.

Pat's case is not unique. There are 120,000 veterans living in the State of Hawaii, and many live in areas with no easy or even adequate access to the VA health clinics to which they are entitled. Throughout my Second District, with the cost of air travel skyrocketing, it costs $200 or more for a round trip plane ticket between Hawaii's islands.

This is why, when, last year, I surveyed all veterans in my district who are currently receiving VA benefits, and asked them what was and was not working, their number one issue by far was access to health care. I am sure that this is the case in most rural areas of our country.

This bill will allow all veterans to receive adequate access to health care, regardless of where they live in this great country. Nonetheless, the President's 2005 Veterans' Affairs budget provides $29.8 billion for appropriated veterans programs, $257 million below the amount that the Congressional Budget Office estimates is needed to maintain purchasing power at the 2004 level. The picture is even worse after 2005. Taking into account inflation, but not caseload increases, the administration's figures reveal that over the next 5 years, the budget for appropriated programs for veterans is $13.5 billion below the amount needed to maintain programs and services at the 2004 level. Even the Secretary of Veterans' Affairs has admitted that the funding levels for 2006 through 2009 in the President's budget may not be realistic. I have no doubt that it will be the rural veterans who will be affected the most.

Contrary to what some critics claim, H.R. 2379 will not harm the Veterans' Affairs (VA) healthcare system. Instead, this bill will enhance access to healthcare for veterans who have earned it, but are having to pay to travel to that care. Furthermore, by contracting locally for health care for enrolled veterans, the rural communities that provide these services will benefit economically. H.R. 2379 is a necessary bill to truly fulfill this country's obligation to all veterans.

Mr. Speaker, as the President has repeatedly declared: "We are currently a country at war." Hundreds upon thousands of this Nation's finest men and women are abroad in support of the Global War on Terrorism. Some 4,500 soldiers from the 25th Light Infantry Division from Schofield Barracks in Hawaii have deployed to Iraq; another 5,400 soldiers from the 25th will soon be deployed to Afghanistan. Reservists and Guard members from my State, many from my Second District, are also serving on Active Duty.

What kind of message does our country's failure to provide access to healthcare for rural veterans send to the thousands of American men and women in uniform currently risking their lives overseas? Our veterans and our future veterans serving overseas deserve better. If we value all our veterans, we need to give them the respect they deserve by properly funding full and adequate access to healthcare for each and every one.

RURAL VETERANS HEALTH CARE

The SPEAKER pro tempore (Mr. BURGESS). Under a previous order of the House, the gentleman from Nebraska (Mr. BEREUTER) is recognized for 5 minutes.

Mr. BEREUTER. Mr. Speaker, this Member rises today to join the distinguished gentleman from Nebraska (Mr. OSBORNE) in his Special Order to highlight the health care challenges that rural veterans face when attempting to access care through the Department of Veterans Affairs.

For many years, this Member has been far from satisfied with various actions of the U.S. Department of Veterans Affairs, such as, one, the use of the health care allocation formula instituted by the Clinton administration and continuing to this day, which in effect penalizes veterans in sparsely settled States like Nebraska; number two, the reorganization of the Nebraska-Iowa region into a larger region headquartered in the Twin Cities of Minnesota; three, the end of inpatient hospitalization in the Lincoln and Grand Island, VA hospitals; and, four, the current procedural difficulties for veterans to have prescriptions filled.

In total, these faulty decisions have amounted to discrimination against veterans in rural areas. First, due to the closure and consolidation of veterans health care facilities in Nebraska, veterans in rural areas frequently travel several hours simply to receive the basic services for which they are entitled and are eligible. As a result of this travel, they must incur transportation costs such as overnight accommodations which other veterans are not expected to incur for the same services. Furthermore, requiring elderly and frequently sick or incapacitated veterans to travel on Interstate 80 or other very busy roads and highways is not only unfair to them, but also places them and other citizens at risk.

The severity of this problem was brought to this Member's attention by a January 2002 Lincoln Journal Star article featuring one Nebraska veteran who served in the Navy during World War II. Three years after he was diagnosed with several diseases, his wife of 49 years could no longer care for her husband. She said that putting her husband in a nursing home was the hardest thing she had ever had to do in her entire life. Medicare and a private insurance supplement cover doctors' expenses, and the couple uses their retirement savings to pay for the $4,000 monthly nursing home cost.

However, additional expenses include $1,000 a month to cover the cost of seven prescription drugs that this veteran must take to stay alive. Although he qualifies for a prescription drug benefit through the VA, in order to obtain this benefit, the drugs must be prescribed by a VA doctor at VA-approved facilities. As a result, this veteran must travel 50 miles every 6 months in order to have prescriptions reauthorized.

Now, because that veteran is 74 years old, confined to a wheelchair, suffers serious blood clots which prohibit him from traveling, this 50-mile trip often proves to be impossible.

With the struggles of this veteran and many others in mind, this Member expresses his strongest support for H.R. 2379, the Rural Veterans Access to Health Care Act for 2003. Indeed, this Member is a proud cosponsor of this measure, which was introduced by my colleague, the distinguished gentleman from Nebraska (Mr. OSBORNE). He is to be commended for crafting this legislation, which addresses a critical problem about which our constituents in Nebraska are increasingly expressing their concerns.

Through H.R. 2379, no less than 5 percent of the total appropriated funds for health care would be dedicated to address veterans health care access problems in highly rural or geographically remote areas. As amended by this bill, highly rural or geographically remote would apply to areas in which the veterans have to drive at least 60 minutes or more to a VA health care facility. Each Veterans Integrated Service Network, that is called VISN, director would receive an equal level of funding from this account and then have the discretion to address rural access issues as best fit each VISN. If a VISN would be unable to use all of these funds from this account, the VISN would not be allowed to retain unused funds. Instead, the Secretary of Veterans Affairs would then have the opportunity to reallocate those funds to other VISNs closely nearby or anywhere that is rural and geographically remote.

All Members of Congress should agree that the VA must provide adequate services and facilities for veterans all across the country regardless of where they live, in sparsely settled areas with resultant low-usage numbers for VA hospitals. There must be at least a basic level of acceptable national infrastructure of facilities, medical personnel and services for meeting the very real medical needs faced by our veterans wherever they live. There must be a threshold funding level for VA medical services in each State and region before any per capital funding level is applied.

Furthermore, I support H.R. 3777, the Healthy Vets Act of 2004. This Member is also a cosponsor of this legislation, introduced by our colleague, the distinguished gentleman from Colorado (Mr. MCINNIS).

This measure would allow those veterans in rural areas which are geographically inaccessible to the nearest VA medical facility to enter into contracts with community health care providers on a fee basis to receive primary health care in their own communities. This authority would allow rural veterans to receive preventive regular medical attention without being forced to travel what is too often a prohibitive distance to seek such care.

In spite of the fact that each Congress sets a new record on the amount of appropriation for veterans health care, there have been cutbacks in the access veterans in rural areas have to adequate health care, while there have been advances in other geographic areas. The health care needs of our military veterans must be met to the fullest extent possible. Veterans served in our armed services to protect our freedom and our way of life. As they served our Nation at a time of need, the Federal Government must remember them in their time of need. The debt of gratitude the people the U.S. owe to our veterans surely means we should assist the veterans wherever that need exists.

Finally, Mr. Speaker, this Member remains committed, I would say, to ensuring that Nebraska veterans receive the benefits they deserve, benefits they had expected and which the American people said they want to deliver. I urge support of H.R. 2379 and H.R. 3777.

JOBS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, the President flew Air Force 1 to Cleveland today to campaign in my home State of Ohio, talking with 700 or 800 female small business owners. While the President came and talked about small business and job creation and all that he wants to do in a State which has suffered the worst or second worse job loss in the country, the President, at the same time, and this Congress today, this House today considered this legislation, is slashing $94 million from a loan program essential to small business development. He has shrunk the size of the Small Business Administration.

This President basically treats small business one way, with very little assistance, and large businesses, like the Halliburton Corporation, which still pays Vice President CHENEY $3,000 a month from their payroll, the Halliburton Corporation, very differently.

The President really does not get it when he comes to a State like Ohio, a State where we have lost 166,000 manufacturing jobs since he took office, 300,000 jobs overall since he took office; one out of six manufacturing jobs in the State of Ohio has simply disappeared in the last 3 years. The President's solution to all of this is continued tax cuts for the most privileged people, with the hope that some of that money will trickle down and create jobs.

The other solution the President has is more trade agreements, NAFTA-like trade agreements, that ship jobs overseas; that hemorrhage jobs to Mexico, to China, and all over the world. He continues, as he campaigned in Cleveland today to those small business owners, he continued to say more tax cuts for the most privileged and more trade agreements. And, clearly, for 3 years that has not worked. One-sixth of our manufacturing base is gone in Ohio and about one seventh of the manufacturing base around the country.

That was really brought home to me last week. I was in Akron, Ohio, speaking to a group of owners of machine shops, about 60 people. And a gentleman came forward and he dropped a stack of brochures, leaflets like this. He dropped about four times this many, and he said this is what I get in about a month in the mail from companies around the country. And these stacks of brochures, these stacks of leaflets are auction notices for companies going out of business. Every one of these represents a company that is going out of business or is downsizing as a result of the Bush recession.

Here is one plant. Closed, everything sells. Here is another one from Mansfield, Ohio. Two complete stamping and machine tool shops. They are closing and selling. From North Carolina, public auction. Plant closing. Everything must sell. From Marion, Ohio, complete shop close-out auction. From Cuyahoga Falls, Ohio, in my district, absolute auction. Everything is going. From Scottsboro, Alabama, precision job shop downsizing. Another one here for a CNC machining tool room and production machinery. Excess equipment due to corporate outsourcing.

Excess equipment due to corporate outsourcing. President Bush's top economic adviser the other day said outsourcing is a good thing when these plants move overseas and they ship jobs overseas, because it makes our businesses more efficient. Tell that to the 50 or 60 workers that worked at this plant when the owners of this plant say excess equipment, we are selling due to corporate outsourcing.

From Massachusetts, a large-capacity fabricating and machine shop closing. Another one from Chicago. Six CNC lathes, 12 chuckers, 22 bar machines sold. Surplus to the continuing operations. They have lost businesses and they are selling most of their equipment. Here is another one. Three days, two tremendous public auctions. Machinery, equipment, and real estate. Plant's closed, everything must go. Real estate for sale. Here is another one that says Dominion Castings Foundry, equipment machine facility. Plant closed, everything sells. Another one from Baltimore, Maryland. Complete facility selling. Another, 5-day public auction. Plant closing due to relocation. Another one, on and on and on. This company is closing for the same reasons.

Now, Mr. Speaker, it is bad enough that these places are closing and the President's response is more tax cuts. That is not working. More trade agreements hemorrhaging jobs overseas. That is not working. That is bad enough, but there are 800,000 Americans whose unemployment compensation has expired in the last 3 months. That is 800,000 workers, 800,000 families living in communities around this country; and the President and this Congress, the Republican leadership in this Congress, will not extend their unemployment compensation. That is morally wrong. It is bad for our country, it is bad for our communities, it is bad for our families, and it is bad for our workers.

RURAL VETERANS HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. STUPAK) is recognized for 5 minutes.

Mr. STUPAK. Mr. Speaker, I rise tonight in support of rural veterans and in support of H.R. 2379, the Rural Veterans Access to Care Act of 2003. I would like to thank the gentleman from Nebraska (Mr. OSBORNE) for his leadership on this issue.

No veteran should ever have reason to doubt America's gratitude for his or her service to the Nation and to the cause of freedom. America's veterans deserve nothing less than our highest gratitude, our deepest respect, and our strongest support. Veterans from rural areas, like my district, deserve nothing less than their comrades living in more populated areas.

Michigan's First Congressional District has the highest population in any congressional district in Michigan. There are 65,000 veterans in my district, one-fifth of all the veterans in the State of Michigan.

□ 2030

They live over a huge area. The Upper Peninsula alone spans 450 miles from east to west. While the VA provides wonderful care in northern Michigan, it is far too hard for veterans to access health care. Recently, a Vietnam veteran from the Upper Peninsula had to go to Milwaukee, Wisconsin, for the treatment that he needed. Milwaukee is a long way from home, so our veterans go as far as the Iron Mountain VA Medical Center, and they spend the night there. The next day they are put on a bus and they are shipped down to Milwaukee, Wisconsin. And that is repeated once their treatment is done, whether it is 1, 2 or 3 days. They are put back on a bus, they go back to Iron Mountain, Michigan, and then they spend the night and go on home.

It is outrageous that they have to travel so many miles, in some case 450 miles, just to get treatment. At best the distance is an inconvenience. At worst, it puts veterans' lives at serious risk. I had another case where a retired Navy veteran from Sault Ste. Marie had surgery at the VA Medical Center in Milwaukee to treat his cancer. After surgery, he was transported via van all of the way back to Sault Ste. Marie, 379 miles away. The next morning, his spouse had to take him to the emergency room in Sault Ste. Marie, Michigan, and the emergency room could not help him. The nearest VA medical center in Iron Mountain could not help him either, so he had once again to be shipped by ambulance 379 miles down to Milwaukee, Wisconsin.

Mr. Speaker, we cannot have veterans being shipped back and forth across state lines. It is dangerous, and it is just not right. These two constituents represent the challenges faced every day by rural veterans across this country. Congress needs to act to address the specific needs of rural veterans. That is why I am a cosponsor of H.R. 2379, the Rural Veterans Access to Care Act of 2003. The legislation would allow veterans to enroll in an option to seek routine health care closer to home.

H.R. 2379 sets aside 5 percent of each VA region's medical care allocation to be used for routine medical care for highly rural or geographically remote veterans. The legislation would allow rural veterans to be closer to their health care providers, rather than traveling hundreds of miles for an appointment at the VA, which could be especially dangerous during inclement weather.

In Michigan, I will also continue to work to open a community-based outpatient clinic in Gladstone. Over 2 years ago, the VA announced to open the CBOC, as we call them, in Gladstone. Yet during every successive round of CBOC openings across the country, somehow our region just cannot seem to get Gladstone funded. It is estimated a Gladstone CBOC would provide much needed basic health care to our veterans, in fact, to approximately 750 veterans alone in its first year of operation. This facility is critical towards keeping our promise to those who serve our country so well.

I think today, Americans have a deeper understanding of the sacrifices of our military personnel than at any time in recent history. Our commitment to veterans must be more than just waving the American flag in times of armed conflict and recognizing them on national holidays. We owe it to our veterans to do more. We must be prepared to take their battle-borne scars of war and military service throughout their lifetime, and make sure they have the quality of service they need.

Today I was visited by a couple from Chassel, Michigan, representing the VFW. They handed me the VFW's priorities for the coming year. We can see here the VFW priority goals for 2004. It says veterans health care now, we earned it. If you look at it, it says the number one priority of veterans is health care. They say underfunding of the VA budget, 6-month waits to see a doctor, denial of care to category 8 veterans, little or no long-term care, little or no mental health care, and millions of fed-up veterans.

Well, those of us who represent rural areas, and no matter where veterans are, we believe they should be taken care of. There are special challenges for rural veterans, and we stand here tonight to urge this Congress to pass H.R. 2379 to take care of all of our veterans, but especially those of us who have veterans who live in our rural districts.

CARBON DIOXIDE CONTRIBUTES TO CLIMATE CHANGE

The SPEAKER pro tempore (Mr. BURGESS). Under a previous order of the House, the gentleman from Maryland (Mr. GILCHREST) is recognized for 5 minutes.

Mr. GILCHREST. Mr. Speaker, I did not come here to talk about veterans, but I will add my voice to the chorus of voices tonight to endorse the legislation put forth by the gentleman from Nebraska (Mr. BEREUTER) and state that veterans deserve fundamental, sound health care in this country. Veterans' families also need that kind of health care because veterans fought for their families in foreign wars. As we move forward with health care, remember the veteran, remember the veteran's mother, remember all those in rural areas that we can work collectively to find ways to manage health care in urban, suburban and rural areas.

However, I came here tonight to talk about this lump of coal. This lump of coal and coal throughout the world for the last several hundred years has provided heat, warmth, security and in recent times electric power which has transformed civilization. Coal has fueled the modern era. Coal is made up mostly of something called carbon. Coal has been developed on our planet naturally by geologic forces over millions of years. As the carbon on the surface in the form of animals, plants, vegetation, rocks, you name it, gradually deteriorated, was forced underground, in some cases in mountainous areas, in other cases, flat areas, but basically was forced underground, sometimes 100 feet, sometimes miles.

When this lump of coal, which is made mostly of carbon, was locked up underground over a long period of time, it took an element out of the atmosphere called carbon dioxide, CO_2, and locked it away. Over eons of time, these geologic forces, whether there was a lot of CO_2 in the atmosphere or much less CO_2 in the atmosphere, the geologic forces changed the climate.

Now the most recent climate change came about 10,000 years ago when the Ice Age ended. As the Ice Age ended, we moved into a warming trend. Over the last 10,000 years, the rate of warming has been about 1 degree centigrade every 1,000 years on a steady rate. That is 1 degree centigrade every 1,000 years.

Since we have been burning coal, which is carbon and then it turns into CO_2, we have been releasing into the atmosphere the amount of CO_2 in decades what it took nature to lock up over millions of years.

So in the last 150 years, the earth has warmed about 1 degree centigrade. Previous to that time, the earth had been warming 1 degree centigrade every 1,000 years. Since we have been burning fossil fuel, we have been warming the surface of the earth's temperature, reducing glaciers, thinning the ice cap in the Arctic Ocean by about 40 percent. The American Geophysical Union, the National Academy of Sciences, a group of scientists which President Bush appointed, has confirmed that the earth from human activity has been warming fairly significantly over the last 100 years, but especially over the last 50 years.

Carbon is locked up in this piece of coal. When this piece of coal burns, it releases carbon dioxide which is one of those elements naturally occurring in the world, naturally occurring in the atmosphere that balances the heat for the climate. When we infuse a significant amount of carbon dioxide into the atmosphere, the climate begins to warm faster. In fact, the EPA and other scientific institutions in the United States say that over 90 percent of the CO_2 released in the United States comes from burning fossil fuel.

What I would like to point out, Mr. Speaker, is this chart that actually goes from 1750 up to the year 2000. We can see from 1750, 1800, 1850, burning fossil fuel was minimal, so we do not increase CO_2 in the atmosphere very much. But once we get into the 1900s, especially 1950, CO_2 increases in the atmosphere from burning fossil fuels has had a dramatic effect. CO_2 is a naturally occurring element in the world. When we increase that element by the magnitude that we have, we have the potential for climate change.

FUND VETERANS HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. GOODE) is recognized for 5 minutes.

Mr. GOODE. Mr. Speaker, first, I want to salute coach the gentleman from Nebraska (Mr. OSBORNE) and express my appreciation to him on his leadership on the Rural Veterans Access to Health Care legislation.

A concern that I have with veterans health care is the lack of access rural veterans experience in seeking treatment at a VA facility. I represent a largely rural area of Virginia in which over 60,000 veterans reside. In the Commonwealth of Virginia, over 96,000 veterans were treated last year at a VA facility. There are only three VA medical centers located in Virginia to serve these deserving and eligible veterans. The VA has worked hard to expand their services, and they have opened three community-based outpatient clinics, four vet centers, and six mental health satellite clinics throughout the State. Unfortunately, more is needed.

The Salem, Virginia VA Medical Center, serving southwest Virginia has identified the lack of access to care for rural veterans as a big challenge that it faces. They provide services for at least 11,000 enrollees in my district alone each year. It is essential that more community-based outpatient clinics be established to accommodate our Nation's veterans living in rural and outlying communities.

I am very concerned that the proposed increase for veterans health care in the fiscal year 2005 budget is only $1.2 billion over the amount enacted in 2004. It is proposed that we allow $29.7 billion to meet the medical care needs of the over 4.2 million people treated in VA health care facilities each year across the country.

I believe that we need to take care of our veterans' needs first before we send our money overseas to help foreign countries. Veterans deserve the benefit of full funding of their health care system. I believe, along with a number of my colleagues, that we need to reduce the amount for international affairs in the concurrent budget resolution and increase the funding for veterans benefits and services by at least $3 billion so that we can improve veterans' health care. I repeat, decrease foreign aid by at least $3 billion and increase veterans health care by at least $3 billion.

In fact, I would gladly support increasing VA health care by $4 billion or $5 billion. I have had a great deal of contact with many of our veterans over the last few months, and the sentiment among them is that their health care is being shortchanged. Over the years, we have supplied billions in foreign aid to countries like Peru and Iraq. We gave them millions upon millions of dollars. Also Ethiopia, South Africa, Mexico, Indonesia, to name only a few.

In fiscal year 2005, the proposed budget for international affairs will increase discretionary spending to $31.5 billion, a 7.5 percent increase from fiscal year 2004, and approximately two-thirds of that goes to foreign aid.

I believe that we must carefully evaluate and prioritize our funds. We have a responsibility to support our veterans and to provide them with the best possible health care and to ensure that veterans have access to that care. We need to start prioritizing our needs as a Nation above those of foreign countries which have not always stood by us. The veterans have stood by us. They have carried the fight for us. They have made America great. We need to fund them.

Mr. Speaker, we do not need to fund the foreign countries that have not stood by us. I will not read the whole list, but there is a long list of recipients of foreign aid, and they have not been at our side recently, and have often not been at our side in the past. Let us fund veterans and not fund foreign countries who have not helped us.

VETERANS HOSPITALS STRUGGLING TO MEET DEMANDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine (Mr. ALLEN) is recognized for 5 minutes.

Mr. ALLEN. Mr. Speaker, the men and women of the Armed Forces serve this country honorably. They put their lives on the line in order to protect our freedom and our values. We owe them our gratitude, and they deserve to be recognized and fairly compensated for their service.

□ 2045

They also deserve to receive the benefits and the health care that they need and have earned.

We are all aware of the crisis facing VA health care. Veterans are waiting unconscionable lengths of time for appointments. The President's now out-of-date Web site claims his fiscal year 2004 budget, the year we are in, which Congress increased by $1.3 billion last year, would enable the VA to eliminate the waiting lists by the summer of 2004, this summer. Well, that is not the truth. That is not going to happen. Instead, VA hospitals are struggling to meet increasing demand; and year after year, my colleagues and I have to fight to increase the underfunded VA budget.

Veterans in rural States, such as Maine, face all of these problems, amplified by the fact that they may have to travel hundreds of miles to the nearest VA health facility.

Maine's single VA hospital, Togus, is located 100 miles from our southern border and 300 miles from our northern border. As anyone familiar with the cold and snowy winters will tell you, those kinds of distances are difficult, not to mention dangerous, to travel in the winter.

The VA has established access guidelines which provide that a veteran should be able to access primary care within 30 miles or 30 minutes from their homes in urban areas, and 60 miles or 60 minutes in rural areas. Only 59 percent of Maine veterans enrolled in the VA health care system meet those guidelines, and that means that more than 16,000 Maine veterans live outside the access standards, not to mention the veterans who have not even enrolled to get VA health care. Perhaps one of the reasons they do not seek VA health care is because they are so far away.

The VA's guidelines for access to inpatient hospital services provide that a veteran should live within 2 hours of inpatient services. Only 52 percent of Maine veterans meet this guideline.

Let me give you an example of what this all means in my State. Veterans in Maine, veterans have to travel to get specialized care, often to a Boston VA hospital; and if a veteran lives in the northern part of the State, say Caribou or Fort Kent, he probably cannot make a bus trip to Boston in one day. He will have to stay overnight in Bangor or Portland and take the rest of the ride the next day. On the third day, the veteran may finally have his appointment, and then either start back that day or the next day.

So you can see to get specialized care in Boston, a veteran from northern Maine may take 3 to 5 days to go down and get that care. Of course, a relative or friend may make the drive, and it might happen in 2 days or 2½ days instead of 3 to 5; but the problem is, how many people can afford to do that, how many people have the help they need?

We need to enable veterans living in the most rural parts of our country to benefit from the same accessibility to services that veterans in more urban areas enjoy. In Maine, the VA staff did town hall meetings throughout the State to develop a market plan for the VA CARES process, and this plan recommended five new community-based outpatient clinics in rural areas to improve access, in addition to collaborating with the State's successful telemedicine program and to the continued use of contract care.

I urge my colleagues to take to heart these difficulties faced by veterans in rural areas. Expanding access to care, particularly in these rural areas, must be a focal point of our efforts to reduce the huge backlog of veterans waiting for health care.

As we consider the fiscal year 2005 budget and when we review the final CARES national plan, we must not let down our Nation's veterans. First, they deserve the highest quality of care, but we also must ensure that the VA health system provides access to that care for all veterans.

WASHINGTON WASTE WATCHERS REPORT ON TRANSPORTATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HENSARLING) is recognized for 5 minutes.

Mr. HENSARLING. Mr. Speaker, I rise today as cofounder of the Washington Waste Watchers, a Republican working group dedicated to bringing the disinfectant of sunshine into the shadowy corners of the wasteful Washington bureaucracy.

As we speak, Congress is engaged in a debate over spending and the Federal budget. With a historically large deficit, Democrats are advocating that our answer is to raise taxes on American families. Democrats demand that we roll back tax relief, the tax relief that is responsible for the strong growth in our economy, the tax relief that is bringing down unemployment, the tax relief that amounts to only 1 percent, 1 percent, of the $28.3 trillion, 10-year spending plan that we passed last year.

In other words, Mr. Speaker, 99 percent of the challenge in dealing with our Federal deficit is on the spending side. Clearly we have a spending problem, not a taxing problem in America; and I, for one, say when it comes to Federal spending, it is time to take out the trash. It is time to go after the costly waste, fraud and abuse that permeates every nook and cranny of the Federal Government.

Mr. Speaker, this body will soon take up the issue of transportation funding. Transportation is important. It is important to our economy; it is important to jobs. But before we sign a huge check drawn on the bank account of American families, should we not do everything that we can to ensure that every dime of transportation funding goes to roads, and not rip-offs?

Let me give you just a few examples. The Department of Transportation has historically squandered the hard-earned money of American families. Roughly two-thirds of Boston's "Big Dig" central artery is funded by Federal tax dollars. This has been called the greatest public works scandal of modern times.

This federally funded project has repeatedly exceeded cost estimates and lagged behind schedule. Is that not a surprise? But in the year 2000, the project was already five times more expensive than planned, $11 billion over budget. An investigation revealed that project managers consistently were dishonest in their reporting of the project. $11 billion of bloated budgets and mismanagement, and yet Democrats want to raise our taxes to pay for more of this?

Today the Federal Government is picking up 80 percent of the cost for a $1.4 million project to upgrade just three bus shelters in upstate New York. For more than $1 million of American taxpayers' hard-earned money, these bus shelters are going to be equipped with "radiant heating systems" and a layout "designed to appeal to passengers' sense of security." Even some of the beneficiaries of these new mansion-like bus shelters had concerns with its cost. One of the residents said, It just seems like a whole lot of money to me. Maybe they could just put some glass doors up.

American families are lucky if they can afford $150,000 for a home, and the Federal Government is going to use their money to pay over $370,000 apiece for bus shelters? And yet Democrats want to raise our taxes to pay for more of this?

Another investigation revealed that 29 Federal contracts worth roughly $62 million were paid without any knowledge of whether they were even legally authorized. $62 million that was not legally authorized, and yet Democrats want to raise our taxes to pay for more of this?

Mr. Speaker, these are just a few examples of the rampant waste, fraud and abuse and duplication in just one Federal agency. After you begin to look closely, you will discover that in many Federal programs, routinely they will squander 10, 20, even 30 percent of their taxpayer-funded budgets, and have for years.

There are many ways that we can save money in Washington without cutting any needed services and without raising taxes on our hard-working families, as Democrats seek to do. Because when it comes to spending, Mr. Speaker, and Federal programs, it is not how much money you spend that counts; it is how Washington spends the money.

THE CIRCUMSTANCES SURROUNDING PRESIDENT JEAN-BERTRAND ARISTIDE OF HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, I would like to bring to my colleagues' attention the circumstances surrounding President Jean-Bertrand Aristide of Haiti, whose circumstances are somewhat in doubt tonight. I have spent a fair amount of time calling a number of people to find out whether President Aristide and his wife, Mildred Aristide, are in safe circumstances; and I have this report to make to my colleagues tonight.

We have called the offices of the Assistant Secretary of State, Mr. Noriega; the Secretary of State, Mr. Powell; the Security Council Chief, Ms. Rice; the President of the United States, Mr. Bush; the President of the Central Republic of Africa; the ambassador to the United States of the Central Republic of Africa; the Secretary of Defense, Mr. Rumsfeld; and the head of the Central Intelligence Agency, Mr. George Tenet.

I was able to reach General Craddock, who works as an assistant to Secretary Rumsfeld, who asked that we send a communication so that they could begin trying to help us determine the whereabouts, and, more importantly, the safety of the circumstances surrounding President Aristide. We sent the following letter, which I include for the RECORD.

HOUSE OF REPRESENTATIVES,
Washington, DC, March 10, 2004.

Hon. DONALD RUMSFELD,
c/o General Craddock,
U.S. Secretary of Defense, Washington, DC.

DEAR GENERAL CRADDOCK. This letter is written notification in response to a telephone inquiry on today's date of the location of Haitian President Jean-Bertrand Aristide. This evening the inquiry was conducted by a member of my staff, Bernard Graham, and yourself.

As per your conversation, please advise me as soon as possible as to the whereabouts of President Aristide. My staffer has informed me that you will start to retrieve this information tonight through proper channels.

This matter is of utmost importance to me and I look forward to your timely response.

Sincerely,

JOHN CONYERS, Jr.,
Member of Congress.

In addition, I was able to reach Mr. Brian Newbert, the watch officer at the State Department, who was very cooperative, who was calling Bangui, the capital of the Central Republic of Africa, in an attempt to locate President and Mrs. Aristide. He was not able to do it. There is an 11-hour time difference. But he told me that he would continue this search in the morning.

Now, this problem has arisen because in last week's testimony before a subcommittee of the Committee on International Relations we were told by Assistant Secretary Noriega that it was true that a U.S. aircraft, or an aircraft controlled by the United States, had taken the President and his wife to the Central Republic of Africa. We asked him how were they doing, and he said that he did not know, because the United States Government's responsibility ended with him delivering President Aristide to this francophone country of 3.5 million people in the center of the continent of Africa, and that he had no further responsibility in connection with this.

This was a slightly shocking statement to the people that were in the hearing room, because it would have seemed that we might want to know what was happening to him from that point on.

We have a very sensitive and very serious matter here, and I hope that I will continue to enjoy the cooperation of the various heads of the agencies as we attempt to reach and make contact with President Aristide.

□ 2100

His country was overrun by rebels. He was forced to leave the country. He left under United States auspices and control, and it seems to me that the most elementary act of courtesy would be for us to make sure that he and his wife, which we pray are alive and in good condition and safe, are that. But it is very disturbing to me to report to my colleagues tonight that not only have I not been able to reach anyone that has been in contact with him, but we do not know anybody that has.

WASHINGTON WASTE WATCHERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. MARIO DIAZ-BALART) is recognized for 5 minutes.

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, as a member of the Washington Waste Watchers, and I just listened to one of my esteemed colleagues from Texas speak about instances of waste in Federal Government and why some of us have such a hard time understanding and believing why it is so easy for our good friends, the Democrats, to constantly ask for massive tax increases while we see the waste that goes on in the Federal Government.

I just would like to read portions of a memo from the Inspector General of the Department of Energy dated March 2003. It is an audit report regarding the transfer of excess personal property from the Nevada test site to the community reuse organization. Mr. Speaker, during the 1990s, as a result of changes in program direction of the Department, the Department of Energy downsized or reconfigured a number of different facilities, including this State of Nevada test site. To mitigate any economic damages or impacts, Congress then authorized the Department to transfer excess personal property and provide aid to these local civic development organizations that are commonly known as CROs.

These transfers, and that is what the memo says, these transfers were based on the express understanding that the property was to be excess to department needs, obviously, and also the memo then further states, despite the realization that the transfers might be made at less than fair market value, the Department was to receive, obviously, the Department was to receive reasonable consideration from these CROs for said personal property.

Mr. Speaker, I want to kind of talk about some of the results, though, of the audit. The audit disclosed that Nevada's personal property transfers practices, I am quoting, "did not strike an appropriate balance between the efforts to assist community development and the need to assure," and this is the part that I just, again, I insist, when you read things like that, you wonder why the Democrats insist with such passion to raise the taxes on hard-working American taxpayer. Because this says, again, that there was no balance, no appropriate balance between the efforts to assist community development and the need to assure that the Federal taxpayers received reasonable consideration for property transferred to the local CROs. In fact, the audit says, we found that the taxpayers were frequently shortchanged in this process.

Yet, the Democrats want to raise the hard-working American people's taxes to do more of this kind of thing.

The audit continues, it says, In February 2002, a rig was, a drill rig was sold to the local CRO for $50,000 that is now being offered for sale by an out-of-state equipment broker for $3.9 million. You better believe the taxpayer was shortchanged and, yet, the Democrats insist on wanting to raise the taxes of the American people. It said that this group transferred hundreds of pieces of equipment, including trucks, office machines and trailers, purchased, by the way, by taxpayers, to the CROs for $1 per transfer. And this is the part which is even harder to believe, Mr. Speaker.

It said, it provided laboratory equipment to the CRO that was needed at another department site, ultimately causing the Department to spend $2.5 million to replace the equipment that they had basically given away. Another $2.5 million to purchase that equipment a second time because it was given away. Nothing happens.

Now, the President is trying to change that, and he is aggressively trying to change that. We are going to have a debate tomorrow in the Committee on the Budget where we are going to try to stop this abuse. We are going to try to cut waste, fraud, and abuse. I hope that our dear friends on the Democratic side this year, for a change, do not propose amendments to raise taxes, to increase spending, but will join us in trying to cut waste, protect the American taxpayer. I do not have great faith, because they have not done so. That is not in their culture and their tradition.

I hope they do so, because the American taxpayer is fed up with waste, fraud, and abuse. They want help in cutting that waste, fraud, and abuse. All of us are going to have a great opportunity tomorrow in the Committee on the Budget in the markup.

I hope our dear friends on the Democratic side will not side with the constant increases of taxes, and will side with us to cut waste, fraud, and abuse, to seriously try to control that part of the budget, not increase taxes, not increase spending, spending more money, more good over bad over good over bad money, but will join us to not raise taxes as they have always wanted to do, but instead will join us to keep the taxes low, to keep the child credits intact, to keep the death penalty tax from going up. As one of our colleagues said, there at least should be no taxation without respiration. And they will have an opportunity tomorrow.

Mr. Speaker, let us see what they will do. I hope that they will join us in fighting for the taxpayer, not fighting for more waste and more tax increases.

VETERANS HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STRICKLAND) is recognized for 5 minutes.

Mr. STRICKLAND. Mr. Speaker, I would like to address my colleagues from Texas and Florida who have just spoken and called themselves the Waste Watchers, and they listed all of these wasteful actions of government, and then they said that Democrats want to raise taxes. I would like to remind them that their party controls the presidency. Their party controls this House. Their party controls the Senate. And the last election in Florida demonstrates that their party controls the Supreme Court. If there is all of this waste, why does not their party get rid of it? Why blame the Democrats for something that their party is responsible for doing? I just point out that the Republican party is in charge and, therefore, the Republican party is responsible for the waste that my colleague detailed before us tonight.

I would like to speak tonight about veterans health care. I attended a Committee on Veterans Affairs meeting today where the Veterans of Foreign Wars spoke before our committee. And those veterans are asking why it is that we are spending billions and billions of dollars to Iraq, $87 billion the last time we got a request from the President. He is going to come back and ask for probably $50 billion more following the November election, and yet, we are nickel and diming our veterans.

We have said priority 8 veterans can enroll in the VA health care system. The President actually sent us a budget during this time of war, and in the President's budget, he is asking that for many of our veterans, the cost of a prescription drug be increased from $7 a prescription to $15 a prescription. Now, for a veteran that is on a fixed income and may have 6 or 8 or 10 prescriptions a month, that is a heavy, intolerable burden.

The President's budget also asks that there be a user fee imposed upon veterans, a user fee of $250 per year, just so many of our veterans can participate in the VA health care system. And then we have a request in the President's budget to increase the cost of a clinic visit for our veterans. We are piling burden upon burden upon burden on the backs of our veterans. I simply do not understand why we would do this. In a time of war, when we are creating new veterans, many disabled, veterans with terrible injuries, veterans who have lost their arms and legs, many have been blinded, terribly disfigured, these are veterans who have newly fought for our country, and we are giving them a VA health care system that is woefully underfunded.

I simply do not understand why the President does not step up to the plate and put his actions behind his rhetoric and say, I am willing to pay whatever it takes to provide adequate health care for the men and women who have fought and suffered for this country. I call upon the President tonight to rethink his priorities. Rather than spending money to send a man to Mars, we ought to be spending money to take care of our veterans.

I have shared this with my colleagues in the Committee on Veterans Affairs. A couple of weeks ago I went to Walter Reed Hospital. I visited a young man from my district who joined the military when he was 17 years of age. On his 19th birthday, while standing guard duty in Baghdad, a truck bomb exploded and removed a large part of one side of his face. This young man who is only 19 years of age was at Walter Reed getting reconstructive surgery on his face. He is just one of thousands, and there probably sadly will be thousands more in the future.

This Congress, this President, those of us of both political parties, should put the needs of our disabled, sick, and needy veterans at the top of our priority list. I call upon all of us, myself included, to make our veterans our number 1 priority.

REAUTHORIZATION OF THE TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BURGESS) is recognized for 5 minutes.

Mr. BURGESS. Mr. Speaker, I rise tonight to discuss the reauthorization of the Transportation Equity Act for the 21st Century.

Mr. Speaker, in regards to transportation, we are indeed at a crossroads in this country. We have the intersection of the demands for creating the type of infrastructure which will facilitate commerce and move our citizenry, and trying to achieve some type of rational spending limits within our Federal budget.

Back home in my area of north Texas, we face a silent crisis. This crisis is unrecognized by residents until they find themselves in an unbearable commute to work or unable to make the necessary connections between home, work, and the other activities that consume our daily lives. North Texas has experienced an increase in traffic over the past 3 decades, which is a result of unprecedented population and employment growth. Added to that is the underinvestment in Federal transportation dollars for my area.

The time is now to make necessary investments in our transportation infrastructure. In Texas, our transportation needs outstrip available funding 3 to 1, and these are not trivial funding needs. These relate to supporting international trade transportation, streamlining the environmental process, and expanding innovative financing techniques. Handling taxpayer dollars with care is, in fact, one of our highest callings in the House of Representatives. That obligation is enshrined in the Constitution. Our charge as congressional representatives is to protect dollars taken from the taxpayer by, in fact, streamlining and improving activities of our Federal Government, not just to simply spend and dispose of those tax dollars. And sadly, when Federal tax dollars are not handled with care, important Federal programs such as our transportation programs find themselves being hurt and neglected.

Last year, shortly after my election to my first term in Congress, I was very fortunate to be chosen to be a member of the House Committee on Transportation and Infrastructure, and I wanted to be certain that the United States Department of Transportation was ensuring the most efficient business practices within the agency. So I requested a meeting with the Department of Transportation Inspector General, Mr. Kenneth Mead, to discuss the business practices of the agency and how Congress could better facilitate removing inappropriate expenditures related to transportation funding.

□ 2115

The Department of Transportation has not changed the way the agency disburses transportation funding to State and local entities since President Eisenhower was in office. The Inspector General recommended that if one cent had been saved on every dollar spent over the last 10 years in transportation programs, the Department of Transportation would have had an additional $5 billion to spend.

This $5 billion would equate to the amount of funding needed for four of the eleven major transportation projects currently under way in this country. Clearly, greater efficiency within DOT could have an enormous impact on more efficiently spending taxpayer dollars.

Mr. Mead shared with me examples of how transportation projects could be used as examples or models of government efficiency. In the State of Utah in preparation for the Winter Olympics, Interstate 15 needed substantial improvements. By streamlining the design build process on that stretch of roadway, Interstate Highway 15 in Utah was completed ahead of schedule and under budget and available for individuals traveling to the Winter Olympics that year.

Similarly, in north Texas, the Dallas area rapid transit system worked within their budget last year and actually returned over $21 million in transit funding to the Federal Government. Unfortunately, there are examples of transportation projects that are not carefully managed; and as a result, dollars are not wisely spent.

The Ted Williams Tunnel of the Central Artery Project in Boston, Massachusetts, known affectionately as the Big Dig, is perhaps the poster child for inefficient Federal spending in a transportation project.

The General Accounting Office has estimated that from fiscal years 1998 through 2001, the Highway Trust Fund Account lost over $6 billion because of the ethanol tax exemption and the general fund transfer. Using the Department of the Treasury's projection of gasohol tax receipts, the GAO has estimated that the Highway Trust Fund Account will not collect $13 billion because of the tax exemption from fiscal years 2002 through 2012. There is an almost $7 billion shortfall from the general fund transfer between the same years.

Prior to the last reauthorization bill in 1998, the Highway trust fund earned interest on its balance, which was paid by the general fund. If the Highway trust fund had continued to earn interest on its balance, the Department of the Treasury estimates that the Highway trust fund would have had an additional $4 billion from September 1999 through February 2002.

Between modifying DOT's practices within State and local governments and reevaluating the true purposes of the Highway trust fund, I believe we can work together to ensure our Federal Government is more effective and more efficient to the American taxpayer and that we indeed have the funds necessary to pay for our projects.

If we are unwilling to make the monetary investment and the necessary policy changes, I am afraid our vision for our Nation's highways will be that of a congestion-bound commuter sitting in a traffic jam watching the bridges and roadways crumble before our very eyes.

I think, Mr. Speaker, a very worthwhile goal would be to allow Americans to spend as much time in family discussions at the dinner table as they currently spend trying to get home.

TAX CUTS AND THE DEFICIT

The SPEAKER pro tempore (Mr. PEARCE). Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I came to the floor of the House to address the concerns raised by my colleague, the gentleman from Michigan (Mr. CONYERS). But, Mr. Speaker, I just have to respond to some of the comments and debate that I just heard by my friends on the other side of the aisle.

It is interesting to call the Democrats the tax and spend party of America. And I recall that when we finished the work of the 1993 budget resolution and the 1997 budget resolution going into 2001 after President Clinton left office, the spring of 2001 saw this Nation with somewhere between a $5 and $7 trillion surplus.

Today as I stand here and on the eve of the Committee on the Budget's meeting tomorrow, addressing the questions of veterans health care and Medicare, Social Security, the threat that this administration has given to cutting Social Security, we are in a $551 billion deficit based mostly upon very misdirected tax cuts by this administration on the backs of hard-working men and women.

To the 1 percent richest we have given all of the tax cuts, and we are digging a hole deeper than we could ever remove ourselves from and eliminating the needs of all Americans as relates to the services that this government has so aptly done before and having a balanced budget.

So I would just ask my colleagues on the other side of the aisle to return to their administration and their committee meetings and try to explain to the American people how we have gone down such a slippery slope.

Let me also say that when it comes to the job creation that occurred in the 1990s, this administration and Republican Congress is a dwarf, if you will, compared to the enormous steps and strides that were made under the leadership of the Democrats. 21,000 jobs that were made just in this last month, in terms of job creation, over 3 million manufacturing jobs that have been lost. And the 21,000 jobs were government jobs. No private sector job was made in the last month.

THE ADMINISTRATION'S POLICY TOWARD HAITI

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me now move to my comments that are associated with those of Mr. CONYERS. I again ask this administration for full investigation on the removal of a duly elected democratic president from Haiti, President Aristide and his wife.

President Aristide's most recent press conference in the last 24 hours again restates the fact that he was removed from the country without his consent. He was coerced; he was seemingly threatened and frightened into making a decision.

In a hearing that was held last week and questioning Representative U.S. Assistant Secretary Noriega on this question, rather than ask the question directly, he proceeded to be directly rude, if you will, and also to the extent of refusing to answer the question or be responsive as I would expect a representative of the administration should be.

We now know that thousands of orphans in Haiti are now without food because there is no means of getting food supplies up into the locations where they are. We understand that children have been killed. A young boy who was willing to give his bicycle to one of the thug insurgents was shot dead on the street. Another young boy was injured by a flying canister and lost his life. A Fulbright scholar was fleeing for her life, having to leave the country because of the danger. Thousands of Americans have gone. The U.S. military, specifically the Marines, are in danger because of the refusal to increase the numbers of allied troops on the ground.

It is noted that in 1994 when President Clinton sent 20,000 troops into

Haiti to uphold the Santiago Agreement which requires the United States to defend any duly elected democratic government in the western hemisphere, not one military personnel was harmed or was anyone else harmed.

So we know that we have a failure in this policy, we have blood shed in the street, violence in the street, and we have a duly elected president whose supporters are continuing to rebel, if you will, now in exile without any knowledge of his condition or ability to return to a place where he can engage in discussion and be part of a peaceful resolution of installing a peaceful government into Haiti. We have failed in this effort.

It is sad to say that we have not met our goals in Iraq. We have not met our goal in Afghanistan. Now we come full circle to the western hemisphere. Children are starving. People are dying. Violence is raging. No government there for us to negotiate with.

Mr. Speaker, I think for all of us this is on our hands. It is time now for us to stand up and be counted for peace around the world.

INTERNATIONAL TRADE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 60 minutes as the designee of the minority leader.

Mr. DEFAZIO. Mr. Speaker, I come to the floor tonight to talk about the issue of trade. The Bush administration rolled up yet another record for the month of January, and I believe it deserves notice. It is quite an achievement. Our trade deficit widened to $43.1 billion in January. One month, $43.1 billion.

Now, they have been telling us for the last year just be patient, the dollar is overvalued, it is going to drop a little bit. And as soon as the dollar drops a little bit, why then, U.S. manufacturers will become more competitive and people will start to buy our goods again.

Well, I had two questions for them. I said what do we make anymore since we are exporting so much of our manufacturing to China? And will it not perhaps mean instead that Americans will buy more expensive goods that are made overseas and that, in fact, our trade deficit will widen? Despite all the Ph.D.s and experts and luminaries they have down there, apparently my concerns have been proven out and not the administration's.

In terms of goods, our deficit went from 44 last year to this year $48 billion. In terms of services, we had a minor increase of about $300 million.

So, the fact is we are hollowing out the manufacturing of the United States of the America. There is a new trend where we are hollowing out what was supposed to be the next generation of jobs and intellectual technology, and I will get to that a little bit later.

What does the Bush administration say in reaction to this huge and growing deficit in trade and the debt we are mounting up overseas? China alone, $124 billion trade deficit last year. China is now the largest foreign holder of United States debt. And they are beginning to acquire assets in the United States of America with the huge pile of dollars they are amassing with this extraordinary trade deficit.

Now, the Bush administration's answer is, well, more of the same, free trade, free trade, free trade. They are unabashed radical, knee-jerk free traders. At least they are consistent. It is good. They went on the attack yesterday saying there are only two choices: the failing trade policies of today, which are hollowing out manufacturing, our industrial base, losing jobs, outsourcing, exporting jobs to other countries, quality jobs, losing the next generation of intellectual technology jobs, jeopardizing, I believe, in the future the security of the United States as more and more critical sectors and technologies are exported overseas.

Just last week in the Wall Street Journal, General Electric, there was an article about how they have sold a whole $1 billion worth of turbines to China. There was just a small price they had to pay. It is a state-of-the-art, newly developed turbine, took them half a billion dollars to develop it. The Chinese demanded, in violation of the WTO and rules-based trade, which the Bush administration is such a great fan of, demanded that they give them the technology in exchange for this rather insignificant purchase. Because the technology is going to be worth far, far more; and the Chinese admit they are going to use the technology to build competing turbines. But GE in a very short sighted way decided they would be blackmailed. They were going to give them the technology and get $1 billion worth of sales. It will look good on this year's balance sheet, but not too good 3 or 5 years from now when the Chinese are eating their lunch internationally using the technology which GE went to so much trouble to develop.

But this is repeated time and time and time again by the Chinese. I have a small company in my district called Videx. They developed a new kind of scanning technology. They developed an electronic lock. They are selling in 44 countries, including, their mistake, China, where they were selling about a $1 million a year. But it turns out, they say in China if you bring in intellectual property within 24 hours it is counterfeited and for sale.

And the Videx company had followed all the laws and protections, went to the trouble of getting supposed Chinese protection and patents and all that. One day they found their entire company had been cloned in China including their Web site. In fact, the Chinese, the fake Chinese Videx, had gone them one up. They had a little fake American flag waving at the top of their Web site, this Chinese company.

They even copied and translated into Chinese the U.S. copyright and patents on their software. They did not make a very good product, the company found out, because they started getting product support calls from people who thought they were clients of the U.S. Videx, but were actually clients of the phony Chinese Videx. This happens time and time again.

When I went to the Bush administration and asked that perhaps we could get some help, get my two Senators to join me in this for Videx, they are a totally American company, they have 160 employees in my district, they do all of their outsourcing in the United States of America, that is all their subcontracting, not in China, and employ people even in Texas to help build their product, the response, after a lengthy delay from the Bush administration, was that the United States of America will not file intellectual property complaints against China for theft of intellectual property, will not help this relatively small company Videx, because the big corporations, the multinational corporations who are exporting their factories to China would not like that because it might cause problems with the Chinese government.

□ 2130

A pretty extraordinary statement. And that is what the Bush administration is now going to emphasize. They support these failing trade policies. They are trying to cover up the outsourcing of jobs. They have now banned at the White House the term outsourcing, job exports.

They talk about level playing fields. Well, it is not a level playing field when other countries can, when their government condones the theft of your intellectual property and will do nothing about it and your own home government will do nothing about it in terms of dealing with that foreign government. But now the Bush administration says they may in the future file some minor complaints about some of the tariffs the Chinese have. They would not want to tread on the Chinese's toes here. They do not want to go after the big problem here, which is the outright theft of American technology or the blackmailing in violation of the WTO of American corporations to sell there, and other practices of the Chinese government, the things that are costing us so much productive capacity and jobs.

The Bush administration says they want a level playing field. Well, if it is not going to be level there, where is it going to be level? Are they saying that they will bring up the wages of the Chinese workers, that they will see that the Chinese follow worker health and safety protections? That they are going to see that the Chinese begin to enforce minimal environmental laws?

No, I guess what they mean by level playing field is in the vision of the Bush people we will drag Americans down to that level and then we will be competitive. If only Americans would work for $1 a day, they could compete with the Chinese. Because they are competing not in old crummy, labor-intensive shacks and factories, but in state-of-the-art world-class factories built significantly with American capital, multinational capital and American capital that is being invested in China to access the cheap labor, to access the lack of worker health and safety protections, to access the lack of environmental protections so they can dump the waste right out the back door.

So the level playing field is a pretty phony argument. They are banning the word at the White House, globalization, outsourcing, as I said. And they are going to call people who want to call for a new trade policy, one that does not fail our country so badly. One that does not run a $500 billion-a-year trade deficit; one that is not hollowing out our manufacturing trade capabilities; one that is not seeing some of our best technology either extorted or stolen by the Chinese and other unfair traders.

They have no answer to those things. They just say more of the same is going to help, and anybody who wants to do anything about that is an isolationist. Well, they are either fools or they are deliberately, as some have said, facilitating Benedict Arnolds and others who are exporting American jobs, technology and undermining this country. It is not clear which on certain days because when you see today's news, you have got to wonder what is really going on down there.

Six months ago, the President announced he was going to create a job, a job in America, that related to manufacturing. That was the President's promise 6 months ago. Here we are 6 months later, and he is on the verge of creating that job tomorrow. Congratulations to the President. One job related to manufacturing. That job will be the so-called manufacturing czar, someone who is going to try to find out what is wrong. Why is the U.S. hemorrhaging its productive capability to China and other unfair traders with extraordinarily low wages? For most Americans and for me it is pretty obvious; but to the Bush administration it is not, so they need a manufacturing czar. It took them 6 months to find the right guy.

It would have been good if maybe the manufacturing czar could be by the President's side when his name is released tomorrow. They will be doing this in Ohio, which has suffered horribly with the loss of productive capability. But the gentleman in question is not available. His name is Tony Raymundo, is not available because he is in China. He is in China where his company is building a factory. It is kind of like an awfully bad joke here. The Bush administration in dealing with China and the outsourcing of jobs is going to put a manufacturing czar in their administration who is over in China overseeing the construction of his own plant in China. And, no, I am not making this up. That is actually true.

So the Bush administration says soon they are going to push hard, as I said earlier. They are going to ban the word outsourcing, globalization. They are going to empower the word "insourcing" at the White House. They are going to brand people like me who have been raising the alarm both in Democrat administrations and Republican administrations about the failing trade policies of this country. I bitterly opposed Bill Clinton's push for NAFTA, and I think that was a shameful moment in the Clinton administration and began the undoing of our productive capacity. I think it was only really facilitating Bush One and Reagan who had negotiated the agreement. But, unfortunately, Bill Clinton saw fit to jam it through the Congress. But now Bush is taking all that one step further.

His newest free trade agreements, first, he wants to expand NAFTA, which promised the United States hundreds of thousands of job and trade surpluses with Mexico, which has brought us huge and growing trade deficits with Mexico and lost us hundreds of thousands of jobs, actually the reverse effect of what they have promised. But the President wants to replicate NAFTA all the way through Central and South America. The President has a proposal called CAFTA. CAFTA would expand NAFTA to all of Central and South America. Imagine how many jobs and much capacity we could export to Central and South America if the same rules applied all across that entire region.

The President is right now; it is held up because the Republican majority is a little bit nervous on voting on such a gigantic expansion of a failing policy in an election year. But you can be certain if the President is reelected, we will either have a special session or at the beginning of the next session of Congress he will be jamming through this mega-expansion of NAFTA, doing what Bill Clinton did with NAFTA, 10, 20 times over.

But even better, the President has shown us a model in some of his proposed free trade agreements which also certainly does exceed the problems with the Clinton administration on trade. The Chile and Singapore agreements are cases in note, free trade agreements voted for by this Congress and signed blithely by the President last year. In the case of Chile, it is the first-ever trade agreement to mandate the importation of foreign skilled labor.

Yeah, that is right. It is an actual section of the bill that establishes a new category of Chilean workers to be imported into the United States to be trained in the jobs that will be exported when the companies move to Chile. It is efficient for those companies, that is true, but does not do a whole heck of a lot for the American workers left here holding the bag when their job has fled south to Chile. But that is quite an extraordinary new improvement if you think, as the President's chief economic adviser does, that exporting jobs is good. Now, I am not making that up either.

Mr. Mankiw, the President's Chief Economic Adviser in the economic report to the President signed by the President of the United States, endorsed by him, says, "Outsourcing is just a new way of doing international trade. More things are tradeable than were tradeable in the past and that is a good thing. Shipping jobs to low cost countries is the latest manifestation of the gains from trade that economists have talked about for a century."

Is that not peachy. That is Mr. Mankiw, the President's Chief Economic Adviser, expressing the opinions of the President and his administration that the export, the outsourcing, a word now banned at the White House, of U.S. jobs overseas is a net benefit to our country under the theory that things will be produced more cheaply there which will be good for American consumers. Of course, a little fallacy with their logic here is if Americans cannot find jobs, and we have growing unemployment and job loss under this administration, then no matter how cheap the goods get produced in China and some other place that might even produce things more cheaply, Americans are not going to be able to afford those goods for long; and ultimately that will lead to some very severe economic problems. But they persist. They are stubborn at least. And the President is going to push for more free trade.

Now, we have some research here about outsourcing, a word banned at the White House now, but that is the export of American jobs which they are no longer going to reference at the White House; and one company, Deloitte Research, predicts 2 million jobs will be exported in the next 5 years; Forester Research, 3.3 million white collar jobs in the next 15 years. Those were the intellectual technology, high-technology skilled jobs that we had heard for so long, what did they say to me when I raised concerns early on about these trade policies? They say, Congressman, you do not understand. These are the old obsolete manufacturing jobs. We do not want them anymore. I said, I do not understand how we can be a great Nation, a great power, if you do not make things anymore. They say, Do not worry about it. We will not make the things but will design them, and we will have all of the brain power. We will retrain all those workers to run computers and work in the high-tech industry.

Now we find that industry is flooding overseas very quickly and expect 3.3 million of those next-generation jobs will flow overseas the next 15 years. The question becomes, what is next? They said, we do not know, but do not worry, something always comes along. That is a heck of a thing to bet your economy on.

Mark Zandy of economy.com estimates 995,000 jobs have been lost overseas since March, 2001. That is about a third of the jobs that the President has lost on his watch, since he has been President, have been lost overseas. Yet he believes that our trade policy is working, and the head of his economic council says it is working just exactly as it is designed. It is exporting jobs overseas. That was the intention of the trade policy and they are standing behind that. But they will not use the word outsourcing anymore down at the White House.

The Gardner Group estimates that 10 percent of jobs at U.S. information technology vendors will move offshore within the next year. IBM is exporting 5,000 jobs to India, China, and Brazil. They will save $168 million a year by doing so. This is a very, very disturbing trend. Computer programming jobs in the U.S. that pay 60 to 80,000, nice wage, but it also recompenses someone for a heck of a lot of education and training. They go for about 8,000 in China; 5,000 in India; 5,000 in Russia.

So when the President says we will have a level playing field, I guess he is telling people to go to college for 5 or 6 years, get a masters degree, become a skilled computer programmer, run up 40, $50,000 in debt or more in obtaining that education, and they should work for $5,000 a year because that will give the President his level playing fields in these areas because Mr. Mankiw says it is good that those jobs are so much cheaper there.

Think of how much cheaper the products will be. Of course, what most of us see is the products really are not that much cheaper, but the profits which flow to a relatively small number of people; the profits are much better.

According to a recent survey of 1,091 CEOs, 27 percent planned to export jobs within the next 3 years; 20 percent, one-fifth of the CEOs polled in America expect to export jobs in the next 12 months. They say, and there is a new big business coalition that has come together about this, and like the White House, they want to ban the word outsourcing. I think that quite soon John Ashcroft is going to begin having people who use the word outsourcing arrested. But the word they want to use now is worldwide sourcing. And these business lobbyists, as it says in this article here, business lobbyists are talking to the Bush administration about adopting this language. But, of course, as we know from the article I read earlier, the Bush White House did in fact adopt that term just yesterday to emphasize, and they have of course banned any discussion of the exported jobs.

We have got a few other problems. Here is Craig Barrett, the CEO of Intel. This is 1/26/04, New York Times: "If you look at India, China and Russia, they all have strong education heritages. Even if you discount 90 percent of the people there as uneducated farmers, you still end up with about 300 million people who are educated. That is bigger than the U.S. workforce. The big change today from what has happened over the last 30 years is that it is no longer just low-cost labor you are looking at; it is well-educated labor that can effectively do any job that can be done in the United States."

He goes on to say, this is Craig Barrett, the CEO of Intel, the company that was going to produce the next generation of jobs for educated and skilled Americans here: "Unless you are a plumber or perhaps a newspaper reporter or one of those jobs which is geographically situated," cutting lawns at the estates of rich people, for instance, "you can be anywhere in the world and do just about any job." Barrett was asked, Are we not talking about an entire generation of lowered expectations in the United States for what an individual entering the job market will be facing?

□ 2145

He responded. It is tough to come to another conclusion than that. If you see this increased competition for jobs, the immediate response to competition is lower prices and that is lower wage rates. Back to what the President is talking about with a level playing field. Americans should go to college, graduate and expect, as skilled computer programmers, to work for 5 or 6,000 a year in the world of Mr. Mankiw, President Bush and the CEO of Intel, Craig Barrett. That does not sound like a tremendous bargain to me, I think, or to most Americans who I represent.

Jeffrey Immelt, CEO of General Electric, now here is a company who does not just engage in intellectual property. They make great products. I fly on planes back and forth across the country, will be on one tomorrow, and a lot of them have GE engines. I have been to the plant they still have in the United States, great stuff, incredible product. But here is an investor meeting in 2002.

When I am talking to GE managers, I talk China, China, China, China. You need to be there. You need to change the way people talk about it, how they get there. I am a nut on China. Outsourcing from China is going to grow to $5 billion. Well, it has already eclipsed $5 billion. He was a little modest in his estimates. Outsourcing, that is, U.S. job exports to China with U.S. or multinational producers, U.S. capital producing jobs there, producing products there and shipping them back to the United States. Every discussion today has to center on China. The cost basis is extremely attractive, i.e., cheap wages. You can take an 18-cubic foot refrigerator, make it in China, land it in the United States, land it for less than we can make an 18-cubic foot refrigerator today ourselves.

This list, I cannot possibly do justice to and read the entire list, but this is a list from Lou Dobbs on CNN, someone who formerly was a great supporter and advocate of free trade policies until he studied it a bit, until he looked at the impact on hollowing out the intellectual might of our country, the industrial might of our country, the loss of jobs. Every night now on CNN he talks about the issue of exporting America, outsourcing jobs.

He has a list here of companies that are exporting America. They are companies either sending American jobs overseas or choosing to employ cheap overseas labor instead of American workers. As you can see, it is quite small print, and it goes on for pages and pages. It is available on his Web site. He has talked about it extensively, but the list is shocking, and I would urge that for reading for all Americans, particularly those who are unemployed because of these policies, have a lot of time on their hands and wonder what happened to their job. They can read this list and see perhaps where it went.

Now, all this is bad enough, but guess what. We are asking American taxpayers to subsidize the export of jobs to foreign countries. It has been estimated that if we repealed any reference in the U.S. Tax Code to overseas income, that that means no taxes at all. I mean, once a U.S. company went over there, we would not even think about taxing them. We would save $20 billion a year. That is how much they are able to deduct from their U.S. income by producing overseas with cheap foreign labor. We are through some other programs actually giving direct subsidies to companies to set up manufacturing overseas.

So, in terms of solutions to this problem, the first and easiest thing it seems that we need to do is stop any taxpayer subsidy for these conglomerates, multinationals and even some U.S. firms from outsourcing their jobs, a word again not allowed at the White House, to India or China or Mexico or elsewhere. Then after we do that, we need to begin to actually use the rules of trade.

Remember, the President came to Congress a little more than a year ago, and he said the Chinese, really, the only way we are going to get them to clean up their act, it is true, they are violating intellectual property left and right, they are doing all sorts of things to undermine us, but the only way we are going to become truly competitive in China is if we give them what is called Permanent Most Favored Nation status; that is, we would no longer annually review, as is required of all Communist countries and they are a Communist dictatorship, their trade status and determine whether or not we would renew it.

That drove some of the largest corporations in this country absolutely berserk because they wanted huge amounts of capital and produce their goods over there, and the prospect of having China lose Most Favored Nation status on an annual basis would drive them into a lobbying frenzy every year.

So they successfully lobbied the Bush administration, saying we are going to make it permanent, never again will we review China for unfair trade, but instead we will shift our emphasis to the World Trade Organization, and we will have rules-based trade. I have already talked about the company in my district that has been cloned in China, illegally, copying their U.S. copyrighted and patented and even Chinese copyrighted and patented product in violation of Chinese law, U.S. law, international law, and the rules of the World Trade Organization, and the Bush administration has said they will do nothing about.

In fact, every year the President's special trade representative puts out a report which documents page after page after page of intellectual property theft by Chinese firm. Again, as I said earlier, apparently within 24 hours of bringing intellectual property into China it will be copied and available on the market, sometimes good quality, sometimes lesser quality.

So how many complaints has the Bush administration filed since the objective was to get China into the WTO and use rules-based trade to really teach them a lesson against China? Well, none, none, zero. How many have they failed on the issue of intellectual property worldwide? None, none, not one. It seems that it was a false promise. I am not supporter of the WTO, but we are stuck in it, and I do not think we should be in it, then we should at least use its rules that would advantage American people, American consumers, American workers, we should use it, because we certainly see it used by other countries to our disadvantage, but this administration is refusing to do that.

I will give another example and it is very timely, the issue of oil. The OPEC countries have meetings every month it seems lately, and they decide on quotas and what they are doing intentionally with those quotas is restricting the supply of oil, creating artificial shortages to drive up the price, 38 bucks a barrel now, seen the price at the pump, heading up toward $2 in my State, and I hear it is even higher in other parts of the country. I bet you Memorial Day it will be pushing two and a half, three bucks in places around the country.

The oil companies always tag on a little extra margin so they are doing fine. Their profits are up, but the OPEC countries obviously are getting a bundle of money from us, too.

The only problem with that is that five of the eight major countries in OPEC are in the WTO, and guess what. Rules based trade, the WTO, does not allow countries to get together, producers to get together and collude to restrict supply to drive up the price. Again, this is something I asked the Clinton administration to investigate and file a complaint with the WTO on, and they refused. I have asked the Bush administration to file a complaint on this, and I got back after 6 months a nice letter from the White House counsel saying, no, they would not do that and in their opinion that it was just fine if OPEC colluded to drive up the price of oil in violation of the rules of the World Trade Organization, international law, U.S. law to gouge U.S. consumers. They really just did not think that it merited a complaint or their attention.

So this whole thing that the Bush administration is now going to push after banning the word "outsourcing," after calling people who are calling for new trade negotiations, for new trade rules, for rules that do not hollow out this country, the Bush administration calling people like me and others isolationists, they want to just say there is nothing but what they are doing which is failing or isolationism.

I say there is another way to deal with this within the existing frameworks by pursuing complaints, by protecting American consumers, and try to keep some of those jobs home. I would go further than that. I would say ultimately we are going to have to look at managed trade because you simply cannot, as the President is saying here, asking American workers or the head of Intel to compete with $5,000-a-year engineers overseas, we cannot drive our country down that far and our people down that far, maintain our great stature and our standard of living. We should not be asking them to do that. We should not be thinking about doing that. We should not be allowing our companies to be blackmailed, to give their state-of-the-art technology to countries like China for a pittance. We have got to stand up for our own.

We are essentially in a trade war. This guy wants to be the war President. Well, I tell you what. This war is a war that has some extraordinarily serious implications for the future, not only of the military security of this country, but the economic security of this country, the basis of the wealth of this country, and we are fighting right now with both hands tied behind our back and a blindfold and ear plugs down there at the White House. They do not want to hear about it. They do not want to engage in it. Well, if they do not start doing that soon, we are looking at some very, very dire implications for the future of the American economy.

Mr. PALLONE. Mr. Speaker, will the gentleman yield?

Mr. DEFAZIO. I yield to the gentleman from New Jersey.

Mr. PALLONE. Mr. Speaker, I just wanted to commend the gentleman for coming to the floor this evening and discussing the issue of these trade groups and the impact on the outsourcing, and I really believe that this is the most important issue facing the country right now.

I just wanted to come and maybe I could ask you a couple of questions relating to what you said. I thought it was very interesting, I read an article a couple of months ago, maybe it was less, in the New York Times, about NAFTA, and I voted against NAFTA. I voted against Fast Track. I think the only one of these I may have voted for was the Jordan one because they had negotiated it so that there were sufficient labor and environmental safeguards, but generally speaking, I have opposed all these major trade agreements exactly because I am worried that we give away the store and we do not provide any protections that arrive at what I call fair trade.

Even the President, if you listen to him, will say that even though he is a free trader, he believes in fair trade in the sense that there is supposed to be some reciprocity, but as you point out, that reciprocity never exists. There is never anytime that I can remember when the President invoked any rule or said that we were going to, as you said, file a WTO complaint or complain about other countries' treatment with regard to trade.

Anyway, this article said that with regard to NAFTA, essentially the United States lost big time. Mexico, interestingly enough, lost big time because their standard of living and their workers wages actually declined I think during the time that NAFTA. It said the only country that may have gained somewhat was Canada, and I am not an expert on this. They said the reason for that was the Canadian government basically involved themselves in what you might call economic nationalism. In other words, they knew they were getting into this NAFTA agreement, they knew that some jobs were going to be lost, but their system provides that at the government level, if some jobs are lost to the U.S. or to Mexico, that they quickly figure out areas where they can train people and basically take over through national policy the manufacturing or whatever it happens to be, and they provide very generous benefits to people who lose their jobs so they do not lose their pension or their health benefits or whatever else.

So it was sort of their aggressiveness and their willingness to be involved in figuring out where to be aggressive in terms of trade that made them a winner, so to speak.

Again, these are gross generalizations, but I was listening to what you said because it seems like we do not in any way involve ourselves in what you might call economic nationalism. Nobody in the Bush administration is in charge, or even I guess would imagine that they would try to look at the flow of trade in the way to try to take an advantage for American workers or protect American workers.

□ 2200

And even if you look at the European countries, if somebody loses their job, they usually have something, some wages or some income or some benefits that they can live on. It is almost like we just cry uncle. We say, okay, we are going to sign all these free trade agreements; we do not really care. Let the chips fall where they may. We lose jobs, it does not matter. Everything is outsourced; it does not matter.

It is this complete lack of concern about the American worker, which I think was epitomized with the President's economic report, which the gentleman mentioned several times, where his chief economic adviser, whatever his title is, said that outsourcing was a good thing.

I completely agree with the gentleman. If you take this to its extreme and say we are going to sign more of these free trade agreements, which the President is now negotiating with Central America and there have been several that have passed here in the last couple of years, Singapore, I forget there are so many, and there are more he is negotiating, now Morocco, I think, is ready, if we just say it is okay, laisse faire, or whatever the word is, I just do not see any end to it. There is no way we are going to compete.

I guess my question to the gentleman is, Is it really true a lot of these countries, the gentleman mentioned China, practice economic nationalism? They take advantage of these free trade agreements to either subsidize an industry or capture a market and we do not do anything of that sort? I wanted the gentleman to comment on that.

Mr. DEFAZIO. Well, Mr. Speaker, let us go to Europe, which is a higher cost competitor than the United States with all the social welfare and all the other programs over there. Airbus is now exceeding Boeing in terms of production. Now how can that be? Well, all of their costs of development are subsidized by the European consortium. If you buy an Airbus plane, they will throw in goodies. Buy an Airbus. Well, there are no slots to land at Heathrow. Buy an Airbus, we have a spot to land at Heathrow, prime time. Oh, okay.

So they use the laws and the rules of their own countries and the European Economic Union to further their own critical technology and high technology and high-value manufacturers like Airbus. Boeing is now going to China and Japan. It will not be long before we do not make planes in this country any more. Then what happens?

So they have a much more global view and long-term view of where they want to be positioned in the world economy, and we are just engaging in laisse faire, saying, no, our highest priority is the cheapest production of a good by the cheapest unit of labor somewhere out there, and we do not care what it does to our economy or the people at home because it is good for consumers. But, again, consumers are not able to consume much if they do not have jobs.

Mr. PALLONE. If the gentleman will continue to yield, Mr. Speaker, the reality is when we challenge the President, the gentleman from Oregon, myself, and others, and say, look, your economic report that came out essentially says that that is your policy, let the jobs go wherever they want, we do not care, whatever, this will save American consumers, the President and a lot of Republicans here in the House backed off from that and said, oh, no, we really do not mean that.

I think they realize if they say it the way we just did, which is essentially the way the economic report of the President said it, it is just not acceptable. Nobody buys that. Rationally you cannot sell that, so to speak, to the American people. So now they are backing off and saying we really did not mean outsourcing was good, but they have not changed their policy in any way. They are still trying to negotiate all these free trade agreements without any safeguards.

Mr. DEFAZIO. Right. They want to keep doing, in fact, more of the same thing, but they want to pretend they are doing something else. And then they come up with all sorts of words. Like I said, they banned the word outsourcing at the White House. Mr. Mankiw was taken to the woodshed and beaten severely for having been so truthful about what they are doing. He is an academic; and he thought, well, I should put up the theory to show why it is what we are doing what we are doing. So they want to keep exporting America and our jobs and outsourcing, but they are going to call it something else.

I think it is particularly bizarre that their new manufacturing czar, who it took 6 months to find, is over in China and unavailable for comment because he is building a plant over there. That kind of goes to the issue too.

Mr. PALLONE. The amazing thing, too, is we saw a document yesterday, and I do not remember the name of it, but I will kind of summarize it, that basically showed that as far as the economy was concerned the stock market continues to go up, there is still a demand in the United States for manufactured goods, and so far the consumer spending is out there, people willing to spend money and buy things; but the big flaw in this economy and the reason why we are not doing that well economically is because of the loss of jobs.

So if we just managed to somehow practice, I call it economic nationalism, I do not know if that is the word, and say, okay, look, we are just not going to let all these jobs go overseas, we are going to be careful about it, we are going to demand that American companies hire people here, we may pass certain laws that make it more difficult for them to send jobs or production overseas, that probably the economy would be in pretty good shape. The jobs would be there.

It is not like we are a poor country. It is just that we are shipping everything overseas without any regard whatsoever for our own public.

Mr. DEFAZIO. In fact, the Bush administration said that the huge growth in the trade deficit, the $43.1 billion last month, we are borrowing $43.1 billion from overseas to finance our purchase of goods made overseas, putting people out of work here was showing that our economy was reviving. Well, wait a minute.

Mr. PALLONE. That is amazing.

Mr. DEFAZIO. What about jobs here? What about production here? They are happy with the way this is going.

Mr. PALLONE. The gentleman is exactly right. I have actually had discussions with Republican colleagues, and they have said to me, well, you act as if the economy is not doing well; and they point to all these indicators like the stock market and productivity and all these different things. And I just kind of stare at them and say, well, what does that matter if people do not have work, if people do not have jobs, if people do not have income? Ultimately, we will suffer, because if we do not have jobs, we will not be able to buy anything.

What was it Henry Ford said? I am not going to be able to build cars unless people can afford to buy them. It just seems like you cannot convince the President or the Republican leadership that somehow the job problem is a problem. They do not buy into the idea that it is a problem, yet they will not admit that their policies are what they are. They just continue to say, well, this will solve itself somehow. This will come around and the jobs will be created.

The President keeps saying, well, we are going to create more jobs next month, and then the February report came out and said there were no new private sector jobs net resulting. So I am just sort of baffled. Because I go home and this is what people talk about to me, they talk about how they had an IT job and it went overseas. I talked to some physicians the other day who told me that now their x-rays are shipped overseas, and they have them back the next day.

The public just sees this gradual creeping up of every type of employment being lost overseas, and we just keep passing these free trade agreements. It is just very frustrating to me because I think that this issue has to be addressed. And it does not seem like it is that hard to address it, yet we do not see any effort on the part of the Bush administration to do anything about it.

Mr. DEFAZIO. Mr. Speaker, if I could, we are politicians talking. I was doing a round of town hall meetings in my district, and this is a pretty short letter so I would like to read it. Rayburn M. South, Oakland, Oregon, rural town in Oregon, and he wrote what he considered to be the State of the Union.

He said, I could not afford a new car. He is an older gentleman, does not have a large income, $18,000 to $20,000. I bought a used car and drove it home. Looking it over, it was made in Mexico, a Nissan. I had to buy a jack so I could service my car. Went to Sears, bought a Craftsman jack. Came home, unpacked it. Made in China. Then I needed a pair of shoes. Came home, looked at the bottom of the shoe. Made in China. Ran out of batteries for my light. Came home, took the paper off the batteries, maximum alkaline batteries. Made in China. Christmas came. Someone gave me a shirt. Cutting the tape out, one read "Made in China." Then my TV went on the blink. Looked around at TVs. Bought a good old RCA. I thought it was a good old American brand. Brought it home, unpacked it. Made in Mexico. Then I called my cousin in North Carolina. She was laid off. Her job went to Mexico. I called my other cousin in North Carolina. She is working 2 days a week. She does not know where her job is going. Seems like the people in China and Mexico are doing pretty good. We have a Congress, Senate, and President. Surely there is something you can do to help our people. Something stinks. Sincerely, Rayburn M. South, Oakland, Oregon.

He speaks with more wisdom than most of our colleagues here in Congress who are ignoring the reality of this problem and just saying, oh, just hang in there, something will happen. Well, the something that is happening is really pretty bad.

As I think I said earlier, they told us if only the value of the dollar drops, our goods will become cheaper, and we will sell more abroad. The value of the dollar is down 35 percent, and yet the amount of goods that we imported is up over a year ago by $5 billion, a deficit in goods. So how far does the dollar have to drop and what are the implications for the U.S. consumers and our standing in the world if the dollar gets into something like Argentina?

I spoke a couple of years ago to a couple of economists, and I said I am pretty worried. I look at Argentina, and I said, I think that used to be one of the wealthiest countries in this hemisphere. They have an educated populace and a lot of stuff going for them, and look. I said their economic collapse is extraordinary. I said, but when I look at where we are, their deficit in trade was less than ours as a percent of GDP and their foreign debt was obviously much, much lower than ours. We owe over $2 trillion around the world because of these trade policies. I said, I think maybe we could become Argentina.

I said to these economists, I think this could happen in 5 or 8 years. And they sort of leaned over to one another and whispered; and then one of them said, no, no, no, it will take at least 10. But the response was not, no, we are not at risk of becoming Argentina; no, we are not hollowing out our wealth, our manufacturing, our future; no, we are not exporting new technology jobs; no, everything is going to work out. The response was, well, it will take a little longer than that to totally destroy our standing in the world and our economy.

That is a pretty alarming statement; but they said, oh, yeah, that is kind of the way things are going.

Mr. PALLONE. The other thing, Mr. Speaker, the gentleman has just pointed out, which is important, is that we do not have to accept what is happening. In other words, some people have said, okay, we have already signed some of these free trade agreements, they are in effect, the WTO is in effect, the U.S. is in it. But the bottom line, as the gentleman pointed out, is there is a lot we can do.

First of all, we can sort of review all these agreements. I think it was JOHN KERRY who said that once elected President that he would spend like the first 6 months reviewing all the existing free trade agreements to see to what extent they are harming the United States. And as the gentleman pointed out, the U.S. can file complaints with the WTO, can investigate how these other companies subsidize things and dump them in the United States. There are a lot of things we can do that this administration is not doing.

And most important, stop signing new free trade agreements with other countries. Because I guess the majority of countries still do not have free trade agreements with the United States, and so simply not continue the policy until we review it and see how we can protect ourselves.

Mr. DEFAZIO. Oh, Mr. Speaker, my colleague just used a bad word. Protect. We should protect the American standard of living? We do not want to become protectionists. That is what this administration would say.

I agree with my colleague. There is something at risk here. I think we are in an economic war, as I said earlier. I think we need to protect ourselves and maybe fight back. And this administration is choosing not to do that because there are a few people here in this country who are accumulating just fabulous wealth by outsourcing, by moving jobs and production overseas, producing goods much more cheaply. They are selling them at roughly the same price back here in the United States, but the profit margin is a lot larger.

I noticed a number of years ago when we could still buy shirts made in America. I think that is probably something we cannot do any more. But I used to go through the labels looking for them, and 5 or 8 years ago I could still find some. I would notice they were right on the rack next to shirts made in Bangladesh or somewhere else, and they were all the same price.

The Bangladesh shirt did not sell for 15 cents. It sold for $25. The U.S.-made shirt sold for $25. The person who made the U.S. shirt made enough money to raise a family, buy a home, be a productive citizen in our economy and live a good life. The Bangladeshi was earning less than a dollar a day, very often child labor or whatever else, but they sold for the same price.

That is what is going on now, except now there is this new spin where the Bush people say they want a level playing field. And if their level playing field does not bring other people up, which they are indicating they have no intention of forcing, then what they are saying is they are expecting Americans to come down, as the CEO of Intel said. If people want to compete, they have to look at competing with engineers from Russia who earn $5,000 a year.

Mr. PALLONE. It is just amazing. I was at a clothing store for kids with my wife buying some things for the kids, and I searched throughout and I think I counted 50 countries that were on the labels, and the only thing I could find that was made in the United States were some socks. And then another day I was at Cracker Barrel on the way back to New Jersey on 95, and I had to wait in line, so I just looked around to see if there was anything made in the U.S. I found one shawl, or something like that, that was made in North Carolina. A cotton shawl. That was the only thing in the place.

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As the gentleman said, they were certainly no more expensive than the other things in the store. They looked like they were on the way out. Once they were sold, I felt like I was looking at the last item. My own town of Long Branch was a major textile center. My grandmothers on both sides both worked in textile factories and raised the kids that way.

The Bush administration does not do anything to try to promote American manufacturing or American jobs. They basically follow this policy that it is okay for everything to flow out of the country. It has got to stop. Maybe because they have refused to acknowledge that is their policy is something, but unless they actually change their policy in day-to-day operations, it is not going to make any difference.

Mr. DEFAZIO. Mr. Speaker, I thank the gentleman. The implications are dire, not only for the standard of living of Americans, our productive capacity, our future standing in the world as a great power, but just one last item. During the war with Iraq, we used a lot of cruise missiles. There is a critical component of the cruise missile made in Europe, either Sweden or Switzerland make that component, and they refused to sell us any because they did not support the war.

What is going to happen in 10 years when China is looking at invading Taiwan or Mongolia for its resources, and the United States has to go to the Chinese and say can we buy some weapons from you because we think next year we are going to have to defend ourselves from you.

I do not understand the hawks around here who are blithely allowing this hollowing out of our wealth and capacity to happen. I know it is enriching the contributor class in this country, which has a lot of clout at the White House and in Congress; but it is very disturbing to me. There are so many reasons why Members should be appalled by the trade policy. The policy at the White House is to change the names, not the policy.

Mr. Speaker, I thank the gentleman for participating on this, and for all the time he spends on the floor on this and on so many other issues.

REVOLVING DOORS

The SPEAKER pro tempore (Mr. BRADLEY of New Hampshire). Under the Speaker's announced policy of January 7, 2003, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes.

Mr. PALLONE. Mr. Speaker, I do not plan to use the entire hour, but I did want to come to the floor tonight to discuss a troubling issue that seems to be becoming more and more rampant within the Bush administration and within the back rooms of the Congressional Republican Caucus, and that is the revolving door of powerful lobbyists turning in their corporate lobbying cards in order to undermine the programs they are supposed to strengthen within the administration, a revolving door where Republican congressional staffers leave Capitol Hill, but continue to advertise their relationship with their former Republican boss, relationships they claim can get their clients anything they want with Republican legislation.

Mr. Speaker, before I get into that discussion, I want to talk about another revolving door, this one at the White House and Camp David. Today the Associated Press reports that President Bush opened the White House and Camp David to dozens of overnight guests last year, including at least nine of his biggest campaign fund-raisers. According to the Associated Press, more than 270 people have stayed at the White House since President Bush took office with at least the same number spending the night at Camp David. The President appears to be opening the White House and Camp David to the highest bidders.

Members may remember the controversy surrounding President Clinton and how he allowed guests to spend the night in the Lincoln bedroom. Republicans came to the floor and were aghast at that. At the time, candidate Bush also expressed his outrage over what he said was happening at the White House. In fact, during a debate with Al Gore in 2000, then-candidate Bush stated, "I believe they have moved that sign 'The buck stops here' from the Oval Office desk to 'The buck stops here' on the Lincoln bedroom, and that is not good for the country."

Today, the Associated Press article clearly shows that President Bush has changed his tune. The story lists nine of Bush's biggest fund-raisers either sleeping over at the White House or at Camp David.

First, there is Mercer Reynolds, an Ohio financier, who is leading Bush's campaign fund-raising effort. He stayed at both the White House and Camp David. Then there was Brad Freeman, a venture capitalist who is leading Bush's California fund-raising effort, and he has raised at least $200,000 for President Bush's re-election campaign. Freeman also stayed overnight at the White House.

Then there is William DeWitt, who also raised at least $200,000, and who also spent the night at the White House. The list continues. I do not want to take up my whole hour, so I am not going to go over the whole list.

Over the last 3 years, the President's credibility has been tested from creating jobs to the issue of whether or not Iraq had weapons of mass destruction; and now we learn that President Bush, who sharply criticized President Clinton's actions in allowing people to stay overnight in the Lincoln bedroom, is doing exactly the same thing. Nine of his largest contributors have spent the night at the White House or Camp David. As a candidate, Bush criticized these same actions.

Mr. Speaker, the door at both Camp David and the White House continues revolving with President Bush's campaign contributors coming in and out. And as President Bush said, the buck does not stop at his desk. The buck stops with these campaign contributors as the President opens the White House and Camp David to the highest bidder.

Mr. Speaker, since President Bush entered the White House more than 3 years ago, the buck has also been passed to administrators who have acted in the best interests of the corporate interest rather than the best interest of the American people. On Valentine's Day, the gentleman from California (Mr. GEORGE MILLER), who is the co-chair of the Democratic Policy Committee, released a 21-page report that was titled "How the Republicans Have Turn the Government Over to Special Interests." In the report of the gentleman from California (Mr. GEORGE MILLER) he stated, "Pick almost any issue of public concern, water quality, food safety, defense contracts, pension security or health insurance, and you will find that at every level of the Bush administration, powerful roles and key agencies have been turned over to industry advocates who in many cases have long opposed the very programs they are now charged with implementing."

Imagine that, the Bush administration has appointed former industry officials to run national programs that they oppose. Let me give a few examples from the report of the gentleman from California (Mr. GEORGE MILLER).

The first one I would like to mention is when President Bush appointed David Lauriski, the Assistant Secretary for Mine Health and Safety at the Department of Labor. Lauriski's background was 30 years in the coal industry. No wonder last June Lauriski's department issued controversial industry-friendly regulations that would cut down the amount of coal dust testing in mines. In addition to promoting industry-friendly regulations at the expense of miners' health, the report cites a whistle-blower in Lauriski's department who alleged in a complaint that Lauriski awarded no-bid contracts to former business associates and friends and that he pressured investigators to approve an inaccurate report on the devastating coal slurry spill in Kentucky. This is the guy that President Bush appointed to supposedly ensure that miners working in coal mines around our Nation are safe.

Another example from the report of the gentleman from California (Mr. GEORGE MILLER) is when President Bush appointed William Hansen as the Deputy Secretary of Education where he was in charge of, among other things, overseeing the department's direct college loan program which competes with private lenders. You ask where was William Hansen before he joined the Bush administration. Well, Hansen served as CEO of a trade group representing private lenders, and he founded a PAC that gave contributions to Federal candidates who favored private lenders over the department's direct loan program.

Even worse, Hansen testified before Congress against the direct loan program; and yet somehow President Bush determined that he was the perfect person to run the direct loan program. Based on Hansen's past, we should not be surprised that on his watch the Education Department cut off marketing for the direct loan program and stopped competing for new schools to offer the direct loans. The Bush administration even proposed selling the direct loan portfolio to private lenders.

After weakening the direct loan program, Hansen left the Bush administration last July to become the managing director of education services for the Affiliated Computer Services, an information technology business that specializes in outsourcing solutions to commercial and government clients. Four months later, that company was awarded a $2 billion contract from the Department of Education.

Mr. Speaker, these are just two examples, not even a half page, in this 21-page report that the gentleman from California (Mr. GEORGE MILLER) put together. There are many other examples that probably will be brought to the floor or discussed further on other nights.

Within the Bush administration, it is clear that a revolving door has been created in which corporate leaders come in and work for the administration for a period of time, weakening popular laws that benefit the American people.

Unfortunately, this revolving door does not only exist within the Bush administration. It also exists here within the Republican majority in the House of Representatives, and it should stop. The revolving door within the Republican majority is becoming so widespread if you picked up the newspapers the last week or so, you would think that was the only thing going on up here on Capitol Hill.

There was a front page story in last Thursday's Roll Call, which is the Capitol Hill newspaper, one of the Capitol Hill newspapers. The first headline in last Thursday's Roll Call read, "Revolving Door Snags Hill Aide." There is a subheading, "Taylor Staffer Negotiated Lobby Contract While on House Payroll."

Roll Call reports that Robert France, the former top aide to the gentleman from North Carolina (Mr. TAYLOR), negotiated a $60,000 lobbying deal on House time. The negotiations came 2 months after the aide was able to secure a $750,000 appropriations projected earmarked to his boss.

This revolving door, my question is, Where does it end? Ken Gross, an ethics and campaign finance lawyer told Roll Call, "People are certainly able to seek jobs, cashing in on their background and experience on the Hill." Gross continued to say, "If there is evidence of this person working as a staffer on legislation that would especially benefit this company while he is talking to them about going to work for them, that would be troubling." Yet that is what seems to go on.

Going back to the front page of last Thursday's Roll Call, there is another headline that says, "McCain Seeks Files in Abramoff Probe." This article surrounds actions first discovered by The Washington Post several weeks ago in which the paper discovered Jack Abramoff, a White House lobbyist, and Michael Scanlon, a former aide to the gentleman from Texas (Mr. DELAY), persuading several Indian tribes to pay their firms more than $45 million over the past 3 years. Senator MCCAIN is now investigating these payments.

The Scanlon-Abramoff investigation is a perfect example of how Scanlon used his relationship with his former boss, the gentleman from Texas (Mr. DELAY), the majority leader, to influence legislation. When Republican Leader DELAY was asked about how both men promote their ties to him, he stated, "I have no idea how their operation is or what it is." DELAY continued, "What I can tell you is that if anybody is trading on my name to get clients or to make money, that is wrong and they should stop it immediately."

Mr. Speaker, that is an interesting statement. I wish it were true. However, we have to consider that the gentleman from Texas (Mr. DELAY) has played an instrumental role in the K Street Project, a database that tracks the party affiliation, Hill experience, and political giving of every single lobbyist here in Washington. The K Street Project was featured in a July 2003 edition of the Washington Monthly, and the article stated back in 1995 that the gentleman from Texas (Mr. DELAY) compiled a list of the 400 political action committees, along with the amounts and percentages of money that had recently been given to each party. Lobbyists were then invited into the office of the gentleman from Texas (Mr. DELAY) and shown their place in friendly or unfriendly columns.

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A veteran steel lobbyist told Washington Monthly that the House Republican leadership "assembled several large company CEOs and made it clear to them that they were expected to purge their Washington offices of Democrats and replace them with Republicans." The House Republican leaders also demanded more campaign money and help for the upcoming election. According to the article, the meeting descended into a shouting match and the CEOs, most of them Republicans, stormed out of the meeting.

The gentleman from Texas (Mr. DELAY) essentially is telling lobbying firms around Washington whom they can and cannot hire. He also has worked hard to place former aides in key lobbying and trade positions. The practice is so well known that these former aides are known as "graduates of the DeLay school." And yet, with a straight face, the majority leader tells reporters, "If anybody is trading on my name to get clients or make money, that is wrong and they should stop immediately." Well, it does not seem to be very believable.

Tonight, as I said, I have been talking about a revolving door, a door that swings for the Republican corporate interests but shuts in front of everyday Americans. Whether it be the President opening rooms in the White House and Camp David to the highest bidder, or the administration hiring many of its key officials to advocate on behalf of policies they have opposed in the past, or the questionable actions of former Republican staffers who are functioning in a climate created by the majority leader, it is just unacceptable.

I know that the media has been paying a lot of attention to this, and I think it is important that we bring it out. I do not want people to think that this is always the case, but it certainly is a strong indication that the President and the Republican leadership in the Congress have been essentially involved with this revolving door for some time, and let us just hope it does not get any worse.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. BERKLEY (at the request of Ms. PELOSI) for today from 3:00 p.m. and the balance of the week on account of a funeral in the district.

Mr. CARDOZA (at the request of Ms. PELOSI) for today after 4:15 p.m. and the balance of the week on account of medical reasons.

Ms. HARMAN (at the request of Ms. PELOSI) for today after 5:00 p.m. on account of official business.

Mr. ORTIZ (at the request of Ms. PELOSI) for today before noon on account of personal business.

Mr. REYES (at the request of Ms. PELOSI) for March 9 and today before 2:00 p.m. on account of personal reasons.

Mr. WICKER (at the request of Mr. DELAY) for today and the balance of the week on account of the death of his mother.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BROWN of Ohio) to revise and extend their remarks and include extraneous material:)

Mr. UDALL of New Mexico, for 5 minutes, today.

Mr. BOYD, for 5 minutes, today.

Mr. STENHOLM, for 5 minutes, today.

Mr. CASE, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. STUPAK, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. ALLEN, for 5 minutes, today.

Mr. MATHESON, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. POMEROY, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

(The following Members (at the request of Mr. PEARCE) to revise and extend their remarks and include extraneous material:)

Ms. HARRIS, for 5 minutes, today.

Mr. SMITH of Michigan, for 5 minutes, today.

Mr. MARIO DIAZ-BALART of Florida, for 5 minutes, today.

Ms. GRANGER, for 5 minutes, March 16.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. STRICKLAND, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

ADJOURNMENT

Mr. PALLONE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 32 minutes p.m.), the House adjourned until tomorrow, Thursday, March 11, 2004, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

7126. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747-400 and -400F Series Airplanes [Docket No. 2003–NM–140–AD; Amendment 39–13373; AD 2003–24–04] (RIN: 2120–AA64) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7127. A letter from the Porgram Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 727 Series Airplanes Modified in Accordance With Supplemental Type Certification SA1444SO, SA1509SO, SA1543SO, or SA1896SO [Docket No. 97–NM–235–AD; Amendment 39–12861; AD 2002–16–22] (RIN: 2120–AA64) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7128. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier Model DHC–8–102, -103, -106, -201, -202 -301, -311, and -315 Airplanes [Docket No. 2002–NM–11–AD; Amendment 39–13459; AD 2004–03–15] (RIN: 2120–AA64) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7129. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Certification of Airports [Docket No. FAA–2000–7479; Amendment No. 121–304, 135–94] (RIN: 2120–AG96) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7130. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 737–100, -200, -200C, -300, -400, and -500 Series Airplanes [Docket No. 2001–NM–156–AD; Amendment 39–13478; AD 2004–03–34] (RIN: 2120–AA64) received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7131. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Manokotak, AK [Docket No. FAA–2003–16083; Airspace Docket No. 03–AAl-19] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7132. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Greenfield, IA. [Docket No. FAA–2003–16504; Airspace Docket No. 03–ACE–88] received February 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7133. A letter from the Progrm Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 727 Series Airplanes Modified in Accordance With Supplemental Type Certificate SA1368SO, SA1797SO, or SA1798SO [Docket No. 97–NM–233–AD; Amendment 39–12859; AD 2002–16–20] (RIN: 2120–AA64) received February 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7134. A letter from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Common Mistakes on Tax Returns [Notice 2004–13] received March 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7135. A letter from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Frivolous Arguments to Avoid [Notice 2004–22] received March 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7136. A letter from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Citizens or Residents of the United States Living Abroad (Rev. Rul. 2004–28) received March 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7137. A letter from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—1986 Code (Rev. Rul. 2004–27) received March 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7138. A letter from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—1986 Code (Rev. Rul. 2004–29) received March 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7139. A letter from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Income from Sources within the United States (Rev. Rul. 2004–30) received March 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7140. A letter from the Acting Chief, Publication and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—1986 Code (Rev. Rul. 2004–34) received March 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mrs. MYRICK: Committee on Rules. House Resolution 554. Resolution providing for consideration of the bill (H.R. 3717) to increase the penalties for violations by television and radio broadcasters of the prohibitions against transmission of obscene, indecent, and profane language (Rept. 108–436). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. KIRK (for himself, Mr. BASS, Mr. CASTLE, Mr. EHLERS, Mr. FEENEY, Mr. FRANKS of Arizona, Mr. GIBBONS, Mr. GILLMOR, Mr. HOUGHTON, Mrs. KELLY, Mrs. MYRICK, Mr. PLATTS, Mr. RYAN of Wisconsin, Mr. SHAYS, Mr. UPTON, Mrs. BIGGERT, and Mrs. JOHNSON of Connecticut):

H.R. 3925. A bill to amend the Congressional Budget Act of 1974 and the Balanced Budget and Emergency Deficit Control Act of 1985 to reform Federal budget procedures, provide for budget discipline, accurately account for Government spending, and for other purposes; to the Committee on the Budget, for a period ending not later than June 1, 2004, and in addition to the Committees on Rules, Ways and Means, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BILIRAKIS (for himself, Mr. Brown of Ohio, Mr. Barton of Texas, Mr. Dingell, Mr. Upton, Mr. Waxman, Mr. Burr, and Mr. Pallone):

H.R. 3926. A bill to amend the Public Health Service Act to promote organ donation, and for other purposes; to the Committee on Energy and Commerce.

By Mr. EMANUEL (for himself, Mr. Frank of Massachusetts, Mr. Weiner, Mr. Deutsch, Mr. Waxman, Mr. Lantos, Mr. Engel, Mr. Ackerman, Mr. Israel, Mr. Berman, Mrs. McCarthy of New York, Mr. Michaud, Mr. Nadler, Ms. Schakowsky, Mr. Cardin, Mrs. Lowey, and Mr. Wexler):

H.R. 3927. A bill to prohibit discrimination in the provision of life insurance on the basis of a person's previous lawful travel experiences; to the Committee on Financial Services, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FALEOMAVAEGA:

H.R. 3928. A bill to amend title 10, United States Code, to allow nationals of the United States to attend military service academies and receive Reserve Officers' Training Corps (ROTC) scholarships on the condition that the individual naturalize before graduation; to the Committee on Armed Services.

By Mr. GILLMOR (for himself and Mr. Pomeroy):

H.R. 3929. A bill to establish a national sex offender registration database, and for other purposes; to the Committee on the Judiciary.

By Ms. HOOLEY of Oregon:

H.R. 3930. A bill to amend the Richard B. Russell National School Lunch Act to improve the summer food service program for children; to the Committee on Education and the Workforce.

By Mr. KING of New York:

H.R. 3931. A bill to provide for certain tunnel life safety and rehabilitation projects for Amtrak; to the Committee on Transportation and Infrastructure.

By Mr. NUNES:

H.R. 3932. A bill to amend Public Law 99-338 to authorize the continued use of certain lands within the Sequoia National Park by portions of an existing hydroelectric project; to the Committee on Resources.

By Mr. RAMSTAD (for himself and Mr. Crane):

H.R. 3933. A bill to repeal section 754 of the Tariff Act of 1930; to the Committee on Ways and Means.

By Mr. WEINER (for himself, Mr. Ferguson, Mr. Wexler, Ms. Berkley, Ms. Jackson-Lee of Texas, Mr. Nadler, Mr. Deutsch, and Mr. Israel):

H.R. 3934. A bill to halt the issuance of visas to citizens of Saudi Arabia until the President certifies that the Kingdom of Saudi Arabia does not discriminate in the issuance of visas on the basis of religious affiliation or heritage; to the Committee on the Judiciary.

By Mr. WU:

H.R. 3935. A bill to amend title XVIII of the Social Security Act to provide geographic equity in fee-for-service reimbursement for providers under the Medicare Program; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COOPER (for himself and Mr. Cunningham):

H. Con. Res. 380. Concurrent resolution recognizing the benefits and importance of school-based music education; to the Committee on Education and the Workforce.

By Mr. RYUN of Kansas (for himself, Mr. Engel, and Mr. Walsh):

H. Con. Res. 381. Concurrent resolution supporting the goals and ideals of Tinnitus Awareness Week; to the Committee on Energy and Commerce.

By Mr. LEACH:

H. Res. 553. A resolution electing Members to a certain standing committee of the House of Representatives; considered and agreed to.

By Mr. MEEKS of New York:

H. Res. 555. A resolution expressing the heartfelt sympathy of the House of Representatives for the victims of the earthquake on February 24, 2004, near Al Hoceima, Morocco, and for other purposes; to the Committee on International Relations.

By Mr. MORAN of Virginia (for himself, Mrs. Cubin, Mr. Tom Davis of Virginia, Mr. Dicks, Ms. Eshoo, Mr. Kind, Ms. Eddie Bernice Johnson of Texas, Ms. Lofgren, Mr. Regula, Mr. Smith of Michigan, Mr. Young of Florida, and Mr. Boehlert):

H. Res. 556. A resolution congratulating the United States Geological Survey on its 125th Anniversary; to the Committee on Resources.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 25: Mr. Toomey.

H.R. 31: Mr. Sandlin.

H.R. 58: Mr. Stenholm.

H.R. 97: Mr. Grijalva, Mr. Ney, Mr. Wilson of South Carolina, Mr. Davis of Tennessee, and Mr. Baca.

H.R. 236: Mr. Michaud.

H.R. 369: Ms. Linda T. Sánchez of California.

H.R. 463: Mr. Snyder and Mr. Rangel.

H.R. 676: Mr. Abercrombie.

H.R. 677: Mr. McGovern and Mr. Wolf.

H.R. 687: Mr. Murphy.

H.R. 732: Mr. Kline, Mr. Wilson of South Carolina, Mr. Gordon, Mr. Kildee, Mr. Israel, Mr. Stupak, Mrs. McCarthy of New York, and Mr. Kennedy of Minnesota.

H.R. 792: Mr. Rohrabacher, Mr. Turner of Ohio, and Mr. Filner.

H.R. 857: Mr. Scott of Georgia.

H.R. 871: Mr. DeMint.

H.R. 1078: Mr. Doyle.

H.R. 1097: Mr. Berman and Mrs. McCarthy of New York.

H.R. 1105: Ms. Majette.

H.R. 1214: Mr. Davis of Illinois, Mr. George Miller of California, Mr. Wu, Mr. Hyde, Mr. Simmons, and Mrs. Capito.

H.R. 1228: Mrs. Christensen and Mr. Stark.

H.R. 1231: Mr. Vitter.

H.R. 1241: Mr. Sherman.

H.R. 1258: Mr. Israel and Mr. Filner.

H.R. 1534: Mr. Baca.

H.R. 1567: Mr. Gingrey.

H.R. 1608: Mr. Goss and Mr. McGovern.

H.R. 1613: Mrs. Christensen, Mr. McIntyre and Ms. McCollum.

H.R. 1684: Ms. Corrine Brown of Florida, Mr. Weiner, and Mr. Cummings.

H.R. 1749: Mr. Leach.

H.R. 1767: Mr. Hoekstra.

H.R. 1769: Mr. Meehan and Mr. Davis of Florida.

H.R. 1861: Mr. Payne.

H.R. 1930: Mr. Tierney and Mr. Gutierrez.

H.R. 2037: Mr. Moran of Kansas.

H.R. 2068: Mr. Nadler, Mr. Leach, Ms. Waters, and Mr. Filner.

H.R. 2069: Mr. Leach.

H.R. 2239: Mr. Levin.

H.R. 2339: Mr. Ferguson.

H.R. 2402: Mr. Frost.

H.R. 2475: Ms. Harris.

H.R. 2482: Mr. Baird.

H.R. 2490: Ms. Roybal-Allard.

H.R. 2824: Ms. Norton, Mrs. Capps, and Mr. Burgess.

H.R. 2897: Mr. Nadler, Mr. Abercrombie, and Mr. Hinchey.

H.R. 2905: Mr. Jenkins, Ms. Norton, Mr. Smith of Washington, Mr. Moran of Kansas, and Mr. Hostettler.

H.R. 2926: Ms. Schakowsky.

H.R. 2932: Mr. Farr.

H.R. 2949: Mr. Baird.

H.R. 2971: Mr. Obey.

H.R. 3103: Mr. Wamp.

H.R. 3125: Mr. Jenkins and Mr. Stenholm.

H.R. 3142: Mr. Neal of Massachusetts, Ms. Schakowsky, Mr. Doggett, and Mr. Issa.

H.R. 3246: Mr. Cantor.

H.R. 3257: Mr. Rahall.

H.R. 3277: Ms. Lee.

H.R. 3295 Mrs. Johnson of Connecticut.

H.R. 3337: Mr. Kind.

H.R. 3377: Ms. Norton, Ms. Roybal-Allard, and Mrs. Christensen.

H.R. 3386: Mr. Davis of Illinois.

H.R. 3403: Mr. Deal of Georgia and Mr. Burr.

H.R. 3416: Ms. Roybal-Allard.

H.R. 3441: Mr. Ballance, Mr. Boehner, Ms. Woolsey, Ms. Carson of Indiana, Mr. Burr, Mr. Taylor of Mississippi, Mr. Lucas of Kentucky, Mr. McIntyre, Mr. Snyder, and Ms. Lee.

H.R. 3444: Mr. McGovern.

H.R. 3474: Mr. Schiff, Mr. Stenholm, Mr. Hinojosa, and Mr. Boucher.

H.R. 3480: Mr. Wolf.

H.R. 3482: Mr. Green of Wisconsin.

H.R. 3507: Mr. McNulty.

H.R. 3528: Ms. Jackson-Lee of Texas.

H.R. 3572: Mr. Lewis of Georgia.

H.R. 3574: Mr. Matheson, Ms. Loretta Sanchez of California, Mr. Gary G. Miller of California, and Mr. Moran of Virginia.

H.R. 3599: Ms. McCollum.

H.R. 3643: Mr. Frost and Mr. Wolf.

H.R. 3664: Mrs. Jo Ann Davis of Virginia.

H.R. 3668: Mr. Stenholm.

H.R. 3673: Mr. Cardoza and Mr. Andrews.

H.R. 3684: Ms. Schakowsky and Mr. Sabo.

H.R. 3716: Mr. Turner of Texas, Mr. Ballenger, and Mr. Berry.

H.R. 3719: Ms. Carson of Indiana, Mr. Rangel, Mr. Clay, Mr. Holt, Ms. Linda T. Sánchez of California, and Mr. Hoeffel.

H.R. 3745: Mr. Souder.

H.R. 3755: Mr. Emanuel, Mr. McCotter, and Mr. Delahunt.

H.R. 3763: Mr. Aderholt and Mr. Visclosky.

H.R. 3764: Mr. Kind, Mr. Davis of Illinois, Mr. Kucinich, Ms. Watson, Mr. Lantos, and Mrs. Capito.

H.R. 3773: Mr. Ramstad, Mr. Akin, Mr. Fossella, Mrs. Musgrave, Mr. Sessions, Mr. Cantor, Mr. Flake, and Mr. Vitter.

H.R. 3781: Mr. Nunes.

H.R. 3793: Mr. King of New York.

H.R. 3799: Mr. Miller of Florida, Mr. Wamp, and Mrs. Jo Ann Davis of Virginia.

H.R. 3800: Mr. Isakson, Mr. Upton, Mr. Brown of South Carolina, Mr. Smith of Texas, and Mr. Brady of Texas.

H.R. 3846: Mr. WALDEN of Oregon.

H.R. 3881: Mr. JEFFERSON, Mr. SABO, Mr. MOORE, and Mr. OLVER.

H.R. 3901: Mr. AKIN, Mr. CHOCOLA, Mr. UPTON, and Mr. HASTINGS of Washington.

H.R. 3913: Mr. UPTON.

H.R. 3917: Mr. ACKERMAN, Mr. BISHOP of New York, Mr. BOEHLERT, Mr. CROWLEY, Mr. ENGEL, Mr. FOSSELLA, Mr. HINCHEY, Mr. HOUGHTON, Mrs. KELLY, Mr. KING of New York, Mrs. LOWEY, Mrs. MALONEY, Mrs. MCCARTHY of New York, Mr. MCHUGH, Mr. MCNULTY, Mr. MEEKS of New York, Mr. NADLER, Mr. OWENS, Mr. QUINN, Mr. RANGEL, Mr. REYNOLDS, Mr. SERRANO, Ms. SLAUGHTER, Mr. SWEENEY, Mr. TOWNS, Ms. VELÁZQUEZ, Mr. WALSH, and Mr. WEINER.

H.R. 3919: Ms. JACKSON-LEE of Texas, Mr. VAN HOLLEN, Mr. FRANK of Massachusetts, Mr. SANDERS, and Mr. DAVIS of Illinois.

H.R. 3921: Ms. BERKLEY.

H. Con. Res. 70: Mr. RUSH.

H. Con. Res. 98: Mr. NUNES.

H. Con. Res. 247: Mrs. MALONEY.

H. Con. Res. 285: Mr. CASE.

H. Con. Res. 314: Mr. LEWIS of Georgia.

H. Con. Res. 332: Mrs. EMERSON, Mr. CHOCOLA, and Mr. FOSSELLA.

H. Con. Res. 338: Mr. LANGEVIN.

H. Con. Res. 352: Mr. VAN HOLLEN and Mr. TIERNEY.

H. Con. Res. 356: Mr. STUPAK and Mr. EVANS.

H. Con. Res. 365: Mr. WILSON of South Carolina.

H. Con. Res. 366: Mr. ACKERMAN, Mr. ABERCROMBIE, Mr. LEWIS of Georgia, Mr. DEFAZIO, Mr. MCHUGH, Mr. VISCLOSKY, Mr. OBEY, Mr. BECERRA, and Mr. CONYERS.

H. Con. Res. 367: Mr. FLAKE.

H. Con. Res. 371: Mr. GREEN of Texas.

H. Res. 402: Mr. BURR.

H. Res. 446: Mr. GOODLATTE.

H. Res. 524: Mr. INSLEE and Mr. RANGEL.

H. Res. 540: Mr. SMITH of New Jersey.

H. Res. 542: Mr. MARKEY and Mr. GUTIERREZ.

SENATE—*Wednesday, March 10, 2004*

The Senate met at 9:30 a.m. and was called to order by the Honorable SAM BROWNBACK, a Senator from the State of Kansas.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray:

O God of field and forest, who made the hill and stream, thank You for creating in us a wonder for sky and brook and stone. Thank You for the glorious inspiration of the brilliant dawn and sunsets fading from blue to gold. Forgive us when we let our priorities compete with our loyalty to You. Open our minds to the counsel of eternal wisdom and breathe into our souls Your peace. Lord, increase our hunger and thirst for right living and lead us nearer to You. Bless our Senators. Help them to honor You both in spirit and deeds. We pray this in Your holy name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable SAM BROWNBACK led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, March 10, 2004.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SAM BROWNBACK, a Senator from the State of Kansas, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. BROWNBACK thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning we resume consideration of the budget resolution. There are now 27 hours remaining for debate on that resolution. The chairman and ranking member are here and are ready to continue with the consideration of amendments.

Under the order from last night, following Senator ENSIGN's remarks, Senator MURRAY will offer an amendment related to education. Following the Murray amendment, Senator GRAHAM of South Carolina will offer an amendment regarding TRICARE. Rollcall votes will therefore occur throughout the day.

We will complete the budget resolution this week. It will be a long day today and late tonight, I assume, as well as tomorrow and tomorrow night. I ask for the cooperation of all Members as we do everything we possibly can to assist the managers in completing the budget resolution.

Mr. President, once we get on the bill, I have a short statement.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that the statement of the two leaders be charged against the time on the budget resolution.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

CONGRESSIONAL BUDGET FOR THE UNITED STATES GOVERNMENT FOR FISCAL YEAR 2005

The ACTING PRESIDENT pro tempore. Under of the previous order, the Senate will resume consideration of S. Con. Res. 95, which the clerk will report.

The legislative clerk read as follows:

> A concurrent resolution (S. Con. Res. 95) setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Nevada, Mr. ENSIGN, is to be recognized for up to 30 minutes.

The majority leader is recognized.

Mr. FRIST. Mr. President, I have a short statement I will give, and I assume the Democratic leader will have a statement. Following that, I ask unanimous consent that the Senator from Nevada be recognized.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The majority leader is recognized.

Mr. FRIST. Mr. President, I want to open by congratulating the chairman of the Senate Budget Committee and ranking member and all committee members for the outstanding work they have done in bringing this resolution to the floor in a very timely manner. It was a little over a month ago that the President of the United States transmitted his proposed budget to the Congress, and the Budget Committee, under real time constraints, was able to hold hearings and debate, mark up, and report its own congressional budget plan and bring it to the floor last Thursday evening.

My experience with budget resolutions on the Senate floor tells me that it will become very hectic, really beginning today and tomorrow and the next day—over the next 3 days. There is a limited amount of time, as we all know. There are 27 hours remaining for debate on that resolution as of this morning. That time will end up passing very quickly, particularly when we have a recess sitting on the other end awaiting completion of this resolution.

As I mentioned earlier, we will complete this budget resolution this week before the recess. Since we have a limited time, I want to right upfront pay tribute to Chairman NICKLES and one other Senator this morning.

Chairman NICKLES, as we all know, will be leaving the Senate at the end of his fourth term. After 2 years as chairman of the Budget Committee, this will be the last Federal budget he will manage on the Senate floor. Last year, with his first budget resolution as chairman, we were able to complete a budget resolution in record time. Eighty amendments were offered last year and were all considered on the floor. That was the third highest ever considered on the budget resolution in history. In 1998, there were 106 amendments. Last year was the third highest.

I have had the opportunity to serve on the Budget Committee in the past and I know it is a very difficult assignment; it is a demanding committee. But I believe the ranking member would agree with me, while the ranking member and the chairman have not always agreed on policy, Senator NICKLES has maintained a fair and open and collegial committee on which to work.

Six years before Senator NICKLES was first elected to the Senate, in December 1974, Sam Ervin, the distinguished chairman of the Committee on Governmental Operations, wrote:

> I have no doubt that the Congressional Budget and Impoundment Control Act of 1974 will stand as a monument to the 93rd Congress and its devotion to our constitutional system of Government.

This is the 30th anniversary of the enactment of the historic legislation which established the Senate Budget Committee, established the Congressional Budget Office, and established the procedures that we are involved in today in considering a congressional budget resolution.

Many did not expect that what at the time was a completely new process to survive. Indeed, it has survived over the last 30 years. In a way, over those 30 years, it certainly had its bumps and bruises. Just down the road from Senator Ervin's home, one Senator, and only one Senator in this Chamber today, has served on the Budget Committee from its very beginning, and that is Senator FRITZ HOLLINGS. He has been there from the very beginning. For 2 years, in 1979 and 1980, Senator HOLLINGS—and this was when Ed Muskie left the Senate to serve as Secretary of State under President Carter—also served as its chairman.

Just a little bit of budget trivia: As I was looking through the history, the first reconciliation bill was, indeed, crafted under Chairman HOLLINGS' leadership in 1980.

Senator HOLLINGS was instrumental in the first major reforms to the Federal budget process, being one of the authors, along with Senators Gramm and Rudman, of the Balanced Budget and Emergency Deficit Control Act of 1985, more familiarly known as Gramm-Rudman-Hollings.

I mention Senator HOLLINGS in part because of this long history, and I discussed some of it with him last night at dinner. As we all know, he too will be voluntarily leaving the Senate at the end of this Congress. So this is his last budget resolution debate on the Senate floor, and just like the 30 debates before, I am sure he will not disappoint the Senate with his contribution to this debate over the next 3 days.

We have begun deliberating a blueprint for next year's Federal budget, and that is exactly what it is; it is truly a blueprint. For those who may be observing these proceedings for the first time, it may appear we are passing laws on spending for our national defense, education, or health programs, or it may appear we are enacting tax legislation, but we are not. Listening to the debate it may sound like it but that is not what we are doing.

It is really not unlike a family sitting around the kitchen table at the beginning of a new year discussing and estimating how much income they will have over the course of the next 12 months, how that income will be spent and how it should be allocated to the basic needs, whether it is to their shelter, food, or health care, and then how much they should save for their children's needs. It might be for schooling or it might be for their own retirement.

That is exactly what we are doing, or it is very similar to what we are doing, over the course of this week in this 50 hours of debate when we are adopting a congressional budget plan.

Just like that family sitting around the kitchen table, we are going to have differences and those differences are going to be expressed. There will be strong opinions on how our income should be divided among what people project as demands that will come and demands that we have today. Once we come to an agreement on a budget plan, which we will in the next 3 days, just like that family, we will be tasked to implement it by passing the revenue and spending totals that are assumed in that blueprint.

We will also be asked to stick to it throughout the year, and so we will be putting up some roadblocks and some warning signals in our budget plan to remind us if we get off track or if we begin to go astray. Indeed, that is the importance of passing this budget resolution.

There are differences, just like sitting around that table in a family, when planning a budget. As we have heard over the last several days, and we will hear for the next 3 days, there will be debate and an amendment process. The big difference between what goes on here and what goes on with that family is size, the obvious one. Another difference is that what we plan here can have a direct impact on that family sitting around that kitchen table.

Will we keep that family's taxes from increasing next January by planning our budget here to prevent that child tax credit, now $1,000, from falling to $700 per child, thus taking $300 per child away from that family?

Will we plan to keep the 10-percent rate bracket from dropping next January from $4,300 to $12,000 as a threshold for joint filers?

Will we plan to prevent the standard deduction for that married couple, and this is known as the marriage penalty tax, from dropping next January and thereby continuing to penalize them simply because they are married?

All of these, which we are talking about in the resolution, will keep families from having to pay more beginning January. In fact, these three tax items alone could mean the difference of over $13 billion in additional take-home pay next year for nearly 38 million hardworking families. Add that up and it becomes over $100 billion in additional income to those families sitting around those kitchen tables over the next 5 years. So what we plan for in our own Federal budget can and will impact the budgets of millions of America's families in a very direct way.

This is a challenging budget year. We are all aware it is a political year, with the Presidential election this November, and thus reaching real consensus on a budget will be difficult under the best of circumstances, let alone in this Presidential election year.

The deficits we currently face are unacceptable. The budget crafted by the committee puts a priority on reducing them. We understand why the deficits are there: recession and war on terror. Through this budget plan we will cut those deficits in half over the next 3 years.

At the same time, the budget blueprint that we debate from the committee remains committed to certain priorities. The budget blueprint assumes spending for our national security will increase over $20 billion next year. That is an increase of about 5.1 percent. It assumes funding for domestic, or our homeland security, will increase by 15 percent. Both of these increases are essential in our war on terrorism.

Important domestic programs are not ignored. We all know a key to job growth in the future is one that gives a high priority to education, to retraining, to learning in schools, the basics of mathematics, writing, and verbal skills.

Chairman Greenspan recently testified:

> By far the greatest contribution during the past century to our average annual real GDP increase of 3¼ percent has been the ideas embodied in both our human and physical capital. Technological advance is continually altering the shape, nature and complexity of our economic processes.

Yes, education has always been, and will continue to be, the key to our country's economic future, and the blueprint assumes we will increase funding for disadvantaged children for title I grants to local education agencies by over 8 percent, up over $1 billion next year, bringing the total Federal funding for this program to $4.6 billion. This program is the single largest Federal funding source for the No Child Left Behind legislation.

The resolution also makes room for increased funding for special education, or the Individuals with Disabilities Education Act. This increased funding for special education assumes to go up by $1 billion, and that is the fourth consecutive year of $1 billion increases, bringing funding for this special education program next year to over $11.1 billion.

The resolution allows for a 5-percent increase in veterans medical care funding, up $1.4 billion, to a total of nearly $30 billion for these important programs next year.

The resolution also assumes moneys for critical international assistance programs, a 13.5-percent increase in discretionary funding in this area, including last year's newly authorized

Millennium Challenge Corporation. Full funding for the HIV/AIDS initiative of $2.8 billion next year is assumed in the blueprint, putting us on the path to meet our goal of $15 billion over 5 years.

In closing, these are a few of the priorities embodied in this blueprint. It does not please everyone. How could it? There is no guarantee that all of the assumptions in the blueprint will be fulfilled as we move on to the funding legislation that will implement this blueprint.

The demands are great. The resources at this point in time are limited. Just like a family making difficult and unpopular challenging decisions, we, too, will not be able to provide all of the funds some think are needed for particular programs or needed projects. I believe it is a solid, strong budget plan, presented to us by the chairman and the committee and it is one that deserves our strong support.

The ACTING PRESIDENT pro tempore. The Democratic leader.

Mr. DASCHLE. Mr. President, last Friday we were presented with the latest report on the creation of new jobs in our economy. The administration predicted about 200,000. In February, unfortunately, we only created 21,000—180,000 short of what the administration predicted. If you don't count the increases in Government payroll, there was actually no job growth whatsoever in the entire year of 2003. Unfortunately, that could also be said of 2002, and 2001.

The administration's economic forecasts appear to be little more than wishful thinking. A chart appeared in the New York Times yesterday that lays out very graphically how inaccurate the job predictions have been. In his column yesterday, Paul Krugman wrote about this unfortunate miscalculation in the prediction of jobs. His most graphic illustration of this miscalculation is entitled "Promises, Promises." It is a chart. It is easy to understand.

The administration predicted in 2002 the creation of 138 million jobs. Then in 2003 they corrected that prediction. They said it isn't going to be 138 million; it will be 135 million. In 2004, they said it isn't going to be 138 million, it isn't going to be 135 million, now it's going to be 132 million. Now we find out, in 2004, it wasn't 138, 135, or 132 million; it was 130 million jobs, which means they were 8 million jobs off the mark in predicting where the non-farm payroll employment rolls would be during the course of their term in office.

From the very first days in office, the Bush economic team has failed to understand what it takes to create jobs. I might say, as we look at the job creation, this is American job creation. Unfortunately, I fear, while we don't have any numbers, the outsourcing job creation probably does exceed the prediction. I wouldn't be surprised if, under the watch of President Bush, we have actually seen more than 8 million jobs created. The problem is, most of them have been in India and China, and countries in south Asia. It is American jobs we are gauging here, and it was a prediction that it was American jobs that would be created at that 138 million level.

We know how to create jobs, but for some reason this administration has not been willing to commit, in policy or in resources, the effort that must be made to ensure those jobs are created. We had the most recent illustration of that a couple of weeks ago. The transportation bill the Senate has now voted on, on an overwhelmingly bipartisan basis, we are now told would create 1.7 million jobs in 6 years. South Dakota would see over 5,000 jobs created; California, 87,000 jobs created; Texas, 60,000; New York, 61,000; Virginia, DC and Maryland, 45,000 jobs. Thirty percent of our roads and bridges are in a state of severe disrepair and those jobs would go to dealing with the incredible problem we have with infrastructure deconstruction.

I think the broad support, 76–21, in the Senate marked yet another statement about our appreciation of the magnitude, the importance of that bill; yet what the administration has done in response to our passage of that bill is to say they would veto it today, veto it because they say we cannot afford it. We just talked yesterday about the fact we are spending $27 billion this year to provide those who are making incomes of more than $1 million a tax break. We can afford to give millionaires a tax break of $27 billion, but we can't afford the commitment this country must make in infrastructure.

Ironically, that is about the difference between where the Senate is and where the administration wants to go with regard to highway construction funds. They would rather spend it on millionaires. Many of us feel very strongly it is important to spend it where we can create jobs—not jobs in India, not jobs in China, but jobs here at home, trying to meet that target the administration said was so important, 138 million. They are right. It is important. We need to create those jobs. But we are not going to do it with the policies that have so far been articulated by this administration.

Later today, Senator BOXER will be offering an amendment that will create jobs beyond those we now know could be created in the highway bill. We are going to allow for an amendment that would discourage the flow of jobs overseas and give assistance to workers whose jobs have been actually eliminated in the Bush economy. It would offer tax credits to companies that create manufacturing jobs by making it more affordable for small businesses to offer coverage to their employees. It would discourage the exporting of American jobs by eliminating the tax advantages for companies that take their plants overseas, and by prohibiting the Federal Government from dealing with contractors who outsource the work of their Government contracts to workers overseas. It would also help workers who are dislocated by global economic forces by including service workers in the Trade Adjustment Assistance Program and by extending health care coverage to trade-dislocated workers.

Most of us believe families should not have to lose their health coverage because of economic forces beyond their control. The amendment we will be offering today says, while they are still trying to get back on their feet, they must have the opportunity to access health care in some form.

Since the administration has come to office, its economic policy has been to borrow money from foreign bankers, hand it over to the wealthiest people in the country, and hope for the best. The result is a $9 trillion meltdown of our fiscal position and now the loss of 3 million jobs.

We need a new direction. Yesterday in the Washington Post the poll suggested 57 percent of the American people shared that view. We have come to a point where we must take a different direction. Economists are worried if jobs are not created soon, Americans could lose confidence and spur an even steeper downturn in the economy.

We know how to create jobs. Let's pass the highway bill. Let's pass the Boxer Democratic amendment today. Let's ensure we send the right message about the direction we want this country to take. We can do that with this budget resolution and with legislation that has come before the Senate. I hope, on a bipartisan basis, we can send that message to the American people.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized for up to 30 minutes under the previous order.

Mr. ENSIGN. Mr. President, this morning I rise to speak about the national defense function of this budget resolution. The resolution provides $413.9 billion in discretionary spending for our national defense. This amount represents a increase of almost $20 billion, 5 percent above the 2004 level.

As chairman of the Readiness and Management Support Subcommittee of the Armed Services Committee, I am keenly aware that today we are a nation at war. Almost 200,000 U.S. military service personnel are currently deployed around the world in Operation Iraqi Freedom, Operation Enduring Freedom, and other military operations in the ongoing global war on terrorism.

Our soldiers, sailors, airmen and marines remain deployed in Korea, the

Balkans, at sea and elsewhere, protecting American interests and deterring aggression.

There can be no disagreement on the magnificent manner which our Armed Forces have answered their nation's call. Their professionalism and performance have been brilliant; and their willingness to sacrifice for this country is inspiring.

That is why I am so troubled today by the Democrats' response to President Bush's weekly radio address last Saturday. That response was delivered by Senator JOHN KERRY, their party's presumptive Presidential nominee.

We all know that each Senator has a right to state their opinion on defense issues. However, when a Senator, or in this case, a party's presumptive nominee, makes an argument built on a foundation of facts as distorted as Senator KERRY's was, then the argument becomes more than an honest disagreement.

He quoted the Secretary of the Army as saying that U.S. forces were "not prepared" for the present conflict in Iraq.

This is the exact quote:

> The Secretary of the Army admitted that the United States forces were "not prepared" for the present conflict.

But yesterday at the Senate Armed Services Readiness Subcommittee hearing, the Vice Chief of Staff of the Army, General Casey, testified that comment "was taken out of context." He stated "we were very well prepared, all of the services."

General Moseley, Vice Chief of Staff of the Air Force, said, "I would have to tell you that . . . all airmen, whether they were Navy, Marine, or Air Force, were exceptionally well prepared. . . . and I would take issue with anyone that criticized our magnificent airmen."

General Huly, Deputy Commandant of the Marine Corps, said, "I believe we were very well prepared . . . I think that's evidenced by the fact that we exceeded our expectations, accomplished the mission in a shorter period of time, with far fewer losses than we even anticipated ourselves.

Senator KERRY has woven a picture of incompetence and malfeasance by our military leaders and our President. Nothing could be further from the truth. It is amazing the different pictures painted by those who have been there, and those who have not.

I personally visited Iraq last December. As a matter of fact, I was privileged to have been in the country the day the Third Infantry Division captured Saddam Hussein. I have to tell you what impressed me the most was watching our troops go above and beyond the call of duty; painting schools, rehabbing hospitals, and winning over the hearts and minds of the Iraqi people, even in the Tikrit region where their safety was most at risk.

Watching events in Iraq unfold underscores that America is blessed with more than her fair share of heroes. These men and women are doing what needs to be done in an extremely hostile environment. And they are depending on this Congress to pass a budget that gives them the resources to complete their mission and return home safely to their families. This budget ensures that the military has the resources it needs to remain properly prepared and adequately equipped.

In his radio address, Senator KERRY also stated that: "I will never send our troops into harm's way without enough firepower and support."

Strong words, but words alone offer little in this context and in the overall context of our budget discussions. It is interesting to note that while Senator KERRY claims to be a devout supporter of our troops, he was one of only 12 Senators who voted "no" for an Iraqi supplemental that provided that very "firepower" and "support" he now claims is so necessary.

The Iraqi supplemental was used to purchase the same body armor and "up-armored Humvees" Senator KERRY rails about as being insufficient. If we had allowed Senator KERRY to make the decision, our troops would indeed be ill prepared.

Votes have consequences. By voting against the Iraqi supplemental Senator KERRY voted to undermine the troops in the field and that is not only inexcusable, it is reprehensible. I hope no Senator would make such an egregious mistake with respect to the current budget resolution.

Therefore, I am calling upon Senator KERRY to retract his comments about our military being unprepared and to apologize to the men and women of our armed forces for using their sacrifices as political fodder. It is important to remember that in a democracy there will always be honest differences of opinion over the difficult decisions about the best way to fund, train, and equip American forces who are being sent into harms' way. I appreciate the opportunity to work with Members on both sides of the aisle to resolve these differences.

On February 24, Senator LEVIN, ranking member of the Armed Services Committee, sent a letter to Chairman NICKLES and Senator CONRAD.

In his letter he stated that "no one can predict with precision what these fiscal year 2005 costs will be" and recommended an increase in "budget authority for the national defense function by $30 billion in fiscal year 2005."

I agree with my distinguished colleague from Michigan when he said that this is "the responsible thing to do for our troops and for budget accuracy."

This budget takes Senator LEVIN's suggestions to heart and includes the supplemental resources necessary to provide for the 200,000 men and women in our military who are currently serving abroad.

I look forward to working with my Senate colleagues to ensure that we adequately address the sacrifices of our men and women in uniform, by passing a budget resolution that provides the resources that will sustain and improve our military as they fight for security of this great Nation. By fully supporting this budget, we will send a clear message of support to our troops, worldwide, and an important message to the world of America's complete commitment to freedom and security.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from North Dakota.

Mr. CONRAD. Mr. President, I ask unanimous consent for 5 minutes before Senator MURRAY begins her remarks.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I don't know precisely what Senator KERRY was referring to in his remarks the other day. But I think we all know there were deficiencies in terms of resources provided to our troops going into Iraq and Afghanistan. We have all read the stories repeatedly of soldiers not having the body armor they needed. We have all heard of people actually raising money back home in order to get the body armor for our soldiers in Iraq and Afghanistan. That should not be. We shouldn't have a circumstance where American soldiers don't have the best equipment to keep them safe when we have sent them into harm's way. I think we have all read the stories of our Humvees not being properly armored to protect soldiers against these bombs that have been going off.

I remember very well going to Walter Reed Army Hospital visiting young men who had been badly injured in Iraq. I remember very well visiting with one young soldier who had been in a Humvee that had not been properly armored. One of the roadside bombs had gone off, and that young soldier was terribly injured—blind in one eye, lost a leg, an arm. He was badly wounded. As he lay in that bed, another Senator and I visited him. As we left the room, having visited that patient, we commented about how it can be that we send into Iraq Humvees not properly armored against the kind of truck bombs and roadside bombs that had been used to injure and kill our troops.

I don't know precisely what Senator KERRY was referring to in that speech. We all know there were serious deficiencies in terms of body armor for our troops and in terms of Humvees being properly armored against bombs.

I think Senator KERRY was certainly not out of line in suggesting that more could have been done to have our troops fully protected on the battlefield.

I thank the Chair, and I thank especially my colleague from Washington, Senator MURRAY, who is such a valuable member of the Senate Budget Committee for permitting me to speak ahead of her.

The PRESIDING OFFICER. Under the previous order, the Senator from Washington is recognized to offer an amendment.

AMENDMENT NO. 2719

Mrs. MURRAY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY], for herself, Mr. KENNEDY, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. CORZINE, Mr. LEVIN, Mr. DODD, Ms. STABENOW, Mrs. CLINTON, Mr. KERRY, Mr. HARKIN, Mr. SCHUMER, Mr. PRYOR, Mr. REED, Mr. DAYTON, Mr. KOHL, and Ms. LANDRIEU, proposes an amendment numbered 2719.

Mrs. MURRAY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 9, increase the amount by $516,000,000.

On page 3, line 10, increase the amount by $13,244,000,000.

On page 3, line 11, increase the amount by $2,924,000,000.

On page 3, line 12, increase the amount by $516,000,000.

On page 3, line 17, increase the amount by $516,000,000.

On page 3, line 18, increase the amount by $13,244,000,000.

On page 3, line 19, increase the amount by $2,924,000,000.

On page 3, line 20, increase the amount by $516,000,000.

On page 4, line 20, increase the amount by $516,000,000.

On page 4, line 21, increase the amount by $13,244,000,000.

On page 4, line 22, increase the amount by $2,924,000,000.

On page 4, line 23, increase the amount by $516,000,000.

On page 5, line 3, decrease the amount by $516,000,000.

On page 5, line 4, decrease the amount by $13,760,000,000.

On page 5, line 5, decrease the amount by $16,684,000,000.

On page 5, line 6, decrease the amount by $17,200,000,000.

On page 5, line 7, decrease the amount by $17,200,000,000.

On page 5, line 11, decrease the amount by $516,000,000.

On page 5, line 12, decrease the amount by $13,760,000,000.

On page 5, line 13, decrease the amount by $16,684,000,000.

On page 5, line 14, decrease the amount by $17,200,000,000.

On page 5, line 15, decrease the amount by $17,200,000,000.

At the end of Title III, insert the following:

SEC. . RESERVE FUND FOR NO CHILD LEFT BEHIND ACT EDUCATION PROGRAMS.

The Chairman of the Committee on the Budget of the Senate shall revise the aggregates, functional totals, allocations to the Committee on Appropriations of the Senate, discretionary spending limits, and other appropriate levels and limits in this resolution by up to $8,600,000,000 in budget authority for fiscal year 2005, and by the amount of outlays flowing therefrom in 2005 and subsequent years, for a bill, joint resolution, motion, amendment, or conference report that provides additional fiscal year 2005 discretionary appropriations, in excess of levels provided in this resolution, for Department of Education programs in the No Child Left Behind Act (P.L. 107-110).

Mrs. MURRAY. Mr. President, I ask unanimous consent that the following Senators be added as cosponsors: Senators KENNEDY, LIEBERMAN, MIKULSKI, CORZINE, LEVIN, DODD, STABENOW, CLINTON, KERRY, HARKIN, SCHUMER, PRYOR, REED of Rhode Island, KOHL, DAYTON, and LANDRIEU.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, parents, teachers, and students throughout Washington State and across our entire country are looking for our help today as they try to implement the No Child Left Behind Act.

Unfortunately, the budget before the Senate by the Republicans falls $8.6 billion short of what our schools and our students need this year. It is yet another broken promise to our schools, our students, and our families.

We can do better. That is why I am offering this amendment this morning. I have visited schools in every corner of my State and I know firsthand that our educators everywhere are working harder than ever to help their students to meet these new accountable requirements. They want to do a good job. They want to do what is right. I also know it is not fair for the Federal Government to leave our schools without the funding they need to meet these Federal mandates we place on them.

Today our State and local budgets everywhere are stretched thin. Our local communities cannot afford to make up the difference between what our schools were promised and what this budget actually provides. That is why I am offering this amendment today to fully fund the No Child Left Behind Act. My amendment tells students, teachers, and parents that the Federal Government will be a full partner with our local schools as they carry out the new law we passed.

I am not asking for some unheard of amount of funding. I am simply asking we provide the funding we promised our schools 2 years ago. As everyone knows, the No Child Left Behind Act increased accountability for schools so we can ensure that all of our children will receive a high-quality education. However, accountability is a two-way street. We cannot demand that schools follow all of these new mandates and look the other way when it is time to write a check. If we expect our schools to uphold their part of the bargain, then we have to do our part and fund these requirements.

Let's not forget, the funding levels in the No Child Left Behind Act were based on a bipartisan agreement on what it would take to implement this new law. It is hard to believe we are here 2 years later and the Federal Government is still not doing its part.

This is especially important today because States are now confronting the true cost of implementing this law. The only study that looked at the actual cost to the States of the No Child Left Behind Act was conducted in Ohio. That analysis estimates that the cost to Ohio of complying with the law will reach $1.447 billion annually by fiscal year 2010.

Again, the President's budget request and this Republican budget fail to live up to the promises we made in this Senate just 2 years ago when we passed No Child Left Behind. That is why we need to pass this amendment today. This amendment adds $8.6 billion to function 500 to fully fund the No Child Left Behind Act and to improve overall funding for educational programs.

I am sure we will hear those on the other side saying their budget increases funding for No Child Left Behind by $1.2 billion over last year. It does. But it is still $8.6 billion short of what our schools need. That shortfall is going to have real and painful effects on all of our students unless we fix this budget.

Mr. President, 4.6 million low-income children in this country will not get the help they need under title I unless we pass this amendment. In my home State alone, the difference between the President's request and the promise of No Child Left Behind means 28,000 low-income students will be left behind.

This budget will result in fewer students being served by a number of important programs. That is because the Republican budget freezes funding for programs but those freezes mean real cuts in service when you factor in that we have rising enrollment and costs to our schools. At the end of the day, the Republican budget will mean that fewer students will be served in impact aid, dropout prevention, school counseling, afterschool, teacher quality, migrant education, and rural education.

Let me give one example of what those cuts mean for our students. This budget will leave nearly 20,000 children in Washington State alone and 1.4 million children nationwide without a safe, adult-supervised environment after school. We can do better. My amendment shows how.

My amendment will live up to the commitments we made to our students when the No Child Left Behind Act was passed. It fully funds programs such as title I, English language acquisition, afterschool, and rural education. If this amendment passes, more than 2 million additional needy children will be served by title I, as we promised, when we passed No Child Left Behind.

My amendment will mean more than 38,000 children in Washington State and 1.4 million students nationwide will have access to safe, adult-supervised afterschool programs.

My amendment is also fiscally responsible because it also asks for $8.6 billion in deficit reduction, something many of our colleagues have talked about.

Our priority should be educating our students. This amendment reflects that priority because both the education increase and deficit funding reduction are taken by closing tax loopholes. During the debate on my amendment, I suspect we will hear a whole list of reasons why we cannot give our kids the funding we promised them. I want to debunk some of those plans right now.

We will hear some argue that we have already increased funding for education to a high enough level. I say to any one of my colleagues, go to your local schools in your communities and ask them if they agree with that. See what type of reaction you get. Let's remember, we have never fully funded the No Child Left Behind Act—never. How can we ask our schools today to comply with the law when we are not holding up our end of the bargain?

Let's not forget that the only reason we have reached this level of funding is because many in Congress pushed and pushed last year to do better than the President's budget. If we had accepted the President's funding request, there would be at least $10.7 billion less for education than was appropriated by Congress and $6.6 billion less for No Child Left Behind.

Another claim we will hear during this debate is that if my amendment is accepted, we will come back and ask for more funding next year. That is exactly what the law called for when we passed it. The requirements on our schools ratchet up throughout the lifetime of this bill, including requirements to increase test scores and to have an increased number of highly qualified teachers that we require under the law. That is why the funding in the bill was slated to increase annually as well and why we are now falling further and further behind as we fail to live up to that commitment. That is why we are hearing from our teachers in our schools today. As parts of this law become implemented, they have to live up to them.

If my amendment is accepted, the request for fiscal year 2006 will not have to play catchup again as we have done for the past 2 fiscal years.

Finally, we will hear opponents argue that States and schools do not really need all of this funding. I disagree. The bottom line is that our schools do not need more excuses from Washington, DC. They need the funding we promised and my amendment will provide it.

As I conclude, I want to be very clear what is at stake. This amendment will determine whether we keep the funding promises we all made when we voted for No Child Left Behind. Those who vote against this amendment will have to explain to parents and teachers and students and families and communities they represent why they refused to provide the funding we promised in the No Child Left Behind Act.

If any of my colleagues want to argue against fully funding No Child Left Behind, that of course is their right, but I will fight with everything I have to give our schools the funding we promised so this law can work. Our students deserve nothing less.

I urge my colleagues to stand up with all of us who are working hard to make that law work for all of our students. I urge my colleagues to vote for the Murray amendment.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank the Senator from Washington for offering this amendment. She offered it in the committee. This is one of the most important amendments we will vote on during the consideration of the budget resolution. The Senator from Washington has been a strong leader on education issues.

If we are going to have a competitive country for the future, if we are going to do something about this job loss that is occurring, we have to have the best educated, best trained workforce in the world. That is the message the Chairman of the Federal Reserve Board has sent to Congress and to the United States.

Senator MURRAY is saying, we ought to put our money where our mouth is, that we ought to keep the promise of No Child Left Behind, not just send all the requirements out to the States but send the money along with it that was promised in order to provide the resources necessary to make these promises a reality.

I again thank the Senator from Washington for her leadership.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington controls the time.

The Senator from Washington.

Mrs. MURRAY. Mr. President, I yield 5 minutes to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I thank the Senator from Washington State. I enthusiastically rise in support of her amendment to fully fund No Child Left Behind.

This is the 21st century. In our own country, we have to make sure we are safer, that we have a stronger, more competitive economy. The way we are going to be safer and stronger is if we get smarter. By "smarter," I mean develop a 21st century workforce. In order to do that, we need to make sure our elementary, middle, and high schools are the best they can be.

This is why I support full funding of No Child Left Behind. We need to focus on achievement. We need to focus on accountability. But while we are looking to hold our public schools accountable, we need to hold ourselves accountable in order to bring the resources to our public schools.

Requirements without resources are an unfunded Federal mandate. If we want to have a smarter workforce, we need to get behind our public schools. The Murray amendment really takes us a long way in making sure we have smaller class sizes, better trained teachers, and all the other resources that go into that.

College is also an important part of being smarter. I am deeply troubled that access to college, which has been one part of the American dream, could now become part of the American financial nightmare. I will be offering an amendment later on to help families who want to send their children to college: a simple, straightforward $4,000 tuition tax credit for every year of college.

Our middle-class families are stressed and stretched. Families in my own State of Maryland are worried. They are worried about jobs. They are worried about losing their health care, with costs ballooning. They are worried about holding down more than one job to make ends meet. They race from carpools to work and afterschool activities and back again. But most of all, they want to know can they count on their public schools, which is what Senator MURRAY is defending. They want to know will their children be able to go to college.

I believe the United States of America should provide an opportunity ladder and we need to make sure one of the rungs in that ladder is access. That is why I believe a $4,000 tuition tax credit will go a long way toward giving help to those who practice self-help—the families who are working and saving to send their children to college, and young people who are working and saving to send themselves to college.

Tuition is on the rise at colleges. At my own University of Maryland, there has been a 30-percent increase over the last 2 years. Tuition for Baltimore Community College rose by $300 in 1 year. The average cost of a 4-year public college is about $10,500. If you add the fees and everything, at University of Maryland it is about $14,000. Those are not numbers. Those are real costs to real families.

Financial aid, though, is not keeping up with the rising costs. Today, Pell grants only cover 40 percent of the average costs at 4-year public colleges. Twenty years ago, it covered 80 percent of the costs.

Our students are graduating with so much debt it is becoming their first mortgage. Families and students are looking for help. But I regret to say President Bush's budget does not offer them much hope.

The Republican budget has all the wrong priorities. It freezes the Pell grants. It does not offer real tax breaks. Yet at the same time it gives tax breaks to those who do not need them.

We need to do more. We need to help middle-class families have the best education out of our public schools to get them ready for college. But when they are ready to go to college, there should be the financial help to get them there.

We need to double the Pell grant. We need a larger tuition tax credit. We also need to make sure families have access to the American dream.

College education is more important than ever. Forty percent of the new jobs for the new century will require postsecondary education. This cannot happen with platitudes. It has to happen with programs. To compete in the global economy, we have to make sure all of our young people have 21st century skills. In order to compete in the new world order, we need to make sure all of our children have 21st century skills for 21st century jobs. We need to remember the benefits of education accrue not only to the individual but to society as well.

I stand here with my colleagues to say, if we are going to make investments, we need to invest in human capital, to create a world-class workforce. Let's have the best public schools the world has ever seen and make sure we continue to have access to the American dream.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Washington.

Mrs. MURRAY. Mr. President, I thank my colleague from Maryland.

Mr. KENNEDY. Mr. President, will the Senator be willing to yield for a question?

Mrs. MURRAY. Yes.

Mr. KENNEDY. First, I see my friend and colleague from Montana wants to address the Senate. I would like to comment after he concludes. But I first of all want to thank the good Senator from Washington for offering this amendment.

There is varied experience that is brought to the Senate by Members of this body. But we are listening to a voice who has been a teacher and also a school board member, and prior to entering the Senate probably spent more time in the area of education, particularly young children, certainly, than any other Member of this body.

When she speaks about education and what happens in the classrooms and to the teachers, she is talking on the basis of a lifetime experience. She makes a compelling case. I welcome the opportunity to join with her.

I want to take a moment of the Senate's time and ask whether the kind of situation we are facing in Massachusetts is typical of what she is finding in her State or if she has heard about it in other States.

In my own State of Massachusetts, we passed effectively a "no child left behind" bill 4 years prior to the time we passed it here in the Senate. As a result, over a 7-year period, we find Massachusetts is No. 1 in the country in the fourth grade and No. 1 in the eighth grade. We reduced the disparities with regard to race more than any other State. It is because of those accepted concepts which the Senator from Washington has talked about: smaller class size, well-trained teachers, supplementary services, parental involvement, evaluation of the children themselves, and support from the local communities.

These are the things for which she has fought. But when you fail to do that—I have here before me a copy of the Boston Globe newspaper of February 19, which talks about what is happening in the region: "Deep Cut in School Systems Taking a Toll on Educators." It lists school systems feeling the effects because of the cutbacks, because of the failure of us to provide for No Child Left Behind, plus what is happening in the State.

Boston has lost 396 teachers. They have closed six schools. They have cut the budgets on individual schools and eliminated programs.

For Braintree, they have lost 56 teachers and increased class sizes.

Bridgewater-Raynham Regional has lost 35 teachers, increased class sizes, added a $175 bus fee, $200 athletic fee, and a $50 extracurricular fee, being paid by parents.

Fitchburg lost 47 teachers, increased class sizes, added a $180 annual bus fee, and raised the athletic fees from $30 to $40.

Haverhill lost 143 teachers, closed 6 schools, increased class sizes, eliminated full-day kindergarten, added a $250 music fee, and raised athletic fees from $50 to $300. As we all know, in education, if the child works in music for 3 to 4 years, their average goes up 50 to 75 points in their test to go on to college.

The list goes on.

Lynn lost 85 teachers, closed 3 schools, eliminated full-day kindergarten and prekindergarten.

Pittsfield lost 51 teachers, increased class sizes, eliminated afterschool programs, added a $100 student activity fee.

Let me read this and ask whether this is something the Senator has seen. Here we have this extraordinary superintendent, Thomas Giancristiano, who has been in education for 30 years.

Let me read from the story:

> On good nights, the superintendent fretted. On the bad nights sleep vanished. Hours before dawn, thousands of dollars and cents reeled in his head. Thomas Giancristiano would lie in his bed in his Peabody home, eyes open and red, and make deals with the school finance devil.
>
> How many custodians do we need, the Winthrop superintendent would ask. How many secretaries? If we keep the libraries closed, can we keep one more kindergarten teacher?

That is what is happening out in the schools. Men and women who have worked a lifetime trying to educate our children, this is what they are going through.

Going back to the article, he then saw the cutbacks that took place in his school district:

> It was a hard moment to watch: A confident, likeable, optimist with 30 years of education experience was faced with cutting 17 teaching jobs. He chose instead to cut himself.
>
> Giancristiano's voice was steady, his pique never showing. Only his reddening eyes displayed his anger.
>
> "Either you do not support me, or you do not support your children," he read from notes.

This is happening across the country. This is what this budget is all about. We have a chance to do something for these schools or we can provide the additional kinds of tax breaks for the wealthiest individuals.

The amendment of the Senator from Washington is responsible because it pays for itself and also helps reduce the deficit. I commend the Senator. I intend to speak longer, but I am just wondering, since I listened to the Senator speak and since she is back home every weekend talking to parents and schoolteachers and superintendents, whether the kind of stories I mentioned very briefly are happening in her State and are having a similar kind of impact on the men and women who have devoted their lives to provide greater educational opportunity to children in the State of Washington.

Mrs. MURRAY. Mr. President, I thank the Senator from Massachusetts for defining for all of us what I think we are seeing across our country in every school and every classroom where the morale among our educators who are responsible for caring for our children every day has declined dramatically.

The Senator will remember not that long ago when the Senate passed a bill to increase class sizes in kindergarten, first, and second grades. As I traveled around my State at that time, teachers were so enthusiastic. They were excited about being given the opportunity to help their young students learn to write and learn to do math so they could be successful in life.

That atmosphere has changed dramatically. Now you travel around to classrooms and they are begging and pleading for help. Every teacher says to me: I want to do the right thing. I want to be accountable. I want my students to be able to succeed. I want to make this work. But my class size is twice as large. I get less time with parents. I am paying more out of my own pocket for basic supplies. We don't have enough books for all of our students. And even more so, I am spending every single second teaching to this test because my students don't have art and music and other things that help them be well-rounded adults.

We can change this. We can make it better. We can do what we promised 2 years ago and fund this and really make a difference in our children's lives.

I thank the Senator from Massachusetts for his question. I yield 10 minutes to the Senator from Montana.

Mr. BAUCUS. I thank my good friend from Washington.

Mr. President, I don't know what the debate is all about. This is a no-brainer. It is an absolute no-brainer. All of us, when we are home talking to our teachers and to our communities, to school boards, know this is the right thing to do. It is clear. There is no contest. There is no debate.

Congress passed No Child Left Behind trying to set levels of accountability. But then Congress did not provide the money to implement No Child Left Behind. It is contributing to all the cutbacks in our elementary and secondary schools about which we are hearing. I hear this constantly at home. I daresay that every Member of the Senate, when he or she returns home, finds the same comments.

Again, I don't know why we are debating this amendment. It is pretty clear. I highly compliment the Senator from Washington. I don't know anybody who believes more and has spent more personal time helping to educate our Nation's children than the Senator from Washington, who is a schoolteacher. She is right. We should take our cues from what she is telling us.

There is another reason to vote for this amendment. How are we paying for it? Closing tax loopholes. That in and of itself should be enough to pass the amendment. Also, we are closing tax loopholes to do something that is good; that is, supporting education.

Education truly is a means of developing our greatest assets. We have built the strongest, the most diverse economy on the planet, basically through education. There is more mobility, more opportunity in America, and one reason is our educational system.

We have pushed the technology horizon. We have developed a quality of life that is the envy of much of the world. There is no doubt that we can further improve our economy and our quality of life. But it is important to note that it is the investment in education that has essentially brought us to where we are, and it is an ongoing investment. You cannot stop investing in education. You have to keep going for obvious reasons.

Fully funding No Child Left Behind is a no-brainer. It is obvious we should do this. Our people back home want us to do it. If you took a poll at home, should No Child Left Behind be paid for, the results would be overwhelming because people at home know what a tight spot elementary and secondary education is in.

We are not giving our children our best shot. We have a moral responsibility to leave this place in as good a shape or better than we found it. That applies to the environment, education, the general conditions in which the America public finds itself. It is unfortunate in a certain sense—we are kind of lucky in another—that we have to accelerate our support for education. Why? Because the world is changing so quickly. New technologies are developing worldwide so quickly. We, therefore, have an obligation to accelerate our emphasis on education generally, and that is at all levels. It is Head Start, elementary and secondary, continuing, 4-year colleges, graduate education. It is at all levels.

Clearly, a key part of that is No Child Left Behind. So far this administration is giving words to the concept. It says vote for No Child Left Behind, but it has not backed it up with dollars.

A Presidential candidate years ago once asked: Where is the beef? I will ask the same question: Where is the beef? Where is the support? Where is the funding?

We have an opportunity to assist our children by providing them with the necessary resources to help them meet the challenge. Under No Child Left Behind, Montana was promised $71 million in 2005 to comply with the new educational standards. What does this budget include? Half of that, $46 million, and that is a shortfall. Add to that all the other pressures schools are facing.

Again, this is a no-brainer. I compliment the Senators from Washington and Massachusetts. Both of them work very hard for education.

Jack Kennedy once said:

> Our progress as a Nation can be no swifter than our progress in education.

I think we all agree. Funding education is key to maintaining an American workforce that can compete in the world economy. Education is critical to keeping jobs and creating new jobs in the United States. A big problem we know is the offshoring of American jobs. It is very serious. We deserve to give it an answer.

I don't believe the answer has been given to us thus far by this administration. We have heard nothing. It is laissez-faire: Let things happen. So what if people lose their jobs. It is good in the long term. That is essentially what the administration is saying.

I believe in order to keep our country strong we have to do something positive. We have to take some action. We must advance policies to help create new jobs in the United States, undertake measures designed to keep good-paying jobs in the United States.

Finally, when jobs are lost in trade, we need to retrain workers and help them get back in the workforce as quickly as possible. That is why I believe it is right that one of the priority amendments on this side of the aisle addresses jobs. It is why at the appropriate time I will offer an amendment that will set us as a country on the path to accomplishing those goals.

We must begin where the jobs begin. We must adopt policies to create jobs in America. One of the best ways to do that is by supporting research. Most of the innovative research done in the United States is at universities and research institutes which attract students from across the globe. Over the last 20 years, Federal research funding in the physical sciences and engineering as a percentage of GDP has actually declined. It has declined by nearly one-third. I believe we should reverse that trend, increase Federal spending on basic research. The money we spend will come back to us many times over in the creation of new jobs and new industries making products yet to be invented.

If we want to support Federal spending on research, we should support the National Science Foundation. The NSF funds research and education in science and engineering through a variety of successful programs. It accounts for roughly 20 percent of all Federal support to academic institutions for basic research, a crucial engine of innovation for our economy.

NSF funds have helped discover new technologies that have led to multibillion-dollar industries and created countless new jobs. The list is astounding: fiber optics, radar, wireless communication, nanotechnology, plant genomics, magnetic resonance imaging, ultrasound, and, yes, the Internet. All were made possible by work in the basic sciences and engineering funded by the NSF.

Each year, the NSF helps fund over 200,000 students, teachers, and researchers. Many of these people take their NSF-supported work into industry, where they found company startups selling new products and new technologies. That means one thing: jobs. Fully funding NSF will lead to more jobs.

When the President signed the National Science Foundation Authorization Act of 2002, the intent was to double in 5 years the funding devoted to the NSF. Not fully funding NSF shortchanges America's future.

The amendment I am offering will fulfill the promise of the NSF Act and restore funding to its fully authorized levels. That means providing $7.4 billion in fiscal year 2005, $8.5 billion in 2006, and $9.8 billion in 2007. All told, that is $7.4 billion above current levels—certainly money well spent.

Our future depends upon our ability to continue to innovate, and that depends upon the support we give to America's innovators—our scientists and engineers. We should fully fund the NSF.

At the same time, we must ensure America's families can afford higher education, which is an important part of the solution. This is the key to America's continued prosperity. Education provides the skills necessary to unleash the creativity of our citizens.

We should improve, consolidate, and expand the educational tax incentives that already exist and make them more effective. There are many ways.

We can expand and extend the deduction for tuition expenses, expand the Hope and lifetime learning credits, craft targeted incentives for student pursuing science and engineering careers, and focus on programs to make it possible for nontraditional students to obtain an education. These are all good options.

We need to ensure that young Americans are not discouraged from obtaining postsecondary education because of costs. That is the American dream, to get an education. We should not discourage it. Tuition costs have risen considerably in recent years, and our Federal assistance programs have not kept up.

Increasing tax incentives can help to lessen the burden on students, and allow students to attend the schools that best fit their needs, whether 4-year colleges or 2-year colleges, which can also provide vocational and technical training.

I ask for an additional 2 minutes.

Mrs. MURRAY. Off of the Senator's time.

The PRESIDING OFFICER. The Senator is recognized for 2 additional minutes.

Mr. BAUCUS. Different students will opt for different types of training. That is good. We need workers with different skills to fill all the new jobs that are constantly being created.

One thing is sure: We need to train more engineers. Listen to this, Mr. President. We train only half as many engineers as does Japan. We train only half as many engineers as does Europe. We train only a third as many as does China. Think how many engineers China is going to train next year and the year after that and the year after that. Where will we be? Engineers play a critical role in the development of new jobs and new industries. We should encourage students to pursue training in this vital field.

We need to help displaced workers to receive the retraining needed to succeed in a changing economy. There is one thing they can be sure of: Things will always change. Jobs will change. Workers should be equipped with the tools to change with these jobs. Education is certainly the key.

The amendment I am going to offer will put a downpayment of $10 billion into our workforce. The U.S. economy is the most flexible, vibrant, dynamic in the world. We have to keep it that way. We owe that to the ingenuity of the American people and their relentless thirst to create and innovate.

I urge my colleagues to join me in a positive response to offshoring. It should not be negative; it should not be protectionism. It has to be positive. I am offering a sound, positive approach. Create jobs in America by fully funding the National Science Foundation and support education. That is one of the keys to our long-term prosperity.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, before my friend and colleague from Montana leaves, I want to say this amendment increases taxes by $17.2 billion. It increases taxes next year by $13.2 billion.

For the information of colleagues, we are assuming next year, on the reconciliation, which is all that is going to happen this year—or maybe all that will happen—that is the total child credit, it so happens. Some people say, well, this is assuming revenue loophole closings. That is not accurate. This resolution says increased taxes by $17.2 billion. We are assuming that the child credit is going to stay at $1,000 per child. So these two are in direct conflict. I want everybody to know this is a big spending increase in an area where we already have big spending increases—enormous, if you go over the last few years.

In spite of that, it is a big tax increase. In fact, it is a lot bigger tax increase than the amendment we voted on yesterday. I want people to know this is a tax increase that is very large.

Mr. BAUCUS. Will the Senator yield on that point?

Mr. NICKLES. Yes.

Mr. BAUCUS. Will the Senator read the first line of the description of this amendment?

Mr. NICKLES. I am reading the amendment where it says offered by Senator MURRAY and "on line"——

Mr. BAUCUS. Above that, further up.

Mr. NICKLES. The purpose?

Mr. BAUCUS. Yes.

Mr. NICKLES. It says, "by closing tax loopholes."

Mr. BAUCUS. Does the Senator disagree that we should close tax loopholes?

Mr. NICKLES. But that is not what this amendment does. That is the purpose. The amendment says: "On page 3, line 10, increase the amount by $13.2 billion." That is increasing taxes, an instruction to the Finance Committee.

Mr. BAUCUS. By closing tax loopholes.

The PRESIDING OFFICER. The Senators all address each other through the Chair.

Mr. BAUCUS. The purpose is to close tax loopholes.

Mr. NICKLES. Mr. President, I have the floor.

The PRESIDING OFFICER. The Senator from Oklahoma has the floor.

Mr. NICKLES. I have the floor. I want to make sure my colleague knows how to understand what these amendments say. If you read lines 1, 2, 3, and 4, that increases taxes by $17.2 billion over the resolution. Our resolution assumes continuation of the existing tax law. So this would increase taxes by $17.2 billion over existing law.

All we are assuming, frankly, in the big amount we have for next year, since that is the bulk of our tax increase, it happens to be for the child credit. So I am telling my colleagues, we talk about closing loopholes—and there are some out there. I know the chairman and ranking member are trying to do that with the leasing provision. I happen to support that. But you are spending it as well.

This resolution says increase taxes. The purpose doesn't make law; the purpose doesn't change the resolution. You can put anything up there. You could have as a purpose to make everybody feel good and to have nice incomes in education. That can be your purpose. But when you are amending the budget resolution, you are saying how much money to spend and how much money to tax. This resolution says to raise taxes by $17.2 billion and raise spending by $8.6 billion.

I might also say that it raises spending by $8.6 billion in the first year. One would think you would not do that for 1 year and drop it down. So you can assume it would be 8.6 for a multitude of years. This is really like a $100 billion amendment on the spending side over 10 years, and then on the tax side, I don't know how many. If you multiply this out over the years, it increases taxes by 17.2 and spending by 8.6.

Mr. BAUCUS. If the Senator will yield, the only way to close tax loopholes is by raising additional revenue. That is the only way you can do it. There is no way to close loopholes otherwise. Does the Senator agree that he will work with me in closing loopholes and if not by raising revenue in some other way? The purpose of the amendment is to raise revenue by closing tax loopholes. I assume the Senator agrees with me that is the best way we should raise the revenue, although technically we have to have the numbers in here; otherwise, the amendment serves no purpose.

Mr. NICKLES. Mr. President, I enjoy working with my colleague from Montana on the Finance Committee, and I am one who is more than willing to close loopholes. I also tell my colleagues that my friend from Montana and the Senator from Iowa have used almost every loophole closer, multiple times.

I am happy to close loopholes, but this amendment does not close loopholes. This amendment tells the Finance Committee to raise taxes by $17.2 billion, period. The Finance Committee can do it any way they want. I am just telling the Senator that is exactly what it says.

What we have assumed is we are going to allow the child tax credit to go forward. Maybe that is not a correct assumption. Maybe families are not going to get to keep the present tax law. Maybe the child tax credit will be reduced from $1,000 to $700. Maybe the marriage penalty relief we have in the year 2004 will not happen in 2005. I am afraid, if this amendment is adopted, it will not happen.

Ms. LANDRIEU. Will the Senator yield?

Mr. NICKLES. Not just yet. My point is—and I have not even alluded to the education issue, and I am going to hand that to Senator GREGG who knows far more about education than this Senator—no matter what level we had in this resolution, I was more than confident somebody would say that is not enough for education. I have looked at the total education function we have, and it totals $97.6 billion. That does not include the additional $5 billion—yes, it does. That includes the $5 billion Senator GREGG has put in for higher education reauthorization.

I looked at what we spent. That is $97 billion. In 1990, we spent $39 billion, almost three times as much. In the year 2000, we spent $49 billion. It is right at twice as much as we spent in the year 2000. We have had dramatic increases in education—dramatic increases—including the last several years. But no matter what that amount is, people are going to say that is not enough and, oh, yes, we want to increase taxes a lot more and throw a lot more money at it. I am just not sure that is the correct result we should be following.

I want everybody to know this is a tax increase. I want everybody to know this is a humongous increase in this program. I have not figured the percentage.

Ms. LANDRIEU. Will the Senator yield?

Mr. NICKLES. With this additional money, it is a 40.6-percent increase. For everybody who says we want to balance the budget, how do you balance the budget and simultaneously increase programs by 40 percent? This fictitious point of let's close loopholes, if there are loopholes out there, I am sure the chairman and the ranking member of the Finance Committee want to close them because they have a lot of demands. I am all for closing loopholes, but that doesn't fly. The amendment says raise taxes by $17.2 billion.

Ms. LANDRIEU. Will the Senator yield?

Mr. NICKLES. I yield the floor.

The PRESIDING OFFICER. The Senator from Washington controls the time.

Mrs. MURRAY. I yield to the Senator from Louisiana 10 minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 10 minutes.

Ms. LANDRIEU. I thank the Chair. Mr. President, I thank my friend from Washington.

I wanted to ask the Senator from Oklahoma, before he leaves, since he has gone on record several times this morning as to what loopholes he would agree to close, would he for the record indicate or give us some idea what some of those loopholes would be and how much money could be generated by those loopholes, because there are many people in Oklahoma, Louisiana, Massachusetts, and Washington who would be interested in identifying those dollars so we could apply them to fulfill the promise the President made to fund education. As the Budget chairman, I am very interested in what specific loopholes he would be willing to close.

Mr. NICKLES. To answer my colleague's question, in the budget resolution we assume $20 billion of revenue loopholes and that, frankly, is to pay for the tax cuts we have in this bill.

Ms. LANDRIEU. Can I clarify? The loopholes the Senator from Oklahoma is supporting are going to fund additional tax cuts for those at the higher end of the tax cuts?

Mr. NICKLES. The Senator is absolutely incorrect. The loopholes we are closing basically will pay for extending present law. What we assumed in this budget resolution is continuation of present law, plus the AMT fix.

Ms. LANDRIEU. I thank the Senator from Oklahoma. I have the floor. I want to make clear for the record, as the Senator from Oklahoma just clarified, he and the administration are willing to close loopholes, but only if the savings from those loopholes go to make permanent the tax cuts that drain the education budget and leave our children at risk. I am glad we got that cleared up.

Let me begin the remarks I wish to make this morning.

The Senators from Massachusetts and Washington are absolutely correct about the dire situation in our States and communities all across the Nation. They are also correct that one of the strongest aspects of the American dream—and I could argue the strongest aspect of the American dream—is the dream parents have for their children, the dream Americans share that no matter how tough their life has been, no matter how shortchanged they might have been when they started, they work hard because they want their children to get the kind of education that will help them be the human beings parents dream their children can and should be and to make their communities stronger.

When this administration took office, they noted that dream. The President said:

> The time has come for excuse making to end. With this No Child Left Behind Act, we have committed the Nation to higher standards for every public school, and we have committed the resources necessary to help children achieve those standards. We want accountability with results, and we are willing to fund it.

That is what was said, but is not what was done. Budgets are difficult to put together. This document does not look very thick, but this document is a blueprint. This document sets a course for the Nation. This document, if it is not written correctly, cannot meet the promises I have just described.

You know what, Mr. President, this document does not meet that promise. This document does not provide the money promised to every Governor, every superintendent, every teacher, and every parent in this Nation. This document is short $9 billion, and not one Senator on the other side is willing to close one loophole to fill that hole. They are only willing to close loopholes to give more tax cuts. That is the debate on this floor, and that is the choice the American people are going to make in the next election.

With the surplus disappearing, with the war at hand, with the war on terrorism perhaps escalating, the question is, Do we want to make some adjustments in our plans to provide tax cuts or do we want to provide some tax cuts and fund education, invest in homeland security, and support our troops? That is the issue. But this administration, faced with the facts of declining and evaporating surpluses, faced with the facts of a war that is costing more than we anticipated, faced with those facts, chooses to ignore the facts and put out a budget that goes straight dead ahead 100 miles an hour into deficits and in doing so robs the opportunity, pulls the rug out from under every superintendent, every Governor, and every teacher because they are struggling in the schools.

This is what the President says, but this is not what he does. This is what the President says:

> Once failing schools are identified, we will help them improve. We'll help them help themselves. Our goal is to improve public education. We want success, and when schools are willing to accept the reality that the accountability system points out and are willing to change, we will help them.

We are doing this in Louisiana. We have received accountability. We have identified our schools which are failing. We believed the President, but when we turned to him to ask him and this administration to help us hire new teachers, help us to train the teachers who need to be certified by a date certain the President and the administration forced us to do in this act, when we asked them please help us put on two new classrooms in these schools because we have to meet these new goals, they said we do not have any money, because he wants to extend the tax cuts permanently. He will close the loopholes, but not for them. Sorry, kids, we cannot close the loopholes. I have to close the loopholes for people who need tax cuts.

Now I am going to talk about the increases in education. I know Senator KENNEDY is going to speak about this and he knows these numbers better than I do. I will admit, and I understand and know—so don't anybody bother coming to the floor to tell me I do not understand—there is increased funding in education. I am clear and so are the people in my State that the Federal Government has increased funding. That is not the point. The point is, the increases have not been what the administration promised and do not help us meet the new goals that have been mandated on every county and every parish in this Nation.

I will also say, if the Senator from New Hampshire wants to come to the floor and debate this issue—and as Senator MURRAY knows very well—the increase in education in 2001, which was the last budget of the previous administration, was 19 percent. That is how much the increase was. The next year is 2002, which was 18 percent. In the years of the President's budget, which is right here—this is the administration's budget and this is the chairman's mark. The chairman's mark is a little different than the President but it is basically the same document. These are the increases they provide: 19 percent, 18 percent, down to 6 percent, 5 percent, and 3 percent. The outyears look even bleaker.

They put No Child Left Behind basically in here, and as we can see, they pulled the rug out from everybody. That is what this election is going to be about.

I know I only have a couple minutes remaining, but I want to say I know, not because I represent and am a leader from my State and I travel just like Senator MURRAY does all over her State, how angry people are about this. The front page of the Washington Post yesterday issued a poll that says 57 percent of the American people polled all over the country do not think the country is going in the right direction.

This budget sets the direction, and 57 percent of the people know what is in this budget, not in every line but they are getting the general gist of it. They do not like it, and I do not blame them. There are many things it does, but one thing it does is it breaks the promise to their kids, and when you start fooling with people's children and you start upsetting the dream people have for their children and their education, there is going to be a repercussion from that.

In conclusion, to use the President's own words: The time for excuse-making has come to an end. We have committed to our schools and our children. We have said if we ask for accountability and results, the Federal Government will be there, will be a reliable partner, and this administration has made different choices.

I end with a quote from another President. We have had many great Presidents in our history, thank goodness, and we had a great one in President Kennedy who said:

> I believe we possess all the resources and talents necessary, but the facts of the matter are we have never made the national decisions or marshaled the national resources required for such leadership.

He was speaking about the space program.

> We have never specified long-range goals on an urgent timetable, or managed our resources and our time so as to insure their fulfillment. . . . [L]et it be clear that I am asking the Congress and the country to accept a firm commitment to a new course of action—a course which will last for many years and carry very heavy costs . . . if we are to go only half way, or to reduce our sights in the face of difficulty . . . it would be better not to go at all.

That is what I am saying. If we have set a course by this budget, we owe it to our parents, to our teachers, and our children to stay the course, and if we are not ready to go the whole distance, we should not have started. That is the promise that has been broken.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from New Hampshire.

Mr. GREGG. Mr. President, I have been talking with the manager of the bill on the Democratic side, and he suggested maybe we should enter into some sort of time agreement on this amendment. I see there are a number of people on his side who want to speak. Is there something the Senator recommends?

Mr. CONRAD. I would say first to the people on our side, we are now getting in a real jam and we are also getting further toward vote-arama in a way I think is probably not something we want to do. I recommend we agree to an additional hour on each side, 2 hours equally divided.

Mr. GREGG. Mr. President, I recognize that probably is a disadvantage for us because the other side has been going now for an hour, and although we are probably more succinct and more persuasive in less time——

Mr. CONRAD. That is what we were counting on.

Mr. GREGG. It is still not necessarily a fair division of the time. I would agree to some sort of time limit that gave us a little extra time. If the other side wants to go for an hour and we go for an hour and 15 minutes, which would be 2 hours and 15 minutes on this amendment, that would give them an additional hour—they have already done an hour—and we would get an hour and 15 minutes.

Mr. CONRAD. Would that be acceptable if we took an additional hour on our side and an additional hour and 15 minutes on their side?

Mrs. MURRAY. It is acceptable to me.

Ms. LANDRIEU. Is there any additional time that could be available? This is such an important amendment. Could we take an hour and a half?

Mr. CONRAD. We had hoped to do this in 2 hours. We have already spent an hour, and this would be an additional 2 hours 15 minutes.

Ms. LANDRIEU. I understand.

Mr. CONRAD. It would be agreeable on this side.

Mr. GREGG. I ask unanimous consent that debate on this amendment be for an additional 2 hours and 15 minutes with an hour on the minority side and an hour and 15 minutes on the majority side.

The PRESIDING OFFICER. Is there objection?

Mr. CONRAD. I ask that there be no second degrees.

The PRESIDING OFFICER. Is there objection to the unanimous consent request? Without objection, it is so ordered.

Mr. CONRAD. Is Senator REED seeking time?

Mr. REED. Yes.

Mr. CONRAD. Will Senator MURRAY give time off the amendment?

Mrs. MURRAY. I yield to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. Mr. President, I rise in support of the Murray amendment to fully fund the No Child Left Behind Act. This is an important amendment. It will keep our commitment to educational reform in the United States.

There are two keys to the success of the No Child Left Behind Act: effective implementation by the Department of Education and robust funding. Both are presently lacking.

Without the needed resources, we will not meet the law's goals of closing achievement gaps and ensuring an excellent education and opportunity for all children.

When the President signed the No Child Left Behind Act into law 2 years ago, he pledged to support greater Federal investment in education. That pledge has not been kept by this President. He has proposed eliminating some of the No Child Left Behind Act programs, cutting others and only increasing title 1 by $1 billion. That is over $7 billion short of the authorized level of $20.5 billion.

The No Child Left Behind Act was a fundamental change in the way we do business. Part of that change was a commitment to fund all of our aggressive ambitions to help every child succeed. What has been left are the requirements on children but insufficient resources for school systems throughout this country to implement them.

It is no wonder general assemblies across this country, in Utah, in Virginia, Republican assemblies, are revolting against these provisions, not because it is not a good effort at reform. Rather it is because we have not provided the resources to accomplish the reforms. Senator MURRAY's amendment would provide the needed resources.

I believe we have to go ahead and fund these programs, and we will not do so unless the Murray amendment is accepted. I urge support of the Murray amendment. This is not just about giving individual opportunity to every child. That is central and crucial. This is also about our economic future. If we do not fully fund education now in the elementary and secondary years, we will fall further behind in a very competitive world economy. This is about giving every child a chance and making sure our economy and our society works. I commend the Senator for doing that, and I yield the floor to Senator MURRAY.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, the other side is not ready to go. I yield to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Fine, if that is the desire. Mr. President, I ask 10 minutes on the Murray amendment.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. KENNEDY. Mr. President, I mentioned a moment or two earlier what is happening in my own State, in Massachusetts, in the school districts all across that State, a State that was attempting to enhance educational opportunities for the children of Massachusetts. They relied upon the commitment that the Federal Government made a few years ago, some 3 years ago, to try to complete the commitment of that State, in partnership with the Federal Government, in enhancing educational opportunities for the children in our State and in States across this country.

The Murray amendment addresses the nature of the commitment that the administration made to not just the Members of the Senate but to the children and to the parents and to the school districts across the country; that is, we were going to have reform and the resources to make the reform take hold.

What we are talking about is a budget of $2.4 trillion, and the issue is can we find $8.6 billion in that $2.4 trillion. Education is either important or it is not. If we ask families all across this country, people would say, I would think you would be able, in a budget of $2.4 trillion, to find the $8 billion to make sure we are going to fund No Child Left Behind. It should not be that big a deal. It is a question of priority.

The Senator from Washington stated what her priorities are. I agree with them, and I think most families in this country would say we can afford that, if it is going to make a difference in the quality of the education of the children of this country.

Let's review very quickly the bidding, what has happened in the period since we passed No Child Left Behind. Since we passed the No Child Left Behind bill in 2002, let's be frank about where the funding is and where it has come from. When we passed No Child Left Behind, the administration asked for $1.3 billion. We raised that up to $4.8 billion during the period of the negotiation. That legislation would not have passed at $1.3 billion. It would not have passed. I can tell you that. I know that.

Then the next year the administration came in for less than $1 billion and we were able to raise that up $3 billion more. That is the record. That is the increase right here, as a result of Democratic amendments to the appropriations, right there.

Last year, in the Omnibus bill, the administration asked for a $900 million cut and we increased it $1.9 billion.

We will hear from the other side, look at the increases we have had in this area. They are the result of the amendments from this side. We want to continue it. If you like what we have done, vote for the Murray amendment.

Look at what this amendment does right here.

Mr. GREGG. Will the Senator yield on that point?

Mr. KENNEDY. Not just yet, if I have 10 minutes. I will at the end of my time.

Here we are, the cost of the Bush tax cut for those making over $337,000 in 2005—$45 billion. It is $45 billion.

Look at what the Murray amendment has, $8.6 billion. That is in addition to what was added, in terms of the Budget Committee—$8.6 billion. This is $45 billion.

The issue is choices. The issue is priorities. The issue is, as a matter of national urgency, is it more important to give $45 billion for those making over $337,000 in 2005, or to provide the full funding for the children of this country? That is the choice. That is the decision we are facing.

The Murray amendment says let's get that money. We can certainly afford $45 billion—with that budget.

Let's look at what happens if we do not do this, if we do not accept the Murray amendment. What is going to be the impact on the children of this country?

I tried, in just the couple of minutes, to tell what the human impact was on a superintendent who has for 30 years been committed to improving the quality of the life of the children in his district. He was restless. He couldn't sleep. Finally, rather than face the additional cuts he was going to have to provide in this system, he actually resigned. That is happening in schools all across this country. Those are the real stories. That is what is really happening.

If we look at it in the broad sweep of what this means, this chart tells it. Under the Bush budget going out the years from 2005 to 2013, you are going to leave 4 million children behind. Under the Murray amendment and the follow-on, all the children will be addressed; no child will be left behind.

I was absolutely amazed, listening to the other side, saying if we go and approve the Murray amendment this will be a 40-percent increase. Imagine that, a 40-percent increase, thinking this body will never go for a 40-percent increase. In fact, even with that, that will only mean 60 percent of the total funding for No Child Left Behind. We are requiring 100-percent performance by those children. We are expecting 100-percent performance by the teachers. We are expecting 100-percent performance by those people who are providing the supplementary services, and we in the Congress say you do it on 60 percent of the money.

It is like in this Nation, if we passed a voting rights act to apply to all of the country and we say it is not going to apply to 10 States. We will have Social Security for America but we are going to leave 10 States out.

We really didn't mean it when we said we were going to really address the needs of the 12 million children who fall into the category of title I. We didn't really mean it for all of them. We said it in the bill. We require it in the legislative proposal that in 12 years they have to be proficient—except you are not funding it. What sense does that make?

It would have been like President Kennedy saying, you are going to go to the Moon, and we appropriate enough money to go up 50 miles and say we have had a success. You either do it or you don't. We were either serious at the time when we passed No Child Left Behind, like we were on voting rights, like we were on Social Security, like we were on Medicare, and like we were on going to the Moon. Or we are not. That is what the issue is. That is what the issue is in the Senate. Either children have that priority or they do not. The Democrats believe they do.

We find there is more than enough money in here right now to be able to do it. There is more than enough money in here to be able to do it.

I am glad to yield to my friend from New Hampshire if he still has a question.

Mr. GREGG. I will try to recall it.

Mr. KENNEDY. Mr. President, I will be around for a little while. I know there are others who want to speak. I will withhold the remainder of the time but I will be around, ready to answer any questions. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. Mr. President, I appreciate the comments of the Senators supporting the position represented by Senator MURRAY. But I do believe it is important to understand from where we come and where we are going, relative to educational spending in this country, and specifically in this Congress, and who is accountable for what. Because, obviously, the representation coming from the other side is that this President and this Republican Congress has not been as committed to education as we should have been.

It is a hard case to make, honestly, in light of the history of educational spending.

Let us return to the scene of the crime, as they say in the business of reviewing evidentiary facts. The scene of the crime is the Clinton administration, its spending on education, and its woeful efforts in the area of special education and title I. The scene of the crime is the Clinton administration and its failure to address the fact that for generations low-income children had been left behind in this Nation.

That is what this is about. You can throw out all the numbers you want. But the issue is whether we as a Nation will continue to abandon the low-income child and leave him or her in school systems which simply shuttle him or her through, meaning when he got to the end of his or her academic career—if you can even call it that—in our school systems, he or she was unable to participate in the American dream because she couldn't read and he couldn't write relative to their peers.

The President of the United States, George Bush, came into office and he said, Let us do something about this. Let us address the issue of the fact that so many children in this Nation for generations have been shuttled through the system. He proposed the No Child Left Behind Act as a way to address that. The No Child Left Behind Act is not only about money in a tangential way. No Child Left Behind is really about the philosophy of whether a low-income child should enter the school system at a level at which they are not competitive with their peers and be left in that school system for the rest of their academic career and come out at a level that is not competitive with their peers.

The No Child Left Behind Act is an issue of whether we are going to try to take the children in this country who come from a low-income family and give them a shot at the American dream by bringing their education up to a level where they at least know what they need to know in order to participate in our society, which is a very academically oriented society—a society which depends disproportionately on your educational ability in order to obtain success.

The President proposed the concept which was to say to local school districts throughout this country, You decide, school districts, what children in your school know in the third grade, in the fourth grade, in the fifth grade, in the sixth grade, in the seventh grade, or in the eighth grade. You decide. We as a Federal Government are not going to tell you. You go out as a community, you sit down and brainstorm and decide what your fourth graders should know, what level of math, what level of composition capability, what level of English. Then once you decide that, you set up a process, a regimen, where you evaluate whether the children in your school system are meeting those obligations, are meeting those standards, are learning English at the level and writing and spelling at the level you, the local school district, decide is appropriate.

One of the key things the President said was don't cover up the low-income child by putting them in a large group with all the other children in the school system—what is called disaggregation. Let us look at these different groups, whether they come from minority backgrounds, whether they come from low-English backgrounds, or low-income backgrounds. Let us find out what each group of children actually is learning.

Let us not say just because fourth graders in the school system which has a lot of kids and who come from average income families that are doing well on the scores as a gross number, but that school system is working well when we know for a fact the low-income kids in that school system are still being left behind—disaggregation.

We set up a system. The President proposed a system where we go out and say to the local school, You find out, you find out, parents, teachers, and principals, what children should learn in these elementary school grades and say whether the children by income groups or by ethnic groups are learning.

Those two ideas were rather radical. But the radical idea was we were actually going to tell the parents in the school system whether their children are being taught, whether they are learning at a level that is going to bring them up to their peers. Low-income parents—most of whom, by the way, are single parents struggling to make ends meet—are finally going to know whether their children in that school system are learning what is necessary in order to make them competitive as defined by that school system and as defined by their peers. If the parent finds out their child is in a school system that is not teaching that child, then we are going to give the parents some tools to try to correct that problem. We are going to allow public school choice. We are going to allow extra help for low-income kids so they can be brought up to speed if they aren't up to speed with their peers. We are going to allow the school districts to go into schools, which unfortunately have systemic failures, or large percentage failures, and put more resources into those schools to try to correct their problems.

This was the idea. It was revolutionary, and it has fundamentally improved education in this country. Everywhere you go in this country today, school districts are addressing the issue of whether the children are learning, whether the low-income kids are learning, whether they are being assessed, and the information is being put out to the public and the public is making assessments as to whether it is right.

This bill has been one of the most creative and aggressive bills we have ever passed as a Congress, or even the States, in the area of trying to correct what has been a fundamental problem in which our public school systems, regrettably for years, were passing low-income kids off and not giving them a shot at the American dream. It is working.

We incessantly hear from the other side about the failure of the bill. Why are we hearing that? Is it really because it has not been funded? No. It is because there is an educational establishment out there which does not like the fact it is being held accountable. This isn't about funding. This is a raw attempt by the educational establishment to try to undermine the No Child Left Behind Act law because they do not like the fact they are being held accountable. They do not like the fact low-income kids are finally getting a chance, are finally learning something, or are being told they have to learn something.

That is what this debate is about. Let us not try to color it with money because it is not about money. Let us get into the money issue to prove that is not the case.

If money were the issue, the prior administration would have poured a lot more money into this program than they did. They did not. If money were the issue, the school systems in this country would not have enough money to do the assessments that are the essence of this whole bill. They not only have enough money to do the assessments, but they have more than enough money to do the assessments under this bill. If money were the issue, the money we have already put in the pipeline would have been spent. There wouldn't be any available.

What we find is there are literally billions of dollars of money in the pipeline which have not been spent as a result of the fact this law has been aggressively funded.

Let me put it in context. The last time the President of this country was a Democrat and the Congress was Democratically controlled was 1995. You would have thought at that time, if you listened to the rhetoric around here, title I and the programs under title I which still existed at that time—the No Child Left Behind Act obviously wasn't the law—would have been funded right up to the authorization amount. That is all we have heard about from the other side on this bill.

Surprise. It wasn't. It wasn't even close to the full authorization amount in 1995. Not only that but the increases which flowed into the account under a prior administration were minuscule in key areas such as title I and special education.

I heard the good Senator from Massachusetts come down here and say all the new money that has gone into title I, or most of it, is the result of the fact they offered amendments on the other side and those amendments made the changes in these programs and added all of this extra money. I appreciate the fact he at least gives credit to this administration for putting a larger amount of new dollars into the education accounts. That is nice, because it is true. There has been a huge infusion of new dollars into the education accounts.

This chart shows that in real terms. I appreciate the fact the Senator from Massachusetts basically acknowledged it. The last year of the Clinton administration, it was $42.2 billion in education accounts. As of this year, there will be $58.7 billion in education funding, which shows the rather dramatic increase.

Ms. LANDRIEU. Will the Senator yield?

Mr. GREGG. I will yield when I finish my statement. I would be happy to.

If we go to title I, we will see in the last year the Presidency and the Congress were controlled by the Democratic Party, there was $6.7 billion spent on title I. When the Republicans took over the Congress, by the way, that started to move up. In the years since President Bush has come into office, that number has jumped dramatically, so we are now up to $13.3 billion being spent on title I.

The same is true of IDEA, which is a more startling number because the Clinton administration never proposed increases in IDEA until the last year and they were the result of a Republican Congress forcing those increases into the Clinton administration. Again, the IDEA numbers went down during the first years of the Clinton administration and started to go back up when the Republicans took control of the Congress. I was very involved when we demanded $1 billion a year. This President has proposed more increases in the first 3 years in IDEA funding—$1 billion each year onto each prior year—than the Clinton administration proposed in their entire 8 years in office. This is an example of that during the Clinton administration. IDEA funding was increased by $1.4 billion over their 8 years. In three years in office, President Bush has increased that money by $3.7 billion.

It brings me back to a side issue. I found it entertaining that basically if we listen to the Senator from Massachusetts, he said all this new funding which has flowed into the various accounts—and it has been dramatic, as shown by the first chart, into special education and title I—it was a function of amendments offered by the Democratic leadership and the Democratic membership of this Congress. I point out I am not aware the Democratic Party controlled the Congress for these 3 years and it certainly did not control the Presidency, so I am not sure how they managed to do that. The fact is we could not pass the amendments unless the President agreed to them, signed the bills, and the Republican Congress agreed to them and passed it.

What can be pointed out is when the Clinton administration and the Democratic Congress did control the issue of funding, had unilateral control of the issue over funding because they had both Houses of Congress and the Presidency, their accounts went down. It was not until a Republican Congress and a Republican Senate made it its No. 1 priority under Senator LOTT, Senator SPECTER, and other Members of this Congress that we started to see the IDEA funding go back up dramatically.

This is a very substantive point because it makes the case that what we are hearing from the other side is truly politics, the politics of education, not the substance of education. The substance of education is whether a low-income child in America today is better off in the system than they were 3 years ago. There can be no question but that child is. Finally, after years and years and years, we are finding out whether that child is being educated at the same level as his peers, through assessment, and when we find that out and if we discover that child is not being educated up to his peers, we put in place systems to address that.

It is also important while we are on this topic to address the nature of this amendment. The amendment does not actually say the funding will go to education. The amendment sets up a reserve fund. The only thing the amendment actually does is raise taxes. It raises taxes by $17 billion and puts that money in an account. That account may or may not get spent. What we do know is it will raise taxes.

What does $17 billion in new taxes account for? We heard from the other side it will go against those wealthy Americans who are making too much money and we need to tax them some more. That may philosophically be what they want to do, but as a practical matter that is not the effect this amendment would have. The proposals which are most at risk today in the tax laws do not impact wealthy Americans; they impact moderate- and middle-income Americans. It is the child tax credit that lapses, it is the marriage tax penalty which goes back into place, and it is the 10-percent bracket which gets kicked back out if we do not extend the tax reductions which are on the books.

Ironically, the $17 billion of higher taxes which this amendment is going to force on the American people is probably going to be borne primarily by people who are married, because the spousal deductions and the marriage tax penalty, if not extended, add up to $15.7 billion, an ironic joining of numbers but clearly a logical place where it will occur. If the $17 billion tax increase occurs, it will occur as a result of these extenders not being put in place. Therefore, the spousal tax, which is $15.7 billion and which basically says if you are married you should not have to pay more than if you were separated, will end up being most likely the place I suspect this tax increase will occur.

This amendment is unique in that it does not really impact the education accounts because it puts it into reserve. It does, however, raise taxes, and most likely on married people.

While we are on the subject of how well funded No Child Left Behind is, we should go into some specifics. The No Child Left Behind part of title I—and what we have are charts that reflect how significantly we have increased funding under title I since President Bush came into office. Over the 8 years President Clinton was in office, he raised the dollars into title I by $2.6 billion. In the 3 years since President Bush has been in office, we have seen a $4.6 billion increase or almost twice as much, at least 70-percent higher funding levels from President Bush as from President Clinton.

The argument is made that is still not enough, that we should be funding this to the full authorized level. I have been around this place for 11 years and I think I understand we do not fund at authorized level and everyone in this institution understands the authorized level is a statement, not a number. It is a goal. But it is not necessarily the goal that will be reached.

What proves that beyond any serious doubt is the fact when the Democrats did control both the Presidency, the House and the Senate, they did not fund title I at full authorization. If there is credibility to their argument today, they would have had to have funded the authorization at its full level back when they controlled the Congress. But there is not credibility to their argument because they did not do that.

In fact, when we look at the level of funding increases that occurred during their administration when they had the Presidency and when they held the Senate, it was pretty much flat funded, and it has only been with President Bush that the dramatic increases in these accounts happen.

Do we have enough money in the pipeline to address title I and No Child Left Behind? That is an argument we hear a lot about. We do know the number has increased dramatically. States are getting a lot more money. In fact, a lot of states are not pulling down the full amount they have available to them. We know there is some good anecdotal information coming in right now that says No Child Left Behind is being adequately funded.

I was interested to see a recent study by two public officials in Massachusetts, one of whom was the Massachusetts State school board chairman and another who was a member of the school board in Massachusetts. James Peyser is chairman of the Massachusetts Board of Education and Robert Costrell is a professor of economics at the University of Massachusetts at Amherst, on leave, and currently serves as the chief economist for the Executive Office for Administration and Finance.

These two gentlemen did a study of how much money was coming in under No Child Left Behind and whether it was adequate. The report says they thought there was sufficient money in the pipeline in Massachusetts to effectively implement the law.

Here are a few things they cite: The $391 million of Federal Department of Education money that has been set aside specifically to administer the additional State assessments required under No Child Left Behind is more than adequate.

That was their conclusion.

They did say:

> Although new funding may be needed in the future, the authors observe that "The needed dollar amounts are relatively small and could be met easily by allocating funds from lower-priority problems."

Another finding:

> Shortfalls in federal support of school technical assistance, as required under No Child Left Behind, are small at present but are likely to grow significantly as more schools are found to be in need of improvement. To fill the gap, the authors call for greater flexibility in federal guidelines. "Much of the gap can be filled," Peyser and Costrell explain, "by allowing states to allocate more of their federal dollars to supporting turnaround efforts in low-performing districts."

The estimated cost of testing required by No Child Left Behind runs at $20 per student, a small fraction of the per-pupil cost in the United States. Today, the per-pupil cost in the United States is $7,392. Interestingly enough, if you take the $391 million that the Federal Department of Education has set aside—and this is not their numbers—to do the assessment work, you find it exceeds the $20 by a rather dramatic number. I know in New Hampshire, for example, it exceeds it by a factor of almost 10. In fact, the dollars increased per pupil from 2000 to 2004 in Federal spending, these two gentlemen discovered, was about $300 per pupil across the country, which certainly far outstrips the cost of the per-pupil testing requirement, which is the primary requirement in this law.

So you have folks who are very intimately involved in this business in Massachusetts concluding that the funds which are flowing, which have represented a very significant increase in funding—as shown by this chart, $13.3 billion right now under this budget—more than exceeds what is needed to efficiently deal with the No Child Left Behind requirements.

One of the reasons we hear a lot about No Child Left Behind not being funded I think is that most States and school districts today are under significant pressure. But the pressure is not coming from No Child Left Behind; the pressure is coming from local property tax burdens and State revenues.

We have gone through a recession and those States have contracted in their revenues. Property taxes have gone down. As a result, school districts find themselves under pressure. I do not deny that. Everybody recognizes that. But because money is fungible, people easily identify the Federal dollars as being less than what are required to fund what traditionally would have been cost driven by and funded by local property taxes and State dollars.

The No Child Left Behind function is well funded. In fact, in this bill we have increased it again. It is up another $1 billion specifically have increased special education funding in this bill by $1 billion. We have done that, by the way, without repealing the child tax credit. In fact, we plan to extend that. We have done that without requiring parents—people who are married—having to pay more in taxes by not extending the marriage tax penalty relief language. We have done it by retaining the 10-percent expansion so low-income people pay much less in the way of taxes. All of that would be at risk—all three of those areas—were the $17 billion of new taxes, which this amendment represents, to be adopted.

I do not believe this amendment is legitimate from a standpoint of addressing the concerns of No Child Left Behind. I do not believe it is consistent with what happened in this Congress when the Democratic Party controlled the Presidency and the House and the Senate. It requires full funding of an authorization level, which was not done at that time.

I do believe it would have a huge detrimental impact, potentially, especially on married women and men, as a result of its ironic identity with the cost of extending the marriage penalty, which is $15 billion, which is essentially the amount of taxes this bill would raise.

I believe it is hard to defend this amendment either on a substantive ground that it is going to make No Child Left Behind work better or on a policy ground that it is consistent with historical actions in this Congress—funding full authorization—or on the ground that raising taxes makes good sense because I do not think you can support raising taxes, especially when it might have such a dilatory effect on married people or people with children. Therefore, I strongly oppose this amendment.

Mr. President, I would yield to the Senator from Louisiana on her time.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GREGG. Mr. President, I think the Senator from Louisiana had a question. I yield to the Senator from Louisiana, but I ask that the time for this question be taken off the side of the Democrats.

The PRESIDING OFFICER. Does the Senator from Washington yield time to the Senator from Louisiana to ask a question of the Senator from New Hampshire?

Ms. LANDRIEU. I would be happy to ask the question, but I think the Senator from Washington would like to ask the question, and then I assist her in that.

Mr. GREGG. Mr. President, I have not yielded the floor yet.

Mrs. MURRAY. Then, I will yield time to the Senator from Louisiana to ask the Senator from New Hampshire a question.

The PRESIDING OFFICER. Is that acceptable to the Senator from New Hampshire?

Mr. GREGG. As long as my answer is also coming off the time of the Senator from Washington.

Mrs. MURRAY. No, I will not agree to that.

Mr. GREGG. Then, Mr. President, I reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, the Senator from New Hampshire has strewn a number of arguments across the floor that need to be responded to. Every one of them has a very legitimate, responsible answer.

I used to teach preschool, and I am reminded of the kids who came in and threw all their toys on the floor and then trying to figure out which one to pick up first to try to make it look better. Frankly, there are so many arguments out here that I want to respond to—and I know the Senator from Louisiana wants to respond to—but every one of these arguments can legitimately and clearly be denied.

First, let me respond that this amendment does not raise taxes despite the rhetoric from the other side. This amendment closes loopholes, just as the Republican budget requires within itself in order to pay for this. That is legitimate. It is not raising taxes. It is closing loopholes. I think it is an argument all of us in the Chamber understand.

Senator LANDRIEU has been listening carefully to the Senator from New Hampshire on his argument about funding and funding increases, and she is going to respond to that. I will yield her time to do that.

But let me point out, when President Clinton came into office in 1993 and 1994—and the Republican chart that was up only talked about 1993 and 1994; it did not talk about the tremendous increases later—the President's No. 1 priority at that time was to balance the budget, which was extremely out of whack. President Bush, when he came into office—and that chart was showing us the numbers of increases at that time—his No. 1 priority was to cut taxes. That is the difference.

I remind my colleagues on the other side, the reason the budgets for education were increased is because Democrats demanded it. I know they have forgotten this, but Democrats were in control in the Senate from about June of 2001 until January of 2003, when much of those increases were in place, because we came to the floor and said it needed to be done.

I know my colleague, Senator LANDRIEU from Louisiana, is here. I yield to her such time as she needs to respond.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I thank the Senator. I appreciate the leadership of the Senator from Washington.

I am sorry the Senator from New Hampshire has left the floor because I do have about five points to make.

The first point I want to make is, while I respect his leadership in education, and while I think he has absolutely put the best spin possible on the situation that we face, I would say, in Louisiana, that dog just won't hunt.

Those numbers don't add up. His charts do not tell the true story. People in Louisiana and throughout this country are very anxious right now because what they want to hear is the truth, the whole truth, and nothing but the truth. While I am not saying those specific numbers were not correct, the truth is not just about giving the specific numbers; it is about the whole picture.

I will begin with the truth and the facts to put it in reference. I wish they would put the chart up, but they may not because they will not be able to defend it. But if they would put the chart back up that shows the years they put up there—1993, 1994 and 1995—the Senator said when the Democrats were in charge in 1993, 1994, and 1995, we did not have that much of an increase in education. That is true.

But what is also true is that the previous Republican administrations had left this country in such debt and in such despair and the deficits were so high that we could not contribute money to any program of any substance because the country was going broke.

So it is true we could not spend that much money on education because we had to take care of the deficit, this big red line. So we had to cut back.

Although Republicans say the Democrats don't know how to cut back and Democrats never will cut budgets, that is absolutely not true. We, under good and solid leadership, started trimming back. And we had to raise some revenues to get the country back into surpluses. When we did get back into surpluses, the budget numbers will reflect that there were increases made by the Clinton administration in education.

I will submit this document for the RECORD. It is a little scratched up and it is not very clear. I am sorry I don't have it in big print. But it will be put in the RECORD. If anybody wants to argue about this page, they are more than welcome. This is the official document of the U.S. budget. Nobody will refute these numbers. They are all right here.

What they say is that there were increases of 15 percent, 12 percent, 12 percent, 6.2 percent, 12 percent, 18 percent. It is true that as we got surpluses, we gave more money to education. But what is also true is this budget, which Senator MURRAY is trying to amend but the Republicans won't allow it, is saying that this budget, then, with these surpluses, wants to take some of that surplus money and commit it to education. This budget says, no, we are going to commit to it tax cuts, all to tax cuts, and no money to education.

In addition, when President Bush came into office, which was 2001, although we had increased funding for education as the condition of the country improved and we were doing as much as we could, the truth is, the President came into office and said: Even though we are increasing money to education, the past administration didn't do a good job, and I, as the new leader of the country, am going to put in a new law. We are going to step up the requirements and we are going to have accountability. If we do that, then I will fund those new efforts. As you know, he and the Republican leadership have decided they are not going to fund it. They are going to provide tax cuts.

Let me talk about pressure. I know the Senator from New Hampshire, who was Governor and is now Senator, understands pressure. I don't know exactly what he was talking about. Maybe he could clear this up.

But when I supported No Child Left Behind, 40 percent of the teachers in Louisiana were uncertified and their average salary was $27,000 a year. We are one of the lowest in the country. But when that law was passed, a mandate was put in that all of those teachers had to be certified by next year, 2005. We are in 2004. I don't know if the Senator from New Hampshire thinks that is not pressure, but let me tell you, my superintendents are feeling some heat. My legislature is feeling some heat. I am feeling some heat in a good way, because 40 percent of the teachers in Louisiana aren't certified. In this budget, which promised to help train them, help increase their skills, help recruit them, the funding is not there to do it. That is what I call pressure.

Let me talk about the pipeline for a minute. The pipeline issue came up because our Secretary of Education, supported by this administration, after calling all the teachers in America and one of the leading organizations a terrorist organization, which he has apologized for but a lot of people don't think the apology went far enough, after calling them terrorists, he appeared before the committee and said, from a letter:

> States are not fully utilizing the Federal education funds available to them in a timely manner, allowing billions of dollars to remain in the federal Treasury instead of improving education for our children.

He has put in writing, for this administration, a charge to every Governor, every superintendent, and every administrator across the country basically telling them, I don't know what you all are complaining about, because you have a lot of money.

Wait until you see the reaction that is going to happen across the country. It starts with the superintendent of Iowa who has gone on record as saying:

> The implication that we have let huge sums of federal money languish, that the funds are at our disposal to use at our discretion, or that we have not been good stewards of the public money is not only unfair, but it is patently insulting.

If this administration, the Republican leadership, wants to continue to insult everyone in America who is trying their best across party lines, across racial lines, across geographic lines to improve education, if they want to keep putting out insults such as this, they may go right ahead. But that dog doesn't hunt. The arguments won't stand. The facts do not justify the story that is being told.

I am going to conclude with this. The facts are these: When the country was in huge deficits, which the Republicans, in large measure, were responsible for because of their irresponsible policies, everything had to be cut back. And as soon as the surpluses started to appear, which was a good thing and everyone worked on making that happen, we said: Let's set a new course for education and invest money but not just throw money at the problem. Because I agree money is not the solution, but let's have accountability and we will find results.

We started down the path. We believed the administration. We pressed on, and then the rug was pulled out from under our feet. That is what this budget is about. That is what Senator MURRAY's amendment is about. I am proud to be a cosponsor of it and that is the truth.

I ask unanimous consent to print the following material in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF EDUCATION, DISCRETIONARY SPENDING

[Program level—in millions of dollars]

	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005 President	2001–2005($)	2001–2005
Program Level	....	24,709	24,712	23,036	26,645	29,903	33,521	35,606	42,231	49,936	53,114	55,662	57,339	15,108	35.8%
Budget Authority	....	24,709	24,712	21,738	26,645	29,753	28,765	29,363	40,097	49,506	53,114	55,651	57,339	17,242	43.0%
Difference	....	0	0	1,298	0	150	4,756	6,243	2,134	430	0	11	0	....	....
Program Levels															
Enacted (plus 2005 President)	....	24,709	24,712	23,036	26,645	29,903	33,521	35,606	42,231	49,936	53,114	55,662	57,339	....	....
Change from previous year ($)	....	858	3	−1676	3,609	3,258	3,618	2,085	6,625	7,705	3,178	2,549	1,677	....	....
Change from previous year (%)	....	3.60%	0.01%	−6.78%	15.67%	12.23%	12.10%	6.22%	18.61%	18.24%	6.36%	4.80%	3.01%	....	....
4 year average (1997–2001)	....	....	....	....	....	....	....	....	12.20%	....	....	....	....	....	....
4 year average (2001–2005)	....	....	....	....	....	....	....	....	....	....	....	....	7.95%	....	....
President's Requests															
Program Level	....	26,753	26,281	26,378	25,829	29,686	32,601	34,685	40,088	44,541	50,310	53,139	57,339	....	....
Request vs. previous enacted year ($)	....	2,903	1,572	1,665	2,793	3,041	2,698	1,164	4,482	2,310	374	25	1,677	....	....
Request vs. previous enacted year (%)	....	12.17%	6.36%	6.74%	12.13%	11.41%	9.02%	3.47%	12.59%	5.47%	0.75%	0.05%	3.01%	....	....
Enacted vs. Request ($)	....	−2,044	−1,569	−3,342	816	217	920	921	2	5,394	2,804	2,523	0	....	....
Enacted vs. Request (%)	....	−7.64%	−5.97%	−12.67%	3.16%	0.73%	2.82%	2.66%	5.35%	12.11%	5.6%	4.7%	0.0%	....	....

Ms. LANDRIEU. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I understand the Senator from Wyoming is on the floor. I want to set up some time allotment for our side so we can go back and forth. Under our time, I yield 10 minutes to the Senators from Delaware, 5 minutes to the Senator from New Mexico, and 10 minutes to the Senator from Minnesota. We will alternate time with the other side as they require.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CARPER. Do I understand that Senator BIDEN and I have 10 minutes to divide among ourselves?

Mrs. MURRAY. The Senator has 10 minutes. I assume that is equally divided. If you need more than that, I am happy to yield it.

Mr. CARPER. What I would like to do is have maybe 5 minutes to talk on your amendment, and then Senator BIDEN and I wish to welcome some special guests.

Mrs. MURRAY. That is fine. I will yield the time on my side to allow them to do that.

Mr. CARPER. I thank the Senator.

I will say a word, if I can, in support of Senator MURRAY's amendment to fully fund No Child Left Behind.

In 1995, the Congress passed, with the urging of many Governors, unfunded mandate legislation that said Congress and the Federal Government should not tell the States what to do and then not provide the money to do it. The Federal Government should not be taking money away from States without providing an offsetting amount of revenue for the money taken off the table for the States.

If we fail to adequately fund No Child Left Behind, yet at the same time mandate higher performance requirements in classrooms, whether it is in Delaware, Washington, New Hampshire, South Carolina, or in New Mexico, we are putting in place an unfunded mandate. I have been visiting a number of schools in my State over the last couple of weeks. What I have asked is, what have you done with the extra money we have given you as a result of No Child Left Behind? I got some interesting answers.

A lot of the money is being invested especially in title I increases, in early childhood. We are seeing some remarkable results. These children who are doomed to fail, instead of going on to failure, have age 3 and age 4 quality prekindergarten programs, and age 5 full-day kindergarten programs, and extra learning time that follows beyond that, and there are remarkable results.

By the time these kids are in the third grade, they are doing basically as well as the kids coming from places where we expect success. We are cutting in half our revenues to special education. I urge my colleagues to support the amendment proposed by our colleague from Washington to fully fund No Child Left Behind.

I will add a few comments to that, if I may. Every minute, the Bush administration spends $991,000 more than it takes in—every minute. During the 2 minutes I have been talking, we have spent about $2 million more than we are taking in.

In 2001, the first year I was here, and when George Bush was President, he said:

> We can proceed with tax relief without fear of budget deficits.

He was wrong.

He said:

> Our budget will run a deficit that will be small and short-term.

He was wrong.

In 2003, he said:

> Our current deficit is not large by historical standards and is manageable.

He was wrong.

Now he says:

> The deficit will be cut in half over the next 5 years.

He is wrong again.

My friends, our budget deficit this year is going to be about a half trillion dollars. When you actually take away the surplus funds from Social Security that mask the Federal budget deficit, it is even larger than that. While there is a little downtrend starting this year for a couple years in the budget deficits, the real budget deficit, the operating deficit, is about $450 billion. Then it climbs steadily up. The boomers, my generation, will begin to retire, and we are looking at a budget deficit for 2014 of about $785 billion. That is three-quarters of a trillion dollars. Those are operating deficits, not debt.

I wish we had a chart of the debt. We do.

In 1962, I was a 15-year-old kid growing up in Danville, VA. It is hard to see the red ink down there on the chart because it wasn't very much. It was less than a trillion dollars; it was a couple hundred billion dollars. In 1982, we hit $1 trillion. In 2003, last year, we exploded up to about $6.8 trillion. You can see this leveling off from about 1998, 1999, and 2000. That is what happened in the last administration and in the very beginning of this administration.

What happens now, starting in 2003, is the debt—real debt, how much we are borrowing as a country from the Bank of China and banks in Japan, and from people all over the world—goes from where it is today, about $7 trillion, to in 2014 some $15 trillion.

There are going to be about 29 or so babies born in Delaware today. They are going to be facing something I call a birth tax. Some of my colleagues on the other side talk about a death tax, which is their term for the estate tax. I am talking about a birth tax. For every baby born in my State today, they will face a debt of $35,000 apiece when they come into the world. So do their brothers and sisters and parents and grandparents. By 2009, it is going to be over $35,000. That is the kind of welcome to the world we are giving children in my State, and other States as well.

The fastest growing entitlement program in the Federal budget is not the Medicare plan or Social Security or Medicaid. The fastest growing entitlement program in our Federal budget is servicing our national debt, as you can see from the last chart I shared with you.

In 2009, our Federal Government will spend some $1.5 billion per day in interest on our national debt. In 2009, the Federal Government will spend more money servicing the debt than we spend on the entire defense for our country.

I will say that again. In 2009, we are going to spend, if we stay on this track, more money servicing the Federal Government's debt than on defending our Nation.

Let's get real. I don't have the time to go through this entire chart, but this is instructive. The debt we are going to have this year—about $521 billion—is actually more than all of our nondefense discretionary spending. We could get rid of the EPA, the housing programs, the education programs, and homeland security on the appropriations side—everything but defense—and we would still have a deficit of about $55 billion or $56 billion.

There will be a vote later this week, beyond the vote on the Murray amendment. I think it will be offered by Senator FEINGOLD of Wisconsin. It speaks to getting real. There was a time not too long ago when we were real. When somebody came to the floor and said, I want to raise spending by some magnitude, they had to come up with an offset. If they wanted to raise spending, they had to cut spending someplace else or raise revenue by that amount. Similarly, if I or anybody else wanted to come here and say, let's cut taxes by some amount of money, we had to come up with an offset. That is common sense in my State. That is just common sense. We used to do business that way here.

A couple of years ago, those pay-as-you-go rules lapsed. We need to reinstate them. We have the opportunity to do that this week. In an hour or so, we are going to vote on the Murray amendment to avoid an unfunded mandate and make good to those kids born in Delaware today and around the country so they are not saddled with a huge debt to face for the rest of their lives, and to give them a chance to be successful in school and in life.

The PRESIDING OFFICER (Ms. MURKOWSKI). The senior Senator from Delaware is recognized.

Mr. BIDEN. Madam President, I am told we used up a lot of the time, necessarily. I ask unanimous consent to have an additional 5 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. Reserving the right to object, I didn't hear that.

Mr. BIDEN. Earlier the distinguished Senator from Washington yielded to Senator CARPER and me to allow us to both acknowledge support for her amendment and then a total of 10 minutes of morning business to speak to another issue.

The PRESIDING OFFICER. There is 1 minute remaining of that time.

Mr. BIDEN. Madam President, I ask unanimous consent that my colleagues would permit an additional total of 10 minutes, divided between the junior Senator from Delaware and myself.

Mr. CONRAD. I am happy to yield that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. BIDEN and Mr. CARPER are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. I yield to the Senator from Wyoming such time as he may consume.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Madam President, I rise in opposition to the amendment. I really appreciate the comments of the Senator from New Hampshire where he went over the No Child Left Behind legislation and what it really does. The No Child Left Behind legislation is to get kids to be able to read and do math, hopefully by the time they are in third grade but definitely by the time they graduate from high school, and to have some confidence in it. Every State has the right to set their own standards and they have to follow them, but the idea is to get them to do reading and math.

We held some hearings in Wyoming. I had the Department of Education come to Wyoming and talk about some of the rules and there were concerns about the law and some of the ways it affected Wyoming. We are a very rural State. We have a large State. We have very small populations. We have some different classrooms than in other places and we needed to be sure when the rules were written they would work for Wyoming, which has a very tough law that was already in place before No Child Left Behind even came along.

It has increasingly difficult standards that have to be met over the next several years, and they adopted that as their No Child Left Behind standards. I do not want people to have the impression No Child Left Behind forced the States to do all of these things. Yes, it did force some of the States to do some of these things, but a lot of the States were already doing things to make sure no child got left behind.

I appreciate the President joining those States and encouraging in a very forceful way the other States to do that, too.

Incidentally, I had people drive as far as 200 miles to come to one of these hearings and we are going to hold two more of them in Wyoming yet. But I did have one person stand up and say there is not anything in No Child Left Behind about improving physical education and that is very important. If people are not healthy, they cannot do well in school.

I pointed out there also is not anything in No Child Left Behind that says they have to have competence in science until several years from now, and that is very important. We are starting with some very basic points. If a child cannot read and do math, they do not stand much of a chance. Their choices in life are very limited, and the President recognized that.

He did not say: On the average, we want everybody to be able to read and do math. He said: I want every child in this country to be able to read and do math.

That is where we are starting. Now, we have places we can go with that, science will be added in, and other things can be added in, but we are trying to do something very basic. We also get the impression from this discussion the Federal Government provides all of the money for education. That is not true and it never was true. I do not think it was ever intended to be true. We used to provide about 7 percent of the education dollars in the United States. The local people provided the rest of it.

It always fascinated me that for the 7 percent in education funding we provided, we caused 50 percent or more of the paperwork. Yes, we really tie a lot of things to our money that does not have anything to do with local control. It has to do with jobs in Washington because if we have a lot of reporting that has to be done, somebody has to make sure those reports are filled out.

I had a school superintendent who came out for one semester. He spent some time in my office, and actually I had him go down to the Department of Education and look at where his reports were going and what was done with them. He was fascinated to find out they read all of them. He was tremendously disappointed to find out that is all that happened to them, and he did not see why we were filling out reports that just provided people with a job to make sure the report was complete.

There is a lot of room to eliminate paperwork. That would save time and money at the local level, which is absolutely essential.

I also wish there was more in the bill that dealt with parental responsibility. When the parents are involved in a child's education, the child does better. Again, we focused on reading and math and what the schools could do because that is where the money goes.

We held a hearing last week and one of the people present mentioned that in one area of the country, Washington State, there was a high school that forced the parents to sign up the courses for the kids. That is a fascinating concept. Kids in high school can go sign up for their own courses, and when they do they will say: This one looks easy, and this teacher is easy for an A, and I like doing this because it is a little more outdoors. But when the parents look at it, they say: I want my kid to excel and these are the things he or she will have to do or be able to do to excel in the school. It makes a whole lot of difference in what the kids take. The biggest difference is the parents have to pay attention to what they want their kids to be able to do and make sure the plan they are signing their kids up for will make that kind of progress.

In the discussion over our priorities on the current budget, my colleagues continue to suggest funding for education is being ignored. Well, we have had some charts that show it is not being ignored; it has been greatly increased under the Bush administration.

We had a fascinating display of a chart on the other side that gave the impression the reason the Clinton administration had declining amounts going into education funds was because there was a deficit and they were trying to overcome the deficit. I remember when I arrived here 8 years ago we were trying to force that balanced budget constitutional amendment. We failed by one vote, but it had a positive effect. The positive effect was both sides of the aisle understood we needed to do a better job on balancing the budget, and we did. That helped grow the economy, and the economy's growth is really what provided the money. We did not cut programs. We increased programs. We did not eliminate programs. We added new programs. The growth of the economy kept ahead of the spending.

There have been a number of things that have affected the economy lately, but a very important part of this discussion is, we are on the U.S. budget. We are not appropriating. We are not doing Finance Committee work of figuring out what the taxes should be. We are doing a budget. The purpose of a budget is to set targets. Maybe that is not a good word to use on this floor, but I think it is a very important word to use. It reminds me of a cartoon that I saw of a grizzly bear that had this big target on his chest, and the other bears gathered around and said: Oh, rotten birthmark, rotten birthmark.

Targets are important, and all the budget does is set targets up. We do not shoot at them. We do not decide how big the rings are going to be. But we set targets up.

Now, if my colleague will listen to the debate we are having, sometimes we are suggesting the target be moved a little higher. Sometimes we suggest the target be moved a little to the left. Sometimes we suggest the target be moved a little to the right. Listen carefully and see if anybody ever suggests moving the target down. No. That is not good politics. It is important politics, but it is not good politics.

What we are going to do is set the budget, the targets. Once those targets are set, the authorization committees get to work with them. They are the ones who actually work with the rings of the budget. They decide what the priorities are and how big each of those ought to be, and then the money gets turned over to the Appropriations Committee. They are the first ones that get to shoot at the target. When that comes to the floor, we get to shoot at the target. Everything before that is setting up targets.

A lot of the discussion we have heard this morning is based on three assumptions I believe are mistaken. The first assumption of my colleague from Washington State is that raising taxes, by repealing some or all of the recent tax reductions, will not have a negative impact on the economy. I noticed that the discussion changed a little bit to loopholes, and it was pointed out that in the budget there are some loopholes. We talked very specifically about some loopholes, how big those loopholes are and whether they could be achieved in the budget assumption. I think in order to add to that, a person would have to figure out what those other loopholes are. There is a limited amount of loopholes. There are some real ones that can be identified. They can have a price put on them. But if that is not done, what is being talked about is the common campaign tactic of saying we are going to take it out of waste, fraud, and abuse.

Yes, probably in many of the Government programs there is waste, fraud, and abuse. If you add it up, there is a limited amount of it. Finding it and eliminating it is a whole other problem. The same with loopholes.

So when they talk about the money here, they are talking about raising taxes, which would repeal all or some of the recent tax reductions, and it would have an impact on the economy.

The truth is, a tax increase would hurt economic growth, which is the most important factor in terms of revenue. I mentioned that how we were actually able to come up with surpluses was growth, not reducing programs.

The second assumption my colleague is making is that the Federal Government is somehow responsible for creating new jobs. As a former small business owner, I know firsthand that expanding Government is not the best way to create jobs. Taxing small business is not the best way to create jobs.

We keep talking about these rich people out there. A lot of those rich people are not rich at all. They have businesses and, because they are single proprietorships or partnerships or subchapter S corporations, whatever profit shows up on the balance sheet goes to the bottom line on their taxes. It is considered to be money they have earned on which they need to pay taxes.

But having been a small businessman, this is how that really works. Yes, your business shows a profit at the end of the year. Yes, it is honest accounting. But you don't get to take the money out. Hopefully, you have a growing business, and a growing business needs ever more amounts of revenue. That is what the big corporations do, too. Their profits don't get paid out every year in the way of dividends. They stay in the corporation to grow the corporation.

The difference is, if you are a regular corporation you pay a small tax on the money that stays in there. When the dividend gets paid out, there are additional taxes that get paid on it. So it is not very appealing to the small businessman to use that form of corporation. But if they go with the subchapter S, or single proprietorship, there are some advantages to that, but the big disadvantage is they pay the tax in the year the balance sheet shows they earn it and they don't get to take that out.

When we are talking about raising taxes on the rich people in this country, that is a nice phrase people like to use but most of those business owners I know don't consider themselves to be rich. They do consider themselves to have a good business and they are employing a lot of people.

When we are talking about businesses, we are talking about small businesses, we are talking about 90 percent of the businesses in this country, and we are talking about the vast majority of jobs in this country. I can tell you for a fact when somebody works for a small business, they understand how tenuous their job is. They understand how fragile some of these small businesses are. They don't have the vast market to fall back on. If there is a small change in their market, it can mean the end of their job; the same as a change in taxes can make a difference in whether that person stays in business or goes to work for somebody else, abandoning the business and losing jobs.

When we are talking about taxes, we have to keep that in mind. The Federal Government can leverage resources. We were talking about job training, too. They can leverage resources to help train individuals for available jobs, but job creation is something done best by the private sector in this economy and it functions best when the Federal Government is not taxing these small businesses beyond the point where they are sustainable.

It has been interesting. When we were back in the times of the mega mergers, when the big companies would combine together to form an even bigger company, and then have what they called a downsizing, or a "right sizing"—that is when they would lay off 6,000 or 9,000 people; I called it laying people off—when that happened, the small businesses of the country picked up those employees. So it is not the big businesses of this country that do the job for us; it is the small businesses in this country. And a change in taxes affects those small businesses.

I am also confused as to why my colleagues argue for additional funding for programs that they argue will help generate jobs, yet they continue to oppose naming conferees to the Workforce Investment Act, which would help train individuals for jobs that are already available.

The Workforce Investment Act passed last year. Senator MURRAY and I worked on that, along with Senator KENNEDY. We got it out of committee unanimously. We got it through this body unanimously. Now we can't name a conference committee. Until a conference committee is named and we can work out the differences with the House, improvements to that bill are not available.

Training for 900,000 people is in jeopardy. Training for people who could upgrade their skills to fill in the kinds of jobs that are available in the country versus the jobs they are trained for. It is 900,000 jobs a year and we can't have a conference committee to get that done. It makes more sense to me that we would try to fill the jobs that are available now rather than spending more Federal dollars to try to create jobs.

The third assumption my colleagues are making is that this Congress is not maintaining its commitment to education. I would like to point out to my colleagues that under this Federal budget resolution, Federal education funding will be at its highest level in history. It will come close to doubling since the year 2000—doubling. We doubled the National Institutes of Health's budget over a period of about 8 years, but this President has nearly doubled the education budget since 2000—nearly doubled it. It amazes me.

The opposition, of course, is upset with that because this President has had the audacity to take the leadership on education. Leadership in education used to be from the other side of the aisle. But this President said, We are going to do it, and he put the dollars behind it to do it. It amazes me that, despite these increases every year, we hear about how this administration and the current congressional leadership failed to support adequate funding for educational programs, particularly title I of No Child Left Behind.

The truth is, these programs have seen enormous increases over the past 4 years. Even so, my colleagues assert that we are somehow undermining our commitment to education.

I am reminded of the debate this body had over last year's budget resolution. We heard over and over from our minority colleagues that the Federal commitment to education was too small. Despite all of the discussion surrounding our failure to support education funding, the current Senate leadership has increased spending for title I and other educational programs more than any other Congress in history. Yet my colleagues argue that is insufficient. They argue we need to raise taxes to support more education spending.

What is the impact of all this new spending on education? State and national studies show that funding for No Child Left Behind is adequate. I would like to remind my colleagues from Massachusetts that a study in their State suggested that more than enough funding is available for implementation of the law. Opponents of the budget resolution might suggest that other States have found that funding for No Child Left Behind is insufficient and that more money is needed. Many of these estimates are based on some risky assumptions. Some of these studies are anticipating costs more than 10 years into the future.

As an accountant, it strikes me that these studies are missing the point, because they are suggesting that current funding is inadequate for challenges that are not even going to appear for 5 or 10 years in the future, if they appear at all.

I asked for some information about the title I grants for local educational agencies to see what kinds of increases we have had between 2001 and 2005. I was fascinated to see Louisiana, which has been part of the discussion this morning, had a 46.9-percent increase in funding. Massachusetts got a 24.1 percent increase in Title I. New York got an increase of 65.2 percent. Rhode Island got an increase of 76 percent. Washington State got an increase of 47.9 percent.

The Senator from Louisiana also mentioned they didn't have enough money. It is kind of fascinating to me that out of the discretionary funds, those that weren't used reverted to the U.S. Treasury. I have the list by State. Louisiana surrendered 6.37 million to the United States Treasury. All together more than $154 million was returned to the Treasury. All of it isn't being used.

I spoke to one Wyoming superintendent. He said the biggest problem with title I was they needed more flexibility to be able to shift that money to salaries because they already have all they can possibly buy with title I. I thought that was interesting.

I also would like to point out to my colleagues that the "wealthy" individuals who would be paying for these increases couldn't possibly afford to fund all the additional spending my colleagues in the minority are recommending. They would have to earn much more than $1 million a year. As my colleague from Utah has pointed out repeatedly, it is the small business owners who will be paying the bulk of these taxes.

I don't believe you want to send the message to the people who managed to achieve the American dream and finally have financial security that the Federal Government will then turn to them and ask them to surrender a much larger portion of their income and call it their "civic duty." I shouldn't have to remind my colleagues that the highest tax rates in this country already apply to the wealthiest Americans. The graduated tax scale relies largely on the wealthiest 10 percent of Americans for most of the Federal Government's revenue already.

The "wealthiest", as I have explained, are the people who are business owners who are putting most of that back into a business. My colleagues are suggesting these Americans don't contribute enough and if these Americans were truly interested in their country's well-being, they would agree their taxes should be even higher. I think that is simply ridiculous.

I don't believe the tax increase is the only option we should consider. We are discussing a budget that would provide $814 billion in discretionary spending. My colleagues are saying that simply is not enough money.

Reflecting on my experience as an accountant again, when a company is running deficits there are two things that can be done: They can raise revenue or they can cut spending. This body has shown an insatiable appetite for new spending, but there is a genuine lack of support for reductions in spending. We talk about tax loopholes, we talk about fraud, waste, and abuse, and we talk about tax increases, but we don't talk about truly cutting because we haven't got the will to do it. Even when we talk about increases, it is not enough.

I mention the targets we put up for the budget, the targets the appropriators actually see. We talk about raising them, moving them to the right or moving them to the left, but never lowering them.

In the President's budget, there was some tremendous leadership. The President actually suggested cutting some programs. Why did he suggest cutting programs? He suggested it because Congress imposes on the Federal Government the Government Performance and Results Act. We said every federal program in this country has to do a report every year. In that report they have to show what their application is, what their goals are, how they are going to accomplish it, and how that fits with the money they are spending. They have to tell us what the job is they are doing and how they are getting it done.

It might be interesting to people who are listening, that in some of the agencies some of their programs failed those reviews. They aren't doing what they said they would do. According to the reports those people are writing, they are not doing their job. The President said if they are not doing their job, let us cut the program.

I can tell you that on the Budget Committee we did not do that. That is not in the budget. We didn't cut any of those programs no matter how bad the Government Performance and Results Act showed them to be. That would have been $5.9 billion. I hear that is not enough to do anything, but it would be a big part of what we are trying to do in this amendment for education. We are not cutting those programs. We will have constituents and interested people who will try to prove the Government Performance and Results Act reports were absolutely wrong.

We need to have some courage to cut some things, to revise some things, and to consolidate some things. That is what businesses would be doing. Businesses have to make cuts when revenues go down unless they can figure out a way to get those revenues to come up. They usually do both. They try to figure out a way to get the revenues to come up, but they also cut programs that don't work. They get rid of products that aren't selling.

For some of those programs, the products are only selling to the people who are employed by the programs—not to all of them. For some of them, it was probably a gross error in writing their report. But if we ever cut some of those, I would bet there would be a lot more attention paid to their own reports on performance and goals. That is something we ought to be doing.

Even under the current budget circumstances, my colleagues are asking for even more spending. At what point can we say enough is enough? How much Federal spending is adequate? I think I have said enough about raising taxes and why this body must oppose any effort to finance additional government spending by levying further taxes on our citizens.

Discretionary education spending has increased by 64 percent since 2000. In real dollars, there has been more than a $13 billion increase in discretionary program funding since 2000. Of that total, $4.5 billion has been in title I alone. More than enough has been dedicated in spending to cover the mandatory expenses of the No Child Left Behind Act. Additional increases are both unnecessary and irresponsible given the current budget situation. As we speak, States are waiting on new increases even though they have nearly $6 billion in unobligated funding to them. Almost $2 billion of that total is title I funding. It is time we stop taxing and spending to meet needs that have not presented themselves yet.

I yield the floor and reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Madam President, I ask unanimous consent to add Senator SARBANES and Senator BINGAMAN as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Madam President, I rise in strong support of the Murray-Kennedy amendment. This would fully fund the No Child Left Behind Act. The question of how much money the Federal Government should provide to local school districts to assist in meeting the goals of the No Child Left Behind Act was something we discussed extensively when the bill was being written. Many of us urged that those figures be higher than they wound up being, but the authorizing legislation contains figures which we think the Congress should honor and should step up to and fund. That is exactly what this amendment would do. I congratulate my colleagues, Senator MURRAY and Senator KENNEDY, for putting this amendment forward.

As I am sure has been discussed extensively, the core idea behind the No Child Left Behind Act was we would require States and school districts to establish what would be considered performance goals for their students, that they would make what we call "adequate yearly progress" in achieving those goals, and that the Federal Government is committed to provide assistance in doing that. Unfortunately, we have fallen short. Unfortunately, this President has not asked for the full funding on that legislation in any year since it has been in effect. Again this year, he has not asked for that funding. This amendment would try to correct that problem. I believe it is a very meritorious amendment.

I want to particularly spend my very few minutes here focused on one particular program I have spoken about many times on the Senate floor. It is very important in my home State of New Mexico; that is, a provision in the No Child Left Behind legislation the President signed which calls for the Federal Government to assist local school districts in trying to keep kids in school. It was dropout prevention efforts by the Federal Government to assist the local school districts in pursuing those. The idea was, as you are requiring more and more of students, teachers, and schools, there is a great temptation on the part of those schools and those teachers to just say, let's look the other way and allow some of these poorly performing students to leave school. That way we can get our standards up and everyone will be happy.

Unfortunately, that has happened. It is happening in my State. It is happening in many States in the country. We are not doing what we committed to do—we, the Federal Government are not doing what we committed to do in that legislation to assist schools in heading this off. We committed in the legislation to provide $125 million per year to assist in dropout prevention. This year, this current year, we are providing $5 million—not $125 million but $5 million. Considering the number of school districts in this country, the number of students who are at risk of dropping out, this is a ridiculously low figure.

Unfortunately, if we are not able to adopt the Murray-Kennedy amendment, we are going to be faced with a situation where when we come to the Appropriations Committee, they will say there is no money to fund this. It was funded at $5 million. Maybe we will continue to fund it at $5 million again. Essentially, the Federal Government is going to once again take a walk on any responsibility to assist with solving this problem.

I believe firmly when we allow a student to drop out of school before they graduate, we are leaving that student behind. We are leaving that child behind. Clearly, we need to make a priority out of this. This is a problem that particularly affects my State. We have a very large Hispanic and Native American population. The graduation rates among those groups are slightly better than 50 percent. That means we will find half of the Hispanic and Native American students who started in the 9th grade actually going through that graduation ceremony. That is a terrible indictment of our education system. The least we can do is put in the small amount that was contemplated when we wrote the No Child Left Behind Act.

This is very important to schools throughout my State, to the larger schools, also to the rural schools. I hope it is a correction that can be made. I hope very much the Murray-Kennedy amendment is adopted so the funds will be there to actually accomplish this objective.

I yield the floor.

Mr. KOHL. Madam President, I rise today in strong support of the Murray amendment. I am proud to cosponsor this amendment, which will finally provide the funding that Congress and the President promised when No Child Left Behind became law.

I supported the No Child Left Behind Act because I believed it would provide a real chance for real reform. For the first time, the Federal Government would provide the resources that schools, teachers and principals need to help all students succeed. And in return, we required real accountability for results. Teachers, principals and school boards are working hard to live up to their end of the bargain as they work to meet the requirements of the new law. Now they are counting on us to live up to our end.

Unfortunately, the President's fiscal year 2005 budget request—and the budget resolution before the Senate today—fall far short. This budget resolution falls $8.6 billion short of what was authorized under No Child Left Behind. Just when we're asking schools to do more, this budget resolution takes away the very funding they need to succeed.

It might be easy to dismiss this shortfall when you talk about it in terms of billions of dollars. So I want to tell my colleagues here what this shortfall in funding has actually meant for schools in my State of Wisconsin. In 2003, Milwaukee Public Schools received an $8 million increase in Title I funds. But the new requirements for supplemental services and transportation for students to better performing schools cost over $10 million. In other words, the new mandates cost $2 million more than the total increase MPS received, and they had to make up the difference. To cover the costs, they were forced to cut their popular summer school program, which had served 17,000 students.

This is just one example. Across Wisconsin, school districts are being forced to cut staff and increase class sizes, cut music, art and foreign language education, and cut textbook purchases. Some have even had to keep their schools colder during the winter months to cut down on their heating bills, or restrict how many pages students can print from their computers. These are certainly not the results we want.

Problems exist at the State level, too. Our State Department of Public Instruction is working hard to implement the new law. But they believe they will need more funding to create new data systems to meet new data collection and reporting requirements. They will also need more funding for technical assistance teams to help schools and districts in need of improvement.

It is time that the Senate and the President lived up to the promises that were made. The Murray amendment would establish a reserve fund to add $8.6 billion to the Budget Resolution for the purpose of fully funding No Child Left Behind. At the same time, this amendment lowers the deficit by $8.6 billion. The amendment is fully offset. I hope my colleagues will support this important amendment and finally provide the funding that our students need to succeed.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

● Mr. JOHNSON. Madam President. I want to express my strong support for Senator MURRAY'S amendment to the budget resolution to fully fund the No Child Left Behind, NCLB, Act.

Adequate funding is a necessity for school districts to continue to achieve adequate yearly progress. When Congress passed and the President signed NCLB, we set standards of achievement to improve education for all. However, I have been woefully disappointed with the administration's refusal to make good on the promises it made to provide state and local school districts with the resources they need to implement the NCLB reforms. The administration has underfunded NCLB by $26 billion since 2002.

In my home State of South Dakota, education officials and educators are working very hard to meet the requirements of this law. It is irresponsible for the Federal Government to say that States and school districts must meet the requirements in this law, while we do not meet the promises made in this law to provide funding to do so. Under NCLB, South Dakota should receive $62.3 million for Title I for Fiscal Year 2005. President Bush's budget would shortchange South Dakota by $24.6 million. This would result in 8,029 South Dakota children being denied full Title I services for which they are eligible. This is unacceptable to me.

As I travel South Dakota and meet with superintendents, principals, educators, school board members, and parents, I hear about how hard our schools are working to provide the best education possible to their students. However, this trend of continuing to underfund NCLB commitments will only make it more and more difficult for our local school districts to meet the adequate yearly progress requirements of the law.

This Congress and the administration have an obligation to uphold our promise that no child be left behind by the public education system. I encourage my colleagues to support Senator MURRAY'S amendment, which would go a long way in helping our schools meet the challenges in NCLB.●

Mr. DODD. Madam President, when this President came to office he called himself the education President and called for significant reforms. When he offered these reforms he promised to provide us with the resources needed to implement them. Taking him at his word, this body took up and enacted the No Child Left Behind Act two years ago. Yet here we are, only 2 years later, and No child Left Behind is being underfunded by $8.6 billion.

When we passed the No Child Left Behind Act we pledged to expect more, and provide more, to our Nation's schools. And yet this pledge is not reflected in this budget. I have to ask, how do my Republican colleagues and the administration, expect us to raise test scores, provide high quality teachers and prepare students for the 21st century without the funds to do so? Furthermore, who is it that they expect to feel the burden of these cuts? I can tell you who it will be.

First, it will be the States. States that need every dollar possible to do more than they have ever been asked to do before. States that are experiencing the worst fiscal crisis in decades. Second, it will be the localities. With less funds to do more, hard decisions will have to be made at the local level. Should local taxes be raised? Should music and art be cut? Should after school programs be eliminated? Should physical education classes be cut in the midst of a childhood obesity epidemic? Ultimately, the students will suffer. They will not be given the teachers that they need. They may not get the tutoring that they were promised. Music, art and foreign language may no longer be a part of the curriculum. After school programs could be cut.

When we passed No Child Left Behind, we made it clear that we were expecting more from our schools—and rightfully so. We were expecting more so that American children—all American children—children in the suburbs, children in our inner cities, children in our rural areas—would have real opportunities to reach their full potential.

This past September, some Connecticut students went back to schools that were labeled under performing by No Child Left Behind. And yet this budget is not committed to helping them overcome that label. This bill will not give them the added funds they need to fully perform.

If we fail to adequately fund No Child Left Behind, our States, our localities, our school districts, local taxpayers, and most importantly, our children, will suffer. Budgets are about priorities. What priority could be more important than ensuring the future of our children by providing them with a first-class, world-class education.

Mrs. CLINTON. Madam President, I support the Murray-Kennedy amendment to meet the funding promises in the No Child Left Behind Act.

When I voted for the No Child Left Behind Act I though we made a deal with our local school districts—we would ask more of them and we would provide the resources to allow them to meet those expectations. Today it is clear that this administration has deliberately chosen not to play by its own rules and has instead reneged on the promises it made to teachers, parents and millions of poor school children across the Nation.

For a third year running, this administration has shortchanged the reforms included in No Child Left Behind. Instead of helping ensure these children are not left behind, this administration has had a clear record of promising false hopes and of cutting resources targeted towards improving educational opportunities for all children.

This Democratic amendment ensures the President and the Republicans in Congress live up to their commitments to fully fund programs like Title I, English Language Acquisition, literacy programs, after school and rural education and that is why I am proud to cosponsor it.

We all know that there is no greater path to opportunity than education. Unless we fully fund No Child Left Behind, millions of needy students will be denied the opportunity to achieve the American dream.

I have visited schools across the great state of New York and I know firsthand that our school districts are doing their part to help students learn at higher levels. Yet they continue to struggle with critical funding shortages to fully serve all children in need.

The Murray-Kennedy amendment would help ensure that 4.6 million children get the quality education they need and deserve. For New York, this funding will help close the $765.7 million gap in Title I funding between the funding proposed in the Republican budget and the amount that was promised to my state when we passed No Child Left Behind. With these resources, New York schools could decrease class sizes for 834,117 students, expand preschool to 105,689 eligible children and certify 102,740 teachers.

The more we hold off on funding these reforms, the more it will cost school districts to meet the requirements to increase test scores and the numbers of highly-qualified teachers. That is why we are falling further behind every year we fail to live up to that commitment.

I strongly urge my colleagues to support the Murray-Kennedy amendment.

Mr. LIEBERMAN. Madam President, I rise as a cosponsor to express my support for the amendment offered by my distinguished colleague from the State of Washington, Mrs. MURRAY, and my distinguished colleague from the Commonwealth of Massachusetts, Mr. KENNEDY, to fully fund the No Child Left Behind Act and to improve overall funding for education and training programs. I believe it is critical that my colleagues in the Senate adopt this amendment which represents a critical investment in America's future.

A little more than 2 years ago, in this Chamber, we made a bipartisan commitment to leave no child behind. This landmark legislation has the potential to strengthen our public education system. It represents an ambitious Federal effort to dramatically revitalize public education by closing the achievement gap, making sure every classroom has a qualified teacher, and giving parents and students adequate choices to ensure that their children receive a quality education. Adequate funding, however, is essential in order to give our public schools the support and resources they need to implement the act, and to meet the goals embodied therein.

The amendment before us will ensure that the budget resolution fully funds the No Child Left Behind Act at its authorized level. We have all heard complaints with this law; the predominant one being that it is another unfunded Federal mandate. Schools across the Nation are struggling to meet the requirements of the law. However, they have been shortchanged by this President, and they are being shortchanged again by the budget resolution before us—shortchanged to the tune of $8.6 billion. How can we expect our schools to embrace the act when their hands are tied by lack of funding? This issue has become so pronounced that 18 States have considered a resolution that would grant them a waiver from the law. I urge my colleagues to adopt this amendment to assure our school systems will receive the funding levels they were promised when the law was enacted.

This amendment will signal to our schools and school districts that we will meet our end of the bargain, in order to make public education in this country first class for every child in America. It will signal to our State and local education leaders that we will stand behind our commitment to them, and give them the support they want and need to do their job for our children. The $8.6 billion being allocated by this amendment can be used to ensure that we have highly qualified teachers in our classrooms, provide additional afterschool programs, send resources to schools identified as "in need of improvement," supply tutoring and supplemental services, and give students specialized instruction in reading and mathematics. It can also be used to leverage additional State and local resources for public education in this country. Finally, I would like to point out that not only does this amendment pay for itself, but it also dedicates an additional $8.6 billion for deficit reduction.

I commend the Senators from Washington and Massachusetts for offering this amendment as an investment in our Nation's future. I am proud to be a cosponsor. Our schools and students need adequate resources to meet the high expectations that have been placed upon them. I urge my colleagues to support this amendment.

Mr. LANDRIEU. Madam President, I rise today in support of Senator MURRAY's amendment that, put simply, proposes to close unfair tax loopholes and use the funding closing them brings to fulfill the promises we made to the parents, teachers, principals, superintendents and, most importantly, our children. For the past hour, my colleagues from across the aisle have tried to put a different spin on this amendment, claiming that it raises taxes to cover increased spending. That is what they would like the American public to believe because then their opposition to it is easier for them to explain. But the fact of the matter is, the underlying budget resolution now before us already proposes that we close these very same tax loopholes, the only difference is that under this budget the revenue generated would be used to pay for new tax cuts for corporations and millionaires. So it seems what we have here is a difference in priorities. Democrats are against tax evasion and for investments in education and Republicans are against tax evasion and for tax cuts for those who do not need them. That is a choice I will leave to the American people come this November.

Two years ago, we challenged our schools to reject mediocrity and failure and to embrace excellence and high standards. We laid out legislation that provided a blue print for reform and we promised we would be there every step of the way, in partnership, to bring about change in our public schools. I was one of the 13 Members of the U.S. Senate who advocated for the kind of change embodied by the No Child Left Behind Act long before it became a part of President Bush's political platform. I believe in the potential of this law, its founding principles, and the direction it leads our Nation. It is by no means a perfect law. No law, in the history of Federal involvement in education, has ever been perfect on the first try. But that does not mean we must abandon it and go back to the drawing board. What we must do is come together to both fund it and fix it.

As the old saying goes, "talk is cheap." Unfortunately, this administration does pays a great deal of lip service to principles such as accountability, teacher quality, innovation and school choice, but are not willing to do a whole lot to be sure that these principles are reflected in the budget. For example, this administration says the following when it comes to the importance of teacher quality. "We know that our children's future depends on their education. And the quality of their education depends on our teachers. Strong schools and quality teachers are the President's priorities," Laura Bush said on the First Anniversary of the Passage of NCLB.

Yet, what they do to fulfill the promise of a qualified teacher in every classroom is a different matter. In this year's budget, President Bush proposes to cut funding for Troops to Teachers and freezes funding for grants to States to improve teacher quality. What this means is that States like my own, are faced with the congressionally mandated challenge of closing the gap in the number of qualified teachers, and have had to try and meet this challenge with approximately $100 million less than they were promised.

The administration maintains that their goal is to improve public schools. In fact, in January of 2001, President Bush made the following promise: "Once failing schools are identified, we will help them improve. We'll help them help themselves. Our goal is to improve public education. We want success, and when schools are willing to accept the reality that the accountability system points out and are willing to change, we will help them." If this is not a promise, I am not sure what is. States like Louisiana believed in this promise and they believe in accountability. For the past 4 years they have been working hard to identify schools that were failing and turn them around. They have done such an outstanding job that they were just recognized by Education Week for having one of the best accountability systems in the country.

Is President Bush fulfilling his promise to support and encourage these efforts? No. He is pulling the plug just when they need help the most. This year's increase in education, which has been shrinking a little more every year since Bush took office, is the smallest increase in education spending in 7 years. What's worse, is that according to his budget, next year, not coincidentally a year after the election, education funding will be cut by $1.5 billion.

Our schools need more than lip service and empty promises, they need help. Now, I have asked the President and my Republican colleagues, why the President would not provide States with the resources he promised would be available to support their efforts. Here is what they tell me. They say, "Senator LANDRIEU, the President did not make any promises when it comes to funding, the funding levels listed in the law are just goals. Congress never appropriates as much as they authorize."

I think it is important for the American people to be able to separate fact from fiction. Let me tell you what the facts are on this point. When a program is a high enough priority for the President, you can bet it will be funded. Let me give you some examples. Last year, Congress appropriated $1 billion for a program called the Millennium Challenge Account, a brand new foreign policy program proposed by the administration. The President demanded $1 billion and he got a full billion. Same was true for the tax package in 2003. Congress authorized the passage of a $350 billion tax cut and we spent all $350 billion. Medicare, the Iraq Supplemental, the Compassion Capital Fund, the list goes on and on.

The Secretary of Education claims that the reason for the decreased financial support from the administration is because States have too much money and are not even spending what they already have. In the words of Ted Stilwill, the school chief from Iowa, "The implication that [States] have let huge sums of federal money languish that the funds are at our disposal to use at our discretion, or that we have not been good stewards of the public's money is not only unfair, but patently insulting." Here are the facts: According to data from the U.S. Department of Education, States are actually spending their federal money faster than expected. As of February 20, using normal spending rates, States should still be waiting to spend about 7 percent of their Federal education money from fiscal years 2000 to 2002. As a matter of fact, States have spent all but 6 percent.

What our kids need is less excuse making, fewer empty promises, and more leadership. In the words of President Bush himself, "The time for excuse making has come to an end Accountability for results is the law of the land."

I would like to close my remarks this morning with one final Presidential quote. "We possess all the resources and all the talents necessary. But the facts of the matter are that we have never made the national decisions or marshaled the national resources for such leadership. We have never specified long-range goals on an urgent time schedule, or managed our resources and our time so as to insure their fulfillment . . . Let it be clear that I am asking the Congress and the country to accept a firm commitment to a new course of action—a course which will last for many years and carry very heavy costs . . . [but] if we were to go only halfway, or reduce our sights in the face of difficulty, it would be better not to go at all."

Many of you may be saying to yourselves sounds like something President George Bush said when he urged Congress to pass the No Child Left Behind Act, perhaps the most sweeping reform of Federal education policy since 1965. But you would be wrong. This was from a speech given by another President making a historic challenge to the Nation. This is an excerpt from the famous "Man on the Moon Speech" delivered by President John F. Kennedy.

In 1961, President Kennedy presented a bold challenge to Congress and the Nation: to reach for the stars, to put a man on the moon within the next decade. Most thought he was over ambitious, perhaps even crazy. It was such a large task, it could never be done. Put a man on the moon in less than 10 years? In June on 1969, 8 years and 1 month after this speech, Neil Armstrong and Buzz Aldren landed on the moon and Neil Armstrong uttered the immortal phrase, "one small step for man, one giant leap for mankind."

The difference is that President Kennedy was not only willing to make the challenge. He was willing to stand strong and provide the leadership and the resources necessary to meet it. In 1961, all tolled, the United States was spending $1.6 billion, the equivalent of $8.7 billion today on space programs. By 1966, just 5 years later, we were spending $7 billion, which is close to $30 billion in today's dollars. But it was more than just money, he provided the leadership and the support. He made commitments and he stood by them. This program was more than his speech for the day, it was a top priority. And it worked. History may have been very different if it hadn't.

In the words of the late President Kennedy, "if we were to go only halfway, or reduce our sights in the face of difficulty, it would be better not to go at all." We made a promise to our States, more importantly, to our children. The Murray amendment fulfills that promise, it stays the course and that is why I am proud to support it.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I yield myself such time as I might consume off the 18 minutes remaining on this side.

Madam President, once again I remind the Senate about some of the issues that face the Senate Committee on Finance which I chair and how certain assumptions being made by some of the amenders of the budget resolution might be affected by that or how their decisions might affect decisions we have to make.

First of all, there is the general proposition with all budgets and all amendments that pretend to dictate to committees where they ought to get the money or what legislation they ought to pass. This is just a recommendation that has no force of law. It can be entirely ignored by any of the committees, including the Committee on Finance. So when there is a premise certain loopholes ought to be closed, certain tax rate changes ought to be made to affect upper income limit people, the people voting on this amendment and similar amendments ought to understand they are voting on numbers they are giving us, nothing else, because we will have to make those decisions not just on the substance of the dictates of the budget resolution but also on the responsibility to report a bipartisan bill.

We will have yesterday, today, and much more tomorrow, a whole series of amendments coming from the Democrat side of the aisle, trying to dictate something Democrats want Congress to accomplish, but with almost no Republican support. The Senate Finance Committee cannot function under that sort of partisanship. We have to get things done in a bipartisan way. If people who offer amendments to the budget expect their amendments to be adopted, it starts with bipartisanship. I have not seen that in very many of the amendments we have had thus far. I guarantee, nothing will be done by the Senate Finance Committee in a strictly partisan way. That is a dead end. That is an alley with no opening. We have to report a bipartisan bill if we expect to get it through the Senate.

The other thing I want my colleagues to understand, and why they should vote against this amendment, is it assumes gaining certain revenue from loophole closings. I can tell you of tens of billions of dollars we are going to get from closing loopholes, but we are doing that because of the responsibility of the Senate Finance Committee, first of all, has to have a fair Tax Code, and secondly because we have the obligation, if we are going to make tax changes, to have those offset. Without revenue neutrality we do not have bipartisanship, and without bipartisanship nothing is going to get through the Senate.

A lot of very popular tax provisions Democrats or Republicans expect me to get passed before this year is out, like the marriage penalty, like the $1,000 tax credit for children, and the 10-percent bracket so we can help low-income people pay less tax because they need that money themselves to live rather than sending it to us to spend—both Democrats and Republicans expect me to get that passed. We are going to use the revenue from the loophole closings to fund those provisions. We cannot have that money spent on appropriated accounts. It has to be used to offset this social and economic policy that is involved in doing away with the marriage penalty—the $1,000 child credit and the 10-percent bracket, and even in addition to that, maybe, finding some bipartisan solution to bringing finality to what the estate tax ought to be in America as opposed to what it is now or what it will be in 2011 when we go back to just the $1 million exemption.

Those are things we are going to do. Obviously, we ought to close these tax loopholes and shelters because they are unfair. Some of them are outright schemes for corporations to avoid taxation. However, we cannot use that money twice. It will be used once. It will be used by our economy to establish a fair tax policy.

In addition to that, and unrelated to my position on the Senate Finance Committee, how I react to the debate we have had thus far on this amendment—particularly when I hear some Senators on the other side say something like this: Don't tell me we have increased education spending by 60 percent, because I know that.

What that Senator wants us to hear is we have not appropriated what somebody thought we ought to appropriate, which we seldom do anyway. I am well aware of that. I am well aware of promises that were made by an administration on education expenditures, maybe in the first year of this administration, but what I have not heard from the other side of the aisle is, they decide how money ought to be divided, is what happened on September 11 and the war on terror and how that changes everything. How has that changed everything?

You put your resources behind the men and women in battle. You put your resources behind winning a war. That has caused the President of the United States and the Congress, in turn, to divert some money from domestic expenditures to the war on terror, to the Defense Department, and to homeland security. That is what is different now from the time when people thought this administration made certain promises on a lot of Federal programs, not just education.

It seems to me a responsibility we have when we overwhelmingly pass a resolution for war that, if we are going to put our men and women on the battlefield, you have to give them all the resources it takes to win that effort. If you do not, you should not be going to war.

Now, those who voted against that resolution may have the privilege of voting against funding our men and women in the battlefield, but it seems to me, regardless of whether you voted for the war resolution or not, you have a responsibility to stand behind our men and women.

That is what has changed between promises being made on education and today. There has been a diversion of money. But even considering all that, this administration, on the present budget and on previous budgets, has put education No. 1, after the war on terror—including Afghanistan and Iraq—and after homeland security, because education is the domestic program that gets the biggest increase in expenditures over anything else.

With that in mind, I ask that we defeat this amendment. I ask that it be defeated because the revenue supposedly being used is the revenue we are going to use to make the Tax Code more fair to implement the social and economic policy we have that we call doing away with the marriage penalty, helping families, by keeping the $1,000 child credit, and helping low-income people to pay less tax and to have more money in their pockets so they can support their families to a greater extent.

I yield the floor.

The PRESIDING OFFICER (Mr. CHAMBLISS). Who yields time?

The Senator from North Dakota.

Mr. CONRAD. Mr. President, I ask the Senator, could I have 2 minutes off the amendment?

Mrs. MURRAY. Mr. President, I would be delighted to give the Senator from North Dakota 2 minutes.

The PRESIDING OFFICER. The Senator from North Dakota is recognized for 2 minutes.

Mr. CONRAD. Mr. President, we have heard a lot of talk that the amendment of the Senator from Washington raises taxes. Well, it does not raise taxes on anybody except those who are engaged in the abuse of tax loopholes. Because that is what the amendment of the Senator from Washington provides: that tax loopholes are closed in the amount of $8.6 billion.

All this talk about middle-class tax relief has nothing to do with this amendment—nothing. She is not talking about, in any way, affecting the 10-percent bracket or the childcare credit, or any of the other middle-class provisions—not at all.

The Senator from Wyoming indicated this is going to increase taxes on people, on small businesspeople, on middle-class taxpayers. It is not. It is aimed at tax loopholes.

Let's talk about the type of tax loopholes that one might consider. There is now, across the land, a scam going on of enormous proportion. New York has sold their subway system to a group of private investors, and then they turn around to lease it back, and the private investors get to depreciate the New York City subway system. New Jersey sold off their sewer system to private investors, which then depreciate the sewer system and then get away with a dramatic reduction in their taxes. These are scams.

The administration, to its credit, has said we ought to close these loopholes. They think it will raise $33 billion. The amendment of the Senator from Washington is $8.6 billion to keep the promise of No Child Left Behind—no tax increase, an end to scams.

It does not end there. The Joint Tax Committee did a thorough analysis of the Enron scandal and found a series of abuses that could be closed which would save billions of dollars in closing tax loopholes—no tax increase but stopping the scams.

And it does not end there. We have the spectacle of certain companies and certain wealthy Americans renouncing their U.S. citizenship—Mr. President, I ask for 30 seconds more, if I could.

Mrs. MURRAY. Mr. President, I yield 30 seconds to the Senator.

The PRESIDING OFFICER. The Senator is recognized for an additional 30 seconds.

Mr. CONRAD. We have the spectacle of certain wealthy individuals and major corporations renouncing their U.S. citizenship to avoid U.S. taxes. Closing down that loophole saves $3 billion.

Now, if anybody wants to vote against closing loopholes, let them vote against the amendment of the Senator from Washington. She is closing those loopholes in order to fund our kids' education. That is exactly what we ought to do.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mrs. MURRAY. I thank the Senator from North Dakota for that clarification.

Mr. President, I yield 10 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 10 minutes.

Mr. DAYTON. Mr. President, I commend my colleague, the Senator from Washington, for her amendment, along with Senator KENNEDY, and for her dedicated and lifelong efforts to improve the quality of education for all of our Nation's children. She has been a pioneer and a champion in the Senate, as she has been in her career as an educator. She knows whereof she speaks.

Once again, we are encountering the same old arguments from the other side of the aisle. Personally, I am tired of going back to 1993 or 1994 to try to explain or excuse what it is we are doing or not doing right now for education in this country. I want us to do what is right for now, to respond to the needs that exist now. I have said it in other debates on education funding, and I will say it again: If President Bush proposed more money than President Clinton, then President Bush deserves that credit, in my eyes. If the 108th and the 107th Congresses provided more money for education than previous Congresses, and more than President Bush has proposed at times, then this Congress deserves that credit, in my eyes.

But we are not doing this for ourselves. We are not trying to keep some scorecard. We are not trying to fiddle around with percentages or other things. We are doing this for America's children.

The important question we ought to all be asking ourselves is, Are we doing enough? Are we providing the money needed to do what we all said should be done to leave no child behind?

That is this President's proclamation. He set that standard for us and for the country. That is the law we passed. It is a great standard. It is an important standard, and we all seem to agree that should be the standard. So the question we need to ask ourselves is, Are we budgeting the money necessary to achieve that result?

When the Pentagon and Joint Chiefs of Staff have said they needed more money to win the wars in Afghanistan and Iraq, we have provided that money, with bipartisan support, overwhelmingly.

When the President and Secretary Ridge have said they needed more money to protect our homeland, to provide protection and safety for all our citizens, we have done so on a bipartisan basis. Some of us, including Senator MURRAY, has urged we do more.

We have set the objectives in the Congress along with the administration. We defined the standards of military victory and national security, and we have provided the money necessary to succeed, because that is what is important, that we succeed at these most important goals we set for our Nation.

Now, we have also increased the Federal deficit enormously to do so. We cut taxes very significantly, especially for the wealthiest people in this country. People whose annual income is greater than $1 million are receiving, this year, on average, a tax reduction of $113,000. It has not bothered the majority enough to make any of those adjustments.

When I hear these concerns expressed about these onerous tax burdens that are imposed on the superrich, the multimillionaires and billionaires of America, or the large corporations that Senator CONRAD pointed out are not paying their fair share of taxes, not paying the percentage of their taxes owed as our small business owners pay, then I must say, I think some of that is crocodile tears.

With all deference to the chairman of the Senate Finance Committee, whom I admire enormously and who has dealt with these matters, as somebody who comes from—or at least before I got mixed up in politics—the category of the wealthy, I would be glad to sit down with him and go through it to discover how easily we can find the money to pay for what he said he wants to do on taxes and what Senator MURRAY is proposing to do on education. It is not an either/or.

Nobody on this side wants to jeopardize the increase in the child tax credit which was passed with overwhelming bipartisan support. In fact, it was originally a recommendation from this side of the aisle, but it has bipartisan support. The same with eliminating the marriage penalty and expanding the 10-percent bracket. We are not going to do one thing to affect those extensions.

This is about education. Somehow that is treated differently by the other side. We can't close any of the tax loopholes. We can't allow the millionaires or billionaires to escape one penny of taxes they owe. We can't increase the deficit. Once again: Gee, we can't find the money we need for education.

We are also told there is extra, unused money in the Federal pipeline going to State and local governments for public schools. I have heard that in the years I have been here: Head Start has positions for kids that are unfilled because there isn't a need or demand. Special education has more money than they know what to do with. For No Child Left Behind, there is more than enough money being provided.

When I tell this to educators and school board members and others in Minnesota who are involved with education, they think I am joking. They think Congress must be seriously out of touch with reality. Where is this pipeline, they ask, and if some States have more money than they need or know what to do with, would they please send it on to Minnesota. I doubt my State is alone because all the national organizations involved in these matters have said for years, Head Start is being funded about half for the kids who are eligible.

Again, Congress set these standards years ago. Congress defined what the eligibility was for these programs. We are not making these numbers up out of whole cloth. We are supposed to be setting the measure of what qualifies a child for Head Start, the kids who need it.

Almost 30 years ago the Federal Government promised to pay for 40 percent of the cost of special education. It is less than half of that today. President Bush has increased it. This Congress has increased it every year. Still it is less than half. So the question is not what is the percentage; the question is, are we keeping a promise we made almost 30 years ago. At least in Minnesota, when it is not being met, it has to be met, in most cases, with higher property taxes or cutbacks in the quality of education for all students.

Title I, again, is seriously underfunded and has been for years. In Minnesota's case, less than half the students are eligible by the Federal definition of what qualifies the child in poverty, with all those disadvantages, for title I funding, the additional funding that is supposed to give that child the chance he or she deserves and certainly is now entitled to by law under the President's initiative—less than half of those students in Minnesota, and we are going to lose money under the new formula.

In all these major areas of Federal Government responsibility for the education of our children, we have been providing far less than enough, far less than our own laws and our own statements of intent have called for. I don't know whose fault it is. I don't think that is relevant. I know whose responsibility it is today. That is what matters. It is our responsibility. It is our responsibility to provide the funds necessary to fulfill our part of the bargain with States and local governments and school boards and the schools and, most importantly, with the children of

America. If we are not willing to do that, then let's change the law.

In Minnesota we have laws against consumer fraud. I would say if we don't address these funding shortfalls, to call this No Child Left Behind violates the spirit at least of that law. If we are not going to do more than we are doing now, let's at least have the honesty to tell the truth to the American people. We didn't mean it. It sounds good; great slogan, but, sorry, it is not enough of a priority for us.

Tell the States: You come up with the money for these unfunded mandates, for the additional part of special education, which in Minnesota costs our schools about $250 million a year, real money. No pipeline I am aware of can come up with that kind of money the schools in Minnesota need.

Let's tell school boards: Yes, you keep on raising local property taxes in order to make up for what the Federal Government has promised but isn't providing. Then let's have the honesty to tell the children, the future of America: Sorry, you are not important enough.

I can only speak for Minnesota, but in my State schools are cutting classes, opportunities. They are laying off teachers. Class sizes are increasing; sports and extra curricular activities are being cut back. You have to pay a special fee just to be a student. We know here in Washington that money is needed and should be spent and would be spent, but, sorry, we are not going to provide it. We have other, more important priorities.

That is what the Murray amendment is about. It is a moment of truth for this body, the Senate. Do we mean what we say, no child should be left behind? Do we mean it? Are we willing to fund that as we funded other important national priorities, or is it not important enough in the scheme of things to do what we promised to do?

Senator MURRAY has given this Senate, before the eyes of the Nation, this moment of truth. What are our priorities? Do we keep our promises? Do we do what we know should be done and say must be done, and what every child in America deserves to have done, which is provide the funding necessary for quality education to leave no child behind?

I thank the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I thank the Senator from Minnesota and all of our Democratic colleagues who have spoken. When the Senator from Minnesota was speaking, I couldn't help but think of someone he remembers well. During the whole debate of No Child Left Behind, Senator Paul Wellstone, who was on the floor during that debate saying: We are giving a promise I don't believe we are going to keep. Everyone assured him: No, no, we will put this accountability in place. We will fund this.

The Senator from Minnesota speaks from his heart, as I know Senator Wellstone would have admired him for, in reminding all of us what is happening to our children and to our schools because we haven't kept the promise all of us said we would keep when the debate took place several years ago.

How much time remains on both sides?

The PRESIDING OFFICER. The Senator from Washington has 8 minutes, and the Senator from New Hampshire has 8 minutes 33 seconds.

Mrs. MURRAY. Mr. President, let me ask my colleague from New Hampshire if he intends to use any more time on their side. I have a few more minutes I would like to speak.

The PRESIDING OFFICER. The Senator from New Hampshire has 8 minutes 33 seconds remaining.

Mrs. MURRAY. And our side has 8 minutes.

The PRESIDING OFFICER. Seven and a half minutes now.

Mrs. MURRAY. I was inquiring how much time the Senator from New Hampshire intended to use, or if he wanted to go now.

Mr. GREGG. How much time does the Senator need to close?

Mrs. MURRAY. I would like 5 minutes.

Mr. GREGG. I have no problem having the Senator close now and we can go to a vote.

I am sorry. I can't do that. I guess I will speak for about 8 minutes and then yield to the Senator.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, it has been a good debate. It certainly has outlined the issues involved. I want to reemphasize some points made by the chairman of the Finance Committee who spoke about how the $17.2 billion of tax increases in this amendment work. It is the only real part of this amendment.

The amendment represents it is going to take this tax increase and use it to fund No Child Left Behind at the fully authorized level. It can't do that for parliamentary reasons. It is unable to make that clear event within the amendment.

The only clear event within the amendment that does actually occur is there is a $17.2 billion increase in taxes. The point which the chairman of the Finance Committee made, and which I think needs to be reemphasized, is those dollars could easily, if they are raised in this manner, end up significantly impacting our ability to allow people who are now benefiting from no longer having to pay the marriage penalty; those folks could end up paying the marriage penalty because we won't be able to extend the relief from the marriage penalty tax.

If taxes are raised under this bill, those dollars could easily absorb the money intended to be used for the purpose of addressing the issue of the child tax credit, which is a $1,000 tax credit. The extension of that might well be impacted. Those dollars, if this tax is put in place, could potentially impact the ability of this committee to finance the continuation of the expansion of the 10-percent bracket for low-income Americans so they have to pay less burden. Why is that? He made the point, and I thought rather well, that that is because he intends to use the alleged loopholes recited here by my colleagues, which loopholes should legitimately be closed.

There is no reason people should be selling and leasing back the subway system of New York, and the President supports making sure that loophole is closed. He intends to use that revenue in order to fund the ability of people to get a child tax credit of $1,000, to avoid having to pay a penalty because they get married, and to assist in expanding the 10-percent bracket.

As he makes the point, rather legitimately, if the dollars are siphoned off from those loophole closures that are planned under the budget, put in place, and are already in place and accepted as part of this budget, if those dollars are siphoned off and end up flowing pursuant to this amendment into a reserve account, he won't have the dollars available to him as chairman of the committee to accomplish those tax relief efforts.

We are playing with some serious fire here. Basically, the risk of this amendment is, No. 1, raising taxes $17.2 billion over what we need to do; but No. 2, it puts at risk the ability of the chairman to address the use of the taxes that have been put in place in this budget through loophole closings to jeopardize the use of those taxes for the purpose of addressing the marriage tax penalty, the child tax credit, and the 10-percent bracket. A very important point.

Secondly, this amendment represents the goal is to fully fund No Child Left Behind at the authorized level. I believe we have discussed this at some length, but I think it is worth emphasizing again. Authorization numbers are guideposts. Rarely, as a Congress, have we met authorization numbers. The proof is in the pudding.

The last time the Congress was controlled by the Democratic Party and there was a Democratic President, title I was not funded to the full authorization level. It was funded significantly below the authorized level. In fact, this President's commitment to funding education has dramatically outstripped the prior President's commitment or actions in this area. I am sure he had a commitment, but he wasn't able to find the dollars.

This President has made a huge commitment in the area of funding education, and the dollar increase has been a billion dollars a year every year—a billion, billion, billion, billion—cumulative billions for the special education accounts, and a billion and a half to a billion cumulatively for title I and for No Child Left Behind.

I see the chairman of the Finance Committee. I was trying to restate, probably nowhere near as well as the chairman can, the effect of this $17.2 billion credit on his ability to do the extenders, which are so important to low-income families and married people and people with children.

I yield the remainder of our time to the chairman.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 3 minutes.

Mr. GRASSLEY. I thank the Chair and I thank the Senator from New Hampshire for his great leadership in dealing with education.

I spoke about the necessity of the Finance Committee having the freedom to use revenue we can raise by closing these tax loopholes, and the necessity of getting a bipartisan bill out of committee to do it. I think the Senator from North Dakota spoke very well about some of the problems we have with corporations and schemers and scammers using the Tax Code to avoid taxation, by ridiculous things like leasing a subway for a city in the United States, where there is no risk or economic substance to the process. We want to close those loopholes.

I thought I ought to bring to the attention of the Senate one of the bipartisan bills out of committee that was using some of those loophole closings. They definitely have an impact upon some major industries and jobs in this country where they are going to be hurt, because the World Trade Organization has ruled contrary to our trade agreements, the foreign sales corporation, and the extraterritorial income provisions we have had to make to make our business competitive with European business. Since that is ruled out, a lot of jobs in major corporations—Microsoft and Boeing, to name a couple—are going to be hurt and be uncompetitive because of that.

We are taking some of the loophole closing money that is available to offset the revenue, to reduce corporate tax from 35 down to 32, so our businesses can be competitive. We can save jobs at Microsoft and Boeing which would otherwise be uncompetitive as a result of the foreign World Trade Organization ruling.

I don't want the Senate Finance Committee's hands to be tied by a scheme that thinks this money can be used four or five times and can be spent on domestic programs, when we have to have this money to offset very important tax provisions we want to get passed. Saving jobs through this JOBS bill that was before the Senate last week, and will be up again in 2 weeks, is an ideal place to use that revenue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I yield a minute to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized for 1 minute.

Mr. CONRAD. Mr. President, let me just say the amendment of the Senator from Washington does nothing to raise taxes on middle-class taxpayers, on wealthy taxpayers, on anybody but people who are engaged in tax scams and tax dodges, because her proposal is to close tax loopholes to the tune of $17 billion.

As we look in the budget, there is a relatively modest amount of money being raised to close tax loopholes. We know there are tens of billions of dollars, according to the administration, in potential tax loopholes that could be closed.

In addition, let me say to my colleagues I met with the revenue commissioner 2 weeks ago, who tells me the tax gap—the difference between what is owed and what is being paid—was $255 billion for 2001 alone. Let me repeat that. The tax gap—the difference between what is owed and what is being paid—is $255 billion for 2001 alone. There is plenty of money to be raised in tax loophole closings and the end of tax scams and the end of the tax gap to fully fund the amendment of the Senator from Washington and the middle-class tax relief all of us want to see continue.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I know we are going to have a vote in a few minutes. I will wrap up a few things. There has been a lot of stuff strewn across the floor about this. We need to remember what this amendment is all about. It is about keeping a commitment all of us made when we voted to pass No Child Left Behind.

We told our schools, essentially our children, our communities, our families across this Nation that we were going to put in place accountability; that we wanted our students to learn, we wanted them to achieve, and we wanted them to be able to go on and get the skills they needed to be out in the job market.

The Senator from Iowa talked about Microsoft and Boeing and making sure we can be competitive. The best thing for Microsoft and Boeing to be competitive is to have an educated workforce of young people who have the skills they need to come in and do the kinds of jobs to be competitive in an international marketplace.

When we passed the No Child Left Behind Act, we said we were going to put those standards out there, but that was a two-pronged promise, and the other promise was to fully fund No Child Left Behind.

I have been amazed, sitting on the floor all morning listening to the other side say: We never intended to fully fund No Child Left Behind. I am shocked. I thought during the debate we had an agreement that we would have accountability and that we would have funding. Now to come back 2 years later and say, We never intended to fully fund this act, what kind of promise is that to our children? We are going to make you take tests and meet standards, and every year we are going to increase those standards and we expect you to live up to it. But here in Congress we can get behind some kind of statement that we never intended to fully fund it? That doesn't fly in my home.

I think it is imperative that we face the American people and tell them that when we in the Senate make commitments, we mean it. When we make a promise to fund education, to make sure our students have the skills they need, and they can meet those accountability requirements, we keep it. That is what this amendment is about. It is as simple and as clear as that.

I heard those on the other side argue that this is not a real amendment. I heard them say that it just sets up language. The language that I use in this amendment is the exact language that the other side has in the budget to set up a reserve fund for transportation, to set up a reserve fund for Iraq and Afghanistan funding, to set up a reserve fund for fire suppression. Are those not real, either? If those are not real, then I accept the argument that mine is not real. But if they want to stand out here and say we are fighting for fire suppression, that their budget covers Iraq and Afghanistan, that their budget covers transportation, then this amendment covers the No Child Left Behind funding.

This amendment is real. It is exactly real. No one can hide behind the fact it is not real. It is real to every child in every classroom across this country.

There is a revolt going on in this country. Any Senator who has been home and been in a school knows it. Any Senator who has talked with legislators at their homes—and I know there have been discussions in Virginia, Utah, and many other States across the country—knows they do not want this mandate anymore and to take off the handcuffs because we have not funded it.

We have not lived up to our obligation to our children, to our communities, to our families, to our States, and to everyone else in this world who cares about education because we have not funded this bill.

My amendment is basic and simple. It says we will follow up on a promise we made 2 years ago to fully fund No Child Left Behind. I am more than at ease to go home and tell my constituents that I am fighting to make sure their children get a good education and we follow up on a promise. That is the decision every Senator is going to have to make when they vote on this amendment. Whose side are you on, on the side of making sure we keep our promises, making sure our children have the ability to learn and we do not just tell them they have to live up to standards, or on the side of hiding behind smoke and mirrors?

I intend to go home and tell my families in every community across the State that I am going to fight every single day I am here to make sure their children have quality teachers, their children have quality classrooms, their children have the ability to have good curriculum, their children are able to learn the skills they need from highly qualified teachers because that is what we promised them in this bill.

This amendment is about keeping promises. I urge my colleagues to vote for the Murray-Kennedy amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. The time of the Senator has expired.

Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 2719. The clerk will call the roll.

The bill clerk called the roll.

Mr. REID. I announce that the Senator from South Dakota (Mr. JOHNSON) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

The PRESIDING OFFICER (Mr. SUNUNU). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 46, nays 52, as follows:

[Rollcall Vote No. 35 Leg.]

YEAS—46

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carper
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Inouye
Jeffords
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

NAYS—52

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NOT VOTING—2

Johnson
Kerry

The amendment (No. 2719) was rejected.

Mr. NICKLES. Mr. President, I move to reconsider the vote.

Mr. CONRAD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NICKLES. Mr. President, I thank our colleagues. We spent most of the morning on one amendment. I discussed this with my friend and colleague from North Dakota and said I know a lot of Members have education speeches they want to make. We were pretty generous with time allotments for those amendments. But I really want to tell our colleagues that generosity with time is coming to a close. We are going to start picking up the pace rather substantially. That means we are going to have a lot more votes. It means I am doing everything I can to avoid a vote-arama which Senator BYRD and I have discussed many times. We think it is demeaning to the Senate to have a large number of votes where Members are voting with almost no debate. We are making a great concession on our side. It is easy to debate and say now the time is up and have a vote-arama. I think that is demeaning to the Senate.

I have discussed this with my colleague, Senator CONRAD. We are willing to consider more amendments with time agreements, have a shorter debate time, and try to dispose of amendments so we can avoid the necessity of being here very late Wednesday, Thursday, Friday, and/or Saturday. We are going to complete the bill. But let us try to cooperate, Democrats and Republicans, proponents and opponents. We all have various issues on these amendments, but we are going to have to move quickly. That last rollcall vote was 25 or 26 minutes. The time limit is 15. I expect to be calling for regular order shortly after 15 minutes. We have three or four very significant amendments that will be coming up. Senator BYRD, I believe, is going to offer an amendment dealing with striking reconciliation. I believe Senator STEVENS and Senator WARNER may be offering an amendment on defense. Excuse me. Senator LINDSEY GRAHAM and Senator BUNNING have an amendment we hope to be able to accept. That shouldn't take too long. Senator BYRD has an amendment on reconciliation. We expect an amendment dealing with defense. We expect an amendment dealing with pay-go. Those are three or four major issues. We might stack the votes. I will consult with my colleague from North Dakota as far as the timing of the votes.

We have had a significant debate. It is time for us to dispose of these amendments so we can avoid the so-called vote-arama.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, might I add my voice to the voice of the chairman. We are rushing toward another vote-arama. We have 58 amendments noticed on this side already. Some of them are duplicative. On some of them, one Senator is offering many more than one amendment. I am asking our colleagues to please let us exercise discipline. Let us reduce the number of amendments. I propose to my colleague that we consider entering into a time agreement at least on these next few amendments. If we could agree, for example, on 30 minutes or 40 minutes equally divided on the next amendment, and then an hour equally divided on an amendment on reconciliation, then an hour on an amendment at the designation of the chairman, and then an hour equally divided on pay-go, and stack the votes, we could then have a series of three votes at about 5:45 which might accommodate some. I know there are plans for this evening by some. At least we could get a series of important votes concluded.

Mr. NICKLES. Mr. President, I appreciate my colleague's excellent suggestion. I am not ready to enter into a consent on all of those amendments. I think the Senator from South Carolina has indicated he wants 45 minutes on his amendment. I am willing to enter into an agreement on Senator BYRD's amendment. I don't think I am ready to go yet on the Stevens-Warner amendment. I need to consult with them first. If we can enter into an agreement on those two amendments, I am happy to do that.

Mr. CONRAD. I am happy to enter into an agreement of 45 minutes equally divided on the Graham amendment and an hour equally divided on the Byrd amendment.

Mr. NICKLES. I have no objection.

Mr. BYRD. Mr. President, reserving the right to object, I am not yet ready to enter into an agreement on my amendment.

The PRESIDING OFFICER. Objection is heard.

Mr. NICKLES. Mr. President, our order would be then to consider the amendment offered by Senator GRAHAM and Senator BUNNING.

The PRESIDING OFFICER. Under the previous order, the next order of business is the amendment of the Senator from South Carolina, Senator GRAHAM.

The Senator is recognized.

AMENDMENT NO. 2731

Mr. GRAHAM of South Carolina. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. GRAHAM], for himself, Mr. DASCHLE, Mr. BUNNING, Mr. LEAHY, Mrs. CLINTON, and Mr. DEWINE proposes an amendment numbered 2731.

Mr. GRAHAM of South Carolina. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To enhance military readiness by creating a reserve fund to provide TRICARE benefits for members of the Selected Reserve of the Ready Reserve, fully offset through reductions including unobligated balances from Iraqi reconstruction, and a reserve fund to provide Montgomery GI Bill benefits to members of the Selected Reserves)

On page 28, after line 7, insert the following:

SEC. 304. RESERVE FUND FOR GUARD AND RESERVE HEALTH CARE.

If the Committee on Armed Services or the Committee on Appropriations reports a bill or joint resolution, or an amendment thereto is offered or a conference report thereon is submitted that expands access to health care for members of the reserve component, the Chairman of the Committee on the Budget may revise allocations of new budget authority and outlays, the revenue aggregates, other appropriate aggregates, and the discretionary spending limits to reflect such legislation, providing that such legislation—

(1) would not increase the deficit for fiscal year 2005 and for the period of fiscal years 2005 through 2009, or would offset such deficit increases through reduction of unobligated balances from Iraqi reconstruction; and

(2) does not exceed $5,600,000,000 for the period of fiscal years 2005 through 2009.

SEC. 305. RESERVE FUND FOR MONTGOMERY GI BILL BENEFITS.

If the Committee on Armed Services or the Committee on Appropriations reports a bill or joint resolution, or an amendment thereto is offered or a conference report thereon is submitted, that increases benefit levels under the Montgomery GI Bill for members of the Selected Reserves, the Chairman of the Committee on the Budget may revise allocations of new budget authority and outlays, the revenue aggregates, other appropriate aggregates, and the discretionary spending limits to reflect such legislation, providing that such legislation—

(1) would not increase the deficit for fiscal year 2005 and for the period of fiscal years 2005 through 2009; and

(2) does not exceed $1,200,000,000 for the period of fiscal years 2005 through 2009.

Mr. CONRAD. Mr. President, with the indulgence of the Senator, might I repeat the request. I think we might have it worked out so we can enter into a time agreement on the next two amendments, if the chairman would be willing to repeat the request.

Mr. NICKLES. Mr. President, I ask unanimous consent that the amendment by Senator LINDSEY GRAHAM and Senator BUNNING be limited to 45 minutes without second-degree amendments, and I ask unanimous consent that the amendment to be offered by Senator BYRD be limited to 1 hour equally divided without second-degree amendments.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GRAHAM of South Carolina. Mr. President, I ask unanimous consent that Senator CHAMBLISS and Senator ALLEN be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2731, AS MODIFIED

Mr. GRAHAM of South Carolina. Mr. President, I ask unanimous consent to add the word "and" on page 2 to lines 4 and 16 of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is so modified.

The amendment (No. 2731), as modified, is as follows:

On page 28, after line 7, insert the following:

SEC. 304. RESERVE FUND FOR GUARD AND RESERVE HEALTH CARE.

If the Committee on Armed Services or the Committee on Appropriations reports a bill or joint resolution, or an amendment thereto is offered or a conference report thereon is submitted that expands access to health care for members of the reserve component, the Chairman of the Committee on the Budget may revise allocations of new budget authority and outlays, the revenue aggregates, other appropriate aggregates, and the discretionary spending limits to reflect such legislation, providing that such legislation—

(1) would not increase the deficit for fiscal year 2005 and for the period of fiscal years 2005 through 2009, or would offset such deficit increases through reduction of unobligated balances from Iraqi reconstruction; and

(2) does not exceed $5,600,000,000 for the period of fiscal years 2005 through 2009.

SEC. 305. RESERVE FUND FOR MONTGOMERY GI BILL BENEFITS.

If the Committee on Armed Services or the Committee on Appropriations reports a bill or joint resolution, or an amendment thereto is offered or a conference report thereon is submitted, that increases benefit levels under the Montgomery GI Bill for members of the Selected Reserves, the Chairman of the Committee on the Budget may revise allocations of new budget authority and outlays, the revenue aggregates, other appropriate aggregates, and the discretionary spending limits to reflect such legislation, providing that such legislation—

(1) would not increase the deficit for fiscal year 2005 and for the period of fiscal years 2005 through 2009; and

(2) does not exceed $1,200,000,000 for the period of fiscal years 2005 through 2009.

Mr. GRAHAM of South Carolina. Mr. President, I will give a quick overview and yield to Senator BUNNING for as much time as he needs to explain his portion of the amendment. Then we will go to Senator DEWINE and Senator DASCHLE and myself to finish.

I compliment Senator NICKLES for helping us work this out. This is the amendment we have been talking about for almost a year now, setting aside some money in the budget to address the health care needs of the Guard and the Reserve.

If you are an activated member of the Guard or Reserve, you go into the military health care system called TRICARE. Your family has eligibility for that system. When you come off active duty, you will go back into your private plan, if you have one. If you are uninsured, there will no plan available for you.

We are trying to allow Guard and Reserve members, by paying a premium out of their pockets, to be full-time members of TRICARE so they will have continuity of health care.

Twenty-five percent of the people who were called to active duty for Guard and Reserve were unable to be deployed because of health care problems. Providing continuity of health care year round would be a good measure. I know this will help retention and recruiting.

There is another aspect of this amendment, thanks to Senator BUNNING. What is happening with our Guard and Reserve forces is they are becoming overutilized. There has been a 170-percent increase in Guard and Reserve utilization since 9/11.

The GI bill of rights applies to the Guard and Reserve in a limited fashion. Thanks to Senator BUNNING's efforts, that is about to change.

At this time, I would like to yield to Senator BUNNING to explain what he is trying to do for the Guard and Reserve members with an amendment in terms of the GI bill.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. BUNNING. Mr. President, my amendment provides funds to increase educational benefits for the National Guard and Reserve members under the GI bill. Currently, National Guard and Reserve members are eligible for only $282 per month under the GI bill. That is only 27 percent of the amount active-duty members can get.

In 1985, Congress set educational benefits for our Guard and Reserve members at 47 percent of the active-duty benefit level. Since then, it has continued to slip to today's levels of 27 percent. My provision provides the funds needed to bring Guard and Reserve benefits back to that 40-percent mark.

Today, we are using our National Guard and Reserve, as Senator GRAHAM said, more than ever. They are being deployed away from their homes and families for longer periods of time and put in harm's way. We should provide them with educational benefits that reflect the contributions they make to our national security.

I urge Members to support the Graham amendment.

Mr. GRAHAM of South Carolina. Mr. President, I thank Senator BUNNING on behalf of all the Guard and Reserves. He has made a real difference in their lives. This is long overdue. I appreciate what the Senator has done to make this a better amendment.

I yield 3 minutes to Senator LEAHY.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I am glad to join my colleagues Senator DASCHLE of South Dakota and Senator GRAHAM of South Carolina in support of this critical budget amendment on the readiness of our National Guard and Reserves. This amendment will allocate resources in the country's long-term budget to implement a comprehensive health insurance program for the 800,000 citizen-soldiers who serve in the National Guard and Reserves.

Last year, the Senate recognized that 20 percent of the Nation's military reserve—over 150,000 citizens waiting to answer the call-to-duty—did not possess health insurance. During a vote here on the Senate floor, 85 senators collectively agreed that this was unwise, and more importantly, unconscionable that citizen soldiers ready to fight for their country would arrive for service in less than perfect health because they were uninsured.

As a response to this clear problem, we passed a stopgap health insurance program that allowed reservists to receive fully reimbursed health insurance through TRICARE as soon as they received their orders and maintain that insurance after they had been deactivated.

The centerpiece of the program passed in Congress last year was a provision to allow drilling members of the Guard and Reserve to buy into the TRICARE program on a cost-share basis if they were between jobs or did not have access to health insurance through their employers.

This program guarantees that every member of the Guard and Reserve is covered either through TRICARE or a civilian program. However, the final defense bill last year authorized the program only through the end of this calendar year. This amendment would expand funding for this program for the next 5 years.

More troubling, critical portions of our original proposal, embodied in S. 852, the Comprehensive Guard and Reserve Health Benefits Act, dropped out during the final negotiations.

Missing in the final package was eligibility for employed members of the Guard and Reserve to sign up for the cost-share TRICARE program. This took away health insurance options for our reservists and a necessary mechanism to make the mobilization process easier by eliminating the need for reservists to switch back and forth between health insurance plans when they are activated.

The final compromise also short-changed families of activated reservists who wanted to maintain their civilian health insurance while their loved ones were activated.

That provision would have substantially reduced some of the intense disturbances these long separations create. We crafted this provision to have only marginal costs compared to the size of the benefit for Guard members, reservists and their families.

This amendment will help fund the full program set forth in S. 852: Early health insurance, TRICARE access for all, reimbursements to families for keeping civilian health insurance, and maintaining full TRICARE after deployment. It truly is a comprehensive package. It is, I want to note, the exact same legislation that received an overwhelming 85 to 10 favorable vote during our debate on the defense bill.

The Department of Defense has slow-rolled implementation of the program turned into law last year. They are still not opening up the cost-share program to eligible service-members. Passing this amendment this year on the budget resolution sends a signal to DOD that they need to move ahead more aggressively. But, more importantly, this amendment assures the 130,000 men and women in the Guard and Reserve serving in Iraq, Afghanistan, or at home, and the entire Guard and Reserve force, that we are going to take significant steps to ensure that they are ready to meet the challenges ahead. We are not going to let our Guard down.

To reiterate, this amendment will allocate resources in the long-term budget to implement a comprehensive health insurance program for the 800,000 citizen soldiers who serve in the National Guard and Reserve.

We recognized in the Senate last year that 20 percent of the Nation's military reserve—over 150,000 citizens waiting to answer the call to duty—did not possess health insurance. Think of that, over 20 percent of the military reserve, 150,000 people, with no health insurance. That is unwise and it is also unconscionable these citizen soldiers do not have health insurance.

We passed a stopgap health insurance program that allowed reservists to receive fully reimbursed health insurance through TRICARE as soon as they receive their orders and maintain that insurance after they have been deactivated.

Missing in the final package was eligibility for members of the Guard and Reserve to sign up for the cost-share TRICARE program. We have crafted a provision at only marginal cost compared to the size for members of the Guard and Reserve, and this will help fully fund the program set forth—early health insurance, TRICARE access for all, reimbursements to families for keeping civilian health insurance, and maintaining full TRICARE after deployment.

We need to do this. We cannot continue to ask these men and women to go overseas to serve, basically full time, and have part-time benefits. They are full-time soldiers. They should be treated that way.

Mr. GRAHAM of South Carolina. I yield 10 minutes to the chief author of this legislation, Senator DEWINE.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I am proud to join this afternoon my colleague, Senator LINDSEY GRAHAM, in support of this very important amendment. I commend him for his great leadership and great work.

I have been a longstanding supporter of both initiatives: extending TRICARE coverage to members of the Guard and Reserve, and also increasing the level of benefits provided to the Selective Reserve under the Montgomery GI bill. I have introduced and cosponsored several bills to address existing inequities with these specific benefits.

Unfortunately, benefits for our Guard and Reserve simply have not kept pace with the increasing role that these individuals are expected to play today.

I commend Senator GRAHAM, Senator DASCHLE, and Senator BUNNING for their great leadership and their continued commitment to these initiatives. I look forward to working with them through the coming months to make these important initiatives a permanent reality.

This is important work. I know of nothing more important that this Senate will be doing in the months ahead. I look forward to making sure we get the job done.

I thank my colleague for the time this afternoon to talk about another important amendment that I have filed, but I am not calling up at this time. I take a moment to talk about this amendment that is cosponsored by Senator LEAHY and Senator COLEMAN, an amendment that I have sponsored.

We live in a world of 6 billion people, the majority of whom live in developing countries. Theirs is a world where, according to UNICEF, out of every 100 children born, 30 will most likely suffer from malnutrition in their first 5 years of life; 26 will not be immunized against the most basic of childhood diseases; and 19 will lack access to clean, safe drinking water.

This is certainly unconscionable. Yet we have seemingly come to expect and indeed accept this as a way of life in the developing world. The tragedy is that all of this is avoidable. We can do something about it. We can do simple things, really simple things, basic things that can save millions of children's lives every year. The reality is we are not doing enough right now. Candidly, we are tolerating these deaths, and saving these lives simply has not been a priority. Our amendment would change that. And it is, indeed, a step in the right direction.

I take a few minutes this afternoon to share some important statistics about child and maternal mortality. I am often hesitant to come to the floor and talk about statistics. When we hear statistics, it is all too easy to become numb, all too easy to forget the human realities they, in fact, represent. It is important for all to listen to some of these statistics today because they are so unbelievable and so tragic. They represent so many lives, countless lives that could, in fact, be saved; lives that could be saved if we would make the appropriate amount of resources available to people who are in such dire need.

Let's look at the facts. Today, over 10 million children under the age of 5 die each year from preventable, avoidable, and treatable diseases and ailments, including such things as diarrhea, pneumonia, measles, and, yes, malnutrition. Over 10 million children under the age of 5 die from preventable and avoidable diseases. Of those 10 million deaths worldwide, 3.9 million occur in the first 28 days of life. These babies do not even have a shot at living their lives or even getting as old as 2, 3, 4 or 5. Yet two-thirds of these deaths could be prevented if available and affordable interventions had reached the children and mothers who needed them.

Malnutrition contributes to 54 percent of all childhood deaths, and as many as 3 million children die annually as a result of vitamin A deficiency. An estimated 400,000 cases of childhood blindness are reported each year, also, because of vitamin A deficiencies.

According to the World Health Organization estimates, at least 30 million infants still do not have access to basic immunization services, and over 4.4 million children died from vaccine-preventable diseases in the year 2001 alone—diseases such as hepatitis, polio, and tetanus. Of all the vaccine-preventable diseases, measles remains the leading childhood killer, claiming the lives of, it is estimated, 750,000 children—more than half of them in Africa alone. Yet vaccine-preventable deaths could actually be cut in half by the year 2005 if these children were receiving proper vaccinations.

Mr. President and my colleagues in the Senate, we can change the course of these developing nations. We can change this tragic human reality. We can start by providing additional money and support for our child survival and maternal health programs. The fact is, this is an emergency situation. There really is not any other way to describe it. Over 10 million children dying each year from preventable and treatable illnesses certainly qualifies as an emergency.

It is the equivalent of roughly 55 fully loaded 747 airplanes crashing every day for a year. Think of that. If that were happening, if that many airplanes were going down each day in this country, or anywhere in the world, we know what our reaction would be. It would be all over the news, all over CNN. We would declare a worldwide tragedy, and we would do something about it.

But these problems facing the developing world cannot be resolved through short-term, temporary, piecemeal assistance. If we are to make any real headway in improving the health of women and children in the long term, we need to take some bold and radical steps, and we also need to be committed to supporting, in the long run, maternal and child health programs, and not just now but next year and the year after and the year after that. Our funding simply cannot be administered in a single dose.

If we could look into the future 10, 20, 30, 40 years from now, we would see what is possible with sustained investments in primary health care and public health systems.

An article recently published in the journal, The Lancet, suggests that providing, for example, vitamin A as a preventing measure could avert as many as 225,000 deaths, and providing oral rehydration therapy could prevent as many as 1,477,000 deaths. Simple interventions and treatment are not expensive. Oral rehydration salt packets cost about 8 cents apiece—8 cents.

For 4 cents per child, two vitamin A capsules could be given every year to children around the world, saving over 650,000 of them from blindness and death. For 30 cents worth of basic antibiotics given to every child with pneumonia, we could prevent 577,000 deaths. I think you get the idea.

Here is another example: Iodine regulates growth and the metabolism. A deficiency in iodine is the primary cause of preventable learning disabilities and brain damage. Iodine can be introduced into the diet by something as simple as fortified salt—iodized salt—something that is in all our kitchens at home. This simple measure would cost only 5 cents per person annually.

Furthermore, our amendment would allocate additional money to help avert maternal and neonatal death and improve maternal health, including the prevention of obstetric fistulas and other types of injuries and disabilities resulting from childbirth in unsafe circumstances.

The fact is, all pregnant women are at risk for injuries and childbirth complications, which is why it is so important to have skilled attendants—midwives, doctors, or nurses—present at birth. Yet only about half of the world's women give birth with a skilled attendant available.

The child survival and maternal health funding provides resources so that USAID can provide training and technical assistance in infection prevention and quality of care, as well as needed equipment and supplies to bring health facilities up to a level where they can provide safe and effective emergency pre- and postnatal care. Clearly, child survival interventions do, in fact, work, and they are the most cost-effective tools we have in the struggle for better global health.

We can and we should invest in these programs as they increase developing countries' access to basic health services—services such as vaccinations, immunizations, micronutrient programs, and vitamin supplements.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DEWINE. Mr. President, I ask for an additional 1 minute.

Mr. GRAHAM of South Carolina. Absolutely.

The PRESIDING OFFICER. The Senator is recognized for an additional minute.

Mr. DEWINE. If we can make these investments and work toward equal access to health care, we can help ensure that mothers receive proper prenatal care, that children and families receive nutritional counseling and vitamin supplements, and that children receive the necessary immunizations and vaccinations to live healthy lives.

But tragically, if we fail to make a sufficient and sustained investment in the development of public health systems that provide primary care, mothers will continue to die prematurely during childbirth, children will continue to die from preventable diseases and causes, and life expectancies in these developing nations will stagnate or perhaps even decrease. This is not acceptable.

Mr. President, adoption of this amendment—as I said, it has been filed but not yet called up—will go a long way to save so many children's lives around the world. Therefore, I would ask my colleagues, when this amendment is called up, to join my colleagues in voting in favor of it.

Again, I thank my colleague for his great work to help our Guard and Reserves in relation to what we talked about earlier today. I thank him for his good work in this area.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM of South Carolina. Mr. President, we are all in a thanking mode, and I think it is appropriate that we try to do as much as we can, in a bipartisan fashion, when it comes to the military.

We will have our differences and funding and our differences about priorities in terms of what helps the economy and what helps to control the deficit. But I want to acknowledge the work of Chairman NICKLES' staff and him personally for allowing this amendment to be accepted as part of the budget because working together, in a bipartisan fashion, we are going to carve out about $5.6 billion to be utilized to help alleviate the Guard and

Reserve health care problems that currently exist. And Senator BUNNING's measured, upgraded GI bill benefits will also be part of the budget. To me, that is a good priority to have made. We have promised to pay for this. I think that is a good statement to have made, too.

Once the authorizing committee gets to work with Senator WARNER, and then, hopefully, Senator STEVENS, who has been a big champion of this cause, they will appropriate what we do on the authorizing committee, that it will be paid for, and that we can bring this program in under the $5.6 billion amount. Senator MCCAIN and others have ideas of how the employer community can contribute.

But I would like to inform those maybe listening in the Guard and Reserve community that your needs are well understood by this body, and there is a real bipartisan effort to meet those needs.

To those in the Active Forces, I think we have tried to upgrade your benefit package, tried to increase your pay. You have earned every penny of it, and then some. We are trying to improve the quality of life of those people stationed overseas and their families.

This is a team effort. Nothing about the Guard and Reserve takes away from the Active Forces. Forty percent of the people in Iraq, by the end of the year, will be Guard and Reserve members. When a guardsman or reservist is called to active duty, it has its own unique stress. God knows their is stress on our active-duty families who are serving in the military and have their family members in harm's way.

More times than not, when you are called to active duty, your pay goes down. There are provisions in our Federal law that will allow some renegotiating of loans but, at the end of the day, it is a very stressful event financially for families.

This one aspect, health care, is a huge problem that needs to be addressed. As I stated before, about one in four people called from the Reserve and Guard community to active duty are not able to be deployed immediately because of health care problems. The No. 1 disqualifying event is dental problems.

When you think about it, a lot of private plans do not have a dental component to it. So by allowing Guard and Reserve members to be part of the military health care system year round, whether they are deployed or not, I think readiness goes up dramatically.

When we look at writing this bill, that would be one of the selling points. I was in Iraq last summer with a delegation of Senators. The Presiding Officer was with us. It was a wonderful opportunity to understand how difficult service overseas can be and how stressful it is being in harm's way. You come away with a great sense of pride about all those serving our country. As the Presiding Officer will recall, we had nine C–130 flights in Afghanistan and Iraq. Eight of the nine crews were Guard crews. The last was a Reserve crew. All the 130 crews were from the Guard and Reserve community. That duplicates itself in many other areas—MPs, civil affairs. There is a heavy reliance on Guard and Reserves.

I remember on one of the flights the pilot and the copilot were going to be first-time dads. One person worked for Southwestern Bell. Southwestern Bell voluntarily extended health care coverage for the family, even though he was called back to duty, so that person's wife did not have to change doctors or hospitals. The copilot was a realtor and he didn't have such an opportunity. So his wife had to change doctors and hospitals late in the pregnancy, and it was a very stressful event.

One thing about providing full-time TRICARE eligibility to those who want to pay the premium, we are asking guardsmen and reservists to contribute to the cost. That is only fair, and it is a very good deal. They will be contributing out of their pocket, like their active-duty counterparts. One of the benefits is, your family doesn't have to bounce around from one health care provider to another, even when you change plans. Some people have been deployed already three times. The likelihood of their utilization in the future is greater, not less. Adopting this amendment as part of the budget allows us to take some money to meet those needs.

I need to say this about Senators DASCHLE and LEAHY and CLINTON, and our other Democratic sponsors: We wouldn't be here without Senator DASCHLE. I don't know how to say it any clearer. We would not have made it this far if he had not taken on this cause and pushed as hard as he could push. He has been around here a lot longer than I have. It really did matter. He and I may vote differently for the rest of the week, but I have great admiration for him as a person and we will vote together today. At the end of the week he may have a different view about what the budget does for the country, but we will have agreement on this, that the Guard and Reserve community is one step closer to getting the help they deserve. I publicly acknowledge that and thank him. It has been a very pleasurable, enjoyable experience. We are not there yet, but we are closer than when we began.

I am the only Member of the Senate who is in the Reserves. I recently got promoted and made a joke about that, showing how stressed out we are in the military if I am promoted. I am proud of my service. I have never been in harm's way.

The one thing I got from that experience, having been on Active Duty for 6½ years, serving overseas—I was in the Guard as a support person in Alaska, doing legal work for families and military members being deployed—I know how stressful it is for families left behind and how stressful it is for the pilots and their crews.

Here we are 10 years later plus, involved in another major operation to fight the enemies of this country who, if they had their way, little girls wouldn't to go school and there would be only one way to worship God. It would be their way. And if you differed, you would die.

This is a huge event we are undertaking, the war on terrorism. The Guard and Reserve community is playing a bigger role than ever.

The cold war dynamic with the Guard and Reserve has changed with the war on terrorism. They are indispensable. That will not change anytime soon. The stress on the forces is as great as it has ever been in my military career, and the benefit package has not been changed substantially in 30 years. Now is the time to come together, Republicans and Democrats, and put on the table new benefits for those serving their country in a very patriotic and unselfish way.

With that, I yield to the minority leader and my colleague on this effort, Senator DASCHLE.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. I thank the Senator for his kind words. I have to say, this has been an equal joy for me. The Senator from South Carolina has been an extraordinary partner in this effort. I applaud him for the extraordinary efforts he has made to get us to this point and the leadership he has provided. As he has noted, we may disagree on other issues, but on this there is very strong bipartisan support. I cite his leadership as one of the reasons why.

I can speak for all of those on this side of the aisle who have worked to try to pass this legislation. Senator GRAHAM's efforts, his persistence, and the extraordinary effort he brings to ensuring we succeed is a big reason why we are going to be successful today.

We have actually voted on this three times in the Senate. We have done so with overwhelming margins. It is not often on an amendment that you can generate 80-plus votes. But 87 Senators have already said this ought to be law. Because they have said it ought to be law, we are confident it will become law sooner or later.

The legislation we are offering today very simply recognizes, first, that there are differences between members of the Reserves and the Active Duty. The Active Duty don't have to pay for their health care. We believe that is the way it should be. If you are on active duty and you are defending your country, that ought to be one of the prerequisites of Active-Duty service. We are suggesting that if you serve your country alongside that member of the Active Duty, you ought to have access to that health care, and maybe you ought to pay a little premium.

Our guardsmen and reservists are determined and are accepting of that difference. They just want access to the care. They are willing to pay a premium, unlike our Active-Duty personnel who get it as part of their job, but they do want access. So that is the first big difference.

Clearly, what most people don't understand is this premium is a very significant differentiation between Active-Duty personnel and the Guard.

The second is, this will not be taken out of the Pentagon budget. What we are proposing with this amendment is we add $5.6 billion. We recognize there are some very important needs within our defense budget that have to be met. We don't want to see this compete with other needs, and that is why we are adding on. But we are also not adding to the deficit. There is a significant unobligated balance in the Iraq reconstruction fund, money that would go to Iraq normally, that is not going to be required in this fiscal year from which this money is taken.

So first, we are not exacerbating the deficit. Secondly, we are not competing with any other programs in the Defense Department. And third, we recognize the difference between members of the Reserve and Active-Duty personnel. So for all those reasons, we think this amendment is very carefully drawn.

Obviously, there is no question about the importance of what it does. It extends coverage to all reservists who are willing to pay the premium. You pay the premium; you have access to the health insurance. Secondly, we provide offsetting coverage when people are called up and they have private coverage that they want to maintain. We are saying, if you are called to service by your country and you are fighting in a faraway land, we are going to ensure that if you have private coverage that you think is important and you want to keep for your family, you ought to have a right to do that.

Finally, we make it permanent. We ought to take out the guessing game. There shouldn't be any question as to whether it is going to be here this year, gone the next, whether some people are going to have to sign up, worrying whether they can sign up in subsequent years.

What Senator GRAHAM suggests with our amendment is, No. 1, it ought to be permanent. We have seen, as the Senator from South Carolina so aptly noted, the biggest callup of members of the Guard and Reserves since World War II. Our dependence upon the Guard and Reserves continues to grow. Forty percent is now the number that is widely recognized; 40 percent of those serving in Iraq are members of the Guard and Reserves. So there is no question this integration of forces is a fact of life.

If we are going to see this integration of forces in the future, we have to recognize that we are going to have to change our benefits and pay structure to meet the demand and to put some element of fairness back into the system.

This amendment is needed for two reasons. One, it is the right thing to do. When you have 30 percent of those members of the Guard and Reserves who are called up today who have no health insurance, many of whom can't even get the kind of health care they need to be compliant physically with the demands of their job, you need this amendment.

Secondly, when you look down the road and you talk to Governors and the Guard and Reserve decisionmakers, what they will tell you privately, and for good reason, is they are understandably concerned about retention, understandably concerned about meeting the needs.

You will not find more patriotic Americans anywhere than those who serve through the Reserve and the Guard. Nobody is more committed. They give up their jobs, time with their families, and they go to faraway places and sacrifice salary in order to defend their country.

All we are saying is, for all of that, we want you to stay in the Guard and continue to serve your country, so we are going to be a little more fair regarding your access to health insurance. That would be one less problem for them. This amendment does that permanently, and it deserves to be passed overwhelmingly.

We are not going to ask for a rollcall vote because we have had three of them. We think the Senate is on record adequately regarding this legislation. We will be back. This only authorizes it in the budget. We are going to come back with Defense Appropriations to make sure it is also a part of the law as we consider the important aspects of public policy relating to defense in the future.

Again, let me end where I started. Senator GRAHAM deserves great credit for the effort he made to bring us to this point. I am pleased that, on a bipartisan basis, we can pass this with an exclamation point this afternoon. This deserves to be law. This year is the year to do it.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GRAHAM of South Carolina. Mr. President, I yield to the Senator from Louisiana.

Ms. LANDRIEU. Mr. President, is there 5 minutes available to speak for the amendment?

The PRESIDING OFFICER. The sponsor controls 1 additional minute. The minority manager of the bill controls 20 minutes.

Mr. CONRAD. How much time does the Senator need?

Ms. LANDRIEU. Five minutes.

Mr. CONRAD. Mr. President, does Senator GRAHAM wish to retain a minute of his time?

Mr. GRAHAM of South Carolina. Yes. I will try to yield part of it back.

Mr. CONRAD. I yield 5 minutes to the Senator from Louisiana off of our time.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Ms. LANDRIEU. Mr. President, I thank those managing the bill, and I thank the Senator from South Carolina for bringing this amendment to the floor. I would like to cosponsor this amendment because it helps our veterans and Guard and Reserve in two very important ways. The Senator's portion of this helps to extend the TRICARE piece and extends also in this amendment the GI benefits for the Guard and Reserve.

As I have said many times, the Guard and Reserve that is protecting us today, that is serving as the core in many instances of our Armed Forces, is not the Guard and Reserve of our fathers' or grandfathers' generations. They are citizen soldiers. They are professional soldiers. Because of policy changes we put into place, the Guard and Reserve now are picking up about 40 percent of the battlefield burdens, and they deserve a greater portion of the overall budget to support them.

Do our active troops deserve support? Absolutely. But our Guard and Reserve, because they are picking up an ever-increasing responsibility regarding this war against terrorism, the war in Afghanistan and the war in Iraq, and even right here on the homefront, deserve more help and support.

I am proud to be a cosponsor of this amendment. I believe it will pass with great support on both sides.

I wanted to take a minute to also talk about something I hope we can find a way in this debate to fix. I want to see if we can find a way to fix the survivor benefit plan, which was enacted in 1972. This survivor benefit plan was a pension benefit for military spouses, after the retirees passed away. We said if the retired veterans wanted to basically pay into a certain account, when the retiree died, their wives would receive 55 percent of the veterans retirement pay.

We created this fund. However, after it was established, budget policies were put into place that basically cut out that benefit. So we now have the unbelievable and untenable situation where spouses—most of them women; I would say 85 to 90 percent are female—who, by the request of our military, move themselves and their families every 2 years, which makes it extremely difficult for anyone to develop any consistency in a career outside the home, even if they were able and willing. Moving every 2 years doesn't give them the opportunity to expand their earning capacity. That was a sacrifice many spouses and their families made to support the men in this case—in most cases—serving in our military and to support the country.

Yet for all that great commitment and service and dedication, we tell them, thank you very much, but we are going to cut your benefits from 55 percent of what you and your spouse put in, in some instances, down to 32 percent. It is not fair.

There are Senators on the floor—I see the chairman of the Budget Committee—who say we cannot afford to cut back the tax cut to provide for this. They say the tax cut is too important and we cannot even modify it or change it or postpone it or adjust it even in the slightest amount to pay for that.

I disagree. I think we can find a way to adjust the tax cut to pay for the widows who moved every 2 years, paid their own money into the fund, and now they get shortchanged. When we talk about supporting our military families, let's remember the soldier on the battlefield, and let's also remember the soldiers who are at home, both the spouses and children who bear a tremendous burden, who do it willingly and with great patriotism. Let's not ask them to sacrifice when others in this country are not willing to make that same sacrifice.

I will be offering this amendment later, supporting the amendment that is on the floor. Hopefully, we can convince some of the leadership to make adjustments in their tax cut plans to do some things we need to do for our men and women in uniform and their families.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM of South Carolina. Mr. President, I ask unanimous consent that Senators LINCOLN, DAYTON, MURRAY, MURKOWSKI, and MIKULSKI be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM of South Carolina. Mr. President, as Senator DASCHLE has described, this will be offset. This will be budget-friendly, and it will be a huge deal to military Reserve and Guard families who are sacrificing much for their country. It will help build a better support network. If you are called to active duty for the Guard and Reserve, there is no daycare center on base because there is no base in which to go. There is no counseling service because you are sometimes in a rural community far away from military bases.

This continuity of health care would help dramatically. I urge its adoption.

I thank Senator NICKLES for making this possible. I look forward to writing good legislation to help the Guard and Reserve families.

I ask unanimous consent that all time be yielded back on this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM of South Carolina. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina.

The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I compliment my colleague from South Carolina and the Senator from Kentucky, Mr. BUNNING, as well as Senator DASCHLE and Senator CONRAD. We have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2731) was agreed to.

Mr. NICKLES. Mr. President, again, I compliment our colleagues. I urge other colleagues, if they have ideas on amendments, to share them with us and maybe we can work some of them out and eliminate the need for rollcall votes. Rollcall votes take a lot of time and they also don't count on the time for the budget resolution.

I have a unanimous consent agreement on two additional amendments. We have unanimous consent on an amendment by Senator BYRD, dealing with striking the reconciliation instruction, dealing with taxes on the resolution. That is limited to 1 hour. That will begin in a moment.

Following that, I ask unanimous consent that an amendment to be offered by Senators WARNER and STEVENS pertaining to the Department of Defense be limited to 1 hour; an amendment by Senator FEINGOLD dealing with pay-go also be limited to 1 hour, with no second-degree amendments in order.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, it is my understanding, listening to my friend from Oklahoma, the votes will be stacked; is that right?

Mr. NICKLES. That is my intention. I think we can do all these amendments and probably start the votes shortly before 6. These are three important issues, so Members should be advised—I know Members on the Finance Committee wish to speak on a couple of these issues—to be prepared to debate, and Members should expect three rollcall votes shortly before 6 o'clock.

Mr. REID. Will my friend also agree to have 1 minute on each side prior to each vote?

Mr. NICKLES. I have no objection to that request. I modify my request so that the first vote be on Senator BYRD's amendment and then the following two votes, and the managers be allowed to have 1 minute each.

The PRESIDING OFFICER. Is there objection to the request as modified? Without objection, it is so ordered.

Mr. NICKLES. Mr. President, now we will begin consideration of an amendment Senator BYRD will lay down momentarily to strike the reconciliation provision.

Mr. President, I suggest the absence of a quorum.

Mr. CONRAD. Will the Senator withhold?

The PRESIDING OFFICER. Will the Senator withhold his request for a quorum call?

Mr. NICKLES. Yes.

Mr. CONRAD. Mr. President, Senator BYRD is now in the Chamber. While he is going to his desk to present his amendment, I wish to take this moment to urge our colleagues to get their amendments to us so we can review them, so we can eliminate duplication, so we can schedule them efficiently.

If Senators have an amendment they kind of like but really would not need to offer, please withhold. We already have 58 amendments noticed. That is 19 hours of voting. It is going to take discipline if we want to conclude the business on the budget resolution by Friday, which is our common goal. I thank the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is recognized to offer an amendment. The Senator from West Virginia.

AMENDMENT NO. 2735

(Purpose: To provide for consideration of tax cuts outside of reconciliation)

Mr. BYRD. I thank the Chair. I call up my amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 2735.
>
> Strike Section 201(a) of the committee-reported resolution, on page 24 line 21 through page 25 line 3.

Mr. BYRD. Mr. President, for many years, I have been growing increasingly concerned about the Senate as a forum for debate. Senators at every turn seem bent upon undermining this institution and the vision of our constitutional framers embodied in this upper body of the Congress.

The Senate is the only forum in our Government where the perfection of laws may be unhurried and where controversial decisions may be hammered out on the anvil of lengthy debate. It may be slow; it may be unwieldy; it may be frustrating to some; but it is the best means to achieving compromise, to ensuring an informed citizenry, to protecting the rights of the minority. To shut out the minority by limiting the right to debate is to needlessly and detrimentally infuse partisanship into the legislative process. That is exactly what we are seeing in this budget resolution.

Included in the Budget chairman's resolution are reconciliation instructions to the Finance Committee to report $81 billion in tax cuts to extend the child credit, marriage penalty, and 10-percent bracket expansion that are scheduled to expire this year. If misused, there is no procedural mechanism in the Senate more contemptuous of debate than the budget reconciliation process, and it is being misused. It is a process that has morphed into an annual exercise where the majority party takes advantage of the limitations on amendment and debate allowed by the Budget Act to shield controversial legislation from public discussion.

This budget resolution would use reconciliation to circumvent a debate in the Senate about the wisdom of allowing additional tax cuts to deepen the deficit.

I helped to craft the Budget Act in 1974, and I can tell Senators we never in that day contemplated reconciliation would be used to shield from debate legislation that spends the Social Security surplus and increases deficits. We, in that day, never one time envisioned these abuses of the process.

Senators regularly express their desire for less partisanship, longing for the days—the days almost beyond recall—when the Senate accomplished its business without the political acrimony that has marked recent debates.

One reason the Senate avoided such partisanship is because the leaders of the Senate respected the rights of the minority and allowed the Senate to work its will through open and vigorous debate.

In 1981, Republican leader Howard Baker of Tennessee had the opportunity to use reconciliation to pass President Reagan's tax-cut package. Did he use it to do so? No. He chose instead to allow the tax cut to be brought before the Senate as a freestanding bill and fully debated. He said at the time, and I quote Howard Baker:

> Aside from its salutary impact on the budget, reconciliation also has implications for the Senate as an institution . . .
>
> I believe that including such extraneous provisions in a reconciliation bill would be harmful to the character of the Senate. It would cause such material to be considered under time and germaneness provisions that impede the full exercise of minority rights.

Now, that was an extraordinary statement of extraordinary vision by an extraordinary Senator, Howard Baker of Tennessee. Let me read it again, and I quote him:

> Aside from its salutary impact on the budget, reconciliation also has implications for the Senate as an institution . . . I believe that including such extraneous provisions in a reconciliation bill would be harmful to the character of the Senate. It would cause such material to be considered under time and germaneness provisions that impede the full exercise of minority rights.

That was a statement by a statesman. For almost 20 years, the Senate exercised restraint with regard to the reconciliation process, and until 1995 the reconciliation process served as a helpful mechanism for deficit reduction. Since then, the process has been twisted and contorted by those who find its limitations on debate and amendment too enticing to resist, using it to advance a partisan agenda.

The country is the worse for that legislative opportunism. Would that Howard Baker could again speak from these desks.

Today, the White House is projecting deficits at an alarming $521 billion for the fiscal year 2004. To pay for its tax cuts, the Bush administration is spending every dime of the Social Security surplus, money that the President and both parties pledged to set aside to save our retirement and disability system. According to the White House's own numbers, the gross debt just passed the $7 trillion mark on its way to $11 trillion in 2009, and there is no credible plan from this administration or this Congress to do anything about it.

In response to mounting budget deficit projections, President Ronald Reagan signed into law 12 bills to increase taxes, including legislation to repeal part of his 1981 tax cut. Similarly, in response to alarming deficit projections in 1990, President Bush's father made the courageous decision to break his no new taxes pledge.

State legislatures and Governors have been making similar decisions over the past 3 years in Alaska, Alabama, Connecticut, Idaho, Nebraska, Nevada, and Ohio. It is what is being debated right now in Richmond, VA.

Senator WARNER recently and courageously declared: Politics be damned. Let's consider what is best for the men and women and their families and children.

The debate about budget deficits is taking place all across this country. Ironically, the one place where debate is discouraged on this matter is right here in this so-called greatest deliberative body in the world today. The tax cut reconciliation instructions in this budget resolution would stifle a debate when it is most needed.

After 3 years of tax cuts and promises of job growth, the country has not reaped the benefits of those promises. We can tout higher economic growth rates. We can tout higher productivity. But none of these statistics mean anything to an unemployed worker. So far there seems to be no robust connection between these particular tax cuts and job creation.

Since January 2001, 2.2 million jobs have been lost. The manufacturing sector has endured 43 straight months of job loss. Discouraged workers are dropping out of the labor pool at a rate of 100,000 per week. One million jobs have been lost overseas. Countless workers, white-collar workers and blue-collar workers, are worried that their own jobs may be next.

The only thing we know for sure at this point is that tax cuts over the past 3 years have contributed to an explosion in debt. Just look at page 189 in the historical tables of the President's budget. After dropping to a low of $5.6 trillion in the fiscal year 2000, the gross Federal debt has increased to $5.8 trillion in the fiscal year 2001 to $6.2 trillion in the fiscal year 2002 to $6.8 trillion in the fiscal year 2003, and it will continue to increase to an estimated $10.6 trillion in the fiscal year 2009. These figures are beyond all comprehension.

It is not just election year rhetoric. The IMF, the GAO, and the Federal Reserve are all in agreement that deficits do matter, and they are threatening to derail the economy of the United States.

That is not all. The deficits also are threatening our ability to save Social Security. I understand why some would prefer not to engage in a lengthy debate about the explosion in the gross debt. The American public already is having trouble understanding why the Congress should enact the $1.2 trillion in new tax cuts included in the President's budget before we have even figured out how we are going to pay for the cost of the ongoing operations in Iraq.

The budget resolution includes $30 billion in funds for ongoing operations in Iraq. And that figure is only in here because of the thoughtfulness of the distinguished chairman, only because of his thoughtfulness and foresight in putting the figures in here. The administration downtown didn't put a penny in, not one thin dime.

But that $30 billion is even less than what was included in the House budget, $20 billion less than what the administration intends to ask from the Congress, and only enough to finance the first 6 months of the 5-year span in the budget resolution.

The deficits embraced by this budget resolution will prevent the Congress from allocating any money to address the threat to the Social Security system, even though the Social Security actuaries estimate $1 trillion will be needed to finance the transition costs under the options proposed by the President's Social Security Commission.

Reconciliation protects additional tax cuts from public discussion about the size of the financial burden that will be passed on to our children and our grandchildren, and it leaves hanging questions about deficit and debt and balanced budgets that are clearly on the minds of the American people.

We have hard choices to make that may bring to bear enormous change in our Nation. We should not do so silently. This is no time to sweep problems under the rug. At the very least, we have a duty to the future to discuss and debate so that the public, the people out there looking at us through those electronic eyes behind that Presiding Officer's chair will know our reasoning and hold us responsible, hold us accountable. We should lay down a record so that, if in the end our choices are right, they may have in our example a good and steady guide and they may then say, "Well done, thou good and faithful servant. . . ." and so on. But, also so if destiny so transpires that our choices were wrong, others will not repeat our mistakes.

If we have learned nothing else from the events of the past year, we certainly should have learned the absolute necessity of debate in our democratic Republic. We should have learned the folly of failing to ask questions, of failing to probe and to delve, failing to do our duty as the elected representatives of the people of this great Republic. I would think by now we should have learned the dire consequences of our failure to insist on debate. The Senate must not shirk its responsibility to engage in debate about these issues.

With the American public, according to recent polls, in such stark disagreement with the current course of our Nation's economic and budget policies, it is time for the Senate at long last to finally engage in an honest debate about the fiscal course laid out by this administration.

In recent weeks the chairman of the Budget Committee has expressed his desire to address the expiring child credit, the marriage penalty, and the 10-percent bracket tax cuts through the regular legislative process. The chairman of the Finance Committee has indicated his belief that including those tax cuts in the reconciliation bill would create a needlessly partisan debate.

The Senate needs time to explore these views. While these reconciliation instructions are viewed by some as only a backup plan if both the House and Senate pass a budget resolution with tax reconciliation instructions, the decision about whether to use reconciliation may be taken out of our hands. The House can force us to take up a reconciliation bill in the Senate containing tax cuts.

The American public deserves the opportunity to better understand how these tax cuts will affect our mounting budget deficits, and to probe whether these tax cuts should be offset. We should allow the Senate to have its debate, not stifle it.

That is the issue on which we will vote. A vote to strike the reconciliation instructions is a vote to allow the Senate to engage in an informed debate. That is what I want. I want an informed debate. That is why I am suggesting we strike these instructions, so we may engage in an informed debate about how to prevent the further deepening of the deficit, and a further worsening of the bitter atmosphere that has, regrettably, engulfed this body.

I urge Senators to vote to strike the tax cut reconciliation instructions.

I ask unanimous consent to add Senators CONRAD and BAUCUS as cosponsors of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I ask unanimous consent to reserve the remainder of my time. How much time do I have?

The PRESIDING OFFICER. The sponsor of the amendment controls an additional 8 minutes. The majority bill manager controls 30 minutes.

Mr. BYRD. I thank the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I compliment my friend and colleague from West Virginia. He is my friend. He is a valued member of the Budget Committee. He has been on the committee for a couple of years, and I very much enjoyed his participation with us on the Budget Committee.

As a matter of fact, one of my fondest moments, I will tell my friend from West Virginia, in my tenure as Budget chairman, occurred last year. We were in the process of marking up the budget. My first grandson was born. That happens to be day after tomorrow I celebrate his birth. You acknowledged it with a very nice poem, and I want to thank you for that.

Mr. BYRD. Will the Senator yield?

Mr. NICKLES. I will be happy to yield.

Mr. BYRD. You know, my wife and I are the proud possessors of two great-grandchildren, just within the last month. The distinguished chairman's grandson, and Erma's and my great-grandchildren, each of them owes, as of this past Monday, $24,253.36 on the national debt of the United States. My amendment is for the purpose of keeping down this debt and not increasing the deficit.

Mr. NICKLES. I appreciate my colleague's comment. I appreciate the earnestness with which he says it and makes his case very forcefully, but I am going to urge the opposite side.

Let me say, I don't totally disagree with my friend and colleague from West Virginia. I regret it appears we probably need reconciliation at times to get things done in the Senate. My colleague from West Virginia opined about the great days years past when Howard Baker was majority leader. I remember that very well. I remember passing great tax bills. We actually passed a tax bill in 1981, and in 1986—by 1988 the maximum tax bracket went from 70 percent to 28 percent. The Senator from West Virginia is right, it wasn't done under reconciliation.

But I also say the climate was much better in the Senate. There was a lot more cooperation in the Senate. The Senate was more civil and I wish the Senate would return to those days. I hope we don't need reconciliation to pass the bills we are advocating or encouraging the Finance Committee to do. I think it should be able to be done without reconciliation, if the Senate would work the way it should work.

The Senator from West Virginia knows, though, things have changed. Unfortunately things have changed a lot in the Senate. We used to not have filibusters on judges, never had them in the history of the Senate. Now we have six individuals we can't confirm because they happen to be nominated to an appellate court.

We have a situation today where we can't even get bills, in some cases that have been approved by the entire Senate unanimously—we can't even get conferees appointed. Senator ENZI from Wyoming sponsored a bill that has strong bipartisan support. The Workforce Reinvestment Act passed the Senate unanimously, and we can't get conferees appointed.

I am troubled by how difficult it is or how partisan it is to do a lot of work in the Senate.

Last year, yes, we used reconciliation to pass a tax bill and the tax bill was a jobs growth bill. To help the economy we did it, and frankly it worked. If we hadn't used reconciliation last year, it wouldn't have passed. The only reason I was advocating, reluctantly, that we use the reconciliation process to pass it was because I thought it was the only way we could pass it. In days of old, you could pass legislation in the Senate with a majority vote, but a lot of times people think we need to have 60 votes to pass everything. I think that is a serious mistake. The tax bill we did pass last year did cut taxes on dividends.

We used to tax corporate dividends higher than any other country in the world. We slashed that tax by half—in some cases more than half—and it worked. We cut the capital gains rate from 20 percent to 15 percent, and it worked. We set the maximum rate for individuals as the same rate for corporations—35 percent—and it has worked. The economy really did start to move. The reconciliation process and expedited procedure helped us to do things that, frankly, in the past we couldn't have done under normal procedures. The only way to make sure there is not a tax increase on my daughter and, frankly, on my grandson is to make sure we have reconciliation.

I appreciate Senator BYRD saying the amount of debt per child born today is very significant. I want to reduce that. We have a budget that is the most significant deficit reduction package before this Senate in years—maybe decades, maybe ever. We take a $477 billion deficit and reduce it in half in a couple or three years. That is not easily done. I don't think we should raise taxes on American families by not having this reconciliation process. I am afraid that is what will happen.

Some people say you want to give additional tax cuts. The truth is, we want to keep the tax cuts that are now in law. We don't want to have tax increases on American families. If we don't have this reconciliation process, that may well happen. It may be that some Members, for partisan reasons or whatever, would say: I just do not want that to happen. I know President Bush really wants it, and, therefore, they might work hard to see that it doesn't happen. What happens if that is the case? If the tax bill, which is current law, is not extended, there will be a tax increase on American families.

To give you an example, a couple that has taxable income of $58,100—that is not a particularly wealthy family; I think most of us would say that is a middle-income family—this year, under present law, will pay $6,000. If we don't keep present law, their taxes will increase to $7,600; that is for a family of four.

I will outline it. With the provisions that we are assuming in reconciliation, the Finance Committee can reconcile anything. If we give them $80 billion and say, reconcile the tax reduction, we are assuming—presuming maybe—they would extend present law. We are not trying to cut taxes further than they are in the year 2000. We are just trying to keep the present tax law from increasing. If we don't do it, they will find with the tax credit we have now that the $1,000 a child goes to $700. That is a $300 tax increase on that family. If they have two kids, that is $600. If they have four kids, that is $1,200.

Last year we also did something that a lot of people do not understand but it is very significant in the Tax Code. We have the most significant reduction in the marriage penalty—the imposition of taxes on people and penalizing them because of the fact they are married. It is a higher income tax on couples as compared to individuals. We have the most significant reduction of that tax in history. We basically said for at least the couple they should pay the 15-percent bracket. Basically they should have to double the amount of income that an individual has on the 15-percent bracket. It should be doubled for couples. Individuals who have taxable income pay at the 15-percent bracket—taxable income up to $29,000. We say that should be $58,100 for a couple.

If we don't extend present law, they will have a tax increase of $900. They will be paying 25 percent, not on income above $58,100. They will be paying 25 percent above any income above $42,000. That is a $900 tax increase, if we don't extend present law for a married couple.

My father-in-law and mother-in-law are both retired. Their income is in this category. I don't want them to have a $900 tax increase. I don't want my son and my son-in-law and my daughter to have a $900 increase. I want them to be able to get a $1,000 tax credit. It costs a lot of money nowadays to raise children and to educate children.

We also have an expansion of the 10-percent bracket as well. More people pay more who have a greater amount of income. They pay a 10-percent tax instead of 15 percent. That tax rate used to be 15 percent and was reduced to 10 percent, and we expanded the amount of income covered under that.

To make sure people understand, we are trying to extend present law to make sure that a couple with a taxable income of $58,100 will not have a $1,600 tax increase if they have two kids. If they have four kids, it would be a $2,200 tax increase. I didn't want that to happen to American families.

One way of making sure it doesn't happen is to have reconciliation protection so we can pass a bill. If we get bogged down politically and Senator GRASSLEY and Senator BAUCUS can't get it worked out, if there are endless amendments and people will say we are going to keep amending this thing forever, you will never get an agreement to finish it. It is nice to have at least in the arsenal to get things done a reconciliation process where it can guarantee that we don't increase taxes on American families. That is why this reconciliation provision is in there. It is not a lot of money.

We are assuming, according to the Congressional Budget Office, almost $12 trillion of revenues to be generated to the Federal Government under present law over the next 5 years—$12 trillion. I will tell my colleague from West Virginia that we are only reconciling $81 billion out of $12 trillion.

Again, I don't consider that new taxes. That is extending present law for American families—for low-income and middle-income American families primarily. They will be the big beneficiaries of this.

I have the greatest respect for my colleague and friend from West Virginia. But I urge our colleagues to vote no on the amendment to strike reconciliation because this is our resource if people are obstructing passing bills. It seems to be more prevalent all the time in the Senate today. Let us maintain some protection for the American taxpayer by using reconciliation, if we have to. We can make sure these tax increases of $1,600 or $2,200 for a family of four do not happen. Let us not saddle American couples with a $900 tax increase. Let us make sure we protect taxpayers and American families. I am afraid, unfortunately, we need reconciliation as an option to make sure they aren't faced with a big tax increase.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, may I get 3 minutes?

Mr. BYRD. I yield 3 minutes.

Mr. CONRAD. Mr. President, let me say we don't need the reconciliation process to extend the middle-class tax cut the chairman has referenced. I support and I will work to get votes to extend the $1,000 childcare credit, to extend the marriage penalty relief, and to extend the 10-percent bracket. I am absolutely confident that we can get the votes to do that outside of reconciliation.

What is wrong here is to use reconciliation for tax cuts. Reconciliation, which is a fast-track process in the Senate that limits our right to debate, that limits our right to amend, is used for something other than deficit reduction. The only reason Senators agreed to give up their basic rights was because we were in a crisis that required deficit reduction. This is adding to the deficit—not reducing it. The chairman said this budget before us has a record amount of deficit reduction. This budget before us has a record amount of debt increase. This budget before us will increase the debt of the United States by $2.86 trillion over the next 5 years.

The former Budget Committee chairman, Senator DOMENICI, said this about reconciliation:

> Frankly, as chairman of the Budget Committee, I am aware of how beneficial reconciliation can be to deficit reduction. But I am also totally aware of what can happen when we choose to use this kind of process to basically get around the Rules of the Senate as to limiting debate. Clearly, unlimited debate is the prerogative of the Senate. That is greatly modified under this process. I have grown to understand that this institution, while it has a lot of shortcomings, has some qualities that are rather exceptional. One of those is the fact that it is an extremely free institution, that we are free to offer amendments, that we are free to take as much time as this U.S. Senate will let us to debate and have those issues thoroughly understood both here and across the country.

Finally, the simple fact is, the reconciliation instruction in this budget resolution doesn't assure that those tax cuts—the middle-class tax cuts—will be the ones that are, in fact, brought back to us by the Finance Committee. We all know the budget resolution does not make the specific decisions of how the revenue is raised by the Finance Committee.

The chairman of the committee has said over and over in the Senate, we do not control the specifics of what the Finance Committee does. All this reconciliation instruction does is give $80 billion to the Finance Committee. They can use it for any tax-cutting purpose.

Again, we can have an extension of the middle-class tax cuts, $1,000 child credit, and 10-percent bracket, the marriage penalty relief without the blunderbuss of reconciliation.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I will be brief with a couple of comments.

According to the Department of the Treasury, if Senator CONRAD is correct, we give the Finance Committee an instruction and they can do whatever they want, but these three provisions I mention are the only ones that expire at the end of this year that have a lot of popular support because they affect millions of people.

The Treasury Department says if these are not extended, 94 million taxpayers would receive an average tax increase of $538 if we do not extend these three. Seventy million women would see their taxes increase on average $662. Forty-six million married couples, including my son-in-law and daughter, including my father-in-law and mother-in-law, 46 million married couples would pay on average an additional $906 in taxes. Thirty-eight million families with children would incur an average tax increase of $902. Eight million single women with children will see their taxes increase on average by $368. Eleven million elderly taxpayers would pay on average an additional $383. I could go on.

This is important to protect these families, these citizens, these women, these children from a tax increase. I am afraid that reconciliation is the only tool we can have to almost assure them they will not be straddled with a big tax increase for next year.

I reserve the remainder of my time.

Mr. BYRD. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from West Virginia controls an additional 5 minutes.

Mr. BYRD. I thank the Chair.

The distinguished chairman has alluded to the sometimes ill will that exists increasingly within our own premises. That ill will is often engendered by the meddling of the White House. The White House should not meddle in the business of the Congress. Congress should pass bills and the President can decide whether to sign or to veto them.

Last year, the President stepped in late in the debate on the Omnibus appropriations bill and forced the conferees to drop protection for workers to earn overtime. He forced us to change the media ownership rules in order to protect large corporate interests. We should not allow the President to force the Congress to consider legislation through reconciliation.

Moreover, I say to my friend from Oklahoma, this amendment is not about tax cuts. It is about paying for tax cuts. This budget resolution assumes that our gross debt will grow to $10.6 trillion by 2009. This resolution does nothing to address the staggering debt. In fact, it assumes $144 billion of additional tax cuts with $81 billion of tax cuts cloaked within the protection of reconciliation. We should insist on a full debate on whether these tax cuts should be paid for.

We do not need reconciliation to get things done. In 1981, we passed President Reagan's tax cuts without reconciliation. Reconciliation was designed to pass difficult legislation that would help to reduce the deficit. It was not designed to pass tax cuts. We are facing huge deficits. We should have an opportunity to actually debate whether additional tax cuts should be paid for.

May I say to my chairman, I respect him greatly. I am sorry he has voluntarily elected to leave the Senate and not chair the committee. I have tremendous admiration for him. I have always enjoyed his friendship and my associations with him, and I shall long miss him.

I hope, on the note on which we have been playing, Senators will support my amendment.

Does my chairman wish any further time?

Mr. CONRAD. How much time?

The PRESIDING OFFICER. The Senator from West Virginia controls 1½ minutes.

Mr. BYRD. I yield that time to my chairman.

Mr. CONRAD. I thank the Senator.

I yield 5½ minutes off the resolution and the minute and a half that we have in addition for a total of 7 minutes to the Senator from Montana, the ranking member of the Senate Finance Committee.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, all Members ought to think and reflect upon this amendment and how important this amendment is. First of all, let me explain what this amendment does and what it does not do.

What does it not do? It does not prevent any of the middle-income tax cuts we all want to extend. It does not do that. It does not prevent those tax cuts. It does not prevent Congress from enacting an extension of those tax cuts that we all want to extend. This amendment has no effect on that.

What does it do? It says we should not use the regular Senate rules in deciding whether to extend and how to extend the middle-income tax cuts; that is, the child tax credit, the marriage penalty, and the 10-percent bracket. It says no, create a special rule. Do not use the regular order, the regular standing rules of the Senate in determining how and in what way we extend those middle-income tax credits. This amendment does say do not do that. And Congress will extend those middle-income tax cuts. That is not the issue. We are going to do that.

The issue is twofold. One is, should we pay for them or not? That is the issue. And there are lots of ways we could pay for it, lots of ways that are virtually painless. What are those virtually painless ways? Closing a lot of tax loopholes. There are countless tax loopholes that we can pass very quickly, shelters that are ripping off American taxpayers, post-Enron provisions. There are a host of them. We talk about SILOs, for example. We know we are about to find in the Finance Committee other shelters being used that are not widely known.

That is why we are saying this is a two-for. We are saying to extend the middle-income tax credits, tax provisions, child tax cut, and the 10-percent bracket, and at the same time we are going to clamp down on some tax loopholes. I am not being facetious or joking about this. This is real. There are immense loopholes we can and should close down. I know the Presiding Officer agrees, as most Members would agree. This is a two-for.

We are saying, let's get that two-for, get both of those passed. And we have to pass the amendment of the Senator from West Virginia to do that; otherwise, we are saying change the Senate rules, extend these tax cuts but do not pay for them, do not enact those shelters.

I also add, we have a moral obligation.

We have a moral obligation, I believe, as Senators, as representatives of our people, to leave this place in as good a shape or better shape than we found it. That pertains to the environment. That pertains to the budgets. That pertains to all we do. We are entrusted with such responsibility as U.S. Senators.

And, my Lord, it seems to me, right off the top, at the very least, we could cut back on the irresponsible, large deficits and debts we are going to be leaving our children and our grandchildren. That is a moral obligation you have, I have, and each Member of this body has.

By adopting the amendment of the Senator from West Virginia, we can make good on that moral responsibility, that moral obligation, by saying, sure, we are going to extend the tax cuts, as well we should, but we are going to do it in a responsible way; we are not going to add to the budget deficit; we are not going to add to the debt. It is the only right thing to do. I urge my colleagues, therefore, to pay very close attention to the Senator's amendment and to adopt it.

I might add, there are other issues. I do not think these have been thought through very much. Let me just explain.

The budget resolution instructs the Finance Committee to decrease revenues by $80.6 billion. This is intended to cover the extension, as I mentioned, of expiring middle-class tax cuts—the 10-percent bracket, the marriage penalty, and the child tax credit. The instruction for this tax bill does not, however, include any instructions to increase outlays.

Why is that important? It is very important. It is an instruction for tax cuts. Why am I saying we need to also increase outlays? It is not called for in the budget reconciliation provision. I say so because these specific tax cuts also require outlays. That is because there is a refundable part of these tax cuts. Let me explain it.

The child tax credit provides a $1,000 per child tax credit for low- and middle-income families. There are some working, low-income families that do not have income tax liability that this credit can be used to offset. Even so, they are out there working every day paying a good chunk of their paycheck in payroll taxes. For these families whose income does not qualify, we provide, in the law today, as you know, a refundable child tax credit. They do not have the income liability to offset, so they get a refund from the Treasury, and this scores for budget purposes as an outlay.

These reconciliation instructions tell us to extend the child tax credit. But we know that if we extended the child tax credit for all the families that currently receive it, it would take about $20 billion in outlays. But the reconciliation instruction fails to include this. It does not even mention it. In fact, by definition, therefore, we cannot increase outlays.

So what does this mean? The best I can figure it, it means we should extend the tax cuts for all families—except for the working poor. If middle-income families deserve to get the $1,000 child tax credit next year, then why not low-income families?

We have heard many times this week: Families should not see their taxes increase next year. We should extend the current tax relief. So why does this budget leave the working poor families behind?

There are about 26 million families that receive the child tax credit. About 8 million of these families receive some refundable credit. That is almost one-quarter of all child tax credit recipients, families making between $10,500 and $26,000. Three-quarters of families deserve an extension of the full child credit but not the remaining one-quarter? This does not make sense. Give me a break.

Who are the families that will be left behind? Let's think about that a second. A single mother of one, making $17,000 a year is left behind. A couple, both working full time at minimum wage is left behind. What other type of family is going to be left behind? Military families. There are a couple reasons for this.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BAUCUS. Mr. President, I ask unanimous consent for 2 additional minutes.

Mr. CONRAD. Mr. President, I give the Senator 2 minutes off the resolution.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator is recognized.

Mr. BAUCUS. Why are military families left behind under this reconciliation instruction?

First, there are many military families that have incomes between $10,000 and $26,000 a year. Roughly, 200,000 military personnel fall within this income range. They all get the refundable child tax credit. But under the reconciliation provisions, which the Senator from West Virginia wishes to delete, they would be left behind. They do not get any help.

Second, there are many military personnel with higher incomes who receive the refundable child tax credit. But why do the higher income people receive the refundable child tax credit? That is because they have been called to serve in combat zones. Why is that relevant? Well, the income military personnel receive when they are in a combat zone does not count for income tax purposes. That means it also does not count for purposes of determining the child tax credit. How many are those? At least 40,000. So even though these families make more than the $26,000, they are receiving the refundable child tax credit because they are in a combat zone.

So roughly a quarter of a million military families are being cut out by the Budget Committee's reconciliation instructions. Families that receive the refundable credit simply because they are serving in a combat zone or simply because they are serving in the military—all these families will be left behind.

We all agree, extending the child tax credit is critical. So why are so many families being excluded?

This reconciliation instruction will not work the way it should. It is not right to cut so many low-income people off and out of the child tax credit. That is wrong. So let's work together. Let's use the regular order and the Senate rules so we can fix some of these discrepancies that exist in the current budget resolution.

I urge my colleagues to support the amendment of the Senator from West Virginia. It is the right thing to do.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. GRASSLEY. Mr. President, I yield myself up to 15 minutes of our 17 minutes for remarks I will have on the subject.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, first of all, I think, based upon my close working relationship with the Senator from Montana and our work on guiding the Finance Committee, from what he said, I have just one disagreement with his position. I think the difference between what he said and the position I am taking is that I, myself, as leader of the committee, want to do things through regular order. I think we can do things through regular order.

But just in case we cannot, since this tax policy is so important to working men and women—not increasing their taxes next year is so important—I want the insurance policy a reconciliation package gives us, just in case there is something unpredictable out there.

Now, I do not think I would have said that same thing in 2001, I would not have said that same thing in 2003, where I believed we needed to absolutely pass something that was going to be so controversial that it would not pass maybe except by reconciliation.

In this particular case, I believe we are going to have the spirit, the bipartisanship to get this stuff done without going through reconciliation. So I think that is the only place I disagree with my colleague. In other words, I am speaking for the budget resolution as it came out of the Budget Committee.

But what we are setting the stage for is a debate on whether the Finance Committee will have an opportunity to reduce taxes for families and children or, in this particular case where we already have these tax reductions in place, to keep them from automatically, without a vote of the Congress, going up next year.

I want to underscore the word "opportunity," because that is what this debate is all about today on the budget resolution, an opportunity—with some assurance because of reconciliation as a shotgun behind the door—for tax reduction.

This vote is not about the tax reduction itself. That debate and vote will come later, on the product of our committee, the Finance Committee, when we mark up tax reduction legislation. This vote today is about whether we will consider the tax reduction under reconciliation or the possibility of using reconciliation because reconciliation, just plain and simple, as we sit here today, is the only way that we can guarantee tax relief to the American people in a timely fashion.

Now, there have been some very strong statements made by some on the other side of the aisle about tax relief and about reconciliation. Let me say to those who are worried about this instruction, I, as chairman of the Senate Finance Committee, plan to use this as a backstop, not as my primary tool.

My hope is that we deliver family tax relief through regular order. I will not use this instruction, should it survive this vote in conference, unless we have to. We have reconciled tax cuts on several occasions—1995, 1997, 1999, 2001, and we did it last year.

The opposition is not based on precedent. The precedent is very clear. The measures we are talking about are supported on both sides of the aisle. I am talking about the child tax credit, the marriage penalty relief, and expansion of the 10-percent bracket.

Let's be clear. If the Congress does not act, we are talking about a tax increase for nearly every American who pays taxes. It will also help out a lot of low-income families with a refundable child tax credit, if we can deliver this relief. That is another thing I would suggest to people on the other side. If they want a refundable child credit and we get into a hassle where it cannot be done through regular order, it would seem to me they would want to have a process of reconciliation because it guarantees finality. You never get anything until you get to the finality of votes.

A bigger tax credit is a better tax credit. A tax benefit under refundability of $300 per child means a lot to hard-working men and women in my State, and every State. Keep in mind the opposition has no problem with raising taxes in reconciliation. Somehow that is OK. It has been done many times. If the 1993 Clinton tax increase were repealed today, it would score over $1 trillion over 10 years. Who is to say that a $1 trillion tax increase is appropriate in reconciliation, that somehow you can use the process of reconciliation guaranteeing finality, cutting off debate after 20 hours, OK, if you want to raise taxes. That would be for a $1 trillion tax increase. But somehow it is wrong to do it for a $90 billion tax reduction. Democrats, in 1993, used reconciliation—within their rights from our view—to further their President's program, a partisanly designed major tax increase. Eleven years later, we are faced with a different situation, though I am hopeful more than one Member on the other side will support the final product. Republicans, by a razor-thin edge, control the Congress and have a President of our party in the White House.

I want to make another point that, for those of us on this side of the aisle, is very compelling, especially in the context of our side's concessions in the power-sharing agreement. We believe the Byrd amendment should not be necessary. Reconciliation affords us a backstop to ensure that tax relief stays in place. I hope the Finance Committee will not need reconciliation. Hopefully, one way or the other, we will get this tax relief.

A vote against the Byrd amendment is a vote for an insurance policy that tax relief will get to American families.

In closing, I point out this would be a hypothetical family, but presently for the year 2004, this family would be paying $6,000 a year in taxes. If we don't do anything before this year is out, then automatically certain provisions are going to expire. This family, starting January 1, 2005, is going to be hit with a 26-percent tax increase. You can see it would go up $600 because the $1,000-per-child tax credit would expire. When the marriage penalty relief expires, that family is going to pay $911 more. Why? Just because they are married. If they weren't married, they wouldn't be stuck with this, if they were filing separately. Then because they are going to have expiration of the 10-percent bracket expansion, they will pay $100 more. That is $1,611 more in taxes because of inaction by this Congress.

That is wrong. We have a chance to do something about it. We ought to do something about it. I think we can do something about it in a bipartisan way through regular order. But in case we cannot, because this body gets locked up too often—call it a filibuster, it is locked up, no finality. It takes a 60-vote supermajority to overcome it; sometimes you can't overcome it. Then for this family, they ought to be entitled to a reconciliation, shotgun, behind-the-door process so we can guarantee them no tax increase.

It is one thing for us to vote a tax increase: it is another thing to have a tax increase because of inaction by this Congress. That could happen. I don't want that to happen. It doesn't have to happen this way. We can use regular order. But we ought to provide some assurance to this family that they don't get a 26-percent increase in taxes.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Oklahoma is advised he has 7 minutes remaining.

Mr. NICKLES. I compliment my friend and colleague, the chairman of the Finance Committee. He and I were elected to the Senate together in 1980. We have been friends ever since. I absolutely love a person who has intensity on issues. I love a person who likes to get things done. I love it when we actually do something that makes American families better.

The tax bill we passed last year helps American families. It helps this family with a taxable income of $58,000. I don't know how many times I have heard that the tax cut is a tax cut for the wealthy and the rich. That is hogwash. This proves it. A married couple making $58,000 in taxable income, if they have two kids, saves $1,600. That is real. That is significant. Frankly, it happened in large part because of the chairman of the Finance Committee, Senator GRASSLEY. I compliment him for his work and his speech. He is exactly right.

I want to help American families. That is the reason we want to preserve this option. I compliment Senator GRASSLEY. I urge our colleagues to vote no on the Byrd amendment when we vote.

For the information of our colleagues, I expect we will have three rollcall votes probably at 6 o'clock.

I yield back the remainder of our time on this amendment.

Mr. CONRAD. Might I just take 30 seconds off the resolution?

Mr. NICKLES. I will withhold.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. May I say to my colleagues, I have not heard a single Senator who is opposed to extending the middle-class tax cuts. I have not heard a single Senator who is opposed. There is no need for this reconciliation instruction for the purposes of tax reduction. The fact is, this budget resolution does not assure the money will be used for that purpose. We all know the Senate budget resolution cannot compel the Finance Committee to make any specific decision. Again, I would just say to my colleagues, I don't know of a single Senator who is opposed to extending the middle-class tax cuts.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I wish that was the case. But I would like to say that there has been a lot of politics. Maybe this is more a political year because of the election. We can't even get conferees for the Workforce Reinforcement Act, a bill that passed unanimously in the Senate. Yes, you might say everybody is in favor of it, but people might find a reason not to give consent to pass it or they might say: I will pass it, but I want to offer amendments. And maybe those amendments would continue to be offered, more and more amendments.

Tax codes are interesting. The Senator from North Dakota and I both serve on the Finance Committee with Senator GRASSLEY. When you get a tax bill on the floor, you could have an unlimited number of amendments. There are 100 Senators and probably every one of us has different ideas on the Tax Code. We might start debating ethanol subsidies because the Senator from New Hampshire and others believe we have overdone it on ethanol. Before you know it, we might not finish this bill.

The chairman said he wants to make sure we can get it finished one way or another, to make assurances to those families who have kids, or those married couples, that they are going to continue to keep the same taxes so they don't have a tax increase.

This is not about tax cuts. This is making sure they don't have a tax increase. The only way we can make sure they don't have tax increases is to defeat the Byrd amendment.

Mr. President, I yield back the remainder of our time on the underlying amendment.

Mr. NICKLES. Mr. President, I believe the regular order would be to recognize Senator WARNER for his amendment.

The PRESIDING OFFICER (Mr. SMITH). Under the previous order, the Senator from Virginia is recognized to offer an amendment.

Mr. WARNER. I thank the Chair.

Mr. NICKLES. If the Senator will yield for a moment, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Momentarily, we will be considering an amendment with respect to the defense budget for the year. That is being worked out now, and Senator WARNER will be here momentarily. Perhaps he is almost ready.

I wish to express the opinion that I do not think it is wise to cut the Commander in Chief's defense request when we are at war. I don't think that is the right policy. I don't think it sends the right signal. I personally believe the increase ought to be paid for. But I think we ought to increase the defense request to what the Commander in Chief has recommended when we are at war.

With that, I see Senator WARNER, so I will stop until he has made his presentation, and then we will have a further opportunity to discuss the pending amendment.

Mr. WARNER. Mr. President, I thank the distinguished Senator from North Dakota. Momentarily, he is quite correct, we will address that.

This amendment raises the caps and we do not have an offset in it. We believe at this point in time the urgency of the matter dictates that we do just what I hope the Senate will do by virtue of adoption of this amendment.

Momentarily, the Senator from Oklahoma will return to the floor and perhaps the Senator will ask if we may proceed.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, parliamentary inquiry: How is the time being charged?

The PRESIDING OFFICER. Time is being charged against the resolution. The quorum calls are being equally divided.

Mr. CONRAD. We are not charging time against the amendment then.

The PRESIDING OFFICER. That is correct.

Mr. CONRAD. I do not want to take action without consulting the other side, and the chairman is not in the Chamber at the moment. So I will not make a request at this point. Maybe if we can ask the floor staff to check if we want to be charging time to the amendment on an equal basis. I asked that question because we have tried to carefully calibrate this so we would have a voting window starting at 6 o'clock. Maybe if people can check, and while that is being done, I will add a few thoughts on this question.

I agree with Senator WARNER we ought to increase the defense allocation to the request of the Commander in Chief when our troops are engaged in combat. I think that should be done.

I also believe we ought to pay for it. As I understand it, under Senator WARNER's amendment, the increase will be made to increase the budget allocation to the request by the President—I agree with that—but it will not be paid for. With that I do not agree. When presented with a choice, I will vote to increase the spending to the request by the Commander in Chief because I do not think it is appropriate policy not to fully fund the Commander in Chief's request when our troops are engaged in combat half a world away. Our troops right now are engaged in direct combat in Iraq and Afghanistan and, of course, in addition to that, we are engaged globally in the war on terror. That does not mean we should not pay for these additional expenditures. Already we see record budget deficits.

We see in this budget resolution the debt of the country being increased by $2.86 trillion over the next 5 years. That is a stunning amount of money. The assertion by some that the deficit is being reduced really pales in consideration and in comparison to what is happening to the debt.

The increases in the debt under this budget are simply staggering—$2.86 trillion over the next 5 years. That is before the baby boomers retire, that is before the full cost of the President's tax cuts explode because they increase geometrically right beyond the budget window.

I would hope we would increase what is in the budget for our national defense to the amount requested by the President, but we do it in a way that is paid for. I think that would be the right approach. Unfortunately, Senator WARNER's amendment has half of that formula. He will have the increase in funding but will not have the appropriate offsets.

We will have a vote later on the question of paying for this increase. I hope my colleagues are on notice on what this amendment will involve, and hopefully we will be on this amendment soon.

I will withhold my request if the Senator from Missouri wants to take some time. Can we go on to the amendment then? The Senator from Missouri will speak with the understanding that the time will, at a later moment, be taken off the time of the amendment so we can try and stay on schedule.

I thank the Chair. I thank my colleague.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. TALENT. Mr. President, I thank my friend from North Dakota for accommodating me and allowing me to speak for a few minutes about the amendment we all know is going to be offered in a few minutes by our friend and colleague, Mr. WARNER from Virginia.

I do thank and congratulate Chairman WARNER and also Chairman STEVENS, not just for producing this amendment I think is so important, but also for their work over the years in sustaining America and keeping faith with the men and women who keep faith with us every day and serve us on the front lines and on the back lines and throughout the world to keep our country safe.

I want to suggest to the Senate there is no more serious amendment we will consider in this debate on the budget than the one Senator WARNER is about to offer.

America is deeply engaged in the world in all respects, and it should be, it needs to be. It is a difficult task, but it is one we bear every day as a nation in a lot of different ways.

Yet despite all our other efforts, despite our diplomatic efforts, despite our participation in international organizations, despite the coalitions we have built around the world, despite our foreign aid, despite our exhortations based on our philosophy, despite the power of our ideas, as important as all of that is, America's security and the security of our allies and our friends around the world depends and continues to depend on the reality and the perception of our military power.

That is what is at stake in this amendment today. The President of the United States has submitted a defense budget which states a requirement of $421 billion for the national defense. In my judgment, that is quite probably too low. I have argued for 10 years, first in the House and now in the Senate, that we are not adequately funding our defense establishment.

I simply offer very briefly as evidence of that the fact the Joint Chiefs of Staff recently submitted, in response to a question from Congressman IKE SKELTON, my old and dear friend from the other body, about what their unfunded requirements were. In other words, what are their requirements they were not able to get into the President's budget.

They submitted $12 billion in unfunded requirements, and that is just their top priorities: $6 billion for the Army; $2.5 billion, roughly, for the Navy; $2.5 billion for the Air Force. I think it is more than that, based on my years of experience. I believe we could add $15 billion to $20 billion to the budget for procurement alone without overfunding America's military. I will explain in a minute why we are in this position.

The Army needs to be bigger. I supported an amendment that was offered by the Senator from Rhode Island, Mr. REED, last year to increase the size of the Army. I think it needs to be another 30,000 to 40,000 men and women. I am pleased to say the administration is moving in that direction now, at least on a temporary basis, but that requirement was not included in the President's budget. Half of military housing is inadequate. That was not provided for in the President's budget. There are other quality-of-life needs we would like to meet.

Many of us here would like to resolve the issue of concurrent receipt, for example, so we can allow our military retirees who also have a military disability pension to keep both their retirement they earned and the disability benefits they deserve. That is not included in the budget. I could go on on behalf of my belief that the $421 billion the President has asked for is probably too low.

Now, I am sure it will be said by some in the debate on this amendment that the President's budget increases defense from last year by 7 percent and that is too great. That is above the rate of inflation.

Our spending on defense as a percentage of gross domestic product is less than it was prior to World War II. We spent 47 percent of our discretionary funds on defense in 2002 compared to 60 percent in 1990, and we are at war. It is time for us to get as serious as the men and women in America's military are about winning this war.

I went into the Congress in 1993. It was just after the outgoing first Bush administration had, in response to the cold war, cut the size of America's military establishment by about a quarter to establish what they called the Bush base force, which, by the way, is probably about what we need today, in my judgment.

The incoming Clinton administration then cut the size of the force an additional 25 percent, to about a third, depending on which branch of the service we are talking about. I argued all throughout the 1990s that we were not funding even that undersized force adequately.

All throughout those years, we were tacitly engaging in the assumption in this Congress that there was not any real threat to the United States; that with the end of the cold war in some sense history had ended as well.

Well, history had not ended. It had not ended all those years. It was just frozen and it thawed out with a vengeance on September 11. All the ethnic and regional rivalries of the world—fanaticism, nationalism, extremism—have risen up now to threaten us and once again we rediscover we do, indeed, need America's military and we do, indeed, need to fund it.

The question today is whether we are going to be serious on behalf of that responsibility. The force is too old. The reason it is too old is that all throughout the 1990s we were not buying enough new, what they call in the military, platforms, trucks, and planes.

When the capital stock is not replenished, it gets old. The average age of an aircraft in the U.S. Air Force is 22 years; the bombers, over 40 years; Navy and Marine aircraft, 18 years. We do not have enough ships in the Navy. We have 294 ships in the Navy. The Chief of Naval Operations, the Chief of Staff of the Navy, says we need 20 more today. His vision for the future is 375 ships, and we are not buying enough to get us there. We are not buying enough to maintain a 300-ship Navy.

I could go on. I have done it before, at least when I served in the other body. Some evening I will probably have occasion to spend 45 minutes or an hour discussing this.

To his credit, and in the face of the threat presented by the terrorist war, President Bush has regularly submitted substantial increases in the defense budget to this Congress. To its credit, this Congress has supported those increases. Along with the tremendous dedication of America's military and the vision and leadership of those who are running it, it is helping. We need to stay at least on that course.

It would be almost a historical abdication of our responsibilities were we not to provide for at least the amount of money the President of the United States has asked for America's military while America's military is fighting a war for us.

The only argument against it is that the deficit is a problem. Well, yes, the deficit is a problem. We are in a war. Members who do not believe that should read about it. It is in the papers every day. We are in a war. We are also in a recession.

I have not gone back and checked the Almanacs but I cannot imagine a time when the United States has been in a war and a recession and has not run a deficit. If my colleagues are worried about the deficit, let me suggest what will increase the deficit: If we lose the war, I guarantee that will increase the deficit. We do not have to lose it; we just have to suffer another significant attack on our homeland, and it can happen. That will increase the deficit. In fact, all we have to do is encourage America's enemies—and we have enemies around the world—to believe that we will not see this through, that we will retreat. I guarantee that will increase the deficit a lot more than the amendment of the Senator from Virginia proposes to do.

Let's not be shortsighted. I have confidence that this Senate will not be. I do not want to sound like a scold; I really do not. I am proud of what the Congress has done the last few years in supporting our military.

I serve on the Armed Services Committee. I am proud to be on that committee. An hour ago I left a hearing, which I had the honor of chairing, of the Seapower Subcommittee, where Senator KENNEDY is the ranking member. We had several hours in which we considered the capacity of our military to move goods around the world. One of the areas of jurisdiction of the subcommittee is on airlift and the capacity of our marine resources, civilian and military, to move goods around the world. I was astounded, amazed, and encouraged by how much we have improved the efficiency of that part of the service. We are all in debt to the men and women who work there and who run that, both civilian and military. I am pleased this Congress has sustained their efforts, and I know we will sustain the efforts of our men and women in America's military today.

They are doing their job. The question is whether we are going to do ours. They are watching. Our enemies are watching to see what the Senate does today. I am not sure exactly the form in which the Warner amendment will be offered. I do know it will restore the approximately $7 billion that the committee reduced and cut from the President's submission. We need to pass that amendment. We need to do our job in winning this war and protecting the American people.

I yield the floor.

Mr. CONRAD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. I believe, under the consent request that we had entered into previously, we have had debate on the reconciliation amendment by Senator BYRD. I believe next in order would be Senator WARNER to offer an amendment, and then Feingold on the pay-go amendment. It is our intention to vote on all three of these back to back hopefully as close to 6 as possible. We have had a little break, and I apologize for that, but it would be our intention to try to have debate on both amendments and vote as close to 6 as possible.

I now yield to my friend and colleague Senator Warner to manage our time on this amendment.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, it is my understanding that there is an hour equally divided. Am I correct on that?

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. Mr. President, I thank both managers of the bill for their cooperation.

Mr. CONRAD. Will the Senator yield for just a moment?

Mr. WARNER. Yes.

Mr. CONRAD. One of the things we discussed, if I can say, is there was a slight amount of time used here in discussion on the amendment. One of the things that was discussed was the possibility, perhaps, of charging that time to the amendment once we got on the amendment so we could hold to the schedule of being as close to 6 o'clock as we could be. Would that be agreeable?

Mr. WARNER. No objection.

Mr. NICKLES. Mr. President, how much time had both sides used?

The PRESIDING OFFICER. The Senator from Missouri used 11 minutes, and the other side has not used any.

Mr. CONRAD. We did, actually. I spoke.

The PRESIDING OFFICER. Five minutes?

Mr. CONRAD. Yes.

Mr. NICKLES. Mr. President, I ask unanimous consent there be 40 minutes on the amendment to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2742

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. Warner] for himself and Mr. Stevens, Mr. McCain, Mr. Inhofe, Mr. Roberts, Ms. Collins, Mr. Chambliss, Mr. Graham of South Carolina, and Mr. Talent, proposes an amendment numbered 2742.

Mr. WARNER. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase the amounts provided for national defense (050) for fiscal year 2005 for new budget authority and for outlays)

On page 4, line 4 increase the amount by $6,997,000,000.

On page 4, line 5, increase the amount by $262,000,000.

On page 4, line 6, increase the amount by $358,000,000.

On page 4, line 7, increase the amount by $405,000,000.

On page 4, line 8, increase the amount by $432,000,000.

On page 4, line 12, increase the amount by $5,506,000,000.

On page 4, line 13, increase the amount by $1,855,000,000.

On page 4, line 14, increase the amount by $799,000,000.

On page 4, line 15, increase the amount by $550,000,000.

On page 4, line 16, increase the amount by $480,000,000.

On page 4, line 20, decrease the amount by $5,506,000,000.

On page 4, line 21, decrease the amount by $1,855,000,000.

On page 4, line 22, decrease the amount by $799,000,000.

On page 4, line 23, decrease the amount by $550,000,000.

On page 4, line 24, decrease the amount by $480,000,000.

On page 5, line 3, increase the amount by $5,506,000,000.

On page 5, line 4, increase the amount by $7,362,000,000.

On page 5, line 5, increase the amount by $8,161,000,000.

On page 5, line 6, increase the amount by $8,711,000,000.

On page 5, line 7, increase the amount by $9,191,000,000.

On page 5, line 11, increase the amount by $5,506,000,000.

On page 5, line 12, increase the amount by $7,362,000,000.

On page 5, line 13, increase the amount by $8,161,000,000.

On page 5, line 14, increase the amount by $8,711,000,000.

On page 5, line 15, increase the amount by $9,191,000,000.

On page 7, line 25, increase the amount by $6,900,000,000.

On page 8, line 1, increase the amount by $5,409,000,000.

On page 8, line 5, increase the amount by $1,594,000,000.

On page 8, line 9, increase the amount by $442,000,000.

On page 8, line 13, increase the amount by $145,000,000.

On page 8, line 17, increase the amount by $48,000,000.

On page 22, line 9, increase the amount by $97,000,000.

On page 22, line 10, increase the amount by $97,000,000.

On page 22, line 13, increase the amount by $262,000,000.

On page 22, line 14, increase the amount by $262,000,000.

On page 22, line 17, increase the amount by $358,000,000.

On page 22, line 18, increase the amount by $358,000,000.

On page 22, line 21, increase the amount by $405,000,000.

On page 22, line 22, increase the amount by $405,000,000.

On page 22, line 25, increase the amount by $432,000,000.

On page 23, line 1, increase the amount by $432,000,000.

On page 39, line 18, increase the amount by $6,900,000,000.

On page 39, line 19, increase the amount by $5,409,000,000.

On page 40, line 2, increase the amount by $1,594,000,000.

Mr. WARNER. Mr. President, in this amendment, I am joined by Senator Stevens, Senator McCain, Senator Inhofe, Senator Roberts, Senator Collins, Senator Chambliss, Senator Graham, Senator Craig, and Senator Talent.

The amendment is very simple. It restores funding for the Department of Defense to the level requested by the President for fiscal year 2005. Specifically, this amendment will add $6.9 billion to the level contained in the pending budget resolution for the national defense 050 budget function.

As we review our budget priorities for the coming year, it is clear many important programs must compete for limited resources. Hard choices must be made. As we individually wrestle with the hard choices we must make, I remind my colleagues we have no more solemn responsibility than that imposed by the Constitution of the United States and that is to provide for the common defense of this great Nation, the United States. This is the most important function of the Federal Government.

The President requested $420.7 billion for defense-related activities for fiscal year 2005. That request includes funding for the Department of Defense, the defense activities of the Department of Energy—that's roughly two-thirds of the total Department of Energy budget—and a significant amount for the intelligence community.

Our military service chiefs—the Chief of Naval Operations, Chief of Staff of the Army, the Commandant of the Marine Corps, Chief of Staff of the Air Force—all four service chiefs came before the committee and asked that we authorize and obtain the full amount requested by the President.

As you well know, having spent a considerable portion of my career in the Department of Defense, each year the President goes to the Department for their recommendations, a budget is made up and it is submitted and it finally is submitted to the Office of Management and Budget on behalf of the President and Congress.

Recognition must be given that we are a nation at war. Those are the very words used by our distinguished colleague, the manager of this bill, moments ago. Terrorists brought this war to our shores on September 11, 2001. President Bush, together with a coalition of nations, responded forcefully and effectively. This Chamber provided a resolution expressing support for the President to bring the war on terrorism to the terrorists.

Hundreds of thousands of our servicemen and women are now deployed around the world defending our Nation in Operation Enduring Freedom, Operation Iraqi Freedom, and other military operations in the ongoing war on terrorism. Hundreds of thousands more are forward deployed in Korea, the Balkans, at sea and elsewhere, protecting American interests and deterring aggression.

I wonder if our Nation realizes that well over half of the United States Army today, some 320,000 men and women, proud to wear the uniform of the United States Army, are deployed overseas, over half of the total standing Army—leaving their families behind, going into harm's way to protect us. Others stand vigilant at our borders and at our ports and in our skies here at home. We have an obligation, in my judgment, to live up to the President's budget request, which budget request was carefully prepared in consultation with the Chiefs and other senior members of the defense force.

What have our Armed Forces accomplished in the last few years? The simple answer is, everything we have asked of them and more. They have confronted brutal regimes in Afghanistan, and Iraq and given the people of those regions hope, and an opportunity to experience freedom and democracy. In Iraq, together with a coalition of nations, they liberated a repressed nation—a country larger than Germany and Italy combined—in roughly 3 weeks. The Armed Forces accomplished this with unprecedented precision, and with casualties far below estimates. This level of professionalism is what we have come to expect of our military.

Such expectations must be tempered by the realization that the magnificent professionalism of our Armed Forces is a product of strong leadership, patriotic young men and women, supportive families, great American technology, and strong, consistent resources. All of these things require the long term support of the Congress in the form of funding, guidance and support.

At a time of unprecedented demands on our military, it is critical that we provide our men and women in uniform—active, reserve, and National Guard—the funding they need to continue to successfully accomplish their missions. To meet the challenges we now face around the world, and to prepare for the future, the President has proposed a budget that includes $420.7 billion for national defense. It is a prudent request that maintains the readiness of our current force and makes the investments necessary to develop and field the capabilities that will keep our Nation safe from the uncertain threats of the future.

We are blessed with a military that has responded to the demands of a post-September 11 world with extraordinary commitment, but even the best military has its limits. The pace of recent operations is putting increased demands on our forces around the world, increased demands on our Reserve and National Guard units, and increased demands on military families. Our military has dedicated personnel—active duty, reserve, guard and retirees—and families who must be fairly compensated with competitive pay and a good quality of life. Our military has equipment that has been heavily used in recent operations that must be repaired or replaced, and new capabilities that must be developed and procured to meet future threats. And finally, our military has an aging infrastructure that must be modernized.

In my opinion, the President's budget request for defense has struck the proper balance to accomplish these goals. At this critical time in the war against terror, when we are asking so much of our uniformed personnel and their families, and when we are seeking the continued cooperation of our allies, what message do we want to send? We must send a message of continued commitment and resolve by supporting the level of funding for defense requested by the President. Our military deserves no less.

At this time, Mr. President, I yield the floor and grant such time as the distinguished Senator from Alaska may desire

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, in a time of war, and we are at war—we are at war against terrorism; that's the leading war we are still involved in; we have activities in Haiti; we have them in Afghanistan and they are persisting in Iraq—it is my feeling the request of the Commander in Chief should be met in full, and that's what this amendment does. It meets in full the request of the President, submitted in his budget for the activities of the Department of Defense not directly connected with Iraq and Afghanistan. We are going to see that in a supplemental, I assume, sometime after the first of the year.

But as a practical matter, this budget is a very thin budget for a military stretched as thin as it is right now around the world. As the Senator from Virginia says, more than half of our men and women in uniform are outside the United States at this time. It is a matter of just simple justice, as far as I am concerned. The Commander in Chief's request should be honored. I hope the Senate will support this request.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I support the amendment by the Senator from Virginia, the distinguished chairman of the Armed Services Committee. He has been a member of the committee for many years. He understands our defense and national security needs.

I believe the fundamental message is we are in a war. We are in a war. We are in a war. The fact is this money is needed in order to prosecute the conflicts in Afghanistan, in Iraq, and around the world, as we fight the war on terrorism and attempt to thwart the possibility of a terrorist attack on the United States of America and our citizens.

Clearly, we are going through a period of transition in the military, and one that is going to be somewhat expensive, but there is no doubt we have to adjust our military in order to meet the needs of an ever-changing and, in some respects, larger threat to our security than we have faced in the past few years.

Also, I have the greatest respect for our colleagues here in the Senate and the distinguished chairman of the Budget Committee and the ranking member. But I did note, with some interest, that the chairman of the Budget Committee in the House suggested a moratorium on earmarks for 1 year. Why would he do that?

Well, I show my colleagues a very interesting Congressional Research Service chart which shows that in 1994, there were 4,126 earmarks; in 1996, it went down to 3,023 earmarks; and it has gone steadily up geometrically; and in 2004, there were 14,040 earmarks—amounting to a grand total of $47.9 billion—$47.9 billion.

Rather than cut $7 billion out of defense, why don't we cut $7 billion out of $47.9 billion of pork-barrel projects, such as the $3 million to study the DNA of bears in Montana, the Cowgirls and Cowboys Hall of Fame, and the elves up in North Pole, AK, that got some more money this time?

Why don't we cut $7 billion out of $47.9 billion in earmarked funds? That comes from the Congressional Research Service, up from $23.7 billion in 1996. Why don't we show some courage, make some choices, and cut this, rather than cutting $7 billion out of defense?

I would hope my colleagues on the Budget Committee at some point would seriously consider a moratorium on earmarks—just for 1 year. It might be a nice thing to see.

Mr. President, I support the amendment from the Senator from Virginia and I hope the choices we make are not to cut into our Nation's security but to cut into the pork-barrel spending which has absolutely run amok in this body. It is a disgrace, and there is no excuse for it. I hope we will start attacking the wasteful and pork-barrel spending rather than the men and women in the military.

I support the amendment.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I compliment my colleagues, Senators STEVENS and WARNER. I intend to support this request.

Senator STEVENS, when I first brought to his attention that we needed to stay with the cap of 814, brought to my attention very strongly, repeatedly, that he wanted to have the President's full request in. This amendment does that.

The reason we brought a resolution out at 814 was to make sure a budget point of order wouldn't lie against the entire resolution and frankly kill the resolution. We would have to have 60 votes. The amendment Senator STEVENS and Senator WARNER are introducing fully funds the President's request and frankly it increases the caps to do so. It takes 60 votes to pass the amendment. It increases the deficit by $7 billion. It means we are going to have increases in defense spending by $27 billion, 7.1 percent. It is a big increase, but frankly we have big challenges with our defense.

I happen to agree with Senators WARNER and STEVENS, when we have troops in the field who have their lives in jeopardy day by day, being fired upon, we need to give them support as requested by their Commander in Chief.

I hope our colleagues will support this amendment.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, can the Chair advise me what the time situation is on both sides?

The PRESIDING OFFICER. There are 12 minutes 50 seconds remaining on the Republican side, 20 minutes on the Democratic side.

Mr. CONRAD. Mr. President, speaking for our side, I again want to indicate I intend to fully support the amendment of the Senator from Virginia, joined in by the Senator from Alaska. Is this a Stevens-Warner amendment at this point?

I just think we need to send a very clear message. When we are at war, when our troops are in jeopardy, when they are in combat zones, when the Commander in Chief makes a request, we need to honor that request.

Look, I believe we ought to pay for this increase. I believe we ought to offset it with either additional revenues or spending cuts in other areas because the deficit is at record levels now and this just increases it. We are seeing dramatic increases in the debt.

We had a right to offer second-degree amendments to this amendment to provide a pay-for. We basically did not exercise that right, in an agreement to get a number of amendments up and voted on before 7 o'clock tonight. But it is our intention, with a later amendment, to offer a means of paying for this increase.

Without that before us at the moment, the choice becomes do we increase the defense expenditure to meet the request of the Commander in Chief or do we not?

I believe the imperative is clear. I believe we must raise the defense expenditure level to meet the request of the Commander in Chief when we have troops in combat half a world away fighting day and night for this country.

It is my intention to ask our colleagues to support the Warner-Stevens amendment. At a later time, it will then be my intention to ask our colleagues on both sides to find a way to pay for it and to suggest specific ways we might do that. I hope colleagues will keep an open mind on that subsequent amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I very much appreciate the support of Senator CONRAD on this amendment. We have worked together now on two or three amendments. We have agreed to some amendments. That is good progress.

I also want to correct the RECORD. I said it was my understanding that this increases the defense amount by 7.1 percent. That is the OMB figure. The Congressional Budget Office figure is 6.8 percent. I was accurate by saying it would increase defense spending by $27 billion.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mrs. BOXER. Mr. President, this budget resolution is $6.9 billion below the President's request for defense spending for fiscal year 2005. I am voting for the Warner amendment to restore this cut.

I am doing so because I believe we should pay for our activities in Iraq and Afghanistan within the budget. I do not believe we should pretend those costs do not exist and then have the President come back to Congress saying we did not give him enough money and he needs more.

We must have truth in budgeting. The costs of our operations in Iraq and Afghanistan should be included in the budget; the costs should be paid for with regularly budgeted funds. The alternative is further escalating debt.

I am extremely concerned about the runaway debt. If we do not include in the budget the costs of our operations in Iraq and Afghanistan, the President will come back with a request for emergency supplemental funds. Those funds do not have to be offset, thereby adding billions of dollars to our national debt.

Therefore, I will vote for the Warner amendment to restore the cut in defense spending.

Mr. WARNER. Mr. President, I presume the managers desire to have this amendment laid aside for the present time, unless there are other speakers.

I yield such time as the Senator from Oklahoma desires.

Mr. President, would you advise the Senator from Virginia the amount of time we have left?

The PRESIDING OFFICER. Eleven minutes forty seconds.

Mr. WARNER. Mr. President, the Senator from South Carolina desires a couple of minutes following the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I will be very brief. I think everything I would have said has been said by our chairman, Senator WARNER.

We have 325,000 troops scattered around 120 different countries. I chaired the Subcommittee on Readiness for a number of years. That was during the 1990s when we were making cuts in our defense across the board in terms of end strength, in terms of numbers of divisions and numbers of tactical air wings, in terms of the numbers of ships, in terms of modernization, and in terms of readiness. It was very disturbing during that time. I was outspoken at that time that we might be going too far.

Recently we went through this thing of not having adequate body armor. Of course, the Army, in this case, responded with our help and we are able to say now they are taken care of adequately.

In modernization, we are going into the future combat system. We were delayed in the 1990s. Now things are getting back on track. However, we often say we want our troops, our men and women in uniform, to have the very best of equipment and the best support.

Quite frankly, we don't have as good equipment as some of our potential adversaries in the case of our artillery. We are still dealing with World War II technologies when there are five countries that have made a better case than we have. I don't think the American people want our young people going into combat with anything except the best. That is what this is about. We are in a rebuilding mode right now. We are talking about transforming all branches. We are talking about changing the way our troops are stationed around the world. This is going to be expensive. We are in the middle of a war. I strongly support the increases recommended by the chairman, Senator WARNER.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM of South Carolina. Mr. President, I rise in support of the amendment offered by our chairman. I thank the chairman, Senator WARNER, for doing something that is not easy. We pride ourselves on trying to be fiscal conservatives and taking care of the country's needs and the President's budget request for the military. I applaud our chairman, Senator WARNER, for offering this amendment to make sure we can get the money the President thinks we need to defend the Nation.

One thing I have learned about this whole process is I would not want Senator NICKLES' job. It is very hard to put a budget together which does what we need to do for the economy and for defense of the Nation and other domestic priorities.

But I know where this debate is going. It won't be long before we will have an amendment to counter this amendment saying, all right, we will agree that the military needs more money. I am glad we agree with that, because they do. But then they will start arguing, let us pay for it; let us be fiscally responsible, and let us take money from this group to pay for it. We are going to get into a partisan fight in the name of fiscal responsibility that probably doesn't have a whole lot to do with fiscal responsibility. I think that is sad but we know it is coming.

Let me say this: The No. 1 job of being a Senator, in my opinion, is to make sure we can defend America. We can have all the fights about how you create jobs, and I would argue to my friend—I will be glad to speak on this proposal—if you are worried about losing jobs in America, then you need to be more friendly to people who are trying to create jobs in America. You are not a very friendly crowd to job creation with your proposals. But we will talk about that down the road. I know it is coming.

Let me say this: It is good news for the men and women in uniform at this point in time because we have bipartisan support to make sure there is budget authority to defend America. I thank the chairman on their behalf. I look forward to the debate to come about this issue in terms of domestic politics. But I hope we don't get unnecessarily off script for the men and women who depend on us making sure they have the equipment when we ask them to fight the war. They probably don't appreciate a lot of the fussing and fighting.

Mr. WARNER. Mr. President, I thank my distinguished colleague.

Mr. President, how much time remains under the control of the Senator from Virginia?

The PRESIDING OFFICER. The Senator has 7 minutes remaining.

Mr. WARNER. Mr. President, we will yield our time if the other side will yield their time and go on to the next matter.

Mr. CONRAD. Mr. President, we are prepared to yield back time on this side. I yield all but 5 minutes of our time reserved for Senator LEVIN. We can proceed with Senator FEINGOLD.

Mr. NICKLES. Mr. President, I thank our colleague, Senator WARNER, chairman of the Armed Services Committee, and also Chairman STEVENS of the Appropriations Committee for their cooperation on this amendment. I am sure the Commander in Chief is grateful for this amendment. I am sure the Chiefs of Staff of the Armed Forces are grateful for this amendment.

For the information of our colleagues, this amendment, in addition to Senator BYRD's amendment and I believe Senator FEINGOLD's amendment, will be voted on probably a little before 6 o'clock. Also, for the information of our colleagues, I know there are other amendments out there. Senator CONRAD and I already realize we are running short on time and the number of days. We are going to finish this bill by Friday. I encourage our colleagues to either not offer amendments or at least work with us so we can accept or dispose of some amendments in one way or another. But if they have amendments, please bring those to our attention tonight. It is our intention to work very late tonight. I hate to do that because our very good friend, Chairman STEVENS, is having a nice event that I would love to attend, but I think our business is to complete the budget this week.

For the information of our colleagues, we expect three rollcall votes shortly before 6 o'clock. I believe the regular order of business now would be for Senator FEINGOLD to offer his amendment.

Mr. CONRAD. Mr. President, we have just now tallied all the amendments that have been noticed. I know the chairman will be interested to know there are 98 amendments pending. Let me say those are amendments that have been noticed to us. They are not necessarily pending before the Senate, but Senators have given notice they intend to offer 98 amendments. It takes 1 hour to handle three amendments. That would be 33 hours of straight voting. We have to get serious. We cannot have a circumstance in which we spend 33 straight hours voting on amendments to the budget resolution. That is an unreasonable proposition. It is an unreasonable proposition for the Members, and an unreasonable proposition for the administrative staff.

I am sending the message to our colleagues, let's eliminate the duplication. Let's ask Senators to refrain from offering amendments that can be offered later to appropriations bills or to other legislative vehicles. We cannot have 98 amendments voted on this budget resolution. There is no way we would finish by Friday. We have agreed on a common goal of finishing the budget resolution by Friday. We have worked in good faith together. Please, colleagues, let's show some restraint.

We will turn it over to our Senator from Wisconsin, Mr. FEINGOLD.

The PRESIDING OFFICER. The Senator from Wisconsin.

AMENDMENT NO. 2748

Mr. FEINGOLD. Mr. President, I thank the managers for making it possible for me to offer this amendment at this time. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD], for himself, Mr. CHAFEE, Mr. BAUCUS, Ms. CANTWELL, Mr. CARPER, and Mr. GRAHAM of Florida, proposes an amendment numbered 2748.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To fully reinstate the pay-as-you-go requirement)

On page 46, between lines 2 and 3, insert the following:

SEC. 408. PAY-AS-YOU-GO POINT OF ORDER IN THE SENATE.

(a) POINT OF ORDER.—

(1) IN GENERAL.—It shall not be in order in the Senate to consider any direct spending or revenue legislation that would increase the on-budget deficit or cause an on-budget deficit for any one of the three applicable time periods as measured in paragraphs (5) and (6).

(2) APPLICABLE TIME PERIODS.—For purposes of this subsection, the term "applicable time period" means any 1 of the 3 following periods:

(A) The first year covered by the most recently adopted concurrent resolution on the budget.

(B) The period of the first 5 fiscal years covered by the most recently adopted concurrent resolution on the budget.

(C) The period of the 5 fiscal years following the first 5 fiscal years covered in the most recently adopted concurrent resolution on the budget.

(3) DIRECT-SPENDING LEGISLATION.—For purposes of this subsection and except as provided in paragraph (4), the term "direct-spending legislation" means any bill, joint resolution, amendment, motion, or conference report that affects direct spending as that term is defined by, and interpreted for purposes of, the Balanced Budget and Emergency Deficit Control Act of 1985.

(4) EXCLUSION.—For purposes of this subsection, the terms "direct-spending legislation" and "revenue legislation" do not include—

(A) any concurrent resolution on the budget; or

(B) any provision of legislation that affects the full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of enactment of the Budget Enforcement Act of 1990.

(5) BASELINE.—Estimates prepared pursuant to this section shall—

(A) use the baseline surplus or deficit used for the most recently adopted concurrent resolution on the budget; and

(B) be calculated under the requirements of subsections (b) through (d) of section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 for fiscal years beyond those covered by that concurrent resolution on the budget.

(6) PRIOR SURPLUS.—If direct spending or revenue legislation increases the on-budget deficit or causes an on-budget deficit when taken individually, it must also increase the on-budget deficit or cause an on-budget deficit when taken together with all direct

spending and revenue legislation enacted since the beginning of the calendar year not accounted for in the baseline under paragraph (5)(A), except that direct spending or revenue effects resulting in net deficit reduction enacted pursuant to reconciliation instructions since the beginning of that same calendar year shall not be available.

(b) WAIVER.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(c) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(d) DETERMINATION OF BUDGET LEVELS.—For purposes of this section, the levels of new budget authority, outlays, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

(e) SUNSET.—This section shall expire on September 30, 2009.

Mr. FEINGOLD. Mr. President, I am very pleased to offer this amendment with Senators CHAFEE, BAUCUS, CANTWELL, CARPER, and GRAHAM.

This amendment is very straightforward. It would simply reinstate the pay-as-you-go rule that has been such an effective restraint on the fiscal appetites of Congress and the White House.

The last 3 years have seen a dramatic deterioration in the Government's ability to perform one of its most fundamental jobs, and that is balancing the Nation's fiscal boxes. We are all familiar with the history. In January of 2001, the Congressional Budget Office actually projected in the 10 years thereafter, Government would run a unified budget surplus of more than $5 trillion. A little more than 3 years later, we are now, unfortunately, staring at almost a mirror image of that 10-year, $5 trillion surplus. Instead of healthy surpluses, under any reasonable set of assumptions, we are now facing immense deficits.

We must stop running deficits because they cause the Government to use the surpluses of the Social Security trust fund for other Government purposes rather than to pay down the debt and help our Nation prepare for the coming retirement of the baby boom generation.

We have to stop running deficits because every dollar we add to the Federal debt is another dollar we are forcing our children to pay back in higher taxes or fewer Government benefits.

When the Government in this generation chooses to spend on current consumption and to accumulate debt for our children's generation to pay, it does nothing less than rob our children of their own choices. We make our choices to spend on our wants, but we saddle them with debts they must pay from their tax dollars and their hard work. That is not right.

This is also why I am offering this amendment to fully reinstate the pay-as-you-go rule. We need a strong budget process. We need to exert fiscal discipline. This amendment would simply return us to the rules by which Congress played for the decade of the 1990s. It would eliminate the exceptions to pay-as-you-go included in last year's resolution that exempt new tax cuts and new mandatory spending included in a budget resolution. The reason we have to get rid of these exceptions is these exceptions facilitate more damage to the Federal bottom line.

I recognize there are some who prefer to provide some exemptions for certain tax and spending policies. In particular, the argument has been made that we ought to exempt the extension of the 10-percent bracket, the child care tax credit, and the marriage penalty provisions. The argument is that these, and possibly other policies, are so worthy that they should not be subjected to pay as you go.

Let me offer what I think are two valid responses to this. First, while there are certainly worthy tax provisions included in the assumptions underlying this resolution, including those I just listed, as the chairman of the committee has pointed out very effectively in the Senate, no budget resolution can actually specify which taxes must be cut and which must be raised. The resolution can set forth levels of tax cuts, but it cannot specify which taxes are cut. It follows that the resolution cannot specify which tax cuts should be exempt from budget enforcement. It can exempt some level of tax cuts from that enforcement, as indeed this resolution does.

But a budget resolution cannot specify which specific tax cuts are to be exempt from budget enforcement. So we have no guarantee at all that these popular and worthy tax cuts I just mentioned, those three, would end up being the ones that would benefit from this exemption that exempts tax cuts from the normal pay-as-you-go requirement on which we have to get the 60 votes to waive the rule.

The second reason, for the specific tax cuts I mentioned earlier—the 10-percent bracket, the child tax credit, and the marriage penalty provision—I am absolutely sure there will be far more than 60 votes to waive any point of order against those provisions. I even wonder if anyone will propose to put us in a position where we have to waive a point of order. Someone will have to actually raise a point of order. These three sorts of tax cuts have such strong support that it is not, in my view, a serious or genuine objection that the pay-as-you-go rule will prevent them from being extended and continuing.

Reinstating the pay-as-you-go rule makes it harder for this body to make the deficit worse. It does not prohibit these tax cuts. It does not make it impossible to have a tax cut. It just makes it a little harder. That is as it should be. Given our current budget position, we ought to make it harder to make the deficit worse. If new tax cuts or new mandatory spending is not to be offset, then they ought to be only the most worthy of policies, not just anything that can get a majority vote. They ought to be policies that can achieve the 60 votes needed to waive a point of order.

It is very simple. That is what this amendment would do. It is the least we should do to ensure fiscal responsibility and sound budgeting. We must stop using Social Security surpluses to fund other Government programs. We must stop piling up debt for our children to pay off. We must continue the discipline of the budget process.

This is one of those situations where after you have been here a while, you can actually speak from experience. I can speak from experience of having watched in this body. As I came in 1993, we had the largest deficit in American history. Were it not for these budget rules, if it were not for the pay-as-you-go rules, I am certain the parties would not have come together as we did over those years to achieve what almost no one thought was possible—a very solid surplus. Without these rules, the discipline goes away. Without these rules, we are back to the behavior of the 1980s, which my constituents so thoroughly condemn: Unlimited tax cuts on unlimited spending, the blank checks that were written that put this Nation in its worst deficit to date.

We now have a much worse deficit. We now have the largest deficit in American history. It is incumbent upon this body to go back to what we know worked, to what we know put the parties in a healthy competition, to see which party could be more fiscally responsible. We desperately need to return to that discipline now.

That is why I urge my colleagues to accept this amendment that will return the pay-as-you-go rules in full.

I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from North Dakota.

Mr. CONRAD. Mr. President, look, now we are starting to talk about amendments that are just critically important if we are going to start to do something about the skyrocketing deficits and the accumulation of debt.

The pay-go provisions are budget disciplines to make it harder to add to deficits. We have used these provisions in the past successfully to move from record deficits to record surpluses.

In just a few moments, this body is going to vote on whether it is going to renew those disciplines or we are just going to abandon the ship and keep right on running up an ocean of red ink.

This year, we are poised to run a deficit in record terms of over $470 billion—$100 billion more than last year. And last year's deficit was almost $100 billion more than the previous record.

This is an opportunity for Senators to stand and be counted and be held accountable. Are we going to go back to the budget disciplines that have worked in the past or are we going to let them lapse? They lapsed in 2002, they have not been reinstituted, and the deficit has skyrocketed.

What this amendment does is to put back in place the fundamental disciplines that say simply this: If you want new mandatory spending, if you want new tax cuts, you can have them, but you have to pay for them. It is that simple.

Some will say, Well, this does not discipline discretionary spending, which is a third of Federal spending. That is true. We discipline discretionary spending by spending caps. We have a spending cap in place.

The question before us is, Are we going to reenact the budget disciplines on mandatory spending, which is two-thirds of Federal spending? Are we going to replace the budget disciplines on the revenue side of the equation, which have been allowed to lapse?

Let me just put up a statement by the chairman of the Federal Reserve on this question. Federal Reserve Chairman Greenspan, on restoring pay-go, said:

> I would, first, Mr. Chairman, restore pay-go and discretionary caps. Without a process for evaluating various trade-offs, I see no way that any group such as a Congress can come to a set of priorities which will be effectively reflecting the will of the American people.

Mr. President, this is the test: this vote. This is going to answer who stands for budget discipline, who stands for getting these deficits and debt under control, and who is going to sit on the sidelines and allow these deficits and debt to continue to skyrocket out of control.

For those who say they are fiscally responsible, here is the test. Here is the test. All the talk is going to be measured in this vote. Do you stand for restoring the budget disciplines that have worked in the past or do you not? That is the question.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. FEINGOLD. Mr. President, does the Senator from North Dakota want more time off the amendment?

The PRESIDING OFFICER. Who yields time?

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank my colleague from Wisconsin for his amendment. He offered the same amendment in the Budget Committee. I have great respect for him as a friend and a colleague, but I would urge our colleagues to vote no on the amendment.

We have pay-go in the existing bill. We have pay-go basically for anything that is not in the assumption of the budget resolution. We assume $144 billion on the tax side. It may sound like a lot of money, but over that 5-year period of time, we are talking about $12 trillion of revenue. The amount of money that we are saving is a very small percentage.

Now, why do we try to say, Well, you should not have to pay for that? Because almost all of that, with the exception of a little AMT, is present law.

We don't have pay-go if you have a lot of spending bills that sunset. When those are reauthorized, you do not say, Oh, now you have to have pay-go. You have to raise taxes or cut spending to reauthorize the farm bill, for example.

As a matter of fact, I have found about $1 trillion worth of entitlements over the next several years that are sunset or due to sunset, but they don't have pay-go when they are extended. We have a lot of tax cuts that are sunset that, when they are extended, would have to be paid for. So it really discriminates against taxes, makes it much more difficult to keep tax levels where they are today.

Some people say: Additional tax cuts. I say, no, keep taxes where they are today. This is a much higher hurdle if you want to keep tax levels where they are today. Adoption of this amendment is going to make it a lot harder. It is going to make it a lot harder to continue to have the marriage penalty relief we are now assuming in our budget. That is $900 for my in-laws, $900 for my kids, $900 for any couple in America that makes $58,000. We are assuming we are going to continue present law.

People say: We want pay-go. We want it to apply to spending and to entitlements. But when you look at the amendment, it doesn't apply to appropriated accounts. It doesn't apply to increases in appropriations for a lot of different activities.

Someone might say: That is handled in the caps. Only if you pass a budget. The idea is to pass pay-go that is going to extend for the next several years, I believe through 2009, regardless of whether you have a budget. We may or may not have a budget. A lot of people predicted last year we wouldn't have a budget. They predicted this year we wouldn't have a budget. We proved them wrong last year, and I hope and expect we will prove them wrong this year.

Spending is not covered. Discretionary appropriations are not covered. What is appropriated is not covered. Next year 820-some billion will not be covered. You could have any kind of increase. As a matter of fact, it almost is an incentive for increases in appropriations because that doesn't have to be paid for. But anything else has to be paid for.

The tax cuts that expire or that have an expiration date—and we have had to do that in the past for a variety of reasons—would have to be paid for. Spending programs don't have to be paid for.

I didn't hear our colleague saying we needed pay-go when we were doing concurrent receipts for retired military personnel. That was about $40 billion. I didn't hear people say, when we were doing the Medicare expansion, we need pay-go for that. That was $395 billion, as scored by CBO, and that is permanent. So the Medicare bill, which is going to grow dramatically over the next several years, can continue growing almost unchecked unless a future Congress curtails it in some way. And no pay-go, even if it is $300 billion the first 10 and maybe $1 trillion the next 10 or more, no pay-go for that.

So spending can increase rather dramatically. But if you want to continue having a 25-percent tax rate—and by the year 2010 it expires—if you don't pay for it, that rate goes to 28 percent in the year 2011. The difference between 28 and 25 doesn't sound like much. That is 3 percent. That is over 10 percent. That is about a 15-percent increase in an individual's tax rate. That means the marriage penalty relief we just gave would disappear. That is $1,000. By that time, it will be $1,000. Right now it is $911. We are trying to continue that.

Some people say: You want more tax cuts. That is not more tax cuts. That is keeping present law. If we don't keep present law, extend present law, it is going to be a tax increase on families.

What did we assume under our resolution? We assumed present law is extended. Above that, you have pay-go. That is what our resolution says.

I urge our colleagues, think about this a little bit. Frankly, if you are going to have it, it really should apply to any entitlement program that is sunset. That is not in this amendment. What we did in our bill is very similar to my colleague's amendment with the exception of we say we should exempt those things that are covered in the budget. Primarily that includes extending present law on the child credit, on the 10-percent bracket, and on marriage penalty relief. We also included $23 billion for AMT relief, and we included $15 billion on the energy bill. That is the bulk of what we have extended or what we assumed. Anything above that has to be paid for, entitlementwise or taxwise.

Again, I congratulate my colleague from Wisconsin, but I urge our colleagues, if they want to protect families and make sure the tax cuts happen, to vote no on the amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I appreciate not only the comments of the Senator from Oklahoma but his leadership on the Budget Committee. I enjoy very much serving with him on the committee. I also appreciate the sort of change of tone from the opposition on this amendment. Everything we have heard about this amendment recently is how we need to have a weaker rule than the pay-go rule. Somehow we have to justify these exceptions that were put in the Budget Committee resolution. Finally the chairman is talking about what we really should be talking about, that we need a strong rule.

What he has done is lay out some things our pay-go doesn't do. That is true. There may be some additional things we should do in this area. But what I am proposing, with the cosponsors, is let's at least go back to the rules we know worked, the rules that brought this country a balanced budget in the 1990s. They were proven to work. That is all this amendment does.

If the Senator from Oklahoma wants to talk about additional steps, I am all for it. Senator GREGG and I, in the Budget Committee in the past, tried for 5-year caps on spending. We were defeated by a largely party-line vote except for Senator GREGG. That didn't work so we tried a 2-year cap, working with Senator CONRAD. That was rejected. We tried 1 year. That is one of the three legs of the stool, the discretionary spending. If the Senator wants to work with me and Senator GREGG and others to propose legislation to deal with that, I am ready to go. In fact, Senator GREGG and I proposed such a bill.

But the chairman knows very well we can't change that on the budget resolution. We have to pass a statutory item in order to accomplish that. So I am eager to do it.

Let's pass this pay-go amendment and let's immediately move on to finish the job by passing the kind of statute that will achieve what the Senator from Oklahoma is talking about.

I can't allow a complete changing of the subject because the truth is the pay-go rules in the proposal before us are not pay-go. They are pay-go minus. It is sort of as though you draft up a budget and after you figure out what you want, then you draft up the rules by which you will draft up the budget. That is the game we are playing here. We don't go into the process saying: Look, we have played by these rules. They have worked. We say: What do we need; what tax cuts do we want; what mandatory spending do we want. And after that, everything else that hasn't gone through the barn door, then we make the rules apply after that.

I suggest that doesn't work. I suggest it is a formula for more fiscal disaster. I suggest it means next year in the Budget Committee the same thing is going to happen. There is going to be a whole list of tax cuts and other things—mandatory spending—people wanted to get in there. And they will say: We exempt this, and now we will make the pay-go rule apply.

That is making a sham out of the pay-go rules. The ranking member, for whom I have enormous admiration on this subject, hit it right on the head. The people of this country are beginning to realize it has all happened again, that they have been taken. We had rules in place that the American people were thrilled to see work, leading to a balanced budget and a surplus. Those rules are no longer there. Those rules were allowed to expire at a time when this country was undergoing enormous anxiety. But they are catching on. They caught on in 1992, and they sent to Washington people who would deal with the deficit. They are catching on again now. The Senator is right, this vote is "the vote" about whether you are for balancing this Nation's budget or whether you want deficits as far as the eye can see.

Mr. President, I yield to the Senator from Delaware who has been a terrific advocate on this issue.

Mr. CARPER. I thank my colleague for yielding. I thank Senator FEINGOLD and others on our side and the other side of the aisle for their work.

This is an important amendment. He is right. I don't know whether it is the most important amendment offered on this resolution, but it may well be. I would like to take a couple of minutes and look back a few years to some of the things that have been said by folks in our country and actually outside of our country.

I would like for us to go back to 2001, the first year George Bush was President. What he said was:

> We can proceed with tax relief without fear of budget deficits.

We found out he was wrong.

A year or so later, he said:

> Our budget will run a deficit that will be small and short term.

I am sorry to say he was wrong again.

In 2003, he said:

> Our current deficit is not large by historical standards and is manageable.

That, too, is wrong.

This year, he is saying to us:

> The deficit will be cut in half over the next 5 years.

Unfortunately, if we look more closely at what is going to happen over the next 5 years and beyond, the deficit may be trimmed a little bit, but it is going to begin to explode when my generation of baby boomers starts to retire in 5 or 6 years.

I want to share with my colleagues another quotation that occurred several years before these. It was not by an American but a fellow from Great Britain, Dennis Healy. In the late 1970s, he was Chancellor of the Exchequer. There was something he called the "theory of holes." The theory of holes goes something like this: When you find yourself in a hole, stop digging.

We are in a hole. We are in a huge hole. The hole of debt is almost $7 trillion, up from about $1 trillion in 1982. It is actually pretty modest compared to the hole we are going to be in in 2014. This red line represents money that we owe somebody. Those somebodies are going to want to be repaid. Do some of the people lending money to Uncle Sam live in this country? A lot of them don't. A lot of them live around the world. As they see this red ink accumulate, and as they see a nation not only living beyond its means financially through our Federal deficits but a nation that buys a lot more from overseas than we certainly sell to other countries, my fear is that what may well happen is those other countries will lend us so much money, but in order to continue to loan us more money, they are going to want a little higher interest rate—maybe significantly higher—as our creditors. If we begin to pay higher interest, we know what kind of adverse effect that can have on the economy of this country.

Look at one other chart. This is about the year 1999, 2000, when the budget deficits turned into surpluses. Now we are back in the soup. This is what the deficit looks like. In 2004, it is about $600 billion. The reason this looks higher than some of us are used to is because this is the real operating deficit, when you take away the mask that is provided by Social Security. Social Security is going into the surplus, and it makes the operating deficit look smaller because we operate under a unified budget. After dropping down, it picks up to about three-quarters of a trillion dollars. That is 1 year. It will be over a quarter of a trillion dollars in 2014.

A week or so ago Alan Greenspan was before the Banking Committee. He was testifying. During the course of his testimony, and following his testimony, we had the opportunity to ask him questions. I asked him questions about the potential of interest rates rising and what that might do to the economy. He expressed that could happen and, in fact, it would be a chilling one for the American economy.

We also talked about the proposal before us today that Senator FEINGOLD is offering, this pay-as-you-go notion; the idea that if I wanted to raise spending further above the baseline of spending already built into our budget, I would have to come up with an offset. The idea is that if I wanted to lower revenues, cut taxes in some area, I would come up with an offset to equal out that effect.

I asked Chairman Greenspan—there are different approaches to pay-go.

One, I call it pay-go "lite," where it would only affect the spending side. If I had a spending increase I wanted to make, I would have to come up with the offset. I said, How about the other side of a pay-as-you-go, on the revenue side? I was trying to get him on the record to say that the pay-as-you-go should be applied both on the spending side and the revenue side.

This is what he said: What worked in the past is what we ought to do now. That is what he said. What worked in the past is what you, the Congress, ought to do now. What worked in the past? It was a pay-as-you-go approach that applied to both spending and revenues. Frankly, it worked real well in the past. It is not the only thing that worked well, but it was helpful. We have the opportunity to put it back into place. We ought to do it.

My dad, when I was a kid growing up, would say to my sister and me when we would do some foolish stunt and not show any forethought: Just use some common sense. My guess is, if we were on the floor today and I asked Senator FEINGOLD, or Senator CONRAD, or the Presiding Officer, to go back to your childhood and think about things your parents used to say to you, you could all think of something they would say to you to try to drum into your heads. My dad would say more times than I would care to remember: Just use some common sense.

When we have an annual budget deficit that is approaching $600 billion, when we have a national debt that is now at about $7 trillion, I think a good test of common sense is, when any Senator wants to raise spending to make this situation worse, or any Senator wants to cut the revenue base to make this situation worse, we ought to say: How are you going to pay for it? If I don't have a good answer, we should not do what I want to do—either raising spending or cutting revenues. In my dad's words, that would be using common sense. We need some common sense. This amendment will provide that.

Mr. FEINGOLD. Mr. President, how much time remains?

The PRESIDING OFFICER. Four minutes remain.

Mr. FEINGOLD. Mr. President, I yield to the Senator from North Dakota.

Mr. CONRAD. I thank the Senator. I will take 2 minutes off the resolution so the Senator will retain his time.

My colleagues, this amendment matters. We have a lot of amendments that are important but that, frankly, are not going to do much about our long-term fiscal condition. This amendment could make a real contribution to getting these skyrocketing deficits under control. Why? Because it says simply this: No new spending on the mandatory side, and that is two-thirds of Federal spending; no new tax cuts that are not paid for, unless you can get a supermajority vote.

This is one of the key budget disciplines we had through the 1990s that helped us save hundreds of billions of dollars on the deficit. This is what helped us move from record deficits to record surpluses. This budget discipline was allowed to lapse in 2002, despite our best efforts.

Senator FEINGOLD and I made a last-ditch attempt to save these budget disciplines and we got 59 votes. We needed 60. Look what has happened since. Deficits have taken off like a scalded cat.

My colleagues, I think this vote is going to be evidence of whether somebody is serious about fiscal discipline and restoring fiscal sanity or whether they just want red ink as far as the eye can see. Make no mistake, that is where we are headed. That is where we are headed under the President's plan.

The President's plan adds $3 trillion to the national debt in the next 5 years. The budget resolution is a little bit better; it adds $2.86 trillion to the national debt in the next 5 years. All of this is right before the baby boomers retire.

My colleagues, you cannot leave this Chamber calling yourself a fiscal conservative unless you vote for this amendment. I urge my colleagues to support the amendment of the Senator from Wisconsin.

Mr. MCCAIN. Mr. President, I strongly support the amendment offered by my good friend from Wisconsin.

We are facing a dire financial situation. The projected deficit for the current fiscal year is $521 billion—that's over half of a trillion dollars—the largest ever. That is why the Congress and the administration must begin taking action this year, despite the fact that it is an election year, to address this crisis. Our failure to start making some of the tough decisions will land squarely on the backs of our children and grandchildren, and their financial future will be strapped with digging out of the holes that have been created by our actions and inactions.

The Federal Reserve Chairman Alan Greenspan testified recently before the House Budget Committee about the seriousness of our rising budget deficit and, more specifically, the impact the deficit is going to have on our future economic stability. He very clearly warned about the consequences of a lack of fiscal discipline, and called for new steps to restrain spending. The Chairman firmly supports reinstatement of the pay-go rules as one such step.

According to a joint statement issued by the Committee for Economic Development, the Concord Coalition, and the Center on Budget and Policy Priorities, "without a change in current (fiscal) policies, the federal government can expect to run a cumulative deficit of $5 trillion over the next 10 years."

These figures are shameful and frightening. Another astonishing part of this report states that, "after the baby boom generation starts to retire in 2008, the combination of demographic pressures and rising health care costs will result in the costs of Medicare, Medicaid and Social Security growing faster than the economy. We project that by the time today's newborns reach 40 years of age, the cost of these three programs as a percentage of the economy will more than double—from 8.5 percent of the GDP to over 17 percent."

The Congressional Budget Office, CBO, also has issued warnings about the dangers that lie ahead if we continue to spend in this manner. According to a recent CBO report, due to rising health care costs and an aging population, "spending on entitlement programs—especially Medicare, Medicaid and Social Security—will claim a sharply increasing share of the nation's economic output over the coming decades." The report went onto say that, "unless taxation reaches levels that are unprecedented in the United States, current spending policies will probably be financially unsustainable over the next 50 years. An ever-growing burden of federal debt held by the public would have a corrosive . . . effect on the economy." Additionally, CBO has projected a 10-year deficit of $4.4 trillion.

These are alarming figures. It is critical we take action to curtail further deficit spending.

In the 1990s, when we faced what we thought to be the worst fiscal situation possible, we passed the Budget Enforcement Act of 1990, which instituted a number of statutory deficit control rules, including the pay-as-you-go, pay-go, requirements. The statutory pay-go rules were largely responsible for imposing true financial discipline on the Congress when it came to mandatory spending programs and taxes. Unfortunately, those rules expired in 2002.

We have an opportunity today to show the American public that we are serious about digging out of the fiscal hole that faces our country by adopting this amendment to strengthen the Senate pay-go point of order. Although I wish we could reestablish the statutory pay-go rules, we can't do that in the budget resolution since it is not a law. We can, however, tighten up our own Senate rules to make it more difficult to pass legislation that increases the deficit.

I would like to bring my colleagues' attention one of today's editorials in the Washington Post, urging reinstatement of the pay-go rules. I ask unanimous consent that a copy of the editorial be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. McCAIN. Mr. President, I want to clarify that I firmly support the three proposed tax extensions in the pending budget resolution. I fully expect that when tax legislation is considered by the Chamber in the weeks ahead, it will include extensions of the marriage penalty tax elimination, the $1,000 child tax credit, and expanding the 10 percent income tax bracket as called for in this resolution, and I will support such legislation. This amendment is not an amendment in opposition to those provisions, but rather, an amendment to promote fiscal responsibility and protect us from ourselves.

I urges my colleagues to support the amendment.

[From the Washington Post, Mar. 10, 2004]

RIGGING THE BUDGET RULES

When it comes to matters of taxes and spending, members of Congress are like would-be dieters who can't stop raiding the refrigerator. Recognizing this weakness, lawmakers have resorted in the past to budget rules that act much like a lock on the fridge. During the 1990s, these rules set ceilings on discretionary spending and required that any tax cuts or spending increases in entitlement programs be matched by offsetting spending cuts or tax increases. As with the dieter who knows where the key is hidden, the rules didn't work perfectly—they could be avoided with a 60-vote majority—but they did help curb lawmakers' natural tendencies.

The rules expired at the end of 2002, and everyone from President Bush to Federal Reserve Chairman Alan Greenspan to Clinton Treasury Secretary Robert E. Rubin has called for their renewal. "Perhaps the single most important act Congress and the Administration could take at this point to rein in the budget over the next decade would be to re-establish the budget rules that existed in the 1990s," Mr. Rubin wrote in a recent paper co-authored with the Brookings Institution's Peter R. Orszag and Allen Sinai of Decision Economics Inc.

But the Bush administration, and some of its allies in Congress, would rig the rules to apply discipline in a dangerously lopsided fashion. The administration proposes strict controls on spending but no restraints at all on cutting taxes, an approach influenced by the administration's inflated view of the beneficial effect of tax cuts. But even for those who fully subscribe to the administration's position on the relative merits of taxes and spending, it's clear that such a rule would simply skew budgetary choices, resulting in spending programs recast in the guise of tax breaks. Mr. Greenspan reiterated last month that the rule ought to apply to both spending increases and tax cuts.

Meanwhile, the budget resolution before the Senate would leave in place the sham version of pay-as-you-go adopted last year, in which the rule applies only to tax cuts or spending increases in excess of what the budget resolution provides. This year's model would permit $122 billion more in tax cuts not offset by savings elsewhere. Under this meaningless form of pay-as-you-go, senators promise every year to show spending discipline—the next time around.

An effort to add an evenhanded pay-as-you-go rule failed on a party-line vote in the Senate Budget Committee last week. The Senate should fix that omission before it approves another irresponsible budget. And lawmakers should show discipline by requiring themselves to pay for all their tax cuts—not carving our popular middle-class breaks like the child tax credit, and certainly not speeding up repeal of the estate tax, for special budgetary treatment.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I cannot tell you how pleased I am to have the support of these two Senators. They are two Senators who are consistently devoted to protecting the taxpayers in their State and in the country. I find, more than anything else, people looking for representatives who truly come out here and take the tough votes to protect the interests of the taxpayers.

As I indicated before, they are figuring out that despite all the troubles of the last couple of years, we have irresponsibly driven up this country's deficit and debt to a point that is unprecedented in the history of the country.

I am grateful to these two Senators. I remind everybody, this is a bipartisan amendment. We have a Republican cosponsor, and there will be other Republican votes for it. This is not your typical partisan amendment or vote on a budget resolution. This is about what used to be a consensus in this body. We ought to have some rules that are consistent that will apply to all parts of the budget so that we can work together on behalf of the American people to do something about our very serious fiscal problems.

Mr. President, I reserve the remainder of my time.

Mr. NICKLES. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Oklahoma has 24 minutes. The Senator from Wisconsin has 3 minutes.

Mr. NICKLES. Mr. President, to notify our colleagues, it will be my intention to yield some time back and to vote, unless my colleague from Iowa wishes to speak, at quarter to 6. We have three rollcall votes. The first one will be on Senator BYRD's amendment to strike the reconciliation provisions.

I notify my colleagues that rollcall votes will probably begin in the next 10 minutes.

I have great respect for the authors of the amendment. I support pay-go, but I think it should be pay-go with the present law tax cuts being extended. If we do not, we are going to have tax increases. We ought to let people keep the same tax rates they have today. I do not want to lose the marriage penalty relief. That is what we are assuming in our budget. This boils down to, we have pay-go on everything except these child-friendly, marriage-friendly tax cuts. We want those to continue, maybe not under pay-go.

Some people say let's raise somebody else's taxes to pay for them. That is a recipe for getting nothing done. We want to continue present law on the taxes. It is very interesting that present law on spending does not have to be paid for. We have a lot of spending programs that also have sunset provisions, but they do not have pay-go when they are reauthorized, when they are extended.

If you extend the farm bill—I have a whole list of programs—Temporary Assistance for Needy Families, food stamps, Commodity Credit Corporation, veterans compensation, child care entitlements, and State Children's Health Insurance Program. All these, and many more, are temporary. They sunset. When they are extended, they are assumed to be extended. They do not have to be paid for. But any tax cuts—when I say tax cuts, marriage penalty relief, child credit taxes, the rates that we now have, 35 percent maximum, 10 percent—that 10 percent is now going to revert to 15 percent unless we pay for it? Oh, that rate that is 25 percent today is going to go to 28 percent unless we pay for it, but we do not make the appropriators pay for incremental expense. They can increase appropriations by any amount. They do not have to pay for it.

My point is we have basically identical pay-go under our resolution as this amendment provides, except we assume present law, I stated a while ago, with exception of AMT. AMT is basically an extension of present law.

The resolution we have before us was well thought out. It says let's keep present law intact, basically. Let's not have tax increases on families. Let's not make it more difficult for people to keep present law. Let's not tax them more next year under some rule, the present law.

I know most of my colleagues do not want to increase taxes on those families, so we put it in the budget. Anything above that has to be paid for. So we have pay-go. If somebody says it does not work, they did not look at the Senate last year. I happened to be chairman of the Budget Committee. I requested somebody to make 60-some budget points of order, almost all of which we prevailed on. If anybody thinks I am not willing to use pay-go or any other budget rule to try and constrain spending, I think the facts will show quite differently.

We will enforce the budget. The question is whether we are going to allow people to keep the same rates they have today or assume they are going to have a tax increase unless we find some other tax increase to pay for it.

I urge our colleagues to vote against this amendment. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I wish I could say what is in the budget resolution before us is pay-go, but it is not pay-go. It is pay-go without an absolutely critical component, and that is making it apply to the tax cuts. It is almost like saying I want pay-go as long as it does not apply to what I want, and that is not the pay-go that worked in the 1990s. That is not the pay-go that brought us a balanced budget.

I have to reiterate, this does not stop the tax cuts the Senator from Oklahoma is talking about—child care credit, 10-percent bracket, marriage penalty. Not only can all of these survive under pay-go, they will. They just need to get 60 votes. I predict in each case, they will probably get 35 to 40 extra votes on top of that, if anyone even raises the point of order. So it is simply false to say somehow this stops the tax cuts from being extended.

Let's be honest about it. The only reason this exemption is needed is those tax cuts were not made permanent. Had they been made permanent, the Senator from Oklahoma would not have to be worrying about extending them. Why weren't they made permanent? They weren't made permanent so we could have this phony idea the deficit isn't as bad as it really is out in the future years. It is a gimmick. It is a game to make them temporary so you can say it is not going to cost more in the outyears. Then when it comes time to face the music, what do we do? We say the normal rules do not apply. We do not require ourselves to pay for it, or we do not require the 60 votes that are normally needed.

Without the adoption of this amendment, we have done serious damage to the integrity of the pay-go rules going into the future. A system of rules such as this depends on the integrity of the rules, that they be applied fairly and across the board. Allowing these exemptions, even well-intentioned, with regard to certain tax cuts, undermines the integrity of a system we all relied on to work in the 1990s.

Mr. President, I reserve the remainder of my time.

Mr. NICKLES. Mr. President how much time remains?

The PRESIDING OFFICER. The Senator from Oklahoma has 20 minutes.

Mr. NICKLES. I yield my colleague from Iowa such time as he desires.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I am going to oppose this amendment because this amendment is not about paying for tax cuts; it is about avoiding a tax increase. Although I understand the desire to impose pay-go, it should not apply to current law, and that is a very important distinction.

Under current law, we have a number of tax provisions, including the expanded 10-percent tax bracket, the $1,000-per-child tax credit, and marriage penalty relief that will expire at the end of this year. If we do not extend these provisions, taxes will go up, and taxes will go up automatically.

As I have said before in several other points I have been making on other amendments, it is one thing for Congress to have guts enough to vote a tax increase, but it is quite another to let taxes go up automatically without a vote of the people. I think that is wrong.

In order to extend the existing tax law, we need to pass legislation yet this year if we are going to have a seamless continuation of present tax law into the year 2005 and beyond. That is what this amendment is all about. We are going to either extend current law or we are going to let taxes go up.

Requiring the Senate to pay for this tax relief we already have in the law, that would not be in the law if we do not take some action this year, could lead to disastrous results. We are talking about disastrous results for families, such as if one is married and they get hit with the marriage penalty, that is a major concern to those families who have to pay more. If they have children and they benefit from the $1,000 child credit and that credit goes down, that is going to hit those families to a greater extent.

All families, low income or otherwise, but particularly this 10-percent bracket was put in the law to help low-income Americans pay less taxes. So it is a disastrous result on families, and we should not have to go to the extra extreme of maintaining existing law. If for some reason we could not agree on the necessary offsets that would be required under Senator FEINGOLD's amendment, or if we could not get 60 votes, then current law would expire and taxes would automatically go up, without even any consideration by any of us. There would be 535 people just standing by and letting taxes go up.

Some people may be willing to take that risk, but I do not believe that is the right approach. Consequently, we need to reject this amendment. We need to support working families of America by extending the tax reductions that have already been provided for under current law. We need that to be seamless. We do not want to take any chance somehow somebody is going to say next October, just before we adjourn for the election, well, we will worry about this next year. That is a bad situation to leave the families of America. They ought to know what tax policy is for the long haul.

Certainty of tax policy is the best tax policy. Even if it might not be exactly the right tax policy, certainty of tax policy is better than the uncertain situation we have facing American working men and women today.

I yield the floor.

The FRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I will be shortly yielding back the remainder of our time. I believe our agreement was we would go to the Byrd amendment first. I think we agreed to have 1 minute on each side to recap the debate.

The PRESIDING OFFICER. That is correct.

Mr. NICKLES. I have already asked Senator BYRD to come in. Has the Senator from Wisconsin concluded?

Mr. FEINGOLD. Mr. President, I want to know, do I have 30 seconds remaining?

The PRESIDING OFFICER. That is correct.

Mr. FEINGOLD. Let me point out to the Senator from Iowa, for whom I also have enormous regard and really enjoy working with, he indicated he wanted to make sure this pay-go goes through the way they have it in the budget resolution in order to make sure tax cuts that are current law continue. The fact is they are not in current law. The current law says they shall expire. That is the law. The law is they are going to expire.

In order to continue these tax cuts, a new law must be passed. All I am saying is the pay-go rule should apply to that new law, to those new tax cuts, because otherwise we are not applying the rules that are applied to everything else. I think it is an important distinction.

It is not by accident these were set up to expire.

They would have been in violation of the budget because they caused deficits in the outgoing years.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, my colleague from Wisconsin is correct, these tax changes we made last year expire at the end of this year. Actually, I think they have been in effect for 2 years. If we do not extend them, it is going to be a tax increase on American families. We are trying to protect American families.

I heard my colleague from Wisconsin say we want to protect taxpayers. That is exactly what we are trying to do. We are basically saying over $13 trillion in spending and about $12 trillion in revenues. The only thing we are trying to protect over the next 5 years is $144 billion. That is basically extending present law to make sure people do not have a tax increase from what their tax rates are today. Above that, we have pay-go. That is basically what our resolution says, with the exception of the energy bill, and perhaps one other minor provision; AMT is an extension of present law.

We do not want the families who are paying taxes today to have a big tax increase, if they have 4 kids, of $2,200 next year. So we said everything else, yes, is pay-go. We do not have pay-go for the farm bill. We do not have pay-go for all of these multitude of entitlement programs I mentioned. They all sunset. They all expire at a certain period of time. There are some real inequities, almost a bias, for more spending. We do not have pay-go for incremental increases in discretionary spending, but we say, oh, if you want to keep your present tax level, you have to pay for it.

What some people mean by that is we want to have higher taxes on somebody else. The net result could be, especially in a political year, one where the partisan feelings are so strong you would end up with no tax bill, which ends up increasing taxes on American families. I do not want that to happen.

If we look at the total amount of money spent, the difference is $144 billion. We are saying we want to apply pay-go above everything else. When talking about $13 trillion, it is not that significant. I think it is important to protect the $144 billion, so we protect American families so they do not have a tax increase next year.

I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. On our side, it is my understanding Senator LEVIN has 5 minutes remaining.

Mr. NICKLES. That is correct.

Mr. REID. I ask Senator FEINGOLD have 1 minute of that 5 minutes.

Mr. NICKLES. We could go back and forth all day. I would like to start the rollcall vote very quickly. If Senator LEVIN is in the Chamber, this would be the time for him to speak.

Mr. REID. He is not going to use his time.

Mr. NICKLES. If Senator FEINGOLD wants an additional minute, that will be fine. I will take an additional minute.

Mr. REID. I will yield back the 4 minutes when he finishes his time.

Mr. NICKLES. I would be happy to grant Senator FEINGOLD an additional minute. I will take an additional minute and then we will hear from Senator BYRD and we will vote.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I appreciate the opportunity to debate the Senator from Oklahoma. I join with him on the issue when it comes to the taxpayers. The lesson we learned in the 1990s is the worst thing that can be done to the taxpayers of this country is to run record deficits and destroy the fiscal integrity of this country.

The only question is: Are we going to have across-the-board, tough budget rules to protect the taxpayer dollars, or are we going to have holes in those rules that will make sure the taxpayers get in a deeper hole with the deficits?

Those tax cuts will not be denied because of these rules this year. The taxpayers of this country will get the 10 percent. They will get the continued elimination of the marriage penalty. They will get the child care credit. If we go with my amendment, they will get that and also get the fiscal discipline rules that brought them a balanced budget at the end of the 1990s.

I yield the floor.

The PRESIDING OFFICER. The Democratic whip.

Mr. REID. Mr. President, would the distinguished manager of the bill entertain having the second 2 votes 10-minute votes rather than 15-minute votes?

Mr. NICKLES. I was going to make that request.

Mr. President, I yield the remainder of my time. What we agreed to do previously was to stack the three votes. Senator BYRD would be first. We agreed to have the proponents and opponents each have a minute before each vote. I ask unanimous consent that we vote on Senator BYRD's amendment and that the following two votes be limited to 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, I wanted to inquire if I might find a way to speak for not to exceed 2 minutes in opposition to the amendment that is offered by Senators WARNER and STEVENS.

Mr. REID. I have no problem with that.

Mr. NICKLES. I modify my request so that there be 2 minutes on each side prior to the vote on the amendment of Senator WARNER and Senator STEVENS.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. REID. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. REID. I ask for the yeas and nays for the Byrd amendment.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I believe our regular order would be we would revert to the Byrd amendment with 1 minute debate on each side.

The PRESIDING OFFICER. That is correct. Is the Senator yielding back his time on the Feingold amendment?

Mr. FEINGOLD. I ask for the yeas and nays.

Mr. NICKLES. I yield the remainder of my time on the Feingold amendment.

Mr. REID. I yield Senator LEVIN's time.

The PRESIDING OFFICER. Is there an objection to the request of the Senator that the yeas and nays be ordered?

Is there a sufficient second? There appears to be.

The yeas and nays were ordered.

Mr. FEINGOLD. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be.

The yeas and nays were ordered.

AMENDMENT NO. 2735

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 1 minute.

Mr. BYRD. Mr. President, the debate about budget deficits is taking place all across this country. Ironically, the one place where debate is discouraged on this matter is right here in the world's greatest deliberative body. My amendment would strike the tax reconciliation instructions to the Finance Committee that would shield tax cut legislation that worsens the deficit from a thorough debate in the Senate.

To use reconciliation to increase the deficit is an abuse of the budget process. It doesn't matter whether it is an $81 billion tax cut, a $350 billion tax cut, or a $1.35 trillion tax cut, the Budget Act framers—and I was one of them—did not contemplate all this difficulty, did not contemplate reconciliation would ever be used to worsen the deficit. Not until 1999, after 25 years of restraint, was this abuse of the process first perpetrated.

If this budget resolution passes with these reconciliation instructions included, the Senate will be denied the opportunity to forge a consensus that would allow it to extend these tax cuts and pay for them.

That is the issue on which we vote today. A vote to strike the reconciliation instructions is a vote to allow the Senate to work its will and to permit the further worsening of the deficit. I urge my colleagues to support the amendment, and I thank the Chair.

Mr. NICKLES. I alert my colleagues we are going to start 3 rollcall votes momentarily.

The only way to make sure there is not a tax increase on American families is to pass reconciliation. Maybe we don't need it. I hope we don't need it. Maybe we will have some good bipartisan cooperation and we can extend present law to make sure these families don't have a tax increase, but this is a pretty partisan time. We can't even get conferees appointed to the Workforce Reinvestment Act, which would help people to get jobs. Some people are just playing games. I don't want to play games with the American family. We only reconcile $81 billion out of $12 trillion.

I want families to have a tax cut. I want them to keep the same tax law they have today. That is a savings of $1,600 for a family of four that has taxable income of $58,000. The only way we can really assure that is going to happen, or increase the likelihood that will happen, will be to have reconciliation. I wish that wasn't necessary, but unfortunately it is. You can have a lot of people play games with the tax bill if it comes through and it has unlimited amendments.

Maybe we won't need reconciliation. Chairman GRASSLEY asked me to make sure we have it as an option, and I think it is important to do so. If we don't, you may well see the $1,000 tax credit per child go to $700, you may well see the marriage penalty relief disappear and increase taxes on couples $900. I urge our colleagues to vote no on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from South Dakota (Mr. JOHNSON) is necessarily absent.

The PRESIDING OFFICER (Mr. ALEXANDER). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 52, as follows:

[Rollcall Vote No. 36 Leg.]

YEAS—47

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carper
Chafee
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Inouye
Jeffords
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

NAYS—52

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nelson (NE)
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NOT VOTING—1

Johnson

The amendment (No. 2735) was rejected.

Mr. NICKLES. I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2742

The PRESIDING OFFICER. There are now 4 minutes evenly divided prior to a vote on the Warner amendment.

The Senator from Virginia.

Mr. WARNER. Mr. President, of the 2 minutes under my control, I would like to give a minute to my distinguished colleague, Senator STEVENS.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, the amendment I have cosponsored with Senator WARNER will restore the President's request for the Department of Defense. I understand the reasons why the Budget Committee did not bring this full number out of the committee, but we wish to restore the President's request in full.

We are engaged in a global war against terrorism. We have troops in Afghanistan, Iraq, and Haiti. More than half of our forces are overseas at the present time. I do not think it is time for us to cut the President's request for the Department of Defense.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I will be happy to follow with the remainder of my time, if the other side wishes to address this issue.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, on this side we urge our colleagues to support this amendment. We think when our forces are in the field, when they are in combat half a world away, we ought to meet the Commander in Chief's request for funding.

We will offer an amendment at a later point in the queue to fully pay for this amendment. We think that is an appropriate way to handle this matter. But for the moment, on this amendment, we think the right vote is to support the request of the Commander in Chief while our forces are in combat.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, how much time do I have?

The PRESIDING OFFICER. Two minutes in opposition.

The Senator from Virginia.

Mr. BYRD. Mr. President, I have the utmost respect for the two authors of this amendment. They know that.

The Defense Department is plagued with accounting problems so severe that the Secretary of Defense cannot account for billions of taxpayer dollars. The General Accounting Office estimates the very earliest the Defense Department could possibly pass an audit would be 2007, and that is optimistic. The administration does not even know how much time and how much money it will take to fix the accounting problems.

It is absurd that the administration is proposing to cut vital domestic investments while billions and billions of dollars are lost every year in the Pentagon's broken accounting system. Such waste would not be tolerated from any other Department.

I suggest the Pentagon would be more careful with its money if it had less of it to waste. The Defense Department's budget is already bloated at $414 billion. I cannot support this amendment to add another $6.9 billion to the budget resolution for the Pentagon when it cannot explain to the American taxpayers how their hard-earned money is being spent.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I say to my distinguished colleague in reply that you have brought this to the attention of the Senate year after year, as you should.

Mr. BYRD. Yes.

Mr. WARNER. We are endeavoring, through oversight and otherwise, to correct it. But those problems in no way are owing to the valor of the men and women in uniform and their families.

Mr. BYRD. Right.

Mr. WARNER. That is what this vote is for.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I want to remind our colleagues, this is a 10-minute rollcall vote. We will have one other vote immediately following that. For the information of our colleagues, it is our expectation to have more rollcall votes, probably to begin at around 8:45.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2742.

Mr. NICKLES. Mr. President, I ask for the yeas and nays.

Mr. WARNER. Mr. President, the yeas and nays have already been ordered.

The PRESIDING OFFICER. The yeas and nays were ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. REID. I announce that the Senator from South Dakota (Mr. JOHNSON) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 4, as follows:

[Rollcall Vote No. 37 Leg.]

YEAS—95

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Campbell
Cantwell
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Edwards
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Inouye
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes

Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NAYS—4

Byrd
Carper
Gregg
Jeffords

NOT VOTING—1

Johnson

The amendment (No. 2742) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. CONRAD. I move to lay that on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2748

The PRESIDING OFFICER. There will now be 2 minutes of debate, evenly divided, prior to a vote on the Feingold amendment.

The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, this amendment will simply return us to the rules by which Congress played in the decade of the 1990s. We eliminate the exceptions to pay-go included in last year's resolution that exempt new tax cuts and new mandatory spending included in the budget resolution, an exception that facilitates more damage to the Federal bottom line.

This amendment will not—I repeat, will not—prevent the extension of the expiring 10-percent bracket or the child tax credit or the marriage penalty. This body will vote to extend those tax cuts by a huge margin, and I will be part of that huge margin. But this amendment will return some of the budget discipline that helped us balance the budget.

Deficits matter. Debt matters. Let's not leave our children and grandchildren with an even bigger tab than we have already stuck them with.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I urge our colleagues to vote no on this amendment. These are the tax cuts we are trying to protect. Everything, basically other than that with a minor couple other things, is pay-go. We have pay-go on everything that is not assumed in the budget. This chart shows most of it. That is tax relief for American families.

We should protect taxpayers. We do not have pay-go for expansion of entitlements that sunset, but we do for tax cuts that are sunset. That is not fair to the taxpayers. Let us protect taxpayers.

We have pay-go in the underlying resolution. Last year, I and others made 62 points of order to cut spending. We used pay-go. We will use it again this year. We have it in this budget resolution. I urge my colleagues to vote no on the Feingold amendment.

For the information of colleagues, we expect to have about a 2-hour window, and we expect to have more rollcall votes probably beginning about 8:45 or 9 p.m.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. BYRD. How much time was consumed on the last rollcall?

The PRESIDING OFFICER. Nineteen minutes.

Mr. BYRD. Nineteen minutes. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2748. The yeas and nays have been ordered. The clerk will call the roll.

Mr. REID. I announce that the Senator from South Dakota (Mr. JOHNSON) is necessarily absent.

The PRESIDING OFFICER (Mr. COLEMAN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 51, nays 48, as follows:

[Rollcall Vote No. 38 Leg.]

YEAS—51

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carper
Chafee
Clinton
Collins
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Inouye
Jeffords
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
McCain
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Snowe
Stabenow
Wyden

NAYS—48

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chambliss
Cochran
Coleman
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McConnell
Miller
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NOT VOTING—1

Johnson

The amendment (No. 2748) was agreed to.

Mr. CONRAD. Mr. President, I move to reconsider the vote.

Mrs. CLINTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, for the information of our colleagues, Senator CONRAD and I are trying to work out an agreement on which amendments will be going next. I believe we have an understanding that Senator BAUCUS will offer an amendment. At that point, Senator VOINOVICH will offer an amendment, and I think I will stop there. I know Senator CONRAD is trying to line up one or two more.

It is our hope that people would not want too much time on their amendments so we could expedite as many amendments as possible.

Again I will repeat, we expect votes to occur probably shortly before 9.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 2751

Mr. BAUCUS. I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] proposes an amendment numbered 2751.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To strike the outlay reconciliation instruction to the Committee on Finance)

Strike section 201(c).

Mr. BAUCUS. Mr. President, this amendment would eliminate the reconciliation instruction in the budget resolution directing the Finance Committee to produce savings in mandatory programs within the committee's jurisdiction. The amendment is based on an assumption in the resolution that our committee would cut Medicaid by $11 billion over 5 years, and reduce earned-income tax credit outlays by $3 billion.

Let me begin by clearing up one common misconception. Some may think the budget calls for the Finance Committee to produce legislation that saves $3.4 billion over 5 years, since that is the figure in the reconciliation instruction. In fact, the Finance Committee would have to produce $21.6 billion in savings. Why? Because the budget resolution calls for extending the child tax credit and marriage penalty relief. Since a portion of the child tax credit and marriage penalty relief is refundable, these count as outlays in the budget process. So extending the child tax credit and marriage penalty relief, as the President has proposed and as the budget resolution provides, and which I support and I think the vast majority of Members of this body support, it will have the effect of increasing outlays also by $18.2 billion over 5 years.

To produce legislation that generates net outlay reductions of $3.4 billion, and the additional $8.2 billion cost, the Finance Committee would have to draft legislation to reduce spending by $21.6 billion—again, not the $3.4 billion over 5 years, which is the figure in the budget resolution. It would actually have to be $21.6 billion.

The budget resolution assumes the Finance Committee will pass legislation that cuts Medicaid by $11 billion and cuts the earned-income tax credit by $3 billion and comes up with the remaining $7.6 billion by extending customs user fees.

Mr. CONRAD. Will the Senator withhold for one moment? I apologize.

Mr. BAUCUS. Absolutely.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. Chairman, would you like to present a unanimous consent request on time agreements on the next four amendments?

Mr. NICKLES. Mr. President, we have three or four amendments in the queue. I believe they are the amendment of Senator BAUCUS, the amendment of Senator VOINOVICH, the amendment of Senator NELSON, and the amendment of Senator CORZINE.

I ask unanimous consent there be 30 minutes equally divided on each of those four amendments.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SARBANES. Reserving the right to object, can I get in that queue?

The PRESIDING OFFICER. The Senator from Maryland.

Mr. BAUCUS. Mr. President, I reserve the right to object, too.

Mr. SARBANES. Can I get on that queue?

Mr. NICKLES. You would have to talk to your manager.

Mr. CONRAD. I will be happy to make that the fifth amendment.

Mr. NICKLES. What amendment would that be?

Mr. CONRAD. The firefighters amendment.

Mr. NICKLES. I am not familiar with the amendment. I would like to see it. I expect I would agree to it.

Mr. CONRAD. It is the amendment offered in the committee. I would say what we would like to accomplish. The next round of votes has been set for 8:45 or 9 o'clock. We would like to get the next group of amendments debated so they could be voted on at that time. That is why we are trying to have very tight time limits on these amendments. Would that be agreeable to the Senator?

Mr. BAUCUS. Mr. President, actually it is not agreeable. I would like an hour. I may not use it all, but I would like an hour, equally divided.

Mr. CONRAD. Equally divided. I ask the chairman, could we say we have an hour equally divided on that amendment and 30 minutes on the other three, equally divided, and reach that agreement?

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. I will modify the request that there be an hour equally divided on the Baucus amendment and the other three amendments I referred to be equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. SARBANES. I object. I object.

The PRESIDING OFFICER. Objection is heard. The Senator from Montana has the floor.

Mr. BAUCUS. Mr. President, let me just recap briefly so Senators understand my amendment. I explained where we were before the break in the action.

I am offering an amendment which would eliminate the reconciliation instruction to the budget resolution directing the Finance Committee to produce savings in mandatory programs within the Finance Committee's jurisdiction. The amendment, as I mentioned earlier, is based on the assumption in the resolution that the committee would cut Medicaid by $11 billion over 5 years and reduce the earned-income tax credit outlays by $3 billion.

Some may think the budget calls for the Finance Committee to produce legislation that saves $3.4 billion over 5 years, since that is the figure in the reconciliation. Actually, the committee would have to produce savings of $21.6 billion, and that is basically because the resolution calls for extending the child tax credit and the marriage penalty relief, as the President has proposed, and as provided for in the budget resolution and which I support. I think the vast majority of the Members here support it.

As a consequence of all that, the outlays have to be increased $18.2 billion over 5 years, and that is, again, because the earned-income tax credit is refundable. So you add it all together and it actually comes up to $21.6 billion that has to be cut, not the figure of $3.4 billion contained in the budget resolution.

I might add that I think neither the earned-income tax credit cuts nor the Medicaid cuts make a lot of sense. Let me start with the earned-income tax credit. That is a feature in the Tax Code that President Reagan once hailed as—and let me give his quote:

> . . . the best anti-poverty, the best pro-family, the best yet creative measure to come out of Congress.

I think he is right. The earned-income tax credit has done a lot to lift people out of poverty.

President Bush has not proposed any reductions in the earned-income tax credit, and with good reason. The earned-income tax credit was created in 1975 as a bipartisan effort to reduce the tax burden on low-income Americans. It provides a powerful incentive for people to work. It has played a very large role in moving poor families from welfare to work. It has reduced poverty.

Nearly 4.8 million people, including 2.6 million children, are lifted out of poverty each year because of the EITC. By all accounts, the earned-income tax credit has been successful, and it has been effective.

While the earned-income tax credit has achieved its policy aims, and I might add with incredible success, a 1999 Treasury audit of EITC returns shows that noncompliance is a problem. And it is a problem. Noncompliance in the EITC has been a problem. I believe, however, that noncompliance on the earned-income tax credit is largely due to errors, not because of fraud. Both the complexity of the tax credit and the complex living situations are responsible for the high error rate.

Let me give an example. There is an IRS publication called publication 596. That is the IRS instructions and forms for the earned-income tax credit. Guess what. It is 52 pages long. Can you imagine somebody sitting down at his or her kitchen table trying to figure out the earned-income tax credit? The IRS takes more pages to explain the earned-income tax credit than it does to explain the complicated alternative minimum tax. Guess how many pages are in that. Eight. They are eight terrible pages, but there are only eight of them. The EITC booklet has 52 pages. Obviously, it is unnecessary complexity.

Senator GRASSLEY and I fashioned a series of reforms that were enacted as part of the 2001 tax cut legislation. The Treasury expects those changes alone will reduce earned-income tax credit overpayments by about $2 billion a year. So we are doing something about it. We all recognize more needs to be done, and we will all work together to see that this work gets done.

But the remaining work is administrative; it is not legislative. As this administration has indicated, finding ways to identify earned-income tax filers who were not compliant, and to save money by preventing losses to the Treasury, is primarily an administrative issue, not one that can be achieved through legislation. One can't simply wave a wand and pass a law mandating a lower error rate. That takes a lot of administrative work. The IRS and Treasury are working on it now. They are conducting a major pilot project to test new procedures which the agency hopes will reduce overpayments. I hope the Treasury reduces overpayments, and the IRS is also likely to conduct a second pilot this summer. I and other Senators want to see whether these procedures work, while making sure they don't cause honest, eligible working families to lose earned-income tax payments for which they qualify.

But I believe administrative action is the proper course. Let me reiterate that no legislative remedies are at hand that the Joint Committee on Taxation has found will generate significant savings—no legislation. Reducing errors is primarily administrative, and the budget resolution's reconciliation instructions to the Finance Committee would unfortunately force the committee to cut the EITC itself. It doesn't really address the error rate.

For hard-working, low-income families, the EITC offsets income, payroll, or Federal excise taxes. It would thus raise taxes for these working families; that is, if the EITC were cut.

It is bad enough we continue to let the minimum wage erode. We should not be raising the taxes on the working poor on top of that by cutting the EITC. The Senate should take a firm stand against raising taxes on working Americans.

The chairman's mark in the Budget Committee last week lays out two ways to achieve these so-called EITC savings. One way is a tax increase, pure and simple. The other way is administratively infeasible and would generate strong opposition from small business owners. The only way the second method could be designed so it would save money would be to make it, too, into a tax increase. Let me explain.

The first of two options in the chairman's mark is to repeal the EITC for very poor workers, particularly workers without children. According to the IRS, some 3.7 million low-income workers received this credit in the year 2003 and secured an average tax credit of a little over $200 each. These workers are among the poorest, lowest paid workers in the country. Only single workers with incomes below $11,490, and married couples with incomes below $12,490, would even qualify.

This credit equals a maximum of 7.65 percent of the first $5,000 in wages these workers earn. As a result, this credit simply offsets some or all of the employee share of the payroll taxes these workers pay. Repeal it and the net Federal tax burden on these workers rises.

Furthermore, if this tax credit is repealed, poor, single workers will begin owing Federal income tax in addition to their payroll taxes when their earnings only reach $7,950. That is nearly $2,000 below the poverty line. We can't do that. Such a change would literally tax these low-paid workers deeper into poverty.

The other option the chairman's mark lists for achieving these EITC savings is to require workers to get their EITC payments in their paychecks rather than in the refund when they file their tax returns at the end of the year. This is unworkable.

First, some small employers will find it very difficult to do. They would have to have additional complexity to do it. Second, many workers will not want to do this because they believe their earnings or their spouse's earnings may rise during the year which would make them eligible for a smaller EITC or no EITC at all, and if they received EITC payments during the part of the year their family's income was lower, they would have to write the IRS a check paying back the EITC when they file their tax returns. Not everyone in this situation is likely to file a separate amended tax return or have the cash to pay the EITC back. As a result, this could actually increase errors. It could increase overpayments as well as causing many families considerable difficulty.

It would not save money. Suppose you instituted this system starting in the tax year 2005. It means next year low-income workers would receive both their EITC tax refund for the tax year 2004 and their EITC payments for tax year 2005 which would be provided in their paychecks throughout the year. The result would be the earned-income tax credit costs would nearly double in 2005. That would increase costs, not reduce them.

This is not the time to cut Medicaid. Medicaid provides a crucial health care lifeline to more than 50 million Americans. It is a critical player in our health care safety net. Medicaid pays for about 40 percent of all births in this country. It pays for almost half of all nursing home days. Its reach stretches throughout the health care system, and substantial costs will be felt in every corner of this Nation if this cut were to proceed.

Even without these proposed cuts, Medicaid beneficiaries and providers are facing a very difficult year. Many States have not yet emerged from their worst financial crisis in several decades, and Medicaid programs have been cut in virtually every State in the past 2 years. In fact, over the past 2 years, States have instituted Medicaid changes that have resulted in between 1.2 million to 1.6 million low-income children, parents, elderly, and disabled people losing coverage and becoming uninsured.

Benefits and provider payments have also been cut, resulting in beneficiaries' reduced access to needed services and greater cost shifting to individuals who are insured. The liability of our health care safety net is threatened. These cuts would have been significantly steeper had Congress not provided States with $20 billion in fiscal relief last year.

Even after these Medicaid cuts and other budget cuts—and in many States tax increases—States still face a new round of deficits estimated at $40 billion in the coming year. Despite this news, the Federal fiscal relief is ending with the result that deeper Medicaid cuts are likely. The last thing we need to do now is to reduce Federal funding for Medicaid further and force deeper cuts in Medicaid.

We should instead heed the bipartisan warnings of the National Governors Association. In a letter last week, the National Governors Association chair and vice chair, Governor Kempthorne of Idaho and Governor Warner of Virginia, had this to say:

> States are currently emerging from the most severe budget crisis since World War II. And nearly every State has enacted difficult cuts to its Medicaid program, including both eligibility levels and provider payments. Federal funding reductions would force States to implement even deeper cuts by restricting eligibility, eliminating or reducing critical health benefits, and cutting or freezing provider reimbursement rates. As a result, the Medicaid funding cuts could add millions more to the ranks of the uninsured and would harm our Nation's health care safety net.

We should listen to the Governors. They are bipartisan. This is not a bipartisan issue.

Opposition to the cuts extends beyond the Governors to hundreds of organizations of hospitals, doctors, nurses, veterans, disability advocates, patients' advocates, and nursing homes.

Some have argued the savings could come—harmlessly, they seem to suggest—by merely cutting "fraud and abuse," particularly in State financing arrangements. But this is a false premise. Not one, not the administration and not the chairman of the Budget Committee—not one—has proposed a policy to limit State financing arrangements they decry. The administration's exhortations on this matter are so vague the Congressional Budget Office has not scored the administration's proposal as producing any savings in Medicaid. No one has even claimed any specific proposals could raise $11 billion as essentially called for in this reconciliation instruction.

To be clear, Congress has addressed the fraud we hear about.

The Finance Committee takes very seriously its oversight of the programs within its jurisdiction. The committee is dedicated to maintaining program integrity and ensuring taxpayer dollars are used wisely and efficiently. I am as strongly opposed to fraud as any Senator. But mandatory budget cuts are a blunt instrument unsuited to address this difficult, complex problem, particularly in the absence of specific administration proposals the Congressional Budget Office scores as producing savings.

Some have argued this budget reconciliation instruction doesn't matter. They argue if the Finance Committee does not want to make these cuts, then it can simply not act.

But I ask, What if the House committees of jurisdiction do act? If the House passes a reconciliation bill, any single Senator could then use rule XIV to put that bill on the calendar, bypassing the Finance Committee. The Senate could then be facing a fast-track vehicle to make unfair spending cuts that fall in the Finance Committee's jurisdiction without the committee ever having participated in the effort.

I have high confidence in the chairman of the committee, Senator GRASSLEY of Iowa. He will find a good way to deal with Medicaid and with Medicare. He is very fair. He works with all Senators. I think that is by far the preferable procedure rather than the fast-track procedure as I mentioned under rule XIV which bypasses the committee. It could well happen, if the House acts.

Finally, I note the House budget is likely to reconcile much deeper cuts in these programs while acting as though all such savings can somehow be achieved by wishing away "fraud, waste, and abuse." I am deeply concerned about conference deliberations on this matter.

This reconciliation instruction is a very dangerous provision. It is one that could do real damage. My amendment to strike this reconciliation instruction enjoys widespread support from many Governors, many health care providers, and organizations dedicated to helping the Nation's children, among countless others.

I urge my colleagues to join me in supporting the amendment.

I yield 10 minutes to the Senator from Hawaii to also speak on this amendment.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, I rise to support an amendment offered by my colleague from Montana, Senator BAUCUS, the ranking member of the Finance Committee. His amendment seeks to right wrongs perpetuated against low-income families in the budget resolution before us. As he has explained, the pending resolution seeks to make room for further tax cuts by instructing the Finance Committee to make ill-advised cuts of $21.6 billion from Medicaid and the earned-income tax credit, EITC.

I am already concerned about the reconciliation instructions in the resolution that would further reduce federal revenues by $80.6 billion for tax cut extensions that we cannot afford. We have felt in the current fiscal year the negative effects of these tax cuts on important domestic programs starved for resources, while we continue to put essential support toward our operations in Iraq and Afghanistan and the global war on terror. I strongly support our men and women in the military who are fighting to preserve our security, and we must not erode further resources from them or the people they are protecting at home by extending tax breaks or making them permanent. Although fully offset relief to lower income families through measures such as the refundable child credit are seductive assumptions under this instruction, I understand that further assumptions in the resolution would allow an earlier repeal of the estate tax in 2009 instead of 2010 and permanency in other areas such as the dividends and capital gains rate structures at a cost of $22.7 billion. Now is simply not the time for such measures.

With due respect to my colleagues on the other side of the aisle, while we are seeing small promising signs in the economy, my colleagues seem willing to deny the ability of lower income families to help drive economic recovery by raising their taxes. The resolution would partly fund tax cut extensions and permanency on the backs of the working poor with attacks on Medicaid and the earned-income tax credit, EITC. These are simply mean-spirited actions against working families in this country.

The budget resolution would increase the number of underinsured and uninsured in this country by cutting more than $11 billion from Medicaid. The impact that this would have on already strained state Medicaid programs and the individuals who rely on this important safety net would be devastating. States continue to face crisis situations with respect to their budgets. We all know that Medicaid makes up a tremendous portion of state budgets, and drastic cuts by states to balance their budgets have swelled the rolls of those without insurance. The Center on Budget and Policy Priorities reports that state cuts over the past 2 years have shut between 1.2 million and 1.6 million people out of the Medicaid Program.

Additionally, the reductions in Medicaid included in the budget resolution will lead to further cuts in coverage and benefits for people in need. They will prevent individuals from being able to access health care, which will increase the burden on our public health system. The uninsured delay seeking medical treatment, which is likely to lead to more significant and costly problems later on than if they had sought earlier, preventative treatment or had access to proper disease management. These cuts will also further erode the ability of the hospitals, physicians, and other medical providers in our communities to meet the health care needs of the community. Our health care providers who already are confronted with inadequate reimbursements, rising costs, and an increasing demand to provide care for the uninsured. A tremendous $11 billion cut would far exacerbate this problem and perhaps hold tragic consequences for welfare recipients only beginning to rebuild their way to self-sufficiency.

The resolution before us would also strike $3 billion from the EITC—a refundable credit that helps lower income individuals and families to meet essential needs—food, clothing, housing, transportation, and education. The Census Bureau notes that the credit lifted nearly 4 million people above the poverty line in 2001. This year, families can expect an average refund of $2,067, which can mean a stay of eviction, transportation to a decent paying job for the year, or food in children's bellies. The EITC can mean the equivalent of a $2 an hour raise in the salary for working mothers and fathers.

I would like to present a visual image of just which families are reached by the EITC. As you can see in the chart behind me, courtesy of the Brookings Institution, higher concentrations of EITC recipients are in the dark orange at more than 40 percent, with the percentage decreasing as the colors move to yellow, then blue. We can see how effectively the EITC reaches families and communities in large cities and all across the rural South. Highest concentrations of EITC recipients as a percentage of total filers in a state can be found in Alabama, Arkansas, Georgia, Louisiana, Mississippi, New Mexico, South Carolina, and Texas.

Finally, an analysis of delegations by state clearly shows that the EITC should remain a bipartisan issue. The 18 States that have two Senators from my side of the aisle have 15.2 percent of all EITC earners, while the 19 States with two Senators from the other side of the aisle have an even greater percentage of recipients at 17.2 percent of all EITC filers. All total, EITC assistance of almost $36 billion is lifting our communities representing meaningful relief for millions of EITC earners, whose numbers grew by 8 percent between tax years 2000 and 2002 due to the economic downturn and longer-term unemployment trends.

Mr. President, in closing, we should not be attempting to produce savings for ill-timed tax cuts by denying such assistance to those in our states who most need it. Without the Medicaid program and the EITC, many families will go without health services and fundamental, everyday priorities. The Baucus amendment seeks to ensure that the working poor will have access to the healthcare that they and their children need, and the financial assistance that will provide for their essential expenses.

I have sent to my colleagues in the Senate a copy of the statement of the low-wage workers. I have also sent a "Dear Colleague" letter to each office on the earned-income tax credit map we have shown.

I hope all of my colleagues will look at the EITC predicament and support the Baucus amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, during this debate on this amendment, we have heard there is going to be $11 billion cut from various programs under the jurisdiction of the Senate Finance Committee. I have the budget resolution in front of me. I defy anybody to tell me where in this budget resolution there is an $11 billion cut.

I want to make it clear. What has been said, thus far, is based on some assumptions, assumptions that, in the global view of all the possible assumptions that the Senate Finance Committee could draw on to save a little bit of money, it is in the realm of possibility, but it is a very extreme possibility of just exactly where the Senate Finance Committee ends up to save $3.4 billion, not $11 billion. This comes from the fact the budget includes an instruction to the Finance Committee to reconcile $3.4 billion over 5 years.

Now, if you were talking on "Main Street" in Waterloo, IA, about saving $3.4 billion over 5 years, out of the trillions of dollars that the Federal Government is going to spend over that period of 5 years, and you wanted to explain to somebody that you could not save a fraction of 1 percentage point, they would say: You better get some businessperson to serve in the U.S. Senate because the average businessperson has to deal with problems like that all the time. It is a small amount of money, but it is still some direction given to the committee.

Now, exactly where we might do that—there has been a lot said tonight, that somehow people know exactly where the Senate Finance Committee is going to get this sort of reconciled figure. I would have to say, I do not know yet. I do not know yet because I have not looked at all the possibilities. I do not know yet for a second reason: that even if I had a very good idea of exactly where this ought to come from, a chairman of a committee, particularly of the Senate Budget Committee, does not run the Finance Committee. We do things in a bipartisan fashion in that committee. Even within the Democrats, there is a difference of opinion, not a unified position among Democrats and, for sure, among my Republican members of the committee there is not a unified position.

It takes a lot of compromise to do anything in the Finance Committee. When you are talking about even saving a fraction of 1 percent—a very small fraction of 1 percent—let me tell you, there would still be a great deal of difference of opinion that it ought to be done. The fact is, there is nothing in this budget resolution that says where we have to save that money. That is our committee's decision.

When you vote this week on this budget resolution or when you vote on this amendment, I want to make it very clear to you that there is nothing in this that says how this money ought to be saved. So I can say to any of my colleagues on the other side of the aisle: I do not want this program cut. Another one says: I do not want that program cut. I can say: There is nothing in this resolution that says I have to cut program "ABC" or "DEF." It is what we can do in our committee.

For sure, there has been a great deal of talk about it might come out of Medicaid or it might come out of the earned-income tax credit. Maybe it could, to some extent. But I do not know that yet. Even if I knew it, I could not produce 11 votes this minute, and that is the way it ought to be. This has to be a thoughtful process.

All we are doing in this budget resolution is making an overview of the fiscal policy of the Congress for the next 12 months. That is all we are doing. We are doing that so all the committees of Congress are disciplined. Before the budget resolution, when it came to fiscal matters, every committee and subcommittee in Congress was a kingdom unto itself. And what was the fiscal policy of the Congress of the United States? It was the total action of all the separate committees.

But the Budget Committee is set up so that before you spend money, before you make tax policy, you have a well-thought-out process of keeping within certain limits so that each committee is not a kingdom unto itself, but they are disciplined by the total view expressed in the Congress in a budget resolution—in the Senate and House separately; and then, after compromise between the two Houses, that policy is adopted.

Now, the budget assumes additional savings, but the Finance Committee is not required to reconcile these savings. Striking the $3.4 billion reconciliation instruction does not remove these other nonbinding savings. These nonbinding assumptions would remain. This amendment does not change any—does not change any—of those assumptions.

The amendment deals with $3.4 billion, but all the debate has been about certain assumptions, and there is nothing in the amendment that changes any of those assumptions. So what all the debate has been about is not what you are going to be voting on. You are going to be voting on $3.4 billion being saved. But the debate has been about, "Oh, the money is going to come out of Medicaid; the money is going to come out of the earned-income tax credit" because of some assumptions that were made. But the assumptions are not binding. The amendment before us does not even change the assumptions.

As to the point that the House-passed reconciliation bill could be handled in the Senate under what we call the rule XIV procedure—which is a way of bypassing the Finance Committee—the Congressional Budget Act clearly states that only a bill reported by the Finance Committee is entitled to the reconciliation protections. So you cannot bring something over from the House under rule XIV and have it reconciled. Our committee, and only our committee, has the responsibility to deal with this for the Senate.

Now, speaking to a specific program, I would address the issue that has come up about Medicaid. As chairman of the Senate Finance Committee—we have jurisdiction over the entire Medicaid Program—I am not bound by those budgetary assumptions. That is the third time I have said it. I hope it is clear. The chairman of the Senate Budget Committee and the Budget Committee can put certain assumptions in the resolution, and those are legitimate assumptions to put in the report, although we do not vote on those assumptions. But they are assumptions because it is legitimate for those of us in the Congress to expect the Budget Committee to be responsible. If you are going to put down a figure, you ought to have something to back it up. It should not be pulled out of the clear blue sky. It ought to be based on certain assumptions. That is what the Budget Committee and the chairman did, and that is what they should be doing. Now, I am not bound by those. I have respect for those, though, I want to point out, as I have respect for the work of the Budget Committee and its chairman. But I don't have to share the assumptions that any Budget Committee makes on how to arrive at the figure. In this particular instance, I might have different views about Medicaid. Frankly, I do. But that is not the issue of debate.

I happen to believe Medicaid is a vital safety net program for our most vulnerable citizens. It is for people who are low income. It is for pregnant women. It is for the elderly, for the disabled, and for others. States also spend a significant amount of their budgets on Medicaid. When I look at a program, how we save Medicaid money, if we go there—and we are going to have a responsibility to look at all this stuff; we might not even look at Medicaid at all, but we might—I have to be mindful of any effective changes we make to the Medicaid Program that it might have on the States, because this is a program where there is a partnership between the Federal Government and State governments and, in some States, even local governments.

Last year, for instance, this entire Congress felt very serious about doing something to help States, in addition to what we would do through Federal grants to the States, emergency grants, because most of the States had very tight budget situations. We gave $20 billion relief to States, of which $10 billion was just for Medicaid. I say that not that you need to be reminded of it, but I want you to know our committee, even 8 months ago, took into consideration the needs of the States.

I am going to look at how Federal tax dollars are spent, but I also have to know there is some impact they have on the States.

We also have to look at the reality of every Federal program. They ought to be reviewed from time to time. It seems to me we can look at Medicaid not as some sacred cow. Not that it is not a good program, not that it should not be preserved. It is part of the social safety net of our society. It will be maintained. It is a program that is 38 years old. But it is only an extension of a 200-year history our society has had of taking care of the most vulnerable, originally, entirely by counties or local governments. Then the States got involved, and then, in the 1940s, the Federal Government got involved in several ways. Then that was all kind of put together in the 1960s in the Medicaid Program.

There is no reason to think this is some sort of a flawless program that can't be made a better program. You don't even have to assume it is some program that at least a fraction of 1 percent maybe can't be saved to some extent. No conclusions on my part, but I wouldn't be a very good public official, a very good trustee of the taxpayers' money if I thought any program couldn't be looked at to see could we save a half of 1 percent out of that program.

I am not opposed to reviewing whether there are instances of fraud or abuse in the Medicaid Program, but I want you to know that I will conduct oversight activities and do it in the open. I will do it in a bipartisan manner. I am going to do it with extensive input from stakeholders.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank my colleague, Senator GRASSLEY, chairman of the Finance Committee, for his statement. He happens to be exactly right. The net essence of this reconciliation instruction is to tell the Finance Committee, save $3.4 billion over the next 5 years. The Finance Committee is an enormous committee. It has jurisdiction over welfare, Medicare, Medicaid, Social Security, a total of about $4.6 trillion over the next 5 years. Surely this committee can find $3.4 billion of waste, of money that should not be spent.

Senator BYRD alluded to the reconciliation process and said it is supposed to be used to save money, to reduce the deficit. We gave an instruction to the Finance Committee to do that. Can't we save at least $3.5 billion out of $4.6 trillion?

I have heard people say: It is going to mean some cuts in Medicaid. Medicaid has a lot of fraud. I tell my colleagues and my good friend from North Dakota, I may want to do a hearing in the Budget Committee, if the Finance Committee is not willing to do it. Let's get into these intergovernmental transfers. Let's find out about how much some States are ripping off the Medicaid system. I use that term exactly as I meant it, ripping off the Medicaid system, ripping off the Federal Government, taking a program that is supposed to be 50-50 Federal-State and turning it into a program where the Federal Government pays 100 percent.

There are some proprietors who specialize in how to milk the Federal Government on Medicaid where the State doesn't even have a match. They don't have to pay anything. It is all Federal Government. They are doing that today in a lot of States. Maybe they will pay a little payment to the hospital if they will participate. There are a lot of schemes, scams, I think fraud, probably should be totally illegal, some of it may be bordering on illegality, to the tune of billions of dollars. The committee doesn't have to do that. We just said: Look, can't you find at least $3.5 billion?

We have the appropriators tell us day after day: Wait a minute. We only appropriate maybe about 30-some percent of the budget. Don't make us take the full brunt of any savings plan. What about those entitlements? Year after year people say: We can't do that.

My guess is you could find this amount of savings in a number of entitlements. The committee has jurisdiction over welfare. Are you going to tell me there is not welfare abuse; that it couldn't be tightened up?

One assumption I think we need to look at is the earned-income tax credit. This is a $36 billion program our Federal Government is writing a check for every year; in some cases, a lump sum in excess of $4,000 for a family. We find out it has abuse of 27 to 30 percent from fraud or incorrect payments. We can't tighten that up? I didn't say 5-percent fraud. I didn't say 10 percent. I said 27 to 32 percent of fraud or mispayment in the earned-income tax credit program. Surely we can tighten that up. That program over the next 5 years will be about $170 billion or something. Surely we can find some savings in that program.

Whether you are talking about Medicaid, Medicare—there is fraud in Medicare. We have had some people put in jail because of fraud in Medicare. Let's tighten it up. We have deficits. We can't afford to have fraud. We can't afford to have this kind of cheating system going on day in and day out. It has happened frequently.

So should we not look at the two-thirds of the budget, two-thirds of the budget that many people say: That is untouchable; let's not do anything to Social Security. I don't want Social Security fraud. When you are spending the kind of money we are, there is some fraud. I think we should look at every dollar.

The Finance Committee has enormous jurisdiction and is very capably led by Senator GRASSLEY. He is exactly right: $3.4 billion out of a total of $4.6 trillion is .0007 percent. It is not one-tenth of 1 percent. It is less than that. It is such a small figure. Yet some people are acting as if the sky is falling because somebody is afraid maybe their gravy train of abuse might not be able to continue or somebody is saying: Wait a minute, we have been doing that for a long time. I want to make sure I can continue.

I say: What is your program? Let's eliminate some fraud. Let's eliminate some waste. Let's give the discretion to the Finance Committee to come up with some savings. Let's curtail the growth of entitlement programs if they are fraudulent, if they are incorrect.

I have great confidence Senator GRASSLEY and Senator BAUCUS are not going to report anything out of the Finance Committee that is not going to be fair if they are talking about trying to tighten up some of the abuses in the system.

They are not limited. They are not bound. They are not directed to do anything except can't you save $3.5 billion over the next 5 years when we assume spending under the committee's jurisdiction will be $4.6 trillion? Surely that can be done.

Again, appropriators have said: Let's not have us bear the full brunt. Let's have savings elsewhere in the budget. These are very minor savings, very doable savings.

I urge my colleagues to vote no on the Baucus amendment.

Mr. KENNEDY. Mr. President, America faces a continuing health care crisis, and this budget makes it even worse for those on Medicaid. For years, that State-funded program has provided health insurance coverage for the poor. Because of the fiscal pressures created by the failed Bush economic policies, States have already had to drop 1.5 million people—half of them children—from the Medicaid rolls. Instead of helping States provide insurance coverage, this budget actually cuts Medicaid further. That is the wrong policy—and this amendment will reverse it.

The Bush administration is out of touch with the reality of the plight of working Americans across the Nation. The unemployment rate continues high, and no end to this crisis is in sight. In addition to struggling to pay their rent and buy food for their families, millions of Americans are also having to go without needed health care.

Almost 44 million Americans are uninsured and this number is rising. Health costs are soaring at double-digit rates each year. As health insurance premiums continue to soar, employees and employers alike worry that they will not be able to keep their coverage.

Those without health insurance pay a cruel price. A third of Americans without insurance say they do without recommended treatment because they can't afford it. A third report not filling a prescription because of cost. Almost half report postponing care because of cost. These facts have real health consequences. According to the Institute of Medicine, 18,000 Americans die every year, simply because they don't have health insurance. Thousands more suffer needlessly or acquire early disabilities.

The Republican budget ignores this crisis, without any credible proposal to protect the uninsured or reduce the rising cost. Instead, the Republican budget makes the problem worse, by slashing $11 billion from Medicaid over the next 5 years.

Medicaid is a lifeline for 50 million Americans who have no other access to health care. Medicaid provides needed prenatal care to pregnant women. It means that children receive early and periodic screening, diagnosis, and treatment. They get immunizations and other health services. Millions of low-income elderly seniors rely on Medicaid to pay the health and nursing home costs that Medicare doesn't cover.

States are struggling to maintain their share of Medicaid in the face of severe budget deficits. Last year, States had a combined deficit of $78 billion, and another $40 billion shortfall is expected this year. The State Medicaid cuts last year would have been far worse without the $20 billion State relief passed by Congress to help meet it a year ago. We should continue that assistance now, not make the problem worse by slashing benefits to the most vulnerable Americans.

The amendment we are proposing will eliminate the unfair reconciliation instruction that would force the Finance Committee to cut $11 billion more from Medicaid. These harsh cuts are opposed by more than 155 national organizations, including physicians, hospitals, children, the elderly, women, religious organizations, and professional associations. The National Governors Association opposes these cuts. The American Hospital Association opposes these cuts. The American Medical Association opposes these cuts. The American Health Care Association opposes these cuts. The Children's Defense Fund opposes these cuts. The National Organization for Women and Families opposes these cuts.

The American people understand that these cuts are cruel and counterproductive. They are the wrong priority for America, and I urge the Senate to approve this amendment and preserve health care coverage for millions of Americans.

Mrs. CLINTON. I rise in strong support of the amendment to save crucial programs like Medicaid from being slashed by this short-sighted budget.

This is a time when American families are still struggling to find jobs, and the new jobs they are finding are often low-wage jobs that lack health insurance. In this setting, Medicaid remains an essential "safety-net" in the provision of health and long term care services for millions of Americans.

Meanwhile, even as need is greater, States' revenues are declining, so there are fewer and fewer resources to meet those needs. New York had a $6.8 billion budget gap last year, $11.5 billion in '03/'04—that's 25 percent of the general fund. This is a pattern repeated for all the states. Texas had a 15 percent shortfall. Alabama faced a shortage amounting to 16.5 percent of the general fund. And because States, unlike the Federal Government, often face State constitutional provisions that prevent them from carrying a deficit, they are forced to cut benefits to make ends meet, thus slashing eligibility, starving hospitals and physicians, and slashing services. We see that happening all over the country.

But instead of acting to prevent these cuts, and stanch the bleeding, this budget turns the knife further and forces $11 billion in unspecified cuts to Medicaid at a time when such cuts would cripple states' ability to serve American families in hard times.

We have all been on record supporting the important safety net role that Medicaid plays when American families are hard-pressed to find jobs. Last year, we worked hard to recognize the existing financial instability threatening the Medicaid program. We provided $10 billion in temporary State fiscal relief directed at Medicaid. Thanks to this relief, States and local communities have been able to continue to maintain their Medicaid programs and avert drastic cuts in local services. But the fiscal relief is due to expire in 3 months, even as State budget situations remain in critical condition. And as the jobs situation continues to look dire, Medicaid is as critical as ever to ensuring the health of millions of Americans. Now is not the time to make additional reductions in federal Medicaid funding.

We must reject the Medicaid reduction provisions in the budget and, in doing so, take a stand to protect the health and long term care needs of our nation's struggling families, our elderly and disabled. That is why I urge my colleagues to support the Baucus amendment to reduce the amount of cuts that would otherwise have to come from Medicaid.

Mr. CONRAD. Mr. President, I am wondering at this point if we can reach an agreement on the additional time on this amendment. Senator BAUCUS tells me he only requires 5 more minutes.

Mr. NICKLES. Mr. President, I ask unanimous consent there be 5 minutes on each side remaining on the Baucus amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I want to address a couple of points that I think need to be addressed. They are a bit misleading. First, there is no language in the budget that specifically requires the Medicaid cuts. So why pass this? The fact is, with all due respect to the chairman of the Budget Committee, during markup the chairman said basically that we assumed the $11 billion in mandatory cuts was going to come from Medicaid. That is the chairman's assumption. He made that very clear. He wants it to come out of Medicaid.

As we know around here, that is the general thrust of measures we pass that are in the budget resolution, and that is what is going to happen. As long as I have been here, and I have been here a long time, that is the way this place operates.

There are clearly going to be cuts there. So the point that cuts in Medicaid are specifically required, that is not true. Are they effectively required? Clearly, yes. Also, it has been suggested there is a lot of fraud, waste, and abuse. That is a bit of a disingenuous statement. First, we never condone fraud and abuse. We don't need a statute to allow that. There are antifraud and anti-abuse laws. There are no specific fraud and abuse proposals. It just says cut.

If there is no proposal, as I said earlier, Joint Tax has not scored anything that amounts to raising revenue. By logical conclusion, we are going to cut Medicaid; it is that simple. It sounds good, this fraud, waste, and abuse, but it is just going to be a straight cut. There is no specific proposal that addresses that.

Also, we are already so-called cutting waste. There is a $2 billion savings, a cut in error rates, because the administration is looking at this more closely, which is good. There are a lot of error rates elsewhere in the code, not just for low-income people. It is in sole proprietorships and other categories of taxpayers as well. We are not cracking down on them; we are cracking down on poor people. That is the wrong thing to do.

The main point is this is a cut in Medicaid. That is clearly what is intended. Second, this is not a fraud, waste, and abuse cleanup; it is a cut in Medicaid. Be honest. That is the effective result.

Technically—it is a small point—some of the concern about error rates in Medicaid is because States controlling the Medicaid Programs are undertaking actions that are now being corrected by Uncle Sam. So it is not the fault of the low-income folks. It is not the earned-income tax credit or the refundability portion. That is a small part of the problem. Rather, it just changes the administration of it between Uncle Sam and the States.

This is a good amendment. We should not cut Medicaid. We should not cut folks who get the advantage of the marriage penalty by $21.6 billion. That is the effect of the cut that is going to be required in the budget resolution.

My amendment says, let's eliminate that requirement and deal with Medicaid and other programs as we normally do in the normal course of business.

I yield back the remainder of my time.

Mr. NICKLES. Mr. President, I think Senator GRASSLEY said it very well. He is chairman of the committee. He said the committee can find $3.4 billion out of $4.6 trillion. I think it could be in Medicaid or in the earned-income tax credit. I think it could be in almost any program, such as the welfare program. I have no doubt whatsoever there is plenty of abuse. The administration talked about the intergovernmental transfers. There is lots of abuse.

I am going to embarrass our colleagues by getting into this in detail. I will show people how some States have been ripping off this system—probably to a much greater extent than even what has been bantered about. It is happening today. Many States are doing it.

I will tell my colleagues that we found we had payment abuse in Medicaid in years past. You might remember the program. We had to tighten it up. There has been some tightening of the intergovernmental transfer but not very much. A lot more could be done.

The Federal Government should not be taking Medicaid dollars and giving it to States to pave roads. In some cases, Medicaid money is being used by States for a lot of things other than Medicaid. I am telling you, I come to this Senate with, I hope, a little bit of credibility. I am not making this up. Maybe a more thorough evaluation in the committees would expose some of this. The earned-income tax program, people don't want to touch it. Yet the GAO says there is an error rate, a fraud rate in 27 to 30 percent, or a 32-percent fraud in a program that spends $36 billion a year, and we cannot direct the committee to say, Can you not come up with some savings? I am embarrassed.

If we are not going to stay let's at least do some shaving of the growth of some of the fraud in the entitlement programs, two-thirds of the Federal Government or of the budget, if we cannot shave a little spending in this area, shame on us.

For the people who act as if I am a deficit hawk, I want to get the deficit down. The last time we had significant instruction to reduce the growth of some of these entitlements to take out some abuse was in 1997. Some of my colleagues say we got the deficit down. The biggest spending reduction thing we did—maybe one was shutting down the Government in 1995 for a while, but the biggest thing was in the 1997 bill that had reconciliation instructions, had significant savings. A lot of the people taking credit for the great savings we did in the nineties didn't vote for that.

Anyway, to ask this committee to find $3.4 billion out of $4.6 trillion over the next 5 years is not heavy lifting, as Senator GRASSLEY alluded to. I agree with him entirely. I think the committee can find this much and more. I urge our colleagues to, at the appropriate time, vote no on the Baucus amendment.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, my understanding of the Baucus amendment is that he has not taken out the savings at all. All he does is take out the reconciliation instruction. The savings are still there.

Let me comment for a moment, if I can, on what Chairman NICKLES is saying, because he is talking about something where I entirely agree with him.

In Medicaid, there are States that are engaged in scams. I don't know how else to say it. What Chairman NICKLES has said is entirely accurate. There are States that have figured out ways of tapping into the Federal Treasury and replacing what should be State funds with Federal funds. There is nobody who studies this who doesn't know what the chairman has said is true.

There are a number of States that have almost made a science out of playing games with Federal programs, to tap into the Federal Treasury, to advantage their States to the disadvantage of Federal taxpayers and to the disadvantage of other States.

But I repeat, in looking at the amendment of Senator BAUCUS, he has not taken out those savings. Those savings remain in the underlying resolution. It does take out the reconciliation instruction. So I have concluded that the Baucus amendment is worthy of support.

What the chairman has said is something I join in, especially with respect to Medicaid Program abuses. I am very hopeful we will have a hearing on these issues once we get past the budget resolution and the negotiations in which the chairman will have to be involved in the coming days. We ought to put a bright light on some of these States that are engaged in a scam operation.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, we yield back the remainder of our time. I believe the Senator from Ohio has an amendment. He has requested 25 minutes on his side. I know a couple of other colleagues have amendments. We told people to expect votes at 9 o'clock. I would like to get in three or four amendments, if possible. I call upon our colleague from Ohio.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, maybe we can lock in an agreement. Is there any way the Senator from Ohio would take 20 minutes on his side, and we will take 20 minutes on this side? I would even take 15 minutes on this side if the Senator would reduce his time to 20 minutes. That will give us a chance to offer another amendment or two before the voting starts.

Mr. VOINOVICH. Mr. President, I think I need 25 minutes, but it may be 20. I think I need 25 minutes.

Mr. NICKLES. I ask unanimous consent that the Senator from Ohio be recognized for his amendment not to exceed 25 minutes, and the Senator from North Dakota be recognized for 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Ohio.

AMENDMENT NO. 2705

Mr. VOINOVICH. Mr. President, I call up amendment No. 2705 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. VOINOVICH] proposes an amendment numbered 2705.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To balance the budget and lock away the Social Security surplus by establishing a supermajority point of order prohibiting the consideration of any bill that raids the Social Security Trust Fund by exceeding a declining level of on-budget deficits on a fiscal year basis)

At the appropriate place, insert the following:

SEC. . BALANCED BUDGET POINT OF ORDER.

(a) IN GENERAL.—Except as provided in subsection (b), it shall not be in order in the Senate to consider any bill or resolution (or any amendment, motion, or conference report on that bill or resolution) that would result in an on budget deficit larger than—

(1) in fiscal year 2004, $639,000,000,000;
(2) in fiscal year 2005, $575,000,000,000;
(3) in fiscal year 2006, $511,000,000,000;
(4) in fiscal year 2007, $447,000,000,000;
(5) in fiscal year 2008, $383,000,000,000;
(6) in fiscal year 2009, $319,000,000,000;
(7) in fiscal year 2010, $255,000,000,000;
(8) in fiscal year 2011, $191,000,000,000;
(9) in fiscal year 2012, $127,000,000,000;
(10) in fiscal year 2013, $63,000,000,000; and
(11) in fiscal year 2015, $0.

(b) EXCEPTION.—Subsection (a) shall not apply if—(1) the President has declared a state of national emergency; or (2) the economy is in recession, defined as 3 consecutive quarters of negative growth in Gross Domestic Product.

(c) SUPERMAJORITY.—(1) Waiver.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(2) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any

provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(d) EXERCISE OF RULEMAKING POWERS.—Congress adopts the provisions of this section—(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each house, or of that house to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and (2) with full recognition of the constitutional right of either house to change those rules (so far as they relate to that house) at any time, in the same manner, and to the same extent as in the case of any other rule of that house.

Mr. VOINOVICH. Mr. President, before I speak in regard to this amendment, I would like to comment on the discussion that was going on with regard to Medicaid. There is no question that as a former Governor I observed my colleagues around the country gaming the system, and I was very upset about it. I made it very clear as chairman of the National Governors Association that this was an understanding we had with the Federal Government and that we ought not to game the system.

I will never forget while I was Governor there was a management company, which is no longer in business, that went out to the school districts and showed them how they could use the money they were spending for health care and use it to game the Medicaid system. They would charge a percentage of the money they were able to bring into the school district. When I found out about it, I went beserk, to put it as nicely as I can, and that stopped. But I do think it is not a sacred cow that ought not be looked at. Just like a lot of mandatory spending we have, it should be reviewed to see if there are ways we can save some money.

Mr. President, I support this budget resolution, and I applaud Senator NICKLES for his diligence and fiscal responsibility. The budget resolution we are considering builds on the success of the resolution Senator NICKLES crafted last year. The fiscal year 2004 budget resolution reestablished fiscal discipline and provided reconciliation instructions for a stimulus package that generated 4-percent economic growth in 2003.

The fiscal year 2004 budget resolution also balanced fiscal discipline with a very real need to stimulate the economy. Although the economy started to grow after the 2001 tax reforms, the growth was very sluggish and did not create many jobs. Real growth in GDP was 2.9 percent in 2001 and 2.8 percent in 2002.

Consequently, the fiscal year 2004 budget resolution included reconciliation instructions for a modest, highly targeted economic stimulus package that Congress adopted in May of last year—a $350 billion stimulus package. By the end of the year, economic growth reached 4.4 percent, and unemployment had finally fallen below 6 percent. Most experts expect the economy to grow by more than 4 percent this year and for unemployment to continue to fall.

Unfortunately, my own State of Ohio has not participated as fully in the recovery as some of the other States. We need to continue the stimulus measures to make sure Ohio's economy takes off. We have too many people out of work in my State. We have too many people who are concerned about whether or not they are going to have a job. I agree with the President that we should not rest until every American who wants a job has one.

Congress also provided direct assistance to working families last year when we accelerated the phase-in of the child tax credit, eliminated the marriage penalty, and expanded the number of families paying income taxes at the lowest rate of 10 percent. I supported these tax reform provisions when they were enacted last year and even joined with Senator SNOWE and Senator LINCOLN to encourage the Finance Committee to expand refundability of the child tax credit for families with incomes between $10,500 and $25,000 per year.

For many families in Ohio, these tax reform provisions meant they could buy presents for Christmas as well as food. For some, it meant they could pay the heating bill. All families benefited from these reforms, and I am proud we supported them.

Fortunately, Senator NICKLES has again crafted a budget resolution that balances fiscal discipline with the need to continue assisting low-income families. The Budget Committee makes hard decisions by assuming a freeze for most spending programs at 2004 spending levels, with increases for high-priority programs and reductions for low-priority, one-time, or expired programs. Nevertheless, the committee recognizes fiscal reality and provides a contingency fund of up to $30 billion for 2005 to fund ongoing military operations in Iraq and Afghanistan. Also, at long last, the Budget Committee addresses runaway increases in mandatory spending and proposes a $4.6 billion net reduction in mandatory spending programs over 5 years.

The fiscal year 2005 budget resolution also assumes Congress will act to close tax loopholes identified by the President and by the tax-writing committees. The committee builds upon the budget discipline included in last year's budget resolution by establishing enforceable caps on discretionary spending for 2005 and 2006.

The spending caps are set at levels consistent with the discretionary spending assumptions and are enforced with a 60-vote point of order. The Budget Committee continues a 60-vote point of order against advanced appropriations that exceed current levels.

These budget enforcements proved very important last year. There were 67 attempts to increase spending by waiving the Budget Act, and we successfully fought back 64 of them and saved this country billions of dollars of additional spending.

Finally, the budget resolution assumes continued budget enforcement under existing mechanisms for nondefense emergency spending and pay-as-you-go. In other words, if you want to spend the money, you find offsets or you find revenues that you can increase to pay for them.

Equally important, the resolution before us today includes tax policy assumptions focused on preventing economically damaging tax increases on working families.

The budget resolution proposes to extend the personal tax relief currently scheduled to expire at the end of 2004, including the $1,000-per-child tax credit, the 10-percent income tax bracket expansion, and marriage penalty relief. The budget resolution assumes a revenue loss of $80.6 billion from 2005 to 2009 for these proposals and directs the Senate Finance Committee to produce a reconciliation bill to facilitate their enactment.

Let's put that $80.6 billion in context. I remind my colleagues that in one fell swoop, we spent $87 billion to provide funding for the war in Afghanistan and Iraq. That just gives us a figure. That is $87 billion in 1 year, and we are talking about $80.6 billion over a 5-year period.

These provisions directly impact almost 90 million taxpayers nationwide, and about 4 million of them in my State. If they are not extended, a low-income family of four making $40,000 a year will go from receiving a small refund of $30 to paying the IRS an additional $800. Frankly, these families simply do not have the extra $800 to send to Washington at this time. So it is critical that we continue assisting them until the job market catches up with the growth in the economy.

I fought very hard for the refundable child tax credit in the 2001 tax reform, addressing the marriage penalty problem that discouraged many people from getting married because they paid higher taxes if they got married, and moving the people in the 15-percent bracket down to 10 percent.

When we enacted tax reforms to provide assistance to working families, I fully supported the sunset provisions that would allow those provisions to expire when they were no longer needed.

Unfortunately, while the economic situation has improved, we are not out of the woods yet. In Ohio, over 96,000 initial claims for unemployment compensation were filed in January. That is why I voted to extend unemployment benefits and that is why I think this Senate should vote in the next several weeks to extend unemployment benefits.

Although this number is more than 5 percent lower than last year, it still represents real families who have lost their principal source of income. Also, many families and individuals who regained employment over the past 6 months must still pay off loans to make up late payments they missed while they were unemployed.

It is time for Congress and the Nation to acknowledge the size of the problem we face. The Federal Government has a serious debt of almost $7 trillion, annual unified deficits of $477 billion, and net interest payments that consume 7.5 percent of the Federal budget.

If we see interest rates start to go up in the next couple of years, that 7.5 percent number could go up to 13 or 14 percent because that is what it was in 1999 when I came to the Senate.

Under current policy assumptions outlined in OMB's budget projections, the Federal debt will exceed $9.3 trillion by 2008 and net interest payments will claim 9.5 percent of our budget. If the private sector corporations ever issued similar financial projections, their stock value would plummet. Their credit rating would be discounted to below junk bond status and no bank on the planet would lend them additional money. During the savings and loan crisis, the Resolution Trust Corporation liquidated companies with healthier balance sheets than the Federal Government can produce today.

Whatever we may desire, until we restore some sort of fiscal discipline to Federal spending we may not be able to afford any new initiatives, no matter how badly they are needed.

More importantly, we are rapidly approaching the time when much of the debt comes due and we must carefully consider how we will meet this obligation. Currently, we borrow $160 billion to $175 billion each year from the Social Security trust fund. As the baby boom generation retires, this source of borrowing will no longer be available, and starting in 2017 Social Security will start cashing in the bonds which make up its assets. If we exercise fiscal discipline now, the Federal Treasury will be able to redeem those bonds with little or no negative impact on the rest of the budget or the economy as a whole.

However, if we dig ourselves into deeper debt, we will only be able to pay our Social Security obligations by raising taxes or with draconian cuts in other Federal programs.

For almost two decades starting in 1980, fiscal conservatives have worked hard to return the Federal Government to a balanced budget. For a short time, after hand-to-hand combat—and I was here for that hand-to-hand combat—we met our goal for 2 years. In 1999, for the first time in 30 years, we had a balanced budget, about $1 billion; in 2000, we had an $87 billion budget surplus. That means we did not use Social Security to balance our budget.

However, our success in balancing the budget was short-lived. In the blink of an eye we returned to spending the Social Security surplus running large budget deficits. Today, instead of reducing our $7 trillion national debt, we are expanding it. Unfortunately, as soon as we achieved success we reversed course in 1998 and have been increasing spending ever since. Do we really want to lose 20 years of hard work? Is it not time we went back to what we were trying to do in 1999 and 2000?

Since 1999, this body has increased Federal spending an average of 7 percent per year. If we maintain this pace, Federal spending will double every 10 years. Instead of doubling spending, we should be cutting it. We have consistently skirted the truth about how much we increase spending and the size of the debt we are incurring.

Advance appropriations and other accounting gimmicks have become commonplace in our budget process. Thank God these last two budgets have gotten rid of most of the gimmicks we have had, but most of the American public does not realize we are spending the Social Security surplus. So although people may be going around Washington saying next year's deficit will only be $477 billion, it will really be $639 billion. According to the new CBO projections, we will spend all of the $162 billion of the Social Security surplus and issue new debt.

Our budget system is broken. Its obvious failure to perform is having serious consequences on our economy and, by extension, future Federal revenues, deficits, and debt. That is why I am here to talk about our Social Security lockbox amendment.

My amendment is simple. It caps the on-budget deficit at the level projected by CBO for fiscal year 2004, $639 billion, and reduces it by 10 percent each year thereafter. We are going to reduce it over 10 years so at the end of a 10-year period, we will no longer be spending the Social Security surplus. That means we will really have an on-budget surplus.

This is a very conservative proposal. It has been 5 years since we have had an on-budget surplus. This proposal proposes it will be 15 years from 1999–2000 until we get back to where we were at that period of time.

This proposal has a nice, natural glide. We will go from $639 billion in 2004 to $575 billion to $511 billion to $447 billion, to $383 billion to $319 billion. For my colleagues' information, the numbers I have for the next couple of years, 2005 and 2006, are a little bit above the on-budget numbers the Budget Committee is projecting.

Once we get to the fourth and fifth year, it is lower than the Budget Committee has projected for that 5-year budget, and then we keep going down to zero.

I recognize it would be unrealistic to eliminate the ongoing budget deficit in a single year or even within 5 years. The attempt would require either draconian spending cuts or job-destroying tax increases. It contains waivers to recognize national emergencies or a prolonged recession.

I understand the need for waivers in case of emergencies. This is hard to believe, but Senator MILLER and I drafted a Social Security lockbox that gained the support of the White House. We worked with them for 6 months. We were going to announce it 2 days after 9/11. In other words, we were all set to do it, have a nice press conference, and 9/11 happened. Of course, that changed everything.

Nevertheless, Congress and the President can act now to prevent the on-budget deficit from getting any larger and initiate a 10-year glidepath to reduce the on-budget deficit to zero, thereby limiting transfers from the Social Security trust fund and at the end of the 10 years placing the entire Social Security trust fund in the lockbox.

We need to get this bill passed because today our national debt stands at $6.2 trillion and until we restore some sort of fiscal discipline to Congress's spending habits, this number is only going to keep going up.

It is immoral—it is immoral—to bequeath trillions of dollars in debt to our children and grandchildren. One of the reasons I came to this Congress was because I was concerned about my children and my grandchildren; that we were going to balance the budget, that we were going to reduce the debt—good, solid Republican principles. We were there in 1999 and 2000, and then we know what happened. We have to return to those days.

I know when people come into the office asking for money for particular projects, I always ask them the same question, and that question is: Is this particular priority worth putting your children and grandchildren further into debt? I have done that with several veterans organizations during the last couple of days. They want mandatory spending for veterans health care. I pointed out to them how bad off we are, that we have a war going on and we have to be concerned about our children and grandchildren, and if we do not do it there will not be anything around in 10 or 12 years for anyone.

It is remarkable. Their attitudes change. Most of them look at me, talk about it, and they say, I understand.

The problem today in America is people do not know how bad our debt is.

They still think there is some kind of spigot we can turn on in Washington and take care of all the problems. It is our obligation to do something about that. It is our obligation to make sure people understand how far in debt we are and the tough decisions we are going to have to make.

I applaud the chairman of the Budget Committee for giving instructions to the Finance Committee and saying to them, let's find some reductions in mandatory spending because that is where all the money is going. The discretionary part of the budget is minuscule compared to the mandatory spending.

The amendment I offer today is a good start on the difficult path we must take in order to ensure our economic freedom and security for the future. I urge my colleagues to consider not only what we propose today but also to seriously consider what will happen to our Nation's economy tomorrow if we do nothing.

I ask for the yeas and nays on my amendment, and I yield the floor.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. CONRAD. Mr. President, the stated purpose of the Voinovich amendment, to prohibit consideration of any legislation that would raid the Social Security trust fund, is one with which I strongly agree. It is a noble purpose. But I am afraid this amendment does not come close to achieving that purpose. Here is what this amendment does.

We are looking at a comparison between the CBO baseline deficits, that would be the blue line; the dotted red line would be the Senate GOP budget plan, the deficits under that plan; the green line would be under the Voinovich plan. What one sees is the deficits are higher under the Voinovich plan for the next 3 years than under either the CBO baseline or under the Senate GOP budget resolution. He is actually going further into the hole on the promise that 3 years from now, he will have less of a deficit. He promises less of a deficit out in 2008 and 2009. Unfortunately, because of the way it is constructed, you cannot even be sure you would have less of a deficit out in 2008 and 2009. What you can be certain of is the deficits will be higher in 2005, 2006, 2007.

Let me show my colleagues what I am talking about. Comparing to the CBO baseline, the deficits of the Senator from Ohio would be $78 billion higher in 2005; $121 billion higher in 2006; $57 billion higher in 2007, with the promise that in 2008, they would be $24 billion lower and $89 billion lower in 2009. If you add this up, this is $256 billion more deficit here and $113 billion less deficit there. That is more deficits, not less. That is more.

I don't know what kind of a plan this is to save anything. It certainly doesn't save Social Security. It digs the hole deeper. I don't know what the intention was, but I did read what the effect is. Compared to the budget resolution before us, the amendment of the Senator from Ohio would increase the deficit by $63 billion this year, $66 billion in 2006, and $16 billion in 2007. That is a $145 billion increase in the deficit over the next 3 years, on the promise that it is going to reduce it compared to the chairman's mark by $180 billion in 2008 and 2009. But because of technically the way it is drafted, you have absolutely no assurance it is going to save on the deficit out in 2008 and 2009 either. All I can say is the words are good, the sentiment is good, but the proposal goes in exactly the wrong direction. It increases the deficits, it increases the debt. It makes no sense to this Senator.

Mr. VOINOVICH. Will the Senator yield for a question?

Mr. CONRAD. I will be happy to yield.

Mr. VOINOVICH. I think perhaps the Senator is misinterpreting the amendment. Fundamentally what this says is we are going to use these numbers to get down, in 10 years, to an on-budget surplus like we had in 1999 and 2000. You are right, the amount of reduction in this amendment allows for a higher debt, but the fact is, all this says is you can raise a point of order if it exceeds this amount. I am not suggesting we reach this amount. All I am saying is, understanding the way things work around this Senate as I have observed during the last 5 years, we just go straight down and we have this opportunity to raise a point of order if the amount of money exceeds the numbers we have in our proposed amendment.

It is a very simple way of achieving what my colleagues on the other side of the aisle have talked about for a great period of time. The purpose of it is to allow us to raise a point of order. It takes 60 votes to waive that point of order in terms of spending.

Mr. CONRAD. Mr. President, if I could say this to the Senator, the problem I think he has with his amendment is he has assumed the CBO baseline unadjusted. I know this sounds like inside-the-beltway gobbledygook, but let me say this to the Senator. There was a supplemental appropriations bill approved last year of $86 billion. I think all my colleagues will remember that. The problem with the numbers the Senator from Ohio has chosen is he has built that supplemental appropriations bill—that was a one-time increase of $86 billion—into that baseline figure. He has that $86 billion built in, going out all the years into the future. As a result, what you wind up with is much higher deficits than if you used the adjusted baseline the chairman of the Budget Committee has adopted.

The chairman of the Budget Committee quite wisely and with strong support from the ranking member adjusted the CBO baseline by taking out the future years' adoption of the one-time supplemental. The effect of the Senator's amendment is to create higher deficits—or at least the potential for higher deficits—in each of the next 3 years by the amounts that I talked about. These are the amounts: $256 billion over the baseline that was adopted by the chairman. I say to the Senator, I think that would just be a profound mistake.

Mr. VOINOVICH. Will the Senator yield for a question?

Mr. CONRAD. I am happy to yield.

Mr. VOINOVICH. I wonder if he had a chance to see the numbers I used in this amendment?

Mr. CONRAD. Yes.

Mr. VOINOVICH. I think there is no question that in the first 3 years the number is a little higher than what you projected, assuming this $86 billion hit we had last year. But the fact is, if you look at the numbers for 2008 and 2009, the last 2 years of the 5-year budget resolution, our numbers are below the numbers projected by the Budget Committee. In effect, in the first 3 years it may be a little higher. That doesn't mean we are necessarily going to spend that money. But when we get to the fourth and fifth year, our numbers are below the numbers projected in the budget.

Mr. CONRAD. I would just say this to the Senator. I have great respect for the Senator from Ohio. I think he has been one of the most levelheaded Members here on issues of fiscal discipline. I think this amendment in technical detail is flawed, and you will increase or give the potential for substantial increases in the deficit in the first 3 years, compared to the adjusted CBO baseline, a $256 billion increase.

My experience around here is the promise of more deficit reduction in the fourth and fifth year is a distant hope, and what you presented is a present threat of substantially increasing the deficit. I think that will be just most unwise for the body. It is higher than the adjusted CBO baseline, higher deficits, higher deficits than in the underlying Senate budget resolution.

I hope my colleagues will resist this amendment.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, if we look at the practicality, I just used these numbers because it was 10 percent a year. But the fact is a budget point of order will lie against the numbers that you are projecting in the budget that came out of the Budget Committee. In other words, if we exceed your numbers, you are saying this number I am proposing is going to provide we can spend up to that amount of money.

I am saying the number coming out of the Budget Committee creates a point of order you can't go beyond.

Mr. CONRAD. Mr. President, let me say to the Senator that I know his intentions are good. I really do. I have great respect for the Senator.

The problem is, technically, with the baseline that has been adopted, his numbers leave just so much room for additional deficits for these first 3 years, and I don't think you will ever catch up to it.

Chairman NICKLES and I agreed with the Senator totally about adjusting the baseline so that one-time expenditures didn't get built into future years' expenditures. Unfortunately, the Senator from Ohio has taken the unadjusted Congressional Budget Office baseline that has the one-time expenditures and includes them going forward in each and every year. That adds hundreds of billions of dollars to expenditures over the next years of this budget. What you are left with, as I have described, is higher deficits for the first 3 years, with the promise that I am afraid will prove ephemeral, that you are going to get lower deficits in the fourth and fifth year. I don't think that is a trade we ought to make.

Mr. VOINOVICH. Mr. President, will the Senator yield for a question?

Mr. CONRAD. Yes.

Mr. VOINOVICH. Mr. President, the Senator from North Dakota has been here longer than I have. He is the ranking member of the Budget Committee. I have been interested in this budget for a long time, as he knows. I would like to ask him if we could achieve this in 10 years through a real on-budget surplus. Most people would say it would be miraculous. But the point I am making is you could argue about this number. You can make a big deal out of it in terms of we know we are going to do this and you are going to raise these issues. But the real issue is to try to get down to where we were 5 years ago. I can assure you, for this Congress to achieve this will be something very significant and cause a great deal of discipline in terms of extending tax reductions, and so forth.

In effect, in order to get here we are going to have to have some pay-go restrictions in order to make that happen.

All I am saying is, say what you want about these first couple of years, down the road the Senate could achieve what I have on this chart. It would be a wonderful gift to the American people because we could guarantee to them that we are going to have a true on-budget surplus.

Mr. CONRAD. Mr. President, I don't want to prolong this debate. But I say to the Senator that I think the intention is good. I think the legal effect of what is before us does not accomplish the Senator's purpose. In fact, what we would wind up with is room for greater deficits in the first 3 years, and you would never catch up in the outyears.

Mr. VOINOVICH. I can't understand that because the numbers provide for the budget point of order. How can you say, if you have the number, that you have a budget point of order, that you are not going to achieve these numbers?

Mr. CONRAD. Because what is critical to having a budget point of order that is actually effective in reducing deficits and debt in the future is having a baseline that really gets you the result you want. Unfortunately, the baseline the Senator has provided will not lead to the result as depicted on the graph. That is our conclusion.

Mr. VOINOVICH. Mr. President, I would like to reiterate if we were able to achieve what this graph shows, it would be the greatest gift we could give to our children and grandchildren because it would mean that we have been fiscally responsible. The way we are trying to achieve it is to say we are not going to use the Social Security surplus. When we were able to get that on-budget surplus in 1999 and 2000, I remember how we always had to wrestle in order to not use the Social Security surplus. It was a way that we were able to control spending. That is exactly what we are trying to do with this amendment.

Mr. NICKLES. Mr. President, I wish to compliment my colleague from Ohio. I appreciate the amendment. If his amendment had our deficit projection level for the first few years and then went down to zero, I would probably support him. I can't support an amendment that would have higher deficits than what we project in our budget. I have the greatest respect for my colleague. He is very sincere. He is a deficit hawk. He is very interested in getting down to zero, as I am.

Mr. VOINOVICH. Mr. President, will the Senator yield for a question?

Mr. NICKLES. I would be happy to yield.

Mr. VOINOVICH. I would be more than happy to take my amendment and put the numbers of the Senator from North Dakota in for the first 3 years so that it will take care of the problem the Senator made reference to and handle it that way so it eliminates any allegations that somehow this amendment is going to allow for increased spending. I would be more than happy to do that.

Mr. NICKLES. Mr. President, for the information of our colleagues, momentarily we will be taking up the Nelson amendment. We will have a very short 10 minutes on each side on that amendment, and I expect we would have three rollcall votes.

Mr. SARBANES. Mr. President, will the Senator yield for a question?

Mr. NICKLES. I am happy to.

Mr. SARBANES. The Senator mentioned three rollcall votes, and then stay on the floor for other amendments to be offered.

Mr. NICKLES. I would be happy to do that temporarily for some period of time. I know Senator CORZINE has an amendment. I think he was next in line to lay one down. I was expecting that would be the first amendment we would vote on tomorrow. But I will be happy to consider it. I know the Senator has an amendment that deals with homeland security. I think Senator COCHRAN will be debating that issue. I am not sure he wants to debate it tonight. I would like to get the rollcalls started pretty quickly so we can get people home by 10 o'clock, or not too late thereafter.

Tomorrow, for the information of our colleagues, is going to be a very tough day. We will have a lot of votes tomorrow. I expect we will have a lot of votes on Friday. I am trying to cooperate to dispose of as many amendments as possible. I will be happy to work with my colleague from Maryland to get in his amendment.

I have asked Senator CONRAD to line up amendments on his side. I am trying to line up amendments on my side.

Mr. SARBANES. What problem would it cause if we were to offer the amendment after the votes and maybe even discuss it for a few minutes?

Mr. NICKLES. I might not have any objection. I would like to ask Senator COCHRAN. I just wanted Senator COCHRAN to be able to respond to my colleague from Maryland. We may be able to do that. We could actually set aside the Corzine amendment and discuss the amendment of the Senator from Maryland. I am willing to consider that.

Mr. VOINOVICH. Mr. President, I understand from talking to the desk in order to amend my amendment to reflect the numbers that were in the budget that came out of the Budget Committee, I need consent from my colleagues. I would like to move to amend and insert the numbers that were in the budget resolution to eliminate the problem Senator CONRAD has brought to our attention so the numbers would reflect his numbers. And, I might point out the number in the third and fourth year is below the number the Senator from North Dakota has in his budget numbers.

Mr. CONRAD. Mr. President, I would be constrained to object. I object because even with that change, he would still be substantially above the Congressional Budget Office adjusted baseline. And he is still left with an utterly unenforceable mechanism. I would be happy to sit down and talk with the Senator as to why that is the case. We would object.

The PRESIDING OFFICER. The objection is heard.

Who yields time?

Mr. NICKLES. Mr. President, the order we have agreed upon now would be to recognize the Senator from Florida. I ask unanimous consent there be

10 minutes on each side on the Senator's amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Florida.

AMENDMENT NO. 2745

Mr. NELSON of Florida. I call up amendment numbered 2745.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. NELSON], for himself, Mr. CORZINE, Ms. MIKULSKI, Mr. SCHUMER, and Mr. NELSON of Nebraska proposes an amendment numbered 2745.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To create a reserve fund to allow for an increase in Veteran's medical care by $1.8 billion by eliminating abusive tax loopholes)

On page 3, line 9, increase the amount by $1,620,000,000.

On page 3, line 10, increase the amount by $162,000,000.

On page 3, line 11, increase the amount by $7,000,000.

On page 3, line 12, increase the amount by $2,000,000.

On page 3, line 17, increase the amount by $1,620,000,000.

On page 3, line 18, increase the amount by $162,000,000.

On page 3, line 19, increase the amount by $7,000,000.

On page 3, line 20, increase the amount by $2,000,000.

On page 4, line 20, increase the amount by $1,620,000,000.

On page 4, line 21, increase the amount by $162,000,000.

On page 4, line 22, increase the amount by $7,000,000.

On page 4, line 23, increase the amount by $2,000,000.

On page 5, line 3, decrease the amount by $1,620,000,000.

On page 5, line 4, decrease the amount by $1,782,000,000.

On page 5, line 5, decrease the amount by $1,789,000,000.

On page 5, line 6, decrease the amount by $1,791,000,000.

On page 5, line 7, decrease the amount by $1,791,000,000.

On page 5, line 11, decrease the amount by $1,620,000,000.

On page 5, line 12, decrease the amount by $1,782,000,000.

On page 5, line 13, decrease the amount by $1,789,000,000.

On page 5, line 14, decrease the amount by $1,791,000,000.

On page 5, line 15, decrease the amount by $1,791,000,000.

At the end of Title III, insert the following:

SEC. . RESERVE FUND FOR VETERANS' MEDICAL CARE.

The Chairman of the Committee on the Budget of the Senate shall revise the aggregates, functional totals, allocations to the Committee on Appropriations of the Senate, discretionary spending limits, and other appropriate levels and limits in this resolution by up to $1,800,000,000 in budget authority for fiscal year 2005, and by the amount of outlays flowing therefrom in 2005 and subsequent years, for a bill, joint resolution, motion, amendment, or conference report that provides additional fiscal year 2005 discretionary appropriations, in excess of levels provided in this resolution, for veterans' medical programs, included in this resolution for the Department of Veterans Affairs.

Mr. NELSON of Florida. I ask unanimous consent Senators CORZINE, MIKULSKI, SCHUMER, and NELSON of Nebraska be added as cosponsors to my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON of Florida. Mr. President, we have arrived at the moment of truth on veterans. Veterans have been all over this Capitol today pleading their case regarding their health care. There is not one Member from any one of our 50 states who has not heard from veterans the tales of woe, the tales of inefficiency, the tales of long waits, waits as much as 6 months to get an appointment with a VA doctor to get a prescription.

The way I approached this amendment was to go to the deliberations of the Senate Veterans' Affairs Committee and to find and be guided by their bipartisan analysis of the Veterans' Administration budget, concluding we must add $1.8 billion in order to adequately fund the health care requirements of veterans.

Listen to the words of the Secretary of Veterans Affairs when he testified last month to the House Veterans' Affairs Committee. Secretary Principi said:

I asked for $1.2 billion more than I received.

In other words, even the Secretary of the VA is calling for more money.

The President's budget makes up the difference for these cuts in trying to rely on copayments from veterans on enrollment fees. To pay, the administration has tried to impose this tax—and it is a tax—on the hard-earned benefits of veterans in the past, but the Congress has not and is not going to allow it. We simply cannot accept a budget that includes access fees and higher prescription drug copayments.

What this budget assumes is the number of VA patients requiring mental health care will decrease next year. If you believe that, you believe in the tooth fairy because the bipartisan analysis of our own Veterans' Affairs Committee finds no basis for this assumption and wholeheartedly rejects the President's $60 million cut in the funding for mental health care.

To make matters worse on veterans health care, there are 60,000 veterans nationwide who have enrolled in the VA and have waited for 6 months or longer for an appointment. This is according to the Senate Veterans' Affairs Committee. Failure to provide more funds is going to result in longer waits and a higher risk to the quality of the care.

Then there are a couple of other complicating factors. If anyone thinks because we have so many World War II veterans and because of their age their numbers are declining, think of all the veterans who were deployed in our Armed Forces serving in Operation Enduring Freedom and Operation Iraqi Freedom: 287,000 service members have served or are serving in those missions. The veterans health system has struggled, to make matters worse, with war-related problems from the first gulf war, with hundreds of thousands of American soldiers serving on the ground, while we cannot begin to estimate future demand on the veterans health system.

Indeed, because of wonderful improvements in the way our military operates its health care on the battlefield, this present operation in Iraq has fewer deaths. But because of the nature of the war, there are many more injuries. At the end of November of last year, a few months ago, the number of soldiers medically evacuated from Iraq was almost 11,000, both battle and nonbattle related. This means what? It means our veterans are surviving at higher rates, hallelujah, but they are going to also, more likely, depend on the VA for future medical care related to those injuries.

When we look at the President's budget for the Veterans' Administration, it reflects only a 1.8 percent increase in medical care funding over last year's appropriation. Overall medical care inflation, according to the Bureau of Labor Statistics, was 4 percent. So if we have medical care inflation at 4 percent with the President's budget only rising at something under 2 percent for veterans medical care funding, where is that going to leave our veterans? We must recognize the health care costs are growing more rapidly and reflect this in the rapid rise in the VA budget.

From where do I get it? I get it from tax loopholes. Since I only have 10 minutes, I will not give examples of tax loopholes. If anyone wants these examples, they have been discussed over the course of the last several days.

It is simple. Take the money, $1.8 billion increase for veterans medical care, which is woefully, inadequately funded in the President's budget and you get that out of closing tax loopholes where corporations are taking advantage of tax provisions that, in essence, allow them to pay less taxes than are owed. It is a simple tradeoff. That is what I am proposing.

Why don't we do something for the veterans?

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, to advise our colleagues, it now appears we will have a vote in a couple of minutes. The first will be a 15-minute rollcall vote, the second will be a 10-minute rollcall vote. It appears we will have two rollcall votes tonight. The first will be on the Baucus amendment dealing with striking the reconciliation instruction and the second will be an amendment by Senator NELSON.

If my memory serves me correctly, we voted on a similar amendment yesterday. I wonder how many times we will have to vote on various issues. This amendment is very similar to the one from yesterday in a couple of respects. One, it has billions of dollars of tax increase, has billions of dollars of spending, except the spending is sheltered into a reserve fund so some people say this gives more money to veterans medical care, but it does not do that. It does not increase money to veterans medical care. It creates a fund and maybe that money would go in there if the Appropriations Committee did such and such. But you can count on what it does do; it increases taxes.

My colleague has very legitimate concerns—I share some of those concerns—about veterans health care. Let me mention a couple of facts on veterans. We are increasing the total amount of money going to veterans on mandatory and discretionary by 14.5 percent. I believe I said this yesterday. That is a lot, especially when you consider you are trying to do a budget that is almost deficit neutral.

We did add $1.4 billion for medical care. I understand people want more. I know people wanted more even if we did not do anything. No matter what we put in, they would want more because they think they are scoring political points.

I will also say we have taken total veterans function 700—mandatory and discretionary—from $47.5 billion in the year 2001 to $70.4 billion. That is an enormous increase.

I understand the demands. I understand the challenge it is. But I urge our colleagues to vote no on the amendment.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, this amendment is significantly different from the one defeated yesterday by a very narrow vote. That one was for a $2.7 billion increase, but it also had a commensurate like reduction in the deficit, so the total amount taken out of tax loopholes was $5.4 billion. This amendment has only $1.8 billion taken out of tax loopholes to give to veterans for their medical care.

What easier tradeoff—we, all the time, have to make tradeoffs around here—what easier tradeoff is there than to do this on tax loopholes, for example, that allow a corporation to go out and buy a bridge, turn around and lease it back to a municipality, and because it technically owns the bridge, depreciate the value of that bridge? That is a sham kind of tax loophole, and that is the kind of stuff we can go after to fund, to stand up and support the men and women in uniform who have served this country.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, how much time does the Senator from Florida have left?

The PRESIDING OFFICER. Twelve seconds.

Mr. NICKLES. Does the Senator yield his time? I am going to order some votes.

Mr. NELSON of Florida. Mr. President, I will be happy to yield back the remainder of my time, urging a vote for the veterans of this country.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, we are ready to begin voting. We are going to have two votes tonight.

Mr. President, I yield the floor.

AMENDMENT NO. 2705 WITHDRAWN

Mr. VOINOVICH. Mr. President, I ask unanimous consent to withdraw amendment No. 2705.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank my colleague from Ohio. He is my very good friend. He makes some excellent points. I compliment him. He is what I call a deficit hawk, and I compliment him.

I look forward to working with him on a lot of ideas. Some of his ideas are in this resolution. Some of his ideas for budget reform were in last year's resolution. I will remind my colleague from Ohio, we used some of your budget points of order you suggested to me over a year ago, this year, throughout the year, to save a lot of spending.

I compliment my colleague from Ohio for his work, and I look forward to continuing to work with him.

AMENDMENT NO. 2751

Mr. President, we are now ready to vote, first on the Baucus amendment. I expect it will be a 15-minute rollcall vote. I do not expect to let it go much beyond 15 minutes. I ask unanimous consent to have the second rollcall vote be limited to 10 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I yield back the remainder of our time.

I ask for the yeas and nays on the Baucus amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Without objection, the question will first occur on the Baucus amendment.

The question is on agreeing to amendment No. 2751.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

Mr. REID. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from South Dakota (Mr. JOHNSON), and the Senator from New Jersey (Mr. LAUTENBERG) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 43, as follows:

[Rollcall Vote No. 39 Leg.]

YEAS—53

Akaka
Baucus
Bayh
Biden
Bingaman
Bond
Boxer
Breaux
Cantwell
Carper
Chafee
Clinton
Coleman
Collins
Conrad
Corzine
Daschle
Dayton
DeWine
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Inouye
Jeffords
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Smith
Snowe
Specter
Stabenow
Wyden

NAYS—43

Alexander
Allard
Allen
Bennett
Brownback
Bunning
Burns
Campbell
Chambliss
Cochran
Cornyn
Craig
Crapo
Dole
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NOT VOTING—4

Byrd
Domenici
Johnson
Lautenberg

The amendment (No. 2751) was agreed to.

Mr. STEVENS. I move to reconsider the vote.

Ms. CANTWELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, for the information of our colleagues, we will have one more rollcall vote tonight. That will be on the Nelson amendment. It is a 10-minute rollcall vote.

I warn my colleagues, we have allowed these last rollcalls to go a little long. Tomorrow we are going to have a lot of votes. I am going to yield back a lot of time tonight or tomorrow. So we are going to be having a lot of votes. We are doing that to try to make this a more orderly process because we do not want to have a vote-arama that will go all night long tomorrow.

I will cooperate with my colleague, and I thank Senator CONRAD for his cooperation. I urge my colleagues to expect a long, hard day tomorrow. I urge my colleagues, when we have debate, to keep the time limited so we can consider additional amendments and conclude this resolution by sometime tomorrow night or sometime Friday. But we will stay here until we complete this resolution.

VOTE ON AMENDMENT NO. 2745

Mr. NICKLES. Mr. President, we are now going to vote on the Nelson amendment. I urge my colleagues to vote no. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 2745. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

Mr. REID. I announce that the Senator from West Virginia (Mr. BYRD) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 46, nays 51, as follows:

[Rollcall Vote No. 40 Leg.]

YEAS—46

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Cantwell
Carper
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Edwards
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Inouye
Jeffords
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

NAYS—51

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dole
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NOT VOTING—3

Byrd
Domenici
Johnson

The amendment (No. 2745) was rejected.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NICKLES. Mr. President, that is the last vote tonight. I believe Senator CORZINE has an amendment he is going to lay down. We will possibly discuss it tonight. I believe he wants to discuss it a little bit, I am not sure. I have to see what the amendment is. I am not sure what it is.

I don't know if there are any other amendments that will be introduced tonight. But I want to let all our colleagues know we are going to be starting pretty early tomorrow, and we will have a lot of votes. My guesstimate is I will yield back a lot of time so we will be on amendments tomorrow. We handled a lot of amendments today. I haven't counted the number. We accepted some, we disposed of some, but we are going to have a lot more amendments tomorrow night, and tomorrow night we are probably going to be working a lot past 10 o'clock. I regret that. I would love to change the way budgets are done.

I urge our colleagues, not all these amendments have to be offered. I urge our colleagues if you have amendments, if you can work them out with Senator CONRAD and myself, we are happy to try to do that. That might save a lot of time. Rollcalls take a lot of time. We still conduct rollcalls the way it was done 200-some-odd years ago. It takes a little while, and that is fine. But I encourage our colleagues to think of the major amendments we really need to vote on, that they feel compelled to vote on, and we will try to have those together and give everybody a fair crack at amending this budget resolution.

I hope some of our colleagues, if they have had success in passing an amendment, maybe they would consider voting for the resolution, not just trying to tear the resolution down or change it and continue to oppose it.

Anyway, I urge our colleagues tomorrow to expect a long day with a lot of votes. Maybe we can conclude tomorrow night. More than likely we will conclude sometime on Friday.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I add my voice to the chairman's and indicate to our colleagues we have now been able to substantially reduce the list on our side. I report to the chairman a very substantial reduction. I think we have eliminated, now, more than 50 of the amendments that have been noticed. But that still leaves us with over 40.

At three amendments an hour, that would be 13 hours of straight voting. It is not just going to be straight voting because we still have time on the resolution. We still have eight or nine amendments that are going to require more extended time during the day, before we get to vote-arama.

I think, just eyeballing it, we are probably talking 4 hours before we get to vote-arama. Then we have at least, as I have indicated, 13 hours of votes after that, if people do not back off and show restraint.

We have the night. We have the night to think very carefully about what kind of quality of life we want for ourselves over the next 2 days.

We have had very significant debates, significant amendments. Let's try to close this out and do it in a way that has the dignity the Senate should have. Yes, we will have significant additional amendments and debate, but let's eliminate the duplication and try to have a reasonable number of amendments so we can be done by a reasonable time on Friday.

I thank the chairman for working with me as we have to try to move this process.

I also thank very much Senator CORZINE, who is a very valuable member of the committee, who has been extraordinarily patient. We almost achieved a unanimous consent that would have allowed his amendment to be voted on this evening. It did not happen. I thank him personally for his patience and his graciousness.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, I compliment both the chairman and the ranking member for their leadership in this debate. I hope people understand how civil and effective the views in the debate have been carried forward. They will be pleased to know we have pulled the other three amendments I submitted.

Mr. CONRAD. I thank my colleague.

AMENDMENT NO. 2777

Mr. CORZINE. With that, Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. CORZINE] proposes an amendment numbered 2777.

Mr. CORZINE. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To eliminate tax breaks for those with incomes greater than $1 million and reserve the savings to prevent future cuts in Social Security benefits)

On page 3, line 9, increase the amount by $20,000,000,000.

On page 3, line 10, increase the amount by $31,000,000,000.

On page 3, line 11, increase the amount by $34,000,000,000.

On page 3, line 12, increase the amount by $39,000,000,000.

On page 3, line 13, increase the amount by $36,000,000,000.

On page 3, line 17, increase the amount by $20,000,000,000.

On page 3, line 18, increase the amount by $31,000,000,000.

On page 3, line 19, increase the amount by $24,000,000,000.

On page 3, line 20, increase the amount by $39,000,000,000.

On page 3, line 21, increase the amount by $36,000,000,000.

On page 4, line 20, increase the amount by $20,000,000,000.

On page 4, line 21, increase the amount by $31,000,000,000.

On page 4, line 22, increase the amount by $34,000,000,000.

On page 4, line 23, increase the amount by $39,000,000,000.

On page 4, line 24, increase the amount by $36,000,000,000.

On page 5, line 3, decrease the amount by $20,000,000,000.

On page 5, line 4, decrease the amount by $31,000,000,000.

On page 5, line 5, decrease the amount by $34,000,000,000.

On page 5, line 6, decrease the amount by $39,000,000,000.

On page 5, line 7, decrease the amount by $36,000,000,000.

On page 5, line 11, decrease the amount by $20,000,000,000.

On page 5, line 12, decrease the amount by $31,000,000,000.

On page 5, line 13, decrease the amount by $34,000,000,000.

On page 5, line 14, decrease the amount by $39,000,000,000.

On page 5, line 15, decrease the amount by $36,000,000,000.

At the appropriate place, insert the following:

"SEC. . RESERVE FUND TO PREVENT CUTS IN SOCIAL SECURITY BENEFITS.—If legislation is reported by the Senate Committee on Finance, or an amendment thereto is offered or a conference report thereon is submitted that would extend the solvency of the Social Security Trust Funds and prevent future cuts in Social Security benefits, the Chairman of the Senate Committee on the Budget may revise the aggregates, allocations, and other appropriate levels and limits in this resolution by not more than $160,000,000,000 to reflect such legislation."

Mr. CORZINE. Mr. President, this is an amendment that is very simple in nature. It calls for the elimination of tax breaks for those with incomes greater than $1 million, that is less than two-tenths of 1 percent of incometax payers in the United States with incomes greater than $1 million, and reserves the savings for the Social Security fund. I emphasize that is two-tenths of American taxpayers, basically setting a new bracket, returning it to 39.5 percent for those who have adjusted gross income over $1 million.

The amendment uses the savings to establish a reserve fund for Social Security which would be used only to extend the solvency of the Social Security trust fund and prevent future cuts in Social Security benefits. It is straightforward.

Social Security represents the best of America's values. It promises all Americans, if you work hard, pay your taxes, play by the rules, you can live out your life in dignity. Social Security is not a handout. It is not welfare. It is an earned benefit. It honors and rewards work, a basic American value. The promise of Social Security, when you get right down to it, is a guaranteed promise of retirement security. Regardless of how long you live, regardless of the rate of inflation, regardless of the state of the economy or the state of the stock market, you worked all your life, you contributed to our Nation's productivity. Social Security promises you will have enough to have dignity in your senior years.

In fact, the benefits promised by Social Security are quite modest. The average monthly benefit is about $900; $900 per month for a senior. I don't think, at least not in New Jersey—that is not exactly luxurious living that one would be benefiting from, from Social Security. But it does provide an important safety net.

For nearly one-third of the seniors in retirement, it is at least 90 percent of their income or more—one-third. For another one-third it is 50 percent or more of their retirement security. And for the balance, it is a major support, that third third; it is a little less than 50 percent but a significant part of their retirement security.

As a result of Social Security, the poverty rate among seniors today is less than 10 percent. It is actually about 9 percent. Without the program, nearly half of all retirees would live below the poverty level—48 percent is what the calculations would be—which, by the way, is where seniors were before the institution of Social Security. It has provided a major support for the quality of life for America's seniors.

We hear a lot of conversation around here about the problems facing Social Security. Let me first say that talk is way overblown. Even if Congress does nothing, the Social Security system is secure and solvent to 2042. After that date, a substantial portion of benefits could continue—about 75 percent, I guess, according to the actuaries.

That said, we all have a responsibility to address the long-term solvency problem of Social Security. It is not in crisis, but it needs to be addressed. It is better to deal with it earlier rather than later. That is one of the reasons I believe my amendment makes sense. If we get started on that process now, we can protect seniors as time goes forward.

The Social Security trust fund faces a long-term shortfall. The last 30 years of the trust fund needs to be addressed. We ought to be preparing for it. That is what I am trying to talk about.

Given the angst that so many people in the country have with regard to Social Security, the President proposed a very radical reform program which we heard about in the State of the Union. It is something I think we ought to start putting money aside for now to protect our seniors as we go forward.

The reality is that this budget resolution does nothing to preserve or save Social Security. That is why I think it is so important that we address it. This is one of those means to do it.

Actually, this budget resolution in many ways will make the problem worse. This budget resolution takes every penny out of the Social Security trust fund and spends it either on funding additional tax cuts or spending it on other programs, depending on how you look at it. But the fact is, over the next 10 years we are going to—if we don't eliminate tax cuts or some portion of it—use $2.5 trillion. That is the cost of the Bush tax cuts over the next 10 years. That is almost dollar per dollar what would be coming into the Social Security trust fund over the period of time ahead. That is what the excess is. Almost dollar for dollar, we match the funding of those tax cuts and use up the Social Security trust fund. I don't think that is what the American people had in mind. I know they don't have in mind running this country deeper and deeper into debt. In fact, this budget resolution continues what this Congress and this President have done over recent years, which is absolute abandonment of fiscal discipline.

For the year 2005, the majority is proposing that the Government run a deficit of more than $512 billion with this resolution. That is the full on-budget element, and I think it is very hard to argue it is fiscally responsible. In fact, I consider that a pretty egregious figure hardly reflecting the kind of fiscal responsibility we all seem to hold close to our chests. Even that figure is misleading because it excludes known costs such as the cost of addressing the alternative minimum tax beyond 2005; similarly, the cost of our continued presence in Afghanistan and Iraq after 2005.

By the way, I compliment the chairman and others for putting together a resolution that actually acknowledges there will be additional expenditures. But I don't think we have addressed it.

Most importantly, we are not addressing, and there is no allowance for, the provisions that are embedded in Social Security reform that is talked about both by the President and many of those on the other side of the aisle.

Everyone knows that the total cost of the transition to private accounts, which is so readily embraced by many, will be over $1 trillion and that nothing is allowed in this budget for the beginning of that transition. I think it is even more aggravated with regard to where we will end up relative to what the reflected budget deficit is that is included. I think it will be considerably larger.

We are fooling ourselves if we think that running such deficits comes without a cost. In the long run, these deficits will have a substantial impact on our economy and on every American family.

In January of 2001, the Congressional Budget Office projected that by the end of 10 years we would have $36 billion in publicly held debt. Instead, today we are looking at a projection of $5.5 trillion by 2008. It is a rather significant swing in cashflow by this country. It calls into question whether we are really thinking about the long-run impact this is going to have on our Nation. Our level of national savings will go down, interest costs will go up, investment will go down, and the end result is likely to be a reduced standard of living in the long term for all Americans.

There is one thing that is absolutely certain in this context, and that is the certainty that every American will be carrying the debt burden that goes well beyond where we are today, which is about $24,000 per person and up to about $35,000 just in 2009. I hate to see how this explodes over the longer period of time because we have all seen the charts about how deficits grow as the baby boomers retire. We have a real problem. It is going to undermine the quality and level of standard of living in America through a period of time.

That is why I believe we need to revisit at least some of the huge tax breaks enacted in recent years. Over the next 75 years, the cost of the Bush tax cuts is about $12 trillion in present value terms. By contrast, the amount needed to ensure the long-term solvency of Social Security is less than $4 trillion. This is what the tax cuts cost for 75 years. This is how much it costs to fix Social Security, according to the actuarials. In other words, those tax cuts cost more than three times the entire Social Security shortfall.

What will happen if we make the tax cuts permanent, as the President wants? It is a real problem in our capacity to fix this problem; by the way, Medicare as well. It will lead inevitably to benefit cuts in Social Security, and more than likely will be dealt with quite deeply.

Many of us, by the way, have thought and long suspected that the rising deficits of recent years have been no accident but rather part of a strategy designed to force deep cuts in Social Security and Medicare to change the basic underlying fix of the social safety net we have in this country.

Recently, it became a little more clear in a lot of people's minds exactly what is going on here. No less a figure than the Federal Reserve Chairman, Alan Greenspan, came out and publicly stated it is time to do two things: make permanent tax breaks which go largely to those doing the most well in our society, or make significant cuts—long run cuts—in Social Security benefits. No doubt many politicians who believe in such an approach were hoping to defer this debate until after the election. But I think we need to have that debate out in the public and fully understood.

I compliment Chairman Greenspan for at least raising this issue so it is on the table. I don't necessarily agree with the strategy of execution, of making permanent these tax cuts which undermine our ability to deal with it, but I think it is absolutely one we need to debate.

We need to be saving today to make sure we can protect those benefits for tomorrow. We can't do it if we are going to continue to live with this absolute binge of tax cuts, especially for the most fortunate. Yet that is what this resolution proposes. That is why I feel so strongly we should take steps to try to address something that is so fundamental to the American people.

My amendment proposes to limit those tax breaks that go to those with incomes greater than $1 million.

By the way, just returning to the tax bracket at the very high end, .2 percent of the American taxpayers use those savings to establish a Social Security reserve fund. The fund would be available only for legislation to extend the solvency of the Social Security trust fund and to prevent future benefit cuts. This would not entirely save Social Security's long-term challenge. Roughly $4 trillion is what we have, but it is a heck of a downpayment. It is about $1 trillion on the present value basis in the direction of a big step towards trying to preserve and make sure we can deal with the Social Security shortfall over a period of time.

Again, let me recap why this amendment is so important. Social Security is a promise we must keep. It is a promise millions of hard-working Americans will depend on to keep them out of poverty in their old age. Keeping that promise in the future will require increasing our savings now. That is why we cannot afford to build massive deficits with huge new tax breaks for the most fortunate Americans among us.

We need to be disciplined. We need to be responsible. This amendment says instead of going deeper and deeper into debt, let's save a portion for the future. Let's hold off on tax breaks for those with incomes greater than $1 million so we can keep our promise to Social Security and prevent future benefit cuts for our seniors as the years go on.

That is the right thing to do. It is the responsible thing to do. I hope the majority of my colleagues will support the amendment.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Oklahoma.

Mr. NICKLES. Will the Senator yield?

Mr. CORZINE. Certainly.

Mr. NICKLES. I am trying to figure out how the amendment would work. You are assuming the highest income level people would have no reduction in their tax rates going back to 2001, so their personal income tax rate would be 39.6 percent?

Mr. CORZINE. The Senator is right, except for the 2001. It is moving back up to the 39.6 percent rate for those over $1 million.

Mr. NICKLES. If the Senator will yield further, would that include the rate on capital gains?

Mr. CORZINE. It would.

Mr. NICKLES. And the rate on dividends?

Mr. CORZINE. It would.

Mr. NICKLES. Madam President, I have great respect for my colleague from New Jersey, but this is one of the worst amendments I have seen. This is a tax increase of $160 billion. The Senator from New Jersey can assume it will only be on millionaires, but you cannot do that. Therefore, it is a direction to the Finance Committee to raise $160 billion. It assumes it would be saving Social Security, but it will not. It will not in any way, shape, or form. He assumes it will be put into a trust fund to save Social Security, but it will not. It raises taxes $160 billion.

I will talk about, if he was correct, how bad that would be. It would be kind of interesting to say everyone in the country gets a capital gain rate of 15 percent, but if you happen to be at an income level of such and such, your capital gain rate is twice as high; it is 39.6 percent. That is very strange.

I assume, too, if you had dividend rates now and we set them now at 15 percent, and that helped the market a lot, and we tax dividends higher than any other country in the world, but we helped that in last year's bill by cutting dividends to 15 percent, and you say dividends will be taxed for everybody in the country at 15 percent except for the highest income people, that will be at 39.6 percent, you are getting into a mess as far as administering the Tax Code.

What about this instruction to increase it $160 billion? How does that save Social Security? I tell my colleagues, Social Security has a $4.9 trillion unfunded liability. If this makes sense to do it to Social Security, the unfunded liability over 75 years for Medicare is 3 or 4 times as high. The last estimate I had was $15.3 trillion for Medicare. We made it worse last year when we expanded the Medicare benefits.

First, if we went with the amendment's assumption, you would be increasing the maximum rate at least to 39.6 percent. The maximum rate on corporations is 35 percent. So why would we tax individuals who happen to be proprietors, who own their own business, who happen to be the individuals who are creating about 80 percent of the jobs, and probably 80 percent of the people who pay maximum rates are individuals, self-employed proprietors, maybe doctors and lawyers, hiring a lot of people, but we will tax them higher rates than we tax Exxon and we tax Goldman Sachs, the corporation. They pay 35 percent, but we will say we will have these individuals pay an additional tax up to 39.6 percent, and then to say we will put it into a fund, that just will not work.

What we would do, the net essence, is raise taxes $160 billion. Presumably we will put it into a fund, but with the deficit situation we have right now it will be spent. It is absurd to think it would not be spent. It will be spent.

You might have an IOU in that fund, but if the Government collects the taxes—I made this speech yesterday; I don't want to be redundant, especially this late—all money will go into one pot, and if you want to have a little paper entry that says IOU over here and you have another fund that says IOU, and someone assumes it is to pay Social Security, that is not the way it works. It would not work that way.

I appreciate my colleague's amendment. I hope our colleagues would vote no on this amendment to raise taxes by $160 billion on a lot of small business entrepreneurs throughout the country. I think it would be slamming the door on economic recovery right off the bat. I urge our colleagues to vote no. We will vote on this amendment tomorrow morning.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Madam President, would the chairman acknowledge the $160 billion is only for 5 years? If you were to implement this policy over the full 75-year timeframe, the present value would be roughly $1 trillion. My calculation is not down to the last decimal point. But the point being not that $160 billion will save Social Security, nor $1 trillion, but doesn't the Senator think we ought to be making steps, even if it is not this approach, to begin to address these shortfalls as we go forward?

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Madam President, I don't think this economy needs a big tax increase. I have not figured out percentagewise what it would be if you applied it to upper income, but it is an increase of about 15 percent, I guess maybe 14 percent on some of the most productive people we have in the country.

That is a good way to encourage a lot of people to go overseas. That is a good way to encourage more business in other areas. That is a good reason for people to outsource more to other countries that do not have tax rates this high.

I find this to be very shortsighted. This is a big tax increase. It would not be funneled into Social Security. If you want to do that, increase the payroll tax. Some people think we will save Social Security by increasing some people's income tax. That is not my opinion. Very shortsighted. We pay Social Security right now. It is basically an unfunded, defined benefit plan. It is a rollover type plan, money coming in, money going out. Right now a little more is going in than going out, but there is significant liability. It has never been a funded, vested plan. It is basically a pay-go system, paid for under the payroll system.

Some think it should be changed. I happen to think maybe it should be changed in line with what the President suggested, where we move it from a defined benefit to a defined benefit plus a defined contribution plan; where we allow individuals to take a percentage of their payroll and put it in their own bank account where they own it and they control it and they are not dependent on Government promises to provide future benefits.

That is a debate for another day. That would help save the system. I used to be a trustee of a private pension system. Our system, like millions across America, moved away from a defined benefit system to a defined contribution system. Federal employees have done the same thing. Frankly, that will continue happening and will continue happening. We need to let individuals have the opportunity to grow, own, invest, and control part of their retirement funds, including Social Security retirement funds.

This, however, is not that solution. This is a solution that says let's not only have the payroll tax—and I might mention, the payroll tax is already very large. The payroll tax of Social Security is 12.4 percent of payroll. Matching employee and employer, 6.2, 6.2, 12.4 percent of all payroll going up to 87,000 is paid into Social Security. That is a lot. That is thousands and thousands of dollars.

Incidentally, the individuals get a crummy deal because they have to pay taxes on it before they make their contribution. So they have to use aftertax dollars to make their Social Security contribution.

This is not a great deal for individuals. They can do a lot better if they were able to invest some of their own money in their own accounts, and let it grow—hopefully, grow tax free—so they would not be so dependent on Government.

This solution says, let's have not only the payroll taxes and the demographic challenge that we have with payroll taxes—because right now you are going to have a lot more people drawing the benefits and fewer people paying as the baby boomers retire—but let's create a tax surcharge or an income tax just on a very small percentage and really sock it to them. And we will say we are putting that into a fund.

All that fund would be used for would be to maybe reduce debt or maybe finance more spending. The direction in this amendment is: Well, let's create a fund. Basically, the Finance Committee might create a fund, but there are going to be more taxes raised. It would be a $160 billion tax increase over the next 5 years.

I do not doubt my colleague from New Jersey; it may be $1 trillion over the next umpteen years. I think it would be very shortsighted economic policy.

Marginal rates make a difference. I used to run a manufacturing company. I used to have a janitor service. Marginal rates made a difference when I had a janitor service because I found out I was working just as much for the Government as I was for myself. And why would you build or expand?

The Senator's amendment would move us very close to 40 percent, not counting State income tax, not counting city income tax, if you happen to live in some cities. If you add all that together, people will say: Why should I grow, build, or expand? If they do not expand, they are not creating jobs. This is a very bad amendment if you want to grow the economy.

The real future of Social Security is going to be dependent on a growing economy. This amendment would be sending the signal we are not interested in growing; we would rather have you leave.

So I urge my colleagues to vote no on the amendment.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Madam President, I would like to make just a couple observations relative to the views of the Senator from Oklahoma.

The last time I checked, when marginal rates were 39.6 percent for a whole wider range of Americans—and I do believe marginal rates and large increments do make a difference on the motivation to work—the economy grew for 8 straight years, producing 22.5 million jobs. We had 4, 5 percent productivity, the highest growth in small business in the history of the country.

It is hard for one to imagine just exactly how that marginal rate ended up being so dampening to economic growth given the reality of the economy's performance in the 1990s. And now what we are talking about with this suggestion applies to two-tenths of 1 percent of taxpayers.

I would also suggest that there are many differentials already in the Tax Code with regard to tax payments on dividends. It is not a flat application of the dividend rate for all businesses. So there are many circumstances where you could end up having a differential of rates.

I think the choice that we are making here is: Is it worthwhile to protect guaranteed benefits—again, where one-third of Americans now are 100 percent dependent on Social Security as their sole protection for their senior years and another third are 50 percent or more dependent? Do we want to continue to have a social safety net, a guaranteed benefit for Americans? I think that is a compact and a trust we put together.

This is one of the ways that we can begin to address it: a $1 trillion present-value step, if we were to implement it. So I hope my colleagues will take into account whether we want to maintain Social Security with its guaranteed benefit structure or are we going to put ourselves at risk, having to change that program because we do not have the long-term actuarial protection of the ability to fulfill the obligations that are accumulating by Americans who work, the fundamental value that we take on here.

The folks from the State that I call home tell me that Social Security is vital to their long-term security. And I hear from those folks that they would like to see a program that is not at risk, but they want to maintain that guaranteed benefit.

This is one of those steps we can take to make that happen.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Madam President, I have just a couple thoughts to share tonight on the Senator's amendment and on Social Security in general.

The Senator from Oklahoma mentioned what the Senator's amendment would actually do: raise taxes, supposedly to put into a fund to save Social Security.

First of all, it directs the Finance Committee to raise taxes. You cannot tell the Finance Committee, in a budget resolution, what taxes to raise. It could easily raise taxes on the child tax credit. It could easily raise whatever taxes it chooses to raise. You cannot direct the Finance Committee on what taxes to raise. We all know that.

Any of the amendments that have been put forward today that say, well, just raise the tax on millionaires, you have to be on the Finance Committee to be able to direct that. That may be your desire, but that is not the way the budget resolution works. You can just direct the amount of money for the Finance Committee to raise. And I think the Senator from New Jersey is aware of that.

As far as putting it in a fund, this Senator has only been here for 3 years. I was in the House of Representatives for 4 years prior to this. The one thing I have learned around here, first of all, is that there is no Social Security trust fund; it is a bunch of IOUs. It is simply an accounting system that we have. Taxpayers, basically in the future, will pay taxes to fund this accounting gimmick that we know as a trust fund.

In most companies, the way they set up trust funds, they actually take the money and invest it. That money accumulates. There are actually real assets. There are not real assets, other than the word of the United States, in the Social Security trust fund. That is really all we have.

Mr. CORZINE. Will the Senator yield for a question?

Mr. ENSIGN. Let me make a few points, and then I will be happy to yield.

There is no cash. There are Treasury bills, basically financing debt that we have for the long term. And we get a very low rate of interest on those for the Social Security trust fund.

The pension systems of companies and States have real assets in them. The State of Nevada has the Public Employees Retirement System. It is a system that a lot of States have.

Most teachers, police officers, and the like are not in the Social Security system because they are in a pension system. The easiest way to explain that is, instead of the taxpayers of today paying for the retirees of today, the retirees' money that they earned while working got put in a system that earned money, so that when they retired they started getting that money back out with interest.

For retirees of today under Social Security, theirs was put in a paper account. It has earned a tiny amount of interest, but the workers of today pay in taxes for their retirement payments. That is how it works. It is a complete difference.

By the way, for the State of Nevada, since we have had our PERS system—I think for 25 or 30 years, whatever it has been—the average rate of return has been 11 percent. Social Security is about 2, 3 percent, somewhere in there—1 percent. It is a lot lower, we know, than 11 percent.

If Social Security would have been set up as a retirement system, as a pension system with real assets, what the Senator is trying to do—put money into that system—may work. But it is not set up that way.

It is set up as a pay-as-you-go system. All this money you give to Congress today, they will spend it. I have been around here 3 years, but it is obvious: If you give more money to this Government, it is going to spend it. It is an easy way to get reelected, just giving money to people.

So while the Senator from New Jersey wants to put it in to save Social Security, it is not going to do that.

As a matter of fact, it will raise the baseline which will put more liability into the future.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, if I might ask the Senator from Nevada a simple definitional question, I think government bonds and treasury bills are assets. They may not be as high yield assets as those available to the investment profile that is the Nevada PERS fund, but then again, it is also an asset that provides presumably greater security and less volatility and less risk to those who would benefit from it down the road. Social Security, while it has pay-as-you-go characteristics, has never been a system that was without accumulated reserves or deficient reserves.

There is a time for us to have a debate about Social Security that goes further than we do tonight, but my view is if we reduce the amount of borrowings that are taken out of the Social Security trust fund to fund everything else we do in government, we would be a lot safer in the long run, and that is what my amendment is really to accomplish.

The reserve is going to lower actually the amount of borrowing the Federal Government has to do.

I think it is up to us to express the self-discipline of not having unlimited tax cuts and also discipline with regard to spending. It is not just on the spending side that we have shown a lack of discipline that has allowed us to get to $5.5 trillion of publicly held debt.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. If I may respond to the Senator from New Jersey, first of all, we have a difference of philosophy. The ranking member on the Budget Committee and I had this discussion last night. There is a difference in philosophy. This Senator believes in cutting tax rates, giving entrepreneurs more of their own money. For instance, when I was practicing as a veterinarian, I was a sole proprietor. If I wanted to expand my business, I looked at my costs, and I looked at rate of return. Part of that was taxes. Could I justify expanding my business. I looked at the cost of borrowing. I looked at the cost of taxes. I looked at all those variables. The higher you raise the cost of taxes, the less expansion of business you are going to get, the fewer jobs you are going to create.

While we have to have tax rates that allow what we believe in to be funded, there is a balance there. I believe if we raise taxes, as you are suggesting, especially as fragile as this economy and this economic recovery is, it could send us back into a double-dip recession as we have seen this economy do historically several times.

I think raising taxes would actually threaten the Social Security trust fund because, as the Senator from Oklahoma said, the only real security for the Social Security trust fund as it is set up today is a strong economy.

We have the baby boomers who are retiring, this huge demographic shift. When Social Security was first set up, there were 39 workers for every one retiree. The retirement age was 65. The average age when people died was 63. That is why a pay-as-you-go system worked for all those years. We had plenty of workers to pay for the retirees. We are down to less than four workers for every one retiree today. We are going to two to one. In future years, if we continue with the birth rates and the increase in age that people live, we will be down to one to one. A pay-as-you-go system does not work in that regard.

It is an important debate to have. I realize we are not going to solve this on the budget resolution, but the bottom line is, a strong economy is the only way in a pay-as-you-go system, a growing, strong, healthy economy is the only way for you to be able to have enough revenues coming into the Federal Government to be able to pay Social Security retirees.

If we want to change the system, and I believe in changing the system, keep it the way we have now, but for the future having similar private accounts, whether it is like we have a Nevada PERS or whatever it is, to where you have real assets that are returning a better rate of return that many other countries in the world are changing their Social Security systems into, if we have that, that is a better way for the long-term solvency for Social Security, in this Senator's opinion. But the current system would be threatened by the amendment of the Senator from New Jersey because we are in the situation of a fragile economy, and tax increases could send us into a double-dip recession.

Mr. BUNNING. Mr. President, I express my support for the budget resolution.

We have seen tough economic times take jobs from the average American. We have seen new spending in the face of terrorism and war increase the deficit. Today we respond with a budget resolution that will set the correct tone for our country.

We now see that the President's tax cuts we passed in 2001 and 2003 are jumpstarting the American economy and providing us with some positive movement in job creation. This budget will extend the tax reductions that have fueled our economy and have helped the average American worker.

Thanks to this budget resolution, we will reduce the deficit by $139 billion to a total deficit of $338 billion in 2005. Our reductions follow the President's plan to cut the deficit as a percentage of our economy in half by 2006. We will hold the line with an $814 billion cap on discretionary spending and even decrease mandatory spending by $5.7 billion.

This budget is a blueprint for America tomorrow that recognizes the realities of today. Those realities call for strong budgets for our military and for the State Department. There are real threats on the horizon that we cannot ignore. We must have the manpower, infrastructure, and intelligence network to protect all Americans from the threat of terrorism. We cannot afford to lose sight of the importance of these programs.

Of course, spending more in the budget to protect Americans means that some other worthy programs will have to face a little belt-tightening. But as we review our spending levels, we have an opportunity to allocate some new monies and focus on new priorities.

One such program is the Pell Grant program. Since 2001, Pell Grant funding has increased by 47 percent. In committee, I was able to amend the budget resolution to increase Pell Grants for students who are willing to work harder in high school. This $33 million program will allow students who participate in a "State Scholars Program" to receive an extra $1,000 for their college education.

We will seek out those students who work harder and strive for better college preparation from their high school education and reward them with more money for college. Motivating our young Americans to learn today will create a skilled workforce tomorrow.

Another area we have expanded is veteran's medical research. The Budget Committee unanimously agreed to my amendment to add $536 million in funding over 5 years for veteran's medical and prosthetic research. That is a 25 percent increase in fiscal year 2005 funding over this year's level.

We owe it to the men and women of the armed forces to expand these programs. And breakthroughs in medical research funded by this program will benefit all Americans, not just those in uniform.

But one of the most important provisions this budget addresses is the tax cuts we have fought so hard to enact over the last few years. We have to stop the average American from getting a tax increase next year. That is why this budget will extend several provisions that are set to expire at the end of this year, including the $1,000 per child tax credit, the 10 percent income tax bracket expansion, and marriage penalty relief.

We passed these tax cuts to help the American family. And just as America is finally getting back on track and creating new jobs, we can't throw the weight of a tax increase on the shoulders of working Americans.

This budget offers responsible spending, protects the tax cuts that have stimulated our economy, and cuts the deficit. We have taken a hard look at our priorities and how we can help the economy. But we're getting stiff resistance from across the aisle. They have attacked these needed tax cut extensions and sensible spending policies.

But they offer no constructive criticism or alternative solutions. They just throw rocks and complain about our budget proposal. When they ran the Budget Committee, they couldn't even get a budget that could pass on the floor of the Senate.

We also hear complaints about Social Security. Where is their plan to grapple with the future of Social Security? Where were they when the Clinton budgets "spent" the Social Security Surplus?

As our Budget Committee chairman said this morning, this budget will treat Social Security exactly the same as past budgets. The trust fund balances are available for future benefit payments, just as they were described in the fiscal year 2000 Clinton budget, which said, "they do not consist of real economic assets that can be drawn down in the future to fund benefits." We'll keep our Social Security money in treasury bills just as we always have and in fact, are required to do by law.

I am ready to tackle the problems Social Security will face in the next several decades. I, unlike many who just complain about the problem, have spent a lot of time thinking about Social Security, particularly during my time as chairman of the Social Security subcommittee in the House. In the past, I have even drafted and introduced an option for improving the system. Very few can say that. All can complain, but few are willing to be constructive.

I hope my colleagues can look past the partisan bias and rhetoric coming from some across the aisle. We drafted in the Budget Committee a serious proposal that addresses spending levels and our economy.

I support this budget before us today because it recognizes the realities of our world, the necessity to limit spending, and the importance of creating jobs and keeping the average American on the road to economic recovery. I urge my colleagues to support the budget resolution before us.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. JOHNSON. Mr. President, as the Senate considers the fiscal year 2005 Federal budget, I want to address what I believe are the deeply misplaced priorities of the Republican budget plan and the dangerous fiscal course facing the Nation.

In 3 short years, the Nation's fiscal health has deteriorated to the point of turning a record budget surplus of $236 billion in 2001 to a gapping projected budget deficit of $477 billion. Instead of working to steady the country's fiscal condition, the budget plan the U.S. Senate is considering will contribute an additional $179 billion to the Federal budget deficit over the next 5 years by permanently extending tax cuts for the richest one percent of American taxpayers.

There is another approach. It is an approach that strengthens the fiscal integrity of the government, while addressing the pressing needs of the 40 million Americans without health insurance, ensuring the solvency of the Social Security trust fund, as well safeguarding the homeland.

On Thursday, March 4, on a party line vote, the Senate Budget Committee approved a budget that adheres too closely to the President's budget plan and sets the wrong priorities for securing the homeland, creating the conditions for job growth, and tackling the out-of-control Federal budget deficit. Under the budget plan the Senate is considering, the Federal budget deficit would actually increase $179 billion above the Congressional Budget Office CBO baseline. To forestall a further run-up on the government's credit card, the Senate should amend the Republican budget plan by identifying a combination of spending reductions and increases in revenues that will achieve the goals of reducing deficits and strengthening the economy.

In 2001, President Bush pushed through a sweeping tax cut on the rationale that the historic budget surpluses built up during the Clinton administration justified reductions in taxes. At that time, the Federal budget was at a record budget surplus of $236 billion and I, along with many of my colleagues in the Senate, agreed that taxes should be reduced. Now that the fiscal condition of the country has swung deep into the red, it is necessary and prudent to reevaluate permanently extending tax breaks for the highest income levels. Such an approach, in combination with focused spending discipline, could reduce the deficit that threatens the long-term fiscal health of our country.

Instead of pursuing this approach, President Bush is asking Congress to make permanent the tax cuts that have put us in this situation. Since the United States is already in red ink, obviously the money for this new distribution will require decreases in important domestic spending and borrowing from the Social Security trust fund. I believe this is a terrible idea when other pressing budget priorities are shortchanged and cut.

Our Nation's veterans are currently on year-long waiting lists to get access to VA health care, our rural hospitals and nursing homes are on the verge of closing because of inadequate Medicare/Medicaid reimbursement, our schools are struggling to stay open due to reduced budgets, and the President says we don't have the funds for South Dakota's water projects. Some may see the people affected by these cuts as "special interests." I see them as South Dakotans who should not be short-changed to provide tax cuts that overwhelmingly benefit the wealthiest one percent of Americans.

I remember when being a conservative meant living within one's means, and that is the strategy our Nation ought to return to. President Clinton had it right when he called for an secured a balanced Federal budget—that meant we were not borrowing from Social Security, we were not creating huge new debts for future generations to pay off, we were creating millions of new jobs, and we were not jeopardizing Medicare and Social Security. Government is about priorities, and the Bush administration's budget priorities are wrong in too many instances. I will continue to do all that I can to redirect our Nation's resources to an agenda that better meets America's domestic needs and our international moral obligations.●

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Madam President, we have had a good debate. I appreciate our colleagues staying this late. We have been on this bill for a little over 13 hours today. I think we have made a lot of progress. We are going to have to make a lot more progress tomorrow.

MORNING BUSINESS

Mr. NICKLES. Madam President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

2004 WOMEN IN SCIENCE WEEK

Mr. DASCHLE. Madam President, the degree to which our Nation prospers in the 21st century will depend on our abilities to develop scientific talent in our youth, to provide lifelong learning to a well-educated workforce able to embrace the rapid pace of technological change, and to raise the level of public scientific and technological literacy.

That is why I am proud to announce a very exciting series of events taking place this week in my home State of South Dakota.

We urgently need to upgrade American students' knowledge and skills across the educational spectrum, particularly in mathematics, science, and technology. Results of an international science and mathematics study conducted in 2000 indicate that "children in the United States were among the leaders in the 4th grade assessment, but by high school graduation they were almost last." Part of the problem is that many girls and young women in junior and senior high school lose interest in science and technological careers.

As we work to develop the finest scientists and engineers for the 21st century, our human resources policy must move beyond simply the supply and demand of personnel and address the composition of the science and engineering workforce. Achieving diversity throughout the ranks of the scientific and technical workforce presents a formidable challenge; the number of women and minorities in science and engineering, relative even to professions such as medicine and law, remains low.

We need to draw upon the full talent pool. Quality of education and equality of educational opportunity are central to our political future as well as to producing the workforce needed to maintain American leadership in the century ahead.

To address this challenge, the National Weather Service Forecast Offices in Aberdeen and Rapid City, with the support of local and State agencies, schools, and businesses, are co-hosting Women in Science conferences in Aberdeen, Watertown, Pierre, and Hot Springs the week of March 8 through 13, 2004. Governor Rounds has declared that week to be "Women in Science Week" in South Dakota.

These conferences provide a forum for young women and girls to learn about the virtually limitless opportunities available in math- and science-related careers and to create personal connections with professional women scientists. These positive role models encourage young women to develop or continue to cultivate an interest in science and technological careers. A total of over 700 junior and senior high school students and teachers will attend these conferences.

The work of all these individuals and organizations to inspire and mentor young women, and offer role models is crucial. My special thanks and appreciation go to everyone involved in this partnership—teachers, workers, State, local, and Federal Government, academia, and businesses—who will make this a successful and an inspiring conference.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Madam President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

In the fall of 1999 in Washington County, PA, Ira Swearingen, a 49-year-old medical consultant was abducted, beaten and murdered. After being abducted, Swearingen was stuffed inside the trunk of his car while one of the perpetrators allegedly said, "Did ya' hear it? I broke his jaw." Another perpetrator heard gurgling of blood and heard the victim screaming. They yelled "Shut up faggot!" Later, the victim was driven to an isolated area, forced to strip and marched into the woods as he pleaded for his life at which point, one perpetrator testified, he shot the victim between the eyes at close range.

Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. By passing this legislation and changing current law, we can change hearts and minds as well.

MILITARY SURVIVOR BENEFITS IMPROVEMENT ACT

Mr. INOUYE. Madam President, I rise to encourage my colleagues to support S. 1916, the Military Survivor Benefits Improvement Act. The purpose of this legislation is to correct a long standing inequity in survivor benefits paid to the widows and widowers of our military retirees and what is afforded survivors of other Federal retirees. This legislation would balance cost and equity considerations by phasing in an increased benefit for military surviving spouses, over a 10-year period, from 35 percent to 55 percent of retired pay after age 62.

The military Survivor Benefits Plan simply does not stack up with the Federal civilian Survivor Benefit Plan either in benefits to survivors or in intended Government cost sharing to help reduce premium costs. When you compare survivor benefits you find that the military Survivor Benefit Plan provides for 55 percent of retired pay until the widow is 62, then drops payments to 35 percent of retired pay. This dramatic drop can translate to as much as one third of the previous payment.

Survivors of Federal civilian retirees under the earlier Civilian Service Retirement System receive 55 percent of retired pay—with no drop in benefits at age 62. Under the newer Federal Employee Retirement System, survivors receive 50 percent of retired pay, again with no drop at age 62. When the military Survivor Benefit Plan was enacted, the Congress intended a 40-percent Government subsidy for cost of military Survivor Benefit Plan premiums. Over time, because of conservative actuarial cost assumptions, the Government's cost share has declined to 19 percent. This means that military retirees are now paying 81 percent of program costs from their retired pay versus the intended 60 percent. This contrasts with a Government Service Retirement System and 33 percent for the current Federal Employee Retirement System.

In closing, I submit that these inequities are unfair to the deserving survivors of military retirees and should be corrected by supporting this important measure.

TIBETAN UPRISING DAY

Mr. BROWNBACK. Madam President, March 10 has been known around the world as "Tibetan Uprising Day." Today, as Tibetans remember those who died resisting Chinese occupation, we too should reflect on the struggles that have faced Tibet since that fateful day 45 years ago. The events of that day, followed by over four decades of struggle by the Tibetan people, is a plight that has become known to many around the world.

After Chinese invasion in 1949 and despite the 1951 Seventeen Point Agreement forced upon the Tibetans by the Chinese Government, it was clear by 1958 that they had no intention of securing the preservation of Tibetan autonomy and institutions. By March 10, 1959 so many Tibetans feared for the Dalai Lama's life that they surrounded his compound as a means of protection and began protesting Chinese occupation. Only seven days later the Dalai Lama escaped to India fearing for the lives of his vigilant people. After the crowds refused orders to leave the compound and unaware of the Dalai Lama's escape, the People's Liberation Army launched an attack killing thousands of innocent civilians. It is estimated that 87,000 Tibetans were killed, arrested or deported to labor camps during the uprising. Many attempted escaping the communist persecution to India, but only a small percentage actually survived the difficult conditions.

The United States has long supported the Tibetan right to self-determination and has declared Tibet to be an occupied territory. In 2000 this very body passed a resolution recognizing March 10 as Tibetan Uprising Day. In fact, the United States has supported the Dalai Lama's commitment to a dialogue and has commended him for his 1989 Nobel Peace Prize recognizing his efforts to work for self-determination through non-violent means. In the Dalai Lama's statement today he said, and I quote,

> My hope is that this year may see a significant breakthrough in our relations with the Chinese Government. As in 1954, so also today, I am determined to leave no stone unturned for seeking a mutually beneficial solution that will address both Chinese concerns as well as achieve for the Tibetan people a life of freedom, peace and dignity.

I, like the Dalai Lama, hope that this year will be a breakthrough year for the Tibetan cause. On the eve of the 60th Session of the U.N. Commission on Human Rights, let us not forget or neglect the plight of Tibetans who have struggled for too long.

I ask unanimous consent that the full statement of the Dalai Lama be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF HIS HOLINESS THE DALAI LAMA ON THE FORTY-FIFTH ANNIVERSARY OF TIBETAN NATIONAL UPRISING DAY

March 10, 2004

Today we commemorate the 45th anniversary of the Tibetan People's Uprising of 1959. I pay tribute to the many brave Tibetan men and women who have sacrificed their lives for the cause of Tibetan freedom. They will always be remembered.

This year marks 50 years since my visit to mainland China in 1954 to meet with the then Chinese leaders, especially Mao Tse-tung. I remember very well that I embarked on the journey with deep concerns about the future of Tibet. I was assured by all the leaders I met that the Chinese presence in Tibet was to work for the welfare of the Tibetans and "to help develop" Tibet. While in China I also learned about internationalism and socialism which deeply impressed me. So I returned to Tibet with optimism and confidence that a peaceful and mutually beneficial coexistence could be worked out. Unfortunately, soon after my return China was embroiled in political unrest unleashed by radical political campaigns. These developments impacted the Chinese policy on Tibet resulting in more repression and rigidity leading finally to the Tibetan People's Uprising in March 1959.

My hope is that this year may see a significant breakthrough in our relations with the Chinese Government. As in 1954, so also today, I am determined to leave no stone unturned for seeking a mutually beneficial solution that will address both Chinese concerns as well as achieve for the Tibetan people a life in freedom, peace and dignity. Despite the decades of separation the Tibetan people continue to place tremendous trust and hope in me. I feel a great sense of responsibility to act as their free spokesman. In this regard, the fact that President Hu Jintao has personal knowledge about the situation and problems in Tibet can be a positive factor in resolving the Tibetan issue. I am therefore willing to meet with today's leaders of the People's Republic of China in the effort to secure a mutually acceptable solution to the Tibetan issue.

My envoys have established direct contact with the Chinese government on two trips to China in September 2002 and in May/June 2003. This is a positive and welcome development, which was initiated during the Presidency of Jiang Zemin. The issue of Tibet is complex and of crucial importance to Tibetan as well as Chinese peoples. Consequently, it requires careful consideration and serious deliberations on both sides before taking any decisions. It will take time, patience and determination to lead this process to a successful conclusion. However, I consider it of highest importance to maintain the momentum and to intensify and deepen this process through regular face-to-face meetings and substantive discussions. This is the only way to dispel existing distrust and misconception and to build trust and confidence.

Consequently, I have instructed my envoys to visit China at the earliest date to continue the process. I hope that they will be able to make this trip without delay. This will help in building trust and confidence in the present process among Tibetans as well as among our friends and supporters around the world—many of whom remain strongly skeptical about the willingness of Beijing to engage in a genuine process of rapprochement and dialogue.

The current situation in Tibet benefits neither the Tibetans nor the government of the

People's Republic of China. The development projects that the Chinese Government has launched in Tibet—purportedly to benefit the Tibetan people—are, however, having negative effects on the Tibetan people's distinct cultural, religious and linguistic identity. More Chinese settlers are coming to Tibet resulting in the economic marginalization of the Tibetan people and the sinicization of their culture. Tibetans need to see an improvement in the quality of their life, the restoration of Tibet's pristine environment and the freedom to decide an appropriate model of development.

I welcome the release of Ani Phuntsok Nyidrol, even as we recognize the injustice of her sentence and continue to urge for the release of all political prisoners in Tibet. The human rights situation in Tibet has not seen any marked improvement. Human rights violations in Tibet have a distinct character of preventing Tibetans as a people from asserting their own identify and culture. The violations are a result of policies of racial and cultural discrimination and religious intolerance.

Against this background we are encouraged and grateful that many individuals, governments and parliaments around the world have been urging the People's Republic of China to resolve the question of Tibet through peaceful negotiations. Led by the European Union and the United States there is growing realization in the international community that the issue of Tibet is not one of human rights violations alone but of a deeper political nature which needs to be resolved through negotiations.

I am also encouraged by the recent improvements in the relationship between India and China. It has always been my belief that better understanding and relations between India and China, the two most populous nations of the world is of vital importance for peace and stability in Asia in particular and in the world in general. I believe that improved relations between India and China will create a more conducive political environment for a peaceful resolution of the Tibetan issue. I also strongly believe India can and should play a constructive and influential role in resolving the Tibetan problem peacefully. My "Middle-Way-Approach" should be an acceptable policy on Tibet for India as it addresses the Tibetan issue within the framework of the People's Republic of China. A solution to the Tibetan issue through this approach would help India to resolve many of her disputes with China, too.

It is 54 years since the establishment of the People's Republic of China. During Mao Zedong's period much emphasis was put on ideology, while Deng Ziaoping concentrated primarily on economic development. His successor Jiang Zemin broadened the base of the Communist Party by enabling wealthy people to become part of the Communist Party under his theory of "The Three Represents". In recent times Hu Jintao and his colleagues were able to achieve a smooth transition of leadership. During the past decades China has been able to make much progress.

But there have also been shortcomings and failures in various fields, including in the economy. One of the main causes of the shortcomings and failures seems to be the inability to deal with and act according to the true and real situation. In order to know the real and true situation it is essential that there be free information.

China is undergoing a process of deep change. In order to effect this change smoothly and without chaos and violence I believe it is essential that there be more openness and greater freedom of information and proper awareness among the general public. We should seek truth from facts—facts that are not falsified. Without this China cannot hope to achieve genuine stability. How can there be stability if things must be hidden and people are not able to speak out their true feelings?

I am hopeful that China will become more open and eventually more democratic. I have for many years advocated that the change and transformation of China should take place smoothly and without major upheavals. This is in the interest of not only the Chinese people but also the world community.

China's emergence as a regional and global power is also accompanied by concerns, suspicion and fears about her power. Hosting the Olympic Games and World Exposition will not help to dispel these concerns. Unless Beijing addresses the lack of basic civil and political rights and freedoms of its citizens, especially with regard to minorities, China will continue to face difficulties in reassuring the world that she is a peaceful, responsible, constructive and forward-looking power.

The Tibetan issue represents both a challenge and an opportunity for a maturing China to act as en emerging global player with vision and values of openness, freedom, justice and truth. A constructive and flexible approach to the issue of Tibet will go a long way in creating a political climate of trust, confidence and openness, both domestically and internationally. A peaceful resolution of the Tibetan issue will have wide-ranging positive impacts on China's transition and transformation into a modern, open and free society. There is now a window of opportunity for the Chinese leadership to act with courage and farsightedness in resolving the Tibetan issue once and for all.

I would like to take this opportunity to express my appreciation and gratitude for this consistent support that we have been receiving throughout the world. I would also like to express once again on behalf of the Tibetans our appreciation and immense gratitude to the people and the Government of India for their unwavering and unmatched generosity and support.

With my prayers for the well-being of all sentient beings.

TIBETAN DAY OF COMMEMORATION

Mrs. FEINSTEIN. Madam President, I rise today to commemorate the 45th anniversary of the Tibetan Uprising of 1959. I sincerely hope that Chinese and Tibetan leaders will take this opportunity to work together in a spirit of cooperation and dialogue to overcome differences that have plagued relations between China and Tibet for too long.

After the Chinese invasion of Tibet in 1949–1950, China and the Tibet Government signed the "Seventeen Points Agreement" to make Tibet an autonomous region in the People's Republic of China and grant the Tibetan people the right of autonomy in determining the shape of their religious, cultural, and social institutions.

Nevertheless, in the ensuing years the Chinese Government did not fulfill its commitments, leading to the 1959 Lhasa Uprising and the flight of the Dalai Lama. Forty-five years later, tens of thousands of Tibetan refugees have been forced to flee their homeland in the face of repeated oppression and human rights abuses and those that remain are still unable to practice their religion freely and preserve their cultural autonomy.

Despite this tragedy, the Dalai Lama has consistently stated that his goal is not independence for Tibet but rather cultural and religious autonomy for the Tibetan people and negotiations within the framework enunciated by Deng Xiaoping in 1979.

Last year, in his speech to commemorate the Lhasa Rebellion, the Dalai Lama said:

> As far back as the early seventies in consultation with senior Tibetan officials I made a decision to seek a solution to the Tibetan problem through a "Middle Way Approach." This framework does not call for independence and separation of Tibet. At the same time, it provides genuine autonomy for the six million men and women who consider themselves Tibetans, to preserve their distinctive identity, to promote their religious and cultural heritage that is based on a centuries-old philosophy which is a benefit even in the 21st century, and to protect the delicate environment of the Tibetan plateau. This approach will contribute to the overall stability and unity of the People's Republic of China.

I have worked on behalf of Tibet and the Tibetan people for over 20 years and I have done everything in my power to bring China and Tibet together to settle their differences peacefully at the negotiating table. I have personally carried messages from the Dalai Lama to China on these issues and there is no doubt in my mind that he is fully prepared to negotiate with China to achieve a just and lasting peace for the Tibetan people.

It is disappointing that another year has gone by and more progress has not been achieved in settling these issues. The road ahead of us is long but we must persevere to ensure that the Tibetan people will one day achieve the freedom and autonomy to shape their own society. It is my sincere hope that China will cooperate with the Dalai Lama in resolving their differences on Tibet.

FULL FAITH AND CREDIT CLAUSE OF THE CONSTITUTION

Mr. KENNEDY. Madam President, I welcome this opportunity to call the attention of the Senate to an impressive article in yesterday's Wall Street Journal by Professor Lea Brilmayer of Yale Law School on the proposed amendment to the Constitution on same-sex marriage.

Supporters of the amendment claim that same-sex marriages in one State must be recognized in all other States. That claim is not true. As Professor Brilmayer explains, "Longstanding precedent from around the country holds that a state need not recognize a marriage entered into in another state with different marriage laws if those laws are contrary to strongly held public policy." States have broad discretion in deciding to what extent they will defer to other states when dealing with sensitive questions about marriage and raising families.

There is no need to amend the Constitution on this issue. States across the country are clearly dealing with the issue and doing so effectively, according to the wishes of the citizens in each of the 50 States. If it is not necessary to amend the Constitution, it is necessary not to amend it.

Professor Brilmayer testified on these constitutional issues at our Judiciary Subcommittee hearing last week, and I ask unanimous consent that her article in the Wall Street Journal be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Mar. 9, 2004]

FULL FAITH AND CREDIT

(By Lea Brilmayer)

Last Wednesday's hearing before the Senate's "Subcommittee on the Constitution, Civil Rights and Property Rights" was billed as the occasion for a serious discussion on the need for a constitutional amendment to limit the interstate effects of Goodridge, the Massachusetts court decision recognizing a state constitutional right to same-sex marriage. Why else would the hearing's organizers invite me, a professor with no particular published opinion on gay rights but dozens of technical publications on interstate jurisdiction? Prepared to do battle over the correct interpretation of the Constitution's Full Faith and Credit Clause, I found myself instead in the middle of a debate about whether marriage is a good thing, and who really loves America's kids the most—Republicans or Democrats.

Like many political debates, the discussion was framed in absolutist terms. Conservatives say that without a constitutional amendment, Goodridge goes national. Gays will travel to Massachusetts to get married and then their home states will be forced (under the Full Faith and Credit Clause) to recognize their marriages. Traditional marriage (apparently a frailer institution than I'd realized) will be fatally undermined unless we act now to prevent the Massachusetts Supreme Judicial Court from imposing its will upon the whole nation. Either amend the Constitution to adopt a national, and traditional, definition of marriage (they say) or there will soon be gay and lesbian married couples living in your own neighborhood. Either it's their nationwide standard—anyone can marry—or it's ours.

The fly in the ointment was that nobody bothered to check whether the Full Faith and Credit Clause had actually ever been read to require one state to recognize another state's marriages. It hasn't. Longstanding precedent from around the country holds that a state need not recognize a marriage entered into in another state with different marriage laws if those laws are contrary to strongly held local public policy. The "public policy doctrine," almost as old as this country's legal system, has been applied to foreign marriages between first cousins, persons too recently divorced, persons of different races, and persons under the age of consent. The granting of a marriage license has always been treated differently than a court award, which is indeed entitled to full interstate recognition. Court judgments are entitled to full faith and credit but historically very little interstate recognition has been given to licenses.

From a technical legal point of view, the debate at last week's hearing was entirely unnecessary. But inciting a divisive and diversionary debate over whether America's children will only thrive in traditional marriages (on the one hand) or whether people who oppose gay marriage are bigots (on the other) was probably a central objective in certain quarters. Social conservatives, in particular, have a vested interest in overstating the "domino effect" of Goodridge. This is particularly true in an election year. Only an ivory tower academic carrying a text full of footnotes would notice anything odd.

The assumption that there must be a single national definition of marriage—traditional or open-ended—is mistaken and pernicious. It is mistaken because the existing constitutional framework has long accommodated differing marriage laws. This is an area where the slogan "stages rights" not only works relatively well, but also has traditionally been left to do its job. We are familiar with the problems of integrating different marriage laws because for the last 200 years the issue has been left, fairly successfully, to the states. The assumption is pernicious because the winner-takes-all attitude that it engenders now has social conservatives pushing us down the constitutional-amendment path. For those who see the matter in terms of gay rights, this would be a tragedy. But it would also be a tragedy for those who genuinely favor local autonomy, or even those of us who genuinely favor keeping the constitutional text uncluttered by unnecessary amendments.

If today's proponents of a marriage amendment are motivated by the fear of some full faith and credit chain-reaction set off in other states by Massachusetts, they needn't be. If they are motivated by the desire to assert political control over what happens inside Massachusetts, they shouldn't be. In our 200-year constitutional history, there has never yet been a federal constitutional amendment designed specifically to reverse a state's interpretation of its own laws. Goodridge, whether decided rightly or wrongly, was decided according to Massachusetts' highest court's view of Massachusetts law. People in other states have no legitimate interest in forcing Massachusetts to reverse itself—Massachusetts will do that itself, if and when it wants to—and those who want to try should certainly not cite the Full Faith and Credit clause in rationalizing their attempts.

Unlike most other hotly contested social issues, the current constitutional marriage debate actually has a perfectly good technical solution. We should just keep doing what we've been doing for the last 200 years.

SBA EMERGENCY AUTHORIZATION EXTENSION ACT OF 2004

Mr. KERRY. Madam President, yesterday I introduced a bill, S. 2186, to keep the SBA, its two largest lending programs, the 504 and 7(a) Loan Guarantee Programs, and the Women's Business Centers up and running through the remainder of this year, September 30, 2004. I ask unanimous consent that a letter of support from the trade association of 7(a) lenders, the National Association of Government Guaranteed Lenders, be printed in the RECORD. Along with NAGGL, I thank the American Bankers Association, the Independent Community Bankers of America, U.S. Chamber of Commerce, and the many other small business associations, that have helped us find solutions, demonstrating great cooperation in a difficult position, to help small businesses.

There being no objection, the material was ordered to be printed in the Record, as follows:

NATIONAL ASSOCIATION OF
GOVERNMENT GUARANTEED LENDERS,
Stillwater, OK, March 10, 2004.

Re SBA 7(a) Funding Crisis and S. 2186.

Hon. JOHN F. KERRY,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR KERRY: As Congress considers how to solve the ongoing SBA 7(a) program funding crisis, we are writing to express our support for S. 2186, which includes provisions that both Small Business Committees and the 7(a) industry have already agreed are equitable.

While NAGGL is generally opposed to programmatic fee increases, the 2004 budget for the 7(a) program has made his concession necessary. NAGGL testified in 2003 that 2004 program demand would be nearly $12 billion, but the Administration adamantly disagreed with our estimate, providing program level of only $9.5 billion. The Administration has also failed to reprogram any additional money to the 7(a) program or offer a supplemental appropriations request.

As a result, the SBA's flagship 7(a) loan program, the single largest provider of long-term start-up and expansion loans to American's small businesses, has been crippled since the beginning of this fiscal year, when the SBA temporarily shut it down due to a funding shortfall. When the Agency reopened the program a week later, it implemented an artificial loan cap of $750,000—a reduction of more than 50% of the program's statutory loan limit of $2 million—and a prohibition on piggyback loans, which would have allowed lenders to make loans in excess of a loan cap.

Businesses who had already submitted applications for loans in excess of the new cap were then told their deals would not qualify for the program. These applicants had gone through months of financial planning and had been promised their loans would be approved. Many had already begun purchasing equipment and hiring employees. And if their deals don't get done, many will lose earnest money they had taken from personal savings and retirement plans to inject into these loans.

Other potential applicants who would ordinarily qualify for the 7(a) program have since been told there is no alternative to finance their start-up or expansion. The net result to these small businesses is a loss of faith in the U.S. government. The net result to the economy is a loss of jobs.

The provisions of S. 2186 fix this problem, and the bill has NAGGL's full support. As the trade association representing lenders who make over 80% of loans in the 7(a) program every year, we can attest to the fact that the minimal fee increases in S. 2186 are ones that lenders will pay and will not be passed along to borrowers. We also continue to oppose the SBA's legislative proposal to reduce the guarantee on all 7(a) loans to 50% and allow the legislation that provided for lender and borrower fee decreases through the end of this fiscal year to simply sunset.

Without the provisions of S. 2186, $3 billion in loans will remain unavailable to small businesses for the remainder of FY 2004—a net loss of approximately 90,000 jobs. We also fear that if a swift and equitable solution is not enacted, many 7(a) lenders will flee the program, leaving a void in availability of the long-term financing that is so crucial to small businesses' success. This will be occurring at a time when our economy is in desperate need of a shot in the arm.

We request that you press for swift passage of S. 2186 to bolster economic recovery and the small businesses that can drive it. Thank you in advance for your consideration.

Sincerely,

TONY WILKINSON,
President & CEO, NAGGL.

NOMINATION OF STEPHEN JOHNSON TO BE DEPUTY ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY

Mr. WYDEN. Madam President, today, I announced my intention to object to any unanimous consent request for the Senate to take up the nomination of Stephen Johnson to be Deputy Administrator of the Environmental Protection Agency. I did this because I have been trying to obtain information concerning EPA's decision to become involved with the City of Portland's combined sewer overflow program since last August. Despite numerous requests, EPA has to this point failed to answer my questions and failed to provide me with the documents I have requested, with the exception of a limited number of documents that EPA would have to provide to any requester under FOIA.

There are legitimate questions about EPA's decision to intervene 10 years after the City signed an enforceable order with the State of Oregon and after the city and its ratepayers have spent more than $500 million to reduce sewer overflows. But to date, I have been unable to get answers to my questions from EPA despite repeated requests.

Last August, I wrote to the Acting EPA Administrator Marianne Horinko requesting answers to a number of questions concerning EPA's decision to become involved with the City of Portland's combined sewer overflow program. I also requested copies of documents about the Portland sewer situation. I never received answers to my specific questions, and I have received only a small number of the documents I requested.

I also submitted written questions following a hearing of the Senate Environment and Public Works Committee on September 15 to then EPA Assistant Administrator for Water, Tracy Mehan. I never received a response from Mr. Mehan, who has subsequently left the agency, or anyone else from EPA.

In October, I received a letter from Acting EPA Administrator Marianne Horinko promising to "work[] with your staff to identify which of the documents that are not enforcement sensitive or confidential would be most helpful to you." Since then, I have received only a slim file of documents that doesn't begin to answer my questions.

Finally, I ask EPA Administrator Leavitt to look into this personally more than a month ago.

Until I receive answers to my questions and the documents I need to exercise my oversight responsibilities over EPA as a member of the Senate Environment and Public Works Committee, I will continue to object to any unanimous consent request for the Senate to take up the nomination of Stephen Johnson to be Deputy Administrator of the Environmental Protection Agency.

ADDITIONAL STATEMENTS

RECOGNITION OF E. NORMAN VEASEY

• **Mr. CARPER.** Madam President, I rise today in recognition of the Honorable E. Norman Veasey upon his retirement as Chief Justice of the Supreme Court of Delaware. He has served as Chief Justice of the State of Delaware for 12 years. His leadership over that span of time has won him the respect and gratitude of our entire State. He has been, and remains, a trusted friend.

Chief Justice Veasey was born on January 9, 1933 in Wilmington, DE to the late Dr. Eugene E. Veasey and Elizabeth N. Burnett. He attended the Peddie School in Hightstown, NJ. From there, he went on to Dartmouth College where he obtained his A.B. in 1954. He then attended the University of Pennsylvania Law School where he graduated in 1957 with his LL.B. At the University of Pennsylvania Law School, he was a Member of the Board of Editors of the University of Pennsylvania Law Review from 1955 to 1957 and was Senior Editor from 1956 to 1957. He was admitted to the Delaware Bar in 1958.

Chief Justice Veasey has spent most of his life in public service. He served honorably in the Delaware Air National Guard from 1957 to 1968 whereby he obtained the rank of captain. He has also served, among a long list, as Chief Deputy Attorney General of the State of Delaware, Chair of the Delaware Board of Bar Examiners, President of the Conference of Chief Justices in 2000, Chair of the ABA Special Committee on the Evaluation of the Rules of Professional Conduct "Ethics 2000", and President of the Delaware State Bar Association. Furthermore, he served as a Director of Beneficial Corporation and National Bank for 13 years from 1979 to 1992.

From 1957 to 1988, he was a member of the prestigious Delaware law firm of Richards, Layton & Finger, with practice emphasis in corporate transactions, litigation and counseling. He was a member of the firm from 1957 to 1992, serving as a partner from 1963 to 1992 and as president from 1985 to 1988.

Judge Veasey became Chief Justice of the State of Delaware on April 7, 1992, having been nominated to that post by then Governor Michael N. Castle and unanimously confirmed by the Delaware State Senate. Chief Justice Veasey is a Judicial Fellow of the American College of Trial Lawyers and is a member of both the Standing Committee on Rules of Practice and Procedure of the United States Judicial Conference and the American Law Institute. He is a Life Fellow of the American Bar Foundation and a director of the Institute for Law and Economics at the University of Pennsylvania. He has been a frequent speaker on corporate governance, ethics and professionalism at continuing legal education programs and has been published widely in the fields related to corporate governance.

In June of 2002, Chief Justice Veasey received the 2002 Paul C. Reardon Award, one of the highest awards given by the National Center for State Courts, NCSC. The Reardon Award, named after the late Massachusetts Supreme Court Justice who was the first president of The National Center's Board of Directors, is presented to a person who has made outstanding contributions to the improvement of the justice system and who has supported the mission of The National Center.

Chief Justice Veasey has been a member of the Conference of Chief Justices since 1992, and headed the conference from 1999 to 2000, a singular honor for him and for Delaware. He has been intimately involved in issues of attorney ethics, having served as chair of the American Bar Association's Special Committee on Evaluation of Rules of Professional Conduct, Ethics 2000. A frequent speaker on corporate governance, ethics, and professionalism at continuing legal education programs, Chief Justice Veasey has been published widely in the fields related to corporate governance. From 1994 to 1995, he was Chair of the Section of Business Law of the ABA. Justice Veasey is also a Judicial Fellow of the American College of Trial Lawyers.

Justice Veasey has been married to the former Suzanne Johnson for 47 years. Both he and Suzy are the proud parents of four children, Andrew, Douglas, E. Norman, Jr. and Marian Elizabeth, and even prouder grandparents to eleven grandchildren.

Through Chief Justice Veasey's tireless efforts, he has made a profound difference in the lives of thousands of Delawareans. Upon his retirement, he will leave behind a legacy of commitment to public service for both his children and grandchildren and for the generations that will follow. I thank him for the friendship that we share and for the privilege of working closely with him when I served as Governor of Delaware from 1993 to 2001. On behalf of all Delawareans, I congratulate him on a truly remarkable and distinguished career. I wish him, Suzy and their family only the very best in all that lies ahead for each of them.●

HONORING RETIRING SENATORS IN THE IDAHO STATE LEGISLATURE

● Mr. CRAPO. Madam President, I rise today to honor some good friends who will retire later this month from the Idaho State Senate after a long history of public service.

Laird Noh is completing his twelfth term, representing District 24, Twin Falls County. Presently he serves as the chairman of the Senate Committee on Resources and Environment; he is also a member of the Senate Committee on Agriculture Affairs and the Senate Committee on Education. Throughout his career, Senator Noh has provided reasoned stability, civility and wisdom to a wide range of issues confronting the State of Idaho for all these years.

Since he began his tireless service to Idaho in 1980, he has set a high standard for public service. Since I was elected to the Idaho State Senate in 1984, Laird has been a friend and mentor to me. I have always appreciated his thoughtful insights and measured manner. In countless meetings with Laird, he has paid incredible attention to the information given and followed that up with salient questions and real action. He has had remarkable foresight on a number of legislative issues, and been able to ascertain how an issue or piece of legislation will affect Idahoans down the road. He is truly a statesman who followed his own moral compass and set a course that he felt would best benefit Idahoans. He has been dedicated to giving his all as he has carefully listened to the needs of Idahoans. His leadership and institutional knowledge will be greatly missed as he retires after 24 years of service.

I am certain that his wife Kathleen and his children, John and Susan, will be pleased to have him back home, but I fully expect that he will stay involved in his community. Idaho is a better place to live because of Laird Noh's fine service to the State and its people. I know they join with me in thanking him and wishing him well in his future endeavors.

Sheila Sorensen is completing her sixth term representing District 18 in Ada County. She has been a significant force in the Idaho State Senate, and is completing her tenure as the chairman of the State Affairs Committee. She has also served this session on Judiciary and Rules.

Public servants like Sheila are hard to come by. She has demonstrated a strong commitment to her community and her ideals as she has represented District 18. Sheila is known for her political courage. She has been willing to work across party lines and develop solutions that will make Idaho a better place to live and work. Her medical training has given her unique insight into many issues that have come before the Idaho State Senate.

Her contributions to Idaho will be felt long after she retires from the State senate. Sheila and her husband Dean are longtime friends and supporters of mine, and I will personally miss having them in Idaho and look forward to their return to our State. I appreciate her service, and know that many others in District 18 and across the State join with me in wishing her the best as she moves to the next challenges in her life.

Cecil Ingram is also completing his sixth term representing District 16 in Ada County. He is finishing up his service in the State senate as chairman of the Transportation Committee. His service on the Health and Welfare Committee and the Local Government and Taxation Committee has also been admirable.

He has provided leadership to our State in so many areas, and has been an example of a great public servant. Cecil is known for his independent streak that has advanced the debate on many public policy issues in Idaho, and we are better for that contribution. His efforts have extended beyond the Idaho State Senate to various community organizations, including the Western Idaho Fair, the Salvation Army, the United Way, Junior Achievement, and the Mountain States Tumor Institute. Cecil's wife, Lois Ann, and his three children, Cynthia, William, and Christopher, have provided him with strong support from home, and I know that without that kind of backing, it would be impossible for him to work as tirelessly as he has for the betterment of our State. His contributions will be greatly missed, and I send my best wishes as he moves into the next phase of his life.

All three of these senators have carved their own mark on our State. They have done it in an admirable and memorable fashion, and I know that their efforts have not gone unnoticed and will likely be felt for years to come.●

THE 175TH ANNIVERSARY OF FAYETTEVILLE FIRST BAPTIST CHURCH

● Mr. MILLER. Madam President, I rise today to honor the 175th anniversary of the Fayetteville First Baptist Church, which has faithfully served the spiritual needs of its congregation since its humble beginnings in 1828. The church's mark and influence on the community is evident by the good works that her congregation has taken part in over the last 175 years. Fayetteville First Baptist's commitment to worship the Lord and serve the public has established it as a beacon of hope to the surrounding community and has held it in high standing among the churches of the South Metro Baptist Association.

Fayetteville First Baptist's message has found its way out of the present chapel, built in 1939, and in to the greater community through its missionaries and ministers, through the sister churches that it has established, and through the spiritual and social opportunities that it has brought to so many. Our places of worship are vital to the social fabric of our Nation, and Fayetteville First Baptist is no exception. It has taken on this responsibility and remained steadfast in its mission for the last 175 years. I am proud of this wonderful church and ask that my colleagues join me in wishing its congregation a happy 175th anniversary.●

TRIBUTE TO ELAINE RAUBACH

● Mr. HARKIN. Madam President, I would like to take a few minutes to comment on the recent retirement of Elaine Raubach. Elaine served for many years as the director of the Budget and Analysis Group of the Centers for Medicare and Medicaid Services. In that role, Elaine was responsible for putting together the budget and performance plan for CMS, as well as running the agency's financial management system.

Elaine previously played a lead role in the development and implementation of a major reorganization of the agency, then known as the Health Care Financing Administration. She also served the agency in information resources management.

Elaine began her Federal career in 1973 with the Social Security Administration and, soon thereafter, began working with the Medicare program. She remained with Medicare when the Health Care Financing Administration was formed in 1977, and continued with work in Medicare, Medicaid and other Federal health programs.

Elaine graduated from Rutgers University and received her Master of Arts Degree from the University of Virginia and an Executive Master of Business Administration from Loyola College.

For the past several years, she provided invaluable service as liaison to the Appropriations Committee in the Senate and the House of Representatives. She has met each and every challenge given her with the utmost ability and professionalism. Elaine has been an asset in every position in which she has served.

On behalf of the members of the Appropriations Committee, I would like to take this opportunity to thank Elaine for her dedicated service, of her vision which so often guided us in formulating creative solutions to funding issues, and in caring for the people we serve. Best wishes for an enjoyable and well-deserved retirement.●

MESSAGE FROM THE HOUSE

At 10:43 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3536. An act to designate the facility of the United States Postal Service located at 210 Main Street in Malden, Illinois, as the "Army Staff Sgt. Lincoln Hollinsaid Malden Post Office".

H.R. 3537. An act to designate the facility of the United States Postal Service located at 185 State Street in Manhattan, Illinois, as the "Army Pvt. Shawn Pahnke Manhattan Post Office".

H.R. 3538. An act to designate the facility of the United States Postal Service located at 101 South Chicago Avenue in Saint Anne, Illinois, as the "Marine Capt. Ryan Beaupre Saint Anne Post Office".

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 506. An act to provide for the protection of archaeological sites in the Galisteo Basin in New Mexico, and for other purposes.

H.R. 2059. An act to designate Fort Bayard Historic District in the State of New Mexico as a National Historic Landmark, and for other purposes.

The enrolled bills were signed subsequently by the President pro tempore (Mr. STEVENS).

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2536. An act to make the protection of women and children who are affected by a complex humanitarian emergency a priority of the United States Government, and for other purposes; to the Committee on Governmental Affairs.

H.R. 2537. An act to develop and coordinate a national emergency warning system; to the Committee on Governmental Affairs.

H.R. 3538. An act to designate the facility of the United States Postal Service located at 201 South Chicago Avenue in Saint Anne, Illinois, as the "Marine Capt. Ryan Beaupre Saint Anne Post Office"; to the Committee on Governmental Affairs.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 1997. An act to amend title 18, United States Code, and the Uniform Code of Military Justice to protect unborn children from assault and murder, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INHOFE, from the Committee on Environment and Public Works, without amendment:

S. 1904. A bill to designate the United States courthouse located at 400 North Miami Avenue in Miami, Florida, as the "Wilkie D. Ferguson, Jr. United States Courthouse".

S. 2022. A bill to designate the Federal building located at 250 West Cherry Street in Carbondale, Illinois the "Senator Paul Simon Federal Building".

S. 2043. A bill to designate a Federal building in Harrisburg, Pennsylvania, as the "Ronald Reagan Federal Building".

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. DOMENICI for the Committee on Energy and Natural Resources.

*Susan Johnson Grant, of Virginia, to be Chief Financial Officer, Department of Energy.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. GRAHAM of Florida:

S. 2187. A bill to amend the Haitian Refugee Immigration Fairness Act of 1998; to the Committee on the Judiciary.

By Mr. FEINGOLD (for himself, Mr. MCCAIN, and Mr. DASCHLE):

S. 2188. A bill to provide for reform of the Corps of Engineers, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BIDEN:

S. 2189. A bill to establish grants to improve and study the National Domestic Violence Hotline; to the Committee on the Judiciary.

By Mr. INHOFE:

S. 2190. A bill to implement equal protection under the 14th article of amendment to the Constitution for the right to life of each born and preborn human person; to the Committee on the Judiciary.

By Mr. THOMAS:

S. 2191. A bill to provide the venue for the judicial review of actions by certain Federal agencies; to the Committee on the Judiciary.

By Mr. HATCH (for himself, Mr. LEAHY, Mr. KOHL, and Mr. FEINGOLD):

S. 2192. A bill to amend title 35, United States Code, to promote cooperative research involving universities, the public sector, and private enterprises; to the Committee on the Judiciary.

By Ms. SNOWE (for herself and Mr. BOND):

S. 2193. A bill to improve small business loan programs, and for other purposes; to the Committee on Small Business and Entrepreneurship.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HAGEL:

S. Res. 317. A resolution recognizing the importance of increasing awareness of autism spectrum disorders, supporting programs for increased research and improved treatment of autism, and improving training and support for individuals with autism and those who care for individuals with autism; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 50

At the request of Mr. DASCHLE, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 50, a bill to amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans health care, and for other purposes.

S. 595

At the request of Mr. BREAUX, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 595, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financings to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 740

At the request of Mr. LIEBERMAN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 740, a bill to amend title XVIII of the Social Security Act to improve patient access to, and utilization of, the colorectal cancer screening benefit under the medicare program.

S. 846

At the request of Mr. SMITH, the names of the Senator from Idaho (Mr. CRAIG) and the Senator from Louisiana (Mr. BREAUX) were added as cosponsors of S. 846, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance, and for other purposes.

S. 976

At the request of Mr. WARNER, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 976, a bill to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement.

S. 1093

At the request of Ms. SNOWE, the name of the Senator from Washington

(Ms. CANTWELL) was added as a cosponsor of S. 1093, a bill to amend the Internal Revenue Code of 1986 to extend the transportation fringe benefit to bicycle commuters.

S. 1197

At the request of Mr. ENZI, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1197, a bill to amend the Public Health Service Act to ensure the safety and accuracy of medical imaging examinations and radiation therapy treatments.

S. 1217

At the request of Mr. ENZI, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 1217, a bill to direct the Secretary of Health and Human Services to expand and intensify programs with respect to research and related activities concerning elder falls.

S. 1380

At the request of Mr. SMITH, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 1380, a bill to distribute universal service support equitably throughout rural America, and for other purposes.

S. 1630

At the request of Mrs. CLINTON, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 1630, a bill to facilitate nationwide availability of 2–1–1 telephone service for information and referral services, and for other purposes.

S. 1645

At the request of Mr. CRAIG, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1645, a bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H–2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes.

S. 1703

At the request of Mr. SMITH, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1703, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax for expenditures for the maintenance of railroad tracks of Class II and Class III railroads.

S. 1780

At the request of Mr. BIDEN, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 1780, a bill to amend the Controlled Substances Act to clarify the definition of anabolic steroids and to provide for research and education activities relating to steroids and steroid precursors.

S. 1793

At the request of Mr. KENNEDY, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1793, a bill to provide for college quality, affordability, and diversity, and for other purposes.

S. 1805

At the request of Mr. SARBANES, his name was withdrawn as a cosponsor of S. 1805, a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others.

S. 1855

At the request of Mr. ALLEN, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 1855, a bill to authorize the Administrator of the National Aeronautics and Space Administration to establish an awards program in honor of Charles "Pete" Conrad, astronaut and space scientist, for recognizing the discoveries made by amateur astronomers of asteroids with near-Earth orbit trajectories.

S. 1900

At the request of Mr. LUGAR, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1900, a bill to amend the African Growth and Opportunity Act to expand certain trade benefits to eligible sub-Saharan African countries, and for other purposes.

S. 1902

At the request of Mr. REED, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1902, a bill to establish a National Commission on Digestive Diseases.

S. 1916

At the request of Ms. LANDRIEU, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1916, a bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

S. 1999

At the request of Mr. DASCHLE, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1999, a bill to amend part D of title XVIII of the Social Security Act, as added by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, to provide for negotiation of fair prices for medicare prescription drugs.

S. 2086

At the request of Mr. THOMAS, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 2086, a bill to amend the Surface Mining Control and Reclamation Act of 1977 to improve the reclamation of abandoned mines.

S. 2161

At the request of Mrs. BOXER, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2161, a bill to amend title 5, United States Code, to establish a national health program administered by the Office of Personnel Management to offer Federal employee health benefits plans to individuals who are not Federal employees, and for other purposes.

S. 2175

At the request of Mr. DODD, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 2175, a bill to amend the Public Health Service Act to support the planning, implementation, and evaluation of organized activities involving statewide youth suicide early intervention and prevention strategies, and for other purposes.

S. 2186

At the request of Mr. KERRY, the names of the Senator from Arkansas (Mr. PRYOR), the Senator from Washington (Ms. CANTWELL), the Senator from Washington (Mrs. MURRAY) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 2186, a bill to temporarily extend the programs under the Small Business Act and the Small Business Investment Act of 1958, through May 15, 2004, and for other purposes.

S. CON. RES. 81

At the request of Mrs. FEINSTEIN, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. Con. Res. 81, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

S. CON. RES. 97

At the request of Mr. SARBANES, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. Con. Res. 97, a concurrent resolution recognizing the 91st annual meeting of The Garden Club of America.

S. RES. 168

At the request of Mr. CAMPBELL, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. Res. 168, a resolution designating May 2004 as "National Motorcycle Safety and Awareness Month".

S. RES. 269

At the request of Mr. LEVIN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. Res. 269, a resolution urging the Government of Canada to end the commercial seal hunt that opened on November 15, 2003.

S. RES. 299

At the request of Mr. CAMPBELL, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. Res. 299, a resolution recognizing, and supporting efforts to enhance the public awareness of, the social problem of child abuse and neglect.

S. RES. 307

At the request of Mrs. Dole, her name was added as a cosponsor of S. Res. 307, a resolution honoring the county of Cumberland, North Carolina, its municipalities and community partners as they celebrate the 250th year of the existence of Cumberland County.

S. RES. 309

At the request of Mr. Craig, the name of the Senator from Alaska (Ms. Murkowski) was added as a cosponsor of S. Res. 309, a resolution designating the week beginning March 14, 2004 as "National Safe Place Week".

S. RES. 311

At the request of Mr. Brownback, the names of the Senator from Pennsylvania (Mr. Specter) and the Senator from Oklahoma (Mr. Inhofe) were added as cosponsors of S. Res. 311, a resolution calling on the Government of the Socialist Republic of Vietnam to immediately and unconditionally release Father Thadeus Nguyen Van Ly, and for other purposes.

AMENDMENT NO. 2671

At the request of Mr. Smith, the name of the Senator from Kentucky (Mr. Bunning) was added as a cosponsor of amendment No. 2671 intended to be proposed to S. 1637, a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

AMENDMENT NO. 2695

At the request of Mr. Kennedy, the names of the Senator from New Jersey (Mr. Corzine), the Senator from California (Mrs. Boxer), the Senator from Connecticut (Mr. Dodd) and the Senator from South Dakota (Mr. Johnson) were added as cosponsors of amendment No. 2695 intended to be proposed to S. Con. Res. 95, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009.

AMENDMENT NO. 2697

At the request of Mr. DeWine, the name of the Senator from New Jersey (Mr. Lautenberg) was added as a cosponsor of amendment No. 2697 intended to be proposed to S. Con. Res. 95, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009.

AMENDMENT NO. 2699

At the request of Mr. Kennedy, the name of the Senator from Rhode Island (Mr. Reed) was added as a cosponsor of amendment No. 2699 intended to be proposed to S. Con. Res. 95, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009.

AMENDMENT NO. 2708

At the request of Mr. Lugar, the names of the Senator from California (Mrs. Feinstein), the Senator from Nebraska (Mr. Hagel), the Senator from Ohio (Mr. DeWine), the Senator from Washington (Mrs. Murray), the Senator from Rhode Island (Mr. Chafee), the Senator from Vermont (Mr. Jeffords), the Senator from New Jersey (Mr. Lautenberg), the Senator from Illinois (Mr. Durbin), the Senator from Washington (Ms. Cantwell), the Senator from Oregon (Mr. Smith) and the Senator from Pennsylvania (Mr. Santorum) were added as cosponsors of amendment No. 2708 intended to be proposed to S. Con. Res. 95, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009.

AMENDMENT NO. 2710

At the request of Mr. Dayton, his name was added as a cosponsor of amendment No. 2710 proposed to S. Con. Res. 95, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAHAM of Florida:

S. 2187. A bill to amend the Haitian Refugee Immigration Fairness Act of 1998; to the Committee on the Judiciary.

Mr. GRAHAM of Florida. Mr. President, seven years ago, I introduced the Haitian Refugee Immigration Fairness Act of 1998 (HRIFA). I introduced HRIFA after Congress enacted the Nicaraguan Adjustment and Central American Relief Act (NACARA). NACARA enabled Nicaraguans and Cubans to become permanent residents and permitted many unsuccessful Central American and Eastern European asylum applicants to seek another form of immigration relief. At the time, Haitians were suffering brutal and widespread political persecution by a ruthless dictatorship. Yet lawmakers opted to exclude Haitian asylum seekers from the NACARA legislation.

HRIFA became law with bipartisan support and reversed this grave inequity in U.S. immigration law. It allowed Haitians who had fled political turmoil in their country an opportunity to adjust their status like the opportunity we granted to refuges from other countries. The legislation has been beneficial and nearly 11,000 Haitians have adjusted their status and become legal permanent residents of the United States. However HRIFA contained several flaws that undermine the original intent of the legislation. That is why today I am introducing the HRIFA Improvement Act of 2004. I would like to thank my friend Senator Mike DeWine for taking the lead in cosponsoring this bill and for his continued support and commitment to fairness in our immigration policy.

First, this legislation corrects an oversight that disqualified Haitian refugees who entered the country with falsified papers. Some Haitian refugees, like many who have fled repressive governments, used falsified documents to flee their country when it was impossible for them to get travel documents from their dictatorial government.

If you look at other immigration legislation, it is clear that the exclusion of Haitian refugees who came here with falsified documents is an oversight. NACARA allowed refugees from a long list of countries, including Guatemala, El Salvador, Romania, Hungary, Bulgaria, and a number of others, to adjust their status to legal permanent residence, even if they entered the country with fraudulent documents.

As result of this oversight, many families and up to 5,000 American children face the possible deportation of a spouse, father or mother who has worked for a decade or more to build a life and a family in the United States. There have been media reports, heart-rending stories, of parents facing the choice between forever leaving their American-born children in their safe communities and schools in the United States or taking them back to a strife-torn Haiti where their parents risk political violence and persecution.

I ask unanimous consent to include in the Record an Associated Press story from December 29, 2003, called "Flaw in Law threatens Deportation for Haitian Refugees." The piece tells the story of Rigaud Rene, a Haitian political activist now living in Miami. Mr. Rene faces deportation because he fled Haiti in 1994 using doctored documents and is therefore not covered by HRIFA. Since coming here, Mr. Rene has learned English, held down a job and earned his GED degree. He also married and has a one and a half year old American-born son.

If Mr. Rene is deported, he will be forced to take his U.S. citizen son with him or leave him here without any means of support. It is a solomonic choice that Mr. Rene should not have to make, especially because his dilemma is the result of a simple oversight in the law.

The difference between the way we treat Haitians and the way we treat refugees from other nations is inconsistent and unfair. The elimination of this kind of inconsistency and unfairness was the primary motivation for the passage of HRIFA in 1998. Clearly, the exclusion of Haitians who entered with falsified documents was an oversight that must now be corrected.

The second purpose of the Improvement Act is to respond to another legislative oversight that left Haitian children and dependents unprotected from "aging out" of HRIFA eligibility. HRIFA allows children and unmarried dependents of approved applicants to adjust to legal permanent residency. However, the Bureau of Citizenship and Immigration Services has taken much longer than was expected to approve the many applicants who had eligible children and dependents when they applied. As a result, many of those who would have been eligible had their parents or guardians been approved earlier have now "aged out" of eligibility or gotten married.

Currently, these "aged out" individuals face the immediate risk of deportation. Their ineligibility is a result solely of administrative delays and is neither their fault nor the intent of HRIFA. The Improvement Act addresses this unforeseen injustice by permitting these individuals to apply for adjustment of status or move to have their cause reopened.

Finally, the HRIFA Improvement Act of 2004 also ensures fairness by extending the protection from deportation to applicants under this Act. This is consistent with the protection extended to applicants under the 1998 HRIFA legislation.

All those who come to the United States fleeing political persecution and violence deserve to be treated fairly and equally. This country is built on this principle of justice and we should give everyone, regardless of his or her national origin, an equal opportunity. That is what this legislation intends to do.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Associated Press, Dec. 29, 2003]

Flaw in Law Threatens Deportation for Haitian Refugees

(By Ken Thomas)

Nearly a decade after leaving Haiti, Regaud Rene ends each day with a prayer. He gives thanks for his wife and young son and their life in America—and prays that their time together will endure.

Rene, a former political activist on the island, faces deportation following a lengthy legal battle with immigration authorities.

He says deportation would devastate his family, forcing him to take his 1½-year-old American-born son to Haiti and leave behind his wife. He also will lose a job that helps him send about $300 a month to support family members in Haiti.

"Some people pray to Jesus for miracles," Rene said during a recent interview. "They are not more special than me. So I hope that God can help me, too."

Rene, 41, is one of about 3,000 Haitian migrants ensnarled in what activists call a flaw in a 1998 law to help provide permanent residency—called green cards—to illegal aliens from Haiti who lived in the United States before 1996.

The bill didn't include waivers for Haitian migrants known as "airplane refugees" who used forged documents to flee revengeful abuses and killings in the impoverished island after President Jean-Bertrand Aristide, the country's first freely elected leader, was deposed in a 1991 coup by Gen. Raul Cedras.

In Rene's case, immigration officials have maintained that the altered documents make him ineligible to live here legally because he committed fraud to enter the country.

But local activists contend that pro-Aristide Haitians arriving by air had to use altered documents to escape possible harm in Haiti because the U.S. Coast Guard was interdicting refugees who came by sea and returning them.

"All these people knew they were being looked for," said Steven Forester, a senior policy advocate for the Haitian Women of Miami, a nonprofit organization. "If you're being looked for by a regime that's chopping people's faces off, you don't get into a boat."

Those who worked on the 1998 Haitian bill said the "airplane refugees" were not supposed to be left out. Paul Virtue, who served as general counsel at the former INS in 1998–99, said he thought "it was an oversight that they were excluded."

"I don't think anyone really thought about the problem that people would face who came by aircraft," Virtue said.

The Department of Homeland Security, which oversees immigration, declined comment on Rene's case. But Dan Kane, a department spokesman, stressed that every case is judged on the individual merits of an applicant's arguments.

Rene initially sought asylum when he first entered the United States in 1994 but was ordered deported by an immigration judge for using a forged passport. His appeal was pending when Congress passed the 1998 law to help Haitians. Rene sought a green card under the new law but his claim was rejected in July 2001.

He appealed the decision and Tuesday his case was sent back to be reheard by an immigration judge. But Aristide's return to power has weakened his argument in the past and his lawyer cautions that Rene could be deported at any moment.

"It's very desperate. They could pick him up today," said Clarel Cyriaque, a Miami lawyer handling Rene's case.

Rene tried to get a green card through his wife, Sonie Octalus, who came here in 1996 and is a legal permanent resident, but the family failed to demonstrate deporting him would result in an "extreme hardship."

U.S. Rep. Kendrick Meek, a Miami Democrat, introduced legislation in October to expand the Haitian law to include those who arrived by air and to prevent the government from deporting anyone with a pending application. But Meek said it faces an uncertain future.

Meek said "the only real flicker of light" would come if the Bush administration embraces Homeland Security Secretary Tom Ridge's recent suggestion of support for an amnesty for illegal immigrants.

Thousands of Haitians have applied for green cards under the 1998 Haitian Refugee Immigration Fairness Act. But the majority of the cases have yet to be adjudicated. A U.S. General Accounting Office report in October found that more than 11,000 of the 37,851 applications have been approved.

Rene was an active Aristide supporter when the Haitian priest ran for president in 1990. He led 300 Aristide supporters in his hometown of Le Borgne and joined the pro-Aristide National Front for Change in Democracy. He passed out leaflets and photos supporting Aristide.

A month after the coup, Rene said he was visited at his home by five members of the military. The men, who were carrying revolvers, threatened him and pushed him around, according to court documents. Rene then went into hiding for two years, staying with a friend in the northern city of Cap-Haitien.

"I was scared to go back to Le Borgne. If I go back to Le Borgne, anything could happen," he recalled.

He fled Haiti for the Bahamas by boat in early 1994 and then used forged documents to fly to Miami International Airport in May 1994, months before Aristide was returned to power.

Rene has built a new life in America, learning English at a local Catholic church, working as a deli clerk at a Miami Beach grocery store and taking night classes to earn a GED degree.

Rene married Octalus in February 2001. Their son, Rikinson, was born the following year. The family lives in a small one-bedroom apartment, where a small bed sits in a cramped living room cooled by a white box fan.

If Rene is deported, the couple will send Rikinson with him because Octalus doesn't drive, has no other relatives in the area and speaks limited English. But the decision has been wrenching.

"If they send him to Haiti, it's like telling me I might as well go to Haiti, too," Octalus said, through a translator in her native Creole.

The couple also wonders how they'll support their families in Haiti if Rene is deported. Rene sends about $300 a month to support two other children, two sisters and his mother. His wife sends $500 a month to six sisters on the island, paying their rent, school tuition and clothing.

The U.S. Agency for International Development estimates Haitians living in the U.S. send between $700 million to $800 million to Haiti every year. Forester, of Haitian Women of Miami, worries about the impact on families in Haiti who lose financial support when relatives are deported.

"If they really want to send a message not to flee, what they're doing by deporting these people is causing the very migration outflow that they say they're trying to prevent," Forester said.

A man of faith, Rene says his hopes have been reduced to prayer. Prayer, he quips, is another part of the American experience.

"In God We Trust," Rene said with a smile. "That's what the Americans say."

By Mr FEINGOLD (for himself, Mr. McCain, and Mr. Daschle):

S. 2188. A bill to provide for reform of the Corps of Engineers, and for other purposes; to the Committee on Environment and Public Works.

Mr. FEINGOLD. Mr. President, I rise today to introduce the Corps of Engineers Modernization and Improvement Act of 2004. I am pleased to be joined by the senior Senator from Arizona, Mr.

McCAIN, who worked with me in the 107th Congress to reform the Corps. I also thank the senior Senator from South Dakota, Mr. DASCHLE, who, as the Democratic Leader, has long supported Corps reform, for cosponsoring this legislation today.

As we debate the budget resolution this week, we cannot ignore the record-breaking deficits that the Nation faces. Fiscal responsibility has never been so important. This legislation provides Congress with a unique opportunity to underscore our commitment to that goal. Time and time again we have heard that fiscal responsibility and environmental protection are mutually exclusive. Through this legislation, however, we can save taxpayers billions of dollars and protect the environment. As evidence of this unique opportunity, this bill is supported by Taxpayers for Common$ense, the National Taxpayers Union, the National Wildlife Federation, American Rivers, the Corps Reform Network, and Earthjustice.

Reforming the Army Corps of Engineers will be a difficult task for Congress. It involves restoring credibility and accountability to a Federal agency rocked by scandals and constrained by endlessly growing authorizations and a gloomy federal fiscal picture, and yet an agency that Wisconsin, and many other states across the country, have come to rely upon. From the Great Lakes to the mighty Mississippi, the Corps is involved in providing aid to navigation, environmental remediation, water control and a variety of other services in my state alone.

My office has strong working relationships with the Detroit, Rock Island, and St. Paul District Offices that service Wisconsin, and I want the fiscal and management cloud over the Corps to dissipate so that the Corps can continue to contribute to our environment and our economy.

This legislation evolved from my experience in seeking to offer an amendment to the Water Resources Development Act of 2000 to create independent review of Army Corps of Engineers' projects. In response to my initiative, the bill's managers, which included the former Senator from New Hampshire, Senator BOB SMITH, and the senior Senator from Montana, Mr. BAUCUS, adopted an amendment as part of their managers' package to require a National Academy of Sciences study on the issue of peer review of Corps projects.

The bill I introduce today includes many provisions that were included in two bills, one of which I authored and the other I cosponsored, in the 107th Congress. It codifies the idea of independent review of the Corps, which was investigated through the 2000 Water Resources bill. It also provides a mechanism to speed up completion of construction for good Corps projects with large public benefits by deauthorizing low priority and economically wasteful projects.

I will note, however, that this is not the first time that the Congress has realized that the Corps needs to be reformed because of its association with pork projects. In 1836, a House Ways and Means Committee report discovered that at least 25 Corps projects were over budget. In its report, the Committee noted that Congress must ensure that the Corps institutes "actual reform, in the further prosecution of public works." In 1902, Congress created a review board to determine whether Corps projects were justified. The review board was dismantled just over a decade ago, and the Corps is still linked with wasteful spending. Here we are, more than 100 years later, talking about the same issue.

The reality is that the underlying problem is not with the Corps, the problem is with Congress. All too often Members of Congress have seen Corps projects as a way to bring home the bacon, rather than ensuring that taxpayers get the most bang for their federal buck.

This bill puts forth bold, comprehensive reform measures. It modernizes the Corps project planning guidelines, which have not been updated since 1983. It requires the Corps to use sound science in estimating the costs and evaluating the needs for water resources projects. The bill clarifies that the national economic development and environmental protection are coequal goals of the Corps. Furthermore, the Corps must use current discount rates when determining the costs and benefits of projects. Several Corps projects are justified using a discount rate formula established in 1974, not the current government-wide discount rate promulgated by the Office of Management and Budget. By using this outdated discount rate formula, the Corps often overestimates project benefits and underestimates project costs.

This legislation also requires that a water resource project's benefits must be 1.5 times greater than the costs to the taxpayer. According to a 2002 study of the Corps backlog of projects, at least 60 Corps projects, whose combined costs total $4.6 billion, do not meet this 1.5 to 1 benefit-cost ratio. Thus, this benefit-cost ratio will save the taxpayer billions of dollars. The bill also mandates Federal-local cost sharing of inland waterways, flood control, and future beach renourishment projects, and reduces the Federal cost burden of these projects.

While the bill assumes a flat 50 percent cost-share for flood control projects, my home state of Wisconsin has been on the forefront of responsible flood plain management and also happens to be home to the Association of State Flood Plain Managers. As Congress considers the issue of Corps reform and the Water Resources Development Act, I hope my colleagues will take a closer look at the issue of a sliding cost scale. We should explore the possibility of creating incentives for communities with cutting-edge flood plain management practices to reduce their local share for projects.

The bill requires independent review of Corps projects. The National Academy of Sciences, the General Accounting Office, and even the Inspector General of the Army agree that independent review is an essential step to assuring that each Corps project is economically justified. Independent review will apply to projects in the following circumstances: 1. the project has costs greater than $25 million, including mitigation costs; 2. the Governor of a state that is affected by the project requests a panel; 3. the head of a Federal agency charged with reviewing the project determines that the project is likely to have a significant adverse environmental or cultural impact; or 4. the Secretary of the Army determines that the project is controversial. Any party can request that the Secretary make a determination of whether the project is controversial.

This bill also creates a Director of Independent Review within the Office of the Inspector General of the Department of the Army. The Director is responsible for empaneling experts to review projects. The Secretary is required to respond to the panel's report and explain the extent to which a final report addresses the panel's concerns. The panel report and the underlying data that the Corps uses to justify the project will be made available to the public.

The bill also requires strong environmental protection measures. The Corps is required to mitigate the environmental impacts of its projects in a variety of ways, including by avoiding damaging wetlands in the first place and either holding other lands or constructing wetlands elsewhere when it cannot avoid destroying them. The Corps requires private developers to meet this standard when they construct projects as a condition of receiving a federal permit, and I think the Federal Government should live up to the same standards. Too often, the Corps does not complete required mitigation and enhances environmental risks.

I feel very strongly that mitigation must be completed, that the true costs of mitigation should be accounted for in Corps projects, and that the public should be able to track the progress of mitigation projects. The bill requires the Corps to develop a detailed mitigation plan for each water resources project, and conduct monitoring to demonstrate that the mitigation is working. In addition, the concurrent mitigation requirements of this bill would actually reduce the total mitigation costs by ensuring the purchase of mitigation lands as soon as possible.

This bill streamlines the existing automatic deauthorization process. Estimates of the project backlog runs from $58 billion to $41 billion. Under the bill a project authorized for construction but never started is deauthorized if it is denied appropriations funds towards completion of construction for five straight years. In addition, a project that has begun construction but been denied appropriations funds towards completion for three straight years is deauthorized. The bill also preserves congressional prerogatives over setting the Corps' construction priorities by allowing Congress a chance to reauthorize any of these projects before they are automatically deauthorized. This process will be transparent to all interests, because the bill requires the Corps to make a list of projects in the construction backlog available to Congress and the public at large.

In the past decade, the Corps has routinely strayed from its mission of flood control, navigation, and environmental protection. This legislation also requires that the Corps stick with its primary missions and that any water project that does not have the Corps' primary mission of flood control, navigation, or environmental protection as its main objective will be deauthorized.

This legislation will bring out comprehensive revision of the project review and authorization procedures at the Army Corps of Engineers. My goals for the Corps are to increase transparency and accountability, to ensure fiscal responsibility, and to allow greater stakeholder involvement in their projects. I remain committed to these goals, and to seeing Corps Reform enacted as part of this Congress's Water Resources bill.

I feel that this bill is an important step down the road to a reformed Corps of Engineers. This bill establishes a framework to catch mistakes by Corps planners, deter any potential bad behavior by Corps officials to justify questionable projects, end old unjustified projects, and provide planners desperately needed support against the never ending pressure of project boosters. Those boosters, include congressional interests, which is why I believe that this body needs to champion reform—to end the perception that Corps projects are all pork and no substance.

I wish it were the case that the changes we are proposing today were not needed, but unfortunately, I see that there is need for this bill. I want to make sure that future Corps projects no longer fail to produce predicted benefits, stop costing the taxpayers more than the Corps estimated, do not have unanticipated environmental impacts, and are built in an environmentally compatible way. This bill will help the Corps do a better job, which is what the taxpayers and the environment deserve.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2188

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Corps of Engineers Modernization and Improvement Act of 2004".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.

TITLE I—MODERNIZING PROJECT PLANNING

Sec. 101. Modern planning principles.
Sec. 102. Independent review.
Sec. 103. Benefit-cost analysis.
Sec. 104. Benefit-cost ratio.
Sec. 105. Cost sharing.

TITLE II—MITIGATION

Sec. 201. Full mitigation.
Sec. 202. Concurrent mitigation.
Sec. 203. Mitigation tracking system.

TITLE III—ADDRESSING THE PROJECT BACKLOG

Sec. 301. Project backlog.
Sec. 302. Primary mission focus.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Corps of Engineers is the primary Federal agency responsible for developing and managing the harbors, waterways, shorelines, and water resources of the United States;

(2) the scarcity of Federal resources requires more efficient use of Corps resources and funding, and greater oversight of Corps analyses;

(3) appropriate cost sharing ensures efficient measures of project demands and enables the Corps to meet more national project needs;

(4) the significant demand for recreation, clean water, and healthy wildlife habitat must be fully reflected in the project planning and construction process of the Corps;

(5) the human health, environmental, and social impacts of dams, levees, shoreline stabilization structures, river training structures, river dredging, and other Corps projects and activities must be adequately considered and, in any case in which adverse impacts cannot be avoided, fully mitigated;

(6) the National Academy of Sciences has concluded that the Principles and Guidelines for water resources projects need to be modernized and updated to reflect current economic practices and environmental laws and planning guidelines; and

(7) affected interests must have access to information that will allow those interests to play a larger and more effective role in the oversight of Corps project development and mitigation.

(b) PURPOSES.—The purposes of this Act are—

(1) to ensure that the water resources investments of the United States are economically justified and enhance the environment;

(2) to provide independent review of feasibility studies, general reevaluation studies, and environmental impact statements of the Corps;

(3) to ensure timely, ecologically successful, and cost-effective mitigation for Corps projects;

(4) to ensure appropriate local cost sharing to assist in efficient project planning focused on national needs;

(5) to enhance the involvement of affected interests in feasibility studies, general reevaluation studies, and environmental impact statements of the Corps;

(6) to modernize planning principles of the Corps to meet the economic and environmental needs of riverside and coastal communities and the nation;

(7) to ensure that environmental protection and restoration, and national economic development, are co-equal goals, and given co-equal emphasis, during the evaluation, planning, and construction of Corps projects;

(8) to ensure that project planning, project evaluations, and project recommendations of the Corps are based on sound science and economics and on a full evaluation of the impacts to the health of aquatic ecosystems; and

(9) to ensure that the determination of benefits and costs of Corps projects properly reflects current law and Federal policies designed to protect human health and the environment.

SEC. 3. DEFINITIONS.

In this Act:

(1) ACADEMY.—The term "Academy" means the National Academy of Sciences.

(2) CORPS.—The term "Corps" means the Corps of Engineers.

(3) PRINCIPLES AND GUIDELINES.—The term "Principles and Guidelines" means the principles and guidelines of the Corps for water resources projects (consisting of Engineer Regulation 1105–2–100 and Engineer Pamphlet 1165–2–1).

(4) SECRETARY.—The term "Secretary" means the Secretary of the Army.

TITLE I—MODERNIZING PROJECT PLANNING

SEC. 101. MODERN PLANNING PRINCIPLES.

(a) PLANNING PRINCIPLES.—Section 209 of the Flood Control Act of 1970 (42 U.S.C. 1962–2) is amended to read as follows:

"SEC. 209. CONGRESSIONAL STATEMENT OF OBJECTIVES.

"(a) IN GENERAL.—It is the intent of Congress that—

"(1) national economic development and environmental protection and restoration are co-equal goals of water resources project planning and management; and

"(2) Federal agencies manage and, if clearly justified, construct water resource projects—

"(A) to meet national economic needs; and

"(B) to protect and restore the environment.

"(b) REVISION OF PLANNING GUIDELINES, REGULATIONS AND CIRCULARS.—Not later than 18 months after the date of enactment of the Corps of Engineers Modernization and Improvement Act of 2004, the Secretary, in collaboration with the National Academy of Sciences, shall develop proposed revisions of, and revise, the planning guidelines, regulations, and circulars of the Corps.

"(c) ADDITIONAL REQUIREMENTS.—Corps planning regulations revised under subsection (b) shall—

"(1) incorporate new and existing analytical techniques that reflect the probability of project benefits and costs;

"(2) apply discount rates provided by the Office of Management and Budget;

"(3) eliminate biases and disincentives that discourage the use of nonstructural approaches to water resources development and management;

"(4) encourage, to the maximum extent practicable, the restoration of ecosystems;

"(5) consider the costs and benefits of protecting or degrading natural systems;

"(6) ensure that projects are justified by benefits that accrue to the public at large;

"(7) ensure that benefit-cost calculations reflect a credible schedule for project construction;

"(8) ensure that each project increment complies with section 104;

"(9) include as a cost any increase in direct Federal payments or subsidies and exclude as a benefit any increase in direct Federal payments or subsidies; and

"(10) provide a mechanism by which, at least once every 5 years, the Secretary shall collaborate with the National Academy of Sciences to review, and if necessary, revise all planning regulations, guidelines, and circulars.

"(d) National Navigation and Port Plan.—

"(1) In general.—Not later than 18 months after the date of enactment of the Corps of Engineers Modernization and Improvement Act of 2004, the Corps shall develop and annually update an integrated, national plan to manage, rehabilitate and, if justified, modernize inland waterway and port infrastructure to meet current national economic and environmental needs.

"(2) Tools.—To develop the plan, the Corps shall employ economic tools that—

"(A) recognize the importance of alternative transportation destinations and modes; and

"(B) employ practicable, cost-effective congestion management alternatives before constructing and expanding infrastructure to increase waterway and port capacity.

"(3) Benefits and proximity.—The Corps shall give particular consideration to the benefits and proximity of proposed and existing port, harbor, waterway, rail and other transportation infrastructure in determining whether to construct new water resources projects.

"(e) Notice and Comment.—The Secretary shall comply with the notice and comment provisions of chapter 551 of title 5, United States Code, in issuing revised planning regulations, guidelines and circulars.

"(f) Applicability.—On completion of the revisions required under this section, the Secretary shall apply the revised regulations to projects for which a draft feasibility study or draft reevaluation report has not yet been issued.

"(g) Project Reformulation.—Projects of the Corps, and separable elements of projects of the Corps, that have been authorized for 10 years, but for which less than 15 percent of appropriations specifically identified for construction have been obligated, shall not be constructed unless a general reevaluation study demonstrates that the project or separable element meets—

"(1) all project criteria and requirements applicable at the time the study is initiated, including requirements under this section; and

"(2) cost share and mitigation requirements of this Act.".

(b) Conforming Amendments.—

(1) Section 80 of the Water Resources Development Act of 1974 (42 U.S.C. 1962(d)–17) is repealed.

(2) Section 7(a) of the Department of Transportation Act (Public Law 89-670; 80 Stat. 941) is repealed.

SEC. 102. INDEPENDENT REVIEW.

(a) Definitions.—In this section:

(1) Affected state.—The term "affected State", with respect to a water resources project, means a State or portion of a State that—

(A) is located, at least partially, within the drainage basin in which the project is carried out; and

(B) would be economically or environmentally affected as a result of the project.

(2) Director.—The term "Director" means the Director of Independent Review appointed under subsection (c)(1).

(b) Projects Subject to Independent Review.—

(1) In general.—The Secretary shall ensure that each feasibility report, general reevaluation report, and environmental impact statement for each water resources project described in paragraph (2) is subject to review by an independent panel of experts established under this section.

(2) Projects subject to review.—A water resources project shall be subject to review under paragraph (1) if—

(A) the project has an estimated total cost of more than $25,000,000, including mitigation costs;

(B) the Governor of an affected State requests the establishment of an independent panel of experts for the project;

(C) the head of a Federal agency charged with reviewing the project determines that the project is likely to have a significant adverse impact on environmental, cultural, or other resources under the jurisdiction of the agency; or

(D) the Secretary determines under paragraph (3) that the project is controversial.

(3) Controversial projects.—

(A) In general.—The Secretary shall determine that a water resources project is controversial for the purpose of paragraph (2)(D) if the Secretary finds that—

(i) there is a significant dispute as to the size, nature, or effects of the project;

(ii) there is a significant dispute as to the economic or environmental costs or benefits of the project; or

(iii) there is a significant dispute as to the benefits to the communities affected by the project of a project alternative that—

(I) was not the focus of the feasibility report, general reevaluation report, or environmental impact statement for the project; or

(II) was not considered in the feasibility report, general reevaluation report, or environmental impact statement for the project.

(B) Written requests.—Not later than 30 days after the date on which the Secretary receives a written request of any party, or on the initiative of the Secretary, the Secretary shall determine whether a project is controversial.

(c) Director of Independent Review.—

(1) Appointment.—The Inspector General of the Army shall appoint in the Office of the Inspector General of the Army a Director of Independent Review.

(2) Qualifications.—The Inspector General of the Army shall select the Director from among individuals who are distinguished experts in biology, hydrology, engineering, economics, or another discipline relating to water resources management.

(3) Limitation on appointments.—The Inspector General of the Army shall not appoint an individual to serve as the Director if the individual has a financial interest in or close professional association with any entity with a financial interest in a water resources project that, on the date of appointment of the Director, is—

(A) under construction;

(B) in the preconstruction engineering and design phase; or

(C) under feasibility or reconnaissance study by the Corps.

(4) Terms.—

(A) In general.—The term of a Director appointed under this subsection shall be 6 years.

(B) Term limit.—An individual may serve as the Director for not more than 2 nonconsecutive terms.

(5) Duties.—The Director shall establish a panel of experts to review each water resources project that is subject to review under subsection (b).

(d) Establishment of Panels.—

(1) In general.—After the Secretary selects a preferred alternative for a water resources project subject to review under subsection (b) in a formal draft feasibility report, draft general reevaluation report, or draft environmental impact statement, the Director shall establish a panel of experts to review the project.

(2) Membership.—A panel of experts established by the Director for a project shall be composed of not less than 5 nor more than 9 independent experts (including 1 or more biologists, hydrologists, engineers, and economists) who represent a range of areas of expertise.

(3) Limitation on appointments.—The Director shall not appoint an individual to serve on a panel of experts for a project if the individual has a financial interest in or close professional association with any entity with a financial interest in the project.

(4) Consultation.—The Director shall consult with the Academy in developing lists of individuals to serve on panels of experts under this section.

(5) Notification.—

(A) In general.—To ensure that the Director is able to effectively carry out the duties of the Director under this section, the Secretary shall notify the Director in writing not later than 90 days before the release of a draft feasibility report, draft general reevaluation report, or draft environmental impact statement, for every water resources project.

(B) Contents.—The notification shall include—

(i) the estimated cost of the project; and

(ii) a preliminary assessment of whether a panel of experts may be required.

(6) Compensation.—An individual serving on a panel of experts under this section shall be compensated at a rate of pay to be determined by the Inspector General of the Army.

(7) Travel expenses.—A member of a panel of experts under this section shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the panel.

(e) Duties of Panels.—

(1) In general.—A panel of experts established for a water resources project under this section shall—

(A) review each draft feasibility report, draft general reevaluation report, and draft environmental impact statement prepared for the project;

(B) assess the adequacy of the economic, scientific, and environmental models used by the Secretary in reviewing the project to ensure that—

(i) the best available economic and scientific methods of analysis have been used;

(ii) the best available economic, scientific, and environmental data have been used; and

(iii) any regional effects on navigation systems have been examined;

(C) receive from the public written and oral comments concerning the project;

(D) not later than the deadline established under subsection (f), submit to the Secretary a report concerning the economic, engineering, and environmental analyses of the project, including the conclusions of the panel, with particular emphasis on areas of public controversy, with respect to the feasibility report, general reevaluation report, or environmental impact statement; and

(E) not later than 30 days after the date of issuance of a final feasibility report, final general reevaluation report, or final environmental impact statement, submit to the Secretary a brief report stating the views of the panel on the extent to which the final analysis adequately addresses issues or concerns raised by each earlier evaluation by the panel.

(2) EXTENSIONS.—

(A) IN GENERAL.—The panel may request from the Director a 30-day extension of the deadline established under paragraph (1)(E).

(B) RECORD OF DECISION.—The Secretary shall not issue a record of decision until after, at the earliest—

(i) the final day of the 30-day period described in paragraph (1)(E); or

(ii) if the Director grants an extension under subparagraph (A), the final day of end of the 60-day period beginning on the date of issuance of a final feasibility report described in paragraph (1)(E) and ending on the final day of the extension granted under subparagraph (A).

(f) DURATION OF PROJECT REVIEWS.—

(1) DEADLINE.—Except as provided in paragraph (2), not later than 180 days after the date of establishment of a panel of experts for a water resources project under this section, the panel shall complete—

(A) each required review of the project; and

(B) all other duties of the panel relating to the project (other than the duties described in subsection (e)(1)(E)).

(2) EXTENSION OF DEADLINE FOR REPORT ON PROJECT REVIEWS.—Not later than 240 days after the date of issuance of a draft feasibility report, draft general reevaluation report, or draft environmental impact statement for a project, if a panel of experts submits to the Director before the end of the 180-day period described in paragraph (1), and the Director approves, a request for a 60-day extension of the deadline established under that paragraph, the panel of experts shall submit to the Secretary a report required under subsection (e)(1)(D).

(g) RECOMMENDATIONS OF PANEL.—

(1) CONSIDERATION BY SECRETARY.—

(A) IN GENERAL.—If the Secretary receives a report on a water resources project from a panel of experts under this section by the applicable deadline under subsection (e)(1)(E) or (f), the Secretary shall, at least 14 days before entering a final record of decision for the water resources project—

(i) take into consideration any recommendations contained in the report; and

(ii) prepare a written explanation for any recommendations not adopted.

(B) INCONSISTENT RECOMMENDATIONS AND FINDINGS.—Recommendations and findings of the Secretary that are inconsistent with the recommendations and findings of a panel of experts under this section shall not be entitled to deference in a judicial proceeding.

(2) PUBLIC REVIEW; SUBMISSION TO CONGRESS.—After receiving a report on a water resources project from a panel of experts under this section (including a report under subsection (e)(1)(E)), the Secretary shall—

(A) immediately make a copy of the report (and, in a case in which any written explanation of the Secretary on recommendations contained in the report is completed, shall immediately make a copy of the response) available for public review; and

(B) include a copy of the report (and any written explanation of the Secretary) in any report submitted to Congress concerning the project.

(h) PUBLIC ACCESS TO INFORMATION.—

(1) IN GENERAL.—Except as provided in paragraph (3), the Secretary shall ensure that information relating to the analysis of any water resources project by the Corps, including all supporting data, analytical documents, and information that the Corps has considered in the analysis, is made available—

(A) to any individual upon request;

(B) to the public on the Internet; and

(C) to an independent review panel, if such a panel is established for the project.

(2) TYPES OF INFORMATION.—Information concerning a project that is available under paragraph (1) shall include—

(A) any information that has been made available to the non-Federal interests with respect to the project; and

(B) all data and information used by the Corps in the justification and analysis of the project.

(3) EXCEPTION FOR TRADE SECRETS.—

(A) IN GENERAL.—The Secretary shall not make information available under paragraph (1) that the Secretary determines to be a trade secret of any person that provided the information to the Corps.

(B) CRITERIA FOR TRADE SECRETS.—The Secretary shall consider information to be a trade secret only if—

(i) the person that provided the information to the Corps—

(I) has not disclosed the information to any person other than—

(aa) an officer or employee of the United States or a State or local government;

(bb) an employee of the person that provided the information to the Corps; or

(cc) a person that is bound by a confidentiality agreement; and

(II) has taken reasonable measures to protect the confidentiality of the information and intends to continue to take the measures;

(ii) the information is not required to be disclosed, or otherwise made available, to the public under any other Federal or State law; and

(iii) disclosure of the information is likely to cause substantial harm to the competitive position of the person that provided the information to the Corps.

(i) COSTS.—

(1) LIMITATION ON COST OF REVIEW.—The cost of conducting a review of a water resources project under this section shall not exceed—

(A) $250,000 for a project, if the total cost of the project in current year dollars is less than $50,000,000; and

(B) 0.5 percent of the total cost of the project in current year dollars, if the total cost is $50,000,000 or more.

(2) TREATMENT.—The cost of conducting a review of a project under this section shall be considered to be part of the total cost of the project.

(3) COST SHARING.—A review of a project under this section shall be subject to section 105(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2215(a)).

(4) WAIVER OF LIMITATION.—The Secretary may waive a limitation under paragraph (1) if the Secretary determines that the waiver is appropriate.

(j) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to a panel of experts established under this section.

SEC. 103. BENEFIT-COST ANALYSIS.

Section 308(a) of the Water Resources Development Act of 1990 (33 U.S.C. 2318(a)) is amended—

(1) in paragraph (1)(B), by striking "and" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(3) any projected benefit attributable to any change in, or intensification of, land use arising from the draining, reduction, or elimination of wetlands.".

SEC. 104. BENEFIT-COST RATIO.

(a) RECOMMENDATION OF PROJECTS.—Beginning in fiscal year 2004, in the case of a water resources project that is subject to a benefit-cost analysis, the Secretary may recommend the project for authorization by Congress, and may choose the project as a recommended alternative in any record of decision or environmental impact statement, only if the project, in addition to meeting any other criteria required by law, has projected national benefits that are at least 1.5 times as great as the estimated total costs of the project, based on current discount rates provided by the Office of Management and Budget.

(b) REVIEW AND DEAUTHORIZATION OF PROJECTS.—

(1) REVIEW.—Not later than 180 days after the date of enactment of this Act, the Secretary shall review each water resources project described in paragraph (2) to determine whether the projected benefits of the project are less than 1.5 times as great as the estimated total costs of the project.

(2) PROJECTS SUBJECT TO REVIEW.—A water resources project shall be subject to review under paragraph (1) if—

(A) the project was authorized before the date on which the review is commenced;

(B) the project is subject to a benefit-cost analysis; and

(C) an amount that is less than 33 percent of the estimated total costs of the project (excluding costs of preconstruction engineering and design) has been obligated for the project.

(3) DEAUTHORIZATIONS.—

(A) IN GENERAL.—On completion of the review under paragraph (1), the Secretary shall submit to Congress a list that describes each water resources project the projected benefits of which are less than 1.5 times as great as the estimated total costs of the project.

(B) PROJECTS.—A project included on the list under subparagraph (A) shall be deauthorized effective beginning 3 years after the date of submission of the list to Congress unless, during that 3-year period, Congress reauthorizes the project.

(4) DEAUTHORIZED PROJECTS FOR WHICH CONSTRUCTION HAS BEEN COMMENCED.—In the case of a water resources project that is deauthorized under paragraph (3) and for which construction (other than preconstruction engineering and design) has been commenced, the Secretary may take such actions as are necessary with respect to the project to protect public health and safety and the environment.

SEC. 105. COST SHARING.

(a) INLAND WATERWAYS.—

(1) CONSTRUCTION.—Section 102(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2212(a)) is amended—

(A) in the first sentence, by striking "One-half of the costs of construction" and inserting "Forty-five percent of the costs of construction"; and

(B) by striking the second sentence and inserting "Fifty-five percent of those costs shall be paid only from amounts appropriated from the Inland Waterways Trust Fund.".

(2) OPERATIONS AND MAINTENANCE.—Section 102 of the Water Resources Development Act of 1986 (33 U.S.C. 2212) is amended by striking subsections (b) and (c) and inserting the following:

"(b) OPERATION AND MAINTENANCE.—

"(1) FEDERAL SHARE.—The Federal share of the cost of operation and maintenance shall be 100 percent in the case of—

"(A) a project described in paragraph (1) or (2) of subsection (a); or

"(B) the portion of the project authorized by section 844 that is allocated to inland navigation.

"(2) SOURCE OF FEDERAL SHARE.—

"(A) GENERAL FUND.—In the case of a project described in paragraph (1) or (2) of subsection (a) with respect to which the cost of operation and maintenance is less than or equal to 2 cents per ton mile, or in the case of the portion of the project authorized by section 844 that is allocated to inland navigation, the Federal share under paragraph (1) shall be paid only from amounts appropriated from the general fund of the Treasury.

"(B) GENERAL FUND AND INLAND WATERWAYS TRUST FUND.—In the case of a project described in paragraph (1) or (2) of subsection (a) with respect to which the cost of operation and maintenance is greater than 2 but less than or equal to 10 cents per ton mile—

"(i) 75 percent of the Federal share under paragraph (1) shall be paid only from amounts appropriated from the general fund of the Treasury; and

"(ii) 25 percent of the Federal share under paragraph (1) shall be paid only from amounts appropriated from the Inland Waterways Trust Fund.

"(C) INLAND WATERWAYS TRUST FUND.—In the case of a project described in paragraph (1) or (2) of subsection (a) with respect to which the cost of operation and maintenance is greater than 10 cents per ton mile but less than 30 cents per ton mile, 100 percent of the Federal share under paragraph (1) shall be paid only from amounts appropriated from the Inland Waterways Trust Fund.

"(D) NON-FEDERAL RESPONSIBILITY.—

"(i) IN GENERAL.—In the case of a project described in paragraph (1) or (2) of subsection (a) with respect to which the cost of operation and maintenance is greater than 30 cents per ton-mile, the cost of operations and maintenance shall be a non-Federal responsibility.

"(ii) DEAUTHORIZATION.—In a case in which the Secretary determines that the non-Federal interests for a project described in clause (i) are unable to pay for the cost of operations and maintenance of the project, the project is deauthorized as of the date of that determination.".

(b) FLOOD DAMAGE REDUCTION.—Section 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2213) is amended—

(1) in subsections (a)(2) and (b), by striking "35" each place it appears and inserting "50";

(2) in the paragraph heading of subsection (a)(2), by striking "35 PERCENT MINIMUM"" and inserting "MINIMUM""; and

(3) in the paragraph heading of subsection (b), by striking "35" and inserting "50".

(c) BEACH REPLACEMENT.—Section 103(d)(2)(A) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(d)(2)) is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(2) by inserting after subparagraph (A) the following:

"(B) 2004 AND SUBSEQUENT PROJECTS.—For any project authorized after the date of enactment of the Corps of Engineers Modernization and Improvement Act of 2004, the non-Federal cost of the periodic nourishment of the project, or any measure for shore protection or beach erosion control for the project, shall be 65 percent.".

TITLE II—MITIGATION

SEC. 201. FULL MITIGATION.

Section 906(d) of the Water Resources Development Act of 1986 (33 U.S.C. 2283(d)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) PROJECTS.—

"(A) IN GENERAL.—After November 17, 1986, the Secretary shall not submit to Congress any proposal for the authorization of any water resources project, and shall not choose a project alternative in any final record of decision, environmental impact statement, or environmental assessment, unless the report contains—

"(i) a specific plan to fully mitigate losses of aquatic and terrestrial resources and fish and wildlife created by the project, or

"(ii) a determination by the Secretary that the project will have negligible adverse impact on aquatic and terrestrial resources and fish and wildlife.

"(B) SPECIFIC REQUIREMENTS.—Specific mitigation plans shall ensure that impacts to bottomland hardwood forests and other habitat types are mitigated in kind.

"(C) CONSULTATION.—In carrying out this paragraph, the Secretary shall consult with appropriate Federal and non-Federal agencies."; and

(2) by adding at the end the following:

"(3) STANDARDS FOR MITIGATION.—

"(A) IN GENERAL.—To fully mitigate losses to fish and wildlife resulting from a water resources project, the Secretary shall, at a minimum—

"(i) acquire and restore 1 acre of superior or equivalent habitat of the same type to replace each acre of habitat adversely affected by the project; and

"(ii) replace the hydrologic functions and characteristics, the ecological functions and characteristics, and the spatial distribution of the habitat adversely affected by the project.

"(B) DETAILED MITIGATION PLAN.—The specific mitigation plan for a water resources project under paragraph (1) shall include, at a minimum—

"(i) a detailed and specific plan to monitor mitigation implementation and ecological success, including the designation of the entities that will be responsible for monitoring;

"(ii) specific ecological success criteria by which the mitigation will be evaluated and determined to be successful, prepared in consultation with the United States Fish and Wildlife Service;

"(iii) a detailed description of the land and interests in land to be acquired for mitigation and the basis for a determination that land and interests are available for acquisition;

"(iv) sufficient detail regarding the chosen mitigation sites and type and amount of restoration activities to permit a thorough evaluation of the plan's likelihood of ecological success and resulting aquatic and terrestrial resource functions and habitat values; and

"(v) a contingency plan for taking corrective actions if monitoring demonstrates that mitigation efforts are not achieving ecological success as described in the ecological success criteria.

"(C) APPLICABLE LAW.—A time period for mitigation monitoring or for the implementation and monitoring of contingency plan actions shall not be subject to the deadlines described in section 202.

"(4) DETERMINATION OF MITIGATION SUCCESS.—

"(A) IN GENERAL.—Mitigation shall be considered to be successful at the time at which monitoring demonstrates that the mitigation has met the ecological success criteria established in the mitigation plan.

"(B) REQUIREMENTS FOR SUCCESS.—To ensure the success of any attempted mitigation, the Secretary shall—

"(i) consult yearly with the United States Fish and Wildlife Service on each water resources project requiring mitigation to determine whether mitigation monitoring for that project demonstrates that the project is achieving, or has achieved, ecological success;

"(ii) ensure that implementation of the mitigation contingency plan for taking corrective action begins not later than 30 days after a finding by the Secretary or the United States Fish and Wildlife Service that the original mitigation efforts likely will not result in, or have not resulted in, ecological success;

"(iii) complete implementation of the contingency plan as expeditiously as practicable; and

"(iv) ensure that monitoring of mitigation efforts, including those implemented through a mitigation contingency plan, continues until the monitoring demonstrates that the mitigation has met the ecological success criteria.

"(5) RECOMMENDATION OF PROJECTS.—The Secretary shall not recommend a water resources project alternative or choose a project alternative in any final record of decision, environmental impact statement, or environmental assessment completed after the date of enactment of this paragraph unless the Secretary determines that the mitigation plan for the alternative will successfully mitigate the adverse impacts of the project on aquatic and terrestrial resources, hydrologic functions, and fish and wildlife.

"(6) COMPLETION OF MITIGATION BEFORE CONSTRUCTION OF NEW PROJECTS.—The Secretary shall complete all promised mitigation for water resources projects in a particular watershed before constructing any new water resources project in that watershed.".

SEC. 202. CONCURRENT MITIGATION.

Section 906(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2283(a)) is amended—

(1) by striking "(a)(1) In the case" and inserting the following:

"(a) MITIGATION.—

"(1) IN GENERAL.—In the case";

(2) in paragraph (1), by striking "interests—" and all that follows through "losses)," and inserting the following: "interests shall be undertaken or acquired—

"(A) before any construction of the project (other than such acquisition) commences; or

"(B) concurrently with the acquisition of land and interests in land for project purposes (other than mitigation of fish and wildlife losses);";

(3) in paragraph (2), by striking "(2) For the purposes" and inserting the following:

"(2) Commencement of construction.—For the purpose"; and

(4) by adding at the end the following:

"(4) Implementation.—

"(A) In general.—Except as provided in subparagraph (B), to ensure concurrent mitigation, the Secretary shall implement—

"(i) 50 percent of required mitigation before beginning construction of a project; and

"(ii) the remainder of required mitigation as expeditiously as practicable, but not later than the last day of construction of the project or separable element of the project.

"(B) Exception for physical impracticability.—In a case in which the Secretary determines that it is physically impracticable to complete mitigation by the last day of construction of the project or separable element of the project, the Secretary shall reserve or reprogram sufficient funds to ensure that mitigation implementation is completed as expeditiously as practicable, but in no case later than the end of the next fiscal year immediately following the last day of that construction.

"(5) Use of funds.—Funds made available for preliminary engineering and design, construction, or operations and maintenance shall be available for use in carrying out this section.".

SEC. 203. MITIGATION TRACKING SYSTEM.

(a) In General.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish a recordkeeping system to track each water resources project constructed, operated, or maintained by the Secretary, and for each permit issued under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344)—

(1) the quantity and type of wetland and other habitat types affected by the project, project operation, or permitted activity;

(2) the quantity and type of mitigation required for the project, project operation or permitted activity;

(3) the quantity and type of mitigation that has been completed for the project, project operation or permitted activity; and

(4) the status of monitoring for the mitigation carried out for the project, project operation or permitted activity.

(b) Required Information and Organization.—The recordkeeping system shall—

(1) include information on impacts and mitigation described in subsection (a) that occur after December 31, 1969; and

(2) be organized by watershed, project, permit application, and zip code.

(c) Availability of Information.—The Secretary shall make information contained in the recordkeeping system available to the public on the Internet.

TITLE III—ADDRESSING THE PROJECT BACKLOG

SEC. 301. PROJECT BACKLOG.

(a) Review and Report on Water Resources Construction Backlog.—

(1) Definitions.—In this subsection:

(A) Active.—The term "active", with respect to a project, means that—

(i) the project is economically justified;

(ii) the project has received funding for—

(I) preconstruction engineering and design; or

(II) construction; and

(iii) the non-Federal interests with respect to the project have demonstrated willingness and the ability to provide the required non-Federal share.

(B) Deferred.—The term "deferred", with respect to a project, means that the project—

(i) has doubtful economic justification;

(ii) requires reevaluation to determine the economic feasibility of the project; or

(iii) is a project for which the non-Federal interests are unable to provide required cooperation.

(C) Inactive.—The term "inactive", with respect to a project, means that—

(i) the project is not economically justified;

(ii) the project no longer meets current and prospective needs as described in a feasibility report or general reevaluation report;

(iii) the non-Federal interests with respect to the project have not demonstrated willingness or the ability to provide the required non-Federal share; or

(iv)(I) the project most recently received, under an Act of Congress, authorization or reauthorization of construction more than 25 years before the date of enactment of this Act; and

(II) an amount that is less than 33 percent of the estimated total costs of the project (excluding costs of preconstruction engineering and design) has been obligated for the project as of the date of enactment of this Act.

(D) Project.—The term "project" means a water resources project, or a separable element of a water resources project, that is authorized by law for funding from—

(i) the Construction, General, appropriations account; or

(ii) the construction portion of the Flood Control, Mississippi River and Tributaries, appropriations account.

(2) Study.—

(A) In general.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a study consisting of—

(i) the list described in subparagraph (B); and

(ii) the information described in subparagraph (C).

(B) List.—The list referred to in subparagraph (A) is a list of all authorized water resources projects—

(i) that have not been commenced; or

(ii) the construction of which has not been completed.

(C) Required information.—Each project on the list described in subparagraph (B) shall be accompanied by information on—

(i) the primary purpose of the project;

(ii) the year in which construction of the project was commenced;

(iii) the total estimated cost of the project in current year dollars;

(iv) the benefit-cost ratio of the project, determined based on current discount rates;

(v) the estimated annual benefits and annual costs of the project;

(vi) the remaining additional benefits and the remaining additional costs to complete construction of the project (including the ratio that remaining benefits bear to remaining costs);

(vii)(I) the year during which the most recent major studies of the feasibility and design of the project were completed; and

(II) the year during which the most recent environmental impact statement or environmental assessment for the project was completed;

(viii) the date of the last year for which economic data that was included in the most recent analysis of the feasibility and justification of the project was collected;

(ix) the status of each project as—

(I) reconnaissance, preconstruction engineering and design, or construction; and

(II) active, deferred, or inactive; and

(x) the information described in paragraph (3) for each particular type of project.

(3) Information for particular project type.—The study under paragraph (2) shall include—

(A) in the case of a flood damage reduction project—

(i) the extent to which the project reflects national flood damage reduction priorities as established by the Federal Emergency Management Agency;

(ii)(I) the level of flood protection provided; and

(II) to the maximum extent practicable, the extent to which the project is based on projected growth and the basis for each projection of growth; and

(iii) the extent to which the project—

(I) restores natural aquatic ecosystem functions; and

(II) avoids adverse environmental impacts and risk before implementation of mitigation activities;

(B) in the case of a navigation project—

(i)(I) the extent to which the economic benefits of the project are based on existing levels of commercial traffic rather than projected growth in commercial traffic; and

(II) to the maximum extent practicable, the extent to which the project is based on projected growth and the basis for each projection of growth; and

(ii) the extent of the likely environmental benefits of the project, including the extent of—

(I) remediation of contaminated sediments, or reuse of dredged material, to restore aquatic habitat; and

(II) adverse environmental impacts and risks of the project; and

(C) in the case of an environmental restoration project—

(i) the extent to which the project—

(I) restores natural hydrologic processes and the spatial extent of aquatic habitat; and

(II) otherwise produces self-sustaining environmental benefits; and

(ii) the extent to which the project addresses critical national conservation priorities, including preservation and protection of endangered and threatened species or habitat of endangered and threatened species.

(4) Measurement and reporting.—

(A) In general.—The Secretary shall use objective and quantifiable standards for measuring and reporting the information required to be submitted under paragraph (3).

(B) Alternative method of reporting.—In any case in which the information required to be submitted under subparagraph (B)(ii) or (C) of paragraph (3) cannot be quantified, the information shall be reported through an objective description of the benefits and impacts of the applicable project.

(5) Availability to the public.—The study submitted to Congress under paragraph (2) shall be made available to—

(A) any person on request; and

(B) the public on the Internet.

(b) Project Deauthorizations.—Section 1001 of the Water Resources Development Act of 1986 (33 U.S.C. 579a) is amended to read as follows:

"SEC. 1001. PROJECT DEAUTHORIZATIONS.

"(a) Definitions.—In this section:

"(1) Construction of a project.—The term 'construction of a project' means—

"(A) with respect to a flood control project—

"(i) the acquisition of land, an easement, or a right-of-way; or "(ii) the performance of physical work under a construction contract;

"(B) with respect to an environmental protection and restoration project—

"(i) the acquisition of land, an easement, or a right-of-way primarily to facilitate the restoration of wetland or similar habitat; or

"(ii) the performance of physical work under a construction contract—

"(I) to modify an existing project facility; or

"(II) to construct a new environmental protection or restoration measure;

"(C) with respect to a shore protection project—

"(i) the acquisition of land, an easement, or a right-of-way; or

"(ii) the performance of physical work under a construction contract for a structural or a nonstructural measure; and

"(D) with respect to any project that is not described in subparagraph (A), (B), or (C), the performance of physical work under a construction contract.

"(2) INACTIVE.—The term 'inactive', with respect to a project, means that—

"(A) the project is not economically justified;

"(B) the project no longer meets current and prospective needs as described in a feasibility report or general reevaluation report;

"(C) the non-Federal interests with respect to the project have not demonstrated willingness or the ability to provide the required non-Federal share; or

"(D)(i) the project most recently received, under an Act of Congress, authorization or reauthorization for construction more than 25 years before the date of enactment of this subparagraph; and

"(ii) an amount that is less than 33 percent of the estimated total costs of the project (excluding costs of preconstruction engineering and design) has been obligated for the project as of the date of enactment of this subparagraph.

"(3) PHYSICAL WORK UNDER A CONSTRUCTION CONTRACT.—The term 'physical work under a construction contract' does not include any activity relating to—

"(A) project planning;

"(B) engineering and design;

"(C) relocation; or

"(D) the acquisition of land, an easement, or a right-of-way.

"(4) PROJECT.—The term 'project' means a water resources project, or a separable element of a water resources project, that is authorized by law for funding from—

"(A) the Construction, General, appropriations account; or

"(B) the construction portion of the Flood Control, Mississippi River and Tributaries, appropriations account.

"(b) INACTIVE PROJECTS.—

"(1) LIST.—Not later than December 31, 2004, and biennially thereafter, the Secretary shall submit to Congress a list of inactive projects.

"(2) DEAUTHORIZATION.—An inactive project shall be deauthorized effective beginning 1 year after the date of submission of a list under paragraph (1) that includes the project unless, during that 1-year period, Congress reauthorizes the project in accordance with the Corps of Engineers Modernization and Improvement Act of 2004 and the amendments made by that Act.

"(c) PROJECTS FOR WHICH ACTUAL CONSTRUCTION HAS NOT BEGUN.—

"(1) LIST.—The Secretary shall annually submit to Congress a list of projects that have been authorized for construction, but for which no actual construction has begun and no Federal funds have been obligated for construction during the 3 consecutive fiscal years preceding the fiscal year in which the list is submitted.

"(2) DEAUTHORIZATION.—A project authorized for construction that is not subject to subsection (b) shall be deauthorized effective beginning 5 years after the date of the most recent authorization or reauthorization of the project unless, during that 5-year period, Federal funds are obligated for construction of the project.

"(d) PROJECTS FOR WHICH CONSTRUCTION HAS BEEN SUSPENDED.—

"(1) LIST.—The Secretary shall annually submit to Congress a list of projects—

"(A) that have been authorized for construction; and

"(B) for which no Federal funds have been obligated for construction during the 2 consecutive fiscal years preceding the date of submission of the list.

"(2) DEAUTHORIZATION.—A project that is not subject to subsection (b) but for which Federal funds have been obligated for construction of the project shall be deauthorized if Federal funds appropriated specifically for construction of the project, as indicated in an Act of Congress or in accompanying legislative report language, are not obligated for construction of the project during the period of 3 fiscal years following the last fiscal year in which Federal funds were obligated for construction of the project.

"(e) COMPLETED PROJECTS.—Subsections (b), (c), and (d) shall not apply—

"(1) in the case of a beach nourishment project, after initial construction of the project has been completed; or

"(2) in the case of any other project, after construction of the project has been completed.

"(f) CONGRESSIONAL NOTIFICATIONS.—On submission of a list under subsection (b), (c), or (d), the Secretary shall notify each Senator in whose State, and each Member of the House of Representatives in whose district, a project on the list is or would be located.

"(g) FINAL DEAUTHORIZATION LIST.—The Secretary shall annually publish in the Federal Register a list of all projects deauthorized under subsections (b), (c), and (d).".

(c) WATERWAYS.—

(1) REPORT BY ACADEMY.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall enter into a contract with the Academy to prepare a report on waterways in the Inland Waterways System.

(B) CONTENTS OF REPORT.—The report shall—

(i) review the Inland Waterways System;

(ii) provide data on the commercial traffic being carried by each waterway in the System as of the date of the report;

(iii) provide an analysis of the extent to which prior projections of the commercial traffic carried by each waterway in the System were accurate; and

(iv) based on the information provided under clauses (ii) and (iii)—

(I) identify underused waterways in the System;

(II) propose new economic and environmental uses for underused waterways;

(III) describe statutory and administrative reforms that are needed to ease the transition from the current authorized uses of the System to new economic and environmental uses of the System; and

(IV) recommend which waterways in the System should be decommissioned.

(2) DECOMMISSIONING MECHANISM FOR UNDERUSED WATERWAYS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall by regulation establish a mechanism for the decommissioning of waterways that—

(A) are no longer economically justified, based on commercial traffic and current discount rates; or

(B) are no longer in the national interest.

SEC. 302. PRIMARY MISSION FOCUS.

Any water resources project that does not have as a primary project purpose 1 of the primary Corps missions of environmental protection, flood control, or navigation and that, as of the date of enactment of this section, has no appropriated construction funding, is deauthorized.

Mr. McCAIN. Madam President, I am pleased to join my friend, Senator FEINGOLD in cosponsoring this important and timely legislation. Today, the Senate is deliberating over the nation's budget priorities in the face of our enormous deficit.

Historically, Congress has considered water projects, costing many billions of taxpayer dollars, as essential expenditures—regardless of the environmental costs or public benefits. The reforms of the Corps of Engineers' procedures in this bill are designed to achieve more cost-effective expenditures for water projects that will yield more environmental, economic, and social benefits. The need for these changes has been acknowledged by many for some time, but never has the need to spend scarce taxpayer dollars wisely been as crucial as it is now.

The Corps procedures for planning and approving projects, as well as the Congressional system for funding projects, are broken, but they can be effectively fixed. In fact, the reforms in this bill are based on thorough program analysis and common sense. I commend Senator FEINGOLD for building on the legislation we introduced with Senator SMITH in the last Congress to provide additional improvements. It is surprising that Congress hasn't already put these procedures in place, but there is no time or need like the present.

Provisions of the legislation we are introducing today would modify the Corps planning and approval procedures to consider both economic and environmental objectives. Independent review of Corps projects and an increase in the cost-benefit factor would ensure that only beneficial projects are constructed. Effective measures for mitigation of environmental and other damage caused by projects would be required and monitored. The existing $56 billion project backlog is addressed and projects that have been suspended or never started for five years would no longer be considered.

Water projects that provide economic and environmental benefits to our state citizens and all federal taxpayers serve the common good and reflect our common interest in fiscal responsibility. I urge my colleagues to support this legislation.

By Mr. BIDEN:

S. 2189. A bill to establish grants to improve and study the National Domestic Violence Hotline; to the Committee on the Judiciary.

Mr. BIDEN. Mr. President, I want to relay a telephone number, a number that may not sound familiar but you can be sure is memorized by thousands of women across the country. 1-800-799-SAFE—the number for the National Domestic Violence Hotline. Each month, over 16,000 women and men call the National Domestic Violence Hotline. Open twenty-four hours a day, seven days a week, with a bilingual staff and a TTY-line for the hearing impaired, the National Domestic Violence Hotline provides immediate, informed and confidential assistance to those caught in family violence. Oftentimes, it is the first call a battered woman makes, even before calling the police or a friend.

The Hotline is located in Austin, TX, but answers telephone calls placed anywhere in the United States and the U.S. territories. A distressed caller is connected to a trained advocate who is able to provide crisis intervention counseling, help create a safety plan, directly connect the caller with a local shelter or provide a range of local referral information. Using a massive database listing more than 5,000 services nationally, one of 30 full or part-time advocates puts a caller in touch immediately with local programs offering shelter and direct care.

I want to share with my colleagues two real-life stories from women who have called the Hotline. One caller dialed the Hotline after her boyfriend pulled a gun and threatened to kill her if she left him. Fearing for her life, she fled with her two young children. They ran to a nearby strip mall where she called the Hotline. As she told a Hotline advocate her story, she watched her abuser search for her in every store in the mall. Once a local shelter was contacted, arrangements were made to rescue the woman and her children from their hiding spot in a back alley behind the restaurant.

An immigrant woman who spoke no English called from a community clinic. She had learned that for the past year her abusive husband had been raping their 15-year-old daughter. Her husband had no idea she was calling the Hotline. He had kept her so isolated on the ranch where they lived that she didn't even know her address. While the woman stayed on the line, an advocate contacted the sheriff's office and together they pieced together enough information to figure out her address. The sheriff made plans to confirm the child abuse at the daughter's school, after which the husband would be arrested immediately. After completing the exchange with the sheriff's office, the advocate contacted the nearest shelter and arranged to pick up the woman and her daughter at the clinic.

These are real women who we see every day at work, at the grocery store and at the school parking lot whose lives have been dramatically changed, in part, by that first call to the National Domestic Violence Hotline. Created by the Violence Against Women Act, the Hotline answered its first call on February 21, 1996, and its one millionth call on August 4, 2003. In the past decade we've witnessed a sea of change in how Americans view domestic violence. It is no longer treated as a private, family matter, but as a public crime. As public awareness has grown—as the Hotline's telephone number is posted on bus billboards and websites, in school offices and doctor's waiting rooms—there has been a dramatic increase in calls. Between 2000 and 2001 alone, call volume increased by 18.5 percent. In 2002, the Hotline answered almost 180,000 calls, an increase of 7.5 percent from the previous year. The Department of Defense recently requested that the Hotline accept calls from military personnel—a move that will certainly increase the call volume substantially.

While the majority of the Hotline's day-to-day operating costs are paid with Federal dollars designated in annual spending bills, funding has not kept pace with the growing call volume and the Hotline's technology and telecommunication needs. This year, the spending bill appropriated only three million dollars to the Hotline. Older equipment, coupled with increased usage, has set the Hotline up to experience frequent problems with the network, data corruption and the lurking threat of a crash in the entire system. The Hotline tries to answer almost 500 calls a day with old computers and servers. Because the system is outdated and the staff is stretched thin, over 26,000 calls last year went unanswered due to long hold times or busy signals.

We need to answer each and every one of the calls to the Hotline. Today I am launching an innovative and far-reaching solution to the Hotline's problems, the Connections Campaign. The Connections Campaign is a public/private partnership that teams up private telecommunication and technology companies with the Federal Government to solve the Hotline's crisis. Under the Connections Campaign, the same companies—Microsoft, Sony, BellSouth, Verizon Wireless, IBM, Nortel Networks, Dell and others—that supply Americans with home computers, cell phones and telephone service are donating hardware and software to the Hotline. Items like mapping software, networked computers, servers, flat-screened monitors and telephone airtime are being pledged to the Hotline. This is just the beginning of a multi-year, multi-million dollar initiative to place the Hotline squarely in the twenty-first century.

On the public side of the partnership, I am proud to introduce the Domestic Violence Connections Campaign Act of 2004 which will provide a million dollars to train and assist the Hotline's advocates so that they may effectively use the improved equipment provided by the Connections Campaign. In addition, the Act creates a new research grant program to be administered by the Attorney General that will review and analyze data generated by the Hotline. Taking into consideration needs for caller confidentiality and security, researchers will study Hotline data to determine the trends, potential gaps in service and geographical areas of need. Within three years of enactment, researchers will release a comprehensive Hotline study to Congress and the Attorney General. Finally, my bill provides an $800,000 grant program for the Hotline to increase public awareness about domestic violence and the Hotline's services.

One hand clapping simply does not make enough noise. Federal, State and local government cannot always supply all the answers and resources to resolve our communities' pressing problems. Today's Connections Campaign recognizes that big problems warrant grand, collaborative solutions. Cooperation between the Federal Government and the private sector is critical to enhance the National Domestic Violence Hotline.

A cornerstone of the Violence Against Women Act was my conviction that ending domestic violence and sexual assault required a coordinated, community response. We worked hard to ensure that emergency room personnel, police officers, victim advocates, shelter directors and court clerks worked together to implement the many mandates of the Violence Against Women Act. The Connections Campaign is Act Two. We are now asking that the corporate community get actively involved to strengthen a key safety net for women and their families, the National Domestic Violence Hotline.

Today's legislation and the kick-off is just the beginning of what I envision to be a lasting connection between the Hotline and the technology and telecommunications community. I look forward to coming back to the Senate floor to inform my colleagues about the new computers, wireless headsets, upgraded software and other technology that could be provided to the Hotline through the Connections Campaign. In the meantime, let me close by commending and expressing my gratitude to Sheryl Cates, the director of the Hotline and her dedicated staff who are providing the first step to safe, new lives for millions of battered women. They are truly doing God's work.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2189

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Domestic Violence Connections Campaign Act of 2004".

SEC. 2. FINDINGS.

Congress finds the following:

(1) More than 500 men and women call the National Domestic Violence Hotline every day to get immediate, informed, and confidential assistance to help deal with family violence.

(2) The National Domestic Violence Hotline service is available, toll-free, 24 hours a day and 7 days a week, with bilingual staff, access to translators in 150 languages, and a TTY line for the hearing-impaired.

(3) With access to over 5,000 shelters and service providers across the United States, Puerto Rico, Alaska, Hawaii, and the United States Virgin Islands, the National Domestic Violence Hotline provides crisis intervention and immediately connects callers with sources of help in their local community.

(4) The National Domestic Violence Hotline, which was created by the Violence Against Women Act and is located in Austin, Texas, answered its first call on February 21, 1996, and answered its one millionth call on August 4, 2003.

(5) Approximately 60 percent of the callers indicate that calling the Hotline is their first attempt to address a domestic violence situation and that they have not called the police or any other support services.

(6) Between 2000 and 2003, there was a 27 percent increase in call volume.

(7) Due to high call volume and limited resources, approximately 26,000 calls to the Hotline went unanswered in 2002 due to long hold times or busy signals.

(8) Widespread demand for the Hotline service continues. The Department of Justice reported that over 18,000 acts of violence were committed by intimate partners in the United States each day during 2001. An average of 3 women are murdered every day in this Country by their husbands or boyfriends.

(9) Working with outdated telephone and computer equipment creates many challenges for the National Domestic Violence Hotline.

(10) Improving technology infrastructure at the National Domestic Violence Hotline and training advocates, volunteers, and other staff on upgraded technology will drastically increase the Hotline's ability to answer more calls quickly and effectively.

(11) Partnerships between the public sector and the private sector are an effective way of providing necessary technology improvements to the National Domestic Violence Hotline.

(12) The Connections Campaign is a project that unites nonprofit organizations, major corporations, and Federal agencies to launch a major new initiative to help ensure that the National Domestic Violence Hotline can answer every call with upgraded, proficient, and sophisticated technology tools.

SEC. 3. TECHNOLOGY GRANT TO NATIONAL DOMESTIC VIOLENCE HOTLINE.

(a) IN GENERAL.—The Attorney General, in consultation with the Secretary of Health and Human Services, shall award a grant to the National Domestic Violence Hotline.

(b) USE OF FUNDS.—The grant awarded under subsection (a) shall be used to provide technology and telecommunication training and assistance for advocates, volunteers, staff, and others affiliated with the Hotline so that such persons are able to effectively use improved equipment made available through the Connections Campaign.

SEC. 4. RESEARCH GRANT TO STUDY NATIONAL DOMESTIC VIOLENCE HOTLINE.

(a) GRANT AUTHORIZED.—Not later than 6 months after the date of enactment of this Act, the Attorney General, in consultation with the Secretary of Health and Human Services and the National Domestic Violence Hotline, shall award a grant to a university or other research institution with demonstrated experience and expertise with domestic violence issues to conduct a study of the National Domestic Violence Hotline for the purpose of conducting the research described under subsection (c), and for the input, interpretation, and dissemination of research data.

(b) APPLICATION.—Each university or research institution desiring to receive a grant under this section shall submit an application to the Attorney General, at such time, in such manner, and accompanied by such additional information as the Attorney General, in consultation with the Secretary of Health and Human Services and the National Domestic Violence Hotline, may reasonably require.

(c) ISSUES TO BE STUDIED.—The study described in subsection (a) shall—

(1) compile statistical and substantive information about calls received by the Hotline since its inception, or a representative sample of such calls, while maintaining the confidentiality of Hotline callers;

(2) interpret the data compiled under paragraph (1)—

(A) to determine the trends, gaps in services, and geographical areas of need; and

(B) to assess the trends and gaps in services to underserved communities and the military community; and

(3) gather other important information about domestic violence.

(d) REPORT.—Not later than 3 years after the date of enactment of this Act, the grantee conducting the study under this section shall submit a report on the results of such study to Congress and the Attorney General.

SEC. 5. GRANT TO RAISE PUBLIC AWARENESS OF DOMESTIC VIOLENCE ISSUES.

(a) GRANT AUTHORIZED.—Not later than 6 months after the submission of the report required under section 4(d), the Attorney General, in consultation with the Secretary of Health and Human Services and the National Domestic Violence Hotline, shall award a grant to an experienced organization to conduct a public awareness campaign to increase the public's understanding of domestic violence issues and awareness of the National Domestic Violence Hotline.

(b) APPLICATION.—Each organization desiring to receive a grant under this section shall submit an application to the Attorney General, at such time, in such manner, and accompanied by such additional information as the Attorney General, in consultation with the Secretary of Health and Human Services and the National Domestic Violence Hotline, may reasonably require.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated, for each of the fiscal years 2005 and 2006—

(1) $500,000 to carry out section 3;

(2) $250,000 to carry out section 4; and

(3) $800,000 to carry out section 5.

(b) AVAILABILITY.—Any amounts appropriated pursuant to the authority of subsection (a) shall remain available until expended.

(c) NONEXCLUSIVITY.—Nothing in this section shall be construed to limit or restrict the National Domestic Violence Hotline to apply for and obtain Federal funding from any other agency or department or any other Federal grant program.

(d) NO CONDITION ON APPROPRIATIONS.—Amounts appropriated pursuant to subsection (a) shall not be considered amounts appropriated for purposes of the conditions imposed under section 316(g)(2) of the Family Violence Prevention and Services Act (42 U.S.C. 10416(g)(2)).

By Mr. INHOFE:

S. 2190. A bill to implement equal protection under the 14th article of amendment to the Constitution for the right to life of each born and preborn human person; to the Committee on the Judiciary.

Mr. INHOFE. Madam President, I rise today to introduce the Life at Conception Act. This bill is of utmost importance to future generations in America. Quite simply, it implements equal protection under the Fourteenth Amendment of the Constitution for every born and pre-born person. It protects Americans' right to life by defining the term "human person" as an individual at all stages of life, including, but not limited to, the moment of conception.

The Constitution's Fourteenth Amendment grants that no "state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." Furthermore, it grants "Congress shall have power to enforce, by appropriate legislation, the provisions of this article." It is time that we, the Congress, start enforcing this provision, start defending the Constitution, and start defending American lives.

Even the Justices in the 1973 Roe v. Wade decision conceded this point by making the admission: "If this suggestion of personhood is established, the appellant's case [Roe], of course, collapses, for the fetus' right to life is then guaranteed specifically by the [Fourteenth] Amendment." Our Constitution is designed to protect the rights of all Americans, and give them the right to live and succeed. Right now, significant portions of Americans, who have no voice, are being killed, despite the explicit protections in the Fourteenth Amendment. Since 1973, more than 44 million babies have been sentenced to death without trial. We cannot tolerate this atrocity.

Additionally, a 1999 Wirthlin poll found that 62 percent of Americans support legal abortion only in cases of rape, incest, or if the mother's life is in danger. How can we stand by and let so many children die even when public opinion is on our side? It is our role as legislators to uphold and enforce the Constitution, and it is our role as humans to defend those who cannot defend themselves. I urge my colleagues to follow their conscience, support this bill, and do what is right for America and for humanity.

By Mr. HATCH (for himself, Mr. LEAHY, Mr. KOHL, and Mr. FEINGOLD):

S. 2192. A bill to amend title 35, United States Code, to promote cooperative research involving universities, the public sector, and private enterprises; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise to introduce the Cooperative Research and Technology Enhancement Act of 2004 (the CREATE Act). This bill makes a narrow, but important change in our patent laws to ensure that the American public will benefit from the results of collaborative research efforts that combine the erudition of great public universities with the entrepreneurial savvy of private enterprises.

Together, our universities and private enterprises have created a culture of innovation that has become America's greatest asset in an increasingly global economy. This culture of innovation encourages fundamental research—knowledge for its own sake. It also encourages the hard work needed to incorporate new advances in technology into actual products that reach the market and benefit consumers.

While universities and private entrepreneurs can play complementary roles in our innovation economy, new opportunities to innovate arise when public institutions and private entrepreneurs combine their respective forms of expertise in collaborative, joint research efforts. President Lincoln would surely agree that this type of joint private-public research effort is well-suited to add "the fuel of interest to the fire of genius in the production of new and useful things."

As a result, we have long realized the enormous value of these joint research efforts, and we have long realized that their potential cannot be realized unless their participants can benefit from the intellectual property rights generated by such research. Unfortunately, the literal language of Section 102(g) of the Patent Act suggests that non-public information known to some members of a private-public research team can constitute "prior art" that may make the final results of the team research obvious, and thus not patentable. Because non-public information does not usually constitute "prior art" under the Patent Act, the potentially disparate treatment of such information crates a disincentive for entrepreneurs and public institutions to collaborate in joint research efforts.

I believe that we must encourage—not discourage—public institutions and private entrepreneurs to combine their respective talents in joint research efforts. Indeed, Congress committed itself to this principle when it passed the Bayh-Dole Amendments to the Patent Act. The CREATE Act will simply conform the present language of the Patent Act to the intent that has always animated it.

For the above reasons, I urge my colleagues to support the Cooperative Research and Technology Enhancement Act of 2004. I also thank my colleagues in the House Committee on the Judiciary, particularly Subcommittee Chairman LAMAR SMITH and Chairman JAMES SENSENBRENNER, for their groundbreaking work on this important issue.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2192

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cooperative Research and Technology Enhancement (CREATE) Act of 2004".

SEC. 2. COLLABORATIVE EFFORTS ON CLAIMED INVENTIONS.

Section 103(c) of title 35, United States Code, is amended to read as follows:

"(c)(1) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.

"(2) For purposes of this subsection, subject matter developed by another person and a claimed invention shall be deemed to have been owned by the same person or subject to an obligation of assignment to the same person if—

"(A) the claimed invention was made by or on behalf of parties to a joint research agreement that was in effect on or before the date the claimed invention was made;

"(B) the claimed invention was made as a result of activities undertaken within the scope of the joint research agreement; and

"(C) the application for patent for the claimed invention discloses or is amended to disclose the names of the parties to the joint research agreement.

"(3) For purposes of paragraph (2), the term 'joint research agreement' means a written contract, grant, or cooperative agreement entered into by two or more persons or entities for the performance of experimental, developmental, or research work in the field of the claimed invention.".

SEC. 3. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this Act shall apply to any patent granted on or after the date of the enactment of this Act.

(b) SPECIAL RULE.—The amendments made by this Act shall not affect any final decision of a court or the United States Patent and Trademark Office rendered before the date of the enactment of this Act, and shall not affect the right of any party in any action pending before the United States Patent and Trademark Office or a court on the date of the enactment of this Act to have that party's rights determined on the basis of the provisions of title 35, United States Code, in effect on the day before the date of the enactment of this Act.

Mr. LEAHY. Madam President, the United States has from its inception recognized the importance of intellectual property laws in fostering innovation, and vested in Congress the responsibility of crafting laws that ensure that those who produce inventions are able to reap economic rewards for their efforts. Today, Senator HATCH, Senator KOHL, Senator FEINGOLD, and I introduce the "Cooperative Research and Technology Enhancement, CREATE, Act of 2004," legislation that will provide a needed remedy to one aspect of our nation's patent laws.

When Congress passed the Bayh-Dole Act in 1980, the law encouraged private entities and not-for-profits such as universities to form collaborative partnerships in order to spur innovation. Prior to the enactment of this law, universities were issued fewer than 250 patents each year. That this number has in recent years surpassed two thousand is owed in large measure to the Bayh-Dole Act. The innovation this law encouraged has contributed billions of dollars annually to the United States economy and has produced hundreds of thousands of jobs.

However, one component of the Bayh-Dole Act, when read literally, runs contrary to the intent of that legislation. In 1999, the United States Court of Appeal for the Federal Circuit ruled, in Oddzon Products, Inc. v. Just Toys, Inc., that non-public information may in certain cases be considered "prior art" a standard which generally prevents an inventor from obtaining a patent. Thus some collaborative teams that the Bayh-Dole Act was intended to encourage have been unable to obtain patents for their efforts. The result is a disincentive to form this type of partnership, which could have a negative impact on the U.S. economy and hamper the development of new creations.

However, the Federal circuit in its ruling invited Congress to better conform the language of the Bayh-Dole Act to the intent of the legislation. The "CREATE Act" does exactly that by ensuring that non-public information is not considered "prior art" when the information is used in a collaborative partnership under the Bayh-Dole Act. The bill that my colleagues and I are today offering also includes strict evidentiary burdens to ensure that the legislation is tailored narrowly in order to solely fulfill the intent of the Bayh-Dole Act. I ask that my colleagues support the "Cooperative Research and Technology Enhancement Act of 2004."

By Ms. SNOWE (for herself and Mr. BOND):

S. 2193. A bill to improve small business loan programs, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, I rise to introduce a bill to revitalize a loan program crucial to the growth of small businesses in this country, and therefore crucial to our country's economy. This bill, the "Smart Business Loan Revitalization Act of 2004," provides improvements to the Small Business Administration's largest business loan program, the "Section 7(a)" program.

This program proves that a small amount of government backing can greatly enhance private-sector financing for small businesses, and that the economic benefits can reverberate throughout the economy at large. More than $46.6 billion in 7(a) loans have been provided to small businesses over the last five Fiscal Years. This financing has helped small businesses to create or retain nearly 2 million more jobs over this five-year period.

Today, we are losing thousands of American jobs to outsourcing and offshore manufacturing. We measure net job increases in the "few thousands." Given these circumstances, it is clearly to our advantage, and to the advantage of the American people, to support improvements to any program that has already demonstrated an ability to create or retain nearly 400,000 American jobs a year.

Last year this program provided $11.2 billion in loans to small business owners and employees in towns and communities across America. This year, however, the SBA only requested a program size of $9.3 billion. The fact that the SBA received a larger appropriation than the $9.3 billion it requested is powerful testament to the popularity of this program among small businesses. The SBA received sufficient appropriations, $79 million, coupled with $22 million in carried-over funds, to allow for a $9.55 billion program.

Like last year, however, the demand for program funds in the first few months of Fiscal Year 2004 suggested that requests for the entire year would most likely exceed $11 billion. As a result, in January, 2004, the SBA shut the program down, and then reopened it with a diminished loan cap of $750,000—37.5 percent of the $2 million maximum previously available. Faced with these restrictions, small businesses have urged Congress and the Administration to make the program fully operational for the rest of 2004.

To this end, I have worked with a coalition of small businesses and lenders to construct a plan to improve the program for the remainder of this Fiscal Year. The plan would allow lenders to help alleviate the funding shortfall. It would benefit small businesses and lenders by allowing loans larger than $750,000, and by allowing loans with multiple participations.

The bill would achieve these goals in three ways. First, lenders would return to the SBA a fee of 0.25 percent (or one-quarter of one percent) of new loans under $150,000, a fee that lenders are currently permitted to retain. Lenders may only retain this fee for loans of $150,000 or less—for loans greater than that size, lenders must return the fee to the SBA, as they have been required to do since the inception of the program. This proposal was first made by the SBA, as part of a larger plan the SBA recently submitted to Congress.

Second, a lender fee on new loans would be increased from 0.25 percent, one-quarter of one percent, to 0.35 percent. Finally, lenders would be permitted to provide small businesses with financing packages that include a 7(a) loan portion and a non-7(a), a strictly commercial portion, if the lenders paid the normal fees on the 7(a) loan portion and a 0.50 percent fee on the non-7(a) portion. Prior to January 2004, the SBA permitted this type of financing, but without receiving any fee income for the non-7(a) portion, and without an upper limit on the total financing, which I have set at $4 million.

The ability of small businesses to receive loans larger than $750,000 is a prerequisite to reviving the American economy. These loans provide needed capital for significant purchases and development by small businesses. More 7(a) loans represent longer-term loans than similar products available in the private capital market, and this allows small businesses to repay their 7(a) loans more gradually. I applaud the SBA for its desire to make more small loans to entrepreneurs without large capital needs, but I also urge the SBA to remember those entrepreneurs and small businesses who need more financing to strengthen and grow their enterprise, and to hire more employees. After encouraging entrepreneurs to start new small businesses, we cannot afford to forget their small businesses, or profess an inability to assist them when they need additional financing to grow.

The benefits of this program are clear. It has the ability to help entrepreneurs to create jobs, to fulfill their dreams, and to support their families—all of this while building the kinds of energetic businesses our economy so desperately needs. The demands for this program is also clear. Small businesses have submitted more applications than the program could handle so far this year. The willingness of lenders to pay increased fees to meet the demand from small businesses for 7(a) loans is clear evidence the program works and remains attractive to lenders.

The question we must answer now is whether we are willing to respond to small businesses and lenders and implement a solution which they have asked for, and which promises dividends for all involved, or whether we will ignore their requests, and miss an opportunity to transform a loan program that sustains almost 400,000 jobs a year into an initiative capable of creating two, three, four or even five times that amount. I don't want to miss that opportunity, my constituents in Maine can't afford to miss that opportunity, and I don't believe that your constituents can either. Almost every company listed today on the American Stock Exchange began as a small business. In the short term, this bill may save American jobs. But in the long term, it may save the American economy.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2193

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Loan Revitalization Act" .

SEC. 2. COMBINATION FINANCING.

(a) IN GENERAL.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end the following:

"(31) COMBINATION FINANCING.—

"(A) DEFINITIONS.—In this paragraph—

"(i) the term 'combination financing' means financing comprised of a loan guaranteed under this subsection and a commercial loan; and

"(ii) the term 'commercial loan' means a loan of which no portion is guaranteed by the Federal government.

"(B) APPLICATION.—A loan guarantee under this subsection on behalf of a small business concern, which is approved within 120 days of the date on which a commercial loan is obtained by the same small business concern, shall be subject to the provisions of this paragraph.

"(C) COMMERCIAL LOAN AMOUNT.—A small business concern shall not be eligible to receive combination financing under this paragraph unless the commercial loan obtained by the small business concern does not exceed $2,000,000.

"(D) COMMERCIAL LOAN PROVISIONS.—The commercial loan obtained by the small business concern—

"(i) may be made by the participating lender that is providing financing under this subsection or by a different lender;

"(ii) may be secured by a senior lien; and

"(iii) may be made by a lender in the Preferred Lenders Program, if applicable.

"(E) COMMERCIAL LOAN FEE.—A one-time fee in an amount equal to 0.5 percent of the amount of the commercial loan shall be paid by the lender to the Administration if the commercial loan has a senior credit position to that of the loan guaranteed under this subsection. All proceeds from the loan guaranteed under this subsection shall be used to offset the cost (as defined in section 502 of the Credit Reform Act of 1990) to the Administration of guaranteeing loans under this subsection.

"(F) DEFERRED PARTICIPATION LOAN ELIGIBILITY.—

"(i) Maximum amount.—A small business concern may not receive combination financing under this paragraph in an amount greater than $4,000,000.

"(ii) Net amount.—The net amount of the deferred participation share shall not exceed the maximum amount of a net guarantee provided under paragraph (3)(A).

"(G) Deferred participation loan security.—A loan guaranteed under this subsection may be secured by a subordinated lien.

"(H) Availability.—Combination financing shall be available under this paragraph notwithstanding any maximum limitation on loans imposed by the Administration.".

(b) Sunset Date.—The amendment made by subsection (a) shall take effect on the first day after the date of enactment of this Act and is repealed on October 1, 2004.

SEC. 3. LOAN GUARANTEE FEES.

(a) In General.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) in paragraph (18)(B), by adding at the end the following: "This subparagraph shall not apply to any loan approved during the period beginning on the first day after the date of enactment of paragraph (23)(A)(iii) and ending on September 30, 2004."; and

(2) in paragraph (23), by amending subparagraph (A) to read as follows:

"(A) Percentage.—

"(i) In general.—With respect to each loan guaranteed under this subsection, the Administrator shall, in accordance with such terms and procedures as the Administrator shall establish by regulation, assess and collect an annual fee in an amount equal to 0.5 percent of the outstanding balance of the deferred participation share of the loan.

"(ii) First temporary percentage.—With respect to loans approved during the period beginning on October 1, 2002 and ending on the date of enactment of this clause, the annual fee assessed and collected under clause (i) shall be equal to 0.25 percent of the outstanding balance of the deferred participation share of the loan.

"(iii) Second temporary percentage.—During the period beginning on the first day after the date of enactment of this clause and ending on September 30, 2004, the annual fee assessed and collected under clause (i) shall be equal to 0.35 percent of the outstanding balance of the deferred participation share of the loan.".

(b) Effective Date.—The amendments made by subsection (a) shall take effect on the first day after the date of enactment of this Act and are repealed on October 1, 2004.

SEC. 4. RECONSIDERATION OF LOAN APPLICATIONS REJECTED BASED ON LOAN AMOUNT.

(a) Consideration of Loan Application Submitted Before January 8, 2004.—Beginning on the first day after the date of enactment of this Act, the Small Business Administration shall reconsider any application submitted on or after December 23, 2003 and before January 8, 2004, under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) that was rejected based on the loan amount requested before considering any other application if the applicant is otherwise eligible for financial assistance under that section.

(b) Export Working Capital.—Any small business that received financing under section 7(a)(14) of the Small Business Act (15 U.S.C. 636(a)(14)) before January 1, 2004, and requests a renewal of such financing, shall have their request approved regardless of the size of such financing (subject to the limitations in section 7(a)(3) of such Act) if the small business is otherwise eligible for such financing under that section.

(c) Maximum Loan Amount.—Ten days after the date of enactment of this Act, the Small Business Administration shall allow loans under section 7 of the Small Business Act (15 U.S.C. 636) up to the maximum amount permitted under the Small Business Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 317—RECOGNIZING THE IMPORTANCE OF INCREASING AWARENESS OF AUTISM SPECTRUM DISORDERS, SUPPORTING PROGRAMS FOR INCREASED RESEARCH AND IMPROVED TREATMENT OF AUTISM, AND IMPROVING TRAINING AND SUPPORT FOR INDIVIDUALS WITH AUTISM AND THOSE WHO CARE FOR INDIVIDUALS WITH AUTISM

Mr. HAGEL submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. Res. 317

Whereas the Autism Society of America, Cure Autism Now, the National Alliance for Autism Research, Unlocking Autism, and numerous other organizations commemorate April as National Autism Awareness Month;

Whereas autism is a developmental disorder that is typically diagnosed during the first 3 years of life, robbing individuals of their ability to communicate and interact with others;

Whereas autism affects an estimated 1 in every 250 children in America;

Whereas autism is 4 times more likely in boys than in girls, and can affect anyone, regardless of race, ethnicity, or other factors;

Whereas the cost of specialized treatment in a developmental center for people with autism is approximately $80,000 per individual per year;

Whereas the cost of special education programs for school-aged children with autism is often more than $30,000 per individual per year;

Whereas the cost nationally of caring for persons affected by autism is estimated at more than $90,000,000,000 per year; and

Whereas despite the fact that autism is one of the most common developmental disorders, many professionals in the medical and educational fields are still unaware of the best methods to diagnose and treat the disorder: Now, therefore, be it

Resolved, That the Senate—

(1) supports the establishment of April as National Autism Awareness Month;

(2) recognizes and commends the parents and relatives of children with autism for their sacrifice and dedication in providing for the special needs of children with autism and for absorbing significant financial costs for specialized education and support services;

(3) supports the goal of increasing Federal funding for aggressive research to learn the root causes of autism, identify the best methods of early intervention and treatment, expand programs for individuals with autism across their lifespan, and promote understanding of the special needs of people with autism;

(4) commends the Department of Health and Human Services for the swift implementation of the Children's Health Act of 2000, particularly for establishing 4 "Centers of Excellence" at the Centers for Disease Control and Prevention to study the epidemiology of autism and related disorders and the proposed "Centers of Excellence" at the National Institutes of Health for autism research;

(5) stresses the need to begin early intervention services soon after a child has been diagnosed with autism, noting that early intervention strategies are the primary therapeutic options for young people with autism, and early intervention significantly improves outcomes for people with autism and can reduce the level of funding and services needed later in life;

(6) supports the Federal Government's nearly 30-year-old commitment to provide States with 40 percent of the costs needed to educate children with disabilities under part B of the Individuals with Disabilities Education Act (IDEA);

(7) recognizes the shortage of appropriately trained teachers who have the skills and support necessary to teach, assist, and respond to special needs students, including those with autism, in our school systems; and

(8) recognizes the importance of worker training programs that are tailored to the needs of developmentally disabled persons, including those with autism, and notes that people with autism can be, and are, productive members of the workforce if they are given appropriate support, training, and early intervention services.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2719. Mrs. MURRAY (for herself, Mr. Kennedy, Mr. Lieberman, Ms. Mikulski, Mr. Corzine, Mr. Levin, Mr. Dodd, Ms. Stabenow, Mrs. Clinton, Mr. Kerry, Mr. Harkin, Mr. Schumer, Mr. Pryor, Mr. Reed, Mr. Kohl , Mr. Dayton, Ms. Landrieu, Mr. Sarbanes, Mr . Bingaman, and Mrs. Lincoln) proposed an amendment to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009.

SA 2720. Mr. BIDEN (for himself, Mr. Leahy, Mrs. Feinstein, Mr. Schumer, Mr. Kennedy, Mr. Sarbanes, Mr. Rockefeller, Mr. Corzine, Ms. Stabenow, Mr. Harkin, Mrs. Boxer, Mr. Durbin, and Mr. Kohl) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2721. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2722. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2723. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2724. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2725. Mr. KENNEDY (for himself, Mr. Dodd, Mrs. Clinton, Mr. Corzine, Ms.

Stabenow, Mr. Lautenberg, Mr. Schumer, Mr. Reed, Ms. Mikulski, Mr. Kohl, Mrs. Lincoln, Mr. Levin, Mr. Lieberman, and Mr. Reid) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2726. Mr. BIDEN (for himself, Mr. Leahy, Mrs. Feinstein, Mr. Schumer, Mr. Kennedy, Mr. Sarbanes, Mr. Rockefeller, Mr. Corzine, Ms. Stabenow, Mr. Harkin, Mrs. Boxer, Mr. Durbin, Mr. Kohl, and Mr. Dodd) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2727. Mr. SANTORUM (for himself, Mr. Conrad, and Mr. Bunning) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table.

SA 2728. Mr. STEVENS (for himself, Mr. Inouye, and Mr. Warner) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table.

SA 2729. Mr. LEVIN (for himself and Mr. Jeffords) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2730. Mr. LEVIN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2731. Mr. GRAHAM of South Carolina (for himself, Mr. Daschle, Mr. Bunning, Mr. Leahy, Mrs. Clinton, Mr. DeWine, Mr. Chambliss, Mr. Allen, Mrs. Murray, Mr. Kennedy, Mrs. Lincoln, Mr. Dayton, Ms. Murkowski, Ms. Mikulski, Mr. Feingold, and Mr. Miller) proposed an amendment to the concurrent resolution S. Con. Res. 95, supra.

SA 2732. Mrs. HUTCHISON (for herself, Ms. Landrieu, Mr. Breaux, and Mr. Lott) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2733. Mr. SESSIONS (for himself and Mr. Cornyn) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2734. Mr. REID (for himself, Mrs. Lincoln, Mr. Schumer, Ms. Cantwell, Mr. Dayton, Mr. Kerry, Mr. Rockefeller, Mr. Daschle, Ms. Landrieu, Mr. Corzine, Mr. Nelson of Florida, Mr. Biden, Mr. Jeffords, Mr. Graham of Florida, Mrs. Murray, Mr. Bingaman, Mr. Akaka, and Mr. Johnson) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2735. Mr. BYRD (for himself, Mr. Conrad, Mr. Baucus, and Mr. Harkin) proposed an amendment to the concurrent resolution S. Con. Res. 95, supra.

SA 2736. Mr. DORGAN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2737. Ms. CANTWELL (for herself, Mr. Kennedy, and Mr. Sarbanes) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2738. Ms. CANTWELL (for herself, Mr. Kennedy, and Mr. Sarbanes) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2739. Mr. SPECTER (for himself, Mr. Cochran, Mr. Harkin, and Mr. Byrd) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2740. Mr. SPECTER (for himself and Mr. Harkin) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2741. Mr. SPECTER submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2742. Mr. WARNER (for himself, Mr. Stevens, Mr. McCain, Mr. Inhofe, Mr. Roberts, Ms. Collins, Mr. Chambliss, Mr. Graham of South Carolina, Mr. Talent, Mr. Craig, and Mr. Allen) proposed an amendment to the concurrent resolution S. Con. Res. 95, supra.

SA 2743. Mr. ROCKEFELLER (for himself, Mr. Wyden, Mr. Kennedy, Mrs. Murray, and Mr. Schumer) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2744. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2745. Mr. NELSON of Florida (for himself, Mr. Corzine, Ms. Mikulski, Mr. Schumer, and Mr. Nelson, of Nebraska) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra.

SA 2746. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2747. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2748. Mr. FEINGOLD (for himself, Mr. Chafee, Mr. Baucus, Ms. Cantwell, Mr. Carper, and Mr. Graham, of Florida) proposed an amendment to the concurrent resolution S. Con. Res. 95, supra.

SA 2749. Mr. GRAHAM of Florida (for himself and Mrs. Clinton) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2750. Mr. FEINGOLD (for himself, Mr. Corzine, and Mr. Durbin) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2751. Mr. BAUCUS (for himself, Mr. Daschle, Mr. Lieberman, Mr. Jeffords, Mrs. Feinstein, Mr. Bingaman, Mrs. Murray, and Mr. Rockefeller) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra.

SA 2752. Mr. PRYOR submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2753. Mrs. FEINSTEIN (for herself, Mr. Hollings, Mr. Corzine, Mr. Breaux, Mr. Schumer, Mr. Dodd, Mr. Biden, Ms. Mikulski, Mrs. Murray, and Mr. Graham of Florida) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2754. Mrs. FEINSTEIN (for herself, Mr. Kyl, Mr. Bingaman, Mrs. Hutchison, Mr. Kennedy, Mr. Cornyn, Mrs. Boxer, Mr. Domenici, Mrs. Clinton, Mr. McCain, Mr. Schumer, Mr. Graham of Florida, Mr. Lautenberg, Ms. Cantwell, Mr. Corzine, Mr. Feingold, Mr. Edwards, and Mr. Alexander) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2755. Mr. HATCH (for himself and Mr. Bingaman) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table.

SA 2756. Mr. HATCH (for himself, Mr. Breaux, and Mrs. Lincoln) submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2757. Mr. FEINGOLD (for himself, Mr. Corzine, and Mr. Durbin) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table.

SA 2758. Mr. LAUTENBERG (for himself and Mr. Dorgan) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2759. Mr. KOHL (for himself and Mr. Hatch) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2760. Mr. DORGAN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2761. Mr. DODD (for himself, Mrs. Murray, Mr. Corzine, Ms. Mikulski, and Mr. Bingaman) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2762. Mr. DODD (for himself, Mrs. Murray, Mr. Corzine, Ms. Stabenow, and Mr. Kohl) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2763. Mr. BREAUX (for himself and Mr. Lott) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table.

SA 2764. Mr. BREAUX (for himself and Mr. Hatch) submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2765. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table.

SA 2766. Mr. BINGAMAN (for himself, Mr. Hatch, Mr. Breaux, and Mrs. Lincoln) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table.

SA 2767. Mr. BINGAMAN (for himself and Mrs. Hutchison) submitted an amendment intended to be proposed by him to the bill S. 1637, supra; which was ordered to lie on the table.

SA 2768. Mr. LIEBERMAN (for himself, Mr. Schumer, Ms. Mikulski, Mr. Lautenberg, Mr. Biden, Mrs. Murray, Mr. Kennedy, Mr. Corzine, Mr. Levin, Mr. Kohl, Mrs. Boxer, Mr. Dodd, Mr. Johnson, Mr. Akaka, Mr. Durbin, Mr. Leahy, and Mr. Kerry) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table.

SA 2769. Mr. BYRD submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2770. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2771. Mr. HATCH (for himself and Mr. Biden) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2772. Mr. DURBIN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2773. Mr. DURBIN (for himself, Mr. Levin, Mr. Kerry, Mrs. Murray, Mr. Kohl, Mrs. Clinton, and Mrs. Feinstein) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2774. Mr. DASCHLE (for himself, Mr. Dorgan, Mrs. Murray, Mr. Bingaman, Mr. Johnson, Mr. Wyden, Ms. Stabenow, Mr. Akaka, Ms. Cantwell, Mr. Inouye, and Mr. Reid) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2775. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2776. Mr. McCAIN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2777. Mr. CORZINE proposed an amendment to the concurrent resolution S. Con. Res. 95, supra.

SA 2778. Mr. DORGAN (for himself, Mr. Hagel, Mr. Brownback, and Mr. Johnson) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2779. Mr. DORGAN (for himself and Mr. Reid) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2780. Mrs. CLINTON (for herself, Mr. Kennedy, Mr. Daschle, and Mr. Bingaman) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2781. Mr. LEAHY submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

SA 2782. Ms. COLLINS (for herself, Mr. Kennedy, Ms. Murkowski, and Ms. Landrieu) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 95, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2719. Mrs. MURRAY (for herself, Mr. Kennedy, Mr. Lieberman, Ms. Mikulski, Mr. Corzine, Mr. Levin, Mr. Dodd, Ms. Stabenow, Mrs. Clinton, Mr. Kerry, Mr. Harkin, Mr. Schumer, Mr. Pryor, Mr. Reed, Mr. Kohl, Mr. Dayton, Ms. Landrieu, Mr. Sarbanes, Mr. Bingaman, and Mrs. Lincoln) proposed an amendment to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; as follows:

On page 3, line 9, increase the amount by $516,000,000.

On page 3, line 10, increase the amount by $13,244,000,000.

On page 3, line 11, increase the amount by $2,924,000,000.

On page 3, line 12, increase the amount by $516,000,000.

On page 3, line 17 , increase the amount by $516,000,000.

On page 3, line 18, increase the amount by $13,244,000,000.

On page 3, line 19, increase the amount by $2,924,000,000.

On page 3, line 20, increase the amount by $516,000,000.

On page 4, line 20, increase the amount by $516,000,000.

On page 4, line 21, increase the amount by $13,244,000,000.

On page 4, line 22, increase the amount by $2,924,000,000.

On page 4, line 23, increase the amount by $516,000,000.

On page 5, line 3, decrease the amount by $516,000,000.

On page 5, line 4, decrease the amount by $13,760,000,000.

On page 5, line 5, decrease the amount by $16,684,000,000.

On page 5, line 6, decrease the amount by $17,200,000,000.

On page 5, line 7, decrease the amount by $17,200,000,000.

On page 5, line 11, decrease the amount by $516,000,000.

On page 5, line 12, decrease the amount by $13,760,000,000.

On page 5, line 13, decrease the amount by $16,684,000,000.

On page 5, line 14, decrease the amount by $17,200,000,000.

On page 5, line 15, decrease the amount by $17,200,000,000.

At the end of Title III, insert the following:

SEC. . RESERVE FUND FOR NO CHILD LEFT BEHIND ACT EDUCATION PROGRAMS.

The Chairman of the Committee on the Budget of the Senate shall revise the aggregates, functional totals, allocations to the Committee on Appropriations of the Senate, discretionary spending limits, and other appropriate levels and limits in this resolution by up to $8,600,000,000 in budget authority for fiscal year 2005, and by the amount of outlays flowing therefrom in 2005 and subsequent years, for a bill, joint resolution, motion, amendment, or conference report that provides additional fiscal year 2005 discretionary appropriations, in excess of levels provided in this resolution, for Department of Education programs in the No Child Left Behind Act (P.L. 107–110).

SA 2720. Mr. BIDEN (for himself, Mr. Leahy, Mrs. Feinstein, Mr. Schumer, Mr. Kennedy, Mr. Sarbanes, Mr. Rockefeller, Mr. Corzine, Ms. Stabenow, Mr. Harkin, Mrs. Boxer, Mr. Durbin, and Mr. Kohl) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $300,000,000.

On page 3, line 10, increase the amount by $572,000,000.

On page 3, line 11, increase the amount by $470,000,000.

On page 3, line 12, increase the amount by $580,000,000.

On page 3, line 13, increase the amount by $78,000,000.

On page 3, line 17, increase the amount by $300,000,000.

On page 3, line 18, increase the amount by $572,000,000.

On page 3, line 19, increase the amount by $470,000,000.

On page 3, line 20, increase the amount by $580,000,000.

On page 3, line 21, increase the amount by $78,000,000.

On page 4 line 4, increase the amount by $1,000,000,000.

On page 4 line 12, increase the amount by $150,000,000.

On page 4 line 13, increase the amount by $286,000,000.

On page 4 line 14, increase the amount by $235,000,000.

On page 4 line 15, increase the amount by $290,000,000.

On page 4 line 16, increase the amount by $39,000,000.

On page 4 line 2, increase the amount by $150,000,000.

On page 4 line 21, increase the amount by $286,000,000.

On page 4 line 22, increase the amount by $235,000,000.

On page 4 line 23, increase the amount by $290,000,000.

On page 4 line 24, increase the amount by $39,000,000.

On page 5 line 3, decrease the amount by $150,000,000.

On page 5 line 4, decrease the amount by $436,000,000.

On page 5 line 5, decrease the amount by $671,000,000.

On page 5 line 6, decrease the amount by $961,000,000.

On page 5 line 7, decrease the amount by $1,000,000,000.

On page 5 line 11, decrease the amount by $150,000,000.

On page 5 line 12, decrease the amount by $436,000,000.

On page 5 line 13, decrease the amount by $671,000,000.

On page 5 line 14, decrease the amount by $961,000,000.

On page 5 line 15, decrease the amount by $1,000,000,000.

On page 20 line 17, increase the amount by $1,000,000,000.

On page 20 line 18, increase the amount by $150,000,000.

On page 20 line 22, increase the amount by $286,000,000.

On page 21 line 1, increase the amount by $235,000,000.

On page 21 line 5, increase the amount by $290,000,000.

On page 21 line 6, increase the amount by $39,000,000.

On page 39 line 18, increase the amount by $1,000,000,000.

On page 39 line 19, increase the amount by $150,000,000.

On page 40 line 2, increase the amount by $286,000,000.

SA 2721. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $764,000,000.

On page 3, line 10, increase the amount by $ 392,000,000.

On page 3, line 11, increase the amount by $76,000,000.

On page 3, line 12, increase the amount by $18,000,000.

On page 3, line 13, increase the amount by $6,000,000.

On page 3, line 17, increase the amount by $764,000,000.

On page 3, line 18, increase the amount by $392,000,000.

On page 3, line 19, increase the amount by $76,000,000.

On page 3, line 20, increase the amount by $18,000,000.

On page 3, line 21, increase the amount by $6,000,000.

On page 4, line 20, increase the amount by $382,000,000.

On page 4, line 21, increase the amount by $196,000,000.

On page 4, line 22, increase the amount by $38,000,000.

On page 4, line 23, increase the amount by $9,000,000.

On page 4, line 24, increase the amount by $3,000,000.

On page 5, line 3, increase the amount by $382,000,000.

On page 5, line 4, decrease the amount by $578,000,000.

On page 5, line 5, decrease the amount by $616,000,000.

On page 5, line 6, decrease the amount by $625,000,000.

On page 5, line 7, decrease the amount by $628,000,000.

On page 5, line 11, decrease the amount by $382,000,000.

On page 5, line 12, decrease the amount by $578,000,000.

On page 5, line 13, decrease the amount by $616,000,000.

On page 5, line 14, decrease the amount by $625,000,000.

On page 5, line 15, decrease the amount by $628,000,000.

At the end of Title III, insert the following:

SEC. . RESERVE FUND FOR NASA.

The Chairman of the Committee on the Budget of the Senate shall revise the aggregates, functional totals, allocations to the Committee on Appropriations of the Senate, discretionary spending limits, and other appropriate levels and limits in this resolution by up to $631,000,000 in budget authority for fiscal year 2005, and by the amount of outlays flowing therefrom in 2005 and subsequent years, for a bill, joint resolution, motion, amendment, or conference report that provides additional fiscal year 2005 discretionary appropriations, in excess of levels provided in this resolution, for the National Aeronautics and Space Administration.

SA 2722. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $60,000,000.

On page 3, line 10, increase the amount by $1,300,000,000.

On page 3, line 11, increase the amount by $540,000,000.

On page 3, line 12, increase the amount by $100,000,000.

On page 3, line 17, increase the amount by $60,000,000.

On page 3, line 18, increase the amount by $1,300,000,000.

On page 3, line 19, increase the amount by $540,000,000.

On page 3, line 20, increase the amount by $100,000,000.

On page 4, line 4, increase the amount by $1,000,000,000.

On page 4, line 12, increase the amount by $30,000,000.

On page 4, line 13, increase the amount by $650,000,000.

On page 4, line 14, increase the amount by $270,000,000.

On page 4, line 15, increase the amount by $50,000,000.

On page 4, line 20, increase the amount by $30,000,000.

On page 4, line 21, increase the amount by $650,000,000.

On page 4, line 22, increase the amount by $270,000,000.

On page 4, line 23, increase the amount by $50,000,000.

On page 5, line 3, decrease the amount by $30,000,000.

On page 5, line 4, decrease the amount by $680,000,000.

On page 5, line 5, decrease the amount by $950,000,000.

On page 5, line 6, decrease the amount by $1,000,000,000.

On page 5, line 7, decrease the amount by $1,000,000,000.

On page 5, line 11, decrease the amount by $30,000,000.

On page 5, line 12, decrease the amount by $680,000,000.

On page 5, line 13, decrease the amount by $950,000,000.

On page 5, line 14, decrease the amount by $1,000,000,000.

On page 5, line 15, decrease the amount by $1,000,000,000.

On page 15, line 16, increase the amount by $1,000,000,000.

On page 15, line 17, increase the amount by $30,000,000.

On page 15, line 21, increase the amount by $650,000,000.

On page 15, line 25, increase the amount by $270,000,000.

On page 16, line 4, increase the amount by $50,000,000.

On page 39, line 18, increase the amount by $1,000,000,000.

On page 39, line 19, increase the amount by $30,000,000.

On page 40, line 2, increase the amount by $650,000,000.

SA 2723. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $4,000,000.

On page 3, line 10, increase the amount by $76,000,000.

On page 3, line 11, increase the amount by $32,000,000.

On page 3, line 12, increase the amount by $6,000,000.

On page 3, line 17, increase the amount by $4,000,000.

On page 3, line 18, increase the amount by $76,000,000.

On page 3, line 19, increase the amount by $32,000,000.

On page 3, line 20, increase the amount by $6,000,000.

On page 4, line 20, increase the amount by $4,000,000.

On page 4, line 21, increase the amount by $76,000,000.

On page 4, line 22, increase the amount by $32,000,000.

On page 4, line 23, increase the amount by $6,000,000.

On page 5, line 3, decrease the amount by $4,000,000.

On page 5, line 4, decrease the amount by $80,000,000.

On page 5, line 5, decrease the amount by $112,000,000.

On page 5, line 6, decrease the amount by $118,000,000.

On page 5, line 7, decrease the amount by $118,000,000.

On page 5, line 11, decrease the amount by $4,000,000.

On page 5, line 12, decrease the amount by $80,000,000.

On page 5, line 13, decrease the amount by $112,000,000.

On page 5, line 14, decrease the amount by $118,000,000.

On page 5, line 15, decrease the amount by $118,000,000.

At the end of Title III, insert the following:

SEC. . RESERVE FUND FOR THE LOCAL FAMILY INFORMATION CENTERS PROGRAM.

The Chairman of the Committee on the Budget of the Senate shall revise the aggregates, functional totals, allocations to the Committee on Appropriations of the Senate, discretionary spending limits, and other appropriate levels and limits in this resolution by up to $58,000,000 in budget authority for fiscal year 2005, and by the amount of outlays flowing therefrom in 2005 and subsequent years, for a bill, joint resolution, motion, amendment, or conference report that provides additional fiscal year 2005 discretionary appropriations, in excess of levels provided in this resolution, for the Local Family Information Centers program in the Department of Education.

SA 2724. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $3,240,000,000.

On page 3, line 10, increase the amount by $324,000,000.

On page 3, line 11, increase the amount by $14,000,000.

On page 3, line 12, increase the amount by $4,000,000.

On page 3, line 17, increase the amount by $3,240,000,000.

On page 3, line 18, increase the amount by $324,000,000.

On page 3, line 19, increase the amount by $14,000,000.

On page 3, line 20, increase the amount by $4,000,000.

On page 4, line 20, increase the amount by $3,240,000,000.

On page 4, line 21, increase the amount by $324,000,000.

On page 4, line 22, increase the amount by $14,000,000.

On page 4, line 23, increase the amount by $4,000,000.

On page 5, line 3, decrease the amount by $3,240,000,000.

On page 5, line 4, decrease the amount by $3,564,000,000.

On page 5, line 5, decrease the amount by $3,578,000,000.

On page 5, line 6, decrease the amount by $3,582,000,000.

On page 5, line 7, decrease the amount by $3,582,000,000.

On page 5, line 11, decrease the amount by $3,240,000,000.

On page 5, line 12, decrease the amount by $3,564,000,000.

On page 5, line 13, decrease the amount by $3,578,000,000.

On page 5, line 14, decrease the amount by $3,582,000,000.

On page 5, line 15, decrease the amount by $3,582,000,000.

At the end of Title III, insert the following:

SEC. . RESERVE FUND FOR VETERANS' MEDICAL CARE.

The Chairman of the Committee on the Budget of the Senate shall revise the aggregates, functional totals, allocations to the Committee on Appropriations of the Senate, discretionary spending limits, and other appropriate levels and limits in this resolution by up to $1,800,000,000 in budget authority for fiscal year 2005, and by the amount of outlays flowing therefrom in 2005 and subsequent years, for a bill, joint resolution, motion, amendment, or conference report that provides additional fiscal year 2005 discretionary appropriations, in excess of levels provided in this resolution, for veterans' medical programs, included in this resolution for the Department of Veterans Affairs.

SA 2725. Mr. KENNEDY (for himself, Mr. DODD, Mrs. CLINTON, Mr. CORZINE, Ms. STABENOW, Mr. LAUTENBERG, Mr. SCHUMER, Mr. REED, Ms. MIKULSKI, Mr. KOHL, Mrs. LINCOLN, Mr. LEVIN, Mr. LIEBERMAN, and Mr. REID) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $2,352,000,000.

On page 3, line 10, increase the amount by $7,253,000,000.

On page 3, line 11, increase the amount by $196,000,000.

On page 3, line 17, increase the amount by $2,352,000,000.

On page 3, line 18, increase the amount by $7,253,000,000.

On page 3, line 19, increase the amount by $196,000,000.

On page 4, line 20, increase the amount by $2,352,000,000.

On page 4, line 21, increase the amount by $7,253,000,000.

On page 4, line 22, increase the amount by $196,000,000.

On page 5, line 3, decrease the amount by $2,352,000,000.

On page 5, line 4, decrease the amount by $9,606,000,000.

On page 5, line 5, decrease the amount by $9,802,000,000.

On page 5, line 6, decrease the amount by $9,802,000,000.

On page 5, line 7, decrease the amount by $9,802,000,000.

On page 5, line 11, decrease the amount by $2,352,000,000.

On page 5, line 12, decrease the amount by $9,606,000,000.

On page 5, line 13, decrease the amount by $9,802,000,000.

On page 5, line 14, decrease the amount by $9,802,000,000.

On page 5, line 15, decrease the amount by $9,802,000,000.

At the end of Title III, insert the following:

SEC. . RESERVE FUND FOR THE PELL GRANT PROGRAM.

The Chairman of the Committee on the Budget of the Senate shall revise the aggregates, functional totals, allocations to the Committee on Appropriations of the Senate, discretionary spending limits, and other appropriate levels and limits in this resolution by up to $4,900,000,000 in budget authority for fiscal year 2005, and by the amount of outlays flowing therefrom in 2005 and subsequent years, for a bill, joint resolution, motion, amendment, or conference report that provides additional fiscal year 2005 discretionary appropriations, in excess of levels provided in this resolution, for the Pell Grant program.

SA 2726. Mr. BIDEN (for himself, Mr. LEAHY, Mrs. FEINSTEIN, Mr. SCHUMER, Mr. KENNEDY, Mr. SARBANES, Mr. ROCKEFELLER, Mr. CORZINE, Ms. STABENOW, Mr. HARKIN, Mrs. BOXER, Mr. DURBIN, Mr. KOHL, and Mr. DODD) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $300,000,000.

On page 3, line 10, increase the amount by $572,000,000.

On page 3, line 11 , increase the amount by $470,000,000.

On page 3, line 12 , increase the amount by $580,000,000.

On page 3, line 13 , increase the amount by $78,000,000.

On page 3, line 17, increase the amount by $300,000,000.

On page 3, line 18, increase the amount by $572,000,000.

On page 3, line 19, increase the amount by $470,000,000.

On page 3, line 20, increase the amount by $580,000,000.

On page 3, line 21, increase the amount by $78,000,000.

On page 4, line 4, increase the amount by $1,000,000,000.

On page 4, line 12, increase the amount by $150,000,000.

On page 4, line 13, increase the amount by $286,000,000.

On page 4, line 14, increase the amount by $235,000,000.

On page 4, line 15, increase the amount by $290,000,000.

On page 4, line 16, increase the amount by $39,000,000.

On page 4, line 20, increase the amount by $150,000,000.

On page 4, line 21, increase the amount by $286,000,000.

On page 4, line 22, increase the amount by $235,000,000.

On page 4, line 23, increase the amount by $290,000,000.

On page 4, line 24, increase the amount by $39,000,000.

On page 5, line 3, decrease the amount by $150,000,000.

On page 5, line 4, decrease the amount by $436,000,000.

On page 5, line 5, decrease the amount by $671,000,000.

On page 5, line 6, decrease the amount by $961,000,000.

On page 5, line 7, decrease the amount by $1,000,000,000.

On page 5, line 11, decrease the amount by $150,000,000.

On page 5, line 12, decrease the amount by $436,000,000.

On page 5, line 13, decrease the amount by $671,000,000.

On page 5, line 14, decrease the amount by $961,000,000.

On page 5, line 15, decrease the amount by $1,000,000,000.

On page 20, line 17, increase the amount by $1,000,000,000.

On page 20, line 18, increase the amount by $150,000,000.

On page 20, line 22, increase the amount by $286,000,000.

On page 21, line 1, increase the amount by $235,000,000.

On page 21, line 5, increase the amount by $290,000,000.

On page 21, line 9, increase the amount by $39,000,000.

On page 39, line 18, increase the amount by $1,000,000,000.

On page 39, line 19, increase the amount by $150,000,000.

On page 40, line 2, increase the amount by $286,000,000.

SA 2727. Mr. SANTORUM (for himself, Mr. CONRAD, and Mr. BUNNING) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, after line 25, insert the following:

SEC. ___. SUSPENSION OF POLICYHOLDERS SURPLUS ACCOUNT PROVISIONS.

(a) IN GENERAL.—Section 815 (relating to distributions to shareholders from pre-1984 policyholders surplus account) is amended by adding at the end the following new subsection:

"(g) APPLICATION OF SECTION.—This section shall not apply to stock life insurance companies for taxable years beginning after December 31, 2003, and beginning before January 1, 2006.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SA 2728. Mr. STEVENS (for himself, Mr. INOUYE, and Mr. WARNER) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 30, strike line 21 and all that follows through page 31, line 9, and insert the following:

SEC. 312. SUPPLEMENTAL FUNDING FOR IRAQ, AFGHANISTAN, HAITI AND FOR THE GLOBAL WAR ON TERRORISM.

If the Committee on Appropriations of the Senate reports legislation providing additional discretionary appropriations in excess of the levels assumed in this resolution for defense-related activities in Iraq, Afghanistan, Haiti and for the global war on terrorism for fiscal year 2005, the chairman of the Committee on the Budget shall revise the allocations (and all other appropriate levels and aggregates set out in this resolution) for that committee for such purpose but not to exceed $50,000,000,000 in new budget authority for fiscal year 2005 and the outlays that flow therefrom.

SA 2729. Mr. LEVIN (for himself and Mr. JEFFORDS) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal year 2006 through 2009; which was ordered to lie on the table; as follows:

On page 54, after line 22, insert the following:

SEC. ___. SENSE OF THE SENATE TO MAKE MORE EFFICIENT, FISCALLY RESPONSIBLE APPROPRIATIONS AND REVENUE DECISIONS.

(a) FINDINGS.—The Senate finds the following:

(1) Federal programs and policies directly influence local growth patterns through the location of Federal facilities, spending on public infrastructure, tax incentives, and Federal regulations.

(2) This Federal influence on local land use decisions results in both positive and negative effects.

(3) Unplanned and random growth results in increased commuting times, traffic congestion, impaired air quality, loss of open space and environmentally sensitive areas, public health problems, and poor accessibility to critical services such as schools and hospitals.

(4) Investing in existing infrastructure is a fiscally responsible use of resources. When not properly planned, local development decisions may actually burden the Federal budget by requiring the construction of new water, sewer, and transportation infrastructure in low-density areas, rather than funding the maintenance of existing infrastructure.

(5) Planned growth, important in sustaining community development and a healthy economy, has positive effects, reflected, for example, in increased home ownership, higher consumer savings, lower energy consumption, and strong business advantages.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the budgetary levels in this resolution assume that in making appropriations and revenue decisions, the Senate should—

(1) support Federal policies that encourage growth patterns that make efficient use of available housing, transportation, and infrastructure resources; and

(2) address the unintended consequences of urban and suburban sprawl resulting from specific Federal programs and policies through the use of additional resources and the allocation of budgetary authority to provide incentives for sustainable growth.

SA 2730. Mr. LEVIN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $54,000,000.

On page 3, line 10, increase the amount by $250,000,000.

On page 3, line 11, increase the amount by $54,000,000.

On page 3, line 17, increase the amount by $54,000,000.

On page 3, line 18, increase the amount by $250,000,000.

On page 3, line 19, increase the amount by $54,000,000.

On page 4, line 4, increase the amount by $179,000,000.

On page 4, line 12, increase the amount by $27,000,000.

On page 4, line 13, increase the amount by $125,000,000.

On page 4, line 14, increase the amount by $27,000,000.

On page 4, line 20, increase the amount by $27,000,000.

On page 4, line 21, increase the amount by $125,000,000.

On page 4, line 22, increase the amount by $27,000,000.

On page 5, line 3, decrease the amount by $27,000,000.

On page 5, line 4, decrease the amount by $152,000,000.

On page 5, line 5, decrease the amount by $179,000,000.

On page 5, line 6, decrease the amount by $179,000,000.

On page 5, line 7, decrease the amount by $179,000,000.

On page 5, line 11, decrease the amount by $27,000,000.

On page 5, line 12, decrease the amount by $152,000,000.

On page 5, line 13, decrease the amount by $179,000,000.

On page 5, line 14, decrease the amount by $179,000,000.

On page 5, line 15, decrease the amount by $179,000,000.

On page 13, line 2, increase the amount by $179,000,000.

On page 13, line 3, increase the amount by $27,000,000.

On page 13, line 7, increase the amount by $125,000,000.

On page 13, line 11, increase the amount by $27,000,000.

On page 39, line 18, increase the amount by $179,000,000.

On page 39, line 19, increase the amount by $27,000,000.

On page 40, line 2, increase the amount by $125,000,000.

SA 2731. Mr. GRAHAM of South Carolina (for himself, Mr. DASCHLE, Mr. BUNNING, Mr. LEAHY, Mrs. CLINTON, Mr. DEWINE, Mr. CHAMBLISS, Mr. ALLEN, Mrs. MURRAY, Mr. KENNEDY, Mrs. LINCOLN, Mr. DAYTON, Ms. MURKOWSKI, Ms. MIKULSKI, Mr. FEINGOLD, and Mr. MILLER) proposed an amendment to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; as follows:

On page 28, after line 7, insert the following:

SEC. 304. RESERVE FUND FOR GUARD AND RESERVE HEALTH CARE.

If the Committee on Armed Services or the Committee on Appropriations reports a bill or joint resolution, or an amendment thereto is offered or a conference report thereon is submitted that expands access to health care for members of the reserve component, the Chairman of the Committee on the Budget may revise allocations of new budget authority and outlays, the revenue aggregates, other appropriate aggregates, and the discretionary spending limits to reflect such legislation, providing that such legislation—

(1) would not increase the deficit for fiscal year 2005 and for the period of fiscal years 2005 through 2009, or would offset such deficit

increases through reduction of unobligated balances from Iraqi reconstruction;

(2) does not exceed $5,600,000,000 for the period of fiscal years 2005 through 2009.

SEC. 305. RESERVE FUND FOR MONGOMERY GI BILL BENEFITS.

If the Committee on Armed Services or the Committee on Appropriations reports a bill or joint resolution, or an amendment thereto is offered or a conference report thereon is submitted, that increases benefit levels under the Montgomery GI Bill for members of the Selected Reserves, the Chairman of the Committee on the Budget may revise allocations of new budget authority and outlays, the revenue aggregates, other appropriate aggregates, and the discretionary spending limits to reflect such legislation, providing that such legislation—

(1) would not increase the deficit for fiscal year 2005 and for the period of fiscal years 2005 through 2009;

(2) does not exceed $1,200,000,000 for the period of fiscal years 2005 through 2009.

SA 2732. Mrs. HUTCHISON (for herself, Ms. LANDRIEU, Mr. BREAUX, and Mr. LOTT) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 11, line 9, increase the amount by $200,000,000.

On page 11, line 10, increase the amount by $200,000,000.

On page 23, line 5, increase the amount by $200,000,000.

On page 23, line 6, increase the amount by $200,000,000.

SA 2733. Mr. SESSIONS (for himself and Mr. CORNYN) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

On page 21, line 13, decrease the amount $600,000,000.

On page 21, line 14, decrease the amount $600,000,000.

On page 9, line 17, increase the amount $600,000,000.

On page 9, line 18, increase the amount $600,000,000.

SA 2734. Mr. REID (for himself, Mrs. LINCOLN, Mr. SCHUMER, Ms. CANTWELL, Mr. DAYTON, Mr. KERRY, Mr. ROCKEFELLER, Mr. DASCHLE, Ms. LANDRIEU, Mr. CORZINE, Mr. NELSON of Florida, Mr. BIDEN, Mr. JEFFORDS, Mr. GRAHAM of Florida, Mrs. MURRAY, Mr. BINGAMAN, Mr. AKAKA, and Mr. JOHNSON) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $2,427,000,000.

On page 3, line 10, increase the amount by $2,416,000,000.

On page 3, line 11, increase the amount by $2,334,000,000.

On page 3, line 12, increase the amount by $2,218,000,000.

On page 3, line 13, increase the amount by $2,045,000,000.

On page 3, line 17, increase the amount by $2,427,000,000.

On page 3, line 18, increase the amount by $2,416,000,000.

On page 3, line 19, increase the amount by $2,334,000,000.

On page 3, line 20, increase the amount by $2,218,000,000.

On page 3, line 21, increase the amount by $2,045,000,000.

On page 4, line 20, increase the amount by $2,427,000,000.

On page 4, line 21, increase the amount by $2,416,000,000.

On page 4, line 22, increase the amount by $2,334,000,000.

On page 4, line 23, increase the amount by $2,218,000,000.

On page 4, line 24, increase the amount by $2,045,000,000.

On page 5, line 3, decrease the amount by $2,427,000,000.

On page 5, line 4, decrease the amount by $4,843,000,000.

On page 5, line 5, decrease the amount by $7,177,000,000.

On page 5, line 6, decrease the amount by $9,395,000,000.

On page 5, line 7, decrease the amount by $11,440,000,000.

On page 5, line 11, decrease the amount by $2,427,000,000.

On page 5, line 12, decrease the amount by $4,843,000,000.

On page 5, line 13, decrease the amount by $7,177,000,000.

On page 5, line 14, decrease the amount by $9,395,000,000.

On page 5, line 15, decrease the amount by $11,440,000,000.

At the end of title III insert the following:

SEC. . RESERVE FUND FOR CONCURRENT RECEIPT.

If the Committee on Armed Services or the Committee on Appropriations reports a bill or joint resolution, or an amendment thereto is offered or a conference report thereon is submitted, that provides for an extension of eligibility for concurrent receipt of military retirement pay and veterans' disability compensation under that section to military retirees with service-connected disabilities rated between 40 percent and zero percent, the Chairman of the Committee on the Budget shall revise the aggregates, functional totals, allocations, discretionary caps, and other appropriate levels and limits in this resolution by up to $11,440,000,000 in budget authority and $11,440,000,000 in outlays over the total of fiscal years 2005 through 2009.

SA 2735. Mr. BYRD (for himself, Mr. CONRAD, Mr. BAUCUS, and Mr. HARKIN) proposed an amendment to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; as follows:

Strike Section 201(a) of the committee-reported resolution, on page 24 line 21 through page 25 line 3.

SA 2736. Mr. DORGAN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 4, line 4, decrease the amount by $3,332,000,000.

On page 4, line 5, increase the amount by $658,000,000.

On page 4, line 6, increase the amount by $742,000,000.

On page 4, line 7, increase the amount by $692,000,000.

On page 4, line 8, increase the amount by $727,000,000.

On page 4, line 12, decrease the amount by $713,000,000.

On page 4, line 13, decrease the amount by $964,000,000.

On page 4, line 14, decrease the amount by $176,000,000.

On page 4, line 15, increase the amount by $374,000,000.

On page 4, line 16, increase the amount by $607,000,000.

On page 4, line 20, increase the amount by $713,000,000.

On page 4, line 21, increase the amount by $964,000,000.

On page 4, line 22, increase the amount by $176,000,000,

On page 4, line 23, decrease the amount by $374,000,000.

On page 4, line 24, decrease the amount by $607,000,000.

On page 5, line 3, decrease the amount by $713,000,000.

On page 5, line 4, decrease the amount by $1,677,000,000.

On page 5, line 5, decrease the amount by $1,853,000,000.

On page 5, line 6, decrease the amount by $1,479,000,000.

On page 5, line 7, decrease the amount by $872,000,000.

On page 5, line 11, decrease the amount by $713,000,000.

On page 5, line 12, decrease the amount by $1,677,000,000.

On page 5, line 13, decrease the amount by $1,853,000,000.

On page 5, line 14, decrease the amount by $1,479,000,000.

On page 5, line 15, decrease the amount by $872,000,000.

On page 8, line 21, decrease the amount by $3,332,000,000.

On page 8, line 22, decrease the amount by $713,000,000.

On page 9, line 1, decrease the amount by $1,260,000,000.

On page 9, line 5, decrease the amount by $773,000,000.

On page 9, line 9, decrease the amount by $300,000,000.

On page 9, line 13, decrease the amount by $104,000,000.

On page 10, line 17, increase the amount by $658,000,000.

On page 10, line 18, increase the amount by $296,000,000.

On page 10, line 21, increase the amount by $742,000,000.

On page 10, line 22, increase the amount by $597,000,000.

On page 10, line 25, increase the amount by $692,000,000.

On page 11, line 1, increase the amount by $674,000,000.

On page 11, line 4, increase the amount by $727,000,000.

On page 11, line 5, increase the amount by $711,000,000.

At the end of Section 303, insert:

SEC. . RESERVE FUND FOR HYDROGEN FUEL CELL RESEARCH AND DEVELOPMENT.

The Chairman of the Committee on the Budget of the Senate shall revise the aggregates, functional totals, allocations to the Committee on Appropriations of the Senate, discretionary spending limits, and other appropriate levels and limits in this resolution by up to $513,000,000 in budget authority for fiscal year 2005, and by the amount of outlays flowing therefrom in 2005 and subsequent years, for a bill, joint resolution, motion, amendment, or conference report that provides additional fiscal year 2005 discretionary appropriations, in excess of levels provided in this resolution, for Hydrogen Fuel Cell Research and Development, included in this resolution for the Department of Energy.

On page 40 line 1, increase the amount by $658,000,000.

On page 40 line 2, increase the amount by $296,000,000.

SA 2737. Ms. CANTWELL (for herself, Mr. KENNEDY, and Mr. SARBANES) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 33, after line 25, insert the following:

SEC. 314. SPECIAL RULE FOR FISCAL YEAR 2004.

If additional funding to extend expired unemployment insurance benefits for fiscal year 2004 is provided in a bill, joint resolution, amendment, motion, or conference report, and its cost is fully offset in the year provided and would not increase the on-budget deficit, then such funding shall not be counted for purposes of Senate enforcement of the Congressional Budget Act of 1974 and this resolution.

SA 2738. Ms. CANTWELL (for herself, Mr. KENNEDY, and Mr. SARBANES) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 54, after line 22, insert the following:

SEC. ___ . SENSE OF THE SENATE ON TEMPORARY EMERGENCY UNEMPLOYMENT COMPENSATION.

(a) FINDINGS.—The Senate finds the following:

(1) There are currently 8,200,000 unemployed Americans.

(2) An additional 1,700,000 discouraged workers have given up looking for work.

(3) Another 4,700,000 individuals are working part time, but want a full-time job and cannot find one.

(4) For every job opening, there are 3 laid-off workers fighting for that job.

(5) Since January 2001, the economy has lost 2,200,000 jobs.

(6) Reinstating the Federal Temporary Unemployment Insurance Compensation program would reinstate benefits for 90,000 laid-off workers each week who began exhausting State benefits when that program ended.

(7) For the first 6 months of 2004, reinstating the Temporary Unemployment Insurance Compensation program would benefit 2,000,000 laid-off workers.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the levels in this concurrent resolution assume that Congress and the President will enact legislation reinstating the program established by the Temporary Emergency Unemployment Compensation Act of 2002 (Public Law 107–147) through June 30, 2004.

SA 2739. Mr. SPECTER (for himself, Mr. COCHRAN, Mr. HARKIN, and Mr. BYRD) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

Strike section 404.

SA 2740. Mr. SPECTER (for himself and Mr. HARKIN) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

Strike subsection 404(a).

SA 2741. Mr. SPECTER submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 16, line 12, increase the amount by $2,000,000,000.

On page 16, line 13, increase the amount by $2,000,000,000.

On page 23, line 5, decrease the amount by $2,000,000,000.

On page 23, line 6, decrease the amount by $2,000,000,000.

SA 2742. Mr. WARNER (for himself, Mr. STEVENS, Mr. MCCAIN, Mr. INHOFE, Mr. ROBERTS, Ms. COLLINS, Mr. CHAMBLISS, Mr. GRAHAM of South Carolina, Mr. TALENT, Mr. CRAIG, and Mr. ALLEN) proposed an amendment to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; as follows:

On page 4, line 4, increase the amount by $6,997,000,000.

On page 4, line 5, increase the amount by $262,000,000.

On page 4, line 6, increase the amount by $358,000,000.

On page 4, line 7, increase the amount by $405,000,000.

On page 4, line 8, increase the amount by $432,000,000.

On page 4, line 12, increase the amount by $5,506,000,000.

On page 4, line 13, increase the amount by $1,855,000,000.

On page 4, line 14, increase the amount by $799,000,000.

On page 4, line 15, increase the amount by $550,000,000.

On page 4, line 16, increase the amount by $480,000,000.

On page 4, line 20, decrease the amount by $5,506,000,000.

On page 4, line 21, decrease the amount by $1,855,000,000.

On page 4, line 22, decrease the amount by $799,000,000.

On page 4, line 23, decrease the amount by $550,000,000.

On page 4, line 24, decrease the amount by $480,000,000.

On page 5, line 3, increase the amount by $5,506,000,000.

On page 5, line 4, increase the amount by $7,362,000,000.

On page 5, line 5, increase the amount by $8,161,000,000.

On page 5, line 6, increase the amount by $8,711,000,000.

On page 5, line 7, increase the amount by $9,191,000,000.

On page 5, line 11, increase the amount by $5,506,000,000.

On page 5, line 12, increase the amount by $7,362,000,000.

On page 5, line 13, increase the amount by $8,161,000,000.

On page 5, line 14, increase the amount by $8,711,000,000.

On page 5, line 15, increase the amount by $9,191,000,000.

On page 7, line 25, increase the amount by $6,900,000,000.

On page 8, line 1, increase the amount by $5,409,000,000.

On page 8, line 5, increase the amount by $1,594,000,000.

On page 8, line 9, increase the amount by $442,000,000.

On page 8, line 13, increase the amount by $145,000,000.

On page 8, line 17, increase the amount by $48,000,000.

On page 22, line 9, increase the amount by $97,000,000.

On page 22, line 10, increase the amount by $97,000,000.

On page 22, line 13, increase the amount by $262,000,000.

On page 22, line 14, increase the amount by $262,000,000.

On page 22, line 17, increase the amount by $358,000,000.

On page 22, line 18, increase the amount by $358,000,000.

On page 22, line 21, increase the amount by $405,000,000.

On page 22, line 22, increase the amount by $405,000,000.

On page 22, line 25, increase the amount by $432,000,000.

On page 23, line 1, increase the amount by $432,000,000.

On page 39, line 18, increase the amount by $6,900,000,000.

On page 39, line 19, increase the amount by $5,409,000,000.

On page 40, line 2, increase the amount by $1,594,000,000.

SA 2743. Mr. ROCKEFELLER (for himself, Mr. WYDEN, Mr. KENNEDY, Mrs. MURRAY, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 28, after line 7, insert the following:

SEC. . RESERVE FUND TO PROTECT STATES.

If the Committee on Finance of the Senate reports a bill or joint resolution that extends increased Federal Medical Assistance Percentage (FMAP) payments to States and that legislation would not increase the deficit for fiscal year 2005 or for the period of fiscal years 2005 through 2009, the budgetary effects of that legislation shall not count for purposes of the Congressional Budget Act or provisions of the concurrent resolutions on the budget for fiscal year 2004 or 2005. If an amendment, motion, or conference report is offered that extends increased Federal Medical Assistance Percentage payments to States and would not increase the deficit for fiscal year 2005 or for the period of fiscal years 2005 through 2009, that amendment, motion, or conference report shall not count for those purposes.

SA 2744. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $2,000,000.

On page 3, line 10, increase the amount by $38,000,000.

On page 3, line 11, increase the amount by $16,000,000.

On page 3, line 12, increase the amount by $3,000,000.

On page 3, line 17 , increase the amount by $2,000,000.

On page 3, line 18, increase the amount by $38,000,000.

On page 3, line 19, increase the amount by $16,000,000.

On page 3, line 20, increase the amount by $3,000,000.

On page 4, line 20, increase the amount by $2,000,000.

On page 4, line 21, increase the amount by $38,000,000.

On page 4, line 22, increase the amount by $16,000,000.

On page 4, line 23, increase the amount by $3,000,000.

On page 5, line 3, decrease the amount by $2,000,000.

On page 5, line 4, decrease the amount by $40,000,000.

On page 5, line 5, decrease the amount by $56,000,000.

On page 5, line 6, decrease the amount by $59,000,000.

On page 5, line 7, decrease the amount by $59,000,000.

On page 5, line 11, decrease the amount by $2,000,000.

On page 5, line 12, decrease the amount by $40,000,000.

On page 5, line 13, decrease the amount by $56,000,000.

On page 5, line 14, decrease the amount by $59,000,000.

On page 5, line 15, decrease the amount by $59,000,000.

At the end of Title III, insert the following:

SEC. . RESERVE FUND FOR THE LOCAL FAMILY INFORMATION CENTERS PROGRAM.

The Chairman of the Committee on the Budget of the Senate shall revise the aggregates, functional totals, allocations to the Committee on Appropriations of the Senate, discretionary spending limits, and other appropriate levels and limits in this resolution by up to $58,000,000 in budget authority for fiscal year 2005, and by the amount of outlays flowing therefrom in 2005 and subsequent years, for a bill, joint resolution, motion, amendment, or conference report that provides additional fiscal year 2005 discretionary appropriations, in excess of levels provided in this resolution, for the Local Family Information Centers program in the Department of Education.

SA 2745. Mr. NELSON of Florida (for himself, Mr. CORZINE, Ms. MIKULSKI, Mr. SCHUMER, and Mr. NELSON of Nebraska) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; as follows:

On page 3, line 9, increase the amount by $1,620,000,000.

On page 3, line 10, increase the amount by $162,000,000.

On page 3, line 11, increase the amount by $7,000,000.

On page 3, line 12, increase the amount by $2,000,000.

On page 3, line 17, increase the amount by $1,620,000,000.

On page 3, line 18, increase the amount by $162,000,000.

On page 3, line 19, increase the amount by $7,000,000.

On page 3, line 20, increase the amount by $2,000,000.

On page 4, line 20, increase the amount by $1,620,000,000.

On page 4, line 21, increase the amount by $162,000,000.

On page 4, line 22, increase the amount by $7,000,000.

On page 4, line 23, increase the amount, by $2,000,000.

On page 5, line 3, decrease the amount by $1,620,000,000.

On page 5, line 4, decrease the amount by $1,782,000,000.

On page 5, line 5, decrease the amount by $1,789,000,000.

On page 5, line 6, decrease the amount by $1,791,000,000.

On page 5, line 7, decrease the amount by $1,791,000,000.

On page 5, line 11, decrease the amount by $1,620,000,000.

On page 5, line 12, decrease the amount by $1,782,000,000.

On page 5, line 13, decrease the amount by $1,789,000,000.

On page 5, line 14, decrease the amount by $1,791,000,000.

On page 5, line 15, decrease the amount by $1,791,000,000.

At the end of Title III, insert the following:

SEC. . RESERVE FUND FOR VETERANS' MEDICAL CARE.

The Chairman of the Committee on the Budget of the Senate shall revise the aggregates, functional totals, allocations to the Committee on Appropriations of the Senate, discretionary spending limits, and other appropriate levels and limits in this resolution by up to $1,800,000,000 in budget authority for fiscal year 2005, and by the amount of outlays flowing therefrom in 2005 and subsequent years, for a bill, joint resolution, motion, amendment, or conference report that provides additional fiscal year 2005 discretionary appropriations, in excess of levels provided in this resolution, for veterans' medical programs, included in this resolution for the Department of Veterans Affairs.

SA 2746. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $2,000,000.

On page 3, line 10, increase the amount by $7,000,000.

On page 3, line 11, increase the amount by $13,000,000.

On page 3, line 12, increase the amount by $15,000,000.

On page 3, line 13, increase the amount by $4,000,000.

On page 3, line 17, increase the amount by $2,000,000.

On page 3, line 18, increase the amount by $7,000,000.

On page 3, line 19, increase the amount by $13,000,000.

On page 3, line 20, increase the amount by $15,000,000.

On page 3, line 21, increase the amount by $4,000,000.

On page 4, line 20, increase the amount by $2,000,000.

On page 4, line 21, increase the amount by $7,000,000.

On page 4, line 22, increase the amount by $13,000,000.

On page 4, line 23, increase the amount by $15,000,000.

On page 4, line 24, increase the amount by $4,000,000.

On page 5, line 3, decrease the amount by $2,000,000.

On page 5, line 4, decrease the amount by $9,000,000.

On page 5, line 5, decrease the amount by $22,000,000.

On page 5, line 6, decrease the amount by $37,000,000.

On page 5, line 7, decrease the amount by $41,000,000.

On page 5, line 11, decrease the amount by $2,000,000.

On page 5, line 12, decrease the amount by $9,000,000.

On page 5, line 13, decrease the amount by $22,000,000.

On page 5, line 14, decrease the amount by $37,000,000.

On page 5, line 15, decrease the amount by $41,000,000.

At the end of Title III, insert the following:

SEC. . RESERVE FUND FOR THE DEPARTMENT OF DEFENSE COOPERATIVE THREAT REDUCTION PROGRAMS.

The Chairman of the Committee on the Budget of the Senate shall revise the aggregates, functional totals, allocations to the Committee on Appropriations of the Senate, discretionary spending limits, and other appropriate levels and limits in this resolution by up to $41,000,000 in budget authority for fiscal year 2005, and by the amount of outlays flowing therefrom in 2005 and subsequent years, for a bill, joint resolution, motion, amendment, or conference report that provides additional fiscal year 2005 discretionary appropriations, in excess of levels provided in this resolution, for the Cooperative Threat Reduction Program in the Department of Defense.

SA 2747. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $382,000,000.

On page 3, line 10, increase the amount by $196,000,000.

On page 3, line 11, increase the amount by $38,000,000.

On page 3, line 12, increase the amount by $9,000,000.

On page 3, line 13, increase the amount by $3,000,000.

On page 3, line 17, increase the amount by $382,000,000.

On page 3, line 18, increase the amount by $196,000,000.

On page 3, line 19, increase the amount by $38,000,000.

On page 3, line 20, increase the amount by $9,000,000.

On page 3, line 21, increase the amount by $3,000,000.

On page 4, line 20, increase the amount by $382,000,000.

On page 4, line 21, increase the amount by $196,000,000.

On page 4, line 22, increase the amount by $38,000,000.

On page 4, line 23, increase the amount by $9,000,000.

On page 4, line 24, increase the amount by $3,000,000.

On page 5, line 3, decrease the amount by $382,000,000.

On page 5, line 4, decrease the amount by $578,000,000.

On page 5, line 5, decrease the amount by $616,000,000.

On page 5, line 6, decrease the amount by $625,500,000.

On page 5, line 7, decrease the amount by $628,000,000.

On page 5, line 11, decrease the amount by $382,000,000.

On page 5, line 12, decrease the amount by $578,000,000.

On page 5, line 13, decrease the amount by $616,000,000.

On page 5, line 14, decrease the amount by $625,500,000.

On page 5, line 15, decrease the amount by $628,000,000.

At the end of Title III, insert the following:

SEC. . RESERVE FUND FOR THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.

The Chairman of the Committee on the Budget of the Senate shall revise the aggregates, functional totals, allocations to the Committee on Appropriations of the Senate, discretionary spending limits, and other appropriate levels and limits in this resolution by up to $631,000,000 in budget authority for fiscal year 2005, and by the amount of outlays flowing therefrom in 2005 and subsequent years, for a bill, joint resolution, motion, amendment, or conference report that provides additional fiscal year 2005 discretionary appropriations, in excess of levels provided in this resolution, for the National Aeronautics and Space Administration.

SA 2748. Mr. FEINGOLD (for himself, Mr. CHAFEE, Mr. BAUCUS, Ms. CANTWELL, Mr. CARPER, and Mr. GRAHAM of Florida) proposed an amendment to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; as follows:

On page 46, between lines 2 and 3, insert the following:

SEC. 408. PAY-AS-YOU-GO POINT OF ORDER IN THE SENATE.

(a) POINT OF ORDER.—

(1) IN GENERAL.—It shall not be in order in the Senate to consider any direct spending or revenue legislation that would increase the on-budget deficit or cause an on-budget deficit for any one of the three applicable time periods as measured in paragraphs (5) and (6).

(2) APPLICABLE TIME PERIODS.—For purposes of this subsection, the term "applicable time period" means any 1 of the 3 following periods:

(A) The first year covered by the most recently adopted concurrent resolution on the budget.

(B) The period of the first 5 fiscal years covered by the most recently adopted concurrent resolution on the budget.

(C) The period of the 5 fiscal years following the first 5 fiscal years covered in the most recently adopted concurrent resolution on the budget.

(3) DIRECT-SPENDING LEGISLATION.—For purposes of this subsection and except as provided in paragraph (4), the term "direct-spending legislation" means any bill, joint resolution, amendment, motion, or conference report that affects direct spending as that term is defined by, and interpreted for purposes of, the Balanced Budget and Emergency Deficit Control Act of 1985.

(4) EXCLUSION.—For purposes of this subsection, the terms "direct-spending legislation" and "revenue legislation" do not include—

(A) any concurrent resolution on the budget; or

(B) any provision of legislation that affects the full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of enactment of the Budget Enforcement Act of 1990.

(5) BASELINE.—Estimates prepared pursuant to this section shall—

(A) use the baseline surplus or deficit used for the most recently adopted concurrent resolution on the budget; and

(B) be calculated under the requirements of subsections (b) through (d) of section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 for fiscal years beyond those covered by that concurrent resolution on the budget.

(6) PRIOR SURPLUS.—If direct spending or revenue legislation increases the on-budget deficit or causes an on-budget deficit when taken individually, it must also increase the on-budget deficit or cause an on-budget deficit when taken together with all direct spending and revenue legislation enacted since the beginning of the calendar year not accounted for in the baseline under paragraph (5)(A), except that direct spending or revenue effects resulting in net deficit reduction enacted pursuant to reconciliation instructions since the beginning of that same calendar year shall not be available.

(b) WAIVER.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(c) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(d) DETERMINATION OF BUDGET LEVELS.—For purposes of this section, the levels of new budget authority, outlays, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

(e) SUNSET.—This section shall expire on September 30, 2009.

SA 2749. Mr. GRAHAM of Florida (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by 3,087,000,000.

On page 3, line 10, increase the amount by 5,408,000,000.

On page 3, line 11, increase the amount by 7,415,000,000.

On page 3, line 12, increase the amount by 9,901,000,000.

On page 3, line 13, increase the amount by 18,082,000,000.

On page 3, line 17, increase the amount by 3,087,000,000.

On page 3, line 18, increase the amount by 5,408,000,000.

On page 3, line 19, increase the amount by 7,415,000,000.

On page 3, line 20, increase the amount by 9,901,000,000.

On page 3, line 21, increase the amount by 18,082,000,000.

On page 4, line 20, increase the amount by 3,087,000,000.

On page 4, line 21, increase the amount by 5,408,000,000.

On page 4, line 22, increase the amount by 7,415,000,000.

On page 4, line 23, increase the amount by 9,901,000,000.

On page 4, line 24, increase the amount by 18,082,000,000.

On page 5, line 3, decrease the amount by 3,087,000,000.

On page 5, line 4, decrease the amount by 8,495,000,000.

On page 5, line 5, decrease the amount by 15,910,000,000.

On page 5, line 6, decrease the amount by 25,811,000,000.

On page 5, line 7, decrease the amount by 43,893,000,000.

On page 5, line 11, decrease the amount by 3,087,000,000.

On page 5, line 12, decrease the amount by 8,495,000,000.

On page 5, line 13, decrease the amount by 15,910,000,000.

On page 5, line 14, decrease the amount by 25,811,000,000.

On page 5, line 15, decrease the amount by 43,893,000,000.

At the end of title III, insert the following:

SEC. . RESERVE FUND FOR IMPROVEMENTS TO PELL GRANT PROGRAM TO ASSIST NONTRADITIONAL STUDENTS.

The Chairman of the Committee on Budget of the Senate shall revise aggregates, function totals, allocations to the Committee on Appropriations of the Senate, discretionary spending limits, and other appropriate levels and limits in this resolution by up to $1,786,000,000 in budget authority for fiscal years 2005, and by the amount of outlays flowing therefrom in 2005 and subsequent years, for a bill, joint resolution, motion, amendment, or conference report that provides additional fiscal year 2005 discretionary appropriations, in excess of levels provided in this resolution, to expand the maximum Pell Grant award, make grants available year-round, increase the income protection for independent students, increase funding for student support services, and increase funding for campus child care.

SA 2750. Mr. FEINGOLD (for himself, Mr. Corzine, and Mr. Durbin) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $9,936,000,000.

On page 3, line 10, increase the amount by $7,446,000,000.

On page 3, line 11, increase the amount by $2,032,000,000.

On page 3, line 12, increase the amount by $390,000,000.

On page 3, line 13, increase the amount by $90,000,000.

On page 3, line 17, increase the amount by $9,936,000,000.

On page 3, line 18, increase the amount by $7,446,000,000.

On page 3, line 19, increase the amount by $2,032,000,000.

On page 3, line 20, increase the amount by $390,000,000.

On page 3, line 21, increase the amount by $90,000,000.

On page 4, line 20, increase the amount by $9,936,000,000.

On page 4, line 21, increase the amount by $7,446,000,000.

On page 4, line 22, increase the amount by $2,032,000,000.

On page 4, line 23, increase the amount by $390,000,000.

On page 4, line 24, increase the amount by $90,000,000.

On page 5, line 3, decrease the amount by $9,936,000,000.

On page 5, line 4, decrease the amount by $19,414,000,000.

On page 5, line 6, decrease the amount by $19,804,000,000.

On page 5, line 7, decrease the amount by $19,894,000,000.

On page 5, line 11, decrease the amount by $9,936,000,000.

On page 5, line 12, decrease the amount by $17,382,000,000.

On page 5, line 13, decrease the amount by $19,414,000,000.

On page 5, line 14, decrease the amount by $19,804,000,000.

On page 5, line 15, decrease the amount by $19,894,000,000.

On page 31, line 7, strike $30,000,000,000 and replace with $50,000,000,000.

SA 2751. Mr. BAUCUS (for himself, Mr. Daschle, Mr. Lieberman, Mr. Jeffords, Mrs. Feinstein, Mr. Bingaman, Mrs. Murray and Mr. Rockefeller) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; as follows:

Strike section 201(c).

SA 2752. Mr. PRYOR submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

At the end of title V, insert the following:

SEC. . FINDINGS AND SENSE OF THE SENATE.

(a) Findings.—The Senate finds that—

(1) the United States is in the grip of pervasively higher natural gas prices;

(2) high natural gas prices are, in general, having an effect that is rippling through the United States economy and are, in particular, impacting home energy bills;

(3) while persons in many sectors can adapt to gas price increases, persons in some sectors simply cannot;

(4) elderly and disabled citizens who are living on fixed incomes, low-income individuals, and the working poor face hardships wrought by natural gas prices;

(5) the energy burden for persons among the working poor often exceeds 40 percent of those persons' incomes under normal conditions;

(6) under current circumstances, natural gas prices are unnaturally high, and those are not normal circumstances;

(7) while critically important and encouraged, State energy assistance and charitable assistance funds have been overwhelmed by the crisis caused by the high gas prices;

(8) the Federal Low-Income Home Energy Assistance Program (referred to in this section as "LIHEAP") and the companion weatherization assistance program (referred to in this section as "WAP"), are the Federal Government's primary means to assist eligible low-income individuals in the United States to shoulder the burdens caused by their home heating and cooling needs;

(9) in 2003, LIHEAP reached only 15 percent of the persons in the United States who were eligible for assistance under the program;

(10) since LIHEAP's inception, its inflation-adjusted buying power has eroded by 58 percent;

(11) the aggressive draw-down of Federal funds from LIHEAP to address legitimate winter heating demands has led to a subsequent cooling crisis that will be manifest later this year; and

(12) more individuals in the United States succumb to extreme heat than all other weather phenomena combined.

(b) Sense of the Senate.—It is the sense of the Senate that the levels in this concurrent resolution assume—

(1) an authorization of $3,400,000,000 for each of fiscal years 2004 through 2006 to carry out the LIHEAP program;

(2) an authorization of $325,000,000 for fiscal year 2004, $400,000,000 for fiscal year 2005, and $500,000,000 for fiscal year 2006 to carry out the WAP program;

(3) appropriations, for those programs, of sufficient additional funds to realistically address the immediate heating crisis, and the cooling crisis that awaits the United States this summer, as well as the systemic shortfalls that have plagued those programs and the eligible individuals that the programs are designed to assist; and

(4) advance appropriations of the necessary funds to ensure the smooth operation of those programs during times of peak demand.

SA 2753. Mrs. FEINSTEIN (for herself, Mr. Hollings, Mr. Corzine, Mr. Breaux, Mr. Schumer, Mr. Dodd, Mr. Biden, Ms. Mikulski, Mrs. Murray, and Mr. Graham) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 54, after line 22, insert the following new section:

SEC. 510. SENSE OF THE SENATE REGARDING FUNDING FOR PORT SECURITY.

(a) Findings.—The Senate makes the following findings:

(1) In the United States, the system of maritime commerce, including seaports and other ports, is a critical element of the United States economic, social, and environmental infrastructure.

(2) In 2001, ports in the United States handled approximately 5,400 ships, the majority of which were owned by foreign persons and crewed by nationals of foreign countries, that made a total of more than 60,000 calls at such ports.

(3) In a typical year, more than 17,000,000 cargo containers are handled at ports in the United States.

(4) Maritime commerce is the primary mode of transportation for international trade, with ships carrying more than 80 percent of such trade, by volume.

(5) Disruption of trade flowing through United States ports could have a catastrophic impact on both the United States and the world economies.

(6) In addition to the economic importance of United States ports, such ports form a

critical link in the United States national security structure, and are necessary to ensure that United States military material can be effectively and quickly shipped to any location where such material is needed.

(7) Terrorist groups, including extremist groups such as al Qaeda, are likely to consider, formulate, and execute plans to conduct a terrorist strike against one or more of the ports in the United States.

(8) Terrorists have conducted attacks against maritime commerce in the past, including the October 2002 attack on the French oil tanker LIMBERG and the October 2000 attack on the USS COLE in Yemen.

(9) It is critical that port security be enhanced and improved through the adoption of better formulated security procedures, the adoption of new regulations and law, and investment in long-term capital improvements to the structure of the United States most critical ports.

(10) Effective funding to provide adequate security at United States ports requires a commitment to provide Federal funds over multiple years to fund long-term capital improvement projects.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the budget of the United States should provide adequate funding for port security projects and not less than the amount of such funding that is adequate to implement an effective port security plan;

(2) the implementation of the budget of the United States should permit the provision of Federal funds over multiple years to fund long-term security improvement projects at ports in the United States; and

(3) the Secretary of Homeland Security should, as soon as practicable, develop a funding plan for port security that permits funding over multiple years for such projects.

SA 2754. Mrs. FEINSTEIN (for herself, Mr. KYL, Mr. BINGAMAN, Mrs. HUTCHISON, Mr. KENNEDY, Mr. CORNYN, Mrs. BOXER, Mr. DOMENICI, Mrs. CLINTON, Mr. MCCAIN, Mr. SCHUMER, Mr. GRAHAM of Florida, Mr. LAUTENBERG, Ms. CANTWELL, Mr. CORZINE, Mr. FEINGOLD, Mr. EDWARDS, and Mr. ALEXANDER) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . SENSE OF THE SENATE ON THE STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.

(a) FINDINGS.—The Senate finds the following:

(1) Control of illegal immigration is a Federal responsibility.

(2) The State Criminal Alien Assistance Program (SCAAP) provides critical funding to States and localities for reimbursement of costs incurred as a result of housing undocumented criminal aliens.

(3) In fiscal year 2003, however, State and local governments spent at least $14,000,000,000 in costs associated with the incarceration of undocumented criminal aliens.

(4) The Federal Government provided $248,000,000 in appropriated funding to the State Criminal Alien Assistance Program (SCAAP) to re imburse State and local governments for these costs in fiscal year 2003.

(5) The Federal Govermnent provided $300,000,000 in appropriated funding to the State Criminal Alien Assistance Program (SCAAP) to reimburse State and local governments for these costs in fiscal year 2004.

(6) In fiscal years 2003 and 2004, the Administration did not request funding for the SCAAP program.

(7) The Administration did not request funding for SCAAP in its fiscal year 2005 budget.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the levels in this concurrent resolution assume that—

(1) Congress fund the SCAAP program for $850,000,000 for fiscal year 2005; and

(2) Congress enact the long-term reauthorization of the SCAAP program to reimburse State and local governments for the burdens undocumented criminal aliens have placed on the local criminal justice system.

SA 2755. Mr. HATCH (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . EXCLUSION OF INCENTIVE STOCK OPTIONS AND EMPLOYEE STOCK PURCHASE PLAN STOCK OPTIONS FROM WAGES.

(a) EXCLUSION FROM EMPLOYMENT TAXES.—

(1) SOCIAL SECURITY TAXES.—

(A) Section 3121(a) of the Internal Revenue Code of 1986 (relating to definition of wages) is amended by striking "or" at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting "; or", and by inserting after paragraph (21) the following new paragraph:

"(22) remuneration on account of—

"(A) a transfer of a share of stock to any individual pursuant to an exercise of an incentive stock option (as defined in section 422(b)) or under an employee stock purchase plan (as defined in section 423(b)), or

"(B) any disposition by the individual of such stock."

(B) Section 209(a) of the Social Security Act is amended by striking "or" at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting "; or", and by inserting after paragraph (18) the following new paragraph:

"(19) Remuneration on account of—

"(A) a transfer of a share of stock to any individual pursuant to an exercise of an incentive stock option (as defined in section 422(b) of the Internal Revenue Code of 1986) or under an employee stock purchase plan (as defined in section 423(b) of such Code), or

"(B) any disposition by the individual of such stock."

(2) RAILROAD RETIREMENT TAXES.—Subsection (e) of section 3231 of such Code is amended by adding at the end the following new paragraph:

"(12) QUALIFIED STOCK OPTIONS.—The term 'compensation' shall not include any remuneration on account of—

"(A) a transfer of a share of stock to any individual pursuant to an exercise of an incentive stock option (as defined in section 422(b)) or under an employee stock purchase plan (as defined in section 423(b)), or

"(B) any disposition by the individual of such stock."

(3) UNEMPLOYMENT TAXES.—Section 3306(b) of such Code (relating to definition of wages) is amended by striking "or" at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting "; or", and by inserting after paragraph (18) the following new paragraph:

"(19) remuneration on account of—

"(A) a transfer of a share of stock to any individual pursuant to an exercise of an incentive stock option (as defined in section 422(b)) or under an employee stock purchase plan (as defined in section 423(b)), or

"(B) any disposition by the individual of such stock."

(b) WAGE WITHHOLDING NOT REQUIRED ON DISQUALIFYING DISPOSITIONS.—Section 421(b) of the Internal Revenue Code of 1986 (relating to effect of disqualifying dispositions) is amended by adding at the end the following new sentence: "No amount shall be required to be deducted and withheld under chapter 24 with respect to any increase in income attributable to a disposition described in the preceding sentence."

(c) WAGE WITHHOLDING NOT REQUIRED ON COMPENSATION WHERE OPTION PRICE IS BETWEEN 85 PERCENT AND 100 PERCENT OF VALUE OF STOCK.—Section 423(c) of the Internal Revenue Code of 1986 (relating to special rule where option price is between 85 percent and 100 percent of value of stock) is amended by adding at the end the following new sentence: "No amount shall be required to be deducted and withheld under chapter 24 with respect to any amount treated as compensation under this subsection."

SA 2756. Mr. HATCH (for himself, Mr. BREAUX, and Mrs. LINCOLN) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

Subtitle —Provisions Relating To S Corporation Reform and Simplification

PART I—MAXIMUM NUMBER OF SHAREHOLDERS OF AN S CORPORATION

SEC. . MEMBERS OF FAMILY TREATED AS 1 SHAREHOLDER.

(a) IN GENERAL.—Paragraph (1) of section 1361 (c) (relating to special rules for applying subsection (b)) is amended to read as follows:

"(1) MEMBERS OF FAMILY TREATED AS 1 SHAREHOLDER.—

"(A) IN GENERAL.—For purpose of subsection (b)(1)(A)—

"(i) except as provided in clause (ii), a husband and wife (and their estates) shall be treated as 1 shareholder, and

"(ii) in the case of a family with respect to which an election is in effect under subparagraph (E), all members of the family shall be treated as 1 shareholder.

"(B) MEMBERS OF THE FAMILY.—For purpose of subparagraph (A)(ii), the term 'members of the family' means the common ancestor, lineal descendants of the common ancestor and the spouses of such lineal descendants or common ancestor.

"(C) COMMON ANCESTOR.—For purposes of this paragraph, an individual shall not be considered a common ancestor if, as of the later of the effective date of this paragraph or the time the election under section 1362(a) is made, the individual is more than 6 generations removed from the youngest generation of shareholders.

"(D) EFFECT OF ADOPTION, ETC.—In determining whether any relationship specified in subparagraph (B) or (C) exists, the rules of section 152(b)(2) shall apply.

"(E) ELECTION.—An election under subparagraph (A)(ii)—

"(i) must be made with the consent of all persons who are shareholders (including those that are family members) in the corporation on the day the election is made,

"(ii) in the case of—

"(I) an electing small business trust, shall be made by the trustee of the trust, and

"(II) a qualified subchapter S trust, shall be made by the beneficiary of the trust,

"(iii) under regulations, shall remain in effect until terminated, and

"(iv) shall apply only with respect to 1 family in any corporation.".

(b) RELIEF FROM INADVERTENT INVALID ELECTION OR TERMINATION.— Section 1362(f) (relating to inadvertent invalid elections or terminations), as amended by this Act, is amended—

(1) by inserting "or under section 1361(c)(1)(A)(ii)" after "section 1361(b)(3)(B)(ii)" in paragraph (1), and

(2) by inserting "or under section 1361(c)(1)(E)(iii)" after "section 1361(b)(3)(C)" in paragraph (1)(B).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. . INCREASE IN NUMBER OF ELIGIBLE SHAREHOLDERS TO 100.

(a) IN GENERAL.—Section 1361(b)(1)(A) (defining small business corporation) is amended by striking "75" and inserting "100".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. . NONRESIDENT ALIENS ALLOWED AS BENEFICIARIES OF AN ELECTING SMALL BUSINESS TRUST.

(a) IN GENERAL.—Section 1361(e)(1)(A)(i)(I) is amended by inserting "(including a nonresident alien individual)" after "individual".

(b) CONFORMING AMENDMENT.—Clause (v) of section 1361(c)(2)(B) is amended by adding at the end the following new sentence: "This clause shall not apply for purposes of subsection (b)(1)(C).".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

PART II—TERMINATION OF ELECTION AND ADDITIONS TO TAX DUE TO PASSIVE INVESTMENT INCOME

SEC. . MODIFICATIONS TO PASSIVE INCOME RULES.

(a) INCREASED PERCENTAGE LIMIT.—

(1) IN GENERAL.—Subsection (a)(2) of section 1375 (relating to tax imposed when passive investment income of corporation having accumulated earnings and profits exceeds 25 percent of gross receipts) is amended by striking "25 percent" and inserting "60 percent".

(2) CONFORMING AMENDMENTS.—

(A) Section 26(b)(2)(J) is amended by striking "25 percent" and inserting "60 percent".

(B) Section 1362(d)(3)(A)(i)(II) is amended by striking "25 percent" and inserting "60 percent".

(C) The heading for paragraph (3) of section 1362(d) is amended by striking "25 PERCENT" and inserting "60 PERCENT".

(D) Section 1375(b)(1)(A)(i) is amended by striking "25 percent" and inserting "60 percent".

(E) The heading for section 1375 is amended by striking "25 percent" and inserting "60 percent."

(F) The table of sections for part III of subchapter S of chapter 1 is amended by striking "25 percent" in the item relating to section 1375 and inserting "60 percent".

(b) CAPITAL GAIN NOT TREATED AS PASSIVE INVESTMENT INCOME.—Section 1362(d)(3) is amended—

(1) by striking "annuities," and all that follows in subparagraph (C)(i) and inserting "and annuities.", and

(2) by striking subparagraphs (C)(iv) and (D) and by redesignating subparagraph (E) as subparagraph (D).

(c) CONFORMING AMENDMENTS.—Section 1375(d) is amended by striking "subchapter C" both places it appears and inserting "accumulated".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

PART III—TREATMENT OF S CORPORATION SHAREHOLDERS

SEC. . TRANSFER OF SUSPENDED LOSSES INCIDENT TO DIVORCE.

(a) IN GENERAL.—Section 1366(d) (relating to special rules for losses and deductions) is amended by adding at the end the following new paragraph:

"(4) TRANSFER OF SUSPENDED LOSSES AND DEDUCTIONS WHEN STOCK IS TRANSFERRED INCIDENT TO DIVORCE.—For purposes of paragraph (2), the transfer of any shareholder's stock in an S corporation incident to a decree of divorce shall include any loss or deduction described in such paragraph attributable to such stock."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transfers in taxable years beginning after December 31, 2004.

SEC. . USE OF PASSIVE ACTIVITY LOSS AND AT-RISK AMOUNTS BY QUALIFIED SUBCHAPTER S TRUST INCOME BENEFICIARIES.

(a) IN GENERAL.—Section 1361(d)(1) (relating to special rule for qualified subchapter S trust) is amended—

(1) by striking "and" at the end of subparagraph (A),

(2) by striking the period at the end of subparagraph (B) and inserting ", and", and

(3) by adding at the end the following new subparagraph:

"(C) for purposes of applying sections 465 and 469(g) to the beneficiary of the trust, the disposition of the S corporation stock by the trust shall be treated as a disposition by such beneficiary.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers in taxable years beginning after December 31, 2004.

SEC. . DISREGARD OF UNEXERCISED POWERS OF APPOINTMENT IN DETERMINING POTENTIAL CURRENT BENEFICIARIES OF ESBT.

(a) IN GENERAL.—Section 1361(e)(2) (defining potential current beneficiary) is amended by inserting "(determined without regard to any unexercised (in whole or in part) power of appointment during such period)" after "of the trust" in the first sentence.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. . CLARIFICATION OF ELECTING SMALL BUSINESS TRUST DISTRIBUTION RULES.

(a) IN GENERAL.—Section 641(c)(1) (relating to special rules for taxation of electing small business trusts) is amended—

(1) by striking "and" at the end of subparagraph (A),

(2) by redesignating subparagraph (B) as subparagraph (C), and

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) any distribution attributable to the portion treated as a separate trust shall be treated separately from any distribution attributable to the portion not so treated, and".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

PART IV—PROVISIONS RELATING TO BANKS

SEC. . SALE OF STOCK IN IRA RELATING TO S CORPORATION ELECTION EXEMPT FROM PROHIBITED TRANSACTION RULES.

(a) IN GENERAL.—Section 4975(d) (relating to exemptions) is amended by striking "or" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting "; or", and by adding at the end the following new paragraph:

"(16) a sale of stock held by a trust which constitutes an individual retirement account under section 408(a) to the individual for whose benefit such account is established if such sale is pursuant to an election under section 1362(a).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to sales of stock held by individual retirement accounts on the date of the enactment of this Act.

SEC. . EXCLUSION OF INVESTMENT SECURITIES INCOME FROM PASSIVE INCOME TEST FOR BANK S CORPORATIONS.

(a) IN GENERAL.—Section 1362(d)(3) (relating to where passive investment income exceeds certain percentage of gross receipts for 3 consecutive taxable years and corporation has accumulated earnings and profits), as amended by this Act, is amended by adding at the end the following new subparagraph:

"(E) EXCEPTION FOR BANKS; ETC.—In the case of a bank (as defined in section 581), a bank holding company (as defined in section 246A(c)(3)(B)(ii)), or a qualified subchapter S subsidiary which is a bank, the term 'passive investment income' shall not include—

"(i) interest income earned by such bank, bank holding company, or qualified subchapter S subsidiary, or

"(ii) dividends on assets required to be held by such bank, bank holding company, or qualified subchapter S subsidiary to conduct a banking business, including stock in the Federal Reserve Bank, the Federal Home Loan Bank, or the Federal Agricultural Mortgage Bank or participation certificates issued by a Federal Intermediate Credit Bank.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. . TREATMENT OF QUALIFYING DIRECTOR SHARES.

(a) IN GENERAL.—Section 1361 (defining S corporation) is amended by adding at the end the following new subsection:

"(f) TREATMENT OF QUALIFYING DIRECTOR SHARES.—

"(1) In General.—For purposes of this subchapter—

"(A) qualifying director shares shall not be treated as a second class of stock, and

"(B) no person shall be treated as a shareholder of the corporation by reason of holding qualifying director shares.

"(2) Qualifying director shares defined.—For purposes of this subsection, the term 'qualifying director shares' means any shares of stock in a bank (as defined in section 581) or in a bank holding company registered as such with the Federal Reserve System—

"(i) which are held by an individual solely by reason of status as a director of such bank or company or its controlled subsidiary; and

"(ii) which are subject to an agreement pursuant to which the holder is required to dispose of the shares of stock upon termination of the holder's status as a director at the same price as the individual acquired such shares of stock.

"(3) Distributions.—A distribution (not in part or full payment in exchange for stock) made by the corporation with respect to qualifying director shares shall be includable as ordinary income of the holder and deductible to the corporation as an expense in computing taxable income under section 1363(b) in the year such distribution is received.".

(b) Conforming Amendment.—Section 1366(a) is amended by adding at the end the following new paragraph:

"(3) Allocation with respect to qualifying director shares.—The holders of qualifying director shares (as defined in section 1361(f)) shall not, with respect to such shares of stock, be allocated any of the items described in paragraph (1).".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

Part V—Qualified Subchapter S Subsidiaries

SEC. . RELIEF FROM INADVERTENTLY INVALID QUALIFIED SUBCHAPTER S SUBSIDIARY ELECTIONS AND TERMINATIONS.

(a) In General.—Section 1362(f) (relating to inadvertent invalid elections or terminations) is amended—

(1) by inserting "or under section 1361(b)(3)(B)(ii)" after "subsection (a)" in paragraph (1),

(2) by inserting "or under section 1361(b)(3)(C)" after "subsection (d)" in paragraph (1)(B),

(3) by inserting "or a qualified subchapter S subsidiary, as the case may be" after "small business corporation" in paragraph (3)(A),

(4) by inserting "or a qualified subchapter S subsidiary, as the case may be" after "S corporation" in paragraph (4), and

(5) by inserting "or a qualified subchapter S subsidiary, as the case may be" after "S corporation" in the matter following paragraph (4).

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. . INFORMATION RETURNS FOR QUALIFIED SUBCHAPTER S SUBSIDIARIES.

(a) In General.—Section 1361(b)(3)(A) (relating to treatment of certain wholly owned subsidiaries) is amended by inserting "and in the case of information returns required under part III of subchapter A of chapter 61" after "Secretary".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

Part VI—Additional Provisions

SEC. . ELIMINATION OF ALL EARNINGS AND PROFITS ATTRIBUTABLE TO PRE-1983 YEARS.

(a) In General.—Subsection (a) of section 1311 of the Small Business Job Protection Act of 1996 is amended to read as follows:

"(a) In General.—If a corporation was an electing small business corporation under subchapter S of chapter 1 of the Internal Revenue Code of 1986 for any taxable year beginning before January 1, 1983, the amount of such corporation's accumulated earnings and profits (as of the beginning of the first taxable year beginning after December 31, 2003) shall be reduced by an amount equal to the portion (if any) of such accumulated earnings and profits which were accumulated in any taxable year beginning before January 1, 1983, for which such corporation was an electing small business corporation under such subchapter S.".

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

SA 2757. Mr. FEINGOLD (for himself, Mr. Corzine, and Mr. Durbin) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $9,936,000,000.

On page 3, line 10, increase the amount by $7,446,000,000.

On page 3, line 11, increase the amount by $2,032,000,000.

On page 3, line 12, increase the amount by $390,000,000.

On page 3, line 13, increase the amount by $90,000,000.

On page 3, line 17, increase the amount by $9,936,000,000.

On page 3, line 18, increase the amount by $7,446,000,000.

On page 3, line 19, increase the amount by $2,032,000,000.

On page 3, line 20, increase the amount by $390,000,000.

On page 3, line 21, increase the amount by $90,000,000.

On page 4, line 20, increase the amount by $9,936,000,000.

On page 4, line 21, increase the amount by $7,446,000,000.

On page 4, line 22, increase the amount by $2,032,000,000.

On page 4, line 23, increase the amount by $390,000,000.

On page 4, line 24, increase the amount by $90,000,000.

On page 5, line 3, increase the amount by $9,936,000,000.

On page 5, line 4, increase the amount by $17,382,000,000.

On page 5, line 5, increase the amount by $19,414,000,000.

On page 5, line 6, increase the amount by $19,804,000,000.

On page 5, line 7, increase the amount by $19,894,000,000.

On page 5, line 11, increase the amount by $9,936,000,000.

On page 5, line 12, increase the amount by $17,382,000,000.

On page 5, line 13, increase the amount by $19,414,000,000.

On page 5, line 14, increase the amount by $19,804,000,000.

On page 5, line 15, increase the amount by $19,894,000,000.

On page 31, line 7, strike $30,000,000,000 and replace with $50,000,000,000.

SA 2758. Mr. LAUTENBERG (for himself and Mr. Dorgan) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 45, after line 13, insert the following:

SEC. ____ . POINT OF ORDER REQUIRING OFFSET FOR SUPPLEMENTAL APPROPRIATIONS FOR IRAQ RECONSTRUCTION.

(a) Point of Order.—It shall not be in order in the Senate to consider any supplemental appropriations bill (or any motion, amendment, or conference report on any supplemental appropriation bill) providing additional resources for rehabilitation and reconstruction in Iraq unless the resources provided in the bill, motion, amendment, or conference report for such activities are fully offset in that fiscal year.

(b) Waiver and Appeal.—This section may be waived or suspended in the Senate only by an affirmative vote of ⅗ of the members, duly chosen and sworn. An affirmative vote of ⅗ of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the chair on a point of order raised under this section.

SA 2759. Mr. KOHL (for himself and Mr. Hatch) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 20, line 17, increase the amount by $122,000,000.

On page 20, line 18, increase the amount by $15,000,000.

On page 20, line 22, increase the amount by $34,000,000.

On page 21, line 1, increase the amount by $31,000,000.

On page 21, line 5, increase the amount by $24,000,000.

On page 21, line 9, increase the amount by $18,000,000.

On page 23, line 5, decrease the amount by $122,000,000.

On page 23, line 6, decrease the amount by $15,000,000.

On page 23 line 10, decrease the amount by $34,000,000.

On page 23, line 14, decrease the amount by $31,000,000.

On page 23, line 18, decrease the amount by $24,000,000.

On page 23, line 22, decrease the amount by $18,000,000.

SA 2760. Mr. DORGAN submitted an amendment intended to be proposed by him to the concurrent resolution S.

Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $344,000,000.

On page 3, line 10, increase the amount by $632,000,000.

On page 3, line 11, increase the amount by $510,000,000.

On page 3, line 12, increase the amount by $610,000,000.

On page 3, line 13, increase the amount by $104,000,000.

On page 3, line 17, increase the amount by $344,000,000.

On page 3, line 18, increase the amount by $632,000,000.

On page 3, line 19, increase the amount by $510,000,000.

On page 3, line 20, increase the amount by $610,000,000.

On page 3, line 21, increase the amount by $104,000,000.

On page 4, line 4, increase the amount by $1,100,000,000.

On page 4, line 12, increase the amount by $172,000,000.

On page 4, line 13, increase the amount by $316,000,000.

On page 4, line 14, increase the amount by $255,000,000.

On page 4, line 15, increase the amount by $305,000,000.

On page 4, line 16, increase the amount by $52,000,000.

On page 4, line 20, increase the amount by $172,000,000.

On page 4, line 21, increase the amount by $316,000,000.

On page 4, line 22, increase the amount by $255,000,000.

On page 4, line 23, increase the amount by $305,000,000.

On page 4, line 24, increase the amount by $52,000,000.

On page 5, line 3, increase the amount by $172,000,000.

On page 5, line 4, decrease the amount by $488,000,000.

On page 5, line 5, decrease the amount by $743,000,000.

On page 5, line 6, decrease the amount by $1,048,000,000.

On page 5, line 7, decrease the amount by $1,100,000,000.

On page 5, line 11, decrease the amount by $172,000,000.

On page 5, line 12, decrease the amount by $488,000,000.

On page 5, line 13, decrease the amount by $743,000,000.

On page 5, line 14, decrease the amount by $1,048,000,000.

On page 5, line 15, decrease the amount by $1,000,000,000.

On page 20, line 17, increase the amount by $1,100,000,000.

On page 20, line 18, increase the amount by $172,000,000.

On page 20, line 22, increase the amount by $316,000,000.

On page 21, line 1, increase the amount by $255,000,000.

On page 21, line 5, increase the amount by $305,000,000.

On page 21, line 9, increase the amount by $52,000,000.

On page 39, line 18, increase the amount by $1,100,000,000.

On page 39, line 19, increase the amount by $172,000,000.

On page 40, line 2, increase the amount by $316,000,000.

SA 2761. Mr. DODD (for himself, Mrs. MURRAY, Mr. CORZINE, Ms. MIKULSKI, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On pace 3, line 9, increase the amount by $120,000,000.

On page 3, line 10, increase the amount by $98,000,000.

On page 3, line 11, increase the amount by $14,000,000.

On page 3, line 12, increase the amount by $5,000,000.

On page 3, line 17, increase the amount by $120,000,000.

On page 3, line 18, increase the amount by $98,000,000.

On page 3, line 19, increase the amount by $14,000,000.

On page 3, line 20, increase the amount by $5,000,000.

On page 4, line 20, increase the amount by $120,000,000.

On page 4, line 21, increase the amount by $98,000,000.

On page 4, line 22, increase the amount by $14,000,000.

On page 4, line 23, increase the amount by $5,000,000.

On page 5, line 3, decrease the amount by $120,000,000.

On page 5, line 4, decrease the amount by $218,000,000.

On page 5, line 5, decrease the amount by $232,000,000.

On page 5, line 6, decrease the amount by $237,000,000.

On page 5, line 7, decrease the amount by $237,000,000.

On page 5, line 11, decrease the amount by $120,000,000.

On page 5, line 12, decrease the amount by $218,000,000.

On page 5, line 13, decrease the amount by $232,000,000.

On page 5, line 14, decrease the amount by $237,000,000.

On page 5, line 15, decrease the amount by $237,000,000.

At the end of Title III, insert the following:

SEC. ___. RESERVE FUND FOR THE MATERNAL AND CHILD HEALTH BLOCK GRANT.

The Chairman of the Committee on the Budget of the Senate shall revise the aggregates, functional totals, allocations to the Committee on Appropriations of the Senate, discretionary spending limits, and other appropriate levels and limits in this resolution by up to $120 million in budget authority for fiscal year 2005, and by the amount of outlays flowing therefrom in 2005 and subsequent years, for a bill, joint resolution, motion, amendment, or conference report that provides additional fiscal year 2005 discretionary appropriations, in excess of levels provided in this resolution, for the Maternal and Child Health Block Grant, included in this resolution for the Department of Health and Human Services.

SA 2762. Mr. DODD (for himself, Mrs. MURRAY, Mr. CORZINE, Ms. STABENOW, and Mr. KOHL) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $60,000,000.

On page 3, line 10, increase the amount by $1,301,000,000.

On page 3, line 11, increase the amount by $541,000,000.

On page 3, line 12, increase the amount by $100,000,000.

On page 3, line 17, increase the amount by $60,000,000.

On page 3, line 18, increase the amount by $1,301,000,000.

On page 3, line 19, increase the amount by $541,000,000.

On page 3, line 20, increase the amount by $100,000,000.

On page 4, line 20, increase the amount by $60,000,000.

On page 4, line 21, increase the amount by $1,301,000,000.

On page 4, line 22, increase the amount by $541,000,000.

On page 4, line 23, increase the amount by $100,000,000.

On page 5, line 3, decrease the amount by $60,000,000.

On page 5, line 4, decrease the amount by $1,361,000,000.

On page 5, line 5, decrease the amount by $1,902,000,000.

On page 5, line 6, decrease the amount by $2,002,000,000.

On page 5, line 7, decrease the amount by $2,002,000,000.

On page 5; line 11, decrease the amount by $60,000,000.

On page 5, line 12, decrease the amount by $1,361,000,000.

On page 5, line 13, decrease the amount by $1,902,000,000.

On page 5, line 14, decrease the amount by $2,002,000,000.

On page 5, line 15, decrease the amount by $2,002,000,000.

At the end of Title III, insert the following:

SEC. ___. RESERVE FUND FOR THE 21ST CENTURY COMMUNITY LEARNING CENTERS PROGRAM.

The Chairman of the Committee on the Budget of the Senate shall revise the aggregates; functional totals, allocations to the Committee on Appropriations of the Senate, discretionary spending limits; and other appropriate levels and limits in this resolution by up to $1,000,000,000 in budget authority for fiscal year 2005, and by the amount of outlays flowing therefrom in 2005 and subsequent years, for a bill, joint resolution, motion, amendment, or conference report that provides additional fiscal year 2005 discretionary appropriations, in excess of levels provided in this resolution, for the 21st Century Community Learning Centers program in the Department of Education.

SA 2763. Mr. BREAUX (for himself and Mr. LOTT) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 146, after line 23, add the following:

SEC. ___. REPEAL OF FOREIGN BASE COMPANY SHIPPING INCOME FOR QUALIFIED U.S. FLAG FLEETS AND CARIBBEAN BASIN SHIPPING CORPORATIONS.

(a) IN GENERAL.—Subsection (f) of section 954 is amended to read as follows:

“(f) FOREIGN BASE COMPANY SHIPPING INCOME.—For purposes of subsection (a)(4)—

“(1) IN GENERAL.—The term ‘foreign base company shipping income’ means income derived from, or in connection with, the use (or hiring or leasing for use) of any aircraft or vessel in foreign commerce, or from, or in connection with, the performance of services directly related to the use of any such aircraft, or vessel, or from the sale, exchange, or other disposition of any such aircraft or vessel. Such term includes, but is not limited to—

“(A) dividends and interest received from a foreign corporation in respect of which taxes are deemed paid under section 902, and gain from the sale, exchange, or other disposition of stock or obligations of such a foreign corporation to the extent that such dividends, interest, and gains are attributable to foreign base company shipping income, and

“(B) that portion of the distributive share of the income of a partnership attributable to foreign base company shipping income.

Such term includes any income derived from a space or ocean activity (as defined in section 863(d)(2)). Except as provided in subparagraph (A), such term shall not include any dividend or interest income which is foreign personal holding company income (as defined in subsection (c)).

“(2) EXCEPTIONS.—

“(A) IN GENERAL.—Such term shall not include income attributable to a qualified U.S.-flag fleet or a Caribbean Basin shipping corporation.

“(B) QUALIFIED U.S.-FLAG FLEET.—For purposes of this subsection, the term ‘qualified U.S.-flag fleet’ means a fleet or 2 or vessels each of which—

“(i) is documented under the laws of the United States,

“(ii) has a deadweight tonnage of not less than 10,000 deadweight tons,

“(iii) are owned by a member of the controlled group (within the meaning of section 1563) of the controlled foreign corporation, and

“(iv) has been in operation for not less than 320 days during the preceding taxable year.

For purposes of clause (iv), days during which a vessel is dry docked or undergoing survey, inspection, or repair shall be considered to be days during which the vessel is operated.

“(C) CARIBBEAN BASIN SHIPPING CORPORATION.—For purposes of this subsection—

“(i) IN GENERAL.—The term ‘Caribbean Basin shipping corporation’ means a corporation of which 75 percent of the foreign base company shipping income (as defined in paragraph (1)) for the taxable year is Caribbean Basin shipping income.

“(ii) CARIBBEAN BASIN SHIPPING INCOME.—The term ‘Caribbean Basin shipping income’ means foreign base company shipping income (as defined in paragraph (1)) derived from or in connection with the operation of any nonpassenger vessel in foreign commerce—

“(I) within any Caribbean Basin country,

“(II) among Caribbean Basin countries, or

“(III) between any Caribbean Basin country and the United States.

Such term includes any such foreign base company shipping income derived from that portion of any transshipping originating or terminating in any country which is not a Carribean Basin country if such transshipping otherwise satisfies the requirements of this clause.

“(iii) CARIBBEAN BASIN COUNTRY.—The term ‘Caribbean Basin country’ means any beneficiary country (within the meaning of section 212(a)(1)(A) of the Caribbean Basin Economic Recovery Act), except that such term shall also include Anguilla, Colombia, Mexico, the United States Virgin Islands, and Venezuela.”.

SEC. ___. INCOME OF MERCHANT SEAMAN EXCLUDABLE FROM GROSS INCOME AS FOREIGN EARNED INCOME.

(a) IN GENERAL.—Chapter 1 is amended by inserting after subchapter Q the following new subchapter:

“Subchapter R—Election to Determine Taxable Income From Certain International Shipping Activities Using per Ton Rate

“Sec. 1352. Alternative tax on qualifying shipping activities.

“Sec. 1353. Taxable income from qualifying shipping activities.

“Sec. 1354. Qualifying shipping tax election; revocation; termination.

“Sec. 1355. Definitions and special rules.

“Sec. 1356. Qualifying shipping activities.

“Sec. 1357. Items not subject to regular tax; depreciation; interest.

“Sec. 1358. Allocation of credits, income, and deductions.

“Sec. 1359. Disposition of qualifying shipping assets.

“SEC. 1352. ALTERNATIVE TAX ON QUALIFYING SHIPPING ACTIVITIES.

“(a) IN GENERAL.—In the case of an electing corporation—

“(1) the taxable income of such corporation from qualifying shipping activities shall be the amount determined under this subchapter, and

“(2) the corporate percentages of the items of income, gain, loss, deduction, or credit of such corporation and of other members of the electing group of such corporation which would otherwise be taken into account by reason of its qualifying shipping activities shall be taken into account to the extent provided in section 1357.

“(b) ALTERNATIVE TAX.—The taxable income of an electing corporation from qualifying shipping activities, if otherwise taxable under section 11, 882, or 887, shall be subject to tax only under this section at the maximum rate specified in section 11(b).

“(c) TRANSFERS TO FEDERAL VESSEL FINANCING FUND.—The Secretary of the Treasury shall transfer to the Federal Vessel Financing Fund created under title XI of the Merchant Marine Act, 1936, the taxes collected under subsection (b). Notwithstanding the preceding sentence, the income of a foreign corporation shall not be subject to tax under this subchapter to the extent its income is excludable from gross income under section 883(a)(1) or section 894(a).

“SEC. 1353. TAXABLE INCOME FROM QUALIFYING SHIPPING ACTIVITIES.

“(a) IN GENERAL.—For purposes of this subchapter, the taxable income of an electing corporation from qualifying shipping activities shall be its corporate income percentage of the sum of the amounts determined under subsection (b) for each qualifying vessel operated by such electing corporation or other electing entity.

“(b) AMOUNTS.—For purposes of subsection (a), the amount of taxable income of an electing entity for each qualifying vessel shall equal the product of—

“(1) the daily notional taxable income from the operation of the qualifying vessel in United States foreign trade, and

“(2) the number of days during the taxable year that the electing entity operated such vessel as a qualifying vessel in United States foreign trade.

“(c) DAILY NOTIONAL TAXABLE INCOME.—For purposes of subsection (b), the daily notional taxable income from the operation of a qualifying vessel is—

“(1) 40 cents for each 100 tons of the net tonnage of the vessel below 25,001 net tons, and

“(2) 20 cents for each 100 tons of the net tonnage of the vessel in excess of 25,000 net tons.

“(d) MULTIPLE OPERATORS OF VESSEL.—If 2 or more persons have a joint interest in a qualifying vessel and are considered as operators of that vessel, the taxable income from the operation of such vessel for that time (as determined under this section) shall be allocated among such persons on the basis of their ownership and charter interests in such vessel or on such other basis as the Secretary may prescribe by regulations.

“(e) NONCORPORATE PERCENTAGE.—Notwithstanding any contrary provision of this subchapter, the noncorporate percentage of any item of income, gain, loss, deduction, or credit of any member of an electing group shall be taken into account for all purposes of this subtitle as if this subchapter were not in effect.

“SEC. 1354. QUALIFYING SHIPPING TAX ELECTION; REVOCATION; TERMINATION.

“(a) IN GENERAL.—Except as provided in subsections (b) and (f), a qualifying shipping tax election may be made in respect of any qualifying entity.

“(b) CONDITION OF ELECTION.—An election may be made by a member of a controlled group under this subsection for any taxable year only if all qualifying entities that are members of the controlled group join in the election.

“(c) WHEN MADE.—An election under subsection (a) may be made by a qualifying entity in such form as prescribed by the Secretary. Such election shall be filed with the qualifying entity’s return for the first taxable year to which the election shall apply, by the due date for such return (including any applicable extensions).

“(d) YEARS FOR WHICH EFFECTIVE.—An election under subsection (a) shall be effective for the taxable year of the qualifying entity for which it is made and for all succeeding taxable years of the entity, until such election is terminated under subsection (e).

“(e) TERMINATION.—

“(1) BY REVOCATION.—

“(A) IN GENERAL.—An election under subsection (a) may be terminated by revocation.

“(B) WHEN EFFECTIVE.—Except as provided in subparagraph (C)—

“(i) a revocation made during the taxable year and on or before the fifteenth day of the third month thereof shall be effective on the 1st day of such taxable year, and

“(ii) a revocation made during the taxable year but after such fifteenth day shall be effective on the first day of the following taxable year.

“(C) REVOCATION MAY SPECIFY PROSPECTIVE DATE.—If the revocation specifies a date for revocation which is on or after the day on which the revocation is made, the revocation shall be effective on and after the date so specified.

"(2) BY ENTITY CEASING TO BE QUALIFYING ENTITY.—

"(A) IN GENERAL.—An election under subsection (a) shall be terminated whenever (at any time on or after the first day of the first taxable year for which the entity is an electing entity) such entity ceases to be a qualifying entity.

"(B) WHEN EFFECTIVE.—Any termination under this paragraph shall be effective on and after the date of cessation.

"(f) ELECTION AFTER TERMINATION.—If a qualifying entity has made an election under subsection (a) and if such election has been terminated under subsection (e), such entity (and any successor entity) shall not be eligible to make an election under subsection (a) for any taxable year before its fifth taxable year which begins after the first taxable year for which such termination is effective, unless the Secretary consents to such election.

"SEC. 1355. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter:

"(1) CONTROLLED GROUP.—The term 'controlled group' means any group of trusts and business entities whose members would be treated as a single employer under the rules of section 52(a) (without regard to paragraphs (1) and (2) thereof) and section 52(b)(1).

"(2) CORPORATE INCOME PERCENTAGE.—The term 'corporate income percentage' means the least aggregate share, expressed as a percentage, of any item of income or gain of an electing corporation or electing group of which such corporation is a member from qualifying shipping activities that would, but for an election in effect under this subchapter, be required to be reported on the Federal income tax return of an electing corporation during any taxable period. In the case of an electing group which includes 2 or more electing corporations, the corporate income percentage of each such corporation shall be determined on the basis of such corporation's direct and indirect ownership and charter interests in qualifying vessels of the electing group or on such other basis as the Secretary may prescribe by regulations.

"(3) CORPORATE LOSS PERCENTAGE.—The term 'corporate loss percentage' means the greatest aggregate share, expressed as a percentage, of any item of loss, deduction, or credit of an electing corporation or electing group of which such corporation is a member from qualifying shipping activities that would, but for an election in effect under this subchapter, be required to be reported on the Federal income tax return of an electing corporation during any taxable period.

"(4) CORPORATE PERCENTAGES.—The term 'corporate percentages' means the corporate income percentage and the corporate loss percentage.

"(5) ELECTING CORPORATION.—The term 'electing corporation' means any C corporation that is an electing entity or that would, but for an election in effect under this subchapter, be required to report any item of income, gain, loss, deduction, or credit of an electing entity on its Federal income tax return.

"(6) ELECTING ENTITY.—The term 'electing entity' means any qualifying entity for which an election is in effect under this subchapter.

"(7) ELECTING GROUP.—The term 'electing group' means a controlled group of which one or more members is an electing entity.

"(8) NONCORPORATE PERCENTAGE.—The term 'noncorporate percentage' means the difference between 100 percent and the corporate income percentage or corporate loss percentage, as applicable.

"(9) QUALIFYING ENTITY.—The term 'qualifying entity' means a trust or business entity that—

"(A) operates 1 or more qualifying vessels, and

"(B) meets the shipping activity requirement in subsection (c).

"(10) QUALIFYING SHIPPING ASSETS.—The term 'qualifying shipping assets' means any qualifying vessel and other assets which are used in core qualifying activities as described in section 1356(b).

"(11) QUALIFYING VESSEL.—The term 'qualifying vessel' means a self-propelled (or a combination self-propelled and non-self-propelled) United States flag vessel of not less than 10,000 deadweight tons used in the United States foreign trade.

"(12) UNITED STATES DOMESTIC TRADE.—The term 'United States domestic trade' means the transportation of goods or passengers between places in the United States.

"(13) UNITED STATES FLAG VESSEL.—The term 'United States flag vessel' means any vessel documented under the laws of the United States.

"(14) UNITED STATES FOREIGN TRADE.—The term 'United States foreign trade' means the transportation of goods or passengers between a place in the United States and a foreign place or between foreign places.

"(b) OPERATING A VESSEL.—For purposes of this subchapter:

"(1) Except as provided in paragraph (2), an entity is treated as operating any vessel owned by, or chartered (including a time charter) to, the entity.

"(2) An entity is treated as operating a vessel that it has chartered out on bareboat charter terms only if—

"(A) the vessel is temporarily surplus to the entity's requirements and the term of the charter does not exceed 3 years; or

"(B) the vessel is bareboat chartered to a member of a controlled group which includes such entity or to an unrelated third party that sub-bareboats or time charters the vessel to a member of such controlled group (including the owner).

"(c) SHIPPING ACTIVITY REQUIREMENT.—For purposes of this section, the shipping activity requirement is met for a taxable year only by an entity described in paragraph (1), (2), or (3).

"(1) An entity in the first taxable year of its qualifying shipping tax election if, for the preceding taxable year, the test in paragraph (4) is met.

"(2) An entity in the second or any subsequent taxable year of its qualifying shipping tax election if, for each of the 2 preceding taxable years, the test in paragraph (4) is met.

"(3) An entity that would be described in paragraph (1) or (2) if the test in paragraph (4) were applied on an aggregate basis to the controlled group of which such entity is a member, and vessel charters between members of the controlled group were disregarded.

"(4) The test in this paragraph is met if on average at least 25 percent of the aggregate tonnage of qualifying vessels operated by the entity were owned by the entity or chartered to the entity on bareboat charter terms. For purposes of the preceding sentence, vessels chartered (including time chartered) to an entity by a member of a controlled group which includes the entity, or by a third party that bareboat charters the vessels from the entity or a member of the entity's controlled group, shall be treated as chartered to the entity on bareboat charter terms.

"(d) EFFECT OF TEMPORARILY CEASING TO OPERATE A QUALIFYING VESSEL.—

"(1) A temporary cessation by an electing entity, in operation of a qualifying vessel shall be disregarded for purposes of subsections (b) and (c) until an occurrence described in paragraph (3) if the electing entity gives timely notice to the Secretary stating—

"(A) that it has temporarily ceased to operate the qualifying vessel, and

"(B) its intention to resume operating the qualifying vessel.

"(2) Notice shall be deemed timely if given not later than the due date (including extensions) for the electing entity's tax return (as set forth in section 6072(b)) for the taxable year in which the temporary cessation begins.

"(3) The disregard provided by paragraph (1) continues until the earlier to occur of—

"(A) the electing entity abandoning its intention to resume operation of the qualifying vessel, or

"(B) the electing entity resuming operation of the qualifying vessel.

"(e) EFFECT OF TEMPORARILY OPERATING A QUALIFYING VESSEL IN THE UNITED STATES DOMESTIC TRADE.—

"(1) The temporary operation in the United States domestic trade of any qualifying vessel which had been used in the United States foreign trade shall be disregarded for purposes of this subchapter until an occurrence described in paragraph (3) if the electing entity gives timely notice to the Secretary stating—

"(A) that it temporarily operates or has operated in the United States domestic trade a qualifying vessel which had been used in the United States foreign trade, and

"(B) its intention to resume operation of the vessel in the United States foreign trade.

"(2) Notice shall be deemed timely if given not later than the due date (including extensions) for the electing entity's tax return (as set forth in section 6072(b)) for the taxable year in which the temporary cessation begins.

"(3) The disregard provided by paragraph (1) continues until the earlier to occur of—

"(A) the electing entity abandoning its intention to resume operations of the vessel in the United States foreign trade, or

"(B) the electing entity resuming operation of the vessel in the United States foreign trade.

"(f) EFFECT OF CHANGE IN USE.—

"(1) Except as provided in subsection (e), a vessel that is used other than for operations in the United States foreign trade on other than a temporary basis ceases to be a qualifying vessel when such use begins.

"(2) For purposes of this subsection, a change in use of a vessel, other than a commencement of operation in the United States domestic trade, is taken to be permanent unless there are circumstances indicating that it is temporary.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

"SEC. 1356. QUALIFYING SHIPPING ACTIVITIES.

"(a) QUALIFYING SHIPPING ACTIVITIES.—For purposes of this subchapter, the term 'qualifying shipping activities' means the activities of an electing entity which consist of—

"(1) its core qualifying activities,

"(2) its qualifying secondary activities, and

"(3) its qualifying incidental activities.

"(b) Core Qualifying Activities.—

"(1) The core qualifying activities of an electing entity are—

"(A) its activities in operating qualifying vessels in United States foreign trade, and

"(B) other activities of the electing entity and other members of its electing group that are an integral part of its business of operating qualifying vessels in United States foreign trade, including ownership or operation of barges, containers, chassis, and other equipment that are the complement of, or used in connection with, a qualifying vessel in United States foreign trade, the inland haulage of cargo shipped, or to be shipped, on qualifying vessels in United States foreign trade, and the provision of terminal, maintenance, repair, logistical, or other vessel, container, or cargo-related services that are an integral part of operating qualifying vessels in United States foreign trade.

"(2) Core qualifying activities do not include the provision by an entity of facilities or services to any person, other than—

"(A) another member of such entity's electing group,

"(B) a consignor, consignee, or other customer of such entity's business of operating qualifying vessels in United States foreign trade, or

"(C) a member of an alliance, joint venture, pool, partnership, or similar undertaking involving the operation of qualifying vessels in United States foreign trade of which such entity is a member.

"(c) Qualifying Secondary Activities.—For purposes of this subsection—

"(1) the term 'secondary activities' means activities that are not core qualifying activities, and—

"(A) are the active management or operation of vessels in the United States foreign trade,

"(B) the provision of vessel, container, or cargo-related facilities or services to any person, or

"(C) such other activities as may be prescribed by the Secretary pursuant to regulations, and

"(2) the qualified secondary activities of an electing entity are its secondary activities and the secondary activities of other members of its electing group, but only to the extent that, without regard to this subchapter, the aggregate gross income derived by the electing entity and the other members of its electing group from such activities does not exceed 20 percent of the aggregate gross income derived by the electing entity and the other members of its electing group from their core qualifying activities.

"(d) Qualifying Incidental Activities.—Shipping-related activities carried on by an electing entity or another member of its electing group are qualified incidental activities of the electing entity if—

"(1) they are incidental to its core qualifying activities,

"(2) they are not qualifying secondary activities, and

"(3) without regard to this subchapter, the aggregate gross income derived by the electing entity and other members of its electing group from such activities does not exceed 0.1 percent of such entities' aggregate gross income from their core qualifying activities.

"SEC. 1357. ITEMS NOT SUBJECT TO REGULAR TAX; DEPRECIATION; INTEREST.

"(a) Exclusion From Gross Income.—Gross income of an electing entity shall not include the corporate income percentage of—

"(1) its income from qualifying shipping activities in the United States foreign trade,

"(2) its income from money, bank deposits, and other temporary investments which are reasonably necessary to meet the working capital requirements of its qualifying shipping activities, and

"(3) its income from money or other intangible assets accumulated pursuant to a plan to purchase qualifying shipping assets.

"(b) Electing Group Member.—Gross income of a member of an electing group that is not an electing entity shall not include the corporate income percentage of its income from qualifying shipping activities that are taken into account under this subchapter as qualifying shipping activities of an electing entity.

"(c) Denial of Losses, Deductions, and Credits.—

"(1) General rule.—Subject to paragraph (2), the corporate loss percentage of each item of loss, deduction (other than for interest expense), or credit of any taxpayer with respect to any activity the income from which is excluded from gross income under this section shall be disallowed.

"(2) Depreciation.—Notwithstanding paragraph (1), the deduction for depreciation of a qualifying shipping asset shall be allowed in determining the adjusted basis of such asset for purposes of determining gain from its disposition.

"(A) Except as provided in subparagraph (B), the straight line method of depreciation shall apply to the corporate income percentage of qualifying shipping assets the income from operation of which is excluded from gross income under this section.

"(B) Subparagraph (A) shall not apply to any qualifying shipping asset which is subject to a charter entered into prior to the effective date of this subchapter.

"(3) Interest.—The corporate loss percentage of an electing entity's interest expense shall be disallowed in the ratio that the fair market value of its qualifying vessel assets bears to the fair market value of its total assets.

"(d) Section Inapplicable to Unrelated Persons.—This section shall not apply to a taxpayer that is not a member of an electing group.

"SEC. 1358. ALLOCATION OF CREDITS, INCOME, AND DEDUCTIONS.

"(a) Qualifying Shipping Activities.—For purposes of this chapter the qualifying shipping activities of an electing entity shall be treated as a separate trade or business activity distinct from all other activities conducted by the entity.

"(b) Exclusion of Credits or Deductions.—

"(1) No deduction shall be allowed against the taxable income of an electing corporation from qualifying shipping activities, and no credit shall be allowed against the tax imposed by section 1352(b).

"(2) No deduction shall be allowed for any net operating loss attributable to the qualifying shipping activities of a corporation to the extent that such loss is carried forward by the corporation from a taxable year preceding the first taxable year for which such corporation was an electing corporation.

"(c) Transactions not at Arm's Length.—Section 482 applies in accordance with this subsection to a transaction or series of transactions—

"(1) as between an electing entity and another person, or

"(2) as between an entity's qualifying shipping activities and other activities carried on by it.

"SEC. 1359. DISPOSITION OF QUALIFYING SHIPPING ASSETS.

"(a) In General.—If an electing entity sells or disposes of qualifying shipping assets (as defined in subsection (c)) in an otherwise taxable transaction, at the election of the entity no gain shall be recognized if replacement qualifying shipping assets are acquired during the period specified in subsection (b), except to the extent that the amount realized upon such sale or disposition exceeds the cost of the replacement qualifying shipping assets.

"(b) Period Within Which Property Must Be Replaced.—The period referred to in subsection (a) shall be the period beginning 1 year prior to the disposition of the qualifying shipping assets and ending—

"(1) 3 years after the close of the first taxable year in which the gain is realized, or

"(2) subject to such terms and conditions as may be specified by the Secretary, on such later date as the Secretary may designate on application by the taxpayer. Such application shall be made at such time and in such manner as the Secretary may by regulations prescribe.

"(c) Time for Assessment of Deficiency Attributable to Gain.—If an electing entity has made the election provided in subsection (a), then—

"(1) the statutory period for the assessment of any deficiency, for any taxable year in which any part of the gain is realized, attributable to such gain shall not expire prior to the expiration of 3 years from the date the Secretary is notified by the entity (in such manner as the Secretary may by regulations prescribe) of the replacement tonnage tax property or of an intention not to replace, and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of section 6212(c) or the provisions of any other law or rule of law which would otherwise prevent such assessment.

"(d) Basis of Replacement Qualifying Shipping Assets.—In the case of replacement qualifying shipping assets purchased by an electing entity which resulted in the nonrecognition of any part of the gain realized as the result of a sale or other disposition of qualifying shipping assets, the basis shall be the cost of such property decreased in the amount of the gain not so recognized; and if the property purchased consists of more than 1 piece of property, the basis determined under this sentence shall be allocated to the purchased properties in proportion to their respective costs.

"(e) Replacement Qualifying Shipping Assets Must Be Acquired From Unrelated Person in Certain Cases.—

"(1) In general.—Subsection (a) shall not apply if the replacement qualifying shipping assets are acquired from a related person except to the extent that the related person acquired the replacement qualifying shipping assets from an unrelated person during the period applicable under subsection (b).

"(2) Related person.—For purposes of this subsection, a person is related to another person if the person bears a relationship to the other person described in section 267(b) or 707(b)(1).".

(b) Technical and Conforming Amendment.—The second sentence of section 56(g)(4)(B)(i) is amended by striking "or under section 114." and inserting ", under section 114 or under section 1357.".

(c) Clerical Amendment.—The table of subchapters for chapter 1 is amended by inserting after the item relating to subchapter Q the following new item:

"SUBCHAPTER A. Election To Determine Taxable Income From Certain International Shipping Activities Using per Ton Rate.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. ___. INCOME OF MERCHANT SEAMAN EXCLUDABLE FROM GROSS INCOME AS FOREIGN EARNED INCOME.

(a) IN GENERAL.—Section 911(d) (relating to citizens or residents of the United States living abroad) is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following:

"(9) APPLICATION TO CERTAIN MERCHANT MARINE CREWS.—In applying this section to an individual who is a citizen or resident of the United States and who is employed for a minimum of 90 days during a taxable year as a regular member of the crew of a qualified vessel (as defined in section 1355)—

"(A) the individual shall be treated as a qualified individual without regard to the requirements of paragraph (1), and

"(B) any earned income attributable to services performed by that individual so employed on such a vessel while it is engaged in transportation between the United States and a foreign country or possession of the United States shall be treated (except as provided by subsection (b)(1)(B)) as foreign earned income regardless of the source of such income.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SA 2764. Mr. BREAUX (for himself and Mr. HATCH) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, after line 25, add the following:

SEC. ___. REPEAL OF 10 YEAR RULE FOR QUALIFIED MORTGAGE BONDS; HOLIDAY FOR USE OF CERTAIN REPAYMENTS.

(a) REPEAL.—Subparagraph (A) of section 143(a)(2) (relating to qualified mortgage issue defined) is amended by striking the last sentence thereof.

(b) HOLIDAY FOR PREPAYMENTS.—Subparagraph (A) of section 143(a)(2) is amended by adding at the end the following flush sentence: "Clause (iv) shall not apply to amounts received during 2004, 2005, and 2006.".

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to bonds issued after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to amounts received after December 31, 2003.

SA 2765. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 45, after line 13, insert the following:

SEC. ___. POINT OF ORDER REQUIRING THAT INCREASES THE NUMBER OF TAXPAYERS AFFECTED BY THE ALTERNATIVE MINIMUM TAX AGAINST LEGISLATION.

(a) POINT OF ORDER IN THE SENATE.—It shall not be in order in the Senate to consider a bill, amendment, motion, joint resolution, or conference report that increases the number of taxpayers affected by the alternative minimum tax, except for a measure that extends expiring provisions relating to the child audit, the 10 percent tax bracket, and the marriage penalty.

(b) SUPERMAJORITY WAIVER AND APPEAL.—This section may be waived or suspended in the Senate only by an affirmative vote of ⅗ of the Members, duly chosen and sworn. An affirmative vote of ⅗ of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

SA 2766. Mr. BINGAMAN (for himself, Mr. HATCH, Mr. BREAUX, and Mrs. LINCOLN) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 378, after line 12, add the following:

SEC. ___. MOTOR VEHICLE DEALER TRANSITIONAL ASSISTANCE.

(a) IN GENERAL.—For purposes of subtitle A of the Internal Revenue Code of 1986, in the case of a taxpayer who elects the application of this section and who was a party to a motor vehicle sales and service agreement with a motor vehicle manufacturer who announced in December 2000 that it would phase-out the motor vehicle brand to which such agreement relates—

(1) amounts received by such taxpayer from such manufacturer on account of the termination of such agreement (hereafter in this section referred to as "termination payment") are considered to be received for property used in the trade or business of a motor vehicle retail sales and service dealership, and

(2) to the extent such termination payment is reinvested in property used in a motor vehicle retail sales and service dealership located within the United States, such property shall qualify as like-kind replacement property to which section 1031 of the Internal Revenue Code of 1986 shall apply with the following modifications:

(A) Such section shall be applied without regard to subparagraphs (A) and (B)(ii) of subsection (a)(3).

(B) The period described in section 1031(a)(3)(B) of such Code shall be applied by substituting "2 years" for "180 days".

(b) RULES FOR ELECTION.—

(1) FORM OF ELECTION.—The taxpayer shall make an election under this section in such form and manner as the Secretary of the Treasury may prescribe and shall include in such election the amount of the termination payment received, the identification of the replacement property purchased, and such other information as the Secretary may prescribe.

(2) ELECTION ON AMENDED RETURN.—The Secretary of the Treasury shall permit an election under this section on an amended tax return for taxable years beginning before the date of the enactment of this Act.

(c) STATUTE OF LIMITATIONS.—Notwithstanding the provisions of any other law or rule of law, the statutory period for the assessment for any deficiency attributable to any termination payment gain shall be extended until 3 years after the date the Secretary of the Treasury is notified by the taxpayer of the like-kind replacement property or an intention not to replace.

(d) EFFECTIVE DATE.—This section shall apply to amounts received after December 12, 2000, in taxable years ending after such date.

SA 2767. Mr. BINGAMAN (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill S. 1637, to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, after line 25, insert the following:

SEC. ___. DISTRIBUTIONS FROM PUBLICLY TRADED PARTNERSHIPS TREATED AS QUALIFYING INCOME OF REGULATED INVESTMENT COMPANIES.

(a) IN GENERAL.—Paragraph (2) of section 851(b) (defining regulated investment company) is amended to read as follows:

"(2) at least 90 percent of its gross income is derived from—

"(A) dividends, interest, payments with respect to securities loans (as defined in section 512(a)(5)), and gains from the sale or other disposition of stock or securities (as defined in section 2(a)(36) of the Investment Company Act of 1940, as amended) or foreign currencies, or other income (including but not limited to gains from options, futures or forward contracts) derived with respect to its business of investing in such stock, securities, or currencies, and

"(B) distributions or other income derived from an interest in a qualified publicly traded partnership (as defined in subsection (h)); and"

(b) SOURCE FLOW-THROUGH RULE NOT TO APPLY.—The last sentence of section 851(b) is amended by inserting "(other than a qualified publicly traded partnership as defined in subsection (h))" after "derived from a partnership".

(c) LIMITATION ON OWNERSHIP.—Subsection (c) of section 851 is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

"(5) The term 'outstanding voting securities of such issuer' shall include the equity securities of a qualified publicly traded partnership (as defined in subsection (h)).".

(d) DEFINITION OF QUALIFIED PUBLICLY TRADED PARTNERSHIP.—Section 851 is amended by adding at the end the following new subsection:

"(h) Qualified Publicly Traded Partnership.—For purposes of this section, the term 'qualified publicly traded partnership' means a publicly traded partnership described in section 7704(b) other than a partnership which would satisfy the gross income requirements of section 7704(c)(2) if qualifying income included only income described in subsection (b)(2)(A).".

(e) Definition of Qualifying Income.—Section 7704(d)(4) is amended by striking "section 851(b)(2)" and inserting "section 851(b)(2)(A)".

(f) Limitation on Composition of Assets.—Subparagraph (B) of section 851(b)(3) is amended to read as follows:

"(B) not more than 25 percent of the value of its total assets is invested in—

"(i) the securities (other than Government securities or the securities of other regulated investment companies) of any one issuer,

"(ii) the securities (other than the securities of other regulated investment companies) of two or more issuers which the taxpayer controls and which are determined, under regulations prescribed by the Secretary, to be engaged in the same or similar trades or businesses or related trades or businesses, or

"(iii) the securities of one or more qualified publicly traded partnerships (as defined in subsection (h)).".

(g) Application of Special Passive Activity Rule to Regulated Investment Companies.—Subsection (k) of section 469 (relating to separate application of section in case of publicly traded partnerships) is amended by adding at the end the following new paragraph:

"(4) Application to regulated investment companies.—For purposes of this section, a regulated investment company (as defined in section 851) holding an interest in a qualified publicly traded partnership (as defined in section 851(h)) shall be treated as a taxpayer described in subsection (a)(2) with respect to items attributable to such interest.".

(h) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SA 2768. Mr. LIEBERMAN (for himself, Mr. Schumer, Ms. Mikulski, Mr. Lautenberg, Mr. Biden, Mrs. Murray, Mr. Kennedy, Mr. Corzine, Mr. Levin, Mr. Kohl, Mrs. Boxer, Mr. Dodd, Mr. Johnson, Mr. Akaka, Mr. Durbin, Mr. Leahy, and Mr. Kerry) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $3,664,000,000.

On page 3, line 10, increase the amount by $4,533,000,000.

On page 3, line 11, increase the amount by $4,089,000,000.

On page 3, line 12, increase the amount by $ 1,160,000,000.

On page 3, line 13, increase the amount by $175,000,000.

On page 3, line 17, increase the amount by $3,664,000,000.

On page 3, line 18, increase the amount by $4,533,000,000.

On page 3, line 19, increase the amount by $4,089,000,000.

On page 3, line 20, increase the amount by $1,160,000,000.

On page 3, line 21, increase the amount by $175,000,000.

On page 4, line 4, increase the amount by $6,844,000,000.

On page 4, line 12, increase the amount by $1,832,000,000.

On page 4, line 13, increase the amount by $2,268,000,000.

On page 4, line 14, increase the amount by $2,045,000,000.

On page 4, line 15, increase the amount by $579,000,000.

On page 4, line 16, increase the amount by $88,000,000.

On page 4, line 20, increase the amount by $1,832,000,000.

On page 4, line 21, increase the amount by $2,265,000,000.

On page 4, line 22, increase the amount by $2,044,000,000.

On page 4, line 23, increase the amount by $581,000,000.

On page 4, line 24, increase the amount by $87,000,000.

On page 5, line 3, decrease the amount by $1,832,000,000.

On page 5, line 4, decrease the amount by $4,098,000,000.

On page 5, line 5, decrease the amount by $6,142,000,000.

On page 5, line 6, decrease the amount by $6,723,000,000.

On page 5, line 7, decrease the amount by $6,810,000,000.

On page 5, line 11, decrease the amount by $1,832,000,000.

On page 5, line 12, decrease the amount by $4,098,000,000.

On page 5, line 13, decrease the amount by $6,142,000,000.

On page 5, line 14, decrease the amount by $6,723,000,000.

On page 5, line 15, decrease the amount by $6,810,000,000.

On page 13, line 23, increase the amount by $1,400,000,000.

On page 13, line 24, increase the amount by $603,000,000.

On page 14, line 3, increase the amount by $337,000,000.

On page 14, line 7, increase the amount by $299,000,000.

On page 14, line 11, increase the amount by $94,000,000.

On page 14, line 15, increase the amount by $34,000,000.

On page 14, line 19, increase the amount by $3,409,000,000.

On page 14, line 20, increase the amount by $511,000,000.

On page 14, line 24, increase the amount by $1,364,000,000.

On page 15, line 3, increase the amount by $1,364,000,000.

On page 15, line 7, increase the amount by $170,000,000.

On page 16, line 12, increase the amount by $500,000,000.

On page 16, line 13, increase the amount by $160,000,000.

On page 16, line 17, increase the amount by $220,000,000.

On page 16, line 21, increase the amount by $90,000,000.

On page 16, line 25, increase the amount by $20,000,000.

On page 17, line 4, increase the amount by $10,000,000.

On page 20, line 17, increase the amount by $1,535,000,000.

On page 20, line 18, increase the amount by $558,000,000.

On page 20, line 22, increase the amount by $347,000,000.

On page 21, line 1, increase the amount by $292,000,000.

On page 21, line 5, increase the amount by $295,000,000.

On page 21 line 9, increase the amount by $44.000,000.

On page 39, line 18, increase the amount by $6,844,000,000.

On page 39, line 19, increase the amount by $1,832,000,000.

On page 40, line 2, increase the amount by $2,267,000,000.

SA 2769. Mr. BYRD submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 43, strike lines 11 through 20, and insert the following:

(b) Funding for Bioshield.—Amounts made available for Project Bioshield pursuant to Public Law 108–90 shall not be scored for purposes of enforcing discretionary spending limits in the Senate.

SA 2770. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE CONCERNING INCLUSION OF ETHANOL FUEL CREDIT IN DIRECT PAYMENTS LIMITATION.

It is the sense of the Senate that the levels in this concurrent resolution assume that in making appropriations and revenue decisions with respect to budget function 350, the Senate—

(1) assumes that statutory changes will be made to the payment limitations established under sections 1001 through 1001F of the Food Security Act of 1985 (7 U.S.C. 1308 through 1308–5); and

(2) supports the inclusion of the value to a person of the applicable ethanol fuel credit under section 4081(c) of the Internal Revenue Code of 1986 in the limitation on direct payments established under section 1001(b) of the Food Security Act of 1985 (7 U.S.C. 1308(c)).

SA 2771. Mr. HATCH (for himself and Mr. Biden) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 20, line 17. increase the amount by $600,000,000.

On page 20, line 18, increase the amount by $132,000,000.

On page 20, line 22, increase the amount by $180,000,000.

On page 21, line 1, increase the amount by $120,000,000.

On page 21, line 5, increase the amount by $90,000,000.

On page 21, line 9, increase the amount by $78,000,000.

On page 21, line 13, decrease the amount by $600,000,000.

On page 21, line 14, decrease the amount by $132,000,000.

On page 21, line 18, decrease the amount by $180,000,000.

On page 21, line 22, decrease the amount by $120,000,000.

On page 22, line 1, decrease the amount by $90,000,000.

On page 22, line 5, decrease the amount by $78,000,000.

SA 2772. Mr. DURBIN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 45, after line 13, insert the following:

SEC. ____. POINT OF ORDER REQUIRING THAT THE AMT BE DEALT WITH BEFORE OTHER TAX CUTS FOR THE WEALTHY.

(a) POINT OF ORDER IN THE SENATE.—It shall not be in order in the Senate to consider a bill, amendment, motion, joint resolution, or conference report that would cut taxes for taxpayers with annual adjusted gross incomes of greater than $337,000 unless that measure or a previously enacted measure permanently reduces the number of taxpayers and families with annual adjusted gross incomes of less than $150,000 that will be subject to the alternative minimum tax over the next decade.

(b) SUPERMAJORITY WAIVER AND APPEAL.—This section may be waived or suspended in the Senate only by an affirmative vote of ⅗ of the Members, duly chosen and sworn. An affirmative vote of ⅗ of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

SA 2773. Mr. DURBIN (for himself, Mr. LEVIN, Mr. KERRY, Mrs. MURRAY, Mr. KOHL, Mrs. CLINTON, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 8, line 21, increase the amount by $618,000,000.

On page 8, line 22, increase the amount by $62,000,000.

On page 9, line 1, increase the amount by $340,000,000.

On page 9, line 5, increase the amount by $116,000,000.

On page 9, line 9, increase the amount by $54,000,000.

On page 9, line 13, increase the amount by $25,000,000.

On page 16, line 12, increase the amount by $174,000,000.

On page 16, line 13, increase the amount by $49,000,000.

On page 16, line 17, increase the amount by $87,000,000.

On page 16, line 21, increase the amount by $22,000,000.

On page 16, line 25, increase the amount by $8,000,000.

On page 17, line 4, increase the amount by $5,000,000.

On page 23, line 5, increase the amount by $792,000,000.

On page 23, line 6, decrease the amount by $111,000,000.

On page 23, line 10, decrease the amount by $427,000,000.

On page 23, line 14, decrease the amount by $138,000,000.

On page 23, line 18, decrease the amount by $62,000,000.

On page 23, line 22, decrease the amount by $30,000,000.

SA 2774. Mr. DASCHLE (for himself, Mr. DORGAN, Mrs. MURRAY, Mr. BINGAMAN, Mr. JOHNSON, Mr. WYDEN, Ms. STABENOW, Mr. AKAKA, Ms. CANTWELL, Mr. INOUYE, and Mr. REID) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $6,123,000,000.

On page 3, line 10, increase the amount by $688,000,000.

On page 3, line 11, increase the amount by $69,000,000.

On page 3, line 17, increase the amount by $6,123,000,000.

On page 3, line 18, increase the amount by $688,000,000.

On page 3, line 19, increase the amount by $69,000,000.

On page 4, line 20, increase the amount by $6,123,000,000.

On page 4, line 21, increase the amount by $688,000,000.

On page 4, line 22, increase the amount by $69,000,000.

On page 5, line 3, decrease the amount by $6,123,000,000.

On page 5, line 4, decrease the amount by $6,811,000,000.

On page 5, line 5, decrease the amount by $6,880,000,000.

On page 5, line 6, decrease the amount by $6,880,000,000.

On page 5, line 7, decrease the amount by $6,880,000,000.

On page 5, line 11, decrease the amount by $6,123,000,000.

On page 5, line 12, decrease the amount by $6,811,000,000.

On page 5, line 13, decrease the amount by $6,880,000,000.

On page 5, line 14, decrease the amount by $6,880,000,000.

On page 5, line 15, decrease the amount by $6,880,000,000.

At the end of Title III, insert the following:

SEC. ____. RESERVE FUND FOR INDIAN HEALTH SERVICE CLINICAL SERVICES.

The Chairman of the Committee on the Budget of the Senate shall revise the aggregates, functional totals, allocations to the Committee on Appropriations of the Senate, discretionary spending limits, and other appropriate levels and limits in this resolution by up to $3,440,000,000 in budget authority for fiscal year 2005, and by the amount of outlays flowing therefrom in 2005 and subsequent years, for a bill, joint resolution, motion, amendment, or conference report that provides additional fiscal year 2005 discretionary appropriations, in excess of levels provided in this resolution, for Indian Health Service clinical services, included in this resolution for the Department of Health and Human Services.

SA 2775. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $876,000,000.

On page 3, line 10, increase the amount by $1,054,000,000.

On page 3, line 11, increase the amount by $998,000,000.

On page 3, line 12, increase the amount by $1,066,000,000.

On page 3, line 13, increase the amount by $1,520,000,000.

On page 3, line 17, increase the amount by $876,000,000.

On page 3, line 18, increase the amount by $1,054,000,000.

On page 3, line 19, increase the amount by $998,000,000.

On page 3, line 20, increase the amount by $1,066,000,000.

On page 3, line 21, increase the amount by $1,520,000,000.

On page 4, line 20, increase the amount by $876,000,000.

On page 4, line 21, increase the amount by $1,054,000,000.

On page 4, line 22, increase the amount by $998,000,000.

On page 4, line 23, increase the amount by $1,066,000,000.

On page 4, line 24, increase the amount by $1,520,000,000.

On page 5, line 3, increase the amount by $876,000,000.

On page 5, line 4, increase the amount by $1,930,000,000.

On page 5, line 5, increase the amount by $2,928,000,000.

On page 5, line 6, increase the amount by $3,994,000,000.

On page 5, line 7, increase the amount by $5,514,000,000.

On page 5, line 11, increase the amount by $876,000,000.

On page 5, line 12, increase the amount by $1,930,000,000.

On page 5, line 13, increase the amount by $2,928,000,000.

On page 5, line 14, increase the amount by $3,994,000,000.

On page 5, line 15, increase the amount by $5,514,000,000.

SEC. . RESERVE FUND FOR ELIMINATING SURVIVOR BENEFIT PLAN—SOCIAL SECURITY OFFSET.

If the Committee on Armed Services or the Committee on Appropriations reports a bill or joint resolution, or an amendment thereto is offered or a conference report thereon is submitted, that provides for an increase to the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, the Chairman of the Committee on the Budget shall revise the aggregates, functional totals, allocations, discretionary caps, and other appropriate levels and limits in this resolution by up to $2,757,000,000 in budget authority and $2,757,000,000 in outlays over the total of fiscal years 2005 through 2009.

SA 2776. Mr. McCAIN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

SEC. ____. RESTRICTIONS ON UNAUTHORIZED APPROPRIATIONS.

(a) IN GENERAL.—It shall not be in order in the Senate to consider any bill, joint resolution, motion, amendment, or conference report that would provide an unauthorized appropriation.

(b) WAIVER OR SUSPENSION.—

(1) In the Senate, subsection (a) may be waived or suspended only by an affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under subsection (a).

(2) A point of order under subsection (a) may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974 (2 U.S.C. 644(e)).

(3) If a point of order is sustained under subsection (a) against a conference report in the Senate, the report shall be disposed of as provided in section 313(d) of the Congressional Budget Act of 1974 (2 U.S.C. 644(d)).

(c) UNAUTHORIZED APPROPRIATION DEFINED.—In this section:

(1) UNAUTHORIZED APPROPRIATION.—The term "unauthorized appropriation" means an appropriation—

(A) not specifically authorized by law or Treaty stipulation (unless the appropriation has been specifically authorized by an Act or resolution previously passed by the Senate during the same session or proposed in pursuance of an estimate submitted in accordance with law); or

(B) the amount of which exceeds the amount specifically authorized by law or Treaty stipulation (or specifically authorized by an Act or resolution previously passed by the Senate during the same session or proposed in pursuance of an estimate submitted in accordance with law) to be appropriated.

(2) SPECIFICALLY AUTHORIZED.—For purposes of paragraph (1), an appropriation shall not be considered to be specifically authorized if it is restricted or directed to, or authorized to be obligated or expended for the benefit of, an identifiable person, program, project, entity, or jurisdiction by earmarking or other specification, whether by name or description, in a manner that—

(A) discriminates against other persons, programs, projects, entities, or jurisdictions similarly situated that would be eligible, but for the restriction, direction, or authorization, for the amount appropriated, or

(B) is so restricted, directed, or authorized that it applies only to a single identifiable person, program, project, entity, or jurisdiction,

unless the identifiable person, program, project, entity, or jurisdiction to which the restriction, direction, or authorization applies is described or otherwise clearly identified in a law or Treaty stipulation (or an Act or resolution previously passed by the Senate during the same session or in the estimate submitted in accordance with law) that specifically provides for the restriction, direction, or authorization of appropriation for such person, program, project, entity, or jurisdiction.

SA 2777. Mr. CORZINE proposed an amendment to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; as follows:

On page 3, line 9, increase the amount by $20,000,000,000.

On page 3, line 10, increase the amount by $31,000,000,000.

On page 3, line 11, increase the amount by $34,000,000,000.

On page 3, line 12, increase the amount by $39,000,000,000.

On page 3, line 13, increase the amount by $36,000,000,000.

On page 3, line 17, increase the amount by $20,000,000,000.

On page 3, line 18, increase the amount by $31,000,000,000.

On page 3, line 19, increase the amount by $34,000,000,000.

On page 3, line 20, increase the amount by $39,000,000,000.

On page 3, line 21, increase the amount by $36,000,000,000.

On page 4, line 20, increase the amount by $20,000,000,000.

On page 4, line 21, increase the amount by $31,000,000,000.

On page 4, line 22, increase the amount by $34,000,000,000.

On page 4, line 23, increase the amount by $39,000,000,000.

On page 4, line 24, increase the amount by $36,000,000,000.

On page 5, line 3, decrease the amount by $20,000,000,000.

On page 5, line 4, decrease the amount by $31,000,000,000.

On page 5, line 5, decrease the amount by $34,000,000,000.

On page 5, line 6, decrease the amount by $39,000,000,000.

On page 5, line 7, decrease the amount by $36,000,000,000.

On page 5, line 11, decrease the amount by $20,000,000,000.

On page 5, line 12, decrease the amount by $31,000,000,000.

On page 5, line 13, decrease the amount by $34,000,000,000.

On page 5, line 14, decrease the amount by $39,000,000,000.

On page 5, line 15, decrease the amount by $36,000,000,000.

At the appropriate place, insert the following:

SEC. ____. RESERVE FUND TO PREVENT CUTS IN SOCIAL SECURITY BENEFITS.

If legislation is reported by the Senate Committee on Finance, or an amendment thereto is offered or a conference report thereon is submitted that would extend the solvency of the Social Security Trust Funds and prevent future cuts in Social Security benefits, the Chairman of the Senate Committee on the Budget may revise the aggregates, allocations, and other appropriate levels and limits in this resolution by not more than $160,000,000,000 to reflect such legislation.

SA 2778. Mr. DORGAN (for himself, Mr. HAGEL, Mr. BROWNBACK, and Mr. JOHNSON) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 14, line 19, increase the amount by $260,000,000.

On page 14, line 20, increase the amount by $18,000,000.

On page 14, line 23, increase the amount by $260,000,000.

On page 14, line 24, increase the amount by $226,000,000.

On page 15, line 2, increase the amount by $260,000,000.

On page 15, line 3, increase the amount by $260,000,000.

On page 15, line 6, increase the amount by $260,000,000.

On page 15, line 7, increase the amount by $260,000,000.

On page 15, line 10, increase the amount by $260,000,000.

On page 15, line 11, increase the amount by $260,000,000.

On page 15, line 16, increase the amount by $660,000,000.

On page 15, line 17, increase the amount by $561,000,000.

On page 15, line 20, increase the amount by $60,000,000.

On page 15, line 21, increase the amount by $150,000,000.

On page 15, line 24, increase the amount by $60,000,000.

On page 15, line 25, increase the amount by $60,000,000.

On page 16, line 3, increase the amount by $60,000,000.

On page 16, line 4, increase the amount by $60,000,000.

On page 16, line 7, increase the amount by $60,000,000.

On page 16, line 8, increase the amount by $60,000,000.

On page 23, line 5, decrease the amount by $920,000,000.

On page 23, line 6, decrease the amount by $579,000,000.

On page 23, line 9, decrease the amount by $320,000,000.

On page 23, line 10, decrease the amount by $376,000,000.

On page 23, line 13, decrease the amount by $320,000,000.

On page 23, line 14, decrease the amount by $320,000,000.

On page 23, line 17, decrease the amount by $320,000,000.

On page 23, line 18, decrease the amount by $320,000,000.

On page 23, line 21, decrease the amount by $320,000,000.

On page 23, line 22, decrease the amount by $320,000,000.

On page 54, after line 22, insert the following:

SEC. ____. SENSE OF THE SENATE REGARDING TAX INCENTIVES FOR CERTAIN RURAL COMMUNITIES.

It is the sense of the Senate that if tax relief measures are passed in accordance with the assumptions in this resolution in this session of Congress, such legislation should include—

(1) tax and other financial incentives, similar to those included in the New Homestead Act (S. 602), to help rural communities fight the economic decimation caused by chronic out-migration by giving such communities the tools they need to attract individuals to live and work, or to start and grow a business, in such rural areas, and

(2) revenue provisions which fully offset the cost of such tax and other financial incentives.

SA 2779. Mr. DORGAN (for himself and Mr. REID) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, decrease the amount by $6,000,000,000.

On page 3, line 17, decrease the amount by $6,000,000,000.

On page 4, line 20, decrease the amount by $6,000,000,000.

On page 5, line 23, increase the amount by $6,000,000,000.

SA 2780. Mrs. CLINTON (for herself, Mr. KENNEDY, Mr. DASCHLE, and Mr. BINGAMAN) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 28, after line 7, insert the following:

SEC. . RESERVE FUND FOR ADDRESSING MINORITY HEALTH DISPARITIES.

If the Committee on Appropriations of the Senate reports a bill or joint resolution, or an amendment thereto is offered or a conference report thereon is submitted, that addresses minority health disparities through activities including those at the HHS Office of Minority Health, the Office of Civil Rights, the National Center on Minority Health and Health Disparities, the Minority HIV/AIDS initiative, health professions training, and through the Racial and Ethnic Approaches to Community Health at the Centers for Disease Control and provides not to exceed $400,000,000 in new budget authority for fiscal year 2005, the chairman of the Committee on the Budget may revise allocations of new budget authority and outlays and other appropriate aggregates to reflect such legislation, provided that such legislation would not increase the deficit for fiscal year 2005 and for the period of fiscal years 2005 through 2009.

SA 2781. Mr. LEAHY submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

On page 3, line 9, increase the amount by $2,216,000,000.

On page 3, line 10, increase the amount by $2,898,000,000.

On page 3, line 11, increase the amount by $3,128 000,000.

On page 3, line 12, increase the amount by $3,272,000,000.

On page 3, line 13, increase the amount by $3,362,000,000.

On page 3, line 17, increase the amount by $2,216,000,000.

On page 3, line 18, increase the amount by $2,898,000,000.

On page 3, line 19, increase the amount by $3,128,000,000.

On page 3, line 20, increase the amount by $3,272,000,000.

On page 3, line 21, increase the amount by $3,362,000,000.

On page 4, line 4, increase the amount by $1,108,000,000.

On page 4, line 5, increase the amount by $1,449,000,000.

On page 4, line 6, increase the amount by $1,564,000,000.

On page 4, line 7, increase the amount by $1,636,000,000.

On page 4, line 8, increase the amount by $1,681,000,000.

On page 4, line 12, increase the amount by $1,108,000,000.

On page 4, line 13, increase the amount by $1,449,000,000.

On page 4, line 14, increase the amount by $1,564,000,000.

On page 4, line 15, increase the amount by $1,636,000,000.

On page 4, line 16, increase the amount by $1,681,000,000.

On page 4, line 20, increase the amount by $1,108,000,000.

On page 4, line 21, increase the amount by $1,449,000,000.

On page 4, line 22, increase the amount by $1,564,000,000.

On page 4, line 23, increase the amount by $1,636,000,000.

On page 4, line 24, increase the amount by $1,681,000,000.

On page 5, line 3, decrease the amount by $1,108,000,000.

On page 5, line 4, decrease the amount by $2,557,000,000.

On page 5, line 5, decrease the amount by $4,121,000,000.

On page 5, line 6, decrease the amount by $5,757,000,000.

On page 5, line 7, decrease the amount by $7,438,000,000.

On page 5, line 11, decrease the amount by $1,108,000,000.

On page 5, line 12, decrease the amount by $2,557,000,000.

On page 5, line 13, decrease the amount by $4,121,000,000.

On page 5, line 14, decrease the amount by $5,757,000,000.

On page 5, line 15, decrease the amount by $7,438,000,000.

On page 18, line 4, increase the amount by $1,108,000,000.

On page 18, line 5, increase the amount by $1,108,000,000.

On page 18, line 8, increase the amount by $1,449,000,000.

On page 18, line 9, increase the amount by $1,449,000,000.

On page 18, line 12, increase the amount by $1,564,000,000.

On page 18, line 13, increase the amount by $1,564,000,000.

On page 18, line 16, increase the amount by $1,636,000,000.

On page 18, line 17, increase the amount by $1,636,000,000.

On page 18, line 20, increase the amount by $1,681,000,000.

On page 18, line 21, increase the amount by $1,681,000,000.

SA 2782. Ms. COLLINS (for herself, Mr. KENNEDY, Ms. MURKOWSKI, and Ms. LANDRIEU) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 95, setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . GOOD NEWS RESERVE FUND FOR EDUCATION.

(a) ADJUSTMENT.—(1) The Chairman of the Committee on the Budget of the Senate shall revise the aggregates, functional totals, allocations to the Committee on Appropriations of the Senate, discretionary spending limits, and other appropriate levels and limits in this resolution by an amount not to exceed 20 percent of good news funds defined in paragraph (2) for a bill, joint resolution, motion, amendment, or conference report that provides discretionary new budget authority for fiscal year 2005 in excess of the levels assumed in this resolution for education programs within functional category 500, and for the outlays flowing therefrom.

(2) GOOD NEWS DEFINITION.—The term "good news funds" means the amount (if any) by which the estimated level of on-budget revenues for fiscal year 2005 set forth in the report submitted pursuant to section 202(e) of the Congressional Budget Act of 1974 (2 U.S.C. 602(e)) (the budget and economic outlook: update) exceeds such estimated level set forth in the Congressional Budget Office's budget and economic outlook for fiscal year 2005 issued in January of 2004, adjusted for the enactment of any legislation affecting revenues for fiscal year 2005 after the adoption of this resolution.

(b) LIMITATIONS.—Adjustments under subsection (a) shall not exceed $10,000,000,000 of on-budget Federal revenues for fiscal year 2005.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Committee on Energy and Natural Resources:

The hearing will be held on Tuesday, March 30, at 10 a.m., in Room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the Energy Employees Occupational Illness Compensation Program Act.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Dr. Pete Lyons at 202–224–5861 or Shane Perkins at 202–224–7555.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, March 10, 2004, at 10 a.m., to conduct a hearing on "Review of Current Investigations and Regulatory Actions Regarding the Mutual Fund Industry."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, March 10, 2004, at 10 a.m., on steroids.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, March 10, at 11:30 a.m., to consider pending calendar business.

Agenda

On Wednesday, March 10, at 11:30 a.m., the Committee will hold a Business Meeting in Dirksen 366 to consider the following items on the agenda:

Agenda Item 1: To consider the nomination of Susan Johnson Grant, to be Chief Financial Officer at the Department of Energy.

Agenda Item 8: S. 1307—A bill to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to assist in the implementation of fish passage and screening facilities at non-Federal water projects, and for other purposes.

Agenda Item 9: S. 1355—A bill to authorize the Bureau of Reclamation to participate in the rehabilitation of the Wallowa Lake Dam in Oregon, and for other purposes.

Agenda Item 10: S. 1421—A bill to authorize the subdivision and dedication of restricted land owned by Alaska Natives.

Agenda Item 12: H.R. 620—To authorize the Secretary of the Interior to provide supplemental funding and other services that are necessary to assist the State of California or local educational agencies in California in providing educational services for students attending schools located within the Park.

Agenda Item 17: H.R. 2696—To establish institutes to demonstrate and promote the use of adaptive ecosystem management to reduce the risk of wildfires, and restore the health of fire-adapted forest and woodland ecosystems of the interior West.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. ENZI. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet on Wednesday, March 10, 2004, at 9:25 a.m., to conduct a business meeting to consider a GSA resolution and S. 1904, S. 2022, and S. 2043, and to conduct a hearing on the proposed FY 2005 EPA budget.

The hearing will be held in SD 406.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday, March 10, 2004, at 2 p.m., in 215 Dirksen Senate Office Building, to hear testimony on "United States Economic and Trade Policy in the Middle East."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 10, 2003, at 9:30 a.m., to hold a hearing on Nonproliferation and Arms Control Strategy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday. March 10, 2003, at 2:30 p.m., to hold a hearing on "A Fresh Start for Haiti? Charting the Future of U.S.-Haitian Relations."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, March 10, 2004, at 9:30 a.m., in room 485 of the Russell Senate Office Building to conduct an oversight hearing on the proposed reorganization of major agencies and functions related to Indian trust reform matters without the Department of the Interior.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Wednesday, March 10, 2004, at 10 a.m. on "Letting the People Decide: The Constitutional Amendment Authorizing Congress to Prohibit Physical Desecration of the flag of the United States," in the Dirksen Senate Office Building Room 226.

Witness List:

Panel I: The Honorable Daniel J. Bryant, Assistant Attorney General, Office of Legal Policy, Department of Justice, Washington, DC.

Panel II: Maj. Gen. Patrick Brady, Chairman of the Board, Citizens Flag Alliance, Recipient, Medal of Honor, Summer, WA; John Andretti, NASCAR Nextel Cup Series Driver, Mooresville, NC; Richard D. Parker, Williams Professor of Law, Harvard Law School, Cambridge, MA; Gary E. May, Associate Professor of Social Work, University of Southern Indiana (1981–1985), Evansville, IN; and Lawrence Korb, Former Assistant Secretary of Defense, Navy Veteran, Alexandria, VA.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Wednesday, March 10, 2004, at 2:30 p.m. on "Judicial Nominations" in the Dirksen Senate Office Building Room 226.

Witness List:

Panel I: Senators.

Panel II: Peter W. Hall, to be United States Circuit Judge for the Second Circuit.

Panel III: Jane J. Boyle, to be United States District Judge for the Northern District of Texas; Marcia G. Cooke, to be United States District Judge for the Southern District of Florida; and Walter D. Kelley, Jr., to be United States District Judge for the Eastern District of Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, March 10, 2004, at 9:30 a.m., to conduct a hearing on the scope and operation of organizations registered under Section 527 of the Internal Revenue Code.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Wednesday, March 10, 2004, for a joint hearing with the House of

Representatives's Committee on Veterans' Affairs, to hear the legislative presentation of the Veterans of Foreign Wars.

The hearing will take place in room 216 of the Hart Senate Office Building at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT ECONOMIC COMMITTEE

Mr. ENZI. Mr. President, I ask unanimous consent that the Joint Economic Committee be authorized to conduct a hearing in Room 628 of the Dirksen Senate Office Building, Wednesday, March 10, 2004, from 10 a.m. to 12:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EMERGING THREATS AND CAPABILITIES

Mr. ENZI. Mr. President, I ask unanimous consent that the Subcommittee on Emerging Threats and Capabilities of the Committee on Armed Services be authorized to meet during the session of the Senate on March 10, 2004, at 9:30 a.m., in open and closed session to receive testimony on the Nuclear Nonproliferation Programs of the Department of Energy and the Cooperative Threat Reduction Program of the Department of Defense, in review of the Defense Authorization Request for fiscal year 2005.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL TRADE AND FINANCE

Mr. ENZI. Mr. President, I ask unanimous consent that the Subcommittee on International Trade and Finance of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, March 10, 2004, at 1 p.m. to conduct a hearing on "Argentina's Financial Crisis."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. ENZI. Mr. President, I ask unanimous consent that the subcommittee on public lands and forests of the committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, March 10th, at 2:30 p.m.

The purpose of the hearings is to receive testimony on the following bills: S. 1354, to resolve certain conveyances and provide for alternative land selections under the Alaska Native Claims Settlement Act related to Cape Fox Corporation and Sealaska Corporation, and for other purposes; S. 1575 and H.R. 1092, to direct the Secretary of Agriculture to sell certain parcels of federal land in Carson City and Douglas County, NV; S. 1778, to authorize a land conveyance between the United States and the City of Craig, AK, and for other purposes; S. 1819 and H.R. 272, to direct the Secretary of Agriculture to convey certain land to Lander County, NV, and the Secretary of the Interior to convey certain land to Eureka County, NV, for continued use as cemeteries; and H.R. 3249, to extend the term of the Forest Counties Payments Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SEAPOWER

Mr. ENZI. Mr. President, I ask unanimous consent that the subcommittee on Seapower of the Committee on Armed Services be authorized to meet during the session of the Senate on March 10, 2004, at 2 p.m., in open session to receive testimony on the posture of the U.S. Transportation Command, in review of the Defense authorization request for fiscal year 2005 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. ENZI. Mr. President, I ask unanimous consent that the subcommittee on Science, Technology and Space be authorized to meet on Wednesday, March 10, 2004, at 2:30 p.m. on NASA/Mars Exploration Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. CONRAD. Madam President, I ask unanimous consent that Sara Hagigh of Senator LIEBERMAN's staff have leave of the floor during the debate on the budget resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRATULATING THE UNIVERSITY OF DELAWARE MEN'S FOOTBALL TEAM FOR WINNING THE NCAA DIVISION I-AA NATIONAL CHAMPIONSHIP

Mr. BIDEN. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H. Con. Res 355, and the Senate proceed to its immediate consideration. It is honoring the University of Delaware football team.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 355) congratulating the University of Delaware men's football team for winning the National College Athletic Association Division I-AA National Championship.

There being no objection, the Senate proceeded to the concurrent resolution.

Mr. BIDEN. Madam President, having been here over 30 years, I understand the Senate rules and that you are not allowed to refer to anybody sitting in the gallery. So I will not refer to the fact that anybody is sitting in the gallery.

I stand here with great pride that my alma mater, the University of Delaware, has won the national football championship for Division I-AA. In my 32 years serving in the Senate for Delaware, I have had the opportunity to give hundreds of speeches on the Senate floor. We have much more, though, than a national championship to celebrate. With our nickname, the Fighting Blue Hens, when we were recruited by the University of Delaware, we probably wished they had some other name like the Fighting Tigers or something; but we are Blue Hens. But we are the Blue Hens, and we are proud of the fact that year in and year out we have this long tradition of having a first-rate football team. But none like this team.

This team played one of the most outstanding seasons in college football history with a record of 15 to 1 and setting a school record for victories in any single season.

After clinching their seventh Atlantic 10 Football Conference Championship, the 2003 squad sailed through the division I-AA playoffs outscoring our opponents with a combined score of 149 points to 23.

In fact, they won the championship game by shutting down—and since our Parliamentarian is a graduate, I almost feel badly mentioning that great college—Colgate University 40 to 0.

My only concern was if we had another game, I would have felt very badly for whomever we played because they just kept getting better and better. You can imagine Senator CARPER and I and Congressman CASTLE attended the majority of these games as devoted fans.

As I earlier said, this marks the university's first division I-AA title crown, but we earned six other football titles as a division II school, including when I was there playing.

The last division II title was in 1979. The reason I mention that is it is significant because our current coach, K. C. Keeler, was a linebacker on that national championship team. In his second year at the helm at the university, K. C. Keeler took this team to a national championship. K. C. is the first to give his predecessor, my old coach, Tubby Raymond, credit for having recruited pretty good guys to play on that team.

Let me conclude by saying I am often asked why I ever thought I should run for President of the United States, as I did, and attempt to get the nomination back in the eighties. There was a simple reason. I learned early on, after being a county councilman and then getting elected as a Senator, I was given the honor of presenting the Washington Touchdown Club's Timmie Award. We used to honor the best "small college team in America." I had the opportunity of giving that to Tubby Raymond.

There were people at an old hotel, including Supreme Court Justices and others. I never saw my old coach flustered, but as I stood up, introduced by Howard Cosell, to present him with this award, I gave him the award, handed him the trophy, and he turned and said: You know, I just want to tell you, Joe Biden was one of the best ball players I ever had play for me. And that was just being a Senator.

So I figured if I had gotten elected President, I would have been able by another means to be named what I always wanted to be, an All-American. And that is the only reason I ever ran for President. I wanted to set that record straight.

I am one of the best ball players Delaware ever had, which is simply not true. But I can tell you it is the only time my former coach was ever flustered. But this guy, Keeler, knows about my lack of talent and about how to recognize talent, and he produced the best football team probably in the history of the State of Delaware. We are here to congratulate them.

I thank my colleagues for allowing us this time.

I yield now to my colleague who is an equally avid football fan and a graduate of the University of Delaware.

Mr. CARPER. Madam President, the first time I visited the University of Delaware campus was in 1973. My first reaction was: what a beautiful place, and it truly is a gorgeous campus. Later, as I learned more about the university, I learned they were one of the top 25 public universities in the country academically and have remained that for some time. We are proud of that fact.

What I also learned my first year at the University of Delaware in the MBA program, fresh out of the Navy, was they played football at Delaware. I was a Buckeye of Ohio State in 1968 when we went all the way. I learned they were as rabid about football in Delaware as we were in Columbus, OH.

During the years that transpired since I moved to Delaware, there was a time when the Dallas Cowboys rose in standing nationally, and I recall in some circles it was America's team. I was looking through the roster of Delaware's team last night to see some of the States our players came from. While I did not find anybody from Alaska, the State from which the Presiding Officer comes, I certainly saw a number of players from Delaware, from New Jersey, a number of players from Maryland, a lot of players from Virginia, California, Georgia—quite a few from Georgia—and Pennsylvania. We have players from South Carolina, North Carolina, Indiana, Connecticut, Michigan, New York, Florida, Arizona. We even have one, I say to Senator BIDEN, I don't know if he realizes it, but we even have one player on the roster from Germany. That is going the extra mile to get the kind of talent K. C. Keeler and his predecessor, Tubby Raymond, wanted to bring to our campus.

I have been privileged to enjoy a lot of terrific sports moments in my life. This last year, the University of Delaware football team on its way to the national championship provided us with two I will never forget.

One was a 51 to 45 win over Massachusetts in triple overtime on a blustery fall afternoon at the University of Delaware. It was a heartstopper. It was an amazing win, topped only by a 40 to 0 victory over Colgate on a very cold night in December of last year.

I have been to a lot of games in my life. I have never been to a game where everybody on our side of the field stood up the entire first quarter. They never sat down. I have never been to a game in my life where everybody stood up for the second quarter, and third quarter, and the fourth quarter. We had places to sit, but nobody ever sat down. It was just the most incredible spirit or euphoria I ever witnessed.

When the game was over, the players and a lot of fans rushed the field in the presentation of the trophy to Coach Keeler. The fans gathered around. People did not want to leave. I remember standing half an hour later at one end of the end zone with Congressman CASTLE looking out over the field and looking at everybody in sheer joy, savoring the moment.

Another special moment was when Coach Keeler went into the end zone with Tubby Raymond, his predecessor and coach when Keeler was a linebacker with the national championship team in the late seventies. Tubby handed it off and Coach Keeler went on to the national championship.

For some of the players who left the field that night, it was the last football game they will ever play. Others will go on to be greats in professional football. Some may be lucky to turn up as Rich Gannon did, who ended up being the MVP of the NFL last year, whether they end up in pro football or other athletic-related endeavors. Sometimes they go on to do great things with their life, such as Tyrone Jones, who was a freshman in 1982, one of the years Delaware made it to the finals for the national championship and did not make it by three points. Tyrone Jones is now New Castle County coordinator. He is in charge of all of New Castle County. Back in 1982, he was a freshman playing for a great team, and in 1983, 1984, 1985, he played free safety for some of Tubby's teams.

Tubby Raymond, who is now in the Football Hall of Fame, had 300 career wins. Ty Jones was on the field for about 20 of those wins. We are very proud of him.

I want to say to those who might be watching from Delaware or here representing Delaware, whatever you do on the field or beyond, there is greatness to be accomplished, and we are proud of Ty and others who follow endeavors off of the gridiron.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BIDEN. Madam President, I ask for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Madam President, when the Senator was standing with Congressman CASTLE in the end zone looking at what was going on, I was in the other end zone begging Andy Hall to throw me the ball.

Madam President, I ask unanimous consent that the concurrent resolution and the preamble be agreed to en bloc; that the motion to reconsider be laid upon the table en bloc; and that any statements relating to the resolution be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 355) was agreed to.

The preamble was agreed to.

Mr. CARPER. Madam President, will the Senator yield? I have to show one of the most beautiful newspaper headlines I have ever seen in Delaware or any other State. To all who made this possible, we are enormously proud.

MEASURE READ THE FIRST TIME—H.R. 1997

Mr. NICKLES. Madam President, I understand that H.R. 1997, the House Unborn Victims of Violence Act, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> A bill (H.R. 1997) to amend title 18, United States Code, and the Uniform Code of Military Justice to protect unborn children from assault and murder, and for other purposes.

Mr. NICKLES. I now ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will be read for the second time on the next legislative day.

ORDERS FOR THURSDAY, MARCH 11, 2004

Mr. NICKLES. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Thursday, March 11. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of S. Con. Res. 95, the budget resolution; provided further that when the Senate resumes the budget resolution tomorrow, there be 14 hours equally divided remaining for debate under the statutory limit.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. NICKLES. Madam President, tomorrow the Senate will resume consideration of the budget resolution. When the Senate resumes debate, we will have 14 hours remaining under the time limit. It is my expectation to yield back some time. I think we made very good progress on the resolution today. We had a lot of rollcall votes. We disposed of several amendments. The ranking member and I will return to the floor tomorrow morning and continue to work through amendments on the resolution.

Again, it is my intention to yield back some time. Our colleagues should know, we are going to have a lot of votes tomorrow. I would urge colleagues not to offer amendments that have already been offered. We don't need to vote on the same thing four and five times. It is important for us to finish this resolution.

We have had good debate on a variety of big issues covered in the budget. I would hope we could conclude by late tomorrow evening or possibly on Friday. I will work with all of our colleagues to try to make that happen.

ORDER FOR ADJOURNMENT

Mr. NICKLES. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of Senator PRYOR for up to 10 minutes and Senator LANDRIEU for up to 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Dakota.

Mr. CONRAD. Madam President, I might ask the Chair as well, could we agree that we would start on the Boxer amendment tomorrow morning?

Mr. NICKLES. That would be my expectation.

Mr. CONRAD. I think that is important, just so the Senator is here and prepared to move forward with her amendment. It is also important to say, Madam President, that we won several important victories today and that we anticipate a string of additional victories tomorrow that will allow us to conclude our work at an even earlier point.

On a serious note, I thank the chairman and his staff for working cooperatively throughout the day. We are very hopeful that we will be able to end this sometime Friday morning, everybody having had a chance to debate and offer important amendments. That does not mean they need to offer every amendment. We hope Senators will show restraint. We hope Senators will eliminate duplication so that we can hold down the number of votes in vote-a-rama.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

IRA WITHDRAWAL

Mr. PRYOR. Madam President, in the year 2000, there were 38 million families in this country who owned an individual retirement account or participated in an employer-sponsored retirement savings plan. Since then, unemployment has climbed to 8.3 million people, with more than 1.9 million individuals unemployed more than 6 months.

Six months without work is a long time, and it is enough time for people to lose their homes, give up their health care, run through their savings, and ruin their credit for many years to come. I know this because I hear from people in Arkansas who have gone from living the family dream, to living off of their families, and eventually living off of Government help.

To add salt to the wound for many unemployed Americans, those individuals who are fortunate enough to have an individual retirement account are penalized a minimum of 10 percent if they withdraw funds from their account.

Recognizing that some significant events might require people to withdraw money from their retirement accounts earlier than expected, Congress has on previous occasions provided exceptions to the 10-percent early withdrawal penalty; for example, buying their first home or maybe even sending their children to college.

I am offering a commonsense amendment that could make a real difference for individuals who have invested in their IRA but have exhausted all of their unemployment benefits while searching for a job.

I am asking Congress to make another exception because our job creation figures continue to disappoint, economic growth continues to linger, and our manufacturing jobs continue to leave the country. I think these are significant events as well.

My amendment is a sense of the Senate and allows individuals who have exhausted their unemployment benefits a one-time withdrawal of up to $15,000 from their IRAs, tax free and without penalty, within 1 year after their unemployment benefits end.

In many cases, my amendment would free up enough money for a few months of rent or mortgage payments, child care expenses, groceries, and other living expenses.

Regardless of what you believe, regardless of your party affiliation, we cannot dismiss these new numbers by the Bureau of Labor Statistics that indicate the average length of unemployment in this country is at a 20-year high.

We cannot expect Americans to be patient as they watch their bills pile up, and we cannot tell these families to keep their fingers crossed any longer while we do nothing to help them. After all, this money in their IRA accounts is their money. Imagine a family whose breadwinner is now on the unemployment rolls, and he or she has this retirement nest egg sitting there and they have some real needs in the family but they cannot touch their own money without penalty or paying taxes on accessing that money.

Madam President, I ask my colleagues to express their support tomorrow for the individuals who are in a tough position because of tough times and allow them to use funds from their own IRAs without penalty.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

SURVIVOR BENEFITS

Ms. LANDRIEU. Madam President, I thank the floor manager. It has been a long day, and perhaps we have made some progress and the hour is a little late. I am going to speak just on two amendments of mine that I will offer and which will be voted on tomorrow.

I will take the time tonight to speak at some length about these amendments because our time will be so limited, unfortunately, because of the rules under which we are operating.

Before I do, let me restate for the record that I intend to vote against this budget. It is not a budget that will put America on the right course. This is a budget that will turn a stream of red ink into a raging river that will threaten to wash away Social Security, and this is according not to the Democratic spin room or Democratic operatives, this is according to Alan Greenspan, who testified before the Budget Committee last week and basically said because of the choices President Bush and the Republican leadership are making in this budget, adjustments will have to be made to Social Security.

He could have gone on to say—and I am sure he will in further speeches—that adjustments are going to have to be made to education and the Federal contribution to education. We are going to have to make adjustments to housing initiatives in this country, and we are going to have to make adjustments to the contributions we make to colleges and universities because if this budget goes into law, the country will basically be on a course to bankruptcy because the debt is rising so high.

We have been attacked by terrorists. We have a war now that is costing us hundreds of millions of dollars. We have passed a major education initiative that the President himself said he wanted to fund, and the economy has, in many instances, tanked, contrary to all of our hopes and expectations.

Yet the plan is for tax cuts every day, always deeper and greater, which is threatening to wash away a lot of things that are important to people in this country. One of the things we cannot fix because of this blind adherence to tax cuts for people who earn over a million dollars is a survivor benefit for our military personnel.

There are a lot of issues for which we could fight. I want to show this document. It is from the Military Officers Association: Fighting for Fairness. The public is going to have a hard time believing this, so I am going to try to go over it as simply as I can. In 1972, our Government promised the spouses of people in the military—now, most of the spouses would be women but not all of them would be women. Most are women. Our Government promised them if they would contribute a certain amount of money into a special fund, after the member of the service passed away, they could provide a nest egg for their spouses. These are spouses, and everyone is familiar with this. These women—millions of them—move every 2 years, generally. They move themselves, their children, and most do it with a smile and joy on their face because they are committed to helping the country, and they are supporting their husbands who are protecting us every day.

We promised to give them what we call a survivor's benefit. But we have failed to live up to that promise. We have, instead, said even though we said we would do that, we decided to save money so we could give money, as the Senator from Oklahoma said, to the millionaires who need tax cuts in this country. We said instead of making the promise to these individuals, we have another priority, and that is to give people who make over a million dollars tax cuts because they need it. But we cannot give spouses of the people in the military their full benefit.

It gets worse because the document we gave them actually doesn't mention the offset. I am going to submit it because I want to make it clear that this is the document our military signed, and it will be read for the Record. Nowhere in here did it talk about an offset. An offset is, when the spouse gets to be 62 years of age, instead of receiving the benefit that her husband put aside specifically for her, thinking that he was doing a good thing to help protect her in her old age because she moved every 2 years and she has had to live under tremendous pressure—when you move every 2 years, I think people would understand it would be hard to keep a career going in the right direction and continue to increase your earnings, if you did want to work outside of the home. Maybe you could manage to get a minimum-wage job or something, but it would be very hard to develop a career when you have to move every 2 years. She did. These women did. Then they signed a document that said they would receive this benefit, and, lo and behold, they were told after they were in their sixties and their husbands had died, after their husbands served 20 and sometimes 30 years in the military protecting us and giving us the advantages, that the thousands of dollars they were counting on were not there.

It gets worse. In addition to not funding this for our military families, we do fund, as the Federal Government, if you work for the Federal Government in civilian employment and you take out a policy for your spouse, you do not have the same offset. So we have the very unfair and terribly unjust situation today where if you are a spouse of a military person, and you have moved every 2 years, your spouse has protected the country for the last 30 years, and you get to be 62, you do not receive that full benefit because we need to save money to cut taxes for people who make over $1 million. That is the situation.

My amendment, which I am going to ask be voted on tomorrow, would fix that situation. I do not think it is going to be adopted, but I am going to offer it anyway because I want my colleagues on the other side to be on the record saying the choice they make is not to fix this situation which will cost us approximately $2 billion because we cannot afford it. We can afford $2.6 trillion in tax cuts, but we cannot afford $2 billion to help our military families.

I am not going to vote that way, but some people will, and they can explain it to the thousands of retirees in their States. I am not sure how.

For the record, under the civil service retirement system, the percentage of survivor benefits, people receive 55 percent; the Federal employee retirement system receives 50 percent, but not the widows and widowers of people who served in the military. I do not understand it, and nobody in Louisiana understands it because we continue to increase the military budget. I know, because I voted for every increase in the military budget since I arrived in the Senate 7 years ago. I voted for billions of dollars because I believe in a strong military.

I do not know how not living up to your promises to people in uniform to help them protect their spouses helps us to strengthen our military. If anybody knows, maybe they can communicate that to me because I do not know.

I am hoping when we vote on this amendment tomorrow, perhaps we can find some money in this budget to take care of this situation. I understand the House has acted. I also understand a bill has been filed by the Senator from Maine, a Senator for whom I have a great deal of respect, Ms. Snowe. It is a bipartisan effort. I am hoping maybe we can find some money in this budget to make some adjustments for the survivors benefit plan.

I ask unanimous consent to print in the Record a letter that was recently printed in the Washington Times that outlines this situation, and also the actual document our families signed that leads them to believe they are going to get this benefit.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Washington Times, Feb. 23, 2004]

SURVIVOR BENEFIT PLAN NEEDS REFORM

Dear Sgt. Shaft: The Fleet Reserve Association (FRA) is urging all 66 members of the House and Senate budget committees to include funding in the 2005 budget resolution for legislation (S. 1916 and H.R. 3673) that eliminates the drastic reduction in Survivor Benefit Plan (SBP) annuities that now adversely impacts survivors of military personnel who are 62 and older.

The current program provides 55 percent of SBP covered retired pay for younger spouses—however, the amount decreases to 35 percent of retired pay when survivors become eligible for Social Security. Many retirees and their spouses were not fully aware of this reduction when they enrolled in the program in the early 1970s. As a result, many believe they were betrayed by having been asked to sign an irrevocable contract to pay lifetime SBP premiums.

Sen. Mary L. Landrieu, Louisiana Democrat, introduced the Military Survivor Benefits Improvement Act of 2003 (S. 1916), which would eliminate the SBP offset over a 10-year period. Companion legislation (H.R. 3673) to do the same was introduced by Rep. Jeff Miller, Florida Republican, in the House.

The Fleet Reserve Association, the oldest and largest organization dedicated to enhancing pay and benefits for enlisted members of the U.S. Navy, Marine Corps and Coast Guard, was instrumental in the enactment of the military SBP program in 1972, which was designed to improve the Retired Servicemembers Family Protection Plan. Participants were responsible for paying 60 percent of the costs, while the government was to subsidize the remaining 40 percent.

But today's SBP program looks nothing like its FRA predecessor, and its intended value has been greatly diminished by the Social Security offset as well as decreased contributions from the federal government.

Today, military retirees pay for more than 80 percent of SBP costs, while the government picks up only about 19 percent of the costs. By way of comparison, the federal government subsidizes its civilian survivor benefit plans—Federal Employees Retirement System and Civil Service Retirement System—at 33 percent and 48 percent, respectively.

Probably the greatest disparity between the two plans is beneficiaries in the federal civilian programs do not experience the same offset incurred by military SBP beneficiaries when they reach the age of 62. It is unconscionable that the men and women of our armed forces and their families continue to sacrifice at a time when they are in their greatest need.

FRA is grateful to Rep. Miller and Mrs. Landrieu for their leadership in campaigning to restore equity and credibility to this vital program. FRA is again referencing the need for SBP reform in its testimony before Congress this year.

We urge those who wish to help reform this unfair and debilitating law to visit the association's Action Center at http://www.fra.org/action/index.html, click on "Urge Your Elected Official to Support Funding for SBP Reform Legislation" and send a prewritten e-mail to their congressional representatives.

Joe Barnes
National Executive Secretary
Fleet Reserve Association

Dear Joe: I echo your praise and support of S. 1916 and H.R. 3673. I also commend Mrs. Landrieu and Mr. Miller for spearheading this vital legislation.

Dear Sgt. Shaft: I agree totally that the SBP program is a huge injustice for widows of military retired persons. I had 10 years of active duty plus 14 years in the Reserves, retiring as an 0–6. It has been a long time since I have seen a write-up of the actual SBP provisions, so I do not understand how it affects me and my wife. Where can I find a good description?

From the synopses I have seen so far, we would have been better off to take the dollars and put them toward an annuity policy instead of wasting them on the SBP program.

Harry J. Wander
Col., AUS, Retired

Dear Henry: For starters, I suggest that you visit a few of the military organization Web sites, such as the Military Officers Association of America at www.moaa.org, the Non Commissioned Officer Association, www.ncoausa.org, or the Fleet Reserve Association at www.fra.org.

Dear Sgt. Shaft: Isn't it funny: If Congress wants a pay raise, it's processed with no problems. For those of us "who paid the price" for our country (to keep Congress intact), there's always some delay.

Michael G.
Virginia

Dear Michael: The Defense Finance and Accounting Service (DFAS) has announced that computer reprogramming has progressed faster than expected and they have made concurrent disability payments (CDP) to about 150,000 eligible retirees on Feb. 1. Those whose CDP will be delayed another month or two include those who divide their retired pay with a former spouse, medical disability retirees who will have their offset only partially eliminated by the new law change, and a few other special situations.

DFAS officials believe that they will be able to provide payment for all of these retirees no later than the April 1 paycheck.

SECTION VII—INFORMATION ON THE SURVIVOR BENEFIT PLAN (SBP)

Definition of Dependent Child. A dependent child must be unmarried and:

a. Be under 18 years of age.

b. Be between ages 18 and 22 and pursuing a full-time course of study and/or training in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution (See item e below.)

c. Be a child of your present or of a previous marriage, adopted, or a step, foster, or recognized natural child who has lived with you in a regular parent-child relationship and as indicated in a and b above or d below.

d. Be incapable of self-support because of a mental or physical incapacity which existed before the 18th birthday, or was incurred before age 22 while pursuing a full-time course of study of training. (See item e below.)

e. If your child(ren) is (are) defined by item b or d above, an affidavit to that effect signed by the registrar or physician, respectively, must be furnished to Retired Pay Operations, USAFAC.

Definition of natural person with insurable interest. Any person who can reasonably expect financial benefit from you while you live may be considered as a natural person with an insurable interest. This person may be any close relative such as a child not dependent upon you for support, or a close business associate. If person named is not more nearly related than cousin, attach a statement of Proof of Financial Benefit.

SECION VIII—MONTHLY COST AND AMOUNT OF SURVIVOR ANNUITY

Spouse only (no eligible children). Cost of coverage is 2½ percent of the first $300, plus 10 percent of any designated retired pay in excess of $300. If coverage is elected for a dependent child acquired subsequent to retirement, cost of coverage will be increased. The increase in cost is effective the first day of the month following eligibility of such child. (See c. below.)

Spouse and eligible children. The cost of coverage will be 2½ percent of the first $300 of the base amount plus 10 percent of the remainder plus a slight additional charge for children's coverage that will vary depending on your age, your wife's age, and the age of your youngest child. The additional charge should generally be about one-half of one percent of the amount of retired pay designated. (See c below.)

If your spouse becomes ineligible through divorce, annulment or death, no cost is due for any month in which there is no beneficiary. If you remarry, the cost will be reinstated the first anniversary of the date of remarriage, unless child is born of that marriage prior to the first anniversary date.

Eligible children only (no spouse). The cost of coverage will vary depending on your age and the age of your youngest child but should generally be about 3 percent of the amount of retired pay designated.

Cost reduction—children. When all children cease to be eligible for an annuity, the additional cost for child coverage shall stop. The reduction in cost is effective the first day of the month following that in which the last child ceases to be eligible for an annuity.

Natural interest person. Cost of coverage is 10 percent of full retired pay, plus an additional 5 percent of full retired pay for each full five years that your age exceeds that of the natural interest person. The total cost may not exceed 40 percent of retired pay.

Annuity—Spouse and/or eligible children. Full coverage provides an annuity of 55 percent of retired pay. Reduced coverage provides an annuity of 55 percent of reduced amount elected.

Annuity—Natural interest person. The annuity payable is 55 percent of retired pay remaining after cost of coverage has been subtracted.

Cost-of-Living Increase (CLI). The cost is subject to change based on CLI's in retired pay. Annuities paid to survivors of deceased members are also CLI adjusted.

CONTINUATION OF ITEM 10, SECTION IV.

NAME (LAST, FIRST, MI)	DATE OF BIRTH	SOCIAL SECURITY NO.	RELATIONSHIP

DATA REQUIRED BY THE PRIVACY ACT OF 1974

Authority: Public Law 92–425, EO 9397 as amended.

Principal Purpose(s): Used by members retired on or before 13 August 1981, to enroll in the Survivor Benefit Plan or increase previously elected coverage.

Routine Uses: Uniformed Services review form for completeness, validate and record level of participation.

Disclosure Is Voluntary: However, the information transmitted in this form is necessary to administer the above law. Without it, retirees could not change their previous elections.

Under this law you have a choice to either participate or not to participate in the Survivor Benefit Plan. If you choose to participate, you have a further choice as to what type of coverage you desire. Under one option, only a SPOUSE is to receive a survivor benefit annuity, under another option, only a CHILD or CHILDREN are to receive annuity payments, and under a third option a CHILD or CHILDREN plus a SPOUSE are to receive annuity payments.

To assist you in making your election whether to participate, data are shown below to permit you to determine your actual participation costs. PLEASE note that the "COST" shown below is based on the provision of the law whereby only the SPOUSE is to receive a survivor's annuity and this annuity, equal to 55% of your gross retired pay, is the maximum annuity for a spouse. Costs for providing annuity benefits to children where there is no spouse or for benefits to children in addition to the benefits for a spouse, have not been computed. Costs for any optional provision of the law may be approximated using the formula provided in the Retired Army Bulletin. Actual cost of annuities will be actuarially computed in each case as required.

If your retired pay exceeds $300 per month, the cost of Survivor Benefit Plan to you is arrived at by charging 2½% against the first $300 of your retired pay and 10% of any amount over $300. This will provide for a maximum annuity equal to 55% of your gross retired pay. If you wish to provide for a survivor's annuity which is less than the maximum permitted, you may do so. To accomplish this you must specify the amount less than your gross retired pay, but in NO case less than $300, to which the 55% is to be applied to determine the amount of the annuity. In the event your monthly retired pay is $300 or less, the cost of providing your survivor with 55% of your full retired pay (no lesser amount is permitted) is 2½% of your retired pay.

If you are currently participating in the Retired Serviceman's Family Protection Plan (RSFPP), the cost of your coverage is shown below for informational purposes. The law gives you three (3) options as a present participant in RSFPP. These options are: (1) continue RSFPP and not join Survivor Benefit Plan, (2) drop RSFPP and join Survivor Benefit Plan, and (3) continue RSFPP and join Survivor Benefit Plan to provide a total survivor annuity not to exceed 100% of your retired pay, calculated at the time of election in the new program. Under this third option you may reduce the amount of coverage under RSFPP as you see fit.

If you retired prior to 21 September 1972, you have one calendar year in which to elect to participate in the Plan.

If you retired within 180 days after enactment of the Survivor Benefit Plan you have 180 days from your date of retirement as shown below to elect NOT to participate in the PLAN. Unless you specifically elect NOT to participate, you are considered in the PLAN and cost deductions will be made from your retired pay at maximum coverage.

Your election form is enclosed You should keep this letter with your copy of the election form on the reverse for your records. Your spouse and/or children, or natural person with an insurable interest (which is explained in the Retired Army Bulletin) should be informed of your election. The separate election form must be completed, signed, sealed, and mailed. It should be noted that a pre-addressed return envelope which requires no postage is enclosed

If you have not received a copy of the special issue of the RETIRED ARMY BULLETIN, a copy should be requested from the Retired Pay Division, U.S. Army Finance Support Agency, Indianapolis, IN 46249. You request should include your signature, your SSAN, and an address to which the Survivor Benefit Plan information can be sent. To assure earliest coverage or non-coverage for your beneficiaries, the election form should be completed and mailed promptly.

Ms. LANDRIEU. I thank the Chair for consideration of that amendment at the appropriate time.

EDUCATION

Ms. LANDRIEU. Madam President, the second amendment I wish to talk about for a moment and offer tomorrow for a vote is not about the military; it is about education. I was in the Chamber earlier today speaking about education. Let me recap.

Senator MURRAY offered an amendment which I was pleased to vote for, proud to vote for. Although it only received 48 votes, I think it was one of the most important amendments we discussed all day. The reason I say that is because one of the major platforms of this administration when this President took office—I can remember the speeches. I sat in the great room of the House Chamber and listened to the State of the Union speeches. I will paraphrase, but I heard this.

I heard the leader of our country say we are not doing enough in education; that our schools were not doing what they should do, and that he had a plan. If we would just stop throwing money at the system, if we would start expecting success, not funding failure, if we would embrace accountability, if we would make sure all of our teachers were certified, and if we would really work together across party lines and come up with a new plan for public education in our Nation, that is what we should do.

I was convinced, committed, and worked very hard to see that bill pass, and it passed. That was the No Child Left Behind Act. It was not a big lift for me for a number of reasons.

I am very proud of my State because before we entered into this agreement at the Federal level, the State of Louisiana was one of about five States in the Union that was pioneering this exact concept. It said for 150 years we have just thrown money at the system not really requiring or expecting good results and not really measuring our commitment of dollars based on the results we were getting, and that did not seem to make sense. So we switched our system, holding all schools accountable, not just for the averages for the subgroups of children—African Americans, rural children, poor children—but making sure we were not leaving anybody out.

We were well on our way. Louisiana was doing great. Then this administration came in and said: Your plan, although you like it and the people of Louisiana like it and you are making progress, I do not think it is strong enough. He, the leadership, pushed this country into an even stricter plan. The leadership, the administration, said: If you go there, I will be there. I will help and provide the funding in the budget for No Child Left Behind.

One of the reasons I am going to vote against this budget tomorrow is because that did not come true, because it is short $9 billion. For Louisiana, it means about $200 million.

I have schools that have been rated as in need of improvement. They are trying so hard, and they are doing a beautiful job. But they need to hire a few more teachers. This administration said it would be there to help hire the teachers. The President said that, but it is not in his budget, and it is not in the budget in the chairman's mark to help them.

Unfortunately, one of the small items that is in the budget which really pours salt on the wound is, while we do not have the $9 billion for No Child Left Behind, I want to share with everyone what is in the budget, which is very hard to read. What is in the budget is $50 million to send kids from public schools to private schools, basically. It reserves $50 million for school choice initiatives that move children from public schools to private schools.

Now we have the situation where we are not going to fund taking children from lower performing schools to move them into higher performing public schools, but we are going to specifically provide additional money to move them into private schools.

For the record, in Chicago, under the President's plan, 125,000 students were eligible for transfer, meaning that 125,000 students found themselves in schools that did not make the mark.

They requested a transfer to a higher performing public school, which is one of the promises of No Child Left Behind, but only 3,000 were transferred. Why? Because there is no space. Why? Because they do not have the money to hire additional teachers. Why? Because the President's budget specifically prohibits money from being used for school construction, because the Republican leadership, led by President Bush, does not want money spent on school construction.

I do not know how children are moved from a lower performing school to a higher performing school if the higher performing school is filled unless classrooms are added, expanded, or teachers are added. Because he flat-funded the teacher section and prohibits money from being used to build additional schools, I am not quite sure how our superintendents, Democrats or Republicans, are going to handle it, but they have a real challenge before them.

In Los Angeles, we have 230,000 children who are eligible for transfer. I do not think anybody in the Chamber could guess how many actually were transferred. One hundred students. Two hundred thirty thousand children are eligible, and 100 were transferred.

I learned today, and I am going to submit for the RECORD, if I can verify it—and if not, I will remove this from the Record—there has not been a new school built in L.A. in the last 20 years. That may not be correct, but I want to say it tonight. If it is not, I will remove it from the RECORD. L.A. is growing so fast, and these children have no place to go, and this budget does not help them get anywhere. It says instead of helping children go to new public schools, we are going to send them to private schools.

Of course, there are no spaces in the private schools, either, so I am not sure where we are going to send them.

In Baltimore, 30,000 children—that is this year—last year were eligible for transfer. Only 194 were transferred. In New Orleans, in my home city, 35,000 children were in failing schools. Only 400 were transferred. The rest were denied because of lack of space in higher performing schools.

My amendment is going to remove the $50 million, and say no money can be spent in this budget sending children to private schools until we provide options for them to go to public schools. Many of these families would choose public schools, but according to this budget they cannot go because we will not help them add teachers, and they are strictly prohibited from using the money for school construction in this budget.

Those are the two amendments: One to help spouses in the military. I think we can find a few million dollars to help them and I am hoping to take this out of the budget so we can keep our priorities straight, which is helping all schools with the best we can, but living up to our promises of No Child Left Behind first.

When we have funded that effort, which is not just any other Government program—I know we do not fund every Government program at the authorized levels, but this is different. This was a special promise made. This was the foundation of a new beginning for our public schools. This was a promise that was made to the people of our country, and it is a promise that is not fulfilled in this budget, which is why, again, I will vote against it, and I will be pleased to offer these amendments in the morning.

I yield back my time.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m. tomorrow.

Thereupon, the Senate, at 11:02 p.m., adjourned until Thursday, March 11, 2004, at 9:30 a.m.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, March 11, 2004 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 18

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentations of the Air Force Sergeants Association, the Retired Enlisted Association, Gold Star Wives of America, and the Fleet Reserve Association.
345 CHOB

MARCH 23

9:30 a.m.
Armed Services
To hold hearings to examine atomic energy defense activities of the Department of Energy relating to the Defense Authorization request for fiscal year 2005.
SD–106

10 a.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2005 for the Department of Energy's Office of National Nuclear Security Administration.
SD–192

Health, Education, Labor, and Pensions
Substance Abuse and Mental Health Services Subcommittee
To hold hearings to examine mental health services.
SD–430

MARCH 24

9:30 a.m.
Indian Affairs
To hold hearings to examine S. 1529, to amend the Indian Gaming Regulatory Act to include provisions relating to the payment and administration of gaming fees.
SR–485

2 p.m.
Armed Services
Airland Subcommittee
To hold hearings to examine Navy and Air Force aviation programs in review of the Defense Authorization request for fiscal year 2005 and future years defense program.
SR–232A

MARCH 25

9:30 a.m.
Armed Services
To hold hearings to examine the role of the U.S. Northern Command and U.S. Special Operations Command in defending the homeland and in the global war on terrorism, in review of the defense authorization request for fiscal year 2005; to be followed by a closed session in SH–219.
SH–216

10 a.m.
Health, Education, Labor, and Pensions
Employment, Safety, and Training Subcommittee
To hold hearings to examine MSDS and OSHA hazardous commission.
SD–430

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentations of the National Association of State Directors of Veterans Affairs, AMVETS, American Ex-Prisoners of War, the Vietnam Veterans of America, and the Military Officers Association of America.
345 CHOB

2:30 p.m.
Armed Services
Strategic Forces Subcommittee
To hold hearings to examine national security space programs and management in review of the Defense Authorization request for fiscal year 2005.
SR–232A

Energy and Natural Resources
Water and Power Subcommittee
To hold hearings to examine S. 1085, to provide for a Bureau of Reclamation program to assist states and local communities in evaluating and developing rural and small community water supply systems, and S. 1732, to direct the Secretary of the Interior to establish a rural water supply program in the Reclamation States to provide a clean, safe, affordable, and reliable water supply to rural residents.
SD–366

MARCH 30

10 a.m.
Energy and Natural Resources
To hold hearings to examine the implementation of the Energy Employees Occupational Illness Compensation Program Act of 2000.
SD–366

MARCH 31

10 a.m.
Health, Education, Labor, and Pensions
Business meeting to consider pending calendar business.
SD–430

SEPTEMBER 21

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the American Legion.
345 CHOB

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

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